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Vol. 48 No. 164

federal register

Tuesday
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8-23-83
Vol. 48 No. 164
Pages 38201-38446

federal register

Tuesday
August 23, 1983

Selected Subjects

Advertising
Federal Trade Commission
Air Pollution Control
Environmental Protection Agency
Aircraft
Federal Aviation Administration
Aviation Safety
Federal Aviation Administration
Commodity Futures
Commodity Futures Trading Commission
Conflict of Interests
Federal Communications Commission
Pennsylvania Avenue Development Corporation
Equal Employment Opportunity
Equal Employment Opportunity Commission
Fisheries
National Oceanic and Atmospheric Administration
Flood Insurance
Federal Emergency Management Agency
Food Additives
Food and Drug Administration
Low and Moderate Income Housing
Housing and Urban Development Department
Marketing Agreements and Orders
Agricultural Marketing Service

CONTINUED INSIDE

VOL
48
ISS
1
6
4
AG
2 3
1983
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Selected Subjects

Milk Marketing Orders
Agricultural Marketing Service

Natural Gas
Federal Energy Regulatory Commission

Nursing Homes
Veterans Administration

Postal Service
Postal Service

Radio Broadcasting
Federal Communications Commission

Taxes
Internal Revenue Service

Trade Practices
Federal Trade Commission

Water Supply
Environmental Protection Agency

Contents

Federal Register
Vol. 48, No. 164
Tuesday, August 23, 1983

Agricultural Marketing Service
RULES
Milk marketing orders:
38205 Lake Mead
38204 Southwest Plains
38201 Olives grown in Calif.
38203 Potatoes (Irish) grown in Calif. and Oreg.

Agricultural Stabilization and Conservation Service
NOTICES
38263 Rural clean water program (RCWP) payments, experimental; primary purpose determination for Federal income tax exclusion purposes

Agriculture Department
See Agricultural Marketing Service; Agricultural Stabilization and Conservation Service; Animal and Plant Health Inspection Service; Commodity Credit Corporation; Human Nutrition Information Service; Soil Conservation Service.

Air Force Department
38272 USAF Scientific Advisory Board, meeting

Animal and Plant Health Inspection Service
RULES
Livestock and poultry disease control:
38206 Scrapie in sheep and goats; indemnity payments

Commerce Department
See International Trade Administration; National Oceanic and Atmospheric Administration.

Commodity Credit Corporation
NOTICES
Price support rates:
38264 Peanuts; 1983 determination; correction

Commodity Futures Trading Commission
RULES
38214 Contract market designations; schedule of fees

Consumer Product Safety Commission
NOTICES
38270 Agency information collection activities under OMB review
38371 Meetings; Sunshine Act

Defense Department
See also Air Force Department.
NOTICES
Meetings:
38271 Women in Service Advisory Committee

Economic Regulatory Administration
RULES
38207 Natural gas; fuel oil displacement certification program; status of eligibility

Education Department
NOTICES
Meetings:
38272 Bilingual Education National Advisory Council

Employment and Training Administration
NOTICES
Adjustment assistance:
38348 Cleveland Cliffs Iron Co. et al.
38348 Elwood Steel Casting Corp. et al.

Energy Department
See Economic Regulatory Administration; Energy Research Office; Federal Energy Regulatory Commission; Western Area Power Administration.

Energy Research Office
NOTICES
Meetings:
38279 Energy Research Advisory Board

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
38235 Vermont
Air quality planning purposes; designation of areas:
38236 Pennsylvania
Water pollution control; State underground injection control programs:
38237 North Dakota
38238 Ohio
PROPOSED RULES
Air quality planning purposes; designation of areas:
38254 Nebraska
38255 New York
NOTICES
Meetings:
38298 Interagency Toxic Substances Data Committee

Equal Employment Opportunity Commission
RULES
Employment discrimination:
38231 Charges; designation of State and local fair employment practice agencies (706 agencies); Florida
38231 Charges; designation of State and local fair employment practice agencies (706 agencies); Georgia

Federal Aviation Administration
RULES
38208 IFR altitudes
PROPOSED RULES
38246 Control zones and transition areas
38246 Transition areas

Federal Communications Commission
RULES
38240 Employee responsibilities and conduct; financial interests of Commissioners and Commission employees in entities regulated by Commission

Radio stations; table of assignments:
38243 Virginia

NOTICES

Hearings, etc.:
38298 BA Co. et al.
38299 Broadcast Data Corp. et al.
38300 Coburn, Maurice W., et al.
38300 Fort Collins Television, Inc., et al.
38301 Local Majority Television et al.
38302 Welch, M. F. (Ken), et al.
38302 Rulemaking proceedings filed, granted, denied, etc.; petitions; correction

Federal Deposit Insurance Corporation

NOTICES

38371 Meetings; Sunshine Act

Federal Emergency Management Agency

PROPOSED RULES

Flood elevation determinations:
38259 Connecticut et al.
38258 Idaho

Federal Energy Regulatory Commission

RULES

Natural Gas Policy Act:
38224 Alternative fuel price ceiling

NOTICES

Hearings, etc.:
38272 Arkansas Louisiana Gas Co. (2 documents)
38274 Consolidated Gas Supply Corp. et al.
38275 Hydro Resources Co. et al.
38275 Kittitas Public Utility District No. 1 et al.
38275 Natural Gas Pipeline Co. of America
38275 Northwest Central Pipeline Corp.
38276 Olympus Energy Corp.
38276 Pacific Gas & Electric Co.
38276 Portland General Electric Co. et al.
38277 Southern Natural Gas Co. (2 documents)
38278 Sultan, Wash., et al.
38278 Texas Gas Pipe Line Corp.
38278 Trunkline LNG Co.

Natural Gas Policy Act:
38273 Jurisdictional agency determinations; well category withdrawals, etc. (Davis Drilling, Inc.)

Federal Highway Administration

NOTICES

Environmental statements; availability, etc.:
38367 Douglas County, Oreg.; intent to prepare

Federal Maritime Commission

NOTICES

Freight forwarder licenses:
38303 Midland Pacific Shipping Co., Inc.
38303 Pilot Ocean Freight Forwarders
38303 Sea-Air International Corp.
38303 Western Traffic Service

Federal Reserve System

NOTICES

Applications, etc.:
38304 First Guthrie Bancshares, Inc., et al.
38304 Latham Bancorp et al.
38371 Meetings; Sunshine Act

Federal Trade Commission

RULES

Prohibited trade practices:
38214 Sansui Electronics Corp.

PROPOSED RULES

Prohibited trade practices:
38247 Gillette Co.

Fiscal Service

NOTICES

Surety companies acceptable on Federal bonds:
38369 Guard Casualty & Surety Insurance Co.

Food and Drug Administration

RULES

Food additives:
38227 Adjuvants, production aids, and sanitizers; zinc dibutyldithiocarbamate as antioxidant in certain polypropylene resins
38225, 38226 Sucrose Fatty acid esters (2 documents)

PROPOSED RULES

Food for human consumption:
38252 Butter and whey butter; identity standards; termination of consideration of Codex

NOTICES

Meetings:
38307 Consumer information exchange

General Services Administration

NOTICES

Senior Executive Service:
38304 Performance Review Board; membership

Health and Human Services Department

See also Food and Drug Administration; National Institutes of Health.

NOTICES

38305 Privacy Act; systems of records

Housing and Urban Development Department

RULES

Low income housing:
38228 Annual contributions for operating subsidy; performance funding system

Human Nutrition Information Service

NOTICES

Committees; establishment, renewals, terminations, etc.:
38263 Joint Nutrition Monitoring Evaluation Committee

Interior Department

See Land Management Bureau; National Park Service; Surface Mining Reclamation and Enforcement Office.

Internal Revenue Service

RULES

Procedure and Administration:
38229 Interest rate for overpayments and underpayments of tax

International Trade Administration

NOTICES

Countervailing duties:
38267 Iron-metal castings from India
38266 Export trade certificates of review; applications

Meetings:
38269 Numerically Controlled Machine Tool Technical Advisory Committee

38269 Telecommunications Equipment Technical Advisory Committee
Scientific articles; duty free entry:
38269 University of Puget Sound et al.

Interstate Commerce Commission
NOTICES
Motor carriers:
38318 Agricultural cooperative transportation; filing notices
38319 Finance applications
38321, 38323 Permanent authority applications (2 documents)
Motor carriers; control, purchase, and tariff filing exemptions, etc.:
38321 Canus Trucking, Ltd., et al.
38318 DLM Transportation, Inc., et al.

Justice Department
NOTICES
38347 Lowndes County, Miss.; examiners appointment; certification of Attorney General under Voting Rights Act
38326 Privacy Act; systems of records

Labor Department
See also Employment and Training Administration; Mine Safety and Health Administration; Wage and Hour Division.
NOTICES
38347 Agency information collection activities under OMB review
Meetings:
38347 Trade Negotiations and Trade Policy Labor Advisory Committee

Land Management Bureau
RULES
Public land orders:
38239 Alaska
38240 Colorado
38239 Nevada
NOTICES
Alaska native claims selection; applications, etc.:
38314 Cook Inlet Region, Inc.
38314 San Juan River Basin Regional Coal Team; postponement
Conveyance and opening of public lands:
38312 Montana (2 documents)
Conveyance of public lands:
38312 Idaho
Meetings:
38314 Richfield District Grazing Advisory Board
38314 Shoshone District Grazing Advisory Board
Opening of public lands:
38313 Montana
Resource management plans:
38313 White Sands Resource Area, N. Mex.
Withdrawal and reservation of lands, proposed, etc.:
38311 California (2 documents)

Management and Budget Office
NOTICES
38444 Budget rescissions and deferrals

Mine Safety and Health Administration
NOTICES
Petitions for mandatory safety standard modifications:
38349 Alabama By-Products Corp.
38350 B & B Coal Co.
38350 Estep Coal Corp.
38350 Ike Coal Co.
38351 J. J. & G. Coal Co.
38351 Kennecott Minerals Co.
38351 Kerr-McGee Chemical Corp.
38352 Price River Coal Co.
38352 Pyro Mining Co.
38352 Sue Lee Coal Co., Inc.
38353 Tenneco Minerals
38353 United States Steel Corp.

National Institutes of Health
NOTICES
38309 Advisory committees, annual reports filing; availability
Committees; establishment, renewals, terminations, etc.:
38311 Radioepidemiological Tables Ad Hoc Working Group
Meetings:
38310 Allergy and Infectious Diseases National Advisory Council
38308 Cancer Treatment Division; Scientific Counselors Board
38308 Dental Research Institute, National; dental sealants in prevention of tooth decay conference
38310 General Medical Sciences National Advisory Council
38309 Heart, Lung, and Blood Institute, National; postmenopasual replacement estrogen workshop
38309 High Blood Pressure Education Program National Coordinating Committee
38308 Mental Health Institute, National; drugs and insomnia; use of medications to promote sleep conference

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
38243 Atlantic surf clam and ocean quahog
38244 Ocean salmon off coasts of Calif., Oreg., and Wash.
NOTICES
Meetings:
38270 Caribbean Fishery Management Council
38270 Mid-Atlantic Fishery Management Council

National Park Service
NOTICES
Environmental statements; availability, etc.:
38317 Rock Creek bike trails study, Rock Creek Park, National Capital Region
Historic Places National Register; pending nominations:
38315 Alaska et al.

National Science Foundation
NOTICES
Meetings:
38354 Earth Sciences Advisory Committee

Neighborhood Reinvestment Corporation
NOTICES
38371 Meetings; Sunshine Act

Nuclear Regulatory Commission
NOTICES
Applications, etc.:
38355 Kay-Ray, Inc.
38356 Pacific Armatechnica Corp.
Meetings:
38354 Reactor Safeguards Advisory Committee
38355 Reactor Safeguards Advisory Committee; date change
38382 Operating licenses, amendments; no significant hazards considerations; monthly notices
38358 Radiological emergency, information to news media; memorandum of understanding with Washington State, Washington Public Power Supply System, Benton and Franklin Counties, Wash., and FEMA

Pennsylvania Avenue Development Corporation
RULES
38232 Conduct standards; post-employment conflict of interest

Personnel Management Office
NOTICES
Excepted service:
38359 Schedules A, B, and C; positions placed or revoked, update

Postal Service
RULES
Domestic Mail Manual:
38234 Second-class publications, additional entry applications
NOTICES
38371 Meetings; Sunshine Act

Securities and Exchange Commission
RULES
Proxy review program:
38218 Disclosure of management relationship and transactions
PROPOSED RULES
Securities:
38250 Order exposure rules; reproposal; deferral
NOTICES
Hearings, etc.:
38362 New York Municipal Fund for Temporary Investment, Inc., et al.
38363 Paine Webber Equity Trust, Utility Stock Series 1, et al.
38365 Union Bank of Switzerland et al.
Self-regulatory organizations; proposed rule changes:
38361 National Securities Clearing Corp.

Small Business Administration
NOTICES
Meetings:
38366 Small and Minority Business Ownership Presidential Advisory Committee
Meetings; regional advisory councils:
38366 Iowa

Soil Conservation Service
NOTICES
Environmental statements; availability, etc.:
38264 McCaysville City Park RC&D Measure, Ga.
38265 Mississippi County Spillway Area Watershed, Mo.

State Department
NOTICES
Meetings:
38367 Central America National Bipartisan Commission
38366 International North Pacific Fisheries Commission, United States Section Advisory Committee
38367 International Telegraph and Telephone Consultative Committee
38367 Shipping Coordinating Committee

Surface Mining Reclamation and Enforcement Office
NOTICES
38317 Abandoned mine lands programs and State regulatory administration; annual evaluation reports for various States; availability

Synthetic Fuels Corporation
NOTICES
38372 Meetings; Sunshine Act

Transportation Department
See Federal Aviation Administration; Federal Highway Administration.

Treasury Department
See also Fiscal Service; Internal Revenue Service.
NOTICES
Notes, Treasury:
38368 X–1985 series

Veterans Administration
PROPOSED RULES
Medical benefits:
38253 State home facilities; constructions grants

Wage and Hour Division
RULES
38374, 38380 Migrant and seasonal agricultural worker protection regulations; final; correction (2 documents)

Western Area Power Administration
NOTICES
Power marketing plans:
38279 Loveland-Fort Collins Area; post-1989 marketing criteria, etc.
38289 Salt Lake City Area; post-1989 marketing criteria, etc.

Separate Parts in this Issue

Part II
38374 Department of Labor, Wage and Hour Division

Part III
38382 Nuclear Regulatory Commission

Part IV
38444 Office of Management and Budget

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Executive Orders:
April 17, 1926
(Revoked in part by PLO 6454)..... 38240

7 CFR
932..... 38201
947..... 38203
1106..... 38204
1139..... 38205

9 CFR
54..... 38206

10 CFR
595..... 38207

14 CFR
95..... 38208
Proposed Rules:
71 (2 documents)..... 38246

16 CFR
13..... 38214
Proposed Rules:
13..... 38247

17 CFR
5..... 38214,
240..... 38218
Proposed Rules:
240..... 38250

18 CFR
282..... 38224

21 CFR
172 (2 documents)..... 38225, 38226
178..... 38227
Proposed Rules:
131..... 38252

24 CFR
890..... 38228

26 CFR
301..... 38229

29 CFR
500 (2 documents)..... 38374, 38380
1601 (2 documents)..... 38231

36 CFR
905..... 38232

38 CFR
Proposed Rules:
17..... 38253

39 CFR
111..... 38234

40 CFR
52..... 38235
81..... 38236
145 (2 documents)..... 38237, 38238
Proposed Rules:
81 (2 documents)..... 38254, 38255

43 CFR
Public Land Order:
6452..... 38239
6453..... 38239
6454..... 38240

44 CFR
Proposed Rules:
67 (2 documents)..... 38258, 38259

47 CFR
0..... 38240
19..... 38240
73..... 38243

50 CFR
652..... 38243
661..... 38244

VOL
48
ISS
1
6
4
AG
2 3
1983
UMI

Rules and Regulations

Federal Register
Vol. 48, No. 164
Tuesday, August 23, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 932

Olives Grown in California; Interim Administrative Amendment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule.

SUMMARY: This interim final rule would amend the administrative rules and regulations with respect to: (1) Charges levied on overdue assessments; (2) modified grade requirements for canned green ripe olives; (3) size certification for outgoing canned ripe olives; and (4) grade and size requirements for 1983–84 crop year olives for limited use. The changes are designed to improve marketing order operations.

DATES: Interim rule effective August 23, 1983 through November 30, 1983; comments received by September 22, 1983 will be considered with regard to any subsequent rule.

ADDRESS: Send two copies of comments to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of California olives for the benefit of producers, and will not substantially affect costs for those persons directly regulated.

This interim amendment would be issued under the marketing agreement, as amended, and Order No. 932, as amended (7 CFR Part 932, 47 FR 32905, 51092), regulating the handling of olives grown in California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendation and information submitted by the California Olive Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

Section 932.39(c) provides that the Committee, with the approval of the Secretary, may levy interest and/or late payment charges for assessments not paid to the Committee by handlers within a prescribed period of time. Currently, § 932.139 requires that any assessments not received by the Committee within 30 days after billing are subject to a two percent late payment charge and an interest charge. The current interest charged is the commercial prime rate at the Committee's bank. The Committee has determined that these charges should be increased to discourage delinquencies in the payment of assessments. Thus, the interim final rule would: Increase the late payment charge from two percent to five percent of the unpaid balance; and increase the interest charge from the Committee's bank's current commercial prime rate to that rate plus two percent. The rule also would provide that the Committee, upon receipt of a late payment, promptly notify the handler (by registered mail) of any additional interest charges due. If such interest charges are not paid within 30 days of the invoice, the rule would provide for the same late payment and interest charges levied for delinquent assessments.

Section 932.52(a) provides that canned ripe olives, other than those of the "tree-ripened" type, shall grade at least U.S. Grade C as defined in the current U.S. Standards for canned ripe olives. Section 932.150 specifies that with respect to canned green ripe olives of the 1981–82 and 1982–83 crop years which are processed during the period September 1, 1981 through July 31, 1983, no requirements are applicable to such olives with respect to color and blemishes. The Committee recommended that this be continued indefinitely. Thus, the rule extends this exemption on a continuing basis.

Section 932.52(a)(3) provides that use of processed olives smaller than the sizes prescribed for whole and pitted styles may be established annually for limited use and the subparagraph further provides that such minimum sizes may also include a size tolerance as recommended by the Committee and approved by the Secretary. Thus, § 932.153 should be revised to provide for the establishment of minimum sizes contained in § 932.52(a)(3) for olives from the 1983–84 crop. These requirements are the same as have been established in 11 of the past 12 crop years.

In 1982, § 932.51(a)(2)(iii) was added to provide that the committee may recommend, subject to the approval of the Secretary, procedures for the certification of outgoing size designations, based upon an inspection for olive sizes before processing. Any such procedures are contingent upon the adoption of marketing order sizes in lieu of the size requirements in the U.S. Standards for Canned Ripe Olives. Thus, to make the option of size certification available to handlers, paragraphs (f) and (g) should be added to § 932.152. Paragraph (f) specifies the applicable marketing order sizes in terms of the average count ranges for seven size designations and for four varietal subgroupings. Paragraph (g) provides that any lot of canning size olives may be used in the production of packaged olives without an outgoing inspection for size designation if the such olives are certified as meeting the average count ranges and other requirements specified in that paragraph.

It is found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date of this interim rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) in that: (1) there is insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the Act; (2) the handling of the 1983 crop of domestic olives is expected to begin soon, and it is intended that this action be applicable to all olives of such crop; (3) handlers

are aware of this action as proposed by the California Olive committee; and (4) some of the changes represent a relief of restrictions and no useful purpose is served by delaying the effective date.

List of Subjects in 7 CFR Part 932

Marketing agreement and orders, Olives, California.

PART 932 [AMENDED]

Therefore, Subpart—Rules and Regulations (7CFR 932.108–932.161) is amended as follows:

1. Section 932.139 is revised to read as follows:

§ 932.139 Late payment and interest charges.

(a) The committee shall impose a late payment charge on any handler whose assessment has not been received in the committee's office within 30 days of the invoice date shown on the handler's assessment statement. The late payment charge shall be five percent of the unpaid balance.

(b) In addition to that specified in paragraph (a), the committee shall impose and interest charge on any handler whose assessment payment has not been received in the committee's office within 30 days of the invoice date. The interest charge shall be the current commercial prime rate of the committee's bank plus two percent which shall be applied to the unpaid balance and late payment charge for the number of days all or any part of the assessment specified in the handler's assessment statement is delinquent beyond the 30 day payment period.

(c) The committee, upon receipt of a late payment equal to or greater than the assessment specified on the handler's assessment statement, shall promptly notify the handler (by registered mail) of any late payment charge and/or interest due as provided in paragraphs (a) and (b) of this section. If such charges are not paid within 30 days of the date on such notification, late payment and interest charges as provided in paragraphs (a) and (b) of this section will accrue on the unpaid amount.

2. Section 932.150 is revised to read as follows:

§ 932.150 Modified grade requirements for canned green ripe olives.

The grade requirements prescribed in § 932.52(a)(1) of this part are hereby modified with respect to canned green ripe olives so that no requirements shall be applicable with respect to color and blemishes of such olives.

3. Section 932.152 is amended by adding paragraphs (f) and (g), to read as follows:

§ 932.152 Outgoing regulations.

* * * * *

(f) *Size designations.* (1) In Lieu of the size designations specified in § 932.52(a)(2), except as provided in § 932.51(a) (1) and (2), canned whole ripe olives, other than those of the "tree-ripened" type, shall conform to the marketing order size designations listed in Table I contained herein, and shall be of a size not smaller than the applicable size requirements, tolerances and percentages listed in subparagraphs (a)(2) (i), (ii), (iii), and (iv) of § 932.52.

TABLE I.—CANNED WHOLE RIPE OLIVE SIZES; AVERAGE COUNT RANGES

[Per pound]

Size designation	Variety group 1		Variety group 2	
	Except Ascolano Barouni St. Agostino	Ascolano Barouni St. Agostino	Obliza	Except Obliza
Small	N.A	N.A	N.A	126–140.
Medium	N.A	N.A	106–121	106–121.
Large	N.A	N.A	91–105	91–105.
Ex Large	65–75	65–88	65–88	65–88.
Jumbo	51–60	51–60	51–60	51–60.
Colossal	41–50	41–50	41–50	41–50.
Super Colossal	40 or less	40 or less	40 or less	40 or less.

N.A.—Not Applicable.

(2) The size of canned whole olives shall conform with the applicable count per pound range indicated in Table I of paragraph (1) of this paragraph. When the count per pound of whole olives falls between two count ranges, the size designation shall be that of the smaller size. The size for other styles of canned ripe olives shall be determined prior to pitting. The average count for canned whole ripe olives is determined from all containers in the sample and is calculated on the basis of the drained weight of the olives.

(g) *Size certification.* If a handler elects to have olives sized pursuant to § 932.51(a)(2), any lot of canning size olives may be used in the production of packaged olives for whole, pitted, or limited use styles without an outgoing inspection for size designation if such olives are within the average count range in Table II contained herein for that variety group, and meet such further mid-point or acceptable count requirements for the average count range in each size as approved by the committee.

TABLE II—AVERAGE COUNT RANGES

[Per pound]

Size designation	Variety group 1		Variety group 2	
	Except Ascolano Barouni St. Agostino	Ascolano Barouni St. Agostino	Obliza	Except Obliza
Small	N.A	N.A	N.A	126–140.
Medium	N.A	N.A	106–121	106–121.
Large	N.A	N.A	89–105	89–105.
Ex Large	65–75	65–88	65–88	65–88.
Jumbo	51–60	51–60	51–60	51–60.
Colossal	41–50	41–50	41–50	41–50.
Super Colossal	40 or less	40 or less	40 or less	40 or less.

N.A.—Not Applicable.

4. Section 932.153 is revised to read as follows:

§ 932.153 Establishment of minimum grade and size requirements for 1983–84 crop olives used in limited use styles.

(a) *Grade.* On and after August 1, 1983, any handler may use processed olives of the respective variety groups in the production of limited use styles of canned ripe olives if such olives were processed after July 31, 1983, and meet the grade requirements specified in § 932.52(a)(1) as modified by § 932.149.

(b) *Sizes.* Except as provided in § 932.51(a)(2)(i), on and after August 1, 1983, any handler may use processed olives in the production of limited use styles of canned ripe olives if such olives were harvested during the period August 1, 1983, through July 31, 1984 and meet the following requirements:

(1) The processed olives shall be identified and kept separate and apart from any olives harvested before August 1, 1983, or after July 31, 1984;

(2) Variety Group 1 olives, except the Ascolano, Barouni, or St. Agostino varieties, shall be of a size which individually weigh 1/90 pound: *Provided,* That not to exceed 25 percent

of the olives in any lot or sublot may be smaller than 1/80 pound;

(3) Variety Group 1 olives of the Ascolano, Barouni, or St. Agostino varieties shall be of a size which individually weigh 1/140 pound: *Provided,* That not to exceed 25 percent of the olives in any lot or sublot may be smaller than 1/140 pound;

(4) Variety Group 2 olives, except the Obliza variety, shall be of a size which individually weigh 1/180 pound: *Provided,* That not to exceed 10 percent of the olives in any lot or sublot may be smaller than 1/180 pound;

(5) Variety Group 2 olives of the Obliza variety shall be of a size which individually weigh 1/140 pound: *Provided,* That not to exceed 20 percent of the olives in any lot or sublot may be smaller than 1/140 pound.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: August 18, 1983.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83-23102 Filed 8-22-83; 8:45 am]
BILLING CODE 3410-02-M

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7 CFR Part 947

[Amendment No. 2 to Handling Regulation]

Irish Potatoes Grown in Modoc and Siskiyou Counties in California and in All Counties in Oregon Except Malheur County

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment to handling regulation § 947.340 (48 FR 47757) increases the minimum size requirements for fresh market potatoes grown in Modoc and Siskiyou counties in California and all counties in Oregon except Malheur County. The change will promote orderly marketing by making Oregon-California production area size requirements more similar to those of potato marketing orders in two adjoining States.

EFFECTIVE DATE: August 23, 1983.

FOR FURTHER INFORMATION CONTACT: Robert F. Matthews, Vegetable Branch, F&V, AMS, USDA, Washington, D.C. 20250, (202) 447–5764.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

Information collection requirements contained in this regulation (7 CFR Part 947) have been approved by the Office of Management and Budget under the provision of 44 U.S.C. Chapter 35 and have been assigned OMB #0581–0112.

This amendment to the rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "nonmajor" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. It is designed to promote orderly marketing of the Oregon-California potato crop for the benefit of producers and consumers, and will not substantially affect costs for the directly regulated handlers.

Marketing Agreement No. 114 and Order No. 947, both as amended, regulate the handling of potatoes grown in designated counties of Oregon and California. The program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The Oregon-California Potato Committee, established under the order is responsible for its local Administration.

Because requirements under this program have changed infrequently, in June 1981 the committee recommended, and the Secretary approved, a regulation which continues in effect from marketing season to marketing season indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the committee or other information available to the Secretary.

At its public meeting in Eugene, Oregon, on June 14, 1983, the committee recommended that the regulation be amended this season.

The committee recommended that the minimum size requirements for all varieties of fresh market potatoes grown in districts No. 1 through 4 be increased from 1⅞ inches in diameter to 2 inches in diameter or 4 ounces minimum weight. This change makes size requirements for Districts No. 1 through 4 the same as District No. 5. It also makes the size requirements of the production area more similar to those of potato orders in Washington and Idaho.

The committee reported that potatoes packed in five and ten pound consumer size packages are much smaller this season than previously, giving the consumer a lower quality product. The committee believes that the change will eliminate the smaller potatoes from these consumer packs and increase demand for the packs. Additionally, the committee believes that demand is so weak for the smaller potatoes that they may adversely affect prices for all potatoes.

The committee also recommended that potatoes packed in 50-pound cartons be U.S. No. 1 grade or better, with no exception for hollow heart and/or internal discoloration. At its June meeting, the committee believed that this upgrading of the industry's premium pack would be in the best interest of the industry by enhancing its quality image. Upon an evaluation of this year's potato crop, however, it was found that the incidence of hollow heart and internal discoloration is greater than was anticipated in June. Therefore, the committee voted to retain the current standard which allows an exception for these internal defects, so that the industry can ship a greater portion of its crop in 50-pound cartons.

This amended regulation will benefit consumers and producers by standardizing and improving the quality of the potatoes shipped from the production area, thereby promoting orderly marketing, and will tend to effectuate the declared policy of the act.

The amendment will be effective for an indefinite period. The committee will continue to meet prior to or during each season to consider recommendation for modification, suspension, or termination of the regulation. Prior to making any such recommendations, the committee will submit to the Secretary a marketing policy for the season in accordance with § 947.50 of the order, including an analysis of supply and demand factors having a bearing on the marketing of the crop. Committee meetings are open to the public and interested persons may express their views at these meetings or may file comments with the Fruit and Vegetable Division before June 1 each year. The Department will evaluate committee recommendations and information submitted by the committee, comments filed, and other available information, and determine whether modification, suspension or termination of the regulations on shipments of Oregon-California potatoes would tend to effectuate the declared policy of the act.

Findings

After considering all relevant matters, including the proposal in the notice, it is found that the following amendment will tend to effectuate the declared policy of the act.

It is further found that good cause exists for not postponing the effective date of this regulation until 30 days after its publication in the **Federal Register** (5 U.S.C. 553) in that (1) shipments of potatoes grown in the production area have begun, (2) to maximize benefits to producers, this regulation should apply

to as many shipments as possible during the marketing season, (3) notice was given in the July 13, 1983, **Federal Register** (48 FR 32027, July 13, 1983) allowing interested persons until July 28, 1983, in which to file comments and none was filed, and (4) compliance with this regulation, which is similar to regulations issued during previous seasons, requires no special preparation by handlers subject to it which cannot be completed by the effective date.

List of Subjects in 7 CFR Part 947

Marketing agreements and orders, Potatoes, Oregon, California.

PART 947—[AMENDED]

Section 947.340 *Handling regulation* (46 FR 47757, September 30, 1981) is hereby amended by revising paragraph (b)(2) and by removing paragraph (b)(3) to read as follows:

§ 947.340 Handling regulation.

* * * * *

(b) *Minimum size requirements.*

(1) * * *

(2) For All Districts: All varieties—2 inches minimum diameter or 4 ounces minimum weight.

* * * * *

(Approved by the Office of Management and Budget under Control No. 0581–0112)

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: August 18, 1983, to become effective August 23, 1983.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83-23161 Filed 8-22-83; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 1106

Milk in the Southwest Plains Marketing Area; Order Suspending Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rules.

SUMMARY: This action suspends certain shipping standards for pooling supply plants under the Southwest Plains milk order for August 1983. This action continues a suspension that has been in effect since March 1983 that has allowed supply plants previously associated with the market to maintain pool plant status without making shipments to distributing plants.

The suspension was requested by the operator of a pool supply plant. The plant operator contends that the market's supply-demand imbalance that necessitated the suspension during March through July will continue through August. Anticipated production declines have not materialized and proponent has been advised that bulk milk from its supply plant will not be needed to furnish the fluid milk needs of distributing plants during August. Without the suspension, unneeded and uneconomic shipments of supply plant milk would likely be made solely for the purpose of pooling milk of dairy farmers who have historically furnished the fluid milk needs of the market.

EFFECTIVE DATE: August 23, 1983.

FOR FURTHER INFORMATION CONTACT: John F. Borovies, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–2089.

SUPPLEMENTARY INFORMATION: Prior document in the proceeding:

Proposed Suspension: Issued July 20, 1983; published July 26, 1983 (48 FR 33905).

This action has been reviewed under USDA procedures established to implement Executive Order 12291 and has been classified as a "non-major" action.

It has been determined that the need for suspending certain provisions of the order on an emergency basis precludes following certain review procedures set forth in Executive Order 12291. Such procedures would require that this document be submitted to the Office of Management and Budget at least 10 days prior to its publication in the **Federal Register**. However, this would not permit the completion of the required suspension procedures on the timely basis necessary to make the suspension effective for the month of August 1983. The initial request for this action was received on July 13, 1983. A notice of proposed suspension was issued on July 20, 1983, inviting interested parties to comment on the proposed action by August 2, 1983.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action would not have a significant economic impact on a substantial number of small entities. Such action lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and of the order regulating the handling of milk in the Southwest Plains marketing area.

Notice of proposed rulemaking was published in the **Federal Register** (48 FR 33905, July 26, 1983) concerning a proposed suspension of certain provisions of the order. Interested parties were afforded an opportunity to file written data, views, and arguments thereon. No comments opposing the suspension were received.

After consideration of all relevant information, including the proposal set forth in the aforesaid notice, data, views, and arguments filed thereon, and other available information, it is hereby found and determined that for the month of August 1983 the following provisions of the order do not tend to effectuate the declared policy of the Act:

1. In § 1106.6, the language "during the month".

2. In § 1106.7(b)(1), the language "until any month of such period in which less than 20 percent of the milk received or diverted as previously specified, is shipped to plants described in paragraph (a) of this section. A plant not meeting such 20 percent requirement in any month of such February-August period shall be qualified in any remaining month of such period only if transfers and diversions pursuant to paragraph (b)(2) of this section to plants described in paragraph (a) of this section are not less than 50 percent of receipts or diversions, as previously specified" and the language "until any month of such period in which the plant fails to meet the 20-percent shipping requirement".

Statement of Consideration

This suspension allows supply plants that previously were associated with the market to maintain pool status without making the minimum shipments to distributing plants required by the order for the month of August 1983. The order defines a supply plant as a plant from which shipments are made to distributing plants during the month. Also, the order provides that supply plants that were pooled during each of the previous months of September through January under the Southwest Plains order, or during the months of September through December 1982 under any of the four orders that were merged to form the Southwest Plains order, will be pooled during the months of February through August if not less than 20 percent of monthly receipts are shipped to pool distributing plants. During March through July 1983, a suspension of the supply plant shipping standards eliminated the need for supply plant operators to ship milk to

distributing plants to maintain pool plant status. This action continues the suspension through August 1983.

This action was requested by a handler who operates a pool supply plant. This handler also requested the suspension in effect during March-July. The handler's plant was pooled during each of the months of September 1982 through January 1983 under the Southwest Plains order or its predecessor orders, and has remained pooled since March 1983 based on its previous association with the market. The plant operator contends that the one month extension of the suspension is necessary because production continues to exceed the demand for milk in fluid use.

This market continues to experience a supply-demand imbalance as anticipated declines in production have not materialized. All available information indicates that if the suspension is not continued, unneeded and uneconomic shipments of milk would have to be made solely for the purpose of pooling the milk of dairy farmers who historically have supplied the fluid milk needs of the market.

Interested parties were given the opportunity to submit written data, views, or arguments concerning the suspension. A cooperative association that represents producers who supply the market supported the proposed action to facilitate the efficient disposition of an increasing supply of milk in excess of fluid milk needs. No views in opposition to the suspension were received.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area in that without the suspension unneeded and uneconomic shipments of milk from supply plants would likely be made solely for the purpose of pooling the milk of dairy farmers who have historically supplied the fluid milk needs of the market.

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views or arguments concerning this suspension.

Therefore, good cause exists for making this order effective upon publication in the Federal Register.

List of Subjects in 7 CFR Part 1106

Milk marketing orders, Milk, Dairy products.

It is therefore ordered, That the aforesaid provisions of the order are hereby suspended for the month of August 1983.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Effective date: August 23, 1983.

Signed at Washington, D.C. on: August 18, 1983.

John Ford,

Marketing and Inspection Services.

[FR Doc. 83-22186 Filed 8-22-83; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 1139

[Milk Order No. 139]

Milk in the Lake Mead Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rules.

SUMMARY: This action continues through December 1983 the suspension of certain provisions of the Lake Mead Federal milk order. The suspension removes the limit on the amount of milk not needed for fluid (bottling) use that may be moved directly from farms to nonpool plants and still be priced and pooled under the order. Also suspended is the requirement that 20 percent of a dairy farmer's monthly milk production be received at a pool plant in order for the remaining production to be eligible to be moved directly from the farm to nonpool manufacturing plants and still be priced and pooled under the order. The suspension was requested by Lake Mead Cooperative Association to assure the efficient disposition of milk not needed for fluid use and still maintain producer status under the order for its dairy farmer members who regularly have been associated with the market. An amendatory hearing has been scheduled to consider proposals to lower the pooling standards required under the order.

EFFECTIVE DATE: September 23, 1983.

FOR FURTHER INFORMATION CONTACT: Robert F. Groene, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–2089.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Proposed Suspension: Issued July 20, 1983; published July 26, 1983 (48 FR 33906).

This action has been reviewed under USDA procedures established to implement Executive Order 12291 and has been classified as a "non-major" action.

It has been determined that the need for suspending certain provisions of the order on an emergency basis precludes following certain review procedures set forth in Executive Order 12291. Such procedures would require that this document be submitted for review to the Office of Management and Budget at least 10 days prior to its publication in the Federal Register. However, this would not permit the issuance of the suspension in time to include August 1983 in the suspension period. The initial request for this action was received July 5, 1983. A notice of proposed suspension was issued on July 20, 1983, inviting interested parties to comment on the proposed action by August 2, 1983.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action would not have a significant economic impact on a substantial number of small entities. This action lessens the regulatory impact of the order on certain milk handlers and would tend to insure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and of the order regulating the handling of milk in the Lake Mead marketing area.

Notice of proposed rulemaking was published in the Federal Register (48 FR 33906) July 26, 1983) concerning a proposed suspension of certain provisions of the order. Interested persons were afforded opportunity to file written data, views, and arguments thereon. No comments were received in opposition to the proposed suspension.

After considering all relevant material, including the proposal in the notice and other available information, it is hereby found and determined that for the months of August 1983 through December 1983 the following provisions of the order do not tend to effectuate the declared policy of the Act:

1. In § 1139.13(d)(2), the language "from whom at least 20 percent of his milk production is received during the month at a pool plant. The total quantity of milk so diverted may not exceed 30 percent in the months of March through July and 20 percent in other months of the producer milk which the association

causes to be delivered to pool plants during the month."

2. In § 1139.13(d)(3), the language "from whom at least 20 percent of his milk production is received during the month at a pool plant. The total quantity of milk so diverted may not exceed 30 percent in the months of March through July and 20 percent in other months of the milk received at such pool plant from producers and for which the operator of such plant is the handler during the month."

Statement of Consideration

This action makes inoperative, for August through December 1983, the requirement that at least 20 percent of a dairy farmer's monthly milk production be received at a pool plant for the remaining production to be priced and pooled under the order. In addition, this action continues a suspension that has been in effect since April 1982 (47 FR 17036, 47 FR 38496, 47 FR 55201, 47 FR 16028) which removes the limit on the amount of producer milk that a cooperative association or other handler may divert to nonpool plants. The order now provides that cooperatives and pool plant operators may divert to nonpool plants up to 20 percent of the producer milk which they cause to be received at pool plants during the months of August through February.

The action was requested by the Lake Mead Cooperative Association, which supplies a substantial part of the market's fluid milk needs and handles most of the market's reserve supplies. The cooperative association requested the suspension to provide for greater efficiencies in handling the market's reserve milk supply.

The need to handle an increasing quantity of reserve milk supplies is a result of a continuing imbalance between the market's fluid milk requirements and the milk supplies available from producers. Milk production continues to be heavy without a corresponding increase in sales to fluid milk outlets. As a result of these marketing conditions, the order limits on the quantity of milk that may be moved directly from farms to nonpool plants and still be priced under the order have been suspended since April 1982. Unless the suspension is continued, some of the milk of producers who regularly have supplied the fluid market would have to be moved, uneconomically, first to pool plants and then to nonpool manufacturing plants, in order to continue producer status for such milk.

A suspension of the order requirement that 20 percent of a dairy farmer's monthly milk production must be received at a pool plant in order for the remaining quantity to be eligible for diversion to nonpool plants has been in effect since May 1983. Unless such suspension is continued, substantial quantities of milk of individual producers who are located farthest from the market must be shipped to pool plants solely for diversion qualification purposes. The shipment of distantly located milk supplies to pool plants displaces the milk of other producers who are located nearer to the distributing plants. Such milk must then be shipped to distant outlets for surplus disposal. Thus, without the continued suspension of the provisions indicated, handlers would incur unnecessary hauling costs because of the need to qualify the milk of producers to be eligible for diversion to nonpool plants. Suspension of these requirements will eliminate the need to make costly and inefficient movements of producer milk solely for the purpose of pooling the milk of dairy farmers who have been associated regularly with the market.

The cooperative requested the suspension until a more permanent regulatory solution to the supply-demand imbalance in the market could be formulated based on the record of a public hearing. A public hearing has been scheduled to consider proposals to amend the order that would accommodate current marketing conditions.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) The suspension is necessary to reflect current marketing conditions and to assure orderly marketing conditions in the marketing area in that the most efficient method of handling milk not needed for the fluid market is by direct movements from producer's farms to manufacturing outlets. This suspension allows for such economical movements of milk while the dairy farmers involved retain producer status;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views or arguments concerning this suspension.

Therefore, good cause exists for making this order effective upon publication in the **Federal Register**.

List of Subject in 7 CFR Part 1139

Milk marketing orders, Milk, Dairy products.

PART 1139—[AMENDED]

It is therefore ordered, That the aforesaid provisions in § 1139.13 of the Lake Mead order are hereby suspended for August through December 1983

Effective Date: August 23, 1983

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Signed at Washington, D.C., on August 16, 1983.

John Ford,

Deputy Assistant Secretary Marketing and Inspection Services.

[FR Doc. 83-23184 Filed 8-22-83; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

9 CFR Part 54

[Docket No. 83-062]

Animals Destroyed Because of Scrapie; Indemnity Provisions

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interm rule.

SUMMARY: This document affirms the interim rule which amended the regulations authorizing the payment of indemnities for sheep and goats destroyed because of scrapie by providing for indemnity only for animals diagnosed as having scrapie and for certain animals related by blood to animals diagnosed as having scrapie. This action was necessary to allow for indemnity only for animals that present a substantial risk of being infected with scrapie in order to utilize scrapie indemnity funds more effectively.

EFFECTIVE DATE: August 23, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Jack R. Pitcher, Special Diseases Staff, Veterinary Services, APHIS, USDA, Room 824, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8231.

SUPPLEMENTARY INFORMATION:

Background

The "Animals Destroyed Because of Scrapie" regulations in 9 CFR Part 54 (referred to below as the regulations) authorize the payment of indemnity for sheep and goats destroyed because of scrapie, a fatal disease affecting the nervous system of sheep and goats.

A document published in the **Federal Register** on April 15, 1983 (48 FR 16235–16236), set forth an interim rule amending the regulations to restructure the scrapie indemnity program to provide for indemnity only for animals

diagnosed as having scrapie and for certain animals related by blood to animals diagnosed as having scrapie.

Comments were solicited for 60 days after publication of the amendment. Three comments were received, all of which favored the interim rule. The comments were received from a sheep rancher, a national organization of wool growers, and a national agricultural association.

The factual situation which was set forth in the document of April 15, 1983 still provides a basis for the amendment.

Executive Order 12291 and Regulatory Flexibility Act

This action has been reviewed in conformance with Executive Order 12291 and Secretary's Memorandum 1512–1, and has been determined to be not a "major rule." The Department has determined that this action will not have a significant annual effect on the economy; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and will not have any adverse effects on competition, employment, investment, productivity, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this rulemaking action, the Office of Management and Budget has waived their review process required by Executive Order 12291.

This action affirms an interim rule which authorizes the payment of indemnities for sheep and goats destroyed because of scrapie to provide for indemnity only for animals diagnosed as having scrapie and for certain animals related by blood to animals diagnosed as having scrapie.

The number of sheep and goats for which indemnity has been paid annually is insignificant compared to the total number of sheep and goats raised in the United States, and it is anticipated that this situation will not change. Further, the number of small entities to which indemnity for sheep or goats has been paid annually is insignificant compared to the total number of small entities involved in the raising of sheep and goats in the United States, and it is anticipated that this situation will not change.

Under the circumstances explained above, Mr. Bert W. Hawkins, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 9 CFR Part 54

Animal diseases, Goats, Indemnity payments, Sheep, Scrapie.

Accordingly, it has been determined that the amendment to 9 CFR Part 54 should remain effective as published in the **Federal Register** on April 15, 1983 (48 FR 16235).

(Sec. 2, 32 Stat. 792, as amended; sec. 3, 23 Stat. 32, as amended; sec. 11, 58 Stat. 734, as amended; 21 U.S.C. 111, 114, 114a, 7 CFR 2.17, 2.51, 371.2(d))

Done at Washington, D.C., this 17th day of August 1983.

K. R. Hook,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 83-23009 Filed 8-22-83; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 595

[Docket No. ERA–83–FC–019]

Status of ERA Program Certifying Eligible Uses of Natural Gas To Displace Fuel Oil

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Status of ERA Certification Program Under 10 CFR Part 595.

SUMMARY: On July 20, 1983, the Federal Energy Regulatory Commission (Commission) issued two final rules, Order No. 319 and Order No. 234–B, amending its blanket certificate program for interstate pipelines at 18 CFR Part 157, Subpart F, to authorize, among other things, transportation under the blanket certificate for any end-user, including those who use gas for boiler fuel, until July 1, 1985. Those rules became effective on August 5, 1983. The effective date of those rules set into motion the termination of the Commission's current Order No. 30 program at 18 CFR Part 284, Subpart F, which authorizes the transportation of natural gas directly purchased by end-users to displace fuel oil. These Order No. 30 regulations require, as a pre-condition to interstate transportation of the fuel oil displacement gas, that the Economic Regulatory Administration of the Department of Energy (ERA) issue a certification of eligible use pursuant to regulations in 10 CFR Part 595.

The Order No. 30 program terminates by its own terms ninety days after the effective date of the Commission's recent Phase II final rules for the blanket certificate program, which is November 4, 1983. Since ERA certification of eligible use is not required under the Commission's blanket certificate program, there will no longer be any need for end-users to file applications with ERA pursuant to 10 CFR Part 595 after November 4, 1983. However, ERA will continue to accept applications under 10 CFR Part 595 only until September 30, 1983 since applications received after that date would not have sufficient time to assure processing before the November 4 deadline.

This notice informs current certificated end-users and potential and pending applicants of the effect of the recent Commission rulemakings on their certificates and applications for certification during the ninety day period between August 5, 1983 and November 4, 1983 in which the Order No. 30 program is still technically in effect.

FOR FURTHER INFORMATION CONTACT:

Richard A. Ransom, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA–093–F, RG–622, 1000 Independence Avenue SW., Washington, D.C. 20585 (202) 252–8678.

Michael T. Skinker, Office of the General Counsel, Department of Energy 1000 Independence Avenue SW., Forrestal Building, Room 6E–042, GC–15, Washington, D.C. 20585 (202) 252–6667.

SUPPLEMENTARY INFORMATION: On July 20, 1983, the Commission issued its Phase II "blanket certificate" final rules amending 18 CFR Part 157, Subpart F, Order No. 319 in Docket No. RM 81–29–000, 48 FR 34875 (August 1, 1983) and Order No. 234–B in docket Nos. Rm 81–19–000 and RM 81–29–000, 48 FR 34872 (August 1, 1983), which took effect on August 5, 1983. Order No. 319, among other things, expanded the category of activites authorized under a blanket certificate to include the transportation of natural gas for high priority end-users, for other categories that may be designated by the Commission, and for the system supply of another pipeline or local distribution company. Order No. 234–B designated all end-users, including those that were eligible under the Commission's current Order No. 30 program (18 CFR Part 284, Subpart F), to be eligible for the purpose of authorizing transportation service under the blanket certificate program for an experimental two-year period through June 30, 1985.

In recognition of the needs of parties for prompt action, the recent Commission orders authorize transactions under the blanket

certificate program on a self-implementing basis for a term of up to 120 days. If the parties contemplate a sale of longer than 120 days duration, the transaction could commence on a self-implementing basis and, within the 120 day period, the pipeline could complete the notice and protest procedure of 18 CFR 157.205, which has an inherent 45 day delay, and obtain the long-term authorization.

The Order No. 30 program facilitated the authorization of the transportation of gas purchased directly by end-users to displace the use of fuel oil and not coal, but required as a pre-condition to that authorization that the end-user obtain a certificate of eligible use from ERA pursuant to 10 CFR Part 595. ERA certification, however, is not required by the blanket certificate program. The Order No 30 program terminates by its own terms (18 CFR 284.201(e)) on November 4, 1983, ninety days following the effective date of Order No. 319. This ninety day period was provided so that there would not be a gap in the authorization of Order 30 transactions. Therefore, the Order 30 program and the blanket certificate program will run concurrently until the Order 30 program expires on November 4, 1983. During this 90-day overlap period, end-users wishing to purchase gas to displace fuel oil consumption under the Order 30 program are encouraged to contact their pipelines on the prospect of utilizing the blanket certificate program, before applying the ERA for certification of eligible use.

All end-users who hold certification, recertifications, or amended certifications of eligible use issued by ERA pursuant to 10 CFR Part 595 are hereby advised that those documents expire by their own terms on November 4, 1983, due to the issuance of the Commission's Phase II blanket certificate orders. An end-user may continue to utilize the Order No. 30 procedures until November 4, for authorization of the transportation of fuel oil displacement gas, even though that end-user can obtain the same authorization through its pipeline's utilization of the blanket certificate program without the inherent notice and comment procedures required before issuance of an ERA certificate of eligible use. However, ERA will continue to accept applications under 10 CFR Part 595 only unitl September 30, 1983, since applications received after that date would not have sufficient time to assure processing before the November 4 deadline. All pending applications will continue to be processed, unless the end-user requests that ERA do otherwise.

Since pipelines can not transport fuel oil displacement gas under the authorization of the Order No 30 program after November 4, 1983 end-users utilizing ERA certificates of eligible use for that purpose should contact their pipelines to determine what arrangements are necessary to continue receiving gas supplies after November 4.

All participants of the Order No. 30 program, including eligible users and interstate and intrastate pipelines, are advised that they must comply with the monthly reporting requirements in 10 CFR 595.07 until November 4, 1983 and the reports required upon termination of their authorization in 18 CFR 284.207, as applicable.

Issued in Washington, D.C. on August 17, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-23096 Filed 8-22-83; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 95

[Docket No. 23721; Amdt. No. 95-312]

Air Traffic and General Operating Rules; IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rule) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. These regulatory actions are needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas. This document was originally published on August 11, 1983 (48 FR 36445), but the attachments were inadvertently omitted. The document is therefore being republished in its entirety.

EFFECTIVE DATE: August 4, 1983.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures and Airspace Branch (AFO-730), Aircraft Programs Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 95 of the Federal Aviation Regulations (14 CFR Part 95) prescribes new, amended, suspended, or revoked IFR altitudes governing the operation of all aircraft in IFR flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in Part 95. The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference.

The reasons and circumstances which create the need for this amendment involve matters of flight safety, operational efficiency in the National Airspace System, and are related to published aeronautical charts that are essential to the user and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment is unnecessary, impracticable, and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 95

Aircraft, Airspace.

Adoption of the Amendment

PART 95—[AMENDED]

Accordingly and pursuant to the authority delegated to me by the Administrator, Part 95 of the Federal Aviation Regulations (14 CFR Part 95) is amended as follows effective at 0901 G.m.t.:

(Secs. 307 and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348 and 1510); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.49(b)(3))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to

keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C. on August 4, 1983.

Kenneth S. Hunt,

Director of Flight Operations.

BILLING CODE 4910-13-M

REVISIONS TO IFR ALTITUDES & CHANGE OVER POINTS

AMENDMENT 312 EFFECTIVE DATE, AUGUST 4, 1983

FROM	TO	MEA
§95.1001 DIRECT ROUTES-U.S.		
IS ADDED TO READ		
ANDLE, CT FIX	BLUME, CT FIX	2600
APPIN, LA FIX	LAKE CHARLES, LA VORTAC	*8000
*1500 - MOCA		
COVEX, LA FIX	APPIN, LA FIX	*8000
*1800 - MOCA		
DAISETTA, TX VORTAC	COCOS, LA FIX	*8000
*1700 - MOCA		
TRUMBULL, CT VOR	LYMEE, CT FIX	*2000
*1500 - MOCA		MAA-17500
TRUMBULL, CT VOR	FLIBB, CT FIX	*2000
*1500 - MOCA		MAA-17500
IS AMENDED TO READ IN PART		
CARMEL, NY VORTAC	ANDLE, CT FIX	2600
GALVESTON, TX NDB	GRAND ISLE, LA NDB	
VIA GULF ROUTE 26	COP 121 GLS	*5000
*1600 - MOCA		
MONROE, LA VORTAC	PINE BLUFF, AR VORTAC	2500
SILVER CITY, NM VORTAC	ALBUQUERQUE, NM VORTAC	
	COP 50 SVC	14500
BAHAMA ROUTES		
T 158A		
STAGE-2, BF FIX	GRAND BAHAMA, BF NDB	2000
GRAND BAHAMA, BF NDB	DEERS, BF FIX	2000
T 158A **IS AMENDED TO DELETE**		
DEERS, BF FIX	FREEPORT, BF NDB	*2000
*1400 - MOCA		
§95.6002 VOR FEDERAL AIRWAY 2		
IS AMENDED TO READ IN PART		
MAGEN, NY FIX	*KONDO, NY FIX	**2400
*3000 - MRA		
**1900 - MOCA		
SYRACUSE, NY VORTAC	STODA, NY FIX	2400
STODA, NY FIX	VASTS, NY FIX	3000
VASTS, NY FIX	UTICA, NY VORTAC	3200
ALBANY, NY VORTAC	*MELRO, NY FIX	**3500
*4600 - MCA MELRO FIX, E BND		
**3000 - MOCA		
GRISY, MA FIX	GARDNER, MA VORTAC	4000
GARDNER, MA VORTAC	TYNGS, MA FIX	*3500
*2500 - MOCA		

FROM	TO	MEA
§95.6003 VOR FEDERAL AIRWAY 3		
IS AMENDED TO READ IN PART		
NUTTS, VA FIX	FLAT ROCK, VA VORTAC	2500
SHAWNEE, VA VORTAC	MARTINSBURG, WV VORTAC	3000
MODENA, PA VORTAC	MARRE, NJ FIX	2500
CARMEL, NY VORTAC	RACEY, CT FIX	2000
RACEY, CT FIX	HARTFORD, CT VORTAC	2700
HARTFORD, CT VORTAC	EAGRE, CT FIX	*3000
*2300 - MOCA		
LAYER, MA FIX	KITTY, MA FIX	*4500
*2300 - MOCA		
KITTY, MA FIX	BOSOX, MA FIX	*3000
*2300 - MOCA		
BOSOX, MA FIX	BOSTON, MA VORTAC	2300
AUGUSTA, ME VORTAC	BANGOR, ME VORTAC	3000
IS AMENDED TO DELETE		
LONGS, CT FIX	RACEY, CT FIX	2500
§95.6004 VOR FEDERAL AIRWAY 4		
IS AMENDED TO READ IN PART		
ITALY, WV FIX	FILES, WV FIX	*4000
*3200 - MOCA		
FILES, WV FIX	ELKINS, WV VORTAC	*5000
*3800 - MOCA		
SHAWNEE, VA VORTAC	ARMEL, VA VORTAC	*5000
*4000 - MOCA		
§95.6006 VOR FEDERAL AIRWAY 6		
IS AMENDED TO READ IN PART		
MERCY, PA FIX	CLARION, PA VORTAC	*3600
*3100 - MOCA		
SELINSGROVE, PA VORTAC	ALLENTOWN, PA VORTAC	*4000
*3300 - MOCA		
§95.6012 VOR FEDERAL AIRWAY 12		
IS AMENDED TO READ IN PART		
ALLEGHENY, PA VORTAC	MILWO, PA FIX	*4000
*2900 - MOCA		
IS AMENDED TO DELETE		
ZUNI, NM VORTAC	*ACOMA, NM FIX	
VIA S ALTER.	VIA S ALTER.	**11500
*11500 - MCA ACOMA FIX, SW BND		
**10800 - MOCA		
ACOMA, NM FIX	ALBUQUERQUE, NM VORTAC	
VIA S ALTER.	VIA S ALTER.	*9000
*8400 - MOCA		
ALBUQUERQUE, NM VORTAC	ANTON CHICO, NM VORTAC	
VIA S ALTER.	VIA S ALTER.	10000

FROM	TO	MEA
§95.6014 VOR FEDERAL AIRWAY 14		
IS AMENDED TO READ IN PART		
DUNKIRK, NY VORTAC	BUFFALO, NY VORTAC	*2800
*2100 - MOCA		
BEEPS, NY FIX	SCIPO, NY FIX	*4000
*3400 - MOCA		
SCIPO, NY FIX	VESPE, NY FIX,	4000
SHERB, NY FIX	BROOD, NY FIX	4000
ALBANY, NY VORTAC	*MELRO, NY FIX	**3500
*4600 - MCA MELRO FIX, E BND		
**3000 - MOCA		
GRISY, MA FIX	GARDNER, MA VORTAC	4000
GARDNER, MA VORTAC	SPENO, MA FIX	*3000
*2400 - MOCA		
§95.6016 VOR FEDERAL AIRWAY 16		
IS AMENDED TO READ IN PART		
GOOZE, VA FIX	LYNCHBURG, VA VORTAC	
	W BND	*5000
	E BND	*3000
*2900 - MOCA		
TAPPA, VA FIX	COLIN, VA FIX	*2000
*1500 - MOCA		
COLIN, VA FIX	PATUXENT, MD VORTAC	*2000
*1300 - MOCA		
PATUXENT, MD VORTAC	KENTON, DE VORTAC	*2000
*1500 - MOCA		
CEDAR LAKE, NJ VORTAC	COYLE, NJ VORTAC	*1900
*1300 - MOCA		
CASVI, NJ FIX	KENNEDY, NY VORTAC	1900
KENNEDY, NY VORTAC	DEER PARK, NY VORTAC	1800
CALVERTON, NY VORTAC	SALEM, CT FIX	*2000
*1500 - MOCA		
NORWICH, CT VORTAC	WOONS, RI FIX	*2500
*2000 - MOCA		
WOONS, RI FIX	WILKI, MA FIX	*3000
*1800 - MOCA		
WILKI, MA FIX	BOSTON, MA VORTAC	*2000
*1600 - MOCA		
§95.6019 VOR FEDERAL AIRWAY 19		
IS AMENDED TO READ IN PART		
LEWISTOWN, MT VORTAC	SHONK, MT FIX	7200
SHONK, MT FIX	HAVRE, MT VOR	6000
IS AMENDED TO DELETE		
SOCORRO, NM VORTAC	ALBUQUERQUE, NM VORTAC	
VIA E ALTER.	VIA E ALTER.	8000
SOCORRO, NM VORTAC	ALBUQUERQUE, NM VORTAC	
VIA W ALTER.	VIA W ALTER.	8000
LEWISTOWN, MT VORTAC	GREAT FALLS, MT VORTAC	
VIA W ALTER.	VIA W ALTER.	*11000
*10300 - MOCA		

FROM	TO	MEA
§95.6020 VOR FEDERAL AIRWAY 20		
IS AMENDED TO READ IN PART		
SOUTH BOSTON, VA VORTAC	MELIA, VA FIX	*3000
*1900 - MOCA		
MELIA, VA FIX	RICHMOND, VA VORTAC	*2000
*1300 - MOCA		
TAPPA, VA FIX	COLIN, VA FIX	*2000
*1500 - MOCA		
§95.6029 VOR FEDERAL AIRWAY 29		
IS AMENDED TO READ IN PART		
SNOW HILL, MD VORTAC	SALISBURY, MD VORTAC	*2000
*1500 - MOCA		
POTTSTOWN, PA VORTAC	*HIKES, PA FIX	**2900
*4000 - MRA		
**2400 - MOCA		
HIKES, PA FIX	EAST TEXAS, PA VORTAC	2900
WILKES-BARRE, PA VORTAC	SCOFF, PA FIX	4000
§95.6033 VOR FEDERAL AIRWAY 33		
IS AMENDED TO READ IN PART		
GRETA, PA FIX	AUDRY, PA FIX	4000
§95.6034 VOR FEDERAL AIRWAY 34		
IS AMENDED TO READ IN PART		
ROCHESTER, NY VORTAC	FAULT, NY FIX	*2700
*2100 - MOCA		
§95.6039 VOR FEDERAL AIRWAY 39		
IS AMENDED TO READ IN PART		
SHAWNEE, VA VORTAC	MARTINSBURG, WV VORTAC	3000
§95.6044 VOR FEDERAL AIRWAY 44		
IS AMENDED TO READ IN PART		
RANDE, WV FIX	MORGANTOWN, WV VORTAC	4000
§95.6054 VOR FEDERAL AIRWAY 54		
IS AMENDED TO READ IN PART		
PIKES, AR FIX	MARKI, AR FIX	
VIA N ALTER.	VIA N ALTER.	*3500
*1900 - MOCA		
MARKI, AR FIX	HOT SPRINGS, AR VOR	
VIA N ALTER.	VIA N ALTER.	*3500
*2500 - MOCA		

FROM	TO	MEA

§95.6058 VOR FEDERAL AIRWAY 58
IS AMENDED TO READ IN PART

ELLAN, NY FIX *3000 - MOCA	KINGSTON, NY VORTAC	*4000

§95.6072 VOR FEDERAL AIRWAY 72
IS AMENDED TO DELETE

MOREL, VT FIX *3000 - MOCA	RAYSE, VT FIX	*3600
RAYSE, VT FIX *4400 - MOCA	MONTPELIER, VT VOR/DME	*5000
LEBANON, NH VOR/DME	MOREL, VT FIX	3600

§95.6083 VOR FEDERAL AIRWAY 83
IS AMENDED TO DELETE

OTTO, NM VOR VIA E ALTER.	SANTA FE, NM VORTAC VIA E ALTER.	10000

§95.6090 VOR FEDERAL AIRWAY 90
IS AMENDED TO DELETE

LITCHFIELD, MI VORTAC	U.S. CANADIAN BORDER	3000

§95.6099 VOR FEDERAL AIRWAY 99
IS AMENDED TO READ IN PART

HARTFORD, CT VORTAC *2300 - MOCA	EAGRE, CT FIX	*3000

§95.6104 VOR FEDERAL AIRWAY 104
IS AMENDED TO READ IN PART

*BURLINGTON, VT VORTAC *4100 - MCA BURLINGTON VORTAC, SE BND	MONTPELIER, VT VOR/DME	6000
MONTPELIER, VT VOR/DME *4800 - MOCA	AYZOO, NH FIX	*5400
AYZOO, NH FIX *5600 - MOCA	BERLIN, NH VOR/DME	*7000

§95.6116 VOR FEDERAL AIRWAY 116
IS AMENDED TO READ IN PART

JACKSON, MI VORTAC	SALEM, MI VORTAC	3000

§95.6120 VOR FEDERAL AIRWAY 120
IS AMENDED TO DELETE

GREAT FALLS, MT VORTAC VIA N ALTER.	SHONK, MT FIX VIA N ALTER.	8000
SHONK, MT FIX VIA N ALTER.	LEWISTOWN, MT VORTAC VIA N ALTER.	8800

FROM	TO	MEA

§95.6124 VOR FEDERAL AIRWAY 124
IS AMENDED TO READ IN PART

GLENA, AR FIX *2500 - MOCA	HOT SPRINGS, AR VOR	*5000

§95.6130 VOR FEDERAL AIRWAY 130
IS AMENDED TO READ IN PART

ALBANY, NY VORTAC *6000 - MRA *6000 - MCA CANAN FIX, NW BND **3200 - MOCA	*CANAN, NY FIX	**6000
NORWICH, CT VORTAC *1800 - MOCA	WACKY, RI FIX	*2300

§95.6141 VOR FEDERAL AIRWAY 141
IS AMENDED TO READ IN PART

GREEK, VT FIX	*BURLINGTON, VT VORTAC *4100 - MCA BURLINGTON VORTAC, SE BND	6000

§95.6143 VOR FEDERAL AIRWAY 143
IS AMENDED TO READ IN PART

SHAWNEE, VA VORTAC	MARTINSBURG, WV VORTAC	3000

§95.6147 VOR FEDERAL AIRWAY 147
IS AMENDED TO READ IN PART

POTTSTOWN, PA VORTAC *4000 - MRA **2400 - MOCA	*HIKES, PA FIX	**2900
HIKES, PA FIX	EAST TEXAS, PA VORTAC	2900

§95.6151 VOR FEDERAL AIRWAY 151
IS AMENDED TO READ IN PART

LEBANON, NH VOR/DME *3900 - MOCA	MONTPELIER, VT VOR/DME	*4400
MONTPELIER, VT VOR/DME	*BURLINGTON, VT VORTAC *4100 - MCA BURLINGTON VORTAC, SE BND	6000

§95.6153 VOR FEDERAL AIRWAY 153
IS AMENDED TO READ IN PART

FROM	TO	MEA

§95.6153 VOR FEDERAL AIRWAY 153—Continued

SPOND, PA FIX LAKE HENRY, PA VORTAC	LAKE HENRY, PA VORTAC HANCOCK, NY VORTAC	4000 4000

§95.6157 VOR FEDERAL AIRWAY 157
IS AMENDED TO READ IN PART

TAPPA, VA FIX *1500 - MOCA	COLIN, VA FIX	*2000
COLIN, VA FIX *1300 - MOCA	PATUXENT, MD VORTAC	*2000
PATUXENT, MD VORTAC *1500 - MOCA	KENTON, DE VORTAC	*2000

§95.6167 VOR FEDERAL AIRWAY 167
IS AMENDED TO READ IN PART

ELLAN, NY FIX *3000 - MOCA	KINGSTON, NY VORTAC	*4000

§95.6184 VOR FEDERAL AIRWAY 184
IS AMENDED TO READ IN PART

TIDIOUTE, PA VORTAC *3300 - MOCA	COOBE, PA FIX	*4000
COOBE, PA FIX	PHILIPSBURG, PA VORTAC	4000
PHILIPSBURG, PA VORTAC	RASHE, PA FIX	4000
AUDRY, PA FIX	GRETA, PA FIX	4000
GRETA, PA FIX *2900 - MOCA	HARRISBURG, PA VORTAC	*4000
HARRISBURG, PA VORTAC	DELRO, PA FIX	3000
PADRE, PA FIX *1800 - MOCA	MODENA, PA VORTAC	*2500
MODENA, PA VORTAC	WOODSTOWN, NJ VORTAC	2000
CEDAR LAKE, NJ VORTAC *1300 - MOCA	ATLANTIC CITY, NJ VORTAC	*1800
ATLANTIC CITY, NJ VORTAC *5000 - MCA MURFE FIX, N BND	*MURFE, NJ FIX	1800

§95.6187 VOR FEDERAL AIRWAY 187
IS AMENDED BY ADDING

SOCORRO, NM VORTAC	ALBUQUERQUE, NM VORTAC	8000

§95.6190 VOR FEDERAL AIRWAY 190
IS AMENDED TO DELETE

SAINT JOHNS, AZ VORTAC VIA S ALTER. *9500 - MCA STONY FIX, SW BND	*STONY, NM FIX VIA S ALTER.	12000
STONY, NM FIX VIA S ALTER.	ALBUQUERQUE, NM VORTAC VIA S ALTER.	9000

FROM	TO	MEA

§95.6203 VOR FEDERAL AIRWAY 203
IS AMENDED TO READ IN PART

WACKY, RI FIX *1800 - MOCA	NORWICH, CT VORTAC	*2300
NORWICH, CT VORTAC *3500 - MCA RUSEL FIX, NW BND	*RUSEL, MA FIX	3000
CANAN, NY FIX *3200 - MOCA	ALBANY, NY VORTAC	*6000
ALBANY, NY VORTAC	WAREN, NY FIX	3700

§95.6205 VOR FEDERAL AIRWAY 205
IS AMENDED TO READ IN PART

LAYER, MA FIX *2300 - MOCA	KITTY, MA FIX	*4500
KITTY, MA FIX *2300 - MOCA	BOSOX, MA FIX	*3000
BOSOX, MA FIX	BOSTON, MA VORTAC	2300

§95.6213 VOR FEDERAL AIRWAY 213
IS AMENDED TO READ IN PART

TAPPA, VA FIX *1500 - MOCA	COLIN, VA FIX	*2000
COLIN, VA FIX *1300 - MOCA	PATUXENT, MD VORTAC	*2000
PATUXENT, MD VORTAC *1500 - MOCA	KENTON, DE VORTAC	*2000

§95.6221 VOR FEDERAL AIRWAY 221
IS AMENDED TO READ IN PART

JACKSON, MI VORTAC	SALEM, MI VORTAC	3000

§95.6229 VOR FEDERAL AIRWAY 229
IS AMENDED TO READ IN PART

HARTFORD, CT VORTAC *2300 - MOCA	EAGRE, CT FIX	*3000
EAGRE, CT FIX	SPENO, MA FIX	3000
SPENO, MA FIX *2400 - MOCA	GARDNER, MA VORTAC	*3000

§95.6234 VOR FEDERAL AIRWAY 234
IS AMENDED BY ADDING

SAINT JOHNS, AZ VORTAC *9500 - MCA STONY FIX, SE BND **10600 - MOCA	*STONY, NM FIX	**12000

FROM	TO	MEA
§95.6234 VOR FEDERAL AIRWAY 234—Continued		
STONY, NM FIX	ALBUQUERQUE, NM VORTAC	9000
ALBUQUERQUE, NM VORTAC	ANTON CHICO, NM VORTAC	10000
§95.6257 VOR FEDERAL AIRWAY 257 IS AMENDED TO READ IN PART		
GREAT FALLS, MT VORTAC	SHONK, MT FIX	6200
SHONK, MT FIX	HAVRE, MT VOR	6000
§95.6260 VOR FEDERAL AIRWAY 260 IS AMENDED TO READ IN PART		
GOOZE, VA FIX	LYNCHBURG, VA VORTAC W BND	*5000
	E BND	*3000
*2900 - MOCA		
§95.6265 VOR FEDERAL AIRWAY 265 IS AMENDED TO READ IN PART		
HARRISBURG, PA VORTAC	GRETA, PA FIX	*4000
*2900 - MOCA		
GRETA, PA FIX	AUDRY, PA FIX	4000
§95.6292 VOR FEDERAL AIRWAY 292 IS AMENDED TO READ IN PART		
CARMEL, NY VORTAC	RACEY, CT FIX	2000
RACEY, CT FIX	HARTFORD, CT VORTAC	2700
IS AMENDED TO DELETE		
LONGS, CT FIX	RACEY, CT FIX	2500
§95.6308 VOR FEDERAL AIRWAY 308 IS AMENDED TO READ IN PART		
BOSOX, MA FIX	BOSTON, MA VORTAC	2300
§95.6323 VOR FEDERAL AIRWAY 323 IS AMENDED TO READ IN PART		
ATHENS, GA VORTAC	MOLES, GA FIX	3000

FROM	TO	MEA
§95.6354 VOR FEDERAL AIRWAY 354 IS AMENDED TO READ IN PART		
OKLAHOMA CITY, OK VORTAC	PIONEER, OK VORTAC	4000
§95.6402 HAWAII VOR FEDERAL AIRWAY 2 IS AMENDED TO READ IN PART		
WAPIO, HI FIX	PARIS, HI FIX	
	E BND	4500
	W BND	6000
§95.6425 HAWAII VOR FEDERAL AIRWAY 25 IS AMENDED TO READ IN PART		
COOKE, HI FIX	BASSY, HI FIX	*6000
*1200 - MOCA		
BASSY, HI FIX	CODDY, HI FIX	*9000
*1200 - MOCA		
CODDY, HI FIX	CLUTS, HI FIX	26000
§95.6419 VOR FEDERAL AIRWAY 419 IS AMENDED TO READ IN PART		
MODENA, PA VORTAC	HARRS, PA FIX	2500
§95.6421 VOR FEDERAL AIRWAY 421 IS AMENDED TO DELETE		
GALLUP, NM VORTAC VIA W ALTER.	DERMA, NM FIX VIA W ALTER.	*13000
*11300 - MOCA		
DERMA, NM FIX	FARMINGTON, NM VORTAC	
VIA W ALTER.	VIA W ALTER.	
	NE BND	8000
	SW BND	13000
§95.6423 VOR FEDERAL AIRWAY 423 IS AMENDED TO READ IN PART		
SCIPO, NY FIX	SYRACUSE, NY VORTAC	3500
§95.6447 VOR FEDERAL AIRWAY 447 IS AMENDED TO READ IN PART		
RUCKY, VT FIX	MONTPELIER, VT VOR/DME	*4500
*3900 - MOCA		

FROM	TO	MEA
§95.6447 VOR FEDERAL AIRWAY 447—Continued		
MONTPELIER, VT VOR/DME	PLOTT, VT FIX	4800
PLOTT, VT FIX	U.S. CANADIAN BORDER	5000
§95.6468 VOR FEDERAL AIRWAY 468 IS AMENDED TO READ IN PART		
*PORTLAND, OR VORTAC	SWANY, WA FIX	**11500
*4500 - MCA PORTLAND VORTAC, NE BND		
**7100 - MOCA		
§95.6474 VOR FEDERAL AIRWAY 474 IS AMENDED TO READ IN PART		
PADRE, PA FIX	MODENA, PA VORTAC	*2500
*1800 - MOCA		
§95.6475 VOR FEDERAL AIRWAY 475 IS AMENDED TO READ IN PART		
MILIS, MA FIX	BOSTON, MA VORTAC	*2000
*1600 - MOCA		

FROM	TO	MEA
§95.6483 VOR FEDERAL AIRWAY 483 IS AMENDED TO READ IN PART		
STODA, NY FIX	SYRACUSE, NY VORTAC	2400
§95.6508 VOR FEDERAL AIRWAY 508 IS AMENDED TO READ IN PART		
DESOT, KS FIX	KANSAS CITY, MO VORTAC	2800
§95.6510 VOR FEDERAL AIRWAY 510 IS AMENDED TO READ IN PART		
BITLR, WI FIX	NODINE, MN VORTAC	5500
NODINE, MN VORTAC	LONE ROCK, WI VORTAC	3000
IS AMENDED TO DELETE		
LANSING, MI VORTAC	QUBEE, MI FIX	2900
QUBEE, MI FIX	SALEM, MI VORTAC	2800
§95.6526 VOR FEDERAL AIRWAY 526 IS AMENDED TO READ IN PART		
MERCY, PA FIX	CLARION, PA VORTAC	*3600
*3100 - MOCA		

FROM	TO	MEA	MAA
§95.7006 JET ROUTE NO. 6			

FROM	TO	MEA	MAA
§95.7006 JET ROUTE NO. 6			
	IS AMENDED TO READ IN PART		
PRESCOTT, AZ VORTAC	PYRIT, AZ FIX	22000	45000
PYRIT, AZ FIX	ZUNI, NM VORTAC	18000	45000
§95.7078 JET ROUTE NO. 78			
	IS AMENDED TO READ IN PART		
PRESCOTT, AZ VORTAC	PYRIT, AZ FIX	22000	45000
PYRIT, AZ FIX	ZUNI, NM VORTAC	18000	45000
§95.7085 JET ROUTE NO. 85			
	IS AMENDED TO DELETE		
DRYER, OH VORTAC	SALEM, MI VORTAC	#18000	45000

#FOR THAT AIRSPACE OVER U.S. TERRITORY.

§95.8003 VOR FEDERAL AIRWAYS CHANGEOVER POINTS

AIRWAY SEGMENT		CHANGEOVER POINTS	
FROM	TO	DISTANCE	FROM
V-104			
	IS AMENDED BY ADDING		
MONTPELIER, VT VOR/DME	BERLIN, NH VOR/DME	25	MONTPELIER
V-12			
	IS AMENDED TO READ IN PART		
APPLETON, OH VORTAC	NEWCOMERSTOWN, OH VORTAC	26	APPLETON

§95.8005 JET ROUTES CHANGEOVER POINTS

AIRWAY SEGMENT		CHANGEOVER POINTS	
FROM	TO	DISTANCE	FROM
J-65			
	IS AMENDED TO DELETE		
KLAMATH FALLS, OR VORTAC	SEATTLE, WA VORTAC	137	KLAMATH FALLS

[FR Doc. 83-23116 Filed 8-22-83; 8:45 am]
BILLING CODE 4910-13-C

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. C-2754]

Sansui Electronics Corp.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying order.

SUMMARY: This order reopens the proceeding In the Matter of Sansui Electronics Corporation and modifies the Commission's order issued on October 24, 1975 (40 FR 56656) by modifying Paragraph I(11), so as to allow the company to impose non-discriminatory standards on the kind of retailers its distributors and dealers can serve.

DATES: Consent Order issued Oct. 24, 1975. Modifying Order issued Aug. 1, 1983.

FOR FURTHER INFORMATION CONTACT: FTC/CC Selig S. Merber, Washington, D.C. 20580. (202) 634-4642.

SUPPLEMENTARY INFORMATION: In the Matter of Sansui Electronics Corporation, a corporation. Codification appearing at 40 FR 56656 remains unchanged.

List of Subjects in 16 CFR Part 13

Electronics products, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

United States of America—Before Federal Trade Commission

Commissioners: James C. Miller III, chairman, David A. Clanton, Michael Pertschuk, Patricia P. Bailey, George W. Douglas.

In the matter of Sansui Electronics Corp., a coporation; Docket No. C-2754.

Order Modifying Cease and Desist Order Issued on October 24, 1975

By a petition filed on March 23, 1983, Sansui Electronic Corporation ("Sansui") requests that the Commission reopen the proceeding in Docket No. C-2754 and modify Paragraph I(11) of the order issued by the Commission on October 24, 1975 so that the order would no longer prohibit Sansui from restricting transshipment by sellers of its products. Pursuant to Section 2.51 of the Commission's Rules of Practice, Sansui's request was placed on the public record for comments. One comment was received.

On March 8, 1983, the Commission issued a modified order in *U.S. Pioneer Electronics Corporation,* Docket No. C-2754, allowing Pioneer (one of Sansui's competitors) to prevent transshipment of its products to dealers who do not meet reasonable, non-discriminatory standards of promotion, service and display. The *Pioneer* and *Sansui* orders contain most favored respondent clauses pursuant to which the Commission may modify the respective orders to bring them into conformity with less stringent restrictions imposed on the respondent's competitors.

In view of the Commission's action in *Pioneer* and upon consideration of Sansui's request and supporting materials, the Commission now finds that Sansui would likely suffer significant competitive injury unless the order is modified to conform to the *Pioneer* order in accordance with Sansui's request. Such modification would be in the public interest.

Accordingly,

It is ordered, that this matter be, and it hereby is reopened and that paragraph I (11) of the order in Docket No. C-2754 be modified to read as follows:

Preventing or prohibiting any independent dealer or distributor from reselling his products to any persons or group of persons, business or class of businesses, except as expressly provided herein. This order shall not prohibit respondent from establishing lawful, reasonable, and non-discriminatory minimum standards for its dealers, including standards that relate to promotion and store display, demonstration, inventory levels, service and repair, volume requirements and financial stability, nor shall this order prohibit respondent from requiring its dealers who sell respondent's products for resale to make such sales only to dealers who maintain such minimum standards.

By direction of the Commission.

Issued: August 1, 1983.

Michael A. Baggage,

Acting Secretary.

[FR Doc. 83-23159 Filed 8-22-83; 8:45 am]

BILLING CODE 6750-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 5

Final Schedule of Fees for Contract Market Designations

AGENCY: Commodity Futures Trading Commission.

ACTION: Final schedule of fees.

SUMMARY: The Commission recently proposed to establish a fee for contract market designation applications. 48 FR 27411 (June 15, 1983). Initially, the fee would be set at $10,000, a figure below the actual average cost of reviewing an application for contract market designation. The Commission is now adopting its proposed fee schedule in final form, with the following two changes: (1) Exchanges with pending applications will not have to pay the fee until the contract is designated or disapproved, or until one year has elapsed, and (2) the fee will not be reviewed until the beginning of fiscal year 1985 and will be reviewed at the beginning of each subsequent year to ensure that it reflects the actual costs of the designation process.

EFFECTIVE DATE: August 23, 1983.

FOR FURTHER INFORMATION CONTACT: Stacy Dean, Counsel to the Executive Director, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Telephone (202) 254-7360.

SUPPLEMENTARY INFORMATION:

I. Contract Market Designation Fees

On June 15, 1983, the Commission published for comment in the **Federal Register** a proposed fee schedule for applications for contract market designation. 48 FR 27411. The Commission proposed to establish a single fee for all futures and options contract market designation applications which would be based upon a moving average of the costs incurred by the Commission staff in reviewing the applications during the preceding three fiscal years. The nonrefundable fee would apply to all applications submitted on or after the effective date of the new fee schedule. It would also apply to any applications pending before the Commission as of the schedule's effective date, unless those applications were withdrawn by the submitting exchanges.

Having reviewed the comments submitted by seven commodity exchanges and one trade association, the Commission is now adopting the fee schedule with some modifications.[1] Initially, the nonrefundable fee for contract market designation applications will be set at $10,000. This figure is based on the average costs incurred by the Commission staff in reviewing 91 applications for contract market designation during fiscal year ("FY") 1981, FY 1982, and the first six

[1] The Commission has decided to publish the fee schedule as Appendix B to 17 CFR Part 5, rather than as Appendix A to 17 CFR Part 1, as proposed.

months of FY 1983. As noted in the supplementary information accompanying the proposed fee schedule, the $10,000 figure is well below the actual average cost to the Commission of reviewing a designation application, not only because the acutal figure has been rounded down, but because the figure does not include the review costs and overhead incurred by Division Directors and Commissioners, the costs incurred by certain Commission support staff, or the review costs incurred before October 1, 1980 and after March 31, 1983 with respect to some of the 91 applications. Thus, the Commission believes that the $10,000 fee is a fair and equitable assessment to each exchange seeking a contract market designation.[2]

Under the proposed fee schedule, the Commission would have adjusted its fee each year, based upon a moving average of the costs incurred in reviewing applications for contract market designation during the preceding three fiscal years. One commentator expressed the fear that "the level of future Commission fees would be virtually unbounded," and another agreed that the fees should not be "open-ended." A third commentator thought that it was unfair to base the present fee on the inefficiencies that may have existed in the designation process two or more years earlier and hypothesized that exchanges would engage in an annual game of timing applications "so as to avoid the higher of present or pending year fees." In light of these concerns, the Commission has decided that it will not necessarily base its annual review of the fee upon a moving average of the review costs incurred by the Commission staff during the preceding three fiscal years. The Commission, of course, reserves the right to use the moving average method or any other method that results in a fee that does not exceed actual costs. The Commission will examine its fee at the beginning of each fiscal year to ensure that it reflects the actual costs of the designation process. Since the beginning of FY 1984 is less than two months away, the Commission will not review the new fee schedule at that time. Rather, the $10,000 fee will remain in effect throughout FY 1984, and the first review of the fee schedule will occur at the beginning of FY 1985.

Several commentators suggested that it would be inappropriate for the Commission to charge a single fee for all applications, rather than charging a fee which varies according to the costs of reviewing each application. The Commission has taken into consideration the apparent concerns of such commentators but disagrees.[3] First of all, as the commentators recognize, the Commission frequently will have pending before it several applications which pose similar analytical problems. It is not uncommon for the Commission to receive within a short period of time substantially similar applications for contract market designation from different exchanges.[4] While the Commission generally reviews applications in the order of receipt, the staff does not perform its analysis in a vacuum and is cognizant of issues raised in one application which affect other similar applications. Once the Commission reviews one application, it often can more quickly analyze the remaining applications of similar nature and content. Indeed, the Division Directors purposely attempt to assign staff familiar with one contract application to review similar applications.

Thus, while the Commission could, as the commentators suggest, charge the first applicant a substantially higher fee than the subsequent applicants, the Commission believes that the first applicant would be unduly penalized, while later applicants would reap the benefits of the prior review. This result would not be "eqitable," since each applicant would receive a service of approximately equal value. *See* H.R. Rep. 97–964, 97th Cong., 2d Sess. 57 (1982) (Conference Report) (recognizing that the Commission may seek to promulgate "a schedule of equitable fees"). Moreover, it has also been the Commission's experience that on occasion problems arise in a previously designated contract market which necessitate greater scrutiny of subsequent applications for designation in a similar contract market. Thus, it is not fair to conclude, as did one commentator, that the implementation of a single fee will always "penalize" similar applications.

Imposing a single fee for all contract market designation applications has virtues in addition in addition to the equitable considerations described above. As one commentator pointed out, a single fee "has the merit of simplicity." Another commentator noted, and the Commission concurs, that the single fee "can be implemented quickly, should have minimal administrative costs, and would be at least reasonably accurate." In this regard, the D.C. Circuit has stated that "[c]onsiderations of administrative convenience may certainly be taken into account" in devising a fee schedule. *National Cable Television Association* v. *FCC*, 554 F.2d 1094, 1108 (D.C. Cir. 1976). Finally, with a single fee, an applicant knows with certainty what its costs will be and does not risk having to pay additional fees before the Commission will consider approval of its application.

In contrast to the comments of two exchanges, the Commission does not believe that the adoption of a single fee for all applications is inconsistent with legal precedents interpreting the Independent Offices Appropriation Act of 1952 ("IOAA").[5] Indeed, the Commission has taken into account the judicial guidelines provided under the IOAA. For example, the applicable case law does not require an exact apportionment of costs. In *National Cable Television Association* v. *FCC*, 554 F.2d at 1105–06, the D.C. Circuit stated:

> It is sufficient for the Commission to identify the specific items of direct or indirect cost incurred in providing each service or benefit for which it seeks to assess a fee, and then to divide that cost among the members of the recipient class . . . in such a way as to assess each a fee which is roughly proportional to the "value" which that member has thereby received.

This the Commission has done.[6]

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[2] This figure represents a fee equivalent to the cost (including overhead) of approximately one-quarter of one staff year to analyze each application for contract market designation.

[3] The Commission's use of average fees is hardly unique; other federal agencies have based their fee schedules on average costs. *See, e.g.*, 48 FR 635 (Jan. 6, 1983) (Civil Aeronautics Board final rule) (methodology specified in greater detail in notice of proposed rulemaking, 47 FR 7846 (Feb. 23, 1982)); 48 FR 9853 (March 9, 1983) (Department of the Treasury final rule).

[4] The Commission publishes the subject matter of an application for contract market designation in the **Federal Register** and makes the application available to the public, withholding only those provisions which contain privileged information. Thus, it is possible for one exchange to submit an application which contains significant features of an application previously submitted by another exchange.

[5] In any event, the Commission has sufficient independent authority under Section 8a(5) of the Commodity Exchange Act, 7 U.S.C. 12a(5), and Section 26 of the Futures Trading Act of 1978, 92 Stat. 877, 7 U.S.C. 16a (Supp. V 1981), redesignated as Section 28(a) by Section 237 of the Futures Trading Act of 1982, Pub. L. 97–444, 96 Stat. 2328 (Jan. 11, 1983), to promulgate this rule.

[6] In a companion case, the same court elaborated on the flexibility which agencies have in calculating fees under the IOAA:

> The concurrence also states that it does not read *NCTA* as requiring "the proportion-of-cost basis" as the only acceptable method of determining a fee. That may well be so. It may be possible that a proper fee may be fashioned on other lines. We do not mean to circumscribe the ingenuity of the agencies in dealing with this problem.

National Association of Broadcasters v. *FCC*, 554 F.2d 1118, 1129 n.28 (D.C. Cir. 1976).

A number of commentators felt that charging a fee based on the average cost of reviewing an application would provide the Commission staff with no incentive to utilize its resources efficiently. As noted above, however, there are equities inherent in an average fee. Moreover, the Commission does not believe that if the fee were to depend solely upon the costs it incurred in considering each application, there would be any greater incentive for it to minimize those costs. In any event, since the money collected will go to the United States Treasury, not to the Commission, the size and nature of the fee schedule should not influence staff performance.

A related concern expressed by one commentator was that by making the fee nonrefundable, the Commission would eliminate the incentive "for an exchange to pull back its application, no matter how improbable that the application will be approved, or if approved, traded." The Commission does not share this concern, since the nonrefundability of the fee should discourage, rather than encourage, the submission of applications which do not meet the Commission's standards mandated under the Commodity Exchange Act or which the exchange thinks have little prospect to become viable.

Two exchanges noted that they sometimes submit designation "packages" containing more than one contract market application. Under the Act, exchanges are designated to trade a given contract. Accordingly, each component of such a submission represents a distinct application for contract market designation. Furthermore, even closely related contracts often pose unique problems which require extensive analysis. Approval of one contract market designation would not necessarily mandate approval of the entire package. Consequently, the Commission has determined that each contract within such a package is subject to the new fee. Exchanges should not be able to avoid responsibility for the costs of individual analysis mandated under the Commodity Exchange Act by "packaging" their contract market designation applications.

A few commentators suggested that the Commission should specify in greater detail how the Commission arrived at its $10,000 figure and what occurs during the application review process. As explained in the supplementary information accompanying the proposed fee schedule, the Commission staff spent a total of $950,537 in FY 1981, FY 1982, and the first six months of FY 1983 in reviewing a total of 91 applications for contract market designation. The $950,537 figure is comprised of only those costs attributed to the application review process. This figure includes $312,634 for FY 1981, $440,345 for FY 1982, and $186,558 for the first six months of FY 1983. The figures for each year were derived by adding the compensation and benefit costs and the travel costs for each Commission division which were directly attributable to the contract market designation process and applying an overhead figure of 32%.

When an application for contract market designation is received by the Office of the Secretariat, it is copied and distributed to the Commission's Division of Economics and Education and Division of Trading and Markets. The primary analysis of the application is performed in the Division of Economics and Education, which also ensures that a notice of proposed contract market designation is published in the Federal Register. That Division reviews the application to determine whether it conforms from an economic point of view to the relevant provisions of the Commodity Exchange Act, 7 USC 1 *et seq.*, and to the guidelines set forth in Appendix A to 17 CFR Part 5. In performing this review, the Division economists study the cash market for the underlying commodity, engage in library research, contact other Government agencies, conduct interviews with market participants, and consider public comments submitted in response to the Federal Register notice.

While the Division of Economics and Education is performing its economic analysis of the application, the Division of Trading and Markets conducts smaller-scale reviews of the contract's trading rules and the rule enforcement program of the submitting exchange. In addition, the Office of General Counsel, the Office of the Executive Director, and the Division of Enforcement review the application for contract market designation before the application package is submitted to the Commission. In short, the $10,000 fee reflects the considerable effort of the numerous Commission staff professionals who review an application for contract market designation. The total average cost of this effort is in excess of $10,000.

The Commission does not agree with those commentators who suggest that the $10,000 fee cannot be imposed on applications pending as of the date this fee schedule becomes effective. The relevant case law clearly establishes that "the mere filing of an application" does not create "a property right which is immune from modification." *Hannifin* v. *Morton*, 444 F.2d 200 (10th Cir. 1971).[1] *See also Miller* v. *Udall*, 317 F.2d 573 (D.C. Cir. 1963). The Tenth Circuit recently affirmed this principle in considering a fee imposed on applications for rights-of-way pursuant to the Federal Land Policy and Management Act of 1976 ("FLPMA"), 43 U.S.C. 1701 *et seq.* (1976 & Supp. V 1981): "[W]e hold that Interior may charge applicants for rights-of-way pending at the date of FLPMA's enactment for 'reasonable' costs of processing incurred prior to the Act's passage." *Nevada Power Co.* v. *Watt*, No. 81–1944 (10th Cir. June 16, 1983).

It should be emphasized, however, that no exchange will be involuntarily subjected to the $10,000 fee, since any pending application may be withdrawn without prejudice. In this regard, the Commission agrees with the commentator who reasoned, "To the extent any exchange is uncertain of its commitment to a contract which it has proposed but upon which the Commission has yet to make a determination, the proposed thirty-day withdrawal period would alleviate any 'unfairness' which might otherwise arguably have been created."

In addition, the Commission finds no legal impediment to its charging a fee for a pending application which was filed prior to January 11, 1983, the effective date of the Futures Trading Act of 1982 ("1982 Act"). The Commission wishes to emphasize that the 1982 Act did not create the Commission's authority to impose fees but merely acknowledged the authority contained in existing laws. *See* H.R. Rep. 97–964, 97th Cong., 2d Sess. 57 (1982) (Conference Report). Moreover, for the reasons stated above, even if the Commission's fee authority had been newly established as of January 11, 1983, the Commission could validly impose a fee on pending applications which were submitted prior to that date, particularly where, as here, an application may be withdrawn without prejudice and without incurring the fee.

The Commission is nevertheless sympathetic to the financial burden on those exchanges which, under the proposed fee schedule, would be required within a 30-day period to pay a $10,000 fee for each of their pending applications. Accordingly, the Commission has decided to extend the

[1] At issue in *Hannifin* was the validity of an rule published at 33 FR 15946 (Oct. 30, 1968), in which the Secretary of the Interior imposed an annual rental fee for sulphur prospecting permits on pending applications.

payment period for exchanges with pending applications. Within 30 days of the effective date of the final fee schedule, each exchange with one or more pending applications for contract market designation will be required to furnish the Commission with a written list of those pending applications with respect to which it wishes the Commission to take further action. Those applications will thereby become subject to the $10,000 fee, which must be paid no later than the earlier of the following two dates: (1) three business days after the date on which the Commission takes final action with respect to the application (whether the Commission approves or disapproves the application),[a] or (2) August 23, 1984.

Any application not included on the list submitted by the exchange will be considered withdrawn at the end of the 30-day period and will not be subject to the $10,000 fee. If an exchange does not submit the aforementioned list within 30 days, all of its pending applications for contract market designation will be considered withdrawn.[b] This relief measure applies only to pending applications, and, as specified below, all applications submitted after August 23, 1983 will have to be accompanied by a payment of $10,000.

Under the new fee schedule, an application for contract market designation submitted after August 23, 1983, must be accompanied by a check or money order made payable to the Commodity Futures Trading Commission. The application and fee should be sent to the Office of the Secretariat in Washington, D.C. Applications received without fees will be returned to the submitting exchanges, and the one-year time limit for reviewing the applications will not begin to run. *See* Section 6 of the Commodity Exchange Act, as modified by Section 218 of the Futures Trading Act of 1982, Pub. L. 97–444, 96 Stat. 2308 (Jan. 11, 1983).

The Commission has determined that good cause exists for making the new contract market designation fees effective immediately, rather than 30 days after publication of the new fee schedule. *See* 5 U.S.C. 553(d)(3). This will enable the federal government to begin recovering, as quickly as possible, some of the costs associated with an expensive service which the government has provided free of charge to the futures industry for many years. Moreover, at the time it approved the proposed fee schedule for publication, the Commission indicated that it would consider adopting a final rule prior to the end of FY 1983. An immediate effective date should not prejudice exchanges with pending applications, since the new fee schedule provides the exchanges with a 30-day period in which to decide whether to withdraw their applications and an opportunity to postpone payment. Nor should an immediate effective date significantly affect exchanges which file applications within 30 days of that date. Such applications would be subject to the fee even if the fee's effective date were delayed for 30 days.

[a] Since the Commission's designation will be subject to the requirement that the fee has been paid, the Secretariat will not issue a formal letter of designation until the $10,000 fee is received.

[b] As an alternative to submitting a list of applications, an exchange may submit the $10,000 fee for any particular application within 30 days, and the Commission will consider that application.

II. Regulatory Flexibility Act

The Commission has previously determined that contract markets are not "small entities" for purposes of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* 47 FR 18618 (April 30, 1982). The requirements of the Regulatory Flexibility Act therefore do not apply to contract markets. Accordingly, the Acting Chairman, on behalf of the Commission, hereby certifies pursuant to 5 U.S.C. 605(b) that the rule promulgated herein will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 17 CFR Part 5

Applications for contract markets designation, Fees, Commodity futures.

PART 5—DESIGNATION OF AND CONTINUING COMPLIANCE BY CONTRACT MARKETS

Adding Appendix B to Part 5 of Chapter 1 of Title 17 CFR

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act, and in particular in Sections 4c(c), 5, 5a, and 8a (5), 7 U.S.C. 6c(c), 7, 7a, and 12a(5); in Section 26 of the Futures Trading Act of 1978, 92 Stat. 877, 7 U.S.C. 16a (Supp. V 1981), as amended by Section 237 of the Futures Trading Act of 1982, Pub. L. 97–444, 96 Stat. 2326 (Jan. 11, 1983); and in the Independent Offices Appropriation Act of 1952, as amended by Pub. L. 97–258, 96 Stat. 1051 (Sept. 13, 1982) (see 31 USCA 9701), the Commission hereby amends Part 5 of Chapter 1 of Title 17 of the Code of Federal Regulations by adding Appendix B. In taking this action, the Commission has considered the public interest to be protected by the antitrust laws and has endeavored to take the least anticompetitive means of achieving the regulatory objectives of the Commodity Exchange Act.

* * * * *

Appendix B—Schedule of Fees

(a) Applications for Contract Market Designation. Each application for designation as a contract market must be accompanied by a check or money order in the amount of $10,000 made payable to the Commodity Futures Trading Commission.

(b) Checks and applications should be sent to the attention of the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. No checks or money orders may be accepted by personnel other than those in the Office of the Secretariat.

(c) Failure to submit the fee with an applications for designation as a contract market will result in return of the application. Fees will not be returned after receipt.

(d) An exchange with one or more applications for designation pending before the Commission on the effective date of this section may elect to pay the $10,000 fee for any such application by remitting the fee in the manner provided by paragraph (b) of this section within 30 days of such effective date. With respect to all such applications for which such $10,000 fee has not been paid, the exchange shall, within 30 days of the effective date of this section, send written notice to the Commission, at the address provided in paragraph (b) of this section, which notice shall specify which of its pending applications the exchange requests the Commission to continue to process. With respect to each application for which such request is made, including any application that the exchange withdraws from Commission consideration subsequent to the end of such 30-day period but prior to final Commission action thereon, the exchange shall pay the $10,000 fee no later than the earlier of (1) three business days after the date on which the Commission takes final action on the application or (2) one year after the effective date of this section. If, as to any pending application, the exchange fails either to pay the fee or to provide the Commission with written notice as provided in this paragraph within 30 days of the effictive date of this section, such application shall be deemed withdrawn by the exchange at the end of such 30-day period, and no fee shall be payable with respect to such application. The withdrawal of any application as herein provided shall be without prejudice to the exchange resubmitting the application subsequent to the end of such 30-day period. Any such resubmission shall be subject to payment of the fee provided in paragraph (a) of this section as then in effect.

Issued in Washington, D.C., on August 16, 1983, by the Commission.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 83-22880 Filed 8-22-83; 8:45 am]

BILLING CODE 6351-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR PART 240

[Release No. 34-20091]

Amendments to Rule 14a-8 Under the Securities Exchange Act of 1934 Relating to Proposals by Security Holders

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission announces the adoption of amended Rule 14a-8, which provides security holders a right to have their proposals included in the proxy statement of issuers subject to the proxy rules under the Securities Exchange Act of 1934. This action completes the second project in the Commission's Proxy Review Program.

DATE: Effective date: All of the amendments to Rule 14a-8 adopted August 16, 1983 with the exception of the changes to the timeliness provisions of paragraphs (a)(3) and (d) are applicable to proposals submitted for inclusion in proxy material to be filed preliminarily with the Commission on or after January 1, 1984. The new timeliness requirements in paragraphs (a)(3) and (d) apply to proposals submitted for inclusion in proxy material to be filed preliminarily with the Commission on or after July 1, 1984.

FOR FURTHER INFORMATION CONTACT: William E. Morley or John J. Gorman, (202) 272-2573, Office of the Chief Counsel, Division of Corporation Finance, Securities and Exchange Commission, 450 Fifth Street, NW., Washington D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today announced the adoption of amendments to Rule 14a-8 [17 CFR 240.14a-8] under the Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. 78a *et seq.* (1976 and Supp. IV 1980)] and certain interpretations thereunder. The amendments adopted today were the subject of Release No. 34-19135 (October 14, 1982) 47 FR 47420 (the "Proposing Release") in which the Commission undertook a comprehensive re-examination of the security holder proposal process.

I. Executive Summary

In the Proposing Release, the Commission requested comment on the basic issues as to whether security holders' access to issuers' proxy statements should be provided under the Exchange Act, the nature of such access and the Commission's role in administering the process, however defined. The Proposing Release included three specific alternative proposals in the event the Commission were to conclude that continued federal regulation of the security holder proposal process is appropriate.

Proposal I retained the current framework of Rule 14a-8 but incorporated certain revisions to specific provisions, several interpretations thereunder and staff practices in administering the rule. The proposed revisions were designed principally to remove those procedural provisions not required to further the purpose of the rule and to clarify and to simplify the application of the rule.

Proposal II would have permitted issuers and their security holders to adopt their own procedures govering access to the issuer's proxy statement, subject to certain minimum standards prescribed by the Commission. Administration of such procedures would have been left essentially to issuers and their shareholders, and ultimately the courts.

The third proposal based on the premise that security holders should have relatively unfettered access to an issuer's proxy statement. Proposal III would have required the inclusion of any proposal proper under state law except those involving the election of directors. Proposal III would have limited the maximum number of proposals required to be included, and where necessary, would have had proposals to be included selected by lot.

The Proposing Release elicited a substantial number of comment letters.[1] The commentators included representatives from all segments of the public that are concerned with the security holder proposal process: Issuers, attorneys, shareholders (including those who have been proponents and those who have not), proponents' representatives and public interest organizations. While the comments ranged from statements that the existing rule works well and should not be changed to suggestions that issuers be given unrestricted rights to establish their own procedures for security holder proposals, there was extensive support for continued security; holder access to the issuer's proxy statement under the Exchange Act and for continued Commission, rather than judicial, administration of the process.

A substantial majority of the commentators favored Proposal I or a continuation of the current rule with no change.[2]

While there was some limited support, mostly from issuers, for the approach proposed in Proposal II,[3] most commentators were concerned that Proposal II would create serious problems of administration as there would be no uniformity or consistency in determining the inclusion of security holder proposals. Exacerbating the problem generated by provisions individual to each issuer would be the effect of the fifty state judicial systems administering the process.

Only a few commentators supported Proposal III.[4] A number of commentators expressed concern that the proposal would result in costly and time consuming litigation. Many took issue with the basic assumption underlying the lottery selection of proposals *i.e,* that all proposals are of equal merit.

After review of the constructive and detailed views of the commentators and after consideration of the issues presented in the Proposing Release, the Commission has determined that shareholder access to issuers' proxy materials is appropriate and that federal provision of that access is in the best interests of shareholders and issuers alike.

Moreover, based on the overwhelming support of the commentators and the Commission's own experience, the Commission has determined that the basic framework of current Rule 14a-8 provides a fair and efficient mechanism for the security holder proposal process, and that with the modifications to the rule and interpretations thereunder discussed in this Release, Proposal I should serve the interests of shareholders and issuers well. There follows a discussion of the highlights of the revisions to Rule 14a-8 adopted today. Interested persons are directed to the text of amended Rule 14a-8 and the

[1] Three hundred and ninety-seven letters of comment were received from three hundred and eighty-three commentators. A copy of the Summary of Comments, as well as the letters of comment, is available for public inspection and copying at the Commission's Public Reference Room. (*See* File No. S7-946.

[2] One hundred and fifteen commentators generally supported Proposal I, although a number did propose various modifications. An additional one hundred and forty-five commentators suggested that there should be no change in the exiting rule. Fifty-nine commentators addressed some aspect of the proposals without expressing support for one of the three approaches proposed by the Commission.

[3] There were only twenty-four commentators who expressed support for Proposal II, although there were an additional eighteen letters which indicated some support for the concept underlying Proposal II.

[4] Six commentators favored the adoption of the proposal, with an additional sixteen letters indicating support for the theory underlying the principles advanced.

Proposing Release for a more complete understanding.

II. Discussion of Specific Provisions of Amended Rule 14a–8

A. Procedural Requirements for Proponents

1. Rule 14a–8(a)(1) [17 CFR 240.14a–8(a)(1)]—Eligibility. The Commission proposed a revision to Rule 14a–8(a)(1) that would provide that to be eligible to submit a proposal, a proponent must own at least 1% or $1000 [5] in market value of a security entitled to be voted at the meeting on the proposal and have held such securities for no less than one year prior to the date on which he submits the proposal.

A majority of the commentators specifically addressing this issue supported the concept of a minimum investment and/or a holding period as a condition to eligibility under Rule 14a–8. Many of those commentators expressed the view that abuse of the security holder proposal rule could be curtailed by requiring shareholders who put the company and other shareholders to the expense of including a proposal in a proxy statement to have some measured economic stake or investment interest in the corporation. The Commission believes that there is merit to those views and is adopting the eligibility requirement as proposed.

A number of commentators did, however, point out that changing market values for an issuer's securities could create problems in determining whether a proponent met the requirement that he own $1,000 of an issuer's securities for at least one year at the time that the proposal is submitted. In order to alleviate the questions the Commission is establishing the following test for determining whether a proponent has held $1,000 worth of the issuer's securities: The securities have been held for at least one year and are valued at $1,000 computed by use of the average of the bid and asked prices of such securities, as of a date within 60 days prior to the date of submission of the proposal.

The Proposing Release also included a revision of the second sentence of Rule 14a–8(a)(1) that would change the time limit for a proponent to provide documentation of his beneficial ownership of the issuer's securities from 10 business days to 14 calendar days. There was no specific opposition to the change and it is being adopted as proposed. It was suggested, however, that the rule require a proponent to deliver such documentation to the issuer at the time the proposal is submitted. Paragraph (a)(2) of Rule 14a–8, as adopted today, has been revised to include such a requirement.

Finally, the Commission proposed that persons who solicited an issuer's security holders through a "general proxy solicitation" with respect to the same shareholders' meeting would be ineligible to include a proposal in the issuer's proxy materials pursuant to Rule 14a–8. A number of commentators raised concerns with respect to the term "general proxy solicitation". The Commission has revised the provision to delete all references to "general proxy solicitation." Rather than relying on the concept of a "general proxy solicitation," the provision simply provides that proponents who deliver written proxy materials to holders of more than 25% of a class of the issuer's outstanding securities entitled to vote on the proposal are ineligible to submit any security holder proposals for inclusion in the issuer's proxy soliciting material.

2. *Rule 14a–8(a)(2) [17 CFR 240.14a–8(a)(2)]—Notice.* The Commission proposed the elimination of the requirement that the proponent notify the issuer of his intention to appear personally at the meeting. Commentators were split fairly evenly on whether or not to eliminate this requirement. The Commission believes that the requirement serves little purpose and only encumbers proponents and therefore has deleted such requirement from the rule.

The Commission also proposed a change in the existing rule which would permit a proponent to arrange, from the outset, to have any person who is permitted under applicable state law to present the proposal for action at the meeting. A majority of the commentators that addressed this point supported the change. Those opposing the change argued that the annual meeting is a shareholders' meeting and that any representative selected to present the proposal should be a shareholder. The Commission continues to believe, however, that where state law permits a person other than a shareholder to act as proxy for a shareholder, such person should be permitted to present the proposal. Accordingly, the Commission has adopted the proposed change to Rule 14a–8(a)(2).

There was general support for the proposed requirement that a proponent notify the issuer at the time he submits the proposal of his name, address, the number of the issuer's securities that he holds of record or beneficially and the dates upon which he acquired such securities. The Commission is adopting that provision with one addition. As discussed earlier in connection with the eligibility requirements under Rule 14a–8(a)(1), the rule as adopted also requires that the proponent provide the issuer with documentary support for any claim of beneficial ownership at the time that the proponent submits his proposal.

Finally, the Commission also has adopted the proposed change in a staff interpretation of Rule 14a–8(a)(2) to the effect that attendance at another shareholders' meeting will no longer be good cause for failure to present a proposal at an issuer's shareholders meeting.

3. *Rule 14a–8(a)(3) [17 CFR 240.14a–8(a)(3)]—Timeliness.* The Commission has adopted the proposed extension of the deadline for submission of proposals to be included in annual meeting proxy material from 90 to 120 days to give issuers and the Commission's staff adequate time to process proposals.

In adopting the new timeliness deadlines in Rules 14a–8(a)(3) and 14a–8(d), the Commission realizes that many proponents and issuers may be adversely affected unless there is a reasonably lengthy transition period prior to the effectiveness that will allow all interested persons adequate time to familiarize themselves with the requirements and to comply with those requirements. In addition, issuers will need additional time to supply the notice required by Rule 14a–5(f) [17 CFR 240.14a–5(f)] in their proxy statements. Accordingly, while all of the other amendments to Rule 14a–8 adopted today will be applicable to proposals submitted to issuers who file their preliminary proxy materials with the Commission on or after January 1, 1984, the effectiveness of the new timeliness deadlines set forth in paragraphs (a)(3) and (d) of the amended rule are deferred an additional six months. Thus, the new timeliness requirements will apply only to those proposals submitted to issuers filing their preliminary proxy material with the Commission on or after July 1, 1984.

B. Rule 14a–8(a)(4) [17 CFR 240.14a–8(a)(4)]—Number of Proposals

The Commission is adopting the proposed reduction in the number of proposals that a proponent may submit to an issuer in any one year from two to one. The majority of the commentators addressing this issue were in favor of the change. The Commission believes that this change is one way to reduce issuer costs and to improve the readability of proxy statements without substantially limiting the ability of

[5] Holdings of coproponents will be aggregated in determining the includability of a proposal.

proponents to bring important issues to the shareholder body at large.

The Commission also proposed a second change to Rule 14a–8(a)(4) which would give a proponent 14 calendar days rather than 10 business days "to reduce the number of words or the number of proposals" after being notified by the issuer that he had exceeded the limits set forth in the rule. There was no specific opposition to the change and it is being adopted as proposed.

In the Proposing Release, the Commission requested comment on the possibility of requiring proponents to pay a fee in connection with the submission of their proposals. A majority of the commentators addressing this question, almost exclusively issuers, supported the idea of a fee. Those comments, however, raised a great many questions as to the appropriate amount of such a fee and the manner in which the fee should be collected. In light of the significant questions as to the practicality and the feasibility of such an assessment, the Commission has determined not to adopt a fee requirement at this time.

C. Rule 14a–8(b)(1)—Supporting Statements for Proposals

The Proposing Release included a revision to Rule 14a–8(b) [17 CFR 240.14a–8(b)] to permit proponents to include a supporting statement for their proposals when management does not oppose the proposal. The Commission believes such supporting statements can provide shareholders with background information that may be helpful in considering the proposal and has adopted such revision.

The Commission also has amended the rule to permit a proponent an aggregate of 500 words for his proposal and supporting statement to be allocated at his discretion.

D. Rule 14a–8(b)(2)—Identification of Proponent

The Commission is adopting Rule 14a–8(b)(2) as proposed. Under the rule, the Commission will no longer provide the name and address of a proponent who is not identified in the proxy statement. Such information will have to be obtained from the issuer.

In response to a request made by a number of commentators, the Commission wishes to make it clear that an issuer is not required under the rule to include the name and address of the proponent in its proxy materials, but may do so at its sole discretion. Where the issuer chooses to exclude such information, it is required only to indicate that it will provide such information on request.

E. Substantive Grounds for Omission of Security Holder Proposals

1. *Rule 14a–8(c)(1) [17 CFR 240.14a–8(c)(1)]—Not a Proper Subject for Action by Security Holders Under State Law.* While no change was proposed to Rule 14a–8(c)(1), a number of commentators argued that the Note to paragraph (c)(1) should be deleted, since the Note elevated form over substance in considering whether a proposal would be a proper subject for action by security holders under applicable state law. The Note was first added to Rule 14a–8 in 1976 [6] to explain the staff's interpretive approach in considering the application of paragraph (c)(1). That interpretation was based on the experience of the staff that generally under state corporation law a request for the board of directors to consider certain actions was deemed proper for shareholder action as it did not infringe upon the directors' statutory authority to manage the corporation.

To reiterate what the Commission said in 1976.

> [I]t is the Commission's understanding that the laws of most states do not, for the most part, explicitly indicate those matters which are proper for security holders to act upon but instead provide only that "the business and affairs of every corporation organized under this law shall be managed by its board of directors," or words to that effect. Under such a statute, the board may be considered to have exclusive discretion in corporate matters, absent a specific provision to the contrary in the statute itself, or the corporation's charter or by-laws. Accordingly, proposals by security holders that mandate or direct the board to take certain action may constitute an unlawful intrusion on the board's discretionary authority under the typical statute. On the other hand, however, proposals that merely recommend or request that the board take certain action would not appear to be contrary to the typical state statute, since such proposals are merely advisory in nature and would not be binding on the board even if adopted by a majority of the security holders.[7]

The Commission believes, on the basis of opinions submitted to it by issuers and proponents, that this view continues to reflect general state corporate law. The Note, however, has been revised to make it clear that whether the nature of the proposal, mandatory or precatory, affects its includability is solely a matter of state law, and to dispel any mistaken impression that the Commission's application of paragraph (c)(1) is based on the form of the proposal.

2. *Rule 14a–8(c)(3) [17 CFR 240.14a–8(c)(3)]—Proposals that Are Contrary to the Commission's Proxy Rules, Including Rule 14a–9.* Although the Commission did not propose any changes to Rule 14a–8(c)(3), the Proposing Release discussed certain staff practices in administering this provision. The Commission indicated that it believed it appropriate for the staff to give proponents the opportunity to amend portions of proposals or supporting statements which might be violative of Rule 14a–9 at the time they were submitted, since issuers are accorded the same opportunities with respect to their soliciting materials. While some commentators were critical of the latitude given to proponents to make such modifications, the Commission has determined not to change its administration of paragraph (c)(3).

3. *Rule 14a–8(c)(4) [17 CFR 240.14a–8(c)(4)]—Personal Claim or Grievance.* The proposed change to Rule 14a–8(c)(4) was intended to clarify the scope of the exclusionary paragraph and to insure that the security holder proposal process would not be abused by proponents attempting to achieve personal ends that are not necessarily in the common interest of the issuers shareholders generally. Some commentators expressed concern that, as proposed, the "personal interest" grounds for exclusion could be applied to exclude a proposal relating to an issue in which a proponent was personally committed or intellectually and emotionally interested. This is not the Commission's intent. In order to allay such concerns and clarify the intended scope of revised paragraph (c)(4), the Commission has incorporated such commentators' suggested revision. As so revised the rule now refers to a "proposal . . . designed to result in a benefit to the proponent or to further a personal interest, which benefit or interest is not shared with the other security holders at large."

4. *Rule 14a–8(c)(5) [17 CFR 240.14a–8(c)(5)]—Not Significantly Related to the Issuer's Business.* The Commission is adopting Rule 14a–8(c)(5) as proposed. Paragraph (c)(5) relates to proposals concerning the functioning of the economic business of an issuer and not to such matters as shareholders' rights, e.g., cumulative voting.

5. *Rule 14a–8(c)(7) [17 CFR 240.14a–8(c)(7)]—Ordinary Business.* The Commission did not propose any change to existing Rule 14a–8(c)(7), but did propose a significant change in the

[6] Release 34–12999. (Nov. 22, 1976) [41 FR 52994].
[7] *Id.* at p. 16.

staff's interpretation of that rule. In the past, the staff has taken the position that proposals requesting issuers to prepare reports on specific aspects of their business or to form special committees to study a segment of their business would not be excludable under Rule 14a–8(c)(7). Because this interpretation raises form over substance and renders the provisions of paragraph (c)(7) largely a nullity, the Commission has determined to adopt the interpretative change set forth in the Proposing Release. Henceforth, the staff will consider whether the subject matter of the special report or the committee involves a matter of ordinary business; where it does, the proposal will be excludable under Rule 14a–8(c)(7).

6. *Rule 14a–8(c)(10) [17 CFR 240.14a–8(c)(10)]—Moot.* As with Rule 14a–8(c)(7), the Commission did not propose to change Rule 14a–8(c)(10), but did propose a change in the staff interpretation of the provision. In the past, the staff has permitted the exclusion of proposals under Rule 14a–8(c)(10) only in those cases where the action requested by the proposal has been fully effected. The Commission proposed an interpretative change to permit the omission of proposals that have been "substantially implemented by the issuer". While the new interpretative position will add more subjectivity to the application of the provision, the Commission has determined that the previous formalistic application of this provision defeated its purpose. Accordingly, the Commission is adopting the proposed interpretative change.

The Commission also requested comment on the adoption of a new interpretation of Rule 14a–8(c)(10) which would have permitted the omission of precatory proposals where the board of directors has considered the request in good faith and determined not to act. The Commission has determined that because of the administrative difficulties in administering the "good faith" test, it will not undertake the proposed interpretation at this time.

7. *Rule 14a–8(c)(12) [17 CFR 240.14a–8(c)(12)]—Repeat Proposals.* Existing Rule 14a–8(c)(12) permits the exclusion of a proposal if substantially the same proposal has been included in the issuer's proxy statement in prior years and the proposal failed to obtain a specified percentage of votes cast. The Commission proposed a change which would permit the exclusion of proposals dealing with substantially the same subject matter as proposals submitted in prior years, but which failed to receive the requisite percentage of votes.

The commentators supporting the proposed amendment felt that it was an appropriate response to counter the abuse of the security holder proposal process by certain proponents who make minor changes in proposals each year so that they can keep raising the same issue despite the fact that other shareholders have indicated by their votes that they are not interested in that issue.

Commentators who opposed the change argued that the revision was too broad and that it could be used to exclude proposals that had only a vague relation to an earlier proposal. Many of those commentators suggested that such a broad change was not necessary if the staff changed its interpretation of the existing provision.

The Commission has determined to adopt the proposed change to Rule 14a–8(c)(12). The Commission believes that this change is necessary to signal a clean break from the strict interpretive position applied to the existing provision. The Commission is aware that the interpretation of the new provision will continue to involve difficult subjective judgements, but anticipates that those judgements will be based upon a consideration of the substantive concerns raised by a proposal rather than the specific language or actions proposed to deal with those concerns. The Commission believes that by focusing on substantive concerns addressed in a series of proposals, an improperly broad interpretation of the new rule will be avoided.

The Commission also requested comment on the advisability of raising the percentage tests for resubmission of proposals under Rule 14a–8(c)(12). Currently the rule requires a 3% vote the first time a proposal is included, 6% the second time the proposal is voted upon, and 10% every year thereafter. Issuers who commented upon this question strongly supported an increase in the percentage tests. Proponents were opposed to any increase.

The Commission believes that given the increased voting activities of institutional investors with respect to security holder proposals and the greater potential support for such proposals, it is appropriate to raise the thresholds for resubmission. The Commission believes, however, that the upper limit should remain at 10%. A proposal that receives 10% of the votes cast, particularly in the face of management opposition, appears to have sufficient shareholder interest to warrant reconsideration. Accordingly, the Commission has raised the thresholds to 5% and 8% in the first and second years, respectively, with the final test remaining at 10%.

F. Procedural Requirements for Issuers

Rule 14a–8(d) [17 CFR 240.14a–8(d)]. The Commission is adopting the one change proposed in paragraph (d) that would require an issuer to notify the Commission of the issuer's intention to omit a proposal 60 rather than 50 days in advance of the filing of its preliminary proxy material. As earlier noted in the discussion of Rule 14a–8(a)(3), the effectiveness of this provision will be delayed for one year until July 1, 1984.

G. No-Action Procedures

The Commission also requested comment on the advisability of eliminating the Commission staff's administrative role in the current security holder proposal process and either generally discontinuing the issuance of no-action letters under Rule 14a–8 or discontinuing such letters with respect to paragraphs (a)(4), (c)(1), (c)(2) and (c)(4). Almost without exception, the commentators opposed the discontinuation of the staff's involvement in the process, citing problems of costs, confusion, complexity and delay. No change to the staff's role in the administration of the rule therefore will be effected.

IV. Statutory Authority and Findings

The Commission hereby adopts Rule 14a–8 and the interpretation thereunder pursuant to its statutory authority under Sections 14(a) and 23(a) of the Exchange Act, Sections 12(e) and 20(a) of the Public Utility Holding Company Act of 1935, and Sections 20(a) and 38(a) of the Investment Company Act of 1940. As required by Section 23(a) of the Exchange Act, the Commission has considered the impact that this rulemaking action would have on competition and has concluded that they would impose no significant burden on competition not necessary or appropriate in furtherance of the purpose of the Exchange Act.

List of Subjects in 17 CFR Part 240

Reporting requirements, Securities.

V. Text of Amendments

In accordance with the foregoing, Title 17, Chapter II, of the Code of Federal Regulations is amended as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. By revising Rule 14a–8, § 240.14a–8, to read as follows:

§ 240.14a–8 Proposals of security holders.

(a) If any security holder of an issuer notifies the issuer of his intention to present a proposal for action at a forthcoming meeting of the issuer's security holders, the issuer shall set forth the proposal in its proxy statement and identify it in its form of proxy and provide means by which security holders can make the specification required by Rule 14a–4(b) [17 CFR 240.14a–4(b)]. Notwithstanding the foregoing, the issuer shall not be required to include the proposal in its proxy statement or form of proxy unless the security holder (hereinafter, the "proponent") has complied with the requirements of this paragraph and paragraphs (b) and (c) of this section:

(1) *Eligibility.* (i) At the time he submits the proposal, the proponent shall be a record or beneficial owner of at least 1% or $1000 in market value of securities entitled to be voted at the meeting and have held such securities for at least one year, and he shall continue to own such securities through the date on which the meeting is held. If the issuer requests documentary support for a proponent's claim that he is the beneficial owner of at least $1000 in market value of such voting securities of the issuer or that he has been a beneficial owner of the securities for one or more years, the proponent shall furnish appropriate documentation within 14 calendar days after receiving the request. In the event the issuer includes the proponent's proposal in its proxy soliciting material for the meeting and the proponent fails to comply with the requirement that he continuously hold such securities through the meeting date, the issuer shall not be required to include any proposals submitted by the proponent in its proxy material for any meeting held in the following two calendar years.

(ii) Proponents who deliver written proxy materials to holders of more than 25 percent of a class of the issuer's outstanding securities entitled to vote with respect to the same meeting of security holders will be ineligible to use the provisions of Rule 14a–8 for the inclusion of a proposal in the issuer's proxy materials. In the event the issuer includes a proponent's proposal in its proxy material and the proponent thereafter delivers written proxy materials to the holders of more than 25 percent of a class of the issuer's outstanding securities entitled to vote with respect to such meeting, the issuer shall not be required to include any proposals submitted by that proponent in its proxy soliciting materials for any meeting held in the following two calendar years.

(2) *Notice and Attendance at the Meeting.* At the time he submits a proposal, a proponent shall provide the issuer in writing with his name, address, the number of the issuer's voting securities that he holds of record or beneficially, the dates upon which he acquired such securities, and documentary support for a claim of beneficial ownership. A proposal may be presented at the meeting either by the proponent or his representative who is qualified under state law to present the proposal on the proponent's behalf at the meeting. In the event that the proponent or his representative fails, without good cause, to present the proposal for action at the meeting, the issuer shall not be required to include any proposals submitted by the proponent in its proxy soliciting material for any meeting held in the following two calendar years.

(3) *Timeliness.* The proponent shall submit his proposal sufficiently far in advance of the meeting so that it is received by the issuer within the following time periods:

(i) *Annual Meetings.* A proposal to be presented at an annual meeting shall be received at the issuer's principal executive offices not less than 120 days in advance of the date of the issuer's proxy statement released to security holders in connection with the previous year's annual meeing of security holders, except that if no annual meeting was held in the previous year or the date of the annual meeting has been changed by more than 30 calendar days from the date contemplated at the time of the previous year's proxy statement, a proposal shall be received by the issuer a reasonable time before the solicitation is made.

(ii) *Other Meetings.* A proposal to be presented at any meeting other than an annual meeting specified in paragraph (a)(3)(i) of this section shall be received a reasonable time before the solicitation is made.

Note.—In order to curtail controversy as to the date on which a proposal was received by the issuer, it is suggested that proponents submit their proposals by Certified Mail-Return Receipt Requested.

(4) *Number of Proposals.* The proponent may submit no more than one proposal and an accompanying supporting statement for inclusion in the issuer's proxy materials for a meeting of security holders. If the proponent submits more than one proposal, or if he fails to comply with the 500 word limit mentioned in paragraph (b)(1) of this section, he shall be provided the opportunity to reduce the items submitted by him to the limits required by this rule, within 14 calendar days of notification of such limitations by the issuer.

(b)(1) *Supporting Statement.* The issuer, at the request of the proponent, shall include in its proxy statement a statement of the proponent in support of the proposal, which statement shall not include the name and address of the proponent. A proposal and its supporting statement in the aggregate shall not exceed 500 words. The supporting statement shall be furnished to the issuer at the time that the proposal is furnished, and the issuer shall not be responsible for such statement and the proposal to which it relates.

(b)(2) *Identification of Proponent.* The proxy statement shall also include either the name and address of the proponent and the number of shares of the voting security held by the proponent or a statement that such information will be furnished by the issuer to any person, orally or in writing as requested, promptly upon the receipt of any oral or written request therefor.

(c) The issuer may omit a proposal and any statement in support thereof from its proxy statement and form of proxy under any of the following circumstances:

(1) If the proposal is, under the laws of the issuer's domicile, not a proper subject for action by security holders.

Note.—Whether a proposal is a proper subject for action by security holders will depend on the applicable state law. Under certain states' laws, a proposal that mandates certain action by the issuer's board of directors may not be a proper subject matter for shareholder action, while a proposal recommending or requesting such action of the board may be proper under such state laws.

(2) If the proposal, if implemented, would require the issuer to violate any state law or federal law of the United States, or any law of any foreign jurisdiction to which the issuer is subject, except that this provision shall not apply with respect to any foreign law compliance with which would be violative of any state law or federal law of the United States.

(3) If the proposal or the supporting statement is contrary to any of the Commission's proxy rules and regulations, including Rule 14a–9 [17 CFR 240.14a–9], which prohibits false or misleading statements in proxy soliciting materials;

(4) If the proposal relates to the redress of a personal claim or grievance against the issuer or any other person,

or if it is designed to result in a benefit to the proponent or to further a personal interest, which benefit or interest is not shared with the other security holders at large;

(5) If the proposal relates to operations which account for less than 5 percent of the issuer's total assets at the end of its most recent fiscal year, and for less than 5 percent of its net earnings and gross sales for its most recent fiscal year, and is not otherwise significantly related to the issuer's business;

(6) If the proposal deals with a matter beyond the issuer's power to effectuate;

(7) If the proposal deals with a matter relating to the conduct of the ordinary business operations of the issuer;

(8) If the proposal relates to an election to office;

(9) If the proposal is counter to a proposal to be submitted by the issuer at the meeting;

(10) If the proposal has been rendered moot;

(11) If the proposal is substantially duplicative of a proposal previously submitted to the issuer by another proponent, which proposal will be included in the issuer's proxy material for the meeting;

(12) If the proposal deals with substantially the same subject matter as a prior proposal submitted to security holders in the issuer's proxy statement and form of proxy relating to any annual or special meeting of security holders held within the preceding five calendar years, it may be omitted from the issuer's proxy materials relating to any meeting of security holders held within three calendar years after the latest such previous submission: *Provided, That* (i) If the proposal was submitted at only one meeting during such preceding period, it received less than five percent of the total number of votes cast in regard thereto; or

(ii) If the proposal was submitted at only two meetings during such preceding period, it received at the time of its second submission less than eight percent of the total number of votes cast in regard thereto; or

(iii) If the prior proposal was submitted at three or more meetings during such preceding period, it received at the time of its latest submission less than 10 percent of the total number of votes cast in regard thereto; or

(13) If the proposal relates to specific amounts of cash or stock dividends.

(d) Whenever the issuer asserts, for any reason, that a proposal and any statement in support thereof received from a proponent may properly be omitted from its proxy statement and form of proxy, it shall file with the Commission, not later than 60 days prior to the date the preliminary copies of the proxy statement and form of proxy are filed pursuant to Rule 14a–6(a) [17 CFR 240.14a–6(a)], or such shorter period prior to such date as the Commission or its staff may permit, five copies of the following items: (1) The proposal; (2) any statement in support thereof as received from the proponent; (3) a statement of the reasons why the issuer deems such omission to be proper in the particular case; and (4) where such reasons are based on matters of law, a supporting opinion of counsel. The issuer shall at the same time, if it has not already done so, notify the proponent of its intention to omit the proposal from its proxy statement and form of proxy and shall forward to him a copy of the statement of reasons why the issuer deems the omission of the proposal to be proper and a copy of such supporting opinion of counsel.

(e) If the issuer intends to include in the proxy statement a statement in opposition to a proposal received from a proponent, it shall, not later than 10 calendar days prior to the date the preliminary copies of the proxy statement and form of proxy are filed pursuant to Rule 14a–6(a), or, in the event that the proposal must be revised to be includable, not later than five calendar days after receipt by the issuer of the revised proposal promptly forward to the proponent a copy of the statement in opposition to the proposal. In the event the proponent believes that the statement in opposition contains materially false or misleading statements within the meaning of Rule 14a–9 and the proponent wishes to bring this matter to the attention of the Commission, the proponent promptly should provide the staff with a letter setting forth the reasons for this view and at the same time promptly provide the issuer with a copy of such letter.

(Secs. 14(a) and 23(a), 48 Stat. 895 and 901; sec. 12(e) and 20(a), 49 Stat. 823 and 833; sec. 20(a) and 38(a), SY Stat. 822 and 841; 15 U.S.C. 78n(a); 78w(a), 79*l*(e), 794(a), 800.20(a), 80a–37(a))

By the Commission, Commissioner Longstreth dissenting.[1]

George A. Fitzsimmons,

Secretary.

August 16, 1983.

Dissent by Commissioner Longstreth

I respectfully dissent from the adoption of Amendments to Rule 14a–8 under the Securities Exchange Act of 1934 Relating to Proposals by Security Holders.

The responses to our proposing release (Release No. 34–19135 (October 14, 1982)), totaling 397, provide overwhelming support for three major conclusions:

1. Shareholders should continue to be accorded access to management proxy statements under the Securities Exchange Act of 1934.

2. The Securities and Exchange Commission should continue to be actively involved in administering the process by which that access is afforded.

3. The present system for according access to shareholders is strongly preferred to the more radical schemes suggested in the proposing release or any other scheme yet devised.

My dissent from adoption of the proposed amendments rests upon a belief that these amendments, in the aggregate, tilt significantly and unnecessarily against shareholders seeking access to the proxy machinery. The tilt, in my opinion, goes well beyond that which is necessary to deal with recognized abuses. I do not believe the active use of the proxy machinery by shareholders is, of itself, an abuse; therefore, I do not favor changes the effect of which will be to reduce that usage by responsible shareholders.

If we are going to support shareholder access in theory, we should support it in practice as well, and not just for highly sophisticated investors who can afford to develop or retain the skills necessary to master the labyrinth that Rule 14a–8 sets before them.

With minor exceptions, Rule 14a–8 in its present form has been in effect since 1976. The seven year record provides a strong case for continuing the Rule essentially as it is. Indeed, of those commenting, 145 would have us do just that. Moreover, each time we change a rule, we impose on the community of affected businessmen, investors and professionals the cost of having to master the changes.

For the foregoing reasons, I favor retaining Rule 14a–8 in its present form and adjusting our interpretations where necessary to deal with the abuses our staff has identified.

[FR Doc. 83–23104 Filed 8–22–83; 8:45 am]

BILLING CODE 8010–01–M

[1] Dissenting opinion of Commissioner Longstreth follows.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 282

[Docket No. RM83-75-000; Order No. 324]

Adoption of Corrected Alternative Fuel Price Ceilings for the Month of August 1983

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final Rule with request for comments.

SUMMARY: The Energy Information Administration (EIA) of the Department of Energy has notified the Commission that it miscalculated the alternative fuel price ceilings published by it on July 22, 1983 (48 FR 33530). The Federal Energy Regulatory Commission (Commission) issues this final rule to adopt the corrected price ceilings which are applicable to incrementally priced natural gas users. Specifically, § 282.404(a) of the Commission's regulations is amended by adding a new subparagraph (5) to provide that the alternative fuel price ceilings for August 1983, listed in new § 282.404(a)(5), supersede the corresponding state ceilings previously published by the EIA.

DATES: The final rule is effective August 19, 1983. Written comments due September 22, 1983.

Requests for an oral hearing must be received by September 21, 1983. If requested, the oral hearing will be held on September 29, 1983, and announced by September 23, 1983.

ADDRESS: Written comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C., 20426 and should reference Docket No. RM83-75-000. If an oral hearing is held, it will be held at the above address.

FOR FURTHER INFORMATION CONTACT:

Barbara K. Christin, Office of the General Counsel, (202) 357-8033
Sandra Delude, Office of Pipeline and Producer Regulation, (202) 357-9183.

SUPPLEMENTARY INFORMATION:

Issued: August 19, 1983.

I. Introduction

The Federal Energy Regulatory Commission (Commission) issues this final rule to correct the alternative fuel price ceilings applicable to incrementally priced natural gas users for the month of August 1983. Specifically, the final rule amends § 282.404(a) by adding subparagraph (5) to provide that the alternative fuel price ceilings for August 1983, listed in new § 282.404(a)(5), supersede the corresponding state ceilings previously published on July 22, 1983, (48 Fed. Reg. 33,530) by the Energy Information Administration (EIA) of the Department of Energy.

II. Background and Discussion

Title II of the Natural Gas Policy Act of 1978 (NGPA) (15 U.S.C. 3301-3432) requires the Commission to prescribe and make effective a program of incremental pricing of natural gas used as industrial boiler fuel. Section 204(e) of the NGPA directs the Commission to establish ceilings on prices charged to incrementally priced users, based on the cost of alternative fuel oils in each region designated by the Commission.

Under the Commission's incremental pricing regulations, ceiling prices for each month are based on the observed price of high-sulfur No. 6 fuel oil in each of the 48 contiguous states. These ceiling prices are published in the **Federal Register** on, or before, the twentieth day of the month preceding their effective date. The collection of data, the calculation of the price ceilings, and the publication of these ceilings are performed by the EIA, in accordance with its statutory responsibilities. (Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Department of Energy Delegation Order No. 0204-3, October 1, 1977).

The EIA has notified the Commission that for the month of August 1983, the alternative fuel price ceilings published on July 22, 1983, were incorrect, due to an error in the data base that was used to compute the lag adjustment factors. Upon learning of the error, the EIA recomputed the alternative fuel price ceilings for all states for the month of August, using the corrected data. Twenty-nine states are affected by this error.

The correct alternative fuel price ceilings for fifteen of the twenty-nine affected states are substantially lower than the published ceilings.[1] In order to ensure that incrementally priced industrial users are not required to pay a price for their natural gas that exceeds the appropriate alternative fuel price ceiling in their region, the Commission is issuing this final rule to provide that the corrected alternative fuel price ceilings for these fifteen states supersede the ceilings that were previously published by the EIA.

The corrected alternative fuel price ceilings for the remaining fourteen states affected by the error are substantially higher than those published by the EIA on July 22, 1983.[2] Incrementally-priced industrial facilities relied on the ceiling prices published in July when making decisions regarding volumes of natural gas or alternative fuels to be purchased in August. It is quite possible that, had the higher ceiling prices been published by the EIA in July, industrials would not have made the same decisions regarding the volumes of natural gas to be purchased in August. For these reasons, the Commission believes that to impose higher ceiling prices for August, at this time, would be inequitable and could impose a financial hardship on some industrial users. Moreover, although such an upward revision may have a significant adverse impact on particular industrial users, it would not have a significant impact on the incremental pricing program.

III. Effective Date

It is essential that the Commission issue this final rule immediately. The incremental pricing program is designed so that final bills for natural gas consumption can be issued each month without subsequent revisions. Once these bills have been calculated for August 1983 and the surcharges flowed through the system, later revisions would result in administrative problems at all levels of the affected supply system. For these reasons, the Commission finds good cause to waive the normal notice and comment procedures as well as the thirty-day publication requirement of the Administrative Procedure Act, 5 U.S.C. 553 (b) and (d). The Commission will, however, afford an opportunity for interested persons to present views and comments, as set forth below.

IV. Comment Procedures

A. Written Comments

Interested persons are invited to submit written comments, data, views, or arguments with respect to this final rule. Comments should be submitted to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C.

[1] The published ceiling prices exceed the corrected ceiling prices by: (1) 15 cents per MMBtu for California; (2) 14 cents per MMBtu for Arkansas, Arizona, Louisiana, Nevada, Oregon, Oklahoma, and Washington; (3) 13 cents per MMBtu for Texas; (4) 12 cents per MMBtu for New Mexico; and (5) 11 cents per MMBtu for Colorado, Idaho, Montana, Utah, and Wyoming.

[2] The corrected ceiling prices exceed the published prices by: (1) 14 cents per MMBtu for Illinois, Indiana, Kentucky, Michigan, Ohio, Wisconsin, and West Virginia; and (2) 13 cents per MMBtu for Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota.

20426 and should reference Docket No. RM83–75–000. An original and 14 copies should be filed by 30 days from publication in the **Federal Register**. All written submissions will be placed in the public file which has been established in this docket and which is available for public inspection through the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C., during regular business hours.

B. Public Hearing

Interested persons may request the opportunity for an oral presentation of their views at a public hearing. Requests for an oral hearing should be submitted no later than September 21, 1983, to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 and should reference Docket No. RM83–75–000. If a public hearing is held in this docket, it will be held at the above address on September 29, 1983, and will be announced by September 23, 1983.

List of Subjects in 18 CFR Part 282

Intergovernmental relations, Natural gas, Reporting and record keeping regulations, Uniform system of accounts.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301, *et seq.*; Department of Energy Organization Act, 42 U.S.C. 7101, *et seq.*; E.O. 12,009, 3 CFR 142 (1978).)

In consideration of the foregoing, the Commission amends Subpart D of Part 282, Chapter I, Title 18 of the Code of Federal Regulations, as set forth below, effective immediately.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 282—[AMENDED]

Section 282.404 is amended by adding a new paragraph (a)(5) to read as follows:

§ 282.404 Alternative fuel price ceilings.

(a) * * *

(5) For the month of August 1983, the following state ceilings shall be effective and shall supersede the corresponding state ceilings published on July 22, 1983:

State	Dollars per million Btu's
Arizona	3.67
Arkansas	3.54
California	3.64
Colorado	3.67
Idaho	3.67
Louisiana	3.54
Montana	3.67
Nevada	3.67
New Mexico	3.19
Oklahoma	3.54
Oregon	3.67
Texas	3.35
Utah	3.67
Washington	3.67
Wyoming	3.67

* * * * *

[FR Doc. 83-23181 Filed 8-22-83; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 172

[Docket No. 81F–0179]

Food Additives Permitted for Direct Addition to Food for Human Consumption; Sucrose Fatty Acid Esters

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of sucrose fatty acid esters as emulsifiers, stabilizers, and texturizers in some foods for human consumption. This action responds to a petition filed by the Nebraska Department of Economic Development.

DATES: Effective August 23, 1983; objections by September 22, 1983. The Director of the Federal Register approves the incorporation by reference of certain publications at 21 CFR 172.859 effective on August 23, 1983.

ADDRESS: Written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Patricia J. McLaughlin, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of June 16, 1981 (46 FR 31519), FDA announced that a petition (FAP 1A3564) had been filed by the Nebraska Department of Economic Development, P.O. Box 94666, Lincoln, NE 68509, proposing that the food additive regulations be amended to provide for the safe use of sucrose fatty acid esters as emulsifiers, stabilizers, and texturizers in some foods for human consumption. The types of food are baked goods and baking mixes, biscuit mixes, dairy product analogs, frozen dairy desserts and mixes, and whipped milk products.

FDA has evaluated the data in the petition and other relevant material and concludes that the proposed food additives are safe, and that the regulations should be amended as set forth below.

Among these amendments is a change that will expand the assay method incorporated by reference in § 172.859(b)(1) and (2) (21 CFR 172.859(b)(1) and (2)) to add a methodology for assaying products with differing ratios of mono-, di-, and tri-esters. This new expanded methodology is entitled "Sucrose Fatty Acid Esters, Method of Assay." It includes, in Appendix A, the method previously incorporated by reference in § 172.859(b)(1) and (2) (which was entitled "Determination of Free and Combined Sucrose"). Appendix A includes the process for determining free sucrose. This process is identified as Test S.2 in amended § 172.859(b)(2) but is unchanged from the method previously incorporated by reference.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Bureau of Foods (address above) by appointment with the information contact person listed above. As provided in § 171.1(h)(2), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting this finding may be seen in the Dockets Management Branch (address above), between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 172

Food additives, Food preservatives, Incorporation by reference, Spices and flavorings.

PART 172—FOOD ADDITIVES PERMITTED FOR DIRECT ADDITION TO FOOD FOR HUMAN CONSUMPTION

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21

U.S.C. 321(s), 348)] and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Foods (21 CFR 5.61), Part 172 is amended in § 172.859 by revising paragraphs (a), (b) (1) and (2), and (c) and by adding new paragraph (b)(9), to read as follows:

§ 172.859 Sucrose fatty acid esters.

* * * * *

(a) Sucrose fatty acid esters are the mono-, di-, and tri-esters of sucrose with fatty acids and are derived from sucrose and edible tallow or hydrogenated edible tallow. The only solvents which may be used in the preparation of sucrose fatty acid esters are those generally recognized as safe in food or regulated for such use by an appropriate section in this part. Ethyl acetate or methyl ethyl ketone may be used in the preparation of sucrose fatty acid esters.

(b) * * *

(1) The total content of mono-, di-, and tri-esters is not less than 80 percent as determined by a method title "Sucrose Fatty Acid Esters, Method of Assay," which is incorporated by reference. Copies are available from the Division of Food and Color Additives, Bureau of Foods (HFF–330), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(2) The free sucrose content is not more than 5 percent as determined by Test S.2 in the method titled "Sucrose Fatty Acid Esters, Method of Assay," which is incorporated by reference. The availability of this incorporation by reference is given in paragraph (b)(1) of this section.

* * * * *

(9) The total content of methyl ethyl ketone or of methanol shall not be more than 10 parts per million as determined by a method titled "Methyl Ethyl Ketone Test; Methyl Alcohol Test," which is incorporated by reference. Copies are available from the Division of Food and Color Additives, Bureau of Foods (HFF–330), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

(c) Sucrose fatty acid esters may be used as follows when standards of identity established under section 401 of the Federal Food, Drug, and Cosmetic Act do not preclude such use:

(1) As emulsifiers as defined in § 170.3(o)(8) of this chapter or as stabilizers as defined in § 170.3(o)(28) of this chapter in baked goods and baking mixes as defined in § 170.3(n)(1) of this chapter, in dairy product analogs as defined in § 170.3(n)(10) of this chapter, in frozen dairy desserts and mixes as defined in § 170.3(n)(20) of this chapter, and in whipped milk products.

(2) As texturizers as defined in § 170.3(o)(32) of this chapter in biscuit mixes.

(3) As components of protective coatings applied to fresh apples, bananas, and pears to retard ripening and spoiling.

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before September 22, 1983 submit to the Dockets Management Branch (address above) written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective August 23, 1983.

(Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348))

Dated: August 12, 1983.

Richard J. Ronk,

Acting Director, Bureau of Foods.

[FR Doc. 83-23084 Filed 8-22-83; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 172

[Docket No. 83F–0075]

Food Additives Permitted for Direct Addition to Food for Human Consumption: Sucrose Fatty Acid Esters

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of sucrose fatty acid esters as components of protective coatings on pineapples. This action is being taken in response to a petition filed by TAL Chemicals Co.

DATES: Effective August 23, 1983; objections by September 22, 1983.

ADDRESS: Written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Patricia J. McLaughlin, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of April 8, 1983 (48 FR 15330), FDA announced that a petition (FAP 3A3708) had been filed by TAL Chemicals Co., 24–26 Queens Rd., Reading, Berkshire RG1 4AU, United Kingdom, proposing that the food additive regulations be amended to provide for the safe use of sucrose fatty acid esters as components of protective coatings on pineapples.

FDA has evaluated the data in the petition and other relevant material and concludes that the proposed use of the food additives is safe and that the regulations should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Bureau of Foods (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h)(2), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the

action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (address above), between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 172

Food additives; Food preservatives; Spices and flavorings.

PART 172—FOOD ADDITIVES PERMITTED FOR DIRECT ADDITION TO FOOD FOR HUMAN CONSUMPTION

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Foods (21 CFR 5.61), Part 172 is amended in § 172.859 by revising paragraph (c)(3) to read as follows:

§ 172.859 Sucrose fatty acid esters.

* * * * *

(c) * * *

(3) As components of protective coatings applied to fresh apples, bananas, pears, and pineapples to retard ripening and spoiling.

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before September 22, 1983, submit to the Dockets Management Branch (address above) written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective August 23, 1983.

(Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348))

Dated: August 10, 1983.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 83-22055 Filed 8-22-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 178

[Docket No. 82F-0247]

Indirect Food Additives; Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of zinc dibutyldithiocarbamate as an antioxidant in certain polypropylene resins. This action responds to a petition filed by Gulf Oil Corp.

DATES: Effective August 23, 1983 objections by September 22, 1983.

ADDRESS: Written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Julius Smith, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of August 27, 1982 (47 FR 37959), FDA announced that a petition (FAP 2B3642) had been filed by Gulf Oil Corp., P.O. Box 1166, Pittsburgh, PA 15230, proposing that the food additive regulations be amended to provide for the safe use of zinc dibutyldithiocarbamate as an antioxidant in polypropylene resins.

FDA has evaluated data in the petition and other relevant material and concludes that the proposed food additive use is safe and that the regulations should be amended as set forth below. FDA has also added the Chemical Abstracts Service Registry number for this additive.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Bureau of Foods (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h)(2), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (address above), between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging, Sanitizing solutions.

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Foods (21 CFR 5.61), Part 178 is amended in § 178.2010(b) by inserting the Chemical Abstracts Service Registry number (CAS Reg. No.) for the item "Zinc dibutyldithiocarbamate" and by adding a second use under its limitations. As revised, the item reads as follows:

§ 178.2010 Antioxidants and/or stabilizers for polymers.

* * * * *

(b) * * *

Substances	Limitations
* * * * *	
Zinc dibutyldithiocarbamate (CAS Reg. No. 136-23-2).	For use only: 1. At levels not to exceed 0.2 percent by weight of isobutylene-isoprene copolymers complying with § 177.1420 of this chapter: *Provided*, That the finished copolymers contact food only of the types identified in § 176.170(c) of this chapter, table 1, under types V, VII, VIII, and IX. 2. At levels not to exceed 0.02 percent by weight of polypropylene polymers complying with § 177.1520(c), item 1.1 of this chapter.
* * * * *	

Any person who will be adversely affected by the foregoing regulation may at any time on or before September 22, 1983 submit to the Dockets Management Branch (address above) written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each

numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitue a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective August 23, 1983.

(Secs. 201)(s), 409, 72 Stat. 1784–1789 as amended (21 U.S.C. 321(s), 348))

Dated: August 8, 1983.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 83-23067 Filed 8-22-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 890

[Docket No. R-83-1036]

Annual Contributions for Operating Subsidy-Performance Funding System

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This rule adopts as final the interim rule published in the **Federal Register** on December 23, 1982 at 47 FR 57270. The interim rule amended HUD regulations governing the Department's annual operating subsidy contributions to public housing agencies (PHAs) (24 CFR Part 890) to readopt the Rolling Base Period in determining the Allowable Utilities Consumption Level (AUCL) to be used by PHAs in the Performance Funding System calculation of the Utilities Expense Level. Under the Rolling Base, the AUCL is based upon an average of the PHA's actual utility consumption during the previous three years.

This final rule makes no change in the provisions of the interim rule.

EFFECTIVE DATE: October 11, 1983.

FOR FURTHER INFORMATION CONTACT: J. Milton Slifkin, Fiscal Management Division, Office of Public Housing, Room 4216, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410, telephone (202) 426–1872. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: This rule adopts as final the interim rule published in the **Federal Register** on December 23, 1982 at 47 FR 57270, which amended 24 CFR Part 890 to reinstate the Rolling Base Period for determining the Allowable Utilities Consumption Level (AUCL) used by public housing agencies (PHAs) in the Performance Funding System (PFS) calculation of the Utilities Expense Level.

Background Information

At the inception of the PFS in April 1975, the AUCL was based upon the PHA's actual utility consumption during the immediately preceding 36-months, a period referred to as the Rolling Base Period. In July 1977, the Rolling Base Period was replaced by a Fixed Base Period, which in effect froze the AUCL to one of the 36-month periods ending December 31, 1975, March 31, 1976, June 30, 1976 or September 30, 1976. The consumption of utilities used for space heating was later adjusted by a Change Factor, which was developed to indicate the relationship between the average annual heating degree days for the 30-year period from 1941 through 1970 and the average annual heating degree days for each PHA's Fixed Base Period.

On December 23, 1982, the Department published an interim rule abolishing the Fixed Base Period system and reinstating the three year Rolling Base Period method for computing AUCL, which was originally used for the PFS in 1975.

Response to Public Comments

The interim rule invited public comments for a 60-day period ending February 22, 1983. The Department received four comments.

One comment endorsed the rule as fair to both local PHAs and HUD. Another comment was not relevant to the interim rule because it discussed general issues raised by the PFS rather than specific provisions of the rule.

A third comment requested that HUD modify the interim rule to take into account extremely hot, as well as extremely cold, weather conditions. Noting that current regulations contain an adjustment factor for Heating Degree Days (HDD), the commenter suggested that HUD develop and implement a similar adjustment factor for Cooling Degree Days (CDD). Because, the commenter argued, cooling and heating place comparable demands on energy consumption, and a PHA located in a very hot region can spend as much on cooling as a PHA in a colder climate spends on heating, fairness requires development of a CDD adjustment factor by HUD.

The Department does not agree with this comment for a variety of reasons. First, the application of an adjustment factor to air conditioning involves significant technical problems which are not as extensive in the application of such a factor to heating. Most importantly (in contrast to most PHA heating systems, which are not mixed-use systems), most air conditioning in PHA-owned low-income public housing uses electricity which generally is not metered separately from electricty used for other purposes, such as lighting and cooking. Development of an adjustment factor for a mixed-use system is very difficult, so this technical problem militates against the development of a CDD adjustment factor. Second, at this time, the Department has no data indicating the extent to which a CDD adjustment factor is actually needed to ensure reasonably equity in the distribution of subsidies; nor is there data upon which adjustments could be based. Finally, at the end of each year, PHAs receive financial adjustments based on actual consumption. In a warm year, a PHA will receive reimbursement for half the cost caused by increased consumption, and in a cool year, a PHA will retain half the savings realized through decreased consumption. Since most PHAs in warmer climates have a limited proportion of their units equipped with PHA-supplied air conditioning, this annual adjustment should compensate for the impact of seasonal extremes on the AUCL. For these reasons, HUD has decided not to change this rule to include a CDD adjustment factor.

The fourth comment received suggested that HUD use a five-year rolling base period, rather than a three-year period, to determine the AUCL. The commenter argued that a five-year period would reduce the impact of aberrant weather patterns on overall figures and would give a more accurate picture of weather conditions affecting PHAs.

HUD recognizes that a five-year rolling base period may, on its face, provide a marginal improvement in the accuracy of the figures used to determine the AUCL. However, the Department is unwilling to use a five-year period because most energy conservation improvements made by PHAs will, in all likelihood, be funded with Comprehensive Improvement Assistance Program funds, and increasing the rolling base period to five years would lengthen the time before the full benefit of this Federal investment could be reflected in reduced subsidies. In addition, the rolling base system's year-end adjustment for actual heating degree days should compensate for fluctuations in weather conditions affecting the AUCL, so the three-year base should actually provide almost as accurate a picture of weather conditions as a five-year base period. On these grounds, HUD has decided not to extend the rolling base period.

Accordingly, HUD has decided to adopt, without change, the previously published interim rule.

Findings and Certifications

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement Section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection and copying during regular business hours in the Office of the Rules Docket Clerk, Room 10278, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

This rule does not constitute a "major rule" as that term is defined in Section 1(b) of Executive Order 12291 on Federal Regulation, issued by the President on February 17, 1981. Analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Pursuant to the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities because the rule will alter only slightly the amount of funds available to PHAs.

This rule is listed as Item H–111–82 under the Office of Housing in the Department's Semiannual Agenda of Regulations published on April 25, 1983 (48 FR 18081), pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

(The Catalog of Federal Domestic Assistance program number is 14.146, Public Housing)

Collection of information requirements contained in this regulation have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and have been assigned OMB control number 2502–0125.

List of Subjects in 24 CFR Part 890

Grant programs—housing and community development, Low and moderate income housing, Public housing.

PART 890—ANNUAL CONTRIBUTIONS FOR OPERATING SUBSIDY

Accordingly, the interim amendment to 24 CFR Part 890, published and effective on December 23, 1982 (47 FR 57270), is hereby adopted as final without change.

Dated: August 16, 1983.

Philip Abrams,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 83-25177 Filed 8-22-83; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[T.D. 7907]

Rate of Interest for Overpayments and Underpayments of Tax

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the rate of interest for overpayments and underpayments of tax. Changes to the applicable tax law were made by the Tax Equity and Fiscal Responsibility Act of 1982. The regulations would provide guidance to taxpayers in determining the interest rate used in computing the amount of interest to be charged on underpayments and allowed on overpayments of tax and for other purposes.

DATES: Except as otherwise provided, the amendments are effective for amounts outstanding or accruing after December 31, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph M. Rosenthal of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T, 202–566–3288, not a toll-free call.

Background

This document contains final amendments to the Regulations on Procedure and Administration (26 CFR Part 301) under sections 6601, 6621, and 6622 of the Internal Revenue Code of 1954. The amendments reflect the changes made to those sections by sections 344 and 345 of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248, 96 Stat. 324, 635). They are to be issued under the authority of section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Semiannual Adjustment of Interest Rate

As amended by the Tax Equity and Fiscal Responsibility Act of 1982, section 6621 provides for semiannual adjustments to the rate of interest charged on underpayments of tax or allowed on credits or refunds. The rate in effect from January 1 to June 30 of any year will be based on the average prime rate quoted by commercial banks to large businesses over the six-month period April–September of the previous year, and the rate in effect from July 1 to December 31 of any year will be based on the average prime rate over the October–March six-month period that begins in the previous year. Using this procedure, the interest rate established under section 6621 shall be 16 percent per annum, effective for amounts outstanding after December 31, 1982. Rev. Rul. 82–182, 1982–44 I.R.B. 9. Under prior law the interest rate under section 6621 was changed once a year on January 1 and was based on the average prime rate for the month of September of the prior calendar year.

Daily Compounding of Interest

Under prior law interest on underpayments and overpayments of tax was not compounded. New section 6622 provides that interest, or any other amount (such as additions to tax) determined by reference to interest is to be compounded daily. However, daily compounding does not apply to the additions to tax under sections 6654 and 6655, relating to underpayments of

estimated tax. Daily compounding of interest and other amounts will begin with interest (and such other amounts) accruing after December 31, 1982.

Compounding of interest means that interest is charged on accrued but unpaid interest. Thus, to compute correctly the amount of compound interest accruing after December 31, 1982, the unpaid interest that has accrued before January 1, 1983 must be taken into account. Accordingly, the regulations provide that the unpaid interest (or other amount) that shall be compounded daily includes the interest (or other amount) accrued but unpaid on December 31, 1982. This rule applies both to the interest (or other amount) to be charged on underpayments and to the interest to be allowed on refunds or credits.

Regulatory Flexibility Act and Executive Order 12291

The Commissioner of Internal Revenue has determined that this final rule is not a major rule as defined in Executive Order 12291. Accordingly, a Regulatory Impact Analysis is not required. This document is not preceded by a notice of proposed rulemaking. Accordingly, no Regulatory Flexibility Analysis is required.

List of Subjects in 26 CFR Part 301

Administrative practice and procedure, Bankruptcy, Courts, Crime, Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Investigations, Law enforcement, Penalties, Pensions, Statistics, Taxes, Disclosure of information, Filing requirements.

Drafting Information

The principal author of this regulation is Joseph M. Rosenthal of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and the Treasury Department participated in developing the regulation, both on matters of substance and style.

Adoption of Amendments to the Regulations

The following amendments are made to 26 CFR Part 301:

PART 301—PROCEDURE AND ADMINISTRATION

Paragraph 1. Paragraph (f)(2) of § 301.6601-1 is revised to read as follows:

§ 301.6601-1 Interest on underpayments.

* * * * *

(f) *Applicable rules.* * * *

(2) No interest under section 6601 shall be payable on any interest provided by such section. This paragraph (f)(2) shall not apply after December 31, 1982, with respect to interest accruing after such date, or accrued but unpaid on such date. See § 301.6622-1.

* * * * *

Par. 2. Section 301.6621-1 is revised, and new § 301.6622-1 is added. The revised and added sections read as follows:

§ 301.6621-1 Interest rate.

(a) *In general.* The interest rate established under section 6621 shall be—

(1) On amounts outstanding before July 1, 1975, 6 percent per annum (or 4 percent in the case of certain extensions of time for payment of taxes as provided in sections 6601 (b) and (j) prior to amendment by section 7(b) of the Act of Jan. 3, 1975 (Pub. L. 93-625, 88 Stat. 2115), and certain overpayments of the unrelated business income tax as provided in section 514(b)(3)(D), prior to its amendment by such Act).

(2) On amounts outstanding—

After	And before	Rate per annum (percent)
June 30, 1975	Feb. 1, 1976	9
Jan. 31, 1976	Feb. 1, 1978	7
Jan. 31, 1978	Feb. 1, 1980	6
Jan. 31, 1980	Feb. 1, 1982	12
Jan. 31, 1982	Jan. 1, 1983	20

(3) On amounts outstanding after December 31, 1982, the adjusted rate established by the Commissioner under section 6621(b). This adjusted rate shall be published by the Commissioner in a Revenue Ruling. See § 301.6622-1 for application of daily compounding in determining interest accruing after December 31, 1982. Because interest accruing after December 31, 1982, accrues at the prescribed rate per annum compounded daily, the effective annual percentage rate of interest will exceed the prescribed rate of interest.

(b) [Reserved]

(c) *Applicability of interest rate*—(1) *Computation.* Interest and additions to tax on any amount outstanding on a specific day shall be computed at the annual rate applicable on such day.

(2) *Additions to tax.* Additions to tax under any section of the Code that refers to the annual rate established under this section, including sections 644(a)(2)(B), 4497(c)(2), 6654(a), and 6655 (a) and (g), be computed at the same rate per annum as the interest rate set forth under paragraph (a) of this section.

(3) *Interest.* Interest provided for under any section of the Code that refers to the annual rate established under this section, including sections 47(d)(3)(G), 167(q), 6332(c)(1), 6343(c), 6601(a), 6602, 6611(a), 7426(g), and section 2411(a) of Title 28 of the United States Code, shall be computed at the rate per annum set forth under paragraph (a) of this section.

(d) *Examples.* The provisions of this section may be illustrated by the following examples. Example (6) illustrates the computation of interest for interest accuring after December 31, 1982.

Example (1). A, an individual, files an income tax return for the calendar year 1974 on April 15, 1975, showing a tax due of $1,000. A pays the $1,000 on September 1, 1975. Pursuant to section 6601(a), interest on the underpayment of $1,000 is computed at the rate of 6 percent per annum from April 15, 1975, to June 30, 1975, a total of 76 days. Interest for 63 days, from June 30, 1975, to September 1, 1975, shall be computed at the rate of 9 percent per annum.

Example (2). An executor of an estate is granted, in accordance with section 6161(a)(2)(A), a two-year extension of time for payment of the estate tax shown on the estate tax return, which tax was otherwise due on January 15, 1974. The tax is paid on January 15, 1976. Interest on the underpayemnt shall be computed at the rate of 4 percent per annum from January 15, 1974, to June 30, 1975, and at the rate of 9 percent per annum from June 30, 1975, to January 15, 1976.

Example (3). X, a corporation, files its 1973 corporate income tax return on March 15, 1974, and pays the balance of tax due shown thereon. On August 1, 1975, an assessment of a deficiency is made against X with respect to such tax. The deficiency is paid on October 1, 1975. Interest at the rate of 6 percent per annum is due on the deficiency from March 15, 1974, the due date of the return, to June 30, 1975, and at the rate of 9 percent per annum from June 30, 1975, and at the rate of 9 percent per annum from June 30, 1975, to October 1, 1975.

Example (4). Y, an individual, files an amended individual income tax return on October 1, 1975, for the refund of an overpayment of income tax Y made on April 15, 1975. Interest is allowed on the overpayment to December 1, 1975. Pursuant to section 6611(a), interest is computed at the rate of 6 percent per annum from April 15, 1975, the date of overpayment, to June 30, 1975. Interest from June 30, 1975, to December 1, 1975, shall be computed at the rate of 9 percent per annum.

Example (5). A, an individual, is liable for an addition to tax under section 6654 for the underpayment of estimated tax from April 15, 1975 until January 15, 1976. The addition to tax shall be computed at the annual rate of 6 percent per annum from April 15, 1975, to June 30, 1975, and at the annual rate of 9 percent per annum from June 30, 1975, to January 15, 1976.

Example (6). B, an individual, files an income tax return for calendar year 1980 on April 15, 1981, showing a tax due of $1,000. B pays the $1,000 on March 1, 1983. Under section 6601 (a), interest on the $1,000 underpayment is due from April 15, 1981, to March 1, 1983. Such interest is computed at the rate of 12 percent per annum, simple interest from April 15, 1981, to January 31, 1982, and at the rate of 20 percent per annum, simple interest from January 31, 1982, to December 31, 1982, and at the rate of 16 percent per annum, compounded daily, from December 31, 1982, to March 1, 1983. The total simple interest accrued but unpaid at the end of December 31, 1982, is combined with the $1,000 underpayment for purposes of determining the amount of daily compounded interest to be charged from December 31, 1982, to March 1, 1983.

§ 301.6622-1 Interest compounded daily.

(a) *General rule.* Effective for interest accruing after December 31, 1982, in computing the amount of any interest required to be paid under the Internal Revenue Code of 1954 or sections 1961(c)(1) or 2411 of Title 28, United States Code, by the Commissioner or by the taxpayer, or in computing any other amount determined by reference to such amount of interest, or by reference to the interest rate established under section 6621, such interest or such other amount shall be compounded daily by dividing such rate of interest by 365 (366 in a leap year) and compounding such daily interest rate each day.

(b) *Exception.* Paragraph (a) of this section shall not apply for purposes of determining the amount of any addition to tax under sections 6654 or 6655 (relating to failure to pay estimated income tax).

(c) *Applicability to unpaid amounts on December 31, 1982.*—(1) *In general.* The unpaid interest (or other amount) that shall be compounded daily includes the interest (or other amount) accrued but unpaid on December 31, 1982.

(2) *Illustration.* The provisions of this (c) may be illustrated by the following example.

Example. Individual A files a tax return for calendar year 1981 on April 15, 1982, showing a tax due of $10,000. A pays $10,000 on December 31, 1982, but A does not pay any interest with respect to this underpayment until March 1, 1983, on which date A paid all amounts of interest with respect to the $10,000 underpayment of tax. On December 31, 1982, A's unsatisfied interest liability was $1,424.66 ($10,000 × 20 percent × 260/365 days). Interest, compounded daily, accrues on this unsatisfied interest obligation beginning on January 1, 1983, until March 1, 1983, the date the total interest obligation is satisfied. On March 1, 1983, the total interest obligation is $1,462.62, computed as follows:

Item	Amount
Unpaid tax at December 31, 1982	0
Unpaid interest at December 31, 1982	$1,424.66
Total unsatisfied obligation at December 31, 1982	1,424.66
Interest from December 31, 1982, to March 1, 1983, at 16 percent per year compounded daily	37.96
Total due, March 1, 1983	1,462.62

Because the amendments contained in this Treasury decision relate only to procedural matters and because no additional requirements are imposed on taxpayers, it is found unnecessary to issue it first under the notice and public procedure requirements of section 553(b) of title 5 of the United States Code.

The Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: August 5, 1983.

John E. Chapoton,

Assistant Secretary of the Treasury.

[FR Doc. 83-23176 Filed 8-22-83; 8:45 am]

BILLING CODE 4830-01-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1601

706 Agencies

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule; amendment.

SUMMARY: The Equal Employment Opportunity Commission amends its regulations on certified designated 706 agencies. Publication of this amendment effectuates the designation of the Florida Commission on Human Rights as a certified 706 Agency.

EFFECTIVE DATE: August 23, 1983.

FOR FURTHER INFORMATION CONTACT: Hollis Larkins, Equal Employment Opportunity Commission, Office of Program Operations, Special Services Staff, 2401 E Street, N.W., Washington, D.C. 20506, telephone 202/634-6806.

SUPPLEMENTARY INFORMATION: The Commission has determined that the Florida Commission on Human Rights meets the eligibility criteria for certification of a designated 706 agency as established in 29 CFR 1601.75(b). In accordance with 29 CFR 1601.75(c) the Commission hereby amends the list of certified designated 706 agencies to include the Florida Commission. Publication of this amendment to Section 1601.80 effectuates the designation of the following agency as a certified 706 agency: Florida Commission on Human Rights.

List of Subjects in 29 CFR Part 1601

Administrative practice and procedure, Equal employment opportunity, Integovernmental relations.

PART 1601—[AMENDED]

§ 1601.80 [Amended]

Accordingly, 29 CFR Part 1601 is amended in § 1601.80 by adding the "Florida Commission on Human Rights in alphabetical order.

(42 U.S.C. 2000e-12(a))

Signed at Washington, D.C. this 9th day of August, 1983.

For the Commission.

Clarence Thomas,

Chairman, Equal Employment Opportunity Commission.

[FR Doc. 83-22375 Filed 8-22-83; 8:45 am]

BILLING CODE 6570-06-M

29 CFR Part 1601

706 Agencies

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule; amendment.

SUMMARY: The Equal Employment Opportunity Commission amends its regulations designating certain State and local fair employment practices agencies (706 Agencies) so that they may handle employment discrimination charges. Publication of this amendment rescinds the designation of the Augusta-Richmond County (GA) Human Relations Commission as a 706 Agency.

EFFECTIVE DATE: August 23, 1983.

FOR FURTHER INFORMATION CONTACT: Hollis Larkins, Equal Employment Opportunity Commission, Office of Program Operations, Special Services Staff, 2401 E Street, N.W., Washington, D.C. 20506, telephone 202/634-6526.

SUPPLEMENTARY INFORMATION: The Commission was notified that the ordinance establishing the Augusta-Richmond County (GA) Human Relations Commission was rescinded. Consequently the Director, Office of Program Operations, believed that the Augusta-Richmond County Commission should not be considered a 706 Agency. In accordance with 29 CFR 1601.71(c) the Director, Office of Program Operations, has given the Commission 15 days in which to respond to the preliminary findings. The Director received the minutes of the Richmond County Board of Commissioners where

they repealed the ordinance establishing the Commission, and established a Richmond County Human Relations Commission. Accordingly the Director hereby makes a final determination that the Augusta-Richmond County (GA) Human Relations Commission should no longer be considered a 706 Agency. Publication of this amendment to § 1601.74 rescinds the designation of the following agency as a designated 706 Agency: Augusta-Richmond County (GA) Human Relations Commission.

List of Subjects in 29 CFR Part 1601

Administrative practice and procedure, Equal employment opportunity, Intergovernmental relations.

PART 1601—[AMENDED]

§ 1601.74 [Amended]

Accordingly, title 29 CFR Part 1601 is amended in § 1601.74(a) by removing the entry for the "Augusta-Richmond County (GA) Human Relations Commission."

Signed at Washington, D.C. this 10th day of August, 1983.

For the Commission.

John Schmolzer,

Acting Director, Office of Program Operations

(42 U.S.C. 2000e–12(a))

[FR Doc. 83-23118 Filed 8-22-83; 8:45 am]

BILLING CODE 6570-06-M

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

36 CFR Part 905

Post-Employment Conflict of Interest

AGENCY: Pennsylvania Avenue Development Corporation.

ACTION: Final rule.

SUMMARY: The Pennsylvania Avenue Development Corporation is promulgating regulations to govern post-employment conflicts of interest. These regulations are required by The Ethics in Government Act of 1978.

EFFECTIVE DATE: September 22, 1983.

FOR FURTHER INFORMATION CONTACT: Robert E. McCally, General Counsel, (202) 566–1078, Pennsylvania Avenue Development Corporation, 425 13th St. NW., Suite 1148, Washington, D.C. 20004.

SUPPLEMENTARY INFORMATION: The Ethics in Government Act of 1978 (Pub. L. 95–521, Oct. 26, 1978, 92 Stat. 1864) significantly revised the restrictions on activities of former Federal employees found at 18 U.S.C. 207. Pub. L. 96–28 (June 22, 1979, 93 Stat. 76) made further amendments to Section 207. Section 207 now contains four basic prohibitions, which may be summarized as follows: (1) A lifetime ban against any former employee representing anyone other than the United States before any Federal agency or court on a matter in which he or she participated personally and substantially while a Federal employee; (2) a two-year ban against any former employee representing anyone other than the United States before any Federal agency or court on any matter pending under his or her official responsibility during the last year of Federal employment; (3) a two-year ban against former "senior employees" representing or aiding in the representation of anyone other than the United States by personal presence before any Federal agency or court on any matter in which he or she participated personally and substantially while a Federal employee; and (4) a one-year ban against any former "senior employee" making any contact with his or her former agency on behalf of anyone other than the United States on any matter pending before the agency.

Paragraph (j) of 18 U.S.C. 207 requires each agency to establish procedures, in consultation with the Office of Government Ethics, for disciplinary action against a former employee who has violated the substantive provisions of that section. The Office of Personnel Management has issued regulations at 5 CFR Part 737 (45 FR 7204, Feb. 1, 1980) that consist of (1) substantive provisions implementing the prohibitions found at 18 U.S.C. 207, and (2) guidelines for the adoption of regulations by Federal departments and agencies regarding administrative enforcement procedures.

The Corporation is accordingly herein promulgating new regulations at 36 CFR 905.737–101 based on the Office of Personnel Management guidelines.

By this resolution, the Corporation is adopting Subpart F to 36 CFR Part 905. The regulations in this subpart implement the substantive provisions of Title V of the Ethics in Government Act of 1978 (18 U.S.C. 207), and the substantive and procedural provisions of the Office of Personnel Management regulations promulgated pursuant thereto (5 CFR Part 737). These provisions are incorporated in Part 905 so that they will be conveniently located with the other provisions on employee conduct and responsibility found in that Part. The designation "737" is used in the numbering of these sections to indicate that they correspond to Part 737 of the Office of Personnel Management's regulations (5 CFR Part 737). A comprehensive explanation of the regulations at 5 CFR Part 737 may be found at 44 FR 19974, April 3, 1979, and 45 FR 7402, Feb. 1, 1980, where those regulations are published. The following discussion highlights the few differences between the Office of Personnel Management's guidelines at 5 CFR Part 737 and the regulations adopted by the Corporation.

A. *Applicable provision of law.* 36 CFR 905.737–101 is designed to inform employees of the Corporation that they must abide by the restrictions on post-employment activities found at 18 U.S.C. 207 and 5 CFR Part 737, and that violation of these provisions may give rise to administrative sanctions under Section 905.737–102 and criminal sanctions under 18 U.S.C. 207.

B. *Enforcement proceedings.* The Corporation's enforcement proceedings for violations of 18 U.S.C. 207 and 5 CFR Part 737 are set forth in 36 CFR 905.737–102. These provisions follow the guidelines published by the Office of Personnel Management (45 FR 7402, Feb. 1, 1980), although several appropriate changes have been made.

1. *Information regarding possible violations.* Section 905.737–102(b)(1) identifies the Chairman of the Corporation as the contact point for both employees and outside individuals who receive information regarding possible violations of 18 U.S.C. 207 or 5 CFR Part 737. The Chairman shall promptly initiate an investigation upon receipt of such information.

2. *Privacy of a former employee.* In accordance with the suggestion that agencies adopt "procedures to protect the privacy of former employees as to allegations made prior to a determination of sufficient cause to initiate an administrative disciplinary hearing" (5 CFR 737.27(a)(ii)), the Corporation has adopted safeguards to protect an individual subject to an investigation (36 CFR 905.737–102(b)(4)). These provisions ensure that information collected pursuant to the Corporation's investigation of an alleged violation will not be accessible to anyone except those participating in the investigation or hearing. In addition, the Chairman (or a delegate) is authorized to take any steps warranted by the particular circumstances that are necessary to protect the former employee's privacy.

3. *Qualifications of an examiner.* An "examiner" is defined at 36 CFR 905.737–102(d)(1) as "the Chairman, or an individual to whom the Chairman has delegated authority to make an initial decision" in the case. The Office of Personnel Management Guidelines recommend that "appropriate

qualifications" be established for such officials (5 CFR 737.27(a)(4)(ii)). The Corporation requires that an examiner be: (1) An employee of the Corporation; (2) familiar with the relevant provisions of law; and (3) otherwise qualified to carry out an examiner's duties (36 CFR 905.737–102(d)(2)).

An examiner must be familiar with the functions of the Corporation in order to determine whether activities giving rise to a violation have occurred. The requirement that an examiner be an employee of the Corporation has been adopted to ensure that the examiner is familiar with the Corporation's functions.

An examiner will have the responsibility of deciding both questions of law and fact. It is essential, therefore, that an examiner be familiar with the provisions of 18 U.S.C. 207 and 5 CFR Part 737 as a prerequisite to serving in that capacity.

The Chairman is authorized to appoint as examiner an individual who meets the above qualifications and who is also "otherwise qualified to carry out the duties of that position." This last criterion gives the Chairman discretion to select an individual who has the character traits necessary to carry out the responsibilities of an examiner.

4. *Final decisions.* The Corporation has modified slightly the format of the Office of Personnel Management Guidelines (5 CFR 737.27) with regard to the provisions for initial and final decisions, in order to clarify when a determination is final. Section 905.737–102 provides that a final decision may be entered in four circumstances: (1) When the Chairman (or a delegate) conducts a hearing and issues a final written determination subsequent to the initial decision of an examiner; (2) when the Chairman (or a delegate) conducts a hearing and issues a final written determination in a case where the initial hearing procedure has not been used; (3) when a former employee has received the required notice of an alleged violation and fails to request a hearing; and (4) when an appeal from an adverse initial decision is not taken within the prescribed thirty-day period.

5. *Time period for appeal.* The Office of Personnel Management guidelines (5 CFR 737.27(a)(8)(ii)) authorize each agency to set a reasonable period for appeal of an initial decision by the examiner. The Corporation has adopted a thirty-day rule which is the same as the rule of 28 U.S.C. 2107 regarding appeal of a final decision of a district court and the rule of 18 U.S.C. 3731 regarding the appeal of a decision in a criminal case by the United States.

6. *Judicial review.* The provision at 36 CFR 905.737–102(j)), relating to judicial review of a determination that a violation has occurred, varies only slightly from the provision in the Office of Personnel Management guidelines (5 CFR 737.27(a)(10)) in order to make clear that judicial review lies in a United States District Court as provided at 18 U.S.C. 207(j).

The Corporation has determined that observance of the notice and comment procedures described at 5 U.S.C. 553(b) is unnecessary because this resolution concerns a matter relating to agency personnel and management and is, thus, excepted under 5 U.S.C. 553(a).

Statement of Significance

The Corporation has determined that, since it relates to agency personnel, this rule is not a major rule and does not require a regulatory impact analysis under Executive Order 12291, "Federal Regulations." [46 FR 13193, February 19, 1981.] It will not result in any of the effects described in Section 1(b) of the Executive Order. In addition, the Chairman of the Corporation's Board of Directors has determined, and hereby certifies, that this rule will not have a significant economic impact on a substantial number of small entities and does not require a regulatory flexibility analysis under the Regulatory Flexibility Act [Pub. L. 96–354, September 19, 1980, 5 U.S.C. 603, 604 and 605]

List of Subjects in 36 CFR Part 905

Standards of conduct, Ethics, Former employees, post-termination employment restrictions.

Subpart F to 36 CFR Part 905 is added to read as follows:

PART 905—STANDARDS OF CONDUCT

Subpart F—Conduct and Responsibilities of Former Employees—Enforcement

Sec.
905.737–101 Applicable provisions of law.
905.737–102 Enforcement proceedings.

Authority: 18 U.S.C. 207(j); section 6(5), Pub. L. 92–578, 86 Stat. 1270 (40 U.S.C. 875)(5).

Subpart F—Conduct and Responsibilities of Former Employees—Enforcement

§ 905.737–101 Applicable provisions of law.

Former employees of the Corporation must abide by the provisions of 18 U.S.C. 207 and 5 CFR 737.1—737.25, which bar certain acts by former Government employees that may reasonably give the appearance of making unfair use of prior Government employment and affiliations. Violation of those provisions will give rise to Corporation enforcement proceedings as provided in § 905.737–102, and may also result in criminal sanctions, as provided in 18 U.S.C. 207.

§ 905.737–102 Enforcement proceedings.

(a) *Delegation.* The Chairman of the Corporation may delegate his or her authority under this Subpart.

(b) *Initiation of disciplinary hearing.* (1) Information regarding a possible violation of 18 U.S.C. 207 or 5 CFR Part 737 should be communicated to the Chairman. The Chairman shall promptly initiate an investigation to determine whether there is reasonable cause to believe that a violation has occurred.

(2) On receipt of information regarding a possible violation of 18 U.S.C. 207, and after determining that such information appears substantiated, the Chairman of the Corporation shall expeditiously provide such information, along with any comments or regulations of the Corporation, to the Director of the Office of Government Ethics and to the Criminal Division, Department of Justice. The Corporation shall coordinate any investigation with the Department of Justice to avoid prejudicing criminal proceedings, unless the Department of Justice communicates to the Corporation that it does not intend to initiate criminal prosecution.

(3) Whenever the Corporation has determined after appropriate review, that there is reasonable cause to believe that a former employee has violated 18 U.S.C. 207 or 5 CFR Part 737, it shall initiate a disciplinary proceeding by providing the former employee with notice as defined in paragraph (c) of this section.

(4) At each stage of any investigation or proceeding under this section, the Chairman shall take whatever steps are necessary to protect the privacy of the former employee. Only those individuals participating in an investigation or hearing shall have access to information collected by the Corporation pursuant to its investigation of the alleged violation.

(c) *Adequate notice.* (1) The Corporation shall provide the former employee with adequate notice of its intention to institute a proceeding and an opportunity for a hearing.

(2) Notice to the former employee must include:

(i) A statement of the allegations (and the basis thereof) sufficiently detailed to enable the former employee to prepare an adequate defense;

(ii) Notification of the right to a hearing;

(iii) An explanation of the method by which a hearing may be requested; and

(iv) Notification that if a hearing is not requested within thirty days of receipt of notice, the Corporation will issue a final decision finding the alleged violations to have occurred.

(3) Failure to request a hearing within thirty days of the receipt of notice will be deemed an admission of the allegations contained in the notice and will entitle the Corporation to issue a final decision finding the alleged violations to have occurred.

(d) *Presiding official.* (1) The presiding official at proceedings under this Subpart shall be the Chairman, or an individual to whom the Chairman has delegated authority to make an initial decision (hereinafter referred to as "examiner").

(2) An examiner shall be an employee of the Corporation who is familiar with the relevant provisions of law and who is otherwise qualified to carry out the duties of that position. He or she shall be impartial. No individual who has participated in any manner in the decision to initiate the proceedings may serve as an examiner.

(e) *Time, date and place.* (1) The hearing shall be conducted at a reasonable time, date, and place.

(2) On setting a hearing date, the presiding official shall give due regard to the former employee's need for:

(i) Adequate time to prepare a defense properly; and

(ii) An expeditious resolution of allegations that may be damaging to his or her reputation.

(f) *Hearing rights.* A hearing shall include the following rights:

(1) To represent oneself or to be represented by counsel;

(2) To introduce and examine witnesses and to submit physical evidence;

(3) To confront and cross-examine adverse witnesses;

(4) To present oral argument; and

(5) To receive a transcript or recording of the proceedings, on request.

(g) *Burden of proof.* In any hearing under this subpart, the Corporation has the burden of proof and must establish substantial evidence of a violation.

(h) *Hearing decision.* (1) The presiding official shall make a determination exclusively on matters of record in the proceeding, and shall set forth in the decision all findings of fact and conclusions of law relevant to the matters at issue. If the hearing is conducted by the Chairman, the resulting written determination shall be an initial decision.

(2) Within thirty days of the date of an initial decision, either party may appeal the decision to the Chairman. The Chairman shall base his or her decision on such appeal solely on the record of the proceedings on those portions thereof cited by the parties to limit the issues.

(3) If the Chairman modifies or reverses the initial decision, he or she shall specify such findings of fact and conclusions of law as are different from those of the examiner.

(4) If no appeal is taken from an initial decision within thirty days, the initial decision shall become a final decision.

(i) *Sanctions.* The Chairman shall take appropriate action in the case of any individual who is found to be in violation of 18 U.S.C. 207 or 5 CFR Part 737 after a final decision by:

(1) Prohibiting the individual from making, on behalf of any other person except the United States, any formal or informal appearance before, or, with the intent to influence, any oral or written communication to, the Corporation on any matter of business for a period not to exceed five years, which may be accomplished by directing employees of the Corporation to refuse to participate in any such appearance or to accept any such communication; or

(2) Taking other appropriate disciplinary action.

(j) *Judicial review.* Any person found by the Corporation to have participated in a violation of 18 U.S.C. 207 or 5 CFR Part 737 may seek judicial review of the determination in an appropriate United States District Court.

Dated: April 23, 1983.

Henry A. Berliner, Jr.,

Chairman.

[FR Doc. 83-23082 Filed 8-22-83; 8:45 am]

BILLING CODE 7630-01-M

POSTAL SERVICE

39 CFR Part 111

Additional Entry Application for Second-Class Publications

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This change amends postal regulations to require publishers to give 30 days' notice before mailing any second-class publications at an additional entry post office, so that postal officials can plan for the work load. Currently, only requester publications are required to give such advance notice.

EFFECTIVE DATE: September 22, 1983.

FOR FURTHER INFORMATION CONTACT: Kenneth H. Young (202) 245-4512.

SUPPLEMENTARY INFORMATION: On April 11, 1983, the Postal Service published for comment in the **Federal Register** a proposed amendment to section 422.1 of the Domestic Mail Manual as described above (48 FR 15492). Interested persons were invited to submit written comments concerning the proposed amendment by May 11, 1983. The Postal Service received 18 written and one telephone comment.

Three comments favored the proposal without change. They saw no problems in complying with the proposal since the requirements of the rule appeared reasonable, and since they have been providing advance notice all along on a voluntary basis. One said the rule helped to standardize and simplify expectations under postal regulations.

Ten comments favor or had no objection to the proposal if a provision would be included permitting waiver of the 30 day notice requirement in exceptional circumstances. The Postal Service has always worked with publishers on a common-sense basis to authorize entries by telephone or other short notice when necessitated by strikes, floods, etc. While the matter is not specifically addressed in the final rule, the Postal Service will continue this practice. We prefer not to codify a formal exception which might invite laxity in complying with the rule. But in emergencies, such as unexpected closing of plants, weather-related problems, and equipment failure, publishers may contact the Office of Mail Classification, Rates and Classification Department, U.S. Postal Service, 475 L'Enfant Plaza, S.W., Washington, D.C. 20260-5200, telephone (202) 245-4512, to discuss the situation. The Postal Service is interested in working with its customers to handle any emergency problems.

Six comments were not in favor of the proposal, essentially for the same reason that others wanted a waiver provision, although these felt the rule was so broad and inflexible that it represented an unnecessary regulation that benefited neither the Postal Service nor the publisher. They felt that voluntary notification on a common-sense case-by-case basis, as in the past, is preferable to a standard notice requirement which might not be needed in particular circumstances.

The Postal Service considers it essential as a general matter that local postal authorities be able to count on advance notice so that the advance planning necessary for good service can be done. Time is often necessary to contract for transportation, adjust transportation schedules, schedule work forces, and ensure that entry offices are

capable of handling and distributing the number of copies of the publication deposited with them. One of the six commenters pointed out that a typical post office would not have to add transportation or adjust its work force for mailings of only 500 or 700 pieces. There is some merit to this point. Nevertheless, it is true that many changes in additional entries are for publications having large circulations, which can pose a significant coordination problem for the Postal Service. Then too, even comparatively small circulation publications can pose a problem if they unexpectedly shift their mailings to a small post office having minimal transportation and distribution capabilities. The Postal Service also considers it highly desirable for reasons of internal efficiency and for understandability to have simple regulations which can be applied to all publications in a uniform manner. An attempt to develop more complex procedures which would vary according to the size of post offices and the volume of mail being entered does not seem to be warranted.

For the above reasons, and after careful consideration of all the comments, the Postal Service hereby adopts the following amendments to the Domestic Mail Manual, which is incorporated by reference in the **Federal Register**. See 39 CFR 111.1.

List of Subjects in 39 CFR Part 111

Postal Service.

PART 442—ADDITIONAL ENTRY APPLICATIONS

Revise 442.1 to read as follows:

442.1 Application Procedure.

If an additional entry point is desired, a Form 3510, Application for Additional Entry or Reentry of Second-Class Publication, must be filed by the publisher at the original entry post office. A separate application must be filed for each office of additional entry desired. A publisher may apply concurrently for entry at an original entry office and additional office. Two copies of the most recent issue of the publication must accompany the application. These must be marked to show the advertising content as described in 483. Publishers must file an application for additional entry 30 days before mailing at the proposed additional entry office. Postage for mailings presented during the 30-day period must be paid at the First-, third, or fourth-class postage rates.

A transmittal letter making these changes in the pages of the Domestic Mail Manual will be published and will be transmitted to subscribers automatically. Notice of issuance of the transmittal letter will be published in the **Federal Register** as provided by 39 CFR 111.3.

(39 U.S.C. 401, 403, 3685)

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 83-23100 Filed 8-22-83; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Docket No. VT 1245; A-1-FRL 2419-8]

Approval and Promulgation of Implementation Plans; Vermont Particulate Matter; Cersosimo Lumber Company

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is today approving a State Implementation Plan revision submitted by the State of Vermont. This revision brings the wood-fired boiler at the Cersosimo Lumber Company, Brattleboro, under Vermont's Regulation 5-231(3)(b)(i) for wood-fired combustion sources of particulate matter. The intent of Regulation 5-231(3)(b)(i) is to regulate wood-fired sources of particulate matter separately from fossil fuel-fired sources of particulate matter.

EFFECTIVE DATE: This action will be effective October 24, 1983 unless notice is received within 30 days that adverse or critical comments will be submitted.

ADDRESSES: Comments may be mailed to Harley F. Laing, Director, Air Management Division, Room 2312, JFK Federal Building, Boston, MA 02203. Copies of the submittal and EPA's evaluation are available for public inspection during normal business hours at the Environmental Protection Agency, Room 2312, JFK Federal Bldg., Boston, MA 02203; Pubic Information Reference Unit, Environmental Protection Agency, 401 M St., SW., Washington, D.C.; Office of the Federal Register, 1100 L St., N.W., Room 8401, Washington, D.C. and the Vermont Agency of Environmental Conservation, State Office Building, Montpelier, VT 05602.

FOR FURTHER INFORMATION CONTACT: Stephen S. Perkins (617) 223-0437.

SUPPLEMENTARY INFORMATION: On March 23, 1983 the Secretary of the Vermont Agency of Environmental Conservation (the Vermont Agency) submitted a revision to the Vermont State Implementation Plan (SIP). The revision brings the wood-fired boiler at the Cersosimo Lumber Company (the Company) under Vermont's regulation for wood-fired sources of particulate matter. Up until this time, the wood-fired boiler has been regulated as a fossil fuel-fired source.

Background

On March 27, 1979 Vermont submitted a SIP revision to regulate wood-fired combustion sources of particulate matter separately from fossil fuel-fired combustion sources. Prior to this time, allowable emissions were a function of heat input to the fuel burning equipment. Because of the high variability of both the physical and chemical properties of wood and the methods of wood-firing, the determination of heat input is a technically burdensome exercise. To remedy this situation, Vermont Regulation 5-231(3)(b) expresses the emission limitations as concentrations of particulate matter in the flue gas. Since the new regulation only affects the way the Vermont Agency regulates wood-fired sources, no increase in actual emissions resulted from this change in the regulation. However, the wood-fired regulation did increase allowable emissions. EPA determined that the submission was technically deficient because it did not include a demonstration that no violations of the National Ambient Air Quality Standards (NAAQS) for total suspended particulate matter (TSP) would result from the revision.

On February 12, 1982 Vermont submitted supplementary technical information for the revision, but excluded three wood-fired sources, including the Company. These sources were excluded because adequate technical support had not been completed. Vermont agreed to submit source specific SIP revisions for each source when the technical support was complete. On April 16, 1982 (47 FR 16331) EPA published its approval of Regulation 5-231(3)(b) for all but the three sources.

New Technical Support

EPA has now received technical support demonstrating that the NAAQS for TSP will not be violated if the Company is regulated under the wood-fired combustion source regulation. This technical support, included in the SIP revision submitted on March 23, 1983 and supplemented by EPA analyses, consists of air quality modeling of the Company's wood-fired boiler. The technical support also demonstrates that

this revision will not interfere with the attainment or maintenance of the NAAQS in any other state.

Actual increases in particulate matter emissions, resulting from relaxations of emission limits, must also show compliance with Prevention of Significant Deterioration (PSD) increments if the increase occurs in or impacts on an area in which a baseline date has been established.[1] The TSP baseline has not been triggered anywhere in Vermont or adjacent portions of New Hampshire. Thus, a PSD analysis was not required.

EPA has reviewed the new technical support and has determined that the modeling procedures are correct and approvable. For more details on EPA's review, see the technical support document available at the locations listed in the ADDRESSES section of this notice.

Public Participation

The Company was included in the public notice and hearing when Vermont revised Regulation 5–231(3) back in 1978. Since then there has been no change in the manner in which Vermont proposed to regulate the Company. Thus the earlier public participation process was judged adequate and not repeated.

Final Action

EPA is approving this SIP revision to bring the wood-fired boiler at the Cersosimo Lumber Company under Vermont Regulation 5–231(3)(b)(i) for wood-fired combustion sources of particulate matter.

Since EPA views this SIP revision as noncontroversial, we are taking this action without prior proposal. This action will be effective October 24, 1983. However, if EPA is notified within 30 days that someone wishes to submit adverse or critical comments, we will withdraw this action and publish a new rulemaking proposing the action and establishing a comment period.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (Insert date 60 days after publication in the **Federal Register**). This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Inter-governmental relations.

Authority: Sec. 110(a) and 301(a), Clean Air Act, as amended (42 U.S.C. 7410(a) and 7601(a)).

Note.—Incorporation by reference of the State Implementation Plan for the State of Vermont was approved by the Director of the **Federal Register** on July 1, 1982.

Dated: August 17, 1983.

William D. Ruckelshaus,

Administrator.

PART 52—[AMENDED]

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart UU—Vermont

1. Section 52.2370, paragraph (c) is amended by adding paragraph (17) as follows:

§ 52.1120 Identification of plan.

* * * * *

(c) * * *

(17) A revision to approve Regulation 5–231 (3)(b) for Cersosimo Lumber Company submitted on March 23, 1983 by the Secretary of the Vermont Agency of Environmental Conservation. (Note: The Cersosimo Lumber Company was excluded from the original approval of Regulation 5–231(3)(b) into the Vermont SIP indentified at subparagraph (c)(16) above.)

[FR Doc. 83–23087 Filed 8–22–83; 8:45 am]
BILLING CODE 6560–50–M

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40 CFR Part 81

[Docket No. 107PA–13; A–3–FRL 2418–7]

Air Programs; Approval of Redesignation of Attainment Status for the State of Pennsylvania

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: States are required for purposes of planning to attain and maintain air quality standards to designate the air quality status of all areas. The States' original air quality designations were promulgated by EPA in the **Federal Register** of March 3, 1978 (43 FR 8962). States have requested revisions in these original designations from time to time as appropriate. EPA is today approving changes Pennsylvania requested in the total suspended particulate (TSP) designations of several areas. EPA is approving the redesignation of the City of Williamsport from secondary nonattainment to attainment and of several boroughs and townships from unclassified to attainment. EPA has found these redesignations to be justified by recent air quality data.

EFFECTIVE DATE: This action will be effective October 24, 1983 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of Pennsylvania's request for redesignations and associated support materials are available for inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Air Programs and Energy Branch, Sixth & Walnut Street, Philadelphia, PA. 19106

Pennsylvania Department of Environmental Resources, Bureau of Air Quality Control, 200 North 3rd Street, Harrisburg, PA. 17120

FOR FURTHER INFORMATION CONTACT: Ms. Eileen M. Glen at the EPA Region III address above, or telephone (215) 597–8187.

SUPPLEMENTARY INFORMATION:

I. Background

Section 107(d)(1) of the Clean Air Act (Act) requires the States to submit to the Administrator a list identifying all air quality control areas, or portions thereof, that have not attained the National Ambient Air Quality Standards. The Act further requires that the Administrator promulgate this list, with such modifications as he deems necessary, as required by Section 107(d)(2) of the Act. On March 3, 1978, the Administrator promulgated nonattainment designations for Pennsylvania with respect to total suspended particulates (TSP), sulfur dioxide (SO_2), carbon monoxide (CO), ozone (O_3), and oxides of nitrogen (NO_x) (43 FR 8962) (1978)). The Administrator subsequently promulgated revisions to these designations at 43 FR 40513, September 12, 1978; 45 FR 9264, February 12, 1980; 45 FR 19555, March 26, 1980; 45 FR 72159, October 31, 1980; 46 FR 51612, October 21, 1981; 47 FR 21793, May 20, 1982; and 48 FR 2770, January 21, 1983. II. PA Request for TSP Redesignations

Pennsylvania submitted recommended TSP designations for the

[1] The PSD increments are allowable increases in ambient pollutant concentrations which were established to limit the degradation of clean air areas. A baseline date is the date after August 7, 1977, on which the first PSD permit application in that area was filed with EPA by a source subject to the PSD regulations as amended on August 7, 1980 (40 FR 52676).

entire State except for Philadelphia and Allegheny Counties to EPA on February 26, 1982. These recommended TSP designations included revised TSP designations affecting ten air basins or portions thereof and several non-air basin areas. EPA approved most of these redesignations in the **Federal Register** on January 21, 1983 (48 FR 2770). EPA did not act on several minor redesignation requests in that notice. EPA is today acting on these requests.

The redesignation requests addressed include requests for the redesignation of several areas in Lycoming County and of two townships in Montgomery County. In Lycoming County, Pennsylvania's requested redesignations include changes in the designations of the City of Williamsport from secondary nonattainment to attainment, and of the surrounding townships of Armstrong, Susquehanna, Woodward, Old Lycoming, and Loyalsock, and boroughs of South Williamsport, Duboistown, and Montoursville from unclassifiable to attainment. In Montgomery County, Pennsylvania's requested redesignations include changes in the designations of West Pottsgrove and Upper Pottsgrove Townships from unclassifiable to attainment.

III. EPA Review

EPA has reviewed Pennsylvania's requested redesignations to determine if they meet the requirements of Section 107 of the Act. The criteria and policy guidelines governing these revisions and the Administrator's review of them are the same that were used in the original designation process. These criteria and guidelines are discussed in the **Federal Registers** of March 3, 1978 (43 FR 8962), September 11, 1978 (43 FR 40412), September 12, 1978 (43 FR 40502), and in a memorandum from Sheldon Meyers to EPA Regional Office Division Directors (Section 107 Designation Policy Summary, April 21, 1983). EPA has determined that Pennsylvania's requested redesignations for the Lycoming County areas are consistent with these requirements and are justified by 12 quarters of recent air quality modeling and or monitoring data, as well as implemented control measures from the 1979 SIP. However, the redesignations for Montgomery County are not supported by sufficient air quality monitoring data and, therefore, EPA will take no actions on these redesignations at this time.

IV. Conclusion

EPA is today approving Pennsylvania's requests for the redesignations described above. This approval is given without prior proposal. The public is advised that this action will be effective 60 days from the date of this **Federal Register** notice. However, if notice is received within 30 days from today that someone wishes to submit adverse or critical comments, this action will be withdrawn and a subsequent notice will be published before the effective date. The subsequent notice will withdraw the final action and begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

As a result of EPA's decision to approve these redesignations, 40 CFR Part 81, 81.339 is being amended as shown below.

V. General Notice

Under Section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (insert date 60 days from today). This action may not be challenged later in proceedings to enforce its requirements (See Section 307(b)(2)).

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under 5 U.S.C. 605(b), I certify that redesignations do not have a significant economic impact on a substantial number of small entities (See 46 FR 8709).

VI. List of Subjects in 40 CFR Part 81

Air Pollution Control, National Parks, Wilderness Areas, Intergovernmental Relations.

Dated: August 12, 1983.

William D. Ruckelshaus,

Administrator.

Authority: Secs. 107(d), 171(2), and 301(a), Clean Air Action as amended (42 U.S.C. 7407(d), 7501(2), 7602(a)).

PART 81—[AMENDED]

Part 81 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Section 81.339 is amended by revising entry (c), under item IV in its entirety.

Subpart C—Section 107 Attainment Status Designations

* * * * *

§ 81.339 Pennsylvania

* * * * *

PENNSYLVANIA—TSP

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
I. * * *				
II. * * *				
III. * * *				
IV. Central Pa. Intrastate AQCR				
(A) * * *				
(B) * * *				
(C) Remaining Portions of AQCR				
V. * * *				X.
VI. * * *				

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[FR Doc. 83-22694 Filed 8-22-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 145

[OW-FRL-2406-7]

North Dakota Oil and Gas Division, Underground Injection Control; Program Approval

AGENCY: Environmental Protection Agency.

ACTION: Approval of State Program.

SUMMARY: The State of North Dakota has submitted an application under Section 1425 of the Safe Drinking Water Act for the approval of an Underground Injection Control (UIC) program governing Class II oil and natural gas related injection wells. After careful

review of the application and comments received from the public, the Agency has determined that the State's injection well program for Class II wells meets the requirements of Section 1425 of the Act. Therefore, this application covering Class II injections is approved.

EFFECTIVE DATE: This approval is effective August 23, 1983.

FOR FURTHER INFORMATION CONTACT: Patrick A. Crotty, Chief, Colorado/North Dakota/Wyoming Section, Drinking Water Branch, U.S. Environmental Protection Agency, Region VIII, 1860 Lincoln Street, Denver, Colorado 80295. PH: (303) 837–2731. Copies of the responsiveness summary are available from the above address.

SUPPLEMENTARY INFORMATION: Part C of the Safe Drinking Water Act (SDWA) provides for an Underground Injection Control (UIC) program. Section 1421 of the SDWA requires the Administrator to promulgate minimum requirements for effective State programs to prevent underground injection which endangers drinking water sources. The Administrator is also to list in the **Federal Register** each State for which in his judgment a State UIC program may be necessary. Each State listed shall submit to the Administrator an appliction which contains a showing satisfactory to the Administrator that the State: (i) has adopted after reasonable notice and public hearings, a UIC program which meets the requirements of regulations in effect under Section 1421 of the SDWA; and (ii) will keep such records and make such reports with respect to its activities under its UIC program as the Administrator may require by regulations. After reasonable opportunity for public comment, the Administrator shall by rule approve, disapprove or approve in part and disapprove in part, the State's UIC program.

The SDWA was amended on December 5, 1980, to include Section 1425, which establishes an alternative method by which a State may obtain primary enforcement responsibility for those portions of its UIC program related to the recovery and production of oil and natural gas (Class II wells). Specifically, instead of meeting the Federal Regulations (40 CFR Parts 124, 144, and 145) and related Technical Criteria and Standards (40 CFR 146), a State may demonstrate that its program meets the more general statutory requirements of Section 1421(b)(1) (A) through (D) and represents an effective program to prevent endangerment of underground sources of drinking water.

The State of North Dakota was listed as needing a UIC program on June 19, 1979 (44 FR 32588). The State submitted an application under Section 1425 on July 19, 1982, for the approval of a UIC program governing Class II injection wells to be administered by the North Dakota Oil and Gas Division (NDOGD). EPA published notice on August 12, 1982 of its receipt of the application, requested public comments, and scheduled a public hearing on the UIC program submitted by the NDOGD (47 FR 35533). A public hearing was held on September 14, 1982, in Bismark, North Dakota. After careful review of the application and comments received from the public, I have determined that the North Dakota UIC program submitted by the NDOGD for Class II injection wells meets the requirements of Section 1425 of the SDWA, and hereby approve it.

In this application, North Dakota chose not to assert jurisdiction over Indian lands or reservations for purposes of its Class II UIC program. Therefore, the Environmental Protection Agency will, at a future date, prescribe a UIC program governing injection wells on any Indian lands or reservations in North Dakota.

North Dakota has submitted for approval as part of its Class II program the exemption of a portion of the Dakota-Lakota aquifer. Under the Federal UIC program a State may exempt an aquifer or its portion when it is not currently being used as a source of drinking water and will not in the future be used as a source of drinking water because it meets one of several criteria set out in the UIC regulations at 40 CFR 146.04. An aquifer that meets these standards and is designated as exempt is deemed not to be an underground source of drinking water and, therefore, is not required to be protected from injection activities.

EPA is publishing this approval effective immediately so that North Dakota can begin issuing UIC permits for Class II injection wells under the UIC program.

List of Subjects in 40 CFR Part 145

Indians—lands, Reporting and recordkeeping requirements, Intergovernmental relations, Penalties, Confidential business information, Water supply.

OMB Review

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I certify that approval by EPA under Section 1425 of the Safe Drinking Water Act of the application by the North Dakota Oil and Gas Division will not have a significant economic impact on a substantial number of small entities, since this rule only approves State actions. It imposes no new requirements on small entities.

Dated: August 17, 1983.

William D. Ruckelshaus,

Administrator.

[FR Doc. 83–23089 Filed 8–22–83; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 145

[OW–FRL–2406–6]

Ohio Department of Natural Resources Underground Injection Control; Program Approval

AGENCY: Environmental Protection Agency.

ACTION: Approval of State Program.

SUMMARY: The State of Ohio has submitted an application under Section 1425 of the Safe Drinking Water Act for the approval of an Underground Injection Control (UIC) program governing Class II oil and natural gas related injection wells. After careful review of the application and comments received from the public, the Agency has determined that the State's injection well program for Class II wells meets the requirements of Section 1425 of the Act. Therefore, this application covering Class II injections is approved.

EFFECTIVE DATE: This approval is effective September 22, 1983.

FOR FURTHER INFORMATION CONTACT: Karen Theisen, Ground Water Section (5WD–26), Environmental Protection Agency, Region V, 230 Dearborn Street, Chicago, Illinois 60604, (312) 886–6194. Copies of the responsiveness summary are available from the above address.

SUPPLEMENTARY INFORMATION: Part C of the Safe Drinking Water Act (SDWA) provides for an Underground Injection Control (UIC) program. Section 1421 of the SDWA requires the Administrator to promulgate minimum requirements for effective State programs to prevent underground injection which endangers drinking water sources. The Administrator is also to list in the **Federal Register** each State for which in his judgment a State UIC program may be necessary. Each State listed shall

submit to the Administrator an application which contains a showing satisfactory to the Administrator that the State: (i) has adopted after reasonable notice and public hearings, a UIC program which meets the requirements of regulations in effect under Section 1421 of the SDWA; and (ii) will keep such records and make such reports with respect to its activities under its UIC program as the Administrator may require by regulations. After reasonable opportunity for public comment, the Administrator shall by rule approve, disapprove or approve in part and disapprove in part, the State UIC program.

The SDWA was amended on December 5, 1980, to include Section 1425, which establishes an alternative method by which a State may obtain primary enforcement responsibility for those portions of its UIC program related to the recovery and production of oil and natural gas (Class II wells). Specifically, instead of meeting the Federal Regulations (40 CFR Parts 124, 144, and 145) and related Technical Criteria and Standards (40 CFR Part 146), a State may demonstrate that its program meets the more general statutory requirements of Section 1421(b)(1) (A) through (D) and represents an effective program to prevent endangerment of underground sources of drinking water.

The State of Ohio was listed as needing a UIC program on September 25, 1978 (43 *FR* 43420). The State submitted an application under Section 1425 on December 1, 1982, for the approval of a UIC program governing Class II injection wells to be administered by the Ohio Department of Natural Resources (ODNR). EPA published notice on February 14, 1983, of its receipt of the application, requested public comments, and scheduled a public hearing on the UIC program submitted by the ODNR (48 FR 6564). A public hearing was held on March 28, 1983, in Columbus, Ohio. After careful review of the application and comments received from the public, I have determined that the Ohio UIC program submitted by the ODNR for Class II injection wells meets the requirements of Section 1425 of the SDWA, and hereby approve it.

List of Subjects in 40 CFR Part 145

Indians—lands, Reporting and recordkeeping requirements, Intergovernmental relations, Penalties, Confidential business information, Water supply.

OMB Review

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I certify that approval by EPA under Section 1425 of the Safe Drinking Water Act of the application by the Ohio Department of Natural Resources will not have a significant economic impact on a substantial number of small entities, since this rule only approves State actions. It imposes no new requirements on small entities.

Dated: August 17, 1983.

William D. Ruckelshaus,

Administrator.

[FR Doc. 83-23068 Filed 8-22-83; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management,

43 CFR Public Land Order 6452

[N-19972]

Nevada; Termination of Segregation on Public Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order terminates all segregation on 2,520 acres of public land withdrawn for sale to Mineral County, Nevada. This action will restore the lands to surface entry, mining location, and mineral leasing.

EFFECTIVE DATE: September 21, 1983.

FOR FURTHER INFORMATION CONTACT: Vienna Wolder, Nevada State Office, 702-784-5703.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Pub. L. 95-265, 92 Stat. 203, it is ordered as follows:

1. Due to expiration of Pub. L 95-265, all segregation is hereby terminated on the following described lands:

Mount Diablo Meridian

T. 8 N., R. 29 E.,
Sec. 25, E½E½, NW¼NE¼.
T. 7 N., R. 30 E.,
Secs. 21, 27 and 35, those portions lying west of Nevada State Highway 31;
Sec. 28, E½NW¼, NW¼, and those portions of the NE¼ and the N½S¼ lying west of Nevada State Highway 31;
Sec. 34, E½NW¼, N½SE¼, and those portions of the NE¼ lying southwest of Nevada State Highway 31.
T. 8 N., R. 30 E.,
Sec. 26, and that portion of the NW¼SW¼ lying north of Nevada State Highway 95;
Sec. 29, all;
Sec. 30, all.

The areas described aggregate approximately 2,520 acres in Mineral County. The remaining 80 acres were purchased by Mineral County.

2. At 9 a.m. on September 21, 1983, the lands described above will be opened to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals and classifications, and the requirements of applicable law. All valid applications received at or prior to 9 a.m. on September 21, 1983, will be considered as simultaneously filed at that time. Those received thereafter will be considered in the order of filing.

3. At 9 a.m. on September 21, 1983, the lands described above will be opened to location under the United States mining laws and to applications and offers under the mineral leasing laws. Appropriation of lands under the general mining laws prior to the date and time of restoration in unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Sec. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Inquiries concerning the lands should be addressed to the District Manager, Bureau of Land Management, 1050 E. William Street, Carson City, Nevada 89701.

August 16, 1983.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 83-23076 Filed 8-22-83; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6453

[E-010062]

Alaska; Partial Revocation of Public Land Order No. 1205, As Amended; Classification of Lands for Conveyance to Cook Inlet Region, Inc.

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes Public Land Order No. 1205, as

amended, and classifies 1,630 acres of land for conveyance to Cook Inlet Region, Inc., under the Alaska Native Claims Settlement Act.

EFFECTIVE DATE: August 23, 1983.

FOR FURTHER INFORMATION CONTACT:

John J. Rumps, Bureau of Land Management, Washington, D.C. 20240. (202) 343-6486

or

Robert W. Faithful, IV, Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior, by Section 17(d)(1) of the Alaska Native Claims Settlement Act (ANCSA), 85 Stat. 688, 708 (43 U.S.C. 1616(d)(1)), and pursuant to Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751 (43 U.S.C. 1714), it is ordered as follows:

1. Public Land Order No. 1205 of August 10, 1955, as amended, which withdrew lands for use of the Department of the Air Force for military purposes, is hereby revoked in part, as to the lands described below:

Fairbanks Meridian

T. 1S., R. 4 E. (partially surveyed)
Sec. 8, all portions lying south of the Chena River;
Sec. 9, E½, all portions lying south of the Chena River; E½E½E½W½, all portions lying south of the Chena River;
Sec. 16, E½, E½E½E½W½;
Sec. 17, W½ that portion lying south of the Chena River, W½W½E½, W½E½W½E½, E½E½SW¼SE¼, E½SE¼NW¼SE¼, S½NE¼SE¼, SE¼SE¼;
Sec. 20, N½;
Sec. 21, NE¼, E½E½E½NW¼.

Containing approximately 1,630 acres.

2. Subject to valid existing rights, the lands are classified as suitable for conveyance to Cook Inlet Region, Inc., in accordance with paragraph 1.C.(2) of the "Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area," as clarified August 31, 1976, and Section 12(b)(6) of the Act of January 2, 1976 (89 Stat. 1151).

3. Under Public Land Order Nos. 5186 and 5187, the lands remain withdrawn from all forms of appropriation under the public land laws, including selection by the State of Alaska under the Alaska Statehood Act, 72 Stat. 339, and from location and entry under the mining laws, 30 U.S.C. Chapter 2, and from leasing under the Mineral Leasing Act of February 25, 1920, as amended, 30 U.S.C. 181-287.

4. Prior to any conveyance of the lands, the lands shall be subject to administration by the Secretary of the Interior under applicable laws and regulations, and his authority to make contracts and to grant leases, permits, rights-of-way, or easements shall not be impaired by this order. Applications for leases under the Mineral Leasing Act, as amended, 30 U.S.C. 181-287, will be rejected until this order is modified or the lands are appropriately classified to permit mineral leasing.

August 16, 1983.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 83-23066 Filed 8-22-83; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6454

[C-17322, C-19376, C-27334]

Colorado; Partial Revocation of Executive Order of April 17, 1926, Public Water Reserve No. 107

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes the Public Water Reserve No. 107 withdrawal insofar as it was construed by various Bureau of Land Management orders to affect 120 acres of public land. This action will permit the acreage to be clearlisted to the State under the State indemnity selection program. The lands will be open to surface entry and nonmetalliferous mining. They have been and remain open to metalliferous mining and mineral leasing.

EFFECTIVE DATE: August 23, 1983.

FOR FURTHER INFORMATION CONTACT: Richard D. Tate, Colorado State Office, 303-837-2535.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714, it is ordered as follow:

1. The Executive Order of April 17, 1926, creating Public Water Reserve No. 107, as construed by Bureau of Land Management Orders dated November 15, 1972; October 9, 1973; and September 1, 1978, is hereby revoked insofar as it affects the following described lands:

Sixth Principal Meridian

T. 1 N., R. 80 W.,
Sec. 9, NW¼NE¼.
T. 48 N., R. 17 W.,
Sec. 24, NE¼NE¼;
Sec. 25, SE¼NW¼.

The areas described contain 120 acres in Grand and Montrose Counties.

2. Effective immediately, subject to valid existing rights, the lands shall be available for selection by the State of Colorado in satisfaction of its State Indemnity Lieu Selection rights.

3. At 10 a.m. on September 21, 1983, the lands shall be open to operation of the public land laws generally, other than State Indemnity selections, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on September 21, 1983, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. At 10 a.m. on September 21, 1983, the lands shall be open to nonmetalliferous mineral location under the United States mining laws. Appropriation of lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Sec. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determination in local courts.

The lands have been and remain open to metalliferous mineral location under the United States mining laws and to applications and offers under the mineral leasing laws.

Inquiries concerning these lands shall be directed to the State Director, Colorado State Office, Bureau of Land Management, 1037 20th Street, Denver, Colorado 80202.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

August 16, 1983.

[FR Doc. 83-23079 Filed 8-22-83; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0 and 19

[FCC 83-323]

Financial Interests of Commissioners and Employees of the Commission in Entities Regulated by the Commission

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document establishes new rules regarding permissible financial interests of Federal Communications Commission employees. This action is taken to

implement the provisions of Section 102 of the Communications Amendments Act of 1982. That legislation removes an almost absolute bar against employees having any financial interest in companies engaged in the business of telecommunications and permits the ownership of financial interests in entities that are only indirectly related to the Commission's jurisdiction.

EFFECTIVE DATE: These rules become effective August 23, 1983.

FOR FURTHER INFORMATION CONTACT: Randy Thomas, Office of General Counsel, Federal Communications Commission, Washington, D.C. (202) 632–6990.

List of Subjects

47 CFR Part 0

Organization and functions (Government agencies).

47 CFR Part 19

Conflict of interests.

Memorandum Opinion and Order

In the matter of amendment of part 19 of the Commission's rules relating to financial interests of commissioners and employees of the Commission in entities regulated by the Commission.

Adopted: July 12, 1983.
Released: August 15, 1983.

1. The Communications Amendments Act of 1982 amended Section 4(b) of the Communications Act of 1934 to remove an almost absolute bar that had prevailed against Commissioners and employees of the Commission from having any financial interest in companies, firms or other entities engaged in the broadly defined business of telecommunications.[1] The Rules adopted herein implement the revised Section 4(b) of the Communications Act, as amended, and generally track the accompanying legislative history.[2]

2. The congressional intent underlying the revision of Section 4(b) was to improve upon the integrity of the regulatory process by assuring that members of the Commission and those in its employ will not have conflicts of interest of any meaningful consequence, while at the same time not precluding the ownership of financial interests in entities that are only indirectly related to the Commission's jurisdiction.

3. Section 4(b), as amended, now allows a broader measure of latitude in the choice of personal investments that a Commissioner or employee may make. This is not to say, however, that all restrictions have been removed. In general, Commissioners and employees of the Commission are still prohibited from owning stocks, bonds or other securities or ownership interests in any entity having a *significant interest* in communications, manufacturing or sales activities subject to Commission regulation. *See* Section 4(b)(2)(A), as amended, 47 U.S.C. 154(b)(2)(A).

4. Section 4(b)(3) sets forth guidelines for the Commission to apply in determining whether a "significant interest" exists between the entity in question and the regulated activities listed above. These guidelines include the revenues, investments, and profits of the communications side of the entity; the extent to which a particular entity is regulated by the Commission; the economic impact on the entity resulting from any Commission action; and the public perception regarding the business activities of such entity. These guidelines have been incorporated into § 19.735–204 of the Commission's Rules being adopted herein. The Managing Director, in consultation with the Genreal Counsel, shall be responsible for making "significant interest" determinations.

5. If an employee holds a financial interest in any entity with a significant interest in communications activities, the interests may not necessarily be proscribed. New Section 4(b)(2)(B)(i), contemplates financial interests that are "minimal" by granting the Commission discretion to waive the ownership prohibitions. This waiver authority does not apply to the financial interests of Commissioners but only to those of Commission employees. Moreover, in considering waivers, the Commission is directed to adhere to the provisions of 18 U.S.C. 208 which provide that an employee may not participate in any matter in which the employee has a finanical interest. Thus, an employee with a "minimal" financial interest in any entity having a *significant interest* in regulated activities may be granted a waiver of the Section 4(b) ownership prohibitions only if, in the first instance, the strictures of 18 U.S.C. 208 do not preclude the waiver.[3] The Managing Director, in consultation with the General Counsel, will be responsible for exercising this waiver authority. Moreover, to enhance consistency and fairness in application, the Managing Director and General Counsel will endeavor to develop waiver guidelines after sufficient experience is acquired in the application of this provision.

6. Any exercise of this waiver authority by the Commission must be accompained by publication of such action in the **Federal Register** and notification to both the Senate and House Authorization Committees. *See* Section 4(b)(2)(B)(ii), *as amended*, 47 U.S.C. 154(b)(2)(B)(ii). It is anticipated that this waiver authority will be exercised sparingly. Conference Report, *supra* n. 2 at 25.

Conclusion

7. In light of the enactment of the amendments to Section 4(b), the Commission finds it to be in the public interest to amend its rules to reflect these changes. Becaue the rule changes adopted herein apply to internal matters involving employee responsibilities, conduct, and intergrity, and because immediate implementation is necessary to comply with congressional intent, adherence to the prior public notice and comment procedures and effective date provisions of Sections 553(b) and (d) of the Administrative Procedure Act (5 U.S.C. 553) is unnecessary.

8. Accordingly, it is ordered, under the authority contained in Section 4(i) of the Communications Act of 1934, as amended (47 U.S.C. 154(i)), that Parts 0 and 19 of the Commission's Rules are amended as set forth in the attached appendix effective upon the date of publication of this action in the **Federal Register.**

9. It is further ordered, in accordance with Office of Personnel Management and Commission regulations, that the Rules adopted herein by forwarded to the Office of Personnel Management for approval, and upon approval [4] the Rules shall be published in the **Federal Register.** 5 CFR 735.104(c); 47 CFR 19.735–104(b).

10. It is further ordered, that General Docket No. 80–330 (Notice of Proposed Rule making to Amend Part 19 Financial Interest Rules) be terminated as moot in view of the recent amendments to Section 4(b) of the Act. 47 U.S.C. 154(b).

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

[1] Communications Amendment Act of 1982, Public Law No. 97–259, § 102, enacted Sept. 13, 1982. *See* 47 U.S.C. 154(b), as amended.

[2] Conference Report to accompany H.R. 3239, dated Aug. 19, 1982; H.R. Rep. No. 765, 97th Cong., 2d Sess. 24–25 (1982).

[3] For instance, it may be appropriate to exercise this waiver authority and thereby permit an employee in the Office of the Secretary to own a small number of shares of a communications common carrier which were bequeathed to him. In this situation, the employee did not seek out the ownership interest, the financial interest appears *de minimis* and the employee is not in a position to participate in a decisional capacity in any matter which may affect the carrier.

[4] Note.—The Rules set forth herein were approved by the Office of Personnel Management on July 27, 1983.

Federal Communications Commission.
William J. Tricarico,
Secretary.

Appendix

Parts 0 and 19 of Chapter 1 of Title 47 of the Code of Federal Regulations are amended as follows:

PART 0—[AMENDED]

1. In § 0.231, paragraph (e) is added to read as follows:

§ 0.231 Authority delegated.

* * * * *

(e) The Managing Director, or his designee, in consultation with the General Counsel, is delegated authority to make determinations regarding and waive the applicability of Section 4(b) of the Communications Act (47 U.S.C. 154(b)) and the Federal conflicts of interest statutes (18 U.S.C. 203, 205 and 208).

* * * * *

PART 19—[AMENDED]

2. In § 19.735–204, paragraph (c) is revised to read as follows:

§ 19.735–204 Financial interest.

* * * * *

(c)(1) Section 4(b) of the Communications Act provides in pertinent part as follows:

No member of the Commission or person employed by the Commission shall—

(i) be financially interested in any company or other entity engaged in the manufacture or sale of telecommunications equipment which is subject to regulation by the Commission;

(ii) be financially interested in any company or other entity engaged in the business of communication by wire or radio or in the use of the electromagnetic spectrum;

(iii) be financially interested in any company or other entity which controls any company or other entity specified in clause (i) or clause (ii), or which derives a significant portion of its total income from ownership of stocks, bonds, or other securities of any such company or other entity; or

(iv) be employed by, hold any official relation to, or own any stocks, bonds, or other securities of, any person significantly regulated by the Commission under this act; except that the prohibitions established in this subparagraph shall apply only to financial interests in any company or other entity which has a significant interest in communications, manufacturing, or sales activities which are subject to regulation by the Commission. * * *

(47 U.S.C. 154(b)(2)(A))

(2) To determine whether an entity has a significant interest in communications related activities that are subject to Commission regulations, the Commission shall consider, without excluding other relevant factors, the Section 4(b)(3) criteria. These criteria include:

(i) The revenues and efforts directed toward the telecommunications aspect of the business;

(ii) The extent of Commission regulation over the entity involved;

(iii) The potential economic impact of any Commission action on that particular entity; and

(iv) The public perception regarding the business activities of the company.

(*See* 47 U.S.C. 154(b)(3))

(3) Section 4(b)(2)(B)(i)–(ii) of the Act permits the Commission to waive the conflict of interest provisions for employees (but not Commissioners) if it is determined that the financial interests are minimal. The Act's waiver provision, which is subject to 18 U.S.C. 208, provides essentially as follows:

(i) The Commission shall have authority to waive, from time to time, the application of the prohibitions established in subparagraph (A) of Section 4(b) to persons employed by the Commission if the Commission determines that the financial interests of a person which are involved in a particular case are minimal, except that such waiver authority shall be subject to the provisions of Section 208 of title 18, United States Code. The waiver authority established in this subparagraph shall not apply with respect to members of the Commission.

(ii) In any case in which the Commission exercises the waiver authority established in Section 4(b), the Commission shall publish notice of such action in the **Federal Register** and shall furnish notice of such action to the appropriate committees of each House of the Congress. Each such notice shall include information regarding the identity of the of the person receiving the waiver, the position held by such person, and the nature of the financial interests which are the subject of the waiver.

* * * * *

§ 19.735–204 [Amended]

3. In § 19.735–204, paragraph (e)(2)(ii) is removed.

4. In § 19.735–306, paragraph (a) is revised to read as follows:

§ 19.735–306 Miscellaneous statutory provisions.

(a) Section 4(b) of the Communications Act which is reprinted in pertinent part in § 19.735–204(c)(1) in this part.

* * * * *

§ 19.735–306 [Amended]

5. In § 19.735–306, paragraph (c)(2) is removed.

6. Section 19–735–412 is revised to read as follows:

§ 19.735–412 Procedure for obtaining waivers of the applicability of Section 4(b) of the Communications Act and the Federal conflicts of interest statutes.

(a) Waiver of Section 4(b) of the Communications Act

(47 U.S.C. 154(b))

(1) As indicated in § 19.735–204 of this chapter, no member of the Commission or person in its employ shall have any financial interest delineated in 47 U.S.C. 154(b)(2)(A), except that the Commission may waive this prohibition under specific circumstances. (*See* § 19.735–204 (c)(3))

(2) Requests for waiver of the provisions of 47 U.S.C. § 154(b)(2)(A) may be submitted by an employee to the Head of the Office or Bureau, who will endorse the request with an appropriate recommendation and forward the request to the Managing Director. The Managing Director, in consultation with the General Counsel, has delegated authority to waive the applicability of Section 4(b) of the Communications Act (47 U.S.C. 154(b)).

(*See* 47 CFR 0.231(e))

(3) All requests for waiver shall be in writing and in the required detail. The dollar value of the financial interest sought to be waived shall be expressed explicitly or in categories of value provided for in OPM's government ethics regulations.

(*See* 5 CFR 734.304)

(4) Before any waiver is granted, the General Counsel shall be furnished a copy of all relevent documents and shall be afforded an opportunity to comment thereon.

(5) Copies of all waiver requests and the action taken thereon shall be maintained in the Office of Managing Director.

(b) Waiver of Sections 203, 205 and 208 of the criminal code (18 U.S.C. 203, 205 and 208):

(1) As indicated in § 19.735–204 of this chapter, no employee of the Commission may, except in the discharge of his or her official duties, represent anyone before a court or Government agency in a matter in which the United States is a party or has an interest. (18 U.S.C. 203 and 205). Nor may an employee participate in his governmental capacity in any matter in which he, his spouse, minor child, outside business associate or person with whom he is negotiating for employment has a financial interest. (18 U.S.C. 208). These prohibitions may,

however, be waived in certain circumstances.

(18 U.S.C. 205, 208(b))

(2) Requests for waiver of the applicability of the above Federal conflicts of interest statutes may be submitted as follows:

(i) In the case of employees generally, to the Head of the Office or Bureau to which the employee is assigned;

(ii) In the case of Heads of Offices and Bureaus, to the Chairman; and

(iii) In the case of employees in the immediate offices of a Commissioner, to the Commissioner.

(3) All waiver requests shall be in writing and in the required detail. Before any waiver is granted, the General Counsel shall be furnished a copy of all relevent documents and shall be afforded an opportunity to comment thereon.

(4) Commissioners may grant waivers to employees of their immediate offices.

(5) The Managing Director, in consultation with the general Counsel, has delegated authority to waive the applicability of the conflicts of interest statutes of all other employees. The official to whom the waiver request is submitted will endorse it with an appropriate recommendation and forward it to the Managing Director for approval.

(*See* 47 CFR 0.231(e))

(6) Copies of all requests for waivers and the action taken thereon shall be maintained in the Office of Managing Director.

(7) An employee who deems him or herself disqualified from participating in any matter pending before the Commission and who does not request a waiver shall file a statement of disqualification and nonparticipation with the Head of the Bureau or Office to which assigned and with the Managing Director.

[FR Doc. 83-23102 Filed 8-22-83; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-122; RM-4277]

FM Broadcast Stations in Elkton, Virginia; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns Channel 252A to Elkton, Virginia, in response to a petition filed by Robert J. Lacey. The assigned channel could provide a first FM assignment to that community.

DATE: Effective: October 17, 1983

ADDRESS: Federal Communications Commission, Washington, D.C. 20554

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau (202) 634-6530.

List of Subjects in 47 CFR Part 73
Radio broadcasting

Report and Order (Proceeding Terminated)

In the matter of Amendment of § 73.202(b), table of assignments, FM Broadcast Stations. (Elkton, Virginia), MM Docket No. 83-122 RM-4277.

Adopted: August 11, 1983.
Released: August 17, 1983.

By the Chief, Policy and Rules Division:

1. The Commission has under consideration the *Notice of Proposed Rule Making*, 48 F.R. 11473, published March 18, 1983, filed by Robert J. Lacey ("petitioner"), proposing the assignment of Channel 252A to Elkton, Virginia, as that community's first FM assignment. Petitioner submitted information in support of the *Notice* and, as requested, expressed his intention to apply for the channel, if assigned. The channel can be assigned consistent with the minimum distance separation requirements.

2. As stated in the *Notice*, any applicant for a station in Elkton, Virginia, must coordinate with the National Radio Observatory at Green Bank, West Virginia, and the Naval Research Laboratory at Sugar Grove, West Virginia, for approval of a transmitter location within the "Quiet Zone." See § 73.1030 of the Commission's Rules.

3. In view of the fact that the proposed assignment could provide a first FM service to Elkton, Virginia, the Commission believes that it is appropriate to amend the FM Table of Assignments. Accordingly, pursuant to authority contained in §§ 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective October 17, 1983, the FM Table of Assignments (§ 73.202(b) of the Commission's Rules) IS AMENDED as follows for the community listed below:

City	Channel No.
Elkton, Virginia	252A.

4. It Is Further ordered, That this proceeding is terminated.

5. For further information concerning the above, contact Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division Mass Media Bureau.

[FR Doc. 83-23105 Filed 8-22-83; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 652

[Docket No. 30615-165]

Atlantic Surf Clam and Ocean Quahog Fisheries; Area Opening

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of area opening.

SUMMARY: NOAA issues this notice terminating certain restrictive management measures that were imposed when an area was reopened to surf clam fishing offshore of Atlantic City, New Jersey, on October 3, 1982, since the criteria for terminating the special management measures have been met. This previously restricted fishing area is thereby incorporated into the general fishery.

EFFECTIVE DATE: October 9, 1983.

FOR FURTHER INFORMATION CONTACT: Bruce Nicholls, Surf Clam Management Coordinator, National Marine Fisheries Service, Northeast Region, State Fish Pier, Gloucester, Massachusetts 01930; telephone 617-281-3600.

SUPPLEMENTARY INFORMATION: Section 652.23(b)(1) provides for the closure of areas to surf clam fishing if they are found to contain predominantly small surf clams. On December 21, 1980, an area offshore of Atlantic City, New Jersey, was closed under that provision (46 FR 1740). Section 652.23(b)(2) establishes the conditions under which closed areas may be reopened. A portion of the Atlantic City closed area was reopened under special management measures on October 3, 1982, because the conditions were met for the area (September 1, 1982; 47 FR 38544). Section 652.23(b)(3) contains provisions for controlling the harvest of surf clams from areas that are reopened. That section provides that "The Secretary will control the harvest of surf

clams from reopened areas separate from the management of the general fishery until the catch per unit of effort in the reopened area is comparable to the average catch per unit of effort in the general fishery, at which time the reopened area will become part of the general fishery."

The area reopened on October 3, 1982, is triangular and is delineated by straight lines connecting the following coordinates in the order listed:

Latitude	Longitude
39°12.40' N.	74°22.30' W.
39°19.33' N.	74°22.37' W.
39°18.35' N.	74°13.60' W.
39°17.60' N.	74°14.30' W.
39°12.40' N.	74°22.30' W.

Analysis of the logbook records for June of 1983 submitted by surf clam fishermen shows that the average catch per unit of effort on the days when fishing was allowed in the reopened area was 54 bushels per hour. The average catch per unit of effort from the general surf clam fishery during the same period was 56 bushels per hour. The catch per unit of effort in the reopened area is thus comparable to the average catch per unit of effort in the general fishery. The Regional Director has therefore determined that the reopened area should become part of the general fishery.

The special management measures for the reopened area published in the notice of reopening (47 FR 38544) included a reduced fishing day in the area, a repeating cycle of allowable fishing days in the area, a requirement for vessel operators to inform the Regional Director of their intention to fish in the area, a prohibition on changing surf clam fishing times during reopening cycles, a limitation on trips, and a prohibition on use of make-up periods in the reopened area. These measures are terminated effective October 9, 1983. After that date, fishing for surf clams in the area will only be subject to the provisions applying to the general surf clam fishery.

This action is taken under the authority of 50 CFR Part 652, and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 652

Administrative practice and procedure, Fish, Fisheries, Reporting and recordkeeping requirements.

(16 U.S.C. 1801 *et seq.*)

Dated: August 18, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries, Resource Management, National Marine Fisheries Service.

[FR Doc. 83-23113 Filed 8-23-83; 8:45 am]

BILLING CODE 3510-22-M

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50 CFR Part 661

[Docket No. 30817-167]

Ocean Salmon Fisheries Off the Coasts of Washington, Oregon, and California

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Rule-related notice; inseason adjustment.

SUMMARY: The Secretary of Commerce issues this notice to increase the commercial troll fishery coho salmon quota for the area from Cape Falcon, Oregon, to Heceta Head, Oregon, from 254,000 to 333,000 coho in two stages and to increase the recreational fishery coho salmon quota for the area from Cape Falcon to the U.S.-Mexico Border from 196,000 fish to 211,000 fish. This action is based upon an inseason assessment of the private hatchery coho salmon contribution to the ocean fishery catch, and includes a carryover adjustment in the commercial coho quota of about 22,000 from the July fishery in the area from Heceta Head to the Oregon-California border. The effect of this action is to make available an additional 79,000 coho salmon to the commercial troll fishery and an additional 15,000 coho salmon to the recreational fishery.

EFFECTIVE DATE: Increase of the coho salmon quotas is effective August 18, 1983 and will remain in effect until the quotas are reached or the seasons are concluded, whichever comes first.

ADDRESSES: Send comments to H. A. Larkins, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE., BIN C15700, Seattle, Washington 98115.

FOR FURTHER INFORMATION CONTACT: H. A. Larkins, 206-527-6150.

SUPPLEMENTARY INFORMATION: Emergency regulations to manage the ocean commercial and recreational salmon fisheries off the coasts of Washington, Oregon, and California were published in the **Federal Register** (48 FR 21135) on May 11, 1983. These emergency regulations were effective on May 23, 1983, for a 90-day period and will be extended through November 19, 1983.

The emergency regulations specify at § 661.22(b) that during the season the Regional Director will review the estimated contributions of private hatchery coho to the ocean commercial and recreational catches. If the contribution of private hatchery coho varies from the preseason estimates, the Secretary of Commerce may modify the coho quotas by publishing a notice in the **Federal Register**.

A review of the estimated contribution of private hatchery coho to the total ocean harvest of coho salmon revealed that the preseason forecast underestimated the contribution by a total of 72,000 coho (57,000 for the troll fishery and 15,000 for the recreational fishery), for the area south of Cape Falcon, Oregon. An assessment by the Oregon Department of Fish and Wildlife (ODFW) of coded wire tag returns of private hatchery coho in the ocean fishery catch indicated that the coho salmon quota for the commercial fishery from Cape Falcon, Oregon, to Heceta Head, Oregon, should be increased from 276,000 fish to 333,000 fish and the coho salmon quota for the recreational fishery from Cape Falcon to the U.S.-Mexico Border should be adjusted upward from 196,000 fish to 211,000 fish. The 276,000 troll quota before adjustment included the initial 254,000 provided for in the regulations plus a carryover of about 22,000 coho from the quota for the July fishery from Heceta Head to the Oregon-California border. Further minor adjustments in this carryover may be necessary as the season progresses depending on reports of additional landings from the July fishery. ODFW's analysis indicated that adjustments for private hatchery contributions were unnecessary for coho quotas north of Cape Falcon or for the troll coho quota south of the Oregon-California border.

This notice affects only those seasons and quotas specified here. The Oregon Department of Fish and Wildlife, the Washington Department of Fisheries, and the Pacific Fishery Management Council have been consulted regarding this adjustment of the coho salmon quotas.

As provided under § 661.22(e) of the emergency regulations, all the information and data relevant to this action have been complied in aggregate form and are available for public review at the above address from 7:30 a.m. to 4:30 p.m.

This action is taken under the authority of 50 CFR 661.22(b), and is taken in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 661

Fish, Fisheries, Fishing, Indians.

(16 U.S.C. 1801 *et seq.*)

Dated: August 17, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 83-23077 Filed 8-18-83; 1:48 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 48, No. 164
Tuesday, August 23, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 83-NE-22]

Proposed Designation of Lincoln, Maine, 700-Foot Transition Area

AGENCY: Federal Aviation Administration (FAA), Dot.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice (NPRM) proposes the designation of a 700-foot transition area at Lincoln, Maine. A new very high frequency omnirange station/distance measuring equipment VOR/DME-A instrument approach has been developed and a 700-foot transition area is required to contain instrument flight rule (IFR) arrival and departure procedures.

DATE: Submit comments on or before September 22, 1983.

ADDRESSES: Send comments to the Federal Aviation Administration, Office of the Regional Counsel, ANE-7, Attention: Rule Docket Clerk, Docket No. 83-NE-22.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts.

FOR FURTHER INFORMATION CONTACT: David Hurley, Operations, Procedures and Airspace Branch, ANE-530, Federal Aviation Administration Air Traffic Division, 12 New England Executive Park, Burlington, Massachusetts 01803; Telephone (617) 273-7285.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking process by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the New England Region, Attention: Chief, Operations, Procedures and Airspace Branch, ANE-530, Air Traffic Division, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803. All communications received on or before September 30, 1983, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation administration, office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, S.W., Washington, D.C. 20591, or by calling (202) 426-8085. Communications must identify the number of this NPRM.

Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition area.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a 700-foot transition area at Lincoln, Maine. This amendment is necessary due to a new VOR/DME-A instrument approach developed at Lincoln Regional Airport, Lincoln, Maine.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Section 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by designating a 700-foot transition area at Lincoln, Maine, which will be described as follows:

Lincoln, Maine

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center, lat. 45°21'42"N., long. 68°32'07"W., of Lincoln Regional Airport, Lincoln, Maine and within 4.5 miles each side of the Millinocket VORTAC 184° radial extending from the 7-mile radius area to .5 miles south of the VORTAC, excluding that portion which overlies the Millinocket, Maine, transition area.

Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983)), and 14 CFR 11.69)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, it is celrtified that this (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; (4) is appropriate to have a comment period of less than 45 days; and (5) if promulgated will not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Burlington, Massachusetts, on August 10, 1983.

Robert E. Whittington,
Director, New England Region.

[FR Doc. 83-23034 Filed 8-22-83; 8:45 am]
BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 83-ASW-32]

Proposed Alteration of Transition Area and Control Zone: Laredo, TX

AGENCY: Federal Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Aviation Administration proposes to alter the transition area and control zone at Laredo, TX. The intended effect of the proposed action is to provide adequate controlled airspace for aircraft executing standard instrument approach procedures (SIAP's) to the Laredo International Airport. This action is necessry at Laredo, TX, since a review of the designated airspace revealed that airspace is inadquate for the protection of aircraft and is improperly described.

DATES: Comments must be received on or before September 26, 1983.

ADDRESSES: Send comments on the proposal in triplicate to: Manager

Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Forth Worth, TX 76101.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8 a.m. and 4:30 p.m. The FAA Rules Docket is located in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch, ASW–535, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Forth Worth, TX 76101; telephone: (817) 877–2630.

SUPPLEMENTARY INFORMATION:

History

Federal Aviation Regulation Part 71, Subparts G 71.181 and F 71.171, as republished in Advisory Circular AC 70–3A dated January 3, 1983, contains the description of transition areas and control zones designated to provide controlled airspace for the benefit of aircraft conducting instrument flight rules (IFR) activity. Alteration of the transition area and control zone at Laredo, TX, will necessitate an amendment to these subparts. This amendment will be required at Laredo, TX, since a review of the transition area and control zone revealed the transition area for Runway 17 is inadequate and since the IFR procedure to the Killam Hurd and Laredo Auxiliary Airports have been canceled, eliminating the requirement for designated airspace at these two airports.

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. (Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposals.) Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 83–ASW–32." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, or by calling (817) 877–2630. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should contact the office listed above.

List of Subjects in 14 CFR Part 71

Control zones, Transition areas, Aviation safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

§ 71.171 [Amended]

Laredo, TX Revised

Within a 5-mile radius of the Laredo International Airport (latitude 27°32'40" N., longitude 99°27'40" W.), that airspace within Mexico being excluded. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

§ 71.181 [Amended]

Laredo, TX Revised

That airspace extending upward from 700 feet above the surface within an 8.5–mile radius of the Laredo International Airport (latitude 27°32'40" N., longitude 99°27'40" W.); and within 5 miles each side of a 003° bearing of the airport, extending from the 8.5-mile radius area to 15 miles north; and within 5 miles each side of the Laredo VORTAC 141° and 328° radials, extending from the 8.5-mile radius area to 10 miles southeast and 20 miles northwest of the VORTAC. That airspace within Mexico is excluded.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), 49 U.S.C. 106(g) (revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.61(c))

Note: The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Fort Worth, TX, on August 8, 1983.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc 83-23115 Filed 8-22-83; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. 9152]

The Gillette Co.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require a leading manufacturer of razor blades, razors, toiletries and grooming aids, among other things, to make alternative advertising allowances available to customers that compete in the resale of Gillette products but do not regularly advertise in newspapers. The order would also require the company to notify all its customers, as specified, of its advertising and promotional programs, and of the availability of usable and feasible alternatives. Such alternatives shall consist of handbills and circulars in amounts not less than 1,000; off-shelf, end-of-aisle or dump displays; window or wall posters and other in-store promotional activities acceptable to the company. Further, the company would be required to distribute a special written notice informing customers of the change in its promotional programs and provide sales personnel with a copy of the order.

DATE: Comments must be received on or before October 24, 1983.

ADDRESS: Comments should be directed to: FTC/S, Office of the Secretary, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: FTC/CS–1, Karen G. Bokat, Washington, D.C. 20580, (202) 724–1679.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 3.25(f) of the Commission's Rules of Practice (16 CFR 3.25(f)), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days, public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

List of Subjects in 16 CFR Part 13

Advertising, Grooming aids, Trade practices.

In the matter of The Gillette Co., a corporation. Docket No. 9152.

Agreement Containing Consent Order To Cease and Desist

The agreement herein, by and between The Gillette Company ("Gillette"), a corporation, hereafter sometimes referred to as respondent, by its duly authorized officer and its attorney, and counsel for the Federal Trade Commission, is entered into in accordance with the Commission's Rule governing consent order procedures. In accordance therewith the parties hereby agree that:

1. Gillette is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with an office and its principal place of business located at Prudential Tower Building, Boston, Massachusetts 02199.

2. Gillette has been served with a copy of the Complaint issued by the Federal Trade Commission on February 19, 1981, charging it, *inter alia*, with violation of Section 5 of the Federal Trade Commission Act and Section 2 of the Clayton Act, and has filed an answer to said complaint denying said charges.

3. Gillette admits all the jurisdictional facts set forth in the Commission's complaint in this proceeding.

4. Gillette waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the Order entered pursuant to this Agreement; and

(d) Any claim under the Equal Access to Justice Act.

5. This Agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Commission. If this Agreement is accepted by the Commission it will be placed on the record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this Agreement and so notify Gillette, in which event it will take such action as it may consider appropriate, or issue and serve its decision, in disposition of the proceeding.

6. This Agreement is for settlement purposes only, is entered into without trial or final adjudication of any issued of fact or law herein and without the taking of any evidence or testimony, and does not constitute any evidence or any admission by Gillette that the law has been violated as alleged in the Complaint.

7. This Agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 3.25(f) of the Commission's Rules, the Commission may without further notice to Gillette, (1) issue its decision containing the following Order to cease and desist in disposition of the proceeding; and (2) make information public in respect thereto. When so entered, the Order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other Orders. The Order shall become final upon service. Delivery by the U.S. Postal Service of the decision containing the agreed-to Order to Gillette's address as stated in this Agreement shall constitute service. Gillette waives any right it may have to any other manner of service. The Complaint may be used in construing the terms of the Order, and no agreement, understanding, representation, or interpretation not contained in the Order or in this Agreement may be used to vary or to contradict the terms of the Order.

8. Gillette has read the Complaint and the Order contemplated hereby. It understands that, once the Order has been issued, it will be required to file one or more compliance reports setting forth the manner in which it intends to comply, is complying, and/or has complied with the Order. Gillette further understands that it may be liable for civil penalties in the amount provided by law for each violation of the Order after it becomes final.

Order

I

A. It is ordered that respondent, The Gillette Company, a corporation, its successors and assigns, and its officers, directors, agents, representatives and employees, directly or indirectly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale, or distribution of razor blades, razors, toiletries or cosmetic grooming aids sold or offered for sale by respondent (hereinafter referred to as "Respondent's Covered Products") in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended, or the Clayton Act, as amended, shall cease and desist from paying or contracting to pay to or for the benefit of any customer anything of value as compensation or in consideration for newspaper advertising or promotional services or facilities furnished by or through such customer in connection with the handling, sale or offering for sale of any of Respondent's Covered Products unless:

(1) Respondent makes such compensation or consideration available on proportionally equal terms for alternative services or facilities that are usable and economically feasible for all customers who compete in the distribution or resale of Respondent's Covered Products and who do not regularly advertise in newspapers or for whom any newspaper advertising or promotional program or plan subject to paragraph I A of this Order is not usable or economically feasible, which services or facilities shall consist of: handbills and circulars in amounts not less than 1,000; off-shelf, end-of-aisle or dump displays; window or wall posters; store banners or shelf talkers; or other in-store promotional activities acceptable to respondent; and

(2) Respondent (i) imprints on the smallest shipping container used for Respondent's Covered Products the legend "Advertising, promotional, and display allowances are periodically made available by Gillette to all retailers. To obtain information about these promotional opportunities contact your supplier or write to: The Gillette Company [Safety Razor Division, Sales Promotion Department—P.O. Box 2131, Boston, Massachusetts 02106], [Personal

Care Division, Sales Promotion Department, 101 Huntington Avenue, Boston, Massachusetts 02199]"; and (ii) for each promotion causes copies of "deal sheets" or similar materials explaining the availability of alternative methods of participation in respondent's advertising or promotional program or plan to be supplied to its wholesalers or distributors in sufficient quantity for presentation or delivery by such wholesalers or distributors to each customer or such wholesaler or distributor.

B. Provided, however, that nothing herein contained shall be construed or interpreted to abridge or otherwise restrict respondent's entitlement to avail itself of the "Meeting Competition Defense," the provisions of which are contained in Section 2(b) of The Clayton Act, 15 U.S.C. § 2(b), as amended.

II

It is further ordered that respondent shall within the twelve (12) month period beginning thirty (30) days after service upon it of this Order (hereinafter referred to as the "Effective Period") notify those retailers who purchase Respondent's Covered Products of the availability of alternative methods of participation in respondent's allowance programs by distributing a written notice in the form attached hereto as Exhibit A in the following manner:

(1) Such notice shall be contained in the "deal sheets" respondent delivers to its wholesalers, for presentation or delivery by such wholesalers to each customer of such wholesalers, in connection with five (5) major product promotions offered by respondent during the Effective Period; and

(2) Such notice shall be contained in a printed insert which will be included in each presealed "Counter Display" and "Floor Stand" distributed by respondent in connection with respondent's "World Series" promotion occurring within the Effective Period.

For purposes of paragraph II (1) of this Order, respondent shall give the notice contemplated therein in connection with respondent's "Super Bowl," "Valentine's Day," "All Star," "Miss America" and "World Series" product promotions if such product promotions are offered during the Effective Period. In the event that any of these product promotions are not offered during the Effective Period, respondent shall give the notice contemplated by paragraph II (1) in connection with a product promotion that is comparable to the one no longer offered.

III

It is further ordered that respondent shall deliver a copy of this Order to cease and desist to all sales and sales management personnel employed on the date of service of this order in each of respondent's operating divisions that is engaged in the sale of Respondent's Covered Products within the United States.

IV

It is further ordered that (i) within sixty (60) days after service upon respondent of this Order and (ii) within ninety (90) days after the end of the Effective Period, respondent shall file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied and is complying with this Order.

V

It is further ordered that respondent notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergency of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of this Order.

Exhibit A

Performance Alternatives: For accounts that do not regularly advertise in newspapers or for whom any other promotional program offered by The Gillette Company is not usable or economically feasible, The Gillette Company offers compensation for the following performance alternatives: handbills and circulars in amonts not less than 1,000; off-shelf, end-of-aisle or dump displays; window or wall posters; store banners or shelf talkers; or other in-store promotional activities acceptable to The Gillette Company.

The Gillette Company

Docket No. 9152

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from The Gillette Company (Gillette). The agreement is in settlement of the Commission's complaint concerning the advertising and promotional practices fo Gillette and requires Gillette to modify certain of those practices.

The proposed consent order is being placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

Gillette is a major manufacturer of health and beauty aids and other products for personal care and use. The Commission conducted an investigation that focused on Gillette's advertising and promotional practices in connection with its sales of razors and razor blades, toiletries, and grooming aids. As a result of the investigation, a complaint was issued alleging that Gillette had violated Section 5 of the Federal Trade Commission Act, and subsection (d) of Section 2 of the Clayton Act, by paying or contracting for the payment of credits or sums of money in the form of discounts, allowances, rebates, or deductions as compensation or in consideration for promotional services or facilities provided by its customers in connection with the offering for sale or sale of Gillette's products. The complaint further alleged that these promotional allowances discriminated against particular customers or classes of customers in that they were not available, in a practical business sense, on proportionally equal terms to all customers competing in the sale and distribution of Gillette's products and that Gillette failed to offer alternative terms and conditions to customers for whom respondent's basic promotional allowance plan was not usable or suitable.

The purpose of the proposed order is to ensure that Gillette's advertising and promotional programs do not discriminate against certain customers or classes of customers. Section I.A.1. of the proposed order requires Gillette to make advertising allowances available for alternative services that are usable and economically feasible for its customers who compete in the resale of Gillette products and who do not regularly advertise in newspapers. The alternative services shall consist of handbills and circulars in amounts not less than 1,000; off-shelf, end-of-aisle or dump displays; window or wall posters; store banners or shelf talkers; or other in-store promotional activities acceptable to Gillette. Section I.A.2. states the methods Gillette will use to notify its customers of its promotional programs on an ongoing basis.

Section II describes the steps Gillette will take to notify all its customers of the modifications in its promotional programs.

Section III requires Gillette to deliver a copy of the order to all of its sales and sales management personnel in each of Gillette's operating divisons that is engaged in the sale of razors, razor blades, toilertries, or cosmetic grooming aids within the United States.

Section IV requires Gillette to file a report within sixty days after service of the order and a second report within ninety days from the end of the twelve-month period beginning thirty days after service of the order, setting forth the manner and form in which it has fulfilled the provisions of Sections I, II, and III.

Section V requires Gillette to notify the Commission of any changes in corporate organization that might affect its obligations under the order.

The purpose of this analysis is to facilitate public comment on the proposed order and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Michael A. Baggage,

Acting Secretary.

Statement of Commissioner Patricia P. Bailey

The Gillette Company, Docket No. 9152

August 1, 1983.

While I have voted to place this consent order on the public record for comment, I am concerned about payments of promotional allowances that exceed the cost, or approximate cost of the promotions themselves. While the main thrust of the order here is simply to afford broader promotional benefits to more of Gillette's customers, the overpayments issue ought not be overlooked in the public comment period. Such overpayments might be in violation of the Commission's amended (1972) *Guides for Advertising Allowances and Other Merchandising Payments and Services,* 16 CFR § 240 et seq., and might appear as price discriminations in violation of Section 2(a) of the Robinson-Patman amendments to the Clayton Act. The latter might be the case where promotional allowances to at least some customers exceed the expenses of actual promotions, and where such allowances are not made available to all a supplier's customers on non-discriminatory terms.

The issue of whether promotional payments may exceed the cost of promotions themselves was last addressed by the Commission in 1976, when it reaffirmed its support for the "cost or approximate cost" basis for measuring proportionality. (See footnote 2 to Guide 9, and Guide 11) While I do not believe that the Commission intends today to depart from this longstanding policy position, this order may be read by some to imply such a change of position. Because any sanctioned overpayments in excess of promotional costs may disguise price discriminations, this is a serious issue in the event that such discriminations resulted in injury to competition.

[FR Doc. 83-22103 Filed 8-22-83; 8:45 am]

BILLING CODE 6750-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 20074; File No. 4-220]

Deferral of an Order Exposure Rule

AGENCY: Securities and Exchange Commission.

ACTION: Deferral of Proposed Rule; Request for Comment.

SUMMARY: The Commission today announces its decision to defer action on its proposed order exposure rule and solicit comment on the trading experience of broker-dealers and investors with respect to securities eligible for off-board trading pursuant to Rule 19c-3 under the Securities Exchange Act of 1934.

DATE: Comments to be received by October 3, 1983.

ADDRESSES: Persons desiring to submit such data, views and arguments should file six copies with George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549, Stop 6-9. Reference should be made to File No. 4-220.

FOR FURTHER INFORMATION CONTACT: Robert L.D. Colby at (202) 272-2413; Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549.

Request for Comment on Off-Board Trading Pursuant to Rule 19c-3

The Commission today announces its decision to defer action on its proposed order exposure rule [1] and solicit comment on the trading experience of broker-dealers and investors with respect to securities eligible for off-board trading pursuant to Rule 19c-3 under the Securities Exchange Act of 1934 ("Act").[2]

[1] Proposed Rule 11A-1 under the Securities Exchange Act of 1934. *See* Securities Exchange Act Release No. 18372 (December 21, 1982), 47 FR 58287.

[2] 17 CFR § 240.19c-3.

I. Background of Rule 19c-3

On June 11, 1980, the Commission adopted Rule 19c-3 ("Rule").[3] The Rule precludes exchange off-board trading restrictions from applying to reported securities [4] that were listed on an exchange after April 26, 1979,[5] or that were listed on an exchange after April 26, 1979, but ceased to be traded on an exchange for any period of time thereafter ("Rule 19c-3 Securities").

Rule 19c-3 had its genesis in the Securities Acts Amendments of 1975 ("1975 Amendments"),[6] in which Congress directed the Commission to facilitate the establishment of a national market system ("NMS") for securities.[7] In the 1975 Amendments, Congress explicitly, and without qualification, directed the Commission to review exchange off-board trading restrictions, to report to Congress on that review, and to commence a proceeding to amend any such restrictions which imposed an unnecessary or inappropriate burden on competition.[8]

In response to that directive, the Commission issued a report on September 2, 1975, concluding that off-board trading restrictions were anti-competitive, and commencing a proceeding to remove those restrictions.[9] On December 19, 1975, the Commission adopted Rule 19c-1, eliminating most off-board trading restrictions on agency transactions but deferring action on principal restrictions until comment could be received from the National Market Advisory board ("NMAB") and further steps were taken in the development of the NMS.[10] Again concluding that exchange off-board trading restrictions imposed a burden on competition, the Commission on June 23, 1977, began a second proceeding to remove all such remaining restrictions by proposing Rule 19c-2.[11] On January

[3] Securities Exchange Act Release No. 16888 (June 11, 1980), 45 FR 41125 ("Rule 19c-3 Adoption Release").

[4] Reported securities are securities for which transaction reports are made available pursuant to an effective transaction reporting plan. *See* Rule 11Aa3-1(a)(4), 17 CFR § 240.11Aa3-(a)(4).

[5] Rule 19c-3 was proposed on April 26, 1979. Securities Exchange Act Release No. 15769 (April 26, 1979), 44 FR 26668.

[6] Pub. L. No. 94-29 (June 4, 1975), 89 Stat. 97.

[7] Section 11A(a)(2) of the Act.

[8] Section 11A(c)(4)(A) of the Act.

[9] Securities Exchange Act Release No. 11628 (September 2, 1975), 40 FR 41808.

[10] Securities Exchange Act Release No. 11942 (December 19, 1975), 41 FR 4507.

[11] Securities Exchange Act Release No. 13662 (June 23, 1977), 42 FR 33510. The NMAB had submitted its final report to the Commission on off-board trading restrictions which concluded that "off-board trading restrictions are a burden on competition" and that "the purposes of the Act do

26, 1978, the Commission deferred action on this proceeding until several proposed elements of the NMS were in place.[12]

Finally, on June 11, 1980, the Commission adopted Rule 19c–3, which removed all remaining off-board trading restrictions for securities listed after April 26, 1979, thus preventing the further extension of off-board trading restrictions to newly-listed securities. In adopting the Rule, the Commission reiterated earlier Commission determinations that off-board trading restrictions are anti-competitive. The Commission concluded that those anti-competitive effects could not be justified with respect to Rule 19c–3 Securities because the benefits of increased actual and potential competition obtained from the adoption of the Rule, along with the experiential benefits of observing concurrent trading of listed securities by exchange markets and over-the-counter ("OTC") market makers, outweighed the possibility of adverse consequences.[13] In making this determination, the Commission found that because the Rule was limited to newly-listed securities, it did not raise the same potential concerns as previous proposals, which arguably could have had significant effects on the markets for securities with established exchange markets.[14]

II. Events Since the Adoption of Rule 19c–3

In order to evaluate the effects of Rule 19c–3 on the securities markets, the Commission established a monitoring program to examine the extent of Rule 19c–3 trading, its impact on the overall markets for Rule 19c–3 Securities, and, in conjunction with the National Association of Securities Dealers, Inc. ("NASD"), the extent, if any, of overreaching of customers by OTC market makers in Rule 19c–3 Securities. The Commission published a report on this program in August 1981,[15] which concluded that, based on the limited amount of OTC trading pursuant to Rule 19c–3 that had developed up to that time, no significant adverse effect on the quality of the markets for Rule 19c–3 Securities could be discerned, nor had any overreaching problems of significance resulted from OTC market making pursuant to the Rule.

One impediment to effective OTC trading in Rule 19c–3 Securities noted in the Rule 19c–3 Adoption Release and the *Monitoring Report* was the lack of an effective linkage between the OTC and exchange markets. Accordingly, the Commission sought to link those markets and thereby further the statutory objective of linking "all markets for qualified securities through communication and data processing facilities * * *."[16] After the parties were unable to reach agreement on various issues essential to implementation of such a linkage, on April 21, 1981, the Commission issued an order ("Linkage Order") mandating the establishment of an automated interface between the Intermarket Trading System ("ITS")[17] and the NASD's Computer Assisted Execution System ("CAES").[18] After further Commission action to effect changes in the plan governing operation of the ITS to allow for its implementation,[19] the linkage began on May 27, 1982.[20]

In adopting the Linkage Order, the Commission reaffirmed its finding that it had not identified any adverse effects of Rule 19c–3 trading to that date. Moreover, the Commission concluded that an interface between the ITS and CAES would not exacerbate directly in any structural way the concerns raised with respect to Rule 19c–3. Nevertheless, in support of industry efforts to develop a consensus regarding the appropriate means to enhance order interaction in Rule 19c–3 Securities, the Commission instituted a rulemaking proceeding to focus public attention on the various proposals that had been made in this area. Specifically, on May 13, 1982, the Commission proposed two alternative rules, Rules 11A–1(A) and 11A–1(B), that would have required the exposure of certain orders to the marketplace before a broker-dealer could execute them as principal.[21] The Commission, however, did not take a view on the ultimate desirability of adopting either rule.

The Commission received over 450 letters of comment in response to the proposed rules. In light of those comments, on December 23, 1982, the Commission reproposed a single rule, Rule 11A–1 ("order exposure rule"), for public comment, again taking no position on whether the rule should be adopted.[22] In proposing this rule the Commission again stated that its monitoring of trading pursuant to Rule 19c–3 had not identified any discernable adverse consequences on the market for Rule 19c–3 Securities, and, if anything, the linkage appeared to have resulted in slightly increased market making competition.[23]

The Commission's preliminary conclusion is that if an order exposure rule were to be applied to the markets for Rule 19c–3 Securities, it should be applied in an attempt to obtain the potential benefits of order exposure, rather than in an attempt to address the speculative concerns[24] regarding the effects of OTC trading in Rule 19c–3 Securities.[25]

Since the reproposal of Rule 11A–1 there have been significant changes in the markets for Rule 19c–3 Securities. In April 1983, Merrill Lynch, Pierce, Fenner and Smith, Inc. ("Merrill Lynch"), the largest OTC market maker in Rule 19c–3 Securities, and a participant in the linkage, ceased making markets in Rule 19c–3 Securities. In addition, other OTC market makers in Rule 19c–3 Securities, such as Paine, Webber, Jackson and Curtis, Inc. and Goldman, Sachs and Co. (neither of which participated in the

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not justify exchanges maintaining such restrictions generally and indefinitely." The NMAB, however, was divided on whether and when particular restrictions should be removed. Letter from John J. Scanlon, Chairman, NMAB, to the Commission, dated May 14, 1977, at 2–3.

[13] Securities Exchange Act Release No. 14416 (June 26, 1978), 43 FR 4354. The Commission later withdrew proposed Rule 19c–2. Securities Exchange Act Release No. 16899 (June 11, 1980), 45 FR 41158.

[14] Commentators had argued that rules removing off-board trading restrictions in general, and Rule 19c–3 in particular, could result in broker-dealers "internalizing" their order flow, leading to the "fragmentation" of the markets for listed securities and could lead to the "overreaching" of customers and would have adverse effects on exchange market makers and small broker-dealers. For further discussion of these issues, see the Rule 19c–3 Adoption Release, *supra* note 3, at 18–22, 45 FR at 41128–31.

[15] Rule 19c–3 Adoption Release, *supra* note 3.

[16] Securities and Exchange Commission, *A Monitoring Report on Rule 19c–3 under the securities Exchange Act of 1934*, (Securities Exchange Act Release No. 18082 (August 25, 1981), ("*Monitoring Report*").

[17] Section 11A(a)(1)(D) of the Act.

[18] The ITS is an intermarket communications system operated jointly by certain national securities exchanges and the NASD, and authorized by the Commission as an NMS facility pursuant to Section 11A(a)(3)(B) of the Act.

[19] Securities Exchange Act Release No. 17744 (April 21, 1981), 46 FR 23660.

[20] Securities Exchange Act Release No. 18713 (May 9, 1982), 47 FR 20413.

[21] The first phase of the linkage order permitted the thirty most active Rule 19c–3 Securities with ITS/CAES market makers to be traded through the interface. The second phase of the order, which is now scheduled to become effective on September 15, 1983, will permit all Rule 19c–3 Securities with an ITS/CAES market maker to be traded through the interface. In this regard, the Commission notes that, although the ITS Plan anticipates the possibility of further amendments prior to the commencement of this phase of the interface, if such amendments are not approved by the Commission by September 15, the Plan procedures with respect to Phase I will continue in effect pursuant to the Commission's order.

[22] Securities Exchange Act Release No. 18738 (May 13, 1982), 47 FR 22378.

[23] Securities Exchange Act Release No. 19372 (December 23, 1982), 47 FR 58287 ("Reproposal Release").

[24] *Id.* at 13–15, 47 FR at 58289–90.

[25] *See* note 13, *supra*.

[26] *Id.* at 25–26, 47 FR at 58292. In response to its solicitation of comments, the Commission received over 325 comments on the order exposure rule.

linkage), subsequently ceased making such markets. The reasons stated for these actions were varied, and included the need to redeploy scarce personnel during the current active securities markets, frustration with inefficiencies in the current operation of the ITS/CAES linkage and dissatisfaction with trading in the current Rule 19c–3 environment. Indeed, one of these market makers, Goldman Sachs & Co., has called for the rescission of Rule 19c–3.

Following these actions, the percentage of OTC volume in comparision to consolidated volume in Rule 19c–3 Securities has declined substantially. For example, the OTC share of volume for securities included in the linkage has declined from 14.1% in January 1983 to 3.6% in June, 1983. In addition, OTC volume in all Rule 19c–3 Securities has declined from a high of 7.3% in June and September of 1982, to 2.3% in June of 1983.

III. Discussion and Request for Comment

In light of the limited amount of OTC trading in Rule 19c–3 Securities, the Commission has determined not to take further action on the proposed order exposure rule at the present time. The rule was intended to provide benefits to the securities markets by encouraging enhanced interaction of orders, increased opportunities for best execution of customer orders, and greater intermarket competition for orders. On the other hand, the rule would impose certain costs (ultimately borne by the investing public) by requiring broker-dealers to provide price protection and expose orders to competing market centers for up to 30 seconds before execution.[26] The current low level of OTC trading in these securities limits the benefits that could be achieved by an order exposure rule, and the Commission believes that, at the present time, the costs of the rule would outweigh the benefits.[27]

In addition, due to the recent significant changes in the level of trading activity in the OTC market for Rule 19c–3 Securities, the Commission believes that this is an opportune time to seek comment on the trading experience of broker-dealers and investors pursuant to Rule 19c–3. Currently available date from the NASD and the Commission's monitoring indicates that Rule 19c–3 has not had an adverse effect on the markets. The Commission is interested in receiving any additional *hard objective data* (as opposed to speculations or opinions not based upon such evidence) which either supports this conclusion or indicates that the Rule has had an adverse effect on the securities markets for Rule 19c–3 Securities. The Commission also believes it would be appropriate for the commentators to provide whatever conclusions they derive from either the Commission's monitoring data or other data submitted.[28]

Commission options include determinations to leave Rule 19c–3 in its present form, to expand the Rule to cover additional securities, or to rescind the Rule.[29] With respect to rescission of the Rule, it should be noted that there is a clear statutory directive to remove unnecessary competitive impediments, specifically with respect to off-board trading restrictions, unless such impediments are necessary to achieve other purposes of the Act. Whether any OTC market makers use Rule 19c–3, or whether the volume of activity in Rule 19c–3 Securities rises to any particular level, in a sense is irrelevant. Accordingly, the Commission believes that a finding that any competitive benefits from OTC trading in Rule 19c–3 Securities have been reduced by the recent decline in OTC market making in Rule 19c–3 Securities, or even that OTC trading in Rule 19c–3 Securities in the future may completely cease, would not singularly justify commencement of a proceeding regarding rescission of Rule 19c–3.

Interested persons are invited to submit written data, views and arguments regarding this matter by October 3, 1983. Persons desiring to submit such data, views and arguments should file six copies with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. Reference should be made to File No. 4–220.

Copies of the submissions which are filed with the Commission, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–22601 Filed 8–22–83; 8:45 am]

BILLING CODE 8010–01–M

[26] The rule, however, does provide an alternative to order exposure that could prove less burdensome to some broker-dealers and contained a number of exemptions to the order exposure requirement. *See* the Technical Appendix to the Reproposal Release, *supra* note 22.

[27] An order exposure rule also may not be justifiable unless certain changes are effected in the ITS/CAES interface to allow it to operate more efficiently.

[28] In this regard, recent data with respect to trading in Rule 19c–3 Securities is attached as a Statistical Appendix to this release and will be published in the *SEC Docket*. In addition, copies can be obtained from the Public Reference Room, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549.

[29] Other conclusions could address the current operation of the ITS/CAES linkage. Specifically, commentators may believe it appropriate to address whether the linkage as currently constituted provides an efficient method of linking the OTC and exchange markets in Rule 19c–3 Securities.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 131

[Docket No. 83N–0010]

Butter and Whey Butter; Termination of Consideration of Codex Standard

AGENCY: Food and Drug Administration.

ACTION: Advance notice of proposed rulemaking; termination of consideration.

SUMMARY: The Food and Drug Administration (FDA) is terminating consideration of the establishment of U.S. standards of identity for butter and whey butter, based on the "Recommended International Standard for Butter and Whey Butter" (Codex Standard No. A–1), because section 401 of the Federal Food, Drug and Cosmetic Act (the act) prohibits the establishment of a definition and standard of identity or quality for butter and there is not sufficient need to warrant proposing a U.S. standard for whey butter.

FOR FURTHER INFORMATION CONTACT: Eugene T. McGarrahan, Bureau of Foods (HFF–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–245–1155.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 18, 1983 (48 FR 7200), FDA published an advance notice of proposed rulemaking which offered interested persons an opportunity to review the Codex standard for butter and whey butter and to comment on the desirability and need for U.S. standards of identity for butter and whey butter. The Codex standard was submitted to the United States for consideration of acceptance by the Food and Agriculture Organization/World Health Organization's Committee of Government Experts on the Code of Principles Concerning Milk and Milk Products, a subsidiary body of the Codex Alimentarius Commission. In that notice, the agency commented that U.S.

standards of identity would not be proposed if the comments received do not support such standards.

Seven comments were received in response to the advance notice of proposed rulemaking; one of which, from a creamery association, supported the establishment of a U.S. standard of identity for whey butter. The association stated that, in 1982, it had produced 341,840 pounds of whey butter that were sold to customers in Oregon, California, and Alaska. In support of the standard for whey butter, the association contended that approximately 114.4 million pounds of whey fat, resulting from the production of 2.7 billion pounds of American cheese in 1982, were available for use and that this fat was used in various consumer products, including butter, without the benefit of a standard of identity. The remaining comments, four of which were submitted by trade associations representing the various segments of the dairy industry and two from food manufacturing firms, opposed establishment of U.S. standards of identity for butter and whey butter. The general consensus of the comments was that the existing laws (i.e., the definition of butter in section 201a of the act (21 U.S.C. 321a), the U.S. standards for Grades of Butter established by the U.S. Department of Agriculture, and various State standards, laws and regulations) adequately define butter and assure consumers of a safe and wholesome product. Several comments contended that consumers would derive no added assurances or benefits if U.S. standards of identity were promulgated. One comment maintained that adoption of the Codex standard for butter and whey butter would result in an extreme economic hardship for operators of cheese factories and butter factories because the definitions in the Codex standard specify that butter is exclusively derived from milk, and whey butter is derived from whey. These definitions in the Codex standard require keeping the cream mechanically separated from milk before cheesemaking apart from the whey cream obtained from whey extracted during the cheesemaking procedure. Another comment contended that the Codex standard would be difficult to administer, could be counterproductive and could result in confusion within the industry and for the consumer.

Cream from milk used for buttermaking may not legally be mixed with whey cream obtained from whey because the definition for butter in section 201a of the act (21 U.S.C. 321a), specifies that "'butter' * * * is made exclusively from milk, cream, or both * * *." On the other hand, whey butter made from whey cream is a nonstandarized food and may be sold in interstate commerce as whey butter. FDA considers whey butter to be the fatty product churned from whey cream obtained from cheese whey, with or without added cream obtained from milk. Both butter and whey butter must comply with the general provisions of the act and be labeled in accordance with the provisions in Part 101 (21 CFR Part 101).

Section 401 of the act states that no definition and standard of identity and no standard of quality shall be established for butter. Therefore, FDA agrees with the comments to the effect that lacks legal authority to establish a U.S. standard for butter. In addition, after having reviewed the comments, FDA concludes that there is not sufficient need to warrant proposing standards of identity for whey butter at this time. FDA believes consumers are assured of obtaining safe, wholesome, and properly labeled butter and whey butter under the existing U.S. laws and regulations. Therefore, under the procedures in § 130.6 (21 CFR 130.6), notice is given that the Commissioner of Food and Drugs has terminated consideration of developing U.S. standards of identity for butter and whey butter based on the Codex standard. This action is without prejudice to further consideration of the development of U.S. standards of identity upon appropriate justification.

FDA will inform the Technical Secretary for the Committee of Government Experts on the Code of Principles Concerning Milk and Milk Products that imported foods which comply with the requirements of the Codex standard for butter and whey butter may move freely in interstate commerce in this country, providing the foods comply with the applicable U.S. laws and regulations.

Dated: August 12, 1983.

Richard J. Ronk,

Acting Director, Bureau of Foods.

[FR Doc. 83-23056 Filed 8-22-83; 8:45 am]

BILLING CODE 4160-01-M

VETERANS ADMINISTRATION

38 CFR Part 17

Grants to States for Construction of State Home Facilities

AGENCY: Veterans Administration.

ACTION: Proposed regulation amendment.

SUMMARY: This revision of a regulation's appendix updates the estimates of veteran population for each State to reflect 1980 census data. As a result of these changes, the revision also adjusts the maximum number of beds required to provide adequate nursing home care to veterans residing in each State to reflect the 4 bed per thousand veteran population limit. The Administrator is required to prescribe the maximum number of such beds by 38 U.S.C. 5034(1). A State home construction grant application may not be approved if it will result in more than the maximum number of bed prescribed in Appendix A (see 38 U.S.C. 5035(b)(4)). Although Appendix A prescribes the maximum number of such beds, when the beds to be constructed in a state will result in more than 2.5 beds per thousand veterans, the State shall provide sufficient justification for the Administrator to determine that the additional beds are required in that State (see 38 CFR 17.171).

DATE: Comments must be received on or before September 21, 1983.

ADDRESSES: Interested persons are invited to submit written comments, suggestions, or objections regarding this proposed regulation amendment to: Administrator of Veterans Affairs (271A), 810 Vermont Avenue, NW, Washington, DC 20420. All written comments received will be available for public inspection only in the Veterans Services Unit, room 132, of the above address, between the hours of 8 a.m. to 4:30 p.m., Monday through Friday (except holidays) until October 5, 1983.

FOR FURTHER INFORMATION CONTACT: Rita P. Frampton, (202) 389-3854.

SUPPLEMENTARY INFORMATION: The Administrator has determined that this amendment to the regulation is nonmajor in accordance with the requirements of Executive Order 12291, Federal Regulation. It will not have an annual effect on the economy of $100 million or more, will not cause a major increase in cost or prices and will not have other significant adverse effects on the economy.

The Administrator hereby certifies that this amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (5 U.S.C. 601-612). Pursuant to 5 U.S.C. 605(b), this amendment is therefore exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. The reason for this certification is that this rule will regulate only States planning construction of nursing home

care beds at State Veterans Homes. States do not come within the RFA definition of "small entities" according to 5 U.S.C 601(5). It will therefore have no significant economic impact on small entities (i.e., small business, small private and nonprofit organizations, and small governmental jurisdictions).

The Catalog of Federal Domestic Assistance Number is 64.005.

List of Subjects in 38 CFR Part 17

Government contracts, Grants programs—health, Health care, Health facilities, Mental health programs, Nursing homes, Veterans.

Approved: August 8, 1983.

By direction of the Administration.

Everett Alvarez, Jr.,

Deputy Administrator.

August 8, 1983.

PART 38—[AMENDED]

38 CFR Part 17, *Medical,* is amended by revising APPENDIX A to § 17.171 to read as follows:

Appendix A—(See Sec. 17.171) State Home Facilities for Furnishing Nursing Home Care

The maximum number of beds, as required by 38 U.S.C. 5034(1), to provide adequate nursing home care to veterans residing in each State not to exceed four beds per 1,000 veteran population is established as follows:

State	Veteran population[1]	Number of beds
Alabama	436,000	1,744
Alaska	50,000	200
Arizona	383,000	1,532
Arkansas	270,000	1,080
California	3,003,000	12,012
Colorado	401,000	1,604
Connecticut	413,000	1,652
Delaware	77,000	308
District of Columbia	65,000	260
Florida	1,392,000	5,568
Georgia	632,000	2,528
Hawaii	99,000	396
Idaho	121,000	484
Illinois	1,348,000	5,392
Indiana	680,000	2,720
Iowa	354,000	1,416
Kansas	300,000	1,200
Kentucky	405,000	1,620
Louisiana	453,000	1,812
Maine	154,000	616
Maryland	544,000	2,176
Massachusetts	720,000	2,880
Michigan	1,117,000	4,468
Minnesota	525,000	2,100
Mississippi	245,000	980
Missouri	647,000	2,588
Montana	108,000	432
Nebraska	191,000	764
Nevada	137,000	548
New Hampshire	138,000	552
New Jersey	925,000	3,700
New Mexico	162,000	648
New York	1,951,000	7,804
North Carolina	660,000	2,640
North Dakota	69,000	276
Ohio	1,385,000	5,540
Oklahoma	397,000	1,588
Oregon	400,000	1,600
Pennsylvania	1,593,000	6,372
Rhode Island	126,000	504
South Caroline	351,000	1,404
South Dakota	80,000	320
Tennessee	543,000	2,172
Texas	1,732,000	6,928
Utah	155,000	620
Vermont	64,000	256
Virginia	664,000	2,656
Washington	628,000	2,512
West Virginia	243,000	972
Wisconsin	574,000	2,296
Wyoming	67,000	268

[1] Estimate as of March 31, 1983.

Source: Office of Reports and Statistics, Veterans Administration. (Based on last available Bureau of the Census data.) (June 1983.)

[FR Doc. 83-22958 Filed 8-22-83; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[EPA Action NE 1285; A-7-FRL 2419-7]

Revision to Attainment Status Designations; State of Nebraska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: On march 18, 1983, the Nebraska Department of Environmental Control submitted air quality data summaries for several nonattainment areas in Nebraska and requested that the areas indicating attainment of the National Ambient Air Quality Standards be formally designated as such. The purpose of today's notice is to discuss this submission, EPA's proposed action, and to invite the public to comment on the proposed action.

DATE: Comments must be received on or before September 22, 1983.

ADDRESS: Comments should be addressed to Mary C. Carter, Environmental Protection Agency, Region VII, Air Branch, 324 E. 11th Street, Kansas City, Missouri 64106. Copies of the state submission are available for inspection during normal business hours at the above address and at the following location: Nebraska Department of Environmental Control, Air Pollution Control Division, Box 94877, Statehouse Station, 301 Centennial Mall South, Lincoln, Nebraska 68509.

FOR FURTHER INFORMATION CONTACT: Mary C. Carter at (816) 374-3791, FTS 758-3791.

SUPPLEMENTARY INFORMATION: Section 107(d) of the Clean Air Act, as amended (Act) required each state to list all areas of the state as meeting or not meeting the National Ambient Air Quality Standards (NAAQS). Areas for which there was insufficent data were to be listed as unclassifiable. These attainment status designations for all states were promulgated on March 3, 1978 in the **Federal Register** at 43 FR 8962. The Act specified that these attainment status designations be based on air quality control regions (AQCRs) or any subportions of these regions. Section 107(b)(5) provides that the state may revise the list of AQCRs, or portions thereof, as appropriate, and submit such list to EPA for consideration.

Areas were classified as attainment, unclassified, nonattainment of the primary (and secondary) standards, or nonattainment of the secondary standard only. An attainment area is one in which the measured or predicted air quality does not exceed the ambient air quality standards. An unclassified area is one for which there are insufficient data to determine whether the area is attainment or nonattainment. A primary nonattainment area is one in which the air quality is worse than the primary or health-based standard. A secondary nonattainment area is one in which the air quality is attaining the primary standard, but not the secondary or welfare-based standard. Secondary air quality standards are as stringent or more stringent than primary standards.

EPA's policy for redesignation is, in general, that there be no violations of the standards during the most recent eight consecutive quarters of ambient air quality data and that reductions in pollution levels can be attributed to an implemented control strategy.

On March 18, 1983, the Nebraska Department of Environmental Control submitted summaries of air quality data for the areas designated as primary particulate nonattainment in Omaha and Weeping Water. Air quality summaries were also submitted for the area designated as nonattainment of the carbon monoxide standard in Omaha. The submission requested that the areas indicating attainment be formally designated as such. The submission also requested that the state be given time to define the carbon monoxide nonattainment area in west Omaha and to develop appropriate control stategies. The submission indicated that the high levels of carbon monoxide (CO) began occurring only in the last half of 1982 and there was no time to respond with a control strategy.

Weeping Water—TSP. Located in Cass County, the entire City of Weeping Water is currently designated as nonattainment for the primary total suspended particulate (TSP) standard. The State has submitted two years of data (1981 and 1982) for one monitoring site located in the municipal boundaries

and one year of data (1982) for the other monitoring site. The second monitor had not yet been installed in 1981 and has shown no violations of the standards in 1982 since being installed. The first monitor had no violations of the annual geometric mean or the primary TSP standard in 1981 or 1982, but had seven violations of the secondary TSP standard in 1981 and none in 1982.

The State Implementation Plan revision for attainment of the TSP standard in Cass County submitted to EPA on August 9, 1982, was approved on March 28, 1983, as meeting the existing stationary source control and attainment demonstration requirements of Part D of the Clean Air Act, as amended. This submission provided for all existing major and minor sources of particulate in Cass County to be equipped with all reasonably available control measures. Additionally, it provided that reasonable further progress toward attainment of the primary standard would be achieved by the implementation of these control measures by the attainment deadline of December 31, 1982. This provides the evidence that reductions in particulate pollution levels can be attributed to an implemented control strategy.

Having reviewed the data submitted by the State, EPA finds that the area does not meet the requirements for redesignation to attainment of the particulate standards because of violations of the secondary particulate standard, but does meet the requirements for redesignation from nonattainment of the primary particulate standard to nonattainment of the secondary particulate standard.

Final promulgation of this action in a separate rulemaking at the close of the present public comment period would have the effect of removing the construction moratorium on major stationary sources of particulate which is currently in effect in this area. See the **Federal Register** of March 28, 1983 (48 FR 12717) for a discussion of the construction moratorium.

Proposed Action

EPA proposes to remove the primary nonattainment designation and retain the secondary nonattainment designation for the TSP standard in Weeping Water.

Omaha—TSP. Located in Douglas County, Omaha has two areas currently designated as nonattainment of the primary TSP standard, with the remainder of the city designated as nonattainment of the secondary TSP standard. The Nebraska SIP revision for attainment of the TSP standards in Douglas County submitted to EPA on August 9, 1982 and approved on March 28, 1983 provides the control strategy for attaining the primary TSP standard in Omaha. The State agency has confirmed that the control strategy contained in the SIP has been implemented. This provides the evidence that reductions in particulate pollution levels can be attributed to an implemented control strategy.

The State has submitted two years of data (1981 and 19822) for the monitoring sites located in the Omaha nonattainment areas. The data for the 24th and "O" Street primary nonattainment area indicate that there were no violations of the primary TSP standard in 1981 or 1982, but show one violation of the secondary TSP standard in 1981 and none in 1982. Because of the requirement that there be two years of data showing no violations of either primary or secondary standards to be redesignated to full attainment, EPA finds that the area should be redesignated from primary nonattainment to secondary nonattainment only.

The data for the 11th and Nicholas Street primary nonattainment area indicate that although there have been no violations of the primary maximum 24-hour TSP standard, the primary annual geometric mean was violated in 1981. The data also indicate that the secondary 24-hour TSP standard has been violated in 1981 and 1982. Because the primary annual geometric mean has been violated at this site in the last two years, EPA finds that the area should remain primary nonattainment according to EPA policy.

Final promulgation of this action would have the effect of removing the construction moratorium on major stationary sources of particulate at the 24th and "O" Street site only. See the **Federal Register** of March 28, 1983 (48 FR 12717) for a discussion of the construction moratorium.

Proposed Action

EPA proposes to remove the primary nonattainment designation and retain the secondary nonattainment designation for the 24th and "O" Street TSP nonattainment area. EPA retains the primary nonattainment designation for the 11th and Nicholas Street TSP nonattainment area.

Omaha—CO. The entire city of Omaha is presently designated as not attaining the 8-hour CO Standard. The State has submitted two years of data (1981 and 1982) for Omaha. The data show that there were four violations of the CO standard in 1981 and 24 violations in 1982. The State has not requested a redesignation of the Omaha area for CO, and EPA finds no basis for proposing redesignation of the area in this action.

EPA is soliciting comments on the State's submissions and on EPA's actions proposed in this document. The Administrator will consider comments received in deciding to approve or disapprove this submission.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Pursuant to the provisions of 5 U.S.C. 605(b), the Regional Administrator has certified that redisignations do not have significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

This notice is issued under the authority of Section 107(d) of the Clean Air Act, as amended, 42 U.S.C. 7407(d).

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: July 6, 1983.

Morris Kay,

Regional Administrator.

[FR Doc. 83-23088 Filed 8-22-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 81

[Region II Docket No. 11; A-2-FRL 2382-2]

Designation of Areas for Air Quality Planning Purposes; Revisions to Section 107 Attainment Status Designations for New York State

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: This notice announces the Environmental Protection Agency's proposed actions on a request from New York State to revise its air quality designations for several areas with respect to ozone, particulate matter, sulfur dioxide and carbon monoxide. Such designations are required by Section 107(d) of the Clean Air Act and may be revised from time to time at the request of a state.

DATE: Comments must be received on or before September 22, 1983.

ADDRESSES: All comments should be addressed to: Jacqueline E. Schafer, Regional Administrator, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, 10278.

Copies of New York State's request and the Environmental Protection Agency's review of this material are

available for public inspection during normal business hours at:

U.S. Enviromental Protection Agency, Air Programs Branch, Room 1005, Region II Office, 26 Federal Plaza, New York, New York 10278

New York State Department of Environmental Conservation, Division of Air, 50 Wolf Road, Albany, New York 12233.

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278, (212) 264–2517.

SUPPLEMENTARY INFORMATION:

Background

Section 107(d) of the Clean Air Act directed each state to submit to the Administrator of the Environmental Protection Agency (EPA) a list of national ambient air quality standard attainment status designations for all areas within the state. EPA received such designations from the states and promulgated them on March 3, 1978 (43 FR 8962). As authorized by the Clean Air Act, these designations have been revised from time to time at a state's request.

State Submission

On December 29, 1982 the New York State Department of Environmental Conservation (DEC) submitted to EPA a request to revise the air quality designation of several areas in the State with respect to ozone, particulate matter, sulfur dioxide and carbon monoxide. This request was supplemented with additional data on March 10, 1983. Specifically, the State has requested EPA approval of redesignations with respect to attainment of primary national ambient air quality standards for the pollutants and areas listed in Table 1.

TABLE 1

Area	Current designation	Requested designation
Ozone		
Niagara Frontier Air Quality Control Region (AQCR).	Does not meet primary standards.	Better than national standards
Genesee Finger Lakes AQCR.	do.	Do.
Portion of the Central AQCR:		
· Cayuga and Onondaga Counties.	do.	Do.
· Oswego, Oneida and Madison Counties.	Cannot be classified.	Do.
Southern Tier West AQCR	do.	Do.
Portion of the Hudson Valley AQCR:		
Counties of Albany, Columbia, Dutchess, Green, Orange, Putnam, Rensselaer, Schenectady, and Ulster. Towns of Clifton Park, Halfmoon and Waterford and City of Mechanicville.	Does not meet primary standards.	Cannot be classified.
Sulfur Dioxide		
City of Buffalo (an area bounded on the north by Tifft Street, on the east by Hopkins Street, on the south by the City of Lackawanna and on the west by Lake Erie).	Does not meet primary standards.	Better than national standards.
City of Lackawanna (West of S. Park Ave.).	do.	Do.
Carbon Monoxide		
City of Schenectady	Does not meet primary standards.	Better than national standards.
Town of Colonie (inside an area bounded by Sand Creek Road, Wolf Road, Railroad Ave., and Fuller Road).	do.	Do.
City of Syracuse (an area bounded by No. Salina St. Kirkpatrick St., Lodi St., Butternut St., Park St., Dewitt St., Sedgwick St., Robinson St., Sherwood Ave., Burnet Ave., the City Line, East Genesee St., Basset St., Madison St., Comstock Ave., Jamesville Ave., the City line, Erie-Lackawanna Railroad tracks, Glen Ave., I–81, Rte. 173, the City line, South Ave., Onondaga Ave., Bellevue Ave., Geddes St., I–690, Rte. 298, I–81 and Wolf St.) with the exception of the intersection of Almond and East Adams Streets at which no change in the designation is requested.	do.	Do.
Total Suspended Particulates		
City of Niagara Falls (south of Pine Ave., east of Hyde Park Blvd., and west of I–190).	Does not meet primary standards.	Does not meet secondary standards.

EPA Review of the State's Submission

The following criteria are used by EPA in determining whether or not to approve a proposed redesignation:

1. No contraventions of the applicable air quality standards have been observed during the last consecutive eight calendar quarters and there is evidence of an implemented control strategy, or

2. No contraventions of the applicable air quality standards have been observed during the last consecutive four quarters and it can be demonstrated by a state-of-the-art modeling analysis that there have been real emission reductions commensurate with the air quality improvements.

3. Nonattainment designations which were originally based on modeling alone can be changed to attainment even if four quarters of air quality data are not available if subsequent state-of-the-art modeling with the implemented control strategy now demonstrate attainment. However, any relevant monitoring data must also be considered.

4. Contraventions of the particulate matter standard may be discounted if the violations are due to fugitive dust emissions in a nonindustrial rural area and/or the violations are due to temporary activity in the vicinity of the monitor.

5. In general, since states have had nearly five years to resolve any discrepancies in their nonattainment designations, it is no longer acceptable to redesignate from nonattainment to unclassifiable.

The following is a brief summary of EPA's review and findings with regard to New York State's submission. Further details are available in a Technical Support Document available at the locations identified in the "Addresses" section of this notice.

Ozone

The DEC's redesignation requests to "better than national standards" for ozone have been based on air quality monitoring data. In the following Air Quality Control Regions (AQCRs) the data indicate that no contraventions of the national ambient air quality standard for ozone have occurred during the past eight calendar quarters:

Niagara Frontier
Genesee Fingers Lakes
Portions of the Central AQCR including the Counties of Cayuaga, Onondaga, Oswego, Oneida and Madison
Southern Tier West

EPA has reviewed the ozone air quality data from these affected Upstate New York regions and concurs with DEC's determinations. However, as noted in criteria 1 listed earlier, there must also be evidence of an implemented control strategy for ozone.

On February 5, 1980 and November 10, 1980 (45 FR 7803 and 45 FR 74472, respectively) EPA conditionally approved the New York State Implementation Plan for the attainment of the ozone standard in Upstate New York. To date the State has met all but one of the conditions on EPA's approval. The one outstanding condition, promulgated at 40 CFR 52.1674(a)(1), requires the State to revise one of its regulations to deal with the control of cutback asphalt. New York has

submitted to EPA a proposed regulatory revision meeting this requirement and this change was proposed for approval by EPA on February 3, 1983 (see 48 FR 5137). EPA is now proposing to approve the State's ozone redesignation requests for those areas mentioned earlier. However, this proposed approval will not be finalized until New York's cutback asphalt regulation is adopted in a form acceptable to EPA.

For those portions of the Hudson Valley AQCR that are designated as not meeting the ozone standard the State has requested a redesignation to "cannot be classified." This request is based on the fact that two monitors in the area show attainment of the standard, while a third monitor, at Rensselaer, shows only a slight exceedance. During the period 1980 to 1982, the Rensselaer monitor showed an expected exceedance of the ozone standard of 1.1 days per calendar year. Attainment of the primary and secondary national ambient air quality standards for ozone is demonstrated when the expected number of days per calendar year with maximum hourly average concentrations above 0.12 parts per million is equal to or less than 1.0 (44 FR 8220, February 8, 1979).

The State contends that, due to the marginal nature of the violation at the Rensselaer monitor in combination with a downward trend in ozone concentrations and recent reductions in VOC emissions, the area should be redesignated to "cannot be classified." Additionally, the State has submitted data that indicates a "strong likelihood" that the ozone standard exceedance at Rensselaer in 1981 is based on invalid data.

EPA also believes that the 1981 ozone standard violation at Rensselaer is suspect. However, both EPA and the State believe that there is insufficient evidence to invalidate the data. Also, the Rensselaer ozone monitor was in operation for only four days between July 9 and September 16, 1982. Since the summer months yield the highest ozone concentrations, the lack of data during this period raises additional questions as to the validity of the State's claim that in 1982 there were no violations of the ozone standard in the nonattainment portions of the Hudson Valley AQCR.

Furthermore, as noted previously in criteria 5, EPA believes a redesignation request to "cannot be classified" is unacceptable since the State has had five years to assess whether the standard is being attained. Consequently, EPA is proposing to reject the State's request to redesignate portions of Hudson Valley AQCR from "does not meet primary standards" to "cannot be classified" and recommends that the State reassess the attainment status designation of this area following the collection of ozone data during the summer of 1983.

Sulfur Dioxide

Air quality data from the one monitor in the City of Lackawanna and the three monitors in the City of Buffalo indicate that the primary and secondary sulfur dioxide national ambient air quality standards have been met for the last consecutive eight calendar quarters. However, as noted in criteria 1 listed earlier, there must be evidence of an implemented control strategy for sulfur dioxide.

On November 10, 1980 (45 FR 74472) the New York State Implementation Plan for the Buffalo area was conditionally approved with regard to its ability to meet the sulfur dioxide control requirements of Part D of the Clean Air Act. The two conditions, promulgated at 40 CFR 52.1674(g)(1) and (2), required the State to clearly define certain of its applicable sulfur dioxide emission standards. Recently, the State submitted to EPA proposed actions satisfying these two conditions. EPA has proposed to approve these actions (see 48 FR [1]). As a result, EPA is proposing to approve the State's request to redesignate applicable portions of the Cities of Buffalo and Lackawanna from "does not meet the primary standard" to "better than national standards" provided EPA finalizes its proposal to find the provisions of 40 CFR 52.1674(g)(1) and (2) met. Further, it is EPA's opinion, based on the fact that air quality standards have been attained for the past six years, that the control strategies implemented by the State have been effective.

Carbon Monoxide

The DEC has requested that the City of Schenectady, the Town of Colonie and the City of Syracuse (with the exception of the intersection of Almond and East Adams Streets) be redesignated from "does not meet primary standards" to "better than national standards" for carbon monoxide.

The original nonattainment designations for these areas were based on the application of an empirical realtionship between monitoring data and vehicle miles travelled. In order to more accurately quantify the extent and magnitude of the upstate carbon monoxide problems, a later "Upstate Carbon Monoxide Hot-Spot Study" was conducted from July 1979 to September 1980. As a result of this study, which used monitoring and modeling techniques, it was determined that the carbon monoxide standard was being met in the City of Schenectady, the Town of Colonie and the City of Syracuse with the exception of the intersection of Almond and East Adams Streets. This study is the technical basis of DEC's carbon monoxide redesignation request.

EPA has reviewed the Upstate Study including the air quality modeling analysis and is in agreement with DEC's assessment. Criteria, 3, listed earlier, has been met and, consequently, EPA is proposing to approve DEC's carbon monoxide redesignation requests.

Total Suspended Particulates

The DEC has requested that a portion of the City of Niagara Falls designate as not attaining the primary particulate matter standard be redesignated to attainment. This request is based on a review of two years of air quality data.

In its submittal the State notes that two of the eight monitoring sites in the City of Niagara Falls have shown violations of the primary particulate matter standard. Data from one of these two sites, the Kies Avenue monitor (SAROAD I.D. #334 74000 7 FO 1), has been discounted by the State due to the fact that the monitor does not meet EPA siting criteria. This is because the monitor is located too close to the ground and too near to a roadway. To support its contention, the State notes that a National Ambient Air Monitoring Station (NAMS) monitor located 200 feet away from the Kies Avenue monitor and meeting EPA siting criteria shows attainment of the primary standard. The differential in annual concentration between the Kies Avenue and NAMS monitors was 23 ug/m^3 in 1981 and 18 ug/m^3 in 1980.

The other monitor that showed a violation of the primary particulate matter standard is the Parks Department monitor (SAROAD I.D. #334 74000 9 FO 1). In 1980 the Parks Department monitor recorded an annual concentration of 76 ug/m^3. The annual primary particulate matter standard is 75 ug/m^3. However, the State has submitted an analysis demonstrating that a nearby creek bed restoration project was the cause of the 1980 exceedance. The analysis indicated that, when the wind was blowing from the restoration project, high concentrations were measured. Also, the State notes that in 1981, after the restoration project was completed, the annual average concentration dropped from 76 ug/m^3 to 64 ug/m^3.

[1] Call William S. Baker, Region II Office at FTS 264-2517 to get Federal Register citation.

EPA has reviewed the State's air quality monitoring data including its analysis of the two monitors that showed recent violations of the standard and is in agreement with DEC that the affected area in the City of Niagara Falls is attaining the primary particulate matter standard. However, as noted in criteria 1, in order for EPA to approve a redesignation request, there must also be evidence of an implemented control strategy.

The primary source of particulate matter emissions in the nonattainment areas of the Niagara Frontier AQCR is the steel industries of South Buffalo and Lackawanna. In fact, the State's strategy for additional emission control in the Niagara Frontier AQCR is aimed almost entirely at the steel industry. However, steel industry sources are not located in the city of Niagara Falls. Therefore, for the City of Niagara Falls, the control strategy which has recently been implemented includes the covering of trucks (required by Section 380–A of the State's Vehicle and Traffic Law) and several voluntary controls. The voluntary controls include road paving, dust collection, seeding of bare soil, and stockpile control. A majority of the recent emission reductions were obtained from the paving of private roads. This produced real and permanent emission reductions and no additional control measures are planned for the City of Niagara Falls. This approach is supported by a previously submitted air quality modeling analysis which indicates that the AQCR's steel industry emissions have only a minor impact on the City of Niagara Falls.

As a result, EPA is proposing approval of the State's redesignation request, even though a Part D particulate matter attainment plan for this AQCR has not been approved by EPA. While such a plan was proposed for conditional approval in 1980 (45 FR 54372, August 15, 1980), this action was never finalized by EPA. Finally, it should be noted that the area remains in violation of the secondary particulate matter standard and as a result will continue to be designated as "does not meet secondary standard."

Conclusion

EPA is proposing to approve all of the redesignation requests listed earlier in Table 1 with the exception of the ozone redesignation for the affected areas of the Hudson Valley AQCR. In this area EPA is proposing to reject the state request to redesignate the area to "cannot be classified."

EPA's proposed approval of these redesignations is based on their meeting the requirements of Section 107 and 301 of the Clean Air Act and applicable EPA guidelines.

Interested persons are invited to comment on any element of the subject proposal and on whether it meets Clean Air Act requirements. Comments received by [30 days from date of today's publication] will be considered in EPA's final decision. All comments received will be available for inspection at the Region II office of EPA at 26 Federal Plaza, Room 1005, New York, New York 10278.

Under 5 U.S.C. 605(b), the Administrator has certified that redesignations do not have a significant economic impat on a substantial number of small entities (See 46 FR 8709).

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Sections 107 and 301 of the Clean Air Act, as amended (42 U.S.C. 7407, 7601).

List of Subjects in 40 CFR Part 81

Air pollution control, National Parks, Wilderness Areas.

Dated: June 8, 1983.

Jacqueline E. Schafer,

Regional Administrator, Environmental Protection Agency.

[FR Doc. 83-23085 Filed 8-22-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-5330]

Proposed Flood Elevation Determinations; Idaho

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Proposed rule; revision.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Boise, Idaho.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 44 FR 20454 on April 5, 1979 and in *The Idaho Statesman*, published on or about April 9, 1979, and April 16, 1979, and hence supersedes those previously published proposed rules for the areas cited below.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at Public Works Department, 150 North Capitol, Boise, Idaho.

Send comments to: Honorable Richard Eardley, P.O. Box 500, Boise, Idaho 83702.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the City of Boise, Idaho, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a)).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the floodplain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts floodplain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the floodplain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new

requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The proposed base (100-year) flood elevations are:

Source of Flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
Boise River	100 feet southwest of intersection of Moore Street and Clover Drive.	*2,659
	At the intersection of Royal Boulevard and Dale Street.	*2,684
Boise River Side Channel.	At the intersection of Mallard Street and Park Center Boulevard.	*2,710
Stuart Gulch	Along Access Road to Hillside Jr. High School; 100 feet east of Stuart Gulch Road.	*2,692
	At the intersection of Catalpa Drive and Hill Road.	$4
Crane Gulch	At the intersection of Crane Creek Road and Ranch Road.	*2,788
	At the intersection of Good Street and Harrison Boulevard.	$4
Cottonwood Creek.	40 feet upstream of confluence with Freestone Creek.	*2,796
	At the intersection of Krall Street and Avenue C.	$2
Hulls Gulch	At stream crossing of Mile High Road.	*2,806
	At the intersection of Allumas Street and North 7th Street.	$1

(National Flood Insurance Act of 1968 (Title XIII on Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 26, 1968), as amended; 42 U.S.C . 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Aassociate Director)

Issued: August 10, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-22933 Filed 8-22-83; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA–6563]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations and proposed modified base flood elevations listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: Submit comments to address listed in table.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the proposed determinations of base (100-year) flood elevations and modified base flood elevations for selected locations in the nation, in accordance with Section 110 of the Flood Disaster Protection Act of 1974 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by Section 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under Section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the floodplain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts floodplain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the floodplain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Floodplains.

The proposed base (100-year) flood elevations for selected locations are:

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD).
Connecticut	Groton, City, New London County	Long Island Sound	Shoreline at Eastern Point	*15
			Shoreline at Bayberry Lane extended	*13
			Entire shoreline of Baker Cove within community	*12
		Thames River	Shoreline at Bayview Avenue No. 1 extended	*13
			Shoreline at northern corporate limits	*12
Maps available for inspection at the City Municipal Building, Groton, Connecticut.				
Send comments to Honorable Catherine Kolnaski, Mayor of the City of Groton, 295 Meridon Street, Groton, Connecticut 06340.				
Connecticut	Westport, Town, Fairfield County	Saugatuck River	At dam 1,125 feet upstream of Canal Street	*11
			Downstream of Merritt Parkway	*26
			2,000 feet upstream of State Route 57	*46

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD).
		West Branch Saugatuck River	At confluence with Saugatuck River	*31
			Upstream of Cavalry Road	*67
			Upstream of Newtown Turnpike	*91
		Aspetuck River	At confluence with Saugatuck River	*36
			Upstream of North Avenue	*70
			Upstream of Bayberry Lane	*91
			At corporate limits 1,800 feet upstream of Deerwood Lane.	*120
		Stony Brook	750 feet upstream of confluence with Saugatuck River	*11
			Upstream of Nash Pond Dam	*61
		Dead Man's Brook	At corporate limits 450 feet upstream of Patrick Road	*94
			300 feet downstream of Post Road East	*11
			Upstream side of Evergreen Avenue	*34
			Upstream side of Lost Lodge Road	*94
			Upstream side of Pumpkin Hill Road	*166
			1,450 feet upstream of Highland Road	*219
		Muddy Brook	Upstream of Sherwood Island Connector	*14
			Upstream of Long Lots Road	*66
		Sasco Creek	6,900 feet upstream of Highpoint Road	*145
			200 feet downstream of Post Road East	*11
			Upstream of Old Road	*42
		Poplar Plains Brook	At Long Lots Road	*61
			At confluence with Saugatuck River	*26
			2,520 feet upstream of confluence with Saugatuck River.	*50
		Willow Brook	At confluence with Saugatuck River	*12
			860 feet upstream of Carriage Lane	*25
		Long Island Sound	At Saymour Point	*17
			At Harbour Road extended	*14
			At Stony Point	*14
			At Hendricks Point	*17
			At Sherwood Point	*17
			At Frost Point	*17

Maps available for inspection at the Town Hall, Westport, Connecticut.

Send comments to Honorable William Selden, First Selectman for the Town of Westport, Town Hall, 1 Myrtle Avenue, Westport, Connecticut 06880.

Georgia	Unincorporated areas of Glynn County	Atlantic Ocean	At intersection of Oriole Street and Glynn Avenue	*17
			At intersection of Kings Way and Demere Road	*15
			At intersection of Sea Island Road and Kings Way	*14
			At intersection of Sea Island Drive and Augustine Street.	*14

Maps available for inspection at the Office of the Director of the Brunswick-Glynn County Planning Commission, Old City Hall Building, Brunswick, Georgia 31520.

Send comments to Mr. John McClurd, Chairman, Glynn County Board of Commissioners, P.O. Box 879, Glynn County Courthouse of Mr. Craig Mahlman, Director of the Glynn County Planning Commission, P.O. Box 1495, Old City Hall Building, Brunswick, Georgia 31520.

Massachusetts	Rutland, Town, Worcester County	Moulton Pond Brook	Approximately .45 mile downstream of abandoned railroad bridge.	*977
			Approximately 20 feet downstream of Depot Road	*985
			Approximately 80 feet upstream of State Route 56	*1,009
		East Branch Ware River	Downstream corporate limits	*813
			Approximately 560 feet upstream of Interval Road	*814
			Upstream of Harris Road	*824
			Approximately .41 mile downstream of Harris Road	*837
			Upstream of State Route 68	*868
			At upstream corporate limits	*875

Maps available for inspection at the Planning Board, 250 Main Street, Rutland, Massachusetts.

Send comments to Honorable Attelio Alenovi, Chairman of the Town of Rutland, Board of Selectmen, 250 Main Street, Rutland, Massachusetts 01543.

Minnesota	(C) Mapleview Mower County	Cedar River	Within the corporate limits	*1,203

Maps available for inspection at the Office of the City Clerk, City Hall, 204 Broadway, Mapleview, Minnesota.

Send comments to Honorable Kenneth R. Nash, Mayor, City of Mapleview, City Hall, 204 Broadway, Mapleview, Minnesota 55912.

Nebraska	(C) Lexington, Dawson County	Platte River	About 0.83 mile downstream of U.S. Highway 283	*2,378
			About 2.42 miles upstream of U.S. Highway 283	*2,399
		Shallow flooding (overflow from Spring Creek).	About 2.0 miles north of Lexington Municipal Airport	2#
			About 0.25 mile west of State Highway 21 bridge over Spring Creek.	2#
			About 0.6 mile Northeast of State Highway 21 bridge over Spring Creek.	2#
			About 0.25 mile east of State Highway 21 bridge over Spring Creek.	1#
			About 1.0 mile east of intersection of Taft Street and U.S. Highway 30.	1#
			About 2.0 miles east of intersection of Walnut Street and U.S. Highway 283.	2#
		Shallow flooding (overflow from Buffalo Creek).	At State Highway 21 intersection with Extraterritorial Limits Boundary in Section 20.	1#

Maps available for inspection at City Hall, P.O. Box 70, Lexington, Nebraska.

Send comments to Honorable Leon Melzahn, Acting City Manager, City of Lexington, City Hall, P.O. Box 70, Lexington, Nebraska 68850, Attention: Mr. Doyle W. Howell, City Engineer.

New Jersey	Jamesburg, Borough, Middlesex County	Manalapan Brook	Downstream corporate limits	*45
			Downstream of dam	*47
			Manalapan Lake at William Street (extended)	*53

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Wigwam Brook	At confluence with Manalapan Brook	*47
			Upstream of Forsgate Drive culvert	*84
			At corporate limits	*88
		Barclay's Brook	Confluence with Manalapan Brook	*45
			Upstream of Lake Street	*51
			At corporate limits	*59

Maps available for inspection at the Municipal Building, 31 East Railroad Avenue, Jamesburg, New Jersey.
Send comments to Honorable Joseph Tonkery, Mayor of the Borough of Jamesburg, 31 East Railroad Avenue, Jamesburg, New Jersey 08831.

Ohio	(V) Delta, Fulton County	Fewless Creek	About 2,200 feet downstream of Conrail	*710
			Just upstream of Conrail	*719
			About 0.6 mile upstream of Fernwood Avenue	*729

Maps available for inspection at the Administrator's Office, Memorial Hall, 401 Main Street, Delta, Ohio.
Send comments to Honorable Warren E. Smith, Village Administrator, Village of Delta, Memorial Hall, 401 Main Street, Delta, Ohio 43515.

Texas	Nassau Bay, City, Harris County	Clear Lake	Northeastern shoreline of community at Sailboat Drive (extended).	*15
			From Bal Harbour Cove to confluence of Clear Creek	*14
			Shoreline of inland bay near confluence with Clear Creek.	*13
		Clear Creek	Shoreline from confluence with Clear Lake to Martinique Drive (extended).	*12
			Shoreline west of Martinique Drive (extended) including shoreline of Cow Bayou.	*11

Maps available for inspection at the City Hall, 1800 Nassau Road, Houston, Texas.
Send comments to Honorable Gerald Allen, City Hall, 1800 Nassau Road, Nassau Bay, Texas 77058.

Virginia	Patrick County	South Mayo River	Approximately .7 mile downstream of State Route 681	*1,152
			Confluence of Campbell Branch	*1,182
			Confluence of North Fork South Mayo River	*1,216
			Upstream State Route 63 (most downstream crossing)	*1,261
			Upstream State Route 615 (upstream crossing)	*1,364
			Upstream State Route 631 (most upstream crossing)	*1,447
			Approximately 80 feet upstream of State Route 644	*1,495
		Campbell Branch	Confluence with South Mayo River	*1,182
			Upstream U.S. Route 58	*1,240
			Approximately 980 feet upstream Johnson Street	*1,351
		North Fork South Mayo River	Confluence with South Mayo River	*1,216
			Confluence of Poorhouse Creek	*1,244
			Approximately .28 mile upstream U.S. Route 58 (downstream crossing).	*1,271
			Approximately 1.15 miles downstream U.S. Route 8	*1,328
			Upstream U.S. Route 58 (upstream crossing)	1,391
		Poorhouse Creek	Confluence with North Fork South Mayo River	*1,244
			Upstream of most upstream private drive	*1,279
			Approximately 20 feet upstream State Route 642	*1,324

Maps available for inspection at the Office of Patrick County Administrator, Hooker Building, Stuart, Virginia.
Send comments to Honorable Edward M. Turner, Patrick County Administrator, P.O. Box 466, Stuart, Virginia 24171.

Virginia	Stuart, Town, Patrick County	South Mayo River	Downstream corporate limits	*1,182
			Upstream Masonite Access Road	*1,189
			Upstream corporate limits	*1,195
		North Fork South Mayo River	Downstream corporate limits	*1,223
			Upstream State Route 1020	*1,233
			Upstream corporate limits	*1,243
		Campbell Branch	Confluence with South Mayo River	*1,182
			Upstream U.S. Route 58	*1,325
			Upstream corporate limits	*1,351

Maps available for inspection at the Town Office, Stuart, Virginia.
Send comments to Honorable C. B. Hopkins, Mayor of the Town of Stuart, P.O. Box 171, Stuart, Virginia 24171.

Wyoming	Campbell County (unincorporated areas)	Donkey Creek	50 feet upstream from the center of Donkey Creek Drive.	*4,560
		Donkey Creek	At the center of Jay Hawker Street crossing	*4,578
		Stoneplle Creek	At the confluence with Donkey Creek	*4,461
		Antelope Butte Creek	100 feet upstream of State Highway 59	*4,553
		Sleepy Hollow Creek	100 feet upstream from the center of Sleepy Hollow Blvd..	*4,578
		Little Rawhide Creek	50 feet downstream from the center of State Highway 14 and 16..	*4,266

Maps available for inspection at Engineer's Office, 500 South Gillette, Gillette, Wyoming.
Send comments to the Honorable Bob L. Tarver, 500 South Gillette, Gillette, Wyoming 82716.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: August 10, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-22935 Filed 8-22-83; 8:45 am]

BILLING CODE 6718-03-M

Notices

Federal Register
Vol. 48, No. 164
Tuesday, August 23, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Joint Nutrition Monitoring Evaluation Committee; Establishment

A Joint Nutrition Monitoring Evaluation Committee will be established to evaluate the findings of the Nationwide Food Consumption Survey (NFCS), the National Health and Nutrition Examination Survey (NHANES), and other Federal nutrition monitoring efforts and develop a report on the nutritional status of the U.S. population. The Advisory Committee shall be composed of four members, two selected by the Department of Agriculture (USDA) and two by the Department of Health and Human Services (DHHS). The Committee will be chaired by an official of the Office of the Secretary of Agriculture and/or the Assistant Secretary for Health, DHHS. The Committee will meet initially at the call of the Chairman and thereafter on call by the Chairman as necessary. Information input will be provided by the Human Nutrition Information Service, USDA, and the National Center for Health Statistics, DHHS. The Human Nutrition Information Service and units of the Office of the Assistant Secretary for Health, DHHS, will be responsible for processing, publishing, and distributing reports.

It has been determined that the establishment of the Committee is in the public interest in connection with the work of the U.S. Department of Agriculture and the Department of Health and Human Services.

Interested persons may send comments to Dr. Robert L. Rizek, Director, Consumer Nutrition Division, Human Nutrition Information Service, USDA, 368 Federal Building, Hyattsville, MD 20782, on or before September 7, 1983.

Done at Washington, D.C., this 16th day of August, 1983.

John J. Franke, Jr.,
Assistant Secretary for Administration.

[FR Doc. 83-23103 Filed 8-22-83; 8:45 am]
BILLING CODE 3410-48-M

Agricultural Stabilization and Conservation Service

Rural Clean Water Program (RCWP) Payments; Determination of Primary Purpose for Amounts That May Be Excluded From Income

AGENCY: Agricultural Sabilization and Conservation Service, USDA.

ACTION: Notice of Determination.

SUMMARY: The purpose of this notice is to announce the determination by the Secretary of Agriculture that certain Federal payments made to farmers under the Experimental Rural Clean Water Program (RCWP) are deemed by the Secretary to have been made primarily for purposes of conserving soil and water resources, protecting and restoring the environment, improving forests, or providing a habitat for wildlife. This determination by the Secretary is made in accordance with Section 126(b) of the Internal Revenue Code of 1954, as amended by Section 543 of the Revenue Act of 1978 and the Technical Corrections Act of 1979. The effect of this determination is to make it possible for recipients of these payments to exclude some or all of them from gross income for Federal income tax purposes if certain other conditions are met.

FOR FURTHER INFORMATION CONTACT: Director, Conservation and Environmental Protection Division, Agricultural Stabilization and Conservation Service, USDA, P.O. Box 2415, Washington, D.C. 20013 (202) 447-6221.

SUPPLEMENTARY INFORMATION: This action has been reviewed in accordance with Executive Order 12291 and Secretary's Memorandum No. 1512-1 and has been classified as "not major." It has been determined that these program provisions will not result in: (1) Annual effects on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; and (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program to which this notice applies are: Title—Rural Clean Water Program; Number—10.068; as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice of determination since there is no requirement that a notice of proposed rulemaking be published pursuant to 5 U.S.C. 553 or any other provision of law with respect to the subject matter of this determination.

Section 126 of the Internal Revenue Code of 1954, as amended by the Revenue Act of 1978 and the Technical Corrections Act of 1979, provides that certain payments which are made to persons under designated programs administered by the Department of Agriculture may be eligible for exclusion from gross income if certain determinations are made. One such determination involves the Secretary of Agriculture who must determine whether certain cost-share payments issued to persons under designated programs listed in Section 126(a) are "made primarily for the purpose of conserving soil and water resources, protecting or restoring the environment, improving forests, or providing a habitat for wildlife." In making any such determination, the Secretary of Agriculture must evaluate each of those designated programs based upon criteria set forth at 7 CFR Part 14.

The RCWP provides technical and financial assistance to agricultural landowners and operators through agreements of 3 to 10 years to reduce agricultural nonpoint source water pollutants and to improve water quality in rural areas to meet water standards or water quality goals. Payments are made under the RCWP to landowners and operators for the satisfactory installation of Best Management Practices designed to protect the public and the environment from the adverse effects of agricultural nonpoint source pollution on water quality.

Section 126(a)(9) provides for the exclusion of payments made under any

small watershed program administered by the Secretary of Agriculture and determined by the Secretary of the Treasury to be substantially similar to the programs listed in Section 126(a) (1) through (8). A small watershed, however, is defined in the Temporary Income Tax Regulations as a watershed or subwatershed that does not exceed 250,000 acres and does not include any single structures providing more than 12,500 acre-feet of floodwater detention capacity, nor more than 25,000 acre-feet of total capacity.

The Department of Agriculture was advised in a letter dated August 23, 1982, from the Commissioner of Internal Revenue that the Experimental Rural Clean Water Program authorized by the Agriculture, Rural Development and Related Agencies Appropriations Acts for fiscal years 1980 and 1981 (Pub. L. 96–108 and 96–528) is a program under which payments may be considered for exclusion from gross income under Section 126 (a)(9) as a small watershed program if the Secretary certifies that payments in connection with "small watersheds" as defined in the Temporary Income Tax Regulations (46 FR 27636) which were issued by the Internal Revenue Service, Department of Treasury, are made primarily for the purpose of conservation.

One of the 21 RCWP projects funded to date, the Tillamook Bay project in Oregon, is in excess of the 250,000 acreage limitation set forth in the definition of a "small watershed" in the Temporary Income Tax Regulations. Accordingly, the Department was further advised in the letter from the Commission of Internal Revenue dated August 23, 1982, that the Tillamook Bay project area is not a "small watershed" and the recipients of RCWP payments in that project area do not qualify for tax-exclusion under Section 126(a)(9) of the Internal Revenue Code of 1954, as amended. This position was subsequently affirmed in a letter to the Department dated February 18, 1983, from the Associate Chief Counsel, Internal Revenue Service.

The RCWP authorizing legislation, regulations, and operating procedures have been carefully examined using the criteria established by the Department of Agriculture under 7 CFR Part 14 for making "primary purpose" determinations. It has been concluded that the payments made under the RCWP are made for the purpose of providing financial assistance to agricultural producers for carrying out enduring conservation and environmental enhancement measures. A "Rural Clean Water Program (RCWP) Record of Decision: Primary Purpose Determination for Federal Tax Purposes" has been prepared and is available upon request from the Conservation and Environmental Protection Division, ASCS.

Determination

Therefore, the Secretary of Agriculture has determined that in accordance with Section 126(b)(1) of the Internal Revenue Code of 1954, as amended, all payments made for those conservation practices approved by the Secretary under the Experimental Rural Clean Water Program (RCWP) after February 20, 1980, are made primarily for the purpose of conserving soil and water resources, protecting or restoring the environment, improving forests, or providing a habitat for wildlife. It has been further determined that the Tillamook Bay RCWP project area in Oregon is not a "small watershed" as defined in the Temporary Income Tax Regulations issued by the Internal Revenue Service, Department of Treasury, since the project area exceeds 250,000 acres. Accordingly, recipients of RCWP cost-share payments in that area are not eligible for consideration for tax exclusion under Section 126(a)(9) of the Internal Revenue Code of 1954, as amended.

Signed at Washington, D.C. on August 17, 1983.

John R. Block,

Secretary of Agriculture.

[FR Doc. 83–23049 Filed 8–22–83; 8:45 am]

BILLING CODE 3410–05–M

Commodity Credit Corporation

1983 Peanut Program, Notice of Determination

Correction

In FR Doc. 83–21760 beginning on page 36297 in the issue of Wednesday, August 10, 1983, make the following correction:

On page 36298, first column, under **EFFECTIVE DATE** "August 19, 1983" should have read "August 10, 1983".

BILLING CODE 1505–01–M

Soil Conservation Service

McCaysville City Park RC&D Measure, Georgia; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of A Finding of No Significant Impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the McCaysville City Park RC&D Measure, Fannin County, Georgia.

FOR FURTHER INFORMATION CONTACT: Dwight M. Treadway, State Conservationist, Soil Conservation Service, 355 East Hancock Avenue, (P.O. Box 832), Athens, Georgia 30613, telephone: 404–546–2273.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Dwight M. Treadway, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The objective of the sponsors is to provide water-based recreational facilities for residents of Fannin County and nearby communities. The planned works of improvement include construction of a boat ramp, picnic facilities, and parking area with accompanying sanitation and safety installations.

The Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental evaluation are on file and may be reviewed by contacting Dwight M. Treadway.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: August 15, 1983.

Edgar L. Helmey,

Deputy State Conservationist.

[FR Doc. 83–23007 Filed 8–22–83; 8:45 am]

BILLING CODE 3410–16–M

Mississippi County Spillway Area Watershed, Missouri; Availability of a Record of Decision

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of Availability of a Record of Decision.

SUMMARY: Paul F. Larson, responsible Federal official for projects administered under the provisions of Pub. L. 83–566, 16 U.S.C. 1001–1008, in the State of Missouri, is hereby providing notification that a record of decision to proceed with the installation of the Mississippi County Spillway Area Watershed project is available. Single copies of this record of decision may be obtained from Paul F. Larson at the address shown below.

FOR FURTHER INFORMATION CONTACT: Paul F. Larson, State Conservationist, Soil Conservation Service, 555 Vandiver Drive, Columbia, Missouri, 65202, telephone 314/875–5214.

(Catalog of Fedeal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Record of Decision, Mississippi County Spillway Area Watershed, Mississippi County, Missouri

1. *Purpose:* As State Conservationist for the Soil Conservation Service, I am the Responsible Federal Official (RFO) for all Soil Conservation Service projects in Missouri.

The recommended plan for the Mississippi County Spillway Area Watershed involves works of improvement to be installed under authorities administered by the Soil Conservation Service. This project includes the installation of 38 miles of channel work with 430 grade stabilization structures, maintenance of bottom land hardwoods and a cultural resources information system.

The Mississippi County Spillway Area Watershed plan was prepared under the authority of the Watershed Protection and Flood Prevention Act (Pub. L. 566, 83rd Congress, 68 Stat. 666, as amended) by the Mississippi County Consolidated Drainage District, Mississippi County Court, and the Mississippi County Soil and Water Conservation District. The scoping meeting, held during February of 1973, established the Soil Conservation Service (SCS), U.S. Department of Agriculture, as lead agency, and the Forest Service-USDA and the Fish and Wildlife Service-USDI as cooperating agencies.

2. *Measures Taken To Comply With National Environmental Policies:* The Mississippi County Spillway Area Watershed project has been planned in accordance with existing Federal legislation concerned with the preservation of environmental values. The following actions were taken to insure that the Mississippi County Spillway Area Watershed plan is consistent with national goals and policies.

The environmental evaluation completed by an interdisciplinary team under the direction of SCS in 1980, concluded that significant impacts on the human environment may occur because of the complexity and public interest of the proposed action. As RFO, I directed that a draft environmental impact statement (EIS) be prepared.

The interdisciplinary environmental evaluation of the Mississippi County Spillway Area Watershed project was conducted by the sponsors, cooperating agencies, and the SCS. Information was obtained from many groups and agencies. Inventories of archeological resources were made by the Missouri Department of Natural Resources and the Environmental Research Center.

Reviews were held with the Environmental Protection Agency, U.S. Fish and Wildlife Service, Missouri Department of Natural Resources, State Historic Preservation Officer, and the Missouri Department of Conservation. Inputs from these reviews were included in the EIS.

Public meetings were held in July and August 1978, to solicit public participation in the environmental evaluation, to assure that all interested parties had sufficient information to understand how their concerns are affected by water resource problems, to afford local interests the opportunity to express their views regarding the plans which can best solve these problems, and to provide all interests an opportunity to participate in the plan selection. Transcripts of the minutes were developed and are on file.

A draft watershed plan-environmental impact statement was prepared in September 1981, and made available for public review. The recommendations and comments obtained from public meetings held during project planning and assessment were considered in the preparation of the statement. Projects of other agencies were discussed only when they related to the Public Law 566 project, and they were not evaluated with regard to their individual merit.

Copies of the draft environmental impact statement were distributed to agencies, conservation groups, organizations, and individuals for comment. The notice of availability of the draft environmental impact statement was listed in the Federal Register by the Environmental Protection Agency on October 9, 1981.

Existing data and information pertaining to the project's probable environmental consequences were obtained with assistance from other scientists and engineers. Documentary information as well as the views of interested Federal, State, and local agencies and concerned individuals and organizations having special knowledge of, competence over, or interest in the project's environmental impact were sought. This process continued until it was felt the information necessary for a comprehensive, reliable assessment had been gathered.

The project's current and probable future environmental setting was reviewed to determine the proposed project's impact and identify unavoidable adverse environmental impacts that might be produced.

During the review of the draft watershed plan-EIS, the Environmental Protection Agency commented that insufficient information was available to describe the effects of removing sediment and otherwise modifying the channels. Further testing of the materials to be disturbed by project action confirmed that adverse effects would not result.

The consequences of a full range of reasonable and viable alternatives were considered, studied, and analyzed. These alternatives considered courses of action that could reasonably accomplish the project purposes. The economic, social, and environmental values affected by each alternative were identified. The possibilities of structural and nonstructural alternatives for the project were considered.

Three alternatives were considered. Alternative (1) (NED) proposed reconstruction of 37 miles of existing channel and construction of one mile of new channel, 430 grade stabilization structures including the establishment of 337 acres of vegetation on disturbed areas. Alternative (2) proposed 200 grade stabilization structures, including 20 acres of vegetation on disturbed areas, forest maintenance on 1,342 acres and a system to protect cultural resources through improvement of communication between landowners and the Missouri Department of Natural Resources. Alternative (3) (RECOMMENDED) combines the measures in alternative 1, with the forest maintenance and cultural resource information programs from alternative 2.

3. *Conclusions:* The following conclusions were reached after carefully reviewing the proposed Mississippi County Spillway Area Watershed project in light of all national goals and policies, particularly those expressed in the National Environmental Policy Act, and after evaluating the overall merit of possible alternatives to the project.

a. The Mississippi County Spillway Area Watershed project will employ a reasonable and practicable means that is consistent with the National Environmental Policy Act while permitting the application of other national policies and interests. These means include, but are not limited to, a project planned and designed to minimize adverse effects on the natural environment, while accomplishing an authorized project purpose. Project features designed to preserve existing environmental values for future generations include: (1) placement, shaping and establishing vegetation on spoil to minimize erosion, and soil movement into adjacent areas and channels, (2) stacking spoil in areas where important resources are riparian to the existing ditch. Stacking rather than spreading the spoil will minimize the area affected, (3) inclusion of 430 grade stabilization structures along channels to minimize bank erosion and transport of sheet and rill erosion products in concentrated flow where runoff or return flows enter the channels, (4) signed voluntary commitments by landowners to maintain 1,342 acres of bottom land hardwoods/wetlands and, (5) a means to inform the Missouri Department of Natural Resources of planned land disturbing activitiers that will disturb previously undisturbed archeological and historic resources.

b. The Mississippi County Spillway Area Watershed project was planned using a systematic interdisciplinary approach involving integrated uses of the natural and social sciences and environmental design arts. The results of this review constitutes the basis for the conclusions and recommendations. All conclusions concerning the environmental impact of the project and overall merit of existing plans were based on a review of data and information that would be reasonably expected to reveal significant environmental consequences of the proposed project. These data included additional studies prepared specifically for the project and comments and views of interested Federal, State, and local agencies and individuals. The project has been planned to minimize adverse effects to the Towasahgy State Park which is adjacent and the Beckwith's Fort Archeological Site located from stations 221+00 to 232+50 along Lateral No. 7. The project will not affect fish, wildlife, or plants that have been designated as endangered or threatened.

c. In studying and evaluating the environmental impact of the Mississippi County Spillway Area Watershed project, every effort was made to express all environmental values quantitatively. Failure to quantify particular environmental amenities and values is the result of the absence of a methodology having general scientific acceptance. Nevertheless, every effort was made to identify and give appropriate weight and consideration of nonquantifiable environmental values.

d. Every possible effort has been made to identify those adverse environmental effects which cannot be avoided if the project is constructed.

e. The long-term and short-term resource, uses, long-term productivity, and the irreversible and irretrievable commitment of resources are accurately described in the final environmental impact statement.

f. All reasonable and viable alternatives to project features and to the project itself were studied and analyzed with reference to national policies and goals, especially those expressed in the National Environmental Policy Act and the Federal water resource development legislation under which the project was planned. Each possible course of action was evaluated as to its possible economic, technical, social, and overall environmental consequences to determine the trade-offs necessary to accommodate all national policies and interests. No alternative or combination of alternatives will afford greater protection of the environmental values while accomplishing the other project goals and objectives.

g. I conclude, therefore, that the proposed project will be the most effective means of meeting national goals and serving the public interest.

4. *Recommendations:* Having concluded that the proposed Mississippi County Spillway Area Watershed project uses all practicable means, consistent with other essential considerations of the national policy, to meet the goals established in the National Environmental Policy Act, that the project will thus serve the overall public interest, that the final environmental impact statement has been prepared, reviewed, and accepted in accordance with the provisions of the National Environmental Policy Act as implemented by Departmental regulations for the preparation of environmental impact statements, and that the project meets the needs of the project sponsors, I propose to implement the Mississippi County Spillway Area Watershed project.

Dated: August 15, 1983.

Paul F. Larson,

State Conservationist, Soil Conservation Service, U.S. Department of Agriculture.

[FR Doc. 83-23080 Filed 8-22-83; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

International Trade Administration

Application for Export Trade Certificate of Review: DMT World Trade, Inc.

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Application.

SUMMARY: The Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce has received an application for an Export Trade Certificate of Review. This notice summarized the conduct for which certification is sought and invites interested parties to submit information relevant to the determination of whether a certificate should be issued.

DATE: Comments on this application must be submitted on or before September 12, 1983.

ADDRESS: Interested parties should submit their written comments, original and five (5) copies, to: Office of Export Trading Company affairs, International Trade Administration, Department of Commerce, Room 6711, Washington, D.C. 20230.

Comments should refer to this application as "Export Trade Certificate of Review, application number #83-00016."

FOR FURTHER INFORMATION CONTACT: Charles S. Warner, Director, Office of Export Trading Company Affairs, International Trade Administration, 202/377-5131, or Eleanor Roberts Lewis, Assistant General Counsel for Export Trading Companies, Office of General Counsel, 202/377-0937. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (Pub. L. 97-290) authorizes the Secretary of Commerce to issue Export Trade Certifications of Review. A certificate of review protects its holder from civil and criminal liability under Federal and state antitrust laws for the

export trade, export trade activities and methods of operation specified in the certificate. A certificate of review is to be issued to any applicant that establishes that its specified export trade, export trade activities, and methods of operation will:

1. result in neither a substantial lessening of competition or restraint of trade within the United States nor a substantial restraint of the export trade of any competitor of the applicant,

2. not unreasonably enhance, stabilize, or depress prices within the United States of the goods, wares, merchandise, or services of the class exported by the applicant,

3. not constitute unfair methods of competition against competitors engaged in the export of goods, wares, merchandise, or services of the class exported by the applicant, and

4. not include any act that may reasonably be expected to result in the sale for consumption or resale within the United States of the goods, wares, merchandise, or services exported by the applicant.

The Office of Export Trading Company Affairs has received the following application for an Export Trade Certificate of Review:

Applicant: DMT World Trade, Inc.

Application: #83–00016.

Date received: August 2, 1983.

Dated deemed submitted: August 8, 1983.

Members in addition to applicant: DMT Corporation, Waukesha, WI.

Summary of application: DMT World Trade, Inc., a Wisconsin corporation with its principal office address at W229 N2494 Highway 164, Waukesha, Wisconsin 53186, submitted an application seeking certification for the following export trade activities and methods of operations for its export trade in primarily, but not limited to, countries in Latin Africa, Southeast Asia, and the Middle East.

A. Export Trade Activities

1. To purchase and export the following products which are manufactured by DMT Corporation or other manufacturers: (a) construction and related machinery, (b) mining machinery, (c) farm machinery and equipment, (d) motors and generators, (e) pumps and pumping equipment, and (f) motor vehicle parts and accessories.

2. To purchase and export similar products on a one time only or infrequent basis as required by overseas agents.

B. Methods of Operations

1. To enter into exclusive agency agreements with foreign persons for the products to be exported.

2. To enter into exclusive sales agreements with U.S. firms manufacturing or supplying the products to be exported.

The Office of Export Trading Company Affairs is issuing this notice in compliance with section 302(b)(1) of the Act which requires the Secretary to publish a notice of the application in the Federal Register. Interested parties have twenty (20) days from the publication of this notice in which to submit written information relevant to the determination of whether a certificate should be issued. Information submitted by any person in connection with this application will be exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552).

Dated: August 17, 1983.

Irving P. Margulies,

Deputy General Counsel.

[FR Doc. 83-22620 Filed 8-22-83; 8:45 am]

BILLING CODE 3510-DR-M

[C–533–069]

Certain Iron-Metal Castings From India; Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of countervailing duty order.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on certain iron-metal castings from India. The review covers the period January 1, 1980 through December 31, 1981.

As a result of the review, the Department has preliminarily determined the net subsidy to be 15.26 percent *ad valoram* for 1980 and 2.85 percent *ad valorem* for 1981. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: August 23, 1983.

FOR FURTHER INFORMATION CONTACT: Josephine Baeza or Joseph Black, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On August 20, 1980, the Department of Commerce ("the Department") published in the Federal Register (45 FR 55502) a final affirmative countervailing duty determination on certain iron-metal castings from India. The Department published a countervailing duty order on October 16, 1980 (45 FR 68650). On March 18, 1981, the Department announced its intent to conduct an administrative review of the order (46 FR 16921). As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of Indian manhole covers and frames, cleans-out covers and frames, and catch basin grates and frames. Such merchandise is currently classifiable under items 657.0950 and 657.0980 of the Tariff Schedules of the United States Annotated.

The review covers the period January 1, 1980 through December 31, 1981, and four programs: (1) a rebate upon export of indirect taxes under the Cash Compensatory Support Program ("CCS"); (2) pre-shipment export loans; (3) a tax deduction under the Export Markets Development Allowance; and (4) grants through the market Development Assistance Program. We also investigated allegations by the petitioner, Pinkerton Foundries, Inc., of additional subsidies through, among others, the sale of Import Replenishment Licenses, extension of the Kandla Free Trade Zone, and supply of raw materials at "subsidized" prices. We found no additional benefits other than those reflected in these preliminary results.

Analysis of Programs

(1) CCS Program

The Government of India introduced the CCS program in 1966 with the primary purpose of rebating upon exportation indirect taxes on merchandise. The rebates are paid as a percentage of the f.o.b. invoice price. We found in the 1980 final affirmative determination that the Indian government had not satisfactorily demonstrated the requisite linkage, prior to establishing the rate, between the indirect tax incidence on the product and the 12.5 percent CCS payment. Further, we stated that the actual tax incidence was not reasonably calculated and documented. We consequently held the full amount of the CCS payment countervailable. This rate of rebate

remained in effect during our 1980 review period. Therefore, for 1980, we preliminarily determine that the CCS program provided an *ad valorem* benefit equal to the entire 12.5 percent.

In 1981, the Indian government revised the rate of rebate for "sanitary" castings (including all merchandise covered by the order) based on a new study of the indirect tax incidence on the exported product. On January 29, 1981, the government established a rate of rebate of 5 percent *ad valorem* for shipments made on or after April 1, 1981. The Department reviewed during its December 1982/January 1983 verification official and company records supporting the revised rate of rebate. Based on the evidence, we preliminarily find that the requisite linkage exists in this case for shipments receiving the 5 percent rebate.

After reviewing evidence of the average indirect tax incidence on this merchandise for calendar year 1981, we find that such incidence is above the revised 5 percent rate of rebate. For shipments receiving that 5 percent rate, we have preliminarily found a zero subsidy. However, for rebates on shipments at the 12.5 percent rate during the first quarter of the year, we determine that the full 12.5 percent *ad valorem* benefit existed. We preliminarily determine the average net subsidy to be 1.35 percent *ad valorem* for the 1981 calendar year.

Since exports on or after April 1, 1981 are eligible only for the 5 percent CCS payment, we preliminarily conclude, for purposes of cash deposit of estimated countervailing duties, that an overrebate does not exist.

(2) Pre-Shipment Export Loans

The Reserve Bank of India, through commercial banks, provides pre-shipment or "packing" credit to exporters allowing them to purchase raw materials, packing materials, etc., based on presentation of a confirmed order or letter of credit. These loans have a sliding scale interest rate that varies with the elapsed time the loan is outstanding. In general, the loans are granted for a period of 90 to 180 days. During the review periods, the preferential rates of interest under this program ranged from 11 percent to 15 percent. The commercial interest rates for revolving credit lines and for short-term credit up to one year were 17 to 20 percent during these same years. Therefore, for calendar year 1980, we preliminarily find a net subsidy of 2.06 percent *ad valorem*. With respect to 1981, we preliminarily determine the net subsidy to be 1.34 percent *ad valorem*.

(3) Tax Deductions Under the Export Markets Development Allowance

Under Article 35B of the Finance Act, the Government of India allows exporters to deduct 133 percent of certain expenses related to market development. However, because the Indian government allows deduction of 100 percent of such expenses for non-export sales, we focus on the remaining 33 percent as the benefit. Exporters, in filing tax returns prior to 1981, overstated the absolute value of their Article 35B claims due to ambiguities in the law governing the types of allowable expenses. Consequently, Indian tax authorities regularly reduced Article 35B claims by a significant amount in reviewing the deductions. For 1980, we used information from final tax assessment orders, where available, to determine the subsidy rate. If no assessments were yet issued by the government, we used as best information the amount of the claim likely to be allowed based on prior years' assessments. We then multiplied the residual claim by the applicable income tax rate yielding the tax savings to the companies. Based on this calculation, we preliminarily determine a net subsidy of 0.69 percent *ad valorem* for 1980.

With respect to 1981, the Indian government reduced the number of allowable expenditures under Articles 35B, defining more stringently the remaining categories. Therefore, for 1981, we used the full amount of the Article 35B claims when computing the subsidy. We preliminarily determine a net subsidy of 0.16 percent *ad valorem* for that calendar year.

(4) Market Development Assistance Grants

The Indian government provides grants to exporters to cover expenses for foreign market study teams and promotional publications. During 1980, only one company received a grant under this program. We preliminarily determine that the net subsidy stemming from such assistance is 0.01 percent *ad valorem* for the calendar year. For 1981, no grants were received. Therefore, we preliminarily find no subsidy for that period.

Preliminary Results of the Review

As a result of the review, we preliminarily determine the aggregate net subsidy to be 15.26 percent *ad valorem* for the period January 1, 1980 through December 31, 1980, and 2.85 percent *ad valorem* for the period January 1, 1981 through December 31, 1981.

Section 707 of the Tariff Act provides that the difference between the deposit of an estimated countervailing duty and the final calculation of duty under a countervailing duty order shall be disregarded to the extent that the estimated duty is less than the final duty, and refunded to the extent that the estimated duty is higher than the final duty, for merchandise entered, or withdrawn from warehouse, for consumption before the date of the affirmative injury determination by the International Trade Commission, in this case, October 8, 1980 (45 FR 66915). The Department intends to instruct the Customs Service to assess countervailing duties at the appropriate rates for all shipments of the merchandise entered, or withdrawn from warehouse, for consumption on or after May 23, 1980, the date of the preliminary affirmative countervailing duty determination (45 FR 34945), and exported on or before December 31, 1980. With regard to 1981, countervailing duties of 2.85 percent of the f.o.b. invoice price shall be assessed for shipments exported on or after January 1, 1981 and on or before December 31, 1981.

Further, as provided for by section 751(a)(1) of the tariff Act, the Department intends to instruct the Customs Service to collect a cash deposit of estimated countervailing duties of 1.50 percent of the f.o.b. invoice price on any shipments of certain iron-metal castings from India entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: August 17, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-23046 Filed 8-22-83; 8:45 am]

BILLING CODE 3510-25-M

Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes; University of Puget Sound, et al.

The following is a consolidated decision on applications for duty-free entry of electron microscopes pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 1523, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 83-202. Applicant: University of Puget Sound, 1500 N. Warner, Thompson Science Hall, Tacoma, WA 98416. Instrument: Electron Microscope, EM 109 and High Resolution Goniometer. Manufacturer: Carl Zeiss, West Germany. Intended use of instrument: See notice on page 27282 in the Federal Register of June 14, 1983. Application received by Commissioner of Customs: May 23, 1983.

Docket No. 83-203. Applicant: St. Luke's Episcopal Hospital, Texas Medical Center, 6720 Bertner Avenue, Houston, TX 77030. Instrument: Electron Microscope, EM 10CA. Manufacturer: Carl Zeiss, West Germany. Intended use of instrument: See notice on page 27282 in the Federal Register of June 14, 1983. Instrument Ordered: April 19, 1983.

Docket No. 83-217. Applicant: Walter Reed Army Institute of Research, Bldg. 40, 14th and Dahlia Streets, NW., Washington, DC 20307. Instrument: Electron Microscope, EM 109 and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of instrument: See notice on page 29119 in the Federal Register of June 30, 1983. Instrument Ordered: March 5, 1983.

Docket No. 83-221. Applicant: Louisiana State University Medical Center, 1542 Tulane Avenue, New Orleans, LA 70112. Instrument: Electron Microscope, Model EM 410. Manufacturer: Nederlandse Philips Bedrijven, B.V., The Netherlands. Intended use of instrument: See notice on page 31277 in the Federal Register of July 7, 1983. Application received by Commissioner of Customs: June 8, 1983.

Docket No. 83-222. Applicant: Cleveland Clinic Foundation, 9500 Euclid Avenue, Cleveland, OH 44106. Instrument: Electron Microscope, Model EM 410. Manufacturer: N.V. Philips Gloeilampenfabrieken, The Netherlands. Intended use of instrument: See notice on page 31277 in Federal Register of July 7, 1983. Instrument Ordered: May 19, 1983.

Comments: No comments have been received with respect to any of the foregoing applications.

Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used, was being manufactured in the United States at the time the instruments were ordered.

Reasons: Each foreign instrument to which the foregoing applications relate is a conventional transmission electron microscope (CTEM). The description of the intended research and/or educational use of each instrument establishes the fact that a comparable CTEM is pertinent to the purposes for which each is intended to be used. We know of no CTEM which was being manufactured in the United States either at the time of order of each instrument described above or at the time of receipt of application by the U.S. Customs Service.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign instruments to which the foregoing applications relate, for such purposes as these instruments are intended to be used, which was being manufactured in the United States either at the time of order or at the time of receipt of application by the U.S. Customs Service.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 83-23047 Filed 8-22-83; 8:45 am]

BILLING CODE 3510-25-M

Numerically Controlled Machine Tool Technical Advisory Committee; Closed Meeting

SUMMARY: The Numerically Controlled Machine Tool Technical Advisory Committee was initially established on January 3, 1973, and rechartered on September 18, 1981, in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act.

Time and place: September 12, 1983, at 10:00 a.m., Herbert C. Hoover Building, Room 3708, 14th Street and Constitution Ave., NW., Washington, D.C.

Agenda

The Committee will meet only in executive session to discuss matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM Control program and strategic criteria related thereto.

SUPPLEMENTARY INFORMATION: A Notice of Determination to close meetings of the Committee to the public on the basis of 5 U.S.C. 552b(c)(1) was approved on September 29, 1981, in accordance with the Federal Advisory Committee Act. A copy of the Notice is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Telephone: 202-377-4217.

FOR FURTHER INFORMATION CONTACT: Mrs. Margaret A. Cornejo, Telephone: (202) 377-2583.

Dated: August 18, 1983.

Milton M. Baltas,

Director of Technical Programs, Office of Export Administration.

[FR Doc. 83-23197 Filed 8-22-83; 8:45 am]

BILLING CODE 3510-25-M

Telecommunications Equipment Technical Advisory Committee; Closed Meeting

A meeting of the Telecommunications Equipment Technical Advisory Committee will be held on September 13, 1983, at 10:00 a.m., Herbert C. Hoover Building, Room 3708, 14th Street and Constitution Avenue, N.W., Washington, D.C. The Committee advises the Office of Export Administration with respect to technical questions which affect the level of export controls applicable to telecommunications equipment or technology.

The committee will meet only in executive session to discuss matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

A Notice of Determination to close meetings or portions of meetings of the Committee to the public on the basis of 5 U.S.C. 552b(c)(1) was approved on September 29, 1981, in accordance with the Federal Advisory Committee Act.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and

copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, telephone: 202–377–4217.

For further information contact Mrs. Margaret Cornejo, 202–377–2583.

Dated: August 17, 1983.

Milton Baltas,

Director of Technical Programs Office of Export Administration.

[FR Doc. 83-23114 Filed 8-22-83; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Caribbean Fishery Management Council's Scientific and Statistical Committee and Advisory Panel; Public Meeting

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

SUMMARY: The Caribbean Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265, as amended), has established a Scientific and Statistical Committee (SSC) and an Advisory Panel (AP) which will meet jointly to examine and provide recommendations to the Council on the development of a fishery management plan for shallow-water reef fishes and on other related business.

DATES: The meeting will convene on Wednesday, September 7, 1983, at 9:30 a.m. and will adjourn at approximately 3:00 p.m., and is open to the public.

ADDRESS: The meeting will take place at Conference Room G–51, Federal Building, Chardon Street, Hato Rey, Puerto Rico.

FOR FURTHER INFORMATION CONTACT: Caribbean Fishery Management Council, Suite 1108, Banco de Ponce Building, Hato Rey, Puerto Rico 00918, Telephone (809) 753–4926.

Dated: August 18, 1983.

Ann D. Terbush,

Acting Chief, Operations Coordination Group, National Marine Fisheries Service.

[FR Doc. 83-23107 Filed 8-22-83; 8:45 am]

BILLING CODE 3510-22-M

Mid-Atlantic Fishery Management Council; Public Meetings

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

SUMMARY: The Mid-Atlantic Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265, as amended), will hold public meetings to discuss the Bluefish Fishery Management Plan (FMP); the Squid, Mackerel and Butterfish FMP amendment; status of other FMP's; joint ventures; election of officers; as well as discuss other fishery management and administrative matters. The agenda for the meetings may be rearranged or changed or the meetings lengthened or shortened depending upon progress on the agenda items.

DATES: The public meetings will convene on Wednesday, September 14, 1983, at approximately noon and will adjourn on Friday, September 16, 1983, at approximately noon, and will take place at the Best Western Airport Inn, Philadelphia International Airport, Philadelphia, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mid-Atlantic Fishery Management Council, Room 2115—Federal Building, 300 South New Street, Dover, Delaware 19901, Telephone: (302) 674–2331.

Dated: August 18, 1983.

Ann D. Terbush,

Acting Chief, Operations Coordination Group, National Marine Fisheries Service.

[FR Doc. 83-23106 Filed 8-22-83; 8:45 am]

BILLING CODE 3510-22-M

CONSUMER PRODUCT SAFETY COMMISSION

Notification of Proposed Collection of Information

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1981 (44 U.S.C. 3501 *et seq.*), the Consumer Product Safety Commission has submitted to the Office of Management and Budget a request for approval of a collection of information in the form of a telephone survey to determine the extent of compliance with a voluntary standard being voted on by the American Society for Testing and Materials that would address the strangulation hazard associated with toy chests with hinged lids.

Information about the Proposed Collection of Information:

Agency address: Consumer Product Safety Commission, 1111 18th Street, NW., Washington, D.C. 20207.

Title of information collection: Telephone Survey on Toy Chests.

The Commission has received reports of fatalities and two cases of permanent brain damage from strangulation caused when hinged toy chest lids fell on children's heads while the child is leaning into the chest. As the first step in the possible issuance of a mandatory standard to address this hazard, the Commission published an Advance Notice of Proposed Rulemaking (ANPR) concerning the strangulation risk that certain toy chests with hinged lids present to children (April 14, 1982; 47 FR 16041).

Among the comments received in response to the ANPR, some commenters, including the Toy Manufacturers of America (TMA), one manufacturer of toy chests, and the American Society for Testing and Materials (ASTM), supported development of a voluntary standard as opposed to a mandatory standard. Other commenters, including the Public Action Coalition on Toys, favored development of a mandatory standard.

On March 17, 1983, the Commission published a proposed ban of toy chests with hinged lids that do not meet certain testing requirements which would prevent free-falling lids from causing strangulation deaths of young children (March 17, 1983; 48 FR 11289). The Commission received 12 comments on the proposed ban. Six manufacturers responded and urged the Commission to support development of a voluntary standard. Some of the other six commenters supported a mandatory standard. One commenter urged the Commission to ban toy chests with hinged lids and, in the alternative recommended that the technical requirements in the proposed rule be made more stringent. The Commission has followed closely the efforts of TMA and the ASTM to develop a voluntary standard. The Commission has assisted these groups by providing technical information and injury data.

The Commission is presently considering all of this information in order to determine whether to go ahead with the mandatory ban.

The Commission, in a meeting on August 10, 1983, requested the staff to find out certain information on present production and plans for production during the remainder of 1983 and during 1984 of toy chests with hinged lids. The Commission needs to know the extent to which the industry has produced and has on hand, or plans to produce during the remainder of 1983 and in 1984, toy chests with hinged lids which would comply with the requirements of either the proposed mandatory ban or the

voluntary standard under development. The Commission would also like to know the extent to which manufacturers are testing toy chests with hinged lids to determine whether they comply with these requirements. This information will enable the Commission, at a meeting on August 17, decide whether to publish a final mandatory ban, to withdraw the proposed ban, or to defer a decision until the extent of actual future industry compliance with the voluntary standard can be determined.

The information sought by the Commission is only available by inquiring of the 23 manufacturers of toy chests with hinged lids what their production plans are and what their inventory of toy chests with hinged lids is now. The Commission estimates that it will take each of the manufacturers no more than 2 hours to answer the questions since information on current inventory is generally maintained by industry; records kept by manufacturers on planned production would be the source of the remainder of the information requested.

The cost to the Commission of collecting this information is about $5,000.

The Commission plans to collect this information through a telephone survey of the 23 manufacturers.

Type of request: Approval of a new plan.

Frequency of collection: One time.

General description of respondents: Manufacturers of toy chests with hinged lids.

Estimated average number of hours per response: 2.

Comments: Comments on this proposed collection of information should be addressed to Gwen Pla, Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, telephone: (202) 395–7313. Copies of the proposed collection of information are available from Francine Shacter, Office of Budget, Program Planning, and Evaluation, Consumer Product Safety Commission, Washington, D.C. 20207, telephone: (202) 492–6529.

This is not a proposal to which 44 U.S.C. 3504(h) is applicable.

Dated: August 11, 1983.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 83-22661 Filed 8-22-83; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Advisory Committee on Women in the Services (DACOWITS); Meeting

Pursuant to Pub. L. 92–463, notice is hereby given that a meeting of the Defense Advisory Committee on Women in the Services (DACOWITS) will be held 16–20 October 1983 at the Holiday Inn, Jacksonville, North Carolina.

The purpose of the DACOWITS Committee is to assist and advise the Secretary of Defense on matters relating to women in the Services. The Committee meets semiannually.

Sessions will be conducted daily as indicated and will be open to the public. The agenda will include the following meetings and discussions:

Sunday, 16 October 1983—Holiday Inn, Jacksonville

11:00 a.m.–4:00 p.m.—Registration
2:30 p.m.–3:30 p.m.—Executive Committee Meeting
4:00 p.m.–4:30 p.m.—Chair's Procedural Session for all DACOWITS Members, Former Members, and Military Representatives
4:30 p.m.–6:30 p.m.—Subcommittee Meetings
7:00 p.m.–8:30 p.m.—"No-Host" Cocktail Buffet

Monday, 17 October 1983—Camp Lejeune Commissioned Officers Mess (Open)

8:00 a.m.–8:45 a.m.—Official Opening
9:00 a.m.–12:00 noon—OSD/Service Briefings
12:00 noon–1:30 p.m.—Official Department of Defense Luncheon (By invitation only)

Holiday Inn, Jacksonville

2:00 p.m.–2:45 p.m.—OSD/Service Briefings
3:00 p.m.–5:30 p.m.—Subcommittee Meetings

Camp Lejeune Commissioned Officers Mess (Open)

7:00 p.m.–10:30 p.m.—Official Department of Defense Reception and Dinner (By invitation only)

Tuesday, 18 October 1983—Camp Lejeune

9:00 a.m.–8:00 p.m.—Field Trip to Camp Lejeune, North Carolina

Wednesday, 19 October 1983—Holiday Inn, Jacksonville

8:45 a.m.–11:15 a.m.—OSD/Service Briefings
11:30 a.m.–1:00 p.m.—"No-Host" Luncheon
1:15 p.m.–2:45 p.m.—OSD/Service Briefings
2:45 p.m.–3:15 p.m.—Presentations by Members of the Public
3:15 p.m.–4:00 p.m.—OSD/Service Briefings
4:15 p.m.–6:45 p.m.—Subcommittee Meetings

Thursday, 20 October 1983—Holiday Inn, Jacksonville

8:00 a.m.–10:30 a.m.—General Business Session—Adjourn

The following rules and regulations will govern the participation by members of the public at the meeting:

(1) Members of the public will not be permitted to go on the field trip or attend the official social functions.

(2) All business sessions, to include the Executive Committee Meetings, will be open to the public.

(3) Interested persons may submit a written statement and/or make an oral presentation for consideration by the Committee during the meeting.

(4) Persons desiring to make an oral presentation or submit a written statement to the Committee must notify Captain Marilla J. Brown, USA, DACOWITS Executive Secretary, OASD (Manpower, Reserve Affairs and Logistics), Room 3D769, the Pentagon, Washington, D.C. 20301, (202) 697–2122 by 29 September 1983.

(5) Length and number of oral presentations to be made will depend on the number of requests received from the members of the public.

(6) Oral presentations by members of the public will be permitted only from 2:45 p.m. to 3:15 p.m. on Wednesday, 19 October 1983, before the full Committee.

(7) Each person desiring to make an oral presentation or submit a written statement must provide the DACOWITS Secretariat with 60 copies of the presentation/statement by 29 September 1983.

(8) Persons submitting a written statement only for inclusion in the minutes of the meeting must submit one (1) copy either before or during the meeting or within five (5) days after the close of the meeting.

(9) Other new items from members of the public may be presented in writing to any DACOWITS member for transmittal to the DACOWITS Chair of Executive Secretary to consider, as feasible.

(10) Members of the public will not be permitted to enter into oral discussion conducted by the Committee members at any of the sessions; however, they will be permitted to reply to questions

directed to them by the members of the Committee.

(11) Members of the public will be permitted to orally question the scheduled speakers if recognized by the Chair and if time allows after the official participants have asked questions and/or made comments.

(12) Questions from the puiblic will not be accepted during the Subcommittee Sessions, the Executive Committee Meetings, or the Business Session on Thursday, 20 October 1983.

Additional information regarding the Committee and/or this meeting may be obtained by contacting the DACOWITS Executive Secretary, OASD (MRA&L), the Pentagon, Room 3D769, Washington, D.C. 20301, (202) 697–2122.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

August 18, 1983.

[FR Doc. 83–23143 Filed 8–22–83; 8:45 am]

BILLING CODE 3810–01–M

Department of the Air Force

USAF Scientific Advisory Board; Meeting

August 22, 1983.

The USAF Scientific Advisory Board Strategic Cross-Matric Panel Ad Hoc Committee on the Small Missile will meet at Andrews Air Force Base, Maryland on September 7, 1983.

The purpose of the meeting will be to present the outbrief of the Committed report to Air Force officials. The meeting will convene at 8:00 a.m. to 5:00p.m.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202–697–8845.

Winnibel F. Holmes,

Air Force Federal Register Liaison Office.

[FR Doc. 83–23291 Filed 8–22–83; 11:17 am]

BILLING CODE 3910–01–M

DEPARTMENT OF EDUCATION

National Advisory Council on Bilingual Education; Meeting

AGENCY: National Advisory Council in Bilingual Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Bilingual Education. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES: September 15, 1983—Orientation and Briefing 9 a.m.–5 p.m. September 16, 1983—Business Meeting 9:00 a.m.–5:00 p.m.

ADDRESS: The Orientation and Briefing on September 15, 1983 will be held in Washington, DC. The Business meeting on September 16, 1983 will also be in Room 403 of the Reporter's Building.

FOR FURTHER INFORMATION CONTACT: Ramon Ruiz, Designated Federal Official, Room 421, Reporter's Building, 400 Maryland Avenue SW., Washington, DC 20202. (202) 245–2600.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Bilingual Education is established under Section 732(a) of the Bilingual Education Act (20 U.S.C. 3242). The Council is established to advise the Secretary of the Department of Education concerning matters arising in the administration of the Bilingual Education Act and other laws affecting the education of limited English proficient populations.

The meeting of the Council is open to the public. The proposed agenda includes the following:

September 15, 1983—New members will be sworn-in and will receive an orientation. Following this, the Full Council will receive a briefing on activities that have taken place in the past six months.

September 16, 1983—The agenda for the Business Meeting includes:

I. Introductions
II. Old Business
III. New Business
—Annual Report
—Plans for the Year
—Committee Structures
—Preparation for Public Hearings.

Dated: August 15, 1983.

Jesse M. Soriano,

Director, Office of Bilingual Education and Minority Languages Affairs.

[FR Doc. 83–23025 Filed 8–22–83; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TA83–2–31–006]

Arkansas Louisiana Gas Co., a Division of Arkla, Inc.; Notice of Filing

August 18, 1983.

Take notice that on August 12, 1983, Arkansas Louisiana Gas Company, a division of Arkla, Inc. (Arkla), submitted a filing to correct a typographical error in one of the tariff sheets transmitted with the filing of August 10, 1983, as follows:

(1) The designation in the upper right-hand corner of "3rd Revised Sheet No. 187C Superseding 2nd Revised Sheet No. 187C" should have read "4th Revised Sheet No. 187C, Superseding 3rd Revised Sheet No. 187C" and corrected copies of a tariff sheet are attached to the filing with the request that they be substituted for the incorrectly numbered sheet as just indicated.

(2) The instant letter also refers to the identification of the same sheet on Page 2 of the August 10, 1983 filing and requests that a similar change be noted on said Page 2 so that the reference to Sheet No. 187C will be "4th Revised Sheet No. 187C, Superseding 3rd Revised Sheet No. 187C" instead of "3rd Revised Sheet No. 187C, Superseding 2nd Revised Sheet No. 187C."

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before August 31, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–23136 Filed 8–22–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA83–2–31–005]

Arkansas Louisiana Gas Co., a Division of Arkla, Inc.; Compliance Filing

August 18, 1983.

Take notice that on August 10, 1983, Arkansas Louisiana Gas Company, a division of Arkla, Inc. (Arkla), tendered for filing, in compliance with the Commission's order of March 31, 1983, Arkla's FERC Gas Tariff, First Revised Volume No. 1:

6th Revised Sheet No. 12B superseding 5th Revised Sheet No. 12B
7th Revised Sheet No. 12C superseding 6th Revised Sheet No. 12C
7th Revised Sheet No. 12D superseding 6th Revised Sheet No. 12D
4th Revised Sheet No. 12E superseding 3rd Revised Sheet No. 12E
3rd Revised Sheet No. 12F superseding 2rd Revised Sheet No. 12F

4th Revised Sheet No. 12G superseding 3rd Revised Sheet No. 12G
4th Revised Sheet No. 12H superseding 3rd Revised Sheet No. 12H
2nd Revised Sheet No. 12I superseding 1st Revised Sheet No. 12I

Arkla states that the only changes in the text effected by the above revised tariff sheets is the insertion of language to reflect inclusion of company owned production priced at NGPA levels, and language to reflect the handling of minimum bill collections as per the March 31, 1983 order. According to Arkla, it was necessary to retype a number of the sheets in the tariff, however, to adapt the structure of the rate schedules to accommodate the insertion of the additional language into the text of earlier pages.

The filing also tendered for filing in Arkla's FERC Gas Tariff, Original Volume No. 3:

3rd Revised Sheet No. 187A superseding 2nd Revised Sheet No. 187A
3rd Revised Sheet No. 187B superseding 2nd Revised Sheet No. 187B
3rd Revised Sheet No. 187C superseding 2nd Revised Sheet No. 187C
2nd Revised Sheet No. 187D superseding 1st Revised Sheet No. 187D

Arkla states that the only changes in the narrative text are the same as the changes made in the narrative text of the revised sheets referred to above in First Revised Volume No. 1.

The filing also transmitted a refund report recording payment of refund necessitated by overcollection of unpaid accruals in accordance with the procedure agreed to be Staff and Arkla personnel at the meeting at the Commission on June 23, 1983.

Also, in accordance with the Staff's suggestion at the June 23, 1983 meeting referred to above, the instant filing recorded Arkla's commitment that if Arkla receives revenues attributable to minimum bill payments and collections from any of its non-jurisdictional customers, Arkla will also reflect those revenues in its total system support costs for account 191 computations.

Arkla states that this filing constitutes complete compliance with all remaining requirements of the Commission's order of March 31, 1983.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before August 31, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-23125 Filed 8-22-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. GP83-6-000]

Colorado Oil & Gas Conservation Commission; Order Reopening Section 107(c)(5) NGPA Well Category Determination

August 12, 1983.

Before Commissioners: Georgiana Sheldon, Acting Chairman; J. David Hughes, A. G. Sousa and Oliver G. Richard III.

On November 18, 1982, Colorado Interstate Gas Company (CIG) filed with the Federal Energy Regulatory Commission (Commission) a petition to reopen the final well category determinations that gas from five wells operated by Davis Drilling, Inc. (Davis) [1] qualifies for the maximum lawful price for production enhancement gas set by § 271.704 of the Commission's regulations and section 107(c)(5) of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301, 3317(c)(5), (Supp. V 1982). The Commission received notice of the determinations by the Colorado Oil & Gas Conservation Commission (Colorado) on May 14, 1982. On December 30, 1982, the Commission issued a Notice of Petition to Reopen Section 107(c)(5) NGPA Well Category Determination. 48 FR 690 (January 6, 1983).

Davis and Geo Dyne Resources (Geo Dyne) filed timely motions to intervene on February 7, 1983 and February 4, 1983 respectively. Since no answers in opposition to these motions to intervene have been filed, Davis and Geo Dyne are parties to this proceeding pursuant to Rule 214 of the Rules of Practice and Procedure.

Background

CIG, an insterstate pipeline, purchases gas produced from wells operated by Davis from Geo Dyne, a gatherer-reseller. Geo Dyne is the successor to another reseller, Baca Gathering Company (Baca). Baca negotiated for the subject production enhancement incentive price with Davis. CIG was not a party to the renegotiation process. CIG alleges that Davis' applications for production enhancement determination for the subject wells contained an "untrue statement of material fact" relied upon by Colorado or the Commission and "omitted a statement of material fact necessary in order to make the statements made not misleading, in light of the circumstances under which they were made" to Colorado or the Commission *See* § 275.205(a) of the regulations.

CIG alleges that when Davis renegotiated its contract with Baca, it agreed to pay Baca 50 percent of the difference between the section 107(c)(5) production enhancement ceiling price and the otherwise applicable contract price as a gathering and compression allowance. No such allowance was payable under the contract as it existed on November 9, 1978, the date of enactment of the NGPA. In their motions to intervene, both Davis and Geo Dyne confirmed that such an arrangement had been negotiated by Davis and Baca at the time they renegotiated the contract to provide for collection of the production enhancement incentive price. Section 107(b) of the NGPA requires that an incentive price set by the Commission under section 107(c)(5) be "necessary to provide reasonable incentives for the production of such high-cost gas." CIG argues that the payment by Davis of the gathering and compression fee, linked to the collection of the incentive ceiling rate, makes the full incentive price unnecessary to perform the production enhancement work since Davis, in effect, performed the work for only one-half of the price increase. CIG contends that these material facts were omitted from Davis' application for determination and additionally suggests that the oath statements required by § 274.205(f)(7) and (8) of the regulations are untrue in light of these facts.[2]

Davis answered that it met the tests set by the Commission's regulations implementing section 107(c)(5) and, therefore, the full incentive maximum lawful price is necessary. Davis secured

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[1] Baugman Farms No. 1-5 Well, JD No. 8222170; Burchfield No. 1-4 Well, JD No. 8222171; Ernsting No. 1-28 Well, JD No. 8222172; Farmer No. 1-34 Well, JD No. 8222173; Self No. 1-9 Well, JD No. 8222174.

[2] In order to help insure that the production enhancement incentive price is "necessary," § 274.205(f)(7) and (8) of the regulations require the applicant for a production enhancement incentive price to make several statements under oath, including, *inter alia:* "(f)(7)(iii) But for the availability of a price at least as high as the renegotiated price . . ., the production enhancement work would not have been or will not be performed; . . . (vi) The applicant has no knowledge of any other information not described in the application which is inconsistent with these statements. . . ."

a renegotiated contract price which allegedly meets the "unit cost cap" test as set out in Order No. 107.[3] It supplied the portion of the contract authorizing collection of the incentive price. The regulations do not specifically require further contract excerpts. Davis contends that the sworn statements are not misleading and fully conform with the regulations. In short, Davis argues that it has complied with the regulations and therefore it sees no cause for reopening. Furthermore, Davis argues that its agreement to pay a gathering and compression allowance is a discretionary use of its funds and is indistinguishable from using its proceeds to pay for other services.

Geo Dyne alleges, in its motion to intervene, that CIG instituted this proceeding to avoid payment of the higher incentive price which it is not now paying.[4] Geo Dyne fears that CIG ultimately is seeking a direct purchase contract with Davis. Geo Dyne requests that CIG be required to pay the section 107(c)(5) incentive price subject to refund pending the outcome of the reopening proceeding.

Finally, the determination of the "unit cost cap" in Davis' application was based on stated contract price of $.67 per Mcf. A review of the pleadings and accompanying documents in this docket failed to disclose a contract provision, in existence on the date of enactment of the NGPA, November 9, 1978, which provides contractual authority for Davis to collect $.67 per Mcf for its gas. The only contracts submitted indicate that the price on that date was $.21 per Mcf. No pre-enactment amendment increasing that price is in the current record. Post-enactment amendments to increase the price paid for the gas, aside from production enhancement renegotiation, would violate the pricing provisions of section 105 of the NGPA. Using the $.21 per Mcf rate as a base, and the section 109 price as the ceiling price, three of the wells, the Burchfield 1–4, Farmer 1–34 and Self 1–9, fail to meet the unit cost gas test established in § 271.704(c)(2).

[3] *See* § 271.704(c)(2). The unit cost cap test requires that the projected increase in revenues attributable solely to projected increase in production does not exceed a price in excess of 200 percent of the ceiling price for gas produced from new onshore production wells under NGPA section 103. At the prices listed by Davis on the Form 121 for the subject wells, the section 109 price satisfies the cost cap. As will be discussed *infra*, however, the contracts submitted by Davis include a lower price than that alleged. Three of the five wells would not qualify for the section 109 price based on this lower contract price.

[4] CIG's May 5, 1980 contract to purchase gas from Geo Dyne's predecessors provides, at section 5.1(a), that CIG shall pay maximum lawful prices.

Discussion

CIG alleges that, although Davis appears to have complied with the regulations in filing for the production enhancement price, Davis' arrangement with Geo Dyne appears contrary to the statutory requirement that a section 107(c)(5) incentive price be "necessary to provide reasonable incentives." The ability to scrutinize arrangements that are at least superficially in compliance with the Commission's regulations is part of the Commission's inherent powers to enforce and prevent circumvention of the NGPA. *See* section 2(21)(A)(v), 501(a), 504 and 601(c).

Reopening is warranted by the substantial issue of whether there were in fact untrue statements or omissions of material fact in Davis' determination filings which would have resulted in a different ruling by Colorado or the Commission. The additional possibility of a pricing discrepancy discovered by the Staff encourages us to reopen. Reopening will allow all parties, as well as the jurisdictional agency, to argue their respective position and will build a record enabling the Commission to make a reasoned decision on whether to vacate the determination.

The Commission therefore orders that the subject well category determinations are reopened pursuant to sections 501(a) and 503(d) of the NGPA and § 275.205 of the regulations so that the matters raised can be fully considered and appropriate action taken. Any additional facts or arguments or requests for hearing should be submitted to the Commission within 30 days after the publication of this order in the **Federal Register.**

By the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 83-23124 Filed 8-22-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP72-300-014]

Consolidated Gas Supply Corp., and Columbia Gas Transmission Corp.; Petition To Amend

August 19, 1983.

Take notice that on July 29, 1983, Consolidated Gas Supply Corporation (Consolidated), 445 West Main Street, Clarksburg, West Virginia 26301, and Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, filed in Docket No. CP72–300–014 a petition to amend the order issued October 24, 1972 (48 FPC 872), in Docket No. CP72–300, as amended, so as to authorize the exchange of natural gas between Petitioners at four additional delivery points, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

By order issued October 24, 1972, Petitioners were authorized to exchange natural gas at various delivery points. The amending orders of November 2, 1977, October 4, 1978, May 6, 1980, April 1, 1981, and February 25, 1982, authorized the exchange of natural gas between Petitioners at certain additional delivery points and the implementation of certain operational changes with respect to the exchange.

Petitioners request further amendment of the October 24, 1972, order, as amended, to authorize the addition of several new delivery points. First, Columbia proposes to deliver to Consolidated up to 100 Mcf of gas per day at an additional delivery point in Jackson County, West Virginia. The gas Columbia would deliver is local production which Columbia has arranged to purchase from an independent producer, it is indicated.

Second, Consolidated proposes that Columbia deliver to it up to 30 Mcf of gas per day in Wetzel County, West Virginia, in order that Hope Natural Gas Company, Consolidated's West Virginia distribution division, may serve existing consumers in the community of Reader, following the upgrading of Consolidated's near-by transmission facilities as authorized in Docket No. CP81–179–000.

Third, Columbia proposes that it deliver to Consolidated up to 18,000 Mcf of gas per day in Boone County, West Virginia, and, fourth, that Consolidated deliver to Columbia an equivalent amount of gas amount by displacement at a southerly point on the same line, in Wyoming County, West Virginia.

Finally, Petitioners propose to amend their exchange agreement by the deletion of certain language in order to reflect more clearly the current understanding between them.

Petitioners state that all necessary facilities would be constructed and operated under Consolidated's and Columbia's blanket certificates for routine activities.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 9, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and

Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-23126 Filed 8-22-83; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 5531-999, et al.]

Hydro Resources Co., et al.; Public Meeting

August 17, 1983.

The Federal Energy Regulatory Commission has before it a number of applications for hydropower development in the Hamma Hamma River Basin. In response to petitions to the Commission to consider the cumulative environmental effects of hydropower in the basin, the Commission staff will hold a public meeting from 1:00 p.m. to 4:00 p.m. on September 29, 1983, in Room 566 of the Federal Building at 915–2nd Avenue, Seattle, Washington.

The purpose of the meeting will be to determine the scope and validity of the issues involved. Emphasis will be upon technical verification of the various contentions. For example, what resource would be impacted by cumulative effects, where, how, and to what extent? Participants should be prepared to file written comments at the meeting or within two weeks thereafter. Written comments should be sent to Mr. Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. In order to coordinate the meeting and ensure that all verbal presentations are heard, all interested persons who wish to speak longer than 10 minutes should notify Marilyn Gossel at (202) 357–8020 at least seven days prior to the meeting.

For further information please contact Linda Lee, (202) 357–8486, or Marilyn Gossel, (202) 357–8020 or Frank Karwoski, (202) 376–1761.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-23120 Filed 8-22-83; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 3486-999, et al.]

Kittitas Public Utility District No. 1, et al.; Public Meeting

August 19, 1983.

The Federal Energy Regulatory Commission has before it a number of applications for hydropower development in the Yakima River Basin. In response to petitions to the Commission to consider the cumulative environmental effects of hydropower in the basin, the Commission staff will hold a public meeting at 1:00 p.m. on September 28, 1983, in the Yakima National Guard Armory Gym at 202 South Third Street, Yakima, Washington 98902.

The purpose of the meeting will be to determine the scope and validity of the issues involved. Emphasis will be upon technical verification of the various contentions. For example, what resource would be impacted by cumulative effects, where, how, and to what extent? Participants should be prepared to file written comments at the meeting or within two weeks thereafter. Written comments should be sent to Mr. Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. In order to coordinate the meeting and ensure that all verbal presentations are heard, all interested persons who wish to speak longer than 10 minutes should notify Marilyn Gossel at (202) 357–8020 at least seven days prior to the meeting.

For further information please contact Linda Lee (202) 357–8486, or Marilyn Gossel (202) 357–8020 or Frank Karwoski (202) 376–1761.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-23127 Filed 8-22-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-455-000]

Natural Gas Pipeline Company of America; Request Under Blanket Authorization

August 19, 1983.

Take notice that on August 4, 1983, Natural Gas Pipeline Company of America (Natural), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP83-455-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Natural proposes to construct and operate an additional sales tap under the authorization issued in Docket No. CP82-402-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission, and open to public inspection.

Natural proposes to construct and operate a new sales tap on the Calumet No. 3 lateral in Cook County, Illinois, necessary to deliver up to 900 Mcf of gas per day to its customer, The Peoples Light and Coke Company (Peoples), for resale to IKO Manufacturing. It is stated that the Calumet No. 3 is owned by Peoples and leased to Natural which operates the line as a part of its interstate system. It is further stated that Natural would install a 2-inch tap connection at an estimated cost of $11,000. Peoples would reimburse Natural for the cost of construction, it is averred. The proposed sales tap would not cause detriment or disadvantage to Natural's other customers, it is asserted. Volumes of gas delivered at this sales tap would be within the limitations of Peoples' existing entitlements and daily contract quantities under Rate Schedule DMQ-1, it is further asserted.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allwoed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-23128 Filed 8-22-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-448-000]

Northwest Central Pipeline Corp.; Request Under Blanket Authorization

August 19, 1983.

Take notice that on July 29, 1983, Northwest Central Pipeline Corporation (Northwest Central), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP83-448-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Northwest Central proposes to construct, and install a new delivery point in Hutchinson, Kansas, for sale and delivery of gas to The Gas Service Company (Gas Service), under

the authorization issued in Docket No. CP82-479-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request of file with the Commission and open to public inspection.

Northwest Central states Gas Service has requested this additional delivery point in order to serve better the area and to make a sale of gas to a sewage disposal plant operated by the city. It is stated that the projected delivery of gas through these facilities is less than 50,000 Mcf per year with a maximum peak load of 5 Mcf per hour at 25 psig. The estimated cost of these facilities is stated to be $5,620, which would be paid from treasury cash.

Nortwest Central states that this change is not prohibited by an existing tariff and it has sufficient capacity to accomplish the deliveries specified without detriment or disadvantage to its other customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allwoed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-23129 Filed 8-22-83; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 6617-999, et al.]

Olympus Energy Corp.; Public Meeting

August 17, 1983.

The Federal Energy Regulatory Commission has before it a number of applications for hydropower development in the Dungeness River Basin. In response to petitions to the Commission to consider the cumulative environmental effects of hydropower in the basin, the Commission staff will hold a public meeting from 4:00 p.m. to 6:30 p.m. on September 29, 1983, in Room 566 of the Federal Building at 915-2nd Avenue, Seattle, Washington.

The purpose of the meeting will be to determine the scope and validity of the issues involved. Emphasis will be upon technical verification of the various contentions. For example, what resource would be impacted by cumulative effects, where, how, and to what extent? Participants should be prepared to file written comments at the meeting or within two weeks thereafter. Written comments should be sent to Mr. Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. In order to coordinate the meeting and ensure that all verbal presentations are heard, all interested persons who wish to speak longer than 10 minutes should notify Marilyn Gossel at (202) 357-8020 at least seven days prior to the meeting.

For further information please contact Linda Lee (202) 357-8486, or Marilyn Gossel (202) 357-8020 or Frank Karwoski (202) 376-1761.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-23121 Filed 8-22-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-883-000]

Pacific Gas and Electric Co.; Filing

August 17, 1983

The filing Company submits the following:

Take notice that on August 16, 1983, Pacific Gas and Electric Company (PG&E) tendered for filing, as an initial rate schedule, a contract entitled "Interconnection Agreement Between Pacific Gas and Electric Company and Northern California Power Agency, City of Alameda, City of Biggs, City of Gridley, City of Healdsburg, City of Lodi, City of Lompoc, City of Palo Alto, City of Roseville, City of Ukiah, and Plumas Sierra Rural Electric Cooperative" ("the Interconnection Agreement").

PG&E states that the Interconnection Agreement which was executed on July 29, 1983, provides the Northern California Power Agency (NPCA) with firm and interruptible transmission service, partial requirements power, emergency power, maintenance power, short-term firm power, Geysers curtailment power and reserves, all pursuant to the terms and conditions specified in the Interconnection Agreement. The term of the Interconnection Agreement is 30 years from its effective date, unless terminated earlier on not less than three years advance written notice of termination by either PG&E or NCPA. In addition, PG&E, NCPA, the Cities of Alameda, Biggs, Gridley, Healdsburg, Lodi, Lompoc, Palo Alto, Roseville, Ukiah and the Plumas Sierra Rural Electric Cooperative ("NCPA Member Customers") have agreed to a comprehensive rate settlement conversing service under the Interconnection Agreement from the effective date of the Interconnection Agreement through December 31, 1985.

Copies of this filing were served upon the Public Utilities Commission of the State of California, the Northern California Power Agency, the Cities of Alameda, Biggs, Gridley, Healdsburg, Lodi, Lompoc, Palo Alto, Roseville and Ukiah, California, and the Plumas Sierra Rural Electric Cooperative.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 29, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-23110 Filed 8-22-83; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 135-99; et al.]

Portland General Electric Co., et al.; Public Meeting

August 19, 1983.

The Federal Energy Regulatory Commission has before it a number of applications for hydropower development in the Willamette River Basin. In response to petitions to the Commission to consider the cumulative environmental effects of hydropower in the basin, the Commission staff will hold a public meeting at 1:00 p.m.-5:00 p.m. on September 27, 1983, in the Auditorium of the Bonneville Power Administration Building at 1002 NE. Holiday Street, Portland, Oregon.

The purpose of this meeting will be to detemine the scope and validity of the issues involved. Emphasis will be upon technical verficiation of the various contentions. For example, what resource would be impacted by cumulative effects, where, how, and to what extent? Participants should be prepard to file

written comments at the meeting or within two weeks thereafter. Written comments should be sent to Mr. Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. In order to coordinate the meeting and ensure that all verbal presentations are heard, all interested persons who wish to speak longer than 10 minutes should notify David Boergers at (202) 357–8422 at least seven days prior to the meeting.

For further information please contact David Boergers, (202) 357–8492; Joseph Vasapoli, (202) 357–5630; or Ron McKitrick, (202) 376–9061.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-23130 Filed 8-22-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83–451–000]

Southern Natural Gas Co.; Request Under Blanket Authorization

August 19, 1983.

Take notice that on August 1, 1983, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP83–451–000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Southern proposes to abandon certain lateral facilities located in Floyd County, Georgia, under the authorization issued in Docket No. CP82–406–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Southern states that it currently is replacing a segment of its 6–inch Rome Calhoun Lateral Line in Floyd County, Georgia, and that the replacement of this section, however, isolates Southern's Rome No. 3 Meter Station and its Shannon Meter Station located in Floyd County, Georgia, from its main pipeline facilities. Southern states that to enable Southern to continue to deliver gas to these stations during the subject replacement operations, Southern requested The Water, Light and Sinking Fund Commission of the City of Dalton, Georgia (Dalton), to accept certain additional quantities of gas for transportation at Southern's Dalton No. 1 Meter Station and to redeliver said quantities of gas at a temporary point of interconnection installed by Southern in the immediate vicinity of the Shannon Meter Station. It is explained that Dalton agreed to perform this transportation service for Southern and that to effectuate the transportation arrangment, Southern installed certain temporary lateral and related facilities to interconnect the pipeline facilities of Southern and Dalton near Southern's Shannon Meter Station. Once the replacement operations are completed, Southern proposes to abandon by removal the subject lateral and related facilities.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commision, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-23131 Filed 8-22-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83–456–000]

Southern Natural Gas Co.; Application

August 19, 1983.

Take notice that on August 4, 1983, Southern Natural Gas Company (Applicant), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP83–456–000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon certain compressor units and appurtenant facilities located at Applicant's Lacombe Compressor Station (Lacombe) in St. Tammany Parish, Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to abandon the compression and certain appurtenant facilities located at its Lacombe Compressor Station including, specifically, three 2,500 horsepower Cooper-Bessemer aircraft-type jet turbine-driven centrifugal compressor units, engine foundations and miscellaneous valves and piping. Applicant explains that because of the decline in deliverability from reserves located upstream of Lacombe, the subject compressor units are no longer required by Applicant to transport the quantities of gas available to Applicant on the east leg of its South Louisiana Supply System, the portion of Applicant's system affected by this abandonment application. Applicant states that the abandonment of the facilities as proposed would enable Applicant to reduce its operation and maintenance costs without affecting the salable capacity of Applicant's pipeline system. Applicant further asserts that the third unit for which Applicant requests abandonment authorization would be relocated at Applicant's McConnells Compressor Station (McConnells) in Tuscaloosa County, Alabama, where Applicant plans to install the unit solely for use by Applicant as a standby unit on occasions when the 2,500 Cooper-Bessemer aircraft-type jet turbine-driven centrifugal compressor unit presently located at McConnells become inoperative.

Applicant proposes to retain and continue to utilize certain gas scrubbing equipment, liquid storage tanks and appurtenant facilities which are presently located at Lacombe for the removal of liquids accumulating in its pipeline system upstream of Lacombe.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 9, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferrd upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience

and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-23132 Filed 8-22-83; 8:45 am]
BILLING CODE 6717-01-M

[Project Nos. 7212-000, et al.]

Town of Sultan, Washington, et al.; Public Meeting

August 19, 1983.

The Federal Energy Regulatory Commission has before it a number of applications for hydropower development in the Wenatchee River Basin. In response to petitions to the Commission to consider the cumulative environmental effects of hydropower in the basin, the Commission staff will hold a public meeting from 9:00 a.m. to 12:00 noon on September 28, 1983, in the Yakima National Guard Armory Gym at 202 South Third Street, Yakima, Washington 98902.

The purpose of the meeting will be to determine the scope and validity of the issues involved. Emphasis will be upon technical verification of the various contentions. For example, what resource would be impacted by cumulative effects, where, how, and to what extent? Participants should be prepared to file written comments at the meeting or within two weeks thereafter. Written comments should be sent to Mr. Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. In order to coordinate the meeting and ensure that all verbal presentations are heard, all interested persons who wish to speak longer than 10 minutes should notify Marilyn Gossel at (202) 357-8020 at least seven days prior to the meeting.

For further information please contact Linda Lee (202) 357-8486, or Marilyn Gossel (202) 357-8020 or Frank Karwoski (202) 376-1761.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-23134 Filed 8-22-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP83-121-000]

Texas Gas Pipe Line Corp.; Notice of Filing

August 18, 1983.

Take notice that on August 5, 1983, Texas Gas Pipe Line Corporation (Texas Gas) tendered for filing, pursuant to Sections 154.26, 154.38, 154.51 of the Commission's Regulations, copies of its FERC Gas Tariff, Second Revised Volume No. 1, pages 19 through 25, to be effective December 24, 1980, which is the issue date of FERC order granting to Texas Gas an exemption status as concerns incremental accounting per the regulations. Pages 23, 24 and 25 have been reserved for future contingencies.

Texas Gas states that the revised pages are tendered for filing as a result of the Order exempting Texas Gas from incremental accounting. These pages have had the incremental accounting language deleted therefrom. Consistent with the instructions within the order, potential incremental cost data is furnished to its customers monthly.

Texas Gas also states that copies of the filing have been furnished to the purchasers under this tariff.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before August 31, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-23133 Filed 8-22-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP83-443-000]

Trunkline LNG Co.; Application

August 19, 1983.

Take notice that on July 25, 1983, Trunkline LNG Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP83-443-000 an application pursuant to Section 3 of the Natural Gas Act for authorization to import liquefied natural gas (LNG) from Algeria pursuant to a first amendment, dated August 6, 1982, as revised July 3, 1983, to the contract of sale and purchase of LNG (supply agreement), dated September 17, 1975, between Applicant and L'Enterprise Nationale SONATRACH (Sonatrach), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that the principal changes proposed by this amendment are (1) a reduction of the annual contract quantities for the first two contract years subject to being taken in the third through tenth contract years, which Applicant asserts would substantially reduce the take-or-pay obligations for the period April, 1983, through November 30, 1984; (2) permanent revisions of the supply agreement to provide more flexible terms for make-up of any volumes paid for but not taken, including lengthening the make-up period from three to five years; and (3) change of the formula for adjustments of the price of LNG FOB Algeria to reflect, on a quarterly basis, any increase or decrease in the official posted prices of a basket of five foreign crude oils as compared to the third quarter of 1982.

It is explained that under the first amendment the annual contract quantities of 45 billion thermies that must be taken or paid for are reduced by 40 percent over the twenty-month period from April 1, 1983, through the end of the second contract year on November 30, 1984. Thus, the annual contract quantities are reduced to 33 billion thermies for the first contract year ending November 1983 and to 27 billion thermies for the second contract year.

The total reduction of 30 billion thermies, it is stated, is rescheduled to be taken as promptly as possible over the third through tenth contract years, from December 1984 through November 1992, after the annual contract quantity and any make-up for prior years have been taken first. Additionally, Applicant asserts, the general provisions for make-up of any annual quantities paid for but not taken are liberalized in three ways. First, the make-up period is extended from three to five years. Second, Sonatrach agrees to use its best efforts to supply any requests by Applicant for make-up quantities in addition to those permitted by the original terms of the supply agreement.

It is further explained that the first amendment provides that FOB price of $3.92 per MMBtu that was in effect on December 23, 1982, under the unrevised Article VIII of the supply agreement shall be increased or decreased at the beginning of each calendar quarter thereafter to reflect, dollar for dollar, any change in the daily average of the

official posted prices for a basket of five foreign crude oils between the third quarter of 1982 and the quarter of a calendar year immediately prior to the quarter for which the price is being established. Applicant explains that in the simplest approximate terms, the revised pricing formula yields an FOB LNG price change of 17 cents per MMBtu for each $1.00 per barrel change in the price of crude oil.

Amendment No. 1 also establishes a permanent mechanism to give retroactive effect, after the governmental approvals of implementation, to any revisions of the contract pricing formula pursuant to Article XXIV. After any revision is approved and implemented there is to be a further retroactive payment or a refund of the difference between the revenues collected under the to-be-changed provisions and those which would have been charged under the pending revision, plus interest at the prime rate.

There are two changes to the terms for transportation of LNG by Sonatrach vessels. First, Applicant has undertaken the responsibility of furnishing the marine transportation for the make-up quantities and the present reductions will not affect the continued use of the three Algerian vessels during the reduction period, Applicant asserts. Second, by separate letter agreement dated August 6, 1982, Sonatrach had agreed to a reduction of its shipping charges by advancing the date for termination of the accrual of unavoidable costs to November 1, 1981, from December 1, 1982.

Applicant alleges that these revisions are significant in providing much greater and more realistic ability to make-up any take-or-pay payments and in adding the requirement that the parties negotiate in good faith on any request for further rescheduling of the annual quantities on a best-efforts basis. Further, the agreed upon changes respond favorably to each of the outstanding concerns of the Commission and the Economic Regulatory Administration and will better serve, it is alleged, the public interest through a price reduction and a rescheduling of deliveries to better fit the short-term excess and long-term absence of supply.

In addition, Applicant states, that it revoked the provisions of Article XXIV of the supply agreement, seeking a revision in the base price of the LNG supply from Sonatrach to reflect market conditions in the United States.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 9, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-23135 Filed 8-22-83; 8:45 am]

BILLING CODE 6717-01-M

Office of Energy Research

Energy Research Advisory Board Light Water Reactor Safety R&D Panel; Open Meeting

Notice is hereby given of the following meeting:

Name: Light Water Reactor R&D Panel of the Energy Research Advisory Board (ERAB).

Date and Time: September 15–16, 1982 from 9 a.m. to 5 p.m.

Place: U.S. Department of Energy, 1000 Independence Avenue, SW Room 5E–081, Washington, DC 20585.

Contact: Charles E. Cathey, U.S. Department of Energy, Office of Energy Research (ER–6), 1000 Independence Avenue, SW, Washington, DC 20585, Telephone: 202/252–8933.

Purpose of the Parent Board: To advise the Department of Energy on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.

Tentative Agenda:

- A presentation by DOE office of Nuclear Energy on the above topic
- A presentation by General Electric Company staff on the above topic
- Assignment of work to Panel members
- Public coment (10 minute rule)

Public Participation: The meeting is open to the public. Written statements may be filed with the Panel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Charles E. Cathey at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on August 17, 1983.

James S. Kane,

Deputy Director Office of Energy Research.

[FR Doc. 83-23035 Filed 8-22-83; 8:45 am]

BILLING CODE 6450-01-M

Western Area Power Administration

Loveland-Fort Collins Area; Proposed Post-1989 General Power Marketing Criteria

AGENCY: Department of Energy, Western Area Power Administration.

ACTION: Publication of the Proposed Post-1989 General Power Marketing Criteria, Announcement of Public Information and Public Comment Forums on the Proposed Marketing Criteria, and Final Request for Applicant Profile Data.

SUMMARY: On February 18, 1982, the Loveland-Fort Collins Area (LFCA) of the Western Area Power Administration (Western) held the first public information meeting to discuss criteria for the marketing of Federal hydroelectric power resources by the LFCA beginning no later than the 1989–90 winter season. Interested persons were requested to submit written comments by March 20, 1982, and data concerning their loads and resources by April 8, 1982.

Customer comments and load resources data have been analyzed, and a Proposed General Power Marketing Criteria for the Pick-Sloan Missouri Basin Program-Western Division (P–SMBP–WD) and the Fryingpan-Arkansas Project (Fry-Ark) is published herein. In the proposed criteria Western would operationally integrate and contractually consolidate the two LFCA projects identified above. The financial payback of the two projects would remain independent. Notice is given that the August 30, 1982, power marketing plan for sale of P–SMBP–WD excess capacity, and the June 23, 1981, power marketing plan for the Fry-Ark project will be superseded.

DATES: A public information forum will be held on September 8, 1983, at which the proposed marketing criteria will be explained in greater detail. Interested persons will be permitted to ask questions concerning the proposal; questions which cannot be answered at the meeting will be answered in writing within a reasonable time.

Persons wishing to comment in writing on the proposal must do so on or before November 15, 1983. A public comment forum at which persons may orally present their views about the proposed criteria will be held on October 4, 1983. Those wishing to comment at the forum should submit a written request to the Area Manager by September 28, 1983, so that a speakers list can be developed. The forum will be transcribed and copies will be available upon request from the firm providing the service. Applicant profile data must be submitted to Western on or before November 15, 1983, by those interested in obtaining an allocation of power and energy from the LFCA.

Locations: The public information meeting will be held on September 8, 1983, beginning at 9:30 a.m., in the Marabella Room of the Holiday Inn Denver-Northglenn, located north of Denver at the intersection of I–25 and 120th Avenue (Exit 233).

The public comment forum will be held on October 4, 1983, beginning at 9:30 a.m., in the Marabella Room of the Holiday Inn Denver-Northglenn.

ADDRESSES: Applicant profile data, written comments on the proposed criteria, and requests to make oral statements at the public comment forum should be sent to:

Mr. Peter G. Ungerman, Area Manager, Loveland-Fort Collins Area Office, Western Area Power Administration, P.O. Box 3700, Loveland, CO 80539, Phone: (303) 224–7201.

Further information concerning the public forums may also be obtained from Mr. Ungerman.

Copies of comments by interested parties will be available at the following Western offices after November 25, 1983.

Director, Division of Marketing and Rates, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401, Phone: (303) 231–1545; and

Loveland-Fort Collins Area Office, Western Area Power Administration, P.O. Box 3700, Loveland, CO 80539, Phone: (303) 224–7201.

SUPPLEMENTARY INFORMATION:

1. Statutory Basis of Marketing Criteria

These Proposed General Power Marketing Criteria are based upon the provisions of the Act of Congress approved June 17, 1902 (32 Stat. 388), the Act of Congress approved August 4, 1939 (53 Stat. 1187), the Act of Congress approved December 22, 1944 (58 Stat. 887), the Act of Congress approved August 16, 1962 (76 Stat. 389), the Act of Congress approved August 4, 1977 (91 Stat. 565), and acts amending or supplementing the foregoing legislation.

2. Background

Western was established, on December 21, 1977, to administer the transmission and power marketing activities which had previously been performed by the Bureau of Reclamation in 15 Western States. The Loveland-Fort Collins Area Office markets power generated at 18 powerplants situated in Colorado, Wyoming, and Montana. All but one of these powerplants comprise the P–SMBP–WD power system; the remaining powerplant is the principal power feature of the Fry-Ark.

Most of the contracts for the sale of power and energy from these projects expire at the end of the 1989 summer billing season; therefore, Western is proposing these criteria for marketing power beginning no later than the 1989–90 winter season. Western anticipates that the final LFCA Post-1989 General Power Marketing Criteria will be completed by the end of 1983, and that allocations will be completed and contracts ready to be signed by allottees in 1984.

During the first public information meeting on February 18, 1982, Western identified the major elements to be included in a marketing criteria and various options being considered for each. We further discussed issues related to the decisions to be made on those options. The proposals offered in these criteria have evolved from those original options modified and supplemented by public comment, refinement of hydrologic studies, review of applicable legislation, and review of historical power marketing policies. In the evolution of these proposals, Western has been guided by the following basic principles:

(1) Full compliance with applicable law.

(2) Achievement of the widest practicable, beneficial use of the resources available.

(3) Full and equal opportunity for all eligible preference entities to participate.

3. Major Features of the Proposed Post-1989 General Power Marketing Criteria

a. *Resources To Be Allocated.* The resources to be allocated by the LFCA are based upon operational integration of existing resources plus planned additions and upratings of the P–SMVP–WD and Fry-Ark generation resources scheduled for completion prior to the 1989 winter season. Operational integration of these resources was presented as option 5c discussed in the February 18, 1982, public information meeting.

Operational integration and contractual consolidation of the P–SMBP–WD and Fry-Ark Project resources permit more efficient utilization of the Federal generation resources in coordination with preference customers' thermal generation and promotes the objective of most widespread and beneficial use of the LFCA Federal power.

The P–SMBP–WD and Fry-Ark Projects would retain its separate financial obligations for repayment. A blended rate for LFCA power would be set to recover revenues sufficient to meet repayment requirements of the separate projects.

The operationally integrated resources available and the classes of service to be offered therefrom are set forth in pages 4 and 5 of Appendix A to the Proposed General Power Marketing Criteria published herewith. Contractual arrangements with allottees will provide for pro-rata sharing of resource deficiencies until all units which comprise the resource base are declared to be in commercial operation.

The operationally integrated generation capacity available for marketing is the combined generation capacity of the P–SMBP–WD at 90 percent probability level plus Fry-Ark generation capacity, less generation reserves based on the largest single hazard. The energy production capability of the operationally integrated Federal system is that available in an average water year.

The classes of service to be made available from these resources are:

(1) *Long-Term Firm Power With Energy.* The LFCA proposes to offer generation capacity based upon 90 percent probability. Firm generation capacity in excess of that available under most adverse water conditions would be purchased on a pass-through-cost basis, when and to the extent that LFCA generation capacity is not available, unless a contractor advises LFCA not to purchase on its behalf. The total amount of available firm

generation capacity and the portion subject to firming purchases on a pass-through-cost basis are set forth in the proposed criteria.

Firm energy production would be based on average hydrological conditions forecasted to occur during the contract term.

An alternative class of service, to be considered in the public process, is based upon purchase of energy to increase the load factor capability of the Federal resource from 36.5 percent and 35.8 percent summer and winter season respectively, to 41.3 percent and 41.8 percent.

Appendix A, pages 4 and 5, shows this generation capacity and energy production capability to be allocated with this class of service. Appendix A, page 5A, shows the energy to be allocated with this alternative class of service. Purchase cost incurred in meeting energy commitments would also be on a pass-through-cost basis for customers requesting this service.

(2) *Short-Term Power With or Without Energy.* To the extent that annual streamflow conditions and reservoir operation result in the production of a greater amount of generation capacity than is committeed on a long-term basis, short-term power with or without energy will normally be offered for sale on a season-by-season or monthly basis. Such offers will be for firm power without energy, or with the return of energy. This power and/or energy may be used in a resource coordination program.

In addition to marketing the above classes of power, the LFCA will engage in other transactions such as regulation service, delivering or receiving interchange, emergency assistance, or maintenance services to the extent water and power resources permit. In order to conserve fossil fuels, enhance the environment, and ensure the availability to preference customers of contracted amounts of power and energy, the LFCA will purchase or exchange power and energy as necessary or desirable to supplement its resources. Nonfirm energy service may be available as a result of these purchases or exchanges.

b. *LFCA Market Area.* The market area for power from the P–SMBP–WD and the Fry-Ark shall be coincident and expanded to include that portion of the State of Kansas within the Missouri River Basin and Colorado, east of the Continental Divide. In previous allocations, the portion of the State of Kansas located in the Missouri river Basin and portions of Colorado east of the Continental Divide have been precluded due to lack of Federal transmission or wheeling arrangement over non-Federal transmission in the area. In the interests of ensuring equitable opportunity for all eligible preference entities to secure the benefits of Federal hydropower, we will no longer confine the marketing area to those areas served by Federal transmission or existing wheeling contracts with non-Federal entities.

c. *Service Seasons.* The service seasons are as follows:

(1) *Summer Season.* The 6-month period from the first day of the April billing period through the last day of the September billing period in any calendar year.

(2) *Winter Season.* The 6-month period from the first day of the October billing period of any calendar year through the last day of the March billing period of the next succeeding calendar year.

d. *Eligibility.* Potential new preference customers must demonstrate by January 1, 1984, that they have met Western's qualifying criteria, which is detailed in the accompanying proposed criteria. Priorities for allocations of LFCA power and energy are also set forth in the accompanying General Power Marketing Criteria.

e. *Allocation Criteria.* The total power and energy available from operational integration of the two projects shall be segmented in a reservation for existing customers and new customers. The ratio of existing customer energy entitlement to total available energy will be the basis for segmenting available power and energy.

(1) *Existing Customers.* The *energy* reserved for existing customers shall be allocated in proportion to each existing customer's existing long-term firm power contract rate of delivery (CROD). Once the energy allocations are established, each allottee will have an opportunity to request power based upon its individual load characteristic. If there is insufficient generation capacity in the reservation to this group to satisfy all of the capacity requested, LFCA may limit power entitlement to the seasonal plant factor of the resources.

(2) *New Customers.* The *energy* reserved for eligible new customer applicants shall be allocated in proportion to their average energy consumption in a recent 3-year period. Once the energy allocations are established, each allottee will have an opportunity to request power based upon its individual load characteristic. If there is insufficient generation capacity in this reservation to this group to satisfy all of the power requested, LFCA may limit capacity entitlement to the seasonal plant factor of the resources. New customer seasonal energy entitlement will be limited to that energy associated with 5 MW of power at the seasonal load factor capability of the resources to be allocated.

The Administrator may deviate from this allocation criteria when special circumstances warrants it. Complete allocation criteria are set forth in the General Power Marketing Criteria published herewith.

f. *Contract Arrangements.* The major provisions of the contract arrangements are listed below. A detailed list of the contract arrangements are set forth in the General Power Marketing Criteria.

(1) Allottees will have 6 months to accept an offered contract or until September 30, 1985, whichever is later, and must have the means to distribute power prior to September 30, 1988.

(2) *Delivery Conditions.* Delivery of LFCA power will normally be made on the P–SMBP–WD transmission system at transmission voltages. On a case-by-case basis, delivery may continue to be made at lower voltages.

Transmission beyond the P–SMBP–WD transmission system shall be the responsibility of the customer.

(3) *Scheduling Requirements.* All customers will be required to maintain a minimum schedule to meet downstream water release requirement, and to permit purchase of energy as necessary to meet LFCA obligations. The minimum scheduling requirements are detailed in the General Power Marketing Criteria published herewith.

(4) Contractors will be required to develop a conservation and renewable energy program; may sell surplus energy to Western upon mutually agreeable terms; will be entitled to fixed, maximum monthly amounts of capacity and energy; and will be subject to other specified delivery conditions.

To be eligible to be considered for an allocation of power and energy from the P–SMBP–WD and Fry-Ark under the final marketing plan, those interested utilities not having already done so, must furnish applicant profile data to the Loveland-Fort Collins Area Manager on or before November 15, 1983. This data will be utilized for other purposes as well. The content and format of the requested data were published in the **Federal Register** dated February 10, 1982, and is revised as shown. Those utilities which have already responded should note that the load data described in 3 b, c, and d must be resubmitted to reflect the revised base years.

Applicant Profile Data

1. *Eligibility.* A statement of eligibility as a preference customer under Reclamation Law and pertinent statutes, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)).

2. *Organization.* A brief description of the organization that will interact with Western on contract and billing matters.

3. *Loads.* a. Number and type of customers served: residential, commercial, industry, military base, and agricultural.

b. Monthly maximum demand and energy use for 1980, 1981, and 1982 versus CROD for Federal power.

c. Seasonal load duration curves for summer and winter seasons for 1980, 1981, and 1982 for the total system load or hourly load data for producing such load duration curves.

d. Average annual seasonal and monthly load factors for the total system for 1980–1982.

e. Projected load factors and monthly power and energy Demand 1983–2010 Period. Indicate forecasting method and basic assumptions.

4. *Resources.* a. List of operating generating resources, if any, including capacity, locations, and 1982 availability factor.

b. Estimated percent of total supply received from Western, 1983–1989.

c. Status of power supply contracts with parties other than Western.

5. *Transmission.* a. Voltage of service required and possible delivery points.

b. A brief description of the type of transmission service being requested of Western, direct or wheeled.

6. *Renewable Resources and Cogeneration Projects.* a. List of future firm and planned resources, if any, including generation capacity, location, scheduled operation date, and expected average annual lifetime capacity factor.

b. Estimated busbar cost (cent/kWh) of each project in 1983 dollars.

c. As appropriate, proposed plans for wheeling to Western's system.

7. The name, address, and telephone number of a person from the consulting firm used, if any.

8. Any other information the applicant desires to include.

9. The signature and title of an appropriate official who is able to attest to the validity of the data submitted and who would be authorized to submit an application for power.

Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 et seq.), each agency, when required by 5 U.S.C. 553 to publish a proposed rule, is further required to prepare and make available for public comment an initial regulatory flexibility analysis to describe the impact of the proposed rule on small entities. In this instance, the marketing plan relates to electric services provided by Western. Under 5 U.S.C. 601(2), services are not considered "rules" within the meaning of the Act. Therefore, Western believes that no flexibility analysis is required.

Environmental Evaluation

In compliance with the National Environmental Policy Act of 1969 (NEPA) and the Department of Energy (DOE) regulations published in the Federal Register on February 23, 1982 (47 FR 7976), Western conducts environmental evaluations of certain rate and allocation actions. Under the DOE regulations, Western will make an evaluation and determination of the possible environmental impacts of the proposed marketing plan. A memorandum will be prepared explaining the basis for that determination and an administrative determination will be made of what level documentation under NEPA is required.

Determination Under Executive Order 12291

The Department of Energy has determined that this is not a major role because it does not meet the criteria of section 1(b) of Executive Order 12291, 46 FR 13193 (February 19, 1981). Western has an exemption from sections 3, 4, and 7 of Executive Order 12291.

The Proposed General Power Marketing Criteria for the LFCA is published herewith.

Issued in Golden, Colorado, August 17, 1983.

Robert L. McPhail,

Administrator.

Proposed General Power Marketing Criteria for the Loveland-Fort Collins Area, Western Area Power Administration, U.S. Department of Energy, August 1983

Part I. General

A. Applicability

These criteria are based upon the provisions of the Act of Congress approved June 17, 1902 (32 Stat. 388), the Act of Congress approved August 4, 1939 (53 Stat. 1187), the Act of Congress approved December 22, 1944 (58 Stat. 887), the Act of Congress approved August 16, 1962 (76 Stat. 389), the Act of Congress approved August 4, 1977 (91 Stat. 565), and acts amending or supplementing the foregoing legislation. These criteria shall become effective upon approval and promulgation by the Administrator of the Western Area Power Administration (Western) and will apply to all Federal power marketed by Western's Loveland-Fort Collins Area other than power from the Colorado River Storage Project. Existing contract arrangements will only be affected upon amendment by the parties. On the first day of the October 1989 billing period, these criteria will supersede and replace the power marketing plan for the sale of excess capacity in the Pick-Sloan Missouri Basin Program-Western Division (P–SMBP–WD) effective August 30, 1982, and the Fryingpan-Arkansas Project (Fry-Ark) power marketing plan for the sale of power from the Mt. Elbert pumped-storage powerplant of the Fry-Ark Project effective June 23, 1981.

These criteria are subject to change upon reasonable notice by the Administrator and the opportunity for comment by interested parties.

B. Marketable Resources

1. *P–SMBP–WD Resources.* The Loveland-Fort Collins Area (LFCA) markets power generated at 17 P–SMBP–WD powerplants situated in Colorado, Wyoming, and Montana. The generation capacity and energy production capability of these resources are:

	Summer	Winter
Capacity (kW):		
Generation capacity based on 90 percent probability	557,000	484,000
Generation capacity based on most adverse water	519,000	453,000
Energy (MWh):		
Energy production based on average year water less project pumping use	1,225,809	970,800

2. *Fry-Ark Project Resources.* The Mt. Elbert Powerplant, with two 100 NW reversible pump/turbines, comprises the power feature of the Fry-Ark Project. The generation capacity and energy production capacity of these units are:

	Summer	Winter
Capacity (kW)	200,000	200,000
Energy (MWh)	27,596.4	36,154.3
Pumped Storage Energy (MWh) [1]	2,800	2,800

[1] MWh available each time the reservoir is refilled: 3,920 MWh of return energy is required to refill the reservoir.

3. *Operationally Integrated Resources.* More effective utilization of the individual resources of the P–SMBP–WD system and the Fry-Ark resources can be achieved by operationally integrating the two projects. For instance, reserves can be shared, and the Fry-Ark flow-through water can be used to increase the plant factor of Federal generation resources. The marketable resource available by operationally integrating the projects as opposed to marketing each project separately is presented below.

	Summer	Winter
Generation Capacity (kW) [1]	729,200	600,300
Energy Production (MWh) [2]	1,169,983.4	939,468.8
Pumped Storage Energy (MWh) [3]	2,800	2,800

[1] Adjusted for reserves at the integrated level.
[2] Adjusted for losses.
[3] Capacity utilization may be increased by use of pumped storage energy. At the beginning of the contract period each

customer shall be deemed to have 4.7 kWh/kW of such pumping energy in an energy account and may schedule energy into and out of such account. 1.4 kWh must be scheduled into the account for every kWh delivered. The account may never exceed 4.7 kWh/kW in the winter season and must be restored to that level at the end of each winter season. At the beginning of each summer season each customer will be deemed to have 3.8 kWh/kW in the energy account. The account may never exceed 3.8 kWh/kW in the summer season, and must be restored to that level at the end of each summer season. The account may never become negative. The rate of energy scheduled into the account may not exceed 1.4 times the customer's Contract Rate of Delivery (CROD) divided by the total of all customers' CROD times 200,000 kW without prior permission of the LFCA operations office.

4. *Future Projects.* New or revised marketing criteria will be developed as necessary when presently unidentified Federal generation resources are made available.

Part II. Marketing Criteria for LFCA Projects

A. Market Area

The market area for power from the LFCA shall be the portion of the States of Wyoming and Colorado east of the Continental Divide, the portion of the State of Nebraska west of the 101st Meridian, and the portion of the State of Kansas located in the Missouri River Basin.

In previous allocations, the portion of the State of Kansas located in the Missouri River Basin and portions of Colorado east of the Continental Divide have been precluded due to lack of Federal transmission of wheeling arrangement over non-Federal transmission in the area. In the interests of ensuring equitable opportunity for all eligible preference entities to secure the benefits of Federal hydropower, we will no longer confine the marketing area to those areas served by Federal transmission or existing wheeling contracts with non-Federal entities.

B. Service Seasons

1. *Summer Season.* The 6-month period from the first day of the April billing period through the last day of the September billing period in any calendar year.

2. *Winter Season.* The 6-month period from the first day of the October billing period of any calendar year through the last day of the March billing period of the next succeeding calendar year.

C. Classes of Service

The classes of service to be offered by the LFCA are based upon operational integration of the P–SMBP–WD resources and the Fry-Ark resources.

1. *Long-Term Power With Energy.* The LFCA proposes to offer generation capacity based upon 90 percent probability. Firm generation capacity in excess of that available under most adverse water conditions would be purchased on a pass-through-cost basis, when and to the extent that LFCA generation capacity is not available, unless a contractor advises LFCA not to purchase on its behalf. The total amount of available firm generation capacity and the portion subject to firming purchases on a pass-through-cost basis are set forth in the Appendix A.

Firm energy production would be based on average hydrological conditions forecasted to occur during the contract term. Appendix A, pages 4 and 5, respectively, shows this generation capacity and energy production capability to be allocated with this class of service. Pumped storage energy as described in part I, B 3 above is included in this class of service.

Western will consider an alternative class of service which is the same as that described above except that Western will allocate an additional 307,822,000 kWh of energy. Appendix A, page 5A, details the at-plant energy including purchases.

Western will also consider an alternative to purchase, on behalf of those who desire such service, offpeak energy required for maintenance of customer's pumped-storage energy account.

Purchase cost incurred in meeting energy commitments would also be on a pass-through-cost basis for customers desiring the service.

2. *Short-Term Power With or Without Energy.* To the extent that annual streamflow conditions and reservoir operations result in the production of a greater amount of generation capacity than is committed on a long-term basis, short-term capacity with or without energy will normally be offered for sale on a season-by-season or monthly basis. Such offers will be for firm power without energy or with the return of energy. This power and/or energy may be used in a resource coordination program.

3. *Other Services.* In addition to marketing the above classes of power, the LFCA will engage in other transactions such as regulation services, delivering or receiving interchange, emergency assistance, or maintenance services to the extent water and power resources permit. In order to conserve fossil fuels, enhance the environment, and ensure the availability to preference customers of contracted amounts of power and energy, the LFCA will purchase or exchange power and energy as necessary or desirable to supplement its resources. Nonfirm energy service may be available as a result of these purchases or exchanges.

D. Derivation of Marketable Resources

1. *Derivation of P–SMBP–WD Marketable Resources.* Western and the Bureau of Reclamation (Bureau) have conducted a series of joint studies related to quantifying post-1989 water system's operations and the corresponding capabilities of the P–SMBP–WD power system, including its capability for hydrothermal integration. This summary describes the methodology and procedures for defining and quantifying the power resources of the P–SMBP–WD for the post–1989 time period.

At-Plant Capability Basis for Existing Allocations. The current firm power allocations established in 1962 were based on the Bureau's 1956 hydrology study. The results of that study are summarized on line 1, page 2 of Appendix A. After considering losses and pumping requirements, the average year energy production capability was 1,880 gigawatthours. Based on the projected load pattern of its preference customers at that time, the Bureau determined that this average year energy production capability would support 384,000 kW of firm power allocation in the summer season and 346,000 kW of firm power allocations in the winter season. The customer was required to schedule his Federal entitlement as a proportionate share of his total load. The proportionate share was determined by the ratio of his seasonal CROD to his seasonal peak demand.

From 1962 until 1983, the difference between the firm generation capacity allocated and the actual available generation capacity was marketed on a seasonal basis.

Since the Bureau's 1956 hydrology study and the 1962 allocation, there have been many changes in the P–SMBP–WD system. Customer loads and customer load patterns have changed substantially. A small portion of the 1962 allocations have been returned by customers. The impending expiration of existing contracts and the requirement to develop a post-1989 marketing plan in conjunction with these changes and proposed further changes before 1989 prompted the need for an update of the 1956 Bureau hydrology study.

After several meetings, LFCA, the Bureau, and Western's Headquarters Power Resources Division determine that three levels of study effort were required.The first level was an update of the 1956 study assuming initial water conditions and the system configuration existing in 1980. The second level of effort was a followup of the 1980 update to quantify the hydrothermal integration capability of the P–SMBP–WD system. The purpose of that effort was to provide the hydrological and load obligation basis for marketing unallocated firm generation capacity and energy production capability between 1983 and 1989.

Following the second level study, 79,000 kW of generation capacity in the summer season and 72,000 kW of generation capacity in the winter season were allotted to the LFCA resource coordination program through 1989. This generation capacity, together with non-Federal energy supplied by resource coordination program participants, was allocated to preference customers in 1982. The total capacity allocated through the 1989 summer season now is 459,667 kW in the summer season and 415,632 kW in the winter season. The total energy obligation associated with this generation capacity is 1,880,000 MWh/year.

At-Plant Capability for Projected 1990 Conditions. The third level of study effort established among LFCA, the Bureau, and Western's Headquarters Power Resources Division was a long-term hydrology study using a projected 1990 system configuration and an update of the hydrothermal integration capability reflecting 1990 conditions. Line 3, page 2 of Appendix A summarizes the results of this effort and is the basis for determining the P–SMBP–WD resource to be allocated in the post-1989 time period.

Line 2, page 2 of Appendix A is a summary of the additions and deletions to the at-plant capability since the 1962 allocations.

The P–SMBP–WD generation capacity and energy production capabilities as described abpve are subject to completion of the Shoshone Project modifications, water from the Windy Gap Project, as well as various upgrades scheduled for completion before 1989. They are further subject to additional project use designations by the Bureau.

3. *Derivation of Fry-Ark Resources.* The Fry-Ark resources available were computed by Western's Headquarters Power Resource Division based upon a 1974 Bureau study which determined average inflows available for energy production at the Mt. Elbert Powerplant.

3. *Derivation of Marketable Resources from Operational Integration of P-SMBP-WD and Fry-Ark Resources.* Page 5 of Appendix A shows the monthly at-plant and at load energy production capability of the operationally integrated P-SMBP-WD and the Fry-Ark resources.

Page 4, column 4 of Appendix A shows the marketable generation capacity of the operationally integrated resources.

The operationally integrated resource available for marketing is the integrated generation capacity of Federal resources minus necessary reserves. Marketed with this capacity is the energy production capability of the Federal system in an average water year.

E. Eligibility Requirements

Resources from the P-SMBP-WD will be allocated in accordance with the preference provisions of Reclamation Law in the following order of priority:

1. Preference entities within the LFCA market area.

2. Preference entities outside the LFCA market area.

3. Nonpreference entities.

These priorities may be recognized by a pricing differential in the sale of nonfirm energy.

The following requirements must be met in order to be eligible for an allocation of resources from the LFCA:

(a) Each potential new customer must have had a 1982 load greater than 100 kilowatts.

(b) On or before January 1, 1984, each potential applicant must be:

(1) A utility, primarily engaged in retail sales of electricity, with responsibility for the load to be served; or

(2) A utility, primarily engaged in wholesale sales, that is qualified for an allocation, as described below; or

(3) A Federal or State ultimate-consumer type load, including such loads of subdivisions of State government whose use enhances the available Federal power resources; or

(4) An existing LFCA contractor for long-term firm power.

Wholesale utilities, such as generation and transmission cooperatives, municipal joint action agencies, or incorporated power or transmission projects (which, like Western, are primarily wholesalers of power without end-customer deliveries) will be eligible for allocations of power and energy under this plan if the Administrator concludes that the following objectives will be achieved:

(a) The benefits of federally financed power are distributed at the lowest possible rates to consumers consistent with sound business principles.

(b) That consumers can identify their true power supply costs from all sources (including Federal) such that true costs of growth and benefits of conservation are readily identifiable.

(c) That "accountability" for the cost and management of the Federal investment is directly linked between the power marketing agency and the retailing utility. Further, a retailing utility should be able to identify cost and other significant characteristics of each of its wholesale supplies.

Part III. Allocation of Marketable Resources

A. Basis of Allocation

To ensure widespread distribution of the benefit of Federal power, the LFCA proposes to segment the LFCA net resources into two parts representing a reservation for new customers and a reservation for existing customers. Existing customers are defined as those eligible applicants in the marketing area described in Part II A. herein who have a contract for power and/or energy from the P-SMBP-WD or Fry-Ark generation resources as of July 15, 1984. These reservations are detailed on page 6 of Appendix A. The generation capacity and energy production reservations for existing customers are based upon the ratio of 1,869,000 MWh currently available to existing customers to the total energy available for allocation.

1. *Allocation Criteria for New Customers.* The *energy* reserved for eligible new customer applicants shall be allocated in proportion to their average energy consumption in a recent 3-year period.

Applicants may request power with their energy entitlement to reflect their individual system characteristics. If there is insufficient power reserved for this group to satisfy applicants' requests, the United States may limit the power allocated, but not below the load factor represented by the relationship of energy reserved to this group to the power reserved for this group, which is 36.5 percent in the summer and 35.8 percent in the winter season. In the event that the class of service is based on the purchased power alternative, the power allocated may be limited to 41.3 percent in the summer and 41.8 percent in the winter season. New customers may not receive a seasonal allocation of energy greater than the energy associated with 5 MW of capacity at the seasonal load factors specified above.

Any energy or power reserved for new customers which are not subscribed for by members of this group or which are available due to the 5 MW limitation may be administratively allocated to alleviate inequities in existing customer allocations, or allocated to Federal agencies in the interests of reducing the Federal deficit.

2. *Allocation Criteria for Existing Customers.* The *energy* reserved for existing customers shall be allocated in proportion to each existing customer's existing long term firm CROD. If eligibility for an allocation is confined to utilities operating at the retail level, the existing allocations to wholesaling utilities must be distributed among retailing members of the joint action group previously holding the allocation. The members of such wholesaling utilities will be allowed to determine how such distribution shall be made.

In the event that the membership fails to agree on a distribution, Western will make the determination based upon allocations prior to the assignment of individual allocations to such wholesaling utilities, or if that information is unavailable, on the basis of some appropriate year's load data for the individual members.

Once the energy allocations are established, each allottee will be allowed to request power with such energy based upon its individual load characteristic. If there is insufficient power in the reservation for that group to satisfy all of the power requests, Western may limit the power entitlement, but not below a 36.5 percent load factor in the summer season, and 35.8 percent load factor in the winter season. In the event that the class of service is based on the purchased power alternative, the power allocated may be limited to 41.3 percent load factor in the summer and 41.8 percent load factor in the winter season.

B. *Limit on Allocations.* No applicant shall receive an allocation of LFCA power such that its total post-1989 Federal firm power entitlements from combined Federal sources exceeds its average peak demands for 1980, 1981, and 1982. No applicant shall receive an allocation larger than that for which it applies.

C. *Reallocations.* Firm power and energy available for marketing because an allocation has been withdrawn or a contract terminated may be administratively reallocated.

The Administrator may deviate from these criteria when special conditions warrant it.

Part IV. Contract Arrangements

Qualified preference entities receiving an allocation are entitled to contract for the allocated resources. Western will offer a contract based on these criteria. Upon acceptance of a contract, the allottee becomes a preference customer.

Allottees will have 6 months to accept the offered contract or until September 30, 1985, whichever is later, and must have the means to distribute power no later than September 30, 1988.

A. General Contract Terms

1. *Effective Date and Term of Contract.* Existing contracts will be allowed to expire by their own terms. Contracts offered for the sale of newly allocated long-term power with energy will become effective on the first day of the October 1989 billing period (or upon expiration of existing contracts, if later), and will terminate on the last day of the September 1989 billing period. Said contracts will implement the Conservation and Renewable Energy (C&RE) Article within 1 year of the date of execution of the contract.

2. *Scheduling and Accounting Procedure.*

(a) *Scheduling.* Western and the preference customers will establish mutually agreeable scheduling and accounting procedures, based upon standard utility industry practices, which will provide efficient, practicable utilization of power and energy. These procedures will be set forth in the LFCA contracts or in separate written agreements made a part thereof.

Fixed monthly power and energy delivery obligations for each season shall be set forth in each customer's power sales contract. These amounts will be determined in accordance with the estimated monthly

pattern of the operationally integrated resource and are listed on pages 4 and 5, respectively, of Appendix A. LFCA's power obligation for any given hour will be limited to the actual power scheduled during that hour; i.e., customers will not be entitled to claim unscheduled firm power as their operating reserve capacity.

The monthly energy obligations may be increasd from time-to-time should short-term conditions allow. If the established limit is increased for any month, it may be decreased in the corresponding month in future seasons; but in no event shall it be decreased below the amount set forth on page 4 of Appendix A. LFCA will purchase firming energy for those customers desiring it, on a pass-through cost basis, up to the amount of LFCA's contractual obligation to provide energy.

All firm power service customers will be required to maintain a minimum power schedule in order to meet water release constraints and permit offpeak purchase of energy required to meet total United States energy obligations. The minimum shedule requirement may be changed as necessary to meet changing water release constraints and seasonal variation in hydrological conditions.

The monthly minimum percentage of each customer's CROD entitlement which must be scheduled for both classes of service alternatives is as follows:

Winter Season		Summer Season	
No purchased energy alternative	Purchased energy alternative	No purchased energy alternative	Purchased energy alternative
Oct. 20	34	Apr. 29	31
Nov. 20	35	May 20	31
Dec. 22	37	Jun. 24	37
Jan. 22	36	Jul. 31	43
Feb. 18	32	Aug. 24	35
Mar. 18	31	Sep. 17	27

(b) *Accounting.* The amounts of power and/or energy to be paid for by the customer will be determined in accordance with the accounting procedures set forth in the contracts, or in separate written agreements made a part thereof, and need not be the monthly power and energy obligations. Said accounting procedures will include procedures for determining amounts of power and energy delivered to the customer at each point of delivery or point of use and shall establish amounts of Federal power delivered over the P–SMBP–WD transmission system to each customer at each point of delivery.

If there are parallel paths between points of delivery, billing will be on a coincidental basis, otherwise billing at multiple points of delivery will be on a noncoincidental basis.

Power and energy will be billed at a blended rate to recover the revenue requirements of both the P–SMBP–WD and Fry-Ark Projects.

If the class of service alternative is based on purchased energy, 88 percent of the customer's summer energy entitlement will be at the approved blended energy rate. The balance will be at pass-through rates, and 86 percent of the customer's winter energy entitlement will be at the approved blended energy rate. The balance will be at pass-through rates.

The cost of firming capacity and energy purchased in order to meet the contractual obligation to deliver the LFCA projects capacity and energy to customers in each fiscal year shall be the average cost of such capacity and energy purchased in the LFCA during the fiscal year. These costs shall be accrued during the fiscal year in which they are incurred. To the extent they were not anticipated and collected during the same fiscal year, they will be billed to customers during the following fiscal year or portion thereof, as LFCA deems appropriate, along with the regular monthly power bill. Except that if the necessary revolving funds or appropriations are not available to LFCA, trust funds will be established prior to LFCA's expenditures for purchasing firming capacity and energy.

3. *Delivery Conditions.* (a) *LFCA Power and Energy Deliveries on the P–SMBP–WD System.* Subject to Western approval as to location and voltage, normal delivery will be made at the P–SMBP–WD transmission system voltages. delivery may continue to be made at voltages lower than 34.5-kV at powerplant and substation locations on the P–SMBP–WD transmission system where customers already have deliveries operating at such lower levels.

Western will have no obligation to furnish additional facilities or to increase transmission or transformer capabilities of the P–SMBP–WD system. Modifications to existing facilities and alternate or additional delivery points requested by the contractors may be permitted at the discretion of Western. Requests for taps will be considered on a case-by-case basis.

(b) *Other Federal Power and Energy Deliveries on the P–SMBP–WD System.* Western will transmit Federal power and energy other than P–SMBP–WD and Fry-Ark power and energy over the P–SMBP–WD transmission system to the extent that capacity is determined to be available. The customer will pay for such service at the standard rates for P–SMBP–WD transmission service.

(c) *Delivery Beyond the P–SMBP–WD System.* All costs, including losses, for delivery of power and energy beyond the P–SMBP–WD system shall be borne by the customer. Instances where additional transmission line capacity is required to effect delivery beyond the P–SMBP–WD system will be considered as individual cases to be justified on their own merits. The following alternatives are available to customers for accomplishing delivery of LFCA Federal power beyond the P–SMBP–WD system.

(1) The customer or customers may build all facilities to accept delivery at the established voltage on the P–SMBP–WD system in which case the customer will pay the standard P–SMBP–WD rates for power.

(2) Arrangements may be made with a third party to wheel and deliver power from the P–SMBP–WD system to a customer's point of use. Such arrangements may be made by Western, the customer, or by a group of customers. If Western makes the wheeling arrangements, Western will add a surcharge to the customer's billing to recover the costs thereof. If the customer makes its own wheeling arrangements, the customer will pay the wheeling charges directly to the wheeling agent.

(3) Western may construct the transmission line facilities required beyond the P–SMBP–WD system. The costs of facilities constructed by Western shall be borne by beneficiaries thereof.

4. *Conservation and Renewable Energy (C&RE) Program.* The development of a C&RE Program is a responsibility of each preference customer benefiting from the purchase of long-term federally-generated power. An "Announcement of Final Guidelines and Acceptance Criteria for Customer Conservation and Renewable Energy Programs" was published in the **Federal Register** (46 FR 56140) on November 13, 1981. In order to achieve the purposes listed therein, Western will guide and assist the preference customer in the development of its C&RE program, as requested and to the extent possible. Failure to develop a program that meets the criteria for acceptance by Western may result in a 10 percent reduction in Western's allocation to the customer.

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MAXIMUM CAPACITY AT PLANT
BASED ON BUREAU MAINTENANCE SCHEDULE
(MW)

Page 1

Appendix A

	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP
Green Mtn.	5.0	5.0	4.0	4.0	5.0	5.0	6.0	20.0	26.0	26.0	26.0	26.0
Mary's Lake	8.1	8.1	8.1	8.1	8.1	8.1	8.1	8.1	0.0	8.1	8.1	8.1
Estes	51.8	34.4	51.8	51.8	51.8	51.8	51.8	51.8	34.4	51.8	51.8	51.8
Pole Hill	35.0	35.0	35.0	35.0	35.0	35.0	35.0	0.0	35.0	35.0	35.0	35.0
Flatiron 1&2	42.3	42.3	84.6	84.6	84.6	84.6	84.6	84.6	84.6	84.6	84.6	84.6
Flatiron 3	0.0	0.0	0.0	0.0	0.0	0.0	8.5	8.5	8.5	8.5	7.0	0.0
Big Thompson	0.0	0.0	0.0	0.0	0.0	5.2	5.2	5.2	5.2	5.2	5.2	5.2
Seminoe	45.0	45.0	42.0	39.0	36.0	33.0	24.0	30.0	45.0	45.0	45.0	30.0
Kortes	28.0	39.0	26.0	26.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
Fremont	48.0	50.0	52.0	54.0	32.0	32.0	56.0	54.0	54.0	52.0	52.0	50.0
Alcova	40.0	20.0	20.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0
Glenda	0.0	0.0	0.0	0.0	0.0	0.0	38.0	38.0	38.0	38.0	38.0	38.0
Guernsey	0.0	0.0	0.0	0.0	0.0	0.0	6.4	6.4	6.4	6.4	6.4	6.4
Heart Mtn.	6.0	6.0	6.0	6.0	6.0	0.0	6.0	6.0	6.0	6.0	6.0	6.0
Boysen	6.0	12.0	11.0	5.0	10.0	9.0	9.0	10.0	13.0	17.0	17.0	12.0
Yellowtail	71.9	143.8	143.8	143.8	143.8	143.8	143.8	143.8	143.8	143.8	143.8	143.8
Buffalo Bill (Shoshone)	3.0	3.0	3.0	3.0	3.0	3.0	3.0	21.0	21.0	21.0	21.0	21.0
Pilot Butte	0.0	0.0	0.0	0.0	0.0	0.0	1.8	1.8	1.8	1.8	1.8	1.8
TOTAL (P-SMBP-WD)	388.1	443.6	487.3	500.3	494.3	484.3	526.0	603.2	601.7	629.2	627.7	598.7
CAP. AT 90%	404.0	477.0	483.0	478.0	466.0	480.0	467.0	497.0	517.0	552.0	531.0	508.0
UNINTEGRATED P-SMBP-WD RESERVES	35.3	40.3	44.3	45.5	44.9	44.0	46.7	49.7	51.7	55.7	53.1	50.5
UNINTEGRATED P-SMBP-WD MARKETABLE CAPACITY	352.8	403.3	443.0	454.8	449.4	440.3	463.0	497.0	517.0	557.0	531.0	506.0
Mt. Elbert (Fry-Ark)	200.0	200.0	200.0	200.0	200.0	200.0	200.0	100.0	200.0	200.0	200.0	200.0
MAX AVAILABLE CAPACITY	588.1	643.6	687.3	700.3	694.3	684.3	726.0	703.2	801.7	829.2	827.7	798.7
CAP. AT 90%	604.0	677.0	683.0	678.0	666.0	680.0	667.0	597.0	717.0	752.0	731.0	705.0

P-SMBP-WD MARKETABLE RESOURCES

Page 2

Appendix A

		Installed Capacity (kW)	Maximum Capacity (kW)	Summer Peaking Capacity (kW)	Winter Peaking Capacity (kW)	Short Term Capacity (kW)	Average Summer Energy (MWh)	Average Winter Energy (MWh)	Average Yearly Energy (MWh)
1	Basis for 1962 Allocations	492,350		485,900	419,600				1,068,000
2	Increase/Decrease	109,050		71,100	64,400				
3	At Plant Capability 1990 Conditions	601,400	641,200 629,200 /4	557,000 /1 519,000 /2	484,000 /1 453,000 /2	84,200 72,200	1,225,600 /3	970,800 /3	2,196,400 /3

/1 90% Probability capacity from Table 8 Task No. 2 Report dated June 1983

/2 99% Probability capacity under most adverse water conditions

/3 Based on average year water from Table 10 Task No. 2 Report dated June 1983

/4 Practical maximum under anticipated hydrologic conditions

FRYINGPAN-ARKANSAS PROJECT

Page 3

MARKETABLE RESOURCES

Appendix A

	CAPACITY (MW)	FLOW-THROUGH ENERGY (MWH)
OCT	200	6,295.9
NOV	200	6,107.4
DEC	200	6,032.0
JAN	200	5,994.3
FEB	200	5,805.8
MAR	200	5,918.9
		36,154.3
APR	200	5,240.3
MAY	100 /1	1,281.8
JUN	200	4,410.9
JUL	200	5,956.6
AUG	200	5,843.5
SEP	200	4,863.3
		27,596.4

/1 Based on proposed maintenance schedule to be approved by Bureau of Reclamation. (Each 100 MW will have maintenance performed for 2 weeks each)

CAPACITY with OPERATIONAL INTEGRATION of P-SMBP-MD AND FRY-ARK

Page 4

Appendix A

	MAXIMUM AVAILABLE CAPACITY /1 (KW)	CAPACITY AT 90% PROBABILITY /1 (KW)	RESERVES REQUIRED /2 (KW)	MARKETABLE CAPACITY /3 (KW)	% MAXIMUM
OCT	588,100	684,000	100,000	488,100	81.3
NOV	643,600	677,000	100,000	543,600	90.6
DEC	687,300	683,000	100,000	587,300	97.8
JAN	700,300	678,000	100,000	600,300	100
FEB	694,300	666,000	100,000	594,300	99.0
MAR	684,300	680,000	100,000	584,300	97.3
APR	726,000	667,000	100,000	626,000	85.8
MAY	703,200	597,000	100,000	597,000	81.9
JUN	801,700	717,000	100,000	701,700	96.2
JUL	829,200	757,000	100,000	729,200	100
AUG	827,700	731,000	100,000	727,700	99.8
SEP	798,700	705,000	100,000	698,700	95.8

/1 From page 1, Appendix A

/2 One generating unit at Mt. Elbert

/3 Minimum of [Column 1 - Column 3,,or Column 2]

ENERGY CAPABILITY
OPERATIONAL INTEGRATION OF
P-SMBP-WD AND FRY-ARK
(MWH)

Page 5

Appendix A

	AT PLANT ENERGY P-SMBP-WD /1	AT PLANT ENERGY FRY-ARK /2	AT PLANT TOTAL ENERGY	TOTAL ENERGY AT LOAD
OCT	164,100	6,295.9	170,395.9	158,960.3
NOV	164,500	6,107.4	170,607.4	159,174.4
DEC	179,700	6,032.0	185,732.0	173,312.9
JAN	175,100	5,994.3	181,094.3	168,980.2
FEB	137,200	5,805.8	143,005.8	133.391.9
MAR	150,200	5,918.9	156,118.9	145,642.1
	970,800	36,154.3	1,006,954.3	939,469.8
APR	177,600	5,240.3	182,840.3	170,645.6
MAY	191,600	1,281.8	192,881.8	180,206.3
JUN	216,200	4,410.9	220,610.9	205,982.1
JUL	269,500	5,956.6	275,456.6	257,171.0
AUG	214,500	5,843.5	220,343.5	205,668.4
SEPT	156,200	4,863.3	161,063.3	150,310.0
	1,225,600	27,596.4	1,253,196.4	1,169,983.4
TOTAL	2,196,400	63,750.7	2,260,150.7	2,109,453.2

/1 From Table 10 Task No. 2 Report

/2 A6300 based on 1974 Long Term Hydrology Study performed by Bureau of Reclamation

ENERGY CAPABILITY
WITH OPERATIONAL INTEGRATION OF
P-SMBP-WD AND FRY-ARK AND
WITH PURCHASED ENERGY INCLUDED
(MWH)

Page 5A

Appendix A

	AT PLANT P-SMBP-WD ENERGY	AT PLANT FRY-ARK FLOW-THROUGH	AT PLANT PURCHASED ENERGY	AT PLANT TOTAL ENERGY	TOTAL ENERGY AT LOAD
OCT	164,100	6,295.9	27,897.9	198,293.8	185,041.1
NOV	164,500	6,107.4	30,324.3	200,931.7	187,514.9
DEC	179,700	6,032.0	28,931.7	214,663.7	200,351.9
JAN	175,100	5,994.3	27,204.8	208,299.1	194,405.3
FEB	137,200	5,805.8	26,854.2	169,860.0	158,489.3
MAR	150,200	5,918.9	25,758.4	181,877.3	169,715.3
TOTAL	970,800	36,154.3	166,971.3	1,173,925.6	1,095,517.8
APR	177,600	5,240.3	27,856.6	210,696.9	196,679.8
MAY	191,600	1,281.8	25,826.6	218,708.4	204,343.4
JUN	216,200	4,410.9	30,985.2	251,596.1	234,940.3
JUL	269,500	5,956.6	28,631.6	304,088.2	283,930.0
AUG	214,500	5,843.5	25,573.5	245,917.0	229,568.9
SEP	156,200	4,863.3	23,524.7	184,588.0	172,295.7
TOTAL	1,225,600	27,596.4	162,398.2	1,415,594.6	1,321,758.1
TOTAL	2,196,400	63,750.7	329,369.5	2,589,520.2	2,417,275.9

PROPOSED RESERVATION
OF
RESOURCE

Page 6

Appendix A

	Winter		Summer		Year
	Capacity /5 (kW)	Energy /6 (MWh)	Capacity /5 (kW)	Energy /6 (MWh)	Energy (MWh)
New Customers	70,988.4	111,096.9	86,231.5	138,356.3	249,453.2 /3
Existing Customers /1	529,311.6	828,372.9	642,968.5	1,031,627.1	1,860,000
TOTALS	600,300 /4	939,469.8 /2	729,200 /4	1,169,983.4 /2	2,109,453.2

/1 This includes unexpiring capacity contracts of 3,077 kW in summer season and 157 kW in winter season.

/2 Energy production capability on page 5 less losses.

/3 Difference of total energy reserved for existing customers, page 2, Appendix A and total annual energy available.

/4 From page 4, Appendix A.

/5 Capacity reservations are the product of the total seasonal capacity and the ratio of customer energy reservation to the total annual energy.

/6 Energy reservations are the product of the total seasonal energy and the ratio of customer energy reservation to the total annual energy.

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Salt Lake City Area; Proposed Post-1989 General Power Marketing Criteria

AGENCY: Department of Energy, Western Area Power Administration.

ACTION: Publication of the Proposed Post-1989 General Power Marketing Criteria and Announcement of Public Information and Comment Forums on the Proposed Criteria and Final Request for Applicant Profile Data.

SUMMARY: The Western Area Power Administration (Western) has been developing a new marketing criteria for the Colorado River Storage Project (CRSP), Collbran, Provo River, and Rio Grande Projects since the initial public information forum was held on May 22, 1980, in Salt Lake City, Utah. In the proposed criteria, Western would contractually consolidate and operationally integrate the four Salt Lake City Area (SLCA) projects identified above, hereinafter called the SLCA Integrated Projects. Each of the four projects would retain its separate financial obligations for repayment, but a SLCA Integrated Projects rate would be set to recover revenues to meet the repayment requirements of all projects. The post-1989 marketing plan for the Falcon and Amistad Projects has already been implemented and power from these resources placed under contract. The Proposed General Power Marketing Criteria for the SLCA Integrated Projects is published herein. Notice is hereby given that the February 9, 1978, General Power Marketing Criteria for the Colorado River Project will be superseded. A public information forum to discuss the new criteria is scheduled for Wednesday, September 7, 1983, at 9:30 a.m. at the Hotel Utah (Grand Ballroom I) in Salt Lake City, Utah. A public comment forum is scheduled for Wednesday, October 5, 1983, at 9:30 a.m. at the Hotel Utah (Grand Ballroom III). A brief description of the projects included in the SLCA Integrated Projects follows.

Colorado River Storage Project and Participating Projects (Glen Canyon, Flaming Gorge, Blue Mesa, Crystal, Morrow Point, and Fontenelle Powerplants). Authorized in 1956, the CRSP initiated the comprehensive development and use of water resources of the Upper Colorado River. CRSP storage units stabilize the erratic flows of the Colorado River and its tributaries so that annual water delivery commitments to the Lower Colorado River Basin, as well as to farmers, municipalities, and industries in the Upper Basin, can be met. Delivery of this water to consumers is accomplished through the participating projects. Several participating projects have been completed, one of which has a powerplant (Fontenelle), and others, such as the Central Utah Project, are under construction. Additional development is expected in future years.

Initial generation began in 1963. The maximum operating capacity of the six powerplants is currently about 1,550 MW. The adjusted average annual generation over the 11-year period from 1972 through 1982 was about 5,588,000 MWh. An adjustment was made to properly reflect generation at the Crystal Powerplant since 1978. These resources are being marketed to about 100 customers and many additional member systems. Existing contracts, with one exception, will terminate at the end of the September 1989 billing period. It terminates on November 25, 1991.

Collbran Project (Upper Molina and Lower Molina Powerplants). Authorized in 1952 and in service since 1962, the output of the Collbran Project is sold to one customer. The maximum operating capacity of the two powerplants is presently 14.0 MW. The average annual

generation over the 18-year period from 1965 through 1982 was 53,300 MWh. The existing contract terminates at the end of the September 1989 billing period.

Rio Grande Project (Elephant Butte Powerplant). The Rio Grande Project was authorized in 1905, and the powerplant went into service in 1940. The maximum operating capacity of the Elephant Butte Powerplant is 27.0 MW. The average annual generation was 60,700 MWh for the 41-year period from 1941 through 1981. Rio Grande resources are marketed to two customers. The existing sales contracts terminate on September 30, 1989.

Provo River Project (Deer Creek Powerplant). The Deer Creek Powerplant was authorized on August 20, 1951, completed in 1958, and began generation the same year. The maximum operating capacity of Deer Creek Powerplant is about 5.0 MW and the average annual energy production for the 24-year period from 1958 through 1981 was 25,600 MWh.

A contract dated December 20, 1938, among the United States, the Provo River Water Users Association, Weber River Water User's Association, and Utah Power & Light Company (Company) is terminable only by the mutual consent of the parties. Articles 15 and 16 of the contract provide for the concurrent replacement of capacity and energy losses experienced by the Company as a result of the diversion of Weber River water to the Provo River, that would otherwise have been used by the Company to generate power at their hydroplant on the Weber River. However, the Company has accepted available generation from the Deer Creek Powerplant for a period, usually a month at a time, as satisfactory replacement of the losses experienced. The diversions are made from October 15 to April 15. CRSP has purchased the remaining output, except for power sales to the two small project-related loads at the dam site which generally total less than 100 MWh a year.

DATES: The public information forum will be held on September 7, 1983, beginning at 9:30 a.m. at the Hotel Utah (Grand Ballroom I) in Salt Lake City, Utah. Western's representatives will explain the proposals and answer questions at the public information forum. Responses to questions unanswered at the forum will be provided in writing within a reasonable period of time. The public comment forum will be held on October 5, 1983, beginning at 9:30 a.m. at the Hotel Utah (Grand Ballroom III) in Salt Lake City, Utah. An opportunity will be given all interested parties to present written or oral statements at the public comment forum. Those wishing to comment at the forum should submit a written request to the Area Manager by September 28, 1983, so a speaker list can be developed. The forums will be transcribed and copies will be available upon request from the firm providing the service. Applicant profile data *must* be submitted to Western on or before November 15, 1983, by those interested in obtaining an allocation of capacity and energy from the SLCA Integrated Projects which have not already provided the data. Written comments may be submitted to Western on or before November 15, 1983.

ADDRESS: Applicant profile data, written comments on the proposed criteria and marketing plan, and requests to make oral statements at the public comment forum should be sent to: Mr. Albert M. Gabiola, Area Manager, Salt Lake City Area Office, Western Area Power Administration, P.O. Box 11606, Salt Lake City, UT 84147, Telephone: (801) 524-6372.

Further information concerning the public forums may also be obtained from Mr. Gabiola.

Copies of comments by interested parties will be available in the following Western offices after November 25, 1983:

Boulder City Area Office, Western Area Power Administration, P.O. Box 200, Boulder City, NV 89005
Loveland-Fort Collins Area Office, Western Area Power Administration, P.O. Box 3700, Loveland, CO 80539
Salt Lake City Area Office, Western Area Power Administration, P.O. Box 11606, Salt Lake City, UT 84147
Western Area Power Administration, P.O. Box 3402, Golden, CO 80401

SUPPLEMENTARY INFORMATION: The major features of the proposed post-1989 marketing plan are listed below:

1. Resources from the Colorado River Storage Project, Collbran, Provo River, and Rio Grande Projects shown in Appendix A to the proposed criteria would be allocated for a 10-year period ending September 1999. Existing resources plus capacity available from the uprating of the Glen Canyon Units will be allocated. A 10-year period has been chosen because more firm capacity can be committed for 10 years than for a longer period. An option has been included providing for the withdrawal of resources from the Southern Division in 1999. This would result in a reallocation at that time. New or revised marketing criteria would be developed as necessary when additional Federal power resources are made available.

2. The contractual consolidation and operational integration of the Colorado River Storage, Rio Grande, Collbran, and Provo River Projects would result in increased long-term firm capacity for preference customers. Repayment requirements would be determined separately for each project, but a common rate would be established for the SLCA Integrated Projects. Preliminary power repayment studies indicate that the composite rate would increase the CRSP rate by about 0.1 mill, and would significantly reduce the Collbran and Rio Grande rates—about 10 and 20 mills, respectively. Provo River is not presently marketed separately and therefore does not have an established commercial rate. While existing Collbran and Rio Grande contractors would retain an equivalent amount of capacity now available from those projects, the additional marketable capacity and a small amount of energy would be redistributed among other customers.

3. The SLCA Integrated Projects' market area through September 1999 would be the same as the existing market area for the CRSP, except for that portion of California east of 115° longitude, formerly included in the Southern Division, which has been removed from the market area in this proposed criteria.

If the option to withdraw SLCA resources from the Southern Division in 1999 is selected, the market area for these resources would be the same as the existing Northern Division described in the proposed criteria. Many existing customers from both the Northern and Southern Divisions have indicated that the CRSP resource should not be withdrawn from the Southern Division. This option is being considered in response to the suggestion that the overlap of marketing areas for Colorado River resources should be eliminated.

4. One class of service, long-term firm capacity with energy, would be offered for each of two 6-month seasons on a long-term 10-year basis.

5. The summer season would be from April through September and the remaining 6 months would be the winter season.

6. Long-term firm capacity would be based on the maximum operating capacity at Collbran, Rio Grande and Provo River Powerplants. It would be based on 90 percent hydrological probability at CRSP powerplants. Firm capacity in excess of that available under the most adverse hydrological conditions would be purchased on a pass-through-cost basis when and to the extent that the SLCA Integrated Projects

capacity is not available, unless a contractor advises Western not to purchase capacity on its behalf. The total amount of available firm capacity and the portion subject to firming purchases on a pass-through-cost basis are set forth in the Appendix A to the proposed criteria.

7. Firm energy would be based on average hydrological conditions, forecasted to occur during the contract term. Western is considering an option to obligate long-term firm energy at a level that exceeds that based on average hydrological conditions by about 400 GWh. Purchase costs incurred in meeting energy commitments would also be on a pass-through-cost basis to those customers desiring such service. Purchase requirements would be somewhat offset by utilization of energy reserved for project use loads until such time as these loads are fully developed.

8. Project generated surpluses would be sold under terms and conditions established at the time the surpluses occur. Surpluses include both capacity and energy in excess of long-term commitments. The Salt Lake City Area would continue to purchase or exchange capacity and energy; engage in transactions such as delivering or receiving interchange, emergency service, and maintenance services; participate in various resource coordination and joint transmission programs; and provide for the use of its transmission facilities.

9. Power reserved for project use purposes was deducted prior to prorating available CRSP resources between the Northern and Southern Divisions. The Southern Division's share would be 20 percent of the marketable resources from CRSP in the summer and 7 percent in the winter, through September 1999. The determination of an appropriate level for project use is still a matter of discussion between Western and the Bureau of Reclamation. In the event those estimates are changed, the marketable capacity and/or energy for preference customers will also change. Power reserved for project uses will be marketed on a short-term basis until required for project purposes.

10. Existing and potential new preference customers would have until January 1, 1984, to demonstrate that they are eligible to participate in the allocation process, based on the eligibility requirements detailed in the accompanying proposed criteria.

11. To ensure widespread and equitable distribution of the benefits of Federal power, a portion of the available capacity and energy for preference customers in the Salt Lake City Area of the Northern Division in each season (about 5 to 10 percent) will be reserved for new customers and existing customers who were entitled to less than 25 percent of their average energy requirements during 1980–1982 from Federal resources that were committed on a long-term basis.

12. Energy would be proportionately allocated among eligible existing customers in the Northern and Southern Divisions on the basis of existing long-term firm capacity entitlements, excluding peaking capacity. If an existing wholesaling utility customer does not qualify for an allocation, the existing commitment to that wholesaling utility would be distributed among its retailing members. The members of such wholesaling utilities will be allowed to determine how such distribution should be made. In the event that the membership fails to agree on a distribution, Western will make the determination based upon allocations prior to the assignment of individual allocations to such wholesaling utilities, or if that information is unavailable, on the basis of some appropriate year load data for the individual members.

Once the energy allocations are established, each allottee will have an opportunity to request capacity to go with the energy based upon his individual load characteristic. If there is insufficient capacity in the reservation for that group to satisfy all of the capacity requested, Western may limit the capacity entitlement to a load factor that is equal to the estimated seasonal plant factor of the resource. The Administrator may deviate from the application of this allocation criteria when special circumstances warrant it.

13. Allottees would have 6 months to accept an offered contract or until September 30, 1985, whichever is later, and must have the means to distribute power by September 30, 1988.

14. Contractors would be required to develop a conservation and renewable energy (C&RE) program; may sell surplus energy to Western upon mutually agreeable terms; would be entitled to fixed, maximum monthly amounts of capacity and energy; would have minimum monthly schedule obligations; and would be subject to other specified delivery conditions. The C&RE article of the contract would be implemented within a year after the execution of the contract.

To be eligible to be considered for an allocation of capacity and energy from the SLCA Integrated Projects under the final marketing plan, those interested utilities not having already done so *must* furnish applicant profile data to the Salt Lake City Area Manager on or before November 15, 1983. This data will be utilized for other purposes as well. The content and format of the requested data was published in the **Federal Register** dated February 4, 1983, and is repeated below:

Applicant Proifile Data

1. *Eligiblity.* A statement of eligibility as a preference customer under Reclamation Law and pertinent statutes, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)).

2. *Organization.* A brief description of the organization that will interact with Western on contract and billing matters.

3. *Loads.* a. Number and type of customers served: residential, commercial, industrial, military base, and agricultural.

b. Monthly maximum demand and energy use for 1980, 1981, and 1982 versus contract rates of delivery for Federal power.

c. Seasonal load duration curves for summer and winter seasons for 1980, 1981, and 1982 for the total system load or hourly load data for producing such load duration curves.

d. Average annual seasonal and monthly load factors for the total system for 1980–1982.

e. Projected load factors and monthly capacity and energy demand 1983–2010 period. Indicate forecasting method and basic assumptions.

4. *Resources.* a. List of operating generating resources, if any, including capacity, location, and 1982 availability factor.

b. Estimated percent of total supply received from Western, 1983–1989.

c. Status of power supply contracts with parties other than Western.

5. *Transmission.* a. Voltage of service required and possible delivery points.

b. A brief description of the type of transmission service being requested of Western, direct or wheeled.

6. *Renewable Resources and Cogeneration Projects.* a. List of future firm and planned resources, if any, including capacity, location, scheduled operation date, and expected average annual lifetime capacity factor.

b. Estimated busbar cost (cent/kWh) of each project in 1983 dollars.

c. As appropriate, proposed plans for wheeling to Western's system.

7. The name, address, and telephone number of a person from the consulting firm used, if any.

8. Any other information the applicant desires to include.

9. The signature and title of an appropriate official who is able to attest to the validity of the data submitted and

who would be authorized to submit an application for power.

Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 et seq.), each agency, when required by 5 U.S.C. 553 to publish a proposed rule, is further required to prepare and make available for public comment an initial regulatory flexibility analysis to describe the impact of the proposed rule on small entities. In this instance, the marketing plan relates to electric services provided by Western.

Under 5 U.S.C. 601(2), services are not considered "rules" within the meaning of the Act. Therefore, Western believes that no flexibility analysis is required.

Environmental Evaluation

In compliance with the National Environmental Policy Act of 1969 (NEPA) and the Department of Energy (DOE) regulations published in the **Federal Register** on February 23, 1982 (47 FR 7976), Western conducts environmental evaluations of certain rate and allocation actions. Under the DOE regulations, Western will make an evaluation and determination of the possible environmental impacts of the proposed marketing plan. A memorandum will be prepared explaining the basis for that determination and an administrative determination will be made of what level documentation under NEPA is required.

Determination Under Executive Order 12291

The Department of Energy has determined that this is not a major rule because it does not meet the criteria of section 1(b) of Executive Order 12291, 46 FR 13193 (February 19, 1981). Western has an exemption from sections 3, 4, and 7 of Executive Order 12291.

The Proposed General Power Marketing Criteria for the Salt Lake City Area is published herewith.

Issued in Golden, Colorado, August 17, 1983.

Robert L. McPhail,

Administrator.

Proposed General Power Marketing Criteria for the Salt Lake City Area Western Area Power Administration, U.S. Department of Energy, August 1983

Part I—General

1. Applicability

These criteria are based upon the provisions of the Acts of Congress approved June 17, 1902 (32 Stat. 388), February 25, 1905 (33 Stat. 814), August 4, 1939 (53 Stat. 1187), July 3, 1952 (66 Stat. 325), June 18, 1954 (68 Stat. 255), April 11, 1956 (70 Stat. 105), July 7, 1960 (74 Stat. 380), December 23, 1963 (77 Stat. 475), August 4, 1977 (91 Stat. 565), and acts amendatory thereof or supplementary to the foregoing acts, and shall become effective upon approval and promulgation by the Administrator of the Western Area Power Administration (Western). Existing contract arrangements will only be affected upon amendment by the parties. On the first day of the October 1989 billing period, these criteria will supersede and replace the "General Power Marketing Criteria" for sale of power from the Colorado River Storage Project (CRSP) effective February 9, 1978, and apply to all Federal Power marketed by Western's Salt Lake City Area (SLCA). The criteria are subject to change upon reasonable notice by the Administrator and the opportunity for comment by interested parties.

2. Marketable Resources

A. *SLCA Integrated Projects.* The SLCA Integrated Projects are those hydroelectric resources operated within the Salt Lake City Area by the Bureau of Reclamation, including the CRSP and Participating Projects, the Collbran, Provo River, and Rio Grande Projects. Marketable firm resources as of October 1989 are listed below:

Marketable firm capacity	Winter (megawatts)	Summer (megawatts)
CRSP	1369	1282
Collbran	14	14
Provo River	5	5
Rio Grande	27	27
SLCA Integrated Projects [1]	1415	1328

[1] These amounts are subject to confirmation or revision by the Bureau of Reclamation prior to the finalization of this criteria.

Marketable firm energy	Winter (gigawatt-hour)	Summer (gigawatt-hour)
CRSP	2482.6	2701.3
Collbran	17.5	32.3
Provo River		17.7
Rio Grande	16.2	36.5
SLCA Integrated Projects [1]	2516.3	2789.8
Plus Optional Purchases	189.8	210.2
Total	2706.1	3000.0

[1] These amounts are subject to confirmation or revision by the Bureau of Reclamation prior to the finalization of this criteria.

B. *Falcon-Amistad Projects.* The Falcon-Amistad Projects are those hydroelectric resources operated within the SLCA by the International Boundary and Water Commission. These marketable resources have been committed under the terms and conditions of Contract No. 7-07-50-P0890 dated August 9, 1977, with South Texas and Medina Electric Cooperatives until June 8, 2033. Said contract embodies the marketing criteria for these projects.

C. *Future Resources.* New or revised marketing criteria will be developed as necessary when additional Federal power resources are made available. (Criteria for marketing resources from the proposed Diamond Fork Powerplants are presently being developed.)

Part II—Marketing Criteria for SLCA Integrated Projects

1. *Market Area.* The market area within which the power from the SLCA Integrated Projects will be marketed is divided into Northern and Southern Divisions through the September 1989 billing period.

A. The Northern Division consists of the States of Colorado; New Mexico; Utah; Wyoming; the city of Page, Arizona; a portion of the area in Arizona which lies in the drainage area of the Upper Colorado River Basin to be served by the Navajo Tribal Utility Authority, and White Pine County and portions of Elko and Eureka Counties in Nevada.

B. The Southern Division consists of the remaining portion of the State of Arizona, and that part of the State of Nevada in Clark, Lincoln, and Nye Counties which comprise the southern portion of the State.

(Option under consideration: The market area within which the power from the SLCA Integrated Projects will be marketed, beginning with the October 1989 billing period, will consist of the States of Colorado; New Mexico; Utah; Wyoming; the city of Page, Arizona; a portion of the area in Arizona which lies in the drainage area of the Upper Colorado River Basin to be served by the Navajo Tribal Utility Authority, and White Pine County and portions of Elko and Eureka Counties in Nevada.)

2. *Service Seasons.* A. Summer Season. The 6-month period from the first day of the April billing period through the last day of the September billing period in any calendar year.

B. Winter Season. The 6-month period from the first day of the October billing period of any calendar year through the last day of the March billing period of the next succeeding calendar year.

3. *Classes of Service.* Classes of service available for marketing shall be as follows:

A. Long-Term Firm Capacity with Energy. Long-term firm capacity and associated energy available therewith through September 1989, shall be as stated in Appendix A.

B. Short-Term Capacity with or without Energy. To the extent that project uses, as estimated in Appendix A, have not developed and/or annual streamflow conditions and reservoir operations result in the production of greater amounts of capacity than what is committed on a long-term basis, short-term capacity with or without energy will normally be offered for sale on a season-by-season or monthly basis. Such offers will be for firm capacity with energy, without energy, or with the return of energy. This capacity and/or energy may be used in a resource coordination program.

C. Other Services. In addition to marketing the above classes of power, the SLCA will engage in other transactions such as delivering or receiving interchange, emergency assistance, or maintenance services to the extent water and power resources permit. To the extent transmission capacity is determined to be available for such purposes, Western will provide firm and nonfirm transmission service and enter into other use of facilities arrangements. In order

to conserve fossil fuels, enhance the environment, and ensure the availability to preference customers of contracted amounts of capacity and energy, the SLCA will purchase or exchange capacity and energy as necessary or desirable to supplement its resources. Nonfirm energy service may be available as a result of these purchases or exchanges.

4. *Derivation of Marketable Resources.* Capacity available from SLCA resources will be based on the maximum operating capacity of the powerplants of the Collbran, Rio Grande and Provo River Projects along with the capacity from the CRSP powerplants based on 90 percent hydrological probability during the period from 1989 to 1999. This defined at-plant capacity available from Colorado River Storage, Collbran, Rio Grande, and Provo River Projects includes a component of capacity that may require firming purchases (see Appendix A). Energy available for load will be based on average hydrological conditions projected for the contract period. (Option under consideration: Energy available for load will exceed that based on average hydrological conditions projected for the contract period by about 400 GWh.) Capacity and energy will be reserved for certain priority uses such as Bureau of Reclamation project uses and desalting loads in accordance with statutory requirements. All remaining resources will be marketed in accordance with applicable laws and policies.

The derivation of the marketable resources of the SLCA Integrated Projects and the availability of these resources by seasons is contained in Appendix A.

5. *Eligibility Requirements.* Resources from the SLCA Integrated Projects will be allocated in accordance with the preference provisions of Reclamation law in the following order of priority:

A. Preference entities within the SLCA Integrated Projects' market area;

B. Preference entities outside the market area; and

C. Nonpreference entities within the SLCA Integrated Projects' market area.

These priorities may be recognized within pricing blocks for nonfirm energy.

The following requirements must be met in order to be eligible for an allocation of long-term resources from the SLCA Integrated Projects:

A. Each potential new customer must have had a 1982 load greater than 100 kilowatts.

B. On or before January 1, 1984, each potential applicant must be:

(1) A utility, primarily engaged in retail sales of electricity, with responsibility for the load to be served; or

(2) A utility, primarily engaged in wholesale sales that is qualified for an allocation, as described below; or

(3) A Federal or State ultimate-consumer type load, including such loads of State government whose use enhances the available Federal power resources; or

(4) An existing Western contractor for long-term firm power.

Wholesale utilities, such as generation and transmission cooperatives, municipal joint action agencies, incorporated power or transmission projects, or State governmental agencies (which, like Western, are primarily wholesalers of power without end-customer deliveries) will be qualified for allocations of power and energy under this plan if the Administrator concludes that the following objectives will be achieved:

(i) The benefits of federally financed power are distributed at the lowest possible rates to consumers consistent with sound business principles.

(ii) That consumers can identify their true power supply costs from all sources (including Federal) such that true costs of growth and benefits of conservation are readily identifiable.

(iii) That "accountability" for the cost and management of the Federal investment is directly linked between the power marketing agency and the retailing utility so that a retailing utility can identify cost and other significant characteristics of each of its wholesale supplies.

Part III. Allocation of Marketable Resources

1. *Basis for Allocations.* The total amounts of long-term capacity and energy available for allocation to the Northern and Southern Divisions of the market area are described in Appendix B. The CRSP resource only will be allocated to the Southern Division in amounts of 20 percent in the summer season and 7 percent in the winter season. The balance of the SLCA Integrated Projects resource will be allocated to the Northern Division.

To promote the widespread and equitable distribution of the benefits of available Federal capacity and energy, capacity in excess of amounts presently under contract, and associated energy, will be reserved for new Northern Division customers in the SLCA and existing customers in the SLCA who were entitled to receive less than 25 percent of their average energy requirements during 1980–82 from Federal resources that were committed on a long-term basis. Total capacity available to the Southern Division in the post-1989 period is not significantly different from that presently available and will be offered to existing customers only.

Available energy will be allocated to eligible existing customers in both the Northern and Southern Divisions for each season in proportion to their existing long-term firm capacity entitlements, excluding peaking capacity. Eligible existing customers may request capacity with such energy to reflect their individual system characteristics. If there is insufficient capacity to satisfy the requests, the Administrator will limit the capacity allocated to a load factor that is equal to the estimated seasonal plant factor of the resource. The Administrator may deviate from the application of this allocation criteria when special circumstances warrant it.

The energy available in the SLCA for new customers and certain existing customers—those who were entitled to receive less than 25 percent of their average energy requirements during 1980–82 from Federal resources—will be proportionally allocated based on their load requirements for a recent 3-year period, except that a seasonal energy allocation may not exceed an amount of energy associated with 10,000 kilowatts at the seasonal capacity factor of the available resources or an amount equal to the difference between 25 percent of their average energy requirements during 1980–82 and their total available long-term Federal resources for the period, whichever is less. Capacity available for these customers will be allocated to individual applicants within the SLCA on the same basis as described above.

2. *Limit on Allocations.* No applicant shall receive an allocation of SLCA Integrated Projects capacity so that its total post–1989 firm power entitlements from all Federal sources exceed its average peak demands for the 3-year period ending with 1982.

3. *Reallocations.* Firm capacity and energy available for marketing because an allottee has failed to accept a contract within the period allowed or because a contract has been terminated may be reallocated.

Part IV—Contract Arrangements

Eligible entities receiving an allocation are entitled to contract for the allocated resources. Western will offer a contract based on these General Power Marketing Criteria for the SLCA. Allottees will have 6 months to accept the offered contract or until September 30, 1985, whichever is later, and must have the means to distribute power by September 30, 1988.

1. *General Contract Terms.* A. Existing contracts will be allowed to expire by their own terms. Contracts offered for the sale of newly allocated long-term capacity with energy will become effective on the first day of the October 1989 billing period (or upon expiration of an existing contract if later) as to the delivery of power and energy and will terminate on the last day of the September 1999 billing period. Said contracts will implement the Conservation and Renewable Energy Article within 1 year of the date of execution of the contract.

B. The development of a conservation and renewable energy (C&RE) program is a responsibility of each customer benefiting from the purchase of long-term federally-generated power. An "Announcement of Final Guidelines and Acceptance Criteria for Customer Conservation and Renewable Energy Programs" was published in the **Federal Register** (46 FR 56140) on November 13, 1981. In order to achieve the purposes listed therein, Western will guide and assist the preference customer in the development of its C&RE program, as requested and to the extent possible. Failure to develop a program that meets the criteria for acceptance by Western may result in a 10 percent reduction in Western's commitment to the customer.

C. Contract provisions that enable preference customers to sell surplus energy to Western upon mutually agreeable terms will be offered to customers with generation.

2. *Long-Term Capacity and Energy Obligations.* Fixed monthly capacity and energy delivery obligations for each season shall be set forth in each customer's power sales contract. These amounts will be determined in accordance with the estimated monthly pattern of the SLCA Integrated Projects resource and are listed in Appendix C. Western's capacity obligation for any given hour will be limited to the actual power

scheduled during that hour; i.e., customers will not be entitled to claim unscheduled firm power as their operating reserve capacity.

The monthly energy obligations may be increased from time-to-time should short-term conditions allow. If the established limit is increased for any month, it may be subsequently decreased, but in no event shall it be decreased below the monthly energy delivery obligations set forth in the power sales contract. Western will purchase firming energy for those customers desiring it, on a pass-through cost basis, up to the amount of Western's contractual obligation to provide energy.

Western and the preference customers will establish mutually agreeable scheduling and accounting procedures, based upon standard utility industry practices, which will provide efficient, practicable utilization of capacity and energy. These procedures will be set forth in the SLCA contracts or in separate written agreements made a part thereof. The amount of each customer's firm capacity which may be supplied with purchased firming capacity on a pass-through cost basis, will be identified in the contract. To the extent such firm capacity is not available from the resources of the SLCA Integrated Projects for any season, Western will purchase firming capacity at the customer's expense unless a contractor advises Western not to purchase such capacity on its behalf.

A. Scheduling

(1) The maximum scheduled rate of delivery for long-term firm capacity in each billing period will be the monthly capacity obligations based on the monthly resource pattern set forth in Appendix C.

(2) The minimum scheduled rate of delivery for long-term firm capacity in each billing period will be 65 percent of the average capacity, determined by dividing the monthly energy obligation by the number of hours in the month. This minimum schedule will normally be required to meet downstream water release requirements, to purchase firming energy, and to make purchases for a fuel replacement or other resource coordination program at a level that will allow utilization of operating reserves. The required minimum scheduled rates may be changed by Western as necessary for the above purposes.

(3) Deviations from the two basic parameters above may be required or permitted. If operating conditions warrant and Western so requests, each customer will schedule its resources from the SLCA Integrated Projects to approximate normal hourly and daily load patterns to avoid abrupt changes in water releases and generation levels or other undesirable results. Upon request by the customer, the requirement for a minimum schedule during onpeak periods may be waived by Western if operating conditions permit.

B. Accounting

The amounts of capacity and/or energy to be paid for by the customer will be determined in accordance with the accounting procedures set forth in the contracts, or in separate written agreements made a part thereof. Said accounting procedures will include procedures for determining amounts of power and energy delivered to the customer at each point of delivery or point of use. These producers will also provide for billing at multiple points of delivery. If the contractor's system is operated so as to permit power to flow between points of delivery, billing will be on a coincidental basis. Otherwise, billing at multiple points of delivery will be on a noncoincidental basis.

The cost of firming capacity and energy purchased in order to meet the contractual obligation to deliver the SLCA Integrated Projects capacity and energy to customers in each fiscal year shall be the avarage cost of such capacity and energy purchased in the SLCA during the fiscal year. These costs shall be accrued during the fiscal year in which they are incurred and, to the extent they were not anticipated and collected during the same fiscal year, they will be billed to customers during the following fiscal year or portion thereof, as Western deems appropriate, along with the regular monthly power bill, except that if the necessary revolving funds or appropriations are not available to Western, then trust funds will be established prior to Western's expenditures for purchasing firming capacity and energy.

3. *Delivery Conditions.* Subject to Western's approval, as to location and voltage, normal delivery will be made at the SLCA Integrated Projects' transmission system voltages or at the customer's transmission voltage. Delivery may continue to be made at subtransmission voltages at powerplant and substation locations where customers already have systems operating at such lower voltage levels.

Designated or equivalent federal points of delivery will be at:

(A) Points on the SLCL Integrated Projects' transmission system; or

(B) Points on the system of a non-Federal entity which have been established as delivery points under arrangements between Western and that entity.

If such arrangements are terminated, then the delivery points under (B) above will be rescinded. These points are listed below and may be modified as provided herein.

DESIGNATED OR EQUIVALENT FEDERAL POINTS OF DELIVERY, TAP POINTS, AND VOLTAGES

	Kilovolt
Arizona:	
Glen Canyon	69
Mesa [1]	230
Pinnacle Peak [1]	230
Colorado:	
Ault	230
Beaver Creek [2]	115
Colbran Switchyard	115
North Main Tap (Gunnison)	115
Gore Pass Tap	138
Green Mountain	115
Gunnison	115
Hayden	138
Lost Canyon	[3]115, 230
Midway	115, 230
Montrose	115
Pueblo [2]	115
Rangely	138
Salida (Poncha Junction)	115
Skito Tap	115
Story [2]	230
Weld	115, 230

DESIGNATED OR EQUIVALENT FEDERAL POINTS OF DELIVERY, TAP POINTS, AND VOLTAGES—Continued

	Kilovolt
New Mexico:	
Albuquerque [1]	115
Ambrosia Lake [1]	115
Elephant Butte	115
Shiprock	115, 230
Utah:	
Brigham City Tap [2]	138
Bountiful Tap [2]	138
Centerfield [2]	138
Deer Creek	46
Fillmore [2]	138
Fleming Gorge	24.9, 69
Hale Plant Tap [2]	138
Hyrum [2]	138
Murray Tap [2]	138
New Castle Tap [2]	138
Panagonah [2]	138
Sigurd [2]	138
Smithfield Tap [2]	138
South Provo Tap [2]	138
Springville [2]	138
St. George [2]	138
Vernal	138
Upalco Tap [2]	138
Henrieville Tap [2]	230
Wyoming: Archer	115, 230

[1] Deliveries to Southern Division Nevada customers are made from Mesa or Pinnacle Peak.
[2] Points of Delivery on system of non-Federal entity.
[3] Scheduled for updating to 345 kV by 1988.

The listing of the above points of delivery does not imply any obligation for Western to furnish additional facilities or to increase transmission or transformer capabilities at those points. Additional delivery points requested by the customers and approved by Western will be permitted, provided that they meet the above criteria and will not result in any expense or loss of revenue to the SLCA Integrated Projects. Delivery will not be made from transformer capacity required for project purposes. Taps on the SLCA Intergrated Projects' or other transmission system, the customer's expense, will be on a case-by-case basis, with final determination of necessity and desirability to be made by Western and/or the owner of such transmission system.

4. *Delivery of Power Beyond Delivery Points.* All costs, including losses, for delivery of power and energy beyond the delivery points specified herein shall be borne by the customer. Instances where additional transmission line capacity is required to effect delivery beyond the SLCA Integrated Projects' delivery points will be considered as individual cases to be justified on their own merits.

The following alternatives are available to customers for accomplishing delivery of power beyond the system delivery points shown herein:

A. The customer or customres may build all facilities to accept delivery at the established voltage at identified delivery points, in which case the customer will pay the standard rates for power.

B. Arrangements may be made with a third party to wheel and delivery power to a customer's point of use. Such arrangements will normally be made by the customer, or by a group of customers, with Western's assistance if desired. When the customer makes its own wheeling arrangements, the customer will be billed by the wheeling agent

and will pay the wheeling charges directly to the wheeling agent. Western may make the wheeling arrangements on behalf of the customer or a group of customers if the costs are passed through to the customers.

C. Western may construct the transmission line facilities required beyond the identified delivery points, if the cost of the facilities constructed by Western beyond such delivery points are borne by the beneficiaries thereof.

August 1983
Appendix A
Page 1

Derivation of Marketable Resources
SLCA Integrated Projects

	CRSP		Collbran		Rio Grande		Provo River		Total	
	Winter	Summer	Winter	Summer	Winter	Summer	Winter	Summer	Winter	Summer
CAPACITY-MW										
Maximum Capacity at Plant	1,769[1/]	1,769[1/]	14.0	14.0	27.0	27.0	5.0	5.0	1,815.0	1,815.0
Unavailable Capacity[2/]									222.0	179.0
Available Cap. at Plant[2/]									1,593.0	1,636.0
Less Reserves									145.0	145.0
Capacity at Load									1,448.0	1,491.0
Less Est. Project Use									33.0	163.0
MARKETABLE FIRM CAPACITY									1,415.0	1,328.0
At Normal Capacity Charge[3/]									1,280.0	1,212.0
Subject to Surcharge[4/]									135.0	116.0
Total									1,415.0	1,328.0

1/ Includes estimated generator uprate capacity at Glen Canyon.
2/ Availability based on 90% probability for CRSP.
3/ Based on most adverse condition for CRSP.
4/ Subject to surcharge for firming capacity purchases made on a pass-through-cost basis.

BILLING CODE 6450-01-M

August 1983
Appendix A
Page 2
Without Purchases

Derivation of Marketable Resources
SLCA Integrated Projects

	CRSP		Collbran		Rio Grande		Provo River		Total	
	Winter	Summer	Winter	Summer	Winter	Summer	Winter	Summer	Winter	Summer
ENERGY-GWH										
Avg. Generation at Plant 1/	2,593.0	3,355.0	18.7	34.6	19.5	41.2	3/	18.9	2,631.2	3,449.7
Adjusted at Plant 2/									2,741.7	3,339.2
Less Losses (7%)									179.4	218.4
Avg. Project Gen. at Load									2,562.3	3,120.8
Less Est. Proj. Use Load									44.0	331.0
MARKETABLE FIRM ENERGY									2,518.3	2,789.8

1/ Based on hydrological study prepared by Western.
2/ Energy has been shifted from the summer to the winter season to equitably distribute energy reductions among existing customers.
3/ The average winter season generation of 6.7 GWh was not included as a marketable resource. Winter generation has been provided to Utah Power & Light Company as a result of the Weber-Provo River water exchange agreement.

August 1983
Appendix A
Page 3
Option With Purchases

Derivation of Marketable Resources
SLCA Integrated Projects

	CRSP		Collbran		Rio Grande		Provo River		Total	
	Winter	Summer	Winter	Summer	Winter	Summer	Winter	Summer	Winter	Summer
ENERGY-GWH										
Avg. Generation at Plant 1/	2,593.0	3,355.0	18.7	34.6	19.5	41.2	3/	18.9	2,631.2	3,449.7
Adjusted at Plant 2/									2,741.7	3,339.2
Less Losses (7%)									179.4	218.4
Avg. Project Gen. at Load									2,562.3	3,120.8
Less Est. Proj. Use Load									44.0	331.0
Plus Purchases									189.8	210.2
MARKETABLE FIRM ENERGY									2,708.1	3,000.0

1/ Based on hydrological study prepared by Western.
2/ Energy has been shifted from the summer to the winter season to equitably distribute energy reductions among existing customers.
3/ The average winter season generation of 6.7 GWh was not included as a marketable resource. Winter generation has been provided to Utah Power & Light Company as a result of the Weber-Provo River water exchange agreement.

August 1983
Appendix B
Without Purchases

COMPARISON OF EXISTING COMMITMENTS AND
PROPOSED RESOURCE ALLOCATIONS
SLCA INTEGRATED PROJECTS

	Winter			Summer		
	Proposed	Exist. Commit.	Chge.	Prop.	Exist. Commit.	Chge.
MARKETABLE FIRM CAP. - MW	1415	1293	+122	1328	1276	+ 52
Southern Division	96	93	+3	256	265	- 9
Northern Division	1319	1200	+119	1072	1011	+ 61
Existing Customers	1200	1200	-	1011	1011	-
New Customers	119	0	+119	61	0	+ 61
Detail - No. Division						
CRSP	1273	1186	+ 87	1026	973	+ 53
Collbran	14	14	-	14	14	-
Provo River	5	0	+ 5	5	0	+ 5
Rio Grande	27	0	+ 27	27	24	+ 3
	1319	1200	+119	1072	1011	+ 61
MARKETABLE FIRM ENERGY - GWH	2518.3	2659.9	-141.6	2789.8	3041.8	-252.0
Southern Division	170.9	214.2	- 43.3*	537.8	612.0	- 74.2*
Northern Division	2347.4	2445.7	- 98.3	2252.0	2429.8	-177.8
Existing Customers	2135.6	2445.7	-310.1*	2123.9	2429.8	-305.9*
New Customers	211.8	0	+211.8	128.1	0	+128.1
Detail - No. Division						
CRSP	2311.7	2428.2	-116.5	2163.5	2336.3	-172.8
Collbran	17.5	17.5	-	32.3	32.3	-
Provo River	0	0	-	17.7	0	+ 17.7
Rio Grande	18.2	0	+ 18.2	38.5	61.2	- 22.7
	2347.4	2445.7	- 98.3	2252.0	2429.8	-177.8

Load Factor = 40.6% in winter season (1780 kWh/kW)
48.0% in summer season (2100 kWh/kW)

* Percentage change reflected in proposed amounts of energy for existing customers are as follows:

	Winter	Summer
Southern Division	-20%	-12%
Northern Division	-13%	-13%

The impact on individual existing customers may vary.

August 1983
Appendix B
Option With Purchases

COMPARISON OF EXISTING COMMITMENTS AND
PROPOSED RESOURCE ALLOCATIONS
SLCA INTEGRATED PROJECTS

	Winter			Summer		
	Proposed	Exist. Commit.	Chge.	Prop.	Exist. Commit.	Chge.
MARKETABLE FIRM CAP. - MW	1415	1293	+122	1328	1276	+52
Southern Division	96	93	+3	256	265	-9
Northern Division	1319	1200	+119	1072	1011	+61
Existing Customers	1200	1200	-	1011	1011	-
New Customers	119	0	+119	61	0	+61
Detail - No. Division						
CRSP	1273	1186	+ 87	1026	973	+53
Collbran	14	14	-	14	14	-
Provo River	5	0	+ 5	5	0	+ 5
Rio Grande	27	0	+ 27	27	24	+ 3
	1319	1200	+119	1072	1011	+61
MARKETABLE FIRM ENERGY - GWH	2708.1	2659.9	+ 48.2	3000.0	3041.8	-41.8
Southern Division	183.7	214.2	-30.5*	578.3	612.0	-33.7*
Northern Division	2524.4	2445.7	+78.7	2421.7	2429.8	- 8.1
Existing Customers	2296.6	2445.7	-149.1*	2283.9	2429.8	-145.9*
New Customers	227.8	0	+227.8	137.8	0	+137.8
Detail - No. Division						
CRSP	2488.7	2428.2	+ 60.5	2333.2	2336.3	- 3.1
Collbran	17.5	17.5	-	32.3	32.3	-
Provo River	0	0	-	17.7	0	+17.7
Rio Grande	18.2	0	+ 18.2	38.5	61.2	-22.7
	2524.4	2445.7	+ 78.7	2421.7	2429.8	- 8.1

Load Factor = 43.7% in winter season (1914 kWh/kW)
51.6% in summer season (2259 kWh/kW)

* Percentage change reflected in proposed amounts of energy for existing customers are as follows:

	Winter	Summer
Southern Division	-14%	-6%
Northern Division	- 6%	-6%

The impact on individual existing customers may vary.

August 1983
Appendix C

ESTIMATED MONTHLY PATTERNS OF

THE SLCA INTEGRATED PROJECTS RESOURCE

	Seasonal Distribution of Capacity (Percent)	Annual Distribution of Energy (Percent)
October	90.4	6.4
November	90.6	6.5
December	100.0	10.5
January	98.8	10.5
February	86.7	7.5
March	87.9	6.0
Subtotal	-	47.4
April	84.7	6.0
May	85.0	7.2
June	91.0	8.4
July	100.0	11.0
August	99.3	11.0
September	87.8	9.0
Subtotal	-	52.6
Total	-	100.0

[FR Doc. 83-23178 Filed 8-22-83; 8:45 am]
BILLING CODE 6450-01-C

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-00044; BH-FRL 2420-3]

Interagency Toxic Substances Data Committee; Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of open meeting.

SUMMARY: This notice announces the forthcoming meeting of the Interagency Toxic Substances Data Committee. The meeting is open to the public.

DATE: The meeting will take place from 9:30 a.m. to 12:30 p.m. on Tuesday, September 13, 1983.

ADDRESS: The meeting will be held in the First Floor Conference Room, Council on Environmental Quality, 722 Jackson Pl., NW., Washington, D.C. 20006. Please use the entrance on Jackson Place.

FOR FURTHER INFORMATION CONTACT: Sandra Lee, Executive Secretary, Interagency Toxic Substances Data Committee, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-613G, 401 M St., SW., Washington, D.C. 20460, (202-382-2249).

SUPPLEMENTARY INFORMATION: The regular meetings of the Interagency Toxic Substances Data Committee usually are held on the second Tuesday of alternate months. The next meeting has been scheduled for November 8, 1983, the second Tuesday of November.

Dated: July 18, 1983.

Sandra Lee,

Executive Secretary, Interagency Toxic Substances Data Committee.

[FR Doc. 83-23074 Filed 8-22-83; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 83-815, etc. and File No. 995-CM-P-80 etc.]

BA Co.; Hearing Designation Order

In the matter of applications of Robert A. Gordon d.b.a. The BA Company (CC Docket No. 83-815, File No. 995-CM-P-80), Universal Communications, Inc. (CC Docket No. 83-816, File No. 3841-CM-P-80) and Microband Corporation of America (CC Docket No. 83-817, File No. 3899-CM-P-80) for construction permits in the Multipoint Distribution Service for a New Station at Melbourne, Florida.

Adopted: July 29, 1983.

Released: August 18, 1983.

By the Common Carrier Bureau.

Memorandum Opinion And Order

1. For consideration are the above-referenced applications.[1] These

[1] On August 18, 1980, Tymshare, Inc. (Tymshare) and Arthur Lipper Corporation (ALC) executed a contract whereby ALC agreed to transfer control of Microband Corporation of America to Tymshare. *Transfer of Control/MDS*, 85 FCC 2d 1023 (1981).

applications are for construction permits in the Multipoint Distribution Service and they propose operations on Channel 1 at Melbourne, Florida. The applications are therefore mutually exclusive and, under present procedures, require comparative consideration. There are no petitions to deny or other objections under consideration.[2]

2. Upon review of the captioned applications, we find that these applicants are legally, technically, financially, and otherwise qualified to provide the services which they propose, and that a hearing will be required to determine, on a comparative basis, which of these applications should be granted.

3. Accordingly, it is hereby ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, 47 U.S.C. 309(e) and §0.291 of the Commission's Rules, 47 CFR 0.291, the above-captioned applications are designated for hearing, in a consolidated proceeding, at a time and place to be specified in a subsequent Order, to determine, on a comparative basis, which of the above-captioned applications should be granted in order to best serve the public interest, convenience and necessity. In making such a determination, the following factors shall be considered: [3]

(a) The relative merits of each proposal with respect to efficient frequency use, particularly with regard to compatibility with co-channel use in nearby cities and adjacent channel use in the same city;

(b) The anticipated quality and reliability of the service proposed, including installation and maintenance programs; and

(c) The comparative cost of each proposal considered in context with the benefits of efficient spectrum utilization and the quality and relability of service as set forth in issues (a) and (b).

4. It is further ordered, that Robert A. Gordon d.b.a. The BA Company, Universal Communications, Inc., Microband Corporation of America and the Chief, Common Carrier Bureau, are made parties to this proceeding.

5. It is further ordered, that parties desiring to participate herein shall file their notices of appearance in accordance with the provisions of § 1.221 of the Commission's Rules, 47 CFR 1.221.

6. The Secretary shall cause a copy of this Order to be published in the Federal Register.

James R. Keegan,

Chief, Domestic Facilities Division, Common Carrier Bureau.

[FR Doc. 83-23111 Filed 8-22-83; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket No. 83-811 etc. and File No. 10293-CM-P-80 etc.]

Broadcast Data Corp.; Hearing Designation Order

In the matter of applications of Broadcast Data Corp. CC Docket No. 83-811, File No. 10293-CM-P-80 and Diversified Communications d.b.a. Community Broadcasting Service (CC Docket No. 83-812, File No. 50004-CM-P-81) and Telecommunicatons Systems, Inc. (CC Docket No. 83-813, File No. 50010-CM-P-81) and Kravetz Media Corporation (CC Docket No. 83-814, File No. 50028-CM-P-81) for construction permit in the Multipoint Distribution Service for a New Station at Bangor, Maine.

Adopted July 28, 1983.

Released August 18, 1983.

By the Common Carrier Bureau.

Memorandum Opinion and Order

1. For consideration are the above-referenced applications.[1] These applications are for construction permits in the Multipoint Distribution Service and they propose operations on Channel 1 at Bangor, Maine. The applications are therefore mutually exclusive and, under present procedures, require comparative consideration. These applications have been amended as a result of informal requests by the Commission's staff for additional information. There are no petitions to deny or other objections under consideration.[2]

2. Upon review of the captioned applications, we find that these applicants are legally, technically, financially, and otherwise qualified to provide the service which they propose, and that a hearing will be required to determine, on a comparative basis, which of these applications should be granted.[3]

3. Accordingly, it is hereby ordered, that pursuant to Section 309(e) of the Communications Act of 1934, as amended, 47 U.S.C. 309(e) and § 0.291 of the Commission's Rules, 47 CFR 0.291, the above-captioned applications are designated for hearing, in a consolidated proceeding, at a time and place to be specified in a subsequent Order, to determine, on a comparative basis, which of the above-captioned applications should be granted in order to best serve the public interest, convenience and necessity. In making such a determination, the following factors shall be considered:[4]

(a) The relative merits of each proposal with respect to efficient frequency use, particularly with regard to compatibility with co-channel use in nearby cities and adjacent channel use in the same city;

(b) The anticipated quality and reliability of the service proposed, including installation and maintenance programs; and

(c) The comparative cost of each proposal considered in context with the benefits of efficient spectrum utilization and the quality and reliability of service as set forth in issues (a) and (b).

4. It is further ordered, that Broadcast Data Corp., Diversified Communications d.b.a. Community Broadcasting Service, Telecommunications Systems, Inc., Kravetz Media Corporation and the Chief, Common Carrier Bureau, are made parties to this proceeding.

5. It is further ordered, that parties desiring to participate herein shall file their notices of appearance in accordance with the provisions of § 1.221 of the Commission's Rules, 47 CFR 1.221.

6. It is further ordered, that any authorization granted to Broadcast Data Corp., a wholly-owned subsidiary of Graphic Scanning Corporation, as a result of the comparative hearing shall be conditioned on, and without prejudice to, reexamination and reconsideration of that company's qualifications to hold an MDS license following a decision in the hearing designated in *A.S.D. Answering Service, Inc., et al.*, FCC 82-391, released August 24, 1982, and shall be specifically

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[2] By Memorandum Opinion and Order adopted June 28, 1981 and released July 2, 1981, Mimeo No. 001863, Microband was granted an exemption from the Commission's "cut-off" rules pursuant to Section 21.31 of the Rules, 47 CFR 21.31, to preserve the status of its pending mutually exclusive applications.

[3] Consideration of these factors shall be in light of the Commission's discussion in *Frank K. Spain*, 77 FCC 2d 20 (1980).

[1] On September 10, 1981, Richard L. Vega and Christopher Laning executed an Assets Sale and Purchase Agreement with Broadcast Data Corp. to assign the radio authorizations and applications of Northstar Communications to Broadcast Data Corp. Broadcast Data Corp. is a wholly-owned subsidiary of Graphic Scanning Corporation. See International Television Corporation, File No. 50078-CM-AP/AL-(5)-82 (released June 25, 1982).

[2] On March 28, 1983, Northstar Communications was granted an exemption from the Commission's "cut-off" rules pursuant to § 21.31 of the rules, 47 CFR 21.31, to preserve the status of its pending mutually exclusive applications.

[3] This finding is subject to paragraph 6, *infra*.

[4] Consideration of these factors shall be in light of the Commission's discussion in *Frank K. Spain*, 77 FCC 2d 20 (1980).

conditioned upon the outcome of that proceeding.

7. This Order is effective on its release date. Petitions for reconsideration under Section 1.106 or applications for review under § 1.115 of the Rules may be filed within the time limits specified in those sections. *See also* Rule 1.4(b)(2).

8. The Secretary shall cause a copy of this Order to be published in the **Federal Register.**

James R. Keegan,

Chief, Domestic Facilities Division, Common Carrier Bureau.

[FR Doc. 83-23108 Filed 8-22-83; 8:45 am]

BILLING CODE 6712-01-M

Maurice W. Coburn et al.; Applications for Consolidated Hearing

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant	City/State	File No.	MM Docket No.
A. Maurice W. Coburn	Lake Havasu City, Arizona	BPH-811020AB	83-797
B. David Michael Navarette	Lake Havasu City, Arizona	BPH-820309AD	83-798
C. K-Born Broadcasting (Kenneth A. Jones, Kevin Shepardson and Gary F. Baumkirchner, A Partnership).	Lake Havasu City, Arizona	BPH-820524BE	83-799
D. Nikki Colvin Hill	Lake Havasu City, Arizona	BPH-820830BD	83-800

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. (See Appendix)—B
2. Comparative—A, B, C, D
3. Ultimate—A, B, C, D

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this procedding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, N.W., Washington, D.C 20554. Telephone (202) 632-6334.

Larry D. Eads,

Chief, Audio Services Division, Mass Media Bureau.

Appendix—Issue(s)

To determine with respect to the following applicant(s) whether, in light of the evidence adduced concerning the deficiency set forth above in paragraph 8*, the applicant(s) is financially qualified: B (Navarette)

* Paragraph 8 reads as follows:

The material submitted by the applicant(s) below does not demonstrate its financial qualifications. Accordingly, an issue will be specified concerning the following deficiency:

Applicant(s) and Deficiency

B (Nayarette)—Letter from Mortgage Trust Company is not current.

[FR Doc. 83-23109 Filed 8-22-83; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 83-776 etc. and File No. BPCT-821209KF etc.]

Fort Collins Television, Inc. et al.; Hearing Designation Order

In the matter of applications of Fort Collins Television, Inc., Fort Collins, Colorado (MM Docket No. 83-776, File No. BPCT-821209KF), Fort Collins Telecasters, a partnership, Fort Collins, Colorado (MM Docket No. 83-777, File No. BPCT-830218KG), Women's Broadcasting of Fort Collins, Fort Collins, Colorado (MM Docket No. 83-778, File No. BPCT-830217KJ), Eagle 22, Ltd., Fort Collins, Colorado (MM Docket No. 83-779, File No. BPCT-830218KL) and Fort Collins Minority Broadcasting Company, Fort Collins, Colorado (MM Docket No. 83-780, File No. BPCT-830218KM), For Construction Permit.

Adopted: July 20, 1983.

Released: August 9, 1983.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above mutually exclusive applications of Fort Collins Television, Inc.; Fort Collins Telecasters, A Partnership; Women's Broadcasting of Fort Collins; Eagle 22, Ltd.; and Fort Collins Minority Boradcasting Company for a new commercial television station to operate on Channel 22, Fort Collins, Colorado.

2. Section 73.1030(b) of the Commission's Rules states that applicants for a broadcast station authorization to operate in the vicinity of Boulder County, Colorado, are advised to give due consideration, prior to filing applications, to the need to protect the Table Mountain Radio Receiving Zone from harmful interference. Each of these applications is between 25 and 29 miles from the Table Mountain Radio Receiving Zone. While all applicants have been in contact with the Radio Frequency Management Office, as recommended in § 73.1030(b) of the Commission's Rules, only Fort Collins Television, Inc. has successfully completed coordination. However, even successful coordination does not guarantee that an unacceptable signal level will not occur at Table Mountain. No issues will be specified regarding the successful coordination of the other applicants, but, instead, any grant resulting from this proceeding will be conditioned on the station's actual signal level being less than the value specified in § 73.1030(b) of the rules.

3. The effective radiated visual power, antenna height above average terrain and other technical data submitted by the applicants indicates that there would be a significant difference in the size of the areas and population that the respective applicants propose to serve. Consequently, for the purpose of comparison, the areas and population which would be within the predicted 64 dBu (Grade B) contour, together with the availability of other television services of 64 dBu (Grade B) or greater intensity, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to any of the applicants.

4. No determination has been made that the tower heights and locations specified by Fort Collins Telecasters, and Eagle 22, Ltd. would not constitute a hazard to air navigation. Accordingly, an appropriate issue will be specified.[1]

5. Section 73.685(e) of the Commission's Rules states that stations operating on Channels 14–83 with transmitters delivering peak visual power output of more than 1 kilowatt may employ directive transmitting antennas with a maximum to minimum radiation in the horizontal plane of not more than 15 dB. Fort Collins Minority

[1] The Commission is not in receipt of FAA's determination for Eagle 22, Ltd.

Boradcasting Company proposes maximum to minimum ratio in excess of 15 dB. The minor deviation from the requirements of § 73.685(e) is a part of the applicant's method of providing protection to the Table Mountain Radio Receiving Zone. In view of this, the public interest will be served by a waiver of the rule, and no issue will be specified.

6. The applicants are qualified to construct and operate as proposed. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

7. Accordingly, it is ordered, that, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine, with respect to Ft. Collins Telecasters and Eagle 22, Ltd., whether there is reasonable possibility that the tower height and location proposed by each would constitute a hazard to air navigation.

2. To determine which of the proposals would, on a comparative basis, best serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

8. It is further ordered, that with respect to the application of Fort Collins Minority Broadcasting Company, § 73.685(e) of the Commission's Rules is waived.

9. It is further ordered, that in the event of a grant of any application, the construction permit shall contain the following condition:

At the time of equipment tests, permittee will contact the Radio Frequency Management Office of the National Oceanographic and Atmospheric Administration's Environmental Research Laboratories in Boulder, Colorado, at the address specified in § 73.1030(b) of the Commission's Rules. Permittee will cooperate with the Radio Frequency Management Office authorities in a measurement program to establish that the field strength of the signal at coordinates 40° 07′ 50″ N. Latitude, 105° 14′ 40″ W. Longitude, radiated by the permittee's authorized facilities, does not exceed 30 mV/m. In the event the measured value exceeds 30 mV/m, operation of the station (program tests) shall not be commenced. Instead, the permittee will submit an application for modification of its construction permit to reduce the field strength in the direction of the Table Mountain Radio Receiving Zone below the specified level. A license application will be granted only with the concurrence of the Radio Frequency Management Office as to the adequacy of the protection afforded to the Table Mountain Radio Receiving Zone.

10. It is further ordered, that, the Federal Aviation Administration is made a party respondent to this proceeding with respect to Issue 1.

11. It is further ordered, that, to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

12. It is further ordered, that, the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 83-23110 Filed 8-22-83; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 83-808 etc. and File No. BPCT-830128KF]

Local Majority Television, et al.; Hearing Designation Order

In the matter of applications of Local Majority Television, Tuscaloosa, Alabama, (MM Docket No. 83-808, File No. BPCT-830128KF), George E. Gunter, Tuscaloosa, Alabama, (MM Docket No. 83-809, File No. BPCT-830314KK) and Channel 17 of Tuscaloosa, Inc., Tuscaloosa, Albama, (MM Docket No. 83-810, File No. BPCT-830323KF) for construction permit.

Adopted: July 28, 1983.

Released: August 19, 1983.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications of Local Majority Television (Local Majority), George E. Gunter (Gunter) and Channel 17 of Tuscaloosa, Inc.[1] for authority to construct a new commercial television broadcast station on Channel 17, Tuscaloosa, Alabama.

2. The Commission is not in receipt of a determination from the Federal Aviation Administration that the tower height and location proposed by Gunter would not constitute a hazard to air navigation. Accordingly, an issue regarding this matter will be specified.

3. In this response to Section V–C, Paragraph 5, FCC Form 301, Gunter states that the height of the antenna radiation center above mean sea level would be 655.2 feet, but the vertical tower sketch which he submitted as his Exhibit 3 shows the radiation center above mean sea level to be 598.5 feet. The applicant will be required to eliminate this discrepancy by appropriate amendment.

4. Section 73.682(a)(15) of the Commission's Rules states that the effective radiated power of the aural transmitter shall not be less than 10 percent nor more than 20 percent of the peak radiated power of the visual transmitter. Local Majority's aural power is only 1% of the visual. The applicant will be required to correct this situation by an appropriate amendment.

5. Section 73.636(a)(1) of the Commission's Rules state that no license for a television station shall be granted to any party if such party directly or indirectly owns, operates or controls one or more FM broadcast stations and the grant of such license will result in the Grade A contour of the proposed television station encompassing the entire community of license of the FM station. Note 8 to the rule provides, *inter alia*, that applications for UHF stations will be treated on a case-by-case basis in order to determine whether common ownership, operation or control of the station in question would be in the public interest. David R. Dubose, a 68.8% stockholder of Channel 17, is the news director of Station WUAL–FM, Tuscaloosa, Alabama. Additionally, David M. Baughn, a 9.3% stockholder of Channel 17 is the chief engineer of Station WUAL–FM. Richard G. Brennan, an 11.9% stockholder of Channel 17, is the news director of WBAM and WBAM–FM, Montgomery, Alabama. Montgomery would be within the Grade A contour of the proposed Channel 17

[1] On July 15, 1983, Channel 17 of Tuscaloosa, Inc. filed a Petition for Leave to Amend. The amendment revises Channel 17's programming to conform to § 0.283(a)(6) of the rules by reducing the amount of commercial matter proposed to be broadcast. The amendment will be accepted for 1.65 purposes only.

facility. Accordingly, an issue will be specified to determine whether Mr. Dubose's and Mr. Baughn's associations with WUAL–FM, Tuscaloosa, Alabama, and Mr. Brennan's association with WBAM and WBAM–FM, Montgomery, Alabama, respectively, and their interests in Channel 17's application is inconsistent with the rule; and if so, whether common ownership, operation and control of FM stations and the proposed television station would be consistent with the public interest.

6. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

7. Accordingly, it is ordered, that, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine, with respect to Channel 17, whether the associations of David R. Dubose and David M. Baughn with WUAL–FM, Tuscaloosa, Alabama and Richard G. Brennan with WBAM and WBAM–FM, Montgomery, Alabama, and Channel 17's application is inconsistent with § 73.636(a)(1) of the Commission's Rules, and if so, whether common ownership, operation or control of WUAL–FM and WBAM/WBAM–FM, and the proposed television station would be in the public interest.

2. To determine with respect to George Gunter, whether there is a reasonable possibility that the tower height and location proposed would constitute a hazard to air navigation.

3. To determine which of the proposals would, on a comparative basis, best serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

8. It is further ordered, that the Federal Aviation Administration is made a party respondent to this proceeding with regard to issue 1.

9. It is further ordered, that George Gunter shall submit to the presiding Administrative Law Judge, within 20 days after the date of release of this Order, an appropriate engineering amendment to correct the height of the antenna radiation center above mean sea level.

10. It is further ordered, that Local Majority shall submit to the presiding Administrative Law Judge, within 20 days after the date of release of this Order, an appropriate engineering amendment to correct the aural effective radiated power.

11. It is further ordered, that, to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

12. It is further ordered, that the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's rules, give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 83–23107 Filed 8–22–83; 8:45 am]

BILLING CODE 6712–01–M

M. F. Welch and Hispanic Broadcasting Co. Inc.; Applications for Consolidated Hearing

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant	City/State	File No.	MM Docket No.
A. M. F. (Ken) Welch and Jean Welch	Kermit, Texas	BPH–820520AQ	83–803
B. Hispanic Broadcasting Co., Inc.	Kermit, Texas	BPH–820908AY	83–804

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. Main Studio—A.
2. Air Hazard—All Applicants.
3. Comparative—All Applicants.
4. Ultimate—All Applicants.

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, N.W., Washington, D.C. 20554. Telephone (202) 632–6334.

Larry D. Eads,

Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 83–23108 Filed 8–22–83; 8:45 am]

BILLING CODE 6712–01–M

[Report No. 1417 [1]]

Petitions for Reconsideration of Actions in Rulemaking Proceedings; Correction

The following listings of petitions for reconsideration filed in Commission rulemaking proceedings is published pursuant to CFR 1.429(e). Oppositions to such petitions for reconsideration must be filed within 15 days after publication of this Public Notice in the **Federal Register**. Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

(Note.—This Notice was previously published in the **Federal Register** of August 9, 1983, 48 FR 36193.)

[1] Corrected to add Lauren A. Colby, Attorney for Richard Culpepper which was inadvertently omitted from Report No. 1417.

Subject: Modification of FM Broadcast Station Rules to Increase the Availability of Commercial FM Broadcast Assignments. (BC Docket No. 80–90, RM's 2587, 3226 & 3367)

Filed by:

Lauren A. Colby, Attorney for Barry Chaiken on 6–16–83.

Thomas Schattenfield, David Tillotson & Susan A. Marshall, Attorneys for National Radio Broadcasters Association on 7–27–83.

[2] Arnold P. Lutzker & Jill S. Josephson, Attorneys for Cox Communications, Inc., (WSB–FM et al.), on 7–28–83.

James A. McKenna, Jr., Steven A. Lerman & Dennis P. Corbett, Attorneys for Infinity Broadcasting Corporation (and subsidiaries), Lake Huron Broadcasting Corporation (and subsidiaries), Park Broadcasting, Inc. (and subsidiaries), Shamrock Broadcasting Company, Inc. (and subsidiaries), Summit Radio Corporation, Tri-Cities Broadcasting Company, WAHR, Inc. & WKRG–TV, Inc. on 7–28–83.

Erwin G. Krasnow & Barry D. Umansky, Attorneys for National Association of Broadcasters on 7–28–83.

Lauren A. Colby, Attorney for Richard Culpepper on 6–3–83.[1]

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83–23101 Filed 8–22–83; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 1299]

Midland Pacific Shipping Co., Inc.; Order of Revocation

On August 11, 1983, Midland Pacific Shipping Company, Inc., One World Trade Center, New York, NY 10048 surrendered its Independent Ocean Freight Forwarder License No. 1299 for revocation in compliance with the settlement agreement approved by the Federal Maritime Commission in Docket No. 81–64.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), section 10.01(e) dated November 12, 1981;

It is ordered, that Independent Ocean Freight Forwarder License No. 1299 issued to Midland Pacific Shipping Company, Inc., be revoked effective August 11, 1983.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Midland Pacific Shipping Company, Inc.

Robert M. Skall,

Deputy Director, Bureau of Certification and Licensing.

[FR Doc. 83–23052 Filed 8–22–83; 8:45 am]

BILLING CODE 6730–01–M

[Independent Ocean Freight Forwarder License No. 1471]

Sea-Air International Corp.; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.15(d) of Federal Maritime Commission General Order 4 further provides that a license shall be automatically revoked for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Sea-Air International Corp., P.O. Drawer 2377, 15401 W. Vantage Pkwy., Suite 104, Houston, TX 77032 was cancelled effective August 4, 1983.

By letter dated July 12, 1983, Sea-Air International Corp. was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 1471 would be automatically revoked unless a valid surety bond was filed with the Commission.

Sea-Air International Corp. has failed to furnish a valid bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), section 10.01(f) dated November 12, 1981;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 1471 be and is hereby revoked effective August 4, 1983.

It is ordered, that Independent Ocean Freight Forwarder License No. 1471 issued to Sea-Air International Corp. be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Sea-Air International Corp.

Robert M. Skall,

Deputy Director Bureau of Certification and Licensing.

[FR Doc. 83–23050 Filed 8–22–83; 8:45 am]

BILLING CODE 6730–01–M

[Independent Ocean Freight Forwarder License No. 2560]

Varela Corporation d.b.a. Pilot Ocean Freight Forwarders; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.15(d) of Federal Maritime Commission General Order 4 further provides that a license shall be automatically revoked for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Varela Corporation d.b.a. Pilot Ocean Freight Forwarders, 1348 Rollins Road, Burlingame, CA 94010 was canceled effective August 11, 1983.

By letter dated July 14, 1983, Varela Corporation d.b.a. Pilot Ocean Freight Forwarders was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 2560 would be automatically revoked unless a valid surety bond was filed with the Commission.

Varela Corporation d.b.a. Pilot Ocean Freight Forwarders has failed to furnish a valid bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), section 10.01(f) dated November 12, 1981;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 2560 be and is hereby revoked effective August 11, 1983.

It is ordered, that Independent Ocean Freight Forwarder License No. 2560 issued to Varela Corporation d.b.a. Pilot Ocean Freight Forwarders be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Varela Corporation d.b.a. Pilot Ocean Freight Forwarders.

Robert M. Skall,

Deputy Director, Bureau of Certification and Licensing.

[FR Doc. 83–23051 Filed 8–22–83; 8:45 am]

BILLING CODE 6730–01–M

[Independent Ocean Freight Forwarder License No. 1757]

Winston A. Hollard, D.B.A. Western Traffic Service; Order of Revocation

On August 1, 1983, Winston A. Hollard dba Western Traffic Service, P.O. Box 1169, 5807 ½ Wadsworth Blvd., Arvada, CO 80002 requested the Commission to revoke his Independent

[1] Inadvertently omitted from previous **Federal Register** publication.

Ocean Freight Forwarder License No. 1757.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), section 10.01(e) dated November 12, 1981;

It is Ordered, that Independent Ocean Freight Forwarder License No. 1757 issued to Winston A. Hollard dba Western Traffic Service, be revoked effective August 1, 1983 without prejudice reapplication for a license in the future.

It is further ordered, that Independent Ocean Freight Forwarder License No. 1757 issued to Winston A. Holland dba Western Traffic Service be returned to the Commission for Cancellation.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Winston A. Hollard dba Western Traffic Service.

Robert M. Skall,

Deputy Director, Bureau of Certification and Licensing.

[FR Doc. 83-23050 Filed 8-22-83; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Applications for Formation of Bank Holding Companies; Federal Reserve Bank of Chicago et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Latham Bancorp*, Latham, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of State Bank of Latham, Latham, Illinois. Comments on this application must be received not later than September 16, 1983.

2. *River Valley Bancorporation, Inc.*, Rothschild, Wisconsin; to become a bank holding company by acquiring 80 percent or more of the voting shares of River Valley State Bank, Rothschild, Wisconsin. Comments on this application must be received not later than September 16, 1983.

B. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Underwood Bancshares, Inc.*, Underwood, Minnesota; to become a bank holding company by acquiring 95.6 percent of the voting shares of Farmers State Bank of Underwood, Underwood, Minnesota. Comments on this application must be received not later than September 16, 1983.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Brewster Bankshares, Inc.*, Brewster, Kansas; to become a bank holding company by acquiring 80 percent of the voting shares of Brewster National Bank, Brewster, Kansas. Comments on this application must be received not later than September 16, 1983.

D. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Cobanco, Inc.*, Santa Cruz, California; to become a bank holding company by acquiring 100 percent of the voting shares of County Bank and Trust, Santa Cruz, California. This application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank of San Francisco. Comments on this application must be received not later than September 16, 1983.

2. *Frandsen Bancshares, Inc.*, Luck, Wisconsin; to become a bank holding company by acquiring 100 percent of the voting shares of Fidelity State Bank. This application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank of Minneapolis. Comments on this application must be received not later than September 16, 1983.

Board of Governors of the Federal Reserve System, August 17, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-23033 Filed 8-22-83; 8:45 am]

BILLING CODE 6210-01-M

Applications for Acquisition of Bank Shares by Bank Holding Companies; Federal Reserve Bank of Kansas City, et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *First Guthrie Bancshares, Inc.*, Guthrie, Oklahoma; to acquire 9.9 percent of the voting shares or assets of The Liberty State Bank of Tahlequah, Tahlequah, Oklahoma. Comments on this application must be received not later than September 16, 1983.

B. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Landmark Financial Group, Inc.*, Fort Worth, Texas; to acquire 100 percent of the voting shares or assets of Arlington Heights Bank of Fort Worth, Fort Worth, Texas. Comments on this application must be received not later than September 16, 1983.

Board of Governors of the Federal Reserve System, August 17, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-23032 Filed 8-22-83; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Performance Review Board; Membership List

AGENCY: Office of Organization and Personnel, GSA.

ACTION: Notice of Membership.

SUMMARY: Notice is hereby given of the names of the members of the GSA Performance Review Board.

EFFECTIVE DATE: August 23, 1983.

FOR FURTHER INFORMATION CONTACT: Gregory L. Knott, Director, Executive Resources Division, General Services Administration, Office of Organization and Personnel, 18th & F Streets NW., Washington, D.C. 20405 (202) 566-1207.

SUPPLEMENTARY INFORMATION: Sec. 4314(c) (1) through (5) of Title 5, U.S.C. requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more performance review boards and to publish these names in the **Federal Register.** The board shall review the performance rating of each senior executive's performance by the supervisor, along with any recommendations to the appointing authority relative to the performance of the senior executive. The members of the Performance Review Board are:

1. Carroll Jones, Commissioner, Federal Property Resources Service.
2. Roger Daniero, Deputy Assistant Administrator for Federal Supply and Services.
3. Charles S. Davis III, Associate Administrator for Operations.
4. Richard Jeanneret, Director of Management, Office of Federal Supply and Services.
5. Ira Jekowsky, Deputy Commissioner for Policy and Program Support, Public Buildings Service.
6. Saul Katz, Special Counsel to the Administrator for Ethics.
7. Patricia Q. Schoeni, Associate Administrator for Administration.

Dated: August 16, 1983.

Patricia Q. Schoeni,

Acting Administrator of General Services.

[FR Doc. 83-20137 Filed 8-22-83; 8:45 am]

BILLING CODE 6820-34-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary, Office of the General Counsel (HHS/OS/OGC), HHS.

ACTION: Notification of a new system of records.

SUMMARY: The Office of the General Counsel (OGC) proposes to publish the accompanying notice of a new system of records, entitled "Automated Litigation Tracking System", Number 09-90-0999.

This new system represents the automation of a subset of information currently maintained in the systems, "Litigation Files, Administrative Complaints, and Adverse Personnel Actions", Number 09-90-0064 and "Administrative Claims", Number 09-90-0062. The new system will significantly improve the accessability of the information it will contain and thus its purpose will be different from the larger "Litigation Files * * *" system. For these reasons OGC believes it is appropriate to identify this automation as a new system of records.

OGC has found it necessary to automate a portion of its litigation files because of growing work load. The automation is primarily intended: to enable management to better balance staff work load, to enable the staff to be more readily informed of the cases being litigated, and to enable the staff to provide more timely answers to questions about the cases (see the sections on Purposes and Routine Uses in the accompanying notice for more detailed information).

OGC intends for publication of the accompanying notice to provide the opportunity for those who have comments and views to submit them before the system becomes operational. OGC welcomes comments on the proposed routine uses. Comments should be made before September 22, 1983.

DATES: The system is currently planned to become operational by October 15, 1983. The system report was sent to Congress and OMB on August 12, 1983. Unless OGC receives comments on the proposed routine uses that lead to a contrary determination, those uses will take effect when the system takes effect, but not before September 22, 1983.

ADDRESS: Comments should be addressed to the Automation Project Coordinator at the address listed below. Comments received will be available for inspection during office hours in Room 706-E, at that address.

FOR FURTHER INFORMATION CONTACT:

Timothy Brown, Automation Project Coordinator, Office of the General Counsel, Building HHH, Room 706-E, 200 Independence Avenue SW., Washington, D.C. 20201
or call (202) 245-7545 (this is not a toll free number).

SUPPLEMENTARY INFORMATION: Major routine uses are the same as the predecessor systems noted in the summary. In balancing privacy with the system's goals, the goal of enhanced accessibility of information was sacrificed somewhat by focusing the automated system on a court and docket number combination as the primary method for identifying records and by restricting the use of the SSN. Continuing to operate OGC without this automation was considered, but given the recent increases in the volume of litigation, OGC feels that the no-automation option would lead to undue delays in the litigation of complaints against the Department and would therefore be counter to the interests of the public.

Dated: August 12, 1983.

Juan A. del Real,

General Counsel.

09-90-0999

SYSTEM NAME:

Automated Litigation Tracking System. HHS/OS/OGC.

SYSTEM CLASSIFICATION:

None.

LOCATION:

The database and software for this computerized system will be located at the Parklawn Computer Center (part of the Public Health Service) located at 5600 Fishers Lane, Rockville, Maryland 20857.

Each OGC location identified in the Appendix on the Administrative Claims System (09-90-0062) **Federal Register,** Wednesday, October 13, 1982 (47 FR 45540-45542) will have access to the database and software via one or more CRT terminals.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The individuals on whom records are maintained in this system are: (1) Individuals who are involved in litigation with the Department or the United States (regarding matters within the jurisdiction of the Department) either as plaintiffs or as defendants in both civil and criminal matters, (2) individuals who either file administrative compliants with the Department or are the subjects of administrative complaints initiated by the Department; including claims which are the subjects of records maintained in the Administrative Claims System, 09-90-0062, (3) individuals who are named parties in cases in which the Department believes it will or may become involved, and (4) OGC attorneys to whom cases are assigned.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records contain information to identify: (1) The cases and legal actions that the Department either is involved in or in which it believes it will or may become involved, (2) the people

involved in each case, (3) where within the government the case has been assigned, (4) what the status of the case is, including the key events that may have occurred, and (5) the legal and programmatic issues of the case.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The authority for maintaining this system are the various statutes, regulations, rules or orders pertaining to the subject matter of the litigation, administrative complaint or adverse personnel action, (e.g., Public Health Service Act; Social Security Act; Civil Rights Act; Federal Food, Drug and Cosmetic Act; Federal Tort Claims Act, 28 U.S.C. 2671–2680, 1346(b); Waiver of Overpayment of Pay Act, 5 U.S.C. 5584; Military Personnel and Civilian Employees Claims Act, 31 U.S.C. 240–243; Federal Claims Collection Act, 31 U.S.C. 951–953; and Federal Medical Care Recovery Act, 42 U.S.C. 2651–2653).

PURPOSE(S):

To enable the Office of the General Counsel to: (1) More efficiently and effectively use its resources in court and administrative proceedings, (2) provide a research tool that will permit attorneys to identify when and where similar litigation has occured, and (3) enable management to better balance the attorney workload.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records are used in communicating with, among others, Federal, State, and local law enforcement agencies, private individuals, private and public hospitals, allegedly negligent parties, private attorneys, insurance companies, the United States Attorney and other Federal officials and agencies, individual law enforcement officers, and tribal officials. These communications are all for the purpose of investigating, settling, or denying claims and subsequent litigation action.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense provided such disclosure is compatible with the purpose for which the records were collected.

In the event that a system of records maintained by this agency to carry outs its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system or records may referred, as a routing use to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

In the event the Department deems it desirable or necessary, in determining whether particular records are required to be disclosed under the freedom of Information Act, disclosure may be made to the Department of Justice for the purpose of obtaining its advice.

A record from this system of records may be disclosed as a "routine use" to a Federal, state or local agency maintaining civil, criminal or other relevant enforcement records or other pertinent records, such as current licenses, if necessary to obtain a record relevant to an agency decision concerning the hiring or retention of an employee, the issurance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the record is relevant and necessary to the requesting agency's decision on the matter.

A record from this system of records may be disclosed to the Department of Justice or other appropriate Federal agencies in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual.

A record from this system of records may be disclosed to any Federal, state or local agency where the Department deems that the information is needed for any aspect of administering a Federal, state, or local program.

Records from this system may be disclosed to a private firm under contract to the Department for the purpose of having that firm convert the records to machine readable form, or collate, analyze, aggregate or otherwise refine the information in the records. The contractor will be required to maintain Privacy Act safeguards with respect to such records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORD IN THE SYSTEM:

STORAGE:

Information will be stored on a variety of computer-readable, electronic media, including disc, mass storage, and magnetic tape.

RETRIEVABILITY:

The records in this system will be indexed by the court's docket number for the litigation and will be retrievable by any information contained in the record, including by: The name of either party, the Social Security Number (only for records on cases involving claims against one or more programs administered by the Social Security Administration or the Health Care Financing Administration), the name of the attorney assigned the case, and the legal or programmatic issues involved.

Only OGC staff will be permitted to retrieve information from this system.

SAFEGUARDS:

The buildings where these records are stored on electronic media are safeguarded by a variety of physical security systems which permit access only by authorized computer center personnel and authorized visitors escorted by computer center staff.

The computer terminals used to access the records are kept in rooms which are locked at the close of the business day and are generally accessible only to General Counsel personnel.

Electronically, the records are protected from unauthorized access by several password oriented systems which produce an audit trail of all attempts (successful and unsuccessful) to access the records. In general, this system complies with all security guidelines published by the Department (Part 6, ADP Systems Manual), which embodies the guidance presented by the National Bureau of Standards in the

Federal Information Processing Standards.

RETENTION AND DISPOSAL:

Records are maintained until the litigation or other judicial proceedings have ended and for varying periods of time thereafter, subject to the Federal Records Act and applicable retention schedules.

SYSTEM MANAGER(S) AND ADDRESS:

The agency official responsible for the system policies and practices outlined above is: The General Counsel, Department of Health and Human Services, Office of the General Counsel, Hubert H. Humphrey Building, Room 722A, 200 Independence Avenue, SW., Washington, D.C. 20201.

NOTIFICATION PROCEDURE:

Any inquiries regarding these systems of records should be addressed to the System Manager. An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. *Access will not be provided to materials compiled by the Department for litigation purposes, such as information about briefs and recommendations to appeal or not to appeal, except when such access is granted by the court as a result of discovery or due process.*

CONTESTING RECORD PROCUEDURES:

Contact the official designated in the section, "System Manager(s) and address", above; reasonably identify the record and specify the information that is to be contested; and state the corrective action sought and your reasons for requesting the correction, with supporting evidence to show why the record is *not* accurate, timely, complete, relevant or necessary.

RECORD SOURCE CATEGORIES:

The information for this system is obtained through a number of sources including the exchange of legal pleadings, documents, formal and informal discovery, program offices and component agencies, private attorneys, State and local governments, their agencies and instrumentalities, and officers of other Federal agencies and the individuals involved.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 83-22980 Filed 8-22-83; 8:45 am]
BILLING CODE 4160-04-M

Food and Drug Administration

Consumer Participation; Open Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following consumer exchange meetings: Nashville District Office, chaired by Robert C. Fish, Acting District Director. Topic to be discussed: Direct-to-Consumer Advertising of Prescription Drugs.

DATE: Wednesday, August 31, 1983, 2 p.m. to 4 p.m.

ADDRESS: Lecture Hall No. 1, Kresge Learning Resources Center, Meharry Medical College, 1005 D.B. Todd Blvd., Nashville, TN 37208.

FOR FURTHER INFORMATION CONTACT: Jessica A. Parchman, Consumer Affairs Officer, Food and Drug Administration, 297 Plus Park Blvd., Nashville, TN 37217, 615–251–7127.

Atlanta District Office, chaired by John H. Turner, District Director. Topics to be discussed: FDA's Consumer Interaction/Atlanta District's Activities; Weight Control OTC Drugs; Sodium Labeling; and Updates on All Current Issues.

DATE: Thursday, September 1, 1983, 2 p.m.

ADDRESS: Forsyth County Courthouse, Jury Assembly Rm., Second Floor, Cumming, GA 30130.

FOR FURTHER INFORMATION CONTACT: Ana M. Rivera, Consumer Affairs Officer, Food and Drug Administration, 1182 West Peachtree St., NW., Atlanta, GA 30309, 404–881–7355.

San Francisco District Office, chaired by William C. Hill, District Director. Topics to be discussed: Direct-to-Consumer Advertising of Prescription Drugs; Contraceptive Sponge; Patient Education Alternatives for Prescription Drugs; and Aspartame.

DATE: Wednesday, September 14, 1983, 1 p.m. to 4 p.m.

ADDRESS: Clemens Room, Clark County Health District, 625 Shadow Lane, Las Vegas, NV 89107.

For Further Information Contact: Lula Holland, Consumer Affairs Officer, Food and Drug Administration, 50 United Nations Plaza, Rm. 524, San Francisco, CA 94102, 415–556–2682.

New Orleans District Office, chaired by Rober O. Bartz, District Director. Topic to be discussed: Direct-to-Consumer Advertising of Prescription Drugs.

Date: Thursday, September 15, 1983, 1:30 p.m.

Address: Food and Drug Administration, 4298 Elysian Fields Ave., New Orleans, LA 70122.

For Further Information Contact: Frances G. Brysson, Consumer Affairs Officer, Food and Drug Administration, 4298 Elysian Fields Ave., New Orleans, LA 70122, 504–589–2420

Kansas City District Office, chaired by James A. Adamson, District Director. Topic to be discussed: Direct-to-Consumer Advertising of Prescription Drugs.

Date: Monday, September 19, 1983, 9 a.m. to 12 m.

Address: Food and Drug Administration, 1009 Cherry St., Kansas City, MO 64106.

For Further Information Contact: Julia S. Hewgley, Consumer Affairs Officer, Food and Drug Administration, 1009 Cherry St., Kansas City, MO 64106, 816–374–3817.

New Orleans District Office, chaired by Robert O. Bartz, District Director. Topic to be discussed: Direct-to-Consumer Advertising of Prescription Drugs.

Date: Wednesday, September 28, 1983, 1:30 p.m.

Address: Arkansas State Department of Health, 4815 West Markham St., Little Rock, AK 72201.

For Further Information Contact: Frances G. Brysson, Consumer Affairs Officer, Food and Drug Administration, 4298 Elysian Fields Ave., New Orleans, LA 70122, 504–589–2420.

Supplementary Information: The purpose of these meetings is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns to enhance relationships between local consumers and FDA's District Offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: August 18, 1983.

William R. Clark,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-22103 Filed 8-19-83; 12:04 pm]
BILLING CODE 4160-01-M

National Institutes of Health

Board of Scientific Counselors, Division of Cancer Treatment; Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, Division of Cancer Treatment, National Cancer Institute, September 29–30, 1983, Building 31, 6th Floor, C Wing, Conference Room 10, National Institutes of Health, Bethesda, Maryland 20205. The meeting will be open to the public on September 29, from 8:30 a.m. to approximately 5:00 p.m., and on September 30, from 8:30 a.m. to adjournment, to review program plans, contract recompetitions and budget for the DCT program. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Section 552(c)(6), Title 5, U.S. Code and Section 10(d) of Public Law 92–463, the meeting will be closed to the public on September 29, from approximately 5:00 p.m. to recess, for the review, discussion and evaluation of individual programs and projects conducted by the National Institutes of Health, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A–06, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Bruce A. Chabner, Director, Division of Cancer Treatment, National Cancer Institute, Building 31, Room 3A–52, National Institutes of Health, Bethesda, Maryland 20205 (301/496–4291) will furnish substantive program information.

Dated: August 5, 1983.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 83–23041 Filed 8–22–83; 8:45 am]

BILLING CODE 4140–01–M

Drugs and Insomnia: The Use of Medications to Promote Sleep; Conference

Notice is hereby given of a Consensus Development Conference on "Drugs and Insomnia: The Use of Medications to Promote Sleep," sponsored by the National Institute of Mental Health and the NIH Office of Medical Applications of Research. The conference will be held November 15–17, 1983, in the Masur Auditorium of the Warren G. Magnuson Clinical Center (Building 10) at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205. The purpose of the conference is to provide guidance to practitioners.

Use of a hypnotic or other medication to promote sleep is a decision that a physician must frequently make. However, the advent of several new or soon-to-be available benezodiazepine hyponotics and the accumulation of new pharmacologic data has made decisionmaking much more complex.

Since insominia appears in different diagnostic contexts and occurs under a variety of circumstances, it is often difficult for the practitioner to decide whether a sleep-promoting medication is indicated. The task is further complicated by the fact that psychiatric morbidity is present in about half of the adults who experience moderate to severe problems with insomnia in a typical year.

As an aid to clinicians, the participants in this Consensus Conference, in open forum, will address the questions of whether, when and how to use hypnotics and other sleep-promoting medications. The assemblage of practicing physicians, biomedical investigators, industry representatives, consumers, and others will also work to develop principles that could facilitate rational choice among available pharmacologic options.

Following two days of presentations by experts and discussion by the audience, a Consensus Panel will consider the scientific evidence. Panel members will include generalists and specialists from the medical professions and related scientific disciplines, as well as lay persons. Both research and clinical practice will be represented. After deliberation, the Panel will formulate a draft statement responding to the following key questions: Under what circumstances might a sleep-promoting medication be considered? What are the pharmacologic factors to be considered in the selection of sleep-promoting medications? What are the appropriate treatment strategies to be employed in using sleep-promoting medications on a short-term or long-term basis? What are the principal cautions and risks associated with prescribing these drugs? What research areas need further development?

On the third day, Consensus Panel Chairman Dr. Daniel X. Freedman, professor and chairman of the Department of Psychiatry, University of Chicago, will read the draft Consensus Statement before the conference audience and invite comments and questions.

Information on the program may be obtained from Ms. Michele Dillon, Prospect Associates, Suite 401, 2115 East Jefferson Street, Rockville, Maryland 20852, (301) 468–6555

Dated: August 16, 1983.

James B. Wyngaarden,

Director, National Institutes of Health.

[FR Doc. 83–23045 Filed 8–22–83; 8:45 am]

BILLING CODE 4140–01–M

Dental Sealants in the Prevention of Tooth Decay; Conference

Notice is hereby given of the NIH Consensus Development Conference on "Dental Sealants in the Prevention of Tooth Decay," sponsored by the National Institute of Dental Research and the NIH Office of Medical Applications of Research. The conference will be held December 5–7, 1983, in the Ambulatory Care Research Facility Amphitheater, Warren G. Magnuson Clinical Center (Building 10) at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205.

The chewing surfaces of children's teeth are the surfaces which are most susceptible to decay and least benefited by fluorides. In recent years a technique has been developed in which plastic films are applied to these chewing surfaces to seal the pits and grooves where food and bacteria can be trapped. The purpose of this conference is to evaluate the effectiveness, safety, and implementation of the sealant procedure.

Scientific evidence concerning the following questions will be considered: With the current widespread use of fluorides and the generalized decrease in caries experience among children, is there a need for sealants? How effective are sealants? Are there risks associated with the use of sealants? What are the clinical procedures involved in successful sealant application, and what training and education are required? What factors have influenced and should influence the adoption and utilization of sealants for caries prevention? What is the current status of sealant research and what should be the research priorities for sealants and their implementation?

The Consensus Development Conference will bring together biomedical investigators, practicing dentists and physicians, academicians, dental hygienists, dental assistants and representatives of public interest groups. Following one and one-half days of

presentations by experts in the field and discussion by the audience, the Consensus Panel, drawn from the dental community and interested professional and lay groups, will draft a statement responding to the key questions discussed. Panel Chairman Dr. James W. Bawden will read the Consensus Statement before the conference audience and invite comments.

Information on the program may be obtained by contacting Mr. Peter Murphy, Prospect Associates, 2115 East Jefferson Street, Suite 401, Rockville, Maryland 20852 (301) 468–6555.

Dated: August 12, 1983.

James B. Wyngaarden,

Director, National Institutes of Health.

[FR Doc. 83–23042 Filed 8–22–83; 8:45 am]

BILLING CODE 4140–01–M

National High Blood Pressure Coordinating Committee; Meeting

Notice is hereby given of the meeting of the National High Blood Pressure Education Program Coordinating Committee, sponsored by the National Heart, Lung, and Blood Institute, on September 30, 1983, from 9:00 a.m. to 3:00 p.m., at the Bethesda Marriott Hotel, 5151 Pooks Hill Road, Bethesda, Maryland 20814.

The entire meeting will be open to the public. The coordinating committee is meeting to define the priorities, activities, and needs of the participating groups in the National High Blood Pressure Education Program. Attendance by the public will be limited to space available.

For detailed program information, agenda, list of participants and meeting summary contact: Dr. Edward J. Roccella, Acting Chief, Health Education Branch, Office of Prevention, Education and Control, National Heart, Lung, and Blood Institute, National Institutes of Health, Building 31, Room 4A24, Bethesda, Maryland 20205.

Dated: August 15, 1983.

James B. Wyngaarden,

Director, National Institutes of Health.

[FR Doc. 83–23043 Filed 8–22–83; 8:45 am]

BILLING CODE 4140–01–M

Postmenopausal Replacement Estrogen; Workshop

A workshop on Postmenopausal Replacement Estrogen will be held by the National Heart, Lung, and Blood Institute on September 13 and 14, 1983 at the Thomas Circle Holiday Inn, Washington, D.C. The workshop will focus on cardiovascular disease aspects of replacement estrogen therapy. The workshop is open to the public. Attendance will be limited on a space available basis. Interested persons should contact Dr. Ron Goor, NHLBI, (301) 496–1681.

Dated: August 16, 1983.

James B. Wyngaarden,

Director, National Institutes of Health.

[FR Doc. 83–23044 Filed 8–22–83; 8:45 am]

BILLING CODE 4140–01–M

Filing of Annual Reports

Pursuant to Sections 10(d) and 13 of the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the annual reports for the committees listed below have been filed with the Library of Congress. Copies are available to the public for inspection at the Library of Congress, Special Forms Reading Room, Main Building, or on weekdays, at the Department Library, North Building, Room 1436, Washington, D.C. 20201, between 9:00 a.m. and 4:30 p.m.

Advisory Committee to the Director, NIH
Aging Review Committee
Allergy, Immunology, and Transplantation Research Committee
Allergy and Immunology Study Section
Animal Resources Review Committee
Arthritis, Metabolism, and Digestive Diseases Special Projects Review Committee
Arteriosclerosis, Hypertension and Lipid Metabolism Advisory Committee
Bacteriology and Mycology Study Section
Behavioral and Neurosciences Study Section
Behavioral Medicine Study Section
Biochemical Endocrinology Study Section
Biochemistry Study Section
Biomedical Library Review Committee
Biomedical Sciences Study Section
Biometry and Epidemiology Contract Review Committee
Bio-Organic and Natural Products Chemistry Study Section
Biophysical Chemistry Study Section
Biopsychology Study Section
Biotechnology Resources Review Committee
Bladder and Prostatic Cancer Review Committee
Blood Diseases and Resources Advisory Committee
Board of Regents of the National Library of Medicine
Board of Scientific Counselors, Division of Cancer Biology and Diagnosis
Board of Scientific Counselors, Division of Cancer Cause and Prevention
Board of Scientific Counselors, Division of Resources, Centers and Community Activities
Board of Scientific Counselors, National Eye Institute
Board of Scientific Counselors, National Heart, Lung, and Blood Institute
Board of Scientific Counselors, National Institute on Aging
Board of Scientific Counselors, National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases
Board of Scientific Counselors, National Institute of Allergy and Infectious Diseases
Board of Scientific Counselors, National Institute of Child Health and Human Development
Board of Scientific Counselors, National Institute of Dental Research
Board of Scientific Counselors, National Institute of Environmental Health Sciences
Board of Scientific Counselors, National Institute of Neurological and Communicative Disorders and Stroke
Board of Scientific Counselors, National Library of Medicine
Breast Cancer Task Force Committee
Cancer Center Support Review Committee
Cancer Clinical Investigation Review Committee
Cancer Control Grant Review Committee
Cancer Control Intervention Programs Review Committee
Cancer Regional Studies Review Committee
Cancer Resources and Repositories Contracts Review Committee
Cancer Research Manpower Review Committee
Cancer Preclinical Program Project Review Committee
Cancer Therapeutics Program Project Review Committee
Cardiology Advisory Committee
Cardiovascular and Pulmonary Study Section
Cardiovascular and Renal Study Section
Cell Biology Study Section
Cellular and Molecular Basis of Disease Review Committee
Chemical Pathology Study Section
Clinical Applications and Prevention Advisory Committee
Clinical Cancer Program Project Review Committee
Clinical Sciences Study Section
Clinical Trials Committee
Clinical Trials Review Committee
Communicative Disorders Review Committee
Developmental Therapeutics Contracts Review Committee, NCI
Diagnostic Radiology Study Section
Endocrinology Study Section
Environmental Health Sciences Review Committee
Epidemiology and Disease Control Study Section
Epilepsy Advisory Committee
Experimental Cardiovascular Sciences Study Section
Experimental Immunology Study Section
Experimental Therapeutics Study Section
Experimental Virology Study Section
Frederick Cancer Research Facility Advisory Committee
General Clinical Research Centers Committee
General Medicine A Study Section
General Medicine B Study Section
General Research Support Review Committee
Genetic Basis of Disease Review Committee
Genetics Study Section
Hearing Research Study Section
Heart, Lung, and Blood Research Review Committee A
Heart, Lung, and Blood Research Review Committee B
Hematology Study Section

Human Development and Aging Study Section
Human Embryology and Development Study Section
Immunobiology Study Section
Immunological Sciences Study Section
Large Bowel and Pancreatic Cancer Review Committee
Mammalian Genetics Study Section
Maternal and Child Health Research Committee
Medicinal Chemistry Study Section
Mental Retardation Research Committee
Metabolism Study Section
Metallobiochemistry Study Section
Microbial Physiology and Genetics Study Section
Microbiology and Infectious Diseases Advisory Committee
Minority Access to Research Careers (MARC) Review Committee
Molecular and Cellular Biophysics Study Section
Molecular Biology Study Section
Molecular Cytology Study Section
National Advisory Allergy and Infectious Diseases Council
National Advisory Child Health and Human Development Council
National Advisory Council on Aging
National Advisory Dental Research Council
National Advisory Environmental Health Sciences Council
National Advisory Eye Council
National Advisory General Medical Sciences Council
National Advisory Neurological and Communicative Disorders and Stroke Council
National Advisory Research Resources Council
National Arthritis Advisory Board
National Arthritis, Diabetes, and Digestive and Kidney Diseases Advisory Council
National Cancer Advisory Board
National Diabetes Advisory Board
National Digestive Diseases Advisory Board
National Heart, Lung and Blood Advisory Council
National Institute of Dental Research Programs Advisory Committee
National Institute of Dental Research Special Grants Review Committee
Neurological Disorders Program-Project Review A Committee
Neurological Disorders Program-Project Review B Committee
Neurological Sciences Study Section
Neurology A Study Section
Neurology B Study Section
Nutrition Study Section
Oral Biology and Medicine Study Section
Orthopedics and Musculoskeletal Study Section
Pathobiochemistry Study Section
Pathology A Study Section
Pathology B Study Section
Pharmacological Sciences Review Committee
Pharmacology Study Section
Physical Biochemistry Study Section
Psysiological Chemistry Study Section
Physiology Study Section
Population Research Committee
Professional Oncology Education Review Committee
President's Cancer Panel
Pulmonary Diseases Advisory Committee
Radiation Study Section
Recombinant DNA Advisory Committee
Reproductive Biology Study Section
Research Manpower Review Committee
Respiratory and Applied Physiology Study Section
Scientific Programs Advisory Committee, NINCDS
Sensory Disorders and Language Study Section
Sickle Cell Disease Advisory Committee
Social Sciences and Population Study Section
Surgery and Bioengineering Study Section
Surgery, Anesthesiology and Trauma Study Section
Toxicology Study Section
Tropical Medicine and Parasitology Study Section
Virology Study Section
Vision Research Program Committee
Visual Sciences A Study Section
Visual Sciences B Study Section

Dated: August 16, 1983.

James B. Wyngaarden,

Director, National Institutes of Health.

[FR Doc. 83-23046 Filed 8-22-83; 8:45 am]
BILLING CODE 4140-01-M

Meeting of National Advisory Allergy and Infectious Diseases Council, Allergy and Immunology Subcommittee, Microbiology and Infectious Diseases Subcommittee

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Allergy and Infectious Diseases Council, National Institute of Allergy and Infectious Diseases, and its subcommittees on September 22-23, 1983, at the National Institutes of Health, Building 31C, Conference Room 10, Bethesda, Maryland 20205.

The meeting will be open to the public on September 22 from approximately 9:00 a.m. to 9:30 a.m. for opening remarks of the Institute Director and again from 1:30 p.m. to approximately 5:00 p.m. for discussion of procedural matters, Council business, and a report from the Institute Director which will include a discussion of budgetary matters. The primary program discussions will be on Sexually Transmitted Diseases. On September 23 the meeting will be open to the public from approximately 9:00 a.m. to 9:30 a.m. for the report of the director of the Immunology, Allergic and Immunologic Diseases Program. Attendance by the public at all open sessions will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and section 10(d) of Pub. L. 92-463, the meeting of the NAAIDC Allergy and Immunology Subcommittee and of the NAAIDC Microbology and Infectious Diseases Subcommittee will be closed to the public for approximately three hours for the review, evaluation, and discussion of individual grant applications. It is anticipated that this will occur from 9:30 a.m. until approximately 12:30 p.m. on September 22, 1983. The meeting of the full Council will be closed from approximately 10:00 a.m. until adjournment on September 23 for the review, evaluation, and discussion of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Nancy Brun, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A32, National Institutes of Health, Bethesda, Maryland 20205, telephone (301) 496-5717, will proved summaries of the meetings and rosters of the Council members as requested.

Dr. John W. Diggs, Director, Extramural Activities Program, NIAID, NIH, Westwood Building, Room 703, telephone (301) 496-7291, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.855, Pharmacological Sciences; 13.856, Microbiology and Infectious Diseases Research, National Institutes of Health)

Dated: August 10, 1983.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 83-23040 Filed 8-22-83; 8:45 am]
BILLING CODE 4140-01-M

National Advisory General Medical Sciences Council; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory General Medical Sciences Council, National Institute of General Medical Sciences, National Institutes of Health, on October 6 and 7, 1983, Building 31, Conference Room 6, Bethesda, Maryland.

This meeting will be open to the public on October 6, 1983, from 8:30 a.m. to 12 noon for opening remarks; report of the Director, NIGMS; and other business of the Council. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and

552b(c)(6), Title 5, U.S. Code, and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on October 6 from approximately 1:00 p.m. to 5:00 p.m., and on October 7, 1983, from 8:30 a.m. until adjournment, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Ann Dieffenbach, Public Information Officer, National Institute of General Medical Sciences, National Institutes of Health, Building 31, Room 4A52, Bethesda, Maryland 20205, Telephone: 301, 496–7301 will provide a summary of the meeting and a roster of council members. Dr. Ruth L. Kirschstein, Executive Secretary, NAGMS Council, National Institutes of Health, Westwood Building, Room 926, Bethesda, Maryland 20205, Telephone: 301, 496–7891 will provide substantive program information.

(Catalog of Federal Domestic Assistance Programs Nos. 13–821, Physiology and Biomedical Engineering; 13–859, Pharmacology-Toxicology Research; 13–862, Genetics Research; 13–863, Cellular and Molecular Basis of Disease Research; and 13–880, Minority Access to Research Careers [MARC])

Dated: August 10, 1983.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 83–23039 Filed 8–22–83; 8:45 am]

BILLING CODE 4140–01–M

Ad Hoc Working Group To Develop Radioepidemiological Tables

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776), the National Institutes of Health announces the establishment by the Secretary, Department of Health and Human Services, of an Ad Hoc Working Group to Develop Radioepidemiological Tables.

Section 7(b) of Pub. L. 97–414 directs the Secretary, HHS, to devise and publish radioepidemiological tables that estimate the likelihood that persons with any radiation-related cancer who received specific radiation doses before the onset of the cancer developed the disease as a result of such exposure.

In carrying out this mandate, the Secretary has established the Ad Hoc Working Group to Develop Radioepidemiological Tables comprised of scientific experts whose qualifications will insure a thorough, competent, and timely completion of the task.

Authority for this committee shall terminate on May 15, 1984, unless the Secretary, HHS, formally determines that continuance is in the public interest.

Dated: August 19, 1983.

Thomas E. Malone,

Acting Director, National Institutes of Health.

[FR Doc. 83–23280 Filed 8–22–83; 12:26 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA 6230]

California; Proposed Withdrawal and Opportunity for Public Hearing

August 15, 1983.

On May 3, 1982, a petition was approved and it was published in the **Federal Register** of May 7, 1982, FR Doc. 82–12493, page 19799, allowing the Bureau of Reclamation, U.S. Department of the Interior, to file an application to withdraw lands within the Los Padres National Forest from the mining laws. The Los Padres National Forest lands are described in an emergency withdrawal published in the **Federal Register** of May 16, 1979, FR Doc. 79–15265, pages 28666 and 28667.

The withdrawal will be used for the protection of the Casitas Reservoir watershed in the Los Padres National Forest. The Casitas Reservoir is the prime source of municipal water for the cities of Ventura and Ojai.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the undersigned officer within 90 days from the date of publication of this notice. Upon determination by the State Director, Bureau of Land Management, that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in Title 43 CFR Part 2300.

All communications in connection with this proposed withdrawal should be addressed to the undersigned officer, Bureau of Land Management, California S. State Office, Room E–2841, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

Eleanor Wilkinson,

Chief, Lands and Locatable Minerals Section, Branch of Lands and Minerals Operations.

[FR Doc. 83–23086 Filed 8–22–83; 8:45 am]

BILLING CODE 4310–84–M

California; Notice of Proposed Withdrawal

On August 17, 1983, a petition was approved allowing the Bureau of Land Managment to file a withdrawal application for the following described lands within the Ukiah District, Redding Resource area. The application will withdraw the lands from the mining laws subject to valid existing rights.

Mount Diablo Meridian

T. 30 N., R. 1 W.,
  Sec. 2., Lot 10;
  Sec. 4, Lots 1 thru 4;
  Sec. 26, SE¼SE¼
T. 34 N., R. 1 W.,
  Sec. 21, SE¼NW¼.
T. 31 N., R. 2 W.,
  Sec. 6, NW¼NE¼;
  Sec. 22, E½NW¼, SE¼SW¼.
T. 33 N., R. 2 W.,
  Sec. 11, Lots 3, 8, 9 and 10.
T. 30 N., R. 3 W.,
  Sec. 5, E½ of Lot 2 in the NE¼NE¼;
  Sec. 9, SE¼NW¼.
T. 30 N., R. 5 W.,
  Sec. 6, Lots 1 thru 4.
T. 31 N., R. 5 W.,
  Sec. 10, SW¼;
  Sec. 14, Lots 4, 5 and 6.
T. 32 N., R. 5 W.,
  Sec. 3, Lots 15 and 16;
  Sec. 11, S½NE¼SW¼NE¼SW¼, N½SW¼SW¼NE¼SW¼, S½NW¼SW¼NE¼ SW¼, N½SE¼SW¼NE¼SW¼;
  Sec. 12, NE¼SW¼;
  Sec. 14, Lots 2, 8, 12, 13, 18, 22 and 26, N½NE¼SW¼NW¼SW¼, W½SW¼NW¼SW¼, W½NW¼NW¼SW¼SW¼, W½NE¼NE¼SE¼;
  Sec. 15, Lots 3, 4 and 5;
  Sec. 20, Lots 11, 12, 16, 17, 18, 19, 20, 21, 22, 23, and 24;
  Sec. 22, W½SE¼SE¼NE¼;
  Sec. 31, Lots 24, 25, 26 and 28.
T. 31 N., R. 6 W.,
  Sec. 7, Lot 16;
  Sec. 29, S½S½NE¼NW¼.
T. 33 N., R. 6 W.,
  Sec. 7, Lots 4, 6, 7 and 8.
T. 31 N., R. 7 W.,
  Sec. 10, NW¼SW¼;
  Sec. 20, SE¼SE¼.

T. 39 N., R. 7 W.,
Sec. 22, Lot 17.
T. 31 N., R. 8 W.,
Sec. 12, NE¼NE¼.
T. 32 N., R. 8 W.,
Sec. 12, SE¼SE¼.
T. 31 N., R. 1 E.,
Sec. 8, S½S½.
T. 30 N., R. 2 E.,
Sec. 18, Lot 1.

The area aggregates 1,397.63 acres in Shasta County, California.

The withdrawal will segregate the subject lands from appropriation under the mining laws but not the mineral leasing laws. The segregation will terminate upon the issuance of a patent or two years from the date of this notice, whichever occurs first. It may further be terminated upon publication of a notice of termination by the authorized officer.

For a period of two years from the date of publication of this notice in the **Federal Register**, the lands will be segregated from location and entry under the mining laws as specified above unless the application is denied or canceled, or the withdrawal is approved prior to that date.

The temporary segregation of the lands in connection with a withdrawal application or proposal shall not affect administrative jurisdiction over the lands, and the segregation shall not have the effect of authorizing any use of the lands by the Bureau of Land Management.

All communications in connection with this proposed withdrawal should be addressed to the Bureau of Land management, Federal Office building, 2800 Cottage Way, Sacramento, California 95825.

Ed Hastey,

State Director.

August 17, 1983.

[FR Doc. 83-23075 Filed 8-22-83; 8:45 am]

BILLING CODE 4310-84-M

[Serial No. I-20200A]

Idaho; Conveyance of Public Lands, Blaine County

August 15, 1983.

Notice is hereby given that pursuant to the Act of October 21, 1976 (90 Stat. 2750; 43 U.S.C 1713), a patent was issued to Alexander MacDonald, Bellevue, Idaho, for the following-described public land:

Boise Meridian, Idaho

T. 1 S., R. 18 E.,
Sec. 31, lot 15.
Containing 0.40 acres.

The purpose of this notice is to inform the public and interested State and local governmental officials of the conveyance.

Louis B. Bellesi,

Deputy State Director for Operations.

[FR Doc. 83-23091 Filed 8-22-83; 8:45 am]

BILLING CODE 4310-84-M

[M 44653]

Montana; Notice of Conveyance and Order Providing for Opening of Public Lands

August 16, 1983.

1. Notice is hereby given that pursuant to Section 206 of the Act of October 21, 1976 (43 U.S.C. 1716 (1976)), the surface estate only in the following described land has been conveyed to Frank J. Cimrhakl, Daniel G. Cimrhakl and Robert G. Cimrhakl, Roy, Montana:

Principal Meridian, Montana

T. 20 N., R. 23 E.,
Sec. 31, Lots 1, 2, NE¼ and E½NW¼.
T. 20 N., R. 24 E.,
Sec. 25, SW¼NE¼.
T. 20 N., R. 25 E.,
Sec. 18, Lot 2 and NE¼SE¼; and
Sec. 19, SE¼NW¼.
Aggregating 461.75 acres.

2. In exchange for the above land, the United States acquired the surface estate only in the following described land in Fergus County, Montana. The government owns all the minerals in this land:

Principal Meridian, Montana

T. 21 N., R. 25 E.,
Sec. 21, NE¼;
Sec. 22, W½; and
Sec. 27, NW¼.
Containing 640 acres.

3. The order restores the land acquired by the United States to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 9 a.m. on September 20, 1983, will be considered as simultaneously filed at that time. Those received thereafter will be considered in the order of filing.

4. All minerals in the acquired land were and continue to be in United States ownership. The land has been and continues to be open to operation of the United States mining laws and the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Bureau of Land Management, P.O. Box 36800, 222 North 32nd Street, Billings, Montana 59107.

Ronald L. Bartley,

Deputy State Director, Division of Lands and Renewable Resources.

[FR Doc. 83-23093 Filed 8-22-83; 8:45 am]

BILLING CODE 4310-84-M

[M 55224]

Montana; Conveyance and Order Providing for Opening of Public Lands

August 16, 1983.

AGENCY: Bureau of Land Management, Montana State Office, Interior.

ACTION: Notice of conveyance and order providing for opening of public lands in Garfield County, Montana.

SUMMARY: Notice is hereby given that pursuant to Section 206 of the Act of October 21, 1976 (43 U.S.C. 1716 (1976)), the following described land was conveyed to Larry R. Withee and Sandra L. Johnson, a.k.a. Sandra L. Withee:

Principal Meridian, Montana

T. 18 N., R. 41 E.,
Sec. 12: E½NE¼.
Containing 80 acres.

In exchange for the above land, the United States acquired the following described land in Garfield County, Montana:

Principal Meridian, Montana

T. 18 N., R. 41 E.,
Sec. 13: W½NW¼.
Containing 80 acres.

This order restores the lands acquired by the United States to the operation of the public land laws generally.

DATES: At 9 a.m. on September 26, 1983, the lands will be open to the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law. All applications received at or prior to 9 a.m. on September 26, 1983, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Ronald L. Bartley,

Acting Deputy State Director, Division of Lands and Renewable Resources.

[FR Doc. 83-23092 Filed 8-22-83; 8:45 am]

BILLING CODE 4310-84-M

[M 56230, M 56230-A, M 56231]

Montana; Order Providing for Opening of Public Lands

August 16, 1983.

1. In Federal Register Volume 47, Number 243, pages 56563–56564, dated December 17, 1982, approximately 14,091.50 acres were proposed as suitable for classification for transfer to the State of Montana under the State Indemnity Selection program. All the lands have been transferred to the State of Montana with the exception of 4,597.31 acres which have been deleted from the State's application and are described as follows:

Principal Meridian

T. 4 N., R. 2 E.,
Sec. 2, Lot 5; and
Sec. 12, Lots 2, 3, and 6, SW¼NW¼.
T. 15 N., R. 55 E.,
Sec. 24, All.
T. 15 N., R. 56 E.,
Sec. 30, Lots 1 and 2, E½, E½NW¼.
T. 12 N., R. 6 W.,
Sec. 18, Lots 1, 2, and 3, N½NE¼, E½NW¼.
T. 16 N., R. 6 W.,
Sec. 34, N½NE¼, SW¼NE¼ and W½.
T. 10 N., R. 9 W.,
Sec. 4, Lots 3 and 4, SW¼NW¼, NE¼SE¼, S½S½;
Sec. 9, Lot 2;
Sec. 14, Lots 3 and 4, S½NW¼, SW¼; and
Sec. 20, Lot 1, NE¼NW¼.
T. 11 N., R. 11 W.,
Sec. 14, Lot 1.
T. 12 N., R. 11 W.,
Sec. 12, NE¼SW¼, W½SE¼ and SE¼SE¼;
Sec. 14, W½SW¼, SE¼SW¼ and E½SE¼;
Sec. 22, Lot 1; and
Sec. 26, N½, SW¼, and W½SE¼.
T. 13 N., R. 14 W.,
Sec. 24, Lots 5, 6, and 12, NE¼; and
Sec. 27, SE¼NE¼ and E½SE¼.
T. 11 N., R. 16 W.,
Sec. 4, SW¼SW¼.
T. 8 S., R. 40 E.,
Sec. 24, NW¼SW¼;
Sec. 26, N½SW¼;
Sec. 27, N½SE¼; and
Sec. 34, SE¼SW½.
T. 9 S., R. 40 E.,
Sec. 3, N½SW¼ and NW¼SE¼; and
Sec. 4, NE¼SE¼.

The areas described aggregate 4,597.31 acres in Broadwater, Dawson, Big Horn, Powell, Missoula, and Lewis and Clark Counties, Montana.

2. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands described in paragraph 1 are hereby open to the operation of the public land laws including the mining laws (Chaper 2, Title 30 U.S.C.).

All valid applications under the public land laws received at or prior to 9:00 a.m. on September 30, 1983, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. The lands have been and will continue to be open to application and offers under the mineral leasing laws.

4. Inquiries concerning the lands should be addressed to the Bureau of Land Management, P.O. Box 36800, 222 North 32nd Street, Billings, Montana 59107.

Ronald L. Bartley,

Deputy State Director, Division of Lands and Renewable Resources.

[FR Doc. 83-23067 Filed 8-22-83; 8:45 am]

BILLING CODE 4310-84-M

New Mexico, White Sands Resource Area; Intent To Prepare a Resource Management Plan and Invitation To Participate in the Identification of Issues

AGENCY: Bureau of Land Management, Las Cruces District, New Mexico, Interior.

ACTION: Initiation of a Resource Management Plan (RMP) and Invitation to Participate in the Identification Issues

Description of Proposed Planning Action

The U.S. Department of the Interior, Bureau of Land Management (BLM), Las Cruces District, White Sands Resource Area, New Mexico, will prepare a Resource Management Plan (RMP) including an Environmental Impact Statement (EIS) as an integral part of the planning process. The plan will be designed to guide and control future management actions on approximately 1.75 million acres of public land administered by the BLM in the White Sands Resource Area. The Code of Federal Regulations, Title 43, Subpart 1601, will be followed for this planning effort. The public is invited to participate in the planning process, beginning with the identification of issues.

Geographic Area

The plan will consider the public land and Federal mineral ownership in Sierra and Otero Counties as one planning area. This encompasses approximately 1.75 million acres of BLM administered surface and 2.1 million acres of Federal minerals under Federal, state, and private surface in the two county area.

Anticipated Issues

Issues that may be addressed during development of the RMP include, but are not limited to, the following: (1) Rangeland Management—a long-term analysis is needed to determine levels of livestock use and rangeland improvements; and (2) Land Disposal—there is a need to identify land parcels that are suitable for disposal.

The public is invited to comment on these issues and to suggest other concerns, needs, or opportunities for consideration during planning.

Interdisciplinary Team

The RMP will be developed by an interdisciplinary team under the supervision of the White Sands Resource Area Manager. Individuals working on the team full-time will be a team leader, a writer-editor, an economist, a range conservationist, a realty specialist, a wildlife biologist, a typist, and a cartographer. Additional technical support will be provided by Resource Area and District staff specialists as needed.

Public Participation Plan

A comprehensive public participation plan has been prepared. It is intended to involve interested or affected parties early and continuously throughout the planning process. An individual may protest approval of a final RMP only with respect to those items submitted in writing to the District Manager during the planning process. The public participation plan is flexible and designed to accommodate the unique situations caused by the scattered nature of BLM's ownership pattern and the variety of affected publics. The plan generally follows a "grass roots" approach to public involvement, emphasizing localized, one-to-one contacts, and extensive direct mailings, as well as continual coordination with local, state, and other Federal agencies.

Meetings to determine the scope of the RMP will be held in Truth or Consequences and Alamogordo, New Mexico, and Dell City, Texas. A public notice will be distributed 15 days prior to the meetings inviting the public to attend.

A booklet on the RMP is scheduled to be mailed out this fall. The booklet is intended to introduce interested parties to the RMP process and to involve the public in the identification of issues and the development of planning criteria. The proposed issues and planning criteria, developed as a result of initial public involvement, will be announced and made available in the Federal Register before formal approval and use in planning.

Responsible BLM Official

Larry Nunez, Area Manager, White Sands Resource Area Office, P.O. Box 1420, Las Cruces, NM 88004.

Telephone: (505) 523–5571, FTS 571–8312.

Location and Availability of Documents Relevant to the Planning Process

Pertinent information is available in the Resource Area Office at 1705 North Valley Drive, Las Cruces, New Mexico.

Charles W. Luscher,

State Director, New Mexico.

[FR Doc. 83-23090 Filed 8-22-83; 8:45 am]

BILLING CODE 4310-84-M

Richfield District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Public Law 92–463, that a meeting of the Richfield District Grazing Advisory Board will be held September 13, 1983.

The meeting will begin at 9:00 a.m. in the Scipio Park, Scipio, Utah.

The agenda for the meeting includes:

1. Discussion of Cooperative Management Program.
2. Priority ranking of 1984 projects.
3. Field trip to review range projects and fire rehabilitation projects.
4. Arrangements for next meeting.

The meeting is open to the public. Interested persons may attend the field trip and should provide their own transportation and lunch. Those individuals wishing to make oral statements to the Board must notify the District Manager, Bureau of Land Management, 150 East 900 North, Richfield, Utah 84701 by September 6, 1983. Written statements for the Board's consideration will be accepted up to September 6, 1983 at the above address.

Donald L. Pendleton,

District Manager.

August 12, 1983.

[FR Doc. 83-23086 Filed 8-22-83; 8:45 am]

BILLING CODE 4310-84-M

Shoshone District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Shoshone District Grazing Advisory Board Meeting.

SUMMARY: Notice is hereby given, in accordance with PL 94–529, and 43 CFR part 1780, that a meeting of the Shoshone District Grazing Advisory Board will be held on Thursday, September 15, 1983, at 9 a.m., at the BLM District Office, 400 West F Street, Shoshone, Idaho 83352.

Agenda for the Grazing Advisory Board Meeting will be:

1. Allocation of FY 84 Range Betterment Funds.
2. Review of revised Exchange-of-Use policy.
3. Review of Cooperative Management Agreement.
4. Livestock conversions in Gooding Sheep Allotment.

SUPPLEMENTARY INFORMATION: The public is invited to attend and make written or oral statements which should not exceed 15 minutes in length. Requests for these statements should be made to the official listed below at least five days prior to the meeting.

Further information concerning this meeting may be obtained from the Shoshone District Manager, Bureau of Land Management, P.O. Box 2B, Shoshone, Idaho 83352, telephone (208) 886–2206. Minutes of the meeting will be available for public inspection and copying three weeks after the meeting at the Shoshone District Office, Shoshone, Idaho.

Charles J. Harzier,

Distict Manager.

August 12, 1983.

[FR Doc. 83-23094 Filed 8-22-83; 8:45 am]

BILLING CODE 4310-84-M

[F-64846]

Alaska Native Claims Section; Cook Inlet Region, Inc.

In accordance with departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Secs. 12(b)(6) of the act of January 2, 1976 (89 Stat. 1151), and I.C. (2) of the Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area, as clarified August 31, 1976 (90 Stat. 1935), will be issued to Cook Inlet Region, Inc. for approximately 1,630 acres. The lands involved are within T. 1 S., R. 4 E., Fairbanks Meridian, Alaska.

The decision to issue conveyance will be published once a week, for four (4) consecutive weeks, in the FAIRBANKS DAILY NEWS-MINER upon issuance of the decision. For information on how to obtain copies, contact Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal Government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearing and Appeals, in accordance with the regulations in Title 43 CODE OF FEDERAL REGULATIONS (CFR), Part 4, Subpart E, as revised.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of the decision by personal service or certified mail, return receipt requested, shall have thirty days from the receipt of the decision to file an appeal.
2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt, and parties who received a copy of the decision by regular mail which is not certified, return receipt requested, shall have until September 22, 1983, to file an appeal.

Any party known or unknown who is adversely affected by the decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Cook Inlet Region, Inc., P.O. Drawer 4–N, Anchorage, Alaska 99509

State of Alaska, Department of Natural Resources, Division of Research and Development, Pouch 7–005, Anchorage, Alaska 99510

Paula M. Benson,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 83-23073 Filed 8-22-83; 8:45 am]

BILLING CODE 4310-84-M

San Juan River Coal Production Region; Fair Market Value Subgroup; Meeting

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given that the meeting of the Fair Market Value Subgroup previously scheduled for August 23, 1983 (48 FR 33361; July 21, 1983) has been postponed.

DATE AND ADDRESS: The new date for the meeting will be September 13, 1983. The meeting will begin at 1:30 p.m., MDT, in the conference room at the New Mexico Energy and Minerals Department, 525 Camino de los Marquez, Santa Fe, New Mexico.

FOR FURTHER INFORMATION CONTACT: Charles Turpen, 525 Camino de los Marquez, Santa Fe, New Mexico 87501, telephone number (505) 827–5950.

Persons planning to attend this meeting should verify the time and location by calling Mr. Turpen on the day preceding the meeting.

Dated: August 17, 1983.

Charles W. Luscher,

State Director.

[FR Doc. 83-23071 Filed 8-22-83; 8:45 am]

BILLING CODE 4310-84-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before August 12, 1983. Pursuant to § 60.13 of 36 CFR Part 60 Written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by September 7, 1983.

Patrick Andrus,

Acting Chief of Registration, National Register.

ALASKA

Sitka Division

Sitka, *Lutheran Church of New Archangel Site (Sitka Lutheran Church Site)*, 224 Lincoln St.

ARKANSAS

Phillips County

Helena, *Collidge House*, 820 Perry St.
Helena, *Habib's* 517–519 Cherry St.
Helena, *Keesee House*, 723 Arkansas St.
Helena, *West House*, 229 Beech St.

Union County

El Dorado, *Murphy, Charles H., Sr., House*, 900 N. Madison Ave.

CALIFORNIA

Contra Costa County

Pacheco, *Hendrick, William T., House*, 218 Center Ave.

Santa Clara County

Los Gatos, *Yung See San Fong, House*, 16660 Cypress Way

CONNECTICUT

New Haven County

New Haven, *Dwight Street Historic District*, Roughly bounded by Park, N. Frontage, Scranton, Sherman, and Elm Sts.

GEORGIA

DeKalb County

Atlanta, *Candler Park Historic District*, Roughly bounded by Moreland, DeKalb, McLendan, and Harold Aves., Mathews St., and Clifton Terr.

Grady County

Cairo vicinity, *Sasser Farm*, Sasser Farm Rd., S of Cairo

IDAHO

Adams/Idaho/Nez Perce Counties

Hells Canyon Archaeological District, both sides of Snake River from Hells Canyon Dam to Cougar Rapids

Bonneville County

Swan Valley vicinity, *Snake River Ranger Station*, U.S. 26

KENTUCKY

Boone County

Petersburg vicinity, *Rogers Site.*

LOUISIANA

Ascension Parish

Donaldsonville vicinity, *Evan Hall Slave Cabins*, W of Donaldsonville

Avoyelles Parish

Simmesport, *Lacour's Fish and Ice Company Building*, LA 1

Calcasieu Parish

DeQuincy, *All Saints Episcopal Church*, Hall and Harrison Sts.

Lincoln Parish

Dubach, *Dubach, Fred B., House*, LA 151

Red River Parish

Coushatta, *Coushatta Bank Building*, 103 Carroll St.

St. James Parish

Lutcher, *Longview*, LA 44

MARYLAND

Allegany County

Frostburg, *Frostburg Historic District*, Western Rr, Mt. Pleasant Terr., Main, Frost, Water, Broadway, Bealls, and Fairview Sts.
Mount Savage, *Mount Savage Historic District*, Roughly bounded by Foundry Row, Jennings Run, New School Rd., Yellow Row, Cherry St., and Columbia Ave.

Baltimore (Independent City)

Poppleton Fire Station, 756–760 W. Baltimore St.

MICHIGAN

Kent County

Grand Rapids, *Ledyard Block Historic District*, 123–145 Ottawa Ave., and 104–124 Monroe Center, N.W.

Muskegon County

Muskegon, *Hovey, Horatio N., House*, 318 Houston Ave.

Washtenaw County

Ann Arbor, *Weinmann Block*, 219–223 E. Washington St.
Lima, *South Lima Rural Historic District*, Jerusalem, Liberty, Scio Church, Fletcher, Lima Center, Dancer, and Steinbeck Rds.

MISSOURI

Clark County

Kahoka, *Clark County Courthouse*, 101 E. Court St.

Jackson County

Kansas City, *Floyd, Jacobs, House (Residential Structures by Mary Rockwell Hook TR)*, 5050 Sunset Dr.
Kansas City, *Four Gates Farm (Residential Structures by Mary Rockwell Hook TR)*, 13001 Little Blue Rd.
Kansas City, *Hook, Mary Rockwell, House (Residential Structures by Mary Rockwell Hook TR)*, 4940 Summit St.
Kansas City, *House at 5011 Sunset Drive (Residential Structures by Mary Rockwell Hook TR)*, 5011 Sunset Dr.
Kansas City, *House at 54 E. 53rd Terrace (Residential Structures by Mary Rockwell Hook TR)*, 54 E. 53rd Terr.
Kansas City, *Love, Emily Rockwell, House (Residential Structures by Mary Rockwell Hook TR)*, 5029 Sunset Dr.
Kansas City, *Ostertag, Robert, House (Residential Structures by Mary Rockwell Hook TR)*, 5030 Summit St.
Kansas City, *Pink House (Residential Structures by Mary Rockwell Hook TR)*, 5012 Summit St.
Kansas City, *Rockwell, Bertrand, House (Residential Structures by Mary Rockwell Hook TR)*, 1004 W. 52nd St.
Kansas City, *Row House Buildings*, 3401 Main, 1–7 and 9–23 E. 34th St.

Jefferson County

Kimmswick, *Windsor Harbor Road Bridge*, Windsor Harbor Rd. at Rock Creek

Monroe County

Florida, *Violette, Merritt, House*, Off MO 107

Nodaway County

Maryville, *Frank House*, 307 E. 7th St.

Ralls County

Hannibal, *Brown, James B., House*, 2400 Carr Lane

Sullivan County

Milan vicinity, *Camp Ground Church and Cemetery*, W of Milan

Taney County

Forsyth vicinity, *Swan Creek Bridge*, N of Forsyth

NEW HAMPSHIRE

Belknap County

Alton, *Alton Bay Railroad Station*, NH 11
Centre Harbor, *Centre Harbor Village Historic District*, Main and Plymouth Sts.
Gilmanton, *Centre Congregational Church*, Province Rd.
Gilmanton, *Gilmanton Academy*, Province Rd.

Carroll County

Center Sandwich, *Hansen's Annex*, Main St.
Sandwich, *Durgin Bridge*, Durgin Bridge Rd.
Wakefield, *Wakefield Public Library*, Mtn. Laurel Rd.
Wolfeboro, *Brewster Memorial Hall*, S. Main and Union Sts.

Strafford County

Strafford, *Strafford Union Academy*, NH 202A and 126

NEW YORK

Albany County

Rensselaerville, *Rensselaerville Historic District*, Old Albany, Pond Hill, Methodist Hill Rds. and Main St.

Bronx County

New York, *Bronx County Courthouse*, 851 Grand Concourse
New York, *Christ Church Complex*, 5030 Riverdale Ave.
New York, *Colgate, Robert, House (Stonehurst)*, 5225 Sycamore Ave.
New York, *Longwood Historic District*, Roughly bounded by Beck St., Longwood, Leggett, and Prospect Aves.
New York, *Public School 11, 1257 Ogden Ave.*
New York, *St. Peter's Church, Chapel and Cemetery Complex*, 2500 Westchester Ave.

Chautauqua County

Westfield, *Atwater-Stone House (Westfield Village MRA)*, 29 Water St.
Westfield, *Bliss, L., House (Westfield Village MRA)*, 90 W. Main St.
Westfield, *Campbell-Taylor, Harriet, House (Westfield Village MRA)*, 145 S. Portage St.
Westfield, *East Main Street Historic District (Westfield Village MRA)*, E. Main St.
Westfield, *Fay-Usborne Mill (Westfield Village MRA)*, 48 Pearl St.
Westfield, *French Portage Road Historic District (Westfield Village MRA)*, E. Main and Portage Sts.
Westfield, *Hall, Frank A., House (Westfield Village MRA)*, 34 Washington St.
Westfield, *Lake Shore & Michigan Southern Freight Depot (Westfield Village MRA)*, English St.
Westfield, *Lake Shore & Michigan Southern Railroad Station (Westfield Village MRA)*, English St.
Westfield, *Mack, Gerald, House (Westfield Village MRA)*, 79 N. Portage St.
Westfield, *McMahan Homestead (Westfield Village MRA)*, 232 W. Main Rd.
Westfield, *Nixon Homestead (Westfield Village MRA)*, 119 W. Main St.
Westfield, *Rorig Bridge (Westfield Village MRA)*, Water St. at Chautauqua Creek.
Westfield, *Thompson, Henry Dwight, House (Westfield Village MRA)*, 29 Wood St.
Westfield, *Ward House (Westfield Village MRA)*, 118 W. Main St.
Westfield, *Welch Factory Building #1 (Westfield Village MRA)*, 101 N. Portage St.
Westfield, *Wright, Reuben Gridley, Farm Complex (Westfield Village MRA)*, 233 E. Main St.
Westfield, *Wright, Reuben, House (Westfield Village MRA)*, 309 E. Main St.
Westfield, *York-Skinner House (Westfield Village MRA)*, 31 Union St.

Chenango County

South Otselic, *South Otselic Historic District*, Gladding, N. and S. Main Sts., Clarence Church and Plank Rds., and Potter Ave.

Dutchess County

Pine Plains, *Pines, The*, Maple St.

Erie County

Buffalo, *St. Andrew's Evangelical Lutheran Church Complex*, Sherman and Peckham Sts.
Buffalo, *Young Men's Christian Association Central Building*, 45 W. Mohawk St.
Kenmore, *Eberhardt Mansion*, 2746 Delaware Ave.

Essex County

Saranac Lake, Will Rogers Memorial Hospital, NY 86

Jefferson County

Sackets Harbor, *Sackets Harbor Village Historic District*, Main, Washington, Pike, Edmund, Hill, Hamilton, Broad, and Ambrose Sts.

Kings County

New York, *Boerum Hill Historic District*, Roughly bounded by Pacific, Wyckoff, Bergen, Nevins, Bond and Hoyt Sts.
New York, *Carroll Gardens Historic District*, Carroll and President Sts. between Smith and Hoyt Sts.
New York, *Eastern Parkway*, Eastern Pkwy from Grand Army Plaza to Ralph Ave.
New York, *Flatbush Dutch Reformed Church Complex*, 890 Flatbush Ave., and 2101–2103 Kenmore Terr.
New York, *Fort Greene Historic District*, Roughly bounded by Ft. Greene Pl., Fulton St., Vanderbilt and Myrtle Aves.
New York, *Greenwood Cemetery*, 5th Ave. and 25th St.
New York, *Ocean Parkway*, From Church Ave., to Seabreeze Ave.
New York, *Prospect Heights Historic District*, Roughly bounded by Pacific and Bergens Sts., Flatbush and Vanderbilt Aves., and Park Pl.
New York, *Prospect Lefferts Garden Historic District*, Roughly bounded by Sterling St., Fenmore and Lincoln Rds., and Rogers, Flatbush, Parkside, Lefferts and Nostrand Aves.
New York, *St. George's Protestant Episcopal Church*, 800 Marcy Ave.

Montgomery County

Canajoharie, Van Alstyne House, Moyer St.

Nassau County

Valley Stream, Pagan-Fletcher House, 127 Hendrickson Ave.

New York County

New York, *Central Savings Bank*, 2100–2108 Broadway
New York, *Dorilton*, 171 W. 71st St.
New York, *Houses at 647, 651–53 Fifth Avenue and 4 East 52nd Street*, 647, 651–53 5th Ave. and 4 E. 52nd St.
New York, *Lincoln Building*, 1 Union Sq. W.
New York, *Pomander Walk District*, 261–267 W. 94th St., 260–274 W. 95th St., and Pomander Walk
New York, *Red House*, 350 W. 85th St.
New York, *West 73rd–74th Street Historic District*, 73rd, 74th Sts., and Columbus Ave.

Orleans County

Albion, *Barlow, William V.N., House*, 223 S. Clinton St.

Oswego County

Pulaski, *Pulaski Village Historic District*, Jefferson, Broad, Bridge, Hubbel, and Lake Sts.

Queens County

Jamaica, *Jamaica Chamber of Commerce Building*, 8931 161st St.
Long Island City, *Steinway House*, 18–22 41st St.
New York, *Grace Episcopal Church Complex*, 15515 Jamaica Ave.
New York, *Kurtz, J., and Sons Store Building*, 162–24 Jamaica Ave.
New York, *Long Island City Courthouse Complex*, 25–10 Court Square.

Richmond County

New York, *Hamilton Park Community Houses*, 105 Franklin Ave., 86 Harvard Ave., and 32 Park Pl.
New York, *McFarland-Bredt Houses*, 30 Hylan Blvd.
New York, *Office Building and U.S. Light-House Depot Complex*, 1 Bay St.

Rockland County

South Nyack, *Ross-Hand Mansion*, 122 S. Franklin St.

Ulster County

Gardiner, *Aldrich, Peter, Homestead (Shawangunk Valley MRA)*, 188 Decker Rd.
Gardiner, *Bevier House (Shawangunk Valley MRA)*, Bevier Rd.
Gardiner, *Brykill (Shawangunk Valley MRA)*, Bruynswick Rd.
Gardiner, *Van Vleck house (Shawangunk Valley MRA)*, Bruynswick Rd.
Shawangunk, *Decker, William, House (Shawangunk Valley MRA)*, New Prospect Rd.
Shawangunk, *Dill Farm (Shawangunk Valley MRA)*, Off Goebel Rd.
Shawangunk, *Jansen, Johannes, House and Dutch Barn (Shawangunk Valley MRA)*, Decker Rd.
Shawangunk, *Jansen, Thomas, House (Shawangunk Valley MRA)*, Jansen Rd.
Shawangunk, *Miller's House at Red Mills (Shawangunk Valley MRA)*, Red Mills Rd. and Wallkill Ave.

Shawangunk, *Pearl Street Schoolhouse (Shawangunk Valley MRA)*, Awosting and Decker Rds.
Shawangunk, *Terwilliger House (Shawangunk Valley MRA)*, Hoagerburgh Rd.

Westchester County

Katonah, *Katonah Village Historic District*, Parkway, Valleyedge, Edgemont and Bedford Rds.

NORTH CAROLINA

Guilford County

Oak Ridge vicinity, *Benbow, Jesse, House II*, N C 150

Johnston County

Princeton, *Hasting-McKinnie House*, 201 S. Pierce St.

Lee County

Sanford, *Temple Theatre*, 120 Carthage St.

Moore County

Pinehurst vicinity, *Lloyd-Howe House*, SW of Pinehurst

Richmond County

Rockingham, *Bank of Pee Dee Building (Rockingham MRA)*, 201 E. Washington St.
Rockingham, *Hannah Pickett Mill No. 1 (Rockingham MRA)*, 300 King Edward St.
Rockingham, *Roberdel Mill No. 1 Company Store (Rockingham MRA)*, 1106 Roberdel Rd.
Rockingham, *Rockingham Historic District (Rockingham MRA)*, Roughly bounded by LeGrand and Brookwood Aves., Leak and Ann Sts.
Rockingham, *U.S. Post Office and Federal Building (Rockingham MRA)*, 125 S. Hancock St.
Rockingham, *Watson, H. C., House (Rockingham MRA)*, 526 Caroline St.

Rockingham County

Eden, *Dempsey-Reynolds-Taylor Houses*, 610 Henry St.

Sampson County

Clinton, *Graves-Stewart House*, 600 College St.

Wake County

Falls, *Falls of the Neuse Manufacturing Company*, Neuse River at SR 2000 Raleigh, *Lumsden-Boone Building*, 228 Fayetteville St. Mall
Raleigh, *Professional Building*, 123–127 W. Hargett and McDowell Sts.

OHIO

Belmont County

Bellaire, *Imperial Glass Company*, 29th and Belmont Sts.

Cuyahoga County

Cleveland, *Halle Building*, 1228 Euclid Ave.
Cleveland, *Universal Terminal Company Dock and Warehouse*, 5451 N. Marginal Rd.

Greene County

Fairborn, *Bath Township Consolidated School*, 221 N. Central Ave.

Hamilton County

Cinicinnati, *Park Flats*, 2378–2384 Park Ave.

Licking County

Pataskala, *Bethel Baptist Church (Pataskala MRA)*, Vine and Cedar Sts.
Pataskala, *Casterton House (Pataskala MRA)*, 105 Broadway
Pataskala, *Elliot House (Pataskala MRA)*, 301 S. Main St.
Pataskala, *Kauber, Warren F., Funeral Home (Pataskala MRA)*, 289 S. Main St.
Pataskala, *Mead House (Wind Flower House) (Pataskala MRA)*, 245 S. Main St.
Pataskala, *Pataskala Banking Company (Pataskala MRA)*, 354 S. Main St.
Pataskala, *Pataskala Elementary School (Pataskala MRA)*, 398 S. High St.
Pataskala, *Pataskala Jail (Pataskala MRA)*, Main St.
Pataskala, *Pataskala Presbyterian Church (Pataskala MRA)*, Atkinson and Main Sts.
Pataskala, *Pataskala Town Hall (Pataskala MRA)*, 430 Main St.
Pataskala, *Pataskala United Methodist Church (Pataskala MRA)*, 458 S. Main St.

Sandusky County

Lindsey vicinity, *Overmyer-Waggoner-Roush Farm*, 654 S. Main St.

Wood County

Rossford, *Eagle Point Colony Historic District*, Colony Rd., Riverside, Eagle Point, Park, and Forest Drs.

OREGON

Wallowa County

Hells Canyon Archaeological District, Both sides of Snake River from Hells Canyon Dam to Cougar Rapids

PENNSYLVANIA

Columbia County

Bloomsbury, *Bloomsburg Historic District*, Roughly bounded by Penn, 5th, West, Willow, Millville and Light Sts.

SOUTH CAROLINA

Charleston County

Charleston, *Robb, William, House*, 12 Bee St.

Greenville County

Travelers Rest vicinity, *Goodwin, John H., House*, SC 11 at U.S. 25

Laurens County

Laurens, *Irby-Henderson-Todd House*, 112 Todd Ave.

VIRGINIA

Spotsylvania County

Spotsylvania, *Spotsylvania Court House Historic District*, VA 208

Staunton (Independent City)

Newtown Historic District, Roughly bounded by Lewis St., C & O RR, S. Jefferson, W. Beverley, Thornrose Cemetery, Allegheny and Churchville Aves.

WISCONSIN

Brown County

De Pere, *North Broadway Street Historic District*, Broadway, Ridgeway Blvd., Morris, Fulton, Franklin, Cass, Front, and Wisconsin Sts.

Sheboygan County

Adell vicinity, *St. Patrick's Roman Catholic Church*, WI 1

Winnebago County

Oshkosh, *Morgan, John R., House*, 234 Church Ave.

[FR Doc. 83-22995 Filed 8-22-83; 8:45 am]
BILLING CODE 4310-07-M

National Capital Region—Rock Creek Park, Washington, D.C.; Availability of Record of Decision/Finding of No Significant Impact; Rock Creek Bike Trails Study

A Record of Decision/Finding of No Significant Impact has been prepared for the Rock Creek Bike Trails Study.

The National Park Service proposes to expand the weekend and holiday closures of Beach Drive (Phase II). These closures would begin on April 1 and continue through October 23. The Park Service also proposes to construct approximately 3½ miles of new recreational bike trail in Rock Creek Park (generally within an 8-foot width from Blagden Avenue to Joyce Road), to undertake physical improvements to existing sections of bike trail for safety purposes and to increase efforts to enforce traffic laws. The section of Beach Drive north of Bingham Drive will be signed as a class III trail and additional study will be undertaken to determine the suitability feasibility of constructing a recreational bike trail in this area.

Copies of the document are available by writing to the following address: Superintendent, Rock Creek Park, 5000 Glover Road NW., Washington, D.C. 20015.

This document is also available for reading at the same address.

Dated: August 12, 1983.

Manus J. Fish, Jr.,

Regional Director, National Capital Region.

[FR Doc. 83-23031 Filed 8-22-83; 8:45 am]
BILLING CODE 4310-70-M

Office of Surface Mining Reclamation and Enforcement

Availability of Annual Evaluation Reports on the Administration of State Regulatory and Abandoned Mine Lands Programs Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Notice of availability.

SUMMARY: OSM is announcing the availability of ten annual evaluation reports on the administration of State regulatory and abandoned mine lands(AML) programs under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The ten reports, covering the States of Colorado, Kentucky, Louisiana, Maryland, Mississippi, Missouri, Montana, Oklahoma, Texas and West Virginia, were prepared under the provisions of OSM's oversight policy and have been transmitted to Congress.

ADDRESSES: See "SUPPLEMENTARY INFORMATION" for the addresses where copies of the reports may be obtained.

FOR FURTHER INFORMATION CONTACT: Arthur W. Abbs, Chief, Division of State Program Assistance, Office of Surface Mining, 1951 Constitution Avenue, N.W., Washington, D.C. 20240; Telephone: (202) 343–5351.

SUPPLEMENTARY INFORMATION:

Addresses

Copies of the reports are available, free of charge, at the respective OSM offices listed below:

Colorado: Albuquerque Field Office, Office of Surface Mining, 219 Central Avenue, N.W., Albuquerque, new Mexico 87102

Kentucky: Lexington Field Office, Office of Surface Mining, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504

Louisiana; Oklahoma; Texas: Tulsa Field Office, Office of Surface Mining, 333 West 4th Street, Room 3432, Tulsa, Oklahoma 74103

Maryland; West Virgina: Charleston Field Office, Office of Surface Mining, 603 Morris Street, Charleston, West Virginia 25301

Mississippi: Birmingham Field Office, Office of Surface Mining, 228 West Valley Avenue, 3rd Floor, Homewood, Alabama 35209

Missouri: Kansas City Field Office, Office of Surface Mining, 818 Grand Avenue, Scarritt Building, Kansas City, Missouri 64106

Montana: Casper Field Office, Office of Surface Mining, Freden Building, 935 Pendell Boulevard, Mills, Wyoming 82644

Background

Under Section 503 of SMCRA, a State may elect to assume primary responsibility for regulating surface coal mining and reclamation operations within its borders by submitting a program to the Secretary of the Interior which demonstrates the State's capability to carry out the provisions of SMCRA. Once the Secretary approves the program, the State is granted primacy, and the Federal government assumes a monitoring and evaluation role. OSM has developed an evaluation policy, in consultation with the States, which is implemented primarily through OSM's Field Offices. Monitoring of the State's administration and enforcement of its regulatory and AML programs is conducted throughout the year. The Field Office Directors compile and analyze the data gathered during the evaluation period and prepare annual evaluation reports for transmittal to Congress. The Schedule for the reports calls for staggered completion dates.

The first ten evaluation reports for this year have been completed. The Colorado, Louisiana, Missouri, Montana and Texas reports were completed and sent to Congress June 24, 1983. The Kentucky, Maryland, Mississippi, Oklahoma and West Virginia reports were completed and sent to Congress July 26, 1983. These final reports are now publicly available. As the remaining reports are completed, OSM plans to make them available also.

Dated: August 18, 1983.

James R. Harris,

Director, Office of Surface Mining.

[FR Doc. 83-23169 Filed 8-22-83; 8:45 am]

BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

Agricultural Cooperative; Intent To Perform Interstate Transportation for Certain Nonmembers

Dated: August 18, 1983.

The following Notices were filed in accordance with section 10526(a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change.

The name and address of the agricultural cooperative (1) and (2), the location of the records (3), and the name and address of the person to whom inquiries and correspondence should be addressed (4), are published here for interested persons. Submission of information which could have bearing upon the propriety of a filing should be directed to the Commission's Office of Compliance and Consumer Assistance, Washington, D.C. 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C.

(1) North Pacific Canners & Packers, Inc.

(2) P.O. Box 1800, Lake Oswego, OR 97034.

(3) 18053 S.W. Lower Boones Ferry Rd., Durham, OR 97062.

(4) Bill Chaplin, P.O. Box 1800, Lake Oswego OR 97034.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-23059 Filed 8-22-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Approved Exemptions

AGENCY: Interstate Commerce Commission.

ACTION: Notices of Approved Exemption.

SUMMARY: The motor carriers shown below have been granted exemption pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property Under 49 U.S.C. 1343*, 367 I.C.C. 113 (1982), 47 FR 53303 (November 24, 1982).

DATES: The exemption will be effective on September 22, 1983. Petitions to reopen must be filed by September 12, 1983. Petitions for stay must be filed by September 2, 1983.

ADDRESSES: Send pleadings to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423

and

(2) Petitioner's representative(s), as shown below

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275–7977.

SUPPLEMENTARY INFORMATION: For further information, see the decision(s) served in the proceedings(s) listed below. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th and Constitution Ave., NW., Washington, D.C. 20423; or call (202) 289–4357 in the D.C. metropolitan area; or (800) 424–5403 Toll-free outside the D.C. area.

Decided: August 16, 1983.

Agatha L. Mergenovich,

Secretary.

[No. MC–F–15286]

DLM Transportation, Inc.—Purchase Exemption—KSS Transportation Corp.

Send pleadings to:

(1) Office of the Secretary

and

(2) Petitioner's representative, Arlyn L. Westergren, Esq., Westergren, Hauptman & O'Brien, P.C., Suite 201, 9202 West Dodge Road, Omaha, NE 68114

Pleadings should refer to No. MC–F–15286.

Under 49 U.S.C. 11343(e), the Interstate Commerce Commission exempts from the requirement of prior review and approval under 49 U.S.C. 11343(a), the purchase by DLM Transportation of that portion of the operating rights of KSS Transportation Corp. described in Certificate No. MC–145468 (Sub-No. 47).

By the Commission, Division 2, Commissioners Gradison, Taylor, and Sterrett. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

[No. MC–F–15245]

Trailer Transit, Inc.—Purchase Exemption—Sawyer Transport, Inc. (Nathan Yorke, Trustee-in-Bankruptcy)

Send pleadings to:

(1) Office of the Secretary

and

(2) Petitioner's representative: Carl L. Steiner, 135 S. La Salle St., Chicago, IL 60603

Pleadings should refer to No. MC–F–15245.

Under 49 U.S.C. 11343(e), the Interstate Commerce Commission exempts from the requirement of prior review and approval under 49 U.S.C. 11343(a)(2), the purchase by TRAILER TRANSIT, INC., of those operating rights of SAWYER TRANSPORT, INC., found (A) in paragraphs (5) (a) and (b), (17), (43), (48), (53), (131), (142) (a) and (b), (174), (200), (219), (222), (236), (240), (315), (63), (12) (a) and (b), (20), (27), (59), (73), (88), (38), (109), (8), (139) (a), (b), (c), (d), (e), (f), and (g), and (324) of Certificate No. MC–123407 (Sub-No. 668)X, including the underlying authorities in paragraph (6) of Certificate No. MC–123407 and in Certificates No. MC–123407 (Sub-Nos. 22, 44, 82, 98, 107, 272, 283, 340, 396, 430, 434, 460F, 486F, 628F, 125, 29, 52, 61, 118, 139, 171, 72, 219, 20, and 643F), (B) in Certificates No. MC–123407 (Sub-Nos. 660F, 672, 655F, 658F, 41, 85, 87, 140, 381, 407, 441F, 450F, 462F, 519F, 522, 541F, 549, 613, 640F, 641F, 648F, 654F, 657F, 659F, 659F, and 671), and (C) in Permits No. MC–150705 (Sub-Nos. 2F, 3F, 4F, 5F, and 6).

By the Commission, Division 1, Commissioners Andro, Taylor, and Sterrett. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

[FR Doc. 83–22661 Filed 8–22–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carrier Finance Applications; Decision Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 of the Interstate Commerce Act, and complies with the appropriate transfer rules.

The decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory acion under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsideration; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1181.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 20 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission.

Agatha L. Mergenovich,

Secretary.

Please direct status inquiries to Team 1, (202) 275–7992.

Volume No. OP1–FC–350

No. MC–FC–81462. By decision of August 16, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1181, the Review Board, Members—Joyce, Fortier, and Dowell approved the transfer to SELECT DISTRIBUTORS, INC., of Fort Worth, TX, of Certificate No. MC–118130 Sub-Nos. 120, 122X (and the underlying authority in Certificate No. MC–118130 and Sub-Nos. 67, 69, 71, 72, 73, 79, 82, 83, 84, 85, 88, 90, 91, 93, 94, 96, 99, 100, 103, 104, 105, 109, 110, 113, 114, 117, 118, 119, 121, E1, E2, E3, E4, E5, E7, and E8, and Certificate No. MC–115092 Sub-Nos. 25 and 108), 123, 125, 126, issued December 19, 1980, August 25, 1981, September 24, 1981, April 7, 1982 and June 16, 1982, respectively, to SOUTH EASTERN XPRESS, INC., of Fort Worth, TX, authorizing the transportation of (1) such commodities as are dealt in or used by discount stores, between points LA and TX, and points in the U.S., (2) food and related products, (a) between specified counties in AL, AZ, CA, CO, FL, GA, IA, ID, IN, KS, LA, MN, MS, ND, OK, SC, TX, WI and WY, and points in the U.S., and (b) between the facilities of Monfort of Colorado, Inc., in the U.S. (except AK and HI), and points in the U.S. (except AK and HI), (3) general commodities (with exception), between the facilities of the Ralston Purina Company in the U.S., and points in the U.S., (4) pulp, paper and related products, between Tift and Chatham Counties, GA, and those points in the U.S. in and east of MT, WY, CO, and NM, (5) metal products, rubber and plastic products, clay, concrete, glass or stone products, between Walton and Greene Counties, GA, Navarro and Medina Counties, TX, Wapello County, IA, Maricopa County, AZ, and San Bernardino County, CA, and points in AL, AZ, CA, CO, FL, GA, IA, ID, KS, LA, MN, MO, MT, MS, NC, ND, NE, NV, NM, OK, OR, SC, SD, TN, TX, UT, WA and WY, (6) rubber and plastic products, and materials, equipment and supplies used in the manufacture and distribution of rubber and plastic products, between Dallas and Tarrant Counties, TX, and points in the U.S., (7) such commodities as are dealt in or used by chain stores and grocery houses, between Poke County, AL, and points in the U.S., (8) such commodities as are dealt in by grocery and food business houses and

agricultural feed business houses, and paste, (a) between Oklahoma and McLain Counties, OK, and points in AR, AL, CO, LA, MS, TN and TX, and (b) between Denver, Arapahoe, Jefferson and Adams Counties, CO, and points in NM and TX, (9) textile mill products, lumber and wood products, leather and leather products, chemicals and related products, metal products, and petroleum products, (a) between Los Angeles and Orange Counties, CA, and points in AR, LA, NM, OK and TX, and (b) between points in Falls County, TX, and points in AL, AZ, CA, CO, GA, ID, MT, NV, NM, NC, OR, SC, UT, WA and WY, (10) building materials, (a) between Mesa County, CO, and points in AZ, CA, KS, NV, NM, OR, TX, WA and WY, and (b) between Lincoln Parish, LA, and points in AL, FL, GA, MS, OK, SC and TX, (11) machinery, metal products, lumber and wood products, and rubber and plastic products, between Tarrant County, TX, and points in ID, MT, ND, NV, OR, SD, UT, WA and WY, (12) forest products, metal products, machinery, petroleum products and coal and coal products, (a) between Baxter County, AR, and points in AZ, CA, CO, IL, KS, MO, NM, OK and TX, (b) between Sacramento County, CA, and points in AZ, CA, NV and UT, (c) between Lane County, OR and points in AZ, CA, ID, MT, NV, UT, WA and WY, and (d) between Cherokee County, TX, and points in AZ, CA, CO, NV, NM and OK, (13) lumber and wood products, petroleum products and coal and coal products, between Stark County, ND, and points in CO, NE, NM, OK, SD, TX and WY, (14) such commodities as are dealt in or used by liquor stores, between points in NM and points in the U.S., (15) drugs, pharmaceuticals, medical equipment and supplies, and toilet preparations, between Bexar, Dallas and Tarrant Counties, TX, Howard and Prince Georges Counties, MD, Orange and Los Angeles Counties, CA, and Tippecanoe County, IN, and points in the U.S. (except AK and HI). Representative: Billy R. Reid, 1721 Carl St., Fort Worth, TX 76103. (817) 332–4718.

Note.—The Authority in (1) through (15) is radial. Applicant will retain Certificate No. MC–118130 (Sub-No. 127) which authorizes the transportation of general commodities (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), which will duplicate the authority that is being acquired by transferee.

MC–FC–81608. By decision of August 9, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, the Review Board, Members Joyce, Krock, and Williams, approved the transfer to RED APPLE ENTERPRISES, INC., Marshfield, WI, of Certificate No. MC–123641 (Sub-No. 6), issued February 22, 1982, and Permit No. MC–123641 (Sub-No. 7), issued October 2, 1981, to NORMAN GROSLAND, d.b.a. GROSLAND TRUCKING, Marshfield, WI, authorizing respectively, the transportation in the Sub 6 of such commodities as are dealt in or used by grocery food stores and food business houses, between points in WI, on the one hand, and, on the other, points in the U.S.; and in the permit, lumber, from Dorchester, WI, to Lexington, MO, under continuing contract(s) with Bennett-Daniels Lumber Co., Inc., of Wausau, WI, from points in WI, to Chicago, IL, Tell City, IN, Owensboro, KY, and Amasa, Bessemer, Menominee, and Wallace, MI, and from Fordsville, KY, Jefferson City and St. Joseph, MO, and points in IN, to points in WI, under continuing contract(s) with Hastreiser Hardwoods, Inc., of Wausau, WI, from Wisconsin Dells, WI, to Leeds and Minot, ND, Dallas, Everman, and Fort Worth, TX, and from points in IL, IN, KY, MO, OH, PA, and TN, to points in WI, under continuing contract(s) with Kilbourn Lumber and Supply, Ltd., of Wisconsin Dells, WI, and lumber products, between Dorchester, WI, on the one hand, and, on the other, points in MN, IA, IN, IL, and the Lower Peninsula of MI, under continuing contract(s) with Bennett Lumber Company, Inc., and Dorchester Hardwood, Inc., both of Dorchester, WI. An application for temporary authority has been filed. Representative: Michael J. Wyngaard, 150 East Gilman St., Madison, WI 53703.

MC–FC–81629. By decision of August 9, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 1181, the Review Board, Members Fortier, Krock, and Dowell approved the transfer of a portion of the operating rights to S.K.T., INC., of Minot, ND, as set forth in Certificates No. MC–159221 Sub 2 and MC–159221 Sub 3, issued November 12, 1982 and June 13, 1983, respectively, to KENNETH KREIN AND ARLIN SISK, a Partnership, d.b.a. S.K.T., of Minot, ND, authorizing the transportation of general commodities with various exceptions, between points in ND, on the one hand, and, on the other, points in AL, AR, AZ, CA, CO, FL, GA, IA, ID, IL, IN, KS, KY, LA, MA, MD, ME, MI, MN, MO, MS, MT, NC, ND, NE, NJ, NM, NV, NY, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, WA, WI, WY and DC; and lumber and lumber products, between points in CA, ID, MT, OR, and WA, on the one hand, and, on the other, points in AR, CA, CO, IA, ID, KS, MN, MO, MT, ND, NE, OR, SD, TX, WA, WI and WY. NOTE: Transferor is retaining authority in Certificate No. MC–159221 to transport food and other edible products and byproducts intended for human consumption (except alcoholic beverages and drugs), agricultural limestone and fertilizers, and other soil conditioners by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI); and Permit No. MC–159221 Sub 1 to transport general commodities (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Becwar-Cedarstrom, Porter Brothers, American Lifestyle, Inc., and North Star Steel, Inc., all of Minot, ND. An application for temporary authority has been filed. Representative: Jack L. Schiller, 111–56 76th Drive, Forest Hills, NY 11375.

MC–FC–81658. By decision entered August 16, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, the Review Board, Members Joyce Fortier, and Dowell approved the transfer to RGA CORPORATION, of Fairfield, CT, of Certificate No. MC–166311, issued May 12, 1983, to CHESTNUT HILL BUS CORPORATION, of Bridgeport, CT, authorizing the transportation of passengers, in charter and special operations, between points in the U.S. (except HI). Applicant's representative: L. C. Major, Jr., Suite 304, Overlook Bldg., 6121 Lincolnia Rd., P.O. Box 11278, Alexandria, VA 22312, (703)–750–1112.

MC–FC–81660. By decision of August 16, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, the Review Board, Members Fortier, Dowell, and Carleton approved the transfer to AAROW MOVING & STORAGE, of Augusta, ME of Certificate No. MC–95730, issued January 21, 1976, to ALLEN'S TRANSFER & STORAGE, of Augusta, ME, and Certificates No. MC–108241, issued May 10, 1955, and Sub 8, issued March 26, 1973, to Barrows Transfer & Storage, of Waterville, ME, and acquired by Allen's Transfer & Storage, of Augusta, ME, pursuant to MC–FC76682, authorizing the transportation of (1) household goods as defined by the Commission, (a) between Brunswick, ME, and points in Kennebec, Lincoln and Sagadahoc Counties, ME, on the one hand, and, on the other, points in NH, MA, VT, RI, CT and NY, and (b) between points in ME, on the one hand, and, on the other, points in NH and MA, restricted against the transportation of new furniture from the plant sites of Moosehead Manufacturing Company at Dover-Foxcroft and Mason,

ME, (2) household goods, office furniture and equipment and store fixtures, between Portland, ME, and points within ten miles thereof, on the one hand, and, on the other, points in NH, VT, MA, RI, CT, NY, NJ, PA, DE, MD and DC, and (3) used household goods, between points in ME. Applicant's representative: Norman L. Allen, 360 Civic Center Drive, Augusta, ME 04330, (207)–623–3875.

For the following, please direct status calls to Team 4 at 202–275–7669.

Volume No. OP4–FC–557

MC–FC–81670. By decision of August 16, 1983, issued, under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, the Review Board, Members Dowell, Carleton, and Joyce, approved the transfer to CAL-VAN TRANSPORTATION SERVICES, INC., of San Diego, CA, of Certificate No. MC–128036 Sub 2, issued July 17, 1981, to COR-O-VAN MOVING & STORAGE CO., of San Diego, CA, authorizing the transportation of household goods, between El Paso, TX, and points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY. Representative: Edward J. Hegarty, 100 Bush St., 21st Floor, San Francisco, CA 94104, (415) 986–5778.

[FR Doc. 83–23082 Filed 8–22–83; 8:45 am]
BILLING CODE 7035–01–M

Motor Carriers; Proposed Exemptions

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Proposed exemptions.

SUMMARY: The motor carriers shown below seek exemptions pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property Under 49 U.S.C. 11343, 367 I.C.C. 113 (1982), 47 F.R. 53303 (November 24, 1982).*

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275–7977.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the ofices of the Interstate Commerce Commission during usual business hours.

Decided: August 17, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

Volume OP3–MCF–393

Canus Trucking, Ltd.—Purchase Exemption—GMW, Inc. (Brian F. Leonard, Trustee-in-Banking

[No. MC–F–15358]

Canus Trucking, Ltd. (MC–139151), seeks an exemption from the requirement under section 11343 of prior regulatory approval for the purchase of a portion of the operating rights of GMW, Inc. (MC–43475), authorizing generally the regular-route, motor common carrier transportation of general commodities (with certain exceptions), (1) between St. Paul, MN and Fargo, ND, (2) between Bemidji, MN and Red Lakes, MN, (3) between Minneapolis, and St. Paul, MN, and Ashland, WI, (4) between St. Paul, MN and Moorhead, MN, (5) between Duluth, MN and Motley, MN, (6) between Moorhead, MN and St. Clud, MN, (7) between Evansville, MN and junction U.S. HIghway 52 and U.S. HIghway 59, (8) between Duluth, MN and Grand Forks, ND, (9) between Little Falls, MN and Brainerd, MN, (10) between Moorhead, MN and the boundary of the U.S. and Canada, (11) between Crookston, MN and junction U.S. Highway 75 and MN Highway 81, (12) between Detroit Lakes, MN and Erskine, MN, (13) between Wadena, MN and Bemidji, MN, (14) between Thief River Falls, MN and junction U.S. Highway 2 and MN Highway 32, (15) between St. Paul, MN and junction U.S. Highway 210 and U.S. Highway 61, (16) between Duluth, MN and Walker, MN, (17) between Walker, MN and South St. Paul, MN (18) between Aitkin, MN and Garrison, MN, (19) between Crosby, MN and Walker, MN, (20) between Emily, MN and junction MN Highways 34 and 84, (21) between Backus, MN and Pontoria, MN, (22) between Motley, MN and Akely, MN, and (23) between Warren, Mn and Thief River falls, MN. An application for temporary authority has been filed.

Send Comments to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423

and

(2) Petitioner's representative, Chester A. Zyblut, 366 Executive Bldg., 1030 15th St., N.W., Washington, DC 20005.

Comments should refer to No. MC–F–15358.

Volume OP1–345

Duncan Truck Service, Inc.—Purchase Exemption—Sioux Transportation Inc. (A. Frank Baron, Trustee-in-Bankruptcy)

[No. MC–F–15351]

Duncan Truck Service, Inc. (MC–37490) and Sioux Transportation, Inc. (MC–22301) (A. Frank Baron, Trustee in Bankruptcy) seek an exemption from the requirement under Section 11343 of prior regulatory approval for the purchase by Duncan of a portion of the operating rights of Sioux, i.e., in Certificate No. MC–22301 (Sub-No. 26) authorizing the transportation of general commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) between Sioux City, IA and Sioux Falls, SD, over interstate Highway 29, serving all intermediate points.

ADDRESSES: Send comments to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioners' Representatives, James E. Ballenthin, 1016 Conwed Tower, 444 Cedar Street, St Paul, MN 55101

Michael J. Ogborn, 500 The Atrium, 1200 N Street, P.O. Box 82028, Lincoln, NE 68501

Pleadings should refer to No. MC–F–15351.

[FR Doc. 83–23080 Filed 8–22–83; 8:45 am]
BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods). The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November

19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.66. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These application may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10,000.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Finding

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service in for a named shipper "under contract."

Please direct status inquiries about the following to Team Three (3) at (202) 275–5223.

Volume No. OP3–395

Decided: August 15, 1983.

By the Commission, Review Board Members Fortier, Joyce, and Dowell.

MC 157954 (Sub-1), filed July 28, 1983. Applicant: JOURNEY LINES INC., 12414 Hiway 99, Bay 19, Everett, WA 98204. Representative: Jack C. Larmore, 18807 68th W., Edmonds, WA 98020, (206) 745–2929. Transporting *passengers*, in charter and special operations, beginning and ending at points in WA, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 169524, filed July 27, 1983. Applicant: NORMAN FORMAN, d.b.a. NEW YORK TRANSPORTATION SERVICES, 405 E. 54th Street, New York, NY 10022. Representative: Norman Forman (same address as applicant), (212) 755–7090. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 169604, filed August 2, 1983. Applicant: EDWARD LEON SALMER, ROBERT EDWARD SALMER, A PARTNERSHIP, d.b.a. SALMER CARTAGE COMPANY, 665 Jamison, Hoffman Estates, IL 60195. Representative: Hughan R. H. Smith, 26 Kenwood Place, Lawrence, MA 01841, (617) 657–6071. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and othr soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 169615, filed August 3, 1983. Applicant: WINKLE BUS COMPANY, INC., 815 Derby Milford Road, Orange, CT 06477. Representative: James M. Burns, 1365 Main St., Suite 403, Springfield, MA 01103, (413) 781–8205, Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 169624, filed August 3, 1983. Applicant: N. RICHMOND TRANSPORTATION, INC., 201 Ross Road, Richmond, VA 23229. Representative: Frank L. Willard, Suite No. 1001, First & Merchants National Bank Bldg., Norfolk, VA 23510, (804) 627–0070. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

Please direct status inquiries to Team 1, (202) 275–7030.

Volume No. OP–1–342 (F)

Decided: August 12, 1983.

By the Commission, Review Board Members Krock, Fortier, and Joyce.

MC 160761, filed July 29, 1983. Applicant: M & M CHARTER BUS SERVICE, INC., 4714 Crenshaw Blvd., Los Angeles, CA 90043. Representative: James D. McCarns, 8820 Haas Ave., Los Angeles, CA 90047, (213) 778–4878. Transporting *passengers*, in charter and special operations, betwen points in the U.S. (except HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

Volume No. OP–1–344

Decided: August 12, 1983.

By the Commission, Review Board Members Carleton, Krock, and Dowell.

MC 169421, filed July 25, 1983. Applicant: AMERICAN EAGLE EXPRESS, INC., 20 West Main St., Hohenwald, TN 38462. Representative: David Earl Tinker, 1000 Connecticut Ave., N.W., Suite 1112, Washington, DC 20036–5391, (202) 887–5868. Transporting (1) for or on behalf of the U.S. Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), (2) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, and (3) *used household goods* for the account of the U.S. Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S.

Please direct status inquiries about the following to Team Four at (202) 275–7669.

Volume No. OP–4–558

Decided: July 21, 1983.

By the Commission, Review Board, Members: Carleton, Parker and Joyce.

MC 154787 (Sub-2), filed July 13, 1983, previously noticed in the **Federal Register** issue of July 29, 1983, and republished this issue. Applicant: RAY JERREL, INC., P.O. Box 69, Miles City, MT 59301. Representative: Charles A. Murray, Jr., 2822 Third Ave., N., Billings, MT 59101, (406) 232–4244. Transporting (1) *general commodities* (except classes A and B explosives and household goods), between points in PA and those points in the U.S. in and west of MI, OH, KY, TN, and MS, and (2) transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

Notes.—(1) The purpose of this republication is to correct the territorial discription in part (1) of this proceeding, and (2) because this application includes issues subject to a finding of public interest as well as fitness only, it will be published in two volumes of this **Federal Register**. Part (1) will be published in Vol. No. 555. Part (2) will be published in Vol. No. 556.

[FR Doc. 83–23063 Filed 8–22–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carrier Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers. The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokes are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property—that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier—that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker—that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly noted.

Please direct status inquiries about the following to Team Four at (202) 275–7669.

Volume No. OP4–554

Decided: August 16, 1983.

By the Commission, Review Board, Members: Williams, Carleton and Dowell.

MC 136786 (Sub-248), filed August 8, 1983. Applicant: ROBCO TRANSPORTATION, INC., P.O. Box 10375, Des Moines, IA 50306. Representative: Stanley C. Olsen, Jr., 5200 Willson Rd. Suite 307, Minneapolis, MN 55424, (612) 927–8855. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with ETS—a division of C. H. Robinson Company, of Eden Prairie, NM.

MC 142867 (Sub-2), filed July 26, 1983. Applicant: AMERICAN PACIFIC FORWARDERS, 5480 Ferguson D rive, Suite 102, Los Angeles, CA 90022. Representative: Robert J. Gallagher, 1435 G. St. NW., Suite 848, Washington, D.C. 20005, (202) 628–1642. Transporting *general commodities* (except household goods, commodities in bulk, and classes

A and B explosives), between points in the U.S. (except AK and HI).

MC 153457 (Sub-6), filed August 8, 1983. Applicant: TEXAS U.S. TRUCKING, INC., P.O. Box 4120, Ft. Worth, TX 76106. Representative: A.C. McAdams (same address as applicant), (817) 625–4191. Transporting *such commodities* as are dealt in or used by wholesale and retail grocery, drug, and food businesses, houses, between points in the U.S. (except AK and HI).

MC 156836 (Sub-1), filed August 5, 1983. Applicant: MURRY JOHNSON, INC., P.O. Box 158, Widener, AR 72394. Representative: Earl Mills (same address as applicant), (501) 633–8734. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 162247 (Sub-1), filed August 5, 1983. Applicant: SABER TRANSPORT, INC., P.O. Box 18, Paulsboro, NJ 08066. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740, (301) 797–6060. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in NJ, PA, NY, CT, RI, MA and DE, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 168327, filed August 8, 1983. Applicant: W. D. KERR & SONS, INC., 118 Ritter Road, R.D. No. 2, Sewickley, PA 15143. Representative: John A. Pillar, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222, (412) 471–3300. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

Volume No. OP4–555

Decided: July 21, 1983.

By the Commission, Review Board, Members: Carleton, Parker and Joyce.

MC 154787 (Sub-2), filed July 13, 1983, previously noticed in the **Federal Register** issue of July 29, 1983, and republished this issue. Applicant: RAY JERREL, INC., P.O. Box 69, Miles City, MT 59301. Representative: Charles A. Murray, Jr., 2822 Third Ave. N., Billings, MT 59101, (406) 232–4244. Transporting (1) *general commodities* (except classes A and B explosives and household goods), between points in PA and those points in the U.S. in and west of MI, OH, KY, TN, and MS, and (2) transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

Notes.—(1) The purpose of this republication is to correct the territorial description in part (1) of this proceeding, and (2) because this application includes issues subject to a finding of public interest as well as fitness only, it will be published in two volumes of this **Federal Register**. Part (1) will be published in Vol. No. 555. Part (2) will published in Vol. No. 556.

Please direct status inquiries to Team 1, (202) 275–7030.

Volume No. OP1–341(N)

Decided: August 12, 1983.

By the Commission, Review Board Members: Krock, Fortier, and Joyce.

MC 61440 (Sub-229), filed July 26, 1983. Applicant: LEE WAY MOTOR FREIGHT, INC., P.O. Box 12750, Oklahoma City, OK 73157. Representative: Fred Rahal, Jr., Suite 305, Reunion Center, 9 East Fourth St., Tulsa, OK 74103, (918) 583–9000. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Lockheed Corporation, and its subsidiaries, of Burbank, CA.

MC 112801 (Sub-261), filed July 28, 1983. Applicant: TRANSPORT SERVICE COMPANY, 15 Salt Creek Lane, Hinsdale, IL 60521. Representative: Leonard R. Kofkin, Suite 1515, 140 South Dearborn St., Chicago, IL 60603, (312)–580–2210. Transporting *petroleum and petroleum products*, between points in the U.S. (except AK and HI) under continuing contract(s) with Amoco Oil Company, of Chicago, IL.

MC 148530 (Sub-5), filed July 22, 1983. Applicant: MID-MONTANA, INC., P.O. Box 1131, Bozeman, MT 59715. Representative: Jerome Anderson, P.O. Drawer 849, Billings, MT 59103–0849, (406)–248–2611. Transporting (1) *dairy products*, and (2) *beverages*, between (a) points in Gallatin County, MT, on the one hand, and, on the other, points in WY, and (b) points in Salt Lake and Utah Counties, UT, on the one hand, and, on the other, points in MT.

MC 155070 (Sub-6), filed July 27, 1983. Applicant: APX, INC., 817 McDonald St., Green Bay, WI 54306. Representative: Thomas E. Vandenberg, P.O. Box 2545, Green Bay, WI 54306, (414)–498–7689. Transporting *such commodities* as are dealt in, or used by, department and home improvement stores, between points in the U.S. (except AK and HI), under contract(s) with that class of persons engaged in the manufacture and distribution of the above described commodities.

MC 165581, filed July 28, 1983. Applicant: VANGUARD TRANSPORTATION SYSTEMS, INC., 6873 Lake Drive, P.O. Box 475, West Chester, OH 45069. Representative: Robert H. Kinker, 314 West Main St., P.O. Box 464, Frankfort, KY 40602, (502)–223–6244. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in GA, IL, IN, KS, KY, MI, MO, OH, PA, TN, WV and WI, on the one hand, and, on the other, points in the U.S. (except AK and HI). Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343 or an appropriate petition for exemption or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the application(s) or exemption for common control to Team 1, Room 2379.

MC 169550, filed July 29, 1983. Applicant: KIMBERLY O. PARROTT, d.b.a. K.O. EXPRESS, 15 Wood St., New Castle, PA 16102. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219, (412)–471–1800. Transporting *general commodities* (except household goods), between points in OH and PA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 169571, filed August 1, 1983. Applicant: ETX, INCORPORATED, 996 Old Eagle School Rd., Wayne, PA 19087. Representative: James W. Patterson, 1800 Penn Mutual Tower, 510 Walnut St., Philadelphia, PA 19106, (215) 925–8300. Transporting *general commodities* (except classes A and B explosives, households goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Egotrips, Inc., of Philadelphia, PA.

MC 169661, filed August 4, 1983. Applicant: B & B RIGGING & STORAGE, INC., Route 1, Box 139, Spruce Pine, AL 35585. Representative: O. A. DeVaney, P.O. Box 31022, Birmingham, AL 35222, (202) 428–8629. Transporting (1) *machinery*, and (2) *lumber and wood products*, between points in the U.S. (except AK and HI).

Volume No. OP1–343

Decided: August 12, 1983.

By the Commission, Review Board Members Carleton, Krock, and Dowell.

MC 129410 (Sub-36), filed July 27, 1983. Applicant: BONCOSKY

TRANSPORTATION, INC., 1301 Industrial Drive, Algonquin, IL 60102. Representative: Carl L. Steiner, 135 South LaSalle St., Suite 2106, Chicago, IL 60603. Transporting *food and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Refined Sugar, Inc., of Yonkers, NY.

MC 151511 (Sub-7), filed July 25, 1983. Applicant: KERRY MOTOR SERVICE, INC., 4433 South Halsted St., Chicago, IL 60609. Representative: Loren Maas (same address as applicant), (312) 538–0700. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 159711 (Sub-1), filed July 26, 1983. Applicant: FISCHER TRUCK & BUS SERVICE, INC., P.O. Box 622, Fernwood, WI 54431. Representative: Nancy J. Johnson, 103 East Washington St., Box 218, Crandon, WI 54520, (715) 352–2747. Transporting (1) *cheese*, between points in OH, MO, IL, WI, MN, KS, NE, ND, SD, OK, TX, NM, CO, WY, MT, AZ, UT, ID, NV, CA, OR and WA, and (2) *paper and paper products*, between points in Marathon, Price and Lincoln Counties, WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 169481, filed July 27, 1983. Applicant: ASSOCIATED PRODUCTS, INC., 3730 N.W. 72nd St. Miami, FL 33147. Representative: Richard B. Austin, 320 Rochester Bldg., 8390 N.W. 53rd St., Miami, FL 33166, (305) 592–0036.Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in FL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 169511, filed July 27, 1983. Applicant: EMBASSY ENTERPRISES, INC., 3424 North 63rd St., Omaha, NE 68104. Representative: Arlyn L. Westergren, Suite 201, 9202 W. Dodge Rd., Omaha, NE 68114, (402) 397–7033. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 169590, filed August 1, 1983. Applicant: JOHNNY "R" TRUCKING, INC., 2463 W. St. Paul Ave. Milwaukee, WI 53233. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between point in the U.S. (except AK and HI).

MC 169650, filed August 3, 1983. Applicant: LENAPE TRUCK LEASING CO., INC., P.O. Box 227, Limecrest Rd., Lafayette, NJ 07848. Representative: Morton E. Kiel, Suite 2B, 475 South Main St., P.O. Box 489, New City, NY 10956, (914) 638–4007. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

Please direct status inquiries about the following to Team Three (3) at (202) 275–5223.

Volume No. OP3–382

Decided: August 12, 1983.

By the Commission, Review Board Members Williams, Carleton, and Joyce.

MC 15735 (Sub-90), filed August 1, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Joseph P. Tuohy, P.O. Box 4403, Chicago, IL 60680, (312) 681–8377. Transporting *household goods*, between points in the U.S. (except AK and HI), under continuing contract(s) with Kerr-McGee Corporation and its subsidiaries of Oklahoma City, OK.

MC 117765 (Sub-329), filed August 1, 1983. Applicant: HAHN TRUCK LINE, INC., 1100 S. MacArthur, Oklahoma City, OK 73147. Representative: C. L. Phillips, Room 248, Classen Terrace Bldg., 1411 N. Classen, Oklahoma City, OK 73106, (405) 528–3884. Transporting *general commodities* (except household goods, classes A and B explosives and commodities in bulk), between points in the U.S. (except AK and HI).

MC 133975 (Sub-14), filed July 28, 1983. Applicant: FLAMINGO TRANSPORTATION, INC., 11405 N.W. 36th Ave., Miami, FL 33167. Representative: Richard B. Austin, 320 Rochester Bldg., 8390 N.W. 53rd St., Miami, FL 33166, (305) 592–0036. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 141804 (Sub-542), filed July 27, 1983. Applicant: WESTERN EXPRESS (DIVISION OF INTERSTATE RENTAL, INC.), P.O. Box 10 (1444 Blairbridge Rd.), Austell, GA 30001. Representative: Gene J. Margelli (same address as applicant), (404) 944–9300. Transporting *containers and container ends*, between points in the U.S. (except AK and HI), under continuing contract(s) with Continental Can Company, Inc., of Stamford, CT.

MC 167194, filed August 1, 1983. Applicant: HENRY J. DIRKSEN, d.b.a. DIRKSEN TRANSPORTATION, 23418 South Wilma Avenue, Ripon, CA 95366. Representative: Fred R. Covington, 2150 Franklin Street 554, Oakland, CA 94612, (415) 893–4102. Transporting *general commodities* (except household goods and classes A and B explosives), between points in the U.S. under continuing contract(s) with Superior Transportation Systems, Inc., of Wilsonville, OR.

MC 169465, filed July 26, 1983. Applicant: STELLAR DISTRIBUTION, INC., 4937 W. Broad St., Columbus, OH 43228. Representative: Earl N. Merwin, 85 E. Gay St., Columbus, OH 43215, (614) 224–3161. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with General Motors Corporation, of Troy, MI.

MC 169555, filed July 28, 1983. Applicant: M & S LEASING INC., 222 W. Palisades Blvd., Palisades Park, NJ 07650. Representative: Daniel Germaine (same address as applicant), (201) 224–5519. Transporting *such merchandise* as is dealt in by department stores, food houses, chain stores and supermarkets, between points in the U.S. (except AK and HI).

MC 169605, filed August 2, 1983. Applicant: JOHN J. GOULD, JR., AND ROBERT C. WIETING, SR., d.b.a. J. B. TRUCKING, 550 N.W. Shane Ct., Sherwood, OR 97140. Representative: John J. Gould, Jr. (same address as applicant), (503) 625–7859. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. under continuing contract(s) with Cascade West Transportation Brokers, of Lake Oswego, OR.

MC 168735, filed June 16, 1983. Previously noticed in the **Federal Register** on July 11, 1983. Applicant: MARK GRIFFIN, d.b.a. GRIFFIN ENTERPRISES, 1432 Ingra St., Anchorage, AK 99501. Representative: Robert C. Holmes, Law Office of Arthur R. Hauver, 750 West Second Ave., Suite 200, Anvhorage, AK 99501, (907) 276–6354. Transporting *transportation equipment*, between points in AK and ports of entry on the International Boundary line between the U.S. and Canada, on the one hand, and, on the other, points in AK,WA, OR, and CA.

Note.—This republication corrects the territorial description.

Volume No. OP3–394

Decided: August 15, 1983.

By the Commission, Review Board Members Fortier, Joyce, and Dowell.

MC 15735 (Sub-87), filed August 1, 1983. Applicant: ALLIED VAN LINES,

INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Joseph P. Tuohy, P.O. Box 4403, Chicago, IL 60680, (312) 681–8377. Transporting *household goods, electronic equipment, aircraft parts and exhibits and displays,* between points in the U.S. under continuing contract(s) with Lockheed Corporation and its subsidiaries, of Burbank, CA.

MC 149145 (Sub-7), filed July 27, 1983. Applicant: NATIONAL TRANSPORTATION SYSTEMS, INC., 1315 Directors Row, Suite 10A, Fort Wayne, IN 46808. Representative: Thomas E. Vandenberg, P.O. Box 2545, Green Bay, WI 54306, (414) 498–7689. Transporting (1) *printed matter,* and (2) *pulp, paper and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with persons who are engaged in business as manufacturers, distributors, or dealers of printed matter and pulp, paper and related products.

MC 151394 (Sub-2), filed August 2, 1983. Applicant: BERNHARDT FURNITURE COMPANY, P.O. Box 740, Lenoir, NC 28645. Representative: Terrell Price, 800 Briar Creek Road, Suite DD–504, Charlotte, NC 28205, (704) 372–8212. Transporting *general commodities* (except household goods), between points in the U.S. (except AK and HI), under a continuing contract(s) with R. P. L. Associates, Inc., of Southfield, MI, Diversified Freight, Inc., of Memphis, TN, Spivey Brokers, Inc., of Matthews, NC, and Southern Screw Company, of Statesville, NC.

Note.—To the extent the certificate granted in this proceeding authorizes the transportation of classes A and B explosives it will expire 5 years from the date of issuance.

MC 151504 (Sub-10), filed July 28, 1983. Applicant: PHELCO, INC., 11842 Missouri Bottom Rd., St. Louis, MO 63042. Representative: Joseph E. Rebman, 314 N. Broadway, Suite 1300, St. Louis, MO 63102, (314) 421–0845. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

Volume No. OP3–396

Decided: August 15, 1983.

By the Commission, Review Board Members Dowell, Fortier, and Carleton.

MC 25954 (Sub-6), filed July 27, 1983. Applicant: CRESSONA TRUCKING COMPANY, Cressona, PA 17929. Representative: Christian V. Graf, 407 No. Front St. Harrisburg, PA 17101, (717) 236–0318. Transporting *commodities in bulk,* between points in PA, on the one hand, and, on the other, those points in the U.S. in and east of WI, IL, KY, TN, MS and LA.

MC 29904 (Sub-9), filed July 28, 1983. Applicant: SUDDATH VAN LINES, INC., 5288 Highway Ave., P.O. Box 60069, Jacksonville, FL 32236. Representative: Bud McNaughton (Same address as applicant) (904) 781–7100. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Suddath Transportation Services, Inc., of Jacksonville, FL.

MC 128205 (Sub-113), filed August 1, 1983. Applicant: BULKMATIC TRANSPORT COMPANY, 12000 So. Doty Ave., Chicago, IL 60628 Representative: E. Stephen Heisley, 1919 Pennsylvania Ave., N.W., Suite 500, Washington, D.C. 20006 (202) 828–5015. Transporting *chemicals and related products and rubber and plastic products,* between points in the U.S. (except AK and HI), under continuing contract(s) with persons engaged in business as manufacturers, distributors, dealers or consumers of chemicals and related products and rubber and plastic products.

MC 147874 (Sub-5), filed July 29, 1983. Applicant: ZILK ENTERPRISES, INC., 2807 S. Maple, Brookfield, IL 60513. Representative: James R. Madler, 120 W. Madison St., Suite 1308, Chicago, IL 60602, (312) 485–0332. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 153634 (Sub-3), filed July 27, 1983. Applicant: LITTLE MONTANA TRANSPORTATION, P.O. Box 3485 704 E. Front St. Bozeman, MT 59715. Representative: Rand E. Little (Same address as applicant) (406) 586–4503. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in the U.S., under continuing contract(s) with Amway Corporation, of Kent, WA, Cyprus Industrial Minerals Company, of Englewood, CO, Weather Check Insulation of Arizona, of Phoenix, AZ and Boise Cascade Corporation, of Boise, ID.

MC 165154, filed July 28, 1983. Applicant: WILLIAM WAYNE DAVIS, d.b.a. WAYNE DAVIS TRUCKING, R.R. #1 Box 240, Signourney, IA 52591. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501, (515) 682–8154. Transporting *chemicals and related products and ores and minerals,* between points in IL, IA, and WI, under continuing contract(s) with International Minerals and Chemical Corp., of Mundelein, IL.

MC 166435, filed July 29, 1983. Applicant: BRADMOR CORP., 273 Forest Dr., Wethersfield, CT 06109. Representative: Paul F. Moran (same address as applicant), (203) 529–9257. Transporting *food and related products, chemicals and related products, machinery and machinery parts and iron and steel storage racks,* between points in ME, NH, VT, MA, RI, CT, NY, and NJ.

MC 169535, filed July 29, 1983. Applicant: OSCAR REYNA, d.b.a. TRANSPORTES LATINOS, 1304 Santa Anita Ave., So. El Monte, CA 91733. Representative: Donald R. Hedrick, P.O. Box 4334, Santa Ana, CA 92702, (714) 667–8107. Transporting *household goods,* between points in the U.S. (except AK and HI).

MC 169614, filed August 3, 1983. Applicant: HOT-SHOT TRANSPORTATION, INC., Route 1, Box 112, DeQueen, AR 71832. Representative: Thomas B. Staley, 1500 Tower Bldg., Little Rock, AR 72201, (501) 375–9151. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in TX, OK, KS, MO, AR, LA, MS, AL, and TN.

MC 169625, filed August 3, 1983. Applicant: NATIONWIDE HAULING, INC., P.O. Box 1864, Morgan City, LA 70381. Representative: C. W. Ferebee, Jr., 3910 FM 1960 W., Suite 106, Houston, TX 77068, (713) 537–8156. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

[FR Doc. 83–23004 Filed 8–22–83; 8:45 am]
BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

[AAG/A Order No. 12–83]

Privacy Act of 1974; Modified Systems of Records

Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), notice is hereby given that the Department of Justice proposes to modify certain existing systems of records to include a new routine use.

The systems being amended are entitled "Administrative Files, Justice/USA–001"; "Citizen Complaint Files, Justice/USA–003"; "Civil Case Files, Justice/USA–005"; "Consumer Complaints, Justice/USA–006"; "Criminal Case Files, Justice/USA–007"; Kline-District of Columbia and Maryland-Stock and Land Fraud

Interrelationship Filing System, Justice/USA–009"; "Major Crimes Division Investigative Files, Justice/USA–010"; "Prosecutors Management Information System (PROMIS), Justice/USA–011"; "U.S. Attorney, District of Columbia, Superior Court Division, Criminal Files, Justice/USA–013"; and "Pre-trial Diversion Program Files, Justice/USA–014."

Justice/USA–001, 005, 007, and 014 were last published on February 4, 1983, in **Federal Register** Volume 48, beginning on page 5380. Justice/USA–003 was last published on December 9, 1981, in **Federal Register** volume 46, beginning on page 60351. Justice/USA–006, 009, 010, 011 and 013 were last published on September 30, 1977, in **Federal Register** Volume 42, on page 53407.

These systems are being modified to reflect a new routine use of records in these systems. The new use provides for access to these records by student volunteers working under 5 U.S.C. 3111, and by students working under the college work-study program pursuant to 42 U.S.C. 2751 *et seq.* in the United States Attorneys' offices and the Executive Office for United States Attorneys. The following paragraph will be inserted in each of the above-listed systems of records under the section listing the routine uses.

Records relating to a case or matter may be accessed by volunteer student workers and by students working under a college work-study program as is necessary to enable them to perform their function.

The amended systems are reprinted below in their entirety.

Title 5 U.S.C. 552a(e)(4) and (11) provide that the public be given a 30-day period in which to comment. Comments should be addressed to Vincent A. Lobisco, Assistant Director, Administrative Services Staff, Justice Management Division, Department of Justice, Room 6314, 10th and Constitution Avenue, NW., Washington, D.C. 20530.

The remaining unaffected systems are also reprinted below for administrative and public convenience. They are "A.U.S.A. Applicant Files, JUSTICE/USA–002," "Citizen Correspondence Files, JUSTICE/USA–004," "Freedom of Information Act/Privacy Files, JUSTICE/USA–008," "Security Clearance Forms for Grand Jury Reporters, JUSTICE/USA–012," and the "Appendix of United States Attorney Office Locations, JUSTICE/USA–999."

Dated: July 14, 1983.

Kevin D. Rooney,

Assistant Attorney General for Administration.

JUSTICE/USA-001

SYSTEM NAME:

Administrative File.

SYSTEM LOCATION:

Ninety-*four* United States Attorneys' Offices (See attached Appendix); Executive Office for United States Attorneys, U.S. Department of Justice, 10th & Constitution Avenue NW., Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(a) Office Personnel (present and past); (b) Expert professionals whose services are used by the office; (c) Applicants for office positions; (d) Witnesses in Court proceedings; (e) Prisoners-In-Custody; (f) Defendants; (g) Debtors; (h) Vendors; (i) Citizens making inquiries; (j) Members of local and State Bar Associations.

CATEGORIES OF RECORDS IN THE SYSTEM:

(a) Personnel Files (official/unofficial); (b) Applicant Files; (c) Employee Record cards (SF–7B); (d) Office Rosters; (e) Tickler File System for Promotions; (f) Personnel Address and Telephone Number Lists; (g) Sign In/Out Sheets; (h) Time and Attendance Records (OMF–44); (i) Wage Earnings Statement (DOJ-296); (j) Travel Authorizations and Vouchers (OBD–1 and SF–1012); (k) Advice of Obligations incurred (DJ–60); (l) Telephone Records and Logs; (m) Fiscal Vouchers; (n) Witness Records (LAA–3); (o) Lists of Records at Federal Records Centers; (p) In-House Statistical Reports; (q) Internal Meetings Records; (r) Equal Employment Opportunity (EEO) Records; (s) Employees: Organizations and Unions Records; (t) Federal Woman's Program Records; (u) Address and Telephone Indexes; (v) Lists of State and Local Bar Members; (w) Lists of Expert Professionals; (x) Requests for Expert Witnesses; (y) Teletype Files; (z) Correspondence Files.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

These systems are established and maintained pursuant to 5 U.S.C. 301 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record maintained in this system of records may be disseminated as a routine use of such record as follows:

(a) In any case in which there is an indication of a violation or potential violation of law or legal obligation, criminal, civil, or regulatory in nature, the record in question may be disseminated to the appropriate federal, state, local, or foreign agency charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law or civil remedy;

(b) In the course of investigating the potential or actual violation of any law, criminal, civil, or regulatory in nature, or during the course of a trial or hearing or the preparation for a trial or hearing for such violation, a record may be disseminated to a federal, state, local, or foreign agency, or to an individual or organization, if there is reason to believe that such agency, or to any individual or organization possesses information relating to the investigation, trial or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant;

(c) A record relating to a case or matter may be disseminated in an appropriate federal, state, local, or foreign court or grand jury proceeding in accordance with established constitutional, substantive or procedural law or practice;

(d) A record relating to a case or matter may be disseminated to a federal, state, or local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing;

(e) A record relating to a case or matter may be disseminated to an actual or potential party or his attorney for the purpose of negotiation or discussion on such matters as settlement of the case or matter, plea bargaining, or informal discovery proceedings;

(f) A record relating to a case or matter that has been referred by an agency for investigation, prosecution, or enforcement, or that involves a case or matter within the jurisdiction of an agency, may be disseminated to such agency to notify the agency of the status of the case or matter or of any decision or determination that has been made, or to make such other inquiries and reports as are necessary during the processing of the case or matter;

(g) A record relating to a person held in custody pending or during arraignment, trial, sentence, or extradition proceedings, or after conviction or after extradition proceedings, may be disseminated to a federal, state, local, or foreign prison, probation, parole, or pardon authority, or to any other agency or individual

concerned with the maintenance, transportation, or release of such a person;

(h) A record relating to a case or matter may be disseminated to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States or to an executive agreement;

(i) A record may be disseminated to a federal, state, local, foreign, or international law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency;

(j) A record may be disseminated to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decision on the matter;

(k) A record may be disseminated to the public, news media, trade associations, or organized groups, when the purpose of the dissemination is educational or informational, such as descriptions of crime trends or distinctive or unique modus operandi, provided that the record does not contain any information identifiable to a specific individual other than such modus operandi;

(l) A record may be disseminated to a foreign country, through the United States Department of State or directly to the representative of such country, to the extent necessary to assist such country in apprehending and/or returning a fugitive to a jurisdiction which seeks his return;

(m) A record that contains classified national security information and material may be disseminated to persons who are engaged in historical research projects, or who have previously occupied policymaking provisions to which they were appointed by the President, in accordance with the provisions codified in 28 CFR 17.60; and

(n) A record may be accessed by volunteer student workers and students working under a college work-study program, as is necessary to enable them to perform their function.

RELEASE OF INFORMATION TO THE NEWS MEDIA:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

RELEASE OF INFORMATION TO MEMBER OF CONGRESS:

Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

RELEASE OF INFORMATION TO THE NATIONAL ARCHIVES AND RECORDS SERVICE:

A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All information except that specified in this paragraph, is recorded on basic paper/cardboard material, and stored within manila file folders, within metal file cabinets, electric file/card retrievers or safes. Some material is recorded and stored on magnetic tape, card or other data processing type storage matter for reproduction later into conventional formats.

RETRIEVABILITY:

Information is retrieved primarily by name of person, case number, complaint number or court docket number. Information within this system of records may be accessed by various U.S. Attorney's offices and the Executive Office for United States Attorneys by means of catho-ray tube terminals (CRT's).

SAFEGUARDS:

Information in the system is stored in file cabinets in the United States Attorney's offices. Some materials are located in locked file drawers and safes, and others in unlocked file drawers. Offices are locked during non-working hours and are secured by either Federal Protective Service, United States Postal Service, or private building guards. Information that is retrievable by CRT's within various U.S. Attorneys' offices and the Executive Office for United States Attorneys requires user identification numbers which are issued to authorized employees of the Department of Justice.

RETENTION AND DISPOSAL:

Records are maintained and disposed of in accordance with Department of Justice retention plans.

SYSTEM MANAGER(S) AND ADDRESS:

System manager for the system in each office is the Administrative Officer/Assistant, for the U.S. Attorney for each district (See attached Appendix).

NOTIFICATION PROCEDURE:

Address inquiries to the System Manager for the judicial district in which the case or matter is pending (See attached Appendix).

RECORD ACCESS PROCEDURE:

A request for access to a record from this system shall be made in writing with the envelope and the letter clearly marked "Privacy Access Request." Include in the request the name of the individual involved, his birth date and place, or any other identifying number or information which may be of assistance in locating the record and the name of the case or matter involved, if known. The requester will also provide a return address for transmitting the information. Access requests will be directed to the System Manager (See attached Appendix).

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager (See attached Appendix) stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Sources of information contained in this system include, but are limited to, investigative reports of federal, state and local law enforcement agencies; client agencies of the Department of Justice; other non-Department of Justice investigative agencies; forensic reports; statements of witnesses and parties; data, memoranda and reports from the Courts and agencies thereof; and the work product of Assistant United States Attorneys, Department of Justice attorneys and administrative staff of the divisions, offices and bureaus, work product of secretarial and administrative staff within the U.S. Attorneys office and the Executive Office for U.S. Attorneys, from general public referral sources or as provided by members of the public who participate, assist or observe in pending cases or matters, or commercial establishments

which provide goods or services, publications and reports from the Department's other offices, divisions and bureaus and internal U.S. Attorney work product.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/USA—002

SYSTEM NAME:

A U.S.A. Applicant files.

SYSTEM LOCATION:

Executive office for United States Attorneys; U.S. Department of Justice; 10th & Constitution Avenue, N.W.; Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants tentatively selected (by nomination of a U.S. Attorney) for the position of Assistant U.S. Attorney.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system includes the applicants name, status of Bar membership and dates of receipt, status and final determination on the appointment of the applicant. The system is arranged chronologically by date of receipt of file and applicants name.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

These records are kept for administrative convenience pursuant to 5 U.S.C. 301 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

All uses are internal within the Department.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The material is stored within manila file folders, within metal file cabinets.

RETRIEVABILITY:

The system is indexed by name, arranged alphabetically.

SAFEGUARDS:

The correspondence is maintained in a room which is occupied by office personnel during the day and locked at night.

RETENTION AND DISPOSAL:

Records are maintained and disposed of in accordance with Department retention plans.

SYSTEM MANAGER(S) AND ADDRESS:

Director; Executive Office of United States Attorneys; U.S. Department of Justice; 10th & Constitution Avenue, N.W.; Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Same as the above.

RECORD ACCESS PROCEDURES:

A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked "Privacy Access Request," Include in the request the name and address as included in the original letter, together with the current address if different, the date of the letter and to whom it was addressed. Requests should be directed to the System Manager listed above.

CONTESTING RECORD PROCEDURES:

Any requests for correction should also be directed to the System Manager and should indicate the exact correction required.

RECORD SOURCE CATEGORIES:

Sources of information in this system are the actual letter received, the response and any transmitted information and enclosures.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/USA-003

SYSTEM NAME:

Citizen Complaint Files.

SYSTEM LOCATION:

U.S. Attorney's Office; 3rd & Constitution Avenue, N.W., Washington, D.C. 20001; Executive Office for United States Attorneys; U.S. Department of Justice; 10th & Constitution Avenue, N.W., Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The individuals on home records are maintained in this system may be broadly classified in four categories. (1) Those individuals who have been charged with Federal and D.C. Code violations; (2) those individuals who are currently under investigation for violations of Federal and D.C. Code; (3) those individuals about whom complaints have been made on upon whom investigations were conducted, but no prosecution was initiated; and (4) complainants.

CATEGORIES OF RECORDS IN THE SYSTEM:

A file may consist of a single sheet of paper describing briefly the nature of a complaint and its disposition or it may consist of a more comprehensive file containing the results of a hearing, depending on the complexity or seriousness of the complaint. If the complaint results in criminal charges being prefered, the contents of the file are transferred to the appropriate criminal file system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 28 U.S.C. 547, 23 D.C. Code 101(c).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record maintained in this system of records may be disseminated as a routine use of such record as follows:

(1) In any case in which there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, the record in question may be disseminated to the appropriate agency, federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcement or implementing such laws;

(2) In the course of investigating the potential or actual violation of any law, whether civil, criminal, or regulatory in nature, or during the course of a trial or hearing or the preparation for a trail or

hearing for such violation, a record may be disseminated to a federal, state, local, or foreign agency, or to an individual, if there is reason to believe that such agency or individual possesses information relating to the investigation, trail, or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant;

(3) Records or extracts thereof relating to case matters or matter may be disseminated to a defendant or his attorney or to the appropriate federal, state, local or foreign court or grand jury in accordance with established constitutional, substantive, or procedural law or practice;

(4) A record relating to a case or matter may be disseminated to a federal, state, or local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing;

(5) A record relating to a case or matter may be disseminated to a actual or potential party or his attorney for the purpose of negotiation or discussion on such matters as settlement of the case or matter, plea bargaining, or informal discovery proceedings;

(6) A record relating to a case or matter than has been referred for investigation may be disseminated to the referring agency to notify such agency of the status of the case or matter or of any decision or determination that has been made;

(7) A record relating to a person held arraignment, trial or sentence, or after conviction, may be disseminated to a federal, state, local, or foreign prison, probation, parole, bail or pardon authority, or to any agency or individual, concerned with the custody maintenance, transportation, or release of such person;

(8) A record relating to a case or matter may be disseminated to a foreign country pursuant to a international treaty or convention entered into and ratified by the United States;

(9) A record may be disseminated to a federal, state, local, or foreign law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency;

(10) A record may be disseminated to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decision on the matter; and

(11) A record may be accessed by volunteer student workers and students working under a college work-study program, as is necessary to enable them to perform their function.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Citizen complaint files are maintained in one of two ways; either on a single sheet which is a record of the complaint and disposition thereof or in complaints which result in further proceedings, a file folder would be established.

RETRIEVABILITY:

Information is retrieved either by the name of a complainant, the name of a person about whom a complaint is registered or by a complaint number. If further proceedings are conducted with respect to a citizen's complaint and the complaint materializes into a criminal action, the file folder will become part of the criminal files and then is retrievable in the same manner as any criminal file is retrieved.

SAFEGUARDS:

Information contained in the system is unclassified. It is safeguarded and protected by being maintained in files at the Citizens Complaint Center, and the Legal Services section of the Executive Office for United States Attorneys, which is manned at all times when it is open and at other times is locked. More sensitive files that materialize into hearings or require further action by the Misdemeanor Trial Section of the Superior Court Division, or the Executive Office for United States Attorneys, are maintained by the Chief of the Misdemeanor Trial Section in his office in Building B of the Superior Court, or the Assistant Director for Legal Services, Executive Office for United States Attorneys in his safe.

RETENTION AND DISPOSAL:

Files are retained and disposed of in accordance with Title 8, U.S. Attorney's Manual, pages 70–77.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Misdemeanor Trial Section: U.S. Attorney's Office; Superior Court Division; Building B, 4th & E Streets, N.W.; Washington, D.C.; Director; Executive Office for United States Attorneys; U.S. Department of Justice; 10th & Constitution Avenue, NW.; Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Address inquiries to the System Manager.

RECORD ACCESS PROCEDURE:

The major part of these systems are exempt from this requirement under 5 U.S.C. 552a (j)(2), (k)(1) and/or (k)(2). To the extent that this system is not subject to exemption, it is subject to access. A determination as to exemption shall be made at the time a request for access is received. A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked "Privacy Access Request." Include in the request the general subject matter of the document or its file number. The requestor will also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

CONTESTING RECORD PROCEDURES:

The major parts of these systems are exempt from this requirement under 5 U.S.C. 552a (j)(2), (k)(1) and/or (k)(2). To the extent that this system is not subject to exemption, it is subject to contest. A determination as to exemption shall be made at the time a request for contest is received. Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating

clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Sources of information contained in this system come primarily from citizens walking into this unit to register complaints. Sources also include but are not limited to investigative reports of federal, state and local law enforcement agencies, forensic reports, statements of witnesses and parties, as well as verbatim transcripts of grand jury proceedings and court proceedings, memoranda and reports from the court and agencies thereof and the work product of Assistant United States Attorneys and legal assistants working on particular cases.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(1), (2) and (3), (e)(4)(G) and (H), (e)(5) and (8), (f), (g) and (h) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2) and (k)(1) and (2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the Federal Register.

JUSTICE/USA—004

SYSTEM NAME:

Citizen Correspondence Files.

SYSTEM LOCATION:

Executive Office for United States Attorneys; U.S. Department of Justice; 10th & Constitution Avenue, N.W.; Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(a) Individuals who write to the Executive Office for United States Attorneys, its Director or a member of his staff.

(b) Individuals who write to the Attorney General or the Department of Justice and whose letter is referred to the Executive Office of United States Attorneys.

(c) Individuals whose letter has been referred to the Executive Office of United States Attorneys for a response by the White House, Executive Agencies or Members of Congress.

In all of the above categories, the individuals include only those who express general views or seek information or assistance. Freedom of Information requests are not indexed in this system.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system includes the original correspondence received as well as any response, referral letters or notes concerning the subject of the correspondence and copies of any enclosures. The system is arranged alphabetically by the last name of the original correspondent.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

These records are kept for administrative convenience pursuant to 5 U.S.C. 301 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USES AND THE PURPOSES OF SUCH USES:

Information from the responses may be provided to the referror of the original correspondence. All other uses are internal within the Department.

RELEASE OF INFORMATION TO THE NEWS MEDIA:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The material is stored within manila file folders, within metal file cabinets.

RETRIEVABILITY:

The system is indexed by name, arranged alphabetically.

SAFEGUARDS:

The correspondence is maintained in a room which is occupied by office personnel during the day and locked at night.

RETENTION AND DISPOSAL:

Records are maintained and disposed of in accordance with Department retention plans.

SYSTEM MANAGER(S) AND ADDRESS:

Director: Executive Office of United States Attorneys; U.S. Department of Justice; 10th & Constitution Avenue, N.W.; Washington, D.C. 25030.

NOTIFICATION PROCEDURE:

Same as the above.

RECORD ACCESS PROCEDURES:

A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked "Privacy Access Request." Include in the request the name and address as included in the original letter, together with the current address if different, the date of the letter and to whom it was addressed. Requests should be directed to the System Manager listed above.

CONTESTING RECORD PROCEDURES:

Any request for correction should also be directed to the System Manager and should indicate the exact correction required.

RECORD SOURCE CATEGORIES:

Sources of information in this system are the actual letter received, the response and any transmitted information and enclosures.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/USA—005

SYSTEM NAME:

Civil Case Files.

SYSTEM LOCATION:

Ninety-four United States Attorneys' Offices (See attached Appendix), Executive Office for United States Attorneys, U.S. Department of Justice, 10th and Constitution Avenue NW., Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals being investigated in anticipation of Civil suits; (b) Individuals involved in Civil suits; (c) Defense Counsel(s); (d) Information sources; (e) Individuals relevant to the development of Civil suits.

CATEGORIES OF RECORDS IN THE SYSTEM:

(a) All Civil Case Files (USA–34); (b) Docket Cards (USA–116); (c) Civil Debtor Cards—(USA–117b); (d) Civil Case Activity Card (USA–164); (e) Civil Debtor Activity Card (USA–166); (f) 3 x 5 Index Cards; (g) Caseload Printouts; (h) General Correspondence re: Civil Cases; (i) Reading Files re: Civil Cases; (j) Information Source File; (k) Attorney Assignment sheets; (l) Telephone records; (m) Miscellaneous Investigative files; (n) Lands condemnation files (Appraisal and Negotiator Reports); (o) Tax Case Resource File; (p) Material in Civil File related to Criminal cases arising out of Civil Proceedings; (q) Search Warrants; (r) Files unique to District; (s) Civil Miscellaneous Correspondence File.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

These systems are established and maintained pursuant to 5 U.S.C. 301 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record maintained in this system of records may be disseminated as a routine use of such record as follows:

(a) In any case in which there is an indication of a violation or potential violation of law, civil, or regulatory in nature, the record in question may be disseminated to the appropriate Federal, State, local or foreign agency charged with the responsibility of investigating, defending or pursuing such violation, civil claim or remedy, or charged with enforcing, defending or implementing such law;

(b) In the course of investigating the potential or actual violation or civil liability of any government action or law, civil, or regulatory in nature or during the course of a trial or hearing or the preparation for a trial or hearing for such civil action, a record may be disseminated to a Federal, State, local, or foreign agency, or to an individual or organization, if there is reason to believe that such agency, individual, or organization possesses information relating to the investigation or civil action trial, or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an agency;

(c) A record relating to a case or matter may be disseminated in an appropriate Federal, State, local, or foreign court or grand jury proceeding in accordance with established constitutional, substantive, or procedural law or practice;

(d) A record relating to a case or matter may be disseminated to a Federal, State, or local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing;

(e) A record relating to a case or matter may be disseminated to an actual or potential party or his attorney for the purpose of negotiation or discussion on such matters as settlement of the case or matter, or informal discovery proceedings;

(f) A record relating to a case or matter that has been referred by an agency for investigation, civil action, or enforcement, or that involves a case or matter within the jurisdiction of an agency, may be disseminated to such agency to notify the agency of the status of the case or matter or of any decision or determination that has been made, or to make such other inquiries and reports as are necessary during the processing of the case or matter;

(g) A record relating to a case or matter may be disseminating to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States or to an executive agreement;

(h) A record may be disseminated to a Federal, State, local, foreign, or international law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency or to assist in general civil matters or cases;

(i) A record may be disseminated to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of security clearance as is required, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decision on the matter;

(j) A record may be disseminated to the public, news media, trade associations, or organized groups, when the purpose of the dissemination is educational or informational, such as descriptions of types or courses of action or distinctive or unique modus operandi, provided that the record does not contain any information identifiable to a specific individual other than such modus operandi;

(k) A record may be disseminated to a foreign country, through the United States Department of State or directly to the representative of such country, to the extent necessary to assist such country in general crime prevention, the pursuit of general civil, regulatory or administrative civil actions or to provide investigative leads to such country, or assist in the location and/or returning of witnesses and other evidence;

(l) A record that contains classified national security information and material may be disseminated to persons who are engaged in historical research projects, or who have previously occupied policy making provisions to which they were appointed by the President, in accordance with the provisions codified in 28 CFR 17.60;

(m) A record relating to an actual or potential civil or criminal violation of title 17, United States Code, may be disseminated to a person injured by such violation to assist him in the institution or maintenance of a suit brought under such title; and

(n) A record may be accessed by volunteer student workers and students working under a college work-study program, as is necessary to enable them to perform their function.

Release of Information to the News Media:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of Information to Members of Congress:

Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of this record.

Release of Information to National Archives and Records Service:

A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Policies and Practices for Storing, Retrieving, Accessing, Retaining and Disposing of Records in the System:

Storage:

All information, except that specified in this paragraph, is recorded on basic paper/cardboard material, and stored

within manila file folders, within metal file cabinets, electric file/card retrievers or safes. Some material is recorded and stored on magnetic tape, card or other data processing type storage matter for reproduction later into conventional formats.

Retrievability:

Information is retrieved primarily by name of person, case number, complaint number or court docket number. Information within this system of records may be accessed by various U.S. Attorneys' offices, and the Executive Office for United States Attorneys by means of cathode-ray tube terminals (CRT's).

Safeguards:

Information in the system is both confidential and nonconfidential and located in file cabinets in the United States Attorney offices. Some materials are located in locked file drawers and safes, and others in unlocked file drawers. Offices are locked during nonworking hours and are secured by either Federal Protective Service, United States Postal Service, or private building guards. Information that is retrievable by CRT's within various U.S. Attorney's offices and the Excecutive Office for United States Attorneys requires user identification numbers which are issued to authorized employees of the Department of Justice.

Retention and Disposal:

Records are maintained and disposed of in accordance with Department of Justice retention plans.

System Manager(s) and Address:

System Manager for the system in each office is the Administrative Officer/Assistant, for the U.S. Attorney for each district. (See attached appendix.)

Notification Procedure:

Address inquiries to the System Manager for the judicial district in which the case or matter is pending. (See attached appendix.)

Record Access Procedures:

The major part of the information maintained in this system is exempt from this requirement under 5 U.S.C. 552a (j)(2), (k)(1) and/or (k)(2). To the extent that this system is not subject to exemption, it is subject to access. A determination as to examination shall be made at the time a request for access is received. A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked "Privacy Access Request." Include in the request the name of the individual involved, his birth date and place, or any other identifying number or information which may be of assistance in locating the record and the name of the case or matter involved, if known. The requestor will also provide a return address for transmitting the information. Access requests will be directed to the System Manager. (See attached appendix.)

CONTESTING RECORD PROCEDURES:

The major part of the information maintained in this system is exempt from this requirement under 5 U.S.C. 552(a)(j)(2), (k)(1) and/or (k)(2). To the extent that this system is not subject to exemption, it is subject to contest. A determination as to exemption shall be made at the time a request for contest is received. Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager (see attached appendix) stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Sources of information contained in this system include, but are not limited to investigative reports of Federal, State, and local law enforcement, civil litigation, regulatory and administrative agencies; client agencies of the Department of Justice; other non-Department of Justice investigative agencies; forensic reports; statements of witnesses and parties; verbatim transcripts of deposition and court proceedings; date, memoranda and reports from the court and agencies thereof; and the work product of Assistant United States Attorneys, Department of Justice attorneys and staff, and legal assistants working on particular cases.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(1), (2) and (3), (e)(4)(G) and (H), (e)(5) and (8), (f), (g) and (h) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2) and (k)(1) and (2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c), and (e) and have been published in the Federal Register.

JUSTICE/USA—006

SYSTEM LOCATION:

Consumer Complaints.

U.S. Attorney's Office: 3rd & Consitution Avenue, N.W.; Washington, D.C. 20001.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The individuals on whom records are maintained in this system may be broadly classified in four categories: (1) Those individuals who have been charged with Federal and D.C. Code violations; (2) Those individuals who are currently under investigation for violations of Federal and D.C. Code;(3) Those individuals upon whom investigations were conducted, but no prosecution was initiated; and (4) Complainants.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contained allegations of consumer fraud by citizens of the District of Columba Metropolitan area. It includes names, addresses, and the substance of the complaints.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.28 U.S.C. 547,23 D.C. Code 101(c).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record maintained in this system of records may be disseminated as a routine use of such record as follows:

(1) In any case in which there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, the record in question may be disseminated to the appropriate agency, federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charges with enforcing or implementing such law;

(2) In the course of investigating the potential or actual violation of any law, whether civil, criminal, or regulatory in nature, or during the course of a trial or hearing or the preparation for a trial or hearing for such violation, a record may be disseminated to a federal, state, local, or foreign agency, or to an individual, if there is reason to believe that such agency or individual possesses information relating to the investigation, trial, or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant;

(3) Records of extracts thereof relating to a case or matter may be disseminated to a defendant or his attorney or to the appropriate federal, state, local, or foreign, court or grand jury in accordance with established

constitutional, substantive, or procedural law or practice;

(4) A record relating to a case or matter may be disseminated to a federal, state, or local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing;

(5) A record relating to a case or matter may be disseminated to an acutal or potential party or his attorney for the purpose of negotiation or discussion on such matters as settlement of the case or matter, plea bargaining, or informal discovery proceedings;

(6) A record relating to a case or matter that has been referred for investigation may be disseminated to the referring agency to notify such agency of the status of the case or matter or of any decision or determination that has been made;

(7) A record relating to person held pending arraignment, trial or sentence, or after conviction, may be disseminated to a federal, state, local or foreign prison, probation parole, bail or pardon authority, or to any agency or individual concerned with the custody maintenance, transportation, or release of such a person;

(8) A record relating to a case or matter may be disseminated to a foreign country pursuant to an international treaty of convention entered into or ratified by the United States;

(9) A record may be disseminated to federal, state, local, or foreign law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency;

(10) A record may be disseminated to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decision on the matter; and

(11) A record may be accessed by volunteer student workers and students working under a college work-study program, as is necessary to enable them to perform their function.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information maintained in this system is stored in the Fraud Section of the U.S. Attorney's Office.

RETRIEVABILITY:

Information is retrieved via a cross-index by complainant and potential defendant.

SAFEGUARDS:

Information contained in this system is unclassified. It is protected in accordance with Departmental rules and is safeguarded in the U.S. Attorney's Office in the Fraud Section.

RETENTION AND DISPOSAL:

The records are stored for a period of at least the statute of limitations for the offense charged.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Fraud Division, U.S. Attorney's Office; U.S. District Court, 3rd & Constitution Avenue, NW., Washington, D.C. 20001.

NOTIFICATION PROCEDURE:

Address inquiries to the System Manager.

RECORD ACCESS PROCEDURES:

The major part of the information maintained in this system is exempt from this requirement under 5 U.S.C. 552a (j)(2), (k)(1) and/or (k)(2). To the extent that this system is not subject to exemption, it is subject to access. A determination as to exemption shall be made at the time a request for access is received. A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked "Privacy Access Request." Include in the reguest the general subject matter of the document or its file number. The requestor will also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

CONTESTING RECORD PROCEDURES:

The major part of the information maintained in this system is exempt from this requirement under 5 U.S.C. 552a (j)(2), (k)(1) and/or (k)(2). To the extent that this system is not subject to exemption, it is subject to contest. A determination as to exemption shall be made at the time a request for contest is received. Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

The sources of information contained in this system are complaints referred to the U.S. Attorney's Office by citizens and consumer protection agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(1), (2) and (3), (e)(4)(G) and (H), (e)(5) and (8), (f), (g) and (h) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2) and (k)(1) and (2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the **Federal Register.**

JUSTICE/USA—007

SYSTEM NAME:

Criminal Case Files.

SYSTEM LOCATIONS:

Ninety-*four* United States Attorneys' Offices (See attached Appendix); Executive Office for United States Attorneys; U.S. Department of Justice; 10th & Constitutions Avenue, NW., Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(a) Individuals charged with violations; (b) Individuals being investigated for violations; (c) Defense Counsel(s); (d) Information Sources; (e) Individuals relevant to development of Criminal Cases; (f) Individuals investigated, but prosecution declined; (g) Individuals referred to in potential or actual cases and matters of concern to a

U.S. Attorney's Office; (h) Individuals placed into the Department's Pretrial Diversion program.

CATEGORIES OF RECORDS IN THE SYSTEM:

(a) All case files (USA–33); (b) Docket Cards (USA–115); (c) Criminal Debtor Cards (USA–117a); (d) Criminal Case Activity Card (USA–163); (e) Criminal Debtor Activity Card (USA–164); (f) 3' x 5' Index Cards; (g) Caseload Printouts; (h) Attorney Assignment Sheets; (i) General Correspondence re: Criminal Cases; (j) Reading Files re: Criminal Cases; (k) Grand Jury Proceedings; (l) Miscellaneous Investigative Reports; (m) Information Source Files; (n) Parole Recommendations; (o) Immunity Requests; (p) Witness Protection Files; (q) Wiretap Authorizations; (r) Search Warrants; (s) Telephone records; (t) Criminal Complaints; (u) Sealed Indictment Records; (v) Files unique to a District; (w) Criminal Miscellaneous Correspondence File; (x) Prosecution Declined Reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

These systems are established and maintained pursuant to 5 U.S.C. 301 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PRUPOSES OF SUCH USES:

A recorfd maintained in this sytem of records may be disseminated as a routine use of such record as follows:

(a) In any case in which there is an indication of a violation or potential violation of law, criminal, or regulatory in nature, the record in question may be disseminated to the appropriate Federal, state, local, or foreign agency charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law;

(b) In the course of investigating the potential or actual violation of any law, criminal, civil, or regulatory in nature, or during the course of a trial or hearing or the preparation for a trial or hearing for such violation, a record may be disseminated to a Federal, state, local, or foreign agency, or to an individual or organization, if there is reason to believe that such agency, individual, or organization possesses information relating to the investigation, trial, or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant;

(c) A record relating to a case or matter may be disseminated in an appropriate Federal, state, local, or foreign court or grand jury proceeding in accordance with established constitutional, substantive, or procedural law or practice;

(d) A record relating to a case or matter may be disseminated to a Federal, state, or local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing;

(e) A record relating to a case or matter may be disseminated to an actual or potential party or his attorney for the purpose of negotiation or discussion on such matters as settlement of the case or matter, plea bargaining, or informal discovery proceedings;

(f) A record relating to a case or matter that has been referred by an agency for investigation, prosecution, or enforcement, or that involves a case or matter within the jurisdiction of an agency, may be disseminated to such agency to notify the agency of the status of the case or matter or of any decision or determination that has been made, or to make such other inquiries and reports as are necessary during the processing of the case or matter;

(g) A record relating to a person held in custody pending or during arraignment, trial, sentence, or extradition proceedings, or after conviction or after extradition proceedings, may be disseminated to a Federal, state, local, or foreign prison, probation, parole, or pardon authority, or to any other agency or individual concerned with the maintenance, transportation, or release of such a person;

(h) A record relating to a case or matter may be disseminated to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States or to an executive agreement;

(i) A record may be disseminated to a Federal, state, local, foreign, or international law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency;

(j) A record may be disseminated to a Federal agency, in response to its request, in connection with the hiring or retention of any employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decision on the matter;

(k) A record may be disseminated to the public, news media, trade associations, or organized groups, when the purpose of the dissemination is educational or informational, such as descriptions of crime trends or distinctive or unique modus operandi: Provided That the record does not contain any information identifiable to a specific individual other than such modus operandi;

(l) A record may be disseminated to a foreign country, through the United States Department of State or directly to the representative of such country, to the extent necessary to assist such country in apprehending and/or returning a fugitive to a jurisdiction which seeks his return;

(m) A record that contains classified national security information and material may be disseminated to persons who are engaged in historical research projects, or who have previously occupied policy making provisions to which they were appointed by the President, in accordance with the provisions codified in 28 CFR 17.60;

(n) A record relating to an actual or potential civil or criminal violation of title 17, United States Code, may be disseminated to a person injured by such violation to assist him in the institution or maintenance of a suit brought under such title;

(o) Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy;

(p) Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552 may be made available to a Member of Congress or staff acting upon the Members's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record;

(q) Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 290.4 and 2906; and

(r) A record may be accessed by volunteer student workers and students working under a college work-study program, as is necessary to enable them to perform their function.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All information except that specified in this paragraph, is recorded on basic paper/cardboard material, and stored within manila file folders, within metal file cabinets, electric file/card retrievers or safes. Some material is recorded and stored on magnetic tape, card or other data processing type storage matter for reproduction later into conventional formats.

RETRIEVABILITY:

Information is retrieved primarily by name of person, case number, complaint number of court docket number. Information within this system of records may be accessed by various U.S. Attorney's offices and the Executive Office for United States Attorneys by means of catho-ray tube terminals (CRT's).

SAFEGUARDS:

Information in the system is both confidential and non-confidential and located in file cabinets in the United States Attorney offices. Some materials are located in locked file drawers and safes, and others in unlocked file drawers. Offices are locked during non-working hours and are secured by either Federal Protective Service, United States Postal Service, or private building guards. Information that is retrievable by CRT's within verious U.S. Attorneys' offices and the Executive Office for United States Attorneys requires user identification numbers which are issued to authorized employees of the Department of Justice.

RETENTION AND DISPOSAL:

Records are maintained and disposed of in accordance with Department of Justice retention plans.

SYSTEM MANAGER(S) AND ADDRESS:

System manager for the system in each office is the Administrative Officer/Assistant, for the U.S. Attorney for each district (See attached Appendix).

NOTIFICATION PROCEDURE:

Address inquires to the System Manager for the judicial district in which the case or matter is pending (See attached Appendix).

RECORD ACCESS PROCEDURES:

The major part of the information maintained in this system is exempt from this requirement under 5 U.S.C. 552a(j)(2), (k)(1) and/or (k)(2). To the extent that this system is not subject to exemption, it is subject to access. A determination as to exemption shall be made at the time a request for access is received. A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked "Privacy Access Request." Include in the request the name of the individual involved, his birth date and place, or any other identifying number or information which may be of assistance in locating the record and the name of the case or matter involved, if known. The requester will also provide a return address for transmitting the information. Access requests will be directed to the System Manager (See attached Appendix).

CONTESTING RECORD PROCEDURES:

The major part of the information maintained in this system is exempt from this requirement under 5 U.S.C. 552a (j)(2), (k)(1) and/or (k)(2). To the extent that this system is not subject to exemption, it is subject to contest. A determination as to exemption shall be made at the time a request for contest is received. Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager (See attached Appendix) stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Sources of information contained in this system include, but are not limited to investigative reports of federal, state and local law enforcement agencies; client agencies of the Department of Justice; other non-Department of Justice investigative agencies; forensic reports; statements of witnesses and parties; verbatim transcripts of Grand Jury and court procedings; data, memoranda and reports from the Court and agencies thereof; and the work product of Assistant United States Attorneys, Department of Justice attorneys and staff, and legal assistants working on particular cases.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsection (c)(3) and (4), (d), (e)(1), (2) and (3), (e)(4)(G) and (H), (e)(5) and (8), (f), (g) and (h) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2) and (k)(1) and (2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the Federal Register.

JUSTICE/USA-006

SYSTEM NAME:

Freedom of Information Act/Privacy Act Files.

SYSTEM LOCATION:

Executive Office for United States Attorneys; U.S. Department of Justice; 10th & Constitution Avenue, NW., Washington, D.C. 20530; Ninety-four United States Attorney's Offices (see attached Appendix).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(a) Individuals who write to the Executive Office for United States Attorneys, its Director or a member of his staff, or a U.S. Attorney's office.

(b) Individuals who write to the Attorney General or the Department of Justice or the FOI/PA Unit and whose letter is referred to the Executive Office for United States Attorneys.

(c) Individuals whose letter has been referred to the Executive Office for United States Attorneys for a response by the FOI/PA Unit or Appeals Unit.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system includes the original correspondence received as well as any response, referral letters or notes concerning the subject of the request and copies of any enclosures. The system is arranged alphabetically by the last name of the original requester.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

These records are kept for administrative convenience pursuant to 5 U.S.C. 301 and 44 U.S.C. 3101 and the provisions of the Freedom of Information Act.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information from the responses may be provided to the referrer or the original request of the requester. All other uses are internal within the Department.

RELEASE OF INFORMATION TO THE NEWS MEDIA:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

RELEASE OF INFORMATION TO MEMBERS OF CONGRESS:

Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

RELEASE OF INFORMATION TO THE NATIONAL ARCHIVES AND RECORDS SERVICE:

A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The material is stored within manila file folders, within metal file cabinets.

RETRIEVABILITY:

The system is indexed by name, arranged alphabetically.

SAFEGUARDS:

The correspondence is maintained in a room which is occupied by office personnel during the day and locked at night.

RETENTION AND DISPOSAL:

Records are maintained and disposed of in accordance with Department retention plans.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Executive Office for United States Attorneys; U.S. Department of Justice; 10th & Constitution Avenue, NW., Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Address inquiries to the System Manager listed above.

RECORD ACCESS PROCEDURES:

A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked "Freedom of Information" or "Privacy Access Request." Include in the request the name and address as included in the original letter, together with the current address if different, the date of the letter and to whom it was addressed. Requests should be directed to the system manager listed above.

CONTESTING RECORD PROCEDURES:

Any requests for correction should also be directed to the System Manager and should indicate the exact correction required.

RECORD SOURCE CATEGORIES:

Sources of information in this system are the actual letter received, the response and any transmitted information and enclosures.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Records secured from other systems of records have been exempted from the provisions of the Privacy Act to the same extent as the systems of records from which they were obtained. The Attorney General has also exempted certain categories of records in this system from subsection (c)(3), (d) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c), and (e) and have been published in the Federal Register.

JUSTICE/USA-009

SYSTEM NAME:

Kline—District of Columbia and Maryland—Stock and Land Fraud Interrelationship Filing System.

SYSTEM LOCATION:

U.S. Attorney's Office; 3rd & Constitution Avenue, NW.; Washington, D.C. 20001.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The individuals on whom records and maintained in this system may be broadly classified in three categories: (1) Those individuals who have been charged with Federal and D.C. Code violations; (2) Those individuals who are currently under investigation for violations of Federal and D.C. Code; (3) Those individuals upon whom investigations were conducted, but no prosecution was initiated. These include but are not limited to possible witnesses, corporate entities, corporate employees, business contacts, financial institutions and governmental contacts.

CATOORIES OF RECORDS IN THE SYSTEM:

The system contains an index record for individual names and types of transactions with named individuals.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 28 U.S.C. 547, 23 D.C. Code 101(c).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record maintained in this system of records may be disseminated as a routine use of such record as follows:

(1) In any case in which there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, the record in question may be disseminated to the appropriate agency, federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing such law;

(2) In the course of investigating the potential or actual violation of any law, whether civil, criminal, or regulatory in nature, or during the course of a trial or hearing or the preparation for a trial or hearing for such violation, a record may be disseminated to a federal, state, local, or foreign agency, or to an individual, if there is reason to believe that such agency or individual possesses information relating to the investigation, trial, or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant;

(3) Records or extracts thereof relating to a case or matter may be disseminated to a defendant or his attorney or to the appropriate federal, state, local, or foreign, court or grand jury in accordance with established constitutional, substantive, or procedural law or practice;

(4) A record relating to a case or matter may be disseminated to a federal, state, or local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing;

(5) A record relating to a case or matter may be disseminated to an actual or potential party or his attorney for the purpose of negotiation or discussion on such matters as settlement of the case or matter, plea bargaining, or informal discovery proceedings;

(6) A record relating to a case or matter that has been referred for investigation may be disseminated to the referring agency to notify such agency of the status of the case or matter or of any decision or determination that has been made;

(7) A record relating to a person held pending arraignment, trial or sentence, or after conviction, may be disseminated to a federal, state, local, or foreign prison, probation, parole, bail or pardon authority, or to any agency or individual concerned with the custody maintenance, transportation, or release of such a person;

(8) A record relating to a case or matter may be disseminated to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States;

(9) A record may be disseminated to a federal, state, local, or foreign law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency, or to provide investigative leads to such agency;

(10) A record may be disseminated to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decision on the matter; and

(11) A record may be accessed by volunteer student workers and students working under a college work-study program, as is necessary to enable them to perform their function.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of informtion to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information maintained in the system is stored electronically in the Department of Justice Juris System.

RETRIEVABILITY:

Information is retrieved primarily by referencing the individuals' names who participated in the business transactions.

SAFEGUARDS:

Information contained in this system is protected as though it was classified as confidential. It is accessible only to holders of the entry code; the only holders of the code are the U.S. Attorney's Offices for the District of Columbia and Maryland.

RETENTION AND DISPOSAL:

The records are to be retained for the period of usefulness as determined by the U.S. Attorney's Office.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Fraud Division; U.S. Attorney's Office; U.S. District Court; 3rd & Constitution Avenue, NW.; Washington, D.C. 20001.

NOTIFICATION PROCEDURE:

All inquiries should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

The major part of the information maintained in this system is exempt from this requirement under 5 U.S.C. 552a (j)(2), (k)(1), and/or (k)(2). To the extent that this system is not subject to exemption, it is subject to access. A determination as to exemption shall be made at the time a request for access is received. A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request.' Include in the request the general subject matter of the document or its file number. The requestor will also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

CONTESTING RECORD PROCEDURES:

The major part of the information maintained in this system is exempt from this requirement under 5 U.S.C. 552a (j)(2), (k)(1), and/or (k)(2). To the extent that this system is not subject to exemption, it is subject to contest. A determination as to exemption shall be made at the time a request for contest is received. Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Sources of information contained in this system are individuals who have cooperated with the U.S. Attorney's Office in the investigation of criminal activity.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(1), (2) and (3), (e)(4)(G), and (H), (e)(5), and (8), (f), (g), and (h) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2), and (k) (1) and (2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c), and (e) and have been published in the **Federal Register.**

JUSTICE/USA—010

SYSTEM NAME:

Major Crimes Division Investigative Files.

SYSTEM LOCATION:

U.S. Attorney's Office; 3rd & Constitution Avenue, N.W.; Washington, D.C. 2001.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The individuals on whom records are maintained in the Major Crimes Division Investigative Files may be broadly classified in four categories: (1) Those individuals who have been charged with Federal and D.C. Code violations; (2) those individuals who are currently under investigation for violations of Federal and D.C. Code; (3) those individuals upon whom investigations were conducted, but no prosecution was initiated; and (4) other informants.

CATEGORIES OF RECORDS IN THE SYSTEM:

In addition to the standard files maintained in accordance with the U.S. Attorney's Manual and the Department of Justice Docket and Reporting System, there are also maintained in the Major Crimes Division of this office certain investigative and intelligence files. The type of information maintained is identifying data, criminal records, intelligence compiled for the purpose of investigation of criminal offenses, criminal investigative reports, informant debriefing summaries, and information provided in confidence during investigative and prosecutive states of criminal cases.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 28 U.S.C. 547.23 D.C. Code 101(c).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record maintained in this system of records may be disseminated as a routine use of such record as follows:

(1) In any case in which there is an indication of a violation or potential

violation of law, whether civil, criminal or regulatory in nature, the record in question may be disseminated to the appropriate agency, federal, state local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing such law;

(2) In the course of investigating the potential or actual violation of any law, whether civil, criminal or regulatory in nature, or during the course of a trial or hearing or the preparation for a trial or hearing for such violation, a record may be disseminated to a federal, state, local, or foreign agency, or to an individual, if there is reason to believe that such agency or individual possesses information relating to the investigation, trial, or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant;

(3) Records or extracts thereof relating to a case or matter may be disseminated to a defendant or his attorney or to the appropriate federal, state, local, or foreign, court or grand jury in accordance with established constitutional, substantive, or procedural law or practice;

(4) A record relating to a case or matter may be disseminated to a federal, state, or local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing;

(5) A record relating to a case or matter may be disseminated to an actual or potential party or his attorney for the purpose of negotiation or discussion on such matters as settlement of the case or matter, plea bargaining, or informal discovery proceedings;

(6) A record relating to a case or matter that has been referred for investigation may be disseminated to the referring agency to notify such agency of the status of the case or matter or of any decision or determination that has been made;

(7) A record relating to a person held pending arraignment, trial or sentence, or after conviction, may be disseminated to a federal, state, local, or foreign prison, probation, parole, bail or pardon authority, or to any agency or individual concerned with the custody, maintenance, transportation, or release of such a person;

(8) A record relating to a case or matter may be disseminated to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States;

(9) A record may be disseminated to a federal state, local, or foreign law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency;

(10) A record may be disseminated to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decision on the matter; and

(11) A record may be accessed by volunteer student workers and students working under a college work-study program, as is necessary to enable them to perform their function.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The information is maintained in memorandum form in file folders.

RETRIEVABILITY:

Information is retrieved primarily by the name of a person, complaint number, court docket number, FBI number, Metropolitan Police Department identification number and District of Columbia Department of Corrections number.

SAFEGUARDS:

Information contained in the system is both unclassified and classified and is safeguarded and protected by being maintained in tumbler locked file safes in the Major Crimes Division which is manned during all times that it is open and at other times is locked. This room is located in the U.S. Courthouse which is guarded by the Federal Protective Service twenty four hours a day with roving patrols during non-working hours.

RETENTION AND DISPOSAL:

Files are retained and disposed of in accordance with Title 8, U.S. Attorney's Manual, pages 70–77.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Major Crimes Division; U.S. Attorney's Office; U.S. District Court; 3rd & Constitution Avenue, N.W., Room 4400; Washington D.C. 20001.

NOTIFICATION PROCEDURE:

Address inquiries to the System Manager.

RECORD ACCESS PROCEDURES:

The major part of the information maintained in this system is exempt from this requirement under 5 U.S.C. 552a (j)(2), (k)(1) and/or (k)(2). To the extent that this system is not subject to exemption, it is subject to access. A determination as to exemption shall be made at the time a request for access is received. A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request.' Include in the request the general subject matter of the document or its file number. The requestor will also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

CONTESTING RECORD PROCEDURES:

The major part of the information maintained in this system is exempt from this requirement under 5 U.S.C. 552a (j)(2), (k)(1) and/or (k)(2). To the extent that this system is not subject to exemption, it is subject to contest. A determination as to exemption shall be made at the time a request for contest is received. Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Sources of information contained in this system are investigative reports of federal, state and local law enforcement agencies, statement of witnesses, informants and parties, as well as verbatim transcripts of grand jury proceedings and court proceedings, memoranda and reports from the court and agencies thereof and the work product of Assistant United States Attorneys and legal assistants working on particular cases.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsection (c)(3) and (4), (d), (e)(1), (2) and (3), (e)(4)(G) and (H), (e)(5) and (8), (f), (g) and (h) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2) and (k)(1) and (2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the **Federal Register.**

JUSTICE/USA—011

SYSTEM NAME:

Prosecutor's Management Information System (PROMIS).

SYSTEM LOCATION:

U.S. Attorney's Office: 3rd & Constitution Avenue, NW., Washington, D.C. 20001.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The individuals on whom records are maintained in PROMIS are as follows: (1) Those individuals who have been charged with criminal violations: (2) those individuals who are currently under investigation for criminal violations: (3) those individuals upon whom criminal investigations were conducted, but no prosecution was initiated; and (4) the names and addresses of all witnesses and arresting police officers.

CATEGORIES OF RECORDS IN THE SYSTEM:

The data in PROMIS fall into six major categories.

1. Information about the accused or defendant. This includes name, alias, sex, race, date of birth, address, facts about prior arrest and convictions, and employment status. If judged appropriate, additional data could be added, such as information about alcohol or drug abuse. Some of this information is used to rate the gravity of the case in terms of the defendant's criminal history.

2. Information about the crime. The date, time, and place of the crime; the number of persons involved in the crime; and a numerical rating reflecting the gravity of the crime in terms of the amount and degree of personal injury, property damage or loss, and intimidation.

3. Information about the arrest. The date, time, and place of the arrest, the type of arrest, and idenity of the arresting officers.

4. Information about criminal charges. The charges originally placed by the police against the arrestee the charges actually filed in court against the defendant, the reasons for changes in the charges by the prosecutor, the penal statue for the charge, the FBI Uniform Crime Report Code for the charge, and the Project SEARCH Code for the charge.

5. Information about court events. The dates of every court event in a case from arraignment through motion hearing, continuance hearing, final disposition, and sentencing; the names of the principals involved in each event, including the defense and prosecution attorneys and judge; the outcomes of the events and the reasons therefor.

6. Information about witnesses. The names and addresses of all witnesses, the prosecutor's assessment of whether the witnesses are essential to the case, and any indications of reluctance to testify by the wintesses.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 28 U.S.C. 547, 23 D.C. Code 101(c).

ROUTINE USES OF RECORDS MAINTTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record maintained in this system of records may be disseminated as a routine use of such record as follows:

(1) In any case in which there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, the record in question may be disseminated to the appropriate agency federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing such law;

(2) In the course of investigating the potential or actual violation of any law, whether civil, criminal, or regulatory in nature, or during the course of a trial or hearing or the preparation for a trial or hearing for such violation, a record may be disseminated to a federal, state, local, or foreign agency, or to an individual, if there is reason to believe that such agency or individual possesses information relating to the investigation, trial, or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant;

(3) Records or extracts thereof relating to a case or matter may be disseminated to a defendant or his attorney or to the appropriate federal, state, local, or foreign, court or grand jury in accordance whith established constitutional, substative, or procedural law or practice;

(4) A record relating to a case or matter may be disseminated to a federal, state, or local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing;

(5) A record relating to case or matter may be disseminated to an actual or potential party or his attorney for the purpose of negotiation or discussion on such matters as settlement of the case or matter, plea bargaining, or informal discovery proceedings, or to the Public Defender Service in connection with caseload management of other purposes;

(6) A record relating to a case or matter that has been referred for investigation may be disseminated to the referring agency to notify such agency of the status of the case or matter or of any decision or determination that has been made or to assist in eliciting additional information:

(7) A record relating to a person held pending arraignment, trial or sentence, or after conviction, may be disseminated to a federal, state, local, or foreign prison, probation, parole, bail or pardon authority, or to any agency or individual concerned with the custody maintenance, transportation, or release of such a person;

(8) A record relating to a case or matter may be disseminated to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States;

(9) A record may be disseminated to a federal, state, local, or foreign law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency;

(10) A record may be disseminated to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decision on the matter; and

(11) A record may be acccessed by volunteer student workers and students

working under a college work-study program, as is necessary to enable them to perform their function.

Because PROMIS is an automated information system, this office utilizes it to track the workload of the criminal court process from three separate vantage points. First, the workload is tracked from the vantage point of the crime or criminal incident. This is accomplished by including in PROMIS the complaint number which the police department assigns to a reported crime. With this number, prosecutors can follow the full history of the court actions arising from the crime even though those actions may involve multiple defendants, multiple cases, and multiple trials and dispositions.

Second, PROMIS tracks the court workload from the vantage point of the accused or defendant. This is achieved by incorporating in PROMIS the fingerprint-based number the police department assigns to the individual following his or her arrest. This identification number is used again by the department if the same individual is subsequently arrested. Through this number, prosecuting attorneys accumulate criminal history files on offenders and note incidents of recidivism.

Finally, PROMIS tracks from the vantage point of the court proceedings. This is accomplished by including in PROMIS the docket number the Court assigns to the case pending before it. With this number, prosecutors trace the history of any formal criminal action from arraignment through final disposition and sentencing, and account for the separate fate of each count or charge.

The inclusion of these three numbers is significannt. The numbers provide a capability to track the criminal incident, the defendant, or the court actions and provide the basis for the routine communication among the various Federal, state, local, and foreign law enforcement agencies.

In addition, PROMIS generates, on a recurring basis, five categories of reports: Misdemeanor calendars, felony calendars, case status reports, workload reports, and special reports. These reports are prepared from information contained in the data base both by persons employed by this office, the Justice Department and persons under contract to the Department for this purpose.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of the particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are stored on magnetic tapes and discs at the District of Columbia Metropolitan Police Department Computer Center. Printouts from the terminals are stored with case jackets. Status, calendars, and statistical reports are stored in the files and offices of supervisory attorneys.

RETRIEVABILITY:

This system has an on-line data retrieval capability with respect to certain information continued in the data base. These subsets of information are retrieved on data display terminals which are located at various work stations throughout the office. Certain of these terminals have a printout capability. All information on these subsets is a matter of public record. The system also has the capability for the production of periodic reports. Both the periodic reports and the on-line displays are utilized in accordance with the above listed routine uses.

SAFEGUARDS:

The magnetic tapes and discs are maintained in a secure vault at the Metropolitan Police Department Computer Center. In addition to the physical security safeguards, there is a twenty-four hour patrol. The data display terminals are located in semi-public areas of the office (i.e., administrative work stations through which the public must pass on official business). However, only trained operators may retrieve the information, which is of public record. The terminals are not open to the public after working hours.

RETENTION AND DISPOSAL:

The files are retained and disposed of in accordance with Title 8, U.S. Attorney's Manual, pages 70–77.

SYSTEM MANAGER(S) AND ADDRESS:

Administrative Assistant; United States Attorney; U.S. District Court; 3rd & Constitution Avenue, NW.; Room 3602–A; Washington, D.C. 2001.

NOTIFICATION PROCEDURE:

Address inquiries to the System Manager.

RECORD ACCESS PROCEDURES:

The major part of the information maintained in this system is exempt from this requirement under 5 U.S.C. 552a (j)(2), (k)(1) and/or (j)(2). To the extent that this system is not subject to exemption, it is subject to access. A determination as to exemption shall be made at the time a request for access is received. A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request.' Include in the request the general subject matter of the document or its file number. The requestor will also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

CONTESTING RECORD PROCEDURES:

The major part of the information maintained in this system is exempt from this requirement under 5 U.S.C. 552a (j)(2), (k)(1) and/or (k)(2). To the extent that this system is not subject to exemption, it is subject to contest. A determination as to exemption shall be made at the time a request for contest is received. Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

About 80 percent of the data contained in PROMIS is obtained at the intake and screening stage as the by-product of the case documentation process. Carbon copies of various forms completed immediately before or during the case screening stage serve as input documents for PROMIS.

As a case moves through the subsequent proceedings, additional

information about its status is fed to PROMIS. This is achieved through turnaround documents—forms generated by PROMIS in advance of a court event-on which the results of a given proceeding (e.g., preliminary hearing, sentencing, etc.) are recorded and then entered in PROMIS.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c) (3) and (4), (d), (e) (1), (2) and (3), (e) (4) (G) and (H), (e) (5) and (8), (f), (g) and (h) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2) and (k) (1) and (2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the Federal Register.

JUSTICE/USA—012

SYSTEM NAME:

Security Clearance Forms for Grand Jury Reports.

SYSTEM LOCATION:

Ninety-four United States Attorney's Office (See attached Appendix).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Proposed Grand Jury Reporters.

CATEGORIES OF RECORDS IN THE SYSTEM:

Request for security clearance of grand jury reporter(s) employed by the reporting firm under contract with the Justice Department; carbon copy of "PERSONNEL INFORMATION SHEET—Grand Jury Reporting" on which is listed name of proposed grand jury reporter, home address, date and place of birth, and present business affiliatin; and clearance or denial of clearance for the proposed reported from the Department of Justice.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

All uses of this information are internal within the Department of Justice.

RELEASE OF INFORMATION TO THE NEWS MEDIA:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

RELEASE OF INFORMATION TO MEMBERS OF CONGRESS:

Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member or Congress or staff acting upon the Member's behalf when the Member of staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Security clearance forms are kept alphabetically in file cabinets in the Administrative Office.

RETRIEVABILITY:

Security clearance forms on grand jury reports are retrievable from an alphabetical filing system.

SAFEGUARDS:

Security clearance forms are maintained in the Adminstrative Division in the District Court Building which is manned at all times during working hours and at other times is locked.

RETENTION AND DISPOSAL:

Security clearance forms are maintained for five years, at which time they must be renewed. Upon receipt of renewed security clearance, old forms are destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Ninety-four United States Attorneys Offices (See attached Appendix).

NOTIFICATION PROCEDURE:

Address inquiries to the System Manager.

RECORD ACCESS PROCEDURES:

A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked "Privacy Access Request." Include in the request the general subject matter of the document. The requestor will also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

The source of the information contained in these files are the reporter's request for security clearance personnel information sheet and the clearance or denial of clearance.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/USA—013

SYSTEM NAME:

U.S. Attorney, District of Columbia Superior Court Division, Criminal Files, including but not limited to the following subsystems: (a) Criminal File Folder (USA–S1), (b) Criminal File Folder (USA–33), (c) Criminal Docket Card (USA–T7), and (d) Index.

SYSTEM LOCATION:

U.S. Attorney's Office; 3rd & Constitution Avenue, N.W.; Washington, D.C. 20001.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The individuals on whom records are maintained may be broadly classified in three categories (1) Those individuals who have been charged with criminal violations. (2) those individuals who are currently under investigation for criminal violations; and (3) those individuals upon whom criminal investigations were conducted, but no prosecution was initiated.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records, consisting of numbered Criminal File Folders, (USA–S1 and USA–33), contains criminal investigative reports about named individuals submitted to this office by federal state, local and foreign law enforcement agencies involved with the investigation of suspected violations as well as by complaints made by private parties. Those matters which become cases either by way of indictment or information in addition to the data contained in the investigative reports, also contain copies of indictments, informations, complaints, and all pleadings submitted to the court in

connection with the actual prosecution of the case. These files also contain communications between the Court and agencies thereof, and the United States Attorney, and all correspondence relative to the case or matter. The files further contain psychiatric, chemical and other forensic reports, documentary evidence and the work product and internal memoranda of the Assistant United States Attorney in charge of the investigation compiled in preparation for the prosecution of each case. In those cases which have gone through trial and appeal, the file would further reflect transcripts of the trial, all pleadings and correspondence between the attorneys and the Court of Appeals, and copies of briefs submitted in the prosecution of the Appeal.

A synopis record of a matter or case is maintained by means of a criminal docket card (USA–T7), for all actions through sentencing. A synopsis record of a case on appeal is maintained on an Appellate Docket Card (USA–9X–199), Appellate Proceedings). All of these subsystems comprise an internal cross-reference record keeping system of the criminal business at the office. Through the medium of forms and on-line data input, certain of this information is conveyed to a computer center for inclusion in the Prosecutor's Management Information System (a system which will be reported on separately), from which status and statistical reports are issued and distributed back to this office either in the form of computer printouts or on data display terminals which contain much of the same information as the files in different format.

Because of the number of diverse functions which must be performed with respect to each case; and because of the large volume of cases and because operations are conducted in three separate buildings, there are a number of file folder locator mechanisms and cross references utilized to constantly track a file folder when it is not physically located in file control. These indexes or locators are maintained in the form of 'out cards,' log books, index card files, etc. They are referenced by name, number, and other identifiers. In themselves, they are not separate systems of records, but indexes or references to the primary system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record maintained in this system of records may be disseminated as a routine use of such record as follows:

(1) In any case in which there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, the record in question may be disseminated to the appropriate agency, federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing such law;

(2) In the course of investigating the potential or actual violation of any law, whether civil, criminal, or regulatory in nature, or during the course of a trial or hearing or the preparation for a trial or hearing for such violation, a record may be disseminated to a federal, state, local, or foreign agency, or to an individual, if there is reason to believe that such agency or individual possesses information relating to the investigation, trial, or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant;

(3) Records or extracts thereof relating to a case or matter may be disseminated to a defendant or his attorney or to the appropriate federal, state, local, or foreign, court or grand jury in accordance with established constitutional, substantive, or procedural law or practice;

(4) A record relating to a case or matter may be disseminated to a federal, state, or local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing;

(5) A record relating to a case or matter may be disseminated to an actual or potential party or his attorney for the purpose of negotiation or discussion on such matters as settlement of the case or matter, plea bargaining, or informal discovery proceedings;

(6) A record relating to a case or matter that has been referred for investigation may be disseminated to the referring agency to notify such agency of the status of the case or matter or of any decision or determination that has been made or to assist in eliciting additional information;

(7) A record relating to a person held pending arraignment, trial or sentence, or after conviction, may be disseminated to a federal, state, local, or foreign prison, probation, parole, bail or pardon authority, or to any agency or individual concerned with the custody maintenance, transportation or release of such a person;

(8) A record relating to a case or matter may be disseminated to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States;

(9) A record may be disseminated to a federal, state, local, or foreign law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency;

(10) A record may be disseminated to a federal agency, in response to its request, in connection with the hiring or retention of employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decision on the matter; and

(11) A record may be assessed by volunteer student workers and students working under a college work-study program, as is necessary to enable them to perform their function.

Release of information to the news media: Information permitted to be release to the news media and the public pursuant to 28 CFR 50.2 may be made available for systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archieves and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The information in the various indexes is maintained on index cards,

log books, out cards, etc. The criminal files themselves are maintained in criminal file folders (USA–S1 and USA–33). The synopsis information is maintained on a Criminal Docket Card (USA–T7) and Appellate Proceedings (USA–9X–199).

RETRIEVABILITY:

Information is retrieved primarily by the name of a person, complaint number, court docket number, FBI number, Metropolitan Police Department indentification number and District of Columbia Department of Corrections number.

SAFEGUARDS:

Information contained in the system is both unclassified and classified and is safeguarded and protected by being maintained in filerooms which are manned during all times that they are open and at other times are locked. These rooms are located in the Superior Court for the District of Columbia, Buildings B and G which are guarded by the federal protective service twenty four hours a day with roving patrols during non-working hours. Files which are not in the filerooms but which are checked out to attorneys are maintained in locked offices after working hours.

RETENTION AND DISPOSAL:

The files are retained and disposed of in accordance with Title 8, U.S. Attorney's Manual, pages 70–77.

SYSTEM MANAGER(S) AND ADDRESS:

Administrative Officer; U.S. Attorney's Office; Superior Court Division; Room 108, Building B; 4th & F Street, NW.; Washington, D.C. 20001.

NOTIFICATION PROCEDURE:

Address inquiries to the System Manager.

RECORD ACCESS PROCEDURES:

The major part of the information maintained in this system is exempt from this requirement under 5 U.S.C. 552a (j)(2), (k)(1) and/or (k)(2). To the extent that this system is not subject to exemption, it is subject to access. A determination as to exemption shall be made at the time a request for access is received. A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked "Privacy Access Request." Include in the request the general subject matter of the document or its file number. The requester will also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

CONTESTING RECORD PROCEDURES:

The major part of the information maintained in this system is exempt from this requirement under 5 U.S.C 552a (j)(2), (k)(1) and/or (k)(2). To the extent that this system is not subject to exemption, it is subject to contest. A determination as to exemption shall be made at the time a request for contest is received. Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Sources of information contained in this system include but are not limited to investigative reports of federal, state and local law enforcement agencies, forensic reports, statements of witnesses and parties, as well as verbatim transcripts of grand jury proceedings and court proceedings, memoranda and reports from the court and agencies thereof and work product of Assistant United States Attorney and legal assistants working on particular cases.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c) (3) and (4), (d), (e) (1), (2) and (3), (e)(4) (G) and (H), (e) (5) and (8), (f), (g), and (h) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2) and (k) (1) and (2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 533 (b), (c) and (e) and have been published in the **Federal Register.**

JUSTICE/USA–014

SYSTEM NAME:

Pre-Trial Diversion Program Files.

SYSTEM LOCATION:

Ninety-four United States Attorneys' Offices (See attached Appendix).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals referred to in potential or actual pre-trial diversion cases.

CATEGORIES OF RECORDS IN THE SYSTEM:

(a) USA Form 184—Referral letter to Probation Service; (b) USA Form 185—Letter to defendant; (c) USA Form 186—Agreement for Pre-Trial Diversion; (d) USA Form 187—Pre-Trial Diversion Report Form; (e) USA Form 188—Certification of Completion of Program; (f) USA Form 189—Defendant Application Form; (g) Telephone Records; (h) Miscellaneous Correspondence; and (i) Files Unique to a District.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system is established and maintained pursuant to 5 U.S.A. 301 and 44 USC 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record maintained in this system of records may be disseminated as a routine use of such record as follows:

(a) In any case in which there is an indication of a violation or potential violation of law criminal or regulatory in nature, the record in question may be disseminated to the appropriate Federal, state, local, or foreign agency charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law;

(b) In the course of investigating the potential or actual violation of any law, criminal, or regulatory in nature, or during the course of a trial or hearing or the preparation for a trial or hearing for such violation, a record may be disseminated to a Federal, state, local, or foreign agency, or to an individual or organization, if there is reason to believe that such agency, individual, or organization possesses information relating to the investigation, trial, or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant;

(c) A record relating to a case or matter may be disseminated in an appropriate Federal, state, local, or foreign court or grand jury proceeding in accordance with established constitutional, substantive, or procedural law or practice;

(d) A record relating to a case or matter may be disseminated to a Federal, state, or local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing;

(e) A record relating to a case or matter be disseminated to an actual or potential party or his attorney for the purpose of negotiation or discussion on such matters as settlement of the case or matter, plea bargaining, or informal discovery proceedings;

(f) A record relating to a case or matter that has been referred by an agency for investigation prosecution or enforcement, or that involves a case or matter within the jurisdiction of an agency, may be disseminated to such agency to notify the agency of the status

of the case or matter of any decision or determination that has been made, or to make such other inquiries and reports as are necessary during the processing of the case or matter;

(g) A record relating to a person held in custody pending or during arraignment, trial, sentence, or extradition proceedings, or after conviction or after extradition proceedings, may be disseminated to a Federal, state, local, or foreign prison, probation, parole, or pardon authority, or to any other agency or individual concerned with the maintenance, transportation, or release of such a person;

(h) A record relating to a case or matter may be disseminated to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States or to an executive agreement;

(i) A record may be disseminated to a Federal, state, local, foreign, or international law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigation leads to such agency;

(j) A record may be disseminated to a Federal agency, in response to its request in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decision on the matter;

(k) A record may be disseminated to the public, news media, trade associations, or organized groups, when the purpose of the dissemination is educational or information, such as descriptions of crime trends or distinctive or unique modus operandi, provided that the record does not contain any information identifiable to a specific individual;

(l) A record may be disseminated to a foreign country, through the United States Department of State or directly to the representative of such country, to the extent necessary to assist such country in apprehending and/or returning a fugitive to a jurisdiction which seeks his return.

(m) A record that contains classified national security information and material may be disseminated to persons who are engaged in historical research projects, or who have previously occupied policy making positions to which they were appointed by the President, in accordance with the provisions codified in 28 CFR 17.60; and

(n) A record may be accessed by volunteer student workers and students working under a college work-study program, as is necessary to enable them to perform their function.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM

STORAGE:

All information, except that specified in this paragraph, is recorded on basic paper/cardboard material, and stored within manila file folders, within metal file cabinets, electric file/card retrievers or safes. Some material is recorded and stored on magnetic tape, card or other data processing type storage matter for reproduction later into conventional formats.

RETRIEVABILITY:

Information is retrieved by the name of the person, case number or complaint number.

SAFEGUARDS:

Information in the system is both confidential and nonconfidential and located in file cabinets in the United States Attorney offices. Some materials are located in locked file drawers and safes, and others in unlocked file drawers. Offices are locked during nonworking hours and are secured by either Federal Protective Service, United States Postal Service, or private building guards.

RETENTION AND DISPOSAL:

Records are maintained and disposed of in accordance with Department of Justice retention plans.

SYSTEM MANAGER(S) AND ADDRESS:

System Manager for the system in each office is the Administrative Officer/Assistant, for the U.S. Attorney for each district. (See attached Appendix.)

NOTIFICATION PROCEDURE:

Address inquiries to the System Manager for the judicial district in which the diversion application or approval was made. (See attached Appendix.)

RECORD ACCESS PROCEDURES:

The major part of the information maintained in this system is exempt from this requirement under 5 U.S.C. 552a (j)(2), (k)(1) and/or (k)(2). To the extent that this system is not subject to exemption, it is subject to access. A determination as to exemption shall be made at the time a request for access is received. A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked "Privacy Access Request." Include in the request the name of the individual involved, his birth date and place, or any other identifying number or information which may be of assistance in locating the record and the name of the case or matter involved, if known. The requester shall also provide a return address for transmitting the information. Access requests will be directed to the System Manager. (See attached Appendix.)

CONTESTING RECORD PROCEDURES:

The major part of the information maintained in this system is exempt from this requirement under 5 U.S.C. 552a (j)(2), (k)(1) and/or (k)(2). To the extent that this system is not subject to exemption, it is subject to contest. A determination as to exemption shall be made at the time a request for contest is received. Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager (see attached Appendix) stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Sources of information contained in this system include, but are not limited to investigative reports of Federal, state and local law enforcement agencies; client agencies of the Department of Justice; other non-Department of Justice investigative agencies; forensic reports; statements of witnesses and parties; verbatim transcripts of Grand Jury and court proceedings; data; memoranda and reports from the Court and agencies thereof; and the work product of Assistant United States Attorneys, Department of Justice attorneys and staff, and legal assistants working on particular cases.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c) (3) and (4), (d), (e) (1), (2) and (3), (e)(4) (G) and (H), (e) (5) and (8), (f), (g) and (h) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2) and (k) (1) and (2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and

(e) and have been published in the Federal Register.

JUSTICE/USA-999

SYSTEM NAME:

Appendix of United States Attorney Office locations:

Alabama, N
200 Federal Building
1800 Fifth Avenue North
Birmingham, Alabama 35203
Alabama, M
P.O. Box 197
Montgomery, Alabama 36101
Alabama, S
P.O. Drawer E
Mobile, Alabama 36601
Alaska
Fed. Bldg. & U.S. Courthouse
Rm. C–252, Mail Box 9
701 C Street
Anchorage, Alaska 99513
Arizona
4000 U.S. Courthouse
230 North First Avenue
Phoenix, Arizona 85025
Arkansas, E
P.O. Box 1229
Little Rock, Arkansas 72203
Arkansas, W
P.O. Box 1524
Fort Smith, Arkansas 72901
California, N
450 Golden Gate Avenue
San Francisco, Calif. 94102
California, E
3305 Federal Bldg.
650 Capitol Mall
Sacramento, Calif. 95814
California, C
312 N. Spring St.
Los Angeles, Calif. 90012
California, S
940 Front Street
Rm. 5–N–19
U.S. Courthouse
San Diego, Calif. 92189
Colorado
Suite 1200—Drawer 3615
Federal Office Bldg.
Denver, Colorado 80294
Connecticut
P.O. Box 1824
New Haven, Conn. 06508
Delaware
J. Caleb Boggs Fed. Bldg.
844 King Street
Wilmington, Del. 19801
D.C.
Room 2800, U.S. Court House
3rd & Constitution Ave., NW.
Washington, D.C. 20001
Florida, N
P.O. Box 12313
Pensacola, Florida 32501
Florida, M
501 Fed. Bldg.
80 N. Hughey Avenue
Orlando, Fla. 32801
Florida, S
155 South Miami Ave.
Miami, Florida 33130
Georgia, N
Ste. 1800, Richard Russell Building
75 Spring St., S.W.
Atlanta, GA 30335
Georgia, M
P.O. Box U
Macon, Georgia 31202
Georgia, S
P.O. Box 8999
Augusta, GA 30903
Guam
Suite 502–A, PDN Bldg.
238 O'Hara Street
Agana, Guam 96910
Hawaii
Rm. C–242 PJKK Fed. Bldg.
Box 50183
300 Ala Moana Blvd.
Honolulu, Hawaii 96850
Idaho
Rm. 693 Federal Bldg.
Box 037, 550 W. Fort St.
Boise, Idaho 83702
Illinois, N
Everett McKinley Dirksen Bldg.
219 S. Dearborn St.
Room 1500 South
Chicago, Illinois 60604
Illinois, S
Rm. 330
750 Missouri Avenue
East St. Louis, Ill. 62202
Illinois, C
Post Office Box 375
Springfield, Ill. 62705
Indiana, N
Rm. 332, U.S.P.O. & Cthse.
204 S. Main Street
South Bend, Ind. 46601
Indiana, S
274 U.S. Cthse.
46 E. Ohio St.
Indianapolis, Ind. 46204
Iowa, N
P.O. Box 4710
Cedar Rapids, Iowa 52407
Iowa, S
122 U.S. Cthse.
E. 1st & Walnut Streets
Des Moines, Iowa 50309
Kansas
P.O. Box 2093
444 Quincy Street
Topeka, Kansas 66683
Kentucky, E
P.O. Box 1490
Lexington, Kentucky 40501
Kentucky, W
Rm. 211, U.S.P.O. & Cthse.
601 West Broadway
Louisville, Kentucky 40202
Louisiana, E
Hale Boggs Fed. Bldg.
500 Camp Street
New Orleans, LA 70130
Louisiana, M
352 Florida Street
Baton Rouge, LA 70801
Louisiana, W
Rm. 3B12, Fed. Bldg.
Shreveport, LA 71161
Maine
P.O. Box 1588
Portland, Maine 04104
Maryland
8th Floor, U.S. Cthse.
101 W. Lombard Street
Baltimore, MD 21201
Massachusetts
1107 John W. McCormack
P.O. & Court House
Boston, Mass. 02109
Michigan, E
817 Federal Building
231 Lafayette
Detroit, Michigan 48226
Michigan, W
399 Federal Bldg. & U.S. Court House
110 Michigan Ave., N.W.
Grand Rapids, Michigan 49502
Minnesota
596 U.S. Court House
110 S. 4th Street
Minneapolis, Minn. 55401
Mississippi, N
P.O. Drawer 886
Oxford, Miss. 38655
Mississippi, S
P.O. Box 2091
Jackson, Miss. 39205
Missouri, E
Rm. 414, U.S. Court & Custom House
1114 Market Street
St. Louis, Mo. 63101
Missouri, W
549 U.S. Court House
811 Grand Avenue
Kansas City, Missouri 64106
Montana
173 Fed. Bldg.
400 N. Main
Butte, Montana 59701
Nebraska
P.O. Box 1228
Omaha, Nebraska 68101
Nevada
Box 16030
Las Vegas, Nevada 89101
New Hampshire
Federal Building
Concord, New Hampshire 03301
New Jersey
Federal Building
970 Broad Street, Rm. 502
Newark, NJ 07102
New Mexico
P.O. Box 607
Albuquerque, N. Mex. 87105
New York, N
P.O. Box 1258
Federal Bldg.,
Syracuse, N.Y. 13201
New York, S
One St. Andrew's Plaza
New York, N.Y. 10007
New York, E
U.S. Court House
225 Cadman Plaza East
Brooklyn, N.Y. 11201
New York, W
502 U.S. Court House
Buffalo, N.Y. 14202
N. Carolina, E
P.O. Box 26897
Raleigh, N.C. 27611
N. Carolina, M
P.O. Box 1858
Greensboro, N.C. 27402
N. Carolina, W
P.O. Box 132
Asheville, N.C. 28802
N. Dakota
P.O. Box 2505
Fargo, N.D. 58102

Ohio, N
Suite 500
1404 East Ninth Street
Cleveland, Ohio 44114
Ohio, S
220 U.S.P.O. & Cthse.
Cincinnati, Ohio 45202
Oklahoma, N
Rm. 460, U.S. Court House
333 West Fourth Street
Tulsa, Okla. 74103
Oklahoma, E
P.O. Box 1009
Muskogee, Okla. 74401
Oklahoma, W
Room 4434
U.S. Court House & Federal Office Bldg.
Oklahoma City, Okla. 73102
Oregon
312 U.S. Courthouse
620 SW Main Street
Portland, Oregon 97205
Penn., E
3310 U.S. Cthse.
Independence Mall West
601 Market St.
Philadelphia, Pa., 19106
Penn., M
P.O. Box 309
Scranton, Pa 18501
Penn, W
633 U.S.P.O. & Court House
7th Ave. & Grant St.
Pittsburgh, Pa. 15219
Puerto Rico
Rm. 101, Fed. Office Bldg.
Carlos E. Chardon St.
Hato Rey, P.R. 00918
Rhode Island
P.O. Box 1401
Providence, R.I. 02901
S. Carolina
P.O. Box 2266
Columbia, S.C. 29202
S. Dakota
P.O. Box 1073, Federal Bldg. & U.S. Court House
400 S. Phillips Avenue
Sioux Falls, S.D. 57102
Tennessee, E
P.O. Box 372
Knoxville, Tenn. 37901
Tennessee, M
879 U.S. Cthse.
Nashville, Tenn. 37203
Tennessee, W
1026 Fed. Office Bldg.
167 North Main St.
Memphis, Tenn. 38103
Texas, N
310 U.S. Court House
10th at Lamar
Ft. Worth, Tex. 76102
Texas, S
P.O. Box 61129
Houston, Tex. 77208
Texas, E
P.O. Box 1510
Beaumont, Tex. 77704
Texas, W
John H. Wood, Jr.
Fed. Bldg.
655 E. Durango Blvd.
San Antonio, Tex. 78206
Utah
200 P.O. and Court House
350 South Main Street
Salt Lake City, Utah 84101
Vermont
P.O. Box 570
Federal Bldg.
Burlington, Vt. 05402
Rutland, Vt. 05701
Virgin Islands
P.O. Box 1441
St. Thomas, V.I. 00801
Virginia, E
701 Prince Street
Alexandria, Va. 22313
Virginia, W
P.O. Box 1709
Roanoke, Va. 24008
Washington, E
Box 1494
Spokane, Wash. 99210
Washington, W
3600 Seafirst 5th Ave. Plaza
800 Fifth Ave.
Seattle, Wash. 98104
W. Virginia, N
P.O. Box 591
Wheeling, W. Va. 26003
W. Virginia, S
P.O. Box 3234
Charleston, W. Va. 25332
Wisconsin, E
330 Federal Building
517 East Wisconsin Avenue
Milwaukee, Wis. 53202
Wisconsin, W
P.O. Box 112
Madison, Wis. 53701
Wyoming
P.O. Box 668
Cheyenne, Wyo. 82001
North Mariana Islands
c/o U.S. Attorney's Office
Suite 502–A. PDN Bldg.
238 O'Hara Street
Agana, Guam 96910

[FR Doc. 83–22964 Filed 8–22–83; 8:45 am]
BILLING CODE 4410–07–M

Office of the Attorney General

Certification of the Attorney General; Lowndes County, Mississippi

In accordance with Section 6 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973d, I hereby certify that in my judgement the appointment of examiners is necessary to enforce the guarantees of the Fifteenth Amendment to the Constitution of the United States of America in Lowndes County, Mississippi. This county is included within the scope of the determinations of the Attorney General and the Director of the Census made on August 6, 1965, under Section 4(b) of the Voting Rights Act of 1965 and published in the **Federal Register** on August 7, 1965, (30 FR 9897).

Dated: August 19, 1983.

D. Lowell Jensen,

Acting Attorney General of the United States.

FR Doc. 83–23279 Filed 8–22–83; 10:17 am]
BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Steering Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463 as amended), notice is hereby given of a meeting of the Labor Advisory Committee for Trade Negotiations and Trade Policy.

Date, time and place: September 13, 1983, 9:30 a.m., Rm. N3437 A & B, Frances Perkins, Department of Labor Building, 200 Constitution Avenue NW., Washington, D.C. 20210.

Purpose: To discuss trade negotiations and trade policy of the United States.

This meeting will be closed under the authority of Section 10(d) of the Federal Advisory Committee Act. The Committee will hear and discuss sensitive and confidential matters concerning U.S. trade negotiations and trade policy.

For further information, contact: Betsy White, Acting Director, Office of International Economic Policy, Phone: (202) 523–6096.

Signed at Washington, D.C., this 11th day of August 1983.

Robert W. Searby,

Deputy Under Secretary, International Affairs.

[FR Doc. 83–22960 Filed 8–22–83; 8:45 am]
BILLING CODE 4510–28–M

Agency Forms Under Review by the Office of Management and Budget (OMB)

Background: The Department of Labor, in carrying out its responsibility under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the proposed forms and recordkeeping requirements that will affect the public.

List of forms under review: On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency forms under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new forms, revisions, extensions (burden change), extensions (no change), or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of any particular revision they are interested in.

Each entry will contain the following information:

The Agency of the Department issuing this form.

The title of the form.

The Agency form number, if applicable.

How often the form must be filled out.

Who will be required to or asked to report.

Whether small business or organizations are affected.

The standard industrial classification (SIC) codes, referring to specific respondent groups that are affected.

An estimate of the number of responses.

An estimate of the total number of hours needed to fill out the form.

The number of forms in the request for approval.

An abstract describing the need for and uses of the information collection.

Comments and questions: Copies of the proposed forms and supporting documents may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, Telephone 202–523–6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S–5526, Washington, D.C. 20210. Comments should also be sent to the OMB reviewer, Arnold Strasser, Telephone 202–395–6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, NEOB, Washington, D.C. 20503.

Any member of the public who wants to comment on a form which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

Revision

Employment and Training Administration

Statement of Selected Workloads and Expenditures of Federal Funds for Unemployment Compensation for Federal Employing Agencies

ETA 191 (SUPP)

Quarterly

State Employment Security Agencies

SIC: 944

212 responses; 954 hours; 1 form

Federal agencies must reimburse the Federal Employees Compensation Account for the amount expended for benefits to former Federal Employees (UCFE/UCX). The report informs ETA of the amount to bill each Federal agency.

Signed at Washington, D.C., this 18th day of August, 1983.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 83-23144 Filed 8-22-83; 8:45 am]

BILLING CODE 4510-30-M

Employment and Training Administration

Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period August 8, 1983—August 12, 1983.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm, or appropriate subdivisin have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–14,484; Ellwood Steel Casting Corp., Ellwood City, PA

TA–W–14,536; Huntington Industries, Inc., Huntington, WV

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA–W–14,631; Great National Corp., Panama #1 Mine, Panama, OK

Aggregate U.S. imports of metallurgical coal did not increase as required for certification.

TA–W–14,629; Great National Corp., Bonanza #1 Mine, Bonanza, AR

Aggregate U.S. imports of metallurgical coal did not increase as required for certification.

TA–W–14,712; International Mill Service, Pueblo, CO

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

Affirmative Determinations

TA–W–14,432; Reed Holdings, Inc., Bridge Div., Cheektowaga, NY

A certification was issued covering all workers separated on or after November 1, 1982.

TA–W–13,842; Peerless Tube Co., Bloomfield, NJ

A certification was issued covering all workers separated on or after September 17, 1981.

TA–W–14,578; London Handbag Co., Dallas, TX

A certification was issued covering all workers separated on or after April 8, 1982 and before July 30, 1983.

TA–W–14,555; Minatola Industries of Arkansas, dba, Lepanto Garment Co., Lepanto, AR

A certification was issued covering all workers separated on or after March 15, 1983.

I hereby certify that the aformentioned determinations were issued during the period August 8, 1983—August 12, 1983. Copies of these determinations are gavailable for inspection in Room 9120, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: August 16, 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 83-23145 Filed 8-22-83; 8:45 am]

BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the

determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 2, 1983.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 2, 1983.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213.

Signed at Washington, D.C. this 15th day of August 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

petitioner (union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Cleveland Cliffs Iron Co., Empire Mine (USWA)	Ishpeming, MI	8/8/83	8/4/83	TA-W-14,906	Mine, up-grade and pelletenze taconite.
Dano Div. of Cropse-Hinds Arrow Hart (workers)	Hartford, CT	7/25/83	7/17/83	TA-W-14,907	Coils—for electrical appliances or equipment.
Inland Steel Mining Co., Minorca Mine (USWA)	Virginia, MN	8/8/83	8/4/83	TA-W-14,908	Taconite pellets.
Leesona Corp. (IAMAW)	Warwick, RI	8/8/83	7/30/83	TA-W-14,909	Textile machinery.
Runide Mining, Inc. (workers)	West Logan, WV	7/6/83	7/21/83	TA-W-14,910	Coal mining.
Texas-Gulfport Shipbuilding Co. (company)	Port Arthur, TX	8/8/83	8/5/83	TA-W-14,911	Multi-purpose cargo vessels.
Village Industries, Inc. (ILGWU)	Garden City Park, NY	8/9/83	8/4/83	TA-W-14,912	Women's sportswear.

[FR Doc. 83-23146 Filed 8-22-83; 8:45 am]
BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-83-77-C]

Alabama By-Products Corp.; Petition for Modification of Application of Mandatory Safety Standard

Alabama By-Products Corporation, P.O. Box 10246, Birmingham, Alabama 35202 has filed a petition to modify the application of 30 CFR 75.326 (aircourses and belt haulage entries) to its Mary Lee No. 1 Mine (I.D. No. 01-00515) located in Walker County, Alabama. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that intake and return aircourses be separated from belt haulage entries.

2. Sections of the mine are advanced by driving five to seven entries abreast. One or two entries are used as intake aircourses and one or two are used as return aircourses. Two or three entries are neutral aircourses which are separated from the intake and return aircourses by permanent stopings. One of the neutral aircourses will always double as a belt and track entry. Power of equipment on the track haulageway is generated from the electric trolley systems. There are currently five air shafts—three are intakes and two are returns. Each shaft measures 20 feet in diameter. A fan is used to draw air through each of the return air shafts. In addition to the air shafts, there is one slope entry approximately 21 feet wide and 8 feet high. The coal seam currently averages 51 inches in height.

3. Petitioner states that low seam heights and spauling roof conditions, coupled with lengthy aircourses cause considerable restriction to normal air flow. The belt haulage entry is brushed to an average height of approximately 8 feet, alleviating much of the restricted air flow encountered in adjacent entries. Air traveling the intake aircourses has a normal tendency to pull to the neutral belt entry. The belt entry is traveled and inspected by mine personnel on a frequent basis.

4. As an alternate method, petitioner proposes to use the belt entries as additional intake entries which will eliminate any possible dead air areas and prevent possible air reversals due to changes in ventilating pressure. This will provide some increase in air volume in the last open crosscut and provide the flexibility to quickly direct more air to dilute any concentrations of methane which may occur at the working face.

5. In support of this alternate method, petitioner proposes to install a carbon monoxide (CO) monitoring system in all belt entries used as intakes to monitor for CO every 20 minutes. Locations will be specified in the petitioner's ventilation system and methane and dust control plan submitted for approval. Each monitor will be visually examined at least once each day, examined weekly for proper operation, and calibrated every 30 days with a known concentration of CO. Each nonitor located at or near each section loading point will emit an audible alarm when CO is detected at 15 ppm above the ambient level for the mine. Should the alarm sound, all affected miners will be withdrawn to the nearest communication station. Should the monitors be deenergized by a power outage or for routine maintenance, the belt conveyor will continue to operate and the belt entry will be continously patrolled and monitored by a qualified person with CO detector tubes or equivalent means until power is restored.

6. In addition, petitioner will install a surface terminal to receive the monitors' data. This terminal will be located where a responsible person is assigned and has telephone or equivalent communications. This terminal shall give a signal when any monitor detects CO 10 ppm above the ambient level, and cause an immediate investigation.

7. Petitioner states that the alternate method proposed will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before September 22, 1983. Copies of the petition are available for inspection at that address.

Dated: August 16, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-23152 Filed 8-22-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-75-C]

B and B Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

B and B Coal Company, 225 Main Street, Joliett, Pennsylvania 17981 has filed a petition to modify the application of 30 CFR 75.301 (air quality, quantity and velocity) to its Rock Ridge Slope (I.D. No. 36-07175) located in Schuylkill County, Pennsylvania. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. Air sample analysis history reveals that harmful quantities of methane are non-existent in the mine.

2. Ignition, explosion and mine fire history are non-existent for the mine.

3. There is no history of harmful quantities of carbon dioxide and other noxious or poisonous gases.

4. Mine dust sampling programs have revealed extremely low concentrations of respirable dust.

5. Extremely high velocities in small cross sectional areas of airways and manways required in friable Anthracite veins for control purposes, particularly in steeply pitching mines, present a very dangerous flying object hazard to the miners.

6. High velocities and large air quantities cause extremely uncomfortable, damp and cold conditions in the already uncomfortable, wet mines.

7. As an alternate method, petitioner proposed that:

a. The minimum quantity of air reaching each working face be 1,500 cubic feet per minute;

b. The minimum quantity of air reaching the last open crosscut in any pair or set of developing entries be 5,000 cubic feet per minute; and

c. The minimum quantity of air reaching the intake end of a pillar line be 5,000 cubic feet per minute, and/or whatever additional quantity of air that may be required in any of these areas to maintain a safe and healthful mine atmosphere.

9. Petitioner states that the alternate method proposed will at all times provide the same measure of protection for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before September 22, 1983. Copies of the petition are available for inspection at that address.

Dated: August 16, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-23151 Filed 8-22-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-51-C]

Estep Coal Corp., Petition for Modification of Application of Mandatory Safety Standard

Estep Coal Corporation, Route 4, Box 190, Grundy, Virginia 24614 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its No. 1 Mine (I.D. No. 44-05059) located in Buchanan County, Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A sumary of the petioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be insatlled on the mine's electric face equipment.

2. The seam height varies from 43 to 53 inches in height with undulating conditions.

3. Petitioner states that the installation of cabs or canopies on the mine's electric face equipment would result in a diminution of safety for the miners affected because the cabs or canopies may dislodge roof bolts or cause roofing out of solid material. Cabs or canopies may also wedge the equipment between the top and bottom which may weaken the structure, causing failure at some futue time. Cabs or canopies would also restrict the vision of the equipment operator, causing the operator to lean out of the cab or canopy, exposing body parts to potential injury. The cabs or canopies could also strike and dislodge electrical cables, creating the potential for electric shock. The operator's compartment on the equipment is cramped by the cab or canopy, causing extreme discomfort and operator fatigue, increasing the chances of an accident.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before September 22, 1983. Copies of the petition are available for inspection at that address.

Dated: August 16, 1983.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-23154 Filed 8-22-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-76-C]

Ike Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Ike Coal Company, 109 Broadbottom Road, Pikeville, Kentucky 41501 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its No. 3 Mine (I.D. No. 15-11421) located in Pike County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The coal seam varies in height from 45 to 50 inches, with consistent ascending and descending grades throughout the seam.

3. Petitioner states that the use of canopies on the mine's continuous miner would result in a diminution of safety for the miners affected because the canopy hampers the equipment operator's visibility and seating position, increasing the chances of an accident. The canopies can also strike the roof, dislodging the roof support system.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or

received in that office on or before September 22, 1983. Copies of the petition are available for inspection at that address.

Dated: August 16, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-23155 Filed 8-22-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-50-C]

J. J. & G. Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

J. J. & G. Coal Company, 523 E. Market Street, Williamstown, PA 17098 has filed a petition to modify the application of 30 CFR 75.301 (air quality, quantity, and velocity) to its White Vein Slope (I.D. No. 36-06815) located in Dauphin County, Pennsylvania. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. Air sample analysis history reveals that harmful quantities of methane are non-existent in the mine.

2. Ignition, explosion and mine fire history are non-existent for the mine.

3. There is no history of harmful quantities of carbon dioxide and other noxious or poisonous gases.

4. Mine dust sampling programs have revealed extremely low concentrations of respirable dust.

5. Extremely high velocities in small cross sectional areas of airways and manways required in friable Anthracite veins for control purposes, particularly in steeply pitching mines, present a very dangerous flying object hazard to the miners.

6. High velocities and large air quantities cause extremely uncomfortable damp and cold conditions in the already uncomfortable, wet mine.

7. As an alternate method, petitioner proposes that:

a. The minimum quantity of air reaching each working face be 1,500 cubic feet per minute;

b. The minimum quantity of air reaching the last open crosscut in any pair or set of developing entries be 5,000 cubic feet per minute; and

c. The minimum quantity of air reaching the intake end of a pillar line be 5,000 cubic feet per minute, and/or whatever additional quantity of air that may be required in any of these areas to maintain a safe and healthful mine atmosphere.

9. Petitioner states that the alternate method proposed will at all times provide the same measure of protection for the miners affected as that provided by the standard.

Request for Comments

Persons interested in this petiton may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before September 22, 1983. Copies of the petition are available for inspection at that address.

Dated: August 16, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-23156 Filed 8-22-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-16-M]

Kennecott Minerals Co.; Petition for Modification of Application of Mandatory Safety Standard

Kennecott Minerals Company, Utah Copper Division, P.O. Box 6500, Salt Lake City, Utah 84106 has filed a petition to modify the application of 30 CFR 55.9-40(c) (transportation of persons) to its Bingham Canyon Mine (I.D. No. 42-00149) located in Bingham Canyon County, Utah. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that persons shall not be transported outside the cabs and beds of mobile equipment, except trains.

2. A self-propelled track machine is used for track maintenance. As an alternate method, petitioner proposes to transport the track crew (7 to 10 persons) outside the cab. A standard protective railing will be provided on the machine, consisting of a railing 42 inches high with a mid-rail and 4-inch toe board. A latchable gate will be provided where persons get on and off the machine. Special provisions will be made to accommodate or secure loose tools.

3. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before September 22, 1983. Copies of the petition are available for inspection at that address.

Dated: August 16, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-23150 Filed 8-22-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-14-M]

Kerr-McGee Chemical Corp.; Petition for Modification of Application of Mandatory Safety Standard

Kerr-McGee Chemical Corporation, P.O. Box 610, Hobbs, New Mexico 88240 has filed a petition to modify the application of 30 CFR 57.13-20 (compressed air) to its Lea Mine and Refinery (I.D. No. 29-01147) located in Lea County, New Mexico and its Hobbs Potash Facility (I.D. No. 29-00170) located in Eddy County, New Mexico. the petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that compressed air shall not be directed toward a person at any time.

2. As an alternate method, petitioner proposes to allow persons to blow dust off their clothes with compressed air for sanitary reasons. Two air regulators, two air filters and an OSHA-approved nozzle will be used. They will be set to regulate air below 20 psi. The air filters will be inspected at regular intervals.

3. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before September 22, 1983. Copies of the petition are available for inspection at that address.

Dated: August 16, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-23148 Filed 8-22-83; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-83-53-C]

Price River Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Price River Coal Company, P.O. Box 629, Helper, Utah 84526 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its No. 3 Mine (I.D. No. 42-00165) located in Carbon County, Utah. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that intake and return aircourses be examined in their entirety on a weekly basis.

2. Petitioner seeks a modification of the requirement that return aircourses and seals located in the portion of the No. 3 Mine previously known as Carbon Fuel No. 2 mine be examined in their entirety.

3. The No. 2 mine was developed approximately 30 years ago. The developing operator extracted 10 feet of the 14 foot thick seam. Entries were not roof bolted or adequately supported. The roof has deteriorated causing four feet of top coal and roof rock to fall throughout the entire area. The No. 2 mine is not an active producing mine; it is used exclusively for return ventilation of the No. 3 mine. The only connection of the No. 2 mine to the No. 3 mine is through two 270 foot vertical shafts. The No. 2 mine is not part of the No. 3 mine escapeway system.

4. Petitioner states that rehabilitation of the return airways for safe travel would expose miners to extremely hazardous conditions. Further deterioration of the No. 2 mine will not affect the efficiency on the No. 3 mine ventilating system.

5. As an alternate method, petitioner proposes to monitor the airway in the No. 2 mine by checkpoints. Specifically:

a. Three special ventilation checkpoints will be established, one near the exhaust fan and one at the bottom of each shaft;

b. Monitoring will be conducted by a certified person on a weekly basis. Methane will not be allowed to accumulate beyond legal limits in the return airways. An increase of 0.5 percent of methane from the last reading will result in an immediate investigation of the affected area;

c. Diagrams will be posted at each monitoring station indicating the direction of the air flow;

d. Date boards will be located at each monitoring station to record ventilation and methane readings, date and the mine examiner's initials;

e. Access to and from each checkpoint will be kept properly supported and in a safe condition for travel; and

f. The examiner will be required to carry a one-hour self-rescue device when making examinations at each checkpoint.

6. Petitioner states that the alternate method outlines above will provide the same degree of safety for the miners affected as that afforded by the standard.

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before September 22, 1983. Copies of the petition are available for inspection at that address.

Dated: August 16, 1983.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-23157 Filed 8-22-83; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-83-63-C]

Pyro Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Pyro Mining Company, P.O. Box 267, Sturgis, Kentucky 42459 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its Pyro No. 9 Slope, Williams Station (I.D. No. 15-13881) located in Webster County, Kentucky. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The coal seam ranges from 48 to 51 inches in height with undulations in the roof and unstable floor conditions, and ascending and descending grades creating dips.

3. Petitioner states that the installation of canopies on the mine's electric face equipment would result in a diminution of safety for the miners affected because the canopy could strike the roof or bolts, possibly destroying the roof support system.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarket or received in that office on or before September 22, 1983. Copies of the petition are available for inspection at that address.

Dated: August 16, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-23153 Filed 8-22-83; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-83-59-C]

Sue Lee Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Sue Lee Coal Company, Inc., P.O. Box 767, Clintwood, Virginia 24228 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its Mine No. 2 (I.D. No. 44-05749) located in Dickenson County, Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The mine ranges from 36 to 72 inches in height, with undulating roof conditions and very abrupt changes in grades.

3. Petitioner states that the installation of cabs or canopies on the mine's electric face equipment would result in a diminution of safety for the miners affected because the canopies could strike and dislodge roof supports, and the canopy would be weakened from contacting the roof, making the canopy itself a hazard to the equipment operator.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office

of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before September 22, 1983. Copies of the petition are available for inspection at that address.

Dated: August 15, 1983.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-23158 Filed 8-22-83; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-83-15-M]

Tenneco Minerals; Petition for Modification of Application of Mandatory Safety Standard

Tenneco Minerals, P.O. Box 1167, Green River, Wyoming 82935 has filed a petition to modify the application of 30 CFR 57.21-78 (permissible equipment) to its Soda Ash Mine (I.D. No. 48-01295) located in Sweetwater County, Wyoming. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that only permissible equipment maintained in permissible condition shall be used beyond the last open crosscut or in places where dangerous quantities of flammable gases are present or may enter the air current.

2. On permissible alternating—current machines having a nameplate rating greater than 660 volts, all high voltage switch gear and control for equipment must be located remotely and operated by remote control at the main equipment, and such potential for remote control shall not exceed 120 volts.

3. Petitioner seeks a modification of the standard to permit the use of on-board switching to cutting head motors on a bore miner in lieu of remotely switching from a remote power sled.

4. Petitioner states that application of the standard will result in a diminution of safety for the miners affected because:

a. With the manual disconnect, the equipment operator must leave the cab, move to the opposite side of the equipment and then return to the cab. This exposes the equipment operator to roof conditions and potential injury;

b. The construction of the present isolator switch makes it susceptible to misalignment, causing incorrect contact closure, subsequent failure from arcing, and unnecessary outage.

5. As an alternate method, petitioner proposes to change the manual cutting motor disconnect to an electrically operated vacuum breaker contactor, as follows:

a. To run in pump only, the equipment operator will shut the entire machine down, and when restarted, only the pump motor will run;

b. To run in cut (the pump motor must already be running), the equipment operator must depress the cutting motor start button, depress the normal start button, hold them both and switch the cutting motor breaker on;

c. To shut the machine down in either pump or cut, the equipment operator can depress the stop button which opens the contactor in the sled (through the pilot circuit) and deenergize the entire machine and cable;

d. To shut down only the cutting motors, the equipment operator can switch the breaker off.

6. In support of the proposed alternate method, petitioner states that:

a. The contactor will be mounted directly in the enclosure used for the isolator. The only change is with the component mounting bolts;

b. The external locking lever will be removed and the hole for the shaft will be plugged with a machined plug welded in place;

c. All inter-component wiring will be done using existing wiring and conduit runs previously used for interlock systems;

d. The button proposed to be used for a start button is presently used for a test of the motor thermal-guard lights. This function would be kept, using one set of contacts off the button instead of three. This will not affect the warning circuit should a motor heat up. Use of this button replaces any need to add another permissible enclosure with a start button;

e. The cutting motor breaker was used for the headlight and low voltage control circuit. Petitioner proposes to use in-line fuses in that circuit to facilitate use of the breaker for the new circuitry.

7. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before September 22, 1983. Copies of the petition are available for inspection at that address.

Dated: August 16, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-23160 Filed 8-22-83; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-83-74-C]

United States Steel Corp.; Petition for Modification of Application of Mandatory Safety Standard

United States Steel Corporation, 600 Grant Street, Pittsburgh, Pennsylvania 15230 has filed a petition to modify the application of 30 CFR 75.1103 (automatic fire warning devices) to its Oak Grove Mine (I.D. No. 01-00851) located in Jefferson County, Alabama. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that all belts have automatic fire sensor and warning device systems.

2. As an alternate method, petitioner proposes to install a carbon monoxide (CO) monitor in lieu of point heat sensors in the belt conveyor entry. The monitor will have a meter option, a see-through lid, and a relay option for high level or alarm. A low pressure switch or other suitable device will be incorporated into the monitoring system to rapidly evaluate electrical short and open circuits, ground faults, and pneumatic leaks. In addition, petitioner states that:

a. CO monitors will not be installed in an entry where the containment travel velocity is below 50 fpm or where the air stream in the entry does not have a definite and distinct direction;

b. A CO monitor will be installed: (1) Approximately 100 feet inby on the ventilation split for each underground belt headpiece, (2) at each underground belt tailpiece, and (3) along each underground belt haulage entry at intervals not exceeding 2,000 feet. Where the initial belt headpiece is located on the surface for a conveyor belt which enters the underground workings at a drift or slope portal, one CO monitor shall be installed in the belt haulage entry approximately 100 feet inby the portal on an intaking ventilation split. Only one CO monitor, installed approximately 100 feet inby on

the ventilation split, will be required for a belt headpiece which discharges onto a belt tailpiece located on the same ventilation split;

(c) The system will incorporate an auxiliary battery power supply capable of giving warning of fire for a minimum of 4 hours after the source of power to the belt is removed;

(d) At any time the CO monitor has been deenergized, for reasons such as power outages or routine maintenance, the belt conveyor will continue to operate and the entry or entries affected will be continuously patrolled and monitored by a qualified person with CO detector tubes or equivalent means until the monitor returns to normal operation;

e. Each CO monitor will be monitored each shift and calibrated monthly. Records of these results will be kept for one year;

f. The monitor alarm level will be set at 15 ppm above the ambient CO level in the mine. When the CO monitoring system gives an alarm, all affected persons will be withdrawn from the affected area, except those required to take appropriate action; and

g. The alarm signal will, upon activation, provide an effective warning signal to a central location where a responsible person, who is always on duty when miners are underground, can hear or observe the alarm and take appropriate action immediately.

3. Petitioner states that the proposed alternate method outlined above will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before September 22, 1983. Copies of the petition are available for inspection at that address.

Dated: August 16, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-23147 Filed 8-22-83; 8:45 am]

BILLING CODE 4510-43-M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Earth Sciences, Subcommittee for Crustal Structure & Tectonics, and Petrogenesis & Mineral Resources; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting.

Name: Advisory Committee for Earth Sciences (Crustal Structure & Tectonics, and Petrogenesis & Mineral Resources Subcommittee).

Date and time: September 8-9, 1983; 8:30 a.m. to 5:00 p.m. each day.

Place: The National Science Foundation, Room 602, 1800 G Street, N.W., Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. James Fred Hays, Division Director, Earth Sciences, Room 602, National Science Foundation, Washington, D.C. 20550 Telephone (202) 357-7958.

Purpose of committee: To provide advice and recommendations concerning support for research in Earth Sciences.

Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of proprietary or confidential nature, including technical information: financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority: This determination was made by the Committee Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Dated: August 18, 1983.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 83-23088 Filed 8-22-83; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the Advisory Committee on Reactor Safeguards will hold a meeting on August 31-September 2, 1983, in Room 1046, 1717 H Street, NW., Washington, D.C. Notice of this meeting was published in the **Federal Register** on August 15, 1983.

The agenda for the subject meeting will be as follows:

Wednesday, August 31, 1983

8:30 a.m.-8:45 a.m.: Opening Remarks (Open)—The ACRS Chairman will report briefly on matters of current interest regarding ACRS activities.

8:45 a.m.-11:15 a.m.: Severe Accident Research Program (Open)—The Committee members will hear and discuss presentations by representatives of NRR and RES regarding the objectives of the SARP.

11:15 a.m.-12:15 p.m.: Unresolved Safety Issue A-1, Water Hammer (Open)—The Committee will consider the NRC Staff proposal for resolution of USI A-1, Water Hammer.

1:15 p.m.-2:15 p.m.: Unresolved Safety Issue A-43, Containment Emergency Sump Performance (Open)—The members will consider proposed NRC Staff action to resolve USI A-43, Containment Emergency Sump Performance.

2:15 p.m.-3:45 p.m.: Nuclear Plant Security (Open)—The members will consider proposed NRC rules and amendments regarding the security provisions at nuclear facilities.

3:45 p.m.-6:00 p.m.: Nuclear Power Plant Operator Training and Qualification (Open)—The members will consider proposed new and revised NRC regulations and regulatory guides on training and qualification of individuals working at nuclear power plants.

Thursday, September 1, 1983

8:30 a.m.-9:00 a.m.: Future Schedule (Open)—The members will discuss anticipated ACRS Subcommittee activity and proposed full Committee activity.

9:00 a.m.-10:00 a.m.: Office of Nuclear Regulatory Research Activities (Open)—The Director of the NRC Office of Nuclear Regulatory Research will brief the ACRS regarding activities of the NRC Office of Nuclear Regulatory Research.

10:00 a.m.-12:00 Noon and 1:00 p.m.-2:00 p.m.: Combustion Engineering, Inc. Nuclear Steam Supply System (Open)—The members will consider depressurization and decay heat removal capability in Combustion Engineering nuclear steam supply systems without PORVs.

2:00 p.m.–3:00 p.m.: Seismic Design of Nuclear Facilities (Open)—The ACRS members and representatives of the NRC Staff will discuss the use of the "Tau" effect in the seismic design of nuclear power plants.

3:00 p.m.–4:00 p.m.: Operating Experience at Nuclear Facilities (Open)—The members of the Committee will hear reports from representatives of the NRC Staff regarding recent experiences that impact on the safety of nuclear facilities including events leading to IE Information Notices No. 83–07 and No. 83–01 regarding nonconformance to specifications of materials provided for construction of nuclear facilities, and the recent fine levied against the Commonwealth Edison Company for breakdown of plant management at the Quad Cities Station.

4:00 p.m.–5:00 p.m.: Use of Statistics (Open)—Members of the Committee will hear and discuss a briefing by Dr. H. W. Lewis, ACRS Member, regarding statistical methodology.

5:00 p.m.–6:00 p.m.: ACRS Subcommittee Activities (Open)—The members will hear and discuss reports of ongoing activities from designated subcommittees including the scope and conduct of ACRS activities, emergency procuedures guidelines and emergency operating procdures, and a proposed NRC rule on decommissioning of nuclear facilities.

Friday, September 2, 1983

8:30 a.m.–12:30 p.m.: Preparation of ACRS Reports to NRC (Open)—The Committee will prepare its reports to the Nuclear Regulatory Commission regarding items considered during this meeting.

1:30 p.m.–2:30 p.m.: ACRS Subcommittee Activities (Open/Closed)—The members will hear and discuss reports of designated subcommittees regarding ongoing activities including the annual ACRS report to the U.S. Congress on the proposed NRC safety research budget and program, and the proposed Westinghouse Electric Corporation advanced PWR standard plant design.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to the matters being considered.

2:30 p.m.–3:30 p.m.: Preparation of ACRS Reports (Open)—The members will complete discussion and preparation of reports regarding items considered during this meeting.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 1, 1982 (47 FR 43474). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a telephone call to the ACRS Executive Director, R. F. Fraley, prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with Subsection 10(d) Pub. L. 92–463 that it is necessary to close portions of this meeting as noted above to discuss Proprietary Information [5 U.S.C. 552b(c)(4)].

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 202/634–3265), between 8:15 a.m. and 5:00 p.m. EDT.

Dated: August 17, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83-23141 Filed 8-22-83; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Decay Heat Removal Systems; Change

The ACRS Subcommittee on Decay Heat Removal Systems scheduled for August 24 and 25, 1983 has been changed to a one day meeting on August 25, 1983 in Room 1046, 1717 H Street, NW, Washington, DC.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Thursday, August 25, 1983—10:00 a.m. until the conclusion of business

The Subcommittee will discuss two interim milestone reports for Task Action Plan A–45, "Shutdown Decay Heat Removal Requirements", concerning the grouping of light water reactors according to decay heat removal capability, and a quantitative screening criteria for decay heat removal systems.

All other items regarding this meeting remain the same as announced in the **Federal Register** published August 2, 1983 (48 FR 35046).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Anthony Cappucci (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m. EDT.

Dated: August 18, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83-23142 Filed 8-22-83; 8:45 am]

BILLING CODE 7590-01-M

[Byproduct Material License No. 12–11184–01, EA 83–76]

Kay-Ray, Inc.; Order Suspending License, Immediately Effective, and Order To Show Cause

I

Kay-Ray, Incorporated (the "licensee"), 516 West Campus Drive, Arlington Heights, IL 60004, holds Byproduct Material License No. 12–11184–01 issued by the Nuclear Regulatory Commission. The licensee has offices located at 516 West Campus Drive, Arlington Heights, Illinois. The license authorizes the licensee to possess and use radioactive byproduct material in the manufacture of gauges.

II

Over the past several months the licensee has reported several apparent overexposures of its employees. The number and magnitude of these overexposures indicate potentially serious weaknesses in the licensee's radiation protection program and their ability to ensure the safe handling of radioactive material.

The Commission's regulations in 10 CFR Part 20 place upper limits on permissible occupational doses to a licensee's employees. Under 10 CFR 20.101(a), an individual in a restricted

area may not receive doses in a calendar quarter of more than 1.25 rems to the whole body, head and trunk, active bloodforming organs, lens of eyes, or gonads, 18.75 rems to the hands and forearms, feet and ankles; and 7.5 rems to the skin of the whole body. As provided in 10 CFR 20.101(b), the licensee may permit an individual in a restricted area to receive a total occupational dose to the whole body of not more than 3 rems in a calendar quarter under certain circumstances, which the licensee has not complied with in all cases.

On March 8, 1983, the licensee reported an apparent dose of 1.260 rems (whole body gamma) to an employee during the fourth quarter of 1982. The NRC's Region III office conducted an inspection of the licensee's operations on April 12 and 13, 1983. As a result of the inspection (Report Nos. 030–04214/83–01 and 030–04215/83–01), a Notice of Violation pursuant to 10 CFR 2.201 for four items of noncompliance was issued to the licensee, including the gamma overexposure reported on March 8, 1983.

On May 24, 1983, the licensee reported an apparent dose of 29.88 rems (extremities) during the second quarter of 1983. Region III held an enforcement conference on July 29, 1983 to discuss this latest overexposure and package shipping violations identified during the inspection. On July 29, 1983, the licensee reported another apparent overexposure based on radiation exposure data for the week of July 18, 1983. The data indicated an apparent extremity dose of 60.68 rems, a dose to the lens of the eye of 7.19 rems, and doses to the whole body of 6.59 rems and 14.38 rems. The employees who received the apparent overexposures reported in May and July 1983 had been engaged in installing sealed radiation sources in gauges manufactured by the licensee.

During NRC inspections conducted on June 8 and 10 and August 1, 1983 in response to the apparent overexposures, NRC inspectors reviewed and obtained information pertaining to the conduct of the licensee's activities. In addition to obtaining information regarding the circumstances surrounding the reported overexposures, the inspectors observed that apparent low employee morale appears to be a cause for tension between management and employees such that potential radiation protection problems may not always be communicated to the Radiation Safety Officer and the licensee's management. The inspectors observed that radiation dosimetry devices were not sufficiently controlled to provide adequate assurance against possible improper use. One employee responsible for receiving packages of radioactive material appeared to the inspectors to have an inadequate knowledge of survey procedures which suggests inadequate training.

In view of the repeated overexposures of licensee's employees, which raise questions concerning the adequacy of the licensee's radiation protection program, I have determined that the public health, safety and interest require an immediate suspension of all activities involving unshielded radioactive sources until the licensee has demonstrated that its radiation protection program is adequate to ensure compliance with the Commission's requirements.

III

Accordingly, pursuant to sections 81, 161b, 161o, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2, 20, 30, and 32, it is hereby ordered that:

A. Effective immediately, the licensee shall cease to load, unload or otherwise handle unshielded radioactive sources.

B. The licensee shall show cause, as provided in section IV, why such operations should not remain suspended until the licensee has demonstrated that its radiation protection program is adequate to ensure compliance with 10 CFR Part 20. In making such demonstration, the licensee shall conduct a review of its radiation protection program and submit the results of the review and the proposed revisions to the program to the Regional Administrator of NRC Region III for his review and approval. In conducting the review, the licensee shall give consideration to such matters as implementing audits of employee performance, with special emphasis on handling of radioactive material; establishing procedures to address employee morale and to improve cooperation between management and employees; ensuring adequate training and annual retraining of personnel in source handling techniques, survey instrument operation and reporting responsibilities; and controlling access to and use of dosimetry devices.

C. The licensee may resume the suspended operations upon receipt of the written approval of the Regional Administrator.

IV

The licensee may show cause why its operations should not have been suspended and should not remain suspended as provided in section III of this Order by filing a written answer under oath or affirmation which sets forth the matters of fact and law on which the licensee relies. As provided in 10 CFR 2.202(d), the licensee may answer the Order by consenting to the terms of the Order. Upon the licensee's consent, the terms set forth in section III.B shall be effective.

The licensee may request a hearing on this Order within 25 days of the date of this Order. Any request for hearing or answer to this Order shall be submitted to the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request or answer shall also be sent to the Executive Legal Director at the same address and to the Regional Administrator, NRC Region III, 799 Roosevelt Road, Glen Ellyn, Illinois 60137. A request for hearing or answer to this Order shall not stay the immediate effectiveness of section III.A of this Order.

If a hearing is to be held concerning this Order, the Commission will issue an order designating the time and place of hearing. If a hearing is held, the issue to be considered at such hearing shall be whether on the basis of the matters set forth in section II of this Order, this Order should be sustained.

Dated at Bethesda, Maryland, this 15th day of August, 1983.

For the Nuclear Regulatory Commission.

Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

[FR Doc. 83-23136 Filed 8-22-83; 8:45 am]
BILLING CODE 7590-01-M

[Source Material License No. Sub-1137, EA 83-60]

Pacific Armatechnica Corp.; Order to Decontaminate (Immediately Effective)

I

Pacific Armatechnica, 816 State Street, Suite A, Santa Barbara, California ("Pacific") was the holder of Source Material License No. Sub-1137 issued by the Nuclear Regulatory Commission ("Commission") which authorized Pacific to use depleted uranium in projectiles for ballistic testing on a military reservation, in accordance with the conditions specified therein. The license was issued on August 3, 1972. Application for renewal of the license was denied on May 2, 1978.

II

License No. Sub-1137 had an expiration date of August 31, 1977. Pacific filed a renewal application on

August 8, 1977. On September 14, 1977, the Commission notified Pacific that additional information, particularly plans for decontamination, restoration of the area of use to background radiological conditions and disposal of radioactive waste, was necessary before review of the application could continue. On December 22, 1977, when no further information had been received, the Commission notified Pacific that if the requested information was not received within thirty (30) days, it might be necessary to deny the application and terminate the license. When no further information was received, the Commission denied the license application on May 2, 1978, in accordance with 10 CFR 2.108. The letter denying the application informed Pacific that if no hearing on the denial was requested, Pacific was required to dispose of any radioactive material, including contamination in test areas, within thirty (30) days. The Commission was to be notified within five (5) days after disposal.

No notification of disposal was received from Pacific. In November 1978, the Office of Inspection and Enforcement determined that no steps had been taken to dispose of the radioactive material or to decontaminate the facilities. An Immediate Action Letter (IAL) was issued on December 1, 1978, confirming Pacific's representations that depleted uranium would no longer be used, a radiological survey and evaluation of the licensed site would be conducted and a report of the survey and disposition of contaminated areas would be sent to the Commission within thirty (30) days of receipt of the IAL.

On January 12, 1979, Pacific forwarded a radiological survey to the Commission. The survey was conducted at Range 5 of Camp Roberts. Pacific was unable to survey Ranges 12 and 18 because of explosive hazards. Pacific indicated it wished to continue operations at Range 5 and requested that the Commission consider a new application. No decontamination of Range 5 was done. License No. Sub-1137 authorized use of radioactive material only at Ranges 12 and 18 of Camp Roberts. This was the first notice to the Commission that licensed material had been used at Range 5. Pacific was notified on March 14, 1979 that no license renewal would be considered. Another Immediate Action Letter was issued to Pacific on May 15, 1979, notifying it of the violation of its license conditions and directing Pacific to decontaminate Range 5 and investigate the feasibility of decontamination of Ranges 12 and 18. A response to the letter was required within twenty (20) days. On June 5, 1979, Pacific informed the NRC that a firm had been asked to survey Range 5 for the purposes of bidding on a contract to decontaminate the area and that preliminary steps to assessing Ranges 12 and 18 had been taken.

When no further information was received, Pacific was contacted in April 1981. Pacific's president was unavailable to provide additional information on Pacific's commitment to decontamination efforts. In July 1981, Pacific notified Region V representatives of the Commission that no actions had been taken to decontaminate Range 5. Pacific stated that it would report back as soon as possible on plans to decontaminate. Additional contacts by the NRC in October 1981 confirmed that decontamination had not taken place.

On November 23, 1982, the U.S. Army notified Pacific that it would not be permitted to use any of the ranges at Camp Roberts, until the Army received written notification from the NRC that Range 5 had been properly decontaminated. On December 20, 1982, Pacific submitted to the Commission its final report of the decontamination of Range 5.

On February 1–2, 1983, the Region V office conducted a confirmatory survey of Range 5 and an inspection of Range 5. The NRC survey found soil contaminated with depleted uranium in excess of the limits specified for release for unrestricted use at nine different locations at Range 5. Several depleted uranium (DU) penetrators were found buried in the soil at each of three target areas. In addition, an area of several square meters was found to be contaminated with buried DU penetrators and possible burned radioactive debris in one section. Because of apparent widespread contamination, the NRC survey of that area was discontinued.

III

From the foregoing, it is apparent that over an extended period of time Pacific, in violation of Commission requirements, used licensed material at an unauthorized location. Once notified that its authorization to use material was terminated, Pacific has repeatedly failed to take adequate actions to decontaminate the accessible area where licensed material was used. In view of these actions, which amount to willful violations of the Atomic Energy Act of 1954, as amended, I have determined that no prior notice is required and, pursuant to 10 CFR 2.202(f), this order to decontaminate should be immediately effective.

IV

In view of the foregoing and pursuant to sections 62, 63, 161b, and 161o of the Atomic Energy Act of 1954, as amended, and 10 CFR Parts 2, 20, and 40 of the Commission's regulations, it is hereby ordered, effective immediately, that Pacific shall shall:

1. Within twenty (20) days of the date of this Order, initiate decontamination of Range 5, Camp Roberts, California. Decontamination shall meet the following criteria:

a. facilities and equipment shall be decontaminated to the levels set forth in "Guidelines for Decontamination of Facilites and Equipment" which are attached.

b. the average uranium soil concentration in the affected area shall not exceed 35 pCi/gm. above background in the surface and subsurface soil. For demonstration of compliance of surface and subsurface soil contamination, representative soil samples shall be collected, composited, and analyzed for uranium from the surface to a depth of four inches in accordance to grid maps of approximately 10 feet by 10 feet. At least one sample shall be collected from each grid and the composite shall not include more than four samples.

c. gamma radiation levels shall not exceed 10 microrem/hour at 1 meter above ground level (background not included).

2. Submit to the NRC Region V office on or before the last day of each month a written progress report on the decontamination efforts and results achieved.

3. Complete decomination work to levels specified in Item 1 above within 120 days of the date of this Order. Completion of decontamination work shall be evidenced by means of a final survey and verification of completed decontamination submitted under oath to the NRC Region V office within 15 days following decontamination.

4. The Regional Administrator, Region V in writing may relax this order for good cause.

V

Pacific may request a hearing on this Order within thirty (30) days of the date of the Order. Any request for hearing shall be submitted to the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission,

Washington, D.C. 20555, with a copy to the Executive Legal Director at the same address.

Any request for a hearing shall not stay the immediate effectiveness of this order. If a hearing is to be held, the Commission will issue an order designating the time and place of any such hearing. If a hearing is held, the issue to be considered shall be whether Pacific should be required to comply with this Order.

This Order is effective upon issuance.

Dated at Bethesda, Maryland this 16th day of August 1983.

For the Nuclear Regulatory Commission.

Richard C. DeYoung

Director, Office of Inspection and Enforcement.

[FR Doc. 83-23139 Filed 8-22-83; 8:45 am]
BILLING CODE 7590-01-M

Memorandum of Understanding Concerning Public Information

The Memorandum of Understanding published below establishes a framework for cooperation and coordination in the area of emergency public information among the following parties:

Washington Public Power Supply System (Supply System)
State of Washington
Benton and Franklin Counties, Washington
Nuclear Regulatory Commission (NRC)
Federal Emergency Management Agency (FEMA)

It outlines the manner in which the parties will cooperate in the dissemination of emergency information to the news media concerning a radiological emergency at the Washington Public Power Supply System's Nuclear Power Plants 1 and 2. It does not address emergency warning systems (i.e., direct notification of the public via the Emergency Broadcast System or otherwise) which are addressed in the Emergency Plans of various parties.

For further information contact: James G. Hanchett, Public Affairs Officer, Telephone 415-943-3712, U.S. Nuclear Regulatory Commission, Region V, 1450 Maria Lane, Suite 210, Walnut Creek, California 94598.

Dated at Walnut Creek, California this 12th day of August, 1983.

For the Nuclear Regulatory Commission.

B. H. Faulkenberry,

Acting Regional Administrator.

Memorandum of Understanding Among State of Washington, Benton-Franklin Counties, Washington; Washington Public Power Supply System, U.S. Nuclear Regulatory Commission, and Federal Emergency Management Agency; Public Information

1. Background and Purpose

Protection of the public health and safety in the event of a radiological emergency at the Washington Public Power Supply System's Nuclear Power Plants 1 and 2 imposes upon the utility operator and local, state, and federal government agencies the responsibility to provide complete, accurate, timely, and understandable information to the public. In the absence of an effective public information program during an emergency, unfounded rumors proliferate, public alarm is increased, confidence in government agencies is eroded, and the overall effectiveness of emergency response is diminished.

An effective emergency public information program requires cooperation by and advance planning among potential emergency response organizations. Recognizing the unique and separate responsibilities and jurisdictions of the organizations involved in radiological emergency response, the planning for emergency public information must emphasize inter-agency coperation and coordination.

This memorandum of understanding establishes a framework for cooperation and coordination in the area of emergency public information among the following parties:

Washington Public Power Supply System (Supply System)
State of Washington
Benton and Franklin Counties, Washington
Nuclear Regulatory Commission (NRC)
Federal Emergency Management AGency (FEMA)

2. Scope

This memorandum of understanding defines the manner in which the parties will cooperate in the dissemination of emergency information to the news media concerning a radiological emergency at the Washington Public Power Supply System's Nuclear Power Plants 1 and 2. It does not address emergency warning systems (i.e., direct notification of the public via the Emergency Broadcast System, or otherwise), which are addressed in the Emergency Plans of various parties.

3. Coordination of Emergency Public Information

In the event of a radiological emergency at the Washington Public Power Supply System's Nuclear Power Plants 1 and 2, classified as an Alert, Site Area Emergency, or General Emergency, the parties to this agreement will coordinate their respective public information programs and cooperate to the maximum degree feasible to assure that the news media and the public are provided with complete, accurate, timely, and understandable information about the nature of actions by the individual organizations.

Specifically, the parties agree as follows:

a. Each party agrees to keep the other parties fully and currently informed concerning information released to the news media. To the extent possible, each party will endeavor to notify the others in advance concerning the text or general outline of information to be released.

b. Each party agrees to focus its public information releases and public statements on those matters within the scope of its jurisdiction and responsibility. To the extent possible, news media inquiries should be directed to the appropriate response agency for reply unless subsequent agreements among the parties provide for a pooling of resources.

c. To the extent possible, each party will release official public information to the news media through a designated spokesperson, normally a responsible senior official with decision-making authority or his/her designee; e.g., a public information officer.

d. When regional response teams from NRC Region V and FEMA Region X are en route to the Supply System's site, public information releases, about the nature of the emergency and the federal response will be made from the NRC and FEMA Headquarters offices, as appropriate. When the regional response teams arrive on site and the Joint Information Center is established, the NRC and FEMA Headquarters offices will begin referring media inquiries to the Joint Information Center and will coordinate any official statements with the Joint Information Center, as provided in Item e.

e. When a Joint Information Center is established, the parties agree to release all official public information through this facility, either directly or simultaneously with its release from some other location; e.g., a state EOC or the NRC and FEMA Headquarters offices.

f. When the Joint Information Center is established, the news media will be notified that, for the duration of the emergency, official public information and press briefings from the signatory agencies to this agreement will be released from the Joint Information Center.

g. When the Joint Information Center is established, each party will refer news media inquiries to the Joint Information Center or each party's official spokesperson, as appropriate.

h. While reaffirming the intent to provide public information from a single platform, extreme circumstances may preclude that, and nothing in this agreement shall limit the authority of any party to publicly and separately release any information that it believes is within the scope of its jurisdiction and responsibility and that it believes is complete, accurate, and timely. In the event of separate release by a party to this agreement, the party agrees to provide the Joint Information Center with a copy of the material before or simultaneously with its release.

i. Within the limits of its manpower and priorities, each party agrees to provide public information assistance to other parties, as

needed, toward the common goal of protecting the public health and safety.

j. The Washington Public Power Supply System agrees to provide the physical location, communications and reproduction equipment, furniture, supplies, and administrative services for the support of all parties operating from the Joint Information Center.

k. The Washington Public Power Supply System will develop procedures for partial activation of the Joint Information Center within one hour after declaration of a Site Area Emergency or General Emergency and complete activation within two hours.

l. The Joint Information Center shall be equipped with dedicated telephone lines between the center, the licensee's near-site emergency operations facility, the Washington EOC, and the Benton-Franklin County EOC, including capability for live broadcast to the Joint Information Center from these locations.

m. The Joint Information Center will be staffed by public information representatives from the Washington Public Power Supply System, the Nuclear Regulatory Commission, the Federal Emergency Management Agency, the state of Washington, and other parties as personnel and priorities permit.

n. Each party agrees to provide current copies of its emergency public information plan and procedures to the other parties.

This agreement will become effective upon signature and continue until cancelled by any party upon written notice to the others. Amendments or modifications to this agreement may be made upon written agreement by all parties to the agreement.

The parties hereto executed this agreement this 24th day of February 1983.

May 6, 1983. Governor John Spellman, *State of Washington.* April 5, 1983. J. B. Martin, *U.S. Nuclear Regulatory Commission.* March 25, 1983. William H. Mayer, *Regional Director, Federal Emergency Management Agency, Region X.* February 28, 1983. W. H. Sebero, *Benton County, Washington.* February 28, 1983. Chet Bailie, *Franklin County, Washington.* March 21, 1983. Robert L. Ferguson, *Managing Director, Washington Public Power Supply System.*

Approved as to Form: Kevin M. Ryan, *Assistant Attorney General, Washington State.*

[FR Doc. 83-23140 Filed 8-22-83; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service Placed and Revoked Positions Under Schedules A, B, and C

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedules A, B, and C in the excepted service, as required by Civil Service Rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: William Bohling, 202-632-6000.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published its last monthly notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR Part 213 on July 26, 1983 (48 FR 33953). Individual authorities established or revoked under Schedules A, B, or C between July 1, 1983 and July 31, 1983 appear in a listing below. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities will be published as of June 30 of each year.

Schedule A

The following exception is established:

Department of the Army

One position of Facility Manager, GS-1640-11, at the U.S. Military Academy, West Point, New York. Effective July 14, 1983.

Schedule B

The following exceptions are established:

General Services Administration

One position of Deputy Director of Network Services. Effective July 19, 1983.

Department of Agriculture

Temporary positions of professional Research Scientists, GS-15 or below, when such positions are established to support the ARS Research Associateship Program and are filled by persons having a doctoral degree in an appropriate field of study for research activities of mutual interest to appointees and ARS. Appointments are limited to proposals approved by the Administrator and may be made initially for 1 year with an extension for up to 1 additional year. No more than 25 new appointments may be made under this authority during a calendar year. Effective July 28, 1983.

Schedule C

The following exceptions are established:

Department of Agriculture

One Confidential Assistant (Chief for Legislation) to the Chief, Soil Conservation Service. Effective July 1, 1983.

One Confidential Assistant to the Administrator, Agricultural Marketing Service. Effective July 21, 1983.

Department of Commerce

One Confidential Assistant to the Special Assistant to the Secretary, Office of the Special Assistant to the Secretary. Effective July 26, 1983.

One Private Secretary to the Assistant Secretary for Trade Administration. Effective July 26, 1983.

Department of Defense

One Special Assistant to the Ambassador to the North Atlantic Treaty Organization. Effective July 8, 1983.

One Deputy Assistant to the Assistant to the Secretary of Defense (Speechwriters), Office of the Secretary. Effective July 21, 1983.

One Private Secretary to the Deputy Under Secretary of Defense, Research and Engineering (Acquisition Management). Effective July 22, 1983.

Department of Education

One Secretary's Regional Representative to the Under Secretary in Dallas, Texas, Office of the Under Secretary. Effective July 6, 1983.

One Confidential Assistant to the Director, National Institute of Education. Effective July 6, 1983.

One Confidential Assistant to the Assistant Secretary for Special Education and Rehabilitative Services. Effective July 7, 1983.

One Special Assistant to the Assistant Secretary for Special Education and Rehabilitative Services. Effective July 26, 1983.

One Special Assistant to the Assistant Secretary, Office of Legislation and Public Affairs. Effective July 29, 1983.

Department of Energy

One Research Assistant to the Special Assistant to the Secretary for Programs and Policies. Effective July 11, 1983.

One Senate Liaison Specialist to the Deputy Assistant Secretary for Senate Liaison. Effective July 12, 1983.

One Staff Assistant to the Assistant Secretary for Congressional Intergovernmental and Public Affairs. Effective July 19, 1983.

One Secretarial Assistant (Typing) to the Special Assistant to the Secretary for Programs and Policies. Effective July 19, 1983.

One Confidential Assistant to the Commissioner, Federal Energy Regulatory Commission. Effective July 20, 1983.

Department of Health and Human Services

One Confidential Assistant to the Assistant Secretary for Planning and Evaluation. Effective July 1, 1983.

One Special Assistant to the Executive Secretary, Office of the Secretary. Effective July 6, 1983.

One Confidential Assistant to the Executive Secretary, Office of the Secretary. Effective July 6, 1983.

One Special Assistant to the Secretary, Office of the Secretary. Effective July 6, 1983.

One Special Assistant to the Assistant Secretary for Human Development Services, Office of Human Development Services.

One Director, Office of Public Affairs. Effective July 20, 1983.

Department of Housing and Urban Development

One Executive Assistant to the Deputy Assistant Secretary for Multifamily Housing Programs, Office of Housing—Federal Housing Commissioner. Effective July 1, 1983.

One Special Assistant to the Secretary, Office of the Secretary. Effective July 5, 1983.

One Executive Assistant to the Assistant Secretary for Housing, Office of Housing—Federal Housing Commissioner. Effective July 5, 1983.

One Special Assistant to the Regional Administrator in Chicago, Illinois, Office of the Regional Administrator. Effective July 6, 1983.

One Staff Assistant to the Manager, Solar Energy and Energy Conservation Bank. Effective July 13, 1983.

One Assistant Director for Executive Secretariat Operations. Effective July 26, 1983.

Department of the Interior

One Confidential Assistant to the Assistant Secretary—Land and Water Resources. Effective July 5,1983.

One Special Assistant to the Assistant to the Secretary. Effective July 21, 1983.

Department of Justice

One Confidential Assistant to the Acting Director, Office of Justice Assistance, Research and Statistics. Effective July 1, 1983.

One Special Assistant to the Director, National Institute of Justice. Effective July 1, 1983.

One Special Assistant to the Executive Associate Commissioner, Immigration and Naturalization Service. Effective July 8, 1983.

Department of Labor

One Staff Assistant to the Secretary of Labor. Effective July 11, 1983.

One Secretary (Stenography) to the Regional Representative in Kansas City, Missouri, Office of the Deputy Under Secretary for Intergovernmental Affairs. Effective July 13, 1983.

One Special Assistant to the Secretary, Office of the Secretary. Effective July 14, 1983.

One Regional Representative to the Deputy Under Secretary for Intergovernmental Affairs in Seattle, Washington. Effective July 21, 1983.

One Regional Representative to the Deputy Under Secretary for Intergovernmental Affairs in Chicago, Illinois. Effective July 21, 1983.

Department of State

One Special Assistant to the Assistant Secretary for Economic and Business Affairs. Effective July 1, 1983.

One Special Assistant to the Assistant Secretary for Economic and Business Affairs. Effective July 5, 1983.

One Special Assistant to the Counselor, Office of the Counselor. Effective July 13, 1983.

One Special Assistant to the Ambassador-at-Large, Office of the Ambassador-at-Large/Presidential Envoy. Effective July 22, 1983.

One Staff Assistant to the Under Secretary, Office of the Under Secretary for Management. Effective July 29, 1983.

Department of Transportation

One Office Assistant to the Director, Office of Public Affairs, Federal Highway Administration. Effective July 5, 1983.

One Special Assistant to the Assistant Administrator for Public Affairs, Federal Aviation Administration. Effective July 9, 1983.

One Staff Assistant to the Director, Office of Congressional Affairs, Effective July 19, 1983.

One Special Assistant to the Assistant Administrator for Public Affairs, Federal Aviation Administration. Effective July 21, 1983.

One Special Assistant to the Assistant to the Associate Administrator for Traffic Safety Programs, National Highway Traffic Safety Administration. Effective July 22, 1983.

One Congressional Liaison Officer to the Director, Office of Congressional Affairs. Effective July 28, 1983.

Action

One Assistant Director for Policy and Planning. Effective July 22, 1983.

Agency for International Development

One Special Assistant to the Director, Office of Public Affairs. Effective July 14, 1983.

Consumer Product Safety Commission

One Special Assistant to the Commissioner, Office of the Commissioner. Effective July 6, 1983.

Executive Office of the President

One Administrative Assistant to the Chief, Legislative and Budget Support Group, Office of Management and Budget. Effective July 6, 1983.

One Legislative Assistant to the Assistant Director for Legislative Affairs, Office of Management and Budget. Effective July 20, 1983.

Federal Communications Commission

Confidential Staff Assistant to the Managing Director. Effective July 13, 1983.

Federal Home Loan Bank Board

One Special Assistant to the Chairman, Office of the Chairman. Effective July 5, 1983.

One Congressional Liaison to the Executive Staff Director, Congressional Relations Office. Effective July 19, 1983.

One Secretary (Steno) to the Chairman, Office of the Chairman. Effective July 20, 1983.

One Staff Assistant to the Chairman, Office of the Chairman. Effective July 21, 1983.

Federal Labor Relations Authority

One Executive Assistant to the Chairman. Effective July 1, 1983.

Federal Maritime Commission

One Secretary to the Chairman, Office of the Chairman. Effective July 8, 1983.

One Confidential Assistant to the Commissioner, Office of the Commissioner. Effective July 18, 1983.

Federal Mine Safety and Health Review Commission

One Secretary (Typing) to the Commissioner. Effective July 6, 1983.

One Attorney-Advisor (General) to the Commissioner. Effective July 15, 1983.

Government Printing Office

One Special Assistant to the Public Printer, Office of the Public Printer. Effective July 26, 1983.

National Endowment for the Arts

One Special Assistant (Development) to the Deputy to the Chairman for Private Partnership. Effective July 21, 1983.

National Endowment for the Humanities

One Special Assistant to the Chairman. Effective July 6, 1983.

One Special Assistant to the Chairman. Effective July 21, 1983.

National Labor Relations Board

One Confidential Assistant to the Board Member. Effective July 22, 1983.

Office of Personnel Management

One Special Assistant to the Director, Office of Government Ethics. Effective July 29, 1983.

Small Business Administration

One Special Assistant to the Deputy Administrator. Effective July 6, 1983.

United States Tax Court

One Secretary (Confidential Assistant) to the Judge. Effective July 20, 1983.

U.S. Information Agency

One Special Assistant (Media Relations) to the Director, Office of Public Liaison. Effective July 6, 1983.

One Special Assistant (Disinformation) to the Associate Director for Programs. Effective July 7, 1983.

Veterans Administration

One Special Assistant to the Administrator in Atlanta, Georgia. Effective July 13, 1983.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218)

Dated: August 9, 1983.
Office of Personnel Management,
Donald J. Devine,
Director.

[FR Doc. 83-23072 Filed 8-22-83; 8:45 am]
BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 20092; SR–NSCC–83–9 and 10]

National Securities Clearing Corp.; Order Approving Proposed Rule Change (SR–NSCC–83–10) and Withdrawing Proposed Rule Change (SR–NSCC–83–9)

August 17, 1983.

On June 16, 1983, the National Securities Clearing Corporation ("NSCC") filed with the Commission, pursuant to Section 19(b)(2) of the Securities Exchange Act of 1934, 15 U.S.C. § 78s(b)(1) (the "Act") and Rule 19b–4 (17 CFR § 240.19b–4) thereunder, a proposed rule change that authorizes NSCC to apply certain procedures in its existing over-the-counter ("OTC") equity comparison system ("Equity Comparison System") to OTC debt securities transactions. The proposed rule change also amends NSCC's fee structure to correspond to certain OTC bond comparison program changes. Notice of the proposed rule change, together with the terms of substance of the proposed rule change, was given by publication of Securities Exchange Act Release No. 19914 (June 27, 1983), 48 FR 31948 (July 12, 1983). No letters of comment were received.[1]

The proposal would implement Phase III of NSCC's new four-phase Bond Comparison System,[2] which is designed to extend certain features of NSCC's current, efficient Equity Comparison System to comparison of OTC securities transactions. Among other things,[3] the proposal would extend to corporate debt, municipal and Unit Trust Fund securities ("OTC debt securities") transactions processed by NSCC, the Demand As Of and Demand Withhold features of the Equity Comparison System.[4] Currently, OTC debt securities trade data that are not compared are dropped from NSCC's comparison system. Under NSCC's proposal, however, the Demand As Of service would permit NSCC participants to resolve those previously dropped, uncompared, aged OTC debt securities trades, eliminating time-consuming efforts currently necessary to resolve those trades outside NSCC. NSCC's proposal also would permit participants, through the Regular Withhold and Demand Withhold service, to delete from NSCC's comparison operation previously compared OTC debt securities trades. Finally, the proposed rule change would amend NSCC's fee structure to include fees to participants scaled by reference to timeliness of response to Demand Withhold Advisories—charges increase as participant response times to Demand Withhold Advisories increase.[5] NSCC believes that the proposed rule change will promote the prompt and accurate[6] clearance and settlement of securities transactions by making these comparison system enhancements available to NSCC members trading OTC debt securities; the enhancements should improve the bond comparison process.

The Commission agrees with NSCC that the proposal is consistent with Sections 17A(b)(3) (A) and (F) of the Act in that it would foster the prompt and accurate clearance and settlement of securities transactions. The proposal would extend efficient and effective features of the current equity comparison operation, *e.g.*, Demand As Of and Demand Withhold, to OTC debt securities trade comparison processing. Those features have reduced significantly the number of unresolved, aged uncompared trades. By reducing the incidence of those trades, the Demand As Of and Demand Withhold features also have reduced associated administrative burdens and financing

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[1] File No. SR–NSCC–83–10 was submitted to the Commission under Section 19(b)(2) of the Act, while File No. SR–NSCC–83–9 was submitted under Section 19(b)(3)(A) of the Act. Because File No. SR–NSCC–83–10 is substantively identical with File No. SR–NSCC–83–9, however, NSCC requested that the Commission grant the withdrawal of File No. SR–NSCC–83–9. Letter dated June 15, 1983, from Robert J. Woldow, Senior Vice-President and General Counsel, NSCC, to the Commission staff. On this basis, the Commission, in this Order, is granting NSCC's withdrawal request.

[2] Phase I of NSCC's new bond comparison system involved primarily NSCC internal computer changes, including various report format changes. Phase I was the subject to a proposed rule change filed with the Commission on July 28, 1982, and effective on that date under Section 19(b)(3)(A) of the Act. *See* File No. SR–NSCC–82–17, Securities Exchange Act Release No. 18998 (August 23, 1982), 47 FR 37989 (August 27, 1982). Phase II concerned, among other things, netting of bond transactions regardless of market of execution and adding an extra day's compared trades in NSCC's balance order accounting system. NSCC did not file Phase II with the Commission under Rule 19b–4.

[3] For example, the proposed rule change includes the "As Of" feature for trades executed through the New York Stock Exchange's Automated Bond System ("ABS"). The As Of feature enables participants to submit to NSCC a trade for comparison no more than three days after trade date. After an As Of is received by NSCC, NSCC generates an As Of Advisory to the trade's *contra* party, who may agree to the trade by accepting that Advisory and returning it to NSCC within two days of receipt. The As Of feature takes the place of a "CHC," which was functionally identical to an As Of, but required simultaneous agreement to the trade by both parties.

[4] The Commission previously approved, pursuant to delegated authority, NSCC's Demand As Of service for OTC equity trades. *See* File No. SR–NSCC–80–16, Securities Exchange Act Release No. 17123 (September 5, 1980), 45 FR 60100 (September 11, 1980). NSCC's Demand As Of service provides NSCC participants with a procedure for resolving aged, uncompared OTC equity transactions (*i.e.*, transactions that remain uncompared after NSCC's regular comparison cycle). For a detailed discussion of this service, *see* NSCC's Procedures, § II(C)(7) and Securities Exchange Act Release No. 17123. The Demand As Of service for OTC debt securities also enables NSCC participants partially to accept Regular and Demand As Of Advisories. The Commission, pursuant to delegated authority, recently approved partial acceptance of these Advisories. *See* File No. SR–NSCC–83–1, Securities Exchange Act Release No. 19630 (February 23, 1983), 48 FR 8616 (March 1, 1983). The Commission also approved by delegated authority NSCC's Demand Withhold service for deleting previously compared OTC equity trades. *See* File No. SR–NSCC–81–9, Securities Exchange Act Release No. 18203 (October 23, 1981), 46 FR 53565 (October 29, 1981). NSCC's Demand Withhold service enables a NSCC participant to cancel effectively an OTC equity trade previously compared in error at NSCC, absent timely objection from the *contra* party. For a detailed discussion of both the Regular Withhold and the Demand Withhold features, *See* NSCC Procedures, § II(C)(4) and Securities Exchange Act Release No. 18203.

[5] NSCC's current fee schedule includes similar scaled charges for OTC equity comparison processing. *See* NSCC's Procedures, Addendum A, *NSCC Fee Structure*.

[6] Moreover, the proposal carries over the same procedural safeguards that the Commission previously approved in connection with the Equity Comparison System. For example, NSCC's Demand Withhold service provides notice to the *contra* party of proposed cancellations. *See* Securities Exchange Act Release No. 18203.

and regulatory charges for participants. Accordingly, by extending the Demand As Of and Demand Withhold features to the OTC debt securities setting, the proposal should offer to participants engaged in OTC debt securities transactions, particularly municipal securities transactions, the same advantages currently being realized by participants using the Equity Comparison System.[7]

The Commission believes that, for several reasons, the graduated fees [8] for Demand Withheld Advisories are equitable and reasonable, as required by Section 17A(b)(3)(D) of the Act. First, the nominal fee increases [9] correlate with additional costs incurred by NSCC in carrying uncompared trade data additional time ("cost-based price differential"). Second, while some portion of these fee increases exceeds the cost-based price differential, the Commission believes that these increments serve to provide an appropriate incentive for participants to respond timely to Demand Withhold Advisories, thus facilitating the trade comparison process. Moreover, the graduated fees, including the non-cost-related increments, will promote efficiency and discipline among NSCC participants.[10]

Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies and, in particular, the requirements of Section 17A(b)(3) (A) and (F) of the Act. The proposal facilitates the prompt and accurate clearance and settlement of securities transactions for which NSCC is responsible, and the proposed fees appear to be equitable, consistent with Section 17A(b)(3)(D) of the Act.

Accordingly, it is therefore ordered, pursuant to Section 19(b)(2) of the Act, that proposed rule change SR–NSCC–83–10 be, and hereby is, approved and that proposed rule change SR–NSCC–83–9 be, and hereby is, withdrawn.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-23173 Filed 8-22-83; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 13440; 812–5600]

New York Municipal Fund for Temporary Investment, Inc. and Henry M. Watts, Jr.; Filing of Application

August 16, 1983.

In the matter of New York Municipal Fund for Temporary Investment, Inc., Suite 204, Webster Building, 3411 Silverside Road, Wilmington, DE 19810 and Henry M. Watts, Jr., Mitchel, Schreiber, Watts & Co., Inc., 55 Broad Street, New York, NY 10004.

Notice is hereby given that New York Municipal Fund for Temporary Investment, Inc. ("Fund") registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company and Henry M. Watts, Jr., a proposed director of the Fund (collectively, "Applicants") filed an application on July 13, 1983, for an order of the Commission pursuant to section 6(c) of the Act declaring that Mr. Watts shall not be deemed to be an "interested person" of the Fund within the meaning of Section 2(a)(19) of the Act solely by reason of his being an officer, director and employee of Mitchel Schreiber, Watts & Co. ("Mitchel, Schreiber") a broker-dealer. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the complete text of the applicable provisions thereof.

The application describes the Fund as a Maryland corporation whose proposed investment objective is to provide investors with as high a level of current interest income exempt from Federal, New York State and New York City personal income taxes as is consistent with the preservation of capital and relative stability of principal. Applicants state that in furtherance of its investment objective, the Fund intends to offer shares in a portfolio consisting primarily of debt obligations issued by or on behalf of the state of New York and other states, territories and possessions of the United States, the District of Columbia and their authorities, agencies, instrumentalities and political subdivisions. According to the application, the Fund will maintain at least 80% of its assets in municipal securities except during defensive periods or during periods of unusual market conditions, and will not knowingly purchase securities the interest on which is subject to Federal income tax.

According to the application, the Fund's distributor is Shearson/American Express Inc. ("Shearson"). Applicants represent that purchase and redemption orders for Fund shares placed directly by shareholders with Shearson without the assistance of a broker-dealer or other person will be processed without charge (except redemption orders submitted by Shearson for its own brokerage customers). The Fund's investment adviser is Provident Institutional Management Corporation ("PIMC") and its subadviser is Provident National Bank ("Provident"). Applicants state that in connection with the execution of portfolio transactions on behalf of the Fund, PIMC will seek to obtain the best net price and the most favorable execution of its orders. Brokerage commissions, applicants allege, will not normally be paid on investments by the Fund, since purchases and sales of portfolio securities will usually be principal transactions. The Fund's administrator is The Boston Company Advisors, Inc. ("Boston Advisors"). According to the application, Boston Advisors, as administrator, will assist in supervising all Fund operations (other than those performed under the Fund's advisory, custodian and transfer agency agreements). Boston Advisors is a wholly-owned subsidiary of Shearson.

The application states that Mr. Watts is a proposed director of Fund and an officer, director emeritus and employee of Mitchel, Schreiber. Mitchel, Schreiber is represented to be wholly-owned by Angeles Corporation, a financial services corporation with operating subsidiaries engaged in real estate, investment counseling and investment advisory services. Applicants' represent that, historically, Mitchel, Schreiber's business has been limited to the technical execution and clearance of exchange-traded securities on behalf of other broker-dealers; it does not provide research analysis or other financial services and does not act as a dealer

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[7] The proposal complements industry trends toward automated, efficient clearing agency services for municipal securities. *See, e.g.*, File No. SR–MSTC–83–2, Securities Exchange Act Release No. 19888 (June 20, 1983), 48 FR 29083 (June 24, 1983) (adopting rules and procedures applicable to bearer municipal bonds).

[8] NSCC's current scheme of graduated trade comparsion and recording service fees was filed with the Commission on December 7, 1981, and effective that date under Section 19(b)(3)(A) of the Act. *See* File No. SR–NSCC–81–16, Securities Exchange Act Release No. 18327 (December 11, 1981), 46 FR 61379 (December 16, 1981).

[9] Fees for Demand Withhold Advisories increase based on the type of response and response times: DK'd Advisories range from no charge to $.35; Accepted Advisories range from $.20 to $.35; and Automatic Acceptance (failure to respond within two days after receipt of the Advisory) costs the non-responsive participant $4.00.

[10] The Commission believes that the increments reasonably serve NSCC's purposes and should not unreasonably discourage participant use of the Demand Withhold Advisory service. In addition, because the scaled fee increases are modest, the Commission believes that the proposed fees do not constitute penalties.

with respect to any securities. The application states that at the present time, however, Mitchel, Schreiber conducts no active business other than occasional real estate transactions on behalf of its parent, although Mitchel, Schreiber also makes its seat on the New York Stock Exchange available to its parent. The application asserts further that in light of Mitchel, Schreiber's current business inactivity it is unlikely that Mitchel, Schreiber would ever have occasion to act as a broker or dealer directly or indirectly for the Fund.

Applicants state that Mitchel, Schreiber has no direct business relationship with PIMC, Provident, Boston Advisors or Shearson. Applicants further represent that pursuant to prior orders of the Commission, Mr. Watts currently is deemed not to be an "interested person" or Shearson, PIMC, Provident and certain investment compaines distributed or advised by them within the meaning of Section 2(a)(19) of the Act, by reason of his being an officer, director, and employee of Mitchel, Schreiber. Section 6(c) of the Act permits the Commission to grant an exemption by order upon application from any provision or provisions of the Act provided such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants maintain that Mr. Watts should not be deemed to be an "interested person" of the Fund by virtue of his association with Mitchel, Schreiber because Mitchel, Schreiber will have no occasion to have any direct or indirect relationship with the Fund and will have no direct or indirect relationship with PIMC, Provident, Boston Advisors or Shearson. Applicants maintain that, as a result, Mr. Watts' affiliation with Mitchel, Schreiber will not impair or otherwise affect his ability to exercise independent, disinterested judgment in the conduct of his office as a director of the Fund. Applicants submit that the requested exemption is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

In connection with the application, the following representations have also been made: (1) The Fund represents that it will not use Mitchel, Schreiber for portfolio transactions or for the distribution of its shares so long as Mr. Watts is a director of the Fund and also a director, director emeritus, officer or employee of Mitchel, Schreiber; and (2) the Fund, to the best of its knowledge, and Mr. Watts represent that since at least October 1, 1978, Mr. Watts has not had a material business or professional relationship with PIMC, Provident, Boston Advisors or Shearson, or with the principal executive officers of or any person controlling, controlled by or under common control with PIMC, Provident, Boston Advisors or Shearson.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than September 12, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request of upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-22170 Filed 8-22-83; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 13441; 812-5537]

The Paine Webber Equity Trust, Utility Stock Series 1 (and Subsequent Trusts and Similar Series of Trusts); Filing of Application

August 16, 1983.

Notice is hereby given that The Paine Webber Equity Trust, Utility Stock Series 1 ("Series 1") and subsequent trusts and similar series of trusts (collectively "Trusts"), unit investment trusts registered or to be registered under the Investment Company Act of 1940 ("Act"), and its sponsor, Paine, Webber, Jackson & Curtis Incorporated ("Sponsor," collectively with the Trusts, "Applicants") c/o Paine, Webber, Jackson & Curtis Incorporated, 140 Broadway, New York, NY 10005, filed an application on April 29, 1983, and an amendment thereto on July 18, 1983, for an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicants from the provisions of Section 14(a) of the Act and Rule 19b-1 thereunder, and for an order pursuant to Section 45(a) of the Act granting confidential treatment to the profit and loss statements of the Sponsor supplied in connection with certain registration statements filed with the Commission from time to time. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and rules thereunder for the text of applicable sections and rules.

The application states that Series 1 is a unit investment trust which will be organized under the laws of the State of New York. Sponsor presently intends to act as sponsor of Series 1 and proposes to act as sponsor for all Trusts. Applicants have filed a registration statement of Form S-6 under the Securities Act of 1933 for an indefinite number of units of undivided interests of Series 1 ("Units").

The application states that Series 1 and each future Trust will be governed by a trust agreement for that Trust ("Agreement") to be entered into prior to or on the date of the filing of the Trust's registration statement with the Commission under which the Sponsor will act as such, and United States Trust Company of New York will act as trustee ("Trustee") and evaluator. Pursuant to each Agreement, when the portfolio is completed the Sponsor will deposit with the Trustee not less than $100,000 aggregate value of the underlying common stock, preferred stock or other equity interests or any combination of or contracts to purchase the above ("Securities") which the Sponsor shall have accumulated for that purpose.

Simultaneously with the deposit ("Date of Deposit") the Trustee will deliver to the Sponsor registered certificates for Units ("Certificates") which will represent the entire ownership of the Trust. These Units are in turn to be offered for sale to the public by the Sponsor. According to the application, the Sponsor intends to offer from time to time additional Units issued by the Trust for sale to the public. In that event the Sponsor will deposit with the Trustee additional Securities acquired through an exchange or otherwise for deposit and selected on the basis of critieria set forth in the application, and the Trustee will deliver to the Sponsor Certificates for Units representing additional value to the Trust. Applicants note that the Securities will not be pledged or be in any other way subjected to any debt by the Trust at any time afer the Securities are deposited in the Trust.

The application states that each Trust will consist of the Securities, such

securities as may continue to be held from time to time in exchange or substitution for any of the Securities upon certain refundings, accrued and undistributed interest and undistributed cash. Initially each Unit for a particular Trust will represent a fractional undivided interest in that Trust. The numerator of the fractional interest represented will be 1; the denominator, the number of Units of the Trust then outstanding. Units will be redeemable by the Trustee. Applicants represent that in the event that any Units shall be redeemed, the denominator of the fraction will be reduced and the fractional undivided interest represented by such Units increased. As additional Units are issued in respect of the deposit of additional Securities pursuant to the provisions of the Agreement, the denominator of the fraction shall be increased and the fractional undivided interest represented by such Units shall be decreased. Units will remain outstanding until redeemed or until the termination of the Agreement.

The application further states that while the Sponsor is not obligated to do so, at the present time the Sponsor intends to maintain a market for the Units of Series 1 and subsequent Trusts, and continuously offer to purchase such Units at prices based on the most recent evaluation which is generally the same as the redemption price at the time of such evaluation for such Units. Applicants represent that the Trusts will not repurchase Units.

Applicants state that, at the Date of Deposit of the Securities for each Series and before any Unit of that Series is offered to the public, the Trust will have a new worth of not less than $100,000 represented by the market value of the Securities on that date. According to the application it is the intention of the Sponsor to sell all Units to the public at a public offering price disclosed in the Prospectus. Information concerning the Securities will be disclosed in the Prospectus. Applicants note again that while the Sponsor is not obligated to do so, it is the Sponsor's intention to maintain a secondary market for Units of Series 1 and subsequent Series at prices at least equal to the redemption value of the Securities as of the time of each regular evaluation of Securities. Although Applicants contend that this compliance with the requirements of Section 14(a)(1) eliminates the need also to comply with Section 14(a)(3), they request an exemption from Section 14(a)(3) to the extent necessary to permit them to operate as described above. Applicants maintain that separate compliance with Section 14(a)(3) of the Act under the circumstances described would increase the cost to the Sponsor of marketing the Units without creating any significant increase in the protection of Certificateholders.

In connection with the requested exemption from Section 14(a) of the Act, Applicants state that the Sponsor will refund, on demand and without deduction, all sales charges to purchases of Units of a Series if, within ninety days from the time that Series becomes effective under the Securities Act of 1933, the net worth of the Series shall be reduced to less than $100,000 or if the Series shall have been terminated. The Sponsor further undertakes to instruct the Trustee on the Date of Deposit of each Series that in the event that redemption by the Sponsor of Units constituting a part of the unsold Units shall result in that Series having a net worth of less than 20% of the aggregate value of Securities originally deposited in the Series, the Trustee shall terminate the Series in the manner provided in the Agreement and distribute any Security or other assets deposited with the Trustee pursuant to the Agreement as provided therein. The Sponsor further undertakes, in such event, to refund any sales charges to any purchaser of Units purchased from the Sponsor on demand and without deduction. Applicants consent to having any order granting the application conditioned upon their compliance with the undertaking summarized in this paragraph.

The application states that the Trust may receive amounts constituting capital gains in the hands of the Certificateholders, resulting from the sale of Securities to cover Units submitted for redemption at any time during the year or from the sale of securities in the limited events outlined in the application. According to the application, in order to comply strictly with the requirements of Rule 19b–1 under the Act, the Trustee would be forced to hold all such amounts until the end of its taxable year in order to ensure against a prohibited capital gain distribution, which, Applicants assert, would be to the detriment of the Certificateholders. Since the amounts involved in a normal distribution of principal are relatively small in comparison to the normal interest distribution, and since such distributions are clearly indicated in accompanying reports to Certificateholders as a return of principal, Applicants represent that the dangers which formed the rationale for Rule 19b–1 under the Act are not present in the operations of the Trust. Therefore, Applicants state that the granting of the requested exemption from the provisions of Rule 19b–1 under the Act would be consistent with the purposes and policies of the Act and that such an exemption would be in the best interest of the Certificateholders.

Finally, Applicants request confidential treatment for profit and loss statements of the Sponsor pursuant to Section 45(a) of the Act. Applicants submit that public disclosure of this financial information is neither necessary nor appropriate in the public interest or for the protection of investors. Investors in the Trust are not offered an opportunity to acquire any interest whatsoever in the Sponsor. Apart from the Sponsor's obligation under the Trust Agreement to recommend the disposition of underlying Securities (which obligations may be performed by the Trustee or successor Sponsor if not performed by the current Sponsor), the Sponsor functions solely as an underwriter of the Trusts. According to the application, there is no legitimate interest on the part of the investors in the public disclosure of the profit and loss statements of the underwriters, from whom the Units are purchased.

Applicants further state that, to the extent that the Sponsor's solvency may conceivably be thought relevant to the maintenance of the secondary market in the Units of the Trusts, the Sponsor's statement of financial condition which is filed with the Commission and various stock exchanges and is readily available to the public contains fully adequate information in this regard. Finally, Applicants assert that the financial operations of the Sponsor will in no way enhance or diminish the prospect for an orderly payment of the underlying Securities.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than September 6, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-23171 Filed 8-22-83; 8:45 am]
BILLING CODE 8010-01-M

[Rel. No. 13442; 812-5563]

Union Bank of Switzerland and UBS Finance (Delaware) Inc.; Filing of Application

August 17, 1983.

Notice is hereby given that Union Bank of Switzerland ("UBS") and its wholly-owned subsidicary, UBS Finance (Delaware) Inc. ("Finance") (collectively "Applicants") c/o Michael W. Weir, Esq., Sullivan & Cromwell, 125 Broad Street, New York, New York 10004, filed an application on June 7, 1983, and an amendment there to on August 12, 1983, for an order of the Commission, pursuant to Section 6(c) of the Investment Company Act of 1940, as amended ("Act"), exempting Applicants from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the text of the Act for the various provisions thereof, including Section 6(c), pertinent to a consideration of the application.

UBS, chartered as a bank in Zurich in 1912, is represented to be one of the three major Swiss commercial banks and one of the world's major international banks. UBS states that its principal business, similar to that of major United States banks, is the receipt of deposits and the making of loans. As of December 31, 1982, approximately 77.3% of UBS's total liabilities and net worth consisted of deposits (including due to banks). UBS states that as of December 31, 1982, its loans and advances totalled approximately $23.4 billion and were widely diversified as to type of loan and type of borrower. The principal other elements of its assets consist of bills and money market papers and securities. In addition to the receipt of deposits and the making of loans and advances, UBS is represented to engage in other banking and bank-related acitivities typical of the world's major international banks. These include fiduciary, investment advisory and custodial services, lease financing, foreign exchange and underwriting in the Swiss and Euro-capital market.

UBS states that as a Swiss bank, it is subject to the Swiss Federal Law Relating to Banks and Savings Banks of November 8, 1934/March 11, 1971 and its Implementing Ordinance of May 17, 1972 as amended on December 1, 1980. These regulations are administered by the Federal Banking Commission and the Swiss National Bank. The application states that three of the most important regulatory tools are mandatory annual audits, specific capital requirements and specific liquidity requirements.

The application states that Finance was organized solely to provide a vehicle through which UBS may sell commercial paper to, among others, certain institutional purchasers who may be subject to a policy of limiting their purchases of debt obligations to obligations of domestic issuers. All the outstanding capital stock of Finance is owned by UBS, and no other common or capital stock will be issued.

UBS proposes to issue and sell, or to cause Finance to issue and sell, in the United States unsecured prime quality commercial paper notes (the "notes") in bearer form and denominated in United States dollars. Applicants state that the notes will be issued and sold (in denominations no smaller than $100,000) to a commercial paper dealer in the United States which will reoffer the notes as principal to investors in the United States. Applicants state that payment of the principal, interest and premium, if any, on notes issued and sold by Finance will be unconditionally guaranteed by UBS.

Applicants undertake to ensure that the notes will not be advertised or otherwise offered for sale to the general public, but instead will be sold by a dealer to institutional investors and other entities and individuals who normally purchase commercial paper notes. Applicants also undertake to ensure that the dealer will provide each offeree of the notes prior to purchase with a memorandum which briefly describes the business or UBS, including its most recent publicly available fiscal year-end balance sheet and profit and loss statement audited in such manner as is customarily done for UBS by its statutory auditors for financial statements in its Annual Report. Such memorandum will describe differences which are material to investors, if any, between the accounting principles applied in the preparation of such financial statements and "generally accepted accounting principles" employed by banks in the United States. Applicants undertake that such memorandum and financial statements will be at least as comprehensive as those customarily used by United States bank holding companies in offering commercial paper in the United States and will be updated promptly to reflect material changes in the financial condition of UBS.

Applicants represent that the terms of the notes, including their negotiability, maturity and minimum denomination, the amount outstanding at any given time and the manner of offering them to investors will be such as to qualify them for the exemption from registration under the Securities Act of 1933, as amended (the "1933 Act"), provided by Section 3(a)(3) of the 1933 Act. Applicants undertake that neither UBS nor Finance will issue and sell notes until it has received an opinion of its United States legal counsel that the notes would be entitled to such Section 3(a)(3) exemption. Applicants do not request Commission review or approval of United States counsel's opinion letter regarding the availability of an exemption under Section 3(a)(3) of the 1933 Act. Applicants represent that the presently proposed issue of notes and all future issues of debt securities (not including deposits) in the United States shall have received prior to issuance one of the three highest investment grades from at least one nationally recognized statistical rating organization and that their United States counsel shall have certified that such rating has been received; provided, however, that no such rating need be obtained with respect to any such issue if, in the opinion of United States counsel, such counsel having taken into account for the purpose thereof the doctrine of "integration" referred to in Rule 502 under the 1933 Act and various releases and relevant no-action letters made public by the Commission, an exemption from registration is available under Section 4(2) of the 1933 Act.

UBS may appoint a bank or other financial institution in the United States as its authorized agent to issue its notes from time to time. UBS undertakes to appoint either such financial institution, Finance, or some other United States person which normally acts in such capacity to accept any process which may be served in any action based on a note and instituted by the holder of such note in any State or Federal court. UBS undertakes that it will expressly accept the jurisdiction of any State or Federal court in the City and State of New York in respect of any such action. Such appointment of an authorized agent to accept service of process and such consent to jurisdiction will be irrevocable until all amounts due and to become due in respect of the notes have been paid by UBS. Furthermore, the application represents that UBS and Finance will also be subject to suit in any other court in the United States

which would have jurisdiction because of the manner of the offering of the notes or otherwise in connection with the notes. Applicants consent to any order granting this application being expressly conditioned on their compliance with the undertakings set forth above and the undertakings described below.

UBS may, from time to time, offer other debt securities, but not shares of its capital stock, for sale in the United States. Finance may also, from time to time, offer other debt securities for sale in the United States which will be unconditionally guaranteed by UBS. UBS and Finance undertake that any future offering of UBS's or Finance's securities in the United States will be done on the basis of disclosure documents at least as comprehensive in their description of UBS, its business and its financial condition as those customarily used by United States bank holding companies in offering similar securities under similar circumstances, and undertake to ensure that each offeree of such securities will be provided with such disclosure documents. UBS and Finance undertake that, for any future offering of UBS's or Finance's securities made pursuant to a registration statement under the 1933 Act, however, UBS and Finance will furnish a disclosure document to such persons and in such manner as may be required by the 1933 Act and the rules and regulations thereunder. UBS also undertakes, in connection with any future offering in the United States of its debt securities (not including deposits), to appoint a United States person as agent to accept any process which may be served in any action based on any such securities and instituted in any State or Federal court by the holder of such security. UBS further undertakes that it will expressly accept the jurisdiction of any State or Federal court in the city and State of New York in respect of any such action. Such appointment of an agent to accept service of process and such consent to jurisdiction will be irrevocable so long and as such securities remain outstanding and until all amounts due and to become due in respect of such securities have been paid.

In support of their requested exemptive relief, applicants state that, among other things, compliance by them with a number of substantive provisions of the Act would, as a practical matter, conflict with UBS's operation as a bank and lending institution and that UBS would thus be effectively precluded from selling securities in the United States if it were required to register as an investment company and comply with such provisions of the Act. Applicants also assert that to exclude foreign banks from selling securities in the United States would be both inherently inequitable and in direct conflict with the objective of the International Banking Act of 1978. Applicants state that the rationale for a Section 6(c) exemption for UBS extends to Finance as well because of the close relationship between the two companies and because the obligations of Finance will in effect be obligations of UBS, since the sole business of Finance is and will continue to be to operate as a financing vehicle for UBS.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than September 12, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-23172 Filed 8-22-83; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Presidential Advisory Committee on Small and Minority Business Ownership; Public Meeting

The Presidential Advisory Committee on Small and Minority Business Ownership, located in Washington, D.C., will hold a public meeting at 10:00 a.m. until 5:00 p.m., Wednesday, September 14, 1983, at the Small Business Administration, Second Floor Conference Room, Room 214, 1441 L Street, NW., Washington, D.C. 20416, to discuss such business as may be presented by the Committee members. The meeting will be open to the interested public, however, space is limited.

Persons wishing to present written statements should notify Mr. Milton Wilson, Jr., Office of Capital Ownership Development, Small Business Administration, Room 602, 1441 L Street, NW., Washington, D.C. 20416, (202) 653-6526, in writing or by telephone no later than September 9, 1983.

Dated: August 18, 1983.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 83-23175 Filed 8-22-83; 8:45 am]

BILLING CODE 8025-01-M

Region VII Advisory Council Meeting

The U.S. Small Business Administration Region VII Advisory Council, located in the geographical area of Des Moines, will hold a public meeting at 10:00 a.m., on Tuesday, September 13, 1983, at Greater Des Moines Chamber of Commerce Briefing Center, 33rd Floor, Ruan Building, 7th & Locust, Des Monies, Iowa, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Conrad E. Lawlor, District Director, U.S. Small Business Administration, 210 Walnut, Room 749, Des Moines, Iowa 50309—(515) 284-4567.

Jean M. Nowak,

Director, Office of Advisory Councils.

August 16, 1983.

[FR Doc. 83-23174 Filed 8-22-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice CM-8/853]

Advisory Committee to United States Section International North Pacific Fisheries Commission; Partially Closed Meeting

The Advisory Committee to the United States Section, International North Pacific Fisheries Commission, will meet on September 30, 1983, at the Old Federal Building, 605 West 4th Ave., Anchorage, Alaska, at 9:00 a.m. This session will discuss the 1978 Protocol to the International Convention for the High Seas Fisheries of the North Pacific Ocean, surveillance of foreign fishing fleets, the progress of fisheries research, particularly that for Dall porpoise, the Alaska salmon fisheries, and fishery developments as they affect the International North Pacific Fisheries Commission. The session will be open to the public.

The Advisory Committee will also meet from 1:30 p.m. to 5:00 p.m. on September 30 and from 9:00 a.m. to 12:00 p.m. on October 1, 1983. These sessions

will not be open to the public inasmuch as the discussion will involve classified matters pertaining to the United States negotiating position to be taken at the 30th Annual Meeting of the International North Pacific Fisheries Commission to be held in Anchorage, Alaska, during November 1–4, 1983. Pursuant to section 4(c) of the North Pacific Fisheries Act of 1954, as amended, 16 U.S.C. 1023(c) which provides that the "advisory committee * * * shall be granted opportunity to examine and to be heard on all proposed programs of study and investigation, reports, and recomendations of the United States Section," the members of the Advisory Committee will examine various options for the negotiating position at the Annual Meeting, and these considerations must necessarily involve review of classified matters. Accordingly the determination has been made to close this session pursuant to section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. App. I, § 10(d) and 5 U.S.C. 552b (c)(1) and (c)(9).

Requests for further information on the meeting should be directed to Ms. Christine Dawson, Pacific Fisheries Officer, Room 5806 (OES/OFA), U.S. Department of State, Washington, D.C. 20520. Ms. Dawson can be reached by telephone on (202) 632–2009.

Dated: August 11, 1983.

Theodore G. Kronmiller,

Deputy Assistant Secretary for Oceans and Fisheries Affairs.

[FR Doc. 83–23084 Filed 8–22–83; 8:45 am]

BILLING CODE 4710–09–M

[Public Notice CM–8/651]

Study Group B of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that Study Group B of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on September 12, 1983 at 10:00 a.m. in Room 6320, Department of State, 2201 C Street, NW., Washington, D.C. This Study Group deals with international telegraph operations.

The purpose of the meeting will be to review a contribution to CCITT Study Group VIII/Working Party 1 (Videotex) from the Videotex Experts Group on a World-Wide Unified Videotex Standard (WWUVS). A document on this subject is to be considered at the meeting of Study Group VIII/Working Party 1 scheduled for Ottawa, September 19–24, 1983.

Members of the general public may attend the meeting and join in the discussion subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. It is suggested that prior to September 12, persons who plan to attend so advise Mr. Earl Barbely, Department of State, Washington, D.C. 20520; telephone (202) 632–3405. All attendees must use the C Street entrance to the building.

Dated: August 11, 1983.

Richard E. Shrum,

Acting Director, Office of International Communications Policy.

[FR Doc. 83–23086 Filed 8–22–83; 8:45 am]

BILLING CODE 4710–07–M

[Public Notice CM–8/652]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea, Working Group on Bulk Chemicals; Meeting

The U.S. Safety of Life at Sea (SOLAS) Subcommittee Working Group on Bulk Chemicals will conduct an open meeting on September 20, 1983, at 9:30 a.m., in Room 1303 of the Coast Guard Headquarters Building, 2100 Second Street, SW., Washington, D.C. 20593.

The purpose of the meeting will be to discuss the agenda for the twelfth session of the International Maritime Organization (IMO) Subcommittee on Bulk Chemicals which will be held October 10–14 in London. Major items on the agenda are:

a. Procedures and arrangements for the discharge of noxious liquid substances,

b. Extension of the Bulk Chemical Code to cover pollution aspects,

c. Implementation of requirements to provide adequate reception facilities,

d. Interpretation and updating of the International Bulk Chemical Codes, and

e. Inert gas requirements for chemical tankers and gas carriers.

Members of the public may attend up to the seating capacity of the room.

For further information contact Mr. Frits Wybenga, U.S. Coast Guard (G–MTH–1), Washington, D.C. 20593. Telephone: (202) 426–1217.

Dated: August 10, 1983.

Gordon S. Brown,

Chairman, Shipping Coordinating Committee.

[FR Doc. 83–23085 Filed 8–22–83; 8:45 am]

BILLING CODE 4710–07–M

[Public Notice CM–8/654]

National Bipartisan Commission on Central America; Closed Meeting

The National Bipartisan Commission on Central America will meet at 10 a.m. on Wednesday, August 31, 1983, in Room 1105, Department of State, Washington, D.C. It will continue its meeting on Thursday, September 1.

These sessions will be closed to the public pursuant to section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. 552b (c)(1) and (c)(9). The disclosure of classified material and revelation of considerations contributing to policy development could adversely affect U.S. foreign relations and would substantially undermine the conduct of U.S. foreign policy and the ability of the Commission to provide advice to the President, the Secretary of State and the Congress. The purpose of these meetings will be to consider the views of prominent former Federal officials concerning the issues to be considered by the Commission.

In light of the requirement that the Commission report to the President in the near future, and the consequent need for the Commission to continue its deliberations without delay, it has been impossible to provide earlier notice of this meeting or to reschedule it to a later date.

Requests for further information should be directed to Sharon Mussomeli, Room 1004, Department of State. She may be reached by telephone on (202) 632–7804.

Dated: August 19, 1983.

Gerald M. Sutton,

Acting Executive Director.

[FR Doc. 83–23270 Filed 8–23–83; 8:45 am]

BILLING CODE 4710–29–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Douglas County, Oregon

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Douglas County.

FOR FURTHER INFORMATION CONTACT: Richard R. Arnold, Environmental

Coordinator and Safety Programs Engineer, Federal Highway Administration, Equitable Center, Suite 100, 530 Center NE, Salem, Oregon 97301, Telephone: (503) 399–5749.

SUPPLEMENTARY INFORMATION: The FHWA in cooperation with the Oregon Department of Transportation will prepare an environmental impact statement (EIS) on a proposal to construct a new freeway interchange on Interstate 5, 1500 feet north of General Avenue and across from Isabell Avenue in the City of Roseburg, Douglas County, Oregon.

The project will provide new access from the Oakland-Shady Highway to I–5 where there is now no access. The project will reduce traffic congestion at the Garden Valley Interchange, south of this proposed project, in the City of Roseburg. Traffic on the Oakland-Shady Highway in North Roseburg will likely increase but traffic in Roseburg near the Garden Valley Interchange will decrease.

The project has potential for land use impacts, noise increases at abutting residences, and changes in traffic patterns, particularly on the Oakland-Shady Highway. By opening access to the Oakland-Shady Highway and I–5 with an interchange, the project will likely precipitate commercial development around the interchange, and possibly along the Oakland-Shady Highway.

Information describing the proposed action will be sent to the appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed interest in this proposal. Public meetings will be held, as may be necessary, and a public hearing will be held. No formal scoping meeting is planned at this time.

Comments or questions concerning this proposed action, and the EIS, should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of OMB Circular No. A–95 regarding State and local clearinghouse review of Federal and Federally assisted programs and projects apply to this program.)

Issued on August 16, 1983.

E. J. Valach,

Program Development Engineer, Oregon Division, Salem, Oregon.

[FR Doc. 83–22083 Filed 8–22–83; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Department Circular Public Debt Series—No. 25–83]

Treasury Notes of August 31, 1985; Series X–1985

August 18, 1983.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $8,000,000,000 of United States securities, designated Treasury Notes of August 31, 1985, Series X–1985 (CUSIP No. 912827 PW 6). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The securities will be dated August 31, 1983, and will bear interest from that date, payable on a semiannual basis on February 29 and August 31, 1984; and February 28 and August 31, 1985. They will mature August 31, 1985, and will not be subject to call for redemption prior to maturity. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next-succeeding business day.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Securities registered as to principal and interest will be issued in denominations of $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of registered and book-entry securities, and the transfer of registered securities will be permitted. Bearer securities will not be available, and the interchange of registered or book-entry securities for bearer securities will not be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Daylight Saving time, Wednesday, August 24, 1983. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, August 23, 1983, and received no later than Wednesday, August 31, 1983.

3.2. The face amount of securities bid for must be stated on each tender. The minimum bid is $5,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender, and the amount may not exceed $1,000,000.

3.3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds;

international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.5. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.500. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.6. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.4., must be made or completed on or before Wednesday, August 31, 1983. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Monday, August 29, 1983. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, and to receive payment for and make delivery of securities on full-paid allotments.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Carole J. Dineen,

Fiscal Assistant Secretary.

[FR Doc. 83-22306 Filed 8-19-83; 1:07 pm]

BILLING CODE 4810-40-M

Fiscal Service

[Dept. Circ. 570, 1983 Rev., Supp. No. 2]

Surety Companies Acceptable on Federal Bonds; Guard Casualty & Surety Insurance Co.

A certificate of authority as an acceptable surety on Federal bonds is hereby issued to the following company under Sections 9304 to 9308 Title 31 of the United States Code. An underwriting limitation of $204,000 has been established for the company.

Name of Company: Guard Casualty & Surety Insurance Company.

Business Address: 129 East Market Street, Suite 400, Indianapolis, IN 46204.

State of Incorporation: Indiana.

Certificates of authority expire on June 30 each year, unless renewed prior to that date or sooner revoked. The certificates are subject to subsequent annual renewal so long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1983 Revision, at page 30534 to reflect this addition. Copies of the circular, when issued, may be obtained from the Operations Staff, Banking and Cash Management, Department of the Treasury, Washington, DC 20226.

Dated: August 15, 1983.

W. E. Douglas,

Commissioner.

[FR Doc. 83-23078 Filed 8-22-83; 8:45 am]

BILLING CODE 4810-35-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 164
Tuesday, August 23, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Consumer Product Safety Commission	1
Federal Deposit Insurance Corporation	2
Federal Reserve System	3
Neighborhood Reinvestment Corporation	4
Postal Service (Board of Governors)	5
Synthetic Fuels Corporation	6

1

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10 a.m., Thursday, August 25, 1983.

LOCATION: Third Floor Hearing Room, 1111 18th Street NW., Washington, D.C.

STATUS: Open to the public.

MATTER TO BE CONSIDERED:

Relighting Instructions for Gas Applicances

The Commission will meet with manufacturers of combination control valves used on gas appliances to discuss instructions for lighting/relighting the appliances.

For a recorded message containing the latest agenda information: Call 301–492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Avenue, Bethesda, MD 20207; 301–492–6800.

[S–1201–83 Filed 8–19–83; 11:31 am]

BILLING CODE 6355–01–M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 11:50 a.m. on Wednesday, August 17, 1983, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider the following matters:

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.; Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

Memorandum re: Awarding a Contract for the Development of the Strategic Design for the Division of Liquidation's Asset Management Information System.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. Doyle L. Arnold, acting in the place stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(2), (c)(4), and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2), (c)(4), and (c)(6)).

Dated: August 17, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–1202–83 Filed 8–19–83; 11:35 am]

BILLING CODE 6714–01–M

3

FEDERAL RESERVE SYSTEM

Board of Governors

TIME AND DATE: 10 a.m. Monday, August 29, 1983.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposal to seek a formal opinion in connection with disclosure requirements, chiefly under the Board's consumer regulations.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: August 19, 1981.

James McAfee,

Associate Secretary of the Board.

[S–1205–83 Filed 8–19–83; 3:46 pm]

BILLING CODE 6210–01–M

4

NEIGHBORHOOD REINVESTMENT CORPORATION

Regular Meeting

TIME AND DATE: 2:30 p.m., Friday, August 26, 1983.

PLACE: Neighborhood Reinvestment Corporation, 1850 K Street NW., Suite 400, Washington, DC 20006.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Timonthy McCarthy, Associate Director, Communications, 202–653–2705.

Agenda

I. Call to Order and Remarks of the Chairman
II. Approval of Minutes, May 25, 1983
III. Executive Director's Report
IV. Treasurer's Report
V. Personnel Committee Report
VI. Budget Committee Report:
  Approval of FY 1983 Budget Reallocations
  Approval of FY 1984 Line-item Budget
  Approval of FY 1985 Budget Submission
VII. Amendment of Bylaws

[No. 29, August 19, 1983]

Carol J. McCabe,

Secretary.

[S–1208–83 Filed 8–19–83; 3:47 pm]

BILLING CODE 6820–02–M

5

POSTAL SERVICE

Board of Governors

Amendment of Notice of Vote to Close Meeting

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 37335, August 17, 1983.

PREVIOUSLY ANNOUNCED DATE OF MEETING: August 29, 1983.

CHANGE: Meeting date changed to September 7, 1983.

CONTACT PERSON FOR MORE INFORMATION: David F. Harris (202) 245-3734.

David F. Harris,

Secretary.

[S–1204–83 Filed 8–19–83; 2:19 pm]

BILLING CODE 7710–12–M

6

SYNTHETIC FUELS CORPORATION

Meeting of the Board of Directors

ACTION: Notice of meeting.

SUMMARY: Interested members of the public are advised that a meeting of the Board of Directors of the United States Synthetic Fuels Corporation will be held on the date and at the time and place specified below. This public announcement is made pursuant to the open meeting requirements of Section 116(f) of the Energy Security Act (9 Stat. 611, 637; 42 U.S.C. 8701, 8712(f)(1) and Section 4 of the Corporation's Statement of Policy on Public Access to Board Meetings. During the meeting, the Board of Directors will consider a resolution to close a portion of the meeting pursuant to Article II, Section 4 of the Corporation's By-laws, Section 116(f) of the said Act and Section 4 and 5 of said Policy.

MATTERS TO BE CONSIDERED:

Chairman's Opening Remarks
Approval of Minutes
Operations Report of the Executive Vice President
Consideration of Organizational Matters
Resolution to Close Meeting

Closed Session (Room 403):

Review of Project Strategies

In addition, the Board of Directors will consider such other matters as may be properly brought before the meeting.

DATE AND TIME: August 29, 1983 at 9:00 a.m. (e.d.t.).

PLACE: Room 503, 2121 K Street NW., Washington, D.C. 20586.

PERSON TO CONTACT FOR MORE INFORMATION: If you have any questions regarding this meeting, please contact Mr. Owen J. Malone, Legal Services Group (202) 822–6336.

August 19, 1983.
United States Synthetic Fuels Corporation.
Jimmie R. Bowen,
Executive Vice President.

[S–1203–83 Filed 8–19–83; 12:20 pm]

federal register

Tuesday
August 23, 1983

Part II

Department of Labor

Wage and Hour Division

Migrant and Seasonal Agricultural Worker Protection Regulations; Correction

DEPARTMENT OF LABOR

Wage and Hour Division

29 CFR Part 500

Migrant and Seasonal Agricultural Worker Protection Regulations; Correction

AGENCY: Wage and Hour Division, Labor.

ACTION: Final rule; Correction.

SUMMARY: This document corrects the final text of Regulation 29 CFR Part 500, implementing the Migrant and Seasonal Agricultural Worker Protection Act (Pub. L. 97-470) 29 U.S.C., 1801 et seq. (MSPA), which was published on August 12, 1983 (48 FR 36736). This action is necessary to remove a comma in § 500.20(e) so as to correctly reflect the statutory language. This document also adds the forms listed as being in the Appendix.

FOR FURTHER INFORMATION CONTACT: Mr. William M. Otter, Administrator, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue, N.W., Washington, D.C. 20210, (202) 523-8305.

PART 500—[AMENDED]

The following corrections are made in FR Doc. 83-21665 appearing on page 36736 in the issue of August 12, 1983:

§ 500.20 [Corrected]

1. On page 36745, column one, the seventh line in § 500.20(e) is corrected by removing the comma so as to read "U.S.C. 3121(g)) and the handling,".

§ Appendices [Corrected]

2. On page 36765, add to the end of the document the forms constituting Appendix A, B, C, D as set forth below.

Signed at Washington, D.C. this 17th day of August, 1983.

William M. Otter,

Administrator, Wage and Hour Division, Employment Standards Administration.

BILLING CODE 4510-27-M

APPENDIX A

Migrant and Seasonal Agricultural Worker Protection Act

This federal law requires agricultural employers, agricultural associations, farm labor contractors and their employees to observe certain labor standards when employing migrant and seasonal farmworkers unless specific exemptions apply. Further, farm labor contractors are required to register with the U.S. Department of Labor.

Migrant and Seasonal Farmworkers Have These Rights

- To receive accurate information about wages and working conditions for the prospective employment
- To receive this information in writing and in English, Spanish or other languages, as appropriate
- To have the terms of the working arrangement upheld
- To have farm labor contractors show proof of registration at the time of recruitment
- To be paid wages when due
- To receive itemized, written statements of earnings for each pay period
- To purchase goods from the source of their choice
- To be transported in vehicles which are properly insured and operated by licensed drivers, and which meet federal and state safety standards
- For migrant farmworkers who are provided housing
  - * To be housed in property which meets federal and state safety and health standards
  - * To have the housing information presented to them in writing at the time of recruitment
  - * To have posted in a conspicuous place at the housing site or presented to them a statement of the terms and conditions of occupancy, if any

Workers who believe their rights under the act have been violated may file complaints with the department's Wage and Hour Division or may file suit directly in federal district court. The law prohibits employers from discriminating against workers who file complaints, testify or in any way exercise their rights on their own behalf or on behalf of others. Complaints of such discrimination must be filed with the division within 180 days of the alleged event.

For further information, get in touch with the nearest office of the Wage and Hour Division, listed in most telephone directories under U.S. Government, Department of Labor.

U.S. Department of Labor
Employment Standards Administration
Wage and Hour Division

The law requires employers to display this poster where employees can readily see it.

Ley de Protección de Trabajadores Migrantes y Temporales en la Agricultura

Esta ley federal exige que los patrones agrícolas, las asociaciones agrícolas, los contratistas de mano de obra agrícola (o troqueros), y sus empleados cumplan con ciertas normas laborales cuando ocupan a los trabajadores migrantes y temporales en la agricultura, a menos que se apliquen excepciones específicas. Los contratistas, o troqueros, tienen además la obligación de registrarse con el Departamento del Trabajo.

Los Trabajadores Migrantes y Temporales en la Agricultura Tienen los Derechos Siguientes

- Recibir detalles exactos sobre el salario y las condiciones de trabajo del empleo futuro
- Recibir estos datos por escrito en inglés, en español, o en otro idioma que sea apropiado
- Cumplimiento de todas las condiciones de trabajo como fueron presentadas cuando se les hizo la oferta de trabajo
- Al ser reclutados para un trabajo, ver una prueba de que el contratista se haya registrado con el Departamento del Trabajo
- Cobrar el salario en la fecha fijada
- Recibir cada día de pago un recibo indicando el salario y la razón de cualquier deducción
- Comprar mercancías al comerciante que ellos escojan
- Ser transportados en vehículos que tengan seguros adecuados y que hayan pasado las inspecciones federales y estatales de seguridad, y conducidos por choferes que tengan permisos de manejar
- Las garantías para los trabajadores migrantes a quienes se les proporcionen viviendas o alojamiento
  - * Viviendas que satisfazcan los requisitos federales y estatales de seguridad y de sanidad
  - * Al ser reclutados, recibir por escrito informes sobre las viviendas y su costo
  - * Recibir de su patron un aviso escrito explicando las condiciones de ocupación de la vivienda, o que tal aviso esté colocado en un lugar visible de la vivienda

Los trabajadores que crean haber sufrido una violación de sus derechos pueden presentar sus quejas a la División de Salarios y Horas o pueden presentar una demanda directamente a los tribunales federales. La ley prohibe cualquier discriminación o sanción hacia los trabajadores que presenten tales quejas, que hagan declaraciones, o que reclamen de cualquier manera sus derechos, sea a beneficio de sí mismos o a beneficio de otros. Hay que presentar las quejas de discriminación o de sanción a la división dentro de 180 días del suceso.

En caso de que se necesite más información, comuníquense con la oficina de la División de Salarios y Horas más cercana, que aparece en la mayoría de los directorios telefónicos bajo el título U.S. Government, Department of Labor.

Departamento del Trabajo de los EE.UU.
Administración de Normas de Empleo
División de Salarios y Horas

La ley exige que los patrones fijen este aviso en un lugar donde puedan verlo fácilmente los trabajadores.

APPENDIX B

MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION ACT

WORKER INFORMATION

1. Place of employment

_____

_____

_____

2. Period of employment

From _____ To _____

3. Wage rates to be paid

Hourly $ _____

Piece rate $ _____ per _____

4. Crops and kinds of activities

_____

_____

5. Transportation and other benefits, if any

Transportation _____ charges _____

_____ _____

Unemployment compensation insurance provided ☐ Yes ☐ No
Worker's compensation insurance provided ☐ Yes ☐ No

Other benefits _____ charges _____

6. For migrant workers who will be housed, the kind of housing available and cost, if any

_____ charges _____

_____ _____

7. List any strike, work stoppage, slowdown, or interruption of operation by employees at the place where the workers will be employed (If there are no strikes, etc., enter "None")

_____

8. List any arrangements which have been made with establishment owners or agents for the payment of a commission or other benefits for sales made to the workers (if there are no such arrangements, enter "None")

_____

_____

_____

Name of person providing this information

_____

The Migrant and Seasonal Agricultural Worker Protection Act requires the disclosure in writing of the foregoing information to migrant and day-haul workers upon recruitment, and to seasonal workers other than day-haul workers upon request when an offer of employment is made. This optional form may be used to provide the required information. Thereafter, any migrant or seasonal worker has the right to have, upon request, a written statement provided to him by his employer of the information described above. The optional form may also be used for this second requirement.

U.S. Department of Labor
Employment Standards Administration
Wage and Hour Division

Form WH-516 (Apr. 1983)

LA LEY DE PROTECCION DE TRABAJADORES MIGRANTES Y TEMPORALES EN LA AGRICULTURA

INFORMACION PARA LOS TRABAJADORES

1. Lugar de empleo

_____

_____

_____

2. Período de empleo

Desde el _____ Hasta el _____

3. Base de pago

Por hora $ _____

Por contrato $ _____ por _____

4. Clases de cultivos y de trabajo

_____

_____

5. Transportación y cualquier beneficio adicional que sea proporcionado

Transportación _____

Costo al trabajador _____

Beneficios adicionales _____

Costo al trabajador _____

Se provee seguro de trabajo bajo la ley de impuestos de desempleo. ☐ sí ☐ no

Se provee seguro de compensación de trabajo. ☐ sí ☐ no

6. Para los trabajadores a quienes se les proporcionen viviendas, la clase de viviendas y cualquier costa

_____ Costo al _____

_____ trabajador _____

7. Indique si hay una huelga, un paro de trabajo, una huelga intermitente, o una interrupción del trabajo efectuada por trabajadores en el lugar donde van a trabajar (si no hay ninguna huelga, etc., escriba "Ninguna")

_____

_____

8. Indique si el patrón tiene acuerdos con comerciantes o agentes de los cuales recibe una comisión u otro beneficio por las compras que los trabajadores hagan (si no existe tal acuerdo, escriba "Ninguno")

_____

_____

_____

Nombre de la persona que proporciona esta información

_____

La Ley Protección de Trabajadores Migrantes y Temporales en la Agricultura exige que reciban estos datos por escrito al ser reclutados los trabajadores migrantes y los que se reúnen diariamente en algún lugar para ser reclutados, ocupados, y transportados al lugar de empleo. La ley también les concede a los trabajadores temporales el derecho de pedir esta información cuando se les haga una oferta de trabajo. El patrón puede utilizar esta forma para proporcionar los informes necesarios.

De ahí en adelante los trabajadores migrantes y temporales tienen derecho de pedirle a su patrón que les dé una declaración escrita persentando todos los datos a los cuales se refiere más arriba. El patrón puede utilizar esta forma también para este segundo propósito.

Departamento del Trabajo de los EE. UU.
Administración de Normas de Empleo
División de Salarios y Horas

APPENDIX C

HOUSING TERMS AND CONDITIONS

Important Notice to Migrant Agricultural Worker: The Migrant and Seasonal Agricultural Worker Protection Act requires the furnishing of the following information.

1. This housing is provided by

   Name _____

   Address _____

   _____

2. Individual(s) in charge

   Name _____

   Address _____

   _____

   Phone _____

3. Mailing address of housing facility

   Address _____

   _____
   City & state/Zip code

   Phone _____

4. Conditions of occupancy

Who may live in housing facility
Charges made for housing (if none, so state)
Meals provided (if none, so state)
Charges for utilities (if none, so state)
Other charges, if any
Other conditions of occupancy

CONDICIONES DE OCUPACION DE LA VIVIENDA

Aviso Importante Para el Trabajador Migrante en la Agricultura: La Ley de Protección de Trabajadores Migrantes y Temporales en la Agricultura exige que Ud. conozca los informes siguientes.

1. Dueño de la vivienda (casa, apartamento, etc.)

   Nombre _____

   Dirección _____

   _____

2. Persona encargada de la vivienda

   Nombre _____

   Dirección _____

   _____

   Teléfono _____

3. Dirección de la vivienda

   Número y calle _____

   _____
   Ciudad y estado/número ZIP

   Teléfono _____

4. Condiciones de ocupación

Personas que pueden ocupar la vivienda
Renta por semana: $___ por mes: $___(si no se cobra, escriba "Ningún costo al trabajador")
Comida (si no proporciona comida, escriba "Ninguna comida")
Costo de la comida (si no hay, escriba "Ningún costo al trabajador")
Costo de la luz, el agua, el gas, etc. (si no hay, escriba "Ningún costo al trabajador)
Cualquier otro costo
Otras condiciones de ocupación

Important Notice to Farm Labor Contractor, Agricultural Employer, or Agricultural Association:

This form may be used for the disclosure required by section 201(c) of the act. It must be posted in a conspicuous place or presented to each worker in English, Spanish, or another language, as appropriate.

Aviso Importante Para el Contratista de Mano de Obra Agrícola (el Troquero), el Patrón, o la Asociación Agrícola:

Puede utilizar esta forma para darles a los trabajadores migrantes los informes que exige la sección 201(c) de la ley. Tiene que exhibirlo en un lugar donde puedan verlo fácilmente los trabajadores o presentarle una copia a cada trabajador, y tiene que usar el inglés, el español, u otro idioma que sea apropiado.

U.S. Department of Labor
Employment Standards Administration
Wage and Hour Division

Departamento del Trabajo de los EE. UU.
Administración de Normas de Empleo
División de Salarios y Horas

Form WH-521 (Apr. 1983)

APPENDIX D (English)

Employee _____ Social Security No. _____

Address _____

Workweek Ending (Month, day, year)

Day/Date	Sun/	Mon/	Tues/	Wed/	Thurs/	Fri/	Sat/
Starting Time							
Quitting Time							
Hours Worked							
Crop/Task / Units Done							
Rate of Pay (Hourly or Piece Rate)							
Daily Pay							

Total Hours Worked in Week

Total Gross Pay

ITEMIZED DEDUCTIONS

FICA	
Federal Tax	
State Tax	
Rent	
Food	
Transportation	
Other	
Other	
Other	
Total Deductions	
Net Pay (Amount Due Employees)	Date Paid:

Employer _____

Address _____

Social Security Employer I.D. No. _____

Note: Properly filled out, this form will satisfy the requirements of sections 201(d) (2) and 301(c) (2) of the Migrant and Seasonal Agricultural Worker Protection Act. The act requires farm labor contractors, agricultural employers and agricultural associations to make, keep and preserve records for three years of the above information. Each worker must be given an itemized statement of this information covering each pay period. This is an optional form which may be used to comply with the Act.

Instructions are on the reverse.

Form WH-501 (April 1983)

INSTRUCTIONS

IDENTIFYING INFORMATION: **Employee** – Enter employee's full name and Social Security number. **Address** – Enter Employee's permanent address. **Employer Address** – Enter name of the employer making the payment, the permanent address of the employer and the Social Security employer identification number. The employer may preprint his name, address, and Social Security employer identification number.

PAYROLL INFORMATION: **Workweek Ending** – Enter the month, day and year on which the employee's payroll workweek ends. **Day/Date** – Enter the calendar date of the day worked. **Starting Time – Quitting Time** – Enter the time work started and ended each day. **Hours Worked** – Enter the total time actually worked each day. Subtract **bona fide** meal periods. **Crop/Task – Units Done** – Enter the kind of work (such as picking oranges per bin). Enter the number of units produced if the employee is paid on a piece work or task basis. **Rate of Pay** – Enter the hourly or piece rate of pay. **Daily Pay** – Enter the amount of the daily pay computed at the hourly and/or piece rate.

WEEKLY TOTALS: **Total Hours Worked in Week** – Total the daily hours worked and enter the total. **Total Gross Pay** – Total the daily pay and enter the total.

ITEMIZED DEDUCTIONS: **FICA** (Social Security) – Enter amount withheld. **Federal Tax** – Enter the amount withheld. **State Tax** – Enter the amount withheld. **Rent, Food, Transportation, and Other** – Enter deductions, if made, for each. Identify the purpose of "other" deductions. **Total Deductions** – Enter total deductions in right column and then transfer to left. Subtract total deductions from total Gross Pay – Enter the result as **Net Pay** (Amount Due Employee). Enter date worker is paid.

APPENDIX D (Spanish)

OMB No. 1215-0149

APPENDIX D (Spanish)

Trabajador _____ Número del Seguro Social _____

Dirección _____

OMB No. 1215-0149
Expires: 03-31-86

Fin de la semana trabajada (mes, día, año)

Día/fecha	domingo/	lunes/	martes/	miércoles/	jueves/	viernes/	sábado/	Total de horas trabajadas en la semana	DEDUCCIONES	
Hora de comenzar									Impuesto del Seguro Social	
Hora de terminar									Impuesto federal	
Horas trabajadas									Impuesto estatal	
Cultivo/trabajo Unidades terminadas									Renta	
								Salario bruto	Comida	
									Transportación	
									Otra deducción	
Base de pago (por hora o por contrato)									Otra deducción	
Salario diario									Otra deducción	
									Total de deducciones	
									Salario neto (Cantidad debida al trabajador)	Día de pago

Patrón _____

Dirección _____

Número de identidad del patrón para el Seguro Social _____

Aviso: Al llenar correctamente esta forma, el patrón satisface los requisitos de las secciones 201(d) (2) y 301(c) (2) de la Ley de Protección de Trabajadores Migrantes y Temporales en la Agricultura. Esta ley exige que los contratistas de mano de obra agrícola (los troqueros), los patrones agrícolas, y las asociaciones agrícolas lleven libros o cuentas que contengan los datos citados anteriormente, y que los preserven por tres años. Cada día de pago el patrón tiene que darles a los trabajadores un recibo que indique el método de determinar el salario y la razón de cualquier deducción. Se puede utilizar esta forma para cumplir con la ley.

Form WH-501(a) (April 1982)

INSTRUCCIONES

IDENTIDAD: **Trabajador y su dirección** — Anote el nombre y apellido del trabajador, su número de Seguro Social, y su domicilio permanente. **Patrón y su dirección** — Anote el nombre del patrón quien les paga a los trabajadores, su domicilio permanente, y su número de identidad para el Seguro Social. El patrón puede imprimir por anticipado su nombre, su dirección, y su número de identidad.

REMUNERACION DEL TRABAJADOR: **Fin de la semana trabajada** — Anote el mes, el día, y el año en que termina la semana de trabajo. **Día/fecha** — Anote la fecha del día de trabajo. **Hora de comenzar y hora de terminar** — Para cada día, anote la hora de comenzar el trabajo y la hora de terminarlo. **Horas trabajadas** — Anote el total de horas trabajadas cada día. Puede excluir el tiempo verdaderamente concedido para las comidas. **Cultivo/trabajo y unidades terminadas** —Anote la clase de trabajo (por ejemplo, el piscar naranjas en canastas, cajas, etc.). Si le paga por contrato al trabajador, anote el número de unidades de trabajo terminadas. **Base de pago** — Anote el salario por hora o por contrato. **Salario diario** — Anote el salario diario que se calcula a base del salario por hora, del salario por contrato, o de ambos.

TOTALES PARA LA SEMANA: **Total de horas trabajadas en la semana** — Sume las horas trabajadas cada día y anote el total. **Salario bruto** — Sume los salario diarios y anote el total.

DEDUCCIONES: **Impuesto del Seguro Social** — Anote la cantidad deducida. **Impuesto federal** — Anote la cantidad deducida. **Impuesto estatal** — Anote la cantidad deducida. **Renta, comida, transportación, y otra deducción** — Anote cualquier deducción de estas categorías. Identifique la clase de la "otra deducción." **Total de deducciones** — Anote el total de deducciones en la columna de la derecha y luego en la columna de la izquierda. Reste el total de las deducciones al salario bruto, y anote el resto como el **salario neto**. Anote la fecha en que se lo paga al trabajador como el **día de pago.**

★U.S. Government Printing Office: 1983—000-000

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BILLING CODE 4510-27-C

29 CFR Part 500

Migrant and Seasonal Agricultural Worker Protection Regulations

Correction

In FR Doc. 83-21665 beginning on page 36736 in the issue for Friday, August 12, 1983, make the following changes:

1. On page 36743, in the second column, lines 8 and 9 of § 500.1(d), remove the words "migrant or seasonal agricultural workers".

2. On page 36754, third column, in § 500.102(g), in line 5, the word "standard", should be "standards", and in line 8, "United Stated" should be "United States".

3. On page 36755, the third column, in § 500.105(b)(1)(ii)(G), the reference to "paragraph (b)(8)" in line 10 should be changed to refer to "paragraph (b)(1)(ii)(H)".

4. On page 36757, in § 500.105(b)(2)(xv), in the first column, the second line, reference to "§ 500.105(b)(3)(f)" should be changed to refer to " paragraph (b)(3)(vi)(E)". Also, on the same page, (§ 500.105(b)(3)(vi)(J), in the third column, 6 lines from the bottom, reference to "(f)(6)" should be changed to refer to "(b)(3)(vi)(F)".

BILLING CODE 1505-01-M

federal register

Tuesday
August 23, 1983

Part III

Nuclear Regulatory Commission

Monthly Notice; Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

NUCLEAR REGULATORY COMMISSION

Monthly Notice; Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law (Pub. L.) 97–415, the Nuclear Regulatory Commission (the Commission) is publishing its regular monthly notice. Pub. L. 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This monthly notice includes all amendments issued, or proposed to be issued, since the date of publication of the last monthly notice which was published on July 20, 1983 (48 FR 33076–33103), through August 15, 1983.

NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch.

By September 26, 1983 the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene to filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR § 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of this subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene becomes parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment to make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so

inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to *(Branch Chief):* petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner had made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the local public document room for the particular facility involved.

Alabama Power Company, Docket Nos. 50–348 and 50–364, Joseph M. Farley Nuclear Plant, Units 1 and 2, Houston County, Alabama

Date of amendment request: October 25, 1982.

Description of amendment request: The proposed change would modify the frequency for licensee's audits of the Facility Emergency Program from every 24 months to every 12 months.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for making a "no significant hazard considerations" determination by providing certain example (48 FR 14870). One of the examples is a change to make a license conform to the regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulations. The proposed change was identified to the licensee in our Generic Letter No. 82–17 dated October 1, 1982, as a needed change to be consistent with the regulations, 10 CFR 50.54(t). The proposed change matches this example. Another example given by the Commission which also applies is a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications; for example, a more stringent surveillance requirement. The frequency of audits required by the licensee would be doubled from the previously required. On these bases, the staff proposes to determine that this change involves no significant hazards considerations.

Local Public Document Room Location: George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303.

Attorney for licensee: George F. Trowbridge, Esquire, 1800 M Street, N.W., Washington, D.C. 20036.

NRC Branch Chief: Steven A. Varga.

Alabama Power Company, Docket Nos. 50–348 and 50–364, Joseph M. Farley Nuclear Plant, Units 1 and 2, Houston County, Alabama

Dates of amendments request: November 16, 1982, as supplemented February 1, 1983 and June 29, 1983.

Description of amendments request: The proposed amendments would consist of Technical Specification changes including two licensee requests and one supplement. Our preliminary review indicates the changes could be made without significant technical or safety implications. The changes fit into three general groups:

1. Most changes would be strictly editorial corrections and changes in nomenclature or numbers of fire hydrants, smoke detectors and isolation sensors located in various tables of the Technical Specifications.

2. Two changes would correct the Technical Specifications to agree with Commission regulations 10 CFR 50.49 and 10 CFR 73.55.

3. Two of the changes would revise organizational charts to reflect current facility and offsite groups. The facility organization would be expanded to add a quality control supervisor and a plant modification supervisor. other minor changes would be made consistent with the changes in titles. The offsite organization changes would revise one management title to show that the Plant Manager reports directly to higher management. The title of General Manager—Nuclear Generation would become Manager Nuclear Operations and Administration. The Plant Manager would report directly to the offsite Vice-President Nuclear Generation.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards considered not likely to involve a significant hazards consideration (48 FR 14870). Example "(i) A purely administrative change to technical specifications: for example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature."

Certain of the changes appear to fit into this example: Changing P–4 to P–11 on page ¾ 3–24 would correct an error, as would changing sensor locations of the high energy line break isolation sensors in Table 3.3–10, changing or adding fire detection instrumentation in Table 3.3–12, changing "breaker" to "disconnect device" on page ¾ 5–2 and ¾ 5–4, correcting the approximated reactor coolant system pressure to reflect the actual plant pressure range for RHR system automatic isolation and interlock action, correcting the specifications to show the recently installed 8-inch vent valve which replaced the old 18-inch valve, correcting a table listing fire hydrants to clearly note which hydrants are used or shared between units, and deletion of a test exemption no longer applicable.

The proposed change in the licensee's audit frequency for the Security Plan from every 24 months to every 12 months fits Commission example "(ii) A change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications: for example, a more stringent surveillance requirement." Also, since regulation 10 CFR 73.55(g)(4) requires the Technical Specification to be modified, this change fits into Commission example "(vii) A change to make a license conform to changes in the regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulations."

Adminstrative Technical Specification 6.16 are schedular requirements for qualification of electrical equipment. The Commission has revised the schedular requirements by regulation 10 CFR 50.49. This change would only correct the Technical Specification by deleting the schedules which are no longer applicable. This change would fit Commission example (vii) stated above.

Technical Specification 7.1 was a test exemption during the augmented low power test program. Since the program was completed on Unit No. 2 during the startup test program prior to Cycle 1 operation the specification is no longer applicable.

The licensee proposed deletion of the Technical Specification 7.1 as an administrative correction consistent

with the Commission example (i) stated above. We agree.

The last two changes would notify the organizational structure of the facility organization and the offsite organization.

(1) The proposed facility organization would expand with new positions of Quality Control Supervisor and Plant Modification Supervisor both intended as efficiency improvements in the areas of quality control and plant modifications at the reactor sites. It is an expansion of the Performance and Planning Group. The licensee has stated the change is administrative. Figure 6.2–2 is in the Administrative Controls part of the Technical Specifications. However, the change might also appropriately fit into Commission example "(ii) A change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications: for example, a more stringent surveillance requirement."

(2) The proposed offsite organization changes would allow direct reporting of the plant manager to the headquarters officer responsible for the plant. This direct reporting should enhance nuclear safety by the direct line of communication between the plant manager and the corporate officer of the company directly responsible for nuclear operations. The licensee has stated the change is administrative to correct Technical Specifications based on a corporate organizational change and is consistent with Commission item (i). Although the changes do not strictly fit the cited example, the changes appear to strengthen the organizational structure and would not appear to involve a significant hazards consideration.

Accordingly, based on our preliminary review, the Commission proposes to determine that these changes do not involve a significant hazards consideration.

Local Public Document Room location: George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303.

Attorney for licensee: George F. Trowbridge, Esquire, 1800 M Street, N.W., Washington, D.C. 20036.

NRC Branch Chief: Steven A. Varga.

Alabama Power Company, Docket No. 50–364, Joseph M. Farley Nuclear Plant, Unit No. 2, Houston, County, Alabama

Date of amendment request: November 24, 1982.

Description of amendment request: The amendment would add requirements to the Technical Specifications which the Commission required to be added after the first refueling outage. These additions include: (1) a tabulation of containment penetration overcurrent protection devices added per License Condition 2.C.(19)(b), (2) changes to the containment ventilation system to reflect the newly installed 8-inch vent valves added per License Condition 2.C.(17) and (3) a listing of safety-related mechanical snubbers added per Technical Specification Table 3.7–4b notation.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for making a no significant hazard determination by providing certain examples (48 FR 14870). The example which fits the proposed amendment is "(ii) A Change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications: For example, a more stringent surveillance requirement." During the licensing process for Unit 2 certain License Conditions were imposed by the Commission to assure that future changes were made to the design of plant systems. The addition of containment penetration overcurrent protection devices and a smaller containment ventilation vent valve were required by the end of the first refueling outage. The proposed amendment would add the list of overcurrent protection devices and would reflect the smaller 8-inch ventilation valve. In addition, Technical Specification Table 3.7–4b contained a note which required the licensee to provide a list of safety-related mechanical snubbers following the first refueling outage. The licensee has proposed the listing. On the basis that these changes are considered additional restrictions being put into the Technical Specifications, the Commission proposes to determine that the amendment request does not involve a significant hazards consideration.

Local Public Document Room location: George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303.

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NRC Branch Chief: Steven A. Varga.

Alabama Power Company, Docket No. 50–364, Joseph M. Farley Nuclear Plant, Unit No. 2, Houston, County, Alabama

Date of amendment request: December 10, 1982

Description of amendment request: The amendment would modify Technical Specifications to delete eight (8) non-safety related hydraulic snubbers from Table 3.7–4a. The change was proposed as an administrative change by the licensee's application date December 10, 1982.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for making a no significant hazards consideration determination by providing certain examples (48 FR 14870). The example which the proposed amendment fits is: "(i) A purely administrative change to Technical Specifications; for example, a change to achieve consistency throughout the Technical Specifications, correction of an error, or a change in nomenclature."

The licensee has stated that the deletion of eight (8) non-safety related hydraulic snubbers from Technical Specification Table 3.7–4a is admininistrative. We agree. Table 3.7–4a is a 24-page listing of safety related hydraulic snubbers identified by the licensee when the Technical Specifications were developed for issuance of the initial operating license. The licensee has now identified errors in this extensive list of snubbers. Since these snubbers are located on the main steam piping inside the turbine building and are not required for any safety related function, the Technical Specification Table should be corrected. Otherwise, unnecessary surveillance tests and operability criteria are imposed for these non-safety related snubbers. The Commission intends that only safety related snubbers be subjected to these restrictions. Therefore, the Commission proposes to determine that the amendment would not involve a significant hazards consideration.

Local Public Document Room location: George S. Houston, Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303.

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NRC Branch Chief: Steven A. Varga.

Alabama Power Company, Docket Nos. 50–348 and 50–364, Joseph M. Farley Nuclear Plant, Unit Nos. 1 and 2

Date of amendment request: December 30, 1982.

Description of amendment request: The amendments revise two related parts of the Technical Specifications; one for the river water system and the other for the two associated diesel generators (DG's). These DG's provide emergency power to the river water pumps. The river water system provides

makeup water to the seismically designed pond which then provides to both plants the service water and a source of cooling water in case of a loss of coolant accident. Both the river water system and the 100 acre pond are identified as "ultimate heat sink" in the existing Technical Specifications. The amendments would delete the river water system limiting condition for operation and the surveillance tests entirely and would reduce the diesel generator 18 month load test value for two of five diesel generators by about eight percent. The load test value is determined by the maximum calculated accident load which would be reduced by deletion of the river water system as an accident load.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning application of these standards by providing certain examples (48 FR 14870) considered not likely to involve significant hazards consideration. One of these examples relates to a change which may reduce in some way a safety margin, but the results of the change are clearly within all acceptable criteria specified in the Standard Review Plan. The deletion of Technical Specifications for the river water system would not mean that the river water system with six pumps would be deleted from the facility. But, the Technical Specification requirements would be deleted. The river water pumps would be available as needed to transfer makeup water from the river to the 100 acre seismically designed pond. The pond is the actual ultimate heat sink. The existing limiting condition for operation and the surveillance requirements for the pond would remain in the Technical Specifications. When the pond water level drops below the lower limit, 48 hours is allowed to recover the level or both plants would be in hot shutdown. This requirement remains unchanged.

Thus, the change being made would only bring the Technical Specifications in conformance with our current requirments. The plant as licensed is in conformance with General Design Criteria and specifically conforms to Regulatory Guide 1.27 referenced in Standard Review Plan 9.2.5 when Unit 2 was licensed. The diesel generator load limit change fits the Commission's example of a purely administrative change to Technical Specifications to reduce to upper load limit to a value required after elimination of the river water pumps as emergency loads. The reduction in the 18 month surveillance load limit value by about 8% is insignificant and is administrative in nature.

Local Public Document Room location: George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303.

Attorney for the Licensee: George F. Trowbridge, Esquire, 1800 M Street, N.W., Washington, D.C. 20036.

NRC Branch Chief: Steven A. Varga.

Alabama Power Company, Docket Nos. 50-348 and 50-364, Joseph M. Farley Nuclear Power Plant, Unit Nos. 1 and 2, Birmingham, Alabma

Date of amendment request: April 6, 1983.

Description of amendment request: The change would correct an administrative error in the Technical Specifications by deleting applicability of a footnote for Item 1.e. in Table 3.3-3. The change is being made at the Commissions request to correct the error found during the NRC staff review of multiplant Item B-32, Blocked Safety Injection Signal During Cooldown. The footnote is clearly in error as the logic circuitry is designed not to allow the bypass which the footnote indicates is available in Mode 3. A high differential pressure between steam lines will initiate safety injection, turbine trip and feedwater isolation in Modes 1, 2 and 3. A bypass during Mode 3 is erroneously indicated by a symbol (##) which will be deleted by this amendment.

Basis for proposed no significant hazards consideration determination: The Commission has provided examples of amendments not likely to involve significant hazards considerations (48 FR 14870). One of these examples relates to a purely administrative change to correct an error in Technical Specifications. This deletion of the footnote applicability symbol fits the example.

Local Public Document Room location: George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303.

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NRC Branch Chief: Steven A.Varga.

Alabama Power Company, Docket Nos. 50-348 and 50-364, Joseph M. Farley Nuclear Plant, Unit No. 2, Houston County, Alabama

Date of amendment request: May 3, 1983, supplemented July 29, 1983.

Description of amendment request: The proposed amendments would modify the Technical Specification surveillance requirements for the auxiliary building and service water batteries. The existing surveillance requirements were developed by the licensee and approved by the Commission during the licensing of Farley Unit 2. Subsequently, Unit 1 surveillances were made identical to the Unit 2 requirements for consistency. These surveillance requirements include load tests and checks of such things as battery voltage, electrolyte level, specific gravity, and general battery conditions at specified intervals of time to assure continued operability. The licensee's proposed changes would update the surveillances to conform to the newer format of the Commission's Standard Technical Specifications (NUREG-0452 Revision 4) based on a more recent IEEE standard than was used earlier. Some minor exceptions to the newer standards are also proposed by the licensee.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of standards considered not to involve a significant hazards consideration by providing certain examples (48 FR 14870). By letter of July 29, 1983, the licensee evaluated the proposed changes and stated that their determination is consistent with example (vi).

This Commission example is "(vi) A change which either may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan: for example, a change resulting from the application of a small refinement of a previously used calculational model or design method."

On this basis, the licensee has determined that a significant hazards consideration is not involved in accordance with 10 CFR 50.92. The Commission's preliminary review indicates that the changes would be clearly within all acceptable criteria with respect to the battery system surveillances and would be in conformance with the latest revision of NUREG-0452 and with the Standard Review Plan. For these reasons, the Commission proposes to determine that the amendment involves no significant hazards consideration.

Local Public Document Room location: George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303.

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NRC Branch Chief: Steven A. Varga.

Alabama Power Company, Docket Nos. 50-348 and 50-364, Joseph M. Farley Nuclear Plants, Units 1 and 2, Houston County, Alabama

Date of amendment request: June 6, 1983.

Description of amendment request: The proposed change would modify the Technical Specifications in the Administrative Controls section based on NUREG-0737, Item I.A.1.3. By Generic Letters the Commission advised licensees of the need to establish guidelines for overtime of operating personnel. The proposed amendment would incorporate these guidelines.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning application of standards considered not to involve significant hazards consideration by providing certain examples (48 FR 14870). One of the examples which is similar to the proposed change is "(ii) A change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications: for example, a more stringent surveillance requirement."

The licensee states that the change incorporates current practices and reflects commitments made previously. However, the additional restriction to be put into the Technical Specification would assure that personnel who perform safety-related functions would be assigned duties in accordance with Commission approved guidelines of NUREG-0737. Therefore, on the basis, the staff proposes to determine that this change involves no significant hazards considerations.

Local Public Document Room location: George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303.

Attorney for licensee: George F. Trowbridge, Esquire, 1800 M Street, NW., Washington, D.C. 20036.

NRC Branch Chief: Steven A. Varga.

Alabama Power Company, Docket No. 50-364, Joseph M. Farley Nuclear Plant, Unit No. 1, Houston County, Alabama

Date of amendment request: June 17, 1983, supplemented on July 8, 1983.

Description of amendment request: The Technical Specifications would be amended on a one-time basis to extend a required visual inspection of inaccessible hydraulic snubbers for about three months or until the next shutdown of sufficient duration. The visual inspecxtion is a reinspection required six months ± 25% subsequent to inspections which revealed two inoperable snubbers. During the fourth refueling outage which ended mid-January 1983 two snubbers were declared inoperable by the licensee. This required repair and would require a subsequent six month reinspection of all inaccessible snubbers. Such reinspection would require plant shutdown to cold conditions. The licensee has requested relief from this Technical Specification requirement until the fifth refueling outage unless a five day shoutdown to cold condition occurs in the interim period.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of standards considered as no significant hazards considerations (48 FR 14870). The licensee by supplemental application dated July 8, 1983, has stated that the one-time change is consistent with Commission example (vi). Example (vi) is restated here.

"(vi) A change which either may result in some increases to the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan: for example, a change resulting from the application of a small refinement of a previously used calculational model or design method."

Our preliminary evaluation is that we agree with the licensee's determination which was stated as follows:

Both snubbers that were declared inoperable had extenuating circumstances (loss of fluid by personnel error during inspection on one snubber and mechanical interference on the other snubber) with no evidence of generic failure mechanisms. The snubbers were repaired and retested with satisfactory results. Previous engineering analysis/review has shown that the failure of a single support on a seismic line would not adversely affect the capability of the line to withstand a seismic event (due to design conservatism). Previous inspections have been conducted at each refueling to verify snubber operability and the maximum number of inoperable snubbers identified at any inspection has been 1 or 2 with several inspections identifying no inoperable snubbers. Additionally, the Farley Nuclear Plant site resides in an area where seismic risk has been determined to be minimal by ESSA/Coast and Geodetic Survey. The probability of a seismic event during the extension period of three months is insignificant for the Farley Nuclear Plant site. Although this change may result in some increase in the consequences of a previously analyzed accident, the results of the change do not violate criteria with respect to the system or component specified in the Standard Review Plan.

Accordingly, on this basis and on the basis of our preliminary review the Commission proposes to determine that the one-time change dose not involve a significant hazards consideration.

Local Public Document Room location: George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303.

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NRC Branch Chief: Steven A. Varga.

Arkansas Power and Light Company, Docket No. 50-313, Arkansas Nuclear One, Unit No. 1, Pope County, Arkansas

Date of amendment request: March 9, 1979, supplemented September 5, 1980.

Description of amendment request: The amendment would permit operation after approval of changes to the Radiological Effluent Technical Specifications that would bring them into compliance with Appendix I of 10 CFR Part 50. It provides new Technical Specification sections defining limiting conditions for operation and surveillance requirements for radioactive liquid and gaseous effluent monitoring; concentration, dose and treatment of liquid, gaseous and solid wastes; total dose; radiological environmental monitoring that consists of a monitoring program, land use census, and interlaboratory comparison program. This change would also incorporate into the Technical Specifications the bases that support the operation and surveillance requirements. In addition, some changes would be made in administrative controls, specifically dealing with the process control program and the offsit dose calculation manual. The proposed amendment would remove the current Radiological Effluent Technical Specifications from the Appendix "B" Technical Specifications.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). One of the examples (ii) of actions not likely to involve a significant hazards consideration relates to changes that constitute additional restrictions or controls not presently included in the Technical Specifications.

The Commission, in a revision to Appendix I, 10 CFR Part 50 required licensees to improve and modify their radiological effluent systems in a manner that would keep releases of radioactive material to unrestricted areas during normal operation as low as is reasonably achievable. In complying with this requirement, it became necessary to add additional restrictions and controls to the Technical Specifications to assure compliance. This caused the addition of Technical Specifications described above. The staff proposes to determine that the application does not involve a significant hazards consideration since the change constitutes additional restrictions and controls that are not currently included in the Technical Specifications in order to meet the Commission mandated release of "as low as is reasonably achievable".

Local Public Document Room location: Arkansas Tech University, Russellville, Arkansas.

Attorney for licensee: Nicholas S. Reynolds, Debevoise and Liberman, 1200 17th Street, NW., Washington, D.C. 20036.

NRC Branch Chief: John F. Stolz.

Arkansas Power and Light Company, Docket No. 50-313, Arkansas Nuclear One, Unit No. 1, Pope County, Arkansas

Date of amendment request: October 31, 1980.

Description of amendment request: The amendment would change the Technical Specifications to provide that: (1) The pressurizer electromatic relief valve (ERV) be operational with a setpoint of 2450 psig or the associated block valve would be closed, and (2) a special report be submitted if the ERV is not operational for more than a 24-hour period.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). One of the examples of actions involving no significant hazards considerations relates to a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications: for example, a more stringent surveillance requirement. The licensee's proposed amendment would provide a new Technical Specification requirement which would provide more stringent operational requirements on the ERV and provide additional reporting requirements concerning the operation of the ERV. On this basis, the staff proposes to determine that the proposed amendment does not involve a significant hazards consideration.

Local Public Document Room location: Arkansas Tech University, Russellville, Arkansas.

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NRC Branch Chief: John F. Stolz.

Arkansas Power and Light Company, Docket No. 50-313, Arkansas Nuclear One, Unit No. 1, Pope County, Arkansas

Date of amendment request: August 8, 1983.

Description of amendment request: The amendment would change the Technical Specifications to require a delay in the installation in the Davis-Besse 1 (DB-1) reactor of the ANO-1 reactor vessel materials properties capsule ANI-F from prior to the fourth DB-1 cycle to the fifth DB-1 cycle. Additionally, capsule ANI-D would be inserted in DB-1 location YZ rather than WZ, and the capsule ANI-F, which would be scheduled for insertion in the DB-1 reactor prior to the fifth DB-1 cycle, would be inserted in location YX instead of YZ.

This change would allow the Babcock and Wilcox (B&W) Owners Group research capsule DB-LGI to remain in the DB-1 reactor and accumulate neutron fluence equivalent to the fluence at the ¼T location of a typical B&W 177FA plant at the end of life.

The delay in inserting ANO-F would have no adverse effect on the ANI-1 Reactor Vessel Surveillance Program (RVSP) because it contains only base and Heat Affected Zone materials (no weld metal) which are not expected to affect operating limits of the plant. The ANI-F capsule would be irradiated to a level approximately equivalent to the expected peak fluence at the end of life at the inside surface of the ANO-1 reactor vessel and then held as a standby capsule as specified by 10 CFR 50, Appendix H, and ASTM E-185.

The proposed changes in capsule locations would have no effect on the ANO-1 RVSP as the proposed locations are in the same relative positions to the core as those in the current insertion schedule.

Basis for proposed no significant hazards consideration determination: The data from the ANO-1 RVSP provides the basis for the operating limits of the ANO-1 reactor which are related to the safety settings. However, because capsule ANI-F is a spare capsule and does not contain samples of weld material, which is controlling, the data resulting from ANI-F capsule samples after irradiation in the DB-1 would not change the basis for the operating limits of ANO-1. This information is obtained from other capsules, unaffected by the proposed amendment. Also, since the proposed change in location of the ANI-D capsule would be in the same relative position of the core, there would be no effect on the ANO-1 RVSP. Therefore, the proposed amendment would not provide a relaxation of the bases for limiting safety settings. Furthermore, the amendment has no effect on the present operation of the facility, and thus would not result in a significant increases in the probability or consequences of an accident previously considered, or a significant reduction in a margin of safety, nor create the possibility of an accident new and different from an accident previously considered.

On this basis, the Commission proposes to determine that the proposed amendment does not involve a significant hazards consideration.

Local Public Document Room Location: Arkansas Tech University, Russellville, Arkansas.

Attorney for licensee: Nicholas S. Reynolds, Debevoise and Liberman, 1200 17th Street, NW., Washington, D.C. 20036.

NRC Branch Chief: John F. Stolz.

Arkansas Power and Light Company, Docket Nos. 50-313 and 50-368, Arkansas Nuclear One, Unit Nos. 1 and 2, Pope County, Arkansas

Date of amendment request: October 31, 1980.

Description of amendment request: The amendments would revise the Technical Specifications to incorporate hydrogen/oxygen concentration limitations and hydrogen/oxygen monitoring requirements in the radioactive waste gas systems. The application was submitted in response to an NRC request to incorporate the applicable current staff positions, presented in NUREG-0472, "Radiological Effluent Technical Specifications for PWRs," to ensure compliance with 10 CFR 50, Appendix I. The implementation of the proposed changes is expected to reduce significantly the likelihood of hydrogen explosions in the radioactive waste gas systems.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards by providing certain examples (48 FR 14870). The examples of actions involving no significant hazards include changes that constitute

additional limitations not presently included in the Technical Specifications and that make the license conform to changes in the regulations. Since the proposed changes add requirements and ensure compliance with the regulations in accordance with staff positions, the staff proposes to determine that the application does not involve a significant hazards consideration.

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Attorney for licensee: Nicholas S. Reynolds, Esq., Debevoise and Liberman, 1200 Seventeenth Street, NW., Washington, D.C. 20036.

NRC Branch Chief: Robert A. Clark, John F. Stolz.

Arkansas Power and Light Company, Docket Nos. 50–313 and 50–368, Arkansas Nuclear One, Unit Nos. 1 and 2, Pope County, Arkansas

Date of amendment request: February 23, 1983 and April 18, 1983.

Description of amendment request: The amendments would revise the Technical Specifications to reflect a recent reorganization of the Energy Supply Department of Arkansas Power & Light Company (AP&L) and the position title change of the Assistant Vice President, Nuclear Operations, to the Vice President, Nuclear Operations. The reorganization has resulted in changes in the membership of the AP&L Safety Review Committee (SRC). However, the effectiveness of the independent review and audit function of the SRC would not be reduced as a result of the change in the membership of the SRC in that the appropriate technical disciplines necessary for the noted function would still be represented in the new make-up of the SRC. In addition, the SRC would report to the Vice President, Nuclear Operations, since he has been designated as the AP&L Senior Nuclear Management Representative. The amendments would also correct typographical errors and the proper designation of the ANO General Manager and the Administrator of the NRC Regional Office where noted.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the applications of these standards by providing certain examples (48 FR 14870). One of the examples of actions involving no significant hazards considerations relates to a purely administrative change to the Technical Specifications. The change in title of utility management, the correcting of typographical errors, and the designation of the ANO General Manager and the Administrator of the NRC Regional Office where noted are considered administrative in nature. In addition, the change in the membership of the SRC resulting from the reorganization and the reporting of the SRC to the Vice President, Nuclear Operations, would not reduce the effectiveness of the SRC as discussed in the description of the amendments. Thus, the staff proposes to determine that the application does not involve a significant hazards consideration.

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NRC Branch Chiefs: Robert A. Clark and John F. Stolz.

Arkansas Power and Light Company, Docket No. 50–368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas

Date of amendment request: May 10, 1979, March 11, 1983 and June 29, 1983.

Description of amendment request: The amendment would permit operation after approval of changes to the Radiological Effluent Technical Specifications that would bring them into compliance with Appendix I of 10 CFR Part 50. It provides new Technical Specification sections defining limiting conditions for operation and surveillance requirements for radioactive liquid and gaseous effluent monitoring; concentration, dose and treatment of liquid, gaseous and solid wastes; total dose; radiological environmental monitoring that consists of a monitoring program, land use census, and interlaboratory comparison program. This change would also incorporate into the Technical Specifications the bases that support the operation and survillance requirements. In addition, some changes would be made in administrative controls, specifically dealing with the process control program and the offsite dose calculation manual. The proposed amendment would remove the current Radiological Effluent Technical Specifications from the Appendix "B" Technical Specifications.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). One of the examples (ii) of actions not likely to involve a significant hazards consideration relates to changes that constitute additional restrictions or controls not presently included in the Technical Specifications.

The Commission, in a revision to Appendix I, 10 CFR Part 50 required licensees to improve and modify their radiological effluent systems in a manner that would keep releases of radioactive material to unrestricted areas during normal operation as low as is reasonably achievable. In complying with this requirement, it became necessary to add additional restrictions and controls to the Technical Specificationsto assure compliance. This caused the addition of Technical Specifications described above. The staff proposes to determine that the application does not involve a significant hazards consideration since the change constitutes addifional restrictions and controls that are not currently included in the Technical Specifications in order to meet the Commission mandated release of "as low as is reasonably achievable".

Local Public Document Room Location: Arkansas Tech University, Russellville, Arkansas.

Attorney for licensee: Nicholas S. Reynolds, Esq., DeBevoise & Liberman, 1200 Seventeenth Street, N.W., Washington, D.C. 20036.

NRC Branch Chief: Robert A. Clark.

Arkansas Power and Light Company, Docket No. 50–368 Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas

Date of amendment request: September 17, 1980.

Description of amendment request: The amendment would revise the Technical Specifications to incorporate a periodic flow test requirement for the emergency feedwater system in order to verify the normal flow path from the emergency feedwater system water source to the steam generators. The periodic flow test would ensure its operability by verification of proper flow path. The proposed amendment was submitted in accordance with the staff's safety evaluation report on the emergency feedwater system dated November 6, 1979 which required the above-mentioned flow test.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870). The examples of actions involving no significant hazards include actions which involve a change that constitutes an additional limitation, restriction or control not

presently included in the Technical Specifications.

The proposed change matches this example, since the above periodic flow test requirement is not presently included in the Technical Specifications. Therefore, the staff proposes to determine that the application does not involve a significant hazards consideration.

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Attorney for licensee: Nicholas S. Reynolds, Esq., c/o DeBevoise & Liberman, 1200 Seventeenth Street N.W., Washington, D.C. 20036.

NRC Branch Chief: Robert A. Clark.

Boston Edison Company, Docket No. 50-382, Pilgrim Nuclear Power Station, Plymouth County, Massachusestts

Date of amendment request: March 15, 1979.

Description of amendment request: Technical Specification changes to implement the requirements of 10 CFR 50.55a(g) pertaining to inservice inspection and testing to provide assurance that the structural integrity and operability of systems and components important to safety are maintained. The proposed amendment would add surveillance requirements to the Pilgrim operating license to provide for (a) inservice inspection of safety-related components, and (b) operability testing of safety-related pumps and valves in accordance with Section XI of the ASME Boiler and Pressure Vessel Code and applicable addenda as required by 10 CFR 50.55a(g), except where specific written relief has been granted by the NRC.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance for the application of the standards for determining whether a significant hazards consideration exists by providing examples of amendments that are considered not likely to involve significant hazards considerations (48 FR 14870). One such amendment involves a change to make a license conform to changes in the regulations,where the license change results in very minor changes to facility operations clearly in keeping with the regulations.

The change proposed by the licensee is intended to implement 10 CFR 50.55a(g), which pertains to inservice inspection of safety-related components, and inservice testing of safety-related pumps and valves to assess operational readiness. This amendment, therefore, reflects changes to make the Pilgrim Nuclear Power Station license conform to changes in the regulations. Since the licensee is presently obligated by these regulations to perform inservice inspection of components and inservice testing of pumps and valves, this license change will only result in very minor changes to facility operations which are clearly in keeping with the regulations.

Therefore, since the application for amendment involves proposed changes that are similar to an example for which no significant hazards consideration exists, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

Local Publiic Document Room location: Plymouth Public Library, North Street, Plymouth, Massachusetts 02360.

Attorney for licensee: W. S. Stowe, Esquire, Boston Edison Company, 800 Boylston Street, 36th Floor, Boston, Massachusetts 02199.

NRC Branch Chief: Domenic B. Vassallo.

Boston Edison Company, Docket No. 50-293, Pilgrim Nuclear Power Station, Plymouth, Massachusetts

Date of amendment request: August 30, 1982.

Description of amendment request: Technical Specification (TS) changes to allow controlled liquid effluent batch releases from points other than the radwaste facility, such as the neutralizing sump. This change is requested to eliminate the need to physically transport waste through buildings and to reduce the opportunity for and consequences of human error or equipment failure.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance for the application of the standards for determining whether a significant hazard consideration exists by providing examples of amendments that are considered not likely to involve significant hazards considerations (48 FR 14870). One such amendment involves a change which either may result in some increase in the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with repsect to the system or component specified in the Standard Review Plan: for example, a change resulting from the application of a small refinement of a previously used calculational model or design method. The change proposed by the license would permit controlled liquid effluent batch releases from points other than the radwaste facility provided that certain conditions pertaining to dilution flow, sampling, analysis, discharge flow path valve line-up, other simultaneous liquid releases, verification of effluent flow calculations and manning are satisfied. These changes are clearly within all acceptable criteria for batch releases contained in Section 11.5 of the Standard Review Plan (SRP) "Process and Effluent Radiological Monitoring Instrumentation and Sampling Systems" which is the applicable section of the SRP for the systems involved. Therefore, since the application for amendment involves proposed changes that are similar to the examples for which no significant hazards consideration exists, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Plymouth Public Library, North Street, Plymouth, Massachusetts 02360.

Attorney for licensee: W. S. Stowe, Esq., Boston Edison Company, 800 Boylston Street, 36th Floor, Boston, Massachusetts 02199.

NRC Branch Chief: Domenic B. Vassallo.

Boston Edison Company, Docket No. 50-293, Pilgram Nuclear Power Station, Plymouth, Massachusetts

Date of amendment request: April 5, 1983.

Description of amendment request: Technical Specification changes to permit operation with increased safety relief valve (SRV) setpoints to enable an increased pressure differential between operating pressure and SRV pressure setpoints.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance for the application of the standards for determining whether a significant hazards consideration exists by providing examples of amendments that are considered not likely to involve significant hazards considerations (48 FR 14870). One such amendment is a change which may result in some increase in the probability or consequences of a previously analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan.

The licensee has proposed a 20 psi increase in safety relief valve setpoints with a return to normal reactor operating pressure (an increase of 10 psi above the present reduced operation

pressure) to enable a 10 psi increase in the difference between reactor operating pressure and SRV setpoint pressure. This change has been requested because operating data demonstrate that such an increase in pressure difference will reduce the probability of SRV pilot valve leakage.

The proposed change in SRV setpoints affects only those events which result in SRV actuations to limit system pressure. Although the increased setpoint may in some way reduce a safety margin, analyses have demonstrated that the increased setpoints are within acceptable criteria of the Standard Review Plan. Therefore, since the application for amendment involves proposed changes that are similar to the examples for which no significant hazards consideration exists, the staff has made a proposed determination that the application involves no significant hazards consideration.

Local Public Document Room location: Plymouth Public Library, North Street, Plymouth, Massachusetts 02360.

Attorney for licensee: W. S. Stowe, Esq., Boston Edison Company, 800 Boylston Street, 36th Floor, Boston, Massachusetts 02199.

NRC Branch Chief: Domenic B. Vassallo.

Boston Edison Company, Docket No. 50–293, Pilgram Nuclear Power Station, Plymouth, Massachusetts

Date of amendment request: April 15, 1983.

Description of amendment request: Technical Specification (TS) changes to incorporate revised radiological effluent and environmental monitoring limiting conditions for operation, action statements, and surveillance requirements. The proposed changes are in response to NRC requests of July 11, 1978 and November 15, 1978 and supersede in its entirety a licensee submittal of February 21, 1979. The proposed changes are intended to implement the design objectives and requirements of 10 CFR 50.34(a), 10 CFR 50.36a, 10 CFR 20, 10 CFR 50 Appendix A, General Design Criteria 60 and 64 and 40 CFR 190.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance for the application of the standards for determining whether a significant hazards consideration exists by providing examples of amendments that are considered not likely to involve significant hazards considerations (48 FR 14870). One such amendment involves a change to make a license conform to changes in the regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulations.

The change proposed by the licensee is intended to implement: 10 CFR 50.34(a), whcih pertains to Design Objectives for equipment to control releases of radioactive materials in effluents from nuclear power reactors; 10 CFR 50.36a, which pertains to technical specifications on effluents from nuclear power reactors; 10 CFR 20, which pertains, in part, to the controlled release of radioactive materials in liquid and gaseous effluents; 10 CFR 50, Appendix A, General Design Criteria 60, which pertains to control of releases of radioactive materials to the environment and 64, which pertains to monitoring radioactivity releases; and 40 CFR 190, which pertains to radiation doses to the public from operations associated with the entire uranium fuel cycle. This amendment, therefore, reflects changes to make the Pilgrim license conform to changs in the regulations. Since the licensee is presently obligated by these regulations to control and limit offsite releases of radioactive materials to levels which are as low as is reasonably achieveable, this license change will only result in very minor changes to facility operations which are clearly in keeping with the regulations.

Therefore, since the application for amendment involves proposed changes that are similar to the examples for which no significant hazards consideration exists, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Plymouth Public Library, North Street, Plymouth, Massachusetts 02360.

Attorney for licensee: W. S. Stowe, Esq., Boston Edison Company, 800 Boylston Street, 36th Floor, Boston, Massachusetts 02199.

NRC Branch Chief: Domenic B. Vassallo.

Boston Edison Company, Docket No. 50–293, Pilgrim Nuclear Power Station, Plymouth, Massachusetts

Date of amendment request: May 31, 1983.

Description of amendment request: Technical Specification changes to (1) reflect an expansion of the operating region of Pilgrim's power/flow map, and (2) provide associated changes in the Average Power Range Monitor (APRM) flux scram and APRM rod block trip settings. These changes would allow operational flexibility by permitting a more rapid return to full power following a brief power reduction.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance for the application of the standards for determining whether a significant hazards consideration exists by providing examples of amendments that are considered not likely to involve significant hazards considerations (48 FR 14870). One such amendment is a change which either may result in some increase in the probability or consequences of a previously analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan: For example, a change resulting from the application of a small refinement of a previously used calculational model or design method. The change proposed by the licensee would expand the operating region of Pilgrim's power/flow map and provide associated changes in the APRM flux scram and APRM rod block trip settings. Chapter 3 of the Pilgrim Final Safety Analysis Report (FSAR) describes the basic operating envelope within which normal reactor operations are conducted. Subsequent analyses were conducted to justify expansion of this operating region utilizing previously employed calculational models. These analyses considered a revised end-of-cycle target exposure distribution which was reflected in a September 1982 Supplemental Reload Licensing Submittal for Cycle 6 operation. These changes therefore reflect the application of a small refinement of a previously used calculation model. Therefore, since the application for amendment involves proposed changes that are similar to the examples for which no significant hazards consideration exists, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Plymouth Public Library, North Street, Plymouth, Massachusetts 02360.

Attorney for licensee: W. S. Stowe, Esq., Boston Edison Company, 800 Boylston Street, 36th Floor, Boston, Massachusetts 02199.

NRC Branch Chief: Domenic B. Vassallo.

Carolina Power & Light Company, Docket Nos. 50–325 and 50–324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of amendment request: July 21, 1981.

Description of amendment request: The licensee has proposed changes to the technical specifications in response

to NRC's February 26, 1981 letter from Mr. D. G. Eisenhut which transmitted NUREG–0313, Revision 1 "Technical Report on Material Selection and Processing Guidelines for BWR Coolant Pressure Boundary Piping" (Generic Activity A–42). For the Brunswick Steam Electric Plant (BSEP) Unit Nos. 1 and 2, Carolina Power & Light Company (CP&L) was asked to identify nonconforming piping and provide a schedule for the replacement of "service sensitive" nonconforming piping. CP&L (the licensee) was requested to propose appropriate technical specifications changes for surveillance and operational leakage.

The changes proposed by the licensee would add a requirement that all ASME Code Class 1 and 2 piping conform to the guidelines stated in NUREG–0313 Revision 1 and impose an additional restriction on leakage from the reactor collant system. Both of these changes would be additional limiting conditions for operation that are not presently included in the technical specifications.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870). The examples of amendments which are not likely to involve significant hazards consideration include a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications. The proposed changes are encompassed by this example because additional limitations will be aded to the Technical Specifications by specifying new Limiting Conditions for Operation. The changes were proposed at the request of the NRC and will specify limitations to assure safe operation of the plant with regard to the integrity of the reactor coolant piping. Therefore, since the application for amendment involves proposed changes that are similar to an example which is not likely to involve significant hazards considerations, the staff has made a proposed determination that the application involves no significant hazards consideration.

Local Public Document Room location: Southport, Brunswick County Library, 109 W. Moore Street, Southport, North Carolina 28461.

Attorney for licensee: George F. Trowbridge, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

NRC Branch Chief: Domenic B. Vassallo.

Carolina Power & Light Company, Docket Nos. 50–325 and 50–324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of amendment request: March 16, 1982.

Description of amendment request: This amendment would modify the technical specifications to correct an erroneous instrument number and add requirements regarding the operability, set point response time and surveillance of a time delay relay to be incorporated in the steam line break detection circuitry of the High Pressure Coolant Injection (HPCI) and Reactor Core Isolation Cooling (RCIC) Systems as recommended in Item II.K.3.15 of NUREG–0737, "Clarification of the TMI Action Plan Requirements."

An administrative correction would be made to the existing Technical Specifications (TS) Table 3.3.2–2, Item 4.a.7, HPCI Steam Line Area Temperature-High. Two instrument numbers are listed under this item: 51–dTS–N604C,D is incorrect and redundant and would be deleted; E51–dTS–N604C,D is correct and would remain in the TS. This change would provide consistent reference to this instrument in TS Table 3.3.2–2 when compared to TS Tables 3.3.2–1 and 3.3.2.–3.

The purpose of the time delay relay (TDR) modification is to provide a three-second delay in the isolation of the turbine steam supply lines of the high pressure coolant injection (HPCI) and reactor isolation cooling (RCIC) systems anytime a greater than 300 percent steam flow is detected. Such a modification provides prevention of flow spike trips during HPCI/RCIC system startup, as well as provide some level of protection in the event of large flow spikes resulting from transient swings in HPIC/RCIC system operation. The design basis of the modification is to eliminate trips resulting from spurious flow spikes system startup. This improvement in the design of this system was previously approved by the NRC in NUREG–0737. The changes to the technical specifications are necessary adminstrative follow up actions essential to the implementation of these improvements.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870). The examples involving no significant hazards consideration include "(i) a purely administrative change to Technical Specifications: for example, a change to achieve consistency throughout the Technical Specifications, correction of an error, or a change in nomenclature; and, (ii) A change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications: for example, a more stringent surveillance requirement."

The correction of instrument numbers in 3.3.2–2 is a purely administrative change encompassed by example (i) above that would correct an error in the technical specifications.

The addition of technical specifications for the operability, set point response time and surveillance of the time delay relay clearly imposes additional limitations and controls not presently included in the technical specifications and is therefore encompassed by example (ii) above.

Therefore, since the application for amendment involves proposed changes that are similar to examples for which no significant hazards considerations exist, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Southport, Brunswick County Library, 109 W. Moore Street, Southport, North Carolina 28461.

Attorney for licensee: George F. Trowbridge, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

NRC Branch Chief: Domenic B. Vassallo.

Carolina Power & Light Company, Docket Nos. 50–325 and 50–324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of amendment request: July 29, 1982.

Description of amendment request: This amendment would modify the technical specifications to correctly identify certain relays associated with the plant emergency power supplies and provide correct set point values for actuating these relays.

Following investigation of a reactor scram, the licensee determined Degraded Voltage Surveillance Tests on Unit 1 were not being performed. The licensee's review of a previous modification revealed that incorrect relays were referenced in the plant modification and therefore, the incorrect set point values were incorporated in the technical specifications. Table 3.3.3–2, Item 5.a, describes Balance-of-Plant

(BOP) busses 1C, 1D, 2C, and 2D for Device 27. The correct relay should have been Emergency Busses E–1, E–2, E–3, and E–4, Device 27/59E. The proposed changes to the technical specifications would correct this error and provide correct set point values for actuating the relays.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870). The examples involving no significant hazards consideration include "(i) a purely administrative change to Technical Specifications: for example, a change to achieve consistency throughout the Technical Specifications, correction of an error, or a change in nomenclature; and, (ii) A change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications: for example, a more stringent surveillance requirement."

Example (i) encompasses the changes requested to correct the errors in identifying certain relays in the emergency power supplies. Example (ii) applies to the added requirements for these relays including proper set points, surveillance intervals and operability conditions. Therefore, since the application for amendment involves proposed changes that are similar to examples for which no significant hazards considerations exist, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Southport, Brunswick County Library, 109 W. Moore Street, Southport, North Carolina 28461.

Attorney for licensee: Mr. George F. Trowbridge, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036.

NRC Branch Chief: Domenic B. Vassallo.

Carolina Power & Light Company, Docket Nos. 50–325 and 50–324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of amendment request: January 26, 1983.

Description of amendment request: An amendment to modify the technical specifications to apply to new analog (continuous measuring) instrumentation that has been installed in Unit 1 and will be installed in Unit 2. The analog instrumentation replaces certain pressure switches and will provide improved performance of trip functions for reactor protection system actuation, containment isolation, reactor core isolation cooling system isolation and emergency core cooling system actuation.

The replacement of pressure switches with analog instrumentation was previously approved by the Commission with the issuance of Amendment No. 26 to License No. DPR–71 for Unit 1 and Amendment No. 50 to License No. DPR–62 for Unit 2 on March 14, 1980. At that time it was decided that appropriate technical specifications would be issued when the instrumentation would be ready for operation. Thus the issuance of these technical specifications is concomitant to our previous action and attendant to the full implementation of improvements in the instrumentation for the Brunswick Units.

The changes to the technical specifications include new instrument numbers, the correction of errors in the existing specifications and editorial changes to incorporate the format of the NRC standard technical specifications. In addition to these administrative changes, the surveillance requirements have been changed to incorporate surveillance intervals developed for the new instrumentation. However, the required response times and set points for the instrumentation will not be changed and the new surveillance requirements together with the new instrumentation is expected to provide a more reliable instrumentation system.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870). The examples involving no significant hazards consideration include: "(i) a purely administrative change to the Technical Specifications: for example a change to achieve consistency throughout the Technical Specifications, correction of an error, or a change in nomenclature; and, (ii) a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications; for example, a more stringent surveillance requirement." The bulk of the changes proposed in the application for amendment are encompassed by example (i). The inclusion of new instrument numbers, the correction of errors in the existing specifications and changes in format are all purely administrative changes. The changes in surveillance requirements relate to example (ii). Some of the surveillance intervals have been decreased and some have been increased as appropriate for each new instrument. However, the overall effect of the changes in technical specifications will be to increase the total surveillance requirements in support of a more reliable instrumentation system. Therefore, since the application for amendment involves proposed changes that are similar to examples for which no significant hazards considerations exist, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Southport, Brunswick County Library, 109 W. Moore Street, Southport, North Carolina 28461.

Attorney for licensee: Mr. George F. Trowbridge, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036.

NRC Branch Chief: Domenic B. Vassallo.

Carolina Power and Light Company, Docket No. 50–261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of amendment request: May 10, 1977.

Description of amendment request: This amendment request proposes a change to the Technical Specifications (TS) to incorporate the inservice inspection testing requirements set forth in Section XI of the ASME, Boiler and Pressure Vessel Code, and Addenda as a substitute for the current TS.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14871). One of the examples of actions involving no significant hazards considerations relates to additional limitations, restrictions, or control not presently included in the Technical Specifications (ii); for example, a more stringent surveillance requirement. In the case of this amendment, the licensee is requesting to delete their existing requirements for inservice inspection and testing requirements surveillance for Class I components only and substituting the requirements contained in the ASME Boiler and Pressure Vessel Code, Section XI and it's Addenda, requiring surveillance of Class 1, 2 & 3 components. This proposed change clearly adds more restrictions and surveillance requirements and matches the guidance quoted. The staff, therefore, proposes to determine that the

amendment does not involve a significant hazard consideration.

Local Public Document Room location: Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29535.

Attorney for licensee: Shaw, Pittman, Potts, and Trowbridge, 1800 M Street, N.W., Washington, D.C.

NRC Branch Chief: Steven A. Varga.

Carolina Power and Light Company, Docket No. 50-261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of amendment request: November 10, 1980 as supplemented February 7, 1983.

Description of amendment request: The amendment would permit operation after approval of changes to the Radiological Effluent Technical Specifications that would bring them into compliance with Appendix I of 10 CFR Part 50. It provides new Technical Specification sections defining limiting conditions for operation and surveillance requirements for radioactive liquid and gaseous effluent monitoring; concentration, dose and treatment of liquid, gaseous and solid wastes; total dose; radiological environmental monitoring that consists of a monitoring program, land use census, and interlaboratory comparison program. This change would also incorporate into the Technical Specifications the bases that support the operation and surveillance requirements. In addition, some changes would be made in administrative controls, specifically dealing with the process control program and the offsite dose calculation manual. The proposed amendment would remove the current Radiological Effluent Technical Specifications from the Appendix "B" Technical Specifications.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). One of the examples (ii) of actions not likely to involve a significant hazards consideration relates to changes that constitute additional restrictions or controls not presently included in the Technical Specifications.

The Commission, in a revision to Appendix I, 10 CFR Part 50 required licensees to improve and modify their radiological effluent systems in a manner that would keep releases of radioactive material to unrestricted areas during normal operation as low as is reasonably achievable. In complying with this requirement, it became necessary to add additional restrictions and controls to the Technical Specifications to assure compliance. This caused the addition of Technical Specifications described above. The staff proposes to determine that the application does not involve a significant hazards consideration since the change constitutes additional restrictions and controls that are not currently included in the Technical Specifications in order to meet the Commission mandated release of "as low as is reasonably achievable."

Local Public Document Room location: Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29535.

Attorney for licensee: Shaw, Pittman, Potts, and Trowbridge, 1800 M Street, N.W., Washington, D.C.

NRC Branch Chief: Steven A. Varga.

Carolina Power and Light Company, Docket No. 50-261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of amendment request: December 2, 1980.

Description of amendment request: This amendment request proposes a change to the Technical Specifications (TS) by adding operability requirements for the Dedicated Shutdown System when the reactor is critical to ensure the operability of the system. This request reflects changes and additions to the plant as a result of the Dedicated Shutdown System.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14871). One of the examples of actions involving no significant hazards considerations relates to additional limitations, restrictions, or control not presently included in the Technical Specifications (ii). This amendment specifically adds TS requirements to ensure the operability of the Dedicated Shutdown System (DSS) when the reactor is critical. The operability of the DSS equipment ensures the ability to safely bring the plant to a hot shutdown condition in the unlikely event that a fire disables the ability to control the plant from the control room or results in the loss of both trains of safeguards equipment. The staff, therefore, proposes to determine that this amendment does not involve a significant hazards consideration.

Local Public Document Room location: Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29535.

Attorney for licensee: Shaw, Pittman, Potts, and Trowbridge, 1800 M Street, N.W., Washington, D.C.

NRC Branch Chief: Steven A. Varga.

Carolina Power and Light Company, Docket No. 50-261, H. B. Robinson, Unit No. 2, Darlington County, South Carolina

Date of amendment request: January 11, 1983.

Description of amendment request: This amendment request proposes to change the Technical Specification (TS) regarding containment internal pressure limiting conditions for operation. The current TS 3.6.2 requires that the plant be shutdown if the containment internal pressure exceeds 2 psig for more than 8 hours. The proposed change would require that the plant be shutdown if the containment internal pressure exceeds 1 psig for more than 8 hours.

Basis for proposed no significant hazards consideration determination: The basis for the proposed amendment request is the licensee's discovery of an error in the calculation of the containment net free volume used in the original FSAR. At that time the peak accident pressure was calculated to be 37.8 psig. The recalculated value based on the reduced net fee containment volume is 40.0 psi as reported in the licensee's updated FSAR.

The containment design pressure is 42 psig. Subtracting from the 42 psig, the 37.8 psig LOCA (peak accident pressure) leaves 4.2 psig allowable pressure in the containment before a postulated LOCA. However, the licensee used 2.0 psig in their current Technical Specifications providing about 2 psig margin.

Subtracting the newly calculated peak accident pressure of 40.0 psi from the design pressure provides an allowable containment pressure prior to a LOCA of 2 psig. The licensee proposes, for the requested amendment change, to allow 1 psig pressure in the containment before a postulated LOCA, thus, providing a margin of 1 psi. The net result of the requested change is an apparent reduction of the margin, by 1 psig in the unlikely event of a LOCA.

The Commission has provided guidance concerning the application of those standards by providing certain examples (48 FR 14871). One of these examples of actions involving no significant hazards considerations relates to:

A change which either may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all

acceptable criteria with respect to the system or component specified in the Standard Review Plan: for example, a change resulting from the application of a small refinement of a previously used calculational model or design method.

The proposed amendment is directly related to this example because it is within the acceptance criteria of the Standard Review Plan (SRP). The SRP requires that the peak accident pressure be less than the design pressure for the containment. On this basis, the Commission proposes to determine that the amendment involves no significant hazards consideration.

Local Public Document Room location: Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29535.

Attorney for licensee: Shaw, Pittman, Potts and Trowbridge, 1800 M Street, N.W., Washington, D.C.

NRC Branch Chief: Steven A. Varga.

Commonwealth Edison Company, Docket Nos. 50–295 and 50–304, Zion Station Unit Nos. 1 and 2, Zion, Illinois

Date of amendments request: February 16, 1979.

Description of amendments request: These amendments would permit operation after approval of changes to the Radiological Effluent Technical Specifications that would bring them into compliance with Appendix I of 10 CFR Part 50. It provides new Technical Specification sections defining limiting conditions for operation and surveillance requirements for radioactive liquid and gaseous and solid wastes; total dose; radiological environmental monitoring that consists of a monitoring program, land use census, and interlaboratory comparison program. This change would also incorporate into the Technical Specifications the bases that support the operation and surveillance requirements. In addition, some changes would be made in administrative controls, specifically dealing with the process control program and the offsite dose calculation manual. The proposed amendments would remove the current Radiological Effluent Technical Specifications from the Appendix "B" Technical Specifications.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). One of the examples (ii) of actions not likely to involve a significant hazards consideration relates to changes that constitute additional restrictions or controls not presently included in the Technical Specifications.

The Commission, in a revision to Appendix I, 10 CFR Part 50 required licensees to improve and modify their radiological effluent systems in a manner that would keep releases of radioactive material to unrestricted areas during normal operation as low as is reasonably achievable. In complying with this requirement, it became necessary to add additional restrictions and controls to the Technical Specifications to assure compliance. This caused the addition of Technical Specifications described above. The staff proposes to determine that the application does not involve a significant hazards consideration since the change constitutes additional restrictions and controls that are not currently included in the Technical Specifications in order to meet the Commission mandated release of "as low as is reasonably achievable."

Local Public Document Room location: Zion Benton Public Library District, 2600 Emmaus Avenue, Zion, Illinois 60099.

Attorney for licensee: P. Steptoe, Isham, Lincoln & Beale, Counselors of Law, Three First National Plaza, 51st Floor, Chicago, Illinois 60602.

NRC Branch Chief: Steven A. Varga.

Connecticut Yankee Atomic Power Company, Docket No. 50–213, Haddam Neck Plant, Middlesex County, Connecticut

Date of amendment request: March 21, 1978.

Description of amendment request: The proposed amendment would revise the Technical Specifications (TS) by (1) reducing the allowable containment leak rate from 0.25% per day to 0.18% per day; (2) reducing the allowable Reactor Heat Removal System (RHR) leak rate from 6 liters per hour to 3 liters per hour; and (3) require 4 containment air recirculation (CAR) units to be normally operable instead of 3 units whenever the reactor is critical.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (April 6, 1983, 48 FR 14870). Example (ii) illustrates a proposed action which would not involve a significant hazards consideration. These types of action constitute additional limitation, restriction or control not presently included in the Technical Specifications. Each of the above proposed changes constitutes more stringent requirements. The reduction in allowable leak rates reduces the potential exposure to the public in the event of an accident. Similarly, increasing the number of CAR units decreases the potential for exposure to the public in the event of an accident because each of the CAR units circulates the containment air thru filters which remove radioactive isotopes. Therefore, the staff purposes to determine that the requested action would involve no significant hazards consideration.

Local Public Document Room location: Russell Library, 119 Broad Street, Middletown, Connecticut 06457.

Attorney for licensee: Day, Berry & Howard, Counselors at Law, One Constitution Plaza, Hartford, Connecticut 06103.

NRC Branch Chief: Dennis M. Crutchfield.

Consolidated Edison Company of New York, Docket No. 50–247, Indian Point Nuclear Generating, Unit No. 2, Westchester County, New York

Date of application for amendment: December 29, 1981.

Description of amendment request: Following the accident at Three Mile Island the NRC promulgated several additional limitations on the operation of nuclear power plants. The changes proposed in this application would incorporate two of these post-Three Mile Island requirements (NUREG 0737 Items II.F.1.1 and II.F.1.2) into the Technical Specifications. Specifically, the proposed change would modify the Technical Specifications to add Limiting Conditions of Operation and reporting requirements concerning the operability of the plant vent noble gas effluent monitor and the main steam line radiation monitor.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance for the application of the standards for a no significant hazards consideration determination by providing certain examples (48 FR 14870). One of the examples (ii) of actions not likely to involve a significant hazards considerations relates to a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications. The staff proposes to determine that the amendment does not involve a significant hazards consideration since it clearly adds additional restrictions not currently in the Technical Specifications.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Attorney for licensee: Thomas J. Farrelly, Esquire, 4 Irving Place, New York, New York 10003.

NRC Branch Chief: Steven A. Varga.

Consolidated Edison Company of New York, Docket No. 50-247, Indian Point Nuclear Generating, Unit No. 2, Westchester County, New York

Date of application for amendment: February 14, 1983.

Description of amendment request: The proposed change would modify the Technical Specifications to require a minimum of at least 23 feet of water above the reactor pressure vessel flange during movement of control rods or fuel assemblies instead of the current requirement of a minimum 23 feet of water above the reactor core. The additional depth of water specified by this change is necessary to assure sufficient depth to prevent inadvertent exposure of a fuel assembly during transfer. This requested change to the Technical Specifications is in response to the Generic Letter dated August 15, 1980, which notified all licensees that the Standard Technical Specifications were change to reflect this requirement.

The amendment application that transmitted this change request included several issues. This notice relates to only one. The remaining items will be the subject of separate notices.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for a no significant hazards determination by providing certain examples (48 FR 14870). One of the examples (ii) of actions not likely to involve a significant hazards consideration relates to a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications. The staff proposes to determine that the proposed change does not involve a significant hazards consideration since it adds an additional depth of water to the depth currently specified in the Technical Specifications.

Local Public Document Room location: White Plains Public Public Library, 100 Martine Avenue, White Plains, New York 10610.

Attorney for licensee: Thomas J. Farrelly, Esq., 4 Irving Place, New York, New York 10003.

NRC Branch Chief: Steven A. Varga.

Consolidated Edison Company of New York, Docket No. 50-247, Indian Point Nuclear Generating, Unit No. 2, Westchester County, New York

Date of application for amendment: February 14, 1983.

Description of amendment request: The reactor vessel surveillance program includes six specimen capsules to evaluate radiation damage based on pre-irradiation and post-irradiation testing of specimens. The proposed change to the Interference would relocate the requirements for the testing of these capsules from the Miscellaneuous Inspections of Section 4.2 in the Technical Specifications to the Limiting Conditions for Operation in Section 3.1.B of the Technical Specifications. No changes to the testing program itself are proposed

The amendment application that transmitted this change request included several issues. This notice relates to only one. The remaining items will be the subject of separate notices.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for a no significant hazards determination by providing certain examples (48 FR 14870). One of the examples (i) of actions not likely to involve a significant hazards consideration relates to changes of a purely administrative nature. The staff proposes to determine that this change does not involve a significant hazards consideration since it consists of an administrative change that does not alter the requirements of the current Technical Specification.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Attorney for licensee: Thomas J. Farrelly, Esquire, 4 Irving Place, New York, New York 10003.

NRC Branch Chief: Steven A. Varga.

Consolidated Edison Company of New York, Docket No. 50-247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of application for amendment: February 14, 1983.

Description of amendment request: By letter dated July 28, 1980, the Nuclear Regulatory Commission requested the Consolidated Edison propose Technical Specifications for the Containment Purge System as a means of gaining further reduction in the consequences of an accident involving the handling of reactor fuel inside of the containment building. Based on subsequent discussions, the Regulatory Staff concluded that an equivalent reduction could be realized by increasing the minimum required waiting time after shutdown before fuel could be moved from the present 90 hours to greater than 130 hours. This application proposes to change the Technical Specification to require that no movement of reactor fuel be made unless the reactor has been subcritical for at least 131 hours.

The amendment application that transmitted this change request included several issues. This notice relates to only one. The remaining items will be the subject of separate notices.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for a no significant hazards consideration determination by providing certain examples (48 FR 14870). One of the examples (if) of actions not likely to involve a significant hazards consideration relates to a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications. The staff proposes to determine that the application does not involve a significant hazards consideration since it entails the addition of a more limiting requirement.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Attorney for licensee: Thomas J. Farrelly, Esquire, 4 Irving Place, New York, New York, 10003.

NRC Branch Chief: Steven A. Varga.

Consolidated Edison Company of New York, Docket No. 50-247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of application for amendment: February 14, 1983.

Description of amendment request: The proposed change would amend the Technical Specifications to incorporate requirements for redundant decay heat removal capability during all modes of plant operation. This proposed change was directly requested by the Nuclear Regulatory Commission by Generic Letter dated June 11, 1980. The basis for the Commission's request was founded in a number of events that have occurred at operating PWR faciities where decay heat removal capability has been seriously degraded due to inadequate administrative controls utilized when the plants were in shutdown modes of operation. The additional administrative controls proposed in this change would ensure that proper means are available to provide redundant methods of decay heat removal.

The amendment application that transmitted this change request included several issues. This notice relates to

only one. The remaining items will be the subject of separate notices.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for a no significant hazards determination by providing certain examples (48 FR 14870). One of the examples (ii) of actions not likely to involve a significant hazards consideration relates to changes that constitute additional restrictions or controls not presently included in the Technical Specifications. The staff proposes to determine that the proposed change does not involve a significant hazards consideration since it consists of an additional limitation on the operation of the facility not currently in the Technical Specifications.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Attorney for licensee: Thomas J. Farrelly, Esquire, 4 Irving Place, New York, New York 10003.

NRC Branch Chief: Steven A. Varga.

Consolidated Edison Company of New York, Docket No. 50–247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of application for amendment: March 23, 1982.

Description of amendment request: The proposed changes contained in this application would revise the Technical Specifications to clarify the minimum conditions required for operability of the Boron injection tank (BIT). Specifically, the single minimum required liquid volume would be replaced by a curve which would establish a pressure/liquid volume relationship for determining BIT operability. In addition, specific limiting conditions for operation (LCOs) and surveillance requirements would be established for BIT parameters and required instrumentation channels. The requested changes are the result of Consolidated Edison's followup review of the Reportable Occurence reported as LER–82–009/OIT–0.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870). One of the examples (ii) of actions not likely to involve a significant hazards consideration relates to a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications: for example, a more stringent surveillance requirement. The nitrogen pressure of the Boron Injection Tank is recorded every four hours in the Indian Point 2 Central Control Room Logs. The operator is directed to identify on the log every instance in which the pressure was less than 70 psig or greater than 95 psig. Between May 23, 1981, when Unit 2 returned to service from a refueling outage, and November 24, 1981, there were four isolated instances in which the recorded pressure was outside the specified range.

A probable consequence of the above was that less than 1000 gallons of boric acid solution could have been injected into the Reactor Coolant System when required during the periods of reduced nitrogen pressure.

The corrective measures provided by this amendment request are being proposed to prevent operation of the plant in a manner less conservative than assumed in the Safety Analysis Report, and constitute an additional control not presently included in the Technical Specifications. Therefore, the staff proposes to determine that the application does not involve a significant hazards consideration.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Attorney for licensee: Thomas J. Farrelly, Esquire, 4 Irving Place, New York, New York 10003.

NRC Branch Chief: Steven A. Varga.

Consolidated Edison Company of New York, Docket No. 50–247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of application for amendment: April 1, 1983.

Description of amendment request: The amendment would change the Radiological Effluent Technical Specifications to assure compliance with Appendix I of 10 CFR Part 50. It provides new Technical Specification sections defining limiting conditions for operation and surveillance requirements for radioactive liquid and gaseous effluent monitoring; concentration, dose and treatment of liquid, gaseous and solid wastes; total dose; radiological environmental monitoring that consists of a monitoring program, land use census, and interlaboratory comparison program. This change also incorporates into the Technical Specifications the bases that support the operation and surveillance requirements. In addition, some changes would be made in administrative controls, specifically dealing with the process control program and the offsite dose calculation manual.

Basis for proposed no significant consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870). One of the examples (ii) of actions not likely to involve a significant hazards consideration relates to changes that constitute additional restrictions or controls not presently included in the Technical Specifications.

The Commission, in a revision to Appendix I, 10 CFR Part 50 required licensees to improve and modify their radiological effluent systems in a manner that would keep releases of radioactive material to unrestricted areas during normal operation as low as is reasonably achievable. In complying with this requirement it became necessary to add additional restrictions and controls to the Technical Specifications to assure compliance. This caused the addition of Technical Specifications described above. The staff proposes to determine that the application does not involve a significant hazards consideration since the change constitutes additional restrictions and controls that are not currently included in the Technical Specifications in order to meet the Commission mandated release of "as low as is reasonably achievable."

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Attorney for licensee: Thomas J. Farrelly, Esquire, 4 Irving Place, New York, New York 10003.

NRC Branch Chief: Steven A. Varga.

Consumers Power Company, Docket No. 50–155, Big Rock Point Plant, Charlevoix County, Michigan

Date of amendment request: August 14, 1980.

Description of amendment request: The amendment would incorporate a function testing requirement for the trip mechanism of the fuel transfer cask safety sling into Technical Specifications. This test, which is done prior to starting refueling, is currently enforced by a plant maintenance procedure. The change would make the test a requirement in the Technical Specifications. The test checks the operability of the trip mechanism which activates the safety sling designed to catch the fuel transfer cask in the event of a failure of the crane rigging.

Basis for proposed significant hazards consideration determination: The Commission has provided guidance concerning the application of the

standards in 10 CFR 50.92 by providing certain examples (48 FR 14870, April 6, 1983). One of the examples (ii) of actions involving no significant hazards consideration relates to a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications.

This amendment would incorporate the functional test of the trip mechanism on the fuel transfer cask safety sling into the Technical Specifications. On this basis the staff proposes to determine that this amendment would involve no significant hazards consideration.

Local Public Document Room location: Charlevoix Public Library, 107 Clinton Street, Charlevoix, Michigan 49720.

Attorney for licensee: Judd L. Bacon, Esquire, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

NRC Branch Chief: Dennis M. Crutchfield.

Consumers Power Company, Docket No. 50–155, Big Rock Point Plant, Charlevoix County, Michigan

Date of amendment request: July 20, 1981.

Description of amendment request: Proposed changes would incorporate requirements for operability, testing, and inspection of the mechanical snubbers on the Reactor Depressurization System (RDS) into the Technical Specifications (TS). The current TS do not contain such requirements.

These changes do not involve the addition of snubbers to the plant; the mechanical snubbers on the RDS have been in place for several years. There are no other mechanicl snubbers on safety related equipment at Big Rock Point.

Basis for proposed no significant hazards consideration determination: The amendment would add requirements for operability, visual inspections and periodic testing of mechanical snubbers to the TS to ensure that these devices are operable. These snubbers are attached to piping and equipment in the RDS to provide restraint during a seismic or other event which initiates dynamic loads, yet allow slow motion such as that produced by thermal expansion. The Commission has provided guidance concerning the application of standards for determining whether license amendment involve no significant hazards considerations by providing certain examples which were published in the **Federal Register** on April 6, 1983 (48 FR 14870). One of the examples of actions involving no significant hazards consideration is a change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications, such as a more stringent surveillance requirement.

The amendment request, discussed above, fits this example. On this basis, the Commission proposes to determine that the requested action involving no significant hazards consideration.

Local Public Document Room location: Charlevoix Public Library, 107 Clinton Street, Charlevoix, Michigan 49720.

Attorney for licensee: Judd L. Bacon, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

NRC Branch Chief: Dennis M. Crutchfield.

Consumers Power Company, Docket No. 50–155, Big Rock Point Plant, Charlevoix County, Michigan

Date of amendment request: December 15, 1981.

Description of amendment request: The amendment would approve Technical Specifications (TSs) which would incorporate description and operating requirements for Stack Gas Monitoring System into the Technical Specifications. This system is being installed and made operational to meet the guidance of NUREG–0737, Item II.F.1 (1) and (2), "Additional Accident Monitoring Instrumentation (Noble Gas Effluent Monitor and Sampling and Analysis of Plant Effluents)." This system provides the capability to monitor effluent release rates several orders of magnitude above normal rates for accident situations.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870, April 6, 1983). One of the examples of actions involving no significant hazards considerations relates to changes that constitute an additional limitation, restriction, or control not presently included in the Technical Specifications. The Stack Gas Monitoring System is a new system at Big Rock Point which will replace and upgrade the present effluent monitoring system. The new system was designed to meet the guidance of NUREG–0737, Item II.F.1 (1) and (2), which is described above. The proposed changes incoporate operating requirements for this system into the Big Rock Point Technical Specifications and; therefore, constitute an additional limitation. On this basis the staff proposes to determine that this amendment involves no significant hazards consideration.

Local Public Document Room location: Charlevoix Public Library, 107 Clinton Street, Charlevoix, Michigan 49720.

Attorney for licensee: Judd L. Bacon, Esquire, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

NRC Branch Chief: Dennis M. Crutchfield.

Consumers Power Company, Docket No. 50–155, Big Rock Point Plant, Charlevoix County, Michigan

Date of amendment request: March 10, 1982.

Description of amendment request: The amendment would incorporate the description, operating requirements, and surveillance requirements for the containment pressure monitor and the containment water level monitor into the plant Technical Specifications. These monitors are being installed and made operational at Big Rock Point to meet the guidance of Part (4) and (5) of Item II.F.1, "Additional Accident Monitoring Instrumentation," in NUREG–0737, "Clarification of TMI Action Plan Requirements." Part (4) of Item II.F.1 requires containment pressure monitoring instrumentation with the appropriate range for accident conditions. Part (5) of Item II.F.1 requires containment water level (sump level) monitoring instrumentation with the appropriate range for accident conditions.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14871, April 6, 1983). One of the examples of actions involving no significant hazards considerations relates to changes that constitute additional limitations, restrictions, or controls not presently included in the Technical Specifications. The proposed changes would add operating and surveillance requirements for the containment pressure monitor and the containment water level monitor to the Technical Specifications. These monitors are to be installed and made operational to meet the guidance of NUREG–0737. On this basis the staff proposes to determine that this amendment involves no significant hazards consideration.

Local Public Document Room location: Charlevoix Public Library, 107 Clinton Street, Charlevoix, Michigan 49720.

Attorney for licensee: Judd L. Bacon, Esquire, Consumers Power Company,

212 West Michigan Avenue, Jackson, Michigan 49201.

NRC Branch Chief: Dennis M. Crutchfield.

Consumers Power Company, Docket No. 50–155, Big Rock Point Plant, Charlevoix County, Michigan

Date of amendment request: January 28, 1983.

Description of amendment request: The amendment would increase Pa, the containment vessel reduced test pressure, from 10 psig to not less than 11.5 psig. This change was recommended by the NRC in a letter dated November 23, 1982 and will make Pa consistent with the requirements of Appendix J to 10 CFR Part 50.

Basis for proposed no significant hazards consideration determination: Pa is the containment vessel reduced test pressure. Changing Pa from 10 psig to not less than 11.5 psig was recommended by the NRC in a letter dated November 23, 1982. This change would bring the Technical Specifications into conformance with the requirements of Appendix J to 10 CFR Part 50 which stipulates the value of Pa.

The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14671, April 6, 1983). One of the examples of actions involving no significant hazards considerations relates to a change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications: for example, a more stringent surveillance requirement. The proposed increase in Pa to meet the requirements of Appendix J to 10 CFR Part 50 constitutes a more stringent surveillance requirement. On this basis the staff proposes to determine that the requested action would involve no significant hazards consideration.

Local Public Document Room location: Charelvoix Public Library, 107 Clinton Street, Charlevoix, Michigan 49720.

Attorney for licensee: Judd L. Bacon, Esquire, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

NRC Branch Chief: Dennis M. Crutchfield.

Consumer Power Company, Docket No. 50–255, Palisades Plant, Van Buren County, Michigan

Date of amendment request: March 12, 1979.

Description of amendment request: The amendment would approve changes to the Radiological Effluent Technical Specifications which would bring them into compliance with Appendix I of 10 CFR Part 50.

Basis for proposed no significant hazards consideration determination: The proposed new Technical Specifications section would define limiting conditions for operation and surveliance requirements for radioactive liquid and gaseous effluent monitoring; concentration, dose and treatment of liquid, gaseous and solid wastes; total dose; radiological environmental monitoring that consists of a monitoring program, land use census, and interlaboratory comparison program. This change would also incorporate into the Technical Specifications the bases that support the operation and surveillance requirements. In addition, some changes would be made in administrative controls, specifically dealing with the process control program and the offsite dose calculation manual.

The Commission, in a revision to Appendix I, 10 CFR Part 50 required licensees to improve and modify their radiological effluent systems in a manner that would keep releases of radioactive material to unrestricted areas during normal operation as low as is reasonably achievable. In complying with this requirement it became necessary to add additional restrictions and controls to the Technical Specifications to assure compliance. This caused the proposed addition of Technical Specifications described above. The staff proposes to determine that the application does not involve a significant hazards consideration since the change constitutes additional restrictions and controls that are not currently included in the Technical Specifications in order to meet the Commission's requirements pertaining to "as low as is reasonably achievable."

Local Public Document Room location: Kalamazoo Public Library, 315 South Rose Street, Kalamazoo, Michigan 49006.

Attorney for licensee: Judd L. Bacon, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

NRC Branch Chief: Dennis M. Crutchfield.

Consumer Power Company, Docket No. 50–255, Palisades Nuclear Power Plant, Van Buren County, Michigan

Date of amendment request: March 1, 1982.

Description of amendment request: The proposed amendment would reduce the set-point for Containment High Pressure from 5 psig to 4 psig. This set point actuates the reactor trip and the enginered safety features of safety injection, containment spray, containment isolation and containment air coolers-accident mode.

Basis for proposed no significant hazards consideration determination: The proposed reduction in high pressure setpoints is a more stringent restriction and control which matches example (ii) published in the **Federal Register** on April 6, 1983 (48 FR 14870). It is being implemented in response to NUREG–0737, Item II.E.4.2, position 5.

On this basis, the staff proposes to determine that this amendment would not involve a significant hazards consideration.

Local Public Document Room location: Kalamazoo Public Library, 315 South Rose Street, Kalamazoo, Michigan 49006.

Attorney for licensee: Judd L. Bacon, Esquire, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

NRC Branch Chief: Dennis M. Crutchfield.

Consumer Power Company, Docket No. 50–255, Palisades Nuclear Power Plant, Van Buren County, Michigan

Date of amendment request: June 25, 1982.

Description of amendment request: The proposed amendment would make an administrative change to the Technical Specifications to correct the rated load for the emergency diesel generators to 750 amps. at 2400 volts which is the nameplate rating for the generator, rather than the presently specified 2500 Kw.

Basis for proposed no significant hazards consideration determination: The proposed amendment would correct a technical error by specifying the diesel generator rating in amperes and volts rather than kilowatts which depends upon the power factor of the test load. This change fits example (i) of the amendment not considered likely to involve a significant hazards consideration published in the **Federal Register** on April 6, 1983 (48 FR 14870) in that it involves a purely administrative change to correct an error. On this basis, the staff proposes to determine that this amendment would not involve a significant hazards consideration.

Local Public Document Room location: Kalamazoo Public Library, 315 South Rose Street, Kalamazoo, Michigan 49006.

Attorney for licensee: Judd L. Bacon, Esquire, Consumers Power Company 212 West Michigan Avenue, Jackson, Michigan 49201.

NRC Branch Chief: Dennis M. Crutchfield.

Consumers Power Company, Docket No. 50–255, Palisades Plant, Van Buren County, Michigan

Date of amendment request: August 30, 1982.

Description of amendment request: The proposed amendment would add to the Technical Specifications a requirement for an operable vent path from the reactor vessel and pressurizer to the containment. It would also add the surveillance testing requirements to verify its operability.

Basis for proposed no significant hazards consideration determination: This proposed amendment would add to the Technical Specifications (TSs) a requirement that the Primary Coolant Gas Vent System required by NUREG–0737, Item II.B.1 be operable and verified to be operable by periodic testing. This proposed amendment fits example (ii) of the examples of amendments that are considered not likely to involve significant hazards considerations published in the **Federal Register** (48 FR 14670, April 6, 1983), in that it adds additional limitations and requirements not presently in the TSs. Therefore, the Commission proposes to find that this amendment would not involve a significant hazards consideration.

Local Public Document Room location: Kalamazoo Public Library, 315 South Rose Street, Kalamazoo, Michigan 49006.

Attorney for licensee: Judd L. Bacon, Esquire, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

NRC Branch Chief: Dennis M Crutchfield.

Consumers Power Company, Docket No. 50–255, Palisades Plant, Van Buren County, Michigan

Date of amendment request: March 14, 1983.

Description of amendment request: The proposed amendment would add periodic station battery service and discharge tests to the Technical Specifications.

Basis for proposed no significant hazards consideration determination: The proposed change constitutes a more stringent surveillance requirement which is one of the examples (ii) published in the **Federal Register** (48 FR 14670, April 6, 1983) that are considered not likely to involve significant hazards considerations. It also conforms to present licesing requirements as given in Standard Technical Specifications. Therefore, we have determined that this proposed amendment does not involve a significant hazards consideration.

Local Public Document Room location: Kalamazoo Public Library, 315 South Rose Street, Kalamazoo, Michigan 49006.

Attorney for licensee: Judd L. Bacon, Esquire, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

NRC Branch Chief: Dennis M. Crutchfield.

Dairyland Power Cooperative, Docket No. 50–409, La Crosse Boiling Water Reactor, Vernon County, Wisconsin

Date of application for amendment: December 8, 1981.

Description: The proposed amendment requests Technical Specifications (TS) changes of four general types: (1) incorporation of additional limitations to protect against degraded grid voltage and pipe cracking and new requirements to facilitate fire protection and inservice inspection, (2) revision of existing TS's reflecting changes in plant organization and other administrative changes not affecting safety, (3) revision of the existing TS's on electrical power systems to be consistent with the STS format, and (4) modification of the fuel inventory and fuel change-out requirements of the Emergency Service Water Supply System (ESWSS) engines.

Basis for proposed no significant hazards consideration determination: Further description of the Item 1 changes follows. The licensee would install a second level of undervoltage relaying equipment to protect safety related electrical equipment from failures caused by degraded grid voltage. In response to NUREG–0313 (BWR Pipe-cracking) the licensee would implement augumented inservice inspection and leak detection of austenitic stainless steel piping that is susceptible to intergranular stress-corrossion cracking. In response to a previously issued fire protection safety evaluation and license amendment, the licensee has proposed Technical Specifications to implement most fire protection modifications evaluated in the Fire Protection Safety Evaluation, dated July 27, 1979 (License Amendment 17). Also, the licensee proposed Technical Specifications which would implement additional inservice inspection and inservice testing requirements in accordance with current ASME code criteria, to demonstrate the physical integrity of piping and the operability of pumps and valves; except where relief has been grantd by the NRC. Thus, it can be seen that the Technical Specifications proposed above would incorporate additional operating limitations not currently present in the La Crosse Technical Specifications.

The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870, April 6, 1983). One of the examples (ii) of actions involving no significant hazards considerations relates to a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications. On this basis, the NRC staff proposes to determine that the application for the above changes does not involve a significant hazards consideration.

Changes proposed in Item 2 include purely administrative changes, such as making the Standard Technical Specification Definitions applicable for all parts of the La Crosse Technical Specifications; deleting a blank page which contained no Technical Specifications; deleting a redundant requirement, since a single specification is sufficient; and deleting an ambiguous specification which might possibly be misinterpreted, since the necessary requirement is stated more clearly in a separate specification.

The Commission's guidance (48 FR 14870) states that one example (i) involving no significant hazards consideration is a purely administrative change to Technical Specifications; for example, a change to achieve consistency throughout the Technical Specification, correction of an error, or a change in nomenclature. On this basis, the NRC staff proposes to determine that the application for the Item (2) changes does not involve a significant hazards consideration.

Changes to the plant personnel organization were also proposed by the licensee which modified the organizational framework but did not reduce the number of people actually on-site. The NRC has reviewed these changes and has found that they are acceptable under current licensing criteria. These changes do not involve a significant increase in the probability or consequences of an accident previously evaluated, do not create the possibility of a new or different reduction in a margin of safety. On this basis, the NRC staff proposes to determine that the proposed plant organizational changes do not involve significant hazards considerations.

Item 3 changes include a complete revision of the existing Technical Specifications on electrical power systems to conform to the Standard Technical Specification format. The proposed specifications will be reviewed to ensure that existing safety

margins for electrical power systems are not degraded and, whenever possible, will be compared to Standard Technical Specifications to ensure that existing safety margins are consistent with current licensing criteria. These changes will not decrease safety margins and in many cases more conservative limitations would be imposed. Thus, these changes are administrative in nature but also impose additional limitations. The Commission's guidance (48 FR 14870) provides examples which indicate that both of these types of changes will likely involve no significant hazards considerations. On this basis, the staff proposes to determine that the Item (3) change involve no significant hazards considerations.

The changes discussed in Item 4 above would reduce by 20% the required amount of fuel in ESWSS engines to account for changes in volume due to ambient temperature changes and would require that ESWSS fuel be changed out twice a year (instead of quarterly) since available fuel volatility is only changed twice a year. To compensate for these modifictions, the licensee has proposed the each ESWSS engine be started and run at each fuel change-out to consume and replenish all old fuel that could not be drained from the engine. In addition, the licensee has committed to implement written emergency procedures which will describe how additional fuel may be obtained if the ESWSS is needed to flood the containment building. Although the reduction in fuel inventory and frequency of fuel replacement may slightly impact the availability of the ESWSS engines, the licensee's proposed measures will adequately compensate for the reduction and the changes will not have a significant effect on plant safety. Accordingly, these changes do not involve a significant increase in the probability or consequences of an accident previously evaluated, do not create the possibility or a new or different kind of accident from any previously evaluated and do not involve a significant reduction in a margin of safety. On this basis, the staff proposes to determine that the application for the changes in Item (4) does not involve a significant hazards consideration.

Local Public Document Room location: La Crosse Public Library, 800 Main Street, La Crosse, Wisconsin 54601.

Attorney for license: O. S. Heistand, Jr., Morgan, Lewis, and Backius, 1800 M Street, N.W., Washington, D.C. 20036.

NRC Branch Chief: Dennis M. Crutchfield.

Dairyland Power Cooperative, Docket No. 50–409, LaCrosse Boiling Water Reactor, Vernon County, Wisconsin

Date of amendment request: June 9, 1982.

Description of amendment request: Proposed changes to the Technical Specifications (TS) would require quarterly testing of containment ventilation (purge) valves to detect excessive degradation of the resilient seats.

Basis for proposed no significant hazards consideration determination: As a result of Multi-Plant Action B–24 (Containment Purge and Vent Review), the NRC staff requested that the licensee propose such a technical specification. This testing should be required in addition to the valve leakage tests that are currently required at each refueling outage. The proposed amendment would require quarterly testing of the 20" containment ventilation valves in order to detect possible gross degradation of the resilient valve seats.

The Commission has provided guidance for determining whether proposed changes involve significant hazards considerations by providing certain examples (48 FR 14870, April 6, 1983). One of the examples (ii) of actions involving no significant hazards considerations is a change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications. The requested action herein imposed additional surveillance requirements not presently included in the license and, thus, is within the purview of this example. On this basis, the NRC staff proposes to determine that the proposed changes would not involve a significant hazards consideration.

Local Public Document Room location: La Crosse Public Library, 800 Main Street, La Crosse, Wisconsin 54601.

Attorney for licensee: O. S. Heistand, Jr., Esquire, Morgan, Lewis & Bockius, 1800 M Street, NW., Washington, D.C. 20036.

NRC Branch Chief: Dennis M. Crutchfield.

Dairyland Power Cooperative, Docket No. 50–409, La Crosse Boiling Water Reactor, Vernon County, Wisconsin

Date of amendment request: April 4, 1983.

Description of amendment request: The request for technical specification (TS) changes would incorporate NUREG–0737 TMI requirements which would restrict overtime of certain plant personnel and would result in the licensee reporting all indicated operations and failures to reclose of primary system safety valves for pressure relief purposes.

Basis for proposed no significant hazards consideration determination: NRC Generic Letter 83–02 requested that BWR licensees review their Technical Specifications to determine if they were consistent with BWR Model Technical Specifications provided for NUREG–0737 TMI Action Plan Requirements. Dairyland Power responded to this request and submitted an amendment request to add two specifications. The proposed Technical Specifications would add requirements to (1) restrict overtime of certain plant personnel when performing duties which may affect the safety of the public and (2) report all indicated operations and failures to reclose (if any) of primary system safety valves for pressure relief purposes.

The Commission has provided guidance for making these determinations by providing certain examples (48 FR 14870, April 6, 1983). One of the examples (ii) of actions involving no significant hazards consideration relates to a change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications. The requested action fits this example. On this basis, the NRC staff proposes to determine that the application for the above changes does not involve a significant hazards consideration.

Local Public Document Room location: La Crosse Public Library, 800 Main Street, La Crosse, Wisconsin 54601.

Attorney for licensee: O. S. Heistand, Jr., Esquire, Morgan, Lewis & Bockius, 1800 M Street, NW., Washington, D.C. 20036.

NRC Branch Chief: Dennis M. Crutchfield.

Dairyland Power Cooperative, Docket No. 50–409, LaCrosse Boiling Water Reactor, Vernon County, Wisconsin

Date of amendment request: June 8, 1983, which supersedes application dated September 15, 1982.

Description of amendment request: The proposed license amendment would provide new Technical Specification provisions which would define limiting conditions for operation and surveillance requirements for radioactive liquid and gaseous effluent monitoring; concentration, dose and treatment of liquid, gaseous and solid wastes; total dose; radiological environmental monitoring that consists of a monitoring program, land use

census, and interlaboratory comparison program. These provisions would also incorporate into the Technical Specifications the bases that support the operation and surveillance requirements. Moreover, some of the Technical Specifications would involve administrative controls dealing with the requirements for the Radiological Environmental Operating Report.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards by providing certain examples (April 6, 1983, 48 FR 14870). One of the examples (ii) of actions not likely to involve a significant hazards consideration relates to changes that constitute additional restrictions or controls not presently included in the technical specifications. The license changes proposed here fall within this example. Specifically, the Commission, in a revision to Appendix I, 10 CFR Part 50 required licensees to improve and modify their radiological effluent systems in a manner that would keep releases of radiological material to unrestricted areas during normal operation as low as is reasonably achievable. In complying with this requirement it became necessary to add additional restrictions and controls to the Technical Specifications to assure compliance. This caused the need for the Technical Specifications described above to be proposed. This staff proposes to determine that the application does not involve a significant hazards consideration since the change constitutes additional restrictions and controls that are not currently included in the Technical Specifications in order to meet the Commission's requirements related to "as low as is reasonably achievable."

Local Public Document Room location: La Crosse Public Library, 800 Main Street, La Crosse, Wisconsin 54601.

Attorney for licensee: O. S. Heistand, Jr., Esquire, Morgan, Lewis & Bockius, 1800 M Street, NW., Washington, D.C. 20036.

NRC Branch Chief: Dennis M. Crutchfield.

Duquesne Light Company, Docket No. 50–334, Beaver Valley Power Station, Unit No. 1 Shippingport, Pennsylvania

Date of amendment request: February 7, 1982.

Description of amendment request: The proposed change revises the Beaver Valley Power Station, Unit No. 1 Technical Specifications, Appendix A to incorporate the applicable NUREG–0737 changes recommended by Generic Letter 82–16.

The change to Section 6.2.2. "Facility Staff" is an administrative requirement to limit the working hours of plant personnel who perform safety related functions. This change is recommended by NUREG–0737, Item I.A.1.3.

The change to Section 6.9.1.5 "Annual Reports" incorporates an administrative requirement to include all challenges to the Pressurizer Power Operated Relief Valves (PORV's) or Pressurizer Safety Valves in the annual report. The change to Section 6.9.1.8 "Prompt Notification With Written Followup" incorporates an administrative requirement to report any failure of the pressurizer PORV's or Pressurizer Safety Valves within 24 hours and provide a written followup within 14 days. These changes are recommended by NUREG–0737, Item II.K.3.3.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14871). One of such involving no significant hazards considerations is one that constitute an additional limitation, restriction or control not presently included in the Technical Specifications. The proposed change matches the example.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Attorney for licensee: Gerald Charnoff, Esquire, Jay E. Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

NRC Branch Chief: Steven A. Varga.

Duquesne Light Company, Docket No. 50–334, Beaver Valley Power Station, Unit No. 1 Shippingport, Pennsylvania

Date of amendment request: December 16, 1982.

Description of amendment request: An Amendment (No. 61) was granted to permit operation of the unit with less than 75% of the incore flux detector thimbles functional. It was stated in that Amendment that the change would be temporary, and was applicable only to Fuel Cycle No. 3. The subject fuel cycle is over, and the staff would restore the Technical Specifications to what they were before Amendment No. 61. Specifically, operation of the unit with less than 75% of the thimbles functional will no longer be permitted.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14871). One of the examples involving no significant hazards considerations is one that "constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications." The above-mentioned restoration matches the example.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Attorney for the Licensee: Gerald Charnoff, Esquire, Jay E. Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036.

NRC Branch Chief: Steven A. Varga.

Florida Power & Light Company, Docket No. 50–335, St. Lucie Plant, Unit No. 1, St. Lucie County, Florida

Date of amendment request: March 18, 1977 and July 1, 1977.

Description of amendment request: This amendment would add a new specification to the St. Lucie Plant, Unit No. 1 (St. Lucie 1) technical specifications to specify inservice inspection and inservice testing requirements. Specifically, the new specification calls for the inservice of ASME Code Class 1, 2 and 3 components and inservice testing of ASME Code Class 1, 2 and 3 pumps and valves to be preformed in accordance with Section XI of the ASM Boiler and Pressure Vessel Code and Applicable Addenda as required by 10 CFR 50.55a(g).

In addition specific inspection and testing surveillance intervals are specified based upon Section XI of the ASME Boiler and Pressure Vessel Code and Applicable Addenda (Code). In applying this new specification, certain of the technical specifications are deleted because they are covered by the Code or revised to meet the requirements of the Code.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870). One of the examples of actions involving no significant hazards considerations relates to changes to make a license conform to changes in the regulations where the license changes result in very minor changes to facility operations clearly in keeping with the regulations (vii). In this case, the staff, in its letter of January 14, 1977, requested that the technical specifications of St. Lucie Plant, Unit No. 1 be amended to revise

inservice inspection and testing programs in accordance with 10 CFR 50.55a(g). In response to that request the licensee proposed changes to the technical specifications in their letters of March 18, 1977 and July 1, 1977. The requested changes consist of a new specification that calls for the inservice inspection of ASME Code Class 1, 2 and 3 components and inservice testing of ASME Code Class 1, 2 and 3 pumps and valves to be performed in accordance with Section XI of the ASME Boiler and Pressure Vessel Code and Applicable Addenda (Code) as required by 10 CFR 50.55a(g). In addition, specific inspection and testing surveillance intervals are specified, based upon the Code. In applying this new specification, certain of the technical specifications are deleted because they are covered by the Code or revised to meet the requirements of the Code. These changes result in very minor changes to facility operations and are clearly in keeping with existing regulations. The changes proposed for St. Lucie 1 will also make the technical specifications similar to those previously approved for the operation of St. Lucie Plant, Unit No. 2. On this basis, the Commission proposes to determine that the proposed amendment involves no significant hazards consideration.

Local Public Document Room Location: Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Florida 33450.

Attorney for the Licensee: Harold F. Esq., Lowenstein, Newman, Reis, and Axelrad, 1025 Connecticut Avenue NW., Washington, D.C. 20036.

NRC Branch Chief: Robert A. Clark.

Florida Power & Light Company, Docket No. 50-335, St. Lucie Plant, Unit No. 1 St. Lucie County, Florida

Date of amendment request: January 20, 1983.

Description of amendment request: The amendment would permit operation after numerical changes in the safety limits on shutdown margin and moderator coefficient limits are approved in conjunction with cycle 6 reload. The fuel element composition of the cycle 6 core will change from its current composition of Combustion Engineering assembles to a combination of Exxon and Combustion Engineering assemblies. A low radial leakage fuel management plan has been developed that results in scatter-loading of the fresh fuel, as well as the exposed fuel, throughout the core. In addition to the changes made in the loading pattern a revised steam line break analysis has been performed and is contained in the supporting documents of this application. The effect of these changes allows the proposed change in the shutdown margin requirement from equal to or greater than 5.0% delta k/k to equal to or greater than 3.6% delta k/k and to change the moderator temperature coefficient limits from less positive than 0.5×10^{-4} delta k/k/°F for less than 70% of rated thermal power and less negative than -2.2×10^{-4} delta k/k/°F at rated thermal power to less positive than 0.7×10^{-4} delta k/k/°F for less than 70% or rated thermal power and less negative than -2.8×10^{-4} delta k/k/°F at rated thermal power. These changes are proposed in accordance with the licensee's application for amendment dated January 20, 1983.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870). Two of the examples of actions involving no significant hazards consideration are: (1) for a nuclear power reactor, a change resulting from a nuclear reactor core reloading, if no fuel assemblies significantly different from those found previously acceptable to the NRC for a previous core at the facility in question are involved. This assumes that no significant changes are made to the acceptance criteria for the technical specifications, that the analytical methods used to demonstrate conformance with the technical specifications and regulations are not significantly changed, and that NRC had previously found such methods acceptable (iii); and (2) a change which either may result in some increase to the probability or consequences of a previously analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan: for example, a change resulting from the application of a small refinement of a previously used calculational model or design method (vi).

The composition of the fuel elements making up the cycle 6 core does not involve fuel assemblies significantly different from those previously found acceptable at St. Lucie Plant, Unit No. 1 (St. Lucie 1), specifically those previously reviewed and approved for cycle 5. The neutronic characteristics of cycle 6 are similar to those of cycle 5 (Example iii). The proposed change would reduce the shutdown margin from 5.0% to 3.6% delta k/k. Since the shutdown margin is an intrinsic property of the reactor system and is not connected with any accident initiator, the probability of any accident is unchanged by a change in the shutdown margin. The design basis event requiring the highest shutdown margin at St. Lucie 1 is the Hot Zero Power Main Steam Line Break. In performing the analysis for cycle 6, Exxon Nuclear Corporation (Exxon) vendor for the new cycle 6 fuel elements, was instructed to establish shutdown margin requirements that would lead to consequences no worse than those determined in the cycle 5 analysis performed by Combustion Engineering. Achievement of comparable consequences with a reduced shutdown margin is the result of differences in the calculation methodology used by the two vendors and documented in the application. This change in the shutdown margin does not create the possibility of a new or different kind of limiting accident from those previously evaluated since no modification will be made to St. Lucie 1 configuration or the manner in which it will be operated. The acceptance criterion for St. Lucie 1 for determining the adequacy of the shutdown margin is the requirement that there be no Departure from Nucleate Boiling after a Main Steam Line Break. The latest analysis performed by Exxon shows that no fuel failures are expected and that this criterion is met. Therefore, there appears to be no significant reduction in the margin of safety.

The proposed amendment raises the maximum positive value for the Moderator Temperature Coefficient (Coefficient) at 70% of rated power and lowers the most negative value of the Coefficient at rated power. As is the case for the shutdown margin, the Coefficient is a property of the reactor system and not connected with any accident initiator. The Exxon analysis using Coefficient values fixed at the new proposed limits resulted in consequences that show no significant changes when compared to the cycle 5 analysis prepared by Combustion Engineering. Since there is no modification being made to St. Lucie 1 or its operation, there is no creation of any new or different kind of accident not previously evaluated. Since the licensee's reanalysis of the limiting accidents at the new limits result in no appreciable increase in the consequences, the margin of safety does not appear to be significantly reduced (Example (vii) of 10 CFR 50.92). On the basis, the Commission proposes to determine that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: Indian River Junior College

Library, 2109 Virginia Avenue, Fort Pierce, Florida 33450.

Attorney for licensee: Harold F. Reis, Esq., Lowenstein, Newman, Reis and Axelrad, 1025 Connecticut Avenue, NW., Washington, D.C. 20036.

NRC Branch Chief: Robert A. Clark.

Florida Power and Light Company, Docket Nos. 50–250 and 50–251, Turkey Point Plant, Units Nos. 3 and 4, Dade County, Florida

Date of amendment request: July 11, 1978.

Description of amendment request: Technical Specifications would be revised to add motor operated valves 863–A and 863–B to the existing list of valves required to have their power removed. These valves are installed in parallel and provide a crosstie from the discharge of the residual heat removal pumps to the system. The valves are closed during normal operation and remain closed upon initial Emergency Core Cooling System (ECCS) injection phase; the valves will have power removed from their motor operators by locking open the circuit breakers in the appropriate motor control centers. Power will be restored to the valve operators to accomplish the switchover from the ECCS injection mode to the recirculation mode. The request also includes provisions to allow restoration of power for a limited time to comply with the Technical Specification surveillance requirements.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of standards for determining whether license amendments involve no significant hazards considerations by providing certain examples (48 FR 14870). One of these examples relate to a change that constitutes an additional limitation, restriction or control not presently included in the plant Technical Specifications. This amendment is directly related to the example in that the inclusion of the valves (863–A and 863–B) is in accordance with the staff's position as an effective method to protect against single failure. Since these proposed changes add requirements in accordance with staff positions, the staff proposes to determine that the application does not involve a significant hazards consideration.

Local Public Document Room location: Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

Attorney for licensee: Harold F. Reis, Esquire, Lowenstein, Newman, Reis and Axelrad, 1025 Connecticut Avenue, N.W., Suite 1214, Washington, D.C. 20036.

NRC Branch Chief: Steven A. Varga.

Florida Power and Light Company, Docket Nos. 50–250 and 50–251, Turkey Point Plant, Unit Nos. 3 and 4, Dade County, Florida

Date of amendment request: May 14, 1981.

Description of amendment request: The amendment would add new requirements for operability, visual inspections and periodic testing of mechanical snubbers to ensure that these devices are operable. Snubbers are attached to piping and equipment to provide restraint during a seismic or other event which initiates dynamic loads, yet allow slow motion such as that produced by termal expansion. The amendment would also make revisions to the requirements for testing and inspection of hydraulic snubbers in accordance with current criteria and more clearly define the acceptance criteria for visual inspection and functional testing.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether license amendments involve no significant hazards considerations by providing certain examples which were published in the **Federal Register** on April 6, 1983 (48 FR 14870). One of the examples of actions involving no significant hazards consideration is a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications; for example, a more stringent surveillance requirement. The licensee proposed the amendment in accordance with the current staff criteria provided in the Standard Technical Specifications addressing safety-related snubbers. The amendment request, discussed above, fits this example. On this basis the Commission proposes to determine that the amendment involves no significant hazards consideration.

Local Public Document Room location: Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

Attorney for licensee: Harold F. Reis, Esquire, Lowenstein, Newman, Reis and Axelrad, 1025 Connecticut Avenue, N.W., Suite 1214, Washington, D.C. 20036.

NRC Branch Chief: Steven A. Varga.

Florida Power and Light Company, Docket Nos. 50–250 and 50–251, Turkey Point Plant, Unit Nos. 3 and 4, Dade County, Florida

Date of amendments request: August 6, 1982.

Description of amendments request: These amendments involve changes to the Technical Specifications which will incorporate setpoints, surveillance requirements and limiting conditions of operation for the undervoltage protection systems for safety-related equipment.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether license amendments involve no significant hazards considerations by providing certain examples (48 FR 14870). One of these examples relates to a change that consitutes an additional limitation, restriction or control not presently included in the plant Technical Specifications. These amendments fall directly within that example in that the additional restrictions imposed by the amendments are for modifications and new equipment installed to meet the current NRC criteria and requirements pertaining to degraded grid voltage protection. Since the proposed changes add requirements to ensure compliance with the regulations in accordance with staff positions, the staff proposes to determine that the application does not involve a significant hazards consideration.

Local Public Document Room location: Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

Attorney for the licensee: Harold F. Reis, Esquire, Lowenstein, Newman, Ross and Axelrad, 1025 Connecticut Avenue, NW., Suite 1214, Washington, D.C. 20036.

NRC Branch Chief: Steven A. Varga.

Florida Power and Light Company, Docket Nos. 50–251, Turkey Point Plant, Unit Nos. 50–250 and 3 and 4, Dade County, Florida

Date of amendment request: September 10, 1982.

Description of amendment request: The proposed license amendments would provide new Technical Specification provisions which would define limiting conditions for operation and surveillance requirements for radioactive liquid and gaseous effluent monitoring; concentration, dose and treatment of liquid, gaseous and solid

wastes; total does; and radiological environmental monitoring that consists of a monitoring program, land use census, and interlaboratory comparison program. These provisions would also incorporate into the Technical Specifications the bases that support the operation and surveillance requirements. Moreover, some of the Technical Specifications would involve administrative controls, specifically dealing with the process control program and offsite dose calculation manual.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870). One of the examples (ii) of actions not likely to involve a significant hazards consideration relates to changes that constitute additional restrictions or controls not presently included in the Technical Specifications.

The Commission, in a revision to Appendix I, 10 CFR Part 50 required licensees to improve and modify their radiological effluent systems in a manner that would keep releases of radioactive material to unrestricted areas during normal operation as low as is reasonably achievable. In complying with this requirement it became necessary to add additional restrictions and controls to the Technical Specifications to assure compliance. This cause the need for the Technical Specifications described above to be proposed. The staff proposes to determine that the application does not involve a significant hazards consideration since the change constitutes additional restrictions and controls that are not currently included in the Technical Specifications in order to meet the Commission's requirements related to "as low as is reasonably achievable."

Local Public Document Room location: Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

Attorney for the licensee: Harold F. Reis, Esquire, Lowenstein, Newman, Ross and Axelrad, 1025 Connecticut Avenue, N.W., Suite 1214, Washington, D.C. 20036.

NRC Branch Chief: Steven A. Varga.

Florida Power and Light Company, Docket Nos. 50–250 and 50–251, Turkey Point Plant, Unit Nos.a 3 and 4, Dade County, Florida

Date of amendments request: December 29, 1982.

Description of amendments request: These amendments would revise and add new requirements to the plant Technical Specifications for items required by NUREG–0737, Clarification of TMI Action Plan Requirements, for implementation by December 31, 1981. The amendments request includes: (1) additional Limiting Conditions of Operation for Purge Isolation; (2) adds setpoints for high containment radioactivity; (3) the surveillance requirements for Turbine Trip (Auto Stop Oil Pressure Switches) have been added and the basis for reactor trip on turbine trip provided; and (4) the additional requirement for prompt reporting of pressurizer power operated relief valves failures and safety value to the NRC.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of standards for determining whether amendments involve no significant hazards considerations by providing certain examples (48 FR 14870). One of these examples is a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications. The proposed amendments are in response to Generic Letter 82.16, dated September 20, 1982, which requested that all PWR licensees review their Technical Specifications to verify they were consistent with the guidelines provided or request amendments as necessary. Since the proposed amendments add requirements or conditions in accordance with staff positions to ensure compliance with regulations, these proposed changes fall within the above example of a change not likely to involve significant hazards consideration and the staff proposes to determine that the application does not involve a significant hazards consideration.

Local Public Document Room location: Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

Attorney for licensee: Harold F. Reis, Esquire, Lowenstein, Newman, Reis and Axelrad, 1025 Connecticut Avenue, N.W., Suite 1214, Washington, D.C. 20036.

NRC Branch Chief: Steven A Varga.

Florida Power and Light Company, Docket Nos. 50–250 and 50–251, Turkey Point Plant, Unit Nos. 3 and 4, Dade County, Florida

Date of amendment request: May 5, 1983.

Description of amendment request: The proposed amendment request the deletion of non-radiological Environmental Technical Specifications (Appendix B) which address terrestrial, biological and physical monitoring programs. The justification for the requested deletions are based on the results of eight years of studies and the conclusions drawn.

Basis for proposed no significant hazards consideration determination: The amendments would delete the non-radiological monitoring programs related to terrestrial, biological and physical monitoring. The amendments would not change any current limitations related to the operation of the plants. Since no operational limitations are being changed, the staff proposes to determine that the amendments do not involve a significant increase in the probability or consequences of an accident previously evaluated, do not create the possibility of a new or different accident from any accident previously evaluated and do not involve a significant reduction in a margin of safety. The staff, therefore, proposes to determine that the amendments do not involve a significant hazards consideration.

Local Public Document Room location: Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

Attorney for licensee: Harold F. Reis, Esquire, Lowenstein, Newman, Reis and Axelrad, 1025 Connecticut Avenue, N.W., Suite 1214, Washington, D.C. 20036.

NRC Branch Chief: Steven A. Varga.

Florida Power and Light Company, Docket Nos. 50–250 and 50–251, Turkey Point Plant, Unit Nos. 3 and 4, Dade County, Florida

Date of amendments request: May 13, 1983.

Description of amendments request: These amendments involve Technical Specification changes which will incorporate an additional requirement for a monthly walkdown of all accessible safety-related flowpaths. The proposed change requires verifying that each accessible valve (manual, power operated or automatic) is in its correct position and verify the availability of power to those components related to the operability of the designated flowpaths.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of standards for determining whether license amendments involve no significant hazards considerations by providing certain examples (48 FR 14870). One of the examples relates to a change that constitutes an additional limitation, restriction or control not presently

included in the plant Technical Specifications. These amendments are directly related to the example in that an additional restriction would be added to provide increased assurance of the availability of safety-related systems. This proposed change is in support of a commitment to the NRC staff and is consistent with the Standard Technical Specifications for Westinghouse plants. Since the application is in response to NRC staff request, incorporates current requirements, will provide additional assurance of safety-related system availability, and constitutes additional limitations and restrictions not currently contained in the license, the staff proposes to determine that the application does not involve a significant hazards consideration.

Local Public Document Room location: Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

Attorney for licensee: Harold F. Reis, Esquire, Lowenstein, Newman, Reis and Axelrad, 1025 Connecticut Avenue, N.W., Suite 1214, Washington, D.C. 20036.

NRC Branch Chief: Steven A. Varga.

GPU Nuclear Corporation, Docket No. 50–219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of application for amendment: December 11, 1979.

Description of amendment request: The proposed amendment requests Technical Specification (TS) changes and additions required for the Inservice Inspection (ISI) Program.

Basis for proposed no significant hazards consideration determination: The ISI Program utilizes the Non-Destructive Examination methods to determine structural integrity of power plant components. The proposed changes to TS add additional inspection requirements by including Class 2 and 3 components as well as Class 1. The proposed TS additions would require inservice inspection of the reactor coolant system in accordance with the requirements of the Edition and Addenda of Section XI of the ASME Code as specified in 10 CFR 50.551. The Commission has provided guidance concerning the application of standards for no significant hazards considerations determination by providing certain examples (48 FR 14870, April 6, 1983). One of the examples of action likely to involve no significant hazards considerations is a change that constitutes an additional limitation, restriction or control not presently included in the Technical Specifications. The proposed amendment, therefore, falls within the category of example (ii) because it involves an additional control not previously included in the TS. On this basis, the NRC staff proposes to find that this license amendment does not involve significant hazards consideration.

Local Public Document Room location: 101 Washington Street, Toms River, New Jersey 08753.

Attorney for licensee: G. F. Trowbridge, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

NRC Branch Chief: Dennis M. Crutchfield.

Indiana and Michigan Electric Company, Docket No. 50–316, D. C. Cook Unit No. 2, Berrien County, Michigan

Date of amendment request: September 22, 1978.

Description of amendment request: This amendment for the Donald C. Cook Plant, Unit 2, involves an analysis to investigate the long-term containment temperature and pressure response to a postulated steam line break using the LOTIC–3 computer code. This analysis is in response to License Condition 2.C(3)(g) which was the subject of License Amendment No. 6 issued on June 16, 1978. Having presented the required reanalysis to the approved version of LOTIC–3, the licensee's proposal would remove the license condition as having been satisfied by the analysis provided.

Basis for proposed no significant hazards consideration determination: One of the Commission's examples (48 FR 14870) involving no significant hazards relates to a relief granted upon demonstration of acceptable operation from an operating restriction that was imposed because acceptable operation was not yet demonstrated. The proposed removal of the license condition is similar to the example in that the licensee has now performed (or demonstrated) a detailed computer analysis (or operation) and has fulfilled the requirements to the criteria previously found acceptable to the NRC. The License Amendment No. 6 issued on June 16, 1978 also found that the existing analysis results at that time involved no significant hazards consideration but that the revised reanalysis to meet the updated staffs approval of LOTIC–3 would be necessary. Based on the above, the staff proposes to determine that the proposed amendment does not involve a significant hazards consideration.

Local Public Document Room location: Maude Reston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Attorney for licensee: Gerald Charnoff, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

NRC Branch Chief: Steven A. Varga.

Indiana and Michigan Electric Company, Docket Nos. 50–315 and 50–316, D. C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of amendment request: April 8, 1983.

Description of amendment request: These amendments for the Donald C. Cook Plants involve adding statements to the Technical Specifications which would limit overtime worked by plant staff members in accordance with the NRC Policy Statement (Generic Letter No. 82–12 issued on June 15, 1982) and would require an annual report of all challenges to the pressurizer power operated relief valves or safety valves. These Technical Specification changes are in response to NRC Generic Letter 82–16 issued September 20, 1982, and cover Technical Specifications for TMI Action Items from NUREG–0737 which were to be implemented by December 31, 1981.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing examples of amendments that are likely to not involve a significant hazards consideration. These were published in the **Federal Register** on April 6, 1983 (48 FR 14870). One of the examples involving no significant hazards considerations relates to changes that constitute additional limitation, restriction, or control not presently included in the Technical Specifications. The changes proposed by these amendments are directly related to this example. Therefore, the staff proposes to determine that the proposed amendment does not involve a significant hazards consideration.

Local Public Document Room location: Maude Reston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Attorney for licensee: Gerald Charnoff, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

NRC Branch Chief: Steven A. Varga.

Iowa Electric Light and Power Company, Docket No. 50–331, Duane Arnold Energy Center, Linn County, Iowa

Date of amendment request: November 30, 1976.

Description of amendment request: Revises the Technical Specification (TS) to include a program for verification of sensor response time in the Reactor Protection System to ensure that protective instrumentation will function within the prescribed time limits and is in response to an NRC request during the review of the licensee's application for an operating license.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance for the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870). The examples of actions involving no significant hazards consideration include: "(ii) A change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications: for example, a more stringent surveillance requirement." The proposed amendment is an example of an amendment that is considered not likely to involve significant hazards consideration in that the change constitutes additional limitations, restrictions, or controls not presently included in the Technical Specification and is thus similar to Example (ii) of 48 FR 14870 cited above.

Therefore, since the application for amendment involves proposed changes that are similar to an example for which no significant hazards consideration exists, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Cedar Rapids Public Library, 426 Third Avenue, S.E., Cedar Rapids, Iowa 52401.

Attorney for licensee: Jack Newman, Esquire, Harold F. Reis, Esquire, Lowenstein, Newman, Reis and Axelrad, 1025 Connecticut Avenue, N.W., Washington, D.C. 20036.

NRC Branch Chief: Domenic B. Vassallo.

Iowa Electric Light and Power Company, Docket No. 50-331, Duane Arnold Energy Center, Linn County, Iowa

Date of amendment request: November 10, 1981.

Description of amendment request: An amendment to modify the Technical Specification (TS) pertaining to six miscellaneous matters: the first, adds a paragraph under Limiting Conditions for Operation and Surveillance Requirements to provide a reference to the Accident Monitoring Instrumentation tables; the second, proposes to add a specific Recirculation Pump Trip (RPT) system trip level setting (response time) and delete the note "that the trip level setting would be determined by testing" to ensure the trip level setting is within the design criteria; the third, adds a 30 day reporting requirement to the Fire Suppression System Technical Specification to make it consistent with the wording of other similar sections; the fourth, changes a position title from Assistant Vice President-Nuclear to Director, Nuclear Generation for the purpose of organizational streamlining; the fifth, proposes alternatives to the requirements of High Radiation Areas concerning barriers, devices, signals and controls to meet the requirements of 10 CFR 20.203. The licensee currently complies with the regulation; however, the proposed changes are more explicit, thus better clarifying the requirements and would enhance the licensee's ability to comply with the regulation; and the sixth, adds a reference to the Fire Protection Systems for which Special Reports shall be submitted to make it consistent with other similar sections.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance for the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870). The examples involving no significant hazards consideration include "(i) a purely administrative change to Technical Specifications: for example, a change to achieve consistency throughout the Technical Specifications, correction of an error, or a change in nomenclature; and, (ii) A change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications: for example, a more stringent surveillance requirement." The changes proposed in the application for amendment are encompassed by these examples in that: the first proposed change regarding a reference to the Accident Monitoring Instrumentation tables is intended to achieve consistency throughout the specification and is therefore similar to Example (i); the second proposed change concerns the RPT system trip level setting (response time) and is intended to provide a more strigent surveillance requirement and is thus similar to Example (ii); the third proposed change revises the section on Special Reports to include the requirement "within 30 days" to achieve consistency throughout the Technical Specifications and is thus similar to Example (i); the fourth proposed change is a position title change and is considered a change in nomenclature because no position responsibilities have been altered and is thus similar to Example (i); the fifth proposed change concerns alternative to High Radiation Area requirements in 10 CFR 20.203 to which the licensee currently complies, but is intended to provide additional restriction and controls not presently included in the Technical Specifications and is thus similar to Example (ii); the sixth proposed change concerns adding a reference to the Fire Protection Systems Special Reports section and is intended to achieve consistency throughout the Technical Specifications and is thus similar to Example (i). Therefore, since the application for amendment involves proposed changes that are similar to examples for which no significant hazards considerations exist, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Cedar Rapids Public Library, 426, Third Avenue, S.E., Cedar Rapids, Iowa 52401.

Attorney for licensee: Jack Newman, Esquire, Harold F. Reis, Esquire, Lowenstein, Newman, Reis and Axelrad, 1025 Connecticut Avenue, N.W., Washington, D.C. 20036.

NRC Branch Chief: Domenic B. Vassallo.

Iowa Electric Light and Power Company, Docket No. 50-331, Duane Arnold Energy Center, Linn County, Iowa

Date of amendment request: April 6, 1983.

Description of amendment request: Technical Specification (TS) changes to incorporate revised radiological effluent and environmental monitoring limiting conditions for operation, action statements, and surveillance requirements. The proposed changes are intended to implement the design objectives and requirements of 10 CFR 50.34(a), 10 CFR 50.36a, 10 CFR 20, 10 CFR 50 Appendix A-General Design Criteria 60 and 64, and 40 CFR 190.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance for the application of the standards for determining whether a significant hazards consideration exists by providing examples of amendments that are considered not likely to involve significant hazards considerations (48 FR 14870). One such example involves a change to make a license conform to changes in the regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulations.

The change proposed by the licensee is intended to implement: 10 CFR 50.34(a), which pertains to Design Objectives for equipment to control releases of radioactive materials in effluents from nuclear power reactors; 10 CFR 50.36a, which pertains to Technical Specifications of effluents from nuclear power reactors; 10 CFR 20, which pertains, in part, to the controlled release of radioactive materials in liquid and gaseous effluents; 10 CFR 50, Appendix A-General Design Criteria 60, which pertains to control of releases or radioactive materials to the environment and 64, which pertains to monitoring radioactivity releases; and 40 CFR 190, which pertains to radiation doses to the public from operations, associated with the entire uranium fuel cycle. This amendment, therefore, reflects changes to make the Duane Arnold Energy Center license conform to changes in the regulations. Since the licensee is presently obligated by these regulations to control and limit offsite releases of radioactive materials to levels which are as low as is reasonably achievable, this license change will only result in very minor changes to facility operations which are clearly in keeping with the regulations.

Therefore, since the application for amendment involves proposed changes that are similar to an example for which no significant hazards consideration exists, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Cedar Rapids Public Library, 426, Third Avenue, S.E., Cedar Rapids, Iowa 52401.

Attorney for licensee: Jack Newman, Esquire, Harold F. Reis, Esquire, Lowenstein, Newman, Reis and Axelrad, 1025 Connecticut Avenue, N.W., Washington, D.C. 20036.

NRC Branch Chief: Domenic B. Vassallo.

Maine Yankee Atomic Power Company, Docket No. 50-309, Maine Yankee Atomic Power Station, Wiscasset, Maine

Date of amendment request: October 7, 1982.

Description of amendment request: The proposed changes to the technical Specifications provide additional assurance that the purge air supply, exhaust and bypass valves will operate to assure containment isolation in the event of an in-containment accident. These changes require regular testing and surveillance to obtain this assurance. Specifically, leakage integrity tests would be performed on the containment purge and vent isolation valves at 3 month intervals to identify excessive degradation of the resilient seats for these valves. It also specifies intervals for valve seat inspection and replacement.

Basis for proposed no significant hazards consideration determination: Prior to this application for amendment, there were no technical specifications covering the testing and surveillance of the purge air valves. Hence, adoption of this specification would constitute additional limitation, restriction or control not presently include in the technical specifications. This type of change matches example (ii) (48 FR 14870) of examples of amendments not likely to involve significant hazards considerations. Hence the Commission proposes to determine that this change involves no significant hazards consideration.

Local Public Document Room location: Wiscasset Public Library, High Street, Wiscasset, Maine.

Attorney for licensee: John A. Ritsher, Esq., Ropes & Gray, 225 Franklin Street, Boston, Massachusetts 02210.

NRC Branch Chief: Robert A. Clark.

Maine Yankee Atomic Power Company, Docket No. 50-309, Maine Yankee Atomic Power Station, Wiscasset, Maine

Date of amendment request: February 18, 1983.

Description of amendment request: This amendment would allow the licensee to use the new YAEC-1 critical heat flux correlation as a basis for plant operation. YAEC-1 is an approved critical heat flux correlation. In implementing this new correlation, certain parameters of the reactor protective system and certain limiting conditions for operation will be modified. Actual plant operating margins will be broadened slightly because of the greater accuracy of the YAEC-1 correlation. However, both the YAEC-1 correlation and W-3, the existing correlation, provide a 95 percent probability that the departure from nucleate boiling heat flux is not exceeded in operation. The amendment would also correct a typographical error and a discrepancy in reporting inspection results. The latter are purely administrative changes, correcting minor errors made in previous licensing actions.

Basis for proposed no significant hazards consideration determination: The use of the YAEC-1 critical heat flux correlation does not represent a relaxation of safety limits, or the bases and criteria used to determine these limits. Since both correlations provide the fundamental assurance that the departure from nucleate boiling heat flux is not exceeded with a 95 percent probability level. Hence safety margins remain unchanged from when the plant was licensed.

The remainder of this change is purely administrative in that it corrects a misspelled word and a change accidentally omitted in Amendment No. 68. The Commission has provided examples of certain types of changes in 48 FR 14870 which are not likely to involve significant hazards considerations. An example of such a change is (i), a purely administrative change. The remainder of this change fits this criteria. Therefore, we propose to determine that these changes have no significant hazards consideration.

Local Public Document Room location: Wiscasset Public Library, High Street, Wiscasset, Maine.

Attorney for licensee: John A. Ritsher, Esq., Ropes & Gray, 225 Franklin Street, Boston Massachusetts 02210.

NRC Branch Chief: Robert A. Clark.

Maine Yankee Atomic Power Company, Docket No. 50-309, Maine Yankee Atomic Power Station, Lincoln County, Maine

Date of amendment request: April 8, 1983.

Description of amendment request: The proposed change is a revision to the Administrative Controls Section of Maine Yankee's Technical Specifications which improves and clarifies the section. The change would incorporate over thirty individual changes to this section.

One of these changes would relocate a requirement from Section 5.7 to the Safety Limits Section (2.0) of the Technical Specifications. It also upgrades this requirement to be consistent with 10 CFR 50.36. This upgrading makes the safety limit more restrictive since it requires the plant to be placed in hot shutdown in lieu of hot standby when a safety limit is violated.

The balance of the proposed change is purely administrative in nature. It does not involve safety system settings, limiting conditions for operation or surveillance considerations. Specifically these proposed changes cover:

—*Organization.*—Would clarify definitions and reflect offsite organizational changes. No loss of organizational quality is involved.

—*Facility Staff Qualifications.*—Would upgrade requirements for and provide flexibility in specifying staff qualifications.

—*Training.*—Would change specification to reflect current practice and for consistency with Appendix R and Standard Technical Specifications.

—*Review and Audit.*—Would allow the Plant Operations Review Committee to use subcommittees for routine reviews of procedures and other matters not central to plant safety. However, responsibility for the reviews would remain with the complete committee.

—*Safety Limit Violations.*—Would revise the specification to reflect the addition of Specification 2.0.

—*Procedures.*—Would specify management controls on changing instructions associated with design changes.

—*Reporting Requirements.*—Would update and make this section more internally consistent.

—*Record Retention and High Radiation Areas.*—Would make this section more internally consistent.

In addition, one section would be deleted as no longer applicable. A summary of these proposed changes is contained in the licensee's application for amendment dated April 8, 1983.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870). Purely administrative changes to Technical Specifications are explicitly considered not likely to involve significant hazards.

Changes that constitute an additional limitation, restriction, or control not presently included in the Technical Specifications match the example (ii) (48 FR 14870) of the examples considered not likely to involve significant hazards considerations.

The proposed changes presented here fall into these categories. The safety limit to be transferred to Section 2.0 would be made restrictive by requiring the plant to be in hot shutdown versus hot standby.

The remaining proposed changes are purely administrative in nature. Even where these changes proposes changes to the structure of an organization or the way it functions, they are effectively administrative in that the quality of the organization or the work they produce does not significantly affect plant safety. These changes do not change plant safety.

They represent changes similar to example (i) (48 FR 14870) of the examples the Commission has provided that are not likely to invole significant hazards considerations.

Local Public Document Room location: Wiscasset Public Library, High Street, Wiscasset, Maine 04578.

Attorney for licensee: J. A. Ritsher, Esq., Ropes & Gray, 225 Franklin Street, Boston, Massachusetts 02110.

NRC Branch Chief: Robert A. Clark.

National Bureau of Standards, Docket No. 50-184, Gaithersburg, Maryland

Date of amendment request: May 5, 1983.

Description of amendment request: The proposed amendment would incorporate into the license the Commission-approved Physical Security Plan. The Plan provides for the protection of special nuclear material of moderate strategic significance.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples of amendments that are considered not likely to involve significant hazards considerations (48 FR 14870). The proposed amendment is similar to Example (ii), "A change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications; . . ." in that amendment would add a license condition (both technical specifications and license conditions are requirements of the license) to incorporate the Commission-approved Physical Security Plan into the license. The Physical Security Plan provides for the protection of special nuclear material of moderate strategic significance. (The Physical Security Plan consists of Safeguards Information of the type specified in 10 CFR 73.21 and accordingly is withheld from public disclosure.) On this basis, the Commission proposes to determine that this action does not involve a significant hazards consideration.

Local Public Document Room location: None.

Attorney for licensee: Allen J. Farrar, Administration Building 1128, National Bureau of Standards, Washington, D.C.

NRC Branch Chief: Cecil O. Thomas.

Nebraska Public Power District, Docket No. 50-298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: June 9, 1982.

Description of amendment request: The amendment would permit operation after approval of changes to the Radiological Effluent Technical Specifications that assure compliance with Appendix I of 10 CFR Part 10. The amendment provides new Technical Specification sections defining limiting conditions for operation and surveillance requirements for radioactive liquid and gaseous effluent monitoring; concentration, dose and treatment of liquid, gaseous and solid wastes; total dose; radiological environmental monitoring that consists of a monitoring program, land use census, and interlaboratory comparison program. This change also incorporates into the Technical Specifications the bases that support the operation and surveillance requirements. In addition, some changes were made in administrative controls, specifically dealing with the process control program and the offsite dose calculation manual. The amendment is in accordance with the licensee's application for amendment dated June 9, 1982.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for making a "no significant hazards consideration" determination by providing certain examples (48 FR 14870). One of the examples (ii) of actions not likely to involve a significant hazards consideration relates to changes that constitute additional restrictions of controls not presently included in the technical specifications.

The Commission, in a revision to Appendix I, 10 CFR Part 50 required licensees to improve and modify their radiological effluent systems in a manner that would keep releases of radioactive material to unrestricted areas during normal operation as low as is reasonably achievable. In complying with this requirement it became necessary to add additional restrictions and controls to the Technical Specifications to assure compliance. This caused the addition of Technical Specifications described above. The staff proposes to determine that the application does not involve a significant hazards consideration since the change constitutes additional restrictions and controls that are not currently included in the Technical Specifications in order to meet the Commission mandated release of "as low as is reasonably achievable".

Local Public Document Room location: Auburn Public Library, 188 15th Street, Auburn, Nebraska 68304.

Attorney for licensee: Mr. G. D. Watson, Nebraska Public Power District, P.O. Box 499, Columbus, Nebraska 68601.

NRC Branch Chief: Domenic B. Vassallo.

Niagara Mohawk Power Corporation, Docket No. 50-220, Nine Mile Point Nuclear Station, Unit No. 1, Oswego County, New York.

Date of amendment request: March 3, 1977.

Description of amendment request: This amendment would make changes to

the Technical Specification to modify the list of Reactor Coolant System Isolation Valves and Primary Containment Isolation Valves as well as other provisions of the license to achieve conformance with 10 CFR 50, Appendix J. The proposed change is in response to an NRC request dated August 7, 1975 that asked the licensee to review their containment leakage program and provide a plan for achieving compliance with Appendix J.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870). The examples of actions involving no significant hazards consideration include: ". . , (i) A change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications: for example, a more stringent surveillance requirement" and. "(ii) A change to make a license conform to changes in the regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulations."

The changes proposed in the application for amendment are encompassed by the above examples in that: (1) the adding of additional valves to be local leak rate tested is an additional restriction and is, therefore, similar to example (i) above, and (2) other changes proposed as necessary because the licensee is currently required by the regulations to limit primary containment leakage and is to make the license conform to 10 CFR 50, Appendix J, are considered minor with regard to facility operation thus clearly keeping with the regulation, and, therefore, are similar to example (vii) above.

Therefore, since the application for amendment involves a proposed change that is similar to an example for which no significant hazards consideration exists, the staff has made a proposed determination that the application involves no significant hazards consideration.

Local Public Document Room location: State University College at Oswego, Penfield Library—Documents, Oswego, New York 13126.

Attorney for licensee: Troy B. Conner, Jr., Esquire, Conner & Wetterhahn, Suite 1050, 1747 Pennsylvania Avenue, N.W, Washington, D.C. 20006.

NRC Branch Chief: Domenic B. Vassallo.

Niagara Mohawk Power Corporation, Docket Nos. 50-220, Nine Mile Point Nuclear Station, Unit No. 1, Oswego County, New York.

Date of amendment request: March 22, 1978.

Description of amendment request: An amendment to the Technical Specifications adding Limiting Conditions for Operation, surveillance requirements, and changes to the bases for the Fire Protection Program at the facility. The proposed change was submitted at NRC's request using guidance provided by NRC. The change is intended to bring the Technical Specification in concert with the fire protection program by listing additional detectors installed, clarifying reporting requirements, and specifying requirements for newly installed fire protection systems.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870). The examples of actions involving no significant hazards consideration include:

(1) A purely administrative change to technical specifications: for example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature.

(ii) A change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications: for example, a more stringent surviellance requirement.

The changes proposed in the application for amendment are encompassed by these examples in that: (1) They would provide administrative clarity by correcting the numbering system and typographical errors; (2) they would provide Limiting Conditions for Operation and surveillance requirements for newly installed fire protection equipment.

Therefore, since the application for amendment involves a proposed change that is similar to an example for which no significant hazards consideration exists, the staff has made a proposed determination that the application involves no significant hazards consideration.

Local Public Document Room location: Penfield Library, State University College of Oswego, Oswego, New York.

Attorney for licensee: Troy B. Conner, Jr., Esquire, Conner & Wetterhahn, Suite 1050, 1747 Pennsylvania Avenue, N.W., Washington, D.C. 20006.

NRC Branch Chief: Domenic B. Vassallo.

Niagara Mohawk Power Corporation, Docket No. 50-220, Nine Mile Point Nuclear Station, Unit No. 1, Oswego County, New York

Date of amendment request: March 22, 1978.

Description of amendment request: This amendment would make changes to the Technical Specification to the listed isolation valves for the nitrogen gas make-up lines to the drywell and suppression chamber for Containment Atmosphere Dilution (CAD) and Gas Analyzer Systems. The amendment further clarifies when and for what purpose the particular valves are to be used. The changes are required to incorporate in the Specifications the above mentioned valves which were added with the installation of these systems.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determinig whether a significant hazards consideration exists by providing certain examples (48 FR 14870). The examples of actions involving no significant hazards consideration include: " * * *(ii) A change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications: for example, a more stringent surveillance requirement." The changes proposed in the application for amendment are encompassed by this example in that the proposed change would add Limiting Conditions for Operation and surveillance requirements on the nitrogen make-up lines for the CAD and Gas Analyzer isolation valves that previously had no specifications imposed, and is thus similar to the example described above.

Therefore, since the application for amendment involves a proposed change that is similar to an example for which no significant hazards consideration exists, the staff has made a proposed determination that the application involves no significant hazards consideration.

Local Public Document Room location: State University College at Oswego, Penfield Library—Documents, Oswego, New York 13126.

Attorney for licensee: Troy B.Conner, Jr., Esquire., Conner and Wetterhahn, Suite 1050, 1747 Pennsylvania Avenue, N.W., Washington, D.C. 20006.

NRC Branch Chief: Domenic B. Vassallo.

Niagara Mohawk Power Corporation, Docket No. 50-220, Nine Mile Point Nuclear Station, Unit No. 1, Oswego County, New York

Date of amendment request: March 22, 1978 and May 2, 1983.

Description of amendment request: The amendment would make changes to the Technical Specifications to: (1) accommodate shifts in transition temperature for the reactor pressure vessel materials that were induced by radiation damage. These shifts are accounted by revisions of the plant pressure-temperature limits for heating up and cooling down the reactor vessel. Periodic review and adjustment, if necessary, of the curves from the in-situ surveillance sample test results are required by 10 CFR 50, Appendices G and H; and (2) to revise the surveillance coupon program for the facility since one of three reactor vessel material sample containers was inadvertently misplaced during a refueling outage. The proposed change would delete the requirement for a third, standby capsule. Industry surveillance data will be used to supplement the test results obtained from the facility surveillance program. This constitutes an integrated surveillance program. Integrated surveillance programs are acceptable under the provisions of 10 CFR 50, Appendices G and H.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870). The examples of actions involving no significant hazards consideration includes a change to make a license conform to changes in the regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulations.

The changes proposed in the application for amendment are encompassed by this example in that: (1) the change to the pressure-temperature limits are similar to example above because the regulations in 10 CFR 50, Appendices G and H required updating of pressure-temperature limits based on the surveillance program. The proposed license change would result in very minor changes to the facility operation clearly in keeping with the regulations; and (2) the change to the surveillance program is similar to the example above because provisions are incorporated in 10 CFR 50, Appendices G and H for relief from the number of surveillance capsules required if the licensee used an integrated surveillance program utilizing results from other facilities. The proposed change would not affect facility operation in that the information obtained from the integrated surveillance program would provide more information than could be obtained from the third standby capsule and is clearly in keeping with the regulations. Therefore, since the application for amendment involves a proposed change that is similar to an example for which no significant hazards consideration exists, the staff has made a proposed determination that the application involves no significant hazards consideration.

Local Public Document Room location: State University College at Oswego, Penfield Library-Documents, Oswego, New York 13126.

Attorney for licensee: Troy B. Conner, Jr., Esquire, Conner and Wetterhahn, Suite 1050, 1747 Pennsylvania Avenue, N.W., Washington, D.C. 20006.

NBC Branch Chief: Domenic B. Vassallo.

Niagara Mohawk Power Corporation, Docket No. 50-220, Nine Mile Point Nuclear Station, Unit No. 1, Oswego County, New York

Date of amendment request: April 14, 1980 superseded by March 20, 1981.

Description of amendment request: This amendment would make changes to the Technical Specification by adding to the list of required snubbers, providing surveillance requirements including frequency and acceptance criteria, and providing limiting conditions for operation for the facility should snubbers be inoperable. This change was proposed to incorporate the provisions of the model Technical Specifications transmitted to all power reactor licensee's in a letter dated November 20, 1980.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870). The examples of actions involving no significant hazards consideration include: ". . . (ii) A change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications; for example, a more stringent surveillance requirement." The changes proposed in the application for amendment are encompassed by this example in that the proposed change would add Limiting Conditions for Operation and surveillance requirements on existing and newly installed snubbers, and is thus similar to the example described above.

Therefore, since the application for amendment involves a proposed change that is similar to an example for which no significant hazards consideration exists, the staff has made a proposed determination that the application involves no significant hazards consideration.

Local Public Document Room location: State University College at Oswego, Penfield Library-Documents, Oswego, New York 13126.

Attorney for licensee: Troy B. Conner, Jr., Esq., Conner & Watterhahn, Suite 1050, 1747 Pennsylvania Avenue, N.W., Washington, D.C. 20006.

NRC Branch Chief: Domenic B. Vassallo.

Niagara Mohawk Power Corporation, Docket No. 50-220, Nine Mile Point Nuclear Station, Unit No. 1, Oswego County, New York

Date of amendment request: April 18, 1980 superseded by April 21, 1983.

Description of amendment request: The amendment would make changes to the Administrative Controls (Section 6.0) of the Technical Specifications to: (1) Accommodate an increase and improved staff in the on-site organization, correct title changes in the organization and reflect the strengthening of the Quality Assurance (QA) function by elevation of the Manager of QA to a Vice President reporting directly to the President; (2) include changes for the frequency of audits related to the Safeguards Contingency Plan and Emergency Preparedness program from every 2 years to annually; (3) change the provisions for entering and controlling entry to high radiation areas by imposing additional conditions similar to those included in current Standard Technical Specifications for BWRs; and (4) correct a typographical error with regard to the provisions for the fire brigade staff.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870). The following were included in the examples as actions involving no significant hazards consideration: (i) a purely administrative change to the technical specification, (ii) a change that constitutes an additional limitation, restriction or control not presently included in the technical specifications,

(iii) a change to make a license conform to changes in the regulation, where the license change results in very minor changes to facility operation clearly in keeping with the regulations.

The changes proposed in the application are encompassed by the above stated examples as follows: (1) The change is similar to examples (i) and (ii) above in that the organizational structure is more restrictive because it more specifically defines the organization and strengthens the QA function and is administrative because it corrects the organizational titles; (2) the change is similar to examples (ii) and (iii) above in that the proposed audit frequencies are necessary to bring the Technical Specifications into conformance with 10 CFR 50.54(5) and 10 CFR 73.40d and is more restrictive since it increases the required audit frequencies; (3) the change in the radiation protection provisions is similar to example (ii) above in that additional limitations similar to those in Standard Technical Specifications are to be adopted; and (4) the change to the fire brigade staff is for the correction of a typographical error and, therefore, administrative.

Based on the above, the staff proposed to determine that the proposed amendment does not involve a significant hazards consideration.

Local Public Document Room location: State University College at Oswego, Penfield Library—Documents, Oswego, New York 13126.

Attorney for licensee: Troy B. Conner, Jr., Esq., Conner & Wetterhahan, Suite 1050, 1747 Pennsylvania Avenue, N.W., Washington, D.C. 20006.

NRC Branch Chief: Domenic B. Vassallo.

Niagara Mohawk Power Corporation, Docket No. 50–220, Nine Mile Point Nuclear Station, Unit No. 1, Oswego County, New York

Date of amendment request: May 20, 1980.

Description of amendment request: The amendment would make changes to the Technical Specification regarding the use of the term "operable" as it applies to safety systems in power reactors. The proposed change includes a definition of "operable" as well as a section on operability requirements in the Limiting Conditions for Operation and surveillance section of the Technical Specification. In particular, the proposed change requires the normal or emergency power source as well as the safety system itself to be operable or the unit be placed in a condition required for the individual system itself. The proposed change was in response to a generic letter issued to all licensees on April 10, 1980 on Multip-Plant Item D–17. The letter provided proposed revised Technical Specifications for each licensee, and requested that they be adopted.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870). The examples of actions involving no significant hazards consideration include: ". . . (ii) A change that consititues an additional limitation, restriction, or control not persently included in the technical specifications; for example, a more stringent surveillance requirement." The changes proposed in the application for amendment are encompassed by this example in that the proposed change is more restrictive because it states a previously implicit requirement for support systems to be functional and provides a reference to the action statements for Limiting Conditions of Operation for each particular safety system.

Therefore, since the application for amendment involves a proposed change that is similar to an example for which no significant hazards consideration exists, the staff has made a proposed determination that the application involves no significant hazards consideration.

Local Public Document Room location: State University College at Oswego, Penfield Library—Documents, Oswego, New York 13126

Attorney for Licensee: Troy B. Conner, Jr., Esquire, Conner & Wetterhahn, Suite 1050, 1747 Pennsylvania Avenue, N.W., Washington, D.C. 20006.

NRC Branch Chief: Domenic B. Vassallo.

Northeast Nuclear Energy Company, Docket No. 50–336, Millstone Nuclear Power Station, Unit 2, New London County, Connecticut

Date of amendment request: October 22, 1982.

Description of amendment request: Approvals of three unrelated changes are requested:

1. Revise Technical Specification 3.1.3.3 Action b to allow startup and power operation, including mode changes, with one inoperable reed switch position indicator channel per control element assembly (CEA) group, provided the associated CEAs can be moved to the full out position and confirmed to be in that position.

2. Revise Technical Specification 3.5.1 Limiting Condition for Operation b to expand the allowable volume band for the safety injection tanks (SIT) from 1107–1170 to 1080–1190 cubic feet, in order to provide greater operating flexibility.

3. Revise Technical Specifications 3.6.1.3 relative to containment air locks and 3.6.1.1 relative to containment integrity to clarify the applicability of containment integrity requirements when the containment air lock seal is inoperable. TS 3.6.1.3 presently allows operation of the unit to continue for 24 hours after an air lock door is found to be inoperable. The proposed changes in TS 3.6.1.3 would allow unit operation to continue with an air lock door inoperable until performance of the next required overall air lock leakage test provided the operable air lock door is locked within 24 hours and is verified to be locked closed at least once per 31 days. In addition, a footnote would be added to the TS 3.6.1.1 Action statement to make clear that "operation within the time allowance of the TS 3.6.1.3 Action statements does not constitute a loss of containment integrity."

To be consistent with Standard Technical Specifications, TS 3.6.1.1 would also be modified by changing the ACTION statement to require the unit to be in hot standby within 6 hours, and then in cold shutdown within the next 30 hours, instead of simply requiring that the unit be in cold shutdown within 36 hours, following the first hour without primary containment integrity. An addition to the related surveillance requirement TS 4.6.1.1 would require verification that a combined penetration leakage rate is not exceeded after each closing of a penetration subject to type B testing (except the containment air lock).

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance (48 FR 14870) in the form of examples of amendments that are considered not likely to involve significant hazards considerations. These examples are applicable to the proposed changes in the following manner:

1. The revision of TS 3.1.3.3 action b is encompassed by example (vi) which applies to "a change which either may result in some increase to the probability or consequences of a previously analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan." Since the Technical Specifications

presently do not allow changing the reactor operating modes if the remedial measures of a TS action statement (i.e., equipment inoperable) are implemented, startup of the reactor with an inoperable reed switch position indicating channel is prohibited. The proposed change would allow startup and mode changes and may in some minor way reduce a safety margin. However, such operation would not be of greater concern than full-power operation with an inoperable channel, which is presently permitted under TS 3.1.3.3. Further, the CEA "full-in and "full-out" limit switches provide an independent means of determining the CEA positions when they are at either of those positions, as they are required to be if an associated position indicating channel becomes inoperative.

2. Example (vi) also applies to the proposed revision of TS 3.5.1 since lowering the SIT volume lower limit from 1107 to 1080 cubic feet would slightly reduce the volume of borated water available from this source to cover the core following a loss-of-coolant accident (LOCA). However, the proposed limits were used in the Millstone Unit 2 Cycle 5 LOCA analysis in 1982 and the results were found to meet the Commission's acceptance criteria for emergency core cooling system (10 CFR 50.46). The proposed limits were also used in the licensee's Cycle 6 LOCA analysis, which assumes an increase from 9.4% to 15.3% of steam generator tubes plugged, and our preliminary assessment of it indicates only a 10°F increase in the calculated peak clad temperature to 2055°F. This is well below the limit of 2200°F imposed by 10 CFR 50.46.

3. Example (vi), described above, applies to the changes in TS 3.6.1.3 and 3.6.1.1 as they would allow continued operation beyond 24 hours after an airlock door is found inoperable. This may in some way reduce a safety margin, but the Commission staff regards this possibility as extremely unlikely since the inoperable door would be closed and the operable airlock door must be locked closed before such continued operation is permitted. The other changes in TS 3.6.1.1 and 4.6.1.1 are similar to Commission example (ii) which applies to a change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications. The proposed requirements of TS 3.6.1.1 and 4.6.1.1 are additional limitations not presently in the Technical Specifications.

Based on the above, the Commission proposes to determine that the requested action does not involve a significant hazards consideration.

Local Public Document Room location: Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut.

Attorney for Licensee: William H. Cuddy, Esquire, Day, Berry and Howard, One Constitution Plaza, Hartford, Connecticut 06103.

NRC Branch Chief: Robert A. Clark.

Northeast Nuclear Energy Company, et al., Docket Nos. 50–245 and 50–336, Millstone Nuclear Power Station, Units No. 1 and No. 2, New London County, Connecticut

Date of amendment request: November 22, 1982.

Description of amendment request: The amendments would revise the Radiological Effluent Technical Specifications to bring them into compliance with Appendix I of 10 CFR Part 50. They would provide new Technical Specification sections defining limiting conditions for operation and surveillance requirements for radioactive liquid and gaseous effluent monitoring; concentration, dose and treatment of liquid, gaseous and solid wastes; total dose; radiological environmental monitoring that consists of a monitoring program, a land use census, and an interlaboratory comparison program. The procedures to be followed and the bases that support the operation and surveillance requirements would be stated in the Licensee's Radiological Effluent Monitoring and Offsite Dose Calculation Manual (REMODCM).

The amendments would also incorporate the revised radiological specifications into Appendix A of the Technical Specifications and remove those in Appendix B.

Basis for proposed no significant hazards consideration determination. The Commission, in a revision to Appendix I of 10 CFR Part 50, required licensees to improve and modify their radiological effluent systems in a manner that would keep releases of radioactive material to unrestricted areas during normal operation as low as is reasonably achievable. In complying with this requirement, it is necessary to provide additional restrictions and controls in the Technical Specifications to assure compliance. The proposed amendments would meet this objective by adding the Technical Specification sections described above.

The Commission has provided guidance in the form of examples of amendments that are considered not likely to involve significant hazards considerations (48 FR 14870). Example (ii) regarding a change that constitutes an additional limitation, restriction or control not presently included in the technical specifications is clearly applicable to these proposed amendments. The NRC staff therefore proposes to determine that this application does not involve a significant hazards consideration.

Local Public Document Room location: Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut.

Attorney for licensee: William H. Cuddy, Esq., Day, Berry & Howard, One Constitution Plaza, Waterford, Connecticut 06103.

NRC Branch Chiefs: Robert A. Clark, Dennis Crutchfield.

Northern States Power Company, Docket No. 50–263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of amendment request: January 30, 1976 as revised May 4, 1976 as further revised on September 2, 1977 and supplemented on March 20, 1978.

Description of amendment request: The proposed amendment would add Limiting Conditions for Operation and Surveillance Requirements to incorporate the requirements of Appendix J on the lead tight integrity of the primary reactor containment and systems and components which penetrate the containment. The proposed changes were requested by the NRC of all licensees to bring them into conformance with Section 50.54(o) and Appendix J of 10 CFR Part 50 "Primary Reactor Containment Leakage Testing for Water-Cooled Power Reactors."

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870).

The examples of actions which involve no significant hazards consideration include a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications: for example, a more stringent surveillance requirement. The changes proposed in this application for amendment are encompassed by this example because restrictions would be added to conform to the Rules and Regulations of the Commission. The published Section 50.54(o) and Appendix J of 10 CFR Part 50 ensure that system and components which penetrate the containment are tested on a regular

interval and the leak-tight integrity of the primary reactor containment is ensured.

Therefore, since the application for amendment involves proposed changes similar to an example for which no significant hazards consideration exists, the staff has made a proposed determination that the application involves no significant hazards consideration.

Local Public Document Room location: Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW, Washington, D.C. 20036.

NRC Branch Chief: Domenic B. Vassallo.

Northern States Power Company, Docket No. 50-263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of amendment request: May 15, 1980.

Description of amendment request: Request for an amendment to the Technical Specifications to modify the definition of the term "Operable" as it applies to the single-failure criterion for safety systems. The proposed change was in response to NRC's April 10, 1980 letter, which was sent to all licensees, requesting that they revise the definition of "Operable" consistent with guidance issued by the NRC. The NRC has proposed a revised definition that is more restrictive in that it extends the definition to include systems that are associated with the system in question.

The current Technical Specification define a system or component as "Operable" "when it is capable of performing its intended function in its required manner." The proposed changes will preserve the single-failure criterion by requiring all redundant components of safety related systems to be "Operable." When the required redundancy is not maintained, either due to equipment failure or maintenance outage, action is required, within a specified time, to change the operating mode of the plant to place it in a safe condition. These provisions would assure that no set of equipment outages would be allowed to persist that would result in the facility being in an unprotected condition.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870). The examples of actions involving no significant hazards consideration include actions which are changes that constitute an additional limitation, or control not presently included in the Technical Specifications.

The changes proposed in the application for amendment are encompassed by this example because the guidance provided by the NRC for the revised definition of the term "Operable" is more restrictive in that the operability of systems associated with the system in question must also now be considered.

Therefore, since the application for amendment involves proposed changes that are similar to the examples for which no significant hazards consideration exists, the staff has made a proposed determination that the application involves no significant hazards consideration.

Local Public Document Room location: Environmental Conservation Library Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW, Washington, D.C. 20036.

NRC Branch Chief: Domenic B. Vassallo.

Northern States Power Company, Docket No. 50-263, Monticello Nuclear Generating Plant, Wright County, Minnesota.

Date of amendment request: September 24, 1982.

Description of amendment request: The revisions to the Technical Specifications would increase the allowable deviation in the trip setting of the temperature switches in the main steam line tunnel from 2° to 10°F. The current Technical Specifications specify a trip setpoint of 200°F, with an allowable deviation of 2°F. The proposed changes would authorize an increase of the allowable deviation to 10°F, but would not change the "as left" setpoint of 200°F. The licensee has requested the proposed changes because the licensee considers the current deviation to be overly restrictive, resulting in unnecessary reportable events.

To justify an increase in the "as-found" setpoint for these switches, the amendment is supported by a report which was prepared by the licensee's consultant, EDS Nuclear, Inc., and was attached to the September 24, 1982 application. The report concludes that a small break of 5 to 10 gpm is sufficient to increase the tunnel temperature to 212°F. Since the licensee will maintain the "as left" setpoint at 200°F and is only proposing to change the allowable deviation to 10°F, the "as-found" setting is likely to be below 212°F. At a temperature of 212° or less, the analysis shows that the main steam line tunnel temperature switches would isolate and limit releases of radioactivity before the requirements of 10 CFR Part 100 are exceeded.

Other changes proposed in the September 24, 1982 application are being handled by separate action.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples. The examples of actions involving no significant hazards consideration include (vi) a change which either may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan.

The changes proposed in the application for amendment are encompassed by this example because a deviation of 10 degrees in the positive direction does constitute a relaxation of the current Technical Specification limit, and thus, may reduce in some way a safety margin. However, the staff's criteria require that the licensee have the capability to detect a postulated break within the temperature increase. Temperature monitoring instrumentations is provided in the main steam line tunnel to detect leaks in this area. Trips are provided on this instrumentation and, when exceeded, will isolate the reactor. For small breaks, the temperature monitoring switches must give the isolation trip signal before the limits of 10 CFR Part 100 are exceeded. The instrument's setpoint must detect small leaks of 5 to 10 gpm and for large breaks, it is a back-up to high steam flow instrumentation. Because the licensee has submitted information which concludes that the main steam line tunnel temperature would increase to 212 degrees as a result of a postulated break, the deviation proposed by the licensee when combined with the setpoint, remains within the scope of the acceptance criteria specified in 10 CFR Part 100.

At Monticello, a total of 16 switches are located in the main steam line tunnel with 1 out of 2 taken twice logic, providing the safety function.

Furthermore, the licensee states that the temperature switch array is in adequate proximity to the piping to sense high temperature without the necessity of the discharged fluid heating the entire main steam line tunnel to 212°F. The probability of all 16 switches failing at once is very unlikely especially since only 1 out of 2 (taken twice) are needed to provide the trip function. The proposed change will minimize the reporting occurrences to the Commission.

Therefore, since the application for amendment involves a proposed change that is similar to examples for which no significant hazards consideration exists, the staff has made a preliminary determination that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota.

Attorney for licensee: Gerald Charnoff, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

NRC Branch Chief: Domenic B. Vassallo.

Northern States Power Company, Docket No. 50-263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of amendment request: September 24, 1982.

Description of amendment request: The amendment would add new Limiting Conditions for Operation and Surveillance Requirements for Residual Heat Removal System (RHR) in the Shutdown Cooling Mode. This proposed change was made in response to an NRC request and will specify isolation setpoints to protect the low pressure piping which supplies water to cool the reactor when it is cooling down or shutdown. These setpoints will permit injection of cooling water only when reactor vessel pressure is less than the RHR cut-in permissive setpoint.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870). The examples of actions which involve no significant hazards consideration include actions with additional limitation, restriction, or control not presently included in the Technical Specifications.

The proposed changes are encompassed by this example because additional limitations will be added to the Technical Specifications by specifying Limiting Conditions for Operations and Surveillance Requirements for the RHR Shutdown Cooling System. The proposed changes were made at the request of the NRC and will specify limitations to protect the system from high pressures.

Therefore, since the application for amendment involves proposed changes that are similar to the examples for which no significant hazards consideration exists, the staff has made a proposed determination that the application involves no significant hazards consideration.

Local Public Document Room location: Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Mineapolis, Minnesota.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and, Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

NRC Branch Chief: Domenic B. Vassallo.

Northern States Power Company, Docket No. 50-263, Monticello Nuclear Generation Plant, Wright County, Minnesota

Date of amendment request: September 24, 1982.

Description of amendment request: The proposed changes to the Technical Specifications would clarify the Limiting Conditions for Opertaion and Surveillance Requirements associated with jet pump operability. The licensee states that the proposed surveillance program would provide additional assurance that jet pump degradation will be detected before actual jet pump failure. The proposed changes would prescribe a program to monitor various parameters, such as core flow, core plate differential pressure, recirculation pump flow and speed, so the aceptability of jet pump performance can be clearly determined. The proposed Limiting Conditions for Operation contain the minimum acceptable standards, and when they are not met, the reactor would be shut down within 24 hours because an inoperable jet pump may present a hazard in the event of a large break accident by reducing the capability of reflooding the core. Other proposed changes requested in this application will be noticed separately.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples. The examples of actions involving no significant hazards consideration involve (ii) a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications: for example, a more stringent surveillance requirement.

The proposed changes in this application for amendment are encompassed by this example because the revisions to the Technical Specifications would clarify the Limiting Conditions for Operation and Surveillance Requirements associated with jet pump operability. The licensee states that the proposed surveillance program would provide additional assurance that jet pump degradation will be detected before actual jet pump failure. By being a better diagnostic tool, the proposed changes would add more control for plant operations.

Therefore, since the application for amendment involves proposed changes similar to an example for which no significant hazards consideration exists, the staff has made a proposed determination that this application involes no significant hazards consideration.

Local Public Document Room location: Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota.

Attorney for licensee: Gerald Charnoff, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

NRC Branch Chief: Domenic B. Vassallo.

Northern States Power Company, Docket No. 50-263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of amendment request: February 15, 1983.

Description of amendment request: The amendment would add new Limiting Conditions for Operation and Surveillance Requirements for the Turbine Bypass Valves and the Feedwater/Turbine Trip on high water level. The turbine bypass valves mitigate the pressure transient following turbine trips and are assumed, in the reload analysis, to function during a feedwater controller failure.The feedwater/turbine trip on high reactor water level mitigates the event of feedwater controller failure and is assumed to function during that transient. The proposed changes to the Technical Specifications were requested of the licensee in a Safety Evaluation from the NRC, dated December 6, 1982, in order to assure the operability of systems for which the licensee took credit in its analyses.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870). The examples of actions involving no significant hazards consideration include actions which are changes that constitute an additional limitation or control not presently included in the Technical Specifications.

The changes proposed in the application for amendment are encompassed by this example because additional limitations would be added for the turbine bypass valves and the Feedwater/Turbine trip on high water level (in conformance to the request made by the staff to assure the operability of these systems). Therefore, since the application for amendment involves proposed changes that are similar to the examples for which no significant hazards consideration exists, the staff has made a proposed determination that the application involves no significant hazards consideration.

Local Public Document Room location: Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota.

Attorney for Licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and, Trowbridge, 1800 M Street, NW, Washington, D.C. 20036.

NRC Branch Chief: Domenic B. Vassallo.

Pacific Gas & Electric Company, et al. Docket 50–275, Diablo Canyon Nuclear Power Plant, Unit 1, San Luis Obispo, California

Date of amendment request: December 17, 1982.

Description of amendment request: The application requests Technical Specification Appendix A of the Operating License be revised to increase the frequency of audit from 24 months to 12 months for auditing the Emergency Plan, the Security Plan and their associated procedures.

Basis for proposed no significant hazards consideration determination: The NSHC determination was based upon matching the amendment request to the example (vii) of paragraph 50.92. The requested change in Technical Specifications constitutes "A change to make a license conform to change in the regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulations." The proposed amendment will modify the Technical Specifications to conform with changes in Section 50.50 (t) and 73.40 (d) of Title 10 of the Code of Federal Regulations referred to in example (vii).

Local Public Document Room location: California Polytechnic State University Library, Document and Maps Department, San Luis Obispo, California 93407.

Attorneys for Licensee: Philip A. Crane, Jr., Esq., Pacific Gas & Electric Company, 77 Beale Street, San Francisco, California 94106 and Norton, Burke, Berry & French P. C. Attn: Bruce Norton, Esq., 2002 East Osborn Road, Phoenix, Arizona 85106.

NRC Branch Chief: George W. Knighton.

Philadephia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Docket Nos. 50–277 and 50–278, Peach Bottom Atomic Power Station, Unit Nos. 2 and 3, York County Pennsylvania.

Date of amendment request: May 28, 1982.

Description of amendment request: The amendment request involves a proposed revision to Technical Specification Table 3.2.C (Instrumentation That Initiates Control Rod Blocks) which would increase the minimum number of required operable instrument channels for the Average Power Range Monitor (APRM) Rod Block Trip System from two to four and the Intermediate Range Monitor (IRM) Rod Block Trip System from three to six. These changes involve six specific control rod withdrawal blocks which are intended to inhibit control rod withdrawal when an unsafe condition is being approached by a specific monitored parameter. The amendment request also involves a proposed revision to the "Action" statement governing the above Rod Block Systems which would add a provision that permits restoring an inoperable channel to operable status within seven days before placing the inoperable channel in the tripped condition. Both of the above revisions conform to the BWR Standard Technical Specifications (NUREG–0123, Revision 3).

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether license amendments involve no significant hazards considerations by providing certain examples (48 FR 14870). One of the examples (ii) of actions involving no significant hazards consideration is a change that constitutes an additional limitation, restriction or control not presently included in the Technical Specifications. The proposed change requesting an increase in the required minimum number of operable instrument channels for both the APRM and IRM Rod Block Trip Systems is in accordance with the BWR Standard Technical Specifications (NUREG–0123, Revision 3) and constitutes additional limitations, restrictions or controls not presently included in the Technical Specifications. On this basis, the Commission proposes to determine that this change involves no significant hazards considerations.

The proposed change to the "Action" statement fits another Commission example (vi) of an action not involving a significant hazards consideration; namely, a change which either may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan. The proposed revision would permit keeping an inoperable channel in a non-tripped condition for up to seven days in contrast to the current requirements of placing the inoperable channel in a tripped condition within one hour. However, as discussed above, the proposed revision would also increase the minimum number of required operable channels. For this reason and the fact that the changes are in accordance with the BWR Standard Technical Specifications, which are recognized by the NRC staff as an acceptable means of implementing NRC requirements, the NRC staff proposed to determine this change does not involve a significant hazards consideration.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania.

Attorney for licensee: Troy B. Conner, Jr., 1747 Pennsylvania Avenue, N.W., Washington, D.C, 20006.

NRC Branch Chief: John F. Stolz.

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Docket Nos. 50–277 and 50–278, Peach Bottom Atomic Power Station, Unit Nos. 2 and 3, York County, Pennsylvania

Date of amendment request: October 15, 1982.

Description of amendment request: The proposed amendment would require an external visual examination of the

suppression chamber whenerve the local suppression pool temperature exceeds 200°F coincident with relief valve operation. The new limits reflect the completed modification of the Safety Relief Valve discharge to incorporate the T-quencher design which test data has shown to provide effective steam condensation at elevated suppression pool local temperatures. The proposed amendment would also revise operability and surveillance requirements to reflect modifications to the suppression pool temperature monitoring system in accordance with criteria of Appendix A of NUREG–0661, "Mark I Containment Long Term Program." The proposed operability and surveillance requirements provide for an instrument calibration frequency of once per operating cycle and an instrument check of once each day consistent with standards approved in the BWR Standard Technical Specification. In addition, several editorial type changes are requested for Section 3.7.A.1.C in the interest of clarification. Finally, the proposed amendment requests the deletion of certain specifications and footnotes in the Unit 3 Technical Specifications. These changes pertain to a previous amendment which referenced certain modifications which have now been completed, therefore, making these references and footnotes obsolete.

Basis for proposed no significant hazards consideration determination: The Commission has provide guidance concerning the application of standards for determining whether license amendments involve significant hazards considerations by providing certain examples which were published in the **Federal Register** on April 6, 1983 (48 FR 14870). One of the examples (vi) of an action involving no significant hazards considerations is a change which either may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan. The proposed amendment would increase the local suppression pool temperature limit from 160° to 200°F coincident with relief valve operation before requiring an external visual examination of the suppression chamber. This change is a result of the change from ramshead discharge devices to T-quenchers which is part of the Mark I Long Term Program. The above changes are in accordance with the criteria of Appendix A of NUREG–0661 which provide the Commission's guidance in restoring the originally intended design safety margins to Mark I suppression chambers. Because NUREG–0661 represents the Commission's position with respect to establishing the margins of safety in the Mark I Containment design and is, therefore, similar to the Standard Review Plans, the Commission proposes to determine that this change involves no significant hazards considerations.

The proposed change to revise operability and surveillance requirements to reflect Mark I Long Term Modifications to the suppression pool temperature system would decrease instrument calibration frequency from once per six months to once per operating cycle and the instrument check from once each shift to once each day. These proposed changes appear also to fit the example (vi) of an action involving no significant hazards considerations which was presented above. The operability and surveillance requirements proposed by the licensees are in accordance with the BWR Standard Technical Specifications (NUREG-0123, Revision 3). The Standard Technical Specifications are recognized by the Commission as an acceptable means of implementing NRC requirements and are, therefore, similar to the Standard Review Plans. On this basis, the Commission proposed to determine that these changes involve no significant hazards considerations.

Another example (i) of actions involving no significant hazards considerations relates to amendments involving a purely administrative change; for example, a change to achieve consistency throughout the Technical Specifications. The proposed changes to delete obsolete footnotes and specifications for Unit 3 because of completed modifications fit this example. The editorial changes requested for both Units in Section 3.7.A.1.C are also purely administrative changes. On this basis, the Commission proposes to determine that these changes involve no significant hazards consideration.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania.

Attorney for licensee: Troy B. Conner, Jr., 1747 Pennsylvania Avenue, N.W., Washington, D.C. 20006.

NRC Branch Chief: John F. Stolz.

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Dockets Nos. 50–277 and 50–278, Peach Bottom Atomic Power Station, Units Nos. 2 and 3, York County, Pennsylvania

Date of amendment request: November 29, 1982

Description of amendment request: The amendments would permit operation after approval of changes to the Radiological Effluent Technical Specifications that bring them into compliance with Appendix I of 10 CFR Part 50. The amendments provide new Technical Specification sections defining limiting conditions for operation and surveillance requirements for radioactive liquid and gaseous effluent monitoring; concentaration, dose and treatment of liquid, gaseous and solid wastes; total dose; radiological environmental monitoring that consists of a monitoring program, land use census, and interlaboratory comparison program. These changes would also incorporate into the Technical Specifications the bases that support the operation and surveillance requirements. In addition, some changes would be made in administrative controls, specifically dealing with the process control program and the offsite dose calclation manual. The amendments are in accordance with the licensees' application for amendment dated November 29, 1982.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). One of the examples (ii) of actions not likely to involve a significant hazards consideration relates to changes that constitute additional restrictions or controls not presently included in the Technical Specifications.

The Commission, in a revision to Appendix I, 10 CFR Part 50 required licensees to improve and modify their radiological effleuent systems in a manner that would keep releases of radioactive material to unrestricted areas during normal operation as low as is reasonably achievable. In complying with this requirement it became necessary to add additional restrictions and controls to the Technical Specifications to assure compliance. This caused the addition of Technical Specifications described above.

The staff proposes to determine that the application does not involve a significant hazards consideration since

the change constitutes additional restrictions and controls that are not currently included in the Technical Specifications in order to meet the Commission mandated release of "as low as is reasonably achievable."

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania

Attorney for licensee: Troy B. Conner, Jr., 1747 Pennsylvania Avenue, N.W., Washington, D.C. 20006.

NRC Branch Chief: John F. Stolz.

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Docket Nos. 50-277 and 50-278, Peach Bottom Atomic Power Station, Unit Nos. 2 and 3, York County, Pennsylvania.

Date of amendment request: April 4, 1983.

Description of amendment request: The current Technical Specification (TSs) require that both redundant isolation valves on the High Pressure Coolant Injection (HPCI) turbine exhaust drain line receive all three Group 4 isolation signals; however, one valve receives only two signals. The purpose of HPCI is to provide high pressure emergency core cooling capability. The proposed change to the TSs would provide a statement in the Notes For Table 3.7.1 indicating that one of the HPCI steam line exhaust drain valves does not actuate upon receipt of one of the Group 4 isolation signals; namely, the HPCI steam line low pressure signal. Isolation of the HPCI steam exhaust drain line by the third signal, the HPCI steam line low pressure signal, is, however, provided by the HPCI turbine exhaust vacuum breaker isolation valve (Table 3.7.1). The curent TSs do not reflect the use of three isolation valves to provide all isolation features. The proposed amendment would provide clarification of this isolation trip feature on the HPCI system.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of standards for determining whether license amendments involve significant hazards consideration by providing certain examples which were published in the **Federal Register** on April 6, 1983 (48 FR 14870). This particular amendment request does not precisely fit any of the examples provided in the **Federal Register**. However, it appears that the use of the HPCI turbine exhaust vacuum breaker isolation valve which does isolate on the HPCI steam line low pressure signal will provide the equivalent isolation features for the HPCI steam exhaust drain line as originally outlined in Table 3.7.1. This is accomplished by relying on a third isolation valve associated with the HPCI turbine exhaust vacuum breaker. The licensee indicates that this design meets the isolation criteria of 10 CFR 50, Appendix A, General Design Criteria. In addition, the licensee states that only two signals would be necessary to isolate the HPCI system on a HPCI line break. These two signals, HPCI steam line high flow and HPCI team line space high temperature (the first two Group 4 isolation signals), satisfy the requirements for initiating signal diversity for all postulated line break scenarios. Therefore, it would appear that the HPCI low steam line pressure signal is not required to ensure isolation of the system in the event of a line break. Based upon the apparent equivalence provided by the use of a third isolation valve and the need of only two isolation signals to satisfy isolation requirements, the Commission has made a proposed determination that the amendment request does not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety, and therefore proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania.

Attorney for licensee: Troy B. Conner, Jr., 1747 Pennsylvania Avenue, N.W., Washington, D.C. 20006.

NRC Branch Chief: John F. Stolz.

Portland General Electric Company, Docket No. 50-344, Trojan Nuclear Plant, Columbia County, Oregon

Date of amendment request: July 20, 1982.

Description of amendment request: The amendment would revise paragraph 2.A of the operating license to indicate that the facility is now described in the Updated Final Safety Analysis Report (FSAR). At present, this paragraph states that the facility is described in the FSAR, as supplemented and amended by Amendments 1 through 26. With the issuance of a new NRC regulation requiring that FSARs for power reactors be updated annually (10 CFR 50.71(e)), this paragraph is now out-of-date, since the facility is now described by the Updated FSAR.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples which were published in the **Federal Register** on April 6, 1983 (48 FR 14870). One of the examples of actions not likely to involve a significant hazards consideration is a purely administrative change to technical specifications: for example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature. Another example of an action not likely to involve a significant hazards consideration is a change to make a license conform to changes in the regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulations.

The proposed change is similar to both examples. First, the action would be administrative in nature, since the regulations for making changes to the facility, or its procedures or tests, are not altered in any way by the new requirement to periodically update the FSAR. Thus, the Updated FSAR describes changes to the facility which have either received prior NRC approval, where required, or describes changes which have been made which do not require approval, as permitted by 10 CFR 50.59. The change referencing the Updated FSAR does not result in any revision to the way facility operations are conducted.

Second, the proposed change is similar to the example involving a regulation. Whereas the change is not *required* by a regulation, it was the regulation, and the licensee's compliance with it, that caused para. 2.A of the license to be out-of-date by its submittal of the Updated FSAR.

Since the proposed change is similar to two examples that are considered not likely to involve a significant hazards consideration, the staff proposes to determine that the requested amendment does not involve a significant hazards consideration.

Local Public Document Room location: Multnomah County Library, 801 S.W. 10th Avenue, Portland, Oregon.

Attorney for licensee: J. W. Durham, Senior Vice President, Portland General Electric Company, 121 S.W. Salmon Street, Portland, Oregon 97204.

NRC Branch Chief: Robert A. Clark.

Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of amendment request: June 4, 1982 and February 18, 1983.

Description of amendment request: An amendment to the Technical Specifications regarding the licensee's management organization structure. Section 6, Administrative Controls, of the Technical Specifications and Appendix B, Environmental Technical Specifications, contain information and descriptions of the licensee's management organization. The licensee proposes to modify these specifications in the following manner to reflect current licensee organization: (1) Change the name of the Procedures and Performance Department to Quality Assurance and Reliability. The new department assumes all old department functions and, in addition, is responsible for performing audits and appraisals of the security program; (2) revise the title of the Senior Vice President—Nuclear Generation to that of Executive Vice President—Nuclear Generation to indicate the appropriate corporate title commensurate with the authority and responsibilities of the position; (3) correct a title change which was inadvertently not changed in a previously approved Commission action (see Amendment No. 60 to License No. DPR-59); (4) add two newly created positions under the President and Chief Operating Officer. The new positions are: First Executive Vice President and Chief Development Officer and First Executive Vice President and Chief Operations Officer. All corporate financial and administrative responsibilities will be shared amongst the three First Executive Vice Presidents; and (5) revise the position of the Security and Safety Superintendent into two separate positions: Security Supervisor and Safety and Fire Protection Superintendent.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870). The examples of actions involving no significant hazards consideration include: (i) A purely administrative change to the Technical Specifications: for example, a change to achieve consistency throughout the Technical Specifications, correction of an error, or a change in nomenclature; and (ii) a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications. The changes proposed in the applications for amendment are encompassed by this example in that: the licensee has realigned and renamed the Procedures and Performance Department to focus on quality assurance, system reliability, safety security, and to extend the overall evaluative capabilities of the department. The new department assumes all old departmental functions and, in addition, performs audits and appraisals of the security program. This change is considered administrative because the name change is a change in nomenclature. The licensee's proposed revision which it states focuses management control on quality assurance matters and expands its evaluative capabilities is considered an additional management control not presently included in the Technical Specifications; (2) the revision of the title of the Senior Vice President—Nuclear Generation to Executive Vice President—Nuclear Generation is an administrative change only since it is a change in nomenclature with no change in the authorities or responsibilities of the position; (3) the correction of a previously approved title change is administrative since it corrects an error; (4) the addition of two newly created positions under the President and Chief Operating Officer is administrative since it reflects the current licensee organization. Since it also reflects the delegation of corporate financial and administrative responsibilities amongst the now three First Executive Vice Presidents, it also consititutes an additional control not presently include in the specification; and (5) the revision of the position of the Security and Safety Superintendent into two separate positions—Security Supervisor and Safety and Fire Protection Superintendent—is administrative since it is a change in nomenclature. It also constitutes an additional management control not presently included in the specifications since the revision would reduce the span of control for each of the newly created positions. Thus, the proposed changes described above are either administrative changes or constitute additional controls not presently included in the specifications and are thereby similar to the examples cited above.

Therefore, since the applications for amendment involves proposed changes that are similar to examples for which no significant hazards considerations exist, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Penfield Library, State University College of Oswego, Oswego, New York.

Attorney for licensee: Mr. Charles M. Pratt, Assistant General Counsel, Power Authority of the State of New York, 10 Columbus Circle, New York, NY 10019.

NRC Branch Chief: Domenic B. Vassallo.

Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of amendment request: April 29, 1983.

Description of amendment request: The licensee requested Technical Specifications (TS) changes to the incorporate revised radiological effluent and environmental monitoring limiting conditions for operation, action statements, and surveillance requirements. The proposed changes are in response to NRC requests of July 11, 1978 and November 15, 1978. The proposed changes are intended to implement the design objectives and requirements of 10 CFR 50.34(a), 10 CFR 50.36a, 10 CFR 20, 10 CFR 50 Appendix A, General Design Criteria 60 and 64 and 40 CFR 190.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing examples of amendments that are considered not likely to involve significant hazards considerations (48 FR 14870): One such amendment involves a change to make a license conform to changes in the regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulations.

The change proposed by the licensee is intended to implement: 10 CFR 50.34(a), which pertains to Design Objectives for equipment to control releases of radioactive materials in effluent from nuclear power reactors; 10 CFR 50.36a, which pertains to technical specifications of effluents from nuclear power reactors; 10 CFR 20, which pertains, in part, to the controlled release of radioactive materials in liquid and gaseous effluents; 10 CFR 50, Appendix A, General Design Criteria 60, which pertains to control of releases of radioactive materials to the environment and 64, which pertains to monitoring radioactivity releases; and 40 CFR 190, which pertains to radiation doses to the

public from operation associated with the entire uranium fuel cycle. This amendment, therefore, reflects changes to make the FitzPatrick license conform to changes in the regulations. Since the licensee is presently obligated by these regulations to control and limit offsite releases of radioactive materials to levels which are as low as is reasonably achievable, this license change will only result in very minor changes to facility operations which are clearly in keeping with the regulations.

Therefore, since the applications for amendment involves proposed changes that are similar to examples for which no significant hazards considerations exist, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Penfield Library, State University College of Oswego, Oswego, New York.

Attorney for licensee: Mr. Charles M. Pratt, Assistant General Counsel, Power Authority of the State of New York, 10 Columbus Circle, New York, NY 10019.

NRC Branch Chief: Domenic B. Vassallo.

Power Authority of the State of New York, Docket No. 50-286, Indian Point Nuclear Generating Plant, Unit No. 3 Buchanan, Westchester County, New York

Date of amendment request: November 24, 1981.

Description of amendment request: The amendment would revise the testing requirements for hydraulic shock suppressors (snubbers) and add requirements for mechanical snubber operability and testing. The proposed changes were made in response to an NRC request to upgrade the testing requirements for all safety-related snubbers to ensure a higher degree of operability. The changes involve: clarifying the frequency for visual inspections, stating the requirements for functional testing of snubbers which visually appear inoperable, the inclusion of a formula for the selection of representative sample sizes, the clarifying of the testing acceptance criteria, and revising the method of snubber listing to incorporate more information.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870). One of the examples of actions not likely to involve a significant hazards consideration relates to changes that constitute additional limitations or restrictions in the Technical Specifications. The proposed changes revise sections of the Technical Specifications related to hydraulic snubbers to clarify requirements and include additional testing, and incorporate both operability and testing requirements for mechanical snubbers. Since the requested changes upgrade the requirements for hydraulic snubbers and add requirements for mechanical snubbers, the staff proposes to determine that the application does not involve a significant hazards consideration.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Attorney for Licensee: Charles M. Pratt, Esq. 10 Columbus Circle, New York New York 10019.

NRC Branch Chief: Steven A. Varga.

Power Authority of the State of New York, Docket No. 50-286, Indian Point Nuclear Generating Plant, Unit No. 3, Westchester County, New York

Date of application for amendment: May 3, 1983.

Description of amendment request: Prior to the resumption of power operation in May 1983 the licensee was required to propose improvements in balance of plant secondary water chemistry control. (Amendment No 47 published in the **Federal Register** on June 3, 1983 (48 FR 25030.) The need for extensive repairs to the Indian Point, Unit No. 3, steam generators had been attributed to corrosion fatigue and improvements in chemistry control were deemed necessary to minimize further steam generator degradation.

The proposed steam generator chemistry controls are more restrictive than those used previously and are considered interim in nature. The licensee has committed to inform the NRC of the status of a long term program to improve balance of plant chemistry by January 1984.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870). One of the examples (ii) of actions not likely to involve a significant hazards consideration relates to a change that constitutes an additional limitation, restriction, or control not presently included in th Technical Specifications. This license amendment request proposes more limiting chemistry control Technical Specifications than those previously used at Indian Point. This proposed change clearly adds more restrictions and surveillance requirements and matches the guidance quoted. The staff, therefore, propose to determine that the amendment does not involve a significant hazards consideration.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York.

Attorney for Licensee: Charles M. Pratt, Esquire, 10 Columbus Circle, New York, New York 10019.

NRC Branch Chief: Steven A. Varga.

Power Authority of the State of New York, Docket No. 50-286, Indian Point Nuclear Generating Plant, Unit No. 3, Westchester County, New York

Date of application for amendment: June 1, 1983.

Description of amendment request: In November 1980 the NRC Staff developed NUREG-0737, "Clarification of TMI Action Plan Requirements," to provide a comprehensive and integrated plan to improve safety at power reactors. Subsequently, plant modifications were made at Indian Point and the NRC requested that the licensee submit Technical Specifications to ensure the operability and effectiveness of these improvements. By letter dated June 1, 1983, the licensee submitted the applicable license amendment request.

The licensee's submittal proposed Technical Specifications for the following NUREG-0737 items: (1) II.E.4.2.6 "Containment Isolation Dependability," and II.K.3.3., " Reporting Safety Valve and Relief Valve Failures and Challenges." For both of these items the licensee's submittal indicates compliance with NUREG-0737 and, therefore, is considered an improvement in plant safety.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for a no significant hazards determination by providing certain examples (48 FR 14870). One of the examples (ii) of actions not likely to involve a significant hazards consideration relates to a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications. This proposed change clearly adds more restrictions and surveillance requirements and matches the guidance quoted. The staff, therefore, proposes to determine that the amendment does not involve a significant hazards consideration.

Local Public Document Room location: White Plains Public Library,

100 Martine Avenue, White Plains, New York 10601

Attorney for licensee: Charles M. Pratt, Esquire, 10 Columbus Circle, New York New, York 10019.

NRC Branch Chief: Steven A. Varga.

Power Authority of the State of New York, Docket No. 50-286, Indian Point Nuclear Generating Plant, Unit No. 3, Westchester County, New York

Date of application for amendment: June 3, 1983.

Description of amendment request: Prior to resuming power operation in May 1983 the licensee was required to install certain fire protection plant modifications. These modifications were interim in nature pending final resolution of permanent modifications as required by 10 CFR 50, Appendix R. Interim alternate power supply modifications were completed prior to plant startup. The licensee's amendment request proposes that appropriate surveillance requirements and limiting conditions of operation be incorporated into the plant's Technical Specifications in order to ensure the operability of modifications during plant operation.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870). One of the examples (ii) of actions not likely to involve a significant hazards consideration relates to a change that constitutes an additional limitation, restriction, or control not presently included in the plant's Technical Specifications. The existing Indian Point Technical Specifications indicate the required surveillance, testing and limiting conditions of operation for the Emergency Power System. The licensee's proposed amendment does not modify the existing emergency power supply Technical Specifications. The proposed Technical Specifications relate to the new alternative power supply only and are in addition to the existing Technical Specifications. Therefore, the staff proposes to determine that the application does not involve a significant hazards consideration since it constitutes additional limitations not currently included in the Technical Specifications.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Attorney for licensee: Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019.

NRC Branch Chief: Steven A. Varga.

Power Authority of the State of New York, Docket No. 50-286, Indian Point Nuclear Generating Plant, Unit No. 3, Westchester County, New York

Date of application for amendment: June 17, 1983.

Description of amendment request: The amendment would change the Radiological Effluent Technical Specifications to assure compliance with Appendix I of 10 CFR Part 50. It provides new Technical Specification sections defining limiting conditions for operation and surveillance requirements for radioactive liquid and gaseous effluent monitoring; concentration, dose and treatment of liquid, gaseous and solid wastes; total dose; radiological environmental monitoring that consists of a monitoring program, land use census, and interlaboratory comparison program. This change also incorporates into the Technical Specifications the bases that support the operation and surveillance requirements. In addition, some changes would be made in administrative controls, specifically dealing with the process control program and the offsite dose calculatioin manual.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870). One of the examples (ii) of actions not likely to involve a significant hazards consideration relates to changes that constitute additional restrictions or controls not presently included in the Technical Specifications.

The Commission, in a revision to Appendix I, 10 CFR Part 50 required licensees to improve and modify their radiological effluent systems in a manner that would keep releases of radioactive material to unrestricted areas during normal operations as low as is reasonably achievable. In complying with this requirement it became necessary to add additional restrictions and controls to the Technical Specifications to assure compliance. This caused the addition of Technical Specifications described above. The staff proposes to determine that the application does not involve a significant hazards consideration since the change constitutes additional restrictions and controls that are not currently included in the Technical Specifications in order to meet the Commission mandated release of "as low as is reasonably achievable."

Local Public Document Room location: White Plains Public Library 100 Martine Avenue, White Plans, New York 10601.

Attorney for licensee: Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019.

NRC Branch Chief: Steven A. Varga.

Public Service Electric and Gas Company, Docker Nos. 50-272 and 50-311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of amendment request: October 5, 1982.

Description of amendments request: Changes the Technical Specifications for Unit 1 and Unit 2 regarding performance of a Reactor Coolant System Water inventory balance, to be identical to provide consistency between the unit Technical Specifications. The specification will now read: "Performance of a Reactor Coolant System water inventory balance at least once per 72 hours during steady state operation. The provisions of Specification 4.0.4 are not applicable for entry into Mode 4."

The phrase "during steady operation" in the first sentence was added to the Unit 1 specification.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance as to the application of the standards for a no significant hazards consideration determination by providing certain examples (48 FR 14870). The examples of action involving no significant hazards include actions which involve a change that constitutes an additional limitation, restriction or control not presently included in the Technical Specifications. The changes included in this application add limitations to each of the paragraphs to clarify the intent of the specifications, i.e., a phrase from the Unit 1 specification was added to the Unit 2 specification and a sentence from the Unit 2 specification was added to the Unit 1 specification. Since the proposed changes add limitations to clarify existing requirements, the staff proposes to determine that the application does not involve a significant hazards consideration.

Local Public Document Room location: Salem Free Library, 12 West Broadway, Salem, New Jersey 08079.

Attorney for licensee: Conner and Wetterhahn, Suite 1050, 1747 Pennsylvania Avenue, N.W., Washington, D.C. 20006.

NRC Branch Chief: Steven A. Varga.

Rochester Gas and Electric Corporation, Docket No. 50-244, R. E. Ginna Nuclear Power Plant, Wayne County, New York

Date of amendment request: Proposed changes to the Technical Specifications (TS) which would add additional requirements for operability, testing and inspections of all snubbers in use at the plant.

Basis for proposed no significant hazards consideration determination: The amendment would add additional requirements for operability, visual inspections and periodic testing of snubbers to ensure that these devices are operable. Snubbers are attached to piping and equipment to provide restraint during a seismic or other event which initiated dynamic loads, yet allow slow motion such as that produced by thermal expansion. The Commission has provided guidance concerning the application of standards for determining whether license amendments involve no significant hazards considerations by providing certain examples which were published in the Federal Register on April 6, 1983 (48 FR 14870). One of the examples of actions involving no significant hazards consideration is a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications, such as a more stringent surveillance requirement.

The amendment request, discussed above, fits this example. On this basis, the Commission's staff proposes to determine that the amendement involves no significant hazards consideration.

Local Public Document Room location: Rochester Public Library, 115 South Avenue, Rochester, New York 14604.

Attorney for licensee: LeBoeuf, Lamb, Leiby, and MacRae, 1333 New Hampshire Avenue, N.W., Suite 1100, Washington, D.C. 20036.

NRC Branch Chief: Dennis M. Crutchfield.

Rochester Gas and Electric Corporation, Docket No. 50-244, R. E. Ginna Nuclear Power Plant, Wayne County, New York

Date of amendment request: September 28, 1982.

Description of amendment request: The proposed changes involve reorganization for the plant staff. Over the past 12 years, the functions of Cost Control Coordinator, Administrative Computer Systems Analyst, Technical Computer Systems Analyst, Technical Projects Supervisor, Technical Assistant for Operational Assessment, Fire Protection and Safety Coordinator, and Emergency Planning Group have been added. These functions typically have reported directly to the office of the Plant Superintendent, resulting in approximately 12 organizational sections reporting to the Plant Superintendent/Assistant Superintendent.

The proposed Technical Specification change would approve reorganization in the plant staff into six major functional sections. These functional sections would include an Administrative Section, a Health Physics and Chemistry Section, a Maintenance Section, an Operations Section, a Nuclear Assurance Section and a Technical Section. The composition of the Plant Operations Review Committee, Section 6.5.1.2, would be changes to be consistent with the proposed organizational change. Additionally, at the corporate level, the title of Manager Security would be changed to Director of Security.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards for conclusions regarding no significant hazards considerations by providing examples (49 FR 14870, April 6, 1983). These examples are not applicable to the issues addressed in this application. Our basis for concluding that the standards are met with respect to the no significant hazards considerations is that the changes will increase the efficiency of the organization by reducing the number of functions reporting to the Plant Superintendent thus allowing him to concentrate his efforts on the major plant actions and delegate more routine matters to his immediate subordinates. No functions will be deleted. In addition, the new organization will consolidate complimentary functions under a single functional section. For example, reporting to the Administrative Manager will be the functions of Cost Coordinator, Administrative Computer Systems Analyst, and the function of the Office Supervisor. These support functions will form a cohesive organization assisting in the plant administrative controls implementation.

Reporting to the Nuclear Assurance Manager will be the Operational Assessment Engineer (formerly the Technical Assistant for Operational Assessment), the Quality Control Engineer, and the Fire Protection and Safety Coordinator. Also within this section the function of the Quality Control Inspection Supervisor, reporting to the Quality Control Engineer, will be established to coordinate the inspection activities of quality control on plant and project jobs. The Quality Control Engineer will continue to report to the Superintendent regarding station activities affecting quality and that these activities are in accordance with approved drawings, specifications, and procedures. Since the independence and responsibilities of the Quality Control Engineer and the corresponding reporting relationships remain unaltered, the revised station organization will not diminish or weaken the effectiveness of the Quality Control Organization. This change will consolidate those staff functions concerned with the assurance of implementing the operational, quality and regulatory requirements of the administrative controls into an independent section.

Local Public Document Room location: Rochester Public Library, 115 South Avenue, Rochester, New York 14604.

Attorney for licensee: Harry H. Voigt, Esquire, LeBoeuf, Lamb, Leiby & MacRae, 1333 New Hampshire Avenue, NW., Suite 1100, Washington, D.C. 20036.

NRC Branch Chief: Dennis M. Crutchfield.

Southern California Edison Company, Docket No. 50-206, San Onofre Nuclear Generating Station, Unit No. 1, San Diego County, California

Date of amendment request: October 20, 1978.

Description of amendment request: The proposed amendment would revise the surveillance requirements for the station battery. These revisions would: (1) Reduce the allowable minimum specific gravity of the Pilot Cell from 1.20 to 1.19, (2) reduce the allowable minimum Pilot Cell Voltage from 2.17 volts to 2.05 volts, (3) modify the minimum overall Battery Voltage from 125 volts to 2.17 times the number of battery cells in service, (4) establish a minimum average cell voltage of 2.17 volts under float charge, (5) establish a minimum average cell specific gravity of 1.20, (6) revise the interval for testing the battery chargers from once per refueling shutdown to at least once per 60 months, and (7) modify the minimum current supplied by 125 volt DC Bus No. 2 and MOV 850C uninterruptible power supply battery chargers.

Basis for proposed no significant hazards consideration determination: The licensee's October 20, 1978 application states that operating experience with certain portions of Technical Specification 4.4, Emergency Power System Periodic Testing, has made it apparent that some of the current surveillance requirements are

unnecessarily restrictive and do not contribute to the safe operation of the facility. SCE further stated that the battery manufacturer has concurred with each of the specific requested changes. The licensee also stated that the proposed changes would assure the ability of the battery to meet the criteria for operational functions during the course of a design basic accident while allowing reasonable flexibility for maintenance and surveillance activities. On this basis the staff proposes to determine that these changes involve no significant hazards consideration because the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any previously evaluated; or (3) involve a significant reduction in a margin of safety.

Local Public Document Room location: San Clemente Branch Library, 242 Avenida Del Mar, San Clemente, California 92672.

Attorney for licensee: Charles R. Kocher, Assistant General Counsel, James Beoletto, Esquire, Southern California Edison Company, Post Office Box 800, Rosemead, California 91770.

NRC Branch Chief: Dennis M. Crutchfield.

Southern Salifornia Edison Company, Docket No. 50–206, San Onofre Nuclear Generating Station, Unit No. 1, San Diego County, California

Date of amendment request: September 12, 1979 and March 30, 1983.

Description of amendment request: The licensee's proposed amendment dated September 12, 1979 would incorporate radiological effluent technical specifications necessary to implement the requirement of Appendix I to 10 CFR Part 50 into the Appendix A Technical Specifications. The licensee's proposed amendment dated March 30, 1983 woild revise the San Onofre Unit Technical Specifications to incorporate calculational methods that would more accurately establish limits of liquid and gaseous effluents in unrestricted areas than the existing specifications and to provide requirements to sample for iodine and particulate activity to maintain a more accurate account of these types of radioactivity released to the environs, in accordance with 10 CFR Part 20, Appendix B.

Basis for proposed no significant hazards consideration determination: The proposed amendment proposed by letter dated September 12, 1979 would provide new Technical Specification sections defining limiting conditions for operation and surveillance requirements for radioactive liquid and gaseous effluent monitoring; dose and treatment of liquid and gaseous wastes; total dose; radiological environmental monitoring that consists of a monitoring program, land use census, and interlaboratory calibration program. This change also incorporates into the Technical Specifications the bases that support the operation and surveillance requirements. In addition changes would be made in administrative controls, specifically dealing with the offsite dose calculational manual. This proposed amendment would also supersede and delete the existing radiological environmental monitoring Technical Specifications from the Appendix B Technical Specifications.

The Commission has provided guidance concerning the application of these standards by providing certain examples (April 6, 1983, 48 FR 14870). One of the examples (ii) of actions not likely to involve a significant hazards considerations relates to changes that constitute additional restrictions or controls not presently included in the Technical Specifications.

With regard to the proposed amendment dated September 12, 1979, the Commission, in a revision to Appendix I, 10 CFR Part 50 required licensees to improve and modify their radiological effluent systems in a manner that would keep releases of radioactive material to unrestricted areas during normal operation as low as is reasonably achievable. In complying with this requirement it became necessary to add additional restrictions and controls to the Technical Specifications to assure compliance. This caused the proposed addition of Technical Specifications described above. The proposed amendment falls within the category of the cited example.

The proposed amendment dated March 30, 1983 would provide new, more accurate calculational methods for establishing liquid and gaseous limits in unrestricted areas and would add requirements to sample for iodine and particulate activity. This proposed amendment also falls within the category of the cited example. Therefore, the staff proposes to determine that the requested actions involve no significant hazards consideration.

Local Public Document Room location: San Clemente Branch Library, 242 Avenida Del Mar, San Clemente, California 92676.

Attorney for licensee: Charles R. Kocher, Assistant General Counsel, James Beoletto, Esquire, Southern California Edison Company, Post Office Box 800, Rosemead, California 91770.

NRC Branch Chief: Dennis M. Crutchfield.

Southern California Edison Company, Docket No. 50–206, San Onofre Nuclear Generating Station, Unit No. 1, San Diego County, California

Date of amendment request: April 4, 1980.

Description of amendment request: The proposed amendment would modify the Technical Specifications to add limiting conditions for operation and surveillance requirements for fire protection features that have been installed in accordance with the NRC's Fire Protection Safety Evaluation Report dated July 19, 1979.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning ther application of standards of no significant hazards consideration determination by providing certain examples (48 FR 14870, April 6, 1983). One of the examples (ii) of actions likely to involve no significant hazards considerations relates to a change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications: for example, a more stringent surveillance requirement.

The licensee's proposed amendment would add limiting conditions for operation and surveillance requirements not presently included in the Technical Specifications. The proposed amendment, therefore, falls within the category of the cited example and would not involve a significant hazards consideration.

Local Public Document Room location: San Clemente Branch Library, 242 Avenida Del Mar, San Clemente, California 92672.

Attorney for licensee: Charles R. Kocher, Assistant General Counsel, James Beoletto, Esquire, Southern California Edison Company, Post Office Box 800, Rosemead, California 91770.

NRC Branch Chief: Dennis M. Crutchfield.

Southern California Edison Company, Docket No. 50–206, San Onofre Nuclear Generating Station, Unit No. 1, San Diego County, California

Date of amendment request: December 1, 1980.

Description of amendment request: This amendment would add limiting conditions for operation and surveillance requirements to the Technical Specifications to provide for redundancy in Decay Heat Removal

Capability in all modes of operation. During startup and power operation, all three reactor coolant loops and their associated steam generators and reactor coolant pumps would be required to be in operation. Specifications regarding Decay Heat Removal Capability for Hot Standby, Hot and Cold Shutdown, and Refueling Modes are also proposed.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of standards of no significant hazard consideration determination by providing certain examples (48 FR 14870). One of the examples of actions likely to involve no significant hazards consideration relates to a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications: for example, a more stringent surveillance requirement. The proposed amendment adds more stringent limiting conditions for operation and surveillance requirements and, therefore, falls within the category of the cited example. On this basis, the staff proposes to determine that the requested action would involve no significant hazards consideration.

Local Public Document Room location: San Clemente Branch Library, 242 Avenida Del Mar, San Clemente, California 92672.

Attorney for licensee: Charles R. Kocher, Assistant General Counsel, James Beoletto, Esquire, Southern California Edison Company, Post Office Box 800, Rosemead, California 91770.

NRC Branch Chief: Dennis M. Crutchfield.

Southern California Edison Company, Docket No. 50–206, San Onofre Nuclear Generating Station, Unit No. 1, San Diego County, California

Date of amendment request: August 11, 1982 with revisions dated September 13, 1982.

Description of amendment request: The proposed amendment involves two principal sets of changes. The first change would exclude tritium from the definition of $\bar{E}$ used in calculating the specific activity limit of the reactor coolant in accordance with Technical Specification 3.1.1.A.2. Because tritium emits only relatively low energy betas (0.01 86MeV), excluding tritium from the definition of $\bar{E}$ would raise the value of $\bar{E}$ and reduce the allowable limit for maximum specific activity as calculated form $100/\bar{E}$. The second set of changes applies to Table 4.1.2 of the Technical Specifications and would: (1) modify the frequency for performing reactor coolant and secondary coolant gross activity determinations from three times per week at intervals no less than 30 hours, to once every 72 hours, (2) add the operational modes during which the sampling frequencies for reactor coolant and secondary coolant apply, and (3) make administrative changes that would add a footnote referencing the definition of $\bar{E}$, correct the numbering of two existing footnotes, and add the specific activity limit, $100/\bar{E}\mu Ci/gm$, for completeness.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870). Three of the examples of action likely to involve no significant hazards consideration are: (i) A purely administrative change to technical specifications: for example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature; (ii) A change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications: for example, a more stringent surveillance requirement; (vi) A change which either may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan: for example, a change resulting from the application of a small refinement of a previously used calculational model or design method.

The exclusion of tritium from the definition of $\bar{E}$ results in a lower allowable limit for specific activity as calculated from $100/\bar{E}$. Tritium activity will continue to be measured as part of the weekly gross activity determination. Example (ii) above is applicable to this proposed change.

The proposed change regarding the frequency for performing reactor coolant and secondary coolant gross activity determinations from three times per week to once every 72 hours is a slight relaxation of the current Technical Specification requirements; however, the proposed frequency is consistent with the provisions of the Westinghouse Technical Specifications, NUREG–0452, Revision 4. Standard Review Plan Section 16.0 indicates that a proposed Technical Specification is acceptable if it is similar to those developed by the staff as Standard Technical Specifications for plants of a similar design. This proposed change is within all acceptable criteria with regard to sampling frequency and example (vi) above is applicable to this proposed change.

With regard to the addition of operational modes during which the sampling frequencies apply, there is no change with regard to gross activity determination for reactor coolant because all six operational modes are indicated. The proposed changes requiring: (1) Isotopic analysis for Dose Equivalent I–131 concentration for reactor coolant and spectroscopic for $\bar{E}$ determination, both only during Mode 1, and (2) secondary coolant gross activity determination and isotopic analysis for Dose Equivalent I–131 concentration, both only during Modes 1, 2, 3, and 4, are consistent with the provisions of the Westinghouse Standard Technical Specifications, NUREG–0452, Revision 4. This proposed change is within all acceptable criteria and example (vi) above is applicable to this proposed change. The administrative changes are of the type described in example (i), above.

Therefore, the staff proposes to determine that the requested action would involve no significant hazards consideration.

Local Public Document Room location: San Clemente Branch Library, 242 Avenida Del Mar, San Clemente, California 92672.

Attorney for licensee: Charles R. Kocher, Assistant General Counsel, James Beoletto, Esquire, Southern California Edison Company, Post Office Box 800, Rosemead, California 91770.

NRC Branch Chief: Dennis M. Crutchfield.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of Amendment request: March 15, 1983.

Description of amendment request: The amendments would change the Technical Specification required frequencies for auditing the Physical Security Plan and Site Radiological Emergency Plan to once per twelve months. This change would make the Technical Specifications consistent with 10 CFR 50.54(t).

Basis for proposed no significant hazards consideration determination: The Commission has provided examples of amendments that are considered not likely to involve significant hazards considerations. One example is a change to make a license conform to changes in the regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulations. The

Commission proposes to determine that the amendment is a change that is not safety related.

Local Public Document Room location: Chattanooga-Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee 37401.

Attorney for licensee: Herbert S. Sanger, Jr., Esq., General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, E 11B 33, Knoxville, Tennessee 37902.

NRC Branch Chief: Elinor G. Adensam.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plants, Units 1 and 2, Hamilton County, Tennessee

Date of amendment request: March 15, 1983.

Description of amendment request: The amendments would change the Technical Specifications to delete the cable spreading room from the list of areas that require the low pressure carbon dioxide system to be operable. The primary source of fire protection in the cable spreading room is provided by the preaction sprinkler system. The backup protection is provided by hose stations in the area. The fire protection system, without the carbon dioxide system, meets the requirements of the NRC Standard Review Plan.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870). One of the examples of actions likely to involve no significant hazards consideration relates to a change which either may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan. Accordingly, the Commission proposed to determine that this change does not involve a significant hazards consideration.

Local Public Document Room location: Chattanooga-Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee 37401.

Attorney for licensee: Herbert S. Sanger, Jr., Esq., General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, E 11B 33, Knoxville, Tennessee 37902.

NRC Branch Chief: Elinor G. Adensam.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plants, Units 1 and 2, Hamilton County, Tennessee

Date of amendment request: March 16, 1983.

Description of amendment request: The amendments would change the Technical Specifications regarding responsibility for issuing the annual management directive outlining control room command. The amendments would relieve the General Manager from the requirement for signing the management directives and assign this responsibility to the Director of the licensee's Division of Nuclear Power.

Basis for proposed no significant hazards consideration determination: This change is considered administrative in nature. The Commission has provided guidance concerning the application of these standards by providing certain examples (45 FR 14870). One of the examples of actions likely to involve no significant hazards consideration relates to purely administrative change to technical specifications: for example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature. Accordingly, the Commission proposes to determine that this change does not involve a significant hazards consideration.

Local Public Document Room location: Chattanooga-Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee 37401.

Attorney for licensee: Herbert S. Sanger, Jr., Esq., General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, E 11B 33, Knoxville, Tennessee 37902.

NRC Branch Chief: Elinor G. Adensam.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment request: June 15, 1983.

Description of amendment request; The amendments would revise the diesel generator surveillance requirement. The proposed surveillance requirements for the diesel generators would reflect the actual as-designed logic that exists for the Sequoyah Units 1 and 2. The present design protects the diesel generator from a sustained overcurrent condition when in parallel with offsite power. It does not have, however, the added feature of returning to a standby status if a safety injection signal occurs while in the test mode (parallel to offsite power). For this reason, the present surveillance tests cannot be fully carried out.

Basis for proposed no significant hazards consideration determination: The proposed amendments involve no significant hazards consideration based on the examples cited in 48 FR 14870. One of the examples relates to a change which either may result in some increase to the probability or consequences of a previously analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan.

Local Public Document Room location: Chattanooga-Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee 37401.

Attorney for licensee: Herbert S. Sanger, Jr., Esq., General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, E 11B 33, Knoxville, Tennessee 37902.

NRC Branch Chief: Elinor G. Adensam.

Vermont Yankee Nuclear Power Corporation, Docket No. 50–271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of amendment request: March 17, 1978.

Description of amendment request: Modification of the Technical Specifications: (1) To require that only one relief valve actuate at the lowest setting called for in the Technical Specifications, this change is to avoid the simultaneous actuation of more than one safety relief valve at a time; (2) to correct the snubber surveillance list by changing several snubber locations and deleting certain snubbers from the "especially difficult to remove" list. The snubbers have been modified to allow easy removal: and (3) to change the format of the trip level settings for low reactor pressure to be consistent with format of other trip level settings in the Technical Specifications.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870). The examples of actions involving no significant hazards include actions which involve a change that constitutes an additional limitation, restriction or control not presently included in the Technical Specifications. The changes included in this application add limitations not presently included in the Technical

Specifications. The proposed change adds words to the Technical Specifications requiring that reactor coolant system relief valves be set to ensure that only one relief valve will actuate at the lowest setting thereby avoiding more than one relief valve actuation simultaneously. The present Technical Specifications allow the relief valves to be set in the above manner, but the proposed Technical Specifications would require it.

The correction of the snubbers surveillance list corrects the description of several snubber locations and deletes several snubbers from the "especially difficult to remove" list, thereby requiring additional testing for those snubbers.

Another example of an action involving no significant hazards considerations is "a purely administrative change to technical specifications; for example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature."

The change in the format of the trip level setting for low reactor pressure is a change to achieve consistency and is purely administrative.

Since the proposed changes are purely administrative or add limitations not presently included to the Technical Specifications, the staff proposes to determine that the application does not involve a significant hazards consideration.

Local Public Document Room location: Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301.

Attorney for licensee: John A. Ritscher, Esquire, Ropes & Gray, 225 Franklin Street, Boston, Massachusetts 02110.

NRC Branch Chief: Domenic B. Vassallo.

Vermont Yankee Nuclear Power Corporation, Docket No. 50–271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of amendment request: January 30, 1979 as supplemented January 18, 1983.

Description of amendment request: The licensee has requested Technical Specification changes in accordance with 10 CFR 50.55a(g)(5) which requires amendments to Technical Specifications to conform to the updated inservice inspection and testing program for safety class components mandated by Section 50.55a.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the no significant hazards consideration standards by providing certain examples (48 FR 14870). One of the examples of actions involving no significant hazards considerations relates to a change that constitutes an additional limitation, restriction or control not presently included in the technical specifications. The proposed amendment would incorporate an additional testing requirement in accordance with the Commission's regulations regarding inservice testing programs. In addition, the proposed amendment matches an example of an action involving no significant hazards consideration in that the proposed change will make the license conform to the Commission's regulations. Therefore, the Commission proposes to determine that the amendment does not involve a signficant hazards consideration.

Local Public Document Room location: Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301.

Attorney for licensee: Mr. John A. Ritscher, Esquire, Ropes & Gray, 225 Franklin Street, Boston, Massachusetts 02110.

NRC Branch Chief: Domenic B. Vassallo.

Vermont Yankee Nuclear Power Corporation, Docket No. 50–271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of amendment request: February 13, 1979 as supplemented January 24, 1983.

Description of amendment request: The licensee has requested changes to the Radiological Effluent Technical Specifications that bring them into compliance with Appendix I of 10 CFR Part 50. The amendment provides new Technical Specification sections defining limiting conditions for operation and surveillance requirements for radioactive liquid and gaseous effluent monitoring; concentration, dose and treatment of liquid, gaseous and solid wastes; total dose; radiological environmental monitoring that consists of a monitoring program, land use census, and interlaboratory comparison program. This change also incorporates into the Technical Specifications the bases that support the operation and surveillance requirements. In addition, some changes were made in administrative controls, specifically dealing with the process control program and the offsite dose calculation manual. The amendment is in accordance with licensee's application for amendment dated February 13, 1979 as supplemented January 24, 1983.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870). One of the examples of actions not likely to involve a significant hazards considerations relates to changes that constitute additional restrictions or controls not presently included in the technical specifications.

The Commission, in a revision to Appendix I, 10 CFR Part 50 required licensees to improve and modify their radiological effluent systems in a manner that would keep releases of radioactive material to unrestricted areas during normal operation as low as is reasonably achievable. In complying with this requirement it became necessary to add additional restrictions and controls to the Technical Specifications to assure compliance. This caused the addition of Technical Specifications described above. The staff proposes to determine that the application does not involve a significant hazards consideration since the change constitutes additional restrictions and controls that are not currently included in the Technical Specifications in order to meet the Commission mandated release of "as low as is reasonably achievable."

Local Public Document Room location: Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301.

Attorney for licensee: Mr. John A. Ritscher, Esquire, Ropes & Gray, 225 Franklin Street, Boston, Massachusetts 02110.

NRC Branch Chief: Domenic B. Vassallo.

Vermont Yankee Nuclear Power Corporation, Docket No. 50–271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of amendment request: December 29, 1981.

Description of amendment request: This amendment would add Technical Specifications requiring calibration, functional tests, and instrument checks at specified frequencies for the noble gas effluent monitor and requiring reactor shutdown if the noble gas effluent monitor cannot be returned to service within 30 days. The proposed change was submitted in response to a staff request to propose Technical Specifications pertaining to the high range noble gas effluent monitor required to be installed by Item II.F.1 of NUREG–0737, Clarification of TMI Action Plan Requirements.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance

concerning the application of these standards by providing certain examples (48 FR 14870). An example of a change involving no significant hazards consideration is "a change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications; for example a more stringent surveillance requirement." The changes included in this application add limitations requiring stack noble gas monitor operability and requiring stack noble gas effluent monitor surveillance. Since the proposed changes add limitations not presently included in the Technical Specifications, the staff proposes to determine that the application does not involve a significant hazards consideration.

Local Public Document Room location: Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301.

Attorney for licensee: John A. Ritscher, Esquire, Ropes & Gray, 225 Franklin Street, Boston, Massachusetts 02110.

NRC Branch Chief: Domenic B. Vassallo.

Vermont Yankee Nuclear Power Corporation, Docket No. 50–271, Vermont Yankee Nuclear Power Station, Windham County, Vermont

Date of amendment request: May 20, 1983.

Description of amendment request: Modification of the Technical Specifications to delete some snubbers and add other snubbers to the snubber surveillance list. The snubbers were removed or added from the list as a result of modifications required by the Mark I containment program which has been approved by the Commission.

Basis for proposed no significant hazards consideration determination: The proposed change to the Technical Specifications would delete certain snubbers and add other snubbers to the list of snubbers requiring routine surveillance. These snubbers were removed and added from the list as a result of the deletion and addition of snubbers during modifications required by the Mark I containment program. Seismic and hydrodynamic analysis for the modified system configuration allowed removal of those snubbers that were removed and required addition of those snubbers that were added.

Since this change is being made to correct the Technical Specifications to reflect current system configuration, it will not result in any significant effect on any analyzed accident or postulated accident in the updated Final Safety Analysis Report. Additionally, since the snubbers which were deleted from the surveillance list were no longer needed or installed and the snubbers which were added were required under the Commission approved Mark I containment program, no significant reduction in a margin of safety would result from this change. For the same reasons this change would not involve a significant increase in the probability or consequences of an accident or create the possibility of a new or different kind of accident. Therefore, the staff proposes to determine that the amendment request does not involve a significant hazards consideration.

Local Public Document Room location: Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301.

Attorney for licensee: Mr. John A. Ritscher, Esquire, Ropes and Gray, 225 Franklin Street, Boston, Massachusetts 02110.

NRC Branch Chief: Domenic B. Vassallo.

Vermont Yankee Nuclear Power Corporation, Docket No. 50–271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of amendment request: May 20, 1983.

Description of amendment request: The licensee has requested that the requirement for an annual conduct of an exercise of the emergency plan be deleted from the Technical Specifications because the requirement is redundant with the requirements of 10 CFR 50, Appendix E.

The licensee has proposed this change in order to eliminate the need to seek NRC approval for one-time changes to the Technical Specifications regarding the schedule for annual emergency drills and to negate the potential for conflict between the requirements of 10 CFR and the provisions of the specifications. The licensee will remain obligated by the regulation to conduct annual drills.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of standards for conclusions regarding "significant hazards considerations" (48 FR 14870). The examples of actions involving no significant hazards include actions which are purely administrative changes to the Technical Specifications. By letter dated December 16, 1982 the licensee requested one-time relief from the 10 CFR 50 Appendix E and Technical Specification requirements for the annual conduct of an exercise of the emergency plan. On March 1, 1983 an exemption was given granting relief from the 10 CFR Appendix E requirement. On May 26, 1983 the licensee proposed deletion of the requirement for an annual exercise from the Technical Specifications to remove the potential for conflict between the requirements of 10 CFR 50 Appendix E and the Technical Specifications. The requirements of 10 CFR 50 Appendix E will remain in effect, so the requirements of the Technical Specifications are redundant to 10 CFR Appendix E, and removal of a redundant requirement is purely administrative.

Because this change is purely administrative, the staff proposes to determine that the application does not involve a significant hazards consideration.

Local Public Document Room location: Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301.

Attorney for licensee: John A. Ritscher, Esquire, Ropes and Gray, 225 Franklin Street, Boston, Massachusetts 02110.

NRC Branch Chief: Domenic B. Vassallo.

Vermont Yankee Nuclear Power Corporation, Docket No. 50–271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of amendment request: May 26, 1983.

Description of amendment request: The amendment would make changes to the Technical Specifications to accommodate shifts in transition temperature for the reactor pressure vessel materials that were induced by radiation damage. These shifts are accounted for by revision of the plant pressure-temperature limits for heating up and cooling down the reactor vessel. Periodic review and adjustment, if necessary, of the curves to account for the effects of irradiation are required by 10 CFR 50, Appendices G & H.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870). The examples of actions involving no significant hazards consideration include: "A change to make a license conform to changes in the regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulations."

The changes to the pressure-temperature limits are similar to the example above because the regulations in 10 CFR 50, Appendices G & H require updating of pressure-temperature limits based on the surveillance program. The proposed license change would result in

very minor changes to the facility operations clearly in keeping with the regulations. On this basis, the staff proposes to determine that the amendment request does not involve a significant hazards consideration.

Local Public Document Room location: Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301.

Attorney for licensee: Mr. John A. Ritscher, Esquire, Ropes & Gray, 225 Franklin Street, Boston, Massachusetts 02110.

NRC Branch Chief: Domenici B. Vassallo.

Virginia Electric and Power Company, Docket Nos. 50–338 and 50–339, North Anna Power Station Units No. 1 and No. 2, Louisa County, Virginia

Date of amendment request: December 30, 1982; supplemented April 25, 1983; July 6, 1983 and July 11, 1983.

Description of amendment request: The requested amendment would implement Phase II of a plant Upgrade Program which would increase steam pressure to maximize the electrical output at the currently licensed reactor thermal rating of 2775 Megawatts thermal (MWT). The request would revise the Technical Specifications (TS) to allow operation with a Reactor Coolant System (RCS) Average Temperature (T_{AV}) of 587.8 degrees Fahrenheit (°F) as opposed to the currently approved RCS T_{AV} of 582.8°F. In addition to increasing the RCS T_{AV} by 5°F, the net reactor coolant pump heat input has been determined to be 12 MWT instead of 10 MWT, and this 2 MWT increase changes the currently approved Nuclear Steam Supply System (NSSS) rating from 2785 MWT to 2787 MWT. As stated above, the currently licensed reactor thermal rating of 2775 MWT remains unchanged. This 5°F increase in the RCS T_{AV} would provide an increase in the secondary side steam pressure of 32 pounds per square inch (psi) resulting in a higher secondary cycle thermal efficiency and approximately a 3 MW electrical increase in output.

Basis for proposed no significant hazards consideration determination: One of the Commission's exmples (48 FR 14870) involving no significant hazards relates to a requested change which either may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan: for example, a change resulting from the application of a small refinement of a previously used calculation model or design method. This example is applicable to this amendment request.

The licensee's proposed change does not require any hardware modifications to the NSSS. However, to implement the proposed changes, the licensee has submitted accident analyses of the NSS systems and components to verify that the proposed change is in conformance with the regulatory codes, standards and design criteria which were in effect at the time the North Anna Power Station, Units No. 1 and No. 2 (NA–1&2) received full-power operating licensees.

The safety evaluation supporting the license's proposed changes included the scope of the NSSS Accident Analyses and other accident analyses specified in chapter 15 of the Final Safety Analysis Report (FSAR) for NA–1&2. The safety evaluation also addressed the Balance of Plant (BOP) and the NSSS/BOP Interfaces as well as the Turbine Generator System. It is specifically noted that a reanalysis of the Emergency Core Cooling System (ECCS) performance and the Loss-of-Coolant (LOCA)—ECCS analysis was made to verify that the proposed changes and the analytical tehniques used were in full compliance with 10 CFR 50, Appendix K. The results of the licensee's safety evaluation supporting the change in the RCS T_{AV} from 582.8 to 587.8°F and the 2°F increase in the reactor coolant pump heat input and NSSS thermal rating indicate that these changes can be accommodated with margin to already approved FSAR safety limits and that the results of the change are clearly within the Commission's Standards and design criteria previously reviewed and approved for NA–1&2.

Therefore, based on the above, the Commission proposes to determine that the amendment involves no significant hazards consideration.

Local Public Document Room locations: Board of Supervisors Office, Louisa County Courthouse, Louisa Virginia 23093 and the Alderman Library, Manuscripts Department, University of Virginia, Charlottsville, Virginia 22901.

Attorney for licensee: Michael W. Maupin, Esq; Hunton, Williams, Gay and Gisbon, P.O. Box 1535, Richmond, Virginia 23212.

NRC Branch Chief Robert A. Clark.

Virginia Electric and Power Company, Docket Nos. 50–338 and 50–339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of application for amendment: March 16, 1982; supplemented June 24, 1982 and July 1, 1983.

Description of amendment request: The proposed changes to the Technical Specifications (TS) reflect the reorganization within the Nuclear Operations Department, Quality Assurance department, Emergency Planning, and security Department. In addition the proposed changes add the requirement to retain records for at least five years when the Station Emergency Plan and Station Security and implementing procedures are annually audited.

At present, the corporate organizational stucture specified in the TS indicates that the Nuclear Station Manager reports to the Manager-Nuclear Operations and Maintenance, who in turn reports to the Vice President-Nuclear Operations. As a result of the proposed revisions, the Vice President-Nuclear Operations will have responsibility for the supervision of the Nuclear Station Managers in the operation and maintenance fo the company's operational nuclear units.

The proposed changes delete the position of Manager-Nuclear Operations and Maintenance and renames the Manager, Nuclear Technical Services, to the Manager, Nuclear Operations Support. The Manager, Nuclear Operations Support, will carry out his old responsibilities plus the responsibilities of the Manager-Nuclear Operations and Maintenance. The new responsibilities that transfer to the Manager, Nuclear Operations Support, are Emergency Planning, Training, and Operations and Maintenance Support. In addition the Director, Administrative Services, will report directly to the Vice President-Nuclear Operations. These proposed changes maintain and enhance the direct communications between the Vice President-Nuclear Operations and the Nuclear Power Station Managers.

The proposed changes also reflect reorganizational changes in the Quality Assurance Program. The title of Nuclear Power Station Resident Quality Control Engineer is being changed to Nuclear Power Station Manager, Quality Assurance, who will report to the Executive Manager, Quality Assurance. The appointment of a Nuclear Power Station Manager, Quality Assurance, who reports directly to the Executive Manager, Quality Assurance, will provide added attention to plant quality assurance and enhance quality assurance for plant operations and direct liaison with the corporate quality assurance staff.

Also, the proposed changes reflect the addition of the Director-Emergency Planning to the Nuclear Operations Department. The Director-Emergency

Planning will report to the Manager, Nuclear Operations Support, which will aid the Nuclear Operations Department in planning for any emergency situation at the station nuclear units and thus enhance safe operation of the nuclear power station.

The proposed change also reflects a change in the present title of the Executive Vice President-Power to Executive Vice President and Chief Operating Officer.

Other changes proposed would specify that the Senior Vice President-Power Operations would sign the management directive on Shift Supervisors' responsibilities and issue the directive to all station personnel on an annual basis. Previously and as presently specified in the TS, the signing of this management directive on Shift Supervisors has been the responsibility of the Executive Vice President-Power. Thus, the proposed change would provide higher corporate responsibility in preparing the annual directive for the responsibilities of the Control Room command function of the Shift Supervisors. Another change proposed would have the Station Security Supervisor reporting directly to the Director, Nuclear Security, at the corporate office.

Finally, the proposed changes would add TS 6.10.1.i and 6.10.1.j to Specification 6.10 to conform to 10 CFR 50.54(t) and 10 CFR 73.46g(6), respectively, which stipulate the retention of records at least five years when the Station Emergency Plan and Station Security Plan, respectively, are audited on an annual basis.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples which were published in the **Federal Register** on April 6, 1983 (48 FR 14870). Examples of actions not likely to involve significant hazard consideration include actions specified as (i) purely administrative changes to the Technical Specifications, and (ii) changes that constitute an additional limitation, restriction, or control not presently included in the Technical Specifications.

The changes proposed in the application for amendment fall within the scope of these examples. The proposed changes in the corporate structure are administrative in nature and fall within the scope of example (i). It is noted that these proposed changes will not compromise any loss of high level management of nuclear safety. Rather, the proposed changes enhance managerial attention of safety activities of the nuclear units since the plant managers now report directly to a Vice-President. Also, the appointment of a Nuclear Power Station Manager, Quality Assurance, and a Director-Emergency Planning to the Nuclear Operations Department provide increased visible attention to these functions. In addition, the proposed changes assign greater corporate responsibility and attention in the preparation of the directive defining the Control Room command function of the Shift Supervisors.

Finally, the proposed changes requiring that records be retained for at least five years with respect to Emergency Planning and Station Security falls within the scope of example (ii) since this record retention is specified in 10 CFR 50.54(t) and 10 CFR 73.46g(6), and thus imposes an additional restriction or control. Accordingly, the Commission proposes to determine that these changes involve no significant hazards consideration.

Local Public Document Room locations: Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia 23093 and the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

Attorney for licensee: Michael W. Maupin Esq., Hunton, Williams, Gay and Gibson, P.O. Box 535, Richmond, Virginia 23212.

NRC Branch Chief: Robert A. Clark.

Virginia Electric and Power Company, Dockets Nos. 50–280 and 50–281, Surry Power Station, Units 1 and 2, Surry County, Virginia.

Date of amendment request: February 14, 1979, as supplemented September 21, 1982.

Description of amendment request: The amendment revises Technical Specifications 4.0, 4.1, 4.2, 4.3, 4.5, 4.7, 4.8, and 4.11 to add Surveillance Requirements to ensure that inservice testing of ASME Code Class 1, 2 and 3 pumps and valves and inservice inspection of ASME Code Class 1, 2 and 3 components will be performed in accordance with a periodically updated version of Section XI of the ASME Boiler and pressure Vessel Code and Addenda.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing examples (48 FR 14870). One of these examples relates to changes that constitute an additional limitation restriction, or control, The licensee has submitted a revised pump and valve Inservice Testing Program for Units 1 and 2. The Technical Specification changes are requested to ensure the revised Program is in accordance with the applicable ASME Code and Addenda as required by 10 CFR 50.55, "Codes and Standards". Since the proposed changes add requirements to ensure compliance with the regulations, these changes fall within example (ii) of actions not likely to involve significant hazards considerations and, on this basis, the staff proposes to determine that the application does not involve a significant hazards consideration.

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Attorney for licensee: Mr. Michael Maupin, Hunton and Williams, Post Office Box 1535, Richmond, Virginia 23213.

NRC Branch Chief: Steven A. Varga.

Virginia Electric and Power Company, Docket Nos. 50–280 and 50–281, Surry Power Station, Units Nos. 1 and 2, Surry County, Virginia

Date of amendment request: September 21, 1981 as supplemented April 13, 1982 and June 14, 1983.

Description of amendment request: These amendments propose to revise Technical Specifications 3.21 and 4.18 to reflect added fire protection systems. These changes add additional components and systems with limiting conditions for operation and surveillance requirements.

These changes represent upgrading and installation of new fire protection systems required by the Fire Protection Safety Evaluation Report dated September 19, 1979.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870). The examples of actions involving no significant hazards include actions which involve a change that constitutes an additional limitation, restriction or control not presently included in the Technical Specifications. These changes fall into that category since additional limiting conditions for operation and surveillance requirements are proposed. Therefore, the staff proposes to determine that these amendments involve no significant hazards consideration.

Local Public Document room location: Swem Library, College of William and Mary, Wiliamsburg, Virgina 23185.

Attorney for licensee: Mr. Michael Maupin, Hunton and Williams, Post Office Box 1535, Richmond, Virginia 23123.

NRC Branch Chief: Steven a Varga.

Virginia Electric and Power Company, Dockets Nos. 50–280 and 50–281, Surry Power Station, Units Nos. 1 and 2, Surry County, Virginia

Date of amendment request: January 10, 1983.

Description of amendment request: The proposed Technical Specification change for Surry Units 1 and 2 revises Tables 3.8–1 and 3.8–2 to add limiting conditions for operation and correct errors for containment isolation valves.

Two air-operated Phase I trip valves were installed on the Post-Accident Sample System return lines. These valves will reduce radiation levels outside containment should post-accident samples be required to be withdrawn from the reactor coolant system and containment sump. These modifications are required to meet the provisions of NUREG–0737, II.B.3, Post-Accident Sampling.

Manual isolation valves in the hydrogen analyzer system were replaced with ten (10) remote-manual valves (GW series valves) to upgrade the system. The remote-manual valves replaced manual valves located in high radiation areas which are inaccessible in post-accident conditions. The remote-manual valves will reduce personnel exposure following an accident.

One air operated trip valve was replaced with two direct acting solenoid valves in the Residual Heat Removal Sample line providing double isolation to increase assurance of reliable operation during accident conditions. The valves will be normally closed and receive a Phase I signal to ensure they are tripped closed on a safety injection signal. These modifications are required to meet the provisions of NUREG–0737, II.B.3, Post-Accident Sampling.

New instrumentation replaced the servomanometer and valves in the leakage monitoring detection system used in Type "A" testing. The servomanometer and two air operated trip valves, no longer needed, were removed and the lines were capped to prevent leakage through these lines.

This change also proposes to correct certain typographical errors and administrative errors such as wrong valve numbers.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870). The examples of actions involving no significant hazards consideration include actions which involve a change that constitutes an additional limitation, restriction or control not presently included in the Technical Specifications and actions which are administrative in nature; for example, correction of errors. The proposed changes fall into these categories except for the case where trip valves were removed. In this case, new instrumentation compensated for the removal of the valves. Based on the above, the staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Attorney for licensee: Mr. Michael Maupin, Hunton and Williams, Post Office Box 1535, Richmond, Virginia 23213.

NRC Branch Chief: Steven A. Varga.

Virginia Electric and Power Company, Docket Nos. 50–280 and 50–281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia.

Date of amendment request: June 16, 1983.

Description of amendment request: The amendments would add additional Accident Monitoring Instrumentation and Reactor Vessel Head Vents in accordance with the requirements of NUREG–0737, Item II.F.1 and II.B.1, respectively. The Accident Monitoring Instrumentation Items added are: Noble Gas Effluent Monitors—II.F.1.1. Containment High Range Radiation Monitors—II.F.1.3, Containment Pressure Monitors—II.F.1.4, Containment Water Level Monitors—II.F.1.5, Containment Hydrogen Monitors—II.F.1.6, and Reactor Vessel Head Vent—II.B.1. A description of each follows:

Noble gas effluent monitors with an upper range capacity of 10^5 uCi/cc (Xe–133) have been installed. The monitors have the capability to detect and measure concentrations of noble gas fission products in plant gaseous effluents during and following an accident. The monitors have a digital readout in the control room to provide the operator and emergency planning agencies with information on plant releases of noble gases during and following an accident.

Containment High-Range Radiation Monitors, with a maximum range of 10^7 R/hr have been installed. The monitors provide the capability to detect and measure the radiation level within the reactor containment during and following an accident. The two high-range monitors are placed in separate areas of the containment to provide independent measurements and will "view" a large fraction of containment volume.

Containment Pressure Monitors that provide a continuous indiction in the control room of containment pressure have been installed. Measurement and indication capability ranges from three times the design pressure of the containment to 5 psia.

Containment Water Level Monitors that provide continuous indication of containment water level have been installed and the monitors have a readout in the control room. A narrow range monitor is installed to cover the range of water from the bottom to the top of the containment sump. The wide range monitor is installed to cover the range of water from the bottom of the containment to the equivalent to a 600,000 gallon capacity. Containment Hydrogen Monitors that provide indication of hydrogen concentration in the containment atmosphere have been installed and indication is provided in the control room. Measurement capability is provided over the range of 0 to 10% hydrogen concentration under both positive and negative ambient pressure.

NUREG–0737, Item II.B.1, required the installation of the Reactor Vessel Head Vent (RVHV) whose function is to remove non-condensible gases from the reactor vessel head. The Reactor Vessel Head Vent is designed with redundant safety grade vent paths.

The Reactor Vessel Head Vent System will extend the reactor coolant pressure boundary to and including the ⅜ in. orifices in the Reactor Vessel Head Vent. The system is designed, fabricated, and installed in accordance with the requirements of PSAR Section 5, and all applicable codes, as part of the Reactor Coolant System.

These amendment would change Technical Specifications 3.1, 3.7 and 4.1 to incorporate limiting conditions for operation and surveillance requirements for the instrumentation discussed.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870). The examples of actions involving no significant hazards include actions which involve a change that constitutes an additional limitation, restriction or control not presently included in the Technical Specifications. The changes requested fall in this category.

The addition of additional Accident Monitoring Instrumentation (NUREG–0737, II.F.1) increases the overall plant margin of safety by providing

monitoring of potential radioactive release paths and provides a means to monitor hydrogen buildup in containment, radiation levels in containment, and containment pressure and water levels. In no case is the information provided by these monitoring systems used to initiate automatic activation of any plant safety systems.

Loss of reactor coolant resulting from vent failure is categorized as being a loss of coolant accident which is fully bounded by previous evaluations, while a failure downstream of the ⅜ in. orifices is within the capacity of the normal reactor coolant makeup system. System design provides for manual initiation or termination of venting effective with the single failure criteria.

Since these changes incorporate present NRC staff positions and are additional requirements, the staff proposes to determine that the application does not involve a significant hazards consideration.

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Attorney for licensee: Mr. Michael Maupin, Hunton and Williams, Post Office Box 1535, Richmond, Virginia 23213.

NRC Branch Chief: Steven A. Varga.

Wisconsin Electric Power Company, Docket Nos. 50–266 and 50–301, Point Beach Units 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of amendment request: June 4, 1976 as modified January 28, 1980.

Description of amendment: The amendments would permit operation after approval of changes to the plant's Technical Specifications (TS) that bring them into compliance with Appendix I, 10 CFR 50, and 10 CFR 50.36a and 50.34a. These proposed T.S. are intended to ensure that releases of radioactive material to unrestricted areas during normal operation remain as low as is reasonably achievable. Specifically, the proposed T.S. define limiting conditions for operation and surveillance requirements for radioactive liquid and gaseous effluent monitoring. Additional environmental sampling locations have been added to the present sampling locations. Additional managerial review responsibilities and reporting requirements have been added relating to radioactive releases. A site plan figure depicting the site exclusion area boundary has been added and the definition of channel check has been changed to more closely follow the recommended definition contained in NUREG–0472, "Radiological Effluent Technical Specifications for PWRs."

Basis for proposed no significant hazards consideration determination. The Commission has provided guidance concerning the application of the standards by providing certain examples (48 FR 14870). One of the examples of actions involving no significant hazards considerations relates to additional limitations, restrictions or control not presently included in the technical specifications (ii). In the case of the proposed technical specifications, they constitute an additional requirement for monitoring and control of radioactive effluents not presently in the technical specifications and are intended to meet the intent of the Commission's regulations (10 CFR 50 Appendix I, 10 CFR 50.34a, and 10 CFR 50.36a) and related staff guidance (NUREG–0472). Therefore, the staff proposes to determine that the amendments do not involve a significant hazards consideration.

Local Public Document Room location: Joseph P. Mann Public Library, 1515 16th Street, Two Rivers, Wisconsin.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street, N.W. Washington, D.C. 20036.

NRC Branch Chief: Robert A. Clark.

Wisconsin Electric Power Company, Docket Nos. 50–266 and 50–301, Point Beach Nuclear Power Plant, Unit Nos. 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of amendment request: April 19, 1983.

Description of amendment request: Request for modification of licenses DPR–24 and DPR–27 Technical Specifications for fire protection provisions as listed below. The proposed changes 1–6 reflect upgrading and improvements in the fire protection system, condense and clarify the meaning of certain technical specifications, and make editorial changes. Proposed changes 7 and 8 are relaxations to current Technical Specification requirements.

(1) Where a technical specification stated that a component should be "operable at rated capacity," this has been reworded to state that the component shall be "operable." Operable as defined in the technical specifications includes performance of function as defined in the Final Safety Analysis Report (FSAR). The FSAR describes the component function and rated capacity.

(2) "Once per day" has been changed to "once every 24 hours" regarding demonstration of component operability.

(3) New tables have been provided to identify existing hose stations and additional water sprinkling systems.

(4) New limiting conditions for operation and surveillance requirements have been added for new automatic suppression systems and fire detection systems.

(5) The surveillance requirements for the water sprinkler system have been revised to reflect the requirements of a wet pipe rather than dry pipe system.

(6) Test frequencies for fire hose station hydrostatic tests and fire detection tests have been modified to be consistent with the National Fire Protection Association (NFPA) codes.

(7) The time period to achieve cold shutdown with an inoperable fire pump has been relaxed from 30 hours to 48 hours of the time required to reach hot shutdown.

(8) The requirement for establishing fire watch inspection has been relaxed to twice per shift when certain fire protection systems are inoperable.

By letter dated July 26, 1983, the NRC informed the licensee that of requested items 7 and 8 above were being denied, therefore while listed for continuity they are not covered by the staff's proposed finding of no significant hazards.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples. Some of the examples of actions involving no significant hazards considerations relate to a purely administrative change to technical specifications (i), a change that constitutes an additional limitation, restriction or control not presently included in the Technical Specifications (ii), and a change which either may result in some increase to the probability or consequences of a previously analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan (vi). Proposed Changes 1, 2, 3, and 5 above match example (i) as purely administrative changes. Proposed Change 4 matches example (ii) as an additional restriction not presently in the technical specifications, corresponding to limiting conditions of operation and surveillance requirements for new system upgrades. Proposed change 6 matches example (vi) as a relaxation of an existing requirement that is within the acceptable criteria, that being the NFPA code requirements. For the above reasons the staff proposes

to determine that the amendments do not involve a significant hazards consideration.

Local Public Document Room location: Joseph P. Mann Public Library, 1516 16th Street, Two Rivers, Wisconsin.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036.

NRC Branch Chief: Robert A. Clark.

Wisconsin Electric Power Company, Docket No. 50–266, Point Beach Nuclear Plant Unit No. 1, Town of Two Creeks, Manitowoc County, Wisconsin

Date of amendment request: July 5, 1983.

Description of amendment request: Changes to the Technical Specifications (TS) to allow Point Beach Unit 1, currently restricted to operation at 2000 psia, to operate at either 2000 psia or 2250 psia following steam generator replacement. This flexibility of operation is currently allowed for Unit 2 by amendment dated April 29, 1980. The specific changes to the TS necessary to permit operation in the proposed manner are (1) defining the overtemperature delta T reactor trip equation for each operation condition; (2) defining a low pressure reactor trip for each operation condition to allow adequate operating margin; (3) defining an operational reactor pressure limit for each operating condition; and (4) defining system leak testing pressure for each operating condition.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870). One of the examples of actions involving no significant hazards consideration relates to relief granted from an operating restriction that was imposed because construction was not complete, when that construction has been completed satisfactorily (v). Restriction of operation of Point Beach Unit 1 from 2250 psia to 2000 psia was imposed by the Commission's Confirmatory Order of November 30, 1979 as modified January 3, 1980. The Safety Evaluation approving operation at 2000 psia was appended to that January 3, 1980 modification to the original Order. The restriction was imposed to reduce differential pressure across the steam generator tubes and was required by the NRC to provide continued assurance that the health and safety of the public would not be endangered by operation of Point Beach Unit 1. The degraded condition of the steam generator tubes was the basis for Commission's imposition of this Order. Wisconsin Electric Power Company plans to replace the Point Beach Unit 1 steam generators during the fall 1983 refueling outage. As stated in the NRC staff's Safety Evaluation of July 15, 1983, the new steam generators will have structural integrity at least equal to the original condition of the existing steam generators which were designed for operation at 2250 psia. Following completion of the steam generator replacement, the restriction to operation at 2000 psia will no longer be necessary. Therefore, the requested amendment matches the Commission's example (v) of actions involving no significant hazards consideration and the NRC staff, therefore proposes to determine that the requested amendment involves no significant hazards consideration.

Local Public Document Room location: Joseph P. Mann Library, 1516 16th Street, Two Rivers, Wisconsin.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036.

NRC Branch Chief: Robert A. Clark.

Wisconsin Public Service Corporation, Docket No. 50–305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of application for amendment: December 20, 1982.

Description of amendment request: The proposed amendment consists of Technical Specification changes to 24 pages. These changes are mostly administrative in nature, that is, they consist of word changes or clarifications which are made without technical or safety implication. Four of the page changes do involve some technical detail; the radwaste tank limit is revised to provide consistency with other specifications regarding liquid effluent limits, the fire hose hydrostatic test is changed from 200 psig to 250 psig to conform to 10 CFR 50 Appendix R, the allowable raactivity insertion is changed in a non conservative direction but within the limits of the FSAR analysis, and the containment purge limit has been subsequently negated by a commitment by the licensee to close the valve. The five pages related to the reactor coolant system leakage limit, and the condensate storage tank water level have been completed in Amendment 49 issued on April 29, 1983. (Pages 3.1–11, 3.1–13, 3.4–1,3.4–2, and 4.8–1.)

Basis for proposed no significant hazards consideration determination: A preliminary review of the proposed amendment indicated that most of the changes remaining to be acted on are administrative in nature. The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870). The administrative pages fit within the scope of no significant hazards consideration example i, that is, a change which is purely administrative for example, a change to achieve consistency throughout the Technical Specifications, correction of an error or a change in nomenclature. Those that do involve technical or safety implications are as follows: (1) The radwaste limit (p. 3.9–3) is reworded to provide consistency with other specifications regarding liquid effluent limits and to be consistent with the Standard Radiological Effluent Technical Specifications. This is outside the scope of significant hazards example vi, that is, it is not a change to Technical Specifications or other NRC approval involving a significant unreviewed safety question and it is within the scope of no significant hazards example i, in that it is a change to provide consistency throughout the Technical Specifications; (2) The fire hose hydrostatic test (p. 4.15–3) is raised from 200 psig to 250 psig in accord with Appendix R to 10 CFR 50. This is within the scope of no significant hazards example vii, since it is a change to make the licensee conform to changes in the regulations, when the license change results in very minor changes to facility operations clearly in keeping with the regulations; (3) The reactivity insertion limit (p. 6–17) is changed in a less conservative direction but within the limit of the FSAR analysis. This is similar to no significant hazards example vi, in that it is a change which may reduce in some way a safety margin but where the results of the change are clearly within all acceptable criteria with regard to the system or component as specified in the approved FSAR. The request for the containment purge limit (p. 6–27) has been negated by a commitment (March 8, 1983 letter) by the licensee to keep the containment purge valves closed.

Local Public Document Room location: Kewaunee Public Library, 822 Juneau Street, Kewaunee, Wisconsin 54216.

Attorney for licensee: Foley and Lardner, First Wisconsin Center, 777 E Wisconsin Avenue, Milwaukee, Wisconsin 53202.

NRC Branch Chief: Steven A. Varga.

PREVIOUSLY PUBLISHED NOTICES OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices because time did not allow the Commission to wait for this regular monthly notice. They are repeated here because the monthly notice lists all amendments proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Consolidated Edison Company of New York, Docket No. 50-247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of amendment request: May 3, 1983, supplemented June 14, 1983.

Description of amendment request: The amendment would change the Technical Specifications to revise the limiting conditions for operation for the reactor cavity level monitoring instrumentation. Specifically, the amendment would permit power operation with any two of the three presently installed reactor cavity level monitoring devices operable. Currently, the Technical Specifications require that the reactor cavity continuous level monitor and one of the two installed independent level alarms be operable prior to bringing the reactor above cold shutdown.

Date of publication individual notice in "Federal Register": July 28, 1983, 48 FR 34366.

Expiration date of individual notice: August 29, 1983.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Consumers Power Company, Docket No. 50-155, Big Rock Point Plant, Charlevoix County, Michigan

Date of amendment request: December 20, 1982.

Description: The proposed amendment would approve changes to the Administrative Controls Section of the Technical Specifications involving the areas of guidelines for working hours and an auxiliary operator being added to the minimum shift crew.

Date of Publication of individual notice in **Federal Register:** July 25, 1983 48 FR 33779.

Expiration date of individual notice: August 24, 1983.

Local Public Document Room location: Charlevoix Public Library, 107 Clinton Street, Charlevoix, Michigan 49720.

Consumers Power Company, Docket No. 50-155, Big Rock Point Plant, Charlevoix County, Michigan

Date of amendment request: July 20, 1982, as revised September 10, 1982 and November 12, 1982.

Description: The proposed amendment would reflect the institution of the new "Nuclear Activities Plant Organization (NAPO)."

Date of Publication of individual notice in **Federal Register:** July 28, 1983 (48 FR 34369).

Expiration date of individual notice: August 29, 1983.

Local Public Document Room location: Charlevoix Public Library, 107 Clinton Street, Charlevoix, Michigan 49720.

Duke Power Company, Docket No. 50-269, Oconee Nuclear Station, Unit No. 1, Oconee County, South Carolina

Date of amendment request: May 19, 1983.

Brief description of amendment: The amendment relates to the Cycle 8 reload and involves numerical changes to the core protection safety limits, the protective system maximum allowable setpoints, and the road position limits. These limits take into account the incorporation of: (1) four Mark BZ demonstration fuel assembles for a second cycle of irradiation; and (2) five gadolinia lead test assemblies as part of the batch of fresh fuel used in the reload.

Date of Publication of individual notice: August 1, 1983.

Local Public Document Room Location: Oconee County Library, 501 West Southbroad Street, Walhalla, South Carolina.

Florida Power Corporation, et al., Docket No. 50-302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of amendment request: January 14, 1983, as supplemented January 20, July 6, and July 14, 1983.

Brief description of amendment: The proposed amendment would change the Crystal River Unit 3 Technical Specifications to increase the time interval between certain functional tests of engineered safeguards logic circuits on an interim basis until appropriate control circuit modifications can be made at Crystal River Unit 3. Specifically, the frequency of the channel functional test of the manual actuation portion of the engineered safeguards system would be changed from monthly to once each 18 months during plant shutdown. In addition, the scope of channel functional testing of several automatic actuation logic circuits would be revised to prevent undesirable operation of certain components during plant power operation. Alternate tests of these circuits would be specified which would accomplish the intended purpose of the testing but would result in eliminating undesirable consequences of performing the testing.

Date of publication of individual notice in **Federal Register.** July 25, 1983, 48 FR 33782.

Expiration date of individual notice: August 24, 1983.

Local Public Document Room location: Crystal River Public Library, 668 N.W. First Avenue, Crystal River, Florida.

General Public Utilities Nuclear Corporation, Docket No. 50-320, Three Mile Island Unit 2, Londonderry Township Dauphin County

Date of amendment request: May 27, 1983.

Description of amendment request: The amendment would delete Section 2.E(3) of the facilities operating license in accordance with the licensee's application for amendment dated May 27, 1983. This deletion would remove the requirement to maintain reserve water tankage at TMI-2.

Date of publication of individual notice in **Federal Register:** July 18, 1983; 48 FR 32707.

Expiration date of individual notice: August 17, 1983.

local Public Document Room Location: State Library of Pennsylvania, Harrisburg, PA 17126.

Metropolitan Edison Company, Jersey Central Power & Light Company, Pennsylvania Electric Company, and GPU Nuclear Corporation, Docket No. 50-289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of amendment request: June 8, 1981.

Brief description of amendment: The amendment would modify the Technical Specification applicable to operability requirements and inservice surveillance of safety-related hydraulic snubbers (shock suppressors). The changes would clarify the wording of certain of the

specification provisions, and add requirements for (1) certain engineering evaluations in the event a snubber is found to be inoperable, (2) snubber operability when the plant is in cold shutdown or refueling, (3) visual inspection acceptance criteria, (4) functional testing and acceptance criteria, and (5) record keeping.

Date of publication of individual notice in **Federal Register**: July 21, 1983, 48 FR 33383.

Expiration date of individual notice: August 22, 1983.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania.

Metropolitan Edison Company, Jersey Central Power & Light Company, Pennsylvania Electric Company, and GPU Nuclear Corporation, Docket No. 50–289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of amendment request: January 26, 1982.

Brief description of amendment: The amendment would add to the Technical Specifications limiting conditions of operation and surveillance requirements for a Hydrogen Recombiner System, in accordance with the NRC staff's recommended requirements for restart of Three Mile Island Nuclear Station, Unit No. 1.

Date of publication of individual notice in **Federal Register**: July 21, 1983, 48 FR 33379.

Expiration date of individual notice: August 22, 1983.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania.

Metropolitan Edison Company, Jersey Central Power & Light Company, Pennsylvania Electric Company, and GPU Nuclear Corporation, Docket No. 50–289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of amendment request: January 21, 1983.

Brief description of amendment: The amendment would permit increasing by 50 psig, the Reactor Coolant System pressure at or below which the High Pressure Injection (from 1725 psig to 1775 psig), Low Pressure Injection (from 875 psig to 925 psig), and Reactor Building isolation (from 1725 psig to 1775 psig) actuation signals may be bypassed during plant cooldown and depressurization. The setpoints for actuation of these systems during operation and the Reactor Coolant System pressure above which the bypass is automatically removed (when system pressure is increasing) remain unchanged.

Date of publication of individual notice in **Federal Register**: July 21, 1983, 48 FR 33385.

Expiration date of individual notice: August 22, 1983.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania.

Metropolitan Edison Company, Jersey Central Power & Light Comany, Pennsylvania Electric Comany, and GPU Nuclear Corporation, Docket No. 50–289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of amendment request: March 9, 1983.

Brief description of amendment: The amendment would add four snubbers supporting safety-related piping to the list of Safety Related Snubbers and delete three snubbers which previously supported safety-related piping from the list of Safety Related Snubbers. These changes are required because of piping modifications and additions to plant piping made in response to NRC Bulletin 79–14 and to upgrading the pressurizer pressure relief piping. The addition of and the elimination of certain snubbers is consistent with these piping changes.

Date of publication of individual notice in **Federal Register**: July 21, 1983, 48 FR 33380.

Expiration date of individual notice: August 22, 1983.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania.

Metropolitan Edison Company, Jersey Central Power & Light Company, Pennsylvania Electric Company, and GPU Nuclear Corporation, Docket No. 50–289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of amendment request: June 20, 1983.

Brief description of amendment: The proposed amendment would make four revisions to the Technical Specifications. First, it would revise the Technical Specifications to offset a potential non-conservatism in the prediction of peak cladding temperature during a loss of coolant accident (LOCA). The potential non-conservatism had been previously discovered and reported by the facility vendor. Second, it would revise the centerline fuel melt limit in the Technical Specifications for Cycle 5 operation from 19.6 kw/ft to 20.15 kw/ft. The 19.6 kw/ft limit was for Cycle 4 operation and was incorrectly retained for Cycle 5 operation.

Third, the proposed amendment would reduce the reactor protection system flux to pump trip setpoint for two pump operation from 91 percent (%) to 55 percent (%) of rated power. This reduction is based upon a vendor recommendation and will provide a common basis for future vendor analyses. Fourth, it would revise the quadrant tilt instrumentation requirements with respect to the preferred order of use of the three detector systems. The allowable quadrant tilt limits remain unchanged.

Date of publication of individual notice in **Federal Register**: July 21, 1983, 48 FR 33382.

Expiration date of individual notice: August 22, 1983.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania.

Northeast Nuclear Energy Company, et al., Docket No. 50–336, Millstone Nuclear Power Station Unit 2, New London County, Connecticut

Date of amendment request: June 3, 1983.

Description of amendment request: The amendment would permit repairing degraded steam generator tubes by installing metal sleeves in such tubes rather than removing them from service by plugging them.

Date of publication of individual notice in **Federal Register**: July 28, 1983, 48 FR 34372.

Expiration date of individual notice: August 29, 1983.

Local Public Document Room location: Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut.

Northern States Power Company, Docket Nos. 50–282 and 50–306, Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2, Red Wing, Minnesota

Date of amendment request: June 10, 1983.

Brief Description of amendment: The amendments would permit a change of the sodium hydroxide concentration in the spray additive tank of the

containment spray system from the existing 30% by weight to a range of 9% to 11% by weight, inclusive. In addition, the amendments would permit the concentration to be out of specification limits for a period not to exceed 72 hours.

Date of publication of individual notice in **Federal Register**: July 14, 1983, 48 FR 32241.

Expiration date of individual notice: August 15, 1983.

Local Public Document Room location: Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota.

Northern States Power Company, Docket Nos. 50–282 and 50–306, Prairie Island Nuclear Generating Plant Unit Nos. 1 and 2, Goodhue County, Minnesota

Date of amendment request: June 24, 1983.

Brief Description of amendment: The amendments would change the limit of the core local heat flux ration F_Q^N from 2.21 to 2.32, allowing a localized linear heat generation rate increase from 14.31 to 15.02 kw/ft which includes a 1.02 factor for power uncertainty. In addition the definition of F_Q^N would be changed from a neutron flux comparison to a heat flux comparison derived from measured neutron flux and fuel enrichment. The amendments would not consider the increase in peak fuel pellet exposure from 51 to 55 GWD/MTU until additional information is received from the licensee. This matter will be the subject of a separate notice.

Date of publication of individual notice in **Federal Register**: August 3, 1983, 48 FR 35200.

Expiration date of individual notice: September 2, 1983.

Local Public Document Room location: Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota.

Pacific Gas & Electric Company, et al. Docket No. 50–275, Diablo Canyon Nuclear Power Plant, Unit 1, San Luis Obispo, California

Date of application amendment for: July 19, 1982.

Brief Description of amendment request: The proposed amendment would modify the Diablo Canyon Physical Security Plan to eliminate certain vital access controls that exceed current regulatory requirements.

Date of publication of individual notice: August 18, 1983.

Expiration date of individual notice: September 19, 1983.

Local Public Document Room location: California Polytechnic State University, Library, Documents and Maps Department, San Luis Obispo, California 93407.

Pacific Gas & Electric Company, Docket No. 50–275, Diablo Canyon Nuclear Power Plant, Unit 1, San Luis Obispo, California

Date of application for amendment: December 29, 1982.

Brief Description of amendment request: In accordance with the licensee's request of December 29, 1982, the amendment would change the Technical Specifications to accommodate the installation of two new inverters and associated buses to satisfy electrical loads associated with NUREG–0737 requirements.

Date of publication of individual notice in **Federal Register**: July 22, 1983.

Expiration date of individual notice: August 22, 1983.

Local Public Document Room Location: California Polytechnic State University, Library, Documents and Maps Department, San Luis Obispo, California 93407.

Pacific Gas & Electric Company et al., Docket No. 50–275, Diablo Canyon Nuclear Power Plant, Unit 1, San Luis Obispo, California

Date of application for amendment: May 2, 1983.

Brief Description of amendment request: The amendment would result in certain changes of the Technical Specification on the containment isolation system.

Date of publication of individual notice in **Federal Register**: August 18, 1983.

Expiration date of individual notice: September 19, 1983.

Local Public Document Room Location: California Polytechnic State University Library, Documents and Maps Department, San Luis Obispo, California.

Pacific Gas & Electric Company, et al. Docket No. 50–275, Diablo Canyon Nuclear Power Plant, Unit 1, San Luis Obispo County, California

Date of application for amendment: June 23, 1983.

Brief Description of amendment request: In accordance with the licensee's request of June 23, 1982 and supplemental letter dated July 26, 1983, the amendment would change the Technical Specifications regarding the response time for containment spray initiation.

Date of publication of individual notice in **Federal Register**: August 18, 1983.

Expiration date of individual notice: September 19, 1983.

Local Public Document Room Location: California Polytechnic State University Library, Documents and Maps Department, San Luis Obispo, California.

Pennsylvania Power and Light Company, Docket No. 50–387, Susquehanna Steam Electric Station, Unit 1, Luzerne County, Pennsylvania

Date of application for amendment: January 31, 1983.

Brief Description of amendment request: The amendment would approve Revision 2 to the Susquehanna Steam Electric Station Fire Protection Review Report and change License Condition 2.C.(6) of Facility Operating License No. NPF–14 to require the licensee to maintain and implement the provisions of such approved Fire Protection Review Report in accordance with the licensee's application for amendment dated January 31, 1983.

Date of publication of individual notice: July 29, 1983.

Expiration date of individual notice: August 29, 1983.

Local Public Document Room Location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Pennsylvania Power and Light Company, Docket No. 50–387, Susquehanna Steam Electric Station, Unit 1, Luzerne County, Pennsylvania

Date of application for amendment: February 3, 1983.

Brief Description of amendment request: The amendment would change Technical Specification 3.2.2 and Tables 2.2.1–1 and 3.3.6–2 to allow the expansion of the operating region of the power/flow map for the initial fuel cycle in accordance with the licensee's application for an amendment dated February 3, 1983.

Date of publication of individual notice: July 29, 1983.

Expiration date of individual notice: August 29, 19893.

Local Public Document Room Location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Pennsylvania Power and Light Company, Docket No. 50–387, Susquehanna Steam Electric Station, Unit 1, Luzerne County, Pennsylvania

Date of application for amendment: May 4, 1983.

Brief Description of amendment request: The amendment would correct typographical errors in Technical Specification Table 4.11.2.1.2–1, Radioactive Gaseous Waste Sampling and Analysis Program, and in Section 8, Electrical Power Systems. The amendment would also correct nomenclature in Table 4.8.1.1.2–2, Unit 1 and Common Diesel Generator Loading Timers, and add a footnote to Table 3.8.4.1–1, Primary Containment Penetration Conductor Overcurrent Protective Devices, to clarify that each number under the "Circuit Breaker Location" column represents two breakers in series. Additionally, the amendment would delete a non-applicable requirement in Technical Specification 4.7.2.b.1, correct in inconsistency between Technical Specification Table 4.4.6.1.3–1 and 10 CFR 50 Appendix H with regard to the withdrawal schedule associated with the reactor vessel material surveillance program, and change the allowable value for the Reactor Vessel Level—High trip in Technical Specification Table 3.3.9–2 in accordance with the licensee's, application for an amendment dated May 4, 1983.

Date of publication of individual notice: July 18, 1983.

Expiration date of individual notice: August 17, 1983.

Local Public Document Room Location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Power Authority of the State of New York, Docket No. 50–333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of amendment request: July 7, 1983.

Description of amendment request: The license has proposed to modify the Technical Specifications pertaining to the Scram Discharge Volume (SDV) system to support modifications made to the system during the current refueling outage. The modifications currently underway will replace the single scram disclarge instrument volume with redundant instrument volumes, improve hydraulic coupling, include redundant vent and drain valves and level instruments for each instrument volume, add diverse automatic scram instrumentations and add early high water level detection instrumentation. In support of these modifications and consistent with guidance provided by the staff in a generic safety evaluation on long-term SDV modifications, the license has proposed certain changes to the Technical Specifications for the SDV system to add limiting conditions for operation and surveillance requirements for the newly installed components and instrumentation.

Date of publication of individual notice in **Federal Register:** July 28, 1983, 48 FR 33951.

Expiration date of individual notice: August 25, 1983.

Local Public Document Room location: Penfield Library, State University College of Oswego, Oswego, New York.

Public Service Electric and Gas Company, Salem Nuclear Generating Staton Unit Nos. 1 and 2, Docket Nos. 50–272 and 50–311, Salem County, New Jersey

Date of amendment requests: January 27, 1983.

Brief description of amendments: The amendments would modify plant systems and Technical Specifications to provide for semi-automatic switchover of safety injection systems from the Refueling Water Storage Tank (RWST) to Recirculation Mode following a loss-of-coolant accident in accordance with the license's application for amendments dated January 27, 1983.

Date of publication of individual notice in **Federal Register:** August 2, 1983 (48 FR 35054).

Expiration date of individual notice: September 2, 1983.

Local Public Document Room location: Salem Free Library, 112 West Broadway, Salem, New Jersey 08079.

Sacramento Municipal Utility District, Docket No. 50–312, Rancho Seco Nuclear Generating Station, Sacramento County, California

Date of amendment request: December 14, 1982.

Brief description of amendment: The proposed amendment involves changes in the core design for the 6th reload cycle to include 40 axial blanket assemblies with modified end fittings, shortened burnable poision stack height and gray axial power shaping rods. In addition, the margin to core fuel melt for the last two fuel batches (7 and 8) was calculated using the TACO 2 code.

Date of publication of individual notice in **Federal Register:** June 23, 183, 48 FR 28764.

Expiration date of individual notice: July 25, 1983.

Local Public Document Room Location: Sacramento City-County Library, 828 I Street, Sacramento, California.

Sacramento Municipal Utility District, Docket No. 50–312, Rancho Seco Nuclear Generating Station, Sacramento, California

Date of amendment request: February 17, 1983.

Brief description of amendment: The proposed amendment involves changes to the Technical Specifications to incorporate a number of NUREG–0737 items which were scheduled for implementation by December 31, 1981. The proposed changes are (1) adding trip setting limits and surveillance requirements for the anticipatory reactor trip: (2) adding limiting conditions for operation (LCOs) and surveillance requirements for the Reactor Coolant System high point vents, the Post Accident Sampling System, the accident monitoring instrumentation and the meteorological instruments; (3) adding LCOs for the Reactor Building purge valves; and (4) adding reporting requirements for the primary system safety and relief valves.

Date of publication of individual notice in **Federal Register:** June 23, 1983, 48 FR 28765.

Expiration date of individual notice: July 25, 1983.

Local Public Document Room Location: Sacramento City-County Library, 828 I Street, Sacramento, California.

Tennessee Valley Authority, Docket Nos. 50–259, 50–260 and 50–296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama

Date of amendment request: June 13, 1983.

Brief description of amendments: The amendments would revise the Technical Specifications of the operating licenses to change the required surveillance interval for testing the Standby Gas Treatment System for once per year to once per operating cycle to be consistent with the requirements in the BWR Standard Technical Specifications (NUREG–0123).

The proposed change would also require concurrent demonstration of the operability of the Standby Gas Treatment System with the Primary Containment Isolation logic circuitry rather than testing of the Standby Gas Treatment System alone. The change would resolve ambiguities in the present wording of the specifications regarding the scope and frequency of the testing.

Date of publication of individual notice in **Federal Register:** July 15, 1983 48 FR 32418.

Expiration date of individual notice: August 7, 1983.

Local Public Document Room location: Athens Public Library, South and Forrest, Athens, Alabama 35611.

Attorney for licensee: H.S. Sanger, Jr., Esquire, General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, E 11B 33C, Knoxville, Tennessee 37902.

Tennessee Valley Authority, Docket No. 50-328, Sequoyah Nuclear Plant, Unit 2, Hamilton County, Tennessee

Date of application for amendment: June 15, 1983, July 1, 1983, July 27, 1983.

Brief description of amendment: One amendment would delay by approximately 12 months the completion of four items identified in the Sequoyah Unit 2 license. The licensee cannot complete the four items within the planned 74 day outage for refueling and maintenance that began on July 15, 1983, and maintain a high degree of quality of the other scheduled work as well as the safety of Unit 1 that will be operating during the Unit 2 outage. The manpower levels during the outage period were reviewed to assure that maximum trades and labor personnel limits had been properly established and that priorities of work were consistent with the overall requirements for safe plant operations. All delayed items are to be completed prior to restart after the second reload on Unit 2. Compensatory measures have been taken such that the delays involve no significant hazards consideration. The items are:

(a) A post accident sampling system is required that has the capability to promptly obtain and perform radioisotopic and chemical analysis of reactor coolant and containment atmosphere without excessive exposure to plant personnel. During this period for completing system modifications and equipment installation, sampling stations and interim procedures have been established to provide an acceptable level of primary coolant system activity measurements in the unlikely event a degraded core condition should occur.

(b) Additional instrumentation is required that will accomplish particulate, iodine and noble gas monitoring inside containment during the course of an accident. Procurement of high range monitors for an in-containment usage delayed the completion of the system design with the effect of delaying installation of equipment by the end of the current outage period. Interim acceptable measures are in effect whereby out-of-containment monitors are utilized to provide an adequate correlation of the outside containment radiation readings with in-containment radiation levels that are possible during the course of an accident.

(c) Additional instrumenttion or controls are required to supplement existing instrumentation in order to provide unambiguous, easy-to-interpret indication of inadequate core cooling. A reactor vessel level indicator needs to be installed. The reactor vessel level indicator and its associated instrumentation is part of the inadequate core cooling detection system that are being developed as a generic effort through the Westinghouse owners' group. An important aspect of this item is the emergency procedures for the utilization on the system and the training of operators. Procedures and training are expected to be completed at the time of the installation of the Sequoyah reactor vessel level indicator. Additional procedures are needed for Sequoyah since this plant has an upper head injection system which does not exist for most Westinghouse plants. Important elements of the inadequate core cooling detection system are already installed and operational which provide a satisfactory level of detection for the interim period. These are the primary coolant saturation monitors and the backup displays of the incore thermocouple temperature readouts up to the high temperature that could occur during an accident.

(d) Upgrading the emergency support facilities is required in order to fully comply with guidelines established by the NRC. The Technical Support Center (TSC) is operational and it has the same habitability requirements as the main control room with adequate communications and data input for handling emergency situations. The safety parameter display system has not been installed in the main control room; the TSC will not receive this type of improved data input until the installation of the system is complete. The TSC facilities continue to be adequate for full power operations.

Another amendment would change the technical specifications for Unit 2 to accommodate cycle 2 fuel reload operations and other improvements to plant operations. For this reload, sixty-eight new fuel assemblies will replace spent fuel from the first cycle. The new assemblies are the same as the assemblies in place, except for minor grid modifications to minimize interactions of grid spacing during fuel handling. Also some new burnable absorber rods will be utilized in cycle 2 that have been previously accepted for use in other nuclear plants. As part of this fuel reload a number of technical specification changes to improve plant operations are also requested, which were considered and found acceptable for Unit 1 operations. Consideration will also be given for changing the limits on the upper and lower compartment temperatures (based on new LOCA analysis), removing operating restrictions on control rod operations, and adding requirements on the hydrogen control system. Limiting conditions for purge supply and exhaust lines will be considered at a later time.

Another amendment would change the Unit 2 Technical Specifications regarding the testing of containment protective fuses from a destructive type of testing to visual inspection. Every 18 months, 10% of the protective fuses are to be tested to ensure their integrity. At Sequoyah there are three types of protective fuses: 6900 and 480 volt fuses crimped inline and 480 volt fuses located in clip type holders. Removal of the fuses for testing may compromise cable and holder integrity. Unit 1 Technical Specifications have been modified to permit visual inspection.

Date of publication of individual notice in **Federal Register**: August 15, 1983, 48 FR 36930.

Expiration date of individual notice: September 14, 1983.

Local Public Document Room Location: Chattanooga-Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee 37401.

The Toledo Edison Company and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of amendment request: October 14, 1982.

Brief description of amendment: The amendment would revise setpoints for the pressurizer code safety valves and pilot operated relief valve (PORV).

Date of publication of individual notice in **Federal Register**: June 23, 1983, 48 FR 28786.

Expiration date of individual notice: July 25, 1983.

Local Public Document Room Location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

The Toledo Edison Company and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of amendment request: January 12, 1983.

Brief description of amendment: The amendment would add surveillance of certain special interest steam generator tubes and visual inspections of the

internal auxiliary feedwater distributor, attachment welds, and thermal sleeves.

Date of publication of individual notice in **Federal Register**: August 2, 1983, 48 FR 35047.

Expiration date of individual notice: September 2, 1983.

Local Public Document Room Location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Tho Toledo Edison Company and The Cleveland Electric Illuminating Company, Docket No. 50–346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa Country, Ohio

Date of amendment request: July 5, 1983.

Brief description of amendment: The amendment would permit loading of new fuel and shuffling of existing fuel and control rods for Cycle 4 operation. The loading includes 48 new fuel assemblies and the reinsertion of 37 previously discharged fuel assemblies. There are no mechanical design changes for the reload. Cross-core shuffling is limited to eight fuel assemblies to minimize carry-over effects from flux tilts encountered in earlier cycles. The planned duration of Cycle 4 operation is 240 effective full power days.

Date of publication of individual notice in **Federal Register**: August 4, 1983. 48 FR 35541.

Expiration date of individual notice: September 6, 1983.

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Virginia Electric and Power Company, Docket Nos. 50–280 and 50–281, Surry Power Station, Unit Nos. 1 and 2, Surry Country, Virginia

Date of amendment request: May 2, 1983.

Brief description of amendment: The amendments would revise the Technical Specifications to change the existing fractional power multiplier from 0.2 to 0.3 for both units and to restore the control rod insertion limits to pre-cycle 7 valves Unit 1.

Date of publication of individual notice in **Federal Register**: July 14, 1983 (48 FR 32245).

Expiration date of individual notice: August 15, 1983.

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE

During the 30-day period since publication of the last monthly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in license amendment.

Notice of Considertion of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with these actions were published in the **Federal Register** as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless indicated otherwise, the Commission has determined that the issuance of the amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendments. If the Commission has prepared an Environmental Impact Appraisal related to these actions, it is so indicated. If indicated, this notice constitutes a negative declaration and indicates that the Commission has concluded that an environmental impact statement is not warranted because there will be no environmental impact is not warranted because there will be no environmental impact attributable to the action beyond that which has been predicted and described in the Commission's Final Environmental Statement for the facility.

For further details with respect to the action see: (1) The applications for amendments, (2) the amendments, and (3) the Commission's related letters, Safety Evaluation and/or Environmental Impact Appraisals as indicated. All of these items are available for public inspection at the Commission's Public Document Room, 1717, H Street NW., and at the local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Alabama Power Company, Docket Nos. 50–348 and 50–364, Joseph M. Farley Nuclear Plant, Unit Nos. 1 and 2, Houston County, Alabama

Date of application for amendments: June 20, 1983, supplemented June 29, 1983

Brief description of amendments: The amendments would correct an adminstrative error in the Technical Specifications relating to testing and inspection of the river water system which would require unnecessary shutdown of both units for the tests. The changes would delete the words "during shutdown" from Technical Specification 4.7.5.b so that these tests and inspections could be conducted during operation.

Date of issuance: August 2, 1983.

Effective date: August 2, 1983.

Amendments No. 32 and *No.* 24.

Facilities Operating Licenses Nos. NPF–2 and NPF–8. Amendments revised the Technical Specifications.

Date of intial notice in **Federal Register**: July 12, 1983 (48 FR 32110) The Commission's related evaluation of the amendments are contained in a Safety Evaluation dated August 2, 1983. No significant hazards consideration comments were received.

Local Public Document Room location: George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303.

Baltimore Gas and Electric Company, Docket Nos. 50–317 and 50–318, Calvert Cliffs Nuclear Power Plant Units 1 and 2, Lusby, Maryland

Date of applicition for amendments: April 27, 1983.

Brief description of amendments: Changed the Technical Specifications to (1) relfect new on-site organization, (2) revise surveillance for sealed sources (conformance with Combustion Engineering Standard Technical Specifications), and (3) deleted a snubber from the surveillance list (snubber was removed)—Unit 1 only.

Date of issuance: July 19, 1983.

Effective date: July 19, 1983.

Amendment Nos.: 85 and 68.

Facility Operating License Nos.: DPR–53 and DPR–69

Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: June 10, 1983, 48 FR 26927.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation.

No significant hazards consideration comments were received.

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland

Consumers Power Company, Docket No. 50–155, Big Rock Point Plant, Charlevoix County, Michigan

Date of application for amendment: April 20, 1983, as revised April 22, 1983

Description: The amendment approves Technical Specification changes which revise core thermal limits to accommodate the H–3 fuel.

Date of issuance: August 11, 1983.

Effective date: August 11, 1983.

Amendment No.: 59.

Facility Operating License No.: DPR–6.

Amendment revised the *Technical Specifications.*

Date of initial notice in Federal Register: June 22, 1983 (48 FR 28577)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation. No public or State comments were received with respect to the Commission's proposed determination that the amendment would involve no significant hazards consideration.

Local Public Document Room location: Charlevoix Public Library, 107 Clinton Street, Charlevoix, Michigan 49720.

Consumers Power Company, Docket No. 50–155, Big Rock Point Plant, Charlevoix, Michigan

Date of application for amendment: May 27, 1983.

Brief description of amendment: The amendment approves Technical Specification changes which institute a procedure for use during start-up in the event that neutron source strength is too low to provide the maximum specified count rate.

Date of issuance: August 11, 1983.

Effective date: August 11, 1983.

Amendment No.: 60.

Facility Operating License No.: DPR–6.

Date of initial notice in **Federal Register:** July 6, 1983 (48 FR 31124) The Commission's related evaluation of the amendment is contained in the Safety Evaluation. No public or State comments were received with respect to the Commission's proposed determination that the requested action would involve no significant hazards consideration.

Local Public Document Room location: Charlevoix public Library, 107 Clinton Street, Charlevoix, Michigan 49720.

Duke Power Company, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of application for amendment: April 18, 1983, as revised May 4, 1983.

Brief description of amendment: The amendments revise the setpoint and its tolerance for the Upper Head Injection (UHI) accumulator automatic isolation.

Date of issuance: July 26, 1983.

Effective date: July 26, 1983.

Amendment No. 23 for Unit 1 and 4 for Unit 2.

Facility Operating License No. NPF–9 for Unit 1 and NPF–17 for Unit 2.

Amendment revised the *Technical Specifications.*

Date of initial notice in **Federal Register:** June 16, 1983 (48 FR 27621).

The Commission's related evaluation of the amendment is contained in a *Safety Evaluation dated July 26, 1983.*

No significant hazards consideration comments received *No.*

Local Public Document Room location: Atkins Library, University of North Carolina-Charlotte, UNCC Station, North Carolina 28223.

Duke Power Company, Docket No. 50–269, Oconee Nuclear Station, Unit No. 1, Oconee County, South Carolina

Date of application for amendment: May 19, 1983, as supplemented July 13, 1983.

Brief description of amendment: The amendment relates to the Cycle 8 reload and involves numerical changes to the core protection safety limits, the protective system maximum allowable setpoints, and the rod position limits. These limits take into account the incorporation of: (1) four Mark BZ demonstration fuel assemblies for a second cycle of irradiation; and (2) five gadolinia lead test assemblies as part of the batch of fresh fuel used in the reload.

Date of issuance: August 3, 1983.

Effective date: August 3, 1983.

Amendment No.: 122, 122 and 119.

Facility Operating License No. DPR–38.

Amendment revised the Common Technical Specifications for Oconee Units 1, 2 and 3.

Date of initial notice in **Federal Register:** June 30, 1983, 48 FR 30224.

This Notice stated that we proposed a no significant hazards consideration determination for the licensee's May 19, 1983 amendment request concerning the Cycle 8 fuel reload for Oconee Unit 1. A supplemental letter related to this amendment request dated July 13, 1983 was received after issuance of the Notice, and was, therefore, not considered in the Notice. The supplemental letter, however, did not affect our proposed determination as stated in the Notice for the reason that the information submitted in this letter revised the proposed Technical Specifications to reflect the implementation of NUREG–0630 cladding rupture and swelling models into the loss of Coolant Accident (LOCA) analysis as requested by the NRC staff. The effect of this implementation is that it imposes a more restrictive LOCA limit on the plant with regard to peak linear heat rates at various core elevations.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated.

No significant hazards consideration comments received *No.*

Local Public Document Room location: Oconee County Library, 501 West Southbroad Street, Walhalla, South Carolina.

Public Service Company of Colorado, Docket No. 50–267, Fort St. Vrain Nuclear Generating Station, Platteville, Colorado

Date of application for amendment: May 20, 1983.

Brief description of amendment: The amendment replaced the existing non-radiological Environmental Technical Specifications (Appendix B) with an NRC-approved Environmental Protection Plan (EPP). The only requirement changed related to ecological monitoring; the EPP requires continued vegetation monitoring.

Date of Issuance: August 10, 1983.

Effective Date: August 10, 1983.

Amendment No.: 35.

Facility Operating License No. DPR–34.

Amendment revised the Appendix B Technical Specifications.

Date of initial notice in **Federal Register:** June 22, 1983 (48 FR 28582).

The Commission's related evaluation of the amendment is contained in an Environmental Impact Appraisal dated August 10, 1983.

No significant hazards consideration comments received? *No.*

Local Public Document Room Location: Greeley Public Library, City Complex Building, Greeley, Colorado.

Sacramento Municipal Utility District, Docket No. 50–312, Rancho Seco Nuclear Generating Station, Sacramento County, California

Date of application for amendment: December 14, 1982.

Brief description of amendment: The amendment involves changes in the core

design for the 6th reload cycle to include 40 axial blanket assemblies with modified end fittings, shortened burnable poison stack height and gray axial power shaping rods. In addition, the margin to core fuel melt for the last two fuel batches (7 and 8) was calculated using the TACO 2 code.

Date of issuance: August 3, 1983.

Effective Date: August 3, 1983.

Amendment No. 48.

Facility Operating License No. DPR–54.

Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 23, 1983, 48 FR 28764

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 3, 1983.

No significant hazards consideration comments received: No.

Local Public Document Room location: Sacramento City-County Library, 828 I Street, Sacramento, California.

Sacramento Municipal Utility District, Docket No. 50–312, Rancho Seco Nuclear Generating Station, Sacramento County, California

Date of applicaiton of amendment: February 17, 1983.

Brief description of amendment: The amendment involves changes to the TSs to incorporate a number of NUREG–0737 items as specified in our Generic Letter 82–16 dated September 20, 1982. The changes: (1) Add trip setting limits and surveillance requirements for the anticipatory reactor trip; (2) add limiting conditions for operation (LCOs) and surveillance requirements for the Reactor Building purge valves; (3) add reporting requirements for the primary system safety and relief valves; (4) add a policy statement on shift manning overtime limits; and (5) add the Reactor Building hydrogen sample line and the hydrogen recombiner penetration as components requiring local leak rate testing.

This amendment includes a portion of the items covered in the Notice identified below. The remaining items will be the subject of future Commission action.

Date of issuance: August 3, 1983.

Effective Date: August 3, 1983.

Amendment No. 49.

Facility Operating License No. DPR–54.

Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 23, 1983, 48 FR 28765.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 3, 1983.

No significant hazards consideration comments received: *No.*

Local Public Document Room location: Sacramento City-County Library, 828 I Street, Sacramento, California.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND FINAL DETERMINATION OF NO SIGNIFICANT HAZARDS CONSIDERATION AND OPPORTUNITY FOR HEARING (EXIGENT OR EMERGENCY CIRCUMSTANCES)

During the 30-day period since publication of the last monthly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulatons. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Becuase of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing. For exigent circumstances, a press release seeking public comment as to the proposed no significant hazards consideration determination was used, and the State was consulted by telephone. In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant, a shorter public comment period (less than 30 days) has been offered and the State consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless indicated otherwise, the Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendment. If the Commission has prepared an Environmental Impact Appraisal related to the action, it is so indicated. If indicated, this notice constitutes a negative declaration and indicates that the Commission has concluded that an environmental impact statement is not warranted because there will be no environmental impact attributable to the action beyond that which has been predicted and described in the Commission's Final Environmental Statement for the facility.

For further details with respect to the action see: (1) The application for amendment, (2) the amendment to Facility Operating License, (3) the Commission's related letter, Safety Evaluation and/or Environmental Impact Appraisal, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the local public document room for the particular facilities involved.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention Director, Division of Licensing.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendments. By September 26, 1983, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and wish to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic

Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

No later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (*Branch Chief*): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

Florida Power Corporation, et al., Docket No. 50–302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of application for amendment: June 24, 1983.

Brief description of amendment: This amendment provides the option of using a roving fire watch patrol in lieu of a continuous fire watch when required by a non-functional fire barrier penetration. Use of this option requires verification that fire detectors are operational.

Date of Issuance: July 19, 1983.

Effective Date: July 19, 1983.

Amendment No.: 65.

Facility Operating License No.: DPR–72.

Amendment revised the Technical Specifications.

Press release issued requesting comments as to proposed no significant hazards consideration: Yes.

Comments received: No.

State Contacted: No comments.

The Commission's related evaluation is contained in a Safety Evaluation dated July 19, 1983.

Attorney for licensee: Mr. S. A. Brandimore, Florida Power Corporation, Vice President and General Counsel, P.O. Box 14042, St. Petersburg, Florida 33733.

Local Public Document Room location: Crystal River Public Library, 668 N.W. First Avenue, Crystal River, Florida.

Sacramento Municipal Utility District, Docket No. 50–312, Rancho Seco Nuclear Generating Station, Sacramento County, California

Date of application for amendment: July 26, 1983, as supplemented July 28 and 29, 1983.

Brief description of amendment: The amendment changes Technical Specification Table 3.7–1 related to surveillance testing of the degraded voltage relays in that the relay performance is verified at voltages below the trip setpoint; and changes Technical Specification 3.7.2.H related to manual action when the grid voltage drops below 218KV in that positive actions will be taken to return the grid voltage to 218KV. If the grid is not returned to 218KV within 8 hours, one electrical division will be operated on its diesel generator independent of offsite power.

Date of issuance: August 3, 1983.

Effective date: August 3, 1983.

Amendment No.: 50.

Facility Operating License No.: DPR–54.

Amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: No.

State contacted: No comments.

The Commission's related evaluation is contained in a Safety Evaluation dated August 3, 1983.

Attorney for licensee: David S. Kaplan, Sacramento Municipal Utility District, 6201 S Street, P.O. Box 15830, Sacramento, California 95818.

Local Public Document Room location: Sacramento City-County Library, 828 I Street, Sacramento, California.

Tennessee Valley Authority, Docket No. 50–328, Sequoyah Nuclear Plant, Unit 2, Hamilton County, Tennessee

Date of application for amendment: June 21, 1983.

Brief description of amendment: The amendment authorizes a temporary change in the surveillance requirements for rod drop tests and calibration of full length control rod position (rod bottom) limit switches. The licensee is required to demonstrate periodically (every 18–22

months) that the control rods will drop from the withdrawn position to the fully inserted position within a certain specified time. Also, the full length control rod position limit switches are calibrated in the remote shutdown control room during the same period of time. Control rods are verified to be operable every 31 days in accordance with other provisions of the Technical Specifications. Technical requirements associated with the restart of Unit 2 at this stage of the core life cycle, such as xenon buildup, would make it impractical to return to power operations after July 16, 1983. The amendment increases the surveillance period by 20 days. The maximum surveillance interval permitted by the Technical Specifications is 688 days. This change was made to permit the licensee to carry out the control rod tests and calibration of the limit switches to coincide with the scheduled refueling for Unit 2 which will occur no later than August 5, 1983.

Date of issuance: July 15, 1983.

Effective date: July 15, 1983.

Amendment No. 20.

Facility Operating License No.: DPR-79.

Amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: Yes.

Comments received: No.

The Commission's related evaluation is contained in a Safety Evaluation dated July 15, 1983.

Attorney for licensee: Herbert S. Sanger, Jr., Esq., General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, E 11B 33, Knoxville, Tennessee 37902.

Local Public Document Room location: Chattanooga-Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee 37401.

Dated at Bethesda, Maryland, this 16th day of August 1983.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 83-22871 Filed 8-22-83; 8:45 am]

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VOL
48
ISS
1
6
4
AG
2 3
1983
UMI

federal register

Tuesday
August 23, 1983

Part IV

Office of Management and Budget

Notice of Budget Deferrals

OFFICE OF MANAGEMENT AND BUDGET

Notice of Budget Deferrals

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report a new deferral of budget authority for the Railroad Retirement Board, totaling $165,000.

The details of the deferral are contained in the attached report.

Ronald Reagan.

The White House.

August 18, 1983.

BILLING CODE 3110-01-M

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

Deferral #	Item	Budget Authority
	Other Independent Agencies	
	Railroad Retirement Board	
	Limitation on Railroad Unemployment Insurance Administration Fund.....	165
	Total, deferral.....	165

****

SUMMARY OF SPECIAL MESSAGES
FOR FY 1983
(in thousands of dollars)

	Rescissions	Deferrals
Eleventh special message		
New items.....		165
Change to amounts previously submitted.....	---	---
Effects of eleventh special message.....		165
Amounts previously submitted that were changed by this message.....	---	---
Total, rescissions and deferrals.....	---	165
Amounts previously submitted that were not changed by this message.....	1,569,015 1/	13,559,345
Total amount proposed to date in all special messages.....	1,569,015 1/	13,559,510 2/

1/ This amount includes $23,400,000 in current budget authority for the rural telephone bank that is offset by a corresponding increase in permanent budget authority (R83-20).
2/ All amounts listed represent budget authority except for $15,944,000 of outlays only in one general revenue sharing deferral (D83-168).

Deferral No: D83-83

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Railroad Retirement Board	New budget authority (P.L. 98-8): $ 11,337,000
Bureau	Other budgetary resources: 2,841,118
Appropriation title & symbol: Limitation on Railroad Unemployment Insurance Administration Fund 20X8042(02)	Total budgetary resources: 14,178,118
	Amount to be deferred: Part of year: 165,000
	Entire year:
MB identification code:	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other
Type of account or fund: [ ] Annual [ ] Multiple-year (expiration date) [X] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other

Justification: This account funds administrative expenses of the Railroad Retirement Board under the railroad unemployment and sickness insurance program. The Board has been provided funds to upgrade and modernize its data processing operation. However, the Board is currently reassessing the scope and timing of its modernization effort and has not completed the detailed planning necessary to upgrade its data processing operation. Accordingly, funds associated with this activity are being deferred. This is a routine deferral taken under the provisions of the Antideficiency Act (31 U.S.C. 1512).

Estimated Effects: There will be no effect on the operation of the program as these funds would not be obligated until the normal planning process and associated financial plans have been completed.

Outlay Effect: This deferral will have no effect on FY 1983 outlays.

[FR Doc. 83-23160 Filed 8-22-83; 8:45 am]
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Reader Aids

Federal Register

Vol. 48, No. 164

Tuesday, August 23, 1983

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419 523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Privacy Act	523-4534
Public Inspection Desk	523-5215
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282 523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235

United States Government Manual 523-5230

SERVICES

Agency services	523-5237
Automation	523-3408
Library	523-4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public Inspection Desk	523-5215
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, AUGUST

34723-34928.....1
34929-35068.....2
35069-35344.....3
35345-35586.....4
35587-35872.....5
35873-36090.....8
36091-36240.....9
36241-36438.....10
36439-36560.....11
36561-36796.....12
36797-37000.....15
37001-37200.....16
37201-37358.....17
37359-37602.....18
37603-37920.....19
37921-38200.....22
38201-38446.....23

CFR PARTS AFFECTED DURING AUGUST

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Administrative Orders:

Presidential Determinations:

No. 83-8 of July 19, 1983.....35587
No. 83-9 of August 5, 1983.....36561

Executive Orders:

April 17, 1926 Revoked in part by PLO 6454).....38240
12217 (Revoked by EO 12437).....36801
12435.....34723
12436.....34931
12437.....36801

Proclamations:

5078.....34929
5079.....35873
5080.....36091
5081.....36241
5082.....36797
5083.....36799

5 CFR

550.....36803
551.....36803
950.....34910

Proposed Rules:

1255.....35652

7 CFR

2.....37359
28.....37001
226.....35589
707.....35598
720.....35599
724.....37603
726.....36563
796.....35599
908.....35345, 36439, 37360
910.....35600, 36563, 37607
915.....35345
916.....35345
917.....35345
921.....35345
922.....35345
924.....35345
926.....35345
930.....35345
932.....36201
945.....35345
946.....35345
947.....35345, 38203
948.....35345
953.....35345
958.....35345
967.....35345
982.....35345
985.....35346
989.....35347
993.....35845
1106.....38204
1124.....38439
1139.....38205
1427.....35348
1430.....34725, 34933
3015.....35875

Proposed Rules:

66.....35411
75.....35411
101.....37417
201.....35417
240.....35106
278.....35868
279.....35868
404.....35418
406.....35423
413.....35427
416.....37420
417.....35431
421.....35435
423.....35439
425.....35443
432.....35447
437.....35112
442.....35451
983.....36272
989.....35454
1004.....36113
1030.....36484
1036.....36001
1076.....36467
1079.....37424, 38002
1106.....37657
1139.....35852
1290.....35116

8 CFR

100.....37201
103.....36441, 36564
212.....35349, 36564, 37606
231.....36093, 37009
235.....35349, 37606

9 CFR

54.....38206
71.....37921
74.....37921
78.....34943
92.....37202
97.....37361

Proposed Rules:

3.....35654
317.....35654
319.....35654
325.....35884
381.....35654, 35884

10 CFR

25.....35089
40.....36350
71.....35600
595.....38207

795.....36432
1016.....36432
Proposed Rules:
Ch. I.....34966
Ch. II.....37226
430.....34858
625.....35119
710.....35342
761.....36792
1017.....36825

11 CFR

102.....37921

12 CFR

207.....35070
220.....34944
221.....35074, 37361
225.....37003
303.....34945, 36565
329.....35627, 35629
Proposed Rules:
226.....35659
705.....37042

13 CFR

Proposed Rules:
115.....37658
120.....37044
121.....34966
122.....36825

14 CFR

39.....34731, 35355–35364, 36806, 37361–37364, 37922–37924
71.....35364–35366, 36442, 37365, 37925
73.....36806
75.....35366
91.....36442
95.....36445, 38208
97.....35876, 37926
212.....36445
223.....37928
252.....36093
261.....35080
263.....35081
289.....35081, 37608
398.....36094
1204.....37608
Proposed Rules:
Ch. I.....36826
21.....38002
25.....38004
39.....36468, 37425–37427, 38005
71.....35456–35458, 35887, 38246
73.....38006, 36827, 37428, 37429
152.....36828
159.....37430
241.....36598, 36601
252.....36273
298.....36601
377.....35459
385.....36601
399.....35119

15 CFR

Proposed Rules:
921.....35120
971.....35888

16 CFR

13.....35367, 37202, 37203, 38214
305.....35385
455.....36096
1013.....36566
Proposed Rules:
13.....34764, 35132–35135, 35888, 38247
305.....37663
451.....36273
460.....35661

17 CFR

1.....35248
3.....34732, 35248, 35305, 37203
4.....35248
5.....38214
10.....35248
15.....35248
17.....35248
18.....35248
21.....35248
33.....35248
140.....34945
145.....35248
147.....35248
155.....35248
166.....35248
170.....35248
210.....36566, 37609
229.....37609
230.....37928
231.....37609
239.....36566, 37928
240.....35082, 38218,
241.....37609
270.....36097, 36243, 37928
274.....37928
Proposed Rules:
145.....34971
146.....34971
147.....34971
240.....37430, 37664, 38250
249.....36115
270.....35459

18 CFR

2.....35631, 35633
154.....35633
157.....34872, 34875, 35635
270.....35633
271.....35633–35636
282.....38224
284.....34875, 35635
300.....37006
410.....34946, 36469
Proposed Rules:
271.....35663–35666

19 CFR

12.....34734
127.....34734
177.....35878
210.....35386
Proposed Rules:
101.....35666
171.....37227
175.....36625

20 CFR

404.....37015
Proposed Rules:
299.....35460
404.....35135, 36831
410.....35135
416.....35135, 36831, 37228
422.....35135, 36831
652.....34866, 34974
653.....34866
655.....35667

21 CFR

5.....36571
74.....34946, 37020
109.....37020
172.....38225, 38226
173.....37614
175.....37615
176.....37617
177.....36099, 37618
178.....37615, 38227
193.....36246, 36448, 37203
201.....37619
211.....37624
436.....34947
452.....36571
522.....34947, 36100, 36571
555.....37623
558.....34948, 34949, 35637, 36100, 36101, 37620–37622
561.....36448, 37203
610.....37022
700.....37624
800.....37624
870.....36101
1316.....35087
Proposed Rules:
Ch. I.....37665
131.....37666, 38252
133.....36132, 36625, 37666
146.....37668
184.....34974
291.....35668
353.....36133

23 CFR

Ch. I.....35388
Proposed Rules:
652.....36470
771.....33894

24 CFR

202a.....36247
203.....34949, 35088, 35638, 36247
205.....35389
207.....35389
209.....36247
211.....36247
213.....35389, 35638, 36247
220.....35393, 36247
221.....35389, 36247
222.....36247
226.....36247
228.....36247
232.....35389
234.....35638, 36247
235.....34949, 36247
237.....36247
244.....35389
300.....36572, 36573
500.....36574
868.....37023
886.....36101
890.....38228
Proposed Rules:
115.....36133
200.....35668–35671, 35890
203.....35140
234.....35140
235.....35140
241.....35891
3280.....37136

25 CFR

Proposed Rules:
11.....37046

26 CFR

1.....36448
31.....35089, 36807
35.....35090, 36448, 36807
51.....35092
150.....35092
301.....36449, 38229
Proposed Rules:
1.....36137, 36474
5c.....36137
20.....35143
31.....36474

27 CFR

9.....35395, 37365–37374
178.....35398
Proposed Rules:
5.....35460
9.....35462, 37670

28 CFR

0.....35087
9.....35087
60.....37376
Proposed Rules:
0.....35892
16.....35892

29 CFR

500.....36576, 36736, 38374, 38380
1601.....38231
1910.....36576
1952.....34950, 34951, 37024
1956.....37025
2610.....37027
2619.....36816
2622.....37027
Proposed Rules:
1550.....37047
1697.....34766
1910.....37672
1926.....35774
2615.....37230

30 CFR

Ch. II.....35639
221.....36582
226.....36582
231.....36588
251.....37967
641.....37377
642.....37377
800.....36418
806.....36418
872.....35399
880.....37377
881.....37377
913.....37625
914.....37626
926.....37382
Proposed Rules:
55.....36789

56 36789
57 36789
913 36625
915 35903
935 ..... 35146, 36274, 36627
938 37672

31 CFR

Proposed Rules:
1 35904

32 CFR

70 35644
219 35400
253 35644
263 34952
373 36247
706 ..... 37029, 37030
819a 35878
842 37631
865 37384

Proposed Rules:
65 34974

33 CFR

1 35402
8 36449
25 36450
53 36449
100 ..... 36450, 36451, 37396, 37397
110 36452
117 ..... 35409, 36452
154 34740
160 35402
161 35402
165 ..... 35402, 36453
167 36453

Proposed Rules:
100 ..... 36474, 37433
110 34767
115 35464
117 ..... 36475, 36477
161 37433
165 37438

34 CFR

200 34953
205 35879
263 35330

35 CFR

Proposed Rules:
111 35905

36 CFR

223 34740
905 38232

Proposed Rules:
13 37673
228 35580
251 ..... 35465, 35580
261 35465

37 CFR

202 37204

Proposed Rules:
1 ..... 34836, 36478
2 36478
202 37232

38 CFR

3 37031
17 37398
21 ..... 35879, 36577, 37968
36 35879
40 36103

Proposed Rules:
17 ..... 38007, 38253
21 ..... 34975, 35146

39 CFR

1 38234
10 35409
111 ..... 35645, 38234

Proposed Rules:
111 37439
3001 35914

40 CFR

35 37814
52 ..... 36250, 36818, 36819, 37401–37403, 38235
60 ..... 36579, 37578, 37598
61 36579
81 ..... 37404, 37653, 38236
145 ..... 36237, 38238
162 35095
180 ..... 35095, 36251, 37210–37214
264 36582
270 36582
271 ..... 34742, 34954, 35096, 35097, 35647, 36252, 37215
425 35649
468 36942
717 38178

Proposed Rules:
Ch. II 34768
50 38009
52 ..... 34976, 35312–35328, 35672, 35918, 36139, 37232
60 ..... 35338, 37338
61 38009
62 34978
81 ..... 35919, 35920, 36275, 38254, 38255
145 37673
180 36486
228 ..... 35147, 35673
271 ..... 36277, 36628, 38010
302 34979
414 35674
416 35674
1502 36486
1508 36486

41 CFR

Ch. 1 37031
Ch. 101 35096
5–1 37997
5–53 37405
29–70 37786
101–41 35649

Proposed Rules:
3–1 37233
3–3 37233

42 CFR

405 37408

Proposed Rules:
71 36143
100 36390
122 36402
123 36402
125 36390
400 38146
405 ..... 34979, 38146
408 38146
409 38146
418 38146
420 38146
421 ..... 34979, 38146
431 36151
441 36011
460 36970
462 36970
489 38146

43 CFR

2 37411
1820 36108
3000 37654
3100 37656
3410 37654
3420 37654
3430 37654
3450 37654

Public Land Orders:
3160 36582
3180 36582
3570 36586
6380 (corrected by PLO 6451) 35099
6388 (corrected by PLO 6450) 35098
6448 34743
6449 34743
6450 35098
6451 35099
6452 36239
6453 36239
6454 36240
6360 36382

Proposed Rules:
36 37673

44 CFR

64 ..... 34744, 34957, 36590, 36592
67 36104
71 37036

Proposed Rules:
61 35468
62 35468
67 ..... 36159–36167, 36629, 38018, 38019, 38258, 38259

45 CFR

1 35099
10 35099
67 35099
99 35099
1607 36820

Proposed Rules:
5b 37440
302 35468
304 35468
306 35468
1606 36845
1625 36845

46 CFR

31 36457
32 36457
35 36457
221 35881
503 36253
536 ..... 35099, 36254

Proposed Rules:
10 35920
35 35920
50 37441
52 37441
53 37441
54 37441
63 37441
157 35920
162 37441
175 35920
185 35920
186 35920
187 35920
295 37449
298 37453
540 35675

47 CFR

0 ..... 37413, 38240
1 ..... 36104, 36459
2 ..... 34746, 37216
15 ..... 34748, 37217
18 37217
19 36240
21 ..... 34746, 37216
22 37997
73 ..... 34753–34757, 34959, 36106–36112, 36254, 36459, 37216, 37220–37224, 37414–37416, 38243
74 ..... 34746, 37216
83 34961
90 ..... 34961, 36104
95 ..... 35234, 36104
97 ..... 34746, 37224

Proposed Rules:
Ch. I 36167, 37235, 37484
2 37475
18 37235
68 34985
73 ..... 34772–34779, 35964, 36168–36173, 36276, 37239–37269, 37475–37492, 38020, 38053
76 34986
90 ..... 34782, 34987, 35149

48 CFR

Proposed Rules:
Ch. I 35675

49 CFR

1 37998
192 37999
213 35882
1170 35409
1175 36594
1300 36822
1307 36822

Proposed Rules:
Ch. X 38059
171 ..... 35471, 35985
172 ..... 35471, 35985, 35970
173 ..... 35471, 35985, 35970
175 35471
179 35970
210 36487
218 36492
571 ..... 34783, 34784, 36493, 36849
572 37493
622 34894
1105 36284
1152 36284
1160 36285
1165 36290
1180 36284

50 CFR

10	37040
17	34757, 34961, 36256, 36594
20	35100
32	36112
285	35107, 36597, 36823
611	34762, 34962, 35107
649	36266
650	34762
651	34762
652	34762, 38243
654	34762
655	34762
661	36823, 38244
662	34963
663	34762, 34763
671	34762
672	34762, 35107, 37040
674	34762, 34965, 37224
675	34762, 35107

Proposed Rules:

17	35475, 35973
20	35152, 35153, 36853
23	37494
32	34987
36	37673
424	36062
681	35475

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing August 18, 1983

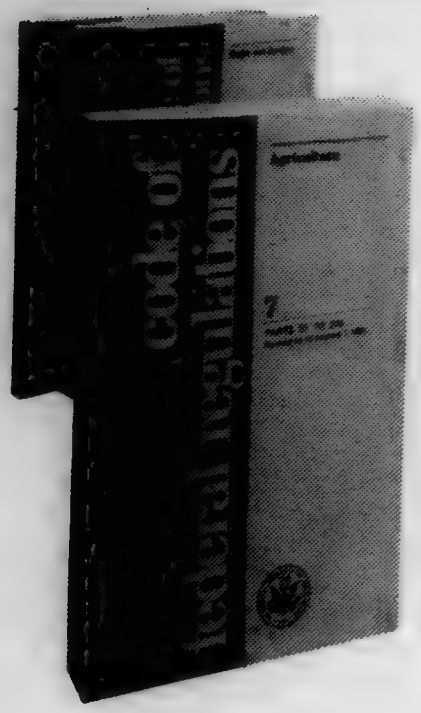

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federal register

Wednesday
August 24, 1983

Selected Subjects

Agricultural Commodities
Environmental Protection Agency
Air Carriers
Civil Aeronautics Board
Air Pollution Control
Environmental Protection Agency
Antibiotics
Food and Drug Administration
Banks, Banking
Depository Institutions Deregulation Committee
Continental Shelf
Minerals Management Service
Fisheries
National Oceanic and Atmospheric Administration
Hazardous Substances
Environmental Protection Agency
Meat and Poultry Inspection
Food Safety and Inspection Service
Milk Marketing Orders
Agricultural Marketing Service
Motor Carriers
Federal Highway Administration
Natural Gas
Federal Energy Regulatory Commission

CONTINUED INSIDE

Selected Subjects

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Pesticides and Pests
Environmental Protection Agency

Quarantine
Animal and Plant Health Inspection Service

Radio Broadcasting
Federal Communications Commission

Surface Mining
Surface Mining Reclamation and Enforcement Office

Television Broadcasting
Federal Communications Commission

Wine
Alcohol, Tobacco and Firearms Bureau

Contents

Federal Register
Vol. 48, No. 165
Wednesday, August 24, 1983

Agricultural Marketing Service
RULES
Milk marketing orders:
38448 Chicago Regional

Agriculture Department
See also Agricultural Marketing Service; Animal and Plant Health Inspection Service; Food Safety and Inspection Service; Soil Conservation Service.
NOTICES
38522 Agency information collection activities under OMB review

Alcohol, Tobacco and Firearms Bureau
RULES
Alcohol; viticultural area designations:
38462 York Mountain, Calif.
PROPOSED RULES
Alcohol; viticultural area designations:
38497 Columbia Valley, Wash. et al.

Animal and Plant Health Inspection Service
RULES
Plant quarantine, domestic:
38447 Gypsy and browntail moths

Bonneville Power Administration
NOTICES
Nonfirm energy:
38533 Sale to utilities for irrigation loads

Civil Aeronautics Board
RULES
Domestic cargo transportation:
38458 Long-term contracts; all-cargo air carriers and Defense Department; exemption
NOTICES
Hearings, etc.:
38523 American Central Airlines, Inc.
38523 Marco Island Airways, Inc.

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
38523 Georgia
38523 Kansas
38524 Mississippi
38524 Rhode Island
38524 Tennessee

Commerce Department
See International Trade Administration; National Oceanic and Atmospheric Administration.

Customs Service
NOTICES
Trade name recordation applications:
38569 United Association of Journeymen and Apprentices, Plumbing and Pipe Fitting Industry

Defense Department
See also Defense Contract Audit Agency.
NOTICES
Meetings:
38530 Science Board task forces; date change

Defense Contract Audit Agency
NOTICES
Senior Executive Service:
38530 Performance Review Board; membership

Depository Institutions Deregulation Committee
RULES
38455 Time deposits; removal of interest rate ceilings

Drug Enforcement Administration
NOTICES
Registration applications, etc.; controlled substances:
38560 Caderao, Jess B., M.D.

Economic Regulatory Administration
NOTICES
Natural gas; fuel oil displacement certification applications:
38534 Chrysler Corp. et al.
38535 Koppers Co., Inc., et al.

Education Department
NOTICES
Grants; availability, etc.:
38531 Handicapped program, training personnel; noncompeting continuation projects
38532 Special needs program; historically black institutions
38570 Meetings; Sunshine Act

Energy Department
See Bonneville Power Administration; Economic Regulatory Administration; Federal Energy Regulatory Commission.

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States, etc.:
38465 Maryland
38466 New Mexico
Air quality planning purposes; designation of areas:
38467 California
Pesticide programs:
38572 Pheromone attractants products; exemption
PROPOSED RULES
Pesticide chemicals in or on raw agricultural commodities; tolerance and exemptions, etc.:
38501 N,N,-Diethyl-2-(1-Naphthalenyloxy)
Toxic substances:
38502 Isopropylamine and ethylamine, distillation residues; manufacturing, importing or processing
NOTICES
Hazardous waste:
38537 Resource Conservation and Recovery Act (RCRA) permit for IT Corp.

Federal Communications Commission
RULES
Radio and television broadcasting:
38473 Operator and maintenance logging requirements; elimination
Radio stations; table of assignments:
38470 California (2 documents)
38471 Florida
38472 Kansas
38472 Nebraska
38473 Texas
PROPOSED RULES
Common carrier services:
38511 MTS and WATS market structure; extension of time; correction

Federal Deposit Insurance Corporation
NOTICES
38570 Meetings; Sunshine Act

Federal Energy Regulatory Commission
PROPOSED RULES
Natural gas companies (Natural Gas Act):
38492 Tariff changes; revisions to filing requirements
NOTICES
Environmental statements; availability, etc.:
38535 Boundary Gas, Inc., et al.
Hearings, etc.:
38537 East Fork Irrigation District et al.
Natural Gas Policy Act:
38576–38586 Jurisdictional agency determinations (3 documents)

Federal Highway Administration
RULES
Motor carrier safety regulations:
38483 Handicapped driver waiver program; driver qualifications

Federal Railroad Administration
PROPOSED RULES
38511 Railroad noise emission compliance; correction

Food and Drug Administration
RULES
Human drugs:
38459 Antibiotic drugs; sterile cefuroxime sodium
NOTICES
Medical devices; premarket approval:
38537 Asahi Chemical Industry America, Inc.; correction

Food Safety and Inspection Service
PROPOSED RULES
Meat and poultry inspection:
38490 Fee increase for inspection services

Health and Human Services Department
See Food and Drug Administration.

Housing and Urban Development Department
NOTICES
38537, 38538 Privacy Act; systems of records (2 documents)

Indian Affairs Bureau
NOTICES
Irrigation projects; operation and maintenance charges:
38539 Fort Belknap Indian Irrigation Project, Mont.

Interior Department
See Indian Affairs Bureau; Land Management Bureau; Minerals Management Service; Surface Mining Reclamation and Enforcement Office.

International Trade Administration
NOTICES
Antidumping:
38526 Calcium pantothenate from Japan
38527 Melamine in crystal form from Japan
38527 Sodium nitrate from Chile
Countervailing duties:
38524 Oleoresins from India

International Trade Commission
NOTICES
Import investigations:
38542 Canape makers
38543 Plastic light duty screw anchors
38543 Poultry cut up machines
38544 Rotary wheel printers

Interstate Commerce Commission
NOTICES
Motor carriers:
38553 Finance applications
38544, 38551 Permanent authority applications (2 documents)
38554 Permanent authority applications; restriction removals
38553 Released rates applications
38555 Temporary authority applications
Motor carriers; control, purchase, and tariff filing exemptions, etc.:
38554 W.C. Carriers, Inc.
Railroad operation, acquisition, construction, etc.:
38558 Atchison, Topeka & Santa Fe Railway Co.
Railroad services abandonment:
38559 Burlington Northern Railroad Co.

Justice Department
See also Drug Enforcement Administration.
NOTICES
Pollution control; consent judgments:
38559 Adams Automatic Co.
38559 Packaging Corp. of America

Land Management Bureau
RULES
Public land orders:
38468 Wyoming
NOTICES
Coal management program:
38542 San Juan River Federal Coal Production Region, N. Mex.; regional leasing target
Conveyance and sale of public lands:
38542 Wyoming
Meetings:
38542 Carson City District Advisory Council
38542 Salmon District Grazing Advisory Board
Withdrawal and reservation of lands, proposed, etc.:
38540 Colorado

Management and Budget Office
NOTICES
38590 Budget rescissions and deferrals; cumulative reports
38560 Internal control systems of Federal agencies (Circular A-123)

Minerals Management Service
PROPOSED RULES
Outer Continental Shelf; oil, gas, and sulphur operations:
38500 Area adjacent to a state; definition

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
38489 Gulf of Mexico shrimp
PROPOSED RULES
Fishery conservation and management:
38511 Gulf of Mexico reef fish
NOTICES
Marine mammal permit applications, etc.:
38529 Gilbert, Dr. James R.
Marine mammals:
38529 Annual report; availability
Meetings:
38529 Pacific Fishery Management Council

Nuclear Regulatory Commission
RULES
Radioactive material packaging and transportation:
38449 Compatibility with International Atomic Energy Agency transport regulations; correction

Securities and Exchange Commission
NOTICES
Hearings, etc.:
38564 Financial Tax-Free Money Fund, Inc.
38565 GEICO Municipal Securities Series Trust
38566 Shaw Management Co., Inc., et al.; correction
Self-regulatory organizations; proposed rule changes:
38566 New York Stock Exchange, Inc.

Small Business Administration
NOTICES
38567 Agency information collection activities under OMB review
Meetings; regional advisory councils:
38568 California
38568 Hawaii
38567 New Jersey
38567 Pennsylvania
38567 Puerto Rico

Soil Conservation Service
NOTICES
Environmental statements; availability, etc.:
38522 Upper Locust Creek Watershed, Iowa and Mo.

Surface Mining Reclamation and Enforcement Office
RULES
Abandoned mine land reclamation program; plan submissions:
38463 Kentucky

Textile Agreements Implementation Committee
NOTICES
Cotton, wool, or man-made textiles:
38530 Hong Kong
Textile consultation; review of trade:
38530 Korea and Taiwan

Transportation Department
See also Federal Highway Administration; Federal Railroad Administration.

Treasury Department
See also Alcohol, Tobacco and Firearms Bureau; Customs Service.
NOTICES
38568 Agency information collection activities under OMB review (2 documents)
Organization, functions, and authority delegations:
38568 Deputy Assistant Secretary (Federal Finance)

Separate Parts in This Issue

Part II
38572 Environmental Protection Agency

Part III
38576 Department of Energy, Federal Energy Regulatory Commission

Part IV
38590 Office of Management and Budget

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Executive Orders:
July 13, 1910
(Revoked in part by PLO 6455)..... 38468

7 CFR
301..... 38447
1030..... 38448

9 CFR
Proposed Rules:
307..... 38490
350..... 38490
351..... 38490
354..... 38490
355..... 38490
362..... 38490
381..... 38490

10 CFR
71..... 38449

12 CFR
1204..... 38455

14 CFR
291..... 38458

18 CFR
Proposed Rules:
154..... 38492

21 CFR
430..... 38459
436..... 38459
442..... 38459

27 CFR
9..... 38462
Proposed Rules:
9..... 38497

30 CFR
917..... 38463
Proposed Rules:
250..... 38500
252..... 38500

40 CFR
52 (3 documents)..... 38465–38467
81..... 38467
162..... 38572
Proposed Rules:
180..... 38501
721..... 38502

43 CFR
Public Land Order:
6455..... 38468

47 CFR
17..... 38473
73 (7 documents)..... 38470–38473
74..... 38473
Proposed Rules:
Ch. I..... 38511

49 CFR
391..... 38483
Proposed Rules:
210..... 38511

50 CFR
658..... 38489
Proposed Rules:
641..... 38511

Rules and Regulations

Federal Register
Vol. 48, No. 165
Wednesday, August 24, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 83-327]

Gypsy Moth Regulated Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: This document affirms the interim rule which amended the list of gypsy moth regulated areas (regulated areas are divided into high-risk areas and low-risk areas) under the "Gypsy Moth and Browntail Moth Quarantine and Regulations" (7 CFR 301.45) by (1) redesignating areas in Delaware, Maryland, New York, and Pennsylvania from gypsy moth low-risk areas to gypsy moth high-risk areas; (2) by redesignating an area in Arkansas from a gypsy moth high-risk area to a gypsy moth low-risk area; (3) by designating previously nonregulated areas in California, Illinois, Maine, Michigan, North Carolina, Ohio, Oregon, Virginia, Washington, and Wisconsin as gypsy moth low-risk areas; (4) by expanding previously designated gypsy moth low-risk areas in Maine, Michigan, Virginia, and Washington; and (5) by deleting areas in Illinois, Michigan, and Ohio from the list of gypsy moth regulated areas. The quarantine and regulations impose restrictions on the interstate movement of certain articles from gypsy moth high-risk areas and gypsy moth low-risk areas. This action is necessary in order to prevent the artificial spread interstate of gypsy moth and to delete unnecessary restrictions on the interstate movement of certain articles.

EFFECTIVE DATE: August 24, 1983.

FOR FURTHER INFORMATION CONTACT: Gary E. Moorehead, Staff Officer, Field Operations Support Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 663, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782; 301 436-8295.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The amendments have been issued in conformance with Executive Order 12291, and have been determined not to be a "major rule". Based on information compiled by the Department, it has been determined that the amendments will have an annual effect on the economy of approximately $90,000; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this rulemaking action, the Office of Management and Budget has waived the review process required by Executive Order 12291. Also, the Assistant Secretary for Marketing and Inspection Services has waived the requirements of Secretary's Memorandum 1512-1.

Certification Under the Regulatory Flexibility Act

Mr. Bert W. Hawkins, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action affects the interstate movement of regulated articles from specified areas in the States of California, Delaware, Illinois, Maine, Maryland, Michigan, New York, North Carolina, Ohio, Oregon, Pennsylvania, Virginia, Washington, and Wisconsin. Based on information compiled by the U.S. Department of Agriculture it has been determined that there are many hundreds of small entities that move regulated articles interstate from such States and many thousands of small entities that move regulated articles interstate from other States. However, based on such information, it has been determined that only approximately 135 small entities move regulated articles interstate from the specified areas affected by this action. Further, the annual overall econmic impact from this action is estimated to be less that $90,000.

Background

A document published in the Federal Register on March 21, 1983 (48 FR 11681-11691), set forth an interim rule amending § 301.45-2a(a) of the "Gypsy Moth and Browntail Moth Quarantine and Regulations" (7 CFR 301.45-2a(a)). The document amended the quarantine and regulations by (1) redesignating areas in Delaware, Maryland, New York, and Pennsylvania from gypsy moth low-risk areas to gypsy moth high-risk areas; (2) by redesignating an area in Arkansas from a gypsy moth high-risk area to a gypsy moth low-risk area; (3) by designating previously nonregulated areas in California, Illinois, Maine, Michigan, North Carolina, Ohio, Oregon, Virginia, Washington, and Wisconsin as gypsy moth low risk areas; (4) by expanding previously designated gypsy moth low-risk areas in Maine, Michigan, Virginia, and Washington; and (5) by deleting areas in Illinois, Michigan, and Ohio from the list of gypsy moth regulated areas.

The document became effective on the date of publication. The document provided that the amendment was necessary as an emergency measure in order to prevent the artificial spread interstate of gypsy moth and to delete unnecessary restrictions on the interstate movement of certain articles.

Comments were solicited for 60 days after publication of the amendment. One written comment was received in response to the emergency interim rule published in the Federal Register on March 21, 1983. The comment was received from a representative of the North Carolina Department of Agriculture. The State contended that the placing of isolated spots of gypsy moth infestation (those generally removed from areas of general infestation) under quarantine in a low-risk category serves no useful purpose. The decision to designate an area as high-risk or low-risk is based on an application of criteria spelled out in section 301.45-2 of the "Gypsy Moth and Browntail Moth Quarantine and

Regulations" (7 CFR Subpart 301.45). Generally, section 301.45–2 requires the Deputy Administrator to designate an area as a regulated area when there is a finding of a gypsy moth or browntail moth infestation, or when an area is so close that it is inseparable, for quarantine enforcement purposes, from such an infestation. More specifically, and area is designated as "low-risk" in order to provide official notice of the likelihood that inspectors may conduct inspections in such areas and that, based on their findings of life stages of gypsy moth, restrictions may apply to the movement of gypsy moth regulated articles from such area. The interim rule, published on March 21, 1983, amended § 301.45–2a(a) by designating or redesignating areas as high-risk or low-risk and by deleting areas as regulated areas based upon an application of these criteria. This amendment did not propose amending the criteria in section 301.45–2 for establishing an area as a regulated area, and the Department has determined that this criteria does not need to be amended at this time. Therefore, no changes are made based on this comment.

It appears that the factual situations which were set forth in the document of March 21, 1983, still provide a basis for the amendment.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant pests, Quarantine, Transportation, Gypsy moth.

Accordingly, it has been determined that the amendment to § 301.45–2a should remain effective as published in the **Federal Register** on March 21, 1983 (48 FR 11681–11691).

(Secs. 8 and 9, 37 Stat. 318, as amended, secs. 105 and 106, 71 Stat. 32, 33; (7 U.S.C. 161, 162, 105dd, 150ee); 37 FR 28464, 28477, as amended; 38 FR 19141)

Done at Washington, D.C. this 19th day of August 1983.

Harvey L. Ford,

Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 83-23309 Filed 8-23-83; 8:45 am]
BILLING CODE 3410-34-M

Agricultural Marketing Service

7 CFR Part 1030

[Milk Order No. 30; Docket No. AO–361–A20]

Milk in the Chicago Regional Marketing Area; Order Amending Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action increases to fifteen percentage points the discretionary authority of the Director, Dairy Division, to temporarily increase or decrease the supply plant requirements for milk shipments to bottling plants. Thus, the Director will have greater flexibility to adjust the shipping requirements to avoid uneconomic milk shipments, or to require more shipments if needed to adequately supply the fluid milk needs of distributing plants.

The amendment to the order is based on industry proposals considered at a public hearing held May 24–26, 1983, in Madison, Wisconsin. The change is necessary to reflect current marketing conditions and to insure orderly marketing conditions in the regulated area. Cooperative associations representing more than two-thirds of the dairy farmers who supply milk for the market have approved the issuance of the amended order.

EFFECTIVE DATE: August 24, 1983.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250, (202/447–4829).

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirement of Executive Order 12291.

Prior documents in this proceeding:

Notice of Hearing: Issued April 25, 1983; published April 29, 1983 (48 FR 19380).

(Partial) Final Decision: Issued August 4, 1983; published August 11, 1983 (48 FR 36464).

Findings and Determinations

The findings and determinations hereinafter set forth supplement those that were made when the Chicago Regional order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Chicago Regional marketing area.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are nor reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective upon publication in the **Federal Register.** Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of this order are known to handlers. The decision of the Assistant Secretary containing the amendment provision of this order was issued August 4, 1983. The change effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective upon publication in the **Federal Register,** and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the **Federal Register.**

(Sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551–559)

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in Sec. 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order amending the order is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

List of Subjects in 7 CFR Part 1030

Milk marketing orders, Milk, Dairy products.

Order Relative to Handling

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Chicago Regional marketing area shall be in conformity to and in compliance with the following terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

PART 1030—MILK IN THE CHICAGO REGIONAL MARKETING AREA

§ 1030.7 [Amended]

In paragraph (b)(5) of § 1030.7, the number "10" is changed to read "15".

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Effective date: August 24, 1983.

Signed at Washington, D.C., on August 17, 1983.

John Ford,

Deputy Assistant Secretary Marketing and Inspection Services.

[FR Doc. 83-23204 Filed 8-23-83; 8:45 am]

BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 71

Rule To Achieve Compatibility With the Transport Regulations of the International Atomic Energy Agency (IAEA)

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule; correction.

SUMMARY: In a **Federal Register** document published on August 5, 1983 (48 FR 35600), the U.S. Nuclear Regulatory Commission (NRC) revised its regulations for the transportation of radioactive material to make them compatible with those of the International Atomic Energy Agency (IAEA) and thus with those of most major nuclear nations of the world. This notice contained a number of typographical errors which are corrected below. In addition, Table A–1 is reprinted in a larger format for reader convenience.

FOR FURTHER INFORMATION CONTACT: Donald R. Hopkins, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: 301–443–7878.

SUPPLEMENTARY INFORMATION: Corrections are made to the following pages:

1. On page 35601, column three, in the second complete paragraph, line 15, "betaemitting" is corrected to read "beta-emitting".

2. On page 35602, column one, the fourth item in the third column of the table under the sentence which begins, "The radionuclides which are affected in Case 1 are:" "Te-127M" is corrected to read "Te-127m".

3. On page 35602, column one, the 11th item in the first column of the table under the sentence which begins, "The radionuclides which are affected in Case 2 are:" "Cu67" is corrected to read "Cu-67".

4. On page 35603 in column two, just above the center heading "Public Comments and Detailed Considerations" insert this paragraph:

On October 1, 1976, Diagnostic Isotopes Incorporated petitioned the Commission to include the radionuclide lead-201 in Appendix C of 10 CFR Part 71, as a Transport Group IV radionuclide. Lead-201 decays in a short time to thallium-201 which is useful in clinical nuclear medicine. This final revision of 10 CFR Part 71 includes lead-201 in the table of radionuclides with a Type A quantity of 20 curies, thus granting the petition.

5. On page 35604, column one, line three, "radiocative" is corrected to read "radioactive".

6. On page 35604, column three, in line five, "§ 710" is corrected to read "§ 71.0".

7. On page 35606, column one, in the first complete paragraph, line 19, "radio-active" is corrected to read "radioactive".

8. On page 35606, column three, in the first complete paragraph, line four, delete the "=" which precedes the number 90.

PART 71—[CORRECTED]

9. On page 35608, column one, Subpart H-Quality Assurance, eighth entry which reads "71.115 Control of purchased material equipment, and services." is corrected to read "71.115 Control of purchased material, equipment, and services."

§ 71.0 [Corrected]

10. On page 35608, in § 71.0, line two, "Requirements" should be corrected to read "requirements".

§ 71.4 [Corrected]

11. On page 35609, column two, in line eight of paragraph (5), "disintergations" is corrected to read "disintegrations".

§ 71.12 [Corrected]

12. On page 35610, in § 71.12(e), a period is added to the end of the sentence.

§ 71.16 [Corrected]

13. On page 35611, in § 71.16(c)(2), line 7, "license" is corrected to read "licensee".

§ 71.18 [Corrected]

14. On page 35611, in § 71.18(c), delete the word "the" in line five, and the formula should be corrected to read as follows:

$$\text{Minimum Transport Index} = (0.40+0.07y+z)\left(1-\frac{15}{x+y+z}\right).$$

§ 71.20 [Corrected]

15. On page 35612, in § 71.20(b)(6), Table I should appear in paragraph (i) and Table II should appear in paragraph (ii).

§ 71.24 [Corrected]

16. On page 35612, in § 71.24(b)(6), Table III should appear in paragraph (i) and Table IV should appear in paragraph (ii).

§ 71.31 [Corrected]

17. On page 35613, in § 71.31(a)(3), the word "descriptions" is corrected to read "description".

18. On page 35613, column one, Table III, the final item in the second column, headed "Permissible maximum grams of uranium-235 per consignment" is corrected to read "15,000".

§ 71.33 [Corrected]

19. On page 35613, in § 71.33(a)(6), the final word is to read "coolant."

§ 71.45 [Corrected]

20. On page 35614, in § 71.45(b)(2), line two, the word "tie-down" should not be hyphenated.

§ 71.75 [Corrected]

21. On page 35617, in § 71.75(b), line three, "beding" is corrected to read "bending".

22. On page 35617, in § 71.75(d), line eight, "grater" is corrected to read "greater".

23. On page 35617, in § 71.75(d), line 11, the expression "(1.3 × 10^{-3} atm cm^3/s)" is corrected to read "(13.3 × 10^{-4} atm cm^3/s)."

24. On page 35617, in § 71.75(d), line 14, the expression "10-s" is corrected to read "10^{-6}".

§ 71.77 [Corrected]

25. On page 35617, in § 71.77(c), line 12, the word "force" is corrected to read "face".

§ 71.87 [Corrected]

26. On page 35618, in § 71.87(i)(1), line 11, the word "and" is corrected to read "on".

§ 71.107 [Corrected]

27. On page 35621, in § 71.107(b), line two, the word "indentification" is corrected to read "identification".

Appendix A—[Corrected]

28. On page 35623, in Appendix A.I.(1), line five, the word "radionculides" is corrected to read "radionuclides".

29. On page 35623, in Appendix A.II.(5), line five, the word "radionculides" is corrected to read "radionuclides".

30. On page 35623, in column one of TABLE A–1, lines 8, 9, and 10, the footnote indicator "1" is corrected to read "*".

31. On page 35625, in column one of TABLE A–1, lines 10, 11, 12, 13, 14, and 15, the footnote indicator "1" is corrected to read "*".

32. On page 35626, in column one of Table A–1, lines 17, 18, 67, 68, 69, 70, 71, 72, 73, and 74, the footnote indicator "1" is corrected to read "*". On line 45 the footnote indicator "2" is corrected to read "**". On line 62 the footnote indicator "3" is corrected to read "***".

33. On page 35625, in columns three and four, lines 71, 72, 74, and 76, the entry is corrected to read, "Unlimited".

34. On page 35626, columns three and four, lines 4, 42, 44, 58, 59, and 61 the entry is corrected to read "Unlimited".

35. On page 35626, column five, line four, "20 × 10^{-3}" is corrected to read "2.0 × 10^{-3}".

36. On page 35626, column five, line 44, "2.2 × 10^{7}" is corrected to read "2.2 × 10^{-7}".

37. On page 35626, column five, on lines 59 and 61 the entry is corrected to read (SEE TABLE A–4).

38. On page 35626 line 60 is corrected to read:

U (enriched)			
<20%	Unlimited	Unlimited	(See table A–4)
20% or greater.	100	0.1	(See table A–4)

39. On page 35627, lines one, two, and four, footnote indicators "1", "2", "3", are corrected to read, "*", "**", "***".

40. On page 35627, lines six, seven, eight, and nine, delete footnotes
"4 Unlimited"
"5 Unlimited 100"
"6 Unlimited 0.1"
"7 See Table A–4".

41 On page 35627, Table A–2, in the first column ">2.0" is corrected to read ">2.0".

42. On page 35627, "TABLE A–." is corrected to read "TABLE A–3.".

43. On page 35627, in TABLE A–4, in the heading of first column, "wt" is deleted from first line and second line is corrected to read, "wt % ^{235}U present".

44. On page 35627, in TABLE A–4, column 2, line 13 "2.2 × 10–7" is corrected to read "2.2 × 10^{-7}".

Tables A–1 and A–4, as corrected, are reprinted in their entirety below.

Dated at Bethesda, MD this 17th day of August, 1983.

For the Nuclear Regulatory Commission.

Victor Stello, Jr.,

Acting Executive Director for Operations.

BILLING CODE 7590-01-M

TABLE A–1.—A_1 AND A_2 VALUES FOR RADIONUCLIDES

(See footnotes at end of table)

Symbol of radionuclide	Element and atomic number	A_1(Ci)	A_2(Ci)	Specific activity (Ci/g)
^{227}Ac	Actinium (89)	1000	0.003	7.2×10
^{228}Ac		10	4	2.2×10^{6}
^{105}Ag	Silver (47)	40	40	3.1×10^{4}
^{110m}Ag		7	7	4.7×10^{3}
^{111}Ag		100	20	1.6×10^{5}
^{241}Am	Americium (95)	8	0.008	3.2
^{243}Am		8	0.008	1.9×10^{-1}
^{37}Ar (compressed or uncompressed)*	Argon (18)	1000	1000	1.0×10^{5}
^{41}Ar (uncompressed)*		20	20	4.3×10^{7}
^{41}Ar (compressed)*		1	1	4.3×10^{7}
^{73}As	Arsenic (33)	1000	400	2.4×10^{4}
^{74}As		20	20	1.0×10^{5}
^{76}As		10	10	1.6×10^{6}
^{77}As		300	20	1.1×10^{5}
^{211}At	Astatine (85)	200	7	2.1×10^{6}
^{193}Au	Gold (79)	200	200	9.3×10^{5}
^{196}Au		30	30	1.2×10^{5}
^{198}Au		40	20	2.5×10^{5}
^{199}Au		200	25	2.1×10^{5}
^{131}Ba	Barium (56)	40	40	8.7×10^{4}
^{133}Ba		40	10	4.0×10^{2}
^{140}Ba		20	20	7.3×10^{4}
^{7}Be	Beryllium (4)	300	300	3.5×10^{5}
^{206}Bi	Bismuth (83)	5	5	9.9×10^{4}
^{207}Bi		10	25	2.2×10^{3}
^{210}Bi (Bi-Ac)		100	4	1.2×10^{5}
^{212}Bi		6	6	1.5×10^{7}
^{249}Bk	Berkelium (97)	1000	1	1.8×10^{3}
^{77}Br	Bromine (35)	70	25	7.1×10^{5}

TABLE A-1.—A_1 AND A_2 VALUES FOR RADIONUCLIDES—Continued

(See footnotes at end of table)

Symbol of radionuclide	Element and atomic number	A_1(Ci)	A_2(Ci)	Specific activity (Ci/g)
^{82}Br		6	6	1.1×10^{4}
^{11}C	Carbon (6)	20	20	8.4×10^{3}
^{14}C		1000	60	4.6
^{45}Ca	Calcium (20)	1000	25	1.9×10^{4}
^{47}Ca		20	20	5.9×10^{5}
^{109}Cd	Cadmium (48)	1000	70	2.6×10^{3}
^{115m}Cd		30	30	2.6×10^{4}
^{115}Cd		60	20	5.1×10^{5}
^{139}Ce	Cerium (58)	100	100	6.5×10^{3}
^{141}Ce		300	25	2.6×10^{4}
^{143}Ce		60	20	6.6×10^{5}
^{144}Ce		10	7	3.2×10^{3}
^{249}Cf	Californium (98)	2	0.002	3.1
^{250}Cf		7	0.007	1.3×10^{3}
^{252}Cf		2	0.009	6.5×10^{3}
^{36}Cl	Chlorine (17)	300	10	3.2×10^{-2}
^{38}Cl		10	10	1.3×10^{5}
^{242}Cm	Curium (96)	200	0.2	3.3×10^{3}
^{243}Cm		9	0.009	4.2×10
^{244}Cm		10	0.01	8.2×10
^{245}Cm		6	0.006	1.0×10^{-1}
^{246}Cm		6	0.006	3.6×10^{-1}
^{56}Co	Cobalt (27)	5	5	3.0×10^{4}
^{57}Co		90	90	8.5×10^{3}
^{58m}Co		1000	1000	5.9×10^{6}
^{58}Co		20	20	3.1×10^{4}
^{60}Co		7	7	1.1×10^{3}
^{51}Cr	Chromium (24)	600	600	9.2×10^{4}
^{129}Cs	Cesium (55)	40	40	7.6×10^{5}
^{131}Cs		1000	1000	1.0×10^{5}
^{134m}Cs		1000	10	7.4×10^{5}
^{134}Cs		10	10	1.2×10^{3}
^{135}Cs		1000	25	8.8×10^{-4}
^{136}Cs		7	7	7.4×10^{4}
^{137}Cs		30	10	9.8×10
^{64}Cu	Copper (29)	80	25	3.8×10^{5}
^{67}Cu		200	25	7.9×10^{5}
^{165}Dy	Dysprosium (66)	100	20	8.2×10^{4}
^{166}Dy		1000	200	2.3×10^{5}
^{169}Er	Erbium (68)	1000	25	8.2×10^{4}
^{171}Er		50	20	2.4×10^{4}
^{152m}Eu	Europium (63)	30	30	2.2×10^{3}
^{152}Eu		20	10	1.9×10^{3}
^{154}Eu		10	5	1.5×10^{3}
^{155}Eu		400	60	1.4×10^{5}
^{18}F	Fluorine (9)	20	20	9.3×10^{7}
^{52}Fe	Iron (26)	5	5	7.3×10^{5}
^{55}Fe		1000	1000	2.2×10^{3}
^{59}Fe		10	10	4.9×10^{4}
^{67}Ga	Gallium (31)	100	100	6.0×10^{5}
^{68}Ga		20	20	4.0×10^{7}
^{72}Ga		7	7	3.1×10^{5}
^{153}Gd	Gadolinium (64)	200	100	3.6×10^{3}
^{159}Gd		300	20	1.1×10^{5}
^{68}Ge	Germanium (32)	20	10	7.0×10^{3}
^{71}Ge		1000	1000	1.6×10^{5}
^{3}H	Hydrogen (1) see T-Tritium			
^{181}Hf	Hafnium (72)	30	25	1.6×10^{4}
^{197m}Hg	Mercury (80)	200	200	6.6×10^{5}
^{197}Hg		200	200	2.5×10^{5}
^{203}Hg		80	25	1.4×10^{4}
^{166}Ho	Holmium (67)	30	30	6.9×10^{5}
^{123}I	Iodine (53)	50	50	1.9×10^{6}
^{125}I		1000	70	1.7×10^{4}
^{126}I		40	10	7.8×10^{4}
^{129}I		1000	2	1.6×10^{-4}
^{131}I		40	10	1.2×10^{5}
^{132}I		7	7	1.1×10^{7}

TABLE A–1.—A_1 AND A_2 VALUES FOR RADIONUCLIDES—Continued

(See footnotes at end of table)

Symbol of radionuclide	Element and atomic number	A_1(Ci)	A_2(Ci)	Specific activity (Ci/g)
^{133}I		30	10	1.1×10^{4}
^{134}I		8	8	2.7×10^{7}
^{135}I		10	10	3.5×10^{6}
^{111}In	Indium (49)	30	25	4.2×10^{5}
^{113m}In		60	60	1.6×10^{7}
^{114m}In		30	20	2.3×10^{4}
^{115m}In		100	20	6.1×10^{5}
^{190}Ir	Iridium (77)	10	10	6.2×10^{4}
^{192}Ir		20	10	9.1×10^{3}
^{194}Ir		10	10	8.5×10^{5}
^{42}K	Potassium (19)	10	10	6.0×10^{6}
^{43}K		20	10	3.3×10^{6}
^{85m}Kr (uncompressed)*	Krypton (36)	100	100	8.4×10^{5}
^{85m}Kr (compressed)*		3	3	8.4×10^{6}
^{85}Kr (uncompressed)*		1000	1000	4.0×10^{2}
^{85}Kr (compressed)*		5	5	4.0×10^{2}
^{87}Kr (uncompressed)*		20	20	2.8×10^{7}
^{87}Kr (compressed)*		0.6	0.6	2.8×10^{7}
^{140}La	Lanthanum (57)	30	30	5.6×10^{5}
LSA	Low specific activity material—see § 71.4			
^{177}Lu	Lutetium (71)	300	25	1.1×10^{5}
MFP	Mixed fission products	10	0.4	
^{28}Mg	Magnesium (12)	6	6	5.2×10^{6}
^{52}Mn	Manganese (25)	5	5	4.4×10^{5}
^{54}Mn		20	20	8.3×10^{3}
^{56}Mn		5	5	2.2×10^{7}
^{99}Mo	Molybdenum (42)	100	20	4.7×10^{5}
^{13}N	Nitrogen (7)	20	10	1.5×10^{9}
^{22}Na	Sodium (11)	8	8	6.3×10^{5}
^{24}Na		5	5	8.7×10^{6}
^{93m}Nb	Niobium (41)	1000	200	1.1×10^{5}
^{95}Nb		20	20	3.9×10^{4}
^{97}Nb		20	20	2.6×10^{7}
^{147}Nd	Neodymium (60)	100	20	8.0×10^{4}
^{149}Nd		30	20	1.1×10^{7}
^{59}Ni	Nickel (28)	1000	900	8.1×10^{-3}
^{63}Ni		1000	100	4.6×10
^{65}Ni		10	10	1.9×10^{7}
^{237}Np	Neptunium (93)	5	0.005	6.9×10^{-4}
^{239}Np		200	25	2.3×10^{5}
^{185}Os	Osmium (76)	20	20	7.3×10^{3}
^{191}Os		600	200	4.6×10^{4}
^{191m}Os		200	200	1.2×10^{5}
^{193}Os		100	20	5.3×10^{5}
^{32}P	Phosphorus (15)	30	30	2.9×10^{5}
^{230}Pa	Protactinium (91)	20	0.8	3.2×10^{4}
^{231}Pa		2	0.002	4.5×10^{-3}
^{233}Pa		100	100	2.1×10^{5}
^{201}Pb	Lead (82)	20	20	1.7×10^{5}
^{210}Pb		100	0.2	8.8×10
^{212}Pb		6	5	1.4×10^{6}
^{103}Pd	Palladium (46)	1000	700	7.5×10^{4}
^{109}Pd		100	20	2.1×10^{5}
^{147}Pm	Promethium (61)	1000	25	9.4×10^{5}
^{149}Pm		100	20	4.2×10^{5}
^{210}Po	Polonium (84)	200	0.2	4.5×10^{5}
^{142}Pr	Praseodymium (59)	10	10	1.2×10^{4}
^{143}Pr		300	20	6.6×10^{4}
^{191}Pt	Platinum (78)	100	100	2.3×10^{5}
^{193m}Pt		200	200	2.0×10^{5}
^{197m}Pt		300	20	1.2×10^{7}
^{197}Pt		300	20	8.8×10^{5}
^{238}Pu	Plutonium (94)	3	0.003	1.7×10
^{239}Pu		2	0.002	6.2×10^{-3}
^{240}Pu		2	0.002	2.3×10^{-1}
^{241}Pu		1000	0.1	1.1×10^{3}
^{242}Pu		3	0.003	3.9×10^{-3}
^{223}Ra	Radium (88)	50	0.2	5.0×10^{4}

TABLE A–1.—A_1 AND A_2 VALUES FOR RADIONUCLIDES—Continued

(See footnotes at end of table)

Symbol of radionuclide	Element and atomic number	A_1(Ci)	A_2(Ci)	Specific activity (Ci/g)
^{224}Ra		6	0.5	1.6×10^{3}
^{226}Ra		10	0.05	1.0
^{228}Ra		10	0.05	2.3×10^{3}
^{81}Rb	Rubidium (37)	30	25	6.2×10^{3}
^{86}Rb		30	30	8.1×10^{4}
^{87}Rb		Unlimited.	Unlimited.	6.6×10^{-8}
Re (natural)		Unlimited.	Unlimited.	1.8×10^{-8}
^{186}Re	Rhenium (75)	100	20	1.9×10^{3}
^{187}Re		Unlimited.	Unlimited.	3.8×10^{-8}
^{188}Re		10	10	1.0×10^{4}
Re (natural)		Unlimited.	Unlimited.	2.4×10^{-8}
^{103m}Rh	Rhodium (45)	1000	1000	3.2×10^{7}
^{105}Rh		200	25	8.2×10^{5}
^{222}Rn	Radon (86)	10	2	1.5×10^{5}
^{97}Ru	Ruthenium (44)	80	80	5.5×10^{5}
^{103}Ru		30	25	3.2×10^{4}
^{105}Ru		20	20	6.6×10^{5}
^{106}Ru		10	7	3.4×10^{3}
^{35}S	Sulphur (16)	1000	60	4.3×10^{4}
^{122}Sb	Antimony (51)	30	30	3.9×10^{5}
^{124}Sb		5	5	1.8×10^{4}
^{125}Sb		40	25	1.4×10^{3}
^{46}Sc	Scandium (21)	8	8	3.4×10^{4}
^{47}Sc		200	20	8.2×10^{5}
^{48}Sc		5	5	1.5×10^{6}
^{75}Se	Selenium (34)	40	40	1.4×10^{4}
^{31}Si	Silicon (14)	100	20	3.9×10^{7}
^{147}Sm	Samarium (62)	Unlimited.	Unlimited.	2.0×10^{-8}
^{151}Sm		1000	90	2.6×10
^{153}Sm		300	20	4.4×10^{5}
^{113}Sn	Tin (50)	60	60	1.0×10^{4}
^{119m}Sn		100	100	4.4×10^{3}
^{125}Sn		10	10	1.1×10^{5}
^{85m}Sr	Strontium (38)	80	80	3.2×10^{7}
^{85}Sr		30	30	2.4×10^{4}
^{87m}Sr		50	50	1.2×10^{7}
^{89}Sr		100	10	2.9×10^{4}
^{90}Sr		10	0.4	1.5×10^{2}
^{91}Sr		10	10	3.6×10^{4}
^{92}Sr		10	10	1.3×10^{7}
T (uncompressed)*	Tritium (1)	1000	1000	9.7×10^{3}
T (compressed)*		1000	1000	9.7×10^{3}
T (activated luminous paint)		1000	1000	9.7×10^{3}
T (adsorbed on solid carrier)		1000	1000	9.7×10^{3}
T (tritiated water)		1000	1000	9.7×10^{3}
T (other forms)		20	20	9.7×10^{3}
^{182}Ta	Tantalum (73)	20	20	6.2×10^{3}
^{160}Tb	Terbium (65)	20	10	1.1×10^{4}
^{96m}Tc	Technetium (43)	1000	1000	3.8×10^{7}
^{96}Tc		6	6	3.2×10^{3}
^{97m}Tc		1000	200	1.5×10^{4}
^{97}Tc		1000	400	1.4×10^{-3}
^{99m}Tc		100	100	5.2×10^{6}
^{99}Tc		1000	25	1.7×10^{-3}
^{125m}Te	Tellurium (52)	1000	100	1.8×10^{4}
^{127M}Te		300	20	4.0×10^{4}
^{127}Te		300	20	2.6×10^{6}
^{129M}Te		30	10	2.5×10^{4}
^{129}Te		100	20	2.0×10^{7}
^{131m}Te		10	10	8.0×10^{5}
^{132}Te		7	7	3.1×10^{5}
^{227}Th	Thorium (90)	200	0.2	3.2×10^{4}
^{228}Th		6	0.006	8.3×10^{2}
^{230}Th		3	0.003	1.9×10^{-3}
^{231}Th		1000	25	5.3×10^{5}
^{232}Th		Unlimited.	Unlimited.	1.1×10^{-7}
^{234}Th		10	10	2.3×10^{4}
Th (natural)		Unlimited.	Unlimited.	2.2×10^{-7}

TABLE A–1.—A_1 AND A_2 VALUES FOR RADIONUCLIDES—Continued

(See footnotes at end of table)

Symbol of radionuclide	Element and atomic number	A_1(Ci)	A_2(Ci)	Specific activity (Ci/g)
Th (irradiated)**				
^{200}Tl	Thallium (81)	20	20	5.6×10^{5}
^{201}Tl		200	200	2.2×10^{4}
^{202}Tl		40	40	5.4×10^{4}
^{204}Tl		300	10	4.3×10^{3}
^{170}Tm	Thulium (69)	300	10	6.0×10^{3}
^{171}Tm		1000	100	1.1×10^{3}
^{230}U	Uranium (92)	100	0.1	2.7×10^{4}
^{232}U		30	0.03	2.1×10
^{233}U		100	0.1	9.5×10^{-3}
^{234}U		100	0.1	6.2×10^{-3}
^{235}U		100	0.2	2.1×10^{-6}
^{236}U		200	0.2	6.3×10^{-3}
^{238}U		Unlimited.	Unlimited.	3.3×10^{-7}
U (natural)		Unlimited.	Unlimited.	(SEE TABLE A–4)
U (enriched) <20%		Unlimited.	Unlimited.	(SEE TABLE A–4)
20% or greater		100	0.1	(SEE TABLE A–4)
U (depleted)		Unlimited.	Unlimited.	(SEE TABLE A–4)
U (irradiated)***				
^{48}V	Vanadium (23)	6	6	1.7×10^{5}
^{181}W	Tungsten (74)	200	100	5.0×10^{3}
^{185}W		1000	25	9.7×10^{-3}
^{187}W		40	20	7.0×10^{4}
^{127}Xe (uncompressed)*	Xenon (54)	70	70	2.8×10^{4}
^{127}Xe (compressed)*		5	5	2.8×10^{4}
^{131m}Xe (compressed)*		10	10	1.0×10^{3}
^{131m}Xe (uncompressed)*		100	100	1.0×10^{5}
^{133}Xe (uncompressed)*		1000	1000	1.9×10^{5}
^{133}Xe (compressed)*		5	5	1.9×10^{5}
^{135}Xe (uncompressed)*		70	70	2.5×10^{5}
^{135}Xe (compressed)*		2	2	2.5×10^{5}
^{87}Y	Yttrium (39)	20	20	4.5×10
^{90}Y		10	10	2.5×10^{3}
^{91m}Y		30	30	4.1×10^{7}
^{91}Y		30	30	2.5×10^{4}
^{92}Y		10	10	9.5×10^{5}
^{93}Y		10	10	3.2×10^{6}
^{169}Yb	Ytterbium (70)	80	80	2.3×10^{5}
^{175}Yb		400	25	1.8×10^{3}
^{65}Zn	Zinc (30)	30	30	8.0×10^{3}
^{69m}Zn		40	20	3.3×10^{6}
^{69}Zn		300	20	5.3×10^{7}
^{93}Zr	Zirconium (40)	1000	200	3.5×10^{-3}
^{95}Zr		20	20	2.1×10^{4}
^{97}Zr		20	20	2.0×10^{6}

* For the purpose of Table A–1, compressed gas means a gas at a pressure which exceeds the ambient atmospheric pressure at the location where the containment system was closed.

** The values of A_1 and A_2 must be calculated in accordance with the procedure specified in Appendix A, paragraph II(3), taking into account the activity of the fission products and of the uranium–233 in addition to that of the thorium.

*** The values of A_1 and A_2 must be calculated in accordance with the procedure specified in Appendix A, paragraph II(3), taking into account the activity of the fission products and plutonium isotopes in addition to that of the uranium.

TABLE A–4.—ACTIVITY-MASS RELATIONSHIPS FOR URANIUM/THORIUM

Thorium and uranium enrichment[1] wt % ^{235}U present	Specific activity Ci/g	Specific activity g/Ci
0.46	5.0×10^{-7}	2.0×10^{6}
0.72 (natural)	7.06×10^{-7}	1.42×10^{6}
1.0	7.6×10^{-7}	1.3×10^{6}
1.5	1.0×10^{-6}	1.0×10^{6}
5.0	2.7×10^{-6}	3.7×10^{5}
10.0	4.8×10^{-6}	2.1×10^{5}

TABLE A–4.—ACTIVITY-MASS RELATIONSHIPS FOR URANIUM/THORIUM—Continued

Thorium and uranium enrichment[1] wt % ^{235}U present	Specific activity Ci/g	Specific activity g/Ci
20.0	1.0×10^{-5}	1.0×10^{5}
35.0	2.0×10^{-5}	5.0×10^{4}
50.0	2.5×10^{-5}	4.0×10^{4}
90.0	5.8×10^{-5}	1.7×10^{4}
93.0	7.0×10^{-5}	1.4×10^{4}
95.0	9.1×10^{-5}	1.1×10^{4}

TABLE A–4.—ACTIVITY-MASS RELATIONSHIPS FOR URANIUM/THORIUM—Continued

Thorium and uranium enrichment[1] wt % ^{235}U present	Specific activity Ci/g	Specific activity g/Ci
Natural Thorium	2.2×10^{-7}	4.6×10^{6}

[1] The figures for uranium include representative values for the activity of the uranium-234 which is concentrated during the enrichment process. The activity for Thorium includes the equilibrium concentration of Thorium-228.

[FR Doc. 83–23122 Filed 8–23–83; 8:45 am]

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S–A24080 0008(00)(23–AUG–83–12:45:53)

DEPOSITORY INSTITUTIONS DEREGULATION COMMITTEE

12 CFR Part 1204

[Docket No. 0031]

Removal of Interest Rate Ceilings on Time Deposits

AGENCY: Depository Institutions Deregulation Committee.

ACTION: Final rule.

SUMMARY: Effective October 1, 1983, the Depository Institutions Deregulation Committee ("Committee") has:

(1) Eliminated all interest rate ceilings (a) on all time deposits with original maturities or required notice periods of more than 31 days, and (b) on time deposits of $2,500 or more with original maturities or required notice periods of seven to 31 days;

(2) Eliminated other regulations on time deposits *except for:* (a) The minimum early withdrawal penalties; (b) a minimum denomination of $2,500 for ceiling-free time deposits with original maturities or required notice periods of seven to 31 days; (c) the current ceiling on time deposits of less than $2,500 with original maturities or required notice periods of seven to 31 days; and (d) the rules of the agencies requiring a one percentage point differential between a loan rate and the rate on a time deposit securing a loan; and

(3) Established the following new minimum early withdrawal penalties: (a) For time deposits with original maturities or required notice periods of 32 days to one year, loss of one month's simple interest; and (b) for time deposits with original maturities or required notice periods of more than one year, loss of three months' simple interest. (The current penalty for the seven to 31 day account set forth at 12 CFR 1204.121 remains unchanged and applies to all time deposits with original maturities or required notice periods of seven to 31 days).

The new regulations apply only to accounts opened, renewed or extended on or after October 1, 1983. These regulations do not affect any accounts that have not matured prior to that date. The Committee's actions were taken to provide depository institutions with more flexibility in managing their asset-liability structures.

EFFECTIVE DATE: October 1, 1983. Certain conforming amendments to the Committee's rules will be effective January 1, 1984.

FOR FURTHER INFORMATION CONTACT: Paul S. Pilecki, Senior Counsel, Board of Governors of the Federal Reserve System (202/452–3281); Alan Priest, Attorney, Office of the Comptroller of the Currency (202/447–1880); Jules Bernard, Senior Attorney, F. Douglas Birdzell, Counsel, Federal Deposit Insurance Corporation (202/389–4147); Robert H. Ledig, Attorney, Federal Home Loan Bank Board (202/377–7057); or Betty A. Whelchel, Attorney-Advisor, Treasury Department (202/566–8737).

SUPPLEMENTARY INFORMATION: The Depository Institutions Deregulation Act of 1980 (Title II of Pub. L. No. 96–221, 12 U.S.C. 3501, *et seq.*) ("DIDA") was enacted to provide for the orderly phaseout, and the ultimate elimination of, ceilings on the maximum rates of interest and dividends that may be paid on deposit accounts. Under the DIDA, the Committee is authorized to phase out interest rate ceilings by one or more of the methods specified in the Act, including the complete elimination of ceilings applicable to particular categories of accounts.

The Committee had adopted a deregulation schedule (12 CFR 1204.119) that provides for the gradual removal of interest rate ceilings beginning with longer term accounts. Under this plan, there are no ceilings on time deposits with original maturities of 2½ years or more issued on or after April 1, 1983. Ceilings were scheduled to be removed on accounts with maturities or required notice periods of 1½ years or more on April 1, 1984; of 6 months or more on April 1, 1985; and of 14 days or more on March 31, 1986.

Subsequent events, however, have brought into question the need to continue the deregulation process in accordance with the Committee's deregulation schedule. In the Garn-St Germain Depository Institutions Act of 1982 (Pub. L. 97–320), Congress provided for both (1) the elimination of the interest rate differentials for all categories of insured accounts on or before January 1, 1984, and (2) the establishment of the ceiling-free money market deposit account ("MMDA") no later than December 14, 1982. Given these statutory mandates for the accelerated elimination of the differential and the establishment of the MMDA, the Committee began to question whether ceilings on time deposits are still necessary. Also, the authorization of the MMDA, and later the ceiling-free NOW account, created an anomalous situation where ceilings had been eliminated on highly liquid short-term accounts and on longer-term certificates of deposit, but not on the intermediate accounts. Depository institutions consequently began to find it difficult to balance properly their asset-liability structures.

The Committee, given the circumstances, decided at its December 6, 1982 meeting to seek public comment on eliminating the remaining ceilings and on several methods for accelerating the deregulation of time deposits. It received approximately 365 comments on those proposals. Over half of the commenters expressed the view that further deregulation should be postponed because more time was needed for depository institutions to absorb the changes that were taking place as a result of the MMDA and the ceiling-free NOW account. Many of the respondents commented that the Committee should abide by the schedule that was put in place in April 1982. The most typical response was that the Committee was issuing too many new regulations too fast, and that it was hard for the industry to keep up with all the DIDC changes, especially when there was short lead time to prepare for the changes. Commenters pointed out that it took time to teach employees about the accounts so they could explain the new rules to the customers, as well as make necessary data processing changes.

Over 40 percent of the commenters, however, indicated support for some form of accelerated deregulation. These commenters pointed out that depositors did not have the opportunity to invest in competitive, insured accounts with maturities between six and 30 months. In addition, these commenters indicated that deregulation of all accounts would allow depository institutions to price their deposits in a way that would attract funds in the maturity categories that best match the maturities of their loans and investments.

At its March 1, 1983 meeting, the Committee voted to table discussion of this issue and all the other agenda items until the June meeting. In part, that decision reflected the fact that the then prevailing deregulation schedule called for the minimum maturity of the long-term, ceiling-free account to be reduced on April 1, 1983, from 3½ years to 2½ years and the minimum maturity on the indexed small savers certificate to be reduced from 30 months to 18 months. Although institutions had known of these changes for over a year and had time to plan for them, the changes were significant and the Committee believed that institutions should be given additional time to adjust to them before further changes were made. Moreover,

depository institutions were in the process of adjusting to the recently authorized MMDA and the ceiling-free NOW account.

At its June 30, 1983 meeting, the Committee determined that depository institutions had had sufficient time to adjust to past changes in account structures and to prepare for the complete elimination of all ceilings on accounts. Therefore, it decided, effective October 1, 1983, to eliminate virtually all interest rate ceilings and other regulations governing time deposits except for (1) required early withdrawal penalties; (2) the $2,500 minimum denomination on the ceiling-free, seven to 31-day account; and (3) the rules of the agencies requiring a one percentage point differential between a loan rate and the rate on a time deposit securing a loan.

Thus, regulations such as those requiring that time deposits of 1½ years or more be made available in denominations of $500 or more, or those restricting the negotiability of the seven to 31 day account, have been eliminated with respect to accounts established on or after October 1, 1983. The new interest rate ceiling structure will be as follows:

INTEREST RATE CEILING STRUCTURE
EFFECTIVE OCT. 1, 1983

Account	Required minimum deposit	Interest rate ceiling	
		Commercial banks	Savings and loan associations and savings banks
NOW Accounts	$0 to $2,499	5¼ percent.	5¼ percent.
Ceiling-free NOW accounts.	$2,500	None	None.
Passbook savings	None	5¼ percent.	5¼ percent.
MMDA	$2,500	None	None.
Time deposits of 7–31 days [1].	$0 to $2,499.	5¼ percent.	5¼ percent.
Time deposits of 7–31 days.	$2,500	None	None.
All time deposits of more than 31 days.	None	None	None.

[1] The agencies advise that depository institutions may continue to issue to governmental units time deposits of less than $2500 with maturities or required notice periods of seven to 31 days, subject to the current ceiling of eight percent in effect for such deposits.

Since a minimum denomination of $2,500 will still be required on ceiling-free, seven to 31-day accounts, all regulations designed to uphold that requirement will remain in effect with respect to seven to 31-day accounts. Consequently, the restrictions on loans, additional deposits, and automatic transfers to other accounts set forth in § 1204.121 (b), (d), and (e) will still apply to such accounts. In addition, since interest ceilings remain in effect for NOW accounts and passbook accounts of less than $2,500, restrictions concerning withdrawals from seven to 31-day time deposits in Section 1204.121(f) will remain in effect.

Similarly, since ceilings will remain in effect with respect to time deposits of less than $2,500 with original maturities or required notice periods of seven to 31 days, all regulations designed to enforce ceilings shall remain in effect with respect to such accounts. Consequently, rules pertaining to premiums, finders' fees, prepayment of interest, and payment of interest in merchandise will still apply to those seven to 31-day accounts of less than $2,500.

The Committee also established the following new minimum early withdrawal penalties: (1) For accounts with original maturities or required notice periods of 32 days to one year, loss of one month's simple interest; and (2) for accounts with original maturities or required notice periods of more than one year, loss of three months' simple interest. It later clarified its action with respect to the seven to 31-day account by a notation vote, retaining the existing penalty and applying it to all time deposits of seven to 31 days. This penalty provides for the forfeiture of the greater of (1) all interest earned on the amount withdrawn from the most recent of the date of deposit, date of maturity, or date on which notice was given, or (2) all interest that could have been earned on the amount withdrawn during a period equal to one-half the maturity period or the required notice period.

Depository institutions are to invade the principal of the account, if necessary, to impose the early withdrawal penalty. To calculate the interest rate to be used in assessing the penalty on floating rate or variable rate time deposits, depository institutions should continue, after October 1, 1983, to use the procedures already established for such calculations, which are described in Appendix A.

The new minimum early withdrawal penalty will apply to all time deposit contracts entered into, renewed, or extended on or after October 1, 1983. Any time deposit issued before October 1, 1983, that is not renewed or extended on or after that date, will be subject to the early withdrawal penalty in effect at the time that the account was issued, renewed, or extended, whichever is later.

Since early withdrawal penalties continue to apply to time deposits, all regulations designed to enforce the penalties remain in effect. Consequently, any amendment of a time deposit that results in a reduction in the maturity of a deposit will continue to constitute the payment of a time deposit prior to maturity, requiring the imposition of the early withdrawal penalty. Also, certain grace periods during which an automatically renewed time deposit may be paid without the imposition of the penalty still will be permitted. Finally, all disclosure and advertising rules concerning early withdrawal penalties will remain in effect.

The new minimum early withdrawal penalty will be more severe than existing penalties under limited circumstances. For example, the current minimum early withdrawal penalty for 91-day, $2,500 time deposits is equal only to all interest earned on the amount withdrawn. The new minimum early withdrawal penalty on those 91-day instruments that are renewed or extended on or after October 1, 1983, will be more severe during the first 31 days of the accounts, since the minimum penalty on the 91-day account is the loss of at least one month's simple interest.

All accounts that were issued with fixed maturities prior to October 1, 1983, that are renewed or extended on or after that date, will be subject to, and must be modified to reflect, the new early withdrawal penalties. With regard, however, to accounts that are subject only to required notice before withdrawal and which, because of their notice feature, may not actually be renewed or extended on or after October 1, 1983, depository institutions may elect either (1) to continue to apply the early withdrawal penalty established by the regulations applicable to the account prior to October 1, 1983; or (2) to modify the accounts to incorporate the new minimum early withdrawal penalties.

Both the early withdrawal penalties for time deposits and the $2,500 minimum denomination on the ceiling-free, seven to 31-day account were retained to prevent an accelerated outflow from passbook savings accounts. In addition, the early withdrawal penalty was believed to be desirable to protect depository institutions that invest in long-term assets on the planning presumption that the deposits will be maintained until maturity.

The new regulations effectively will eliminate all regulatory distinctions, other than the early withdrawal penalties, among those accounts established or renewed on or after October 1, 1983, that either (1) have original maturities of more than 31 days, or (2) are of $2,500 or more and have original maturities of 31 days or less. Thus, the Committee's action simplifies

the current account structure and is intended to give depository institutions the flexibility to manage their liabilities in such a way as to attract deposits in maturities that match their asset maturities. In this context, it should be noted that the regulations establish the *minimum* early withdrawal penalties and requirements applicable to accounts. Depository institutions may establish stricter early withdrawal penalties, if they so desire. Similarly, depository institutions may limit the interest they pay on both ceiling-free accounts and accounts subject to ceilings, so long as the rate of interest paid in the latter case is less than the rate established by regulation. The regulations governing time deposits issued before October 1, 1983, passbook savings accounts, money market deposit accounts, and NOW accounts are not affected by the Committee's action.

The Committee, as is required by the Regulatory Flexibility Act (5 U.S.C. 603, *et seq.),* considered the potential effect on small entities of removing interest rate ceilings and regulations on time deposits with original maturities or required notice periods of more than 31 days and time deposits of $2,500 or more with original maturities or required notice periods of 31 days or less. The Committee's action in this regard will not impose any new reporting or record-keeping requirements. Small entities which are depositors should benefit generally from the Committee's proposal, since they will have a wider selection of instruments that will pay a market rate of return. Small entities which are depository institutions also should benefit generally from the Committee's proposal, since they will be better able to properly balance their asset-liability structures. If, however, low-yielding deposits shift into the Ceiling-free accounts as a result of the Committee's action, small entities which are depository institutions may experience increased costs. The staff study, however, concluded that any shift of low-yielding deposits into the ceiling-free accounts due to the Committee's action is likely to be minimal, most such transfers having taken place upon the authorization of the money market deposit account and the ceiling-free NOW account. The Committee further imposed a $2,500 minimum on ceiling-free accounts with original maturities or required notice periods of less than 31 days to discourage sudden shifts from low-yielding short-term deposits to ceiling-free accounts.

List of Subjects in 12 CFR Part 1204

Banks, banking.

PART 1204—[AMENDED]

Pursuant to its authority under Title II of Pub. L. 96–221 (94 Stat. 142; 12 U.S.C. Sec. 3501, *et seq.*) to prescribe rules governing the payment of interest and dividends on deposits and accounts of federally insured commercial banks, savings and loan associations, and savings banks, the Committee amends Part 1204—Interest on Deposits, as follows:

1. Effective October 1, 1983, by adding a new § 1204.123 to read as follows:

§ 1204.123 Payment of interest on time deposits issued on or after October 1, 1983.

(a) Notwithstanding any other provision of Part 1204, a commercial bank, savings bank or savings and loan association may pay interest at any rate agreed to by the depositor any time deposit issued, renewed, or extended on or after October 1, 1983, that either (1) is in an amount of $2,500 or more, or (2) has an original maturity or required notice period prior to withdrawal of more than 31 days.

(b) An institution may permit additional deposits to be made to any time deposit issued pursuant to this section at any time prior to its maturity without extending the maturity of all or a portion of the entire balance in the account.

2. Effective October 1, 1983, by designating § 1204.103 as paragraph (a), by adding a new sentence at the beginning thereof, and by adding new paragraphs (b), (c), and (d) to read as follows:

§ 1204.103 Penalty for early withdrawals.

(a) The following minimum early withdrawal penalties apply only to time deposit contracts entered into, renewed, or extended between June 2, 1980, and September 30, 1983, and that have not been renewed or extended on or after October 1, 1983. * * *

(b) The following minimum early withdrawal penalties shall apply to time deposit contracts entered into, renewed or extended on or after October 1, 1983:

(1) Where a time deposit with an original maturity or required notice period of seven to 31 days, or any portion thereof, is paid before maturity, a depositor shall forfeit an amount equal to the greater of (i) all interest earned on the amount withdrawn from the most recent of the date of deposit, date of maturity, or date on which notice was given, or (ii) all interest that could have been earned on the amount withdrawn during a period equal to one-half the maturity period or the required notice period.

(2) Where a time deposit with an original maturity or required notice period of 32 days to one year, or any portion thereof, is paid before maturity, a depositor shall forfeit an amount at least equal to one month's interest earned, or that could have been earned, on the amount withdrawn at the nominal (simple) interest rate being paid on the deposit, regardless of the length of time the funds withdrawn have remained on deposit.

(3) Where a time deposit with an original maturity or required notice period of more than one year, or any portion thereof, is paid before maturity, the depositor shall forfeit an amount at least equal to three months' interest earned, or that could have been earned, on the amount withdrawn at the nominal (simple) interest rate being paid on the deposit, regardless of the length of time the funds withdrawn have remained on deposit.

(c) Notwithstanding paragraph (a) of this section, where a time deposit of $2,500 to less than $100,000, with an original maturity of 91 days, that has been issued, renewed or extended before October 1, 1983, but not renewed or extended on or after that date, is paid before maturity, a depositor shall forfeit an amount equal to at least all interest earned on the amount withdrawn.

(d) Notwithstanding paragraph (a) of this section, where a nonnegotiable time deposit of $2,500 or more, with an original maturity or required notice period of seven to 31 days, that has been issued renewed or extended before October 1, 1983, but not renewed or extended on or after that date, is paid before maturity, the depositor shall forfeit an amount equal to at least the greater of—

(i) All interest earned on the amount withdrawn from the most recent of the date of deposit, date of maturity, or date on which notice was given, or

(ii) All interest that could have been earned on the amount withdrawn during a period equal to one-half the maturity period or required notice period.

§ 1204.121 [Amended]

3. Effective October 1, 1983, § 1204.121 is amended as follows:

a. By designating the name of the section to be "seven to 31-day time deposits";

b. By removing the word "nonnegotiable" from paragraph (a) thereof;

c. By revising paragraph (c) to read as follows:

* * * * *

(c) Section 102 of this part shall not apply to time deposits issued under this section. Where all or any part of a time deposit issued under this section is withdrawn within one business day after the maturity date of the deposit or the date of expiration of notice of withdrawal, no early withdrawal penalty is required to be applied on the amount withdrawn.

§§ 1204.104–1204.106, 1204.112, 1204.114, 1204.116, 1204.118–1204.120 [Removed]

4. Effective October 1, 1983, the following sections of Part 1204 are removed: §§ 1204.104, 1204.105, 1204.106, 1204.112, 1204.114, 1204.116, 1204.118, 1204.119, and 1204.120.

§1204.103 [Amended]

5. Effective January 1, 1984, paragraphs (c) and (d) of § 1204.103 are removed.

By order of the committee, August 18, 1983.

Mark G. Bender,

Executive Secretary.

Appendix A—Calculating the Early Withdrawal Penalty for Floating Rate Time Deposits

Note.—The following Appendix will not appear in the Code of Federal Regulations.

If an interest rate on a time deposit is tied to an index that is beyond the depository institution's control (*e.g.*, Treasury security rate, commercial paper rate, Federal funds rate, Federal Reserve discount rate) for the entire term of the deposit, the institution may base the simple interest rate, for purposes of calculating the minimum early withdrawal penalty, on the rate in effect on the date the account was opened, or on the date of withdrawal, or on an average of the rates in effect during the term of the deposit. The institution must specify, however, whether it will use the initial interest rate, the rate on the date of withdrawal, or the average rate. If the interest rate on a time deposit is not tied to an index, but instead varies in a precise way over the term of the deposit, or the relationship of the rate changes in regard to the index (*e.g.*, the commercial paper rate minus 50 basis points for the first six months of the instrument and the commercial paper rate minus 100 basis points thereafter), then the depository institution must compute the minimum early withdrawal penalty using the average of the simple interest rates on the deposit during the time period that the deposit was outstanding.

If the interest rate is established at regular intervals and remains in effect for regular periods (*e.g.*, the rate is established once a month and remains in effect for one month), the depository institution must calculate the average simple interest rate by taking the sum of the rates established at each interval while the funds were on deposit, divided by the number of periods the funds were on deposit. Each partial period will be considered a full period for the purpose of this calculation.

If the length of the periods for which rates are effective varies, the depository institution must calculate the average simple interest rate by dividing the amount of time a deposit was outstanding into equal periods and then adding the rates that were in effect during those periods and dividing by the number of periods. The period used should be the shortest period for which a rate was in effect. For example, a time deposit might have the following rates in effect for the following periods at the time a depositor wished to withdraw the funds:

6 months (percent)	15
1½ years (percent)	16
1 year (percent)	14

The total amount of time the deposit was outstanding was 3 years (6 months + 1½ years + 1 year). This 3-year period would then be divided into 6 periods of 6 months each. Then the rates in effect for each period would be:

1st six month period (percent)	15
2nd six month period (percent)	16
3rd six month period (percent)	16
4th six month period (percent)	16
5th six month period (percent)	14
6th six month period (percent)	14

To calculate the average simple interest rate, the rate in effect during each period would be added together—

15+16+16+16+14+14=91

The resulting sum would then be divided by the number of periods—91 divided by 6—to yield an average simple interest rate of 15.17 percent.

Lump sum payments of cash that would be regarded as interest (see 12 CFR 1204.109 and 12 CFR 1204.111), must be taken into account in computing the penalty rate. Any lump-sum payment must be prorated over the life of the deposit. The portion that is attributed to the time period during which the deposit was outstanding must be regarded as interest for purposes of computing the penalty rate. The portion attributable to the remaining life of the deposit is regarded as unearned interest and must be deducted from the principal amount of the deposit and returned to the institution.

[FR Doc. 83-23117 Filed 8-23-83; 8:45 am]

BILLING CODE 4810-25-M

CIVIL AERONAUTICS BOARD

14 CFR Part 291

[Reg. ER-1358, Economic Regulation Amdt. No. 13, Docket 41148]

Domestic Cargo Transportation; Exemption for All-Cargo Carriers

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB exempts domestic all-cargo carriers and the Department of Defense from a statutory prohibition against their entering into contracts with each other for cargo transportation. This rulemaking is intended to increase competition and cargo capability for defense cargo transportation.

DATES:

Effective: September 23, 1983.

Adopted: August 10, 1983.

FOR FURTHER INFORMATION CONTACT: Joseph A. Brooks, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202–673–5442.

SUPPLEMENTARY INFORMATION: By a notice of proposed rulemaking (EDR–451, 48 FR 30, January 3, 1983), the Board proposed to exempt carriers certificated under section 418 of the Federal Aviation Act and the Department of Defense (DOD) from a restriction in section 401(o) of that Act. The exemption would allow DOD to contract with section 418 carriers for cargo transportation. No comments were filed in response to EDR–451. The Board has decided to adopt the rule as proposed.

Section 401(o) of the Act provides that only carriers certificated under section 401 can contract with DOD for long-term service (more than 30 days). DOD can contract with other carriers if it finds no section 401 carriers are available. Carriers certificated under section 418 (domestic all-cargo service) are thus prevented from providing long-term service to DOD except by *ad hoc* exemption by the Board. The Board has recently granted several exemptions for that purpose (*e.g.*, Order 82–9–5, dated September 2, 1982; Order 82–1–16, dated October 7, 1982). This rule makes further *ad hoc* exemptions unnecessary.

Section 401(o) was added to the Act in 1976 when section 401 was the only provision under which carriers could be certificated. Section 418 was added in 1977 to provide expanded, unrestricted domestic all-cargo service. There is no indication that Congress wanted to prohibit newly certificated carriers from providing contract service to DOD, since it directed that the Board act quickly on

section 401 applications to provide service to DOD. Nor is there any indication that Congress intended to prevent carriers certificated under section 418 from providing DOD service. Further, the fitness criteria for awarding certificates under both sections 401 and 418 are the same. There is thus no reason to prevent section 418 carriers from providing service to DOD or to require them to seek exemptions for each contract.

This rule grants an exemption under 14 CFR Part 291 for those carriers and for DOD to enable them to enter into contracts for long-term cargo service. The exemption will increase competition for DOD contracts, consistent with the policy of the Act, and will relieve a burden on these carriers by eliminating the need to apply for individual exemptions. The Board finds that it is consistent with the public interest to grant that exemption to the extent consistent with the carriers' operating authority.

Final Regulatory Flexibility Analysis

The discussion above is the Board's final regulatory flexibility analysis of the rule under the Regulatory Flexibility Act (5 U.S.C. 604). Copies of this document can be obtained from the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428, 202–673–5432, by referring to the "ER" number at the top of the document.

List of Subjects in 14 CFR Part 291

Air carriers, Antitrust, Freight, Insurance, Reporting and recordkeeping requirements.

PART 291—[AMENDED]

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 291, *Domestic Cargo Transportation*, as follows:

1. The authority for Part 291 is:

Authority: Secs. 102, 204, 401, 407, 408, 416, and 418, Pub. L. 85–726, as amended, 72 Stat. 740, 743, 754, 766, 767, 771; 91 Stat. 1284; 49 U.S.C. 1302, 1324, 1371, 1377, 1378, 1386, and 1388.

2. A new paragraph (c) is added to § 291.31 to read:

§ 291.31 Exemptions from the Act for direct air carriers.

* * * * *

(c) Each direct air carrier providing domestic cargo transportation under section 418 of the Act is exempted from the provisions of section 401(o)(1) of the Act to the extent necessary to permit it to compete for and operate domestic cargo charters for the Department of Defense under contracts of more than 30 days' duration.

3. A new paragraph (c) is added to § 291.32 to read:

§ 291.32 Exemptions from the Act for persons other than direct air carriers.

* * * * *

(c) The Department of Defense is exempted from section 401(o) of the Act to the extent necessary to permit it to negotiate and enter into contracts of more than 30 days' duration with any section 418 carrier for operation of domestic cargo charters.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83–22257 Filed 8–23–83; 8:45 am]

BILLING CODE 6320–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 430, 436, and 442

[Docket No. 83N–0251]

Antibiotic Drugs; Sterile Cefuroxime Sodium

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the antibiotic drug regulations to provide for the inclusion of accepted standards for a new antibiotic drug, sterile cefuroxime sodium. The manufacturer has supplied sufficient data and information to establish its safety and efficacy.

DATES: Effective August 24, 1983; comments, notice of participation, and request for hearing by September 23, 1983; data, information, and analyses to justify a hearing by October 24, 1983.

ADDRESS: Written comments to the Docket Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joan M. Eckert, National Center for Drugs and Biologics (HFN–140), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4290.

SUPPLEMENTARY INFORMATION: FDA has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357), as amended, with respect to a request for approval of a new antibiotic drug, sterile cefuroxime sodium. The agency has concluded that the data supplied by the manufacturer concerning this antibiotic drug are adequate to establish its safety and efficacy when used as directed in the labeling and that the regulations should be amended in Parts 430, 436, and 442, (21 Parts 430, 436, and 442) to provide for the inclusion of accepted standards for the product.

The agency has determined pursuant to 21 CFR 25.24(b)(22) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects

21 CFR Part 430

Administrative practice and procedure, Antibiotics.

21 CFR Part 436

Antibiotics.

21 CFR Part 442

Antibiotics, Cepha.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 507, 701 (f) and (g), 52 Stat. 1055–1058 as amended, 59 Stat. 463 as amended (21 U.S.C. 357, 371 (f) and (g))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Parts 430, 436, and 442 are amended as follows:

PART 430—ANTIBIOTIC DRUGS; GENERAL

1. Part 430 is amended:

a. In § 430.5 by adding new paragraphs (a)(78) and (b)(78) to read as follows:

§ 430.5 Definitions of master and working standards.

(a) * * *

(78) *Cefuroxime.* The term "cefuroxime master standard" means a specific lot of cefuroxime that is designated by the Commissioner as the standard of comparison in determining the potency of the cefuroxime working standard.

(b) * * *

(78) *Cefuroxime.* The term "cefuroxime working standard" means a specific lot of a homogeneous preparation of cefuroxime.

b. In § 430.6 by adding new paragraph (b)(60) to read as follows:

§ 430.6 Definitions of the terms "unit" and "microgram" as applied to antibiotic substances.

* * * * *

(b) * * *

(80) *Cefuroxime.* The term "microgram" applied to cefuroxime means the cefuroxime activity (potency) contained in 1.0893 micrograms of the cefuroxime master standard.

PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

2. Part 436 is amended:

a. By adding new § 436.343 to read as follows:

§ 436.343 High-pressure liquid chromatographic assay for cefuroxime.

(a) *Equipment.* A suitable high-pressure liquid chromatograph equipped with:

(1) A low dead volume cell 8 to 20 microliters;

(2) A light path length of 1 centimeter;

(3) A suitable ultraviolet detection system operating at a wavelength of 254 nanometers;

(4) A suitable recorder of at least 25.4 centimeter deflection;

(5) A suitable integrator; and

(6) A 15-centimeter column having an inside diameter of 4.6 millimeters and packed with hexyl silane chemically bonded to porous silica or ceramic microparticles, 5 micrometers in diameter.

(b) *Reagents.*—(1) *Acetate buffer, pH 3.4.* Place 50 milliliters of 0.1*M* sodium acetate into a 1,000-milliliter volumetric flask and dilute to volume with 0.1*M* acetic acid. Mix.

(2) *Mobile phase.* Mix 0.1*M* acetate buffer, pH 304:acetonitrile (10:1). Filter the mobile phase through a suitable glass fiber filter or equivalent that is capable of removing particulate contamination to 1 micron in diameter. Degas the mobile phase just prior to its introduction into the chromatograph pumping system.

(3) *Internal standard solution.* Prepare a 1.5 milligram per milliliter solution of orcinol monohydrate in water.

(c) *Operating conditions.* Perform the assay at ambient temperature with a typical flow rate of 2.0 milliliters per minute. Use a detector sensitivity setting that gives a peak height for the working standard that is at least 50 percent of scale.

(d) *Preparation of working standard and sample solutions*—(1) *Preparation of working standard solution.* Dissolve an accurately weighed portion of the cefuroxime working standard with sufficient distilled water to obtain a stock solution containing 1.0 milligram of cefuroxime per milliliter. Immediately transfer 5.0 milliliters of the stock solution to a 100-milliliter volumetric flask, add 20.0 milliliters of internal standard solution and dilute to 100 milliliters with distilled water and mix. Store the solution in a refrigerator and use within 6 hours.

(2) *Preparation of sample solutions*—(i) *Product not packaged for dispensing (micrograms of cefuroxime per milligram).* Dissolve an accurately weighed portion of the sample with sufficient distilled water to obtain a stock solution containing 1.0 milligram of cefuroxime per milliliter. Immediately transfer 5.0 milliliters of the stock solution to a 100-milliliter volumetric flask, add 20.0 milliliters of internal standard solution and dilute to 100 milliliters with distilled water and mix. Store the solution in a refrigerator and use within 6 hours. Using this sample solution, proceed as directed in paragraph (e) of this section.

(ii) *Product packaged for dispensing.* Determine both micrograms of cefuroxime per milligram of the sample and milligrams of cefuroxime per container. Use separate containers for preparation of each sample solution as described in paragraph (d)(2)(ii) (*a*) and (*b*) of this section.

(*a*) *Micrograms of cefuroxime per milligram.* Dissolve an accurately weighed portion of the sample with sufficient distilled water to obtain a stock solution containing 1.0 milligram of cefuroxime per milliliter. Immediately transfer 5.0 milliliters of the stock solution to a 100-milliliter volumetric flask, add 20.0 milliliters of internal standard solution and dilute to 100 milliliters with distilled water and mix. Store the solution in a refrigerator and use within 6 hours. Using this sample solution, proceed as directed in paragraph (e) of this section.

(*b*) *Milligrams of cefuroxime per container.* Reconstitute the sample as directed in the labeling. Then using a suitable hypodermic needle and syringe, remove all of the withdrawable contents if it is represented as a single-dose container; or, if the labeling specifies the amount of potency in a given volume of the resultant preparation, remove an accurately measured representative portion from each container. Dilute the solution thus obtained with distilled water to obtain a stock solution of 1.0 milligram per milliliter. Immediately transfer 5.0 milliliters of the stock solution to a 100-milliliter volumetric flask, add 20.0 milliliters of internal standard solution and dilute to 100 milliliters with distilled water and mix. Store the solution in a refrigerator and use within 6 hours. Using this sample solution, proceed as directed in paragraph (e) of this section.

(e) *Procedure.* Using the equipment, reagents, and operating conditions as listed in paragraphs (a), (b), and (c) of this section, inject 10 microliters of the working standard solution into the chromatograph. Allow an elution time sufficient to obtain satisfactory separation of the expected components. After separation of the working standard solution has been completed, inject 10 microliters of the sample solution prepared as described in paragraph (d)(2)(i) of this section into the chromatograph and repeat the procedure described for the working standard solution. If the sample is packaged for dispensing, repeat the procedure for each sample solution prepared as described in paragraph (d)(2)(ii)(*a*) and (d)(2)(ii)(*b*) of this section.

(f) *Calculations*—(1) Calculate the micrograms of cefuroxime per milligram of sample as follows:

$$\text{Micrograms of cefuroxime per milligram} = \frac{R_u \times P_s \times 100}{R_s \times C_u \times (100-m)}$$

where:

R_u = Area of the cefuroxime peak in the chromatogram of the sample (at a retention time equal to that observed for the standard)/Area of internal standard peak;

R_s = Area of the cefuroxime peak in the chromatogram of the cefuroxime working standard/Area of internal standard peak;

P_s = Cefuroxime activity in the cefuroxime working standard solution in micrograms per milliliter;

C_u = Milligrams of sample per milliliter of sample solution; and

m = Percent moisture content of the sample.

(2) Calculate the cefuroxime content of the vial as follows:

$$\text{Milligrams of cefuroxime per vial} = \frac{R_u \times P_s \times d}{R_s \times 1{,}000}$$

where:
R_u = Area of the cefuroxime peak in the chromatogram of the sample (at a retention time equal to that observed for the standard)/Area of internal standard peak;
R_s = Area of the cefuroxime peak in the chromatogram of the cefuroxime working standard/Area of internal standard peak;
P_s = Cefuroxime activity in the cefuroxime working standard solution in micrograms per milliliter; and
d = Dilution factor of the sample.

b. By adding new § 436.344 to read as follows:

§ 436.344 Thin layer chromatographic identity test for cefuroxime.

(a) *Equipment*—(1) *Chromatography tank.* Use a rectangular tank approximately 23×23×9 centimeters, with a glass solvent trough on the bottom and a tight-fitting cover. Line the inside walls of the tank with Whatman #3MM chromatographic paper or equivalent.

(2) *Plates.* Use 20 × 20 centimeter thin layer chromatography plates coated with Silica Gel F or equivalent to a thickness of 250 microns.

(b) *Developing solvent.* Mix chloroform, methanol, and formic acid in volumetric proportions of 90:16:4, respectively.

(c) *Preparation of the spotting solutions.* Dissolve approximately 200 milligrams each of the working standard and sample in 5 milliliters of a 50 percent aqueous acetone solution.

(d) *Procedure.* Pour the developing solvent into the glass trough at the bottom of the chromatography tank. Cover and seal the tank. Allow it to equilibrate for 1 hour. Prepare a plate as follows: On a line 2 centimeters from the base of the plate, and at intervals of 2 centimeters, spot 5 microliters each of the sample and working standard solutions. After all spots are thoroughly dry, place the plate directly into the glass trough of the chromatography tank. Cover and seal the tank tightly. Allow the solvent front to travel a minimum of 15 centimeters from the starting line. Remove the plate from the tank and allow it to air dry. Observe under ultraviolet light (254 nanometers).

(e) *Evaluation.* Measure the distance the solvent front traveled from the starting line and the distance the spots are from the starting line. Calculate the R_f value by dividing the latter by the former. The sample and standard should have spots of corresponding R_f values.

PART 442—CEPHA ANTIBIOTIC DRUGS

3. Part 442 is amended:

a. By adding new § 442.18a to read as follows:

§ 442.18a Sterile cefuroxime sodium.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Cefuroxime sodium is the sodium salt of (6*R*, 7*R*)-3-carbamoyloxymethyl-7-[(2*Z*)-2-(2-furyl)-2-methoxyiminoacetamido] cepha-3-em-4-carboxylic acid. It is so purified and dried that:

(i) If the cefuroxime is not packaged for dispensing, its cefuroxime content is not less than 855 micrograms and not more than 1,000 micrograms of cefuroxime per milligram on an anhydrous basis. If the cefuroxime is packaged for dispensing, its cefuroxime content is not less than 855 micrograms and not more than 1,000 micrograms of cefuroxime per milligram on an anhydrous basis and also, each container contains not less than 90 percent and not more than 120 percent of the number of milligrams of cefuroxime that it is represented to contain.

(ii) It is sterile.

(iii) It is nonpyrogenic.

(iv) Its moisture content is not more than 3.5 percent.

(v) Its pH in an aqueous solution is not less than 6.0 and not more than 8.5.

(vi) It gives a positive identity test.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for cefuroxime content, sterility, pyrogens, moisture, pH, and identity.

(ii) Samples, if required by the Director, National Center for Drugs and Biologics:

(*a*) If the batch is packaged for repacking or for use as an ingredient in the manufacture of another drug:

(*1*) For all tests except sterility: 10 packages, each containing approximately 1 gram.

(*2*) For sterility testing: 20 packages, each containing approximately 1 gram.

(*b*) If the batch is packaged for dispensing:

(*1*) For all tests except sterility: A minimum of 10 immediate containers.

(*2*) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay*—(1) *Cefuroxime content.* Proceed as directed in § 436.343 of this chapter.

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e)(1) of that section.

(3) *Pyrogens.* Proceed as directed in § 436.32(b) of this chapter, using a solution containing 50 milligrams of cefuroxime per milliliter.

(4) *Moisture.* Proceed as directed in § 436.201 of this chapter, using the titration procedure described in paragraph (e)(1) of that section.

(5) *pH.* Proceed as directed in § 436.202 of this chapter, using an aqueous solution containing 100 milligrams per milliliter.

(6) *Identity.* From the high-pressure liquid chromatograms of the sample and the cefuroxime working standard determined as directed in paragraph (b)(1) of this section, calculate the adjusted retention times of the cefuroxime in the sample and standard solutions as follows:

$$\text{Adjusted retention time of cefuroxime} = t - t_o$$

where:
t = Retention time measured from point of injection into the chromatograph until the maximum of the cefuroxime sample or working standard peak appears on the chromatogram; and
t_o = Retention time measured from point of injection into the chromatograph until the maximum of nonretarded solute appears in the chromatogram.

The sample and the cefuroxime working standard should have corresponding adjusted cefuroxime retention times.

b. By adding new § 442.218 to read as follows:

§ 442.218 Sterile cefuroxime sodium.

The requirements for certification and the tests and methods of assay for sterile cefuroxime sodium packaged for dispensing are described in § 442.18a.

This regulation announces standards that FDA has accepted in a request for approval of an antibiotic drug. Because this regulation is not controversial and because when effective it provides notice of accepted standards, notice and comment procedure and delayed effective date are found to be unnecessary and not in the public interest The amendment, therefore, is effective August 24, 1983. Interested persons may, however, on or before September 23, 1983, submit written

comments to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may file objections to it and request a hearing. Reasonable grounds for the hearing must be shown. Any person who decides to seek a hearing must file (1) on or before September 23, 1983, a written notice of participation and request for hearing, and (2) on or before October 24, 1983, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 430.20. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing. All submissions must be filed in three copies, identified with the docket number appearing in the heading of this order and filed with the Dockets Management Branch.

The procedures and requirements governing this order, a notice of participation and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and grant or denial of a hearing are contained in 21 CFR 430.20.

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Dockets Management Branch [address above] between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. August 24, 1983.

(Secs. 507, 701 (f) and (g), 52 Stat. 1055–1056 as amended, 59 Stat. 463 as amended (21 U.S.C. 357, 371 (f) and (g)))

Dated: August 17, 1983.

James C. Morrison,

Assistant Director for Regulatory Affairs.

[FR Doc. 83-23205 Filed 8-23-83; 8:45 am]
BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[T.D. TF-143; Ref: Notice No. 451]

Establishment of York Mountain Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms; Treasury.

ACTION: Final rule, Treasury decision.

SUMMARY: This final rule establishes a viticultural area in San Luis Obispo County, California, to be known as "York Mountain." The Bureau of Alcohol, Tobacco and Firearms (ATF) believes the establishment of "York Mountain" as a viticultural area and subsequent use as an appellation of origin on wine labels and in wine advertisements will allow wineries to better designate the specific grape-growing area where their wines come from and will enable consumers to better identify the wines they may purchase.

EFFECTIVE DATE: September 23, 1983.

FOR FURTHER INFORMATION CONTACT: James A. Hunt, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226, (202) 566-7626.

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF-53 (43 FR 37672, 54624) revising regulations in 27 CFR Part 4 allowing the establishment of definite viticultural areas. These regulations also allow the name of an approved viticultural area to be used as an appellation of origin in wine labeling and advertising.

Section 9.11, Title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical characteristics. Section 4.25a(e)(2) outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area.

York Mountain Winery in San Luis Obispo County, California, petitioned ATF to establish a viticultural area to be known as "York Mountain." In response to the petition, ATF published a notice of proposed rulemaking, Notice No. 451, in the **Federal Register** on February 9, 1983 (48 FR 5956), proposing the establishment of York Mountain as a viticultural area. The petitioner's comment in favor of the viticultural area and their request to make a minor change in the boundary line was the only comment received.

Historical Evidence of the Name

The petitioner stated that the name "York Mountain" is well known in the area because of the mountain named York. The winery is located at the base of York Mountain. The winery and vineyards were established in 1882 by the York family who owned the property until 1970. The U.S.G.S. map submitted by the petitioner is entitled "York Mountain Quadrangle."

Geographical Features

York Mountain viticultural area is distinguished from surrounding areas suitable for growing grapes by:

(1) Being closer to the Pacific Ocean (7 miles) therefore receiving more of a cooling fog influence;

(2) The elevation being higher (up to 1500 feet on the slopes of the Santa Lucia Mountain Range);

(3) The rainfall averages 45 inches per year which is about double the amount of surrounding areas; and

(4) A classification of Region I as compared to Regions III and IV for nearby areas.

Change in the Boundary

The petitioner requested the viticultural area be reduced by about 640 acres on the eastern boundary. It was found that this 640 acres more closely approximates the Region III classification of the proposed Paso Robles viticultural area. The York Mountain viticultural area is considered a cool climate Region I grape-growing area. By putting the 640 acres in the proposed Paso Robles viticultural area, the boundary between the two viticultural areas is more geographically distinguishable than before. This final rule accepts the request to reduce the York Mountain viticultural area size and the description of the boundaries in 27 CFR 9.80 reflect the change.

Miscellaneous

ATF does not wish to give the impression by approving York Mountain as a viticultural area that it is approving or endorsing the quality of the wine from this area. ATF is approving this area as being distinct and not better than other areas. By approving the area, wine producers are allowed to claim a distinction on labels and advertisements

as to the origin of the grapes. Any commercial advantage gained can only come from consumer acceptance of York Mountain wines.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to a regulatory flexibility analysis (5 U.S.C. 604) are not applicable to this final rule because it will not have a significant economic impact on a substantial number of small entities. The final rule is not expected to have significant secondary or incidental effects on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of Section 3 of the Regulatory Enforcement Act (5 U.S.C. 605(b)), that this final rule will not have a significant economic impact on a substantial number of small entities.

Executive Order 12291

In compliance with Executive Order 12291, ATF has determined that this final rule is not a "major rule" since it will not result in—

(a) An annual effect on the economy of $100 million or more;

(b) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(c) Significant adverse effects on competition, employment, investment, productivity, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96–511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this final rule because no requirement to collect information is imposed.

Disclosure

A copy of the petition and the comments received are available for inspection during normal business hours at the following location: ATF Reading Room, Rm. 4407, Office of Public Affairs and Disclosure, 12th and Pennsylvania Avenue NW., Washington, DC.

List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Viticultural areas, Consumer protection, Wine.

Drafting Information

The principal author of this document is James A. Hunt, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority

Accordingly, under the authority contained in Section 5 of the Federal Alcohol Administration Act (45 Stat. 981, as amended; 27 U.S.C. 205), 27 CFR Part 9 is amended as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The table of sections in 27 CFR Part 9, Subpart C, is amended to include the title of § 9.80 as follows:

* * * * *

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.80 York Mountain.

Par. 2. Subpart C is amended by adding § 9.80 to read as follows:

§ 9.80 York Mountain.

(a) *Name.* The name of the viticultural area described in this section is "York Mountain."

(b) *Approved map.* The approved map for the York Mountain viticultural area is the U.S.G.S. map entitled "York Mountain Quadrangle," 7.5 minute series (topographic), 1979.

(c) *Boundaries.* The York Mountain viticultural area is located in San Luis Obispo County, California. The boundaries are as follows:

(1) From the beginning point at the northwest corner of the York Mountain Quadrangle map where the Dover Canyon Jeep Trail and Dover Canyon Road intersect, proceed east along Dover Canyon Road 1.5 miles to the western boundary line of Rancho Paso de Robles;

(2) Follow the western boundary line of Rancho Paso de Robles southwest 6.0 miles to where the boundary joins Santa Rita Creek;

(3) Turn right at Santa Rita Creek and follow the creek 5 miles to where the waters of Dover Canyon and Santa Rita Creek meet; and

(4) Then proceed north along Dover Canyon Creek across State Highway 46 back to the point of beginning.

Signed: August 3, 1983.

Stephen E. Higgins,

Director.

Approved: August 8, 1983.

David Q. Bates,

Deputy Assistant Secretary, Operations.

[FR Doc. 83-23235 Filed 8-23-83; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

Kentucky Abandoned Mine Land Reclamation Program Amendment

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: On December 8, 1982, the State of Kentucky submitted to OSM a proposed amendment to its Abandoned Mine Land Reclamation (AMLR) Plan. After opportunity for public comment and review of the amendment, the Assistant Secretary for Energy and Minerals of the Department of the Interior has determined that the Kentucky amendment meets the requirements of the Surface Mining Control and Reclamation Act (SMCRA) and the Secretary's regulations (30 CFR Chapter VII, Subchapter R, 47 FR 28574–28604, June 30, 1982). Accordingly, the Assistant Secretary has approved the Kentucky amendment.

EFFECTIVE DATE: The rule is effective September 23, 1983.

ADDRESSES: Copies of the full text of the proposed amendment are available for review during regular business hours at the following locations:

Kentucky Department of Natural Resources and Environmental Protection, Frankfort, Kentucky 40601

Office of Surface Mining, Lexington Field Office, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504

Office of Surface Mining Reclamation and Enforcement, Administrative Record Rm. 5315, 1100 L Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Charles V. Smith, Program Manager, Division of Abandoned Mine Lands, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue, N.W., Washington, D.C. 20240, Telephone (202) 343–7921.

SUPPLEMENTARY INFORMATION: Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*, establishes an abandoned mine land reclamation program for the purposes of reclaiming and restoring lands and water resources adversely affected by past mining. This program is funded by a reclamation fee imposed upon the production of coal. Lands and water eligible for reclamation are those that

were mined or affected by mining and abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there is no continuing reclamation responsibility under State or Federal Law. Title IV provides that a State with an approved AMLR program has the responsibility and primary authority to implement an abandoned mine land reclamation program.

The Kentucky AMLR Plan was approved on May 18, 1982. On December 8, 1982, Kentucky submitted a proposed amendment to the Plan. An approved State AMLR Plan can be amended under the provisions of 30 CFR 884.15. Under these provisions, if the amendment or revision changes the objectives, scope, or major policies followed by the State in the conduct of its reclamation program, the Director of the Office of Surface Mining should follow the procedures set out in 30 CFR 884.14 in approving an amendment or revision of a State reclamation plan. The Director has followed these procedures and recommended to the Assistant Secretary on July 22, 1983, that the Kentucky amendment be approved.

OSM published a notice of proposed rulemaking on the Kentucky amendment and requested public comment on March 31, 1983 (48 FR 13441). No public comments were received. The State of Kentucky determined that a public hearing on the proposed amendment was not required.

To codify information which applies to individual States under SMCRA, including decisions on State reclamation plans and amendments, OSM has established a new Subchapter T of 30 CFR Chapter VII. Subchapter T consists of Parts 900 through 953. Provisions relating to Kentucky are found in 30 CFR Part 917.

The Kentucky AMLR plan amendment clarifies 30 CFR 884.13(c)(5) that deals with reclamation on private lands and 30 CFR 884.13(c)(6) that deals with rights of entry to private lands for reclamation purposes.

The principal topics covered under 30 CFR 884.13(c)(5) amendment include liens, waiver of liens, levy of liens, satisfaction of liens and appraisals on private lands. Under 30 CFR 884.13(c)(6) the principal topics covered include Kentucky policy on right of entry on private land, determinating land ownership, obtaining consent for entry on private land and appropriate action when entry is refused.

The subjects, reclamation on private lands and rights of entry to private lands, are covered in Chapters 7 and 8 of the approved plan, respectively.

Assistant Secretary's Findings

In accordance with Section 405 of SMCRA, the Assistant Secretary finds that Kentucky has submitted an amendment to its Abandoned Mine Land Reclamation Plan and has determined, pursuant to 30 CFR 884.15, that:

1. The public has been given adequate notice and opportunity to comment, and the record does not reflect major unresolved controversies.
2. Views of other Federal agencies have been solicited and considered.
3. The State has the legal authority, policies and administrative structure to carry out the amendment.
4. The amendment meets all requirements of the OSM, AMLR Program provisions.
5. The State has an approved Surface Mining Regulatory Program.
6. The amendment is in compliance with all applicable State and Federal laws and regulations.

Additional Findings

The Office of Surface Mining has examined this proposed rulemaking under Section 1(b) of Executive Order No. 12291 (February 17, 1981) and has determined that, based on available quantitative data, it does not constitute a major rule. The reasons underlying this determination are as follows:

1. Approval will not have an effect on costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; and
2. Approval will not have adverse effects on competition, employment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rulemaking has been examined pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, and the Office of Surface Mining has determined that the rule will not have significant economic effects on a substantial number of small entities. The reason for this determination is that approval will not have demographic effects, direct costs, information collection and record keeping requirements, indirect costs, nonquantifiable costs, competitive effects, enforcement costs or aggregate effects on small entities.

Further, the Office of Surface Mining has determined that the Kentucky amendment does not have a significant effect on the quality of the human environment because the decision relates only to the policies, procedures and organization of the State's Abandoned Mine Land Reclamation Program. Therefore, under the Department of the Interior Manual DM 5162.3(A)(1), the Assistant Secretary's decision on the Kentucky amendment is categorically excluded from the National Environmental Policy Act requirements.

As a result, no environmental assessment (EA) nor environmental impact statement (EIS) has been prepared on this action. It should be noted that a programmatic EIS was prepared by OSM in conjunction with the implementation of Title IV. Moreover, an EA or an EIS will be prepared for the approval of grants for the abandoned mine land reclamation projects under 30 CFR Part 886.

List of Subjects in 30 CFR Part 917

Coal mining, Intergovernmental regulations, Surface mining, Underground mining.

(Pub. L. 95-87, 304 U.S.C. 1201, et seq.)

Dated: July 22, 1983.

J. R. Harris,

Director, Office of Surface Mining.

Dated August 16, 1983.

William P. Pendley,

Deputy Assistant Secretary for Energy and Minerals.

PART 917—KENTUCKY

Therefore, Part 917 is amended by adding § 917.21 to read as follows:

§ 917.21 Amendment to approved Kentucky abandoned mine land reclamation plan.

The Kentucky Amendment, as submitted on December 8, 1982, is approved. Copies of the approved amendment are available at:

Kentucky Department of Natural Resources and Environmental Protection, Frankfort, Ky. 40601

Office of Surface Mining, Lexington Field Office, 340 Legion Drive, Suite 28, Lexington, Ky. 40504

Office of Surface Mining Reclamation and Enforcement, Administrative Record, Rm. 5315, 1100 L Street NW., Washington, D.C. 20240.

[FR Doc. 83-23204 Filed 8-23-83; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-3-FRL 2420-1]

Approval and Promulgation of Implementation Plans; Approval of Revisions of the Maryland State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA announces approval of a revision to the Maryland State Implementation Plan (SIP). This action is based on the State's request to approve the revision which meets the requirements of the Clean Air Act. The revision is a modification of a previously issued Secretarial Order defining the terms under which a municipal incinerator may be constructed in a nonattainment area.

EFFECTIVE DATE: This action will be effective October 24, 1983, unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of the revision and accompanying documents are available for inspection during normal business hours at the following offices:

U.S. Environmental Protection Agency, Region III, Air Management Branch, Curtis Building, Sixth & Walnut Streets, Philadelphia, PA 19106, Attn: James B. Topsale, P.E.

Maryland Department of Health & Mental Hygiene, Air Management Administration, 201 W. Preston Street, Baltimore, Maryland 21201, Attn: George P. Ferreri

Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460

The Office of the Federal Register, 1100 L Street, N.W., Room 8401, Washington, D.C. 20408

All comments should be directed to: James E. Sydnor, Chief, MD/VA/DC/DE Section (3AW13), Air Management Branch, U.S. Environmental Protection Agency, Curtis Building, Sixth & Walnut Streets, Philadelphia, PA 19106, Attn: AW045MD.

FOR FURTHER INFORMATION CONTACT: Mr. James B. Topsale, P.E. (3AW13), U.S. Environmental Protection Agency, Region III, Sixth & Walnut Streets, Philadelphia, Pennsylvania 19106, telephone 215/597-9377.

SUPPLEMENTARY INFORMATION: On December 22, 1981, the State of Maryland submitted to EPA a Secretarial Order regarding the proposed construction of the Southwest municipal incinerator in Baltimore City. The construction permit was approved as a State Implementation Plan (SIP) revision by EPA in the July 7, 1982 **Federal Register** (40 FR 29531) and codified at 40 CFR 52.1070(c)(65).

On March 29, 1983, EPA received a proposed revision to the Maryland SIP in the form of a modification to the November 20, 1981 Secretarial Order for the Northeast Maryland Waste Disposal Authority (the "Authority") resource recovery facility (the "Southwest municipal incinerator").

The Authority has selected Wheelabrator—Frye Inc. (the "Company") to construct, own, and operate the incinerator. According to the terms and conditions of the 1981 Secretarial Order, an emission offset would be acquired and maintained which would be equal to at least 110 percent of the emissions from the proposed incinerator. The Authority negotiated with the City of Baltimore for an emission offset to be obtained from the closing of the Baltimore City Pyrolysis Plant and the Pennington Avenue Landfill (the "Landfill"). The City owns a portion of the land on which the Landfill is located. BEDCO Development Corporation ("BDC") owns the remaining portion of the land and leases that portion to the City.

The November 20, 1981 Secretarial Order indicates that the State will take action to curtail or to terminate operations at the incinerator, should the Landfill be reopened as a landfill or otherwise operated as a source of particulate emissions. The revised February 25, 1983 Secretarial Order includes legally binding assurances from the City and BDC that the landfill will be permanently closed on or before September 1, 1983.

Also, no later than September 1, 1983, the City will relinquish all permits relating to the operaton of the Landfill as a landfill or as a source of particulate emissions. The City further agrees not to undertake efforts to obtain new or additional permits relating to the Landfill unless the State, the Authority, and the Company agree that a reduction in emissions from the Landfill is no longer required to offset emissions from the incinerator.

The City and BDC acknowledge that each intends to be legally bound by the agreements of the Secretarial Order and consents to the State taking any and all legal action necessary to enforce the Order.

The result of these additions is to change the primary enforcement mechanism to insure that the incinerator's emissions do not exceed the available offset. If the Landfill recommences operation, the State can now proceed directly against the City and BDC to require closure of the Landfill and maintenance of the offset. No direct action will be taken against the Facility. All other terms and conditions of the November 20, 1981 Secretarial Order remain unchanged.

Notice of Public Hearing

The State informed EPA that a public hearing was held in Baltimore on February 25, 1983, as required by 40 CFR 51.4.

EPA Evaluation/Action

EPA has reviewed the State's submittal and concludes that the terms and conditions of the November 20, 1981 and February 25, 1983 Secretarial Orders, regarding the Southwest municipal incinerator, meet all of the applicable SIP requirements as discussed at 40 FR 29531.

Therefore, EPA approves the February 25, 1983 Secretarial Order from the State of Maryland as a revision of the Maryland SIP. Accordingly, this notice amends 40 CFR 52.1070 (Identification of Plan), Subpart V (Maryland), to incorporate the submitted material into the approved Maryland SIP.

The public is advised that this action will become effective 60 days from the publication date of this notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and another notice will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under 5 U.S.C. 605(b), I have certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 24, 1983. This action may not be challenged late in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Dated: August 17, 1983.

William D. Ruckelshaus,

Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the State of Maryland was approved by the Director of the Federal Register on July 1, 1982.

PART 52—[AMENDED]

Title 40, Part 52, Subpart V of the Code of Federal Regulations is amended as follows:

Subpart V—Maryland

Section 52.1070 is amended by adding paragraph (c)(70) to read as follows:

§ 52.1070 Identification of plan.

* * * * *

(c) * * *

(70) A modified Secretarial Order stating the terms under which a construction permit for a new source in a nonattainment area will be issued to Wheelabrator-Frye, Inc. who will construct, own, and operate a municipal incinerator; submitted on March 17, 1983 by the Director, Maryland Air Management Administration, Department of Health and Mental Hygiene.

(42 U.S.C. 7401)

[FR Doc. 83-23070 Filed 8-23-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[A-6-FRL 2420-7]

Approval and Promulgation of Revisions to the New Mexico State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: This action approves a revision to the New Mexico State Implementation Plan (SIP) which was submitted by the New Mexico Environmental Improvement Division on December 20, 1979. This revision, entitled "Public Information and Participation Program" was submitted to fulfill the requirements of Section 127 of the Clean Air Act Amendments of 1977 (CAA) concerning public notification.

EFFECTIVE DATE: This rulemaking will be effective on October 24, 1983 unless notice is received within 30 days that someone wishes to submit adverse or critical comments or request a public hearing on the subject revision.

ADDRESSES: Written comments on this action should be addressed to Randy Brown of the EPA Region 6 Air Branch (address below). Copies of the State's submittal may be examined during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region 6, Air Branch, 1201 Elm Street, Dallas, Texas 75270

U.S. Environmental Protection Agency, Public Information Reference Unit, 401 M Street SW., Room 2922, Washington, D.C. 20460

The Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Randy Brown, State Implementation Plan Section, Air and Waste Management Division, U.S. EPA, Region 6, 1201 Elm Street, Dallas, Texas 75270, (214) 767-1518.

SUPPLEMENTARY INFORMATION: On December 20, 1979, the New Mexico Environmental Improvement Division submitted a minor revision to the New Mexico SIP in fulfillment of Section 127 of the Clean Air Act Amendments of 1977 (CAA). Section 127 requires each State to incorporate in its SIP provisions for notifying the public during any calendar year of instances or areas in which any national primary ambient air quality standard is exceeded or was exceeded during any portion of the preceding calendar year. Notification is to also advise the public of health hazards associated with such pollution; enhance public awareness of measures which can be taken to prevent such standards from being exceeded; and to advise the public of ways in which they can participate in regulatory and other efforts to improve air quality.

EPA has reviewed the State's submittal and developed an Evaluation Report [1] which describes the 1977 requirements and evaluates the State's efforts to satisfy the requirements. This report is available for review during normal business hours at the addresses listed above.

The State of New Mexico has agreed to perform the public notification requirements of Section 127 of the CAA and has developed formal information procedures in an effort to insure public awareness of the air quality in the State. The program delineates the manner in which the public will be: (1) Informed when national ambient air quality standards are exceeded; (2) provided with information related to control measures that may help to curb air pollution; (3) provided with information about health hazards associated with air pollutants; and (4) afford the opportunity to participate in air quality related activities, such as public meetings and hearings.

The revision included in this approval notice is considered minor in nature and noncontroversial. EPA is approving the revision without prior proposal.

The public should be advised that this action will be effective 60 days from the date of this notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 24, 1983. This action may not be challenged later in proceedings to enforce its requirements.

(See 307(b)(2))

Pursuant to the provisions to 5 U.S.C. 605(b), I hereby certify that this approval will not have a significant economic impact on a substantial number of small entities. This action only approves State actions. It imposes no new requirements.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Incorporation by reference of the State Implementation Plan for the State of New Mexico was approved by the Director of the **Federal Register** on July 1, 1982.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

This notice of final rulemaking is issued under the authority of Section 110(a) and 172 of the Clean Air Act, 42 U.S.C. 7410(a) and 7520.

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[1] Evaluation Report for Revision to New Mexico "Public Information and Participation Program" November 1982.

Dated: August 10, 1983.
William D. Ruckelshaus,
Administrator.

PART 52—[AMENDED]

Part 52 of Title 40, Code of Federal Regulations is amended as follows:

Subpart GG—New Mexico

In § 52.1620, paragraph (c)(33) is added to read as follows:

§ 52.1620 [Amended]

* * * * *

(C) * * *

(33) Addition of Public Information and Participation Program, submitted by the Environmental Improvement Division on December 20, 1979.

[FR Doc. 83-23197 Filed 8-23-83; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Parts 52 and 81

[A-9-FRL 2309-8]

Designation of Areas for Air Quality Planning Purposes; Air Programs; Attainment Status Designations; Kern County, Calif.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: This notice revises the sulfur dioxide (SO_2) attainment status designation for Kern County, California. The designation is changed from nonattainment to attainment based on recent monitoring and modeling data. As a result, the requirements of Part D of the Clean Air Act no longer apply to Kern County for SO_2. Therefore, EPA is also revoking the conditions of approval established by EPA in the August 21, 1981 final rulemaking notice for Kern County's SO_2 Control Strategy.

DATE: This action is effective September 23, 1983.

FOR FURTHER INFORMATION CONTACT: Douglas Grano, Chief, State Implementation Plan Section, Air Programs Branch, Air Management Division, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105, (415) 974-7641.

SUPPLEMENTARY INFORMATION:

Background

On March 3, 1978, under Paragraph 107(d)(2) of the Clean Air Act (CAA), as amended, EPA promulgated attainment status designations for all states (43 FR 8962). In California, the San Joaquin Valley Air Basin (SJVAB) portion of Kern County was designated nonattainment and the Southeast Desert Air Basin portion was designated attainment for SO_2.

Under Paragraph 107(d)(5) of the Clean Air Act, a state may revise its designations of attainment status and submit them to EPA for consideration and promulgation. On September 24, 1979, the California Air Resources Board (ARB) requested that all of the SJVAB portion of Kern County, with the exception of the "Oildale Area" northeast of Bakersfield, be redesignated to attainment for SO_2. Following discussion of several issues with ARB, EPA published a notice of proposed rulemaking on August 19, 1980 (45 FR 55231) which proposed to revise to attainment for SO_2 all of the SJVAB portion of Kern County, except the "Midway-Sunset Area" in western Kern County and the "Oildale Area."

Public Comments

Because of the strong public interest, EPA extended the public comment period to December 1, 1980. Comments were received from the ARB, Kern County, Western Oil and Gas Association (WOGA), and TOSCO Corporation. These comments are addressed below. For further detail on the comments and EPA's evaluations please refer to EPA's technical support document, which is available at the EPA Region 9 office.

All commenters argued that the Midway-Sunset Area should be considered in attainment due to available monitoring data and since the SRI (1979) model predicted attainment. EPA agrees that the SRI study should be used rather than the SAI (1978) model (used in the proposal), since the more recent study uses more accurate assumptions. Therefore, the Midway-Sunset Area is being designated attainment based on the available monitoring and modeling data.

In addition, the commenters argued that the Oildale Area could be redesignated to attainment based on the 1979 shutdown/offset of SO_2 emissions from 62 steam generators and nearly eight quarters of violation-free monitoring data. The ARB and Kern County requested an additional 90 day extension to allow a determination of whether the eight quarters would demonstrate attainment in the Oildale Area. Subsequently, by letter of April 16, 1981 to the ARB, Kern County requested redesignation to attainment for the entire County. On September 11, 1981, ARB formally requested EPA to designate the entire County attainment for SO_2. EPA agrees that the monitoring data provide eight quarters with no violations.

However, in an October 16, 1981 letter to ARB, EPA reiterated the issue described in the August 19, 1980 proposal notice that the SRI (1979) model showed violations in the Oildale Area in places where monitors were not located. Kern County forwarded to EPA and ARB on December 8, 1981 and April 8, 1982 copies of new Getty Oil Company studies which modeled the Oildale Area to show the effect of the shutdown/offset of SO_2 emissions from the 62 steam generators. The Getty Oil Company studies used the urban and rural versions of EPA's Climatological Dispersion Model and predicted no violations of the SO_2 standard. ARB reviewed the studies and, on November 24, 1982, forwarded the rural version to EPA along with additional validation data. EPA has also reviewed the data and determined that they remove the modeling issue raised by EPA in the proposal notice. Therefore, both the monitoring and modeling data demonstrate that the Oildale Area is in attainment of the SO_2 standards.

Final Actions

As a result of the August 19, 1980 proposal notice, the comments received, and the recent monitoring and modeling data which resolve issues raised in the proposal, EPA today redesignates Kern County to attainment for SO_2. With this redesignation, the requirements of Part D of the Clean Air Act no longer apply to Kern County for SO_2. Also, the major SO_2 stationary source construction moratorium is lifted due to the change to attainment.

EPA set conditions on approval of the Kern County nonattainment area plan (NAP) for SO_2 on August 21, 1981 (46 FR 42450). Since Kern County is being redesignated to attainment for SO_2, the NAP requirements are no longer applicable. Therefore, EPA is revoking the conditions in this notice.

Administration

EPA finds that good cause (see Administrative Procedure Act, 5 U.S.C. Section 553(b)) exists for making this action effective immediately. EPA has a responsibility to take final action on this redesignation as soon as possible in order to lift the major SO_2 stationary source construction moratorium in Kern County.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by 60

days from today. This action may not be challenged later in proceedings to enforce its requirements.

List of Subjects

40 CFR Part 52

Air pollution control, Ozone, Sulfur dioxide, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Secs. 107(d), 110, 172, and 301(a), Clean Air Act, as amended (42 U.S.C. 7407(d), 7410, 7502 and 7601(a)))

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: August 10, 1983.

William D. Ruckelshaus,

Administrator.

Subpart C of Part 81 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 81—[AMENDED]

Section 81.305, California; the attainment status in the San Joaquin Valley Air Basin for SO_2 is amended to read as follows:

§ 81.305 California.

* * * * *

CALIFORNIA—SO_2

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
San Joaquin Valley Air Basin:				
Kern County				X

* * * * * * *

Subpart F of Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

Section 52.232 is amended by revising paragraph (a)(5)(i) and by removing and reserving paragraphs (a)(5)(ii)(A) and (v)(A)–(E) as follows:

§ 52.232 Part D conditional approval.

(a) * * *

* * * * *

(5) * * *

(i) For ozone, CO, and PM:

* * * * *

(ii) [Reserved]

(A) [Reserved]

* * * * *

(v) [Reserved]

(A)–(E) [Reserved]

* * * * *

[FR Doc. 83-23186 Filed 8-23-83; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6455

[W-60668]

Wyoming; Partial Revocation of Executive Order of July 13, 1910, and Secretarial Order of July 26, 1906

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes one Secretarial order and one Executive order insofar as they affect 136,359 acres of land withdrawn for coal classification purposes. The effects of this order are summarized as follows:

- 70,366 acres in private ownership (minerals and surface) would not be affected other than by record-clearing.
- 7,868 acres in an existing oil shale withdrawal would not be affected other than by record-clearing.
- 27,433 acres of unreserved public domain would be open to surface entry and nonmetalliferous mining.
- 3,840 acres in reconveyed lands (surface with private minerals) would be opened to surface entry.
- 20,027 acres in stock driveway withdrawal would be opened to nonmetalliferous mining.
- 6,825 acres in private ownership (surface with Federal minerals) would be opened to nonmetalliferous mining.

A total of 62,153 acres have been and will remain open to mineral leasing. 54,285 acres have been and will remain open to mining location.

EFFECTIVE DATE: September 22, 1983.

FOR FURTHER INFORMATION CONTACT: W. Scott Gilmer, Wyoming State Office, 307–778–2220, extension 2336.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, and pursuant to the request of the U.S. Geological Survey, it is ordered as follows:

1. The Executive Order of July 13, 1910, creating coal classification withdrawal Wyoming No. 1, is hereby revoked insofar as it affects the following described lands:

Sixth Principal Meridian, Wyoming

T. 18 N., R. 97 W.,
Sec. 4, lots 7, 8, S½NW¼, and W½SW¼;
Secs. 5 and 6;
Sec. 7, lots 1, 2, NE¼, and E½NW¼;
Sec. 8, NW¼NE¼, N½NW¼, and SW¼NW¼.
T. 19 N., R. 94 W.,
Sec. 6, lots 1 to 7, inclusive, S½NE¼, SE¼NW¼, E½SW¼, and NW¼SE¼;
Sec. 7, lots 2 to 4, inclusive, E½SW¼, and W½SE¼;
Sec. 18;
Sec. 19, lots 1 to 4, inclusive, NE¼, E½W½, and W½SE¼;
Sec. 30, lot 1.
T. 19 N., R. 95 W.,
Secs. 1 to 18 inclusive;
Sec. 19, NE¼NE¼;
Sec. 20, N½, NE¼SW¼, and SE¼;
Sec. 21;
Sec. 22, N½, and NW¼SW¼;
Secs. 23 and 24;
Sec. 25, N½NE¼, SW¼NE¼, N½NW¼, and SE¼NW¼;
Sec. 26, N½NE¼.
T. 19 N., R. 96 W.,
Secs. 1 to 20, inclusive;
Sec. 21, W½E½, and W½;
Sec. 28, NW¼NE¼, NW¼, N½SW¼, and SW¼SW¼;
Secs. 29 and 30;
Sec. 31, N½NE¼;

Sec. 32, NW¼NE¼, and N½NW¼.
T. 19 N., R. 97 W.,
Secs. 1 to 24, inclusive;
Sec. 25, N½N½;
Sec. 26, N½NE¼, and NE¼NW¼;
Sec. 28, W½;
Secs. 29 to 32, inclusive;
Sec. 33, W½.
T. 20 N., R. 92 W.,
Secs. 4 to 9, inclusive;
Secs. 16 to 21, inclusive;
Sec. 30.
T. 20 N., R. 93 W.,
Secs. 1 to 20, inclusive;
Sec. 21, N½, N½SW¼, SW¼SW¼, and SE¼;
Sec. 22;
Sec. 23, N½, N½S½, and SW¼SW¼;
Sec. 24, N½, N½SW¼; and NW¼SE¼;
Sec. 29, NW¼NE¼, and N½NW¼;
Sec. 30, lot 1, N½NE¼, and NE¼NW¼.
T. 20 N., R. 94 W.,
Secs. 1 to 24, inclusive;
Sec. 25, N½NE¼, SW¼NE¼, NW¼, and NW¼SW¼;
Sec. 26, N½, and N½S½;
Sec. 27, N½, N½SW¼, SE¼SW¼, and SE¼;
Sec. 28, N½, SW¼, and NW¼SE¼;
Secs. 29 to 31, inclusive;
Sec. 32, N½, SW¼, and NW¼SE¼.
T. 20 N., R. 95 W.
T. 20 N., R. 96 W.

The areas described aggregate 136,279.48 acres in Sweetwater County and are included in Coal Classification Order No. 153.

2. The Secretarial Order of July 26, 1906, which withdrew certain lands for coal classification purposes, is hereby revoked insofar as it affects the following described lands:

Sixth Principal Meridian, Wyoming

T. 46 N., R. 99 W.,
Sec. 23, SE¼SE¼;
Sec. 36, NW¼NW¼.

The area described contains 80 acres in Hot Springs County, and is included in Coal Classification Order No. 154.

3. At 7:45 a.m. on September 22, 1983, the following public lands, as also described in paragraph 1, shall be opened to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 7:45 a.m. on September 22, 1983, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

T. 20 N., R. 92 W.,
Secs. 6, 16, 20, and 30.
T. 20 N., R. 93 W.,
Secs. 2, 4, 6, 20, and 22;
Sec. 24, N½, N½SW¼, and NW¼SE¼;
Sec. 30, lot 1, N½NE¼, and NE¼NW¼.
T. 20 N., R. 94 W.,
Secs. 6, 16, 18, 22, 24, and 30.
T. 19 N., R. 95 W.,
Secs. 2, and 16.
T. 20 N., R. 95 W.,
Secs. 2, 4, 10, 12, 14, 16, 22, 24, 26, 28, and 30.
T. 19 N., R. 96 W.,
Secs. 10, 12, 16, and 18.
T. 20 N., R. 96 W.,
Secs. 4, 6, 8, 10, 18, 20, 22, 28, and 30.
T. 18 N., R. 97 W.,
Sec. 4, lots 7, 8, S½NW¼, and W½SW¼;
Sec. 8, NW¼NE¼, N½NW¼, and SW¼NW¼.
T. 19 N., R. 97 W.,
Secs. 2, 4, 6, 8, 10, 18, 20, and 24;
Sec. 26, N½NE¼, and NE¼NW¼.

The area described contains 31,273.38 acres in Sweetwater County, Wyoming.

4. At 7:45 a.m. on September 22, 1983, the following public lands, as also described in paragraph 1, shall be opened to nonmetalliferous mineral location. Appropriation of lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Sec. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts. The lands have been and will remain open to metalliferous mineral location.

T. 20 N., R. 92 W.,
Secs. 4, 6, 8, 18, 20, and 30.
T. 20 N., R. 93 W.,
Secs. 2, 4, 6, 8, 10, 12, 14, 18, 20, and 22;
Sec. 24, N½, N½SW¼, and NW¼SE¼;
Sec. 30, lot 1, N½NE¼, and NE¼NW¼.
T. 19 N., R. 94 W.,
Sec. 6, lots 1 to 7, inclusive, S½NE¼, SE¼NW¼, E½SW¼, and NW¼SE¼.
T. 20 N., R. 94 W.,
Secs. 2, 4, 6, 8, 10, 12, 14, 18, 20, 22, and 24;
Sec. 26, N½, and N½S½;
Sec. 28, N½, SW¼, and NW¼SE¼;
Sec. 30;
Sec. 32, N½, SW¼, and NW¼SE¼.
T. 19 N., R. 95 W.,
Secs. 2, 4, and 6.
T. 20 N., R. 95 W.,
Secs. 2, 4, 10, 12, 14, 20, 22, 24, 26, and 28;
Sec. 32, N½, W½SW¼, SE¼SW¼, and SE¼;
Sec. 34.
T. 19 N., R. 96 W.,
Secs. 4, 6, 8, 10, 12, and 18.
T. 20 N., R. 96 W.,
Secs. 4, 6, 8, 10, 18, 20, 22, 24, 28, 30, 32, and 34.
T. 18 N., R. 97 W.,
Sec. 4, lots 7, 8, S½NW¼, and W½SW¼;
Sec. 6;
Sec. 8, NW¼NE¼, N½NW¼, and SW¼NW¼.
T. 19 N., R. 97 W.,
Secs. 2, 4, 6, 8, 10, 12, 14, 18, 20, 22, and 24;
Sec. 26, N½NE¼, and NE¼NW¼;
Sec. 28, W½;
Secs. 30 and 32.

The area described aggregates 47,460.88 acres in Sweetwater County, Wyoming.

5. At 7:45 a.m. on September 22, 1983, the following patented lands, as also described in paragraphs 1 and 2, which have all minerals reserved to the United States, shall be opened to nonmetalliferous mineral location. Appropriation of lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Sec. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts. The lands have been and will remain open to metalliferous mineral location.

Sixth Principal Meridian, Wyoming

T. 20 N., R. 95 W.,
Secs. 6, 8, 18, 20, and 30.
T. 19 N., R. 96 W.,
Sec. 2.
T. 20 N., R. 96 W.,
Secs. 2, 12, 14, 24, and 28.
T. 46 N., R. 99 W.,
Sec. 23, SE¼SE¼.

The area described contains 6,824.98 acres in Hot Springs and Sweetwater Counties, Wyoming.

6. The following public lands, as also described in paragraph 1, remain withdrawn under Secretarial Order of June 20, 1918, for stock driveway purposes, and are not subject to disposition under the public land laws:

T. 20 N., R. 92 W.,
Secs. 4, 8, and 18.
T. 20 N., R. 93 W.,
Secs. 8, 10, 12, 14, and 18.
T. 19 N., R. 94 W.,
Secs. 6, lots 1 to 7, inclusive, S½NE¼, SE¼NW¼, E½SW¼, and NW¼SE¼.
T. 20 N., R. 94 W.,
Sec. 2, 4, 8, 10, 12, 14, and 20;
Sec. 26, N½, and N½S½;
Secs. 28, N½, SW¼, and NW¼SE¼;
Sec. 32, N½, SW¼, and NW¼SE¼.
T. 19 N., R. 95 W.,
Sec. 4.
T. 20 N., R. 95 W.,
Sec. 32, N½, W½SW¼, SE¼SW¼, and SE¼;
Sec. 34.

T. 19 N., R. 96 W.,
Secs. 4, 6, and 8.
T. 20 N., R. 96 W.,
Secs. 32 and 34.
T. 18 N., R. 97 W.,
Sec. 6.
T. 19 N., R. 97 W.,
Secs. 12, 14, and 22;
Sec. 28, W½;
Secs. 30 and 32.

The area described aggregates 20,027.50 acres in Sweetwater County, Wyoming.

7. The following public lands, as also described in paragraph 1, remain withdrawn for oil shale purposes and are not subject to disposition under the public land laws nor to mineral location under the United States mining laws.

T. 19 N., R. 94 W.,
Sec. 18;
Sec. 30, lot 1.
T. 19 N., R. 95 W.,
Secs. 8, 10, 12, 14, and 18;
Sec. 20, N½, NE¼SW¼, and SE¼;
Sec. 22, N½, and NW¼SW¼;
Sec. 24;
Sec. 26, N½NE¼.
T. 19 N., R. 96 W.,
Secs. 14 and 20;
Sec. 28, NW¼NE¼, NW¼, N½SW¼, and SW¼SW¼;
Sec. 30;
Sec. 32, NW¼NE¼, and N½NW¼.

The area described contains 7,868.10 acres in Sweetwater County, Wyoming.

8. The following lands, as also described in paragraphs 1 and 2, have been conveyed out of United States ownership and will not be restored to operation of the public lands laws generally, including the mining and mineral leasing laws:

T. 20 N., R. 92 W.,
Secs. 5, 7, 9, 17, 19, and 21.
T. 20 N., R. 93 W.,
Secs. 1, 3, 5, 7, 9, 11, 13, 15, 16, 17, and 19;
Sec. 21, N½, N½SW¼, SW¼SW¼, and SE¼;
Sec. 23, N½, N½S½, and SW¼SW¼;
Sec. 29, NW¼NE¼, and N½NW¼.
T. 19 N., R. 94 W.,
Sec. 7, lots 2 to 4, inclusive, E½SW¼, and W½SE¼;
Sec. 19, lots 1 to 4, inclusive, NE¼, E½W½, and W½SE¼.
T. 20 N., R. 94 W.,
Secs. 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, and 23;
Sec. 25, N½NE¼, SW¼NE¼, NW¼, and NW¼SW¼;
Sec. 27, N½, N½SW¼, SE¼SW¼ and SE¼;
Secs. 29 and 31.
T. 19 N., R. 95 W.,
Secs. 1, 3, 5, 7, 9, 11, 13, 15, and 17;
Sec. 19, NE¼NE¼;
Secs. 21 and 23;
Sec. 25, N½NE¼, SW¼NE¼, N½NW¼, and SE¼NW¼.
T. 20 N., R. 95 W.,
Secs. 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, and 31;
Sec. 32, NE¼SW¼;
Secs. 33 and 35.
T. 19 N., R. 96 W.,
Secs. 1, 3, 5, 7, 9, 11, 13, 15, 17, and 19;
Sec. 21, W½E½, and W½;
Sec. 29;
Sec. 31, N½NE¼.
T. 20 N., R. 96 W.,
Secs. 1, 3, 5, 7, 9, 11, 13, 15, 16, 17, 19, 21, 23, 25, 27, 29, 31, 33, 35, and 36.
T. 18 N., R. 97 W.,
Sec. 5;
Sec. 7, lots 1, 2, NE¼, and E½NW¼.
T. 19 N., R. 97 W.,
Secs. 1, 3, 5, 7, 9, 11, 13, 15, 16, 17, 19, 21, and 23;
Sec. 25, N½N½;
Secs. 29 and 31;
Sec. 33, W½.
T. 46 N., R. 99 W.,
Sec. 36, NW¼NW¼.

The area described aggregates 70,365.52 acres in Sweetwater and Hot Springs Counties, Wyoming.

All of the public and patented lands, described in paragraphs 4, 5, 6 (the lands described in paragraph 6 and included in paragraph 4), and 7, have been and will emain open to applications and offers under the mineral leasing laws. The NE¼SW¼ of Section 32, T. 20 N., R. 95 W., has been and will remain open to applications and offers for coal leasing only.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82001.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

August 17, 1983.

[FR Doc. 83-23231 Filed 8-23-83; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 83-123; RM-4272]

Radio Stations; FM Broadcast Stations in Greenfield, Calif.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns Class C FM Channel 258 to Greenfield, California, in response to a petition filed by Anita L. Levine. The assigned channel could provide a first FM service to Greenfield, California.

DATE: Effective: October 18, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order; Proceeding Terminated

In the matter of amendment of § 73.202(b), table of assignments, FM Broadcast Stations (Greenfield, California); MM Docket No. 83-123, RM-4272.

Adopted: August 11, 1983.
Released: August 19, 1983.

By the Chief, Policy and Rules Division.

1. Before the Commission is the *Notice of Proposed Rule Making*, 48 FR 10893, published March 15, 1983, proposing the assignment of Class C Channel 258 to Greenfield, California, in response to a petition filed by Anita L. Levine ("petitioner"). Petitioner filed comments in support of the *Notice* and reaffirmed her intention to apply for the channel, if assigned. No opposing comments were received.

2. The Commission has determined that the public interest would be served by assigning Class C Channel 258 to Greenfield, California, since the channel could provide for a first local FM broadcast service to that community.[1]

3. Accordingly, pursuant to the authority contained in 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, that effective October 18, 1983, the FM Table of Assignments, § 73.202(b) of the Commission's Rules is amended, with respect to the community listed below:

City	Channel No.
Greenfield, Calif.	258

4. It is further ordered, that this proceeding is terminated.

5. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-23219 Filed 8-24-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-234; RM-4338]

Radio Services; FM Broadcast Stations in Sutter Creek, Calif.; Changes Made in Table of Assignments

AGENCY: Federal Communicatons Commission.

[1] There is also pending before the Commission a proposal to assign Channel 300 to Greenfield as a second FM channel (RM-4490).

ACTION: Final rule.

SUMMARY: This action assigns a first FM channel to Sutter Creek, California, in response to a petition filed by Harold Kozlowski.

DATE: Effective October 18, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau (202) 634–6530.

List of Subjects in 47 CFR 73

Radio broadcasting.

Report and Order; Proceeding Terminated

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Sutter Creek, California); MM Docket No. 83–234, RM–4336.

Adopted: August 11, 1983.
Released: August 19, 1983.

By the Chief, Policy and Rules Division.

1. The Commission has under consideration the *Notice of Proposed Rule Making*, 48 FR 14672, published April 5, 1983, proposing the assignment of Channel 269A to Sutter Creek, California, as its first FM assignment. The Notice was issued in response to a petition filed by Harold Kozlowski ("petitioner"). Supporting comments were filed by the petitioner reaffirming that he will apply for the channel, if assigned.

2. The Commission believes that the public interest would be served by the assignment of Channel 269A to Sutter Creek, which could provide that community with an opportunity for its first broadcast station. The transmitter site is restricted to 5.8 miles southeast of the city to avoid short-spacing to a construction permit for Station KHYL(FM), Channel 266 at Auburn, California.

3. Accordingly, pursuant to the authority contained in sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, that effective October 18, 1983, the FM Table of Assignments, § 73.202(b) of the Rules, is amended with respect to the following community:

City	Channel No.
Sutter Creek, Calif.	269A

4. It is further ordered, that this proceeding is terminated.

5. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau (202) 634–6530.

Federal Communications Commission.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83–22218 Filed 8–23–83; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 83–17; RM–4206]

Radio Stations; FM Broadcast Stations in Key West, Florida

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns Channel 228A to Key West, Florida, as its fifth FM assignment in response to a petition filed by Paul L. Crogan.

DATE: Effective: October 18, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554

FOR FURTHER INFORMATION CONTACT: Joel Rosenberg, Mass Media Bureau (202) 634–6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order; Proceeding Terminated

In the matter of amendment of § 73.202(b), Table of Assignments, RM Broadcast Stations (Key West, Florida); MM Docket No. 83–17, RM–4206.

Adopted: August 16, 1983.
Released: August 19, 1983.

By the Chief, Policy and Rules Division.

1. The Commission has before it the *Notice of Proposed Rule Making* (48 FR 3791, published January 27, 1983) issued in response to a petition for rule making, filed by Paul L. Crogan ("petitioner"), proposing to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules by assigning Channel 228A to Key West, Florida, as its fifth FM assignment.[1] In response to the *Notice*, petitioner restated its intention to apply for Channel 228A should that channel be assigned. Florida Keys Broadcasting Corporation ("Florida Keys") filed comments in opposition to which petitioner filed a reply.[2]

2. Florida Keys states that the geographic isolation of the Key West area allows for several additional FM assignments. It claims, however, that Key West has a declining population and that additional FM assignments there would preclude assignments to other growing communities. According to Florida Keys, the considerable distances between many Keys communities, and severe tower height restrictions limit the service areas of most local FM stations. Thus, Florida Keys claims it is especially important that channels remain available to serve other communities. Florida Keys also asserts that the difficulty of projecting future population trends has led the Commission to previously consider only immediate preclusive effects. According to Florida Keys, however, the unique geography of the Keys area and its unbroken 20-year population growth trend enable the Commission to meaningfully assess the long-term preclusive effect of additional FM assignments at Key West.

3. Petitioner responds to Florida Keys' opposition, citing several examples where Florida Keys allegedly opposed local FM assignment or upgrading proposals for competitive reasons. According to petitioner, although the Commission rejected these oppositions, the filing of such pleadings resulted in delay and financial hardship to the competition as well as the needless expenditure of Commission resources. Petitioner argues that, insofar as preclusion is concerned, the Commission should not treat the Key West area differently from the rest of the country. Petitioner claims that several statements of Florida Keys in this regard are inaccurate. For example, petitioner disputes Florida Keys' computation of the number of possible aural services which could be assigned to this area, thereby demonstrating the preclusive effects on various communities. In addition, petitioner claims, without elaboration, that many of Florida Keys' current statements are at variance with previous statements it had submitted in earlier proceedings.

[1] As indicated in the *Notice*, Channel 228A is available for assignment to Key West because it has been deleted from Big Pine Key, Florida, and replaced with Channel 284. The licensee has been granted a permit for Channel 284. Thus, Channel 228A should be available for actual use in Key West in the near future.

[2] Florida Keys also requested additional time to file reply comments. However, that request was denied. An application for review of the denial was later filed and then withdrawn by Florida Keys.

4. The issue of economic impact that a proposed assignment has on an existing station is traditionally more appropriately considered at the application stage. *Grand Junction, Colorado*, 26 R.R. 2d 513 (1973). Thus, Florida Keys should raise the issue in connection with any application filed for Channel 228A at Key West. As noted, Florida Keys seeks to distinguish between short-term and long-term preclusive effects. However, the Commission has stated that, in light of the maturation of FM broadcasting, it has decided to end its preclusion policy. *Revision of FM Assignment Policies and Procedures*, 90 F.C.C. 2d 88 (1982). Thus, preclusion is no longer a pertinent issue in this type of case.

5. In light of the above, it does not appear that good cause has been shown as to why Channel 228A should not be assigned to Key West. Thus we find that the public interest would be served by providing a fifth service to Key West.

6. Accordingly, pursuant to authority contained in §§ 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, that effective October 18, 1983, and the FM Table of Assignments (§ 73.202(b) of the Commission's Rules) is amended as follows for the community listed:

City	Channel No.
Key West, Fla.	223, 228A, 254, 258, and 296A.

7. It is further ordered, that this proceeding is terminated.

8. For further information concerning this proceeding, contact Joel Rosenberg, Mass Media Bureau (202) 634–6530.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-23214 Filed 8-23-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-119; RM-4212]

Radio Stations; FM Broadcast Stations in Hill City, Kans.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns Channel 270 to Hill City, Kansas, as its first FM channel in response to a petition filed by Jerrell E. Kautz and John Cartwright.

DATE: Effective: October 18, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order; Proceeding Terminated

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations, (Hill City, Kansas); MM Docket No. 83–119, RM–4212.

Adopted: August 11, 1983.
Released: August 19, 1983.

By the Chief, Policy and Rules Division.

1. The Commission herein considers the *Notice of Proposed Rule Making*, 48 FR 10889, published March 15, 1983, proposing the assignment of Class C Channel 270 to Hill City, Kansas, as its first FM channel. The *Notice* was issued in response to a petition filed by Jerrell E. Kautz and John Cartwright ("petitioners"). The petitioners submitted comments restating their interest in the Class C channel.

2. After consideration of the proposal the Commission is persuaded that the public interest would be served by assigning Channel 270 to Hill City, Kansas, as its first FM channel. The transmitter site is restricted to 6.3 miles northwest of the city to avoid short spacing to Station KSKU (Channel 271), Hutchinson, Kansas.

3. Accordingly, pursuant to the authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, that effective October 18, 1983, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended, with respect to the community listed below:

City	Channel No.
Hill City, Kansas	270

4. It is further ordered, that this proceeding is terminated.

5. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634–6530.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-23217 Filed 8-23-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-351; RM-4361]

Radio Services; FM Broadcast Stations in Albion, Nebraska; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns Channel 224A to Albion, Nebraska, as its first FM assignment, in response to a petition filed by Emanuael W. Skala.

DATA: Effective: October 18, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau (202) 634–6530.

List of Subjects in 47 CFR 73

Radio broadcasting.

Report and Order; Proceeding Terminated

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Albion, Nebraska); MM Docket No. 83–351, RM–4361.

Adopted: August 16, 1983.
Released: August 19, 1983.

By the Chief, Policy and Rules Division.

1. The Commission has under consideration the *Notice of Proposed Rule Making*, 48 FR 16091, published April 14, 1983, proposing the assignment of Channel 224A to Albion, Nebraska, as that community's first FM assignment in response to a petition filed by Emanuel W. Skala ("petitioner"). Petitioner submitted comments in support of the *Notice* and reaffirmed his intention to apply for the channel, if assigned. The channel can be assigned in compliance with the minimum distance separation requirements. No opposing comments were received.

2. The Commission has determined that the public interest would be served by assigning Channel 224A to Albion, Nebraska, since the channel could provide for a first local FM service to that community.

3. Accordingly, pursuant to the authority contained in sections (i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as

amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective October 18, 1983, the FM Table of Assignments, § 73.202(b) of the Commission's Rules is amended, with respect to the following community:

City	Channel No.
Albion, Nebraska	224A

4. It is further ordered, that this proceeding is terminated.

5. For further information concerning the proceeding, contact Mark N. Lipp, Mass Media Bureau (202) 634–6530

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-23218 Filed 8-23-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-89; RM-4217]

Radio Stations; FM Broadcast Stations in San Angelo, Texas; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns a sixth FM channel to San Angelo, Texas, in response to a petition filed by Walton A. Foster.

DATE: Effective: October 18, 1983

ADDRESS: Federal Communications Commission, Washington, D.C. 20554

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order; Proceeding Terminated

In the mater of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations, (San Angelo, Texas); MM Docket No. 83–89, RM–4217.

Adopted: August 11, 1983.
Released: August 19, 1983.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration the *Notice of Proposed Rule Making*, 48 FR 7485, published February 22, 1983, proposing the assignment of Channel 254 to San Angelo, Texas, as its sixth FM assignment. The *Notice* was issued in response to a petition filed by Walton A. Foster ("petitioner"). Supporting comments were filed by the petitioner, restating his interest in a Channel 254 assignment at San Angelo. No oppositions to the proposal were received.

2. Mexican concurrence has been obtained in the proposed assignment of Channel 254 to San Angelo, Texas, since that community is located within 320 kilometers (199 miles) of the U.S.-Mexican border.

3. We find that the public interest would be served by assigning Channel 254 to San Angelo, Texas, to provide a sixth local FM service. The transmitter site is restricted to 7.3 miles east of the city to avoid shortspacing to Station KTYE (Channel 257A), Tye, Texas, and a Channel 252A assignment at Big Lake, Texas.

4. Accordingly, it is ordered, that effective October 18, 1983, the FM Table of Assignments, Section 73.202(b) of the Commission's Rules, is amended with respect to the following community:

City	Channel No.
San Angelo, Texas	225, 230, 234, 248, 254, and 290.

5. Authority for the action taken herein is contained in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules.

6. It is further ordered, that this proceeding is terminated.

7. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634–6530.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-23215 Filed 8-23-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Parts 17, 73, and 74

[BC Docket No. 82-537; FCC 83-338]

Operating and Maintenance Logs for Broadcast and Broadcast Auxiliary Stations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission eliminates the majority of the operating and maintenance logging requirements applicable to broadcast and broadcast auxiliary station operation. This action is necessary for the Commission to continue its ongoing deregulation efforts. The effect of this action is to relieve broadcasters of regulatory burdens which are no longer deemed necessary in view of present broadcast equipment capability and marketplace incentives for licensees to maintain the proper technical operation of their stations.

DATE: Effective September 19, 1983.

FOR FURTHER INFORMATION CONTACT: James E. McNally, Jr., Mass Media Bureau, Policy and Rules Division, Technical and International Branch (202) 632–0660.

List of Subjects

47 CFR Part 17

Aviation safety, Communications equipment.

47 CFR Part 73

Radio broadcasting.

47 CFR Part 74

Television broadcasting.

Report and Order (Proceeding Terminated)

In the matter of operating and maintenance logs for broadcast and broadcast auxiliary stations; BC Docket No. 82–537.

Adopted: July 14, 1983.
Released: August 12, 1983.

By the Commission.

Introduction

1. On August 4, 1982, the Commission adopted a *Notice of Proposed Rule Making (Notice)* in the above-entitled matter. (47 FR 36453, August 20, 1982.) This proceeding was initiated by the Commission on its own motion to examine the usefulness of the rules that require broadcast licensees to make periodic equipment observations and to record the results in operating and maintenance logs.

2. Briefly, the Commission questioned the necessity of mandatory inspection and logging procedures, given a licensee's basic obligation to ensure proper technical station operation. We noted that use of state-of-the-art equipment produces fewer situations requiring remedial action by the broadcaster and pointed out that current requirements for periodic inspection and logging may be inadequate for some stations and excessive for others. Consistent with our philosophy of letting the competitive marketplace substitute

for federal regulation wherever possible, we suggested that a broadcaster's best self-interest is served by taking whatever steps are necessary to ensure that station operation is consistent with the Commission's technical rules and the terms on the station license. In view of these considerations, we proposed to extend our deregulatory initiatives to the required periodic measurement and operating and maintenance logging areas.

3. Accordingly, we recommended reduction or elimination of the logging requirements governing full service stations (§§ 73.1820 and 73.1830), together with the mandated schedule of meter and monitor readings, inspections and other measurements. In lieu of these requirements, we proposed to require technical record keeping only on a case-by-case basis when necessary to resolve an interference situation or correct a severely deficient operation. Similar proposals were made for most types of broadcast auxiliary stations licensed under Part 74 of the Commission's rules.

4. However, we did ask whether several exceptions to this general deregulation should be made. For example, we suggested retaining the logging requirements pertaining to experimental and developmental broadcast stations (those authorized pursuant to Part 74, Subparts A, B and C). We also noted that the current logging requirements distinguish between directional AM stations having approved antenna monitor sampling systems and those that do not. Deleting the requirement for periodic measurement could remove the incentive for licensees of older AM stations to upgrade their sampling systems—something clearly encouraged by the current rules. We also questioned the effect such action would have on AM directional interstation interference. Also raised was the impact of the proposed deregulation on proper tower light operation required for aeronautical safety and tests of the Emergency Broadcast System (EBS).

5. In conclusion, we emphasized that in proposing the elimination of periodic inspection, measurement and logging requirements, we did not intend to relieve licensees of their responsibility to effectively monitor station technical performance and to strictly comply with the terms of their station's authorization. We indicated that if an inspection by the Commission revealed a violation of the rules, the licensee would be asked to indicate what procedures had been employed to ensure proper operation. If these procedures were considered inadequate, a forfeiture could be issued for willful violation of the rules involved.

Comments

6. Twenty-four comments and five reply comments were filed in response to the *Notice*. Generally, those favoring the deregulation reiterated the arguments advanced by the Commission in the *Notice* or affirmed its suppositions. Thus, the comments widely asserted that marketplace forces, rather than government rules, would effect the appropriate regulation. They also asserted that because a station's success depended upon its audience level, it would clearly be in the broadcaster's best interest to ensure proper facility performance in order to maintain a quality signal. Accordingly, they stated that it would be appropriate for the Commission to delete the periodic inspection, observation and logging requirements where marketplace forces can provide more effective and flexible regulation. Many also expressed the belief that each licensee should be free to develop procedures for monitoring station facilities. The commenters affirmed that in the past, broadcasters have demonstrated the ability to do on their own what the Commission had previously required them to do by rule, and that there was no reason to assume that they would do less in the technical area.

7. Comments and reply comments filed in opposition to the Commission's proposal also exhibited many similarities. Concern was expressed that abandonment of periodic inspection and logging requirements would result in increased interference and deterioration in the quality of radio and television service. Further, concern was expressed that some broadcasters might interpret log elimination as a "de facto" relaxation of the FCC's technical standards and that our confidence that licensees would take "reasonable measures to ensure proper operation" could become subject to personal interpretation. There was a consensus among the opponents that while the Commission was to be applauded for attempting to reduce unneeded paperwork, wholesale elimination of the current logging requirements would be going too far. Logging was viewed as an important tool in the prevention of interference, both as an enforcement aid to the Commission and as a detailed check list of important station operating parameters. Several parties expressed the belief that if the Commission eliminated the current periodic measurement and logging requirements, few broadcasters would be concerned about out-of-tolerance operation because the burden of proof would be placed on either the FCC or the adversely affected licensee(s). The argument also was made that because the FCC lacks the enforcement personnel necessary to check stations on a regular basis, the chances of it discovering a rule infraction were small.

8. Other comments suggested that where records and reports promoted efficiency in use of public spectrum for the public benefit, they should be retained, and that periodic measurement and logging for FCC inspection constituted no additional burden on conscientious radio operators. The suggestion was made that because the smaller stations with limited engineering capability would benefit economically the most from the Commission's proposals, relief for them would potentially be at the expense of the best use of the spectrum because they already have the least capacity to detect their own errors and infringements.

9. The Commission's reliance on the marketplace to ensure technical compliance also drew criticism. Several commenters argued that the marketplace would have an effect opposite that intended by the Commission, at least with respect to those operating parameters relevant to the protection of other licensees' signals. The belief was expressed that the marketplace would pressure a licensee to exceed the proper values and increase the signal for local market benefit without regard to the damage done to the signals of other radio stations. The audience of the adversely affected station(s) would be poorly equipped to determine the cause of a seemingly inexplicable reception problem and would have to rely on the broadcaster to determine the cause. The latter might have to spend considerable effort evaluating the matter, only to have to seek relief from an "allegedly" reluctant and understaffed FCC. Additionally, in the case of AM stations in particular, commenters requested that "substantial adverse effect" (as proposed in the *Notice*) should not have to be proven before observation and logging requirements are placed on an offending station, because an accumulation of small effects by several stations could escape regulatory penalty even though their aggregate impact was considerable.

10. Opinion was again divided on the question of whether AM stations without approved sampling systems should benefit from the proposed deregulation.[1] Prevention of interference

[1] By "approved sampling system", we mean one meeting the installation and requirements of

was the principal reason cited by parties favoring retention of logs for AM stations, particularly those with critical arrays.[2] Concern was expressed that many of the older antenna monitoring systems, which could not be approved under today's standards cannot be relied upon to ensure the requisite degree of protection that should be provided by the directional antenna system. Consequently, there was a feeling that licensees of stations using the older sampling systems should continue to be required to monitor their directional antenna systems more closely and more often, including frequent monitor point field intensity measurements. One highly critical commenter expressed the belief that absent the use of logs, some AM station licensees would not reduce power and change antenna pattern as required when shifting from day to night time operation. However, the more moderate and widely held view was that logging requirements for AM stations without approved sampling systems should be retained, otherwise the incentive to upgrade the sampling system would be removed. Once upgraded, such station licensees should be able to benefit from the relaxation of the rules. However, several commenters argued that AM stations should not be treated differently than others, and that operating economies would ensure continued upgrading of directional AM station sampling systems. These parties generally expressed the view that in the few cases where AM station licensees might act irresponsibly, the Commission's proposed case-by-case logging provisions would suffice to bring operation back into compliance.[3]

11. Similar division of opinion was evident on the questions of logging experimental station operation, tests of the Emergency Broadcast System and antenna tower light observation. One line of thought held that due to the experimental or public safety nature of the current logging and inspection requirements applicable to these areas of operation, they should be retained. The opposing view held that in the matter of experimental stations, a case-by-case approach should be taken. The inference was that the Commission should limit its interest to the experimental aspect of the operation and the licensee's findings and conclusions, rather than also request information about traditional or incidental details of comparatively little importance. More clearly expressed was the belief that licensee self-interest would ensure proper attention to the requirements applicable to Emergency Broadcast System operation and antenna tower lighting maintenance. On the latter point, comments from the Federal Aviation Administration favored elimination of logging routine antenna lighting inspection results, but did request continued periodic inspection, and retention of the limited logging requirements contained in § 17.49 as proposed in the Appendix to the *Notice*.

Discussion

12. The Commission has confidence in the general integrity of its broadcast licensees. We recognize that rule violations occur, but we believe most are inadvertent or accidental. Some are due to negligence arising from adverse economic situations, but our experience has indicated that few can be attributed to a licensee's complete indifference to (or contempt of) our regulations, or a willful desire to improve a station's competitive position through technical means which could cause interference to other licensees. We do not believe that a deregulatory action intended to benefit many should be subverted by the potential for misuse by a few. For this reason, and for the reasons discussed in the *Notice* (which are summarized briefly in Paragraph 2, *supra*), we have decided to amend the rules essentially as proposed.

13. Thus, with several exceptions discussed below, broadcast licensees will no longer be required to follow a schedule of meter and monitor readings, inspections, observations and certain other measurements as previously required; nor will they be required to enter the results of these activities in a station log. Rather, licensees will be free to develop their own schedules based on the performance characteristics of their transmitting equipment.

14. *First*, as proposed in the *Notice*, we are eliminating the rules in Parts 17, 73 and 74 which relate to recording of routine information pertaining to observation of antenna tower lighting operation. However, as was also proposed, we are retaining the observation and inspection requirements in § 17.47 of the Commission's Rules and modifying § 17.49 to require log entries only in the event of tower light extinguishment or malfunction. This approach is in the interest of aeronautical safety and was endorsed by the Federal Aviation Administration in its comments.

15. *Second*, as proposed in the *Notice*, we are retaining the current logging requirements applicable to experimental broadcast stations authorized pursuant to Subparts A, B and C of Part 74. We have reviewed these logging requirements and find that they are appropriate for the experimental or developmental type of operation being authorized, and the information so requested is of considerable interest to the Commission in providing new and innovative services to the public. Nevertheless, we will delete certain routine logging requirements that essentially are unrelated to the experimental or developmental operation (*e.g.*, the need to log the results of antenna tower lighting inspections). The precise changes are set forth in the Appendix.

16. *Third*, we believe there are strong reasons for not including AM broadcast stations without Commission-approved antenna sampling systems from certain benefits of the proposed deregulation. These stations must continue to periodically observe and log information pertaining to proper antenna system operation. In all other respects, they will benefit to the same extent as stations with approved sampling systems. Consistent with the general thrust of the comments, we have decided to retain these limited provisions to increase the incentive for those licensees who have not already done so to upgrade their sampling systems and to preserve regulations which we believe effectively ensure non-interference to the service areas of other licensees.

17. *Fourth*, we are adopting our proposal to require licensees, on a case-by-case basis, to maintain a log in situations involving interference or deficient operation. This option received considerable support in the comments and it represents an enforcement action which, for the latter situation, should be useful in discouraging potential carelessness. Moreover, in individual circumstances the use of appropriate operating and maintenance procedures will contribute to the resolution of interference cases. The need to complete a log requires periodic observations or measurements that should identify any need for transmission system adjustment. This enables us to tailor any

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§ 73.68(c) of the rules and specifically approved by the Commission as meeting certain performance standards.

[2] A "critical array" is an AM station directional antenna system which, for the protection of other stations, has a license-specified phase tolerance more stringent than ±3°.

[3] There was one commenter skeptical of this view who argued that such record-keeping would not resolve interference problems, but that proper operation and maintenance of transmitters, for which there are adequate incentives unrelated to logs, would. These incentives, however, were not enumerated. This party further argued that reimposing logging requirements on a case-by-case basis would be likely to restore burdens without corresponding benefits

logging requirement to the individual circumstances of a particular interference situation in such a way that the resolution of the problem is facilitated. Also, we have concluded that the concern about a licensee having to demonstrate "substantial adverse effect" (see Paragraph 9, *supra*) is valid, because the impact of a number of individually small errors can be considerable. Further, use of the term "substantial" would place us in the position of having to develop some standard or other means of quantifying the adverse operation or interference. Thus, proposed Sections 73.1835 and 74.19 have been reworded to give the Commission greater flexibility in imposing periodic observation and logging requirements. Additionally, we note that in the *Report and Order* in PR Docket No. 82-726 (Elimination of logging requirements in the Amateur Radio Service), adopted May 26, 1983, § 0.314(x) was created to grant additional delegated authority to the Commission's local Engineers-in-Charge to require licensees to keep station records in order to resolve interference problems, rule violations or instances of obvisouly deficient operation. Similar authority in the case of broadcast and broadcast auxiliary operation is herein conveyed. Nevertheless, we would emphasize that these rules will not be invoked or imposed in an arbitrary or capricious manner (as might be the case if interference was merely alleged), but only after a showing of adverse impact, deficient operation, or rule violation.

18. *Fifth*, we have decided to require all broadcast licensees to continue to keep a record of the results of tests of the Emergency Broadcast System (EBS).[4] These rules will be revised to indicate that the required entries should be made in the "station log or records" rather than specifying an operating or maintenance log. Proper functioning of the EBS in a time of national emergency is a matter of the highest priority and experience demonstrates that certain mandatory logging procedures are necessary to achieve that end.

19. For example, EBS test logging previously has revealed many instances where the usual expected test transmissions have not been received. This has led licensees to contact the Commission's Emergency Communications Division out of concern that their failure to log a test could result in a citation. However, we have found that the concerned licensee's failure to receive (and therefore log) an EBS test is generally not due to any fault of the receiving station (specifically, its EBS receiver), but due to improper activating tones being transmitted by the primary EBS station. Further, regardless of how well intentioned a licensee may be, it is easy to overlook a "non-event", such as failure to receive an EBS test. Even if such a test is discussed verbally, but not logged, there could be confusion later as to whether or not it took place as expected. The temptation to assume that events generally occur as scheduled could be very detrimental to reliable EBS operation. Thus, EBS test logging provides a certain means of identifying failures in the system within a reasonable timeframe.

20. We have no doubt that the majority of our broadcast licensees will continue to keep some kind of technical records, and that many would continue to log EBS tests voluntarily. Nevertheless, brief recording of EBS tests is so minimally burdensome and provides such an effective verification of proper EBS operation, we have decided that the current minimal EBS logging requirements should be retained. This requirement should represent little, if any burden, on the conscientious licensee.

21. Lastly, two new issues were raised in the comments which fall within the scope of this proceeding and require our attention. A suggestion was made that low power TV stations be excluded from the benefits to be afforded by this proceeding on the basis that they operate at less than standard mileage separations from full power TV stations. Also, several parties requested that the Commission eliminate the rules which require licensees to retain their logs for some period of time (usually two years) after completion.

22. We believe there is inadequate justification to exclude low power TV stations from the limited benefits which would accrue to them as a result of action taken in this proceeding. The logging requirements applicable to low power TV station operation are already minimal. The only change we contemplated was elimination of the requirements currently contained in § 74.781 (b) and (c) to log results of inspections of antenna tower lighting and control equipment. The showings and records of initial station operating parameters required by § 74.750(g) and § 74.751(d) are retained. These measurements are performed only once, at the time a low power TV station is placed in operation, and are used to verify that station performance conforms to FCC technical standards. Thus they do not constitute an ongoing regulatory burden.

23. Further, the argument that low power TV stations are located at less than "standard" mileage separations from regular TV stations appears to be without merit. The spacing is less because the power and service area of a low power TV station is considerably less than a regular TV station. Also, the protection afforded by the rules in cases of low power TV station operation is better than that afforded in the case of regular TV station operation. (Compare § 74.707 with § 73.610.) In view of these considerations, and because there is no reason to assume that low power TV station licensees will be less diligent than any other type of broadcast licensee with respect to the proper operation of their stations, the request to exclude them from the minimal benefits provided by this proceeding is denied.

24. On the matter of log retention, we will not amend the rules as suggested because, to the minimal extent that we are continuing to require licensees to maintain station records, we want them available for inspection for the usual two year period. EBS test results, for example, are usually contained in the operating log. In most cases, discarding the operating log would also entail discarding the EBS test results. A similar situation exists with respect to antenna tower lighting information and the maintenance log. The burden of log retention is minimal and warranted, we believe, by the foregoing considerations.

25. To assist licensees in determining whether their operating and maintenance policies are appropriate, the Commission will identify and publish through public notices common rule violations and any undesirable trends detected in the course of inspection of randomly selected stations. It is likely that these notices will be duplicated in many trade publications. Occasionally, the Commission may target certain problem areas for enforcement actions intended to restore full licensee compliance with the applicable regulations. Licensees who cannot demonstrate that they have been taking reasonable measures to ensure proper station operation will be viewed as willfully violating the rules and will incur forfeitures.

26. In conclusion, we reiterate that while we are amending the rules essentially as proposed in the *Notice*, there is no change in the fundamental responsibility of licensees to operate their stations in accordance with the rules and to adopt whatever procedures are necessary to guarantee it. The action we are taking here is not intended to serve as a license for negligence, but to allow licensees to implement the most

[4] See §§ 73.931(d)(2), 73.961 and 73.962(e)(4) of the Commission's rules.

cost-effective operating and maintenance policies appropriate for their stations. Nevertheless, should this privilege be abused and instances of interstation interference increase, or if circumstances indicate that the public is being ill served by this deregulation, we will revisit this area to determine to what extent the former requirements should be reimposed. We expect that many licensees will continue to maintain their own technical record of station operation and maintenance procedures. We encourage this. At a minimum, however, licensees must maintain a station log containing the information required by the new rules, as discussed above.

27. Regulatory Flexibility Act Final Analysis

I. *Need for Rules.* The Commission believes that its rules mandating periodic equipment observation, inspection and measurement, and concomitant logging of these results, no longer serves a useful regulatory purpose. Accordingly, we conclude that the majority of them can be eliminated without any adverse impact.

II. *Purpose of Rules.* As indicated above, we believe that the majority of the rules under consideration in this proceeding serve little constructive regulatory purpose. This proceeding is deregulatory in nature and is intended to afford broadcast licensees maximum flexibility in determining the operating procedures and maintenance schedules appropriate for their stations. The action taken herein is expected to result in more cost effective station operation, thereby contributing at least indirectly to the public benefit.

III. *Flexibility Issues Raised in the Comments.* None.

IV. *Significant Alternatives Not Adopted.* The Commission is continuing to require licensees to maintain some record of tests of the Emergency Broadcast System in order to ensure its proper operation in times of national or local emergencies. We are also requiring that data pertaining to antenna tower lighting extinguishment or malfunction be entered into the station log. In comparison to the former regulatory burdens, these requirements are minimal and cannot possibly be construed as a hardship on any licensee. Also, the Commission is continuing to require licensees of directional AM broadcast stations without approved sampling systems to periodically measure and log certain directional antenna operating parameters and field strength measurements. This is being done to encourage these licensees to upgrade the quality of their antenna sampling systems and to preclude interstation interference.

28. Accordingly, it is ordered, pursuant to the authority contained in sections 4(i) and 303 of the Communications Act of 1934, as amended, that Parts 73 and 74 of the Commission's Rules are amended, effective September 19, 1983, as set forth in the attached Appendix. It is further ordered that this proceeding is terminated.

29. Further information on this matter may be obtained by contacting James E. McNally, Jr., Mass Media Bureau, (202) 632-9660.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 17—[AMENDED]

Parts 17, 73 and 74 of the Federal Communications Commission rules and regulations are amended as follows:

1. Section 17.49 is revised to read as follows:

§ 17.49 Recording of tower light inspections in the station record.

The licensee of any radio station which has an antenna structure requiring illumination must make the following entries in the station record in the event of any observed or otherwise known extinguishment or improper functioning of a tower light:

(a) The nature of such extinguishment or improper functioning.

(b) The date and time the extinguishment or improper operation was observed or otherwise noted.

(c) The date, time and nature of adjustments, repairs or replacements made.

PART 73—[AMENDED]

2. In § 73.51, paragraph (d) introductory text, paragraph (e)(2) paragraphs (f)(1) and (f)(2)(i) are revised as follows:

§ 73.51 Determining operating power.

* * * * *

(d) The indirect method of determining antenna input power, as decribed in paragraphs (e) and (f) of this section, may be used on a temporary basis only. Prior authority from the FCC is not required. The indirect method may be used in the following situations:

* * * * *

(e) * * *

(2) The value of F applicable to each mode of operation must be entered in the station log with a notation as to its derivation. This factor is to be established by one of the methods described in paragraph (f) of this Section. The product of the DC input current and voltage to the final RF power amplifier stage, or, alternatively, the antenna input power as determined by the formula above must be entered in the operating log under an appropriate heading for each log entry of final RF power amplifier input current and voltage.

* * * * *

(f) * * *

(1) If the station had previously been authorized and operating by determining the antenna input power by the direct method, the factor F is the ratio of the antenna input power (determined by the direct method) to the corresponding final radio frequency power amplifier input power.

(2) * * *

(i) The factor F as shown in the transmitter manufacturer's test report, if such a test report specifies a unique value of F for the power level and frequently used; or,

* * * * *

3. In § 73.57, paragraph (d) introductory text is revised, paragraph (d)(1) is removed and marked "Reserved"; and paragraph (g) is revised as follows:

§ 73.57 Remote reading antenna and common point meters.

* * * * *

(d) Calibration of remote reading ammeters must be made against their corresponding regular ammeters for each mode of operation as often as necessary to ensure their accuracy and:

(1) [Reserved.]

* * * * *

(g) If a malfunction affects the remote reading indications of the antenna or common point ammeter, the operating power may be determined by the indirect method using the procedures described in § 73.51(e) for a period not to exceed 60 days. Alternatively, the operating power may be determined by the direct method on a continued basis by reading the regular antenna or common point ammeters.

4. In § 73.58, paragraph (e)(1) is removed and marked "Reserved" and paragraph (e)(2) is revised as follows:

§ 73.58 Indicating instruments.

* * * * *

(e) * * *

(1) [Reserved.]

(2) If the defective instrument is an antenna base current ammeter of a

directional antenna system, the indications may be obtained from the antenna monitor pending the return to service of the regular meter, provided other parameters are maintained at their normal values.

* * * * *

5. In § 73.61, paragraph (a) introductory text is revised to read as follows:

§ 73.61 AM directional antenna field measurements.

(a) Each AM station using a directional antenna system must make field strength measurements at the monitoring point locations specified in the instrument of authorization as often as necessary to insure proper directional antenna system operation. Stations having approved sampling systems (see § 73.68) are not required to make measurements by a specified schedule. Stations not having approved sampling systems are to make the measurements once each calendar month at intervals not exceeding 40 days. However, such stations that are required by the terms of the authorization to make measurements once each week must do so at intervals not exceeding 10 days. Results of the measurements are to be entered into the station log pursuant to the provisions of § 73.1820.

* * * * *

6. In § 73.67, paragraph (a)(5) is revised, paragraph (a)(5)(i) is removed and marked "Reserved"; and paragraph (c)(3) is revised as follows:

§ 73.67 Remote control operation.

(a) * * *

(5) Calibration of required indicating instruments at each remote control point must be made against their corresponding instruments at the transmitter site for each mode of operation as often as necessary to ensure their accuracy, and:

(i) [Reserved.]

* * * * *

(c) * * *

(3) The tone must be transmitted only at such time and during such intervals that the transmitted information is actually being observed.

* * * * *

7. In § 73.68, paragraph (d) and paragraph (e)(2) are revised as follows:

§ 73.68 Sampling systems for antenna monitors.

* * * * *

(d) In the event that the antenna monitor sampling system is temporarily out of service, the station may be operated pending completion of repairs for a period not exceeding 60 days without further authority from the FCC, if the base currents, their ratios, and the deviations of those ratios, in percent, from values specified in the station authorization must be determined for each radiation pattern used.

(e) * * *

(2) Immediately prior to modification or replacement of components of the sampling system not on the towers, and after a verification that all monitoring point values, base current ratios and operating parameters are within the limits or tolerances specified in the instrument of authorization or the pertinent rules, the following indications must be read for each radiation pattern: Final plate current and plate voltage, common point current, base currents and their ratios, antenna monitor phase and current indications, and the field strength at each monitoring point. Subsequent to these modifications or changes the above procedure must be repeated.

* * * * *

8. In § 73.69, paragraph (b) is revised, paragraphs (b)(1), (2) and (3) are removed, paragraphs (d)(2) and (d)(3) are revised, and paragraph (e) is revised as follows:

§ 73.69 Antenna monitors.

* * * * *

(b) In the event an antenna monitor becomes defective, the station may be operated without the monitor pending its repair or replacement for a period not in excess of 60 days without further authority from the FCC, if the base currents, their ratios, and the derivations of those ratios, in percent, from the values specified in the station authorization must be determined for each radiation pattern used.

* * * * *

(d) * * *

(2) Immediately prior to the replacement of the antenna monitor, after a verification that all monitoring point values and base current ratios are within the limits or tolerances specified in the instrument of authorization or the pertinent rules, the following indications must be read for each radiation pattern: Final plate current and plate voltage, common point current, base currents, antenna monitor phase and current indications, and the field strength at each monitoring point.

(3) With the new monitor substituted for the old, all indications specified in paragraph (d)(2) of this Section, again must be read. If no change has occurred in the indication for any parameter other than the indications of the antenna monitor, the new antenna monitor indications must be deemed to be those reflecting correct array adjustments.

* * * * *

(e) The antenna monitor must be calibrated according to the manufacturer's instructions as often as necessary to ensure its proper operation.

9. Section 73.140 is amended by revising paragraph (c) as follows:

§ 73.140 Use of automatic transmission systems (ATS).

* * * * *

(c) Upon receipt of notification from the FCC, the station can commence full ATS operation.

* * * * *

10. In § 73.142, paragraph (d)(5) is revised as follows:

§ 73.142 Automatic transmission system facilities.

* * * * *

(d) * * *

(5) The accuracy of the clock must be maintained within an accuracy of ±1 minute at all times. The clock accuracy must be checked as often as necessary, but at least once each calendar month as part of the required transmitting inspections. The primary standard of time will be the signals of stations WWV or WWVH of the National Bureau of Standards.

* * * * *

11. In § 73.144, paragraph (c) is revised as follows:

§ 73.144 Fail safe transmitter control for automatic transmission systems.

* * * * *

(c) If termination of the station transmission was caused by any failure of the ATS control or alarm functions, ATS operation of the station must not be resumed until all necessary repairs or adjustments have been completed.

12. In § 73.146, paragraph (e) is revised as follows:

§ 73.146 Automatic transmission system monitoring and alarm points.

* * * * *

(e) Whenever a required alarm condition occurs, the alarm signal must remain continuously activated until the condition causing the alarm is corrected or manual control of the transmitting system is assumed, provided that if a visual alarm is also provided, the aural alarm may be turned off if the visual alarm remains activated.

* * * * *

13. In § 73.258, paragraph (e)(1) is removed and marked "Reserved".

§ 73.258 Indicating instruments.

* * * * *

(e) * * *
(1) [Reserved.]

14. In § 73.267, paragraph (b) introductory text and paragraphs (c)(3) introductory text and (c)(3)(i) are revised as follows:

§ 73.267 Determining operating power.

* * * * *

(b) *Direct method.* The direct method of power determination for an FM station uses the indications of a calibrated transmission line meter (responsive to relative voltage, current or power) located at the RF output terminals. The indications of the calibrated meter are used to observe and maintain the authorized operating power of the station. This meter must be calibrated by the licensee whenever there is any indication that the calibration is inaccurate or whenever any component in the metering circuit is repaired or replaced. The following calibration procedures are to be used:

* * * * *

(c) * * *

(3) The value of F is to be determined by one of the following procedures listed in order of preference:

(i) Using the most recent measurement data for calibration of the transmission line meter according to the procedures described in paragraph (b) of this Section or the most recent measurements made by the licensee establishing the value of F. In the case of composite transmitters or those in which the final amplifier stages have been modified pursuant to FCC approval, the licensee must furnish the FCC the measurement data used as a basis for determining the value of F.

* * * * *

15. In § 73.275, paragraph (a)(5) introductory text is revised, paragraph (a)(5)(i) is removed and marked "Reserved"; and paragraph (c) is revised as follows:

§ 73.275 Remote control operation.

(a) * * *

(5) Calibration of required indicating instruments at each remote control point must be made against their corresponding instruments at the transmitter site as often as necessary to ensure their accuracy.

(i) [Reserved.]

* * * * *

(c) When a subcarrier is used for telemetry of remote control data from the transmitter to the control point, radiation of the subcarrier is only necessary when remote transmitter readings are being made. However, the subcarrier must be available for telemetry at all times.

§ 73.295 [Amended]

16. In § 73.295, paragraph (f) is removed.

17. In § 73.297, paragraph (b) is revised as follows:

§ 73.297 FM multichannel sound broadcasting.

* * * * *

(b) Each licensee or permittee engaging in multichannel broadcasting must measure the pilot subcarrier frequency as often as necessary to ensure that it is kept at all times within 2 Hz of the authorized frequency.

18. Section 73.340 is amended by revising paragraph (c) as follows:

§ 73.340 Use of automatic transmission systems (ATS).

* * * * *

(c) Upon receipt of notification from the FCC, the station can commence full ATS operation.

* * * * *

19. In § 73.344, paragraph (c) is revised as follows:

§ 73.344 Fail-safe transmitter control for automatic transmission systems.

* * * * *

(c) If a termination of the station transmissions is caused by any failure of the ATS control or alarm function, ATS operation may not be resumed until all necessary repairs or adjustments have been completed.

20. In § 73.346, paragraph (e) is revised as follows:

§ 73.346 Automatic transmission system monitoring and alarm points.

* * * * *

(e) Whenever a required alarm condition occurs, the alarm signal must remain continuously activated until the condition causing the alarm is corrected or manual control of the transmitting is assumed, provided that if a visual alarm is also provided, the aural alarm may be turned off if the visual alarm remains activated.

* * * * *

21. Section 73.540 is amended by revising paragraph (c) as follows:

§ 73.540 Use of automatic transmission systems (ATS).

* * * * *

(c) Upon receipt of notification from the FCC, the station can commence full ATS operation.

* * * * *

22. In § 73.544, paragraph (c) is revised as follows:

§ 73.544 Fail-safe transmitter control for automatic transmission systems.

* * * * *

(c) If a termination of the station transmissions is caused by any failure of the ATS control or alarm function, ATS operation may not be resumed until all necessary repairs or adjustments have been completed.

23. In § 73.546, paragraph (e) is revised as follows:

§ 73.546 Automatic transmission system monitoring and alarm points.

* * * * *

(e) Whenever a required alarm condition occurs, the alarm signal must remain continuously activated until the condition causing the alarm is corrected or manual control or the transmitting is assumed, provided that if a visual alarm is also provided, the aural alarm may be turned off if the visual alarm remains activated.

24. In § 73.558, paragraph (e)(1) is removed and marked "Reserved":

§ 73.558 Indicating instruments.

* * * * *

(e) * * *

(1) [Reserved.]

* * * * *

25. In § 73.575, paragraph (a)(5) introductory text is revised as follows and paragraph (a)(5)(i) is removed and marked "Reserved":

§ 73.575 Remote control operation.

(a) * * *

(5) Calibration of required indicating instruments at each remote control point must be made against their corresponding instruments at the transmitter site as often as necessary to ensure their accuracy, and:

(i) [Reserved.]

* * * * *

26. In § 73.597, paragraph (b) is revised as follows:

§ 73.597 Multichannel sound broadcasting.

* * * * *

(b) Each licensee or permittee engaging in stereophonic broadcasting must measure the pilot carrier frequency as often as necessary to ensure that it is within 2 Hz of the authorized frequency.

27. In § 73.663, paragraphs (d)(3) introductory text and (d)(3)(i) are revised as follows:

§ 73.663 Determining operating power.

* * * * *

(d) * * *

(3) The value of F is to be determined by one of the following procedures listed in order of preference:

(i) Using the most recent measurement data for calibration of the transmission line meter according to the procedures

described in paragraph (c) of this Section or the most recent measurements made by the licensee to establish the value of F. In the case of composite transmitters or those in which the final amplifier stages have been modified pursuant to FCC approval, the licensee must furnish the FCC the measurement data for determining the value F.

* * * * *

28. In § 73.676, paragraphs (a)(2), (c) and (g) are revised as follows:

§ 73.676 Remote control operation.

(a) * * *

* * * * *

(2) Suitable instruments for indicating the operating parameters. The indicating instruments must show the actual values of such parameters, or decimal multiples of those parameters and must be calibrated to provide an indication within 2% of the corresponding instrument at the transmitter site.

* * * * *

(c) The control circuits from the control point to the transmitter and the return telemetry circuit must be so designed and installed that open circuits, short circuits, accidental grounding or other line faults, where lines are used, or equipment failures, casual signals or random noise impulses, if other means are used, will not activate the transmitter. Any fault or failure which results in loss of control must cause the transmitter to cease operation. The loss of any telemetry function which provides information necessary to ascertain proper station operation must result in the actuation of automatic circuitry which, not more than 1 hour from the time of telemetry failure, will terminate operation of the transmitter, and operation by remote control may not resume until all telemetry functions are fully restored.

* * * * *

(g) The remote control and monitoring equipment must be calibrated and tested, and the television broadcast transmitter must be inspected as often as necessary to ensure operation with this Subpart E.

29. In § 73.688, paragraph (e)(1) is removed and marked "Reserved".

§ 73.688 Indicating instruments.

* * * * *

(e) * * *

(1) [Reserved.]

* * * * *

30. In § 73.781, the introductory paragraph is revised and paragraphs (b), (c) and (d) are removed:

§ 73.781 Logs.

The licensee or permittee of each international broadcast station must maintain the station log in the following manner:

* * * * *

§ 73.786 [Removed]

31. Section 73.786 removed.

32. In § 73.932, paragraphs (d)(1) and (d)(2) are revised as follows:

§ 73.932 Radio monitoring and attention signal transmission requirements.

* * * * *

(d) * * *

(1) Appropriate entries must be made in the station log, indicating reasons why Weekly Test Transmissions were not received or conducted and;

(2) Appropriate entries must be made in the station log showing the date and the time the equipment was removed and restored to service.

* * * * *

33. In § 73.961, the introductory paragraph is revised as follows:

§ 73.961 Tests of the Emergency Broadcast System procedures.

Tests of the EBS procedures will be made at regular intervals as indicated below. Appropriate entries must be made consistently in the station log concerning EBS tests received and transmitted by broadcast stations.

* * * * *

34. In § 73.962 paragraph (e)(4) is revised as follows:

§ 73.962 Closed circuit tests of approved national level interconnecting systems and facilities of the Emergency Broadcast System.

* * * * *

(e) * * *

(4) Enter the time of receipt of the Closed Circuit Test consistently in your station log.

* * * * *

35. In § 73.1215, paragraph (e) is revised as follows:

§ 73.1215 Specifications for indicating instruments.

* * * * *

(e) Digital meters, printers, or other numerical readout devices may be used in addition to or in lieu of indicating instruments meeting the specifications of paragraphs (a), (b), (c) and (d) of this Section. If a single digital device is used at the transmitter for reading operating parameters, either (1) Indicating instruments meeting the above-mentioned specifications must be installed in the transmitter and antenna circuit; or (2) a spare digital device must be maintained at the transmitter with provision for its rapid substitution for the main device should that device malfunction. The readout of the device must include at least three digits and must indicate the value or a decimal multiple of the value of the parameter being read to an accuracy of at least 2%. The multiplier to be applied to the reading of each parameter must be indicated at the operating position of a switch used to select the parameter for display.

* * * * *

36. In § 73.1225 paragraph (d) is revised as follows:

§ 73.1225 Station inspections by FCC.

* * * * *

(d) The station log and special technical records must be made available for inspection upon request by a representative of the FCC.

37. In § 73.1515, paragraph (c)(4) is removed and marked "Reserved".

§ 73.1515 Special field test authorization.

* * * * *

(c) * * *

(4) [Reserved.]

* * * * *

38. In § 73.1550, paragraph (c) introductory text is revised, paragraph (c)(1) is removed and marked "Reserved"; paragraphs (d)(1), (d)(2), (d)(3) and (d)(4) are revised, and paragraph (e) is revised as follows:

§ 73.1550 Extension meters.

* * * * *

(c) The extension meters required, pursuant to paragraph (b) of this Section, must be calibrated against their corresponding regular meters as often as necessary to ensure their accuracy, and.

(1) [Reserved.]

* * * * *

(d) * * *

(1) *All stations.* If the malfunction affects the meters for indicating the DC input power to the last radio stage of the transmitter power amplifier, the indications must be read at the transmitter.

(2) *AM stations.* In addition to (1) above, if the malfunction affects the extension indications of antenna or common point ammeter, the operating power may be determined by the indirect method using the procedures described in § 73.51(e) for a period not to exceed 60 days. Alternatively, the operating power may be determined by the direct method on a continued basis by reading the regular antenna or common point ammeter for each mode of operation until the defective extension metering is repaired.

(3) *FM stations.* In addition to (1) above, if the malfunction affects the transmission line meter, the indications must be read at the transmitter.

(4) *TV stations.* In addition to (1) above, if the malfunction affects the transmission line meter(s), indications must be read at the transmitter. If the malfunction affects the indications of the visual monitoring equipment, the licensee must, pending repair or replacement, provide other suitable means for monitoring visual modulation at the extension meter location.

(e) If a malfunctioning component cannot be repaired or replaced within 60 days from the date faulty operation is detected, the Engineer-in-Charge of the radio district in which the station is located must be notified and request made for such additional time as is needed to complete the necessary repairs or replacement.

39. Section 73.1580 is revised as follows:

§ 73.1580 Transmission system inspections.

Each AM, FM, and TV station licensee or permittee must conduct a complete inspection of the transmitting system and all required monitors as often as necessary to ensure proper station operation.

40. In § 73.1665, paragraph (c) is revised as follows:

§ 73.1665 Main transmitters.

* * * * *

(c) A licensee may, without further authority or notification to the FCC, replace an existing main transmitter or install additional main transmitters for use with the authorized antenna if the replacement or additional transmitter(s) is type accepted as shown in the FCC "radio equipment list". Within 10 days after commencement of regular use of the replacement or additional transmitter(s), equipment performance measurements, as prescribed for the type of station are to be completed.

41. In § 73.1800, paragraphs (a), (b), (f), (g) and (h) are revised as follows:

§ 73.1800 General requirements related to the station log.

(a) The licensee of each station must maintain a station log as required by §§ 73.1810 and 73.1820. This log will be kept by the station employee or employees competent to do so, having actual knowledge of the facts required. All entries, whether required or not by the provisions of this Part, must accurately reflect the station operation. When the employee making a log entry signs the log, that person attests to the fact that the log, with any corrections or additions made before it was signed, is an accurate representation of what transpired.

(b) The station log must be kept in an orderly and legible manner, in suitable form and in such detail that the data required for the particular class of station concerned are readily available. Key letters or abbreviations may be used if the proper meaning or explanation is contained elsewhere in the log. Each sheet must be numbered and dated. Time entries must be made in local time and must be indicated as advanced (e.g., EDT) or non-advanced time (e.g., EST).

* * * * *

(f) Entries must be made in the station log as required by §§ 73.1810 and 73.1820. Additional information, such as that needed for administrative or operational purposes, may also be included in the log and is not subject to the restrictions and limitations concerning corrections or changes made in the log. Such additional information may be physically removed at the option of the licensee, without altering required information in any way, before making the log a part of an application or available for public inspection.

(g) Application forms for licenses and other authorizations require that certain operating and program data be supplied. These applications should be kept in mind in connection with formulating the contents of the station log, since it may contain information previously retained in operating and maintenance logs pursuant to rules no longer in effect.

(h) Application forms for licenses and other authorizations require that certain operating data be supplied. These forms should be kept in mind in connection with the maintenance of the station log.

42. In § 73.1810, paragraph (b)(5) is revised as follows:

§ 73.1810 Program logs.

* * * * *

(b) * * *

(5) *For Emergency Broadcast System Operations.* The results of tests of the EBS procedures pursuant to the requirements of Subpart G of this Part and the appropriate station EBS checklist must be entered in the station log (in the case of television stations, the station log may be the program log).

43. Section 73.1820 is re-entitled "Station log" and paragraphs (a) and (c) are revised as follows:

§ 73.1820 Station log.

(a) Entries must be made in the station log either manually by a properly licensed operator in actual charge of the transmitting apparatus, or by automatic devices meeting the requirements of paragraph (b) of this Section. Indications of operating parameters must be logged prior to any adjustment of the equipment. Where adjustments are made to restore parameters to their proper operating values, the corrected indications must be logged and accompanied, if any parameter deviation was beyond a prescribed tolerance, by a notation describing the nature of the corrective action. Indications of all parameters whose values are affected by modulation of the carrier must be read without modulation. The actual time of observation must be included in each log entry. The following information must be entered.

(1) *All stations:* (i) Entries required by § 17.49 of this chapter concerning any observed or otherwise known extinguishment or improper functioning of a tower light:

(A) The nature of such extinguishment or improper functioning.

(B) The date and time the extinguishment or improper operation was observed or otherwise noted.

(C) The date, time and nature of adjustments, repairs or replacements made.

(ii) Any entries not specifically required in this Section, but required by the instrument of authorization or elsewhere in this part.

(iii) An entry of each test of the Emergency Broadcast System procedures pursuant to the requirements of Subpart G of this Part and the appropriate EBS checklist, unless (in the case of TV stations) such entries are consistently made in the station program log.

(2) *Directional AM stations without an FCC-approved antenna sampling system* (See § 73.68): (i) An entry at the beginning of operations in each mode of operation, and thereafter at intervals not exceeding 3 hours, of the following (actual readings observed prior to making any adjustments to the equipment and an indication of any corrections to restore parameters to normal operating values):

(A) Common point current.

(B) When the operating power is determined by the indirect method, the efficiency factor F and either the product of the final amplifier input voltage and current or the calculated antenna input power. See § 73.51(e).

(C) Antenna monitor phase or phase deviation indications.

(D) Antenna monitor sample currents, current ratios, or ratio deviation indications.

(ii) Entries required by § 73.61 performed in accordance with the schedule specified therein.

(iii) Entries of the results of calibration of automatic logging devices (see paragraph (b) of this section), extension meters (see § 73.1550) or indicating instruments (see § 73.67) whenever performed.

* * * * *

(c) In preparing the station log, original data may be recorded in rough form and later transcribed into the log.

§ 73.1830 [Removed]

44. Section 73.1830 is removed.

45. A new § 73.1835 is added to read as follows:

§ 73.1835 Special technical records.

The FCC may require a broadcast station licensee to keep operating and maintenance records as necessary to resolve conditions of actual or potential interference, rule violations, or deficient technical operation.

46. In § 73.1870, paragraphs (c)(3) and (c)(4) are revised as follows:

§ 73.1870 Chief operators.

* * * * *

(c) * * *

(3) Review of the station records at least once each week to determine if required entries are being made correctly. Additionally, verification must be made that the station has been operated as required by the rules or the station authorization. Upon completion of the review, the chief operator or his designee must initiate any corrective action which may be necessary and advise the station licensee of any condition which is a repetitive problem.

(4) Any entries which may be required in the station records. (See § 73.1820.)

47. The following listings are removed in their entirety from the Alphabetical Index to Part 73 of the Commission's rules:

Logs, Maintenance	73.1830
Maintenance logs	73.1830
Logs, Operating	73.1820
Operating logs	73.1820

48. The following listings are added in sequence to the Alphabetical Index to Part 73 of the Commission's rules:

Station log	73.1820
Log, Station	73.1820
Special technical records	73.1835
Technical records, Special	73.1835
Records, Special technical	73.1835

PART 74—[AMENDED]

49. In Part 74, a new § 74.19 is added to read as follows:

§ 74.19 Special technical records.

The FCC may require a broadcast auxiliary station licensee to keep operating and maintenance records necessary to resolve conditions of actual or potential interference, rule violations, or deficient technical operation.

50. Section 74.181 is re-entitled "Station records", paragraph (a) is revised, paragraphs (b) and (c) are removed and present paragraph (d) is redesignated new paragraph (b) and revised as follows:

§ 74.181 Station records.

(a) The licensee of each experimental television broadcast station must maintain adequate records of the operation, including:

(1) Program transmitted.

(2) In case of relay or pickup station, an entry giving points of program origination and receiver location.

(3) Entries concerning any specific information requested by the FCC deriving from the purpose of the experimental grant.

(4) Such other information deemed useful by the licensee for evaluating the experimental operation.

* * * * *

(b) Station records must be retained for a period of 2 years.

51. Section 74.281 is re-entitled "Station records", paragraph (a) is revised, paragraphs (b) and (c) are removed and present paragraph (d) is redesignated new paragraph (b) and revised as follows:

§ 73.281 Station records.

(a) The licensee of each experimental facsimile broadcast station must maintain adequate records of the operation, inluding:

(1) Program transmitted.

(2) Entries concerning any specific information requested by the FCC deriving from the purpose of the experimental grant.

(3) Such other information deemed useful by the licensee for evaluating the experimental operation.

(b) Station records must be retained for a period of 2 years.

52. Section 74.381 is re-entitled "Station records"; paragraph (a) is revised, paragraphs (b) and (c) are removed and present paragraph (d) is redesignated as new paragraph (b) and revised as follows:

§ 74.381 Station records.

(a) the licensee of each experimental television broadcast station must maintain adequate records of the operation, including:

(1) Program transmitted.

(2) In case of relay or remote pickup station, an entry giving points of program origination and receiver location must be included.

(3) Entries concerning any specific information requested by the FCC deriving from the purpose of the experimental grant.

(4) Such other information deemed useful by the licensee for evaluation of the experimental operation.

(b) station records must be retained for a period of 2 years.

53. § 74.465, paragraph (a) is revised as follows:

§ 74.465 Frequency monitors and measurements.

(a) The licensee of a broadcast remote pickup station or system must provide the necessary means to insure that all operating frequencies are maintained within the allowed tolerances.

* * * * *

54. Section 74.562 is revised as follows:

§ 74.562 Frequency monitors and measurements.

The licensee of each aural broadcast STL and intercity relay station must provide the necessary means for determining that the frequency of the station is within the allowed tolerance. Sufficient observations must be made to ensure that the assigned carrier frequency is maintained within the prescribed tolerance.

§ 74.581 [Removed]

55. Part 74 is amended by removing § 74.581.

56. Section 74.662 is revised as follows:

§ 74.662 Frequency monitors and measurements.

The licensee of a television broadcast auxiliary station must provide means for measuring the operating frequency in order to ensure that the emissions are confined to the authorized channel.

§§ 74.681, 74.781, 74.981 and 74.1281 [Removed]

57. Part 74 is amended by removing § 74.681, 74.781, 74.881, 74.981, and 74.1281.

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DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 391

[BMCS Docket No. MC-92; Amdt. No. 81-12]

Qualifications of Drivers; Handicapped Driver Waiver Program

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: The FHWA is amending the Federal Motor Carrier Safety Regulations (FMCSR) to expand the current Handicapped Driver Waiver Program (hereafter referred to as the Waiver Program) to include operations of hazardous materials-laden and passenger-carrying vehicles. This amendment is being adopted because accident statistics do not indicate that drivers who have suffered the loss or impairment of a limb and who are granted waivers are less safe than nonhandicapped drivers. Furthermore, the FHWA is revising the Waiver Program's application process to allow the option of unilateral waiver applications from limb-handicapped drivers. This action will permit handicapped drivers who have unilateral waivers to present themselves to their initial employing motor carrier for immediate employment consideration.

EFFECTIVE DATE: August 24, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Neill L. Thomas, Bureau of Motor Carrier Safety, (202) 426–9767; or Mrs. Kathleen S. Markman, Office of the Chief Counsel, (202) 426–0346, Federal Highway Administration, Department of Transportation, 400 Seventh St., SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: The FMCSR currently permit an individual who has lost a limb or has a limb impairment to drive in interstate or foreign commerce although not physically qualified under 49 CFR 391.(b) (1) and (2). Upon application to a Regional Administrator of the FHWA, a waiver of the physical requirement may be granted on a case-by-case basis with two exceptions: (1) A handicapped driver who intends to drive a hazardous material-laden (HML) vehicle, and (2) a handicapped driver who intends to drive a passenger-carrying vehicle. On June 12, 1980, a notice of request for public comment (NRPC) was published in the Federal Register (45 FR 39872). Its purpose was to review these two exceptions.

In the NRPC, the FHWA related the history of the Waiver Program and discussed the rationale for the two exceptions. Studies were cited which showed handicapped drivers (of automobiles) to be associated with increased accidents and traffic violations. Also discussed was the difference in operations among general commodity, passenger, and hazardous materials cargo (HMC) transportation.

The FHWA received 57 written comments to the NRPC. Thirty-one argued to retain the exceptions, 18 argued to grant relief, six argued positions not relevant to the NRPC, and two expressed no preference. Those favoring retaining the exceptions argued that handicapped drivers: (1) Cannot perform the complex eye-hand-foot coordinating tasks required of bus drivers; (2) cannot perform the nondriving safety-related functions required of bus and HMC drivers; (3) cannot perform the vehicle inspection and safety maintenance tasks (such as securing the manhole cover on an HMC tanker) required of HMC and bus drivers; and (4) finally, they argued that handicapped drivers would, because of these inadequacies, increase the potential for a catastrophic HMC or bus accident.

Those seeking relief through the abolition of the exceptions argued that the FHWA's own evaluation of its program in 1974 showed that drivers granted waivers under the Waiver Program operated commercial motor vehicles as safely as nonhandicapped drivers. Furthermore, they pointed out that individual determinations are presently made of waiver applications for the transportation of general commodities and no strong argument has been put forth that vehicles transporting HMC or passengers are significantly different from general commodity-laden vehicles. They therefore conclude that the present program with minimum modifications could be used to evaluate those who desire to operate HML or passenger-carrying vehicles.

This point concerning individual determinations is related to regulations stemming from the Rehabilitation Act of 1973 (RA of 1973), Pub. L. 93–112, 87 Stat. 355, as amended in 1978, Pub. L. 95–602, 92 Stat. 2984. The 1978 amendment required the agencies of the Executive Branch of the Federal government to examine their regulations and programs to bring them into compliance with the RA of 1973.

Court review of cases involving the RA of 1973 established that exceptions (discrimination) may be warranted if two considerations are present: (1) A subgroup, such as in the present case, are statistically shown to be a risk, and (2) one cannot make individual determinations within this subgroup of those handicapped individuals who are not at risk.

Applying these conditions to the Waiver Program, those favoring retention of the prohibition of drivers with a waiver from operating HML or passenger-carrying vehicles would have to show, with a preponderance of evidence, that limb-handicapped individuals cannot be evaluated while performing the safety-related driving and nondriving duties of a driver of a HML or passenger-carrying vehicle. Most industry representatives gave the opinion that the limb-handicapped cannot perform safety-related driving and nondriving duties of a HMC or passenger-carrying driver. However, it is important to note that the comments received from those supporting the retention of the existing rule lacked substantive evidence to support their contentions.

Those favoring rescinding the prohibition took issue with the FHWA's interpretation of handicapped accident statistics stating that the studies do not conclusively demonstrate that all limb-handicapped drivers are unsafe.

The FHWA gave consideration to all viewpoints. The FHWA also considered its own 1974 risk analysis study of the Waiver Program and an ongoing risk analysis study of the Waiver Program. Further, it sought the advice and counsel of its cadre of Regional Waiver Program Specialists (RMPS). This cadre has been trained to administer and perform all the evaluations of applicants to the Waiver Program. They were trained by transportation and rehabilitation experts, physicians, and a limb-handicapped individual who is a chief of a department of Prosthetics and Sensory Devices, at a Veterans Medical Center.

The 1974 risk analysis study revealed that the Waiver Program participants' accident rate per million miles driven, was identical to that of nonhandicapped drivers. The present ongoing study reveals that the accident rate per million miles for Waiver Program participants is lower than that for all commercial drivers. The present study evaluates several times the number of Waiver Program participants as did the 1974 study.

It was concluded from the responses to the NRPC, the FHWA's assessment of its risk analysis studies, and the FHWA's responsibilities under the RA of 1973 that the Waiver Program

participants should be allowed, on a case-by-case basis, to apply for waivers to operate HML or passenger-carrying vehicles.

A notice of proposed rulemaking (NPRM) was published on November 8, 1982, proposing to amend the FMCSR to expand the current Waiver Program to include commercial operations of HML and passenger-carrying vehicles. Further, the FHWA proposed to rescind the requirements for a coapplicant motor carrier for each waiver application.

A total of 29 commenters responded to the NPRM. Of that total, nine commenters opposed the proposal, 18 commenters supported the proposal, and two commenters partially supported the proposal.

Summary of Comments.

Those in opposition to the NPRM include: Three motor carrier associations, some of whose members transport HMC exclusively; three motor carriers, all of whom transport HMC; a bus association; a passenger-carrying motor carrier; and an insurance association.

The Private Truck Council of America, Inc. (PTC) relates a concern in its comments that several other commenters mentioned:

> We recognize that with driver training for the handicapped, coupled with cab alteration to accommodate the individual impairment, a person that is handicapped may indeed drive as well as someone who is not impaired.
>
> However, there is more to driving hazardous material than simply driving the vehicle.
>
> We believe that a driver needs above average physical and mental attributes when working with a hazardous substance. We are aware of the conditions that sometimes arise in moving of hazardous substances that require a driver to move swiftly from his cab and climb quickly and safely onto the trailer in order to shut off or examine a potentially dangerous leaking valve.
>
> The speed and agility with which these tasks are performed cannot only save the life of the driver but also the lives of the other nearby citizens.

The Austin Powder Company further articulates on the safety-related nondriving tasks of HMC drivers. It related the story of a driver who noticed

> * * * a fire in the cargo area of his truck * * * Due to the ability of our driver to run and alert everyone of the impending explosion, there were no fatalities and few injuries. We doubt the results would have been the same had he not had full use of his legs.
>
> Another area of concern is how an individual missing a hand or an arm could remove an overheated tire from a vehicle laden with explosives * * * Section 397.17(c) of the Federal Motor Carrier Safety Resultations requires the driver to cause an overheated tire to be removed and placed at a safe distance from the vehicle. * * * Austin and other explosive carriers do not always operate in populous areas where help can be obtained. We equip all our trucks with a lug wrench and jack so that the driver can remove an overheated tire before it can catch fire.

The National LP-Gas Association (NLPGA) expresses similar views on the evaluation of nondriving safety-related job tasks. Further, the association believes the FHWA is placing HMC carriers in a "catch-22" position. The NLPGA states,

> BMCS also appears to place great weight on the fact that carriers may impose more stringent qualifications and, in the final analysis, need not hire anyone they do not feel is qualified for the job. Unfortunately, such statements are short-sighted and fail to account for the fact that finalization of this rule could place hazardous materials operators in a very difficult, 'Catch 22' situation. Thus, when confronted with an applicant in possession of a waiver granted by the Regional Federal Highway Administrator, the employer is faced with the difficult choice between hiring the individual and running the risk of a serious accident and resultant liability exposure, or facing a discrimination suit under the equal employment opportunity laws.

The American Insurance Association (AIA) opposed the NPRM because the FHWA has not identified specific safety-related job tasks associated with HMC transportation.

The Greyhound Lines, Inc. with a national fleet of 4,000 buses and 8,200 drivers makes three points in its opposition to the NPRM proposal:

1. The 1974 Waiver Program risk analysis study was too small a sample, too short a sampling period, and did not evaluate variables such as weather and terrain.

2. The reliance of the BMCS [FHWA's Bureau of Motor Carrier Safety] on an ongoing study is premature since the data is incomplete or inadequate.

3. It is unreasonable to require Greyhound to modify its entire fleet of vehicles for one or two drivers with waivers who have need for vehicle modifications. Also these modifications may in fact conflict with each other.

The American Bus Association (ABA) believes it is uncertain whether motor carriers of passengers would be required under the proposed rule to hire any Waiver Program participant. The ABA quotes a passage from the NPRM, "In addition, the FMCSR are minimum qualifications and do not prevent a motor carrier from enacting policies imposing more stringent or additional qualifications, requirements, examination, or certificates." The ABA interprets this to mean a handicapped driver, even though granted a waiver by the FHWA, would not have to be hired if a carrier has more stringent physical standards. Their interpretation is correct.

Those in support of the NPRM include: three State agencies that assist the handicapped, one State Governor, two motor carriers, two advocate organizations for the handicapped, nine individuals, and two representatives of transportation unions.

Governor William A. O'Neill of the State of Connecticut found the proposal based on solid statistical data. The Governor's Council on Disabled Persons for the State of Ohio wrote that "A change in this portion of the regulation will provide additional employment opportunities for qualified disabled truck drivers." The Division of Rehabilitation Services of the State of Georgia supports the expansion of this program. "Further we [Georgia] support the continued screening of drivers on a case by case basis to assure the safety of drivers, passengers, and other motorists."

A former bus driver, who lost part of his leg while employed by Continental Trailways, writes that a person with his experience and physical capabilities would be an ideal candidate for a waiver to drive an interstate passenger-carrying vehicle.

Another driver drove a bus for twenty-three years, then in 1980 had his left foot amputated due to a hunting accident. This driver still works for his bus company and on occasion moves buses (both automatic and manual shift) in the company yard. He enclosed two letters of support in his comments. His doctor, an orthopedic surgeon says the following of him:

> It is my opinion:
>
> 1. This man is qualified to drive a commercial bus under any and all circumstances. He does not represent an increased risk in this activity.
>
> 2. He is qualified to make roadside repairs or perform rescue activities in a normal manner.
>
> 3. No specific adaptive devices [vehicle modifications] are required.

The owner of the bus company where this driver works gave him a performance test. The owner had the driver first walk up and down three flights of steps, then walked a mile. Next, he had him drive a bus with a manual transmission. He states the driver had not driven this type of vehicle before nor had he driven with its type of transmission. The bus company owner had him drive for one-half hour on residential streets with cars parked on

both sides, meeting traffic with no room to pass, and making short double corners. He then had the driver park in the bus yard, backing in between two other buses. Finally, they rewalked the mile to the office. They walked each mile in 11 minutes. The bus company owner says he will definitely rehire the man as a bus driver if the proposed change takes place.

A trucker who lost his right hand at the wrist would have a job with a particular carrier, we are told, but for the fact that on the backhaul the possibility exists that the load may contain HMC.

The Metro Independent Living Center, in support of the proposal, states, "Therefore, any change in your regulations that are safe but yet open up more jobs for people with disabilities will be a means whereby more people with disabilities can be self-sufficient and not a drain on our social system."

The Crouse Cartage Company stated they have a driver with a waiver and judge him to be one of their safest drivers. He was recently given a life rescuing award.

North American Van Lines, Inc. (NAVL) services include the transportation of HMC. The company persently employees five drivers who have been issued waivers. NAVL believes that, "the Waiver Program's Skill Performance Evaluation would disqualify any applicant who because of the unique nature of his or her impairment could not demonstrate proficiency in handling the necessary equipment and paraphernalia associated with HML vehicles." NAVL finds the present restriction unnecessary and inequitable in the face of the arguments presented in the NPRM. Finally, they state the service inflexibility (no backhaul if HMC involved), is costly and inefficient for the carrier and for the driver, particularly if the driver is compensated only for loaded or revenue producing miles. They find the coapplicant requirements a paperwork burden to the motor carrier and say it delays the time a driver can commence work.

The International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America States its support for the entire proposal. It believes the rescission of the coapplicant requirement will remove "a stumbling block for otherwise qualified handicapped drivers seeking a waiver."

The American Trucking Associations, Inc. (ATA) through its Council of Safety Supervisors supports the NPRM in part. It supports individual case-by-case determinations of the proficiency of handicapped drivers to transport HMC who can operate at the same level of safety and proficiency as nonhandicapped driver. However, the ATA does not support the rescission of the coapplicant requirement and thinks the rule should be made preemptive in nature (i.e., supersede all States laws.)

The ATA believes the information provided by the coapplicant motor carrier is an essential factor in the continued success of the Waiver Program. It believes information such as operating terrain, equipment specifications, and job requirements are a necessity in the evaluation of the proficiency of a handicapped driver. The ATA adds that its support of that portion of the NPRM permitting handicapped drivers to transport HMC is contingent on the coapplicant-requirement remaining as an integral part of the Waiver Program.

Discussion of Comments

The final disposition of this NPRM by the FHWA rests on the comments to the docket, the evaluation of the risk analysis studies, the evaluation of the ability of the modified Skill Performance Evaluation to discern performance of handicapped individuals in HML or passenger-carrying vehicles, and its responsibility under the RA of 1973, as amended in 1978.

Comments of the A.I.A., the A.B.A., and Greyhound Lines, Inc. took issue with a past FHWA study and a second on-going study of the accident rate of its Waiver Program participants. They contend the 1974 study was too small and the usage of the results of the ongoing study is premature.

The 1974 study developed accident rate data for Waiver Program participants and found the rate equivalent to that for all interstate or foreign commercial drivers. In 1979, the FHWA initiated a second study which is to cover five years. A five-year time period was chosen because one objective of the study was to gather sufficient data to make program decisions on whether it is feasible to grant lifetime waivers in certain cases, such as, a left foot amputee or a left leg below the knee amputee. Prior to 1979, the FHWA had some oral reports from RWPS that they would not have known the applicant had a disability other than the fact that the person applied for a waiver.

Another objective of the study was to gather year to year accident rate data on Waiver Program participants. The number of study participants (N) per year was: 1979, N=52; 1980, N=71; 1981, N=67; 1982, N=90. The total N equals 280, approximately four times the number of study participants as in the 1974 study. More importantly, the accident rate per million miles for these years is: 1979, 0.7; 1980, 0.6; 1981, 0.9; 1982, 0.8, while in the same period, the 1978 rate (A Report to Congress on Large-Truck Accident Causation, 1982) for all combination trucks was 5.94 accidents per million miles. In 1981, National Accident Sampling System of the National Highway Traffic Safety Administration developed a rate of 3.84 accidents per million miles for all drivers driving articulated vehicles. Over ninety percent of Waiver Program participants drive articulated vehicles.

The FHWA's BMCS also collects accident and exposure data on all "reportable accidents." "Reportable Accidents" are accidents involving: (1) The death of a human being, (2) bodily injury to a person who, as a result, received medical treatment away from the scene of the accident, or (3) total aggregate accident cost of $2,000 or more. The BMCS rates per million miles for all interstate and foreign commerce drivers in the years 1979 through 1982 are: 1979, 1.016; 1980, 1.459; 1981, 1.628; and 1982 (partial figure), 1.489. A comparison of the rates for the Waiver Program with figures for all BMCS "reportable accidents" shows that the Waiver Programs "reportable accidents" rates are at least as good as the overall BMCS "reportable accident" rates. It is believed that this evaluation study of the Waiver Program shows that limb-handicapped drivers when evaluated and monitored under the FHWA's Waiver Program are at least as safe as nonhandicapped commercial drivers.

It is believed the foregoing discussion responds to any questions concerning the comparison of accident rates between limb-handicapped drivers in the Waiver Program and nonhandicapped commercial drivers. The studies, as a whole, prove the success of the Skill Performance Evaluation to discern those applicants who have adequately compensated for their handicaps.

The success of the Skill Performance Evaluation in the present Waiver Program in discerning those limb-handicapped applicants who have successfully compensated for their handicap leads to a second major group of comments of those opposing the proposal. Three commenters (i.e., the PTC, Austin Power Company, and the NLPGA) all express the belief that handicapped individuals cannot adequately handle the driving and nondriving safety-related duties of (principally nondriving duties) an HMC driver, although the PTC does recognize that handicapped drivers may drive as

well as someone who is not impaired, considering training and cab alterations available today. These commenters as well as others identified critical nondriving tasks they believe the BMCS cannot reasonably evaluate in its Skill Performance Evaluation.

Essential new job tasks that would have to be evaluated by the Skill Performance Evaluation for HMC tanker operations are: manhole cover operations and security, hose operations and security, the grounding of a vehicle, opening and closing of valves, operating the emergency shut-off controls, the ability to change a tire, the ability to handle the larger size extinguisher (two-handed type) used by certain HMC motor carriers, and an assessment of the driver's potential for response in a hypothetical emergency to either warn the public or close a valve.

The FHWA does not believe all handicapped driver waiver candidates can adequately perform all the driving and nondriving safety-related tasks of HMC drivers. The FHWA appreciates that certain HMC operations have unique features. In particular, we recognize the variety of trailer types found among the thousands of different HMC carriers. The FHWA also appreciates the importance of nondriving safety-related job tasks associated with passenger-carrying operations, in particular, those tasks associated with passenger evacuation.

The FHWA is persuaded in part by the comments to the docket that it may not be feasible to modify the Skill Performance Evaluation to ensure that every driver with a waiver is evaluated with respect to every conceivable nondriving safety-related job task on the thousands of different HMC trailer types and buses. Therefore, the FHWA has modified the Skill Performance Evaluation so that the assessment by the Regional Waiver Program Specialist is for of the operation of the power unit (tractor) only, along with certain pre-trip and post-trip inspection functions. Since pre-trip and post-trip inspection evaluation require a trailer and because the driving function is significantly influenced by the size and weight of the trailer, the Skill Performance Evaluation will continue to require a loaded trailer. However, the waiver, if granted, will state it covers the power unit (tractor) only, not the trailer type. It will be the responsibility of the employing motor carrier to evaluate a driver possessing a waiver on the type of trailer(s) that the driver will utilize as well as any other nondriving job tasks unique to the motor carrier's operations.

A Waiver Program operational problem identified in the comments involved the rescinding of the coapplicant requirement. If no coapplicant were part of the waiver, in many instances, no vehicle would be available for the Skill Performance Evaluation. Even if the applicant were able to rent a tractor semi-trailer, it would not be loaded. The consequences in many cases would be that the rule change could actually reduce opportunities for some applicants to be granted waivers.

The FHWA believes the merit of rescinding the coapplicant requirement is still warranted; however, it also does not want to restrict that segment of the limb-handicapped commercial driver population who do not own or who cannot acquire a vehicle and have it available for the Skill Performance Evaluation. Therefore, the FHWA will retain the coapplicant feature of the Waiver Program but will grant exceptions in certain instances. A driver may apply for a waiver unilaterally if s/he is ready to provide a vehicle with a loaded trailer for the Skill Performance Evaluation and assume all responsibility for certifying and establishing that the s/he is otherwise qualified with respect to all qualifications under Part 391. The unilateral applicant shall certify s/he is otherwise qualified as well as provide specific information about medical examinations and special medical evaluation, motor carrier employment history, State Motor Vehicle Driving Record, a certification of road test, and a copy of a State waiver (if applicable).

One major passenger carrier's comment that it would be forced to modify its entire fleet if a handicapped driver required a vehicle modification is without merit. Historically, the FHWA's BMCS has taken the position that it would impose an undue hardship on the conduct of a motor carrier's business for the motor carrier to modify its fleet for a limb-handicapped driver. We think this position is supported by final rules published by the Department of Labor, Office of Federal Contract Compliance Programs on October 20, 1978, in the **Federal Register** (43 FR 49278). In 41 CFR Section 60–741.6(d) it states, "Accommodation to physical and mental limitations of employees. A contractor must make reasonable accommodation to the physical and mental limitations of an employee or applicant unless the contractor can demonstrate that such an accommodation would impose undue hardship on the conduct of the contractor's business. In determining the extent of a contractor's accommodation obligations, the following factors among others may be considered: (1) Business necessity and (2) financial cost and expenses.

In the NPRM, the FHWA cited 49 CFR 391.1 which states that rules in Part 391 do not prohibit a motor carrier from imposing more stringent or additional qualifications, requirements, examinations, or certificates than are required by the rules in Part 391. The ABA commented that a passenger-carrying motor carrier may only need to state or have a written policy stating that it has more stringent requirements which prohibit the hiring of a limb-handicapped driver in order to circumvent the revised § 391.49. The ABA cannot use § 391.1 to circumvent § 391.49. The FHWA cited § 391.1 in the NPRM to allay some motor carrier fears that limb-handicapped drivers who have been granted waivers would be forced on a motor carrier even though the motor carrier might have some nondriving safety-related job tasks associated with the type of trailer used or some other job tasks unique to its operations that the BMCS' RWPS has not evaluated. The rules, as amended, would eliminate this fear since the employing motor carrier is held responsible for evaluating safety-related job tasks associated with the trailer and any other job tasks unique to its operations. It is not believed that this imposes any additional requirements on a motor carrier since all motor carriers assess and assure themselves that any newly hired driver can perform the above tasks whether that driver be limb-handicapped or not.

The ATA comment that any new Waiver Program regulation should preempt State regulations is unnecessary. Historically, States may promulgate rules that are similar in nature to the FMCSR. They may be more stringent as long as they do not conflict with the FMCSR. Therefore, there is no need to make this rule preemptive.

The comments of those in support of the proposal, rely, for the most part, on the results of the FHWA's risk analysis studies of the Waiver Program. There is no doubt in the mind of those supporting the proposal that individual case-by-case determinations of ability to adequately compensate for a limb-handicap is feasible and warranted.

Several commenters, though obviously advocates for the handicapped, expressed their support for the Waiver Program to continue to assure, through evaluation and monitoring, the safety of all motorists and the general public

Conclusion

The FHWA is revising § 391.49, Waiver of certain physical defects, to

expand the Waiver Program to include operations of HML and passenger-carrying vehicles. Concerns of those in opposition that limb-handicapped drivers are a safety risk on the highway and that the FHWA cannot adequately evaluate the nondriving safety-related job tasks HMC and bus operations have not been substantiated. Two risk analysis studies depicted the particpants of the Waiver Program to have the same or less risk of accidents as nonhandicapped commercial drivers. Further, the FHWA has removed itself from the evaluation of nondriving safety-related job tasks associated with types of trailers and any other nondriving job task unique to a particular motor carrier operation.

The FHWA is also revising § 391.49 with respect to the coapplicant requirement. In the NPRM, the FHWA proposed to rescind this requirement in its entirety. It was pointed out that instead of eliminating an employment stumbling block for drivers by this amendment, the change could create one. Many limb-handicapped driver applicants do not own their own vehicles or would find it both expensive and extremely difficult to rent a power unit and have a loaded trailer for use during the Skill Performance Evaluation. With the coapplicant requirement, the motor carrier provides the power unit and trailer for use during the Skill Performance Evaluation. The FHWA appreciates the concerns of the limb-handicapped drivers and the employing motor carriers to eliminate the time difference between hiring a handicapped and nonhandicapped driver. At the same time, the change should not restrict the limb-handicapped driver's capability to acquire a waiver for lack of a vehicle. The FHWA will retain the coapplicant requirement but incorporate an exception to the general rule. The exception will allow a limb-handicapped driver to unilaterally apply for a waiver provided the applicant certifies (s)he is otherwise qualified under the driver qualifications found in Part 391 of the FMCSR and assumes responsibility for providing the power unit (tractor) and a loaded trailer for the Skill Performance Evaluation. Besides the certification of being otherwise qualified under 391, the driver applicant will have to provide all the information required for the waiver application, such as motor carrier employment history, State motor vehicle driving record, certification of road test, a copy of the State waiver (if applicable), physical examination findings and medical certificate, and a physiatrist's or orthopedic surgeon's summary report on the affected limb(s).

Previously, when all waivers had coapplicants, the coapplicant agreed to ensure that the driver complied with all conditions (i.e., only drive with an automatic transmission or provide a dimmer switch be relocated on dash). The coapplicant also agreed to inform the Regional Federal Highway Administrator in instances when the driver with a waiver had an accident, a moving traffic citation, or license restriction or withdrawal. These responsibilities will still be those of any motor carrier whether the motor carrier is the regular employing motor carrier, a motor carrier employing the driver for a single trip, or on intermittent, casual, or occassional basis.

Since the FHWA will be evaluating only the applicant's ability to operate a tractor (power unit) during the Skill Performance Evaluation, it will be the responsibility of whatever motor carrier employs a driver with a waiver to evaluate that driver with respect to nondriving safety-related job tasks associated with the type of trailer(s) the driver will use or any job tasks unique to its operation. A waiver authorizes the driver to drive for any motor carrier in the type of power unit stated on the waiver whether the waiver has a coapplicant motor carrier or was issued unilaterally. The driver shall give a copy of the waiver to each motor carrier who employs him/her whether it be the regular employing motor carrier, a motor carrier for a single trip, or a motor carrier on an intermittent, casual, or occasional basis. Drivers with unilaterally issued waivers are responsible for the waiver renewal application biennially. Drivers with unilateral waivers must state in their renewal application the name and address of their regular employing motor carrier (if any; if unemployed, so state).

A regulatory evaluation/regulatory flexibility analysis has been prepared and is available for review in the public docket. A copy may be obtained by contacting Mr. Neill Thomas at the address provided above under the heading **FOR FURTHER INFORMATION CONTACT.**

The FHWA has determined that this document contains neither a major rule under Executive Order 12291 or a significant regulation under the regulatory policies and procedures of the Department of Transportation. The economic impact if any, anticipate as a result of this action is minimal. Under the criteria of the Regulatory Flexibility Act, it is certified that this rulemaking does not have a significant economic impact on a substantial number of small entities.

In consideration of the foregoing, the FHWA is rescinding the exception prohibiting drivers with waivers to operate HML or passenger-carrying vehicles and permitting unilateral waiver applications to the Waiver Program.

Because this amendment relieves a restriction, it may be made effective in fewer than 30 days after publication in the **Federal Register.**

List of Subjects in 49 CFR Part 391

Highways and roads, Motor carriers—driver qualifications, Motor carriers—handicapped driver waiver, Reporting and recordkeeping requirements.

(49 U.S.C. 3102 and CFR 1.48)

(Catalog of Federal Domestic Assistance Program Number, 20.217, Motor Carrier Safety)

Issued on: August 17, 1983.

Kenneth L. Pierson,

Director, Bureau of Motor Carrier Safety.

In consideration of the foregoing, the FHWA is revising 49 CFR 391.49 to read as follows:

§ 391.49 Waiver of certain physical defects.

(a) A person who is not physically qualified to drive under § 391.41(b) (1) or (2) and who is otherwise qualified to drive a motor vehicle, may drive a motor vehicle, if the Regional Federal Highway Administrator has granted a waiver to that person.

(b) A letter of application for a waiver may be submitted jointly by the person who seeks a waiver of the physical disqualification (driver applicant) and by the motor carrier that will employ the driver applicant if the application is granted. The application must be addressed to the Regional Federal Highway Administrator for the region in which the coapplicant motor carrier's principal place of business is located. The address for each regional office is listed in § 390.40 of this subchapter.

Exception. A letter of application for a waiver may be submitted unilaterally by a driver applicant. The application must be addressed to the Regional Federal Highway Administrator for the region in which the driver has legal residence. The address of each regional office is listed in § 390.40 of this subchapter. The driver applicant must comply with all the requirements of paragraph (c) of this section except (c)(1) (i) and (iii). The driver applicant shall respond to the requirements of paragraph (c)(2) (i) to (v) of this section, if the information is known.

(c) A letter of application for a waiver shall contain—

(1) Identification of the applicant(s):

(i) Name and complete address of the motor carrier coapplicant;

(ii) Name and complete address of the driver applicant;

(iii) The Federal Highway Administration Motor Carrier Identification Number, if known; and

(iv) A description of the driver applicant's limb impairment for which waiver is requested.

(2) Description of the type of operation the driver will be employed to perform:

(i) State(s) in which the driver will operate for the motor carrier coapplicant (if more than 10 States, designate general geographic area only);

(ii) Average period of time the driver will be driving and/or on duty, per day;

(iii) Type of commodities or cargo to be transported;

(iv) Type of driver operation (i.e. sleeper-team, relay, owner operator, etc.); and

(v) Number of years experience operating the type of vehicle(s) requested in the letter of application and total years of experience operating all types of motor vehicles.

(3) Description of the vehicle(s) driver applicant intends to drive:

(i) Truck or truck-tractor make, model, and year (if known);

(ii) Drive train;

(A) Transmission type (automatic or manual—if manual, designate number of forward speeds);

(B) Auxiliary transmission (if any) and number of forward speeds; and

(C) Rear axle (designate single speed, 2-speed, or 3-speed).

(iii) Type of brake system;

(iv) Steering, manual or power assisted;

(v) Description of type of trailer(s) (i.e. such as, van, flatbed, cargo tank, drop frame, lowboy, or pole);

(vi) Number of semitrailers or full trailers to be towed at one time; and

(vii) Description of any vehicle modification(s) made for the driver applicant; attach photograph(s) where applicable.

(4) Otherwise qualified:

(i) The coapplicant motor carrier must certify that the driver applicant is otherwise qualified under the regulations of this part;

(ii) In the case of a unilateral application, the driver applicant must certify that (s)he is otherwise qualified under the regulations of this part.

(5) Signature of applicant(s):

(i) Driver applicant's signature and date signed;

(ii) Motor carrier official's signature (if application has a coapplicant), title, and date signed. Dependent upon the motor carrier's organizational structure (corporation, partnership, or proprietorship), this signer of the application shall be an officer, partner, or the proprietor.

(d) The letter of application for a waiver shall be accompanied by:

(1) A copy of the results of the medical examination performed pursuant to § 391.43;

(2) A copy of the medical certificate completed pursuant to § 391.43(e);

(3) A medical evaluation summary completed by either a board qualified or board certified physiatrist (doctor of physical medicine) or orthopedic surgeon;

Note.—The coapplicant motor carrier or the driver applicant shall provide the physiatrist or orthopedic surgeon with a description of the job tasks the driver applicant will be required to perform;

(i) If the medical evaluation summary applies to a driver applicant disqualified under § 391.41(b)(1), the summary shall include an assessment of the driver's functional capabilities as they relate to the driver's ability to perform normal tasks associated with operating a motor vehicle; or

(ii) If the medical evaluation summary applies to a driver applicant disqualified under § 391.41(b)(2), the summary shall include an explanation as to how and why the impaired area interferes with the driver's ability to perform normal tasks associated with operating a motor vehicle. The summary shall also contain an assessment of whether the condition will likely remain medically stable over the driver applicant's lifetime.

(4) A description of the driver applicant's prosthetic or orthotic device worn, if any, by the driver applicant;

(5) Road test:

(i) A copy of the driver applicant's road test administered by the motor carrier coapplicant and the certificate issued pursuant to § 391.31 (b) through (g); or

(ii) A unilateral applicant shall be responsible for having a road test administered by a motor carrier or a person who is competent to administer the test and evaluate its results.

(6) Application for employment:

(i) A copy of the driver applicant's application for employment completed pursuant to § 391.21; or

(ii) A unilateral applicant shall be responsible for submitting a copy of the last commercial driving position's employment application s/he held. If not previously employed as a commercial driver, so state.

(7) A copy of the driver applicant's waiver of certain physical defects issued by the individual State(s), where applicable; and

(8) A copy of the driver applicant's State Motor Vehicle Driving Record for the past 3 years from each State in which a motor vehicle driver's license or permit has been obtained.

(e) Agreement. A motor carrier that employs a driver with a waiver agrees to:

(1) File promptly (within 30 days) with the Regional Federal Highway Administrator such documents and information as may be required about driving activities, accidents, arrests, license suspensions, revocations, or withdrawals, and convictions which involve the driver applicant. This applies whether the driver's waiver is a unilateral one or has a coapplicant motor carrier;

(i) A motor carrier who is a coapplicant must file the required documents with the Regional Federal Highway Administrator for the region in which the carrrier's principal place of business is located; or

(ii) A motor carrier who employs a driver who has been issued a unilateral waiver must file the required documents with the Regional Federal Highway Administrator for the region in which the driver has legal residence.

(2) Evaluate the driver who has been granted a waiver for those nondriving safety-related job tasks associated with whatever type of trailer(s) will be used and any other nondriving safety-related or job-related tasks unique to the operations of the employing motor carrier; and

(3) Use the driver to operate the type of motor vehicle defined in the waiver only when the driver is in compliance with the conditions of the waiver.

(f) The driver shall supply each employing motor carrier with a copy of the waiver.

(g) The Regional Federal Highway Administrator, may require the driver applicant to demonstrate the driver's ability to safely operate the motor vehicle(s) s/he intends to drive. The demonstration will evaluate pre-trip and post-trip inspection abilities and driving performance. No evaluation of nondriving safety-related tasks or other nondriving tasks unique to the type of trailer(s) or other motor carrier operations will be performed during Skill Performance Evaluation.

(h) The Regional Federal Highway Administrator may deny the application for waiver or may grant it totally or in part and issue the waiver subject to such terms, conditions, and limitations

as deemed consistent with the public interest. A waiver is valid for a period not to exceed 2 years from date of issue, and may be renewed 30 days prior to the expiration date.

(i) The waiver renewal application shall be submitted to the Regional Federal Highway Administrator for the region in which the driver has legal residence, if the waiver was issued unilaterally. If the waiver has a coapplicant, then the renewal application is submitted to the Regional Federal Highway Administrator for the region in which the coapplicant motor carrier's principal place of business is located. The waiver renewal application shall contain the following:

(1) Name and complete address of motor carrier currently employing the applicant;

(2) Name and complete address of the driver;

(3) Effective date of the current waiver;

(4) Expiration date of the current waiver;

(5) Total miles driven under the current waiver;

(6) Number of accidents incurred while driving under the current waiver, including date of the accident(s), number of fatalities, number of injuries, and the estimated dollar amount of property damage;

(7) A current medical examination report;

(8) A medical evaluation summary pursuant to paragraph (d)(3) of this section if an unstable medical condition exists. All handicapped conditions classified under § 391.41(b)(1) are considered unstable.

Note.—Refer to paragraph (c)(3)(iii) for conditions under § 391.41(b)(2) which may be considered medically stable;

(9) A copy of driver's current State motor vehicle driving record for the period of time the current waiver has been in effect;

(10) Notification of any change in the type of tractor the driver will operate;

(11) Driver's signature and date signed; and

(12) Motor carrier coapplicant's signature and date signed.

(j) Upon granting a waiver, the Regional Federal Highway Administrator will notify the driver applicant and coapplicant motor carrier (if applicable) by letter. The terms, conditions, and limitations of the waiver will be set forth. A motor carrier shall maintain a copy of the waiver in its driver qualification file. A copy of the waiver shall be retained in the motor carrier's file for a period of 3 years after the driver's employment is terminated. The driver applicant shall have the waiver (or a legible copy) in his/her possession whenever on duty.

(k) The Regional Federal Highway Administrator may revoke a waiver after the person to whom it was issued is given notice of the proposed revocation and has been allowed a reasonable opportunity to appeal.

(l) Falsifying information in the letter of application, the renewal application, or falsifying information required by this section by either the applicant or motor carrier is prohibited.

Approved by the Office of Management and Budget under Control Number, 2125–0080.

[FR Doc. 83-23030 Filed 8-23-83; 8:45 am]
BILLING CODE 4910-22-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 658

[Docket No. 30818–169]

Shrimp Fishery of the Gulf of Mexico

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Rule-related notice.

SUMMARY: NOAA issues notice that no geographic adjustment to the Tortugas Shrimp Sanctuary off South Florida will be made for the 1983–84 season. This action is taken according to regulations implementing the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico. The intended effect of this action is to maintain the Sanctuary without change until a study of shrimp migration patterns through the Sanctuary is completed in August, 1984.

FOR FURTHER INFORMATION CONTACT: Edward E. Burgess, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702, telephone number: 813–893–3721.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico (FMP) was approved May 29, 1980, under authority of the Magnuson Fishery Conservation and Management Act. Final regulations implementing the FMP were published in the Federal Register on May 20, 1981, at 46 FR 27489. Amendment 1 to the FMP, prepared by the Gulf of Mexico Fishery Management Council (Council), provides for modification of the boundaries of two closed areas identified in the FMP. This amendment was approved on April 6, 1983 (47 FR 20310). Regulations were not proposed at that time; instead, whenever a closure modification is considered necessary, it will be implemented by regulatory amendment published in the Federal Register.

The FMP as amended provides that the Assistant Administrator for Fisheries, NOAA, in August consider geographic modification of the closed area identified as the Tortugas Shrimp Sanctuary (Sanctuary) in 50 CFR 658.22. The amendment requires that an annual analysis of the effects of the closure be prepared by the National Marine Fisheries Service (NMFS) and submitted to the Council. After reviewing this analysis and consulting with the Council, NOAA may modify the geographic scope of the Sanctuary through an amendment to the regulations implementing the FMP.

The geographic scope of the Sanctuary was modified for the period April 15, 1983, through August 14, 1984 (48 FR 17098), to allow for an intensive data collection effort to determine shrimp migration patterns through the Sanctuary. This study is underway and preliminary analyses have been submitted to the Council. After consulting with the Council, NOAA has determined that no modification to the geographic scope of the Sanctuary should be made until August 14, 1984, which is the end of the study period.

(16 U.S.C. 1801 *et seq.*)

Dated: August 19, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 83-23224 Filed 8-23-83; 8:45 am]
BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 48, No. 165
Wednesday, August 24, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 307, 350, 351, 354, 355, 362, and 381

[Docket No. 82-017P]

Fee Increase for Inspection Services

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is proposing to amend the Federal meat and poultry products inspection regulations to increase fees charged by FSIS to provide overtime inspection, identification, or certification services to meat and poultry establishments. The proposed fees reflect the increased costs of providing these services in fiscal year 1984.

DATES: Comments must be received on or before September 23, 1983.

ADDRESSES: Written comments to Regulations Office, ATTN: Annie Johnson, FSIS Hearing Clerk, Room 2637, South Agriculture Building, Washington, DC 20250. Oral comments as provided under the Poultry Products Inspection Act should be directed to Ms. June Blair (202) 382-0072. (See also "Comments" under **SUPPLEMENTARY INFORMATION.**)

FOR FURTHER INFORMATION CONTACT: June P. Blair, Director, Finance Division, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250; (202) 382-0072.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This proposed rule is issued in conformance with Executive Order 12291, and has been determined to be not a "major rule." It will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Effect on Small Entities

The Administrator, Food Safety and Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601), because the fees provided for in this document are not new but merely reflect a minimal increase in the costs currently borne by those entities which elect to utilize certain inspection services.

Comments

Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in duplicate to the Regulations Office and should bear a reference to the docket number located in the heading of this document. Any person desiring opportunity for an oral presentation of views should make such request to Ms. Blair so that arrangements may be made for the presentation. A transcript shall be made of all comments presented orally. Comments submitted pursuant to this document will be made available for public inspection in the Regulations Office between 9:00 a.m. and 4:00 p.m., Monday through Friday.

Background

Each fiscal year, the fees for certain services rendered to operators of official meat and poultry establishments, importers, or exporters by the Food Safety and Inspection Service (FSIS) are reviewed and a cost analysis is performed to determine if such fees are adequate to recover the cost of providing the services.[1] The analysis relates to fees charged in connection with overtime and holiday inspection, identification, certification, or laboratory services. The fees to be charged for these services are determined by an analysis of data on the current cost of these services coupled with the increase in that cost due to the increase for salaries of Federal employees allocated by Congress under the Federal Pay Comparability Act of 1970.

Based on the Agency's analysis of the costs incurred in providing these services, the fees related to such services would be amended to reflect increased costs associated therewith in the upcoming fiscal year.

Mandatory inspection by U.S. Government inspectors of meat and poultry slaughtered and/or processed at official establishments is provided for under the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) and the Poultry Products Inspection Act (21 U.S.C. 451 *et seq.*). Such inspection is required to ensure the safety, wholesomeness, and proper labeling of meat and poultry products and the ordinary costs of providing for it are borne by the U.S. Government. However, other than ordinary costs for these inspection services may be incurred to accommodate the business needs of particular establishments. These costs are recoverable by the Government.

Currently, § 307.5 (9 CFR 307.5) of the meat inspection regulations provides that FSIS shall be reimbursed for the cost of meat inspection on holidays or on an overtime basis at the rate of $19.40 per inspector hour. Similarly, § 381.38 (9 CFR 381.38) of the poultry products inspection regulations provides that FSIS will be reimbursed at the rate of $19.40 per inspector hour for overtime and holiday poultry inspection services. These fees would be increased to $19.76 per inspector hour.

FSIS also provides a range of voluntary inspection and certification services, the costs of which are totally recoverable by the Government. These services, provided under Subchapter B—Voluntary Inspection and Certification Service of Meat and Poultry, are provided under various statutes to assist in the orderly marketing of various animal products and byproducts not covered under the Federal Meat Inspection Act or the Poultry Products Inspection Act.

The basic hourly rate for providing such certification and inspection services is currently $16.68 per inspector hour (§§ 350.7, 351.8, 351.9, 354.101, 355.12, and 362.5). The overtime and holiday hourly rate is currently $19.40. The hourly rates for these services would be increased to $17.12 and $19.76,

[1] The cost analysis is on file with the FSIS Hearing Clerk. Copies may be requested from that office.

respectively. The rate for laboratory services would remain at $31.00 per hour.

These proposed fee increases do not include the increase resulting from a pay raise for Federal employees. Although the pay raise is normally effective at the beginning of each fiscal year and calculated into the fee increases, this fiscal year Congress is contemplating a delay in the pay increase. If Congress allocates the pay increase, FSIS will amend the regulations to reflect that increase in costs as well.

List of Subjects

9 CFR Part 307

Meat inspection, Fee charges.

9 CFR Part 350

Meat inspection, Fee charges.

9 CFR Part 351

Meat inspection, Fee charges.

9 CFR Part 354

Meat inspection, Fee charges.

9 CFR Part 355

Animal foods, Fee charges.

9 CFR Part 362

Poultry and poultry products, Fee charges.

9 CFR Part 381

Poultry products inspection, Fee charges.

PART 307—[AMENDED]

The proposed amendments to the Federal meat and poultry products inspection regulations are as follows:

1. The authority citation for Part 307 reads as follows:

Authority: 41 Stat. 241, 7 U.S.C. 394; 34 Stat. 1284, as amended; 21 U.S.C. 621; 62 Stat. 334; 21 U.S.C. 695, 7 CFR 2.15(a), 2.92.

2. Section 307.5(a) would be revised to read as follows:

§ 307.5 Overtime and holiday inspection service.

(a) The management of an official establishment, an importer, or an exporter shall pay the Food Safety and Inspection Service $19.76 per hour per Program employee to reimburse the Program for the cost of the inspection service furnished on any holiday as specified in paragraph (b) of this section; or for more than 8 hours on any day, or more than 40 hours in any administrative workweek Sunday through Saturday.

* * * * *

PART 350—[AMENDED]

3. The authority citation for Part 350 reads as follows:

Authority: 41 Stat. 241, 7 U.S.C. 394; 60 Stat. 1087, as amended, 7 U.S.C. 1622; 60 Stat. 1090, as amended, 7 U.S.C. 1624; 34 Stat. 1284, as amended, 21 U.S.C. 621; 62 Stat. 334, 21 U.S.C. 695; 7 CFR 2.15(a), 2.92.

4. Section 350.7(c) would be revised to read as follows:

§ 350.7 Fees and charges.

* * * * *

(c) The fees to be charged and collected for service under the regulations in this part shall be at the rate of $17.12 per hour for base time, $19.76 per hour for overtime including Saturdays, Sundays, and holidays, and $31.00 per hour for laboratory service, to cover the costs of the service and shall be charged for the time required to render such service. Where appropriate, this time will include, but will not be limited to, the time required for travel of the inspector or inspectors in connection therewith during the regularly scheduled administrative workweek.

* * * * *

PART 351—[AMENDED]

5. The authority citation for Part 351 reads as follows:

Authority: 60 Stat. 1087, as amended, 7 U.S.C. 1622, 60 Stat. 1090, as amended, 7 U.S.C. 1624; 7 CFR 2.15(a), 2.92.

6. Section 351.8 would be revised to read as follows:

§ 351.8 Charges for surveys for plants.

Applicants for the certification service shall pay the Department for salary costs at the rate of $17.12 per hour for base time, $19.76 per hour for overtime, travel and per diem allowances at rates currently allowed by the Government Travel Regulations, and other expenses incidental to the initial survey of rendering plants or storage facilities for which certification service is requested.

7. Section 351.9(a) would be revised to read as follows:

§ 351.9 Charges for examinations.

(a) The fees to be charged and collected by the Administrator for examination shall be $17.12 per hour for base time and $19.76 per hour for overtime including Saturdays, Sundays, and holidays, as provided for in § 351.14 and $31.00 per hour for any laboratory service required to determine the eligibility of any technical animal fat for certification under the regulations in this Part. Such fees shall be charged for the time required to render such service, including, but not limited to, the time required for the travel of the inspector or inspectors in connection therewith.

* * * * *

PART 354—[AMENDED]

8. The authority citation for Part 354 reads as follows:

Authority: 60 Stat. 1087, as amended, 7 U.S.C. 1622, 60 Stat. 1090, as amended, 7 U.S.C. 1624; 7 CFR 2.15(a), 2.92.

9. Section 354.101(b) would be revised to read as follows:

§ 354.101 On a fee basis.

* * * * *

(b) The charges for inspection service will be based on the time required to perform such services. The hourly rate shall be $17.12 for base time and $19.76 for overtime or holiday work.

* * * * *

PART 355—[AMENDED]

10. The authority citation for Part 355 reads as follows:

Authority: 60 Stat. 1087, as amended, 7 U.S.C. 1622, 60 Stat. 1090, as amended, 7 U.S.C. 1624; 7 CFR 2.15(a), 2.92.

11. Section 355.12 would be revised to read as follows:

§ 355.12 Charge for service.

The fees to be charged and collected by the Administrator shall be $17.12 per hour for base time, $19.76 per hour for overtime, including Saturdays, Sundays, and holidays, and $31.00 per hour for laboratory services to reimburse the Department for the cost of the inspection service furnished.

PART 362—[AMENDED]

12. The authority citation for Part 362 reads as follows:

Authority: 60 Stat. 1087, as amended, 7 U.S.C. 1622, 60 Stat. 1090, as amended, 7 U.S.C. 1624; 7 CFR 2.15(a), 2.92.

13. Section 362.5(c) would be revised to read as follows:

§ 362.5 Fees and charges.

* * * * *

(c) The fees to be charged and collected for service under the regulations in this part shall be at the rate of $17.12 per hour for base time, $19.76 per hour overtime including Saturdays, Sundays, and holidays, and $31.00 per hour for laboratory service to cover the costs of the service and shall be charged for the time required to render such service, including, but not limited to, the time required for the travel of the inspector or inspectors in connection therewith during the

regularly scheduled adminstrative workweek.

* * * * *

PART 381—[AMENDED]

14. The authority citation for Part 381 reads as follows:

Authority: 71 Stat. 447, 448, as amended, 21 U.S.C. 463, 468; 7 CFR 2.15(a), 2.92.

15. Section 381.38(a) would be revised to read as follows:

§ 381.38 Overtime and holiday inspection service.

(a) The management of an official establishment, an importer, or an exporter shall pay the Food Safety and Inspection Service $19.76 per hour per Program employee to reimburse the Program for the cost of the inspection service furnished on any holiday specified in paragraph (b) of this section; or for more than 8 hours on any day, or more than 40 hours in any administrative workweek Sunday through Saturday.

* * * * *

Done at Washington, DC, on August 5, 1983.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 83-23394 Filed 8-23-83; 8:45 am]
BILLING CODE 3410-DM-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 154

[Docket No. RM83-52-000]

Revisions Filing Requirements for Changes in a Tariff, Executed Service Agreement or Part Thereof

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: By this notice, the Federal Energy Regulatory Commission (Commission) proposes to revise § 154.63 of its regulations, "Changes in a tariff, executed service agreement or part thereof." This section contains the filing requirements of any change in a tariff or service agreement of a natural gas company. These revisions are made as part of the Commission's ongoing program to review all of its reporting requirements to eliminate those requirements that are not necessary to the performance of the Commission's responsibility. Also, in order to expedite the review process required for changes to a tariff, the Commission proposes to add certain filing requirements which it obtains through time-consuming supplemental data requests. Furthermore, the Commission proposes to make minor updating revisions.

In addition to general comments, the Commission is requesting specific comments on the cost and burden hours associated with the proposed amendments and on its proposal to require a natural gas company to submit a lead-lag study in support of the cash working capital allowance it claims in its rate filing. However, the Commission is requesting comments on alternatives to a lead-lag study as support for claimed cash working allowance.

DATES: Comments due on October 17, 1983.

ADDRESS: Comments must be filed with the Office of the Secretary, 825 N. Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Michael A. Stosser, Federal Energy Regulatory Commission, Office of the General Counsel, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8033.

SUPPLEMENTARY INFORMATION:

Issued: August 17, 1983.

I. Introduction

The Federal Energy Regulatory Commission (Commission) proposes to revise section 154.63 of the Commission's regulations under the Natural Gas Act (15 U.S.C. 717–717w (1976 and Supp. IV 1980)), *Changes in a tariff, executed service agreement or part thereof,* 18 CFR 154.63 (1982). This section contains the filing requirements of any change in a tariff or service agreement of a natural gas company. The information submitted is used to analyze a pipeline's rate design and to set a just and reasonable rate for that pipeline's service.

This rulemaking proceeding has been initiated as part of the Commission's ongoing program reviewing the Commission's filing requirements, eliminating the reporting of information that is not used for decisionmaking in the regulatory process, and reducing unnecessary reporting burdens. As a result of this review, the Commission proposes to revise its filing requirements by deleting certain information. The Commission is also proposing to add to the filing requirements certain information necessary for the Commission to review a change in the rate or tariff. Presently, that information is routinely obtained through supplemental data requests. The collection of this information in the application stage will reduce the burden on applicants. In addition, the Commission proposes to make minor updating revisions and corrections.

II. Background

The Natural gas Act requires that any rate charged by a natural gas pipeline be "just and reasonable." Section 4(a), 15 U.S.C. 717c(a) (1976). In order to aid the Commission in establishing such a rate, the Act requires that a natural gas pipeline company, subject to the jurisdiction of the Commission, file with the Commisson sixty days prior to becoming effective, any initial rates that it charges, section 4(c), 15 U.S.C. 717c(c) (1976); and that it file with the Commisson thirty days prior to becoming effective, any changes in these filed rates. Section 4(d), 15 U.S.C. 717c(d) (1976). The Commission may suspend both the initial rate and any changes in that rate for up to five months. *See* Interpretation of Authority to Suspend Initial Rate Schedules, 48 FR 24,358 (June 1, 1983) (to be codified at 18 CFR 2.3(d)). Also it may order a hearing to determine the lawfulness of the rates. Section 4(e), 15 U.S.C. 717c(e) (1976).

The Commission's regulations promulgated to implement the Act distinguish between filing requirements for an initial rate schedule, 18 CFR 154.62 (1982), and the filing requirements for a change in rate schedule, 18 CFR 154.63 (1982). In general 154.63 distinguishes between major and minor increases, decreases, and other types of changes, and establishes filing requirements appropriate to these characterizations.

III. Summary of Proposed Changes

A. Elimination of Unnecessary Information Collection

The Commission proposes to delete certain information which is no longer required by the Commission in its review process. Some of this information is outdated, whereas other information is available to the Commission from other filings or proceedings. Therefore, this action is in accordance with the Commission's effort to minimize the reporting burden on regulated entities. The following is a brief summary of the amendments designed to delete certain information no longer necessary at the Commission.

(1) Amend Schedule C–1 by deleting the requirements to show, as of the beginning of the 12 months of actual experience, the book additions and reductions, transfer and reclassification and to show, instead, only the Ending

Base Period Balances, Test Period Adjustments and Test Period Balances.

(2) Delete Schedule C–3—Base Period Monthly Balances, Gas Plant in Service.

(3) Delete Schedule C–4—Book Changes in Gas Plant in Service for Last Calendar Year.

(4) Amend Schedule C–5 by deleting the requirement to file a main line map showing all major projects completed during the base period, and a list of principal projects certificated by the Commission.

(5) Delete:

Schedule C–7—Map of Producing Areas
Schedule C–8—Summary of Gas Reserves
Schedule C–9—Summary of Gathering Facilities
Schedule C–10—Acquisition of Gas in Place
Schedule C–11—Summary of Gasoline and Purification Plants in Service
Schedule C–13—Changes in Intangible Plant
Schedule C–15—Acquired Operating Units with Unapproved Final Accounting

(6) Delete Schedule D–1—Base Period Monthly Balance, Accumulated DD&A Provisions.

(7) Delete Schedule E–2—Materials and Supplies and other elements for two years prior to base period.

(8) Delete Schedule H(1)–2—Annual cost of exploration and development expenditures for the last four years.

(9) Amend Schedule H(1)–3—Gas purchases by deleting the requirement to show the details of each major exchange for companies with a PGA clause.

(10) Delete Schedule H(4)–1—Gas Utility taxes paid.

(11) Amend Statement N by deleting the words "test period" at the end of the first paragraph.

(12) Amend Statement O by requiring a detailed system map only if significant changes have occurred since the filing of the last FERC Form No. 2; and by deleting Item (4)—Digest of contractual provisions relating to volumes and terms for contracts delivering in excess of 1 Bcf annually.

(13) Delete Statement Q—Price Stabilization Exhibit.

B. *Information Required in Lieu of Supplemental Data Requests*

The Commission is proposing to add certain information that the Commission requires from almost all applicants at various stages of the investigative process. Routinely, the Commission obtains this information through numerous data requests as the review process progresses. Rarely is such a request refused. However, the Commission believes that the filing of this information at the initial stage of the review process will enable staff to analyze the requisite data much earlier, avoid unnecessary follow-up requests, and expedite the analysis of the application. Consequently, the Commission is proposing to amend its regulations to require the filing of additional information. The Commission, however, is cognizant of the possible increased burden on applicants. Therefore, it is particularly interested in receiving information from potentially affected persons. The following is a brief summary of that information.

(1) Amend Schedule C–1 by adding the requirement to show the depreciable and non-depreciable plant and separate production and gathering plant and transmission plant between onshore and offshore.

(2) Amend Statement D by adding a provision to require the reporting of authorized negative salvage to be reflected as a separate and distinct part of Account No. 108. Additionally, this schedule would show the reserves separated between onshore and offshore production and gathering plant and transmission plant.

(3) Amend Schedule D–2 by deleting the details currently required and substitute therein a new requirement which would require applicants who are booking depreciation rates not yet approved by FERC, to show the amount of unapproved depreciation expense separately, by rate, proceeding and provide an explanation of the difference.

(4) Amend Statement E by adding a provision to require a lead-lag study in support of its claimed cash working capital requirements.

(5) Amend by adding a new Schedule E–3 to require a reconciliation with the flow-through of the cost of gas injected and withdrawn from storage recorded in Account No. 191 with the storage inventory amounts claimed by the company. Additionally, the company using LIFO method of storage inventory would be required to provide the data required by this schedule by LIFO layers.

(6) Amend Statement F(5)–1 by adding a provision which would require the filing of the company's most recent annual report to the stockholders and a copy of the most recent annual report to the SEC–Form 10k.

(7) Amend Schedule F(5)–4 by restricting the reporting of earnings per share to publicly-owned companies only.

(8) Amend Schedule G to require three additional schedules providing details of revenues received by the applicant which are not related to gas sales. These schedules require the submission of data related to transportation of gas for others, revenues related to products extraction activities and revenues related to the transportation of liquids, liquefiables hydrocarbons, and non-hydrocarbons constituents owned by producers.

(9) Amend Schedule H(1)–1 by requiring as part of working papers a separate schedule for base period and as adjusted expenditures, by month for labor, supplies and expenses and gas purchased. Additionally, this schedule should show separately the expenses and associated gas volumes applicable to Account Nos. 810, 811, and 812 and the volumes and expenses for each of the contra-accounts for both the base and test periods.

(10) Amend Schedule H(1)–3 by adding a requirement that a company which operates under a "PGA Option" for purchase gas costs shall file a separate attachment as part of Schedule H(1)–3 which sets forth the development of the purchased gas costs for the test period including volumes, the PGA rate utilized, the filing date, Docket No., and date of Commission order underlying such unit rate.

(11) Amend Schedule H(2) by adding a provision which would show separately the negative salvage expense. Additionally, this schedule would be modified to show the production and gathering function and the transmission function to be further classified between offshore and onshore.

(12) Amend Schedule H(2)–1 by adding a provision to reflect negative salvage expense and to classify the production and gathering function and the transmission function between offshore and onshore.

(13) Amend Schedule H(3)–1 by deleting the requirement to furnish a reconciliation of book net income with taxable net income for three previous years.

(14) Amend by adding a new schedule No. H(3)–7 which provides for a reconciliation between book and tax depreciable basis for determining the remaining deficiency in the Deferred Tax Account No. 282.

(15) Amend Schedule H(4) by adding a provision requiring a disclosure of the kinds of taxes paid under protests.

(16) Amend Schedule I–4 to provide details related to base and test period costs and associated volumes of compression and transportation of gas by others and to identify those services which are shortterm or limited term transportation under NGA and NGPA.

(17) Amend Schedule I–7 by adding a requirement which would show by

accounts, purchases made and test period projections under special NGA and NGPA provisions.

(18) Amend Statement O by: (1) requiring a complete rate history every 3 years unless a general rate filing was made in the interim which then would require the filing of only those changes since the last complete rate history filing; and (2) by requiring the most recent 3 year certificate history to be filed every 3 years instead of the current 5 years unless a general rate filing was made in the interim which then would require the filing of only those applications made since the last 3 year history.

(19) Amend by adding a new Schedule No. K–2 which would require a company to furnish a complete explanation and justification for any changes in cost classification, allocation, crediting, and/or rate design procedures as compared to those used in developing its underlying rate.

C. Updates in Terminology

The Commission is also proposing to make technical changes to the regulations to change references from the Federal Power Commission to the Federal Energy Regulatory Commission, and to change reference to certain divisions or offices which have been reorganized and renamed to their current name.

IV. Specific Comments Requested

The Commission requests comments on all aspects of this notice. The Commission particularly invites comments on the following:

1. Information from potentially affected persons on the cost and burden hours associated with the proposed amendments.

2. As briefly discussed above (at page 6, number 4), the Commission is proposing to amend Statement E to require a natural gas pipeline company to submit a lead-lag study in support of the cash working capital allowance it claims in its rate filing. This amendment is generally consistent with current Commission staff practice.[1] However, instead of a pipeline submitting a lead-lag study when it requests a change in a tariff, it could calculate, on a continuing basis, its cash working capital requirements in a manner similar to the way it tracks changes in its purchased gas acquisition costs through FERC Account No. 191. Under the Commission's purchased gas adjustment (PGA) regulations (18 CFR 154.38), a company reports its purchased gas acquisition costs monthly and clears its accounts either annually or semiannually through FERC Account No. 191. If a similar procedure were established to support claimed cash working capital, in lieu of a lead-lag study, it probably would be necessary to establish a new account. Moreover, because monthly filings might be unduly burdensome, it might be more appropriate for a company to file its actual needs for cash working capital quarterly, semiannually, or by some other method. The Commission requests comments on all aspects of this alternative.

The Commission also notes that negative cash working capital allowances (leads) presently are not subtracted from rate base in natural gas pipeline rate cases. Therefore, if either a lead-lag study or an alternative procedure were required, the Commission is especially interested in receiving comments as to whether it would be appropriate to subtract leads in determining rate base.

3. The Commission is concerned that any new procedures proposed in this notice may conflict with existing rate settlements and, therefore, requests comments on the possible retroactive effect of the rule.

V. Certification of No significant Economic Impact

The regulatory Flexibility Act (RFA) (5 U.S.C. 601–612 (Supp. IV 1980)) requires certain statements, descriptions and analyses of proposed rules that will have "a significant economic impact on a substantial number of small entities." The Commission is not required to make an RFA analysis if it certifies that a proposed rule will not have a "significant economic impact on a substantial number of small entities."

If promulgated, the rule would delete certain reporting requirements, simplify others, add filing requirements, and make other minor revisions and corrections to section 154.63 of the Commission's regulations for natural gas pipeline companies requesting a change in their rates. The proposed additional information to be collected would allow the Commission to expedite the investigative process required to make a change in the rate.

This rule affects less than 50 interstate natural gas pipeline companies, none of which would be considered "small entitles." [2] While the Commission recognizes that it is adding filing requirements which would increase the burden imposed on these regulated entities, the Commission believes that any additional burden imposed by this rule would not be "significant." Therefore, pursuant to Section 605(a) of the RFA, the Commission finds that this proposed rule would not have "a significant economic impact on a substantial number of small entities."

VI. Paperwork Reduction Act

The information collection provisions in this proposed rule are being submitted to the Office of Management and Budget (OMB) for its approval under the Paperwork Reduction Act, 44 U.S.C. 3501–3520 (Supp. IV 1980), and OMB's regulations, 48 13,666, 13,694 (1983) (to be codified at 5 CFR 1320.13). Interested persons can obtain information on the proposed information collection provisions by contacting the Federal Energy Regulatory Commission, 825 N. Capitol Street, NE., Washington, D.C. 20426 (Attention: Michael A. Stosser, (202) 357–8033). Comments on the information collection provisions can be sent to the Office of Information and Regulatory Affairs of OMB (Attention: Desk Officer for the Federal Energy Regulatory Commission).

VII. Written Comment Procedures

The Commission invites all interested persons to submit written data, views and other information concerning the matters set out in this Notice. All comments in response to this Notice should be submitted to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 and should refer to Docket No. RM83–52–000. An original and 14 copies should be filed. All comments received prior to 4:30 p.m. EST, October 17, 1983, will be considered by the Commission prior to promulgation of the final regulations.

All written submissions will be placed in the public file which has been established in this docket and which is available for public inspection during regular business hours in the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426.

(Natural Gas Act, 15 U.S.C. 717–717w (1976 and Supp. IV 1980); Department of Energy Organization Act, 42 U.S.C. 7101–7352 (Supp.

[1] The Commission is reexamining its policy on cash working capital treatment in ratemaking for electric utilities, based on various policy objectives. These policy objectives are: to increase accuracy in customer rates; to minimize the use of company, customer, and regulatory resources; and to minimize distortion of incentives for efficiency. In the near future, the Commission may issue a Notice of Proposed Rulemaking to explore methods for accomplishing these objectives with respect to cash working capital allowances of electric utilities.

[2] Section 3 of the Small Business Act, 15 U.S.C. 632 (Supp. IV 1980) defines "small-business concern" as a business which is independently owned and operated and which is not dominant in its field of operation.

IV 1980); Exec. Order 12,009, 3 CFR Part 142 (1978)).

List of Subjects in 18 CFR Part 154

Natural gas.

In consideration of the foregoing, the Commission proposes to amend the filing requirements for natural gas companies, as contained in § 154.63 of the Commission's Rules and Regulations under the Natural Gas Act as set forth below.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

PART 154—[AMENDED]

§ 154.63 [Amended]

1. In § 154.63, paragraph (b)(4) is amended by removing in the title the words *"Minor rate increase or rate decrease"* and inserting, in their place, the words *"Minor rate increase, rate decrease and changes in cost of service tariff;"* Paragraphs (c)(1), (c)(2), and (e)(4) are amended by removing the words "Chief, Pipeline and Producer Rate Division (Bureau of Natural Gas)" and inserting, in their place, the words "Director, Division of Gas Pipeline Rates (Office of Pipeline and Producer Regulation);". Paragraphs (c)(2) and (f) are amended by removing the words "FPC" and inserting, in their place, the words "FERC;". Paragraph (e)(2)(i) is amended by adding the following sentence at the end of the paragraph:

* * * * *

(e) * * *

(2) * * *

(i) * * *

The Commission may allow reasonable deviation from the prescribed test period; also, deviation will be allowed when the filing company proposes to support the changed rate levels with actual expense for a 12 month base period adjusted only for annualization and normalization of those actual costs.

* * * * *

2. In § 154.63, paragraph (e) is amended by removing paragraph (e)(6); paragraph (f) is amended by removing the following schedules: C–3, C–4, C–7 through C–11, C–13, C–15, D–1, E–2, H(1)–2, H(4)–1, and Q; and by redesignating schedules C–5, C–6, C–12, C–14, D–2 through D–4, E–3, H(1)–3, H(1)–4 through H(1)4h, and H(4)–2 as C–3, C–4, C–5, C–6, D–1 through D–3, E–2, H(1)–2, H(1)–3 through H(1)–3h, and H(4)–1, respectively.

3. In § 154.63(f), the following new Schedules E–3, H(3)–7 and K–2 are added, to read as follows:

§ 154.63 Changes in a tariff, executed service agreement or part thereof.

* * * * *

(f) * * *

* * * * *

Schedule E–3—If gas is priced in and out of storage through FERC Account No. 191, the base periods storage activity should be reconciled with amounts charged to Account No. 191 and any difference should be fully explained. Companies using the LIFO method of storage accounting shall provide the data required by this schedule by LIFO "layers".

* * * * *

Schedule H(3)–7—If the Company, in a prior rate case, elected to use the South Georgia Method (Docket No. RP77–32, letter order issued May 5, 1978), or another method, a schedule to be a part of the workpapers showing the computation of an updated reconciliation between book depreciable plant and tax depreciable plant and accumulated provision for deferred income taxes, projected through the end of the test period shall be filed. The reconciliation shall be made using the same conditions as that agreed to when the original election was made and should show the amount, if any, of the remaining deficiency in the deferred income tax Account No. 282. In addition, the Company shall report any changes made from the effective date of the South Georgia Method, or any other method, adopted and the elections made with Internal Revenue Service regarding gains on reacquired debts in accordance with Internal Service Code § 108 and § 1017.

* * * * *

Schedule K–2 The company shall furnish a narrative, if not already included in Statement P or elsewhere in its filing, setting forth any changes in cost classification, allocation, crediting, and/or rate design procedures as compared to those used in developing its underlying rates. The filing shall also include a full and complete explanation and justification for any changes.

* * * * *

4. In § 154.63(f), the following amendments are made:

a. Statement B is amended by removing in the title the words *"Overall cost of service"* and inserting in their place the words *"Overall rate base and return."*

b. Schedule C–1 is amended by revising it to read as follows:

Schedule C–1, showing in columnar form only the ending base period balance, test period adjustments, and test period balance for each of the above accounts, the amounts by detailed plant account prescribed by the Commission's Uniform System of Accounts for Natural Gas Companies (Parts 201 and 204 of this chapter) with subtotals thereof by functional classifications, *i.e.*, Intangible Plant, Manufactured Gas Production Plant, Natural Gas Production and Gathering Plant, Products Extraction Plant, Underground Storage Plant, Local Storage Plant, Transmission Plant, Distribution Plant and General Plant: *provided, however*, that to the extent plant costs are not available by detailed plant accounts they may be shown by functional classifications.

In addition, the schedule shall show depreciable and nondepreciable plant and onshore and offshore production and gathering plant and transmission plant.

c. Newly redesignated Schedule C–3 is amended by removing the second sentence.

d. Statement D is amended by adding at the end of the first paragraph the following two sentences:

*Statement D** * * Any authorized negative salvage shall be reflected as a separate and distinct part of Account No. 108. This statement also shall show depreciation reserve associated with onshore and offshore production and gathering plant and transmission plant.

e. Newly redesignated Schedule D–1 is amended by revising to read as follows:

Schedule D–1, which is to be part of the working papers showing the depreciation reserve book applicable to that portion of the depreciation rate not yet approved by FERC, the rates, Docket No. and any explanation of the difference. This schedule shall also show the depreciation reserve separated between onshore production and gathering plant and offshore transmission plant.

* * * * *

f. Statement E is amended by revising it to read as follows:

Statement E—Working capital. This statement shall show the computation of the cash working capital claimed as a part of the gas utility rate base. The statement shall also show the respective other components of working capital claimed and be in such detail as to show how the amount of each component was computed.

The cash working capital allowances may include an amount not to exceed one-eighth of annual operating expenses, as adjusted, exclusive of: the cost of gas purchased for resale; fuel gas charged to operating expenses; royalty payments on gas produced; transmission and compression of gas by others, royalty payments on products extracted; products purchased for resale; net of exchanged gas; and noncash operating expenses such as depreciation transferred through clearing accounts to operating expenses, *provided* that the resulting amount is supported by an accompanying lead-lag study.

The components of working capital may include an allowance for the average of 13 monthly balances of materials and supplies prepayments, the unrecovered portion of

advances to suppliers in Account No. 166 made under contracts executed prior to 10:49 a.m. E.S.T. on December 31, 1975, and gas for current delivery from underground storage. Any item claimed which is different from or in addition to those specified herein shall be explained and the reasons for inclusion therein shall be given.

* * * * *

g. Schedule F(5)–1 is amended by adding at the end thereof the following two sentences:

Schedule F(5)–1 * * * Submit information respecting any stock dividends, stock splits or changes in part or estimated value during five-year period preceding date of the balance sheet and by months for the 12-month period ending on that date. Submit also, a copy of the most recent annual report to stock-holders and a copy of the most recent SEC Annual Report Form 10K.

* * * * *

h. Schedule F(5)–4 is amended by revising it to read as follows:

Schedule F(5)–4. Where applicant is a publicly-owned company, show the earnings per share of common stock which the claimed rate of return would yield.

* * * * *

i. Statement G is amended by adding after the first paragraph in paragraph (b) and before the paragraph beginning "Each jurisdictional sale for resale * * *" the following new paragraphs designated as "c", "d", and "e":

Schedule G

* * * * *

(a) * * *
(b) * * *

(c) A schedule showing the revenues from the transportation of gas for others. This schedule shall show by rate schedule the base and test period volumes and revenues and the rates used to develop the test period revenues. In addition, this schedule shall identify rate schedules under which costs are allocated and rate schedules under which revenues are credited for the test period in the application with cross-references to the other filed schedules of the application.

(d) A schedule showing revenues applicable to the sale of products. This schedule shall show the name and location of each product extraction plant handling gas of the applicant, the inlet and outlet annual Mcf and average heating value of the applicant's gas at each plant (specify dry or wet basis) and the revenues received by the applicant by product by month for each extraction plant for both the base and test period. In addition, the schedule shall show the gallons and price per gallon used to develop the monthly revenues.

(e) A schedule showing Other Gas Revenues (Account No. 495). This schedule shall separately state each item and revenue received for the transportation of liquids, liquefiable hydrocarbon or nonhydrocarbon constituents owned by producers. For both the base and test periods, this schedule shall indicate by producer contract, the volume transported; the unit rate charged for transportation; the revenues received; the producing area, including block number for offshore areas, which the contract contemplates; and the processing plant where the constituents owned by the producer are removed from the gas stream.

Each jurisdictional sale for resale * * *

* * * * *

j. Schedule H(1)–1 is amended by revising it to read as follows:

Schedule H(1)–1 to be a part of the working papers with respect to the following listed schedules showing the labor costs, materials and other charges (excluding purchased gas costs) and expenses associated with Account Nos. 810, 811 and 812 recorded in each gas operation and maintenance expense account of the Uniform System of Accounts. These expenses shall be shown, under the appropriate columnar-headings, as follows, with subtotals for each functional classification: (a) operation and maintenance expenses by months, as booked, for the 12 months of actual experience, and the total thereof, (b) adjustments, if any, to expenses as booked and (c) total adjusted operation and maintenance expenses claimed. In the event the monthly expenses as presented per books reflect any special accrual or equalization accounting entries for internal purposes, the effect thereof shall be fully disclosed and explained. Any amounts not currently payable, except depreciation charged through clearing accounts, included in operation and maintenance expenses shall be fully explained.

Schedule H(1)–1(a)—Labor Costs.

Schedule H(1)–1(b)—Materials and Other Charges (Excluding Purchased Gas Costs).

Schedule H(1)–1(c)—Expenses and Associated Volumes Applicable to Accounts Nos. 810, 811 and 812. The expenses and volumes for each of the contra-accounts for both base and test periods shall be shown.

* * * * *

k. Newly redesignated Schedule H(1)–2 is amended by adding at the end thereof:

Schedule H(1)–2 * * * A pipeline operating under the "PGA option" for purchased gas costs shall file a separate attachments as part of this schedule which sets forth the development of the purchased gas costs for the test period including volumes, the PGA rate utilized, the filing date, Docket No., and date of Commission order underlying such unit rate.

* * * * *

l. Statement H(2) is amended by revising the title, revising the first sentence, and adding a new sentence immediately after the first sentence to read as follows:

Statement H(2)—Depreciation, depletion, amortization and negative salvage expenses. This statement shall show separately the gas plant depreciation, depletion, amortization and negative salvage expenses by functional classifications. The production and gathering function and the transmission function shall be further classified as onshore and offshore.* * *

m. Schedule H(2)–1 is amended by revising it to read as follows:

Schedule H(2)–1—There shall be included in support of Statement H(2) a reconciliation of the depreciable plant shown therein with the aggregate investment in gas plant shown in Statement C, and the expense thereon charged in the first instance to other than prescribed depreciation, depletion, amortization and negative salvage expense accounts. The production and gathering function and the transmission function shall be classified between onshore and offshore.

* * * * *

n. Schedule H(3)–1 is amended by removing the words "and the three previous year" from the end of the first sentence.

o. Schedule H(4) is amended by removing the words "Schedule H(4)" and inserting in their place, the words "Statement H(4)"; and by adding a new sentence at the end of the first sentence. As amended, the statement shall read as follows:

Statement H(4)—Other taxes. This statement shall show the gas utility taxes, other than Federal or state income taxes in separate columns, as follows: (a) Tax expense per books for the 12 months of actual experience, (b) adjustments, if any, to amounts booked, and (c) the total adjusted taxes claimed. Provide the details of the kind and amount of taxes paid under protest or in connection with taxes under litigation.

* * * * *

p. Schedule I–4 is amended by revising it to read as follows:

Schedule I–4—Details of base and test period costs of compression and transportation of gas by others setting forth for each service the name of the transporter, the rate schedule or other designation, the base and test period volumes (contract demand and annual) and the demand and commodity rates utilized to develop the costs. In addition, the applicant shall identify those services which are short-term or limited term transportations under NGA and NGPA with appropriate section designation.

* * * * *

q. Schedule I–7 is amended by removing the reference to "page 567" in the first sentence and inserting in place thereof reference to "pages 518 and 519"; and by adding at the end thereof the following new sentence:

The schedule shall show by accounts, purchases made or projected pursuant to NGPA section 311 and section 157.45 of the Commission's regulations.

* * * * *

r. Statement N is amended by removing the words "for the test period" from the end of the last sentence in the first paragraph.

s. Statement O is amended by revising it to read as follows:

Statement O—Description of Company Operations. A description of the company's

area and diversity of operations including the following:

(1) A detailed system map is required only if significant changes have occurred since the filing of the last FERC Form No. 2.

(2) A complete rate history showing filing and rate levels since the beginning of the company with a brief description of each filing. Such rate history need be filed every three years and any general rate filing made in the interim reflect only those changes since the last complete rate history filing.

(3) A detailed history of each major expansion (new service), and major abandonment certificate issued to the company by FERC filing for the last three years of the company, along with a brief description of each certificate. Such 3 year certificate history need be filed every 3 years and any general rate filing made in the interim reflect only those changes since the last 3 year rate history filing.

(4) A detailed description of how the company designs and operates its systems, including design temperature or temperatures and the effect of conjunctive billing on design considerations.

* * * * *

[FR Doc. 83-23723 Filed 8-23-83; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[Notice No. 483]

Establishment of Columbia Valley Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms is considering the establishment of an American viticultural area in Washington and Oregon known as "Columbia Valley." This proposal is the result of a petition filed by Walter Clore of Prosser, Washington, and of a petition filed by William Blosser of the Sokol Blosser Winery, Dundee, Oregon. The establishment of the Columbia Valley viticultural area and the use of the viticultural area name in wine labeling and advertising will allow wineries to designate the specific grape-growing area where their wines originate, and will help consumers to identify the wines they purchase.

DATES: Written comments must be received by October 11, 1983.

ADDRESS: Send written comments to: Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044-0385, Attention: Notice No. 483.

Copies of the petitions, the proposed regulations, the appropriate maps, and written comments will be available for public inspection during normal business hours at: ATF Reading Room, Office of Public Affairs and Disclosure, Room 4406, Federal Building, 12th and Pennsylvania Avenue NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Charles N. Bacon, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226, Telephone: 202-566-7626.

SUPPLEMENTARY INFORMATION:

Background

Title 27, CFR, Part 4, provides for the establishment of definite viticultural areas. These regulations also provide for the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements. American viticultural areas are listed in 27 CFR Part 9.

Sections 9.11 and 4.25a(e)(1), of Title 27, CFR define an American viticultural area as a delimited grape-growing region distinguishable by geographical features. Section 4.25a(e)(2) outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition should include:

(a) Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) Evidence relating to the geographical characteristics (climate, soil, elevation, physical features, etc.), which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the specific boundaries of the viticultural area, based on features which are found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

(e) A copy of the appropriate U.S.G.S. maps with the boundaries prominently marked.

Petitions

ATF has been petitioned by Mr. Walter J. Clore, a wine consultant in Prosser, Washington, to establish a viticultural area in Washington known as "Columbia Valley."

ATF has received a separate petition from Mr. William Blosser of the Sokol Blosser Winery in Dundee, Oregon, to include an adjacent portion of Oregon within the Columbia Valley viticultural area. The geographic criteria used by both petitioners to define the boundaries is the same, and the proposed Columbia Valley viticultural area includes portions of both Washington and Oregon.

Name

The name "Columbia Valley" is well established. In 1804–1806, the Lewis and Clark Pacific Expedition explored and mapped the area, and their maps show both the Columbia River and the Columbia Valley. Later, other explorers and pioneers referred to the treeless basin in Washington, Oregon, and Idaho as the Columbia Valley, Columbia Plain, Great Columbia Plain, Columbia Plateau, Columbia Basin and Inland Empire. The term Columbia Valley is in widespread usage today as referring to the proposed area, and appears in literature, magazines, newspapers, and maps of the area.

Climate

Climate is one feature which differentiates the Columbia Valley from surrounding areas. In general, the climate may be characterized by the length of the growing season, total degree days, and rainfall.

Growing season. Total frost free days (32 degrees F.) within the Columbia Valley average 150 or more per year. The growing season ranges from a high of 204 days at The Dalles to 201 days at Chelan, Wash.; 194 days at the Grand Coulee Dam and at Milton-Freewater, Oreg.; 186 days at Ephrata, Wash.; 184 days at Kennewick and Yakima; 175 days at Brewster, Wash.; 171 days at Walla Walla; 164 days at Wasco, Oreg.; 157 days at Clarkston Heights, Wash.; and 152 days at Moro and Heppner, Oreg. Areas outside the Columbia Valley experience a growing season of less than 150 days with seasons averaging 128 days at Goldendale, Wash.; 132 days at Cle Elum, Wash.; 87 days at Plain, Wash.; 124 days at Colville, Wash.; 121 days at Colfax, Wash.; and 137 days at Dufur, Oreg.

Although the petitioner included all of that part of Washington within the proposed Columbia Valley viticultural area which is known by that name, ATF finds that the climatic evidence indicates the portion of the valley lying between the Snake River and Banks Lake experience a shorter growing season similar to areas outside the Columbia Valley (Colfax 121 days, Ritzville 137 days, Moses Lake 143 days, Odessa 124 days, Hatton 135 days,

Wilson Creek 130 days). Therefore, ATF has concluded this area should be excluded from the proposed Columbia Valley viticultural area. Accordingly, the proposed boundaries exclude the area east of Washington Highway 25; south of the township line between T. 26 N. and T. 27 N.; east of Banks Lake, Coulee City, and Soap Lake; east of a line between Soap Lake, Moses Lake, and Connell; and north of Washington Highway 260, 26, and 127 between Connell, Washtucna, La Crosse, and Colfax.

Degree days. Total degree days as measured by the scale developed by Winkler and Amerine of the University of California generally range between 2000 and 3000 for areas within the Columbia Valley although some locations experience readings well in excess of 3000 degree days. Typical readings are 2636 degree days at Kennewick, Wash.; 2666 at Sunnyside, Wash.; 2274 at Yakima; 2818 at Wenatchee, Wash.; 2512 at Grand Coulee Dam, Wash.; 2605 at Clarkston Heights, Wash.; 2881 at Walla Walla (FAA); 3230 at Richland, Wash.; 3014 at The Dalles; 2073 at Moro, Oreg.; 2040 at Heppner, Oreg.; 3006 at Milton-Freewater, Oreg.; and 2711 degree days at Pendleton. Surrounding areas experience less than 2000 degree days with 1820 at Goldendale, Wash.; 1678 at Cle Elum, Wash.; and 1901 degree days at Colville, Wash.

Rainfall. The third climatic condition, rainfall, is substantially less within the Columbia Valley than in surrounding areas. Within the Columbia Valley rainfall is less than 15 inches annually, ranging from a low of 6 to 9.9 inches throughout Benton County, Wash., to 10 inches in Wenatchee, Wash.; 15 inches in Walla Walla; 13 inches in Clarkston Heights, Wash.; 14 inches at The Dalles; 12 inches at Moro, Oreg.; 13½ inches at Milton-Freewater, Oreg.; and 12 inches at Pendleton. Rainfall in surrounding areas is higher, with an annual average of 17 inches at Goldendale, Wash.; 22 inches at Cle Elum, Wash.; 17 inches at Colville, Wash.; and 39 inches at Mill Creek, Wash.

Overall, the Columbia Valley may be characterized as experiencing a growing season of over 150 days, a total degree day average of over 2000, and annual rainfall of 15 inches or less.

Topography and Geographical Features

The Columbia Valley is a large, treeless basin surrounding the Yakima, Snake and Columbia Rivers in Washington and Oregon. The area is distinguished by its broadly undulating or rolling surface, cut by rivers and broken by long sloping basaltic uplifts extending generally in an east-west direction. The area is dominated by its major rivers.

The Cascade Mountain Range forms the western boundary of the Columbia Valley. These mountains intercept moist Pacific air, and contribute significantly to the semi-arid climate of the valley. To the north, the Okanogan Highlands form the boundary while on the east, the Greater Spokane area and the eastern portion of the high rolling Palouse Prairie constitute the boundary of the valley. The southern boundary is defined by the Blue Mountains, the 2000' contour line and the foothills of the Cascade Mountains southwest of the Columbia River. The Columbia Valley is treeless while all surrounding areas are forested. Elevation in surrounding areas exceeds 2000' while the elevation in the Columbia Valley generally does not exceed 2000'. These factors differentiate the Columbia Valley from surrounding areas.

Proposed Boundaries

The Columbia Valley contains approximately 23,000 square miles, has a maximum length of 185 miles from east to west, and 200 miles from north to south. ATF is proposing the entire Columbia Valley as a viticultural area except for the portion between Banks Lake and the Snake River. This deletion leaves approximately 18,000 square miles in the proposed viticultural area. Proposed boundaries are set out in the regulatory text of § 9.69.

The proposed area includes the Yakima Valley viticultural area, recognized in T.D. ATF–128, April 4, 1983 [48 FR 14374]. Furthermore, the area around Walla Walla has been proposed as an American viticultural area in Notice No. 471, June 27, 1983 [48 FR 29541].

ATF recognizes that the proposed Columbia Valley viticultural area is large. We therefore, request comments on whether any geographic or climatic factors exist which would enable the viticultural area to be reduced in size.

Evidence of Viticulture

Grapes are not indigenous to the area, but both Vinifera and Labrusca vines are grown throughout the area. The oldest planted Vinifera vines still in existence were planted by German immigrants in the Tampico vicinity, west of Union Gap, in 1871. Others were planted in the Kennewick area in 1895, and in the Walla Walla area by 1899.

Planting of premium Vinifera grapes began in the Columbia Valley in the mid 1960's. By 1981 there were over 6,610 acres of Vinifera grapes including 2,700 acres of bearing vineyards. Large vineyards exist near Granger and Grandview in the Yakima Valley, north of Pasco, and along the Columbia River near Paterson. Other Vinifera vineyards exist farther west along the Columbia River, on the Wahluke Slope, in Quincy near Ellensburg, in the Walla Walla area and on the south bank of the Columbia River. Predominant varieties include White Riesling, Chenin Blanc, Chardonnay, Cabernet Sauvignon, Gewurztraminer, Merlot, Semillon, Sauvignon Blanc, Muscat, Pinot Noir, and Grenache. Nearly 20,000 acres of Concord grapes also grow within the proposed viticultural area, but they are not used in wine production.

Nine wineries are present within the Columbia Valley, with others expected to be bonded in the near future.

Public Participation

ATF requests comments from all interested persons concerning the proposed viticultural area. ATF is especially seeking comments regarding the boundaries of the area as proposed.

All comments received before the closing date will be carefully considered. Comments received after the closing date and too late for consideration will be treated as possible suggestions for future ATF action.

ATF will not recognize any material and comments as confidential. Comments may be disclosed to the public. Any material which the respondent considers to be confidential or inappropriate for disclosure to the public should not be included in the comment. The name of any person submitting comments is not exempt from disclosure.

Any interested person who desires an opportunity to comment orally at a public hearing on this proposed viticultural area should submit his or her request, in writing, to the Director within the 45 day comment period. The request should include reasons why the respondent feels that a public hearing is necessary. The Director reserves the right to determine whether a public hearing will be held.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this proposal because this proposed rule, if issued as a final rule, will not have a significant economic impact on a substantial number of small entities. This rule, if adopted will allow the petitioners and other persons to use the appellation of origin "Columbia Valley" on wine labels and in wine advertising.

This proposal is not expected to have significant secondary or incidental effects on a substantial number of small entities, or impose, or otherwise cause a significant increase in the reporting, recordkeeping or other compliance burdens on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this proposed rule if issued as a final rule, will not have a signficant economic impact on a substantial number of small entities.

Compliance With Executive Order 12291

It has been determined that this proposed rule is not a "major rule" within the meaning of Executive Order 12291 of February 17, 1981, because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographical regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Consumer protection, Viticultural areas, Wine.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96–511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this notice because no requirement to collect information is proposed.

Drafting Information

The principal author of this document is Charles N. Bacon, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority and Issuance

Accordingly, under the authority contained in 27 U.S.C. 205, the Director proposes the amendment of 27 CFR Part 9 as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1.—The table of sections in 27 CFR Part 9 is amended by adding § 9.74.

* * * * *

Subpart C—Approved American Viticultural Areas

* * * * *

§ 9.74 Columbia Valley.

* * * * *

Par. 2. Subpart C is amended by adding § 9.74 which reads as follows:

§ 9.74 Columbia Valley.

(a) *Name.* The name of the viticultural area described in this section is "Columbia Valley."

(b) *Approved maps.* The approved maps for determining the boundary of the Columbia Valley viticultural area are nine 1:250,000 scale U.S.G.S. maps. They are entitled:

(1) "Concrete, Washington, U.S.; British Columbia, Canada," edition of 1955, limited revision 1962;

(2) "Okanogan, Washington," Edition of 1954, limited revision 1963;

(3) "Pendleton, Oregon, Washington," edition of 1953, revised 1973;

(4) "Pullman, Washington, Idaho," edition of 1955, revised 1974;

(5) "Ritzville, Washington," edition of 1953, limited revision 1965;

(6) "The Dalles, Oregon, Washington," edtion of 1953, revised 1971;

(7) "Walla Walla, Washington, Oregon," edition of 1953, limited revision 1963;

(8) "Wenatchee, Washington," edition of 1957, revised 1971; and

(9) "Yakima, Washington," edition of 1958, revised 1971.

(c) *Boundaries.* The Columbia Valley viticultural area is located in Adams, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Klickitat, Lincoln, Okanogan, Stevens, Walla Walla, Whitman, and Yakima Counties, Washington, and in Gillman, Morrow, Sherman, Umatilla, and Wasco Counties, Oregon. The beginning point is found on "The Dalles" U.S.G.S. map at the confluence of the Klickitat and Columbia Rivers.

(1) Then north and east following the Klickitat and Little Klickitat Rivers to U.S. Highway 97 northeast of Goldendale;

(2) Then north following U.S. Highway 97 to the 1000′ contour line southwest of Hembre Mountain;

(3) Then west following the Toppenish Ridge, across unnamed mountain of 2172′ and 2363′ eleviation, to the peak of Toppenish Mountain, elevation 3600′;

(4) Then northwest in a straight line for approximately 11.3 miles to the intersection of Agency Creek with the township line between R. 15 E. and R. 16 E;

(5) Then north following the township line between R. 15 E. and R. 16 E. to the Tieton River;

(6) Then northeast following the Tieton River to the confluence with the Naches River;

(7) Then east in a straight line for approximately 15.3 miles to the intersection of the 46° 45′ latitude line with the Yakima River;

(8) Then Then north following the Yakima River to the confluence with the North Branch Canal approximately one mile northwest of Throp;

(9) Then north, east, and southeast following the North Branch Canal to its intersection with U.S. Interstate 90 in Johnson Canyon;

(10) Then east following U.S. Interstate 90 to the Columbia River;

(11) Then north following the Columbia River to the township line between T. 21 N. and T. 22 N. immediately north of the Rock Island Dam;

(12) Then west following the township line between T. 21 N. and T. 22 N. for approximately 7.1 miles (from the west shore of the Columbia River) to 2000′ contour line immediately west of Squilchuck Creek;

(13) Then north and west following the 2000′ contour line to the township line between R. 18 E. and R. 19 E. west of the landing area at Cashmere-Dryden;

(14) Then north following the township line between R. 18 E. and R. 19 E. for approximately 4.4 miles to the 2000′ contour line in Ollala Canyon;

(15) Then east, north, and northwest following the 2000′ contour line to the township line between R. 19 E. and R. 20 E. immediately west of Ardenvoir;

(16) Then north following the township line between R. 19 E. and R. 20 E. for approximately 2.8 miles to the 2000′ contour line immediately north of a secondary road;

(17) Then southwest and north following the 2000′ contour line to the township line between T. 28 N. and T. 29 N.;

(18) Then east following the township line between T. 28 N. and T. 29 N. for approximately 2.1 miles to the 2000′ contour line immediately east of Lake Chelan;

(19) Then southeast and north following the 2000′ contour line (beginning in the "Wenatchee" U.S.G.S. map, passing through the "Ritzvill' and "Okanogan" maps, and ending in the "Concrete" map) to the point where the 2000′ contour line intersects the township line between T. 30 N. and T. 31 N. immediately west of Methow;

(20) Then east following the township

between T. 30 N. and T. 31 N. for approximately 20.2 miles to the 2000' contour line east of Monse;

(21) Then south and east following the 2000' contour line to the township line between T. 30 N. and T. 31 N. west of Alkali Lake;

(22) Then northeast in a straight line for approximately 10.7 miles to the point of intersection of the 2000' contour line with Coyote Creek;

(23) Then east, north, south, east, and north following the 2000' contour line to the township line between T. 29 N. and T. 30 N. immediately west of the Sanpoil River;

(24) Then east following the township line between T. 29 N. and T. 30 N. for approximately 2.3 miles to the 2000' contour line immediately east of the Sanpoil River;

(25) Then south, east, and north following the 2000' contour line to the township line between T. 29 N. and T. 30 N. at Ninemile Flat;

(26) Then east following the township line between T. 29 N. and T. 30 N. for approximately 10.7 miles to the township line between R. 36 E. and R. 37 E.;

(27) Then south following the township line between R. 36 N. and R. 37 E. to the township line between T. 26 N. and T. 27 N.;

(28) Then west following the township line between T. 26 N. and T. 27 N. to Banks Lake;

(29) Then south following Banks Lake to Dry Falls Dam;

(30) Then west and south following U.S. Highway 2 and Washington Highway 17 to the intersection with Washington Highway 28 in Soap Lake;

(31) Then southeast in a straight line for approximately 4.7 miles to the source of Rocky Ford Creek near a fish hatchery;

(32) Then south following Rocky Ford Creek and Moses Lake to U.S. Interstate 90 southwest of the town of Moses Lake;

(33) Then east following U.S. Interstate 90 to the Burlington Northern (Northern Pacific) Railroad right-of-way at Raugust Station;

(34) Then south following the Burlington Northern (Northern Pacific) Railroad right-of-way to Washington Highway 260 in Connell;

(35) Then east following Washington Highway 260 through Kahlotus to the intersection with Washington Highway 26 in Washtucna;

(36) Then east following Washington Highway 26 and 127 through La Crosse and Dusty to the intersection with U.S. Highway 195 at Colfax;

(37) Then south following U.S. Highway 195 to the Washington—Idaho State boundary;

(38) Then south following the Washington—Idaho State boundary to the Snake River and continuing along the Snake River to the confluence with Asotin Creek;

(39) Then west following Asotin Creek and Charley Creek to the township line between R. 42 E. and R. 43 E.;

(40) Then north following the township line between R. 42 E. and R. 43 E. to Washington Highway 128 in Peola;

(41) Then north following Washington Highway 128 to the intersection with U.S. Highway 12 in Pomeroy;

(42) Then west following U.S. Highway 12 for approximately 5 miles to the intersection with Washington Highway 126 [in Zumwalt];

(43) Then southwest following Washington Highway 128, and U.S. Highway 12 (indicated as U.S. Highway 410 on the "Walla Walla" U.S.G.S. map) through Marengo, Dayton, and Waitsburg to Dry Creek in Dixie;

(44) Then south in a straight line for approximately 1.5 miles to the 2000' contour line marking the watershed between Dry Creek and Spring Creek;

(45) Then south and southwest following the 2000' contour line to the place where it crosses Oregon Highway 74 in Windmill, Oregon;

(46) The west following Oregon Highway 74 to Highway 207 in Heppner;

(47) Then southwest following Oregon Highway 207 to Highway 206 in Ruggs;

(48) Then northwest following Oregon Highway 206 to the intersection with the township line between T. 1 S. and T. 2 S.;

(49) Then west following the township line between T. 1 S. and T. 2 S. to the Deschutes River;

(50) Then north following the Deschutes River to the Willamette Base Line;

(51) Then west following the Willamette Base Line to the township line between R. 12 E. and R. 13 E.;

(52) Then north following the township line between R. 12 E. and R. 13 E. to the Columbia River;

(53) Then west following the Columbia River to the confluence with the Klickitat River and the point of beginning.

Signed: August 3, 1983.

Stephen E. Higgins,

Director.

Approved: August 8, 1983.

David Q. Bates,

Deputy Assistant Secretary (Operations).

[FR Doc. 83-23262 Filed 8-23-83; 8:45 am]

BILLING CODE 4310-31-M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Parts 250 and 252

Definition of "Area Adjacent to a State"

AGENCY: Minerals Management Service, Interior.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the definition of "area adjacent to a State" to that portion of the Outer Continental Shelf (OCS) included within a planning area if such planning area is bordered by that State. The Department of the Interior (DOI) contends that this change will facilitate the proper inspection of privileged information by an affected State concerning any activity on the OCS adjacent to such State.

DATE: Comments must be delivered or postmarked no later than September 23, 1983.

ADDRESSES: Written comments must be mailed or hand delivered to: Department of the Interior, Minerals Management Service, 12203 Sunrise Valley Drive, Mail Stop 646, Reston, Virginia 22091, Attention: David A. Schuenke.

FOR FURTHER INFORMATION CONTACT: David A. Schuenke, telephone: (703) 860–7916, (FTS) 928–7916.

SUPPLEMENTARY INFORMATION: Section 28 of the OCS Lands Act, 43 U.S.C. 1352, Permits the Governor of any affected State pursuant to an agreement with the Secretary to designate an official to inspect any privileged information received by DOI regarding any activity on the OCS adjacent to such State. As the act does not specifically define the phrase "Area adjacent to a State," for these purposes the regulations must provide a definition in order to determine what information a State is permitted to inspect. The current regulations define "area adjacent to a State" as "that portion of the OCS which would be within the area of a State if the State's boundaries were extended seaward to the outer margin of the OCS." For purposes of identifying the extended boundaries, DOI employed the use of boundaries established by the National Oceanic and Atmospheric Administration for purposes of the Coastal energy Impact Program (CEIP). In the alternative, States were invited to adopt their own mutually-acceptable boundaries. Some States have objected to the use of CEIP boundaries and have suggested the use of Minerals Management Service (MMS) planning areas in determining areas adjacent to a State. Recognizing that a State has a

legitimate interest in obtaining access to information on OCS activities adjacent to such a State, DOI is proposing to amend the regulations to accommodate that legitimate State interest.

The use of planning areas to determine areas of the OCS which are adjacent to a State makes use of geographic boundaries which are established by MMS and are used in the lease offering process. The list below gives the established planning areas and the States which border each planning area.

Planning area	States which border planning area
North Atlantic Planning Area	Massachusetts, New Hampshire, and Maine.
Mid-Atlantic Planning Area	Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, and North Carolina.
South Atlantic Planning Area	North Carolina, South Carolina, Georgia, and Florida.
Eastern Gulf of Mexico Planning Area.	Florida and Alabama.
Central Gulf of Mexico Planning Area.	Alabama, Mississippi, and Louisiana.
Western Gulf of Mexico Planning Area.	Texas.
Southern California Planning Area.	California.
Central and Northern California Planning Area.	Do.
Diapir Field Planning Area	Alaska.
Barrow Arch Planning Area	Do.
Norton Basin Planning Area	Do.
Navarin Basin Planning Area	None.
St. George Basin Planning Area.	Alaska.
North Aleutian Basin Planning Area.	Do.
Shumagin Planning Area	Do.
Kodiak Planning Area	Do.
Cook Inlet Planning Area	Do.
Gulf of Alaska Planning Area	Do.

In the Alaska OCS Region, the Navarin Basin Planning Area does not include the area immediately seaward of Alaska and, as a result, is not bordered by any State. Since the Navarin Basin Planning Area is the first planning area seaward of Alaska, MMS believes that it should be deemed adjacent to Alaska, and the definition is broadened to include this area.

As this is an alteration of a definition to accommodate State interests in inspecting privileged information, DOI has determined that this document is not a major rule under Executive Order 12291.

The DOI also certifies that this rule will not have a significant effect on a substantial number of small entities under the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., as the entities that engage in activities on the OCS are not considered small due to the technical complexity and financial resources necessary to conduct such activities.

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 et seq.

Author: This document was prepared by John Mirabella, Offshore Rules and Operations Division, Minerals Management Service.

List of Subjects

30 CFR Part 250

Continental shelf, Environmental impact statements, Environmental protection, Government contracts, Investigations, Mineral royalties, Oil and gas reserves, Penalties, Pipelines, Public lands/mineral resources, Reporting and recordkeeping requirements.

30 CFR Part 252

Continental shelf, Freedom of information, Intergovernmental relations, Oil and gas exploration, Public lands/mineral resources, Reporting and recordkeeping requirements.

Dated: July 27, 1983

William P. Pendley,

Deputy Assistant Secretary of the Interior.

PART 250—[AMENDED]

For the reasons set forth above, it is proposed that 30 CFR Parts 250 and 252 be amended as shown:

1. In § 250.2, paragraph (e) is revised to read as follows:

§ 250.2 Definitions.

* * * * *

(e) "Area adjacent to a State" means all of that portion of the OCS included within a planning area if such planning area is bordered by that State. The portion of the OCS in the Navarin Basin Planning Area is considered to be adjacent to the State of Alaska.

* * * * *

PART 252—[AMENDED]

2. In § 252.2, paragraph (e) is revised to read as follows:

§ 252.2 Definitions.

* * * * *

(e) "Area adjacent to a State" means all of that portion of the OCS included within a planning area if such planning area is bordered by that State. The portion of the OCS in the Navarin Basin Planning Area is considered to be adjacent to the State of Alaska.

* * * * *

[FR Doc. 83-23198 Filed 8-23-83; 8:45 am]

BILLING CODE 4310-MR-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 3E2849/P306; PH-FRL 2417-6]

N,N-Diethyl-2-(1-Naphthalenyloxy) Propionamide; Proposed Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that a tolerance be established for residues of the herbicide *N,N*-diethyl-2-(1-naphthalenyloxy) propionamide (napropamide) in or on the raw agricultural commodity rhubarb. The proposed regulation to establish a maximum permissible level for residues of the herbicide in or on the commodity was requested in a petition submitted by the Interregional Research Project No. 4 (IR-4).

DATE: Comments must be received on or before September 23, 1983.

ADDRESS: Written comments by mail to: Program Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, delivery comments to: Emergency Response and Minor Use Section, Registration Division (TS-767C), Environmental Protection Agency, RM. 716B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs (703-557-1192).

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition 3E2849 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of Oregon and Washington.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for residues of the herbicide *N,N*-diethyl-2-(1-naphthalenyloxy) propionamide in or on the raw agricultural commodity rhubarb at 0.1 part per million (ppm).

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the

tolerance is sought. The toxicological data considered in support of the proposed tolerance include an acute oral rat study with an LD_{50} greater than 5 grams (g)/kilogram (kg); a 90-day rat feeding study with a no-observed-effect level (NOEL) of 25 milligrams (mg)/kg/day; a 90-day dog feeding study with a NOEL of 40 mg/kg/day; a 2-year rat feeding study with a NOEL of 30 mg/kg/day; a 2-year mouse feeding study with a NOEL of 30 mg/kg/day; a 3-generation rat reproduction study with a NOEL of 30 mg/kg/day; a rat teratology with a NOEL of 400 mg/kg/day; and three mutagenicity studies (rec-assay, host mediated, and Ames test), all negative for mutagenic effects. A teratology study in a second mammalian species is currently lacking.

The acceptable daily intake (ADI), based on the 2-year rat feeding study (NOEL of 30 mg/kg/day) and using a 100-fold safety factor, is calculated to be 0.3 mg/kg of body weight (bw)/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 18.0 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5-kg daily diet is calculated to be 0.0194 mg/day; the current action will increase the TMRC by 0.00008 mg/day (0.4 percent). Published and proposed tolerances utilize 0.11 percent of the ADI.

The nature of the residues is adequately understood and an adequate analytical method, gas-liquid chromatography, is available for enforcement purposes. Because no livestock feed items are involved, there is no expectation of finite residues in meat, milk, poultry or eggs. There are presently no actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency, the tolerance established by amending 40 CFR 180.328 would protect the public health. It is proposed, therefore, that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request on or before September 23, 1983, that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number [PP 3E2849/P306]. All written comments filed in response to this petition will be available in the Emergency Response and Minor Use Section, Registration Division, at the address given above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (56 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2)))

Dated: August 11, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR 180.328 be amended by adding, and alphabetically inserting, the raw agricultural commodity rhubarb to read as follows:

§ 180.328 N,N-Diethyl-2-(1-naphthalenyloxy)propionamide; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Rhubarb	0.1
* * * * *	

[FR Doc. 83-22807 Filed 8-23-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 721

[OPTS-50503; TSH-FRL-2359.1]

Toxic Substances; Isopropylamine, Distillation Residues, and Ethylamine, Distillation Residues; Proposed Determination of Significant New Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a Significant New Use Rule (SNUR) under section 5(a)(2) of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2604(a)(2), to require persons to notify EPA at least 90 days before manufacturing, importing, or processing isopropylamine, distillation residues and ethylamine, distillation residues for a "significant new use." These substances were the subject of premanufacture notices (PMN) P-80-289 and P-80-290, respectively. EPA is proposing that use in metalworking fluids be designated as a significant new use. The Agency is concerned that these substances may present unnecessary risks to human health if this defined new use occurs.

DATES: Written comments should be submitted by October 24, 1983.

ADDRESS: Comments should bear the document number OPTS-50503 and should be addressed to: TSCA Publication Information Officer (TS-793), Office of Toxic Substances, Environmental Protection Agency, Rm. E-108, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Jack P. McCarthy, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St., SW., Washington, D.C. 20460, Toll free: (800-424-9065), Washington, D.C.: (554-1404), Outside the U.S.A.: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION: Section 5(a)(2) of the Toxic Substances Control Act (TSCA) authorizes EPA to determine that a use of a chemical substance is a significant new use. EPA must make this determination by rule, after considering all relevant factors, including those listed in section 5(a)(2). Once a use is determined to be a significant new use, persons must, under section 5(a)(1)(B), submit a notice to EPA at least 90 days before they manufacture, import, or process the substance for that use. Such a notice is

generally subject to the same statutory requirements and procedures as a premanufacture notice (PMN) submitted under section 5(a)(1)(A). In particular, these include the information submission requirements of section 5(d)(1) and section 5(b), certain exemptions authorized by section 5(h), and the regulatory authorities of section 5(e) and section 5(f). If EPA does not take regulatory action under section 5, 6, or 7 to control a substance on which it has received a SNUR notice, section 5(g) requires the Agency to explain its reasons for not taking acion in the **Federal Register**. In addition, if any person exports to a foreign country a chemical substance for which a SNUR has been proposed or promulgated, that person must notify EPA under section 12(b)(2) of TSCA so that EPA may in turn notify the foreign government.

I. PMN Background

On October 23, 1980, EPA received two PMNs which the Agency designated as P–80–289 and P–80–289. EPA announced receipt of the PMNs in the **Federal Register** of November 17, 1980 (45 FR 75750). The notice submitter, Air Products and Chemicals, Inc., claimed the production volume as Confidential Business Information (CBI). The specific chemical names of the substances are isopropylamine, distillation residues (P–80–290) and ethylamine, distillation residues (P–80–290). The notice submitter stated in the PMNs that the substances will be used as corrosion inhibitors for oil well service lines and secondary recovery recirculating water systems. They are marketed under trade names ANCOR® 301 (P–80–289) and ANCOR® 300 (P–80–290).

The manufacturer provided acute health effects data, including acute oral and dermal LD_{50}, and skin irritation studies. In addition, the manufacturer provided results of an Ames mutagenicity assay on the PMN substances, which indicated that the substances were non-mutagenic. However, EPA believes that, in the presence of nitrosating agents, many of the components of the PMN substances are likely to form nitrosamines that are either known carcinogens or that may possess carcinogenic potential.

During the PMN review period, the Agency concluded that, given the proposed uses of the substances, exposure of workers, consumers, and ecological populations to the substance would be low. In addition, the proposed PMN uses would not involve nitrosating agents and, therefore, concern for potential carcinogenic effects would be low. In coming to this conclusion, EPA considered the following information derived from the PMNs: physical properties of the PMN substances, health effects data, worker exposure during the manufacture, processing, and uses of the chemical substances, consumer exposure, and environmental release. In the manufacture and processing of these chemicals, 4 to 8 workers are expected to be exposed for 6 to 8 hours per day, for 8 to 12 days per year, mainly during drumming operations. For the PMN uses, the use of protective safety equipment was proposed to minimize exposure. Furthermore, the chemicals are used at a 20 percent concentration in water systems, and at 3 ppm in oil well service lines. Users will typically add the blended formulation to water recovered from the drilling reservoir for recirculation into the oil/natural gas-producing reservoir. Finally, there is no consumer exposure to the PMN substances in their intended (PMN) uses.

Because of the small number of people that may be exposed to the chemical substances, the low levels of expected exposure, and the low expected releases, EPA had little concern for the substances in their intended uses and did not take regulatory action to restrict the commercialization of the chemical sustances. As a result, the submitter was free to produce the substances and they were added to the TSCA Chemical Substance Inventory when the manufacturer notified EPA that manufacture had begun. EPA received a notice of commencement of manufacture for the PMN substances on February 25, 1981. No further reporting under section 5 is required on these chemical substances unless a significant new use rule or section 8(a) reporting rule is promulgated.

II. Reasons for Proposing This Rule

A. Introduction

EPA has two reasons for concern about the PMN substances that are subject to this proposed rule. First, the Agency is concerned that use of the substances in metalworking fluids that contain nitrosating agents may result in the formation of nitrosamines that possess either known or potential carcinogenic activity. Second, the Agency is concerned that if the substances are used in metalworking fluids, a substantial number of people may be exposed to potentially high levels of these nitrosamine-containing metalworking fluids for significant periods of time, thereby experiencing potentially significant carcinogenic risks.

B. Potential Adverse Health Effects Associated With the PMN Substance

The Agency is concerned that the PMN substances, under nitrosating conditions, may cause carcinogenic effects in humans following dermal exposure, inhalation exposure, or direct ingestion. This concern is based on the following facts: (a) The PMN substances are distillation residues that contain many secondary and tertiary amines; (2) secondary and tertiary amines, in the presence of nitrosating agents, are expected to form nitrosamines that may be absorbed as a result of dermal exposure, inhalation exposure, or direct ingestion; and (3) many nitrosamines are known to elicit carcinogenic effects in laboratory animals, and are possible human carcinogens.

There is a large body of scientific data which demonstrate that secondary and tertiary amines, under various conditions and in the presence of nitrosating agents (e.g., nitrite, nitrogen oxides) readily form nitrosamines *in vivo* (e.g., in the stomach under acidic conditions (Ref. 1)) and *in vitro* (e.g., in metalworking fluids under alkaline conditions (Ref. 14)). The formation of nitrosamines in metalworking fluids is perhaps best documented in the literature based on diethanolamine and triethanolamine (Ref. 14). Di- and triethanolamine, under various conditions in the presence of nitrosating agents, form N-nitrosodiethanolamine (NDELA). This particular nitrosamine has been found in relatively high concentrations (i.e., 0.02 to 3 percent) in a number of commercial cutting fluids in the U.S. (Ref. 6). Additionally, Rappe and Zingmark (Ref. 14) have demonstrated the formation of nitrosamines in cutting fluids available in Sweden, and Stephany et al. (Ref. 17) have reported the presence of N-nitroso-5-methyol-1,3-oxazolidine as an impurity in a commercial cutting fluid used in the Netherlands. The proposed mechanisms for formation of the nitrosooxazolidine are (1) simple nitrosation of oxazolidine antimicrobials (antimicrobials may be added to metalworking fluids in concentrations up to 1.0 percent); and (2) nitrosation of primary beta-hydroxy amines (Ref. 16).

The tenet that amines in metalworking fluids, in the presence of nitrosating agents, may form N-nitrosamines is sufficiently well accepted by the scientific and regulatory communities. The Canadian government has therefore moved to ban the importation, sale, and advertisement of products (cutting fluids) that contain any nitrite when either diethanolamine or triethanolamine is present (Ref. 3). Furthermore, the U.S. National Institute for Occupational Safety and Health has published a Current Intelligence Bulletin (Ref. 12) which presents industrial hygiene practices that could help reduce dermal and respiratory exposures to metalworking fluids.

Given the above information, it is reasonable to assume that, if the PMN substances are used in metalworking fluids containing nitrosating agents, some of the amine components may be converted to the corresponding nitrosamines. N-nitrosamines, characterized by the functional group N-N=O, are considered to be among the most potent carcinogenic agents (Ref. 20). As a chemical class, the N-nitrosamines have been demonstrated to induce tumors in many vital organs of a wide range of animals via various routes of administration (Refs. 5 and 20). Nearly 80 percent of all N-nitrosamines studied to date have been found to be carcinogenic in a wide range of laboratory animals including various aquatic organisms (Ref. 18).

Among the nitrosamines that may form under such conditions, at least six (three of the major components of each PMN substance) are known to cause carcinogenic responses in at least one species of laboratory animal. Diisopropylnitosamine, di-n-butylnitrosamine, and ethyl isopropylnitrosamine have been reviewed by Druckey et al. (Ref. 5). Diisopropylnitrosamine causes lever carcinomas, carcinomas of the esophagus, and squamous epithelial carcinomas of the urinary bladder in rats; and ethyl isoproplnitrosamine causes carcinomas of the liver, esophagus, forestomach, pharynx, and tongue in rats. N-nitrosopiperidine, N-nitroso-3-methylpiperidine, and N-nitroso-2-methylpiperidine have been reviewed by the International Agency for Research on Cancer (IARC) (Ref. 9). The primary target organs for N-nitroso-3-methyulpiperidine and N-nitroso-2-methylpiperidine are the nasal cavity, esophagus, forestomach, pharynx, and tongue in rats. N-nitrosopiperidine is reported to be carcinogenic in mice, rats, Syrian golden hamsters, European and Chinese hamsters, and monkeys after its administration by oral and other routes. According to the IARC (Ref. 9), N-nitroso-piperidine "produces benign and malignant tumors of the liver, lung, forestomach, and esophagus in mice, of the liver, esophagus and respiratory system in rats, and of the upper digestive tract, respiratory system and liver in hamsters; it produces hepatocellular carcinomas in monkeys, and is carcinogenic in mice and hamsters after its administration in a single dose."

The above nitrosamines, as well as other potentially carcinogenic nitrosamines that may be formed as a result of the use of the PMN substances in metalworking fluids, are expected to be readily absorbed if they are ingested. This statement is based on the fact that many of the positive bioassay results cited above were obtained as a consequence of oral administration of the test compound (i.e., a specific nitrosamine). Although little data exist on the rate and degree of dermal and inhalational absorption of nitrosamines, it is reasonable to assume that some portion of the nitrosamines available via these exposure routes may be absorbed into the body. Available data on the dermal absorption of specific nitrosamines suggest that NEDLA, a common nitrosamine contaminant in metalworking fluids (Ref. 15), penetrates intact human skin both *in vitro* and *in vivo* (Ref. 2), thereby suggesting that other nitrosamines also may be dermally absorbed. No data specifically addressing the inhalation absorption of nitrosamines were found in the available literature. Two nitrosamines (dimethyl- and divinylnitrosamine), however, have been found to elicit carcinogenic responses in test animals following inhalation esposures (Ref. 5). These data suggest that at least some nitrosamines are absorbed into the body as a result of inhalation exposures.

C. Proposed Significant New Use and Resulting Exposure

In determining what would constitute a significant new use of these chemcial substances, EPA considered relevant information about the toxicity of the chemicals and likely exposures associated with possible new uses, including the four factors listed in section 5(a)(2) of TSCA. In particular, EPA focused on the following factors: (1) The intended use of the PMN substances; (2) the current markets for distillation residue amines; (3) potential uses of the PMN substances; (4) the potential exposures to nitrosamines inadvertently formed from use in metalworking fluids; and (5) the potential risks associated with exposures to the PMN substances and their N-nitroso derivatives. Based on these considerations, EPA proposes to define "use in metalworking fluids" as a significant new use of P-80-289 and P-80-290.

EPA identified several possible new end uses for the PMN substances. These uses include: (1) Intermediate for engine oil additives; (2) additive to asphalt; (3) corrosion inhibitor in metalworking fluids; and (4) additive to concrete. However, the Agency is proposing to identify only one of these end uses—use in metalworking fluids—as a significant new use because it is the only new end use identified that may allow significant exposures to nitrosamines inadvertently formed during use of the PMN substances. The basis for this conclusion is explained below.

1. *PMN use.* The submitter's claimed use for the PMN substances was as corrosion inhibitors in oil well service lines and secondary recovery recirculating water systems. The PMN substances are blended with solvents, phosphates, dispersants and other amines prior to use, and make up approximately 20 percent of the blended formulation. Users will typically add the blended formulation to water recovered from the drilling reservoir for recirculation into the oil/natural gas producing reservoir.

2. *Current markets for distillation residue amines.* Distillation residues are high molecular weight, high boiling materials. These are typically materials which either cannot be further purified by distillation techniques or for which further purification is uneconomical. Demand for the pure amine products will largely determine the composition of the distillation residue (i.e., determine how economical it will be to continue distillation to increase the yield of pure products).

There is no well characterized market for amine distillation residues. Although some residue materials are actively marketed, the quantity of those residue materials which actually find commercial use is not available. The submitter claimed its production volume levels for the two PMN-substances confidential to protect their competitive position for the primary products.

However, EPA was able to identify several companies that market their distillation residues from certain amine derivative processes. Some morpholine, piperazine, pyridine and ethyleneamine producers have found markets for the distillation bottoms.

Estimates are available for the domestic nameplate capacity for producing shorter amines (up to C6,

excluding methylamines) from alcohols. With greater than 350 million pounds of capacity existing in the United States, EPA estimates that between 1.75 and 7 million pounds of residues could be produced (Ref. 19). However, since plants do not typically function at 100 percent of nameplate capacity, these figures should be treated as a generous upperbound for the amount of residue material produced. The portion of this figure which would be ethylamine and isopropylamine bottoms cannot be calculated from publicly available information because capacities are given for multiple types (Ref. 19). Smaller plants may not find it economical to recover the residue material.

3. *Potential uses for the PMN substances.* Pure ethylamine and isopropylamine have a wide variety of uses. However, the PMN substances contain, in addition to these two amines, a variety of amine compounds and other substances. The makeup of the PMN substances will vary for each batch depending upon process conditions, variances in process temperatures, pressure and catalyst activity (Ref. 19). These residues, because of the large number of individual chemicals they contain and the type and structure of the chemicals (polymers, cyclic compounds, etc.), probably have a dark appearance and unpleasant odor typical of amines and distillation residues (Ref. 19). These properties are expected to prevent the PMN substances from finding use as a replacement for the pure ethylamines and isopropylamines in most applications.

EPA also identified other possible uses for amine compounds which were not feasible because the end use product might contain low levels of the PMN substances. These uses included:

—gasoline additives;
—engine cleaners;
—urethane catalysts;
—consumer cleaning products;

These four uses were thought to be unsuitable for the PMN substances because of the same properties listed above. Use as gasoline additives or in engine cleaners is considered improbable because these products typically use discrete, reproducible compounds which result in known breakdown products (gasoline additives) or do not leave gummy deposits (engine cleaners). Likewise, use as a urethane catalyst is not expected because it is important to be able to predict with confidence the results of reaction of the amine catalyst with the isocyanate prepolymer. A complex mixture whose components and component concentrations could vary from batch to batch would prevent accurate predictions. Consumer products, such as household cleaners or aerosol products, would not be expected to incorporate materials (like the PMN substances) which are probably smelly and colored, even at low concentrations. (Ref. 19.)

EPA initially was able to identify a variety of possible end-uses where the variable composition, appearance and odor concerns may not present a significant problem. These end-uses are shown below.

—oil field corrosion inhibitors (other than the claimed use);
—cooling water corrosion inhibitors (probably only enclosed systems);
—emulsifiers;
—emulsion breakers;
—surfactants;
—thickening agents;
—rubber vulcanizing accelerators;
—cement additives;
—asphalt emulsifiers;
—ore flotation chemicals;
—corrosion inhibitor for metalworking fluids.

However, with subsequent analysis, EPA determined that the presence of a relatively high percentage of unidentified polymeric material, the dark color, and the adverse smell would be expected to prevent use of the PMN substances for many applications listed above. Uses where low quality and lack of batch reproducibility are not critical, and where low cost is a significant factor in material consumption are more probable. These uses include other "downhole" oilfield applications, cement additives, and asphalt emulsifiers. While the three factors mentioned above (polymers, smell, color) may restrict use of the PMN substances in metalworking fluids, EPA cannot rule out the possibility of this use given the potential toxicity of nitrosamines and exposures associated with metalworking fluids.

EPA's only concern for these substances is in applications where the substances could be transformed to carcinogenic and potentially carcinogenic nitrosamines. While there exists some likelihood that the PMN substances could find other "downhole" oilfield applications, or applications as cement additives and asphalt emulsions, EPA does not anticipate the formation of nitrosamines from these uses.

EPA believes that the use of these chemical substances as corrosion inhibitors in metalworking fluids can occur. There are several reasons that support this belief. First, amines are recognized as effective corrosion inhibitors for use in metalworking fluids (Ref. 19). The major amines used for this purpose are ethanolamines. In 1980, an estimated 40 million pounds of ethanolamines were consumed for this purpose. By 1985 this figure is expected to rise to over 50 million pounds (Ref. 19). Second, some commercially available amine distillation residues have been investigated and found useful for metalworking fluids. Third, distillation residues are less expensive than purer amines. Thus, the PMN substances may be economically feasible as corrosion inhibitors in metalworking fluids.

4. *Potential exposures.* After considering the likelihood that the substances will be used in metalworking fluids, EPA examined the possible exposures that might result. The Agency determined that there is a potential for workers to be exposed dermally, via inhalation, and via ingestion after inhalation of unknown levels of nitrosamines formed from the PMN substances.

Formulators typically prepare metalworking fluid concentrates by blending a solution which contains water, 10–20 percent emulsifier, 25–50 percent lubricating agent, 1–10 percent corrosion inhibitor, and 0–1 percent antimicrobial (Ref. 7). These formulated concentrates are later diluted with water 10–100 fold for the actual metalworking operation (Refs. 4, 8, 10, and 11). The final diluted metalworking fluid will normally contain 0.01–1 percent of the corrosion inhibitor by weight.

There are more than 300 processors in the U.S. who formulate metalworking fluids (Ref. 13), and it has been estimated that approximately 1,140,000 workers are employed in machine shops that routinely use metalworking fluids (Ref. 21). The exposure is primarily dermal, and occurs from routine handling of the PMN substances or metalworking fluid during formulation, dilution, machining, quality control sampling, transfer and drumming of products, and from maintenance and cleanup operations. Inhalation exposure and ingestion also can occur, especially to the warmed metalworking fluid mists during the machining operation. Furthermore, EPA believes formulators and machinists do not typically wear gloves, as their use inhibits effective machining of metals.

5. *Potential risks.* Workers in the metalworking industry are likely to experience exposures to metalworking fluids resulting from dermal contact, inhalation, and ingestion. If the fluid contains carcinogenic nitrosamines,

workers will be exposed via three different routes to unknown levels of the carcinogens. Because such exposures could occur throughout each day, all year long, these workers may be subject to potentially significant carcinogenic risks. Although each PMN substance contains amines which, in the presence of nitrosating agents, may form nitrosamines that have been demonstrated to be animal carcinogens, it currently is not possible to determine the actual degree of carcinogenic risk that workers may experience as a result of using the PMN substances in metalworking fluids. Actual risks will be highly dependent on the (1) specific nitrosamines formed under the conditions of use, for example, through nitrosation and potential transformations such as retroaldol reactions (Ref. 1); (2) the quantities of specific nitrosamines that are formed during use; and possibly (3) the presence of other substances in the metalworking fluids that may potentiate or otherwise affect absorption and/or expression of carcinogenic effects (Ref. 7). EPA, however, believes that the potential for formation of nitrosamies that are either demonstrated animal carcinogens or that may have potential carcinogenic nitrosamines, merit Agency review of the proposed new use of the PMN substances to determine the extent of potential carcinogenic risks before they occur as a result of that use.

The Agency considered defining as a significant new use "distribution without a label instructing 'DO NOT USE IN FLUIDS WITH NITROSATING AGENTS' ". Because not all metalworking fluids contain nitrosating agents this definition would allow some use in metalworking fluids. However, this alternative would be effective only if the users knew whether the fluids to which they added the amines contained nitrosating agents. EPA believes that most formulators and users of metalworking fluids do not know whether their fluids contain nitrosating agents. EPA solicits comment on this alternative.

In order to cover all use possibilities, EPA considered defining as a significant new use "any use involving contact with nitrosating agents". However, this new use definition was rejected because (1) it would require all manufacturers and processors to determine whether the substances might come into contact with nitrosating agents for all possible uses; and (2) EPA does not believe other uses involving nitrosating agents are likely.

III. Alternatives to a Significant New Use Rule

EPA considered three possible options: an 8(a) rule, a section 6 rule, and taking no action. Under a section 8(a) reporting rule, EPA could require any person to report to EPA before manufacturing or processing the substances for use in metalworking fluids. Because the substances are not subject to a section 5(e) order, the normal small business exemption of section 8(a) would apply. Given the fact that many health effects data already exist for nitrosamines, a section 8(a) rule could be used to gather exposure information useful to regulatory decisionmaking on these chemical substances. However, the use of section 8(a) rather than SNUR authority has one major drawback. If EPA received a report under section 8(a) indicating that a person intended to manufacture or process the substances for use in metalworking fluids, the Agency could not take action under section 5(e) as it can under a SNUR and thus would not be able to regulate the substances pending development of information. Rather, EPA would have to obtain test data under section 4 and then, if necessary, regulate the substances under section 6. This approach would not allow the Agency to control unreasonable risks to human health during the time needed for data development.

EPA also considered taking an action under section 6 to prohibit use of the substances in metalworking fluids. The advantage of this action would be than any reasonable risks would be prevented. However, the Agency believes that more information is needed on the formation of nitrosamines from these chemicals before a control action is appropriate. The Agency believes that the preventive approach of a SNUR is more appropriate given our current knowledge, level of concern, and present resources.

Finally, the Agency considered taking no formal action on the chemical substances. However, such a decision would remove any change of the Agency taking regulatory action before their use occurs in high exposure applications where nitrosamines could be formed, even assuming EPA of the applications.

The Agency specifically requests comment on these possible alternatives to promulgating a SNUR.

IV. Persons Subject to SNUR Notice Requirements

Section 5(a)(1)(B) requires persons to submit a SNUR notice to EPA before they manufacture or process a substance subject to a SNUR for a significant new use. The language of this proposal makes clear that manufacturers, importers and processors are subject to SNUR notice requirements. Since both manufacturers and processors are legally subject to SNUR notice requirements, EPA could require both manufacturers and processors to submit complete SNUR notices. However, this may be unnecessary since it could result in the agency receiving the same information from both parties. Therefore, EPA is proposing to allow manufacturers and processors decide which party should submit what information to EPA so long as all appropriate information is submitted. Thus, manufacturers and processors may decide to submit one joint SNUR notice or to submit separate notices each containing the information uniquely within the purview of the respective party. For example, under this approach, the processor may submit a notice containing such information as likely exposures and releases from processing, while the manufacturer may submit a notice containing information such as the projected market potential for the substance. Both the manufacturer and processor would submit test data in their sole possession or control and the parties would determine who is responsible for submitting test data that they both possess or control. Alternatively, manufacturers and processors could decide to submit one joint notice containing information from both parties.

Another approach would be to require only the person who actively develops and markets the substances for the significant new use to submit a SNUR notice because this person is likely to know the most about exposure from the significant new use and to have the most information about the market potential for the substance in the new use. The other party or parties technically subject to the notice requirements would at least initially be excused from this responsibility. For example, if a person manufactures the substances for use in oil well service lines but a processor formulates the substances for use in metalworking fluids, increased and different exposures would occur only from the actions of the processor. In such a case, the processor is the person who actively develops the substances for a significant new use, and who should have information on potential exposure and the market potential for the product. Therefore, under this approach, the processor would submit the SNUR notice. On the other hand, if a person intends to manufacture the

substances for use in metalworking fluids, that person is developing and marketing the substance for a significant new use, and is the person who is most likely to have information about potential new uses and likely exposures. therefore, under this approach, the manufacturer would submit the SNUR notice. However, EPA would reserve the right to require the part that did not submit a SNUR notice to submit necessary information. For example, if the manufacturer submitted a SNUR notice, but only the processor had certain exposure information, EPA would require the processor to submit that information.

The Agency specifically requests comment on these various approaches.

V. Uses That May Be Subject to SNUR Notice Requirements

EPA recognizes that when chemical substances proposed to be subject to this SNUR are added to the Inventory they may be manufactured or processed for "significant new uses" as defined in this proposal before promulgation of the rule. The statute and its legislative history do not make clear whether uses occurring after proposal but before promulgation are to be considered "new uses" subject to SNUR notification. However, EPA believes that the intent of section 5(a)(1)(B) can be best served by determining whether a use is "new" or "existing" as of the proposal date of the SNUR. If EPA considered uses commenced during the proposal period to be "existing" rather than "new" uses, it would be almost impossible for the Agency to establish SNUR notice requirements since any person could defeat the SNUR by initiating the proposed significant new use before the rule becomes final. This is contrary to the general intent of section 5(a)(1)(B).

Thus, under this statutory interpretation, if the substances are manufactured or processed between proposal and promulgation for proposed "significant new uses," the Agency will still consider such uses to be "new" if they are retained in the final rule. EPA recognizes that this interpretation may disrupt commercial activities of persons who commenced manufacture or processing for a "significant new use" during the proposal period. The Agency specifically requests comment on ways to minimize this disruption.

VI. Procedures for Informing Persons of the Existence of This Significant New Use Rule

The final rule will be published in the Federal Register and codified in the Code of Federal Regulations (CFR). While this will provide legal notice of the rule, EPA is exploring additional ways of informing potential SNUR notice submitters of the existence of the rule.

EPA intends to publish information concerning final SNUR's in the TSCA Chemicals-in-Progress Bulletin, published by the Industry Assistance Office of EPA's Office of Toxic Substances. EPA may also use the TSCA Chemical Substance Inventory to inform persons of the existence of final SNUR's through footnotes by the chemcial identities of substances subject to SNUR's. The Footnotes could refer to an Inventory Appendix which would give a Federal Register or CFR citation of the SNUR. As a variation of this approach, the Agency is considering publishing a list of substances subject to SNUR's as an Inventory Appendix.

Any person who intends to manufacture or import a substance for the first time should check the Inventory to determine if the substance is listed. if a person finds that the substance is on the Inventory, but subject to a SNUR, he can determine whether he would be subject to reporting by contacting EPA or reviewing the rule. EPA believes that manufacturers and importers will generally know the identities of the substances they manufacture and import and therefore can follow this procedure.

EPA recognizes that some processors may not know the identity of substances they process and therefore may not know they are required to submit a SNUR notice. Therefore, EPA has identified two ways of ensuring that processors are aware that substances are subject to a SNUR.

First, EPA could hold manufacturers and importers responsible if any of their customers process a substance subject to this rule for a significant new use without submitting a SNUR notice even if the manufacturer did not know that the customer intended to process the substance for a significant new use. However, manufacturers and importers could avoid this problem by informing their customers in writing that the substances are subject to a SNUR. Even if a manufacturer or importer provides such information to a processor, if the manufacturer or importer has reason to believe that the processor is commencing a significant new use before submitting a SNUR notice, the manufacturer or importer should submit a SNUR notice and cease sales to the processor for that use to avoid further liability. In addition, the manufacturer or importer may wish to contact EPA enforcement authorities to mitigate any liability stemming from sales made prior to the discovery by the manufacturer or importer that a customer was processing the substance for a significant new use without submitting a SNUR notice.

Second, EPA could hold processors responsible if they process substances for a significant new use without submitting a SNUR notice, even if they did not know the identity of the substances or that the substances were subject to a SNUR. However, processors could avoid this problem by asking their suppliers whether the substances are subject to a SNUR. EPA believes that many processors ask suppliers to certify that chemical substances of unknown identity are on the Inventory. Therefore, the Agency believes that processors can similarly ask suppliers whether substances are subject to SNUR notice requirements.

The Agency specifically requests comment on these two approaches as well on other approaches to ensure that SNUR notice requirements are followed.

VII. Required Information

EPA is not proposing a special form for SNUR notices at this time. Instead, the Agency will encorage SNUR notice submitters to use the premanufacture notice form published in the Federal Register of May 13, 1983 (48 FR 21722). SNUR notices must comply with section 5 of TSCA. The Agency interpreted section 5 requirements in the PMN final rule referenced above. However, because only certain, specific information would be required for this SNUR, manufacturers and processors should focus on the following information: (1) Chemical identity; (2) description of processing and use; (3) exposures relating to processing and use; and (4) test data.

If the SNUR becomes final, EPA would encourage SNUR notice submitters to provide detailed information on human exposure that will result from the significant new use. In addition, EPA would encourage persons to submit information on potential benefits of the substances including information on risks posed by the substances compared to risks posed by their substitutes.

VIII. Test Data

EPA recognizes that under TSCA section 5, a person is not required to develop any particular test data before submitting a notice. Rather, a person is required only to submit test data in his possession or control and to describe any other data known to or reasonably ascertainable by him. However, in view of the potential health risk that may be posed by the proposed significant new use of P-80-289 and P-80-290, EPA encourages possible SNUR notice

submitters to test the substances under various simulated use conditions to identify and quantify the level of nitrosamines formed in metalworking fluids. Consideration should be given to pH and temperatures during use and any other factors that might influence nitrosamine formation (Ref. 7). If a SNUR notice is submitted for use in metalworking fluids without such test data, EPA may take action under section 5(e).

As part of an optional prenotice consultation, EPA will discuss the test data it believes necessary to evaluate a significant new use of the chemicals. During prenotice consultation, EPA will also discuss information that will be particularly useful to the Agency in reviewing these chemicals. EPA encourages persons to consult with the Agency before selecting a protocol for testing the substances.

IX. EPA Review of Notice

EPA generally intends to review SNUR notices the same way it reviews premanufacture notices. EPA will publish a summary of each notice in the **Federal Register** under section 5(d)(2). The review period for the notice will run 90 days from EPA's receipt of the notice. Under section 5(c) this period may be extended up to an additional 90 days for good cause. The submitter may not manufacture, import, or process the substances for a significant new use until the review period, including extensions, has expired.

The Agency may regulate the substance during the review period. If a significant new use notice is submitted for a chemical substance without information sufficient to judge the toxicity and exposure potential of the substances, EPA may issue a section 5(e) order limiting or prohibiting the new use until sufficient information is developed. In addition, section 5(f) authorizes EPA to prohibit a significant new use that presents or will present an unreasonable risk to health or the environment. Section 4(a) authorizes EPA to require testing on substances to develop data on health or environmental effects. EPA may also refer information in a SNUR notice to other EPA offices and other Federal agencies. If EPA does not take action under sections 4, 5, 6, or 7 to control a substance on which it has received a significant new use notice, section 5(g) requires the Agency to explain in the **Federal Register** its reasons for not taking action.

X. Modification of Reporting Requirements

EPA is not proposing a sunset provision that would terminate these significant new use reporting requirements on a certain date. However, the Agency believes that there may be circumstances that will lead to modification of the proposed requirements.

When a significant new use notice is submitted, EPA will review the use to determine whether any regulatory action is necessary. If after review, EPA allows the use to occur, the use arguably should not be subject to further reporting. EPA will amend the SNUR to eliminate notice requirements for the use if the Agency decides that further notice of that use under a SNUR is not warranted. EPA may also amend the SNUR to eliminate notice requirements for other uses if it determines based on new data that the substances no longer present health or environmental concerns for those uses.

EPA will amend a SNUR through a rulemaking. When EPA revises a SNUR by eliminating notice requirements for a single, narrow use of the substance, the Agency may dispense with notice and comment if it for good cause finds that notice and comment is impracticable, unnecessary, or contrary to the public interest. However, EPA will completely revoke or substantially alter a SNUR only after notice and an opportunity for comment.

XI. Proposed Rule Language

This proposed rule is structured as follows. The chemicals and defined significant new use are described in paragraph (a). In paragraph (b), EPA proposes definitions applicable for the section, most of which have been used in other TSCA rules. Paragraph (c) describes the persons who must report. In this proposal, EPA also makes clear that the "principal importer" in an import transaction must be the party that submits the SNUR notice. (An explanation of the principal importer concept appeared in EPA's clarification of its proposed premanufacture notification requirements published in **Federal Register** of September 23, 1980 (45 FR 63006)). The notice requirements and procedures for reporting under this rule are stated in paragraph (d).

Paragraph (e) clarifies that the exemptions of TSCA section 5(h) apply in SNURs with the exception of the section 5(h)(4) exemption provisions which apply only to new chemical substances. Thus, substances may be manufactured in small quantities solely for research and development without a SNUR notice being submitted. Paragraph (f) describes enforcement provisions applicable to this rule.

EPA invites comments on all aspects of this proposed rule language.

XII. Enforcement

It is unlawful for any person to fail or refuse to comply with any provision of section 5 or any rule promulgated under section 5. Manufacture or processing of chemical substances for a significant new use, as defined by rule, without submission of a SNUR notice, would be a violation of section 15.

Section 15 of TSCA also makes it unlawful for any person to:

1. Use for commercial purposes a chemical substance or mixture which such person knew or had reason to know was manufactured, processed, or distributed in commerce in violation of a SNUR.

2. Fail or refuse to permit entry or inspection as required by section 11.

3. Fail or refuse to permit access to or copying of records, as required by TSCA.

Violators may be subject to various penalties and to both criminal and civil liability. Persons who submit materially misleading or false information in connection with the requirement of any provision of a SNUR may be subject to penalties calculated as if they never filed their notices. Under the penalty provision of section 16 of TSCA, any person who violates section 15 could be subject to a civil penalty of up to $25,000 for each violation. Each day of operation in violation could constitute a separate violation. Knowing or willful violations of a SNUR could lead to the imposition of criminal penalties of up to $25,000 for each day of violation and imprisonment for up to one year. Other remedies are available to EPA under sections 7 and 17 of TSCA, such as seeking an injunction to restrain violations of a SNUR and the seizure of chemical substances manufactured or processed in violation of a SNUR.

Individuals, as well as corporations, could be subject to enforcement actions. Sections 15 and 16 of TSCA apply to "any person" who violates various provisions of TSCA. EPA may, at its discretion, proceed against individuals as well as companies. In particular, EPA may proceed against individuals who report false information or cause it to be reported.

XIII. Analyses and Assessments

A. Economic Analysis

The Agency has evaluated the potential costs of establishing significant new use reporting requirements for PMN 80-289 and PMN 80-290. This evaluation is summarized below.

Persons who intend to manufacture or process the substances for a significant

new use, as defined in this rule, would be required to submit a SNUR notice with the information required by statute. The cost of submitting a SNUR notice can be estimated from the cost of submitting a PMN, which has been estimated to range between $1,375 and $7,950 per substance.

In addition, although the SNUR would not require that persons submitting notices perform additional testing, EPA expects that some additional test data will be developed. EPA recommends that the substances be tested to evaluate the potential for the formation of nitrosamines during use as a metalworking fluid additive. The direct cost of such a test would be about $2,300 per substance. Costs could range from $1,600 to $3,000 (Ref. 19). EPA recommends that persons considering using the PMN substances for a significant new use contact EPA prior to conducting any testing.

The SNUR may also result in delay costs. The delay caused by the preparation of a SNUR notice and the statutory notice review period could reduce the value of future profits. EPA estimates that these delay costs could range from $0 to $15,054 (Ref. 19).

Total direct costs, including notification, testing, and delay would be from $2,975 to $16,004 per substance. If the original PMN submitter also intends to distribute the substances for the new use, the direct costs would add from less than 0.2 percent to 10 percent to the estimated price of the substances (Ref. 19).

EPA has not estimated any indirect costs that may result from this SNUR. These indirect costs may result from decisions not to manufacture or process these substances because of uncertainty about possible Agency regulatory action or due to the magnitude of the direct costs. The cost of this impact would be whatever profits or benefits to users that use of the substances would have generated. In addition, EPA has not estimated the potential public benefits gained through the avoidance of potential health and environmental problems. Such benefits include the avoidance of costs such as the medical treatment of exposed persons. While the Agency acknowledges that indirect costs and benefits exist, it is impossible at this time to estimate their extent precisely.

As a regulatory alternative, EPA considered proposing reporting requirements under section 8(a) rather than a SNUR. Therefore, the Agency also assessed the costs and benefits of a section 8(a) rule. Unlike a SNUR, a section 8(a) rule would not cause delay costs. The direct costs of a section 8(a) rule would range from $1,810 to $10,950, including $210 to $7,950 for form submission and $1,600 to $3,000 for the recommended testing. The direct costs of the section 8(a) rule would add from less than 0.2 percent to 8.8 percent to the estimated price of the substances.

The primary advantage of a SNUR over a section 8(a) rule is that the substances cannot be used in metalworking fluids until EPA has reviewed a SNUR notice and has had the opportunity to take action under section 5(e). These advantages are significant here since the potential risk is carcinogenic effects.

A more complete economic analysis of this SNUR and other regulatory options is included in the rulemaking record and is available for public review. EPA invites comments on this economic analysis.

B. Regulatory Assessment Requirements

1. *Executive Order 12291.* Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore requires a Regulatory Impact Analysis. EPA has determined that this proposed rule is not a "Major Rule" because it does not have an effect on the economy of $100 million dollars or more and it will not have a significant effect on competition, costs, or prices. While there is no precise way to calculate the annual cost of this rule, EPA believes that the cost will be low. Even if EPA received 25 SNUR notices, and each submitter performed the recommended testing, the direct cost of the rule would be under one million dollars. In addition, because of the nature of the rule and the substances subject to it, EPA believes that there will be few significant new use notices submitted. Further, while the expense of a notice and the uncertainty of possible EPA regulation may discourage certain innovation, that impact will be limited because such factors are unlikely to discourage an innovation which has high potential value. Finally, this SNUR may encourage innovation in safe chemical substances or highly beneficial uses.

This regulation was submitted to the Ofice of Management and Budget (OMB) for review as required by Executive Order 12291.

2. *Regulatory Flexibility Act.* Under the Regulatory Flexibility Act, 5 U.S.C. 605(b), EPA certifies that this proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small businesses. The Agency has not determined whether other parties affected by this proposed rule are likely to be small businesses. However, EPA believes that the number of small businesses affected by this rule would not be substantial even if all the potential new uses were developed by small companies. EPA expects to receive few SNUR notices for the substances. The Agency expects that one of the first notice submitters will test the substances as suggested earlier. With these data, EPA would be able to evaluate the risks posed by the substances in this use and, if necessary, take action to control those risks. At that time, the Agency presumably would repeal the SNUR. Therefore, even if all SNUR notices are submitted by small businesses, only a few small businesses will be directly affected by the rule. In addition, the cost of the testing that may be encouraged by this rule should not have a major impact on a small business that may want to use these substances in metalworking fluids.

3. *Paperwork Reduction Act.* The reporting provisions of this rule are not subject to the Paperwork Reduction Act, 44 U.S.C. 3501, because this rule is not expected to impose reporting requirements on ten or more persons as defined in 44 U.S.C. 3502(4).

XIV. Rulemaking Record

EPA has established a public record for this rulemaking (docket number OPTS—50503). The complete record is available to the public in the OPTS Reading Room, 8:00 a.m. to 4:00 p.m., Monday through Friday except legal holidays. The Reading Room is located in Rm. E–107, 401 M St., S.W., Washington, D.C.

The record includes basic information considered by the Agency in developing this proposed rule. EPA will supplement the record with additional information as it is received. The record now includes the following categories of information:

1. The PMNs for these substances.
2. The Federal Register notice of receipt of the PMNs.
3. The Significant New Use Rule for these substances.
4. The Economic support document for these substances.
5. The Notice of Commencement of Manufacture for these substances.

EPA will identify the complete rulemaking record by the date of promulgation. The Agency will accept additional materials for inclusion in the record at any time between this notice and designation of the complete record. The final rule will also permit persons to point out any errors or omissions in the record.

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List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous materials, Reporting and recordkeeping requirements, Significant new uses.

(Sec. 5, Pub. L. 94–469, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: July 12, 1983.

William D. Ruckelshaus,

Administrator.

PART 721—[AMENDED]

Therefore, it is proposed that a new § 721.170 be added to proposed 40 CFR Part 721 (48 FR 7142, February 17, 1983) to read as follows:

§ 721.170 Isopropylamines, distillation residues and ethylamine distillation residues.

This section identifies activities with respect to certain chemical substances which EPA has determined are "significant new uses" under the authority of section 5(a)(2) of the Toxic Substances Control Act (TSCA). In addition, it specifies the procedures and the persons subject to the reporting requirements, the information to be reported in a notice, and lists exemptions and exclusions from reporting.

(a) *Chemical substances subject to reporting.* Use in metalworking fluids is a "significant new use" of isopropylamine, distillation residues and ethylamine, distillation residues.

(b) *Definitions.* The definitions in section 3 of TSCA, 15 U.S.C. 2602, apply to this section. In addition, the following definitions apply:

(1) The terms "article," "byproduct," "EPA," and "impurity," have the same meanings as in § 710.2 of this chapter.

(2) "Importer" or "person who intends to import" means anyone who intends to import any chemical substance, in pure form or as part of a mixture or article, into the Customs territory of the United States and includes:

(i) The person liable for the payment of any duties on the merchandise, or any authorized agent on his behalf (as defined in 19 CFR 1.11).

(ii) The consignee.

(iii) The importer of record.

(iv) The actual owner if an actual owner's declaration and superseding bond has been filed in accordance with 19 CFR 141.20.

(v) The transferee, if the right to draw merchandise in a bonded warehouse has been transferred in accordance with Subpart C of 19 CFR Part 144. For the purpose of this definition the Customs territory of the United States consists of the 50 States, Puerto Rico, and the District of Columbia.

(3)(i) "Manufacture for commercial purposes" means to import, produce, or manufacture with the purpose of obtaining an immediate or eventual commercial advantage for the manufacturer and includes, among other things, such "manufacture" of any amount of a chemical substance or mixture:

(A) For commercial distribution, including for test marketing.

(B) For use by the manufacturer, including use for product research and development, or as an intermediate.

(ii) The term "manufacture for commercial purposes" also applies to substances that are produced coincidentally during the manufacture, processing, use, or disposal of another substance or mixture, including byproducts and coproducts that are separated from that other substance or mixture, and impurities that remain in that substance or mixture. Byproducts and impurities may not in themselves have commercial value. They are nonetheless produced for the purpose of obtaining a commercial advantage since they are part of the manufacture of a chemical produced for a commercial purpose.

(4) "Person" means any natural person, firm, company, corporation, joint venture, partnership, sole proprietorship, association, or any other business entity, any state or political subdivision thereof, any municipality, any interstate body, and any department, agency, or instrumentality of the Federal government.

(5) "Principal importer" means the importer who, knowing that a chemical substance will be imported, specifies the chemical substance and the amount to

be imported. Only persons who are incorporated, licensed, or doing business in the United States may be principal importers.

(6) "Process for commercial purposes" means the preparation of a chemical substance or mixture, after its manufacture, for distribution in commerce with the purpose of obtaining an immediate or eventual commercial advantage for the processor. Processing of any amount of a chemical substance or mixture is included. If a chemical or mixture containing impurities is processed for commercial purposes, then those impurities are also processed for commercial purposes.

(7) "Small quantities solely for research and development" (or "small quantities solely for purposes of scientific experimentation or analysis or chemical research on, or analysis of, such substance or another substance, including such research or analysis for the development of a product") means quantities of a chemical substance manufactured, imported or processed or proposed to be manufactured, imported or processed solely for research and development that are not greater than reasonably necessary for such purposes.

(8) "Technically qualified individual" means a person or persons: (i) Who, because of education, training, or experience, or a combination of these factors, is capable of understanding the health and environmental risks associated with the chemical substances which are used under his or her supervision, (ii) who is responsible for enforcing appropriate methods of conducting scientific experimentation, analysis, or chemical research to minimize such risks, and (iii) who is responsible for the safety assessments and clearances related to the procurement, storage, use, and disposal of the chemical substances as may be appropriate or required within the scope of conducting a research and development activity.

(9) "Metalworking fluid" means a liquid of any viscosity or color containing intentionally added water and is used in machining operations for the purpose of cooling or lubricating.

(c) *Persons who must report.* Any person who intends to manufacture, import (other than as part of an article), or process the substance listed in paragraph (a) of this section for the significant new uses defined in that paragraph must submit a notice to the EPA Office of Toxic Substances in Washington, D.C. under the provisions of section 5(a)(1)(B) of TSCA and this section. Any notice of import must be submitted by the principal importer.

(d) *Notice requirements and procedures.* Each person who is required to submit a significant new use notice under this section must submit the notice at least 90 calendar days before commencing an activity with respect to that use. The submitter must comply with any applicable requirement of section 5(b) of TSCA, and the notice must include the information and test data specified in section 5(d)(1).

(e) *Exemptions and exclusions.* The chemical substances and categories of chemical substances listed in Subpart B of this Part are not subject to the notification requirements of this Part if they meet any of the applicable exemption requirements of TSCA section 5(h), including the exemptions of subsection 5(h)(1) for test marketing substances and subsection 5(h)(3) for substances manufactured only in small quantities solely for research and development.

(f) *Enforcement.* (1) Failure to comply with any provision of this part is a violation of TSCA section 15 (15 U.S.C. 2614).

(2) Using for commercial purposes a chemical substance or mixture which a person knew or had reason to know was manufactured, processed, or distributed in commerce in violation of a Significant New Rule is a violation of section 15 of TSCA (15 U.S.C. 2614).

(3) Failure or refusal to permit access to or copying of records, as required by TSCA, is a violation of TSCA section 15 (U.S.C. 2614).

(4) Failure or refusal to permit entry or inspection, as required by TSCA section 11, is a violation of section 15 of TSCA (15 U.S.C. 2614).

(5) Violators may be subject to the civil and criminal penalties in TSCA section 16 (15 U.S.C. 2615) for each violation. Persons who submit materially misleading or false information in connection with the requirement of any provision of a Significant New Use Rule may be subject to penalties calculated as if they never filed their notices.

(6) EPA may seek to enjoin the manufacture or processing of a chemical substance in violation of a Significant New Use Rule or act to seize any chemical substance manufactured or processed in violation of a Significant New Use Rule or take other actions under the authority of TSCA section 7 or 17 (15 U.S.C. 2606 or 2616).

[FR Doc. 83-23109 Filed 8-23-83; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[CC Docket No. 78-72; Phase III]

MTS and WATS Market Structure; Establishment of Physical Connections and Through Routes Among Carriers, et al.; Order Extending Time for Filing Comments

Correction

In FR Doc. 83-22427, appearing on page 37235, in the issue of Wednesday, August 17, 1983, the CFR heading should read as it appears above.

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 210

[Docket No. RNE-2; Notice No. 1]

Railroad Noise Emission Compliance Regulations

Correction

In FR Doc. 83-21711 beginning on page 36487 in the issue of Thursday, August 11, 1983, make the following corrections:

On page 36492, in the table:

(1) Wherever "L_{oo}" appears (six places), it should read "L_{90}";

(2) In the 3rd, 4th, and 5th columns, the seventh line should be even with the twelfth line in the 2nd column;

(3) In the second column, sixteenth line, "*Rail Care*" should read "*Rail Cars*"; and

(4) In the 3rd, 4th, and 5th columns, fifteenth line should be even with the twenty-third line of the 2nd column.

BILLING CODE 1505-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 641

[Docket No. No. 30623-113]

Reef Fish Fishery of the Gulf of Mexico

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule and notice of availability of plan.

SUMMARY: The Assistant Administrator for Fisheries, NOAA, has initially approved the Fishery Management Plan

for the Reef Fish Resources of the Gulf of Mexico (FMP). NOAA announces that copies of the FMP are available, issues this proposed rulemaking to implement the FMP, and requests comments on the FMP and implementing regulations. The FMP and proposed implementing regulations would: (1) Establish limitations on the use of certain gear in specified fishing areas, (2) establish construction requirements and maximum size and numerical limits for fish traps, (3) require those using fish traps to obtain permits and mark their vessels and gear, (4) establish a minimum size limit for red snapper, and (5) prohibit the taking of reef fish with poisons or explosives. The regulations are designed to rebuild the declining reef fish stocks.

DATES: Comments on FMP and proposed rule must be received on or before October 11, 1983.

ADDRESS: Comments and requests for copies of the FMP and the regulatory impact review/initial regulatory flexibility analysis should be sent to Jack T. Brawner, Regional Director, Southeast Region, National Marine Fisheries Service (NMFS), 9450 Koger Boulevard, St. Petersburg, Florida 33702.

FOR FURTHER INFORMATION CONTACT: Jack T. Brawner, 813–893–3141.

SUPPLEMENTARY INFORMATION: The Assistant Administrator for Fisheries, NOAA (Assistant Administrator) approved the Fishery Management Plan for Reef Fish Resources of the Gulf of Mexico (FMP) on June 3, 1983, under the authority of the Magnuson Fishery Conservation and Management Act, as amended (Magnuson Act). These proposed regulations implement the FMP which was prepared by the Gulf of Mexico Fishery Management Council (Council).

The FMP addresses the reef fish resources through out the fishery conservation zone (FCZ) in the Gulf of Mexico (Gulf). The reef fish fishery generally has targeted on numerous species of grouper, snapper, and sea bass. Certain tilefish, amberjacks, triggerfish, hogfish, grunts, porgies, and sand perches are taken incidental to directed fishing effort. Historically, the fishery has been conducted within waters shallower then 100 fathoms, the approximate outer edge of the continental shelf in the Gulf. The Gulf reef fish fishery began in northern Florida in the early 1850's and gradually expanded with the introduction of larger vessels and improved ice-making technology. The chief target of this hook and line fishery was the red snapper. Because of the strong demand for red snapper, the fishery spread throughout the Gulf and into Mexican waters. Grouper and other related species that were originally sold as low value, incidental catch became more important as red snapper catches stabilized.

Commercial reef fish landings in the Gulf from 1957–1976 ranged from 16 millions pounds (1958) to a maximum of 24.7 million pounds in 1965. Since the early 1970's, landings have been relatively stable at about 17–18 million pounds. The value has increased steadily over the period 1957–1976 and peaked at $10.6 million in 1976. In 1974 there were an estimated 1,705 commercial fishermen in the fishery, with Florida residents accounting for over half that number. Residents of all five Gulf States are represented in the fishery. The dominant gear is baited hooks on lines operated with manual or electric reels. Information received since the FMP was prepared indicates the number of hook-and-line vessels increased by 58 percent between 1970 and 1977. Additional commercial effort is expected as U.S. vessels are forced to leave foreign waters (e.g., Mexico). In light of this increased effort, commercial and recreational catches of red snapper have declined appreciably since 1975.

Shrimp trawlers capture reef fish as an incidental catch. About four percent of the reef fish landings are by shrimpers but only the larger, more valuable fish are retained; the rest are discarded at sea, few of which survive.

The trap fishery is conducted in the Gulf primarily off the west coast of Florida. The use of this gear has been a minor component of the fishery during the 1960's and 1970's. Fishermen in other fisheries (e.g., stone crab fishery) began to diversify and use baited, wire fish traps as energy-efficient harvesting devices in response to changing economic conditions (e.g., rapidly rising vessel fuel costs). This shift in gear-use provoked strong opposition from commercial hook-and-line fishermen and recreational fishermen who claimed interference with their accustomed fishing activities, depletion of reef fish populations, and damage to reef habitat. Recent studies indicate traps are generally set adjacent to, rather than on reefs, thus minimizing physical damage to the reef environment. Trap fishing can be highly efficient when traps are emptied and rebaited every few days.

Recently, some fishermen have begun to use longlines with many baited hooks which are fished on the bottom. Also, some vessels operating in areas of irregular bottom equip their trawls with large rollers that allow a trawl to harvest fish despite such obstructions. These relatively new elements of the fishery are undoubtedly contributing additional pressure of those species already experiencing some degree of overfishing.

The recreational fishery normally occurs in nearshore waters due to the limited capacity of recreational boats to withstand offshore sea conditions and the longer time and additional fuel required to make more distant fishing trips. Reef fish are a major target of charter boats and party or head boats. Such boats are an integral part of the recreational and tourism industries, especially in Florida. From 50 to 95 percent of recreational fishermen fish for reef fish, depending on seasonal availability of other species such as tarpon or king mackerel. Information received since the FMP was prepared indicated that the number of recreational fishermen increased by 286 percent between 1970 and 1979.

As a result of analyses of records for U.S. commercial and recreational catches and the Cuban fishery that existed prior to 1977, the Council concluded that some snapper and grouper species are overfished in the nearshore waters and red snapper are overfished throughout the management area. The form of overfishing is "growth overfishing," which means that the fish are being harvested before reaching their optimum harvest size; this results in a decreased yield from the fishery. The causes are directed fishing by recreational fishermen, who are the primary users, commercial fishermen, and incidental catches in other fisheries. Many commercial fishermen have shifted their efforts into the offshore waters, beyond the range of most recreational vessels, in order to maintain profitable catches of large reef fish. The fish harvested by those commercial fishermen are generally of n size at or above that consistent with achieving maximum sustainable yield from the fishery. Except for red snapper, there is no growth overfishing in offshore waters.

Data that have been compiled by NMFS after the Council submitted the FMP indicate a further decline in reported catch of snappers. This trend suggests that growth overfishing has become more pronounced in recent years; however, there are sufficient adults in the population to provide for sustained reproduction and recruitment into the fishery.

The following comprise the FMP's management regime for the reef fish fishery in the Gulf.

1. Optimum Yield

The FMP establishes maximum sustainable yields (MSYs) and optimum

yields (OYs) only for reef fish taken in the directed fishery; these species are considered to be the management unit. Data were insufficient to allow specification of MSYs for reef fish taken incidentally in the directed fishery (e.g., tilefish, jacks, triggerfish, hogfish, grunts, porgies, and sand perches).

The FMP estimates MSY as 51 million pounds for all species of snapper and grouper combined, and 0.5 million pounds for sea basses (three species). The council established optimum yield (OY) for snappers and groupers at 45 million pounds, six million pounds less than MSY, with the intention that the management regime will facilitate the rebuilding of the inshore reef fish populations and eventually allow OY to be raised to the MSY level. The OY for sea bass is set equal to MSY because, given the limited information available, there was no reason to establish a different harvest level.

Snappers and groupers are treated as a unit because they occur together on the fishing grounds and are subject to capture by the recreational and commercial fishing gear historically and currently used. Identification by species is difficult and poorly documented in landings.

It is anticipated OY will be harvested by domestic fishermen; therefore, there is no surplus available for foreign fishing.

2. Prohibited Gear in Stressed Areas

Concentrated fishing occurs in certain areas, particularly the nearshore waters that are fished principally by recreational fishermen. The Council has designated these locations as stressed areas. Prohibition of the use of fish traps, roller trawls, and power heads in these areas to harvest reef fish is proposed to reduce fishing mortality on stocks in the stressed areas and, at the same time, to minimize the potential for conflicts among users in areas of concentrated effort.

Fish traps could seriously reduce the catch per unit effort for persons using traditional (hook-and-line) fishing gear and aggravate resource-user conflicts. Roller trawls have the potential to be highly effective for taking reef fish and are non-selective of species harvested. Prohibiting fish traps and roller trawls would prevent the imposition of relatively new fisheries with more efficient gear on stressed reef fish populations in nearshore waters. These prohibitions would help in rebuilding declining stocks only marginally, except in some areas such as off the south coast of Florida; however, the restrictions would prevent further decline in most of the overfished areas.

Power heads can selectively take the largest spawning individuals of many species. These large specimens do not constitute a significant portion of the harvest, but because fecundity increases with size the large individuals contribute relatively more to the spawning capacity of the stocks. Power heads are used almost exclusively by divers who dive in water depths not usually in excess of 50 to 100 feet, which generally is the water depth of the outer boundary of the stressed area. Hence, it is much more probable than not that a person in a stressed area with a power head and mutilated reef fish in his possession would have taken the reef fish in the stressed area, rather than in the deeper waters seaward of the stressed area. No prohibition is proposed on the use of power heads as a protection device against sharks and other predators; however, their use in taking reef fish in the stressed area will be prohibited.

3. Harvest Restrictions

The FMP prohibits, with certain exceptions, the possession of red snappers less than 12 inches in fork length. This size limitation will result in an estimated 14 to 32 percent increase in potential yield and some red snappers of this size will spawn before being harvested. This restriction will rebuild the red snapper population which has been identified as the major stressed species in the reef fish fishery. The minimum size requirement will be enforced by prohibiting the possession of undersized red snapper (subject to the exceptions specified below). The prohibition will apply to fishermen, processors, and dealers with respect to red snapper, without regard to where the undersized red snapper were taken. This prohibition is considered necessary and appropriate since very few red snapper are harvested in State waters and because it will permit dockside monitoring of the minimum size limit and eliminate the necessity for burdensome and expensive at-sea enforcement. Because such possession prohibitions are a relatively new type of measure under the Magnuson Act, public comment on this proposed measure is particularly encouraged.

The FMP provides three exceptions from the prohibition against possessing undersized red snapper. First, an allowance of five undersized fish is provided. This allowance will prevent waste of incidentally taken fish that are dead or will probably die. Second, vessels fishing trawls, with the exception of roller trawls in the stressed area, are exempt from the red snapper size limitation. This exception takes into consideration the following factors: (a) Virtually all the vessels fishing trawls are not directed toward capture of reef fish, but take them incidentally; (b) reef fish are usually dead when taken by trawls and returning undersized red snapper to the water does not promote conservation; (c) some vessels (e.g., groundfish vessels) do not sort their catch at sea and may be in technical violation of a possession limit when landing the catch; and (d) because of the small size of the majority of specimens taken as incidental catch, they are not acceptable as human food. Third, imported red snapper will not be subject to the minimum size limit if accompanied by documentation indicating that such fish were harvested beyond the FCZ.

4. Gear Limitations and Requirements

The use of poisons or explosives is prohibited for the taking of reef fish except those explosives in power heads used outside the stressed area. This will prevent habitat damage and waste of reef fish.

Fish traps may be used in the FCZ beyond the stressed areas, providing that the applicable requirements have been met. All vessels fishing traps and all individuals fishing traps from fixed structures are required to have a permit issued by the Regional Director. The collection of information involved in the permit application process has been approved by the Office of Management and Budget (OMB) under the provisions of Paperwork Reduction Act and has been assigned the OMB control #0648–0097; the approval is effective through March 31, 1986. The vessels and structures must display the assigned number and color code. Each trap must have a tag, issued with the permit, permanently affixed. In addition, buoys must be identifed by the assigned color code. This vessel and gear marking will be utilized by the NMFS as an identification and enforcement aid. All deployed gear not properly identified may be seized. It should be noted that not all the procedures required to administer the gear identification (number and color code) system have been developed. In the event that they are not developed in a timely manner, § 641.6 will be reserved in the final regulations.

Each vessel is limited to fishing a maximum of 200 traps in the FCZ, and those traps fished within the 300-foot contour are limited to a maximum volume of 33 cubic feet. These measures will allow for a viable commercial enterprise while providing a reasonable limitation on the total fishing effort in

waters that border the "stressed areas." Currently, vessels utilize around 25 fish traps; therefore, the limit of 200 traps will have no initial impact on individual fishermen.

All fish traps must be equipped with a degradable panel or a door with a degradable hinging device. This will allow fish to escape from traps that have been abandoned or lost. One year after implementation of these regulations, all fish traps in use will be required to be constructed of a material with a mesh size of 1 inch × 2 inches or larger, and to have a minimum of two 2 × 2-inch escape windows on each of two sides of the trap.

The FMP requires that reef fish be harvested from traps only between sunrise and sunset and prohibits the pulling of another person's traps without the written consent of that person. These measures have been included to reduce conflicts within the fishery and to aid in the enforcement of the regulations.

5. Procedures for Modifying the Management Regime

The FMP contains two framework measures which permit modification of the management regime without having to amend the FMP. Both of these measures entail regulatory amendment, meaning that rules will be proposed and the requisite regulatory, environmental, and other analyses will be performed at the time that some change becomes appropriate.

(a) Modification of fishing gear measures

NMFS and the Council will periodically review and assess information which pertains to the selectiveness of and mortality associated with various mesh sizes of traps. NMFS and the Council will determine whether to implement regulations to adjust trap mesh size, or construction features, or both, when information demonstrates (1) a level of mortality occuring to reef fish which may adversely affect recruitment to the adult population; (2) a level of mortality to species taken incidentally to the directed fishery that may adversely limit the abundance of that species; (3) that the fishing effectiveness of traps is not adversely affected by larger meshes; or (4) that there is excessive mortality of juvenile fish confined in lost traps.

The NMFS and the Council will also monitor statistical information collected through implementation of the FMP and that provided from other surveys and research to assess the effect of each type of gear on reef fish stocks and reef fish habitat. NMFS and the Council will determine whether additional regulations are necessary to correct the situation when information demonstrates: (1) The use of any gear is resulting in an increase in growth overfishing or may lead to recruitment overfishing; (2) an adverse impact on historical users of the resource; (3) persistent user-group conflicts; (4) excessive mortality of reef fish or species incidentally harvested to the directed fishery; (5) major destruction to reef habitat; or (6) that catch is expected to exceed OY before the end of the calendar year. These additional regulations may modify use of a gear; require changes in gear construction; limit the size and number of gear units that may be used; require permits and more detailed statistical information from participants using gear which has adverse effects on stocks; or prohibit the use of a gear from a specific area.

If modification of fishing gear measures becomes necessary on the basis of any of the criteria identified above, the Council Chairman may schedule meetings of the Advisory Panel and Scientific and Statistical Committee for advice. Public hearings will also be scheduled. If NMFS finds that the recommended modification is necessary, the Secretary of Commerce will propose rules to implement the modification.

(b) Adjustments when OY is exceeded

After the end of the fishing year, if analysis of catch data indicates that the harvest of reef fish exceeded OY, the Secretary will impose one or more management measures by regulatory amendment, following public hearings as appropriate. These measures may include size limits, bag limits, closed areas, and closure of the entire fishery to assure that OY is not exceeded in subsequent fishing years.

6. Statistical Reporting

Information is needed for effective management of the reef fish fishery. Currently, statistics on commercial landings are based only on data obtained through fish dealers. This method understates actual landings because it fails to account for that portion of the catch that is sold directly by fishermen and thus bypasses fish dealers. Another weakness of the present system is that effort data are collected by point of landing and do not identify areas fished. This makes it difficult to assess accurately the catch per unit of effort and the MSY for the U.S. fishery.

Obtaining complete, detailed biological, social, and economic data from each user would be prohibitively expensive. Therefore, NMFS is developing a mandatory reporting system that utilizes sampling methods whenever a sample will provide adequate information. The Center Director, Southeast Fisheries Center, NMFS, Miami, Florida, will determine the appropriate number of individuals selected, the reporting interval, and the duration of reporting based on the data required for specific management needs.

Because this system has not been completely developed and forms have not yet been prepared, the proposed regulations reserve § 641.5, "Recordkeeping and reporting requirements." It is anticipated that the mandatory reporting system will be proposed as soon as sampling procedures and reporting forms are developed and approved. Those forms will be submitted on OMB for clearance under provisions of the Paperwork Reduction Act.

7. Fish Trap Abandonment Procedures

The regulations provide abandonment procedures for unmarked fish trap gear and for fish traps being fished in the "stressed area." These procedures authorize the disposition of the traps by the Secretary of Commerce or an authorized officer. The procedures supplement the procedures provided for seizure, forfeiture, and disposal in 50 CFR Part 219. Special characteristics of the trap fishery necessitate this additional method of abandonment and disposal of unmarked fish trap gear and traps being fished in the "stressed area." First, the traps are heavy and bulky, which makes them difficult to handle without proper equipment. Currently, this equipment is not available to law enforcement officers. Second, limited resources, both in terms of time and money, make it impracticable, if not impossible, for authorized enforcement officers to haul all illegal traps to shore and to store them for the one-year time period required by 50 CFR 219.29 before the traps can be destroyed. Finally, improper trap marking makes it difficult to determine ownership. The notification process of Part 219, therefore, cannot be effectively applied to the reef fish trap fishery. The procedure of abandonment and destruction provided in these regulations will discourage fishing with illegal fish trap gear.

Classification

The Assistant Administrator for Fisheries, NOAA, has determined that the FMP's management measures are necessary and appropriate for conservation and management of the fishery and are consistent with the national standards and other provisions

of the Magnuson Act, and other applicable law.

The adoption and implementation of the FMP is considered to be a major Federal action that will have a significant impact on the quality of the human environment under the National Environmental Policy Act and NOAA Directive 02–10. A draft environmental impact statement (EIS) was filed with the Environmental Protection Agency, and a notice of its availability was published on March 24, 1980.

The Administrator, NOAA, has determined that these proposed regulations are not major under Executive Order 12291. However, these regulations will have significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act. A regulatory impact review (RIR), which includes the requirements of an initial regulatory flexibility analysis, has been prepared. That document, summarized here, analyzes the expected benefits and costs of the regulatory action. Potential benefits are significantly greater than expected costs. Benefits are expected from increases in reef fish landings and in the productivity of vessels fishing reef fish. Benefits expected to accrue from the FMP include the prevention of overfishing and the conservation of the reef fish stocks in general and the red snapper stocks in particular. The latter will result from the 12-inch minimum size limit for red snapper and the possession limit of five fish less than 12 inches. This measure will allow the red snapper stocks to rebuild from past overfishing and increase the potential yield between 14 and 32 percent. Using 1981 exvessel value, the prevention of overfishing and conservation of the red snapper stock is estimated to be worth from $4.1 to $13.8 million to the commercial sector and an unknown but significant amount to the recreational sector over the next four years. The measures relating to the stressed area will prevent further overfishing and decline of stocks in these nearshore waters, and will reduce the potential for user group conflicts. The major portion of expected costs is the cost incurred by the Federal government in managing the fishery (including enforcement). Compliance with the regulations will impose minimal burdens on the user groups since the FMP is designed to maintain the status quo in the fishery while allowing the stocks to rebuild.

Regulations presently being proposed contain a collection of information requirement for purposes of the Paperwork Reduction Act; this collection relates to the permit requirement for trap fishermen. OMB has already approved this collection (see discussion under "4. Gear limitations and requirements," above). A comprehensive statistical reporting system contemplated by the FMP will not be implemented at this time. Prior to implementation of that system, forms will be submitted to OMB for approval.

The coastal zone management offices for each State adjoining the Gulf of Mexico (except the State of Texas, which does not have an approved program under the Coastal Zone Management Act), were provided copies of the FMP for review as to consistency with their coastal zone management programs. Additionally, a consistency determination has been sent to each of those offices, pursuant to 15 CFR 930.39. That determination concluded that, to the maximum extent practicable, the Agency action is consistent with the applicable provisions of the coastal zone management programs of those States.

List of Subjects in 50 CFR Part 641

Fish, Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: August 18, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

For the reasons set forth in the preamble, Chapter VI of 50 CFR is proposed to be amended by adding a new Part 641, to read as follows:

PART 641—REEF FISH FISHERY OF THE GULF OF MEXICO

Subpart A—General Provisions

Sec.

641.1 Purpose and scope.
641.2 Definitions.
641.3 Relationship to other laws.
641.4 Permits.
641.5 Recordkeeping and reporting requirements. [Reserved]
641.6 Vessel and gear identification.
641.7 Prohibitions.
641.8 Facilitation of enforcement.
641.9 Penalties.

Subpart B—Management measures

641.20 Fishing year.
641.21 Harvest limitations.
641.22 Area limitations.
641.23 Size restrictions.
641.24 Gear limitations.
641.25 Effort limitations.
641.26 Specifically authorized activities.

Authority: 16 U.S.C. 1801 *et seq.*

Subpart A—General Provisions

§ 641.1 Purpose and scope.

(a) The purpose of this part is to implement the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico, prepared by the Gulf of Mexico Fishery Management Council under the Magnuson Act.

(b) This part regulates fishing for reef fish by fishing vessels of the United States within that portion of the FCZ in the Gulf of Mexico.

§ 641.2 Definitions.

In addition to the definitions in the Magnuson Act, and unless the context requires otherwise, the terms used in this part have the following meanings:

Authorized officer means:

(a) Any commissioned, warrant, or petty officer of the U.S. Coast Guard;

(b) Any special agent of NMFS;

(c) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary and the Commandant of the U.S. Coast Guard to enforce the provisions of the Magnuson Act; or

(d) Any U.S. Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (a) of this definition.

Fish trap means any trap and the component parts thereof, used for or capable of taking finfish, regardless of the construction material, except those traps historically used in the directed fisheries for crustaceans (blue crab, stone crab, and spiny lobster).

Fishery conservation zone (FCZ) means that area adjacent to the United States which, except where modified to accommodate international boundaries, encompasses all waters from the seaward boundary of each of the coastal States to a line on which each point is 200 nautical miles from the baseline from which the territorial sea of the United States is measured.

Fishing means any activity, other than scientific research conducted by a scientific research vessel, which involves:

(a) The catching, taking, or harvesting of fish;

(b) The attempted catching, taking, or harvesting of fish;

(c) Any other activity which can reasonably be expected to result in the catching, taking, or harvesting of fish;

(d) Any operations at sea in support of, or in preparation for, any activity described in paragraph (a), (b), or (c) of this definition.

Fishing vessel means any vessel, boat, ship or other craft which is used for, equipped to be used for, or of a type which is normally used for:

(a) Fishing; or

(b) Aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply,

storage, refrigeration, transportation, or processing.

Fork length means the distance from the tip of the snout to the rear center edge of the tail (caudal fin).

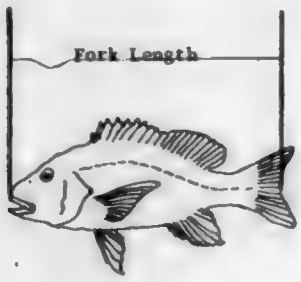

Figure 1. Method of measuring fork length

Magnuson Act means the Magnuson Fishery Conservation and Management Act, as amended (16 U.S.C. 1801 *et seq.*)

Management area means that area of the FCZ subject to the authority of the Gulf of Mexico Fishery Management Council.

NMFS means the National Marine Fisheries Service.

Official number means the documentation number issued by the U.S. Coast Guard or the registration number issued by a State or the U.S. Coast Guard for undocumented vessels.

Operator, with respect to any vessel, means the master or other individual on board and in charge of that vessel.

Owner, with respect to any fishing vessel, means:

(a) Any person who owns that vessel in whole or in part;

(b) Any charterer of the vessel, whether bareboat, time or voyage;

(c) Any person who acts in the capacity of a charterer, including, but not limited to, parties to a management agreement, operating agreement, or other similar arrangement that bestows control over the destination, function, or operation of the vessel; or

(d) Any agent designated as such by any person described in paragraphs (a), (b), or (c) of this definition.

Person means any individual (whether or not a citizen of the United States), corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

Power head means any device with an explosive charge, usually attached to a speargun, spear, pole, or stick, which fires a projectile upon contact.

Reef fish refers to fish in the following two categories:

(a) *Management unit*—species in the directed fishery include the following:

Snapper—Lutjanidae Family
Queen snapper—*Etelis oculatus*
Mutton snapper—*Lutjanus analis*
Schoolmaster—*Lutjanus apodus*
Blackfin snapper—*Lutjanus buccanella*
Gulf red snapper—*Lutjanus campechanus*
Cubera snapper—*Lutjanus cyanopterus*
Gray (mangrove) snapper—*Lutjanus griseus*
Dog snapper—*Lutjanus jocu*
Mahogany snapper—*Lutjanus mahogoni*
Lane snapper—*Lutjanus synagris*
Silk snapper—*Lutjanus vivanus*
Yellowtail snapper—*Ocyurus chrysurus*
Wenchman—*Pristipomoides aquilonaris*
Voraz—*Pristipomoides macrophthalmus*
Vermillion snapper—*Rhomboplites aurorubens*

Groupers—Serranidae Family
Rock hind—*Epinephelus adscensionis*
Speckled hind—*Epinephelus drummondhayi*
Yellowedge grouper—*Epinephelus flavolimbatus*
Red hind—*Epinephelus guttatus*
Jewfish—*Epinephelus itajara*
Red grouper—*Epinephelus morio*
Misty grouper—*Epinephelus mystacinus*
Warsaw grouper—*Epinephelus nigritus*
Snowy grouper—*Epinephelus niveatus*
Nassau grouper—*Epinephelus striatus*
Black grouper—*Mycteroperca bonaci*
Yellowmouth grouper—*Mycteroperca interstitialis*
Gag—*Mycteroperca microlepis*
Scamp—*Mycteroperca phenax*
Yellowfin grouper—*Mycteroperca venenosa*

Sea Basses—Serranidae Family
Southern sea bass—*Centropristis melana*
Bank sea bass—*Centropristis ocyurus*
Rock sea bass—*Centropristis philadelphica*

(b) *Fishery*—species in the reef fishery that are taken incidental to the directed fishery for reef fish include the following:

Tilefishes—Branchiostegidae Family
Great northern tilefish—*Lopholatilus chamaeleonticeps*
Tilefish—*Caulolatilus* spp.

Jacks—Carangidae Family
Amberjacks—*Seriola* spp.

Triggerfishes—Balistidae Family
Gray triggerfish—*Balistes capriscus*

Wrasses—Labridae Family
Hogfish—*Lachnolaimus maximus*

Grunts—Haemulidae Family
Tomtate—*Haemulon aurolineatum*
White grunt—*Haemulon plumieri*
Pigfish—*Orthopristis chrysoptera*

Porgies—Sparidal Family
Grass porgy—*Calamus arctifrons*
Jolthead porgy—*Calamus bajonado*
Knobbed porgy—*Calamus nodosus*
Littlehead porgy—*Calamus proridens*
Pinfish—*Lagodon rhomboides*
Red porgy—*Pagrus sedecim*

Sand Perches—Serranidae Family
Dwarf sand perch—*Diplectrum bivittatum*
Sand perch—*Diplectrum formosum*

Regional Director means the Regional Director (or a designee), Southeast Region, NMFS, Duval Building, 9450 Koger Boulevard, St. Petersburg, Florida 33702; telephone 813–893–3141.

Roller trawl means a trawl net equipped with rollers on a separate cable or line with spacers connecting the cable or line to the footrope, which makes it possible to fish the gear over rough bottom, i.e., in areas unsuitable for fishing conventional shrimp trawls. Rigid-framed trawls adapted for shrimping over uneven bottom, and in wide use along the west coast of Florida, are not considered roller trawls.

Secretary means the Secretary of Commerce or a designee.

U.S.-harvested fish means fish caught, taken, or harvested by vessels of the United States within any fishery regulated under the Magnuson Act.

Vessels of the United States means:

(a) Any vessel documented under the laws of the United States;

(b) Any vessel numbered in accordance with the Federal Boat Safety Act of 1971 and measuring less than 5 net tons; or

(c) Any vessel numbered under the Federal Boat Safety Act of 1971 and used exclusively for pleasure.

§ 641.3 Relationship to other laws.

(a) Persons affected by these regulations should be aware that other Federal and State statutes and regulations may apply to their activities.

(b) Certain responsibilities relating to data collection or enforcement may be performed by authorized State personnel under cooperative agreements entered into by the State, the U.S. Coast Guard, and the Secretary.

§ 641.4 Permits.

(a) *Applicability.* Fishing vessels from which fish traps are deployed and individuals fishing fish traps from fixed structures are required to obtain a permit.

(b) *Application for permits.* An application for a fish trap permit must be submitted and signed by the owner or operator of the vessel or by the person fishing traps from a structure. The application must be submitted to the Regional Director 45 days prior to the date on which the applicant desires to have the permit made effective.

(1) Permit applicants fishing from vessels must provide all the following information:

(i) Name, mailing address including zip code, and telephone number of the owner of the vessel;

(ii) Name of the vessel;

(iii) The vessel's official number;

(iv) Home port or principal port of landing, gross tonnage, radio call sign, and length of the vessel;

(v) Engine horsepower and year the vessel was built;

(vi) Approximate fish hold capacity of the vessel;

(vii) Number, dimensions and estimated cubic volume of the fish traps that will be fished;

(viii) Any other information concerning vessel and gear characteristics requested by the Regional Director; and

(ix) A statement that the applicant will allow authorized officers reasonable access to his property (vessel and dock) to inventory fish traps for compliance with these regulations.

(2) Applicant's fishing from fixed structures must provide the following information:

(i) Applicants name, mailing address, and telephone number;

(ii) Name and number of the oil or gas structure or the most descriptive identification for other types of structures.

(iii) Approximate location of the structure in miles offshore and direction from principal port or latitude and longitude of the structure;

(iv) Number, dimensions, and estimated cubic volume of the fish traps that will be fished; and

(v) A statement that the applicant will allow authorized officers reasonable access to his property (structure) to inventory fish traps for compliance with these regulations.

(3) Any change in the information specified in paragraph (b) of this section must be submitted in writing to the Regional Director by the permit holder within 15 days of any such change. Failure to notify the Regional Director of any change in the required information will result in a rebuttable presumption that the information is still accurate and current.

(c) *Issuance.* The Regional Director will issue a permit and numbered tag(s) to the applicant not later than 30 days from the date of receipt of a completed application and will designate a color code to be used for identification of vessels fishing fish traps and buoys used by such vessels.

(d) *Fees.* No fee will be assessed for any permit issued under this section.

(e) *Duration.* Permits will remain valid unless revoked, suspended, or modified.

(f) *Transfer.* A permit issued under this section is not transferable or assignable. A permit is valid only for the fishing vessel and owner, or the person fishing traps from a structure, for which it is issued.

(g) *Display.* A permit issued under this section must be carried on board the fishing vessel or on the fixed structure at all times. The operator of a fishing vessel, or the person fishing fish traps from a structure, must present the permit for inspection upon request of any authorized officer.

(h) *Sanctions.* Subpart D of 50 CFR Part 621 governs the imposition of sanctions against a permit issued under this section. As specified in Subpart D of that part, a vessel permit may be revoked, modified, or suspended if the permitted fishing vessel is used in the commission of an offense prohibited by the Magnuson Act or this part; or if a civil penalty or criminal fine imposed under the Magnuson Act, and pertaining to such a vessel, is not paid.

(Approved by the Office of Management and Budget under Control Number 0648–0097).

§ 641.5 Recordkeeping and reporting requirements. [Reserved]

§ 641.6 Vessels and gear identification.

(a) Vessels and fixed structures from which fish traps are fished must identify, in conformance with this paragraph, the vessel or structure, fish traps and buoys by the number and/or color code issued by the Regional Director under § 641.4(c) of this part.

(1) *Vessels or structures.* Vessels or structures must permanently and conspicuously display the number and color code in a manner as to be readily identifiable from the air and water; such color representation must be in the form of a circle at least 20 inches in diameter and the identification number must be at least 10 inches high.

(2) *Fish traps.* Each fish trap must have affixed to it permanently a metal or plastic identification tag supplied by the Regional Director, which displays the assigned vessel (or structure) and fish trap number.

(3) *Buoys.* Each fish trap, or the opposite ends of a string of fish traps, must be marked by a floating buoy or by a buoy designed to be submerged and automatically released after a certain time. All buoys used to mark fish traps must display the assigned color code so as to be easily distinguished, seen, and located.

(b) Fish traps fished in the FCZ will be presumed to be the property of the most recently documented owner. This presumption will not apply with respect to reef fish traps which are lost or sold if the owner of such traps reports the loss or sale within 15 days to the Regional Director.

(c) Unmarked reef fish traps deployed in the FCZ are illegal and may be disposed of in any appropriate manner by the Secretary (including an authorized officer). If owners of the unmarked traps can be ascertained, those owners remain subject to appropriate civil penalties.

§ 641.7 Prohibitions.

It is unlawful for any person to:

(a) Fish for reef fish with fish traps without a valid permit, as required by § 641.4;

(b) Fish for reef fish with fish traps without a valid vessel (or structure) number, or possess on board a fishing vessel (or structure) unmarked fish traps or buoys, or falsify, or fail to affix and maintain vessel (or structure) or gear markings as required by § 641.6;

(c) Pull or tend fish traps except during the hours specified in § 641.21(a);

(d) Willfully tend, open, pull, or otherwise molest or have in one's possession aboard a fishing vessel another person's fish traps except as provided in § 641.21(b);

(e) Use power heads to fish for reef fish or use fish traps or roller trawls, in the stressed area, as specified in § 641.22;

(f) Possess red snapper under the minimum size limit specified in § 641.23(a), except as specified in § 641.23(b);

(g) Possess in the FCZ or land red snapper harvested from waters shoreward of the seaward delimitation of the FCZ without the head and fins intact, as specified in § 641.23(c);

(h) Fish for reef fish with poisons or explosives, as specified in § 641.24(a);

(i) Fish in the FCZ in areas other than the stressed area with fish traps unless constructed as specified in § 641.24(b);

(j) Fish in the FCZ with more than 200 fish traps per vessel, as specified in § 641.25;

(k) Possess, have custody or control of, ship, transport, offer for sale, sell, purchase, import, land, or export any fish taken or retained in violation of the Magnuson Act, this part, or any other regulation under the Magnuson Act;

(l) Fail to comply immediately with enforcement and boarding procedures specified in § 641.8;

(m) Refuse to permit an authorized officer to board a fishing vessel subject to such person's control or structure for purposes of conducting any search or inspection in connection with the enforcement of the Mangnuson Act, this part, or any other regulation or permit issued under the Magnuson Act;

(n) Forcibly assault, resist, oppose, impede, intimidate threaten, or interfere with any authorized officer in the conduct of any search or inspection described in paragraph (m) of this section;

(o) Resist a lawful arrest for any act prohibited by this part;

(p) Interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any act prohibited by this part;

(q) Transfer directly or indirectly, or attempt to so transfer, any U.S.-harvested reef fish to any foreign fishing vessel, while such vessel is in the FCZ, unless the foreign fishing vessel has been issued a permit under Section 204 of the Magnuson Act which authorizes the receipt by such vessel of U.S.-harvested reef fish; or

(r) Violate any other provision of this part, the Magnuson Act, or any regulation or permit issued under the Magnuson Act.

§ 641.8 Facilitation of enforcement.

(a) *General.* The owner or operator of any fishing vessel subject to this part shall immediately comply with instructions issued by an authorized officer to facilitate safe boarding and inspection of the vessel, its gear, equipment, fishing record, if any, and catch for purposes of enforcing the Magnuson Act and this part.

(b) *Signals.* Upon being approached by a U.S. Coast Guard vessel or aircraft or other vessel or aircraft authorized to enforce the Magnuson Act, the operator of a fishing vessel shall be alert for signals conveying enforcement instructions. The VHF-FM radiotelephone is the normal method of communicating between vessels. However, visual methods or loudhailer may be used if the radio does not work. The following signals, extracted from U.S. Hydrographic Office publication H.O. 102 International Code of Signals, may be communicated by flashing light or signal flags:

(1) "L", meaning "You should stop your vessel instantly;"

(2) "SQ3", meaning "You should stop or heave to, I am going to board you;"

(3) "AA AA AA etc.", meaning "Call for unknown station or general call," to which the operator should respond by identifying his vessel by radio, visual signals, or illumination of his official number; and

(4) "RY-CY", meaning "You should proceed at slow speed, a boat is coming to you."

(c) *Boarding.* The operator of a vessel signaled to stop or heave to for boarding must—

(1) Stop immediately and lay to or maneuver in such a way so as to permit the authorized officer and the boarding party to come aboard; and

(2) Provide a ladder, illumination, and safety line, and take other actions when necessary or requested by the authorized officer to facilitate boarding and inspection.

§ 641.9 Penalties.

Any person or fishing vessel found to be in violation of this part will be subject to the civil and criminal penalty provisions and forfeiture provisions prescribed in the Magnuson Act, and to 50 CFR Part 620 (Citations), 50 CFR Part 621, and 15 CFR Part 904 (Civil Procedures), and other applicable law.

Subpart B—Management Measures

§ 641.20 Fishing year.

The fishing year for reef fish begins on January 1 and ends on December 31.

§ 641.21 Harvest limitations.

(a) Reef fish traps may be pulled or tended only during the period from official sunrise to official sunset.

(b) Reef fish traps may be tended only by persons (other than Authorized officers) aboard the fish trap owner's vessel(s), or aboard another vessel if such vessel has on board written consent of the fish trap owner.

§ 641.22 Area limitations.

The stressed area is that portion of the management area shoreward of and encompassed by the discontinuous line connecting the points listed in Table 1 (also see Figure 2).

(a) The stressed area is closed to the use of powerheads for the taking of reef fish. The possession of a power head and mutilated reef fish from the management unit while in the stressed area will constitute prima facie evidence that reef fish were taken with a power head in the stressed area.

(b) The stressed area is closed to the use of roller trawls and fish traps. Fish traps in the stressed area will be considered unclaimed or abandoned property and may be disposed of according to § 641.6(c).

BILLING CODE 3510-22-M

Table 1. Points for the Discontinuous Line Delineating the Stressed Area

BILLING CODE 3510-22-C

Table 1. Points for the Discontinuous Line Delineating the Stressed Area

Point No.	Reference Location[1]	Latitude (North)	Longitude (West)	W	Loran C Coordinates[2] X	Y	Z
Starting at the mainland of Florida at the Dade/Monroe county line and proceeding down the Florida Keys Island chain (as delineated by the highway U.S. Route 1) to the following points:							
1	Key West	24°33.0'	81°48.7'	13927.8	30238.2	43654.2	62655.1
2	Marquesas Key	24°35.0'	82°06.2'	13894.5	30189.2	43748.8	62726.6
3	Gulf/South Atlantic Boundary	24°35.0'	83°00.0'	13768.5	29992.2	44049.2	62941.1
4	Tortugas Bank South	24°36.0'	83°06.0'	13753.4		44084.4	62965.5
5	Tortugas Bank North	24°44.0'	83°04.0'	13772.3		44087.4	62960.3
6	West of Smith Shoal	24°48.0'	82°06.5'	13915.1		43760.2	62727.7
7	Off Cape Sable	25°15.0'	82°02.0'	13974.7		43759.8	62704.9
8	Off Sanibel Island (Inshore)	26°26.0'	82°29.0'	14060.3		43117.4	62824.3
9	Off Sanibel Island (Offshore)	26°26.0'	82°59.0'	13990.0		43347.6	62970.7
10	Off Anclote Keys (Offshore)	28°10.0'	83°45.0'	14145.8		45328.0	63266.8
11	Off Anclote Keys (Inshore)	28°10.0'	83°14.0'	14224.3		45092.0	63086.4
12	Off Deadman Bay	29°38.0'	84°00.0'	14412.4		45167.7	63442.2
13	SW of Cape San Blas	29°30.5'	85°52.0'	13873.2		46702.0	63976.2
14	Off St. Andrews Bay	29°53.0'	86°10.0'	13816.5		46922.3	64050.8
15	Desoto Canyon	30°06.0'	86°55.0'	13434.6	30600.6	47045.8	
16	Alabama/Florida line	29°34.5'	87°38.0'	12971.5	30023.4	46886.0	
17	Off Mobile Bay	29°41.0'	88°00.0'	12766.5	29841.2	46930.9	
18	Mississippi/Alabama line	30°01.5'	88°23.7'	12537.6	29697.7	47029.3	
19	Chandeleur Islands	30°01.5'	88°51.0'	12262.0	29422.2	47028.6	
Closing at the Mississippi Mainland		30°23.4'	88°51.0'; and				
Starting at the west bank of Sabine Pass, Texas to the following points:							
20	Sabine Pass	29°39.0'	93°49.5'	11027.8	26367.1	46966.6	
21	Texas/Louisiana line, south	28°38.0'	93°32.0'	11139.4	26220.7	46815.1	
22	Off Galveston Island	28°28.0'	95°00.0'	11086.2	25308.9	46817.0	
23	Off Galveston Island	29°09.5'	95°00.0'	11036.9	25551.4	46909.0	

1/ Nearest identifiable landfall, boundary, navigation aid or submarine area.

2/ Loran coordinates are provided to aid the fishermen affected by the measures and are subject to local variations due to atmospheric conditions, therefore, are not used as part of the legal description of the stressed area.

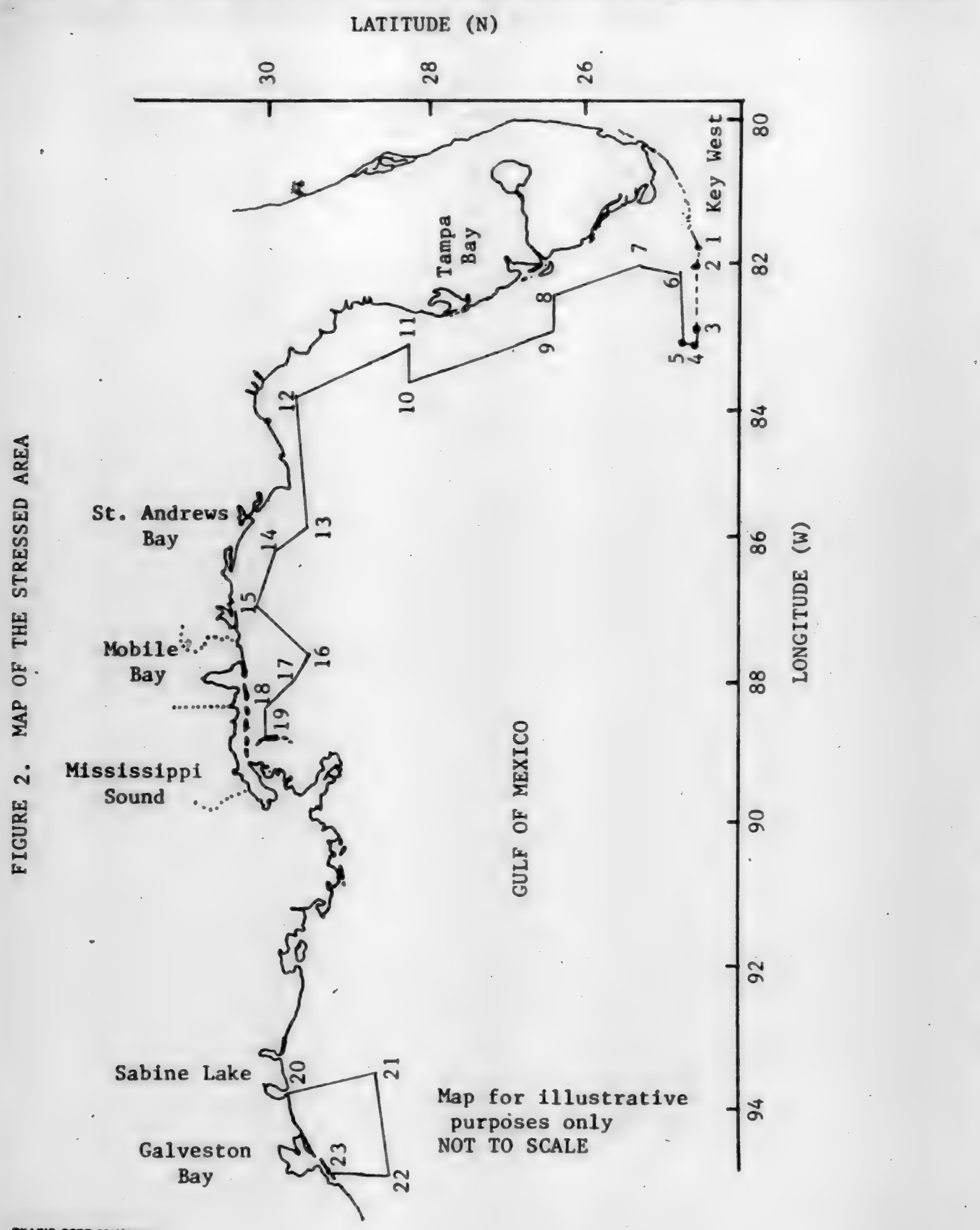

FIGURE 2. MAP OF THE STRESSED AREA

Map for illustrative purposes only
NOT TO SCALE

BILLING CODE 3510-22-C

§ 641.23 Size restrictions.

(a) The minimum size limit for the possession of red snapper harvested in waters shoreward of the seaward delimitation of the FCZ is 12 inches (fork length), except as specified in paragraph (b) of this section.

(b) *Exceptions.*

(1) An incidental catch of five red snappers under 12 inches (fork length) per fisherman is allowed.

(2) Domestic vessels lawfully fishing trawls in the FCZ are exempt from the minimum size limit for red snapper.

(3) Imported red snapper accompanied by a proper bill of lading or other proof indicating lawful harvest outside the FCZ are excluded from the 12-inch minimum size limitation.

(c) All red snapper harvested in waters shoreward of the seaward delimitation of the FCZ must be landed with the head and fins intact.

§ 641.24 Gear limitations.

(a) Poisons or explosives may not be used in the taking of reef fish in the management unit; however, explosives in power heads may be used outside the stressed area.

(b) Fish traps fished in the FCZ in areas other than the stressed area are subject to the following requirements and limitations:

(1) Fish traps are required to have panels or access doorhinging devices and door fasteners which will degrade or self-destruct and which must be constructed of one of the following degradable materials: (i) Untreated hemp, jute, or cotton string of 3/16-inch diameter or smaller; (ii) magnesium alloy, time float releases (pop-up devices) or similar magnesium alloy fasteners; or (iii) ungalvanized or uncoated iron wire at 0.55-inch diameter or smaller;

(2) The opening covered by the degradable panel or access door must be 144 square inches or larger, with one dimension of the area equal to or larger than the largest interior axis of the trap's throat (funnel);

(3) One degradable panel or access door must be located opposite each of the sides of the trap that has a funnel;

(4) Effective [insert date one year after effective date of final rules], the minimum mesh size for all fish traps within the FCZ will be 1x2 inches, and a minimum of two 2x2 inch escape windows will be required on each of two sides of the trap; and

(5) The maximum allowable size for fish traps fished shoreward of the 300-foot contour is 33 cubic feet in volume. There is no size limitation for fish traps fished seaward of the 300-foot contour.

§ 641.25 Effort limitations.

The maximum number of fish traps that may be fished by a vessel in the FCZ is 200.

§ 641.26 Specifically authorized activities.

The Secretary may authorize, for the acquisition of information and data, activities otherwise prohibited by these regulations.

[FR Doc. 83-23099 Filed 8-23-83; 8:45 am]
BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 48, No. 165
Wednesday, August 24, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Forms Under Review by Office of Management and Budget

August 19, 1983.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Marshall L. Dantzler, Acting Department Clearance Officer, USDA, OIRM, Room 108–W Admin. Bldg., Washington, D.C. 20250, (202) 447–6201.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, ATTN: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of you intent as early as possible.

Revised

- Animal and Plant Health Inspection Service

7 CFR 322, Honeybees and Honeybee Semen
PPQ–368
On occasion
Farms, Business: 30 responses; 8 hours; not applicable under 3504(h)
Phillip Lima, (301) 436–8393

- Animal and Plant Health Inspection Service

7 CFR 319.76, Exotic Bee Diseases and Parasites
PPQ–368
On occasion
Farms, Businesses: 15 responses; 5 hours; not applicable under 3504(h)
Phillip Lima, (301) 436–8393

- Economic Research Service

Soil Conservation Targeting Survey
Non-recurring
Farms: 720 responses; 630 hours; not applicable under 3504(h)
Jim Nielson, (503) 420–4807

- Animal and Plant Health Inspection Service

Gypsy Moth—Outside Household Articles
On occasion
Individuals and households: 163,310 responses; 27,257 hours; not applicable under 3504(h)
N. E. Bedessem, (301) 436–5533

Revised

- Forest Service

Youth Conservation Corps (YCC) Application
FS–1800–18
On occasion
Individuals or households: 25,000 responses; 1,250 hours; not applicable under 3504(h)

- Wayne Bell, (202) 382–1690

Extension

- Forest Service

Youth Conservation Corps—Medical History
ES–1800–3
On occasion
IIndividuals or households: 2,500 responses; 1,250 hours; not applicable under 3504(h)
Wayne Bell, (202) 382–1690

Agricltural Marketing Service

- Food Facility Survey

MRD–1, MRD–2
On occasion
Businesses: 625 responses; 375 hours; not applicable under 3504(h)
R.K. Overheim, (202) 344–2805

Dewayne E. Hamilton,
Acting Department Clearance Officer.

[FR Doc. 83-23202 Filed 8-23-83; 8:45 am]
BILLING CODE 3410-01-M

Soil Conservation Service

Upper Locust Creek Watershed, Iowa, Missouri; Intent To Prepare Environmental Impact Statement

AGENCY: Soil Conservation Service, USDA.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the Upper Locust Creek Watershed, Wayne and Appanoose Counties, Iowa, Putnam and Sullivan Counties, Missouri.

FOR FURTHER INFORMATION CONTACT: Paul F. Larson, State Conservationist, Soil Conservation Service, 555 Vandiver Drive, Columbia, Missouri 65202, telephone 314/875–5214.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project may cause significant local, regional, or national impacts on the environment. As a result of these findings, Paul F. Larson, State Conservationist, has determined that the preparation and review of an environmental impact statement are needed for this project.

The project concerns a plan for watershed protection and flood prevention. Alternatives under consideration to reach these objectives include systems for conservation land treatment, nonstructural measures, earth dams, channel improvement, and floodways.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The Soil Conservation Service invites participation and consultation of agencies and individuals that have special expertise, legal

jurisdiction, or interest in the preparation of the draft environmental impact statement. Further information on the proposed action, or project scoping may be obtained from Paul F. Larson, State Conservationist, at the above address or telephone 314/875-5214.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

August 16, 1983.

Paul F. Larson,

State Conservationist.

[FR Doc. 83-2330 Filed 8-23-83; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

Application of American Central Airlines, Inc.; for Certificate Authority

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order to show cause (83-8-79).

SUMMARY: The Board is proposing to find American Central Airlines, Inc. fit, willing, and able and to issue a certificate of puiblic convenience and necessity authorizing it to provide scheduled interstate and overseas air transportation of persons, property, and mail between all points in the United States, its territories and possessions.

DATES: Objections: All interested persons having objections to the Board issuing the proposed certificate shall file, and serve upon all persons listed below no later than September 6, 1983 a statement of objections, together with a summary of testimony, statistical data, and other material expected to be relied upon to support the objections.

ADDRESSESS: Objections to the issuance of a final order should be filed in Docket 41505 and should be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428, and should be served upon parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Anne W. Stockvis, Bureau of Domestic Aviation, Civil Aeronautfcs Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. (202) 673-5088.

SUPPLEMENTARY INFORMATION: The complete text of Order 83-8-79 is available from the Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 83-8-79 to that address.

By the Civil Aeronautics Board: August 17, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-23249 Filed 8-23-83; 8:45 am]

BILLING CODE 6320-01-M

Marco Island Airways, Inc.; Order To Show Cause

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause: Application of Marco Island Airways, Inc., in Docket 41486 for certificate authority under section 401 of the Federal Aviation Act to offer scheduled air transportation of persons, property, and mail between the United States and the Bahama Islands. Order 83-8-80.

SUMMARY: The Board has tentatively found and concluded that (1) the award of scheduled air transportation of persons, property, and mail between the United States and the Bahama Islands is consistent with the public convenience and necessity, and (2) that Marco Island Airways, Inc., is fit, willing, and able to provide such service. The complete text of Order 83-8-80 is available as noted below.

DATES: Objections to the Board's tentative findings and conclusions shall be filed by September 6, 1983. Answers to objections shall be filed by September 15, 1983.

ADDRESS: All pleadings should be filed in the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428 in Docket 41486.

FOR FURTHER INFORMATION CONTACT: Nicholas Lowry, Bureau of International Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673-5203.

SUPPLEMENTARY INFORMATION: The Complete text of Order 83-8-80 is available from our Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 83-8-80 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: August 17, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-23250 Filed 8-23-83; 8:45 am]

BILLING CODE 6320-01-M

CIVIL RIGHTS COMMISSION

Georgia Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Georgia Advisory Committee to the Commission will convene at 3:30 pm and will end at 6:30 pm, on September 30, 1983, at the Holiday Inn Downtown, International Room, 175 Piedmont Avenue, Atlanta, Georgia. The purpose of the meeting is to hear reports on the National Chairpersons' Conference and the status of the project on women and minorities in the media.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mr. Clayton Sinclair, Jr., 301 Equitable Building, 100 Peachtree Street, Atlanta, Ga 30303, (404) 681-0797; or the Southern Regional Office, Citizens Trust Bank Building, Room 362, 75 Piedmont Avenue, NE., Atlanta, GA 30303, (404) 242-4391.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 18, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83-23210 Filed 8-23-83; 8:45 am]

BILLING CODE 6335-01-M

Kansas Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Kansas Advisory Committee to the Commission will convene at 10:00 am and will end at 3:00 pm, on September 23, 1983, at the Federal Building, Room 201, 444 SE Quincy, Topeka, Kansas. The purposes of this meeting are to orient new members, and discuss program plans.

Persons desiring additional information or planning a presentation to the Committee, should contract the Chairperson, Mrs. Jaclyn Gossard, 148 N. Fountain, Wichita, Kansas 67208, (316) 686-6803; or the Central States Regional Office, Old Federal Office Building, Room 3103, 911 Walnut Street, Kansas City, Missouri 64106, (816) 759-5253.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 16, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83-22211 Filed 8-23-83; 8:45 am]

BILLING CODE 6335-01-M

Mississippi Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, the a meeting of the Mississippi Advisory Committee to the Commission will convene at 4:00 pm and will end at 6:30 pm, on September 23, 1983, at the Sheraton Regency Convention Center, Camellia Room, 750 North State Street, Jackson, Mississippi. The purposes of the meeting are to hear a report on the National Chairpersons' Conference and discuss a possible project on disadvantaged women and their children.

Persons desiring additional information on planning a presentation to the Committee, should contact the Chairperson, Ms. Mary L. Ramberg, 1514 Gay Street, Jackson, Mississippi 39211, (601) 355-1175; or the Southern Regional Office, Citizens Trust Bank Building, Room 362, 75 Piedmont Avenue, NE., Atlanta, Georgia 30303, (404) 242-4391.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 18, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83-22213 Filed 8-23-83; 8:45 am]

BILLING CODE 6335-01-M

Rhode Island Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Rhode Island Advisory Committee to the Commission will convene at 5:00 pm and will end at 6:30 pm, on September 20, 1983, at the Urban League of Rhode Island, 246 Prarie Avenue, Providence, Rhode Island. The purposes of this meeting are to review the draft report on reapportionment, and hear a progress report on plans for the affirmative action project.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Ms. Dorothy D. Zimmering, 12 Chapin Road, Barrington, Rhode Island 02806, (401) 245-3515; or the New England Regional Office, 55 Summer Street, 8th Floor, Boston, Massachusetts 02110, (617) 223-4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 17, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83-22212 Filed 8-23-83; 8:45 am]

BILLING CODE 6335-01-M

Tennessee Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Tennessee Advisory Committee to the Commission will convene at 3:30 pm and will end at 6:30 pm, on September 16, 1983, at the Ramada Inn Downtown, Levee Room, 160 Union Avenue, Memphis, Tennessee. The purposes of the meeting are to hear a report on the National Chairpersons' Conference and discuss a possible project on the effects of rising energy costs upon minorities.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mrs. Mattie P. Crossley, 351 Fay Avenue, Memphis TN 38109, (901) 276-4461; or the Southern Regional Office, Citizens Trust Bank Building, Room 362, 75 Piedmont Avenue, N.E., Atlanta, GA 30303, (404) 242-4391.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 18, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83-23209 Filed 8-23-83; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Oleoresins From India; Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of countervailing duty order.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on oleoresins from India. The review covers the period January 1, 1980 through December 31, 1982.

As a result of the review, the Department has preliminarily determined the net subsidy to be 8.08 percent *ad valorem* for 1980 and 1981, and 6.68 percent *ad valorem* for 1982. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: August 24, 1983.

FOR FURTHER INFORMATION CONTACT: Bernard Carreau or Joseph Black, Office of Compliance, Room B-099, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On April 9, 1979, the Department of the Treasury ("Treasury") published in the **Federal Register** (T.D. 79-103, 44 FR 21009) an affirmative final countervailing duty determination regarding oleoresins from India. The notice stated that the Government of India had provided bounties or grants on the manufacture, production or exportation of such merchandise within the meaning of section 303 of the Tariff Act of 1930 ("the Tariff Act").

On July 18, 1979, the International Trade Commission ("the ITC") published its determination of no injury or likelihood of injury to an industry in the United States by reason of the importation of oleoresins from India entering duty-free under the Generalized System of Preferences ("the GSP"). However, approximately 1.7 percent of the entries of such merchandise during the period of our review did not satisfy the conditions for GSP treatment. Therefore, the current review covers only those dutiable entries.

On January 1, 1980, the provisions of title I of the Trade Agreements Act of 1979 became effective. On January 2, 1980 the authority for administering the countervailing duty law was transferred from Treasury to the Department of Commerce ("the Department"). The Department published in the **Federal Register** of May 13, 1980 (45 FR 31455) a notice of intent to conduct administrative reviews of all outstanding countervailing duty orders. As required by section 751 of the Tariff Act, the Department has now conducted an administrative review of the order on oleoresins from India.

On December 30, 1982, the ITC notified the Department that the Indian government, pursuant to section 104(b) of the Trade Agreements Act of 1979, had requested an injury determination

for the merchandise remaining under this order.

Scope of the Review

Imports covered by the review are shipments of Indian oleoresins, which are determed by the Customs Service to be ineligible for duty-free treatment under GSP. Oleoresins are flavoring extracts, fruit flavors, essences, esters, and oils not containing alcohol, and not in amplues, capusles, tablets, or similar forms. Such merchandise is currently classifiable under item numbers 450.2010, 450.2015, 450.2025, and 450.2040 of the Tariff Schedules of the United States Annotated.

The review covers the period January 1, 1980 through December 31, 1982, and the following programs: (1) The Cash Compensatory Support Program ("CCS"), (2) a preferential pre-shipment export loans program, (3) tax deductions through the Export Market Development Allowance; and (4) grants under the Market Development Assistance Program.

Analysis of Programs

(1) CCS Program. The Indian government introduced the CCS program (referred to as the "Export Cash Assistance Program" in Treasury's affirmative final countervailing duty determination) in 1966 for the primary purpose of rebating upon exportation indirect taxes on merchandise. It is calculated as a percentage of the f.o.b. invoice price.

Although the Indian government rebates upon export many types of indirect taxes through the CCS program, the Tariff Act and the Commerce Regulations allow the rebate of only the following: (1) Indirect taxes borne by inputs which are physically incorporated in the exported product (see Annex 1.1 of part 355 of the Commerce Regulations); and (2) indirect taxes levied at the final stage (see Annex 1.2 of part 355 of the Commerce Regulations). If the payment upon export exceeds the total amount of allowable indirect taxes described above, the Department considers the difference to be an overrebate of indirect taxes and, therefore, a subsidy.

The Indian government set the CCS rate for oleoresins at 12.5 percent for the period January 1, 1980 through September 30, 1982. Effective October 1, 1982, the Indian government lowered the CCS rate to 7 percent. The Indian government provided in 1980 a study of the tax incidence on oleoresins. Based on that report, the Department preliminarily finds the requisite linkage between indirect taxes and the CCS rate for oleoresins, and preliminarily finds that the net subsidy attributable to this program is 5.57 percent for 1980 and 1981. After October 1, 1982, we preliminarily find that the overrebate was reduced to 0.07 percent, so that the weighted-average benefit for all of 1982 is 4.19 percent *ad valorem.*

(2) Pre-Shipment Export Loans. The Reserve Bank of India, through commercial banks, provides pre-shipment credit to exporters, allowing them to purchase raw materials, packing materials, etc., based on presentation of a confirmed order or letter of credit. These loans have a sliding scale interest rate that varies with the amount of time the loan is outstanding. In general, the loans are granted for a period of 90 to 180 days. The Government of India provided no response to our questions regarding the pre-shipment export loans program. We have therefore used, as the best information available, interest rates obtained for such loans in 1980, and have applied these rates to 1981 and 1982 as well. Those rates are 11 percent for the first half of 1980 and 11.85 percent for the second half. The average comparable commercial rate during the same period was 18.5 percent. Using the average differential between these rates for loans granted on a quarterly basis, and assuming full utilization of principal, we preliminarily find a net subsidy of 1.77 percent *ad valorem* in 1980, 1981, and 1982.

(3) Tax Deductions Under the Export Markets Development Allowance. Under Article 35B of the Finance Act, the Government of India allows exporters to deduct 133 percent of certain expenses for market development. However, because the Indian government allows deductions of 100 percent of such expenses for non-export sales, we focus on the remaining 33 percent as the benefit. The Indian government provided no response to our questions regarding the use of this program. We have therefore used, as the best information available, the rate determined for 1980 in another Indian case, certain iron-metal castings, and applied this rate to 1981 and 1982 as well. This rate is 0.69 percent *ad valorem.*

(4) Market Development Assistance Grants (MDA). The Indian government provides grants to exporters to offset expenses for foreign market study teams and promotional publications. The Indian government provided no response to our questions regarding the use of this program. We have therefore used, as the best information available, figures obtained during the recent verification in India of certain iron-metal castings to determine the benefit. These include total Indian exports and the total payments made by the Indian government under this program during the reviw period. We have assumed that Indian exporters of oleoresins have received the average aggregate benefit to all Indian exporters under the MDA program, as expressed by the ratio of total payments to total exports. Based on this calculation, we preliminarily determine the net subsidy attributable to this program to be 0.03 percent *ad valorem* for calendar years 1980, 1981, and 1982.

PreliminaryResults of the Review

As a result of the review, we preliminarily determine the aggregate net subsidy to be 8.06 percent *ad valorem* for the period January 1, 1980 through December 31, 1981, and 6.68 percent *ad valorem* for the period January 1, 1982 through December 31, 1982. The Department intends to instruct the Customs Service to assess countervailing duties of 8.06 percent of the f.o.b. invoice price on any shipments of non-GSP Indian oleoresins entered, or withdrawn from warehouse, for consumption on or after January 1, 1980 and exported on or before December 31, 1981, and of 6.68 percent for shipments exported on or after January 1, 1982 and entered on or before December 29, 1982.

On December 30, 1982, the International Trade Commission ("the ITC") notified the Department that the Indian government had requested an injury determination for this order under section 104(b) of the Trade Agreements Act of 1979. Should the ITC find that there is material injury or likelihood of material injury to an industry in the United States, the Department will instruct the Customs Service to assess countervailing duties in the amount of the prevailing deposit rate at the time of entry on all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after December 30, 1982 and through the date of the ITC's notification to the Department of its determination.

Further, as provided for by section 751(a)(1) of the Tariff Act, the Department intends to instruct the Customs Service to collect a cash deposit of estimated countervailing duties of 2.56 percent of the f.o.b. invoice price on all shipments of non-GSP Indian oleoresins entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10

days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: August 13, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-23208 Filed 8-23-83; 8:45 am]
BILLING CODE 3510-25-M

[A-588-049]

Calcium Pantothenate From Japan; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Final Results of Administrative Review of Antidumping Finding.

SUMMARY: On June 8, 1983, the Department of Commerce published the preliminary results of its administrative review and tentative determination to revoke in part the antidumping finding on calcium pantothenate from Japan. The review covers the 22 known manufacturers and/or exporters and 17 of the 19 third-country resellers of this merchandise to the United States currently covered by the finding and generally the period January 1, 1981 through December 31, 1981.

We gave interested parties an opportunity to comment on the preliminary results and tentative determination to revoke in part. We received no comments. Based on our analysis, the final results of review are the same as the preliminary results.

EFFECTIVE DATE: August 24, 1983.

FOR FURTHER INFORMATION CONTACT: Sheila Forbes or David Chapman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-2923/5255.

SUPPLEMENTARY INFORMATION:

Background

On June 8, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 26495-6) the preliminary results of its last administrative review and tentative determination to revoke in part the antidumping finding on calcium pantothenate from Japan (39 FR 2086, January 17, 1974). The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of calcium pantothenate, a member of the B-complex vitamin family, which is produced in two grades: D-Cal Pan (USP Grade, which is used for human nutrition in the form of multi-vitamin tablets) and DL-Cal Pan (Feed Grade, which is used as a food supplement for swine and poultry. Both grades of calcium pantothenate are currently classifiable under item 437.8225 of the Tariff Schedules of the United States Annotated.

The review covers the 22 known Japanese manufacturers and/or exporters and 17 of the 19 known third-country resellers of Japanese calcium pantothenate to the United States currently covered by the finding. The review generally covers the period January 1, 1981 through December 31, 1981.

SUPPLEMENTARY INFORMATION:

Final Results of the Review

Interested parties were invited to comment on the preliminary results and tentative determination to revoke in part. The Department received no written comments or requests for a hearing. Based on our analysis, the final results of our review are the same as the preliminary results and we determine that the following margins exist:

	Time period	Margin (percent)
Manufacturer/Exporter:		
Agropol Limited	1/1/81-12/31/81	[1] 4.27
Alps Pharmaceutical Ind. Co	1/1/81-12/31/81	0.43
Byron Chemical Co	1/1/81-12/31/81	[1] 6.60
Eisai Co., Ltd	1/1/81-12/31/81	[1] 0
First Enterprise Inc	1/1/81-12/31/81	[1] 6.89
Helm Japan, Ltd	1/1/81-12/31/81	[1] 0
Ichi Maru Co., Ltd	1/1/81-12/31/81	[1] 3.98
Isho Incorporation	1/1/81-12/31/81	[1] 0.49
Iwaki & Co	1/1/81-12/31/81	[1] 0
Kamisegi Chemical Co., Ltd	1/1/81-12/31/81	[1] 0
Kamiyama Corp	1/1/81-12/31/81	[1] 18.87
Kanematsu-Gosho, Ltd	1/1/81-12/31/81	[1] 6.60
Maruberi Corp	1/1/81-12/31/81	[1] 3.98
Maruzen Chemicals Co	1/1/81-12/31/81	[1] 9.57
Mitsui & Co	1/1/81-12/31/81	[1] 18.87
Nagase & Co	1/1/81-12/31/81	[1] 0
Nippon Roche, K.K	1/1/81-12/31/81	[1] 0
Senkei Pharmaceutical Co	1/1/81-12/31/81	[1] 18.87
Senkyo Company	1/1/81-12/31/81	[1] 3.98
Toho Bussan Co	1/1/81-12/31/81	[1] 18.87
Toyo Menka Kaisha	1/1/81-12/31/81	[1] 1.87
Yamanouchi Pharmaceutical Co., Ltd	1/1/81-12/31/81	[1] 0
Third-Country Reseller (Country):		
Amik Italia SRL (Italy)	1/1/81-12/31/81	3.98
Agripharm, Ltd. (U.K.)	1/1/81-12/31/81	0
Biembel Gebruder (W. Germany)	1/1/81-12/31/81	[1] 0
BMP-Bulk Medicines & Pharmaceutical GmbH (W. Germany)	4/1/81-12/31/81	0
Chemeta BV (Netherlands)	1/1/81-12/31/81	3.98
Chemical & Feeds, Ltd. (U.K.)	1/1/81-12/31/81	[1] 18.87
Deutsch-Norwegische Vitamin Gesellschaft GmbH (W. Germany)	1/1/81-12/31/81	0
H.G. u C. Blau (W. Germany)	1/1/81-12/31/81	0.26
J.H.C. Schmidt (W. Germany)	1/1/81-12/31/81	0
Lenk Chemicals Corp. (Netherlands)	1/1/81-12/31/81	[1] 18.87
M. Gurvey & Berry Co., Inc. (Canada)	1/1/81-12/31/81	0.69
Mansing & Co., Ltd. (Denmark)	1/1/81-12/31/81	[1] 18.87
Peak Int'l Products BV (Holland)	7/1/81-12/31/81	[1] 0
Seimeglues A.G. (Switzerland)	1/1/81-12/31/81	[1] 18.87
Seimeglues & Sohn (W. Germany)	1/1/81-12/31/81	[1] 18.87
R.W. Unwin & Co., Ltd. (U.K.)	1/1/82-6/30/82	0
Vitalor S.A. (Belgium)	1/1/81-12/31/81	3.98

[1] No shipments during the period.

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all entries with purchase dates during the periods involved. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Further, as provided for in § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based on the above margins shall be required on all shipments of calcium pantothenate from these firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. Because the weighted-average margins for Alps Pharmaceutical Ind. Co., Isho Incorporation, and H.G. u C. Blau are less than 0.5 percent and, therefore, *de minimis* for deposit purposes, the Department waives the deposit requirement for these firms. For future entries from a new exporter not covered in this or prior reviews, whose first shipments occurred after December 31, 1981 and who is unrelated to a covered firm, a cash deposit of 3.98 percent shall be required. These deposit requirements and waivers shall remain in effect until publication of the final results of the next administrative review.

The Department intends to begin immediately the next administrative review. The Department encourages

interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information during the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

August 19, 1983.

[FR Doc. 83-23234 Filed 8-23-83; 8:45 am]

BILLING CODE 3510-25-M

[A-588-056]

Melamine in Crystal Form From Japan; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review of antidumping finding.

SUMMARY: On May 26, 1983, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on melamine in crystal form from Japan. The review covered the five known manufacturers and/or exporters of this merchandise to the United States and the period February 1, 1982 through January 31, 1983.

Interested parties were given an opportunity to submit oral or written comments on the preliminary results. We received no comments. Based on our analysis, the final results of review are unchanged from those presented in the preliminary results of review.

EFFECTIVE DATE: August 24, 1983.

FOR FURTHER INFORMATION CONTACT: Valerie Newkirk or Susan Crawford, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-1130.

SUPPLEMENTARY INFORMATION:

Background

On May 26, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 23683) the preliminary results of its last administrative review of the antidumping finding on melamine in crystal form from Japan (42 FR 6866, February 2, 1977). The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of melamine in crystal form, a fine white crystalline powder used to manufacture melamine formaldehyde resins, currently classifiable under item 425.1020 of the Tariff Schedules of the United States Annotated.

The review covers the five known manufacturers and/or exporters of Japanese melamine to the United States and the period February 1, 1982 through January 31, 1983. There were no known shipments of this merchandise to the United States during the period and there are no known unliquidated entries.

Final Results of the Review

Interested parties were invited to comment on the preliminary results. The Department received no comments or requests for a hearing. Based on our analysis, the final results of our review are the same as those presented in the preliminary results of review, and we determine that the following margins exist for the period February 1, 1982 through January 31, 1983:

Manufacturer/Exporter	Margin (percent)
C. Itoh & Co., Ltd.	[1] 60
Mitsui Toatsu Chemical, Inc.	[1] 70.22
Nichimen Co., Ltd.	[1] 60
Nissan Chemical Industries, Ltd.	[1] 60
Nozawa & Co., Ltd.	[1] 60

[1] No shipments during the period.

As provided for in § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based on the above margins shall be required on all shipments of Japanese melamine from these firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. For future entries from a new exporter not covered in this or prior administrative reviews, whose first shipment occurred after January 31, 1981, and who is unrelated to any covered firm, a cash deposit of 70.22 percent shall be required. These deposit requirements shall remain in effect until publication of the final results of the next administrative review. The Department intends to begin immediately the next administrative review.

The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information during the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

August 19, 1983.

[FR Doc. 83-23235 Filed 8-23-83; 8:45 am]

BILLING CODE 3510-25-M

[A-337-001]

Sodium Nitrate From Chile; Early Determination of Antidumping Duty

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Early Determination of Antidumping Duty.

SUMMARY: The Department of Commerce has conducted an early determination of the antidumping duty to be assessed upon imports of sodium nitrate from Chile entered, or withdrawn from warehouse, for consumption from November 15, 1982 through March 15, 1983. The determination will also be the basis for the cash deposit of estimated antidumping duties on future entries of such merchandise.

EFFECTIVE DATE: August 24, 1983.

FOR FURTHER INFORMATION CONTACT: Linda L. Pasden or Robert J. Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-5255.

SUPPLEMENTARY INFORMATION:

Background

On March 25, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 12580) an antidumping duty order on sodium nitrate from Chile. In accordance with the order, the Department directed Customs officers to require a cash deposit of estimated antidumping duties on entries of the merchandise pending liquidation.

On April 1, 1983, Sociedad Quimica y Minera de Chile S.A. ("SQM"), the one known exporter of this merchandise to the United States, requested that the Department waive the cash deposit requirement and make an early determination of antidumping duty. On May 6, 1983, we announced in the **Federal Register** (48 FR 20484-5) that, in accordance with section 736(c) of the Tariff Act of 1930 ("the Tariff Act"), we were satisfied that we would be able to determine foreign market value and United States price, for all entries of Chilean industrial grade sodium nitrate from the date of our preliminary affirmative determination of sales at

less than fair value to the date of the International Trade Commission's final affirmative injury determination, within 90 days after the date of publication of the order. We waived the cash deposit of estimated antidumping duties pending the early determination of duty. After expiration of the 90-day period, having not completed the section 736(c) determination, we reimposed the cash deposit requirement. We have now completed the section 736(c) determination.

Scope of the Determination

Imports covered by the determination are shipments of industrial grade sodium nitrate (98 percent or more pure), currently classifiable under item 480.2500 of the Tariff Schedules of the United States Annotated.

We investigated all imports of Chilean industrial grade sodium nitrate entered, or withdrawn from warehouse, for consumption during the period November 15, 1982 through March 15, 1983.

United States Price

In calculating United States price the Department used exporter's sales price, as defined in section 772 of the Tariff Act. Exporter's sales price was based on the f.o.b. packed or unpacked price to an unrelated purchaser in the United States. Where applicable, deductions were made for foreign inland freight, marine insurance, U.S. brokerage charges, ocean freight, and U.S. direct and indirect selling expenses. An adjustment for credit expense was not allowed because it was inadequately quantified. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used the price to purchasers in a third country (Brazil), as defined in section 773 of the Tariff Act, because insufficient quantities of such or similar merchandise were sold in the home market at or above the cost of production. We found sufficient quantities of such merchandise were sold to Brazil at or above the cost of production to constitute a viable market.

Third-country price was based on the f.o.b. or c&f packed price to the first unrelated Brazilian purchaser with adjustments, where applicable, for indirect selling expenses and commissions up to the amount of U.S. indirect selling expenses. We made further adjustments for differences in packing costs, Chilean inland freight, loading charges, and ocean freight. We disallowed an adjustment claimed for infusions into a bad debt reserve, since this was not the actual expense for bad debt incurred on sales during the period of investigation. Although credit expenses were substantiated on sales to Brazil, corresponding U.S. credit expenses were inadequately quantified. Because we were unable to ascertain the amount of the difference, we disallowed the claimed adjustment for differences in credit expenses. No other adjustments were claimed or allowed.

Analysis of Comments Received

We gave interested parties an opportunity to submit written or oral comments. At the request of the petitioner, Olin Corporation, the Department held a public hearing on June 10, 1983. The petitioner and SQM submitted comments.

Comment 1: Olin questions the timeliness and accuracy of SQM's submission, specifically SQM's failure to identify in its submission five types of transactions with related parties. Further, Olin contends that, because of the failure to disclose the true nature of related party transactions, SQM failed to provide Commerce with information sufficient to verify the cost of production. In response, SQM argues that all information (except regarding one category, purchases of drinking water) was fully disclosed.

Department's Position: We agree with the petitioner that the narrative portion of the submission did not explain all of the relationships between SQM and its raw materials suppliers or between SQM and its customers. However, through the financial statements and other documentation, we knew of all five types of related transactions. At the verification we examined each of the five relationships and are satisfied that the relationships have been fully disclosed and accurately described by SQM.

Comment 2: Olin argues that SQM's reported method of allocation of production costs (some on the basis of sales value and others on the basis of sales volume) results in an understatement of its costs to produce industrial grade sodium nitrate. Olin suggests that all cost allocations be made on the basis of sales value because the use of volume ratios allocates a disproportionate share of total costs to agricultural grade nitrate, a product not covered by the order. SQM argues that the cost allocation methods are in accordance with generally accepted accounting principles.

Department's Position: We agree with Olin that SQM should not use different allocation methods for its direct costs of production. On the other hand, we disagree with Olin's suggestion that costs be allocated on the basis of sales value because either of SQM's reported allocation methods could distort the cost for industrial nitrates. As a result, we have reallocated all of the direct costs on a production value basis, and we have allocated the indirect costs, i.e., the general, selling, and administrative expenses, on the basis of sales value.

Comment 3: Olin argues that SQM appears to have understated the production cost because SQM failed to include bad debt projections to reduce the interest income used in the cost of production.

Department's Position: We determined that the bad debt expense was in fact included in SQM's calculation of interest earned in the cost of production. Further, we have now recalculated the interest expense on the basis of sales value. This has resulted in an upward adjustment to the cost of production.

Comment 4: Olin suggests that the section 736 determination be terminated because SQM failed to provide sufficient information.

Department's Position: We determined that the data submitted by SQM for this determination were sufficient.

Comment 5: SQM argues that yearly cost of production data should be used rather than quarterly data for this review and subsequent section 751 reviews, because they are more reliable and meaningful. Olin advocates the use of quarterly data because of the high inflation in Chile.

Department's Position: We agree with Olin to the extent that, because of the unstable economic situation in Chile during the review period, we should use quarterly cost of production data as the most reliable data. Whether we will use yearly or quarterly data for subsequent reviews will depend on the economic situation in Chile at that time.

Comment 6: SQM argues that data collection and processing expenses are really invoicing, credit processing, and collection expenses and should be included in the ESP offset as indirect selling expenses on home market sales. Conversely, Olin argues that these expenses are general administrative expenses.

Department's Position: This is a moot point because we have not used home market sales for comparison with U.S. sales.

Comment 7: SQM claims that the cost of production calculation should not include voluntary severance pay and

medical expenses, as they are not incurred in the ordinary course of business and should be treated as extraordinary expenses. Olin argues against the exclusion of these expenses from the cost of production.

Department's Position: We consider the medical expenses as incurred in the ordinary course of business. The medical expense is a recurring expense. The severance pay was the result of negotiations with a union to avoid a strike. There is no guarantee that this situation will not occur in the future. Because this expense has the potential for being a recurring expense we have included it in the cost of production.

Early Determination

As a result of our comparison of United States price to foreign market value, we determine that the weighted-average margin for industrial grade soduim nitrate manufactured by SQM and entered during the period November 15, 1982 through March 15, 1983, is 2.05 percent.

The Department shall determine, and the Customs Service shall assess, antidumping duties on shipments of Chilean industrial grade sodium nitrate manufactured by SQM and entered, or withdrawn from warehouse, for consumption on or after November 15, 1982 through March 15, 1983. Individual differences between United States price and foreign market value may vary from the above percentage. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided for in § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties of 2.05 percent shall be required on shipments of Chilean industrial grade sodium nitrate entered, or withdrawn from warehouse, for consumption on or after the date of publication of this early determination. This deposit requirement shall remain in effect until publication of the final results of the first administrative review. The Department intends to conduct its first administrative review by the end of March 1985.

This notice is published pursuant to section 7369(c)(3) of the Tariff Act (19 U.S.C. 1673(e)) and § 353.49 of the Commerce Regulations (19 CFR 353.49).

August 19, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-23252 Filed 8-23-83; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Marine Mammal Permit Applications; Dr. James R. Gilbert; Issuance of Permit

On July 6, 1983, notice was published in the **Federal Register** (48 FR 31062) that an application had been filed with the National Marine Fisheries Service by Dr. James R. Gilbert, Division of Wildlife, University of Maine, Orono, Maine 04469, to collect dead specimens of up to 500 harbor seals and 1,250 harbor porpoises taken incidental to commercial fishing operations in New England waters or as otherwise available.

Notice is hereby given that on August 15, 1983, the National Marine Fisheries Service issued a Scientific Research Permit, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) to Dr. James R. Gilbert subject to certain conditions set forth therein.

The Permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930.

Dated: August 15, 1983.

Richard B. Roe,

Acting Director, National Marine Fisheries Service.

[FR Doc. 83-23089 Filed 8-23-83; 8:45 am]

BILLING CODE 3510-22-M

Availability of Marine Mammal Annual Report

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

ACTION: Notice of availability of 1982/83 Marine Mammal Annual Report.

SUMMARY: On August 11, 1983, the Secretary of Commerce sent to the Congress the annual report on the administration of the Marine Mammal Protection Act of 1972 as required by Section 103(f) of the Act. This report covers the period April 1, 1982 to March 31, 1983. The Assistant Administrator for Fisheries, National Marine Fisheries Service, informs the public that the report is available and that any interested individual may obtain a copy by requesting it from the Service.

ADDRESS: A copy may be obtained from the Office of Protected Species and Habitat Conservation, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C 20235.

FOR FURTHER INFORMATION CONTACT: Margaret C. Lorenz, Editor, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235; (202) 634–7529.

SUPPLEMENTARY INFORMATION: The Marine Mammal Protection Act of 1972 assigns responsibility for marine mammals of the Order Cetacea (whales and dolphins) and the Suborder Pinnipedia (seals and sea lions), except walrus, to the Department of Commerce. Under authority delegated to it, the National Marine Fisheries Service carries out those responsibilities.

This report reviews the progress made in the past decade under the Act, the permit program for scientific research and public display of marine mammals and the incidental take of these animals in commercial fisheries, the marine mammal stranding networks, international activities, legal actions, and enforcement of the Act. It includes a discussion of the management and research programs for bowhead whales, gray whales, humpback whales, north Atlantic whales and dolphins, bottlenose dolphins, Dall's porpoises involved in the Japanese salmon fishery, porpoises involved in the tuna purse-seine fishery, and seals and sea lions in Hawaii, the Channel Islands National Park, California, the Pribilof Islands, Alaska, and the north Atlantic area. The appendix includes the estimated population numbers of pinnipeds and cetaceans of interest to the United States.

Dated: August 18, 1983.

Richard B. Roe,

Acting Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 83-23207 Filed 8-23-83; 8:45 am]

BILLING CODE 3510-22-M

Pacific Fishery Management Council's Salmon Advisory Subpanel and Salmon Plan Development Team; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

SUMMARY: The Pacific Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265, as amended), has established a Salmon Advisory Subpanel and a Salmon Plan Development Team, which will meet to

discuss the draft framework plan for managing the ocean salmon fisheries off the coasts of Washington, Oregon and California. The purpose of the meeting is to provide the salmon advisors an opportunity to question the salmon team regarding the framework plan and to prepare comments for submission to the Council for its review at the September 28–29, 1983, meeting in San Diego. Members of the public will be permitted to submit oral or written statements regarding these matters and time is scheduled for public comment at 3 p.m.

Time and date: The public meeting will take place at the Oregon Department of Fish and Wildlife, 506 S.W. Mill Street, Chinook Room Portland, Oregon, on Monday, September 12, 1983, at 10 a.m.

Further information: Pacific Fishery Management Council, 526 S. W. Mill Street, Portland, Oregon 97201, Telephone (503) 221–6352.

Dated: August 19, 1983.

Ann D. Terbush,

Acting Chief, Operations Coordination Group, National Marine Fisheries Service.

[FR Doc. 83-23271 Filed 8-23-83; 8:45 am]
BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing an Adjusted Limit for Certain Cotton Textile Products From Hong Kong

August 19, 1983.

ACTION: On August 2, 1983 a notice was published in the **Federal Register** (48 FR 35003) announcing limits established during consultations held July 14 and 15, 1983 between the Governments of the United States and Hong Kong for a number of cotton and man-made fiber textile products, including cotton sheeting in Category 313. The purpose of this notice is to announce that, as a result of a reconciliation of U.S. and Hong Kong trade statistics, the agreed limit for Category 313 is being raised from 50,288,529 square yards to 51,516,694 square yards for the 1983 agreement year.

FOR FURTHER INFORMATION CONTACT: Gordana Slijepcevic, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230; (202/377–4212).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-23232 Filed 8-23-83; 8:45 am]
BILLING CODE 3510-25-M

Soliciting Public Comment on Bilateral Textile Consultations With Taiwan and Korea to Review Trade in Categories 643 and 669 pt.

August 19, 1983.

ACTION: On August 12, and August 16, 1983 the American Institute in Taiwan requested consultations with the Coordination Council for North American Affairs concerning exports from Taiwan in Category 643 (men's and boys suits) and 669 pt. (only T.S.U.S.A. 386.1105 and 389.6210). On August 12, 1983 the United States also requested consultations with the Government of the Republic of Korea with respect to Category 669 pt. (only T.S.U.S.A. 386.1105 and 389.6210). These requests were made on the basis of the agreement of November 18, 1982, concerning trade in cotton, wool, and man-made fiber textiles and textile products from Taiwan, and on the basis of the Agreement of December 14, 1982 between the Governments of the United States and the Republic of Korea relating to trade in cotton, wool and man-made fiber textiles and textile products.

SUMMARY: The purpose of this notice is to advise the public that if no solution is agreed upon in consultation with Taiwan and Korea, the Committee for the Implementation of Textile Agreements may later establish limits for the entry and withdrawal from warehouse for consumption of textile products in Categories 643 and 669 pt., produced or manufactured in Taiwan and Korea and exported to the United States during the twelve-month period which began on January 1, 1983 and extends through December 31, 1983.

The Government of the United States reserves the right under the agreement to invoke import controls on these categories as defined in the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement, with Taiwan and the Government of Korea.

Any party wishing to comment or provide data or information regarding the treatment of Categories 643 and 669 pt. from Taiwan and 669 pt. from Korea under the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement, or any other aspect thereof, or to comment on domestic production or availability of textile products included in these categories, is invited to submit such comments or information in ten copies to Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Since the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C., and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 533(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-23233 Filed 8-23-83; 8:45 am]
BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on Fire Support for Amphibious Warfare; Date Change of Advisory Committee Meeting

The meeting of the Defense Science Board Task Force on Fire Support for Amphibious Warfare scheduled for 8–9 September 1983 in Washington, D.C. as published in the **Federal Register** (Vol. 48, No. 138, Monday, July 18, 1983, FR Doc. 83–19348) has been changed to 22–23 September 1983. In all other respects the original notice remains the same.

August 19, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

[FR Doc. 83-23263 Filed 8-23-83; 8:45 am]
BILLING CODE 3810-01-M

Defense Contract Audit Agency

Membership of the Defense Contract Audit Agency (DCAA), Performance Review Board

AGENCY: Defense Contract Audit Agency, Department of Defense.

ACTION: Notice of membership of the Defense Contract Audit Agency Performance Review Board.

SUMMARY: This notice announces the appointment of the members of the Performance Review Board (PRB) of the Defense Contract Audit Agency. The publication of PRB membership is required by 5 U.S.C. 4314(c)(4).

The Performance Review Board provides fair and impartial review of Senior Executive Service performance appraisals and makes recommendations regarding performance and performance awards to the Director, Defense Contract Audit Agency.

EFFECTIVE: Upon publication of this notice.

FOR FURTHER INFORMATION CONTACT: Mr. Roger D. Kriesch, Personnel Management Specialist, Office of the Director of Personnel, Defense Contract Audit Agency, Department of Defense, Cameron Station, Alexandria VA, (202) 274–5798 or 274–5799.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 4314(c)(4), the following are names and titles of the executives who have been reappointed to serve as members of the Performance Review Board. They will serve a one-year term, effective upon publication of this notice.

Mr. Robert G. Bordley, Chief, Accounting and Finance Division, Office of the Comptroller, Defense Logistics Agency;
Mr. John J. Quill, General Counsel, Defense Legal Service;
Mr. Raymond E. Schmidt, Director, Audit Policy, Office of the Assistant Secretary (Comptroller), Office of the Secretary of Defense.

John van Santen,

Assistant Director, Resources.

[FR Doc. 83-23105 Filed 8-23-83; 8:45 am]

BILLING CODE 3820-01-M

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services

Training Personnel for the Education of the Handicapped Program

AGENCY: Department of Education.

ACTION: Application Notice Establishing Closing Date for Transmittal of Fiscal Year 1984 Noncompeting Continuation Applications.

SUMMARY: Applications are invited for noncompeting continuation projects under the Training Personnel for the Education of the Handicapped program.

Authority for this program is contained in Sections 631, 632, and 634 of Part D of the Education of the Handicapped Act. (20 U.S.C. 1431, 1432, and 1434)

Applications may be submitted by State educational agencies, institutions of higher education, and other nonprofit institutions or agencies.

The purpose of the program is to improve the quality and increase the supply of special educators and support personnel.

The Secretary published final regulations for the Training Personnel for the Education of the Handicapped program on May 24, 1983 (48 FR 23206). The effective date of these regulations was July 20, 1983.

Closing date for transmittal of applications: To be assured of consideration for funding, applications for noncompeting continuation awards should be mailed or hand delivered on or before September 30, 1983. If a noncompeting continuation application is late, the Department of Education may lack sufficient time to review it and may decline to accept it.

Applications delivered by mail: Applications must be addressed to the Department of Education, Application Control Center, Attention: (insert appropriate CFDA Priority Number), Washington, D.C. 20202.

An application must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other evidence of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with the local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications delivered by hand: Hand-delivered applications must be taken to the Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

Available funds: Since fiscal year 1984 appropriation levels have not been determined yet, accurate estimates of funding under each priority are not available. It is expected that funding will be available to award noncompeting continuation grants at the funding levels indicated below under the application notice for each priority.

These estimates of funding levels do not bind the Department to a specific number of grants, or to the amount of any grant, unless that amount is otherwise specified by statute or regulations.

Application Notices

84.029AH—Handicapped—Preparation of Special Educators—Noncompeting Continuations

Program information: This priority supports the continued second budget period funding for preparation of special educator grants that were awarded initially in 1983, for two or three budget periods.

Available funds: Awards will be funded at about the same level as in fiscal year 1983.

84.029CH—Handicapped—Preparation of Leadership Personnel—Noncompeting Continuations

Program information: This priority supports the continued second budget period funding for doctoral and post-doctoral personnel preparation grants that were awarded initially in 1983, for two or three budget periods.

Available funds: Awards will be funded at about the same level as in fiscal year 1983.

84.029EH—Handicapped—Preparation of Related Services Personnel—Noncompeting Continuations

Program information: This priority supports the continued second budget period funding for the preparation of related services personnel grants that were awarded initially in 1983, for two or three budget periods.

Available funds: Awards will be funded at about the same level as in fiscal year 1983.

84.029GH—Handicapped—State Educational Agency Programming—Noncompeting Continuations

Program information: This priority supports the continued second budget period funding for unique State-wide training grants that were awarded initially in 1983, for two or three budget periods.

Available funds: Awards will be funded at about the same level as in fiscal year 1983.

84.029JH—Handicapped—Special Projects—Noncompeting Continuations

Program information: This priority supports the continued second budget period funding for special projects grants that were awarded initially in 1983, for two or three budget periods.

Available funds: Awards will be funded at about the same level as in fiscal year 1983.

84.029LH—Handicapped—Specialized Training of Regular Educators—Noncompeting Continuations

Program information: This priority supports the continued second budget period funding, for preparation of regular educators grants that were awarded initially in 1983, for two or three budget periods.

Available funds: Awards will be funded at about the same level as in fiscal year 1983.

84.029NH—Handicapped—Preparation of Trainers of Volunteers, Including Parents—Noncompeting Continuations

Program information: This priority supports the continued second budget period funding for the preparation of trainers of volunteers' grants that were awarded initially in 1983, for two or three budget periods.

Available funds: Awards will be funded at about the same level as in fiscal year 1983.

84.029QH—Training Personnel for the Education of the Handicapped—Program Assistance Grants—Noncompeting Continuations

Program information: This priority supports the continued third budget period funding for grants other than Special Projects that were awarded initially in 1982, for three budget periods.

Available funds: Awards will be funded at about the same level as in fiscal year 1983.

84.029RH—Handicapped—Special Projects—Noncompeting Continuations

Program information: This priority supports the continued third budget period funding for Special Project grants that were awarded initially in 1982, for three budget periods.

Available funds: Awards will be funded at about the same level as in fiscal year 1983.

Application forms: Application forms and program information packages will be mailed to grantees that are eligible to apply for noncompeting continuation grant support under this notice.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the application package. The program information is intended to aid applicants in applying for assistance under this competition. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those specifically imposed under the statute and regulations governing the competitions. The Secretary urges that the narrative portion of the application not exceed 30 pages in length. The Secretary further urges applicants to submit only the information that is requested.

Applicable regulations: Regulation applicable to this program announcement include the following:

(a) Regulations governing the Training Personnel for the Education of the Handicapped (34 CFR Part 318); and

(b) The Education Department of General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

FOR FURTHER INFORMATION CONTACT: Dr. Herman Saettler, Acting Director, Division of Personnel Preparation, Special Education Programs, U.S. Department of Education, 400 Maryland Avenue SW., Donohoe Building, Room 4805, Washington, D.C. 20202. Telephone: (202) 245-9886.

(20 U.S.C. 1431,1432,1434)

(Catalog of Federal Domestic Assistance No. 84.029, Training Personnel for the Education of the Handicapped Program)

Dated: August 19, 1983.

Madeleine Will,

Assistant Secretary.

[FR Doc. 83-23256 Filed 8-23-83; 8:45 am]

BILLING CODE 4000-01-M

Office of Postsecondary Education

Special Needs Program; Extension of Closing Dates for Applications for New Awards Under the Fiscal Year 1982 Supplemental Competition for Historically Black Institutions and the Regular Fiscal Year 1983 Competition

The Secretary extends to (insert the 14th day after date of publication), the closing dates for applications for new awards for historically black institutions under the Special Needs Program under the: (1) Fiscal Year 1982 supplemental competition for historically black institutions, and (2) regular Fiscal Year 1983 competition. The Secretary is extending these closing dates so that historically black institutions can receive the funds made available to them for Fiscal Year 1983 under section 347(e) of the Higher Education Act of 1965 as amended (HEA).

The Special Needs Program is authorized by sections 321–324 and 341–347 of the HEA, 20 U.S.C. 1060–1064 and 1066–1069.

Section 347(e) of the HEA provides that the Secretary shall assure that in each fiscal year $27,035,000 appropriated for the Special Needs Program shall be made available to "institutions with special needs that historically serve substantial numbers of black students," i.e., historically black institutions. Approximately $2 million of this amount remains available. Accordingly, the Secretary is extending the closing date for the receipt of applications for new development awards under the Special Needs Program for any institution that qualified in Fiscal Year 1983 as an institution with special needs that historically serves substantial numbers of black students that was not selected for a grant under the Fiscal Year 1982 supplemental competition for historically black institutions or the regular Fiscal Year 1983 competition under that program. In addition, the Secretary is extending the closing date for historically black institutions that were selected for new Special Needs Program grants under the Fiscal Year 1982 supplemental competition for historically black institutions or under the regular Fiscal Year 1983 competition to permit those applicants to amend their applications to request additional funds.

Additional requests for funds for the latter group of institutions are limited to funds to carry out activities that have been approved as part of the institution's original grant application. The applicant may request funds to expand the scope of one or more of these activities or to accelerate the timetable for completing one or more activities. The Secretary encourages applicants to request additional funds in the area of developing the institution's overall management and administration.

The Secretary anticipates awarding approximately $28,000 to each institution that submits an amendment to its original application. However, the maximum grant an institution may receive may not exceed $800,000.

Extended Closing Date for Transmittal of Applications

An application for a development grant or an amended application for a development grant must be mailed or hand-delivered by (insert the 14th day after date of publication).

Application Delivered by Mail

An application sent by mail must be addressed to the U.S. Department of

Education, Application Control Center, Attention: 84.031B, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark, or

(2) A mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with it local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand

An application that is hand-delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Street, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturday, Sundays, and Federal holidays.

An application that is hand-delivered will not be accepted after 4:30 p.m on the closing date.

Application Forms

Application forms and program information packages for new applications have already been provided to all eligible applicants. Applicants are advised that applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the progam information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those imposed under the statute and regulations.

The Secretary strongly urges that: (1) the individual parts of the application not exceed the page limitations identified in the application materials, and (2) applicants not submit information that is not requested.

Institutions amending their applications do not need special forms to amend their applications. However, the proposed amendments must include in detail the activities to be undertaken and the budget for those activities.

Applicable Regulations

Regulations applicable to this program include the following:

(a) The regulations in 34 CFR Part 624;

(b) The regulations in 34 CFR Part 628; and

(c) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, and 78 except that 34 CFR 75.128(a)(2) and 34 CFR 75.129(a) do not apply to cooperative arrangements.

Further Information. For further information contact: Dr. W. A. Butts, Director, Division of Institutional Development, U.S. Department of Education, Room 3066, Regional Office Building 3, 400 Maryland Avenue, SW., Washington, D.C. 20202–3311. Telephone 245–2715, 245–9091, or 245–9585.

(20 U.S.C. 1060–1063, 1066–1069c)

(Catalog of Federal Domestic Assistance No. 84–031B—Special Needs Program)

Dated: August 19, 1983.

Edward M. Elmendorf,

Assistant Secretary for Postsecondary Education.

[FR Doc. 83–23305 Filed 8–23–83; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Final Action on Short-Term Sale of Nonfirm Energy to Utilities for Irrigation Loads

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice of final action.

SUMMARY: On April 20, 1983, BPA offered to sell nonfirm energy to Northwest utilities through October 31, 1983, for increases in their irrigation loads. The sale is designed to provide low-cost energy to serve regional irrigation loads which would have otherwise not operated, to utilize energy that would have otherwise been spilled, and to increase BPA revenues.

Twenty-seven utilities have accepted BPA's short-term offer. These utilities have agreed to purchase nonfirm energy under the short-term contract and make it available to irrigator customers with no more than a minimal markup. The short-term sale of nonfirm energy to the utilities is effective through October 31, 1983.

ADDRESSES: Copies of the short-term irrigation sale contract are available from the BPA Public Involvement Office, P.O. Box 12999, Portland, Oregon 97212. Copies of comments received from the public on this subject are also available from the Public Involvement Office.

FOR FURTHER INFORMATION CONTACT: Ms. Donna L. Geiger, Public Involvement Manager, at the above address, 503–230–3478. Oregon callers may use 800–452–8429; callers in California, Idaho, Montana, Nevada, Utah, Washington, and Wyoming may use 800–547–6048. Information may also be obtained from:

Mr. George Gwinnutt, Lower Columbia Area Manager, Suite 288, 1500 Plaza Building, 1500 NE. Irving Street, Portland, Oregon 97232, 503–230–4551.

Mr. Ladd Sutton, Eugene District Manager, Room 206, 211 East Seventh Avenue, Eugene, Oregon 97401, 503–687–6952.

Mr. Ronald H. Wilkerson, Upper Columbia Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509–456–2518.

Mr. George E. Eskridge, Montana District Manager, 800 Kensington, Missoula, Montana 59801, 406–329–3860.

Mr. Ronald K. Rodewald, Wenatchee District Manager, P.O. Box 741, Wenatchee, Washington 98801, 509–662–4377, extension 379.

Mr. Richard D. Casad, Puget Sound Area Manager, 415 First Avenue North, Room 250, Seattle, Washington 98109, 206–442–4130.

Mr. Thomas Wagenhoffer, Snake River Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509–525–5500, extension 701.

Mr. Robert N. Laffel, Idaho Falls District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208–523–2706.

Mr. Fredric D. Rettenmund, Boise District Manager, Owyhee Plaza Suite 245, 1109 Main Street, Boise, Idaho 83707, 208–334–9138.

SUPPLEMENTARY INFORMATION:

I. Background

In the April 7, 1983, Federal Register (48 FR 15178), BPA announced a proposal to offer nonfirm energy to utilities for irrigation loads through October 31, 1983. BPA's primary objectives in making this proposal were to provide low-cost energy to serve regional irrigation loads which would

have otherwise not operated, to utilize energy that would have otherwise been spilled, and to increase BPA revenues. Energy made available under this proposal was intended to be used only for pumping water for crop irrigation in amounts exceeding that which might otherwise be used.

BPA requested comments from the public on the proposed sale. Comments were accepted through April 14, 1983. BPA received comments from 36 parties. The comments were analyzed and addressed, as appropriate, in revising the offer to the utilities. Many comments led directly to contract revisions which are reflected in the terms of the sale.

On April 20, 1983, BPA offered a short-term contract for the sale of nonfirm energy to BPA requirements customer utilities for increases in their irrigation loads. The offer closed on June 21, 1983. At the end of this time, 27 utilities had accepted the offer. Acceptance by each of the utilities and closure of the offer constituted BPA's final action on this sale. The utilities are presently being served with nonfirm energy for increases in their irrigation loads.

The participating utilities by state are:

In California: Surprise Valley Elec. Corp.

In Idaho: Fall River Elec. Coop., Inc.; Kootenai Elec. Coop., Inc.; Lost River Elec. Coop., Inc.; Northern Lights, Inc.; Prairie Power Coop., Inc.; Raft River Rural Elec. Coop., Inc.; Riverside Elec. Co.; Rural Elec. Co.; Salmon River Elec. Coop., Inc.; South Side Elec. Lines, Inc.; Unity Light & Power Co.

In Montana: Flathead Elec. Coop., Inc.; Glacier Elec. Coop., Inc.; Lincoln Elec. Coop., Inc.; Missoula Elec. Coop., Inc.; Ravalli Co. Elec. Coop., Inc.; Vigilante Elec. Coop., Inc.

In Oregon: Columbia Basin Elec. Coop., Inc.; Consumers Power, Inc.; Coos-Curry Elec. Coop., Inc.; the City of McMinnville; Midstate Elec. Coop., Inc.

In Washington: Ferry Co. PUD #1; Inland Power & Light Co.; Ohop Mutual Light Co.

In Wyoming: Lower Valley Power & Light Co.

The short-term nonfirm energy sale will be in effect through October 31, 1983, the day prior to the effective date of BPA's 1983 rates.

II. Surplus Energy Available

BPA's offer of short-term nonfirm energy to utilities was made after review of BPA studies which confirmed that BPA will have substantial amounts of surplus firm and nonfirm energy available through October 31, 1983. With Columbia River system reservoirs operating at flood control levels throughout the spring, 1982–83 has been an exceptional water year. Under these conditions BPA expects to spill energy—to have more hydroelectric energy available for sale than markets can absorb—through July 31, 1983, and possibly into August. BPA has also determined the availability of large amounts of firm surplus energy through operating year 1983–84.

III. Terms of Irrigation Sale

Copies of the BPA Irrigation Sale contract are available from the BPA Public Involvement office. Key terms of the agreement include the following:

—Nonfirm energy is available at the contract nonfirm energy rate of 11.2 mills under BPA's current rate schedule from May 1, 1983, to October 31, 1983, subject to availability of nonfirm energy.

—Requests for nonfirm energy are met to the extent that a utility's estimated 1983 irrigation load exceeds 80 percent of the utility's 1982 irrigation load. Allowance is made for a lower base level where circumstances warrant.

—In order to ensure that maximum benefit under this agreement is passed through to irrigating consumers, a retail markup of up to 2 mills per kilowatt-hour has been established. Allowance is made for a higher markup where costs to the utility associated with the proposal are greater than 2 mills.

—BPA rejected the possibility of extending this contract offer to those utilities with a present ability to purchase BPA nonfirm energy for whatever purpose.

Issued in Portland, Oregon on August 12, 1983.

Robert E. Ratcliffe,

Acting Administrator.

[FR Doc. 83-23160 Filed 8-23-83; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Docket No. 83-CERT-250 etal.]

Chrysler Corp. et al.; Certifications of Eligible Use of Natural Gas to Displace Fuel Oil

The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) has received the following applications for certification of an eligible use of natural gas to displace fuel oil pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). Notice of these applications, along with pertinent information contained in the applications, was published in the **Federal Register** and an opportunity for public comment was provided for a period of ten calendar days from the date of publication. No comments were received. More detailed information is contained in each application on file and available for inspection at the ERA Fuels Conversion Division Docket Room, RG–42, Room GA–093, Forrestal Building, 1000 Independence Avenue, SW., Washington D.C. 20585, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

Applicant and facility location	Date filed	Docket No.	FEDERAL REGISTER notice of application
Chrysler Corp., Kokomo Plant, Kokomo, Ind.	July 5, 1983	83-CERT-250	48 FR 35696, Aug. 5, 1983.
Dana Corp., Spicer Transmission Div., Toledo Plant, Toledo, Ohio.	July 21, 1983	83-CERT-270	Do.
A. E. Staley Manufacturing Co., Galesburg Plant, Galesburg, Ill.	do	83-CERT-271	Do.
Inmont Corp., Cincinnati Plant, Cincinnati, Ohio	do	83-CERT-272	Do.
Sharon Steel Corp., Sharon Plant, Sharon, Pa.	do	83-CERT-273	Do.

The ERA has carefully reviewed the above applications for certification in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil [44 FR 47920, August 16, 1979). The ERA has determined that the applications satisfy the criteria enumerated in 10 CFR Part 595 and, therefore, has granted the certifications and transmitted those certifications to the Federal Energy Regulatory Commission.

Issued in Washington, D.C., on August 18, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-23236 Filed 8-23-83; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 83-Cert-260 et al.]

Koppers Co. et al.; Certification of Eligible Use of Natural Gas To Displace Fuel Oil

The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) has received the following applications for certification of an eligible use of natural gas to displace fuel oil pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). Notice of these applications, along with pertinent information contained in the applications, was published in the **Federal Register** and an opportunity for public comment was provided for a period of ten calendar days from the date of publication. No comments were received. More detailed information is contained in each application on file and available for inspection at the ERA Fuels Conversion Division Docket Room, RG-42, Room GA-093, Forrestal Building, 1000 Independence Avenue SW., Washington D.C. 20585, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

Applicant and facility	Date filed	Docket No.	Federal Register notice of application
Koppers Co., Inc., Follansbee, W. Va	July 13,1983	83-CERT-260	48 FR 34736, Aug. 1, 1983.
National Forge Co., Warren County, Pa., Erie, Pa	...do	83-CERT-261	Do.
Cargill, Inc., Chesapeake, Va	July 14, 1983	83-CERT-262	Do.
United States Gypsum Co., Norfolk, Va	...do	83-CERT-263	Do.
Trumbull Asphalt, Medina, Ohio	July 15, 1983	83-CERT-264	Do.
Just Born, Inc., Bethlehem, Pa	...do	83-CERT-265	Do.
Siemens-Allis, Inc., Norwood, Ohio	...do	83-CERT-266	Do.

The ERA has carefully reviewed the above applications for certification in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas To Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that the applications satisfy the criteria enumerated in 10 CFR Part 595 and, therefore, has granted the certifications and transmitted those certifications to the Federal Energy Regulatory Commission.

Issued in Washington, D.C., on August 18, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-23297 Filed 8-23-83; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. CP81-107-000, *et al.*]

Boundary Gas, Inc. and Tennessee Gas Pipeline Co.; Intent To Prepare Environmental Impact Statement for Canadian Import Project, Request for Comments on Environmental Issues and Scope of Those Issues, and Cancellation of Prior Environmental Impact Statement Notice

August 22, 1983.

Notice is hereby given that the staff of the Federal Energy Regulatory Commission (FERC) has determined that approval of the project proposed in the following applications would constitute a major Federal action significantly affecting the quality of the human environment: Niagara Interstate Pipeline System (NIPS), Docket No. CP-170-001, Southern Segment; Algonquin Gas Transmission Company (Algonquin), Docket No. CP82-119-002; Transcontinental Gas Pipe Line Corporation (Transco), Docket No. CP82-385-002; ANR Storage Company (ANR Storage, Docket No. CP82-420-001; Texas Eastern Transmission Corporation (Texas Eastern), Docket No. CP82-446-002; ANR Michigan Storage Company (ANR Michigan), Docket No. CP82-478-001; and Tennessee Gas Pipeline Company, a Division of Tenneco, Inc. (Tennessee), Docket No. 81-296-003. Therefore, pursuant to § 2.82(b) of the Commission's Rules of Practice and Procedure (18 CFR 2.82(b)), an environmental impact statement (EIS) will be prepared. The draft EIS evaluating the Canadian Import Project will deal only with the facilities proposed in these applications. It will also address alternatives to the proposed project, including no action, route deviations, and system design modifications, where feasible. In addition, the draft EIS will compare the Canadian Import Project as proposed with any other feasible alternatives, as appropriate.

In total, the applicants are seeking certificates of public convenience and necessity, under section 7(c) of the Natural Gas Act, authorizing construction and operation of 427.8 miles of pipeline and 41,560 horsepower of compression and transportation and storage service. Gas would be imported from Canada on the international boundary near Niagara Falls, New York, and transported through existing and proposed facilities for sale to customers in the eastern United States.[1]

[1] Other filings before the Commission related to these applications which do not propose facility construction are:

1. Algonquin, Texas Eastern, and Transco, Docket No. CP82-46-002 (import);

Background

On April 22, 1981, and August 9, 1982, Tennessee filed applications in Docket Nos. CP81-296-000 and CP81-296-001 before the FERC to construct and operate 256.75 miles of pipeline loop, 36,465 horsepower of compression, and appurtenant metering and regulating facilities at various locations in New York, Pennsylvania, Massachusetts, New Jersey, New Hampshire, and Connecticut. On February 18, 1983, the Environmental Protection Agency published in the **Federal Register** a notice of availability (48 FR 7298) for the FERC's *Tennessee/Boundary Looping Project: Final Environmental Impact Statement.*

In 1981 and 1982, a second independent Canadian import project was filed with the FERC. The Trans-Niagara Import Project sought authorization to construct and operate a total of 556 miles of pipeline and 176,480 horsepower of compression. Seven interstate natural gas transmission companies proposed these facilities at various locations in New York, Pennsylvania, New Jersey Connecticut,

[1] Other filings before the Commission related to these applications which do not propose facility construction are:

1. Algonquin, Texas Eastern, and Transco, Docket No. CP82-46-002 (import);

2. Michigan Consolidated Gas Company, Docket No. CP82-502-001 (transportation, storage, continued exemption of certain facilities);

3. Texas Eastern, Docket Nos. CP82-326-001 (import) and CP82-429-001 (import);

4. Transco, Docket Nos. CP82-305-001 (supplement), CP82-308-001 (storage), CP82-308-000 (import), and CP82-314-000 (import);

5. NIPS, Docket No. CP82-249-000 (presidential permit).

Great Lakes Gas Transmission Company (Great Lakes) has not amended its application in Docket No. CP82-429-000. Great Lakes has indicated informally to the staff that it will now only need to expand the existing Belle River Mills/St. Clair Meter Station in Michigan.

Massachusetts, and Michigan. A notice of intent to prepare an EIS for the Trans-Niagara Import Project was published in the **Federal Register** on September 28, 1982 (47 FR 42619).

On January 27, 1983, the National Energy Board of Canada issued a decision that authorized a total export of only up to 1,266 million cubic fee per day (cfd) of natural gas for these projects instead of the proposed volume of 2,312 million cfd. Consequently, the sponsors of the independent projects had to modify their proposals.

On January 25, 1983, and March 25, 1983, the NIPS project was filed with the FERC that effectively replaced these portions of the independent projects that were duplicative. Since this joint project is now before the FERC, the notice of intent to prepare an EIS for the Trans-Niagara Import Project is cancelled.

On May 2, 1983, Tennessee filed a Firm Initial Service proposal that would transport 40 million cfd of gas starting in November 1984 for four distribution companies that predict a substantial need for additional gas in the winter of 1984–85. The Firm Initial Service involves a total of 41.4 miles of pipeline looping and 4,500 horsepower of temporary compression. Because the issues related to the Firm Initial Service could be separated from the rest of the joint project, the presiding Administrative Law Judge has adopted a trial schedule that would examine this service in advance of the remainder of the project. Most of the facilities proposed Tennessee to transport the Firm Initial Service gas were analyzed in the February 1983 EIS. The Commission staff is presently preparing an environmental assessment on related temporary facilities necessary for and alternatives to the Firm Initial Service. This environmental assessment should be completed by September 1, 1983. A notice summarizing the environmental assessment will be issued in the **Federal Register.**

The environmental analysis of the joint project will consist of three parts. The first part, *Tennessee/Boundary Looping Project: Final Environmental Impact Statement,* was prepared and released on February 7, 1983. The second part, the environmental assessment for the Firm Initial Service, will be available in September. The third part, the *Canadian Import Project: Draft EIS,* will address all proposed facilities that have not been analyzed in either the final EIS or the environmental assessment for the Firm Initial Service.

The Proposals in Detail

For the Southern Segment, NIPS proposes (Docket No. CP83–107–001) to construct 112.7 miles of 42-inch diameter pipeline and two meter stations in New York and Pennsylvania. In addition, NIPS proposes to install 11,600 horsepower of compression at a new compressor station in Clinton County, Pennsylvania.

In Docket No. CP82–385–002, Transco proposes to construct 188.69 miles of 10-, 12-, 16-, 24-, 30-, and 36-inch diameter pipeline loop in eight segments adjacent to its existing pipeline in Pennsylvania and New Jersey. The applicant would also install 3,900 horsepower of compression at an existing compressor station in Lycoming County, Pennsylvania, and a new meter station in Somerset County, New Jersey.

Texas Eastern requests authorization in Docket No. CP82–446–002 to phase the construction of its proposed facilities in Pennsylvania. In phase one, Texas Eastern would construct 8.25 miles of 30-inch diameter pipeline loop in four segments adjacent to its existing pipelines in Pennsylvania and expand the existing Lambertville Meter Station in Hunterdon County, New Jersey. In phase two, the applicant would construct 93.5 miles of 24- and 30-inch diameter pipeline in five segments in Pennsylvania. In addition, Texas Eastern would also install 4,000 horsepower of compression at its existing Lambertville Compressor Station in Hunterdon County, New Jersey. The phase one facilities would be used in an alternative to Tennessee's Firm Initial Service; they will be addressed in the staff's forthcoming environmental assessment. The phase two facilities will be analyzed in *Canadian Import Project: Draft EIS.*

In Docket No. CP82–119–002, Algonquin proposes to construct 17.9 miles of 30-inch diameter pipeline and 1.7 miles of 6-inch diameter pipeline in New Jersey and Connecticut, respectively. Algonquin further proposes to install a total of 7,660 horsepower of compression at two existing compressor stations in New York and Connecticut. Algonquin would also install two new regulator stations in Massachusetts and an interconnection with Transco near Centerville, New Jersey. On July 5, 1983, Algonquin proposed in Docket No. CP82–119–003 to phase construction of its pipeline in New Jersey. Algonquin proposes to prebuild 3.5 miles of its 17.9-mile long pipeline as part of an alternative to Tennessee's Firm Initial Service. The rest of the facilities would be constructed in a second phase. The staff will address the prebuild facilities in the environmental assessment for the Firm Initial Service and the second phase facilities in *Canadian Import Project: Draft EIS.*

In phase two of its project in Docket No. CP81–296–003, Tennessee now proposes to construct a 7,000-horsepower compressor previously in Sussex County, New Jersey. This facility had not been previously proposed or discussed in the *Tennessee/Boundary Looping Project: Final Environmental Impact Statement.* It will be analyzed in *Canadian Import Project: Draft EIS.*

In Docket No. CP82–420–001, ANR Storage proposes to construct 15.7 miles of 20-inch diameter pipeline adjacent to existing pipeline rights-of-way, one meter station, and a 2,000-horsepower compressor station in Kalkaska and Grand Traverse Counties, Michigan.

Finally, in Docket No. CP82–478–001, ANR Michigan proposes to construct 1.1 miles of 12-inch diameter pipeline and a 5,400-horsepower compressor station. The applicant would also develop and operate the Whitewater 36/36A fields for underground storage by rehabilitating 2 existing wells and drilling 10 new wells. All of these facilities would be in Grand Traverse County, Michigan.

To allow sufficient space for construction of the pipelines, construction rights-of-way up to 80 feet wide would be required. After construction, new 25- to 50-foot wide permanent rights-of-way would be maintained.

A copy of this notice and additional technical information about the proposed project have been distributed to Federal, state, and local environmental agencies, parties to the proceeding, and the public. The additional information includes general facility location maps and an indication of what is proposed for each county affected. These groups are invited to comment on anticipated environmental problems associated with the proposed project. Comments will be used by the FERC staff to identify the issues which require in-depth environmental analysis. Comments should be addressed to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Recommendations that the EIS address specific issues should be supported by detailed rationale or a showing of the need to consider those issues. Written comments should be submitted by September 26, 1983, and reference Docket No. CP81–107–000, *et al.*

Additional information about the proposals is available from Mr. Kenneth Frye, Project Manager, Environmental Evaluation Branch, Office of Pipeline

and Producer Regulation, telephone (202) 357–9039.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–23236 Filed 8–23–83; 8:45 am]

BILLING CODE 6717–01–M

[Project Nos. 3891–000, et al.]

East Fork Irrigation District, et al.; Public Meeting

August 19, 1983.

The Federal Energy Regulatory Commission has before it a number of applications for hydropower development in the Hood River Basin. In response to petitions to the Commission to consider the cumulative environmental effects of hydropower in the basin, the Commission staff will hold a public meeting at 8:00 a.m.-12 noon on September 27, 1983, in the Auditorium of the Bonneville Power Administration Building at 1002 N.E. Holiday Street, Portland, Oregon.

The purpose of the meeting will be to determine the scope and validity of the issues involved. Emphasis will be upon technical verification of the various contentions. For example, what resource would be impacted by cumulative effects, where, how, and to what extent? Participants should be prepared to file written comments at the meeting or within two weeks thereafter. Written comments should be sent to Mr. Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. In order to coordinate the meeting and ensure that all verbal presentations are heard, all interested persons who wish to speak longer than 10 minutes should notify David Boergers at (202) 357–8492 at least seven days prior to the meeting.

For further information please contact David Boergers, (202)357–8492; Joseph Vasapoli, (202)357–5630; or Ron McKitrick, (202)376–9061.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–23240 Filed 8–23–83; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–2420–6]

Region VI; Final Agency Action on a RCRA Permit for IT Corporation

Notice is hereby given that on August 15, 1983, the Environmental Protection Agency, Region VI, (EPA) issued a final permit decision regarding the Resource Conservation and Recovery Act (RCRA) permit number LAD000757385–1 for IT Corporation.

On December 30, 1982, EPA Region VI, issued a RCRA permit to IT Corporation for is proposed hazardous waste management facility in Ascension Parish, Louisiana. This permit was to be effective on February 6, 1983. On February 7, 1983, the EPA received a petition for review of the permit. This action stayed the effective date of the permit pending final agency action. On July 11, 1983, EPA Administrator William D. Ruckelshaus issued a Denial of Petition for Review. Pursuant to the Administrator's determination, Region VI Regional Administrator Dick Whittington issued the final permit decision and established a new permit effective date of August 15, 1983. Notice of the final permit decision and new effective date has been served on Stephen M. Irving, Attorney for the petitioners, and on representatives of IT Corporation.

Information regarding permit LAD000757385–1 is available for public inspection upon request at: U.S. Environmental Protection Agency, Region VI, Hazardous Materials Branch, 1201 Elm Street, 28th Floor, Dallas, Texas 75270, or by calling Craig Campbell at (214) 767–2763.

FOR FURTHER INFORMATION CONTACT: Craig Campbell at the above Region VI address or by telephone at (214) 767–2763.

Dated: August 15, 1983.

Frances E. Phillips,

Acting Regional Administrator, Region VI.

[FR Doc. 83–23200 Filed 8–23–83; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 83M–0236]

Asahi Chemical Industry America, Inc.; Premarket Approval of Plasmaflo™ AP–05H Asahi Plasma Separator

Correction

In FR Doc. 83–22022, beginning on page 36659, in the issue of Friday, August 12, 1983, the docket line in the heading should read as it appears above.

BILLING CODE 1505–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N–83–1281]

Privacy Act of 1974; Amendment to Existing System of Records

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of proposed amendment to existing system of records.

SUMMARY: The Department is giving notice that it intends to amend the following Privacy Act system of records: HUD/H–5, Single Family Computerized Homes Underwriting Management System (CHUMS).

DATE: The amendment shall become effective without notice 30 calendar days from the publication date of this notice (September 23, 1983), unless comments are received on or before that date which would result in a contrary determination.

ADDRESS: Rules Docket Clerk, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Arthur L. Stokes, Departmental Privacy Act Officer, Telephone 202–755–5320. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: HUD is proposing a new program involving direct underwriting of insured single family mortgage loans by approved mortgage lenders. Under this new program, a lender would be permitted to underwrite, close and submit loans to HUD for insurance endorsement without prior HUD commitment. The Computerized Homes Underwriting Management System (HUD/H–5) will be expanded to monitor the performance of mortgagees participating in the program. The categories of individuals covered by the system will be expanded to include mortgagee staff appraisers and mortgagee staff underwriters. The categories of records contained in the system will be expanded to include the name and identifying number of each mortgagee staff appraiser and staff underwriter with corresponding territory and workload. The record source categories will be expanded to include mortgagee staff appraiser and mortgagee staff underwriters. The prefatory statement containing General Routine Uses applicable to the Department's systems of records was published at 47 FR 34322 (August 6, 1982). Appendix A, which lists the addresses of HUD's Field Offices, was published previously at 47

FR 34331 (August 6, 1982). Previously, the system was published at 46 FR 54907 (November 4, 1981). The notice is published below in its entirety, as amended. A report of the Department's intention to amend this system was filed with the Speaker of the House, the President of the Senate, and the Office of Management and Budget on June 21, 1983.

(5 U.S.C. 552a, 88 Stat. 1896; sec. 7(d) Department of HUD Act (42 U.S.C. 3533(d)))

Issued at Washington, D.C., August 15, 1983.

Judith L. Tardy,

Assistant Secretary for Administration.

HUD/H-5

SYSTEM NAME:

Single Family Computerized Homes Underwriting Management System (CHUMS).

SYSTEM LOCATION:

Headquaters and Field Offices. For a complete listing of these offices, with addresses, see Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals involved in the HUD/FHA single-family underwriting process (builders, fee appraisers, fee mortgage credit examiners, fee inspectors, mortgagors, mortgagee staff appraisers, mortgagee staff underwriters) and HUD employees involved in the single family underwriting process (Directors, Deputy Directors of Housing Divisions, Service Office Supervisors, staff appraisers, staff mortgage credit examiners, architectual employees, receiving clerks, assignment clerks, commitment clerks, records clerks, and closing clerks).

CATEGORIES OF RECORDS IN THE SYSTEM:

Case binders and automated files contain name, address, social security number or other identification number, and minority data (including racial/ethnic background, Minority Business Enterprise (MBE) Code, and sex for statistical tracking purposes) of the builder and mortgagor. These records also contain the name, address, social security number or other identification number, territory, workload, and minoiryt data (including racial/ethnic background, Minority Business Enterprise (MBE) Code, and sex, for statistical tracking purposes) of fee appraisers, fee mortgage credit examiners, and fee inspectors. These records will further contain the name and identifying number of each mortgagee staff appraiser and each mortgagee staff underwriter and the territory and workload of those individuals.

Additionally, the automated files contain identificfation (name and social security or other identifying number) of HUD employees involved in the single family underwriting process (Directors, Deputy Directors of Housing Divisions, Service Office Supervisors, staff appraisers, staff mortgage credit examiners, architectural employees, receiving clerks, assignment clerks, commitment clerks, records clerks, and closing clerks).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 203, National Housing Act, Pub. L. 73-479.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

See Routine Uses paragraphs in prefatory statement. Other routine uses: None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In case binders and on magnetic tape/disc/drum.

RETRIEVABILITY:

Name, social security number or other identification number.

SAFEGUARDS:

Manual files are kept in lockable cabinets or rooms; automated records are maintained in secured areas. Access to either type of record is limited to authorized personnel.

RETENTION AND DISPOSAL:

Manual records of insured cases are retained for 36 years and rejected cases are retained for one year. Computerized records of insured cases are retained for 10 years and rejected cases are retained for 3 years.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Single Family Housing, HSS, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) In relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Mortgagees, Appraisers, Inspectors, Mortgage Credit Examiners, Builders, Mortgagee Staff Apprasiers, Mortgagee Staff Underwriters, and HUD Employees.

[FR Doc. 83-23220 Filed 8-23-83; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. N-83-1280]

Privacy Act of 1974; New System of Records

AGENCY: Department of Housing and Urban Development.

ACTION: Notification of a new system of records.

SUMMARY: The Department is giving notice of a system of records it intends to maintain which is subject to the Privacy Act of 1974.

EFFECTIVE DATE: This notice shall become effective without further notice 30 calendar days from the publication date of this notice (September 23, 1983), unless comments are received on or before that date which would result in a contrary determination.

ADDRESS: Rules Docket Clerk, Room 10278, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Arthur L. Stokes, Departmental Privacy Act Officer (202) 755-5320. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The records in this system will consist of information derived from the submission of data by practicing members of the bar who wish to be placed on the register described herein. Attorneys may apply to be listed on the Government National Mortgage Association's (GNMA)

register of attorneys to perform foreclosure work required for GNMA-held, single-family mortgage loans. The following information is required for registration: Name of applicant (firm or individual); business address and telephone number; bar membership (where and when admitted); and experience in mortgage foreclosures. GNMA requires its designated servicers to utilize only attorneys registered with GNMA. At the request of mortgage servicer, GNMA advises the servicer of an attorney on the register in the same jurisdiction or the nearest jurisdiction to the court where the action may be instituted. The Government National Mortgage Association is the owner and holder of a large number of single family mortgages acquired under various programs authorized by the Congress. Servicing of these mortgages is carried out on behalf of GNMA by designated financial institutions and mortgage companies. The need for legal work in connection with servicing activities is limited almost entirely to foreclosure actions. In the event of a foreclosure, GNMA bears all of the costs of the action and is liable for any and all shortfalls for conventional mortgages and those shortfalls not covered by claim payments under the FHA and VA programs.

GNMA requires its designated mortgage servicers to utilize only attorneys registered with GNMA for foreclosure actions. Since June 23, 1978, listing on that register has been by open application (see 43 FR 27246).

A new system report was filed with the Speaker of the House, the President of the Senate, and the Office of Management and Budget on May 12, 1983. Appendix A, which lists the addresses of HUD's offices, was published at 47 FR 34331 (August 6, 1982).

HUD/DEPT-78

SYSTEM NAME:

Government National Mortgage Association (GNMA) Registry of Foreclosure Attorneys.

SYSTEM LOCATION:

Headquarters Office.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Attorneys and law firms that have voluntarily submitted the information contained in the record system.

CATEGORIES OF RECORD IN THE SYSTEM:

Name, firm name, address, and telephone numbers; date and place of bar membership; and experience in foreclosures.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title III, Section 309 of the National Housing Act authorizes GNMA to do the following: To enter into and perform contracts with any person or firm; to sue and be sued, and to complain and defend in any court of competent jurisdiction; to select and appoint or employ attorneys.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To GNMA servicers—to permit the servicer to obtain the services of a registered attorney.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual records stored in locable file drawers located in lockable rooms. Access limited to authorized personnel.

RETRIEVABILITY:

Name and address.

SAFEGUARDS:

Manual records stored in lockable file cabinets in secured areas. No computer records will be maintained. Access to records is limited to authorized personnel.

RETENTION AND DISPOSAL:

Records on attorneys are kept for at least three years. Attorneys must reapply within the three year period. Failure to reapply will result in deletion from the Registry.

SYSTEM MANAGER AND ADDRESS:

Assistant General Counsel for Finance, Department of Housing and Urban Development, Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the Headquarters location. This location is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed in relation to contesting the contents of records, it may be obtained by contacting the Privacy Act Officer at the Headquarters location. This location is given in Appendix A. If additional information or assistance is needed in relation to appeals of initial denials, it may be obtained by contacting the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington D.C. 20410

RECORD SOURCE CATEGORIES:

Subject individuals.

(5 U.S.C. 552, 88 Stat. 1896; sec. 7(d) Department of HUD Act (42 U.S.C. 3535(d)))

Issued at Washington, D.C., August 15, 1983.

Judith L. Tardy,

Assistant Secretary for Administration.

[FR Doc. 83-23221 Filed 8-23-83; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Irrigation Projects; Operation and Maintenance Charges; Fort Belknap Indian Irrigation Project, Montana

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to change the annual per acre assessment rate for the operation and maintenance of the irrigation facilities on the Fort Belknap Indian Irrigation Project to properly reflect the actual costs for labor, materials, equipment and services. The change is from $5.17 to $12.50 per irrigable acre for non-Indian owned land and Indian owned land leased to non-Indians, and from $2.65 to $6.50 per irrigable acre for Indian owned land farmed and operated by Indians.

EFFECTIVE DATE: This notice shall be effective on and retroactive to February 5, 1982.

FOR FURTHER INFORMATION CONTACT: Elmer M. Main, Superintendent, Bureau of Indian Affairs, Fort Belknap Agency, Harlem, Montana 59526.

SUPPLEMENTARY INFORMATION: This notice is issued by authority delegated to the Assistant Secretary for Indian Affairs by the Secretary of the Interior in 209 DM 8 and redelegated by the Deputy Assistant Secretary for Indian Affairs (Operations) to the Area Directors in 10 BIAM 3.

The operations and maintenance rate at the Fort Belknap Indian Irrigation Project has not been changed since 1969 when it was fixed at $5.17 per irrigable acre.

The costs of labor, materials, power and energy have continued to increase each year until costs now exceed revenue from current charges.

An analysis of the cost of operation and maintenance of the Fort Belknap Indian Irrigation Project was discussed with the individual farmers and three irrigation districts representatives. Comments received were carefully considered in arriving at the new rate.

The notice will read as follows:

Fort Belknap Indian Irrigation Project, Montana

Annual Operation and Maintenance Charges

Charges

The basic annual charges for operation and maintenance against the irrigable lands to which water can be delivered under the Fort Belknap Indian Irrigation Project (including lands under pumping contracts with the Fort Belknap Indian Irrigation Project) are hereby fixed at $6.25 per acre against lands in Indian ownership not under lease to a non-Indian, and at $12.50 per acre against lands in non-Indian ownership and lands in Indian ownership under lease to a non-Indian.

Payment

The annual charges shall become due on April 1 of each year and are payable on or before that date. Any assessment remaining unpaid after the due date shall stand as a first lien against the land.

Delivery

The delivery of water shall be refused to all tracts of land for which the charges have not been paid when due, except where the lands are in Indian ownership, not under lease to non-Indians, and the Indian owners shall have made the necessary arrangements with the Superintendent as hereafter provided. When any Indian owner of land not under lease to a non-Indian is financially unable to pay the operation and maintenance charges on the due date from cash on hand, the Superintendent may also make necessary arrangements for such Indian owner to pay the operation and maintenance charges from the proceeds of the crops grown on the land when harvested and marketed within that calendar year. Written statements to that effect will be furnished the Superintendent by the Indian owner on or before the due date.

In any instance where the Superintendent is convinced that an Indian landowner, whose land is not under lease to a non-Indian, is financially unable to pay his operation and maintenance charges from the proceeds of the crops being grown on the land, or from any other source, the delivery of water may be continued if a written certificate is issued by the Superintendent stating that such Indian is not financially able to pay such charges and copies thereof forwarded to the Deputy Assistant Secretary of Indian Affairs for approval or rejection.

In such cases the unpaid charges shall be entered on the accounts and will stand as a first lien against the land until paid but without penalty for delinquency.

Water Users Responsible for Water After Delivery

It is the duty of the Bureau of Indian Affairs to furnish available water for beneficial irrigation use only. It is the duty of all water users of the project to aid in the prevention of the waste of water and of damage to adjacent lands. The water users are responsible for the water after it has been delivered to their lands, and are required to have their field ditches of proper capacity and in suitable condition for the economical use of water.

Norris M. Cole,

Area Director.

[FR Doc. 83-23229 Filed 8-23-83; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[C-28560, C-28562, C-28564, C-28565]

Colorado; Proposed Continuation of Withdrawals of Lands

August 15, 1983.

In accordance with the provisions of Section 204 of the Federal Land Policy and Management Act, the Bureau of Land Management is reviewing possible continuation of Public Land Orders 459, 565, 698, and 779, as amended, which are existing withdrawals established for use of the United States Atomic Energy Commission in its domestic uranium program.

Colorado [C-28560]

Public Land Order 459 of March 25, 1948, as amended by Public Land Order 698 of February 12, 1951, Public Land Order 939 of February 8, 1954, Public Land Order 1223 of September 13, 1955, and Public Land Order 1398 of March 15, 1957, withdrew public lands and the minerals reserved to the United States in the patented lands, subject to valid existing rights and existing withdrawals. The following lands are currently proposed for withdrawal continuation:

New Mexico Principal Meridian

T. 46 N., R. 17 W.,
- Sec. 1, lots 2, 3, 4, 6, SW¼NE¼, S½NW¼, SE¼SE¼, and including that portion of patented MS 20207 in SW¼SE¼;
- Sec. 12, lot 1, NE¼NE¼, and excluding that portion of patented MS 20207 in NW¼NE¼.

T. 47 N., R. 17 W.,
- Sec. 5, lots 2, 3, 5, S½N½, N½S½, SW¼SW¼, and excluding that portion of patented MS 20273 in NE¼NE¼;
- Sec. 6, lots 10, 11, SE¼NE¼, E½SE¼, and excluding that portion of unpatented MS 19731A in SW¼NE¼ and NW¼SE¼;
- Sec. 17, SE¼SE¼;
- Sec. 20, lot 23, E½NE¼, and excluding those portions of patented MS 20454 and MS 20662 in NE¼SE¼;
- Sec. 21, lots 1, 3, 4, 5, 7, 8, N½NW¼, SW¼NW¼, E½SE¼, SW¼SE¼, and excluding those portions of patented MS 19799, MS 20182, MS 20449, and MS 20454 in SE¼NW¼, E½SW¼, NW¼SW¼, and NW¼SE¼;
- Sec. 27, lot 1, N½, NE¼SW¼, SE¼, and excluding that portion of patented MS 20196 in NW¼SW¼;
- Sec. 28, NE¼NE¼;
- Sec. 35, lots 2, 3, SE¼SW¼, excluding that portion of patented MS 20194 in SW¼SW¼, and including that portion of unpatented MS 20194 in SW¼SW¼.

T. 48 N., R. 17 W.,
- Sec. 32, lots 1, 2, 4, W½NE¼, SE¼NW¼, and excluding those portions of patented MS 20271 and MS 20272 in E½NE¼ and NE¼NW¼.

T. 43 N., R. 18 W., Sec. 32.

T. 43 N., R. 19 W.,
- Sec. 8, S½, excluding acquired MS 20647 in SW¼SE¼;
- Sec. 10;
- Sec. 11, S½;
- Sec. 14, N½ and E½SE¼;
- Sec. 15, N½, SW¼, and W½SE¼;
- Sec. 16;
- Sec. 17, excluding acquired MS 20646 and MS 20647 in NW¼NE¼, E½NW¼, SW¼NW¼, and NW¼SW¼;
- Sec. 18, lots 2, 3, 4, NE¼, SE¼NW¼, E½SW¼, SE¼, and excluding acquired MS 20645 and MS 20646 in SE¼NE¼, E½SW¼, and W½SE¼;
- Sec. 28, W½, excluding acquired MS 20641 in W½NW¼;
- Sec. 29, E½, excluding acquired MS 20641 in E½NE¼ and NW¼NE¼.

T. 44 N., R. 19 W.,
- Sec. 22, SE¼, excluding acquired MS 20640 in SE¼SE¼;
- Sec. 23, S½, excluding acquired MS 20640.

The area described aggregates approximately 7,952.14 acres in Montrose and San Miguel Counties. Acreages withdrawn in the original Public Land Order erroneously included lands patented prior to the order and lands patented without a reservation of uranium minerals to the United States. Lands

which contain unpatented mineral surveys and valid mining claims are included in the continuation of the withdrawal until such time as vested rights attach.

Colorado [C–28562]

Public Land Order 565 of February 25, 1949, as amended by Public Land Order 1092 of March 11, 1955, and Public Land Order 1398 of March 15, 1957, withdrew public lands and the minerals reserved to the United States in the patented lands, subject to valid claims and existing withdrawals. Any tract or tracts of land to which valid claims have attached under the public land laws prior to the date of the order are excluded from the reservation, provided that upon abandonment or extinguishment of such claims for any cause, the reservation shall immediately become effective as to such tract or tracts and the minerals therein. The following lands are currently proposed for withdrawal continuation:

New Mexico Principal Meridian

T. 46 N., R. 17 W.,
Sec. 16, lots 1, 2, N½S½, S½SE¼, and excluding that portion of patented MS 20221 in S½SW¼;
Sec. 17, lots 2, 3, 4, 5, and excluding those portions of patented MS 20225 and MS 20233 in SW¼;
Sec. 18, lots 15, 16, SE¼SW¼, SW¼SE¼, and excluding those portions of patented MS 20231 and MS 20233 in SW¼SW¼ and SE¼SE¼;
Sec. 19, lots 1, 2, 3, 4, E½, and E½W½ (all);
Sec. 20, lots 1, 2, 3, 4, 5, S½NW¼, S½, and excluding those portions of patented MS 20225 and MS 20226 in NE¼ and N½NW¼, and including that portion of unpatented MS 20474 in NE¼;
Sec. 21, lots 1, 2, 3, 4, 5, 6, 7, 8, S½, excluding those portions of patented MS 20133, MS 20219, MS 20221, MS 20222, and MS 20226 in N½;
Sec. 22, lots 1, 2, 3, 4, 6, 7, 8, SW¼, SW¼SE¼, and excluding those portions of patented MS 20219 and MS 20098A in NW¼, N½SE¼, and SE¼SE¼.

The area described aggregates approximately 2,616.85 acres in Montrose County. Acreages withdrawn in the original Public Land Order erroneously included lands patented prior to the order. Lands which contain valid mining claims are included in the continuation of the withdrawal until such time as vested rights attach.

Colorado [C–28564]

Public Land Order 698 of February 12, 1951, as amended by Public Land Order 939 of February 8, 1954, Public Land Order 981 of July 9, 1954, and Public Land Order 1398 of March 15, 1957, withdrew public lands and the minerals reserved to the United States in the patented lands, subject to valid claims and existing withdrawals. Any tract or tracts of land to which valid claims have attached under the public land laws prior to the date of the order are excluded from the reservation, provided that upon abandonment or extinguishment of such claims for any cause, the reservation shall immediately become effective as to such tract or tracts and the minerals therein. The following lands are currently proposed for withdrawal continuation:

New Mexico Principal Meridian

T. 47 N., R. 17 W.,
Sec. 16, S½SW¼;
Sec. 22, S½SW¼ and SW¼SE¼;
Sec. 36, S½SW¼ and SW¼SE¼.
T. 48 N., R. 17 W.,
Sec. 18, lots 1, 2, 3, 4, E½, and E½W½ (all);
Sec. 19, lots 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, NE¼, E½NW¼, NE¼SE¼, and excluding those portions of patented MS 19808 and MS 20263 in S½S½, NE¼SW¼, and NW¼SE¼;
Sec. 20, lots 1, 2, 3, N½, SW¼, NW¼SE¼, and excluding that portion of patented MS 20262 in NE¼SE¼ and S½SE¼;
Sec. 21, lots 1, 7, E½SE¼, and excluding that portion of patented MS 20284 in W½SE¼;
Sec. 22, lots 9, 10, 11, 12, 13, 14, 15, and 16;
Sec. 26, lots 10, 11, 12, and including those portions of tracts 37 and 38 in former W½SW¼ (33.64 acres of surface estate subject to State Indemnity Application, C–35774);
Sec. 27, lots 1, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, NE¼, E½NW¼, NW¼NW¼, NE¼SW¼, N½SE¼, excluding those portions of patented MS 20265, MS 20266, and MS 20267 in SW¼NW¼, W½SW¼, and SE¼SW¼, and including that portion of tract 37 in former lot 3 and SE¼SE¼ and that portion of tract 38 in former S½SE¼ (24.50 acres of surface estate subject to State Indemnity Application, C–35774);
Sec. 28, lots 19, 20, 26, 27, 28, and excluding those portions of patented MS 20264, MS 20265, and MS 20267 in NE¼.
T. 48 N., R. 18 W.,
Sec. 13, S½NE¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 24, lots 4, 5, 6, 7, 8, 9, N½NE¼, SE¼NE¼, NE¼NW¼, NE¼SE¼, and excluding those portions of patented MS 19807 and MS 20263 in SE¼NW¼, W½SE¼, and SE¼SE¼.

The area described aggregates approximately 3,972.31 acres in Montrose County. Acreages withdrawn in the original Public Land Order erroneously included lands patented prior to the order. Lands which contain valid mining claims and which are subject to State Indemnity Application are included in the continuation of the withdrawal until such time as vested rights attach.

Colorado [C–28565]

Public Land Order 779 of December 29, 1951, as amended by Public Land Order 825 of May 13, 1952, Public Land Order 1295 of April 26, 1956, and Public Land Order 1398 of March 15, 1957, withdrew public lands and the minerals reserved to the United States in the patented lands, subject to valid claims and existing withdrawals. Any tract or tracts of land to which valid claims have attached under the public land laws prior to the date of the order are excluded from the reservation, provided that upon abandonment or extinguishment of such claims for any cause, the reservation shall immediately become effective as to such tract or tracts and the minerals therein. The following lands are currently proposed for withdrawal continuation:

New Mexico Principal Meridian

T. 46 N., R. 17 W.,
Sec. 29, W½NW¼;
Sec. 30.
T. 45 N., R. 18 W.
Sec. 14, S½N½ and N½S½;
Sec. 15, NW¼.

The area described aggregates 1,200 acres in Montrose and San Miguel Counties. Lands which contain valid mining claims are included in the continuation of the withdrawal until such time as vested rights attach.

The Department of Energy proposes continuation of the withdrawals for 20 years. The purpose of the withdrawals is to stimulate mining and development of uranium ore for purchase by the Federal Government through a leasing program.

The Bureau of Land Management manages the surface resources of these withdrawals through an interagency agreement with the Department of Energy. The subsurface minerals remain under direct Department of Energy supervision. The custody of the property is vested in the Department of Energy. The withdrawals closed the lands to all forms of appropriation under the public land laws, including the mining laws but not the mineral leasing laws. No change in the segregative effect or use of the land would be affected by the continuations.

Notice is hereby given that a public hearing may be afforded in connection with the proposed withdrawal continuations. All interested persons who desire to be heard on the proposal must submit a written request for a hearing to the undersigned within 90 days of the publication of this notice. Upon a determination by the State Director, BLM, that a public hearing should be held, a notice will be published in the **Federal Register** giving the time and place of such hearing. Public hearings will be scheduled and conducted in accordance with BLM Manual 2351.16B. Additionally all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal

continuations may present their views in writting to the undersigned authorized officer of the BLM within 90 days of the date of publication of this notice.

The authorized officer of the BLM will undertake such investigations as are necessary and prepare a report for consideration by the Office of the Secretary of the Interior. The final determination on the continuation of the withdrawals will be published in the **Federal Register**. The existing withdrawals will continue until such final determination is made.

All communications in connection with these proposed withdrawal continuations should be addressed to the undersigned officer, Bureau of Land Management, Colorado State Office, 1037–20th Street, Denver, Colorado 80202.

Robert D. Dinsmore,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-23228 Filed 8-23-83; 8:45 am]

BILLING CODE 4310-84-M

Salmon District Grazing Advisory Board Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: The Salmon District of the Bureau of Land Management (BLM) announces a forthcoming meeting of the Salmon District Grazing Advisory Board.

DATE: The meeting will be held at 10:00 a.m., Monday, October 3, 1983.

ADDRESS: The meeting will be held at the Salmon District Office, Bureau of Land Management, Conference Room, South Highway 93, Salmon, Idaho 83467.

SUPPLEMENTARY INFORMATION: This meeting is held in accordance with Pub. L. 92–463 and 94–579. The primary purpose of the meeting will be to discuss proposed projects for FY 84.

The meeting is open to the public. Anyone may make oral statements to the Board or file written statements for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, P.O. Box 430, Salmon, Idaho 83467, by September 26, 1983.

Summary minutes of the Board meeting will be maintained in the District Office and will be available for public inspection within 30 days following the meeting.

Dated: August 16, 1983.

Jerry W. Goodman,

Acting District Manager.

[FR Doc. 83-23225 Filed 8-23-83; 8:45 am]

BILLING CODE 4310-84-M

Regional Leasing Target; Modification

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice is to inform the public that on July 5, 1983, the Secretary adopted a modified leasing target of 300 to 400 million tons of Federal recoverable coal reserves for the San Juan River Federal coal production region. On April 27, 1983, the San Juan River Regional Coal Team (RCT) met in Albuquerque, New Mexico, and discussed recommending changes to the regional leasing target. The original leasing target was 1.2 to 1.5 billion tons of Federal in-place reserves. The team recommended to the Secretary the leasing target be reduced to 800 to 900 million tons of Federal in-place reserves. This recommended leasing target is approximately 300 to 400 million tons of Federal recoverable coal reserves.

The Secretary's decision was based on all available information including extensive consultation with the Governors of New Mexico and Colorado. The adopted change is a direct result of recommendations from the regional coal team and the New Mexico State Governor. The regional leasing target will serve as the basis for proposed action alternative in the regional lease sale environmental impact statement to be prepared for the scheduled coa sale in 1984.

FOR FURTHER INFORMATION CONTACT: Project Manager, San Juan River Region, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501; (505–988–6460), or Chief, Division of Solid Mineral Leasing, Bureau of Land Management, 18th and C Streets, NW., Washington, D.C. 20240; (202–343–4636).

Dated: August 12, 1983.

James M. Parker,

Acting Director.

[FR Doc. 83-23223 Filed 8-23-83; 8:45 am]

BILLING CODE 4310-84-M

Carson City District Advisory Council

Notice: The Council will meet September 21 at 7:00 p.m. in the City Council Chambers, 55 West Williams, Fallon, Nevada. The agenda will focus on the concerns miners have in relation to the Bureau. The meeting will be open to the public, and anyone may appear before the Council at 9:00 p.m.

For further information contact: Steve Weiss, Public Affairs Officer, BLM, 1050 E. William St., Suite 335, Carson City, NV 89701; (702) 882–1631.

Dated: August 15, 1983.

Thomas J. Owen,

District Manager.

[FR Doc. 83-23227 Filed 8-23-83; 8:45 am]

BILLING CODE 4310-84-M

[W-80369]

Wyoming; Conveyance Sale of Public Land in Park County, Wyoming

Notice is hereby given that pursuant to Section 303 of the Act of October 21, 1976; 43 U.S.C. 1713 (1976), Michael C. and Shauna Paulsen have purchased and received a patent for the following described public land in Park County, Wyoming.

Sixth Principal Meridan

T. 51 N., R. 104 W.,
Sec. 1, lot 19.

Containing 2.5 acres.

James L. Edlefsen,

Chief, Branch of Land Resources.

[FR Doc. 83-23226 Filed 8-23-83; 8:45 am]

BILLING CODE 4310-84-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-146]

Certain Canape Makers; Commission Decision not to Review Initial Determination; Deadline for Filing Written Submissions on Remedy, the Public Interest, and Bonding; Vacation of Initial Determination on Temporary Relief

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has determined not to review the presiding officer's initial determination that there is a violation of section 337 in the above-captioned investigation. The parties to the investigation and interested Government agencies are requested to file written submissions on the issues of remedy, the public interest, and bonding.

In view of its decision not to review the presiding officer's initial determination of July 21, 1983, that there is a violation of section 337, the Commission has vacated as moot the presiding officer's initial determination on temporary relief issued on July 15, 1983.

Authority: The authority for the Commissions disposition of this matter is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and in sections 210.53–.56 of the Commission's Rules of Practice and Procedure (47 FR 25134 (June 10, 1982) as amended by 48 FR 20225 (May 5, 1983) and 48 FR 21115 (May 11, 1983); to be codified at 19 CFR 210.53–.56).

SUPPLEMENTARY INFORMATION: On July 21, 1983, the presiding officer issued an initial determination that there is violation of section 337 in the unauthorized importation and sale of certain canape makers. No petitions for review of the initial determination were filed by any party and no written comments were filed by any Government agency. Consequently, the initial determination has become the Commission determination on violation of section 337 in this investigation.

Written Submissions: Inasmuch as the Commission has found that a violation of section 337 has occurred, it may issue: (1) An order which could result in the exclusion of the subject articles from entry into the United States, and/or (2) cease and desist orders which could result in one or more respondents being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions which address the form of relief, if any, which should be ordered.

If the Commission contemplates some form of relief, it must consider the effect of that relief upon the public interest. The factors which the Commission will consider include the effect that an exclusion order and/or a cease and desist order would have upon: (1) The public health and welfare, (2) competitive conditions in the U.S. economy, (3) the U.S. production of articles which are like or directly competitive with those which are the subject of the investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions concerning the effect, if any, that granting relief would have on the public interest.

If the Commission orders some form of relief, the President has 60 days to approve or disapprove the Commission's action. During this period, the subject articles would be entitled to enter the United States under a bond in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving written submissions concerning the amount of bond, if any, which should be imposed.

The parties to the investigation and interested Government agencies are requested to file written submissions on the issues of remedy, the public interest, and bonding. The complainant and the Commission investigative attorney are also requested to submit a proposed exclusion order and/or a proposed cease and desist order for the commission's consideration. Persons other than the parties and Government agencies may file written submissions addressing the issues of remedy, the public interest, and bonding. Written submissions on remedy, the public interest, and bonding must be filed not later than the close of business on September 6, 1983.

Commission Hearing: The Commission does not plan to hold a public hearing in connection with final disposition of this investigation.

Additional Information: Persons submitting written submissions must file the original document and 14 true copies thereof with the Office of the Secretary on or before the deadline stated above. Any person desiring to submit a document (or a portion thereof) to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment by the presiding officer. all such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. Documents containing confidential information approved by the Commission for confidential treatment will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Secretary's Office.

Notice of this investigation was published in the **Federal Register** of April 27, 1983, (48 FR 19086).

Copies of the presiding officer's initial determination of July 21, 1983, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: Clarease E. Mitchell, Esq., Office of the General Counsel, U.S. International trade Commission, telephone 202–523–3395.

Issued: August 16, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–23287 Filed 8–23–83; 8:45 am]
BILLING CODE 7020–02–M

[Investigation No. 337–TA–158; Order No. 1]

Certain Plastic Light Duty Screw Anchors; Import Investigation

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Donald K. Duvall as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the **Federal Register.**

Issued: August 15, 1983.

Donald K. Duvall,

Chief Administrative Law Judge.

[FR Doc. 83–23288 Filed 8–22–83; 8:45 am]
BILLING CODE 7020–02–M

[Investigation No. 337–TA–159]

Certain Poultry Cut Up Machines; Investigation

AGENCY: International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on July 14, 1983, under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), on behalf of Foodcraft Equipment Company, Inc., Route 322, Box 9, New Holland, Pennsylvania 17557. The complaint alleges unfair methods of competition and unfair acts in the importation of certain poultry cut up machines into the United States, or in their sale, by reason of: (a) Infringement of claims 17–21 and 43–46 of U.S. Letters Patent 4,016,624, and (b) infringement of claims 1–8 and 11 of U.S. Letters Patent 4,385,421; (c) common law trademark infringement; (d) false representation; (e) passing off; (f) failure to mark country of origin; and (g) false advertising. The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

The complainant requests that the Commission institute an investigation and, after a full investigation, issue a permanent exclusion order and a permanent cease and desist order.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930 and in § 210.12 of the Commission's Rules of Practice and Procedure (19 CFR 210.12).

Scope of investigation: Having considered the complaint, the U.S.

International Trade Commission, on August 9, 1983, ordered that:

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930 an investigation be instituted to determine whether there is a violation of subsection (a) of section 337 in the unlawful importation of certain poultry cut up machines into the United States, or in their sale, by reason of (a) infringement of claims 17–21 and 43–46 of U.S. Letters Patent 4,016,624 and (b) infringement of claims 1–8 and 11 of U.S. Letters Patent 4,385,421; (c) common law trademark infringement; (d) false representation; (e) passing off; (f) failure to mark country of origin; and (g) false advertising, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—

FoodCraft Equipment Company Inc., Route 322, Box 9, New Holland, Pennsylvania 17557

(b) The respondents are the following companies, alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Pritchard Sales Company, Division of Cagle's, Inc., 1155 Hammond Drive, Atlanta, Georgia 30328
Jacobus Eliza Hazenbroek, Burg de Zeeuwstraat 52, Numansdorp, The Netherlands
Systemate B.V., Burg de Zeeuwstraat 52, Numansdorp, The Netherlands
Systemate International Ltd., P.O. Box 857, Georgetown, Grand Caymen, British West Indies
Numafa B.V., Industrie Straat 3, Numansdorp, The Netherlands

(c) Wilhelm A. Zeitler, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, 701 E Street NW., Room 126, Washington, D.C. 20436, shall be the Commission investigative attorney, a party to this investigation; and

(3) For the investigation so instituted, Donald K. Duvall, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding officer.

Responses must be submitted by the named respondents in accordance with § 210.21 of the Commission's Rules of Practice and Procedure (19 CFR 210.21). Pursuant to §§ 201.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the presiding officer and the Commission, without further notive to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings.

The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Room 156, Washington, D.C. 20436, telephone 202–523–0471.

FOR FURTHER INFORMATION CONTACT: Wilhelm A. Zeitler, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, telephone 202–523–0390.

Issued: August 15, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–23285 Filed 8–23–83; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–145]

Certain Rotary Wheel Printers; Commission Decision Not To Review Initial Determination Terminating Respondent

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has determined not to review the presiding officer's initial determination (Order No. 21) granting a joint motion (Motion No. 145–26) by complainant Qume Corporation (Qume) and respondent NEC Corporation (NEC) to terminate the above-captioned investigation as to NEC on the basis of a settlement agreement.

Authority: Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and §§ 210.53(c) and 210.53(h) of the Commission's Rules of Practice and Procedure (47 FR 25134, June 10, 1982, and 48 FR 20225, May 5, 1982; to be codified at 19 CFR 210.53(c) and (h)).

SUPPLEMENTARY INFORMATION: On April 13, 1983, the Commission voted to institute investigation No. 337–TA–145, *Certain Rotary Wheel Printers*, on the basis of a complaint filed by Qume on March 16, 1983, under section 337 of the Tariff Act of 1930. Notice of the investigation was published in the **Federal Register** on April 20, 1983. 48 FR 16975. The purpose of this investigation is to determine whether there is a violation of section 337 in the unauthorized importation and sale of certain rotary wheel printers by virtue of their alleged infringement of claims 1, 8, and 11 of U.S. Letters Patent 4,118,129 (the '129 patent). There are presently nine respondents in addition to NEC.

On June 21, 1983, complainant Qume and respondent NEC filed a joint motion (Motion No 145–26) to terminate this investigation as to NEC on the basis of a settlement agreement, which became effective as of June 10, 1983. On July 20, 1983, the presiding officer issued an initial determination (Order No. 21) granting Motion No. 145–26.

Notice of the joint motion to terminate NEC as a respondent, seeking public comments, was published in the **Federal Register** on July 25, 1983. 48 FR 33760. No comments or petitions for review have been received.

Copies of the presiding officer's initial determination and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: Jane Albrecht, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–1627.

Issued: August 19, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–23286 Filed 8–23–83; 8:45 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Permanent Authority Decision; Decision-Notice

Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers. The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice.

See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register**, December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Person wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorization is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings:

With the exception to those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary findings with respect to each of the following types of applications as indicated: common carrier of property—that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier—that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor carrier of property, freight forwarder, and household goods broker—that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment for a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Agatha L. Mergenovich,

Secretary.

Note: All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications, for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly noted.

For the following, please direct status calls to Team 5 at 202–275–7288.

Volume No. OP5–433

Decided: August 16, 1983.

By the Commission, Review Board Members Joyce, Fortier, and Carleton.

MC 86363 (Sub-61), filed July 29, 1983. Applicant: CARTWRIGHT VAN LINES, INC., 11901 Cartwright Ave., Grandview, MO 64030. Representative: Jake Markel (same address as applicant), (816) 763–2700. Transporting *household goods*, between points in the U.S., under continuing contract(s) with persons as defined in Section 10923 of the Motor Carriers Act of 1980, who are individual shippers, commercial shippers, or government bill of lading shippers.

MC 125649 (Sub-3), filed July 5, 1983. Applicant: HOOVER WRECKER SERVICE, INC., Route 2, Box 120, Broadway, VA 22815. Representative: William B. Elmer, P.O. Box 801, Traverse City, MI 49685–0801, (616) 941–5313. Transporting *transportation equipment* between points in VA and WV, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 166419, filed August 4, 1983. Applicant: MITCHELL TRUCKING COMPANY, Hwy. 82 East, Stamps, AR 71860. Representative: David L. Beatty, Drawer 640, Lewisville, AR 71845, (501) 921–4218. Transporting (1) *building materials*, and (2) *lumber and wood products*, between points in AR, LA, TX, OK, MS, AL, GA, FL, KS, MO, TN, and NM.

MC 166909, filed June 27, 1983. Applicant: MAPLEHURST REFRIGERATED EXPRESS SOUTH, INC., 62 Adamson Industrial Blvd., Carrollton, GA 30117. Representative: Donald W. Smith, P.O. Box 40240, Indianaploish, IN 46240, 317–846–6655. Transporting *food and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Maplehurst Deli-Bake South, Inc. of Carrollton, GA and Maplehurst Deli-Bake, Inc., and Maplehurst Farms, Inc. both of Indianapolis, IN.

MC 169709, filed August 8, 1983. Applicant: ALUMINUM TRANSPORT, INC., R. 3 Box 286, Rockport, IN 47635. Representative: Richard A. Huser, One Indiana Square, Suite 2120, Indianapolis, IN 46204, 317–639–5534. Transporting *aluminum dross and salt cake*, between points in Spencer County, IN, on the one hand, and, on the other, points in Daviess and McLean Counties, KY.

MC 169738, filed August 8, 1983. Applicant: ATKIN OF INDIANA, INC., Bellefontaine Rd., P.O. Box 58, Hamilton, IN 46742. Represenative: James P. Kirkhope, P.O. Box 15296, Fort Wayne, IN 46885; 219–422–6884. Transporting (1) *machinery*, (2) *pulp, paper and related products*, (3) *rubber and plastic products*, (4) *automotive parts*, (5) *metal articles*, between points in the U.S. (except AK and HI).

Volume No. OPS–434

Decided: August 17, 1983.

By The Commission, Review Board Members Fortier, Dowell and Joyce.

MC 5449 (Sub-3), filed July 11, 1983. Applicant: LARMORE INCORPORATED, P.O. Box 3943, Wilmington, DE 19804. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105 (314) 727–0777. Transporting *general*

commodities (except classes A and B explosives and commodities in bulk), between points in the U.S., under continuing contract(s) with United Intermode, Inc., of Fenton, MO.

MC 13179 (Sub-7), filed August 8, 1983. Applicant: R. C. WILLIAMS, INC., P.O. Box 273, Russell, KS 67665. Representative: R. C. Williams, II (same address as applicant) (913) 483–2101. Transporting *Mercer commodities*, between points in the U.S. (except HI).

MC 25399 (Sub-25), filed August 2, 1983. Applicant: A–P–A TRANSPORT CORP., 2100 86th St., North Bergen, NJ 07047. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934 (201 234–0301. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in ME, NH, VT, MA, RI, CT, NY, NJ, PA, DE, MD, VA, WV, and DC, on the one hand, and, on the other, points in CA, OR, and WA.

MC 35628 (Sub-455), filed August 5, 1983. Applicant: IMFS, INC., d.b.a. INTERSTATE SYSTEM, 110 Ionia Ave., NW., Grand Rapids, MI 49503. Representative: Michael P. Zell (same address as applicant) (616) 744–0400. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Ford Motor Company, of Dearborn, MI, Agway, Inc., of Syracuse, NY, Cooper Tire & Rubber Co., of Findlay, OH, and Goodyear Tire & Rubber Company, of Akron, OH.

MC 41098 (Sub-123), filed August 8, 1983. Applicant: GLOBAL VAN LINES, INC., One Global Way, Anaheim, CA 92803. Representative: Alan F. Wohlstetter, 1700 K Street, N.W., Washington, DC 20006; (202) 833–8884. Transporting *household goods*, between points in the U.S. under continuing contract(s) with Dart & Kraft, Inc., of Northbrook IL and its subsidiaries.

MC 106398 (Sub-1097), filed August 8, 1983. Applicant: NTC OF AMERICA, INC., P.O. Box 3329, Tulsa, OK 74101. Representative: Thomas P. Sciortino, Suite 300, Communicana Bldg., 421 South Second St., Elkhart, IN 46516; (219) 293–3597. Transporting *transportation equipment*, and *buildings*, between points in the U.S. (except AK and HI), under continuing contract(s) with Fleetwood Enterprises, Inc., of Riverside, CA, and its subsidiaries.

MC 116159 (Sub-389), filed August 5, 1983. Applicant: DISTRIBUTION SERVICE SYSTEMS, INC., 2961 Interstate Street, Unit 2, Charlotte, NC 28206, Representative: Thomas E. Vandenberg, P.O. Box 2545, Green Bay, WI 54306; (414) 498–7489. Transporting *such commodities* as are dealt in, or used by, department and home improvement stores, between points in the U.S. (except AK and HI), under continuing contract(s) with department and home improvement stores.

MC 118318 (Sub-65), filed August 5, 1983. Applicant: IDA–CAL FREIGHT LINES, INC., P.O. Drawer M, Nampa, ID 83651. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701; (208) 343–3071. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in the U.S., under continuing contract(s) with the J.R. Simplot Company, of Boise, ID and its subsidiaries.

MC 120978 (Sub-37), filed August 8, 1983. Applicant: MAYER TRUCK LINE, INC., 1203 South Riverside Dr., Jamestown, ND 58401. Representative: Richard P. Anderson, Federal Square, 112 Roberts St., P.O. Box 2581, Fargo, ND 58108; (701) 293–3300. Transporting (1) *general commodities* (except classes A and B explosives and household goods), between points in IL, MN, MT, SD, and WI, on the one hand, and, on the other, points in the U.S. (except AK and HI); and (2) *lumber and wood products*, and *building materials*, between points in the U.S. (except AK and HI).

Volume No. OP5–435

Decided: August 17, 1983.

By the Commission, Review Board Members Joyce, Carleton and Fortier.

MC 128648 (Sub-36), filed August 3, 1983. Applicant: TRANS–UNITED, INC., P.O. Box 2061, East Chicago, IN 46312. Representative: Joseph Winter, 29 So. LaSalle St., Chicago, IL 60603, (312) 263–2306. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 144319 (Sub-2(a)), filed August 2, 1983. Applicant: JOHN BRACY, d.b.a. NORTHWEST AGRI SUPPLY, 1056 Willoma Dr., Billings, MT 59105. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701, (208) 343–3071. Transporting *general commodities* (except classes A and B explosives and household goods), between points in AZ, CA, CO, ID, IA, KS, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, and WY.

Note.—Applicant also seeks fitness-related authority in MC–144319 Sub 2(b), published in this same **Federal Register**.

MC 146078 (Sub-49), filed August 4, 1983. Applicant: CAL–ARK, INC., 854 Moline, Malvern, AR 72104. Representative: James M. Duckett, 221 W. 2nd St., Suite 411, Little Rock, AR 72201, (501) 375–3022. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Continental Group, of Stamford, CT.

MC 169638, filed August 1, 1983. Applicant: STEVEN M. STRUTHERS, MARK S. AND SCOTT LEONARD, d.b.a. ENTERTAINMENT TRANSPORTATION, 5079 Maywood Ave., Los Angeles, CA 90041. Representative: Milton W. Flack, 8484 Wilshire Blvd., #840, Beverly Hills, CA 90211, (213) 655–3573. Transporting (a) *theatrical and entertainment equipment* between points in the U.S. (except AK and HI), and (b) *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Los Angeles, CA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Please direct status inquiries to Team 1, (202) 275–7030.

Volume No. OP–1–347(N)

Decided: August 16, 1983.

By the Commission, Review Board Members Joyce, Dowell, and Carleton.

MC 169639, filed August 2, 1983. Applicant: TERRELL W. COWAN d.b.a. COWAN TRUCKING, 4167 NE Brogden St., Hillsboro, OR 97123. Representative: Terrell W. Cowan (same address as applicant.) (503) 648–1236. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. under continuing contract(s) with Cascade West Transportation Brokers of Laker Oswego, OR.

MC 117201 (Sub-65), filed August 8, 1983. Applicant: INTERSTATE DISTRIBUTOR CO., 8311 Durango S.W., Tacoma, WA 98499. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 239, Renton, WA 98055, (206) 228–3807. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with Aspen Distribution, Inc., of Salt Lake City, UT.

MC 126111 (Sub-12), filed August 5, 1983. Applicant: SCHAETZEL TRUCKING CO., INC., 520 East Sullivan Dr. P.O. Box 1579, Fond du Lac, WI 54935. Representative: Daniel R. Dineen,

710 N. Plankinton Ave., Milwaukee, WI 53203, (414) 273–7410. Transporting *chemicals and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Sicalco, Ltd., of Oak Brook, IL.

MC 150511 (Sub-10), filed August 25, 1983. Applicant: BETTER HOME DELIVERIES, INC., 3700 Park East Dr., Cleveland, OH 44122. Representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114, (216) 566–5639. Transporting (1) *such commodities* as are dealt in or used by manufacturers, distributors and dealers of bedding, under continuing contract(s) with manufacturers, distributors and dealers of bedding, (2) *such commodities as* are dealt in or used by manufacturers, distributors and dealers of furniture and fixtures, under continuing contract(s) with manufacturers, distributors and dealers of furniture and fixtures, (3) such commodities as are dealt in or used by manufacturers, distributors and dealers of food and related products, under continuing contract(s) with manufacturers, distributors and dealers of food and related products, (4) *such commodities* as are dealt in or used by manufacturers, distributors and dealers of musical instruments and recordings, under continuing contract(s) with manufacturers, distributors and dealers of musical instruments and recordings, and (5) *such commodities* as are dealt in or used by retail and wholesale department stores, under continuing contract(s) with retail and wholesale department stores, between ponts in the U.S.

MC 152261 (Sub-7), filed August 8, 1983. Applicant: M. W. ETTINGER, INC., 2711 North Fairview Ave., St. Paul, MN 55113. Representative: Stanley C. Olsen, Jr., 5200 Willson Road, Suite 307, Minneapolis, MN 55424, (612) 927–8855. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with 5–D Truck Leasing, Inc., of New Brighton, MN.

MC 169640, filed August 2, 1983. Applicant: CARIBMAR TRADING LTD., INC., 3500 N.W. 114th St., Miami, FL 33167. Representative: Richard A. Pettigrew, 3200 Miami Center, 100 Chopin Plaza, Miami, FL 33131, (305) 579–0360. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between Miami, FL and Palm Beach, FL.

MC 169741, filed August 8, 1983. Applicant: BERNARD SPENCER, 695 S.E. Colfax, Madras, OR 97741. Representative: Bernard Spencer (same address as applicant), (503) 475–2883. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with R & R Truck Brokers, Inc., of Medford, OR.

Volume No. OP–1–349

Decided: August 16, 1983.

By the Commission, Review Board Members Dowell, Fortier, and Joyce.

MC 94201 (Sub-209), filed August 8, 1983. Applicant: BOWMAN TRANSPORTATION, INC., P.O. Box 17744, Atlanta, GA 30316. Representative: Gerald D. Colvin, Jr., 601–09 Frank Nelson Bldg., Birmingham, AL 35203, (205) 251–2881. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Goodyear Tire & Rubber Company, Inc., of Akron, OH.

MC 117201 (Sub-64), filed August 8, 1983. Applicant: INTERSTATE DISTRIBUTOR CO., 8311 Durango, S.W., Tacoma, WA 98499. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 239, Renton, WA 98055, (206) 228–3807. Transporting *such commodities* as are dealt in or used by manufacturers or distributors of paper products, under continuing contract(s) with manufacturers, distributors, or dealers of paper products.

MC 149170 (Sub-24), filed July 29, 1983. Applicant: ACTION CARRIERS, INC, 208 West 9th Street, Box 850, Sioux Falls, SD 57117. Representative: Carl L. Steiner, 135 South LaSalle Street, Chicago, IL 60603, (312) 236–0375 Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Action Brokers, Inc., of Sioux Falls, SD. Condition: Issuance of a permit in this proceeding is conditioned upon issuance of a Brokers License in MC–169374.

MC 153610 (Sub-6), filed July 26, 1983. Applicant: LEASWAY TRUCKING, INC., 1101–31st St., Downers Grove, IL 60515. Representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114, (216) 566–5639. Transporting (1) *air conditioning and refrigeration products*, under continuing contract(s) with manufacturers, distributors, or dealers of air conditioning and refrigeration products, (2) *containers*, under continuing contract(s) with manufacturers, distributors, or dealers of containers, (3) *electrical products*, under continuing contract(s) with manufacturers, distributors, or dealers of electrical products, (4) *food products*, under continuing contract(s) with manufacturers, distributors, or dealers of food products, (5) *metal products*, under continuing contract(s) with manufacturers, distributors, or dealers of metal products, (6) *paint products*, under continuing contract(s) with manufacturers, distributors, or dealers of paint products, (7) *paper products*, under continuing contract(s) with manufacturers, distributors, or dealers of paper products, (8) *telecommunication products*, under continuing contract(s) with manufacturers, distributors, or dealers of telecommunication products, (9) *tire and rubber products*, under continuing contract(s) with manufacturers, distriburtors, or dealers of tire and rubber products, (10) *tobacco products*, under continuing contract(s) with manufacturers, distributors, or dealers of tobacco products, and (11) *wholesale and retail department store merchandise*, under continuing contract(s) with wholesale and retail department stores, between points in the U.S.

MC 168130, filed July 27, 1983. Applicant: K B H, INC., 2433 Government Way, Suite A, Coeur d'Alene, ID 83814. Representative: R. Brady Harper (same address as applicant), (208) 667–1802. Transporting (1) *metal products, machinery, building materials*, and *such commodities* as are used in mining and railroad construction, between points in the U.S. (except AK and HI), (2) *clay, concrete, glass, or stone products*, between points in CA, ID, MT, NV, OR and UT, on the one hand, and, on the other, points in the U.S. (except AK and HI), (3) *lumber and wood products*, between points in Sanders County, MT, on the one hand, and, on the other, those points in the U.S. In and west of ND, SD, NE, KS, OK, AR, and TX (except AK and HI), and (4) *fiberglass products*, between points in Weber County, UT, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 168310, filed August 8, 1983. Applicant: JENKINS TRUCKING & SONS, INC., Route 2, Albright, WV, 26519. Representative: Harold E. Jenkins (same address as applicant), (304) 329–1822. Transporting *general commodities* (except classes A and B Explosives and household goods), between points in WV, on the one hand, and, on the other, points in DE, IL, IN, KY, MD, NJ, NC, OH, PA, SC, VA and DC.

MC 169261, filed August 5, 1983. Applicant: MARTIN S. SUNDE, d.b.a. S.M.S. TRUCKING, 4305 220th East, Spanaway, WA 98387. Representative: Kenneth R. Mitchell, 2320A Milwaukee Way, Tacoma, WA 98421 (206) 383–3098. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in AZ, CA, CO, ID, MT, NV, NM, OR, TX, UT, WA and WY.

MC 169501, filed July 27, 1983. Applicant: INNOVATIVE TRANSPORTATION SYSTEMS, INC., 95 State Street, Springfield, MA 01103. Representative: David M. Marshall (same address as applicant), (413) 732–1136. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in the U.S. under continuing contract(s) with distribution Specialists, Inc., of Springfield, MA.

Please direct status inquiries to Team 2, (202) 275–7930.

Volume No. OP–2–362

Decided: August 16, 1983.

By the Commission, Review Board, Members Fortier, Dowell, and Carleton.

MC 112422 (Sub-15), filed July 25, 1983. Applicant: SAM VAN GALDER, INC., 715 S. Pearl St., Janesville, WI 53545. Representative: Richard A. Westley, 4506 Regent St., Suite 100, P.O. Box 5086, Madison, WI 53705–0086, (608) 238–3119. Transporting *passengers*, over regular routes, between Monroe, WI, and O'Hare International Airport at or near Chicago, IL, serving all intermediate points, in interstate or foreign commerce, and in intrastate commerce, between Freeport, IL, and O'Hare International Airport, serving all intermediate points in intrastate commerce: (1) from Monre, WI, over WI Hwy. 69 to the IL-WI State line, then over IL Hwy 26 to Freeport, IL, then over U.S. Hwy 20 to Rockford, IL, then over Interstate Hwy. 90 to O'Hare International Airport, and return over the same route: (2) from Monroe, WI to Rockford, ILover the routes specified in (1) above, then over U.S. Hwy. 51 to junction with IL Hwy. 5, then over IL Hwy. 5 to junction with Interstate Hwy. 294, then over Interstate Hwy. 294 to O'Hare International Airport, and return over the same route.

Note.—Applicant seeks to provide regular-route service in interstate or foreign commerce and in intrastate commerce under 49 U.S.C. 10922(c)(2)(B), over the same route.

MC 112713 (Sub-347), filed August 2, 1983. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, Overland Park, KS 66207. Representative: William F. Martin, Jr. (same address as applicant) (913) 383–3000. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Borg-Warner Chemicals, Inc., of Parkersburg, WV.

MC 148833 (Sub-13), filed July 22, 1983. Applicant: REBEL EXPRESS, INC., Box 98, Dawson, IA 50066. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309, (515) 245–4300. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with (1) All Points Transportation, Inc., of Denver, CO, and (2) Ayers Brothers Enterprises, Inc., of Perry, IA.

MC 151193 (Sub-43), filed July 26, 1983. Applicant: PAULS TRUCKING CORPORATION, 286 Homestead Ave., Avenel, NJ 07001. Representation: Michael A. Bean (same address as applicant), (201) 499–3869. Transporting *drugs, medicines, toilet preparations, pet products, and pharmaceuticals,* between points in the U.S. (except AK and HI), under continuing contract(s) with Carter-Wallace, Inc., of Cranbury, NJ.

MC 164713 (Sub-3), filed August 2, 1983. Applicant: LEASEWAY DELIVERIES, INC., 110 Newbury St., Rochester, NY 14613. Representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114, 216–566–5639. Transporting *such commodities* as are dealt in or used by retail department stores, between points in the U.S., under continuing contract(s) with Sears, Roebuck and Co., of Philadelphia, PA.

MC 166143 (Sub-1), filed July 27, 1983. Applicant: ROCAR EQUIPMENT COMPANY, P.O. Box 272, Lansing, IL 60438. Representative: Carl L. Steiner, 135 S. LaSalle St., Suite 2106, Chicago, IL 60603, (312) 236–9375. Transporting *chemicals and related products and petroleum and coal products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Pride Refining Company, of Elmhurst, IL.

MC 167402 (Sub-1), filed July 27, 1983. Applicant: FRANKLIN COUNTY CHEESE CORPORATION, East St., Enosburg Falls, VT 05450. Representative: Don Garrison, 416 Hay Dr., SW–F1, Decatur, AL 35603, (205) 355–0221. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Charles McAlpin Brokerage, Inc., of Decatur, AL.

MC 167642, filed July 26, 1983. Applicant: SPEIGHTS SERVICE COMPANY, 845 Brook Hollow Rd., Nashville, TN 37205. Representative: G. David Speights (same address as applicant) (615) 352–6407. Transporting *boats,* between points in the U.S., (except AK and HI), under continuing contract(s) with Harbour, Inc., of Dickson County, TN.

Volume No. OP–2–363

Decided August 15, 1983.

By the Commission, Review Board, Members Dowell, Fortier, and Carleton.

MC 107012 (Sub-847), filed July 18, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Gerald A. Burns (same address as applicant) 219–429–2234. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with General Foods Corporation, of White Plains, NY, and its subsidiaries.

MC 107012 (Sub-857), filed August 3, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort. Wayne, IN 46801. Representative: Margaret S. Vegeler (same address as applicant) 219–429–2213. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S., under continuing contract(s) with Semi Fab Inc., of Hollister, CA.

MC 110683 (Sub-220), filed August 2, 1983. Applicant: SMITH'S TRANSFER CORPORATION, P.O. Box 1000, Staunton, VA 24401. Representative: Harry J. Jordan, 1090 Vermont Ave., N.W., Washington, DC 20005; 202–783–8131. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Caterpillar Tractor Company, of Peoria, IL.

MC 119012 (Sub-20), filed August 2, 1983. Applicant: RIVER TERMINALS TRANSPORT, INC., 202 George Street, Aurora, IN 47001. Representative: Michael D. McCormick, 1301 Merchants Pl., Indianapolis, IN 46204; 317–638–1301. Transporting *general commodities* (except classes A and B explosives and household goods), between points in Dearborn County, IN, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK,

and TX. Condition: Issuance of this authority is subject to approval of the Petition for Exemption in MC–F–15389.

MC 141532 (Sub-115), filed July 27, 1983. Applicant: PACIFIC STATES TRANSPORT, INC., d.b.a. PST, 505 South 800 West, Lindon, UT 84062. Representative: Ramona Vance (same address as applicant) 801–785–7525. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk) between points in the U.S. (except AK and HI).

MC 146302 (Sub-6), filed July 26, 1983. Applicant: ROBERT KOLBECK d.b.a. KOLBECK TRUCKING, Rt. 23977 County Highway J, North Schofield, WI 54476. Representative: Nancy J. Johnson, 103 East Washington St., Box 218, Crandon, WI 54520; 715–478–3341. Transporting (1) *general commodities* (except classes A and B explosives, and household goods), between points in ME, NJ, NH, VT, NY, PA, CT, MD, MA, RI, DE, VA, MO, WV, KY, OH, MN, IL, IN, MI, IA, WI, ND, SD, and DC, and (2) *food and related products, electronic equipment, and paper products,* between points in WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 147002 (Sub-3), filed July 20, 1983. Applicant: BELUGA TRUCKING, INC., 1110 W. 6th Ave., No. 208, Anchorage, AK 99501. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101; 703–893–3050. Transporting *general commodities* (except classes A and B explosives, and household goods), between points the in U.S., under continuing contract(s) with (a) B.J. Hughes, Inc., (b) Darrel Peterson Construction, Inc., (c) Nugget Properties, Inc., (d) Petroleum Equipment & Services, Inc., and (e) Spenard Builders Supply, all of Anchorage, AK.

MC 149542 (Sub-1), filed July 27, 1983. Applicant: AMERICAN PRIORITY ENTERPRISES, INC., 1072 Randolph Ave., Rahway, NJ 07065. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904; 201–572–5551. Transporting *drugs, medicines, pharmaceuticals, stomahesive products, dental and hospital supplies, store displays, and printed matter,* between points in the U.S. (except AK and HI). Condition: Issuance of a certificate in this proceeding is conditioned upon coincidental cancellation of Permits MC–147223 (Sub-3), and MC–147223 (Sub-4), issued November 24, 1980, and December 16, 1980, respectively.

Note.—The purpose of this application is to convert applicant's contract carrier authority to common carrier authority.

Volume No. OP–2–366

Decided: August 17, 1983.

By the Commission, Review Board Members Fortier, Dowell, and Carleton.

MC 107012 (Sub-862), filed August 5, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant), 219–429–2110. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with ITOFCA, Inc., and ITOFCA Consolidators, Inc., of Downers Grove, IL.

MC 107012 (Sub-863), filed August 5, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant), 219–429–2110. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with The Stroh Brewery Company, of Detroit, MI.

MC 142393 (Sub-4), filed July 14, 1983. Applicant: ROBBIE D. WOOD, INC., 2825 Old Warrior River Rd., P.O. Box 125, Dolomite, AL 35061. Representative: G. Stan Wood (same address as applicant), (205) 744–8440. Transporting *commodities in bulk,* between points in the U.S. (except AK and HI).

MC 144542 (Sub-5), filed August 5, 1983. Applicant: CAR TRANSPORTERS CORPORATION, 2001 West 4th Plain, Vancouver, WA 98660. Representative: John R. Bagileo, 918 16th St., NW., Washington, DC 20006; 202–785–3700. Transporting *motor vehicles,* between points in the U.S. (except HI), under continuing contract(s) with persons engaged in the manufacture, distribution, and sale of motor vehicles.

MC 154942 (Sub-2), filed July 28, 1983. Applicant: MUSIC CITY TRANSPORT, INC., P.O. Box 100022, Nashville, TN 37210. Representative: Stephen L. Edwards, 806 Nashville Bank & Trust Bldg., Nashville, TN 37201; (615) 255–9911. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 160673 (Sub-4), filed July 26, 1983. Applicant: CLARK TRUCKING, INC., 75 Randolph Ave., Avenel, NJ 07001. Representative: Eugene M. Malkin, Suite 1832, Two World Trade Center, New York, NY 10048, (212) 466–0220. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 169482, filed July 27, 1983. Applicant: GCC BEVERAGES, INC., 1300 Boylston St., Box 500, Chestnut Hill, MA 02167. Representative: Robert G. Parks, 20 Walnut St., Suite 101, Wellesley Hills, MA 02181, 617–235–5571. Transporting *such commodities* as are dealt in or used by manufacturers of plastics and plastic articles, between points in the U.S., under continuing contract(s) with Amoco Container Company, of Atlanta, GA.

MC 169603, filed August 2, 1983. Applicant: WILLIAM McCANDLESS, Route 2, Box 146, Lexington, NE 68850. Representative: Max H. Johnston, P.O. Box 6597, Lincoln, NE 68506, 402–488–4841. Transporting (1) *animal byproducts,* between points in Dawson and Sarpy Counties, NE, on the one hand, and, on the other, points in CO, KS, IA, FL, MS, WI, MN, MO, SD, and WY; (2) *agricultural machinery, implements and parts* for agricultural machinery, between Omaha, NE, and points in Dawson, Adams, and Buffalo Counties, NE, on the one hand, and, on the other, points in IA, IL, WI, KS, CO, MN, MO, WY, OK, and SD; and (3) *Fertilizer and soil conditioners,* between points in Eddy County, NM, and Wood County, TX, on the one hand, and, on the other, points in Dawson and Gosper Counties, NE.

MC 169622 filed August 3, 1983. Applicant: OHIO TRUCKLOAD CARRIERS, INC., 2464 Seville Rd., Wadsworth, OH 44281. Representative: Laurence A. Messam (same address as applicant) 216–336–3020. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk) between points in MN, WI, IA, NE, CO, KS, TX, LA, AR, MO, IL, MI, IN, OH, KY, TN, AL, MS, GA, MD, FL, SC, NC, VA, WV, DE, PA, NY, NJ, MA, CT, RI, OK, and DC.

Volume No. OP2–367

By the Commission, Review Board Members Fortier, Carleton, and Dowell.

MC 2202 (Sub-705), filed August 2, 1983. Applicant: ROADWAY EXPRESS, INC., P.O. Box 471, 1077 Gorge Blvd., Akron, OH 44309. Representative: William O. Turney, 7101 Wisconsin Ave., Suite 1010, Washington, DC 20814, (301) 986–1410. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Armstrong World Industries, Inc., of Lancaster, PA.

MC 2202 (Sub-706), filed August 2, 1983. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Blvd., P. O. Box 471, Akron, OH 44309. Representative: William O. Turney, 7101 Wisconsin Ave., Suite 1010, Washington, DC 20814; (301) 986–1410. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Mobay Chemical Corporation, of Pittsburgh, PA.

MC 2202 (Sub-707), filed August 2, 1983. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Blvd., P. O. Box 471, Akron, OH 44309. Representative: William O. Turney, 7101 Wisconsin Ave., Suite 1010, Washington, DC 20814; (301) 986–1410. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Wal-Mart Stores, Inc, of Bentonville, AR.

MC 2202 (Sub-708), filed August 5, 1983. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Blvd., P. O. Box 471, Akron, OH 44309. Representative: William O. Turney, 7101 Wisconsin Ave., Suite 1010, Washington, DC 20814; (301) 986–1410. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with The Goodyear Tire & Rubber Company, of Akron, OH.

MC 52793 (Sub-136), filed August 2, 1983. Applicant: BEKINS VAN LINES CO., 333 S. Center St., Hillside, IL 60162. Representative: David A. Gallagher (same address as applicant) (312) 547–2184. Transporting *household goods*, between points in the U.S. (except AK and HI), under continuing contract(s) with Land O'Lakes, Inc., of Minneapolis, MN.

MC 52793 (Sub-137), filed August 2, 1983. Applicant: BEKINS VAN LINES CO., 333 S. Center St., Hillside, IL 60162. Representative: David A. Gallagher (same address as applicant) (312) 547–2184. Transporting *household goods*, between points in the U.S. (except AK and HI), under continuing contract(s) with Pitney Bowes Inc., of Stamford, CT.

MC 107012 (Sub-858), filed August 5, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant) 219–429–2110. Transporting *household goods*, between points in the U.S. (except AK and HI), under continuing contract(s) with Petrolite Corporation, of St. Louis, MO.

MC 107012 (Sub-859), filed August 5, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant) 219–429–2110. Transporting *household goods*, between points in the U.S. (except AK and HI), under continuing contract(s) with Federal Mogul Corporation, of Southfield, MI.

MC 107012 (Sub-860), filed August 5, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant) 219–429–2110. Transporting *general commodities*, (except classes A and B explosives and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with The Gates Rubber Company, of Denver, CO, and its subsidiaries.

MC 107012 (Sub-861), filed August 5, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant) 219–429–2110. Transporting *general commodies* (except classes A and B explosives and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Archer Daniels Midland Company, of Decatur, IL.

Please direct status inquiries about the following to Team Four at (202) 275–7669

Volume No. OP4–558

Decided: August 17, 1983.

By the Commission, Review Board, Members: Fortier, Joyce and Carleton.

MC 35227 (Sub-24), filed August 9, 1983. Applicant: EDSON EXPRESS, INC., 533 E. 58th Ave., Commerce City, CO 80022. Representative: Richard P. Kissinger, Steele Park, Suite 330, 50 S. Steele St., Denver, CO 80209; (303) 320–6100. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 165507 (Sub-1), filed August 8, 1983. Applicant: BUSCH INDUSTRIAL PRODUCTS CORPORATION, 10877 Watson Rd., St. Louis, MO 63127. Representative: Michael F. Morrone, 1150 17th St., NW., Suite 1000, Washington, DC 20036 (202) 457–1124. Transporting *food and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with the manufacturers and distributors of food and related products.

MC 169726, filed August 8, 1983. Applicant CARL W. GUCKELBERGER, 3121 W. Coulter St., Philadelphia, PA 19129. Representative: David E. Fox, 1625 Eye St., NW, Suite 406, Washington, DC 20006 (202) 331–1377. Transporting *fine art, paintings, photographs, sculpture, fibre art, live art, crafts, antiques, objec d'art, exhibition and display paraphernalia, lighting paraphernalia and materials and tools* used in the creation or transportation of the named commodities, between points in NY, PA, DE, CT, NJ, MD, VA, MA, RI, NH, ME, OH, IN, IL, MI, WI, MN, WV, MO, OK, TX and DC.

MC 169736, filed August 8, 1983. Applicant: VAN MGT. CORP., P.O. Box 35610, Louisville, KY 40232. Represenative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202 (502) 589–5400. Transporting (1) *rubber and plastic products*, (2) *metal products*, (3) *building materials*, and (4) *paper and paper products*, between points in the U.S. (except AK and HI), under continuing contract(s) with persons who deal in or use the named commodities. Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. 11343(A) or show that a petition has been filed under 49 U.S.C. 11343(e) seeking an exemption from the requirements of 49 U.S.C. 11343 and or submit an affidavit indicating why such approval is unnecessary to the Secretary's Office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the application(s) for common control to Team 4, Room 2410.

MC 169737, filed August 8, 1983. Applicant: S & S FREIGHT AND DELIVERY SERVICE, 712 S. 8th St., St. Joseph, MO 64501. Representative: Linda Sommerhauser (same address as applicant) (816) 279–7977. Transporting *general commodities*, (except classes A and B explosives, household goods, and commodities in bulk), between points in Buchanan, Clay, Platte, and Jackson Counties, MO, and Wyandotte and Johnson Counties, KS.

Volume No. OP4–559

Decided: August 10, 1983.

By the Commission, Review Board, Members: Joyce, Carleton and Krock.

MC 100666 (Sub-544), filed August 5, 1983. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Wilburn L.

Williamson, Suite 107, 50 Classen Center, 5101 N. Classen Blvd., Oklahoma City, OK 73118 (405) 848–7946. Transporting (1) *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Melton Brokerage, Inc., of Shreveport, LA, (2) *building materials, paper and paper products, plastic products, and chemicals,* between points in the U.S. (except AK and HI), under continuing contract(s) with Georgia-Pacific Corporation, of Atlanta, GA, and (3) *building materials, pipe, and metal products,* between points in the U.S. (except AK and HI), under continuing contract(s) with CertainTeed Corporation, of Valley Forge, PA.

[FR Doc. 83-23190 Filed 8-23-83; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods). The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common on contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings:

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Agatha L. Mergenovich,
Secretary.

Note.— All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service in for a named shipper "under contract."

For the following, please direct status calls to Team 5 at 202–275–7289.

Volume No. OP5–436

Decided: August 16, 1983.

By the Commission, Review Board Members Joyce, Fortier and Carleton.

MC 169706, filed August 5, 1983. Applicant: FASTWAY FREIGHT, INC., d.b.a. U.S. TRANSPORT, DIVISION OF FASTWAY FREIGHT, INC., Route 3, Box 186, Pell City, AL 35125. Representative: Ronald L. Stichweh, 727 Frank Nelson Bldg., Birmingham, AL 35203, (205) 251–5223. To operate as a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 169729, filed August 8, 1983. Applicant: R.W. HARMON & SONS, INC., 17327 South 71 Hwy., P.O. Box 380, Belton, MO 64012. Representative: Harry D. Dingman (same address as applicant), 816–331–0600. Transporting *passengers* in charter and special operations, between points in AR, CO, IA, IL, KS, MO, NE, TN and UT.

Note.—Applicant seeks to provide privately funded charter and special transportation.

Decided: August 17, 1983.

By The Commission, Review Board Members Joyce, Carlton and Fortier.

MC 144319 (Sub-2(b)), filed August 2, 1983. Applicant: JOHN BRACY, d.b.a. NORTHWEST AGRI SUPPLY, 1056 Willoma Dr., Billings, MT 59105. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701, (208) 343–3071. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

Note.—Applicant also seeks non-fitness-related authority in MC–144319 Sub 2(b), published in this same **Federal Register**

MC 169529, filed July 29, 1983. Applicant: AIRPORT LIMOUSINE SERVICE, INC., 2619—5th Ave., McKeesport, PA 15132. Representative: James L. L. Sunstein (same address as applicant.) (412) 664–4777. Transporting *passengers,* in special and charter operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 169658, filed August 3, 1983. Applicant: B.W. SPECIALS BUS SERVICE, 500 Random Rd., Baltimore, MD 21229. Representative: Lewis L. Wilson (same address as applicant.)

(301) 525–0510. Transporting *passengers*, in special and charter operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded special and charter transportation.

Please direct status inquires to Team 1, (202) 275–7030.

Volume No. OP–1–346(F).

Decided: August 16, 1983.

By the Commission, Review Board Members Joyce, Dowell, and Carleton.

MC 169580, filed August 1, 1983. Applicant: MAJOR MARKETING ENTERPRISES, INC., d.b.a. MAJOR'S INTERSTATE BROKERS, P.O. Box 207 (East Main St.) Blanca, CO 81123. Representative: George M. Oringdulph, Jr. (same address as applicant) (303) 379–3277. As a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 169600, filed August 2, 1983. Applicant: JIMMIE'S LIMOUSINE SERVICE, 480 Westchester Ave., Port Chester, NY 10573. Representative: Jimmie L. Whiteside, 9 Weber Drive, Apt. 3–C Port Chester, NY 10573, (914) 937–8044. Transporting *passengers*, in special operations, beginning and ending at points in westchester County, NY, and extending to points in NY, NJ, and CT. NOTE: Applicant seeks to provide privately-funded special transportation.

MC 169670, filed August 5, 1983. Applicant: LONE STAR ENTERPRISES, 225 N. Oak, Crowley TX 76036. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 169690, filed August 5, 1983. Applicant: MORGAN TRANSPORTATION SERVICES, INC., 610 Jackson St., Wausau, WI 54401. Representative: Robert M. O'Donnell, 145 W. Wisconsin Ave.; Neenah, WI 54956, (414) 722–2848. As a *broker* of *general commoditiers* (except household goods), between points in the U.S.

Volume NO. OP–1–348(f).

Decided: August 16, 1983.

By the Commission, Review Board Members Dowell, Fortier, and Joyce.

MC 151731 (Sub-3), filed August 9, 1983. Applicant: C. T. J. TRANSFER, INC., 5912 Murray Avenue, Bethel Park, PA 15102. Representative: John C. Fudesco, 1333 New Hampshire Ave., N.W., Suite 980, Washington, DC 20036, (202) 659–6714. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 169681, filed August 3,1983. Applicant: EAST WEST COURIER, INC. 8914 West 47th Street, Brookfield, IL 60513. Representative: Neal A. Klegerman, Prudential Plaza, Chicago, IL 60601, (312) 861–2884. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 169740, filed August 8, 1983. Applicant: C.R.W. CORPORATION, P.O. Box 599, Elmhurst, IL 60126. Representative: D. R. Beeler, P.O. Box 482, Franklin, TN 37064, (615) 790–2510. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

Please direct status inquiries to Team 2, (202) 275–7030.

Volume No. OP2–368

Decided: August 17, 1983.

By the Commission, Review Board Members Joyce, Dowell, and Fortier.

MC 162133 (Sub-2), filed July 29, 1983. Applicant: COMMUTER BUS LINE, INC., 1515 Jefferson St., Hoboken, NJ 07030. Representative: Sidney J. Leshin, 3 East 54th St., New York, NY 10022, (212) 759–3700. Transporting *passengers and their baggage*, in charter and special operations, beginning and ending at Staten Island and Manhattan, NY, and extending to points in NJ, under continuing contract(s) with Great Kills Commuter Association, of Staten Island, NY. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. § 11343(a), submit an affidavit indicating why such approval is unnecessary, or file a petition seeking exemption under 49 U.S.C. §11343(e) to the Secretary's Office. In order to expedite issuance of any authority please submit a copy of the affidavit, proof of filing the application(s), or petition for exemption for common control to Team 2, Room 2379.

MC 169582, filed August 2, 1983. Applicant: S.G.P. INC., 49 East Madison St., East Islip, NY 11730. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904, 201–572–5551. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 169592, filed August 2, 1983. Applicant: SUPER ROYAL EXPRESS, INC., 2201 North Capitol Ave., Indianapolis, IN 46208. Representative: Walter F. Jones, Jr., 1111 E. 54th St., Indianapolis, IN 46220, 317–257–4066. Transporting (1) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI); and (2) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 16802, filed August 2, 1983. Applicant: CARLTON FULCHER, Route 1, Box 357A, Statham, GA 30666. Representative: Carlton Fulcher (same address as applicant) 404–725–5573. Transporting *passengers*, in charter and special operations, beginning and ending at points in GA, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 169633, filed August 3, 1983. Applicant: FALCON COACH LINES, INC., 36 Pine St., Newton, NJ 07860. Representative: James M. Burns, 1365 Main St., Suite 403, Springfield, MA 01103, 413–781–8205. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 169643, filed August 3, 1983. Applicant: R.E.I. DISTRIBUTORS, INC., 510 Old Bridge Turnpike, South River, NJ 08882. Representative: A. David Millner, 7 Becker Farm Rd., P.O. Box Y, Roseland, NJ 07068, 201–992–2200. As a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 169662, filed August 4, 1983. Applicant: ADVANCED TRAFFIC SYSTEMS, INC., 202 North Loop West, Suite 218, Houston, TX 77018. Representative: David Antich (same address as applicant), 713–864–8286. As a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 169682, filed August 5, 1983. Applicant: HENDRICK BUS SERVICE, INC., P.O.B. 216, Kimball, MN 55353. Representative: James B. Hovland, 525 Lumber Exchange Bldg., Minneapolis, MN 55402, 612–340–0808. Transporting

passengers, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 169683, filed August 5, 1983. Applicant: JIM L. OLMSTEAD, 1461 Second St., SW, Howron, SD 57350. Representative: Jim L. Olmstead (same address as applicant), 605–352–6272. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by by owner of the motor vehiole in such vehicle, between points in the U.S. (except AK and HI).

MC 169712, filed August 8, 1983. Applicant: NORTHEST REAL ESTATE COMPANY, INC., d.b.a. COLUMBIA COACH SERVICE, 5447 High Tor Hill, Columbia, MD 21045. Representative: Edward H. Murphy (same address as applicant), 301–730–6910. Transporting *passengers*, in charter and special operations; between points in MD, VA, and DC.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

[FR Doc. 83-23188 Filed 8-23-83; 8:45 am]

BILLING CODE 7035-01-M

Freight Forwarders; Coordinated Caribbean Transport, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice. Released Rates Application No. FF–458.

SUMMARY: Coordinated Caribbean Transport, Inc., a freight forwarder, seeks to establish and maintain released rates based on a value of $50.00 for shipments of 100 pounds or less or 50 cents per pound for shipments over 100 pounds, subject to an excess value charge of 10 cents per $100 for released values higher than that, on freight, all kinds, between points in the United States, except Alaska and Hawaii, and points in Florida.

ADDRESS: Israel Novick, Director of Special Projects, Coordinated Caribbean Transport, Inc., 1533 Sunset Drive, Coral Gables, FL 33143.

FOR FURTHER INFORMATION CONTACT: Max Pieper, Unit Supervisor, Informal Rate Cases Branch, Bureau of Traffic, Interstate Commerce Commission, Washington, DC 20423, Tel. (202) 275–0781.

SUPPLEMENTARY INFORMATION: The relief sought is from 49 U.S.C. 10730.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-23186 Filed 8-23-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Finance Applications; Decision Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find: Each transaction is exempt from section 11343 of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsideration; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1181.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants statisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effecitve notice. The notice will recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 20 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered: The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission.

Agatha L. Mergenovich,

Secretary.

Note.—Please direct status inquiries to Team 2, (202) 275–7030.

Vol. No. OP2–364

MC–FC–81630. By decision of August 16, 1983, issued under 49 U.S.C. 10928 and the transfer rules of 49 CFR 1181, the Review Board, Members Fortier, Dowell, and Carleton approved the transfer to SPIRIT TRUCKING, INC., Blawnox, PA, of Certificate MC–87482, issued April 16, 1963, to NICK G. KATSILAS, DBA GUST A. KATSILAS AND SON, Turtle Creek, PA, authorizing the transportation of electrical machinery and equipment, and parts and supplies necessary for the installation, sale, and use of such products, over regular routes, between Pittsburgh, PA, and Sharon, PA, over specified highways; between Monroeville, PA, and Sharon, PA, serving no intermediate points: over specified highways; between Monroeville, PA, and Victory, PA, serving no intermediate points: over specified highways; insulating varnish, from Manor, PA, to Pittsburgh, PA, serving no intermediate points: over specified highways; electrical machinery and equipment, parts and supplies used or useful in the installation, sale, and operation of such commodities, over irregular routes, between East Pittsburgh, Linhart, and Trafford, PA, on the one hand, and, on the other, points in IL, IN, MD, MI, NY, NJ, OH, and DC; between East Pittsburgh, Linhart, and Trafford, PA, on the one hand, and, on the other, Pittsburgh and Pitcairn, PA; and insulating varnish, from Manor, PA, to points in IL, IN, MD, MI, NY, NJ, OH, and DC. Transferee has an application pending for permanent authority under MC–167788. Representative: Arthur J. Diskin, 402 Law & Finance Bldg., Pittsburgh, PA 15219.

MC–FC–81634. By decision of August 16, 1983, issued under 49 U.S.C. 10928 and the transfer rules at 49 CFR 1181, the Review Board, Members Fortier, Dowell, and Carleton, approved the transfer to CUMBERLAND HORSE VANS, INC., Chicago, IL, of authority issued to ED WELLESTANT, INC., Stickney, IL, in Certificates MC–8253 and MC–8253 (Sub-3), issued October 27, 1952, and January 11, 1965, authorizing the transportation of livestock, other than ordinary livestock, personal effects of their attendants, and supplies and equipment used in the care and/or exhibition of such animals, between points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, WI, and DC, and race horses and horse racing equipment, between points in AR, IL, IN, IA, KY, LA, MI, MS, MO, NE, OH, TN, and TX, and race horses, show horses, and polo ponies, and in the same vehicle therewith, stable supplies and equipment used in their care and exhibition, and the personal effects of their attendants, trainers and exhibitors

(1) between Chicago, IL, and Omaha, NE, on the one hand, and, on the other, Denver, CO, and points within 15 miles thereof, and points in KS and OK, and (2) between points in OK, on the one hand, and, on the other, points in AR and LA. Representative: Miller, Frazin & Green, 33 N. LaSalle St., Chicago, IL 60602.

MC–FC–81648. By decision of August 16, 1983 issued under 49 U.S.C. 10926 and the transfer rules of 49 CFR 1161, the Review Board, Members Dowell, Carleton, and Joyce approved the transfer to HAWK PACIFIC CORPORATION, Oakland, CA, of Certificate MC–151452, issued July 16, 1982, to THOMAS J. BRESSLER, DBA HAWK TRANSPORTATION CO., Oakland, CA authorizing the transportation of general commodities (except classes A and B explosives, household goods, and commodities in bulk), between points in San Francisco, San Mateo, Alameda, Santa Clara, Sacramento, and Contra Costa Counties, CA, and Washoe, Douglas, and Storey Counties, NV, on the one hand, and, on the other, points in CA, NV, OR, and WA. Representatives: Dennis Van Wagner and Thomas J. Bressler, 311 Oak St., Oakland, CA 94607.

MC–FC–81651. By decision of August 17, 1983 issued under 49 U.S.C. 10926 and the transfer rules of 49 CFR 1161, the Review Board, Members Carleton, Joyce, and Fortier, approved the transfer to HUB CITY TERMINALS, INC., ST. LOUIS, of St. Louis, MO, of License No. MC–130633, issued September 29, 1980, to HUB BROKERAGE SERVICE, INC., of Pittsburgh, PA, authorizing operations, in interstate or foreign commerce, as a property broker, arranging for the transportation of, general commodities (except household goods), between points in the U.S. Representative: Joseph Michael Roberts, Suite 501, 1730 M St., NW, Washington, DC 20036, (202) 296–2900.

MC–FC–81673. By decision of August 17, 1983 issued under 49 U.S.C. 10926 and the transfer rules of 49 CFR 1161, the Review Board, Members Carleton, Joyce, and Fortier, approved the transfer to H.M.H. MOTOR SERVICE, INC., of Hazlehurst, GA, of Certificate No. MC–115212 Sub-No. 3, issued July 18, 1983, to H.M.H. MOTOR SERVICE, of Hazlehurst, GA, authorizing the transportation, as a common carrier, over irregular routes, *such commodities* as are dealt in or used by retail stores, between points in the U.S.: Representative: Morton E. Kiel, Suite 2B, 475 South Main St., P.O. Box 489, New City, NY 10956, (914) 638–4007.

Note.—Transferee has an application pending under docket No. MC–169788.

For the following, please call Team 4 at 202–275–7669

Vol. No. OP4–FC–560

MC–FC–81676. By decision of August 17, 1983 issued under 49 U.S.C. 10926 and the transfer rules of 49 CFR 1182, The Review Board, Members Dowell, Carleton, and Joyce, approved the transfer to WORLD WIDE RECOVERY, INC., Portland, OR, of Certificate No. MC–143527, issued November 17, 1978, to S.O.S. TOWING & STORAGE, INC., Portland, OR, authorizing the transportation of wrecked, disabled, stolen, repossessed, and abandoned motor vehicles, and replacement vehicles, by use of wrecker equipment only; and machinery with motor power removed, by use of wrecker equipment only, between points in OR, WA, ID, and CA. Representataive: William Runyon, 6931 N.E. Union Ave., Portland, OR 97211, (503) 289–9939.

[FR Doc. 83–23163 Filed 8–23–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions, Restriction Removals, Decision-Notice

The following restriction removal applications, are governed by 49 CFR 1165. Part 1165 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747 and redesignated at 47 FR 49590, November 1, 1982.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1165.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

Agatha L. Mergenovich,
Secretary.

Please direct status inquiries to Team 2, (202) 275–7030

Volume No. OP–2–365

Decided: August 17, 1983.

By the Commission, Review Board Members Carleton, Joyce, and Fortier.

MC 5722 (Sub-4X), filed July 26, 1983. Applicant: BRIGHTON VAN LINES, INC., 5290 Daniels, Troy, MI 48098. Representative: William B. Elmer, P.O. Box 801, Traverse City, MI 49685–0801; 616–941–5313. Sub-3 certificate acquired pursuant to MC–FC–81417: broaden (1)(a) Detroit, MI, and points within 5 miles of Detroit, and (b) Detroit, MI, and points within 10 miles of Detroit to Wayne, Oakland, Macomb, Monroe, Washtenaw, St. Clair, and Livingston Counties, MI; (2) St. Louis, MO, to St. Louis, MO, and points in St. Charles, Jefferson, and St. Louis Counties, MO, and Monroe, Madison, and St. Clair Counties, IL; (3) points in KY bordering on the Ohio River to Boyd, Greenup, Lewis, Mason, Bracken, Pendleton, Campbell, Kenton, Boone, Gallatin, Carroll, Trimble, Oldham, Jefferson, Bullitt, Hardin, Meade, Breckinridge, Hancock, Daviess, Henderson, Union, Crittenden, Livingston, McCracken, and Ballard Counties, KY; and (4) Port Huron, MI, to ports of entry on the International Boundary line between the U.S. and Canada, at points in MI.

[FR Doc. 83–23164 Filed 8–23–83; 8:45 am]

BILLING CODE 7035–01–M

[OP3–MCF–399]

Motor Carriers; Proposed Exemptions

AGENCY: Interstate Commerce Commission.

ACTION: Notices of Proposed Exemptions.

SUMMARY: The motor carriers shown below seek exemptions pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property Under 49 U.S.C. 11343*, 367 I.C.C. 113 (1982), 47 FR 53303 (November 24, 1982).

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275–7977.

SUPPLEMENTARY INFORMATION:

Please refer to the petition for exemption, which may be obtained free

of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: August 18, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

MC–F–15394—W. C. Carriers, Inc.—Purchase Exemption—Port City Leasing, Inc.

W. C. Carriers, Inc., (MC–148987) seeks an exemption from the requirement under section 11343 of prior regulatory approval for its purchase of that portion of the certificate held in No. MC–144315 (Sub–No. 11) by Port City Leasing, Inc., which authorizes the transportation of chemicals and related products, minerals, and pesticides, between points in the United States in and west of Wisconsin, Illinois, Missouri, Arkansas, and Louisiana (except Alaska and Hawaii).

Send comments to: (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423, and (2) David E. Wishney, Attorney-at-Law, P.O. Box 837, Boise, ID 83701.

[FR Doc. 83–22185 Filed 8–23–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1162.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F–287

The following Applications were filed in Region 4: Send protests to: ICC, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 160699 (Sub–4–1TA), filed August 8, 1983. Applicant: RICHARD A. VAN DER LEEST and GERALD A. VAN DER LEEST d.b.a. J & R TRANSPORT, 1330 Summerset Circle, Suamico, WI 54141. Representative: Richard A. Westley, 4506 Regent St., Suite 100, P.O. Box 5086, Madison, WI 53705–0086, 608–238–3119. Contract; irregular: *Bottled water, and materials, equipment and supplies used in the production and distribution thereof,* between the facilities of *Don-Lou* Artesian Wells, Inc. at or near Mishicot, WI on the one hand, on the other hand, points in IL, MI and MN under continuing contract(s) with *Don-Lou* Artesian Wells, Inc. An underlying ETA seeks 120 days authority. Supporting Shipper: *Don-Lou* Artesian Wells, Inc., Hillview Road, Route 1, Mishicot, WI 54228.

MC 15735 (Sub–4–143TA), filed August 8, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Joseph P. Tuohy, P.O. Box 4403, Chicago, IL 60680. *Contract irregular: Household Goods,* between points in the U.S. (Except AK & HI), under continuing contract(s) with Trans World Corp., of New York, N.Y. Supporting shipper: Trans World Corp. 605 Third Avenue, New York, N.Y. 10158.

MC 15735 (Sub–4–145TA), filed August 8, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Joseph P. Tuohy, P.O. Box 4403, Chicago, IL 60680. *Contract irregular: Household Goods,* between points in the U.S. (Except AK & HI), under continuing contract(s) with Educational & Institutional Cooperative Service, Inc., (E & ICS), of Woodbury, N.Y. Supporting shipper: Educational & Institutional Cooperative Service, Inc. (E & ICS) 180 Froelich Farm Blvd. Woodbury, N.Y. 11797.

MC 15735 (Sub–4–144 TA), filed August 8, 1983 Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153 Representative: Joseph P. Tuohy, P.O. Box 4403, Chicago, IL 60680. *Contract irregular: Household Goods,* between points in the U.S., (except AK and HI), under continuing contract(s) with Occidental Exploration and Production Company, of Bakersfield, CA and its affiliates. Supporting Shipper: Occidental Exploration and Production Company, 5000 Stockdale Hwy., Bakersfield, CA 93309

MC 158417 (Sub–4–4 TA), filed August 8, 1983 Applicant: BADGER STATE WESTERN, INC., Route 1, Box 204, Owen, WI 54460. Representative: Michael J. Collins, Collins, Beatty & Krekeler, 14 West Mifflin St, Suite 310, Madison, WI 53703. *Heaters, furnaces, stoves and related articles,* from Colby and Hancock, WI to points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA, and WY. An underlying ETA seeks 90 days authority. Supporting Shipper: C-Way Industries, Inc., P.O. Box 457, Colby, WI 54421.

MC 163190 (Sub–4–1 TA), filed August 8, 1983 Applicant: YONKER'S TRUCKING, INC., Route 1; Box 63, Cecil, WI 54111. Representative: Nancy J. Johnson, Box 218; 103 E. Washington St, Crandon, WI 54520. (1) *Meat and meat products,* from New London, WI to Sacramento and South San Francisco, CA; and (2) from points in NE, KS, IA, MN, IL, MO, IN, and MI to New London, WI. SUPPORTING SHIPPERS: Hillshire Farm Company, P.O. Box 227, New London, WI 54961., Pacific Cheese Co., Inc. 401 Forbes Blvd., South San Francisco, CA 94080.

MC 168113 (Sub–4–3 TA), filed August 8, 1983 Applicant: C.M.W. TRANSPORT CO., INC., 951 West North St, Kendallville, IN 46755. Representative: Andrew K. Light, SCOPELITIS & GARVIN, 1301 Merchants Plaza, Indianapolis, IN 46204. *Contract* irregular: *Salt, except in bulk,* from Chicago, IL; Hutchinson and Lyons, KS; Akron, Cincinnati and Rittman, OH; and St. Clair County, MI to Nappanee, IN. RESTRICTED to continuing contract(s) with Carnation Food Supply Distribution, 358 South Jackson, Nappanee, IN 46550. An underlying ETA seeks 120 days authority.

MC 169351 (Sub–4–1 TA), filed August 8, 1983 Applicant: FOX MIDWEST TRANSPORT, INC., Swan Lake Village, Saddle Ridge No.832, Portage, WI 53901. Representative: Charles E. Dye, Swan

Lake Village, Saddle Ridge No. 832, Portage, WI 53901. *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AL, AR, FL, IL, IN, IA, KS, KY, LA, MS, MI, MN, MO, NE, OH, WI, GA, NC, SC, & TN. Supporting Shippers; Shopke Stores, Inc, P.O. Box 3650, Green Bay, WI 54303. Wickes Lumber, 515 N. Washington Ave., Saginaw, MI 48607. Packerland Packing Company, Inc., P.O. Box 1184, Green Bay WI 54305. A corresponding ETA for 120 days has been filed by applicant.

MC 169747 (Sub-4–1TA), filed August 9, 1983. Applicant: LOOP EXPRESS, INC., 2401 S. Laflin, Chicago, IL 60608. Representative: Philip A. Lee, 120 W. Madison St., Chicago, IL 60602. *Paper* and *paper articles; scrap paper;* between IL, IN, OH, MI, and WI. Supporting Shippers: Alton Packaging Corporation, 401 Alton, Alton, IL 62002. Container Corporation of America, 500 E. North Avenue, Carol Stream, IL 60187. Loop Recycling, Inc., 2401 S. Laflin, Chicago, IL 60608.

MC 169748 (Sub-4–1TA), filed August 9, 1983. Applicant: RED WING RIVER TOWING, INC., d.b.a. RED WING RIVER TERMINAL, Route 2, P.O. Box 241, Red Wing, MN 55066. Representative: Robert S. Lee, 1600 TCF Tower, 121 So. 8th St., Minneapolis, MN 55402. *Salt, in bulk* from Red Wing, MN to points in Barron, Buffalo, Chippewa, Clark, Dunn, Eau Claire, Jackson, Pepin, Pierce, Polk, Rusk, St. Croix, Taylor and Trempealeau Counties, WI. Supporting Shipper: Cargill, Inc.—Salt Division, P.O. Box 5621, Minneapolis, MN 55440.

MC 143027 (Sub-4–2TA), filed August 9, 1983. Applicant: CAPITAL FREIGHT LINES, INC., P.O. Box 8566, Madison, WI 53708. Representative: James E. Kraus (same as above). *General Commodities, except class A and B explosives, household goods and/or commodities in bulk.* Between points in MN, IL and WI. Supporting Shippers: There are 21 statements of support attached.

MC 167419 (Sub-4–1TA), filed August 10, 1983. Applicant; CONJAR CARTAGE, INC., 2243 West 43rd St., Chicago, IL 60609. Representative: Martin J. Kennedy, 120 West Madison St., Suite 1306, Chicago, IL 60602. *Freight, all kinds having a prior or subsequent movement via rail,* (except classes A and B explosives, commodities in bulk, and household goods) between points in the Chicago, IL Commerical Zone and points in IA, IL, IN, MI, MO, NE, and OH. Supporting Shippers: Unit Distribution of Illinois, Inc., 6556 W. 73rd Street, Bedford Park, IL 60638; Western Pacific Freight System, Inc., 1717 Middle Harbor Rd., Oakland, CA; Combined Warehouse, Inc., 2234 West 43rd St.; Chicago, IL 60609.

MC 169413 (Sub-4–1TA), filed August 10, 1983. Applicant: JERRY HACKL, d.b.a. J. K. HACKL TRUCKING, P.O. Box 37, Blue River, WI 53518. Representative: John L. Bruemmer, 121 West Doty Street, Madison, WI 53703. *Fermented malt beverages and empty containers* between breweries of the Miller Brewing Company at Fort Worth, TX, Eden, NC, Fulton, NY and Trenton, OH, on the one hand, and on the other, points in Crawford County, WI. Supporting Shipper: *Prairie Beer Distributing Co., Inc.,* 314 East Cedar Street, Prairie du Chien, WI 53821.

MC 15735 (Sub-4–146TA), filed August 10, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Joseph P. Tuohy, P.O. Box 4403, Chicago, IL 60680. *Contract irregular: Commodities as are dealt in or used by manufacturers of computers and data processing equipment,* between points in the U.S. (except AK & HI) under continuing contract(s) with National Advanced Systems Corp. of Sunnyvale, CA. Supporting Shipper: National Advanced Systems Corp., 140 Caribbean Drive, Sunnyvale, CA 94086.

MC 168955 (Sub-4–1TA), filed August 3, 1983. Applicant: PAUL D. MILLER and CLYDE ROSS MILLER d.b.a. MILLER AND SON TRUCKING, 5094 Flagstone Drive, Rockford, IL 61111. Representative: Gary V. Callies, 136 Summit #11, Rockford, IL 61107. *Heavy construction equipment, rock, sand, gravel, stone, crushed stone, salt, dirt, debris, blacktop mix, Poz-o-Pac, flyash, liquid asphalt, plant materials, landscaping materials, sod, railroad ties, decorative rock, Ag-Lime, and grain* between Winnebago City, IL and Dubuque City, Jackson City and Clinton City, IA and the following cities in WI: Rock City, Lafayette City, Green City, Grant City, Walworth City, Jefferson City, Dane City, Iowa City, Richland City, Salk City, Vernon City, LaCross City, Monroe City, WI. Supporting Shippers: William Charles, Ltd. and subsidiaries W. C. Equipment Company, Rockford Blacktop Construction Company, Rockford Sand and Gravel, Rockford Landscape Engineering, Blacktop Farms and Winnebago Reclamation, Inc., 4920 Forest Hills Road, Rockford, IL 61111.

MC 140716 (Sub-4–2TA), filed August 3, 1983. Applicant: THE STROH TRANSPORTATION COMPANY, 1 Stroh Drive, Detroit, MI. 489226 Representative: Wilhelmina Boersma, 1600 First Federal Bldg., Detroit, MI 48226. *Contract; Irregular: General commodities* (except household goods and Classes A and B explosives) between rail sidings at Detroit, MI; Chicago, IL; Pittsburgh and Allentown, PA; Alexandria, VA; Atlanta, GA; and Memphis, TN, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting Shipper: Hub City Detroit Terminals, Incorporated, 1695 Woodward Ave., Bloomfield Hills, MI 48013.

MC 169623 (Sub-4–1TA), filed August 3, 1983. Applicant: SIDNEY A. GOLDMAN, ALAN L. GOLDMAN AND DAVID E. GOLDMAN, d.b.a. DASCO, 1100 South 9th St., Springfield, IL 62708. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. *Contract,* irregular: *Non-ferrous metals,* from Springfield, IL to Davenport, IA and St. Louis, MO. Restricted to traffic moving under continuing contract(s) with Central Iron & Metal Co. An underlying E/T/A seeks 120 days authority. Supporting Shipper: Central Iron & Metal Co., P.O. Box 1180, Springfield, IL 62705.

MC 155411 (Sub-4–4TA), filed August 3, 1983. Applicant: S & C TRANSPORT, INC., 14703 Allen Road, #5, Southgate, MI 48195. Representative: Neill T. Riddell, 900 Guardian Building, Detroit, MI 48226. *Contract* irregular *liquid commodities, in bulk or in drums,* between the facilities of The Ironsides Company, at or near Columbus, OH, on the one hand, and, on the other, AL, AR, FL, IL, IN, MI, MN, MS, NE, NY, NJ, NC, PA, SC, TX, and WI, under continuing contracts with The Ironsides Company of Columbus, OH. Supporting shipper: The Ironsides Company, 7575 Plaza Court, Willowbrook, IL 60521.

MC 148994 (Sub-4–6TA), filed August 3, 1983. Applicant: MICHAEL W. AMABILE d.b.a. TRIPLE AAA TRUCKING, 29891 Red Arrow Highway, Paw Paw, MI 49079. Representative: Michael W. Amabile. *Contract* irregular: *General Commodities* (except household goods and hazardous materials) between points in MI, PA, KS, FL, and TX under continuing contract with Red Arrow Brokerage. Supporting shipper: Red Arrow Brokerage, 29891 Red Arrow Highway, Paw, Paw MI 49079.

MC 154716 (Sub-4–7TA), filed August 2, 1983. Applicant: WALGREEN OSHKOSH, INC., 200 Wilmot Road, Deerfield, IL 60015. Representative: John T. O'Connell, 521 S. LaGrange Rd., LaGrange, IL 60525; (312) 352–7220. *Contract;* irregular: *wine products* from points in CA to points in NV and AZ

under continuing contract with Franzia Winery, Manteca, CA. Supporting shipper: Franzia Winery, Menteca, CA.

MC 169669 (Sub-4–1TA), filed August 4, 1983. Applicant: DEDICATED CARRIERS, INC., 521 S. La Grange Rd., La Grange, IL 60525. Representative: John T. O'Connell, 521 S. La Grange Rd., La Grange, IL 60525; (312) 352–7220. *Contract;* irregular: *packaging and packaging products, equipment, materials and supplies used in the manufacture, assembly, sale and distribution thereof* between points in OK, TX, LA, AL, MS, TN, GA, FL, KY, MO and AR under continuing contract with Boise Cascade Corporation of Boise, ID. Supporting shipper: Boise Cascade Corporation, P.O. Box 7747, Boise, ID 83707.

MC 146642 (Sub-4–3TA), filed August 5, 1983. Applicant: BEST TRANSPORT COMPANY INC., 132 West 154th St., South Holland, IL. 60473. Representative: John H. Wierenga, same address as applicant. Common irregular *Plastic* and *Plastic materials,* between points in the states of IL, IN, KS, MI, MN, MO, and WI. Supporting shipper: Trans-Load, Inc., 2840 West 79th St., Chicago, IL 60652.

MC 159711 (Sub-4–3TA), filed August 5, 1983. Applicant: FISHER TRUCK & BUS SERVICE, INC., P.O. Box 622, Fenwood, WI 54431. Representative: Nancy J. Johnson, Box 218; 103 E. Washington St., Crandon, WI 54520. (1) *Paper and paper products,* from Rothschild, WI to Los Angeles and San Francisco, CA (including their commercial zones); and (2) *Cheese and cheese products,* from Outagamie County, WI to Phoenix, AZ; Los Angeles and San Francisco, CA (including their commercial zones). Supporting shippers: Weyerhaeuser Company, 200 Grand Ave., Schofield, WI 54474. International Multifoods, Inc., Kaukauna Cheese Division, P.O. Box 1974, Kaukauna, WI 54130.

The following applications were filed in Region 5. Send protest to: Consumer Assistance Center, Interstate Commerce Commission, 411 West 7th Street, Suite 500, Fort Worth, TX 76102.

MC 79658 (Sub-5–36TA), filed August 4, 1983. Applicant: ATLAS VAN LINES, INC.., Post Office Box 509, Evansville, IN 47703. Representative: Michael L. Harvey (same as above). Contract, Irregular; *Household goods* between points in the U.S. (exclusive of AK and HI). Supporting shipper: PPG Industries, Inc., Pittsburgh, PA.

MC 111401 (Sub-5–46TA), filed August 4, 1983. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 632, Enid, OK 73702. Representative: Alvin J. Meiklejohn, Jr., 1600 Lincoln Center, Denver, CO 80264. *Contract Irregular; General Commodities (except Classes A and B explosives and except household goods as defined by the Commission)* between points in the U.S. (except AK and HI) under continuing contract(s) with Phillips Petroleum Company.

MC 147743 (Sub-5–4TA), filed August 3, 1983. Applicant: GEMINI TRANSPORT, INC., 1333 Jefferson Highway, Jefferson, LA 70121. Representative: Harold R. Ainsworth, 2307 American Bank Building, New Orleans, LA 70130. *General commodities, in containers or in trailers and empty containers, trailers and trailer chassis* between points in Orleans Parish, LA, Mobile, AL and Baldwin Counties, AL, Galveston and Harris Counties, TX on the one hand and on the other hand points in FL, GA, KS, KY, NM, NC, OK, and SC. Supporting shippers: M.G. Maher & Company, Inc., New Orleans, LA; T.R. Spedded, Inc., New Orleans, LA.

MC 148438 (Sub-5–1TA), filed August 5, 1983. Applicant: MARCHAND CONSTRUCTION, INC., P.O. Box 48, Port Allen, LA 70767. Representative: Lawrence A. Winkle, P.O. Box 45538, Dallas, TX 75245. *Heavy machinery or equipment, used in connection with the construction industry,* between Bowling Green and Lexington, KY, on the one hand, and, on the other, points in LA, AR, TX, MS, AL, GA, SC, NC, TN, and FL, restricted to traffic originating at or destined to the facilities of Road Equipment Co., Inc. dba Reco Crane Co., New Orleans, LA.

MC 169343 (Sub-5–1 TA), filed August 5, 1983. Applicant: FRY-WAGNER MOVING & STORAGE CO., 4035 Fee Fee Road, Bridgeton, MO 63044. Representative: Lawrence D. Fry, (same as above). *Plastidome Buildings, Concrete Shelters and Electronics Towers and Materials, Equipment, and Supplies used in the manufacture, sale, distribution and installation thereof,* between Kansas City, MO and points within 275 miles thereof on the one hand, and on the other, points in the U.S. Supporting shipper: Grasis Corporation, 9300 N.E. Underground Drive, Kansas City, MO 64141.

MC 169614 (Sub-5–1 TA), filed August 4, 1983. Applicant: HOT-SHOT TRANSPORTATION, INC., Route 1, Box 112, DeQueen, AR 71832. Representative: Thomas B. Staley/ William D. Overstreet, 1500 Tower Building, Little Rock, AR 72201. *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in TX, OK, KS, MO, AR, LA, MS, AL, and TN. *Supporting Shippers: 5.*

MC 169628 (Sub-5–1 TA), filed August 3, 1983. Applicant: M.A. DAVIS TRANSPORT, INC., 5003 Jensen Street, P.O. Box 16160, Houston, TX 77222. Representative: David G. Goff, 717 Colony Lane, Houston, TX 77026. (1) *Metal Products, Building Materials,* and *Mercer Commodities,* between points in the U.S. (except AK and HI), (2) *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Mobile, AL, Long Beach, Los Angeles, Oakland, Port of Stockton, San Diego, and San Francisco, CA, New Haven, CT, Dover, DE, Key West, Miami, and Pensacola, FL, Savannah, GA, Chicago, IL, Baton Rouge, Lake Charles, Morgan City, and New Orleans, LA, Portland, ME, Baltimore, MD, Boston, MA, Detroit, Escanaba, and Saulte Ste. Marie, MI, Duluth, MN, Biloxi, Gulfport, and Pascagoula, MS, Newark and Atlantic City, NJ, Buffalo, New York and Watertown, NY, Wilmington, NC, Cleveland and Toledo, OH, Portland, OR, Philadelphia, PA, Charleston, SC, Aransas Pass, Barbers Cut, Bay City, Baytown, Beaumont, Corpus Christi, Freeport, Galveston, Houston, Orange, Port Arthur, and Port of Brownsville, TX, Newport News, Norfolk, and Portsmouth, VA, Seattle and Tacoma, WA, and Green Bay and Milwaukee, WI, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper(s): 13.

MC 169630 (Sub-5–1 TA), filed August 5, 1983. Applicant: PRENTICE DAVID AMBROSE, d.b.a. AMBROSE TRUCKING, Rt. 2, Box 38, Choudrant, LA 71227. Representative: Prentice David Ambrose (same as above). Contract, Irregular; *general commodities* (except classes A and B explosives, HHG's and items in bulk) between points in the U.S.. (except AK and HI), under continuing contract with Pabco Insulation, Div. of Fibreboard Corp., Subdivision of Louisiana Pacific, Ruston, LA.

MC 128449 (Sub-5–4 TA), filed August 1, 1983. Applicant: JIMMIE TUCKER TRUCKING, INC., P. O. Box 428, Broken Bow, OK 74728. Representative: William P. Parker, 4400 N. Lincoln, Suite 10, Oklahoma City, OK 73105. *Such commodities as are dealt in by home improvement stores,* beween points in the U.S. restricted to transportation of traffic moving for the account of Payless Cashways, Inc. Supporting shipper: Payless Cashways, Inc., Kansas City, MO.

MC 142857 (Sub-5-6TA), filed August 1, 1983. Applicant: MCC TRANSPORTATION CO., INC., Route 2, Box 107–B, Hope, AR 71801. Representative: MARK J. ANDREWS, Suite 1100, 1660 L Street NW., Washington, D.C. 20036. *Contract* irregular; *bakery products* between Birmingham, AL and Atlanta, GA, on the one hand, and Lakeland, FL on the other hand. Supporting shipper: Butter Krust Bakeries Division, Beatrice Foods Co., Lakeland, FL.

MC 136632 (Sub-5–1TA), filed August 11, 1983. Applicant: COPELAND TRANSPORTATION CO., INC., P.O. Box 4045, Wichita, KS 67204. Representative: Clyde N. Christey, Kansas Credit Union Building, 1010 Tyler, Suite 110–L, Topeka, KS 66612. *Commodities dealt in by truck equipment dealers* between Wichita, KS, on the one hand, and points and places in the U.S. (except AK & HI) on the other hand. Supporting shipper(s): Central States Truck Equipment, Wichita, KS.

MC 139306 (Sub-5–4TA), filed August 12, 1983. Applicant: STANAGE TRANSPORTATION, INC., 121 Indian Springs Rd., Hot Springs, AR 71901. Representative: Roger A. Stanage (same as above). *Cable on Spools, empty cable spools, surplus wire, scrap wire, scrap lead and used load coils* between NE, KS, OK, TX, MO, AR, MS, LA, IA, and TN. Supporting shipper: Southwestern Bell Telephone Co., Little Rock, AR

MC 147321 (Sub-5–9TA), filed August 11, 1983. Applicant: BILL STARR TRUCKING, INC., 1041 S. Vista Dr., Independence, MO 64056. Representative: Alex M. Lewandowski, 1221 Baltimore, Ste. 600, Kansas City, MO 64105. *Contract* irregular *printing ink, ink materials and cleaning compounds,* between the plant sites and facilities of Flint Ink Corporation at or near Atlanta, GA; Chicago, IL; Cleveland, OH; Dallas, TX; Denver, CO; Detroit, MI; Elizabethtown, KY; Houston, TX; Indianapolis, IN; Jacksonville, FL; Kansas City, MO; Los Angeles, CA; Miami, FL; Minneapolis, MN; New Orleans, LA; New York, NY; Portland, OR; Providence, RI; Richmond, VA; Redford Township, MI; and San Francisco, CA; and their respective commercial zones, on the one hand, and on the other, all points in the U.S. except AK and HI under continuing contract with Flint Ink Corporation of Detroit, MI. Supporting shipper: Flint Ink Corporation, Detroit, MI.

MC 147793 (Sub-5–2TA), filed August 8, 1983. Applicant: C. L. HALL, P.O. Box 179, Cumby, Texas 75433. Representative: Lawrence A. Winkle, P.O. Box 45538, Dallas, Texas 75245. *Fertilizer, in bulk and in bags,* between points in NM TX, OK, KS, MO, AR, and IA. Restricted to shipments originating at or destined to the facilities of Eubanks Agri, Inc., DeBruce Fertilizer, Inc., or AgriBasics Cmpany dba ConAgra Company.

MC 161610 (Sub-5–1 TA), filed August 10, 1983. Applicant: C.A. TUCKER d.b.a. "ABB" TUCKER TRUCKING, Rt. 4, Box 57B, Lubbock, TX 79424. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408. *Bananas* from Galveston, TX on the one hand, and on the other, Albuquerque, NM. Supporting shipper: Hutchinson Fruit Company, Albuquerque, NM.

MC 162257 (Sub-5–2TA), filed August 12, 1983. Applicant: MARLIN's I–10 TRANSPORT, INC., Route 2, Box 12, Jennings, LA 70546. Representative: Doyle G. Owens, P.O. Box 7735, Beaumont, TX 77706. *Motor Vehicles* between Dallas, TX and Atlanta, GA. Supporting Shipper: Tommy's Used Cars, Highway 78, Villa Rica, GA 30180.

MC 162257 (Sub-5–3TA), filed August 12, 1983. Applicant: MARLIN's I–10 TRANSPORT, INC., Route 2, Box 12, Jennings, LA 70546. Representative: Doyle G. Owens, P.O. Box 7735, Beaumont, TX 77706. *Motor Vehicles* between points in LA, on the one hand, and on the other, Villa Rica, GA. Supporting shipper: Tommy's Used Cars, Villa Rica, GA.

MC 169710 (Sub-5–1TA), filed August 8, 1983. Applicant: SPRAYBERRY TRUCK LINES, INC., 202 Ridgecrest Drive, Nacogdoches, TX 75961. Representative: James T. Darby, 1021 Irving Avenue, Colonial Beach, VA 22443. *Building Materials,* between points in the states of TX, AR, LA, MS, OK, NM, AL, FL, GA, KS, AZ, CO, TN, NC, and SC. Supporting shipper: Williams Lumber Sales, Inc., Nacogdoches, TX.

MC 169711 (Sub-5–1TA), filed August 8, 1983. Applicant: TEXAS AMERICAN EXPRESS, 4311 Forney Avenue, Mesquite, TX 75149. Representative: Jim L. McHargue, 1206 Egan, Denton, TX 76201. Contract, Irregular; *Alcoholic beverages and wines in packages* between points within the U.S. Supporting shipper: Glazer Wholesale Drug Co., Inc. Dallas, TX 75201.

MC 169808 (Sub-5–1TA.) filed August 11, 1983 Applicant: ALAN SMITH d.b.a. SMITH TRUCKING , 111 South Dakota Pondcreek, OK 73766. Representative: Hughan R. H. Smith, 28 Kenwood Place, Lawrence, MA 01841. Contract, Irregular; *Building Materials and Supplies,* between points in OK, TX, AZ, KS, MO, IL, IN, CO, NM, IA, and LA, under continuing contract(s) with J.J. Brokers, El Paso, TX, Oklahoma Forest Products, Inc., Pondcreek, OK, and Pickup Bumpers, Inc., Pondcreek, OK. Supporting shipper(s): J.J. Brokers, El Pasco, TX, Oklahoma Forest Products, Inc., Pondcreek, OK, Pickup Bumpers, Inc., Pondcreek, OK.

MC 169825 (Sub-5–1TA) filed August 12, 1983. Applicant: ROCKET TRANSFER COMPANY, INC., 702 Elm Street, Des Moines, IA 50309. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. Contract, Irregular; *Such commodities as are dealt in or used by the manufacturers and distributors of paint, chemicals, and related articles,* between points in IA, under continuing contract(s) with The Sherwin Williams Company, of Chicago, IL. Supporting shipper: The Sherwin Williams Company, Cleveland, OH.

MC 169835 (Sub-5–1TA) filed August 12, 1983. Applicant: MONTE TRANSPORT, INC., 207 E. Jefferson, Montezuma, IA 50171. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. *Plastic products* between Poweshiek County, IA on the one hand and, on the other, points in the U.S. (except AK and HI). supporting shipper: Bradford Window Co., Grinnell, IA.

MC 169837 (Sub-5–1TA), filed August 12, 1983. Applicant: FLAIR ENTERPRISES, INC., 128 E. 1st. Moore, OK 73160. Representative: William P Parker, 4400 N. Lincoln, Suite 10, Oklahoma City, OK 73105. *Wrecked or disabled vehicles and replacement vehicles for same,* between Oklahoma City, OK on the one hand, and, on the other, points in AR, AZ, KS, LA, MO, NM, and TX. Supporting shippers: McLean Trucking Co., Oklahoma City, OK, Texas Oklahoma Express (TOX), Oklahoma City, OK.

Agatha L. Mergenovich,
Secretary.

FR Doc. 83-23187 Filed 8-23-83; 8:45 am]
BILLING CODE 7035-01-M

[Finance Docket No. 30249]

Rail Carriers; The Atchison, Topeka & Santa Fe Railway Co., Toledo, Peoria & Western Railroad Co. Exemption

Decided: August 17, 1983.

On August 1, 1983, The Atchison, Topeka and Santa Fe Railway Company (Santa Fe) and the Toledo, Peoria & Western Railroad (TP&W) filed a Notice of Exemption concerning the proposed merger of TP&W into Santa Fe. TP&W is

a wholly-owned subsidiary of Santa Fe and consummation of the merger should result in Santa Fe's achieving certain management efficiencies and reductions in costs. There will be an elimination of certain separate executive functions, separate accounting and reporting requirements, and the general administrative burdens of maintaining two separate corporations. While the merger will result in significant benefits to Santa Fe, it should not materially affect the competitive balance with other rail carriers outside the corporate family as there should not be any significant operational changes or any adverse changes in service levels.

This transaction is a corporate simplification of the type specifically exempted from the necessity for prior review and approval under 49 CFR 1180.2(d)(3).

While the employee protective conditions in *New York Dock Ry.-Control-Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979), (*New York Dock*) were imposed when the Commission approved the acquisition of control of TP&W by Santa Fe in *Atchison, T.&S.F. Ry. Co.-Control*, 363 I.C.C. 715 (1980), those conditions were imposed to protect only those employees affected by the control transaction. Accordingly, as a condition to use of the subject exemption for this merger, any employee of TP&W or Santa Fe affected by the merger shall be protected pursuant to the conditions in *New York Dock*. This will satisfy the statutory requirement of 49 U.S.C. 10505(g)(2) regarding protection of employees affected by this transaction.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-23182 Filed 8-23-83; 8:45 am]

BILLING CODE 7035-01-M

[AB 6 SDM]

Rail Carriers; Burlington Northern Railroad Co; Amended System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.23, that the BURLINGTON NORTHERN RAILROAD CO. has filed with the Commission its amended color-coded system diagram map in docket No. AB 6 SDM. The Commission on August 15, 1983, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 6 SDM.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-23180 Filed 8-23-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant To Clean Air Act; Adams Automatic Co.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on August 5, 1983 a proposed Consent Decree in *United States* v. *Adams Automatic Company*, Civil Action No. 83-C-1388, was lodged with the United States District Court for the District of Colorado. The proposed Consent Decree concerns the unlawful removal from defendants' motor vehicles of fuel inlet restrictors, which prevent the unlawful introduction of leaded gasoline.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Adams Automatic Company*, D.J. Ref. 90-5-2-1-613.

The proposed Cosent Decree may be examined at the office of the United States Attorney, District of Colorado, Twelfth Floor, Federal Office Building, 1961 Stout Street, Denver, Colorado 80294 and at the Region VIII Office of the Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295. Copies of the proposed Consent Decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

F. Henry Habicht II,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 83-23192 Filed 8-23-83; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree Pursuant to the Clean Air Act; Packaging Corp. of America

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on August 2, 1983 a proposed consent decree in the *United States of America* v. *Packaging Corporation of America*, Civil Action No. G 81-289 CA 7 was lodged with the United States District Court for the Western District of Michigan. The proposed consent decree concerns control of air pollution at Packaging Corporation's Filer City, Michigan corrugated cardboard manufacturing plant.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States of America* v. *Packaging Corporation of America* D.J. Ref. 90-5-2-1-400.

The proposed consent decree may be examined at the office of the United States Attorney, 544 Federal Building & U.S. Courthouse, 110 Michigan Avenue, N.W., Grand Rapids, Michigan 44502 and at the Region V Office of the Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604. Copies of the consent decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $2.70 (10 cents per page reproduction cost) payable to the Treasurer of the United States.

F. Henry Habicht,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 83-23191 Filed 8-23-83; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

Jess B. Caderao, M.D.; Revocation of Registration

On April 6, 1983, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) directed an Order to Show Cause to Jess B. Caderao, M.D., 5959 Harry Hines Boulevard, Suite 211, Dallas, Texas 75235 (Respondent) seeking to revoke DEA Certificate of Registration AC1739195 issued under 21 U.S.C. 823. The Order states two grounds under 21 U.S.C. 824(a)(1) and 824(a)(2) for the revocation. First, in applying for his registration Respondent falsely stated that he had never had a DEA Certificate revoked, suspended or denied when in fact the Acting Administrator had revoked DEA Certificate of Registration AC8982488 previously issued to Respondent. 46 FR 50866 (October 15, 1981). Second, Respondent was convicted of controlled substance related felonies in the Superior Court of the State of Washington, in and for King County on March 9, 1981. By letter dated April 11, 1983, Respondent explicitly waived his opportunity for a hearing on the issues raised by the Order to Show Cause and requested consideration of his explanation. The Acting Administrator finds that Respondent waived his opportunity for a hearing under 21 CFR 1301.54(c) and, upon consideration of the file in this matter and Respondent's explanation, enters this Final Order under 21 CFR 1316.67.

The Acting Administrator finds that Dr. Caderao was convicted in state court in Washington of uttering false or forged prescriptions for oxycodone (percodan), in violation of RCW 69.50.401. Had there been a hearing in this matter, state officers would have testified that Respondent wrote prescriptions for 490 Percodan in a 42 day period. When asked to explain his prescribing habits, Respondent told investigators that he wrote Percodan prescriptions for his wife for four tablets a day. In fact, on September 9 and 10, 1980, he wrote prescriptions for 80 Percodan or 40 per day for his wife. He also wrote prescriptions for Demerol, Tuinal, Valium and Dilaudid in his medical partner's name.

On May 14, 1981, the Administrator of DEA directed an Order to Show Cause to Respondent at an address in Bellevue, Washington, seeking to revoke Certificate AC8982488 based on the Washington state convictions. During the pendency of those proceedings the State of Washington Medical Disciplinary Board revoked Respondent's authority to dispense controlled substances in Washington. The Acting Administrator revoked Certificate AC8982488 under 21 U.S.C. 824(a)(1), based on longstanding precedent that DEA cannot register a practitioner who lacks state authority to possess, dispense, prescribe or otherwise handle controlled substances. See *Jess B. Caderao*, Docket No. 81-15, 46 FR 50866 (October 15, 1981) and cases cited therein. The Acting Administrator finds that the Deputy Chief Counsel of the DEA sent a copy of the Final Order, with a letter to Respondent's counsel, on October 21, 1981.

Respondent states that he applied for DEA registration "in good faith" believing that he had been dismissed and released from all penalties and disabilities stemming from his conviction under Washington's deferred sentencing statute. He bases this explanation on a letter dated May 24, 1982, from the same Washington counsel who represented him before DEA that he had been "vendicated" (sic) and had "no criminal record." While the Acting Administrator is unpersuaded by this interpretation of the Washington deferred sentencing statute, he need not reach that issue. There is ample ground to revoke Respondent's registration under 21 U.S.C. 823(a)(1).

DEA may revoke a practitioner's registration if he "materially falsified any application" for registration. 21 U.S.C. 823(a)(1). On his application executed April 1, 1982, Respondent indicated he did not have a previous DEA registration revoked or an application denied. In fact, the Acting Administrator revoked his earlier DEA registration on October 15, 1981, and Respondent was duly notified through his counsel. Respondent did not mention this falsification in his letter of explanation. Surely, Respondent's Washington counsel must have notified him of the revocation of his DEA registration just as they notified him of the "vendication" (sic) of his criminal disabilities. Given the nature of Dr. Caderao's criminal activities, the Acting Administrator is not surprised that Respondent would mention the vindication and not the revocation in his letter of explanation. A false statement is material if it is calculated to induce action or reliance by an agency of the United States. *United States* v. *Talkington*, 589 F.2d 415, 416 (9th Cir. 1978). The Acting Administrator finds that a statement given on an application for DEA registration is material since it would induce DEA to act, namely, to register the applicant. Absent any explanation from Respondent, and in light of his background, the Acting Administrator is drawn to the inescapable conclusion that Respondent intended to make this material false statement on his application.

It is the decision of the Acting Administrator to revoke the DEA Certificate of Registration issued to Respondent and deny any pending applications for registration. Accordingly, under the authority vested in the Attorney General by 21 U.S.C. 824, as redelegated to the Acting Administrator of the Drug Enforcement Administration, the Acting Administrator hereby orders that DEA Certificate of Registration AC1739195 previously issued to Jess B. Caderao, M.D., is hereby denied September 23, 1983.

Dated: August 11, 1983.

Francis M. Mullen, Jr.,

Acting Administrator.

[FR Doc. 83-23194 Filed 8-23-83; 8:45 am]

BILLING CODE 4410-09-M

OFFICE OF MANAGEMENT AND BUDGET

Publication of OMB Circular A-123, Revised "Internal Control Systems"

ACTION: Final issuance of OMB Circular A-123, Revised, "Internal Control Systems."

SUMMARY: This revision of OMB Circular A-123 incorporates requirements of the Federal Managers' Financial Integrity Act of 1982 (the Act), the OMB "Guidelines for the Evaluation and Improvement of and Reporting on Internal Control Systems in the Federal Government", and the Comptroller General's internal control standards, all of which became operational after the effective date of the original OMB Circular A-123, October 28, 1981. This revised Circular consolidates Executive branch internal control responsibilities and supports the Administration's goal of strengthening internal control systems.

EFFECTIVE DATE: This Circular is effective August 24, 1983..

FOR FURTHER INFORMATION CONTACT: Finance and Accounting Division, Office of Management and Budget, Washington, D.C. 20503, telephone number (202) 395-3122.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget issued Circular A-123, "Internal Control Systems," as a means of improving controls and thus minimizing instances of fraud, waste and abuse. Enactment of the Federal Managers' Financial

Integrity Act of 1982 on September 8, 1982 and subsequent publication of the OMB "Internal Control Guidelines" and the Comptroller General's internal control standards necessitates that Circular A–123 be revised.

The revised Circular A–123 incorporates the following changes. The background section now briefly summarizes the requirements of the Federal Managers' Financial Integrity Act and refers to the OMB "Internal Control Guidelines" issued in December 1982. The responsibility section now specifies the responsibilities of the designated senior official and heads of organizational units. These and the responsibilities of the agency head and Inspector General conform with the description of their responsibility contained in the OMB "Internal Control Guidelines." The objectives of the internal control section has been revised to conform with the objectives specified in the Act. The internal control standards section now includes the final standards prescribed by the Comptroller General. OMB explanations are provided for selected standards. The internal control directive section now includes a definition of employees for whom performance agreements should include fulfillment of internal (i.e. management) control responsibilities. A new section describes an agency's responsibility for taking timely corrective actions on weaknesses disclosed through its evaluation of internal controls. The reporting section now includes the Act's requirement for the agency head to submit an annual statement to the President and the Congress about the agency's system of internal controls.

On March 28, 1982, OMB distributed a proposed revision of Circular A–123 to members of the Assistant Secretaries for Management Group, the President's Council on Integrity and Efficiency, the General Accounting Office and the American Institute of CPAs (AICPA) for review and comment. Officials from 15 Federal agencies and the AICPA provided written comments.

Major comments are summarized below by subject with a response to each and a description of changes made as a consequence of the comments. Other changes were made to increase clarity, precision and readability.

Internal Control Directive

Comment: One response suggested that agencies should not be required to perform vulnerability assessments every two years because that requirement, combined with a program of continuous internal control reviews would cause confusion and become inefficient.

Response: The revised Circular provides for ongoing programs of vulnerability assessment and internal control review for all agency components and assessable units. It specifies that each assessable unit shall be evaluated at least once every two years. Therefore, a vulnerability assessment, or an internal control review or other kind of action that evaluates whether internal controls are operating as intended and are effective, may be used to fulfill this requirement for a biennial evaluation.

Internal Control Definition

Comment: Several responses suggested revising the definition because it emphasized financial aspects of internal control, thereby limiting the scope of internal control evaluations. They suggested using the definition contained in the original OMB Circular A–123.

Response: The definition of internal control was developed to be consistent with provisions of the Act. A statement was added which explains that internal control objectives apply to all program and administrative activities of an agency.

Harold I. Steinberg,

Associate Director for Management.

August 16, 1983.

[Circular No. A–123 Revised]

To the Heads of Executive Departments and Establishments

Subject: Internal Control Systems

1. *Purpose.* This Circular prescribes policies and standards to be followed by executive departments and agencies in establishing, maintaining, evaluating, improving, and reporting on internal controls in their program and administrative activities.

2. *Rescission.* This revision replaces Circular No. A–123, "Internal Control Systems," dated October 28, 1981.

3. *Background.* The Accounting and Auditing Act of 1950 requires the head of each department and agency to establish and maintain adequate systems of internal control. Office of Management and Budget (OMB) Circular A–123, issued in October 1981, promulgated internal control standards and a system of agency responsibilities and requirements to address the number instances of fraud, waste, and abuse of Government resources and mismanagement of Government programs resulting from weaknesses in internal controls or breakdowns in compliance with internal controls.

The Federal Managers' Financial Integrity Act, Pub. L. 97–255, (hereafter referred to as the Act), amended the Accounting and Auditing Act of 1950. The Act's requirements and objectives are basically the same as the original Circular's except that the internal accounting and administrative control standards are to be prescribed by the Comptroller General; annual evaluations are to be conducted by each executive agency of its system of internal accounting and administrative control, in accordance with guidelines established for such evaluations by the Director of the Office of Management and Budget; and an annual statement is to be submitted by the head of each executive agency to the President and the Congress on the status of the agency's system of internal control. The guidelines, entitled "Guidelines for the Evaluation and Improvement of Reporting on Internal Control Systems in the Federal Government" were issued in December 1982.

In addition to the requirements of the Act, 31 U.S.C. 1514 requires that agency systems for the control of funds be approved by the Director of OMB. These requirements are prescribed by Circular A–34, "Budget Execution."

4. *Policy.* Agencies shall maintain effective systems of accounting and administrative control. All levels of management shall involve themselves in assuring the adequacy of controls. New programs shall incorporate effective systems of internal control. All systems shall be evaluated on an ongoing basis, and weaknesses, when detected, shall be promptly corrected. Reports shall be issued, as required, on internal control activities and the results of evaluations.

5. *Definitions.* For the purpose of this Circular, the following terms are defined:

a. *Agency*—any department or independent establishment in the executive branch.

b. *Agency Component*—a major organization, program or functional subdivision of an agency having one or more separate systems of internal control.

c. *Control Objective*—a desired goal or condition for a specific event cycle that reflects the application of the overall objectives of internal control to that specific cycle.[1]

[1] Control objectives are not absolutes. Since the achievement of control objectives can be and is affected by such factors as budget constraints, statutory and regulatory restrictions, staff limitations, and cost-benefit considerations, the lack of achievement of control objectives does not necessarily represent a defect or deficiency in internal control requiring correction. Such limiting factors need to be considered in determining whether there is reasonable assurance the control objectives are being achieved.

d. *Internal Control*—the plan of organization and methods and procedures adopted by management to provide reasonable assurance that obligations and costs are in compliance with applicable law; funds, property, and other assets are safeguarded against waste, loss, unauthorized use, or misappropriation; and revenues and expenditures applicable to agency operations are properly recorded and accounted for to permit the preparation of accounts and reliable financial and statistical reports and to maintain accountability over the assets.

e. *Internal Control Documentation*—written policies, organization charts, procedural write-ups, manuals, memoranda, flow charts, decision tables, completed questionnaires, software, and related written materials used to describe the internal control methods and measures, to communicate responsibilities and authorities for operating such methods and measures, and to serve as a reference for persons reviewing the internal controls and their functioning.

f. *Internal Control Guidelines*—the guidelines issued by OMB in December 1982, entitled "Guidelines for the Evaluation and Improvement of and Reporting on Internal Control Systems in the Federal Government".

g. *Internal Control Review*—a detailed examination of a system of internal control to determine whether adequate control measures exist and are implemented to prevent or detect the occurrence of potential risks in a cost effective manner.

h. *Internal Control Standards*—the standards issued by the Comptroller General on June 1, 1983, for use in establishing and maintaining systems of internal control. These are applicable to all operations and administrative functions but are not intended to limit or interfere with duly granted authority related to development of legislation, rulemaking, or other discretionary policymaking in an agency.

i. *Internal Control System*—the sum of the organizaton's methods and measures used to achieve the objectives of internal control.

j. *Internal Control Technique*—processes and documents that are being relied on to efficiently and effectively accomplish an internal control objective and thus help safeguard an activity from waste, loss, unauthorized use, or misappropriation.

k. *Material Weakness*—a situation in which the designed procedures or degree of operational compliance therewith does not provide reasonable assurance that the objectives of internal control specified in the Act are being accomplished.

l. *Vulnerability Assessment*—a review of the susceptibility of a program or function to waste, loss, unauthorized use, or misappropriation.

6. *Responsibility.* The head of each agency is responsible for ensuring that the design, installation, evaluation, and improvement of internal controls, and issuance of reports on the agency's internal control systems are in accordance with the requirements of the Act and the guidance contained in the Internal Control Guidelines. Designated internal control officials and heads of organizational units within agencies have responsibilities for ensuring the performance of necessary internal control evaluations and providing assurances to the agency head. These responsibilities are described in paragraphs 6b and c. The Inspector General, or equivalent in agencies without an Inspector General, has a limited responsibility in regard to internal controls, as explained in paragraph 6d.

a. Agency heads are responsible for establishing and maintaining the system of internal control within their agencies. This includes determining that the system is established in accordance with the standards prescribed by the Comptroller General and that it provides reasonable assurance that the objectives of internal control, as described in paragraph 7, are met. It also includes determining that the system is functioning as prescribed and is modified, as appropriate, for changes in conditions.

b. A designated senior official shall be responsible for coordinating the overall agency-wide effort of evaluating, improving and reporting on internal control systems in accordance with the Internal Control Guidelines. This responsibility includes providing assurance to the agency head that those processes were conducted in a thorough and conscientious manner.

c. Heads of organizational units are responsible for the system of internal control in their units. This responsibility includes providing to the agency head assurance that he or she is cognizant of the importance of internal controls; has performed the evaluation process in accordance with the Internal Control Guidelines and in a conscientious manner; and believes the objectives of internal control are being complied with in his or her area of responsibility within prescribed limits.

d. The Inspector General (IG), or the senior audit official where there is no Inspector General, is encouraged to provide technical assistance in the agency effort to evaluate and improve internal controls. This would be in addition to the reviews of internal control documentation and systems, undertaken at the IG's initiative or at the request of the agency head, and the reports issued as a result of these reviews.

e. In addition, the IG may advise the agency head whether the agency's internal control evaluation process has been conducted in accordance with the Internal Control Guidelines. Performing the limited review required to provide such advice should not be interpreted to preclude the IG from providing technical assistance in the agency effort to evaluate and improve internal controls, or otherwise limit the authority of the IG. The extent of IG involvement in the agency's internal control evaluation, improvement and reporting process should be coordinated among the agency head, IG, and the designated internal control official.

7. *Objectives of Internal Control.* The objectives of internal control, as specified in the Act, are to provide management with reasonable assurance that:

a. Obligations and costs comply with applicable law.

b. Assets are safeguarded against waste, loss, unauthorized use, and misappropriation.

c. Revenues and expenditures applicable to agency operations are recorded and accounted for properly so that accounts and reliable financial and statistical reports may be prepared and accountability of the assets may be maintained.

The objectives of internal control apply to all program and administrative activities.

8. *Internal Control Standards.* An agency's or agency component's system of internal control shall be established and maintained in accordance with the standards prescribed by the Comptroller General as presented below. OMB commentary on selected standards is contained in the bracketed paragraphs.

a. General Standards

1. *Reasonable Assurance.* Internal control systems are to provide reasonable assurance that the objectives of the systems will be accomplished.

[This standard recognizes that the cost of internal control should not exceed the benefits derived therefrom and that the benefits consist of reductions in the risks of failing to achieve the stated control objectives.]

2. *Supportive Attitude.* Managers and employees are to maintain and demonstrate a positive and supportive

attitude toward internal controls at all times.

3. *Competent Personnel.* Managers and employees are to have personal and professional integrity and are to maintain a level of competence that allows them to accomplish their assigned duties, as well as understand the importance of developing and implementing good internal controls.

4. *Control Objectives.* Internal control objectives are to be identified or developed for each agency activity and are to be logical, applicable, and reasonably complete.

5. *Control Techniques.* Internal control techniques are to be effective and efficient in accomplishing their internal control objectives.

[Internal control techniques are to be designed for and operated in all agency programs and administrative activities in order to accomplish the control objectives consistently.]

b. Specific Standards

1. *Documentation.* Internal control systems and all transactions and other significant events are to be clearly documented, and the documentation is to be readily available for examination.

2. *Recording of Transactions and Events.* Transactions and other significant events are to be promptly recorded and properly classified.

3. *Execution of Transactions and Events.* Transactions and other significant events are to be authorized and executed only by persons acting within the scope of their authority.

[Independent evidence is to be maintained that authorizations are issued by persons acting within the scope of their authority and that the transactions conform with the terms of the authorizations.]

4. *Separation of Duties.* Key duties and responsibilities in authorizing, processing, recording, and reviewing transactions should be separated among individuals.

[Key duties such as authorizing, approving, and recording transactions, issuing or receiving assets, making payments, and reviewing or auditing are to be assigned to separate individuals to minimize the risk of loss to the government. Internal control depends largely on the reduced opportunities to make and conceal errors or to engage in or conceal irregularities. This, in turn depends on the assignment of work so that no one individual controls all phases of an activity or transaction, thereby creating a situation that permits errors or irregularities to go undetected.]

5. *Supervision.* Qualified and continuous supervision is to be provided to ensure that internal control objectives are achieved.

[Qualified and continuous supervision also is to ensure that approved procedures are followed. Lines of personal responsibility and accountability are to be clearly established.]

4. *Access to and Accountability for Resources.* Access to resources and records is to be limited to authorized individuals, and accountability for the custody and use of resources is to be assigned and maintained. Periodic comparison shall be made of the resources with the recorded accountability to determine whether the two agree. The frequency of the comparison shall be a function of the vulnerability of the asset.

c. Audit Resolution Standard

1. *Prompt Resolution of Audit Findings.* Managers are to (1) promptly evaluate findings and recommendations reported by auditors, (2) determine proper actions in response to audit findings and recommendations, and (3) complete, within established time frames, all actions that correct or otherwise resolve the matters brought to management's attention.

9. *Requirements for Agency Internal Control Directive.* Each agency shall update its internal control directive which will, at a minimum:

a. Establish specific responsibilities for seeing that agency internal control systems are developed (where they do not exist), maintained, evaluated, improved as necessary, and reported upon in accordance with the Internal Control Guidelines.

b. Provide for coordination among the designated internal control official, heads of organizational units, program managers, and technical staffs, including the Office of Inspector General or its equivalent in agencies without an Inspector General, in matters concerning internal control.

c. Assign responsibility for internal control to appropriate levels of management in each agency component and establish administrative procedures to enforce the intended functioning of internal controls. These procedures should require performance agreements for each Senior Executive Service and Merit Pay or equivalent employee with significant management responsibility to include fulfillment of assigned internal (i.e., management) control responsibilities; notations in performance appraisals for positive accomplishments related to internal controls; appropriate disciplinary actions for violations of internal controls; and timely correction of internal control weaknesses, however identified.

d. Require each internal control system to meet the standards of internal control described in paragraph 8.

e. Provide for an ongoing program of vulnerability assessments covering all agency components and assessable units. Assessments shall be accomplished as frequently as circumstances warrant. Agencies shall assure the evaluation of each assessable unit at least once every two years.

f. Provide for internal control reviews, audits, increased or improved monitoring procedures or other processes on an ongoing basis to determine whether the controls are operating as intended and are effective. These reviews or other actions should identify internal controls that need to be strengthened or streamlined. The timing of the reviews or other actions shall be determined based upon the results of the vulnerability assessments, management priorities, resource availability, and other management initiatives planned or underway.

10. *Follow-up Actions.* The recommendations resulting from vulnerability assessments and internal control reviews should be considered by management on a timely basis and appropriate corrective actions should be taken as promptly as possible. A formal follow-up system should be established that records and tracks recommendations and projected action dates, and monitors whether the changes are made as scheduled. The existing audit follow-up system maintained by the designated agency follow-up official could be used for this purpose.

11. *Specific Internal Control Guides.* Models and other guidelines for internal controls for specialized aspects of agency operations will be developed from time to time and issued separately to aid agencies in designing specific internal control systems.

12. *Reporting.* By December 31, 1983, and by each succeeding December 31, the head of each executive agency subject to Pub. L. 97–255 (31 U.S.C. 3512) shall submit a statement to the President and to the Congress stating whether the evaluation of internal controls was conducted in accordance with the Internal Control Guidelines, stating whether the agency's system of internal accounting and administrative control complies with the Comptroller General's standards and provides reasonable assurance that obligations and costs are in accordance with applicable law; funds, property, and other assets are safeguarded; and revenues and

expenditures are properly recorded and permit the preparation of reliable financial and statistical reports; reporting the material weaknesses, if any, in the agency's system of internal control, however identified; and containing a plan for correcting any weaknesses. Procedures to be followed in preparing this report are contained in the Internal Control Guidelines.

Agencies are also required to submit information to OMB on the progress made in evaluating and improving internal controls as part of the Reform '88 Tracking System.

13. *Effective Date.* This Circular is effective on publication.

14. *Inquiries.* All questions or inquiries should be addressed to the Finance and Accounting Division, Office of Management and Budget, telephone number 202/395–3122.

15. *Sunset Review Date.* This Circular shall have an independent policy review to ascertain its effectiveness three years from the date of issuance.

David A. Stockman,

Director.

[FR Doc. 83–23238 Filed 8–23–83; 8:45 am]

BILLING CODE 3110–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 13444; 812–5560]

Financial Tax-Free Money Fund, Inc.; Application

August 18, 1983.

Notice is hereby given that Financial Tax-Free Money Fund, Inc. ("Applicant"), 7503 Marin Drive, Englewood, Colorado 80111, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversifed, management investment company, filed an application on May 26, 1983, for an order, pursuant to Section 6(c) of the Act, exempting Applicant to the extent necessary: (1) From the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to permit Applicant to calculate its net asset value per share based on the amortized cost method of valuation and to value in the manner described in the application certain rights to sell its portfolio securities to brokers, dealers, and banks; and (2) from the provisions of Section 12(d)(3) of the Act to permit Applicant to acquire from brokers and dealers the aforesaid rights to sell portfolio securities. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and are referred to the Act and the rules thereunder for further information as to the provisions to which the exemptions apply.

A Colorado corporation, Applicant seeks as its investment objective to obtain as high a level of current income exempt from federal income taxation as is consistent with safety of capital and maintenance of liquidity. Applicant states that it will pursue this objective by investing primarily in high quality, short-term obligations. Applicant has agreed to all the standard conditions typically imposed in amortized cost orders.

Applicant also requests exemptive relief to the extent necessary to enable it to acquire "stand-by commitments", also known as "puts". Applicant represents that its investment policies will permit the acquisition of stand-by commitments solely to facilitate liquidity, and the acquisition, exercisability, or duration of the stand-by commitments will not be a factor in determining Applicant's dollar-weighted average portfolio maturity or the values and maturities of the securities it holds. Applicant states that its stand-by commitments will have the following features: (1) They will be in writing and will be physically held by Applicant's custodian; (2) they will be exercisable at any time prior to the underlying security's maturity; (3) Applicant's right to exercise the stand-by commitments will be unconditional and unqualified; (4) they will be entered into only with dealers, banks, and brokers who, in Applicant's investment adviser's opinion, present a minimal risk of default; (5) although they will not be transferable, the municipal obligations purchased subject to such commitments may be sold to a third party at any time, even though a commitment may be outstanding; and (6) their exercise price in each case will (i) Applicant's acquisition cost of the municipal obligation subject to the commitment (excluding any accrued interest that Applicant paid on acquisition of the security), less any amortized market premium or plus any amortized market or original issue discount during the period Applicant owned the municipal obligation, plus (ii) all interest accrued on the municipal obligation since the last interest payment date during the period such obligation was owned by Applicant.

Because Applicant will value municipal obligations on an amortized cost basis, it asserts that the amount payable under a stand-by commitment will be substantially the same as the value assigned the underlying securities. Due to the high quality of its securities, there is little risk of an event occurring that would make amortized cost valuation of portfolio securities inappropriate. In the unlikley event that the market or fair value of Applicant's securities were not substantially equivalent to their amortized cost value, Applicant's directors may determine that the securities should be valued on the basis of available market information. Applicant represents that it will refrain from exercising the stand-by commitments to avoid imposing a loss on a dealer and jeopardizing Applicant's business relationship with that dealer.

Applicant expects that stand-by commitments generally will be available without the payment of any direct or indirect consideration. If Applicant's directors believe it necessary or advisable, however, Applicant may pay for stand-by commitments, either separately in cash or by paying a higher price for the securities acquired subject to the commitment. As a matter of policy, the total amount "paid" in either manner for outstanding stand-by commitments held by Applicant will not exceed ½ of 1 percent of the value of its total assets calculated immediately after any stand-by commitment is acquired. Because it is difficult to evaluate the likelihood of use or the potential benefit of a stand-by commitment, the Applicant's directors believe that such commitments should be given no value in determining Applicant's net asset value, regardless of whether any direct or indirect consideration is paid. When Applicant pays for a stand-by commitment, its costs will be reflected as unrealized depreciation for the period during which the commitment is held. For purposes of complying with the conditions that (i) the dollar-weighted average maturity of Applicant's securities shall not exceed 120 days and (ii) the maturity of a portfolio security shall not exceed one year, the existence of stand-by commitments will not be viewed as shortening the maturities of the underlying municipal obligations.

Applicant notes that the Internal Revenue Service ("IRS") has issued several favorable private letter rulings to the effect that a registered investment company would own municipal obligations acquired subject to a stand-by commitment and that interest on such securities will be tax-exempt. It has also issued a Revenue Ruling in this regard. Because Applicant intends to comply with all requirements of the Revenue Ruling, it does not intend to seek a private ruling from the IRS.

Applicant submits that the above requested relief is appropriate in the public interest and consistent with the protection of investors and purposes

fairly intended by the policy and provisions of the Act. Applicant's board of directors has determined in good faith that, in view of its objective and the terms and conditions pursuant to which stand-by commitments would be acquired from banks, brokers, and dealers, the acquisition of such commitments would be beneficial to Applicant and its shareholders and an appropriate method of ensuring liquidity. Applicant states that it will value its stand-by commitments in a way that prevents the insulation of net asset value per share against decline due to unrealized depreciation in the value of portfolio securities. Applicant asserts that the commitments will not pose new investment risks, but will improve its liquidity and ability to satisfy redemptions. Applicant asserts that the acquisition of stand-by commitments will not meaningfully expose its assets to the entrepreneurial risks of the investment banking process, nor require it to evaluate the credit of dealers in determining its net asset value. To the extent the commitment may represent an obligation of a broker or dealer, Applicant represents that such obligations will be secured to the extent of the underlying municipal obligations subject to such commitments. Accordingly, Applicant contends that its acquisition of stand-by commitments will not significantly expose it to the credit risks of brokers or dealers. Nevertheless, Applicant states that its investment adviser intends to evaluate periodically the credit of institutions issuing standy-by commitments to Applicant. Finally, Applicant will not acquire stand-by commintments to promote reciprocal practices, to encourage distribution efforts, or to obtain research services.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than September 12, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, Pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-22250 Filed 8-22-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13446; 812-5570]

GEICO Municipal Securities Series Trust; Filing of Application

August 18, 1983.

Notice is hereby given that GEICO Municipal Securities Series Trust (the "Applicant"), GEICO Plaza, Washington, D.C. 20076, registered under the Investment Company Act of 1940 ("Act") as a no-lead, open-end, diversified management investment company authorized to issue multiple series of units of beneficial interest, filed an application on June 1, 1983, and an amendment thereto on August 5, 1983, pursuant to Section 6(c) of the Act, for an order of the Commission exempting Applicant to the extent necessary: (1) From the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 and thereunder to permit one of its series, the GEICO Tax-Free Cash Fund ("Fund"), to value in the manner described below rights acquired from brokers, dealers or financial institutions to sell portfolio securities to such persons; and (2) from the provisions of Section 12(d)(3) of the Act to permit the Fund to acquire rights to sell its portfolio securities to brokers or dealers. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the text of the Act and the rules thereunder for the various provisions, including Section 6(c) of the Act, pertinent to a consideration of the application.

Applicant states that its objective is to obtain the highest level of income exempt from Federal income taxes as is consistent with prudent investment management, safety of principal and the quality and maturity characteristics prescribed for each series. Applicant further states that the Fund will purse these objectives by investing exclusively, except temporarily for defensive purposes, in money market securities from which income is exempt from Federal income tax and that the Fund will seek to maintain a constant net asset value of $1.00 per share by utilizing the amortized cost method of valuation in compliance with Rule 2a–7 under the Act.

Applicant represents that the Fund intends to acquire stand-by commitments solely to facilitate portfolio liquidity and it does not intend to exercise its rights for trading purposes. The Fund's acquisition of stand-by commitments will not affect the valuation or maturity of the underlying securities which would continue to be valued at amortized cost in accordance with Rule 2a–7. According to the application, the standby commitments will have the following features: (1) They will be in writing and will be physically held by the Applicant's custodian; (2) they may be exercisable by the Fund at any time or during specified periods prior to the maturity of the underlying security; (3) the Fund's right to exercise them will be unconditional and unqualified; (4) they will be entered into only with brokers, dealers, and financial institutions which, in the judgment of the Fund's investment advisers present a minimal risk of default; (5) although they may not be transferable, municipal obligations purchased subject to such commitments could be sold to a third party at any time, even though the commitment was outstanding; and (6) their exercise price will be (a) the Fund's acquisition cost of the municipal obligations which are subject to the commitment (excluding any accrued interest which the Fund paid on their acquisition), less any amortized market premium or plus any amortized or original issue discount during the period the Fund owned the securities, plus (b) all interest accrued on the securities since the last interest payment date during the period the securities were owned by the Fund.

Applicant states that since the Fund values its municipal obligations on an amortized cost basis pursuant to Rule 2a–7, the amount payable under a stand-by commitment will be substantially the same as the value assigned by the Fund to the underlying security. Applicant submits there is little risk of an event occurring which would make amortized cost valuation of the Fund's portfolio securities inappropriate. In such event, however, the Fund would expect to refrain from exercising the stand-by commitments in such securities to avoid imposing a loss on a broker, dealer or financial institution and jeopardizing the Fund's business relationship with that entity.

If necessary and advisable, the Applicant states that the Fund will pay for the stand-by commitments, either separately in cash or by paying a higher price for portfolio securities which are acquired subject to the commitment. As a matter of policy, the total amount

"paid" in either manner for outstanding stand-by commitments held in the Fund's portfolio will not exceed ⅛ of 1 percent of the value of its total assets calculated immediately after any stand-by commitment is acquired. It is contended that it is difficult to evaluate the likelihood of use or the potential benefit of a stand-by commitment. Therefore, Applicant's Trustees will determine that stand-by commitments have a "fair value" of zero, regardless of whether any direct or indirect consideration was paid.

Applicant submits that an exemption from Section 12(d)(3) of the Act to permit the Fund to acquire puts from brokers or dealers would be consistent with the standards set forth in Section 6(c) of the Act. Further, the proposed acquisition of stand-by commitments by the Fund will not affect its net asset value per share for purposes of sales and redemptions and will not pose new investment risks, but rather will improve its liquidity and ability to pay redemption proceeds the same day in federal funds.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than September 12, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-23260 Filed 8-23-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 875; 803-13]

Shaw Management Company, Inc. and Ralph R. Shaw; Application; Correction

August 18, 1983.

This is to correct an error resulting from the issuance of Investment Company Act Release No. 13416, dated July 29, 1983, in the matter of Shaw Management Company, Inc., and Ralph R. Shaw, 921 SW., Washington, Suite 870, Portland, Oregon 97205. The above-referenced notice pertained to an application filed under the Investment Advisers Act of 1940, not the Investment Company Act of 1940 ("Act"). Therefore, the release setting forth the notice of such application should have been issued under the Investment Advisors Act of 1940 ("Advisers Act"), rather than under the Investment Company Act, and should have been, and hereby is, numbered Advisers Act Release No.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-23258 Filed 8-23-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-20090; File No. NYSE-83-32]

Self-Regulatory Organizations; Proposed Rule Change by New York Stock Exchange, Inc. Relating to Composite Index Group Option Contract Specifications

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on August 15, 1983, the New York Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Terms of substance of the proposed rule change consist of the introduction of the following contract specifications for the Exchange's options on the index stock group that is based on the NYSE Composite Index:

Index Multiplier: 100.

Exercise Price: 5 point intervals.

Expiration Series: Three expiration months of nine-months' duration; initial listing of November 1983, February 1984 and May 1984 options.

Expiration Dates: Options will expire on the Saturday after the third Friday of the expiration month. (The last day of trading in expiring options will therefore be the third Friday of that month.)

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) *Purpose.* The purpose of the proposed rule change is to specify the index multiplier, strike price intervals, expiration series and expiration dates for the Exchange's composite index group options. Such specifications complete the definition of the index group options which the Exchange seeks to trade commencing September 23.

(2) *Statutory Basis.* The formal specification of the index multiplier, strike price intervals, expiration series and expiration dates as part of the Exchange's implementation of its index stock group option rules comports with the requirements of section 6(b)(5) of the 1934 Act, in that such implementation will provide members of the public with useful new hedging and trading opportunities under a scheme of regulation designed to facilitate the maintenance of a fair and orderly market, to prevent fraudulent and manipulative acts and practices, and to promote just and equitable principles of trade.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will not impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments regarding the proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation pursuant to delegated authority.

Dated: August 16, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-23201 Filed 8-23-83; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of Reporting Requirements Submitted for OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATE: Comments must be received on or before September 16, 1983. If you anticipate commenting on a submission but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB reviewer and the agency clearance officer of your intent as early as possible.

Copies: Copies of the proposed forms, the request for clearance (S.F. 83), supporting statement, instructions, transmittal letters, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Comments on the item listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: Elizabeth M. Zaic, Small Business Administration, 1441 L St., N.W., Room 200, Washington, D.C. 20416, Telephone: (202) 653-8538

OMB Reviewer: J. Timothy Sprehe, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235, New Executive Office Building, Washington, D.C. 20503, Telephone: (202) 395-4814

Forms submitted for review:

Title: Ownership Characteristics Survey
Frequency: One time, nonrecurring
Description of Respondents: Small business concerns
Annual Response: 67,000
Annual Burden Hours: 6,700
Type of Request: New

Dated: August 17, 1983.

Richard Vizachero, Jr.,

Acting Chief, Paperwork Management Branch, Small Business Administration.

[FR Doc. 83-23112 Filed 8-23-83; 8:45 am]

BILLING CODE 8025-01-M

Region II Advisory Council; Public Meeting

The Small Business Administration Region II Advisory Council located in the geographical area of Hato Rey, Puerto Rico, will hold a public meeting at 9:00 a.m., Wednesday, September 21, 1983, at room 401, Federal Building, Carlos Chardon Avenue, Hato Rey, Puerto Rico, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others attending.

For further information, write or call Wilfred Benitez Robles, District Director, U.S. Small Business Administration, Federico Degetau Federal Building, Room 691, Carlos Chardon Avenue, Hato Rey, Puerto Rico 00918, (809) 753-4003.

Jean M. Nowak,

Director, Office of Advisory Councils.

August 18, 1983.

[FR Doc. 83-23246 Filed 8-23-83; 8:45 am]

BILLING CODE 8025-01-M

Region II Advisory Council; Public Meeting

The Small Business Administration, Region II Newark District Office Advisory Council, located in the geographical area of Newark, New Jersey, will hold a public meeting at 1:00 p.m. on Monday, September 12, 1983, in the Board Room, National Community Bank of New Jersey, 24 Park Avenue, Rutherford, New Jersey 07070, to discuss such business as may be presented by members and the staff of the Small Business Administration or others attending. For further information, write or call Andrew P. Lynch, District Director, U.S. Small Business Administration, Military Park Building, 60 Park Place, 4th Floor, Newark, New Jersey 07102, 201-645-3580.

Jean M. Nowak,

Director, Office of Advisory Councils.

August 18, 1983.

[FR Doc. 83-23245 Filed 8-23-83; 8:45 am]

BILLING CODE 8025-01-M

Region III Advisory Council; Public Meeting

The U.S. Small Business Administration Region III Advisory Council, located in the geographical area of Pittsburgh, will hold a public meeting at 8:00 a.m., on Thursday, September 29, 1983, at the University of Pittsburgh, Graduate School of Business, Mervis Hall, Clemente Drive and Bouquet Street, Pittsburgh, Pennsylvania 15260, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call J. M. Kopp, District Director, U.S. Small Business Administration, 960 Penn Avenue, Convention Tower, 5th Floor,

Pittsburgh, Pennsylvania 15222,—(412) 644–4306.

Jean M. Nowak,

Director, Office of Advisory Councils.

August 18, 1983.

[FR Doc. 83-23268 Filed 8-23-83; 8:45 am]

BILLING CODE 8025-01-M

Region IX—Advisory Council; Public Meeting

The Small Business Administration Region IX Advisory Council, located in the geographical area of Honolulu, will hold a public meeting at 9:00 A.M., Thursday, September 22, 1983, at the Prince Kuhio Federal Building, 300 Ala Moana Boulevard, Room 7372 (7th Floor), Honolulu, Hawaii, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call David K. Nakagawa, District Director, U.S. Small Business Administration, 300 Ala Moana Boulevard, Room 2213, Honolulu, Hawaii 96850, (808) 546–8950.

Jean M. Nowak,

Director, Office of Advisory Councils.

August 8, 1983.

[FR Doc. 83-23244 Filed 8-23-83; 8:45 am]

BILLING CODE 8025-01-M

Region IX Advisory Council; Public Meeting

The Small Business Administration Region IX Advisory Council, located in the geographical area of Fresno, will hold a pubic meeting at 9:00 a.m., September 7, 1983, at the Fresno District Office, 2202 Monterey Street, Suite 108, Fresno, California, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or other present.

For further information, write or call Mr. Peter J. Bergin, District Director, U.S. Small Business Administration, 2202 Monterey Street, Suite 108, Fresno, California 93721, (209) 487–5791.

Jean M. Nowak,

Director, Office of Advisory Councils.

August 18, 1983.

[FR Doc. 83-23247 Filed 8-23-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Public Information Collection Requirements Submitted to OMB for Review

On August 18, 1983 the Department of Treasury submitted the following public information collection requirement(s) to OMB (listed by submitting bureaus), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 634–2179. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 309, 1625 "I" Street, NW., Washington, D.C. 20220.

Internal Revenue Service

OMB Number: 1545–0127
Form Number: 1120–H
Type of Review: Revision
Title: U.S. Income Tax Return for Homeowners Assns.
OMB Number: 1545–0067
Form Number: 2555
Type of Review: Revision
Title: Foreign Earned Income
OMB Number: 1545–0127
Form Number: 1120–H
Type of Review: Revision
Title: U.S. Self-Employment Tax Return and Planilla Para La Declaracion De La Contribucion Federal Sabre El Trabaja
OMB Reviewer: Norman Frumkin, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Rita A. DeNagy,

Departmental Reports Management Office.

August 18, 1983.

[FR Doc. 83-23274 Filed 8-23-83; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

On August 18, 1983 the Department of the Treasury submitted the following public information collection requirement(s) to OMB (listed by submitting bureaus), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 634–2179. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 309, 1625 "I" Street, NW., Washington, D.C. 20220.

Internal Revenue Service

OMB Number: 1545–0429
Form Number: 4506
Type of Review: Revision
Title: Request for Copy of Tax Form or Individual Income Tax Account Information
OMB Reviewer: Norman Frumkin (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Dated: August 18, 1983.

Rita A. DeNagy,

Departmental Reports Management Office.

[FR Doc. 83-23273 Filed 8-23-83; 8:45 am]

BILLING CODE 4810-25-M

[Number 103-3]

Delegation of Authority to the Deputy Assistant Secretary (Federal Finance) To Dispose of Warrants To Purchase Common Stock of Chrysler Corporation ("Chrysler")

August 11, 1983.

By virtue of the authority vested in me as Deputy Secretary of the Treasury, including that delegated to me through a memorandum dated August 8, 1983, from the Secretary of the Treasury entitled "Recusal with respect to the sale of Chrysler Corporation Stock Warrants," I hereby delegate to the Deputy Assistant Secretary (Federal Finance) the authority to exercise any power, make any determination and perform any duty granted to me pursuant to 31 U.S.C. 324 for the sole purpose of disposing of the warrants to purchase Chrysler common stock which were issued to the United States, acting through the Chrysler

Corporation Loan Guarantee Board (the "Board"), in 1980 and 1981 and which will be transferred by the Board to the Secretary of the Treasury for disposal pursuant to 31 U.S.C. 324.

R. T. McNamar,

Deputy Secretary of the Treasury.

[FR Doc. 83-23272 Filed 8-23-83; 8:45 am]

BILLING CODE 4810-25-M

Customs Service

[T.D. 83-176]

Recordation of Trade Name—"United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada"

AGENCY: Customs Service, Treasury.

ACTION: Notice of recordation.

SUMMARY: On May 11, 1983, a notice of application for the recordation under Section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name "United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada" was published in the **Federal Register** (48 FR 21231). The notice advised that before final action on the application, consideration would be given to relevant data, views, or arguments submitted in opposition to the recordation and received not later than July 11, 1983. No responses were received in opposition to the application.

Accordingly, as provided in § 133.14, Customs Regulations (19 CFR 133.14), the name "United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada" is recorded as the trade name used by the United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada, an incorporated association, located at 901 Massachusetts Avenue, NW., Washington, D.C. 20001. The trade name is used by the Association to identify its union activities, which include the formation of local labor unions in the plumbing and pipe fitting industry, as well as certifying: (1) That pipe, fabricated pipe, welded pipe and fabricated welded pipe formations were made by members of the United Association's local unions and (2) that the services of fabricating and assembling such goods were performed by members of United Association's local unions. The Association's member unions and their members are authorized to use the trade name in the United States and Canada.

DATE: August 24, 1983.

FOR FURTHER INFORMATION CONTACT: Harriet Lane, Entry, Licensing and Restricted Merchandise Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229, (202-566-5765).

Dated: August 19, 1983.

Donald W. Lewis,

Director, Entry Procedures and Penalties Division.

[FR Doc. 83-23235 Filed 8-23-83; 8:45 am]

BILLING CODE 4820-02-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 165
Wednesday, August 24, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Education Department	1
Federal Deposit Insurance Corporation	2

1

DEPARTMENT OF EDUCATION

National Council on Educational Research

The Executive Committee meeting scheduled for 4 p.m. on August 18, 1983 (48 FR 37131; August 16, 1983), has been cancelled. It was to be held at the Embassy Square Hotel. No specific date has been chosen to reschedule this Executive Committee meeting at this time.

Richard T. LaPointe,
Executive Director.

[S-1210-83 Filed 8-22-83; 3:23 pm]
BILLING CODE 4000-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 11:35 a.m. on Friday, August 19, 1983, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider the following matters:

Recommendation regarding the Corporation's assistance agreement involving an insured bank pursuant to Section 13 of the Federal Deposit Insurance Act.

Recommendation regarding a proposal for financial assistance to facilitate a voluntary merger of savings banks: Names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii)).

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof: Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. Doyle L. Arnold, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporaton business required its consideraton of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideraton of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii)).

Dated: August 19, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,
Executive Secretary.

[S-1207-83 Filed 8-22-83; 3:23 pm]
BILLING CODE 6714-01-M

federal register

Wednesday
August 24, 1983

Part II

Environmental Protection Agency

Products Containing Pheromone Attractants; Exemption From FIFRA Requirements

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 162

[OPP 250031C; PH-FRL 2388-7]

Exemption From FIFRA Requirements for Certain Products Containing Pheromone Attractants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Rule.

SUMMARY: This rule exempts from regulation under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) all pheromones and identical or substantially similar compounds labelled for use only in pheromone traps and the pheromone traps in which those compounds are the sole active pesticide ingredient(s). The continued regulation was determined not to be warranted in view of the low potential risk.

EFFECTIVE DATE: Under FIFRA section 25(a)(4), this rule must be reviewed by Congress before it can become effective. A minimum of 60 days of continuous Congressional session is allowed for this review. The Agency will issue a notice in the **Federal Register** announcing the date on which this rule became effective.

FOR FURTHER INFORMATION CONTACT: David Alexander, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 1114, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-0592).

SUPPLEMENTARY INFORMATION:

I. Backgound

Section 25(b) of FIFRA gives the Administrator authority to exempt from the requirements of FIFRA any pesticide which he determines is (1) adequately regulated by another Federal agency or (2) of a character which is unnecessary to be subject to FIFRA in order to carry out the purposes of FIFRA. In the proposed rule published in the **Federal Register** of August 4, 1982 (47 FR 33716), the Agency specified why it determined that it was unnecessary and indeed undesirable to continue to subject "pheromones and identical synthetic chemicals intended for use in pheromone traps or pheromone traps in which those chemicals are the sole active ingredient" to any of the provisions of FIFRA in order to accomplish the purposes of that Act.

In short the Agency found that the toxicity of pheromones in general and the level of potential exposure of man and the environment due to the exempted uses is very low. Therefore, their continued regulation was determined not to be warranted in view of the low potential risk.

II. Public Comment

In the proposed rule, the Agency solicited comments on the proposed exemption. All the comments received supported the proposed exemption. Therefore, the final rule published today is unchanged from the proposal except to clarify the Agency's intent or to make the new rule consistent with other published Agency policy.

In addition to expressing support for the proposal, one commenter suggested exempting additional attractants, including one emitted by dying elm trees which he formulates with pheromone products. That attractant is not within the class of chemicals which were the subject of the proposed rule and thus cannot be considered for inclusion in this final rule. However, the Agency will consider including that attractant in another section 25(b) exemption now being prepared.

Comments were submitted which questioned the status of two new uses of pheromone products. It is the Agency's objective in promulgating this regulation to distinguish between uses of pheromones, such as mating disruption, which are likely to increase the background levels of those compounds from devices which will not. (See 47 FR 33717: determination numbered (1)—traps result in no significant increase in the background levels of pheromones and synthetic analogs; also end of unit II—uses which seek to achieve air permeation are not exempted.) This principle applies to both new uses.

One comment said: "Trap cropping is a technique in which pheromone lures without traps are used to attract an insect pest to a specific area. The specific area, rather than the entire field, is then treated with insecticide." The commenter suggested that the exemption be broadened to include his proposed "trap cropping" use of pheromones and synthetic analogs.

The "trap cropping" technique described by the commenter relies on the methods of application and results in increased levels of pheromones above the normal background level. Such increased levels are characteristics of the mating distruption uses the Agency has decided not to exempt. Therefore, the "trap cropping" use is not included in this exemption.

Another commenter expressed uncertainty whether pheromones used to attract insects to electrocution devices would be eligible for exemption. Specifically the manufacturer noted that the proposal defined "pheromones traps" as devices used for the sole purpose of "attracting and trapping or trapping and killing target arthropods". Thus he was uncertain whether his product met the apparent requirement of trapping insects before killing them.

It is not the Agency's desire to grant the benefits of exemption only to devices which first immobilize, i.e., trap, arthropods. Immobilization before killing is not deemed necessary but exposure not significantly greater than normal is required. The specific pheromone attractant made for use in the electrocution device is one originally made for use in a conventional trap. It meets the requirements and qualifies for exemption.

III. Revisions to the Exemption

The Agency has initiated the following revisions to the proposed rule:

(1) In order to clarify that the end result of exempted pheromone use may be either to immobilize or to kill target arthropods, the Agency has revised the first sentence of the definition of "pheromone trap" to read "a device which is used for the sole purpose of attracting and trapping or killing target arthropods".

(2) In order to make more clear when the Agency will consider a synthetically produced compound identical to a pheromone we have redefined a pheromone as an attractant compound produced by an arthropod which may act alone or in combination with other such compounds, instead of defining it as a mixture of chemical substances.

(3) To make enforcement standards more clear we have exempted pheromones "labeled for use only in traps" instead of "intended for use in traps," and

(4) We have required that exempted traps not result in increased levels of pheromones or similar compounds, over a significant fraction of the treated area in lieu of requiring that exempted traps contain devices to limit volatilization of the pesticide.

(5) This exemption, as it was proposed, applied only to pheromones and identical synthetic compounds used in traps and traps in which those compounds are the sole active ingredient. In order to make this regulation consistent with the Agency's proposed definition of "Biorational Pesticide" in proposed 40 CFR 158.65(a)(3), published in the **Federal Register** of November 24, 1982 (47 FR 53202), we have broadened the exemption of pheromones to include synthetic compounds deemed by the Agency, after review, to be

"substantially similar" to compounds actually produced by an arthropod. We have also specified that synthetic compounds found to have toxicological properties significantly different from a (natural) pheromone are not identical. A synthetic compound with significantly different toxicological properties does not qualify for exemption under this rule unless the Agency reviews it and deems it "substantially similar".

IV. Conclusion

Consequently, in accordance with the authority of FIFRA section 25(b), 7 U.S.C. 136w(b), the Agency is exempting from all the provisions of FIFRA: (1) Pheromones and identical or substantially similar compounds labelled for use in pheromone traps and, (2) pheromone traps in which those compounds are the sole active pesticide ingredient(s).

For the purposes of this rule, a pheromone is a compound, produced by an arthropod, which alone or in combination with other such compounds modifies the behavior of other individuals of the same species.

A synthetically produced chemical is considered identical to a pheromone even if there are differences between the stereochemical isomer ratios of the natural compound compared to the synthetic compound. A synthetic compound found to have toxicological properties significantly different from a pheromone cannot be considered identical to a pheromone, and consequently, is not exempted without prior review by the Agency.

In situations when a compound possesses many characteristics of a pheromone but may not meet the criteria for identicality, it may be deemed substantially similar by the Agency after review on a case-by-case basis.

For the purposes of this rule, a pheromone trap is a device containing a pheromone used for the sole purpose of attracting and trapping or killing target arthropods. Pheromone traps must seek to achieve pest control only by reducing the numbers of target organisms through removal of target organisms from their natural environment, not through disruption of mating behavior. The traps must not result in increased levels of pheromones or identical or substantially similar compounds over a significant fraction of a treated field.

This rule creates a new paragraph (d) in 40 CFR 162.5. This new paragraph (d) is to contain all regulations promulgated to date by the Administrator under authority of FIFRA section 25(b).

In accordance with this scheme, paragraph (d)(1) will be entitled "Pesticides adequately regulated by another Federal agency," and former paragraph (b)(6) will be revised so as to refer to the Secretary of Health and Human Services instead of the Secretary of Health, Education and Welfare and will be redesignated paragraph (d)(1). Paragraph (d)(2) will be entitled "Pesticides of a character which are unnecessary to be subject to FIFRA," and the exemption promulgated today will comprise paragraph (d)(2).

V. Procedural Matters and Required Regulatory Reviews

A. Review Under Executive Order 12291

Under E.O. 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it will exempt from regulation under FIFRA manufacturers and distributors of pheromones and identical or substantially similar compounds labelled for use in pheromone traps and manufacturers and distributors of pheromone traps in which pheromones and identical or substantially similar compounds are the sole active ingredient(s). This regulation therefore will decrease the costs these producers would have incurred absent this exemption. This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

B. Review Under Paperwork Reduction Act

This rule contains no information collection requests. Therefore, the Paperwork Reduction Act of 1980 is not applicable.

C. Review Under Regulatory Flexibility Act

This regulation has been reviewed under section 3(a) of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354; 94 Stat. 1165; 5 U.S.C. 60 et seq.), and it has been determined that a regulatory flexibility analysis is not required since the final regulation will not have a significant adverse impact on a substantial number of small businesses, small organizations, or small governments.

This rule has no known adverse effect on small organizations or small governments. Those pesticide producers affected will benefit from elimination of the burdens, or potential burdens imposed by FIFRA. Increased development and use of these unique environmentally safe pesticides is the expected ultimate consequence of this rule.

D. Statutory Review

In accordance with FIFRA section 25, copies of this rule were submitted to the Secretary of Agriculture, who by letter of July 5, 1983 reiterated USDA's objection to EPA's efficacy data waiver. USDA believes that the Agency should continue to require efficacy data in general, and, in particular, efficacy data for pheromone traps. The Agency has explained its reasons for the efficacy data waiver in several previous documents, and sees no reason to modify its waiver with respect to pheromone traps. In exempting pheromone traps, the Agency has concluded that such products do not warrant regulatory oversight by EPA, including review of efficacy.

Copies were also supplied to the Committee on Agriculture of the U.S. House of Representatives and the Committee on Agriculture and Forestry of the U.S. Senate, neither of which submitted further comments.

(Section 25(b), Federal Insecticide, Fungicide, and Rodenticide Act, as amended (Pub. L. 92–516, 92 Stat. 819; 7 U.S.C. 136 through 136y; 1972, 1975, and 1978))

List of Subjects in 40 CFR Part 162

Administrative practice and procedure, Intergovernmental relations, Labeling, Packaging and containers, Pesticides and pests.

Dated: August 12, 1983.

William D. Ruckelshaus,

Administrator

PART 162—[AMENDED]

Therefore, 40 CFR Part 162 is amended as follows:

§ 162.5 [Amended]

1. In § 162.5 Paragraph (b)(7) is removed.

2. In § 162.5 Paragraph (b)(6) is revised and redesignated paragraph (d)(1), and paragraph (d)(2) is added, to read as follows:

§ 162.5 Pesticides required to be registered.

* * * * *

(d) *Exemption from the requirements of FIFRA.* The following pesticides or classes of pesticides are exempted from the provisions of FIFRA, when used in the manner specified:

(1) *Pesticides adequately regulated by another Federal agency.* A pesticide product that is offered solely for human use and is also (i) a new drug within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act, or (ii) an article that has been determined by the Secretary of Health and Human Services

not to be a new drug by a regulation establishing conditions for use of the article. Such products are subject solely to regulation by the Food and Drug Administration in accordance with the Federal, Food, Drug, and Cosmetic Act implementing regulations set forth in Title 21 of the Code of Federal Regulations.

(2) *Pesticides of a character which are unnecessary to be subject to FIFRA.* Pheromones and identical or substantially similar compounds labelled for use only in pheromone traps and pheromone traps in which those chemicals are the sole active ingredient(s).

(i) For the purposes of this paragraph a pheromone is a compound produced by an arthropod which, alone or in combination with other such compounds, modifies the behavior of other individuals of the same species.

(ii) For the purposes of this paragraph a synthetically produced compound is considered identical to a pheromone only when its molecular structure is the same or when the only differences between the molecular structures are the stereo-chemical isomer ratios of the two compounds, except that a synthetic compound found to have toxicological properties significantly different from a pheromone is not considered identical.

(iii) In situations when a compound possesses many characteristics of a pheromone but does not meet the above criteria it may, after review, be deemed a substantially similar compound by the Agency.

(iv) For the purposes of this paragraph a pheromone trap is a device containing a pheromone or identical or substantially similar compound that:

(A) Is used for the sole purpose of attracting and trapping or killing target arthropods;

(B) Achieves pest control through removal of target organisms from their natural environment; and

(C) Does not result in increased levels of pheromones or identical or substantially similar compounds over a significant fraction of a treated areas.

[FR Doc. 83-22940 Filed 8-23-83; 8:45 am]

BILLING CODE 6560-50-M

federal register

Wednesday
August 24, 1983

Part III

Department of Energy

Federal Energy Regulatory Commission

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Volume 952]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: August 19, 1983.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The application for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Rd., Springfield, Va. 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 Mile rule)
102–3: New well (1,000 Ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal Seams
107–DV: Devonian Shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PD: Pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS — VOLUME 952
ISSUED AUGUST 19, 1983

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
WEST VIRGINIA DEPARTMENT OF MINES									
COLUMBIA GAS TRANSMISSION CORP		RECEIVED: 08/02/83		JA: WV					
8347514		4704300722		107-DV		A F CUMMINGS 805825	WV FIELD AREA B	6.0	COLUMBIA GAS TRAN
8347851		4704300026		107-DV		A I DOTSON 804208	WV FIELD AREA B	8.0	COLUMBIA GAS TRAN
8347719		4709900343		107-DV		ANNIE PINSOM ET AL 805466	WV FIELD AREA B	6.0	COLUMBIA GAS TRAN
8347371		4704301056		107-DV		BESSIE ADKINS 806932	WV FIELD AREA B	5.0	COLUMBIA GAS TRAN
8347744		4705900286		107-DV		BROOKIE PARSLEY 806703	WV FIELD AREA B	1.0	COLUMBIA GAS TRAN
8347698		4705900092		107-DV		BURN CK MARBNE LD CO 805715	WV FIELD AREA B	16.0	COLUMBIA GAS TRAN
8347694		4705900097		107-DV		BURN CK MARBNE LD CO 805745	WV FIELD AREA B	9.0	COLUMBIA GAS TRAN
8347521		4705900104		107-DV		BURN CK MARBNE LD CO 805785	WV FIELD AREA B	1.0	COLUMBIA GAS TRAN
8347518		4705900107		107-DV		BURN CK MARBNE LD CO 805797	WV FIELD AREA B	9.0	COLUMBIA GAS TRAN
8347512		4705900112		107-DV		BURN CK MARBNE LD CO 805831	WV FIELD AREA B	47.0	COLUMBIA GAS TRAN
8347743		4705900253		107-DV		BURN CK MARBNE LD CO 806701	WV FIELD AREA B	12.0	COLUMBIA GAS TRAN
8347658		4705900255		107-DV		BURN CK MARBNE LD CO 806755	WV FIELD AREA B	1.0	COLUMBIA GAS TRAN
8347760		4704301095		107-DV		CATHERINE ADKINS 806956	WV FIELD AREA B	6.0	COLUMBIA GAS TRAN
8347557		4705900238		107-DV		CENTRAL TRUST CO 3 806702	W V FIELD AREA B	2.0	COLUMBIA GAS TRAN
8347803		4705900299		107-DV		CENTRAL TRUST CO 23 806898	WV FIELD AREA B	10.0	COLUMBIA GAS TRAN
8347581		4705900343		107-DV		COTIGA DEV CO - 14 808033	WV FIELD AREA B	11.0	COLUMBIA GAS TRAN
8347603		4705900414		107-DV		COTIGA DEV CO - 22 808216	WV FIELD AREA B	14.0	COLUMBIA GAS TRAN
8347632		4705900284		107-DV		COTIGA DEV CO - 4 806830	WV FIELD AREA B	2.0	COLUMBIA GAS TRAN
8347631		4705900285		107-DV		COTIGA DEV CO - 5 806831	WV FIELD AREA B	11.0	COLUMBIA GAS TRAN
8347637		4705900294		107-DV		COTIGA DEV CO - 9 806819	WV FIELD AREA B	14.0	COLUMBIA GAS TRAN
8347558		4705900774		107-DV		COTIGA DEV CO #23 809395	WV FIELD AREA B	8.0	COLUMBIA GAS TRAN
8347848		4705900482		107-DV		COTIGA DEV CO 26 808107	WV FIELD AREA B	3.0	COLUMBIA GAS TRAN
8347597		4705900793		107-DV		COTIGA DEV CO 809472	WV FIELD AREA B	19.0	COLUMBIA GAS TRAN
8347599		4705900813		107-DV		COTIGA DEV CO 809675	WV FIELD AREA B	1.0	COLUMBIA GAS TRAN
8347661		4705900265		107-DV		COTIGA DEV CO-1 806749	WV FIELD AREA B	2.0	COLUMBIA GAS TRAN
8347837		4705900359		107-DV		COTIGA DEV CO-10 808090	WV FIELD AREA B	33.0	COLUMBIA GAS TRAN
8347847		4705900486		107-DV		COTIGA DEV CO-19 808108	WV FIELD AREA B	3.0	COLUMBIA GAS TRAN
8347328		4705900301		107-DV		COTIGA DEV CO-3 806816	WV FIELD AREA B	3.0	COLUMBIA GAS TRAN
8347703		4705900379		107-DV		COTIGA DEV CO-3 808141	WV FIELD AREA B	4.0	COLUMBIA GAS TRAN
8347614		4705900399		107-DV		COTIGA DEV CO-5 808219	WV FIELD AREA B	10.0	COLUMBIA GAS TRAN
8347804		4705900298		107-DV		COTIGA DEV CO-6 806897	WV FIELD AREA B	2.0	COLUMBIA GAS TRAN
8347509		4705900116		107-DV		COTIGA DEV CO-7 805865	WV FIELD AREA B	2.0	COLUMBIA GAS TRAN
8347525		4705900293		107-DV		COTIGA DEV CO-8 806818	WV FIELD AREA B	3.0	COLUMBIA GAS TRAN
8347547		4701100350		107-DV		E A CHILDERS 804846	WV FIELD AREA B	13.0	COLUMBIA GAS TRAN
8347550		4701100238		107-DV		E D MEADOWS 804670	WV FIELD AREA B	1.0	COLUMBIA GAS TRAN
8347722		4704500274		107-DV		EARL C COLLINS 806917	WV FIELD AREA B	1.0	COLUMBIA GAS TRAN
8347796		4703900207		107-DV		ELKLD IMP CO 806878	WV FIELD AREA A	8.0	COLUMBIA GAS TRAN
8347546		4701100351		107-DV		EZRA ADKINS 804847	WV FIELD AREA B	26.0	COLUMBIA GAS TRAN
8347640		4709900769		107-DV		F D CALDWELL - 56 806734	WV FIELD AREA B	9.0	COLUMBIA GAS TRAN
8347741		4709900778		107-DV		F D CALDWELL 834 806715	WV FIELD AREA B	2.0	COLUMBIA GAS TRAN
8347752		4709900727		107-DV		F D CALDWELL 846 806584	WV FIELD AREA B	14.0	COLUMBIA GAS TRAN
8347527		4709900839		107-DV		F D CALDWELL 806814	WV FIELD AREA B	1.0	COLUMBIA GAS TRAN
8347536		4709900803		107-DV		F D CALDWELL-49 806625	WV FIELD AREA B	7.0	COLUMBIA GAS TRAN
8347672		4709900779		107-DV		F D CALDWELL-57 806776	WV FIELD AREA B	1.0	COLUMBIA GAS TRAN
8347680		4709900786		107-DV		F D CALDWELL-58 806738	WV FIELD AREA B	2.0	COLUMBIA GAS TRAN

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME		PROD	PURCHASER
8347671		4709900781		107-DV		F D CALDWELL-59 806777	WV FIELD AREA B		2.0	COLUMBIA GAS TRAN
8347670		4705900259		107-DV		F D CALDWELL-60 806778	WV FIELD AREA B		6.0	COLUMBIA GAS TRAN
8347666		4709900785		107-DV		F D CALDWELL-61 806791	WV FIELD AREA B		11.0	COLUMBIA GAS TRAN
8347534		4709900800		107-DV		F D CALDWELL-65 806838	WV FIELD AREA B		1.0	COLUMBIA GAS TRAN
8347612		4704300886		107-DV		G LAMBERT 806466	WV FIELD AREA B		3.0	COLUMBIA GAS TRAN
8347849		4705900369		107-DV		G P ALDERSON 808106	WV FIELD AREA B		8.0	COLUMBIA GAS TRAN
8347861		4705900849		107-DV		GEORGE STEPP 806865	WV FIELD AREA B		7.0	COLUMBIA GAS TRAN
8347789		4704300944		107-DV		GRACIE SHELTON 806575	WV FIELD AREA B	80657	5.0	COLUMBIA GAS TRAN
8347790		4705900201		107-DV		GRC WILES #2 806569	WV FIELD AREA B		2.0	COLUMBIA GAS TRAN
8347869		4704300360		107-DV		GROVER LOWE 808147	WV FIELD AREA B		8.0	COLUMBIA GAS TRAN
8347592		4704301112		107-DV		H ADKINS 808054	WV FIELD AREA B		6.0	COLUMBIA GAS TRAN
8347555		4705900173		107-DV		H CLOSTERMAN 830 806407	WV FIELD AREA B		6.0	COLUMBIA GAS TRAN
8347732		4705900236		107-DV		H CLOSTERMAN 837 806679	WV FIELD AREA B		7.0	COLUMBIA GAS TRAN
8347538		4705900184		107-DV		H CLOSTERMAN 804467	WV FIELD AREA B		9.0	COLUMBIA GAS TRAN
8347788		4705900219		107-DV		H CLOSTERMAN 806598	WV FIELD AREA B		8.0	COLUMBIA GAS TRAN
8347808		4705900314		107-DV		H CLOSTERMAN 806892	WV FIELD AREA B		14.0	COLUMBIA GAS TRAN
8347695		4705900096		107-DV		H CLOSTERMAN-23 805743	WV FIELD AREA B		7.0	COLUMBIA GAS TRAN
8347682		4705900261		107-DV		H CLOSTERMAN-39 806736	WV FIELD AREA B		3.0	COLUMBIA GAS TRAN
8347828		4705900302		107-DV		H CLOSTERMAN-45 806915	WV FIELD AREA B		5.0	COLUMBIA GAS TRAN
8347520		4705900109		107-DV		HARRISON BAISDEN 805786	WV FIELD AREA B		1.0	COLUMBIA GAS TRAN
8347874		4704300596		107-DV		HD & G CO 802120	WV FIELD AREA B		3.0	COLUMBIA GAS TRAN
8347504		4704301139		107-DV		HERBERT ADKINS ET AL 808162	WV FIELD AREA B		14.0	COLUMBIA GAS TRAN
8347570		4704301042		107-DV		HERBERT ADKINS 806933	WV FIELD AREA B		6.0	COLUMBIA GAS TRAN
8347882		4704300170		107-DV		HORSE CK COAL LD 804623	WV FIELD AREA B		17.0	COLUMBIA GAS TRAN
8347881		4704300171		107-DV		HORSE CK LAND 804626	WV FIELD AREA B		16.0	COLUMBIA GAS TRAN
8347505		4704300488		107-DV		HUNT DEV & GAS CO 805387	WV FIELD AREA B		3.0	COLUMBIA GAS TRAN
8347893		4704300481		107-DV		HUNT DEV & GAS CO 805388	WV FIELD AREA B		1.0	COLUMBIA GAS TRAN
8347892		4704300495		107-DV		HUNT DEV & GAS CO 805394	WV FIELD AREA B		4.0	COLUMBIA GAS TRAN
8347891		4704300496		107-DV		HUNT DEV & GAS CO 805397	WV FIELD AREA B		3.0	COLUMBIA GAS TRAN
8347888		4704300501		107-DV		HUNT DEV & GAS CO 805420	WV FIELD AREA B		0.1	COLUMBIA GAS TRAN
8347887		4709900314		107-DV		HUNT DEV & GAS CO 805421	WV FIELD AREA B		1.0	COLUMBIA GAS TRAN
8347718		4709900324		107-DV		HUNT DEV & GAS CO 805434	WV FIELD AREA B		4.0	COLUMBIA GAS TRAN
8347713		4704300552		107-DV		HUNT DEV & GAS CO 805444	WV FIELD AREA B		28.0	COLUMBIA GAS TRAN
8347717		4704300517		107-DV		HUNT DEV & GAS CO 805460	WV FIELD AREA B		37.0	COLUMBIA GAS TRAN
8347718		4704300518		107-DV		HUNT DEV & GAS CO 805461	WV FIELD AREA B		19.0	COLUMBIA GAS TRAN
8347720		4704300524		107-DV		HUNT DEV & GAS CO 805485	WV FIELD AREA B		12.0	COLUMBIA GAS TRAN
8347721		4704300526		107-DV		HUNT DEV & GAS CO 805487	WV FIELD AREA B		5.0	COLUMBIA GAS TRAN
8347627		4704300691		107-DV		HUNT DEV & GAS CO 805644	WV FIELD AREA B		1.0	COLUMBIA GAS TRAN
8347689		4704300402		107-DV		HUNT DEV & GAS CO 806116	WV FIELD AREA B		22.0	COLUMBIA GAS TRAN
8347687		4704300428		107-DV		HUNT DEV & GAS CO 806121	WV FIELD AREA B		3.0	COLUMBIA GAS TRAN
8347686		4709900866		107-DV		HUNT DEV & GAS CO 806129	WV FIELD AREA B		4.0	COLUMBIA GAS TRAN
8347685		4704300599		107-DV		HUNT DEV & GAS CO 806151	WV FIELD AREA B		3.0	COLUMBIA GAS TRAN
8347691		4709900428		107-DV		HUNT DEV & GAS FEE 805773	WV FIELD AREA B		11.0	COLUMBIA GAS TRAN
8347523		4704300684		107-DV		HUNT DEV & GAS FEE 805775	WV FIELD AREA B		30.0	COLUMBIA GAS TRAN
8347515		4704300719		107-DV		HUNT DEV & GAS FEE 805824	WV FIELD AREA B		24.0	COLUMBIA GAS TRAN
8347529		4709900381		107-DV		HUNT DEV & GAS MIN 805640	WV FIELD AREA B		19.0	COLUMBIA GAS TRAN
8347716		4704300689		107-DV		HUNT DEV & GAS MIN 805642	WV FIELD AREA B		13.0	COLUMBIA GAS TRAN
8347628		4704300628		107-DV		HUNT DEV & GAS MIN 805664	WV FIELD AREA B		30.0	COLUMBIA GAS TRAN
8347625		4709900387		107-DV		HUNT DEV & GAS MIN 805665	WV FIELD AREA B		23.0	COLUMBIA GAS TRAN
8347674		4704300639		107-DV		HUNT DEV & GAS MIN 805697	WV FIELD AREA B		65.0	COLUMBIA GAS TRAN
8347645		4704300632		107-DV		HUNT DEV & GAS MIN 805703	WV FIELD AREA B		14.0	COLUMBIA GAS TRAN
8347697		4709900365		107-DV		HUNT DEV & GAS MIN 805731	WV FIELD AREA B		1.0	COLUMBIA GAS TRAN
8347696		4709900391		107-DV		HUNT DEV & GAS MIN 805736	WV FIELD AREA B		4.0	COLUMBIA GAS TRAN
8347693		4709900421		107-DV		HUNT DEV & GAS MIN 805746	WV FIELD AREA B		5.0	COLUMBIA GAS TRAN
8347522		4709900432		107-DV		HUNT DEV & GAS MIN 805781	WV FIELD AREA B		4.0	COLUMBIA GAS TRAN
8347516		4709900449		107-DV		HUNT DEV & GAS MIN 805822	WV FIELD AREA B		0.4	COLUMBIA GAS TRAN
8347510		4709900450		107-DV		HUNT DEV & GAS MIN 805837	WV FIELD AREA B		28.0	COLUMBIA GAS TRAN
8347567		4709901539		107-DV		IDA C MCFADDEN ETAL 809437	WV FIELD AREA B		4.0	COLUMBIA GAS TRAN
8347792		4704300915		107-DV		J B LAMBERT #2 806535	WV FIELD AREA B		1.0	COLUMBIA GAS TRAN
8347738		4704300838		107-DV		J B LAMBERT 806706	WV FIELD AREA B		6.0	COLUMBIA GAS TRAN
8347793		4704500228		107-DV		J E PECK #7 806534	WV FIELD AREA B		11.0	COLUMBIA GAS TRAN
8347863		4709900293		107-DV		J F CALDWELL #4 805319	WV FIELD AREA B		15.0	COLUMBIA GAS TRAN
8347711		4709900318		107-DV		J F CALDWELL 6 805428	WV FIELD AREA B		12.0	COLUMBIA GAS TRAN
8347681		4709900789		107-DV		J F CALDWELL-4 806737	WV FIELD AREA B		13.0	COLUMBIA GAS TRAN
8347715		4709900371		107-DV		J F CALDWELL-8 805632	WV FIELD AREA B		20.0	COLUMBIA GAS TRAN
8347854		4709900321		107-DV		J L CALDWELL - 24 805431	WV FIELD AREA B		16.0	COLUMBIA GAS TRAN
8347864		4709900302		107-DV		J L CALDWELL #13 805321	WV FIELD AREA B		10.0	COLUMBIA GAS TRAN
8347866		4709900295		107-DV		J L CALDWELL #14 805322	WV FIELD AREA B		6.0	COLUMBIA GAS TRAN
8347885		4709900315		107-DV		J L CALDWELL 19 805424	WV FIELD AREA B		9.0	COLUMBIA GAS TRAN
8347712		4709900320		107-DV		J L CALDWELL 23 805430	WV FIELD AREA B		1.0	COLUMBIA GAS TRAN
8347884		4704301198		107-DV		J L CALDWELL 804497	WV FIELD AREA B		10.0	COLUMBIA GAS TRAN
8347669		4709900782		107-DV		J L CALDWELL-1 806784	WV FIELD AREA B		2.0	COLUMBIA GAS TRAN
8347668		4709900783		107-DV		J L CALDWELL-2 806785	WV FIELD AREA B		1.0	COLUMBIA GAS TRAN
8347613		4709900323		107-DV		J L CALDWELL-26 805433	WV FIELD AREA B		21.0	COLUMBIA GAS TRAN
8347667		4705900304		107-DV		J L CALDWELL-3 806786	WV FIELD AREA B		2.0	COLUMBIA GAS TRAN
8347511		4705900113		107-DV		J L CALDWELL-37 805435	WV FIELD AREA B		0.6	COLUMBIA GAS TRAN
8347872		4704301624		107-DV		J M CURRY 803961	WV FIELD AREA B		8.0	COLUMBIA GAS TRAN
8347862		4709900237		107-DV		J W BLANKENSHIP 805010	WV FIELD AREA B		15.0	COLUMBIA GAS TRAN
8347551		4701100120		107-DV		J W STARKEY 804389	WV FIELD AREA B		0.0	COLUMBIA GAS TRAN
8347745		4705900241		107-DV		JACOB BAACH #4 806704	WV FIELD AREA B		3.0	COLUMBIA GAS TRAN
8347535		4705900227		107-DV		JAMES V HEIRS-4 806618	WV FIELD AREA B		3.0	COLUMBIA GAS TRAN
8347601		4704301058		107-DV		JANE LUCAS - 1 806907	WV FIELD AREA B		5.0	COLUMBIA GAS TRAN
8347850		4704301625		107-DV		JANE Y CURRY 803962	WV FIELD AREA B		0.0	COLUMBIA GAS TRAN
8347556		4703500790		107-DV		JOHN T SAYRE #1 806664	M V FIELD AREA A		4.0	COLUMBIA GAS TRAN
8347531		4700500073		107-DV		JULIAN HILL ET AL 803950	WV FIELD AREA B		5.0	COLUMBIA GAS TRAN
8347593		4703902594		107-DV		KING LAND CO 809778	WV FIELD AREA A		16.0	COLUMBIA GAS TRAN
8347688		4703902593		107-DV		KING LAND CO 809779	WV FIELD AREA A		5.0	COLUMBIA GAS TRAN
8347545		4701100371		107-DV		LONNIE HARLESS 804862	WV FIELD AREA B		17.0	COLUMBIA GAS TRAN
8347548		4701100341		107-DV		MANVILLE ADKINS HEIR 804832	WV FIELD AREA B		17.0	COLUMBIA GAS TRAN
8347779		4705900208		107-DV		MARTHA MAXCUM 806591	WV FIELD AREA B		27.0	COLUMBIA GAS TRAN
8347863		4709900301		107-DV		MARY L S PERKINS 3 805520	WV FIELD AREA B		6.0	COLUMBIA GAS TRAN
8347714		4709900338		107-DV		MARY L S PERKINS-4 805465	WV FIELD AREA B		1.0	COLUMBIA GAS TRAN
8347860		4709900156		107-DV		MINERVA J FRY 804848	WV FIELD AREA B		15.0	COLUMBIA GAS TRAN
8347513		4705900111		107-DV		MINGO MARTIN GAS CRP 805827	WV FIELD AREA B		2.0	COLUMBIA GAS TRAN
8347660		4705900258		107-DV		MINGO O & G CO 806752	WV FIELD AREA B		8.0	COLUMBIA GAS TRAN
8347587		4705900395		107-DV		MINGO O & G CO 808868	WV FIELD AREA B		17.0	COLUMBIA GAS TRAN
8347890		4704300488		107-DV		MOHLER LUMBER CO 11 805491	WV FIELD AREA B		15.0	COLUMBIA GAS TRAN
8347889		4704300491		107-DV		MOHLER LUMBER CO 15 805495	WV FIELD AREA B		2.0	COLUMBIA GAS TRAN
8347532		4704300164		107-DV		MOHLER LUMBER CO 804610	WV FIELD AREA B		9.0	COLUMBIA GAS TRAN
8347883		4700500318		107-DV		MOHLER LUMBER CO 804618	WV FIELD AREA B		8.0	COLUMBIA GAS TRAN
8347888		4703900234		107-DV		MOHLER LUMBER CO 804640	WV FIELD AREA A		15.0	COLUMBIA GAS TRAN
8347855		4700500322		107-DV		MOHLER LUMBER CO 804641	WV FIELD AREA B		23.0	COLUMBIA GAS TRAN
8347856		4700500231		107-DV		MOHLER LUMBER CO 804642	WV FIELD AREA B		9.0	COLUMBIA GAS TRAN
8347857		4704300173		107-DV		MOHLER LUMBER CO 804655	WV FIELD AREA B		13.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8347858		4704300184		107-DV		MOHLER LUMBER CO 806675	WV FIELD AREA B	13.0	COLUMBIA GAS TRAN
8347859		4703900298		107-DV		MOHLER LUMBER CO 806676	WV FIELD AREA A	9.0	COLUMBIA GAS TRAN
8347544		4700500344		107-DV		MOHLER LUMBER CO 806694	WV FIELD AREA B	6.0	COLUMBIA GAS TRAN
8347673		4709900405		107-DV		N FORK COAL CO #2 805701	WV FIELD AREA B	4.0	COLUMBIA GAS TRAN
8347776		4709900671		107-DV		N FORK COAL CO #7 806528	WV FIELD AREA B	11.0	COLUMBIA GAS TRAN
8347781		4709900406		107-DV		N FORK COAL CO-3 805702	WV FIELD AREA B	4.0	COLUMBIA GAS TRAN
8347692		4709900435		107-DV		N FORK COAL CO-4 805765	WV FIELD AREA B	4.0	COLUMBIA GAS TRAN
8347517		4709900446		107-DV		N FORK COAL CO-6 805816	WV FIELD AREA B	6.0	COLUMBIA GAS TRAN
8347676		4709900780		107-DV		N FORK COAL CO-8 806743	WV FIELD AREA B	3.0	COLUMBIA GAS TRAN
8347831		4705900367		107-DV		NIGHBERT LAND CO 808104	WV FIELD AREA B	2.0	COLUMBIA GAS TRAN
8347832		4705900365		107-DV		NIGHBERT LAND CO-3 808102	WV FIELD AREA B	9.0	COLUMBIA GAS TRAN
8347748		4705900368		107-DV		NIGHBERT LAND CO-6 808105	WV FIELD AREA B	15.0	COLUMBIA GAS TRAN
8347886		4705900324		107-DV		PECK & NEIGHBERT 804474	WV FIELD AREA B	24.0	COLUMBIA GAS TRAN
8347641		4704300966		107-DV		R M ADKINS FEE 806654	WV FIELD AREA B	2.0	COLUMBIA GAS TRAN
8347785		4704301052		107-DV		R M ADKINS 806937	WV FIELD AREA B	3.0	COLUMBIA GAS TRAN
8347816		4704500426		107-DV		R M ADKINS 808132	WV FIELD AREA B	11.0	COLUMBIA GAS TRAN
8347784		4704500456		107-DV		R M ADKINS 808138	WV FIELD AREA B	2.0	COLUMBIA GAS TRAN
8347731		4709900752		107-DV		REBECCA PERRY 806678	WV FIELD AREA B	4.0	COLUMBIA GAS TRAN
8347788		4709900726		107-DV		RUBY D PARSLEY 806588	WV FIELD AREA B	10.0	COLUMBIA GAS TRAN
8347771		4704301073		107-DV		S MCELDOWNEY 806941	WV FIELD AREA B	6.0	COLUMBIA GAS TRAN
8347543		4703902595		107-DV		SAM D LITTLEPAGE 809788	WV FIELD AREA A	3.0	COLUMBIA GAS TRAN
8347519		4704300708		107-DV		SUSAN R SPEARS 805790	WV FIELD AREA B	4.0	COLUMBIA GAS TRAN
8347590		4704301096		107-DV		SWTLD LD & MIN CO 808061	WV FIELD AREA B	2.0	COLUMBIA GAS TRAN
8347838		4704301108		107-DV		SWTLD LD & MIN CO 808069	WV FIELD AREA B	13.0	COLUMBIA GAS TRAN
8347758		4704301106		107-DV		SWTLD LD & MIN CO 808070	WV FIELD AREA B	2.0	COLUMBIA GAS TRAN
8347835		4704500346		107-DV		SWTLD LD & MIN CO-4 808096	WV FIELD AREA B	17.0	COLUMBIA GAS TRAN
8347791		4704300936		107-DV		T B LAMBERT #3 806570	WV FIELD AREA B	2.0	COLUMBIA GAS TRAN
8347756		4709900891		107-DV		TA COPLEY 806967	WV FIELD AREA B	7.0	COLUMBIA GAS TRAN
8347688		4709900636		107-DV		TCO FEE TR #12 806452	WV FIELD AREA B	5.0	COLUMBIA GAS TRAN
8347684		4705900162		107-DV		TCO FEE TR #4 806375	WV FIELD AREA B	21.0	COLUMBIA GAS TRAN
8347686		4705900164		107-DV		TCO FEE TR #4 806376	WV FIELD AREA B	3.0	COLUMBIA GAS TRAN
8347552		4705900161		107-DV		TCO FEE TR #4 806380	WV FIELD AREA B	3.0	COLUMBIA GAS TRAN
8347774		4705900232		107-DV		TCO FEE TR #4 806658	WV FIELD AREA B	14.0	COLUMBIA GAS TRAN
8347782		4704500255		107-DV		TCO FEE TR #4 806659	WV FIELD AREA B	17.0	COLUMBIA GAS TRAN
8347781		4705900233		107-DV		TCO FEE TR #4 806660	WV FIELD AREA B	1.0	COLUMBIA GAS TRAN
8347735		4704300972		107-DV		TCO FEE TR #4 806683	WV FIELD AREA B	1.0	COLUMBIA GAS TRAN
8347566		4705900784		107-DV		TCO FEE TR #4 809433	WV FIELD AREA B	5.0	COLUMBIA GAS TRAN
8347598		4705900792		107-DV		TCO FEE TR #4 809473	WV FIELD AREA B	12.0	COLUMBIA GAS TRAN
8347688		4709900333		107-DV		TCO FEE TR-12 806128	WV FIELD AREA B	2.0	COLUMBIA GAS TRAN
8347821		4704301022		107-DV		TCO FEE TR-12 806853	WV FIELD AREA B	3.0	COLUMBIA GAS TRAN
8347871		4704301130		107-DV		TCO FEE TR-17 808143	WV FIELD AREA B	36.0	COLUMBIA GAS TRAN
8347580		4704301086		107-DV		TCO FEE TR-28 808031	WV FIELD AREA B	8.0	COLUMBIA GAS TRAN
8347810		4704301051		107-DV		TCO FEE TR-31 806888	WV FIELD AREA B	11.0	COLUMBIA GAS TRAN
8347702		4704300731		107-DV		TCO FEE TR-4 806136	WV FIELD AREA B	29.0	COLUMBIA GAS TRAN
8347643		4704300762		107-DV		TCO FEE TR-4 806195	WV FIELD AREA B	17.0	COLUMBIA GAS TRAN
8347541		4704300824		107-DV		TCO FEE TR-4 806275	WV FIELD AREA B	14.0	COLUMBIA GAS TRAN
8347542		4704300849		107-DV		TCO FEE TR-4 806348	WV FIELD AREA B	17.0	COLUMBIA GAS TRAN
8347538		4704300859		107-DV		TCO FEE TR-4 806367	WV FIELD AREA B	13.0	COLUMBIA GAS TRAN
8347540		4704300895		107-DV		TCO FEE TR-4 806459	WV FIELD AREA B	13.0	COLUMBIA GAS TRAN
8347642		4704300904		107-DV		TCO FEE TR-4 806472	WV FIELD AREA B	9.0	COLUMBIA GAS TRAN
8347657		4704300997		107-DV		TCO FEE TR-4 806762	WV FIELD AREA B	11.0	COLUMBIA GAS TRAN
8347653		4704301002		107-DV		TCO FEE TR-4 806764	WV FIELD AREA B	4.0	COLUMBIA GAS TRAN
8347650		4704301004		107-DV		TCO FEE TR-4 806770	WV FIELD AREA B	6.0	COLUMBIA GAS TRAN
8347648		4704300998		107-DV		TCO FEE TR-4 806772	WV FIELD AREA B	7.0	COLUMBIA GAS TRAN
8347728		4704301018		107-DV		TCO FEE TR-4 806847	WV FIELD AREA B	3.0	COLUMBIA GAS TRAN
8347729		4704301024		107-DV		TCO FEE TR-4 806848	WV FIELD AREA B	10.0	COLUMBIA GAS TRAN
8347820		4704301028		107-DV		TCO FEE TR-4 806854	WV FIELD AREA B	3.0	COLUMBIA GAS TRAN
8347819		4704301026		107-DV		TCO FEE TR-4 806855	WV FIELD AREA B	2.0	COLUMBIA GAS TRAN
8347797		4704301031		107-DV		TCO FEE TR-4 806869	WV FIELD AREA B	12.0	COLUMBIA GAS TRAN
8347811		4705900291		107-DV		TCO FEE TR-4 806883	WV FIELD AREA B	2.0	COLUMBIA GAS TRAN
8347807		4705900311		107-DV		TCO FEE TR-4 806894	WV FIELD AREA B	8.0	COLUMBIA GAS TRAN
8347806		4705900306		107-DV		TCO FEE TR-4 806895	WV FIELD AREA B	2.0	COLUMBIA GAS TRAN
8347805		4705900307		107-DV		TCO FEE TR-4 806896	WV FIELD AREA B	3.0	COLUMBIA GAS TRAN
8347577		4705900327		107-DV		TCO FEE TR-4 806981	WV FIELD AREA B	17.0	COLUMBIA GAS TRAN
8347753		4705900354		107-DV		TCO FEE TR-4 808042	WV FIELD AREA B	4.0	COLUMBIA GAS TRAN
8347588		4705900358		107-DV		TCO FEE TR-4 808067	WV FIELD AREA B	16.0	COLUMBIA GAS TRAN
8347830		4704500403		107-DV		TCO FEE TR-4 808079	WV FIELD AREA B	7.0	COLUMBIA GAS TRAN
8347877		4705900387		107-DV		TCO FEE TR-4 808185	WV FIELD AREA B	18.0	COLUMBIA GAS TRAN
8347878		4705900389		107-DV		TCO FEE TR-4 808186	WV FIELD AREA B	3.0	COLUMBIA GAS TRAN
8347619		4705900426		107-DV		TCO FEE TR-4 808326	WV FIELD AREA B	3.0	COLUMBIA GAS TRAN
8347554		4709900515		107-DV		TCO MIN TR #1 806241	W V FIELD AREA B	16.0	COLUMBIA GAS TRAN
8347605		4709900582		107-DV		TCO MIN TR #1 806366	WV FIELD AREA B	4.0	COLUMBIA GAS TRAN
8347689		4704300882		107-DV		TCO MIN TR #1 806457	WV FIELD AREA B	8.0	COLUMBIA GAS TRAN
8347795		4709900664		107-DV		TCO MIN TR #1 806506	WV FIELD AREA B	7.0	COLUMBIA GAS TRAN
8347794		4709900674		107-DV		TCO MIN TR #1 806531	WV FIELD AREA B	20.0	COLUMBIA GAS TRAN
8347778		4709900729		107-DV		TCO MIN TR #1 806593	WV FIELD AREA B	8.0	COLUMBIA GAS TRAN
8347777		4709900730		107-DV		TCO MIN TR #1 806594	WV FIELD AREA B	13.0	COLUMBIA GAS TRAN
8347802		4709900732		107-DV		TCO MIN TR #1 806595	WV FIELD AREA B	2.0	COLUMBIA GAS TRAN
8347733		4709900754		107-DV		TCO MIN TR #1 806681	WV FIELD AREA B	3.0	COLUMBIA GAS TRAN
8347734		4709900751		107-DV		TCO MIN TR #1 806682	WV FIELD AREA B	18.0	COLUMBIA GAS TRAN
8347739		4709900763		107-DV		TCO MIN TR #1 806710	WV FIELD AREA B	16.0	COLUMBIA GAS TRAN
8347742		4704300993		107-DV		TCO MIN TR #1 806728	WV FIELD AREA B	24.0	COLUMBIA GAS TRAN
8347730		4709900768		107-DV		TCO MIN TR #1 806730	WV FIELD AREA B	21.0	COLUMBIA GAS TRAN
8347817		4709900816		107-DV		TCO MIN TR #1 806857	FIELD AREA B	10.0	COLUMBIA GAS TRAN
8347582		4704301311		107-DV		TCO MIN TR #1 808740	WV FIELD AREA B	3.0	COLUMBIA GAS TRAN
8347560		4709901517		107-DV		TCO MIN TR #1 809402	W V FIELD AREA B	1.0	COLUMBIA GAS TRAN
8347561		4709901520		107-DV		TCO MIN TR #1 809403	WV FIELD AREA B	15.0	COLUMBIA GAS TRAN
8347562		4709901521		107-DV		TCO MIN TR #1 809407	WV FIELD AREA B	7.0	COLUMBIA GAS TRAN
8347594		4704500879		107-DV		TCO MIN TR #1 809461	WV FIELD AREA B	3.0	COLUMBIA GAS TRAN
8347596		4709901544		107-DV		TCO MIN TR #1 809471	WV FIELD AREA B	18.0	COLUMBIA GAS TRAN
8347740		4705900252		107-DV		TCO MIN TR #10 806712	WV FIELD AREA B	9.0	COLUMBIA GAS TRAN
8347559		4705900778		107-DV		TCO MIN TR #10 809400	W V FIELD AREA B	2.0	COLUMBIA GAS TRAN
8347563		4705900781		107-DV		TCO MIN TR #10 809428	WV FIELD AREA B	5.0	COLUMBIA GAS TRAN
8347564		4705900782		107-DV		TCO MIN TR #10 809429	WV FIELD AREA B	4.0	COLUMBIA GAS TRAN
8347565		4705900783		107-DV		TCO MIN TR #10 809432	WV FIELD AREA B	2.0	COLUMBIA GAS TRAN
8347786		4705900206		107-DV		TCO MIN TR #11 806583	WV FIELD AREA B	15.0	COLUMBIA GAS TRAN
8347881		4704300950		107-DV		TCO MIN TR #12 806606	WV FIELD AREA B	3.0	COLUMBIA GAS TRAN
8347746		4704300968		107-DV		TCO MIN TR #12 806647	WV FIELD AREA B	2.0	COLUMBIA GAS TRAN
8347787		4704300945		107-DV		TCO MIN TR #18 806582	WV FIELD AREA B	7.0	COLUMBIA GAS TRAN
8347610		4709900637		107-DV		TCO MIN TR #19 806461	WV FIELD AREA B	10.0	COLUMBIA GAS TRAN
8347611		4704300897		107-DV		TCO MIN TR #22 806463	WV FIELD AREA B	15.0	COLUMBIA GAS TRAN
8347607		4709900635		107-DV		TCO MIN TR #23 806451	WV FIELD AREA B	5.0	COLUMBIA GAS TRAN
8347736		4704301420		107-DV		TCO MIN TR #23 809441	WV FIELD AREA B	7.0	COLUMBIA GAS TRAN
8347747		4709900712		107-DV		TCO MIN TR #24 806562	WV FIELD AREA B	1.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8347595		4705900791		107-DV		TCO MIN TR #6 809468	WV FIELD AREA B	5.0	COLUMBIA GAS TRAN
8347553		4709900529		107-DV		TCO MIN TR #6 806271	WV FIELD AREA B	1.0	COLUMBIA GAS TRAN
8347829		4704500358		107-DV		TCO MIN TR-1 803113	WV FIELD AREA B	6.0	COLUMBIA GAS TRAN
8347626		4704300673		107-DV		TCO MIN TR-1 805687	WV FIELD AREA B	12.0	COLUMBIA GAS TRAN
8347586		4709900483		107-DV		TCO MIN TR-1 805706	WV FIELD AREA B	16.0	COLUMBIA GAS TRAN
8347699		4704300768		107-DV		TCO MIN TR-1 805713	WV FIELD AREA B	28.0	COLUMBIA GAS TRAN
8347588		4704301304		107-DV		TCO MIN TR-1 805957	WV FIELD AREA B	26.0	COLUMBIA GAS TRAN
8347587		4709900478		107-DV		TCO MIN TR-1 806060	WV FIELD AREA B	29.0	COLUMBIA GAS TRAN
8347690		4709900478		107-DV		TCO MIN TR-1 806114	WV FIELD AREA B	18.0	COLUMBIA GAS TRAN
8347683		4709900455		107-DV		TCO MIN TR-1 806155	WV FIELD AREA B	14.0	COLUMBIA GAS TRAN
8347684		4709900456		107-DV		TCO MIN TR-1 806156	WV FIELD AREA B	13.0	COLUMBIA GAS TRAN
8347539		4709900662		107-DV		TCO MIN TR-1 806420	WV FIELD AREA B	27.0	COLUMBIA GAS TRAN
8347639		4709900757		107-DV		TCO MIN TR-1 806721	WV FIELD AREA B	18.0	COLUMBIA GAS TRAN
8347537		4709900787		107-DV		TCO MIN TR-1 806722	WV FIELD AREA B	50.0	COLUMBIA GAS TRAN
8347533		4709900764		107-DV		TCO MIN TR-1 806729	WV FIELD AREA B	22.0	COLUMBIA GAS TRAN
8347654		4704300995		107-DV		TCO MIN TR-1 806765	WV FIELD AREA B	5.0	COLUMBIA GAS TRAN
8347653		4704500267		107-DV		TCO MIN TR-1 806766	WV FIELD AREA B	16.0	COLUMBIA GAS TRAN
8347652		4704500268		107-DV		TCO MIN TR-1 806767	WV FIELD AREA B	9.0	COLUMBIA GAS TRAN
8347651		4704500266		107-DV		TCO MIN TR-1 806768	WV FIELD AREA B	26.0	COLUMBIA GAS TRAN
8347665		4709900821		107-DV		TCO MIN TR-1 806792	WV FIELD AREA B	15.0	COLUMBIA GAS TRAN
8347526		4709900815		107-DV		TCO MIN TR-1 806813	WV FIELD AREA B	10.0	COLUMBIA GAS TRAN
8347638		4709900802		107-DV		TCO MIN TR-1 806820	WV FIELD AREA B	3.0	COLUMBIA GAS TRAN
8347636		4709900805		107-DV		TCO MIN TR-1 806825	WV FIELD AREA B	8.0	COLUMBIA GAS TRAN
8347635		4709900806		107-DV		TCO MIN TR-1 806826	WV FIELD AREA B	13.0	COLUMBIA GAS TRAN
8347634		4709900807		107-DV		TCO MIN TR-1 806827	WV FIELD AREA B	25.0	COLUMBIA GAS TRAN
8347633		4704301027		107-DV		TCO MIN TR-1 806828	WV FIELD AREA B	7.0	COLUMBIA GAS TRAN
8347629		4709900868		107-DV		TCO MIN TR-1 806840	WV FIELD AREA B	9.0	COLUMBIA GAS TRAN
8347725		4704500275		107-DV		TCO MIN TR-1 806844	WV FIELD AREA B	13.0	COLUMBIA GAS TRAN
8347726		4704500276		107-DV		TCO MIN TR-1 806845	WV FIELD AREA B	3.0	COLUMBIA GAS TRAN
8347727		4704500277		107-DV		TCO MIN TR-1 806846	WV FIELD AREA B	4.0	COLUMBIA GAS TRAN
8347818		4709900825		107-DV		TCO MIN TR-1 806856	WV FIELD AREA B	18.0	COLUMBIA GAS TRAN
8347800		4709900811		107-DV		TCO MIN TR-1 806861	WV FIELD AREA B	19.0	COLUMBIA GAS TRAN
8347799		4709900812		107-DV		TCO MIN TR-1 806862	WV FIELD AREA B	21.0	COLUMBIA GAS TRAN
8347813		4709900817		107-DV		TCO MIN TR-1 806879	WV FIELD AREA B	3.0	COLUMBIA GAS TRAN
8347812		4704301060		107-DV		TCO MIN TR-1 806880	WV FIELD AREA B	5.0	COLUMBIA GAS TRAN
8347809		4704301077		107-DV		TCO MIN TR-1 806891	WV FIELD AREA B	4.0	COLUMBIA GAS TRAN
8347602		4709900818		107-DV		TCO MIN TR-1 806906	WV FIELD AREA B	17.0	COLUMBIA GAS TRAN
8347574		4704301038		107-DV		TCO MIN TR-1 806928	WV FIELD AREA B	79.0	COLUMBIA GAS TRAN
8347573		4709900828		107-DV		TCO MIN TR-1 806929	WV FIELD AREA B	12.0	COLUMBIA GAS TRAN
8347572		4709900830		107-DV		TCO MIN TR-1 806930	WV FIELD AREA B	19.0	COLUMBIA GAS TRAN
8347784		4704301047		107-DV		TCO MIN TR-1 806936	WV FIELD AREA B	4.0	COLUMBIA GAS TRAN
8347783		4709900849		107-DV		TCO MIN TR-1 806938	WV FIELD AREA B	2.0	COLUMBIA GAS TRAN
8347769		4704301070		107-DV		TCO MIN TR-1 806946	WV FIELD AREA B	12.0	COLUMBIA GAS TRAN
8347768		4704301071		107-DV		TCO MIN TR-1 806947	WV FIELD AREA B	13.0	COLUMBIA GAS TRAN
8347767		4704301079		107-DV		TCO MIN TR-1 806948	WV FIELD AREA B	19.0	COLUMBIA GAS TRAN
8347766		4704301103		107-DV		TCO MIN TR-1 806949	WV FIELD AREA B	32.0	COLUMBIA GAS TRAN
8347764		4704301080		107-DV		TCO MIN TR-1 806950	WV FIELD AREA B	10.0	COLUMBIA GAS TRAN
8347765		4704301049		107-DV		TCO MIN TR-1 806952	WV FIELD AREA B	19.0	COLUMBIA GAS TRAN
8347763		4704301057		107-DV		TCO MIN TR-1 806954	WV FIELD AREA B	28.0	COLUMBIA GAS TRAN
8347761		4709900851		107-DV		TCO MIN TR-1 806958	WV FIELD AREA B	15.0	COLUMBIA GAS TRAN
8347758		4709900845		107-DV		TCO MIN TR-1 806964	WV FIELD AREA B	0.0	COLUMBIA GAS TRAN
8347579		4709900832		107-DV		TCO MIN TR-1 806972	WV FIELD AREA B	8.0	COLUMBIA GAS TRAN
8347755		4709900834		107-DV		TCO MIN TR-1 806974	WV FIELD AREA B	21.0	COLUMBIA GAS TRAN
8347585		4704301087		107-DV		TCO MIN TR-1 808019	WV FIELD AREA B	8.0	COLUMBIA GAS TRAN
8347586		4704500296		107-DV		TCO MIN TR-1 808022	WV FIELD AREA B	7.0	COLUMBIA GAS TRAN
8347584		4704500325		107-DV		TCO MIN TR-1 808025	WV FIELD AREA B	17.0	COLUMBIA GAS TRAN
8347583		4704500328		107-DV		TCO MIN TR-1 808026	WV FIELD AREA B	15.0	COLUMBIA GAS TRAN
8347754		4704500576		107-DV		TCO MIN TR-1 808040	WV FIELD AREA B	33.0	COLUMBIA GAS TRAN
8347591		4704500577		107-DV		TCO MIN TR-1 808055	WV FIELD AREA B	44.0	COLUMBIA GAS TRAN
8347751		4704500333		107-DV		TCO MIN TR-1 808072	WV FIELD AREA B	4.0	COLUMBIA GAS TRAN
8347834		4704500634		107-DV		TCO MIN TR-1 808097	WV FIELD AREA B	6.0	COLUMBIA GAS TRAN
8347833		4704301124		107-DV		TCO MIN TR-1 808098	WV FIELD AREA B	5.0	COLUMBIA GAS TRAN
8347845		4704301116		107-DV		TCO MIN TR-1 808111	WV FIELD AREA B	24.0	COLUMBIA GAS TRAN
8347844		4704301123		107-DV		TCO MIN TR-1 808112	WV FIELD AREA B	7.0	COLUMBIA GAS TRAN
8347839		4704301125		107-DV		TCO MIN TR-1 808121	WV FIELD AREA B	7.0	COLUMBIA GAS TRAN
8347815		4704301126		107-DV		TCO MIN TR-1 808122	WV FIELD AREA B	14.0	COLUMBIA GAS TRAN
8347814		4704301127		107-DV		TCO MIN TR-1 808123	WV FIELD AREA B	4.0	COLUMBIA GAS TRAN
8347824		4704301128		107-DV		TCO MIN TR-1 808124	WV FIELD AREA B	5.0	COLUMBIA GAS TRAN
8347823		4704500404		107-DV		TCO MIN TR-1 808124	WV FIELD AREA B	30.0	COLUMBIA GAS TRAN
8347822		4704500649		107-DV		TCO MIN TR-1 808129	WV FIELD AREA B	16.0	COLUMBIA GAS TRAN
8347706		4704500364		107-DV		TCO MIN TR-1 808136	WV FIELD AREA B	15.0	COLUMBIA GAS TRAN
8347705		4704500365		107-DV		TCO MIN TR-1 808137	WV FIELD AREA B	34.0	COLUMBIA GAS TRAN
8347870		4704301233		107-DV		TCO MIN TR-1 808144	WV FIELD AREA B	46.0	COLUMBIA GAS TRAN
8347868		4704500366		107-DV		TCO MIN TR-1 808148	WV FIELD AREA B	2.0	COLUMBIA GAS TRAN
8347867		4704301198		107-DV		TCO MIN TR-1 808149	WV FIELD AREA B	10.0	COLUMBIA GAS TRAN
8347503		4704301253		107-DV		TCO MIN TR-1 808164	WV FIELD AREA B	27.0	COLUMBIA GAS TRAN
8347875		4704500583		107-DV		TCO MIN TR-1 808177	WV FIELD AREA B	26.0	COLUMBIA GAS TRAN
8347879		4704301248		107-DV		TCO MIN TR-1 808189	WV FIELD AREA B	9.0	COLUMBIA GAS TRAN
8347853		4704500586		107-DV		TCO MIN TR-1 808194	WV FIELD AREA B	28.0	COLUMBIA GAS TRAN
8347852		4704500589		107-DV		TCO MIN TR-1 808195	WV FIELD AREA B	17.0	COLUMBIA GAS TRAN
8347615		4704301235		107-DV		TCO MIN TR-1 808314	WV FIELD AREA B	0.0	COLUMBIA GAS TRAN
8347617		4704500408		107-DV		TCO MIN TR-1 808320	WV FIELD AREA B	6.0	COLUMBIA GAS TRAN
8347618		4704301156		107-DV		TCO MIN TR-1 808324	WV FIELD AREA B	11.0	COLUMBIA GAS TRAN
8347620		4704500600		107-DV		TCO MIN TR-1 808329	WV FIELD AREA B	11.0	COLUMBIA GAS TRAN
8347622		4704301238		107-DV		TCO MIN TR-1 808332	WV FIELD AREA B	17.0	COLUMBIA GAS TRAN
8347623		4704500596		107-DV		TCO MIN TR-1 808333	WV FIELD AREA B	16.0	COLUMBIA GAS TRAN
8347624		4704500597		107-DV		TCO MIN TR-1 808334	WV FIELD AREA B	4.0	COLUMBIA GAS TRAN
8347644		4705900122		107-DV		TCO MIN TR-10 806171	WV FIELD AREA B	4.0	COLUMBIA GAS TRAN
8347678		4709900758		107-DV		TCO MIN TR-10 806742	WV FIELD AREA B	2.0	COLUMBIA GAS TRAN
8347675		4709900759		107-DV		TCO MIN TR-10 806745	WV FIELD AREA B	3.0	COLUMBIA GAS TRAN
8347659		4705900310		107-DV		TCO MIN TR-10 806753	WV FIELD AREA B	2.0	COLUMBIA GAS TRAN
8347578		4705900326		107-DV		TCO MIN TR-10 806979	WV FIELD AREA B	3.0	COLUMBIA GAS TRAN
8347709		4705900377		107-DV		TCO MIN TR-10 808134	WV FIELD AREA B	15.0	COLUMBIA GAS TRAN
8347707		4704500378		107-DV		TCO MIN TR-10 808135	WV FIELD AREA B	7.0	COLUMBIA GAS TRAN
8347664		4705900280		107-DV		TCO MIN TR-11 806806	WV FIELD AREA B	5.0	COLUMBIA GAS TRAN
8347663		4705900281		107-DV		TCO MIN TR-11 806807	WV FIELD AREA B	4.0	COLUMBIA GAS TRAN
8347589		4705900357		107-DV		TCO MIN TR-11 808066	WV FIELD AREA B	3.0	COLUMBIA GAS TRAN
8347708		4705900492		107-DV		TCO MIN TR-11 808133	WV FIELD AREA B	15.0	COLUMBIA GAS TRAN
8347873		4705900385		107-DV		TCO MIN TR-11 808175	WV FIELD AREA B	15.0	COLUMBIA GAS TRAN
8347616		4705900427		107-DV		TCO MIN TR-11 808317	WV FIELD AREA B	15.0	COLUMBIA GAS TRAN
8347700		4704300751		107-DV		TCO MIN TR-12 806159	WV FIELD AREA B	8.0	COLUMBIA GAS TRAN
8347649		4704301003		107-DV		TCO MIN TR-12 806771	WV FIELD AREA B	6.0	COLUMBIA GAS TRAN
8347827		4704301019		107-DV		TCO MIN TR-12 806849	WV FIELD AREA B	9.0	COLUMBIA GAS TRAN
8347826		4704301025		107-DV		TCO MIN TR-12 806850	WV FIELD AREA B	5.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8347829		4704301020		107-DV		TCO MIN TR-12 806851	WV FIELD AREA B	2.0	COLUMBIA GAS TRAN
8347757		4709900836		107-DV		TCO MIN TR-13 806961	WV FIELD AREA B	0.5	COLUMBIA GAS TRAN
8347621		4704301237		107-DV		TCO MIN TR-13 808331	WV FIELD AREA B	18.0	COLUMBIA GAS TRAN
8347529		4704301017		107-DV		TCO MIN TR-15 806817	WV FIELD AREA B	3.0	COLUMBIA GAS TRAN
8347656		4704301001		107-DV		TCO MIN TR-17 806763	WV FIELD AREA B	5.0	COLUMBIA GAS TRAN
8347662		4704301816		107-DV		TCO MIN TR-18 806808	WV FIELD AREA B	5.0	COLUMBIA GAS TRAN
8347772		4704301072		107-DV		TCO MIN TR-18 806942	WV FIELD AREA B	12.0	COLUMBIA GAS TRAN
8347770		4704301069		107-DV		TCO MIN TR-18 806943	WV FIELD AREA B	8.0	COLUMBIA GAS TRAN
8347762		4704301063		107-DV		TCO MIN TR-18 806953	WV FIELD AREA B	8.0	COLUMBIA GAS TRAN
8347647		4704300999		107-DV		TCO MIN TR-19 806773	WV FIELD AREA B	6.0	COLUMBIA GAS TRAN
8347646		4704301080		107-DV		TCO MIN TR-19 806774	WV FIELD AREA B	8.0	COLUMBIA GAS TRAN
8347773		4704301041		107-DV		TCO MIN TR-19 806912	WV FIELD AREA B	5.0	COLUMBIA GAS TRAN
8347725		4704301045		107-DV		TCO MIN TR-19 806922	WV FIELD AREA B	5.0	COLUMBIA GAS TRAN
8347582		4704301111		107-DV		TCO MIN TR-19 808027	WV FIELD AREA B	6.0	COLUMBIA GAS TRAN
8347843		4704500353		107-DV		TCO MIN TR-2 808113	WV FIELD AREA B	3.0	COLUMBIA GAS TRAN
8347842		4704500354		107-DV		TCO MIN TR-2 808114	WV FIELD AREA B	3.0	COLUMBIA GAS TRAN
8347841		4704500367		107-DV		TCO MIN TR-2 808115	WV FIELD AREA B	3.0	COLUMBIA GAS TRAN
8347677		4704300863		107-DV		TCO MIN TR-20 806397	WV FIELD AREA B	17.0	COLUMBIA GAS TRAN
8347576		4705900328		107-DV		TCO MIN TR-22 806982	WV FIELD AREA B	3.0	COLUMBIA GAS TRAN
8347840		4705900370		107-DV		TCO MIN TR-22 808116	WV FIELD AREA B	17.0	COLUMBIA GAS TRAN
8347876		4705900388		107-DV		TCO MIN TR-22 808184	WV FIELD AREA B	4.0	COLUMBIA GAS TRAN
8347575		4704301046		107-DV		TCO MIN TR-26 806923	WV FIELD AREA B	3.0	COLUMBIA GAS TRAN
8347679		4709900771		107-DV		TCO MIN TR-3 806761	WV FIELD AREA B	15.0	COLUMBIA GAS TRAN
8347846		4704301121		107-DV		TCO MIN TR-31 808189	WV FIELD AREA B	7.0	COLUMBIA GAS TRAN
8347724		4704500278		107-DV		TCO MIN TR-4 806843	WV FIELD AREA B	14.0	COLUMBIA GAS TRAN
8347638		4709900810		107-DV		TCO MIN TR-6 806839	WV FIELD AREA B	3.0	COLUMBIA GAS TRAN
8347836		4705900383		107-DV		TCO MIN 808094	WV FIELD AREA B	12.0	COLUMBIA GAS TRAN
8347749		4704500332		107-DV		TCO TR MIN-1 808071	WV FIELD AREA B	11.0	COLUMBIA GAS TRAN
8347569		4704301062		107-DV		W A ADKINS ET AL 806934	WV FIELD AREA B	3.0	COLUMBIA GAS TRAN
8347568		4704301043		107-DV		W A ADKINS 806935	WV FIELD AREA B	6.0	COLUMBIA GAS TRAN
8347775		4704300965		107-DV		W J MCKENZIE 806653	WV FIELD AREA B	9.0	COLUMBIA GAS TRAN
8347798		4704301044		107-DV		W J MCKENZIE 806868	WV FIELD AREA B	10.0	COLUMBIA GAS TRAN
8347759		4709902590		107-DV		W R PARSLEY 806966	WV FIELD AREA B	1.0	COLUMBIA GAS TRAN
8347737		4705900794		107-DV		W R THOMPSON 809459	WV FIELD AREA B	6.0	COLUMBIA GAS TRAN
8347949		4701100342		107-DV		WESLEY CREMEANS 804833	WV FIELD AREA B	13.0	COLUMBIA GAS TRAN

[FR Doc. 83-23241 Filed 8-23-83; 8:45 am],

BILLING CODE 6717-01-C

[Volume 953]

Determination By Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: August 19, 1983.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register**.

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Rd, Springfield, Va 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 Mile rule)
102.3: New well (1000 Ft rule)
102–4: New onshore reservoir
102–5 New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal Seams
107–DV: Devonian Shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS
ISSUED AUGUST 19, 1983
VOLUME 953

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
WEST VIRGINIA DEPARTMENT OF MINES									
COLUMBIA GAS TRANSMISSION CORP		RECEIVED: 08/02/83		JA: WV					
8348116		4706500707		107-DV		ANTHONY LAWSON HEIRS 808658	WV FIELD AREA B	3.0	COLUMBIA GAS TRAN
8348071		4704300948		107-DV		ARENA FERRELL 806619	WV FIELD AREA B	2.0	COLUMBIA GAS TRAN
8347954		4705900254		107-DV		BURN CK MARBNE LD CO 806700	WV FIELD AREA B	2.0	COLUMBIA GAS TRAN
8348011		4705900086		107-DV		BURN CK MRBNE LD CO 805608	WV FIELD AREA B	6.0	COLUMBIA GAS TRAN
8348259		4705900415		107-DV		BURNCK MARBNE LD CO 808207	WV FIELD AREA B	28.0	COLUMBIA GAS TRAN
8348052		4705900556		107-DV		BURNING CR MARROWBONE LAND 808529	WV FIELD AREA B	13.0	COLUMBIA GAS TRAN
8347952		4705900199		107-DV		CENTRAL TRUST 021 806568	WV FIELD AREA B	8.0	COLUMBIA GAS TRAN
8348216		4705900376		107-DV		CENTRAL TRUST CO - 27 808152	WV FIELD AREA B	13.0	COLUMBIA GAS TRAN
8348224		4705900137		107-DV		CENTRAL TRUST CO 02 806224	WV FIELD AREA B	5.0	COLUMBIA GAS TRAN
8348265		4705900151		107-DV		CENTRAL TRUST CO 16 806273	WV FIELD AREA B	16.0	COLUMBIA GAS TRAN
8348268		4705900152		107-DV		CENTRAL TRUST CO 17 806287	WV FIELD AREA B	1.0	COLUMBIA GAS TRAN
8348095		4705900670		107-DV		CENTRAL TRUST CO 20 806538	WV FIELD AREA B	3.0	COLUMBIA GAS TRAN
8348282		4705900006		107-DV		CENTRAL TRUST CO 804236	WV FIELD AREA B	2.0	COLUMBIA GAS TRAN
8348279		4705900020		107-DV		CENTRAL TRUST CO 804323	WV FIELD AREA B	1.0	COLUMBIA GAS TRAN
8348219		4705900021		107-DV		CENTRAL TRUST CO 804328	WV FIELD AREA B	7.0	COLUMBIA GAS TRAN
8347894		4705900393		107-DV		CENTRAL TRUST CO-28 808172	WV FIELD AREA B	8.0	COLUMBIA GAS TRAN
8348157		4705900423		107-DV		CENTRAL TRUST CO-30 808273	WV FIELD AREA B	3.0	COLUMBIA GAS TRAN
8348158		4705900420		107-DV		CENTRAL TRUST CO-31 808276	WV FIELD AREA B	4.0	COLUMBIA GAS TRAN
8348159		4705900421		107-DV		CENTRAL TRUST CO-32 808277	WV FIELD AREA B	20.0	COLUMBIA GAS TRAN
8347975		4706500520		107-DV		CHARLES DINGESS 808414	WV FIELD AREA B	3.0	COLUMBIA GAS TRAN
8348132		4705900587		107-DV		COTIGA DEV CO 016 808700	WV FIELD AREA B	10.0	COLUMBIA GAS TRAN
8347931		4705900616		107-DV		COTIGA DEV CO 018 808816	WV FIELD AREA B	5.0	COLUMBIA GAS TRAN
8347930		4705900631		107-DV		COTIGA DEV CO 019 808819	WV FIELD AREA B	13.0	COLUMBIA GAS TRAN
8348243		4705900637		107-DV		COTIGA DEV CO 020 808815	WV FIELD AREA B	2.0	COLUMBIA GAS TRAN
8348106		4705900698		107-DV		COTIGA DEV CO 021 809087	WV FIELD AREA B	11.0	COLUMBIA GAS TRAN
8348178		4705900775		107-DV		COTIGA DEV CO 024 809396	WV FIELD AREA B	1.0	COLUMBIA GAS TRAN
8348131		4705900584		107-DV		COTIGA DEV CO 029 808701	WV FIELD AREA B	2.0	COLUMBIA GAS TRAN
8348137		4705900593		107-DV		COTIGA DEV CO 03 808731	WV FIELD AREA B	26.0	COLUMBIA GAS TRAN
8348139		4705900585		107-DV		COTIGA DEV CO 030 808703	WV FIELD AREA B	7.0	COLUMBIA GAS TRAN
8347926		4705900608		107-DV		COTIGA DEV CO 031 808775	WV FIELD AREA B	3.0	COLUMBIA GAS TRAN
8347960		4705900681		107-DV		COTIGA DEV CO 032 808964	WV FIELD AREA B	8.0	COLUMBIA GAS TRAN
8348104		4705900711		107-DV		COTIGA DEV CO 034 808967	WV FIELD AREA B	6.0	COLUMBIA GAS TRAN
8348240		4705900606		107-DV		COTIGA DEV CO 05 808767	WV FIELD AREA B	29.0	COLUMBIA GAS TRAN
8348098		4705900341		107-DV		COTIGA DEV CO 808015	WV FIELD AREA B	3.0	COLUMBIA GAS TRAN
8348084		4705900344		107-DV		COTIGA DEV CO 808033	WV FIELD AREA B	8.0	COLUMBIA GAS TRAN
8347980		4705900514		107-DV		COTIGA DEV CO-10 808384	WV FIELD AREA B	3.0	COLUMBIA GAS TRAN
8348121		4705900569		107-DV		COTIGA DEV CO-13 808647	WV FIELD AREA B	3.0	COLUMBIA GAS TRAN
8348125		4705900573		107-DV		COTIGA DEV CO-2 808645	WV FIELD AREA B	0.7	COLUMBIA GAS TRAN
8347902		4705900416		107-DV		COTIGA DEV CO-21 808214	WV FIELD AREA B	17.0	COLUMBIA GAS TRAN
8347900		4705900424		107-DV		COTIGA DEV CO-23 808211	WV FIELD AREA B	2.0	COLUMBIA GAS TRAN
8348128		4705900572		107-DV		COTIGA DEV CO-28 808652	WV FIELD AREA B	8.0	COLUMBIA GAS TRAN
8348211		4705900419		107-DV		COTIGA DEV CO-6 808222	WV FIELD AREA B	33.0	COLUMBIA GAS TRAN
8348006		4704300548		107-DV		COURTNEY CO-18 805511	WV FIELD AREA B	19.0	COLUMBIA GAS TRAN
8348233		4709900647		107-DV		D M CHILDERS 806497	WV FIELD AREA B	18.0	COLUMBIA GAS TRAN
8347932		4705900668		107-DV		DIXIE R FERRIS 808914	WV FIELD AREA B	7.0	COLUMBIA GAS TRAN

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8348069		4709900765		107-DV		EARL BURGESS 806694	WV FIELD AREA B	0.6	COLUMBIA GAS TRAN
8348210		4704500383		107-DV		EARL WYSONG 808226	WV FIELD AREA B	2.0	COLUMBIA GAS TRAN
8348235		4709900645		107-DV		ELLA CARSON 806495	WV FIELD AREA B	10.0	COLUMBIA GAS TRAN
8348164		4709900921		107-DV		ETHEL QUEEN 808312	WV FIELD AREA B	4.0	COLUMBIA GAS TRAN
8348041		4709900459		107-DV		F B CALDWELL 040 806173	WV FIELD AREA B	8.0	COLUMBIA GAS TRAN
8348033		4709900477		107-DV		F B CALDWELL 041 806188	WV FIELD AREA B	9.0	COLUMBIA GAS TRAN
8348023		4709900620		107-DV		F D CALDWELL 043 806429	WV FIELD AREA B	1.0	COLUMBIA GAS TRAN
8348028		4709900688		107-DV		F B CALDWELL 045 806405	WV FIELD AREA B	12.0	COLUMBIA GAS TRAN
8348073		4709900734		107-DV		F B CALDWELL 047 806622	WV FIELD AREA B	1.0	COLUMBIA GAS TRAN
8348079		4709900736		107-DV		F B CALDWELL 051 806624	WV FIELD AREA B	1.0	COLUMBIA GAS TRAN
8347956		4709900747		107-DV		F D CALDWELL 053 806661	WV FIELD AREA B	9.0	COLUMBIA GAS TRAN
8347957		4709900775		107-DV		F B CALDWELL 055 806662	WV FIELD AREA B	1.0	COLUMBIA GAS TRAN
8347981		4709901047		107-DV		F B CALDWELL-46 808375	WV FIELD AREA B	12.0	COLUMBIA GAS TRAN
8348026		4705900168		107-DV		G R C WILES 81 806411	WV FIELD AREA B	10.0	COLUMBIA GAS TRAN
8348097		4704500310		107-DV		GROVER LOWE 808089	WV FIELD AREA B	4.0	COLUMBIA GAS TRAN
8347983		4704500446		107-DV		GROVER LOWE 808358	WV FIELD AREA B	1.0	COLUMBIA GAS TRAN
8348068		4704300978		107-DV		H ADKINS & UFG CO 806691	WV FIELD AREA B	2.0	COLUMBIA GAS TRAN
8348234		4709900646		107-DV		H B BOOTEN 806496	WV FIELD AREA B	27.0	COLUMBIA GAS TRAN
8348280		4705900005		107-DV		H CLOSTERMAN 804237	WV FIELD AREA B	2.0	COLUMBIA GAS TRAN
8348223		4705900889		107-DV		H CLOSTERMAN 804458	WV FIELD AREA B	1.0	COLUMBIA GAS TRAN
8348224		4705900271		107-DV		H CLOSTERMAN 804469	WV FIELD AREA B	20.0	COLUMBIA GAS TRAN
8348231		4705900128		107-DV		H CLOSTERMAN 806174	WV FIELD AREA B	2.0	COLUMBIA GAS TRAN
8348027		4705900170		107-DV		H CLOSTERMAN 806498	WV FIELD AREA B	10.0	COLUMBIA GAS TRAN
8347959		4705900383		107-DV		H CLOSTERMAN-46 806916	WV FIELD AREA B	26.0	COLUMBIA GAS TRAN
8348089		4705900332		107-DV		H CLOSTERMAN-9 808885	WV FIELD AREA B	14.0	COLUMBIA GAS TRAN
8348263		4709900526		107-DV		H J-STARK 82 806274	WV FIELD AREA B	6.0	COLUMBIA GAS TRAN
8348242		4704500721		107-DV		HARVEY HOLDING CO 808761	WV FIELD AREA B	7.0	COLUMBIA GAS TRAN
8348215		4704301137		107-DV		HERBERT ADKINS 808158	WV FIELD AREA B	6.0	COLUMBIA GAS TRAN
8348214		4704301135		107-DV		HERBERT ADKINS 808159	WV FIELD AREA B	11.0	COLUMBIA GAS TRAN
8348154		4704301145		107-DV		HERBERT ADKINS 808266	WV FIELD AREA B	9.0	COLUMBIA GAS TRAN
8347998		4704500587		107-DV		HERBERT ADKINS 808551	WV FIELD AREA B	1.0	COLUMBIA GAS TRAN
8348005		4708500694		107-DV		HORSE CK COAL LD-65 805555	WV FIELD AREA B	8.0	COLUMBIA GAS TRAN
8348047		4704300735		107-DV		HORSE CK LAND & MINING CO 805867	WV FIELD AREA B	1.0	COLUMBIA GAS TRAN
8348049		4704300748		107-DV		HORSE CK LAND AND MINING 879 80549	WV FIELD AREA B	8.0	COLUMBIA GAS TRAN
8348165		4704300475		107-DV		HUNT DEV & GAS CO 805357	WV FIELD AREA B	8.0	COLUMBIA GAS TRAN
8348004		4704300576		107-DV		HUNT DEV & GAS FEE 805553	WV FIELD AREA B	20.0	COLUMBIA GAS TRAN
8348008		4709900351		107-DV		HUNT DEV & GAS MIN 805547	WV FIELD AREA B	0.4	COLUMBIA GAS TRAN
8348013		4704300690		107-DV		HUNT DEV & GAS MIN 805643	WV FIELD AREA B	5.0	COLUMBIA GAS TRAN
8348050		4704300185		107-DV		HUNTINGTON DEV & GAS CO 804685	WV FIELD AREA B	9.0	COLUMBIA GAS TRAN
8348048		4709900334		107-DV		HUNTINGTON DEV & GAS CO 805505	WV FIELD AREA B	4.0	COLUMBIA GAS TRAN
8348046		4704300748		107-DV		HUNTINGTON DEV & GAS CO 805873	WV FIELD AREA B	37.0	COLUMBIA GAS TRAN
8348076		4704300963		107-DV		IRVIN DUGAN 806630	WV FIELD AREA B	3.0	COLUMBIA GAS TRAN
8348167		4704300723		107-DV		J A HALLEY 809744	WV FIELD AREA B	2.0	COLUMBIA GAS TRAN
8348007		4709900363		107-DV		J B DAVIS 805542	WV FIELD AREA B	14.0	COLUMBIA GAS TRAN
8348238		4704300901		107-DV		J B LAMBERT 81 806482	WV FIELD AREA B	4.0	COLUMBIA GAS TRAN
8348074		4709900735		107-DV		J D CALDWELL 058 806623	WV FIELD AREA B	5.0	COLUMBIA GAS TRAN
8347918		4704500709		107-DV		J E PECK 812 808689	WV FIELD AREA B	9.0	COLUMBIA GAS TRAN
8348051		4704500565		107-DV		J E PECK 808707	WV FIELD AREA B	1.0	COLUMBIA GAS TRAN
8347917		4704500690		107-DV		J E PECK 808585	WV FIELD AREA B	4.0	COLUMBIA GAS TRAN
8347907		4704500706		107-DV		J E PECK 808686	WV FIELD AREA B	8.0	COLUMBIA GAS TRAN
8347908		4704500708		107-DV		J E PECK 808687	WV FIELD AREA B	1.0	COLUMBIA GAS TRAN
8348081		4709900710		107-DV		J F CALDWELL 810 806561	WV FIELD AREA B	6.0	COLUMBIA GAS TRAN
8347897		4709900317		107-DV		J F CALDWELL 5 805427	WV FIELD AREA B	10.0	COLUMBIA GAS TRAN
8348147		4709900523		107-DV		J L CALDWELL 01 806254	WV FIELD AREA B	10.0	COLUMBIA GAS TRAN
8348014		4709900294		107-DV		J L CALDWELL 015 805323	WV FIELD AREA B	9.0	COLUMBIA GAS TRAN
8347898		4709900316		107-DV		J L CALDWELL 21 805426	WV FIELD AREA B	10.0	COLUMBIA GAS TRAN
8348096		4704301094		107-DV		J L CALDWELL 808088	WV FIELD AREA B	3.0	COLUMBIA GAS TRAN
8348002		4709900336		107-DV		J L CALDWELL-28 805587	WV FIELD AREA B	3.0	COLUMBIA GAS TRAN
8348009		4709900360		107-DV		J L CALDWELL-29 805577	WV FIELD AREA B	2.0	COLUMBIA GAS TRAN
8348010		4709900367		107-DV		J L CALDWELL-31 805578	WV FIELD AREA B	0.8	COLUMBIA GAS TRAN
8348012		4709900370		107-DV		J L CALDWELL-34 805627	WV FIELD AREA B	2.0	COLUMBIA GAS TRAN
8347951		4705900198		107-DV		JACOB BAACH 82 806567	WV FIELD AREA B	3.0	COLUMBIA GAS TRAN
8348131		4704301150		107-DV		KIZZIE BAISDEN-1 808262	WV FIELD AREA B	15.0	COLUMBIA GAS TRAN
8348025		4709900609		107-DV		L A CHILDERS 806417	WV FIELD AREA B	16.0	COLUMBIA GAS TRAN
8348158		4704500468		107-DV		L B JACKSON 808336	WV FIELD AREA B	0.6	COLUMBIA GAS TRAN
8348146		4705900147		107-DV		L V SARTIN 82 806247	WV FIELD AREA B	4.0	COLUMBIA GAS TRAN
8348227		4709900498		107-DV		LAFAYETTE ALDRIDGE 806220	WV FIELD AREA B	4.0	COLUMBIA GAS TRAN
8347943		4703500789		107-DV		LANCE F SAYRE 81 806663	WV FIELD AREA B	4.0	COLUMBIA GAS TRAN
8348222		4705900432		107-DV		LOGAN CANNEL COAL CO 804440	WV FIELD AREA B	19.0	COLUMBIA GAS TRAN
8348239		4709901226		107-DV		M L S PERKINS 89 808748	WV FIELD AREA B	11.0	COLUMBIA GAS TRAN
8348220		4704301655		107-DV		MARY L S PERKINS 804363	WV FIELD AREA B	3.0	COLUMBIA GAS TRAN
8348221		4704301656		107-DV		MARY L S PERKINS 804364	WV FIELD AREA B	15.0	COLUMBIA GAS TRAN
8348115		4709901081		107-DV		MARY LS PERKINS 808626	WV FIELD AREA B	10.0	COLUMBIA GAS TRAN
8348213		4704301160		107-DV		MATILDA VANCE MRS 808160	WV FIELD AREA B	24.0	COLUMBIA GAS TRAN
8348133		4705900596		107-DV		MINGO BLOCK COAL 10 808732	WV FIELD AREA B	3.0	COLUMBIA GAS TRAN
8348241		4705900605		107-DV		MINGO BLOCK COAL 12 808764	WV FIELD AREA B	2.0	COLUMBIA GAS TRAN
8348119		4705900571		107-DV		MINGO BLOCK COAL 6 - 808651	WV FIELD AREA B	48.0	COLUMBIA GAS TRAN
8348141		4705900588		107-DV		MINGO BLOCK COAL 808693	WV FIELD AREA B	2.0	COLUMBIA GAS TRAN
8347928		4705900603		107-DV		MINGO BLOCK COAL-11 808588	WV FIELD AREA B	8.0	COLUMBIA GAS TRAN
8348114		4705900582		107-DV		MINGO BLOCK COAL-4 808627	WV FIELD AREA B	9.0	COLUMBIA GAS TRAN
8348118		4705900581		107-DV		MINGO BLOCK COAL-5 808653	WV FIELD AREA B	9.0	COLUMBIA GAS TRAN
8348186		4705900543		107-DV		MINGO O & G CO-2 808535	WV FIELD AREA B	27.0	COLUMBIA GAS TRAN
8347914		4705900611		107-DV		MINGO O & G CO-3 808569	WV FIELD AREA B	24.0	COLUMBIA GAS TRAN
8348003		4709900364		107-DV		N FORK COAL CO-1 805550	WV FIELD AREA B	2.0	COLUMBIA GAS TRAN
8348034		4705900008		107-DV		NETTIE B WILCOX 804265	WV FIELD AREA B	7.0	COLUMBIA GAS TRAN
8348117		4705900570		107-DV		NIGHBERT LAND CO - 13 808654	WV FIELD AREA B	5.0	COLUMBIA GAS TRAN
8348257		4705900408		107-DV		NIGHBERT LAND CO 808203	WV FIELD AREA B	2.0	COLUMBIA GAS TRAN
8348258		4705900409		107-DV		NIGHBERT LAND CO-11 808206	WV FIELD AREA B	2.0	COLUMBIA GAS TRAN
8348260		4705900410		107-DV		NIGHBERT LD CO 808208	WV FIELD AREA B	4.0	COLUMBIA GAS TRAN
8347896		4704300459		107-DV		PATTERSON TONEY 801988	WV FIELD AREA B	8.0	COLUMBIA GAS TRAN
8348083		4704500407		107-DV		R W ADKINS 808938	WV FIELD AREA B	5.0	COLUMBIA GAS TRAN
8347929		4704500758		107-DV		ROSE BELLADONNA 808818	WV FIELD AREA B	4.0	COLUMBIA GAS TRAN
8347933		4705900629		107-DV		RUTH PETERS 01 808842	WV FIELD AREA B	16.0	COLUMBIA GAS TRAN
8348271		4709900567		107-DV		S D COPLEY 806334	WV FIELD AREA B	8.0	COLUMBIA GAS TRAN
8347984		4704500448		107-DV		SEWELL ADAMS 808357	WV FIELD AREA B	17.0	COLUMBIA GAS TRAN
8348053		4704500176		107-DV		T CONLEY ETAL 808367	WV FIELD AREA B	1.0	COLUMBIA GAS TRAN
8347935		4705900656		107-DV		T R JOSEPH 808919	WV FIELD AREA B	32.0	COLUMBIA GAS TRAN
8348103		4704301351		107-DV		TCO FEE TR 81 809049	WV FIELD AREA B	13.0	COLUMBIA GAS TRAN
8347941		4704500762		107-DV		TCO FEE TR 82 808958	WV FIELD AREA B	15.0	COLUMBIA GAS TRAN
8348262		4709900522		107-DV		TCO FEE TR 821 806267	WV FIELD AREA B	21.0	COLUMBIA GAS TRAN
8348042		4704300755		107-DV		TCO FEE TR 831 806172	WV FIELD AREA B	2.0	COLUMBIA GAS TRAN
8347904		4709901283		107-DV		TCO FEE TR 831 808742	WV FIELD AREA B	1.0	COLUMBIA GAS TRAN
8348040		4704300772		107-DV		TCO FEE TR 84 806193	WV FIELD AREA B	30.0	COLUMBIA GAS TRAN
8348266		4704300837		107-DV		TCO FEE TR 84 806308	WV FIELD AREA B	16.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8348275		4704300853		107-DV		TCO FEE TR #4 806346	WV FIELD AREA B	11.0	COLUMBIA GAS TRAN
8348278		4704300855		107-DV		TCO FEE TR #4 806365	WV FIELD AREA B	17.0	COLUMBIA GAS TRAN
8348021		4704300888		107-DV		TCO FEE TR #4 806442	WV FIELD AREA B	20.0	COLUMBIA GAS TRAN
8348143		4704300909		107-DV		TCO FEE TR #4 806521	WV FIELD AREA B	5.0	COLUMBIA GAS TRAN
8347947		4704300977		107-DV		TCO FEE TR #4 806689	WV FIELD AREA B	9.0	COLUMBIA GAS TRAN
8347953		4705900237		107-DV		TCO FEE TR #4 806698	WV FIELD AREA B	16.0	COLUMBIA GAS TRAN
8348135		4705900592		107-DV		TCO FEE TR #4 808736	WV FIELD AREA B	9.0	COLUMBIA GAS TRAN
8348177		4705900755		107-DV		TCO FEE TR #4 809324	WV FIELD AREA B	15.0	COLUMBIA GAS TRAN
8348175		4705900796		107-DV		TCO FEE TR #4 809519	WV FIELD AREA B	14.0	COLUMBIA GAS TRAN
8348176		4705900797		107-DV		TCO FEE TR #4 809521	WV FIELD AREA B	0.5	COLUMBIA GAS TRAN
8348155		4704301273		107-DV		TCO FEE TR-13 808267	WV FIELD AREA B	6.0	COLUMBIA GAS TRAN
8348161		4709901043		107-DV		TCO FEE TR-31 808292	WV FIELD AREA B	8.0	COLUMBIA GAS TRAN
8348094		4705900329		107-DV		TCO FEE TR-4 806983	WV FIELD AREA B	9.0	COLUMBIA GAS TRAN
8348092		4705900331		107-DV		TCO FEE TR-4 806992	WV FIELD AREA B	2.0	COLUMBIA GAS TRAN
8348255		4705900397		107-DV		TCO FEE TR-4 808199	WV FIELD AREA B	1.0	COLUMBIA GAS TRAN
8348256		4705900398		107-DV		TCO FEE TR-4 808200	WV FIELD AREA B	12.0	COLUMBIA GAS TRAN
8348209		4709904020		107-DV		TCO FEE TR-4 808229	WV FIELD AREA B	3.0	COLUMBIA GAS TRAN
8347972		4704500615		107-DV		TCO FEE TR-4 808430	WV FIELD AREA B	48.0	COLUMBIA GAS TRAN
8348067		4705900534		107-DV		TCO FEE TR-4 808501	WV FIELD AREA B	2.0	COLUMBIA GAS TRAN
8348066		4705900528		107-DV		TCO FEE TR-4 808508	WV FIELD AREA B	19.0	COLUMBIA GAS TRAN
8348065		4704500676		107-DV		TCO FEE TR-4 808510	WV FIELD AREA B	26.0	COLUMBIA GAS TRAN
8348200		4705900535		107-DV		TCO FEE TR-4 808533	WV FIELD AREA B	1.0	COLUMBIA GAS TRAN
8348187		4705900536		107-DV		TCO FEE TR-4 808534	WV FIELD AREA B	0.8	COLUMBIA GAS TRAN
8347913		4705900558		107-DV		TCO FEE TR-4 808568	WV FIELD AREA B	8.0	COLUMBIA GAS TRAN
8347915		4705900560		107-DV		TCO FEE TR-4 808571	WV FIELD AREA B	3.0	COLUMBIA GAS TRAN
8347916		4705900557		107-DV		TCO FEE TR-4 808572	WV FIELD AREA B	2.0	COLUMBIA GAS TRAN
8347978		4704500537		107-DV		TCO FEE TR-7 808392	WV FIELD AREA B	33.0	COLUMBIA GAS TRAN
8347922		4704500688		107-DV		TCO FEE TR-9 808591	WV FIELD AREA B	9.0	COLUMBIA GAS TRAN
8348277		4709900578		107-DV		TCO FEE 806364	WV FIELD AREA B	8.0	COLUMBIA GAS TRAN
8348127		4709901092		107-DV		TCO FEE 808660	WV FIELD AREA B	7.0	COLUMBIA GAS TRAN
8348105		4709901467		107-DV		TCO FEE 809023	WV FIELD AREA B	5.0	COLUMBIA GAS TRAN
8348085		4704301076		107-DV		TCO MIN TR - 19 806999	WV FIELD AREA B	6.0	COLUMBIA GAS TRAN
8348043		4709900464		107-DV		TCO MIN TR #1 806170	WV FIELD AREA B	24.0	COLUMBIA GAS TRAN
8348037		4709900468		107-DV		TCO MIN TR #1 806184	WV FIELD AREA B	5.0	COLUMBIA GAS TRAN
8348038		4709900469		107-DV		TCO MIN TR #1 806185	WV FIELD AREA B	9.0	COLUMBIA GAS TRAN
8348039		4709900480		107-DV		TCO MIN TR #1 806186	WV FIELD AREA B	20.0	COLUMBIA GAS TRAN
8348230		4704500178		107-DV		TCO MIN TR #1 806203	WV FIELD AREA B	4.0	COLUMBIA GAS TRAN
8348228		4704500179		107-DV		TCO MIN TR #1 806205	WV FIELD AREA B	16.0	COLUMBIA GAS TRAN
8348144		4709900507		107-DV		TCO MIN TR #1 806233	WV FIELD AREA B	24.0	COLUMBIA GAS TRAN
8348145		4709900503		107-DV		TCO MIN TR #1 806235	WV FIELD AREA B	14.0	COLUMBIA GAS TRAN
8348148		4709900512		107-DV		TCO MIN TR #1 806259	WV FIELD AREA B	18.0	COLUMBIA GAS TRAN
8348149		4709900513		107-DV		TCO MIN TR #1 806260	WV FIELD AREA B	1.0	COLUMBIA GAS TRAN
8348264		4709900535		107-DV		TCO MIN TR #1 806272	WV FIELD AREA B	15.0	COLUMBIA GAS TRAN
8348267		4709900534		107-DV		TCO MIN TR #1 806279	WV FIELD AREA B	20.0	COLUMBIA GAS TRAN
8348269		4709900536		107-DV		TCO MIN TR #1 806280	WV FIELD AREA B	16.0	COLUMBIA GAS TRAN
8348270		4709900553		107-DV		TCO MIN TR #1 806315	WV FIELD AREA B	5.0	COLUMBIA GAS TRAN
8348272		4709900573		107-DV		TCO MIN TR #1 806341	WV FIELD AREA B	6.0	COLUMBIA GAS TRAN
8348273		4709900569		107-DV		TCO MIN TR #1 806342	WV FIELD AREA B	9.0	COLUMBIA GAS TRAN
8348274		4709900578		107-DV		TCO MIN TR #1 806343	WV FIELD AREA B	21.0	COLUMBIA GAS TRAN
8348276		4709900591		107-DV		TCO MIN TR #1 806352	WV FIELD AREA B	1.0	COLUMBIA GAS TRAN
8348032		4709900600		107-DV		TCO MIN TR #1 806393	WV FIELD AREA B	15.0	COLUMBIA GAS TRAN
8348031		4709900597		107-DV		TCO MIN TR #1 806394	WV FIELD AREA B	21.0	COLUMBIA GAS TRAN
8348030		4709900601		107-DV		TCO MIN TR #1 806396	WV FIELD AREA B	22.0	COLUMBIA GAS TRAN
8348022		4709900626		107-DV		TCO MIN TR #1 806439	WV FIELD AREA B	2.0	COLUMBIA GAS TRAN
8348055		4709900632		107-DV		TCO MIN TR #1 806455	WV FIELD AREA B	10.0	COLUMBIA GAS TRAN
8348018		4709900650		107-DV		TCO MIN TR #1 806473	WV FIELD AREA B	9.0	COLUMBIA GAS TRAN
8348017		4709900651		107-DV		TCO MIN TR #1 806474	WV FIELD AREA B	10.0	COLUMBIA GAS TRAN
8348016		4709900653		107-DV		TCO MIN TR #1 806476	WV FIELD AREA B	7.0	COLUMBIA GAS TRAN
8348236		4709900656		107-DV		TCO MIN TR #1 806494	WV FIELD AREA B	11.0	COLUMBIA GAS TRAN
8348232		4709900657		107-DV		TCO MIN TR #1 806499	WV FIELD AREA B	5.0	COLUMBIA GAS TRAN
8348281		4709900665		107-DV		TCO MIN TR #1 806507	WV FIELD AREA B	22.0	COLUMBIA GAS TRAN
8348284		4709900666		107-DV		TCO MIN TR #1 806508	WV FIELD AREA B	31.0	COLUMBIA GAS TRAN
8348080		4709900690		107-DV		TCO MIN TR #1 806541	WV FIELD AREA B	9.0	COLUMBIA GAS TRAN
8347949		4709900714		107-DV		TCO MIN TR #1 806564	WV FIELD AREA B	12.0	COLUMBIA GAS TRAN
8347950		4709900715		107-DV		TCO MIN TR #1 806565	WV FIELD AREA B	9.0	COLUMBIA GAS TRAN
8348070		4709900738		107-DV		TCO MIN TR #1 806616	WV FIELD AREA B	1.0	COLUMBIA GAS TRAN
8347958		4709900776		107-DV		TCO MIN TR #1 806697	WV FIELD AREA B	10.0	COLUMBIA GAS TRAN
8347906		4704301299		107-DV		TCO MIN TR #1 808679	WV FIELD AREA B	16.0	COLUMBIA GAS TRAN
8347909		4704500702		107-DV		TCO MIN TR #1 808688	WV FIELD AREA B	15.0	COLUMBIA GAS TRAN
8347911		4704301300		107-DV		TCO MIN TR #1 808691	WV FIELD AREA B	15.0	COLUMBIA GAS TRAN
8348142		4704301301		107-DV		TCO MIN TR #1 808692	WV FIELD AREA B	16.0	COLUMBIA GAS TRAN
8348126		4704500710		107-DV		TCO MIN TR #1 808697	WV FIELD AREA B	2.0	COLUMBIA GAS TRAN
8348129		4704500711		107-DV		TCO MIN TR #1 808698	WV FIELD AREA B	18.0	COLUMBIA GAS TRAN
8348128		4704500712		107-DV		TCO MIN TR #1 808699	WV FIELD AREA B	4.0	COLUMBIA GAS TRAN
8348138		4704500717		107-DV		TCO MIN TR #1 808711	WV FIELD AREA B	17.0	COLUMBIA GAS TRAN
8348136		4704500719		107-DV		TCO MIN TR #1 808712	WV FIELD AREA B	1.0	COLUMBIA GAS TRAN
8348140		4705900661		107-DV		TCO MIN TR #1 808719	WV FIELD AREA B	46.0	COLUMBIA GAS TRAN
8347903		4709901280		107-DV		TCO MIN TR #1 808741	WV FIELD AREA B	6.0	COLUMBIA GAS TRAN
8347905		4709901281		107-DV		TCO MIN TR #1 808743	WV FIELD AREA B	51.0	COLUMBIA GAS TRAN
8347927		4704500733		107-DV		TCO MIN TR #1 808773	WV FIELD AREA B	4.0	COLUMBIA GAS TRAN
8347934		4704500749		107-DV		TCO MIN TR #1 808925	WV FIELD AREA B	16.0	COLUMBIA GAS TRAN
8347936		4704301319		107-DV		TCO MIN TR #1 808948	WV FIELD AREA B	23.0	COLUMBIA GAS TRAN
8347939		4704301320		107-DV		TCO MIN TR #1 808950	WV FIELD AREA B	35.0	COLUMBIA GAS TRAN
8347938		4704301321		107-DV		TCO MIN TR #1 808951	WV FIELD AREA B	26.0	COLUMBIA GAS TRAN
8348102		4709901329		107-DV		TCO MIN TR #1 808992	WV FIELD AREA B	23.0	COLUMBIA GAS TRAN
8348108		4709901384		107-DV		TCO MIN TR #1 809124	WV FIELD AREA B	2.0	COLUMBIA GAS TRAN
8348109		4709901481		107-DV		TCO MIN TR #1 809150	WV FIELD AREA B	20.0	COLUMBIA GAS TRAN
8348107		4709901399		107-DV		TCO MIN TR #1 809151	WV FIELD AREA B	9.0	COLUMBIA GAS TRAN
8348246		4709901408		107-DV		TCO MIN TR #1 809152	WV FIELD AREA B	8.0	COLUMBIA GAS TRAN
8348245		4709901405		107-DV		TCO MIN TR #1 809155	WV FIELD AREA B	4.0	COLUMBIA GAS TRAN
8348110		4709901406		107-DV		TCO MIN TR #1 809172	WV FIELD AREA B	14.0	COLUMBIA GAS TRAN
8348202		4704301342		107-DV		TCO MIN TR #1 809174	WV FIELD AREA B	15.0	COLUMBIA GAS TRAN
8348247		4704301347		107-DV		TCO MIN TR #1 809186	WV FIELD AREA B	29.0	COLUMBIA GAS TRAN
8348204		4704301348		107-DV		TCO MIN TR #1 809210	WV FIELD AREA B	14.0	COLUMBIA GAS TRAN
8348203		4704301357		107-DV		TCO MIN TR #1 809238	WV FIELD AREA B	19.0	COLUMBIA GAS TRAN
8348180		4709901456		107-DV		TCO MIN TR #1 809263	WV FIELD AREA B	14.0	COLUMBIA GAS TRAN
8348179		4709901515		107-DV		TCO MIN TR #1 809401	WV FIELD AREA B	13.0	COLUMBIA GAS TRAN
8348171		4709901554		107-DV		TCO MIN TR #1 809522	WV FIELD AREA B	17.0	COLUMBIA GAS TRAN
8348173		4704301451		107-DV		TCO MIN TR #1 809524	WV FIELD AREA B	16.0	COLUMBIA GAS TRAN
8348172		4704301456		107-DV		TCO MIN TR #1 809609	WV FIELD AREA B	13.0	COLUMBIA GAS TRAN
8348170		4709901559		107-DV		TCO MIN TR #1 809610	WV FIELD AREA B	11.0	COLUMBIA GAS TRAN
8348168		4709901555		107-DV		TCO MIN TR #1 809611	WV FIELD AREA B	9.0	COLUMBIA GAS TRAN
8348169		4704301455		107-DV		TCO MIN TR #1 809615	WV FIELD AREA B	25.0	COLUMBIA GAS TRAN
8348166		4704301454		107-DV		TCO MIN TR #1 809616	WV FIELD AREA B	1.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8348225		4705900145		107-DW		TCO MIN TR #10 806231	WV FIELD AREA B	4.0	COLUMBIA GAS TRAN
8348034		4705900160		107-DW		TCO MIN TR #10 806378	WV FIELD AREA B	3.0	COLUMBIA GAS TRAN
8348033		4705900163		107-DW		TCO MIN TR #10 806379	WV FIELD AREA B	23.0	COLUMBIA GAS TRAN
8347928		4709901357		107-DW		TCO MIN TR #10 808857	WV FIELD AREA B	1.0	COLUMBIA GAS TRAN
8348209		4705900737		107-DW		TCO MIN TR #10 809288	WV FIELD AREA B	8.0	COLUMBIA GAS TRAN
8348174		4705900790		107-DW		TCO MIN TR #10 809467	WV FIELD AREA B	12.0	COLUMBIA GAS TRAN
8348134		4705900591		107-DW		TCO MIN TR #11 808729	WV FIELD AREA B	16.0	COLUMBIA GAS TRAN
8347945		4704300975		107-DW		TCO MIN TR #18 806687	WV FIELD AREA B	6.0	COLUMBIA GAS TRAN
8347946		4704300976		107-DW		TCO MIN TR #18 806688	WV FIELD AREA B	6.0	COLUMBIA GAS TRAN
8348036		4709900482		107-DW		TCO MIN TR #19 806182	WV FIELD AREA B	3.0	COLUMBIA GAS TRAN
8348024		4709900623		107-DW		TCO MIN TR #2 806421	WV FIELD AREA B	9.0	COLUMBIA GAS TRAN
8348028		4704300889		107-DW		TCO MIN TR #20 806443	WV FIELD AREA B	4.0	COLUMBIA GAS TRAN
8348261		4709900518		107-DW		TCO MIN TR #21 806262	WV FIELD AREA B	21.0	COLUMBIA GAS TRAN
8348029		4704300868		107-DW		TCO MIN TR #23 806483	WV FIELD AREA B	4.0	COLUMBIA GAS TRAN
8348019		4704300891		107-DW		TCO MIN TR #24 806445	WV FIELD AREA B	3.0	COLUMBIA GAS TRAN
8348237		4704300879		107-DW		TCO MIN TR #25 806484	WV FIELD AREA B	2.0	COLUMBIA GAS TRAN
8348077		4704300957		107-DW		TCO MIN TR #26 806643	WV FIELD AREA B	9.0	COLUMBIA GAS TRAN
8348078		4704300958		107-DW		TCO MIN TR #26 806644	WV FIELD AREA B	2.0	COLUMBIA GAS TRAN
8348079		4704300959		107-DW		TCO MIN TR #26 806645	WV FIELD AREA B	3.0	COLUMBIA GAS TRAN
8347955		4704300973		107-DW		TCO MIN TR #26 806695	WV FIELD AREA B	1.0	COLUMBIA GAS TRAN
8348206		4709901474		107-DW		TCO MIN TR #3 809310	WV FIELD AREA B	6.0	COLUMBIA GAS TRAN
8348138		4704301317		107-DW		TCO MIN TR #31 808744	WV FIELD AREA B	2.0	COLUMBIA GAS TRAN
8347944		4704300980		107-DW		TCO MIN TR #4 806684	WV FIELD AREA B	6.0	COLUMBIA GAS TRAN
8348283		4709900667		107-DW		TCO MIN TR #5 806516	WV FIELD AREA B	7.0	COLUMBIA GAS TRAN
8348229		4704500181		107-DW		TCO MIN TR NO 1 806204	WV FIELD AREA B	12.0	COLUMBIA GAS TRAN
8348091		4709900841		107-DW		TCO MIN TR-1 806991	WV FIELD AREA B	16.0	COLUMBIA GAS TRAN
8348093		4709900848		107-DW		TCO MIN TR-1 806993	WV FIELD AREA B	30.0	COLUMBIA GAS TRAN
8348100		4709900850		107-DW		TCO MIN TR-1 806994	WV FIELD AREA B	7.0	COLUMBIA GAS TRAN
8348101		4704301074		107-DW		TCO MIN TR-1 806996	WV FIELD AREA B	5.0	COLUMBIA GAS TRAN
8347942		4704301081		107-DW		TCO MIN TR-1 806998	WV FIELD AREA B	25.0	COLUMBIA GAS TRAN
8348088		4704301257		107-DW		TCO MIN TR-1 808003	WV FIELD AREA B	2.0	COLUMBIA GAS TRAN
8348099		4704301088		107-DW		TCO MIN TR-1 808018	WV FIELD AREA B	7.0	COLUMBIA GAS TRAN
8348082		4705900625		107-DW		TCO MIN TR-1 808036	WV FIELD AREA B	6.0	COLUMBIA GAS TRAN
8348218		4704301133		107-DW		TCO MIN TR-1 808150	WV FIELD AREA B	18.0	COLUMBIA GAS TRAN
8348217		4704500367		107-DW		TCO MIN TR-1 808151	WV FIELD AREA B	1.0	COLUMBIA GAS TRAN
8348212		4704301141		107-DW		TCO MIN TR-1 808161	WV FIELD AREA B	16.0	COLUMBIA GAS TRAN
8348253		4704301275		107-DW		TCO MIN TR-1 808196	WV FIELD AREA B	44.0	COLUMBIA GAS TRAN
8347899		4704301255		107-DW		TCO MIN TR-1 808209	WV FIELD AREA B	3.0	COLUMBIA GAS TRAN
8347901		4704301258		107-DW		TCO MIN TR-1 808212	WV FIELD AREA B	29.0	COLUMBIA GAS TRAN
8348207		4704500547		107-DW		TCO MIN TR-1 808241	WV FIELD AREA B	6.0	COLUMBIA GAS TRAN
8348248		4704500544		107-DW		TCO MIN TR-1 808242	WV FIELD AREA B	15.0	COLUMBIA GAS TRAN
8348249		4704500548		107-DW		TCO MIN TR-1 808243	WV FIELD AREA B	31.0	COLUMBIA GAS TRAN
8348250		4704500393		107-DW		TCO MIN TR-1 808249	WV FIELD AREA B	14.0	COLUMBIA GAS TRAN
8348251		4704500394		107-DW		TCO MIN TR-1 808260	WV FIELD AREA B	2.0	COLUMBIA GAS TRAN
8348252		4704500395		107-DW		TCO MIN TR-1 808261	WV FIELD AREA B	5.0	COLUMBIA GAS TRAN
8348152		4704301144		107-DW		TCO MIN TR-1 808264	WV FIELD AREA B	36.0	COLUMBIA GAS TRAN
8348153		4704500399		107-DW		TCO MIN TR-1 808265	WV FIELD AREA B	8.0	COLUMBIA GAS TRAN
8348156		4704301263		107-DW		TCO MIN TR-1 808270	WV FIELD AREA B	14.0	COLUMBIA GAS TRAN
8348160		4704301291		107-DW		TCO MIN TR-1 808285	WV FIELD AREA B	5.0	COLUMBIA GAS TRAN
8348162		4704301153		107-DW		TCO MIN TR-1 808293	WV FIELD AREA B	8.0	COLUMBIA GAS TRAN
8348163		4704301262		107-DW		TCO MIN TR-1 808299	WV FIELD AREA B	3.0	COLUMBIA GAS TRAN
8348199		4704500594		107-DW		TCO MIN TR-1 808337	WV FIELD AREA B	13.0	COLUMBIA GAS TRAN
8348198		4704500595		107-DW		TCO MIN TR-1 808338	WV FIELD AREA B	8.0	COLUMBIA GAS TRAN
8348197		4704500558		107-DW		TCO MIN TR-1 808349	WV FIELD AREA B	17.0	COLUMBIA GAS TRAN
8347982		4704301243		107-DW		TCO MIN TR-1 808359	WV FIELD AREA B	10.0	COLUMBIA GAS TRAN
8347979		4704500535		107-DW		TCO MIN TR-1 808391	WV FIELD AREA B	32.0	COLUMBIA GAS TRAN
8347976		4704301268		107-DW		TCO MIN TR-1 808405	WV FIELD AREA B	21.0	COLUMBIA GAS TRAN
8347973		4704500604		107-DW		TCO MIN TR-1 808427	WV FIELD AREA B	18.0	COLUMBIA GAS TRAN
8347971		4704500612		107-DW		TCO MIN TR-1 808434	WV FIELD AREA B	18.0	COLUMBIA GAS TRAN
8347970		4704301268		107-DW		TCO MIN TR-1 808435	WV FIELD AREA B	55.0	COLUMBIA GAS TRAN
8347969		4704301269		107-DW		TCO MIN TR-1 808436	WV FIELD AREA B	27.0	COLUMBIA GAS TRAN
8347968		4704301214		107-DW		TCO MIN TR-1 808438	WV FIELD AREA B	18.0	COLUMBIA GAS TRAN
8347967		4704301213		107-DW		TCO MIN TR-1 808439	WV FIELD AREA B	10.0	COLUMBIA GAS TRAN
8347966		4704301206		107-DW		TCO MIN TR-1 808440	WV FIELD AREA B	2.0	COLUMBIA GAS TRAN
8347965		4704301222		107-DW		TCO MIN TR-1 808445	WV FIELD AREA B	4.0	COLUMBIA GAS TRAN
8347964		4704301224		107-DW		TCO MIN TR-1 808446	WV FIELD AREA B	7.0	COLUMBIA GAS TRAN
8347963		4704301225		107-DW		TCO MIN TR-1 808447	WV FIELD AREA B	5.0	COLUMBIA GAS TRAN
8347962		4704301226		107-DW		TCO MIN TR-1 808448	WV FIELD AREA B	0.7	COLUMBIA GAS TRAN
8347960		4704301210		107-DW		TCO MIN TR-1 808450	WV FIELD AREA B	19.0	COLUMBIA GAS TRAN
8347990		4704301203		107-DW		TCO MIN TR-1 808452	WV FIELD AREA B	54.0	COLUMBIA GAS TRAN
8347989		4704301204		107-DW		TCO MIN TR-1 808453	WV FIELD AREA B	8.0	COLUMBIA GAS TRAN
8347986		4704500608		107-DW		TCO MIN TR-1 808463	WV FIELD AREA B	14.0	COLUMBIA GAS TRAN
8348196		4704500607		107-DW		TCO MIN TR-1 808465	WV FIELD AREA B	11.0	COLUMBIA GAS TRAN
8347961		4704500610		107-DW		TCO MIN TR-1 808473	WV FIELD AREA B	3.0	COLUMBIA GAS TRAN
8348193		4704301272		107-DW		TCO MIN TR-1 808477	WV FIELD AREA B	25.0	COLUMBIA GAS TRAN
8348192		4704301228		107-DW		TCO MIN TR-1 808480	WV FIELD AREA B	41.0	COLUMBIA GAS TRAN
8348191		4704301229		107-DW		TCO MIN TR-1 808481	WV FIELD AREA B	16.0	COLUMBIA GAS TRAN
8348190		4704301231		107-DW		TCO MIN TR-1 808486	WV FIELD AREA B	20.0	COLUMBIA GAS TRAN
8348189		4704301247		107-DW		TCO MIN TR-1 808491	WV FIELD AREA B	33.0	COLUMBIA GAS TRAN
8348188		4704301232		107-DW		TCO MIN TR-1 808494	WV FIELD AREA B	30.0	COLUMBIA GAS TRAN
8348064		4704500578		107-DW		TCO MIN TR-1 808513	WV FIELD AREA B	66.0	COLUMBIA GAS TRAN
8348063		4704500573		107-DW		TCO MIN TR-1 808514	WV FIELD AREA B	27.0	COLUMBIA GAS TRAN
8348062		4704500677		107-DW		TCO MIN TR-1 808516	WV FIELD AREA B	27.0	COLUMBIA GAS TRAN
8348060		4704500633		107-DW		TCO MIN TR-1 808521	WV FIELD AREA B	5.0	COLUMBIA GAS TRAN
8348059		4704301276		107-DW		TCO MIN TR-1 808523	WV FIELD AREA B	56.0	COLUMBIA GAS TRAN
8348058		4704301283		107-DW		TCO MIN TR-1 808526	WV FIELD AREA B	2.0	COLUMBIA GAS TRAN
8348057		4704301278		107-DW		TCO MIN TR-1 808527	WV FIELD AREA B	64.0	COLUMBIA GAS TRAN
8348056		4704301293		107-DW		TCO MIN TR-1 808529	WV FIELD AREA B	1.0	COLUMBIA GAS TRAN
8348201		4704301279		107-DW		TCO MIN TR-1 808530	WV FIELD AREA B	6.0	COLUMBIA GAS TRAN
8348185		4704500650		107-DW		TCO MIN TR-1 808537	WV FIELD AREA B	1.0	COLUMBIA GAS TRAN
8348183		4704500647		107-DW		TCO MIN TR-1 808540	WV FIELD AREA B	4.0	COLUMBIA GAS TRAN
8348181		4704500648		107-DW		TCO MIN TR-1 808545	WV FIELD AREA B	21.0	COLUMBIA GAS TRAN
8348001		4704301283		107-DW		TCO MIN TR-1 808546	WV FIELD AREA B	73.0	COLUMBIA GAS TRAN
8348000		4704301281		107-DW		TCO MIN TR-1 808548	WV FIELD AREA B	73.0	COLUMBIA GAS TRAN
8347999		4704500694		107-DW		TCO MIN TR-1 808549	WV FIELD AREA B	9.0	COLUMBIA GAS TRAN
8347996		4704500468		107-DW		TCO MIN TR-1 808556	WV FIELD AREA B	31.0	COLUMBIA GAS TRAN
8347993		4704500654		107-DW		TCO MIN TR-1 808557	WV FIELD AREA B	30.0	COLUMBIA GAS TRAN
8347994		4704500655		107-DW		TCO MIN TR-1 808558	WV FIELD AREA B	0.1	COLUMBIA GAS TRAN
8347992		4704500678		107-DW		TCO MIN TR-1 808565	WV FIELD AREA B	30.0	COLUMBIA GAS TRAN
8347991		4704500675		107-DW		TCO MIN TR-1 808566	WV FIELD AREA B	42.0	COLUMBIA GAS TRAN
8347918		4704500684		107-DW		TCO MIN TR-1 808586	WV FIELD AREA B	50.0	COLUMBIA GAS TRAN
8347919		4704500685		107-DW		TCO MIN TR-1 808587	WV FIELD AREA B	36.0	COLUMBIA GAS TRAN
8347921		4704500687		107-DW		TCO MIN TR-1 808589	WV FIELD AREA B	9.0	COLUMBIA GAS TRAN
8347923		4705900668		107-DW		TCO MIN TR-1 808596	WV FIELD AREA B	30.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8347924		4709901868		107-DV		TCO MIN TR-1 808601	WV FIELD AREA B	5.0	COLUMBIA GAS TRAN
8347925		4709901869		107-DV		TCO MIN TR-1 808602	WV FIELD AREA B	19.0	COLUMBIA GAS TRAN
8348111		4704301294		107-DV		TCO MIN TR-1 808603	WV FIELD AREA B	31.0	COLUMBIA GAS TRAN
8348112		4704500692		107-DV		TCO MIN TR-1 808604	WV FIELD AREA B	8.0	COLUMBIA GAS TRAN
8348113		4709901102		107-DV		TCO MIN TR-1 808616	WV FIELD AREA B	3.0	COLUMBIA GAS TRAN
8348123		4704500695		107-DV		TCO MIN TR-1 808629	WV FIELD AREA B	5.0	COLUMBIA GAS TRAN
8348124		4704500701		107-DV		TCO MIN TR-1 808630	WV FIELD AREA B	26.0	COLUMBIA GAS TRAN
8348122		4704500696		107-DV		TCO MIN TR-1 808646	WV FIELD AREA B	5.0	COLUMBIA GAS TRAN
8348254		4705900488		107-DV		TCO MIN TR-10 808198	WV FIELD AREA B	4.0	COLUMBIA GAS TRAN
8347912		4705900559		107-DV		TCO MIN TR-10 808567	WV FIELD AREA B	9.0	COLUMBIA GAS TRAN
8348194		4705900518		107-DV		TCO MIN TR-11 808476	WV FIELD AREA B	11.0	COLUMBIA GAS TRAN
8348086		4709900859		107-DV		TCO MIN TR-13 806985	WV FIELD AREA B	4.0	COLUMBIA GAS TRAN
8348208		4705900403		107-DV		TCO MIN TR-14 808230	WV FIELD AREA B	2.0	COLUMBIA GAS TRAN
8348061		4705900538		107-DV		TCO MIN TR-14 808520	WV FIELD AREA B	3.0	COLUMBIA GAS TRAN
8348090		4704301101		107-DV		TCO MIN TR-19 806990	WV FIELD AREA B	5.0	COLUMBIA GAS TRAN
8348184		4704500651		107-DV		TCO MIN TR-2 808538	WV FIELD AREA B	18.0	COLUMBIA GAS TRAN
8348087		4704301251		107-DV		TCO MIN TR-26 806989	WV FIELD AREA B	13.0	COLUMBIA GAS TRAN
8348182		4704301287		107-DV		TCO MIN TR-26 808543	WV FIELD AREA B	1.0	COLUMBIA GAS TRAN
8347895		4704301142		107-DV		TCO MIN TR-31 808174	WV FIELD AREA B	19.0	COLUMBIA GAS TRAN
8347985		4704301236		107-DV		TCO MIN TR-31 808376	WV FIELD AREA B	20.0	COLUMBIA GAS TRAN
8347974		4704301239		107-DV		TCO MIN TR-31 808416	WV FIELD AREA B	20.0	COLUMBIA GAS TRAN
8347997		4704301298		107-DV		TCO MIN TR-31 808554	WV FIELD AREA B	11.0	COLUMBIA GAS TRAN
8348195		4704500606		107-DV		TCO MIN TR-5 808472	WV FIELD AREA B	12.0	COLUMBIA GAS TRAN
8347988		4704301219		107-DV		TCO MIN TR-7 808457	WV FIELD AREA B	11.0	COLUMBIA GAS TRAN
8347987		4704301205		107-DV		TCO MIN TR-7 808458	WV FIELD AREA B	6.0	COLUMBIA GAS TRAN
8348044		4709900458		107-DV		TCO MINTR #1 806161	WV FIELD AREA B	2.0	COLUMBIA GAS TRAN
8347948		4709900713		107-DV		TCO 806563	WV FIELD AREA B	14.0	COLUMBIA GAS TRAN
8347993		4704500688		107-DV		TCO 808562	WV FIELD AREA B	4.0	COLUMBIA GAS TRAN
8348015		4703901484		107-DV		THREE MILE FORK L CO 806479	WV FIELD AREA A	2.0	COLUMBIA GAS TRAN
8348045		4709900457		107-DV		UFG CO MINERAL 806160	WV FIELD AREA B	13.0	COLUMBIA GAS TRAN
8348072		4704300949		107-DV		W J MCKENZIE 806620	WV FIELD AREA B	2.0	COLUMBIA GAS TRAN
8347937		4705900719		107-DV		WILLIAMSON M&M #2 808944	WV FIELD AREA B	5.0	COLUMBIA GAS TRAN
8347977		4705900522		107-DV		WINIFREDE LAND CO 808395	WV FIELD AREA B	0.0	COLUMBIA GAS TRAN
8348244		4705900617		107-DV		WINIFREDE LD CO #2 808790	WV FIELD AREA B	4.0	COLUMBIA GAS TRAN

[FR Doc. 83-23242 Filed 8-23-83; 8:45 am]

BILLING CODE 6717-01-C

[Volume 954]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: August 19, 1983.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register**.

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Rd, Springfield, Va 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
- 102–2: New well (2.5 Mile rule)
- 102–3: New well (1000 Ft rule)
- 102–4: New onshore reservoir
- 102–5: New reservoir on old OCS lease

Section 107–DP: 15,000 feet or deeper
- 107–GB: Geopressured brine
- 107–CS: Coal Seams
- 107–DV: Devonian Shale
- 107–PE: Production enhancement
- 107–TF: New tight formation
- 107–RT: Recompletion tight formation

Section 108: Stripper well
- 108–SA: Seasonally affected
- 108–ER: Enhanced recovery
- 108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

NOTICE OF DETERMINATIONS
ISSUED AUGUST 19, 1983
VOLUME 954

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
CALIFORNIA DEPARTMENT OF CONSERVATION									
-C & C MINERALS				RECEIVED: 08/03/83		JA: CA			
8348392	83-6-0032	0409500000		102-4		"PETER COOK" 14	LINDSEY SLOUGH	730.0	PACIFIC GAS & ELE
KANSAS CORPORATION COMMISSION									
-TXO PRODUCTION CORP				RECEIVED: 08/05/83		JA: KS			
8348457	K-82-0728	1507720818		103		ANTRIM "A" 02	SULLIVAN	700.0	DELMI CORP
8348459	K-82-0712	1507720809		103		BARINGER 01	SULLIVAN	550.0	DELMI CORP
8348458	K-82-0714	1500720807		103		FINDLEY "B" 01	SULLIVAN	350.0	DELMI CORP
8348460	K-82-0586	1507720792		103		GAMMILL 01	SULLIVAN	275.0	DELMI CORP
8348461	K-82-0587	1507720790		103		ROBINSON "G" 02	SULLIVAN	275.0	DELMI CORP
MISSISSIPPI OIL & GAS BOARD									
-GULF OIL CORPORATION				RECEIVED: 08/04/83		JA: MS			
8348451	16-83-11	2307320253		102-4		F M SHOWDEN 01	BAXTERVILLE	0.0	UNITED GAS PIPELI
-SPOONER PETROLEUM COMPANY				RECEIVED: 08/04/83		JA: MS			
8348450	35-83-434	2307720864		102-4	107-DP	CROWN ZELLERBACH 02	MONTICELLO	750.0	SOUTHERN NATURAL
MONTANA BOARD OF OIL & GAS CONSERVATION									
-CONOCO INC				RECEIVED: 08/05/83		JA: MT			
8348454	7-82-211	2508321361		103		CONOCO SUNDHEIM 29-1	SW SIOUX PASS	64.0	DAMSON OIL CO
-CONSOLIDATED OIL & GAS INC				RECEIVED: 08/05/83		JA: MT			
8348453	7-82-208	2508321299		102-4		MCCABE 02	SE FROID	0.0	
-MIDLAND6 GAS CORPORATION				RECEIVED: 08/05/83		JA: MT			
8348452	7-82-214	2507121484		108		DRESSEN FEDERAL 1 2161	WILDCAT	20.0	KN ENERGY INC
-SECTOR RESOURCES LTD				RECEIVED: 08/05/83		JA: MT			
8348456	7-82-209	2506122228		102-4		DAVEY 1-29 - T32N-R17E	TIGER RIDGE	70.0	NORTHERN NATURAL
8348455	7-82-210	2506122229		102-4		HANSON 7-17 - T32N-R17E	TIGER RIDGE	180.0	NORTHERN NATURAL
OHIO DEPARTMENT OF NATURAL RESOURCES									
-ALSID OIL & GAS DEVELOPMENT CO				RECEIVED: 08/03/83		JA: OH			
8348285		3409921550		107-TF		FELGAR -EARLY 01	SMITH	15.0	
-AMAC INC				RECEIVED: 08/03/83		JA: OH			
8348286		3403121399		108		MAXINE YOUNG 01		4.2	COLUMBIA GAS TRAN
-APPALACHIAN EXPLORATION INC				RECEIVED: 08/03/83		JA: OH			
8348287		3415321001		107-TF		D FOUSE 04	COPLEY	11.0	
8348288		3415321079		107-TF		SAVOIA 02	COPLEY	54.0	YANKEE RESOURCES
-ATWOOD RESOURCES INC				RECEIVED: 08/03/83		JA: OH			
8348289		3403125088		103	107-TF	OMER BECHTOL 02	CLARK	15.0	
-BILL BLAIR INCORPORATED				RECEIVED: 08/03/83		JA: OH			
8348291		3402920947		103	107-TF	CARTER 01	HOMEWORTH	15.0	EAST OHIO GAS CO
8348292		3402920948		103	107-TF	CARTER 02	HOMEWORTH	15.0	EAST OHIO GAS CO
8348290		3402920944		103	107-TF	KIMES 01	HOMEWORTH	18.0	EAST OHIO GAS CO

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-CA D' ORA INC				RECEIVED:	08/03/83	JA: OH			
8348295		3416727412		103		B BROOKER #1	WATERTOWN	0.0	
8348293		3416727375		103		B SCHILLING #1	WATERTOWN	0.0	
8348298		3416727467		103		F MCCULLOUGH #1	WATERTOWN	0.0	
8348299		3416727479		103		H THIEMAN #1	WATERTOWN	0.0	
8348297		3416727444		103		N LANG #1A	WATERTOWN	0.0	
8348296		3416727413		103		R THIEMAN #1	WATERTOWN	0.0	
8348294		3416727396		103		T BIRCH #1	WATERFORD	0.0	
-CENTRAL ENERGY CO INC				RECEIVED:	08/03/83	JA: OH			
8348308		3411926676		107-TF		MOORE & GRIMES #1	IRISH RIDGE	10.0	NATIONAL GAS & OI
-COASTAL PETROLEUM CORP				RECEIVED:	08/03/83	JA: OH			
8348302		3410323377		107-TF		BRAMLEY #4	SHARON	9.0	EAST OHIO GAS CO
8348303		3415321309		107-TF		RINI #1	COPLEY	9.0	EAST OHIO GAS CO
8348301		3410322861		107-TF		RININGER-LERMER #1	SHARON	9.0	EAST OHIO GAS CO
-DAVID A WALDRON & ASSOC INC				RECEIVED:	08/03/83	JA: OH			
8348304		3413323004		107-TF		SAVAGE #1	EDINBURG	20.0	
-DISCOVERY OIL LTD				RECEIVED:	08/03/83	JA: OH			
8348305		3410323194		107-TF		BROADBRIDGE #1	WESTFIELD	0.0	
-EARTH RESOURCES EXPL DEV CORP				RECEIVED:	08/03/83	JA: OH			
8348388		3416923218		103	107-TF	CLEVELAND #3	CANAAN	0.0	
-ELAN ENERGY INC				RECEIVED:	08/03/83	JA: OH			
8348306		3416923443		103	107-TF	MILLER-CLINEFELTER #2	PAINT	11.0	COLUMBIA GAS TRAN
-EMERGY DEVELOPMENT CORP				RECEIVED:	08/03/83	JA: OH			
8348308A		3405520208	D	103		BYLER #3		17.0	COLUMBIA GAS TRAN
8348308B		3405520208		107-RT		BYLER #3		17.0	COLUMBIA GAS TRAN
8348307B		3405520193		107-RT		BYLER #6	MIDDLEFIELD	17.0	COLUMBIA GAS TRAN
8348307A		3405520193	D	103		BYLER #6	MIDDLEFIELD	17.0	COLUMBIA GAS TRAN
8348312B		3405520258		107-RT		COBLENTZ #1	MIDDLEFIELD	17.0	
8348312A		3405520258	D	103		COBLENTZ #1	MIDDLEFIELD	17.0	
8348310B		3405520211		107-RT		DONALDSON #1	MIDDLEFIELD	18.0	COLUMBIA GAS TRAN
8348310A		3405520211	D	103		DONALDSON #1	MIDDLEFIELD	18.0	COLUMBIA GAS TRAN
8348311B		3405520224		107-RT		WEAVER #2	MIDDLEFIELD	16.0	COLUMBIA GAS TRAN
8348311A		3405520224	D	103		WEAVER #2	MIDDLEFIELD	16.0	COLUMBIA GAS TRAN
8348313B		3405520317		107-RT		WEAVER #4	MESOPOTAMIA	19.0	
8348313A		3405520317	D	103		WEAVER #4	MESOPOTAMIA	19.0	
8348314B		3405520718		107-RT		WENGERD #1	WINDSOR	17.0	COLUMBIA GAS TRAN
8348314A		3405520718	D	103		WENGERD #1	WINDSOR	17.0	COLUMBIA GAS TRAN
8348309B		3405520209		107-RT		ZWOLINSKI #1	MIDDLEFIELD	18.0	COLUMBIA GAS TRAN
8348309A		3405520209	D	103		ZWOLINSKI #1	MIDDLEFIELD	18.0	COLUMBIA GAS TRAN
-EVERFLOW EASTERN INC				RECEIVED:	08/03/83	JA: OH			
8348315		3400722196		103	107-TF	MOGREM #1	MORGAN	0.0	
-GENERAL ELECTRIC CO				RECEIVED:	08/03/83	JA: OH			
8348317		3413323868		103	107-TF	RAVENNA BOARD OF EDUCATION #1	RAVENNA	30.0	EAST OHIO GAS CO
8348316		3400722216		103	107-TF	YUHASZ #5	COLEBROOK	20.0	EAST OHIO GAS CO
-GREENLAND PARTNERSHIP	83-1			RECEIVED:	08/03/83	JA: OH			
8348391		3412725953		107-TF		CAMERON #15	MONDAY CREEK	15.0	
8348390		3412725950		107-TF		CAMERON #17	MONDAY CREEK	15.0	
8348389		3412725945		107-TF		CAMERON #3	MONDAY CREEK	15.0	
-HERALD OIL & GAS CO				RECEIVED:	08/03/83	JA: OH			
8348320		3410521810		108		JAMES DREHEL #5		0.0	COLUMBIA GAS TRAN
8348319		3410521809		108		JAMES DREHEL #6		0.0	COLUMBIA GAS TRAN
8348318		3405320486		108		JAMES DREHEL #7		0.0	COLUMBIA GAS TRAN
-HOPEWELL OIL AND GAS DEVELOPMENT CO				RECEIVED:	08/03/83	JA: OH			
8348321		3412725866		107-TF		D LEWIS (PEABODY) #2	PIKE	3.0	COLUMBIA GAS TRAN
8348322		3412725867		107-TF		D LEWIS (PEABODY) #3	PIKE	2.0	COLUMBIA GAS TRAN
-HURON EXPLORATION CO				RECEIVED:	08/03/83	JA: OH			
8348324		3413320207	D	108		BUCKMAN UNIT #1		10.0	EAST OHIO GAS CO
8348323		3413320204	D	108		MERRIMAN UNIT #1		3.0	EAST OHIO GAS CO
8348325		3413320220	D	108		SAYRE UNIT #1		4.0	EAST OHIO GAS CO
-JANCO WELL OPERATIONS LTD 82-3				RECEIVED:	08/03/83	JA: OH			
8348326		3400721932		107-TF		BEN SPRAGUE #1	DORSET	60.0	EAST OHIO GAS CO
-JANCO WELL OPERATIONS LTD 82-4				RECEIVED:	08/03/83	JA: OH			
8348328		3410323338		107-TF		BEULEN UNIT #1	GRANGER	250.0	COLUMBIA GAS TRAN
8348327		3410323337		107-TF		DAVIS UNIT #1	GRANGER	350.0	COLUMBIA GAS TRAN
8348329		3410323339		107-TF		GREENE UNIT #1	GRANGER	25.0	COLUMBIA GAS TRAN
-K S T OIL & GAS CO INC				RECEIVED:	08/03/83	JA: OH			
8348331		3415321200		103	107-TF	ALBL #1	SAGAMORE HILLS	40.0	YANKEE RESOURCES
8348330		3415321199		103	107-TF	POLCEN #1	SAGAMORE HILLS	40.0	R S C ENERGY CORP
8348332		3415321326		103	107-TF	SOLOMAN #1	BATH	45.0	R S C ENERGY CORP
-KENOIL				RECEIVED:	08/03/83	JA: OH			
8348333		3403124013		108		GLEN KING #2		2.0	COLUMBIA GAS TRAN
-L & M PETROLEUM INC				RECEIVED:	08/03/83	JA: OH			
8348334		3405921088		108		STEPHENS #1		5.5	COLUMBIA GAS TRAN
8348335		3415723154		108		STOCKER #1		5.5	EAST OHIO GAS CO
-LEADER EQUITIES INC				RECEIVED:	08/03/83	JA: OH			
8348336		3407322794		103	107-TF	ANTHONY #1	WASHINGTON	13.0	
8348339		3411924426		108		KLINE #1		12.0	
8348338		3411924408		108		OTSEGO-LANE #1		12.0	
8348337		3411923397		108		WOLFE #1		12.0	
-LOMAK PETROLEUM INC				RECEIVED:	08/03/83	JA: OH			
8348342		3405520473		107-TF		B KAUFMAN #3	CLARIDON	24.0	EAST OHIO GAS CO
8348341		3405524710		107-TF		G GABANIC #1	CLARIDON	24.0	EAST OHIO GAS CO
8348340		3405524030		107-TF		R YOUNG #1	CLARIDON	24.0	EAST OHIO GAS CO
8348343		3405520476		107-TF		S TAYLOR #2	CLARIDON	24.0	EAST OHIO GAS CO
-MAJ				RECEIVED:	08/03/83	JA: OH			
8348345		3414520287		103		CLETIS & INEZ DUMMITT #3	LUCASVILLE	0.6	
8348344		3414520273		103		WILLARD & VIVIAN COLLEY #1	MADISON	0.5	
-MARK RESOURCES CORP				RECEIVED:	08/03/83	JA: OH			
8348346		3400722237		107-TF		BOJANOWSKI #1	SHEFFIELD	30.0	EAST OHIO GAS CO
-NEIL R. WYNN				RECEIVED:	08/03/83	JA: OH			
8348351		3416726618		108		LEMASTERS #3		2.5	GAS TRANSPORT INC
8348350		3416726594		108		LEMASTERS #4		2.0	GAS TRANSPORT INC
8348348		3416724736		108		R LEMASTERS #2		0.0	GAS TRANSPORT INC
8348349		3416724812		108		WENTZ #2		2.5	GAS TRANSPORT INC
-NORAMCO INC				RECEIVED:	08/03/83	JA: OH			
8348356		3400523589		103		RICKLY #R1	LAKE	3.0	
8348357		3400523590		103		RICKLY #R2	LAKE	3.0	
8348355		3400523589		103		RICKLY #R3	LAKE	3.0	
8348354		3400523587		103		RICKLY #R4	LAKE	0.0	
8348352		3400523584		103		YOUNG #011	LAKE	4.0	
8348353		3400523586		103		YOUNG #05	LAKE	5.0	
-POI ENERGY INC				RECEIVED:	08/03/83	JA: OH			
8348360		3405520494		103	107-TF	JACKSON #1	BAINBRIDGE	45.0	
8348359		3400722112		103	107-TF	LIPPS #1	WAYNE	38.0	
8348358		3400722178		103	107-TF	MIMS #CG-2	COLEBROOK	18.0	
-QUAKER STATE OIL REFINING CORP				RECEIVED:	08/03/83	JA: OH			
8348361		3400922632		103	107-TF	SUNDAY CREEK COAL CO #66	TRIMBLE	73.0	COLUMBIA GAS TRAN
8348364		3407322776		103	107-TF	SUNDAY CREEK COAL CO #75	WARD	56.8	COLUMBIA GAS TRAN
8348365		3407322816		103	107-TF	SUNDAY CREEK COAL CO #80	WARD	36.5	COLUMBIA GAS TRAN
8348363		3400922756		103	107-TF	SUNDAY CREEK COAL CO #81	TRIMBLE	91.3	COLUMBIA GAS TRAN
8348362		3400922755		103	107-TF	SUNDAY CREEK COAL CO #83	TRIMBLE	43.8	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-S O G DRILLING PROGRAM LTD 83-1				RECEIVED:	08/03/83	JA: OH			
8348376		3413323069		107-TF		B P B #1	KENT	10.0	COLUMBIA GAS OF O
8348367		3413323051		107-TF		BISHOP #1	KENT	12.0	COLUMBIA GAS OF O
8348366		3413323046		107-TF		BOETTLER #1	KENT	12.0	COLUMBIA GAS OF O
8348368		3413323052		107-TF		MOORE #1	KENT	12.0	COLUMBIA GAS OF O
8348369		3413323053		107-TF		MORRISON #1	KENT	12.0	COLUMBIA GAS OF O
-SIEBERT OIL & GAS				RECEIVED:	08/03/83	JA: OH			
8348372		3413323049		107-TF		GILCREST #2	KENT	12.0	COLUMBIA GAS OF O
8348371		3413323048		107-TF		SAMPSON #1	KENT	12.0	COLUMBIA GAS OF O
-THE BENATTY CORPORATION				RECEIVED:	08/03/83	JA: OH			
8348373		3411523067		103	107-TF	M WILLIAMS #1	BLOOM	25.0	CLINTON AMERICAN
8348374		3411523118		103	107-TF	L BRUMS #1	CENTER	20.0	CLINTON AMERICAN
8348376		3411926022		103	107-TF	RAYNER #2	MEIGS	30.0	CLINTON AMERICAN
8348375		3411523152		103	107-TF	REX/NICHOLS #4	MANCHESTER	40.0	CLINTON AMERICAN
-THE MUTUAL OIL & GAS COMPANY				RECEIVED:	08/03/83	JA: OH			
8348347		3411122914		107-DV		WEBER #1M	SUMMIT	2.0	
-VIKING RESOURCES CORP				RECEIVED:	08/03/83	JA: OH			
8348382		3416723516		108		A WEAVER #1		4.0	ASHLAND CHEMICAL
8348384		3416724140		108		A WEAVER #2		4.0	ASHLAND CHEMICAL
8348378		3408520435		103	107-TF	CHRISTIAN/SPRINGS UNIT #2	PERRY	30.0	
8348377		3408520429		103	107-TF	LAKE COUNTY NURSERY 4-A	PERRY	30.0	
8348379		3408520437		103	107-TF	PADULA-KANE UNIT #1	PERRY	30.0	
8348383		3416723517		108		WILDMAN #1		4.0	ASHLAND CHEMICAL
8348381		3416723515		108		WILDMAN #2		4.0	ASHLAND CHEMICAL
8348380		3416723513		108		WILDMAN #3		4.0	ASHLAND CHEMICAL
-WALLICK PETROLEUM CO				RECEIVED:	08/03/83	JA: OH			
8348386		3411523145		103	107-TF	D KITTLE #1	HOMER	0.0	
8348385		3411523052		103	107-TF	PAUL SOUTHALL #1	HOMER	10.0	
-WILLIAM F HILL				RECEIVED:	08/03/83	JA: OH			
8348387		3407524052		103		MARILYN A ROTH #1	KILLBUCK	8.0	
PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES									
-ALCOVE INVESTMENTS				RECEIVED:	08/04/83	JA: PA			
8348420	20536	3708521363		107-TF		RUTH L KIMMEL #2	DUTCH RUN	14.0	PEOPLES NATURAL G
-ATLAS RESOURCES INC				RECEIVED:	08/04/83	JA: PA			
8348434	20495	3706327309		103		GROTON #1	GRANT TWP	485.0	COLUMBIA GAS TRAN
8348433	20496	3706327217		103		MARTIN #1	WHITE TWP	194.0	COLUMBIA GAS TRAN
8348435	20496	3706327060		102-2		TATE #1	GREEN TWP	975.0	INDUSTRIAL ENERGY
-CABOT OIL & GAS CORP				RECEIVED:	08/04/83	JA: PA			
8348446	20524	3712133390		107-TF		MT PLEASANT OIL & GAS	CANAL	50.0	TENNESSEE GAS PIP
8348447	20525	3712133390		102-2		MT PLEASANT OIL & GAS #1	CANAL	50.0	TENNESSEE GAS PIP
-CASTLE GAS CO INC				RECEIVED:	08/04/83	JA: PA			
8348443	20513	3708522217		108		M E RUSSELL #2 ARM-22217-R	SOUTH BEND TOWNSHIP	18.2	PEOPLES NATURAL G
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	08/04/83	JA: PA			
8348444	20514	3703320336		108		T W CHAPMAN #1 WN-800	BRADY	18.0	GENERAL SYSTEM PU
-ENVIROGAS INC				RECEIVED:	08/04/83	JA: PA			
8348415	20067	3704922532		107-TF		L SHERMAN #2	ELK CREEK	18.0	
-FAIRMAN DRILLING CO				RECEIVED:	08/04/83	JA: PA			
8348432	20492	3706327487		103		JOHN T & DELORES L EDLEMAN #2F-3744	PLUMVILLE	30.0	PEOPLES NATURAL G
8348431	20491	3706327445		103		R E BENNENGER #2 F-3746	PLUMVILLE	30.0	PEOPLES NATURAL G
-FOX OIL & GAS INC				RECEIVED:	08/04/83	JA: PA			
8348448	20531	3702120193		103		JAMES GRIFFITHS #1 280	SUSQUEHANNA	25.5	COLUMBIA GAS TRAN
-GULF OIL CORPORATION				RECEIVED:	08/04/83	JA: PA			
8348440	20518	3703320643		108-SA		DICKEY #2	REED-DEEMER (UPPER DE	20.0	NATIONAL FUEL GAS
8348436	20506	3703320590		108-SA		FEE "A" #87	REED-DEEMER (UPPER DE	20.0	NATIONAL FUEL GAS
8348441	20511	3703320617		108-SA		FEE "A" #89	REED-DEEMER (UPPER DE	21.0	NATIONAL FUEL GAS
8348445	20523	3703320393		108-SA		KUNTZ "A" #1	REED-DEEMER (UPPER DE	21.0	NATIONAL FUEL GAS
8348439	20509	3706521195		108-SA		MCCLURE HARRIET #10	REED-DEEMER (UPPER DE	20.0	NATIONAL FUEL GAS
8348437	20507	3706521119		108-SA		MCCLURE HARRIET #8	REED-DEEMER (UPPER DE	19.0	NATIONAL FUEL GAS
8348438	20508	3706521194		108-SA		MCCLURE HARRIET #9	REED-DEEMER (UPPER DE	20.0	NATIONAL FUEL GAS
8348442	20512	3706520428		108-SA		SOMMERVILLE #1	REED-DEEMER (UPPER DE	20.0	NATIONAL FUEL GAS
-J C ENTERPRISES				RECEIVED:	08/04/83	JA: PA			
8348426	20471	3706522399		103		CLIFFORD STEAR #175-1 JEF-22399	TIMBLIN	24.1	
8348425	20470	3706522405		103		DARL CARR #176-2 JEF-22405	NORTH POINT	24.5	
8348429	20476	3706326369		103		ERVIN SCHLABACH #169-1 IND 26369	SMICKSBURG	22.6	
8348428	20473	3706522388		103		GEORGE SMITH #174-1 JEF-22388	NORTH POINT	14.9	
8348423	20468	3706325541		103		HARVEY WALL #136-1 IND-25541	SMICKSBURG	15.0	
8348424	20469	3706522637		103		HOWARD NEAL #177-1 ARM-22637	MUDLICK	8.0	
8348427	20472	3706325544		103		L A SWEET #140-2 IND-25544	SMICKSBURG	14.6	
8348421	20466	3706325569		103		L A SWEET #19-2 IND-25569	SMICKSBURG	8.0	
8348430	20475	3706326365		103		ROYDEN BAKER #168-1 IND-26365	SMICKSBURG	42.0	
8348422	20467	3706325546		103		WILLIAM BARRETT #138-2 IND-25546	SMICKSBURG	38.0	
-MARTZ ALFRED				RECEIVED:	08/04/83	JA: PA			
8348449	20534	3703121115		103		I L BROWN #1	MONROE TOWNSHIP	3.0	APOLLO GAS CO
-MID-EAST OIL CO				RECEIVED:	08/04/83	JA: PA			
8348416	20345	3706327381		103		ROBERT MARSH #2	CLYMER	19.2	
-PETROBANK OPERATING CO				RECEIVED:	08/04/83	JA: PA			
8348413	19436	3706326118		103		CLARK ESTATES #9	J O CLARK	202.7	COLUMBIA GAS TRAN
8348412	19275	3706326118		102-2		CLARK ESTATES #9	J O CLARK	202.7	COLUMBIA GAS TRAN
-PHILLIPS PRODUCTION CO				RECEIVED:	08/04/83	JA: PA			
8348414	19583	3706522278		108		ANDREW E GARZONI #1	MCCALMONT TWP	5.0	NATIONAL FUEL GAS
8348410	17788	3712921897		108		MARGARET B MILKS #1	UNITY TWP	12.0	CRUCIBLE INC
8348411	18211	3706326453		108		WILLIAM C CESSNA ESTATE #1	MONTGOMERY TWP	12.0	COLUMBIA GAS TRAN
-UNION DRILLING INC				RECEIVED:	08/04/83	JA: PA			
8348418	20373	3706327427		103		EDWARD & EDITH SOKOL #2 0736	CHERRYHILL TOWNSHIP	0.0	COLUMBIA GAS TRAN
8348417	20372	3706327452		103		EDWARD & EDITH SOKOL #5 0753	CHERRYHILL TOWNSHIP	0.0	COLUMBIA GAS TRAN
8348419	20374	3706327243		103		HARRY T LUCAS #3 0779	CHERRYHILL TOWNSHIP	0.0	COLUMBIA GAS TRAN
WEST VIRGINIA DEPARTMENT OF MINES									
-CHASE PETROLEUM				RECEIVED:	08/04/83	JA: WV			
8348400		4701702463		107-DV		BRITTON-LEGGETT #1	BENSON RUN	5.0	CONSOLIDATED GAS
8348393		4701703019		107-DV		CHARLES PRIMM #2	CENTRAL DISTRICT	10.0	COLUMBIA GAS TRAN
8348402		4708505300		107-DV		HORNBERGER #1	UNION DISTRICT	10.0	
8348399		4708504833		107-DV		MAHANEY #1A	PENNSBORO-TOLLGATE	10.0	
8348401		4701703020		107-DV		OLIN PRIMM #3	CENTRAL DISTRICT	15.0	COLUMBIA GAS TRAN
8348394		4708530000		107-DV		PRUNTY HEIRS #2	UNION DISTRICT	10.0	
8348395		4708500000		107-DV		WILSON-RIDDLE #1	UNION DISTRICT	23.0	
-RIMROCK PRODUCTION CORP				RECEIVED:	08/04/83	JA: WV			
8348408		4708505735		107-DV		A NICHOLS A-1	GOOSE CREEK	67.7	COLUMBIA GAS TRAN
8348404		4708505718		107-DV		CAMERON #1	SOUTH FORK OF HUGHES	79.2	COLUMBIA GAS TRAN
8348409		4708505658		107-DV		CRANE B #1	SLAB CREEK	74.5	COLUMBIA GAS TRAN
8348397		4708505698		107-DV		DOTSON #1	NORTH FORK HUGHES RIV	135.0	CONSOLIDATED GAS
8348398		4708505728		107-DV		GARDNER #1	COMFORT RUN	86.0	COLUMBIA GAS TRAN
8348406		4708505711		107-DV		HEDRICK #2	BEAR RUN	63.0	COLUMBIA GAS TRAN
8348396		4708505807		107-DV		LOWTHER #2	GOOSE CREEK	65.0	COLUMBIA GAS TRAN
8348407		4708703626		107-DV		MCMILLAN #1	BEAR RUN	68.3	COLUMBIA GAS TRAN
8348403		4707301501		107-DV		MULLENIX #2	LITTLE PANTHER RUN	104.0	COLUMBIA GAS TRAN
8348405		4708505804		107-DV		PHILLIPS #1	GOOSE CREEK	71.0	COLUMBIA GAS TRAN

[FR Doc. 83-23243 Filed 8-23-83; 8:45 am]

BILLING CODE 6717-1-C

federal register

Wednesday
August 24, 1983

Part IV

Office of Management and Budget

Budget Rescissions and Deferrals; Cumulative Report

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

August 1, 1983.

This report is submitted in fulfillment of the requirements of Section 1014(e) of the Impoundment Control Act of 1974 (Pub. L. 93–344). Section 104(e) provides for a monthly report listing all budget authority for this fiscal year with respect to which, as of the first day of the month, a special message has been transmitted to the Congress.

This report gives the status as of August 1, 1983, of 21 rescission proposals and 82 deferrals contained in the first ten special messages of FY 1983. These messages were transmitted to the Congress on October 1, and December 7, and 16, 1982, and January 5, February 1, March 9, April 21, May 19, and July 7, and July 28, 1983.

Rescissions (Table A and Attachment A)

One rescission proposal totaling $15 million is currently pending before the Congress. Table A summarizes the status of the 21 rescissions proposed by the President as of August 1, 1983, while Attachment A shows the history and status of each rescission proposed during FY 1983.

Deferrals (Table B and Attachment B)

As of August 1, 1983, $2,146.8 million in 1983 budget authority was being deferred from obligation and another $9.5 million in 1983 obligations was being deferred from expenditure. Attachment B shows the history and status of each deferral reported during FY 1983.

Information from special messages

The special messages containing information on the rescissions and the deferrals covered by the cumulative report are printed in the **Federal Registers** listed below.

Vol. 47, FR p. 44524, Thursday October 7, 1982.
Vol. 47, FR p. 55602, Friday, December 10, 1982.
Vol. 47 FR p. 57230, Wednesday, December 22, 1982.
Vol. 48, FR p. 1266, Tuesday, January 11, 1983.
Vol. 48, FR p. 5474, Friday, February 4, 1983.
Vol. 48, FR p. 11244, Wednesday, March 16, 1983.
Vol. 48, FR p. 18978, Tuesday, April 26, 1983.
Vol. 48, FR p. 23374, Tuesday, May 24, 1983.
Vol. 48, FR p. 32154, Wednesday, July 13, 1983.

Joseph R. Wright, Jr.
Deputy Director.

BILLING CODE 3110-01-M

TABLE A

STATUS OF 1983 RESCISSIONS

	Amount (In millions of dollars)
Rescissions proposed by the President	$1,569.0
Accepted by the Congress	-0-
Rejected by the Congress	-1,554.0
Pending before the Congress	$ 15.0

****

TABLE B

STATUS OF 1983 DEFERRALS

	Amount (In millions of dollars)*
Deferrals proposed by the President	$13,559.3
Routine Executive releases (-$8100.5 million) and adjustments ($681.5 million) through August 1, 1983	-7,419.0
Overturned by the Congress	-3,984.0
Currently before the Congress	$ 2,156.4 a

* Detail does not add to total due to rounding.

a. This amount includes $9.5 million in outlays for a Department of the Treasury deferral (D83-16B).

Attachments

ATTACHMENT A - STATUS OF RESCISSIONS - FISCAL YEAR 1983

AS OF AUGUST 1, 1983 AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	RESCISSION NUMBER	AMOUNT PREVIOUSLY CONSIDERED BY CONGRESS	AMOUNT CURRENTLY BEFORE THE CONGRESS	DATE OF MESSAGE MO DA YR	AMOUNT RESCINDED	AMOUNT MADE AVAILABLE	DATE MADE AVAILABLE MO DA YR
FUNDS APPROPRIATED TO THE PRESIDENT							
Appalachian Regional Development Programs							
Appalachian Regional Development programs							
BA	R83- 2	15,133		2 1 83		15,133	4 13 83
FUNDS APPROPRIATED TO THE PRESIDENT TOTAL BA		15,133				15,133	
DEPARTMENT OF AGRICULTURE							
Agricultural Research Service							
Buildings and facilities							
BA	R83- 3	1,927		2 1 83		1,927	4 13 83
Soil Conservation Service							
Watershed and flood prevention operations							
BA	R83- 4	68,986		2 1 83		68,986	4 13 83
Resource conservation and development							
BA	R83- 5	9,600		2 1 83		9,600	4 13 83
Agricultural Cooperative Service							
Salaries and expenses							
BA	R83- 6	778		3 1 83		778	4 13 83
DEPARTMENT OF AGRICULTURE TOTAL BA		77,301				77,301	
DEPARTMENT OF COMMERCE							
National Oceanic and Atmospheric Administration							
Construction							
BA	R83- 1	2,000		12 16 82		2,000	3 25 83
DEPARTMENT OF COMMERCE TOTAL BA		2,000				2,000	
DEPARTMENT OF EDUCATION							
Office of Elementary and Secondary Education							
Compensatory education for the disadvantaged							
BA	R83- 7	139,828		3 1 83		139,828	4 13 83
School assistance in federally affected areas							
BA	R83- 8	8,000		3 1 83		8,000	4 13 83
Special programs and populations							
BA	R83- 9	56,638		2 1 83		56,638	4 13 83
Indian education							
BA	R83- 10	16,128		2 1 83		16,128	4 13 83
Off. of Bilingual Educ. & Minority Lang. Affairs							
Bilingual eduction							
BA	R83- 11	43,523		2 1 83		43,523	4 13 83
Office of Postsecondary Education							
Guaranteed student loans							
BA	R83- 12	900,000		2 1 83		900,000	4 13 83
Higher and continuing education							
BA	R83- 13	68,941		2 1 83		68,941	4 13 83

ATTACHMENT A - STATUS OF RESCISSIONS - FISCAL YEAR 1983

AS OF AUGUST 1, 1983
AMOUNTS IN THOUSANDS OF DOLLARS

AGENCY/BUREAU/ACCOUNT	RESCISSION NUMBER	AMOUNT PREVIOUSLY CONSIDERED BY CONGRESS	AMOUNT CURRENTLY BEFORE THE CONGRESS	DATE OF MESSAGE MO DA YR	AMOUNT RESCINDED	AMOUNT MADE AVAILABLE	DATE MADE AVAILABLE MO DA YR
Office of Educational Research and Improvement							
Educational research and statistics							
BA	R83- 14	6,228		2 1 83		6,228	4 13 83
DEPARTMENT OF EDUCATION TOTAL BA		1,230,381				1,230,381	
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT							
Housing Programs							
Payments for oper. of low income housing proj.							
BA	R83- 15	69,000		2 1 83		69,000	4 13 83
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT TOTAL BA		69,000				69,000	
DEPARTMENT OF THE INTERIOR							
National Park Service							
Construction							
BA	R83- 16	63,600		2 1 83		63,600	4 13 83
DEPARTMENT OF THE INTERIOR TOTAL BA		63,600				63,600	
DEPARTMENT OF STATE							
Bureau of Refugee Programs							
Migration and refugee assistance							
BA	R83- 21		15,000	7 7 83			
DEPARTMENT OF TRANSPORTATION							
Federal Highway Administration							
Federal-aid highways (trust fund)							
BA	R83- 17	23,200		2 1 83		23,200	4 13 83
Coast Guard							
Nat l recreat. boat. safety & facil. improv.							
BA	R83- 18	5,000		2 1 83		5,000	4 13 83
DEPARTMENT OF TRANSPORTATION TOTAL BA		28,200				28,200	
OTHER INDEPENDENT AGENCIES							
Corporation for Public Broadcasting							
Public broadcasting fund							
BA	R83- 19	46,000a		2 1 83			
OTHER INDEPENDENT AGENCIES TOTAL BA		46,000					
OFF-BUDGET FEDERAL ENTITIES							
Department of Agriculture							
Rural telephone bank							
BA	R83- 20	23,400		2 1 83		23,400	4 13 83
OFF-BUDGET FEDERAL ENTITIES TOTAL BA		23,400				23,400	
TOTAL BA		1,864,018	15,000			1,908,018	

a. This is a rescission of FY 1982 funds.

END OF REPORT

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1983

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 8-1-83
FUNDS APPROPRIATED TO THE PRESIDENT								
Appalachian Regional Development Programs								
Appalachian regional development programs								
BA	D83- 40	10,000		2 1 83				10,000
International Security Assistance								
Foreign military sales credit								
BA	D83- 21	165,000		12 7 82				
BA	D83- 21A		1,010,000	2 1 83	-1,175,000			
Economic support fund								
BA	D83- 22	584,720		12 7 82				
BA	D83- 22A		1,347,130	2 1 83	-2,389,955		551,150	63,045
Military assistance								
BA	D83- 20	11,650		12 7 82				
BA	D83- 20A		221,350	2 1 83	-247,650		14,650	
International Development Assistance								
Functional development assistance program								
BA	D83- 1	8,128		10 1 82	-8,128			
FUNDS APPROPRIATED TO THE PRESIDENT TOTAL BA		749,498	2,578,480		-3,820,734		565,800	73,045
DEPARTMENT OF AGRICULTURE								
Agricultural Stabilization & Conservation Service								
Dairy and beekeeper indemnity programs								
BA	D83- 36	7,000		1 5 83		-7,000		
Soil Conservation Sevice								
Watershed and flood prevention operations								
BA	D83- 41	10,329		2 1 83				10,329
Animal and Plant Health Inspection Service								
Salaries and expenses								
BA	D83- 34	2,134		12 16 82				
BA	D83- 34A		4,066	2 1 83	-6,200			
Forest Service								
National forest system								
BA	D83- 42	108,035		2 1 83	-21,022			87,013
Timber salvage sales								
BA	D83- 2	10,002		10 1 82				
BA	D83- 2A		3,105	2 1 83	-6,897			6,210
Expenses, brush disposal								
BA	D83- 3	44,575		10 1 82	-10,042		8,126	42,659
DEPARTMENT OF AGRICULTURE TOTAL BA		182,075	7,171		-44,161	-7,000	8,126	146,211
DEPARTMENT OF COMMERCE								
Economic Development Administration								
Economic development assistance programs								
BA	D83- 43	181,900		2 1 83		-181,900		
Economic development revolving fund								
BA	D83- 37	25,350		1 5 83	-25,350			
International Trade Administration								
Operations and administration								
BA	D83- 44	20,100		2 1 83		-20,100		
Participation in U.S. expositions								
BA	D83- 4	3,356		10 1 82	-571			2,785
National Oceanic and Atmospheric Administration								
Operations, research, and facilities								
BA	D83- 71	2,965		4 21 83				2,965
Construction								
BA	D83- 45	3,000		2 1 83				3,000

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1983

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 8-1-83
Promote and develop fishery products and research								
BA	D83- 5	30,619		10 1 82	-30,619			
National Bureau of Standards								
Scientific & technical research & services								
BA	D83- 36	6,500		1 5 83				6,500
DEPARTMENT OF COMMERCE TOTAL BA		272,790			-86,540	-302,000		98,250
DEPARTMENT OF DEFENSE-MILITARY								
Procurement								
Shipbuilding and conversion, Navy								
BA	D83- 46	2,400,000		2 1 83	-2,400,000			
Military Construction								
Military construction, all services								
BA	D83- 6	64,083		10 1 82				
BA	D83- 6A		1,166,415	12 7 82	-926,863		75,828	379,443
Family Housing, Defense								
Family housing, Defense								
BA	D83- 23	161,640		12 7 82	-108,640			53,000
DEPARTMENT OF DEFENSE-MILITARY TOTAL BA		2,625,703	1,166,415		-3,435,503		75,828	432,443
DEPARTMENT OF DEFENSE-CIVIL								
Corps of Engineers								
Construction, general								
BA	D83- 47	180,000		2 1 83				180,000
Wildlife Conservation, Military Reservations								
Wildlife conservation								
BA	D83- 7	1,061		10 1 83	-229		-50a	782
DEPARTMENT OF DEFENSE-CIVIL TOTAL BA		181,061			-229		-50	180,782
DEPARTMENT OF ENERGY								
Atomic Energy Defense Activities								
Atomic energy defense activities								
BA	D83- 70	50,000		3 9 83	-50,000			
Energy Programs								
Energy supply R&D-operating expenses								
BA	D83- 72	15,226		4 21 83	-11,000a			4,226
Energy supply R&D-plant and capital equip.								
BA	D83- 48	91,107		2 1 83				
BA	D83- 48A		b	5 19 83	-30,596		10,940	61,053
Fossil energy research and development								
BA	D83- 8	20,136		10 1 82				
BA	D83- 8A		b	2 1 83	-15,136			5,000
BA	D83- 73	8,780		4 21 83		-8,780		
BA	D83- 80	18,226		7 7 83				18,226
Fossil energy construction								
BA	D83- 49	20,000		2 1 83				
BA	D83- 49A		6,000	4 21 83				26,000
Energy conservation								
BA	D83- 24	22,803		12 7 82	-22,803			
BA	D83- 74	4,500		4 21 83		-4,500		
BA	D83- 76	3,080		7 7 83				3,080
Strategic Petroleum Reserve								
BA	D83- 50	87,400		2 1 83		-87,400		
Alternative fuels production								
BA	D83- 77	13,000		7 7 83				13,000

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1983

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 8-1-83
Departmental Administration								
Depart. admin., operating expenses								
BA	D83- 51	21,767		2 1 83	-11,173			10,594
Depart admin., plant & capital equipment								
BA	D83- 52	12,693		2 1 83				12,693
DEPARTMENT OF ENERGY								
TOTAL BA		955,758	6,000		-138,707	-70,650	18,540	170,941
DEPARTMENT OF HEALTH AND HUMAN SERVICES								
Centers for Disease Control								
Preventive Health Services								
BA	D83- 78	15,560		7 7 83				15,560
Alcohol, Drug Abuse & Mental Health Administration								
Construction & renovation, St. Elizabeths Hospital								
BA	D83- 9	9,714		10 1 82				9,714
Office of Assistant Secretary for Health								
Special foreign currency program								
BA	D83- 10	6,420		10 1 82				6,420
Social Security Administration								
Limitation on administrative expenses								
BA	D83- 83	9,633		3 1 83				9,633
DEPARTMENT OF HEALTH AND HUMAN SERVICES								
TOTAL BA		41,327						41,327
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT								
Housing Programs								
Subsidized housing programs								
BA	D83- 84	3,081,183		2 1 83		-3,081,183		
Payments for operation of low income housing								
BA	D83- 30	150,000		12 7 82	-150,000			
Community Planning and Development								
Community development grants								
BA	D83- 31	221,000		12 7 82	-221,000			
Urban development action grants								
BA	D83- 32	234,000		12 7 82				
BA	D83- 32A		10,000	1 9 83		-244,000		
Urban homesteading								
BA	D83- 33	8,000		12 7 82	-8,000			
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT								
TOTAL BA		3,694,183	10,000		-379,000	-3,325,183		
DEPARTMENT OF THE INTERIOR								
Office of Water Research & Technology								
Salaries and expenses								
BA	D83- 25	2,848		12 7 82	-2,848			
National Park Service								
Land acquisition and state assistance								
BA	D83- 11	30,000		10 1 82				
BA	D83- 11A		3,000	3 1 83				33,000
Minerals Management Service								
Payments from proceeds, sale of water								
BA	D83- 28	48		1 5 83				48
Office of Territorial Affairs								
Administration of territories								
BA	D83- 88	3,188		2 1 83		-3,188		
DEPARTMENT OF THE INTERIOR								
TOTAL BA		36,781	3,000		-2,848	-3,188		33,048

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1983

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 8-1-83
DEPARTMENT OF JUSTICE								
Legal Activities								
Salaries and expenses, Gen. Legal Activities								
BA	D83- 81	961		7 7 83				961
Salaries and expenses, Antitrust Division								
BA	D83- 82	231		7 7 83				231
Interagency Law Enforcement								
Organized crime drug enforcement								
BA	D83- 56	13,656		2 1 83				13,656
Federal Prison System								
Buildings and facilities								
BA	D83- 35	16,330		12 16 82				
BA	D83- 35A		51,507	5 10 83				67,837
DEPARTMENT OF JUSTICE TOTAL BA		30,778	51,507					82,286
DEPARTMENT OF STATE								
International Organizations and Conferences								
Contributions to international organizations								
BA	D83- 57	8,111		2 1 83				8,111
Other								
Emergency refugee and migration assistance fund								
BA	D83- 12	37,882		10 1 82			-1,844a	36,048
U.S. bilateral science and technology agreements								
BA	D83- 58	2,000		2 1 83				2,000
DEPARTMENT OF STATE TOTAL BA		47,800					-1,844	45,956
DEPARTMENT OF TRANSPORTATION								
Urban Mass Transportation Administration								
Urban mass capital fund								
BA	D83- 59	229,000		2 1 83	-229,000			
Federal Aviation Administration								
Construction, Metropolitan Washington Airports								
BA	D83- 58	900		2 1 83				900
Civil supersonic aircraft development termination								
BA	D83- 13	46		10 1 82				46
Facilities & equip. (Airport & airway trust fund)								
BA	D83- 14	150,485		10 1 82				
BA	D83- 14A		568,751	2 1 83				725,236
Coast Guard								
Natl recreat. boat. safety & facil. improv.								
BA	D83- 61	40,000		2 1 83				40,000
DEPARTMENT OF TRANSPORTATION TOTAL BA		428,091	568,751		-229,000			765,782
DEPARTMENT OF THE TREASURY								
Office of Revenue Sharing								
State and local government fiscal assistance fund								
BA	D83- 15	106,474		10 1 82				
BA	D83- 15A		305	12 7 82	-82,544		288	54,524
O	D83- 16	7,908		10 1 82				
O	D83- 16A		6,537	12 7 82				
O	D83- 16B.		1,498	3 9 83	-21,248		14,834	9,630
Federal Law Enforcement Training Center								

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1983

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 8-1-83
Construction	BA	D83- 17	3,078		10 1 82	-678			2,400
DEPARTMENT OF THE TREASURY									
TOTAL BA			108,552	305		-53,222		289	56,924
TOTAL O			7,908	8,035		-21,248		14,824	9,530
NATIONAL AERONAUTICS & SPACE ADMINISTRATION									
Research and development	BA	D83- 26	34,500		12 7 82	-26,000			8,500
VETERANS ADMINISTRATION									
Construction, major projects	BA	D83- 27	4,000		12 7 82				4,000
OTHER INDEPENDENT AGENCIES									
Board for International Broadcasting									
Grants and expenses	BA	D83- 79	3,188		7 7 83				3,185
District of Columbia									
Loans to DC for capital investment	BA	D83- 18	38,632		10 1 82	-38,632			
Interstate Commission on the Potomac River Basin									
Contrib. to Interst. Comm. on Potomac Riv. Basin	BA	D83- 28	12		12 7 82	-12			
Pennsylvania Avenue Development Corporation									
Land acquisition and development fund	BA	D83- 19	17,948		10 1 82				
	BA	D83- 19A		4,408	12 16 82				22,356
Railroad Retirement Board									
Milwaukee railroad restructuring, administration	BA	D83- 20	240		10 1 82				
	BA	D83- 20A		250	2 1 83				490
Limitation on administration	BA	D83- 75		2,750	8 19 83	-165			2,985
Small Business Administration									
Business loan and investment fund	BA	D83- 62	143,000		2 1 83		-143,000		
Surety bond guarantee revolving fund	BA	D83- 63	3,000		2 1 83		-3,000		
Pollu. cont. equip. contract guar. revolv.	BA	D83- 64	1,000		2 1 83		-1,000		
Motor Carrier Ratemaking Study Commission									
Salaries and Expenses	BA	D83- 66	282		2 1 83				282
Tennessee Valley Authority									
Tennessee Valley Authority fund	BA	D83- 66	47,271		2 1 83				47,271
United States Information Agency									
Salaries and expenses (spec. for. curr. prog.)	BA	D83- 67	1,344		2 1 83				1,344
Acquis. and construction of radio facilities	BA	D83- 68	12,437		2 1 83				12,437
United States Railway Association									
Payments for purchase of Conrail securities	BA	D83- 69	84,000		2 1 83	-83,600			400

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1983

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 8-1-83
OTHER INDEPENDENT AGENCIES								
TOTAL BA		252,582	7,400		-122,600	-147,000		90,382
TOTAL BA		9,146,362	4,307,038		-8,079,250	-3,983,991	666,669	2,146,848
TOTAL O		7,908	8,038		-21,248		14,834	9,530

a $5 million of this amount was released prior to transmittal of the message reporting the withholding of $16.2 million.

b. This revision is a technical adjustment that did not increase the amount deferred.

c. This adjustment is being made to reflect actual unobligated balances available on October 1, 1982. All unobligated balances are being withheld from obligation.

END OF REPORT

[FR Doc. 83-22348 Filed 8-23-83; 8:45 am]
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VOL
48
ISS
1
6
5
AG
24
1983
UMI

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Federal Register

Vol. 48, No. 165

Wednesday, August 24, 1983

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419 523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Privacy Act	523-4534
Public Inspection Desk	523-5215
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282 523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235

United States Government Manual 523-5230

SERVICES

Agency services	523-5237
Automation	523-5408
Library	523-4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public Inspection Desk	523-5215
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, AUGUST

34723-34928	1
34929-35068	2
35069-35344	3
35345-35586	4
35587-35872	5
35873-36090	8
36091-36240	9
36241-36438	10
36439-36560	11
36561-36796	12
36797-37000	15
37001-37200	16
37201-37358	17
37359-37602	18
37603-37920	19
37921-38200	22
38201-38446	23
38447-38600	24

CFR PARTS AFFECTED DURING AUGUST

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Administrative Orders:

Presidential Determinations:

No. 82-8 of July 19, 1983 35587
No. 83-9 of August 5, 1983 36561

Executive Orders:

April 17, 1926 (Revoked in part by PLO 6454) 36240
12217 (Revoked by EO 12437) 36801
July 13, 1910 (Revoked in part by PLO 6455) 36466
12435 34723
12436 34931
12437 36801

Proclamations:

5078 34925
5079 35873
5080 36091
5081 36241
5082 36797
5083 36799

5 CFR

550 36808
551 36803
950 34910

Proposed Rules:

1255 35652

7 CFR

2 37359
28 37001
226 35589
301 36447
707 35596
720 35599
724 37606
726 36563
796 35599
906 ..... 35345, 36439, 37360
910 ..... 35600, 36563, 37607
915 35345
916 35345
917 35345
921 35345
922 35345
924 35345
926 35345
930 35345
932 36201
945 35345
948 35345
947 ..... 35345, 36203
948 35345
953 35345
958 35345
987 35345
982 35345
985 35345
989 35347
993 35345
1030 36448
1106 36204
1124 36439
1139 36205
1427 35348
1430 ..... 34725, 34933
3015 35875

Proposed Rules:

68 35411
75 35411
101 37417
201 35417
240 35108
276 35868
279 35868
404 35418
406 35423
413 35427
416 37420
417 35431
421 35435
423 35439
425 35443
432 35447
437 35112
442 35451
983 36272
989 35454
1004 36113
1000 36464
1036 36001
1076 36467
1079 ..... 37424, 38002
1106 37657
1139 35652
1290 35116

8 CFR

100 37201
103 ..... 36441, 36564
212 ..... 35349, 36564, 37608
231 ..... 36093, 37003
235 ..... 35349, 37608

9 CFR

54 36206
71 37921
74 37921
78 34943
92 37202
97 37361

Proposed Rules:

3 35654
307 38490
317 35654
318 35654
325 35884
350 38490

351.....38490
354.....38490
355.....38490
362.....38490
381.....35654, 35884, 38490

10 CFR

25.....35069
40.....35350
71.....35600, 38449
595.....38207
795.....36432
1016.....36432

Proposed Rules:

Ch. I.....34966
Ch. II.....37226
430.....34858
625.....35119
710.....35342
761.....36792
1017.....36825

11 CFR

102.....37921

12 CFR

207.....35070
220.....34944
221.....35074, 37361
225.....37003
303.....34945, 36565
329.....35627, 35629
1204.....38455

Proposed Rules:

226.....35659
705.....37042

13 CFR

Proposed Rules:

115.....37658
120.....37044
121.....34966
122.....36825

14 CFR

39.....34731, 35355–35364, 36806, 37361–37364, 37922–37924
71.....35364–35366, 36442, 37365, 37925
73.....36806
75.....35366
91.....36442
95.....36445, 38208
97.....35876, 37926
212.....36445
223.....37926
252.....36093
261.....35080
263.....35081
269.....35081, 37608
291.....38458
398.....36094
1204.....37608

Proposed Rules:

Ch. I.....36826
21.....38002
25.....38004
39.....36468, 37425–37427, 38005
71.....35456–35458, 35887, 38246
73.....38006, 36827, 37428, 37429
152.....36828
159.....37430
241.....36598, 36601
252.....36273
298.....36601
377.....35459
385.....36601
399.....35119

15 CFR

Proposed Rules:

921.....35120
971.....35888

16 CFR

13.....35367, 37202, 37203, 38214
305.....35385
455.....36096
1013.....36566

Proposed Rules:

13.....34764, 35132–35135, 35888, 38247
305.....37663
451.....36273
460.....35661

17 CFR

1.....35248
3.....34732, 35248, 35305, 37203
4.....35248
5.....38214
10.....35248
15.....35248
17.....35248
18.....35248
21.....35248
33.....35248
140.....34945
145.....35248
147.....35248
155.....35248
166.....35248
170.....35248
210.....36566, 37609
229.....37609
230.....37928
231.....37609
239.....36566, 37928
240.....35082, 38218,
241.....37609
270.....36097, 36243, 37928
274.....37928

Proposed Rules:

145.....34971
146.....34971
147.....34971
240.....37430, 37664, 38250
249.....36115
270.....35459

18 CFR

2.....35631, 35633
154.....35633
157.....34872, 34875, 35635
270.....35633
271.....35633–35636
282.....38224
284.....34875, 35635
300.....37006
410.....34946, 36469

Proposed Rules:

154.....38492
271.....35663–35666

19 CFR

12.....34734
127.....34734
177.....35878
210.....35386

Proposed Rules:

101.....35666
171.....37227
175.....36625

20 CFR

404.....37015

Proposed Rules:

299.....35460
404.....35135, 36831
410.....35135
416.....35135, 36831, 37228
422.....35135, 36831
652.....34866, 34974
653.....34866
655.....35667

21 CFR

5.....36571
74.....34946, 37020
109.....37020
172.....38225, 38226
173.....37614
175.....37615
176.....37617
177.....36099, 37618
178.....37615, 38227
193.....36246, 36448, 37203
201.....37619
211.....37624
430.....38459
436.....34947, 38459
442.....38459
452.....36571
522.....34947, 36100, 36571
555.....37623
558.....34948, 34949, 35637, 36100, 36101, 37620–37622
561.....36448, 37203
610.....37022
700.....37624
800.....37624
870.....36101
1316.....35087

Proposed Rules:

Ch. I.....37665
131.....37666, 38252
133.....36132, 36625, 37666
146.....37668
184.....34974
291.....35668
353.....36133

23 CFR

Ch. I.....35388

Proposed Rules:

652.....36470
771.....33894

24 CFR

202a.....36247
203.....34949, 35088, 35638, 36247
205.....35389
207.....35389
209.....36247
211.....36247
213.....35389, 35638, 36247
220.....35393, 36247
221.....35389, 36247
222.....36247
226.....36247
228.....36247
232.....35389
234.....35638, 36247
235.....34949, 36247
237.....36247
244.....35389
300.....36572, 36573
500.....36574
868.....37023
886.....36101
890.....38228

Proposed Rules:

115.....36133
200.....35668–35671, 35890
203.....35140
234.....35140
235.....35140
241.....35891
3280.....37136

25 CFR

Proposed Rules:

11.....37046

26 CFR

1.....36448
31.....35089, 36807
35.....35090, 36448, 36807
51.....35092
150.....35092
301.....36449, 38229

Proposed Rules:

1.....36137, 36474
5c.....36137
20.....35143
31.....36474

27 CFR

9.....35395, 37365–37374, 38462
178.....35398

Proposed Rules:

5.....35460
9.....35462, 37670, 38497

28 CFR

0.....35087
9.....35087
60.....37376

Proposed Rules:

0.....35892
16.....35892

29 CFR

500.....36576, 36736, 38374, 38380
1601.....38231
1910.....36576
1952.....34950, 34951, 37024
1956.....37025
2610.....37027
2619.....36816
2622.....37027

Proposed Rules:

1550.....37047
1697.....34766
1910.....37672
1926.....35774
2615.....37230

30 CFR

Ch. II 35639
221 36582
226 36582
231 36588
251 37967
641 37377
642 37377
800 36418
806 36418
872 35399
880 37377
881 37377
913 37625
914 37626
917 38463
926 37382

Proposed Rules:

55 36789
56 36789
57 36789
250 38500
252 38500
913 36625
915 35903
935 ..... 35146, 36274, 36627
938 37672

31 CFR

Proposed Rules:

1 35904

32 CFR

70 35644
219 35400
253 35644
263 34952
373 36247
706 ..... 37029, 37030
819a 35878
842 37631
865 37384

Proposed Rules:

65 34974

33 CFR

1 35402
8 36449
25 36450
53 36449
100 ..... 36450, 36451, 37396, 37397
110 36452
117 ..... 35409, 36452
154 34740
160 35402
161 35402
165 ..... 35402, 36453
167 36453

Proposed Rules:

100 ..... 36474, 37433
110 34767
115 35464
117 ..... 36475, 36477
161 37433
165 37438

34 CFR

200 34953
205 35879
263 35330

35 CFR

Proposed Rules:

111 35905

36 CFR

223 34740
905 38232

Proposed Rules:

13 37673
228 35580
251 ..... 35465, 35580
261 35465

37 CFR

202 37204

Proposed Rules:

1 ..... 34836, 36478
2 36478
202 37232

38 CFR

3 37031
17 37398
21 ..... 35879, 36577, 37968
36 35879
40 36103

Proposed Rules:

17 ..... 38007, 38253
21 ..... 34975, 35146

39 CFR

1 38234
10 35409
111 ..... 35645, 38234

Proposed Rules:

111 37439
3001 35914

40 CFR

35 37814
52 ..... 36250, 36818, 36819, 37401–37403, 38235, 38465–38467
60 ..... 36579, 37578, 37596
61 36579
81 ..... 37404, 37653, 38236, 38467
145 ..... 38237, 38238
162 ..... 35095, 36572
180 ..... 35095, 36251, 37210–37214
264 36582
270 36582
271 ..... 34742, 34954, 35096, 35097, 35647, 36252, 37215
425 35649
468 36942
717 38178

Proposed Rules:

Ch. II 34768
50 38009
52 ..... 34976, 35312–35328, 35672, 35918, 36139, 37232
60 ..... 35338, 37338
61 38009
62 34978
81 ..... 35919, 35920, 36275, 38254, 38255
145 37673
180 ..... 36486, 38501
228 ..... 35147, 35673
271 ..... 36277, 36628, 38010
302 34979
414 35674
416 35674
721 38502
1502 36486
1508 36486

41 CFR

Ch. 1 37031
Ch. 101 35098
5–1 37997
5–53 37405
29–70 37788
101–41 35649

Proposed Rules:

3–1 37233
3–3 37233

42 CFR

405 37408

Proposed Rules:

71 36143
100 36380
122 36402
123 36402
125 36380
400 38148
405 ..... 34979, 38148
408 38148
409 38148
418 38148
420 38148
421 ..... 34979, 38148
431 36151
441 38011
460 38970
462 38970
489 38148

43 CFR

2 37411
1820 36103
3000 37654
3100 37656
3410 37654
3420 37654
3430 37654
3450 37654
8360 36382

Public Land Orders:

3160 36582
3180 36582
3570 36588
6380 (corrected by PLO 6451) 35099
6388 (corrected by PLO 6450) 35098
6448 34743
6449 34743
6450 35098
6451 35099
6452 36239
6453 36239
6454 36240
6455 36468

Proposed Rules:

36 37673

44 CFR

64 ..... 34744, 34957, 36590, 36592
67 36104
71 37036

Proposed Rules:

61 35468
62 35468
67 ..... 36159–36167, 36629, 38018, 38019, 38258, 38259

45 CFR

1 35099
10 35098
67 35098
98 35098
1607 36820

Proposed Rules:

5b 37440
302 35468
304 35468
306 35468
1606 36845
1625 36845

46 CFR

31 36457
32 36457
35 36457
221 35881
508 36253
536 ..... 35099, 36254

Proposed Rules:

10 35820
35 35820
50 37441
52 37441
53 37441
54 37441
63 37441
157 35820
162 37441
175 35820
185 35820
186 35820
187 35820
295 37449
298 37453
540 35675

47 CFR

0 ..... 37413, 38240
1 ..... 36104, 36459
2 ..... 34746, 37216
15 ..... 34748, 37217
17 38473
18 37217
19 38240
21 ..... 34746, 37216
22 37997
73 ..... 34753–34757, 34959, 36106–36112, 36254, 36459, 37216, 37220–37224, 37414–37416, 38243, 38470–38473
74 ..... 34746, 37216, 38473
83 34961
90 ..... 34961, 36104
95 ..... 35234, 36104
97 ..... 34746, 37224

Proposed Rules:

Ch. I 36167, 37235, 37464, 38511
2 37475
18 37235
68 34985
73 ..... 34772–34779, 35964, 36168–36173, 36278, 37239–37269, 37475–37492, 38020, 38053
76 34986
90 ..... 34782, 34987, 35149

48 CFR

Proposed Rules:

Ch. I 35675

49 CFR

1 37998

192.....37999
213.....35882
391.....38483
1170.....35409
1175.....36594
1300.....36822
1307.....36822

Proposed Rules:
Ch. X.....38059
171.....35471, 35965
172.....35471, 35965, 35970
173.....35471, 35965, 35970
175.....35471
179.....35970
210.....36487, 38511
218.....36492
571.....34783, 34784, 36493, 36849
572.....37493
622.....34894
1105.....36284
1152.....36284
1160.....36285
1165.....36290
1180.....36284

50 CFR

10.....37040
17.....34757, 34961, 36256, 36594
20.....35100
32.....36112
285.....35107, 36597, 36823
611.....34762, 34962, 35107
649.....36266
650.....34762
651.....34762
652.....34762, 38243
654.....34762
655.....34762
658.....38489
661.....36823, 38244
662.....34963
663.....34762, 34763
671.....34762
672.....34762, 35107, 37040
674.....34762, 34965, 37224
675.....34762, 35107

Proposed Rules:
17.....35475, 35973
20.....35152, 35153, 36853
23.....37494
32.....34987
36.....37673
424.....36062
641.....38511
681.....35475

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last Listing August 18, 1983

VOL
48
ISS
1
6
5
AG
24
1983
UMI

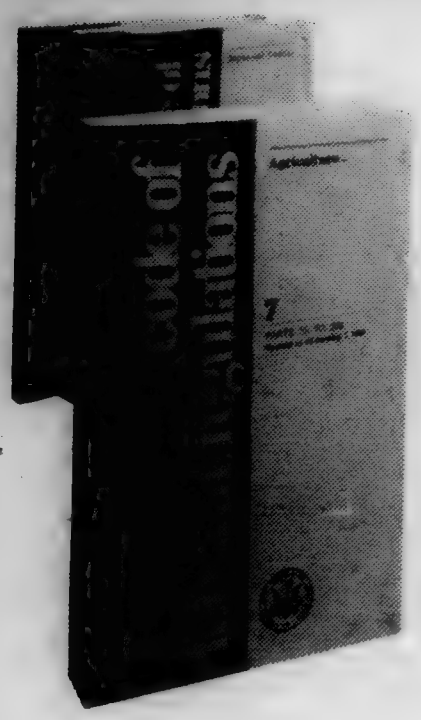

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VOL
48
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Thursday
August 25, 1983

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8-25-83
Vol. 48 No. 166
Pages 38601-38780

federal register

Thursday
August 25, 1983

Selected Subjects

Agricultural Research
Agricultural Marketing Service
Air Pollution Control
Environmental Protection Agency
Anchorage Grounds
Coast Guard
Animal Drugs
Food and Drug Administration
Food Additives
Food and Drug Administration
Foreign Service
State Department
Hazardous Materials
Environmental Protection Agency
Health Records
Public Health Service
Marine Safety
Coast Guard
Marketing Agreements
Agricultural Marketing Service
Natural Gas
Federal Energy Regulatory Commission
Privacy
Navy Department

CONTINUED INSIDE

Selected Subjects

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Reporting and Recordkeeping Requirements
Nuclear Regulatory Commission

Rights-of-Way
Federal Highway Administration

Vessels
Coast Guard

Water Pollution Control
Environmental Protection Agency

Contents

Federal Register
Vol. 48, No. 166
Thursday, August 25, 1983

Agricultural Marketing Service
RULES
38602 Cherries grown in Mich. et al.
38601 Oranges (Valencia) grown in Ariz. and Calif.
38603 Potato research and promotion plan; expenses and rate of assessment

Agriculture Department
See Agricultural Marketing Service; Food and Nutrition Service; Forest Service; Soil Conservation Service.

Centers for Disease Control
NOTICES
Grants and cooperative agreements:
38677 Acquired Immunodeficiency Syndrome (AIDS); surveillance and associated epidemiologic investigations; correction
Meetings:
38677 Toxic effects of glycol ethers; NIOSH symposium; correction

Child Support Enforcement Office
RULES
State plan requirements:
38642 Federal Parent Locator Service (PLS) use in parental kidnapping and child custody cases

Coast Guard
RULES
Anchorage regulations:
38631 Virginia
Drawbridge operations:
38632, 38633 New Jersey (2 documents)
Load lines:
38646 Freeboard requirements
Regattas and marine parades; safety of life:
38631 Cleveland National Air Show
38630 Milwaukee Air Show
Safety zones:
38633 Severn River, Annapolis, Md.
38634 Newark Bay, New York Harbor, N.J.
PROPOSED RULES
Anchorage regulations:
38652 Massachusetts
Drawbridge operations:
38653, 38654 New Jersey (2 documents)
38655 Texas
38655 Virginia

Commerce Department
See International Trade Administration; National Bureau of Standards; National Oceanic and Atmospheric Administration.

Customs Service
NOTICES
Trade name recordation applications:
38708 Underground Camera, Inc.

Defense Department
See Engineers Corp; Navy Department.

Economic Regulatory Administration
NOTICES
Powerplant and industrial fuel use; prohibition orders, exemption requests, etc.:
38666 Power Systems Engineering, Inc.
Remedial orders:
38668 Energy Exchange Co., Inc.

Education Department
NOTICES
Postsecondary education:
38665 Accrediting and State approval agencies; list for review

Energy Department
See also Economic Regulatory Administration; Energy Information Administration; Federal Energy Regulatory Commission.
NOTICES
Nuclear Waste Policy Act:
38701 Site investigation and characterization of sites for geologic repositories; procedural agreement with NRC

Energy Information Administration
NOTICES
38668 Agency information collection activities under OMB review

Engineers Corps
NOTICES
Environmental statements; availability, etc.:
38664 Dry Creek Dam and Channel Improvements, Sonoma County, Calif.
38664 Gavin's Point Dam Pool Raise Study, Yankton, S. Dak., et al.
38665 Ouachita-Black Rivers navigation project, Ark. and La.
38664 Port Canaveral, Fla.

Environmental Protection Agency
RULES
Air pollution; standards of performance for new stationary sources:
38728 Beverage can surface coating industry
Air programs; approval and promulgation; State plans for designated facilities and pollutants:
38634 Ohio
Air quality implementation plans; approval and promulgation; various States:
38635 Oklahoma
Air quality implementation plans; delayed compliance orders:
38637 Pennsylvania
Air quality planning purposes; designation of areas:
38637 Minnesota
38639 Ohio

Water pollution control; State underground injection control program:
38640 Alabama
38641 Maine
38641 Mississippi

PROPOSED RULES

Air quality implementation plans; preparation, adoption, and submittal, etc.:
38742 New stationary source construction and existing source modifications
38722 Hazardous waste program; procedures for revision of State RCRA programs

Federal Deposit Insurance Corporation

NOTICES

38669 Insured banks, other than mutual savings banks which are in danger of failing; operating financial assistance; policy statement and criteria
38711 Meetings; Sunshine Act (3 documents)

Federal Energy Regulatory Commission

PROPOSED RULES

Air quality implementation plans; preparation, adoption, and submittal, etc.:
Natural Gas Policy Act:
38651 Ceiling prices for high cost natural gas produced from tight formations; various States; Louisiana

Federal Highway Administration

RULES

Engineering and traffic operations:
38609 Vending machines in safety rest areas on rights-of-way of Interstate system

Federal Maritime Commission

NOTICES

Investigations, hearings, petitions, etc.:
38670 United States/Japan trades; space charter and cargo revenue pooling agreements
38712 Meetings; Sunshine Act

Federal Reserve System

NOTICES

Applications, etc.:
38676 Bancshares of West Memphis, Inc.
38676 Comerica, Inc.
38677 Commonwealth State Bank
38676 First Community Bancshares, Inc., et al.
38712 Meetings; Sunshine Act (2 documents)

Food and Drug Administration

RULES

Animal drugs, feeds, and related products:
38606 Dextrose/glycine/electrolyte
Food additives:
38604 Polymers; vinylidene chloride/methyl acrylate

NOTICES

Human drugs:
38677 Sterazolidin capsules containing phenylbutazone and prednisone, etc.; approval withdrawn

Food and Nutrition Service

RULES

38601 Intergovernmental review of agency programs and activities; correction

Forest Service

NOTICES

Environmental statements; availability, etc.:
38659 Northern Region, National Forests, Idaho, et al.
38658 Payette National Forest, Thunder Mountain, Idaho
38657 Shoshone, Bighorn, and Medicine Bow National Forests, Wyo.
Land and resource management plans:
38658 Manti-Lasal National Forests, Colo. and Utah; intent to reevaluate roadless areas
38657 Sierra National Forest, Calif.; intent to reevaluate roadless areas

Health and Human Services Department

See Centers for Disease Control; Child Support Enforcement Office; Food and Drug Administration; Health Care Financing Administration; National Institutes of Health; Public Health Service.

Health Care Financing Administration

PROPOSED RULES

Medicare:
38656 Peer review organization (PRO) area designations; utilization and quality control; correction

NOTICES

Medicare:
38678 Peer review organization (PRO) area designations; utilization and quality control; correction

Housing and Urban Development Department

NOTICES

38681 Privacy Act; systems of records; annual publication

Interior Department

See Land Management Bureau; Minerals Management Service; National Park Service.

International Trade Administration

NOTICES

Antidumping:
38660 Acrylic film, strips and sheets, from Taiwan
Countervailing duties:
38661 Shop towels of cotton from Pakistan

International Trade Commission

NOTICES

38713 Meetings; Sunshine Act

Interstate Commerce Commission

NOTICES

Rail carriers:
38697 Railroad revenue adequacy standards
Railroad operation, acquisition, construction, etc.:
38698 Shelton-Davis Transportation Co.
38699 Southern Pacific Transportation Co.
38699 Tongue River Railroad Co.
Rerouting of traffic:
38697 Chesapeake & Ohio Railway et al.

Justice Department

See Juvenile Justice and Delinquency Prevention Office.

Juvenile Justice and Delinquency Prevention Office

NOTICES

Meetings:
38699 Juvenile Justice and Delinquency Prevention National Advisory Committee

Land Management Bureau
NOTICES
Alaska native claims selection; applications, etc.:
38689 NANA Regional Corp., Inc.
Classification and leasing of public lands:
38693 Oregon
Conveyance of public lands:
38691 Idaho
38690 Montana
Disclaimer of interest to lands:
38690 Arizona
Environmental statements; availability, etc.:
38693 Shoshone National Forest, Park County, Wyo.
Exchange of public lands for private land:
38694 Oregon
Motor vehicles, off-road, etc.; area closures and openings:
38691 California
Opening of public lands:
38690 Arizona
Recreation use permit systems:
38694 South Fork of American River et al., Calif.; use fee schedule; correction
Sale of public lands:
38695 Idaho (2 documents)
38692 Nevada
Survey plat filings:
38691 Colorado
38694 Minnesota
38694 Wisconsin
Wilderness areas; characteristics, inventories, etc.:
38691 Idaho

Maritime Administration
NOTICES
38716 Voluntary Tanker Agreement

Minerals Management Service
NOTICES
Outer Continental Shelf; oil, gas, and sulphur operations; development and production plans:
38696 Aminoil U.S.A., Inc.
38696 Chevron U.S.A. Inc.

National Aeronautics and Space Administration
NOTICES
Meetings:
38700 Space Applications Advisory Committee

National Bureau of Standards
NOTICES
Laboratory Accreditation Program, National Voluntary:
38661 Monthly report and status of programs

National Institutes of Health
NOTICES
Meetings:
38679 General Research Support Review Committee
38678 Neurological and Communicative Disorders and Stroke National Advisory Council
38679 Research Grants Division study sections
38678 Research Resources National Advisory Council

National Oceanic and Atmospheric Administration
RULES
Tuna, Atlantic fisheries:
38650 Bluefin tuna; area closure
NOTICES
Marine mammal permit applications, etc.:
38662 Seoul Grand Park Zoo
Meetings:
38662 Caribbean Fishery Management Council; date change
38662 New England Fishery Management Council

National Park Service
NOTICES
Concession contract negotiations:
38696 El Portal Market
Environmental statements; availability, etc.:
38697 Yellowstone National Park, Idaho, et al.
Meetings:
38697 Upper Delaware Citizens Advisory Council

National Science Foundation
NOTICES
38700 Antarctic Conservation Act of 1978; permit applications, etc.

Navy Department
RULES
38611 Privacy Act; implementation
NOTICES
Meetings:
38665 Chief of Naval Operations Executive Panel Advisory Committee (2 documents)

Nuclear Regulatory Commission
RULES
38604 Commercial telephone number change; Region III Office
NOTICES
Applications, etc.:
38702 Maine Yankee Atomic Power Co.
38704 Mississippi Power & Light Co.
38705 Mississippi Power & Light Co. et al.
38707 Texas Utilities Generating Co. et al.
38700 International Atomic Energy Agency draft safety guide; availability and inquiry
Nuclear Waste Policy Act:
38701 Site investigation and characterization of sites for geologic repositories; procedural agreement with DOE

Public Health Service
PROPOSED RULES
38758 Confidentiality of Alcohol and Drug Abuse patient records

Securities and Exchange Commission
NOTICES
Hearings, etc.:
38707 American Southwest Financial Corp.

Soil Conservation Service
NOTICES
Environmental statements; availability, etc.:
38660 Little Whitestick-Cranberry Creeks Watershed, W. Va.
38659 Pearl Street Recreation Development RC&D Measure, Conn.

State Department
RULES
38606 Foreign service; appointment of members

Tennessee Valley Authority
NOTICES
38713 Meetings; Sunshine Act (2 documents)

Textile Agreements Implementation Committee
NOTICES
Cotton, wool, or man-made textiles:
38663 Philippines

Transportation Department
See Coast Guard; Federal Highway Administration; Maritime Administration.

Treasury Department
See Customs Service.

Veterans Administration
NOTICES
Meetings:
38710 Medical Research Service Merit Review Boards
38708 Privacy Act; systems of records

Separate Parts in This Issue

Part II
38716 Department of Transportation, Maritime Administration

Part III
38722 Environmental Protection Agency

Part IV
38728 Environmental Protection Agency

Part V
38742 Environmental Protection Agency

Part VI
38758 Department of Health and Human Services, Public Health Service

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
225.....38601
227.....38601
235.....38601
246.....38601
247.....38601
250.....38601
253.....38601
908.....38601
930.....38602
1207.....38603

10 CFR
20.....38604
21.....38604
73.....38604

18 CFR
Proposed Rules:
271.....38651

21 CFR
177.....38604
520.....38606

22 CFR
11.....38606

23 CFR
752.....38609

32 CFR
701.....38611

33 CFR
100 (2 documents).....38630, 38631
110.....38631
117 (2 documents).....38632, 38633
165 (2 documents).....38633, 38634

Proposed Rules:
110.....38652
117 (4 documents).....38653, 38655

40 CFR
52 (2 documents).....38634, 38635
60.....38728
65.....38637
81 (2 documents).....38637, 38639
145 (3 documents).....38640, 38641

Proposed Rules:
51.....38742
52.....38742
271.....38722

42 CFR
Proposed Rules:
2.....38758
460.....38656
462.....38656

45 CFR
303.....38642

46 CFR
42.....38646

50 CFR
285.....38650

VOL
48
ISS
1
6
6
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Rules and Regulations

Federal Register
Vol. 48, No. 166
Thursday, August 25, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 225, 227, 235, 246, 247, 250, and 253

Rescission of Regulations Involving Consultation with State and Local Governments

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule: Correction.

SUMMARY: This document corrects the final rule which deleted the provisions of regulations involving consultation with State and local agencies or officials that appeared at page 29122 in the **Federal Register** of Friday, June 24, 1983, (48 FR 29122). This action is necessary to correct a typographical error in the authority citation.

EFFECTIVE DATE: September 30, 1983.

FOR FURTHER INFORMATION CONTACT: Vicky Urcuyo, Assistant to the Deputy Administrator for Special Nutrition Programs (telephone 703–756–3054).

The following correction is made in FR Doc. 83–16734 appearing on 29124 in the issue of June 24, 1983:

On page 29124 in the authority citation "(42 U.S.C. 5231(b))" is corrected to read "(31 U.S.C. 6506(c))".

John H. Stokes III,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 83–23275 Filed 8–24–83; 8:45 am]
BILLING CODE 3410–30–M

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Reg. 314]

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period August 28–September 1, 1983. Such action is needed to provide for orderly marketing of fresh Valencia oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: August 28, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona Valencia orange crop for the benefit of producers and will not substantially affect costs for the directly regulated handlers.

This regulation is issued under the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendation and information submitted by the Valencia Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy for 1982–83. The marketing policy was recommended by the committee following discussion at a public meeting on February 22, 1983. The committee met again publicly on August 23, 1983 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of Valencia oranges deemed advisable to be handled during the specified week. The committee reports the demand for Valencia oranges is easy.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553); because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared policy of the Act to make this regulatory provision effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 908

Marketing agreements and orders, California, Arizona, Oranges (Valencia).

1. Section 908.614 is added as follows:

§ 908.614 Valencia orange regulation 314.

(a) The quantities of Valencia oranges grown in California and Arizona which may be handled during the period August 28, 1983 through September 1, 1983, are established as follows:

(1) District 1: 423,000 cartons;

(2) District 2: 477,000 cartons;

(3) District 3: Unlimited cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: August 24, 1983.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83–23563 Filed 8–24–83; 11:33 am]
BILLING CODE 3410–02–M

7 CFR Part 930

Cherries Grown in Michigan, New York, Wisconsin, Pennsylvania, Ohio, Virginia, West Virginia, and Maryland; Amendment of Certain Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action provides alternate means by which growers of tart cherries may obtain diversion credit in lieu of placing such cherries in a reserve pool; increases the authorized reserve pool financial reserve fund from $15,000 to $30,000; changes the time frame of the Fall release period for reserve pool cherries; exempts cherries processed into juice from regulation; and generally provides more flexible terms for the sale of reserve pool cherries. These changes are necessary to facilitate procedures governing the handling and sale of reserve pool cherries.

DATES: Effective on and after September 26, 1983.

FOR FURTHER INFORMATION CONTACT: R. C. Martin 447–5127.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the tart cherry crop for the benefit of producers and consumers and will not substantially affect costs for the directly regulated persons.

An interim rule was published in the **Federal Register** on June 23, 1983 (48 FR 28613) which specified changes in rules and regulations of the tart cherry marketing order. That rule provided an opportunity to submit comments through July 25, 1983. No comments were received. This final rule contains the same requirements as specified in the interim rule. The terms of these rules and regulations would be effective on and after September 26, 1983.

These rules and regulations are issued under Marketing Order No. 930 (7 CFR Part 930), regulating the handling of tart cherries grown in eight States. The order is effective under the Agricultural Marketing Agreement Act of 1937, as Amended (7 U.S.C. 601–674). These actions are based upon the recommendation and information submitted by the Cherry Administration Board (hereinafter referred to as the "Board") and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

One change would allow growers more latitude in the disposition of diverted cherries. Currently, in order to qualify for diversion credit, growers must leave diverted cherries unharvested. The regulation would allow growers, after the fruit has been inspected to determine the actual diversion process having taken place, to harvest such cherries to be used for juice, jam, jellies, preserves, dried fruit, or other products which used less than five percent of the preceding five-year average production of cherries.

The currently authorized limit to the reserve pool financial reserve fund is $15,000. The regulation would increase this amount to approximately $30,000 in order to have available sufficient funds to defray costs of storage and maintenance of records and supporting materials of prior pools.

The 10-day Fall release period for reserve cherries is the period November 1–11. The regulation would authorize the Fall release date to be one 10-day period between September 1 and December 1 of each fiscal period. This would allow the Board to be more responsive to the needs of the market.

The regulation exempts cherries which are processed into juice from the volume regulation provisions of the order. Cherries processed into juice make up a small percentage of the market and this action is designed to allow market expansion.

The regulation also authorizes the Board to set additional terms and conditions of sale of reserve pool cherries. The Board may authorize delayed payment schedules, brokerage discounts, percentage or volume discounts, or other types of incentives and increase the required per can deposit for cherries purchased. More flexible purchase incentives are necessary to encourage volume sales of reserve pool cherries; effect maximum returns to equity holders and achieve complete disposition of such cherries. The increase in the per can deposit from $1.00 to $3.00 reflects the higher costs associated with handling reserve pool purchase offers. All discounts or incentives would be paid back to handlers as a refund after funds have been distributed in accordance with § 930.109 of the order.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice and engage in public rulemaking procedures (5 U.S.C. 553), and good cause exists for making these regulatory provisions effective as specified in that (1) an interim rule was published in the **Federal Register** (48 FR 28613) and no comments were received during the period provided; and (2) the requirements of this final rule are the same as those specified in the interim rule.

List of Subjects in 7 CFR Part 930

Marketing agreement and orders, Cherries.

PART 930—[AMENDED]

Therefore, 1. Revise § 930.103 *Diversion,* to read as follows:

§ 930.103 Diversion.

Diversion shall be accomplished by any of the uses described in § 930.56(a), including using such cherries for juice, jams, jellies, preserves, dried products, and other uses which used less than 5 percent of the preceding 5-year average production of cherries: *Provided,* That such cherries shall remain on the tree until final inspection and shall not be removed from the premises other than by record approval: *Provided further,* That unless an alternate method of tree selection for diversion is requested by an applicant and is approved by the Board, the trees involved with non-harvest shall be designated on a random basis by the Board through its authorized representatives.

2. Amend § 930.109 *Distribution of reserve pool proceeds,* by revising paragraph (c) to read:

§ 930.109 Distribution of reserve pool proceeds.

* * * * *

(c) In accordance with § 930.60 all reserve pool funds, after deductions, shall be distributed to equity holders in direct proportion to each person's equity in the total reserve pool. In the event of complete disposition of all reserve pool cherries, the Board may, prior to making distribution of the resulting funds, set aside a portion of such funds, not to exceed approximately $30,000, as a reserve to defray costs of storage and maintenance of records and supporting material of the pool.

* * * * *

3. Revise § 930.110 *After harvest adjustment and release period,* to read:

§ 930.110 After harvest adjustment and release period.

The 10-day period provided in § 930.53, paragraphs (a) and (b)(1) for the revision of percentages and release of reserve pool cherries, shall be one 10-

day period between September 1 and December 1 of such fiscal period.

4. Amend § 930.161 *Exemptions granted,* by revising paragraph (a) to read:

§ 930.161 Exemptions granted.

(a) Cherries which are processed into products for use as coloring agents, such as that which is used in the manufacture of cosmetics, or into juice, are exempt from the provisions of §§ 930.52 through 930.60 as is authorized by § 930.61.

* * * * *

5. Amend § 930.591 *Conditions governing the sale of reserve pool cherries,* by revising paragraphs (a), (b), (c) and (d), and adding a new paragraph (e) to read:

§ 930.591 Conditions governing the sale of reserve pool cherries.

* * * * *

(a) The Cherry Administrative Board, prior to any 10 day reserve pool release period, shall notify each handler of record by telephone, which notification shall be confirmed by registered letter, of the: time and date of the release period; quantity of said handler's share of the reserve pool release which may be purchased by such handler; specific prices of such cherries, and the terms of the sale. Such terms of sale may include, but are not limited to: A delayed payment schedule; a discount based on the percentage of a handler's total share purchased; or a percentage allowance for brokerage fees. This shall be designated as the first offering.

(b) Each handler wishing to purchase first offering reserve pool cherries shall notify the Board, in person or by telephone, of the number of 30-pound containers or the percentage of this portion of reserve pool cherries, such handler desires to purchase. Such handler shall confirm this offer in writing at the Board's office or at such other location as may be designated by the Board. The confirmation shall be accompanied by a deposit of an amount to be determined by the Board, but not to exceed $3.00, for each 30 pounds of cherries such handler offers to purchase. Both the confirmation and the deposit must be received at the office of the Board or at other locations within the production area as designated by the Board, within the first 72 hours of the release period. The total amount of the purchase price of such cherries shall be due within the payment schedule established by the Board. No cherries shall be released by the Board until after it has received payment of the full amount due for such cherries. If the full amount is not paid within the payment schedule established by the Board, the entire deposit for each 30 pounds of cherries shall be forfeited to the Board for the reserve pool account and the cherries shall remain in the reserve pool.

(c) In the event there remains for sale a portion of first offering cherries, the Board shall, during a second 72-hour period within the 10 day release period, notify all handlers who purchased their portion of first offering reserve pool cherries, by telephone or telegram, of the quantity, the price, the grade composition of cherries remaining for purchase, and the terms of sale. Such terms of sale may include, but are not limited to: a delayed payment schedule; a discount based on the volume of cherries purchased, or a percentage allowance for brokerage fees. This shall be designated as the second offering.

(d) Each such handler who desires to purchase second offering cherries may do so within the remaining 96 hours of the 10 day release period. Such offer shall be made in the same manner as such handler's offer to purchase first offering cherries and the deposit amount established by the Board shall also apply to the offer to purchase second offering cherries. If the full amount is not paid within the aforesaid payment schedule, the entire deposit for each 30 pounds of cherries shall be forfeited to the Board for the reserve pool account and the cherries shall remain in the reserve pool. In the event offers to purchase exceed the quantity of cherries offered, the quantity each handler may purchase shall be prorated in accordance with the handler's participation in the reserve pool as compared with the total participation in the reserve pool by all handlers who have made an offer to purchase second offering cherries: *Provided,* That if the proportion of any handler exceeds the quantity such handler desires to purchase, such excess shall be apportioned on the foregoing basis among the remaining handlers who have expressed a desire to purchase second offering cherries.

(e) All monies due to handlers from any allowance or discount shall be refunded to such handlers after distribution of reserve pool proceeds in accordance with § 930.109.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: August 19, 1983.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83-23294 Filed 8-24-83; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 1207

Potato Research and Promotion Plan, Expenses and Rate of Assessment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses for the functioning of the National Potato Promotion Board. It enables the Board to collect assessments from designated handlers on assessable potatoes and to use the resulting funds for its expenses.

EFFECTIVE DATE: July 1, 1983.

FOR FURTHER INFORMATION CONTACT: Charles W. Porter, Chief, Vegetable Branch, F&V, AMS, USDA, Washington, D.C. 20250, (202) 447–2615.

SUPPLEMENTARY INFORMATION: Information collection requirements contained in this regulation (7 CFR Part 1207) have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB No. 0581–0093.

This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "nonmajor" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities because it would not significantly affect costs for the directly regulated handlers.

The Potato Board is the administrative agency established under the Potato Research and Promotion Plan (7 CFR Part 1207). This program is effective under the Potato Research and Promotion Act (7 U.S.C. 2611–2627).

Notice was published in the June 2 **Federal Register** (48 FR 24724) regarding the proposals. It afforded persons an opportunity to submit written comments not later than June 16, 1983. None was received.

After consideration of all relevant matters, including the proposal in the notice, it is found that the following expenses and rate of assessment should be approved.

It is further found that good cause exists for not postponing the effective date of this section until 30 days after publication in the **Federal Register** (7 U.S.C. 553) because this part requires that the rate of assessment for a particular period apply to all assessable potatoes from the beginning of such period.

List of Subjects in 7 CFR Part 1207

Administrative practice and procedure, Advertising, Agricultural research, Potatoes.

PART 1207—POTATO RESEARCH AND PROMOTION PLAN

§ 1207.11 [Removed]

Section 1207.411 (47 FR 32914, July 30, 1982) is hereby removed and § 1207.412 is added as follows:

§ 1207.412 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal period beginning July 1, 1983, and ending June 30, 1984, by the National Potato Promotion Board for its maintenance and functioning and for such purposes as the Secretary determines to be appropriate will amount to $2,565,000.

(b) The rate of assessment to be paid by each designated handler in accordance with the provisions of the Plan shall be one cent ($0.01) per hundredweight of assessable potatoes handled by such person during said fiscal period.

(c) Unexpended income in excess of expenses for the fiscal period may be carried over as an operating monetary reserve.

(d) Terms used in this section have the same meaning as when used in the Potato Research and Promotion Plan.

(Approved by the Office of Management and Budget under Control No. 0581–0093)

(Title III of Pub. L. 91–670; 84 Stat. 2041; 7 U.S.C. 2611–2627)

Dated: August 22, 1983.

William T. Manley,

Deputy Administrator, Market Program Operations.

[FR Doc. 83-23381 Filed 8-24-83; 8:45 am]

BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 20, 21, and 73

Minor Clarifying Amendments

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to indicate a change in the commercial telephone number for the NRC's Region III Office. The amendments are necessary to inform the public of these administrative changes to NRC regulations.

EFFECTIVE DATE: August 22, 1983.

FOR FURTHER INFORMATION CONTACT: Pearl Smith, Telephone: (312) 384–2720.

SUPPLEMENTARY INFORMATION: Effective August 22, 1983, the commercial telephone number for NRC's Region III office located at 799 Roosevelt Road, Glen Ellyn, Illinois will be changed to (312) 790–5500.

Because this is a nonsubstantive amendment dealing with a purely administrative matter of agency management, the notice and comment procedures of the Administrative Procedure Act (5 U.S.C. 553) do not apply and the amendment is effective August 22, 1983.

List of Subjects

10 CFR Part 20

Byproduct material, Licensed material, Nuclear materials, Nuclear power plants and reactors, Occupational safety and health, Packaging and containers, Penalty, Radiation protection, Reporting and recordkeeping requirements, Special nuclear material, Source material, Waste treatment and disposal.

10 CFR Part 21

Nuclear power plants and reactors, Penalty, Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 73

Hazardous materials—transportation, Incorporation by Reference, Nuclear material, Nuclear power plants and reactors, Penalty, Reporting and requirements, Security measures.

Under the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552, the following amendments to 10 CFR Parts 20, 21, and 73 are published as a document subject to codification.

The authority citation for this document is: (Sec. 161, Pub. L. 83–703, 68 Stat. 948, as amended (42 U.S.C. 2201)).

PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION

1. In Appendix D to Part 20, the telephone number for Region III is revised to read as follows:

Appendix D—United States Nuclear Regulatory Commission Regional Offices

* * * * *

Region III: Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin.	USNRC, 799 Roosevelt Road, Glen Ellyn, Il 60137	(312) 790–5500, (FTS) 384–2500.

* * * * *

PART 21—[AMENDED]

§ 21.2 [Amended]

2. In footnote 1, of § 21.2 the commercial telephone number for NRC Region III is revised to read (312) 790–5500.

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

3. In Appendix A of Part 73, the telephone number for Region III is revised to read as follows:

Appendix A—United States Nuclear Regulatory Commission Regional Offices

* * * * *

Region III: Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin..	USNRC, 799 Roosevelt Road, Glen Ellyn, IL 60137.	(312) 790–5500, (FTS) 384–2500.

Dated at Bethesda, Maryland, this 9th day of August 1983.

For the Nuclear Regulatory Commission.

Jack W. Roe,

Acting Executive Director for Operations.

[FR Doc. 83-23382 Filed 8-24-83; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 177

[Docket No. 80F–0312]

Indirect Food Additives; Polymers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of vinylidene chloride/methyl acrylate copolymers as articles or components of articles in contact with food. This action responds to a petition filed by Dow Chemical Co.

DATES: Effective August 25, 1983; objections by September 26, 1983. The Director of the Federal Register approves the incorporation by reference of certain publications at 21 CFR 177.1990, effective on August 25, 1983.

ADDRESS: Written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Mary W. Lipien, Bureau of Foods (HFF–

334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5740.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of September 5, 1980 (45 FR 58968), FDA announced that a petition (FAP 9B3452) had been filed by Dow Chemical Co., 2040 Dow Center, Midland, MI 48640, proposing that the food additive regulations be amended to provide for the safe use of vinylidene chloride/methyl acrylate copolymers as articles or components of articles intended for use in contact with food.

FDA has evaluated data in the petition and other relevant material and concludes that the proposed food additive use is safe and that the regulations should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Bureau of Foods (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h)(2) the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (address above), between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 177

Food additives, Incorporation by reference, Polymeric food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Foods (21 CFR 5.61), Part 177 is amended in Subpart B by adding new § 177.1990 to read as follows:

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

§ 177.1990 Vinylidene chloride/methyl acrylate copolymers.

The vinylidene chloride/methyl acrylate copolymers (CAS Reg. No. 25038–72–6) identified in paragraph (a) of this section may be safely used as an article or as a component of an article intended for use in contact with food subject to the provisions of this section.

(a) *Identity.* For the purposes of this section vinylidene chloride/methyl acrylate copolymers consist of basic copolymers produced by the copolymerization of vinylidene chloride and methyl acrylate such that the copolymers contain not more than 15 weight-percent of polymer units derived from methyl acrylate.

(b) *Optional adjuvant substances.* The basic vinylidene chloride/methyl acrylate copolymers identified in paragraph (a) of this section may contain optional adjuvant substances required in the production of such basic copolymers. These optional adjuvant substances may include substances permitted for such use by regulations in Parts 170 through 179 of this chapter, substances generally recognized as safe in food, and substances used in accordance with a prior sanction or approval.

(c) *Specifications.* (1) The methyl acrylate content is determined by an infrared spectrophotometric method titled "Determination of Copolymer Ratio in Vinylidene Chloride/Methyl Acrylate Copolymers," which is incorporated by reference. Copies are available from the Division of Food and Color Additives, Bureau of Foods (HFF–330), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(2) The average molecular weight of the copolymer is not less than 50,000 when determined by gel permeation chromatography using tetrahydrofuran as the solvent. The gel permeation chromatograph is calibrated with polystyrene standards. The basic gel permeation chromatographic method is described in ANSI/ASTM D3536–76, "Standard Test Method for Molecular Weight Averages and Molecular Weight Distribution of Polystyrene by Liquid Exclusion Chromatography (Gel Permeation Chromatography-GPC)," which is incorporated by reference. Copies are available from University Microfilms International, 300 North Zeeb Rd., Ann Arbor, MI 48106, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(3) Residual vinylidene chloride and residual methyl acrylate in the copolymer in the form in which it will contact food (unsupported film, barrier layer, or as a copolymer for blending) will not exceed 10 parts per million and 5 parts per million, respectively, as determined by a gas chromatographic method titled "Determination of Residual Vinylidene Chloride and Methyl Acrylate in Vinylidene Chloride/Methyl Acrylate Copolymer Resins and Films," which is incorporated by reference. Copies are available from the Division of Food and Color Additives, Bureau of Foods (HFF–330), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(d) *Extractives limitations.* The basic copolymer resin in the form of granules that will pass through a U.S. Standard Sieve No. 45 (350 microns) shall meet the following extractives limitations:

(1) 10-gram samples of the resin, when extracted separately with 100 milliliters of distilled water at 157° C (250° F) for 2 hours, and 100 milliliters of *n*-heptane at 101° C (150° F) for 2 hours, shall yield total nonvolatile extractives not to exceed 0.5 percent by weight of the resin.

(2) The basic copolymer in the form of film when extracted separately with distilled water at 157° C (250° F) for 2 hours shall yield total nonvolatile extractives not to exceed 0.047 milligram per square centimeter (0.3 milligram per square inch).

(e) *Conditions of use.* The copolymers may be safely used as articles or components of articles intended for use in producing, manufacturing, processing, preparing, treating, packaging, transporting, or holding food, including processing of packaged food at retorting temperature, 157° C (250° F).

(f) *Other specifications and limitations.* The vinylidene chloride-methyl acrylate copolymers identified in and complying with this section, when used as components of the food contact surface of any article that is subject to a regulation in Parts 174 through 178 and § 179.45 of this chapter, shall comply with any specifications and limitations prescribed by such regulation for the article in the finished form in which it is to contact food.

Any person who will be adversely affected by the foregoing regulation may at any time on or before September 26, 1983 submit to the Dockets Management Branch (address above) written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a

hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective August 25, 1983.

(Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348))

Dated: August 17, 1983.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 83-23281 Filed 8-24-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Dextrose/Glycine/Electrolyte

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Beecham Laboratories, providing for safe and effective use of dextrose/glycine/electrolyte for oral use in calves for control of dehydrations associated with diarrhea.

EFFECTIVE DATE: August 25, 1983.

FOR FURTHER INFORMATION CONTACT: Adriano R. Gabuten, Bureau of Veterinary Medicine (HFV–135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4913.

SUPPLEMENTARY INFORMATION: Beecham Laboratories, Division of Beecham, Inc., Bristol, TN 37620, filed NADA 125–961 providing for the use of dextrose/glycine/electrolyte powder orally in calves in the control of dehydration associated with diarrhea (scours). The NADA is approved and the regulations are amended to reflect the approval.

The basis of this approval is discussed in the freedom of information (FOI) summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(E)(2)(ii) (21 CFR 514.11(E)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement therefore will not be prepared. The Bureau's finding of no significant impact and the evidence supporting this finding, contained in a statement of exemption (pursuant to 25.1(f)(1)(iv) and (g)) may be seen in the Dockets Management Branch (address above).

List of Subjects in 21 CFR Part 520

Animal drugs, Oral.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 520 is amended by adding new § 520.550 to read as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

§ 520.550 Dextrose/glycine/electrolyte.

(a) *Specifications.* The product is distributed in packets each of which contains the following ingredients: sodium chloride 8.82 grams, potassium phosphate 4.20 grams, citric acid anhydrous 0.5 gram, potassium citrate 0.12 gram, aminoacetic acid (glycine) 6.36 grams, and dextrose 44.0 grams.

(b) *Sponsor.* See No. 000029 in § 510.600(c) of this chapter.

(c) *Conditions of use.* (1) Dextrose/glycine/electrolyte is indicated for use in the control of dehydration associated with diarrhea (scours) in calves. It is used as an early treatment at the first signs of scouring. It may also be used as followup treatment following intravenous fluid therapy.

(2) Dissolve each packet in two quarts of warm water and administer to each calf as follows:

(i) *Scouring and/or dehydrated calves.* Feed 2 quarts of solution, twice daily for 2 days (four feedings). No milk or milk replacer should be fed during this period. For the next four feedings (days 3 and 4), use 1 quart of solution together with 1 quart of milk replacer. Thereafter, feed as normal.

(ii) *Newly purchased calves.* Feed 2 quarts of solution instead of milk as the first feed upon arrival. For the next scheduled feeding, use 1 quart of solution mixed together with 1 quart of milk or milk replacer. Thereafter, feed as normal.

(3) The product should not be used in animals with severe dehydration (down, comatose, or in a state of shock). Such animals need intravenous therapy. Oral therapy in these cases is too slow. Animals which cannot drink after initial intravenous therapy may need to be dosed with a stomach tube or esophageal tube. Adequate colostrum intake during the first 12 hours is essential for healthy, virgorous calves. Antibacterial therapy is often indicated in bacterial scours due to *E. coli* and/or *Salmonella*. The product does not contain antibacterial agents. A veterinarian should be consulted in severely scouring calves or cases requiring antibacterial therapy. The product is not nutritionally complete if administered by itself for long periods of time. It should not be administered beyond the recommended treatment period without the addition of milk or milk replacer.

Effective date. August 25, 1983.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: August 18, 1983.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 83-23282 Filed 8-24-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF STATE

22 CFR Part 11

[Dept. Reg. 108.834]

Appointment of Members of the Foreign Service

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: The Department of State, with the concurrence of the Departments of Agriculture and Commerce, the Agency for International Development, and the United States Information Agency, is amending its regulations governing the appointment of members

of the Foreign Service to add a new § 11.30 relative to the appointment of Senior Foreign Service Officer Career Candidates.

This new program supplements the Junior, Mid-Level, and Specialist Foreign Service Career Candidate Programs (or similar department/agency programs) to meet identified Senior Foreign Service officer needs which cannot otherwise be met from within the ranks of the career Foreign Service.

EFFECTIVE DATE: August 18, 1983.

FOR FURTHER INFORMATION CONTACT: Frontis B. Wiggins, Board of Examiners, Department of State, Washington, D.C., 20520 (703) 235–9232.

SUPPLEMENTARY INFORMATION: Section 101(b)(7) of the Foreign Service Act of 1980 (Pub. L. 96–465) established a Senior Foreign Service, characterized by strong policy formulation capabilities, outstanding executive leadership qualities, and highly developed functional, foreign language, and area expertise.

This new subpart provides the procedures establishing the eligibility of candidates for the Senior Foreign Service Career Candidates Program, the competitive requirements for that program, and the terms and conditions of appointment for successful candidates. It also provides procedures for making limited non-career Senior Foreign Service Officer appointments.

Analysis of Comments. No substantive comments were received by the Department of State during the public comment period. Except for certain minor editorial changes and the addition of a clarifying statement by the U.S. Information Agency in § 11.30(b)(1)(ii) concerning age at time of appointment, the final rule as published herewith is the same as the proposed rule published in the **Federal Register** of June 10, 1983 (48 FR 26834).

E.O. 12291, Federal Regulation

The Department of State has determined that this is not a major rule for the purposes of E.O. 12291, Federal Regulation, because it will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign based enterprises in domestic or export markets.

In addition, this rule relates solely to agency personnel and falls under section 1(a)(3) of E.O. 12291.

List of Subjects in 22 CFR Part 11

Foreign Service.

Accordingly, under the authority of sections 206(a) and 301(b) of the Foreign Service Act of 1980 (secs. 206(a) and 301(b), Pub. L. 96–465, 94 Stat. 2079 and 2083 (22 U.S.C. 3926 and 3941)), 22 CFR 11 is amended by revising the section heading and adding test to § 11.30, to read as follows:

§ 11.30 Senior Foreign Service Officer career candidate and limited non-career appointments.

(a) *General considerations.* (1) Career officers at the Senior Level normally shall be appointed as the result of promotion of Mid-Level career officers. Where the needs of the Foreign Service at the Senior Level cannot otherwise be met by this approach, limited appointments may by granted to applicants as Senior Career Candidates or as limited non-career appointees in accordance with these regulations. However, as required by section 305(b) of the Foreign Service Act of 1980 (hereinafter referred to as the Act), but qualified by sections 305(b)(1) and (2) and section 2403(c) of the Act, the limited appointment of an individual in the Senior Foreign Service shall not cause the number of members of the Senior Foreign Service serving under limited appointments to exceed 5 percent of the total members of the Senior Foreign Service.

(2) Successful applicants under the Senior Career Candidate Program will be appointed to Career Candidate status for a period not to exceed 5 years. Such limited Career Candidate appointments may not be renewed or extended beyond 5 years.

(3) Under section 306 of the Act, Senior Career Candidates may be found qualified to become career members of the Senior Foreign Service. Those who are not found to be so qualified prior to the expiration of their limited appointments will be separated from the Career Candidate Program no later than the expiration date of their appointments. Separated candidates who originally were employees of a Federal department or agency, and who were appointed to the Senior Foreign Service with the consent of the head of that department or agency, will be entitled to reemployment rights in that department or agency in accordance with section 310 of the Act and section 3597 of title 5, United States Code.

(4) The following regulations shall be utilized in conjunction with section 593, Volume 3, Foreign Affairs Manual ("Senior Foreign Service Officer Career Candidate Program"). (Also see Foreign Affairs Manual Circulars No. 8 [applicable to the Department of State only] and No. 9 [applicable to the Departments of State, Agriculture, and Commerce, the Agency for International Development, and the United States Information Agency], dated March 6, 1981.)

(b) *Senior Career Candidate appointments—(1) Eligibility requirements.* Senior Career Candidates must meet the following eligibility requirements:

(i) *Citizenship.* Each person appointed as a Senior Career Candidate must be a citizen of the United States.

(ii) *Age.* All career candidate appointments shall be made before the candidate's 60th birthday. Appointments by the United States Information Agency shall be made before the candidate's 58th birthday. The maximum age for appointment under this program is based on the requirement that all career candidates shall be able to: (A) Complete at least two full tours of duty, exclusive of orientation and training; (B) complete the requisite eligibility period for tenure consideration and (C) complete the requisite eligibility period to receive retirement benefits, prior to reaching the mandatory retirement age of 65 prescribed by the Act.

(iii) *Service.* (A) On the date of application, an applicant must have completed a minimum of 15 years of professional work experience, including at least 5 years of service in a position of responsibility in a Federal Government agency or agencies or elsewhere equivalent to that of a Mid-Level Foreign Service officer (classes FS–1 through FS–3). The duties and responsibilities of the position occupied by the applicant must have been similar to or closely related to that of a Foreign Service officer in terms of knowledge, skills, abilities, and overseas work experience. In addition, an applicant must currently be in, or have been in, a position comparable to a Foreign Service officer of class 1 (FS–1), or higher.

(B) Applicants from outside the Federal Government, and Federal employees who at the time of application lack the 15 years of professional work experience or the 5 years of service in a position of responsibility as defined in the preceding paragraph, may, however, be considered if they are found to possess a combination of educational background, professional work experience, and skills

needed by the Foreign Service at the Senior Level in employment categories which normally are not staffed by promotion of Mid-Level career officers.

(C) Non-career members of the Senior Foreign Service of a Federal Government department or agency also may apply for the Senior Career Candidate Program if they meet the eligibility requirements for the program.

(iv) *Certification of need.* Before an application can be processed, the Director of Personnel of the foreign affairs agency concerned must certify that there is a need for the applicant as a Senior Career Candidate based upon (A) the projections of personnel flows and needs mandated by section 601(c)(2) of the Act, and (B) a finding that the combination of educational background, professional work experience, and skills possessed by the applicant is not expected to be available in the immediate future in sufficient numbers within the Senior Foreign Service, including by promotion and/or special training of career personnel. This certification of need will be requested by the Board of Examiners for the Foreign Service from the appropriate foreign affairs agency Director of Personnel.

(2) *Application.* All applicants for the Senior Career Candidate Program must apply in writing through the prospective employing agency to the Board of Examiners for consideration. The applicant shall submit a completed Standard Form 171, "Personnel Qualifications Statement," and Form DSP-34, "Supplement to Application for Federal Employment," to the Board. In addition, the applicant shall submit a narrative statement, not exceeding four typewritten pages in length, describing the applicant's pertinent background and professional work experience, which includes a statement of the applicant's willingness and ability to accept the obligation of world-wide service. The Board may request additional written information from the applicant following receipt of the initial application.

(3) *Qualifications evaluation panel.* (i) The Board of Examiners will establish a file for each applicant, placing in it all available documentation of value in evaluating the applicant's potential for service as a Senior Career Candidate. For an applicant from within the Federal Government, this will include the personnel file from the employing department or agency.

(ii) The complete file will be reviewed by a Qualifications Evaluation Panel of the Board of Examiners to determine whether the applicant meets the statutory and other eligibility requirements, to assess the applicant's skills under the certification of need issued by the prospective employing agency, and to recommend whether the applicant should be examined for possible appointment as a Senior Career Candidate. If the Qualifications Evaluation Panel decides that the applicant is not eligible for examination, the prospective employing agency shall be informed by the Board of the reasons for that decision.

(4) *Written Examination.* The Board of Examiners normally will not require Senior Career Candidate applicants to undergo a written examination. However, the Board may, upon securing the agreement of the prospective employing agency, decide that such applicants should be required to take an appropriate written examination prescribed by the Board. If so, an applicant whose score on the written examination is at or above the passing level set by the Board will be eligible for selection for the oral examination.

(5) *Oral examination.*—(i) *Examining panel.* Applicants recommended by the Qualifications Evaluation Panel will be given an appropriate oral examination by a Panel of Senior Foreign Service deputy examiners of the Board of Examiners. The Oral Examining Panel shall be composed of at least two deputy examiners who are Senior Foreign Service career officers of the prospective employing agency, and at least one deputy examiner who is a Senior Foreign Service career officer from another foreign affairs agency operating under the Foreign Service Act. The Examining Panel shall be chaired by a deputy examiner who is a Senior Foreign Service career officer of the prospective employing agency. At least one of the Examining Panel members shall represent the functional or specialist field for which the applicant is being examined. Determinations of duly constituted panels of deputy examiners are final, unless modified by specific action of the Board of Examiners.

(ii) *Criteria.* (A) The Examining Panel will question the applicant regarding the indicated functional or specialist field and other matters relevant to the applicant's qualifications for appointment as a Senior Career Candidate. Prior to the oral examination, the applicant will be asked to write an essay, on a topic related to Foreign Service work, to enable the Examining Panel to judge the applicant's effectiveness of written expression. This essay requirement may be waived at the request of the head of the prospective employing agency, if, for example, the applicant is a career member of the Senior Executive Service.

(B) The oral examination will be conducted under written criteria, established in consultation with the prospective employing agency and publicly announced by the Board of Examiners. The examination will seek to determine the ability of the applicant to meet the objective of section 101 of the Act, which provides for a Senior Foreign Service "characterized by strong policy formulation capabilities, outstanding executive leadership qualities, and highly developed functional, foreign language, and area expertise."

(iii) *Grading.* Applicants taking the oral examination will be graded as "recommended," or "not recommended" by the Examining Panel. Those graded as "recommended" also will be given a numerical score, under the standard Board of Examiners scoring criteria, for use by the Final Review Panel.

(6) *Background investigation.* Senior Career Candidate applicants recommended by the Examining Panel will be subject to the same background investigation as required for Junior and Mid-Level Foreign Service Officer Career Candidates. The background investigation shall be conducted to determine suitability for appointment to the Foreign Service.

(7) *Medical examination.* Senior Career Candidate applicants recommended by the Examining Panel, and their dependents, will be subject to the same medical examination as required for the Junior and Mid-Level Foreign Service Career Candidates. The medical examination shall be conducted to determine the applicant's physical fitness to perform the duties of a Foreign Service officer on a world-wide basis and, for applicants and dependents, to determine the presence of any physical, neurological, or mental condition of such a nature as to make it unlikely that they would be able to function on a world-wide basis. Applicants and/or dependents who do not meet the required medical standards may be given further consideration, as appropriate, under the procedures of the prospective employing agency.

(8) *Foreign language requirement.* Applicants recommended by the Examining Panel will be required to take a subsequent examination to measure their fluency in foreign languages, and/or their aptitude for learning them. Senior Career Candidates will be subject to the foreign language requirements established for their occupational category by their prospective employing agency. Senior Career Candidate applicants for the Foreign Commercial Service must demonstrate proficiency by examination

in two foreign languages. United States Information Agency Senior Career Candidates, other than Senior Specialist Career Candidates, must demonstrate proficiency in at least one foreign language. Except for the Foreign Commercial Service and the United States Information Agency, an applicant may be appointed without first having passed an examination in a foreign language, but the appointed Senior Career Candidate may not be commissioned as a Career Senior Foreign Service officer unless adequate proficiency in a foreign language is achieved. This language requirement will not apply to candidates in occupational categories which, in the judgment of the prospective employing agency, do not require foreign language proficiency.

(9) *Final review panel.* (A) The entire file of an applicant recommended by the Examining Panel will be reviewed and graded by a Final Review Panel, after the results of the background investigation, medical examination and language examination are received. The Final Review Panel will decide whether or not to recommend the applicant for appointment, taking into account all of the available information concerning the applicant.

(B) The Final Review Panel shall consist of a chairperson who shall be a Deputy Examiner who is a career Senior Foreign Service officer of the prospective employing agency, and at least two other Deputy Examiners of the Board of Examiners. Of the Deputy Examiners serving on the Final Review Panel, the majority shall be career Senior Foreign Service officers of the prospective employing agency; and at least one shall be a career Senior Foreign Service officer of one of the other foreign affairs agencies operating under the Act.

(10) *Certification of appointment.* The file of an applicant recommended by the Final Review Panel will be submitted to the Board of Examiners for consideration and approval. An applicant found by the Board to meet the standards for appointment as a Senior Foreign Service Career Candidate shall be so certified to the Director of Personnel of the prospective employing agency.

(c) *Limited non-career appointments.* (1) Other Senior Foreign Service appointments may be made on a limited non-career basis for individuals who do not wish to compete for career appointments, but for whom a need can be certified by the Director of Personnel of the foreign affairs agency concerned. Such limited non-career senior appointees will be subject to the eligibility requirements set forth in § 11.30(b)(1) (i) and (iv). The maximum age set forth in § 11.30(b)(1)(ii) does not apply to such appointments. However, because Foreign Service members generally are subject to the mandatory retirement age of 65, under section 812 of the Act, limited non-career Senior appointments normally will not extend beyond the appointee's 65th birthday. Limited non-career appointees of the Department of Commerce and the United States Information Agency will not be subject to the language requirements of § 11.30(b)(8). Applicants for limited non-career senior appointments will be subject to the same background investigation and medical examination required of career candidates, but normally they will not be subject to a written or oral examination, or to approval by the Board of Examiners. Processing procedures for such applicants will be established by the Director of Personnel of the foreign affairs agency concerned. Their appointments normally will be limited to the duration of the specific assignments for which they are to be hired, may not exceed 5 years in duration, and may not be renewed or extended beyond 5 years.

(2) Prior to the expiration of their limited non-career senior appointments, if they meet all the eligibility requirements set forth in § 11.30(b)(1), such individuals may elect to compete for career candidate status in the Senior Foreign Service by qualifying at that time for and taking the examinations required of career candidates. If appointed as career candidates, the length of service under their previous limited non-career appointments may be counted under the procedures of the employing agency as part of the trial period of service prescribed before a career candidate can receive a career appointment. The total period of limited appointment (non-career and career candidate) of such individuals may not exceed 5 years in duration.

(3) Nothing in this section will limit the right of an individual who has previously served as a limited non-career senior appointee from subsequently applying for consideration as a new applicant and being appointed as a Senior Career Candidate after a limited non-career appointment has expired.

(d) *Reporting requirement.* The Director of Personnel of each foreign affairs agency shall report annually to the Director General of the Foreign Service, Department of State, the number and nature of the limited Senior Foreign Service appointments (non-career and career candidates) made by that agency under these regulations.

Dated: August 18, 1983.

Clint A. Lauderdale,

Deputy Assistant Secretary for Personnel, Bureau of Personnel, Department of State.

[FR Doc. 83-23231 Filed 8-24-83; 8:45 am]

BILLING CODE 4710-15-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 752

Landscape and Roadside Development

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: The Federal Highway Administration (FHWA) is publishing this final rule to implement Section 111 of the Surface Transportation Assistance Act of 1982 (STAA of 1982) which allows the States to permit vending machines in safety rest areas on the rights-of-way of the Interstate highway system. The regulations are modified to allow the installation and operation of vending machines, to exclude vending machines from the prohibition against charging the public for goods and services, and to make the installation, operation, and maintenance of vending machines ineligible for Federal-aid funding.

EFFECTIVE DATE: August 25, 1983.

FOR FURTHER INFORMATION CONTACT: Seppo I. Sillan, Chief, Geometric Design Branch, (202) 426-0312 or Deborah A. Dull, Office of the Chief Counsel, (202) 426-0800, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Background

Section 111 of the Surface Transportation Assistance Act of 1982 (STAA of 1982) was enacted by the 97th Congress (Pub. L. 97-424, 96 Stat. 2097) on January 6, 1983. It provides that, notwithstanding 23 U.S.C. 111, any State may permit the placement of vending machines in rest and recreation areas and in safety rest areas constructed or located on rights-of-way of the Interstate highway system. Section 111 of 23 U.S.C., prohibits automotive service stations or other commercial establishments within the rights-of-way on the Interstate system.

Section 111 of the STAA of 1982 is a logical extension of a demonstration program mandated by Section 153 of the Surface Transportation Assistance Act of 1978 (Pub. L. 95–599, 92 Stat. 2716). In that project Congress directed the Secretary of Transportation to permit the installation of vending machines in rest and recreation areas and in safety rest areas constructed or located on the rights-of-way of the Interstate highway system. In addition to granting the Secretary authority to determine the articles which could be dispensed, Section 153 also imposed upon the Secretary responsibility for reporting the results of the demonstration project together with any recommendations to Congress, no later than two years after enactment.

Five States, California, Connecticut, Georgia, Kentucky, and Massachusetts participated in the demonstration project. The five States were requested to evaluate the public acceptance and economic benefits of such services as well as any problems related to litter and vandalism and to report their findings to the FHWA. The general findings of this demonstration project indicated that an adequately controlled vending machine operation at Interstate safety rest areas may be of public benefit. These findings together with a recommendation that the demonstration project be extended for an additional two years and expanded to include additional States before a final evaluation was completed are contained in a report transmitted to Congress on November 26, 1980.

The FHWA's existing regulations governing safety rest areas and information centers within safety rest areas as well as eligibility for Federal-aid in the construction and operation of such areas and centers are contained in 23 CFR Part 752, entitled "Landscape and Roadside Development". This rule amends these regulations in several areas discussed below.

Discussion of Regulations

Section 752.1 Purpose.

The provision of guidelines and policies regarding vending machines in safety rest areas has been added to the purpose statement.

Section 752.5 Safety rest areas.

A new paragraph (b) has been added expressly to permit States to allow vending machines to be located in existing or constructed safety rest areas. Since information centers on the Interstate system are within safety rest areas, vending machines also may be allowed in those centers. A vending machine is a coin or currency operated machine capable of automatically dispensing an article or product. By limiting installations to vending machines, it is expressly intended to preclude a vendor from establishing a stand or shop for the purpose of selling the article or product and also to exclude any form of personal salesmanship.

The decision whether to allow the vending machines is discretionary with the States. Unlike the demonstration program in which the Secretary determined the articles that could be dispensed, the States is given authority to make that determination, with the exception that the dispensing of petroleum products or motor vehicle replacement parts will not be allowed. This ban is based on the prohibition in 23 U.S.C. 111 against automotive service stations on the rights-of-way of the Interstate system which Section 111 of the STAA did not modify.

New paragraph (c) establishes that the State highway agency need not operate the vending machines directly. However, States that decide to allow vending machines must give priority to vending machines operated by the blind through the State licensing agency designated pursuant to the Randolph-Sheppard Act (20 U.S.C. 107).

Paragraph (g) (paragraph (e) redesignated) is amended to allow the public to be charged for items dispensed by vending machines.

Section 752.8 Privately operated information centers and systems.

Paragraph (c)(5) is amended to allow the public to be charged for items dispensed by vending machines.

Section 752.11 Federal participation.

Paragraph (d) is amended to make the installation, operation, or maintenance of vending machines ineligible for Federal-aid. This ineligibility for Federal assistance includes any modification in existing rest area facilities or any extra work expressly for vending machines in the construction of new facilities.

The FHWA has determined that this document does not contain a major rule under Executive Order 12291 or a significant regulation under the regulatory policies and procedures of the Department of Transportation. Since the amendments in this document are being issued for the purpose of literally complying with Section 111 of the STAA of 1982 and do not reflect interpretation of statutory language, public comment is impracticable and unnecessary. Therefore, the FHWA finds good cause to make the amendments final without notice and opportunity for comment and without a 30-day delay in effective date under the Administrative Procedure Act. Notice and opportunity for comment are not required under the regulatory policies and procedures of the Department of Transportation because it is not anticipated that such action would result in the receipt of useful information since the statutory language incorporated in the regulation requires no interpretation and provides for no administrative discretion. Since the placement of vending machines will be left to the discretion of the individual States and Federal funds will not be involved, the economic impact of this rulemaking document will be minimal, therefore a full regulatory evaluation is not required.

This rule is not subject to section 3504(h) of the Paperwork Reduction Act, 44 U.S.C. 3501, because it does not impose any further collection or reporting requirements on the States.

In consideration of the foregoing and under the authority of section 111, Pub. L. 97–424, 96 Stat. 2106 (23 U.S.C. 111); 23 U.S.C. 315; and 49 CFR 1.48(b), the Federal Highway Administration hereby amends Chapter 1, Part 752 of Title 23, Code of Federal Regulations, as set forth below.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The procedures provided in OMB Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to these programs.)

List of Subject in 23 CFR Part 752

Grant programs—transportation, Highways and roads, Rights-of-way—roadside development, Rights-of-way—safety rest areas, Vending machines.

Issued on: August 16, 1983.

L. P. Lamm,

Deputy Administrator, Federal Highway Administration.

PART 752—LANDSCAPE AND ROADSIDE DEVELOPMENT

1. Section 752.1 is amended by revising the section to read as follows:

§ 752.1 Purpose.

The purpose of this part is to furnish guidelines and prescribe policies regarding landscaping and scenic enhancement programs, safety rest areas, and scenic overlooks under 23 U.S.C. 319; information centers and systems under 23 U.S.C. 131(i); and

vending machines in safety rest areas under 23 U.S.C. 111.

2. Section 752.5 is amended by adding new paragraphs (b) and (c) and redesignating existing paragraphs (b) through (e) as (d) through (g). Also, existing paragraph (e) (herein redesignated as paragraph (g)) is revised. All changes read as follows:

§ 752.5 Safety rest areas.

* * * * *

(b) The State may permit the placement of vending machines in existing or new safety rest areas located on the rights-of-way of the Interstate system for the purpose of dispensing such food, drink, or other articles as the State determines are appropriate and desirable, except that the dispensing by any means, of petroleum products or motor vehicle replacement parts shall not be allowed. Such vending machines shall be operated by the State.

(c) The State may operate the vending machines directly or may contract with a vendor for the installation, operation, and maintenance of the vending machines. In permitting the placement of vending machines the State shall give priority to vending machines which are operated through the State licensing agency designated pursuant to Section 2(a)(5) of the Randolph-Sheppard Act, U.S.C. 107(a)(5).

* * * * *

(g) No charge to the public may be made for goods and services at safety rest areas except for telephone and articles dispensed by vending machines.

3. Section 752.8 is amended by revising paragraph (c)(5) to read as follows:

§ 752.8 Privately operated information centers and systems.

* * * * * *

(c) * * *

(5) No charge to the public may be made for goods or services except telephone and articles dispensed by vending machines.

* * * * *

4. Section 752.11 is amended by adding the following sentence at the end of paragraph (d) to read:

§ 752.11 Federal participation.

* * * * *

(d) * * * Federal-aid funds may not be used for installation, operation, or maintenance of vending machines.

[FR Doc. 83-23381 Filed 8-24-83; 8:45 am]

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DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 701

Availability of Department of the Navy Records and Publication of Department of the Navy Documents Affecting the Public; Amendment

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: This rule sets forth an amended regulation pertaining to the Department of the Navy Privacy Act Program. The rule reflects changes in the Secretary of the Navy Instruction 5211.5 series from which it is derived.

EFFECTIVE DATE: August 25, 1983.

FOR FURTHER INFORMATION CONTACT: Mrs. Gwendolyn R. Aitken (Op-09B1P), Office of the Chief of Naval Operations, Washington, D.C. 20350, Telephone: (202) 694-2004.

SUPPLEMENTARY INFORMATION: Pursuant to the authority cited below, the Department of the Navy amends 32 CFR Part 701, Subpart F and G, derived from the Secretary of the Navy Instruction 5211.5 series which implements within the Department of the Navy the provisions of Department of Defense Directive 5400.11, Department of Defense Privacy Program (32 CFR Part 286a) pertaining to action on requests for release of personal information contained in systems of records under the Privacy Act (5 U.S.C. 552a). It has been determined that invitation of public comment on these changes to the Department of the Navy's implementing instruction prior to adoption would be impracticable and unnecessary, and it is therefore not required under the public rulemaking provisions of 32 CFR Parts 296 andf 701, Subpart E. Interested persons, however, are invited to comment in writing on this amendment. All written comments received will be considered in making subsequent amendments or revisions to 32 CFR Part 701, Subparts F and G, or the instruction upon which it is based. Changes may be initiated on the basis of comments received. Written comments should be addressed to Gwendolyn R. Aitken (Op-09B1P), Office of the Chief of Naval Operations, Washington, DC 20350. It has been determined that this final rule is not a "major rule" within the criteria specified in section 1(b) of Executive Order 12291 and does not have substantial impact on the public.

Lists of Subjects in 32 CFR Part 701

Administrative practice and procedure, Freedom of Information, Privacy.

Accordingly, 32 CFR Part 701, Subparts F and G are amended. Subparts A, B, C, D, and E remain unaffected by this amendment. Subparts F and G are revised to read as follows:

PART 701—AVAILABILITY OF DEPARTMENT OF THE NAVY RECORDS AND PUBLICATION OF DEPARTMENT OF THE NAVY DOCUMENTS AFFECTING THE PUBLIC

* * * * *

Subpart F—Personal Privacy and Rights of Individuals Regarding Their Personal Records

Sec.

701.100 Purpose.
701.101 Scope and effect.
701.102 Policy, responsibilities, and authority.
701.103 Definitions.
701.104 Notification, access, and amendment procedures.
701.105 Disclosure to others and disclosure accounting.
701.106 Collection of personal information from individuals.
701.107 Safeguarding personal information.
701.108 Exemptions.
701.109 Contractors.
701.110 Judicial sanctions.
701.111 Rules of access to agency records.
701.112 Rules for amendment requests.
701.113 Rules of conduct under the Privacy Act.
701.114 Blanket routine uses.

Subpart G—Privacy Act Exemptions

701.115 Purpose.
701.116 Exemption for classified records.
701.117 Exemptions for specific Navy records systems.
701.118 Exemptions for specific Marine Corps records systems.

Subpart F—Personal Privacy and Rights of Individuals Regarding Their Personal Records

Authority: 5 U.S.C. 552a, 32 CFR Part 286a.

§ 701.100 Purpose.

32 CFR Part 701, Subparts F and G delineate revised policies, conditions, and procedures that govern collecting personal information, and safeguarding, maintaining, using, accessing, amending, and disseminating personal information kept by the Department of the Navy in systems of records. They implement 5 U.S.C. 552a (the Privacy Act of 1974), and the Department of Defense Directive 5400.11 series, Personal Privacy and Rights of Individuals Regarding Their Personal Records (DOD Dir. 5400.11) (32 CFR Part 286a), and prescribe:

(a) Procedures whereby individuals can be notified if any system of records contain a record pertaining to them.

(b) Requirements for verifying the identity of individuals who request their records before the records are made available to them.

(c) Procedures for granting access to individuals upon request for their records.

(d) Procedures for reviewing a request from individuals to amend their records, for making determinations on requests, and for appealing adverse determinations.

(e) Procedures for notifying the public of the existence and character of each system of records.

(f) Procedures for disclosing personal information to third parties.

(g) Procedures for exempting systems of records from certain requirements of 5 U.S.C. 552a.

(h) Procedures for safeguarding personal information.

(i) Rules of conduct for the Department of the Navy personnel, who will be subject to criminal penalties for noncompliance with 5 U.S.C. 552a. *See* § 701.113.

§ 701.101 Scope and effect.

(a) *Applicability.* 32 CFR Part 701, Subparts F and G, apply throughout the Department of the Navy, and to any contractor maintaining a system of records to accomplish a Department of the Navy mission. For the purposes of any criminal liabilities adjudged, any contractor and any employee of such contractor shall be considered to be an employee of the Navy Department. Additionally, all requests by individuals for records (located in a system of records) pertaining to themselves which specify either the Freedom of Information Act or the Privacy Act (but not both) shall be treated under the procedures established under the Act specified in the request. When the request specifies, that it be processed under both the Freedom of Information Act and the Privacy Act, Privacy Act procedures should be employed. The individual should be advised that, while the Department of the Navy has elected to process his/her request in accordance with Privacy Act procedures, he/she can be assured that he/she will be provided with all the information that can be released under either the Privacy Act or the Freedom of Information Act. Requests may fall, however, within the scope of other applicable directives as follows:

(1) Requests from an individual about another individual are governed by the provisions of 5 U.S.C. 552 (Freedom of Information Act) and the SECNAVINST 5720.42 series (32 CFR Part 701, Subparts A through D).

(2) Requests by the General Accounting Office for information or records pertaining to individuals, except with respect to the requirement for disclosure accountings as provided in § 701.107(c) are governed by the SECNAVINST 5741.2 series, Relations with the General Accounting Office.

(3) Official and third party requests for information from systems of records controlled by the Office of Personnel Management shall be governed by 5 CFR Parts 293, 294, 297, and the Federal Personnel Manual.

(b) *Other directives.* In case of a conflict, 32 CFR Part 701, Subparts F and G, take precedence over any existing Navy directive that deals with the personal privacy and rights of individuals regarding their personal records, except for disclosure of personal information required by 5 U.S.C. 552 (Freedom of Information Act) and implemented by the SECNAVINST 5720.42 series (32 CFR Part 701, Subparts A through D).

§ 701.102 Policy, responsibilities, and authority

(a) *Policy.* Subject to the provisions of 32 CFR Part 701, Subparts F and G, it is the policy of the Department of the Navy to:

(1) Ensure that all its personnel at all echelons of command or authority comply fully with 5 U.S.C. 552a to protect the privacy of individuals from unwarranted invasions. Individuals covered by this protection are living citizens of the United States or aliens lawfully admitted for permanent residence. A legal guardian of an individual or parent of a minor has the same rights as the individual or minor and may act on the individual's or minor's behalf. (A member of the Armed Forces is not a minor for the purposes of 32 CFR Part 701, Subparts F and G).

(2) Collect, maintain, and use only that personal information needed to support a Navy function or program as authorized by law of Executive order, and disclose this information only as authorized by 5 U.S.C. 552a and 32 CFR Part 701, Subparts F and G. In assessing need, consideration shall be given to alternatives, such as use of information not individually identifible or use of sampling of certain data for certain individuals, only. Additionally, consideration is to be given to the length of time information is needed, and the cost of maintaining the information compared to the risks and adverse consequences of not maintaining the information.

(3) Keep only that personal information that is timely, accurate, complete, and relevant to the purpose for which it was collected.

(4) Let individuals have access to, and obtain copies of, all or any portions of their records, subject to exemption procedures authorized by law and 32 CFR Part 701, Subparts F and G.

(5) Let individuals request amendment of their records when discrepancies proven to be erroneous, or untimely, incomplete, or irrelevant, are noted.

(6) Let individuals request an administrative review of decisions that deny them access to, or refuse to amend their records.

(7) Ensure that adequate safeguards are enforced to prevent misuse, unauthorized disclosure, alteration, or destruction of personal information in records.

(8) Maintain no records describing how an individual exercises his/her rights guaranteed by the First Amendment (freedom of religion, speech, and press; peaceful assemblage; and petition for redress of grievances), unless they are:

(i) Expressly authorized by statute;

(ii) Authorized by the individual about whom the record is maintained;

(iii) Within the scope of an authorized law enforcement activity; or

(iv) For the maintenance of certain items of information relating to religious affiliation for members of the naval service who are chaplains. This should not be construed, however, as restricting or excluding solicitation of information which the individual is willing to have in his/her record concerning religious preference, particularly that required in emergency situations.

(9) Maintain only systems of records which have been published in the **Federal Register.**

(b) *Responsibilities.* (1) The Chief of Naval Operations (Op–09B) is responsible for administering and supervising the execution of 5 U.S.C. 552a and 32 CFR Part 701, Subparts F and G within the Department of the Navy. Additionally, the Chief of Naval Operations (Op–09B) is designated as the principal Privacy Act coordinator for the Department of the Navy.

(2) The Commandant of the Marine Corps is responsible for administering and supervising the execution of 5 U.S.C. 552a and 32 CFR Part 701, Subparts F and G, within the Marine Corps.

(3) Each addressee is responsible for the execution of the requirements of 5 U.S.C. 552a within his/her organization and for implementing and administering a Privacy Act program in accordance

with the provisions of 32 CFR Part 701, Subparts F and G. Each addressee shall designate an official to be Privacy Act coordinator to:

(i) Serve as the principal point of contact on all Privacy Act matters.

(ii) Provide training for activity/command personnel in the provisions of 5 U.S.C. 552a.

(iii) Issue implementing instruction.

(iv) Review internal directives, practices, and procedures, including those for forms and records, for comformity with 32 CFR Part 701, Subparts F and G, when applicable.

(v) Compile and submit input for the annual report and record systems notices.

(vi) Maintain liaison with records-management officials as appropriate (e.g., maintenance and disposal procedures and standards, forms, and reports).

(4) The systems managers are responsible for (with regard to systems of records under their cognizance):

(i) Ensuring that all personnel who in any way have access to the system or who are engaged in the development of procedures or handling records be informed of the requirements of 5 U.S.C. 552a and any unique safeguarding or maintenance procedures peculiar to that system.

(ii) Determining the content of and setting rules for operating the system.

(iii) Ensuring that the system has been published in the **Federal Register** and that any additions or significant changes are prepublished in the **Federal Register**.

(iv) Answering requests for information for individuals.

(v) Keeping accountability records of disclosures.

(vi) Evaluating information proposed for each system for relevance and necessity during the developmental phase of a new system or when an amendment to an existing system is proposed; in addition, annually comparing the system with the records system notice published in the **Federal Register** and considering:

(A) Relationship of each item of information to the statutory or regulatory purpose for which the system is maintained.

(B) Specific adverse consequences of not collecting each category of information.

(C) Possibility of meeting the information requirement through use of information not individually identifiable or through sampling techniques.

(D) Length of time the information is needed.

(E) Cost of maintaining the data compared to the risk or adverse consequences of not maintaining it.

(F) Necessity and relevance of the information to the mission of the command.

(vii) Keeping the Privacy Act coordinator informed of non-routine Privacy Act requests.

(5) Each employee of the Department of the Navy has certain responsibilities for safeguarding the rights of others. Employees shall:

(i) Not disclose any information contained in a system of records by any means of communication to any person, or agency, except as authorized in 32 CFR Part 701, Subparts F and G.

(ii) Not maintain unpublished official files which would fall under the provisions of 5 U.S.C. 552a.

(iii) Safeguard the privacy of individuals and the confidentiality of personal information contained in a system of records.

(iv) Familiarize themselves with the Rules of Conduct. *See* § 701.113.

(c) *Denial authority.* Only the following chief officials, their respective vice commanders, deputies, and those principal assistants specifically designated by the chief official are authorized to deny requests for notification, access, and amendment made under 32 CFR Part 701, Subparts F and G, when the records relate to matters within their respective areas of command, technical, or administrative responsibility, as appropriate:

(1) *For the Navy Department.* The Civilian Executive Assistants; the Chief of Naval Operations; the Commandant of the Marine Corps; the Chief of Naval Material; the Chief of Naval Personnel; the Commanders of Naval Systems Commands; the Commanders of the Naval Intelligence Command, Naval Security Group Command, and Naval Telecommunications Command; the Commander, Naval Medical Command; the Auditor General of the Navy; the Naval Inspector General; the Assistant Deputy Chief of Naval Operations (Civilian Personnel/Equal Employment Opportunity); the Chief of Naval Education and Training; the Chief of Naval Reserve; the Chief of Naval Research; the Commander, Naval Oceanography Command; the Director, Naval Civilian Personnel Command; the heads of Department of the Navy Staff Offices, Boards, and Councils; the Assistant Judge Advocate General (Civil Law); and the Assistant Judge Advocate General (Military Law).

(2) *For the shore establishment.* (i) All officers authorized pursuant to 10 U.S.C. 822, or designated as empowered in section 0103d, JAGINST 5800.7 series, *Manual of the Judge Advocate General,* to convene general courts martial.

(ii) The Director, Naval Investigative Service and the Assistant Commander (Management and Operations), Naval Legal Service Command.

(3) *In the operating forces.* (i) All officers authorized pursuant to 10 U.S.C. 822, or designated as empowered in section 0103d, JAGINST 5800.7 series, *Manual of the Judge Advocate General,* to convene general courts martial.

(d) *Review authority.* (1) The Assistant Secretary of the Navy (Manpower and Reserve Affairs), as the Secretary's designee, shall act upon requests for administrative review of initial denials of requests for amendment of records related to fitness reports and performance evaluations of military personnel.

(2) The Judge Advocate General and the General Counsel, as the Secretary's designees, shall act upon requests for administrative review of initial denials of requests for notification, access, or amendment of records, as set forth in § 701.104 (a), (b), and (c) other than as indicated in paragraph (d)(1) of this section and other than initial denials of requests for notification, access, or amendment of records from civilian Official Personnel Folders or records contained any other Office of Personnel Management (OPM) forms, which will be reviewed by OPM.

(e) The authority of the Secretary of the Navy, as the head of an agency, to request records subject to the 5 U.S.C. 552a from an agency external to the Department of Defense for civil or criminal law enforcement purposes, pursuant to subsection (b)(7) of 5 U.S.C. 552a, is delegated to the Commandant of the Marine Corps, the Director of Naval Intelligence, the Judge Advocate General, and the General Counsel.

§ 701.103 Definitions.

For the purposes of 32 CFR Part 701, Subparts F and G, the following meanings apply:

(a) *Access.* Reviewing or obtaining copies by individuals of records that pertain to themselves, or by agents designated by the individuals, or by individual's legal guardians, that are a part of a system of records.

(b) *Agency.* For purposes of disclosing records, the Department of Defense is an "agency". For all other purposes, including applications for access, appeals from denials, exempting systems of records, etc., the Department of the Navy is the "agency".

(c) *Confidential source.* Any individual or organization that has given information to the Federal government under: (1) An express promise that the identity of the source would be

withheld, or (2) an implied promise to withhold the identity of the source made before 27 September 1975.

(d) *Disclosure.* The conveyance of information about an individual, by any means of communication, to an organization or to an individual who is not the subject of the record. In the context of the 5 U.S.C. 552a and 32 CFR Part 701, Subparts F and G, this term only applies to personal information that is part of a system of records.

(e) *Individual.* A living citizen of the United States, or an alien lawfully admitted for permanent residence; or a member of the United States naval service, including a minor. Additionally, the legal guardian of an individual or a parent of a minor has the same rights as the individual, and may act on behalf of the individual concerned under 32 CFR Part 701, Subparts F and G. Members of the naval service, once properly accepted, are not minors for purposes of 32 CFR Part 701, Subparts F and G. The use of the term "individual" does not, however, vest rights in the representatives of decedents to act on behalf of the decedent under 32 CFR Part 701, Subparts F and G (except as specified in § 701.105(b), nor does the term embrace individuals acting in an entrepreneurial capacity (e.g., sole proprietorships and partnerships).

(f) *Maintain.* When used in the context of records on individuals, includes collect, file or store, perserve, retrieve, update of change, use, or disseminate.

(g) *Official use.* Within the context of 32 CFR Part 701, Subparts F and G, this term encompasses those instances in which officials and employees of the Department of the Navy have a demonstrated need for use of any record to complete a mission or function of the Department, or which is prescribed or authorized by a directive.

(h) *Personal information.* Information about an individual that is intimate or private to the individual, as distinguished from information related solely to the individual's official functions or public life.

(i) *Privacy Act request.* A request from an individual for information about himself/herself concerning the existence of, access to, or amendment of records that are located in a system of records. (The request must cite or reasonably imply that it is pursuant to 5 U.S.C. 552a).

(j) *Record.* Any item, collection, or grouping of information about an individual that is maintained by or for the Department of the Navy or by an element of the Navy Department, operating forces, or shore establishment, including, but not limited to, the individual's education, financial transactions, medical history, and criminal or employment history, and that contains his/her name, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph.

(k) *Risk assessment.* The application of steps in an analysis which considers information sensitivity, vulnerability, and cost to a computer facility or word processing center computerized system, periodically, to select economically, feasible safeguards.

(l) *Routine use.* The disclosure of a record or the use of such record for a purpose which is compatible with the purpose for which the records were collected. Routine use encompasses not only common and ordinary uses but also all proper and necessary uses of the record even if any such use occurs infrequently.

(m) *Statistical record.* A record maintained for statistical research or reporting purposes only, which may not be used in whole or in part in making any determination about an identifiable individual.

(n) *System of records.* A group of records from which information "is", as opposed to "can be", retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual. The capability to retrieve information by personal identifiers alone does not subject a system of records to 5 U.S.C. 552a and 32 CFR Part 701, Subparts F and G.

(o) *System manager.* That official who has overall responsibility for records within a particular system. He/she may serve at any level in the Department of the Navy. Systems managers are indicated in the published record systems notices. If more than one official is indicated as a system manager, initial responsibility resides with the manager at the appropriate level (e.g., for local records, at the local activity).

(p) *Working day.* All days excluding Saturday, Sunday, and legal holidays.

§ 701.104 Notification, access, and amendment procedures.

(a) *General*—(1) *Summary of requirement.* (i) Notification procedures are provided under subsection (e)(4) of 5 U.S.C. 552a to enable an individual to ascertain from the appropriate system manager whether or not a particular system of records contains information pertaining to him/her. If the system does contain such a record, the individual may request access to the record, pursuant to subsection (d)(1) of 5 U.S.C. 552a, to ascertain the contents. Amendment procedures are provided under subsections (d)(2) and (3) of 5 U.S.C. 552a, to enable the individual to seek correction or deletion of information about himself/herself in the record which he/she considers to be erroneous. If a request for amendment is denied after a final determination, the individual may file a "statement of dispute," to be noted in the pertinent records and to be shown in connection with disclosures of such records. Individuals have a statutory right to obtain administrative review of denials of requests for amendment, and by 32 CFR Part 701, Subparts F and G, are accorded the right to obtain similar review of denials of requests for notification and access.

(ii) The provisions of this section apply to requests by individuals, or their authorized representatives, for records pertaining to themselves that are contained in systems of records. 32 CFR Part 701, Subparts F and G, does not, however, require that an individual be given notification or access to a record that is not retrieved by name or other individual identifier. Requests for amendment of records contained in a system of records will normally be processed in accordance with 32 CFR Part 701, Subparts F and G, unless: (A) They are routine requests for administrative corrections not specifying that they are not made under 32 CFR Part 701, Subparts F and G or 5 U.S.C. 552a, or (B) they are requests addressed to the Board for Correction of Naval Records, which is governed by other authority.

(2) *System rules.* Systems managers are responsible for ensuring that, for each system of records maintained, a records system notice is published in the **Federal Register**, stating the procedures by which an individual may be notified whether the system contains records pertaining to him/her. Additionally, systems managers are responsible for establishing, and making available to individuals upon request, rules applicable to requests for access or amendment of records within each system. Such rules must conform to the requirements of 32 CFR Part 701, Subparts F and G, and to matters indicated in §§ 701.111 and 701.112. In addition, they should contain the following:

(i) A statement of custodial officials other than the system manager, if any, authorized to grant requests for notification or access;

(ii) The minimum formal requirements for requests, including applicable requirements for requests to be reduced to writing; and, in the case of a request

to provide the requester's records directly to an authorized representative who is other than the parent of a minor, or other legal guardian—an authorization signed within the past 45 days specifying the records to be released and the recipient of the records (notarized authorizations may be required if the sensitivity of the information in the records warrants);

(iii) The information which should be provided by the individual to assist in identifying relevant systems of records and the individual identifiers (e.g., full name, social security number, etc.) needed to locate records in the particular system; and,

(iv) The requirements for verifying the requester's identity, to which the following policies apply:

(A) Prior to being given notification or access to personal information, an individual is required to provide reasonable verification of his/her identity. No verification of identity, however, shall be required of an individual seeking notification or access to records which are otherwise available to any member of the public under 32 CFR Part 701, Subparts A through D.

(B) In the case of an individual who seeks notification, access, or amendment in person, verification of identity will normally be made from those documents that an individual is likely to have readily available, such as an employee or military identification card, driver's license, or medical card.

(C) When notification, access, or amendment is requested by mail, verification of identity may be obtained by requiring the individual to provide certain minimum identifying data, such as date of birth and some item of information in the record that only the concerned individual would likely know. If the sensitivity of the information in the record warrants, a signed and notarized statement of identity may be required.

(D) When a record has already been identified, an individual shall not be denied notification or access solely for refusing to disclose his/her social security number.

(3) *Responsibilities for action on initial requests.* (i) Subject to the provisions of this paragraph and the applicable system manager's rules, requests for notification and access may be granted by officials having custody of the records, even if they are not systems managers or denial authorities. Requests for amendment may be granted by the cognizant system manager. Denials of initial requests for notification, access, or amendment of records under 32 CFR Part 701, Subparts F and G, however, may be made only by those officials designated as denial authorities under § 701.102(c).

(ii) Investigative/non-investigative records.

(A) Copies of investigative records that are compiled by an investigative organization, but are in the temporary custody of another organization, which is holding the record for disciplinary, administrative, judicial, investigative, or other purposes, are the records of the originating investigative organization. Upon completion of the official action, the investigative reports are required to be destroyed or returned, in accordance with the instructions of the originating investigative activity. Individuals seeking notification or access, or making other requests under 32 CFR Part 701, Subparts F and G, concerning such records, shall be directed to the originating investigative organization. For example, a request for notification or access to a Naval Investigative Service report in the temporary custody of another activity should be forwarded directly to the Director, Naval Investigative Service.

(B) Copies of non-investigative records (including medical and/or personnel) located in the files of another agency must be referred for release determination. The originating agency may either authorize the records' release by the agency that located them or request that they be referred for processing. The individual requesting his/her records will be notified of records referred for processing.

(4) *Blanket requests not honored.* Requests seeking notification and/or access concerning all systems of records within the Department of the Navy, or a component thereof, shall not be honored. Individuals making such requests shall be notified that: (i) Requests for notification and/or access must be directed to the appropriate system manager for the particular record system, as indicated in the current **Federal Register** systems notices (a citation should be provided), and (ii) requests must either designate the particular system of records to be searched, or provide sufficient information for the system manager to ascertain the appropriate system. Individuals should also be provided with any other information needed for obtaining considertion of their requests.

(5) *Criteria for determinations.* (i) As further explained in § 701.108, portions of designated records systems (indicated in subpart G of this part) are exempt, in certain circumstances, from the requirement to provide notification, access, and/or amendment. Only denial authorities (and the designated review authority) may exercise an exemption and deny a request, and then only in cases where there is specifically determined to be a significant and legitimate governmental purpose served by denying the request. A request for notification may be denied only when an applicable exemption has been exercised by a denial or review authority. A request for access may be denied by a denial or review authority, in whole or part, on the basis of the exercise of an applicable exemption or for the reasons set forth in paragraph (a)(5) (ii) or (iii) of this section.

(ii) Where a record has been compiled in reasonable anticipation of a civil action or proceeding, a denial authority (or the designated review authority) may deny an individual's request for access to that record pursuant to subsection (d)(5) of 5 U.S.C. 552a: *Provided,* That there is specifically determined to be a significant and legitimate governmental purpose to be served by denying the request. Consultation with the Office of the Judge Advocate General, Office of General Counsel, or other originator, as appropriate, is required prior to granting or denying access to attorney-advice material. This includes, but is not limited to, legal opinions.

(iii) As indicated in § 701.103(e), where a record pertains to an individual who is a minor, the minor's parent or legal guardian is normally entitled to obtain notification concerning, and access to, the minor's record, pursuant to the provisions of this section. When, however, an applicable law or regulation prohibits notification to, or access by, a parent or legal guardian with respect to a particular record, or portions of a record, pertaining to a minor, the provisions of the governing law or regulation and § 701.105, shall govern disclosures of the existence or contents of such records to the minor's parent or legal guardian. (Members of the naval service, once properly accepted, are not minors for the purposes of 32 CFR Part 701, Subparts F and G.)

(iv) Subject to the provisions of this section, a medical record shall be made available to the individual to whom it pertains unless, in the judgment of a physician, access to such record could have an adverse effect upon the individual's physical or mental health. When it has been determined that granting access to medical information could have an adverse affect upon the individual to whom it pertains, the individual may be asked to name a physician to whom the information shall then be transmitted. This shall not be deemed a denial of a request for access.

(6) *Time requirements for making acknowledgements and determinations.* (i) A request for notification, access, or amendment of a record shall be acknowledged in writing within 10 working days (Saturdays, Sundays, and legal holidays excluded) of receipt by the proper office. The acknowledgement shall clearly identify the request and advise the individual when he/she may expect to be advised of action taken on the request. No separate acknowledgement of receipt is necessary if a request for notification or access can be acted upon, and the individual advised of such action, within the 10 working-day period. If a request for amendment is presented in person, written acknowledgement may be provided at the time the request is presented.

(ii) Determinations and required action on initial requests for notification, access or amendment of records shall be completed, if reasonably possible, within 30 working days of receipt by the cognizant office.

(b) *Notification procedures.* (1) *Action upon receipt of request.* Subject to the provisions of this section, upon receipt of an individual's initial request for notification, the system manager or the other appropriate custodial official shall acknowledge the request as required by paragraph (a)(6)(i) of this section, and take one of the following actions:

(i) If consideration cannot be given to the request, because:

(A) The individual's identity is not satisfactorily verified;

(B) The record system is not adequately identified, or the individual has not furnished the information needed to locate a record within the system; or

(C) The request is erroneously addressed to an official having no responsibility for the record or system of records in question;

Inform the individual of the correct means, or additional information needed, for obtaining consideration of his/her request for notification.

(ii) Notify the individual, in writing, whether the system of records contains a record pertaining to him/her (a notification that a system of records contains no records pertaining to the individual shall not be deemed a denial);

(iii) If it is determined that notification should be denied under an available exemption and the official is not a denial authority, forward the request to the cognizant denial authority, with a copy of the requested record, and comments and recommendations concerning disposition; or

(iv) If the official is a denial authority, take the appropriate action prescribed in paragraph (b)(2) of this section.

(2) *Action by denial authority.* (i) If the denial authority determines that no exemption is available or that an available exemption should not be exercised, he/she shall provide the requested notification, or direct the system manager or appropriate custodial official to do so.

(ii) If the denial authority determines that an exemption is applicable and that denial of the notification would serve a significant and legitimate governmental purpose (e.g., avoid interfering with an on-going law enforcement investigation), he/she shall promptly send the requesting individual an original and one copy of a letter stating that no records from the systems of records specified in the request are available to the individual under the 5 U.S.C. 552a. The letter shall also inform the individual that he/she may request further administrative review of the matter within 120 days from the date of the denial letter, by letter to the:

Judge Advocate General (Code 14),
Department of the Navy, 200 Stovall Street,
Alexandria, VA 22332

The individual shall be further informed that a letter requesting such review should contain the enclosed copy of the denial letter and a statement of the individual's reasons for requesting the review.

(iii) A copy of the letter denying notification shall be forwarded directly to the Chief of Naval Operations (Op–09B1) or the Commandant of the Marine Corps (Code M), as appropriate. These officials shall maintain copies of all denial letters in a form suitable for rapid retrieval, periodic statistical compilation, and management evaluation.

(3) *Action by reviewing authority.* Upon receipt of a request for review of a determination denying an individual's initial request for notification, the Judge Advocate General shall obtain a copy of the case file from the denial authority, review the matter, and make a final administrative determination. That official is designated to perform such acts as may be required by or on behalf of the Secretary of the Navy to accomplish a thorough review and to effectuate the determination. Within 30 working days of receipt of the request for review, whenever practicable, the Judge Advocate General shall inform the requesting individual, in writing, of the final determination and the action thereon. If the final determination is to grant notification, the Judge Advocate General may either provide the notification or direct the system manager to do so. If the final determination is to deny notification, the individual shall be informed that it has been determined upon review that there are no records in the specified systems of records that are available to him/her under the Privacy Act.

(c) *Access procedures*—(1) *Fees.* When a copy of a record is furnished to an individual in response to a request for access, he/she will normally be charged duplication fees only. When duplication costs for a Privacy Act request total less than $30, fees may be waived automatically. Normally, only one copy of any record or document will be provided.

(i) Use the following fee schedule:

Office copy (per page)	$.10
Microfiche (per fiche)	.25

(ii) Checks or money orders to defray fees/charges should be made payable to the Treasurer of the United States and deposited to the miscellaneous receipts of the treasury account maintained at the finance office servicing the activity.

(iii) Do not charge fees for:

(A) Performing record searches.

(B) Reproducing a document for the convenience of the Navy.

(C) Reproducing a record in order to let a requester review it if it is the only means by which the record can be shown to him/her (e.g., when a copy must be made in order to delete information).

(D) Copying a record when it is the only means available for review.

(2) *Action upon receipt of request.* Subject to the provisions of this section, upon receipt of an individual's initial request for access, the system manager or other appropriate custodial official shall acknowledge the request as required by paragraph (a)(6)(i) of this section, and take one of the following actions:

(i) If consideration cannot be given to the request because:

(A) The individual's identity is not satisfactorily verified;

(B) The record system is not adequately identified or the individual has not furnished the information needed to locate a record within a system; or

(C) The request is erroneously addressed to an official not having responsibility for granting access to the record or system of record in question;

Inform the individual of the correct means, or additional information needed, for obtaining consideration or his/her request for access.

(ii) If it is determined that the individual should be granted access to

the entire record requested, the official shall inform the individual, in writing, that access is granted, and shall either:

(A) Inform the individual that he/she may review the record at a specified place and at specified times, that he/she may be accompanied by a person of his/her own choosing to review the record (in which event he/she may be asked to furnish written authorization for the record to be discussed in the accompanying person's presence), and that he/she may further obtain a copy of the record upon agreement to pay a duplication fee; or

(B) Furnish a copy of the record, if the individual requested that a copy be sent and agreed in advance to pay duplication fees unless such fees are waived.

(iii) If it is necessary to deny the individual access to all or part of the requested record, and,

(A) The official is not a denial authority—forward the request to the cognizant denial authority, with a copy of the requested record, and comments and recommendations concerning disposition; or

(B) The official is a denial authority—take the action prescribed in paragraph (c)(3) (ii) or (iii) of this section.

(3) *Action by denial authority*—(i) If the denial authority determines that access should be granted to the entire record, he/she shall promptly make it available to the requesting individual in the manner prescribed in paragraph (c)(2)(ii) of this section, or direct the system manager to do so.

(ii) If the denial authority determines that access to the entire record should be denied under the criteria specified in paragraph (a)(5) (i), (ii), or (iii) of this section, he/she shall promptly send the requesting individual an original and one copy of a letter informing the individual of the denial of access and the reasons therefor, including citation of any applicable exemptions and a brief discussion of the significant and legitimate governmental purpose(s) served by the denial of access. The denial letter shall also inform the individual that he/she may request further administrative review of the matter within 120 days from the date of the denial letter, by letter:

(A) If the record is from a civilian Official Personnel Folder or is contained on any other OPM form, to:

Director, Bureau of Manpower, Information Systems, Office of Personnel Management, 1900 E. Street, NW., Washington, D.C. 20415; or

(B) If the record pertains to the employment of a present or former Navy civilian employee, such as, Navy civilian personnel records or an employee's grievance or appeal file, to:

General Counsel, Department of the Navy, Washington, D.C. 20360; or

(C) If for any other record, to:

Judge Advocate General (Code 14), Department of the Navy, 200 Stovall Street, Alexandria, VA 22332.

The individual shall be further informed that a letter requesting such review should contain the enclosed copy of the denial letter and a statement of the individual's reasons for seeking review of the initial determination.

(iii) A copy of the denial letter shall be forwarded directly to the Chief of Naval Operations (Op-09B1) or the Commandant of the Marine Corps (Code M), as provided in paragraph (b)(2)(iii) of this section.

(iv) If the denial authority determines that access to portions of the record should be denied under the criteria specified in paragraph (a)(5)(i), (ii), (iii) of this section, he/she shall promptly make an expurgated copy of the record available to the requesting individual and issue a denial letter as to the portions of the record that are required to be deleted.

(4) *Action by reviewing authority.* Upon receipt of a request for review of a determination denying an individual's initial request for access, the Judge Advocate General or the General Counsel shall obtain a copy of the case file from the denial authority, review the matter, and make a final administrative determination. He/she is designated to perform such acts as may be required by or on behalf of the Secretary of the Navy to accomplish a thorough review and to effectuate the determination.

(i) Within 30 days of receipt of the request for review, if practicable, the Judge Advocate General or the General Counsel shall inform the requesting individual, in writing, of the final determination and the action thereon.

(ii) If such a determination has the effect of granting a request for access, in whole or in part, the Judge Advocate General or the General Counsel may either provide access in accordance with paragraphs (c)(2)(ii)(A) or (B) of this section, or direct the system manager to do so.

(iii) If the final determination has the effect of denying a request for access, in whole or part, the individual shall be informed of the reason(s) and statutory basis for the denial—including regulatory citations for any exemption exercised and an explanation of the significant and legitimate governmental purpose served by exercising the exemption—and his/her rights to seek judicial review.

(iv) If the determination is based, in whole or part, on a security classification, the individual shall be apprised of the matters set forth in § 701.9(d)(4)(ii) of this part relating to declassification review and appeal.

(d) *Amendment procedures*—(1) *Criteria for determinations on requests for amendment.*

(i) As further explained in § 701.108, many of the systems of records listed in Subpart G of this part, are exempt, in part, from amendment requirements. Such exemptions, where applicable, may be exercised only by denial authorities (and by the designated review authorities upon requests for review of initial denials), and then only in cases where there is specifically determined to be a significant and legitimate governmental purpose to be served by exercising the exemption.

(ii) If an available exemption is not exercised, an individual's request for amendment of a record pertaining to himself/herself shall be granted if it is determined, on the basis of the information presented by the requester and all other reasonably available related records, that the requested amendment is warranted in order to make the record sufficiently accurate, relevant, timely, and complete as to ensure fairness in any determination which may be made about the individual on the basis of the record. If the requested amendment would involve the deletion of particular information from the record, the information shall be deleted unless it is determined that—in addition to being accurate, relevant to the individual, timely, and complete—the information is relevant and necessary to accomplish a purpose or function required to be performed by the Department of the Navy pursuant to a statute or Executive order.

(iii) The foregoing is not intended to permit the alteration of evidence presented in the course of judicial or quasi-judicial proceedings. Any changes in such records should be made only through the procedures established for changing such records. These provisions are also not designed to permit collateral attack upon that which has already been the subject of a judicial or quasi-judicial action. For example, an individual would not be permitted to challenge a courts-martial conviction under this instruction, but the individual would be able to challenge the accuracy with which a conviction has been recorded in a record.

(iv) The procedures in paragraph (d) of this section, may be applied to requests for amendments of records contained in a system of records:

Provided, That it can be identified and located.

(2) *Action upon receipt of request.* Subject to the provisions of this section, upon recept of an individual's initial request to amend a record, the system manager (or official occupying a comparable position with respect to a record not contained in a system of records) shall acknowledge the request in the manner prescribed by paragraph (a)(6)(i) of this section, and, within 30 days, if reasonably possible, take one of the following actions:

(i) If consideration cannot be given to the request because:

(A) The individual's identity is not satisfactorily verified:

(B) The individual has not furnished the information needed to locate the record;

(C) The individual has not provided adequate information as to how or why the record should be amended; or

(D) The request is erroneously addressed to an official having no responsibility for the record or systems of records in question;

Inform the individual of the correct means or additional information needed for obtaining consideration of his/her request for amendment (a request may not be rejected, nor may the individual be required to resubmit his/her request, unless this is essential for processing the request).

(ii) If the system manager determines that the individual's request to amend a record is warranted under the criteria in paragraph (d)(1) of this section, he/she shall promptly amend the record and advise the individual, in writing, of that action and its effect. (The system manager also should attempt to identify other records under his/her responsibility affected by the requested amendment, and should make other necessary amendments, accordingly.) Amendments to records should be made in accordance with existing directives and established procedures for changing records, if applicable and consistent with 32 CFR Part 701, Subpart F. The system manager shall advise previous recipients of the record from whom a disclosure accounting has been made that the record has been amended, and of the substance of the correction.

(iii) If the system manager is a denial authority, and denial of the request for amendment, in whole or part, is warranted, take the appropriate action prescribed in paragraph (d)(3)(ii) or (iii) of this section; or

(iv) If the system manager is not a denial authority, but denial of the request for amendment, in whole or part, appears to be warranted, forward the request to the cognizant denial authority with a copy of the disputed record, and comments and recommendations concerning disposition.

(3) Action by denial authority. (i) If the denial authority determines that amendment of the record is warranted under the criteria in paragraph (d)(1) of this section, he/she shall direct the system manager to take the action prescribed in paragraph (d)(2)(ii) of this section.

(ii) If the denial authority determines that amendment of the record is not warranted under the criteria in paragraph (d)(1) of this section, he/she shall promptly send the requesting individual an original and one copy of a letter informing him/her of the denial of the request and the reason(s) for the denial, including a citation of any exemption exercised and a brief discussion of the significant and legitimate governmental purpose(s) served by exercising the exemption. The denial letter shall inform the individual that he/she may request further administrative review of the matter, as follows:

(A) If the record is a fitness report or performance evaluation (including proficiency and conduct marks) from a military personnel file—by letter, within 120 days from the date of the denial letter, to:

Assistant Secretary of the Navy (Manpower and Reserve Affairs), Department of the Navy, Washington, D.C. 20350; or

(b) If the record is from a civilian Official Personnel Folder or is contained in any other Office of Personnel Management form—by letter, within 120 days from the date of the denial letter, to:

Director, Bureau of Manpower Information Systems, Office of Personnel Management, 1900 E. Street, NW., Washington, D.C. 20415; or

(C) If the record pertains to the employment of a present or former Navy civilian employee, such as, Navy civilian personnel records or an employee's grievance or appeal file—by letter, within 120 days from the date of the denial letter, to:

General Counsel, Department of the Navy, Washington, D.C. 20360.

(D) For any other record—by letter, within 120 days from the date of the denial letter, to:

Judge Advocate General (Code 14), Department of the Navy, 200 Stovall Street, Alexandria, VA 22332.

The individual shall be further informed that a letter requesting such review should contain the enclosed copy of the denial letter and a statement of the reasons for seeking review of the initial determination denying the request for amendment. A copy of the denial letter shall be forwarded to the Chief of Naval Operations or the Commandant of the Marine Corps, as provided in paragraph (b)(2)(ii) of this section.

(iii) If the denial authority determines that a request for amendment of a record should be granted in part and denied in part, he/she shall take the action prescribed in paragraph (d)(3)(ii) of this section with respect to the portion of the request which is denied.

(4) *Action by reviewing authority.* Upon receipt of a request for review for a determination denying an individual's initial request for amendment of a record, the Assistant Secretary of the Navy (Manpower and Reserve Affairs), the General Counsel, or the Judge Advocate General, as appropriate, shall obtain a copy of the case file from the denial authority, review the matter, and make a final administrative determination, either granting or denying amendment, in whole or in part. Those officials are designated to perform such acts as may be required by or on behalf of the Secretary of the Navy to accomplish a thorough review and effectuate the determination.

(i) Within 30 working days of receipt of the request for review, the designated reviewing official shall inform the requesting individual, in writing, of the final determination and the action thereon, except that the Assistant Secretary of the Navy (Manpower and Reserve Affairs) may authorize an extension of the time limit where warranted because a fair and equitable review cannot be completed within the prescribed period of time, or for other good cause. If an extension is granted, the requesting individual shall be informed, in writing, of the reason for the delay, and the approximate date on which the review will be completed and the final determination made.

(ii) If, upon completion of review, the reviewing official determines that denial of the request of amendment is warranted under the criteria in paragraph (d)(1) of this section, the individual shall be informed, in writing:

(A) Of the final denial of the request for amendment of the record, and the reason(s) therefor;

(B) Of the right to file with the appropriate system manager a concise statement of the individual's reason(s) for disagreeing with the decision of the agency, and that such statement of dispute must be received by the system manager within 120 days following the

date of the reviewing authority's final determination;

(C) Of other procedures for filing such statement of dispute, and that a properly filed statement of dispute will be made available to anyone to whom the record is subsequently disclosed, together with, if deemed appropriate, a brief statement summarizing the reason(s) why the Department of the Navy refused the request to amend the record;

(D) That prior recipients of the disputed record, to the extent that they can be ascertained from required disclosure accountings, will be provided a copy of the statement of dispute and, if deemed appropriate, a brief statement summarizing the reason(s) why the Department of the Navy refused the request to amend the record; and

(E) Of his/her right to seek judicial review of the reviewing authority's refusal to amend a record.

(iii) If the reviewing official determines upon review that the request for amendment of the record should be granted, he/she shall inform the requesting individual of the determination, in writing, and he/she shall direct the system manager to amend the record accordingly, and to inform previous recipients of the record for whom disclosure accountings have been made that the record has been amended and the substance of the correction.

(5) *Statements of dispute.* When an individual properly files a statement of dispute under the provisions of paragraphs (d)(4)(ii) (B) and (C) of this section, the system manager shall clearly annotate the record so that the dispute is apparent to anyone who may subsequently access, use, or disclose it. The notation itself should be integral to the record. For automated systems of records, the notation may consist of a special indicator on the entire record or on the specific part of the record in dispute. The system manager shall advise previous recipients of the record for whom accounting disclosure has been made that the record has been disputed, if the statement of dispute is germane to the information disclosed, and shall provide a copy of the individual's statement, together with, if deemed appropriate, a brief statement summarizing the reason(s) why the Department of the Navy refused the request to amend the record.

(i) The individual's statement of dispute need not be filed as an integral part of the record to which it pertains provided the record is integrally annotated as required above. It shall, however, be maintained in such a manner as to permit ready retrieval whenever the disputed portion of the record is to be disclosed. When information which is the subject of a statement of dispute is subsequently disclosed, the system manager shall note that the information is disputed, and provide a copy of the individual's statement of dispute.

(ii) The system manager may include a brief summary of the reasons for not making an amendment when disclosing disputed information. Summaries normally will be limited to the reasons stated to the individual. Although these summaries may be treated as part of the individual's record, they will not be subject to the amendment procedures of this section.

§ 701.105 Disclosure to others and disclosure accounting.

(a) *Summary of requirements.* Subsection (b) of 5 U.S.C. 552a prohibits an agency from disclosing any record contained in a system of records to any person or agency, except pursuant to the written request or consent of the individual to whom the record pertains, unless the disclosure is authorized under one or more of the 11 exceptions noted in paragraph (b) of this section. Subsection i(1) of 5 U.S.C. 552a outlines criminal penalties (as prescribed in 32 CFR 701.110) for personnel who knowingly and willfully make unauthorized disclosures of information about individuals from an agency's records. Subsection (c) of 5 U.S.C. 552a requires accurate accountings to be kept, as prescribed in paragraph (c) of this section, in connection with most disclosures of a record pertaining to an individual (including disclosures made pursuant to the individual's request or consent). This is to permit the individual to determine what agencies or persons have been provided information from the record, enable the agency to advise prior recipients of the record of any subsequent amendments or statements of dispute concerning the record, and provide an audit trail for review of the agency's compliance with 5 U.S.C. 552a.

(b) *Conditions of disclosure.* No record contained in a system of records shall be disclosed, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains, unless disclosure of the record falls within one of the exceptions. Where the record subject is mentally incompetent, insane, or deceased, no medical record shall be disclosed except pursuant to a written request by, or with the prior written request of, the record subject's next of kin or legal representative, unless disclosure of the record falls within one of the exceptions. Disclosure to third parties on the basis of the written consent or request of the individual is permitted, but not required, by 32 CFR Part 701, Subparts F and G.

(1) *Intra-agency.* Disclosure may be made to personnel of the Department of the Navy or other components of the Department of Defense (DOD) (including private contractor personnel who are engaged to perform services needed in connection with the operation of a system of records for a DOD component), who have a need for the record in the performance of their duties, provided this use is compatible with the purpose for which the record is maintained. This provision is based on the "need to know" concept.

(i) This may include, for example, disclosure to personnel managers, review boards, discipline officers, courts-martial personnel, medical officers, investigating officers, and representatives of the Judge Advocate General, Auditor General, Naval Inspector General, or the Naval Investigative Service, who require the information in order to discharge their official duties. Examples of personnel outside the Navy who may be included are: Personnel of the Joint Chiefs of Staff, Armed Forces Entrance and Examining Stations, Defense Investigative Service, or the other military departments, who require the information in order to discharge an official duty.

(ii) It may also include the transfer of records between Naval components and non-DOD agencies in connection with the Personnel Exchange Program (PEP) and inter-agency support agreements. Disclosure accountings are not required for intra-agency disclosure and disclosures made in connection with interagency support agreements or the PEP. Although some disclosures authorized by paragraph (b) of this section might also meet the criteria for disclosure under other exceptions specified in paragraphs (b)(2) through (12) of this section, they should be treated under paragraph (b)(1) of this section for disclosure accounting purposes.

(2) *Freedom of Information Act.* Disclosure may be made of those records, or information obtained from records, required to be released under the provisions of 5 U.S.C. 552 and 32 CFR Subparts A through D. Disclosure accountings are not required when information is disclosed under the Freedom of Information Act. That act has the general effect of requiring the release of any record which does not fall within one of the nine exemptions specified in Subpart A, § 701.5(b)(4)(ii), including an exemption for records

which, if disclosed, would result in a clearly unwarranted invasion of the personal privacy of an individual. The phrase "clearly unwarranted invasion of personal privacy" states a policy which balances the interest of individuals in protecting their personal affairs from public scrutiny against the interest of the public having available information relating to the affairs of government. The interests of the recipient or of society must be weighed against the degree of the invasion of privacy. Numerous factors must be considered such as: The nature of the information to be disclosed (i.e., Do individuals normally have an expectation of privacy in the type of information to be disclosed?); importance of the public interest served by the disclosure and probability of further disclosure which may result in an unwarranted invasion of privacy; relationship of the requester to the public interest being served; newsworthiness of the individual to whom the information pertains (e.g., high ranking officer, public figure); degree of sensitivity of the information from the standpoint of the individual or the individual's family, and its potential for being misused to the harm, embarrassment, or inconvenience of the individual or the individual's family; the passage ot time since the event which is the topic of the record (e.g., to disclose that an individual has been arrested and is being held for trial by court-martial is normally permitted, while to disclose an arrest which did not result in conviction might not be permitted after the passage of time); and the degree to which the information is already in the public domain or is already known by the particular requester. Examples of information pertaining to civilian personnel, which normally are released without an unwarranted invasion of privacy are: Name, grade, date of grade, gross salary, present and past assignments, future assignments which have been finalized, and office phone number. Disclosure of other personal information pertaining to civilian employees shall be made in accordance with 5 CFR Parts 293, 294, 297, and the Federal Personnel Manual. Determinations as to disclosure of personal information regarding military personnel shall be made using the same balancing test as explained above. The following are examples of information concerning military personnel which can normally be released without the consent of the individual upon request, as they are a matter of public record: name, rank, gross salary, present and past duty assignments, future assignments which are finalized, office phone number, source of commission, promotion sequence number, awards and decorations, education (major area of study, school, year of education, and degree), duty status at any given time, date of birth, marital status, and number, names, sex and ages of dependents.

(i) Disclosure of home addresses and home telephone numbers without permission shall normally be considered a clearly unwarranted invasion of personal privacy. Accordingly, disclosure pursuant to 5 U.S.C. 552 is normally prohibited. Requests for home addresses (includes barracks and Government-provided quarters) may be referred to the last known address of the individual for reply at the person's discretion. In such cases, requesters will be notified accordingly.

(ii) Disclosure is premitted pursuant to the balancing test when circumstances of a case weigh in favor of disclosure. Disclosure of home address to individuals for the purpose of initiating court proceedings for the collection of alimony or child support, and to state and local tax authorities for the purpose of enforcing tax laws, are examples of circumstances where disclosure could be appropriate. However, care must be taken prior to release to ensure that a written record is prepared to document the reasons for the release determination.

(iii) Lists or compilations of names and home addresses, or single home addresses will not be disclosed without the consent of the individual involved, to the public including, but not limited to, individual Members of Congress, creditors, and commercial and financial institutions. Requests for home addresses may be referred to the last known address of the individual for reply at the individual's discretion and the requester will be notified accordingly. This prohibition may be waived when circumstances of a case indicate compelling and overriding interests of the individual involved.

(iv) An individual shall be given the opportunity to elect not to have his/her home address and telephone number listed in a Navy activity telephone directory. The individual shall also be excused from paying additional cost that may be involved in maintaining an unlisted number for Government-owned telephone services if the individual complies with regulations providing for such unlisted numbers. However, the exclusion of a home address and telephone number from a Navy activity telephone directory does not apply to the mandatory listing of such information on a command's recall roster.

(v) Commands are permitted to disclose, to *military personnel within the command only*, the results of and the names of individuals receiving non-judicial punishment. Such disclosure is not considered to be a violation of 5 U.S.C. 552a.

(3) *Routine use.* Disclosure may be made for a "routine use" (as defined in § 701.103(k)) that is compatible with the purpose for which the record is collected and listed as a routine use in the applicable record system notice published in the **Federal Register**. Routine use encompasses the specific ways or processes in which the information is used, including the persons or organizations to whom the record may be disclosed, even if such use occurs infrequently. In addition to the routine uses established by the Department of the Navy for each system of records, common blanket routine uses, applicable to all record systems maintained within the Department of the Navy, have been established. *See* § 701.114. In the interest of simplicity and economy, these blanket routine uses are published only once at the beginning of the Department of the Navy's **Federal Register** compilation of record systems notices rather than in each system notice. Disclosure accountings are required for all disclosures made pursuant to the routine use.

(4) *Bureau of the Census.* Disclosure may be made to the Bureau of the Census for purpose of planning or carrying out a census of survey or related activity authorized by law. Disclosure accountings are required for disclosures made to the Bureau of the Census.

(5) *Statistical research or reporting.* Disclosure may be made to a recipient who has provided adequate written assurance that the record will be used solely as a statistical research or reporting record, provided the record is transferred in a form that is not individually identifiable (i.e., the identity of the individual cannot be deduced by tabulation or other methodology). The written request must state the purpose of the request, and will be made a part of the activity's accounting for the disclosure. When activities publish gross statistics concerning a population in a system of records (e.g., statistics on employer turnover rates, military reenlistment rates, and sick leave usage rates), these are not considered disclosures of records and accountings are not required.

(6) *National Archives.* Disclosure may be made to the National Archives when the record has sufficient historical or other value to warrant continued preservation by the U.S. Government, or for evaluation by the Administrator of General Services or his/her designee to determine whether the record has such value. (Records transferred to a federal records center for storage or safekeeping do not fall under the provision. Such transfers are not considered disclosures under this Act, since the records remain under the control of the transferring element. Therefore, disclosure accounting is not required for transfers of records to federal records centers.) Disclosure accountings are required for disclosures made to the National Archives.

(7) *Civil or criminal law enforcement activity.* Disclosure may be made to another agency or instrumentality of any government jurisdiction within or under the control of the United States, for a civil or criminal law enforcement activity, if the activity is authorized by law, and if the head of the agency or instrumentality has made a written request to the activity which maintains the record, specifying the particular record desired and the law enforcement purpose for which the record is sought. The head of the agency or instrumentality may have delegated authority to request records to other officials. Requests by these designated officials shall be honored if they provide satisfactory evidence of their authorization to request records. Blanket requests for all records pertaining to an individual shall not be honored. A record may also be disclosed to a law enforcement activity: *Provided,* That such disclosure has been established as a "routine use" in the published record system notice. Disclosure to foreign law enforcement agencies is not governed by the provisions of 5 U.S.C. 552a and this section, but may be made only pursuant to established "blanket routine uses" contained in § 701.114, pursuant to an established "routine use" published in the individual record system notice, or pursuant to other governing authority. Disclosure accountings are required for disclosure to civil or criminal law enforcement agencies, and also for disclosures pursuant to a routine use, but need not be disclosed to the individual if the law enforcement agency has requested in writing that it not be.

(8) *Emergency conditions.* Disclosure may be made under emergency conditions involving compelling circumstances affecting the health and safety of a person, provided that notification of the disclosure is transmitted to the last known address of the individual to whom the record pertains. For example, an activity may disclose records when the time required to obtain the consent of the individual to whom the record pertains might result in a delay which could impair the health or safety of a person. The individual about whom the records are disclosed need not necessarily be the individual whose health or safety is in peril (e.g., release of dental charts on several individuals in order to identify a person injured in an accident). In instances where information under alleged emergency conditions is requested by telephone, an attempt will be made to verify the inquirer's and medical facility's identities and the caller's telephone number. The requested information, if then considered appropriate and of an emergency nature, may be provided by return call. Disclosure accountings are required for disclosures made under emergency conditions.

(9) *Congress and Members of Congress.* Disclosure may be made to either House of Congress, or, to the extent of matters within its jurisdiction, to any committee or subcommittee thereof, or to any joint committee of Congress or subcommittee thereof. Disclosure may not be made, however, to a Member of Congress requesting in his/her individual capacity or on behalf of a constituent, except in accordance with the following rules:

(i) Upon receipt of an oral or written request from a Member of Congress or his/her staff, inquiry should be made as to the identity of the originator of the request. If the request was prompted by a request for assistance by the individual to whom the record pertains, the request information may be disclosed to the requesting Congressional office.

(ii) If the request was originated by a person other than the individual to whom the record pertains, the Congressional office must be informed that the requested information cannot be disclosed without the written consent of the individual to whom the record pertains. If the Congressional office subsequently states that it has received a request for assistance from the individual or has obtained the individual's written consent for disclosure to that office, the requested information may be disclosed.

(iii) If the Congressional office requests the Department of the Navy to obtain the consent of the individual to whom the record pertains, that office should be informed that it is the policy of the Department not to interfere in the relationship of a Member of Congress and his/her constituent, and that the Department therefore does not contact an individual who is the subject of a congressional inquiry.

(iv) If the Congressional office insists on Department of the Navy cooperation, an effort should be made to contact, through his/her command, the individual to whom the records pertain and ascertain whether the individual consents to the disclosure. If neither the Congressional office nor the Department of the Navy obtains the individual's written consent, only information required to be released under 5 U.S.C. 552 and 32 CFR Part 701, Subparts A through D should be disclosed.

Disclosure accountings are required for disclosures made to Congress or Members of Congress, except nonconsensual disclosures pursuant to 5 U.S.C. 552 provided for in paragraph (b)(9)(iv) of this section.

(10) *Comptroller General.* Disclosure may be made to the Comptroller General of the United States, or to any of his/her authorized representatives, in the course of the performance of the duties of the General Accounting Office. *See* § 701.101(a)(2) and the SECNAVINST 5741.2 series. Disclosure accountings are required for disclosures to the Comptroller General or General Accounting Office.

(11) *Court of competent jurisdiction.* Disclosure may be made in response to an order from a court of competent jurisdiction (signed by a state or Federal court judge), subject to the following provisions:

(i) When a record is disclosed under compulsory legal process, and the issuance of that order is made public by the court which issued it, activities shall make reasonable efforts to notify the individual to whom the record pertains of the disclosure and the nature of the information provided. This requirement may be satisfied by notifying the individual by mail at the last known address contained in the activity records. Disclosure accountings are required for disclosures made pursuant to court orders.

(ii) Upon being served with an order which is not a matter of public record, an activity shall seek to be advised as to when it will become public. An accounting for the disclosure shall be made at the time the activity complies with the order, but neither the identity of the party to whom the disclosure was made nor the purpose of the disclosure shall be made available to the concerned individual unless the

court order has become a matter of public record.

(12) *Disclosure of records to contractors.* The disclosure of records required by the contractor for the operation, use or maintenance of a system of records in the performance of a government contract shall not require the consent of the individual to whom the record pertains or the maintenance of a disclosure accounting record since systems of records operated under contract to accomplish a Navy function, is in effect, maintained by the Department of the Navy. Disclosure of personal information between the Department of the Navy and the contractor is considered to be the same as between those officers and employees of the Department of the Navy who have a need for the records in the performance of their duties.

(c) *Disclosure accountings*—(1) *Responsibilities.* With respect to a disclosure of a record which it maintains in a system of records, each activity is responsible for keeping an accurate accounting of the date, nature, and purpose of the disclosure, and the name and address of the person or agency to whom the disclosure is made. When disclosure is made by an activity other than the activity that is responsible for maintaining the record, the activity making the disclosure is responsible for giving written notification of the above information to the activity responsible for maintaining the record, to enable the latter activity to keep the required disclosure accounting.

(2) *Disclosures for which accountings are required.* A disclosure accounting is required for all disclosures of records maintained in a system of records, except: Intra-agency disclosures pursuant to paragraph (b)(1) of this section; Freedom of Information Act disclosures pursuant to paragraph (b)(2) of this section or paragraph (b)(9)(iv) of this section; or disclosure pursuant to paragraph (b)(12) of this section; or disclosures for statistical research or reporting purposes pursuant to paragraph (b)(5) of this section. A disclosure accounting is required for a disclosure made to another person or agency pursuant to the request or consent of the individual to whom the record pertains. There is no requirement for keeping an accounting for disclosures of disclosure accountings.

(3) *Accounting method.* Since the characteristics of various records maintained within the Department of the Navy vary widely, no uniform method for keeping disclosure accountings is prescribed. For most paper records, it may be suitable to maintain the accounting on a record-by-record basis, physically affixed to the records. The primary criteria are that the selected method be one which will:

(i) Enable an individual to ascertain what persons or agencies have received disclosures pertaining to him/her;

(ii) Provide a basis for informing recipients of subsequent amendments or statements of dispute concerning the record; and

(iii) Provide a means to prove, if necessary, that the activity has complied with the requirements of 5 U.S.C. 552a and this subpart.

(4) *Retention of accounting record.* A disclosure accounting, if one is required, shall be maintained for the life of the record to which the disclosure pertains, or for at least five years after the date of the disclosure for which the accounting is made, whichever is longer. Nothing in 5 U.S.C. 552a or 32 CFR Part 701, Subparts F and G requires retaining the disclosed record itself longer than for the period of time provided for it in the SECNAVINST 5212.5 series, but the disclosure accounting must be retained for at least five years.

(5) *Accounting to the individual.* Unless an applicable exemption has been exercised, systems managers or other appropriate custodial officials shall provide all information in the disclosure accounting to an individual requesting such information concerning his/her records, except entries pertaining to disclosures made pursuant to paragraph (b)(11)(ii) of this section and disclosures made at the written request of the head of another agency or government instrumentality for law enforcement purposes under paragraph (b)(7) of this section. Activities should maintain the accounting of the latter two types of disclosures in such a manner that the notations are readily segregable, to preclude improper release to the individual. The process of making the accounting available may also require transformation of the data in order to make it comprehensible to the individual. Requests for disclosure accountings otherwise available to the individual may not be denied unless a denial authority for the designated review authority has exercised an applicable exemption and denied the request, and then only when it has been determined that denial of the request would serve a significant and legitimate Government purpose (e.g., avoid interfering with an ongoing law enforcement investigation). Appropriate procedures prescribed in § 701.104(b), for exercising an exemption, denying a request and reviewing a denial apply also to disclosure accounting to the individual.

(d) *Accuracy requirements.* Prior to disclosing any record about an individual to any person other than to personnel of the agency, with a need to know, and other than pursuant to 5 U.S.C. 552 and 32 CFR Part 701, Subparts A through D, reasonable efforts are required to ensure that such records are accurate, complete, timely, and relevant for Department of the Navy purposes. It may be appropriate to advise the recipient that the information was accurate as of a specific date, or otherwise give guidance concerning its quality.

(e) *Mailing lists.* No activity nor any member or employee of the Department of the Navy shall sell or rent individuals' names and addresses unless such action is authorized by law. This provision should not be construed to require the withholding of names and addresses otherwise permitted to be made public.

§ 701.106 Collection of personal information from individuals.

(a) *Collection directly from the individual.* Personal information shall be collected, to the greatest extent practicable, directly from the individual when the information may adversely affect an individual's rights, benefits, and privileges under Federal programs. The collection of information from third parties shall be minimized. Exceptions to this policy may be made when warranted. The following are examples, not necessarily exhaustive, of situations which may warrant exceptions:

(1) There is need to ensure the accuracy of information supplied by an individual by verifying it through a third party, e.g., verifying information for a security clearance;

(2) The nature of the information is such that it can be obtained only from a third party, such as supervisor's assessment of an employee's performance in a previous job or assignment; or

(3) Obtaining the information from the individual would present exceptional practical difficulties or would result in unreasonable cost.

(b) *Informing individuals from whom personal information is requested.* (1) Individuals who are asked to supply personal information about themselves for a system of records must be advised of:

(i) The authority (statute or Executive order) which authorizes the solicitation;

(ii) All major purposes for which the Department of the Navy uses the information (e.g., pay entitlement, retirement eligibility, or security clearance);

(iii) A brief summary of those routine uses to be made of the information as published in the Federal Register and distributed by current OPNAVNOTE 5211, and

(iv) Whether disclosure is mandatory or voluntary, and the possible consequences for failing to respond.

(2) This statement, which is referred to as a "Privacy Act statement," must be given regardless of the medium used in requesting the information, e.g., a blank sheet, preprinted form with a control number, format, questionnaire, survey sheet, or interview. It may be provided on the form used to collect the information, or on a separate form or sheet, a copy of which may be retained by the individual. There is no requirement that the individual sign the statement.

(3) When the Privacy Act statement is to be attached or provided with the form, the statement will be assigned the same identifying number as the form used in collecting the information, and the suffix, "Privacy Act Statement." For example, a DD Form 398 would be identified as "DD Form 398—Privacy Act Statement . . ." For unnumbered formats, such as questionnaires and survey report forms, the Privacy Act statement will bear the report control symbol, if one applies, or the OMB number, i.e., "OMB Approval No. 21–R0268, Privacy Act Statement." The statement will be positioned in such a manner that individuals from whom the information is being collected will be informed about the act before they begin to furnish any of the information requested.

(4) For the purpose of determining whether a Privacy Act statement is required, "personal information" should be considered to be information about an individual that is intimate or private to the individual, as distinguished from information related solely to the individual's official functions. *See* § 701.105(b)(2). It ordinarily does not include such information as the time, place, and manner of, or reasons or authority for, an individual's execution or omission of acts directly related to the duties of his/her Federal employment or military assignment.

(5) The head of the proponent activity (i.e., the initiating or sponsoring activity) is responsible for determining whether a Privacy Act statement is required, and for ensuring that it is prepared and available as an attachment or as a part of the form, etc.

(c) *Social Security Numbers*—(1) *Requesting an individual's social security number (SSN).* Department of the Navy activities may not deny an individual any right, benefit, or privilege provided by law because the individual refuses to disclose his/her SSN, unless such disclosure is required by Federal statute or, in the case of systems of records in existence and operating before January 1, 1975, where such disclosure was required under statute or regulation adopted prior to January 1, 1975 to verify the identity of an individual. E.O. 9397 authorizes this Department to use the SSN as a system of numerical identification of individuals.

(2) *Informing an individual when requesting his/her SSN.* When an individual is requested to disclose his/her social security number, he/she must be given a statement containing information required in paragraph (b) of this section.

(3) An activity may request an individual's SSN even though it is not required by Federal statute, or is not for a system of records in existence and operating prior to January 1, 1975. However, the separate Privacy Act statement for the SSN, alone, or a merged Privacy Act statement, covering both the SSN and other items of personal information, must make clear that disclosure of the number is voluntary. If the individual refuses to disclose his/her SSN, the activity must be prepared to identify the individual by alternate means.

(4) Once a military member or civilian employee of the Department of the Navy has disclosed his/her SSN for purposes of establishing personnel, financial, or medical records upon entry into naval service or employment, the SSN becomes his/her service or employment identification number. It is not required that such an individual be informed of the items under paragraph (b)(1) of this section when he/she is subsequently requested to provide or verify this identification number in connection with those records.

§ 701.107 Safeguarding personal information.

(a) *Legislative requirement.* The Privacy Act requires establishment of appropriate administrative, technical, and physical safeguards to ensure the security and confidentiality of records, and to protect against any anticipated threats or hazards to their security or integrity which could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom information is required.

(b) *Responsibilities.* At each location, and for each system of records, an official shall be designated as having responsibility for safeguarding the information therein. Specific safeguards for individual systems must be tailored to the existing circumstances, with consideration given to sensitivity of the data, need for continuity of operations, need for accuracy and reliability in operations, general security of the area, cost of safeguards, etc.

(c) *Minimum safeguards.* Ordinarily, personal information should be afforded at least the protection required for information designated as "For Official Use Only." For privacy, the guideline is to provide reasonable safeguards to prevent inadvertent or unauthorized disclosures of record content, during processing, storage, transmission, and disposal.

(d) *Automatic data processing.* The Chief of Naval Operations (Code Op–942) is responsible for determining and formulating policies and procedures, as necessary, to ensure that ADP systems containing personal information contain adequate safeguards to protect personal privacy, and are in accordance with the OPNAVINST 5239.1 series and SECNAVINST 5239.1 series.

(e) *Disposal*—(1) *General.* Reasonable care must be taken to ensure that personal information is not subject to unauthorized disclosure during records disposal. Records which contain personal information pertaining to individuals should be disposed of in such a manner as to preclude recognition or reconstruction of information contained therein, such as by pulping, tearing, shredding, macerating or burning. Records recorded on magnetic tapes or other magnetic media may be disposed of by degaussing or erasing. If contractors are hired to haul trash containing personal information, contract provisions as specified in § 701.109(a) should be incorporated into the contract. If paper trash containing personal information is sold for recycling, legal assistance should be obtained to insert in the sale contract clauses that will make the buyer a Government contractor subject to the provisions of 5 U.S.C. 552a.

(2) *Massive computer cards and printouts.* (i) The transfer of large quantities of computer cards and printout in bulk to a disposal activity, such as the Defense Property Disposal Office, is not a release of personal information under this instruction. The volume of such data when turned over in bulk transfers make it difficult, if not impossible, to identify a specific individual record. Therefore, there are no special procedures required when disposing of large numbers of punch cards, computer printouts or other large detailed listings and normal document disposal procedures may be followed.

(ii) If the systems manager believes that the data to be transferred in bulk for disposal is in a form where it is individually recognizable or is not of a sufficient quantity to preclude compromise, the records should be disposed of in accordance with this paragraph.

§ 701.108 Exemptions.

(a) *Summary.* Subsections (j) and (k) of 5 U.S.C. 552a authorize the Secretary of the Navy to adopt rules designating eligible systems of records as exempt from certain requirements of 5 U.S.C. 552a. In accordance with 32 CFR Part 701, Subpart E, publication of a general notice of a proposed rule concerning exemptions for systems of records is required to appear in the **Federal Register** at least 30 days prior to the effective date, in order to afford interested persons an opportunity to comment. 32 CFR Part 701, Subpart G, indicates the systems designated as exempted, the type of exemption claimed, the authority and reasons for invoking the exemption, and the provisions of 5 U.S.C. 552a from which each system has been exempted. The two categories of exemptions are general and specific. No system of records, however, is automatically exempt from all provisions of 5 U.S.C. 552a.

(b) *General exemption.* To be eligible for a general exemption under the authority of subsection (j)(2), 5 U.S.C. 552a, the system of records must be maintained by an activity whose principal function involves the enforcement of criminal laws and must consist of:

(1) Data, compiled to identify individual criminals and alleged criminals which consists only of identifying data and arrest records and type and disposition of charges; sentencing, confinement, and release records; and parole and probation status;

(2) Data that supports criminal investigations (including efforts to prevent, reduce, or control crime) and reports of informants and investigators that identify an individual; or

(3) Reports on a person, compiled at any state of the process of law enforcement, from arrest or indictment through release from supervision.

(c) *Specific exemptions.* To be eligible for a specific exemption under the authority of subsection (k), 5 U.S.C. 552a, the pertinent records within a designated system must contain one or more of the following:

(1) Information specifically authorized to be classified. Before denying a person access to classified information, the denial authority must make sure that it is properly classified under the criteria of E.O. 12065, and that it must remain so in the interest of national defense or foreign policy ((k)(1) exemption).

(2) Investigative records compiled for law enforcement purposes (other than that claimed under the general exemption). If this information has been used to deny someone a right, however, the Department of the Navy must release it unless doing so would reveal the identity of a confidential source ((k)(2) exemption).

(3) Records maintained in connection with providing protective services to the President of the United States or other individuals protected pursuant to 18 U.S.C. Sec. 3056 ((k)(3) exemption).

(4) Records used only for statistical, research, or other evaluation purposes, and which are not used to make decisions on the rights, benefits, or privileges of individuals, except as permitted by 13 U.S.C. 8 (Use of census data) ((k)(4) exemption).

(5) Data, compiled to determine suitability, eligibility, or qualifications for Federal service, Federal contracts, or access to classified information. This information may be withheld only if disclosure would reveal the identity of a confidential source ((k)(5) exemption).

(6) Test or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service, the disclosure of which would compromise the objectivity or fairness of the testing or examination process ((k)(6) exemption).

(7) Information to determine promotion potential in the Armed Forces. This information may be withheld only to the extent that disclosure would reveal the identity of a confidential source ((k)(7) exemption).

(d) *Limitations on denying notification, access, and/or amendment on the basis of an exemption*—(1) *Classified information.* Prior to denying a request for notification, access or amendment concerning a classified record on the basis of a subsection (k)(1) exemption, denial authorities having classification jurisdiction over the classified matters in the record shall review the record to determine if the classification is proper under the criteria of the OPNAVINST 5510.1 series. If the denial authority does not have classification jurisdiction, immediate coordination shall be effected with the official having classification jurisdiction, in order to obtain a review of the propriety of the classification. If it is determined upon review that the classification is proper, consideration shall also be given to the appropriateness of permitting the requester to view the record in classified form: *Provided,* That he/she has or can be given the requisite security clearance.

(2) *Law enforcement records.* Requests for notification or access shall not be denied on the basis of a subsection (k)(2) exemption if the requested record has been used as a basis for denying the individual a right, benefit, or privilege to which he/she would be entitled in the absence of the record, except that access may be limited to the extent necessary to protect the identity of a confidential source, as defined in paragraph (e) of this section. Additionally, neither a subsection (j)(2) nor a subsection (k)(2) exemption shall be the basis for a denial of a request for notification or access concerning a record, or a portion thereof, unless granting the request is in accordance with the exemptions specified in 5 U.S.C. 552a, and would:

(i) Interfere with enforcement proceedings;

(ii) Deprive a person of a right to a fair trial or an impartial adjudication;

(iii) Constitute an unwarranted invasion of personal privacy;

(iv) Disclose the identity of a confidential source or disclose confidential information furnished only by a confidential source in the course of a criminal investigation or in the course of a lawful national security intelligence investigation;

(v) Disclose investigative techniques and procedures not already in the public domain and requiring protection from public disclosure to ensure their effectiveness;

(vi) Endanger the life or physical safety of law-enforcement personnel; or

(vii) Otherwise be deemed not releasable under 5 U.S.C. 552 and 32 CFR Part 701, Subparts A through D.

(e) *Confidential sources.* For the purposes of subsection (k) exemptions, a "confidential source" is a person who has furnished information to the Federal government under:

(1) An express promise that his/her identity would be held in confidence, or

(2) An implied promise made prior to September 27, 1975, that his/her identity would be held in confidence.

(f) *Promises of confidentiality.* Express promises of confidentiality shall be granted on a selective basis, and only when such promises are needed and are in the interest of the service. Officials exercising denial authority shall establish appropriate procedures and standards governing the granting of confidentiality for records systems under their cognizance.

§ 701.109 Contractors.

(a) *Contracts to maintain records.* Any unit, activity, or official letting a contract that involves the maintenance of a system of records to accomplish a Department of the Navy purpose shall include in that contract such terms as are necessary to incorporate the relevant provisions of 5 U.S.C. 552a in accordance with Defense Acquisition Regulation 1–327, "Protection of Individual Privacy," July 1, 1976.

(b) *Contracting officers.* Contracting officers shall review all requirements for service contracts to determine if the requirements may result in the design, development, or operation of a system of records on individuals. If it is determined that such is involved, the solicitation to meet the requirement shall contain notice similar to the following:

Warning

This procurement action requires the contractor to do one or more of the following: operate, use or maintain a system of records on individuals to 1974 (Pub. L. 93–597; 5 U.S.C. 552a) imposes requirements on how these records are collected, maintained, used, and disclosed. Violations of the Privacy Act may result in termination of any contract resulting from this solicitation as well as imposition of criminal or civil penalties.

§ 701.110. Judicial sanctions.

(a) Subsection (i)(1) of 5 U.S.C. 552a prescribes criminal penalties for violation of its provisions, Any member or employee of the Department of the Navy may be found guilty of a misdemeanor and fined not more than $5,000 for willfully:

(1) Maintaining a system of records without first meeting the public notice requirements.

(2) Disclosing information protected under the Privacy Act to any unauthorized person/agency.

(3) Obtaining or disclosing information about an individual under false pretenses.

§ 701.111 Rules of access to agency records.

5 U.S.C. 552a, as implemented in 32 CFR Part 701, Subparts F and G, provides for individuals to have access to agency records, pertaining to themselves, with certain limited exceptions. The following rules of access are in effect:

(a) Requests for access must be submitted in writing to (*name or organizational title of record custodian).*

(b) Individuals desiring to review records pertaining to themselves are urged to submit their requests by mail or in person, 10 days before the desired review date, Every effort will be made to expedite access when necessary, but records ordinarily cannot be made available for review on the day of the request. In the case of a request to provide records directly to an authorized representative who is other than the parent of a minor of other legal guardian, an authorization signed within the preceding 45 days, by the individual to whom the records pertain, specifying the records to be released, will be required. Notarized authorizations may be required if the sensitivity of the information in the records warrants.

(c) Information should be provided by the individual to assist in identifying relevant systems of records and individual indentifiers should also be furnished (e.g., full name, social security number, etc.) to locate records in the particular system.

(d) Review of the record may be accomplished between the hours of —— and —— in room —— of building ——.

(e) When the individual reviews records in person, the custodian will require the presentation of indentification before permitting access to the record. Acceptable forms of identification include military identification card, base or building pass, driver's license, or similar document. When the individual requests access to information by mail, verification of identity may be obtained by requiring him/her to provide certain minimum identifying data such as date of birth and any other item in the record that only the concerned individual would likely know.

(f) Individuals may be accompanied by a person of their own choosing when reviewing the record. The custodian will not, however, discuss the record in the presence of the third person without the written authorization of the individual to whom the record pertains.

(g) On request, copies of the record will be provided at a cost specified. Fees will not be assessed if the cost is less than $30.

(h) A medical record will not be released to the individual if, in the judgment of a physician, the information contained therein could have an adverse affect on the individual's physical or mental well-being. In such circumstances, the individual will be asked to provide to the record custodian the name of a personal physician along with written authorization for release of the record to that physician. The record then will be provided to the named physician.

(i) Questions concerning these Rules of Access, or, information contained in the record, should be addressed to (*title or official of organizational title*), room ——, building ——, telephone number ——.

§ 701.112 Rules for amendment requests.

5 U.S.C. 552a, as implemented by 32 CFR Part 701, Subparts F and G, provides for individuals to request amendment of their personal records when the individuals believe the records are inaccurate, irrelevant, untimely, or incomplete. The following rules for amendment requests are in effect:

(a) Requests must be in writing and must indicate that they are being made under the Privacy Act (5 U.S.C. 552a), 32 CFR Part 701, Subparts F and G, or the SECNAVINST 5211.5 series. Requests should contain sufficient information to locate and identify the particular record which the requester is seeking to amend (e.g., full name, social security number, date of birth, etc.). A request should also contain a statement of the changes desired to be made to the record, the reasons for requesting amendment, and any available information the requester can provide in support of the request, including pertinent documents and related records.

(b) Requests for amendment must be submitted to the appropriate system manager designated in the published record system notice.

(c) A letter indicating receipt will be sent to the requester within 10 working days after the request has been received by the appropriate system manager. The letter will contain details as to when the requester may expect to be advised of action taken on the request. The requester may also be asked to provide additional verification of his/her identity. This is to protect the privacy of other individuals by ensuring that the requester is seeking to amend his/her own records and not, inadvertently or intentionally, the records of another individual.

(d) A letter indicating whether or not the request for amendment has been granted will be sent to the requester as soon as a decision has been reached by the appropriate authority. If it is determined that the requested amendment is warranted, the requester will be advised of the action taken and of the effect of that action. If it is determined that the requested amendment is not warranted, the requester will be advised of the reasons for the refusal and of the procedures and time limits within which the requester can seek further review of the refusal.

§ 701.113 Rules of conduct under the Privacy Act.

(a) *Maintaining personal records.* It is unlawful to maintain systems of records

about individuals without prior announcement in the Federal Register. Anyone who does is subject to criminal penalties up to $5,000. Even with such notice, care shall be taken to keep only such personal information as is necessary to do what law and the President, by Executive order, require. The information is to be used only for the purposes described in the Federal Register.

(b) *Disclosure.* Information about an individual shall not be disclosed to any unauthorized individual. Anyone who makes an unauthorized disclosure on purpose may be fined up to $5,000. Every member or employee of the Department of the Navy who maintains records about individuals has an obligation to do his/her part in protecting personal information from unauthorized disclosure. 32 CFR Part 701, Subparts F and G, describe when disclosures are authorized.

(c) *Individual access.* Every individual, with certain exceptions, has the right to look at any record the Department of the Navy keeps on him/her, to copy it, and to request to have it corrected if he/she considers it wrong. The individual attempting to exercise these rights shall be given courteous and considerate assistance.

(d) *Ensuring accuracy.* The Department of the Navy has an obligation to use only accurate, timely, relevant, and complete information when making decisions about individuals. Every member, official, and employee involved in keeping records on individuals shall assist in the discharge of this obligation.

§ 701.114 Blanket routine uses.

(a) *Routine use—Law enforcement.* In the event that a system of records maintained by this component to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

(b) *Routine use—Disclosure when requesting information.* A record from a system of records maintained by this component may be disclosed as a routine use to a federal, state, or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information, relevant to a component decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

(c) *Routine use—Disclosure of requested information.* A record from a system of records maintained by this component may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

(d) *Routine use—Congressional inquiries.* Disclosure from a system of records maintained by this component may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

(e) *Routine use—Within the Department of Defense.* A record from a system of records maintained by this component may be disclosed as a routine use to other components of the Department of Defense if necessary and relevant for the performance of a lawful function such as, but not limited to, personnel actions, personnel security actions and criminal investigations of the component requesting the record.

(f) *Routine use—Private relief legislation.* Relevant information contained in all systems of records of the Department of Defense published on or before August 22, 1975, will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular A–19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

(g) *Routine use—Disclosures required by international agreements.* A record from a system of records maintained by this component may be disclosed to foreign law enforcement, security, investigatory, or administrative authorities in order to comply with requirements imposed by, or to claim rights conferred in international agreements and arrangements including those regulating the stationing and status in foreign countries of Department of Defense military and civilian personnel.

(h) *Routine use—Disclosure to state and local taxing authorities.* Any information normally contained in IRS Form W–2, which is maintained in a record from a system of records maintained by this Component may be disclosed to state and local taxing authorities with which the Secretary of the Treasury has entered into agreements pursuant to Title 5, U.S.C., Sections 5516, 5517, 5520, and only to those state and local taxing authorities for which an employee or military member is or was subject to tax regardless of whether tax is or was withheld. This routine use is in accordance with Treasury Fiscal Requirements Manual Bulletin Nr. 76–07.

(i) *Routine use—Disclosure to the Office of Personnel Management (OMP).* A record from a system of records subject to the Privacy Act and maintained by this component may be disclosed to the OPM concerning information on pay and leave, benefits, retirement deductions, and any other information necessary for OPM to carry out its legally authorized Government-wide personnel management functions and studies.

Subpart G—Privacy Act Exemptions

Authority: 5 U.S.C. 552a, 32 CFR 286a.

§ 701.115 Purpose.

32 CFR Part 701, Subparts F and G contains rules promulgated by the Secretary of the Navy, pursuant to 5 U.S.C. 552a (j) and (k), and Subpart F, § 701.108, to exempt certain systems of Department of the Navy records from specified provisions of 5 U.S.C. 552a.

§ 701.116 Exemption for classified records.

All systems of records maintained by the Department of the Navy and its components shall be exempted from the requirements of 5 U.S.C. 552a(d) pursuant to 5 U.S.C. 552a(k)(1), to the extent that the system contains any information properly classified under E.O. 12356 and that is required by that Executive order to be kept secret in the interest of national defense or foreign policy. This exemption is applicable to parts of all systems of records including those not otherwise specifically designated for exemptions herein which contain isolated items of properly classified information.

§ 701.117 Exemptions for specific Navy record systems.

(a) *Office of the Assistant Deputy Chief of Naval Operations (Civilian Personnel/Equal Employment Opportunity).*

(1) *ID—N05527–5.*

Sysname. Navy Central Clearance Group (NCCG) Records.

Exemption. Portions of this system of records are exempt from the following subsections of 5 U.S.C. 552a: (c)(3), (d), (e)(4) (G) and (H), and (f).

Authority. 5 U.S.C. 552a(k) (1) and (5).

Reasons. Exempted portions of this system contain information considered relevant and necessary to make a determination as to qualifications, eligibility, or suitability for Federal employment, or access to classified information, and that was obtained by providing an express or implied promise to the source that his/her identity would not be revealed to the subject of the record.

(2) *ID—N05520–3.*

Sysname. Civilian Personnel Security Files

Exemption. Portions of this system of records are exempt from the following subsections of 5 U.S.C. 552a: (c)(3), (d), (e)(4)(G) through (I), and (f).

Authority. 5 U.S.C. 552a (k)(1), (2), and (5).

Reasons. Exempted portions of this system contain information which has been properly classified under E.O. 12356, and which is required to be kept secret in the interest of national defense or foreign policy. Exempted portions of this system also contain information considered relevant and necessary to make a determination as to qualifications, eligibility, or suitability for Federal employment or access to classified information, and that was obtained by providing express or implied promise to the source that his/her identity would not be revealed to the subject of the record. Granting individuals access to certain information compiled for law enforcement purposes in this system of records could interfere with orderly investigations by disclosing the existence of investigations and investigative techniques, and result in the concealment, destruction, or fabrication of evidence.

(b) *Naval Military Personnel Command.*

(1) *ID—N05520–1.*

Sysname. Personnel Security Eligibility Information System

Exemption. Portions of this system of records are exempt from the following subsections of 5 U.S.C. 552a: (c)(3), (d), (e)(4)(G) through (I), and (f).

Authority. 5 U.S.C. 552a (k)(1), (2), (5) and (7).

Reasons. Granting individuals access to information collected and maintained in this system of records could interfere with orderly investigations; result in the disclosure of classified material; jeopardize the safety of informants, witnesses, and their families; disclose investigative techniques; and result in the invasion of privacy of individuals only incidentally related to an investigation. Material will be screened to permit access to unclassified information that will not disclose the identity of sources who provide information to the Government under an express or implied promise of confidentiality.

(2) *ID—N01610–1.*

Sysname. Navy Personnel Evaluation System

Exemption. Portions of this system of records are exempt from the following subsections of 5 U.S.C. 552a: (c)(3), (d), (e)(1), (e)(4)(G) through (I), and (f).

Authority. 5 U.S.C. 552a (k)(1), (2), (5), and (7).

Reasons. Granting individuals access to information collected and maintained in this system could result in disclosure of classified material, jeopardize the safety of informants and witnessess and their families, and result in the invasion of privacy of individuals only incidentally related to an investigation. Material will be screened to permit access to unclassified material and to information that will not disclose the sources who provided the information under an express or implied promise of confidentiality.

(3) *ID—N05354–1.*

Sysname. Equal Opportunity Information and Support System.

Exemption. Portions of this system of records are exempt from the following subsections of 5 U.S.C. 552a: (c)(3), (d), (e)(4)(G) through (I), and (f).

Authority. 5 U.S.C. 552a (k)(1), and (5).

Reasons. Granting access to information in this system of records could result in the disclosure of classified material, or reveal the identity of a source who furnished information to the Government under an express or implied promise of confidentiality. Material will be screened to permit access to unclassified material and to information that will not disclose the identity of a confidential source.

(4) *ID—N01420–1.*

Sysname. Officer Promotion System.

Exemption. Portions of this system of records are exempt from the following subsections of 5 U.S.C. 552a: (c)(3), (d), (e)(1), (e)(4)(G) through (I), and (f).

Authority. 5 U.S.C. 552a (k)(1), (5), (6), and (7).

Reasons. Granting individuals access to this system of records could result in the disclosure of classified material, or the identification of sources who provided information to the Government under an express or implied promise of confidentiality. Material will be screened to permit access to unclassified material and to information that does not disclose the identity of a confidential source.

(5) *ID—N01070–3.*

Sysname. Navy Personnel Records System.

Exemption. Portions of this system of records are exempt from the following subsections of 5 U.S.C. 552a: (c)(3), (d), (e)(1), (e)(4)(G) through (I), and (f).

Authority. 5 U.S.C. 552a (k)(1) and (5).

Reasons. Granting individuals access to certain portions of the information collected and maintained in this system of records could result in the unauthorized disclosure of classified material. Material will be screened in order to provide access to unclassified information that does not disclose the identity of a source who provided information under an express or implied promise of confidentiality.

(6) *ID—N01640–1.*

Sysname. Individual Correctional Records.

Exemption. Portions of this system are exempt from the following subsections of 5 U.S.C. 552a: (c)(3), (c)(4), (d), (e)(2), (e)(3), (e)(4) (G) through (I), (e)(5), (e)(8), (f), and (g).

Authority. 5 U.S.C. 552a(j)(2).

Reasons. Granting individuals access to portions of these records pertaining to consisting of, but not limited to, disciplinary reports, criminal investigations, and related statements of witnesses, and such other related matter in conjunction with the enforcement of criminal laws, could interfere with orderly investigations, with the orderly administration of justice, and possibly enable suspects to avoid detection or apprehension. Disclosure of this information could result in the concealment, destruction, or fabrication of evidence, and jeopardize the safety and well-being of informants, witnesses and their families, and law enforcement personnel and their families. Disclosure of this information could also reveal and render ineffectual investigative techniques, sources, and methods, used by these components and could result in the invasion of the privacy of individuals only incidentally related to an investigation. The exemption of the individual's right of access to portions of these records, and the reasons therefore, necessitate the exemption of this system of records from the requirement of the other cited provisions.

(c) *Navy Recruiting Command.*

(1) *ID—N01131–1.*

Sysname. Officer Selection and Appointment System.

Exemption. Portions of this system of records are exempt from the following

subsections of 5 U.S.C. 552a: (c)(3), (d), (e)(1), (e)(4)(G) through (I), and (f).

Authority. 5 U.S.C. 552a (k)(1), (5), (6), and (7).

Reasons. Granting individuals access to portions of this system of records could result in the disclosure of classified material, or the identification of sources who provided information to the Government under an express or implied promise of confidentiality. Material will be screened to permit access to unclassified material and to information that does not disclose the identity of a confidential source.

(2) *ID—N01133–2.*

Sysname. Recruiting Enlisted Selection System.

Exemption. Portions of this system of records are exempt from the following subsections of 5 U.S.C. 552a: (c)(3), (d), (e)(1), (e)(4)(G) through (I), and (f).

Authority. 5 U.S.C. 552a (k)(1), (5), (6), and (7).

(d) *Naval Security Group Command.*

(1) *ID—N05527–4.*

Sysname. Naval Security Group Personnel Security/Access Files.

Exemption. Portions of this system of records are exempt from the following subsections of 5 U.S.C. 552a: (c)(3), (d), (e)(1), (e)(4)(G) through (I), and (f).

Authority. 5 U.S.C. 552a (k)(1) through (5).

Reasons. Exempted portions of this system contain information that has been properly classified under E.O. 12356, and that is required to be kept secret in the interest of national defense or foreign policy. Exempted portions of this system also contain information considered relevant and necessary to make a determination as to qualification, eligibility or suitability for access to classified special intelligence information, and that was obtained by providing an express or implied promise to the source that his/her identity would not be revealed to the subject of the record.

(e) *Naval Investigative Service.*

(1) *ID—N05520–4.*

Sysname. NIS Investigative Files System.

Exemption (1). Portions of this system of records are exempt from the following subsections of 5 U.S.C. 552a: (c)(3), (c)(4), (d), (e)(2), and (3), (e)(4)(G) through (I), (e)(5), (e)(8), (f) and (g).

Authority (1). 5 U.S.C. 552a (j)(2).

Reasons (1). Granting individuals access to information collected and maintained by this component relating to the enforcement of criminal laws could interfere with orderly investigations, with the orderly administration of justice, and possibly enable suspects to avoid detection or apprehension. Disclosure of this information could result in the concealment, destruction, or fabrication of evidence and jeopardize the safety and well being of informants, witnesses and their families, and law enforcement personnel and their families. Disclosure of this information could also reveal and render ineffectual investigative techniques, sources, and methods used by this Component and could result in the invasion of the privacy of individuals only incidentally related to an investigation. The exemption of the individual's right of access to his/her records, and the reasons therefore, necessitate the exemption of this system of records from the requirements of the other cited provisions.

Exemption (2). Portions of this system of records are exempt from the following subsections of 5 U.S.C. 552a: (c)(3), (d), (e)(1), (e)(4)(G) through (I), and (f).

Authority (2). 5 U.S.C. 552a (k)(1), (k)(3), (k)(4), (k)(5), and (k)(6).

Reasons (2). The release of disclosure accountings would permit the subject of an investigation to obtain valuable information concerning the nature of that investigation, and the information contained, or the identity of witnesses or informants, and would therefore present a serious impediment to law enforcement. In addition, disclosure of the accounting would amount to notice to the individual of the existence of a record. Access to the records contained in this system would inform the subject of the existence of material compiled for law enforcement purposes, the premature release of which could prevent the successful completion of investigation, and lead to the improper influencing of witnesses, the destruction of records, or the fabrication of testimony.

Exempt portions of this system also contain information that has been properly classified under E.O. 12356, and that is required to be kept secret in the interest of national defense or foreign policy.

Exempt portions of this system also contain information considered relevant and necessary to make a determination as to qualifications, eligibility, or suitability for Federal civilian employment, military service, Federal contracts, or access to classified information, and was obtained by providing an express or implied assurance to the source that his/her identity would not be revealed to the subject of the record. The notice for this system of records published in the **Federal Register** sets forth the basic statutory or related authority for maintenance of the system.

The categories of sources of records in this system have been published in the **Federal Register** in broad generic terms. The identity of specific sources, however, must be withheld in order to protect the confidentiality of the source, of criminal and other law enforcement information. This exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

This system of records is exempted from procedures for notice to an individual as to the existence of records pertaining to him/her dealing with an actual or potential civil or regulatory investigation, because such notice to an individual would be detrimental to the successful conduct and/or completion of an investigation, pending or future. Mere notice of the fact of an investigation could inform the subject or others that their activities are under, or may become the subject of, an investigation. This could enable the subjects to avoid detection, to influence witnesses improperly, to destroy records, or to fabricate testimony.

Exempt portions of this system contain screening board reports. Screening board reports set forth the results of oral examination of applicants for a position as a special agent with the Naval Investigative Service. Disclosure of these records would reveal the areas pursued in the course of the examination and thus adversely affect the result of the selection process. Equally important, the records contain the candid views of the members composing the board. Release of the records could affect the willingness of the members to provide candid opinions and thus diminish the effectiveness of a program which is essential to maintaining the high standard of the Special Agent Corps, i.e., those records constituting examination material used solely to determine individual qualifications for appointment in the Federal Service.

(f) *Naval Intelligence Command.*

(1) *ID—N03834–1.*

Sysname. Special Intelligence Personnel Access File.

Exemption. Portions of this system of records are exempt from the following subsections of 5 U.S.C. 552a: (c)(3), (d), (e)(1), (e)(4) (G) through (I), and (f).

Authority. 5 U.S.C. 552a (k)(1) and (5).

Reasons. Exempted portions of this system contain information that has been properly classified under E.O. 12356, and that is required to be kept secret in the interest of national defense or foreign policy. Exempted portions of this system also contain information considered relevant and necessary to make a determination as to qualifications, eligibility, or suitability for access to classified information and

was obtained by providing an express or implied assurance to the source that his/her identity would not be revealed to the subject of the record.

(g) *Naval Material Command.*

(1) *ID—N04385–1.*

Sysname. Investigatory (Fraud) System.

Exemption. Portions of this system of records are exempt from the following subsections of 5 U.S.C. 552a: (c)(3), (d), (e)(1), (e)(4) (G) through (I), and (f).

Authority. 5 U.S.C. 552a (k)(1), (2), and (5).

Reasons. Exempted portions of this system contain information that has been properly classified under E.O. 12356, and that is required to be kept secret in the interest of national defense or foreign policy. Exempted portions of this system also contain information considered relevant and necessary to make a determination as to qualifications, eligibility, or suitability for Federal employment, and Federal contracts, and that was obtained by providing an express or implied promise to the source that his/her identity would not be revealed to the subject of the record. Granting individuals access to certain information collected and maintained by this component relating to the enforcement of criminal laws could interfere with orderly investigations, with orderly administration of justice, and possibly enable suspects to avoid detection or apprehension. Disclosure of this information could result in the concealment, destruction, or fabrication of evidence, and could also reveal and render ineffectual investigative techniques, sources, and methods used by this component.

(h) *Naval Resale System Office.*

(1) *ID—N012930–1.*

Sysname. Industrial Relations Personnel Records.

Exemption. Portions of this system of records are exempt from the following subsections of 5 U.S.C. 552a: (d), (e)(4) (G) and (H), and (f).

Authority. 5 U.S.C. 552a(k) (5) and (6).

Reasons. Exempted portions of this system contain information considered relevant and necessary to make a determination as to the qualifications, eligibility, or suitability for Federal employment, and was obtained by providing an express or implied promise to the source that his/her identity would not be revealed to the subject of the record. Exempted portions of this system also contain test or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service, the disclosure of which would compromise the objectivity or fairness of the testing or examination process.

(i) *Navy and Marine Corps Exchanges and Commissaries.*

(1) *ID—N04060–1.*

Sysname. Navy and Marine Corps Exchange and Commissary Security Files.

Exemption. Portions of this system of records are exempt from the following subsections of 5 U.S.C. 552a: (c)(3), (d), (e)(1), (e)(4) (G) through (I), and (f).

Authority. 5 U.S.C. 552a(k)(2).

Reasons. Granting individuals access to information collected and maintained by these activities relating to the enforcement of criminal laws could interfere with orderly investigations, with orderly administration of justice, and possibly enable suspects to avoid detection or apprehension. Disclosure of this information could result in the concealment, destruction, or fabrication of evidence, and could also reveal and render ineffectual investigative techniques, sources, and methods used by these activities.

(j) *Naval Clemency and Parole Board.*

(1) *ID—N05819–3.*

Sysname. Naval Clemency and Parole Board Files.

Exemption. Portions of this system of records are exempt from the following subsections of 5 U.S.C. 552a: (c)(4), (d), (e)(4)(G), and (f).

Authority. 5 U.S.C. 552a(j)(2).

Reasons. Granting individuals access to records maintained by this Board could interfere with internal processes by which Board personnel are able to formulate decisions and policies with regard to clemency and parole in cases involving naval prisoners and other persons under the jurisdiction of the Board. Material will be screened to permit access to all material except such records or documents as reflect items of opinion, conclusion, or recommendation expressed by individual board members or by the board as a whole.

The exemption of the individual's right of access to portions of these records, and the reasons therefor, necessitate the partial exemption of this system of records from the requirements of the other cited provisions.

(k) *Office of the Secretary.*

(1) *ID—N01070–9.*

Sysname. White House Support Program.

Exemption. Portions of this system of records are exempt from the following subsections of 5 U.S.C. 552a: (c)(3), (d), (e)(1), (e)(4) (G) through (I), and (f).

Authority. 5 U.S.C. 552a (k)(1), (2), (3), and (5).

Reasons. Exempted portions of this system may contain information which has been properly classified under E.O. 12356, and which is required to be kept secret in the interest of national defense or foreign policy. Exempted portions of this system may also contain information considered relevant and necessary to make a determination as to qualifications, eligibility, or suitability for access to classified information, and which was obtained by providing an express or implied promise to the source that his/her identify would not be revealed to the subject of the record. Exempted portions of this system may also contain information collected and maintained in connection with providing protective services to the President and other individuals protected pursuant to 18 U.S.C. 3056. Exempted portions of this system may also contain investigative records compiled for law-enforcement purposes, the disclosure of which could reveal the identity of sources who provide information under an express or implied promise of confidentiality, compromise investigative techniques and procedures, jeopardize the life or physical safety of law-enforcement personnel, or otherwise interfere with enforcement proceedings or adjudications.

(l) *Security Operations Activities.*

(1) *ID—N05527–1.*

Sysname. Security Incident System.

Exemption. Portions of this system of records are exempt from the following subsections of 5 U.S.C 552a: (c)(3), (c)(4), (d), (e)(2) and (3), (e)(4)(G) through (I), (e)(5), (e)(8), (f) and (g).

Authority. 5 U.S.C. 552a (j)(2).

Reasons. Granting individuals access to information collected and maintained by this component relating to the enforcement of criminal laws could interfere with orderly administration of justice, and possibly enable suspects to avoid detection or apprehension. Disclosure of this information could result in concealment, destruction, or fabrication of evidence, and jeopardize the safety and well being of informants, witnesses and their families, and of law enforcement personnel and their families. Disclosure of this information could also reveal and render ineffectual investigative techniques, sources, and methods used by this component, and could result in the invasion of privacy of individuals only incidentally related to an investigation.

The exemption of the individual's right of access to his/her records, and the reason therefore, necessitate the exemption of this system of records from the requirements of other cited provisions.

(m) *Naval Medical Command.*

(1) *ID—N06320–2.*

Sysname. Family Advocacy Program System.

Exemption. Portions of this system of records are exempt from the following subsections of 5 U.S.C 552a: (c)(3) and (d).

Authority. 5 U.S.C. 552a (k)(2) and (5).

Reasons. Exemption is needed in order to encourage persons having knowledge of abusive or neglectful acts toward children to report such information, and to protect such sources from embarrassment or recriminations, as well as to protect their right to privacy. It is essential that the identities of all individuals who furnish information under an express promise of confidentiality be protected. Additionally, granting individuals access to information relating to criminal and civil law enforcement, as well as the release of certain disclosure accountings, could interefere with ongoing investigations and the orderly administration of justice, in that it could result in the concealment, alteration, destruction, or fabrication of information; could hamper the indentification of offenders or alleged offenders and the disposition of charges; and could jeopardize the safety and well being of parents and their children.

Exempted portions of this system also contain information considered relevant and necessary to make a determination as to qualifications, eligibility, or suitability for Federal employment and Federal contracts, and that was obtained by providing an express or implied promise to the source that his/her identity would not be revealed to the subject of the record.

§ 701.118 Exemptions for specific Marine Corps records systems.

a. ID—MMN00018.

Sysname. Base Security Incident Reporting System.

Exemption. Portions of this system of records are exempt from the following subsections of 5 U.S.C. 552a: (c)(3), (c)(4), (d), (e)(2) and (3), (e)(4)(G) through (I), (e)(5), (e)(8), (f), and (g).

Authority. 5 U.S.C. 552a (j)(2).

Reasons. Granting individuals access to information collected and maintained by these activities relating to the enforcement of criminal laws could interfere with orderly investigations, with the orderly administration of justice, and might enable suspects to avoid detection or apprehension. Disclosure of this information could result in the concealment, destruction, or fabrication of evidence, and jeopardize the safety and well being of informants, witnesses and their families, and law enforcement personnel and their families. Disclosure of this information could also reveal and render ineffectual investigative techniques, sources, and methods used by this component, and could result in the invasion of the privacy of individuals only incidentally related to an investigation.

The exemption of the individual's right of access to his/her records, and the reasons therefor, necessitate the exemption of this system of records from the requirements of other cited provisions.

b. ID—MIN00001.

Sysname. Personnel Security Eligibility and Access Information System.

Exemption. Portions of this system of records are exempt from the following subsections of 5 U.S.C. 552a: (c)(3), (d), (e)(1), (e)(4)(G) through (I), and (f).

Authority. 5 U.S.C. 552a (k)(2), (3), and (5) as applicable.

Reasons. Exempt portions of this system contain information that has been properly classified under E.O. 12356, and that is required to be kept secret in the interest of national defense or foreign policy.

Exempt portions of this system also contain information considered relevant and necessary to make a determination as to qualifications, eligibility, or suitability for Federal civilian employment, military service, Federal contracts, or access to classified, compartmented, or otherwise sensitive information, and was obtained by providing an expressed or implied assurance to the source that his/her identity would not be revealed to the subject of the record.

Exempted portions of this system further contain information that identifies sources whose confidentiality must be protected to ensure that the privacy and physical safety of these witnesses and informants are protected.

Dated: August 22, 1983.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 83-23290 Filed 8-24-83; 8:45 am]
BILLING CODE 3810-AE-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 09-83-20]

Special Local Regulations; Milwaukee Air Show

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for the MILWAUKEE AIR SHOW which is to be conducted over Lake Michigan at the Milwaukee Summerfest Grounds on September 18, 1983. The regulations are needed to provide for the safety of life on navigable waters during the event.

EFFECTIVE DATES: These regulations become effective on 18 September at 11:00 am and terminate at 12:30 pm on 18 September 1983.

FOR FURTHER INFORMATION CONTACT: MSTC Bruce Graham, Office of Search and Rescue, Ninth Coast Guard District, 1240 E 9th St., Cleveland, OH 44199, (216) 522-4420.

SUPPLEMENTARY INFORMATION: A notice of proposed rule making has not been published for these regulations and they are being made effective in less than 30 days from the date of publication. Following normal rule making procedures would have been impractical. The application to hold the event was not received in a timely manner, and there was not sufficient time remaining to publish proposed rules in advance of the event or to provide for a delayed effective date.

Drafting Information

The drafters of this regulation are MSTC Bruce Graham, project officer, Office of Search and Rescue and LCDR A. R. Butler, project attorney, Ninth Coast Guard District Legal Office.

Discussion of Regulations

The Milwaukee Air Show will be conducted over Lake Michigan at the Milwaukee Summerfest Grounds on September 18, 1983. This event will have low flying aircraft demonstrations, aircraft aerobatics, parachutists, and other events which could pose hazards to navigation in the area. Vessels desiring to transit the area may do so only with prior approval of the Patrol Commander (Officer-in-Charge, U.S. Coast Guard Station, Milwaukee, Wisconsin).

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Regulations

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended by adding a temporary § 100.35-0920 to read as follows:

§ 100.35-0920 Lake Michigan/Milwaukee Harbor.

(a) *Regulated Area.* That portion of Lake Michigan and Milwaukee Harbor enclosed by a line running from a point

on the shore at 43 degrees 02.6 minutes North 87 degrees 53.2 minutes West to a point on the breakwall at 43 degrees 02.6 minutes North 87 degrees 52.8 minutes West then along the breakwall to its end at position 43 degrees 01.6 minutes North 87 degrees 52.9 minutes West then west to the pierhead light at position 43 degrees 01.6 minutes North 87 degrees 53.7 minutes West.

(b) *Special Local Regulations.* (1) Vessels desiring to transit the restricted area may do so only with the prior approval of the Patrol Commander and when so directed by that officer. Vessels will be operated at a no wake speed and in a manner which will not endanger participants in the event or any other craft. These rules shall not apply to participants, or vessels of the patrol in the performance of their assigned duties.

(2) No vessel shall anchor or drift in the area restricted to navigation.

(3) A succession of sharp, short, signals by whistle or horn from vessels patrolling the areas under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Vessels signalled shall stop and shall comply with the orders of the Patrol Vessel; failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(4) All persons in charge of, or operating vessels in the area covered by the above Special Local Regulations are required to promptly obey the directions of the Patrol Commander and the men acting under his instructions in connection with the enforcement of these Special Local Regulations.

(5) This section is effective from 11:00 A.M. (local time) until 12:30 P.M. (local time), September 18, 1983.

(46 U.S.C. 454; 49 U.S.C. 1655(b); 49 CFR 1.46(b); and 33 CFR 100.35)

Dated: August 16, 1983.

Henry H. Bell,

Rear Admiral, Ninth Coast Guard District, U.S. Coast Guard.

[FR Doc. 83-23358 Filed 8-24-83; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 100

[CGD 09-83-16]

Special Local Regulations; 1983 Cleveland National Air Show, Ohio

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for the CLEVELAND NATIONAL AIR SHOW which is to be conducted over the eastern portion of Cleveland Harbor on the 3rd, 4th, and 5th of September, 1983. The regulations are needed to provide for the safety of life on navigable waters during the event.

EFFECTIVE DATES: These regulations become effective on 3 September and terminate on 5 September, 1983, from 8:00 a.m. to 6:00 p.m.

FOR FURTHER INFORMATION CONTACT: MSTC Bruce Graham, Office of Search and Rescue, Ninth Coast Guard District, 1240 E 9th St., Cleveland, OH 44199, (216) 522-4420.

SUPPLEMENTARY INFORMATION: A notice of proposed rule making has not been published for these regulations and they are being made effective in less than 30 days from the date of publication. Following normal rule making procedures would have been impractical. The application to hold the event was not received in a timely manner, and there was not sufficient time remaining to publish proposed rules in advance of the event or to provide for a delayed effective date.

Drafting Information

The drafters of this regulation are MSTC Bruce Graham, project officer, Officer of Search and Rescue and LCDR A. R. Butler, project attorney, Ninth Coast Guard District Legal Office.

Discussion of Regulations

The 1983 Cleveland National Air Show will be conducted over the eastern portion of Cleveland Harbor on September 3, 4, and 5, 1983. This event will have low flying aircraft demonstrations, high performance aircraft aerobatics, parachutists, and other events which could pose hazards to navigation in the area. Vessels desiring to transit the area may do so only with prior approval of the Patrol Commander (Officer-in-Charge, U.S. Coast Guard Station, Cleveland, Ohio).

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

PART 100—AMENDED

Regulations

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended by adding a temporary § 100.35-0916 to read as follows:

§ 100.35-0916 Lake Erie/Cleveland Harbor.

(a) *Regulated Area:* That portion of Lake Erie and Cleveland Harbor enclosed by a line running from the northwest corner of Dock No. 34 northwest to 41 degrees 31 minutes North 81 degrees 42 minutes 16 seconds West, then east to a point on the breakwall at 41 degrees 32 minutes 02 seconds North 81 degrees 40 minutes 03 seconds West, then southeast to a point on shore at 41 degrees 31 minutes 54 seconds North 81 degrees 39 minutes 54 seconds West.

(b) *Special Local Regulations.* (1) Vessels desiring to transit the restricted area may do so only with the prior approval of the Patrol Commander and when so directed by that officer. Vessels will be operated at a no wake speed and in a manner which will not endanger participants in the event or any other craft. These rules shall not apply to participants, or vessels of the patrol in the performance of their assigned duties.

(2) No vessel shall anchor or drift in the area restricted to navigation.

(3) A succession of sharp, short, signals by whistle or horn from vessels patrolling the areas under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Vessels signalled shall stop and shall comply with the orders of the Patrol Vessel; failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(4) All persons in charge of, or operating vessels in the area covered by the above Special Local Regulations are required to promptly obey the directions of the Patrol Commander and the men acting under his instructions in connection with the enforcement of these Special Local Regulations.

(5) This section is effective from 8:00 A.M. (local time) until 6:00 P.M. (local time), September 3, 4, and 5, 1983.

(46 U.S.C. 454; 49 U.S.C. 1655(b); 49 CFR 1.46(b); and 33 CFR 100.35)

Dated: August 16, 1983.

Henry H. Bell,

Rear Admiral, Ninth Coast Guard District, U.S. Coast Guard.

[FR Doc. 83-23359 Filed 8-24-83; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 110

[CGD5-82-30]

Anchorage Ground; Eastern Branch, Elizabeth River, Norfolk, VA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of Varebely and Associates, the Coast Guard is disestablishing Anchorage R in the Eastern Branch of the Elizabeth River, Norfolk, Virginia. This change is being made to allow construction of a rip-rap dike within a portion of Anchorage R to stabilize the shoreline. Because of the

historical non-use of this anchorage ground, elimination of Anchorage R will not adversely affect the needs of navigation.

EFFECTIVE DATE: September 26, 1983.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander T. T. ALLAN, III, Assistant Chief, Port and Vessel Safety Branch, Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23705 (804) 398–6691.

SUPPLEMENTARY INFORMATION: On April 28, 1983 the Coast Guard published a notice of proposed rulemaking in the Federal Register for this regulation (48 FR 19184). Interested persons were requested to submit comments and no comments were received.

Drafting Information

The drafters of the regulation are Lieutenant Junior Grade M. S. KUSHLA, Project Officer, Port and Vessel Safety Branch, Fifth Coast Guard District, and Commander D. J. KANTOR, Project Attorney, Fifth Coast Guard District Legal Office.

Discussion of Comments

No comments were received.

Economical Assessment and Certification

This regulation is considered to be nonsignificant in accordance with DOT Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5). Its economic impact is expected to be minimal since the anchorage ground is no longer being used. Based upon this assessment, it is certified in accordance with section 605(b) of the Regulatory Flexibility Act (5 U.S.C 605(b)) that this regulation will not have a significant economic impact on a substantial number of small entities. Also, this regulation has been reviewed in accordance with Executive Order 12291 of February 17, 1981, on Federal Regulations and has been determined not to be a major rule under the terms of that order.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

Final Regulation

§ 110.168 [Amended]

In consideration of the foregoing, Part 110 of Title 33, Code of Federal Regulations is amended by removing § 110.168(e)(2) and redesignating § 110.168(e)(3) as (e)(2).

(33 U.S.C. 471; 49 U.S.C. 1655(g)(1); 49 CFR 1.46; and 33 CFR 1.05–1(g))

Dated: August 11, 1983.

John D. Costello,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 83-23382 Filed 8-24-83; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 117

[CGD3 82-019]

Drawbridge Operation Regulations; Raccoon Creek, New Jersey

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of New Jersey Department of transportation, the Coast Guard is changing the regulations governing the Route 130 Bridge across Raccoon Creek at Bridgeport, New Jersey by requiring that advance notice of opening be given between 11 p.m. and 7 a.m. This change is being made because there are relatively few bridge openings during these hours. This action will relieve the bridge owner of the burden of having a person constantly available to open the draw and will still provide for the reasonable needs of navigation.

EFFECTIVE DATE: This rule becomes effective on September 26, 1983.

FOR FURTHER INFORMATION CONTACT: William C. Heming, Bridge Administrator, Third Coast Guard District (212) 668–7994.

SUPPLEMENTARY INFORMATION: On August 19, 1982, the Coast Guard published a proposed rule (47 FR 36227) concerning this amendment. The Commander, Third Coast Guard District, also published this proposal as a Public Notice dated November 12, 1982. In each notice, interested persons were given until October 4, 1982 and December 13, 1982, respectively to submit comments.

Drafting Information

The drafters of this rule are Ernest J. Feemster, project manager, and LCDR Frank E. Couper, project attorney.

Discussion of Comments

One response was received on the public notice and it objected to the proposed rule and suggested that provision be made for four hours advance notice. The Coast Guard agrees with the respondent and feels four hour notice is valid since there is one known commercial, water-dependent facility above the bridge. This facility does not operate on a regular schedule. Since there have been only a few requests for openings from 11 p.m. to 7 a.m., this change to the proposed rule is not expected to impose a much greater burden on the bridge owner. The order of listing the Route 130 and Conrail Bridges has been reversed in the final rule to reflect the order they appear on the waterway. This is a technical and not a substantive change. A draft economic evaluation has not been prepared because of minimal economic impact. This is because provision has been made to accommodate the few vessels expected to require an opening.

Economic Assessment and Certification

These final regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be major rules. They are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 22 May 1980). As explained above, an economic evaluation has not been conducted since its impact is expected to be minimal. In accordance with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), it is also certified that these rules will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended by redesignating § 117.225(f)(16–a) as § 117.225(f)(16–a)(ii) and adding a new § 117.225(f)(16–a)(i). As revised § 117.225(f)(16–a) reads as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.225 Navigable waters in the State of New Jersey; bridges where constant attendance of draw tenders is not required.

* * * * *

(f) * * *

(16–a) Raccoon Creek; (i) Route 130 New Jersey State Highway Bridge, mile 1.8, at Bridgeport. The draw shall open on signal except that from 11 p.m. to 7 a.m. the draw need not open unless at least four hours' advance notice is given.

(ii) Conrail railroad bridge, mile 2.8 at Bridgeport. At least four hours' advance notice required for opening this bridge during January, February and December between 10 p.m. and 6 a.m. on regular weekdays and at all times on Saturday, Sunday and national holidays during these months.

* * * * *

(33 U.S.C. 499; 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05-1(g)(3))

Dated: August 2, 1983.

W. E. Caldwell,

Vice Admiral, U.S. Coast Guard, Commander, Third Coast Guard District.

[FR Doc. 83-23068 Filed 8-24-83; 8:45 am]

BILLING CODE 4910-14-M

Coast Guard

33 CFR Part 117

[CGD3 82-015]

Drawbridge Operation Regulations; Hackensack River, New Jersey

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the New Jersey Department of Transportation, the Coast Guard is changing the regulations governing the Route 46 drawbridge at Little Ferry, New Jersey. This change will provide that the draw need not open at any time but contains the provision that the bridge shall be restored to operational condition within six months should the needs of navigation warrant. This change is being made because no known requests have been made to open the draw since 1976. This action will relieve the bridge owner of the burden of maintaining the machinery and of having a person available to open the draw and will still provide for the reasonable needs of navigation.

EFFECTIVE DATE: This rule becomes effective on September 26, 1983.

FOR FURTHER INFORMATION CONTACT: William C. Heming, Bridge Administrator, Third Coast Guard District, (212) 668-7994.

SUPPLEMENTARY INFORMATION: On November 12, 1982, the Coast Guard published a proposed rule (47 FR 51169) concerning this amendment. The Commander, Third Coast Guard District, also published this proposal as a Public Notice dated October 20, 1982. In each notice interested persons were given until December 27, 1982 and November 30, 1982, respectively to submit comments.

Drafting Information

The drafters of this rule are Ernest J. Feemster, project manager, and LCDR Frank E. Couper, project attorney.

Discussion of Comments

Two responses were received on the public notice concerning this proposed regulation; both objected to the proposed rule. One respondent felt that requests will likely occur in the future from sail vessels. The Coast Guard does not discount this possibility but feels that provisions have been made in the rule to account for such an occurrence. The other respondent felt that movable bridges should be able to open (especially in an emergency) in considerable less time than six months. The Coast Guard acknowledges that a bridge should be required to open as soon as possible (in an emergency) but feels that the existing 35 foot vertical bridge clearance can accomodate any necessary, emergency vessel.

The proposed rule and the public notice implied that this bridge was also called the "Gregory Avenue" bridge. This was erroneous since only the Route 46 bridge across the Passaic River is called the Gregory Avenue bridge—not the Route 46 bridge across the Hackensack River. All references to Gregory Avenue are deleted in this final rule. This action does not affect the substance of this rulemaking. An economic evaluation has not been conducted because of minimal economic impact since no conceivable, adverse impacts will result from this rulemaking.

Economic Assessment and Certification

These final regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be major rules. They are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 22 May 1980). As explained above, an economic evaluation has not been conducted since its impact is expected to be minimal. In accordance with § 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), it is also certified that these rules will not have a significant economic impact on a substantial number of small entities because no small entities will be affected.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended by revising § 117.200(a)(4)(vi) to read as follows:

§ 117.200 Newark Bay, Passaic and Hackensack Rivers, N.J., and their navigable tributaries; bridges.

(a) * * *

(4) * * *

(vi) State Route 46 bridge, Little Ferry, mile 14.0, Hackensack River. The draw need not be opened for the passage of a vessel. However, the draw shall be restored to operational condition within six months after notification by the Commander Third Coast Guard District, to take such action.

* * * * *

(33 U.S.C. 499; 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05-1(g)(3))

Dated: August 11, 1983.

W. E. Caldwell,

Vice Admiral, U.S. Coast Guard, Commander, Third Coast Guard District.

[FR Doc. 83-23358 Filed 8-24-83; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 165

[COTP Baltimore, MD Reg. 83-10]

Safety Zone Regulations; Severn River, Annapolis, MD

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a safety zone at Annapolis, MD on the Severn River. The zone is needed to protect both spectator and participant craft from a safety hazard associated with a Marine Corps Insertion/Extraction Demonstration. Entry into this zone is prohibited unless authorized by the captain of the port.

EFFECTIVE DATES: This regulation becomes effective on 12 August 1983 at 9:30 a.m. It terminates on 12 August 1983 at 12:00 noon unless sooner terminated by The Captain Of The Port.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Larry H. Gibson, USCG Marine Safety Office, Custom House, Baltimore, MD 21202, (301) 962-5105.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was not published for this regulation and it is being made effective in less than 30 days after **Federal Register** publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to prevent an accident or damage to the spectator and participant crafts involved.

Drafting Information

The drafter of this regulation is Lieutenant (JG) Edward A. Richards, project officer for the captain of the port

Discussion of Regulation

The event requiring this regulation will occur on 12 August 1983. There will be personnel suspended above and dropping into the water from hovering helicopters. This action will prevent a

possible accident due to intruding boats which could harm participants or spectators.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Regulation

PART 165—[AMENDED]

In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations, is amended by adding a new § 165.T0510 to read as follows:

§ 165.T0510 Safety Zone: Severn River, Annapolis, MD.

(a) *Location.* The following area is a safety zone: From the Western abutment of Old Severn River Bridge approximate position 38–59–29N, 076–29–28W. Then following the shoreline of the Severn River in a southeasterly direction to the Triton Light approximate position 38–58–53N, 076–28–36W. Then following a line across the width of the Severn River on a bearing of 076 degrees true to the western side of the U.S. Naval Station, Annapolis, MD. Small Boat Basin approximate position 38–58–57N, 076–28–12W. Then following along the eastern abutment of the Old Severn River Bridge approximate Position 38–59–40N, 076–29–09W. Then following a line drawn by the Old Severn River Bridge between its eastern and western abutments.

(b) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the captain of the port.

(33 U.S.C. 1225 and 1231; 49 CFR 1.46; 33 CFR 165.3)

Dated: August 10, 1983.

J. C. Carlton,

Captain, U.S. Coast Guard, Captain of the Port, Baltimore, MD.

[FR Doc. 83–23367 Filed 8–24–83; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR 165

[Third Coast Guard District Reg. CCGD3–83–45]

Safety Zone Regulations: New Jersey, New York Harbor, Newark Bay

AGENCY: Coast Guard, DOT

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a safety zone in New Jersey, New York Harbor, Newark Bay. This zone is needed to protect vessels from the safety hazards associated with the demolition of the CNJ Newark Bay Bridge. Entry into this zone is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATES: This regulation is effective at 12:00 PM E.D.S.T. 10 August 1983 and terminates upon completion of the current demolition of the work being done on the CNJ Newark Bay Bridge, with the Zone to be terminated no later than 01 November 1983.

FOR FURTHER INFORMATION CONTACT: Captain of the Port, New York (212)–668–7917.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was not published for this regulation and it is being made effective in less than 30 days after **Federal Register** publication. Publishing an NPRM and delaying its effective date would be contrary to public interest since immediate action is needed to respond to any potential hazards.

Drafting Information

The drafters of this regulation are Lieutenant J. M. Collin, Project Officer for the Captain of the Port, and Lieutenant Commander J. J. D'Alessandro, Project Attorney, Third Coast Guard District Legal Office.

Discussion of Regulation

The circumstances requiring this regulation result from the potential hazards to navigation associated with the demolition operation on the CNJ Newark Bay Bridge and the relocation of the Newark Bay Lighted Buoys "4A and "4B".

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Regulation

PART 165—[AMENDED]

In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations, is amended by adding 165–T–03–367 to read as follows:

§ 165–T–03–367 Safety Zone: New Jersey, New York Harbor, Newark Bay South Reach.

(a) *Location:* The following area is a Safety Zone: the waters within a boundary extending from the Newark Bay Lighted Buoy "4B" in position 40 39'20.2"N 74 08'45 1"W, thence easterly on a course of 100 degrees true a distance of approximately 200 yards to position 40 39'19.3"N 74 08'40"W, thence southwest on a course of 210 degrees true a distance of 275 yards to position 40 39'13"N 74 08'43"W, thence west on a course of 278 degrees true a distance of approximately 155 yards to the Newark Bay Channel Buoy "4A" in position 40 39'13.6"N 74 08'47.4"W, thence northeast on a course of 018 degrees true to the starting point.

(b) *Regulations:* (1) In accordance with the general regulations in 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port.

(33 U.S.C. 1225 and 1231; 49 CFR 1.46; 33 CFR 165.3)

Dated: August 15, 1983.

M. W. Pierson,

Commander, U.S. Coast Guard, Captain of the Port, New York.

[FR Doc. 83–23353 Filed 8–24–83; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–5–FRL 2247–8]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: EPA is approving as a revision to the Ohio State Implementation Plan (SIP) an amendment to the definition of air contaminant as contained in Section 3704.01(B) of the Ohio Revised Code. The revised language amending the definition excludes the air emissions that may be caused by farming activities. This revision will not result in any increase in air emissions.

DATE: This action will be effective October 24, 1983, unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of this revision to the Ohio SIP are available for inspection at: The Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20408.

Copies of the SIP revision, public comments on the notice of proposed rulemaking and other materials relating to this rulemaking are available for inspection at the following addresses: (It is recommended that you telephone Debra Marcantonio at (312) 886–6088 before visiting the Region V Office).

Environmental Protection Agency, Region V, Air Programs Branch, 230

South Dearborn Street, Chicago, Illinois 60604

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington D.C. 20460.

Written comments should be sent to: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, Region V, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Debra Marcantonio, Air Programs Branch, Region V, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6088.

SUPPLEMENTARY INFORMATION: On June 29, 1982, Ohio EPA submitted as a revision to the Ohio SIP an amendment to the definition of air contaminant as contained in Section 3704.01(B) of the Ohio revised Code. This revision was part of the legislation contained in the Amended Substitute Bill 78 and was enacted into law in Ohio on June 29, 1983.

The revised language amending the definition of air contaminant excludes the air emissions that may be caused by farming activities. Only nontraditional emissions from farming activities, e.g., agricultural tilling, would be exempted by this rule. Since there are currently no EPA requirements that affect these operations, the revised definition is approvable. The result of this exemption is to exclude certain restricted farming operations under specified conditions, from Ohio's permitting requirements. However, the emissions generated by these activities will continue to be included in applicable inventories used for attainment demonstrations and other air quality analyses as appropriate.

Because EPA considers today's action noncontroversial and routine, we are approving it today without prior proposal. The action will become effective on October 24, 1983. However, if we receive notice by September 26, 1983 that someone wishes to submit critical comments, then EPA will publish: (1) A notice that withdraws the action, and (2) a notice that begins a new rulemaking by proposing the action and establishing a comment period.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under 5 U.S.C. Section 605(b), I have certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

Lists of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Note.—Incorporation by reference of the State Implementation Plan for the State of Ohio was approved by the Director of the Federal Register on July 1, 1982.

This notice is issued under authority of Sections 110 of the Clean Air Act, as amended (42 U.S.C. 7410).

Dated: August 18, 1983.

William D. Ruckelshaus,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40 of the Code of Federal Regulations, Chapter I, Part 52 is amended as follows:

Subpart KK—Ohio

1. Section 52.1870(c) is amended by adding paragraph (47) as follows:

§ 52.1870 Identification of plan.

* * * * *

(c) * * *

(47) On June 29, 1982, the State submitted an amendment to the definition of air contaminant as contained in Section 3704.01(B) of the Ohio Revised Code.

[FR Doc. 83-23315 Filed 8-24-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[A-6-FRL 2421-7]

Approval and Promulgation of Implementation Plans; State of Oklahoma

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: The Governor of the State of Oklahoma has submitted Amendments to the State Implementation Plan (SIP) involving the Prevention of Significant Deterioration (PSD) of air quality program. On December 7, 1982, EPA proposed to approve the State's PSD regulations provided that the State amended then to require applicants to meet the growth provisions of 40 CFR 51.24 (n)(3)(ii) and (o)(2). EPA received no comments to the notice of proposed rulemaking. The State made the necessary change and submitted it on May 19, 1983. In addition, the State also modified several parts of the regulations to clarify some items. A letter of October 6, 1982, from the State had clarified its Regulation 1.4. The State's amendments to 1.4 submitted as of May 19, 1983, now render moot several items in that October 6 letter. Today's notice is published to advise the public that EPA is approving the State's submittal. The rationale for this action is contained in this notice and the final Technical Support Memorandum. EPA retains enforcement jurisdiction over sources which EPA permitted prior to today's approval of the State's PSD program since the State's rules do not require compliance with EPA issued PSD permits.

EFFECTIVE DATE: This promulgation is effective August 25, 1983.

ADDRESSES: Copies of the State's submittal and EPA's Technical Evaluation Memorandum are available at the following locations:

Air Branch, Environmental Protection Agency, Region 6, InterFirst Two, 1201 Elm Street, Dallas, Texas 75270

Public Information Reference Unit, 401 M Street SW., Washington, D.C. 20460

Oklahoma Air Quality Service, Department of Health, NE. 10th and Stonewall, Oklahoma City, Oklahoma 73105

A copy of the State's submittal is also available at the Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: George I. Kennedy, Technical Section, Environmental Protection Agency, Region 6, Air Branch, InterFirst Two, 1201 Elm Street, Dallas, Texas 75270, (214) 767-1594.

SUPPLEMENTARY INFORMATION: On August 7, 1980, EPA promulgated 40 CFR 51.24, which amended regulations for the prevention of significant deterioration (PSD) program (45 FR 52676). On April 12, 1982, the Governor of Oklahoma submitted an SIP revision to fulfill the PSD requirements. Earlier on April 2, 1979, the Governor had submitted Regulation 1.3 Table II definition of PSD increments. EPA reviewed the State's submittals, to assure that they met the requirements of 40 CFR 51.24. EPA identified one major deficiency, which the State agreed to address. In addition EPA requested that the State clarify 25 points to assure that it would satisfy 40

CFR 51.24. The State provided these clarifications by letter of October 6, 1982.

In the EPA's review, the most significant distinctions noted by EPA are listed in the notice of proposed rulemaking of December 7, 1982, (47 FR 54984). In March 1983, the Oklahoma Air Quality Council adopted an amended regulation 1.4 in which the Commissioner requires applicants to meet the growth provisions of 40 CFR 51.24 (n)(3)(ii) and (o)(2). The amended Regulation 1.4 was then forwarded to the Board of Health for approval. The State also incorporated the following requirements which had been explained previously in the October 6 letter:

(1) The State requires that ambient air monitoring be done according to 40 CFR 58.

(2) The requirements of 1.4.4(d) (2) and (3) do not exempt a source from meeting NAAQS.

(3) The additional impact evaluation, 1.4.4(f)(11), is required as in 40 CFR 51.24(o).

(4) The definition of "building, structure, facility or installation" includes secifically "groupings under the control of persons under common control."

(5) The State clarified its use of EPA Air Quality Models and Techniques in the dispersion analysis of PSD permits.

(6) In 1.4.4.(f)(4) the phrase "cause" has been expanded to the phrase "cause or contribute to ".

(7) Section 1.4.4(g)(2) has been modified to read "the permit application for a proposed new source or modification * * *" clarifying that analysis for impairing visibility applies to new sources *and* modifications.

(8) A typographical error in 1.4.4(d)(6) has been corrected.

This March 1983 amendment of Regulation 1.4 renders moot the following comments in the State's letter of October 6, 1982: Section I Comment 1, Section II Comments 1, 2, 3, 5, 22, 23, 24 and 25. The remaining comments in Section II remain valid. This October 6 submittal is incorporated by reference as a part of the SIP. The Board of Health approved this SIP revision on May 14, 1983. The State submitted this final regulation on May 19, 1983. This submittal contains changes which do not alter the approvability of the PSD rules as proposed by EPA. EPA specifically solicited comments on the issues and received none. EPA reviewed the State's latest submittal and prepared a Technical Support Memorandum to update the Evaluation Report [1], previously prepared. This memorandum and report, based upon the criteria of 40 CFR 51.24, are available for inspection during normal business hours at the EPA regional office, and at the other addresses listed above.

In view of this discussion, the State's making the necessary change, and in the absence of comments from its proposed approval, EPA is approving this SIP revision to incorporate PSD for the reasons cited in the December 7 notice.

On December 18, 1980, Oklahoma had requested delegation of the technical and administrative review portion of the PSD program until a PSD SIP revision could be approved. Partial PSD delegation was granted on July 16, 1981. A notice of this action was published in the **Federal Register** on February 17, 1982 (47 FR 6992). Additional authority to inspect PSD sources and perform compliance review was granted on April 26, 1982, and notice of this action published on July 16, 1982 (47 FR 31063).

Effective today, that part of the delegation which affects sources permitted after today under the Oklahoma program is rescinded and the State will have authority to issue PSD permits and enforce them under its approved PSD SIP. The delegation remains in effect, however, for EPA issued PSD permits; EPA retains enforcement authority over permits it issued previously. The delegation also remains in effect for sources locating on lands over which Oklahoma does not have jurisdiction under the Clean Air Act to issue PSD permits.

EPA finds good cause to make these amendments effective immediately. Sources seeking permits will be able to apply to the State for permit approval, and will not have to be reviewed by both the State and EPA.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under 5 U.S.C. 605(b), I have certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

This action is a SIP approval issued under the authority of Sections 110 and Part C Subpart 1 of the Clean Air Act, as amended, 42 U.S.C. 7410 and Part C.

Incorporation by reference of the State Implementation Plan for the State of Oklahoma was approved by the Director of **Federal Register** on July 1, 1982.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by 60 days from today. This action may not be challenged later in proceedings to enforce its requirements. [See 307(b)(2).]

List of Subjects in 50 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Dated: August 18, 1983.

William D. Ruckelshaus,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLAN

Subpart LL—Oklahoma

1. 40 CFR Part 52, is amended by adding § 52.1920(c)(26) to read as follows:

§ 52.1920 Identification of plan.

* * * * *

(c) * * *

(26) On April 2, 1979, the State of Oklahoma submitted an amendment to Regulation 1.3 *Defining Terms Used in Oklahoma Air Pollution Control Regulations* (i.e., Table II) and on April 12, 1982, and on May 19, 1983, the State submitted revisions to the State's Permit Regulation 1.4 including adding 1.4.4 [Major Sources—Prevention of Significant Deterioration (PSD) Requirements for Attainment Areas] to provide for PSD new source review. A Letter of Clarification of October 6, 1982, was also submitted.

§ 52.1929 [Amended]

2. 40 CFR Part 52 is amended by revising § 52.1929 to read as follows:

§ 52.1929 Significant deterioration of air quality.

Regulation for preventing significant deterioration of air quality.

The Oklahoma plan, as submitted, does not apply to certain sources in the State. Therefore the provisions of § 52.21 (b) through (w) are hereby incorporated by reference, made a part of the Oklahoma State Implementation Plan and are applicable to the following major stationary sources or major modifications:

(a) Sources permitted by EPA prior to approval of the Oklahoma PSD program for which EPA retains enforcement authority.

[1] Evaluation Report for the Oklahoma State Implementation Plan (SIP) for Prevention of Significant Deterioration (PSD) dated October 15, 1982, with supplemental Technical Support Memorandum dated March 31, 1983.

(b) Sources proposing to locate on lands over which Oklahoma does not have jurisdiction under the Clean Air Act to issue PSD permits.

[FR Doc. 83-23313 Filed 8-24-83; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 65

[A-3-FRL 2350-8]

Delayed Compliance Order Issued by the Pennsylvania Department of Environmental Resources to American Can Company; Approval

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Administrator of the Environmental Protection Agency hereby approves a Delayed Compliance Order issued by the Pennsylvania Department of Environmental Resources to American Can Company. The Order requires the company to bring air emissions from its metal can manufacturing facility in Lemoyne, Pennsylvania into compliance with certain regulations contained in the Federally approved Pennsylvania State Implementation Plan (SIP) by April 9, 1985. Because of the Administrator's approval, compliance with the Order by American Can Company will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act for violations of the SIP regulations covered by the Order during the period the Order is in effect.

DATES: This rule will take effect on August 25, 1983.

FOR FURTHER INFORMATION CONTACT: Joseph Arena, Air Enforcement Section (3AW14), Air & Waste Management Division, U.S. EPA, Region III, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106, (215) 597-4561.

ADDRESSES: A copy of the Delayed Compliance Order, and supporting material, and any comments received in response to a prior **Federal Register** notice proposing approval of the Order are available for public inspection and copying (for appropriate charges) during normal business hours at: U.S. EPA, Region III, Air & Waste Management Division (3AW14), Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106.

SUPPLEMENTARY INFORMATION: On January 25, 1983 the Regional Administrator of the Environmental Protection Agency's Region III Office published in the **Federal Register**, Vol. 48 No. 17, a notice proposing approval of a Delayed Compliance Order issued by the Pennsylvania Department of Environmental Resources to American Can Company. The notice asked for public comments by February 23, 1983 on the EPA proposal.

No public comments have been received by this Office, therefore the delayed compliance order issued to American Can Company is approved by the Administrator of EPA pursuant to the authority of Section 113(d)(2) of the Clean Air Act, 42 U.S.C. 7413(d)(2). The order places American Can Company on a schedule to bring its metal can manufacturing facility in Lemoyne into compliance as expeditiously as practicable with Title 25 Pennsylvania Code, § 129.52, "Surface Coating Process", a part of the federally approved Pennsylvania State Implementation Plan. The order also imposes interim requirements which meet Section 113(d)(1)(C) and 113(d)(7) of the act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit American Can Company to delay compliance with the SIP regulations covered by the order until April 9, 1985. The company is unable to immediately comply with these regulations. EPA has determined that its approval of the Order shall be effective (the date of publication of this notice) because of the need to immediately place American Can Company on a schedule which is effective under the Clean Air Act for compliance with the applicable requirements of the Implementation Plan.

List of Subjects in 40 CFR Part 65

Air pollution control.

(42 U.S.C. 7413(d), 7601)

Dated: August 16, 1983.

William D. Ruckelshaus,

Administrator, Environmental Protection Agency.

In consideration of the foregoing, Part 65 of Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDER

By adding the following entry to the table in § 65.431.

§ 65.431 EPA approval of State Delayed Compliance Orders issued to major stationary sources.

* * * * *

Source	Location	Order No.	Date of FR proposal	SIP regulations involved	Final compliance date
American Can Co.	Lemoyne, PA		Jan. 25, 1983	Section 129.52 of title 25.	April 9, 1985.

[FR Doc. 83-23302 Filed 8-24-83; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 81

[A-5-FRL 2421-6]

Designation of Areas for Air Quality Planning Purposes; Minnesota

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Notice of final rulemaking.

SUMMARY: This notice changes the attainment status designation for Air Quality Control Region 131 (comprised of the seven counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington) in Minnesota relative to the total suspended particulate (TSP) National Ambient Air Quality Standards. Based upon the review of available monitoring and modeling data, EPA is reducing the size of the primary nonattainment area and redesignating the remainder of the AQCR to either secondary nonattainment or attainment.

DATE: This final rulemmaking becomes effective September 26, 1983.

ADDRESSES: Copies of the redesignation request and the supporting data are available at the following addresses:

Regulatory Analysis Section, Air and Radiation Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604

Minnesota Pollution Control Agency, 1935 West County Road B-2, Roseville, Minnesota 55113

FOR FURTHER INFORMATION CONTACT: Delores Sieja at the EPA, Region V, address above or call (312) 886-6038.

SUPPLEMENTARY INFORMATION: The Clean Air Act Amendments of 1977 added Section 107(d) to the Clean Air Act (the Act). This section directed each state to submit to the Administrator of EPA a list of the attainment status for all areas within the state. The Administrator was required to promulgate the state lists, with any necessary modifications. The Administrator published these lists in the **Federal Register** on March 3, 1978 (43 FR 8962), and made necessary amendments in the **Federal Register** on

October 5, 1978 (43 FR 45993). These area designations are subject to revision whenever sufficient data become available to warrant a redesignation. EPA may redesignate an area to attainment if it is supported by all available data including eight consecutive quarters of the most recent, quality assured, representative ambient air quality data which show no violation of the National Ambient Air quality Standards (NAAQS).

On March 3, 1978 (43 FR 9005), EPA designated Air Quality Control Region (AQCR) 131 (comprised of the seven counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott and Washington) as nonattainment of the primary NAAQS for total suspended particulates. On August 24, 1982, the Minnesota Pollution Control Agency (MPCA) requested the following redesignation for the seven counties.

I. Anoka County

Cities of Fridley, Columbia Heights, Hill Top, and Spring Lake Park; Secondary nonattainment.

Remainder of the county; attainment.

II. Carver County

Entire County; attainment.

III. Dakota County

Cities of West St. Paul, South St. Paul, Mendota Heights, Sunfish Lake, Rosemount, Inver Grove Heights, Hastings, Mendota, and Lilydale; Secondary, nonattainment.

Remainder of the county; attainment.

IV. Hennepin County

Cities of Minneapolis and St. Louis Park; Primary nonattainement.

Cities of Richfield, Edina, Golden, Valley, New Hope, Crystal, Robbinsdale, Brooklyn Center, and Brooklyn Park; Secondary nonattainment.

Remainder of the county; attainment.

V. Ramsey County

City of St. Paul; primary nonattainment.

Cities of North Oaks, White Bear, and White Bear Lake; attainment.

Remainder of the county; secondary nonattainment.

VI. Scott County

Entire county; attainment.

VII. Washington County

Cities of Oakdale, Newport, St. Paul Park, Cottage Grove, and Grey Cloud Island; Secondary nonattainment.

Remainder of the county; attainment.

To support their request, the State referenced a contractor report entitled "Technical Support Document for the Redesignation of the AQCR 131 Nonattainment Boundaries for TSP (Minneapolis/St. Paul)," dated June, 1982. This report examines monitoring data for 1980 and 1981 and includes an analysis of the most recent modeling study performed by the State as part of its Part D State Implementation Work for AQCR 131. The State relied on the results of the contractor report, with a few exceptions, as the basis for their redesignation request. On November 2, 1982, the State submitted additional modeling data.

It must be emphasized that this redesignation is the first attempt to accurately define the boundaries of the true nonattainment area within the AQCR. Although only a subarea in AQCR 131 was actually nonattainment, the entire AQCR was classified originally as nonattainment for simplicity. Thus, the change in designation from primary nonattainment to full attainment for much of the AQCR does not necessarily reflect an actual change in air quality. Rather, it is based on a closer examination of the actual spatial extent of nonattainment. This is not to say that there has not been an air quality improvement in parts of the AQCR. Ambient monitoring does show lower concentrations in recent years, especially in the suburbs of the twin cities. Implementation of and compliance of the Federally-approved Part D TSP SIP for the twin cities area appears to be an important reason for this improvement.

Note.—The designation of the suburbs as secondary nonattainment means that additional enforceable emission reductions are still required in these areas.

EPA reviewed the available monitoring and modeling data and on March 29, 1983 (48 FR 13053) proposed to approve the requested redesignations as outlined above. Because the notice of proposed rulemaking contains a detailed evaluation of the support data as it applies to each county, it will not be discussed in this notice.

Interested parties were given until April 28, 1983, to submit comments on the proposed redesignation. No comments were received. Therefore, based on EPA's analysis of the available data and pursuant to Section 107 of the Clean Air Act, EPA approves the redesignation, as described above.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 24, 1983. This action may not be challenged later in proceedings to enforce its requirements. [See Section 307(b)(2)].

Lists of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

(Sec. 107(d) of the Act, as amended (42 U.S.C. 7407(d))

Dated: August 18, 1983.

William D. Ruckelshaus,

Administrator.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

Subpart C—Section 107 Attainment Status Designations

Section 81.324 of Part 81 of Chapter I, Title 40, Code of Federal Regulations is being amended. In the table for "Minnesota—TSP" the entry for AQCR 131 is revised to read as follows: (It should be noted that AQCR 131 is comprised of seven counties. The designations for AQCR 131 will now be listed on a county—specific basis.)

§ 81.324 Minnesota.

MINNESOTA—TSP

	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
AQCR 131 (comprised of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, Washington Counties)				
Anoka County:				
Cities of Fridley, Columbia Heights, Hill Top, and Spring Lake Park.		X		
Remainder of the county				X
Carver County				X
Dakota County:				
Cities of West St. Paul, South St. Paul, Mendota Heights, Sunfish Lake, Rosemount, Inver Grove Heights, Hastings, Mendota, and Lilydale.		X		
Remainder of the county				X
Hennepin County:				
Cities of Minneapolis and St. Louis Park	X			
Cities of Richfield, Edina, Golden Valley, New Hope, Crystal, Robbinson, Brooklyn Center, and Brooklyn Park.		X		
Remainder of the county				X
Ramsey County:				
City of St. Paul	X			

MINNESOTA—TSP—Continued

	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Cities of North Oaks, White Bear, and White Bear Lake.				X
Remainder of the county		X		
Scott County				X
Washington County:				
Cities of Oakdale, Newport, St. Paul Park, Cottage Grove, and Grey Cloud Island.		X		
Remainder of the county				X

[FR Doc. 83-23316 Filed 8-24-83; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 81

[A-5-FRL 2421-5]

Designation of Areas for Air Quality Planning Purposes; Ohio

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Notice of final rulemaking.

SUMMARY: This notice changes the air quality attainment designation relative to the National Ambient Air Quality Standards (NAAQS) for total suspended particulates (TSP) for Lucas County, Ohio. Based upon the review of available monitoring data EPA is designating the Cities of Toledo and Oregon as secondary nonattainment and the remainder of the County attainment.

DATE: This final rulemaking becomes effective September 26, 1983.

ADDRESSES: Copies of the redesignation request and the supporting air quality data are available at the following addresses:

Regulatory Analysis Section, Air and Radiation Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604

Ohio Environmental Protection Agency, Office of Air Pollution Control, 361 East Broad Street, Columbus, Ohio 43216

FOR FURTHER INFORMATION CONTACT: Delores Sieja at the EPA, Region V, address above or call (312) 886-6038.

SUPPLEMENTARY INFORMATION: The Clean Air Act Amendments of 1977 added Section 107(d) to the Clean Air Act (the Act). This section directed each State to submit to the Administrator of EPA a list of the NAAQS attainment status for all areas within the State. The Administrator was required to promulgate the State lists, with any necessary modifications. The Administrator published these lists in the **Federal Register** on March 3, 1978 (43 FR 8962), and make necessary amendments in the **Federal Register** on October 5, 1978 (43 FR 45993). These area designations are subject to revision whenever sufficient data become available to warrant a redesignation.

On June 9, 1982 (47 FR 25016) in a notice of direct final rulemaking, EPA approved redesignation requests for 15 counties in Ohio. The approval included Lucas County, in which the TSP primary nonattainment area was reduced in size to include only the City of Toledo, east of the Maumee River. The remainder of the County was designated attainment. In that notice, EPA advised the public that if someone wished to submit adverse or critical comments, then EPA would withdraw its approval and begin a new rulemaking by proposing the action and establishing a 30-day comment period.

EPA received notice that a member of the public wished to submit an adverse or critical comment only on the approval of Lucas County, and therefore, in accordance with applicable procedures, on September 17, 1982 (47 FR 41143), EPA withdrew only the final action for Lucas County. In a separate notice, also published on September 17, 1982, EPA proposed to reduce the size of the TSP primary nonattainment area to include only the City of Toledo, east of the Maumee River, and to designate the remainder of the County as attainment. EPA received comments from a grain terminal, an oil company, the State of Ohio, and the Toledo Environmental Services Agency.

Both the City and the State requested that the designation of Lucas County be modified to: Secondary nonattainment for the Cities of Toledo and Oregon, and attainment for the remainder of the County. To support their requests, the City and the State submitted data collected at numerous sites in the County between January 1980 and August 1982. After reviewing this data, EPA determined a new proposal was warranted and therefore on March 1, 1983, (48 FR 8497) EPA proposed to approve the modified redesignation request.

Interested parties were given until March 31, 1983, to submit comments on the proposed redesignation. In addition, EPA advised the public that it would not be responding to the grain terminal and oil company comments received on EPA's September 17, 1982 notice because the action taken in the March 1, 1983 notice supercedes the September 17, 1982 action. However, if notice is received that these comments continue to be applicable they will be addressed. EPA received no new comments on the March 31, 1983, notice of proposed rulemaking but received notification from the oil company that it wished its comments submitted on the September 17, 1982 notice to be considered by the Agency. Therefore, at this time EPA will respond to those comments.

Comment: The oil company agreed with the September 17, 1982 proposed redesignation of Lucas County in which the TSP primary nonattainment area was reduced in size to include only the City of Toledo, east of the Maumee River. As support for this redesignation the company submitted a summary of data for the period February 1980—February 1981 collected from their monitoring network located around their refinery in the City of Oregon.

Response: EPA agrees that the 1980-1981 data supplied by the oil company, in conjunction with available State data, supported the proposed designation in the September 17, 1982 notice. However, subsequent to the position taken in the September 17, 1982, notice EPA received data for 1982 from the State and City. The 1982 data showed that violations of the secondary NAAQS for TSP were recorded at four sites: (Toledo-26 Main Street, Toledo-60 North Westwood, Toledo-Eastside Sewage, and Oregon-Municipal Building). The 60 North Westwood site is located west of the Maumee River and the other three sites are located east of the Maumee River. Therefore, EPA now believes that a secondary TSP designation is appropriate for both the Cities of Toledo and Oregon, in their entirety.

Finally, although no public comments were received questioning the reason for the reduction in TSP concentrations that has occurred in the original Toledo primary nonattainment area over the past few years, EPA believes that this issue should be addressed. No primary violations have been measured in the County since 1979. This improvement can be linked to actual emission reductions (e.g. permanent source shutdowns, installation of pollution control equipment, and changes in operating practice) at local combustion sources. Air quality modeling and filter analysis have identified this source category as being responsible for a

substantial portion of the previous high concentrations in the area.

After having taken into consideration the oil company's comment which was submitted regarding the March 1, 1983, redesignation of Lucas County, EPA believes the position taken in that notice is appropriate. Therefore, pursuant to Section 107 of the Clean Air Act, EPA approves the redesignation as follows:

Cities of Toledo and Oregon	Secondary Nonattainment
Remainder of the County	Attainment

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 24, 1983. This action may not be challenged later in proceedings to enforce its requirements. [See Section 307(b)(2)].

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

(Sec. 107(d) of the Act, as amended (42 U.S.C. 74070)

Dated: August 18, 1983.

William D. Ruckelshaus,

Administrator.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

Subpart C—Section 107 Attainment Status Designations

Section 81.336 of Part 81 of Chapter I, Title 40 Code of Federal Regulations is amended. In the table for "Ohio—TSP" the entry for Lucas County should be revised to read as follows:

§ 81.36 Ohio.

OHIO—TSP

	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Lucas:				
Cities of Toledo and Oregon		X		
The Remainder of Lucas County				X

[FR Doc. 83-23314 Filed 8-24-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 145

[OW-FRL-2408-4]

Alabama Department of Environmental Management; Underground Injection Control, Program Approval

AGENCY: Environmental Protection Agency.

ACTION: Approval of State program.

SUMMARY: The State of Alabama has submitted an application under Section 1422 of the Safe Drinking Water Act for the approval of an Underground Injection Control (UIC) program governing Classes I, III, IV, and V injection wells. After careful review of the application and comments received from the public, the Agency has determined that the State's program to regulate Classes I, III, IV, and V injection wells meets the requirements of Section 1422 of the Act. Therefore, this application is approved.

EFFECTIVE DATE: This approval is effective August 25, 1983.

FOR FURTHER INFORMATION CONTACT: Curtis F. Fehn, Chief, Groundwater Section, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365, (404) 881-3866.

SUPPLEMENTARY INFORMATION: Part C of the Safe Drinking Water Act (SDWA) provides for an Underground Injection Control (UIC) program. Section 1421 of the SDWA requires the Administrator to promulgate minimum requirements for effective State programs to prevent underground injection which endangers drinking water sources. The Administrator is also to list in the **Federal Register** each State for which in his judgment a State UIC program may be necessary. Each State listed shall submit to the Administrator an application which contains a showing satisfactory to the Administrator that the State: (i) Has adopted after reasonable notice and public hearings, a UIC program which meets the requirements of regulations in effect under Section 1421 of the SDWA; and (ii) will keep such records and make such reports with respect to its activities under its UIC program as the Administrator may require by regulations. After reasonable opportunity for public comment, the Administrator shall by rule approve, disapprove or approve in part and disapprove in part, the State's UIC program.

The State of Alabama was listed as needing a UIC program on June 19, 1979 (44 FR 35288). The State submitted an application under Section 1422 on June 28, 1982, for the approval of a UIC program governing Classes I, III, IV, and V injection wells. The program would be administered by the Alabama Department of Environmental Management (ADEM).

On July 26, 1982, EPA published notice of its receipt of the application, requested public comments, and scheduled a public hearing on the Alabama UIC program submitted by the ADEM (47 FR 32175). Neither requests for public hearing nor requests to offer testimony at such hearing were received by EPA. Therefore, pursuant to the provisions of 40 CFR 145.31(c), the public hearing was canceled because of expressed lack of sufficient public interest. After careful review of this application, which includes the Memoranda Of Agreement (MOA), I have determined that the Alabama UIC program submitted by the ADEM to regulate Classes I, III, IV, and V injection wells meets the requirements of Section 1422 of the SDWA, and hereby approve it.

List of Subjects in 40 CFR Part 145

Indians—lands, Water supply, Reporting and recordkeeping requirements, Intergovernmental relations, Penalties, Confidential business information.

OMB Review

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I certify that approval by EPA under Section 1422 of the Safe Drinking Water Act of the application by the Alabama Department of Environmental Management will not have a significant econmic impact on a substantial number of small entities, since this rule only approves State actions. It imposes no new requirements on small entities.

Dated: August 18, 1983.

William D. Ruckelshaus,

Administrator.

[FR Doc. 83-23311 Filed 8-24-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 145

[OW-FRL-2408-5]

Maine Department of Environmental Protection; Underground Injection Control, Program Approval

AGENCY: Environmental Protection Agency.

ACTION: Approval of State Program.

SUMMARY: The State of Maine has submitted an application under Section 1422 of Safe Drinking Water Act for the approval of an Underground Injection Control (UIC) program governing Classes I, II, III, IV, and V injection wells. After careful review of the application, the Agency has determined that the State's injection well program for all classes of injection wells meets the requirements of Section 1422 of the Act and, therefore, approves it.

EFFECTIVE DATE: This approval is effective September 26, 1983.

FOR FURTHER INFORMATION CONTACT: Carol M. Wood, Water Supply Branch, Environmental Protection Agency, Region I, JFK Federal Building, Boston, Massachusetts 02203, (617) 223-6486.

SUPPLEMENTARY INFORMATION: Part C of the Safe Drinking Water Act (SWDA) provides for an Underground Injection Control (UIC) program. Section 1421 of the SDWA requires the Administrator to promulgate minimum requirements for effective State programs to prevent underground injection which endangers drinking water sources. The Administrator is also to list in the **Federal Register** each State for which, in his judgment, a State UIC program may be necessary. Each State listed shall submit to the Administrator an application which contains a showing satisfactory to the Administrator that the State: (i) Has adopted after reasonable notice and public hearings, a UIC program which meets the requirements of regulations in effect under Section 1421 of the SDWA; and (ii) will keep such records and make such reports with respect to its activities under its UIC program as the Administrator may require by regulations. After reasonable opportunity for public comment, the Administrator shall by rule approve, disapprove or approve in part and disapprove in part, the State's UIC program.

The State of Maine was listed as needing a UIC program on March 19, 1980 (45 FR 17632). The State submitted an application under Section 1422 on March 7, 1983, for a UIC program to be administered by the Maine Department of Environmental Protection (MDEP). On March 18, 1983 EPA published notice of receipt of the application, requested public comments, and offered a public hearing on the UIC program submitted by the MDEP (48 FR 11468).

Neither requests for public hearing nor requests to offer testimony at such hearing were received by EPA. Therefore, pursuant to the provisions of 40 CFR 145.31(c), the public hearing was cancelled because of lack of sufficient public interest. After careful review of the application, which includes the Memoranda of Agreement (MOA), I have determined that the Maine UIC program for Classes I, II, III, IV, and V injection wells submitted by the MDEP meets the requirements established by the Federal regulations pursuant to Section 1422 of the SDWA and, hereby, approve it.

List of Subjects in 40 CFR Part 145

Indians—lands, Reporting and recordkeeping requirements, Intergovernmental relations, Penalties, Confidential business information, Water Supply.

OMB Review

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Exective Order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I certify that approval by EPA under Section 1422 of the Safe Drinking Water Act of the application by the Maine Department of Environmental Profection will not have a significant economic impact on a substantial number of small entities since this rule only approves State actions. It imposes no new requirements on small entitites.

Dated: August 18, 1983.

William D. Ruckelshaus,

Administrator.

[FR Doc. 83-23310 Filed 8-24-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 145

[OW-FRL-2408-6]

Mississippi Department of Natural Resources; Underground Injection Control, Program Approval

AGENCY: Enviromental Protection Agency.

ACTION: Approval of State Program.

SUMMARY: The State of Mississippi has submitted an application under Section 1422 of the Safe Drinking Water Act for the approval of an Underground Injection Control (UIC) program governing Classes I, III, IV, and V injection wells. After careful review of the application and comments received from the public, the Agency has determined that the State's program to regulate Classes I, III, IV, and V injection wells meets the requirements of Section 1421 of the Act. Therefore, this application is approved.

EFFECTIVE DATE: This approval is effective September 26, 1983.

FOR FURTHER INFORMATION CONTACT: Curtis F. Fehn, Chief, Groundwater Section, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365, (404) 881-3866.

SUPPLEMENTARY INFORMATION: Part C of the Safe Drinking Water Act (SDWA) provides for an Underground Injection Control (UIC) program. Section 1421 of the SDWA requires the Administrator to promulgate minimum requirements for effective State programs to prevent underground injection which endangers drinking water sources. The Administrator is also to list in the **Federal Register** each State for which in his judgment a State UIC program may be necessary. Each State listed shall submit to the Administrator an application which contains a showing satisfactory to the Administrator that the State: (i) Has adopted after reasonable notice and public hearings, a UIC program which meets the requirements of regulations in effect under Section 1421 of the SDWA; and (ii) will keep such records and make such reports with respect to its activities under its UIC program as the Administrator may require by regulations. After reasonable opportunity for public comment, the Administrator shall by rule approve, disapprove or approve in part and disapprove in part, the State's UIC program.

The State of Mississippi was listed as needing a UIC program on September 25, 1978 (43 FR 43420). The State submitted an application under Section 1422 on March 10, 1982, for the approval of a UIC program governing Classes I, III, IV, and V injection wells. The program would be administered by the Mississippi Department of Natural Resources (MDNR). On April 8, 1982, EPA published notice of its receipt of the application, requested public comments, and scheduled a public hearing on the Mississippi UIC program submitted by the MDNR (47 FR 15147). Neither requests for public hearing nor requests to offer testimony at such hearing were received by EPA. Therefore, pursuant to

the provisions of 40 CFR 145.31(c), the public hearing was cancelled because of lack of sufficient public interest. After careful review of this application, which includes the Memorandum of Agreement (MOA) and written comments from the public, I have determined that the Mississippi UIC program submitted by the MDNR to regulate Classes I, III, IV, and V injection wells meets the requirements of Section 1422 of the SDWA, and hereby approve it.

List of Subjects in 40 CFR Part 145

Indians—lands, Water supply, Reporting and recordkeeping requirements, Intergovernmental relations, Penalties, Confidential business information.

OMB Review

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I certify that approval by EPA under Section 1422 of the Safe Drinking Water Act of the application by the Mississippi Department of Natural Resources will not have a significant economic impact on a substantial number of small entities, since this rule only approves State actions. It imposes no new requirements on small entities.

Dated August 18, 1983.

William D. Ruckelshaus,

Administrator.

[FR Doc. 83-23309 Filed 8-24-83; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Child Support Enforcement

45 CFR Part 303

Requests To Use the Federal Parent Locator Service in Parental Kidnapping and Child Custody Cases

AGENCY: Office of Child Support Enforcement (OCSE), HHS.

ACTION: Final rule.

SUMMARY: Section 9 of Pub. L. 96-611, the Parental Kidnapping Prevention Act of 1980, provides that a State may enter into an agreement with the Office of Child Support Enforcement (OCSE) to obtain Federal Parent Locator Service (PLS) information for use in parental kidnapping and child custody cases. To implement section 9, we published a Final Rule with Comment Period on these provisions on November 3, 1981 (46 FR 54554). The comments received in response to that publication, our responses to them and changes made to the final rule are discussed below. The purpose of the regulations is to expand the use of the Federal Parent Locator Service to include requests for information in parental kidnapping and child custody cases.

EFFECTIVE DATE: August 25, 1983.

FOR FURTHER INFORMATION CONTACT: Judith Hagopian, (301) 443-5350, Office of Child Support Enforcement, Department of Health and Human Services, Room 1010, 6110 Executive Boulevard, Rockville, Maryland, 20852.

SUPPLEMENTARY INFORMATION: A notice informing the public of a new routine use of information was published in the **Federal Register** on September 4, 1981, as required by the Privacy Act.

Statutory Provisions

Before enactment of section 9 of Pub. L. 96-611, the Social Security Act (the Act) allowed States to obtain information from the Federal PLS to locate absent parents only for the purposes of establishing paternity or establishing and enforcing child support obligations. Various Federal statutes and OCSE regulations expressly prohibited States from acquiring the information for any other purpose. Section 9 of Pub. L. 96-611, effective July 1, 1981, amended the Act by amending sections 454 and 455 and adding a new section 463. The new section 463 provides that States may enter into an agreement with the Secretary of Health and Human Services to obtain information from the Federal PLS for use in locating a parent or child for the purposes of making or enforcing a child custody determination or in cases of parental kidnapping.

The new law amends section 454 of the Act by requiring that States amend their State IV-D plans to indicate whether or not they wish to perform this new function. Section 455 as amended precludes the payment of Federal matching funds for the costs of carrying out agreements under the new section 463.

Provisions of Final Regulations Published November 3, 1981

Because OCSE already has regulations that govern State IV-D agency use of the Federal PLS, we implemented many of the new statutory requirements simply by adding language to the following regulations to extend use of the Federal PLS to parental kidnapping and child custody cases. 45 CFR 302.35 now specifies those persons authorized to request Federal PLS information through the State PLS in connection with parental kidnapping and child custody cases. 45 CFR 303.70 (formerly § 302.70) now allows access to Federal PLS information in parental kidnapping and child custody cases. Section 303.70(e)(1) requires States to collect or pay fees to offset Federal costs of processing Federal PLS requests in connection with parental kidnapping and child custody cases. 45 CFR 304.20(b) and 304.23(h) prohibit Federal funding of any expenditures incurred in providing Federal PLS information in connection with parental kidnapping and child custody cases.

45 CFR 303.15, added to implement section 463 of the Act, sets forth the requirements for an agreement which the State must enter into with OCSE if it wishes to use the Federal PLS to obtain information for enforcing any State of Federal law with respect to the unlawful taking or restraint of a child, or making or enforcing a child custody determination. In addition, § 303.15(c)(1) specifies the type of information that OCSE will make available to the State under the agreement and sets forth the conditions that the State must meet in requesting data and ensuring that the data are safeguarded. To date, 18 States have entered into agreements to use the Federal PLS in parental kidnapping and child custody cases.

Section 303.15(c)(5) also requires that the State agree to distinguish parental kidnapping and child custody requests from child support enforcement requests. Because no Federal financial participation (FFP) is available under the statute, § 303.15(c)(7) provides that the State must agree to impose, collect and account for fees to offset OCSE processing costs and must agree to transmit the Federal portion of the fees in the amount and in the manner prescribed by OCSE in instructions.

Finally, under § 303.15(c)(8), the State must agree to restrict access to the data, store it securely, and otherwise ensure its confidentiality. Under this requirement, the State must agree to send the information directly to the requestor, make no other use of the information, and destroy any records related to the request that are confidential in nature.

In order to assist States in deciding whether to enter into an agreement to use the Federal PLS to obtain information in parental kidnapping and child custody cases, we attached the necessary agreement as an appendix to § 303.15.

45 CFR 303.69, added to provide procedures for requests for Federal PLS information by agents or attorneys of the United States, specified that, if a case involves a State with an agreement in effect under the new §303.15, the Ferderal agent or attorney must request information through the State parent locator service. Section 303.69 further specified that the Federal agent or attorney may request information directly from the Federal PLS only if no States involved in the case have agreements. We have provided instructions to the Federal Bureau of Investigation and to the Executive Office for United States Attorneys regarding procedures for U.S. attorneys and agents to follow when making such request.

Changes to Final Regulations

This document makes certain changes to the final regulations as a result of comments received in response to the regulations published in the Federal Register on November 3, 1981.

Section 303.70(e)(1) stated that the IV–D agency shall collect *or* pay the fees required under sections 453(e)(2) and 454(17) of the Act to be charged to individuals making requests to the Federal PLS. In response to a comment received, we revised § 303.70(e)(1) to require the IV–D agency to "pay the fees required under sections 453(e)(2) and 454(17) of the Act." In addition, we added a new § 303.70(e)(2) and redesignated the old paragraph (e)(2) as (e)(5). The new § 303.70(e)(2) clarifies that the fee required under section 453(e)(2) of the Act (related to requests made for child support purposes) must be charged to the resident parent, legal guardian, attorney or agent of a child who is not receiving aid under title IV–A of the Act.

While section 453(e)(2) of the Act specifies from whom a State must collect a fee for a Federal PLS request, section 454(17) (related to requests made in parental kidnapping and child custody cases) requires only that the State "impose and collect (in accordance with regulations of the Secretary) a fee," without specifying from whom it must be collected. We added a new § 303.70(e)(3) and redesignated the old paragraph (e)(3) as (e)(6) in order to permit States either to charge an individual requesting information or to absorb, without charging the individual requesting information, the fee required under section 454(17) of the Act. This will enable States which want to absorb the fees required under section 454(17) to do so. It does not relieve a State which absorbs the fees from paying the Federal government for its portion of the costs.

We added a new § 303.70(e)(4) which requires fees under sections 453(e)(2) and 454(17) to be reasonable so as not to discourage use of Federal PLS services by authorized persons. Paragraph (e)(4) was added in response to requests from States that we issue guidelines for States to follow in establishing their fees. Although we are not mandating what fees States should charge to cover State costs, States must establish fees which are reasonable and as close to actual costs as possible so as not to discourage use of Federal PLS services by authorized persons.

Section 303.69(a)(2) required the Federal agent or attorney to make the request through the State PLS if a case involved one or more States that had an agreement under § 303.15. Section 303.69(a)(3) permitted the agent or attorney to request the information directly from the Federal PLS only if the case involved States that did not have agreements. In response to a comment received, we revised § 303.69 by removing paragraphs (a) (2) and (3), redesignating paragraph (a)(1) as paragraph (a), and revising the text to allow Federal agents and attorneys to request information directly from the Federal PLS in all cases. Direct access by Federal agents and attorneys would ensure stringent security of confidential information and would eliminate the additional time and effort of submitting requests through the State. We also revised § 303.69(e) to provide that a fee *may* (as opposed to "will") be charged for requests made directly to the Federal PLS by Federal agents and attorneys in cases involving the unlawful taking or restraint of a child. We believe that waiving the Federal fee in processing requests from Federal agents and attorneys is both reasonable and cost-effective because of the likelihood that we will receive few requests of this type.

Response to Comments

We received comments on the final rule from five State agencies and one private organization. A summary of the substantive comments and our responses follows.

1. *Comment:* Three commenters stated that the definition of person authorized to request Federal PLS information in parental kidnapping and child custody cases at § 303.15 needed clarification. Section 303.15(a)(1) defines an authorized persons as any agent or attorney of any State having an agreement who has the duty or authority under State law to enforce a child custody determination, any court having jurisdiction to make or enforce a child custody determination, or any agent of the court, and any agent or attorney of the United States, or of a State having an agreement, who has the duty or authority to investigate, enforce, or bring a prosecution with respect to the unlawful taking or restraint of a child. One commenter asked if private attorneys were included as authorized persons in the definition. Another commenter asked if the definition included court requests for Federal PLS information in connection with child custody determinations in adoption and parental rights termination cases.

Response: We believe the definition, which is taken from the statute, is sufficient since it provides States some flexibility to establish who qualifies as an authorized person under State law. Because States are in the best position to determine who is qualified under State law, and because we believe it is important to continue to provide this flexibility, we have not changed the regulation.

However, in response to the question of whether private attorneys are considered authorized persons, we offer the following information. Section 463(d)(2)(A) of the Act applies to those agents and attorneys who are empowered to act on behalf of the State to enforce a child custody determination. Examples of such agents are officers employed by the State, such as social workers and law enforcement officials, including a State's attorney empowered to act on behalf of the State to prosecute a parental kidnapping or child custody case. It does not include a private attorney. In addition, we do not consider private attorneys to be agents of the court for purposes of section 463(d)(2)(B) since they do not have the authority to make or enforce a child custody determination. Consequently, neither parents nor their private legal representatives may apply directly to the State PLS for Federal PLS information in parental kidnapping and child custody cases. Parents or their legal representatives may, however, petition a court to request location information from the Federal PLS concerning the absconding parent and missing child. Similarly, a parent can request the appropriate State officials who are authorized persons to make a location request, provided that the State has a law covering the wrongful taking or restraint of a child.

In response to the comment regarding court requests for Federal PLS information in connection with child custody determinations in adoption and parental rights termination cases,

section 463 of the Act allows the release of Federal PLS information for enforcing any State or Federal law with respect to a child custody determination. Thus, it is reasonable and appropriate for a court to request Federal PLS information in a child custody case involving the above circumstances.

2. *Comment:* Three commenters stated that FFP should be made available to States which enter into agreements with OCSE to use the Federal PLS in parental kidnapping and child custody cases.

Response: Because section 9 of Pub. L. 96-611 prohibits FFP for any expenditures made to carry out an agreement under section 463 of the Act, OCSE has no discretion with respect to providing reimbursement for these expenditures.

3. *Comment:* Two commenters stated that, if broadly interpreted, 45 CFR 303.15(c)(8)(vi) could mean that in addition to destroying confidential records, even the requests for information must be destroyed. The commenters were concerned that such an interpretation would reduce a State's ability to keep track of requests for billing, accounting and audit purposes.

Response: 45 CFR 303.15(c)(8)(vi) provides that the State must agree to destroy any confidential records and information related to the requests after the information has been sent to the requestor. This means that confidential records and information in the form of data obtained from the Federal PLS must be destroyed, not the request itself or information obtained from the requestor. Therefore, States are not precluded from maintaining information such as names and addresses of the requestors and the names of persons being sought for billing, accounting and audit purposes. We believe the regulation is sufficiently clear on this point.

4. *Comment:* Two commenters requested that guidelines be issued to States for establishing State fees and billing procedures.

Response: Because we have no way of determining State costs, we have not mandated what fees States must charge to cover such costs. However, we agree that some guidelines should be provided. Therefore, we have added § 303.70(e)(4) to require that fees be reasonable and as close to actual costs as possible so as not to discourage the use of Federal PLS services by authorized persons. (See discussion under "Changes to Final Regulations.")

5. *Comment:* One commenter stated that § 303.70(e)(1) should say that "the IV-D agency shall collect and pay the fees required under sections 453(e)(2) and 454(17) of the Act," instead of "collect or pay the fees * * *" to be consistent with section 454(17) of the Act and § 303.15(c)(6).

Response: To clarify the requirements for paying fees under sections 453(e)(2) and 454(17) of the Act, we revised § 303.70(e)(1) to require the IV-D agency to "pay the fees" required under those two sections of the Act. In addition, we added a new § 303.70(e)(2) to clarify from whom the IV-D agency must collect a fee required under section 453(e)(2) of the Act for requests involving child support. We believe States have discretion to collect or absorb the fees required under section 454(17) of the Act and § 303.15(c)(6) for requests involving parental kidnapping and child custody. Therefore, we added a new § 303.70(e)(3) to allow States either to charge the authorized person requesting information, or to absorb the fee required under section 454(17). (See discussion under "Changes to Final Regulations.")

6. *Comment:* One State commented that it would like to absorb the fee required under section 454(17) of the Act and to reimburse the Federal government from State funds. Because the State receives so few requests for Federal PLS information in connection with parental kidnapping and child custody cases, setting up a billing and accounting system for the collection of fees would not be cost effective.

Response: We believe that the purpose of the fee provision is to ensure both that the Federal government is reimbursed for its costs and that no State costs are charged to the Federal government. Because section 454(17) of the Act does not specify from whom the fee must be collected, a State could absorb the costs if it believes that doing so would be more cost efficient. It is still necessary, however, for OCSE to be able to distinguish child support enforcement requests from parental kidnapping and child custody requests since the cost of the latter is not eligible for FFP. Therefore, a State must still maintain a system, containing nonconfidential information, which separates child support enforcement requests from parental kidnapping and child custody requests. (See discussion under "Changes to Final Regulations.")

7. *Comment:* We received three substantive comments on § 303.69, Requests by agents or attorneys of the United States for information from the Federal PLS. One commenter supported allowing direct access to the Federal PLS by Federal agents and attorneys in States without agreements. Another commenter stated it would be more efficacious if all Federal agents and attorneys had direct access to the Federal PLS and States were not required to honor requests from them. A third commenter requested that OCSE not charge fees for requests made to the Federal PLS Federal agents and attorneys who have the duty or authority to investigate, enforce or bring a prosecution with respect to the unlawful taking or restraint of a child.

Response: We agree that it would be simpler for Federal agents and attorneys to request information directly from the Federal PLS. This would eliminate the additional step of going through the State. We believe such a policy is feasible and would not place an undue burden on the Federal PLS staff since we anticipate the volume of requests from Federal agents and attorneys to be low. Therefore, we revised § 303.69 by removing paragraphs (a)(2) and (3), redesignating paragraph (a)(1) as paragraph (a), and revising the text to allow direct access to the Federal PLS by Federal agents and attorneys in all cases involving the unlawful taking or restraint of a child. (See discussion under "Changes to Final Regulations.") This does not preclude Federal agents and attorneys from going through the State PLS if they so choose, and the State PLS must process these requests. We have also amended § 303.69(e) to provide that a fee may (instead of "will") be charged for requests made directly to the Federal PLS by Federal agents and attorneys in such cases. As long as the volume of such requests remains low, setting up of a billing and accounting system for the collection of such fees would not be cost effective.

8. *Comment:* Two commenters requested changes be made to the signatory page of the agreement. One commenter stated that requesting the Governor to sign the agreement and the Attorney General to certify it was too time consuming. Another commenter requested that the agreement be revised to clarify that the Governor *or* the Governor's designee may sign the agreement.

Response: In response to both commenters we believe revision of the agreement is unnecessary. Section 303.15(d)(1) clearly states that an agreement must be signed either by the Governor of the State or by the Governor's designee. We also believe that the Attorney General's signature is necessary whenever the Federal government and the State enter into an agreement under section 463 of the Act to certify the authority of the signing State official to commit the State to the agreement and to ensure the legality of the agreement under State law. In addition, OCSE requires the consent of

the Governor or his/her designee and the Attorney General to the execution of the agreement to ensure that the highest State authorities are aware of the consequences of any misuse of Federal PLS information.

9. *Comment:* One commenter referred to Article V of the agreement which states that the Director, OCSE, will not be liable for any financial loss incurred by the State through use of any data furnished pursuant to the agreement. The commenter questioned whether this Article is intended to place liability solely on the State, whether the State in turn can disclaim liability for any losses incurred through the use of data supplied, and whether this Article is negotiable and may be modified on a State by State basis.

Response: Article V limits the Director's liability only and may not be modified. OCSE is not in a position to determine if a State can, through means other than the agreement, disclaim its liability for any losses incurred through the use of data furnished pursuant to the agreement. That is a matter of State law. However, since the State acts as a conduit of information between the authorized person and the Federal PLS, the State is responsible for adopting policies and procedures for safeguarding and releasing such information according to Article IV of the agreement.

10. *Comment:* Several States were confused regarding the role of the State PLS in parental kidnapping and child custody cases.

Response: Pub. L. 96–611 authorizes the use of the Federal PLS in parental kidnapping and child custody cases contingent upon a signed agreement between the State and the Director of OCSE on behalf of the Secretary of HHS. The IV–D agency and its components (including the State PLS) are not authorized to perform activities in connection with parental kidnapping or child custody cases, as evidenced by the lack of Federal funding for such activities under the law. A State choosing to implement the service covered by these regulations acts only as a conduit of information between the authorized person making the request and the Federal information source, the Federal PLS.

States may wish to develop their own systems, outside the IV–D agency, for using public information to locate missing children and parents within the State. As long as Federal funds are not used for these purposes, there would be no violation of either IV–D regulations or Pub. L. 96–611.

Regulatory Impact Analysis

This rule makes minor revisions to an existing rule that allows States to request use of the Federal PLS in parental kidnapping and child custody cases. The major change in the rule is to allow Federal agents and attorneys to make direct requests from the PLS. While the Federal government will absorb the cost of this provision, the cost will be insignificant since there should be few direct requests. Therefore, we have determined that the rule is not major under the criteria of Executive Order 12291 and a Regulatory Impact Analysis is not required. For the reason cited above, the Secretary certifies that this rule will not have a significant economic impact on a substantial number of small entities; a Regulatory Flexibility Analysis under the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) is, therefore, not required.

OMB Clearance

The reporting requirements in these regulations have been cleared by the Office of Management and Budget under number 0960–0258.

List of Subjects in 45 CFR Part 303

Child welfare, Grant programs/social programs.

PART 303—[AMENDED]

The final rules with comment period published in the **Federal Register** on November 3, 1981 (46 FR 54554) are adopted as final rules with the following changes:

1. 45 CFR 303.70(e) is amended by revising paragraph (e)(1), redesignating paragraphs (e) (2) and (3) as paragraphs (e) (5) and (6) and adding new paragraphs (e) (2), (3) and (4) to read as follows:

§ 303.70 Requests by the State parent locator service for information from the Federal Parent Locator Service (PLS).

* * * * *

(e)(1) The IV–D agency shall pay the fees required under sections 453(e)(2) and 454(17) of the Act.

(2) The IV–D agency shall charge the resident parent, attorney or agent of a child who is not receiving aid under title IV–A of the Act the fee required under section 453(e)(2) of the Act.

(3) The IV–D agency may charge an individual requesting information or pay without charging the individual the fee required under section 454(17) of the Act.

(4) The fees required under sections 453(e)(2) and 454(17) of the Act shall be reasonable and as close to actual costs as possible so as not to discourage use of Federal PLS services by authorized individuals.

(5) For processing requests on behalf of the resident parent, legal guardian, attorney or agent of the child who is not receiving aid under title IV–A of the Act (see 45 CFR 302.35(c)(3)), the Office will collect the fees from the IV–D agency by an offset of the State's quarterly grant award.

(6)(i) For costs of processing requests on behalf of persons authorized to receive information in parental kidnapping and child custody cases, the Federal government will bill the IV–D agency periodically. A separate fee will be charged to cover costs of searching for a social security number before processing a request for location information.

(ii) The IV–D agency shall transmit payment to the Federal government upon receipt of a bill. If a State fails to pay the appropriate fees charged by the Office, this will result in termination of the services provided under section 463 of the Act.

(iii) Fees shall be transmitted in the amount and manner prescribed by the Office in instructions.

2. 45 CFR 303.69 is revised by removing paragraphs (a) (2) and (3), redesignating paragraph (a)(1) as paragraph (a), and changing the text to read as follows:

§ 303.69 Requests by agents or attorneys of the United States for information from the Federal Parent Locator Service (PLS).

(a) Agents or attorneys of the United States may request information directly from the Federal PLS in connection with a parental kidnapping or child custody case. (See § 303.15(a) of this part for a definition of persons authorized to request the information.)

(b) All requests under this section shall be made in the manner and form prescribed by the Office.

(c) All requests under this section shall contain the information specified in § 303.70(c) of this part.

(d) All requests under this section shall be accompanied by a statement, signed by the agent or attorney of the United States, attesting to the following:

(1) The request is being made solely to locate an individual in connection with a parental kidnapping or child custody case.

(2) Any information obtained through the Federal PLS shall be treated as confidential, shall be used solely for the purpose for which it was obtained and shall be safeguarded.

(e) A fee may be charged to cover the costs of processing requests for

information. A separate fee may be charged to cover costs of searching for a social security number before processing a request for location information.

(Section 1102 of the Social Security Act (42 U.S.C. 1302) and sections 454(17), 455(a), and 463 of the Social Security Act (42 U.S.C. 654(17), 655(a), and 663))

(Catalog of Federal Domestic Assistance Program No. 13.679, Child Support Enforcement Program)

Dated: May 9, 1983.

John A. Svahn,

Director, Office of Child Support Enforcement.

Approved: July 29, 1983.

Margaret M. Heckler,

Secretary.

[FR Doc. 83-23282 Filed 8-24-83; 8:45 am]

BILLING CODE 4150-11-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 42

[CGD 79-153]

Freeboards; Load Line Regulations

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: These regulations clarify the freeboard requirements of the load line regulations. The clarifications are based on internationally accepted interpretations of the International Convention on Load Lines of 1966.

EFFECTIVE DATE: September 26, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Frank Perrini, Office of Merchant Marine Safety (G-MTH-5/13), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, D.C. 20593, (202) 426-2806.

SUPPLEMENTARY INFORMATION: On February 4, 1982, the Coast Guard published a notice of proposed rulemaking in the **Federal Register** (47 FR 5266). Interested persons were given until April 5, 1982 to submit comments. Seven comments were received from three commentors. Drafting Information: The principal persons involved in drafting this final rule are Mr. Frank Perrini, Naval Architect, Office of Merchant Marine Safety, and LT Walter J. Brudzinski, Project Attorney, Office of Chief Counsel.

Discussion of Comments

Three comments addressed the damaged stability assumptions for B-100 vessels; three comments addressed free surface calculations; and one comment questioned the wording in the residual stability requirements.

One comment, in addressing proposed § 42.20-8(b)(1), notes that, for B-100 vessels not greater than 225 meters (738 feet) in length, flooding in the machinery space was not excluded as is done in both the existing rule and the Resolution. The existing rules in § 42.20-10(f) require flooding to "any two adjacent fore and aft compartments, neither of which is the machinery space." This section also refers to paragraph (c)(4) which gives general flooding requirements and permeability assumptions for Type B freeboard reductions ". . . excluding the machinery space. . . ." Part (10)(a)(ii) of the Resolution also implies exclusion of the machinery space for vessels not greater than 225 meters by reference to Part (8)(d).

Two comments note that proposed § 42.20-8(b)(2) did not exclude damage to the machinery bulkhead for vessels over 225 meters as in the existing rules and the Resolution. The existing rules include ". . . flooding of the machinery space, taken alone . . .", implying no damage to machinery bulkheads. Exclusion of damage to machinery bulkheads is stated in Part (10)(a)(iii) and implied in Part (10)(b) of the Resolution.

These comments state that the proposed rules, considering these variations, appeared to be more severe than the existing rules for B-100 vessels, both above and below 225 meters in length. The comments add that this would have a significant effect on large hold bulk carriers and ore/bulk/oil vessels, if these types of vessels were allowed a B-100 load line.

The Coast Guard agrees that the wording of the proposed § 42.20-8(b)(1) did not clearly exclude flooding of the machinery space. Therefore that paragraph has been modified and renumbered under § 42.20-8(a)(1) to read, "If the vessel is 225 meters (738 feet) or less in length, it must be able to withstand the flooding of any two adjacent fore and aft compartments, excluding the machinery space."

The Coast Guard also agrees that the wording of proposed § 42.20-8(b)(2) did not clearly exclude damage to machinery space bulkheads. Accordingly, that paragraph has been modified and renumbered under § 42.20-8(a)(2) to read, "If the vessel is over 225 meters (738 feet) in length, the flooding standard of [vessels less than 738 feet] must be applied, treating the machinery space, taken alone, as a floodable compartment."

Three comments note a substantive difference in the free surface assumptions for cargo liquids required in proposed § 42.20-10(a)(2) as compared to the existing rules and the Resolution. The existing rules in § 42.20-3(f)(4) require only those compartments existing in the full load condition to be considered for free surface. The existing rules are silent on the percentage of fullness, but full homogeneous loading is implied in § 42.20-3(f)(1). Sections (11)(b)(ii) and (iii) of the Resolution require that cargo tanks be fully loaded (98 percent) or completely empty and Section (11)(b)(v) requires that the free surface be calculated in that condition. In the proposed rules, cargo tanks were considered to be either 98 percent full or completely empty for the initial conditions in § 42.20-9 (c) and (d). The proposed rules, however, would have required in § 42.20-10(a)(2) that "the maximum free surface of each compartment must be included, assuming the compartment to be 70% full. . . ." One comment states that this significantly increases the free surface requirements over both the existing rule and the Resolution. Another comment notes that the proposed section represented a major substantive change which results in the loss of cargo carrying capacity. The Coast Guard agrees and has modified the proposed section on free surface requirements to parallel those of the Resolution. Section § 42.20-10(2) has been modified and renumbered under § 42.20-10(b) to read as follows:

"For cargo liquids, unless the compartment is assumed to be empty as required by § 42.20-9(b)(3), the free surface of those compartments containing liquids is calculated at an angle of heel of not more than 5 degrees."

One comment, in addressing § 42.20-12(e) of the proposed rules regarding residual stability, objects to the use of the sentence, "The Commandant gives consideration to the potential hazard presented by protected or unprotected openings which may become temporarily immersed within the range of residual stability." This comment states that this requirement would impose undue structural stresses on parts of the hull and deckhouse when they are subjected to the associated increased head pressure and wave action, and that lifeboats would be submerged. The Coast Guard agrees that in actual practice these conditions could occur. However, the intent of the residual stability criteria is to prolong the buoyancy and stability of the hull after it has incurred major flooding and structural damage. This would afford additional time for rescue of persons

and possible salvage of the vessel. It is not the intent of these regulations to guarantee indefinite structural integrity under these conditions. With regard to lifeboats, assuming this degree of damage, they should have already been launched. All of paragraph (e) including this sentence has been reworded and restructured to conform to the standard format on residual stability which will be used in future Coast Guard regulations on subdivision and stability. The proposed sentence has been simplified as § 42.20–12(e)(4) to read as follows:

"Each submerged opening must be weathertight (e.g. a vent fitted with a ball check valve)."

Evaluation

The Coast Guard has evaluated this final rule under Executive Order 12291 and finds that it is not a major regulation. The Coast Guard has reviewed this final rule under DOT Order 2100.5 of May 22, 1980, "Policies and Procedures for Simplification, Analysis and Review of Regulations" and has determined that it is nonsignificant. The impact of this final rule would be minimal since no substantive changes are being made to the regulations; therefore, no economic evaluation has been prepared. In accordance with section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164), it is also certified that these rules will not have a significant impact on a substantial number of small entities since no substantive changes are being made to the regulations.

Paperwork Reduction Act

This final rule does not contain any recordkeeping or reporting requirements subject to approval by the Office of Management and Budget under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507 *et seq.*).

List of Subjects in 46 CFR Part 42

Vessels, Penalties.

PART 42—DOMESTIC AND FOREIGN VOYAGES BY SEA

In consideration of the foregoing, Part 42 of Title 46, Code of Federal Regulations is amended to read as follows:

1. The authority citation for Part 42 reads as follows:

Authority: Pub. L. 93–115, 87 Stat. 418 (46 U.S.C. 86); Pub. L. 87–620, 76 Stat. 416 (46 U.S.C. 88a); Pub. L. 89–670, 80 Stat. 938 (49 U.S.C. 1655(b)); 49 CFR 1.46(b).

2. By revising § 42.09–5 to read as follows:

§ 42.09–5 All vessels—division into types.

(a) For the purposes of this part, each vessel to which this part applies is either a Type "A" or a Type "B" vessel.

(b) A Type "A" vessel is a vessel that—

(1) Is designed to carry only liquid cargoes in bulk;

(2) Has a high degree of watertight and structural integrity of the deck exposed to the weather, with only small openings to cargo compartments that are closed by watertight gasketed covers of steel or other material considered equivalent by the Commandant; and

(3) Has a low permeability of loaded cargo compartments.

(c) A Type "B" vessel is any vessel that is not a Type "A" vessel.

(d) Requirements governing the assignment of freeboards for Types "A" and "B" vessels are in Subparts 42.20 and 42.25 of this part.

3. By revising paragraph (a)(2) of § 42.09–10 to read as follows:

§ 42.09–10 Stability, subdivision, and strength.

(a) * * *

(2) Additional stability, subdivision, and strength requirements are in §§ 42.09–1, 42.13–1, 42.13–5, and 42.15–1. The applicable flooded stability requirements are in §§ 42.20–3 through 42.20–13.

* * * * *

4. By revising paragraph (a) of § 42.15–80 to read as follows:

§ 42.15–80 Special conditions of assignment for Type "A" vessels.

(a) *Machinery casings.* Machinery casings on Type "A" vessels as defined in § 42.09–5(b) must be protected by an enclosed poop or bridge of at least standard height, or by a deckhouse of equal height and equivalent strength, except that machinery casings may be exposed if there are no openings giving direct access from the freeboard deck to the machinery space. A door complying with the requirements of § 42.15–10 is permitted in the machinery casing if it leads to a space or passageway which is as strongly constructed as the casing and is separated from the stairway to the engine room by a second weathertight door of steel or equivalent material.

* * * * *

§§ 42.20–1 through 42.40–10—[Removed]

5. By removing existing §§ 42.20–1 through 42.20–10 and adding new §§ 42.20–3 and 42.20–5 through 42.20–13 to read as follows:

§ 42.20–3 Freeboard assignment: Type "A" vessels.

(a) A Type "A" vessel is assigned a freeboard not less than that based on Table 42.20–15(a)(1) provided that the vessel meets the flooding standard in § 42.20–6.

(b) A vessel that meets the requirements in 33 CFR 157.21, or 46 CFR 153.20, 153.21, 153.22 or 154.210 is considered by the Coast Guard as meeting the flooding standard referenced in paragraph (a) of this section.

§ 42.20–5 Freeboard assignment: Type "B" vessels.

(a) Each Type "B" vessel is assigned a freeboard from Table 42.20–15(b)(1) that is increased or decreased by the provisions of this section.

(b) Each Type "B" vessel that has a hatchway in position 1, must have the freeboard assigned in accordance with paragraph (a) of this section increased by the amount given in Table 42.20–5(b) unless the hatch cover complies with:

(1) Section 42.15–25(d); or

(2) Section 42.15–30.

TABLE 42.20–5(b).—FREEBOARD INCREASE OVER TABULAR FREEBOARD FOR TYPE "B" VESSELS WITH HATCH COVERS NOT COMPLYING WITH § 42.15–25(d) OR § 42.15–30.

[Metric]

Length of ship (meters)	Freeboard increase [1] (millimeters)
*108	50
109	52
110	55
111	57
112	59
113	62
114	64
115	66
116	70
117	73
118	76
119	80
120	84
121	87
122	91
123	95
124	99
125	103
126	108
127	112
128	116
129	121
130	126
131	131
132	136
133	142
134	147
135	153
136	159
137	164
138	170
139	175
140	181
141	186
142	191
143	196
144	201
145	206
146	210
147	215
148	219
149	224
150	228

TABLE 42.20-5(b).—FREEBOARD INCREASE OVER TABULAR FREEBOARD FOR TYPE "B" VESSELS WITH HATCH COVERS NOT COMPLYING WITH § 42.15-25(d) OR § 42.15-30.—Continued

[Metric]

Length of ship (meters)	Freeboard increase [1] (millimeters)
151	232
152	236
153	240
154	244
155	247
156	251
157	254
158	258
159	261
160	264
161	267
162	270
163	273
164	275
165	278
166	280
167	283
168	285
169	287
170	290
171	292
172	294
173	297
174	299
175	301
176	304
177	306
178	308
179	311
180	313
181	315
182	318
183	320
184	322
185	325
186	327
187	329
188	332
189	334
190	336
191	339
192	341
193	343
194	346
195	348
196	350
197	353
198	356
199	357
[3]200	358

[1] Freeboards at intermediate lengths of ship shall be obtained by linear interpolation.
[2] 108 and below.
[3] Ships above 200 meters in length are subject to individual determination by the Commandant.

[English]

Length of ship (feet)	Freeboard increase [1] (inches)
[2]350	2.0
360	2.3
370	2.6
380	2.9
390	3.3
400	3.7
410	4.2
420	4.7
430	5.2
440	5.8
450	6.4
460	7.0
470	7.6
480	8.2
490	8.7
500	9.2
510	9.6
520	10.0
530	10.4
540	10.7
550	11.0
560	11.4

[English]

Length of ship (feet)	Freeboard increase [1] (inches)
570	11.8
580	12.1
590	12.5
600	12.8
610	13.1
620	13.4
630	13.6
640	13.9
650	14.1
[3]660	14.3

[1] Freeboards at intermediate lengths of ship be obtained by linear interpolation.
[2] 350 and below.
[3] Ships above 660 feet in length are subject to individual determination by the Commandant.

(c) A Type "B" vessel that is greater than 100 meters (328 feet) in length may have its freeboard reduced from that required in paragraph (a) of this section under the provisions of paragraphs (d) and (e) of this section provided that—

(1) The measures provided for the protection of the crew are adequate;

(2) The freeing arrangements are adequate; and

(3) The hatchway covers in positions 1 and 2 comply with the provisions of § 42.15-30 and have adequate strength, special care being given to their sealing and securing arrangements.

(d) The freeboards for a Type "B" vessel which comply with paragraph (c) of this section may be reduced up to 60 percent of the total difference between the freeboards in Table 42.20-15(b)(1) and Table 42.20-15(a)(1) provided that the vessel meets the flooding standard in § 42.20-7.

(e) The freeboards for a Type "B" vessel which complies with paragraph (c) of this section may be reduced up to the total difference between the freeboard tables referenced in paragraph (d) of this section provided that the vessel meets the flooding standard in § 42.20-8 and the provisions of § 42.15-80 (a), (b) and (d) as if it were a Type "A" vessel.

§ 42.20-6 Flooding standard; Type "A" vessels.

(a) Design calculations must be submitted that demonstrate that the vessel will remain afloat in the conditions of equilibrium specified in § 42.20-12 assuming the damage specified in § 42.20-11 as applied to the following flooding standards:

(1) If the vessel is over 150 meters (492 feet) in length it must be able to withstand the flooding of any one compartment, except the machinery space.

(2) If the vessel is over 225 meters (738 feet) in length, it must be able to withstand the flooding of any one compartment, treating the machinery space as a floodable compartment.

(b) When doing the calculations required in paragraph (a) of this section, the following permeabilities must be assumed:

(1) 0.95 in all locations except the machinery space.

(2) 0.85 in the machinery space.

§ 42.20-7 Flooding standard: Type "B" vessel, 60 percent reduction.

(a) Design calculations must be submitted that demonstrate that the vessel will remain afloat in the conditions of equilibrium specified in § 42.20-12 assuming the damage specified in § 42.20-11 as applied to the following flooding standards:

(1) If the vessel is 225 meters (738 feet) or less in length, it must be able to withstand the flooding of any one compartment, except the machinery space.

(2) If the vessel is over 225 meters (738 feet) in length, it must be able to withstand the flooding of any one compartment, treating the machinery space as a floodable compartment.

(b) When doing the calculations required in paragraph (a) of this section, the following permeabilities must be assumed:

(1) 0.95 in all locations except the emachinery space.

(2) 0.85 in the machinery space.

§ 42.20-8 Flooding standard: Type "B" vessel, 100 percent reduction.

(a) Design calculations must be submitted that demonstrate that the vessel will remain afloat in the conditions of equilibrium specified in § 42.20-12 assuming the damage specified in § 42.20-11 as applied to the following flooding standards:

(1) If the vessel is 225 meters (738 feet) or less in length, it must be able to withstand the flooding of any two adjacent fore and after compartments excluding the machinery space;

(2) If the vessel is over 225 meters (738 feet) in length, the flooding standard of paragraph (a)(1) of this section must be applied, treating the machinery space, taken alone, as a floodable compartment.

(b) When doing the calculations required in paragraph (a) of this section, the following permeabilities must be assumed:

(1) 0.95 in all locations except the machinery space.

(2) 0.85 in the machinery space.

§ 42.20-9 Initial conditions of loading.

When doing the calculations required in § 42.20-6(a), § 42.20-7(a) and § 42.20-8(a), the initial condition of loading before flooding must be assumed to be as specified in this section:

(a) The vessel is assumed to be loaded to its summer load waterline with no trim.

(b) When calculating the vertical center of gravity, the following assumptions apply:

(1) The cargo is assumed to be homogeneous.

(2) Except as specified in paragraph (b)(3) of this section, all cargo compartments are assumed to be fully loaded. This includes compartments intended to be only partially filled. In the case of liquid cargoes, fully loaded means 98 percent full.

(3) If the vessel is intended to operate at its summer load waterline with empty compartments, these empty compartments are assumed to be empty rather than fully loaded if the resulting height of the vertical center of gravity is not less than the height determined in accordance with paragraph (b)(2) of this section.

(4) Fifty percent of the total capacity of all tanks and spaces fitted to contain consumable liquids or stores must be assumed to be distributed to accomplish the following:

(i) Each tank and space fitted to contain consumable liquids or stores must be assumed either completely empty or completely filled.

(ii) The consumables must be distributed so as to produce the greatest possible height above the keel for the center of gravity.

(5) Weights are calculated using the following values for specific gravities:

Salt water—1.025
Fresh water—1.000
Oil fuel—0.950
Diesel oil—0.900
Lube oil—0.900

§ 42.20–10 Free surface.

When doing the calculations required in § 42.20–6(a), § 42.20–7(a) and § 42.20–8(a), the effect of free surface of the following liquids must be included:

(a) For each type of consumable liquid, the maximum free surface of at least one transverse pair of tanks or a single centerline tank must be included. The tank or combination of tanks must be that resulting in the greatest free surface effect.

(b) For cargo liquids, unless the compartment is assumed to be empty as required by § 42.20–9(b)(3), the free surface of those compartments containing liquids is calculated at an angle of heel of not more than 5 degrees.

§ 42.20–11 Extent of damage.

When doing the calculations required by § 42.20–6(a), § 42.20–7(a) and § 42.20–8(a), the following must be assumed:

(a) The vertical extent of damage in all cases must be assumed to be from the baseline upward without limit.

(b) The transverse extent of damage is assumed to be equal to B/5 or 11.5 meters (37.7 feet), whichever is less. The transverse extent is measured inboard from the side of the ship perpendicularly to the center line at the level of the summer load waterline.

(c) If damage of a lesser extent than that specified in paragraph (a) or (b) of this section results in a more severe condition, the lesser extent must be assumed.

(d) The following assumptions apply to the transverse damage specified in paragraph (b) of this section for a stepped or recessed bulkhead:

(1) A transverse watertight bulkhead that has a step or recess located within the transverse extent of assumed damage may be considered intact if the step or recess is not more than 3.05 meters (10 feet) in length.

(2) If a transverse watertight bulkhead has a step or recess of more than 3.05 meters (10 feet) in length, within the transverse extent of assumed damage, the two compartments adjacent to this bulkhead must be considered as flooded.

(3) If within the transverse extent of damage, a transverse bulkhead has a step or recess more than 3.05 meters (10 feet) in length that coincides with the double bottom tank top or the inner boundary of a wing tank, respectively, all adjacent compartments within the transverse extent of assumed damage must be considered to be flooded simultaneously.

(e) If a wing tank has openings into adjacent compartments, the wing tank and adjacent compartments must be considered as one compartment. This provision applies even where these openings are fitted with closing appliances except:

(1) Valves fitted in bulkheads between tanks which are controlled from above the bulkhead deck.

(2) Secured manhole covers fitted with closely spaced bolts.

(f) Only transverse watertight bulkheads that are spaced apart at least $\frac{1}{3}(L)^{2/3}$ or 14.5 meters ($0.495(L)^{2/3}$ or 47.6 feet), whichever is less, may be considered effective. If transverse bulkheads are closer together, then one or more of these bulkheads must be assumed to be non-existent in order to achieve the minimum spacing between bulkheads.

§ 42.20–12 Conditions of equilibrium.

The following conditions of quilibrium are regarded as satisfactory:

(a) *Downflooding.* The final waterline after flooding, taking into account sinkage, heel, and trim, is below the lower edge of any opening through which progressive flooding can take place. Such openings include air pipes, ventilators, and openings which are closed by means of weathertight doors (even if they comply with § 42.15–10) or covers (even if they comply with § 42.15–30 or § 42.15–45(d)) but may exclude those openings closed by means of:

(1) Manhole covers and flush scuttles which comply with § 42.15–40;

(2) Cargo hatch covers which comply with § 42.09–5(b);

(3) Hinged watertight doors in an approved position which are secured closed while at sea and so logged; and

(4) Remotely operated sliding watertight door, and side scuttles of the non-opening type which comply with § 42.15–65.

(b) *Progressive flooding.* If pipes, ducts, or tunnels are situated within the assumed extent of damage penetration as defined in § 42.20–11 (a) and (b), progressive flooding cannot extend to compartments other than those assumed to be floodable in the calculation for each case of damage.

(c) *Final angle of heel.* The angle of heel due to unsymmetrical flooding does not exceed 15 degrees. If no part of the deck is immersed, an angle of heel of up to 17 degrees may be accepted.

(d) *Metacentric height.* The metacentric height of the damaged vessel, in the upright condition, is positive.

(e) *Residual stability.* Through an angle of 20 degrees beyond its position of equilibrium, the vessel must meet the following conditions:

(1) The righting arm must be positive.

(2) The maximum righting arm must be at least 0.1 meter (4 inches).

(3) The area under the righting arm curve within the 20 degree range must not be less than 0.0175 meter-radians (0.689 inch-radians).

(4) Each submerged opening must be weathertight (e.g. a vent fitted with a ball check valve).

(f) *Intermediate stages of flooding.* The Commandant is satisfied that the stability is sufficient during intermediate stages of flooding.

§ 42.20–13 Vessels without means of propulsion.

(a) A lighter, barge, or other vessel without independent means of propulsion is assigned a freeboard in accordance with the provisions of this subpart as modified by paragraphs (b), (c), and (d) of this section.

(b) A barge that meets the requirements of § 42.09–5(b) may be assigned Type "A" freeboard if the barge does not carry deck cargo.

(c) An unmanned barge is not required to comply with § 42.15–75, § 42.15–80(b), or § 42.20–70.

(d) An unmanned barge that has only small access openings closed by watertight gasketed covers of steel or equivalent material on the freeboard deck, may be assigned a freeboard 25 percent less than that calculated in accordance with this subpart.

6. By revising § 42.20–25 to read as follows:

§ 42.20–25 Correction for block coefficient.

If the block coefficient (Cb) exceeds 0.68, the tabular freeboard specified in § 42.20–15 as modified, if applicable, by §§ 42.20–5 (b) and (d), and 42.20–20(a) must be multiplied by the factor (Cb+0.68)/1.36.

7. By revising § 42.20–75(a)(1) to read as follows:

§ 42.20–75 Minimum freeboard.

(a) *Summer freeboard.* (1) The minimum freeboard in summer must be the freeboard derived from the tables in § 42.20–15 as modified by the corrections in §§ 42.20–3 and 42.20–5, as applicable, and §§ 42.20–20, 42.20–25, 42.20–30, 42.20–35, 42.20–60, 42.20–65 and, if applicable, § 42.20–70.

* * * * *

8. By revising paragraph (a) of § 42.25–20 as follows:

§§ 42.25–20 Computation for freeboard.

(a) The minimum summer freeboards must be computed in accordance with §§ 42.20–5 (a) and (b), 42.20–13, 42.20–15, 42.20–20, 42.20–25, 42.20–30, 42.20–35, 42.20–60, and 42.20–65, except that § 42.20–60 is modified by substituting the percentages in Table 42.25–20(a) for those given in § 42.20–60.

Dated: July 27, 1983.

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 83–23340 Filed 8–24–83; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[Docket No. 30822–170]

Atlantic Tuna Fisheries

AGENCY: National Oceanic and Atmospheric Administration (NOOA), Commerce.

ACTION: Rule-related notice; closure.

SUMMARY: NOAA issues this notice to close the fishery for giant Atlantic bluefin tuna conducted by vessels permitted in the Harpoon Boat category. Closure of this fishery is necessary because the annual catch quota will be attained by the effective date. Upon closure, vessels permitted in this category will be prohibited from fishing for or retaining any Atlantic bluefin tuna captured in the regulatory area for the remainder of 1983. The action is prescribed by regulations for the fishery.

EFFECTIVE DATE: August 23, 1983.

FOR FURTHER INFORMATION CONTACT: William C. Jerome, Jr., 617–281–3600, extension 325, or David S. Crestin, 617–281–3600, extension 253.

SUPPLEMENTARY INFORMATION: Regulations promulgated under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971–971h) regulating the take of Atlantic bluefin tuna by persons and vessels subject to U.S. jurisdiction were published in the **Federal Register** on June 17, 1983 (48 FR 27745).

Section 285.22(b) of the regulations provides for an annual quota of 60 short tons (st) of giant Atlantic bluefin tuna to be taken by vessels permitted in the Harpoon Boat category in the Regulatory Area. This quota was subsequently increased to 75 st effective August 11, 1983 (48 FR 36823, published August 15, 1983). The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), is authorized under § 285.20(b)(1) to monitor the catch and landing statistics and, on the basis of these statistics, to project a date when the total catch of Atlantic bluefin tuna will equal any quota under § 285.22. The Assistant Administrator, further, is authorized under § 285.20(b)(1) to prohibit the fishing for, or retention of, Atlantic bluefin tuna by the type of vessels subject to the quotas. The Assistant Administrator has determined, based on the reported catch of giant Atlantic bluefin tuna of 67 st, and the recent catch rate, that the annual quota of giant Atlantic bluefin tuna allocated to vessels permitted in the Harpoon Boat category will be attained by the effective date. Fishing for, and retention of, any Atlantic bluefish tuna by these vessels must cease at 0001 EDT on August 23, 1983.

Notice of this action has been mailed to all Atlantic bluefin tuna dealers and vessel owners holding a valid vessel permit for this fishery. This action is taken under the authority of 50 CFR 285.20, and is taken in compliance with Executive Order 12291.

(Atlantic Tunas Convention Act of 1975, 16 U.S.C. 971–971h)

Dated: August 22, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 83–23300 Filed 8–22–83; 5:00 pm]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 48, No. 166
Thursday, August 25, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76-205; Louisiana—2 Addition II]

High-Cost Gas Produced From Tight Formations; Louisiana

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432 (Supp V. 1982), to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703 (1982)). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the State of Louisiana Office of Conservation that the Haynesville Formation, Reservior B be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on October 6, 1983; Public hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on September 6, 1983.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511, or Walter W. Lawson, (202) 357–8556.

Issued: August 22, 1983.

I. Background

On May 25, 1983, the State of Louisiana Office of Conservation (Louisiana) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (18 CFR § 271.703 (1982)), that the Haynesville Formation, Reservoir B, in Claiborne Parish, Louisiana be designated as a tight formation in the Commission's regulations. On April 29, 1981 and January 28, 1982, the Commission issued Order Nos. 141 and 207, respectively, in Docket No. RM79-76 (Louisiana—2) in which the Commission designated portions of the Haynesville Formation in Bossier Parish as a tight formation under § 271.703 of the regulations. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Louisiana's recommendation that the Haynesville Formation, Reservoir B be designated a tight formation should be adopted. Louisiana's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

Louisiana recommends that the Haynesville Formation, Reservoir B, underlying parts of the Colquitt Field in northern Claiborne Parish, Louisiana, be designated as a tight formation. The recommended area consists of the south half of the southwest quarter of section 27, the south half of section 28, the south half and south half of the northwest quarter of section 29, the south half and northwest quarter and the south half of the northeast quarter of section 30, and the north half of section 34, Township 23 North, Range 6 West, the west half of section 24, and the north half and southeast quarter of section 25, Township 23 North, Range 7 West. The Haynesville Formation, Reservoir B is defined as that gas and condensate bearing formation occurring between the depths of 9,510 feet and 10,730 feet (electric log measurement) in the Cities Service Company Hatter A No. 1 well located in section 29, Township 23 North, Range 6 West.

III. Discussion of Recommendation

Louisiana claims in its submission that evidence gathered through information and testimony presented at a public hearing in support of this recommendation demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Louisiana further asserts that existing Statewide Order No. 29–B will assure that development of the recommended area will not adversely affect any fresh water aquifers that are or are expected to be used as a domestic or agricultural water supply.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, [Reg. Preambles 1977–1981] FERC Stat. and Reg ¶ 30,180 (1980), notice is hereby given of the proposal submitted by Louisiana that the Haynesville Formation, Reservoir B as described and delineated in Louisiana recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before October 6, 1983. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76–205 (Louisiana—2 Addition II) and should give reasons including supporting data for any recommendation. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14

conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of a desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than September 6, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, *Code of Federal Regulations*, as set forth below, in the event Louisiana's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

Section 271.703 is amended by revising paragraph (d)(22) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(22) *Haynesville Formation in Louisiana. RM79–76 (Louisiana—2)*—(i) *Arkana Field, Bossier Parish.* (A) *Delineation of formation.* The Haynesville Formation is found in the northern portion of Bossier Parish, Louisiana, on the Arkansas border and consists of the following: Township 23 North, Range 12 West, Section 5 through 8, and 17 through 19; Township 23 North, Range 13 West, Sections 1 through 24; Township 23 North, Range 14 West, Sections 1, 2, 6 through 24 and 27 through 34; and Township 23 North, Range 15 West, Sections 1 through 3, 10 through 15, 22 through 27 and 34 through 36.

(B) *Depth.* The top of the Haynesville Formation is located at a measured depth of 10,360 feet, with the base located at 10,845 feet on the induction electrical log of the Crystal Oil Company Hall No. 1 Well. In the Arkana Field, the Haynesville Formation consists of three members: the upper member varies in thickness from 120 and 220 feet thick; the middle member, the Haynesville Sand, ranges between 120 and 220 feet thick; and the lowest member, the Buckner, is between 200 and 400 feet thick.

(ii) *Colquitt Field, Claiborne Parish*—(A) *Delination of formation.* The Haynesville Formation, Reservoir B is found in the northern portion of Claiborne Parish and consists of the following: the S½ SW¼ Section 27, S½ Section 28, S½ and S½ NW¼ Section 29, NW¼ and S½ and S½ NE¼ Section 30, and N½ Section 34 in Township 23 North, Range 6 West; the W½ Section 24, N½ and SE¼ Section 25 in Township 23 North, Range 7 West.

(B) *Depth.* The Haynesville Formation, Reservoir B in the Colquitt Field is defined as the interval occurring between the measured depths of 9,510 feet and 10,730 feet on the electric log of the Cities Service Company Hatter A No. 1 well.

[FR Doc. 83–23355 Filed 8–24–83; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 110

[CCGD1–83–2–R]

Establishment of a Special Anchorage Area in Mattapoisett Harbor; Mattapoisett, Massachusetts

AGENCY: Coast Guard, Department of Transportation.

ACTION: Proposed rule.

SUMMARY: The Coast Guard is proposing to establish a Special Anchorage Area in the east and west sides of Mattapoisett Harbor, Mattapoisett, Massachusetts at the request of the town of Mattapoisett.

This proposal is necessary to insure that mariners are aware that small craft may be moored or anchored in this area and would relieve the anchored craft of the requirement to carry and display anchor lights while utilizing this Special Anchorage.

DATE: Written comments should be submitted on or before October 11, 1983.

ADDRESS: Written comments should be submitted to and are available for examination at the office of the Captain of the Port of Providence, U.S. Coast Guard Marine Safety Office, John O. Pastore Federal Building, Providence, Rhode Island 02903. A Public Hearing is not planned.

FOR FURTHER INFORMATION CONTACT: LTJG Chris Oelschlegel, U.S. Coast Guard Marine Safety Office, John O. Pastore Federal Building, Providence, Rhode Island 02903, (401) 528–4335.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the proposed rulemaking by submitting written views, data or arguments. Each person submitting a comment should include their name and address, identify this notice, the specific section of the proposal to which their comments applies, and give reason for the comment. Persons desiring acknowledgement that their comment has been received should enclose a stamped self-addressed postcard or envelope. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal.

Drafting Information

The principal persons involved in drafting this proposal are LTJG Chris Oelschlegel, U.S. Coast Guard Marine Safety Office, Providence, Rhode Island and LT William O'Leary, Project Attorney, Commander (dl), First Coast Guard District, 150 Causeway Street, Boston, Massachusetts.

Discussion of Proposed Regulation

The Coast Guard, at the request of the town of Mattapoisett, Massachusetts is proposing to amend the Anchorage Regulations by establishing a Special Anchorage Area in Mattapoisett Harbor, Mattapoisett, Massachusetts. This anchorage area will be for the use of the general public. The number of small commercial shellfishing and pleasure craft utilizing Mattapoisett Harbor warrants the establishment of this Special Anchorage Area. In Special Anchorage Areas, vessels of not more than 65 feet in length, when at anchor, are not required to carry or display anchor lights. The shoreline is bounded by town property controlled by the Mattapoisett Harbor Development Committee and the remainder is privately owned. A Town Meeting was held on 03 February 1983 exclusively to discuss the proposed Special Anchorage. No adverse comments were received.

The designation of this special anchorage area will have no significant impact on the quality of the human environment. This action is consistent to the maximum extent practicable with the Massachusetts Coastal Zone Management Plan. Environmental information can be obtained from Mr. P. V. Kaselis, Environmental Specialist, First Coast Guard District, 150 Causeway Street, Boston, MA 02114.

Economic Assessment and Certification

This proposed regulation has been reviewed under the provisions of Executive Order 12291 and has been determined not to be a major rule. In addition, this proposed regulation is considered to be nonsignificant in accordance with the guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–80). An economic evaluation has not been conducted since, for the reasons discussed above, its impact is expected to be minimal. In accordance with Section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164), it is certified that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 110

Anchorage regulations.

Proposed Regulations

PART 110—[AMENDED]

In consideration of the foregoing, it is proposed that Part 110 of Title 33 Code of Federal Regulations be amended to provide two adjacent Special Anchorage Areas by adding § 110.45a to read as follows:

§ 110.45a Mattapoisett Harbor, Mattapoisett, MA

(a) Area No. 1 beginning at a point on the shore at latitude 41°39′23″ N, longitude 70°48′50″ W; thence 138.5°T to latitude 41°38′45″ N., longitude 70°48′02″ W., thence 031°T to latitude 41°39′02″ N, longitude 70°47′48″ W, thence along the shore to the point of beginning.

(b) Area No. 2 beginning at a point on the shore at latitude 41°39′24″ N, longitude 70°49′02″ W; thence 142.5°T to latitude 41°38′10″ N, longitude 70°47′45″ W; thence 219°T to latitude 41°37′54″ N, longitude 70°48′02″ W; thence along the shore to the point of beginning.

Note.—Administration of the Special Anchorage Area is exercised by the Harbormaster, Town of Mattapoisett pursuant to a local ordinance. The Town of Mattapoisett will install and maintain suitable navigational aids to mark the perimeter of the Anchorage area.

(33 U.S.C. 2030, 2035, and 2071; 49 CFR 1.46, 33 CFR 1.05–1(g))

Dated: August 8, 1983.

R. A. Bauman,

Rear Admiral, U.S. Coast Guard, Commander First Coast Guard District.

[FR Doc. 83–23351 Filed 8–24–83; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Part 117

[CGD3 82–023]

Drawbridge Operation Regulations; Great Channel, New Jersey

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the County of Cape May, New Jersey, the Coast Guard is considering a change to the regulations governing the Stone Harbor Boulevard drawgbridge at Stone Harbor, New Jersey by requiring that advance notice of opening be given during October through March between the hours of 10 p.m. and 6 a.m. This proposal is being made because of a steady decrease in requests for openings of the draw during this period. This action should relieve the bridge owner of the burden of having a person constantly available to open the draw during this period, and should still provide for the reasonable needs of navigation.

DATE: Comments must be received on or before October 11, 1983.

ADDRESS: Comments should be submitted to and are available for examination from 9 a.m. to 3 p.m., Monday through Friday, except holidays, at the office of the Commander (oan-br), Third Coast Guard District, Bldg. 135A, Governors Island, NY 10004. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: William C. Heming, Bridge Administrator, Third Coast Guard District, (212) 668–7994.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data or arguments. Persons submitting comments should include their name and address, identify the bridge, and give reasons for concurrence with or for any recommended change in the proposal. Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

The Commander, Third Coast Guard District, will evaluate all communications received and will determine a final course of action on this proposal. The proposed regulations may be changed in light of comments received.

Drafting Information

The drafters of this notice are Richard A. Gomez, project manager, and LCDR Frank E. Couper, project attorney.

Discussion of the Proposed Regulations

The Stone Harbor Boulevard drawbridge provides access across Great Channel for vehicular traffic travelling to and from Stone Harbor. This drawbridge provides a vertical clearance of 11 feet above mean high water while in the closed position. From 1977 to 1981, there was an average of five openings from October 1 through March 31 between 10 p.m. and 6 a.m. It is proposed to amend the existing special regulations to require eight hours notice during this time and also include the provision that the draw be required to open as soon as possible at all times for a public vessel or a vessel in distress.

The Commander, Third Coast Guard District issued temporary, special regulations by Public Notice 3–485 (30 November 1982) for evaluation purposes. These temporary regulations required eight hours notice to open between 10 p.m. and 6 a.m., from 1 December 1982 through 31 March 1983 except for passage of a public vessel of the U.S. or for a vessel with tow. No responses were received to this Public Notice and no problems were identified during this evaluation period. No economic evaluation has been prepared because of minimal economic impact owning to the relative infrequency of vessel transits during this period.

Economic Assessment and Certification

These proposed regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. In addition, these proposed regulations are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–80). As explained above, an economic evaluation has not been conducted since its impact is expected to be minimal. In accordance with section 605(b) of the Regulatory Flexibility Act (5 U.S.C 605(b)), it is certified that these rules, if promulgated, would not have a significant economic impact on a substantial number of small entities because none are in the vicinity and none are expected to be impacted as a result of this rule.

Lists of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations

by revising § 117.220(r) to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.220 New Jersey intracoastal Waterway and tributaries; bridges.

* * * * *

(r) Stone Harbor Boulevard Bridge across Great Channel, mile 102.0 at Stone Harbor. The draw shall open on signal except as provided below:

(1) From October 1 through March 31 between 10 p.m. and 6 a.m., the draw need only open for waiting vessels if at least eight hours notice is given.

(2) From Memorial Day through Labor Day, 8 a.m. to 6 p.m., on Saturday, Sunday, and holidays, the draw need only open for waiting vessels on the hour, 20 minutes after the hour, and 20 minutes before the hour.

(3) The draw shall be opened at all times as soon as possible for a vessel with a tow, a public vessel of the United States, or a vessel in distress.

* * * * *

(33 U.S.C. 499; 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05–1(g)(3))

Dated: August 8, 1983.

W. E. Caldwell,

Vice Admiral, U.S. Coast Guard, Commander, Third Coast Guard District.

[FR Doc. 83–23350 Filed 8–24–83; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 117

[OGD3 82–036]

Drawbridge Operation Regulations; Passaic River, New Jersey

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the joint request of the counties of Bergen, Hudson, and Essex, New Jersey, the Coast Guard is considering a change to the regulations governing the Jackson Street, Bridge Street, Clay Street and Avondale bridges across the Passaic River at various locations. It is proposed that a request for an opening be given prior to 2:30 a.m. for openings between 3:00 a.m. and 8:30 a.m., and that notice be given prior to 2:30 p.m. for openings between 4:30 p.m. and 7:00 p.m. This proposal is being made because of the minimal number of openings requested during the proposed, effective hours and because of the overall decrease in bridge openings since 1976. This action should relieve the bridge owners of the burden of having a person constantly available to open the draw and should still provide for the reasonable needs of navigation.

DATE: Comments must be received on or before October 11, 1983.

ADDRESS: Comments should be submitted to and are available for examination from 9:00 a.m. to 3:00 p.m., Monday through Friday, except holidays, at the office of the Commander (oan.br), Third Coast Guard District, Bldg. 135A, Governors Island, NY 10004. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: William C. Heming, Bridge Administrator, Third Coast Guard District, (212) 668–7994.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data, or arguments. Persons submitting comments should include their name and address, identify the bridge, and give reasons for concurrence with or for any recommended change in the proposal. Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

The Commander, Third Coast Guard District, will evaluate all communications received and determine a final course of action on this proposal. The proposed regulations may be changed in light of comments received.

Drafting Information

The drafters of this notice are Ernest J. Feemster, project manager, and LCDR Frank E. Couper, project attorney.

Discussion of Proposed Regulations

Essex County operates four movable bridges in conjunction with Bergen and Hudson counties. The operation of the northernmost (of the four), Avondale Bridge is shared with Bergen County, while operation of the Clay, Bridge, and Jackson Street Bridge is shared with Hudson county. The Jackson, Bridge and Clay Street bridges cross the Passaic River from Kearney to Newark while the Avondale bridge crosses between Lyndhurst and Nutley, NJ. The counties are proposing that the bridges open on signal from 8:30 a.m. to 4:30 p.m. and from 7:00 p.m. to 3:00 a.m. An opening between 3 a.m. and 8:30 a.m. would have to be requested prior to 2:30 a.m., and an opening between 4:30 p.m. and 7 p.m. would have to be requested prior to 2:30 p.m.

Bridge openings for marine traffic varied from 400 to 900 yearly (at the bridges) in 1981 and in general have decreased by about 50% since 1976. Special regulations now allow Conrail's Dock bridge and Amtrak's Morristown Line bridge to remain closed during morning and evening commuter hours so in effect, these regulations will do the same. The Dock bridge is downstream of three of the bridges (Avondale, Bridge Street and Clay Street) while the Morristown Line is downstream of two bridges (Avondale and Clay Street).

No draft economic evaluation has been prepared because no disruption of marine shipping operations is anticipated. The Coast Guard has met with Essex, Bergen and Hudson County officials, the New York Towboat and Harbor Carriers Association and with certain Passaic River facility owners and it was generally agreed that no major problems will result if the regulations are issued. The mariners agreed to try to avoid commuter "rush hours" while the counties agreed to grant openings on those occasions when high tide occurs during commuter rush hours. Additionally, a 30-day test period was conducted in early summer with minimal problems being encountered.

Economic Assessment and Certification

These proposed regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. In addition, these proposed regulations are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–80). As explained above, an economic evaluation has not been conducted since its impact is expected to be minimal. In accordance with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), it is certified that these rules, if promulgated, would not have a significant economic impact on a substantial number of small entities because no known entities will be affected.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations, by renumbering § 117.200(a)(4)(i), through (viii) as (a)(4)(ii), through (ix) respectively, and adding a new § 117.200(a)(4)(i) to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.200 Newark Bay, Passaic and Hackensack Rivers, N.J., and their navigable tributaries; bridges.

(a) * * *

(4) * * *

(i) Jackson Street Bridge, mile 4.6, Bridge Street Bridge, mile 5.6 Clay Street Bridge, mile 6.0 at Newark and Kearney, and Avondale Bridge, mile 10.7 at Lyndhurst, all crossing the Passaic River. The draws shall open on signal except that notice must be given prior to 2:30 a.m. for openings between 3:00 a.m. and 8:30 a.m., and notice must be given prior to 2:30 p.m. for openings between 4:30 p.m. and 7:00 p.m. The bridges shall open at all times as soon as possible for a public vessel of the United States.

* * * * *

(33 U.S.C. 499; 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05–1(g)(3))

Dated: August 9, 1983.

W. E. Caldwell,

Vice Admiral, U.S. Coast Guard, Commander, Third Coast Guard District.

[FR Doc. 83-23348 Filed 8-24-83; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 117

[CGD 08–83–06]

Drawbridge Operation Regulations; Lavaca River, Texas

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Missouri Pacific (MOPAC) Railroad and the Texas Department of Highways and Public Transportation (TDHPT), the Coast Guard is considering changing the regulations governing the swing span railroad bridge and the removable span bridge on FM 616 highway, both across the Lavaca River, mile 11.2, near Vanderbilt, Texas. The bridges presently are required to open on signal if at last 48 hours advance notice is given.

The proposed change would require that at least ten days notice be given for opening the bridges.

This proposal is being made because of the absence of requests to open the bridges in recent years. This action is designed to relieve the bridge owners of the burden of maintaining the capability of opening the bridges on 48 hours notice, while still providing for the reasonable needs of navigation.

DATE: Comments must be received on or before October 11, 1983.

ADDRESS: Comments should be mailed or hand delivered to the Eighth Coast Guard District, Bridge Administration Branch, Hale Boggs Federal Building, 500 Camp Street, New Orleans, Louisiana 70130. Comments are available for examination at this address from 9:00 a.m. to 3:00 p.m., Monday through Friday except holidays.

FOR FURTHER INFORMATION CONTACT: Joseph Irico, Chief, Bridge Administration Branch, at the address given above (504) 589–2965.

SUPPLEMENTARY INFORMATION: Interested parties are invited to participate in this proposed rule making by submitting written views, comments, data or arguments. Persons submitting comments should include their name and address, identifying the bridge, and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgement that their comments have been received should enclose a stamped self-addressed post card or envelope.

The Commander, Eighth Coast Guard District, will evaluate all communications received and determine a final course of action on this proposal. The proposed regulation may be changed in the light of comments received.

Drafting Information

The principal persons involved in drafting this proposal are: Joseph Irico, Project Manager, District Operations Division, and Steve Crawford, General Attorney, District Legal Office.

Discussion of the Proposed Regulation

Vessel traffic through the bridges consists of small pleasure boats that pass under the closed spans. the bridges have not been opened to pass navigation since 1972. If this trend continues, the bridges would be candidates for conversion to fixed spans in the near future.

The advance notice for opening the draw would be given by placing a collect call, as follows:

MOPAC bridge—Spring, Texas, (713) 350–7581

TDHPT bridge—Yoakum, Texas, (512) 293–3535

Considering that the bridges have not been opened since 1972 and the provision for the ten days advance notice, the Coast Guard feels that the proposed regulation would relieve the bridge owners of the burden of maintaining the bridges in readiness to open on a 48 hour notice, while still providing for the reasonable needs of navigation.

Economic Assessment and Certification

These proposed regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. In addition, these proposed regulations are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–80). An economic evaluation has not been conducted since the impact is expected to be minimal. In accordance with § 605(b) of the Regulatory Flexibility Act (94 Stat. 1164), it is also certified that this rule, if promulgated, would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

PART 117—DRAWBRIDGE OPERATION REGULATIONS

In consideration of the foregoing, the Coast Guard proposes to amend § 117.245, Part 117, Title 33 Code of Federal Regulations, as follows:

§ 117.245 [Amended]

Revise § 117.245(j)(38) to read:

* * * * *

(j) * * *

(38) Lavaca River, TX; The draws of the Missouri Pacific Railroad bridge and the Texas FM 616 highway bridge, mile 11.2 both at Vanderbilt, shall open on signal if at least 10 days notice is given.

(33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 40 CFR 1.46(c)(5), 33 CFR 1.05–1(g)(3))

Dated: August 12, 1983.

J. M. Fournier,

Captain, U.S. Coast Guard, Acting Commander, Eighth Coast Guard District.

[FR Doc. 83-23360 Filed 8-24-83; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 117

[CGD5–83–05]

Drawbridge Operation Regulations; Eastern Branch, Elizabeth River, Norfolk, Virginia

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Norfolk and Western Railway Company, the Coast Guard is considering a change to the regulations governing the railroad drawbridge across the Eastern Branch of

the Elizabeth River, mile 2.7, at Norfolk, Virginia, by requiring that advance notice of opening be given between 10 p.m. and 6 a.m. This proposal is being made because of the small number of requests for opening the draw at these times. This action should relieve the bridge owner of the burden of having a person constantly available to open the draw and still provide for the reasonable needs of navigation.

DATE: Comments must be received on or before October 11, 1983.

ADDRESS: Comments should be submitted to and are available for examination from 8 a.m. to 4:30 p.m., Monday through Friday, except holidays, at the office of Commander (oan), Fifth Coast Guard District, Federal Building, 431 Crawford Street, Portsmouth, Virginia 23705. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: W. A. Pratt, Bridge Specialist, Aids to Navigation Branch, Fifth Coast Guard District, Federal Building, 431 Crawford Street, Portsmouth, Virginia 23705, (804) 398–6227.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data, or arguments. Persons submitting comments should include their name and address, identify this proposed rule by Docket Number or bridge, and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgement that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

The rule may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held of written requests are received and it is determined that an opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The drafter of this notice is W. A. Pratt, Project Officer.

Discussion of Proposed Rule

Because of minimal night time draw openings, the Norfolk and Western Railway Company has requested that the drawbridge regulations governing the operation of its swingspan across the Eastern Branch of the Elizabeth River at mile 2.7 be changed to require advance notice between the hours of 10 p.m. and 6 a.m. Currently the bridge opens on signal and requires the constant presence of a drawtender. The proposed regulation would require that an advance notice of at least three hours be given for the opening of the bridge between 10:00 p.m. and 6:00 a.m. on a daily basis. At all other times the bridge would open on signal.

The Norfolk and Western Railway Company has provided a review of bridge openings which indicates that the proposed rule would affect approximately 13% of the yearly traffic. Records for the period April 1, 1981 through March 31, 1982 indicate that 40 openings out of a total 306 were made during the hours which would require advance notice. The months of heaviest use are those from May through September. The change in regulations will not significantly affect water traffic but will relieve the bridge owner of the responsibility of providing constant operator attendance at the bridge.

There are no known businesses that will be significantly impacted by the proposed change. The proposed hours of operator attendance include those hours of daylight when the majority of vessels transit the Eastern Branch of the Elizabeth River. Those vessels navigating the Eastern Branch at other times may comply with the advance notice requirement without undue hardship.

Economic Assessment and Certification

This proposed regulation has been reviewed under the provision of Executive Order 12291 and has been determined not to be major rule. In addition, the proposed regulation is considered to be nonsignificiant in accordance with guidelines set forth in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–80). An economic evaluation of the proposal has not been conducted because the expected economic impact is so minimal as to not warrant the evaluation. In accordance with Section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), it is also certified that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulation

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations by adding a new paragraph (24–a) to § 117.245(f) to read as follows:

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of drawtenders is not required.

* * * * *

(f) * * *

(24–a) Elizabeth River, Eastern Branch, Va.; Norfolk and Western Railway Company Bridge at Norfolk. At least 3 hours advance notice required between 10:00 p.m. and 6:00 a.m.

* * * * *

(33 U.S.C. 499; 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05–1(g)(3))

Dated: August 8, 1983.

John D. Costello,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 83–23347 Filed 8–24–83; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 460 and 462

Medicare Program; Utilization and Quality Control Peer Review Organization (PRO) Area Designations and Definitions of Eligible Organizations

Correction

In FR Doc. 83–22196 beginning on page 36970 in the issue of Monday, August 15, 1983, make the following corrections:

1. On page 36970, the third column, the last line, "SRO" should read "PSRO".

2. On page 36972, the middle column, the eleventh line, the word "process" should read "access".

3. On page 36974, the first column, the part heading should read:

PART 460—AREA DESIGNATIONS

4. On the same page, the same column, **"§ 460.11 Definitions"** Should read **"§ 460.1 Definitions"**.

BILLING CODE 1505–01–M

Notices

Federal Register
Vol. 48, No. 166
Thursday, August 25, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Revision of Notices of Intent To Prepare Environmental Impact Statements for the Forest Land and Resource Management Plans for the Shoshone, Bighorn, and Medicine Bow National Forests in Wyoming; Rocky Mountain Region

The Rocky Mountain Region, Forest Service, Department of Agriculture, is preparing environmental impact statements on the Land and Resource Management Plans for three National Forests in Wyoming: Shoshone, Bighorn, and Medicine Bow which includes the Thunder Basin National Grassland. The scope of the issues to be analyzed in depth for these Forests is revised to include further evaluation of roadless areas previously inventoried and analyzed in the second roadless area review and evaluation (RARE II). The Federal Register citation in which the original and/or the revised notices of intent appear are as follows:

Shoshone: Vol. 45, No. 222, November 14, 1980.
Bighorn: Vol. 44, No. 97, May 17, 1979; revision, Vol. 45, No. 222, November 14, 1980.
Medicine Bow: Vol. 45, No. 30, February 12, 1980; revision, Vol. 45, No. 222, November 14, 1980.

On February 1, the Secretary of Agriculture determined that further evaluation of RARE II roadless areas is necessary to respond to a recent court ruling (State of California vs. Bergland) that the environmental impact statement on which the January 4, 1979, Record of Decision on RARE II was based did not adequately meet the National Environmental Policy Act requirements.

The reevaluation will be done during each Forest's land and resource management planning process. It will include analysis and evaluation of roadless areas on which recommendations were made in the RARE II Record of Decision.

Title 36, Code of Federal Regulations, Part 219 (36 CFR Part 219) sets out the overall requirements for the Forest Land and Resource Management Planning process. Section 219.14 of this Part is being revised because the direction is now incompatible with the court ruling discussed above. A proposed revision was published in the Federal Register, Vol. 48, No. 75, April 18, 1983.

It is not the intent of the Rocky Mountain Region of the Forest Service to make land use or resource commitments until the revised rule is final. However, respect for the time limitations imposed by Congress for completing the National Forest Land and Resource Management Plans require that public participation in this aspect of planning be started now. It is important to facilitate early data collection and preliminary analysis.

Federal, State and local agencies, special interest groups, organizations, and individuals are invited to participate in the reevlauation of roadless areas. Information on each roadless area and the potential for wilderness or nonwilderness uses will be considered now in order to determine the scope and degree of the more detailed evaluation and analysis necessary complete the Forest planning process.

The Supervisors of the Shoshone, Bighorn, and Medicine Bow National Forests will solicit information from the public through various public particiaption activities that will be conducted by the individual Forests. On October 5, 1983, two public meetings involving all three Forests will be held at the public library, 307 East Second, Casper, Wyoming. An afternoon meeting will be held from 3 to 5 p.m.; an evening session will be held from 7 to 9 p.m. Interested citizens may contact the individual Forest Supervisor's Offices for information pertaining to specific roadless areas.

All other conditions of the orginial notices of intent remain the same with the exception of the estimated completion dates for the Forest Plans and Final Environmental Impact Statements. The revised dates follow:

Shoshone: Proposed Forest Plan and Draft Environmental Impact Statement, March, 1984.
Final Forest Plan and Final Environmental Impact Statement, September 1984.
Bighorn: Proposed Forest Plan and Draft Environmental Impact Statement, March 1984.
Final Forest Plan and Final Environmental Impact Statement, September 1984.
Medicine Bow: Proposed Forest Plan and Draft Environmental Impact Statement, June 1984.
Final Forest Plan and Final Environmental Impact Statement, December 1984.

Questions and comments on this notice of intent or requests for information on the scheduled scoping activities can be directed to the following:

Forest Supervisor, Shoshone National Forest, 2525 West Yellowstone Highway, Box 961, Cody, Wyoming 82414, Telephone: (307) 527-6241.
Forest Supervisor, Bighorn National Forest, 1969 S. Sheridan Ave., Box 2046, Sheridan, Wyoming 82801, Telephone: (307) 672-0751.
Forest Supervisor, Medicine Bow National Forest, 605 Skyline Drive, Laramie, Wyoming 82070 Telephone: (307) 745-8971.

To be considered in the draft environmental impact statement process comments must be received by the individual Forest Supervisors by October 30, 1983.

Craig W. Rupp,
Regional Forester, Rocky Mountain Region.

[FR Doc. 83-23238 Filed 8-24-83; 8:45 am]
BILLING CODE 3410-11-M

Land and Resource Management Plan; Sierra National Forest, Fresno County, California; Intent To Reevaluate Roadless Areas

The Department of Agriculture, Forest Service issued a national environmental impact statement in January 1979. This environmental impact statement documented the results of a review of 62 million acres of roadless and undeveloped areas within the 190 million acre National Forest system. The purpose of the roadless area review and evaluation (RARE II) was to determine which areas were suitable for wilderness and which would be used for other purposes.

In the Pacific Southwest Region RARE II dealt with over 6 million acres located in California. About 983,000 acres were recommended for wilderness; 2,643,000 acres were recommended for further planning; and 2,395,000 acres were recommended for nonwilderness.

In 1979 the State of California challenged the adequacy of the National RARE II Environmental Impact Statement as the basis for decisions to manage 46 areas in California for other than wilderness. In October 1982, the United States Court of Appeals for the Ninth Circuit affirmed a lower court decision that the RARE II Environmental Impact Statement was inadequate. Although the decision applied specifically to only the 46 roadless areas in California, it sets binding precedent in any Federal District Court in the Ninth Circuit.

Because of the October 1982 court decision, National Forest roadless areas studied for wilderness potential during RARE II will be reevaluated. This Notice is being issued because, contrary to earlier regulations (issues 9/30/82), a proposed revision to 36 CFR 219.17 (issued 4/18/83) will allow further evaluation of RARE II wilderness and nonwilderness areas during the Forest planning process.

The reevaluation of the areas on the Sierra National Forest will be done as part of the Forest's land and resource management plan.

During the reevaluation process, current management and protection policies and activities in the roadless areas will be continued. Wilderness values will be protected in areas recommended in RARE II for wilderness, and management for other uses will continue in areas recommended for nonwilderness.

On the Sierra National Forest, three roadless areas containing 67,432 acres were recommended for wilderness and four roadless areas of 53,000 acres were recommended for nonwilderness. These areas will now be reevaluated. They include:

	Name	Gross acres	Net NF acres
A5047	San Joaquin	42,270	42,270
A5198	Kings River	5,332	5,332
05240	Ferguson Ridge	6,100	6,000
05241	Devil Gulch	30,300	29,900
05243	Shuteye	7,700	7,700
05245	Woodchuck	19,830	19,730
05246	Sycamore Spring	8,900	8,900

Detailed information on the roadless areas and the reevaluation process will be distributed to individuals on the Forest mailing list and to other individuals and organizations requesting a copy. In addition, there will be an open house held September 27, 1983, in Fresno, California, at Fashion Fair Community Hall from 7 p.m. to 10 p.m. to further explain, discuss, and gather information about the roadless areas and the reevaluation process.

For further information about the proposed reevaluation, contact John Kruse, Planning Officer, Sierra National Forest, 1130 O Street, Fresno, California 93721, or call (209) 487-5170.

Dated: August 18, 1983.

Dale E. Hosler,

Acting Deputy Forest Supervisor, Sierra National Forest.

[FR Doc. 83-23383 Filed 8-24-83; 8:45 am]

BILLING CODE 3410-11-M

Payette National Forest; Thunder Mountain (Sunnyside) Mining Project, Valley County, Idaho; Intent To Prepare an Environmental Impact Statement

AGENCY: Forest Service.

ACTION: Notice of Intent to Prepare an EIS.

SUMMARY: Coeur D'Alene Mines Corporation filed a Notice of Intent to operate a 10 to 20 year mining project at Sunnyside on Thunder Mountain, Valley County, Idaho, on April 6, 1983. The proposal covers 140 acres of patented and 55 acres of National Forest System land in sections 20, 21, 28, 29, 30, 31, 32, and 33, T18N and 19N, R10E and 11E, Boise Meridian—nonwilderness lands in the Thunder Mountain Mining District exclusion within the River of No Return Wilderness, Big Creek Ranger District, Payette National Forest. A third party Memorandum of Understanding provides for James M. Montgomery, Consulting Engineers, Inc., to conduct environmental studies and prepare the EIS under leadership of the Payette National Forest.

The EIS will address open pit mining of an estimated 2.5 million tons of ore reserves with approximately 7.5 million tons of overburden/waste rock. Processing alternatives include heap leach/agglomeration, modified vat leach, vat leach or agitation leach (all cyanidation processes), a full grind system with carbon and pulp, and gravity/flotation. Alternatives will also address mining methods, overburden disposal sites, mining seasons, ore transportation options, facilities and their locations, access, and reclamation.

The draft EIS is scheduled for completion by January 31, 1984. The final is scheduled for April 30, 1984, with a decision by the Responsible Official, Payette National Forest Supervisor Ken Weyers, by June 30, 1984. Approval would mean that mining would commence late 1984 or spring 1985.

Initial scoping meetings are scheduled for the following times and places:

September 20, 7:30 pm, Community Hall, Yellow Pine, Idaho,

September 22, 7:30 pm, Shore Lodge, McCall, Idaho, and

September 27, 7:30 pm, Red Lion Riverside, Boise, Idaho.

For further information contact Earl Dodds, Big Creek District Ranger, at 208-634-2255.

Dated: August 17, 1983.

Kenneth D. Weyers,

Forest Supervisor.

[FR Doc. 83-23382 Filed 8-24-83; 8:45 am]

BILLING CODE 3410-11-M

Revised Notice of Intent for Land and Resource Management Plan and Roadless Area Reevaluation; Manti-LaSal National Forest, Utah and Colorado

This Notice revises a previously issued Notice of Intent published in the **Federal Register** dated June 20, 1980, page 41685.

This Notice is being issued because 36 CFR 219.17 is being revised to allow the reevaluation of roadless areas during the Forest planning process. Public participation in the reevaluation permits data collection and analysis activities to proceed pending release of the final regulations.

The results of the reevaluation of roadless areas will be included in the Environmental Impact Statement and Manti-LaSal National Forest Land and Resource Management Plan.

The first steps involving initial public participation, inventory, and analysis of the management situation have been completed. The scoping for the roadless area reevaluation portion of the land management planning process will be initiated by explaining the roadless area reevaluation to all individuals interested and wanting to become involved in the planning process for the Forest. Significant issues relating to reevaluation will be identified and included with those issues already identified for the Forest.

Detailed information on the roadless areas and reevaluation processes will be available for individuals and organizations requesting the information. In addition, there will be open-house meetings held during the period of October 3 to October 14, 1983, at 150 South Main, Ephraim, Utah; 50 South State Street, Ferron, Utah; 10 North Carbon Avenue, Price, Utah; 446 South Main Street, Moab, Utah; and 185 North, 1st East, Monticello, Utah, to further explain, discuss, and gather information about the roadless areas and reevaluation process. The scheduled meeting and times will be

published in the local newspapers prior to the October dates.

The Manti-LaSal National Forest Plan will select from a range of alternatives which will include at least:

(1) The "no-action" alternative, which represents continuation of present levels of activity.

(2) One or more alternatives which represent levels of activity that will result in elimination of all backlogs of needed treatment for restoration of renewable resources and ensure that a major portion of planning intensive multiple-use and sustained-yield management procedures are operating on an environmentally sound basis.

(3) One or more alternatives formulated to resolve the identified major public issues and management concerns, including roadless areas.

The Draft Environmental Impact Statement and proposed Land and Resource Management Plan for the Manti-LaSal National Forest are scheduled for filing with the Environmental Protection Agency and draft review by October 1984. The final documents are scheduled for filing with the Environmental Protection Agency in March 1985.

During the reevaluation process, current management and protection policies and activities in the roadless areas may be continued. Wilderness values will be protected in the areas recommended in RARE II for Wilderness, and management for other uses may continue in areas recommended for non-Wilderness.

J. S. Tixier, Regional Forester, Intermountain Region, USDA Forest Service, is the responsible official for the Forest Management Plan and Environmental Impact Statement. Reed C. Christensen, Forest Supervisor, is responsible for preparation of the Forest Plan and Environmental Impact Statement.

Written comments, suggestions, and/or requests for information during this process should be sent to Lee Foster, Forest Planner, Manti-LaSal National Forest, 599 West Price River Drive, Price, Utah, 84501, phone 801–637–2817.

Dated: August 18, 1983.

R. E. Greffenius,

Deputy Regional Forester.

[FR Doc. 83-23201 Filed 8-24-83; 8:45 am]

BILLING CODE 3410-11-M

Northern Region Forest Plans; Northern Region, National Forests in Idaho, Montana, North Dakota, South Dakota; Intent To Prepare Environmental Impact Statements, Supplements, or Revisions

In 1979 the State of California challenged the adequacy of the National RARE II Environmental Impact Statement as the basis for decisions to manage 46 areas in California for other than wilderness. In October 1982, the United States Court of Appeals for the Ninth Circuit affirmed a lower court decision that the RARE II Environmental Impact Statement was inadequate. Although the decision applied specifically to only the 46 roadless areas in California, it sets binding precedent in any Federal District Court in the Ninth Circuit.

Because of the October 1982 court decision, National Forest roadless areas in the Northern Region studies for wilderness potential during RARE II will be re-evaluated.

Northern Region National Forests in Montana, Idaho, North Dakota and South Dakota, depending on the situation of the individual National Forests, will prepare a draft environmental impact statement, a revised draft environmental impact statement or a supplement to an existing draft environmental impact statement for Forests' Land and Resource Management Plans that include a re-evaluation of roadless areas. The re-evaluation analysis is expected to take from 8 to 14 months and draft environmental impact statements or supplements will be available after that date. Final environmental impact statements are expected in 1985.

Public issues will be identified and the environmental disclosure documents will display alternatives responsive to these public issues.

This Notice is being issued because, contrary to earlier regulations (issued 9/30/82), a proposed revision to 36 CFR 219.17 (issued 4/18/83) will allow further evaluation of RARE II wilderness and non-wilderness areas during the Forest planning process. We are beginning public participation, data collection, and analysis pending the final rule.

Detailed information on the roadless areas and public involvement in the re-evaluation process will be forthcoming from individual National Forests in northern Idaho, Montana and North Dakota.

The responsible official is Tom Coston, Regional Forester of the Northern Region. For further information on this subject, contact Vern Fleisher, Planning, Programing and Budgeting, Northern Region, Federal Building, Missoula, Montana, Area Code 406–329–3676.

Beryl Johnson,

Acting Regional Forester.

August 18, 1983.

[FR Doc. 83-23677 Filed 8-24-83; 8:45 am]

BILLING CODE 3410-11-M

Soil Conservation Service

Pearl Street Recreation Development RC&D Measure, Connecticut; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Agriculture.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Philip H. Christensen, State Conservationist, Soil Conservation Service, Rt. 44 Mansfield Professional Park, Storrs, Connecticut 06268, telephone (203) 429–9361.

Notice: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an Environmental Impact Statement is not being prepared for the Pearl Street Recreation Development RC&D Measure, New Haven County, Connecticut.

The Environmental Assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Philip H. Christensen, State Conservationist, has determined the preparation and review of an Environmental Impact Statement are not needed for this project.

The measure concerns development of public water-based recreation measures along Lake Lillinonah. The planned works include development of an access road, beach and swimming docks, boat docks, nature center and trail system, parking areas, maintenance building, water supply, sanitary facilities, and septic system.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the Environmental

Assessment are on file and may be reviewed by contacting Philip H. Christensen. The Environmental Assessment has been sent to various federal, state, and local agencies and interested parties. A limited number of copies of the Environmental Assessment are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until 30 days after the date of this publication in the **Federal Register**.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A–95 regarding state and local clearinghouse review of federal and federally assisted programs and projects is applicable)

Edward H. Sautter,

Acting State Conservationist.

[FR Doc. 83–23366 Filed 8–24–83 8:45 am]

BILLING CODE 3410–16–M

Little Whitestick-Cranberry Creeks Watershed, West Virginia; Availability of a Record of Decision

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of availability of record of decision.

SUMMARY: Rollin N. Swank, responsible Federal official for projects administered under the provisions of Pub. L. 83–566, 16 U.S.C. 1001–1008, in the State of West Virginia, is hereby providing notification that a record of decision to proceed with the installation of the Little Whitestick-Cranberry Creeks Watershed project is available. Single copies of this record of decision may be obtained from Rollin N. Swank at the address shown below.

FOR FURTHER INFORMATION CONTACT: Rollin N. Swank, State Conservationist, Soil Conservation Service, 75 High Street, Room 301, Morgantown, West Virginia, 26505, telephone (304) 291–4151.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: August 17, 1983.

Rollin N. Swank,

State Conservationist.

[FR Doc. 83–23336 Filed 8–24–83; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping Investigation; Acrylic Film, Strips and Sheets, at Least 0.030 Inch in Thickness From Taiwan

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of antidumping investigation.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping investigation to determine whether acrylic film, strips and sheets, at least 0.030 inch in thickness (acrylic sheet) from Taiwan are being, or are likely to be, sold in the United States at less than value. We are notifyng the United States International Trade Commission (ITC) of this action so that it may determine whether imports of this merchandise are materially injuring, or threatening to materially injure, a United States industry. If the investigation proceeds normally, the ITC will make its preliminary determination on or before September 12, 1983 and we will make ours on or before January 4, 1984.

EFFECTIVE DATE: August 25, 1983.

FOR FURTHER INFORMATION CONTACT: Stuart Keitz, Office of Investigations, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone (202) 377–1769.

SUPPLEMENTARY INFORMATION: On July 28, 1983, we received a petition in proper form from E.I. du Pont de Nemours and Company.

In compliance with the filing requirements of section 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports of the subject merchandise from Taiwan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) (the Act), and that these imports are materially injuring, or are threatening to materially injure, a United States industry. The allegation of sales at less than fair value of the merchandise under investigation from Taiwan is supported by comparisons of the United States price with foreign market value of the merchandise using information obtained from industry sources in the United States and Taiwan.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping investigation and whether it contains information reasonably available to the petitioners supporting the allegations. We have examined the petition filed by a domestic manufacturer of acrylic sheet on behalf of the United States industry, and we have found that it meets the requirements of section 732(b) of the Act. Therefore, we are initiating an antidumping investigation to determine whether acrylic sheet from Taiwan is being, or is likely to be, sold at less than fair value in the United States. If our investigation proceeds normally we will make our preliminary determination by January 4, 1984.

Scope of Investigation

The merchandise covered by this investigation is acrylic film, strips and sheets, at least 0.030 inch thick. It consists of polymerized methyl methalcrylate monomer which is formed into film, strips or sheets by cell casting, continuous casting or extrusion. Acrylic sheet may have a flat or patterned surface and may be transparent or opaque, clear or colored. It is generally used as a glazing material and in lighting fixtures, laminated structures and other fabricated items. It is currently classified under item numbers 771.4100 and 771.4500 of the Tariff Schedules of the United States Annotated (1983) (TSUSA).

Notification to the ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine within 45 days of the date the petition was received whether there is a reasonable indication that imports of acrylic film, strips and sheets, at least 0.030 inch in thickness from Taiwan are materially injuring, or are likely to materially injure a United States industry. If its determination is

negative, this investigation will terminate; otherwise it will proceed according to the statutory procedures.

Dated: August 17, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-23306 Filed 8-24-83; 8:45 am]
BILLING CODE 3510-25-M

Initiation of Countervailing Duty Investigation; Shop Towels of Cotton From Pakistan

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of Countervailing Duty Investigation.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether producers, manufacturers, or exporters in Pakistan of shop towels of cotton, as described in the "Scope of the Investigation" section below, receive benefits which constitute subsidies within the meaning of the countervailing duty law. We are notifying the U.S. International Trade Commission (ITC) of this action so that it may determine whether imports of shop towels of cotton are materially injuring, or threatening to materially injure, a U.S. industry. If our investigation proceeds normally, we will make our preliminary determination on or before October 24, 1983.

EFFECTIVE DATE: August 25, 1983.

FOR FURTHER INFORMATION CONTACT: Rick Herring, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, (202) 377–3963.

SUPPLEMENTARY INFORMATION:

Petition

On July 29, 1983, we received a petition from counsel for Milliken and Company, on behalf of the U.S. industry producing shop towels of cotton. In compliance with the filing requirements of section 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges that producers, manufacturers, or exporters in Pakistan of shop towels of cotton receive subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), and that imports of this merchandise are materially injuring, or threatening to materially injure a U.S. industry.

Pakistan is a "country under the Agreement" within the meaning of section 701(b) of the Act. Title VII of the Act, therefore, applies to this investigation, and an injury determination is required.

Initiation of Investigation

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of a countervailing duty investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on shop towels of cotton and found, with one exception, that it meets these requirements. This exception is detailed in the "Allegation of Subsidies" section of this notice.

Therefore, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in Pakistan of shop towels of cotton, as listed in the "Scope of Investigation" section of this notice, receive subsidies. If our investigation proceeds normally, we will make our preliminary determination by October 24, 1983.

Scope of the Investigation

The product covered by this investigation is shop towels of cotton. The merchandise is currently classified under item number 366.2740 of the *Tariff Schedules of the United States Annotated* (TSUSA).

Allegation of Subsidies

The petition alleges that producers, manufacturers, or exporters in Pakistan of shop towels of cotton receive the following benefits that constitute subsidies: cash rebates on exports, income tax reductions, preferential financing through government involvement, rebates on import duties, and preferential export insurance.

At this time we are not including in our investigation petitioner's allegation concerning investment tax credits for purchasing and installing new production machinery. The petitioner has neither alleged nor provided any information that such credits are available only to exporters or to a "specific enterprise or industry, or group of enterprises or industries." Therefore, the petitioner has failed to allege the elements necessary to find that the investment tax credit in question constitutes either an export or domestic subsidy.

Notification of ITC

Section 702(d) of the Act requires us to notify the ITC of this action and to provide it with the information used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by September 12, 1983, whether there is a reasonable indication that imports of shop towels of cotton from Pakistan are materially injuring, or threatening to materially injure, a U.S. industry. If its determination is negative, this investigation will terminate; otherwise, it will continue according to the statutory procedures.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

August 18,1983.

[FR Doc. 83-23305 Filed 8-24-83; 8:45 am]
BILLING CODE 3510-25-M

National Bureau of Standards

National Voluntary Laboratory Accreditation Program

AGENCY: National Bureau of Standards, Commerce.

ACTION: Announcement of laboratory accreditation actions for July 1983.

The National Bureau of Standards announces the following laboratory accreditation actions for July 1983.

The laboratory named below has been newly accredited for testing solid fuel room hearters (Stove LAP) under the National Voluntary Laboratory Accreditation Program (NVLAP). Also listed are the test methods for which the laboratory has been accredited under that program.

Solid Fuel Room Heaters

PACIFIC INSPECTION AND RESEARCH LABORATORY, INC.

Attn: Ronald J. Weisel, 4076 148th Avenue, North East, Redmond, WA 98052. Phone: (206) 881-7688

NVLAP code	Short title	Section of UL 737 5th edition (Mar. 1, 1982)	Section of UL 1482 1st edition (Aug. 9 1979) with revision pages through Aug. 31, 1981
	Physical/Fire Test Group		
04/F01	Test Installation	8	8
04/F02	Temperature Measurement	9	9
04/F03	Smoke Spillage (visual observation).		11
04/F04	Radiant Fire Test	11	12, 12A
04/F05	Coal Fire Test		11A
04/F06	Brand Fire Test	12	13, 13A
04/F07	Flash Fire Test	13	14
04/F08	Strength Tests	15	15
04/F09	Stability Test	16	16
04/F10	Glazing Test	14	17
	Mobile Home Test Group		
04/M01	Test Installation	17	18
04/M02	Toxic Gas	17	18
04/M03	Drop Test	17	18
	Electrical Test Group		
04/E01	Test Voltages	33	35
04/E02	Temperature Measurements, Electrical Components.	34	36
04/E03	Input Test	35	37
04/E04	Temperature Test, Electrical Components.	36	38
04/E05	Leakage Current	38	40
04/E06	Dielectric Withstand	37	39
04/E07	Locked Rotor (Stalled Motor) Temperature.	39	41
04/E08	Power Cord Strain Relief	40	25.4

The laboratories named below which were previously accredited for acoustical testing services (Acoustics LAP) have now been accredited to perform the following additional test methods under that program.

INTEST LABORATORIES, INC.

Attn: Donald Valevik, 2820 Anthony Lane South, Minneapolis, MN 55418. Phone: (612) 781-2603

NVLAP code	Designation	Short title
08/P11	ANSI S1.31-80 (direct method only).	Sound Power Levels Broad-Band Noise Sources in Reverberation Rooms (direct method only) (100 to 5000 Hz).

JIM WALTER RESEARCH CORPORATION

Attn: Alan P. Conroy, 10301 Ninth Street North, St. Petersburg, FL 33702. Phone: (813) 576-4171

NVLAP code	Designation	Short title
08/E21	AMA-1-8-87	Ceiling Sound Transmission Test by Two-Room Method.

The following two laboratories voluntarily terminated their accreditation under the Freshly Mixed Field Concrete Laboratory Accreditation Program:

Harding-Lawson, Reno, NV
Union Rock and Materials Corp., Phoenix, AZ

FOR FURTHER INFORMATION CONTACT: Mr. John W. Locke, Manager, Laboratory Accreditation, TECH B141, National Bureau of Standards, Washington, D.C. 20234, (301) 921-3431.

Dated: August 19, 1983.

Ernest Ambler,

Director, National Bureau of Standards.

[FR Doc. 83-23236 Filed 8-24-83; 8:45 am]

BILLING CODE 3510-13-M

National Oceanic and Atmospheric Administration

Caribbean Fishery Management Council; Change in Meeting Date

AGENCY: National Oceanic and Atmospheric Administration Commerce.

ACTION: Notice.

SUMMARY: The public meeting date for the Caribbean Fishery Management Council, as published in the Federal Register, August 15, 1983 (48 FR 36871), has been changed as follows:

From

Tuesday, September 13, 1983, at approximately 2 p.m., adjourning at approximately 5 p.m., reconvening on Wednesday, September 14, 1983, at approximately 9 a.m., adjourning at approximately noon.

To

Tuesday, September 20, 1983, at approximately 2 p.m., adjourning at approximately 5 p.m., reconvening on Wednesday, September 21, 1983, at approximately 9 a.m., adjourning at approximately noon. All other information remains unchanged.

Further information: Caribbean Fishery Management Council, Suite 1108, Banco de Ponce Building, Hato Rey, Puerto Rico 00918, Telephone: (809) 753-4926.

Dated: August 22, 1983.

Ann D. Terbush,

Acting Chief, Operations Coordination Group, National Marine Fisheries Service.

[FR Doc. 83-23401 Filed 8-24-83; 8:45 am]

BILLING CODE 3510-22-M

New England Fishery Management Council; Public Meeting With a Partially Closed Session

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice.

SUMMARY: The New England Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Public Law 94-265, as amended), will hold a public meeting with a partially closed session, as follows.

Public Meeting—discuss reports of the lobster, herring and groundfish oversight committees; discuss the report of the large pelagics oversight committee on the swordfish plan; report on the Mid-Atlantic Council meeting concerning surf clams; discuss the report of the foreign fishing committee on joint ventures, as well as discuss other fishery management and administrative matters.

Partially closed session—discuss United States/Canadian boundary arbitration. Only those Council members and selected staff having security clearances will be allowed to attend this closed session.

DATES: The open session of the public meeting will convene on Tuesday, September 20, 1983, at approximately 1:30 p.m., and will adjourn on Wednesday, September 21, 1983, at approximately 5 p.m. The closed session of the meeting will convene on Tuesday, September 20, 1983, at approximately 10 a.m., and will adjourn at noon. The meeting may be lengthened or shortened depending upon progress on the agenda, or agenda items may be rearranged.

ADDRESS: The meeting will take place at the Ocean Gate Motor Inn, Southport, Maine.

FOR FURTHER INFORMATION CONTACT: New England Fishery Management Council, Suntaug Office Park, Five Broadway (Route One), Saugus, Massachusetts 01906, Telephone: (617-231-0422).

Dated: August 22, 1983.

Ann D. Terbush,

Acting Chief, Operations Coordination Group, National Marine Fisheries Service.

[FR Doc. 83-23402 Filed 8-24-83; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammal Permit Applications; Seoul Grand Park Zoo

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name: Seoul Grand Park Zoo (P327).

b. Address: 55 Makgae-Ree. Gwachon-Myun Sheehung-Gun, Kyunggee-Do, Korea 171–11.

2. Type of Permit: Public Display

3. Name and Number of Animals:

California Sealions (*Zalophus californianus*), 6.

Harbor Seals (*Phoca vitulina*), 6.

4. Type of Take: Rehabilitated Beached/Stranded animals for captive maintenance.

5. Location of Activity: Take animals from an approved rehabilitation facility.

6. Period of Activity: 1 year.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

As a request for a permit to take living marine mammals to be maintained in areas outside the jurisdiction of the United States, this application has been submitted in accordance with National Marine Fisheries Service policy concerning such applications (40 FR 11619, March 12, 1975). In this regard, no application will be considered unless:

(a) It is submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, through the appropriate agency of the foreign government;

(b) It includes:

i. a certification from such appropriate government agency verifying the information set forth in the application;

ii. a certification from such government agency that the laws and regulations of the government involved permit enforcement of the terms of the conditions of the permit, and that the government will enforce such terms;

iii. a statement that the government concerned will afford comity to a National Marine Fisheries Service decision to amend, suspend or revoke a permit.

In accordance with the above cited policy, the certification and statements of the Mayor of Seoul City, Seoul, Korea, have been found appropriate and sufficient to allow consideration of this permit application.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.;

Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731; and

Regional Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way, NE., BIN C15700, Seattle, Washington 988115.

Dated: August 18, 1983.

Richard B. Roe,

Acting Director, Conservation, National Marine Fisheries Service.

[FR Doc. 83-23383 Filed 8-24-83; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Changing T.S.U.S.A. Coverage for Certain Cotton Textile Products Produced or Manufactured in the Philippines

August 23, 1983.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA) under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on August 29, 1983. For further information contact Carl Ruths, International Trade Specialist, (202) 377–4212.

Background

A CITA directive dated December 22, 1982 (47 FR 57986) established levels of restraint for certain specified categories of cotton, wool and man-made fiber textile products, including man-made fiber gloves and mittens in Category 631, produced or manufactured in the Philippines, which may be entered into the United States for consumption or withdrawn from warehouse for consumption, during the twelve-month period which began on January 1, 1983.

Effective on August 29, 1983, this directive is being amended to exclude T.S.U.S.A. numbers 704.8520, 704.8550, and 704.9000 from the level of restraint of 1,700,267 dozen pairs established for Category 631. Henceforth, these three T.S.U.S.A. numbers will constitute a consultation level at 200,000 dozen pairs under an amendment to the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of November 24, 1982 between the Governments of the United States and the Republic of the Philippines. Charges to Category 631 (all T.S.U.S.A. numbers except 704.8520, 704.8550, and 704.9000) will be reduced to account for imports in the three T.S.U.S.A. numbers which are being deleted.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175) and May 3, 1983 (48 FR 19924).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

August 23, 1983.

Committee for the Implementation of Textile Agreements

Commissioner of Customs, Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of December 22, 1982 from the Chairman of the Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool and man-made fiber textile products produced or manufactured in the Philippines.

Effective on August 29, 1983, you are directed to delete T.S.U.S.A. numbers 704.8520, 704.8550, and 704.9000 from the coverage of the overall ceiling of 1,700,267 dozen pairs established for Category 631, produced or manufactured in the Philippines and exported during the twelve-month period which began on January 1, 1983. The limit of 200,000 dozen pairs previously established for these three T.S.U.S.A. numbers is not being changed.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 533.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-23485 Filed 8-24-83; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Cancellation of Notice of Intent To Prepare a Draft EIS for the Dry Creek Dam and Channel Improvements

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Cancellation of Notice of Intent to Prepare a DEIS.

SUMMARY: This Notice advises the public that the San Francisco District, U.S. Army Corps of Engineers has determined that an EIS for the implementation of consultation recommendations on the Lake Sonoma Master Plan for the Dry Creek Dam and Channel Improvements, Sonoma County, California is not necessary.

The Upper Dry Creek drainage basin provides critical habitat for the American Peregrine Falcon. As indicated in the Biological Opinion of FWS rendered on May 29, 1979, the Draft Warm Springs Dam and Lake Sonoma Recreation Master Plan for the project would have affected the continued existence of the falcon and its critical habitat.

On June 3, 1980, the Corps of Engineers published a Notice of Intent to Prepare an EIS based on discussions held on July 6, 1979, August 21, 1979 and November 5, 1979 with FWS.

As a result of continuing consultation with FWS, it was determined that administrative actions other than those furnished in the May 29, 1979 biological opinion to address the concerns of the falcon without having a significant effect upon the quality of the environment could be developed. Therefore, no EIS is required. If land acquisition or interest in lands is pursued at a later date to address the endangered falcons, preparation of an EIS will be initiated.

FOR FURTHER INFORMATION CONTACT: Les Tong, Environmental Branch Coordinator, U.S. Army Corps of Engineers, San Francisco District, 211 Main Street, San Francisco, California 94105, (415) 974–0439.

John O. Roach II,

Army Liaison Officer with the Federal Register.

[FR Doc. 83–23335 Filed 8–24–83; 8:45 am]
BILLING CODE 3710–FS–M

Gavin's Point Dam Pool Raise Study, Yankton, South Dakota; Intent To Prepare a Draft Environmental Impact Statement

AGENCY: U.S. Army Corps of Engineers, Omaha District.

ACTION: Notice of Intent to Prepare a DEIS.

SUMMARY: 1. The potential Federal action is to recommend to Congress that the Corps of Engineers be authorized to raise the normal operating pool level of Lewis and Clark Lake to provide additional hydropower and possibly additional flood control, recreation, and fish and wildlife benefits.

2. Reasonable structural alternatives to the additional baseload hydropower that would be generated from Gavin's Point are limited to coal- or nuclear-fueled baseload power plants. Nonstructural alternatives to reduce demand include load management and conservation measures.

3. To date, public involvement concerning the proposed project has incuded coordination with Federal, State and local agencies, including citizen's groups and individuals. Coordination meetings have been held with State and Federal fish and wildlife agencies. A public information meeting was held in the area on 28 April 1983. Potential significant impacts identified thus far include loss of wetlands, loss of terrestrial habitat, loss of approximately 5 miles of free-flowing Missouri River, impacts to fisheries in Lewis and Clark Lake, possible short-term water quality effects, possible loss of farmland, possible displacement of local landowners, erosion, adverse effects on recreation (waterfowl hunting), socioeconomic impacts (land acquisition), possible downstream impacts, and the potential adverse impact on the bald eagle and American peregrine falcon. Beneficial impacts include availability of baseload power, increase in recreation opportunities, possible reduced dredging requirements at marinas, extending the expected life of the lake, improving depth of water at local water supply intakes, a possible beneficial effect on fisheries, and a possible creation of different wetland habitats. The project will comply with the requirements of the Historic Preservation Act, the Endangered Species Act, Section 404 of the 1977 Clean Water Act, Executive Order 11988 on Flood Plains and Executive Order 11990 on Wetlands.

4. A scoping meeting for the DEIS will be held on 31 August 1983 at the Visitor Center, Lewis and Clark Lake, Yankton, South Dakota, at 7:00 p.m. The participation of the public and all interested Governmental agencies is invited.

5. The Omaha District estimates that the DEIS will be released for public review in April 1984.

ADDRESS: Questions about the proposed action, DEIS, or scoping meeting should be directed to Richard Gorton, Chief, Environmental Analysis Branch, Omaha District, Corps of Engineers, 6014 U.S. Post Office and Courthouse, Omaha, Nebraska 68102. Phone: (402) 221–4598.

John O. Roach II,

DA Liaison Officer with the Federal Register.

[FR Doc. 83–23336 Filed 8–24–83; 8:45 am]
BILLING CODE 3710–62–M

Intent To Prepare a Draft Environmental Impact Statement on Proposed Federal Navigation Improvement at Port Canaveral, Florida

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent to prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. The considered project consists of providing an access channel and basin as part of the Federally authorized Navigation Project for deep draft ships at Canaveral Harbor. Some of the dredged material would be used as fill to provide upland areas for port facility development. The remainder of the material not suitable for this purpose would be disposed of in an upland site and/or an EPA-designated interim ocean disposal site.

2. The following alternatives will be considered:

(a) Project depths from 23 to 31 feet.

(b) Two basin configurations›

(c) Two disposal sites.

(d) No action.

3. (a) Coordination to date has involved site inspections and meetings with the U.S. Fish and Wildlife Service and the National Park Service. A public meeting is tentatively planned at the end of 1983. Comments on alternatives and environmental concerns are invited from any interested parties.

(b) Significant issues to be analyzed in depth in the DEIS are preliminarily as follows:

1. Impact of channel and harbor enlargement on local wildlife resources.

2. Impacts on manatees from increased ship traffic.

3. Effects of ocean disposal of dredged material.

(c) Consultation with appropriate Federal and State agencies is required

under provisions of the Endangered Species Act, Section 404b of the Clean Water Act, and the National Historic Preservation Act.

4. A scoping meeting is not contemplated.

5. The DEIS is expected to be available for review in the fourth quarter of FY 1983.

ADDRESS: Questions about the proposed action and DEIS may be referred to Dr. Gerald L. Atmar; Chief, Environmental Studies Section; U.S. Army Corps of Engineers; P.O. Box 4970; Jacksonville, Florida 32232, telephone (904) 791–2615.

John O. Roach II,

Army Liaison Officer with the Federal Register.

[FR Doc. 83-23324 Filed 8-24-83; 8:45 am]

BILLING CODE 3710-AJ-M

Intent To Prepare a Draft Supplemental Environmental Impact Statement for the Ouachita-Black Rivers Navigation Project, Arkansas and Louisiana

AGENCY: U.S. Army Corps of Engineers, Defense.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS) on Channel Realignment.

SUMMARY:

1. *Description of Action:* The project objective is to complete the channel realignment features of the navigation project which extends from the mouth of Black River in Louisiana to mile 351 of the Ouachita River in Arkansas. The selected plan consists of 2 bendway cutoffs and 2 bend widenings in Louisiana and 8 bendway cutoffs and 12 bend widenings in Arkansas.

2. *Alternatives:* No action or no realignment and five structural alternatives providing for various tow configurations.

3. *Description of Scoping Process:*

a. *Public involvement.* Public meetings were held in Monroe, Louisiana, and El Dorado, Arkansas, on 31 August 1981 and 1 September 1981, respectively. The purpose of the meetings was to present the results of the initial review of channel realignment features. Public workshops were held in the respective cities prior to the meetings to provide local interests an opportunity to discuss the study on a personal basis in an informal meeting.

b. *Issues analyzed in the EIS.* Impacts of channel realignment on water quality, aquatic ecosystem, terrestrial ecosystem, endangered species, and cultural resources will be analyzed in the EIS.

c. *Assignments for input into the EIS.* No specific assignments other than Corps of Engineers as lead agency.

d. *Environmental review and consultation requirement.* Review by Federal, state, and local agencies and interested groups and individuals will be achieved.

4. *Scoping Meeting Scheduled:* No public scoping meeting is planned.

5. *Date DEIS Will Be Available to Public:* October 1983.

ADDRESS: Questions about DEIS can be answered by: Mr. Gene Parks, U.S. Army Corps of Engineers, Vicksburg District, Environmental Analysis Branch, P.O. Box 60, Vicksburg, Mississippi 39180, Telephone: FTS 542–5438, Commercial: (601) 634–5438.

John O. Roach II,

DA Liaison Officer with the Federal Register.

[FR Doc. 83-23323 Filed 8-24-83; 8:45 am]

BILLING CODE 3710-GX-M

Department of the Navy

Chief of Naval Operations, Executive Panel Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee Task Force on Conventional Strike Warfare will meet on September 21–22, 1983, from 8:30 a.m. to 5 p.m. each day, at 2000 North Beauregard Street, Alexandria, Virginia. All sessions will be closed to the public.

The entire agenda for the meeting will consist of discussions of key issues related to the development of more effective and widely dispersed strike capabilities in the fleet and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact Commander R. Robinson Harris, Executive Secretary of the CNO Executive Panel Advisory Committee, 2000 North Beauregard Street, Room 568, Alexandria, Virginia 22311. Phone (202) 694–8422.

Dated: August 22, 1983.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register, Liaison Officer.

[FR Doc. 83-23288 Filed 8-24-83; 8:45 am]

BILLING CODE 3810-AE-M

Chief of Naval Operations, Executive Panel Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee Task Force on Arctic Warfare will meet on September 28–29, 1983, from 9 a.m. to 5 p.m. each day, at 2000 North Beauregard Street, Alexandria, Virginia. All sessions will be closed to the public.

The entire agenda for the meeting will consist of discussions of key issues related to meeting the Soviet naval threat from the Arctic region and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact Commander R. Robinson Harris, Executive Secretary of the CNO Executive Panel Advisory Committee, 2000 North Beauregard Street, Room 568, Alexandria, Virginia 22311. Phone (202) 694–8422.

Dated: August 22, 1983.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 83-23289 Filed 8-24-83; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

List of Accrediting and State Approval Agencies; Special Review Procedure

AGENCY: Department of Education.

ACTION: Notice.

SUMMARY: The Secretary lists nationally recognized accrediting agencies and State approval agencies that the National Advisory Committee on

Accreditation and Institutional Eligibility recommends to the Secretary under a special review procedure. The list of agencies to which the Advisory Committee has applied this procedure is composed of (1) agencies that were awarded the full four-year recognition period in their last review and (2) agencies that have submitted interim reports.

DATE: Comments on these analyses must be received no later than September 30, 1983.

ADDRESS: Comments may be submitted to Richard J. Rowe, Director, Eligibility and Agency Evaluation Staff, Office of Postsecondary Education, 400 Maryland Avenue, SW. (Room 3030, ROB–3), U.S. Department of Education, Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Richard J. Rowe, Telephone: (202) 245–9873.

SUPPLEMENTARY INFORMATION: This document is intended to advise the public that the National Advisory Committee on Accreditation and Institutional Eligibility, in making recommendations to the Secretary regarding his responsibility for listing accrediting agencies and State approval agencies as required by 20 U.S.C. 1141(a), 20 U.S.C. 1094(b)(3) and other statutes, is following a special review procedure regarding some agencies.

Usually the Advisory Committee reviews in detail each report and petition and each staff analysis and hears oral presentations from the petitioning agencies and interested third parties before formulating the recommendations to the Secretary regarding the accrediting or State approval agencies.

The special procedure for reviewing agency petitions and interim reports will reduce the depth of review by the Advisory Committee of agencies that were awarded the full four-year recognition period in their last review, and of agencies which have submitted interim reports. The Advisory Committee will use both staff analyses and public comment before submitting final recommendations to the Secretary regarding the list of these agencies as required under 34 CFR Part 603.

This notice provides the names of the agencies being reviewed under this special procedure. The Department's Eligibility and Agency Evaluation Staff has prepared analyses of the petitions and reports of these agencies according to the criteria in 34 CFR 603.6, and 34 CFR 603.23 and has prepared recommendations on them.

The public is offered an opportunity to comment on these analyses before the Advisory Committee makes final recommendations to the Secretary.

The reports and petitions of the following agencies are being reviewed:

Petitions for Recognition as Nationally Recognized Accrediting Agencies and Associations

A. Petitions for Continuation of Recognition

Committee on Allied Health Education and Accreditation, American Medical Association (as the coordinating agency for allied health education).

Proposed Recommendation: Continue recognition for a period of four years.

Review committees that cooperate with the Committee on Allied Health Education and Accreditation of the American Medical Association:

American Society of Cytology, Cytotechnology Program Review Committee.

Proposed Recommendation: Continue recognition for a period of four years with a report in one year on criteria (a)(3)(i) (clear procedures), (b)(3)(iv) (opportunity to comment on written report), and (d)(2) (provides against conflict of interests).

American Association of Medical Assistants Endowment, Curriculum Review Board (for accreditation of one and two-year medical assistants programs).

Proposed Recommendation: Continue recognition for a period of four years.

National Accrediting Agency for Clinical Laboratory Sciences (for accreditation of educational programs for the medical technologist, medical laboratory technician (certificate and associate degree, and histologic technician/technologist).

Proposed Recommendation: Continue recognition for a period of four years.

American Medical Record Association, Council on Education (for accreditation of programs for the medical record administrator and medical record technician).

Proposed Recommendation: Continue recognition for a period of four years with an interim report in one year addressing progress toward compliance with criteria (a)(2)(i), (a)(2)(ii), (a)(2)(iii), (a)(2)(iv), and (a)(2)(v).

Joint Review Committee on Educational Programs in Nuclear Medicine Technology (for accreditation of programs for the nuclear medicine technologist).

Proposed Recommendation: Continue recognition for a period of four years with an interim report in one year on criterion (a)(3)(iii)(B).

American Occupational Therapy Association, Accreditation Committee (for accreditation of professional programs).

Proposed Recommendation: Continue recognition for a period of four years.

Joint Review Committee for Educational Programs for the Physician's Assistant (for accreditation of programs for the respiratory therapist and respiratory therapy technician).

Proposed Recommendation: Continue recognition for a period of four years.

B. Interim Reports

Accrediting Bureau of Health Education Schools.

Proposed Recommendation: Accept the report.

American Association of Bible Colleges.

Proposed Recommendation: Accept the report.

National Architectural Accrediting Board.

Proposed Recommendation: Accept the report.

New England Association of Schools and Colleges.

Proposed Recommendation: Receive the report and enjoin the agency to direct special attention toward improving compliance with criteria (a)(3)(i), (b)(2)(ii)(B), and (b)(5) of the Criteria for Recognition before its next full review by the Secretary.

INVITATION TO COMMENT: A copy of the analysis of any of the reports and petitions submitted by the agencies listed in this Notice may be obtained from Richard J. Rowe.

Dated: August 11, 1983.

Edward M. Elmendorf,

Assistant Secretary for Postsecondary Education.

[FR Doc. 83–23306 Filed 8–24–83; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Docket No. ERA–FC–83–021; OFP Case No. 66015–9239–20–24]

Exemption Petition; Power Systems Engineering, Inc.

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of Acceptance of Petition for Exemption and Availability of Certification by Power Systems Engineering, Inc.

SUMMARY: On August 15, 1983, Power Systems Engineering, Inc. (Power Systems), Houston, Texas, filed a

petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requesting a permanent cogeneration exemption for an electric powerplant from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 *et seq.*) ("FUA" or "the Act"). Title II of FUA prohibits both the use of petroleum and natural gas as a primary energy source in any new powerplant and the construction of any such facility without the capability to use an alternate fuel as a primary energy source. Final rules setting forth criteria and procedures for petitioning for exemptions from the prohibitions of Title II of FUA were published in the **Federal Register** at 46 FR 59872 (December 7, 1981). Final rules governing the cogeneration exemption were revised on June 25, 1982 (47 FR 29209 (July 6, 1982)).

Power Systems seeks an exemption for a proposed 450 megawatt (net) powerplant consisting of five self contained, 73 megawatt combustion gas turbines; five unfired, topping cycle heat recovery steam generators producing 378,400 lbs./hr. of process steam each; and one condensing steam turbine producing 95 megawatts of electric power. The cogeneration facility will: (1) Produce both high pressure and low pressure process steam which will be purchased by ARCO Chemical Company; and (2) produce electric power for sale to Houston Lighting & Power Company (HLPC). The sale of virtually all of the net annual electric power produced by the cogenerator the HLPC makes the cogeneration facility an electric powerplant pursuant to the definitions contained in 10 CFR 500.2. The five combustion gas turbines are the only fuel-consuming equipment in the facility and will use natural gas as the primary fuel, with propane as an emergency stand-by fuel.

ERA has determined that the petition appears to include sufficient evidence to support an ERA determination on the exemption request and it is therefore accepted pursuant to 10 CFR 501.3. A review of the petition is provided in the Supplementary Information section below.

As provided for in sections 701 (c) and (d) of FUA and 10 CFR 501.31 and 501.33, interested persons are invited to submit written comments in regard to this petition and any interested person may submit a written request that ERA convene a public hearing.

The public file containing a copy of this Notice of Acceptance and Availability of Certification as well as other documents and supporting materials on this proceeding is available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E–190, Washington, D.C. 20585, Monday through Friday, 8:00 a.m. to 4:00 p.m.

ERA will issue a final order granting or denying the petition for exemption from the prohibitions of the Act within six months after the end of the period for public comment and hearing, unless ERA extends such period. Notice of any such extension, together with a statement of reasons therefor, would be published in the **Federal Register**.

DATES: Written comments are due on or before October 11, 1983. A request for a public hearing must be made within this same 45-day period.

ADDRESSES: Fifteen copies of written comments or a request for a public hearing shall be submitted to: Case Control Unit, Office of Fuels Programs, Room GA–093, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Docket No. ERA–FC–83–021 should be printed on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

Anthony Wayne, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue SW., Room GA–073C, Washington, D.C. 20585, Phone (202) 252–1730.

Marya Rowan, Office of the General Counsel, Department of Energy, Forrestal Building, Room 6B–222, 1000 Independence Avenue SW., Washington, D.C. 20585, Phone (202) 252–2967.

SUPPLEMENTARY INFORMATION: Power Systems plans to install a cogeneration facility, which it will own and operate, in Channelview, Harris County, Texas, adjacent to the ARCO Chemical Company's Lyondell Plant (ARCO). The Lyondell Cogeneration Project will (1) produce both high pressure and low pressure process steam for sale to ARCO for use in the plant's chemical process units, and (2) generate electric power to sell to HLPC. The proposed system will consist of five General Electric PG7111(E), 73 megawatt combustion gas turbines; five unfired, topping cycle heat recovery steam generators producing 378,400 lbs./hr. of steam each; and one condensing steam turbine. Under normal design conditions, the Lyondell facility will produce 450 megawatts (net) of electric power and 950,000 pounds per hour of process steam, and will produce up to 850,000 pounds per hour of process steam during planned or emergency shutdown of any two of the five gas turbines. The five combustion gas turbines, which will be the only fuel-consuming equipment in the facility, will use natural gas as the primary fuel, with propane as an emergency stand-by fuel.

Power Systems expects to sell all of the net annual electric power from the turbine generators to HLPC. The sale of in excess of 50 percent of the facility's net annual electric power generation causes it to be classified as an electric powerplant under FUA (10 CFR 500.2). It is therefore subject to the Title II construction and fuel use prohibitions contained in the Act.

Section 212(c) of the Act and 10 CFR 503.37 provide for a permanent cogeneration exemption from the prohibitions of Title II of FUA. In accordance with the requirements of § 503.37(a)(1), Power Systems has certified to ERA that:

1. The oil or gas to be consumed by the cogeneration facility will be less than that which would otherwise be consumed in the absence of the cogeneration facility, where the calculation of savings is in accordance with 10 CFR 503.37(b); and

2. The use of a mixture of petroleum or natural gas and an alternate fuel in the cogeneration facility, for which an exemption under 10 CFR 503.38 would be available, would not be economically or technically feasible.

In accordance with the evidentiary requirements of § 503.37(c) (and in addition to the certifications discussed above), Power Systems has also included as part of its petition:

1. Exhibits containing the basis for the certifications described above; and

2. An environmental impact analysis, as required under 10 CFR 503.13.

In processing this exemption request, ERA will comply with the requirements of the National Environmental Policy Act of 1969 (NEPA); the Council on Environmental Quality's implementing regulations, 40 CFR 1500 *et seq.*; and DOE's guidelines implementing those regulations published at 45 FR 20694, March 28, 1980. NEPA compliance may involve the preparation of (1) an Environmental Impact Statement (EIS); (2) an Environmental Assessment; or (3) a memorandum to the file finding that the grant of the requested exemption would not be considered a major Federal action significantly affecting the quality of the environment. If an EIS is determined to be required, ERA will publish a Notice of Intent to prepare an EIS in the **Federal Register** as soon as practicable. No final action will be taken on the exemption petition until ERA's NEPA compliance has been completed.

The acceptance of the petition by ERA does not constitute a determination that Power Systems is entitled to the exemption requested. That determination will be based on the entire record of this proceeding, including any comments received during the public comment period provided for in this notice.

Issued in Washington, D.C. on August 19, 1983.

Robert L. Davies,

Deputy Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-23285 Filed 8-24-83; 8:45 am]

BILLING CODE 6450-01-M

Proposed Remedial Order to Energy Exchange Company, Inc.

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of Proposed Remedial Order to Energy Exchange Company, Inc.

SUMMARY: Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA), of the Department of Energy (DOE) gives notice that a Proposed Remedial Order (PRO) was issued on August 5, 1983, to Energy Exchange Company, Inc. (Enexco) located at 2000 Oak Street, Bakersfield, California 93302. Any aggrieved person may file a Notice of Objection to the Proposed Remedial Order in accordance with 10 CFR 205.193 on or before the fifteenth day after the publication of this Notice, or on the first federal workday thereafter.

In this Proposed Remedial Order, ERA sets forth proposed findings of fact and conclusions of law concerning sales of crude oil and fuel oil by Enexco in the state of California during the period April, 1976 through December, 1977. Selected transactions in 1978 are also included in the PRO. Energy Exchange Company, Inc. is alleged to have received $2,260,649.00 in violation of the price rules applicable to resales of crude oil set forth in 10 CFR Part 212, Subparts F and L.

Requests for copies of the Proposed Remedial Order, with confidential information deleted, should be directed to: Raymond G. Gong, Chief Counsel, Economic Regulatory Administration, U.S. Department of Energy, 333 Market Street, Sixth Floor, San Francisco, CA 94105.

Aggrieved persons may object to this Proposed Remedial Order by filing a Notice of Objection to the Proposed Remedial Order. This notice must comply with the requirements of 10 CFR 205.193. To be considered, a Notice of Objection must be filed with: Office of Hearings and Appeals, Department of Energy, 12th & Pennsylvania Avenue, NW., Washington, D.C. 20461.

The notice must be filed in duplicate, by 4:30 p.m. EDT on or before the fifteenth day after publication of this Notice, or the first federal workday thereafter. In addition, a copy of the Notice of Objection must, on the same day as filed, be served on Energy Exchange Company, Inc. and on each of the following persons pursuant to 10 CFR 205.193(c):

Raymond G. Gong, Chief Counsel, San Francisco Office, Economic Regulatory Administration, U.S. Department of Energy, 333 Market Street, Sixth Floor, San Francisco, CA 94105.

Theodore A. Miles, Assistant General Counsel for Administrative Litigation, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585.

No data or information which is confidential should be included in any Notice of Objection.

Issued in San Francisco, California on the fifth day of August, 1983.

Raymond G. Gong,

Chief Counsel, Economic Regulatory Administration, San Francisco Office.

[FR Doc. 83-23284 Filed 8-24-83; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

Agency Forms Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of submission of request for clearance to the Office of Management and Budget.

SUMMARY: Under provisions of the Paperwork Reduction Act (44 U.S.C. Ch. 35), Department of Energy (DOE) notices of proposed collections under review will be published in the **Federal Register** on the Thursday of the week following their submission to the Office of Management and Budget (OMB). Following this notice is a list of the DOE proposals sent to OMB for approval since Thursday, August 18, 1983. The listing does not contain information collection requirements contained in regulations which are to be submitted under 3504(h) of the Paperwork Reduction Act.

Each entry contains the following information and is listed by the DOE Sponsoring office: (1) The form number; (2) Form title; (3) Type of request, e.g., new, revision, or extension; (4) Frequency of collection; (5) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (6) Type of respondent; (7) An estimate of the number of respondents; (8) Annual respondent burden, i.e., an estimate of the total number of hours needed to fill out the form; and (9) A brief abstract describing the proposed collection.

DATES: Last Notice published Thursday, August 18, 1983.

FOR FURTHER INFORMATION CONTACT:

John Gross, Director, Forms Clearance and Burden Control Division, Energy Information Administration, M.S. 1H-023, Forrestal Building, 1000 Independence Ave., NW., Washington, DC 20585, (202) 252-2308

Jefferson B. Hill, Department of Energy Desk Officer, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395-7340

Vartkes Broussalian, Federal Energy Regulatory Commission Desk Officer, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395-3087

SUPPLEMENTARY INFORMATION: Copies of proposed collections and supporting documents may be obtained from Mr. Gross. Comments and questions about the items on this list should be directed to the OMB reviewer; as shown in "For Further Information Contact." If you anticipate commenting on a form, but find that time to prepare these comments will prevent you from submitting comments promptly, you should advise the OMB reviewer of your intent as early as possible.

Issued in Washington, D.C., August 22, 1983.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

DOE FORMS UNDER REVIEW BY OMB

Form No. (1)	Form title (2)	Type of request (3)	Response frequency (4)	Response obligation (5)	Respondent description (6)	Estimated number of respondents (7)	Annual respondent burden (8)	Abstract (9)
BPA-705-A-C	BPA/Utility solar water heating workshops pilot program.	Extension	On occasion	Required to obtain or retain a benefit.	Individuals and utilities	440	173	This pilot program will test the effectiveness of utility-sponsored workshops as a method for increasing the use of solar water heaters. BPA will determine the cost-effectiveness of owner-built/installed solar water heating systems and compare these systems with contractor-installed systems.
EIA-191	Underground gas storage report.	Extension	Monthly April-November; twice a month December-March.	Mandatory	Companies that operate storage fields in the US.	46	2,352	The EIA-191 requests data on all underground natural gas storage facilities operated by companies not subject to FERC jurisdiction. These data are merged with data received on the essentially identical FPC-8, which is collected by EIA from operators subject to FERC jurisdiction, and are published in a number of EIA reports.
EIA-461A-H	Residential energy consumption survey.	Revision	Biennial	Voluntary for A-D; mandatory for E-H.	Households, rental agents and energy suppliers.	5,503	9,342	The Residential Energy Consumption Survey tracks the energy consumption patterns of the residential sector. The survey results are published by the Energy Information Administration.
NE-627-A-C	Clinch River breeder reactor plant project socioeconomic monitoring program.	New	On occasion	Voluntary	Individuals	2,800	233	The data will be used to evaluate the significance of socioeconomic effects resulting from construction of the Clinch River Breeder Reactor Plant and to provide analyses of project-related effects to the U.S. Nuclear Regulatory Commission, State of Tennessee, City of Oak Ridge, and appropriate planning agencies.

[FR Doc. 83-23286 Filed 8-24-83; 8:45 am]
BILLING CODE 6450-01

FEDERAL DEPOSIT INSURANCE CORPORATION

Statement of Policy and Criteria on Assistance to Operating Insured Banks Which Are in Danger of Failing

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Statement of Policy.

SUMMARY: This statement of policy represents the opinion of the Board of Directors of the Federal Deposit Insurance Corporation ("FDIC") as to the applicability of certain criteria and conditions in determining whether financial assistance may be provided to prevent the closing of an insured bank, other than a mutual savings bank, under section 13(c) of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1823(c)).

EFFECTIVE DATE: August 25, 1983. (OMB No. 3064-0071.)

FOR FURTHER INFORMATION CONTACT: Stanley J. Poling, Associate Director, Division of Bank Supervision, Room 5018D, (202-389-4431), Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429.

SUPPLEMENTARY INFORMATION: Section 13(c) of the Federal Deposit Insurance Act as amended by the Garn-St Germain Depository Institutions Act of 1982 (12 U.S.C. 1823(c)), in pertinent part grants the FDIC broad authority (i) to provide assistance under section 13(c)(1) to an insured bank in danger of closing; and (ii) to provide assistance under section 13(c)(2) with regard to an insured bank in danger of failing to facilitate a merger or consolidation, a purchase of assets and assumption of liabilities, or the acquisition of the stock of such bank, and to provide assistance to a company which controls or will control such bank. The Board of Directors of the FDIC is adopting this statement of policy in order to provide general guidance to interested persons in structuring a request for assistance.

As the Regulatory Flexibility Act of 1980 (Pub. L. No. 96-354) does not apply to general statements of policy, no regulatory flexibility analysis is required. The policy statement does not impose new recordkeeping or reporting requirements. It does provide guidance as to the information to be included in requests for assistance. Although a minimal number of requests are expected annually, it is possible that ten or more requests could be made to the FDIC, thus making the information collection requirements established in the policy statement subject to the Paperwork Reduction Act of 1980 (Pub. L. No. 96-511). The Office of Management and Budget ("OMB") has reviewed and approved the information collection requirements of the policy statement (OMB control number 3064-0071). As statements of policy and interpretative rules are not subject to sections 4 (b) through (d) of the Administrative Procedure Act, as amended (5 U.S.C. 553(b)-(d)), this statement of policy may be issued in final form without opportunity for public comment and may be made immediately effective upon its publication in the **Federal Register**.

FDIC Statement of Policy and Criteria on Assistance to Operating Insured Banks Which Are in Danger of Failing

The Board of Directors of the Federal Deposit Insurance Corporation has statutory authority to provide assistance to prevent the closing of an insured bank in its sole discretion and on such terms and conditions as the Board may prescribe. Such assistance may be granted (i) to an insured bank in danger of closing under section 13(c)(1) of the Federal Deposit Insurance Act, (ii) to facilitate a merger of an insured bank in danger of closing under section 13(c)(2), or (iii) to a company which controls or will control an insured bank in danger of closing under section 13(c)(2) when the Board determines the amount of the assistance to be granted is less than the cost that would be incurred in the liquidation of the insured bank, or when the Board determines that the continued operation of the insured bank is

essential to provide adequate banking services to its community.

The Board, as a matter of policy, generally will not approve any proposal requesting assistance to prevent the closing of an insured bank, other than a mutual savings bank, unless:

(1) The financial impact on executive management, directors, shareholders and subordinated debt holders is comparable to what would have occurred if the bank had actually closed.

(2) Recoveries from nonbook sources such as charged-off assets or claims against officers, directors, bonding companies and the like accrue first to the FDIC to the extent of any losses it will sustain in connection with the proposal. The FDIC should be "last in and first out" in any open bank proposal.

(3) The proposal clearly and unquestionably represents the least costly alternative available to the FDIC, taking into account the maximum "premium" the FDIC could expect to receive in a closed bank auction.

(4) The proposal features sufficient tangible capitalization and otherwise reasonably assures the future viability of the bank.

Criteria

The following criteria expand on the general principles set forth above:

(1) Former shareholders should not receive financial remuneration for their stock, either in the form of continuing value for existing shares or payments in cash or new securities, except where the proposal assures the FDIC of full payment, at present value, of all assistance granted before any benefit is realized by former shareholders.

(2) Holders of subordinated debt should not receive principal or interest payments or other monetary benefit until such time as any FDIC assistance has been repaid in full at present value.

(3) All bank directors, officers serving in a policymaking role, and other officers as may be designated by the FDIC should submit their written resignations unless their continued association with the bank has been previously approved by the FDIC. Such persons may not later reassociate themselves with the bank without the prior consent of FDIC.

(4) All claims against bonding companies, accountants, attorneys, directors, or other such claims should be assigned to the FDIC, which will pursue such claims on its own initiative. Any recoveries under such claims shall go first to the FDIC until it is repaid, at present value, for the amount of any assistance granted; excess recoveries shall accrue to the benefit of the bank's former shareholders or subordinated creditors. To the extend that FDIC cannot, by law, pursue such claims on its own initiative, benefit from such claims shall be assigned to FDIC.

(5) Recoveries from charged-off assets, either prior to or subsequent to the granting of assistance, should accrue first to the FDIC to the extent of the present value of any assistance granted. To the extent that the collection of charged-off assets is not directed by the FDIC, the proposal shall contain adequate incentives to assure that collection efforts are actively pursued by the bank.

Other Information

Any proposal requesting assistance to prevent the closing of an insured bank should be addressed to the appropriate FDIC Regional Office and should contain the following information:

(1) The amount, terms, and conditions of the assistance requested from the FDIC as well as details of the financial support to be provided to the bank by its directors, shareholders, and/or others. This information must be structured in such a way as to permit the FDIC to estimate as accurately as possible the costs it will incur and the costs which it will avoid as a result of the proposal.

(2) Evidence that the bank or resulting institution (if a merger or consolidation is involved) will have available the managerial and financial resources to reasonably assure that it will be a viable institution in the future.

A copy of any proposal requesting assistance should be provided to the bank's chartering authority and, if approvals under the Bank Holding Company Act are required, to the appropriate Federal Reserve bank.

By Order of the Board of Directors.

Dated: June 13, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson

Executive Secretary.

[FR Doc. 83-23354 Filed 8-24-83; 8:45 am]

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FEDERAL MARITIME COMMISSION

[Docket No. 82-54]

Space Charter and Cargo Revenue Pooling Agreements in the United States/Japan Trades; Investigation and Conditional Approval; Agreements Pendente Lite

This proceeding was instituted by an Order of Investigation and Hearing served on November 19, 1982. That Order was issued in response to *Sea-Land Service, Inc. v. United States*, 683 F.2d 491 (D.C. Cir. 1982), which remanded a previous Commission order conditionally approving pursuant to section 15 of the Shipping Act, 1916, 46 U.S.C. 814, a series of space charter and revenue pooling agreements among Japanese-flag lines in the Unites States/Japan trades.[1] The Court of Appeals directed the Commission to conduct further evidentiary hearings on certain issues raised by U.S.-flag carriers which had protested the agreements.

The parties have engaged in extensive discovery and are currently preparing for oral hearings. However, on April 21, 1983, the Japanese-flag lines (hereinafter "Proponents") filed amendments to the agreements under investiagtion, which would extend the term of the agreements for five years beyond their common expiration date of August 22, 1983.[2] No other change in the agreements is proposed. Proponents did not submit memoranda or other material justifying the extension of their agreements, see 46 CFR 522.5, but instead requested that the amendments be made part of this proceeding.

Notice of the filing of the amendments appeared in the **Federal Register** on May 3, 1983. 48 FR 19,935–36. Extensive protests were filed on May 23, 1983 by American President Lines, Ltd. (APL) and Sea-Land Service, Inc. (Sea-Land), which were protestants against the original agreements and are parties to this proceeding. APL and Sea-Land agreed with Proponents that the amendments should be made part of this pending investigation. They devoted the remainder of their filings to the question of whether the agreements should be given *pendente lite* approval beyond August 22, 1983, even though Proponents had not sought any such approval in their April 21 filings. Both carriers opposed any *pendente lite* approval for the revenue pooling agreements (Nos. 10116 and 10274), and stated that they would accept such approval for the space charter agreements (Nos. 9718, 9731, 9835 and 9975) only if strict capacity limitations were placed upon the various parties to those agreements. A third protestant, Lykes Bros. Steamship Co., Inc. (Lykes), filed brief comments stating its agreement that the amendments should be made part of this proceeding, and reserving its right to be heard on the question of *pendente lite* approval of the agreements.

[1] The parties to these agreements are Japan Line, Ltd., Kawasaki Kisen Kaisha (K Line), Mitsui O.S.K. Lines, Ltd. (Mitsui), Nippon Yusen Kaisha (NYK), Showa Shipping Co., Ltd. (Showa) and Yamashita-Shinnihon Steamship Co., Ltd. (Y–S Line).

[2] The modifications have been assigned FMC Nos. 9718–6, 9731–6, 9835–6, 9975–8, 10110–5 and 10274–2.

On June 6, 1983, Proponents responded to the protests. They referred to Sea-Land's and APL's discussions of *pendente lite* approval as "purely anticipatory assertions . . . obviously premature . . . [which] should either be rejected or held in abeyance pending proponents' filing of a timely application for *pendente lite* relief."

On July 1, 1983, Proponents filed a "Petition for Pendente Lite Relief," in which they asked for permission to operate under their respective space charter and revenue pooling agreements during the pendency of Docket No. 82–54. Proponents' primary evidence in support of their Petition was an affidavit executed jointly by K. Kawamura, an official of NYK Line, and by S. Hirano, and official of Y–S Line (Kawamura-Hirano Affidavit).[3] They also submitted affidavits by officials of the ports of Portland, Oakland, and New York-New Jersey, and copies of statutes and previous policy statements of the Government of Japan concerning the Agreements.

Replies in opposition to the Petition were timely filed by Sea-Land, APL and Lykes. APL and Sea-Land repeated their earlier contentions that the pooling agreements should not be given *pendente lite* approval and that the space charter agreements should be given such approval only if strict limitations were placed upon the amount of vessel capacity which could be put into service by Proponents. Both carriers submitted extensive arguments of counsel and excerpts from discovery data and testimony developed during this proceeding. Lykes asserted that any *pendente lite* approval should be limited to six months.

A statement in support of the Petition was submitted by the Ministry of Transport of the Government of Japan (MOT). That agency cited its policies of achieving efficient employment of capital and preventing destructive competition among Japanese-flag lines. MOT stated that any disruption of Proponents' arrangements under the agreements would have a severe impact on those policies, and that all the agreements should therefore be continued without curtailment or restrictions.

Discussion

There is no dispute among the parties that the modifications to the agreements extending them for another five years should be included within Docket No. 82–54. The Order of Investigation will be amended accordingly. The scope of the hearing will be the same as originally directed, and the issues specified in the Order apply equally to the extensions.

The issue of *pendente lite* approval presents more difficulty. As Proponents point out, under *United States Lines, Inc. v. FMC*, 584 F.2d 519, 536–37 (D.C. Cir. 1978), the Commission enjoys some flexibility in structuring section 15 proceedings, and this flexibility is particularly important when the issue is whether *pendente lite* approval should be granted. But that decision provides little support for Proponents' contention that the legal standard for granting *pendente lite* approval is similarly flexible. On the contrary, the court stated therein that "[t]here must be adequate consideration and justification for Commission approval of an agreement restricting competition even for the brief period of five months, let alone the longer period until final hearings are completed." *Id.* at 530. In a companion case, the court held that, in considering an application for *pendente lite* approval, the Commission must address the standards of section 15, including antitrust considerations as expressed in the public interest standard. *United States Lines, Inc. v. FMC*, 584 F.2d 543 (D.C. Cir. 1978). The term "*pendente lite approval*" should not be allowed to obscure the fact that such action by this agency under section 15 grants the agreement concerned an exemption from application of the antitrust laws; for this reason, it is possible that even interim approval would have a serious impact upon those adversely affected by anticompetitive features in an agreement. *See National Air Carrier Association v. CAB*, 436 F.2d 185, 191 (D.C. Cir. 1970). Although findings of fact in support of *pendente lite* approval cannot and need not be made with the same degree of detail and finality as those required for permanent section 15 approval, *United States Lines, Inc. v. FMC, supra*, 584 F.2d at 546, the Commission still must make "an affirmative finding that the additional period of implementation meets the requirements of [s]ection 15." Docket No. 80–59, *Time for Filing and Commenting on Certain Agreements*, —— F.M.C. ——, 20 S.R.R. 967, 968 (1981). "[W]hat is called for is a careful balancing of the gravity and duration of the harm likely to be inflicted upon the protesting parties against the benefits flowing from approval for the short period." *National Air Carrier Association, supra*, 436 F.2d at 191.

The Commission's own standards for *pendente lite* approval are quite rigorous. The Commission has stated that such approval is appropriate "[w]here the Commission is presented with an emergency, and an agreement designed to remedy that emergency." Docket No. 75–56, *Canadian-American Working Arrangement, et al.*, 16 S.R.R. 733, 739 (1976). To support the "extraordinary action" of such interim approval, the Commission must "have before it substantial evidence demonstrating the nature and scope of the emergency and that the agreement proffered is necessary to remedy the emergency." *Id.; see also Time for Filing and Commenting on Certain Agreements, supra*, 20 S.R.R. at 968. Applying this strict standard, the Commission in *Canadian-American* denied *pendente lite* approval on the ground that the protests raised material issues of fact and the proponents had "failed to establish the existence of an emergency condition necessitating the approval of these agreements during the pendency of the investigation and hearing." 16 S.R.R. at 750. The impending expiration of an existing agreement cannot, by itself, be considered an emergency sufficient to justify a grant of interim approval. *United States Lines, Inc. v. FMC, supra*, 584 F.2d at 545. This is particularly true when the parties give the Commission little time to consider their application for such approval by failing to file the application sufficiently in advance of the expiration. *Pennsylvania Gas and Water Co. v. FPC*, 427 F.2d 568 (D.C. Cir. 1970). On the other hand, where a genuine emergency "or other overriding public interest consideration," *Canadian-American, supra*, 16 S.R.R. at 751, has been shown to exist, the Commission has granted *pendente lite* approval with conditions designed to minimize antcompetitive impact and protect the public interest until a full investigation could be completed. Docket No. 80–45, *Agreement Nos. 10386, et al.—Cargo Revenue Pooling/ Equal Access Agreements in the United States/Argentine Trades*, 20 S.R.R. 83, 87–89 (1980).

The circumstances under which Proponents' Petition comes before the Commission do not justify a departure from these standards. The Commission's January 1981 order conditionally approving these agreements until August 22, 1983 [4] was remanded by the Court of Appeals because the Court found that the protestants had not been afforded an adequate hearing. *Sea-Land Service, Inc. v. FMC, supra*. Due to the time consumed by the appellate litigation and the subsequent proceedings in this

[3] NYK is a party to all the Agreements except No. 9716; Y–S is a party to all the Agreements except No. 9731.

[4] Reported at 20 S.R.R. 776.

Docket, the agreements have been in effect for their entire term on what accounts to a *pendente lite* basis. Given the Court's concern in *Sea-Land* that section 15's requirement of approval *after* notice and hearing not be circumvented, *see* 683 F.2d at 503, this new application for *pendente lite* approval must be scrutinized very closely. Further approval can be justified only by strong showings of specific proof by Proponents. *See also Seatrain International, S.A. v. FMC*, 584 F.2d 546, 550 (D.C. Cir. 1978), where the court stated that "where, as here, we are faced with the fourth successive 18-month extension of ratemaking authority, any argument for more lenient treatment of anticompetitive effects because of the temporary nature of authority necessarily must be open to serious question."

The Commission is also mindful that *pendente lite* approval of these agreements will extend for a considerable period of time. The range of issues in this proceeding is extensive and involves complex questions of fact and law. Oral hearings before the presiding Administrative Law Judge are scheduled to commence in October. It will be many more months before an Initial Decision can be issued, exceptions and replies filed, and the Commission's own decision issued. Thus any *pendente lite* approval will have a substantial and long-lasting impact on the trades and the protestants.

To the extent that considerations of equity are relevant here, they do not favor Proponets. It was clear from the beginning that Docket No. 82–54, which was instituted in November 1982, would not be completed before the August 22 expiration of the agreements.[5] Nevertheless, Proponents waited until April 21, 1983 to file the extensions and until July 1 to file their request for *pendente lite* approval.[6] In the interim, as discussed above, they termed Sea-Land's and APL's concerns regarding *pendente lite* approval as "anticipatory" and "premature." This chronology prevented further hearings on the issue of *pendente lite* approval before the August 22 deadline. Such hearings might well have been useful in resolving the disputes between the parties.[7] In the absense of such hearings and to the extent Proponents' delays have limited the record and thereby affect the Commission's ability to make the affirmative findings necessary to support full *pendente lite* approval, that circumstance must redound to the detriment of Proponents rather than protestants. It is Proponents who bear the burden of justifying any interim approval. *See Pennsylvania Gas and Water Co. v. FPC, supra*, 427 F. 2d at 575–76.

These guidelines govern our disposition of this Petition. We turn to first the two revenue pooling agreements, Nos. 10116 and 10274. The Commission has long recognized that pooling agreements are "the ultimate in anticompetitive combinations." *Inter-American Freight Conference*, 14 F.M.C. 58, 72 (1970); *see generally Mediterranean Pools Investigation*, 9 F.M.C. 264, 287–91 (1966). Such agreements "must be considered a *per se* violation of section 1 of the Sherman Antitrust Act * * * and [are] *prima facie* subject to disapproval under the public interest standard of Shipping Act section 15 * * * ." *Agreement No. 10056—Pooling, Sailing and Equal Access to Cargo in the Argentina/U.S. Pacific Coast Trade*, 20 F.M.C. 255, 257 (1977). Revenue pools have a direct and quantifiable anticompetitive effect on carriers that are not part of such arrangements. Although pools historically have operated in trades which are overtonnaged because they help prevent rebating and other malpractices, *see* discussion in *Inter-American Freight Conference, supra*, 14 F.M.C. at 72, they can also act as impediments to elimination of overtonnaging because they permit relatively weal or inefficient carriers to remain in a trade by sharing in revenue generated by their stronger pool partners. As discussed in more detail *infra*, information has been brought before the Commission indicating that Proponents may be experiencing markedly low utilization rates. This raises the question whether the cure represented by the pools has become worse than the disease of malpractices. In such circumstances, Proponents bear an especially heavy burden of justifying the *pendente lite* approval of the agreements with detailed evidence of actual need.

Proponents' case does not meet this standard. The Kawamura-Hirano Affidavit, which is broad and conclusory throughout, becomes unacceptably so in the paragraphs devoted to the pooling agreements. Proponents have come forward with only theoretical justifications applicable generally to the concept of revenue pooling, rather than with specific evidence supporting continuation of their particular agreements. It is settled law that the Commission cannot approve, even temporarily, anticompetitive agreements on the basis of testimony such as that they render Proponents more "willing" to carry low-rated cargo and that they often result "in introduction of or experimentation with techniques and methods of moving or handling cargo which might otherwise go untried." (Kawamura-Hirano Affidavit, ¶¶ 31, 61). *Canadian-American, supra*, 16 S.R.R. at 749, 745; *In re: Marseilles North Atlantic U.S.A. Freight Conference Agreement No. 5660–21* (Order of Conditional Disapproval), 18 S.R.R. 890, 895 (1978); *Modification of . . . (Agreement No. 2846–51)*, 21 S.R.R. 1545, 1589 (1983) ("[m]ere conclusory affidavits are not sufficient to support a grant of Section 15 authority"). Proponents may subsequently adduce evidence sufficient to justify permanent approval of the pooling agreements. At this juncture, however, they have not justified interim approval. Accordingly, approval of Agreements Nos. 10116 and 10274 will be continued only until October 31, 1983 to allow Proponents to settle their accounts. Such limited approval is necessary to permit an orderly transition from the agreements and should cause no harm to the protestants.

With respect to the four space charter agreements, it must first be noted that the primary purpose of such agreements is, as MOT states, to make the deployment of vessel space as efficient as possible by keeping utilization rates high and avoiding the introduction of

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[5] On December 10, 1982, Sea-Land and APL explicitly raised this question in a "Petition for Reconsideration and/or Clarification" of the Order of Investigation. Among other things, the petition requested that the Commission issue a supplemental order providing that these hearings will apply to "the next round of extensions and/or modifications of the agreements presently at issue." On February 1, 1983, the Commission denied the Petition, stating that it "had no control over the fact that those Agreements will expire on August 22, 1983, nor can it control what the Japanese lines may do concerning any extensions of the Agreements. If and when such extensions are filed, the Commission will consider the relationship of them to the current investigation * * * " Order Denying Petition for Reconsideration and/or Clarification, 21 S.R.R. 1550, 1552, (1983).

[6] 46 CFR 521.2 provides that an application for an extension of an approved agreement "should" be filed 120 days before its scheduled termination date, and section 521.3 warns that failure to meet the 120-day deadline "could result in the approved agreement terminating prior to Commission action on the filed agreement." Although Proponents met the technical requirements of the rule by filing the extensions (without supporting statements) on April 21, their failure to file for *pendente lite* approval until July 1—only 53 days before the expiration date—is inconsistent with the spirit of the rule.

[7] For example, in its reply to the Petition, Sea-Land suggested that oral argument might be helpful, particularly with respect to the weight or significance which should be given to undisputed facts. In addition, Proponents requested in their Petition leave to file a rebuttal to any opposition, seeking a waiver of the proscription in the Commission's rules against replies to replies, 46 CFR 502.74. This request was denied by the Commission.

unneeded capacity. This, in turn, minimizes the rate wars and malpractices which are associated with overtonnaged trades. Proponents assert that this purpose has been achieved and also claim that the Agreements have provided other benefits, including frequent and regular service, reduced port and terminal congestion, reduced fuel consumption and reduced shipper inventory (Kawamura-Hirano Affidavit, ¶¶ 10, 16, 18, 22). While these are valid benefits of space charter agreements, approval of such agreements, whether *pendente lite* or permanent, turns largely on the issue of overtonnaging.

The information presently before the Commission raises serious questions as to whether these agreements, as presently structured, have provided this central public benefit. APL and Sea-Land assert, and Proponents do not deny, that Proponents have recently embarked on a program to increase greatly the capacity of the ships operated under their agreements. APL states that by the end of 1984, at least ten of the eighteen ships operated under Agreements Nos. 9718, 9731 and 9835 (which operate in the Pacific trades) will have been replaced, resulting in a 32% increase in total container capacity. Such an increase would not be disturbing in itself if there was sufficient cargo to absorb it, *i.e.*, if the increase was needed. However, APL and Sea-Land cite data developed during discovery indicating that this increase is being planned and carried out in the face of severe declines in Proponents' utilization rates, which in the case of the two Japan-California agreements are summarized as follows:

	1st-half 1981 (percent)	2nd-half 1982 (percent)
Agreement No. 9718 Eastbound	83.6	67.5
Agreement No. 9718 Westbound	77.6	57.1
Agreement No. 9731 Eastbound	75.5	69.4
Agreement No. 9731 Westbound	63.5	54.2

Sea-Land also states that the capacity increases cannot be justified in terms of growth in the Japan-West Coast trade, citing testimony prepared by one of its witnesses that this trade will grow at compound annual rates of only 3.3 percent eastbound and 4.1 percent westbound in the period of 1982–1988.

It must be emphasized that the data and testimony cited by Sea-Land and APL have not yet been received into evidence or evaluated by the Administrative Law Judge, and we do not pass upon their ultimate probative value here. However, at a minimum they cast substantial doubt on the generalized assertions made by Propents in support of the space charter agreements, of which the following are representative:

> The benefits over [sic] lowering the possibility of overtonnaging are numerous. It is fundamental that overtonnaging directly affects the level of rates and service stability. The steady level of service under the agreements is an important factor in assessing the effects of our services on overtonnaging in the trade. By making frequent and regular service possible, the agreements have positively served to limit the tonnage which would have been otherwise deployed.
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> The agreements have led to efficient deployment of vessels and use of resources, and are directly responsible for reducing necessary capital expenditures to a minimum. Such expenditures are not limited to reducing the number of vessels operated by the parties, but also include minimizing commitments to inventory and equipment requirements because of the regularity of service they have made possible. Reducing the level of required capital expenditures frees up more resources for improving service and developing innovations which will benefit all aspects of the shipping public. (Kawamura-Hirano Affidavit, ¶¶ 13, 20).

Such broad and conclusory testimony goes to the alleged benefits from continuation of, and the alleged harm from suspension of, Proponents' cooperative arrangements as a whole. They do not directly address the issue raised by Sea-Land and APL concerning *pendente lite* approval of these Agreements, *i.e.*, Proponents' ongoing program of capacity increases. Proponents have not attempted to adduce specific facts bearing on the need for these increases, other than to claim that their new vessels are required to replace an aging fleet and will provide, due to their large size, better and more cost efficient service to the shipping public (*id.*, ¶¶ 48, 49).

Two additional fundamental points must be made. The anticompetitive impact of the agreements, considered by themselves, on Proponents' competitors (including Sea-Land and APL) does not rank with that of a conference rate-fixing agreement or a revenue pooling agreement. *See Agreements Nos. 10186, et al.*, —— F.M.C. ——, 21 S.R.R. 1443, 1451 (1982). A space charter agreement is an arrangement whereby the parties limit the amount of service (measured in vessel capacity and sailings) they will provide. In contrast to pooling agreements, the impact on competitors is indirect, in that the parties in theory realize greater efficiencies of service and higher profits than if they operated completely independent of each other. Although in this case the impact of these agreements takes on added weight by the fact that they are coordinated among each other and are tied into two pooling agreements, the absence of direct harm to competitors is a relevant factor to be considered. *Id.*

Second, these agreements represent the arrangement by which Proponents have served the U.S./Japan trades for many years.[8] Proponents' contention that expiration of the agreements would be severely disruptive to their operations and to the shipping public is therefore credible. While a prior approval under section 15, no matter how long ago granted, may not be converted into a vested right of continued approval, *Agreements Nos. 8200, et al. between the Pacific Westbound Conference and the Far East Conference*, 21 F.M.C. 959, 962 (1979), the Commission may take into account the long-standing nature of agreements such as these. *See United States Lines, Inc. v. FMC, supra*, 584 F.2d at 546. We must also be cognizant of the desires of the Government of Japan that these agreements not be terminated. The Commission has noted the affidavits from port officials to the effect that their operations could be harmed if Proponents were no longer permitted to coordinate their sailings under the agreements. Finally, there is the question as to what Proponents would do if the agreements were to expire. Although a definite answer is never possible in situations such as this, Proponents state that all of them would remain in the trades individually. (Kawamura-Hirano) Affidavit, ¶ 37). If that occurred, the number of vessels in service might well increase, thus worsening overtonnaging and port congestion. *See Agreements Nos. 10186, supra*, 21 S.R.R. at 1449, 1451–52.

In sum, the information placed before us by Sea-Land and APL has sharpened the Commission's concern that the four space charter agreements, as they are presently structured, may not be performing their basic function of preventing overtonnaging. However, expiration of these agreements, representing as they do Proponents' basic operating authority, poses an unacceptable risk of further disruption and commercial harm in trades which may already be experiencing severe difficulties. Until the record in this case is fully developed and the Commission has sufficient information before it to determine precisely how Proponents' services should be structured, it is

[8] Agreement No. 9718 was initially approved on July 3, 1968; Agreement No. 9731 on August 31, 1970; Agreement No. 9835 on April 17, 1970; and Agreement No. 9975 on August 16, 1972.

prudent to permit Proponents to continue to charter space from each other. Under these circumstances, the impending expiration of Proponents' space charter authority is an overriding public interest consideration of sufficient magnitude to justify *pendente lite* approval under the Canadian-American standard.

This approval is not, however, without restriction. Some background discussion is necessary. The parties to Agreements Nos. 9718, 9731, 9835 and 9973 have been limited since January 1981 in the amount of container space, measured in twenty-foot equivalent units (TEU's), which they may cross-charter among themselves. The limits vary from agreement to agreement. See 20 S.R.R. at 785. On December 14, 1981, the Commission ordered an investigation (Docket No. 81–74) of Agreement No. 9718–6, in which the four parties to that Agreement (Japan Line, K-Line, Mitsui and Y–S Line) proposed to raise the total amount of container capacity which they may cross-charter on an annual basis among themselves under the Agreement of 8,512 TEU's to 10,011 TEU's.[9] In that order, the Commission clarified the nature of the existing 8,512-TEU limitation as follows:

> The limitation only applies to TEU's, not to vessels, and only to TEU's which are subject to [the Agreement]. The Commission has no desire to interfere with management's judgment as how best to provide that capacity. This means that Proponents are free to introduce vessels of any TEU capacity into the trade provided that they do not place more TEU's under the coverage of the Agreement than is permitted.
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> The substitution of vessels does not, in this instance, require Commission approval or amendment of existing agreements. Proponents may immediately introduce one or both of the new vessels into the trade and operate them pursuant to the Agreement so long as existing capacity limitations are not violated.

In its November 19, 1982 Order of Investigation instituting Docket No. 82–54, the Commission discontinued Docket No. 81–74 and included in this Docket the issues under investigation therein. The record developed in Docket No. 81–74 was made part of the record in the new proceeding.

On December 10, 1982, Sea-Land and APL filed a joint Petition for Reconsideration and/or Clarification of the Order of Investigation.[10] They characterized the Commission's statements of December 14, 1981 set forth above as an "authorization" to the parties to Agreement No. 9718 to operate individually any capacity they choose. They further claimed that the Order of Investigation gave "interim approval" to the other six agreements included within Docket No. 82–54, and they expressed concern that such "interim approval" may constitute *"sub silentio* authorization" to all the Japanese lines to introduce new capacity into the trades on an individual basis. They asked the Commission

> . . . to clarify this circumstance by ordering that the Japanese carriers may not increase capacity in the trades subject to these agreements—however that capacity may be used—by the introduction of additional or larger vessels.

On February 1, 1983, the Commission issued an Order denying Sea-Land and APL's Petition. That Order said in relevant part (footnotes omitted):

> The Commission's statements in the Order of Investigation in Docket No. 81–74 did not "authorize" the four signatories to Agreement No. 9718–6 to do anything; rather, they constitute a recognition of the limits of the Commission's powers under section 15. Those powers apply only to certain joint activities involving at least two persons subject to the Shipping Act (46 U.S.C. 814). Because the Commission cannot use section 15 to place capacity limits upon or otherwise control the business activities of an individual carrier, it likewise cannot control through that statute what parties to an agreement do *individually* outside the limits of that agreement. The Commission simply stated the obvious: that cargo space which is not the subject of interparty cooperative chartering falls outside the perimeters of these Agreements, and can be used by the individual lines for their own account as would space deployed by any other individual vessel owner. In short, the Commission has no power to do what Sea-Land and APL ask.
>
> However, Petitioners do raise a valid point in suggesting that one of the allegations of need for the subject agreements—the prevention of overtonnaging in the U.S./Japan trades—is eroded by the addition of capacity by individual members of the agreements. To that extent, the Commission intends to consider the operation of such additional vessel capacity in its ultimate disposition of this proceeding. 21 S.R.R. 1550, 1553.

In opposing the Japanese lines' Petition for *pendente lite* relief, Sea-Land and APL again address the need for controlling vessel capacity as well as space subject to chartering. Essentially, they argue that the Commission's 1981 capacity limitations have not restrained Proponents from adding large amounts of new capacity to already overtonnaged trades; that the Commission's interpretations of those limitations unrealistically assumed that the portion of the new vessels reserved for the vessel owners could be operated independently of the space charter agreements; that in light of the serious overtonnaging in the Japan trades, *pendente lite* approval of the space charter agreements must be conditioned upon effective capacity limitations that cover actual vessels as well as container space; and that the Commission has the power to place such restrictions on Proponents. They suggest that total capacity be limited to the amounts of container space described in the Commission's January 1981 order.

The information presently before the Commission justifies the imposition of an overall capacity restriction pending completion of this investigation. The continued addition of large and possibly unneeded capacity during an extended period of further *pendente lite* effectiveness of the agreements would be seriously deterimental to the public interest. However, given that this information is not conclusive or complete,[11] limiting Proponents' capacity to that in place in January 1981 is unwarranted. We do not share APL's and Sea-Land's confidence that the vessel redeployment and operational changes which such a limit would require could be accomplished without disruption to U.S. ocean commerce. The better course is to preserve the *status quo*. Accordingly, Proponents will be required to freeze at current levels the total vessel capacities deployed in the trades served by them under each of their space charter agreements. Proponents will also be required to continue to abide by the charter limits currently applicable to the individual agreements. So conditioned, *pendente lite* approval of the space charter agreements represents a reasonable balancing of the various interests at stake and meets the requirements of section 15.

It must be emphasized that the Commission is not disavowing its above-quoted interpretation of the limits of its authority to control capacity operated under space charter agreements. That interpretation is correct as a principle of law and as applied to the facts before the Commission when it was made. We are not asserting statutory authority to limit the vessel capacity of any line operating

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[9] Proponents do not seek *pendente lite* approval of Agreement No. 9718–6 in their Petition now before the Commission.

[10] See note 5, *supra*.

[11] The most recent utilization results cited by Sea-Land and APL are as of the end of 1982. Since then, any overtonnaging in the Japan trades may have been alleviated or will be by the close of the proceeding. At present, however, the Commission can act only on the facts of record.

independently of its competitors. However, one of the issues under investigation in Docket No. 82-54 is whether the Japanese lines constitute a joint service or joint services in some or all of the trades they serve (and should therefore be limited to one vote in the conferences to which they belong). In other words, the current proceeding may develop evidence that Agreements Nos. 9718, 9731, 9835 and 9975 are actually joint service agreements, rather than true space charter arrangements. In that event, the Commission would be well within its powers if it wished to limit the vessels deployed under such agreements. *E.g., Agreement No. 9902-3, et al. (Modification of Euro-Pacific Joint Service,* 21 F.M.C. 911, *reconsideration granted in part,* 21 F.M.C. 994 (1979). It should be noted that in justifying their position that the owners' container space is not truly independent of the space chartered to the other parties, Sea-Land and APL contend that Proponents apparently pool revenues generated by the owners' space, that Proponents coordinate sailings and jointly establish itineraries for such space, and that a party cannot introduce a new agreement vessel (and hence cannot introduce such space) without the consent of the other parties. Although the accuracy and significance of these allegations cannot be conclusively determined now, they are certainly relevant to joint service issue.

In addition, as also quoted above, the Commission has expressed its concern that the addition of significant new capacity by individual members of the space charter agreements may contradict the primary rationale for approval of such agreements, i.e., prevention of overtonnaging. It is therefore consistent for the Commission to condition extension of those agreements on measures necessary to ensure that no further exacerbation of any present overtonnaging takes place. Imposition of such restrictions does not signify that the Commission has found that the agreements are contrary to section 15 without the restrictions, but only that the Commission is unwilling to approve the agreements *pendente lite* absent the restrictions. *See In re Hapag-Lloyd, et al.,* 17 S.R.R. 319, 325 (1977). Proponents are required to accept the capacity limitations as a *quid pro quo* for *pendente lite* approval of their space charter agreements. The Commission has not reached any final conclusions on the legal and factual issues presently under investigation.

Assuming the conditions described in this Order are met, it is the Commission's intention to avoid any lapse in the operation of the space charter agreements. Thus the ordering paragraphs below permit the *pendente lite* approval to take effect on August 22. Failure by Proponents to comply with the conditions within 60 days, *i.e.,* by October 21, 1983, will result in the approval becoming null and void effective October 22.

Therefore, it is ordered, that the Order of Investigation served on November 19, 1982 be amended to include Agreements Nos. 9718-8, 9731-8, 9835-6, 9975-8, 10116-5 and 10274-2, as submitted; [12]

It is further ordered, that Agreements Nos. 9718-8, 9731-8, 9835-6 and 9975-8 are approved *pendente lite* effective August 22, 1983 on condition that Proponents continue to abide by the limits stated in the Commission's January 16, 1981 Order of Conditional Approval on the amounts of container space which can be cross-chartered under each agreement;

It is further ordered, that Agreements Nos. 9718-8, 9731-8, 9835-6 and 9975-8 are approved *pendente lite* effective August 22, 1983 on the additional condition that Proponents continue to submit to the Commission semi-annual reports in the format stated in the January 16, 1981 Order;

It is further ordered, that Agreements Nos. 9718-8, 9731-8, 9835-6 and 9975-8 are approved *pendente lite* effective August 22, 1983 on the additional condition that, within 60 days from the date of this Order, they are each amended to reflect their parties' agreement to limit the total liner container vessel capacities deployed in each trade to which each agreement applies to the total capacities deployed in each trade as of the date of this Order;

It is further ordered, that Agreements Nos. 9718-8, 9731-8, 9835-6 and 9975-8 are approved *pendente lite* effective August 22, 1983 on the additional condition that their parties submit to the Commission, within 60 days from the date of this Order, reports in the attached format indicating total vessel capacity operated under each agreement as of the date of this Order;

It is further ordered, that if Agreements Nos. 9718-8, 9731-8, 9835-6 and 9975-8 are not amended as required by the fourth ordering paragraph above, or if their parties fail to submit the reports required by the fifth ordering paragraph above, within the times prescribed, the approval granted herein shall become null and void on the 61st day following the date of this Order; and

[12] Agreement No. 9718-8 also remains part of this investigation.

It is further ordered, that Agreements Nos. 10116-5 and 10274-2 are approved through October 31, 1983.

By the Commission.

Francis C. Hurney,

Secretary.

AGREEMENT NO. 9718, AS AMENDED

[Levels of capacity as of Aug. 22, 1983]

	Vessel name (a)	Owner (b)	Flag (c)	Capacity (TEU's) (d)
Japan Line [1]				
"K" Line [1]				
Mitsui O.S.K. Line [1]				
Y.S. Co., Ltd. [1]				
Total				

[1] For vessels owned and operated by these carriers in the trade covered by this agreement.

AGREEMENT NO. 9731, AS AMENDED

[Levels of capacity as of Aug. 22, 1983]

	Vessel name (a)	Owner (b)	Flag (c)	Capacity (TEU's) (d)
NYK Line [1]				
Showa Line [1]				
Total				

[1] For vessels owned and operated by these carriers in the trade covered by this agreement.

AGREEMENT NO. 9835, AS AMENDED

[Levels of capacity as of Aug. 22, 1983]

	Vessel name (a)	Owner (b)	Flag (c)	Capacity (TEU's) (d)
Japan Line [1]				
"K" Line [1]				
Mitsui O.S.K. Line [1]				
NYK Line [1]				
Showa Line [1]				
Total				

[1] For vessels owned and operated by these carriers in the trade covered by this agreement.

AGREEMENT NO. 9975, AS AMENDED

[Levels of capacity as of Aug. 22, 1983]

	Vessel name (a)	Owner (b)	Flag (c)	Capacity (TEU's) (d)
Japan Line [1]				
"K" Line [1]				
Y.S. Co., Ltd. [1]				
Mitsui O.S.K. Line [1]				
NYK Line [1]				
Total				

[1] For vessels owned and operated by these carriers in the trade covered by this agreement.

[FR Doc. 83-23280 Filed 8-24-83; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Bancshares of West Memphis, Inc.; Formation of Bank Holding Company

Bancshares of West Memphis, Inc., West Memphis, Arkansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Bank of West Memphis, West Memphis, Arkansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Bancshares of West Memphis, Inc., West Memphis, Arkansas, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to engage directly in the activity of real estate appraisal. These activities would be performed from offices in West Memphis, Arkansas, and the geographic areas to be served are Crittenden, St. Francis, and Cross Counties, Arkansas. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis.

Any views or requests for hearing should be submitted in writing and received by the Reserve Bank not later than September 19, 1983.

Board of Governors of the Federal Reserve System, August 19, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-23277 Filed 8-24-83; 8:45 am]
BILLING CODE 6210-01-M

First Community Bancshares, Inc., et al.; Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President), 701 East Byrd Street, Richmond, Viriginia 23261:

1. *First Community Bancshares, Inc.*, Princeton, West Virginia; to acquire 100 percent of the voting shares or assets of Adrian Buckhannon Bank, Buckhannon, West Virginia. Comments on this application must be received not later than September 19, 1983.

2. *One Valley Bancorp of West Virginia, Inc.*, to acquire 100 percent of the voting shares or assets of One Valley National Bank of Kanawha City, Charleston, West Virginia. Comments on this application must be received not later than September 19, 1983.

B. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President), 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Midwest Financial Group, Inc.*, Peoria, Illinois; to acquire 100 percent of the voting shares or assets of Corn Belt Bank, Bloomington, Illinois. Comments on this application must be received not later than September 19, 1983.

C. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President), 925 Grand Avenue, Kansas City, Missouri 64198:

1. *State Exchange Bancshares, Inc.*, Yates Center, Kansas; to acquire 24.9 percent of the voting shares or assets of Montgomery County Bancshares, Inc., Elk City, Kansas, proposed owner of The First National Bank of Elk City, Elk City, Kansas. Comments on this application must be received not later than September 19, 1983.

D. Board of Governors of the Federal Reserve System (William W. Wiles, Secretary), Washington, D.C. 20551:

1. *Ellis Banking Corporation*, Bradenton, Florida; to acquire 100 percent of the voting shares or assets of Jacksonville National Bank, Jacksonville, Florida. This application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank of Atlanta. Comments on this application must be received not later than September 19, 1983.

2. *Falcon Bancorporation, Inc.*, Childress, Texas; to acquire 80 percent or more of the voting shares or assets of The First National Bank of Memphis, Memphis, Texas. This application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank of Dallas. Comments on this application must be received not later than September 19, 1983.

3. *First Bancshares Corporation of Illinois*, Alton, Illinois; to acquire 100 percent of the voting shares or assets of Airport National Bank, Bethalto, Illinois. This application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank of St. Louis. Comments on this application must be received not later than September 19, 1983.

Board of Governors of the Federal Reserve System, August 19, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-23278 Filed 8-24-83; 8:45 am]
BILLING CODE 6210-01-M

Comercia, Inc.; Acquisition of Bank Shares by Bank Holding Company

The company listed in this notice has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for the application. With respect to this application, interested persons may express their views in writing to the

address indicated for this application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Board of Governors of the Federal Reserve System, (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Comerica, Incorporated,* Detroit, Michigan; to acquire 77 percent of the voting shares or assets of Bank of the Commonwealth, Detroit, Michigan. This application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank of Chicago. Comments on this application must be received not later than September 3, 1983.

Board of Governors of the Federal Reserve System, August 22, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-23206 Filed 8-24-83; 8:45 am]

BILLING CODE 6210-01-M

Commonwealth State Bank; Formation of Bank Holding Company

The company listed in this notice has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for the application. With respect to the application, interested persons may express their views in writing to the address indicated for the application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Board of Governors of the Federal Reserve System, (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Commonwealth State Bank,* Detroit, Michigan; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of the Commonwealth, Detroit, Michigan. This application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank of Chicago. Comments on this application must be received not later than September 3, 1983.

Board of Governors of the Federal Reserve System, August 22, 1983.

James McAfee,

Associated Secretary of the Board.

[FR Doc. 83-23208 Filed 8-24-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

NIOSH Symposium on the Toxic Effects of Glycol Ethers

Correction

In FR Doc. 83-21654, appearing on page 36199, in the issue of Tuesday, August 9, 1983, in the heading "Clycol" should read "Glycol", in the second column, in the seventh line "to the" should read "on the".

BILLING CODE 1505-01-M

Cooperative Agreements; Preventive Health Services Acquired Immunodeficiency Syndrome (AIDS) Surveillance and Associated Epidemiologic Investigations; Availability of Funds for Fiscal Year 1983

Correction

In FR Doc 83-23038, beginning on page 38091, in the issue of Monday, August 22, 1983, make the following corrections:

1. On page 38091, in the third column, the first complete paragraph starting with "Eligible" and ending with "either:" should be removed and replaced with the following paragraph:

"Eligible applicants for this program are the official public health agencies of State and local governments, including the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and American Samoa, which have either:"

2. Also on page 38091, in the third column, after the paragraph starting "B." and before the paragraph starting "Applicants", insert the following paragraph:

"Eligible State and local health agancies are strongly encouraged to coordinate their request for assistance, ideally in a single application, to ensure the most efficient use of State/local/Federal resources."

3. On page 38092, in the first column, under "*A. Purpose*" in the third line "Urban Areas" should read "Areas"; in the same column in the paragraph starting "a. Design", in the fifth line "geographical" should read "geographic".

4. Also on page 38092, in the second column, in the sixth complete paragraph, the second and third lines should read "an estimated $400,000 will be available to fund approximately four to eight cooperative".

5. In the eleventh complete paragraph in the same column, in the first line "proposes" should read "proposed".

6. On page 38092, in the third column, in the sixth paragraph, in the sixth line "Foom" should read "Room".

BILLING CODE 1505-01-M

Food and Drug Administration

[Docket No. 82N-0383; DESI 11735]

Sterazolidin Capsules; Withdrawal of Approval of New Drug Application

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of the new drug application for Sterazolidin Capsules, containing phenylbutazone, prednisone, aluminum hydroxide gel, and magnesium trisilicate. The basis of the withdrawal is that this combination product lacks substantial evidence of effectiveness and is not shown to be safe for its labeled indications. The drug product has been used in the treatment of inflammatory disorders, but it is no longer marketed.

EFFECTIVE DATE: September 26, 1983.

ADDRESS: Requests for an opinion of the applicability of this notice to a specific product should be identified with the reference number DESI 11735 and directed to the Division of Drug Labeling Compliance (HFN-310), National Center for Drugs and Biologics, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: John H. Hazard, Jr., National Center for Drugs and Biologics (HFN-8), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice of opportunity for hearing published in the **Federal Register** of March 1, 1973 (38 FR 5494; formerly Docket No. FDC-D-565), FDA proposed to withdraw approval of the following new drug application based on a lack of substantial evidence that the combination drug is effective and

because the drug is not shown to be safe. In response to the notice, Geigy Pharmaceuticals requested a hearing, but later withdrew the request, stating that although marketing of the product has been discontinued, the firm adheres to its position that the safety and effectiveness of the product are established and that any contrary agency findings are without factual basis. Approval of the following new drug application is now being withdrawn.

NDA 11–735; Sterazolidin Capsules containing phenylbutazone, prednisone, aluminum hydroxide gel, and magnesium trisilicate (homatropine methylbromide was included in the product's original formulation but was later deleted); Geigy Pharmaceuticals, Division of Ciba-Geigy Corp., Ardsley, NY 10502.

In addition to the holder of the new drug application specifically named above, this notice applies to any person who manufactures or distributes a drug product that is not the subject of an approved new drug application and that is identical to the drug product named above. It may also be applicable, under 21 CFR 310.6, to a related or similar drug product that is not the subject of an approved new drug application. However, this notice does not apply to either the single-entity ingredients phnylbutazone or prednisone that were evaluated as safe and effective (see 45 FR 62552 and 42 FR 11888, respectively). Neither does it cover aluminum hydroxide gel or magnesium trisilicate when these are used in over-the-counter antacid products that comply with 21 CFR Part 331.

It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product that the person manufacture or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product by writing to the Division of Drug Labeling Compliance (address given above).

The Director of the National Center for Drugs and Biologics, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052–1053 as amended (21 U.S.C. 355)) and under the authority delegated to him (21 CFR 5.82), finds that, on the basis of new information before him with respect to the product, evaluated together with the evidence available to him when the application was approved, there is a lack of substantial evidence that the combination drug product will have the effect it purports or is represented to have, and the combination drug is not shown to be safe, under the conditions of use prescribed, recommended, or suggested in its labeling. Therefore, pursuant to the foregoing finding, approval of NDA 11–735 providing for the drug product named above and all amendments and supplements thereto is withdrawn effective September 26, 1983.

Shipment in interstate commerce of the above product or of any identical, related, or similar product that is not the subject of an approved new drug application will then be unlawful.

Dated: August 17, 1983.

Harry M. Meyer,

Director, National Center for Drugs and Biologics.

[FR Doc. 83–23283 Filed 8–24–83; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

Medicare Program; Utilization and Quality Control Peer Review Organization (PRO) Area Designations

Correction

In FR Doc. 83–22197 beginning on page 36976 in the issue of Monday, August 15, 1983, make the following correction: On page 36976, the third column, the twelfth line, the word "date" should read "data".

BILLING CODE 1505-01-M

National Institutes of Health

National Advisory Neurological and Communicative Disorders and Stroke Council and the Planning Subcommittee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory Neurological and Communicative Disorders and Stroke Council, October 6 and 7, 1983, at 9:00 a.m. in Building 31–C, Conference Room 10, National Institutes of Health, Bethesda, Maryland 20205. In addition, a meeting of the Planning Subcommittee of the above Council will be held in October 5, 1983, at 1:00 p.m. to approximately 5:00 p.m. in Building 31, Room 8A28, National Institutes of Health, Bethesda, Maryland 20205.

The meeting of the full Council will be open to the public from 9:00 a.m. until approximately 1 p.m. on October 6 to discuss administration, management and special orders. The meeting of the Planning Subcommittee will be open from 1:00 p.m. to approximately 3:00 on October 5 to discuss program planning and program accomplishments. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4), and 552b(c)(6) of Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the Advisory Council meeting will be closed to the public on October 6 from approximately 1 p.m. until adjournment on October 7 for the review, discussion and evaluation of Research Grant applications, and applications for Teacher-Investigator Awards, Research Career Development Awards, and Institutional National Research Service Awards. The meeting of the Planning Subcommittee will be closed from approximately 8:00 p.m. to adjournment on October 5 also for the review, discussion and evaluation of individual grant applications. These applications and the discussion could reveal confidential trade secrets or commercial property, such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. John C. Dalton, Executive Secretary, Federal Building, Room 1016, Bethesda, Maryland 20205, telephone (301) 496–9248, will furnish substantive program information, summaries of the meeting and rosters of members.

Dated: August 11, 1983.

(Catalog of Federal Domestic Assistance Program No. 13.854, Biological Basis Research and No. 13.853, Clinical Basis Research, National Institutes of Health)

Betty J. Beveridge,

National Institutes of Health Committee Management Officer.

[FR Doc. 83–23317 Filed 8–24–83; 8:45 am]

BILLING CODE 4140-01-M

National Advisory Research Resources Council; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory Research Resources Council, Division of Research Resources (DRR), October 13–14, 1983, Conference Room 6, Building 31, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20205.

The meeting will be open to the public on October 13 from 9:30 a.m. to recess for the following: Opening remarks by the Director, DRR, consideration of the minutes of the June 13–14, 1983 meeting, Council discussion of the report of the Director, DRR, a Biotechnology Resources Program presentation, a report of the Council planning subcommittee, a presentation on "Protection for Human Research Subjects and Laboratory Animal

Concerns," by a member of the NIH staff, a discussion of new business, and individual Council Program Work Group sessions as follows: Animal Resources Program Work Group, Room 2A52, Bldg. 31; Biomedical Research Support Program Work Group, Room 8A28; Bldg. 31; Biotechnology Resources Program Work Group, Room 9A51, Bldg. 31; General Clinical Research Centers Program Work Group, Room 4B23, Bldg. 31; and Minority Biomedical Research Support Program Work Group, Conference Room 6. The meeting will be open on October 14 from 9:00 a.m. to approximately 10:00 a.m. for a discussion of Program Work Group reports. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552(c)(4) and 552b(c)(6) Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on October 14 from approximately 10:15 a.m. to adjournment for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Information Officer, Division of Research Resources, Room 5B10, Building 31, National Institutes of Health, Bethesda, MD 20205, (301) 496–5545, will provide summaries of the meeting and rosters of the Council members. Dr. James F. O'Donnell, Deputy Director, Division of Research Resources, Room 5B03, Building 31, National Institutes of Health, Bethesda, MD 20205, (301) 496–6023, will furnish substantive program information and will receive any comments pertaining to this announcement.

Dated: August 11, 1983.

(Catalog of Federal Domestic Assistance Program Nos. 13.306, Laboratory Animal Sciences and Primate Research; 13.333, Clinical Research; 13.337, Biomedical Research Support; 13.371, Biotechnology Resources; 13.375, Minority Biomedical Research Support, National Institutes of Health)

Betty J. Beveridge,

National Institutes of Health Committee Management Officer.

[FR Doc. 83-23318 Filed 8-24-83; 8:45 am]

BILLING CODE 4140-01-M

Minority Biomedical Research Support Subcommittee of the General Research Support Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Minority Biomedical Research Support Subcommittee of the General Research Support Review Committee, Division of Research Resources, November 17–18, 1983 at the National Institutes of Health. The meeting will be held in Conference Room 9, Building 31, 9000 Rockville Pike, Bethesda, Maryland 20205.

This meeting will be open to the public from 9:00 a.m. to approximately 1:30 p.m. on November 17, 1983, to discuss policy matters relating to the Minority Biomedical Research Support Program. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on November 17, 1983, from approximately 1:30 p.m. to 5:00 p.m. and on November 18, 1983, from 8:30 a.m. to adjournment for the review, discussion and evaluation of individual grant applications submitted to the Minority Biomedical Research Support Program. These applications and discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Information Officer, Division of Research Resources, National Institutes of Health, Building 31, Room 5B10, Bethesda, Maryland 20205, telephone (301) 496–5545, will provide summaries of meeting and rosters of committee members. Dr. Sidney A. McNairy, Executive Secretary of the Minority Biomedical Research Support Subcommittee of the General Research Support Review Committee, Building 31, Room 5B–09, Bethesda, Maryland 20205, telephone (301) 496–4390 will furnish substantive program information.

Dated: August 11, 1983.

(Catalog of Federal Domestic Assistance Programs No. 13.375, Minority Biomedical Research Support Program, National Institutes of Health)

Betty J. Beveridge,

National Institutes of Health Committee Management Officer.

[FR Doc. 83-23319 Filed 8-24-83; 8:45 am]

BILLING CODE 4140-01-M

Division of Research Grants; Study Section Meetings

Pursuant to Pub. L. 92–463, notice is hereby given of the meetings of the following study sections for September through November 1983, and the individuals from whom summaries of meetings and rosters of committee members may be obtained.

These meetings will be open to the public to discuss administrative details relating to study section business for approximately one hour at the beginning of the first session of the first day of the meeting. Attendance by the public will be limited to space available. These meetings will be closed thereafter in accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Grants Inquiries Office, Division of Research Grants, Westwood Building, National Institutes of Health, Bethesda, Maryland 20205, telephone 301–496–7441 will furnish summaries of the meetings and rosters of committee members. Substantive program information may be obtained from each executive secretary whose name, room number, and telephone number are listed below each study section. Since it is necessary to schedule study section meetings months in advance, it is suggested that anyone planning to attend a meeting contact the executive secretary to confirm the exact date, time and location. All times are A.M. unless otherwise specified.

Study section	September–November 1983 meetings	Time	Location
Allergy and Immunology: Dr. Eugene Zimmerman, Rm. 320, Tel. 301-496-7380	Oct. 20-22	8:30	Holiday Inn, Georgetown, DC.
Bacteriology and Mycology-1: Dr. Milton Gordon, Rm. 304, Tel. 301-496-7340	Oct. 19-21	8:30	Holiday Inn, Chevy Chase, MD.
Bacteriology and Mycology-2: Dr. William Branche, Jr., Rm. 308, Tel. 301-496-7661	do	8:30	Holiday Inn, Georgetown, DC.
Behavioral Medicine: Dr. Joan Rittenhouse, Rm. 232, Tel. 301-496-7109	Oct. 18-21	9:00	Do.
Biochemical Endocrinology: Dr. Norman Gold, Rm. 226, Tel. 301-496-7490	Oct. 26-29	8:30	Room 6, Bldg. 31C, Bethesda, MD.
Biochemistry-1: Dr. Adolphus P. Toliver, Rm. 319A, Tel. 301-496-7516	Oct. 19-22	9:00	Georgetown Hotel, Washington, DC.
Biochemistry-2: Dr. Alex Liacouras, Rm. 318A, Tel. 301-496-7516	Oct. 13-15	8:30	Westpark Hotel, Rosslyn, VA.
Bio-Organic and Natural Products Chemistry, Dr. Michael Rogers, Rm. A-27, Tel. 301-496-7107	Oct. 20-22	9:00	Holiday Inn, Bethesda, MD.
Biophysical Chemistry: Dr. John B. Wolff, Rm. 238B, Tel. 301-496-7070	Nov. 3-5	8:30	Linden Hill Hotel, Bethesda, MD.
Bio-Psychology: Dr. A. Keith Murray, Rm. 220, Tel. 301-496-7058	Oct. 3-6	9:00	Ramada Inn, Bethesda, MD.
Cardiovascular and Pulmonary: Dr. Anthony C. Chung, Rm. 2A-04, Tel. 301-496-7316	Oct. 26-28	8:30	Linden Hill Hotel, Bethesda, MD.
Cardiovascular and Renal, Dr. Rosemary Morris, Rm. 321, Tel. 301-496-7901	Oct. 24-26	8:30	Westpark Hotel, Rosslyn, VA.
Cellular Biology and Physiology: Dr. Gerald Greenhouse, Rm. 336, Tel. 301-496-7396	Nov. 2-4	8:30	Room A, Landow Bldg., Bethesda, MD.
Chemical Pathology: Dr. Edmund Copeland, Rm. 353, Tel. 301-496-7078	Oct. 17-19	8:00	Holiday Inn, Bethesda, MD.
Diagnostic Radiology: Dr. Catherine Wingate, Rm. 219B, Tel. 301-496-7650	Oct. 31-Nov. 2	8:30	Holiday Inn, Georgetown, DC.
Endocrinology: Mr. Morris M. Graff, Rm. 333, Tel. 301-496-7346	Sept. 26-28	3:00 p.m.	Do.
Epidemiology and Disease: Control-1, Dr. Michael Alavanja, Rm. 203C, Tel. 301-496-7246	Oct. 18-20	8:30	Wellington Hotel, Washington, DC.
Epidemiology and Disease: Control-2, Dr. Ann Schluederberg, Rm. 203B, Tel. 301-496-7246	Oct. 18-20	8:30	Do.
Experimental Cardiovascular: Sciences, Dr. Richard Peabody, Rm. 234, Tel. 301-496-7940	Oct. 18-20	8:00	Marriott Hotel, Bethesda, MD.
Experimental Immunology: Dr. David Lawrin, Rm. 222B, Tel. 301-496-7238	Oct. 26-28	9:00	Holiday Inn, Georgetown, DC.
Experimental Therapeutics: Dr. Ira Kline, Rm. 319A, Tel. 301-496-7839	Oct. 19-22	8:30	Holiday Inn, Bethesda, MD.
Experimental Virology: Dr. Eugene Zabovitz, Rm. 206, Tel. 301-496-7474	Oct. 17-19	8:30	Room 3, Bldg. 31A, Bethesda, MD.
General Medicine A: Dr. Harold Davidson, Rm. 354A, Tel. 301-496-7797	Nov. 7-9	8:30	Room 10, Bldg. 31C, Bethesda, MD.
General Medicine B: Dr. Antonia Novello, Rm. 322, Tel. 301-496-7730	Oct. 11-12	8:30	Holiday Inn, Georgetown, DC.
Genetics: Dr. David Remondini, Rm. 349, Tel. 301-496-7271	Oct. 20-22	9:00	Room 4, Bldg. 31A, Bethesda, MD.
Hearing Research: Dr. Joseph Kimm, Rm. 225, Tel. 301-496-7494	Oct. 19-21	8:30	Holiday Inn, Georgetown, DC.
Hematology-1: Dr. Clark Lum, Rm. 355A, Tel. 301-496-7509	Oct. 6-8	8:00	Do.
Hematology-2: Dr. Mischa Friedman, Rm. 355B, Tel. 301-496-7509	Oct. 19-21	8:00	Holiday Inn, Chevy Chase, MD.
Human Development and Aging-1: Dr. Teresa Levitin, Rm. 303, Tel. 301-496-7025	Nov. 2-4	9:00	Georgetown Hotel, Washington, DC.
Human Development and Aging-2: Dr. Samuel Rawlings, Rm. 305, Tel. 301-496-7640	Oct. 12-14	9:00	Embassy Square Hotel, Washington DC.
Human Embryology and Development: Dr. Arthur Hoversland, Rm. 221, Tel. 301-496-7597	Oct. 18-21	8:00	Westpark Hotel, Rosslyn, VA.
Immunobiology: Dr. William Stylos, Rm. 222A, Tel. 301-496-7780	Oct. 12-14	8:30	Linden Hill Hotel, Bethesda, MD.
Immunological Sciences: Dr. Lottie Kornfeld, Rm. 233A, Tel. 301-496-7179	Oct. 26-28	8:30	Room 2, Bldg. 31A, Bethesda, MD.
Mammalian Genetics: Dr. Jerry Roberts, Rm. 349, Tel. 301-496-7271	Oct. 20-22	8:30	Room 3, Bldg. 31A, Bethesda, MD.
Medicinal Chemistry: Dr. Ronald Dubois, Rm. A-27, Tel. 301-496-7107	Oct. 12-15	9:00	Holiday Inn, Georgetown, DC.
Metabolism: Dr. Robert Leonard, Rm. 338A, Tel. 301-496-7091	Nov. 3-5	8:30	Room 6, Bldg. 31C, Bethesda, MD.
Metallobiochemistry: Dr. Marjam Behar, Rm. 310, Tel. 301-496-7733	Oct. 13-15	9:00	Georgetown Hotel, Washington, DC.
Microbial Physiology and Genetics-1: Dr. Martin Slater, Rm. 238, Tel. 301-496-7183	Oct. 26-28	9:00	Linden Hill Hotel, Bethesda, MD.
Microbial Physiology and Genetics-2: Dr. Gerald Liddel, Rm. 357, Tel. 301-496-7130	Oct. 26-28	8:30	Marriott Hotel, Tyson's Corner, VA.
Molecular and Cellular Biophysics: Dr. Patricia Street, Rm. 236A, Tel. 301-496-7080	Oct. 29-31	8:30	Holiday Inn, Bethesda, MD.
Molecular Biology: Dr. Donald Disque, Rm. 328, Tel. 301-496-7830	Oct. 13-15	8:30	Holiday Inn, Georgetown, DC.
Molecular Cytology: Dr. Ramesh Nayak, Rm. 233B, Tel. 301-496-7149	Oct. 6-8	8:30	Room 7, Bldg. 31C, Bethesda, MD.
Neurological Sciences: Dr. Edwin Barlow, Rm. 439B, Tel. 301-496-7260	Oct. 27-29	8:30	Holiday Inn, Georgetown, DC.
Neurology A: Dr. Catherine Woodbury, Rm. 326, Tel. 301-496-7095	Oct. 12-15	8:30	Wellington Hotel, Washington, DC.
Neurology B-1: Dr. Willard McFarland, Rm. 2A03, Tel. 301-496-7422	Nov. 1-4	8:30	Do.
Neurology B-2: Dr. Herman Teitelbaum, Rm. 2A05, Tel. 301-496-7422	Oct. 18-21	8:30	Ramada Inn, Bethesda, MD.
Nutrition: Dr. John Schubert, Rm. 204, Tel. 301-496-7178	Nov. 2-4	8:30	Room 7, Bldg. 31C, Bethesda, MD.
Oral Biology and Medicine: Dr. Thomas M. Tarpley, Jr., Rm. 325, Tel. 301-496-7519	Oct. 18-21	8:30	Linden Hill Hotel, Bethesda, MD.
Orthopedics and Musculoskeletal: M. Reen Stewart, Rm. 350, Tel. 301-496-7581	Nov. 3-5	8:30	Room 10, Bldg. 31C, Bethesda, MD.
Pathobiochemistry: Dr. Clarice Gaylord, Rm. A-28, Tel. 301-496-7520	Oct. 26-29	8:30	Room 7, Bldg. 31C, Bethesda, MD.
Pathology A: Dr. Robert M. Conard, Rm. 337, Tel. 301-496-7305	Oct. 19-22	8:00	Holiday Inn, Chevy Chase, MD.
Pathology B: Dr. Martin Padarathsingh: Rm. 352, Tel. 301-496-7244	Oct. 19-21	8:00	Sheraton University Center, Durham, NC.
Pharmacology: Dr. Joseph Kaiser, Rm. 206, Tel. 301-496-7408	Oct. 25-27	8:30	Holiday Inn, Bethesda, MD.
Physical Biochemistry: Dr. Jeanne Ketley, Rm. 218B, Tel. 301-496-7120	Oct. 19-21	9:00	Do.
Physiological Chemistry: Dr. Harry Brodie, Rm. 339B, Tel. 301-496-7837	Oct. 26-28	8:30	Ramada Inn, Bethesda, MD.
Physiology: Dr. Martin Frank, Rm. 209, Tel. 301-496-7878	Oct. 12-15	9:00	Holiday Inn, Georgetown, DC.
Radiation: Dr. Asher Hyatt, Rm. 219A, Tel. 301-496-7073	Oct. 31-Nov. 2	8:30	Room 9, Bldg. 31C, Bethesda, MD.
Reproductive Biology: Dr. Dharam Dhindsa, Rm. 307, Tel. 301-496-7318	Oct. 11-14	8:30	Ramada Inn, Bethesda, MD.
Respiratory and Applied Physiology: Dr. Nathan Weizman, Rm. 218A, Tel. 301-496-7320	Oct. 17-19	8:30	Linden Hill Hotel, Bethesda, MD.
Sensory Disorders and Language: Dr. Michael Halasz, Rm. 225, Tel. 301-496-7550	Oct. 19-21	8:30	Wellington Hotel, Washington, DC.
Social Sciences and Population: Ms. Carol Campbell, Rm. 210, Tel. 301-496-7906	Oct. 20-22	8:30	Embassy Square Hotel, Washington, DC.
Surgery and Bioengineering: Dr. Paul F. Parakkal, Rm. 303A, Tel. 301-496-7506	Oct. 11-12	8:00	Wellington Hotel, Washington, DC.
Surgery, Anesthesiology and Trauma: Dr. Keith Kramer, Rm. 319B, Tel. 301-496-7771	Oct. 27-28	8:00	Westpark Hotel, Rosslyn, VA.
Toxicology: Ms. Faye J. Calhoun, Rm. 205, Tel. 301-496-7570	Oct. 19-21	8:30	Sheraton University Center, Durham, NC.
Tropical Medicine and Parasitology: Dr. Betty June Myers, Rm. 110, Tel. 301-496-7846	Oct. 24-26	8:30	Room 4, Bldg. 31A, Bethesda, MD.
Virology: Dr. Claire Winestock, Rm. 309, Tel. 301-496-7605	Oct. 20-22	8:30	Room 9, Bldg. 31C, Bethesda, MD.
Visual Sciences A-1: Dr. Orvil Bolduan, Rm. 207, Tel. 301-496-7000	Oct. 19-21	9:00	Shoreham Hotel, Washington, DC.
Visual Sciences A-2: Dr. Jane Hu, Rm. 439A, Tel. 301-496-7310	do	8:30	Holiday Inn, Georgetown, DC.
Visual Sciences B: Dr. Luigi Giacometti, Rm. 325, Tel. 301-496-7251	Oct. 12-14	9:00	Holiday Inn, Georgetown, DC.

Dated: August 11, 1983.

(Catalog of Federal Domestic Assistance Program Nos. 13.306, 13.333, 13.337, 13.393–13.396, 13.837–13.844, 13.846–13.878, 13.892, 13.893, National Institutes of Health, HHS)

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 83-23320 Filed 8-24-83; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N-83-1279]

Annual Publication of Privacy Act Systems of Records

AGENCY: Department of Housing and Urban Development.

ACTION: Annual Publication of Privacy Act Systems of Records.

SUMMARY: This notice is published to meet the requirements of 5 U.S.C. 552a(e)(4). It serves as the annual publication providing a description of the existence and character of the Department's systems of records.

EFFECTIVE DATE: This notice shall become effective August 25, 1983.

FOR FURTHER INFORMATION CONTACT: Arthur L. Stokes, Departmental Privacy Act Officer, (202) 755-5320. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The Office of the Federal Register most recently published a compilation of Department of Housing and Urban Development (HUD) systems of records at Privacy Act Issuances, 1981 compilation, Volume II, pages 58-85. This compilation can be viewed at depository libraries and Federal Information Centers throughout the country. The Department of Housing and Urban Development last published the full text of all its systems of records at 46 FR 54878 (November 4, 1981). The November 4, 1981 publication brought together all HUD systems of records published to become effective through October 5, 1981. A subsequent notice published at 47 FR 34322 (August 6, 1982) brought together all notices of new, amended and deleted systems of records published to become effective between October 5, 1981, and July 31, 1982. This notice incorporates the material published at 46 FR 54878 and 47 FR 34322 by reference and brings together all notices of new, amended, and deleted systems of records published to become effective between July 31, 1982, and July 31, 1983. Additionally, this notice updates Appendix A of the full text which lists the addresses of HUD's Field Offices. There are a number of routine use disclosures which apply to most HUD systems of records. These routine use disclosures are listed below as "General Statement of Routine Uses."

(5 U.S.C. 552a, 88 Stat. 1896; sec. 7(d) Department of HUD Act (42 U.S.C. 3535(d)).

Issued at Washington, D.C., August 15, 1983.

Judith L. Tardy,

Assistant Secretary for Administration.

1. General Statement of Routine Uses.

Routine Use—Law Enforcement

In the event that a system of records maintained by this Department to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

Routine Use—Disclosure When Requesting Information

A record from a system of records maintained by this Department may be disclosed as a routine use of a federal, state, or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a component decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

Routine Use—Disclosure or Requested Information

A record from a system of records maintained by this Department may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Routine Use—Disclosure to OMB

The information contained in a system of records will be disclosed to the Office of Management and Budget in connection with review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular, and for the purpose of evaluating the Department's credit and debt collection activities to further the goal of the President's Management Improvement Council.

Routine Use—Disclosure Pursuant to Congressional Inquiry

Disclosures may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

2. Table of Contents

HUD/DEPT-15 Equal Opportunity Housing Complaints
HUD/DEPT-32 Mortgages-Delinquent/Default/Assigned
HUD/DEPT-37 Personnel Travel System
HUD/DEPT-52 Privacy Act Requesters
HUD/DEPT-55 Executive Personnel Files
HUD/DEPT-77 Audit Planning and Operations System (APOS)
HUD/H-11 Multifamily Tenant Certification System
HUD/H-12 Housing Compliance Files
HUD/H-14 Interstate Land Sales Registration Files
HUD/PD&R-11 HUD Community Development Block Grant State Transfer Evaluation Files

HUD/DEPT-15

SYSTEM NAME:

Equal Opportunity Housing Complaints

SYSTEM LOCATION:

Housing discrimination files are located at the office where originated and may also be transferrd to associated area and/or regional offices, or the Headquarters Office. Additionally, closed files from this system may be temporarily located in a HUD contractor's office during a period of program evaluation. For a listing of HUD's offices with addresses see Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals filing housing discrimination complaints. Does not include files on HUD employee complaints regarding their employment. Notices regarding these inquiries under the Privacy Act are published by the U.S. Civil Service Commission.

CATEGORIES OF RECORDS IN THE SYSTEM:

Allegations of housing discrimination; names of complainant and persons or organizations complained about; investigation information; details of discrimination cases; compliance reviews; complaints under Titles VI, VIII and IX; conciliation files; correspondence; affidavits; complaints status reports. In mortgage discrimination cases, records include mortgage applications, credit reports

and verification of income, employment and bank deposits.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title VIII of the Civil Rights Act of 1978, Sec. 810(a); 42 U.S.C 3610(a).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routine Uses paragraphs in prefatory statement. Other routine uses: To state and local government EO concerned agencies, the U.S. Department of Justice (including the FBI), the U.S. Department of Labor (including the Office of Federal Contract Compliance), U.S. Courts, the Veterans Administration, the Farmers Home Administration, complainants, repondents and attorneys—for investigation, preparing litigation, and monitoring compliance, to HUD contractor—for program evaluation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records kept in lockable desks and file cabinets and magnetic tape/disc/drum.

RETRIEVABILITY:

Usually retrievable by name of complainant and, in some instances, by case file number.

SAFEGUARDS:

Manual records are stored in lockable file cabinets; computer facilities are secured and accessible only by authorized personnel, and all files are stored in a secured area. Technical restraints are employed with regard to accessing the computer and data files.

RETENTION AND DISPOSAL:

HUD handbooks establish procedures for retention and disposition of records. Generally retained for two years, then tranferred to Federal Records Centers for an additional five years.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Fair Housing Enforcement and Section 3 Compliance, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appears in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) In relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject and other individuals, Federal and non-federal government agencies, law enforcement agencies, credit bureaus, financial institutions, current and previous employers, corporations or firms, EO counselors and witnesses.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(2), all investigatory material, including conciliation files, in records contained in this System which meet the criteria of these sub-sections is exempted from the notice, access, and contest requirements (under 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4), (G), (H), and (I), and (f) of the agency regulations in order for the Department's Fair Housing and Equal Opportunity and legal staffs to perform their functions properly.

HUD/DEPT-32

SYSTEM NAME:

Delinquent/Default/Assigned/Temporary Mortgage Assistance Payments (TMAP) Program.

SYSTEM LOCATION:

Headquarters and field offices. For a complete listing of these offices, with addresses, see Appendix A. Office of HUD TMAP contractor will maintain some records on TMAP cases.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Mortgagors with HUD/FHA insured single-family mortgages that are delinquent or in default; mortgagors seeking assistance to prevent foreclosures; and mortgagors whose mortgages are held by HUD.

CATEGORIES OF RECORDS IN THE SYSTEM:

Notices of delinquent mortgages; requests for forebearance or assignment; forebearance or assignment reviews include data on mortgage amount and payments made, employment and income, debts and expenses, reasons for delinquency, recommendations and actions on requests; credit reports; forebearance agreements; deeds of trust; and related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

See. 114(a), Housing Act of 1959, (Pub. L. 86–372), 12 U.S.C. 1702 et seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routine Uses paragraphs in prefatory statement. Other routine uses: to FHA—for insurance investigations; to IRS and GAO—for investigations; to state banking agencies—to aid in processing mortgagor complaints; to state housing and redevelopment agencies—for follow-up servicing; to mortgagees—to check on the status of cases and referrals of complaints; to counseling agencies—for counseling: to Legal Aid—to assist mortgagors.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routine Uses paragraphs in prefatory statement. Other routine uses: to FHA—for insurance investigations; to IRS and GAO—for investigations; to state banking agencies—to aid in processing mortgagor complaints; to state housing and redevelopment agencies—for follow-up servicing; to mortgagees—to check on the status of cases and referrals of complaints; to counseling agencies—for counseling: to Legal Aid—to assist mortgagors; to HUD TMAP contractor—for processing TMAP.

STORAGE:

In file folders and on magnetic tapes, drums, and discs.

RETRIEVABILITY:

Name; case file number, property address.

SAFEGUARDS:

Records maintained in desks and lockable file cabinets; access to automated systems is by passwords and code identification cards; access limited to authorized personnel.

RETENTION AND DISPOSAL:

Obsolete records destroyed or shipped to Federal Records Center in compliance with HUD Handbook.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Single Family Servicing Division, HSSI, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) In relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject individual; other individuals; current or previous employers; credit bureaus; financial institutions; other corporations or firms; Federal Government agencies; non-federal government (including foreign, state and local) agencies; law enforcement agencies.

HUD/DEPT-37

SYSTEM NAME:

Personnel Travel System.

SYSTEM LOCATION:

All Department offices maintain employee travel records. For a complete listing of offices, with addresses, see Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

HUD personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

All travel records, including vouchers, requests, advances, receipts for requests, orders.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 7(d) of the Department of Housing and Urban Development Act of 1965, Pub. L. 89-174; Budget and Accounting Act of 1950, 31 U.S.C. 66a.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USES AND THE PURPOSES OF SUCH USERS:

See Routine Uses paragraphs in prefatory statement. Other routine uses: to Treasury—for payment of vouchers; vouchers and receipts are available to GAO and GSA for audit purposes and vouchers are verified by private transporters.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In file folders and on magnetic tape/disc/drum.

RETRIEVABILITY:

Almost always retrievable by name, occasionally by Social Security number.

SAFEGUARDS:

Lockable desks or file cabinets; computer records are maintained in secure areas with access limited to authorized personnel and technical restraints employed with regard to accessing the records.

RETENTION AND DISPOSAL:

Records are active and kept up-to-date. Files purged in accordance with HUD Handbook.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Finance and Accounting, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

For Transportation Requests: Director, Office of Administrative Services, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appeared in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) In relation to contesting contents of record, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject individual and supervisors.

HUD/DEPT-52

SYSTEM NAME:

Privacy Act Requesters.

SYSTEM LOCATION:

Headquarters and field offices. For a complete listing of these offices, with addresses, see Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals inquiring about existence of records about them, and requesting access to and correction of such records under provisions of the Privacy Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal identification of requester, nature of request, and disposition of the request by the Department.

AUTHORITY FOR MAINTENCE OF THE SYSTEM:

Privacy Act of 1974 (5 U.S.C. 552(a)(c)).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routine Uses paragraphs in prefatory statement. Other routine uses: none.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In file holders.

RETRIEVABILITY:

Filed by case number and name of individual.

SAFEGUARDS:

Records maintained in locked and lockable file cabinets with access limited to authorized personnel.

RETENTION AND DISPOSAL:

Records are primarily active. Inactive files are normally disposed of after a one-year period.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Information Policies and Systems, AI, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) In relation to contesting contents or records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of intitial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject individuals.

HUD/DEPT–55

SYSTEM NAME:

Executive Personnel Files.

SYSTEM LOCATION:

Headquarters Office.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Executive employees; namely, executive levels, members of the Senior Executive Service, supergrades, schedule C's experts and consultants, field office directions, and high potential senior level employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Data pertaining to experience, training, education, achievements, personal activities, potential and career objectives, and evaluation of these skills and attributes.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 401–415 Civil Reform Act of 1978. Pub. L. 95–454.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See routine uses paragraph in prefatory statement. Other routine uses: To former employers, education, institution, and references for information verification.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file cabinets.

RETRIEVABILITY:

Name of applicant or HUD organization.

SAFEGUARDS:

Records are maintained in lockable file cabinets with access limited to authorized personnel.

RETENTION AND DISPOSAL:

Retained during active status and then disposed, usually 3 years.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Headquarters Operations Division, Office of Personnel, APH, Department of Housing and Urban Development 451 Seventh Street, S.W., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about the existence of records, contact the Privacy Act officer at the headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individuals concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act officer at the headquarters location. This location is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) In relation to contesting contests of records, the Privacy Act officer at the headquarters location. This location is given in Appendix A. (ii) In relation to appeals of initial denials, the HUD departmental privacy appeals officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street S.W., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject individuals, former employers and references.

***HUD/DEPT–77**

SYSTEM NAME:

Audit Planning and Operations System (APOS).

SYSTEM LOCATION:

This system is located in Headquarters with regional and Headquarters data entry and access capabilities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All OIG staff personnel and Independent Public Accountants (IPAs) who perform audits of HUD grantees where reports are subject to OIG review and acceptance.

CATEGORIES OF RECORDS IN THE SYSTEM:

The automated APOS contains name and ID number for OIG auditors and Independent Public Accountants (IPAs) who perform audits of HUD grantees where the audit reports are subject to OIG review and acceptance. Additionally, the APOS has records reflecting the OIG Annual Audit Plan (AAP) and detailed assignments within the AAP staffing and time goals for each assignment; records on direct time expenditures for each task within each assignment for each OIG employee; indirect time for each employee; information reflecting the receipt, review, acceptance and audit verification of IPA audits; and direct time charges to other categories of OIG audit work such as assistance to U.S. Attorneys, complaint handling and special projects.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

OMB Circular No. A–73, Revised, dated March 15, 1978, Audit of Federal Operations and Programs; Paragraphs 7 and 7(3). Inspectors General Act 1978. Pub. L. 95–452; Section 4, Paragraph (1) and Section 5(a).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See routine uses paragraphs in prefatory statement. Other routine uses: None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In file folders and on magnetic media.

RETRIEVABILITY:

Retrievability of records that refer to OIG personnel will be by HUD–OIG numbers and regional identifier. Retrieval of records that refer to Independent Public Accountants will be by the OIG designated numeric code for the IPA and regional identifier.

SAFEGUARDS:

Manual files are kept in lockable file drawers in secure areas. Technical restraints are employed with regard to accessing the automated records.

RETENTION AND DISPOSAL:

Coded imput forms will be retained for one month, and upon successful execution of program, the forms will be destroyed. Printed computer output forms will be retained until the next cyclical run. The system report cycles will occur monthly, quarterly, or semiannually depending on the nature of the report. Stored data within the system will be retained for three years. At the end of that period the records will be removed and maintained for two more years on tape where they will be restored to the system only as needed. At the end of a 5-year period, records will be removed from tape library and destroyed.

SYSTEM MANAGER AND ADDRESS:

Assistant Director, Audit Operations Division, Field Operations, 451 7th Street, SW., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is needed, contact the Privacy Act Officer at the Headquarters location. This location is given in appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials by the individual concerned appear in 24 CFR Part 16. If additional information or assistance is needed in relation to contesting the contents of records, it may be obtained by contacting the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A. If additional information or assistance is needed in relation to appeals of initial denials, it may be obtained by contacting the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 24010.

RECORD SOURCE CATEGORIES:

Subject individuals and other HUD employees. All records within the automated APOS will be developed from current existing records within Regional and Headquarters OIG sites. Time records will be reported for OIG personnel through their supervisors. IPA data will be reported by the IPA liaison groups within each OIG regional facility.

HUD/H–11

SYSTEM NAME:

Multifamily Tenant Certification System.

SYSTEM LOCATION:

Headquarters and Field Offices. For a listing of Field Offices with addresses, see Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals receiving housing assistance from HUD under one of the following programs: Section 8, Public/Indian Housing, Section 236 (including Section 236 RAP), Rent Supplement, Section 221(d)3 BMIR, and Section 202/8.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system will include identification data such as name, Social Security Number (if available), alien registration number, or other identification number, address, and tenant unit number; financial data such as income and contract rent; tenant characteristics such as number in family, sex of family member and minority code; unit characteristics such as number of bedrooms; geographic data such as county code and census tract; and related information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

United States Housing Act of 1937, as amended, 42 U.S.C. 1437 *et seq.*, and the Housing and Community Amendments of 1981, Pub. L. 97–35, 95 Stat. 408.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See routine uses paragraph in prefatory statement. Other routine uses: To Federal, State, and local agencies—to verify the accuracy of the data provided; to HUD contractor-for processing certifications/recertifications; to the Social Security Administration and the Immigration and Naturalization Service—to verify alien status.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders, magnetic tape/disk/drum.

RETRIEVABILITY:

Name of tenant, address, Social Security or other identification number.

SAFEGUARDS:

File folders, automated records kept in a secured area. Access restricted to authorized individuals.

RETENTION AND DISPOSAL:

Obsolete records are destroyed or sent to storage facility in accordance with HUD Handbook 2225.6, Records Dispositon Management: HUD Records Schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Management Information Systems Division, Office of Management, Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about the existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials by the individual concerned appear in 24 CFR Part 16. If additional information or assistance is needed in relation to contesting the contents of records, it may be obtained by contacting the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A. If additional information or assistance is needed in relation to appeals of initial denials, it may be obtained by contacting the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject individuals, other individuals, PHA staff/private owners/management agents.

HUD/H-12

SYSTEM NAME: HOUSING COMPLIANCE FILES.

SYSTEM LOCATION:

Headquarters and Field Offices. For a listing of Field Offices with addresses, see Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals [those who are direct or indirect recipients of HUD funds; participants, or contractors with participants in HUD–FHA assisted or sponsored programs including mortgage insurance programs; or former HUD employees as set forth in 24 CFR 24.3 and 24.4(f)] who have been suspended, or debarred, or who are ineligible to participate in HUD programs or those whose records of participation in HUD programs are being reviewed for possible administrative actions to exclude them from further participation.

CATEGORIES OF RECORDS IN THE SYSTEM:

The files consist of correspondence and documents pertaining to the subject individuals. The documents may include indictments, information, judgments, audits, inspector general investigation reports, credit reports and financial reports, FBI reports, copies of HUD/FHA forms, and related documentation and information. The individual's name, family composition, marital status, arrest record address, telephone number (if provided), and employment information are also included in the file together with documentary evidence and/or narrative details relative to improper or illegal acts or omissions of participants in HUD programs.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Department of HUD Act, 79 Stat. 670; [42 U.S.C. 3535(d)].

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

See routine uses paragraph in prefatory statement. Other routine uses: Attorneys who are in private practice who represent clients who have files in the system—to permit the attorneys to properly represent their clients; to licensing and regulatory agencies as well as to other Federal and State government agencies—to provide information concerning individuals who have been administratively sanctioned by HUD.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In file folders.

RETRIEVABILITY:

Name of individual.

SAFEGUARDS:

Desks, file cabinets kept in a secured area. Access restricted to authorized individuals.

RETENTION AND DISPOSAL:

Obsolete records are destroyed or sent to storage facility in accordance with HUD Handbook 2225.6, Records Disposition Management: HUD Records Schedules.

SYSTEM MANAGER AND ADDRESS:

Director, Participation and Compliance Division, Office of Management, HAC, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry abut the existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed in relation to contesting the contents of records, it may be obtained by contacting the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A. If additional information or assistance is needed in relation to appeals of initial denials, it may be obtained by contacting the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington D.C. 20410.

RECORD SOURCE CATEGORIES:

HUD employees, Federal government agencies, non-Federal government agencies, Federal and State courts, financial institutions (mortgagees), Federal, State, and local law enforcement, regulatory or licensing agencies.

HUD/H-14

SYSTEM NAME:

Interstate Land Sales Registration Files.

SYSTEM LOCATION:

Headquarters.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Developers of land offering 25 or more lots for sale and using any means or instruments of interstate commerce including the mails.

CATEGORIES OF RECORDS IN THE SYSTEM:

Property reports; statements of record including documentation such as corporate charter, individual and corporate financial statements, title policy, deeds, mortgages, local ordinances, health regulations, availability of utilities, plats, information on roads and recreational facilities and contracts; statistical records; budget estimates; microfilm information; exemption applications; and related information and documentation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

15 U.S.C. 1704(d).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routine Uses paragraphs in prefatory statements. Other routine uses: To contractor for microfilming; to the general public in accordance with

provisions of the Interstate Land Sales Full Disclosure Act (15 U.S.C. 1704(d)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In file folders, microfilm and on magnetic tape, disc, or drum.

RETRIEVABILITY:

OILSR file number, name of subdivision or name of the developer.

SAFEGUARDS:

Manual records are kept in secured area. Computer facilities are secured and accessible only by authorized personnel, and all files are stored in a secured area. Technical restraints are employed with regard to accessing the automated files.

RETENTION AND DISPOSAL:

Files on subdivisions are active and kept up-to-date in a secured area. Files are in the process of being microfilmed and will be retained in the Records and Control Branch. HUD handbooks establish procedures for retention and disposition of other records.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Interstate Land Sales Registration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required contact the Privacy Act Officer at the Headquarters location. This locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed in relation to contesting the contents of records it may be obtained by contacting the Privacy Act Officer at the Headquarters location. This location is given in Appendix A. If additional information or assistance is needed in relation to appeals of initial denials, it may be obtained by contacting the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject individual; HUD field representatives.

HUD/PD&R-11

SYSTEM NAME:

HUD Community Development Block Grant State Transfer Evaluation Files.

SYSTEM LOCATION:

HUD contractor to be selected and Headquarters Office.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

A sample of local community development officials and the state officials responsible for the Community Development Block Grant Small Cities Program transfer to those same states (a sample of states out of a potential universe of thirty-seven states). Also, a limited number of other relevant and informed persons on the state transfer, e.g., HUD Area Office personnel responsible for CDBG small cities program review.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, title, organizational address, and telephone numbers of interviewees; demographic and socio-economic characteristics of the cities and states sampled, such as population, poverty population, and age of housing stock; and program development and administration interview data about the small cities program transfer to the states in the sample cities and states.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C 552a, 88 Stat. 1896; Sec. 7(d). Department of HUD Act (42 U.S.C. 3535(d)).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To HUD contractor-for analysis by the contractor of the state transfer.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual records stored in lockable file drawers located in lockable rooms. Access limited to authorized personnel. Personnel identifiers such as mailing labels, names, addresses, and assigned codes maintained in separate locked files with access restricted. Automated records contain no identification of individuals except assigned numeric codes.

RETRIEVABILITY:

Name, address, and numeric code.

SAFEGUARDS:

Manual records stored in lockable file cabinets in secured areas. Computer records will be maintained in secured with regard to accessing records. Access to both types of records is limited to authorized personnel.

RETENTION AND DISPOSAL:

Records are periodically returned to Federal Records Center and destroyed in accordance with HUD Handbook 2225.6.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Community Development and Fair Housing Analysis, Assistant Secretary for Policy Development and Research, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the Headquarters location. This location is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed in relation to contesting the contents of records, it may be obtained by contacting the Privacy Act Officer at the Headquarters location. This location is given in Appendix A. If additional information or assistance is needed in relation to appeals of initial denials, it may be obtained by contacting the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject individuals.

Appendix A—Officials to Receive Inquiries, Requests for Access and Requests for Correction or Amendment

Headquarters

Privacy Act Officer, 551 Seventh Street SW., Washington, D.C. 20410.

Region I

Regional Administrator, Room 800, John F. Kennedy Federal Building, Boston, Mass. 02203.

Area Offices

Area Manager, Bulfinch Building, 15 New Cardon Street, Boston, Mass. 02114.
Area Manager, One Hartford Square West, Suite 204, Hartford, Conn. 06106.

Service Offices

Supervisor, Norris Cotton Federal Building, 275 Chestnut Street, Manchester, New Hampshire 03103.
Supervisor, Room 330, John O. Pastore Federal Building, U.S. Post Office, Kennedy Plaza, Providence, Rhode Island 02903.

Valuation/Endorsement Stations

Supervisor, Federal Building and Post Office, 202 Harlow Street, Bangor, Maine 04401.
Supervisor, 110 Main Street, P.O. Box 989, Burlington, Vermont 05402.

Region II

Regional Administrator, 26 Federal Plaza, New York, New York 10278.

Area Offices

Area Manager, Mezzanine, Statler Building, 107 Delaware Avenue, Buffalo, New York 14202.
Area Manager, 26 Federal Plaza, New York, New York 10278.
Area Manager, Military Park Building, 60 Park Place, Newark, New Jersey 07102.
Area Manager, Gateway I Building, Raymond Plaza, Newark, New Jersey 07102.

Caribbean Area Office

Area Manager, Federico Degetau Federal Building, U.S. Courthouse, Room 428, Carlos E. Chardon Avenue, Hato Ray, Puerto Rico 00918.

Service Offices

Supervisor, Leo W. O'Brien Federal Building, North Pearl Street and Clinton Avenue, Albany, New York 12207.
Supervisor, The Parkade Building, 519 Federal Street, Camden, New Jersey 08103.

Region III

Regional Administrator, Curtis Building, 6th and Walnut Streets, Philadelphia, Pa. 19106.

Area Offices

Area Manager, The Equitable Building, Third Floor, 10 North Calvert Street, Baltimore, Maryland 21202.
Area Manager, Curtis Building, 625 Walnut Street, Philadelphia, Pa. 19106.
Area Manager, Fort Pitt Commons, 445 Fort Pitt Blvd., Pittsburgh, Pennsylvania 15219
Area Manager, 701 East Franklin Street, Richmond, Virginia 23219
Area Manager, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C. 20009

Service Office

Supervisor, Kanawha Valley Building, Capitol and Lee Streets, Charleston, West Virginia 25301

Valuation/Edorsement Station

Supervisor, 800 Delaware Avenue, Rm. 511, Wilmington, Delaware 19801

Region IV

Regional Administrator, Richard B, Russell, Federal Building, 75 Spring Street, S.W., Atlanta, Georgia 30303

Area Offices

Area Manager, Richard B. Russell Federal Building, 75 Spring Street, S.W., Atlanta, Georgia 30303
Area Manager, Daniel Building, 15 South 20th Street, Birmingham, Alabama 35233
Area Manager, Strom Thurmon Federal Building, 1835—45 Assembly Street, Columbia, South Carolina 29201
Area Manager, 415 N. Edgeworth Street, Greensboro, North Carolina 27401
Area Manager, Federal Building, 100 W. Capital St., Suite 1016, Jackson, Mississippi 39201
Area Manager, 325 West Adams St., Jacksonville, Florida 32202
Area Manager, One Northshore Building, 1111 Northshore Drive, Knoxville, Tennessee 37919
Area Manager, 539 Fourth Avenue, P.O. Box 1044, Louisville, Kentucky 40201.

Service Officers

Supervisor, 3001 Ponce de Leon Boulevard, Coral Gables, Florida 33134
Supervisor, Federal Building, 700 Twiggs Street, Post Office Box 2097, Tampa, Florida 33601
Supervisor, Federal Office Building, 80 N. Hughey, Orlando, Florida 32801
Supervisor, 28th Floor, 100 North Main Street, Memphis, Tennessee 38103
Supervisor, One Commerce Place, Suite 1600, Nashville, Tennessee 37219

Region V

Regional Administrator, 300 South Wacker Drive, Chicago, Illinois 60606

Area Offices

Area Manager, 547 West Jackson Boulevard, Chicago, Illinois 60606.
Area Manager, New Federal Building, 200 North High Street, Columbus, Ohio 43215
Area Manager, Patrick V. McNamara Federal Building, 477 Michigan Avenue, Detroit, Michigan 48226
Area Manager, 151 North Delaware Street, Indianapolis, Indiana 46207
Area Manager, Henry S. Reuss. Federal Plaza, Suite 1380, 310 West Wisconsin Avenue, Milwaukee, Wisconsin 53203.
Area Manager, Bridge Place Building 220 Second Street, South, Minneapolis, Minnesota 55401

Service Offices

Supervisor, Federal Office Building, 550 Main Street, Cinninnatt, Ohio 45202
Supervisor 777 Rockwell Avenue, Cleveland, Ohio 44114
Supervisor, Northbrook Building Number II, 2922, Fuller Avenue, N.E., Grand Rapids, Michigan 49505
Supervisor, Genesee Bank Building, Room 200, 352 South Saginaw Street, Flint, Michigan 48502

Valuation/Endorsement Station

Supervisor, Lincoln Tower Plaza, 524 South Second Street, Springfield, Illinois 52701

Region VI

Regional Administrator, 221 West Lancaster St., Fort Worth, Texas 76113

Area Offices

Area Manager, 1403 Slocum St., P.O. Box 2005D Dallas, Texas 75207
Area Manager, Savers Building, 320 West Capitol, Suite 700, Little Rock, Arkansas 72201
Area Manager, 1661 Canal Street, New Orleans, Louisana 70112.
Area Manager, 200 N.W. Fifth Street, Oklahoma City, Oklahoma 73102
Area Manager, Washington Square, 800 Dolorosa, Post Office Box 9163, San Antonio, Texas 78285

Sevice Offices

Supervisor, 221 West Lancaster St., Fort Worth, Texas 76113
Supervisor, Two Greenway Plaza East, Suite 200, Houston, Texas 77046
Supervisor, Federal Building, 1205 Texas Avenue, Lubbock, Texas 79408
Supervisor, 625 Truman Street, N.E., Albuquerque, New Mexico 87110
Surpervisor, New Federal Building 500 Fannin St., Shreveport, Louisiana 71101
Supervisor, 440 South Houston Avenue, Tulsa, Oklahoma 74127

Region VII

Regional Administrator, Professional Bldg., 1103, Grand St., Kansas City, Missouri 64106

Area Offices

Area Manager, Professional Building 1103 Grand St., Kansas City, Missouri 64106
Area Manager, Braiker/Brandeis Building, 210 South 16th Street, Omaha, Nebraska 68102.
Area Manager, 210 North Tucker Boulevard, St. Louis, Missouri 63101

Service Office

Supervisor, Room 259, Federal Building, 210 Walnut Street, Des Moines, Iowa 50309

Valuation/Endorsement Station

Supervisor, 444 S.E., Quincy Street, Topeka, Kansas 66683

Region VIII

Regional Administrator, Executive Tower Building, 1405 Curtis Street, Denver, Colorado 80202

Service Office

Supervisor, Federal Office Bldg. Rm. 340, Drawer 10095, 301 South Park, Helena, Montana 59626
Supervisor, 125 South State Street, Salt Lake City, Utah 84111

Valuation/Endorsement Stations

Supervisor, Federal Office Building, 100 East B St., P.O. Box 580, Casper, Wyoming 82602
Supervisor, Federal Building, 653 2nd Avenue North, P.O. Box 2483, Fargo, North Dakota 58108
Supervisor, 119 Federal Building, U.S. Couthouse, 400 S. Phillips Avenue, Sioux Falls, South Dakota 57102

Region IX

Regional Administrator, 450 Golden Gate Avenue, Post Office Box 36003, San Fancisco, California 94102

Area Offices

Area Manager, Federal Building, 300 Ala Moana Boulevard, Suite 3318, Honolulu, Hawaii 96850
Area Manager, 2500 Wilshire Boulevard, Los Angeles, California 90057
Area Manager, 1 Embarcadero Center, Suite 1600, San Francisco, California 94111

Service Offices

Supervisor, 34 Civic Center Plaza, Room 614, Santa Ana, California 92701
Supervisor, Federal Office Building, 880 Front Street, San Diego, California 92188
Supervisor, Arizona Bank Building, 101 N. First Avenue, Suite 1800, Phoenix, Arizona 85003
Supervisor, Arizona Bank Building, 33 North Stone Avenue, Tucson, Arizona 85701
Supervisor, 1315 Van Ness Street, Fresno, California 93721
Supervisor, 545 Downtown Plaza, Post Office Box 1978, Sacramento, California 95809
Supervisor, 1050 Bible Way, Post Office Box 4700 Reno, Nevada 89505
Supervisor, 720 South 7th St., Las Vegas, Nevada 89101

Region X

Regional Administrator, 3003 Arcade Plaza Building 1321 Second Avenue, Seattle, Washington 98101

Area Offices

Area Manager, 701 C Street, Box 64, Anchorage, Alaska 99513
Area Manager, 520 Southwest 6th Avenue, Portland, Oregon 97204
Area Manager, Arcade Plaza Building, 1321 Second Avenue, Seattle, Washington 98101

Service Offices

Supervisor, 419 North Curtis Road, Boise, Idaho 83705.
Supervisor, West 920 Riverside Avenue, Spokane, Washington 99201

[FR Doc. 83-23222 Filed 8-24-83 8:45 am]
BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[F-14874-A through F-14874-J]

Alaska Native Claims Selection

The purpose of this decision is to modify the Decision to Issue Conveyance (DIC) dated June 27, 1983, and the notice of decision to issue conveyance published in the **Federal Register** on June 27, 1983, pages 2918 and 29619. The DIC reserve certain easements in accordance with the Alaska State Director (SD), Bureau of Land Management (BLM), memorandum of March 10, 1982, which was amended June 8, 1983, and June 23, 1983, listing final easements to be reserved in the conveyance for the village of Kiana.

On July 22, 1983, the SD memorandum of March 10, 1982, was further amended as to easements numbered (EIN 3 C3, C5, D1, D9), (EIN 16 C5), and (EIN 21 C5).

Therefore, the DIC dated June 27, 1983 is modified as follows:

Easement (EIN3 C3, C5, D1, D9) now reads:

a. (EIN 3 C3, C5, D1, D9) An easement twenty-five (25) feet in width for an existing access trail from site EIN 3a E in Sec. 25, T. 18 N., R. 8 W., Kateel River Meridian, southerly to public land. The uses allowed are those listed for a twenty-five (25) foot wide trail easement.

This easement is hereby modified to read:

a. (EIN 3 C3, C5, D1, D9) An easement twenty-five (25) feet in width for an existing and proposed access trail from site EIN 3a E in Sec. 25, T. 18 N., R. 8 W., Kateel River Meridian, southerly to public land. The uses allowed are those listed for a twenty-five (25) foot wide trail easement.

Easement (EIN 16 C5) now reads:

f. (EIN 16 C5) An easement fifty (50) feet in width for an existing access trail from site EIN 16a C3, E in Sec. 35, T. 19 N., R. 8 W., Kateel River Meridian, northeasterly to public land in T. 19 N., R. 7 W., Kateel River Meridian. The uses allowed are those listed for a fifty (50) foot wide trail easement.

This easement is hereby modified to read:

f. (EIN 16 C5) An easement fifty (50) feet in width for an existing and proposed access trail from site EIN 16a C3, E in Sec. 35, T. 19 N., R. 8 W., Kateel River Meridian, Northeasterly to public land in T. 19 N., R. 7 W., Kateel River Meridian. The uses allowed are those listed for a fifty (50) foot wide trail easement.

Easement (EIN 21 C5) now reads:

i. (EIN 21 C5) An easement twenty-five (25) feet in width for an existing access trail from the Kobuk River, Sec. 11, T. 18 N., R. 7 W., Kateel River Meridian, southerly to public land. The uses allowed are those listed for a twenty-five (25) foot wide trail easement.

This easement is hereby modified to read:

i. (EIN 21 C5) An easement twenty-five (25) feet in width for an existing and proposed access trail from the Kobuk River, Sec. 11, T. 18 N., R. 7 W., Kateel River Meridian, southerly to public land. The uses allowed are those listed for a twenty-five (25) foot wide trail easement.

The easement maps attached to the decision of June 27, 1983, are still valid and were not changed by this modified decision.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this modified decision is being published once in the **Federal Register** and once a week for four (4) consecutive weeks, in the Tundra Times.

Any party claiming a property interest in lands affected by this modified decision, an agency of the Federal government, or regional corporation may appeal the modified decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43, Code of Federal Regulations (CFR), Part 4, Subpart E, as revised. However, pursuant to Pub. L. 96-487, this modified decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of Conveyance Management, (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of this modified decision by personal service or certified mail, return receipt requested, shall have thirty days from receipt of this modified decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt and parties who received a copy

of this modified decision by regular mail which is not certified, return receipt requested, shall have until September 26, 1983 to file an appeal.

Any party known or unknown who is adversely affected by this modified decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of Conveyance Management.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the party to be served with a copy of the notice of appeal is: NANA Regional Corporation, Inc., Successor in Interest to Katyaak Corporation, P.O. Box 49, Kotzebue, Alaska 99752.

Except as modified by this decision, the decision of June 27, 1983, stands as written.

Steven L. Willis,

Acting Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 83-23321 Filed 8-24-83; 8:45 am]
BILLING CODE 4310-84-M

[M 37743-A]

Montana; Conveyance of Public Land, Lewis and Clark County

August 19, 1983.

Notice is hereby given that, pursuant to Section 203 of the Act of October 21, 1976 (90 Stat. 2750; 43 U.S.C. 1713), the following described land was sold by noncompetitive sale to George C. Watters, Jr. of Helena, Montana:

Principal Meridian, Montana

T. 10 N., R. 4 W.,
Sec. 36, Lot 35.

Containing 0.49 acres.

The purpose of this notice is to inform the public and interested state and local governmental officials of the issuance of the conveyance document to Mr. Watters.

Edgar D. Stark,

Chief, Lands Adjudication Section.

[FR Doc. 83-23329 Filed 8-24-83; 8:45 am]
BILLING CODE 4310-84-M

[A-16128]

Arizona; Application for Issuance of Disclaimer of Interest to Lands in Arizona

August 18, 1983.

Notice is hereby given that the United States of America, pursuant to the provisions of the Federal Land Policy and Management Act of 1976 (FLPMA), Section 315, 43 U.S.C. 1745 (1976), does hereby give notice of its intention to disclaim all interest in the following described property, to wit:

Gila and Salt River Meridian, Arizona

T. 14 N., R. 5 E.,
That tract of land consisting of a portion of the riparian attachments (accretions) to Lot 6 of Section 29, Township 14 North, Range 5 East, Gila and Salt River Meridian, Arizona, as well as a portion of the south half of the river bed which lies directly between the medial line of the Verde River, as it may exist from time to time, and the upland areas of Lot 6, Section 29, T. 14 N., R. 5 E., G&SRM, Arizona.

After review of the offical records, it is the position of the Bureau of Land Management that the United States has issued patent to a fractional lot bounded by the Verde River, and there are no specific reservations in said patent, there exists no valid United States claim to land which might have been formed by accretion to said lot and there is no valid United States claim to land within the bed of the Verde River in front of said lot.

Any person wishing to submit a protest or comments on the above disclaimer should do so in writing before the expiration of 90 days from the date of publication of this notice. If no protest(s) is received, the disclaimer will become effective on the date set out below.

Disclaimer of title and release of all interest of the United States shall issue on or after November 30, 1983.

Information concerning this land and the proposed disclaimer may be obtained from and the protest filed with State Director, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073.

Mildred C. Koxlow,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-23330 Filed 8-24-83; 8:45 am]
BILLING CODE 4310-84-M

[A-17000-L]

Arizona; Order Providing for Opening of Public Lands

August 18, 1983.

1. In **Federal Register** Volume 47, Number 83, Pages 18433–18434 dated April 29, 1982, approximately 3280 acres were proposed as suitable for classification for transfer to the State of Arizona under the State Indemnity Selection Program. All the lands have been transferred to the State of Arizona with the exception of 163.38 acres, which have been deleted from the State's application and are described as follows:

T.16–½ N., R. 18 W., G&SRM
Sec. 20: S½NE¼SE¼, E½SE¼NW¼SE¼, E½NE¼SE¼, E½SE¼SW¼SE¼, NW¼SE¼SE¼, those portions lying outside I–40 R/W.
Approximately 34.00 acres.

T.19N., R.17W., G&SRM
Sec. 18: Lots 2, 9, 12, 19 all west of Railroad R/W.
Approximately 100.00 acres.

T. 21 N., R. 17 W., G&SRM
Sec. 8: W½SW¼SW¼NW¼, SW¼NE¼SW¼SW¼NW¼, SE¼SW¼, SW¼NW¼, S½SW¼SE¼SW¼NW¼, NW¼NW¼SW¼, W½NE¼NW¼SW¼, NW¼NE¼NE¼NW¼SW¼, S½NE¼NE¼NW¼SW¼, SE¼NE¼NW¼SW¼.
Approximately 29.375 acres.
The areas described aggregate about 163.38 acres in Mohave County.

2. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands described in paragraph 1 are hereby open to the operation of the public land laws including the mining laws (Ch. 2, Title 30 U.S.C.).

All valid applications under the public land laws received at or prior to 10:00 a.m. on September 26, 1983 shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Appropriation of lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Section 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determination in local courts.

3. The lands have been and will continue to be open to applications and offers under the mineral leasing laws.

4. Inquiries concerning the lands should be addressed to the Bureau of Land Management, Department of the Interior, 2400 Valley Bank Center, Phoenix, Arizona 85073 (602–261–4774).

Mildred C. Koslow,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83–23340 Filed 8–24–83; 8:45 am]

BILLING CODE 4310–84–M

California Desert District; Shoshone Cave Wildlife Habitat Management Area

AGENCY: Bureau of Land Management, Interior.

ACTION: Vehicle route closure on public lands.

SUMMARY: This route closure is being implemented to protect sensitive wildlife values from inadvertent damage caused by vehicle use. A single vehicle route which extends for approximately one-half mile will be closed to vehicle use. This route is located in the SW¼ of Section 12 of Township 22 North, Range 6 East in southern Inyo County, California. Route closure is the result of a management plan for the area which was developed following guidelines established in the California Desert Conservation Area Plan. Development of this plan included public involvement.

A single route where vehicle use is not permitted will be clearly signed. Copies of maps showing this route are available for review at the BLM Barstow Resource Area Office, 831 Barstow Road, Barstow, California 92311. The public lands within this area will remain available to other resource uses not in conflict with the objectives of this management plan. Administrative access into areas closed to vehicle use is allowed for BLM personnel, BLM contractors, licensees, permittees, lessees, and other Federal, State, and county employees when on official duty and when authorized beforehand by the Area Manager.

Under the authority provided in the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), 43 CFR 8000.0–6, 8340, 8341, 8342, and 8364, the Sikes Act of 1974, and Executive Order 11644 (Use of Off-road Vehicles on Public Lands).

DATE: This notice is effective upon publication and will remain in effect until a formal notice is published which opens the area.

FOR FURTHER INFORMATION CONTACT: Area Manager, Barstow Resource Area, 831 Barstow Road, Barstow, California 92311, or telephone (619) 256–3591.

Dated: August 18, 1983.

H. W. Riecken,

Acting District Manager.

[FR Doc. 83–23339 Filed 8–24–83; 8:45 am]

BILLING CODE 4310–84–M

Colorado; Filing of Plats of Survey

August 15, 1983.

The plats of survey of the following described lands were officially filed in the Colorado State Office, Bureau of Land Management, Colorado, effective 10:00 a.m., August 15, 1983.

Sixth Principal Meridian

T. 4 N., R. 71 W.

The plat representing the dependent resurvey of a portion of the south boundary, the west boundary, a portion of the subdivisional lines and the survey of the subdivision of certain sections, T. 4 N., R. 71 W., Sixth Principal Meridian, Colorado, Group 632, was accepted July 19, 1983.

This survey was executed to meet certain administrative needs of the U.S. Forest Service.

T. 10 S., R. 84 W.

The supplemental plat creating lots 38, 39, and 40, in section 7, T. 10 S., R. 84 W., Sixth Principal Meridian, Colorado, was accepted July 18, 1983.

This survey was executed to meet certain administrative needs of this Bureau.

New Mexico Principal Meridian

T. 33 N., R. 12 W.

The plat represent the dependent resurvey of a portion of the Eighth Standard Parallel North (south boundary), a portion of the west boundary, and subdivisional lines, and a portion of the subdivision of sections 19, 30, and 31, and the survey of the subdivision of sections 19, 30, and 31, T. 33 N., R. 12 W., New Mexico Principal Meridian, Colorado, Group 725, was accepted July 14, 1983.

T. 32 N., R. 13 W.

The plat representing the dependent resurvey of a portion of the subdivisional lines and a portion of the subdivision of sections 3 and 4, and the survey of the subdivision of sections 3 and 4, T. 32 N., R. 13 W., New Mexico Principal Meridian, Colorado, Group 725, was accepted July 14, 1983.

T. 33 N., R. 13 W.

This plat representing the dependent resurvey of a portion of the Eighth Standard Parallel North (south boundary), a portion of subdivisional lines, and the survey of the subdivision of certain Sections, T. 33 N., R. 13 W., New Mexico Principal Meridian, Colorado, Group 725, was accepted July 14, 1983.

These surveys were executed to meet certain administrative needs of the Bureau of Indian Affairs.

All inquiries about these lands should be sent to the Colorado State Office, Bureau of Land Management, 1037 20th Street, Denver, Colorado 80202.

Kenneth D. Witt,

Chief Cadastral Surveyor for Colorado.

[FR Doc. 83–23331 Filed 8–24–83; 8:45 am]

BILLING CODE 4310–84–M

[Serial No. I–20193A]

Idaho; Conveyance of Public Lands, Blaine County

August 17, 1983.

Notice is hereby given that pursuant to the Act of October 21, 1976 (90 Stat. 2750; 43 U.S.C. 1713), a patent was issued to William E. McCormick, Gooding, Idaho, for the following-described public land:

Boise Meridian, Idaho

T. 2 S., R. 17 E.,
Sec. 1, lot 62.
Containing .046 acres.

The purpose of this notice is to inform the public and interested State and local governmental officials of the conveyance.

Louis B. Bellesi,

Deputy State Director for Operations.

[FR Doc. 83–23333 Filed 8–24–83; 8:45 am]

BILLING CODE 4310–84–M

Idaho; Wilderness Inventory Reevaluation

The Interior Board of Land Appeals (IBLA 81–1037) has directed the Bureau of Land Management to reevaluate the decision not to designate Idaho Wilderness Inventory Unit 111–5 as a Wilderness Study Area. Specifically the IBLA decision requires the BLM to reconsider and document the following points:

(1) Determine if the unit is properly subdivided into three subunits consistent with criteria outlined in Organic Act Directive (OAD), 78–61, Change 3 (July 12, 1979).

(2) If the facts do not support subdivision of the unit into three subunits, reevaluate opportunities for solitude.

The following constitutes the reevaluation in accordance with the IBLA decision:

Reevaluation of the Decision to Subdivide the Unit into Three Subunits

In the inventory decision Unit 111–5 was subdivided into three subunits. boundaries of the subunits were cherry-stem roads that nearly bisect the unit leaving narrow land necks about 1 mile and ¼ mile in width. The IBLA decision notes that the roads do not bisect the unit. Boundaries of BLM wilderness inventory units are ordinarily located along roads or other substantially noticeable imprints of man. Organic Act Directive (OAD), 78–61, Change 2 (June 28, 1979) specifies that when a boundary adjustment is made due to the imprints of man, the boundary should be relocated on the physical edge of the imprint of man. OAD 78–61, Change 3, however, provides that unit boundaries may also be adjusted in the following circumstances:

(a) When a narrow finger of roadless land extends outside the bulk of the unit;

(b) When land without wilderness characteristics penetrates the unit in such a manner as to create narrow fingers of the unit (e.g., cherry-stem roads closely paralleling each other);

(c) When extensive inholdings occur and create a very congested and narrow boundary area. These situations are expected to rarely occur, and boundary adjustments in such cases may only be made with State Director approval. Very good judgment will be required in locating boundaries under such conditions so as to exclude only the minimum appropriate land. Such boundary adjustments are *not* permissible if the land in question possesses an outstanding opportunity for primitive and unconfined recreation. (Emphasis in original).

Examination of the inventory record indicates that subunit boundaries do not follow the physical edge of the imprints of man. Division of the unit into three subunits was based on the application of criteria (b) above which provides for adjusting boundaries to eliminate narrow fingers of a unit. Upon reexamination, this criteria may have been inappropriately applied. Creation of the three subunits does not, in fact, eliminate a narrow finger of the unit. The three subunits were created to resolve serious configuration problems with the original unit. In conclusion, there is no specific policy permitting the subdivision of this unit into three subunits.

Reevaluation of Opportunities for Solitude

Because the facts do not support subdivision of the unit into three subunits, it is necessary to reevaluate the unit's opportunities for solitude. To evalutate solitude the BLM must consider the interrelationship between size, screening, configuration, and other factors that influence solitude. Evaluating the unit as a whole rather than as three subunits could affect these interrelationships, particularly size and configuration.

This unit is dominated by low shrubs and grass vegetation. Vegetative screening is minimal. The western end of the unit has fair to good topographic screening in the draws perpendicular to Birch Creek. However, topographic layout would draw visitors into a narrow corridor of use along Birch Creek, increasing the potential for visitor contacts. The relatively straight open character of the canyon magnifies this corridor effect. The central portion of the unit is characterized by parallel ridges and short draws. These draws and ridges provide some opportunities for solitude in isolated locations. This ability to hide, however, does not equate with an outstanding opportunity for solitude. In the eastern end of the unit, the shallow open character of the terrain reduces the capacity of the topography to provide adequate screening.

Opportunities for solitude in the unit are severely compromised by the 10+ miles of cherry-stem roads that penetrate the central portion of the unit. These roads lie in the Birch Creek and Poison Gulch drainages. Their relationship to the surrounding terrain indicates recreationists seeking solitude in these areas would frequently encounter these nonwilderness corridors. Many of the small draws where a person might find temporary refuge lie perpendicualr to these roads.

The relatively large size of this unit (30,742 acres) does not insure outstanding opportunities for solitude. The unit's size must be evaluated in conjunction with configuration. The unit has a very irregular configuration. This irregular configuration negates much of the value that size contributes to opportunities for solitude. There is no place in the unit where a recreationist would be more than 1½ miles from a boundary. This is indicative of much smaller inventory units and shows the importance of configuration in conjunction with size.

After careful reevaluation of the unit as a whole the BLM has concluded that opportunities for solitude remain less than outstanding. In spite of its relatively large size, the unit's topographic features, minimal vegetative screening and configuration combine to preclude outstanding opportunities for solitude.

Recommendation

Previous evaluations of naturalness and opportunities for primitive recreation are not affected by the IBLA decision. The imprints of man are substantially unnoticeable in the unit as a whole. The unit does not have outstanding opportunities for primitive and unconfined recreation because it lacks natural features that would provide a strong recreational attraction to primitive recreationists.

Reevaluation following the IBLA decision indicates this unit should not be identified as a wilderness study area due to a lack of outstanding opportunities for solitude and a lack of outstanding opportunities for primitive recreation.

Any person adversely affected by this decision can appeal to the Interior Board of Land Appeals, as specified in the 43 Code of Federal Regulations (CFR), Part 4.

For further information contact the following office: Bureau of Land Management, Idaho State Office, 3380 Americana Terrace, Boise, Idaho 83706.

Dated: August 16, 1983.

Clair M. Whitlock,

State Director.

[FR Doc. 83–23332 Filed 8–24–83; 8:45 am]

BILLING CODE 4310–84–M

[N–38132]

Nevada; Realty Action Non-Competitive Sale of Public Land in Humboldt County, Nevada

August 16, 1983.

The following described public land has been examined and identified as suitable for disposal by sale under Sec. 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713), at no less than the appraised fair market value.

Mount Diablo Meridian, Nevada

T. 36 N., R. 37 E.,
Sec. 26, S½S½S½SW¼NE¼,
S½S½S½SE¼NW¼,
S½S½S½S½SW¼NW¼.

This land, containing 12.5 acres, is being offered at direct sale to the District Court Judge, Richard J. Legarza, who will act as intermediary and deed the property to the individual land owners as the property is paid for. This land disposal effort by the Bureau of Land Management will resolve a trespass situation resulting from a surveying error that affects property owners in the Jungo Road vicinity.

This sale is consistent with the Bureau of Land Management's planning system.

Bureau policy is that public lands will be disposed of in an attempt to achieve resolution of inadvertent trespass actions involving substantial improvements on the public lands. The public interest will be served by offering this land for direct sale to the District Court Judge. The land will not be offered for sale until 60 days after the date of this notice.

BLM may accept or reject any and all offers, or withdraw any land or interest in land from sale if, in the opinion of the authorized officer, consumation of the sale would not be fully consistent with FLPMA or other applicable laws.

The patent, when issued, will contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States. Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

2. All mineral deposits in the lands so patented, and to it, or persons authorized by it, the right to prospect, mine, and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe.

And will be subject to:

1. Those rights for communication line purposes which have been granted to Bell Telephone Company of Nevada, its successors or assigns, by Permit No. Nev–060546, under the Act of March 4, 1911, 36 Stat. 1253, 43 U.S.C. 961.

2. Those rights granted by oil and gas lease, N–34369, made under Section 29 of the Act of February 25, 1920, 41 Stat. 437 and the Act of March 4, 1933, 47 Stat. 1570. This patent is issued subject to the right of the prior permittee or lessee to use so much of the surface of said land as is required for oil and gas exploration and development operations, without compensation to the patentee for damages resulting from proper oil and gas operations, for the duration of oil and gas lease, N–34369, and any authorized extension of that lease. Upon termination or relinquishment of said oil and gas lease, this reservation shall terminate.

Detailed information concerning the sale is available for review at the Bureau of Land Management District Office, 705 East 4th Street, Winnemucca, Nevada 89445.

For a period of 45 days from the date this notice is published in the **Federal Register**, interested parties may submit comments to the State Director (NV–943), P.O. Box 12000, Reno, Nevada 89520.

Wm. J. Malencik,

Deputy State Director, Operations.

[FR Doc. 83–23334 Filed 8–24–83; 8:45 am]

BILLING CODE 4310–84–M

[OR 36110]

Realty Action; Recreation and Public Purposes Classification and Lease; Public Land in Multnomah County, Oregon

August 17, 1983.

The following described land has been examined and determined to be suitable for lease under the Recreation and Public Purposes Act of June 14, 1926, as amended (43 U.S.C. 869 et seq.), and is hereby so classified:

Willamette Meridian, Oregon

T. 2 N., R. 2 W.,
Section 15: metes and bounds within the NW¼SE¼.

The above described land contains approximately 1.3 acres.

The subject land will be leased to the Multnomah County Rural Fire Protection District No. 20 for a fire station. The lease will authorize the construction of 36-foot by 44-foot building for the storage of a water tanker and pumper trucks and related fire equipment.

The addition of the fire station will reduce the severity of homefires and wildfires for the surrounding community. The presence of the fire station will also reduce the risk of forest fires on nearby public lands. The land is not of national significance and this action will have no significant impact on the environment. The action is consistent with existing land use plans and with State and local planning and zoning designations. The proposal has been reviewed by Multnomah County officials who have expressed their support for the new fire station.

The lease will have a term of 25 years and, under the special pricing provision, the rental shall be $10.00 for the entire term.

Classification of this land segregates it from all forms of appropriation, including locations under the mining laws, except as to applications under the mineral leasing laws and applications under the Recreation and Public Purposes Act.

Detailed information concerning the lease, including the environmental assessment/land report, is available for review at the Bureau of Land Management, Salem District Office, 1717 Fabry Road S.E., Salem, Oregon.

For a period of 30 days from the date of this notice, interested parties may submit comments to the Tillamook Area Manager, 6615 Officer's Row, Tillamook, Oregon 97141. Any adverse comments will be evaluated by the Salem District Manger, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the Salem District Manager, this realty action will become the final determination of the Department of the Interior.

Jerome M. Heinz,

Tillamook Area Manager.

[FR Doc. 83–23335 Filed 8–24–83; 8:45 am]

BILLING CODE 4310–84–M

Geophysical Explorations (Oil and Gas); Intent to Prepare Environmental Impact Statement and Scoping Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Prepare an Environmental Impact Statement and hold public scoping meeting on a proposed exploratory oil well, 28 miles west of Cody.

SUMMARY: The U.S. Department of the Interior, Bureau of Land Management, Worland District Office, Wyoming, will be the lead agency; and the Shoshone National Forest, Cody, Wyoming, will be the cooperating agency to prepare an Environmental Impact Statement on a proposed exploratory oil well. The proposed well is located on the Shoshone National Forest in Park County about 28 miles west of Cody, Wyoming, near the highway to Yellowstone National Park and 2 miles east of the Washakie Wilderness. Site specific and cumulative effects of drilling, development, and production will be analyzed. Preliminary issues and concerns include: (1) The effects on wildlife (particularly Bighorn sheep and elk), (2) the effects of noise on residents and other forest users, (3) the potential for contaminating streams, (4) the potential visual impacts, (5) the potential for increased traffic on the Yellowstone Highway, (6) the potential for hydrogen sulfide gas, and (7) the potential for changing the character of the area from "undisturbed" to developed. Other issues may also be identified and addressed.

A public meeting on the scope of the issues to be addressed will be held October 19, 1982, at 7:00 p.m. at the Cody Convention Center in Cody, Wyoming. The purpose of the meeting is to gather information from the public and identify issues important to the public.

Any person wishing to submit written comment or suggestions on issues or alternatives to the proposed action should send them to: John Thompson, Bureau of Land Management, P.O. Box 119, Worland, Wyoming 82401. These should be received no later than November 1, 1983, in order to be considered in determining the scope of the EIS.

DATE: October 19, 1982, at 7:00 p.m.

ADDRESS: Cody Convention Center, 1240 Beck Avenue, Cody, Wyoming.

FOR FURTHER INFORMATION CONTACT: John Thompson, Bureau of Land Management, P.O. Box 119, Worland, Wyoming 82401, telephone: (307) 347–6151.

Chester E. Conard,

District Manager.

[FR Doc. 83-23382 Filed 8-24-83; 8:45 am]

BILLING CODE 4310-84-M

[ES 32699, Survey Group 501]

Minnesota; Filing of Plat of Survey

1. On July 6, 1983, the plat representing the survey of one island in Hyland Lake, T. 116 N., R. 21 W., Fifth Principal Meridian, Minnesota, was accepted. It will be officially filed in the Eastern States Office, Alexandria, Virginia, at 7:30 a.m. October 11, 1983.

The land listed below describes the island omitted from the original survey.

Fifth Principal Meridian, Minnesota

T. 116 N., R. 21 W.,
Tract No. 37.

2. Tract No. 37 is firm land 20 feet above ordinary high water mark. The soil is sandy loam, between 1 to 3 feet deep. The forest type is upland hardwood, consisting of oak, elm, and ash, with a maximum age of 80 years. The ground cover is of various species of shrubs, including rose, hazel, willow, and sumac along with native grasses and forbs.

3. The present water level of the lake compares favorably with the original meander line; therefore, the elevation and the upland character of the island and the depth and width of the channel between the upland and the island is considered evidence that the island did exist in 1858, the year Minnesota was admitted into the Union. The original survey in 1854 did not note the presence of this island.

4. Tract No. 37 was found to be over 50 percent upland in character within the purview of the Swamp Lands Act of September 28, 1850 (9 Stat. 519). It is therefore held to be public land.

5. All inquiries relating to this island should be sent to the Deputy State Director for Lands and Renewable Resources, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304 on or before October 11, 1983.

Robert Gausman,

Acting Chief, Branch of Lands.

[FR Doc. 83-23379 Filed 8-24-83; 8:45 am]

BILLING CODE 4310-84-M

[ES 32726, Survey Group 122]

Wisconsin; Filing of Plat of Survey

1. On July 13, 1983, the plat representing the dependent resurvey of a portions of the subdivisional lines, the reesetablishment of a portion of the record meander lines, and the survey of new meander lines to include lands omitted from the original survey in Sec. 20, T. 33 N., R. 2 E., Fourth Principal Meridian, Wisconsin, was accepted. It will be officially filed in the Eastern States Office, Alexandria, Virginia, at 7:30 a.m. on October 11, 1983.

The lands listed below describe the areas omitted from the original survey.

Fourth Principal Meridian, Wisconsin.

T. 33 N., R. 2 E.,
Sec. 20, Lots 7, 8, 9, and 10.

2. The omitted areas described above are covered primarily by large second growth timber consisting of ash, aspen, birch, maple, balsam fir, hemlock, cedar, white pine, red pine, and spruce, with alder and tamarack located in the lower poorly drained areas. The soil consists of sandy clay loam in the uplands to an organic muck in the swampland areas.

Numerous old stumps attest to the fact that no lakes existed in this area except for Skinner Lake as it exists today.

3. The Lots Nos. 7, 8, 9, and 10 were found to be over 50 percent upland within the purview of the Swamp Lands Act of September 28, 1850 (9 Stat. 519). Therefore, they are held to be public land.

4. All inquiries relating to these lands should be sent to the Deputy State Director for Lands and Renewable Resources. 350 South Pickett Street, Alexandria, Virginia 22304, on or before October 11, 1983.

Barry E. Crowell,

Acting Chief, Branch of Lands.

[FR Doc. 83-23380 Filed 8-24-83; 8:45 am]

BILLING CODE 4310-84-M

California; Use Fee Schedule for Permitted Recreation Activities

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice, California; special recreation permit fee; correction.

SUMMARY: This document corrects a notice that appeared on p. 21665 in the **Federal Register** of Friday, May 13, 1983 (48 FR 21665). The action is necessary to correct fee amounts for special area management as described under 43 CFR Part 8372.

FOR FURTHER INFORMATION CONTACT: John Skibinski, Outdoor Recreation Planner, Bureau of Land Management, (916) 484–4636.

The correction is made in FR Doc. 83–12894 appearing on 21665 in the issue of May 13, 1983.

3. Special area (individual/group/family use permits) fees are $2.00 per user day where the authorized officer determines that fees are required;

This paragraph is corrected to read as follows:

3. Special area (individual/group/family use permits) fees shall be no less than the cost of issuing and administering the permit where the authorized officer determines that permits are required.

Dated: August 19, 1983.

Ed Hastey,

State Director.

[FR Doc. 83-23370 Filed 8-24-83; 8:45 am]

BILLING CODE 4310-84-M

[OR 33511]

Oregon; Realty Action Exchange of Public Land for Private Land in Grant County, Oregon

The following described public lands have been examined and determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2756; 43 U.S.C. 1716):

Willamette Meridian

T. 14 S., R. 32 E.,
Sec. 5, lot 3.

The area described aggregates approximately 33.41 acres in Grant County.

In exchange for these lands the United States will acquire the following described private land from Mr. Carl Sheedy.

Willamette Meridian

T. 14 S., R. 32 E.,
Sec. 8, SW¼NW¼.

The area described aggregates approximately 40 acres in Grant County.

The purpose of the exchange is to facilitate the resource management program of the Bureau of Land Management and to enhance the range management potential for the area. The Federal land to be exchanged is an isolated parcel surrounded by the

private lands of the exchange proponent.

This proposal is consistent with Bureau planning for the lands involved and has been discussed with State and local officials. The public interest will be well served by making this exchange. The comparative values of the lands exchanged are approximately equal although a small monetary adjustment will be used to equalize the values. This monetary adjustment will be for no more than 25% of the appraised value of Federal lands involved.

The exchange will be subject to:

(1) A reservation to the United States of a right-of-way for ditches or canals under the Act of August 30, 1890.

(2) Valid, existing rights including but not limited to any right-of-way, easement, or lease of record.

Publication of this notice has the effect of segregating all of the above described Federal land from appropriation, under the public land laws and these lands are further segregated from appropriation under the mining laws, but not from exchange pursuant to Section 206 of the Federal Land Policy and Management Act of 1976. The segregative effect of this notice will terminate upon issuance of patent or in two years from the date of the publication of this notice, whichever occurs first.

Detailed information concerning the exchange is available for review at the Burns District Office of the Bureau of Land Managment, 74 South Alvord, Burns, Oregon 97720.

For a period of 45 days interested parties may submit comments to Burns District Manager at the above address. Any adverse comments will be evaluated by the Burns District Manager, BLM, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of the Interior.

Thomas R. Thompson, Jr.,

Associate District Manager.

[FR Doc. 83-23369 Filed 8-24-83; 8:45 am]

BILLING CODE 4310-84-M

Realty Action, Competitive Sale of Public Lands in Custer County, Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action, competitive sale of public lands in Custer County, Idaho, I–19381.

SUMMARY: The following described land has been examined and identified as suitable for disposal by public sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, U.S.C. 1713), at no less than the appraised market value. This sale is in compliance with the Challis Management Framework Plan.

Legal Description

I–19381

T.13N., R.19E., B.M.
Sec. 15, SW¼SW¼.
40 acres.

The BLM may, within 30 days of receipt of any offer, accept or reject any or all offers or withdraw any land or interest in land from sale, at the discretion of the authorized officer (Section 203(a) FLPMA). There is no legal access to this tract.

Both oral and sealed bids will be accepted. If no bids are received on the sale date, either oral or sealed, the sale will be adjourned until the next Thursday at the same hour and place and continue on each succeeding Thursday until the lands are sold as specified in this notice. This notice terminates on February 9, 1984 and the land will not be available after that date.

A patent for the land, when issued, will be subject to the following conditions:

1. A right-of-way for ditches or canals constructed by the authority of the United States. Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

2. All minerals in the lands will be reserved to the United States in accordance with Section 209(a) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1719.

3. All valid existing rights and reservations of record.

DATE: The public auction will be held on Thursday, November 10, 1983, beginning at 10:00 a.m.

ADDRESS: The public auction will be held at the Salmon District Office, Bureau of Land Management, South Highway 93 (P.O. Box 430), Salmon, Idaho 83467. Additional information concerning the land, terms and conditions of the sale and bidding instructions can be obtained from Chuck Keller at the above address or by calling 208–756–2201.

SUPPLEMENTARY INFORMATION: For a period of 45 days from the date of this notice, interested parties may submit comments to the Salmon District Manager at the above address. Any adverse comments will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager this realty action will become the final determination of the Department of the Interior.

Dated: August 16, 1983.

Jerry Goodman,

Acting District Manager.

[FR Doc. 83-23367 Filed 8-24-83; 8:45 am]

BILLING CODE 4310-84-M

Realty Action, Competitive Sale of Public Lands in Lemhi County, Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action, competitive sale of public lands in Lemhi County, Idaho, I–19628A and I–19628B.

SUMMARY: The following described land has been examined and identified as suitable for disposal by public sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, U.S.C. 1713), at no less than the appraised market value. This sale is in compliance with the Salmon Management Framework Plan.

Legal Description

I–19628A Tract I–4(1)

T. 20N., R.21E., B.M.,
Sec. 12, N½NW¼.
80.0 acres.

I–19628B Tract I–4(2)

T. 22N., R.22E., B.M.,
Sec. 2, lot 2.
40.23 acres.

The BLM may, within 30 days of receipt of any offer, accept or reject any or all offers or withdraw and land or interest in land from sale, at the discretion of the authorized officer (Section 203(a) FLPMA). There is legal access to both tracts.

Both oral and sealed bids will be accepted. If no bids are received on the sale date, either oral or sealed, the sale will be adjourned until the next Thursday at the same hour and place and continue on each succeeding Thursday until the lands are sold as specified in this notice. This notice terminates on February 9, 1984 and the land will not be available after that date.

A patent for the land, when issued, will be subject to the following conditions:

1. A right-of-way for ditches or canals constructed by the authority of the United States. Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

2. All minerals in the lands will be reserved to the United States in

accordance with Section 209(a) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1719.

3. All valid existing rights and reservations of record.

DATE: The public auction will be held on Thursday, November 10, 1983, beginning at 10:00 a.m.

ADDRESS: The public auction will be held at the Salmon District Office, Bureau of Land Management, South Highway 93 (P.O. Box 430), Salmon, Idaho 83467. Additional information concerning the land, terms and conditions of the sale and bidding instructions can be obtained from Chuck Keller at the above address or by calling 208–756–2201.

SUPPLEMENTARY INFORMATION: For a period of 45 days from the date of this notice, interested parties may submit comments to the Salmon District Manager at the above address. Any adverse comments will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager this realty action will become the final determination of the Department of the Interior.

Dated: August 16, 1983.

Jerry Goodman,

Acting District Manager.

[FR Doc. 83-23369 Filed 8-24-83; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Aminoil, U.S.A., Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Aminoil U.S.A., Inc. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS 0453, Block 130, Ship Shoal Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 838–0519.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became efffective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: August 18, 1983.

John L. Rankin,

Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-23378 Filed 8-24-83; 8:45 am]

BILLING CODE 4310-MR-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Chevron U.S.A. Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: This Notice announces that Chevron U.S.A. Inc., Unit Operator of the Main Pass Block 40 Federal Unit Agreement No. 14–08–001–3847, submitted on August 11, 1983, a proposed supplemental plan of development describing the activities it proposes to conduct on the Main Pass Block 40 Federal Unit.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the plan and that it is available for public review at the offices of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone (504) 838–0519.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in development and production plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: August 16, 1983.

John L. Rankin,

Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-23337 Filed 8-24-83; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Intention To Extend Concession Contract

Pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that sixty (60) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to extend a concession contract with El Portal Market authorizing it to continue to provide merchandising, laundry and drycleaning facilities and services for the public at Yosemite National Park for a period of one (1) year from the date of execution or until such time as a new contract may be executed.

This contract extension has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expires by limitation of time on December 31, 1983, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. This provision, in effect, grants El Portal Market the opportunity to meet the terms and conditions of any other proposal submitted in response to this notice which the Secretary may consider better than the proposal submitted by El Portal Market. If El Portal Market amends its proposal and the amended proposal is substantially equal to the better offer, then the proposed new contract will be negotiated with El Portal Market.

The Secretary will consider and evaluate all proposals received as a result of this notice Any proposal,

including that of the existing concessioner, must be postmarked or hand-delivered on or before the sixtieth (60th) day following publication of this notice to be considered and evaluated.

Interested parties should contact the Regional Director, Western Regional Office, National Park Service, 450 Golden Gate Avenue, San Francisco, CA 94102 for information as to the requirements of the proposed contract.

Dated: August 12, 1983.

Howard H. Chapman,

Regional Director, Western Region.

[FR Doc. 83-23343 Filed 8-24-83; 8:45 am]

BILLING CODE 4310-70-M

Record of Decision for Grizzly Bear Management Program at Yellowstone National Park

AGENCY: National Park Service, Interior.

ACTION: Notice of Availability of the Record of Decision for the Final Environmental Impact Statement for the Grizzly Bear Management Program at Yellowstone National Park.

SUMMARY: Pursuant to regulations of the Council on Environmental Quality (40 CFR 1505.2) and the Implementing Procedures of the National Park Service for the National Environmental Policy Act of 1969, the National Park Service has prepared a Record of Decision on the Final Environmental Impact Statement for Grizzly Bear Management at Yellowstone National Park, Idaho, Montana and Wyoming.

The Record of Decision is a concise statement of the decision to adopt a program of modifying past management practices so as to better protect the threatened grizzly bear within the park. The Record of Decision also identifies what alternatives were considered, and what acceptable mitigating measures were developed in order to avoid or minimize environmental harm.

FOR FURTHER INFORMATION CONTACT: The Record of Decision may be obtained from the Superintendent, Yellowstone National Park, Yellowstone National Park, Wyoming 82190; or from the Regional Director, Rocky Mountain Regional Office, National Park Service, 655 Parfet Street, Post Office Box 25287, Denver, Colorado 80225.

Dated: August 16, 1983.

James B. Thompson,

Acting Regional Director, Rocky Mountain Region.

[FR Doc. 83-23342 Filed 8-24-83; 8:45 am]

BILLING CODE 4310-70-M

Upper Delaware National Scenic and Recreational River; Meeting

AGENCY: National Park Service; Upper Delaware Citizens Advisory Council, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the date of the forthcoming meeting of the Upper Delaware Citizens Advisory Council. Notice of this meeting is required under the Federal Advisory Committee Act.

DATE: September 9, 1983, 7 p.m.

ADDRESS: Town of Tusten Hall, Narrowsburg, New York.

FOR FURTHER INFORMATION CONTACT: John T. Hutzky, Superintendent, Upper Delaware Scenic and Recreational River, Drawer C, Narrowsburg, N.Y. 12764-0159, (717) 729-7135).

SUPPLEMENTARY INFORMATION: The Advisory Council was established under section 704(f) of the National Parks and Recreation Act of 1978, Pub. L. 95-625, 16 U.S.C. 1274 note, to encourage maximum public involvement in the development and implementation of the plans and programs authorized by the Act. The Council is to meet and report to the Delaware River Basin Commission, the Secretary of the Interior, and the Governors of New York and Pennsylvania in the preparation of a management plan and on programs which relate to land and water use in the Upper Delaware region. The agenda for the meeting will include discussion of Draft Management Plan.

The meeting will be open to the public. Any member of the public may file with the Council a written statement concerning agenda items. The statement should be addressed to the Council c/o Upper Delaware National Scenic and Recreational River, Drawer C, Narrowsburg, N.Y. 12764-0159. Minutes of the meeting will be available for inspection four weeks after the meeting at the permanent headquarters of the Upper Delaware National Scenic and Recreational River, River Road, 1¾ miles north of Narrowsburg, N.Y., Damascus Township, Pennsylvania.

Dated: August 16, 1983.

James W. Coleman, Jr.,

Regional Director, Mid-Atlantic Region.

[FR Doc. 83-23341 Filed 8-24-83; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 450]

Rail Carriers; Railroad Revenue Adequacy-1982 Determination

AGENCY: Interstate Commerce Commission.

ACTION: Notice of 1982 determinations of rail revenue adequacy.

SUMMARY: In Ex Parte No. 393, *Standards for Railroad Revenue Adequacy*, 364 I.C.C. 803 (1981), the Commission determined that a railroad would be considered revenue adequate under 49 U.S.C. 10704(a) if the railroad had a rate of return equal to the current cost of capital. This decision uses the rate of return standard developed in Ex Parte No. 393, *supra*, as more fully defined in Ex Parte No. 416, *Railroad Revenue Adequacy-1980 Determination*, 365 I.C.C. 285 (1981) using data for the year 1982. Using these data, the Commission has now determined that none of the 35 Class I carriers are revenue adequate.

FOR FURTHER INFORMATION CONTACT: Ward L. Ginn, Jr., (202) 275-7489.

SUPPLEMENTARY INFORMATION: To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, D.C., or call 289-4357 (D.C. Metropolitan area) or toll free (800) 424-5403.

(49 U.S.C. 10704(a))

Decided: August 17, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-23387 Filed 8-24-83; 8:45 am]

BILLING CODE 7035-01-M

[I.C.C. Order No. 4]

Rail Carriers; Rerouting Traffic

To: Chesapeake and Ohio Railway; Grand Trunk Western Railroad Company; Michigan Northern Railway Company; and, Soo Line Railroad Company.

On May 9, 1983, the Commission issued I.C.C. Reroute Order No. 84. That order permitted certain carriers to divert traffic, routed via the car ferry between St. Ignace and Mackinaw City, Michigan, and the Detroit & Mackinac Railway Company (DM) or Michigan Northern Railway Company (MN), over any available route and to maintain rates on that traffic consistent with its original routing. That order was

replaced by I.C.C. Order No. 2, served June 30, 1983, and which expired on July 31, 1983.

MN has advised the Commission that the period originally requested for rerouting authority was insufficient for completion of the necessary repairs to the vessel. MN now urgently requests additional rerouting authority for a period of ninety (90) days in order to complete the repairs on the vessel. MN is joined in this urgent request by Detroit & Mackinac Railway Company, Soo Line Railroad Company, Straits Corporation (Lumber Company and Wood Preserver), Georgia Pacific Corporation (Lumber and Building Products Manufacturer), Hager Distribution Company, and Schultz, Snyder and Steele Lumber Company. These requests generally emphasize the need for continuity of the cross-lake rates and routes, and the substantially higher rates applicable to alternative routings.

It is the opinion of the Commission that the MN (operator of the car ferry) and DM are presently unable to transport or accept traffic for movement via the car ferry between St. Ignace and Mackinaw City, Michigan, due to the out-of-service condition of the ferry; that interests of the affected shippers, connecting railroads, and the State of Michigan require continuation of this authority; that continuation of this authority until November 22, 1983, will not constitute an undue burden for any originating carrier; and, that this matter is considered to be outside the scope of a single railroad, as provided by *Ex Parte No. 376, Rerouting of Traffic*, 364 I.C.C. 827, thereby making this action by the Commission necessary.

It is ordered:

(a) *Rerouting traffic.* The Detroit & Mackinac Railway Company and Michigan Northern Railway Company being unable to transport promptly all traffic offered for movement via the car ferry between St. Ignace and Mackinaw City, Michigan, because the car ferry is out of service, those named lines are authorized to reroute such traffic via any available route to expedite the movement. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing. All traffic accepted for movement via this routing must be rerouted in accordance with this order and will not be subject to diversion or other charges beyond those covered by paragraph (d) of this order. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) *Notification to shippers.* Each originating carrier accepting traffic to be rerouted in accordance with this order shall notify each shipper at the time each shipment is accepted and, to the best of its ability, shall furnish to such shipper the new routing provided for under this order.

(c) *Concurrence of receiving roads to be obtained.* The railroad rerouting cars in acordance with this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted shall be rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission provided for in this order, the common carriers involved shall proceed even though no contracts, agreements or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to the traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between the carriers; or upon failure of the carriers to so agree, the divisions shall be those hereafter fixed by the Commission in accordance with authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 12:01 a.m., August 25, 1983.

(g) *Expiration date.* This order shall expire at 11:59 p.m., November 22, 1983, unless otherwise modified, amended or vacated by order of this Commission.

This action is taken under the authority of 49 U.S.C. 11124.

This order shall be served upon the Association of American Railroads, Transportation Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., August 19, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 83-23366 Filed 8-24-83; 8:45 am]
BILLING CODE 7035-01-M

[Finance Docket No. 29478]

Rail Carriers; Shelton-Davis Transportation Co.; Purchase (Portion)—Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee) in Oklahoma

AGENCY: Interstate Commerce Commission.

ACTION: Revised application accepted for consideration.

SUMMARY: The Commission is accepting for consideration the revised application of Shelton-Davis Transportation Co. to purchase certain properties of the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), located in Oklahoma. The Commission is also setting a schedule for the filing of pleadings.

DATES: Verified statements supporting or opposing the application must be received at the Commission by August 30, 1983.

ADDRESSES: An original and 10 copies of all statements should be sent to: Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, Attention: RITEA acquisitions.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Shelton-Davis Transportation Co. (Shelton-Davis), doing business as North Central Oklahoma Railway, filed a revised application on August 12, 1983, under section 17(b) of the Milwaukee Railroad Restructuring Act, Pub. L. No. 96-101, 93 Stat. 736 (1979), and section 112 of the Rock Island Railroad Transition and Employee Assistance Act, Pub. L. No. 96-254 (1980) (RITEA), for authority to purchase approximately 155 miles of the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee) (Rock Island) in Oklahoma. The application will be handled under the rules adopted in Ex Parte No. 282 (Sub-No. 4), *Acquisition Procedures for Lines of Railroads*, 360 I.C.C. 623 (1980), 45 FR 6107 (January 25, 1980).

Shelton-Davis seeks to purchase segments of the Rock Island between Ponca City and North Enid, OK (55 miles), between Anadarko and Lone Wolf, OK (63 miles), and between Okeene and Geary, OK (37 miles).

We have reviewed the application and found it to be in substantial compliance with the information required in our regulations.

Preliminary approval of the proposed purchase transaction by the Court overseeing the reorganization of the

Rock Island *In the Matter of Chicago, Rock Island and Pacific Railroad Company, Debtor*, in No. 75 B 2697 (U.S. Dist. Court, N.D. Ill.), was obtained on March 30, 1983. A copy of the order is unavailable for filing with the application and that requirement [49 CFR 1180.21(a)(3)(iii)] is waived.

The application, as originally filed, was accepted on November 25, 1980, and verified statements were submitted in December 1980. The previously submitted statements are now stale and, furthermore, the original application did not include all lines embraced by the revised applications. Therefore, a new record will be compiled in accordance with the terms of this decision. All supporting and opposing verified statements, including resubmissions of previously-tendered verified statements, must be received by the Commission no later than August 30, 1983. Previously-tendered verified statements will not be considered unless resubmitted. Statements may not incorporate prior submissions by reference. Copies of statements should be served on the Attorney General of the United States, the United States Secretary of Transportation, and on applicant.

A. final decision will be served by September 12, 1983.

A copy of all comments and requests for copies of the application should be addressed to: Calvin L. Shelton, North Central Oklahoma Railway, P.O. Box 1339, El Reno, OK 73036.

It is ordered:

1. The revised application in Finance Docket No. 29478 is accepted for consideration.

2. The parties shall comply with all provisions stated above.

3. This decision shall be effective on the date of service.

Dated: August 19, 1983.

By the Commimssion, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-23389 Filed 8-24-83; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30240]

Rail Carriers; Southern Pacific Transportation Co.; Abandonment Exemption in Davis and Calcasieu Parishes, LA

AGENCY: Interstate Commerce Commission.

ACTION: Notion of exemption.

SUMMARY: The Interstate Commerce Commission exempts the abandonment by the Southern Pacific Transportation Company (SPT) over 29.05 miles of railroad track between milepost 4.75 at or near Harbor, LA and milepost 33.80 at or near Lake Arthur, LA in Davis and Calcasieu Parishes, LA, subject to conditions for the protection of employees.

DATES: This exemption is effective on September 26, 1983. Petitions to stay must be filed by September 5, 1983; and petitions for reconsideration must be filed by September 14, 1983.

ADDRESSES: Send pleadings referring to Finance Docket No. 30240 to:

(1) Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representative: Thurmond A. Miller, Esq., Southern Pacific Building, One Market Plaza, San Francisco, CA 94105

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289-4357 (D.C. Metropolitan area) or toll free (800) 424-5403.

Dated: August 18, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison. Vice Chairman Sterrett and Commissioner Andre would not impose a deadline on consummation of the exempted transaction.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-23388 Filed 8-24-83; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30186]

Rail Carriers; Tongue River Railroad Co.; Construction and Operation—In Custer, Powder River, and Rosebud Counties, MT

Decided: August 18, 1983.

On August 15, 1983, the Northern Plains Resource Council (Petitioner) filed a letter requesting an extension of time for filing comments.

Petitioner states that it, as well as other interested parties in the proceeding, have not as yet received the Commission's Draft Environmental Impact Statement (DEIS), although the service date of the document was July 15, 1983. Comments are now due September 6, 1983. Accordingly, petitioner requests a 30-day extension following actual receipt of the DEIS.

Petitioner is correct that there have been delays in forwarding the documents to some parties of record. However, the problem has now been remedied, and all parties should now have received the document. In the circumstances, a short extension of time to file comments on the DEIS is warranted.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The time for filing comments on the DEIS is exended to September 21, 1983.

2. This decision is effective on the date of service.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-23390 Filed 8-24-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

National Advisory Committee For Juvenile Justice and Delinquency Prevention; Meeting

The twenty-eighth quarterly meeting of the National Advisory Committee for Juvenile Justice and Deliquency Prevention will be held in San Diego, California on September 19 and 20, 1983. The meeting will take place at the Sheraton Harbor Island Hotel and will run from 9:00 a.m. to 5:00 p.m. on Monday, September 19th, and from 9:00 a.m. to 12:00 noon on Tuesday, September 20th.

Discussion of the reauthorization of the Juvenile Justice and Delinquency Prevention Act of 1974 will be one of the agenda items. Members of the public are welcome to attend.

Further information regarding this meeting may be obtained by contacting: Mary L. Bush, Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue, NW., Washington, D.C. 20531. (202) 724-7655.

Dated: August 19, 1983.

Thomas A. Dailey,

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 83-23322 Filed 8-24-83; 8:45 am]

BILLING CODE 4410-18-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 83-71]

NASA Advisory Council (NAC), Space Applications Advisory Committee (SAAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Applications Advisory Committee.

DATE AND TIME: September 27, 1983, 8:30 a.m. to 5 p.m.; September 28, 1983, 8:30 a.m. to 3 p.m.

ADDRESS: National Aeronautics and Space Administration, Goddard Space Flight Center (GSFC), Building 28, Room 200, Greenbelt, MD 20771.

FOR FURTHER INFORMATION CONTACT: Dr. William P. Raney, Code E, National Aeronautics and Space Administration Washington, DC 20546 (202/755-4826).

SUPPLEMENTARY INFORMATION: The NAC Space Applications Advisory Committee consults with and advises the Council as a whole and NASA on plans for, work in progress on, and accomplishments of NASA's Space Applications Programs. The meeting will be open to the public up to the seating capacity of the room (approximately 40 persons) including Committee members and other participants. Topics under discussion at this meeting will include the remote sensing portion of the Applications Program, with special presentations of relevant work at the GSFC, and a continuation of planning for the work of the Committee.

AGENDA

September 27, 1983
- 8:30 a.m.—Administrative Matters.
- 9 a.m.—Overview of NASA Remote Sensing Activities.
- 2 p.m.—Tour of GSFC Applications Areas.
- 5 p.m.—Adjourn.

September 28, 1983
- 8:30 a.m.—Committee Discussion of Programs.
- 1 p.m.—Arrangements for next meeting, assignment, general discussion, meeting summary.
- 3 p.m.—Adjourn.

Dated: August 18, 1983.

Ann P. Bradley,

Acting Associate Administrator for Management, Office of Management.

[FR Doc. 83-23278 Filed 8-24-83; 8:45 am]
BILLING CODE 7510-01-M

NATIONAL SCIENCE FOUNDATION

Permit Applications Received Under the Antarctic Conservation Act of 1978; Brian H. Shoemaker, et al.

AGENCY: National Science Foundation.

ACTION: Notice of permit applications received under Antarctic Conservation Act of 1978, Pub. L. 95-541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act of 1978 at Title 45 Part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATE: Interested parties are invited to submit written data, comments, or views with respect to these permit applications by September 23, 1983. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESS: Comments should be addressed to Permit Office, Room 627, Division of Polar Programs, National Science Foundation, Washington, D.C. 20550.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers at the above address or (202) 357-7934.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95-541), has developed regulations that implement the "Agreed Measures for the Conservation of Antarctic Fauna and Flora" for all United States citizens. The Agreed Measures, developed in 1964 by the Antarctic Treaty Consultative Parties, recommended establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas as requiring special protection. The regulations establish such a permit system to designate Specially Protected Areas and Sites of Special Scientific Interest. Additional information was published in the 21 July 1983 **Federal Register**, page 33372.

The applications received are as follows:

1. *Applicant:* Brian H. Shoemaker, Captain, U.S. Navy, U.S. Naval Support Force, Antarctica, Construction Battalion Center, Bldg. 836, Port Hueneme, California 93043.

Activity for Which Permit Requested: Introduction of non-indigenous species into Antarctica.

The applicant proposes to introduce one canine into Antarctica for periods of 2-3 days at a time in support of the U.S. Navy Drug Interdiction Program. The dog will be under the physical control of U.S. Navy personnel or their agents at all times.

Location: McMurdo Station, Antarctica.

Dates: October 1, 1983 to March 31, 1986.

2. *Applicant:* Jonathan H. Berg, Department of Geology, Northern Illinois University, DeKalb, Illinois 60115.

Activity for Which Permit Requested: Enter Site of Special Scientific Interest (Cape Crozier).

The applicant proposes to enter Cape Crozier Site of Special Scientific Interest to collect rock samples which are of scientific value in a study of the volcanic rocks in the region.

Location: Ross Island, Antarctica.

Dates: November 1, 1983 to December 31, 1983.

Authority to publish this notice has been delegated by the Director, NSF to the Director, Division of Polar Programs.

Edward P. Todd,

Division Director, Division of Polar Programs.

[FR Doc. 83-23305 Filed 8-24-83; 8:45 am]
BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

International Atomic Energy Agency Draft Safety Guide; Availability of Draft for Public Comment

The International Atomic Energy Agency (IAEA) is completing development of a number of internationally acceptable codes of practice and safety guides for nuclear power plants. These codes and guides are in the following five areas: Government Organization, Design, Siting, Operation, and Quality Assurance. All of the codes and most of the proposed safety guides have been completed. The purpose of these codes and guides is to provide guidance to countries beginning nuclear power programs.

The IAEA codes of practice and safety guides are developed in the following way. The IAEA receives and collates relevant existing information used by member countries in a specified safety area. Using this collation as a starting point, an IAEA working group of a few experts develops a preliminary draft of a code or safety guide which is then reviewed and modified by an IAEA Technical Review Committee corresponding to the specified area. The draft code of practice or safety guide is

then sent to the IAEA Senior Advisory Group which reviews and modifies as necessary the drafts of all codes and guides prior to their being forwarded to the IAEA Secretariat and thence to the IAEA Member States for comments. Taking into account the comments received from the Member States, the Senior Advisory Group then modifies the draft as necessary to reach agreement before forwarding it to the IAEA Director General with a recommendation that it be accepted.

As part of this program, Safety Guide SG–011, "Operational Management of Radioactive Effluents and Wastes Arising in Nuclear Power Plants," has been developed. The working group consisting of Mr. E. Hladky from Czechoslovakia; Mr. A. Higashi from Japan; Mr. A. B. Fleishman from the United Kingdom; and Mr. L. C. Oyen (Sargent and Lundy Engineers) from the U.S.A., developed the initial draft of this guide from an IAEA collation. This draft was subsequently modified by the IAEA Technical Review Committee for Operation, and we are now soliciting public comment on a modified draft (Rev. 2, dated June 24, 1983). Comments received by the Director, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, by October 10, 1983, will be particularly useful to the U.S. representatives to the Technical Review Committee and the Senior Advisory Group in developing their positions on its adequacy prior to their next IAEA meetings.

Single copies of this draft Safety Guide may be obtained by a written request to the Director, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(5 U.S.C. 522(a))

Dated at Washington, D.C. this 19th day of August 1983.

For the Nuclear Regulatory Commission.

Robert B. Minogue,

Director, Office of Nuclear Regulatory Research.

[FR Doc. 83–23375 Filed 8–24–83; 8:45 am]

BILLING CODE 7590–01–M

NRC/DOE Procedural Agreement

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of NRC/DOE Procedural Agreement.

SUMMARY: The Nuclear Regulatory Commission and the Department of Energy have signed a Procedural Agreement identifying guiding principles for interface during site investigation and site characterization of sites for a geologic repository under the Nuclear Waste Policy Act of 1982. The text of this agreement is published below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert E. Browning, Acting Director, Division of Waste Management, Nuclear Regulatory Commission, Mail Stop 623–SS, Washington, DC 20555; (301) 427–4200.

Dated at Silver Spring, Maryland, this 16th day of August 1983.

For the Nuclear Regulatory Commission.

Joseph O. Bunting,

Chief, Licensing Process and Integration Branch, Division of Waste Management.

Procedural Agreement Between the U.S. Nuclear Regulatory Commission and the U.S. Department of Energy Identifying Guiding Principles for Interface During Site Investigation and Site Characterization

This Procedural Agreement outlines procedures for consultation and exchange of information which the Commission (NRC) and the Department (DOE) will observe in connection with the characterization of sites for a geologic repository under the Nuclear Waste Policy Act of 1982. The purpose of these procedures is to assure that an information flow is maintained between the two agencies which will facilitate the accomplishment by each agency of its responsibilites relative to site investigation and characterization under the National Waste Policy Act (NWPA). The agreement is to assure that NRC receives adquate information on a timely basis to enable NRC to review, evaluate, and comment on those DOE activities of regulatory interest in accordance with DOE's project decision schedule and thereby facilitate early identification of potential licensing issues for timely staff resolution. The agreement is to assure that DOE has prompt access to NRC for discussions and explanations relative to the intent, meaning and purpose of NRC comments and evaluations on DOE activities and so that DOE can be aware, on a current basis, of the status of NRC actions relative to DOE activities.

This Procedural Agreement shall be subject to the provisions of any project decision schedule that may hereafter be established by DOE, and any regulations that may hereafter be adopted by NRC, pursuant to law. In particular, nothing herein shall be construed to limit the authority of the Commission to require the submission of information as part of a general plan for site characterization activities to be conducted at a candidate site or the submission of reports on the nature and extent of site characterization activities at a candidate site and the information developed from such activities.

1. NRC On-Site Representatives

As early as practicable, following area phase field work, NRC on-site representatives will be stationed at each site undergoing investigation principally to serve as a point of prompt informational exchange and consultation and to preliminarily identify concerns about such investigations relating to potential licensing issues.

2. Meetings

From the time this agreement is entered into, and for so long as site characterization activities are being planned or are in progress, DOE and NRC will schedule and hold meetings periodically as provided in this section. A written report agreed to by both DOE and NRC will be prepared for each meeting including agreements reached.

a. Technical meetings will be held between DOE and NRC technical staff to: review and consult on interpretations of data; identify potential licensing issues; agree upon the sufficiency of available information and data; and agree upon methods and approaches for the acquisition of additional information and data as needed to facilitate NRC reviews and evaluations and for staff resolution of such potential licensing issues.

b. Periodic management meetings will be held at the site-specific project level whenever necessary, but at least quarterly, to review the summary results of the technical meetings; to review the status of outstanding concerns and issues; discuss plans for resolution of outstanding items and issues; to update the schedule of technical meetings and other actions needed for staff resolution of open items regarding site characterization programs; and to consult on what generic guidance is advisable and necessary for NRC to prepare. Unresolved management issues will be promptly elevated to upper management for resolution.

c. Early technical meetings will be scheduled to discuss written NRC comments on DOE documents such as Site Characterization Plans, DOE's semi-annual progress reports, and technical reports to foster a mutual understanding of comments and the information or activities needed for staff resolution of the comments.

d. In formulating plans for activities

which DOE will undertake to develop information needed for staff resolution of potential licensing issues, DOE will meet with NRC to provide an overview of the plans so that NRC can comment on their sufficiency. These discussions will be held sufficiently early so that any changes that NRC comments may entail can be duly considered by DOE in a manner not to delay DOE activities.

e. Schedules of activities pertaining to technical meetings will be made publicly available. Potential host States and affected Indian tribes will be notified and invited to attend technical meetings covered in this section (Section 2, Meetings). The notification will be given on a timely basis by the DOE. These technical meetings will be open meetings with members of the public being permitted to attend as observers.

3. Timely Release of Information

a. Data collected during site investigations will be made available to NRC on a current, continuing basis after the DOE (or DOE contractor) quality assurance checks that are inherent in determining that the data has been obtained and documented properly.

b. DOE's analyses and evaluations of data will be made available to NRC in a timely manner.

4. Site Specific Samples

Consistent with mutually agreed on procedures, DOE will provide NRC with site specific samples to be used by NRC for independent analysis and evaluation.

5. Agency Use of Information

It is understood that information made available to either Agency under this agreement may be used at that Agency's option in carrying out its responsibilities.

6. Project Specific Agreements

Project specific agreements to implement the above principles will be negotiated within 120 days of the time this agreement is entered into. These project specific agreements will be tailored to the specific projects to reflect the differences in sites and project organizations.

7. Nothing in this agreement shall be construed as limiting forms of informal consultation not mentioned in this agreement (for example, telephone conversation or exchanges of reports). These other consultations will be documented in a timely manner.

Dated: June 27, 1983.

Robert L. Morgan,

Project Director, Nuclear Waste Policy Act Project Office, U.S. Department of Energy.

Dated: June 17, 1983.

John G. Davis,

Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission.

[FR Doc. 83-23376 Filed 8-24-83; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-309; CLI-83-21]

Maine Yankee Atomic Power Co. (Maine Yankee Atomic Power Station); Memorandum and Order

The Commission has considered and affirms the Director's Decision, DD-83-3, issued February 14, 1983 under 10 CFR 2.206.[1] The Decision denied the October 20, 1982 petition of Safe Power for Maine, Emil G. Garrett, John B. Green and John Jerabek (collectively "Safe Power") for action pursuant to 10 CFR 2.206. Safe Power sought an order to show cause why Maine Yankee Atomic Power Company ("Maine Yankee" or "licensee") should not be ordered to discontinue operation of its nuclear power plant at Wiscasset, Maine, in light of Safe Power's allegations of Maine Yankee's financial imcapability to operate the Wiscasset facility safely and dispose of spent fuel now stored there and to be generated during the remainder of the licensing period. The Commission has concluded that denial of this petition lay within the Director's discretion but notes that subsequent developments provide additional justification for the Director's decision. Accordingly, rather than simply declining to review the Director's decision the Commission is issuing the memorandum and order to enlarge the discussion of the issues raised by the petition.

In its petition for a show cause order Safe Power alleged a number of circumstances indicating "poor financial condition of Maine Yankee".[2] Safe Power requested that the Commission halt operation of Maine Yankee until the license "has demonstrated that it has adequate financial backing and adequate financial support . . . to raise capital requirement to continue operation, to make and changes or capital investments required by the NRC, and to provide for the funding of its shutdown and disposal of spent fuel at the end of its licensed term." Safe Power also asked that the Commission determine what amounts Maine Yankee should collect to provide for decommissioning and disposal of spent fuel and order the creation of a trust fund in which these monies would accumulate until needed.

In denying Safe Power's petition the Director correctly observed that the Commissions' concern with financial problems of a licensee is limited to the relation which those problems may have to the protection of public health and safety.[3] Allegations about financial difficulties at an operating facility are not be themselves a sufficient basis for action to restrict operations. In the Commission rulemaking, cited by the Director, which eliminated the financial qualification review for electric utilities, 47 F.R. 13750, the Commission noted the absence of evidence that financial problems are inevitably linked with corner-cutting on safety.[4] Thus, even had the Commission retained its financial qualifications review requirements, a showing the Maine Yankee was undergoing financial difficulties would not by itself require that the Commission halt operations at that plant.[5] On the other hand,

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[1] By successive orders of the Secretary pursuant to 10 CFR 2.772, the time in which the Commission may take review of the Director's Decision was extended to July 29, 1983.

[2] These asserted circumstances include: (1) Use of funds obtained through pledge of the company's stock of nuclear fuel for purposes other than purchase, remanufacturing and handling of nuclear fuel; (2) need to ask for early payment from Central Maine Power Company to meet Maine Yankee's daily cash requirement because its unsecured borrowing limit has been reached; (3) exhaustion of all of Maine Yankee's established sources of capital with the exception of infusion of additional common equity contributions by its sponsors; and (4) need for "sponsor guarantees" to continue the fuel financing.

[3] Recently in an opinion issued subsequent to the Director's decision the Supreme Court took note of this limitation on the Commission's concern with economics:

> The Nuclear Regulatory Commission (NRC) * * * does not purport to exercise its authority based on economic considerations. 10 CFR 8.4, and has recently repealed its regulations concerning the financial qualifications and capabilities of a utility proposing to construct and operate a nuclear power plant. 47 F.R. 13751. In its notice of rule repeal, the NRC stated that utility financial qualifications are only of concern to the NRC if related to the public health and safety.

Pacific Gas & Electric Co. v. *State Energy Resources Conservation and Development Commission*, ——— U.S. ———, 75 L.Ed. 2d 752, 767 (1983).

[4] The Commission's rule is currently under review in the D.C. Circuit in *New England Coalition on Nuclear Pollution* v. *NRC*, No. 82-1581.

[5] Under Section 186 of the Atomic Energy Act the Commission may revoke a license when a condition exists that would have permitted the Commission to deny the license in the first instance, but it is not required to do so, especially where means short of license suspension are available to provide continued assurance of public health and safety.

allegations that defects in safety practices have in fact occurred or are imminent would of course form a possible basis for enforcement action, whether or not the root cause of the fault was financial. In the case at issue Sa 'e Power has offered no evidence nor made any claim of actual hazards at Maine Yankee. Indeed, Safe Power's petition supports a view that Maine Yankee has continued to seek and receive from its "prime sponsors" or otherwise the funding which it needs to conduct its operations in a safe fashion. The Director did not abuse his discretion in refusing to take enforcement action based on mere speculation that financial pressures might in some unspecified way undermine the safety of Maine Yankee's operation.

Safe Power's concerns about decommissioning of the plant and disposal of spent fuel address matters which are presently the subject of rulemaking. The Director correctly advised Safe Power that proceedings will not generally be instituted in response to a petition under 10 CFR 2.206 to consider an issue the Commission is treating generically through rulemaking. The Commission currently expects to issue early in 1984 a proposed rule dealing with decommissioning of nuclear power plants and addressing, among other questions, how to assure the adequate financing of decommissioning by the licensee. In the absence of any evidence of need for early decommissioning at Maine Yankee, Safe Power's concerns about financing for decommissioning afford no safety-related reason to take individual enforcement action against Maine Yankee, pending completion of the Commission's generic treatment of the issue.[6]

Similarly, Safe Power's concern about adequate financing for spent fuel storage and disposal presents not need for safety-related enforement action. The Commission has determined in its decision in the so-called "Waste Confidence" Rulemaking, 44 F.R. 61372, that there is reasonable assurance that spent fuel can be stored safely in storage basins at reactor sites for an extended period of time (*i.e.*, up to 30 years beyond expiration of reactor operating licenses) until the availability of geologic repositories for safe, permanent disposal. *See* 48 F.R. 22730 (May 20, 1983). Thus the issue raised by Safe Power's petition is not a matter of safety but rather a question of the assurance that Maine Yankee will be able to pay the costs of storage and disposal of spent fuel produced by the facility. That assurance is enhanced by two developments subsequent to the Director's decision denying the petition.

With regard to financing of spent fuel disposition, the Commission has proposed for public comment an amendment to 10 CFR Part 50 whereby reactor licensees must submit for Commission appróval no later than five years before expiration of operating license written notification of the program by which the licensee intends to manage and provide funding for management of spent fuel at the facility upon expiration of the operating license until ultimate disposal in a repository. 48 F.R. 22730, 22732. The Commission noted that "[t]he procedures established by this amendment are intended to confirm that there will be adequate lead time for whatever actions may be needed at individual sites to assure that the management of spent fuel following the expiration of the reactor operating license will be accomplished in a safe and environmentally acceptable manner." 42 F.R. 22731.

As the Director noted, establishment of a fund for ultimate disposal of spent fuel was provided by Congress in the Nuclear Waste Policy Act of 1982. 42 U.S.C. 10101. That provision is part of a comprehensive framework for disposing of spent nuclear fuel and high-level radioactive waste, of domestic origin, generated by civilian nuclear power reactors. 48 FR. 16590, April 18, 1983.

Subsequent to the Director's Decision in the instant matter, the Department of Energy (DOE), acting pursuant to the Nuclear Waste Policy Act, issued first a proposed rule for comment [7] and them a revised final rule requiring utilities, including Maine Yankee, to contract with DOE for waste disposal services that they will ultimately require.[8] While the contracts have separate fee structures for spent fuel in place on April 4, 1983 [9] and spent fuel to be generated after that date,[10] they provide in essence for total prepayment for the waste program.

On June 14 DOE received from main Yankee and executed contract, which when accepted by DOE will impose on Maine Yankee an obligation to begin monthly payments to DOE to cover disposal costs for spent fuel being generated. Within a maximum of two years Maine Yankee must elect how to pay for disposal of spent fuel now on site and begin to pay for that disposal, which must be paid for in full by the end of ten years. These provisions are in addition to Commission requirements for insurance and for decommissioning with which Maine Yankee will be obliged to comply. In summary, Safe Power's petition demonstrated no safety-related concerns which might require immediate enforcement action, and there are procedures proposed or already in place to deal in a timely manner with the financial concerns raised by Safe Power's allegations. The Commission therefore affirms the Director's decision that the relief requested by Safe Power should be denied.

Although the Commission has concluded that it may legally deny Safe Power's petition and has affirmed the Director's decision, the Commission has decided as a matter of diescretion to direct the staff to look into the situation at Maine Yankee to determine whether there are any safety problems which might stem from financial difficulties.

Commissioner Roberts believes that financial qualifications reviews do little to enhance the protection of the public's health and safety. Thus, as a policy matter, he would spend staff resources on safety-related issues.

Commissioner Gilinsky dissents from this decision. His separate views are attached.

It is so ordered.

Dated at Washington, DC, this 2nd day of August, 1983.

For the Commission. [11]

Samuel J. Chilk,

Secretary of the Commission.

Separate Views of Commissioner Gilinsky Maine Yankee Atomic Power Co.

I am not prepared to join in the Commission's overblown and highly legalistic rejection of Safe Power for Maine's petition under Section 2.206 of our regulations. The petition alleges the Maine Yankee Atomic Power Company is suffering from financial difficulties and that the Company has inadequate resources to continue to operate the reactor safely and to dispose of the spent fuel and decommission the plant

[6] In the event of an accident that might require premature decommissioning, increased property insurance levels now available for accident decontamination and required by NRC provide substantial assurance that funding will be available. See 47 F.R. 13750

[7] 48 FR 5458 (1983).

[8] 48 FR 16590.

[9] Three options are available: Payment in a lump sum within two years without interest; payment in a lump sum within ten years with interest and payment in four installments per year over ten years with interest.

[10] There is a pay-as-you-go charge of 1 mil per kilowatt hour to be paid monthly to cover disposal of spent fuel being generated.

[11] Commissioner Gilinsky was not present when this Order was approved but had previously indicated his disapproval.

at the expiration of its license. The Commission argues that since it no longer examines the financial qualifications of utilities for the purposes of licensing, and because the petitioners did not identify specific safety problems, the NRC is not obligated to look any further.

Whatever the merits of the petition, it should have been handled differently. Section 2.206 is intended to serve as an informal way for members of the public to raise concerns which they would like the NRC to address. The NRC's objective in responding should not be solely to determine whether the specific action requested should be granted or denied, but to make a reasonable evaluation of the concern raised and to do what is sensible.

The Commission has repeatedly professed that it wants to get away from legalistic formalities and to find more common sense ways of dealing with safety concerns. Here, instead, it has run a relatively straightforward petition through a series of legal buzz saws.

The NRC's response quotes statutes, rules and court decisions, yet there is no record that at any point anyone looked into whether there are, in fact, any safety problems at Maine Yankee which might stem from financial difficulties. It would have been more helpful in dealing with this petition if, instead of peppering us with legal citations, the Director of Nuclear Reactor Regulation had told us that he had called the Region-I Administrator to check if there have been any such problems.

When the Commission dropped its licensing review of a utility's financial qualifications—because these reviews had never been useful in determining an applicant's qualifications to build and operate a nuclear power plant—it was not intented that absolutely no notice ever be taken of a utility's financial difficulties. These may well be a reason to double check that a company is complying with NRC's safety requirements. While I am pleased that the Commission has agreed with my suggestion that the staff undertake such a check at Maine Yankee, I would not act on the petition until we have a response.

As a final matter, this petition should serve as a reminder to the Commission that it must face up to setting a standard for decommissioning. Instead of saying that it "currently expects to issue in early 1984" the long promised—and long delayed—decommissioning rule, the Commission should set a firm deadline of no later than December 31, 1983, for the NRC staff to submit a proposed rule.

[FR Doc. 83-23371 Filed 8-24-83; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-416 License No. NPF13 EA 83-45]

Mississippi Power & Light Co., (Grand Gulf Nuclear Station Unit 1); Order Imposing Monetary Civil Penalty

I

Mississippi Power & Light Company, P.O. Box 1640, Jackson, Mississippi 39205 (the "Licensee") is the holder of License No. NPF-13 (the "License") issued by the Nuclear Regulatory Commission (the "Commission"). The license authorizes operation of the Grand Gulf Nuclear Station Unit 1 facility in Claiborne County, Mississippi under certain specified conditions and is due to expire on September 4, 2014.

II

An inspection of the licensee's activities under the license was conducted on April 29 and May 3-4, 1983 at the Grand Gulf Nuclear Station Unit 1. As a result of this inspection, it appears that the licensee has not conducted its activities in full compliance with the conditions of its license and with the requirements of Commission regulations. A written Notice of Violation and Proposed Imposition of Civil Penalty was served upon the licensee by letter dated June 13, 1983. The Notice stated the nature of the violation, license conditions which the licensee has violated, and the amount of civil penalty proposed for the violation. An answer dated July 12, 1983 to the Notice of Violation and Proposed Imposition of Civil Penalty was received from the licensee.

III

Upon consideration of the answer received and the statements of fact, explanation, and arguments for mitigation of the proposed civil penalty contained therein, as set forth in the appendix to this Order, the Director of the Office of Inspection and Enforcement has determined that the penalty proposed for the violation in the Notice of Violation and Proposed Imposition of Civil Penalty should be reduced to reflect the proper base amount as noted in Table 1A of 10 CFR Part 2, Appendix C, and should be imposed. As explained in the Attachment to this Order, no mitigation of the base penalty is warranted.

IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2282, Pub. L. 96-295), and 10 CFR 2.205, it is hereby ordered that:

The licensee pay a civil penalty in the amount of Twenty Thousand Dollars within 30 days of the date of this Order, by check, draft, or money order, payable to the Treasurer of the United States and mailed to the Director of the Office of Inspection and Enforcement, USNRC, Washington, D.C. 20555.

V

The licensee may, within thirty days of the date of this Order, request a hearing. A request for a hearing shall be addressed to the Director, Office of Inspection and Enforcement. A copy of the hearing request shall also be sent to the Executive Legal Director, USNRC, Washington, D.C. 20555. If a hearing is requested, the Commission will issue an Order designating the time and place of hearing. Should the licensee fail to request a hearing within thirty days of the date of this Order, the provisions of this Order shall be effective without further proceedings and, if payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the licensee requests a hearing as provided above, the issues to be considered at such a hearing shall be:

(a) Whether the licensee was in violation of the Commission's requirements as set forth in the Notice of Violation and Proposed Imposition of Civil Penalty referenced in Section II above, and

(b) Whether on the basis of such violation this Order shall be sustained.

Dated at Bethesda, Maryland this 18th day of August 1983.

For the Nuclear Regulatory Commission.

Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

Appendix—Evaluation and Conclusions

The violation and associated civil penalty as presented in the Notice of Violation (dated June 13, 1983) are restated below. The licensee admitted the violation in its response of July 12, 1983. This response is summarized, and the NRC evaluation and conclusions regarding the response are presented.

Statement of Violation

License Condition Section 2.E of Facility Operating License No. NPF-13 requires the licensee to maintain in effect and fully implement all provisions of the Commission approved plans collectively entitled "Grand Gulf Station Physical Security Plan." Section 6.6.2.2 of the approved Physical Security Plan

requires a member of the security force to be posted at an affected vital area portal to provide positive access control when there is a necessity to leave the door to a vital area open.

Contrary to the above, on April 29, 1983, the licensee failed to provide positive access control in that the security force member posted at the lower containment hatch to control access was observed to be asleep.

This is a Severity Level III Violation (Supplement III) (Civil Penalty $40,000).

Reduction of Base Civil Penalty Amount

1. *Licensee Response.* Mississippi Power and Light Company (MP&L) stated that the magnitude of the proposed civil penalty exceeded the guidelines of 10 CFR Part 2, Appendix C. MP&L contends that the NRC Enforcement Policy classifies light water reactors as noncategory 1 safeguards licensees for the purpose of determining enforcement sanctions. Also, MP&L suggests that because the Grand Gulf Unit 1 had specific limitations in the license in effect at the time the violation occurred, the noncategory 1 safeguards classification is doubly applicable.

2. *NRC Evaluation and Conclusion.* The intent of the Base Civil Penalty Table in the Enforcement Policy (Table 1A) is that power reactors of all types be considered category 1 safeguards licensees for enforcement purposes. The basis of this intent lies not so much in the strategic significance of the material present, but in the possible consequences to the public health and safety should sabotage, rather than theft, occur. The category 1 versus noncategory 1 differentiation is based on the potential consequences of theft of a formula quantity of SNM, and the exemptions (10 CFR 73.6) pointed out by the licensee address this concern.

Theft of irradiated or spent fuel from a power reactor is highly unlikely, but the potential consequences of an act of radiological sabotage are very serious.

Because the licensee had a 5% power limitation on the operation of Grand Gulf Unit–1 at the time of the event, the staff agrees that sufficient fission product inventory to pose a serious threat to the public health and safety had not accumulated in the reactor core. Therefore, the staff agrees with the licensee that for this limited case a noncategory 1 safeguards classification is appropriate and that the base civil penalty under Table 1A of the NRC Enforcement Policy is $40,000. Application of the appropriate factor for a Severity Level III violation reduces this amount by 50% to $20,000 before application of any mitigation or escalation factors provided in the policy.

It is important to note that the reduction discussed above is not based on application of the mitigation factors in the policy, but rather the proper application of the Base Civil Penalty Table to an unusual case.

Request for Mitigation of Proposed Civil Penalty

1. MP&L requests mitigation due to the licensee's good record of prompt identification and reporting on other types of events.

NRC Evaluation: The violation was discovered by the NRC Senior Resident Inspector. The NRC Enforcement Policy, 10 CFR 2, Appendix C, is intended to recognize and encourage licensee management and administrative systems designed to detect and deter situations which constitute violations of NRC requirements by allowing a reduction in the amount of a civil penalty when a licensee promptly identifies and reports a violation. This was not the case in this violation since the NRC identified the violation.

2. MP&L requests mitigation for the corrective actions taken and believes them to be comprehensive.

NRC Evaluation: While the staff evaluation of the licensee's corrective actions reveals that these actions were responsive and may be expected to reduce the frequency of occurence of this type of violation in the future, the actions taken were no more than expected. In addition, prompting from the NRC was required to convince the licensee that some of the program changes were needed. Also, the licensee told the NRC that the individual who was sleeping while on duty as a vital area access control guard had been found on a previous occasion to be in a posture indicating that he was possibly asleep. It is understood by the staff that for apparently sound reasons, MP&L chose not to discipline the individual for that occurence, but this should have warned the licensee of a potential for a future violation and the licensee should have taken preventive measures at that time. Such measures would presumably have been programmatic in nature rather than taking the form of individual action.

3. MP&L believes mitigation is warranted because the violation was not indicative of a programmatic or managerial deficiency.

NRC Evaluation: As noted in item 2, above, programmatic problems were detected. Also, the Enforcement Policy does not provide specifically for mitigation on the basis of a lack of programmatic or managerial deficiency. However, when such a deficiency is profound, the amount of the penalty may be increased as much as 25%.

4. MP&L believes the penalty should be mitigated because no unauthorized access to the vital area was detected.

NRC Evaluation: The NRC notes that no unauthorized access to a vital area occurred, but that in itself is not sufficient cause for mitigation. The Enforcement Policy provides a specific example of this type of violation as noted in Supplement III.C.1 and lists the violation as a Severity Level III because the potential for a serious safeguards incident existed. Had there been an actual unauthorized entry, the Severity Level may have been higher.

NRC Conclusion

Further mitigation of the amount of Proposed Civil Penalty is not warranted for the reasons stated above.

[FR Doc. 83-23270 Filed 8-24-83; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50–416]

Mississippi Power & Light Co., et al. Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–13, issued to Mississippi Power & Light Company, Middle South Energy, Inc., and South Mississippi Electric Power Association (the licensees), for operation of the Grand Gulf Nuclear Station, Unit 1, located in Claiborne County, Mississippi.

The amendment would establish later submittal dates to meet license conditions in accordance with the licensees' application for amendment dated May 31, 1983. The proposed changes to license conditions are as follows: (1) Submit an evaluation report on reactor internals prototype vibration tests no later than 6 months after start of full power operation, (2) submit the initial inservice inspections program by April 1, 1984 and (3) submit a report on inplace communications systems testing by August 1, 1984.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The changes proposed for the amendment simply accommodate schedular delays encountered during the low power testing period at this facility. The proposed changes do not affect reactor operations or accident analyses and have no radiological consequences and, therefore, clearly involve no significant hazards consideration. In Supplement No. 4 to the Safety Evaluation Report (SSER #4) for Grand Gulf, Units 1 and 2, issued on May 31, 1983, the staff supported an extension of the reporting dates for the above listed

license conditions on the basis that plant operability was required to perform the tests and inspections and that the plant had experienced prolonged delay in achieving operability. Since the licensees' letter and SSER #4 were issued prior to the expiration date in the effective license condition, we consider this matter to have been handled in a timely manner. The staff proposes to determine that the changes involved in this license amendment involve no significant hazards considerations on the basis that the changes do not affect reactor operations or accident analyses and have no radiological consequences, and therefore, clearly do not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in the margin of safety.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, ATTN: Docketing and Service Branch.

By September 26, 1983, the licensees may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR § 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reason why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment requests involve no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and state comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, ATTN: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to A. Schwencer: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Troy B. Conner, Jr., Esquire, Conner & Wetterhahn, 1747 Pennsylvania Avenue, NW., Washington, D.C. 20006, attorney for the licensees.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Hinds Jr. College, George M. McLendon Library, Raymond, Mississippi 39154.

Dated at Bethesda, Maryland, this 17th day of August 1983.

For the Nuclear Regulatory Commission.

R. Caruso,

Acting Chief, Licensing Branch No. 2, Division of Licensing.

[FR Doc. 83-23372 Filed 8-24-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-445 and 50-446]

Texas Utilities Generating Co., et al. (Comanche Peak Steam Electric Station, Units 1 and 2); Issuance of Director's Decision

Notice is hereby given that the Director, Office of Inspection and Enforcement, has denied a petition under 10 CFR 2.206 filed by Mrs. Juanita Ellis on behalf of Citizens Association for Sound Energy (CASE), of Dallas, Texas. This petition related to the Comanche Peak Steam Electric Station, Units 1 and 2. In its petition, CASE requested that the licensees be required to provide certain documents containing ITT Grinnell and NPSI design criteria used for pipe supports at Comanche Peak, or in the alternative, if these documents are not in the licensees' possession, then the licensees be found in violation of NRC regulations.

The reasons for the denial of CASE's petition are fully described in the "Director's Decision Under 10 CFR 2.206" issued on this date, which is available for public inspection in the Commission's Public Document Room located at 1717 H Street NW., Washington, D.C. 20555, and in the local public document rooms for the Comanche Peak Station at the Sommerville County Public Library, On the Square, P.O. Box 1417, Glen Rose, Texas 70643, and the University of Texas Library, Arlington, Texas 76019. A copy of the decision will be filed with the Secretary for the Commission's review in accordance with 10 CFR 2.206(c).

Dated at Bethesda, Maryland this 19th day of August 1983.

For the Nuclear Regulatory Commission.

Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

[FR Doc. 83-23374 Filed 8-24-83; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[File No. 22-12822]

American Southwest Financial Corporation; Applications and Opportunity for Hearing

August 19, 1983.

Notice is hereby given that American Southwest Financial Corporation (the "Company") has filed an application pursuant to clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939, as amended (the "Act"), for a finding by the Securities and Exchange Commission (the "Commission") that trusteeship of The Valley National Bank of Arizona ("Valley") under indentures dated as of December 1, 1982, April 1, 1983 (the "Qualified Indentures"), between the Company and Valley which were heretofore qualified under the Act, the trusteeship by Valley under a proposed indenture dated as of June 1, 1983 which has been qualified under the Act (the "Proposed Indenture") and trusteeship by Valley under an indenture tentatively to be dated as of July 1, 1983, and which will be qualifed under the Act (the "New Indenture"), are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Valley from acting as trutee under any of these indentures and the New Indenture.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in the section), it shall, within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of this section of the Act provides, with certain exceptions stated therein, that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture of the same obligor.

However, pursuant to clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture or indentures under which other securities of such obligor are outstanding, if the issuer shall have sustained the burden of proving on application to the Commission, and after opportunity for hearing thereon, that the trusteeships under the indentures are not so likely to involve a material conflict of interest to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under any such indentures.

The Company alleges that:

(1) Pursuant to the Qualified Indentures, the Company has issued $50,475,000 aggregate principal amount of its 12⅞% GNMA-Collateralized Bonds, Series A (the "Series A Bonds") and $35,280,000 aggregate principal amount of its 12¼% GNMA-Collateralized Bonds, Series B (The "Series B Bonds"), for which Valley serves as trustee. The Series A Bonds and Series B Bonds were registered under the Securities Act of 1933 and the Qualified Indentures were qualified under the Act.

(2) The Proposed Indenture relating to Series C of the Company's GNMA-Collateralized Bonds has not been executed. After the application for an order of exemption with respect to the Proposed Indenture had been filed, the Company elected to issue its next series of GNMA-Collateralized Bonds. As a result, although the Order dated June 22, 1983 was issued with respect to the Proposed Indenture, Valley is not presently serving as trustee under the Proposed Indenture because it is not yet in effect. At present, the Company does not contemplate that the Proposed Indenture will be executed.

(3) Pursuant to the New Indenture, the Company proposes to issue and sell up to $100,000,000, in aggregate principal amount of its GNMA-Collateralized Bonds, issuable in series (the "New Bonds") for which it contemplates Valley will serve as trustee. The Company contemplates that the New Bonds will be registered under the Securities Act of 1933 and that the New Indenture will be qualified under the Act.

(4) The Collateral granted to Valley as trustee for the Series A Bonds will serve as collateral security only for the Series A Bonds and the holders of other Bonds issued by the Company (including the Series B Bonds and the New Bonds) will not have recourse to the collateral granted to Valley as trustee for the series A Bonds.

(5) The collateral granted to Valley as trustee for the Series B Bonds will serve as collateral security only for the Series B Bonds and the holders of other Bonds issued by the Company (including the Series A Bonds and the New Bonds) will not have recourse to the collateral granted to Valley as trustee for the Series B Bonds.

(6) The collateral to be granted to Valley as trustee for the New Bonds will serve as collateral security only for the New Bonds and the holders of other Bonds issued by the Company (including the Series A Bonds and Series B Bonds) will not have recourse to the collateral

granted to Valley as trustee for the New Bonds.

(7) The Company is not in default under either Qualified Indenture.

(8) Such differences as exist between the Qualified Indentures, the Proposed Indenture and the New Indenture are not likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Valley from acting as trustee under any of the Indentures.

The Company has waived notice of hearing, hearing and any and all rights to specify procedures under the Rules of Practice of the Securities and Exchange Commission in connection with this matter.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application which is on file in the offices of the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. 20549.

Notice is further given that any interested person may, not later than September 13, 1983 request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request and the issues of law or fact raised by such application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-22287 Filed 8-24-83; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 83-178]

Recordation of Trade Name: "Underground Camera, Inc."

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of Recordation.

SUMMARY: On May 6, 1983, a notice of application for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name "Underground Camera, Inc." was published in the **Federal Register** (48 FR 20531). The notice advised that before final action on the application, consideration would be given to relevant data, views, or arguments submitted in opposition to the recordation and received not later than July 5, 1983. No responses were received in opposition to the application.

Accordingly, as provided in section 133.14, Customs Regulations (19 CFR 133.14), the name "Underground Camera, Inc." is recorded as the trade name used by Underground Camera, Inc., a corporation organized under the laws of the State of Massachusetts, located at 369 Central Street, Foxboro, Massachusetts 02035. The trade name is used in connection with photographic equipment, namely, cameras and lenses; photographic supplies, namely, photographic film and chemicals; and photographic accessories, namely camera supports and illuminators. The trade name is applied to the goods in the United States.

DATE: August 25, 1983.

FOR FURTHER INFORMATION CONTACT: Harriet Lane, Entry, Licensing and Restricted Merchandise Branch, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-5765).

Dated: August 19, 1983.

Donald W. Lewis,

Director, Entry Procedures and Penalties Division.

[FR Doc. 83-23327 Filed 8-24-83; 8:45 am]

BILLING CODE 4820-02-M

VETERANS ADMINISTRATION

Privacy Act of 1974; Amendment of Systems Notice, Revised Systems of Records

Notice is hereby given that the VA (Veterans Administration) is considering changing a system of records entitled, "Repatriated American Prisoners of War-VA" (60VA07), set forth in the document entitled Privacy Act Issuances, 1980 Comp., Volume V, p. 695. The system of records was originally established by PP&E (Office of Program Planning and Evaluation) because Pub. L. 95-479 required the VA to conduct a study on the impact of the POW (Prisoner of War) experience and the current needs of former POWs. Before the study coud be conducted, former POWs had to be identified and considerable information concerning them had to be collected. At this time, the study has been completed and PP&E no longer has a need to maintain the system or records. DVB (Department of Veterans Benefits) can still utilize this system of records since Congressional, Federal, and public groups continue to request updated information on former POWs and the VA has an operational need to be able to quickly, easily, and accurately verify veterans' POW status. This system also has significant long-term historical value for future studies and short-range value to provide information for the VA's POW Advisory Committee and for VA analysis of the needs of former POWs. Based upon the above, it is proposed that the system manager duties be transferred from PP&E to DVB.

In the republished VA system of records, we are proposing to add four routine use statements. Routine use number 1 concerns the release of information to a member of Congress or staff person acting for the member when the member or staff person requests the record on behalf of and at the request of the individual to whom the record pertains. Routine use number 2 concerns the release of information to accredited service organizations, VA-approved claims agents and attorneys acting under a declaration of representation so that these individuals can aid veterans in the preparation, presentation and prosecution of claims under the laws administered by the VA. It is noted that routine use number 2 limits disclosure of a veteran's name to only those instances where a veteran has requested the assistance of an accredited service organization, claims agent or an attorney. Routine use number 3 concerns the release of information to the Office of the Secretary of Defense, International Security Affairs (POW-MIA), for the purpose of aiding the Department in verifying the status of individuals who were prisoners of war or missing in action and/or in determining their most recent location. Routine use number 4 concerns the release of information to the National Archives and Records Service, in order that they may produce extracts to perform statistical analysis; reconstruct military personnel records information; and respond to inquiries from the general public.

2. Notice is hereby given that the Veterans Administration is considering deleting a system of records entitiled, "Dental Services for Former Prisoners of War-VA" (61VA136), set forth in the document entitled Privacy Act Issuances, 1980 Comp., Volume V, p. 696. In 1980, microfiche records (61VA136)

were established to enable VA health care facilities to make eligibility determinations for former POWs who make application for dental benefits. The microfiche records were created from the magnetic tape which consitututes the current VA system of records 60VA07. This new system of records was created since the purpose of the original system of records 60VA07 was to conduct a study of a limited duration and was not directly related to ther providing of benefits to POWs. However, a review of these two systems indicates that once DVB assumes responsibility of 60VA07 for benefit purposes, the records currently covered by 61VA136 should be considered a subsystem of 60VA07. Based upon the above, we are modifying the proposed 60VA23 to reflect the existence of microfiche records and at the same time deleting 61VA136.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed systems of records Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420. All relevant material received before September 23, 1983 will be considered. All written comments received will be available for public inspection at the above address only between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays) until October 7, 1983.

If no public comment is received during the 30-day review period allowed for public comment or unless otherwise published in the **Federal Register** by the Veterans Administration, the revised systems of records are effective September 23, 1983.

Approved: August 16, 1983.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

August 16, 1983.

Notice of System of Records

The system identified as 60VA07, "Repatriated American Prisoners of War-VA", set forth in the document entitled Privacy Act Issuances, 1980 Comp., Volume V, p. 695 is revised as follows:

60VA23

SYSTEM NAME:

Repatriated American Prisoners of War-VA

SYSTEM LOCATION:

Records are maintained at the VA regional offices, VA Central Office, all health care facilities and the Data Processing Center at Austin, Texas. Address locations are listed in VA Appendix 1 at the end of this document.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are repatriated prisoners of war, including but not limited to those of World War II; Korean Conflict; Vietnam Era; Pueblo Crisis; the members of the group known as Civilian Employees, Pacific Naval Air Bases, who actively participated in the defense of Wake Island and were determined to be eligible for veterans' benefits under Pub. L. 95–202; and those determined by the VA to have been held as prisoners of war during peacetime.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal identification information related to the POW experience and identifying data, e.g., name, Social Security number, file number, service number, date of birth, date of death (if applicable), period of service branch of service, entitlement code, aid and attendance or housebound status, number of service-connected disabilities, number of days interned as a POW, place of internment and hospital discharge data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 102, Pub. L. 96–22, June 13, 1979, 38 U.S.C. 612; Pub. L. 97–37, August 14, 1981, 38 U.S.C. 101, 221, 312, 610 and 612; and 38 U.S.C. 210(c)(1).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. The record of an individual who is covered by this system may be disclosed to a member of Congress or staff person acting for the member when the member or staff person requests the record on behalf of and at the request of that individual.

2. Any information in this system relevant to a veteran's claim such as the name, military service information and the number of days interned as a POW may be disclosed at the request of the veteran to accredited service organizations, VA-approved claims agents and attorneys acting under a declaration of representation so that these individuals can aid veterans in the preparation, presentation and prosecution of claims under the laws administered by the VA. The name of a veteran will not, however, be disclosed to these individuals under this routine use if the veteran has not requested the assistance of an accredited service organization, claims agent or an attorney.

3. Any information in this system may be disclosed to the Office of the Secretary of Defense, International Security Affairs (POW/MIA), upon their official request, in order to aid the Department in verifying the status of individuals who were prisoners of war or missing in action and/or in determining their most recent location.

4. Any information in this system may be disclosed to NARS (National Archives and Records Service), upon their official request, in order that NARS may produce extracts to perform statistical analysis; reconstruct military personnel records information; and respond to inquiries from the general public.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on magnetic tape and microfiche.

RETRIEVABILITY:

The magnetic tape is indexed by the veteran's service, VA file or Social Security number. The microfiche is indexed by the veteran's name with secondary verification by the veteran's service, VA file or Social Security number.

SAFEGUARDS:

1. Access to the basic file in the Austin DPC (Data Processing Center) is restricted to authorized VA employees and vendors. Access to the computer room where the magnetic tape is located within the DPC is further restricted to specifically authorized employees and is protected by an alarm system, the Federal Protective Service, and other VA security personnel.

2. Access to microfiche listing and readers is restricted to authorized VA employees on a "need to know" basis. The microfiche is stored in protected drawers and protected from outside use by the Federal Protective Service.

RETENTION AND DISPOSAL:

Records are maintained on magnetic tape and microfiche and are retained and disposed of in accordance with disposition authorization approved by the Archivist of the United States.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Administrative Service (23), VA Central Office, 810 Vermont Avenue, NW., Washington, D.C. 20420.

NOTIFICATION PROCEDURE:

Any individual who wishes to determine whether a record is being maintained in this system under his or

her name or other personal identifier, or wants to determine the contents of such record should submit a written request or apply in person to the nearest VA regional office or medical center. Addresses for these offices may be found in VA Appendix 1 at the end of this document. Inquiries should include as much of the following information as possible: the veteran's full name, VA file number, service number and Social Security number.

RECORD ACCESS PROCEDURES:

Individuals seeking information regarding access to and contesting of VA records in this system may write, call or visit the nearest VA regional office of medical center.

CONTESTING RECORD PROCEDURES:

(See Record Access Procedures above.)

RECORD SOURCE CATEGORIES:

The Department of Defense, National Archives and Records Service, and VA records such as the Patient Treatment File, the Veterans and Beneficiary Indentification and Records Locator Subsystem, and Veterans, Dependents and Beneficaries Compensation and Pension records.

[FR Doc. 83-23234 Filed 8-24-83; 8:45 am]
BILLING CODE 8320-01-M

Medical Research Service Merit Review Boards; Meetings

The Veterans Administration gives notice pursuant to Pub. L. 92-463 of the meetings of the following Merit Review Boards.

Merit review board	Date	Time	Location
Neurobiology	Sept. 15, 1983	8 a.m. to 5 p.m.	Caucus Room, Hotel Washington.[1]
Do	Sept. 16, 1983	do	Do.
Mental Health and Behavioral sciences	Sept. 22, 1983	do	Do.
Do	Sept. 23, 1983	do	Do.
Immunology	Sept. 27, 1983	do	Do.
Do	Sept. 28, 1983	do	Do.
Oncology	Sept. 28, 1983	do	Assembly Room, Hotel Washington.[1]
Cardiovascular studies	Sept. 29, 1983	do	Do.
Do	Sept. 30, 1983	do	Do.
Gastroenterology	Oct. 4, 1983	do	Council Room, Hotel Washington.[1]
Do	Oct. 5, 1983	do	Do.
Nephrology	Oct. 6, 1983	do	Do.
Do	Oct. 7, 1983	do	Do.
Alcoholism and drug dependence	Oct. 11, 1983	do	Do.
Endocrinology	Oct. 12, 1983	do	Assembly Room, Hotel Washington.[1]
Do	Oct. 13, 1983	do	Do.
Basic sciences	Oct. 17, 1983	do	Council Room, Hotel Washington.[1]
Do	Oct. 18, 1983	do	Do.
Do	Oct. 19, 1983	do	Do.
Surgery	Oct. 20, 1983	do	Brampton A Room, Omni International Hotel.[2]
Respiration	do	7 p.m. to 10 p.m.	Council Room, Hotel Washington.[1]
Do	Oct. 21, 1983	8 a.m. to 5 p.m.	Do.
Infectious diseases	Oct. 23, 1983	8 a.m. to 5 p.m.	Continental Salon, Las Vegas Hilton.[3]
Do	Oct. 24, 1983	do	Do.
Hematology	do	do	Room 817, VA Central Office.[4]

[1] Hotel Washington, 15th & Pennsylvania Avenue NW, Washington, DC 20004.
[2] Omni International Hotel, One Omni International, Atlanta, GA 30303.
[3] Las Vegas Hilton, 3000 Paradise Road, Las Vegas, NV 89109.
[4] Veterans Administration Central Office, 810 Vermont Avenue NW, Washington, DC 20420.

These meetings will be for the purpose of evaluating scientific merit of research conducted in each specialty by Veterans Administration investigators working in Veterans Administration Medical Centers and clinics.

The meetings will be open to the public up to the seating capacity of the rooms at the start of each meeting to discuss the general status of the program. All of the Merit Review Board meetings will be closed to the public after approximately one-half hour from the start, for the review, discussion and evaluation of initial, and renewal research projects.

The closed portion of the meetings involve: discussion, examination, reference to, and oral review of site visits, staff and consultant critiques of research protocols, and similar documents. During this portion of the meeting, discussion and recommendations will deal with qualifications of personnel conducting the studies, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, as well as research information, the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action regarding such research projects. As provided by subsection 10(d) of Pub. L. 92-463, as amended by Public Law 94-409, closing portions of these meetings are in accordance with 5 U.S.C., 552b(c)(6) and (9)(B). Because of the limited seating capacity of the rooms, those who plan to attend should contact Mr. Howard M. Berman, Chief, Merit Review Board Staff Division, Medical Research Service, Veterans Administration, Washington, DC (202) 389-5065 at least five days prior to each meeting. Minutes of the meeting and rosters of the members of the Boards may be obtained from this source.

Dated: August 16, 1983.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 83-23301 Filed 8-24-83; 8:45 am]
BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 166
Thursday, August 25, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Federal Deposit Insurance Corporation	1, 2, 3
Federal Maritime Commission	4
Federal Reserve System	5, 6
International Trade Commission	7
Tennessee Valley Authority	8, 9

1

FEDERAL DEPOSIT INSURANCE CORPORATION

Change in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, August 22, 1983, the Corporation's Board of Directors determined, on motion of Director Irvine H. Sprague (Appointive), seconded by Mr. Doyle L. Arnold, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required the withdrawal from the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matter:

Application of Bank of Western Indiana, Covington, Indiana, an insured State nonmember bank, for consent to merge, under its charter and title, with The Hillsboro State Bank, Hillsboro, Indiana, and to establish the three offices of The Hillsboro State Bank as branches of the resultant bank.

The Board further determined, by the same majority vote, that no earlier notice of this change in the subject matter of the meeting was practicable.

Dated: August 22, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–1211–83 Filed 8–23–83; 12:20 pm]

BILLING CODE 6714–01–M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 pm. on Tuesday, August 30, 1983, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Application for consent to merge and establish three branches:

Bank of Western Indiana, Covington, Indiana, and insured State nonmember bank, for consent to merge, under its charter and title, with The Hillsboro State Bank, Hillsboro, Indiana, and to establish the three offices of The Hillsboro State Bank as branches of the resultant bank.

Notice of acquisition of control:

Name of acquiring person and name and location of bank authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 45,757–L (Amended): International City Bank and Trust Company, New Orleans, Louisiana

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6), of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: August 23, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–1216–83 Filed 8–23–83; 4:00 pm]

BILLING CODE 6714–01–M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2 p.m. on Tuesday, August 30, 1983, to consider the following matters.

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Desposition of minutes of previous meetings.

25Application for consent to acquire assets and assume liabilities and establish one branch:

Citytrust, Bridgeport, Connecticut, an insured State nonmember bank, for consent to acquire certain assets of and assume the liability to pay deposits made in the Coe Cob Branch located in Greenwich, Connecticut, o' BancOne of Connecticut,

Bridgeport, Connecticut, and to establish that office as a branch of Citytrust.

Application for consent to merge and establish one branch:

American Security Bank, North Platte, Nebraska, an insured State nonmember bank, for consent to merge, under its charter and title, with American State Savings Company, North Platte, Nebraska, a noninsured industrial loan and investment company, and to establish the existing branch of American State Savings Company as a branch of the resultant bank.

Application for consent to convert to a non-FDIC-insured institution:

Northfield Savings Bank, FSB, New York City (Port Richmond), New York.

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Memorandum and Resolution re: Banco Credito y Ahorro Ponceno, Ponce, Puerto Rico

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications, requests, or actions involving administrative enforcement proceedings approved by the Director or an Associate Director of the Division of Bank Supervision and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Report of the Director, Division of Accounting and Corporate Services:

Memorandum re: Investment Management Report as of June 30, 1983

Reports of the Director, Office of Corporate Audits and Internal Investigations:

Memorandum re: Status of Auditee Corrective Actions

Audit Report re: Summary of Three Liquidation Site Audits, dated August 1, 1983

Discussion Agenda:

Memorandum and resolution re: Examination of FDIC-Insured Federal Savings Banks.

Memorandum and resolution re: Advance notice of proposed rulemaking in connection with Parts 332, 333, and 337 of the Corporation's rules and regulations, entitled "Powers Inconsistent with Purposes of Federal Deposit Insurance Law," "Extension of Corporate Powers," and "Unsafe and Unsound Banking Practices," respectively, to solicit comment on: the need for rulemaking to govern the direct or indirect involvement of insured banks with respect to real estate activities, insurance brokerage and underwriting activities, data processing activities for third parties, and travel agency activities; whether or not such activities on the part of insured banks pose any safety and soundness problems, present any conflicts of interest, or are consistent with the purposes of the Federal Deposit Insurance Act; and whether or not the Corporation should impose any limitation on the ability of a firm engaged in any of the foregoing activities to own an insured bank.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: August 23, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–1217–83 Filed 8–23–83; 4:00 pm]

BILLING CODE 6714–01–M

4

FEDERAL MARITIME COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 37762, August 19,1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9 a.m., August 24, 1983.

CHANGE IN THE MEETING: Withdrawal of the following item from the open session:

1. Sea-Land Service, Inc. 10 percent general increase applying between U.S. Atlantic and Gulf ports and ports in Puerto Rico and the U.S. Virgin Islands, and between Puerto Rico and Canada.

[S–1209–83 Filed 8–22–83; 4:13 pm]

BILLING CODE 6730–01–M

5

FEDERAL RESERVE SYSTEM

TIME AND DATE: Approximately 10:30 a.m., Wednesday, August 31, 1983, following a recess at the conclusion of the open meeting.

PLACE: 20th Street and Consititution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed purchase of check reader/sorters within the Federal Reserve System.

2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve Systememployees.

3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: August 23, 1983.

James McAfee,

Associate Secretary of the Board.

[S–1214–83 Filed 8–23–83; 3:24 pm]

BILLING CODE 6210–01–M

6

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10 a.m., Wednesday, August 31, 1983. (This meeting had been originally scheduled for August 25, 1983.)

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED: *Summary Agenda:* Because of their routine nature, no substantive dicussion of the following items is anticipated. These matters will be voted on without discussion unless a member of the Board requests that an item be moved to the discussion agenda:

1. Proposed final amendments to Regulation L (Management Official Interlocks) to implement the Depository Institution Management Interlocks Act. (Proposed earlier for public coment; Docket No. R–0431.)

2. Proposed amendments to Regulation O (Loans to Executive Officers, Directors and Principal Shareholders) to implement the Garn-St Germain Depository Institutions Act of 1982. (Proposed earlier for public comment; Docket No. R–0469.)

Discussion Agenda:

3. Proposed expansion of the Automated Clearing House (ACH) night cycle.

4. Any items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: August 23, 1983.

James McAfee,

Associate Secretary of the Board.

[S–1215–83 Filed 8–23–83; 3:24 pm]

BILLING CODE 6210–01–M

7

INTERNATIONAL TRADE COMMISSION

TIME AND DATE: 2:30 p.m., Tuesday, September 6, 1983.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints:

a. Certain structural connectors (Docket No. 964).

5. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523–0161.

[S–1212 Filed 8–23–83; 2:17 pm]

BILLING CODE 7020–02–M

8

TENNESSEE VALLEY AUTHORITY:

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: — FR —, August—, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:15 a.m., Wednesday, August 24, 1983.

PREVIOUSLY ANNOUNCED PLACE OF MEETING: TVA West Tower Auditorium, 400 West Summit Hill Drive, Knoxville, Tennessee.

STATUS: Open.

ADDITIONAL MATTER: The following item is added to the previously announced agenda:

F. Unclassified

8. Supplement to Interagency Agreement Between TVA and Agency for International Development (AID) Covering Arrangements for TVA's Assistance to AID's Bioenergy Program.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call 615–632–3257, Knoxville, Tennessee. Information is also available to TVA's Washington Office, 202–245–0101.

SUPPLEMENTARY INFORMATION:

TVA Board Action

The TVA Board of Directors has found, the public interest not requiring otherwise, that TVA business requires the subject matter of this meeting to be changed to include the additional item shown above and that no earlier announcement of this change was possible.

The members of the TVA Board voted to approve the above findings and their approvals are recorded below.

Dated: August 22, 1983.

C. H. Dean, Jr.,
S. David Freeman,
Richard M. Freeman.

[S–1208–83 Filed 8–23–83; 4:11 pm]

BILLING CODE 8120–01–M

9

TENNESSEE VALLEY AUTHORITY

TIME AND DATE: 9:30 a.m., Monday, August 29, 1983.

PLACE: TVA West Tower Auditorium, 400 West Summit Hill Drive, Knoxville, Tennessee.

STATUS: Open.

MATTER FOR ACTION:

Consideration of proposed interim rate arrangements under which electric power would continue to be made available on a temporary basis to distributors of TVA power that have not entered into renewal standard form wholesale power contracts applicable for long-term supply arrangements.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call 615–632–3257, Knoxville, Tennessee. Information is also available at TVA's Washington Office, 202–245–0101.

SUPPLEMENTARY INFORMATION:

TVA Board Action

The TVA Board of Directors has found, the public interest not requiring otherwise, that TVA business requires that this meeting be called at the time set out above and that no earlier announcement of this meeting was possible.

The members of the TVA Board voted to approve the above findings and their approvals are recorded below.

Dated: August 23, 1983.

C. H. Dean, Jr.,
S. David Freeman,
Richard M. Freeman.

[S–1213–83 Filed 8–23–83; 3:00 pm]

BILLING CODE 8120–01–M

VOL
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federal register

Thursday
August 25, 1983

Part II

Department of Transportation

Maritime Administration

Revisions to the Voluntary Tanker Agreement

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Revisions to the Voluntary Tanker Agreement

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice of Revised Voluntary Tanker Agreement.

SUMMARY: The Maritime Administration announces the text of the Voluntary Tanker Agreement, as authorized under section 708 of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2158). This Agreement revises and replaces the original agreement, as amended, and is issued in accordance with the provisions of 44 CFR 332.4. Since the Revised Voluntary Tanker Agreement contains extensive changes from the original, both new participants and those currently enrolled are asked to confirm their participation by submitting new applications, which are available from the Maritime Administration. Copies of the Revised Voluntary Tanker Agreement and Application Form will be made available upon request.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Nevel, Division of National Security Plans, Room 7123, U.S. Department of Transportation, Maritime Administration, 400 Seventh Street SW., Washington, D.C. 20590, (202) 382–6100.

SUPLEMENTARY INFORMATION: The Maritime Administration, since 1952, has administered a program whereby tanker owners and charterers have signed standby agreements to make available tankers and tanker space when needed for the national defense. The 1978 amendments to the Defense Production Act of 1950 (Act) imposed new procedures which must be followed by agencies developing standby agreements for industrial mobilization in times of national emergency. The 1978 amendments to the Act necessitated adoption of regulations prescribing new procedures for standby voluntary agreement that were published by the Federal Emergency Management Agency (FEMA) at 44 CFR Part 332 (46 FR 2349, January 9, 1981); and at 49 CFR Subtitle A, § 1.66 (46 FR 2352 January 9, 1981). The authority of FEMA was enhanced and the Attorney General and the Chairman, Federal Trade Commission were given roles which assured that no undue intrusion into the antitrust area occured. The Maritime Administration proceeded to revise the text of the existing agreement to reflect the changes required in these regulations.

On January 20, 1982, the draft revisions were discussed at a public meeting. (See 46 FR 61052, December 14, 1981, and 47 FR 4635, February 1, 1982). Most of the comments offered at the meeting and in subsequent correspondence have been incorporated in the revised text. The Revised Voluntary Tanker Agreement has been concurred in by the Department of Defense, Department of Justice, Federal Trade Commission and FEMA. The reporting and record keeping provisions of the Revised Agreement have been submitted to the Office of Management and Budget for approval under the Paperwork Reduction Act of 1980, and 5 CFR 1320. The revised Agreement is a substitute for the original agreement and is offered to new applicants and present participants.

The complete text of the Revised Voluntary Tanker Agreement is published below. Copies of the Revised Agreement and Application Form are being sent to U.S. companies which own, operate, or charter tankers and ocean-going tugs and tank barges, including those companies which are party to the present agreement.

In addition, copies of the Revised Voluntary Tanker Agreement and Application Form are available to the public upon request.

TEXT OF REVISED VOLUNTARY TANKER AGREEMENT

Revised Standby Voluntary Agreement Under Pub. L. 774, 81st Congress, as Amended "Contribution of Tanker Capacity for National Defense Requirements" (Short Title: Revised Voluntary Tanker Agreement)

Table of Contents

Preface
I. Purpose
II. Authorities
III. General
- A. Need for the Agreement.
- B. History of the Agreement.
- C. Participation.
- D. Effective Date and Duration of Participation.
- E. Withdrawal from the Agreement.
- F. Standby Period.
- G. Rules and Regulations.
- H. Amendment of the Agreement.
- I. Administrative Expenses.
- J. Record Keeping.
- K. Requisition of Ships of Non-Participants.
- L. Concurrent Activation of Voluntary Agreements under the International Energy Program.
- M. Jones Act Waivers.

IV. Antitrust Defense
V. Terms and Conditions
- A. Agreement by Participants.
- B. Proportionate Contribution of Capacity.
- C. Reports of Controlled Tonnage.
- D. Freight Rates under the Agreement.
- E. War Risk Insurance.

VI. Activation of Agreement
- A. Determination of Necessity.
- B. Tanker Requirements Committee.
- C. Designation of the Representative of the Secretary of Defense.
- D. Tanker Charters.
- E. Termination of Charters under the Agreement.

VII. Application and Agreement

Preface

Pursuant to the authority contained in Section 708, Defense Production Act of 1950, as amended (50 U.S.C. App. 2158) the Maritime Administrator ("the Administrator"), after consultation with representatives of the tanker industry, has developed this revised standby Agreement for voluntary contribution of tanker capacity for national defense requirements.

The Agreement provides for the contribution of tanker capacity to the Department of Defense (DoD) at freight rates and upon charter terms and conditions determined by the Administrator in such a way as to distribute the burden of such contributions in mathematical proportion to the clean tonnage and dirty tonnage controlled by each tanker operator participating in the Agreement ("Participant"). Tanker operator is defined as a corporate entity that owns or operates tankers under bareboat charters, time charters or other charter and leasing arrangements.

The Agreement has the effect of creating a pool of privately owned tanker capacity for support of national defense activities, in the management of which owners and operators are protected from civil and criminal action for violation of antitrust laws.

The Agreement establishes the terms, conditions and general procedures under which each Participant agrees voluntarily to make tankers and tanker space available to the DoD at the request of the Administrator.

The Agreement is designed to create close working relationships among the Administrator, the DoD and Participants through which military needs and the needs of the civil economy, as they exist at the time the Agreement is activated, can be met by cooperative action. The Agreement provides for responsive support of defense needs with minimum disruption of industrial operations and affords Participants maximum flexibility to adjust their commercial operations to meet current and projected defense requirements.

The capacity made available voluntarily under this Agreement may be supplemented by ships requisitioned, under the provisions of Section 902, Merchant Marine Act, 1936, as amended, from owners who are not Participants in this Voluntary Agreement and by selective requisitioning of ships of Participants.

This revision of the Voluntary Agreement of January 23, 1951 (16 FR 1964, March 1, 1951) as amended, was approved by the Attorney General and extended until April 14, 1985. Because this revised Agreement contains new administrative requirements in accordance with the revised provisions of Section 708 of the Defense Production Act of 1950, Participants in the 1951 Agreement

should confirm their participation in this Agreement by submitting new applications.

The Department of Defense has concurred in this Agreement.

The Director of the Federal Emergency Management Agency, after consultation with the Attorney General and the Chairman of the Federal Trade Commission, has concurred in this Agreement.

Revised Voluntary Tanker Agreement

I. Purpose

This Agreement establishes procedures for voluntary contribution of clean tanker capacity and dirty tanker capacity to satisfy DoD needs when the Administrator finds that a tanker capacity emergency affecting the national defense exists, that the defense requirements cannot be met by voluntary arrangements other than this Agreement, and that the defense requirement can be met more efficiently by activating this Agreement than by requisitioning ships under Section 902, Merchant Marine Act, 1936, as amended. This Agreement is a revision of the Voluntary Plan for Contribution of Tanker Capacity for National Defense Requirements (16 FR 1964, March 1, 1951), as amended on March 20, 1958 (24 FR 4119, May 21, 1951).

II. Authorities

Section 708, Defense Production Act of 1950 (50 U.S.C. App. 2158); EO 10480, 3 CFR 1945–1953 Comp. p. 961, as amended; EO 12148, 44 FR 43239; 44 CFR Part 332; Maritime Act of 1981 (Pub. L. 97–31); 49 CFR Subtitle A, § 166.

Section 501 of EO 10480 delegated the authority of the President under section 708 of the Defense Production Act to the Secretaries of Commerce and Transportation, among others. The Voluntary Plan for Contribution of Tanker Capacity for National Defense Requirements was sponsored by the Maritime Administrator, prior to enactment of the Maritime Act of 1981, under authority delegated by the Secretary of Commerce. The Maritime Act of 1981 transferred to the Department of Transportation all Maritime Administration agreements that were in force when the Act took effect. By 49 CFR Subtitle A, § 1.66, the Secretary of Transportation delegated to the Maritime Administrator the authority under which the Voluntary Plan was sponsored and under which this revised, replacement Agreement is sponsored.

III. General

A. *Need for the Agreement.* The Administrator has found, in accordance with section 708(c)(1) of the Defense Production Act of 1950, as amended, that conditions exist which may pose a direct threat to the national defense or its preparedness programs and, under the provisions of section 708 of the Act, has certified to the Attorney General that a standby voluntary agreement for utilization and allocation of tanker capacity is necessary for the national defense. The quantity of tanker cargo to be moved for support of a military contingency operation or war in a foreign area would exceed the capacity normally available for charter on the commercial market. It is desirable to avoid the disruptive effects of ship requisitioning under existing statutory authority so long as military requirements can be met by voluntary cooperation between the Government and the industry. The Attorney General, in consultation with the Chairman of the Federal Trade Commission, has issued a finding that tanker capacity to meet national defense requirements cannot be provided voluntarily by the industry through a voluntary agreement having less anti-competitive effects or without a voluntary agreement.

B. *History of the Agreement.* The original Agreement was approved by the Acting Secretary of Commerce on January 23, 1951, as the "Voluntary Plan for Contribution of Tanker Capacity for National Defense Requirements" (16 FR 1964, March 1, 1951). It was amended on March 20, 1958, to change details of proposed emergency plans and of administrative provisions and to place the plan in standby status (24 FR 4119, May 21, 1959). The Agreement has been revised to conform to regulations issued under 44 CFR Part 332, approved by the Department of Justice, and extended to April 14, 1985. This Agreement revises and replaces the original Agreement as amended and is issued in accordance with the provisions of 44 CFR 332.4, which shall govern any future revisions, modifications and termination.

C. *Participation.*

1. Tanker operators may become Participants in this Agreement by submitting an executed copy of the form specified in Section VII of this Agreement.

2. Ocean-going tug and barge owners and operators may become Participants in this Agreement.

3. For the purposes of this Agreement, "Participant" includes the corporate entity entering into this Agreement and all United States subsidiaries and affiliates of that entity which own or operate ships in the course of their regular business and in which that entity has more than 50 percent control either by stock ownership or otherwise.

4. A list of Participants will be published periodically in the **Federal Register.**

D. *Effective Date and Duration of Participation.* Participation in this Agreement is effective upon execution of the application form by the Participant and the Administrator or their authorized designees and remains in effect until terminated by the Administrator, the Attorney General, or the Director of the Federal Emergency Management Agency, on due notice by letter, telegram or publication in the **Federal Register** or until the Participant withdraws.

E. *Withdrawal from the Agreement.* Participants may withdraw from this Agreement subject to the fulfillment of obligations incurred under the Agreement prior to the date such withdrawal becomes effective, by giving written notice to the Administrator. Withdrawal from this Agreement will not deprive a Participant of an antitrust defense for the fulfillment of obligations incurred prior to withdrawal.

F. *Standby Period.* The "standby period" is the interval between the effective date of the Administrator's acceptance of a Participant's application and the date of activation of the Agreement as provided for in Section V.A. The Administrator's acceptance of a Participant's application does not have or imply any effect or constraint on the Participant's business operations during the standby period.

G. *Rules and Regulations.* Participants acknowledge and agree to abide by all provisions of Section 708, Defense Production Act of 1950, as amended (50 U.S.C. App. 2158), and regulations related thereto which are promulgated by the Secretary of Transportation, the Attorney General, the Chairman of the Federal Trade Commission, and the Director of the Federal Emergency Management Agency. Standards and procedures pertaining to voluntary agreements have been promulgated in 44 CFR Part 332 and reflected in 49 CFR Subtitle A, § 1.66. The Administrator shall inform Participants of new rules and regulations as they are issued.

H. *Amendment of the Agreement.*

1. The Attorney General may modify this Agreement, in writing, after consultation with the Chairman of the Federal Trade Commission and the Administrator. The Administrator, with the concurrence of or at the direction of the Director of the Federal Emergency Management Agency, may modify this Agreement, in writing, after consultation with the Attorney General and the Chairman of the Federal Trade Commission.

2. A Participant may propose amendments to the Agreement at any time. The Administrator will consider proposed amendments and obtain comments from all Participants and, if appropriate, from the public.

I. *Administrative Expenses.* Administrative and out-of-pocket expenses incurred by Participants during the standby period shall be borne by participants. Such expenses may include, among other things, travel incident to organization meetings, expenses incurred in making reports of controlled tonnage contemplated in Section V.B., and record keeping contemplated in Section III. J.

J. *Record Keeping.*

1. The Maritime Administration (MarAd) and the DoD have primary responsibility for maintaining records in accordance with 44 CFR Part 332.

2. The Director of the Office of Ship Operations, MarAd, shall be the official custodian of records related to the carrying out of this Agreement, except records of direct dealings between the DoD and Participants.

3. For direct dealings between the DoD and Participants, the designee of the Secretary of Defense shall be the official custodian of the record but the Director of the Office of Ship Operations, MarAd, shall have complete access thereto.

4. In accordance with 44 CFR § 332.3(d), each Participant shall maintain for five years all minutes of meetings, transcripts, records, documents, and other data, including any communications with other Participants or with any other member of the industry, related to the carrying out of this Agreement. Each Participant agrees to make available to the Administrator, the Attorney General, the Director of the Federal Emergency Management Agency, and the Chairman of the Federal Trade Commission for inspection and copying at reasonable times and upon reasonable notice any item that this section

requires the Participant to maintain. Any record maintained under this subsection shall be available for public inspection and copying, unless exempted on the grounds specified in 5 U.S.C. 552(b)(1) and (3) or identified as privileged and confidential information in accordance with Section 705(e) of the Defense Production Act of 1950, as amended, and 44 CFR Part 332

K. *Requisition of Ship of Non-Participants.* The Administrator may requisition ships of non-Participants to supplement capacity made available for defense operations under this Agreement and to balance the economic burden of defense support among companies operating in U.S. trade. Non-Participant owners of requisitioned tankers will not participate in the Tanker Requirements Committee and will not enjoy the immunities provided by this Agreement.

L. *Concurrent Activation of Voluntary Agreements under the International Energy Program.* This Agreement and Voluntary Agreements under the International Energy Program (IEP) are established under different authorities and for different purposes. If demands under these agreements were competitive, the Maritime Administrator would consult with all authorities concerned to develop a national course of action. This Agreement will not be used to implement the obligations of the United States under the IEP.

M. *Jones Act Waivers.* In situations where the activation of the Agreement deprives a Participant of all or a portion of its Jones Act tonnage and, at the same time, creates a general shortage of Jones Act tonnage on the market, the Administrator may request that the Secretary of the Treasury grant a temporary waiver of the provisions of the Jones Act to permit a Participant to charter or otherwise utilize non-Jones Act tonnage. The tonnage for which such waivers are requested will be approximately equal to the Jones Act tonnage chartered to the DoD and any waiver that may be granted will be effective for the period that the Jones Act tonnage is on charter to the DoD plus a reasonable time for termination of the replacement tonnage charters, as determined by the Administrator.

IV Antitrust Defense

Under the provisions of Subsection 708(j), Defense Production Act of 1950, as amended (50 App. 2158(j)), each Participant in this Agreement shall have available as a defense to any civil or criminal action brought for violation of the antitrust laws, with respect to any act or omission to act to develop or carry out this Agreement, that such act or omission to act was taken in good faith by the Participant in the course of developing or carrying out this Agreement and that the Participant fully complied with the provisions of the Act, and the rules promulgated thereunder, and acted in accordance with the terms of this Agreement. This defense shall not be available to the Participant for any act or omission occurring after the termination of this Agreement, nor shall it be available, upon the modification of this Agreement, with respect to any subsequent act or omission that is beyond the scope of the modified Agreement, except that no such termination or modification will be accomplished in a way that will deprive Participants of antitrust defense for the fulfillment of obligations incurred.

V. Terms and Conditions

A. *Agreement by Participants.*

1. Each Participant agrees to contribute clean tanker capacity and dirty tanker capacity as requested by the Administrator in accordance with Section B. below, at such times and in such amounts as the Administrator shall determine to be necessary to meet the essential needs of the DoD for the transportation of petroleum and petroleum products in bulk by sea.

2. Each Participant further agrees to make tankers and tanker capacity available to other Participants when requested by the Administrator, on the advice of the Tanker Requirements Committee, in order to ensure that contributions to meet DoD requirements are made on a proportionate basis or to ensure that no participating tanker operator is disproportionately hampered in meeting the needs of the civil economy in accordance with priorities established by authority of the President (see, for example, Section III. L.); provided, however, that the chartering of vessels between Participants in the normal course of business and not in response to requests of the Administrator is not covered by this Agreement.

B. *Proportionate Contribution of Capacity.*

1. Each Participant hereto agrees to contribute clean and dirty tanker capacity under the Agreement in the proportion that its "controlled tonnage" in each category bears to the total "controlled tonnage" of all Participants in each category. Because exact proportions may not be feasible, each Participant agrees that minor variances are permissible at the discretion of the Administrator.

2. Clean tankers and clean tonnage shall mean tankers capable of carrying refined petroleum products, including tankers in dirty trade that can be cleaned and used to carry refined products. Dirty tankers and dirty tonnage shall mean tankers used to carry crude oil and not capable of carrying refined products without major modifications to the vessel.

3. "Controlled tonnage" shall mean the total annual carrying capacity of tankers, expressed in terms of 30° gravity crude oil, Port Arthur, TX to New York, NY, including oceangoing tugs and barges, of over 6,000 dead weighttons (DWT) capacity:

a. In which, as of the effective date of the activation of this Agreement, the Participant or any of its U.S. subsidiaries or affiliates has a controlling interest and which are operated under United States, Liberian, Panamanian, Honduran, or other open registry flag; PLUS

b. Ships which are on charter or under contract to such Participant for a period of six (6) months or more from the effective date of activation of the Agreement, regardless of flag of registry, exclusive of tonnage available to the Participant under contracts of affreightment and consecutive voyage charter; provided that, in the event an owner of a vessel terminates a time charter in accordance with a war clause, the affected tonnage will be excluded from the chartering Participant's controlled tonnage; PLUS

c. Any other non-U.S.-flag tonnage which a Participant may offer to designate as "controlled tonnage" and which the Administrator agrees to; LESS

d. Tankers described in subparagraphs, a. and b. which are chartered out or under contract to others for a remaining period of six (6) months or more from the effective date of activation of this Agreement; LESS

e. Certain vessels which are fitted with special gear and are on permanent station for the storage of crude oil from a production platform and vessels which may have a dual role of production storage and transportation use to a limited location, as determined by the Administrator.

4. This Agreement shall not be deemed to commit any vessel with respect to which the law of the country of registration requires the approval of the government before entering into this Agreement of furnishing such vessel under the terms of this Agreement until such time as the required approval has been obtained.

5. "Controlled tonnage" determinations will be made separately for clean tankers and dirty tankers in the following size ranges and proportionate contributions of Participants will be calculated separately for each size category:

6,000 to 19,999 DWT
20,000 to 49,999 DWT
50,000 to 99,999 DWT
100,000 DWT and over

The Administrator may further subdivide the size categories.

6. The obligations of Participants to contribute clean and dirty capacity under the Agreement shall be calculated on a proportionate basis among the Participants by the Administrator as soon as possible after the Agreement is activated. Such calculations shall be revised thereafter at six-month intervals.

7. A vessel on incharter to a Participant shall not be subject to a relet to the DoD in the case where the period of the relet would be longer than the term of the Participant's incharter or in the case where the relet would otherwise breach the terms of the incharter, but such tonnage shall be included in the calculation of the Participant's "controlled tonnage".

8. The Administrator retains the right under law to requisition ships of Participants. A Participant's ships which are directly requisitioned by the U.S. Government or which are called up pursuant to other U.S. Government voluntary arrangements shall be credited against the Participant's proportionate contribution under this Agreement. Ships on charter to the DoD when this Agreement is activated shall not be so credited.

C. *Reports of Controlled Tonnage.* Upon request of the Administrator from time to time and in such form as may be requested, each Participant shall submit information as to "controlled tonnage" necessary for the carrying out of this Agreement. Information which a Participant identifies as privileged and confidential shall be withheld from public disclosure in accordance with Sections 708(h)(3) and 705(e) of the Defense Production

Act of 1950, as amended, and 44 CFR Part 332.

D. *Freight Rates under the Agreement.*

1. Charters of vessels at the request of the Administrator shall be made at rates of charter hire determined by the Administrator in consultation with the designee of the Secretary of Defense in accordance with paragraph 2 below and upon a type of charter determined by the Administrator in consultation with the designee of the Secretary of Defense. The type of charter may be single voyage, consecutive voyage or time charter.

2. The rate of charter hire applicable to each charter shall be the "prevailing market rate" effective at the time of the proposed loading of the vessel. The "prevailing market rate" shall be determined by the Administrator on the basis of a tanker charter market report furnished to the Administrator by a panel of three active and experienced tanker charter brokers selected by the Administrator from a list of brokers mutually agreed upon by the Administrator and the Participants and shall be equal to the lower of either (a) the average rate of the fixtures during the forty-five (45) days immediately preceding the execution of the charter party for a similar type of charter, ship DWT, equivalent loading period and trading ranges, or (b) the last three such fixtures. If within the forty-five day period prior to the execution of the charter party, there were fewer than three fixtures of the type, the brokers are to use their best judgement in recommending the rate. Voyage freight rates will be expressed in terms of American Tanker Rate Schedule (ATRS), Worldwide Tanker Nominal Freight Scale (WORLDSCALE) or other recognized voyage freight rate bases. Time hire rates will be expressed in terms of dollars per DWT per month.

3. The rate of charter hire fixed with respect to each charter shall apply for the the entire period of the charter, except that:

a. For a consecutive voyage charter, the rate of charter shall be increased or decreased to reflect increases or decreases in the price of bunker fuel applicable in the area of the vessel's trade;

b. Reimbursement for war risk insurance premiums will be made in accordance with Section V.E.;

c. The Participant will be reimbursed for crew war bonuses that are applicable to the actual voyage but are announced after the charter rate is established;

d. Each participant may apply to the Administrator for adjustments of charter hire rates to reflect other increases in the vessel's operating costs incurred directly as a consequence of operation for or under the direction of the DoD. The Administrator may effect adjustments, after consultation with the Participant, to reflect other decreases in the vessel's operating costs. In no case will the Administrator approve adjustments to reflect changes in the market other than direct operating costs.

E. *War Risk Insurance.*

1. War risk insurance premiums for time chartered vessels will be paid by the DoD.

2. For voyage and consecutive voyage charters, the Participant will be reimbursed for increases in war risk insurance premiums that are applicable to the actual voyage but are announced after the charter rate is established by the broker panel.

3. For any ship chartered under this Agreement, the Secretary of Defense may procure from the Secretary of Transportation war risk insurance on hull and machinery, war risk protection and indemnity insurance, and Second Seamen's War Risk Insurance, subject to the provisions of Section 1205(a) of the Merchant Marine Act of 1936 (46 U.S.C. 1285).

VI. Activation of the Agreement

A. *Determination of Necessity.* This Agreement shall be activated at the request of the Secretary of Defense, upon a finding by the Administrator, concurred in by the Director of the Federal Emergency Management Agency, that a tanker capacity emergency affecting the national defense exists and that the defense requirement can be met more efficiently by activation of this Agreement than by requisition of ships under Section 902, Merchant Marine Act, 1936, as amended. A tanker capacity emergency will be deemed to exist when tanker capacity required to support operations of U.S. forces outside the continental United States cannot be supplied through the commercial market or other voluntary arrangements. The Administrator shall notify the Attorney General and the Chairman of the Federal Trade Commission when such a finding is made.

B. *Tanker Requirements Committee.*

1. A Tanker Requirements committee (the "Committee") shall be appointed by the Administrator for the purpose of recommending the proportional contributions of tanker capacity by the Participants necessary to satisfy the requirements of the DoD.

2. The Committee shall be composed of a representative of each Participant and a full-time employee of MarAd. The MarAd representative shall chair the Committee and shall be assisted by experts from DoD. As the designated representative of the Administrator, the Committee Chair is authorized to administer this Agreement and apportion the contribution of tanker capacity by the Participants to the DoD.

3. Upon a finding by the Administrator in accordance with VI.A. the Committee Chair shall convene a meeting of the Tanker Requirements Committee for the purpose of:

a. Setting out the DoD requirements;

b. Establishing the approximate contribution required by each Participant to meet the requirement; and

c. Establishing the schedule for making capacity available to the DoD.

4. The Committee Chair shall:

a. Notify the Attorney General, the Chairman of the Federal Trade Commission, the Secretary of Defense, the Director of the Federal Emergency Management Agency, and all Participants of the time, place and nature of each meeting and of the proposed agenda of each meeting to be held to carry out this Agreement;

b. Provide for publication in the **Federal Register** of a notice of the time, place and nature of each meeting. If a meeting is open, a **Federal Register** notice will be published reasonably in advance of the meeting. If a meeting is closed, a **Federal Register** notice will be published within ten (10) days of the meeting and will include the reasons why the meeting is closed;

c. Establish the agenda for each meeting and be reponsible for adherence to the agenda;

d. Provide for a full and complete transcript or other record of each meeting and provide copies of transcripts or other records to the Attorney General, the Chairman of the Federal Trade Commission, the Director of the Federal Emergency Management Agency, DoD officials, and all Participants; and

e. Take necessary actions to protect confidentiality of data discussed with or obtained from Participants.

C. *Designation of the Representative of the Secretary of Defense.* The Committee Chair will announce the DoD agency designated by the Secretary of Defense to represent the DoD in the chartering of ships made available by Participants for defense service under this Agreement.

D. *Tanker Charters.* Participants will execute charter agreements with the DoD and, when requested by the Administrator in accordance with V.A.2., with other Participants, at the charter rate and on the type of charter determined in accordance with V.D. The designee of the Secretary of Defense will deal directly with tanker operators in the making of charter parties and other arrangements to meet the defense requirement, keeping the Administrator informed. If vessels are chartered between Participants, Participants will keep the Administrator informed. The Administrator will keep the Attorney General and the Chairman of the Federal Trade Commission informed of the actions taken under this Agreement.

E. *Termination of Charters under the Agreement.* The designee of the Secretary of Defense will notify the Administrator as far as possible in advance of the prospective termination of the need for tanker capacity under this Agreement and, in coordination with the Tanker Requirements Committee and as approved by the Administrator, will arrange the release of tankers from charter so as to equalize the burden on Participants.

VII. Application and Agreement

The Administrator has adopted and makes available a form on which tanker operators may apply for and become Participants in this Agreement ("Application and Agreement to Participate in the Revised Voluntary Tanker Agreement"). The form will incorporate by reference the terms of this Agreement.

By order of the Maritime Administrator, Department of Transportation.

Dated: July 16, 1983.

Georgia P. Stamas,

Secretary, Maritime Administration.

[FR Doc. 83-22987 Filed 8-24-83; 8:45 am]

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Part III

Environmental Protection Agency

State Hazardous Waste Programs; Procedures for Revision of State RCRA Programs; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[SW-FRL-2368-2]

State Hazardous Waste Programs; Procedures for Revision of State RCRA Programs

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA is today proposing to amend its requirements under 40 CFR 271.21(e) (formerly § 123.13(e)) for the approval and revision of authorized state hazardous waste programs.One purpose is to ensure that states applying for final authorization under the Resource Conservation and Recovery Act of 1976, as amended, (RCRA) do not have to revise their programs and applications to respond to federal regulatory changes occurring while the states' applications are being prepared or processed. The second purpose is to provide all authorized states with one full year (or two years, if there is a need for state legislative action) from the effective date of amended federal regulations to make the revisions in their programs required by such federal amendments. This action would provide the state with an additional six months since the existing regulation requires that program revisions be made within one year (or two years) after the promulgation of amended federal regulations.

This amendment, if promulgated, will not have a major economic or environmental impact on the states or the regulated community. It will provide greater certainty to states which are applying for final authorization, since they will not have to change their applications continually when the federal regulations change.

DATE: The Agency will accept comments on these proposed amendments until September 26, 1983.

ADDRESSES: Comments on these proposed amendments should be addressed to the Docket Clerk (Docket 3006—Revision of State Programs), Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, Washington, D.C. 20460.

The public docket for this rulemaking is located in Room S-269, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, and is available for viewing from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: Denise Hawkins, Office of Solid Waste (WH-563-B), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) (382-2210), or the RCRA hotline, toll-free at (800) (424-9346) or in Washington at (202) (382-3000).

SUPPLEMENTARY INFORMATION:

I. Background

Section 3006(b) of the Resource Conservation and Recovery Act of 1976 (RCRA) requires EPA to grant final authorization to state hazardous waste programs that: (1) Are equivalent to the federal hazardous waste program (40 CFR Parts 124, 260-266 and 270); (2) are consistent with the federal program and other state programs which have received final authorization; and (3) provide adequate enforcement. In addition, Section 3009 of RCRA provides that state programs may not impose any requirements "less stringent" than the federal requirements. The effect of final authorization is that a state operates its state hazardous waste management program within its jurisdiction in lieu of EPA's operating the federal hazardous waste management program in the state. Regulations which govern the granting of final authorization are set forth in 40 CFR Part 271, Subpart A.[1]

Section 271.21(e) requires that all new state programs comply with the federal regulations immediately upon approval (authorization). This section also requires states which have received final authorization to make any necessary changes to their programs when the federal regulations change. The latter requirement assures that state programs remain equivalent to and no less stringent than the federal program. Program revisions after authorization must be made within one year of the date of promulgation of the modified federal regulations (or two years if a state must revise its statutes).

This provision presents problems both for states applying for final authorization and for states which are already authorized. These problems, and EPA's proposed solutions, are discussed below.

II. States Applying for Final Authorization

Section 271.21(e) presents a problem concerning the effect of federal regulatory changes on the timing of final authorizations. RCRA regulations generally do not take effect for six months after promulgation. Because RCRA gives EPA six months after a state submits its application to determine whether the state qualifies for final authorization, federal requirements promulgated during the six months before a state submits its application ordinarily would become effective during the six month application review period. As § 271.21(e) currently provides that state programs must be judged against the federal requirements in effect at the time of *approval*, a state must be concerned with new regulations promulgated while it is preparing its application that will become effective by the time the state program is scheduled to be approved. For example, if a new EPA requirement is promulgated a month before a state planned to submit its application and the state program did not contain an analogous requirement, the state would have to delay submission of its application until it modified its regulations and application. This delay could be even greater if a state needed to change its statute as well.

Further, before a state can apply for final authorization, it must provide an opportunity for public comment on the state program and must schedule a public hearing if sufficient public interest is shown (§ 271.20(a) (4) and (5)). If the adoption of a new regulation is considered a substantial revision of the state program, the state must provide an opportunity for further public comment and additional hearing (§ 271.20(b)). EPA is also required to allow for public comment and a hearing (§ 271.20(d) (1) and (2)). If the application has already been submitted and passed through the comment and hearing stage, EPA may have to provide a second opportunity for public participation as well. Thus, in addition to taking the time to amend its regulations, the state and EPA may need to allocate additional time to the state authorization hearing process.

In summary, changes in the federal program in the coming months may well delay final authorization of state programs if the federal program becomes a "moving target". This is a very serious problem because state interim authorizations expire January 26, 1985. States with interim authorization have until that date to receive final authorization or responsibility for administering the RCRA subtitle C program will automatically revert to EPA. To reduce the likelihood of such reversions and to resolve the

[1] Prior to April 1, 1983, these regulations were codified at 40 CFR Part 123, Subparts A and B. On that date, EPA recodified them at 40 CFR Part 271. (See 48 *FR* 14248-14264, April 1, 1983.)

uncertainty about what federal requirements the stated must meet to receive final authorization, EPA is proposing to establish that the federal program in effect at a specified date will be the federal program against which a state program will be measured for the purpose of receiving final authorization. This would eliminate the need for the state to revise its application continually or to delay submitting its authorization application to EPA because of federal changes occurring while the application is being prepared or being processed by EPA.

Specifically, EPA is proposing to amend § 271.21(e) to provide that each state will be reviewed for final authorization on the basis of the federal regulations in effect one year prior to submission of the state's complete application (as determined by EPA under § 271.5(b)) or the federal regulations in effect on January 26, 1983, whichever is later. The period of one year was chosen in order to be consistent with other changes (which will be explained later) being proposed today in this amendment.

The date of January 26, 1983, was chosen for this proposal since it is the date when the regulations governing treatment, storage or disposal of hazardous waste on the land became effective (47 FR 32378–32382, July 26, 1983). EPA believes all state programs must contain these critical technical requirements to receive final authorization. However, EPA would also consider using the effective date of this amendment (rather than January 26) to define the minimum program to which the states must demonstrate equivalence in their final authorization applications. This would assure that any federal regulations which become effective between January 26, 1983, and the effective date of this amendment will also be included in every state's program when it initially receives final authorization. The Agency invites comments from the public on which date would be more appropriate.

While the amendment allows a state to be reviewed based on the federal program in effect one year prior to submission of its application, it does not preclude authorization of a state based on federal regulatory amendments which become effective after that date.

III. States With Final Authorization

Several problems arise after a state receives authorization. Section 271.21(e) provides that any revisions in an authorized state program that are required because of modification of the federal regulations must be made within one year of the promulgation of the modified federal regulation. If the state must amend its statute to make the the required revisions, it has two years in which to do so.

In meetings with the Agency, the National Governor's Association (NGA) and the Association of State and Territorial Solid Waste Management Officials (ASTSWO) have expressed concern about these time periods. They have asserted that the amount of time provided by § 271.21(e) does not allow adequate leeway for their regulatory schedules, especially where there is controversy or a high level of public interest in the regulatory amendment. If a state must coordinate its regulations with other agencies, work with advisory groups or special commissions, or is developing regulations in which there is a great deal of public interest, they believe the promulgation of a state's regulations could easily be delayed beyond one year. In addition, where the state's regulations must be reviewed by the state legislature prior to becoming effective, NGA and ASTSWMO maintain that up to an additional year could be added to the process, particularly in those states where the legislature meets biennially.

Two examples illustrate this problem. Kentucky's Administrative Procedure Act prescribes rulemaking procedures which take a minimum of 218 days between the time a regulation is proposed and the time it becomes effective. These procedures include public notice and hearing and review by the Kentucky Legislative Research Commission (a standing joint committee of the Kentucky legislature) before a regulation is adopted. Preparing the regulations for proposal takes additional time. The entire process can easily take over one year.

Iowa's Administrative Procedure Act prescribes rulemaking procedures which take a minimum of 60 days between the time a regulation is proposed and the time it becomes effective. However, prior to publishing a proposed rule and holding a public hearing, the regulation must be reviewed and approved by the Environmental Quality Commission. The Commission reviews it again after the hearing. These two reviews take a minimum of 90 days. Again, preparing the regulations takes additional time. Thus, in Iowa as well, the one year time frame may be inadequate.

It appears that Iowa's and Kentucky's experience may be typical of other states. Preparation of the regulations and often-required supporting documentation (e.g., analyses of economic impact in the state, budget implications, effect on small businesses in the state) require time. These activities, combined with required coordination with other interested groups and the inevitable difficulties encountered in the governmental review and approval process, serve to create an unworkable deadline for many states. EPA needs more specific information from the states to confirm the extent of the problem and to determine what time frame would be adequate for the states to complete regulatory changes. However, because of the practical bind the states may already be in, the urgency of the "moving target" problem and the connection between these two problems (see section IV), EPA is proposing a solution now, rather than deferring a proposal until we receive a complete set of data.

Two changes to § 271.21(e) would be made to address this problem. First, all states would be given an additional six months to make their programs conform to changes in the federal program occurring after they receive final authorization. Second, the additional year already given to states which must seek statutory changes would also be given to states which must submit their regulations for review by the state legislature or legislative committees.

The reason for this latter amendment is that in a number of states, regulations must be sent to the legislature for review prior to promulgation. For example, rules in Michigan must be reviewed by the Joint Legislative Rules Committee. The Agency may not adopt rules if they have not been approved by the Committee. In Wisconsin, an objection by a standing committee of the legislature results in a full or partial ban on promulgation, depending on subsequent actions of the Joint Committee for Review of Administration Rules. The legislative review process, while varying from state to state, often takes as long or almost as long as the process to amend or adopt a statute. Therefore, EPA believes it is appropriate to distinguish between regulations which do and do not require a legislative review and to allow states as long to make changes which require legislative review as the Agency allows states to amend or adopt statutes.

In practical terms, the effect of this proposed rule is that all states would have either 18 or 30 months from the time changes are made in the federal program to make conforming changes in their own programs.

Public comments on this proposal will be critical. They will be used to confirm that there is a real need for these amendments and, if so, whether the time frames EPA has proposed are appropriate. EPA specifically requests

that the states, NGA, and ASTSWMO provide specific documentation of the problems each state is having and justify any alternative time frames they propose.

IV. Relationship Between the Proposed Amendments

The "moving target" amendment may result in the authorization of state programs that are not equivalent to, or are less stringent than, the federal program in effect on the date of authorization. However, such state programs become immediately subject to the § 271.21(e) requirement that authorized states revise their programs to correspond to changes in the federal program. Thus, the moving target amendment does not relieve any state of the obligation to amend its program when the federal program changes. To the contrary, under today's amendments to § 271.21(e) the same schedule for making changes would apply to all states, with no distinction between those that have received authorization and those whose applications are in process.

To illustrate, if a new EPA regulation took effect on November 1983, a state authorized before that date would have until November 1984 to incorporate equivalent requirements into its regulations (unless more time were needed for statutory changes or legislative review). If a state applied for authorization in January 1984, its program would not have to reflect the November 1983 federal amendment prior to being authorized. However, that state, like the one authorized before November 1983, would have to amend its program by November 1984. This means that the applicant state must actively pursue regulatory and/or statutory changes while it is preparing its application if, it is to meet the November 1984 deadline. Unlike the present situation, though, the state would not have to amend its program and delay submission of its application past November 1984, or face denial of its authorization. (Nor would the state or EPA be required to hold new public hearings on the state program before final authorization were received.)

V. Effect of Amendments

There is no practical way to assure that all states immediately incorporate analogs to federal amendments in their programs. EPA believes states must be allowed a reasonable period of time to amend their requirements. The effect of the first proposed amendment is that EPA may be authorizing states based on federal requirements which have been revised. The second proposed amendment extends the period during which state programs which have received final authorization need not be equivalent to or as stringent as the federal program.

This added time does not in any way alter the substantive requirement that state programs become equivalent to the federal program. Further, because the major elements of the federal program are already in effect, the number of requirements for which there will be a lag time between state and federal implementation should be minimal. Finally, EPA has retained the authority to issue permits in the event federal regulations are promulgated covering additional major classes of facilities (40 CFR 264.1).

VI. Effective Date

5 U.S.C. 553(d) of the Administrative Procedure Act requires that substantive rules not become effective until at least 30 days after promulgation, unless there is good cause for an earlier date. The primary purpose of these requirements is to allow persons affected by the rulemaking sufficient lead time to prepare to comply with major new regulatory requirements. The Agency believes that the effect of a moving target for authorization would be confusing and disruptive for the states, the public and the regulated community. For this amendment to provide the maximum relief, it must become effective as soon as possible. EPA invites comments on its tentative decision to make this rule immediately effective.

VII. Executive Order 12291

Under Executive Order 12291 (46 FR 12193, February 19, 1981), EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a Regulatory Impact Analysis. A major rule is defined as a regulation which is likely to result in:

- An annual effect on the economy of $100 million or more;
- A major increase in costs or prices for consumers, individual industries, federal, state or local government agencies or geographic regions; or
- Significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The regulation is not major because it will not result in an effect on the economy of $100 million or more, an increase in costs or prices, or any of the adverse affects mentioned in the Executive Order. Because this proposed amendment is not a major regulation, no Regulatory Impact Analysis is being prepared.

This proposed amendment was submitted to the Office of Management and Budget for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection at the Office of Solid Waste Docket, Room S–269, U.S. EPA, 401 M Street, SW., Washington, D.C. 20460

VIII. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. § 601 *et seq.*, EPA is required to determine whether a regulation will have significant impact on a substantial number of small entities so as to require a regulatory flexibility analysis.

The amendments proposed here merely add flexibility to procedural requirements for the revision of state hazardous waste programs and do not affect the compliance burdens of the regulated community. Therefore, pursuant to 5 U.S.C.§ 605(b), I certify that this regulation, if issued in final form, will not have a significant economic impact on a substantial number of small entities.

IX. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, EPA must estimate the paperwork burden created by any information collection requests contained in a proposed or final rule. Because there are no information collection activities created by this rulemaking, the requirements of the Paperwork Reduction Act do not apply.

Information collection requirements contained elsewhere in 40 CFR Part 271 have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act and have been assigned OMB control number 2000–0387.

List of terms used in Part 271

Hazardous materials, Indian lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Intergovernmental relations, Penalties, Confidential business information.

Dated: August 18, 1983.

William D. Ruckelshaus,

Administrator.

For the reasons stated above, EPA proposes to amend 40 CFR 271.21 as follows:

PART 271—STATE PROGRAM REQUIREMENTS

40 CFR Part 271 Subpart A is proposed to be amended as follows:

1. The authority citation for Part 271 reads as follows:

Authority Secs. 1006, 2002(a), and 3006, Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.*

2. 40 CFR 271.21 is amended by revising paragraph (e), as follows:

§ 271.21 Procedures for revision of state programs.

* * * * *

(e) (1) States submitting complete applications for final authorization shall be reviewed for authorization on the basis of the regulations in 40 CFR Parts 124, 260–266 and 270 that are in effect on the date one year prior to submission of the complete application or on January 26, 1983, whichever is later. However, a state may receive final authorization for any regulation in its program that is analogous to a federal regulation in effect on the date of the state's authorization.

(2) Any approved state program which requires revision because of a modification to this Part or to 40 CFR Parts 124, 260–266 or 270 shall be revised within one year of the effective date of the modified federal regulation. If a state must enact or amend a statute in order to make the required changes, or if regulations are subject to review by the state legislature, such revision shall take place within two years of the effective date of the modified federal regulation.

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Part IV

Environmental Protection Agency

Standards of Performance for New Stationary Sources; Beverage Can Surface Coating Industry

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-2097-2]

Standards of Performance for New Stationary Sources; Beverage Can Surface Coating Industry

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Standards of performance for the beverage can surface coating industry were proposed in the **Federal Register** on November 26, 1980 (45 FR 78980). This action promulgates standards of performance for the beverage can surface coating industry. These standards implement Section 111 of the Clean Air Act and are based on the Administrator's determination that beverage can surface coating operations cause, or contribute significantly to, air pollution which may reasonably be anticipated to endanger public health or welfare. The intended effect of these standards is to require all new, modified, and reconstructed beverage can surface coating operations to control emissions to levels achievable through the best demonstrated system of continuous emission reduction, considering costs, nonair quality health, and environmental and energy impacts.

EFFECTIVE DATE: August 25, 1983.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this new source performance standard is available *only* by the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of today's publication of this rule. Under Section 307(b)(2) of the Clean Air Act, the requirements that are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

ADDRESSES: *Background Information Document.* The Background Information Document (BID) for the promulgated standards may be obtained from the U.S. EPA Library (MD–35), Research Triangle Park, North Carolina 27711, telephone number (919) 541–2777. Please refer to "Beverage Can Surface Coating Industry—Background Information for Promulgated Standards "EPA–450/3–80–036b. The BID contains (1) a summary of all the public comments made on the proposed standards and the Administrator's response to the comments, (2) a summary of the changes made to the standards since proposal, and (3) the final Environmental Impact Statement, which summarizes the impacts of the standards.

Docket. A docket, number A–80–4, containing information considered by EPA in development of the promulgated standards is available for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section (A–130), West Tower Lobby, Gallery 1, 401 M Street SW., Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Fred Porter, Standards Development Branch, Emission Standards and Engineering Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5578.

SUPPLEMENTARY INFORMATION:

The Standards

Standards of performance for new sources established under Section 111 of the Clean Air Act reflect:

> * * * Application of the best technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, [and] any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated [Section 111(a)(1)].

For convenience, this criterion will be referred to as "best demonstrated technology" or "BDT."

The promulgated standards apply to all new, modified, and reconstructed two-piece beverage can surface coating operations for which construction, modification, or reconstruction commenced after November 26, 1980. The standards define a two-piece beverage can as any two-piece steel or aluminum container in which soft drinks or beer (including malt liquors) are packaged. Containers in which fruit or vegetable juices are packaged are excluded. Existing facilities would not be subject to the standards unless they undergo a modification or reconstruction as defined in 40 CFR 60.14 or 60.15. Emissions of volatile organic compounds (VOC) from affected facilities at two-piece can plants are limited as follows: 0.29 kg VOC/litre of coating solids from each exterior base coating operation except clear base coating, 0.46 kg VOC/litre of coating solids from each overvarnish coating operation and each clear base coating operation, and 0.89 kg VOC/litre of coating solids from each inside spray coating operation. Each affected facility consists of a coating application station, a flashoff area and a cure oven.

BDT for the surface coating operations covered by the promulgated standards is the use of best available waterborne coatings. However, the standards would permit the use of any system of continuous emission reduction that allows the facility to comply with these emission limits. For example, the standards could also be achieved through the use of solvent-borne coatings in combination with an emission control system. The compliance procedures outlined in the promulgated regulations are designed to show equivalence between the use of waterborne coatings and the use of solvent-borne coatings and an emission control system.

The owner or operator is required to conduct a performance test each calendar month for each affected facility and record the results. The calculation of the volume-weighted average mass of VOC per volume of coating solids during each calendar month constitutes a performance test. The owner or operator is required to identify and report, semiannually, each instance that the calculated volume-averaged mass of VOC per volume of coating exceeds the emission limitations. When Method 24 data are used to determine VOC content of waterborne coatings for compliance determinations, precision factors shall be used as described in Section 4.4 of Method 24.

Where compliance is achieved through the use of waterborne coatings, compliance with the standards is determined by comparing the calculated volume-weighted average mass of VOC per volume of coating solids with the applicable emission limitation in the promulgated standards. Volume and VOC content of each coating used at the affected facility for the calendar month are required for this determination. If each coating used at an affected facility during a calendar month has a VOC content equal to or less than the emission limitations prescribed in the standards, and no VOC solvents are added during distribution and application of the coatings, the affected facility is in compliance and calculation of the volume-weighted average VOC content is not required.

Where compliance is achieved through the use of solvent-borne coatings and an emission control system, the volume-weighted average VOC content is calculated as for waterborne coatings. The calculated VOC content is reduced by the most recently determined overall reduction efficiency of the capture and emission control system. The promulgated regulations prescribe procedures for determining overall reduction efficiency

for emission control systems using incineration or solvent recovery.

The owner or operator of an affected facility who uses incineration to comply with the standards must maintain records of incinerator performance and identify and report, semiannually, all 3-hour periods during which the average temperature of the device, during processing of cans, is significantly lower than the average temperature observed during the most recent performance test at which destruction efficiency was determined.

Surface coating operations in the manufacture of can ends and three-piece steel cans are excluded from the standards because industry projections show an excess capacity for these operations, indicating that no facilities will become subject to the standards through 1985. Application of ink/lithography is excluded because emissions from this operation are insignificant. Application of end-sealing compound to ends for two-piece beverage cans is excluded because BDT is the same as that in common use today.

Summary of Environmental, Energy, and Economic Impacts

The promulgated standards would reduce VOC emissions by approximately 32 percent from the baseline emission level. The standards of performance would result in a 47-percent reduction in VOC emissions from the exterior base coat operation, a 15-percent emission reduction from the overvarnish coating operation, and a 26-percent emission reduction from the inside spray coating operation. Annual nationwide VOC emissions would be reduced by about 2,900 Mg (3,190 tons) by 1986.

Little or no incremental water pollution impact from new, modified, or reconstructed beverage can surface coating operations would result from implementation of the standards.

The promulgated standards would also have little or no incremental solid waste impact.

Based on industry growth projections, application of the standards would result in a net energy reduction of about 19,000 GJ in 1985, or a reduction of 1 percent from the baseline. The net energy reduction results from the use of less coating per can because of higher solids content of the waterborne coatings upon which the standards are based.

The promulgated standards are expected to have little economic impact on the beverage can industry. At least one control option, the cost of which is equal to or less than the cost of compliance with the baseline level of control, is available for each affected facility.

The environmental, energy, and economic impacts are discussed in greater detail in the Background Information Document (BID) for the proposed standards, "Beverage Can Surface Coating Industry—Background Information for Proposed Standards," EPA–450/3–80–036a.

Standards of performance have other benefits in addition to achieving reductions in emissions beyond those required by a typical SIP. They establish a degree of national uniformity, which precludes situations in which some States may attract new industries as a result of having relaxed air pollution standards relative to other States. Further, standards of performance provide documentation which reduces uncertainty in case-by-case determinations of best available control technology (BACT) for facilities located in attainment areas, and lowest achievable emission rates (LAER) for facilities located in nonattainment areas. This documentation includes identification and comprehensive analysis of alternative emission control technologies, development of associated costs, an evaluation and verification of applicable emission tests methods, and identification of specific emission limits achievable with alternative technologies. The costs are provided for an economic analysis that reveals the affordability of controls in an unbiased study of the economic impact of controls on an industry.

Public Participation

Prior to proposal of the standards, interested parties were advised by public notice in the Federal Register (45 FR 30666; May 9, 1980) of a meeting of the National Air Pollution Control Techniques Advisory Committee to discuss the beverage can surface coating industry standards recommended for proposal. This meeting, held on June 4, 1980, was open to the public, and each attendee was given an opportunity to comment on the standards recommended for proposal. The standards were proposed and published in the Federal Register on November 26, 1980 (45 FR 78990). The preamble to the proposed standards discussed the availability of the Background Information Document, "Beverage Can Surface Coating Industry—Background Information for Proposed Standards," EPA–450/3–80–036a, which described in detail the regulatory alternatives considered in the development of the standards and the impacts of those alternatives. Public comments were solicited at the time of proposal and, when requested, copies of the BID were distributed to interested parties. To provide interested persons the opportunity for oral presentation of data, views, or arguments concerning the proposed standards, a public hearing was held on January 6, 1981, at Research Triangle Park, North Carolina. The hearing was open to the public, and each attendee was given an opportunity to comment on the proposed standards. The public comment period was from November 26, 1980 to February 5, 1981. At industry's request, the public comment period was reopened from February 27 through March 30, 1981.

Eighteen comment letters were received and four interested parties testified at the public hearing concerning issues relative to the proposed standards of performance for the beverage can surface coating industry. The comments have been carefully considered; and, where determined to be appropriate by the Administrator, changes have been made in the proposed standards.

Significant Comments and Changes to the Proposed Standards

Comments on the proposed standards were received from the beverage can surface coating industry, coating manufacturers, Federal agencies, State pollution control agencies, and a trade association. A detailed discussion of these comments and responses can be found in the BID, which is referred to in the ADDRESSES section of this preamble. The comments and analyses expressed in the responses serve as the basis for the revisions that have been made to the standards between proposal and promulgation. The major comments and responses are summarized in this preamble. The comments have been divided into the following areas: general, emission control technology, modification and reconstruction, economic impact, environmental impact, energy impact, legal considerations, test methods and monitoring, reporting and recordkeeping, and miscellaneous.

Major changes in the promulgated standards from the proposed standards are (1) exclusion of three-piece cans from the standards, (2) exclusion of end sheet coating from the standards, (3) adding the requirement that precision factors, as described in Section 4.4 of Method 24, be used when Method 24 data are employed to determine VOC content of waterborne coatings for compliance determinations, and (4) changing the requirement for immediate reporting of exceedances to semiannual reporting.

General

Six commenters stated that three-piece beverage cans were being phased out, with an estimated 1985 production of between 0.5 and 1.5 billion cans, and should be excluded from the standards. As a result of these comments, EPA analyzed previous projections and determined that estimated demands for three-piece can capacity in 1985 would be about 50 percent of the estimated available capacity. Consequently, three-piece cans are excluded from the promulgated standards. The decrease in three-piece can production would free more coating capacity than is needed for the coating of steel and aluminum sheets for the manufacture of beverage can ends. This capacity can be used for coating aluminum sheets for ends with little or no change. Thus, no end sheet coating capacity would become subject to NSPS through 1985. Consequently, surface coating of end stock is also excluded from the standards.

Several comments were received stating that the proposed standards were not based on the best demonstrated systems of continuous emission reduction. Three commenters stated that the use of waterborne coatings has not been demonstrated as being commercially available. One commenter doubted that solvent-borne coatings and incineration could be used in the event waterborne coatings were impracticable. One commenter stated that promulgation of the proposed standards would force the industry to turn to one supplier for inside spray materials.

As a result of these comments, EPA significantly expanded the data base upon which the promulgated standards are based through telephone and written communications with coaters and coating suppliers. The expanded data base substantiated EPA's previous determination that the use of waterborne coatings is BDT and that coatings meeting the promulgated emission limits are available from more than one supplier. Summary of the data base by coating operations follow:

Two-piece Can Exterior Base Coat

Five canmakers, four merchant and one captive, reported using coatings with VOC contents equal to or less than that specified in the standards. Three of these canmakers identified four coatings from one supplier as being used, two reporting the use of complying coatings for all base coat requirements. Of the remaining canmakers, one did not identify the coating being used, and the other claimed confidentiality for the coating being used. One additional coating from a second supplier has been qualified for use on one merchant coater's new and existing can lines. In discussions with canmakers during the collection of the data, no specific cases were identified in which waterborne coatings could not be used for the application of exterior base coat to two-piece beverage cans.

Two-Piece Can Overvarnish/Clear Base Coat

Four canmakers, three merchant and one captive, reported using coatings with VOC contents equal to or less than that specified in the standards. Two of these canmakers identified four coatings from two suppliers as being used, one reporting the use of complying coatings for all overvarnish requirements. Of the remaining canmakers, one did not identify the coating being used, and the other claimed confidentiality for five coatings used. All of the captive canmakers' requirements are being satisfied by waterborne coatings meeting the NSPS emission limitations. Five additional coatings meeting the NSPS emission limitations are available from three suppliers. Future testing is planned for some of these coatings. In discussions with canmakers during the collection of the data, no specific cases were identified in which waterborne coatings could not be used for the application of overvarnish or clear base coat to two-piece beverage cans.

Two-Piece Can Inside Spray

Seven canmakers, five merchant and two captive, reported using coatings with VOC contents equal to or less than that specified in the standards. Five of these canmakers identified four coatings from three suppliers as being used, two canmakers reporting the use of complying coatings for all inside spray requirements. Of the remaining two, one did not identify the coating being used, and the other claimed confidentiality for the coatings being used. During the collection of the data, two specific cases were identified in which satisfactory waterborne coatings were not available. One canmaker reported that at two plants making cans for export, excessive pinholing occurred because the extreme abuse the cans received in shipping and handling caused separation of the coating. In subsequent discussions, the canmaker reported that the problems had been resolved and that waterborne coatings meeting the NSPS emission limitations are now being used for all inside spray operations at one plant, and that a program is underway at the second plant to develop a suitable waterborne inside spray system. This plant is currently incinerating VOC emissions from inside spray operations to meet local regulations. In the second case, difficulty was being experienced in applying waterborne inside spray to steel cans. In this case, solvent-borne coatings are required to make satisfactory cans and incineration is employed to satisfy the local emission limitations. The same procedures can be used to satisfy NSPS emission limitations. The necessary capture and destruction of VOC can be attained by enclosing the flashoff areas and incinerating flashoff and cure oven exhausts.

One public hearing participant took exception to statements made in the beverage can factsheet that probably 4 new three-piece can plants and 10 to 20 new two-piece can plants were to be built between 1980 and 1985. The participant felt that this was not consistent with data that industry presented at the NAPCTAC meeting in June 1980 that indicated a dramatic reduction in three-piece can production and a leveling off of demand for two-piece cans.

The beverage can factsheet, a summary of the proposal BID and regulation published at the time of proposal, states that "EPA estimates 10 to 20 two-piece beverage can plants and 4 three-piece beverage can plants will be affected by the proposed NSPS, the latter subject under the modification or reconstruction provisions." These plants are model plants and are the number that were considered subject to NSPS for the purposes of the economic analyses. It should be noted that the statement concerning three-piece can plants specifically excludes new facilities and indicates that facilities in place in 1979 would become subject to the modification or reconstruction provisions. The estimates of the number of model plants that would be subject to NSPS were based on industry estimates of the projected market share of two-piece and three-piece beverage cans that were later changed by data provided by the industry during the public comment period. As previously mentioned, EPA analyzed the new industry data and developed revised projections that show that no three-piece can plants would be subject to the NSPS through 1985. Insofar as two-piece can plants are concerned, based on the revised projection it is estimated that between 7 and 15 two-piece model plant equivalents would be subject to NSPS in 1985, half under the reconstruction or modification provisions. These estimates are based on an average of 5 percent of existing capacity becoming subject to NSPS under the modification

and reconstruction provisions each year through 1985. These estimates are consistent with industry projections that show an increase in two-piece can shipments from 49.6 billion cans in 1980 to 61.9 billion cans in 1985.

Two participants at the public hearing were concerned that if NSPS emission limitations were promulgated, major reformulation of coatings developed to meet RACT would be required. This redirection of coating suppliers' efforts would be at the expense of developing coatings to satisfy RACT. Such an approach could result in achieving neither RACT nor NSPS.

EPA agrees that major reformulation may be required for some low-solvent coatings. However, given the coating data obtained from canmakers and coating suppliers, this does not appear to be a problem. A majority of the coatings developed to satisfy RACT requirements would also satisfy NSPS requirements. Four coatings each for exterior base coat, overvarnish, and inside spray, developed in response to RACT requirements but also meeting the NSPS emission limitations, are being widely used by the industry.

Two comments were received questioning the change in format of the standards from kilograms of VOC per litre of coating less water, as used in RACT, to kilograms of VOC per litre of solids. EPA has determined that the format of the promulgated standards is appropriate. Compliance with the promulgated standards is determined by comparing a volume-weighted average of the VOC content of all coatings and diluent solvents applied at an affected facility during each calendar month with the emission limitations of the promulgated standards. This requires conversion of VOC content of each coating used to mass of VOC per volume of coating solids. This procedure must be used in averaging VOC content of coatings for RACT determination as well. Consequently no change is made to the format of the standards.

One commenter questioned the need for an NSPS that requires industry to do what is already being done. New installations in nonattainment areas would be required to use lowest achievable emission rate (LAER), which in this case would be "achieved in practice," that would be the same as the proposed NSPS. Installations in attainment areas, if any, would of course be required to apply best available control technology (BACT), which would be the coatings now in use and the same as the proposed NSPS.

In enacting Section 111, Congress intended to insure that every new, modified, or reconstructed facility, wherever located, control emissions to at least a nationally uniform emission ceiling. Congress recognized that in individual cases greater emissions reduction could be achieved than that achievable through application of BDT. For these individual cases, the Act may require application of more stringent requirements. Even though, as the commenter suggests, BACT or LAER requirements applicable in such individual cases may eventually spur development of broadly demonstrated coatings similar to or better than NSPS-level coatings, Section 111 still requires the Agency to set minimum nationally applicable standards that will insure control of emissions at new sources to at least the level achievable through use of BDT.

One commenter stated that the proposed standards do not require the "best demonstrated system of continuous emission reduction * * * *" and that by regulating the VOC content of coatings for new sources without regard to quantity of coating supplied, the Agency is encouraging the construction of new facilities with greater emissions than identical existing CTG facilities. The commenter further stated that the quantity of coating needed by the various canmakers to produce an acceptable can is a much more significant factor in emission reduction technology than is the VOC content of the waterborne coatings used, and that manufacturing materials that inherently require less applied coating than other materials represents a better system of emission reduction. The commenter submitted that this is an obvious conclusion drawn from the draft EIS and from information contained in Docket A–80–4. As a result of ignoring this fact, the Agency has prepared a standard that cannot possibly be construed as meeting the intent of Section 111 of the Clean Air Act.

In EPA's judgment, the promulgated standards are based on BDT. Formatting the standards in terms of mass of VOC per unit of production, e.g., 1,000 cans, was considered in the development of the standards. This approach was discarded because of inflexibility in accommodating the range of coating thicknesses used by the industry to meet the requirements of the many types of beverage cans produced by the industry, especially at merchant can plants. Such an approach also raised problems in setting numerical limits for the standards. If an industry-average coating thickness is used as the basis, coaters using an above-average coating thickness would be penalized. The Agency considers the cost of specifying maximum coating thickness for each usage unreasonable and exorbitant. Consequently, this format was rejected in favor of the mass of VOC per volume of coating solids format.

Emission Control Technology

A comment was made that the proposed emission limitations were so stringent that coating suppliers would not have any latitude to vary formulations as required to meet the wide range of equipment used and the environmental conditions encountered in beverage can surface coating operations.

EPA has determined from coating data obtained from canmakers that coating suppliers are providing coatings meeting the promulgated emissions limitations for a wide range of equipment and environmental conditions. Only two specific cases were identified involving two-piece can inside spray operations in which satisfactory waterborne coatings were not available. In these cases operational and environmental requirements were being satisfied through the use of solvent-borne coatings and incineration. Furthermore, the monthly averaging provisions of the standards for each affected facility would permit the use of some coatings not meeting the standards, provided other coatings with lower VOC content were used to bring the monthly volume-weighted average to the promulgated emission limitations.

One commenter stated that under NSPS, existing coating systems that have not yet been able to meet RACT values must meet even more stringent emission standards. Essentially only incineration, a counterproductive energy-consuming system, can be used.

Existing coating systems are not required to meet the promulgated standards unless the facility undergoes modification or reconstruction as defined in 40 CFR Part 60. Under such circumstances, in EPA's judgement, there are sufficient coatings commercially available for a wide variety of coating systems to meet the standards. Based on the economic analysis in Chapter 8, proposal BID, incineration is considered to be a reasonable and affordable option.

Several commenters expressed concern that if NSPS materials for two-piece can inside spray are not available, afterburners will have to be used. This could very well call for an overall control efficiency of 90 percent, requiring approximately 90 percent capture efficiency, which is not attainable.

In response to this and other comments, EPA expanded the coating

data base with information from canmakers and coating suppliers that indicates the availability of a variety of waterborne coatings for inside spray. The VOC content of waterborne coatings reported as being used by both merchant and captive canmakers ranges from 0.46 kg VOC/litre of solids to 0.90 kg VOC/litre solids compared with the promulgated emission limitation of 0.89 kg VOC/litre of solids. The promulgated regulations permit monthly averaging, which should facilitate satisfying the requirements.

During the collection of data only two cases were identified in which satisfactory waterborne coatings were not available. In these cases, solvent-borne coatings and incineration provided the emission reduction required by the applicable SIP.

A typical higher solids solvent-borne inside spray coating in general use contains 3.01 kg VOC/litre of coating solids (Table 4–2, proposal BID). An overall control efficiency of 70 percent is required to reduce the VOC emissions from the use of this typical inside spray coating to the emission level prescribed in the promulgated standards. A test at a two-piece can plant, using Method 25 procedures, showed a 78-percent capture efficiency of VOC emissions from coater, flashoff area, and cure oven on an inside spray line. This capture efficiency is considered to be conservative because the cure oven quench exhaust was not quantified in the test. Combining this capture efficiency with a nominal 90-percent incinerator destruction efficiency results in an overall control system efficiency of 70 percent. It is the Agency's engineering judgment that in instances in which the use of waterborne coatings may not be applicable, the necessary capture and control (destruction or recovery) are attainable at a reasonable and affordable cost (Chapter 8, proposal BID).

Several commenters stated that because of (1) difficulties being experienced in implementing the RACT program, (2) the limited capabilities of users to qualify new coatings, (3) the problems involved in qualifying NSPS materials on existing lines prior to the construction of new facilities, and (4) small incremental emission reduction from NSPS compared to that resulting from the trend away from three-piece cans to two-piece cans, RACT values should form the basis for NSPS.

EPA has determined that the promulgated emission limitations for two-piece cans represent BDT. The problems of implementing RACT and the problem generated by the limited capabilities of users to qualify new coatings appear to be overstated in light of the coating data obtained from canmakers and coating suppliers. Numerous coatings with VOC content equal to or less than RACT are being used on existing two-piece can lines. In addition to meeting RACT, many of these coatings also satisfy the NSPS requirements. The problems of qualifying NSPS materials on existing lines prior to the construction of new facilities would not be resolved by using RACT as the basis of the NSPS. One practice prevalent throughout the industry is that coatings must be qualified on each line regardless of their use in other plants operated by the same canmaker. EPA agrees that there has been a significant reduction in VOC emissions as a result of RACT and the trend away from three-piece cans to two-piece cans. However, EPA is mandated under Section 111 of the Clean Air Act to base NSPS on BDT, which for this industry is the use of coatings with lower organic solvent content than RACT coatings.

One commenter stated that EPA, in proposing NSPS, has tried to design can lines and specific materials.

EPA formulated model plants in order to perform the environmental and economic analyses required in NSPS development. These are not intended to represent what an actual plant should look like, but rather present a range of capacities as the basis for subsequent analyses. The model plants are based on coatings currently in use on sufficient lines to warrant the determination of the availability of NSPS-compliance coatings. EPA's specification of BDT is not in any way a requirement that facilities use a specific technology.

Two commenters challenged the implied assumption in the BID that the industry is using coatings that are RACT as defined in CTG–II.

The assumption that industry is currently using RACT coating was not made in the development of the NSPS. Rather, the assumption was made that SIP emission limitations would be based on RACT and that RACT should form the baseline case against which the environmental and energy analyses could be made.

EPA recognizes that on some can lines, coatings with VOC content lower than RACT are being used. These coatings serve as the bases for the promulgated emission limitations. On other lines RACT coatings are being used, and on the remaining lines coatings with VOC content higher than RACT are in use. In the development of a baseline for the environmental and energy analyses, EPA made the assumption that in the absence of NSPS, the industrywide average VOC content would be equal to RACT.

One commenter stated that the distinction should be made in the draft EIS (p. 3–10) between steel and aluminum with regard to exterior base coat for two-piece cans.

EPA made no distinction between steel and aluminum two-piece cans in the development of model plants. While it is recognized that different coatings thicknesses are required, the additional effort is not justified by the marginal improvement in accuracy that would result in estimating emissions and energy requirements in the subsequent analyses.

One commenter took exception to EPA's statement in 45 FR 78982 that "transfer efficiencies of 90 percent with inside spray operations are consistently achieved." Exactly what EPA's use of 10-percent VOC assessment in this instance means was unclear. It was requested that EPA consider allowing a facility that demonstrates a consistent transfer efficiency (for inside coating operations) of greater than 90 percent to credit that percentage above 90 percent against other coating operations that may exceed the compliance limits.

Because of the absence of standardized procedures for determining transfer efficiencies, the complicated calculations for estimating transfer efficiencies, and the high transfer efficiencies consistently achieved for inside spray operations (over 90 percent), EPA determined that introducing a transfer efficiency into the equations prescribed for determining compliance would unnecessarily complicate the compliance procedures. Because of the high transfer efficiencies (90 percent or higher) that are consistently achieved, inclusion of such a term in the compliance equation would be equivalent to introducing essentially the same term on both sides of the equation. Consequently, the promulgated standards are based on an assumed 100-percent transfer efficiency. It should be noted that a 90-percent transfer efficiency was used in the environmental and energy analyses for inside spray operations.

Two commenters questioned the use of an assumed VOC density of 0.85 kg/litre in converting RACT numbers to kilograms of VOC per litre of solids. One commenter claimed that it is dangerous to propose new standards on assumptions rather than hard data. For example, an error of 5 percent in VOC density would result in a change of 37 percent in the calculated kilograms of VOC per litre of solids. Furthermore, no can manufacturer or coating supplier

has been able to duplicate the data in the BID.

EPA recognizes that the conversion of VOC content from RACT terms is sensitive to the density of the VOC solvent. The selected density of 0.85 kg/litre is below that of the VOC normally used in waterborne coatings. Use of this density results in a higher VOC content per volume of solids than if the actual VOC density of the coating upon which the promulgated emission limitations are based were used. Inasmuch as this favors the coater, EPA considers this approach appropriate. The 37-percent error in calculated kilogram of VOC per litre of solids from a 5-percent error in density appears to be overstated. EPA calculations on the impact of a 5-percent error in density indicate, as shown below, that even if the assumed density of 0.85 kg/litre were inaccurate by 5 percent, the resulting effect on conversion from RACT to NSPS terms would not be significant.

Density	Calculated VOC content (kg/litre solids)	Percent change
VOC content kg/litre of coating less water = 0.050		
0.85 × 0.95	1.313	8.2
0.85	1.214	0
0.85 × 1.05	1.137	6.3
VOC content kg/litre of coating less water = 0.15		
0.85 × 0.95	0.164	1.1
0.85	0.162	0
0.85 × 1.05	0.160	1.1

The following equation was used in converting the RACT format to MSPS.

Kilograms of VOC per litre of solids = kilograms of VOC per litre of coating less water/1 (litre of coating) − kilograms of VOC per litre of coating less water/density of VOC.

Modification and Reconstruction

One commenter felt that the replacement of a coater or oven should not be classified as reconstruction because it is replacement in kind due to wear not to increased material usage, and that replacement should not be subject to NSPS.

In promulgating 40 CFR 60.15, EPA intended to subject to NSPS existing sources that have undergone such extensive component replacement that they have become essentially new sources. Application of BDT to facilities with largely new components furthers the intent of Congress that emissions be minimized through application of BDT with the turnover in the nation's industrial component base. This purpose is advanced through coverage of facilities that undergo substantial component replacement, whether the replacement is due to wear or increased material usage, and whether or not an emissions increase results from the replacement.

Under § 60.15, the replacement of a piece of equipment does not in itself subject an existing facility to NSPS. However, when the cost of components over time exceeds 50 percent of the cost of a comparable new facility and it is technologically and economically feasible for the facility to comply, NSPS would apply. In making decisions that involve the expenditure of funds that would trigger the reconstruction provisions, industry also should consider the cost of any control system that may be necessary to meet the NSPS requirements.

Economic Impact

Three commenters questioned EPA's conclusion that the proposed standards would have little economic impact on the beverage can industry. EPA would be imposing VOC emission limits below the (current) lowest achievable levels of several can coating manufacturers. If those manufacturers could not achieve the new levels, the November 28 proposals would be regulating them out out of business at the outset. This in turn would reduce or restrict competition within the coating supply industry, which would cause substantial economic hardship on can manufacturers. One commenter stated that industry's comments on this matter were ignored.

Because EPA's analyses of industry projections showed that no end or three-piece can capacity would be subject to the standards in 1985, only two-piece cans are covered by the promulgated standards. Therefore, response will be limited to two-piece beverage cans. The promulgated standards will not apply to existing facilities except when they become subject to the modification or reconstruction provisions of 40 CFR Part 60. Industry's recommendations concerning the adoption of emission limits lower than RACT were not ignored. For example, as a result of industry comments at the NAPCTAC meeting, application of end-sealing compound was excluded from the proposed standards. Industry recommendations were considered in the development of the promulgated standards, but in the light of other ecomonic and coating availability data, a determination was made that the promulgation of NSPS for the beverage can surface coating industry would not result in exorbitant or unreasonable economic impacts.

As discussed in the General Comments section above, waterborne coatings that can meet the promulgated standards are available and in use in a sufficient number of cases to conclude that the technology is available for all uses except for inside spray for steel cans. Two existing plants have not been able to find a waterborne coating that performs properly for their particular applications and are using solvent-borne inside sprays with incineration to meet State and local emission standards. EPA's analysis indicates that there are no economic impacts to the industry if waterborne coatings are used. Waterborne coatings which comply with the standard are comparable in cost with waterborne coatings used to meet State and local regulations based on RACT; and both are less costly than the use of solvent-borne coatings with add-on controls. As noted above, two existing plants are currently meeting State and local standards by using solvent-borne coatings with incineration. These same controls could be used at new plants and, while additional costs may be required for fugitive capture to meet the NSPS and for a slightly larger incinerator, these represeent a small increment of the existing capture and incineration costs and would not affect plant viability or competition.

Energy Impact

One comment was made that the energy requirements in Tables 6–6, 7–18, and 7–22, draft EIS, do not take into account that ventilating air must be heated in winter.

Ventilating air must be heated in the winter whether or not NSPS are promulgated. The energy analysis is based on the incremental energy requirements between the base case and the emission control option under consideration. In all cases except one, the ventilating air requirements are significantly less than for the base case. End forming, the exception, has been excluded from the standards. Thus, any error introduced by not including the heating or ventilating air results in a lower energy savings than would actually be realized over the base case.

One commenter took exception to the statement in the preamble that the proposed standards would result in a net energy reduction because less coating per can would be used (based upon higher solids contents of waterborne coatings). Experience indicates that waterborne coatings require as much or more energy expenditure as solvent coatings. Further review or data collection concerning this issue was recommended. The commenter offered to submit data for both waterborne and solvent-based can coatings, upon EPA's request.

This comment was subsequently withdrawn by the commenter because appropriate inquiries to other canmakers led to the conclusion that the comment was not applicable to the industry as a whole. However, because the issue was raised, EPA considers that a general discussion of energy requirements is appropriate. It is assumed that the comment applies only to two-piece cans because the commenter's company makes only that type of can. Under some conditions, cure oven energy requirements for waterborne coatings for two-piece cans may be higher than for solvent-borne coatings. As discussed in Chapter 3 of the proposal BID, when waterborne coatings are used, exhaust air flow through the cure oven is based on considerations other than the lower explosive limit. Sufficient air must pass through the oven to clear the VOC and compounds that may be formed during the curing process. In general, air flows are about the same as when solvent-borne coatings are used.

In such a case the energy to heat and vaporize the water content of the coating would be greater than that required for an equivalent volume of VOC. However, energy required to heat and vaporize water or VOC is less than 10 percent of the total energy requirements when pin ovens are used. The greater portion of the energy requirements are for heating the air, heating the cans, and heating the pins. Similar considerations would apply to other than pin-type ovens.

In determining incremental energy impacts, both the base case and regulatory alternative energy requirements were based on the use of waterborne coatings. Because the energy impact is based on the difference between the base case and the alternatives under analysis and for the reasons cited above, the energy analyses are considered to be sufficiently accurate for standards development.

Environmental Impact

Two commenters stated that emission reductions will occur naturally as a result of conversion from three-piece to two-piece can production. Coating material used for the manufacture of two-piece cans is approximately 28 percent less than the coating material used for the manufacture of three-piece cans, regardless of whether the material used is conventional high solvent or RACT. Therefore, a net emission reduction results with the shift from three-piece cans to two-piece cans. This reduction far outweighs any reduction that will occur as a result of implementation of NSPS.

EPA agrees that there has been a significant reduction in VOC emissions as a result of the trend away from three-piece cans to two-piece cans. Emission data to date substantiate this. It is also true that reduction attainable through the promulgation of the beverage can surface coating NSPS will be much less than that achievable upon complete implementation of the RACT program. However, EPA is required under Section 111 of the Clean Air Act to promulgate NSPS for industries within source categories on the Priority List where, as in the case of this industry, application of control technology will achieve significant reduction beyond that achieved without NSPS. Application of BDT, which for this industry is the use of coatings with lower organic solvent content than RACT coatings, would achieve such a reduction. As a result, Section 111 requires EPA to promulgate standards reflecting such application.

Legal Considerations

Two canmakers were concerned that moving an existing plant to another site would subject the plant to NSPS or State new source emission limitations.

Movement of an affected facility to another site, in itself, is exempted from NSPS under § 60.14(e)(6). This exemption applies to 40 CFR 60 only. State and local regulations and other Federal regulations covering prevention of significant deterioration or new source review could apply.

Two commenters stated that the Agency's definition of an affected facility as any coating operation, as opposed to an entire line or an entire manufacturing plant, may not provide the same degree of latitude as the existing "bubble concept" and may limit methods of compliance and preclude the use of alternative compliance procedures based on total plant emissions. If the total facility emissions are equivalent to NSPS limitations using an alternate compliance plan, there is no detriment to the environment; therefore, an alternate compliance plan should be permissible. Particularly in a facility that would have a combination of NSPS and RACT limitations, an alternate compliance plan should be allowed. This would permit the facility to use the same materials for all lines, NSPS and RACT in combination. This plan would improve implementation of an air pollution control program.

The "bubble concept" refers to application of a standard to an entire plant rather than to individual emission points, although emission ceilings may concurrently be assigned to individual emission points. The term "affected facility" refers to the particular portion of a plant to which a standard applies. In this case the affected facility has been defined as a surface coating operation, which consists of a coating application station(s), flashoff area(s), and cure oven. The choice of the affected facility for any standard is based on the Agency's interpretation of the Clean Air Act, as amended, and judicial construction of its meaning. Under Section 111, the NSPS must apply to "new sources"; a "source" is defined as "any building, structure, facility, or installation which emits or may emit any air pollutant" [Section 111(a)(3)]. Most industrial plants, however, consist of numerous pieces or groups of equipment that emit air pollutants and that might be viewed as "sources." EPA uses the term "affected facility" to designate the equipment, within a particular kind of plant, that is chosen as the "source" covered by a given standard.

In choosing the affected facility, EPA must decide which pieces or groups of equipment are the appropriate units for separate emission standards in the particular industrial context involved. The Agency does this by examining the situation in light of the terms and purpose of Section 111. One major consideration in this examination is that the use of a narrower definition results in bringing replacement equipment under the NSPS sooner; if, for example, an entire plant were designated the affected facility, no part of the plant would be covered by the standard unless the plant as a whole were "modified." If, on the other hand, each piece of equipment were designated the affected facility, as each piece were replaced, the replacement piece would be a new source subject to the standard. Because the purpose of Section 111 is to minimize emissions by application of the best demonstrated control technology (considering cost, other health and environmental effects, and energy

requirements) at all new, modified, or reconstructed sources, the presumption is that a narrower designation of the affected facility is proper. This designation insures that new emission sources within plants will be brought under coverage of the standards as they are installed. This presumption can be overcome where the impacts atttributable to the narrower designation are unreasonable in the light of the emissions reduction resulting from the selection of that definition.

The Agency has determined that in these standards the selection of each coating operation as the affected facility would not result in unreasonable impacts. It is technologically and economically feasible to control each surface coating operation. Choosing a combination of surface coating operations or the whole plant as the affected facility would be inconsistent with the language and intent underlying Section 111 because this broader definition would delay NSPS coverage of new facilities within the plant. Bubbling emissions at NSPS-regulated facilities with emissions at RACT facilities could permit all NSPS-regulated facilities in a plant to achieve less than BDT-level control. This would be inconsistent with Section 111's requirement that emissions at NSPS-regulated facilities be controlled to the level reflecting application of BDT. Therefore, the Agency has selected each surface coating operation as the affected facility for these standards.

One commenter stated that EPA's banking policy provides a built-in incentive for industry to develop materials superior to RACT. Resulting reduction in emissions from existing plants will far outweigh any benefits that might result from the implementation of NSPS.

The NSPS program does not prevent existing plants from banking emissions. NSPS are emission limits for new, modified, and reconstructed affected facilities based on BDT. In accordance with Section 111, these standards insure at least a specified minimum level of control at new, modified, and reconstructed facilities, wherever located—including those for which banking and other economic incentives may not be sufficient to induce good control of VOC emissions in the absence of NSPS.

One commenter was concerned that the promulgation of NSPS would jeopardize the ongoing RACT program if a new line were added to an existing plant, which is very common in the can business. The new line would be governed by NSPS limitations. Different coatings would be required for use on the new line than on the old line. Maintaining inventory and regulating the use of the two different sets of coatings for the production of the same can would be unmanageable. If the plant used alternate compliance, a complicated calculation scheme would be needed to demonstrate compliance with both NSPS and RACT. The dual system of RACT and NSPS in a plant will not work and will lead to demise of one or another in terms of practicality. Either the entire facility will be switched to NSPS, or RACT materials will be incinerated on NSPS lines. This concept is contrary to the recent U.S. EPA policy of discouraging the use of afterburners.

EPA considers that the situation that would result from the addition of a new line subject to NSPS to an existing plant appears to be no different from the situation in existing plants that make more than one type of beverage can, each of which may require different types of coating. The same procedures used to maintain inventories and regulate the use of different coatings in the latter plant are considered to be applicable to the situation described in the comment.

The procedures outlined for determining compliance for plants using RACT coatings and in the draft regulation for plants using NSPS coatings are not incompatible and permit the use of RACT coatings on one line and NSPS coatings on another. Furthermore, in enacting Section 111, Congress recognized that to enhance air quality over the long run it is important that new sources within a plant achieve limits based on the best demonstrated technology, irrespective of the level of control at existing sources within the plant.

Compliance of the NSPS affected facilities in a can plant would be determined using volume of coatings, VOC content thereof, and diluent solvent used in the affected facility by the procedures presented in the proposed regulations. Compliance of that portion of the plant subject to RACT would be in accord with provisions of the applicable State and local regulations. The data required for these calculations are considered to be those that any prudent manufacturer would maintain even if these standards were not promulgated.

One commenter felt that the information needed by EPA to determine compliance and to calculate emission inventories could be done with annual reports as opposed to monthly compliance determinations. These reports would only need to list each coating used by the plant along with kilograms of VOC per litre of solids and actual usage amounts. Those plants required to run control equipment would also have to report the average percentage of VOC reduction by the equipment and the number of production hours that the control equipment was not running, which could be backed up by a simple chart record.

Annual compilations are not considered an acceptable basis for determining compliance. Such an approach would permit a wide fluctuation in the mass of VOC emitted to the atmosphere at any one time. All of the canmakers contacted during the development of the standards reported maintaining coating-usage data on at least a monthly basis. As stated in a subsequent section of this preamble, EPA has investigated alternatives for reducing recordkeeping and reporting burdens and has changed the requirement for immediate reporting of noncompliance to semiannual reporting.

The promulgated regulations do not require reporting the average percentage of VOC reduction if an incinerator was used, or the number of hours the control system was not operating. Where compliance is achieved through the use of incineration, the owner or operator is required to identify and report, semiannually, all 3-hour periods during which the operating temperature, when cans are being processed, is more than 28° C below the average temperatures of the device during the most recent performance test or, for catalytic incinerators, when the average temperature difference is less than 80 percent of that determined during the most recent performance test. The destruction efficiency of the control device determined during the most recent performance test is used in determining compliance during any calendar month.

Test Methods and Methodology

Two commenters questioned the relationship of the proposed standards and the use of Reference Method 24 for determining compliance. Recommendations were made that the proposed standards should include a "cushion" that would allow for differences in test findings resulting from variation of the three experimentally determined physical constants used to calculate VOC content of coatings. Upward readjustment of the proposed standards to at least RACT level is required to avoid capricious erroneous noncompliance findings.

EPA recognizes the potential variability in the results when Method 24 is used to analyze waterborne coatings. The promulgated regulation

requires that, when Method 24 data are used to determine VOC content of waterborne coatings for compliance determinations, they be adjusted as described in Section 4.4 of Method 24.

If the VOC level of a waterborne coating, based on formulation, is at or below the standard, there is less than one chance in 10,000 that the Method 24 adjusted results would show the VOC level to be above the standard. The Agency considers this risk insignificant compared to the usefulness of Method 24 in determining compliance.

Reporting and Recordkeeping

One commenter stated that the recordkeeping requirements are unnecessarily tedious and time consuming, ask for much nonessential information, and necessitate intimidating and complex calculations. Production people would be required to do day-to-day and even hour-to-hour monitoring. The recordkeeping requirements penalize manufacturers that must meet the standard using control equipment instead of compliance coatings. The Agency's estimate that the proposed requirements would cost the industry 12 person-years over the first 5 years of the standards is unrealistically low. The commenter added that his company has less than 10 percent of the nation's two-piece can business, and conservatively estimates a cost of 2.3 person-years over the first 5 years of the standards. Even if the Agency's estimate is correct, the requirements are unnecessarily involved and are another example of an inflationary, nonproductive expense imposed upon industry by a governmental agency.

EPA has been investigating alternative ways of reducing monitoring, recordkeeping and reporting burdens on owners and operators. The goal is to reduce all recordkeeping and reporting that is not essential to insuring proper operation and maintenance. After reviewing the requirements in the proposal, EPA determined that monitoring and compiling data are essential for both the owner or operator and EPA to insure proper operation and maintenance. A responsible owner or operator would need monitoring information compiled in a usable form to determine when adjustments in the control system are needed to insure that it is performing at its intended effectiveness level. Because EPA judges that monitoring and recordkeeping are essential for proper operation and maintenance, these requirements have not been changed since proposal. It was judged, however, that immediate reporting of noncompliance with the standards is not essential to EPA. Semiannual reporting is considered sufficient to enable EPA to discharge its enforcement responsibility. Therefore, after initial performance testing, the requirement to report immediately all instances of noncompliance, as required in the proposal package, has been changed to require only semiannual reports. Reports required under the general provisions of 40 CFR part 60 remain unchanged. States delegated the authority to enforce these standards remain free to impose their own reporting requirements in conjunction with this regulation.

EPA disagrees that day-to-day or hour-to-hour monitoring will be required. Compliance is determined on a monthly basis and requires data that any prudent manufacturer would normally maintain. For facilities using waterborne coatings, required data consist of the volume and VOC content of each coating and the volume and density of each diluent VOC solvent used during each calendar month. When an emission control system is used, the most recently determined overall reduction efficiency of the system also is required.

Recordkeeping provisions of the proposed standards require maintaining records of all data and calculations for at least 2 years. In addition, records of incinerator operating temperatures are required if incineration is used, as are data on daily solvent recovery if a solvent recovery system is used. Incinerator temperatures and daily solvent recovery data are considered as essential to the operation of these devices and would be generated, maintained, and examined, whether or not required by the standards.

Details of the estimate that 12 person-years would be required by industry during the first 5 years of the standard are contained in the Reports Impact Analysis (Docket Item II–1–53). The estimate of industry requirements during the first 5 years has been revised downward to 11 person years as a result of the changes between proposal and promulgation (Docket Item IV–J–2). In a subsequent discussion the commenter stated that the 2.3 person-years was a worst case estimate based on all existing facilities being modified or reconstructed during 1980–1985.

It is EPA's judgment that the estimates are based on best available data, that the estimates are realistic, and that the requirements are not inflationary.

Miscellaneous

One commenter felt that the draft EIS and the proposed preamble and regulation are much more complex and lengthy than necessary. Discussion of incineration and the three-piece can should be eliminated.

EPA considered that the material in the draft EIS and in the proposal preamble and regulation was necessary to present the technical basis and the rationale for the development of the proposed standards. The beverage can surface coating industry is complex, involving as many as eleven coating operations on five separate items. Discussion of each of these was considered necessary to determine the scope and level of the proposed standards. A discussion of incineration was considered essential because one canmaker had recently constructed two plants using solvent-borne coatings. Also inceneration is considered to be an affordable and reasonable alternative to the use of waterborne coatings.

Docket

The docket is an organized and complete file of all the information considered by EPA in the development of this rulemaking. The docket is a dynamic file, since material is added throughout the rulemaking development. The docketing system is intended to allow members of the public and industries involved to identify readily and locate documents so that they can intelligently and effectively participate in the rulemaking process. Along with the statement of basis and purpose of the proposed and promulgated standards and EPA responses to significant comments, the contents of the docket [except for certain materials noted in Section 307(d)(7)(A)] will serve as the record in case of judicial review.

Miscellaneous

The effective date of this regulation is August 25, 1983. Section 111 of the Clean Air Act provides that standards of performance or revisions thereof become effective upon promulgation and apply to affected facilities for which construction, reconstruction, or modification was commenced after the date of proposal (November 26, 1980).

As prescribed by Section 111, the promulgation of these standards was preceded by the Administrator's determination (40 CFR 60.16, 44 FR 49222, dated August 21, 1979) that these sources contribute significantly to air pollution which may reasonably be anticipated to endanger public health or welfare. In accordance with Section 117 of the Act, publication of these promulgated standards was preceded by consultation with appropriate advisory committees, independent experts, and Federal departments and agencies.

The standard requires that owners or operators of affected facilities submit three types of reports, those required under the General Provisions of 40 CFR Part 60, initial performance test reports, and semiannual reports of instances in which the VOC content of coatings used exceeds the allowable level established in the standard and instances in which incinerator operating temperatures vary significantly from those used to establish emission control system efficiencies where compliance is achieved through the use of incineration.

This regulation will be reviewed no later than four years from the date of promulgation as required by the Clean Air Act. This review will include an assessment of such factors as the need for integration with other programs, the existence of alternative methods, enforceability, improvements in emission control technology, and reporting requirements. The reporting requirements in this regulation will be reviewed as required under EPA's sunset policy for reporting requirements in regulations.

Section 317 of the Clean Air Act requires the Administrator to prepare an economic impact assessment for any new source standard of performance promulgated under Section 111(b) of the Act. An economic impact assessment was prepared for this regulation and for other regulatory alternatives. All aspects of the assessment were considered in the formulation of the standards to insure that cost was carefully considered in determining BDT. The economic impact assessment is included in the BID for the proposed standards.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it would result in none of the adverse economic effects set forth in Section 1 of the Order as grounds for finding a regulation to be major. There will be no increase in industrywide annualized costs as a result of this regulation. No significant increase in price is associated with the proposed standards; thus there would be no "major increase in costs or prices" specified as the second criterion in the Order. The economic analysis of the proposed standards' effects on the industry did not indicate any significant adverse effects on competition, investment, productivity, employment, innovation, or the ability of U.S. firms to compete with foreign firms (the third criterion in the Order).

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection in the docket referenced in the address section of this preamble.

Information collection requirements contained in this regulation (Sections 60.493, 60.494, and 60.495) have been approved by OMB under the provision of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* and have been assigned OMB control number 2060–0001.

List of Subjects in 40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Asphalt, Cement industry, Coal copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Metallic minerals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel, Sulfuric acid plants, Waste treatment and disposal, Zinc, Tires, Incorporation by reference, Can surface coating.

Dated August 18, 1983.

William D. Ruckelshaus,

Administrator.

PART 60—[AMENDED]

40 CFR Part 60 is amended by adding Subpart WW as follows:

Subpart WW—Standards of Performance for the Beverage Can Surface Coating Industry

Sec.

60.490 Applicability and designation of affected facility.
60.491 Definitions.
60.492 Standards for volatile organic compounds.
60.493 Performance test and compliance provisions.
60.494 Monitoring of emissions and operations.
60.495 Reporting and recordkeeping requirements.
60.496 Test methods and procedures.

Authority: Secs. 111 and 301(a) of the Clean Air Act, as amended [42 U.S.C. 7411 and 7601(a)], and additional authority, as noted below.

§ 60.490 Applicability and designation of affected facility.

(a) The provisions of this subpart apply to the following affected facilities in beverage can surface coating lines: each exterior base coat operation, each overvarnish coating operation, and each inside spray coating operation.

(b) The provisions of this subpart apply to each affected facility which is identified in paragraph (a) of this section and commences construction, modification, or reconstruction after November 26, 1980.

§ 60.491 Definitions.

(a) All terms which are used in this subpart and are not defined below are given the same meaning as in the Act and Subpart A of this part.

(1) *Beverage can* means any two-piece steel or aluminum container in which soft drinks or beer, including malt liquor, are packaged. The definition does not include containers in which fruit or vegetable juices are packaged.

(2) *Exterior base coating operation* means the system on each beverage can surface coating line used to apply a coating to the exterior of a two-piece beverage can body. The exterior base coat provides corrosion resistance and a background for lithography or printing operations. The exterior base coat operation consists of the coating application station, flashoff area, and curing oven. The exterior base coat may be pigmented or clear (unpigmented).

(3) *Inside spray coating operation* means the system on each beverage can surface coating line used to apply a coating to the interior of a two-piece beverage can body. This coating provides a protective film between the contents of the beverage can and the metal can body. The inside spray coating operation consists of the coating application station, flashoff area, and curing oven. Multiple applications of an inside spray coating are considered to be a single coating operation.

(4) *Overvarnish coating operation* means the system on each beverage can surface coating line used to apply a coating over ink which reduces friction for automated beverage can filling equipment, provides gloss, and protects the finished beverage can body from abrasion and corrosion. The overvarnish coating is applied to two-piece beverage can bodies. The overvarnish coating operation consists of the coating application station, flashoff area, and curing oven.

(5) *Two-piece can* means any beverage can that consists of a body manufactured from a single piece of steel or aluminum and a top. Coatings for a two-piece can are usually applied after fabrication of the can body.

(6) *VOC content* means all volatile organic compounds (VOC) that are in a coating. VOC content is expressed in terms of kilograms of VOC per litre of coating solids.

(b) Notations used under § 60.493 of this subpart are defined below:

C_a = the VOC concentration in each gas stream leaving the control device and

entering the atmosphere (parts per million as carbon)
C_o = the VOC concentration in each gas stream entering the control device (parts per million as carbon)
D_c = density of each coating, as received (kilograms per litre)
D_d = density of each VOC-solvent added to coatings (kilograms per litre)
D_r = density of VOC-solvent recovered by an emission control device (kilograms per litre)
E = VOC destruction efficiency of the control device (fraction)
F = the proportion of total VOC emitted by an affected facility which enters the control device to total emissions (fraction)
G = the volume-weighted average of VOC in coatings consumed in a calendar month per volume of coating solids applied (kilograms per litre of coating solids)
H_a = the fraction of VOC emitted at the coater and flashoff areas captured by a collection system
H_b = the fraction of VOC emitted at the cure oven captured by a collection system
L_c = the volume of each coating consumed, as received (litres)
L_d = the volume of each VOC-solvent added to coatings (litres)
L_r = the volume of VOC-solvent recovered by an emission control device (litres)
L_s = the volume of coating solids consumed (litres)
M_d = the mass of VOC-solvent added to coatings (kilograms)
M_o = the mass of VOC-solvent in coatings consumed, as received (kilograms)
M_r = the mass of VOC-solvent recovered by emission control device (kilograms)
N = the volume-weighted average mass of VOC emissions to atmosphere per unit volume of coating solids applied (kilograms per litre of coating solids)
Q_a = the volumetric flow rate of each gas stream leaving the control device and entering the atmosphere (dry standard cubic meters per hour)
Q_b = the volumetric flow of each gas stream entering the control device (dry standard cubic meters per hour)
R = the overall emission reduction efficiency for an affected facility (fraction)
S_a = the fraction of VOC in coating and diluent VOC-solvent emitted at the coater and flashoff area for a coating operation
S_b = the fraction of VOC in coating and diluent solvent emitted at the cure oven for a coating operation
V_s = the proportion of solids in each coating, as received (fraction by volume)
W_o = the proportion of VOC in each coating, as received (fraction by weight).

§ 60.492 Standards for volatile organic compounds.

On or after the date on which the initial performance test required by § 60.8(a) is completed, no owner or operator subject to the provisions of this subpart shall discharge or cause the discharge of VOC emissions to the atmoshpere that exceed the following volume-weighted calendar-month average emissions:

(a) 0.29 kilogram of VOC per litre of coating solids from each two-piece can exterior base coating operation, except clear base coat;

(b) 0.46 kilogram of VOC per litre of coating solids from each two-piece can clear base coating operation and from each overvarnish coating operation; and

(c) 0.89 kilogram of VOC per litre of coating solids from each two-piece can inside spray coating operation.

§ 60.439 Performance test and compliance provisions.

(a) Section 60.8(d) does not apply to monthly performance tests and § 60.8(f) does not apply to the performance test procedures required by this subpart.

(b) The owner or operator of an affected facility shall conduct an initial performance test as required under § 60.8(a) and thereafter a performance test each calendar month for each affected facility.

(1) The owner or operator shall use the following procedures for each affected facility that does not use a capture system and a control device to comply with the emission limit specified under § 60.492. The owner or operator shall determine the VOC-content of the coatings from formulation data supplied by the manufacturer of the coating or by an analysis of each coating, as received, using Reference Method 24. The Administrator may require the owner or operator who uses formulation data supplied by the manufacturer of the coating to determine the VOC content of coatings using Reference Method 24 or an equivalent or alternative method. The owner or operator shall determine from company records the volume of coating and the mass of VOC-solvent added to coatings. If a common coating distribution system serves more than one affected facility or serves both affected and exiting facilities, the owner or operator shall estimate the volume of coating used at each facility by using the average dry weight of coating, number of cans, and size of cans being processed by each affected and existing facility or by other procedures acceptable to the Administrator.

(i) Calculate the volume-weighted average of the total mass of VOC per volume of coating solids used during the calendar month for each affected facility, except as provided under § 60.493(b)(1)(iv). The volume-weighted average of the total mass of VOC per volume of coating solids used each calendar month will be determined by the following procedures.

(A) Calculate the mass of VOC used ($M_o + M_d$) during the calendar month for the affected facility by the following equation:

$$M_o + M_d = \sum_{i=1}^{n} L_{ci} D_{ci} W_{ci} + \sum_{j=1}^{m} L_{dj} D_{dj} \quad (1)$$

[$\Sigma L_{dj} D_{dj}$ will be 0 if no VOC solvent is added to the coatings, as received.] where n is the number of different coatings used during the calendar month and m is the number of different diluent VOC-solvents used during the calendar month.

(B) Calculate the total volume of coating solids used (L_s) in the calendar month for the affected facility by the following equation:

$$L_s = \sum_{i=1}^{n} L_{ci} V_{si}, \quad (2)$$

where n is the number of different coatings used during the calendar month.

(C) Calculate the volume-weighed average mass of VOC per volume of solids used (G) during the calendar month for the affected facility by the following equation:

$$G = \frac{M_o + M_d}{L^T{}_{2s}}. \quad (3)$$

(ii) Calculate the volume-weighted average of VOC emissions discharged to the atmosphere (N) during the calendar month for the affected facility by the following equation:

$$N = G. \quad (4)$$

(iii) Where the value of the volume-weighted average of mass of VOC per volume of solids discharged to the atmosphere (N) is equal to or less than the applicable emission limit specified under § 60.492, the affected facility is in compliance.

(iv) If each individual coating used by an affected facility has a VOC content equal to or less than the limit specified under § 60.492, the affected facility is in compliance provided no VOC-solvents are added to the coating during distribution or application.

(2) An owner or operator shall use the following procedures for each affected facility that uses a capture system and a control device that destroys VOC (e.g., incinerator) to comply with the emission limit specified under § 60.492.

(i) Determine the overall reduction efficiency (R) for the capture system and control device.

For the initial performance test, the overall reduction efficiency (R) shall be determined as prescribed in A, B, and C below. In subsequent months, the owner or operator may use the most recently determined overall reduction efficiency for the performance test providing control device and capture system operating conditions have not changed. The procedure in A, B, and C, below, shall be repeated when directed by the Administrator or when the owner or operator elects to operate the control device or capture system at conditions different from the initial performance test.

(A) Determine the fraction (F) of total VOC used by the affected facility that enters the control device using the following equation:

$$F = S_a H_a + S_b H_b \quad (5)$$

where H_a an H_b shall be determined by a method that has been previously approved by the Administrator. The owner or operator may use the values of S_a and S_b specified in Table 1 or other values determined by a method that has been previously approved by the Administrator.

TABLE 1.—DISTRIBUTION OF VOC EMISSIONS

Coating operation	Emission distribution	
	Coater/flashoff (S_a)	Curing oven (S_b)
Two-piece aluminum or steel can:		
Exterior base coat operation	0.75	0.25
Overvarnish coating operation	0.75	0.25
Inside spray coating operation	0.80	0.20

(B) Determine the destruction efficiency of the control device (E) using values of the volumetric flow rate of each of the gas streams and the VOC content (as carbon) of each of the gas streams in and out of the device by the following equation:

$$E = \frac{\sum_{i=1}^{n} Q_{ai} C_{ai} - \sum_{j=1}^{m} Q_{aj} C_{aj}}{\sum_{i=1}^{n} Q_{ai} C_{ai}} \quad (6)$$

where n is the number of vents before the control device, and m is the number of vents after the control device.

(C) Determine overall reduction efficiency (R) using the following equation:

$$R = EF. \quad (7)$$

(ii) Calculate the volume-weighted average of the total mass of VOC per volume of coating solids (G) used during the calendar month for the affected facility using equations (1), (2), and (3).

(iii) Calculate the volume-weighted average of VOC emissions discharged to the atmosphere (N) during the calendar month by the following equation:

$$N = G \times [1-R]. \quad (8)$$

(iv) If the volume-weighted average of mass of VOC emitted to the atmosphere for the calendar month (N) is equal to or less than the applicable emission limit specified under § 60.492, the affected facility is in compliance.

(3) An owner or operator shall use the following procedure for each affected facility that uses a capture system and a control device that recovers the VOC (e.g., carbon adsorber) to comply with the applicable emission limit specified under § 60.492.

(i) Calculate the volume-weighted average of the total mass of VOC per unit volume of coating solids applied (G) used during the calendar month for the affected facility using equations (1), (2), and (3).

(ii) Calculate the total mass of VOC recovered (M_r) during each calendar month using the following equation:

$$M_r = L_s D_s \quad (9)$$

(iii) Calculate overall reduction efficiency of the control device (R) for the calendar month for the affected facility using the following equation:

$$R = \frac{M_r}{M_a + M_d} \quad (10)$$

(iv) Calculate the volume-weighted average mass of VOC discharged to the atmosphere (N) for the calendar month for the afffected facility using equation (8).

(v) If the weighted average of VOC emitted to the atmosphere for the calendar month (N) is equal to or less than the applicable emission limit specified under § 60.492, the affected facility is in compliance.

(Approved by the Office of Management and Budget under control number 2060-0001)

§ 60.494 Monitoring of emissions and operations.

The owner or operator of an affected facility that uses a capture system and an incinerator to comply with the emission limits specified under § 60.492 shall install, calibrate, maintain, and operate temperature measurement devices as prescribed below:

(a) Where thermal incineration is used, a temperature measurement device shall be installed in the firebox. Where catalytic incineration is used, temperature measurement devices shall be installed in the gas stream immediately before and after the catalyst bed.

(b) Each temperature measurement device shall be installed, calibrated, and maintained according to the manufacturer's specifications. The device shall have an accuracy the greater of ±0.75 percent of the temperature being measured expressed in degrees Celsius or ±2.5° C.

(c) Each temperature measurement device shall be equipped with a recording device so that a permanent continuous record is produced.

(Approved by the Office of Management and Budget under control number 2060-0001)

(Sec. 114 of the Clean Air Act as amended (42 U.S.C. 7414)

§ 60.495 Reporting and recordkeeping requirements.

(a) The owner or operator of an affected facility shall include the following data in the initial compliance report required under § 60.8(a).

(1) Where only coatings which individually have a VOC content equal to or less than the limits specified under § 60.492 are used, and no VOC is added to the coating during the application or distribution process, the owner or operator shall provide a list of the coatings used for each affected facility and the VOC content of each coating calculated fromdata determined using Reference Method 24 or supplies by the manufacturers of the coatings.

(2) Where one or more coatings which individually have a VOC content greater than the limits specified under § 60.492 are used or where VOC are added or used in the coating process, the owner or operator shall report for each affected facility the volume-weighted average of the total mass of VOC per volume of coating solids.

(3) Where compliance is achieved through the use of incineration, the ouner or operator shall include in the initial performance test required under § 60.8(a) the combustion temperature (or the gas temperature upstream and downstream of the catalyst bed), the

total mass of VOC per volume of coating solids before and after the incinerator, capture efficiency, and the destruction efficiency of the incinerator used to attain compliance with the applicable emission limit specified under § 60.492. The owner or operator shall also include a description of the method used to establish the amount of VOC captured by the capture system and sent to the control device.

(b) Following the initial performance test, each owner or operator shall submit for each semiannual period ending June 30 and December 31 a written report to the Administrator of exceedances of VOC content and incinerator operating temperatures when compliance with § 60.492 is achieved through the use of incineration. All semiannual reports shall be postmarked by the 30th day following the end of each semiannual period. For the purposes of these reports, exceedances are defined as:

(1) Each performance period in which the volume-weighted average of the total mass of VOC per volume of coating solids, after the control device, if capture devices and control systems are used, is greater than the limit specified under § 60.492.

(2) Where compliance with § 60.492 is achieved through the use of thermal incineration, each 3-hour period when cans are processed, during which the average temperature of the device was more than 28° C below the average temperature of the device during the most recent performance test at which destruction efficiency was determined as specified under § 60.493.

(3) Where compliance with § 60.492 is achieved through the use of catalytic incineration, each 3-hour period when cans are being processed, during which the average temperature of the device immediately before the catalyst bed is more than 28° C below the average temperature of the device immediately before the catalyst bed during the most recent performance test at which destruction efficiency was determined as specified under § 60.493 and all 3-hour periods, when cans are being processed, during which the average temperature difference across the catalyst bed is less than 80 percent of the average temperature difference across the catalyst bed during the most recent performance test at which destruction efficiency was determined as specified under § 60.493.

(c) Each owner or operator subject to the provisions of this subpart shall maintain at the source, for a period of at least 2 years, records of all data and calculations used to determine VOC emissions from each affected faciity in the initial and monthly performance tests. Where compliance is achieved through the use of thermal incineration, each owner or operator shall maintain, at the source, daily records of the incinerator combustion chamber temperature. If catalytic incineration is used, the owner or operator shall maintain at the source daily records of the gas temperature, both upstream and downstream of the incinerator catalyst bed. Where compliance is achieved through the use of a solvent recovery system, the owner or operator shall maintain at the source daily records of the amount of solvent recovered by the system for each affected facility.

(d) The requirements of this subsection remain in force until and unless EPA, in delegating enforcement authority to a State under Section 111(c) of the Act, approves reporting requirements or an alternative means of compliance surveillance adopted by such State. In that event, affected facilities within the State will be relieved of the obligation to comply with this subsection, provided that they comply with the requirements established by the State.

(Approved by the Office of Management and Budget under control number 2060–0001)

(Sec. 114 of the Clean Air Act as amended (42 U.S.C. 1714))

§ 60.496 Test methods and procedures.

(a) The reference methods in Appendix A to this part, except as provided in § 60.8, shall be used to conduct performance tests.

(1) Reference Method 24, an equivalent or alternative method approved by the Administrator, or manufacturers formulation for data from which the VOC content of the coatings used for each affected facility can be calculated. In the event of dispute, Reference Method 24 shall be the referee method. When VOC content of waterborne coatings, determined from data generated by Reference Method 24, is used to determine compliance of affected facilities, the results of the Method 24 analysis shall be adjusted as described in Section 4.4 of Method 24.

(2) Reference Method 25 or an equivalent or alternative method for the determination of the VOC concentration in the effluent gas entering and leaving the control device for each stack equipped with an emission control device. The owner or operator shall notify the Administrator 30 days in advance of any State test using Reference Method 25. The following reference methods are to be used in conjunction with Reference Method 25:

(i) Method 1 for sample and velocity traverses,

(ii) Method 2 for velocity and volumetric flow rate,

(iii) Method 3 for gas analysis, and

(iv) Method 4 for stack gas moisture.

(b) For Reference Method 24, the coating sample must be a 1-litre sample collected in a 1-litre container at a point where the sample will be representative of the coating material.

(c) For Reference Method 25, the sampling time for each of three runs must be at least 1 hour. The minimum sample volume must be 0.003 dscm except that shorter sampling times or smaller volumes, when necessitated by process variables or other factors, may be approved by the Administrator. The Administrator will approve the sampling of representative stacks on a case-by-case basis if the owner or operator can demonstrate to the satisfaction of the Administrator that the testing of representative stacks would yield results comparable to those that would be obtained by testing all stacks.

(Sec. 114 of the Clean Air Act as amended (42 U.S.C. 7414))

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federal register

Thursday
August 25, 1983

Part V

Environmental Protection Agency

Approval and Promulgation of Implementation Plans; Requirements for Preparation, Adoption, and Submittal; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51 and 52

[AH-FRL 2406-5]

Requirements for Preparation, Adoption, and Submittal of Implementation Plans; Approval and Promulgation of Implementation Plans

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposal of amendments to regulations.

SUMMARY: EPA here proposes amendments to its regulations concerning the construction of new stationary sources of air pollution and modifications to existing sources which appear at 40 CFR 51.24, 52.21, Appendix S to Part 51, 51.18(j) and 52.24. The amendments relate to: (1) Fugitive emissions, (2) federal enforceability, (3) the requirements for health and welfare equivalence for netting under the definition of "major modification," (4) the definition of "significant," (5) the innovative control technology waiver in the regulations for prevention of significant deterioration ("PSD"), (6) secondary emissions, (7) the crediting of source shutdowns and curtailments as offsets in nonattainment areas, and (8) banking of offsets under 40 CFR Part 51, Appendix S. In addition, EPA gives guidance on; (1) The obligation of a state to cure a violation of a PSD increment for particulate matter, (2) the issuance of a non-PSD permit to a project that would cause or contribute to a violation of a PSD increment, and (3) technology transfer for determinations of "lowest achievable emission rate" for purposes of nonattainment preconstruction review.

EPA is proposing these amendments and giving this guidance in order to meet the terms of a settlement agreement between EPA and a number of industries and trade associations challenging the relevant EPA regulations. *Chemical Manufacturers Ass'n v. EPA*, D.C. Cir. No. 79-1112 (settlement agreement entered into February 22, 1982).

DATES: The period for initial comment on the proposed amendments closes on October 11, 1983. A public hearing on the proposed amendments will be held on September 29, 1983, at 10 a.m. EPA agreed in the settlement agreement not to extend the period for initial comment beyond 60 days. EPA intends not to do so. EPA, however, will hold the public docket for this rulemaking open for 30 days after the close of the initial comment period for the submission of written rebuttal and supplementary information.

ADDRESSES: *Comments.* Comments should be submitted (in triplicate, if possible) to: Central Docket Section (A-130), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, Attention: Docket No. A-82-23.

Public hearing. Room 5353, Waterside Mall, 401 M Street, SW., Washington, D.C.

Docket. EPA has established a docket for this rulemaking, Docket No. A-82-23, in accordance with Section 307(d) of the Clean Air Act, 42 U.S.C. 7607(d). The docket is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section, West Tower Lobby, Gallery I, 401 M Street, SW., Washington, D.C. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Kirt Q. Cox, New Source Review Section, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina 27711; 919-541-5591; FTS-629-5591.

SUPPLEMENTARY INFORMATION:

I. Introduction

In August 1980, EPA extensively revised its regulations concerning the preconstruction review of new and modified stationary sources under the Clean Air Act in response to *Alabama Power Company v. Costle*, 636 F.2d 323 (D.C. Cir., 1979). See 45 FR 52676. Five sets of regulations resulted from those revisions. One set, 40 CFR 51.24 (the "Part 51 PSD regulations"), specifies the minimum requirements that a PSD permit program must contain in order to warrant approval by EPA as a revision to a state implementation plan ("SIP"). Another set, 40 CFR 52.21 (the "Part 52 PSD regulations"), delineates the federal PSD permit program, which currently applies in most states as part of the SIP. Another set, 40 CFR 51.18(j), specifies the elements of an approvable state permit program for preconstruction review for nonattainment purposes. It elaborates on Section 173 of the Act, 42 U.S.C. 7503. The fourth set, 40 CFR Part 51, Appendix S, embodies the "Emissions Offset Interpretative Ruling," which EPA revised previously in January 1979 (44 FR 3274). The fifth set, 40 CFR 52.24, embodies the construction moratorium for certain nonattainment areas.

In the fall of 1980, numerous organizations petitioned the Court of Appeals for the D.C. Circuit to review various provisions of those PSD and nonattainment regulations. Subsequently, the court consolidated those petitions into *Chemical Manufacturers Association ("CMA") v. EPA* (No. 79-1112), a collection of challenges to the 1979 revisions to the Offset Ruling.[1]

In June 1981, EPA began negotiations with the industry petitioners to settle the *CMA* case. In Feburary 1982, EPA entered into a comprehensive settlement agreement with those petitioners. Subsequently, the court granted a stay of the case pending implementation of the agreement.

In Exhibit A of the agreement, EPA committed to propose certain amendments relating to: (1) Fugitive emissions, (2) federal enforceability, (3) the requirement for health and welfare equivalence for netting under the definition of "major modification," (4) the definition of "significant," (5) the innovative control technology waiver for PSD purposes, (6) secondary emissions, (7) the crediting of source shutdowns and curtailments in nonattainment areas, and (8) banking of offsets under the Offset Ruling.[2] EPA also committed to give certain guidance on the following three topics when it proposed those amendments: (1) The obligation of a state to cure a violation of a PSD increment for particulate matter, (2) the issuance of a non-PSD permit to a project that would cause or contribute to a violation of a PSD increment, and (3) technology transfer for determination of "lowest achievable emission rate" ("LAER") for purposes of nonattainment preconstruction review.

The purpose of this notice is to fulfill the commitment EPA made in the settlement agreement to propose those amendments and give that guidance. Although the current senior management of EPA did not make that commitment, it has concluded that EPA should still honor it. These proposals will give the litigants and others a full opportunity to register their views in a public forum. This process, moreover, will require EPA to state a final position on the issues and explain it. The settlement agreement, however, does not bind EPA to any particular result when it takes final action, although it does bind EPA to take such action. The current senior management of EPA intends therefore, to review the comments carefully with an open mind, to take a new look at the

[1] The court also consolidated into *CMA* various petitions for review of further revisions to the Offset Ruling that EPA promulgated in September 1980 (45 FR 59874).

[2] EPA made commitments to propose other amendments. Notices relating to those amendments will appear in the Federal Register in due course.

proposals, and to make an independent judgment on their merits.

The balance of the notice first discusses each of the proposed amendments. It then gives guidance on the three topics listed above. Finally, it focuses on certain miscellaneous matters.

II. Proposed Amendments

A. Fugitive Emissions

1. *Background.* The five sets of PSD and nonattainment regulations aim their substantive requirements primarily at new "major stationary sources" and "major modification." [3] In addition, they define "major" in terms of rates of emissions.[4] The emissions of some new projects are largely "fugitive" in origin, that is, they would not pass, and could not resonably be expected to pass, through a stack or other functionally equivalent opening. Whether the substantive PSD or nonattainment preconstruction review requirements apply to a new project at all can depend, therefore, on whether its fugitive emissions are included in quantifying its emissions rates for the purpose of determining whether the project is "major." This notice refers to any such determination as a threshold applicability determination.

Four of the five sets of regulations [5] aim their substantive requirements at a new "major stationary source" or "major modification" only with respect to certain pollutants that the project would emit in "major" or "significant" amounts, depending on the regulations in question.[6] The regulations define "significant," as well as "major," in terms of rates of emissions.[7] Whether the substantive PSD or the nonattainment preconstruction review requirements apply to a new "major" project with respect to a pollutant it would emit can depend, therefore, on whether fugitive emissions of the pollutant are included in determining whether the project would emit the pollutant in "major" or "significant" amounts. This notice refers to any such determination as a pollutant applicability determination.

2. *Alabama Power.* The forerunner of the current PSD regulations required fugitive emissions to be included in any threshold applicability determination, to the extent that they were reasonably quantifiable. *See, e.g.*, 40 CFR 52.21(b)(1)–(3) (1980) (codifying 43 FR 26380, 26403–04 (June 19, 1978)). In establishing that requirement, EPA had assumed that the definitions of "major emitting facility" and "modification" in Section 169 of the Act, 42 U.S.C. 7479, exclusively govern the content of their counterparts in the PSD regulations. Since Section 169 does not distinguish between fugitive and non-fugitive emissions, EPA concluded that fugitive emissions are as eligible for inclusion in threshold applicability determinations as non-fugitive emissions.

In *Alabama Power*, however, the D.C. Circuit held that Section 302, 42 U.S.C. 7602, also controls the content of those regulatory definitions in one critical respect. Section 302 provides in pertinent part that:

> When used in this Act:
> * * * * *
> (j) *Except as otherwise expressly provided,* the terms "major stationary source" and "major emitting facility" mean any stationary facility or source of air pollutants which directly emits, or has the potential to emit, one hundred tons per year or more of any air pollutant *(including any major emitting facility or source of fugitive emissions of any such pollutant, as determined by rule by the Administrator).* [Emphasis added.]

According to the court, nothing in Section 169 expressly displaces the rulemaking requirement in the parenthetical of Section 302(j). 636 F.2d at 370. As a result, the court held, EPA may require the inclusion of fugitive emissions in threshold applicability determinations for a particular project only if it has first established through rulemaking that fugitives are to be included for that class of projects. *Id.* at 369.

Unfortunately, the court did not specifically list what factors it thought EPA had to consider in such a rulemaking. It did say, however, that:

> EPA's regulation of fugitive emissions has been of special concern to the mining and forestry industries which contend, without serious opposition, that they are incapable of meeting the strict limitations on the emission of particulate matter set by the PSD provisions. . . .
> * * * * *
> The legislative history of this rulemaking provision [Section 302(j)] is sparse, but *it may well define a legislative response to the policy considerations presented by the regulation of sources where the predominant emissions are fugitive in origin, particularly fugitive dust.* Whatever the motivation of the "rule" provision of 302(j), its existence is unmistakable. Even if the origin of this provision is fortuitous, the provision may be welcomed as serendipitous, *for it gives EPA flexibility to provide industry-by-industry consideration and appropriate tailoring of coverage.* [*Id.* at 389 (emphasis added).]

The forerunner of the current PSD regulations also required fugitive emissions to be included in any pollutant applicability determination. *See, e.g.*, 40 CFR 52.21(b)(1)–(3), (i)(1) (1980). Although that requirement was not at issue in *Alabama Power*, the D.C. Circuit nevertheless indicated that it would have upheld the requirement. It stated that:

> [t]he terms of section 65, which detail the preconstruction review and permit requirements for each new or modified "major emitting facility" *apply with equal force* to fugitive emissions and emissions from industrial point sources. . . .
> *EPA is correct that a major emitting facility is subject to the requirements of section 165 for each pollutant it emits irrespective of the manner in which it is emitted.* However, a source emitting large quantities of fugitive emissions may remain outside the definition of major emitting facility and thus may not be subject to the requirements of section 165. [*Id.* at 389 (emphasis added).]

3. *Revisions in Response to Alabama Power.* In response to the court's interpretation of Section 302(j), EPA proposed amendments to both the PSD and nonattainment regulations that would have excluded fugitive emissions from threshold applicability determinations except as to 30 listed caegories of sources. *E.g.*, 44 FR 51924, 51948 (September 5, 1979). Twenty-eight of the categories corresponded generally to the categories in Section 169(l); the remaining two categories encompassed any source subject to an emissions standard under Sections 111 or 112 of the Act, 42 U.S.C. 7411 or 7412. Surface coal mines were not among the 30 categories. *Id.* at 51931. EPA explained that it was proposing to require the inclusion of fugitive emissions as to the 30 categories because emissions from sources in those categories deteriorate air quality regardless of how they emanate and because the Agency's experience in quantifying fugitive

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[3] For example, the Part 52 PSD regulations require only new "major stationary sources" and "major modifications" that would be located in "clean air" areas to have a PSD permit before construction begins. 40 CFR 52.21(i)(1982)

[4] For example, the Part 52 PSD regulations define "major stationary source" as any stationary source with the "potential to emit" 100 tons per year or more of any pollutant subject to regulation under the Act or 250 tons per year or more of any such pollutant, depending on the nature of the source in question. 40 CFR 52.21(b)(1)(1982).

[5] The construction moratorium, 40 CFR 52.24, simply restricts the construction of a project; it does not require the application of control technology and assessments of air quality impact for the various emissions from the project.

[6] For example, the Part 52 PSD regulations require an applicant for a PSD permit for a "major stationary source" to show that the source would have "best available control technology"("BACT") for each pollutant regulated under the Act that the source would emit in "significant" amounts. 40 CFR 52.21(j)(1982).

[7] For example, the Part 52 PSD regulations provide that emissions of sulfur dioxide are "significant" if they equal or exceed 40 tons per year. 40 CFR 52.21(b)(23)(i)(1982).

emissions from such sources was in general grater than its experience in quantifying fugitive emissions from other sources. *Id.*

During the comment period, various industry representatives contended that: (1) Section 302(j) obliges EPA to determine that reasonably satisfactory methods for the measurement, modeling and control of fugitive emissions [8] from a particular category of sources exist before EPA requires those emissions to be included in threshold applicability determinations for any source in that category, and (2) EPA had failed to do that. 45 FR 52692 (col. 2). Indeed, some contended that EPA had promulgate such methods in the form of regulations. *Id.* at 52690 (col. 3).

In its response to comments, EPA disagreed with those contentions. It pointed out that, according to the D.C. Circuit, Congress intended the substantive PSD requirements to be applied "with equal force" to the fugitive and non-fugitive emissions of any project that would be "major" by virtue of its non-fugitive emissions, even if EPA has yet to determine that there are reasonably satisfactory measurement, modeling, or control methods for the fugitive emissions. *Id.* at 52691 (*quoting* 636 F.2d at 369). Thus, Congress consigned any problems of measurement, modeling and control in those cases to each individual permit proceeding for resolution by the permitting authority. EPA reasoned that, if Congress intended to do that, then it must have intended to consign such problems to the permitting authority also in the case of projects that would be "major" only if their fugitive emissions were counted. *Id.* at 52691, 52692. Hence, the Agency took the position that Section 302(j) obliges it simply to afford the public with an opportunity to oppose the inclusion of fugitive emissions as to a particular category and did not focus comment on the specific grounds for such opposition. Thus, concerns *other* than the availability or adequacy of methods of measurement, modeling and control could have impacted this rulemaking. *Id.* at 52690 (col. 3), 52692 (col. 2).

EPA did not specify what other grounds might exist. But conceivable candidates are adverse economic or social impacts. Thus, EPA implied that it read Section 302(j) to require it to consider any such impacts, if a commenter raised them, and furthermore to determine that the benefits of inclusion outweighed those adverse impacts.

On the basis of this response to comments, EPA, in August 1980, promulgated the substance of the amendments it had proposed. *E.G.*, 45 FR 52739. It put the changes into a different form, however. The new provisions on their face require fugitive emissions to be included in threshold applicability determinations for *any* project, but then exempt from the relevant PSD or nonattainment requirements any project that (1) would be "major" only if fugitive emissions were included and (2) does *not* belong to one of 30 categories. *E.g.*, 40 CFR 52.21(b)(4), (i)(4) (vii)(1981).

4. *Industry Challenges to the Post-Alabama-Power Revisions.* In December 1980, the American Mining Congress and various individual mining companies (collectively, "AMC") petitioned EPA for reconsideration of the new PSD regulations. In Part 1 of the petition, AMC asked EPA to reconsider the provisions which on their face require the fugitive emissions of a mining operation to be included in threshold applicability determinations. AMC pointed out that, even though the regulations would exempt a mining operation that would be "major" only if fugitive emissions were taken into account from the PSD permit requirements, nevertheless they could affect such an operation adversely in other ways.[9] AMC also observed that the preamble to the regulations strongly indicates that EPA did not intend the regulations to affect such an operation in those ways. *See* Petition for Reconsideration of Regulations Relating to the Prevention of Significant Deterioration of Air Quality, Part 1 (December 1, 1980) (hereinafter, "AMC Petition for Reconsideration").

In a letter dated January 19, 1981, EPA granted Part 1 of the AMC petition. The Agency confirmed that it intended to establish that any project which would be "major" only if fugitive emissions were taken into account is not to be considered "major" for *any* PSD purpose, unless the project belongs to one of the 30 listed categories. EPA agreed to amend the regulations to conform them to that intention.

Subsequently, in a brief filed in the *CMA* case, AMC and other industry organizations (collectively, the "industry petitioners") challenged the provisions which require a project that would be "major" only if its fugitive emissions were taken into account to be considered "major" if it belongs to one of the 30 categories. They contended, primarily on the basis of the *Alabama Power* opinion, that the Act required EPA, before it established those provisions, to consider the problems of measuring, modeling and controlling fugitive emissions that are peculiar to each category and then to provide—in the words of that opinion—"appropriate tailoring of coverage." They also contended that the Act required the Agency to consider, on an industry-by-industry basis, the social, economic, health and welfare impacts of including fugitive emissions for applicability purposes. Indeed, they suggested that EPA could decline to require the inclusion of fugitive emissions as to a particular category on the grounds that growth in that industry was important to the economy and that the emissions posed low risks to human health and welfare. Finally, the industry petitioners asserted that EPA entirely failed to meet those requirements of the Act. See Petitioners Brief on Fugitive Emissions and Certain Other Issues, at 12–19 (February 11, 1981) (hereinafter, "Fugitive Emissions Brief").[10]

5. New EPA Interpretations of Section 302(j). After reexamining the parenthetical in Section 302(j) in response to the industry challenges, EPA now sees two closely related interpretations of that provision that appear defensible and worth regulatory consideration, in addition to the interpretation on which the existing rules are based. One is that the parenthetical obliges EPA, before it may require the inclusion of fugitive emissions in threshold applicability determinations for a particular Clean Air Act program and a particular category of sources, only to: (1) Identify those problems the sources would encounter in that program that are specifically due to the fugitive nature of their emissions and (2) determine that reasonable solutions to those problems exist. For the PSD and nonattainment new source review programs and some source categories, those problems may

[8] The phrase "measurement of fugitive emissions" refers in this notice to the quantification of the rate at which pollutants emanate "fugitively" from a particular activity at a source, for instance, the rate at which particulate matter emanates from an unpaved road at a surface mine due to truck traffic. The pharase "modeling of fugitive emissions" refers to the prediction through mathematical models of the concentrations of a pollutant in the ambient air that would result from fugitive emissions of the pollutant.

[9] For example, such an operation would consume increment even before the baseline date, if construction on it commenced after January 6, 1975. *See* 40 CFR 52.21(b)(13)(ii)(*a*) (1981).

[10] More recently, the American Mining Congress and others stated largely these positions, although in different terms and emphasis, in a letter dated August 5, 1982, in which they commented on an earlier draft of this Federal Register notice. A copy of that letter appears in the docket for this rulemaking.

include problems of measurement, modeling, and control.

The argument for this interpretation runs as follows: The parenthetical plainly requires EPA to make a determination of some sort before it may require the inclusion of fugitive emissions in any threshold applicability determination, whether for the purposes of PSD or nonattainment new source review or some other Clean Air Act program that applies only to "major" projects. While Congress failed in the Act and the legislative history to state explicitly what determination it intended EPA to make, one can nevertheless discern from the focus and effect of the parenthetical what Congress must have intended. The parenthetical distinguishes between sources solely on the basis of how their emissions emanate, that is, whether they are fugitive or not; it ignores both the nature of the sources and of the pollutants they emit. In addition, the parenthetical has the effect of exempting sources whose emissions for all regulated pollutants are predominantly fugitive from preconstruction review and other Clean Air Act programs until EPA lifts the exemption through rulemaking. One might argue this shows that Congress thought that companies with sources of predominantly fugitive emissions could face problems in connection with those programs that stemmed entirely from the fugitive nature of the emissions and, moreover, that those problems were serious enough to warrant protection against them for as long as they might persist. Thus, on this basis, the determination that Congress must have intended EPA to make, with respect to a particular category of sources and a particular program, is that reasonable solutions exist for the problems the sources would encounter in the program that are endemic to the fugitive nature of their emissions.

The second interpretation is that EPA, before it may require the inclusion of fugitive emissions in threshold applicability determinations, need determine only that reasonable solutions exist for the problems of *measurement* that are endemic to the fugitive emissions from those sources. That is, techniques must exist for determining whether the source's fugitive emissions, when added to its stack emissions, would equal or exceed the applicable threshold for classification as a major stationary source or major modification. The definitional sections in which the parenthetical operates—Sections 302(j), 169(1) and 169A(g) (7)—all designate benchmarks for deciding whether a source is "major" for the purposes of various Clean Air Act programs. This strongly suggests that Congress was concerned only with the problems stemming from the fugitive nature of emissions that companies would face in threshold applicability determinations—namely, measurement problems—and not also with whatever modeling and control problems the source might encounter in the various Clean Air Act programs, such as PSD or nonattainment new source review.[11]

6. *Choice of Interpretations.* EPA has concluded preliminarily—subject to comment and further deliberation—that these two new interpretations are stronger than either the one EPA espoused in the preamble to the August 1980 amendments or the one industry petitioners advocate in their brief. EPA, in not previously emphasizing consideration of the availability of reasonable methods of measurement, modeling and control, relied on the assumption that Congress would have treated all sources of fugitive emissions identically, whether or not they were already subject to review on account of their non-fugitive emissions. That assumption, however, is not necessarily true. For instance, a major hurdle that a company would face in attempting to obtain a permit for a source of fugitive emissions is having to show that the source would not cause or contribute to concentrations in excess of the applicable NAAQS or PSD increments. If no reasonably accurate methods of measurement and modeling for the fugitive emissions were in existence, then the company would have the burden, at least initially, of developing such methods itself or showing that their development would be impossible or too costly. Contrary to the premise of EPA's earlier argument, Congress may well have been willing to let a company bear this burden if its source would be subject to review anyway because of non-fugitive emissions, but not if the source would not be subject to review if fugitive emissions were ignored. While this is a difference of degree only, it is nevertheless arguably large enough to be a reasonable basis for a difference in treatment.

Industry, in asserting that EPA must determine that the benefits of preconstruction review for a particular category outweigh the costs, impliedly claimed that Congress sought through the parenthetical in Section 302(j) to shield sources of predominantly fugitive emissions because of the value of their product to the Nation or the relative harmlessness of their emissions. Although EPA recognizes that the *Alabama Power* opinion can be viewed as supporting this claim, it nevertheless is inclined to disagree with it. If Congress had intended to shield any sources at all for those reasons, it would not have distinguished between sources on the basis of whether their emissions are predominantly fugitive. There is simply no correlation between the value of a source's product or the harmfulness of the pollutants it emits, on the one hand, and the way those pollutants emanate, on the other. There are, moreover, many sources of predominantly non-fugitive emissions whose product Congress probably would have regarded as being as valuable as that of any source of predominantly fugitive emissions. Yet Congress did not seek to protect them.

EPA also has rejected preliminarily a fifth interpretation that surfaced recently. This interpretation is that the parenthetical in Section 302(j) merely requires EPA to identify those sources that are substantial emitters of fugitive emissions. The Natural Resources Defense Council and other environmental groups espoused this interpretation in a letter to EPA dated September 14, 1982, a copy of which appears in the docket for this rulemaking. EPA disagrees with the interpretation because it would make the parenthetical in Section 302(j) nearly pointless; under such a test the rulemaking that parenthetical clause calls for would add little to what is common knowledge anyway.

EPA solicits comment on the proper interpretation of Section 302(j) and, in particular, on which of the five interpretations outlined above is the strongest. Commenters should take into account a recent decision of the Court of Appeals for the D.C. Circuit, namely, *Duquesne Light Co. v. EPA*, 698 F.2d 456 (D.C. Cir. 1983). In that decision, the court upheld EPA's Section 302(j) rulemaking for inclusion of fugitive emissions in applicability determinations in EPA's noncompliance penalty regulations.

7. *Proposed Amendments.* In light of its new interpretations of Section 302(j), EPA has concluded preliminarily that it probably erred in requiring the inclusion

[11] EPA does not view Section 302(j) under either of these two interpretations as requiring it to state in regulatory form the operating mechanics of the methods of measurement, modeling or control upon which it relies in making a Section 302(j) determination. Nevertheless, any method that underlies a proposal to require inclusion would of course be fully disclosed and subject to the notice and comment process as part of the basic Section 302(j) listing proceeding.

of fugitive emissions in threshold applicability determinations for the 30 listed categories, since it did not identify any problems the sources in those categories would encounter in PSD and nonattainment review that are endemic to their fugitive emissions or determine that reasonable solutions for those problems exist. EPA, therefore, is here proposing amendments to the PSD and nonattainment regulations that would delete those requirements. Another purpose of those amendments is to fulfill the commitment EPA made to AMC in January 1981 to clarify that any project that would be "major" only if fugitive emissions were taken into account is not to be considered "major" for any PSD purpose, unless EPA has gone through the necessary rulemaking.

The amendments would add a new paragraph to the PSD and nonattainment definitions of "major stationary source" that would exclude from that category any source which would be "major" only if its fugitive emissions were counted, unless EPA has gone through the necessary rulemaking. Specifically, the new paragraph would provide that the "fugitive emissions of a stationary source shall not be included in determining for any of the purposes of [the regulations in question] whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources: [Reserved]." This formulation would have no effect on pollutant applicability determinations; fugitive emissions from a source that is "major" by virtue of its non-fugitive emissions would still have to be counted in any such determination.

The amendments would also add a similar paragraph to the PSD and nonattainment definition of "major modification." It would provide that "[a]ny net increase in fugitive emissions from a change at a stationary source shall not be included in determining for any of the purposes of [the regulations in question] whether the change is a major modification, unless the source belongs to one of the following categories of stationary sources: [Reserved]."

8. *Crediting of Decreases in Fugitive Emissions.* In general, the first step in determining whether a proposed physical change or change in method of operation at a plant amounts to a "major modification" for PSD or nonattainment purposes is to sum any increases and decreases in emissions that would result directly from the alteration at the unit or units subject to the alteration. If the sum of those increases and decreases is not "significant", then the alteration cannot be a "major modification." *See, e.g.*, 40 CFR 52.21(b)(2)(i), (b)(3)(i)(*a*) (1982); 45 FR 52698 (col. 3).[12] The second step is to sum any "creditable" [13] increases and decreases in emissions that will have occurred elsewhere at the plant contemporaneously with the alteration. *See, e.g.* , 40 CFR 52.21(b)(3)(i)(*b*). The final step is to total the sums from the first two steps. If the result equals or exceeds the relevant threshold, then the alteration is a "major modification"; otherwise, it is not.

The proposed amendment to the definitions of "major modification" would allow decreases in fugitive emissions to be included in both the first and second steps of a threshold applicability determination for a plant alteration, but only to the extent that the decreases exceeded any increases in fugitive emissions. The examples in the following footnote illustrate this point.[14]

EPA tentatively has concluded that the exclusion of decreases in fugitive emissions from threshold applicability determinations might be inconsistent with Congressional intent. For instance, the *CMA* settlement agreement contemplates the proposal of an amendment that would require both the first and second steps of a threshold applicability determination for a plant alteration to exclude any decreases, as well as increases, in fugitive emissions, unless EPA had gone through the necessary rulemaking.[15] That amendment, however, could result in a company having to obtain a permit, but not having to satisfy any substantive requirements, since the pollutant applicability determination would include all increases and decreases in fugitive emissions. For instance, in Examples C and D in the footnote the company would have to get a permit because non-fugitive emissions would total 50 tpy, but it would not have to satisfy any substantive requirements because the total of all increases and decreases would be less then zero. Since Congress could not have intended to create that possiblility, EPA has decided not to propose the provision contemplated by the settlement agreement or any provision like it.

Furthermore, under its tentative interpretation of the parenthetical in Section 302(j), EPA can see no reason to disallow credit for decreases in fugitive emissions in either the first or second steps of a threshold applicability determination for a plant alteration. The basic aim of Section 302(j) with respect to PSD and nonattainment new source review is to prevent increases in fugitive emissions from triggering applicability of the substantive PSD or nonattainment requirements until EPA has gone through the necessary rulemaking. Allowing credit for decreases in fugitive emissions, but disallowing it for an increase in fugitive emissions of the

[12] On their face, the relevant definitions do not expressly state that an alteration must result by itself in a "significant" net increase in emissions in order to amount to a "major modification." EPA, however, has interpreted those definitions to provide as much. *See* Memorandum, Director, EPA Division of Stationary Source Enforcement, to Chief, Technical Analysis Section, EPA Region VII (January 22, 1981).

[13] Not all contemporaneous increases and decreases may be taken into account. The PSD and nonattainment regulations specify the precise increases and decreases that may be credited. *See, e.g.*, 40 CFR 52.21(b)(3)(iii)–(vi) (1982).

[14] *Example A.* Suppose that a company proposes an alteration to a unit at its plant that would cause: (1) Non-fugitive emissions of volatile organic compounds ("VOC") and (2) fugitive emissions of VOC from the unit to increase by 500 tpy. Suppose further that EPA has not gone through the necessary rulemaking to include fugitive emissions in threshold applicability determinations for the category of sources to which the plant belongs. Under the proposed amendment, the alteration would not amount to a "major modification," since the increase in fugitive emissions must be ignored and the "significance" level for VOC is 40 typ. *See, e.g.*, 40 CFR 52.21(b).

Example B. Suppose that the same company proposes a separate alteration at the same plant that would cause: (1) Non-fugitive VOC emissions from a unit to increase by 500 tpy and (2) fugitive VOC emissions from the unit to decrease by 475 tpy. Under the proposed amendment, the alteration would not amount to a "major modification," since the net increase in emissions from the alteration itself would be 25 tpy.

Example C. Suppose that the company proposes another alteration to its plant that would cause: (1) Non-fugitive VOC emissions from a unit to increase by 50 tpy, (2) fugitive VOC emissions from one portion of the unit to decrease by 25 tpy, and (3) fugitive VOC emissions from another portion to increase by 20 tpy. Under the proposed amendment, the alteration might amount to a "major modification," since it would result by itself in a 45 tpy net increase in non-fugitive VOC emissions. The net non-fugitive emissions, as explained earlier, are determined by subtracting any *net* decrease in fugitive emissions from the increase in non-fugitive emissions. Any contemporaneous and otherwise creditable changes in VOC emissions elsewhere at the plant would still have to be taken into account, however.

Example D. Suppose with respect to the alteration in Example C that the only contemporaneous and otherwise creditable change elsewhere at the plant was a decrease in fugitive emissions of 100 tpy. Under the proposed amendent, the alteration would not amount to a major modification, "since there would be no net increase in non-fugitive emissions.

Example E. Suppose that a creditable 100 tpy increase in fugitive VOC emissions occurred after the decrease in Example D, but before the alteration. Under the proposed amendment, the alteration then would amount to a "major modification."

[15] Specifically, the amendment, if it were promulgated, would add a paragraph to the definitions of "major modification" which would provide that "[i]ncreases and decreases in fugitive emissions shall not be included in determining for any of the purposes of this section whether a change at a stationary source would result in a significant net emissions increase, unless the source belongs to one of the following categories of stationary sources: [Reserved]."

same pollutant at the same plant, would not disserve that aim.

EPA recognizes that to credit net decreases in fugitive emissions, but not net increases, is at least superficially anomalous. For that reason, EPA requests close scrutiny of its analysis here and comment on whether any other pattern of crediting is justifiable.

9. Future Rulemaking on Fugitive Emissions. If EPA were to delete the current requirement for including fugitive emissions in threshold applicability determinations before it re-established that requirement through Section 302(j) rulemaking, some environmentally significant projects that would be subject to PSD or nonattainment new source review at present would escape that review entirely. To avoid this, EPA plans, if it is still inclined to delete the current requirement after reviewing comments that respond to this notice, to withhold final deletion until it completes the necessary rulemaking to re-establish the requirement as to at least some of the 30 categories presently listed. Specifically, if after reviewing the comments EPA still adheres to one of its two new interpretations, then its next step would be to propose one or more new listings on the basis of whatever advance findings that the new interpretation requires. The choice of interpretation, the findings and the new requirement would then all be subject to comment. Ultimately, EPA would formally adopt one interpretation, make the necessary findings, and promulgate the requirement.

EPA solicits comment on whether it should follow this plan of action and, if so, as to which sources it should withhold deletion.

B. Federal Enforceability

1. *Background.* As noted above, each of the five sets of PSD and nonattainment regulations aim their substantive requirements at new "major stationary sources." Each set defines "major stationary source" as any source that would have the "potential to emit" certain amounts of air pollutants. *E.g.*, 40 CFR 52.21(b)(1) (1982). Each then defines "potential to emit" as the maximum capacity of a stationary source to emit a pollutant under its physical and operational design," but adds that any limitation on the capacity of a source to emit a pollutant is to be treated as part of its design only if the limitation is federally enforceable". *E.g. id.* § 52.21(b)(4). The regulations define "federally enforceable" as "enforceable by the Administrator."*E.g., id.* § 52.21(b)(17). They add that the limitations that are "enforceable by the Administrator" include limitations contained in: (1) A SIP, (2) a construction permit issued under the SIP, (3) a standard of performance promulgated under Section 111 of the Act ("NSPS"), or (4) an emissions standard for hazardous pollutants promulgated under Section 112 ("NESHAPS"). *E.g., id.* In practice, EPA has declined so far to consider any other limitation as being "federally enforceable."

In effect, those definitions require one, in calculating the "potential to emit" of a proposed source for a particular pollutant, to assume that the source would emit the pollutant at the maxumum rate that the source could physically emit it, unless the source would be subject to a limitation on its operation that EPA could enforce directly. For example, suppose a company plans to operate a proposed source only 16 hours per day. Suppose further that the source would emit a particular pollutant in "major" amounts if it were operated 24 hours per day at its maximum physical capacity, but not if it were operated only 16 hours per day at that capacity. Under the definitions of "potential to emit" and "federal enforceability,"one must assume, notwithstanding the company's plans, that it would operate the source 24 hours per day, unless the company has established a specific prohibition against operation of the source in excess of 16 hours per day either in a SIP construction permit or in a SIP revision.

Each of the five sets of regulations also aims its substantive requirements at "major modifications," a term which, as described earlier, includes any "significant net emissions increase" at a major stationary source. The accounting system for determining such significant increases parallels the one described above for determining whether new sources exceed their own size thresholds.[18] *E.g.,id.* § 52.21(b)(2). Specifically, the regulations define a "net emissions increase" as the amount by which the sum of (1) the increase in "actual" emissions from the proposed change and (2) any contemporaneous and otherwise creditable increases and decreases in "actual" emissions at the source would exceed zero. *E.g., id.* § 52.21(b)(3).

Since a proposed new unit at a source has yet to produce emissions, each set of regulations provides that the "actual" emissions of any such change equals its "potential to emit." *E.g., id.* § 52.21(b)(21)(iv). The definition of "potential to emit", as noted above, contains a requirement for federal enforceability. In addition, each set of regulations provides that the "actual" emissions of a unit may be presumed to equal any "source-specific allowable emissions" for the unit. *E.g., id.* § 52.21(b)(21)(iii). The definition of "allowable" emissions, like the definition of "potential to emit," is articulated in part in terms of federal enforceability. *E.g., id.*, § 52.21(b)(16). Finally, each of the regulations provides that a contemporaneous decrease in emissions is creditable only to the extent that it "is *federally enforceable* at and after the time that actual construction on the particular change begins. "*E.g., id.* § 52.21(b)(3)(vi)(*b*) (emphasis added).

2. *Industry Challenges to the Federal Enforceability Requirement.* Several parties have petitioned the D.C. Circuit in *CMA* to review the requirement for federal enforceability in the definitions of "potential to emit" and "net emissions increase." Some of them have also petitioned EPA to reconsider the requirement. They point out that in general each SIP already prohibits construction of a new "major stationary source" or "major modification" without a PSD or nonattainment permit. Accordingly, any company that builds a project that emits, or has the potential to emit, pollution in excess of the applicable thresholds without first obtaining a permit would be in violation of the law and therefore subject to enforcement action by EPA. For this reason, the petitioners assert, there is no need for EPA to require companies to obtain legal limitations that are separately enforceable by EPA in order to avoid the need for a PSD or nonattainment permit. The petitioners also pointed out that, to obtain the necessary limitation in a SIP construction permit or SIP revision, a company would have to apply to the state agency for the change and then await whatever public procedures and EPA scrutiny that were required. As a result, a company could experience substantial expense and delay just in obtaining the necessary limitation. *See* Fugitive Emissions Brief, at 50–53; AMC Petition for Reconsideration, at 32–34.

3. *EPA Reconsideration and Stay of the Requirement.* In July 1981, EPA announced that it had decided in response to those objections to reconsider the federal enforceability requirement and to formulate a

[18] For PSD purposes, pollutants subject to this review are (1) the pollutants for which a national ambient air quality standard ("NAAQS"), NSPS, or NESHAPS exists and (2) their precursors. *E.g.*, 40 CFR 52.21(b)(2)(i), (b)(23)(i) (1982). For nonattainment purposes, they are the pollutants for which a NAAQS exists and their precursors. *See* 45 FR 52711 (col. 2); *E.g.*, 40 CFR 51.100(l)(1) (x).

rulemaking proposal on the issue. 46 FR 36698 (July 15, 1981). In addition, the agency stayed the requirement for 90 days and solicited comment on whether to extend the stay. Subsequently, EPA stated that it did not plan to extend the stay. 46 FR 61613 n.1 (December 17, 1981).

4. *EPA Response to Industry Challenges.* EPA preliminarily agrees that the federal enforceability requirement is unnecessary to some extent and will consider deleting it. One of the purposes behind the requirement was to obtain corroboration, in the case of a new unit, that any voluntary limitation on its capacity to emit a pollutant is in fact part of its physical and operational design and, in the case of a modification, that the company in fact does intend to reduce actual emissions at the source in question. Another purpose was to assure that someone with strong enforcement capability had the legal and practical means of holding a company to its commitment. 45 FR 52701 (col. 3); *id.* at 52688 (col. 1 col. 2). EPA still adheres to those purposes. However, EPA now inclines to the view that a requirement for both enforceability by any federal, state or local governmental entity and discoverability by EPA and any other person would serve those purposes adequately. EPA has no reason to believe either: (1) That a company would take a limitation that is enforceable by a state or local agency any less seriously than it would take a limitation that is enforceable by EPA or (2) that the enforcement leverage of state and local governments is materially smaller than EPA's. EPA, moreover, would retain the ability to enforce the prohibition against construction without a permit that exists generally in each SIP.

5. *Proposed Amendments.* EPA, therefore, is proposing (1) to delete the word "federally" in the definitions of "potential to emit" and "net emissions increase" in the PSD and nonattainment regulations and (2) to put a definition of "enforceable" in place of the definition of "federally enforceable." "Enforceable" would be defined as "enforceable under federal, state or local law and discoverable by the Administrator and any other person." EPA would regard as "enforceable" under this definition not only the presently accepted terms in a SIP revision or SIP construction permit, but also any concrete limitation in an operating permit or non-SIP air pollution permit that is enforceable legally and practically under state or local law. EPA would regard as "discoverable" any enforceable limitation on emissions that is in writing, on file with the relevant permitting authority, and accessible to the public.

EPA is also proposing to delete the work "federally" in the definition of "allowable emissions," so that the allowable emissions of a source would be the lowest level allowed by any enforceable limit on operations, not just the lowest level allowed by federally enforceable limits. The regulations require the "allowable emissions" of a new project to be taken into account in assessing its impact on air equality. *E.g.*, 40 CFR 52.21(k) (1982). The primary purpose of this change is to ensure that any limitation on emissions that is enforceable by a state or local agency shall be included in that assessment. The regulations also allow credit for decreases in emissions under the definition of "net emissions increase" only to the extent that the "old level of actual emissions or the old level of *allowable emissions*, whichever is lower, exceeds the new level of actual emissions." *Id.* § 52.21(b)(3)(vi)(*a*) (emphasis added). Hence, another purpose of the change is to clarify that a limitation that is enforceable only by a state or local agency sets the baseline under that provision.

EPA is further proposing to amend the exemptions which appear in the definition of "major modification" for certain increases in hours of operation or production rate and for certain switches in fuel or raw material. The relevant provisions currently lift the exemption as to such an increase or switch if a "federally enforceable" condition established after a certain date in a SIP construction permit would bar the increase or switch. *E.g.*, 40 CFR 52.21(b)(2)(iii)(*e*) (*1*) and (*f*) (1982). The amendments EPA is proposing would also lift the exemption as to such an increase or switch whenever an "enforceable" condition established after the effective date of the amendments would bar the increase or switch. At least one purpose of the current provisions is to buttress limitations on such increases and switches in SIP construction permits by making such an increase or switch a violation not only of a permit, but also of the prohibition against construction without a permit in the relevant regulations. The proposed amendments would merely extend that purpose to any parallel limitations outside of SIPS and SIP construction permits.

6. *Enforceability of External Offsets.* Finally, EPA is proposing to delete the term "federally" in 40 CFR 51.18(j)(3)(ii)(*e*) (1982), which provides that "[a] 11 emission reductions claimed as offset credit [17] shall be federally enforceable," EPA sought through that provision to embody the last sentence of Section 173 of the Act, which provides that "[a]ny emission reductions required as a precondition of the issuance of a permit . . . shall be *legally binding* before such permit may be issued." 42 U.S.C. 7503 (emphasis added). The purpose of the proposed deletion is to establish that an emission reduction may be regarded as "legally binding" even if it is not embodied in a SIP revision or SIP construction permit. A limitation in a bare stipulation, however, could never make an emission reduction "legally binding," since the prohibition against construction without a permit would provide no enforcement leverage against a source that is not constructing itself but providing an offset that allows others to construct.

C. Health and Welfare Equivalence

1. *Background.*

As noted above, the five sets of PSD and nonattainment regulations define "major modification," roughly, as any change at a source that would result in a "signficant net emissions increase" in any one of certain pollutants. "Net emissions increase," in turn, is defined as the amount by which the sum of: (1) The increase in emissions from the proposed change, and (2) any creditable increases and decreases elsewhere at the source would exceed zero. *E.g.*, 40 CFR 52.21(b)(3)(i)(1982). The regulations restrict the creditability of some decreases in emissions. One provision, in particular, allows credit for a reduction only to the extent that it has approximately the same qualitative significance for public health and welfare as the increase from the proposed change. *E.g., id.* §52.21(b)(3)(vi)(*c*).

2. *Industry Challenge.* Several of the industry petitioners in *CMA* have challenged that restriction on the creditability of emission reductions. They contend primarily that EPA lacked authority to create the restriction. *See* Petitioner's Brief on Health and Welfare Equivalence Restriction Issue, at 30–34 (February 12, 1981).

3. *EPA Response.* In *Alabama Power*, the D.C. Circuit held that EPA may apply, and may obligate the states to apply, the PSD permit requirements to a proposed change at a source only if the

[17] A fundamental requirement of nonattainment new source review is, roughly, that the applicant show that its project would be accompanied by emission reductions elsewhere that would "offset" the relevant emissions from the project. *See, e.g.* Section 173(1), 42 U.S.C. 7503(1).

change amounts to a "modification" as defined in Section 111(a)(4a).[18] 636 F.2d at 399, 400-03. The court further held that a change at a source amounts to a "modification" only if, together with contemporaneous changes at the source, it would result *quantitatively* in a significant net increase in the emissions of the pollutant in question. *Id.* at 401. Hence, the court concluded that "[w]here there is no net increase from contemporaneous changes within a source, . . . PSD review, whether procedural of substantive, cannot apply." *Id. at 403.* That principle applies to the relevant nonattainment requirements as well, since the definition of "modification" for nonattainment purposes takes its content from Section 111(a)(4), too. *See* § 171(4), 42 U.S.C. 7501(4). Thus, EPA may not require the application of the PSD or nonattainment requirements to a change at a source, if the change, together with contemporaneous changes, would *not* result quantitatively in a net increase in emissions of the pollutant in question.

As the industry petitioners contend, however, EPA has violated that prohibition by restricting the creditability of a contemporaneous decrease in emissions according to the health and welfare significance of the decrease. Because of that qualitative restriction, the requirements of the PSD or nonattainment regulations could apply to a change at a source, even if a contemporaneous decrease in emissions would offset the increase from the change quantitatively.

While the Congress gave EPA considerable discretionary rulemaking powers under Section 301 to implement the Act, it did not intend that EPA develop qualitative tests which would be inconsistent with Section 111 (a)(4). Congress expressly gave EPA, not source applicants, the job of determining the effects of air pollution on public health and welfare, *See, e.g.* §§ 108, 109, 112, 42 U.S.C. 7408,7409, 7412. That job requires substantial time, money, manpower and scientific expertise. It is extremely unlikely that Congress intended to authorize EPA to require companies to perform that job on their own, particularly in the context of preconstruction review. In fact, there is absolutely no suggestion in the Act or its legislative history that Congress intended to complicate preconstruction review in that way. EPA does believe, however, that it has Section 301 rulemaking authority to create netting tests which act to limit the quantitative availability of certain emissions reductions *(e.g.* limit credit for decreases which are otherwise required by the SIP to make any of the required demonstrations relating to the attainment and maintenance of increments and standards). Thus, while the Agency would not develop a health and welfare equivalence criterion, it can restrict netting credit for a particular emissions reduction already required by the plan in order to avoid double counting of this decrease.

Finally, EPA has concluded preliminarily that, even if it had the authority to impose the restriction, the wording of it is unlawfully vague. It provides a prospective applicant with too little indication as to exactly what it must do.

4. *Proposed Amendments.* In view of these conclusions, EPA is proposing to delete the restriction as it currently appears in the PSD and nonattainment new source review regulations. EPA is also proposing, however, to add a new definitional provision that in general would exclude certain organic compounds from the term "volatile organic compounds" as that term is used in the PSD and nonattainment regulations.[19] The compounds are those that EPA has determined to be negligibly photochemically reactive and hence not precursors of ozone. *See* 42 FR 35314 (July 8, 1977); 44 FR 32043 (June 4, 1979); 45 FR 32424 (May 16, 1980); and 45 FR 48941 (July 22, 1980). They are, therefore, not pollutants which are "subject to regulation under the Act" within the meaning of the PSD and nonattainment regulations. The purpose of the proposed provision is to clarify that increases and decreases in emissions of those compounds are to be ignored completely in any applicability determination.

D. Definition of "Significance"

1. *Background.* In revising the PSD regulations in August 1980, EPA introduced provisions which use the term "significant." One of those provisions is the definition of "major modification," which, as noted above, defines that term as any change at a major stationary source that would result in a "significant net emissions increase" in any one of certain pollutants. The other provisions require an applicant for a PSD permit to meet certain requirements for control technology and air quality impact assessments for each pollutant regulated under the Act that the proposed project would emit in a "significant" amount. *E.g.,* 45 FR 52741 (§ 52.21(j)).

In revising the PSD regulations, EPA also introduced a definition of "significant." The first paragraph of that provision defines "significant" in terms of rates of emissions. For example, a rate of 40 tons per year or more is "significant" for sulfur dioxide; 25 tpy for particulate matter. *E.g.,* 45 FR 52737 (§ 52.21(b)(23)(i)). Another paragraph of the definition, however, provides:

> Notwithstanding [the first paragraph], "significant" means any emissions rate or any net emissions increase associated with a major modification which would construct within 10 kilometers of a Class I area and have an impact on such area equal to or greater than 1 ug/m³ (24-hour average). [*E.g.,* 45 FR 52730 (§ 52.21(b)(23)(iii)).]

2. *Industry Challenges.* In *CMA,* certain industry petitioners have challenged the paragraph quoted above. They contend that EPA, in promulgating it, violated Section 165(e)(3)(A) of the Act, which prohibits the agency from requiring "the use of any automatic or uniform buffer zone or zones" respecting the assessment an applicant must perform of existing air quality within the impact area of its proposed project. 42 U.S.C. 7475(e)(3)(A). *See* Fugitive Emissions Brief, at 54; AMC Petition for Reconsideration, at 35–36.

3. *EPA Response.* EPA agrees that this contention has some force. The threshold of one microgram per cubic meter effectively requires almost any company that would locate a project of significant size within 10 kilometers of a Class I area to perform an analysis of existing air quality for virtually each one of the pollutants regulated under the Act that the project would emit in significant amounts. Thus, the definition arguably creates a virtually uniform applicability zone respecting air quality analyses.

4. *Proposed Amendments.* As a result, EPA is proposing to delete the paragraph in question from both the Part 51 and Part 52 PSD regulations. EPA, however, is not proposing to substitute a new provision. The agency has no reason to believe at this time that the *de minimis* levels in the first paragraph do not provide adequate protection for Class I areas. EPA solicits comment on whether such reason exists and, if so, what new provision it should substitute in the event it decides to finally promulgate the requirement in the form proposed.

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[18] Section 111(a)(4) provides that "modification" means "any physical change in, or change in the method of operation of, a stationary source *which increases the amount of any air pollutant emitted by such source* or which results in the emission of any air pollutnat not previously emitted. 42 U.S.C. 7411(a)(4) (emphasis added.)

[19] It would not exclude a compound if it were subject to an NSPS or NESHAP.

E. Innovative Control Technology Waiver

1. *Background and Industry Challenge.* In revising the PSD regulations in August 1980, EPA established for the first time a procedure for granting innovative control technology waivers of certain PSD requirements, which the agency patterned after the innovative control technology waiver in Section 111. *See* 45 FR 52735, 52741. The regulations, however, entirely disallow such a waiver if a proposed project would "impact any Class I area." *E.g.*, 40 CFR 52.21(v)(2)(iv)(*b*).

In *CMA*, certain industry petitioners, including AMC, challenge that disallowance provision. They contend primarily that the provision is arbitrary because it disallows the waiver even if an impact is "insignificant or temporary." Fugitive Emissions Brief, at 55.

2. *EPA Response.* EPA agrees preliminarily that the current formulation of the waiver is overly stringent with respect to Class I areas. Under the current PSD regulations, an applicant whose project would affect a Class I area can nevertheless get a PSD permit, if the applicant shows that the project would not cause or contribute to a violation of an increment for the area and the Federal Land Manager fails to show that the project would adversely impact any air quality related values of the area. *E.g.*, 40 CFR 52.21(p)(3) (1982). In fact, even an applicant whose project would *violate* a Class I increment might be able, nevertheless, to get a permit through special variance procedures in subsections (p)(4)–(7) of the regulations. In contrast, an applicant whose project under an innovative control technology waiver would merely *affect* a Class I area cannot get the waiver under any circumstances.

EPA, in creating this disallowance, sought to counterbalance an exemption that the waiver provision extends to applicants. Under subparagraph (v)(2)(iii), an applicant does not have to show that the proposed project would not cause or contribute to an increment violation while operating under the waiver. 45 FR 52727. As a result, but for the disallowance, a project under a waiver could violate a Class I increment or adversely affect an air quality related value. EPA agrees, however, that the waiver provision can be refined to exempt an applicant from providing most of the air quality impact analysis that it would otherwise have to provide with respect to the waiver period and still protect Class I areas fully.

3. *Proposed Amendments.* Hence, EPA is proposing to delete the current disallowance provision and to insert another provision that would allow the permitting authority to grant a waiver only if the provisions relating to Class I areas (*i.e.*, subsection (p)) have been satisfied with respect to *all* periods during the life of the source or modification. Obviously, this provision would expand the circumstances in which a waiver is available, but at the price of additional demonstrations for some applicants.

F. Secondary Emissions

1. *Background.* The 1978 version of the Part 52 PSD regulations provided in Section 52.21(l) that, to get a permit, an applicant had to show among other things, that the proposed project would neither cause nor contribute to a violation of a PSD increment or NAAQS. 43 FR 26407. The preamble to the regulations added that an applicant, in making that showing, generally had to include any quantifiable "secondary emissions" of the proposed project.[20] 43 FR 26403. The 1978 Part 51 PSD regulations echoed those requirements; it required any state PSD program to contain a provision equivalent to section 52.21(l). A definition of "secondary emissions" did not appear in the Part 51 or Part 52 regulations or in the preambles to them.

In revising the PSD regulations in August 1980, EPA retained, in the form of new Sections 52.21(k) and 51.24(k), the requirement for a demonstration that a proposed project would neither cause nor contribute to a violation of a PSD increment or NAAQS. 45 FR 52741, 52734. The agency, however, added a parenthetical to those provisions which expressly required the inclusion of "secondary emissions." It also put a definition of that term into both sets of regulations. Now, "secondary emissions" means:

> Emissions which would occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. For the purpose of this section, secondary emissions must be specific, well defined, quantifiable and impact the same general area as the stationary source or modification. Secondary emissions include emissions from any offsite support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the major stationary source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel. [*E.g.*, 40 CFR 52.21(b)(18) (1981); as amended 47 FR 27554 (June 25, 1982).]

An example of an "offsite support facility" is a strip mine owned by one company that would be located next to a proposed power plant owned by another and that would supply only the power plant. Another example is a quarry owned by one company that would be located next to a proposed cement plant owned by another and that would supply only the cement plant.

2. *Industry Challenges.* In *CMA*, certain industry petitioners have challenged the requirement that an applicant must include "secondary emissions" in assessing air quality impacts for PSD purposes. They argue that EPA exceeded its authority in establishing the requirement. *See* Fugitive Emissions Brief, at 48–50; AMC Petition for Reconsideration, at 29–32. Specifically, they assert that the relevant statutory provision, section 165(a)(3), required an applicant to include only those emissions that would come directly from the proposed project, since the key language of that section refers only to the "emissions from the construction or operation *of such facility.*"[21] 42 U.S.C. 7475(a)(3) (emphasis added).

3. *EPA Response.* EPA is inclined to conclude that a change in this requirement would be legally defensible, but it does not agree that an applicant need include only the emissions of its proposed project in its air quality impact assessment. Section 165(a)(3) also provides that an applicant must show that the proposed project "will not cause or *contribute* to, air pollution" in violation of a PSD increment or NAAQS. *Id.* (emphasis added). In order to determine whether a proposed project would contribute to a violation, one must take into account, not only the emissions from the project itself, but also the emissions from projects whose operation would coincide with it and whose emissions are reasonably quantifiable. Such projects are those

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[20] In view of the restrictions on indirect source review in Section 110(a)(5) of the Act, the agency added that the applicant could ignore any "secondary emissions" from motor vehicles or aircraft. 43 FR 26403 n.9. EPA recently added vessels to that list, so that vessel emissions are now to be ignored as well. *See* 47 FR 27554 (June 25, 1982).

[21] Section 165(a) provides, in relevant part, as follows:

> (a) No major emitting facility on which construction is commenced after the date of the enactment of this part, may be constructed in any area to which this part applies unless—
>
> * * * * * *
>
> (3) the owner or operator of such facility demonstrates that emissions from construction or operation of such facility will not cause, or contribute to, air pollution in excess of [42 U.S.C. 7475(a).]

which are already in operation or which, while not yet in operation, nevertheless have a construction permit. If those co-located and contemporaneous projects were ignored, it would be impossible to determine that the proposed project would not contribute to a violation of an increment or NAAQS.

While the "contribute" language thus persuades EPA that Congress intended the emissions from other projects to be taken into account, it does not persuade the agency that Congress also intended "secondary emissions" to be taken into account. Unlike the emissions from projects in operation or with permits, "secondary emissions" are arguably not reasonably quantifiable. The rate of emissions from an "offsite support facility" and their air quality impact will depend on a host of factors that will be largely unpredictable at the time an applicant is preparing its application. For a proposed strip mine, for instance, the probable unknowns will include the geographical distribution of haul roads, the type of digging equipment, the pattern of blasting, the number and size of hauling trucks, and the rate and method of coal extraction. EPA's current requirements appear to force a prospective applicant to assume the worst or attempt to prove that the "secondary emissions" in question are not reasonably quantifiable. The former approach may lead the applicant to impose constraints on the project artificially, not because of a reasonable prospect of real air quality degradation. The latter approach, on the other hand, may prove expensive and in the end fruitless. Congress arguably could not have intended to impose these burdens on applicants.

4. *Proposed Amendments.* As a result, EPA is proposing to delete the provisions in sections 51.24(k) and 52.21(k) which currently require the inclusion of "secondary emissions" in air quality impact assessments in PSD permit applications.[22] In addition, EPA is proposing to delete the second and last sentences in the PSD definition of "secondary emissions," since both would become superfluous with the exclusion of "secondary emissions" from such assessments. EPA is not proposing, however, to delete the definition altogether, since the PSD definition of "potential to emit" contains the useful clarification that "[s]econdary emissions do not count in determining the potential to emit of a stationary source." 40 CFR 51.24(b)(4), 52.21(b)(4) (1982).

EPA is also proposing deletions in the Offset Ruling that would parallel the proposed deletions in the PSD regulations. Finally, EPA is proposing to delete only the second and last sentence of the definition of "secondary emissions" in 40 CFR 51.18(j) and 52.24. Those two sets of nonattainment new source review regulations do not contain provisions that expressly require the inclusion of "secondary emissions" in air quality impact determinations.

G. Offset Credit for Source Shutdowns and Curtailments

1. *Background.* At the core of the Offset Ruling is the "offset" requirement: an applicant for a permit for a "major" project that would be located in an area that is nonattainment for a pollutant for which the project is major must show that the emissions of the pollutant from the project will be offset by sufficient creditable reductions in emissions elsewhere so as to assure reasonable further progress toward attainment and a net air quality benefit.[23] See 40 CFR Part 51, Appendix S, § IV.A. (1981).

The Ruling also contains elaborate rules for determining the creditability of emissions reductions. *Id.* § IV.C. One of those rules restricts the creditability of reductions that come from the permanent shutdown or curtailment of a source.[24] It provides in relevant part that a reduction from a shutdown or curtailment that occurred *before* the date of the application is creditable only if: (1) The shutdown or curtailment occurred after August 7, 1977 and (2) the proposed project is a replacement for the loss in productive capacity.[25] *Id.* § IV.C.3. n.9. The purpose of this restriction, according to EPA, was "to ensure that an offset relates to the current air quality problem . . . ." 44 FR 3280.[26]

The other EPA regulation governing nonattainment new source review—Section 51.18(j)—basically reflects the same "offset" requirement. *See* 40 CFR 51.18(j)(2) (1981) (referencing Section 173). Section 15.18(j) also contains elaborate rules for determining offset creditability, including one that imposes the same restrictions on reductions from pre-application shutdowns and curtailments that the Offset Ruling imposes. *Id.* §51.18(j)(3)(ii)(*c*).

2. *Industry Challenge.* In *CMA*, certain industry petitioners challenge the restriction in the Offset Ruling and Section 51.18(j) on the creditability of reductions from shutdowns and curtailments that occur before the date of application, but after August 7, 1977. they contend that EPA, by refusing to allow offset credit for such reductions except in the narrow circumstances of a replacement, has violated the intent of Congress and acted arbitrarily or capriciously. *See* Brief for Industry Petitioners on Source Shutdown and Curtailment (February 12, 1981).

3. *EPA Response.* EPA agrees preliminarily that the restriction in Section 51.18(j) contradicts Section 173. Section 173 provides that "[t]he permit program required [for nonattainment areas] *shall provide* that permits to construct and operate *may be issued*" if certain requirements are met, including an offset requirement. 42 U.S.C. 7503 (emphasis added). While this provision primarily tells each state that its SIP must contain a nonattainment permit program if it has a nonattainment area, it also tells EPA that it must approve any permit program that contains the requirements that Section 173 describes. *See Id.* § 7410(a)(2). The offset requirement that Section 173 describes would require an applicant to show only that sufficient emission reductions will have been obtained by the time the proposed project begins to operate so as to assure reasonable further progress toward attainment. *See* 42 U.S.C. 7503 (1) (A)–(B). As a result, an applicant could satisfy that requirement by pointing to reductions from pre-application shutdowns and curtailments that the state did not take into account in formulating its attainment strategy, *even if* the proposed project would not replace the lost productive capacity. By contrast, an applicant could satisfy the Section 51.18 requirement by pointing to such reductions, *only if* the proposed project would replace that capacity. Plainly, the Section 51.18 requirement would not recognize some of the shutdowns and curtailments that the Section 173 requirement would recognize. Section 51.18, therefore, purports to bar EPA from approving offset provisions that Section 173 requires it to approve. Thus, it contradicts Section 173.

EPA also agrees preliminarily that the restriction as it appears in the Offset

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[22] It should be noted that this deletion would not affect the current rule that any actual increase in emissions at an offsite support facility which occurs after the applicable baseline date would consume increment. *E.g.*, 40 CFR 52.21(b)(13)(ii)*(b)* (1982).

[23] The Offset Ruling applies in only a few circumstances. In general, the construction moratorium, or preconstruction review programs approved as meeting the requirements of Section 173, have supplanted it.

[24] This provision appeared in the original Offset Ruling. 41 FR 55529 (December 21, 1976). EPA repromulgated it with some refinement when it revised the Ruling in January 1979. 44 FR 3284.

[25] This rule also provides that a reduction from a shutdown or curtailment that occurs *after* the date of application is creditable only if (1) the work force has been notified of the shutdown or curtailment and (2) the shutdown or curtailment is legally enforceable. *Id* § IV.C.3.

[26] In September 1980, EPA declined to revise the restriction in response to comments opposing it. *See* 45 FR 59870–77.

Ruling sets forth a rule that is undesirable. There arguably is no need to disallow offset credit for a reduction from a shutdown or curtailment so long as the reduction, together with any other reductions that the applicant may offer, would produce a net air quality benefit and reasonable progress toward attainment.

4. *Proposed Amendment.* In light of those conclusions, EPA is proposing to delete the challenged restriction from the relevant provisions in Section 51.18(j) and the Offset Ruling. EPA is also proposing to delete the restriction that relates to notification of the workforce. EPA can see no rational basis or authority for that restriction, since the notification has no bearing on air quality. Finally, EPA is proposing to change the dates in the current provisions from August 7, 1977 to "a reasonable date specified in the plan" in the case of Section 51.18, and to December 21, 1976 (the date of original promulgation of the Offset Ruling), in the case of the Ruling. The purpose of that change is to maximize the flexibility a permitting authority would have for granting offset credit. EPA specifically solicits comment, however, on whether there should be any time restrictions at all.

H. Banking of Offsets

The Offset Ruling contains a provision, subparagraph IV.C.5., which affirms that a permitting authority may give offset credit under the Ruling for past, "banked" reductions and which sets some boundaries on the circumstances under which it may grant this credit. The third and last sentences of that subparagraph also contain guidance on the approvability under Section 173 of a permit program that would give credit for "banked" offsets. Since adding that guidance to the Offset Ruling in January 1979, EPA has issued regulatory guidance on banking for purposes of nonattainment new source review in the form of Section 51.18(j) (3) and policy guidance in the form of the proposed Emissions Trading Policy, 47 FR 15076 (April 7, 1982). This newer guidance renders the guidance in the Offset Ruling superfluous. To avoid confusion, EPA is proposing here to delete the third and last sentences.

EPA currently is reconsidering other provisions that govern offset credit in the Offset Ruling and Section 51.18(j) in response to the objections to them raised by industry in *CMA* and in light of the proposed Emissions Trading Policy. EPA expects in the near future to propose amendments to those provisions.

III. Guidance

A. Obligation to Cure Increment Violations

EPA is currently reevaluating the NAAQS for particulate matter and expects to conduct rulemaking to revise it. EPA may propose not only new concentration levels for the NAAQS, but also in effect a new definition of "particulate matter" that would exclude particles above a size to be determined after further analysis of the relevant scientific information. The CMA settlement agreement specifies that when EPA proposes a new size cutoff for "particulate matter" for purposes of the NAAQS, it will also propose (1) a new size cutoff or PSD purposes that would remain in effect indefinitely (the "permanent PSD cutoff") and (2) an interim size cutoff for PSD purposes that would remain in effect until EPA takes final action on the permanent PSD cutoff.

Before EPA takes final action on the permanent PSD cutoff, one or more violations of a PSD increment for particulate matter may be discovered. If a violation of a PSD increment is discovered, the state has an obligation under 40 CFR 51.24(a)(3) (1981) to adopt such revisions to its SIP as would be necessary to cure the violation and to submit them to EPA for approval within 60 days afer discovery of the violation or within such longer period as EPA may determine after consultation with the state. In view of the possible promulgation of a new cutoff for particulate matter for purposes, EPA will postpone, until it takes final action on a permanent PSD cuttoff, the time by which a state must submit a SIP revision to cure a violation of an increment for particulate matter, if the state requests such a postponement. It should be noted, however, that the continued existence of an increment violation would pose a possibly insurmountable barrier to the issuance of a PSD permit to a project that would contribute to the violation.

B. Issuance of Non-PSD SIP Permits

SIPs contain a basic permit program that stands independent of any other permit program in the SIP and consist only of the requirements outlined by 40 CFR 51.10(a)-(i), (1982). Such a program would not contain any provisions relating to PSD increments. Under such a program the permitting authority may issue a permit even if modeling shows that the project in question would cause or contribute to a violation of a PSD increment for particulate matter or sulfur dioxide. Of course, if the project were subject independently to the PSD regulations in the SIP, it would have to have a PSD permit. To obtain a PSD permit, the owner or operator would have to show that the project would not cause or contribute to an increment violation.

C. Transfer of Technology for LAER

In revising the Offset Ruling in January 1979 and in providing guidance to the states for the preparation of SIP revisions to meet the requirements of Section 173, EPA stated that "in determining the lowest achievable emission rate (LAER), the reviewing authority may consider transfer of technology from one source type to another where such technology is applicable." 44 FR 3280' 44 FR 20379 (April 4, 1979). EPA interprets that statement as saying merely that the Agency would not disapprove a SIP revision that required technology transfer for LAER determinations. EPA was not attempting to say that it would approve a SIP revision which sought to incorporate the Section 173 requirements only if the revision required technology transfer. To the contrary, an express prohibition against technology transfer in the revision would not be grounds for disapproval.

IV. Miscellaneous

EPA solicits comment on the amendments it is proposing here. The initial period for the submission of written comment closes on October 11, 1983. EPA will not grant an extension of this initial comment period except upon an application showing some extraordinary cause. In the *CMA* settlement agreement, the agency committed to make good faith best efforts to take final action on the proposals here within 150 days from the date of this Federal Register notice. Any extension of the initial comment period would diminish EPA's ability to take final action within that period. EPA, in any event, currently plans not to extend the initial comment period beyond 60 days, since it committed not to do so in the settlement agreement. EPA will hold the public docket for this rulemaking open for 30 days after the close of the initial comment period for the submission of written rebuttal and supplementary information. All written comments and information should be submitted (in triplicate, if possible) to: Central Docket Section (A-130), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C.20460. Attention: Docket A-82-23.

EPA has established a docket for this rulemaking, Docket No. A-82-32. The docket is an organized and complete file

of all significant information submitted to or otherwise considered by EPA during this proceeding. The contents of the docket will serve as the record in the case of judicial review under Section 307(b) of the Act, 42 U.S.C. 7607(b). The docket is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section, West Tower Lobby, Gallery I, 401 M Street, SW., Washington, D.C. A reasonable fee may be charged for copying.

EPA will hold a public hearing on the proposed amendments on September 29, 1983, at 10:00 a.m., in Room 5353, Waterside Mall, 401 M Street, SW., Washington, D.C. The hearing will be informal. A panel of EPA staff will hear the oral presentations. There will be no cross-examination and no requirement that any person be under oath. Each member of the panel may seek clarification or amplification of any presentation. The presiding officer of the panel may set a time limit for each presentation and may restrict any presentation that would be irrelevant or repetitious. A transcript of each hearing will be made and placed in the rulemaking docket.

Any person who wishes to speak at the hearing should as soon as possible send written notice of this to EPA, giving name, address, telephone number, and the length of the presentation. Anyone stating that his or her presentation would be longer than 20 minutes should also state why it need be longer. Each notice should be sent to Kirt Q. Cox, at the address given at the beginning of this notice. EPA will develop a schedule for presentations based on the notices it receives. Anyone who fails to submit a notice, but wishes nevertheless to speak at the hearing, should so notify the presiding officer immediately before the hearing. The presiding officer will decide whether, when, and for how long the person may speak. Each speaker should bring extra copies of his or her presentation for the convenience of the hearing panel, the hearing reporter, the press, and other participants. The hearings will be open to the public.

Under Exective Order 12291, EPA must judge whether an action it proposes to take would be a "major rule" and therefore subject to the requirement of a Regulatory Impact Analysis. The amendments EPA is proposing here would not constitute a "major rule," primarily because they would relieve current regulatory burdens.

The requirement for performing an economic impact assessment in Section 317 of the Act, 42 U.S.C. 7617, does not apply to the amendments EPA is proposing here. Section 317 applies only to "revisions which the Administrator determines to be substantial revisions." The proposed amendments are not substantial revisions, because they relieve current regulatory burdens and the Act requires them.

The proposed amendments have been submitted to the Office of Management and Budget for review under Executive Order 12291. Any comments from that office on the amendments and any EPA responses have been placed in the docket for this proceeding.

Pursuant to the provisions of 5 U.S.C. 605(b), EPA hereby certifies that the proposed amendments will not have a significant impact on small entities.

List of Subjects

40 CFR Part 51

Administrative practice and procedures, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Hydrocarbon, Carbon monoxide.

40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Authority: Sections 101(b)(1), 160–169, 171–178, and 301(a) of the Clean Air Act as amended (42 U.S.C. 7401(b)(1), 7410, 7470–79, 7501–08 and 7601(a)); section 129(a) of the Clean Air Act Amendments of 1977 (Pub. L. No. 95–95, 91 Stat. 685 (August 7, 1977)).

Dated: August 15, 1983.

Alvin L. Alm,

Deputy Administrator.

A. Requirements for State PSD Plans

§ 51.24 [Amended]

Section 51.24 of Title 40 of the Code of Federal Regulations, as amended at 47 FR 27554 (June 25, 1982), is proposed to be amended as follows:

1. By adding a new paragraph (b)(1)(iii) to read as follows: "(iii) The fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this section whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources: [Reserved].";

2. By adding to paragraph (b)(2)(iii)(*e*)(*1*) an "(*i*)" after "prohibited" and the following clause just before the semicolon at the end of the paragraph: ", or (*ii*) under any enforceable condition which was established after [the effective date of this clause]";

3. By adding to paragraph (b)(2)(iii)(*f*) an "(*1*)" after "prohibited" and the following clause at the end of the paragraph: ", or (*2*) under any enforceable condition which was established after [the effective date of this clause].";

4. By adding a new paragraph (b)(2)(iv) to read as follows: "(iv) Any net increase in fugitive emissions from a change at a stationary source shall not be included in determining for any of the purposes of this section whether the change is a major modification, unless the source belongs to one of the following categories of stationary sources: [Reserved].";

5. By deleting "federally" in paragraph (b)(3)(vi)(*b*), deleting the "; and" at the end of the paragraph, and putting a period in its place;

6. By deleting paragraph (b)(3)(vi)(*c*);

7. By deleting "federally" in the second sentence of paragraph (b)(4);

8. By deleting "federally" wherever it appears in paragraph (b)(16);

9. By revising paragraph (b)(17) to read as follows: "(17) 'Enforceable' means enforceable under federal, state or local law and discoverable by the Administrator and any other person.";

10. By deleting the second and last sentences of paragraph (b)(18);

11. By deleting paragraph (b)(23)(iii) [relating to Class I areas];

12. By adding a new paragraph (b) (29) to read as follows: "Volatile organic compounds' excludes each of the following compounds, unless the compound is subject to an emissions standard under Sections 111 or 112 of the Act: Methane; ethane; methylene chloride; 1,1,1trichloroethane (methyl chloroform); trichlorotrifluoroethane (CFC–113) (Freon 113); trichlorofluoromethane (CFC–11); dishlorodifluoromethane (CFC–12); chlorodifluoromethane (CFC–22); trifluormethane (FC–23); dichlorotetrafluoroethane (CFC–114); and chloropentafluoroethane (CFC–115).";

13. By deleting paragraph (i)(4)(ii) and redesignating paragraph (i)(4)(iii) as (i)(4)(ii);

14. By deleting the parenthetical in paragraph (k); and

15. By deleting paragraph (s)(2)(iv)(*b*), redesignating paragraph (s)(2)(iv)(*c*) as (s)(2)(iv)(*b*), and revising paragraph (s)(2)(v) to read as follows: "The provisions of subsection (p) of this section (relating to Class I areas) have been satisfied with respect to all periods

during the life of the source or modification.".

B. New Source Review for PSD Purposes

§ 52.21 [Amended]

Section 52.21 of Title 40 of the Code of Federal Regulations, as amended at 47 FR 27554 (June 25, 1982), is proposed to be amended as follows:

1. By adding a new paragraph (b)(1)(iii) to read as follows: "(iii) The fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this section whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources: [Reserved].";

2. By adding to paragraph (b)(2)(iii)(*e*)(*1*) an "(*i*)" after "prohibited" and the following clause just before the semicolon at the end of the paragraph: ",or (*ii*) under any enforceable condition which was established after [the effective date of this clause]";

3. By adding to paragraph (b)(2)(iii)(*f*) an "(*1*)" after "prohibited" and the following clause at the end of the subparagraph: ", or (*2*) under any enforceable condition which was established after [the effective date of this clause].";

4. By adding a new paragraph (b)(2)(iv) to read as follows: "(iv) Any net increase in fugitive emissions from a change at a stationary source shall not be included in determining for any of the purposes of this section whether the change is a major modification, unless the source belongs to one of the following categories of stationary sources: [Reserved].";

5. By deleting "federally" in paragraph (b)(3)(vi)(*b*), deleting the "; and" at the end of the paragraph, and putting a period in its place;

6. By deleting paragraph (b)(3)(vi)(*c*);

7. By deleting "federally" in the second sentence of paragraph (b)(4);

8. By deleting "federally" wherever it appears in paragraph (b)(16);

9. By revising paragraph (b)(17) to read as follows: "(17) 'Enforceable' means enforceable under federal, state or local law and discoverable by the Administrator and any other person.";

10. By deleting the second and last sentences of paragraph (b)(18);

11. By deleting subparagraph (b)(23)(iii) [relating to Class I areas];

12. By adding a new paragraph (b)(29) to read as follows: " 'Volatile organic compounds' excludes each of the following compounds, unless the compound is subject to an emissions standard under Sections 111 or 112 of the Act: methane; ethane; methylene chloride; 1,1,1 – tricholoroethane (methyl chloroform); trichlorotrifluoroethane (CFC–113) (Freon 113); trichlorofluoromethane (CFC–11); dichlorodifluoromethane (CFC–12); chlorodifluoromethane (CFC–22); trifluoromethane (FC–23); dichlorotetrafluoroethane (CFC–114); and chloropentafluoroethane (CFC–115).";

13. By deleting paragraph (i)(4)(vii) and redesignating paragraph (i)(4)(viii) as (i)(4)(vii);

14. By deleting the parenthetical in paragraph (k); and

15. By deleting paragraph (v)(2)(iv)(*b*), redesignating paragraph (v)(2)(iv)(*c*) as (v)(2)(iv)(*b*), and revising paragraph (v)(2)(v) to read as follows: "The provisions of paragraph (p) of this section (relating to Class I areas) have been satisfied with respect to all periods during the life of the source or modification.".

C. State Plans for New Source Review for Nonattainment Purposes

§ 51.18 [Amended]

Section 51.18 of Title 40 of the Code of Federal Regulations, as amended at 46 FR 50766 (October 14, 1981) and 47 FR 27554 June 25, 1982), is proposed to be amended as follow:

1. By deleting "federally" in the second sentence of subparagraph (j)(1)(iii);

2. By adding a new paragraph (j)(1)(iv)(*c*) to read as follows: "(*c*) The fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this subsection whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources: [Reserved].";

3. By adding to paragraph (j)(1)(v)(*c*)(*5*)(*i*) an "(*A*)" after "prohibited" and the following clause just before the semicolon at the end of the paragraph: ", or (*B*) under any enforceable condition which was established after [the effective date of this clause]";

4. By adding to paragraph (j)(1)(v)(*c*)(*6*) an "(*i*)" after "prohibited" and the following clause at the end of the subparagraph: ", or (ii) under any enforceable condition which was established after [the effective date of this clause].";

5. By adding a new paragraph (j)(1)(v)(*d*) to read as follows: "(*d*) Any net increase in fugitive emissions from a change at a stationary source shall not be included in determining for any of the purposes of this subsection whether the change is a major modification, unless the source belongs to one of the following categories of stationary sources: [Reserved].";

6. By deleting "federally" in paragraph (j)(1)(vi)(*e*)(*2*);

7. By deleting paragraph (j)(1)(vi)(*e*)(*4*);

8. By deleting the second and last sentences in paragraph (j)(1)(viii);

9. By deleting "federally" wherever it appears in paragraph (j)(1)(xi);

10. By revising paragraph (j)(1)(xiv) to read as follows: "(xiv) 'Enforceable' means enforceable under federal, state or local law and discoverable by the Administrator and any other person.";

11. By adding a new paragraph (j)(1)(xix) to read as follows: " 'Volatile organic compounds' excludes: methane; ethane; methylene chloride; 1,1,1-tricholoroethane (methyl chloroform); trichlorotrifluoroethane (CFC–113) (Freon 113); trichlorofluoromethane (CFC–11); dichlorodifluoromethane (CFC–12); chlorodifluoromethane (CFC–22); trifluoromethane (FC–23); dichlorotetrafluoroethane (CFC–114); and chloropentafluoroethane (CFC–155).";

12. By revising paragraph (j)(3)(ii)(*c*) to read as follows: "(*c*) Emissions reductions achieved by shutting down an existing source or permanently curtailing production or operating hours below baseline levels may be credited, provided that the shutdown or curtailment occurred after a reasonable date specified in the plan.";

13. By deleting "federally" from paragraph (j)(3)(ii)(*e*); and

14. By deleting paragraph (j)(4) and renumbering paragraph (j)(5) as (j)(4).

D. Emission Offset Interpretative Ruling

Appendix S

Appendix S of Part 51 of Title 40 of the Code of Federal Regulations, as amended at 46 FR 50766 (October 14, 1981) and 47 FR 27554 (June 25, 1982), is proposed to be amended as follows:

1. By deleting "federally" in the second sentence of subparagraph II.A.3;

2. By adding a new paragraph II.A.4(iii)to read as follows: "(iii) The fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this Ruling whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources: [Reserved].";

3. By adding to paragraph II.A.5(iii)(*e*)(*1*) an "(*i*)" after "prohibited" and the following clause just before the semicolon at the end of the

subparagraph: ", or (ii) under any enforceable condition which was established after [the effective date of this clause]";

4. By adding to paragraph II.A.5(iii)(*f*) an"(*1*)" after "prohibited" and the following clause at the end of the paragraph: ", or (*2*) under any enforceable condition which was established after [the effective date of this clause].";

5. By adding a new paragraph II.A.5(iv) to read as follows: "(iv) Any net increase in fugitive emissions from a change at a stationary source shall not be included in determining for any of the purposes of this Ruling whether the change is a major modification, unless the source belongs to one of the following categories of stationary sources: [Reserved].";

6. By deleting "federally" in paragraph II.A.6(v)(*b*);

7. By deleting the "; and" in paragraph II.A.6(v)(*c*) and putting a period in its place;

8. By deleting paragraph II.A.6(v)(*d*);

9. By deleting the second and last sentences of paragraph II.A.8.;

10. By deleting "federally" wherever it appears in paragraph II.A.11.;

11. By revising paragraph II.A.12. to read as follows: "(12) 'Enforceable' means enforceable under federal, state or local law and discoverable by the Administrator and any other person.";

12. By adding a new paragraph II.A.20. to read as follows: " 'Volatile organic compounds' excludes: methane; ethane; methylene chloride; 1,1,1-tricholoroethane (methyl chloroform); trichlorotrifluoroethane (CFC–113) (Freon 113); trichlorofluoromethane (CFC–11); dichlorodifluoromethane (CFC–12); chlorodifluoromethane (CFC–22); trifluoromethane (FC–23); dichlorotetrafluoroethane (CFC–114; and chloropentafluoroethane (CFC–115).";

13. By deleting paragraphs II.D.—II.G.;

14. By revising paragraph IV.C.3. to read as follows: "3. *Operating hours and source shutdown.* A source may be credited with emissions reductions achieved by shutting down an existing source of permanently curtailing production or operating hours below baseline levels (see initial discussion to this Section C), provided that the shutdown or curtailment occurred after December 21, 1976. Emission offsets that involve reducing operating hours or production or source shutdowns must be legally enforceable, as in the case for all emission offset situations.";

15. By deleting footnote 9; and

16. By deleting the third and last sentences of paragraph IV.C.5.

E. Restrictions on Construction for Nonattainment Areas

§ 52.24 [Amended]

Section 52.24 of Title 40 of the Code of Federal Regulations, as amended at 46 FR 50766 (October 14, 1981) and 47 FR 27554 (June 25, 1982), is proposed to be amended as follows:

1. By deleting "federally" in the second sentence of paragraph (f)(3f);

2. By adding a new paragraph (f)(4)(iii) to read as follows: "(iii) The fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this section whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources: [Reserved].";

3. By adding to paragraph (f)(5)(iii)(*e*)(*1*) an "(*i*)" after "prohibited" and the following clause just before the semi-colon at the end of the paragraph: ", or (*ii*) under any enforceable condition which was established after [the effective date of this clause]";

4. By adding to paragraph (f)(5)(iii)(*f*) an "(*1*)" after "prohibited" and the following clause at the end of the paragraph: ", or (*2*) under any enforceable condition which was established after [the effective date of this clause].";

5. By adding a new paragraph (f)(5)(iv) to read as follows: "(iv) Any net increase in fugitive emissions from a change at a stationary source shall not be included in determining for any of the purposes of this section whether the change is a major modification, unless the source belongs to one of the following categories of stationary sources: [Reserved].";

6. By deleting "federally" in paragraph (f)(6)(v)(*b*);

7. By deleting paragraph (f)(6)(v)(*d*);

8. By deleting the second and last sentences in paragraph (f)(8);

9. By deleting "federally" wherever it appears in paragraph (f)(11);

10. By revising paragraph (f)(12) to read as follows: "(12) 'Enforceable' means enforceable under federal, state or local law and discoverable by the Administrator and any other person.";

11. By adding a new paragraph (f)(18) to read as follows: " 'Volatile organic compounds' excludes: methane; ethane; methylene chloride; 1,1,1-trichloroethane (methyl chloroform); trichlorotrifluoroethane (CFC–113) (Freon 113); trichlorofluoromethane (CFC–11); dichlorodifluoromethane (CFC–12); chlorodifluoromethane (CFC–22); trifluoromethane (FC–23); dichlorotetrafluoroethane (CFC–114); and chloropentafluoroethane (CFC–115)."; and

12. By deleting paragraph (h) and renumbering the succeeding subsections accordingly.

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Part VI

Department of Health and Human Services

Public Health Service

Proposed Regulations on Confidentiality of Alcohol and Drug Abuse Patient Records

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 2

Confidentiality of Alcohol and Drug Abuse Patient Records

AGENCY: Public Health Service, HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes editorial and substantive changes in the "Confidentiality of Alcohol and Drug Abuse Patient Records" regulations. This proposal was prompted by the Department's commitment to make its regulations more understandable and less burdensome. The proposal clarifies and shortens the regulations and the proposed substantive changes will ease the burden of compliance.

DATES: Comments must be received on or before October 24, 1983.

ADDRESS: Submit written comments to: Judith T. Galloway, Legal Assistant, Alcohol, Drug Abuse, and Mental Health Administration, Room 13C–06, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Comments will be available for public inspection at this location between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, except for Federal holidays.

FOR FURTHER INFORMATION CONTACT: Judith T. Galloway (301) 443–3200.

SUPPLEMENTARY INFORMATION: The "Confidentiality of Alcohol and Drug Abuse Patient Records" regulations, 42 CFR Part 2, were promulgated on July 1, 1975 (40 FR 27802) and became effective August 1, 1975. The regulations implement two Federal statutes applicable, respectively, to alcohol abuse patient records (42 U.S.C. 290dd–3) and drug abuse patient records (42 U.S.C. 290ee–3).

Prompted by its experiences in interpreting and implementing the confidentiality regulations the Department of Health and Human Services on January 2, 1980 published a notice in the **Federal Register** (45 FR 53) announcing its intention to make editorial and substantive changes in the regulations. The notice invited public comment on fifteen substantive issues and on any other substantive or editorial aspect of the regulations. Approximately 450 comments were received in response to the notice.

Summary of Proposed Changes

Editorial Changes

The regulations would be substantially shortened by the following editorial changes: (1) Deletion of all "Basis and Purpose" sections, those explanatory sections which follow each substantive section of the current regulations; (2) deletion of §§ 2.3 and 2.5, a reference to previous regulations and discussion of format which are no longer needed; (3) deletion of § 2.22, a section on former employees which is legally unnecessary; and (4) the combining of other sections. In addition each of the sections would be rewritten for clarity and conciseness.

Substantive Changes

The following major substantive changes are proposed: (1) Limitation of the applicability of the regulations to federally assisted programs specializing in the diagnosis, treatment or referral for treatment of alcohol or drug abuse patients; (2) a new requirement that programs give notice to each patient of the applicability and effect of the Federal confidentiality regulations; (3) the setting forth of a sample written consent form; (4) the elimination of the impediment in the regulations to a patient's access to his or her own records; (5) the elimination of those sections governing disclosures with written consent in specific circumstances, other than disclosures to central registries and in connection with criminal justice referrals, in favor of a section which permits any disclosure to which the patient has consented by signing the required written statement; and (6) elimination of the prohibition on the entry of a court order authorizing the disclosure of subjective information regarding a patient.

These and other proposed changes in the regulations are reviewed in detail in the discussion which follows.

Substantive Issues Listed in the Notice of Decision To Develop Regulations

(a) Should the regulations be amended to permit patient access to his or her records for the purpose of making copies and disclosures as the patient sees fit?

The 174 affirmative responses[1] were justified on grounds that the patient has a "right" to access, that access will permit a truly informed consent to disclose information, that access will facilitiate correction of erroneous records, and that access will encourage more accurate recordkeeping practices. Many of the affirmative responses were qualified. They favored access but only if treatment has been completed, the program retains discretion to prevent access, the staff can review the record and partially limit the disclosure, or if the patient has access only to objective data.

Negative responses [1] totaled 290. Those responses were justified on grounds that clinical discretion in permitting access is vital to the patient's well-being, that patient access would interfere with treatment or be harmful to the patient, that the patient would use poor judgment in disclosing the record to third parties, that patient access would result in censored or inaccurate recordkeeping, and that patient access would create an additional administrative burden on the program.

Section 2.23 of the proposed regulations states that the regulations do not prohibit giving a patient access to his or her records, including the opportunity to inspect and copy any records that the program maintains about the patient. It also provides that written consent or other authorization is not required by these regulations for such access. This proposed change in the current regulations reflects the trend toward a right of patient access to medical records and is based upon experience under the access provisions of the Privacy Act (5 U.S.C. 552a) indicating that patient access to medical records has not proved harmful. A number of States have statutes providing for direct patient access to physician or hospital medical records and access is guaranteed by case law in other States. On the Federal level the Privacy Act of 1974 required direct access under most circumstances and the Privacy Protection Study Commission, established under that Act has recommended that:

> [U]pon request, an individual who is the subject of a medical record maintained by a medical-care provider, or another responsible person designated by the individual, [should] be allowed . . . access to the medical record including an opportunity to see and copy it. "Personal Privacy in an Information Society, The Report of the Privacy Protection Study Commission" 298 (July 1977).

The purpose of the proposed change is not to grant a patient right of access but only to provide that the regulations do not restrict such a right of access. Consistent with the conclusion of the Privacy Protection Study Commission that no solution to the problem of patient access is acceptable so long as it risks leaving the ultimate discretion to release or not to release in the hands of

[1] The affirmative and negative categories for the public comments on the fifteen issues listed in the Notice of Decision To Develop Regulations are not precise measures because of the difficulty in categorizing qualified responses as either affirmative or negative. Furthermore, the total of the comments on a particular issue do not necessarily reflect the total number of those submitting comments, because some commenters did not respond to each issue and others made more than one response to certain issues.

the patient's physician (Report at 287), the proposed change would keep the confidentiality regulations from being cited as a legal basis for such an exercise of discretion by alcohol and drug abuse programs.

(b) Should the regulations be amended to require that a program give notice to each patient of the existence and effect of Federal law and regulations which protect the confidentiality of alcohol and durg abuse patient records? Should the notice requirement be extended to any applicable State laws and regulations on confidentiality?

Affirmative responses totaled 318. Those responses were justified primarily on grounds that patients have a "right" to know about laws that affect them and that patient knowledge of these laws will strengthen the therapeutic relationship. Many of the affirmative responses were qualified. They dealt with whether the notice should be limited to the Federal alcohol and drug abuse confidentiality requirements, the content of the notice to the patient, and with how the notice should be delivered.

Negative responses totaled 92. Many of those responses were justified on grounds that notice is unnecessary because current regulations permit notice if a program wishes to inform patients, and that requiring a notice in every case would be too expensive and time consuming. Some were against a notice requirement because it would confuse patients. Others feared a notice requirement would lead to additional litigation for failure to notify.

A new § 2.22 has been added requiring that the patient be notified of the existence and effect of the Federal statutes and regulations which protect the confidentiality of alcohol and drug abuse patient records. No requirement for notification of the existence and effect of State law is proposed, as this is considered to be a matter of concern primarily to each State. Of course, each program is free to notify patients of any applicable State law and any program policy concerning confidentiality not inconsistent with Federal or State law.

The proposed regulations require that when a patient is admitted (or as soon after as the patient is capable of rational communication) that the patient be told of the existence and effect of the Federal statutes and regulations protecting the confidentiality of alcohol and drug abuse patient records and that the patient be given a notice in writing. A sample notice is included in the text of the regulations to assist programs in complying with the notification requirement.

Notice to each patient at the outset that the program must maintain the confidentiality of patient records will provide an incentive for the patient to be frank and open in the therapeutic relationship. By stating the limits on the confidentiality protections, the notice will lessen the potential for subsequent misunderstandings and may deter criminal acts on program premises or against program personnel, since no confidentiality protections are afforded in that instance.

A disadvantage of this approach is that it will require additional paperwork: namely, written notice to the patient. The Department believes a written notice is the most effective, reliable means of informing patients of the confidentiality protections for alcohol and drug abuse patient records. The sample notice is included in the proposed regulations as an aid to compliance with the regulations and not as a required form. What is required is that the elements described in § 2.22(b) be communicated to each patient. Communication of the information in the sample form would accomplish that purpose, but a program may communicate the required information in any manner that will provide each patient with written notice of the elements in § 2.22(b).

(c) Should the regulations be amended to apply only to specialized alcohol or drug abuse treatment and rehabilitation programs?

Affirmative responses totaled 178. The most frequent justification for applying the regulations only to specialized programs was that the regulations are costly, time consuming and confusing for application by general medical care facilities, some of which deal with small numbers of alcohol and drug abuse patients. Some responses indicated that application of the regulations to general medical care facilities is unnecessary because those facilities generally abide by some standard of confidentiality already, for example, a standard imposed by State law.

Negative responses totaled 205. The most frequent justification for a broad application of the regulations was that drug and alcohol abuse patient records are sensitive and should be protected regardless of the nature of the provider. Some commenters suggested confusion would result from trying to distinguish "specialized" programs from general medical care facilities.

Under § 2.12 of the proposed regulations and the proposed new definition of the term "program" the confidentiality restrictions would apply only to alcohol or drug abuse patient records maintained by federally assisted individuals or organizational entities which "specialize" in alcohol or drug abuse referral, treatment, or diagnosis for referral or treatment by holding themselves out as providers of one or more of those services. Thus, for example, the confidentiality protections would apply to an alcohol or drug abuse treatment unit within a general hospital but, in the absence of specialized personnel, would not apply to alcohol or drug abuse treatment provided in a hospital emergency room or a general hospital ward.

It is believed that the proposed change will: (1) Simplify administration of the regulations without significantly affecting the incentive to seek treatment provided by the confidentiality protections, and (2) lessen the adverse economic impact of the current regulations on a substantial number of small entities. In enacting the drug abuse confidentiality statute Congress stated that the purpose of the confidentiality protections was to encourage entry into treatment by ensuring that the records of treatment would not be publicly disclosed. Given the short-term, emergency (sometimes involuntary) nature of much of the alcohol and drug abuse treatment provided by hospital emergency rooms and other providers which do not "specialize" in the care of alcohol or drug abusers, it is questionable whether the application of the confidentiality protections to these providers has any significant effect on the decision to seek treatment. Furthermore, it is questionable whether this brief, episodic treatment is the type of treatment that Congress intended to encourage through enactment of the confidentiality regulations.

The proposed limitation on the current broad applicability of the regulations will lessen the costs of compliance. These costs are greater for general medical care providers because of the difficulties in determining the applicability of the confidentiality restrictions to the records of a patient who is treated for ailments in addition to alcohol or drug abuse or ailments which have a causal relationship to the alcohol or drug abuse.

(d) Should the regulations be amended to permit an auditor or program evaluator to redisclose patient identifying information obtained from a referring program for the purpose of evaluating that program's client referral mechanism?

Affirmative responses totaled 58. The justification most often given was that facilitating audit and evaluation of the patient referral mechanism will enhance program quality. Other affirmative responses were qualified, urging that

any redisclosure by an auditor or program evaluator for the purpose of evaluating the patient referral mechanism be accompanied by safeguards against redisclosure.

The most frequent rationale among the 224 negative responses was that permitting redisclosure of patient identifying information by auditors/evaluators for the purpose of evaluating a program's referral mechanism would result in a breach of confidentiality and loss of program credibility. Other negative responses indicated that disclosure of patient identity is not necessary to assess the effectiveness of a program's client referral mechanism. Some commenters suggested that patient consent be obtained before an auditor/evaluator rediscloses patient identifying information.

The proposed regulations do not alter the present prohibition on redisclosure by auditor/evaluators. An auditor/evaluator may use patient identifying information only to carry out an audit or evaluation purpose or to investigate or prosecute the program for criminal activities, as authorized by a court order entered under § 2.65, and may not disclose that information except back to the program from which it was obtained. These restrictions are consistent with the statutory provisions governing the redisclosure of patient identifying information by auditors and evaluators and provide a simple means of insuring the confidentiality of patient identifying information which is disclosed to auditors or evaluators.

It has been suggested that these restrictions on redisclosure make it impossible to conduct an adequate evaluation of a program's patient referral mechanism. It appears that this criticism is based upon a misunderstanding of what constitutes "patient identifying information" and of the effect of the regulatory restrictions upon those programs to which a patient has been referred. As is made clear by the proposed definitions in § 2.11 of "disclosure," "Patient" and "patient identifying information" and the proposed § 2.13(c), the regulations do not restrict a communication of information which does not identify a named individual as an alcohol or drug abuser or a recipient of alcohol or drug abuse services. Thus, there is no restriction on an auditor inquiring of a facility to which a patient has been referred, "Was John Doe admitted for treatment or services on or about [a certain date]?" if that inquiry does not in any way identify the individual as an alcohol or drug abuser or a recipient of alcohol or drug abuse services. Since the statutes and § 2.53 of the proposed regulations (§ 2.52 of the current regulations) permit disclosures without patient consent for audit and evaluation activities the program is permitted to provide patient identifying information in response to the auditor's inquiry. Thus, if the auditor's inquiry can be made without identifying an individual as an alcohol or drug abuser or a recipient of alcohol or drug abuse services, current regulations permit evaluation of a program's referral mechanism.

(e) Should the regulations be amended to permit a patient to consent to disclosure of information by means of a more general consent form?

The 153 affirmative responses stated that a more general consent form would provide flexibility and convenience and be more likely to conform with State requirements, with State hospital association guidelines, or with the form used for all other patients of a facility. It was also stated that a general, unqualified consent to disclosure given when the patient is admitted allows the facility to make a disclosure without having to recontact a patient who has left treatment to obtain a consent for a particular purpose, perhaps unforeseen at the time of admission. Some general medical care facilities were concerned that the use of a special form for alcohol and drug abuse patients calls attention to them.

Negative responses totaled 240. Many respondents expressed satisfaction with the required elements for written consent and some suggested adoption of the format for all patients. A frequent justification for the retention of the specific requirements in § 2.31 was that they inform the patient specifically of what he or she is consenting to have disclosed. Others preferred retention of the present consent requirements because a more general form would lead to the release of additional, unnecessary, or unrequested information.

The proposed regulations retain the present requirement for a specific written consent. Section 2.31 has been changed only for editorial purposes and to add a sample consent form to aid programs in tailoring their consent forms to the requirements of § 2.31.

The primary advantage of retaining the specific elements required by § 2.31 is that of providing each patient with specific information on the disclosures that he or she is consenting to and thereby providing each patient with a greater degree of control over the disclosures. The report of the Privacy Protection Study Commission supports the Department's position and recommends the requirements of § 2.31 as a model for consent forms relating to all medical records.

The primary disadvantage of requiring that each written consent contain all the elements in § 2.31 is that it may be difficult for a general medical care facility to obtain a consent conforming to § 2.31 where a patient is initially admitted for a problem unrelated to alcohol or drug abuse, but is later treated, diagnosed, or referred for treatment for alcohol or drug abuse.

The Department believes these difficulties are minimized, if not eliminated, by the proposed limitation of the regulations to programs specializing in the provision of alcohol or drug abuse treatment or referral for treatment, or diagnosis for these purposes. These programs should be able to readily obtain a conforming consent prior to treating a patient for alcohol or drug abuse.

(f) Should the regulations be amended to facilitate reimbursement by making the written consent requirements less stringent for disclosures to third party payers and funding sources?

Affirmative responses totaled 165. These responses emphasized that the failure to obtain a consent conforming to § 2.31 (either because the patient chooses not to consent or because the program is unable to locate the patient) results in increased costs to all patients flowing from the program's inability to be reimbursed by a third party payer. Some responses were qualified: they favored less stringent consent requirements for third party payers but only if the third party payers were prohibited from redisclosing the information without getting the patient's consent.

Negative responses totaled 179. These responses indicated that the present requirements do not present an unreasonable burden in obtaining reimbursement from third party payers. Some also expressed a lack of confidence in the standards of confidentiality maintained by third party payers, making "informed consent" to release information an important goal.

The proposed regulations continue in effect the requirement for a § 2.31 written consent in making disclosures to a third party payer because the Department does not believe the requirement is unduly burdensome and because there is insufficient justification for treating third party payers differently from other recipients of disclosure. However it is noted that other changes in Subpart C will simplify all disclosures

with patient consent because the standard for permitting release of information with patient consent will be constant: the presence of each element required for consent under § 2.31 and a determination that the information disclosed is necessary to carry out the purpose for which the consent was given.

(g) Should the regulations be amended to extend to family members the liberal disclosure provision allowed for a patient's legal counsel?

Affirmative responses totaled 101. Some favored extension of the "short form" written consent procedures in § 2.35 of the current regulations to family members because it would be helpful to the patient's therapy. Others believed that if a patient is given access to his or her own records (see issue (a)) the patient should be able to give a general "short form" consent to a disclosure to any person, including family members. Others felt that only immediate family members or family members involved in the patient's treatment should be able to receive patient information pursuant to such a consent.

Negative responses totaled 228. Some were against this change because they believe an attorney's responsibility toward a client and a family's relationship with the patient are not comparable: The attorney is bound by professional ethics to act in the patient's best interest and has a "need to know" whereas the family lacks objectivity and may even be a part of the patient's problem. A few responses did not favor special procedures for lawyers or family but urged uniformity in the process for disclosing any information with patient consent.

The proposed regulations eliminate the need for consideration of this issue by deleting § 2.35 of the current regulations and establishing a uniform process for disclosures with written consent. The proposed §§ 2.31 and 2.33 would permit any disclosure to which the patient has consented by signing a written statement as required by the regulations, with special rules being retained only for disclosures to central registries and disclosures in connection with criminal justice referrals.

(h) Should there be any prohibition on redisclosure by the recipient of a disclosure made with written patient consent?

Affirmative responses totaled 278. Almost half of these responses were without comment or indicated satisfaction with the present regulations. Many stated that without the prohibition on redisclosure in § 2.32 of the current regulations the requirement for patient consent to a disclosure becomes meaningless. Some noted that the required notice to recipients of the prohibitions on redisclosure serves to inform the recipient of the confidential nature of the information when the recipient might not otherwise be sensitive to the need for confidentiality.

Negative responses totaled 45. Several of these were based on a belief that a prohibition on redisclosure is unenforceable. Other negative responses stated that a prohibition on redisclosure interferes with treatment, can cause unnecessary delays for patients, makes referrals cumbersome, and interferes with third party reimbursement.

Paragraph (d) § 2.12 of the proposed regulations retains the restrictions on redisclosure and use by the recipient of a disclosure made with written patient consent and §2.32 modifies the notice requirement for clarity and to reflect the prohibition in the authorizing statutes on use of alcohol and drug abuse patient records to criminally investigate or prosecute a patient.

The primary advantage of continuing the prohibition on redisclosure by recipients of a disclosure with patient consent is that it assures a greater measure of confidentiality for patient identifying information. It is particularly important to control redisclosures in view of proposed § 2.33 which drops the limitations in the current regulations on the categories of individuals and organizations to which disclosures may be made with patient consent and on the circumstances under which those disclosures may be made. Because it is frequently not easily ascertainable by a program whether a recipient of a redisclosure is in fact subject to these regulations, the proposal to require that the statement prohibiting redisclosure accompany all disclosures made with patient consent provides certainty for the programs and assures that all recipients of a disclosure with patient consent are put on notice concerning the prohibition on redisclosure.

With regard to the concern that the restriction on redisclosure is unenforceable, the Department notes that the confidentiality statutes restrict disclosure and use of the records themselves, rather than restricting disclosure and use by particular categories of persons holding the records (see §§ 2.12(d) and 2.12–1(g) of the current regulations) and that the regulations restrict redisclosure only if actual notice is given to the recipient of the record (see generally § 2.32–1(a) of the current regulations). In most cases, the actual notice of the prohibitions on redisclosure leads to voluntary compliance thus making it unnecessary to enforce the restriction through punitive measures. The proposed requirements for the content of the notice ensure uniformity and are not burdensome in that the statement is concise enough to be made a part of a disclosure form or to be stamped on the information to be released.

(i) Should the regulations be amended to permit disclosures with written consent to employers and employment agencies which are necessary to evaluate potential hazards created by a patient's employment even though that information may result in that patient being denied employment or advancement?

While § 2.38 of the current regulations permits disclosures concerning potential hazards to employers and employment agencies with patient consent, those disclosures are permitted only if a program has reason to believe that the information will be used to rehabilitate the patient and not to deny the patient employment or advancement. Many of the 231 affirmative responses urged that programs be relieved of the responsibility to making this determination about the use of the information. Some urged that disclosures be permitted to protect the safety and welfare of others, as well as the patient. Other responses stated that as a matter of right the patient should be able to take resonsibility for allowing a disclosure to the employer/employment agency without requiring the program to hold certain beliefs about how the recipient will use the information. Some responses urged that the patient be informed of the possible negative results of a disclosure to an employer/employment agency.

Negative responses total 122. Several of these comments feared that the proposed change would result in employment discrimination against the patient contrary to policies intended to prohibit discrimination against the handicapped. Some were concerned that the proposed change would result in a patient's being judged in terms of his or her treatment record rather than on the basis of his or her capacity to perform the job. Many responses urged that the program retain the right to exercise its own clinical judgement as to whether a particular disclosure should be made.

The proposed regulations simplify all of Subpart C—Disclosures with Patient's Consent, including the section dealing with employers and employment agencies, to permit disclosure to any individual or organization named in the consent (with some additional requirement for disclosures to central registries and in connection with

criminal justice referrals). The standard for permitting release of information with patient consent will be constant: a valid consent under § 2.31 and a determination that the information disclosed is necessary to carry out the purpose for which the consent was given (§ 2.31(a)). However, the regulations do not require that any disclosures be made by a program (see § 2.3(b)(1)).

An employer/employment agency may use the information which has been disclosed with patient consent to the detriment of the patient. However, this potential also exists under the present regulations because a program's belief about the intentions of an employer or employment agency may be inaccurate. Furthermore, if a program foresees such a detrimental use, there is nothing in the proposed regulations which would restrict a refusal to disclose.

(j) Should the regulations be amended to remove the prohibition on the entry of a court order authorizing the disclosure of communications by a patient to personnel of the program?

Affirmative responses totaled 72. The most frequent comment in favor of this change was that the responsibility of the court should encompass all types of patient information. Others said that the prohibition on courts authorizing the disclosure of "Communications" is unnecessary because the statutes require courts to find "good cause" for authorizing disclosure of patient information and that this good cause finding protects the patients against unreasonable disclosures. One response suggested that in addition to being unnecessary, the prohibition on disclosure of communications is unsupported by the statute. Some responses wondered how communications may be distinguished from any other information about the patient.

Negative responses totaled 214. More than half of these were submitted without comment. Many suggested that patients would be cautious about discussing information vital to therapy if a court could authorize a disclosure of a patient's communication to his or her counselor. Some suggested that communications are not reliable information anyway because they are subjective statements and are expressions of feelings or emotions of a temporary nature subject to misinterpretation. Some suggested that the amendment would not aid law enforcement but would cause programs to instruct patients not to discuss issues which could prove harmful to the patient, such as criminal activity.

The proposed regulations delete the provisions of § 2.63 which limit the scope of a court order to objective data. The Department sees no reasonable rationale for offering greater protection to communications and other subjective information obtained in the course of treatment. It is irrational and inequitable to restrict the courts in authorizing the disclosure of communications when there is no such restriction on disclosures to which a patient consents nor on those disclosures which are permitted without patient consent. Furthermore, the confidentiality statutes do not contemplate such a limitation in providing that disclosures may be made if "authorized by an appropriate order of a court of competent jurisdiction granted after application showing good cause therefor."

From a practical point of view, the greatest advantage offered by elimination of the requirement that court orders may only authorize the disclosure of objective data is that it simplifies compliance with the regulations. There is no longer a need to make a distinction between the objective and subjective data in a patient's record. Another practical result is that the likelihood of a confrontation between programs and the courts on this issue is diminished.

A disadvantage in allowing a court to authorize disclosure of all information in a patient's record is that the disclosure of communications may be especially harmful to the patient if they involve admissions of criminal acts. However, Congress authorized the courts to balance the public interest in disclosure against the patient's interest in confidentiality in making its finding of good cause to issue an order removing the prohibition on disclosure. Any potential harm arising from the disclosure is best minimized through the statutory mandate that the courts impose appropriate safeguards against unauthorized disclosure, rather than through an inflexible, general prohibition which prevents courts from assessing good cause in certain instances.

(k) Should the procedures and criteria for entry of an authorizing court order be less detailed in order to simplify compliance by affected parties including the courts, law enforcement agencies, and programs?

Affirmative responses totaled 117. Several respondents suggested that simplification of the procedures would result in improved relationships among the affected parties. Other responses urged that the court order provisions be amended to allow hospitals and programs, upon service of a subpoena, to give the sealed records to the court for a determination of whether the disclosure should be authorized, thus relieving hospitals and programs of the burdens of appearing at a hearing and presenting evidence or arguments. A few responses suggested elimination of the requirement that a fictitious name be used to apply for a court order in favor of a requirement that the record of the proceedings be sealed from public scrutiny.

Negative responses totaled 139. Many negative respondents were satisfied that both client and program are protected by the detailed procedures and criteria. Others thought that a more general standard would cause confusion in interpretation and lead to a misuse of power. Some responses indicated that this portion of the regulations needs clarification, not substantive change.

The procedures and criteria for the entry of authorizing court orders have been rewritten for clarity and limited substantive changes have been made. A paragraph providing that the proceedings be conducted in the judge's chambers or in some other manner to avoid disclosure in the court order process has been added to each of the sections. Consistent with an interpretation of the current provisions, this paragraph states that the judge may examine the patient records referred to in the application for the order. In the section on orders authorizing disclosure and use of records to criminally investigate or prosecute patients, child abuse and neglect and the sale of illicit drugs have been added to the list of examples of crimes that cause or directly threaten loss of life or serious bodily injury. Again, this is consistent with interpretations of the current regulations.

Proposed procedures for the entry of orders authorizing a program to enroll or employ undercover agents and informants to criminally investigate employees or agents of a program will expedite the entry of those orders and eliminate burdensome requirements, but more restrictive criteria for the entry and content of such orders will insure that the action is based upon good cause.

(l) Should the regulations be amended to permit the disclosure of the patient status of an individual who commits or threatens to commit a crime on program premises or against program personnel?

The 222 affirmative responses reasoned that crimes must be reported and the offender prosecuted in order to protect program personnel and other patients and insure the efficient operation of the program. Some affirmative responses stipulated that the disclosure be limited in some way, e.g., to the circumstances of the criminal act.

The 69 negative responses were justified primarily on grounds that the program could make an adequate report to the police without disclosing patient status, and that relaxing the restriction would violate the patient's right to confidentiality and diminish basic trust in the program.

Section 2.12(c)(5) of the proposed regulations specifies that the restrictions on disclosure of information are not applicable to communications to law enforcement officers which: (1) Are directly related to the commission (or a threatened commission) of a crime on program premises or against program personnel, and (2) are limited to the circumstances surrounding the criminal threat or conduct. In addition, § 2.22 requires that the notification to patients of the confidentiality protections state that information related to a patient's commission (or a threatened commission) of a crime on the premises of the program or against personnel of the program is not protected under the regulations.

This change is intended to put patients on notice that there are limits to the behavior that will be tolerated in the treatment setting and to safeguard patients and program personnel against criminal acts. This approach may deter patients from engaging in criminal conduct because they will be put on notice that reports to law enforcement officers of actual or threatened crimes on program premises or against program personnel are not restricted in any way by these regulations.

The change makes it possible for program personnel to cooperate fully with law enforcement officials. Under the current regulations program personnel face the dilemma of being able to report crimes or threats of crime on program premises or against program personnel, but being unable to provide the officials useful information once they have responded to the request for assistance. This has led to failures to report, a disregard for the confidentiality restrictions and strained relations between programs and law enforcement personnel.

(m) Should the regulations be amended to permit the disclosure to law enforcement officials of the presence at a facility of a named individual without an authorizing court order?

Affirmative responses totaled 92. Many of these respondents considered any conflict between the requirements of State and Federal law (as implemented by these regulations) to be burdensome and wanted to eliminate this conflict by permitting acknowledgement of a patient's presence to law enforcement officials if permitted under State law. Some felt that an arrest or search warrant should be sufficient to authorize disclosure of the presence of a patient, while others felt that disclosure should be authorized in any situation involving suspected criminal behavior by a patient.

Negative responses totaled 194. Many felt that the patient's right to confidentiality would be violated if court order requirements were eliminated with regard to law enforcement inquiries concerning the presence of a named individual. Some simply expressed confidence that the courts are in the best position to balance the need for disclosure against the potential harm to the patient and the program-patient relationship. Others expressed concern that disclosure of a patient's presence to law enforcement officials would lead to harassment of patients, and eventually would undermine patient trust in the program. Several respondents suggested that law enforcement authorities have (and should use) means for locating persons other than by making inquiries to drug abuse treatment programs.

The proposed regulations continue the restriction in the current regulations upon the disclosure to anyone of information which would identify a patient as an alcohol or drug abuser either directly, by reference to other publicly available information, or through verification of such an identification by another person. However, § 2.13(c) has been added to clarify those conditions under which a program may acknowledge the presence of a patient. A more complete discussion of this issue appears under the heading "Implicit disclosures," which follows. In addition the proposed regulations add the Department's interpretation that the law and regulations do not restrict a disclosure that an identified individual is not and never has been a patient.

The greatest advantage to leaving the regulations as they are with respect to this issue is that patient confidentiality is preserved and the routine use by law enforcement officials of programs to locate persons under investigation is precluded. Continuation of the current provision preserves the intent of the authorizing statutes to encourage alcohol and drug abusers to seek treatment and to rely on the courts to weigh relevant factors and determine whether "good cause" exists before making a disclosure of patient identifying information. In terms of a patient's incentive to seek or continue treatment an acknowledgement of presence to law enforcement officials can be as damaging as a disclosure of written records.

(n) Should the regulations be amended to remove the absolute prohibition on use of informants and undercover agents to investigate patients?

Affirmative responses totaled 35. These responses were justified on grounds that the prohibition confers rights on patients which are greater than those enjoyed by other citizens, and that the prohibition protects persons engaged in illegal conduct. A few affirmative responses were qualified, for example: That consent to investigate the patient by a law enforcement official first be obtained from the program director; that the prohibition be removed from alcohol programs only.

Negative responses totaled 227. These responses were justified most frequently on grounds that the programs are not intended to serve a law enforcement objective and that covert investigations are inherently destructive to a therapeutic relationship based on mutual trust. Many of the respondents argued that patient uncertainty about the use of informants and undercover agents to investigate them would have a negative impact on the effectiveness of not only programs where agents are placed but on all alcohol and drug abuse treatment programs.

The proposed regulations retain the absolute prohibition on the issuance of a court order to allow programs to enroll as a patient or employee undercover agents or informers to investigate patients.

This prohibition maintains the mutual trust essential to a therapeutic relationship by ensuring that patients are not made more vulnerable to investigation and prosecution because of their association with a treatment program than they would be if they had not sought treatment.

While the prohibition may interfere with some law enforcement investigations, it is believed that the effect will be minimal given the availability of other investigative avenues, and that this minimal interference is outweighed by the statutory purpose of encouraging alcohol and drug abusers to seek treatment by ensuring the privacy of the treatment relationship.

(o) Should the regulations continue to prohibit absolutely the disclosure and use of patient records for investigation or prosecution of nonserious crimes which are not committed on program premises or against personnel of the program?

Affirmative responses totaled 199. These responses supporting no change in the current regulations were justified on grounds that treatment objectives are

hampered by the intrusion of law enforcement personnel and that a patient's right to confidentiality outweighs societal benefits derived from use of patient records to investigate or prosecute crimes which are not serious.

Negative responses totaled 65. These responses were justified on grounds that a patient's medical status should not be a shield against pursuit of the societal interest in prosecuting any type of crime. Some of the negative responses were qualified, noting that there is no accepted criteria for distinguishing "serious" from "nonserious" crimes and that in certain situations (for example, suspected child abuse) programs should be free to cooperate with or even initiate an investigation.

Section 2.64 of the proposed regulations permits a court to authorize disclosure and use of patient records to investigate or prosecute any crime which "causes or directly threatens loss of life or serious bodily injury, such as homicide, rape, kidnaping, armed robbery, assault with a deadly weapon, child abuse and neglect, or the sale of illicit drugs." This proposal clarifies which crimes are covered, but the standard of confidentiality in the current regulations would be retained. This retention is based on the Department's determination that the public interest in the investigation and prosecution of crimes which do not cause or threaten loss of life or serious bodily injury or which are not committed, or threatened to be committed on program premises or against program personnel, does not outweigh the need to encourage treatment by ensuring confidentiality, given the availability of other avenues of investigation and other sources of evidence.

Other Substantive Amendments

Strict Construction of Regulations

Section 2.3(b)(3) of the proposed regulations states that the regulations are to be construed strictly in favor of the potential violator in the same manner as a criminal statute. The provision gives notice of the conclusion reached in a December 14, 1977 Opinion from the Office of Legal Counsel, United States Department of Justice, 1 Opinions Of The Office Of Legal Counsel 280 (GPO #270-000-00801-1, 1980), on the basis of the decision of the United States Supreme Court in *M. Krause & Bros.* v. *United States*, 327 U.S. 614, 621-622, 66 S.Ct. 705-06 (1946).

Definitions

The proposed regulations eliminate several of the current definitions because they are considered unnecessary and in some cases confusing, and clarify all the remaining definitions.

The definition of "funding source" has been shortened, clarified and incorporated into the definition of "third party payer." The definition of "service organization" has been incorporated into the definition of "qualified service organization."

The paragraph in the current regulations on "communications not constituting disclosure," which is not a definition, has been moved to the applicability section.

A definition of "disclose" or "disclosure" has been added to clarify what kinds of communications are restricted by the regulations.

As discussed above in connection with issue (c), the term "program" has been redefined to limit the extent to which the regulations apply to general medical care facilities. Applicability is limited to alcohol or drug abuse diagnosis, treatment or referral performed in units of the facility identified for that purpose or performed by staff identified as having the primary function of providing those services.

Applicability

In addition to limiting applicability to specialized alcohol and drug abuse programs (as defined in proposed § 2.11), and exempting from the regulatory restrictions limited communications from the program personnel to law enforcement officers regarding crimes on program premises or against program personnel (see § 2.12(c)(5)), the following provisions of proposed § 2.12, Applicability, are intended to reflect current provisions and interpretations of the statutes and regulations:

(1) The restrictions on use of patient information to initiate or substantiate any criminal charges against a patient or to conduct any criminal investigation of a patient in paragraphs (a)(2) and (d)(1) give notice of the prohibitions on use of patient information appearing in 42 U.S.C. 290ee-3(c) and 42 U.S.C. 290dd-3(c). In addition, the provisions of paragraph (d) make clear that the restriction on use applies to information obtained by undercover agents or informants and that it bars, among other things, the introduction of any patient information as evidence in a criminal proceeding. See *State* v. *Bethea*, 241 S.E. 2d 869 (N.C. Ct. App. 1978); *Armenta* v. *Superior Court of Santa Barbara County*, 61 Cal. App. 3d 584, 132 Cal. Rpt. 586 (1976).

(2) The exceptions to the applicability of the regulations in proposed paragraph (c), including: communications within a program needed to provide alcohol or drug abuse diagnosis, treatment or referral; communications between a program and a qualified service organization (appearing in § 2.11(p) of the current regulations); and the Veterans Administration and Armed Forces exceptions which appear in the current § 2.12(b).

(3) Paragraph (d) stating the applicability of the regulations to recipients of disclosures.

(4) The explanation of the scope of coverage of the regulations in paragraph (e). This explanation is based upon opinions of the Department's Office of the General Counsel interpreting the provisions of the current regulations. The opinions issued during the years 1975-1978 have been published in a booklet (DHHS Pub. No. (ADM) 81-1013, printed 1980) which may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Copies of opinions issued in later years may be obtained from the National Institute on Drug Abuse or the National Institute on Alcohol Abuse and Alcoholism (see addresses in the proposed § 2.5).

Implicit disclosures

The prohibition in § 2.13(e) of the current regulations against implicit and negative disclosures has been very difficult to interpret and apply. Some of those subject to the regulations have mistakenly concluded that a hospital having both alcohol and drug abuse patient records and other types of medical records would have to handle all the records in compliance with the alcohol and drug abuse confidentiality regulations, since responding to requests for alcohol and drug abuse patient records in a different manner would implicitly disclose the alcohol or drug abuse problem of the patient. The proposed change in § 2.13(c)(2) attempts to resolve this situation by permitting, but not requiring, programs to inform inquiring parties of the restrictions of the confidentiality regulations if in doing so they do not affirmatively reveal that the regulations apply to the records of an identified patient. To some extent this permits an implicit disclosure that an individual is an alcohol or drug abuse patient. However, the Department believes that this resolution is a reasonable compromise given the limited harm which could be caused by such an implicit disclosure (it certainly could not be cited as reliable evidence since it would be based upon a supposition) and the basic unfairness and potential disruptive effect of failing to cooperate with an inquiring party. In

the absence of knowledge of the regulations the inquiring party could not seek a court order under Subpart E authorizing the program to make a disclosure and if the inquiring party is a law enforcement official a failure to cite the regulations might result in a disruptive search of the premises.

Disclosures of the Records of Deceased Patients for Cause of Death Inquiries

Section 2.16(b)(1) of the current regulations permitting disclosures of the records of deceased patients without consent has been expanded in proposed § 2.15(b) to include "the disclosure of patient identifying information relating to the cause of death of a patient under laws . . . permitting inquiry into the cause of death." This change responds to a number of complaints from coroners that the requirement for written consent by a personal representative or next of kin in the current regulations unreasonably interferes with their obligation under State and local laws to make inquiries into the cause of death of patients. In many cases no personal representative has been appointed and a family member cannot be located; thus, the cause of death inquiry cannot proceed unless the coroner is able to obtain a court order under Subpart E of the regulations authorizing the program to disclose the deceased patient's records. The Department believes these difficulties in pursuing an important obligation under State and local laws justify a change in the current regulations, particularly since there is a lesser necessity for protecting the confidentiality of alcohol or drug abuse records relating to a deceased patient.

Undercover Agents and Informants—Restriction applies only to programs

Section 2.19(b) (2) and (3) of the current regulations seeks to impose penalties upon law enforcement officials who take action directed toward the placement of undercover agents or informants in programs. These provisions have been removed from the proposed regulations because they represent an unnecessary expansion of the statutory restriction on the use of patient records to criminally investigative or prosecute patients. The clearly stated restriction in the proposed regulations on the use of any information obtained by an undercover agent or informant should be sufficient to deter law enforcement officials who seek to place undercover agents or informants in programs. Furthermore, this change is consistent with the strict construction standard applicable to a statute imposing a criminal penalty (see proposed § 2.3(b)(3)).

Disclosures With Written Consent, Subpart C

This subpart has been revised substantially to: (1) Eliminate most of the sections setting forth special rules for disclosure with written consent in certain circumstances and (2) set forth a sample consent form containing each of the elements required under § 2.31. With the exception of the sections pertaining to disclosure with written consent to central registries and in connection with criminal justice referrals, the Department believes that the current provisions of Subpart C impose compliance burdens which are disproportionate to the confidentiality protection afforded. Sufficient protection is provided through the specificity of the consent form (see § 2.31) and the requirement that all disclosures under the regulations be limited to that information which is necessary to carry out the purpose of the disclosure (see § 2.13(a)). This approach is consistent with the recommendations of the Privacy Protection Study Commission regarding the confidentiality of records in medical care relationships. (See recommendation 11 and recommendation 13 of the Report of the Commission at 313, 315.)

Special rules for disclosures to prevent multiple enrollments in detoxification and maintenance treatment programs (proposed § 2.34) and for disclosures to elements of the criminal justice system which have referred patients (proposed § 2.35) have been retained because these types of disclosure necessitate some adjustment of the basic written consent procedures in order to insure maximum protection for patients. Under § 2.34 the timing, content and use of the patient information is strictly limited in accordance with the purpose of the disclosure. Under § 2.35 a disclosure in connection with a criminal justice referral can be made only to those having a need for the information in connection with their duty to monitor the patient's progress. On the other hand, the rules in § 2.35 regarding duration of consent and revocation of consent are more lenient than those which generally apply in order to facilitate the exchange of information and the monitoring of a patient's progress. These changes will encourage referrals for treatment from the criminal justice system by simplifying the confidentiality restrictions without lessening the protections afforded.

Disclosures Without Consent, Subpart D

Section 2.51 Medical emergencies. Paragraph (a) would be amended to provide specifically that a bona fide medical emergency exists if any individual is suffering from a condition which poses an immediate threat to his or her health and which requires immediate medical intervention.

Paragraph (c) "Incapacitated persons," would be deleted because it does not add anything to the basic provision permitting disclosures to medical personnel to the extent necessary to meet a bona fide medical emergency. While the incapacity of the patient may be a factor in determining whether such an emergency exists, incapacity does not per se constitute an emergency.

Paragraph (d) "Notification of family or others," would be deleted based upon the Department's conclusion that by permitting notification of family or others without patient consent, it exceeds the statutory authority for disclosures to "medical personnel to the extent necessary to meet a bona fide medical emergency."

Because the statute permits a disclosure only to medical personnel, a requirement that the program make a reasonable effort to verify the medical personnel status of any proposed recipient would be added and the current requirement for documentation of oral disclosures would be expanded to include the health care facility affiliation of the medical personnel and the details of the attempt to verify their status.

The special rule permitting disclosures to medical personnel of the Food and Drug Administration for the purpose of notifying patients or their physicians of potential dangers arising from the manufacture, labeling or sale of a product under FDA jurisdiction has been retained becaue this situation constitutes a bona fide medical emergency which might not be recognized as such in the absence of explicit notice in these regulations.

Section 2.52 Research Activities. This section of the proposed regulations combines, shortens, and to some extent changes the provisions governing disclosures for research purposes in § 2.52 and § 2.53 of the current regulations.

The current § 2.52 attempts to define "qualified personnel," but ultimately leaves it to the program to determine whether those personnel have "training and experience . . . appropriate to the nature and level of work in which they are engaged." In addition the current § 2.53(a) creates some confusion by stating that where research is performed by a State or Federal governmental agency the minimum qualifications of

personnel performing that function may be determined by the agency. To resolve these problems the determination of whether an individual is qualified to conduct the research would be left to the program director. The Department believes that program directors are qualified to make this determination and that the requirement for such a determination reflects reality in that qualifications for conducting research cannot be defined with sufficient specificity to avoid the exercise of some discretion on the part of the program.

Paragraph (b)(3), of the current § 2.52 providing for a redisclosure to avoid a substantial risk to the health and well-being of any patient, would be deleted. The basis for this provision is uncertain in light of the clear statutory prohibition on any redisclosure of patient identifying information. Furthermore, if some contacting of patients is necessary in order to avoid such a substantial threat, it appears that this could be carried out through the program, or would be permissible because it would not involve the communication of patient identifying information (see the definition of "disclosure" in proposed § 2.11).

§ 2.53 Audit and evaluation activities. This proposed section is patterned primarily after the current § 2.54. The current § 2.53 and § 2.55 would be eliminated. The Department believes that these sections are unnecessary and confusing because they repeat matters which are addressed in other statutes and regulations, impose restrictions upon those conducting the audit or evaluation activities beyond what is necessary to insure protection of the alcohol or drug abuse patient records and provide special treatment for one class of audit and evaluation activities with no compelling justification.

Proposed § 2.53 is intended to provide protections for alcohol and drug abuse patient records which can be readily complied with in all audit and evaluation situations. While the proposed section simplifies the current regulatory provisions, it provides greater protection for alcohol and drug abuse patient records. Under the current § 2.54 any individual may copy or remove patient records in the course of audit or evaluation activities if he complies with the regulatory requirements. Under the proposed § 2.53, records containing patient identifying information may be copied or removed from program premises only by those individuals "paid to perform the audit or evaluation activity by a Federal, State, or local governmental agency which provides financial assistance to the program or is authorized by law to regulate its activities." If copying or removal of patient identifying information is not involved, the proposed § 2.53 permits a disclosure of patient identifying information to any person who is determined by the program director to be qualified to conduct the audit or evaluation activities as well as to auditors paid by governmental agencies which assist or regulate the program. Whether or not records are copied or removed, the auditor or evaluator must agree in writing to comply with the limitations on disclosure and use in paragraph (c) of the proposed § 2.53. If patient identifying information is copied or removed, the auditor or evaluator must also agree in writing to maintain the patient identifying information in accordance with the security requirements under the proposed § 2.16 and to destroy all patient identifying information upon completion of the audit or evaluation.

This proposal simplifies and lessens the burden of the retention period provisions in the current § 2.54, but does not lessen the confidentiality protections since the security requirements and the restrictions on disclosure and use apply while the copies of the records are held by the auditor or evaluator.

Substantive Amendments Suggested in Comments but Not Proposed

The public comments suggested several substantive amendments beyond those addressed in the Notice of Decision to Develop Regulations. These suggested amendments are not proposed for the following reasons.

Changes not permitted by the authorizing statutes

Several comments suggested amendments which would not be authorized under the statutes protecting the confidentiality of alcohol abuse patient records (42 U.S.C. 299dd–3) and drug abuse patient records (42 U.S.C. 290ee–3). Examples of these suggested amendments include: (1) A request that the regulations allow disclosures without consent among various institutions involved in the referral of patients (the statutes permit disclosures without written consent only to meet bona fide medical emergencies, for the purpose of conducting scientific research, management audits, financial audits or program evaluation, or if authorized by an appropriate order of a court of competent jurisdiction); (2) suggestions that the regulations impose a penalty upon anyone seeking to obtain patient records by fraudulent means (all the restrictions in the statutes apply to persons responsible for maintaining the records, not those seeking them and, as noted above, the statutes must be strictly construed); (3) a suggestion that the regulations be applied to other medical records (the authorizing statutes are clearly limited to alcohol and drug abuse patient records).

Amendments based upon misinterpretation of the current regulations

It was requested that the provisions governing qualified service organization agreements, § 2.11 (m), (n) and (p)(2) of the current regulations, be amended to permit the disclosure of information identifying the patient. Patient identifying information can, under the current regulations, be disclosed under a qualified service organization agreement. It was also urged that general hospitals be permitted to reveal that an individual is a patient in the hospital unless doing so would identify the individual as an alcohol or drug abuser. Section § 2.13(f) of the current regulations permits such a disclosure. Another comment suggested that the provisions of the current regulations governing disclosures without consent for the purpose of conducting research, audit or evaluation be amended to permit the research, audit and evaluation reports to be released in summary form without patient identifying information. The current § 2.52 permits such a disclosure.

Disclosures to protect health or safety

Several comments sought amendments which would permit disclosures without consent in situations where the patient's condition might endanger the health or safety of others, e.g., an intoxicated bus driver. The Department also notes that the recommendations of the Privacy Protection Study Commission regarding confidentiality of all medical records would permit disclosures without consent "to a properly identified recipient pursuant to a showing of compelling circumstances affecting the health and safety of an individual." (Report at 306).

However, the statutes authorizing these regulations strictly limit disclosures without consent and would permit such a disclosure in a situation where health or safety is threatened only if: (1) Authorized by an appropriate order of a court of competent jurisdiction based upon a finding of good cause, or (2) the disclosure is made to medical personnel to the extent necessary to meet a bona fide medical emergency. Thus, the Department may

not permit by regulation disclosures of patient records beyond these limited disclosures permitted by the statutes. Nevertheless, by defining disclosures to include only communications which would identify a patient as an alcohol or drug abuser, the regulations permit providers of alcohol or drug abuse treatment to warn of potential threats to health or safety if this is done in a way that does not identify an individual as an alcohol or drug abuse patient.

Child Abuse and Neglect Reporting

A number of comments requested changes in the regulations to permit alcohol and drug abuse treatment personnel to comply with State child abuse and neglect reporting laws. Many of these comments misconstrue the extent to which the current regulations restrict this reporting and do not take cognizance of the Department's interpretation of the current regulations to allow child abuse and neglect reporting to the greatest extent possible.

The authorizing statutes do not categorically except disclosures in connection with the reporting of child abuse and neglect from the restrictions on the disclosure and use of alcohol and drug abuse patient records. Thus, the Department cannot by regulation abrogate the statutory restrictions where a disclosure is made in connection with the reporting of child abuse or neglect. However, it is the policy of the Department to encourage providers of alcohol and drug abuse services to report instances of child abuse and neglect where this can be done in conformity with the statutory confidentiality protections.

Accordingly, under the proposed regulations, child abuse and neglect may be reported as follows:

(1) A report may be made pursuant to a court order authorizing disclosure for noncriminal purposes (see proposed § 2.63) or authorizing disclosure and use for the criminal investigation or prosecution of patients (see proposed § 2.64). The proposed regulations at § 2.64(d)(1) list specifically child abuse and neglect as a crime for which a court order may be issued under § 2.64. (See the preamble discussion of issue (o)).

The proposed regulations further expand the potential for reporting child abuse and neglect prusuant to a court order by removing the limitation which now exists in § 2.63 on the scope of a court order. Under the existing regulations, a court order is restricted to objective data and may not extend to communications by a patient to personnel of a program, such as a statement by the patient that the patient is abusing or neglecting a child. The proposed regulations delete the provisions of § 2.63 which limit the scope of a court order to objective data. (See the preceding discussion of issue (j)).

(2) A report may be made if it does not identify a patient as an alcohol or drug abuser. Neither the current regulations (see § 2.11(p)(3)) nor the proposed regulations (see proposed § 2.12(a)(1)(i)) restrict communications which do not identify a patient as an alcohol or drug abuser either directly, by reference to other publicly available information or through verification of such an identification made by another person.

(3) A report may be made if the patient consents in writing in accordance with § 2.31. The proposed regulations eliminate those sections governing disclosures with written consent in specific circumstances, other than disclosures to central registries and in connection with criminal justice referrals, in favor of a section which permits any disclosure to which the patient has consented by signing the required written statement (see proposed § 2.33, the preamble discussion titled "Disclosures With Written Consent, Subpart C" and the preceding discussions of issues (f), (g), and (i)). As a consequence, the proposal eliminates the requirement that a program must determine that "disclosure will not be harmful to the patient" before disclosing information with the patient's consent under § 2.40 of the current regulations. Thus, if a patient consents to the reporting of child abuse or neglect under §§ 2.31 and 2.33, the proposed regulations would permit that reporting without a finding that the disclosed may not be used for purposes of a criminal investigation or prosecution of the patient unless an authorizing court order is obtained under proposed § 2.64 because under subsection (c) of the authorizing statutes and §§ 2.12 (a)(2) and (d)(1) of the proposed regulations a court order is required in order to use a patient record for those purposes.

(4) A report may be made pursuant to a qualified service organization agreement (see § 2.11(n)) of the current regulations and § 2.11 of the proposed regulations). The Department encourages under the current regulations and would continue to encourage under the proposed regulations, providers of alcohol and drug abuse services which are subject to the regulations to enter into "qualified service organization agreements" with child protective agencies, so the providers may comly with both the confidentiality regulations and the child abuse reporting laws. (For a discussion of this issue under the current regulations, see Alcohol Health and Research World, Fall 1979, p. 31 *et. seq.*). Such an agreement permits the provider of alcohol and drug abuse services to disclose patient information to the child abuse protective agency, even though the patient has not consented (see § 2.11(p)(2) of the current regulations and § 2.12(c)(4) of the proposed regulations).

Under a "qualified service organization agreement" the child abuse protective agency must handle the information obtained from the alcohol or drug abuse provider in compliance with the confidentiality regulations. Thus, the agency may disclose information which would identify the patient as an alcohol or drug abuser only with the patient's consent in accordance with Subpart C of the regulations, without patient consent in the limited circumstances described in Subpart D, or under an authorizing court order entered in accordance with Subpart E.

If a child abuse protective agency wants to use the information obtained under the qualified service organization agreement for the purpose of investigating or prosecuting any criminal child abuse or neglect charges against the alcohol or drug abuse patient it must obtain an authorizing court order under § 2.65 of the current regulations or § 2.64 of the proposed regulations. In order to clarify that child abuse or neglect may be found to be a crime directly threatening loss of life or serious bodily injury for which an authorizing order may be issued, child abuse and neglect is listed as an example of such a crime under § 2.64(d)(1) of the proposed regulations.

To clarify and facilitate use of the Department's policy recommending that providers of alcohol and drug abuse services enter into qualified service organization agreements with child protection agencies, the proposed § 2.11 defines a "qualified service organization" so that it includes provision of services "to prevent or treat child abuse or neglect, including training on nutrition and child care, and individual and group therapy."

(5) A report may be made to medical personnel if it is done for the purpose of treating the child for a medical emergency (see proposed § 2.51). The proposed regulations limit a medical emergency to those conditions which pose an immediate threat to health and which require immediate medical intervention. They also clarify that a medical emergency may be that of any individual, not solely that of the patient.

Proposed § 2.13 limits any disclosure to that information which is necessary to carry out the purpose of the disclosure—in this case to treat a condition which immediately threatens the health of a child. Thus, proposed § 2.51 would permit alcohol and drug abuse treatment personnel to report to medical personnel patient identifying information if the medical personnel have a need for the information to treat an abused or neglected child in a bona fide medical emergency; that is, to treat a child with a condition which immediately threatens the child's health and which requires immediate medical intervention. If the threat to the child's health is not immediate and does not require immediate medical intervention, other permitted disclosures may serve to protect the child's health, such as a court ordered disclosure, a report which does not disclose that a patient is an alcohol or drug abuser, or a disclosure with patient consent.

Economic Impact of Regulatory Requirements

Not a Major Rule Under E.O. 12291

The Department has determined that this rule is not a "major rule" under Executive Order 12291. Overall costs to general medical care facilities will be reduced as a result of the decision to apply the regulations only to specialized alcohol and drug abuse treatment programs. Furthermore, cost to specialized programs will be reduced somewhat by the simplified rules, although not significantly since the proposal would continue to require strict confidentiality standards.

Thus a regulatory analysis is not required because the proposed regulation will not:

(1) Have an annual effect on the economy of $100 million or more;

(2) Impose a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or

(3) Result in significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

No Significant Impact on a Substantial Number of Small Entities

Subsequent to the January 1980 Notice of Decision to Develop Regulations the Department indicated in its Semi-Annual Agenda of Regulations that under the Regulatory Flexibility Act, Pub. L. 96-354, a regulatory flexibility analysis would be prepared in connection with this proposed amendment of the confidentiality regulations. That determination was based on the probability that the regulations would continue to apply to all entities performing alcohol or drug abuse prevention functions which are federally assisted, regulated, or conducted. However, this Notice of Proposed Rulemaking reflects a decision to limit applicability to providers of alcohol or drug abuse diagnosis, treatment or referral who hold themselves out as such. Based on that decision, it has been determined that the proposed regulations will not have a significant economic impact on a substantial number of small entities. By reason of the proposed change in applicability: (1) The regulations will no longer apply to general medical care providers which render alcohol or drug abuse services incident to their general medical care functions, thus the number of small entities affected will be less than substantial; and (2) the economic impact will be less than significant because that impact arises primarily from the costs of determining that the records of a general medical care patient are subject to the regulations and thereafter treating those records differently than all other general medical care records. It is anticipated that providers to whom these rules are applicable will realize a small savings through an overall reduction in the complexity of the rules.

Information Collection Requirements

Sections 2.22, 2.31(a) and 2.51(c)(2) of this proposed rule contain information collection requirements. As required by section 3504(h) of the Paperwork Reduction Act of 1980, we have submitted a copy of this proposed rule to the Office of Management and Budget (OMB) for its review of these information collection requirements. Other organizations and individuals desiring to submit comments on the information collection requirements should direct them to the agency official designated for this purpose whose name appears in this preamble, and to the Office of Information and Regulatory Affairs, OMB, New Executive Office Building (Room 3208), Washington, D.C. 20503, ATTN: Desk Officer for HHS.

List of Subjects in 42 CFR Part 2

Alcohol abuse, Alcoholism, Confidentiality, Drug abuse, Health records, Privacy.

Dated: November 5, 1982.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

Approved: July 6, 1983.

Margaret M. Heckler,

Secretary.

It is proposed to revise 42 CFR Part 2 as follows:

PART 2—CONFIDENTIALITY OF ALCOHOL AND DRUG ABUSE PATIENT RECORDS

Subpart A—Introduction

Sec.

2.1 Statutory authority for confidentiality of drug abuse patient records.
2.2 Statutory authority for confidentiality of alcohol abuse patient records.
2.3 Purpose and effect.
2.4 Criminal penalty for violation.
2.5 Reports of violations.

Subpart B—General Provisions

2.11 Definitions.
2.12 Applicability.
2.13 Confidentiality restrictions.
2.14 Minor patients.
2.15 Incompetent and deceased patients.
2.16 Security for written records.
2.17 Undercover agents and informants.
2.18 Restrictions on the use of identification cards.
2.19 Disposition of records by discontinued programs.
2.20 Relationship to State laws.
2.21 Relationship to Federal statutes protecting research subjects against compulsory disclosure of their identity.
2.22 Notice to patients of Federal confidentiality requirements.
2.23 Patient access and restriction on use.

Subpart C—Disclosures With Patient's Consent

Sec.
2.31 Form of written consent.
2.32 Prohibition on redisclosure.
2.33 Disclosures permitted with written consent.
2.34 Disclosures to prevent multiple enrollments in detoxification and maintenance treatment programs.
2.35 Disclosures to elements of the criminal justice system which have referred patients.

Subpart D—Disclosures Without Patient Consent

2.51 Medical emergencies.
2.52 Research activities.
2.53 Audit and evaluation activities.

Subpart E—Court Orders Authorizing Disclosures and Use

2.61 Legal effect of order.
2.62 Order not applicable to records disclosed without consent to researchers, auditors and evaluators.
2.63 Procedures and criteria for orders authorizing disclosures for noncriminal purposes.
2.64 Procedures and criteria for orders authorizing disclosure and use of records to criminally investigate or prosecute patients.
2.65 Procedures and criteria for orders authorizing disclosure and use of records to investigate or prosecute a program or the person holding the records.
2.66 Orders authorizing the use of undercover agents and informants to criminally investigate employees or agents of a program.

Authority: Sec. 408 of Pub. L. 92–255, 86 Stat. 79, as amended by sec. 303(a), (b) of Pub. L. 93–282, 88 Stat. 137, 138; sec. 4(c)(5)(A) of Pub. L. 94–237, 90 Stat. 244; sec. 111(c)(3) of Pub. L. 94–581, 90 Stat. 2852; sec. 509 of Pub. L. 96–88, 93 Stat. 695; sec. 973(d) of Pub. L. 97–35, 95 Stat. 598; and transferred to sec. 527 of the Public Health Service Act by sec. 2(b)(16)(B) of Pub. L. 98–24, 97 Stat. 182 (42 U.S.C. 290ee–3) and sec. 333 of Pub. L. 91–616, 84 Stat. 1853, as amended by sec. 122(a) of Pub. L. 93–282, 88 Stat. 131; and sec. 111(c)(4) of Pub. L. 94–581, 90 Stat. 2852 and transferred to sec. 523 of the Public Health Service Act by sec. 2(b)(13) of Pub. L. 98–24, 97 Stat. 181 (42 U.S.C. 290dd–3).

Subpart A—Introduction

§ 2.1 Statutory authority for confidentiality of drug abuse patient records.

The restrictions of these regulations upon the disclosure and use of drug abuse patient records were authorized by section 408 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act (21 U.S.C. 1175). That section was recently transferred by Pub. L. 98–24 to section 527 of the Public Health Service Act. As a result of the transfer, in the future the provision will be codified at 42 U.S.C. 290ee–3. For the present it remains at 21 U.S.C. 1175 which is set forth below:

§ 1175. Confidentiality of patient records

(a) Disclosure authorization.

Records of the identity, diagnosis, prognosis, or treatment of any patient which are maintained in connection with the performance of any drug abuse prevention function conducted, regulated, or directly or indirectly assisted by any department or agency of the United States shall, except as provided in subsection (e) of this section, be confidential and be disclosed only for the purposes and under the circumstances expressly authorized under subsection (b) of this section.

(b) Purposes and circumstances of disclosure affecting consenting patient and patient regardless of consent

(1) The content of any record referred to in subsection (a) of this section may be disclosed in accordance with the prior written consent of the patient with respect to whom such record is maintained, but only to such extent, under such circumstances, and for such purposes as may be allowed under regulations prescribed pursuant to subsection (g) of this section.

(2) Whether or not the patient, with respect to whom any given record referred to in subsection (a) of this section is maintained, gives his written consent, the content of such record may be disclosed as follows:

(A) To medical personnel to the extent necessary to meet a bonafide medical emergency.

(B) To qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluation, but such personnel may not identify, directly or indirectly, any individual patient in any report of such research, audit, or evaluation, or otherwise disclose patient identities in any manner.

(C) If authorized by an appropriate order of a court of competent jurisdiction granted after application showing good cause therefor. In assessing good cause the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services. Upon the granting of such order, the court, in determining the extent to which any disclosure of all or part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure.

(c) Prohibition against use of record in making criminal charges or investigation of patient

Except as authorized by a court order granted under subsection (b)(2)(C) of this section, no record referred to in subsection (a) of this section may be used to initiate or substantiate any criminal charges against a patient or to conduct any investigation of a patient.

(d) Continuing prohibition against disclosure irrespective of status as patient

The prohibitions of this section continue to apply to records concerning any individual who has been a patient, irrespective of whether or when he ceases to be a patient.

(e) Armed Forces and Veterans' Administration; interchange of records

The prohibitions of this section do not apply to any interchange of records—

(1) within the Armed Forces or within those components of the Veterans' Administration furnishing health care to veterans, or

(2) between such components and the Armed Forces.

(f) Penalty for first and subsequent offenses

Any person who violates any provision of this section or any regulation issued pursuant to this section shall be fined not more than $500 in the case of a first offense, and not more than $5,000 in the case of each subsequent offense.

(g) Regulations; interagency consultations; definitions, safeguards, and procedures, including procedures and criteria for issuance and scope of orders

Except as provided in subsection (h) of this section, the Secretary of Health, Education, and Welfare, after consultation with the Administrator of Veterans' Affairs and the heads of other Federal departments and agencies substantially affected thereby, shall prescribe regulations to carry out the purposes of this section. These regulations may contain such definitions, and may provide for such safeguards and procedures, including procedures and criteria for the issuance and scope of orders under subsection (b)(2)(C) of this section, as in the judgment of the Secretary are necessary or proper to effectuate the purposes of this section, to prevent circumvention or evasion thereof, or to facilitate compliance therewith.

(Subsection (h) was superseded by section 111(c)(3) of Pub. L. 94–581. The responsibility of the Administrator of Veterans' Affairs to write regulations to provide for confidentiality of drug abuse patient records under Title 38 was moved from 21 U.S.C. 1175 to 38 U.S.C. 4134.)

§ 2.2 Statutory authority for confidentiality of alcohol abuse patient records.

The restrictions of these regulations upon the disclosure and use of alcohol abuse patient records were authorized by 333 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (42 U.S.C. 4582). That section was recently transferred by Pub. L. 98–24 to section 523 of the Public Health Service Act. As a result of the transfer, in the future the provision will be codified at 42 U.S.C. 290dd–3. For the present it remains at 42 U.S.C. 4582 which is set forth below:

§ 4582. Confidentiality of patient records

(a) Disclosure authorization

Records of the identity, diagnosis, prognosis, or treatment of any patient which are maintained in connection with the performance of any program or activity relating to alcoholism or alcohol abuse education, training, treatment, rehabilitation, or research, which is conducted, regulated, or directly or indirectly assisted by any department or agency of the United States shall, except as provided in subsection (e) of this section, be confidential and be disclosed only for the purposes and under the circumstances expressly authorized under subsection (b) of this section.

(b) Purposes and circumstances of disclosure affecting consenting patient and patient regardless of consent

(1) The content of any record referred to in subsection (a) of this section may be disclosed in accordance with the prior written consent of the patient with respect to whom such record is maintained, but only to such extent, under such circumstances, and for such purposes as may be allowed under regulations prescribed pursuant to subsection (g) of this section.

(2) Whether or not the patient, with respect to whom any given record referred to in subsection (a) of this section is maintained, gives his written consent, the content of such record may be disclosed as follows:

(A) To medical personnel to the extent necessary to meet a bona fide medical emergency.

(B) To qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluation, but such personnel may not identify, directly or indirectly, any individual patient in any report of such research, audit, or evaluation, or otherwise disclose patient identities in any manner.

(C) If authorized by an appropriate order of a court of competent jurisdiction granted after application showing good cause therefor. In assessing good cause the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services. Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure.

(c) Prohibition against use of record in making criminal charges or investigation of patient

Except as authorized by a court order granted under subsection (b)(2)(C) of this section, no record referred to in subsection (a) of this section may be used to initiate or substantiate any criminal charges against a patient or to conduct any investigation of a patient.

(d) Continuing prohibition against disclosure irrespective of status as patient

The prohibitions of this section continue to apply to records concerning any individual who has been a patient, irrespective of whether or when he ceases to be a patient.

(e) Armed Forces and Veterans' Administration; interchange of records

The prohibitions of this section do not apply to any interchange of records—

(1) within the Armed Forces or within those components of the Veterans' Administration furnishing health care to veterans, or

(2) between such components and the Armed Forces.

(f) Penalty for first and subsequent offenses

Any person who violates any provision of this section or any regulation issued pursuant to this section shall be fined not more than $500 in the case of a first offense, and not more than $5,000 in the case of each subsequent offense.

(g) Regulations of Secretary; definitions, safeguards, and procedures, including procedures and criteria for issuance and scope of orders

Except as provided in subsection (h) of this section, the Secretary shall prescribe regulations to carry out the purposes of this section. These regulations may contain such definitions, and may provide for such safeguards and procedures, including procedures and criteria for the issuance and scope of orders under subsection (b)(2)(C) of this section, as in the judgment of the Secretary are necessary or proper to effectuate the purposes of this section, to prevent circumvention or evasion thereof, or to facilitate compliance therewith.

(Subsection (h) was superseded by section 111(c)(4) of Pub. L. 94–581. The responsibility of the Administrator of Veterans' Affairs to write regulations to provide for confidentiality of alcohol abuse patient records under Title 38 was moved from 42 U.S.C. 4582 to 38 U.S.C. 4134.)

§ 2.3 Purpose and effect.

(a) *Purpose.* Under the statutory provisions quoted in §§ 2.1 and 2.2, these regulations impose restrictions upon the disclosure and use of alcohol and drug abuse patient records which are maintained in connection with the performance of any federally assisted alcohol or drug abuse program. The regulations specify:

(1) Definitions, applicability, and general restrictions in Subpart B;

(2) Disclosures which may be made with written patient consent and the form of the written consent in Subpart C;

(3) Disclosures which may be made without written patient consent or an authorizing court order in Subpart D; and

(4) Disclosures and uses of patient records which may be made with an authorizing court order and the procedures and criteria for the entry and scope of those orders in Subpart E.

(b) *Effect.* (1) These regulations prohibit the disclosure and use of patient records unless certain circumstance exist. If any circumstances exists under which disclosure is permitted, that circumstance acts to remove the prohibition on disclosure but it does not compel disclosure. Thus, the regulations do not require disclosure under any circumstance.

(2) These regulations are not intended to direct the manner in which substantive functions such as research, treatment, and evaluation are carried out. They are intended to insure that an alcohol or drug abuse patient in a federally assisted alcohol or drug abuse program is not made more vulnerable by reason of the availability of his or her patient record than an individual who has an alcohol or drug problem and who does not seek treatment.

(3) Because there is a criminal penalty a fine—see (42 U.S.C. 290ee–3(f), 42 U.S.C. 290dd–3(f) and 42 CFR § 2.4) for violating the regulations, they are to be construed strictly in favor of the potential violator in the same manner as a criminal statute (see *M. Kraus & Brothers* v. *United States*, 327 U.S. 614, 621–22, 66 S. Ct. 705, 707–08 (1946)).

§ 2.4 Criminal penalty for violation.

Under 42 U.S.C. 290ee–3(f) and 42 U.S.C. 290dd–3(f), any person who violates any provision of those statutes or these regulations shall be fined not more than $500 in the case of a first offense, and not more than $5,000 in the case of each subsequent offense.

§ 2.5 Reports of violations.

(a) The report of any violation of these regulations may be directed to the United States Attorney for the judicial district in which the violation occurs.

(b) The report of any violation of these regulations involving a drug abuse patient record may be directed to:

Director, National Institute on Drug Abuse, 5600 Fishers Lane, Rockville, Maryland 20857

(c) The report of any violation of these regulations involving an alcohol abuse patient record may be directed to:

Director, National Institute on Alcohol Abuse and Alcoholism, 5600 Fishers Lane, Rockville, Maryland 20857

(d) The report of any violation of these regulations by a methadone program may be directed to the Regional Offices of the Food and Drug Administration.

(e) The report of any violation of these regulations by a Federal agency or a Federal grantee or contractor may be directed to the Federal agency responsible for the program or for monitoring the grant or contract.

Subpart B—General Provisions

§ 2.11 Definitions.

For purposes of these regulations:

Alcohol abuse means the use of an alcoholic beverage which impairs the physical, mental, emotional, or social well-being of the user.

Drug abuse means the use of a psychoactive substance for other than medicinal purposes which impairs the

physical, mental, emotional, or social well-being of the user.

Central registry means an organization which obtains from two or more member programs patient identifying information about individuals applying for maintenance treatment or detoxification treatment for the purpose of avoiding an individual's concurrent enrollment in more than one program.

Detoxification treatment means the dispensing of a narcotic drug in decreasing doses to an individual in order to reduce or eliminate adverse physiological or psychological effects incident to withdrawal from the sustained use of a narcotic drug.

Diagnosis means any reference to an individual's alcohol or drug abuse or to a condition which is identified as having been caused by that abuse which is made for the purpose of treatment or referral for treatment.

Disclose or *disclosure* means a communication of patient indentifying information, the affirmative verification of another person's communication of patient identifying information, or the communication of any information from the record of a patient who has been identified.

Informant means an individual:

(a) Who is a patient or employee of a program or who becomes a patient or employee of a program at the request of a law enforcement agency or official; and

(b) Who at the request of a law enforcement agency or official observes one or more patients or employees of the program for the purpose of reporting the information obtained to the law enforcement agency or official.

Maintenance treatment means the dispinsing of a narcotic drug in the treatment of an individual for dependence upon heroin or other morphine-like drugs.

Member program means a detoxification treatment or maintenance treatment program which reports patient identifying information to a central registry and which is in the same State as that central registry or is not more than 125 miles from any border of the State in which the central registry is located.

Patient means any individual who has applied for or been given diagnosis or treatment for alcohol or drug abuse at a federally assisted program and includes any individual who, after arrest on a criminal charge, is identified as an alcohol or drug abuser in order to determine that individual's eligibility to participate in a program.

Patient identifying information means the name, address, social security number, fingerprints, photograph, or similar information by which the identity of a patient can be determined with reasonable accuracy and speed either directly or by reference to other publicly available information. The term does not include a number assigned to a patient by a program, if that number does not consist of, or contain numbers (such as a social security, or driver's license number) which could be used to identify a patient with reasonable accuracy and speed.

Person means an individual, partnership, corporation, Federal, State or local governmental agency, or any other legal entity.

Program means a person which in whole or in part holds itself out as providing, and provides, alcohol or drug abuse diagnosis, treatment, or referral for treatment. For a general medical care facility or any part thereof to be a program, it must have:

(a) An identified unit which provides alcohol or drug abuse diagnosis, treatment, or referral for treatment or

(b) Medical personnel or other staff whose primary function is the provision of alcohol or drug abuse diagnosis, treatment, or referral for treatment and who are identified as such providers.

Program director means:

(a) In the case of a program which is an individual, that individual;

(b) In the case of a program which is an organization, the individual designated as director, managing director, or otherwise vested with authority to act as chief executive of the organization.

Qualified service organization means a person which:

(a) Provides services to a program, such as data processing, bill collecting, dosage preparation, laboratory analyses, or legal, medical, accounting, or other professional services, or services to prevent or treat child abuse or neglect, including training on nutrition and child care and individual and group therapy; and

(b) Has entered into a written agreement with a program under which that person:

(1) Acknowledges that in receiving, storing, processing or otherwise dealing with any patient records from the programs, it is fully bound by these regulations; and

(2) If necessary, will resist in judicial proceedings any efforts to obtain access to patient records except as permitted by these regulations.

Records means any information, whether recorded or not, relating to a patient, received or acquired by a federally assisted alcohol or drug program.

Third party payer means a person who pays, or agrees to pay, for diagnosis or treatment furnished to a patient on the basis of a contractual relationship with the patient or a member of his family or on the basis of the patient's eligibility for Federal, State, or local governmental benefits.

Treatment means the management and care of a patient suffering from alcohol or drug abuse, a condition which is identified as having been caused by that abuse, or both, in order to reduce or eliminate the adverse effects upon the patient.

Undercover agent means an officer of any Federal, State, or local law enforcement agency who enrolls in or becomes an employee of a program for the purpose of investigating a suspected violation of law or who pursues that purpose after enrolling or becoming employed for other purposes.

§ 2.12 Applicability

(a) *General*—(1) *Restrictions on disclosure.* The restrictions on disclosure in these regulations apply to any information, whether or not recorded, which:

(i) Would identify a patient as an alcohol or drug abuser either directly, by reference to other publicly available information, or through verification of such an identification by another person; and

(ii) Is drug abuse information obtained by a federally assisted drug abuse program after March 20, 1972, or is alcohol abuse information obtained by a federally assisted alcohol abuse program after May 13, 1974 (or if obtained before the pertinent date, is maintained by a federally assisted alcohol or drug abuse program after that date as part of an ongoing treatment episode which extends past that date) for the purpose of treating alcohol or drug abuse, making a diagnosis for that treatment, or making a referral for that treatment.

(2) *Restriction on use.* The restriction on use of information to initiate or substantiate any criminal charges

against a patient or to conduct any criminal investigation of a patient (42 U.S.C. 290ee–3(c), 42 U.S.C. 290dd–3(c)) applies to any information, whether or not recorded which is drug abuse information obtained by a federally assisted drug abuse program after March 20, 1972, or is alcohol abuse information obtained by a federally assisted alcohol abuse program after May 13, 1974 (or if obtained before the pertinent date, is maintained by a federally assisted alcohol or drug abuse program after that date as part of an ongoing treatment episode which extends past that date), for the purpose of treating alcohol or drug abuse, making a diagnosis for that treatment, or making a referral for that treatment.

(b) *Federal assistance.* An alcohol abuse or drug abuse program is considered to be federally assisted if:

(1) It is conducted in whole or in part, whether directly or by contract or otherwise, by any department or agency of the United States (but see paragraphs (c)(1) and (c)(2) of this section relating to the Veterans' Administration and the Armed Forces);

(2) It is being carried out under a license, certification, registration, or other authorization granted by any department or agency of the United States including:

(i) Certification of provider status under the Medicare program;

(ii) Authorization to conduct methadone maintenance treatment (see 21 CFR 291.505); or

(iii) Registration to dispense a substance under the Controlled Substances Act to the extent the controlled substance is used in the treatment of alcohol or drug abuse;

(3) It is supported by funds provided by any department or agency of the United States by being:

(i) A recipient of Federal financial assistance in any form, including financial assistance which does not directly pay for the alcohol or drug abuse diagnosis, treatment, or referral activities; or

(ii) Conducted by a State or local government unit which, through general or special revenue sharing or other forms of assistance, receives Federal funds which could be (but are not necessarily) spent for the alcohol or drug abuse program; or

(4) It is assisted by the Internal Revenue Service of the Department of the Treasury through the allowance of income tax deductions for contributions to the program or through the granting of tax exempt status to the program.

(c) *Exceptions*—(1) *Veterans' Administration.* These regulations do not apply to information on alcohol and drug abuse patients maintained in connection with the Veterans' Administraton provision of hospital care, nursing home care, domiciliary care, and medical services under Title 38, United States Code. Those records are governed by 38 U.S.C. 4132 and regulations issued under that authority by the Administrator of Veterans' Affairs.

(2) *Armed Forces.* These regulations apply to any information described in paragraph (a) of this section which was obtained by any component of the Armed Forces during a period when the patient was subject to the Uniform Code of Military Justice except:

(i) Any interchange of that information within the Armed Forces; and

(ii) Any interchange of that information between the Armed Forces and those components of the Veterans Administration furnishing health care to veterans.

(3) *Communications within a program.* The restrictions on disclosure in these regulations do not apply to communications of information within a program between or among personnel having a need for the information in connection with a patient's diagnosis, treatment, or referral for treatment of alcohol or drug abuse.

(4) *Qualified Service Organizations.* The restrictions on disclosure in these regulations do not apply to communications between a program and a qualified service organization of information needed by the organization to provide services to the program.

(5) *Crimes on program premises or against program personnel.* The restrictions on disclosure and use in these regulations do not apply to communications from program personnel to law enforcement officers which–

(i) Are directly related to a patient's commission of a crime on the premises of the program or against program personnel or to a threat to commit such a crime; and

(ii) Are limited to the circumstances of the incident, including the patient status of the individual committing or threatening to commit the crime, that individual's name and address, and that individual's last know whereabout.

(d) *Applicability to recipients of information*—(1) *Restriction on use of information.* The restriction on the use of any information subject to these regulations to initiate or substantiate any criminal charges against a patient or to conduct any criminal investigation of a patient applies to any person who obtains that information from a federally assisted alcohol or drug abuse program, regardless of the status of the person obtaining the information or of whether the information was obtained in accordance with these regulations. This restriction on use bars, among other things, the introduction of that information as evidence in a criminal proceeding and any other use of the information to investigate or prosecute a patient with respect to a suspected crime. Information obtained by undercover agents or informants (see § 2.17) or through patient access (see § 2.23) is subject to the restriction on use.

(2) *Restrictions on disclosures—Third party payers and others.* The restrictions on disclosure in these regulations apply to third party payers who maintain patient records disclosed to them by federally assisted alcohol or durg abuse programs and to those persons—

(i) Who receive patient records directly from a federally assisted alcohol or drug abuse program; and

(ii) who are notified of the restrictions on redisclosure of the records in accordance with § 2.32 of these regulations.

(e) *Explanation of applicability*—(1) *Coverage.* These regulations cover information maintained about alcohol and drug abuse patients (including information on referral and intake) by any federally assisted alcohol or drug abuse program. Coverage includes, but is not limited to, those treatment or rehabilitation programs, employee assistance programs, programs within general hospitals, and private practitioners who hold themselves out as providing, and provide alcohol or drug abuse diagnosis, treatment, or referral for treatment.

(2) *How type of assistance affects scope of coverage.* (i) Any hospital which has Federal tax exempt status and operates an alcohol or drug abuse program must protect the confidentiality of information on any individual who applies for or receives referral, diagnosis, or treatment for alcohol or drug abuse in that program.

(ii) Any provider of care under Medicare or Medicaid must protect the confidentiality of information on any patient for whom Medicare or Medicaid reimbursement for alcohol and drug abuse services has been sought.

(iii) Any program which has a Federal license or registration to prescribe or administer a drug or controlled substance is required to protect the confidentiality of the records of any patient who is treated with that drug or substance.

(3) *How type of diagnosis affects coverage.* (a) These regulations cover any record of a diagnosis identifying a patient as an alcohol or drug abuser which is prepared in connection with the treatment or referral for treatment of alcohol or drug abuse. A diagnosis prepared for the purpose of treatment or referral for treatment but which is not so used is covered by these regulations. The following are not covered by these regulations:

(i) A diagnosis which is made solely for the purpose of providing evidence for use by law enforcement authorities;

(ii) A reference to a patient's alcoohol or drug abuse history in the course of treating a condition which is not related to alcohol or drug abuse; or

(iii) A diagnosis of drug overdose or alcohol intoxication which clearly shows that the individual involved is not an alchol or drug abuser (e.g., involuntary ingestion of alcohol or drugs or reaction to a prescribed dosage or one or more drugs).

§ 2.13 Coinfidentiality restrictions.

(a) *General.* The patient records to which these regulations apply may be disclosed or used only as permitted by these regulations and may not otherwise be disclosed or used in any civil, criminal, administrative, or legislative proceedings conducted by any Federal, State, or local authority. Any disclosure made under these regulations must be limited to that information which is necessary to carry out the purpose of the disclosure.

(b) *Unconditional compliance required.* The restrictions on disclosure and use in these regulations apply whether the holder of the information believes that the person seeking the information already has it, has other means of obtaining it, is a law enforcement or other official, has obtained a subpoena, or asserts any other justification for a disclosure or use which is not permitted by these regulations.

(c) *Acknowledging the persence of patients; Responding to requests.* (1) The presence of an identified patient in a facility or component of a facility which is publicly identified as a place where only alcohol or drug abuse diagnosis, treatment, or referral is provided may be acknowledged only if the patient's written consent is obtained in accordance with subpart C of these regulations or if an authorizing court order is entered in accordance with Subpart E of these regulations. The regulations permit acknowledgement of the presence of an identified patient in a facility or part of a facility if the facility is not publicy identified as only as alcohol or drug abuse diagnosis, treatment or referral facility, and if the acknowledgement does not reveal that the patient is an alcohol or drug abuser.

(2) Any answer to a request for a disclosure of patient records which is not permissible under these regulations must be made in a way that will not affirmatively reveal that an identified individual has been, or is being, diagnosed or treated for alcohol or drug abuse. An inquiring party may be given a copy of these regulations and advised that they restrict the disclosure of alcohol or drug abuse patient records, but may not be told affirmatively that the regulations restrict the disclosure of the records of an identified patient. The regulations do not restrict a disclosure that an identified individual is not and never has been a patient.

§ 2.14 Minor patients.

(a) *Definition of minor.* As used in these regulations the term "minor" means a person who has not attained the age of majority specified in the applicable State law, or if no age of majority is specified in the applicable State law, the age of eighteen years.

(b) *State law requiring parental consent to treatment*—(1) *Notifying parent or guardian of minor's application for treatment.* Notwithstanding any State law, any information regarding a minor's application for alcohol or drug abuse services may be communicated to the parent, guardian, or other person authorized under State law to act on behalf of the minor only if:

(i) The minor patient has given written consent to the disclosure in accordance with Subpart C of these regulations (if the minor patient does not give that consent and State law requires parental consent prior to any treatment, these regulations do not prohibit a refusal to provide treatment); or

(ii) In the judgment of the program director the minor applicant for services, because of a mental or physical condition, lacks the capacity to make a rational decision on whether to consent to the notification of his or her parent or guardian *and* the situation poses a substantial threat to the physical well being of any person which may be reduced by communicating relevant facts to the minor's parent or guardian.

(2) *Other disclosures with consent where State law requires parental consent to treatment.* In all other cases in which written patient consent is required under these regulations, that consent must be given by both the minor and his or her parent, guardian, or other person authorized under State law to act in the minor's behalf.

(c) *State law not requiring parental consent to treatment.* If a minor patient acting alone has the legal capacity under the applicable State law to apply for and obtain alcohol and drug abuse treatment, any written consent for a disclosure authorized under Subpart C of these regulations may be given only by the minor patient. This restriction includes, but is not limited to, a disclosure of patient identifying information to the parent or guardian of a minor patient for the purpose of obtaining financial reimbursement. These regulations do not prohibit a program from refusing to provide treatment until the minor patient consents to the disclosure necessary to obtain reimbursement, but refusal to provide treatment may be prohibited under a State or local law requiring the program to furnish the services irrespective of ability to pay.

§ 2.15 Incompetent and deceased patients.

(a) *Incompetent patients other than minors*—(1) *Adjudication of incompetence.* In the case of a patient who has been adjudicated as lacking the capacity, for any reason other than insufficient age, to manage his or her own affairs, any consent which is required under these regulations may be given by the guardian or other person authorized under State law to act in the patient's behalf.

(2) *No adjudication of incompetency.* For any period for which the program director determines that a patient, other than a minor or one who has been adjudicated incompetent, suffers from a medical condition that prevents knowing or effective action on his or her own behalf, the program director may exercise the right of the patient to consent to a disclosure under Subpart C of these regulations for the sole purpose of obtaining payment for services from a third party payer.

(b) *Deceased patients*—(1) *Vital statistics.* These regulations do not restrict the disclosure of patient identifying information relating to the cause of death of a patient under laws requiring the collection of death or other vital statistics or permitting inquiry into the cause of death.

(2) *Consent by personal representative.* Any other disclosure of information identifying a deceased patient as an alcohol or drug abuser is subject to these regulations. If a written consent to the disclosure is required, that consent may be given by an executor, administrator, or other personal representative appointed under applicable State law. If there is no such

appointment the consent may be given by the patient's spouse or, if none, by any responsible member of the patient's family.

§ 2.16 Security for written records.

(a) Written records which are subject to these regulations must be maintained:

(1) In a secure room, locked file cabinet, safe or other similar container when not in use; and

(2) In a manner that will permit the review of financial and administrative matters with no disclosure of clinical information and no disclosure of patient identifying information except where necessary for audit verification.

(b) Each program shall adopt in writing procedures which regulate and control access to and use of written records which are subject to these regulations.

§ 2.17 Undercover agents and informants.

(a) *Restrictions on placement.* Except as specifically authorized by a court order granted under § 2.66 of these regulations, no program may knowingly employ, or enroll as a patient, any undercover agent or informant.

(b) *Restriction on use of information.* No information obtained by an undercover agent or informant, whether or not that undercover agent or informant is placed in a program pursuant to an authorizing court order, may be used to criminally investigate or prosecute any patient.

§ 2.18 Restrictions on the use of identification cards.

No person may require any patient to carry on his or her person while away from the program premises any card or other object which would identify the patient as an alcohol or drug abuser. This section does not prohibit a person from requiring patients to use or carry cards or other identification objects on the premises of a program.

§ 2.19 Disposition of records by discontinued programs.

(a) *General.* If a program discontinues operations or is taken over or acquired by another program, it must purge patient identifying information from its records or destroy the records unless—

(1) The patient who is the subject of the records gives written consent (meeting the requirements of § 2.31) to a transfer of the records to the acquiring program or, if none, to any program designated in the consent (the manner of obtaining this consent must minimize the likelihood of a disclosure of patient identifying information to a third party); or

(2) There is a legal requirement that the records be kept for a period specified by law which does not expire until after the discontinuation or acquisition of the program.

(b) *Procedure where retention period required by law.* If paragraph (a)(2) of this section applies, the records must be:

(1) Sealed in envelopes or other containers labeled as follows: "Records of [insert name of program] required to be maintained under [insert citation to statute, regulation, or court order requiring that records be kept] until a date not later than [insert appropriate date];" and

(2) Held under the restrictions of these regulations by a responsible person who must, as soon as practicable after the end of the retention period specified on the label, destroy the records.

§ 2.20 Relationship to State laws.

The statutes authorizing these regulations (42 U.S.C. 290ee-3 and 42 U.S.C. 290dd-3) do not preempt the field of law which they cover to the exclusion of all State laws in that field. If a disclosure permitted under these regulations is prohibited under State law, neither these regulations nor the authorizing statutes may be construed to authorize any violation of that State law. However, no State law may either authorize or compel any disclosure prohibited by these regulations.

§ 2.21 Relationship to Federal statutes protecting research subjects against compulsory disclosure of their identity.

(a) *Research privilege discription.* There may be concurrent coverage of patient identifying information by these regulations and by administrative action taken under: Section 303(a) of the Public Health Service Act (42 U.S.C. 242a(a)) and the implementing regulations at 42 CFR Part 2a); or section 502(c) of the Controlled Substances Act (21 U.S.C. 872(c) and the implementing regulations at 21 CFR 1316.21). These "research privilege" statutes confer on the Secretary of Health and Human Services and on the Attorney General, respectively, the power to authorize researchers conducting certain types of research to withhold from all persons not connected with the research the names and other identifying information concerning individuals who are the subjects of the research.

(b) *Effect of concurrent coverage.* These regulations restrict the disclosure and use of information about patients, while administrative action taken under the research privilege statutes and implementing regulations protects a person engaged in applicable research from being compelled to disclose any identifying characteristics of the individuals who are the subjects of that research. The issuance under Subpart E of these regulations of a court order authorizing a disclosure of information about a patient does not affect an exercise of authority under these research privilege statutes. However, the research privilege granted under 21 CFR 291.505(g) to treatment programs using methadone for maintenance treatment does not protect from compulsory disclosure any information which is permitted to be disclosed under these regulations. Thus, if a court order entered in accordance with Subpart E of these regulations authorizes a methadone maintenance treatment program to disclose certain information about its patients, that program may not invoke the research privilege under 21 CFR 291.505(g) as a defense to a subpoena for that information.

§ 2.22 Notice to patients of Federal confidentiality requirements.

(a) *Notice required.* At the time of admission or as soon thereafter as the patient is capable of rational communication, each program shall:

(1) Communicate to the patient that Federal law and regulations protect the confidentiality of alcohol and drug abuse patient records; and

(2) Give to the patient a summary in writing of the Federal law and regulations.

(b) *Required elements of written summary.* The written summary of the Federal law and regulations must include:

(1) A citation to the Federal law and regulations.

(2) A description of the limited circumstances under which a program may disclose outside the program information identifying a patient as an alcohol or drug abuser.

(3) A description of the limited circumstances under which a program may acknowledge that an individual is present at a facility.

(4) A description of the circumstances under which alcohol or drug abuse patient records may be used to initiate or substantiate criminal charges against a patient.

(5) A statement that information related to a patient's commission of a crime on the premises of the program or against personnel of the program is not protected.

(6) A statement that the Federal law and regulations do not prohibit a program from giving a patient access to his or her own records.

(7) A statement of the criminal penalty for violation of the Federal law and regulations.

(8) An address where suspected violations of the Federal law and regulations may be reported.

(c) *Program options.* The program may devise its own notice or may use the sample notice in paragraph (d) to comply with the requirement to provide the patient with a summary in writing of the Federal law and regulations. In addition, the program may include in the written summary information concerning State law and any program policy not inconsistent with State and Federal law on the subject of confidentiality of alcohol and drug abuse patient records.

(d) *Sample notice.*

Confidentiality of Alcohol and Drug Abuse Patient Records

The confidentiality of alcohol and drug abuse patient records maintained by this program is protected by Federal law and regulations (42 U.S.C. 290dd–3, 42 U.S.C. 290ee–3 and 42 CFR Part 2). No information identifying a patient as an alcohol or drug abuser may be disclosed outside the program or those assisting the program in the provision of services:

(1) Unless the patient consents in writing;

(2) Unless the disclosure is allowed by a court order based upon a finding of good cause, or

(3) Unless the disclosure is to medical personnel for a medical emergency or to qualified personnel to conduct scientific research, management audits, financial audits, or program evaluation, but those qualified personnel may not redisclose any information which would identify any patient.

The program may not say that an individual is present at a facility if to do so would reveal that the patient is an alcohol or drug abuser unless the patient consents in writing to have his or her presence acknowledged or unless an authorizing court order is entered permitting that acknowledgment.

Unless allowed by a court order which meets the requirements of the regulations, no alcohol or drug abuse patient record may be used to initiate or substantiate any criminal charges against a patient, but the Federal law and regulations do not protect information related to a patient's commission of a crime on the premises of the program or against personnel of the program or a patient's threat to commit such a crime.

Under the regulations a program may (but is not required to) allow a patient to inspect and copy his or her record.

There is a criminal penalty for violation of Federal law or regulations requiring confidentiality of alcohol and drug abuse patient records: a fine of not more than $500 in the case of a first offense, and not more than $5,000 in the case of each subsequent offense.

Suspected violations may be reported either to the Director, National Institute on Drug Abuse or to the Director, National Institute on Alcohol Abuse and Alcoholism, both at 5600 Fishers Lane, Rockville, Maryland 20857. Suspected violations may also be reported to the United States Attorney for the judicial district in which the violation occurs.

§ 2.23. Patient access and restriction on use.

(a) *Patient access not prohibited.* These regulations do not prohibit a program from giving a patient access to his or her own records, including the opportunity to inspect and copy any records that the program maintains about the patient. The program is not required to obtain a patient's written consent or other authorization under these regulations in order to provide such access to the patient.

(b) *Restriction on use of information.* Information obtained by patient access to his or her patient record is subject to the restriction on use of this information to initiate or substantiate any criminal charges against the patient or to conduct any criminal investigation of the patient as provided for under §2.12(d)(1).

Subpart C—Disclosures With Patient's Consent

§ 2.31 Form of written consent.

(a) *Required elements.* A written consent to a disclosure under these regulations must include:

(1) The name of the program which is to make the disclosure.

(2) The name or title of the individual or the name of the organization to which disclosure is to be made.

(3) The name of the patient.

(4) The purpose of the disclosure.

(5) How much and what kind of information is to be disclosed.

(6) The signature of the patient and, when required for a patient who is a minor, the signature of a person authorized to give consent under § 2.14; or, when required for a patient who is incompetent or deceased, the signature of a person authorized to sign under § 2.15 in lieu of the patient.

(7) The date on which the consent is signed.

(8) A statement that the consent is subject to revocation at any time except to the extent that the program which is to make the disclosure has already acted in reliance on it. Acting in reliance includes the provision of treatment services in reliance on a valid consent to disclose information to a third party payer.

(9) The date, event, or condition upon which the consent will expire if not revoked before. This date, event, or condition must insure that the consent will last no longer than reasonably necessary to serve the purpose for which it is given.

(b) *Sample consent form.* The following form complies with paragraph (a) of this section, but other elements may be added.

1. I (name of patient) ☐ Request ☐ Authorize:
2. (name of program which is to make the disclosure) _____
3. To disclose: (kind and amount of information to be disclosed) _____

_____

4. To: (name or title of the person or organization to which disclosure is to be made) _____
5. For: (purpose of the disclosure) _____
6. Date (on which this consent is signed) _____
7. Signature of patient _____
8. Signature of parent or guardian (where required) _____
9. Signature of person authorized to sign in lieu of the patient (where required) _____
10. This consent is subject to revocation at any time except to the extent that the program which is to make the disclosure has already taken action in reliance on it. If not previously revoked, this consent will terminate upon: (specific date, event, or condition)

(c) *Expired, deficient, or false consent.* A disclosure may not be made on the basis of a consent which:

(1) Has expired;

(2) Does not comply with paragraph (a) of this section;

(3) Is known to have been revoked; or

(4) Is known, or through a reasonable effort could be known, by the person holding the records to be materially false.

§ 2.32 Prohibition on redisclosure.

(a) *Notice to accompany disclosure.* Each disclosure made with the patient's written consent must be accompanied by the following written statement:

This information has been disclosed to you from records protected by Federal confidentiality rules (42 CFR Part 2). The Federal rules prohibit you from making any further disclosure of this information without the specific written consent of the person to whom it pertains or as otherwise permitted by 42 CFR Part 2. A general authorization for the release of medical or other information is NOT sufficient for this purpose. The Federal rules restrict any use of the information to criminally investigate or prosecute any alcohol or drug abuse patient.

§ 2.33 Disclosures permitted with written consent.

If a patient consents to a disclosure of his or her records under § 2.31, a program may disclose those records in accordance with that consent to any individual or organization named in the consent, except that disclosures to central registries and in connection with criminal justice referrals must meet the requirements of § 2.34 and § 2.35, respectively.

§ 2.34 Disclosures to prevent multiple enrollments in detoxification and maintenance treatment programs.

(a) *Restrictions on disclosure.* A program may disclose patient records to a central registry or to any detoxification or maintenance treatment program not more than 200 miles away for the purpose of preventing the multiple enrollment of a patient only if:

(1) The disclosure is made when:

(i) The patient is accepted for treatment;

(ii) The type or dosage of the drug is changed; or

(iii) The treatment is interrupted, resumed or terminated.

(2) The disclosure is limited to:

(i) Patient identifying information;

(ii) Type and dosage of the drug; and

(iii) Relevant dates.

(3) The disclosure is made with the patient's written consent meeting the requirements of § 2.31, except that:

(i) The consent must list the name and address of each central registry and each known detoxification or maintenance treatment program to which a disclosure will be made; and

(ii) The consent may authorize a disclosure to any detoxification or maintenance treatment program established within 200 miles of the program after the consent is given without naming any such program.

(b) *Use of information limited to prevention of multiple enrollments.* A central registry and any detoxification or maintenance treatment program to which information is disclosed to prevent multiple enrollments may not redisclose or use patient identifying information for any purpose other than the prevention of multiple enrollments unless authorized by a court order under Subpart E of these regulations.

(c) *Permitted disclosure by a central registry to prevent a multiple enrollment.* When a member program asks a central registry if an identified patient is enrolled in another member program and the registry determines that the patient is so enrolled, the registry may disclose—

(1) The name, address, and telephone number of the member program(s) in which the patient is already enrolled to the inquiring member program; and

(2) The name, address, and telephone number of the inquiring member program to the member program(s) in which the patient is already enrolled. The member programs may communicate as necessary to verify that no error has been made and to prevent or eliminate any multiple enrollment.

(d) *Permitted disclosure by a detoxification or maintenance treatment program to prevent a multiple enrollment.* A detoxification or maintenance treatment program which has received a disclosure under this section and has determined that the patient is already enrolled may communicate as necessary with the program making the disclosure to verify that no error has been made and to prevent or eliminate any multiple enrollment.

§ 2.35 Disclosures to elements of the criminal justice system which have referred patients.

(a) A program may disclose information about a patient to those persons within the criminal justice system which have made participation in the program a condition of the disposition of any criminal proceedings against the patient or of the patient's parole or other release from custody if:

(1) The disclosure is made only to those individuals within the criminal justice system who have a need for the information in connection with their duty to monitor the patient's progress (e.g., a prosecuting attorney who is withholding charges against the patient, a court granting pretrial or posttrial release, probation or parole officers responsible for supervision of the patient); and

(2) The patient has signed a written consent meeting the requirements of § 2.31 (except paragraph (a)(8) which is inconsistent with the revocation provisions of paragraph (c) of this section) and the requirements of paragraphs (b) and (c) of this section.

(b) *Duration of consent.* The written consent must state the period during which it remains in effect. This period must be reasonable, taking into account:

(1) The anticipated length of the treatment;

(2) The type of criminal proceeding involved, the need for the information in connection with the final disposition of that proceeding, and when that final disposition will occur; and

(3) Such other factors as the program, the patient, and the person(s) who will receive the disclosure consider pertinent.

(c) *Revocation of consent.* The written consent must state whether it is revocable, and if so, the period during which it is revocable. The consent may be:

(1) Irrevocable until there has been a final disposition of the conditional release or other action in connection with which the consent was given; or

(2) Revocable upon the passage of a specified amount of time or the occurrence of a specified, ascertainable event.

(d) *Restrictions on redisclosure and use.* A person who receives patient information under this section may redisclose and us it only to carry out that person's official duties with regard to the patient's conditional release or other action in connection with which the consent was given.

Subpart D—Disclosures Without Patient Consent

§ 2.51 Medical emergencies.

(a) *General Rule.* Under the procedures required by paragraph (c) of this section, patient identifying information may be disclosed to medical personnel who have a need for information about a patient for the purpose of treating a condition which poses an immediate threat to the health of any individual and which requires immediate medical intevention.

(b) *Special Rule.* Patient identifying information may be disclosed to medical personnel of the Food and Drug Administration (FDA) who assert a reason to believe that the health of any individual may be threatened by an error in the manufacture, labeling, or sale of a product under FDA justisdiction, and that the information will be used for the exclusive purpose of notifying patients or their physicians of potential dangers.

(c) *Procedures.* (1) Prior to disclosure, the program shall make a reasonable effort to verify the medical personnel status of any proposed recipient of the disclosure.

(2) Immediately following disclosure, the program shall document the disclosure in the patient's records setting forth in writing:

(i) The name of the medical personnel to whom disclosure was made and their affiliation with any health care facility;

(ii) The name of the individual making the disclosure;

(iii) The date and time of the disclosure;

(iv) The nature of the emergency (or error, if the report was to FDA); and

(v) The details of the attempt to verify the medical personnel status of the recipient.

§ 2.52 Research activities.

(a) Patient identifying information may be disclosed for the purpose of conducting scientific research if the program director makes a determination that the recipient of the patient identifying information:

(1) Is qualified to conduct the research; and

(2) Has a research protocol under which the patient identifying information:

(i) Will be maintained in accordance with the security requirements of § 2.16 of these regulations (or more stringent requirements); and

(ii) Will not be redisclosed except as permitted under paragraph (b) of this section.

(b) A person conducting research may disclose patient identifying information obtained under paragraph (a) of this section only back to the program from which that information was obtained and may not identify any individual patient in any report of that research or otherwise disclose patient identities.

§ 2.53 Audit and evaluation activities.

(a) *Records not copied or removed.* If patient records are not copied or removed, patient identifying information may be disclosed in the course of a review of records on program premises to any person who agrees in writing to comply with the limitations on redisclosure and use in paragraph (c) of this section and who:

(1) Is paid to perform the audit or evaluation activity by a Federal, State, or local governmental agency which provides financial assistance to the program or is authorized by law to regulate its activities; or

(2) Is determined by the program director to be qualified to conduct the audit or evaluation activities.

(b) *Copying or removal of records.* Records containing patient identifying information may be copied or removed from program premises by any person who:

(1) Agrees in writing to:

(i) Maintain the patient identifying information in accordance with the security requirements provided in § 2.16 of these regulations (or more stringent requirements);

(ii) Destroy all the patient identifying information upon completion of the audit or evaluation; and

(iii) Comply with the limitations on disclosure and use in paragraph (c) of this section; and

(2) Is paid to perform the audit or evaluation activity by a Federal, State or local governmental agency which provides financial assistance to the program or is authorized by law to regulate its activities.

(c) *Limitations on disclosure and use.* Patient identifying information disclosed under this section may be disclosed only back to the program from which it was obtained and used only to carry out an audit or evaluation purpose or to investigate or prosecute the program for criminal activities, as authorized by a court order entered under § 2.65 of these regulations.

Subpart E—Court Orders Authorizing Disclosure And Use

§ 2.61 Legal effect of order.

(a) *Effect.* An order of a court of competent jurisdiction entered under this subpart is a unique kind of court order. Its only purpose is to authorize a disclosure or use of patient information which would otherwise be prohibited by 42 U.S.C. 290ee–3, 42 U.S.C. 290dd–3 and these regulations. Such an order does not compel disclosure. A subpoena or a similar legal mandate must be issued in order to compel disclosure. This mandate may be entered at the same time as, and accompany, an authorizing court order entered under these regulations.

(b) *Examples.* (1) A person holding records subject to these regulations receives a subpoena for those records; a response to the subpoena is not permitted under the regulations unless an authorizing court order is entered. The person may not disclose the records in response to the subpoena unless a court of competent jurisdiction enters an authorizing order under these regulations.

(2) An authorizing court order is entered under these regulations, but the person authorized does not want to make the disclosure. If there is no subpoena or other compulsory process, or a subpoena for the records has expired or been quashed, that person may refuse to make the disclosure. Upon the entry of a valid subpoena or other compulsory process the person authorized to disclose must disclose, unless there is a valid legal defense to the process other than the confidentiality restrictions of these regulations.

§ 2.62 Order not applicable to records disclosed without consent to researchers, auditors and evaluators.

A court under these regulations may not authorize qualified personnel, who have received patient identifying information without consent for the purpose of conducting research, audit or evaluation, to disclose that information or use it to conduct any criminal investigation or prosecution of a patient. However, a court order under § 2.65 may authorize disclosue and use of records to investigate or prosecute qualified personnel holding the records.

§ 2.63 Procedures and criteria for orders authorizing disclosures for noncriminal purposes.

(a) *Application.* An order authorizing the disclosure of patient records for purposes other than criminal investigation or prosecution may be applied for by any person having a legally recognized interest in the disclosure which is sought. The application may be filed separately or as part of a pending civil action in which it appears that the patient records are needed to provide evidence. An application must use a fictitious name, such as John Doe, to refer to any patient and may not contain or otherwise disclose any patient identifying information unless the patient is the applicant or has given a written consent (meeting the requirements of these regulations) to disclosure or the court has ordered the record of the proceeding sealed from public scrutiny.

(b) *Notice.* The patient and the person holding the records from whom disclosure is sought must be given:

(1) Adequate notice in a manner which will not disclose patient identifying information to other persons; and

(2) An opportunity to file a written response to the application, or to appear in person.

(c) *Review of evidence; Conduct of hearing.* Any oral argument, review of evidence, or hearing on the application must be held in the judge's chambers or in some manner which ensures that patient identifying information is not disclosed to anyone other than a party to the proceeding, the patient, or the person holding the record. The proceeding may include an examination by the judge of the patient records referred to in the application.

(d) *Criteria for entry of order.* An order under this section may be entered only if the court determines that good cause exists. To make this determination the court must find that:

(1) Other ways of obtaining the information are not available or would not be effective; and

(2) The public interest and need for the disclosure outweigh the potential injury to the patient, the physician-patient relationship and the treatment services.

(e) *Content of order.* An order authorizing a disclosure must:

(1) Limit disclosure to those parts of the patient's record which are essential to fulfill the objective of the order;

(2) Limit disclosure to those persons whose need for information is the basis for the order; and

(3) Include such other measures as are necessary to limit disclosure for the protection of the patient, the physician-patient relationship and the treatment services.

§ 2.64 Procedures and criteria for orders authorizing disclosure and use of records to criminally investigate or prosecute patients.

(a) *Application.* An order authorizing the disclosure or use of patient records to criminally investigate or prosecute a patient may be applied for by the person holding the records or by any person conducting investigative or prosecutorial activities with respect to the enforcement of criminal laws. The application may be filed separately, as part of an application for a subpoena or other compulsory process, or in a pending criminal action. An application must use a fictitious name, such as John Doe, to refer to any patient and may not contain or otherwise disclose patient identifying information unless the court has ordered the record of the proceeding sealed from public scrutiny.

(b) *Notice and hearing.* Unless an order under § 2.65 is sought with an order under this section, the person holding the records must be given:

(1) Adequate notice (in a manner which will not disclose patient identifying information to third parties) of an application by a person performing a law enforcement function;

(2) An opportunity to appear and be heard; and

(3) An opportunity to be represented by counsel independent of counsel for an applicant who is a person performing a law enforcement function.

(c) *Review of evidence; Conduct of hearings.* Any oral argument, review of evidence, or hearing on the application shall be held in the judge's chambers or in some other manner which ensures that patient identifying information is not disclosed to anyone other than a party to the proceedings, the patient, or the person holding the records. The proceeding may include an examination by the judge of the patient records referred to in the application.

(d) *Criteria.* A court may authorize the disclosure and use of patient records for the purpose of conducting a criminal investigation or prosecution of a patient only if the court finds that all of the following criteria are met:

(1) The crime involved causes or directly threatens loss of life or serious bodily injury, such as homicide, rape, kidnapping, armed robbery, assault with a deadly weapon, child abuse and neglect, or the sale of illicit drugs.

(2) There is a reasonable likelihood that the records will disclose information of substantial value in the investigation or prosecution.

(3) There is no other practicable way of obtaining the information.

(4) The potential injury to the patient, to the physician-patient relationship and to the ability of the person holding the records to provide services to other patients is outweighed by the public interest and the need for the disclosure.

(5) If the applicant is a person performing a law enforcement function that:

(i) The person holding the records has been afforded the opportunity to be represented by independent counsel; and

(ii) Any person holding the records which is an entity within Federal, State, or local government has in fact been represented by counsel independent of the applicant.

(e) *Content of order.* Any order authorizing a disclosure or use of patient records under this section must:

(1) Limit disclosure and use to those parts of the patient's record which are essential to fulfill the objective of the order;

(2) Limit disclosure to those law enforcement and prosecutorial officials who are responsible for, or are conducting, the investigation or prosecution, and limit their use of the records to investigation and prosecution of the crime or suspected crime causing or directly threatening loss of life or serious bodily injury which is specified in the application; and

(3) Include such other measures as are necessary to limit disclosure and use to the fulfillment of only that public interest and need found by the court.

§ 2.65 Procedures and criteria for orders authorizing disclosure and use of records to investigate or prosecute a program or the person holding the records.

(a) *Application.* (1) An order authorizing the disclosure or use of patient records to criminally or administratively investigate or prosecute a program or the person holding the records (or employees or agents of that program or person) may be applied for by any administrative, regulatory, supervisory, investigative, law enforcement, or prosecutorial agency having jurisdiction over the program's or person's activities.

(2) The application may be filed separately or as part of a pending civil or criminal action against a program or the person holding the records (or agents or employees of the program or person) in which it appears that the patient records are needed to provide material evidence. The application must use a fictitious name, such as John Doe, to refer to any patient and may not contain or otherwise disclose any patient identifying information unless the court has ordered the record of the proceeding sealed from public scrutiny or the patient has given a written consent (meeting the requirements of § 2.31 of these regulations) to that disclosure.

(b) *Notice.* An application under this section may, in the discretion of the court, be granted without notice. However, upon implementation of any order so granted, the program or person holding the records and the patients whose records are to be disclosed must be afforded an opportunity to seek revocation or amendment of that order.

(c) *Requirements for order.* An order under this section must be entered in accordance with, and comply with the requirements of, paragraphs (d) and (e) of § 2.63 of these regulations.

(d) *Limitations on disclosure and use of patient identifying information.* (1) An order entered under this section must require the deletion of patient identifying information from any documents made available to the public.

(2) No information obtained under this section may be used to conduct any investigation or prosecution of a patient, or be used as the basis for an application for an order under § 2.64 of these regulations.

§ 2.66 Orders authorizing the use of undercover agents and informants to criminally investigate employees or agents of a program.

(a) *Application.* A court order authorizing the placement of an undercover agent or informant in a program as an employee or patient may be applied for by any law enforcement or prosecutorial agency which has reason to believe that employees or agents of the program are engaged in criminal misconduct.

(b) *Notice.* The program director must be given adequate notice of the application and an opportunity to appear and be heard, unless the application asserts a belief that:

(1) The program director is involved in the criminal activities to be investigated by the undercover agent or informant; or

(2) The program director will intentionally or unintentionally disclose the proposed placement of an undercover agent or informant to the employees or agents who are suspected of criminal activities.

(c) *Criteria.* An order under this section may be entered only if the court determines that good cause exists. To make this determination the court must find:

(1) There is reason to believe that an employee or agent of the program is engaged in criminal activity;

(2) Other ways of obtaining evidence of this criminal activity are not available or would not be effective; and

(3) The public interest and need for the placement of an undercover agent or informant in the program outweigh the potential injury to patients of the program, physician-patient relationships and the treatment services.

(d) *Content of order.* An order authorizing the placement of an undercover agent or informant in a program must:

(1) Specifically authorize the placement of an undercover agent or an informant;

(2) Limit the total period of the placement to six months;

(3) Prohibit the undercover agent or informant from disclosing any patient identifying information obtained from the placement except as necessary to criminally investigate or prosecute employees or agents of the program; and

(4) Include any other measures which are appropriate to limit any potential disruption of the program by the placement and any potential for a real or apparent breach of patient confidentiality.

(e) *Limitation on use of information.* No information obtained by an undercover agent or informant placed under this section may be used to criminally investigate or prosecute any patient or as the basis for an application for an order under § 2.64 of these regulations.

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VOL
48
ISS
1
6
6
AG
25
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FE

347
349
350
353
355
358
360
362
364
365
367
370
372
373
376
379
382
384
386

Reader Aids

Federal Register

Vol. 48, No. 166

Thursday, August 25, 1983

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419 523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Privacy Act	523-4534
Public Inspection Desk	523-5215
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282
	523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235

United States Government Manual 523-5230

SERVICES

Agency services	523-5237
Automation	523-3408
Library	523-4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public Inspection Desk	523-5215
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, AUGUST

34723-34928.....1
34929-35068.....2
35069-35344.....3
35345-35586.....4
35587-35872.....5
35873-36090.....8
36091-36240.....9
36241-36438.....10
36439-36560.....11
36561-36796.....12
36797-37000.....15
37001-37200.....16
37201-37358.....17
37359-37602.....18
37603-37920.....19
37921-38200.....22
38201-38446.....23
38447-38600.....24
38601-38780.....25

CFR PARTS AFFECTED DURING AUGUST

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Administrative Orders:

Presidential Determinations:

No. 83-6 of July 19, 1983.....35587
No. 83-9 of August 5, 1983.....36561

Executive Orders:

April 17, 1926 (Revoked in part by PLO 6454).....38240
12217 (Revoked by EO 12437).....36801
July 13, 1910 (Revoked in part by PLO 6455).....38468
12435.....34723
12436.....34931
12437.....36801

Proclamations:

5078.....34929
5079.....35873
5080.....36091
5081.....36241
5082.....36797
5083.....36799

5 CFR

550.....36803
551.....36803
950.....34910

Proposed Rules:

1255.....35652

7 CFR

2.....37359
28.....37001
225.....38601
226.....35589
227.....38601
235.....38601
246.....38601
247.....38601
250.....38601
253.....38601
301.....38447
707.....35598
720.....35599
724.....37603
726.....36563
796.....35599
908.....35345, 36439, 37360, 38601
910.....35600, 36563, 37607
915.....35345
916.....35345
917.....35345
921.....35345
922.....35345
924.....35345
926.....35345
930.....35345, 38602
932.....38201
945.....35345
946.....35345
947.....35345, 38203
948.....35345
953.....35345
958.....35345
967.....35345
982.....35345
985.....35345
989.....35347
993.....35345
1030.....38448
1106.....38204
1124.....36439
1139.....38205
1207.....38603
1427.....35348
1430.....34725, 34933
3015.....35875

Proposed Rules:

68.....35411
75.....35411
101.....37417
201.....35417
240.....35106
278.....35868
279.....35868
404.....35418
408.....35423
413.....35427
416.....37420
417.....35431
421.....35435
423.....35439
425.....35443
432.....35447
437.....35112
442.....35451
963.....36272
989.....35454
1004.....36113
1030.....36464
1036.....36001
1076.....36467
1079.....37424, 38002
1106.....37657
1139.....35652
1290.....35116

8 CFR

100.....37201
103.....36441, 36564
212.....35349, 36564, 37606
231.....36093, 37003
235.....35349, 37606

9 CFR

54.....38206
71.....37921
74.....37921
78.....34943

92.....37202
97.....37361
Proposed Rules:
3.....35654
307.....38490
317.....35654
319.....35654
325.....35884
350.....38490
351.....38490
354.....38490
355.....38490
362.....38490
381.....35654, 35884, 38490

10 CFR

20.....38604
21.....38604
73.....38604
25.....35069
40.....35350
71.....35600, 38449
595.....38207
795.....36432
1016.....36432
Proposed Rules:
Ch. I.....34966
Ch. II.....37226
430.....34858
625.....35119
710.....35342
761.....36792
1017.....36825

11 CFR

102.....37921

12 CFR

207.....35070
220.....34944
221.....35074, 37361
225.....37003
303.....34945, 36565
329.....35627, 35629
1204.....38455
Proposed Rules:
226.....35659
705.....37042

13 CFR

Proposed Rules:
115.....37658
120.....37044
121.....34966
122.....36825

14 CFR

39.....34731, 35355–35364, 36806, 37361–37364, 37922–37924
71.....35364–35366, 36442, 37365, 37925
73.....36806
75.....35366
91.....36442
95.....36445, 38208
97.....35876, 37926
212.....36445
223.....37928
252.....36093
261.....35080
263.....35081
289.....35081, 37608
291.....38458
398.....36094
1204.....37609
Proposed Rules:
Ch. I.....36826
21.....38002
25.....38004
39.....36468, 37425–37427, 38005
71.....35456–35458, 35887, 36246
73.....38006, 36827, 37428, 37429
152.....36828
159.....37430
241.....36598, 36601
252.....36273
298.....36601
377.....35459
385.....36601
399.....35119

15 CFR

Proposed Rules:
921.....35120
971.....35888

16 CFR

13.....35367, 37202, 37203, 38214
305.....35385
455.....36096
1013.....36566
Proposed Rules:
13.....34764, 35132–35135, 35888, 38247
305.....37663
451.....36273
460.....35661

17 CFR

1.....35248
3.....34732, 35248, 35305, 37203
4.....35248
5.....38214
10.....35248
15.....35248
17.....35248
18.....35248
21.....35248
33.....35248
140.....34945
145.....35248
147.....35248
155.....35248
166.....35248
170.....35248
210.....36566, 37609
229.....37609
230.....37928
231.....37609
239.....36566, 37928
240.....35082, 38218,
241.....37609
270.....36097, 36243, 37928
274.....37928
Proposed Rules:
145.....34971
146.....34971
147.....34971
240.....37430, 37664, 38250
249.....36115
270.....35459

18 CFR

2.....35631, 35633
154.....35633
157.....34872, 34875, 35635
270.....35633
271.....35633–35636
282.....38224
284.....34875, 35635
300.....37006
410.....34946, 36469
Proposed Rules:
154.....38492
271.....35663–35666, 38651

19 CFR

12.....34734
127.....34734
177.....35878
210.....35386
Proposed Rules:
101.....35666
171.....37227
175.....36625

20 CFR

404.....37015
Proposed Rules:
299.....35460
404.....35135, 36831
410.....35135
416.....35135, 36831, 37228
422.....35135, 36831
652.....34866, 34974
653.....34866
655.....35667

21 CFR

5.....36571
74.....34946, 37020
109.....37020
172.....38225, 38226
173.....37614
175.....37615
176.....37617
177.....36099, 37618, 38604
178.....37615, 38227
193.....36246, 36448, 37203
201.....37619
211.....37624
430.....38459
436.....34947, 38459
442.....38459
452.....36571
520.....38606
522.....34947, 36100, 36571
555.....37623
558.....34948, 34949, 35637, 36100, 36101, 37620–37622
561.....36448, 37203
610.....37022
700.....37624
800.....37624
870.....36101
1316.....35087
Proposed Rules:
Ch. I.....37665
131.....37666, 38252
133.....36132, 36625, 37666
146.....37668
184.....34974
291.....35668
353.....36133

22 CFR

11.....38606

23 CFR

Ch. I.....35388
752.....38609
Proposed Rules:
652.....36470
771.....33894

24 CFR

202a.....36247
203.....34949, 35088, 35638, 36247
205.....35389
207.....35389
209.....36247
211.....36247
213.....35389, 35638, 36247
220.....35393, 36247
221.....35389, 36247
222.....36247
226.....36247
228.....36247
232.....35389
234.....35638, 36247
235.....34949, 36247
237.....36247
244.....35389
300.....36572, 36573
500.....36574
868.....37023
886.....36101
890.....38228
Proposed Rules:
115.....36133
200.....35668–35671, 35890
203.....35140
234.....35140
235.....35140
241.....35891
3280.....37136

25 CFR

Proposed Rules:
11.....37046

26 CFR

1.....36448
31.....35089, 36807
35.....35090, 36448, 36807
51.....35092
150.....35092
301.....36449, 38229
Proposed Rules:
1.....36137, 36474
5c.....36137
20.....35143
31.....36474

27 CFR

9.....35395, 37365–37374, 38462
178.....35398
Proposed Rules:
5.....35460
9.....35462, 37670, 38497

28 CFR

0.....35087
9.....35087
60.....37376
Proposed Rules:
0.....35892
16.....35892

29 CFR

500.....36576, 36736, 38374, 38380
1601.....38231
1910.....36576
1952.....34950, 34951, 37024
1956.....37025
2610.....37027
2619.....36816
2622.....37027

Proposed Rules:

1550.....37047
1697.....34766
1910.....37672
1926.....35774
2615.....37230

30 CFR

Ch. II.....35639
221.....36582
226.....36582
231.....36588
251.....37967
641.....37377
642.....37377
800.....36418
806.....36418
872.....35399
880.....37377
881.....37377
913.....37625
914.....37626
917.....38463
926.....37382

Proposed Rules:

55.....36789
56.....36789
57.....36789
250.....38500
252.....38500
913.....36625
915.....35903
935.....35146, 36274, 36627
938.....37672

31 CFR

Proposed Rules:

1.....35904

32 CFR

70.....35644
219.....35400
253.....35644
263.....34952
373.....36247
701.....38611
706.....37029, 37030
819a.....35878
842.....37631
865.....37384

Proposed Rules:

65.....34974

33 CFR

1.....35402
6.....36449
25.....36450
53.....36449
100.....36450, 36451, 37396, 37397, 38630, 38631
110.....36452, 38631
117.....35409, 36452, 38632, 38633
154.....34740
160.....35402
161.....35402
165.....35402, 36453, 38633, 38634
167.....36453

Proposed Rules:

100.....36474, 37433
110.....34767, 38652
115.....35464
117.....36475, 36477, 38653–38655
161.....37433
165.....37438

34 CFR

200.....34953
205.....35879
263.....35330

35 CFR

Proposed Rules:

111.....35905

36 CFR

223.....34740
905.....38232

Proposed Rules:

13.....37673
228.....35580
251.....35465, 35580
261.....35465

37 CFR

202.....37204

Proposed Rules:

1.....34836, 36478
2.....36478
202.....37232

38 CFR

3.....37031
17.....37398
21.....35879, 36577, 37968
36.....35879
40.....36103

Proposed Rules:

17.....38007, 38253
21.....34975, 35146

39 CFR

1.....38234
10.....35409
111.....35645, 38234

Proposed Rules:

111.....37439
3001.....35914

40 CFR

35.....37814
52.....36250, 36818, 36819, 37401–37403, 38235, 38465–38467, 38634, 38635
60.....36579, 37578, 37598, 38728
61.....36579
65.....38637
81.....37404, 37653, 38236, 38467, 38637, 38639
145.....38237, 38238, 38640, 38641
162.....35095, 38572
180.....35095, 36251, 37210–37214
264.....36582
270.....36582
271.....34742, 34954, 35096, 35097, 35647, 36252, 37215
425.....35649
466.....36942
717.....38178

Proposed Rules:

Ch. II.....34768
50.....38009
51.....38742
52.....34976, 35312–35328, 35672, 35918, 36139, 37232, 38742
60.....35338, 37338
61.....38009
62.....34978
81.....35919, 35920, 36275, 38254, 38255
145.....37673
180.....36486, 38501
228.....35147, 35673
271.....36277, 36628, 38010, 38722
302.....34979
414.....35674
416.....35674
721.....38502
1502.....36486
1506.....36486

41 CFR

Ch. 1.....37031
Ch. 101.....35098
5–1.....37997
5–53.....37405
29–70.....37786
101–41.....35649

Proposed Rules:

3–1.....37233
3–3.....37233

42 CFR

405.....37408

Proposed Rules:

2.....38758
71.....36143
100.....36390
122.....36402
123.....36402
125.....36390
400.....38146
405.....34979, 38146
408.....38146
409.....38146
418.....38146
420.....38146
421.....34979, 38146
431.....36151
441.....38011
460.....36970, 38656
462.....36970, 38656
489.....38146

43 CFR

2.....37411
1820.....36103
3000.....37654
3100.....37656
3410.....37654
3420.....37654
3430.....37654
3450.....37654
8360.....36382

Public Land Orders:

3160.....36582
3180.....36582
3570.....36586
6380 (corrected by PLO 6451).....35099
6388 (corrected by PLO 6450).....35098
6448.....34743
6449.....34743
6450.....35098
6451.....35099
6452.....38239
6453.....38239
6454.....38240
6455.....38468

Proposed Rules:

36.....37673

44 CFR

64.....34744, 34957, 36590, 36592
67.....36104
71.....37036

Proposed Rules:

61.....35468
62.....35468
67.....36159–36167, 36629, 38018, 38019, 38258, 38259

45 CFR

1.....35099
10.....35099
67.....35099
99.....35099
303.....38642
1607.....36820

Proposed Rules:

5b.....37440
302.....35468
304.....35468
306.....35468
1606.....36845
1625.....36845

46 CFR

31.....36457
32.....36457
35.....36457
42.....36646
221.....35881
503.....35253
536.....35099, 36254

Proposed Rules:

10.....35920
35.....35920
50.....37441
52.....37441
53.....37441
54.....37441
63.....37441
157.....35920
162.....37441
175.....35920
185.....35920
186.....35920
187.....35920
295.....37449
298.....37453
540.....35675

47 CFR

0.....37413, 38240
1.....36104, 36459
2.....34746, 37216
15.....34748, 37217
17.....38473
18.....37217

19.....38240
21.....34746, 37216
22.....37997
73.....34753–34757, 34959, 36106–36112, 36254, 36459, 37216, 37220–37224, 37414–37416, 38243, 38470–38473
74.....34746, 37216, 38473
83.....34961
90.....34961, 36104
95.....35234, 36104
97.....34746, 37224

Proposed Rules:
Ch. I.....36167, 37235, 37464, 38511
2.....37475
18.....37235
68.....34985
73.....34772–34779, 35964, 36168–36173, 36278, 37239–37269, 37475–37492, 38020, 38053
76.....34986
90.....34782, 34987, 35149

48 CFR

Proposed Rules:
Ch. I.....35675

49 CFR

1.....37998
192.....37999
213.....35882
391.....38483
1170.....35409
1175.....36594
1300.....36822
1307.....36822

Proposed Rules:
Ch. X.....38059
171.....35471, 35965
172.....35471, 35965, 35970
173.....35471, 35965, 35970
175.....35471
179.....35970
210.....36487, 38511
218.....36492
571.....34783, 34784, 36493, 36849
572.....37493
622.....34894
1105.....36284
1152.....36284
1160.....36285
1165.....36290
1180.....36284

50 CFR

10.....37040
17.....34757, 34961, 36256, 36594
20.....35100
32.....36112
285.....35107, 36597, 36823, 38650
611.....34762, 34982, 35107
649.....36266
650.....34762
651.....34762
652.....34762, 38243
654.....34762
655.....34762
658.....38489
661.....36823, 38244
662.....34963
663.....34762, 34763
671.....34762
672.....34762, 35107, 37040
674.....34762, 34965, 37224
675.....34762, 35107

Proposed Rules:
17.....35475, 35973
20.....35152, 35153, 36853
23.....37494
32.....34987
36.....37673
424.....36062
641.....38511
681.....35475

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing August 18, 1983

VOL
48
ISS
1
6
6
AG
25
1983
UMI

6
7
2.6
1983

8-26-83
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SECOND CLASS NEWSPAPER

VOL
48
ISS
1
6
7
AG
26
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Friday
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Selected Subjects

Administrative Practice and Procedure
Immigration and Naturalization Service
Air Pollution Control
Environmental Protection Agency
Aircraft
Federal Aviation Administration
Animal Drugs
Food and Drug Administration
Aviation Safety
Federal Aviation Administration
Color Additives
Food and Drug Administration
Educational Study Programs
Education Department
Endangered and Threatened Wildlife
Fish and Wildlife Service
Exports
International Trade Administration
Flood Insurance
Federal Emergency Management Agency
Food Grades and Standards
Agricultural Marketing Service
Freight Forwarders
Federal Maritime Commission

CONTINUED INSIDE

Selected Subjects

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Government Employees
Personnal Management Office

Government Procurement
Federal Emergency Management Agency

Hazardous Waste
Environmental Protection Agency

Health Care
Veterans Administration

Hunting
Fish and Wildlife Service

Intergovernmental Relations
Personnel Management Office

Inventions and Patents
Patent and Trademark Office

Loan Programs—Education
Public Health Service

Marketing Agreements
Agricultural Marketing Service

Military Personnel
Defense Department

Motor Carriers
Interstate Commerce Commission

Motor Vehicle Safety
National Highway Traffic Safety Administration

Natural Gas
Federal Energy Regulatory Commission

Organization and Functions (Government Agencies)
Customs Service

Penalties
Health and Human Services Department

Privacy
Education Department

Quarantine
Animal and Plant Health Inspection Service

Radio
Federal Communications Commission

Trade Practices
Federal Trade Commission

Veterans
Veterans Administration

Contents

Federal Register
Vol. 48, No. 167
Friday, August 26, 1983

Administrative Conference of United States
NOTICES
Meetings:
38862 Adjudication Committee
38862 Rulemaking Committee

Agricultural Marketing Service
RULES
38791 Avocados grown in Fla., and imported avocados
38791 Lemons grown in Ariz., and Calif.
38789 Mixed nuts in-the-shell; grade standards
PROPOSED RULES
38846 Summer squash; grade standards
NOTICES
Meetings:
38862 Plant Variety Protection Advisory Board

Agriculture Department
See Agricultural Marketing Service; Forest Service; Rural Electrification Administration.

Air Force Department
NOTICES
Meetings:
38878 Scientific Advisory Board

Alcohol, Drug Abuse, and Mental Health Administration
NOTICES
Meetings; advisory committees:
38903 September

Animal and Plant Health Inspection Service
RULES
Livestock and poultry quarantine:
38793 Contagious equine metritis (CEM)

Arts and Humanities, National Foundation
NOTICES
Meetings:
38917 Humanities Advisory Panel

Bonneville Power Administration
NOTICES
Power sales contract:
38879 Pend Oreille County Public Utility District No. 1, Wash.

Civil Aeronautics Board
NOTICES
38866 Certificates of public convenience and necessity and foreign air carrier permits; weekly applications
Hearings, etc.:
38867 Northeast Imperial Airlines, Inc.

Commerce Department
See also International Trade Administration; Patent and Trademark Office.
NOTICES
38867 Agency information collection activities under OMB review

Customs Service
RULES
Organization and functions; field organization, ports of entry, etc.:
38813 Lochiel and Naco, Ariz.
NOTICES
Customhouse broker license cancellation, suspension, etc.:
38944 Sanchez, Norma E.; correction
38943 Uyeno, Takashi Brian; correction

Defense Department
See also Air Force Department.
RULES
Personnel:
38816 Active military service and discharge determinations; civilian or contractual personnel

Economic Regulatory Administration
NOTICES
Electric energy transmission; exports to and imports from Canada or Mexico; authorizations, permits, etc.:
38883 Citizens Utilities Co.
Natural gas; fuel oil displacement certification applications:
38882 Donnelley Printing Co. et al.
Remedial orders:
38882 Apex Oil Co.

Education Department
RULES
38817 Privacy Act; implementation
PROPOSED RULES
Postsecondary education:
38968 Modern foreign language training and area studies
NOTICES
Grants; availability, etc.:
38960 Fulbright-Hays training grant programs

Employment and Training Administration
NOTICES
Adjustment assistance:
38914 Alaric Textile International Corp. et al.
38914 General Motors Corp.
38915 Kennecott Minerals Co.
38913 Park-Ohio Industries, Inc., et al.

Employment Standards Administration
NOTICES
38952 Minimum wages for Federal and federally-assisted construction; general wage determination decisions, modifications, and supersedeas decisions (Ariz., Calif., Fla., Ill., Iowa, La., Mass., N.Y., Pa., PR., Tex., and Utah)

Energy Department
See also Bonneville Power Administration; Economic Regulatory Administration; Federal Energy Regulatory Commission; Hearings and Appeals Office, Energy Department.

NOTICES
International atomic energy agreements; civil uses; subsequent arrangements:
38878 International Atomic Energy Agency
38878 Spain
38878 Venezuela
Senior Executive Service:
38878 Performance Review Board; membership

Environmental Protection Agency
RULES
Air pollution; standards of performance for new stationary sources:
39010 Calibration revisions; standardized dry gas meter
PROPOSED RULES
Hazardous waste management system:
39000 Identification and listing; strontium sulfide
NOTICES
38889 Agency information collection activities under OMB review
Environmental statements; availability, etc.:
38897 Agency statements; weekly receipts
Meetings:
38889 Science Advisory Board
Toxic and hazardous substances control:
38891 Premanufacture notices; monthly status reports
38889 Premanufacture notices receipts

Federal Aviation Administration
RULES
Aircraft products and parts, certification:
38808 Beech
Airworthiness directives:
38809 Detroit Diesel Allison
38810 Jet routes and VOR Federal airways
38809 Transition areas
PROPOSED RULES
Airworthiness standards:
38848 Transport category; FAA auxiliary fuel system forum

Federal Communications Commission
PROPOSED RULES
Radio stations; table of assignments:
38859 California and Nevada; extension of time
38860 Montana extension of time
NOTICES
38897 Cellular application filing procedures; standard metropolitan statistical areas; changes in markets
Meetings:
38899 Telecommunications Industry Advisory Group
38899 Telecommunications Industry Advisory Group Steering Committee

Federal Emergency Management Agency
RULES
Flood insurance; communities eligible for sale:
38825 New Jersey et al.
Procurement:
38822 Extraordinary contractual adjustment procedures
NOTICES
38899, 38900 Agency information collection activities under OMB review (2 documents)
Disaster and emergency areas:
38900 Texas
Radiological emergency; State plans:
38900 Iowa

Federal Energy Regulatory Commission
RULES
Natural Gas Policy Act:
38812 Incremental pricing; acquisition cost thresholds
NOTICES
Hearings, etc.:
38884 Alabama Power Co.
38886 Arkansas Louisiana Gas Co.
38886 East Tennessee Natural Gas Co.
38884, 38887 Georgia Power Co. (2 documents)
38884 Kansas Power & Light Co.
38884 Louisville Gas & Electric Co.
38885 Madison Gas & Electric Co.
38885 Pennsylvania Power Co.
38885 Public Service Co. of New Mexico
38886 Public Service Co. of Oklahoma
38886 San Diego Gas & Electric Co.
Natural Gas Policy Act:
39004 Jurisdictional agency determinations
Small power production and cogeneration facilities; qualifying status; certification applications, etc.:
38887 McCollum, J. D.
38887 Pacific Telephone & Telegraph Co.

Federal Highway Administration
PROPOSED RULES
38854 Federal-aid highway programs; acceleration of projects; advance notice

Federal Home Loan Bank Board
NOTICES
38901 Agency information collection activities under OMB review

Federal Labor Relations Authority
RULES
Office addresses and geographic jurisdictions:
38781 Boston and Washington, D.C., Regional Offices

Federal Maritime Commission
PROPOSED RULES
38856 Freight forwarders, independent ocean; licensing
NOTICES
38901 Agency information collection activities under OMB review
38948 Meetings; Sunshine Act

Federal Reserve System
NOTICES
Applications, etc.:
38901 Franklin Financial Services Corp. et al.
38902 Sun Banks, Inc.

Federal Trade Commission
PROPOSED RULES
Prohibited trade practices:
38848 Emergency Devices, Inc., et al.

Fish and Wildlife Service
RULES
Migratory bird hunting:
39024 Seasons, limits, and shooting hours; establishment, etc.
PROPOSED RULES
Endangered and threatened species:
38860 Heliotrope milk-vetch; hearing, etc.

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
38815 Monensin, roxarsone, and virginiamycin
Color additives:
38814 D&C Red Nos. 19 and 37; provisional listing; closing dates postponed
Food additives:
38815 Polymers; Nylon 12T resins; correction
PROPOSED RULES
Human drugs:
38853 Laboratory testing profiles for OTC abrasive-containing fluoride anticaries drug products; meeting, etc.

Forest Service
NOTICES
Environmental statement; availability, etc.:
38865 Sawtooth National Forest, Idaho and Utah
Land and resource management plans:
38864 Lake Tahoe Basin Management Unit, Calif.; intent to reevaluate roadless areas
38862 Timber sale contracts, extension; interim policy

General Services Administration
RULES
Property management:
38824 Records management; stationary standards; correction

Health and Human Services Department
See also Alcohol, Drug Abuse, and Mental Health Administration; Food and Drug Administration; Health Care Financing Administration; Public Health Service; Social Security Administration.
RULES
38827 Medicare, medicaid, and maternal and child health services block grant programs; civil money penalties and assessments for false or improper claims
NOTICES
38903 Agency information collection activities under OMB review
Meetings:
38902 Social Security Advisory Council

Health Care Financing Administration
RULES
Medicare:
38825 Carrier contracts, nonrenewal; correction

Hearings and Appeals Office, Energy Department
NOTICES
Applications for exemption:
38888 Cases filed
38888 Decisions and orders

Immigration and Naturalization Service
PROPOSED RULES
38847 Immigration Appeals Board; forwarding of record on appeal

Interior Department
See Fish and Wildlife Service; Land Management Bureau; Minerals Management Service; National Park Service; Reclamation Bureau.

Internal Revenue Service
NOTICES
Authority delegations:
38944, 38946 Employee Plans and Exempt Organizations, District Directors (2 documents)
Meetings:
38944 Art Print Advisory Panel

International Trade Administration
RULES
Export licensing:
38811 Spectrum analyzers; exclusion from special licensing considerations, etc.; temporary suspension.
NOTICES
Scientific articles; duty free entry:
38868 Smith College et al.
38869 State of Connecticut-Health Laboratory et al.
38869 University of Wisconsin et al.
Steel trigger price levels:
38870 Stainless steel round wire; fourth quarter

International Trade Commission
NOTICES
Import investigations:
38907 Composite diamond coated textile machinery components

Interstate Commerce Commission
RULES
Motor carriers:
38844 Duplicate operating rights; policy statement
38844 Household goods carriers; moving service questionnaire change
NOTICES
Motor carriers:
38908 Permanent authority applications
Motor carriers; control, purchase, and tariff filing exemptions, etc.:
38910 Gorski Bulk Transport, Inc., et al.
Rail carriers:
38911 Northeast corridor costing methodologies; commuter service and Conrail freight service; petition denied
Railroad operation, acquisition, construction, etc.:
38912 Baltimore & Ohio Railroad Co.
38911 Chicago, Milwaukee, St. Paul & Pacific Railroad Co.

Justice Department
See also Immigration and Naturalization Service; Parole Commission.
NOTICES
38912 Grant recipients; single audit concept

Labor Department
See also Employment and Training Administration; Employment Standards Administration; Occupational Safety and Health Administration; Pension and Welfare Benefit Programs Office.
NOTICES
38912 Agency information collection activities under OMB review

Land Management Bureau
NOTICES
Environmental statements; availability, etc.:
38905 Redding Resource Area, Ukiah District, Calif.

Oil and gas leases:
38905 Alaska
Sale of public lands:
38905 California

Minerals Management Service
NOTICES
Outer Continental Shelf; oil, gas, and sulphur operations; development and production plans:
38906 Arco Oil & Gas Co.
38907 Kerr-McGee Corp.

National Highway Traffic Safety Administration
RULES
Motor vehicle safety standards:
38842 Rearview mirror systems

National Park Service
NOTICES
Environmental statements; availability, etc.:
38906 Grand Teton National Park, Jackson Lake Dam, Wyo.
Management and development plans:
38907 Pea Ridge National Military Park, Ark.

Occupational Safety and Health Administration
PROPOSED RULES
Health and safety standards:
38856 Benzene, occupational exposure; extension of time
NOTICES
Meetings:
38915 Construction Safety and Health Advisory Committee

Pacific Northwest Electric Power and Conservation Planning Council
NOTICES
38948 Meetings; Sunshine Act

Parole Commission
NOTICES
38948 Meetings; Sunshine Act

Patent and Trademark Office
PROPOSED RULES
Patent cases:
39016 Practice rules

Pension and Welfare Benefit Programs Office
NOTICES
Employee benefit plans; prohibited transaction exemptions:
38915 John Hancock Mutual Life Insurance Co.

Personnel Management Office
RULES
Retirement:
38781 Interest computation, civilian service, involuntary separation, annuities, military service deposits, etc.
PROPOSED RULES
Intergovernmental Personnel Act programs:
38846 Temporary assignment; authority to approve agreements

Postal Rate Commission
NOTICES
38948 Meetings; Sunshine Act

Postal Service
NOTICES
38948 Meetings; Sunshine Act

Public Health Service
RULES
Grants:
38984 Health education assistance loan program

Reclamation Bureau
NOTICES
Environmental statements; availability, etc.:
38906 Grand Teton National Park, Jackson Lake Dam, Wyo.

Rural Electrification Administration
NOTICES
Environmental statements; availability, etc.:
38866 Northeast Missouri Electric Power Cooperative
Loan guarantees, proposed:
38865 Commonwealth Telephone Co.

Securities and Exchange Commission
NOTICES
Hearings, etc.:
38918 American Leaders Fund, Inc., et al.
38919 Appalachian Power Co.
38920 NL Industries, Inc.
38920 Territorial Government Fund
38921 United of Omaha Variable Fund B
Self-regulatory organizations; unlisted trading privileges:
38921 Boston Stock Exchange, Inc.

Small Business Administration
RULES
38794 Innovation research program; policy directive

Social Security Administration
RULES
Social security benefits:
38814 Disabled worker benefits; reduction due to concurrent compensation benefits; correction
NOTICES
Grants; availability, etc.:
38904 Refugees; mainstream English language training demonstration projects; correction

Tennessee Valley Authority
NOTICES
38922 Privacy Act; systems of records

Transportation Department
See Federal Aviation Administration; Federal Highway Administration; National Highway Traffic Safety Administration.

Treasury Department
See also Customs Service; Internal Revenue Service.
NOTICES
38942 Agency information collection activities under OMB review
Organizations, functions, and authority delegations.
38943 Assistant Secretary (Business and Consumer Affairs) et al.

Veterans Administration
RULES
Adjudication; pensions, compensation, dependency, etc.:
38820 Nursing home; definition
Medical benefits:
38821 Contingency plan; backup to DOD
NOTICES
38946 Agency information collection activities under OMB review

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Separate Parts in This Issue

Part II
38952 Department of Labor, Employment Standards Administration, Wage and Hour Division

Part III
38968 Department of Education

Part IV
38984 Department of Health and Human Services; Public Health Service

Part V
39000 Environmental Protection Agency

Part VI
39004 Department of Energy, Federal Energy Regulatory Commission

Part VII
39010 Environmental Protection Agency

Part VIII
39016 Department of Commerce, Patent and Trademark Office

Part IX
39024 Department of the Interior, Fish and Wildlife Service

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

5 CFR
Ch. XIV 38781
831 38781
Proposed Rules:
334 38846

7 CFR
51 38789
910 38791
915 38791
944 38791
Proposed Rules:
51 38846

8 CFR
Proposed Rules:
3 39647

9 CFR
75 38793

13 CFR
Ch. I 38794

14 CFR
21 38808
23 38808
39 38809
71 (2 documents) 38809, 38810
75 38810
Proposed Rules:
25 38848

15 CFR
373 38811
399 38811

16 CFR
Proposed Rules:
13 38848

18 CFR
282 38812

19 CFR
101 38813

20 CFR
404 38814

21 CFR
81 38814
177 38815
558 38815
Proposed Rules:
355 38853

23 CFR
Proposed Rules:
Ch. I 38854

29 CFR
Proposed Rules:
1910 38856

32 CFR
47 38816

34 CFR
5b 38817
Proposed Rules:
662 38968
663 38968
664 38968
665 38968

37 CFR
Proposed Rules:
1 39016

38 CFR
3 38820
17 38821

40 CFR
60 39010
Proposed Rules:
261 39000

41 CFR
44-17 38822
101-11 38824

42 CFR
60 38984
421 38825

44 CFR
64 38825

45 CFR
101 38827

46 CFR
Proposed Rules:
510 38856

47 CFR
Proposed Rules:
73 (2 documents) 38859, 38860

49 CFR
571 38842
1056 38844
1181 38844
1183 38844

50 CFR
20 39024
Proposed Rules:
17 38860

Rules and Regulations

Federal Register
Vol. 48, No. 167
Friday, August 26, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

FEDERAL LABOR RELATIONS AUTHORITY

5 CFR Chapter XIV

Regional Office; Jurisdictional Change

AGENCY: Federal Labor Relations Authority and the General Counsel of the Federal Labor Relations Authority.

ACTION: Amendment of rules and regulations.

SUMMARY: Appendix A, paragraph (f) of the rules and regulations of the Federal Labor Relations Authority and the General Counsel of the Federal Labor Relations Authority published at 5 CFR Part 2400 et. seq. sets forth the geographic jurisdictions of the Regional Directors of the Authority. Under paragraph (f) of Appendix A, all cases arising in European countries, i.e. all land and water areas east of the continents of North and South America to long. 90° E, except the Virgin Islands, Panama (limited FLRA jurisdiction), Puerto Rico and coastal islands, are listed to be within the geographic jurisdiction of the Authority's Washington, D.C. Regional Office. In the best interest of efficient case handling by the Office of the General Council, it has been concluded that all cases arising in Europe should be within the geographic jurisdiction of the Authority's Boston Regional Office.

DATES:

Effective date: September 1, 1983.

Comment date: Written comments will be considered if received no later than October 1, 1983.

ADDRESS: Send written comments to the Federal Labor Relations Authority, Office of the General Counsel, 500 C Street, SW., Washington, D.C. 20424.

FOR FURTHER INFORMATION CONTACT: David L. Feder, Assistant General Counsel, (202) 382–0834.

SUPPLEMENTARY INFORMATION: Effective January 28, 1980, the Authority and the General Counsel published, at 45 FR 3482, January 17, 1980, final rules and regulations to govern the processing of cases by the Authority and the General Counsel under chapter 71 of title 5 of the United States Code. These rules and regulations are required by Title VII of the Civil Service Reform Act of 1978 and are set forth in 5 CFR Part 2400 et. seq. (1983).

The address of the Boston Regional Office, as set forth in Appendix A, paragraph (d)(1) of the rules and regulations is as follows:

(1) *Boston Regional Office,* 441 Stuart Street, 9th Floor, Boston, MA 02116. Telephone: FTS: 223–0920, Commercial: (617) 223–0920.

Appendix A—[Amended]

Accordingly, Appendix A, paragraph (f) of the Authority and General Counsel rules and regulations is amended to read as follows: in the table by revising the entry which begins "all land and water areas east . . ."

Appendix A to CFR Ch. XIV—Current Addresses and Geographic Jurisdictions

(f) The geographic jurisdictions of the Regional Directors of the Authority, are as follows:

State or other locality	Regional office
• • • • •	
All land and water areas east of the continents of North and South America to long. 90° E, except the Virgin Islands, Panama (limited FLRA jurisdiction), Puerto Rico and coastal islands.	Boston.
• • • • •	

(5 U.S.C. 7134)

Dated: August 23, 1983.

For the Authority.

James J. Shepard,

Executive Director.

For the General Counsel.

S. Jesse Reuben,

Deputy General Counsel.

[FR Doc. 83–23482 Filed 8–25–83; 8:45 am]
BILLING CODE 6727–01–M

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 831

Retirement

AGENCY: Office of Personnel Management.

ACTION: Final rulemaking.

SUMMARY: On October 1, 1982, interim regulations were published in the **Federal Register** (47 FR 43634) to implement the retirement provisions of the Omnibus Budget Reconciliation Act of 1982 (Pub. L. 97–253). Revised interim regulations were published on January 25, 1983 (48 FR 3353). The revised interim regulations included changes necessitated by the amendments made to the Reconciliation Act by Pub. L. 97–346 and Pub. L. 97–377. After considering the comments submitted and making appropriate changes, including the addition of a new subpart which provides a definition of refund policy, we are now publishing final regulations for the amended Reconciliation Act. We are also publishing, as final regulations, the proposed regulations published on October 5, 1982 (47 FR 43981) to add certain provisions not previously incorporated in the regulations, to correct certain omissions, and to conform to certain changes in the law.

EFFECTIVE DATE: September 26, 1983.

FOR FURTHER INFORMATION CONTACT: Mary Angel, (202) 632–4634, or Margaret Sears, (202) 632–9677.

SUPPLEMENTARY INFORMATION: During the comment period for the proposed regulations that were published on October 5, 1982, we received comments from two agencies that had no objections to the proposed regulations as published.

During the extended comment period on the regulations to implement the amended Reconciliation Act, OPM received written comments from 29 agencies, two employee organizations, two labor organizations, and four individuals. The comments have been organized by subject area (in the order in which the regulations will appear when incorporated in the Code of

Federal Regulations) and addressed below.

For the convenience of the reader, the January 25, 1983, amended Reconciliation Act regulations and the technical changes proposed on October 5, 1982, are merged into this document in the order in which they will appear when included in the Code of Federal Regulations.

Computation of Interest

Section 303 of the amended Reconciliation Act provides that OPM shall charge increased rates of interest on deposits for civilian and military service effective January 1, 1985, and shall pay increased rates of interest on voluntary contributions effective the same date.

One agency suggested that variable interest rates be published in the Federal Personnel Manual (FPM). OPM plans to do so each year when it publishes the current interest rates in the **Federal Register**. In addition, the variable interest rates will become a permanent part of FPM Supplement 831–1 as that supplement is revised.

Civilian Service

Section 303(b) of the amended Reconciliation Act created a new type of civilian service for which deposits could be made—nondeduction service performed on or after October 1, 1982. Such service differs from nondeduction service performed before October 1, 1982. If a deposit is not made for nondeduction service performed before October 1, 1982, the service is still creditable in full for title and annuity computation purposes, with only a nominal reduction for nonpayment of the amount of deposit owed. However, if a deposit is not made for nondeduction service performed on and after October 1, 1982, that service is creditable for title purposes only; it is not creditable for annuity computation purposes. This makes the treatment of nondeduction service on and after October 1, 1982, comparable to the treatment of refunded service and encourages employees to make deposits to cover that service.

One commenter stated that § 831.303 of the interim regulations does not make a clear statement about the creditability of a period of service covered by a refund which has not yet been redeposited. We have amended that section to make it clear that such service, like nondeduction service performed on and after October 1, 1982, is creditable for annuity computation purposes only if the employee makes a redeposit for the full period of service.

Retirement Based on Involuntary Separation

Section 308 of the Reconciliation Act provides that an employee would not be eligible for discontinued-service retirement if he or she is offered a position that is not more than two grades or pay levels below the employee's grade or pay level.

Two labor organizations have differed with our definition of "reasonable offer." One believes that an employee is eligible for retirement based on involuntary separation if he or she declines any offer of a position that is less than an "equivalent position," by which it means a position of the same grade or pay level. This is not consistent with section 308 of the Reconciliation Act.

The other labor organization commented that considering occupied positions to be "reasonable offers" will adversely impact a large number of employees. These regulations were written to be consistent with the reduction-in-force provisions of Part 351 of Title 5, Code of Federal Regulations. If occupied positions were excluded from the positions that can be considered "reasonable offers," these regulations would be inconsistent with the reduction in force procedures already in effect.

One agency commented that an agency should be able, at its option, to reassign employees who are serving subject to mobility agreements out of their commuting areas by choosing to invoke or not to invoke the mobility agreements. This would allow agencies to determine an individual employee's discontinued service retirement eligibility. As this would accord disparate treatment to different employees in the same situation, we have not adopted this suggestion.

Effective Dates of Annuities

Section 305 of the amended Reconciliation Act provides that an annuity based on the voluntary separation of an employee who serves more than three days in the month of retirement commences on the first day of the month following the month in which the employee meets the age and service requirements for an annuity.

We have amended § 831.701 of the interim regulations to indicate that a deferred annuity commences on a former employee's 62nd birthday. This issue was not addressed in the interim regulations.

Supplemental Annuity and Redetermined Annuity

Section 303 of the amended Reconciliation Act provides that *all* employees must make deposits to receive full credit for nondeduction civilian service performed on and after October 1, 1982. Therefore, reemployed annuitants, as well as other employees, are required to make deposits to receive full credit for such service. Reemployed annuitants have not had retirement deductions withheld from their salaries in the past, but the amended Reconciliation Act permits such deductions to be withheld from their pay, so that they may make deposits of amounts due on a current basis and without an interest charge before retirement.

One agency asked whether all reemployed annuitants may have retirement deductions withheld from their salaries. Retirement deductions may be withheld from the pay of a reemployed annuitant who is eligible to continue to receive his or her annuity during reemployment. However, if the annuitant retired under a provision of law that requires termination of annuity upon reemployment, the employee may have retirement deductions withheld from his or her pay only if he or she is reinstated under a type of appointment covered by retirement deductions.

We have also amended § 831.802(c) of the interim regulations to show that supplemental annuities and redetermined annuities commence on the day following separation from service or the day following the day pay ceases and the service requirements for title to supplemental annuity or redetermined annuity are met if the reemployed annuitant is (1) involuntarily separated from service (except by removal for cause on charges of misconduct or delinquency); (2) involuntarily converted to an intermittent status; or (3) retiring after serving three days or less in the month of retirement. In addition, we have amended section 831.802(c) of the interim regulations to show that supplemental annuities and redetermined annuities based on voluntary conversion to intermittent status or the voluntary separation of employees who serve more than three days in the month of retirement begin on the first day of the month after separation from service or, if earlier, the first day of the month after pay ceases and the service requirements for title to supplemental annuity or redetermined annuity are met. This issue was not addressed in the interim regulations.

Deposits for Military Service

Section 306 of the amended Reconciliation Act requires employees to complete deposits for post-1956 military service to receive full credit for periods of that service.

Under the provisions of law in effect before enactment of the Reconciliation Act, an annuity or survivor annuity which included credit for post-1956 military service was reduced when the former employee or surviving spouse became eligible for a social security benefit which included credit for that service. Because this reduction affected former employees at age 62, this reduction was called "catch 62." The Reconciliation Act allows employees who were first employed under the retirement system before October 1, 1982 (and survivors of those employees), to make deposits for post-1956 military service, receive credit for it in both civil service and social security benefits, and avoid the reduction at age 62. Individuals who were first employed before October 1, 1982 (and their survivors) who choose not to make the deposit will have their annuities reduced at age 62 if they are also eligible for social security benefits which include credit for the post-1956 military service.

Employees who are first employed under the retirement system on and after October 1, 1982 (and their survivors), may make a deposit for post-1956 military service and receive credit for it in both their civil service annuity computation and in their social security benefits. If they do not make the deposit, they do not receive credit for their post-1956 military service, either for title or annuity computation purposes.

Most of the agencies, employee organizations, and individuals who commented on the interim regulations addressed the regulations dealing with deposits for military service. A large number of comments have already been answered by the amendatory language of Pub. L. 97–346, the revised interim regulations published in the **Federal Register** on January 25, 1983, FPM Letter 831–77, and a January 14, 1983, letter from our Office of Financial Control and Management to agency payroll offices. This section addresses only those comments that have not been addressed by that material.

Many agencies objected to collecting deposits for military service because of the large amount of time and effort that would be involved in performing the function. A large number of agencies wanted OPM to accept full responsibility for deposits for military service. As section 306(d) of the amended Reconciliation Act states that employees shall make deposits for military service to their employing agencies, that responsibility cannot be performed elsewhere.

Two agencies wanted OPM to verify all agency computations of deposits for military service. Since the computation procedure is very simple (employees must provide agencies with sufficient evidence of basic pay and agencies are required only to calculate 7 percent of that amount, plus compounded interest, when applicable), we do not believe that it will be necessary for OPM to routinely verify agency computations.

Several agencies asked that OPM provide training on the computation of deposits for military service. We believe that the information provided by FPM Letter 831–77 will enable agencies to correctly compute military deposits.

One agency asked that OPM publish FPM guidance on eligibility for Social Security benefits. That information is contained in FPM Chapter 832, which is now being updated by the Social Security Administration.

Some respondents objected to the time limits and the minimum payment requirements for deposits for military service as they felt that many employees would not be able to comply with those requirements. Those requirements have been deleted. However, agencies will not be required to accept individual checks in amounts of less than $50.

One agency was in favor of limiting installment payments to payroll deductions. Though we realize that this would greatly simplify agency processing of deposits for military service, it would also limit an employee's options for making deposits for military service. Therefore, we have not amended the regulations to permit payment by payroll deductions only.

Lump-Sum Payments

The Reconciliation Act created new types of service for which deposits could be made—nondeduction civilian service performed on and after October 1, 1982, and post-1956 military service. In doing so, it also created new types of deposits which may be refunded to employees. We have extended our current lump-sum payment policy to apply to the new deposits and we have added another subpart to the regulations to provide a definition of that policy.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule as defined under Section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that within the scope of the Regulatory Flexibility Act, this regulation will not have a significant economic impact on a substantial number of small entities because it affects Federal employees and retirees only.

List of Subjects in 5 CFR Part 831

Administrative practice and procedure, Claims, Firefighters, Government employees, Handicapped, Law enforcement officers, Pensions, Retirement.

Office of Personnel Management.

Donald J. Devine,
Director.

Accordingly, Part 831 of Title 5 of the Code of Federal Regulations, is amended as follows:

PART 831—RETIREMENT

1. Section 831.104 is revised to read as follows:

§ 831.104 Application.

(a) Except as provided in paragraph (b) of this section, applications under subchapter III of chapter 83 of title 5, United States Code, shall be filed with OPM and shall be on forms prescribed by OPM.

(b) Applications to make deposit for military service shall be filed in accordance with Subpart U of this part.

2. In § 831.105, paragraphs (b) through (g) are revised to read as follows:

§ 831.105 Computation of interest.

* * * * *

(b) Interest is allowed on current deductions and deposits at the rate of 4 percent per year to December 31, 1947, and 3 percent per year thereafter, compounded annually, to December 31, 1956. After December 31, 1956, except as provided below, interest is allowed at the rate of 3 percent per year, compounded annually, to date of final separation or transfer to a position that is not covered by the retirement system. After December 31, 1956, interest is not allowed:

(1) When an employee has one year or less of covered service,

(2) For any fractional part of a month in the total service, or

(3) For more than five years' civilian service.

(c) Interest at the rate of 3 percent per year through December 31, 1984, and, thereafter, at the yearly rate determined by the Secretary of Treasury, compounded annually, is allowed on voluntary contributions during periods of employment and, after the employee or Member has completed at least 5

years' civilian service, during periods of separation until the beginning date of annuity or death, whichever is earlier. For refund purposes, however, interest on voluntary contributions terminates on the date of the employee's or Member's final separation or on the date of the employee's or Member's last transfer to a position in which he or she is not subject to subchapter III of chapter 83 of title 5, United States Code

(d) For noncontributory service performed before October 1, 1982, and for redeposits of refunds paid on an application received by either the individual's employing agency or OPM before October 1, 1982, interest at the rate of 4 percent per year to December 31, 1947, and at the rate of 3 percent per year thereafter, compounded annually, is charged. Interest is charged on the outstanding balance of a deposit from the midpoint of each service period for which deposit is involved; interest is charged on the outstanding balance of a refund from the date the refund was paid. Interest is charged to the date of deposit or commencing date of annuity, whichever is earlier, except that interest is not charged for any period of separation from the service which began before October 1, 1956.

(e) For noncontributory service performed on or after October 1, 1982, and for redeposits of refunds paid on an application received by the individual's employing agency or OPM on or after October 1, 1982, interest is charged at the rate of 3 percent per year through December 31, 1984, and, thereafter, at the yearly rate determined by the Secretary of Treasury, compounded annually. Interest is charged on the outstanding balance of a deposit from the midpoint of each service period for which deposit is involved; interest is charged on the outstanding balance of a refund from the date the refund was paid. Interest is charged to the date of deposit.

(f) No interest is charged on a deposit for military service if that deposit is made before October 1, 1984, or within 2 years of the date that an individual first becomes an employee or Member under the civil service retirement system, whichever is later. When interest is charged on a deposit for military service, it is charged on the outstanding balance at the rate of 3 percent per year, compounded annually, from October 1, 1984, or 2 years from the date the individual first becomes an employee or Member, whichever is later, through December 31, 1984, and thereafter at the yearly rate determined by the Secretary of the Treasury.

(g) For calendar year 1985 and for each subsequent calendar year, OPM will publish a notice in the **Federal Register** to notify the public of the interest rate that will be in effect during that calendar year.

§ 831.110 [Amended]

3. In §831.110, paragraphs (b), (c), (d), and (e) are removed and the designation "(a)" of the introductory paragraph is removed.

4. In § 831.201, paragraph (a)(9) is revised to read as follows:

§ 831.201 Exclusions from retirement coverage.

(a) * * *

(9) Officers in Charge, clerks in fourth-class post offices, substitute rural carriers, and special-delivery messengers at second- third-, and fourth-class post offices.

* * * * * *

5. Section 831.301 revised to read as follows:

§ 831.301 Military service.

(a) *Service of an individual who first became an employee or Member under the civil service retirement system before October 1, 1982.* A period of honorable active service after December 31, 1956, in the Army, Navy, Marine Corps, Air Force, or Coast Guard of the United States, or, after June 30, 1960, in the Regular Corps or Reserve Corps of the Public Health Service, or, after June 30, 1961, as a commissioned officer of the National Oceanic and Atmospheric Administration (formerly Coast and Geodetic Survey and Environmental Science Services Administration), performed before the date of separation on which civil service annuity entitlement is based shall be included in the computation of the annuity provided—

(1) The employee or Member has completed 5 years' (18 months' for survivors of employees or Members who die in service) civilian service;

(2) The employee or Member is not receiving (or was not receiving at the time of death) military retired pay awarded for reasons other than (i) service-connected disability incurred in combat with an enemy of the United States, (ii) service-connected disability caused by an instrumentality of war and incurred in line of duty during a period of war (as that term is used in chapter 11 of title 38, United States Code), or (iii) under chapter 67 of title 10, United States Code; and

(3)(i) The employee or Member (or his or her widow(er) is not entitled, or upon application would not be entitled, to monthly old-age or survivors benefits under § 202 of the Social Security Act (41 U.S.C. 402) based on the individual's wages or self-employment income, or

(ii) For an employee or Member (or his or her widow(er) who is entitled, or upon application would be entitled, to monthly old-age or survivors benefits under § 202 of the Social Security Act (41 U.S.C. 402) based on the individual's wages or self-employment income, the employee, Member, or survivor has completed a deposit in accordance with Subpart U of this part, for each full period of such military service performed after December 1956.

If a deposit has not been completed, periods of military service performed after December 31, 1956 (other than periods of military service covered by military leave with pay from a civilian position), are excluded from credit from and after the first day of the month in which the individual (or survivor) becomes entitled, or upon proper application would be entitled, to Social Security benefits under § 202. Military service performed prior to January 1957 is included in the computation of the annuity regardless of whether a deposit is made for service after December 31, 1956.

(b) *Service of an individual who first becomes an employee or Member under the civil service retirement system on or after October 1, 1982.* A period of honorable active service after December 31, 1956, in the Army, Navy, Marine Corps, Air Force, or Coast Guard of the United States, or, after June 30, 1960, in the Regular Corps or Reserve Corps of the Public Health Service, or, after June 30, 1961, as a commissioned officer of the National Oceanic and Atmospheric Administration (formerly Coast and Geodetic Survey and Environmental Science Services Administration), performed before the date of separation on which civil service annuity entitlement is based shall be included in the computation of the annuity provided—

(1) The employee or Member has completed 5 years' (18 months' for survivors of employees or Members who die in service) civilian service;

(2) The employee or Member is not receiving (or was not receiving at the time of death) military retired pay awarded for reasons other than (i) service-connected disability incurred in combat with an enemy of the United States, (ii) service-connected disability caused by an instrumentality of war and incurred in the line of duty during a period of war (as that term is used in chapter 11 of the title 38, United States Code), or (iii) under chapter 67 of title 10, United States Code; and

(3) The employee or Member (or his or her widow(er)) had completed a deposit in an amount equal to 7 percent of his or her basic pay under section 204 of title 37, United States Code, (plus interest, if any) for each full period of such military service performed after December 1956. Military service performed prior to January 1957 is included in the computation of the annuity regardless of whether a deposit is made for service after December 31, 1956.

(c) *Military retirees and recipients of Veterans Administration benefits.* An employee or Member applying for annuity, who otherwise meets all conditions for receiving credit for military service, but who is in receipt of retired or retainer pay which bars credit for military service, may elect to waive the retired or retainer pay and have the military service added to civilian service for annuity computation purposes. An applicant for disability retirement, who is receiving a Veterans Administration pension or compensation in lieu of military retired or retainer pay, may elect to waive the retired or retainer pay and renounce the Veterans Administration pension or compensation and have the military service added to civilian service for annuity computation purposes.

6. Section 831.303 is revised to read as follows:

§ 831.303 Civilian service.

(a) *Periods of civilian service performed before October 1, 1982, for which retirement deductions have not been taken.* Periods of creditable civilian service performed by an employee or Member after July 31, 1920, but before October 1, 1982, for which retirement deductions have not been taken shall be included in determining length of service to compute annuity under subchapter III of chapter 83 of title 5, United States Code; however, if the employee, Member, or survivor does not elect either to complete the deposit describes by section 8334(c) of title 5, United States Code, or to eliminate the service from annuity computation, his or her annuity is reduced by 10 percent of the amount which should have been deposited (plus interest) for the period of noncontributory service.

(b) *Periods of civilian service performed on or after October 1, 1982, for which retirement deductions have not been taken and periods of service for which refunded contributions have not been redeposited.* A period of creditable civilian service performed by an employee or Member on or after October 1, 1982, for which retirement deductions have not been taken and a period of service for which refunded contributions have not been redeposited shall be included in determining length of service to compute the annuity under subchapter III of chapter 83 of title 5, United States Code, only if—

(1) The employee or Member subsequently becomes eligible for an annuity payable under subchapter III of chapter 83 of title 5, United States Code; and

(2) The employee, Member, or survivor makes a deposit (or redeposit) for the full period of service. If more than one distinct period of service is covered by a single refund, the periods of service covered by that refund are considered to be single full periods of service. However, in all other instances, a distinct period of nondeduction civilian service (i.e., a period of nondeduction service that is not interrupted by a break in service of more than three days) and a distinct period of redeposit civilian service (i.e., a period of redeposit service that is not interrupted by a break in service of more than three days) are considered as separate full periods of service, even when they are immediately consecutive. A period of nondeduction service which begins before October 1, 1982, and ends on or after that date is also considered two full periods of service: one ending on September 30, 1982, and the other beginning on October 1, 1982.

7. In § 831.501, paragraph (a) is revised to read as follows:

§ 831.501 Time for filing applications.

(a) An employee or Member who is eligible for retirement may file an application for retirement with his or her department or agency within 30 days before, on, or any time after he or she reaches the requisite retirement age; a former employee or Member who is eligible for retirement may file an application for retirement with OPM within 30 days before, on, or any time after he or she meets the requisite retirement age. An applicant for disability retirement must submit an application for retirement before separation from service or within one year after separation from service, but this time limit may be extended in the case of an employee who is found to be incompetent. When the department or agency contemplates immediate reemployment of a retiring employee, the individual, the department, or agency shall submit to OPM with the Standard Form 2801 (Application for Retirement), a photocopy of Standard Form 2806 (Individual Retirement Record).

* * * * *

8. In § 831.502, paragraph (e) and paragraph (f)(6) are revised to read as follows:

§ 831.502 Disability retirement.

* * * * *

(e) *Income limitation.* (1) Each disability annuitant who, on December 31 of any calendar year, is under 60 years of age shall report to OPM, in a format acceptable to OPM, on or before the following February 15, his or her income from wages and/or self-employment for that calendar year. If the annuitant fails to submit the report, OPM may suspend annuity payments until the report is received and the annuitant's entitlement to continued annuity is determined on the basis of that report.

(2) In regard to income received prior to January 1, 1983: When, in each of two succeeding calendar years, a disability annuitant under age 60 has received income from wages and/or self-employment, equaling at least 80 percent of the current rate of basic pay of the position from which he or she retired, the annuitant's earning capacity is deemed restored. If earning capacity is restored, OPM shall discontinue payment of the annuity at the expiration of 1 year from the end of the 2-year period. When the disability annuitant is reemployed by a department or agency within this 1-year period, OPM shall discontinue payment of the annuity from the date of reemployment.

(3) In regard to income received after December 31, 1982: When, in any calendar year, a disability annuitant under age 60 has received income from wages and/or self-employment, equaling at least 80 percent of the current rate of basic pay of the position from which he or she retired, the annuitant's earning capacity is deemed restored. If earning capacity is deemed restored, OPM shall discontinue payment of the annuity 180 days from the end of the calendar year. One hundred and eighty days shall be computed on the basis that each month has 30 days. When the disability annuitant is reemployed by a department or agency within the 180-day period, OPM shall discontinue the annuity from the date of reemployment.

(f) *Reemployment.* * * *

(6) A disability annuity awarded to a former National Guard Technician under the provisions of 5 U.S.C. 8337(h), in addition to being subject to the provisions of paragraphs (d) and (e) of this section, shall terminate when—

(i) The annuitant is reemployed by a department or agency, or

(ii) The annuitant declines an offer of employment with a department or

agency which is in the same commuting area and of the same grade as, or a level equivalent to, the position from which the annuitant retired.

* * * * *

9. In § 831.503, paragraphs (b) and (c) are redesignated (c) and (d), respectively. A new paragraph (b) is added, and paragraph (c) is revised, to read as follows:

§ 831.503 Automatic separation; exemption.

* * * * *

(b)(1) The head of the agency, when in his or her judgment the public interest so requires, may exempt a law enforcement officer or firefighter from automatic separation until that employee becomes 60 years of age.

(2) The Secretary of Transportation and the Secretary of Defense, under such regulations as each may prescribe, may exempt an air traffic controller having exceptional skills and experience as a controller from automatic separation until that controller becomes 61 years of age.

(c) When a department or agency lacks authority and wishes to secure an exemption from automatic separation for one of its employees other than a Presidential appointee, beyond the age(s) provided by statute, i.e., age 60 for a law enforcement officer or firefighter, age 61 for an air traffic controller, and age 62 for an employee of the Alaska Railroad in Alaska or an employee who is a citizen of the United States employed on the Isthmus of Panama by the Panama Canal Commission, the department or agency head shall submit a recommendation to that effect to OPM.

(1) The recommendation shall contain:

(i) A statement that the employee is willing to remain in service;

(ii) A statement of facts tending to establish that his/her retention would be in the public interest;

(iii) The period for which the exemption is desired, which period may not exceed 1 year; and,

(iv) The reasons why the simpler method of retiring the employee and immediately reemploying him or her is not being used.

(2) The recommendation shall be accompanied by a medical certificate showing the physical fitness of the employee to perform his or her work.

* * * * *

10. Section 831.504 is revised to read as follows:

§ 831.504 Retirement based on involuntary separation.

(a) *General.* An employee who would otherwise be eligible for retirement based on involuntary separation from the service is not entitled to an annuity under section 8336(d)(1) of title 5, United States Code, if the employee has declined a reasonable offer of another position.

(b) *Criteria for reasonable offer.* For the purposes of determining entitlement to annuity based on such involuntary separation, the offer of a position must meet all of the following conditions to be considered a reasonable offer:

(1) The offer must be made in writing;

(2) The employee must meet established qualification requirements; and

(3) The offered position must be—

(i) In the employee's agency, including an agency to which the employee with his or her function is transferred in a transfer of functions between agencies;

(ii) Within the employee's commuting area as defined in § 831.502(a) of this subpart, unless geographic mobility is a condition of the employee's employment;

(iii) Of the same tenure and work schedule; and

(iv) Not lower than the equivalent of two grades or pay levels below the employee's current grade or pay level, without consideration of the employee's eligibility to retain his or her current grade or pay under Part 536 of this chapter or other authority. In movements between pay schedules or pay systems, the representative rate of the grade or pay level that is two grades below that of the current position shall be compared with the representative rate of the grade or pay level of the offered position. For this purpose, "representative rate" has the meaning given that term in § 536.102 of this chapter.

11. Section 831.701 is revised to read as follows:

§ 831.701 Effective dates of annuities.

(a) Except as provided in paragraphs (b) and (c) of this section, an annuity of an employee or Member commences on the first day of the month after—

(1) Separation from the service; or

(2) Pay ceases and the service and age requirements for title to annuity are met, if earlier than the date of separation.

(b) An annuity of—

(1) An employee involuntarily separated from service (except by removal for cause on charges of misconduct or delinquency) and eligible for an immediate annuity based on that involuntary separation;

(2) An employee or Member retiring due to a disability; and

(3) An employee or Member retiring after serving three days or less in the month of retirement—shall commence on the day after separation from the service or the day after pay ceases and the service and age or disability requirements for title to annuity are met.

(c) An annuity granted under section 8336, title 5, United States Code, commences on the appropriate birthday of the employee or Member.

(d) Survivor annuities commence as provided in § 831.1002.

(e) Except as provided in §831.502, annuity terminates on the date of death or on the date of any other terminating event in each case when OPM terminates the annuity.

(f) Annuity accrues on a daily basis, one-thirtieth of the monthly rate constituting the daily rate. Annuity does not accrue for the thirty-first day of any month, except in the initial month if the employee's annuity commences on the 31st of a 31-day month. For accrual purposes, the last day of a 28-day month constitutes 3 days and the last day of a 29-day month constitutes 2 days.

12. A new § 831.702 is added to read as follows:

§ 831.702 Adjustment of annuities.

(a)(1) An annuity which includes creditable National Guard technician service performed prior to January 1, 1969, shall be reduced by the portion of any benefits under any State retirement system to which an annuitant is entitled (or on proper application would be entitled) for any month in which the annuitant is eligible for State benefits based on the same pre-1969, service.

(2) Any cost-of-living increases in the State benefit shall require a corresponding deduction in the civil service annuity.

(3) Any cost-of-living increase to a civil service annuity shall apply to the gross annuity before deduction for benefits under any State retirement system.

(b) In the adjudication of claims arising under subchapter III of Chapter 83 of title 5, United States Code, OPM shall take appropriate action to obtain the data that it considers necessary to assure the proper annuity deduction. Upon request by OPM, an annuitant shall promptly submit this data.

13. Paragraphs (a), (b), (c), and (d) of § 831.802 are revised to read as follows:

§ 831.802 Supplemental annuity and redetermined annuity.

(a) An annuitant employed in an appointive or elective position that is not subject to another retirement system for Government employees (unless excepted by the first sentence of 5 U.S.C. 8344(a)) may elect to have

deductions for the Fund made from his or her pay. When an annuitant elects to have deductions made, he or she may not change the election during service under that appointive or elective position. When an annuitant is employed continuously for at least one year in such appointive or elective position and actually serves for at least one year on a full-time basis, or the equivalent of one year of full-time service on a part-time basis, in a position not excluded from coverage by section 8331(1)(i) and (ii) of title 5, United States Code, the annuitant is entitled to a supplemental annuity on termination of the employment by separation for more than three calendar days or by conversion to intermittent status; however, if the annuitant performs service on or after October 1, 1982, he or she must make a deposit for all such service if no deductions are taken from his or her salary in order to obtain a supplemental annuity based on the service on or after October 1, 1982. The supplemental annuity is (1) computed under the formula provided by the law in effect at the date of termination of employment, (2) based on all periods of full-time or part-time service performed after his or her retirement (service performed on or after October 1, 1982, must be covered by retirement deductions or a deposit of the retirement deductions which should have been taken, plus interest), with such periods considered as part of his or her total service, and (3) based on the average basic pay (before annuity deduction) received during the periods of full-time or part-time service performed after his or her retirement.

(b) If the annuitant is employed continuously for at least five years in an appointive or elective position and actually serves for at least 5 years on a full-time basis, or the equivalent of 5 years of full-time service on a part-time basis, in a position not excluded from coverage by section 8331(1)(i) and (ii) of title 5, United States Code, the annuitant may make a deposit for service performed before October 1, 1982, (service performed on or after October 1, 1982, must be covered by retirement deductions or a deposit of the retirement deductions that should have been taken, plus interest) and elect instead of the supplemental annuity described herein to have his or her retirement rights redetermined under the law in effect at separation date.

(c) Except as provided in paragraph (d) of this section, the supplemental or redetermined annuity commences (1) on the first day of the month after separation from such employment, or (2) on the first day of the month after the annuitant is converted to an intermittent status and meets the service requirements.

(d) The supplemental or redetermined annuity of—

(1) a reemployed annuitant involuntarily separated from service (except by removal for cause on charges of misconduct or delinquency);

(2) A reemployed annuitant involuntarily converted to an intermittent status;

(3) A reemployed annuitant retiring due to disability; and

(4) a reemployed annuitant retiring after serving three days or less in the month of retirement—

shall commence on the day after separation from the service, the effective date of conversion to intermittent status, or the day after pay ceases and the service requirements for title to supplemental or redetermined annuity are met.

* * * * *

§ 831.803 [Amended]

14. In § 831.803, "annuity" is corrected to read "annuity".

15. In § 831.901, paragraphs (c) and (d) are revised to read as follows:

§ 831.901 Special provisions applicable.

* * * * *

(c) Section 8335(b), pertaining to mandatory separation;

(d) Section 8336(c)(1) pertaining to immediate retirement; and

* * * * *

16. In § 831.903, the introductory text of paragraph (c)(1) is revised to read as follows:

§ 831.903 Law enforcement officer.

* * * * *

(c) * * *

(1) Service in the position transferred to follows service in a law enforcement position without—

* * * * *

§ 831.904 [Amended]

17. In § 831.904(c), § "8336(b)" is corrected to read § "8335(b)".

18. In § 831.905, paragraph (b)(1)(i) and the introductory text of paragraph (c) are revised to read as follows:

§ 831.905 Creditability-of-service determinations.

* * * * *

(b) * * *

(1)(i) The position in which the service was performed was approved by OPM under paragraph (a) of this section as being subject to section 8336(c)(1) of title 5, United States Code; or

* * * * *

(c) In the event an employee is separated mandatorily under section 8335(b) of title 5, United States Code, or is separated for optional retirement under section 8336(c)(1) of title 5, United States Code, and OPM finds that all or part of the minimum service required for entitlement to immediate annuity was in a position in which the employee was not a law enforcement officer or firefighter, such separation shall be considered erroneous. For service held by OPM to have been in a position in which the employee was not a law enforcement officer of firefighter, the employee may, upon proper application, be paid a refund, without interest, of—

* * * * *

19. Section 831.906 is added to read as follows:

§ 831.906 Reemployment of law enforcement and firefighter personnel.

An employee required to retire by 5 U.S.C. 8335(b) may be reemployed until age 60. The prohibition against the reemployment of firefighters and law enforcement personnel after age 60 applies only to those positions involved with the performance of actual firefighting or law enforcement duties as described in §§ 831.903(a) and 831.904(a).

20. In § 831.1002, paragraph (c) is redesignated as paragraph (d), a new paragraph (c) is added, and paragraph (d) is revised to read as follows:

§ 831.1002 Effective dates of survivor annuities.

* * * * *

(c) A survivor annuity which terminates for reasons other than death may be restored under conditions defined in section 8341(e)(2) and (g) of title 5, United States Code.

(d) Survivor annuity accrues on a daily basis, one-thirtieth of the monthly rate constituting the daily rate. Annuity does not accrue for the thirty-first day of any month, except in the initial month if the survivor's (of a deceased employee) annuity commences on the 31st of a 31-day month. For accrual purposes, the last day of a 28-day month constitutes 3 days and the last day of a 29-day month constitutes 2 days.

* * * * *

21. In § 831.1705, paragraph (a)(3) is revised to read as follows:

§ 831.1705 Retirement benefits—amount, when payable.

(a) * * *

(3) Deducted for life insurance premiums pursuant to sections 8707(b), 8714a(d), 8714b(d), and 8714c(d) of title 5, United States Code;

* * * * *

22. Subpart T is added to read as follows:

Subpart T—Payment of Lump-Sums

Sec.
831.2001 Retirement system.
831.2002 Eligibility for lump-sum payment upon filing an Application for Refund of Retirement Deductions (SF 2802).
831.2003 Eligibility for lump-sum payment upon death or retirement.
831.2004 Amount of lump-sums.

Authority: 5 U.S.C. 8347.

Subpart T—Payment of Lump-Sums

§ 831.2001 Retirement system.

For purposes of this part, "retirement system" shall be the civil service retirement system.

§ 831.2002 Eligibility for lump-sum payment upon filing an Application for Refund of Retirement Deductions (SF 2802).

A former employee who has been separated from a covered position for at least 31 days at the time of filing an application for refund and who is ineligible for an annuity commencing within 31 days after the date of filing an application for refund is eligible for a refund for the total lump-sum credit to his or her credit in the Retirement Fund.

§ 831.2003 Eligibility for lump-sum payment upon death or retirement.

(a) If there is no survior who is entitled to monthly survivor annuity benefits on the death of a former employee, annuitant, or survivor annuitant, the total lump-sum credit to the former employee's credit in the Retirement Fund is payable to the person(s) entitled in the normal order of precedence described in section 8342(c), title 5, U.S. Code.

(b) If an immediate annuity or survivor annuity is payable, the former employee or the person entitled in the order of precedence described in section 8342(c), title 5, U.S. Code, may be paid a lump-sum payment of:

(1) Retirement deductions withheld from the employee's pay after he or she became eligible for the maximum annuity, if the employee or survivor does not elect to treat those deductions as voluntary contributions toward the purchase of an additional annuity;

(2) Retirement deductions withheld from the employee's pay during his or her final period of service if the employee was not subject to the retirement system for at least one of the last two years before final separation from service and if the service covered by the deductions is not used for title to annuity;

(3) Partial redeposits of refunds previously paid;

(4) Partial deposits for civilian service performed on and after October 1, 1982;

(5) Partial deposits for post-1956 military service; and

(6) Annuity accrued and unpaid.

(c) A former employee or survivor who is eligible for an immediate annuity or survivor annuity may not be paid a lump-sum payment of:

(1) Partial or completed deposits for nondeduction civilian service performed before October 1, 1982, unless the service covered by the deposit is not creditable under the retirement system;

(2) Completed deposits for nondeduction civilian service performed on and after October 1, 1982, unless the service covered by the deposit is not creditable under the retirement system; or

(3) Completed deposits for post-1956 military service, unless the service covered by the deposit is not creditable under the retirement system.

§ 831.2004 Amount of lump-sums.

If applicable, the amount of a refund shall include interest computed as described in § 831.105(b) of this part.

23. Subpart U is revised to read as follows:

Subpart U—Deposits for Military Service

Sec.
831.2101 Purpose.
831.2102 Scope.
831.2103 Definitions.
831.2104 Eligibility to make deposit.
831.2105 Filing an application to make deposit.
831.2106 Processing applications for deposit for service.
831.2107 Payments on deposits.

Authority: 5 U.S.C. 8347.

Subpart U—Deposits for Military Service

§ 831.2101 Purpose.

This subpart prescribes the procedures to be followed when an employee or Member (or survivor of an employee or Member) wishes to make a deposit for service, and when a former employee or Member who retires or separates from civilian service with title to annuity after September 8, 1982, but before October 1, 1983 (or survivor of such employee or Member), wishes to make a deposit for service.

§ 831.2102 Scope.

This subpart applies to all agencies with employees occupying positions subject to subchapter III of chapter 83 of title 5, United States Code, the United States Senate, and the United States House of Representatives.

§ 831.2103 Definitions.

"Employee" shall have the same meaning as in 5 U.S.C. 8331(1).

"Estimated earnings" is an estimate of basic pay for a period of military service, as determined by an authorized official of the Department of Defense the Department of Transportation, the Department of Commerce, or the Department of Health and Human Services.

"Fund" is the Civil Service Retirement and Disability Fund.

"Member" shall have the same meaning as in 5 U.S.C. 8331(2).

"OPM" is the Office of Personnel Management.

"Period of service" is the total years, months, and days from date of initial entry on active duty (or January 1, 1957, if that is later) to date of final discharge for enlisted military personnel, and to date of final release from active duty for officers and reservists. "Period of service" includes consecutive periods of service where there is no break in service, but does not include any lost time.

"Service" is active honorable military service performed after December 31, 1956.

"Sufficient evidence" of basic pay for service exists when the employee, Member, or survivor eligible to make a deposit for service provides copies of all official military pay documents, as identified in Federal Personnel Manual instructions published by OPM, which show the exact basic pay he or she received for a full period of service. If an employee, Member, or survivor does not have sufficient evidence of basic pay, he or she shall obtain a statement of estimated earnings from the appropriate branch of the military service.

"Survivor" shall have the same meaning as in 5 U.S.C. 8331(10).

§ 831.2104 Eligibility to make deposit.

The following individuals may make deposit for any full period of service performed before the separation on which title to civil service annuity is based:

(a) An employee or Member currently occupying a position subject to subchapter III of chapter 83 of title 5, United States Code, and the survivor(s) of such an employee or Member who dies in service; and

(b) A former employee or Member who was separated with title to an annuity or who retired from a position subject to subchapter III of chapter 83 of title 5, United States Code, after September 8, 1982, and before October 1, 1983, and the survivor(s) of such an employee or Member.

§ 831.2105 Filing an application to make deposit.

(a) An individual described in § 831.2104(a) of this subpart shall file an application for deposit with the appropriate office in the employing agency, or, for Members and Congressional employees, with the Secretary of the Senate or the Clerk of the House of Representatives, as appropriate.

(b) An individual described in § 831.2104(b) of this subpart may, at the time of filing an application for retirement or death benefits, file an application for deposit or complete a deposit with OPM.

§ 831.2106 Processing applications for deposit for service.

(a) The agency, Clerk of the House of Representatives, or Secretary of the Senate shall have the employee or Member:

(1) Complete an application to make deposit;

(2) Provide a copy of his or her DD 214 or its equivalent to verify the period(s) of service; and

(3) Provide sufficient evidence of basic pay, if available, or a statement of estimated earnings.

(b) Upon receipt of the application, the DD 214(s), and either sufficient evidence of basic pay, if available, or a statement of estimated earnings, the agency, Clerk of the House of Representatives, or Secretary of the Senate shall multiply the amount of basic pay by 7 percent to compute the exact deposit owed, exclusive of any interest.

(c) If interest is applicable, it shall be computed in accordance with instructions published by OPM in the Federal Personnel Manual.

(d) The agency, Clerk of the House of Representatives, or Secretary of the Senate shall establish a deposit account showing the total amount due, and a payment schedule (unless deposit is made in a lump sum), and record the date and amount of each payment.

(e) An individual who is eligible to make deposit to OPM shall submit an application to make deposit, accompanied by a copy of his or her DD 214(s) or its (their) equivalent(s), as well as sufficient evidence of basic pay, if available, or a statement of estimated earnings, to OPM.

§ 831.2107 Payments on deposits.

(a) Deposits made to agencies, the Clerk of the House of Representatives or the Secretary of the Senate.

(1) Deposits made to agencies, the Clerk of the House of Representatives or the Secretary of the Senate shall be collected in full in one lump sum whenever this is possible.

(2) If the employee or Member cannot make payment in a lump sum, the agency, the Clerk of the House of Representatives, or the Secretary of the Senate shall accept installment payments (by allotments or otherwise). However, agencies, the Clerk of the House of Representatives, and the Secretary of the Senate will not be required to accept individual checks in amounts of less than $50.

(3) If the employee or Member dies, the employing agency, the Clerk of the House of Representatives or the Secretary of the Senate shall advise the survivor of the right to make or complete a deposit. If the survivor decides to make or complete the payment, the agency, the Clerk of the House of Representatives, or the Secretary of the Senate shall collect the amount due in one lump sum.

(4) Payments received by the employing agency, the Clerk of the House of Representatives, or the Secretary of the Senate shall be remitted immediately to OPM for deposit to the Fund.

(5) Once the employee's, Member's, or survivor's deposit has been paid in full or closed out, the employing agency, the Clerk of the House of Representatives, or the Secretary of the Senate shall submit documentation pertaining to the deposit to OPM, in accordance with instructions published in the Federal Personnel Manual.

(6) Deposits must be made for full periods of service.

(b) Deposits made to OPM.

(1) Deposits made to OPM shall be made in a lump sum prior to final adjudication of the application for retirement or survivor benefits.

(2) Deposits must be made for full periods of service.

(5 U.S.C. 8347)

[FR Doc. 83-23507 Filed 8-25-83; 8:45 am]
BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 51

United States Standards for Grades of Mixed Nuts In-The-Shell

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Temporary rule.

SUMMARY: This action will temporarily revise the voluntary U.S. Standards for Grades of Mixed Nuts In-The-Shell. One of the largest packagers of mixed nuts has requested that the minimum mixture requirements for almonds (U.S. Extra Fancy and U.S. Fancy grades) be lowered from 10 to 5 percent for the current marketing season. Adverse weather during the growing season has caused a substantial reduction in the Peerless variety of almonds to the extent that supplies will be inadquate for this marketing season. An adjustment of the mixture requirement for this marketing season will assist the industry in providing the public with a major portion of this season's mixed nuts packaged and certified as to grade under the Department's continuous inspection program.

EFFECTIVE DATE: September 2, 1983 through September 1, 1984.

FOR FURTHER INFORMATION CONTACT: Michael V. Morrelli, Fresh Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-2011.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA Procedures and Executive Order 12291 and has been classified as a non-major rule because it does not meet the criteria contained therein for major regulatory actions.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601) because this action will relax a mixture requirement used in the voluntary grading program for mixed nuts and this action is of a temporary nature.

The current U.S. standards require that only the tree nut species Almonds, Brazils, Filberts, Pecans, and Walnuts may be used in the mixture and that the quantity of each species (U.S. Extra Fancy and U.S. Fancy grades) shall meet

a minimum mixture of 10 percent and a maximum of 40 percent by weight.

In-shell mixed nuts are principally marketed from early October through December. Traditionally, demands for at least 75 percent of this product occur before Thanksgiving. For supplies to reach the retailer in time for the season, packaging of the product must begin during the last week of September. Any substantial delay would mean that the product would not be available for its normal marketing season.

Potential suppliers have advised that the supply of the Peerless variety of almonds, traditionally used in the mixture because of its unique characteristics, will be inadequate to meet the needs for the current marketing season.

The Peerless variety was in short supply during the 1982–83 marketing season. Abnormally large amounts of rain caused a sharp reduction in crop output and also resulted in stained shells further reducing the amount of useable supplies. In view of this severe shortage the standards were temporarily revised to reduce the percentage of almonds required from 10 to 5 percent for the 1982–83 marketing season. Abnormal rainfall has again caused a reduction in crop output. Trade sources estimate that the 1983 crop will be about 15 percent less than the 1982 crop. Consequently, the required minimum 10 percent mixture of almonds for the U.S. Extra Fancy and U.S. Fancy grades again cannot be met.

Therefore, pursuant to the provisions of the Administrative Procedure Act (5 U.S.C 553) good cause is found that it is impractical, unnecessary and contrary to the public interest to give preliminary notice and provide for comments on this action in that: (1) There is insufficient time between the date when information became available upon which the changes incorporated in this action are based and the date to effectuate the final rule; (2) the traditional marketing season for 1983 begins in early September and it is necessary that this action be applicable to this crop; (3) the bulk of marketing occurs by December 31; and (4) major segments of the mixed nut industry concur and request that this action be put in effect as soon as possible.

This action is of a temporary nature because it is based upon emergency circumstances relating to only the present marketing season. Therefore, the minimum percent of almonds for the grades U.S. Extra Fancy and U.S. Fancy is temporarily suspended by changing the percent from 10 to 5 percent.

List of Subjects in 7 CFR Part 51

Agricultural commodities, Food grades and standards, Fruits, Nuts, Vegetables.

Accordingly, the United States Standards For Grades of Mixed Nuts In-The-Shell are amended as follows:

PART 51—[AMENDED]

Sections 51.3521 and 51.3522 are amended by revising footnote 1; as revised, §§ 51.3521 and 51.3522 read as follows:

§ 51.3521 U.S. Extra Fancy.

GRADES

Nut species	Allowable mixture		Minimum size	Minimum grade
	Minimum percent	Maximum percent		
Almonds	[1] 10	40	26/64 inch (11.1mm)	U.S. No. 1.
Brazils	10	40	Medium	Do.
Filberts	10	40	Long type varieties: 44/64 inch (17.5 mm)	Do.
			Round type varieties: 49/64 inch (19.4 mm)	
Pecans	10	40	Extra large	Do.
Walnuts	10	40	Large	Do.

§ 51.3522 U.S. Fancy

Nut species	Allowable mixture		Minimum size	Minimum grade
	Minimum percent	Maximum percent		
Almonds	[1] 10	40	26/64 inch (11.1 mm)	U.S. No. 1.
Brazils	10	40	Medium	Do.
Filberts	10	40	Long type varieties: 44/64 inch (17.5 mm)	Do.
			Round type varieties: 49/64 inch (19.4 mm)	
Pecans	10	40	Large	Do.
Walnuts	10	40	Medium	Do.

[1] The minimum percent of allowable mixture of almonds for the grades U.S. Extra Fancy and U.S. Fancy is temporarily suspended by changing the percent from 10 to 5 percent for the period beginning September 2, 1983, and ending September 1, 1984.

Authority: Agricultural Marketing Act of 1946, Secs. 203, 205, 60 Stat. 1087, as amended, 1090 as amended ([7 U.S.C. 1622, 1624]).
Done at Washington, D.C. on August 22, 1983.

Vern F. Highley,
Administrator, Agricultural Marketing Service.

[FR Doc. 83-23436 Filed 8-25-83; 8:45 am]
BILLING CODE 3410-02-M

7 CFR Part 910

[Lemon Regulation 426]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 261,091 cartons during the period August 28–September 3, 1983. Such action is needed to provide for orderly marketing of fresh lemons for the period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: August 28, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona lemon crop for the benefit of producers, and will not substantially affect costs for the directly regulated handlers.

This final rule is issued under Marketing Order No. 910, as amended (7 CFR Part 910) regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy currently in effect. The committee met publicly on August 23, 1983, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is good on larger sizes and weaker on smaller sizes.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the Act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

Section 910.726 is added as follows:

§ 910.726 Lemon Regulation 426.

The quantity of lemons grown in California and Arizona which may be handled during the period August 28, 1983, through September 3, 1983, is established at 261,091 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated August 24, 1983

Charles R. Brader,

Director, Fruit and Vegetable Division Agricultural Marketing Service

[FR Doc 83–23740 Filed 8–25–83; 11:33 am]

BILLING CODE 3410–02–M

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7 CFR Parts 915 and 944

[Florida Avocado Reg. 28; Avocado Import Reg. 34]

Avocados Grown in South Florida and Imported Avocados; Grade and Maturity Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule establishes minimum grade and maturity requirements for shipments of fresh avocados grown in south Florida, and for avocados imported into the United States. Such action is necessary to assure the shipment of ample supplies of mature avocados of acceptable quality in the interest of producers and consumers.

DATES: Effective August 29, 1983 through April 30, 1984.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the Florida avocado crop and of imported avocados for the benefit of producers and consumers, and will not substantially affect costs for the persons directly regulated.

An interim rule was published in the Federal Register on June 3, 1983 (48 FR 24860), which specified grade and maturity requirements applicable to shipments of Florida avocados and imported avocados through August 28, 1983. That rule provided an opportunity to file comments through August 2, 1983. No comments were received. This final rule contains the same requirements as specified in the interim rule, except for the removal of those avocado varieties for which minimum weight and diameter requirements have expired.

The Florida avocado regulation is issued under the marketing agreement, as amended, and Order No. 915, as amended (7 CFR Part 915), regulating the handling of avocados grown in south Florida. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The avocado import regulation is issued under section 8e (7 U.S.C. 608e–1) of the Act. The grade and maturity requirements applicable to Florida avocado shipments were recommended by the Avocado Administrative Committee, which locally administers this marketing order program.

Both regulations establish U.S. No. 3 as the minimum grade, and prescribe minimum weights or diameters by specified dates as the maturity requirements for the various varieties of avocados. Minimum weights or diameters and picking dates are used as indicators during harvest to determine which avocados are sufficiently mature to complete the ripening process. Skin color is also authorized as a method of determining maturity for certain varieties which turn red or purple when mature. The grade and maturity requirements are designed to assure that the various varieties of avocados will be

of suitable quality and maturity so they provide consumer satisfaction essential for the successful marketing of the crop. These requirements are also designed to provide the trade and consumers with an adequate supply of mature avocados of acceptable quality in the interest of producers and consumers. It is hereby found that this action will tend to effectuate the declared policy of the Act.

Section 8e of the Act requires that when specified domestically produced commodities, including avocados, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, or maturity requirements.

The Avocado Administrative Committee estimates 1983–84 season fresh Florida avocado shipments at 1,150,000 bushels (55 pounds) 13 percent less than the estimated 1,325,310 bushels shipped fresh in 1982–83, but 15 percent more than the 976,872 bushels shipped fresh in 1981–83. California fresh avocado shipments were 5,470,531 bushels for the 12-month period ending March 31, 1983. Avocados are imported into the United States in relatively small amounts, mostly from the Dominican Republic.

It is found that it is impracticable and contrary to the public interest to postpone the effective date of this final rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553), and good cause exists for making these regulatory provisions effective as specified in that: (1) No comments were received during the 60 days provided in the interim rule published in the **Federal Register**; (2) the grade and maturity requirements in this final rule, except for the removal of expired requirements, are the same as those in the interim rule; and (3) the avocado import requirements are mandatory under section 8e of the Act, and the required 3 days notice is provided.

List of Subjects

7 CFR Part 915

Marketing Agreements and Orders, Avocados, Florida.

7 CFR Part 944

Food grades and standards, Imports, Avocados.

PART 915—[AMENDED]

Therefore, new § 915.328 is added to read as follows: (section 915.328 expires April 30, 1984, and will not be published in the annual Code of Federal Regulations.)

§ 915.328 Florida Avocado Regulation 28.

(a) During the period August 29, 1983, through April 30, 1984, no handler shall handle any variety of avocados grown in the production area unless:

(1) Such avocados grade at least U.S. No. 3, except for avocados handled within the production area in containers other than those authorized in § 915.305.

(2) Such avocados have any portion of the skin of the individual fruit changed to the color normal for that fruit when mature for those varieties which normally change color to any shade of red or purple when mature, except for the Linda variety.

(3) Such avocados, except as provided in paragraph (a)(2) of this section, meet the minimum weight or diameter requirements for the specified effective periods for each variety listed in the following Table 1: *Provided,* That avocados may not be handled prior to the earliest date specified in column 2 of such table for the respective variety: *Provided further,* That up to a total of 10 percent, by count of the individual fruit in each lot may weigh less than the minimum specified or be less than the specified diameter, except that no such avocados shall be over 2 ounces lighter than the minimum weight specified for the variety: *Provided further,* That up to double such tolerance shall be permitted for fruit in an individual container in a lot.

TABLE I

Avocado variety	Effective period		Minimum size	
	From	Through	Weight (ounces)	Diameter (inches)
West Indian Seedling [1]	8-29-83	9-25-83	14	
Miguel (p)	8-22-83	9-4-83	18	3 1/16
Beta	8-15-83	9-4-83	16	3 1/16
Gorham	8-22-83	9-4-83	27	4 1/16
Tower [2]	8-22-83	9-11-83	12	3 1/16
Tonnage	8-29-83	9-4-83	12	3
Waldin	8-22-83	9-4-83	14	3 1/16
	9-5-83	9-18-83	12	3 1/16
Days	8-15-83	9-5-83	14	3 1/16
Catalina	8-22-83	9-4-83	24	
	9-5-83	9-25-83	22	
Fairchild	8-22-83	9-4-83	16	3 1/16
	9-5-83	9-18-83	14	3 1/16
	9-19-83	9-25-83	12	3 1/16
Loretta	8-22-83	10-2-83	28	4 1/16
Blair	9-5-83	9-18-83	16	3 1/16
	9-19-83	10-9-83	14	3 1/16
Black Prince	8-22-83	9-4-83	28	4 1/16
	9-5-83	9-18-83	23	3 1/16
	9-19-83	10-9-83	16	3 1/16
Booth 8	9-5-83	9-25-83	16	3 1/16
	9-26-83	10-9-83	14	3 1/16
	10-10-83	10-23-83	10	3 1/16
Booth 7	9-5-83	9-18-83	18	3 1/16
	9-19-83	10-2-83	16	3 1/16
	10-3-83	10-16-83	14	3 1/16
Booth 5	9-12-83	9-25-83	14	3 1/16
	9-26-83	10-9-83	12	3 1/16
Guatemalan Seedling [3]	9-12-83	10-9-83	15	
	10-10-83	12-11-83	11	
Marcus	9-12-83	9-25-83	32	4 1/16

TABLE I—Continued

Avocado variety	Effective period		Minimum size	
	From	Through	Weight (ounces)	Diameter (inches)
	9-26-83	11-6-83	24	4 1/16
Brooks 1978	9-12-83	9-18-83	12	3 1/16
	9-19-83	9-25-83	10	3 1/16
	9-26-83	10-16-83	8	2 1/16
Collinson	9-19-83	10-16-83	16	3 1/16
Rue	9-19-83	9-25-83	30	4 1/16
	9-26-83	10-9-83	24	3 1/16
	10-10-83	10-23-83	18	3 1/16
Hickson	9-19-83	10-2-83	12	3 1/16
	10-3-83	10-16-83	10	3
Simpson	9-26-83	10-16-83	16	3 1/16
Choquette	9-26-83	10-9-83	24	4 1/16
	10-10-83	10-23-83	20	3 1/16
	10-24-83	11-6-83	16	3 1/16
Winalowson	10-3-83	10-23-83	18	3 1/16
Booth 10	10-3-83	10-30-83	16	3 1/16
Booth 11	10-3-83	10-23-83	16	3 1/16
Leona	10-3-83	10-16-83	18	3 1/16
Hall	10-3-83	10-16-83	26	3 1/16
	10-17-83	10-30-83	20	3 1/16
	10-31-83	11-13-83	18	3 1/16
Herman	10-10-83	10-23-83	16	3 1/16
	10-24-83	11-6-83	14	3 1/16
Lula	10-10-83	10-23-83	18	3 1/16
	10-24-83	11-6-83	14	3 1/16
	11-7-83	11-20-83	12	3 1/16
Ajax (B-7)	10-17-83	11-6-83	18	3 1/16
Taylor	10-17-83	10-30-83	14	3 1/16
	10-31-83	11-13-83	12	3 1/16
Booth 3	10-17-83	10-23-83	16	3 1/16
	10-24-83	11-6-83	14	3 1/16
Byars	11-7-83	11-27-83	16	3 1/16
Linda	11-7-83	11-27-83	18	3 1/16
Monroe	11-7-83	11-20-83	24	4 1/16
	11-21-83	12-4-83	20	3 1/16
	12-5-83	12-18-83	16	3 1/16
Booth 1	11-14-83	11-27-83	16	3 1/16
	11-28-83	12-11-83	12	3 1/16
Zio (P)	11-21-83	12-4-83	12	3 1/16
	12-5-83	12-18-83	10	2 1/16
Wagner	11-28-83	12-11-83	12	3 1/16
	12-12-83	12-25-83	10	3 1/16
Brookslate	12-12-83	12-25-83	18	3 1/16
	12-26-83	1-15-84	14	3 1/16
	1-16-84	1-29-84	12	3 1/16
	1-30-84	2-12-84	10	
Moya (P)	12-19-83	1-1-84	13	3 1/16
	1-2-84	1-15-84	11	3

[1] Avocados of the West Indian type varieties and the West Indian type seedlings not listed elsewhere in Table I.
[2] Avocados of the Guatemalan type varieties, hybrid varieties, and unidentified seedlings not listed elsewhere in Table I.

(b) The term "diameter" means the greatest dimension measured at a right angle to a straight line from the stem to the blossom end of the fruit, and the term "U.S. No. 3" means the same as in the U.S. Standards for Grades of Florida Avocados (7 CFR 51.3050–3069).

PART 944—[AMENDED]

Section 944.26 is added to read as follows: (Section 944.26 expires April 30, 1984, and will not be published in the annual Code of Federal Regulations.)

§ 944.26 Avocado Import Regulation 34.

(a) *Applicability to imports.* Pursuant to § 8e of the Act and Part 944—Fruits; Import Regulations, the importation into the United States of any avocados is prohibited during the period August 29, 1983, through April 30, 1984, unless:

(1) Such avocados grade at least U.S. No. 3, as defined in § 915.328.

(2) Such avocados have any portion of the skin of the individual fruit changed to the color normal for that fruit when mature for those varieties which normally change color to any shade of red or purple when mature, except for the Linda variety.

(3) Such avocados, except as provided in paragraph (a)(2) of this section, meet the minimum weight or diameter requirements for the specified effective periods for each variety listed in the following Table 2: *Provided,* That avocados may not be imported prior to the earliest date specified in column 2 of such table for the respective variety: *Provided further,* That up to a total of 10 percent, by count of the individual fruit in each lot may weigh less than the minimum specified or be less than the specified diameter, except that no such avocados shall be over 2 ounces lighter than the minimum weight specified for the variety: *Provided further,* That up to double such tolerance shall be permitted for fruit in an individual container in a lot.

TABLE 2

Avocado variety	Effective period		Minimum size	
	From	Through	Weight (ounces)	Diameter (inches)
West Indian seedling [1]	5-29-83	9-25-83	14	
Catalina	6-22-83	9-4-83	24	
	9-5-83	9-25-83	22	
Guatemalan seedling [2]	9-12-83	10-9-83	15	
	10-10-83	12-11-83	13	

[1] Avocados of the West Indian type varieties and the West Indian type seedlings.
[2] Avocados of the Guatemalan type varieties, hybrid varieties, and unidentified seedlings except for the Catalina variety.

(b) It is hereby found that avocados imported into the United States shall meet the same grade and maturity requirements specified in § 915.328 for avocados grown in South Florida under M.O. 915 (7 CFR Part 915), except that all varieties of avocados, other than the Catalina variety, shall meet comparable weight or diameter maturity requirements, because it is not practicable to apply the same requirements due to the variations in characteristics between avocados grown in Florida and avocados imported into the United States.

(c) The Federal or Federal-State Inspection Service, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, is designated as the governmental inspection service for certifying the grade, size, quality, and maturity of avocados that are imported into the United States. Inspection by the Federal or Federal-State Inspection Service with evidence thereof in the form of an official inspection certificate, issued by the respective service, applicable to the particular shipment of avocados, is required on all imports. The inspection and certification services will be available upon application in accordance with the rules and regulations governing inspection and certification of fresh fruits, vegetables, and other products (7 CFR Part 51) and in accordance with the Procedure for Requesting Inspection and Designating the Agencies to Perform Required Inspection and Certification (7 CFR Part 400).

(d) The term "importation" means release from custody of the United States Customs Service.

(e) *Minimum quantity exemption.* Any person may import up to 55 pounds of avocados exempt from the requirements specified in this section.

(f) Any lot or portion thereof which fails to meet the import requirements prior to or after reconditioning may be exported or disposed of under the supervision of the Federal or Federal-State Inspection Service with the costs of certifying the disposal of said lot borne by the importer.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: August 23, 1983.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83-23438 Filed 8-25-83; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

9 CFR Part 75

[Docket No. 83-051]

Contagious Equine Metritis (CEM); Areas Released From Quarantine

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document removes certain premises in Kentucky from the list of areas quarantined because of contagious equine metritis (CEM). Based on surveys, it has been determined that CEM no longer exists on these premises. The effect of this action is to remove restrictions on the interstate movement of horses and other equidae from these premises.

EFFECTIVE DATE: August 26, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. C. A. Gipson, USDA, APHIS, VS, Room 826, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8321.

SUPPLEMENTARY INFORMATION: The "Communicable Diseases in Horses, Asses, Ponies, Mules, and Zebras" regulations in 9 CFR Part 75, among other things, impose restrictions on the interstate movement of horses and other equidae from areas designated as quarantined areas because of contagious equine metritis (CEM).

This document, on an emergency basis, amends 9 CFR Part 75 by removing the following premises in the following counties in Kentucky from the list of areas quarantined because of CEM:

County	Premises
Boone	Liberty Hill Farm.
Bourbon	Bradyleigh Farm.
	Claiborne Farm.
	Miracle Acres.
	Stoneraath Farm.
	Spring Place Farm.
	Weathering Farm.
Fayette	Belair Farm, Ltd.
	Bluegrass (Houston) Farm.
	Hagyard Farm.
	Highcroft Farm.
	Meraworth Farm.
	Mill Ridge Farm.
	Murty Farm.
	North Ridge Farm.
	Twin Eagles Farm.
	Wimbledon Farm.
Graves	Harrison Evans Farm.
Jessamine	Taylormade Farm.
Kenton	Charles Deters Farm.
Mercer	Shawnee Farm.
Scott	Beaconsfield Farm.
	Hollingsworth Farm.
	McMillan Brothers Farm.
	Westgrove Farm.
Woodford	Buck Pond Farm.
	Shadowlawn Farm.
	Kinney Stud Farm.

Based on surveys conducted by personnel of the U.S. Department of Agriculture and the State of Kentucky it has been determined that CEM no longer exists on these premises. Therefore, in order to remove unnecessary restrictions on the interstate movement of horses and other equidae from these premises, it is necessary to remove these premises from the list of areas quarantined because of CEM.

Executive Order 12291

This final action has been reviewed in conformance with Executive Order 12291, and has been determined to be not a "major rule." The Department has determined that this rule will not have a significant effect on the economy; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not have any significant adverse effects on competition, employment, investment,

productivity, or innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this rulemaking action, the Office of Management and Budget has waived their review process required by Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Bert W. Hawkins, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action affects only breeding and boarding establishments owned by 28 entities located in nine counties in the State of Kentucky. This compares with at least 10,000 similar establishments in the entire United States.

Emergency Action

Dr. E. C. Sharman, Assistant Deputy Administrator, Animal Health Programs, APHIS, VS, USDA, has determined that the emergency nature of this final rule warrants publication without opportunity for public comment. This amendment relieves restrictions no longer deemed necessary to prevent the spread of CEM from certain areas which have been determined to be free of CEM. Also, this amendment must be made effective immediately in order to permit affected persons to move horses interstate from such areas without unnecessary restrictions.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register.**

List of Subjects in 9 CFR Part 75

Animal diseases, Horses, Quarantine, Transportation, Equine, Contagious Equine Metritis (CEM).

PART 75—COMMUNICABLE DISEASES IN HORSES, ASSES, PONIES, MULES, AND ZEBRAS

Accordingly, 9 CFR Part 75, is hereby amended in the following respects:

§ 75.7 [Amended]

1. In § 75.7(a)(1), relating to the State of Kentucky, paragraph (i), relating to Boone County, is removed.

2. In § 75.7(a)(1), relating to the State of Kentucky, in paragraph (ii), relating to Bourbon County, paragraphs (ii)(A), (ii)(B), (ii)(D), (ii)(E), (ii)(F), (ii)(G), and (ii)(H) are removed; and paragraph (ii)(C) is redesignated (ii).

3. In § 75.7(a)(1), relating to the State of Kentucky, in paragraph (iv), relating to Fayette County, paragraphs (iv)(A) through (iv)(K) and (iv)(M) through (iv)(R) are removed; and paragraph (iv)(L) is redesignated (iv).

4. In § 75.7(a)(1), relating to the State of Kentucky, paragraph (v), relating to Graves County, is removed.

5. In § 75.7(a)(1), relating to the State of Kentucky, paragraph (vi), relating to Jessamine County, is removed.

6. In § 75.7(a)(1), relating to the State of Kentucky, paragraph (vii), relating to Kenton County, is removed.

7. In § 75.7(a)(1), relating to the State of Kentucky, in paragraph (viii), relating to Mercer County, paragraph (viii)(B) is removed and paragraph (viii)(A) is redesignated as (viii).

8. In § 75.7(a)(1), relating to the State of Kentucky, in paragraph (x), relating to Scott County, paragraphs (x)(A), (x)(D), (x)(E), and (x)(F) are removed; and paragraphs (x)(B) and (x)(C) are redesignated (x)(A) and (x)(B), respectively.

9. In § 75.7(a)(1), relating to the State of Kentucky, paragraph (xi), relating to Woodford County, is removed.

10. In § 75.7(a)(1), relating to the State of Kentucky, paragraph (ii) is redesignated (i); paragraph (ii) is redesignated (iii); paragraph (iv) is redesignated (iii); paragraph (viii) is redesignated (iv); paragraph (ix) is redesignated (v); and paragraph (x) is redesignated (vi).

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended (21 U.S.C. 111–113, 115, 117, 120, 121, 123–126), 7 CFR 2.17, 2.51, 371.2(d))

Done at Washington, D.C., this 22d day of August 1983.

K. R. Hook,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 83-23533 Filed 8-25-83; 8:45 am]
BILLING CODE 3410-34-M

SMALL BUSINESS ADMINISTRATION

13 CFR Ch. I

Small Business Innovation Research Program; Policy Directive

AGENCY: Small Business Administration.

ACTION: Rule-related notice; publication of Policy Directive No. 65 01.1.

SUMMARY: This document revises the Small Business Innovation Research (SBIR) Program Policy Directive No. 65 01 which was published on November 24, 1982 (47 FR 52966). This revised policy directive reflects comments received from the public, participating agencies, associations and small business concerns. It is intended to provide guidance to participating Federal agencies for the general conduct of their fiscal year 1984 SBIR programs.

DATES: This policy directive is effective August 26, 1983.

ADDRESSES: Written comments should be submitted to Richard J. Shane, Director, Division of Research Acquisition Policy, Office of Innovation, Research and Technology, Room 500, 1441 L Street, N.W., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: Donald R. Templeman, Assistant Administrator for the Office of Innovation, Research and Technology, phone number: (202) 653–7875.

SUPPLEMENTARY INFORMATION: Public Law 97–219 96 Stat. 221, amended section 9(j) of the Small Business Act, 15 U.S.C. 631, *et seq.*, to establish a government-wide Small Business Innovation Development program. The law directed the Small Business Administration (SBA), by November 19, 1982, to develop, issue and maintain Small Business Innovation Research (SBIR) program policy directive to be used as guidance by the participating agencies. Policy Directive 65 01.1 represents the first major revision to the original policy directive and is intended to provide guidance to the agencies for their Fiscal Year 1984 SBIR programs.

This amended policy directive has been modified to reflect oral and written comments and clarifications received from the public, participating agencies, associations and small business concerns. During the 120 day comment period allowed for the original directive, SBA received four written comments from the public, one of which was germaine to the SBIR policy directive. That comment dealt with the treatment of data rights under the SBIR program and will be subject of a subsequent policy directive amendment. In compliance with Pub. L. 97–219, 96 Stat. 221, SBA has also consulted on this amended policy directive with the Director of the Office of Federal Procurement Policy, the Director of the Office of Science and Technology Policy and the Intergovernmental Affairs Division of the Office of Management and Budget.

SBA is issuing this amended policy directive in final form without additional opportunity for prior public comment

because of the proximity of the start of the FY 1984 contracting/granting year. However, SBA welcomes public comment upon this policy directive subsequent to its publication and will consider all comments carefully in revising the policy directive in the future as may be necessary to improve the general conduct of the Small Business Innovation Research Program.

SBIR Policy Directive No. 65 01, published November 24, 1982, 47 FR 52988, *et seq.*, has been modified as follows to reflect comments and recommended clarifications of the public, participating agencies, associations and small business concerns. It is intended that participating agencies will adopt these changes in their FY 1984 SBIR programs.

A. Substantive Changes in the Text of Policy Directive No. 65 01

1. Among the introductory comments, number 3, entitled "Procurement Regulations," has been modified to state that the Federal Procurement Regulations may, rather than will, need to be modified to conform with Pub. L. 97–219 and this policy directive.

2. Paragraph 2(d)(2) has been changed to clarify that all types of non-SBIR funding agreements with the Federal Government are acceptable for Phase III funding.

3. Paragraph 4, subsections (f), (g), (h), (i), and (j) have been changed in the following respects: subsection (f), which states the definition of minority and disadvantaged small business, now makes clear that the definition applies only to businesses that are small according to section 3 of the Small Business Act, 15 U.S.C. 631, *et seq.*

Subsection (g), which defines small business for purposes of the SBIR program, has been expanded to state the statutory and regulatory requirements of the Small Business Act and its implementing regulations. It is required that the concern be independently owned and operated, not dominant in its field of operation, and have its principal place of business located in the United States. Additionally, it must be at least 51 percent owned, or in the case of a publicly owned business, at least 51 percent of its voting stock must be owned by United States citizens or lawfully admitted permanenf resident aliens. It must also have, including its affiliates, no more than 500 employees and meet the other regulatory requirements found in Title 13, Part 121 of the Code of Federal Regulations. The subsection also defines "affiliates" and "business concerns," and references the definition of "number of employees" found in Title 13 of the Code of Federal Regulations.

Subsection (h) has been amended by adding the word "small" before business in the first line to clarify that women-owned businesses must also be small businesses according to section 3 of the Small Business Act and its implementing regulations.

Former subsection (i), which defined "SBIR program," has been deleted as duplicative of paragraph 6 of the policy directive. New subsection (i) is a redesignation of former subsection (j). In addition, a sentence has been included in subsection (j) to clarify that announcements in the *Commerce Business Daily* or **Federal Register** will not be considered SBIR program solicitations.

4. Paragraph 5(c) has been amended to clarify that the goal set by an agency in compliance with Pub. L. 97–219 must be for non-SBIR research and R&D funding agreements reached with small businesses. This new subsection also makes clear that SBIR awards may not be counted toward these goals. These amendments are consistent with the legislative history of the Act. The Act's purpose is to increase small business participation in research and R&D, not merely to redirect current research and R&D funding agreements within the small business community.

5. Paragraph 6, subsections (c) and (d) have been amended in several respects. Subsection (c) has been modified to reiterate that, for Phase I, a minimum of two-thirds the research and/or analytical effort must be performed by the proposing small concern. This subsection has also been amended to require that a minimum of one-half of the research and/or analytical effort in Phase II be performed by the proposing firm. This change was made in response to a concern voiced frequently by participating agencies and members of the public that the previous requirement of two-thirds in-house research or analytical effort for Phase II was too restrictive. This subsection contains a clarified definition of "primary employment." It states that the principal investigator must spend one-half of his/her time in the employ of the proposing small business.

Finally, this subsection specifies a previously implicit requirement that Phase I and Phase II research and R&D work be performed in the United States and it includes a definition of "United States" for purposes of the SBIR program. This requirement is consistent with the intent of Congress to enhance United States' R&D capabilities through the establishment of a Federal Government-wide SBIR program. The legislative history of the Act is replete with references to the gap in technology between the United States and other nations. It is clear that Congress intended the R&D advances resulting from this program to remain in this country and to benefit the United States. One way to encourage that result is to require that the research and R&D be performed in the United States by firms which are at least majority-owned by United States citizens or lawfully admitted permanent resident aliens. Therefore, these requirements have been made a part of the SBIR program for FY 1984.

In subsection (d)(1)(b), SBA has deleted a factor from the secondary consideration recommended for evaluation of Phase I proposals. That factor is whether or not a proposer intends to obtain follow-on non-Federal funding to pursue the commercial applications in Phase III. Comments from participating agencies and the public indicated that the Phase I proposal stage is often too early for firms to know this information.

Subsection (d)(2) contains a clarification that, in some cases, Phase II awards may not provide the total funding necessary to complete all of the R&D required to satisfy commercial or Federal needs beyond the SBIR program. For example, some firms may have to secure other funding to complete their projects prior to commercializing them. In addition, this subsection formerly suggested that agencies accord a preference to firms which would show a commitment of Phase III non-Federal funding at least equal to the amount requested from the Federal Government in Phase II. Any reference to such a preference has been deleted. SBA believes that this matter is better left to the discretion of participating agencies.

Subsection (d)(3) has been changed to make clear that Phase III follow-on funding may also consist of non-SBIR federally funded R&D or production funding agreements.

6. Paragraph 8 has been condensed. Subsection (a) describes the mailing list used for the SBIR program by SBA and notes that a two week period will be required to answer requests for the SBA mailing list. Subsection (d) now contains an abbreviated description of SBA's Procurement Automated Source System (PASS).

7. Paragraph 9 has been amended to delete references to the FY 1983 solicitations. In addition, this paragraph establishes presolicitation procedures. Experience with the program has taught that a regular release schedule for the presolicitation announcement published

by SBA is the most efficient and cost-effective manner for SBA to comply with its statutory requirement to publish such information. The following summarizes the presolicitation procedures:

SBA intends to publish four presolicitation announcements this fiscal year, one each on September 20, December 20, March 20 and June 20. Agencies may release their solicitations not less than 10 days after the publication of the presolicitation announcement which contains notice of that solicitation. This procedure also requires agencies to notify SBA in writing of their proposed solicitation dates and to have their written presolicitation announcement nformation to SBA 30 days prior to the presolicitation issuance date for the quarter in which that solicitation is to be released.

8. Paragraph 10, formerly entitled "Phase I Program Solicitation Release Schedule or Master Schedule," has been retitled "Phase I Program Presolicitation Announcements" to reflect more accurately the publications prepared and issued by SBA prior to the release of SBIR solicitations by the participating agencies. After release of the presolicitation announcement for that quarter, any changes must be reported to SBA in writing. This subsection notes that, where possible, amendments to the presolicitation announcements will be released separately.

In subsection (b) of paragraph 10 references to FY 1983 have been deleted and a requirement has been added that agencies provide the necessary presolicitation announcement information to SBA within 30 days prior to the issuance dates of the announcement stated in the master schedule

9. Paragraph 11, subsection (b) requires that agencies increase the number of copies of their solicitations which they provide SBA from 5 to 10 copies. Five copies was found to be insufficient to accommodate SBA s monitoring needs. In addition, this subsection requires that the copies be received by SBA "no later than the release of the solicitation or modification to the public." This provision is intended to insure that SBA is kept current on the status of such solicitations in order to assist small businesses which may have questions regarding the solicitations or any modifications to the solicitations.

10. Paragraph 12, subsection (a)(1)(c) has been amended to require that all similar proposals and any previous Federal Government award be identified by subject, due date and agency and be reported to the soliciting agency as part of the firm's SBIR proposal. Policy Directive No. 60 05 required firms to report previous similar SBIR awards only. This amendment is intended to prevent Federal funding of duplicative research regardless of the program under which it has been originally funded.

Subsection (d) has been rephrased to clarify that proposal review cycle requirements are for Phase I only, Phase II proposal submissions, review and selections are to be dealt with through arrangements between the agency and the Phase I performer competing for the Phase II award.

Subsection (i)(1) of this paragraph has been amended to delete the description of "cost basis" as duplicative of the definition of funding agreement. Any type of funding agreement is acceptable under the SBIR program as long as it is consistent with the guidelines of Pub. L. 97-224 (41 U S.C. 501) and with the practices of the awarding agency for similar research or R&D awards.

Subsection (i)(2) has been modified to make clear that reasonable fee or profit on SBIR funding agreements should be the norm, This requirement is consistent with one of the purposes of the Act which is to increase the involvement of small for-profit businesses in the nation's research and R&D efforts.

Subsection (k)(2) has been amended to require that, within 30 days after an award of a funding agreement exceeding the amounts suggested in the legislative history of the Act ($50,000 and $500,000 for Phases I and II respectively), the agency must provide SBA with a written justification of its decision to exceed those suggested amounts. The same requirement of a written justification has also been added for any increases in funding which would bring the cumulative dollar awards to the same firm for the same project above the $50,000 or $500,000 benchmarks.

A new subsection (m) has been included in this amended policy directive which cautions agencies about potential conflicts of interest that could arise from an agency funding a proposal submitted by a former agency employee or even by a former employee of another Federal agency This subsection also refers participating agencies to their individual standards of conduct review procedures to screen for potential conflicts of interest.

11 Paragragh 13, subsection (a), has been amended to clarify that annual reports to SBA required by Pub. L. 97-219 will be for the period ending September 30 of each fiscal year and must be submitted within 90 days of the date

Subsections (b) and (c) are new sections listing all the reporting requirements for the agencies having SBIR programs and goaling programs under Pub. L. 97-219 (non-SBIR awards over $10,000). Each requirement has been discussed with participating agencies and some have been revised per agency suggestion.

Subsection (e) requires that agencies submit 5 copies of each annual report to SBA.

12. Paragraph 16 is a new paragraph which describes the efforts which SBA and the participating agencies intend to make to carry out the Act's mandate "to foster and encourage participation by minority and disadvantaged persons in technological innovation."

B. Substantive Changes in the Appendix to Policy Directive No. 65 01

1. In the introductory material entitled "Format Description," Research Topics, former Part III has been redesignated Part VIII and former sections IV through VIII have been renumbered accordingly

2. Section I, (C), containing a description of eligibility for the SBIR program, has been amended to include the requirement that Phase I and Phase II research and R&D work be performed in the United States and defines "United States" for purposes of this program.

3. Section II now requires that the definitions of "women-owned business" and "subcontracting" be included in the definitions sections of the agencies' solicitations.

4. Section III(A) has been amended to increase the page limit on Phase I proposals from 20 to 25 pages, including the cover page. This change was made in response to comments from the public and the participating agencies indicating that the 20 page ceiling may be too restrictive in certain fields of research.

5. Section III(B) has been amended to require that a certification of woman-owned business be added to the proposal cover sheet requirements which are listed in the solicitation. Beginning in FY 1984, SBIR solicitations are required to state that both the certifications of small minority and disadvantaged business and woman-owned small business are for statistical purposes only

6. Section III(B)(1) contains a disclosure permission statement which must be included in the solicitation. Formerly a signed permission statement merely granted the agency permission to release the title of the project and the name, address and telephone number of a corporate official of the firm. The permission statement has been expanded to grant permission to the

agencies to release a technical abstract of the project also. This change has been made to assist small businesses in locating other means of funding their research and development projects. Often potential investors who are interested in projects request a technical abstract of the project in addition to the project title before they are willing to discuss the project with the small firm.

7. Sections III(B) (9) and (10) impose a requirement to be included in the SBIR solicitations that the proposer provide a project summary, which must include the agency name, the solicitation number, the solicitation topic and subtopic and up to 8 key words which describe the project.

8. Section III[d][3] has been amended to delete the requirement that at least one-third of the proposal for Phase I consist of the proposed work plan. This requirement was found to be inappropriate in some circumstances.

9. Section III[D][8] has been amended to delete from this portion of the Appendix the requirement that, absent written approval by the funding agreement officer, no more than 33 percent of a funding agreement may be expended on consultant fees, leases, and other subcontracts. This requirement has been retained in substance in section V(H) of the SBIR Appendix.

10. Section III[D][9] contains a requirement of a description of potential post-SBIR applications of the proposed project. This description has been modified to include both potential future commercial and Federal Government applications of the proposed project. Future Federal Government applications have been inadvertently omitted from Policy Directive No. 85 01.

11. Section III(D)(10)(A) has been amended to clarify that all awards from Federal agencies, whether SBIR and non-SBIR, must be identified.

12. Section V(B) has been amended to delete a page length requirement from the description of the reports which will be required under Phase I funding agreements. It is intended that interim reports be brief letter-type reports.

13. Section V(C) has been amended to provide that payment schedules must also specify the frequency of payment in addition to the method of payment under Phase I agreements.

14. Section V(D)(1)(a) has been amended to delete the inference that proposals containing legends indicating that proprietary information is present in the proposal which differ from the prescribed version would be returned to the proposer. This method of handling divergent legends has been found to be too costly to implement. This section, as amended, now states that such proposals may simply be removed from consideration for an SBIR award.

15. The requirement of section V(G) that solicitations include a provision concerning joint ventures and limited partnerships has been reworded to make clear that such entities are eligible for SBIR awards if they qualify as a small business as defined in the program solicitation.

16. Section V(H), which deals with subcontracting limits, has been amended to treat Phase I and Phase II separately and to clarify that, absent written approval to the contrary by the funding agreement officer, a minimum of two-thirds of the research or analytical work for Phase I must be performed by the proposing small business. Similarly, absent written approval to the contrary, a minimum of one-half of the research or analytical effort in Phase II must be performed by the proposing firm.

17. Section VI(C) has been amended to require the soliciting agency to include in the solicitation a delivery address as well as a mailing address, if the delivery address differs from the mailing address. This amendment will facilitate timely receipt by agencies of hand-delivered proposals.

C. Technical Changes

In general, there are three technical changes which were made consistently throughout the amended policy directive. First, when referring to the type of activity funded by the SBIR program, "research and R&D" was used, rather than merely research and development. This change was made to reflect the statutory intent that basic research also is properly part of the SBIR program.

Second, any previous reference to contract or contractor has been amended to state funding agreement or awardee since the program applies to all types of SBIR funding agreements and awardees of those agreements.

Finally, all references to topic in Policy Directive No. 85 01 have been amended to include topic and subtopic. These designations are more useful to the participating agencies and are consistent with their current methods of collecting information.

Dated: August 19, 1983.

James C. Sanders,

Administrator.

U.S. Small Business Administration,
Washington, D.C. 20416.

Small Business Innovation Research Program Policy Directive 85 01.1.

To The Heads of Executive Departments and Establishments.

Subject: Small Business Innovation Development Act, Small Business Innovation Research Programs.

1. *Purpose.* To modify the policy directive pursuant to public comment of associations and small business concerns.

2. *Authority.* This Policy Directive is issued pursuant to the authority contained in 15 U.S.C. 638 (Pub. L. 97–219, 96 STAT. 217, "Small Business Innovation Development Act of 1982").

3. *Procurement Regulations.* It is recognized that Federal procurement regulations (currently, DAR, FPR and NASAPR) may need to be modified to conform to the requirements of Pub. L. 97–219 and this policy directive. Agencies responsible for the regulations, DOD, GSA and NASA are encouraged to proceed rapidly with necessary changes to the regulations. Regulatory provisions pertaining to areas of SBA responsibility, as established by Pub. L. 97–219, will require approval of the SBA Administrator or his designee. SBA's Office of Innovation, Research and Technology is the appropriate office for coordinating such regulatory provisions.

4. *Personnel Concerned.* All Federal Government personnel who are involved in the administration, funding agreements and technical process of the Small Business Innovation Research Program and the establishment of goals for small business concerns in research or research and development acquisitions or grants.

5. *Distribution.* Federal Government agencies and departments with Small Business Innovation Research Programs and those required to establish small business research and development goals as directed by Pub. L. 97–219.

6. *Originator.* Small Business Administration, Office of Innovation, Research and Technology.

Authorized by:

Donald R. Templeman,

Assistant Administrator, Office of Innovation, Research and Technology.

James C. Sanders,

Administrator.

Contents

Paragraph
1. Purpose
2. Summary of Legislative Provisions
3. Minimizing Regulatory Burden
4. Definitions
5. Program Levels
6. Small Business Innovation Research Program
7. Unilateral Actions of Participating Agencies and Departments
8. SBA Source File
9. SBA Coordination of SBIR Solicitation Schedules

Paragraph
10. SBA (Phase I) Program Pre-Solicitation Announcements
11. Simplified, Standardized and Timely SBIR Program Solicitations
12. Simplified and Standardized Funding Process
13. Annual Report to SBA and Office of Science and Technology Policy
14. SBA Program to Monitor and Survey SBIR Activity
15. SBIR Information System
16. Small Minority and Disadvantaged Business Concerns
17 Exemption for National Security or Intelligence Functions
Appendix: 1. Instructions for SBIR Program Solicitation Preparation

1. Purpose

a. Section 9(j) of the Small Business Act (as amended by Pub. L. 97–219) requires that "the Small Business Administration . . . issue policy directives for the general conduct of the Small Business Innovation Research (SBIR) program within the Federal Government . . ."

b. This policy directive fulfills this statutory obligation and provides guidance to the participating Federal agencies for the general conduct of the SBIR program, including research or research and development (R,R&D) goaling requirements. Additional instructions may be issued by the Small Business Administration (SBA) as a result of public comment or experience. These instructions will be issued as additional of replacement pages for this directive

2. Summary of Legislative Provisions

The Small Business Innovation Development Act of 1982, Pub. L. 97–219, that became law on July 22, 1982, amends the Small Business Act (15 U.S C. 631).

a. The purposes of the Act are to:

(1) Stimulate technological innovation.

(2) Use small business to meet Federal research and development needs.

(3) Increase private sector commercialization of innovations derived from Federal research and development.

(4) Foster and encourage minority and disadvantaged participation in technological innovation.

b. The Act Mandates that Federal agencies establish SBIR programs if their FY 1982 extramural budgets for research or R&D exceed stated threshold figures ($100 million). The Act also requires agencies whose R,R&D budgets exceed a lower threshold figure ($20 million), to establish specific goals for the participation of small business in contracts, grants, or cooperative agreements for research or R&D

(1) No goal may be less than the percentage of the agency's R,R&D budget expended with small business under grants, contracts, and cooperative agreements in the immediately preceding fiscal year.

(2) Agencies with budgets over $100 million shall have both programs.

c. The statutory requirements are aimed at assisting small business by establishing a uniform, simplified format for the operation of the SBIR programs while allowing the participating agencies flexibility in the content and operation of their individual SBIR programs.

d. The Act states that each participating agency will establish an SBIR program by reserving a statutory percentage of its extramural budget to be awarded to small business concerns for research or R&D through a uniform, three-phase process.

(1) The first two phases will help agencies meet their R&D objectives.

(2) The third phase, where appropriate, is to pursue commercial applications from the Government-funded research or R&D to stimulate technological innovation and the national return on investment from research or R&D or for further contracting or grant activities with Federal agencies through non-SBIR funding agreements.

e. The Act mandates that each agency required to have an SBIR program or to establish research or research and development goals must report annually to SBA.

(1) Agencies having an SBIR program must also annually report to the Office of Science and Technology Policy.

(2) The Act also requires SBA to acquire annual reports and monitor each agency's SBIR program and to report its findings annually to the House and Senate Committees on Small Business.

f. Effective October 1, 1988, the Small Business Innovation Act of 1982 is repealed.

3. Minimizing Regulatory Burden

a. Important objectives in establishing uniform SBIR program implementation are to:

(1) Minimize the creation of new or complex regulations.

(2) Ensure that the program s requirements are met.

(3) Simplify and standardize application of existing regulations related to the program. The explicit nature of the SBIR legislation concerning certain recognized acquisition procedures provides a strong base of authority for streamlining the process for obtaining research or R&D from small highly innovative business concerns.

(a) The above includes funding allocations, centralized SBIR technology management, and routine operational implementation.

(b) Where not contrary to existing statutory requirements, each agency is authorized to establish financial procedures and financing mechanisms that it deems necessary to properly implement the SBIR, including, but not limited to, obligating funds solely on the basis of proposal merit without regard to the purpose for which funds were originally appropriated, and transferring assessed funds to a single account to facilitate financial management, reporting, and oversight.

(c) The participating agencies are encouraged to initiate or continue their development of simplified procedures that may be used on SBIR actions. Submit information concerning simplified procedures to the SBA for possible general program improvements.

b. No participating agency may promulgate a rule or regulation that is contrary to or inconsistent with the SBIR legislation or this policy directive.

4. Definitions

a. *Research or Research and Development (R,R&D).* Any activity that is:

(1) A systematic, intensive study directed toward greater knowledge or understanding of the subject studied.

(2) A systematic study directed specifically toward applying new knowledge to meet a recognized need.

(3) A Systematic application of knowledge toward the production of useful materials, devices, and systems or methods, including design, development, and improvement of prototypes and new processes to meet specific requirements.

b. *Extramural Budget.* The sum of the total obligations for R,R&D minus amounts obligated for R,R&D activities by employees of the agency in or through Government-owned, Government-operated facilities, except that for the Agency for International Development it shall not include amounts obligated solely for general institutional support for international research centers or for grants to foreign countries.

c. *Federal Agency.* An executive agency as defined in 5 U.S.C. 105, or a military department as defined in 5 U.S C. 102 except that is does not include any agency within the Intelligence Community as defined in Executive Order 12333, Section 3.4(f), or its successor orders.

d. *Funding Agreement.* Any contract, grant, or cooperative agreement entered

into between any Federal agency and any small business for the performance of experimental, developmental, or research work funded in whole or in part by the Federal Government.

e. *Subcontract.* Any agreement, other than one involving an employer-employee relationship, entered into by a Federal Government funding agreement awardee calling for supplies or services required solely for the performance of the original funding agreement.

f. *Minority and Disadvantaged Small Business.* A minority and disadvantaged small business concern is one that is:

(1) At least 51 percent owned by one or more minority and disadvantaged individuals; or in the case of any publicly owned business, at least 51 percent of the voting stock of which is owned by one or more minority and disadvantaged individuals; and

(2) Whose management and daily business operations are controlled by one or more of such individuals.

A minority and disadvantaged individual is defined as a member of any of the following groups:

(1) Black Americans.
(2) Hispanic Americans.
(3) Native Americans.
(4) Asian-Pacific Americans.
(5) Asian-Indian Americans.

g. *Small Business.* A small business concern is one that, at the time of award of Phase I and Phase II:

(1) Is independently owned and operated, is not dominant in the field of operation in which it is proposing, and has its principal place of business located in the United States;

(2) Is at least 51 percent owned, or in the case of a publicly owned business, at least 51 percent of its voting stock is owned by United States citizens or lawfully admitted permanent resident aliens;

(3) Has, including its affiliates, a number of employees not exceeding 500, and meets the other regulatory requirements found in 13 CFR Part 121. Business concerns, other than investment companies licensed, or state development companies qualifying under the Small Business Investment Act of 1958, 15 U.S.C. 661, *et seq.*, are affiliates of one another when either directly or indirectly (A) one concern controls or has the power to control the other; or (B) a third party or parties controls or has the power to control both. Control can be exercised through common ownership, common management, and contractual relationships. The term "affiliates" is defined in greater detail in 13 CFR 121.3–2(a). The term "number of employees" is defined in 13 CFR 121.3–2(t). Business concerns include, but are not limited to, any individual, partnership, corporation, joint venture, association or cooperative.

h. *Women-Owned Small Business.* A small business that is at least 51 percent owned by a woman or women who also control and operate it. "Control" in this context means exercising the power to make policy decisions. "Operate" in this context means being actively involved in the day to day management.

i. *Program Solicitation.* A formal solicitation of proposals whereby an agency notifies the small business community of its research or R&D needs and interests in selected areas and requests proposals in response to these needs from small business concerns. Announcements in the Federal Register or the Commerce Business Daily are not to be considered substitutes for an SBIR program solicitation.

5. Program Levels.

The Act directs that agencies shall conduct SBIR programs beginning in FY 1983 and in subsequent fiscal years depending upon the size of their extramural research or R&D budgets as defined in Sec. 4. of Pub. L. 97–219.

a. Each agency extramural research or R&D budget for FY 1982 or any fiscal year thereafter in excess of $10 billion shall establish an SBIR program and set aside and expend funds through funding agreements. The program shall be phased in over 5 years using set extramural funding percentages. The percentages of the extramural budget for the program are for:

(1) FY 1983, 0.1%.
(2) FY 1984, 0.3%.
(3) FY 1985, 0.5%.
(4) FY 1986, 1.0%.
(5) FY 1987 and FY 1988, 1.25%.

b. Each agency with an extramural research or R&D budget in FY 1982 or any year after that in excess of $100 million but less than $10 billion shall establish an SBIR program and set aside and expend funds through funding agreements. The program shall be phased in over 4 years using set extramural funding percentages. The percentages of extramural funding for the program are for:

(1) FY 1983, 0.2%.
(2) FY 1984, 0.6%.
(3) FY 1985, 1.0%.
(4) FY 1986 through FY 1988, 1.25%.

c. Each agency that has a research or R&D budget for any fiscal year beginning with FY 1983 in excess of $20 million shall establish non-SBIR goals for the awarding of funding agreements with small businesses in research or R&D. Any goal established shall not be less than the agency's non-SBIR achieved percentage to small business in research or R&D funding the preceding fiscal year. SBIR awards may not be counted toward this non-SBIR goal achievement. Non-SBIR awards to small business may not be counted toward meeting SBIR program funding levels or achievement.

6. Small Business Innovation Research Program

a. The SBIR program is a phased process uniform throughout the Federal government of soliciting proposals and awarding funding agreements for research or R&D to meet stated agency needs or missions.

b. Each agency shall at least annually issue an SBIR solicitation that sets forth a substantial number of research or R&D topic and subtopic areas consistent with stated agency needs or missions. Both the list of topics and the description of the topics and subtopics shall be sufficiently comprehensive to provide a wide range of opportunity for small busines concerns to participate in the agency research or R&D programs. Topics and subtopics shall emphasize the need for proposals with advanced concepts to meet specific agency research or R&D needs. Each topic and subtopic shall describe the needs in sufficient detail so as to assist small firms in providing on-target responses, but shall not involve detailed specifications to prescribed solutions of the problems.

c. Because the program is intended to increase the use of small business firms in Federal R&D, for Phase I a minimum of two-thirds of the research and/or analytical effort must be performed by the proposing firm. For Phase II a minimum of one-half of the research and/or analytical effort must be performed by the proposing firm. For both Phases I and II the primary employment of the principal investigator must be with the small business firm at the time of award and during the conduct of the proposed effort. Deviations from these requirements must be approved in writing by the funding agreement officer. Primary employment means that more than one-half of the prinicipal investigator's time is spent in the employ of the small business. Also for both Phase I and Phase II the research or R&D work must be performed by the small business concern in the United States. "United States" means the several states, the Territories and possessions of the United States, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the District of Columbia.

d. To stimulate and foster technological innovation, including increasing private sector applications of Federal R,R&D, the program must follow a uniform process of three phases:

(1) *Phase I.* Phase I involves a solicitation of proposals to conduct feasibility related experimental or theoretical research or R&D efforts on described agency requirements. The object of this phase is to determine the technical feasibility of the proposed effort and the quality of performance of the small firm with a relatively small agency investment before consideration of further Federal support in Phase II.

(a) Several different proposed solutions to a given problem may be funded.

(b) Awards shall be made primarily on the basis of scientific and technical merit. Secondary considerations may include program balance, critical agency requirements, and whether the proposal indicates potential commercial applications in addition to meeting agency needs.

(c) Only awardees in Phase I are eligible to participate in Phase II. Agencies may include a provision requiring submission of a Phase II proposal as a deliverable item under Phase I.

(2) *Phase II.* Phase II is the principal research or R&D effort. Funding shall be based upon the results of Phase I and the scientific and technical merit of the Phase II proposal. The object is to continue the research or R&D initiated under Phase I on agency needs. Phase II awards may not necessarily complete the total research and development that may be required to satisfy commercial or federal needs beyond the SBIR program. Completion of the research and development may be through Phase III. The Government is not obligated to fund any specific Phase II proposal. The Phase II award decision requires, where proposals are evaluated as being of approximately equal merit, that special consideration shall be given to proposals that have demonstrated third phase, non-Federal capital commitments.

(3) *Phase III.* Where appropriate, Phase III is to be conducted with non-Federal funds by the small business to pursue commercial applications of the government research or R,R&D funded in Phase I and II. Phase III also may involve follow-on non-SBIR funded R&D or production contracts with a Federal agency for potential products or processes intended for use by the United States Government.

7. Unilateral Actions of Participating Agencies and Departments

The Act requires each participating agency to:

a. Unilaterally determine the categories of projects to be included in its SBIR program.

b. Issue SBIR solicitations in accordance with the SBA master schedule.

c. Unilaterally receive and evaluate proposals, resulting from SBIR solicitations and make awards.

d. Administer its own SBIR funding agreements or delegate such administration to another agency.

e. Make payments to recipients of SBIR funding agreements on the basis of progress toward or completion of the funding agreement requirements.

f. Make an annual report on the SBIR program to SBA and the Office of Science and Technology Policy.

8. SBA Source File

a. *SBA Business Innovation Research Program Source File.* The SBA has developed and maintains an SBIR mailing list of interested small business concerns. The list is available to all participating SBIR agencies for solicitation purposes. Requests for the mailing labels from the list may be made to the Office of Innovation, Research and Technology. A two-week period is required to fill requests.

b. *SBA Procurement Automated Source System (PASS).* Participating agencies may acquire additional potential sources from the SBA PASS system. PASS uses a "keyword" system that identifies the capabilities of small firms as related to specific government requirements. Agencies may contact SBA, Office of Procurement and Technical Assistance, to obtain further information.

c. *Federal Procurement Data System (FPDS).* Participating agencies should review FPDS data that identify small business awardees of research or R&D contracts as a potential supplement to their existing source data base.

d. *Other Sources.* Agencies may maintain their own mailing lists or use other sources.

9. SBA Coordination of SBIR Solicitation Schedules

a. The Act requires issuance of agency (Phase I) Program Solicitations in accordance with a master schedule coordinated between SBA and the agency. The SBA organization responsible for coordination is:

Office of Innovation, Research and Technology, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416

b. For maximum participation by interested small business concerns it is important that the planning, scheduling and coordination of agency SBIR solicitation release schedules be completed as early as practicable. Bunching of agency SBIR solicitation release and closing dates may prohibit small concerns from the preparation and timely submission of proposals for more than one SBIR project. SBA's coordination of agency schedules will minimize the bunching of proposed issue and close dates.

Participating agencies may elect to establish multiple solicitations within a given year to facilitate in-house agency proposal review and evaluation scheduling.

c. To accomplish the master schedule coordination process the following procedure will be followed:

(1) The SBA will publish four pre-solicitation announcements a year, one in each quarter of the year. It is intended that the dates of publication will be September 20, December 20, March 20 and June 20. The Agency solicitation release date shall not be prior to 10 days after publication of the pre-solicitation announcement which includes notice of that solicitation.

(2) Each agency representative will notify the SBA in writing of its proposed solicitation date by August 1. The SBA and the agency representatives will coordinate the final agency solicitation dates by the second week of August.

(3) Agency representatives must have their written pre-solicitation announcement information (subparagraph 10(b)) to the SBA 30 days prior to the pre-solicitation issue date for the quarter in which their solicitation is to be released.

10. SBA (Phase I) Program Pre-Solicitation Announcements

a. *SBA Publication.* The SBA, as required by public law, shall prepare and issue pre-solicitation Phase I Program Solicitation announcements, covering all participating agencies. After the release of SBA pre-solicitation announcements any changes that occur in agency announcement information must be reported in writing to the SBA by the agency SBIR representative. If possible, announcement amendments will be released reflecting such changes. The pre-solicitation announcements will be based upon the data received by SBA from the agencies. The agencies are advised, however, that:

(1) The publication of the pre-solicitation announcements is not

intended to restrict or prohibit application of customary or other internal agency procedures designed to obtain publicity for its research or R&D programs.

(2) The pre-solicitation announcement publications by SBA shall not be interpreted as a substitute or relief vehicle for existing statutory and regulatory publication requirements related to individual or specific procurement/grant actions.

b. *Pre-Solicitation Announcement Content.* The SBIR pre-solicitation announcements will include sufficient data to effectively apprise appropriate segments of the Nation's small business community of forthcoming SBIR Program Solicitations, thereby assisting the participating agencies in identifying prospective, responsible sources. The agencies shall provide the required information to the SBA 30 days prior to the pre-solicitation announcement dates set by the SBA per the master schedule. The following information is required:

(1) The list of topics upon which research or R&D proposals will be sought. Each research or R&D topic shall have approximately 10 words or less in its title.

(2) Agency address and/or phone number from which SBIR Program Solicitations can be obtained.

(3) Names, addresses, and phone numbers of agency contact points where SBIR-related inquiries may be directed.

(4) Dates of Program Solicitations release.

(5) Dates for receipt of proposals.

(6) Estimated number and average dollar amounts or level of effort of Phase I awards to be made under the solicitation.

11. Simplified, Standardized and Timely SBIR Program Solicitations

a. *Instructions for SBIR Program Solicitation Preparation.* The Small Business Research Development Act (Pub. L. 97–219) requires "* * * simplified, standardized and timely SBIR solicitation" (Sec. 4(j)(1)). Further, the Act requires the SBIR programs of participating agencies to use a "uniform process" (Sec. 4(e)(4)) and that the regulatory burden of participating in the SBIR programs be minimized. The instructions in Appendix 1, therefore, purposely depart from normal Government solicitation formats and requirements. SBIR Program Solicitations shall be prepared according to Appendix 1.

b. Agencies shall provide the SBA, Office of Innovation, Research and Technology, ten copies of each solicitation and any modifications thereto no later than the release of the solicitation or modification to the public.

c. *Non-SBIR R, R&D-Related Actions.* It is not intended that the SBIR Program Solicitation replace or be used as a substitute for unsolicited proposals or R, R&D awards to small business authorized by existing regulations; nor, are the SBIR Program Solicitation procedures intended to prohibit other agency R, R&D actions with small business concerns carried on in accordance with applicable statutory/regulatory authorizations.

12. Simplified and Standardized Funding Process

In its requirement for the establishment of a "simplified standardized funding process," the SBIR legislation requires that specific attention be given to the following areas of SBIR program administration:

a. *Timely Receipt and Review of Proposals.*

(1) Participating agencies shall establish firm schedules and review formats for appropriate distribution of the proposals for reviewing recommendations and submission to the SBIR program manager for award determinations.

(a) All activities related to Phase I proposal reviews shall normally be completed and awards made within 6 months from the date proposals are received by the agencies.

(b) The SBIR Program Solicitations for Phase I will establish proposal submission dates. Related to Phase II activity, an agency may establish set proposal submission dates; however, it is anticipated that each agency will negotiate mutually acceptable proposal submission dates with individual phase I performers, accomplish proposal review expeditiously, and proceed with awards. While it is recognized that Phase II arrangements between the agency and the proposer may require more detailed negotiation to establish terms acceptable to both parties, the agencies must not sacrifice the research or R&D momentum created under Phase I by engaging in unnecessarily protracted Phase II proceedings.

(c) It can be anticipated that SBIR participants will submit duplicate or similar proposals to more than one soliciting agency when the work projects appear to involve similar topics or requirements which are within the expertise and capability levels of the small business proposer. To the extent reasonably feasible, interagency funding duplications related to acquiring similar technology under the SBIR or other Federal programs should not occur. For this purpose, the standardized SBIR Program Solicitation will require the proposers to indicate the name and address of the agencies to which duplicate or similar proposals were made and to identify by subject the projects for which the proposal was submitted and the dates submitted. The same information will be required for any previous Federal Government awards. Each SBIR-participating agency shall submit to SBA three copies of the Technical Abstract (required by para. IV. C. of Appendix 1) for Phase I and II awards within 30 days of award. SBA's Office of Innovation, Research and Technology will distribute information to assist participating agencies in identifying research or R&D programs already in process that may be of interest to them.

b. *Review of SBIR Proposals.* Agencies are encouraged to use their normal review process for SBIR proposals whether internal or external evaluation is used. A more limited review process may be used for Phase I due to the larger number of proposals anticipated. Where appropriate, "peer" reviews, that are external to the agency, are authorized by the SBIR legislation. Participating agencies are cautioned that all review procedures shall be formulated to minimize any possible conflict of interest as it pertains to proposer proprietary data. The standardized SBIR solicitaton will advise potential proposers that proposals may be subject to an established external review process, but that the proposer may include in its proposal company designated proprietary information.

c. *Proprietary Information Contained in Proposals.* In preparation of the standardized SBIR Program Solicitation as described in Appendix 1, provisions will be included requiring confidential treatment of proprietary information to the extent permitted by law. Offerors will be discouraged from submitting information considered proprietary unless it is deemed essential for proper evaluation of the proposal. The solicitation will require that all proprietary information be clearly identified and marked with a prescribed legend. Agencies may elect to require proposers to limit proprietary information to that essential to the proposal and to have such information submitted on a separate page or pages keyed to the text.

d. *Selection of Phase I Awardees.* Participating agencies shall establish a proposal review cycle wherein successful and unsuccessful proposers shall be notified of final award

decisions within 6 months of the agency's Phase I proposal due date.

(1) The standardized Program Solicitation (Appendix 1) shall:

(a) Advise Phase I proposers that additional information may be requested by the awarding agency to evidence awardee responsibility for project completion.

(b) Contain information advising potential offerors of basic proposal evaluation criteria, such as legally required Phase II special consideration to proposals that have demonstrated third phase, non-Federal follow-on funding commitments.

(2) Phase II proposal submissions, review, and selections shall be managed by arrangements between the agency and each Phase I performer considered for Phase II award.

e. *Rights in Data Developed Under SBIR Funding Agreement.* The SBIR legislation provides for "retention of rights in data generated in the performance of the contract by the small business concern." The legislative history clarifies that the intent of the statute is to provide authority for the participating agency to protect technical data generated under the funding agreement, and to refrain from disclosing such data to competitors of the small concern or from using the information to produce future technical procurement specifications that could harm the small business that discovered and developed the innovation until the small business has a reasonable chance to seek patent protection if appropriate. Therefore, it is recommended that, except for program evaluation, participating agencies protect such technical data for a period of 2 years from the completion of the project from which the data was generated unless the agencies obtain permission to disclose such data from the contractor or grantee. However, at the conclusion of the 2-year period, the Government shall retain a royalty-free license for Government use of any technical data delivered under an SBIR funding agreement whether patented or not.

f. *Title Transfer of Agency Provided Property.* Under SBIR legislation, title to equipment purchased in relation to project performance with funds provided under SBIR funding agreements may be transferred to the awardee where such transfer would be more cost effective than recovery of the property by the government.

g. *Cost Sharing.*

(1) Cost participation could serve the mutual interest of the participating agencies and certain SBIR performers by helping to assure the efficient use of available resources. Cost-sharing, however, shall not normally be encouraged except where required by other statutes.

(2) Except where required by other statutes, participating agencies shall not, as a general policy, request or require cost-sharing on Phase I and Phase II projects. The standardized SBIR Program Solicitation (Appendix 1) will, however provide information to prospective SBIR performers concerning cost-sharing. Cost participation will not be a consideration factor in evaluation of Phase I and Phase II proposals except where required by other statutes.

h. *Payment Schedules and Cost Principles.*

(1) Consistent with Sec. 4 of the SBIR legislation (Section 9(j)(2)(H) of the Small Business Act (as amended by Pub. L. 97–219)], SBIR performers may be paid under an applicable, authorized progress payment procedure or in accordance with a negotiated/definitized price and payment schedule. Advance payments are optional and may be made under appropriate public law.

(2) All SBIR funding agreements shall use, as appropriate, current cost principles and procedures authorized for use by the participating agencies.

i. *Funding Agreement Types and Fee or Profit.* The legislative requirements for uniformity and standardization require that there be consistency in application of SBIR program provisions among participating agencies. This consistency must consider, however, the need for flexibility by the various agencies in missions and needs as well as the wide variance in funds required to be devoted to SBIR programs in the agencies. The following guidelines are for the purpose of meeting these requirements:

(1) *Funding Agreement.* The choice of type of funding agreement (contract, grant, or cooperative agreement) rests with the awarding agency but must be consistent with the guidelines in Pub. L. 95–224 (41 U.S.C. 501), as amended by Pub. L. 97–258 (31 U.S.C. 6301–6308).

(2) *Fee or Profit.* Unless expressly excluded by statute, awarding agencies are to provide for a reasonable fee or profit on SBIR funding agreements, including grants, consistent with normal profit margins provided to profit-making firms for R, R&D work.

j. *Periods of Performance and Extensions.*

(1) *Phase I.* Period of performance should normally not exceed 6 months except where agency needs or research plans require otherwise. Extensions should be minimized.

(2) *Phase II.* Period of performance under Phase II is the subject of negotiations between the selected Phase I recipient and the awarding agency. However, the duration of Phase II should normally not exceed 2 years. Exceptions should be minimized.

(3) In keeping with the legislative intent to make a large number of relatively small awards, modification of funding agreements to extend periods of performance, increase the scope of work, or to increase the dollar amount should be minimized, except for options in the original Phase I or II awards.

k. *Dollar Value of Awards.*

(1) The SBIR legislation does not establish limitations on dollar amounts of Phase I or Phase II awards. The legislative history clearly envisions a large number of relatively small awards of "up to $50,000" and "up to $500,000" for Phase I and II respectively. While no specific limitations on dollar amounts for Phase I or II are established by this policy directive, and while it is recognized that some research or R&D projects will require larger awards, agencies should strive to plan SBIR projects so that the majority of Phase I awards will be $50,000 (or ½ person year) or less and the majority of Phase II awards will be $500,000 or less. SBA will amend the policy directive as required to adjust the $50,000 and $500,000 amounts to compensate for inflation.

(2) Within 30 days after the award of any funding agreement exceeding $50,000 for Phase I or $500,000 for Phase II, the agency SBIR representative shall provide the SBA with written justification of such action. Similar justification is required for any dollar increase of a funding agreement which would bring the cumulative dollar amount to a total in excess of the aforestated amounts.

l. *Grant Authority.* The Small Business Innovation Development Act does not, in and of itself, convey grant authority. Each agency must secure grant authority in accordance with its normal procedures.

m. *Conflicts of Interest.* Participating agencies are cautioned that awards made to firms owned by or employing current or previous Federal Government employees could create conflicts of interest for those employees in violation of the Ethics in Government Act of 1978 (Pub. L. 95–521, as amended by Pub. L. 96–19 and Pub. L. 96–28). Each participating agency should refer to the standards of conduct review procedures currently in effect for that agency to ensure that such conflicts of interest do not arise.

13. Annual Report to SBA and Office of Science and Technology Policy

The Small Business Innovation Development Act requires a "simplified, standardized and timely annual report" from the participating agencies in the SBIR program and those agencies required to establish small business research and research and development goals to the SBA and OSTP. Reports to SBA are due and shall include the following:

a. *Reporting Dates to SBA.* Reporting shall be on an annual basis and will be for the period ending September 30 of each fiscal year. The report is due to SBA within 90 days from the annual period ending date.

b. *Small Business Innovation Research Programs (SBIR) (awards over $10,000).*

(1) Agency total fiscal year, for FY 1983 and each year thereafter, extramural research and research and development total budget authority.

(2) SBIR program total fiscal year dollars derived by applying the statute per centum to the agencies extramural research and research and development total budget authority.

(3) SBIR program fiscal year dollars obligated through SBIR program funding agreements.

(4) Number of SBIR individual solicitations during the fiscal year and the number of topics and subtopics contained in each solicitation.

(5) Number of copies of each SBIR solicitation provided small businesses by the participating agency.

(6) Number of proposals or applications received by the agency for each topic in each SBIR solicitation.

(7) For both Phase I and II the SBIR awardee's name and address, solicitation topic and subtopic, solicitation number, project title, and dollar amount of funding agreement. Identify minority and disadvantaged small business and women-owned small business awardees.

(8) Name and address, subject title and dollar amount obligated for each SBIR program Phase III agency award under Federal non-SBIR funds.

c. *Small Business Research and Research and Development Goaling Program (non-SBIR awards over $10,000).*

(1) Agency previous fiscal year's total R,R&D dollar obligations.

(2) Agency previous fiscal year's total R&R&D obligated dollars to small business, minority and disadvantaged small businesses and women-owned small business under funding agreements and the percentage to the agency's total R,R&D dollar authority.

(3) Agency current fiscal year total R,R&D budget authority.

(4) Agency current fiscal year total R&R&D small business goal based on the percentage of awards to small businesses made the previous fiscal year.

(5) Current fiscal year achievement of the singular small business R&R&D goal and the dollars obligated through prime funding agreements by categories of small business, minority and disadvantaged small business and women-owned small business.

d. *Agency Research and Research and Development Funding Agreements (SBIR and goaling program awards over $10,000).*

Report the number and dollar value of awards under subparagraph b. and c. above made pursuant to the categories of contracts, cooperative agreements or grants. Identify SBIR awards of a participating agency, and compare the number and amount of such awards with awards to other than small business concerns.

e. *Agency Reports.* Submit five copies of each report to the SBA, Office of Innovation, Research and Technology, 1441 "L" Street, N.W., Washington, D.C. 20416. The reporting requirements of OSTP will be the subject of a subsequent policy directive revision.

14. SBA Program to Monitor and Survey SBIR Activity

a. *Examples of SBIR Areas to be Monitored by SBA.*

(1) *SBIR Funding Allocations.* Of major significance to the success of the SBIR program is the magnitude and nature of the agencies' funding allocations identified for fiscal year SBIR applications. The SBIR legislation explicitly relates to both the definition of the SBIR effort, research or R&D (as defined in the Act and OMB Circular A–11), and the mathematical methodology for determining fiscal year participation levels for all work categorized within the statutory definitions. SBA will monitor these allocations.

(2) *Program Solicitation and Award Status.* The accomplishment of scheduled SBIR events, such as Program Solicitation release and contract, grant, or cooperative agreement award, is critical to meeting statutory mandates and to operating an effective, useful program. SBA plans to monitor these and other operational features of SBIR program implementation. Except in instances where SBA assistance is requested related to a specific SBIR project, contract, etc., SBA does not intend to monitor administration of the agreements.

(3) *Follow-on Funding Commitments.* SBA will monitor whether follow-on non-Federal funding commitments obtained by Phase II awardees for Phase III were considered in the evaluation of Phase II proposals as required by the Act.

(4) *Agency Rules and Regulations.* It is essential that no implementing regulation be promulgated by the participating agencies that is inconsistent with or contradicts either the letter or intent of the legislation and this directive. SBA's monitoring activity will include review of rules and regulations and procedures generated to facilitate intra-agency SBIR program implementation.

15. SBIR Information System

SBA will prepare and distribute information materials (pamphlets, fact sheets and news releases as appropriate) that describe the basic elements of the SBIR program.

a. The legislative requirement for an SBA-maintained information system is not interpreted as prohibiting participating agencies from publicizing SBIR activities relating to individual agency programs to identify organizational structures actually responsible for carrying on SBIR operational functions.

(1) In view of certain joint SBA/agency activities required by the SBIR legislation, information publication may often be most effectively accomplished in concert.

(2) The participating agencies are invited to advance suggestions to SBA concerning existing information systems that may be tailored to serve specific SBIR publication needs.

b. SBA identifies in its SBIR publications points of contact for obtaining SBIR-related information.

(1) All participating agencies will establish and maintain contact points to process inquiries related to specific agency SBIR activities.

16. Small Minority and Disadvantaged Business Concerns

Pub. L. 97–219 (Sec. 2(b)(3)) states that one of its purposes is "to foster and encourage participation by minority and disadvantaged persons in technological innovation."

a. To carry out this purpose of the statute the SBA and agencies will make outreach efforts to find and place innovative small minority and disadvantaged concerns in the SBIR program information system.

b. The SBA will develop, participate in, and when appropriate and feasible sponsor seminars for innovative small

minority and disadvantaged concerns and individuals to inform them of the SBIR program.

c. The SBA will inform small minority and disadvantaged concerns and individuals of Federal and commercial assistance and services available for SBIR program participants.

d. While these individuals and small concerns will be required to compete for SBIR awards on the same basis as all other small business concerns, participating agencies are encouraged to work independently and cooperatively with SBA to develop methods to encourage qualified small minority and disadvantaged firms to participate in their SBIR programs.

17. Exemption for National Security or Intelligence Functions

a. The SBIR legislation provides for exemptions related to the simplified, standardized funding process "* * * if national security or intelligence functions clearly would be jeopardized." This "exemption" should not be interpreted as a blanket exemption or prohibition of SBIR participation concerning acquisition of effort related to these subjects and functions except as specifically defined under Section 4 (Section 9(e)(2) of the Small Business Act (as amended by Pub. L. 97–219)) of the SBIR public law. Agency technology managers in directing research or R&D projects under the SBIR program, where the project subject matter may be particularly sensitive to national security must make a determination on which, if any, of the standardized proceedings clearly place national security and intelligence functions in jeopardy, then proceed with an acceptable modified process to complete the SBIR action.

b. It is anticipated that SBA's SBIR program monitoring activities, except where prohibited by security considerations, shall include a review of nonconforming SBIR actions justified under this public law provision.

Appendix 1

Instructions for SBIR Program Solicitation Preparation

The Small Business Innovation Development Act (Pub. L. 97–219) requires "* * * simplified, standardized and timely SBIR solicitations" (Sec. 4, Section 9(j)(1)). Further, the Act requires the SBIR programs of participating agencies to utilize a "uniform process" (Sec. 4, Section 9(E)(4) and that the regulatory burden of participating in the SBIR programs be minimized. Therefore, the following instructions purposely depart from normal government solicitation formats and requirements. SBIR solicitations will be prepared and issued as Program Solicitations in accordance with the following instructions.

Limitation in Size of Solicitation

In the interest of meeting the legislative requirement for simplified and standardized solicitations, the entire SBIR solicitation with the exception of Section VIII "Research Topics," described below, shall be limited to 20 pages. There is no page limit on Section VIII "Research Topics."

Format

SBIR Program Solicitations will be prepared in a simplified, standardized, easily read, easy to understand format including a cover sheet, a table of contents and the following sections in the order listed (content of each section is discussed below):

I. Program Description
II. Definitions
III. Proposal Preparation Instructions and Requirements
IV. Method of Selection and Evaluation Criteria
V. Considerations
VI. Submission of Proposals
VII. Scientific and Technical Information Sources
VIII. Research Topics

Cover Sheet

The cover sheet or title page of an SBIR Program Solicitation shall clearly identify the solicitation as a Small Business Innovation Research Program Solicitation, identify the agency issuing the solicitation, specify date (or dates) proposals are due under the solicitation and state solicitation number.

Instructions for Preparation of SBIR Program Solicitation Sections I through VIII

I. Program Description

A. Summarize in narrative form the invitation to submit proposals and the objectives of the SBIR program.

B. Describe in narrative form the agency's SBIR program including a description of the three phases. Note in your description that the solicitation is for Phase I proposals only. (See Section VI, 65–01.)

C. Describe program eligibility, as follows: *Eligibility.* Each concern submitting a proposal must qualify as a small business for research or R&D purposes. In addition, the primary employment of the principal investigator must be with the small business firm at the time of award and during the conduct of the proposed research. Also for both Phase I and Phase II the research or R&D work must be performed in the United States. "United States" means the several states, the Territories and possessions of the United States, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the District of Columbia.

D. List name, address and telephone number of agency contacts for general information on the SBIR Program Solicitation.

II. Definitions

Whenever terms that are unique to the SBIR Program, a given solicitation or portion of a solicitation are used, these terms will be defined in a separate section titled "Definitions." As a minimum the definitions of small business, small disadvantaged business, women owned small business and subcontracting from paragraph 4 of Small Business Administration (SBA) Policy Directive 65 01 shall be included in this section.

III. Proposal Preparation Instructions and Requirements

The purpose of this section is to tell the proposer what to include in his or her proposal and to set forth limits on what may be included. It should also provide guidance to assist proposers in improving the quality and acceptance of proposals particularly to firms which may not have previous Government experience.

A. *Limitations on Length of Proposal.* Include at least the following information:

1. SBIR Phase I proposals shall not exceed a total of 25 pages (regular size type—no smaller than elite—single or double spaced, standard 8½" × 11" pages) including cover page, budget and all enclosures or attachments.

2. A notice that no additional attachments, appendices or references beyond the 25-page limitation shall be considered in proposal evaluation and that proposals in excess of the 25-page limitation shall not be considered for review or award.

B. *Proposal Cover Sheet.* Every proposer will be required to include at least the following information on the first page of proposals. Items 8 and 9 are for statistical purposes only.

1. Agency and solicitation number.
2. Topic Number.
3. Subtopic Number.
4. Topic Area.
5. Project Title.
6. Name and complete address of firm.

7. Small Business certification as follows:

"The above concern certifies it is a small business firm and meets the definition as stated in the solicitation."

8. Minority and Disadvantaged Business Certification as follows:

"The above concern certifies that it —— does —— does not qualify as a minority and disadvantaged small business as defined in the Definition Section of the Program Solicitation."

9. Women-owned Small Business Certification as follows:

The above concern certifies that it —— does —— does not qualify as a women-owned small business as defined in the Definition Section of the Program Solicitation.

10. Disclosure permission statement as follows:

"Will you permit the Government to disclose the title and technical abstract page of your proposed project, plus the name, address, and telephone number of the corporate official of your firm, if your proposal does not result in an award, to firms that may be interested in contacting you for further information or possible investment? Yes—— No——."

11 Signature of a company official of the proposing firm and that individual's typed name, title, address, telephone number, and date of signature.

12. Signature of Principal Investigator or Project Manager within the proposing firm and that individual's typed name, title, address, telephone number, and date of signature.

13. Legend for proprietary information as described in the "Considerations" Section of this Program Solicitation if appropriate.

C. *Abstract or Summary.* Proposers will be required to include a one-page project summary of the proposed research of R&D including at least the following:

1. Name and address of firm.

2. Name and title of principal investigator or project manager.

3. Agency name, solicitation number, solicitation topic and subtopic.

4. Title of project.

5. Technical abstract, limited to two hundred words.

6. Provide key words (8 maximum) description of the project useful in identifying the technology, research thrust and/or potential commercial application.

7. Summary of the anticipated results and implications of the approach (both Phase I and II) and the potential commercial applications of the research.

D. *Technical Content.* SBIR Program Solicitations shall require as a minimum the following to be included in proposals submitted thereunder:

1. *Identification and Significance of the Problem or Opportunity.* A clear statement of the specific technical problem or opportunity addressed.

2. *Phase I Technical Objectives.* State the specific objectives of the Phase I research and development effort, including the technical questions it will try to answer to determine the feasibility of the proposed approach.

3. *Phase I Work Plan.* A detailed description of the Phase I R,R&D plan. The plan should indicate what will be done, where it will be done and how the R,R&D will be carried out. Phase I R,R&D should address the objectives and the questions cited in 2 above The methods planned to achieve each objective or task should be discussed in detail.

4. *Related Research or R&D.* Describe significant research or R&D that is directly related to the proposal including any conducted by the project manager/principal investigator or by the proposing firm. Describe how it relates to the proposed effort, and any planned coordination with outside sources. The proposer must persuade reviewers of his or her awareness of key recent research or R&D conducted by others in the specific topic area.

5. *Key personnel and Bibliography of Directly Related Work.* Identify key personnel involved in Phase I including their directly related education, experience, and bibliographic information. Where vitae are extensive, summaries that focus on the most relevant experience or publications are desired and may be necessary to meet proposal size limitation.

6. *Relationship with Future Research or Research and Development.*

a. State the anticipated results of the proposed approach if the project is successful (Phase I and II).

b. Discuss the significance of the Phase I effort in providing a foundation for Phase II research or research and development effort.

7. *Facilities.* A detailed description, availability and location of instrumentation and physical facilities proposed for Phase I should be provided.

8. *Consultants.* Involvement of consultants in the planning and research stages of the project is permitted.

a. If such involvement is intended, it should be described in detail.

9 *Potential Post Applications* Briefly describe

a. Whether and by what means the proposed project appears to have potential commercial application.

b. Whether and by what means the proposed project appears to have potential use by the Federal Government.

10. *Similar Proposals or Awards.* A firm may elect to submit essentially equivalent work under other Federal Program Solicitations, or may have received other Federal awards for essentially equivalent work. In these cases, a statement must be included in each such proposal indicating:

a. the name and address of the agencies to which proposals were submitted or from which awards were received.

b. Date of proposal submission or date of award.

c. Title, number, and date of solicitations under which proposals were submitted or awards received.

d. The specific applicable research topics for each proposal submitted or award received.

e. Titles of Research Projects.

f. Name and title of project manager or principal investigator for each proposal submitted or award received

E. *Cost Breakdown/Proposed Budget* The solicitation will require the submission of simplified cost or budget data. Appropriate and simplified forms such as optional form 60 (FPRI–16.806) may be used.

IV. Method of Selection and Evaluation Criteria

A. *Standard Statement.* Essentially the following statement shall be included in all SBIR Program Solicitations:

All Phase I and II proposals will be evaluated and judged on a competitive basis. Proposals will be initially screened to determine responsiveness Proposals passing this initial screening will be technically evaluated by engineers or scientists to determine the most promising technical and scientific approaches. Each proposal will be judged on its own merit. The agency is under no obligation to fund any proposal or any specific number of proposals in a given topic. It also may elect to fund several or none of the proposed approaches to the same topic or subtopic.

B. *Evaluation Criteria.*

1. The agency in its evaluation process shall develop a standardized method that will consider as a minimum the following factors:

a. The technical approach and the anticipated benefits that may be derived from the research.

b. The adequacy of the proposed effort and its relationship to the

fulfillment of requirements of the research topic or subtopics.

c. The soundness and technical merit of the proposed approach and its incremental progress toward topic or subtopic solution.

d. Qualifications of the proposed principal/key investigators supporting staff and consultants.

e. In Phase II evaluations of proposals of equal technical and scientific merit the agency should give special consideration to proposals which demonstrate Phase III non-Federal capital commitments. Phase II proposals may only be submitted by Phase I award winners.

2. The factors in subparagraph 1, and other appropriate evaluation criteria, if any, shall be specified in the "Method of Selection" Section of SBIR Program Solicitations.

C. *Peer Review.* If it is contemplated that as a part of SBIR proposal evaluation external peer review will be used, the Program Solicitation must so indicate.

D. *Release of Proposal Review Information.* After final award decisions have been announced the technical evaluations of the proposer's proposal may be provided, to the proposer only, upon written request. The identity of the reviewer shall not be disclosed.

V. Considerations

This section shall include, as a minimum, the following information:

A. *Awards.* Indicate the estimated number and type of awards anticipated under the particular SBIR Program Solicitation in question including:

1. Approximate number of Phase I awards expected to be made.

2. Type of funding agreement, i.e., contract, grant or cooperative agreement.

3. State whether fee or profit will be allowed.

4. Cost basis of funding agreement, e.g., grant, firm-fixed-price, cost reimbursement, or cost-plus-fixed fee.

5. Information on the approximate average dollar value of awards for Phase I and Phase II.

B. *Reports.* Describe the frequency and nature of reports that will be required under Phase I funding agreements. Interim reports should be brief letter reports.

C. *Payment Schedule.* Specify the method and frequency of payment under Phase I agreements.

D *Innovations, Inventions and Patents.*

1. *Limited Rights Information and Data.*

a. *Proprietary Information.* Essentially the following statement shall be included in all SBIR solicitations.

Information contained in unsuccessful proposals will remain the property of the proposer. The Government may, however, retain copies of all proposals Public release of information in any proposal submitted will be subject to existing statutory and regulatory requirements.

If proprietary information is provided by a proposer in a proposal which constitutes a trade secret, proprietary commercial or financial information, confidential personal information or data affecting the national security, it will be treated in confidence, to the extent permitted by law, provided this information is clearly marked by the proposer with the term "confidential proprietary information" and provided the following legend appears on the title page of the proposal:

For any purpose other than to evaluate the proposal, this data shall not be disclosed outside the Government and shall not be duplicated, used, or disclosed in whole or in part, provided that if a funding agreement is awarded to this proposer as a result of or in connection with the submission of this data, the Government shall have the right to duplicate, use, or disclose the data to the extent provided in the funding agreement. This restriction does not limit the Government's right to use information contained in the data if it is obtained from another source without restriction. The data subject to this restriction is contained in pages —— of this proposal.

Any other legend may be unacceptable to the Government and may constitute grounds for removing the proposal from further consideration and without assuming any liability for inadvertent disclosure. The Government will limit dissemination of such information to within official channels.

b. *Alternative To Minimize Proprietary Information.* Agencies may elect to instruct proposers to:

(1) Limit proprietary information to only that absolutely essential to their proposal.

(2) Provide proprietary information on a separate page with a numbering system to key it to the appropriate place in the proposal.

c. *Rights in Data Developed Under SBIR Funding Agreements.* To notify the small concern of the policy stated in Policy Directive 65.01, para. 12(e), essentially the following statement will be included in all SBIR Program Solicitations:

Rights in technical data including software developed under the terms of any funding agreement resulting from proposals submitted in response to this solicitation shall remain with the contractor or grantee, except that the Government shall have the limited right to use such data for Government purposes and shall not release such data outside the Government without permission of the contractor or grantee for a period of two years from completion of the project from which the data was generated. However, effective at the conclusion of the two-year period, the Government shall retain a royalty free license for Government use of any technical data delivered under an SBIR funding agreement whether patented or not.

d. *Copyrights.* Include an appropriate statement concerning copyrights and publications; for example:

"With prior written permission of the contracting officer, the awardee normally may copyright and publish (consistent with appropriate national security considerations, if any) material developed with (agency name) support. (Agency name) receives a royalty-free license for the Federal Government and requires that each publication contain an appropriate acknowledgement and disclaimer statement."

e. *Patents.* Include an appropriate statement concerning patents; for example:

Small business firms normally may retain the principal worldwide patent rights to any invention developed with Govenment support. The Government receives a royalty-free license for Federal Government use, reserves the right to require the patentholder to license others in certain circumstances, and requires that anyone exclusively licensed to sell the invention in the United States must normally manufacture it domestically. To the extent authorized by 35 U.S.C. 205, the Government will not make public any information disclosing a Government-supported invention for a two-year period to allow the awardee a reasonable time to pursue a patent.

E. *Cost-Sharing.* Unless in conflict with another statute, include a statement essentially as follows:

"Cost-sharing is permitted for proposals under this Program Solicitation; however, cost-sharing is not required nor will it be an evaluation factor in consideration of your proposal."

Where cost-sharing is required by statute, include an appropriate statement.

F. *Profit or Fee.* Include a statement on the payment of profit or fee on

awards made under the SBIR Program Solicitation.

G. *Joint Ventures or Limited Partnerships.* Include essentially the following language:

"Joint ventures and limited partnerships are eligible provided the entity created qualifies as a small business as defined in this Program Solicitation."

H. *Research and Analytical Work.* Include essentially the following statement:

1. "For Phase I a minimum of two-thirds of the research and/or analytical effort must be performed by the proposing firm unless otherwise approved in writing by the funding agreement officer."

2. For Phase II a minimum of one-half of the research and/or analytical effort must be performed by the proposing firm.

I. *Contractor Commitments.* To meet the legislative requirement that SBIR solicitations be simplified, standardized and uniform, clauses expected to be in or required to be included in SBIR funding agreements shall not be included in full or by reference in SBIR Program Solicitations. Rather proposers shall be advised that they will be required to make certain legal commitments at the time of execution of funding agreements resulting from SBIR Program Solicitations. Essentially the following statement shall be included in the "Consideration" section of SBIR Program Solicitations:

Upon award of a funding agreement, the awardee will be required to make certain legal commitments through acceptance of numerous clauses in Phase I funding agreements. The outline that follows is illustrative of the types of clauses to which the contractor would be committed. This list should not be understood to represent a complete list of clauses to be included in Phase I funding agreements, nor to be specific wording of such clauses. Copies of complete terms and conditions are available upon request.

J. *Summary Statements.* The following are illustrative of the type of summary statements to be included immediately following the statement in the subparagraph I. These statements are examples only and may vary depending upon type of funding agreement.

1. *Standards of Work.* Work performed under the funding agreement must conform to high professional standards.

2. *Inspection.* Work performed under the funding agreement is subject to Government inspection and evaluation at all times.

3. *Examination of Records.* The Comptroller General (or a duly authorized representative) shall have the right to examine any directly pertinent records of the awardee involving transactions related to this funding agreement.

4. *Default.* The Government may terminate the funding agreement if the contractor fails to perform the work contracted.

5. *Termination for Convenience.* The funding agreement may be terminated at any time by the Government if it deems termination to be in its best interest, in which case the awardee will be compensated for work performed and for reasonable termination costs.

6. *Disputes.* Any dispute concerning the funding agreement which cannot be resolved by agreement shall be decided by the contracting officer with right of appeal.

7. *Contract Work Hours.* The awardee may not require an employee to work more than eight hours a day or forty hours a week unless the employee is compensated accordingly (i.e., overtime pay).

8. *Equal Opportunity.* The awardee will not discriminate against any employee or applicant for employment bacause of race, color, religion, sex, or national origin.

9. *Affirmative Action for Veterans.* The awardee will not discriminate against any employee or application for employment because he or she is a disabled veteran or veteran of the Vietnam era.

10. *Affirmative Action for Handicapped.* The awardee will not discriminate against any employee or applicant for employment because he or she is physically or mentally handicapped.

11. *Officials Not To Benefit.* No member of or delegate to Congress shall benefit from the funding agreement.

12. *Covenant Against Contingent Fees.* No person or agency has been employed to solicit or secure the funding agreement upon an understanding for compensation except bonafide employees or commercial agencies maintained by the awardee for the purpose of securing business.

13. *Gratuities.* The funding agreement may be terminated by the Government if any gratuities have been offered to any representative of the Government to secure the contract.

14. *Patent Infringement.* The awardee shall report each notice or claim of patent infringement based on the performance of the funding agreement.

K. *Additional Information.* Information pertinent to an understanding of the administration requirements of SBIR proposals and funding agreements not included elsewhere shall be included in this section. As a minimum, statements essentially as follows shall be included under "Additional Information" in SBIR Program Solicitations:

1. This Program Solicitation is intended for informational purposes and reflects current planning. If there is any inconsistency between the information contained herein and the terms of any resulting SBIR funding agreement, the terms of the funding agreement are controlling.

2. Before award of an SBIR funding agreement, the Government may request the proposer to submit certain organizational, management, personnel, and financial information to assure responsibility of the proposer.

3. The Government is not responsible for any monies expended by the proposer before award of any funding agreement.

4. This Program Solicitation is not an offer by the Government and does not obligate the Government to make any specific number of awards. Also, awards under this program are contingent upon the availability of funds.

5. The SBIR program is not a substitute for existing unsolicited proposal mechanisms. Unsolicited proposals shall not be accepted under the SBIR program in either Phase I or Phase II.

6. If an award is made pursuant to a proposal submitted under this SBIR Program Solicitation, the contractor or grantee or party to a cooperative agreement will be required to certify that he or she has not previously been, nor is currently being, paid for essentially equivalent work by any agency of the Federal Government.

VI. Submission of Proposals

A. This section shall clearly specify the proposal due date (due dates where the agency elects to phase proposal submissions by research topic).

B. This section shall specify the number of copies of the proposal that are to be submitted.

C. This section shall clearly set forth the complete mailing and/or delivery address(s) where proposals are to be submitted.

D. This section may include other instructions such as the following:

1. *Bindings.* Please do not use special bindings or covers. Staple the pages in the upper left corner of the cover sheet of each proposal.

2. *Packaging.* All copies of a proposal should be sent in the same package.

VII. Scientific and Technical Information Sources

Whenever descriptions of research topics or subtopics include reference to publications, information on where such publications will normally be available shall be included in a separate section of the solicitation entitled "Scientific and Technical Information Sources."

VIII. Research Topics

Describe the research or R&D topics and subtopics for which proposals are being solicited sufficiently to inform the proposer of technical details of what is desired while leaving sufficient flexibility in order to obtain the greatest degree of creativity and innovation consistent with the overall objectives of the SBIR programs.

[FR Doc. 83-23398 Filed 8-25-83; 8:45 am]
BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21 and 23

[Docket No. 23699; SC No. 23-ACE-4]

Special Conditions; Beech Model 38P Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Special Conditions.

SUMMARY: These Special Conditions are issued to Beech Aircraft Corporation (Beech) to become a part of the type certification basis for the new single-engine, turbopropeller-powered, Beech Model 38P Series airplanes. These airplanes will have novel or unusual design features associated with a turbopropeller installation in a single-engine airplane for which the applicable airworthiness standards of Part 23 of the Federal Aviation Regulations (FAR) do not contain adequate or appropriate safety standards. These Special Conditions contain the additional safety standards which the Administrator of the FAA finds necessary to establish a level of safety equivalent to that provide in the regulations for single, reciprocating-engine-powered airplanes.

EFFECTIVE DATE: September 26, 1983.

FOR FURTHER INFORMATION CONTACT: J. Robert Ball, Aerospace Engineer, Regulations and Policy Office (ACE-110), Aircraft Certification Division; Central Region, Federal Aviation Administration; Room 1656, Federal Office Building, 601 East 12th Street, Kansas City, Missouri 64106; Telephone (816) 374-5688.

SUPPLEMENTARY INFORMATION:

Type Certification Basis

The type certification basis for the Beech Model 38P Series airplanes is Part 23 of the FAR, effective February 1, 1965, as amended by Amendments 23-1 through 23-28; Part 36 of the FAR, effective December 1, 1969, as amended by Amendments 36-1 through 36-12; Special Federal Aviation Regulation (SFAR) No. 27, effective February 1, 1974, as amended by Amendments 27-1 through 27-4; and the Special Conditions adopted by this rulemaking action.

Background

On November 12, 1982, Beech Aircraft Corporation, Post Office Box 85, Wichita, Kansas, 67201, submitted an application for a Type Certificate for the new turbopropeller-powered model of airplane identified as the Beech model 38P Series airplanes. The Beech Model 38P Series are single-engine, turbopropeller-powered, pressurized, 5-seat, excluding the pilot seat; i.e., 6-place, low-wing, land monoplanes.

Special Conditions may be issued and amended, as necessary, as a part of the type certification basis if the Administrator finds that the airworthiness standards designated in accordance with § 21.17(a)(1) of the FAR do not contain adequate or appropriate safety standards because of novel or unusual design features of the airplane. Special Conditions, as appropriate, are issued after public notice in accordance with §§ 11.28 and 11.29(b) of the FAR, and become a part of the type certification basis, when adopted, in accordance with § 21.17(a) of the FAR.

In 1969, the flutter requirements of § 23.629 of the FAR were amended to set forth requirements for turbopropeller engine installations on small multiengine airplanes. Turbopropeller engine installations being greater in length than those of reciprocating engines are more critical with regard to engine mount flexibility. This forward displacement of the propeller in conjunction with the high rotational speed of the turbine engine and engine mount flexibility may result in significant aerodynamic and elastic inertia forces and cause dynamic instabilities which can adversely affect airplane whirl-flutter stability. Turbine engine installations on a single-engine airplane were not envisioned when § 23.629 of the FAR was amended to include a dynamic evaluation of engine-propeller-mount stiffness and damping variations on multiengine, turbine-powered airplanes. The engine mount flexibility in the new Beech Model 38P Series airplanes appears to be the same order of magnitude as that in small multiengine airplanes with wing-mounted engines. As a result of this determination, the FAA issued Notice No. SC-83-2-CE (48 FR 28658; June 23, 1983) proposing Special Conditions to require additional dynamic evaluation of the Beech Model 38P Series airplanes.

Discussion of Comments

There were no comments received by the FAA in response to Notice No. SC-83-2CE published in the **Federal Register** on June 23, 1983. The closing date for comments was July 25, 1983.

List of Subjects

14 CFR Part 21

Air transportation, Aircraft, Aviation safety, Safety.

14 CFR Part 23

Air transportation, Aircraft, Aviation safety, Safety, Tires.

Adoption of the Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, Special Conditions No. 23-ACE-4 are adopted for the Beech Aircraft Corporation Model 38P Series airplanes, as follows:

Dynamic Evaluation, Engine Installation

In addition to the applicable requirements of § 23.629, Flutter, of the FAR, the dynamic evaluation of the airplane must include:

1. Whirlmode degree of freedom which takes into account the stability of the plane of rotation of the propeller and significant elastic, inertial and aerodynamic forces; and

2. Engine-propeller-mount stiffness and damping variations appropriate to the particular configuration.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g) (revised Pub. L. 97-449, January 12, 1983); and §§ 11.28 and 11.29(b) of the Federal Aviation Regulations (14 CFR 11.28 and 11.29(b)))

Issued in Kansas City, Missouri, on Augu. 15, 1983.

Murray E. Smith,

Director, Central Region.

[FR Doc. 83-23445 Filed 8-25-83; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 83-ANE-13; Amdt. 39-4701]

Airworthiness Directives; Detroit Diesel Allison (DDA) Model 250-C30, -C30P, and -C30S Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends an existing Airworthiness Directive (AD) which requires mandatory inspection of all P/N 6898694 4th stage nozzles in certain turbine assemblies on Detroit Diesel Allison (DDA) Model 250-C30 engines. This amendment is needed to expand the compliance requirements to the -C30P and -C30S engine models and because the FAA has determined that the inspection criteria and turbine assembly applicability in the existing AD are inadequate for determining which P/N 6898694 nozzles are subject to cracks. These cracks could possibly lead to uncontained turbine wheel failures and subsequent damage to aircraft.

DATES: Effective—September 26, 1983.

Compliance Schedule—As prescribed in body of AD.

Incorporation by Reference—Approved by Director of the Federal Register on September 26, 1983.

ADDRESSES: The applicable service bulletin may be obtained from Detroit Diesel Allison, Division of General Motors Corporation, Indianapolis, Indiana 46206.

A copy of the service bulletin is contained in the Rules Docket at the Office of Regional Counsel, FAA, Attn: Rules Docket No. 83-ANE-13, 12 New England Executive Park, Burlington, Massachusetts 01803 and may be examined weekdays, except federal holidays, between 8:00 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Royace Prather, Chicago Aircraft Certification Office, Propulsion Branch, ACE-140C, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018; telephone: 312-694-7132.

SUPPLEMENTARY INFORMATION: This amendment amends Amendment 39-4179, 46 FR 39991, AD 81-13-12, which currently requires inspections of P/N 6898694 4th stage nozzles to assure service life integrity in certain turbine assemblies on Detroit Diesel Allison Model 250-C30, -C30P, and -C30S engines. After issuing Amendment 39-4179, the FAA has determined, based on investigation of a recent P/N 6898694 4th stage nozzle failure, and updated fatigue analysis, that the present inspection criteria and turbine assembly applicability in AD 81-13-12 are inadequate for determining which nozzles are subject to cracks. These cracks could possibly lead to uncontained turbine wheel failures and subsequent damage to aircraft. Therefore, the FAA is amending Amendment 39-4179 by revising the inspection criteria, by establishing life limits based on inspection results where applicable, and by adding additional serial numbers of turbine assemblies which will require inspection of P/N 6898694 nozzles at the next overhaul on DDA Model 250-C30, -C30P, and -C30S engines.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Air transportation, Engines, Aircraft, Aviation safety, Safety, Incorporation by reference.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending Amendment 39-4179, 46 FR 39991, AD 81-13-12, to read as follows:

81-13-12 *Detroit Diesel Allison:* Amendment 39-4179 as amended by Amendment 39-4701. Applies to all Model 250-C30, -C30P, and -C30S engines and turbine assemblies equipped with 4th stage turbine nozzle assembly P/N 6898694 installed in aircraft certificated in all categories, except:

1. Models 250-C30, -C30S: *Engine Serial No.* CAE 890690, 890691, 890692, 890696, and subsequent; *Turbine Serial No.* CAT 95105, 95106, 95108, 95109, and subsequent.

2. Model 250-C30P: *Engine Serial No.* CAE 895066, 895067, and subsequent; *Turbine Serial No.* CAT 95110, 95111, 95112, and subsequent.

Compliance is required as indicated unless already accomplished. To prevent cracks in P/N 6898694 4th stage turbine wheel nozzles leading to uncontained turbine wheel failures accomplish the following:

a. Inspect, reduce life limits where applicable based on inspection results, and remove from service affected P/N 6898694 nozzles in compliance with the schedule, instructions, and inspection criteria provided in Detroit Diesel Allison Commercial Engine Alert Bulletin CEB-A-72-3056, Revision 3 dated March 30, 1983, or later FAA approved revisions.

b. Special flight permits may be issued in accordance with FAR's 21.197 and 21.199 to operate aircraft to a base where compliance with this AD can be accomplished.

c. Upon request of the operator, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Chicago Aircraft Certification Office, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Detroit Diesel Allison, Division of General Motors Corporation, Indianapolis, Indiana 46206. These documents also may be examined at the Office of Regional Counsel, FAA, 12 New England Executive Park, Burlington, Massachusetts 01803 weekdays, except federal holidays, between 8:00 am and 4:30 pm.

This amendment becomes effective September 26, 1983.

This amendment amends Amendment 39-4179, 46 FR 39991, AD 81-13-12.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 106(g) revised, Pub. L. 94-440, January 12, 1983; 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule, since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Burlington, Massachusetts, on July 25, 1983.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 83-23468 Filed 8-25-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 83-ASO-25]

Alteration of Transition Area, Columbia, South Carolina

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment increases the size of the Columbia, South Carolina, transition area to accommodate Instrument Flight Rule (IFR) operations at Corporate Airport. This action lowers the base of controlled airspace from 1200 to 700 feet above the surface in the vicinity of the airport. An instrument approach procedure, predicated on the Columbia VORTAC facility, has been developed to serve the airport and the additional controlled airspace is required for the protection of IFR aeronautical activities.

EFFECTIVE DATE: 0901 G.m.t., September 29, 1983.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763–7646.

SUPPLEMENTARY INFORMATION:

History

On Thursday, June 30, 1983, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by increasing the size of the Columbia, South Carolina, transition area to accommodate IFR operations at Corporate Airport (48 FR 30144). An instrument approach procedure has been developed to serve the Corporate Airport and the airport operating status is changed from VFR to IFR. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. All comments received in response to the circularization were favorable. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70–3A dated January 3, 1983.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations alters the Columbia, South Carolina, transition area by lowering the base of controlled airspace in the vicinity of Corporate Airport from 1200 to 700 feet above the surface.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Transition area.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Columbia, South Carolina, transition area under § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) (as amended) is further amended, effective 0901 G.m.t., September 29, 1983, as follows:

Columbia, SC (Amended)

By adding the following words to the end of the present text: "* * *; within a 6.5-mile radius of Corporate Airport (Lat. 33°47'40"N., Long. 81°14'46"W.) * * *"

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in East Point, Georgia, on August 16, 1983.

Thomas H. Protiva,

Acting Director, Southern Region.

[FR Doc. 83–23468 Filed 8–25–83; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Parts 71 and 75

[Airspace Docket No. 83–ASO–22]

Alteration of Airways/Jet Routes, Jacksonville, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: These amendments alter the descriptions of several VOR Federal Airways and Jet Routes in the vicinity of Jacksonville, FL. The Jacksonville VORTAC has been relocated at lat. 30°20'19" N., long. 81°30'36" W., due to the construction of the new electric power plant that has caused serious derogation of the VORTAC's performance. This action returns the VORTAC to normal operating performance at this new site.

DATES: Effective date—November 24, 1983.

Comments must be received on or before October 10, 1983.

ADDRESSES: Send comments on the rule in triplicate to: Director, FAA, Southern Region, Attention: Manager, Air Traffic Division, Docket No. 83–ASO–22, Federal Aviation Administration, P.O. Box 20636, Atlanta, GA 30320.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Air Traffic Rules Branch (AAT–230), Airspace-Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8783.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although these actions are in the form of a final rule, which involve the realignment of several VOR Federal Airways and Jet Routes in the vicinity of Jacksonville, FL, and, thus, were not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specially invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule.

The Rule

The purpose of these amendments to § 71.123 and § 75.100 of Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) is to realign V–1, V–3, V–51, V–198, V–243, V–267 and V–5. Realign J–121, J–2, and J–79 located in the vicinity of Jacksonville, FL. The Jacksonville VORTAC has been relocated approximately 5 miles to the southeast of its former location. Sections 71.123 and 75.100 of Parts 71 and 75 of the Federal Aviation Regulations were republished in Advisory Circular AC 70–3A dated January 3, 1983.

Under the circumstances presented, the FAA concludes that there is an immediate need for a regulation to realign all of the airways and jet routes associated with the Jacksonville VORTAC relocation. Therefore, I find that notice or public procedure under 5 U.S.C. 553(b) is contrary to the public interest and that good cause exists for making these amendments effective on the next charting date.

List of Subjects in 14 CFR Parts 71 and 75

VOR Federal airways, Jet routes, Aviation safety.

Adoption of the Amendments

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, § 71.123 and § 75.100 of Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) as amended (48 FR 6958), are further amended, effective 0901 G.m.t., November 24, 1983, as follows:

Under section 71.123:

V–1 [Amended]

By deleting the words "via Charleston, SC;" and substituting the words "via INT Jacksonville 020° and Charleston, SC, 214° radials; Charleston;"

V–3 [Amended]

By deleting the words "including a W alternate from Melbourne to Ormond Beach, via Melbourne 321° INT Ormond Beach 211° radials; Ormond Beach, FL; INT Ormond Beach 345° and Brunswick 175° radials; Brunswick, GA;" and substituting the words "including a W alternate via INT Melbourne 322° and Ormond Beach 211° radials; Ormond Beach; Brunswick, GA;"

V–51 [Amended]

By deleting the words "INT Ormond Beach 345° and Jacksonville, FL, 155° radials; Jacksonville; INT Jacksonville 318° and Alma, GA, 150° radials, Alma;" and substituting the words "Jacksonville, FL; Waycross, GA; Alma, GA;"

V–198 [Amended]

By deleting the words "to Jacksonville, FL." and substituting the words "INT Taylor 093° and Jacksonville, FL 285° radials; Jacksonville."

V–243 [Amended]

By deleting the words "INT Jacksonville 318° and Waycross, GA, 126° radials, Waycross;" and substituting the words "via Waycross, GA;"

V–267 [Amended]

By deleting the words "INT Jacksonville 333° and Dublin, GA, 152° radials; Dublin;" and substituting the words "Dublin, GA;"

V–5 [Amended]

By deleting the words "From Jacksonville, FL; INT Jacksonville 318° and Alma, GA, 150° radials; Alma; INT Alma 342° and Dublin, GA, 167° radials; Dublin;" and substituting the words "From Dublin, GA, via"

PART 75—[AMENDED]

Under Section 75.100:

J–2 [Amended]

By deleting the words "Tallahassee; to Jacksonville, FL." and substituting the words "Tallahassee; to Taylor, FL."

J–79 [Amended]

By deleting the words "INT of Ormond Beach 360° and Jacksonville, FL, 028° radials; Charleston, SC;" and substituting the words "INT Ormond Beach 360° and Jacksonville, FL, 020° radials thence Charleston, SC, 214° radials; Charleston;"

J–121 [Amended]

By deleting the words "via Charleston, SC;" and substituting the words "via INT Jacksonville 020° and Charleston, SC, 214° radial; Charleston;"

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on August 16, 1983.

John W. Baier,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 83-23486 Filed 8-25-83; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Parts 373 and 399

Exports of Spectrum Analyzers; No Special Licensing Procedures Available

AGENCY: Office of Export Administration, International Trade Administration, Commerce.

ACTION: Extension of suspension of interim rule.

SUMMARY: This rule extends for 180 days the suspension of an interim rule regarding the unavailability of special licensing procedures for exports of spectrum analyzers. This extension of the suspension will provide exporters more time in adjusting to the transition from using special export licenses to shipping under individual validated licenses, and provide the Government additional time to evaluate the public comments on the interim rule received to date.

The original interim rule that ended the use of special licensing procedures for exports of spectrum analyzers was published on June 6, 1983 (48 FR 25174). The original suspension was announced on June 30 (48 FR 30097) and would have ended on August 29, but is now extended until February 25, 1984. On February 25, 1984, the temporarily suspended interim rule will take effect.

Exporters should apply as soon as possible for individual validated licenses or reexport authorizations for spectrum analyzers that will not be shipped from either the U.S. special license holder or the foreign approved consignee within the 180-day period.

EFFECTIVE DATE: August 29, 1983.

FOR FURTHER INFORMATION CONTACT: Archie Andrews, Director, Exporters' Service Staff (Telephone: (202) 377–4811).

Public comments are invited on the suspended interim rule (48 FR 25174, June 6, 1983) regarding the unavailability of special licensing procedures for exports of spectrum analyzers. Those wishing to comment should follow the procedures stated in the June 6 Federal Register notice.

List of Subjects in 15 CFR Parts 373 and 399

Exports.

PART 373 AND 399—[AMENDED]

Accordingly, the Export Administration Regulations (15 CFR Parts 368–399) are amended as follows:

The interim amendments to Supplement No. 1 to Part 373 and Supplement No. 1 to § 399.1, as published at 48 FR 25174, June 6, 1983, which were suspended on June 30, 1983 (48 FR 30097), are further suspended until February 25, 1984. The former text of Supplement No. 1 to Part 373 and Supplement No. 1 § 399.1 affected by the June 6 rule is reinstated on a temporary basis until February 25, 1984.

The reinstated text reads as follows:

1. Supplement No. 1 to Part 373.

Commodities Excluded From Certain Special License Procedures

* * * * *

1522 Only those lasers and laser systems and specifically designed components and parts therefor, as follows: machine tools containing or which are designed to contain lasers described in the Commodity Control List under entry No. 1522; single aperture lasers with an output greater than one thousand joules per nanosecond; and tunable diodes.

4530 UF_6 mass spectrometers. (Entire entry.)

* * * * *

2. Supplement No. 1 to § 399.1.

Commodity Control List

* * * * *

1529A Electronic measuring, calibrating counting, testing, and/or time interval measuring equipment * * *

Controls for ECCN 1529A.

* * * * *

Special Licenses Available: See Part 373.

* * * * *

Authority: Sections 13 and 15, Pub. L. 96-72, 93 Stat. 503, 50 U.S.C. app. 2401 *et seq.*; Executive Order No. 12214 (45 FR 29783, May 6, 1980).

Dated: August 23, 1983.

John K. Boidock,

Director, Office of Export Administration, International Trade Administration.

[FR Doc. 83-23613 Filed 8-25-83; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 282

[Docket No. RM 79-14]

Publication of Incremental Pricing Acquisition Cost Thresholds

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order Prescribing Incremental Pricing Thresholds.

SUMMARY: The Director of the Office of Pipeline and Producer Regulation is issuing the incremental pricing acquisition cost thresholds prescribed by Title II of the Natural Gas Policy Act and 18 CFR 282.304. The Act requires the Commission to compute and publish the threshold prices before the beginning of each month for which the figures apply. Any cost of natural gas above the applicable threshold is considered to be an incremental gas cost subject to incremental pricing surcharging.

EFFECTIVE DATE: September 1, 1983.

FOR FURTHER INFORMATION CONTACT: Kenneth A. Williams, Federal Energy Regulatory Commission, 825 N. Capitol Street, NE., Washington, D.C. 20426, (202) 357-8500.

SUPPLEMENTARY INFORMATION:

Order of the Director, OPPR

Issued: August 23, 1983.

Publication of prescribed incremental pricing acquisition cost threshold of the NGPA of 1978, Docket No. RM79-14.

Seciton 203 of the NGPA requires that the Commission compute and make available incremental pricing acquisition cost threshold prices prescribed in Title II before the beginning of any month for which such figures apply.

Pursuant to that mandate and pursuant to § 375.307(1) of the Commission's regulations, delegating the publication of such prices to the Director of the Office of Pipeline and Producer Regulation, the incremental pricing acquisition cost threshold prices for the month of September 1983 is issued by the publication of a price table for the applicable month. See FERC Statutes and Regulations ¶ 24,764.

List of Subjects in 18 CFR Part 282

Natural gas.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

TABLE I.—INCREMENTAL PRICING ACQUISITION COST THRESHOLD PRICES

	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
Calendar Year 1980												
Incremental Pricing Threshold	$1.702	$1.736	$1.750	$1.762	$1.776	$1.790	$1.804	$1.819	$1.834	$1.849	$1.863	$1.877
NGPA Section 102 Threshold	2.358	2.381	2.404	2.428	2.453	2.478	2.504	2.532	2.560	2.588	2.614	2.640
NGPA Section 109 Threshold	1.786	1.799	1.812	1.825	1.839	1.853	1.867	1.883	1.899	1.915	1.929	1.943
130 percent of No. 2 Fuel Oil in New York City Threshold	7.170	7.260	7.410	7.110	7.380	8.040	7.840	7.380	7.400	7.400	7.450	7.580
Calendar Year 1981												
Incremental Pricing Threshold	$1.891	$1.908	1.925	$1.942	$1.954	$1.967	$1.980	$1.990	$2.000	$2.010	$2.025	$2.041
NGPA Section 102 Threshold	2.667	2.696	2.729	2.761	2.787	2.813	2.840	2.863	2.886	2.909	2.940	2.971
NGPA Section 109 Threshold	1.857	1.975	1.993	2.011	2.024	2.037	2.050	2.060	2.070	2.080	2.096	2.112
130 percent of No. 2 Fuel Oil in New York City Threshold	7.610	7.760	8.260	9.010	9.510	9.430	9.360	9.260	8.860	8.700	8.930	8.990
Calendar Year 1982												
Incremental Pricing Threshold	$2.057	$2.071	$2.085	$2.099	$2.106	$2.113	$2.120	$2.129	$2.139	2.149	$2.159	$2.169
NGPA Section 102 Threshold	3.003	3.033	3.063	3.093	3.112	3.132	3.152	3.176	3.200	3.224	3.249	3.274
NGPA Section 109 Threshold	2.126	2.143	2.158	2.173	2.180	2.187	2.194	2.204	2.214	2.224	2.234	2.244
130 percent of No. 2 Fuel Oil in New York City Threshold	9.180	9.340	9.470	9.340	9.280	8.000	8.170	8.670	8.860	8.950	8.640	8.890
Calendar Year 1983												
Incremental Pricing Threshold	$2.179	$2.187	2.195	$2.203	$2.214	$2.225	$2.236	$2.245	$2.254			
NGPA Section 102 Threshold	3.299	3.321	3.344	3.367	3.394	3.421	3.448	3.472	3.496			
NGPA Section 109 Threshold	2.254	2.262	2.270	2.278	2.289	2.300	2.311	2.320	2.329			
130 percent of No. 2 Fuel Oil in New York City Threshold	9.420	9.320	8.820	8.120	7.550	6.950	7.540	7.810	7.440			

[FR Doc. 83-23497 Filed 8-25-83; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 101

[T.D. 83-177]

Customs Regulations Amendment Relating to the Customs Field Organization; Determination Regarding Proposed Change of Hours of Service at a Customs Port of Entry

AGENCY: Customs Service, Treasury.

ACTION: Final rule and determination on proposal.

SUMMARY: This document amends the Customs Regulations by deleting Lochiel, Arizona, from the list of designated Customs stations. This change will enable Customs to obtain more efficient use of its personnel, facilities, and resources. The document also advises the public that Customs has decided not to reduce the hours of service at the Customs port of entry of Naco, Arizona.

EFFECTIVE DATE: September 26, 1983.

FOR FURTHER INFORMATION CONTACT: Denise Crawford, Office of Inspection and Control, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-8157).

SUPPLEMENTARY INFORMATION:

Background

Customs ports of entry and stations are locations where Customs officers are placed for the purpose of accepting the entry of merchandise, collecting duties, examining baggage, clearing passengers, and enforcing the various provisions of the customs laws and other laws.

The significant difference between ports of entry and stations is that at stations, the Federal Government is reimbursed for:

(1) The salaries and expenses of its officers or employees for services rendered in connection with the entry or clearance of vessels; and

(2) Except as otherwise provided by the Customs Regulations, the expenses (including any per diem allowed in lieu of subsistence), but not the salaries, of its officers or employees, for service rendered in connection with the entry or delivery of merchandise on vessels.

In a notice published in the **Federal Register** on November 29, 1982 (47 FR 53744), Customs proposed: (1) To close the Customs station at Lochiel, Arizona; and (2) to reduce the hours of service at the port of Naco, Arizona, from 24 hours a day to 6 a.m. to 10 p.m.

Lochiel, Arizona

As stated in the notice, in Fiscal Year 1981, the station at Lochiel, Arizona, did not collect any revenue, did not make any entry examinations, and did not take any enforcement action. Approximately 17 vehicles a day, most of which are noncommercial, use Lochiel to cross the U.S./Mexican border. If Lochiel were to be closed, those vehicles would clear Customs at Nogales, Arizona, 25 miles from Lochiel. Because of the minimal use of Lochiel, Customs believes that the annual cost of operations of $41,218 is not justified.

Naco, Arizona

Section 101.6, Customs Regulations (19 CFR 101.6), provides that, with certain exceptions, each Customs office shall be open for the transaction of general Customs business between the hours of 8:30 a.m. and 5:00 p.m., on all days of the year. If, because of local conditions, different but equivalent hours are required to maintain adequate service, such hours shall be observed provided that the Commissioner of Customs approves them and provided further that a notice of business hours is prominently displayed at the principal entrance and in each public room of the Customs office.

The notice also provided that the port of Naco, Arizona, which is open 24 hours a day, experiences very little activity between the hours of 10 p.m. and 6 a.m. Approximately 38 noncommercial vehicles use the Naco port of entry to cross the U.S./Mexican border during those hours, and many of those are repeat crossers. If the port of Naco were to be closed form 10 p.m. to 6 a.m., travelers desiring clearance during these hours could clear Customs at Douglas, Arizona, a 24-hour port located about 30 miles from Naco. The reduction in hours of service would result in an annual savings of $42,130.

Discussion of Comments

Two comments were received on the proposal to close the Lochiel station, one in support and one in opposition. Although the commenter in opposition states that the closing of Lochiel will work a hardship on the local community, Customs believes that any inconvenience will be minimal. After a further review of the matter, Customs has decided to adopt the proposal to close the Lochiel station.

Several comments were received on the proposal to reduce the hours of service at Naco. One of the comments was in favor of the proposal and the rest were in opposition. Customs also received two lengthy petitions of signatures opposing the change. The commenters in opposition state that the proposal would inconvenience travelers and have a detrimental effect on the tourist trade and local business. After a further review of this proposal, Customs has decided to keep the port of Naco open 24 hours a day.

List of Subjects in 19 CFR Part 101

Customs duties and inspection, Exports, Imports, Organization and functions (Government agencies).

Amendment to the Regulations

PART 101—GENERAL PROVISIONS

Because Customs is closing the station at Lochiel, Arizona, § 101.4(c), Customs Regulations (19 CFR 101.4(c)), is amended by revising the entry beginning with the District of Nogales, Arizona to read as follows:

District	Customs stations	Port of entry having supervision
Nogales, Ariz.	Tucson, Ariz.	Nogales

(Section 301, 60 Stat. 379, section 1, 37 Stat. 434, R.S. 251, as amended, section 624, 46 Stat. 759 (5 U.S.C. 301, 19 U.S.C. 1, 66, 1624))

Executive Order 12291

Because this amendment relates to the organization of the Customs Service, pursuant to section 1(a)(3) of Executive Order 12291, it is not a regulation or rule subject to that E.O.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this document because the amendment will not have a significant economic impact on a substantial number of small entities. The amendment is not expected to have significant secondary or incidental effects on a substantial number of small entities, or to impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that the amendment will not have a significant economic impact on a substantial number of small entities.

Drafting Information

The principal author of this document was Gerard J. O'Brien, Jr., Regulations Control Branch, Office of Regulations

and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Alfred R. De Angelus,

Acting Commissioner of Customs.

Approved: July 19, 1983.

Robert E. Powis,

Acting Assistant Secretary of the Treasury.

[FR Doc. 83-23469 Filed 8-25-83; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 404

Social Security Benefits; Disability Insurance Benefits; Deductions, Reductions, and Nonpayments of Benefits

Correction

In FR Doc 83-22379 beginning on page 37015 in the issue of Tuesday, August 16, 1983, make the following corrections:

1. In § 404.408(l)(2)(i) which appears in the third column of page 37019, in the first line of (i), "The rate" should have read "The ratio".

2. In § 404.408(l)(3), in the Example appearing on page 37020, in the computations appearing at the end of the document, third line "×96.80" should have read "−96.80", and in the ninth line, insert a parenthesis before "rounded from $135.85)".

BILLING CODE 1505-01-M

Food and Drug Administration

21 CFR Part 81

[Docket No. 78N-0366]

Provisional Listing of D&C Red No. 19 and D&C Red No. 37 For Use in Externally Applied Drugs and Cosmetics; Postponement of Closing Date

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is postponing the closing date for the provisional listing of D&C Red No. 19 and D&C Red No. 37 for use as color additives in externally applied drugs and cosmetics. The new closing date will be October 31, 1983. This brief postponement will provide additional time for determining the applicability of the statutory standard for the listing of noningested color additives to the results of the scientific investigations of D&C Red No. 19 and D&C Red No. 37.

DATES: Effective August 30, 1983, the new closing date for D&C Red No. 19 and D&C Red No. 37 will be October 31, 1983.

FOR FURTHER INFORMATION CONTACT: Andrew D. Laumbach, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: FDA established the current closing date of August 30, 1983, for the provisional listing of D&C Red No 19 and D&C Red No. 37 for use in externally applied drugs and cosmetics by a rule published in the **Federal Register** of June 28, 1983 (48 FR 29684). The agency extended the closing date to provide additional time for determining the applicability of the statutory standard for the listing of noningested color additives to the results of the scientific investigations of D&C Red No. 19 and D&C Red No. 37. Previously in the **Federal Register** of April 29, 1983 (48 FR 19365), FDA had published a rule establishing the June 28, 1983 closing date for the provisional listing of D&C Red No. 19 and D&C Red No. 37 to provide time for determining the applicability of the statutory standard for the listing of noningested color additives to the results of the scientific investigations. In the **Federal Register** of March 1, 1983 (48 FR 8443), FDA had published a rule establishing the April 29, 1983, closing date for the provisional listing of D&C Red No. 19 and D&C Red No. 37 to provide time for consideration of studies submitted by the Cosmetic, Toiletry, and Fragrance Association, Inc. (CTFA), and in the **Federal Register** of March 27, 1981 (46 FR 18954), FDA had published a rule establishing a closing date of February 28, 1983, for the provisional listing of D&C Red No. 19 and D&C Red No. 37 for cosmetic and general drug uses. The agency extended the closing date until February 28, 1983, to provide time for the completion of chronic toxicity studies and the review and evaluation of these studies. In the **Federal Register** of February 4, 1983 (48 FR 5262), FDA terminated the provisional listing of D&C Red No. 19 and D&C Red No. 37 for coloring ingested drugs and cosmetics.

As noted in the **Federal Register** of August 6, 1973 (38 FR 21199), D&C Red No. 19 and D&C Red No. 37 are the subject of a petition (CAP 9C0091) submitted by the Toilet Goods Association, Inc. (now CTFA), for use in coloring drugs and cosmetics. As discussed in the **Federal Register** of February 4, 1983 (48 FR 5262), the petitioner has amended its color additive petition by withdrawing its request to list these color additives for coloring ingested drugs and cosmetics but has continued to seek permanent listing of these color additives for use in external cosmetic and drug products that are not subject to incidental ingestion. Prior to February 4, 1983, the petitioner submitted analyses of the safety and legal issues involved in the decision on whether to list the external uses of these color additives, including data regarding skin penetration. However, the agency found the skin penetration data did not provide an adequate basis upon which to determine whether these color additives were in fact absorbed through the skin.

Thus, on November 24, 1982, CTFA asked the agency to review new skin penetration studies on these color additives. CTFA said it would be able to submit these studies to the agency by February 10, 1983. Because of unforeseen events, CTFA was unable to submit these new data until February 16, 1983. The agency agreed to review these data before reaching a conclusion on the safety of D&C Red No. 19 and D&C Red No. 37 for use in externally applied drugs and cosmetics.

The agency is now considering the scientific and legal aspects of the CTFA submissions in support of the external uses of these color additives. Although D&C Red No. 19 and D&C Red No. 37 have been shown to be animal carcinogens upon ingestion, the agency believes that somewhat different questions are raised by the request to list these color additives for noningested use. FDA finds that additional time is needed to determine the applicability of the statutory standard for the listing of color additives for noningested use to D&C Red No. 19 and D&C Red No. 37. It has taken FDA more time to evaluate the data involved in making this decision than the agency anticipated. This postponement will also provide additional time for the agency to prepare and to publish a **Federal Register** document setting forth its final decision on the petition for the permanent listing of these color additives for external use. The continued use of these color additives in externally applied products for the short time needed for adequate evaluation of the data and for preparation of the **Federal Register** document will not pose a hazard to the public health.

Because of the short time until the August 30, 1983 closing date, FDA concludes that notice and public procedure on these amendments are impracticable.

This final rule will permit the uninterrupted use of these color additives until October 31, 1983. To prevent any interruption in the provisional listing of D&C Red No. 19 and D&C Red No. 37 and in accordance with 5 U.S.C. 553(d)(1) and (3), this final rule is being made effective August 30, 1983.

List of Subjects in 21 CFR Part 81

Color additives, Color additives provisional list, Cosmetics, Drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 701, 706(b), (c), and (d), 52 Stat. 1055–1056 as amended, 74 Stat. 399–403 (21 U.S.C. 371, 376(b), (c), and (d))) and under the transitional provisions of the Color Additive Amendments of 1960 (Title II, Pub. L. 86–618; sec. 203, 74 Stat. 404–407 (21 U.S.C. 376 note)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 81 is amended as follows:

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

§ 81.1 [Amended]

1. In § 81.1 *Provisional lists of color additives,* by revising the closing date for "D&C Red No. 19" and "D&C Red No. 37" in paragraph (b) to read "October 31, 1983."

§ 81.27 [Amended]

2. In § 81.27 *Conditions of provisional listing,* by revising the closing date for "D&C Red No. 19" and "D&C Red No. 37" in paragraph (d) to read "October 31, 1983."

Effective date. This final rule shall be effective August 30, 1983.

(Secs. 701, 706(b), (c), and (d), 52 Stat. 1055–1056 as amended, 74 Stat. 399–403 (21 U.S.C. 371, 376(b), (c), and (d)); sec. 203, 74 Stat. 404–407 (21 U.S.C. 376 note))

Dated: August 10, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-23444 Filed 8-25-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 177

[Docket No. 83F-0037]

Indirect Food Additives; Polymers

Correction

In FR Doc. 83–21557 beginning on page 38099 in the issue of Tuesday, August 9, 1983, make the following correction:

On page 38099, middle column, under FOR FURTHER INFORMATION CONTACT:, "(HFF–333)" should have read "(HFF–334)".

BILLING CODE 1505-01-M

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21 CFR Part 558

New Animal Drugs For Use in Animal Feeds; Monensin, Roxarsone, and Virginiamycin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by SmithKline Animal Health Products, Division of SmithKline Beckman Corp., for the use of three currently approved premixes for the preparation of complete broiler chicken feeds containing combinations of monensin, roxarsone, and virginiamycin at different levels.

EFFECTIVE DATE: August 26, 1983.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Bureau of Veterinary Medicine (HFV–128), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4317.

SUPPLEMENTARY INFORMATION: SmithKline Animal Health Products, Division of SmithKline Beckman Corp., 1600 Paoli Pike, West Chester, PA 19380, is the sponsor of NADA 120–724 providing for the use of a combination of three individually approved premixes for the preparation of complete broiler chicken feeds containing monensin, roxarsone, and virginiamycin at levels currently approved for each premix. The approved premixes used for the preparation of the complete broiler chicken feeds are Coban® (monensin sodium), 3-Nitro (roxarsone), and Stafac® (virginiamycin). The NADA is approved and the regulations are amended accordingly. The basis for approval is discussed in the freedom of information (FOI) summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEED

1. In § 558.355 by revising paragraph (b)(5) and adding new paragraph (f)(1)(xx) to read as follows:

§ 558.355 Monensin.

* * * * *

(b) * * *

(5) To 000007: 45 grams per pound, as monensin sodium provided by No. 000986, paragraph (f)(1)(xiii) and (xx) of this section.

* * * * *

(f) * * *

(1) * * *

(xx) *Amount per ton.* Monensin, 90 to 110 grams, plus virginiamycin, 5 to 10 grams, and roxarsone, 22.7 grams (0.0025 percent).

(*a*) *Indications for use.* For incease in rate of weight gain; as an aid in the prevention of coccidiosis caused by *Eimeria necatrix, E. tenella, E. acervulina, E. maxima, E. brunetti,* and *E. mivati.*

(*b*) Limitations. Do not feed to laying chickens; feed continuously as the sole ration; withdraw 5 days before slaughter; as sole source of organic arsenic; as monensin sodium; as roxarsone provided by Nos. 017210 and 011801 in § 510.600(c) of this chapter.

* * * * *

2. In § 558.530 by adding new paragraph (f)(3)(xxi) to read as follows:

§ 558.530 Roxarsone.

* * * * *

(f) * * *

(3) * * *

(xxi) Monensin and virginiamycin as in § 558.355.

* * * * *

3. In § 558.635 by adding new paragraph (f)(3)(iii) to read as follows:

§ 558.635 Virginiamycin.

* * * * *

(f) * * *

(3) * * *

(iii) Monensin and roxarsone as in § 558.355.

Effective date. August 26, 1983.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: August 19, 1983.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 83-23443 Filed 8-25-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 47

[DoD Directive 1000.20]

Determinations of Active Military Service and Discharge; Civilian or Contractual Personnel

AGENCY: Office of the Secretary of Defense.

ACTION: Final rule.

SUMMARY: This rule has been revised to require the Secretary of the Military Department concerned to issue a report of casualty including an equivalent pay grade for those civilian or contractual personnel who were killed during a designated period of active military duty. The revision also directs the Secretary of the Air Force to publish notification in the **Federal Register** of the acceptance of a group application and, subsequently, of the final Secretarial determination. The DD Form 2168, Application for Discharge of Member or Survivor of Member of Group Certified to Have Performed Active Duty with the Armed Forces of the United States, has been revised to include an authorization to release copies of official personnel records maintained by the National Personnel Records Center to the appropriate Military Service. These changes will allow the Veterans Administration to award appropriate survivor benefits, ease notification to members of approved groups, and speed processing of requests for discharge from members of approved groups.

EFFECTIVE DATE: This rule was approved and signed by the Deputy Secretary of Defense on June 9, 1983, and is effective as of that date.

FOR FURTHER INFORMATION CONTACT: Major Sallie A. Savage, USAF, Office of the Secretary of the Air Force (Personnel Council) (SAF/MIPC), The Pentagon, Washington, D.C. 20330, telephone 202-694-5204 or 694-5074.

SUPPLEMENTARY INFORMATION: In FR Doc. 79-5887 appearing in the **Federal Register** on February 28, 1979 (44 FR 11220), the Office of the Secretary of Defense (OSD) published a final rule establishing DoD policies and procedures for the operation of a civilian and military service review board to implement the provisions of Section 401 of Pub. L. 95-202, The G.I. Bill Improvement Act of 1977. The Part hereunder revises this rule.

List of Subjects in 32 CFR Part 47

Military personnel.

Accordingly, 32 CFR is amended by revising Part 47, reading as follows:

Sec.
47.1 Reissuance and Purpose.
47.2 Applicability.
47.3 Definition.
47.4 Policy.
47.5 Responsibilities.
47.6 DoD Civilian/Military Service Review Board and Advisory Panel.
47.7 Procedures.

Authority: Section 401, Pub. L. 95-202, 38 U.S.C. 106 note.

§ 47.1 Reissuance and purpose.

This Part is hereby revised and reissued and implements Section 401, Pub. L. 95-202, which directs the Secretary of Defense to determine whether civilian employment or contractual service rendered by civilian or contractual groups to the Armed Forces of the United States shall be considered active military service (38 U.S.C. 101) for purposes of laws administered by the Veterans Administration. It also establishes the DoD Civilian/Military Service Review Board and Advisory Panel, sets forth policy, assigns responsibilities.

§ 47.2 Applicability.

This Part applies to the Office of the Secretary of Defense (OSD), the Military Departments, and, by agreement with the Secretary of Transportation, the U.S. Coast Guard.

§ 47.3 Definition.

Civilian or Contractual Group. An organization similar to the Women's Airforces Service Pilots (a group of federal civilian employees attached to the U.S. Army Air Force in World War II) whose members rendered service to the Armed Forces of the United States in a capacity that was then considered civilian employment or contractual service.

§ 47.4 Policy.

(a) It is DoD policy to determine whether the civilian employment or contractual services of a civilian or contractual group shall be considered active military service for the purposes of laws administered by the Veterans Administration by considering judicial and other appropriate precedents, including the extent to which the members of such a group:

(1) Received military training and acquired a military capability, or the service performed by such group was critical to the success of a military mission.

(2) Were subject to military justice, discipline, and control.

(3) Were permitted to resign.

(4) Were susceptible to assignment for duty in a combat zone.

(5) Had reasonable expectations that their service would be considered to the active military service (see Pub. L. 95-202).

(b) The Department of Defense may not provide counsel representation or defray the cost of such on any matters covered by this Part.

§ 47.5 Responsibilities.

(a) The *Secretary of the Air Force* shall:

(1) Establish the DoD Civilian/Military Service Review Board and Advisory Panel.

(2) Appoint a chair and a member and alternate from members or employees of the Air Force in grades GS-15 or O-6 or higher.

(3) If civilian or contractual groups claim Coast Guard active military service, requst the Secretary of Transportation to appoint one member and one alternate member in the grade of GS-15 or O-6 or higher from the Coast Guard to be an additional voting member of the Board when the Board is considering the claims of such groups.

(4) Provide a recorder, maintain the records of the Board, and provide the Board with nonvoting legal advisors as requested by the chair.

(5) Publish notification in the **Federal Register** of the acceptance of a group application and, later, of his final determination.

(b) The *Secretaries of the Army and Navy and the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) (ASD(MRA&L))* shall appoint to the Board a member and alternate from members or employees of their organization in grades GS-15 or O-6 or higher.

§ 47.6 DoD Civilian/Military Service Review Board and Advisory Panel.

(a) *Organization and Management.* (1) The Board shall consist of a chair and one representative each from the OSD,

the Departments of the Army, Navy, and Air Force, and the Department of Transportation when cases involve groups claiming active Coast Guard service. Each member shall have one vote except that the chair shall vote only in the event of a tie vote. The chair and two voting members shall constitute a quorum.

(2) The Advisory Panel shall act as a nonvoting adjunct of the Board. It shall consist of a group of historians or their alternates selected by the Secretaries of the Military Departments and, if required, by the Secretary of Transportation. The respective Military Departments shall ensure that the Advisory Panel is provided with the necessary administrative and legal support.

(b) *Functions.* (1) The Board shall meet in executive session and shall limit its reviews to:

(i) Written submissions by an applicant on behalf of a civilian or contractual group.

(ii) A written report prepared by the appropriate member or members of the Advisory Panel.

(iii) Any other relevent information available and the criteria established by law.

(2) The Board shall submit, with justification, a written recommendation to the Secretary of the Air Force that the service of a civilian or contractual group either be or not be considered active military service in one of the Armed Forces of the United States.

(3) The Advisory Panel shall provide historical data or other assistance requested by the chair of the Board.

§ 47.7 Procedures.

(a) The Secretay of the Air Force shall consider the recommendations of the Board and determine whether the service rendered by a civilian or contractual group shall be considered active military service for the purpose of all laws administered by the Veterans Administration. If the Secretary does not concur with the recommendation or rationale of the Board, his decision and reasons therefor shall be stated in writing, and he shall notify:

(1) The person or persons who made the request for the active military service determinations.

(2) The Administrator of Veterans Affairs.

(3) The Secretaries of the Army and Navy.

(4) The ASD(MRA&L).

(5) The Secretary of Transportation when a civilian or contractual group claimed Coast Guard service.

(b) Following a determination by the Secretary of the Air Force that the service of a civilian or contractual group constitutes active military service, individuals who were members of that group may submit to the Military Department concerned or the Department of Transportation, as appropriate, an application for discharge.

(c) The Secretary of the Military Department concerned or the Secretary of Transportation, as appropriate, shall determine whether the applicant was a member of the civilian or contractual group after considering the individual's evidence of membership. If the applicant is determined to have been a member of the group, the Secretary concerned shall issue a DD Form 214, Certificate of Release or Discharge from Active Duty, and a DD Form 256, Honorable Discharge Certificate, or a DD Form 257, General Discharge Certificate, as appropriate, consistent with Parts 45 and 41 of this title and the implementing documents of the appropriate statutes of the Military Department concerned or the Department of Transportation, as appropriate.

(d) If an approved member was killed during the period of equivalent active military duty, the Secretary of the Military Department concerned or the Secretary of Transportation, as appropriate, shall issue a DD Form 1300, Report of Casualty, including equivalent military pay grade, consistent with DoD Instruction 1300.9.

(e) For the purpose of Veterans Administration benefits, a pay grade is needed only in cases when an individual was killed or received service-related injuries or disease during the equivalent military service period. A DD Form 1300 shall be issued with the equivalent pay grade annotated for those members who died during the approved period of service. A DD Form 214 may not include pay grade unless the Administrator of Veterans Affairs requests that a determination of pay grade be made. Proof of grade may include, in order of importance, the following:

(1) Equivalent rank or organizational grade (must have been officially recognized).

(2) If no equivalent rank, then for government employees, the corresponding rank for civilian pay grade.

(3) If neither of the above applies, only one of three grades may be issued: O–1, E–4, or E–1. Selection of one of these three grades shall depend upon the nature of the job performed, the level of supervision exercised, and the military privileges, if any, to which the individual was entitled.

(f) If the applicant challenges the characterization of a discharge issued by a Military Department or the Department of Transportation, as appropriate, the applicant may appeal the characterization to the Secretary concerned.

(g) *Applications.* (1) Applications for civilian or contractual group determinations shall be submitted to the Secretary of the Air Force (SAF/MIPC), the Pentagon, Washington, D.C. 20330.

(2) Individual members of civilian or contractual groups whose employment was determined to have been active military service may submit applications for discharge to the Military Department concerned or the Department of Transportation, as appropriate. The application may be prepared using DD Form 2168, Application for Discharge of Member or Survivor of Member of Group Certified To Have Performed Active Duty With the Armed Forces of the United States, or in narrative form. Applications on behalf of individuals who are deceased or incompetent shall be accompanied by legal proof of death or incompetency.

Dated: August 22, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83-22442 Filed 8-25-83; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

34 CFR Part 5b

Privacy Act Regulations

AGENCY: Education Department.

ACTION: Final Regulations.

SUMMARY: The Secretary of Education issues final regulations under the Privacy Act of 1974 (Act). This amendment permits the Office for Civil Rights (OCR) to exempt the "Complaint Files and Log" system of records from certain provisions under the Act, including the access provisions and some notice provisions. Currently, a complainant has access to the files compiled during the investigation of his or her civil rights complaint against a recipient of Federal financial assistance. The amemdment encourages recipients to furnish information essential to the investigation, since this information will be exempt from disclosure under the Act.

EFFECTIVE DATE: These regulations are expected to take effect either 45 days after publication in the **Federal Register** or later if the Congress takes certain adjournments. If you want to know the effective date of these regulations, call

or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: William A. Delaney III, Litigation, Enforcement and Policy Service, Office for Civil Rights, U.S. Department of Education, 400 Maryland Avenue, SW., 20202. Telephone: (202) 245-0912. "Voice-TDE" 472-4422.

SUPPLEMENTARY INFORMATION: The notice of proposed rulemaking with invitation to comment was published in the **Federal Register** in 47 FR 21096-7 (May 17,1982). The public was given 30 days to comment on this regulation. The period for comment was extended to August 13, 1982, 47 FR 30498 (July 14, 1982).

These regulations allow OCR to deny access to the complaint file and log by individuals who file complaints, and to delete portions of the notices of systems of records published in the **Federal Register**. In addition, OCR would not be required to account for disclosure of an individual's record to that individual. These regulations will aid negotiations between recipients and OCR in resolving civil rights issues. Disclosure of an investigative file to a complainant pursuant to the Act has on occasion disrupted negotiations. Also, the regulations will encourage recipients to more readily furnish information to OCR, since that information will not be subject to disclosure under the Act. Comments were received from several State and local governmental entities, private individuals, and advocacy groups. The concern most often expressed was that the regulations were overbroad, and that Congress did not intend the exemption codified at 5 U.S.C. 552a(k)(2) ((k)(2) exemption) to apply to civil rights investigatory files. The comments have been reviewed and appropriate responses have been prepared.

Summary of Comments and Responses

A summary of the substantive comments and the responses of the Secretary follows:

Comment: A school district commented that it opposed the regulations as the "accused" should have a right to respond to charges made against it, and that the exemption will delay the resolution of complaints.

Response: No change has been made. The exemption only affects the rights of individuals under the Act. School districts do not have any rights under the Privacy Act (5 U.S.C. 552a(a)(2); 34 CFR 5b.1(e)). The purpose of the regulations is to expedite civil rights investigations, not to delay them. If a school district is found in violation of the civil rights laws, it is notified through a letter of findings.

Comment: One commenter opposed adoption of the regulations on the grounds that it would violate the court order entered in *Adams* v. *Bell*, C.A. No. 3095-70 (D.D.C., filed Dec. 29, 1977).

Response: The *Adams* order requires that a complainant be interviewed during the course of an investigation. Further, if OCR anticipates making a finding adverse to the complainant, then OCR must notify the complainant to that effect. In addition, OCR must notify the complainant of the evidence supporting the adverse finding, either by actually showing the evidence to the complainant or by providing a written or oral summary of the evidence. Then, the complainant will be provided an opportunity to respond. See *Adams* v. *Bell*, *supra*, ¶10. The *Adams* order does not require that the entire contents of an investigatory file be turned over to a complainant upon request. Thus, the regulations do not violate the *Adams* order. OCR will continue to carry out its obligations under *Adams*.

Comment: Some commenters stated that the justification for the regulations is insufficient as written in the preamble to the NPRM.

Response: No change has been made. The Secretary feels that the reasons set forth in the NPRM are ample justification for the regulations. As stated in the NPRM, OCR's investigatory efforts, in certain instances, have been impeded by recipients' reluctance to reveal information where providing such information compromises the legitimate privacy interests of a source. Additionally, the untimely release of information may jeopardize delicate and sometimes lengthy negotiations that would otherwise result in the successful resolution of complaints. The regulations reflects the Secretary's carefully considered solution to problems experienced in the course of investigating civil rights complaints. It is intended to enhance OCR's ability to conduct investigations and thus to ensure compliance with civil rights laws.

Comment: Some commenters stated that the exemption was unnecessary, since the Department has the power to compel a recipient to respond to an information request pursuant to an investigation. One commenter also stated, in this vein, that an administrative proceeding to compel disclosure of information is the more appropriate method of resolving the problem.

Response: No change has been made. While it is true that a refusal by a recipient to supply information upon request is grounds for an administrative proceeding under 34 CFR 100.6(c), it has been the experience of OCR that these proceedings are time-consuming and may delay the investigation of the merits of a complaint for years while the access issue is being litigated. In that light, the Secretary feels that the regulations are appropriate and will encourage cooperation of recipients in providing the information necessary for investigating complaints, and thereby avoid protracted litigation which might substantially delay resolution of complaints.

Comment: Several commenters stated that the exemption of the complaint files and log is overbroad, and suggested that the more appropriate method is to disclose records on a case-by-case basis.

Response: No change has been made. OCR has considered this type of procedure, but has rejected it as impractical. Further, it is not required under the Act.

Comment: An attorney who has represented school districts commented that the regulations may impede discovery, and may lead to litigation.

Response: No change has been made. As already stated, the Privacy Act does not apply to school districts. Consequently, promulgating the regulations will not alter any right or privilege of a school district. However, the Secretary feels that the exemption will encourage the school districts to provide information pursuant to a civil rights investigation, and thereby diminish the possibility of litigation.

Comment: One commenter stated that OCR should maintain a list of persons to whom the investigative file has been disclosed.

Response: No change has been made. The Department is required by the Act to maintain an accounting of disclosures made under most of the exceptions to the Act, except 5 U.S.C. 552a(b) (1) and (2). Under 5 U.S.C. 552a(c)(3), the Department must make the accounting of disclosures under each exception, other than exception (b)(7), available to the subject individual. (See 34 CFR 5b.9(c)). The Department is still required to keep the accountings. The change made by this amendment only affects a subject individual's access to the accountings.

Comment: Several commenters have expressed concern that the regulations will exclude complainants from the investigatory process, in that they will be precluded from "overseeing" the case, and from the opportunity to rebut incorrect information or otherwise be apprised of the course of the investigation.

Response: No change has been made. As already stated, the *Adams* order requires that the complainant be informed at appropriate stages of the investigation. Under *Adams*, a complainant is informed of, and given an opportunity to rebut, any evidence that may lead to an adverse finding. The involvement of the complainant in the investigatory process will not be diminished by the regulations.

Comment: One commenter expressed the fear that the regulations may hinder disabled people from securing jobs, education, or training.

Response: No change has been made. The Secretary feels that the regulations will have the opposite effect, since it will facilitate civil rights investigations.

Comment: One State agency agreed with the regulations, noting that the nature of OCR's investigations sometimes require that the complainant not be given access to the complaint file, and observes that the regulations will enhance informal resolution of complaints.

Response: No change has been made. The Secretary concurs with the comment.

Comment: One commenter suggested that further study of the problem be made, with a view toward finding remedies other than utilizing the (k)(2) exemption.

Response: No change has been made. The Secretary feels that the problem has been sufficiently studied, and that the regulations are within the intent of the Act, and are the most appropriate and practical remedy.

Comment: One commenter stated that the (k)(2) exemption ought to be read in light of another exemption in the Act precluding disclosure of information compiled in anticipation of a civil action, 5 U S.C. 552a(d)(5), and the exemption precluding disclosure of criminal records, 5 U.S.C. 552a(j)(2). The commenter urged that if the (k)(2) exemption is read in light of these two exemptions, then the exemption may only be invoked when access to investigatory files seriously jeopardizes an agency's law enforcement activities.

Response: No change has been made. The Secretary disagrees that the regulations should be limited by the other exemptions suggested by the commenter. The Secretary notes the two exemptions apply to circumstances different than the present regulations. Further, if Congress intended the (k)(2) exemption to be read as urged, it would have so stated in the Act. In any event, the Secretary feels that the need for the regulations has been sufficiently demonstrated, and their implementation is appropriate.

Comment: The most common concern expressed by the commenters was that Congress did not intend the (k)(2) exemption to apply to the investigative files maintained by OCR. One commenter asserted that the purpose of the (k)(2) exemption was to prohibit individuals who were the targets of investigation from being alerted that they were being investigated. Along this line, another commenter stated that Congress did not intend all civil rights files to fall within the purview of the (k)(2) exemption.

Response: No change has been made. The Secretary feels that both the legislative history and the language of the Act support the regulations. In setting forth the basis for the (k)(2) exemption, the legislative history states.

> Individual access to certain law enforcement files could impair investigations, particularly those which involve complex or continuing patterns of behavior. *H.R. Rep. No. 93–1416*, 93 Cong. 2nd Sess., 19 (1974).

The above report cites an example whereby the (k)(2) exemption could be utilized to preclude an individual, who is the subject of an investigation, from obtaining his or her file under the Privacy Act and thus being able to frustrate detection of illegal action or escape prosecution. Some commenters take the position that this is the only time the (k)(2) exemption should be employed. However, the commenter read the example too narrowly. As was stated elsewhere in the legislative history:

> The exemptions (allowed from disclosure under the Act) are for three purposes only, national defense, and foreign policy, and certain law enforcement investigative and intelligence matters where access and challenge rights are found to damage the purpose for which the information is collected. *S. Rep. No. 93–1183*, 93rd Cong. 2nd Sess, *reprinted in* (1974) *U.S. Code Cong., & Ad. News* 6916, 6935–36.

The true test is whether disclosure of information contained in investigative files will "damage the purpose for which the information is collected." The Department has demonstrated that disclosure of its investigative files by a complainant has impeded investigations by OCR because recipients were reluctant to disclose information, thus damaging the purpose for which the information is collected. Moreover, a plain reading of 5 U S.C. 552a(k)(2) does not limit the exemption to the very narrow grounds urged by the commenter. Thus, both the legislative history and the statute support the promulgation of the regulations by the Secretary. Moreover, many other Federal agencies have promulgated regulations similar or identical to the present regulations.

Comment: One commenter stated that the Privacy Act does not give the Department authority to exempt whole systems of files from disclosures under the (k)(2) exemption.

Response: No change has been made. The Act specifically allows the head of any agency to promulgate rules to "exempt any system of records" under the appropriate circumstances outlined by the Act. 5 U.S.C. 552a(k). This language is broad enough to allow the Secretary's exemption permitting the Office for Civil Rights to withhold investigatory materials contained in its complaint files and log system of records.

Comment: A commenter suggested that there was no "compelling need" for the exemption, and that the same end could be achieved by deleting or encoding names or other information, encoding or eliminating confidential documents, or summarizing documents.

Response: No change has been made. The suggested measures, if adopted, would not avoid the application of the Privacy Act. Every record connected to an individual by a personal identifier must be disclosed to that identifying under the Act unless the record falls within an exemption. Moreover, the Secretary must disclose what identifying symbols, numbers, or other identifying particulars the Secretary used in responding to a request under the Act. Consequently, encoding or eliminating documents with personal identifiers from files will not avoid disclosure under the Act. These regulations are the most viable means available for exempting its complaint log and files from disclosure. See 5 U S.C. 552a(a) (4–5); 34 CFR 5b.1(h,n); *Shermco Industries* v. *Secretary of the Air Force*, 452 F. Supp. 306, 315 n. 5 (N.D. Tex. 1978); *reversed on other grounds*, 613 F 2d 1314 (5th Cir. 1980). The Secretary disagrees that a compelling case for implementing the regulations has not been made.

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291, and are classified as nonmajor because they do not meet the criteria for major regulations established in the order

Regulatory Flexibility Act Certification

The Secretary certifies that these regulations will not have a significant economic impact on a substantial number of small entities. These

regulations are administrative and do not affect any small entities.

List of Subjects in 34 CFR Part 5b

Administrative practice and procedure, Civil rights, Privacy, Privacy Act regulations.

Citation of Legal Authority

A citation of statutory authority is placed in parentheses on the line following the regulations.

(Catalog of Federal Domestic Assistance number does not apply)

Dated: August 22, 1983.

T. H. Bell,

Secretary of Education.

The Secretary amends Part 5b of Title 34 of the Code of Federal Regulations as follows:

PART 5b—PRIVACY ACT REGULATIONS

1. Section 5b.11 is revised by adding a new paragraph (b)(2)(ii) to read as follows:

§ 5b.11 Exempt systems.

* * * * *

(b) * * *

(2) * * *

(ii) Pursuant to subsection (k)(2) of the Act: Complaint Files and Log, Office for Civil Rights.

* * * * *

(5 U.S.C. 552a(k))

[FR Doc. 83-23485 Filed 8-25-83; 8:45 am]

BILLING CODE 4000-01-M

VETERANS ADMINISTRATION

38 CFR Part 3

Definition of Nursing Home

AGENCY: Veterans Administration.

ACTION: Final regulation amendment.

SUMMARY: The Veterans Administration has amended its adjudication regulations to establish a definition of the term "nursing home" for benefit purposes. This definition is necessary to determine the scope of that term as used in the adjudication of claims.

EFFECTIVE DATE: This amendment is effective August 10, 1983.

FOR FURTHER INFORMATION CONTACT: Robert White, Compensation and Pension Service (211B), Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 389-3005.

SUPPLEMENTARY INFORMATION: On pages 56881 to 56882 of the Federal Register of December 21, 1982, the Veterans Administration published a proposed amendment to 38 CFR 3.1 which added a new paragraph (z) defining the term "nursing home." Interested persons were given until January 20, 1983 to submit comments, objections or suggestions on this regulatory amendment.

A total of three written comments were received. The commentators were the Congressman from the 4th District of Oregon, the Director, National Veterans Service, Veterans of Foreign Wars of the United States (VFW), and attorneys of the National Senior Citizens Law Center (NSCLC).

The major concern expressed by all commentators involved the procedural aspects of reviewing the files of beneficiaries who are already receiving the aid and attendance benefit to determine their continued entitlement, and the assistance to be provided by the VA to beneficiaries who may no longer be entitled to that benefit on a presumptive basis. This concern involves the use to be made of the new definition and not the regulatory definition itself. A general description of the VA's review procedure should alleviate this concern.

The aid and attendance review procedures have been constructed in such a manner as to provide a wide variety of assistance in establishing entitlement while protecting due process rights. Those beneficiaries whose aid and attendance entitlement is based on a formal rating decision or on patient status in a nursing home which meets the proposed definition will not lose that benefit because of this review. Those who reside in extended care facilities which do not meet the proposed definition will be advised as to the type of evidence necessary to support entitlement and will be given a reasonable time in which to submit that evidence. Statements of private physicians will be interpreted liberally in favor of beneficiaries, and if they are insufficient to establish entitlement, a VA examination may be authorized. No benefits will be adjusted until a final rating decision has been made or until the due process period for submission of evidence has lapsed without response.

Two commentators indicated that the regulation may result in higher costs to the VA than any savings realized by the review of claims because beneficiaries who lose entitlement to aid and attendance benefits will be forced to seek admission into VA hospitals and nursing homes for continued care. In addressing this concern it must be remembered that no benefit adjustments will be made until it is determined that no entitlement exists on a factual basis or there is a failure to provide requested evidence of entitlement. Any individual who was residing in an extended care facility which did not meet the new definition of nursing home and who was so disabled as to require VA hospitalization or nursing home care would clearly be able to provide medical evidence of continuing entitlement to aid and attendance benefits. We believe, therefore, that this concern is not justified.

Two commentators mentioned the current trend toward community-based residential care as an alternative to institutionalization and indicated that aid attendance benefits for individuals so placed may be terminated because of this regulation. We do not believe that this concern is justified. Although beneficiaries in such programs would have to establish aid and attendance entitlement on a factual basis, significant weight would be accorded to a statement of the medical professional who supervises such care that, but for the residential care program, the beneficiary would require admission to a nursing home.

With regard to residential care programs the NSCLC specifically recommended expansion of the regulatory definition to include "board and care homes that are regulated by States." We cannot accept that recommendation because such terminology is so imprecise as to include nearly every extended care facility currently in operation, whether or not nursing care is provided. Such vague terminology cannot be the basis for a legal presumption of entitlement to additional VA benefits.

One commentator was concerned about the effects of license revocation and variations among States as to the terminology used for licensing different levels of nursing care. The terms "skilled and intermediate-level care" are standard within the nursing home industry. Any variations in the terminology used by individual States would be closely examined by the VA authorities in those States to ensure that the level of care provided is comparable to the care certified by most States as skilled or intermediate-level. If, by application of the 38 CFR 3.1(z) standard, a beneficiary were to lose entitlement to the presumption granted by 38 CFR 3.351(c)(2), he or she could still qualify for an aid and attendance allowance if his or her disabilities meet the requirements of 38 CFR 3.351(c) (1) or (3).

Finally, the NSCLC recommended that the new regulatory definition be applied prospectively only and that no action be

taken to adjust benefits unless the case required review on other grounds. This recommendation cannot be accepted as it is clearly contrary to the VA's responsibility to insure the integrity of its benefit programs through periodic reviews and correction of errors.

We appreciate the concerns and recommendations of the individual commentators; however, after careful consideration, we find no basis for change. Accordingly, the regulatory amendment is adopted as proposed and is set forth below.

The Administrator hereby certifies that this regulation amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. The regulatory definition would not directly affect any small entities. Only VA beneficiaries could be directly affected. Additional reasons for this certification are set out in the proposed notice of this regulation amendment at 47 FR 56882 (December 21, 1982). Therefore, pursuant to 5 U.S.C. 605(b), this regulation amendment is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

In accordance with Executive Order 12291, Federal Regulations, we have determined that this regulation change is non-major for the following reasons: (1) It will not have an effect on the economy of $100 million or more; (2) It will not cause a major increase in costs or prices; and (3) It will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

There is no Catalog of Federal Domestic Assistance Number involved.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Handicapped, Health care, Pensions, Veterans.

Approved: August 10, 1983.

Everett Alvarez, Jr.,

Deputy Administrator.

PART 3—ADJUDICATION

The Veterans Administration is amending 38 CFR Part 3 to read as follows:

In § 3.1, paragraph (z) is added as follows:

§ 3.1 Definitions.

* * * * *

(z) "Nursing home" means

(1) Any extended care facility which is licensed by a State to provide skilled or intermediate-level nursing care,

(2) A nursing home care unit in a State veterans' home which is approved for payment under 38 U.S.C. 642, or

(3) A Veteans Administration Nursing Home Care Unit. (38 U.S.C. 210(c)(1))

[FR Doc. 83-23472 Filed 8-25-83; 8:45 am]

BILLING CODE 8320-01-M

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38 CFR Part 17

VA/DOD Contingency Plan

AGENCY: Veterans Administration.

ACTION: Interim final regulations.

SUMMARY: The VA is setting forth an interim final regulation to implement VA/DOD Health Care Resources Sharing and Emergency Operations Act (Pub. L. 97–174), enacted into law on May 4, 1982. Section 4 of this law establishes the VA health-care system as the primary backup to the Department of Defense in time of war or national emergency. This interim final regulation takes effect immediately because of the importance of instructing staff to plan for the provision of proper medical treatment to active duty personnel of the United States Armed Forces in time of war or national emergency. Although the regulations are for immediate use, they are subject to change based on comments received during the comment period.

DATES: The effective date is August 11, 1983. Comments must be received on or before September 26, 1983.

ADDRESS: Send written comments to Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420. Comments will be available for inspection only in the Veterans Services unit, Room 132, of the above address, between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday (except holidays) until October 11, 1983.

FOR FURTHER INFORMATION CONTACT: Anthony Ilardi, Acting Emergency Preparedness Planning Officer (IOCC), Department of Medicine and Surgery, (202–389–2322).

SUPPLEMENTARY INFORMATION: Pub. L. 97–174 is explicit and this regulation is not discretionary since it is limited to implementing the letter and the clear legislative intent of the law. In addition, this regulation comes within the good cause exception to the general VA policy of obtaining prior public comment on proposed regulatory development and a prior proposed notice is unnecessary. Also, the Regulatory Flexibility Act (Pub. L. 96–354) is not applicable since it applies only to regulations for which a general notice of proposed rulemaking is published.

The Veterans Administration has determined that this regulation is not a "major rule" as defined by E.O. 12291, Federal Regulation. It will not have an effect on the economy of $100 million and will not result in any major increases in costs or prices for anyone; nor will they have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. This regulation is for the purpose of implementing a law intended to establish the VA as the principal backup to the health-care resources of the Department of Defense in time of war or national emergency. Consequently, this regulation is issued "with respect to a military * * * function of the United States," and comes within an exception to the definition of regulations covered by E.O. 12291, (Section 1(a)(2)). Even if a portion of this regulation is considered to deal with a non-military function, it will clearly not have any sizeable economic impact, in itself. This regulation pertains to contingency planning and under peacetime conditions there is no effect on any segment of the economy. In the event of war or national emergency, the effect on the economy is potentially significant, dependent on the level of the emergency. Nonservice-connected veterans could be displaced from or denied admission to VA health facilities. The number of these veterans would depend on the level of the emergency. To ease the burden on these veterans, the VA is authorized to place nonservice-connected veterans in community health facilities at VA expense. Under the law, the extent to which the VA could place these veterans depends on the availability of funds and the authorization of the President. However, all of these potential economic effects would result from the war or national emergency and from Pub. L. 97–174, not from implementing this regulation. Therefore, even if this regulation is considered subject to E.O. 12291, it does not qualify as a "major rule."

The Catalog of Federal Domestic Assistance Numbers are: 64.009 (Veterans Hospitalization); 64.010 (Veterans Nursing Home Care); 64.011 (Veterans Outpatient Care); and, 64.016 (Sharing Specialized Medical Resources).

List of Subjects in 38 CFR Part 17

Health care, Health facilities, Nursing home care, Veterans.

These interim final regulations are being adopted under the authority granted the Administrator by sections 210(c) and 620(a) of Title 38, United States Code.

By direction of the Administrator.

Approved: August 11, 1983.

Everett Alvarez, Jr.,

Deputy Administrator.

PART 17—[AMENDED]

38 CFR Part 17, MEDICAL, is amended by adding a new § 17.190 to read as follows:

§ 17.190 Contingency backup to the Department of Defense.

(a) *Priority care to active duty personnel.* The Administrator, during and/or immediately following a period of war or national emergency declared by the Congress or the President that involves the use of United States Armed Forces in armed conflict, is authorized to furnish hospital care, nursing home care, and medical services to members of the Armed Forces on active duty. The Administrator may give higher priority in the furnishing of such care and services in VA facilities to members of the Armed Forces on active duty than to any other group of persons eligible for such care and services with the exception of veterans with service-connected disabilities. (38 U.S.C. 5011A, Pub. L. 97–174)

(b) *Contract authority.* During a period in which the Administrator is authorized to furnish care and services to members of the Armed Forces under paragraph (a) of this section, the Administrator, to the extent authorized by the President and subject to the availability of appropriations or reimbursements, may authorize VA facilities to enter into contracts with private facilities for the provision during such period of hospital care and medical services for certain veterans. These veterans include only those who are receiving hospital care under 38 U.S.C. 610 or, in emergencies, for those who are eligible for treatment under that section, or who are receiving care under 38 U.S.C. 612 (f) and (g). This authorization pertains only to circumstances in which VA facilities are not capable of furnishing or continuing to furnish the care or services required because of the furnishing of care and services to members of the Armed Forces. (38 U.S.C. 5011A, Pub. L. 97–174)

[FR Doc. 83-23471 Filed 8-25-83; 8:45 am]

BILLING CODE 6320-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

41 CFR Part 44–17

Extraordinary Contractual Adjustment Procedures

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This rule establishes standards and procedures for disposition of requests for extraordinary contractual action pursuant to Pub. L. 85–804 and Executive Order 10789. The regulation is needed to implement the statute and Order, and to supplement that part of the Federal Procurement Regulations dealing with extraordinary actions to facilitate the national defense (41 CFR 1–17).

EFFECTIVE DATE: September 26, 1983.

FOR FURTHER INFORMATION CONTACT: George W. Watson, Associate General Counsel, Telephone (202) 287–0376.

SUPPLEMENTARY INFORMATION: FEMA has been delegated authority to take certain extraordinary contractual actions to facilitate the national defense under the terms of Pub. L. 85–804 (50 U.S.C. 1431) and Executive Order 10789. General regulations applicable to all agencies to whom the authority has been delegated have been issued by General Services Administration (GSA), 41 CFR Part 1–17. FEMA needs to supplement these regulations with provisions applicable to it only. This regulation does that but must be read with the GSA regulation.

FEMA published a proposed rule in the **Federal Register**, May 6, 1983, 48 FR 20441. No comments were received. There is no change between the proposed and final rule.

An environmental assessment is not necessary as this rule is procedural and has no effect on the quality of the human environment. The rule is not a major rule as defined in section 1(b) of Executive Order 12291, nor will it have a significant, economic impact on a substantial number of small entities. Hence, regulatory impact analyses are not necessary. The regulation does not contain any information requirements subject to the provisions of 44 U.S.C. 350(h).

List of Subjects in 41 CFR Part 44–17

Government procurement.

Accordingly, Title 41 CFR Chapter 44 is amended by adding a new Part 44–17 as follows:

PART 44–17—EXTRAORDINARY CONTRACTUAL ADJUSTMENT PROCEDURES

Sec.
44–17.000 Scope of part.

Subpart 44–17.1—General

44–17.101 Authority.
44–17.102 General policy.
44–17.103 Types of action.

Subpart 44–17.2—Procedures

44–17.201 Procedures for filing requests.
44–17.202 Records.
44–17.203 Investigation.
44–17.204 Action by the Contract Adjustment Board.
44–17.205 Action by Office of Acquisition Management.

Subpart 44–17.3—Contract Adjustments

44–17.301 General.
44–17.302 Amendments without consideration.
44–17.303 Correction of mistakes.
44–17.304 Formalization of informal commitments.
44–17.305 Advance payments.
44–17.306 Residual powers.
44–17.306–1 Indemnification of contractors for unusually hazardous or nuclear risks.

Subpart 44–17.4—Administration

44–17.401 Reports.
44–17.402 Interagency coordination.

Authority: 50 U.S.C. 1431–1435; E.O. 10789; E.O. 12148.

§ 44–17.000 Scope of part.

This part establishes standards and procedures for the disposition of requests for extraordinary contractual action by contractors of the Federal Emergency Management Agency (herein after referred to as "FEMA") pursuant to Pub. L. 85–804 (found at 50 U.S.C. 1431 through 1436 and hereinafter referred to as "the Act") and Executive Order 10789, as amended (hereinafter referred to as the "Executive Order") and Executive Order 12148. This part supplements the extraordinary contractual actions to facilitate the national defense portion of the Federal Procurement Regulations (41 CFR Part 1–17). The reader of this part should refer to the Federal Procurement Regulation when processing requests for extraordinary contractual actions.

Subpart 44–17.1—General

§ 44–17.101 Authority.

(a) All authority granted by 41 CFR 1–17.101 may be exercised by the Director

of the Federal Emergency Management Agency (hereinafter referred to as "the Director"). However, such authority to approve actions under the Act which do not obligate the United States in excess of $50,000 are delegated to the Chief, Acquisition Management. The limitations contained in 41 CFR 1–17.205–2 apply to said Chief. Where 41 CFR Part 1–17 requires action or approval at "secretarial level," such action shall be taken by the Director

(b) As cases arise under the Act, the Director of FEMA shall appoint, as needed, a FEMA Contract Adjustment Board consisting of one senior staff member, not otherwise involved with the action under consideration, from each of the following offices:

(1) Acquisition Management,
(2) General Counsel,
(3) Comptroller.

The Board shall prescribe its own procedures and has power to do all acts and things necessary or appropriate for the conduct of their functions. The decisions of the Board shall be final but each Board may reconsider, modify, correct or reverse any of its previous decisions.

§ 44–17.102 General policy.

The general policies of 41 CFR 1–17.102 apply. If it is at all practicable, other authority shall be used to settle claims by contractors before using authority of the Act and this Part.

§ 44–17.103 Types of action.

FEMA may take any type of action authorized under 41 CFR 1–17.103. However, any action taken under this Part shall be subject to the limitations contained in 41 CFR 1–17.205–1.

Subpart 44–17.2—Procedures

§ 44–17.201 Procedures for filing requests.

Any person seeking an adjustment under these regulations may file a request. Persons filing requests for extraordinary contractual actions with FEMA should file the request in duplicate with the cognizant contracting officer, the Director, or with the Chief, Office of Acquisition Management, Federal Emergency Management Agency, 500 C Street, SW., Washington, D.C. 20472. The form of the request and the facts and evidence required are described at 41 CFR 1–17.207–2 and 1–17.207–4.

§ 44–17.202 Records.

The cognizant contracting officer or, if none exists, a person appointed by the Chief, Office of Acquisition Management, shall maintain records relating to each request under the Act and shall be responsible for presentation of such record to the FEMA Contract Adjustment Board. Records shall be compiled in accordance with 41 CFR 1–17.207–3, 1–17.208–4, 1–17.401, and 1–17.402. Also see 41 CFR 1–17.400.

§ 44–17.203 Investigation.

The cognizant contracting officer or person appointed in accordance with § 44–17.202 above shall fully investigate in accordance with 41 CFR 1–17.208–1 all aspects of the request including, but not limited to audit reports, documentary evidence, knowledge of individuals connected with the action involved and signed statements of material facts. Upon completion of the investigation, the investigator shall forward the report of the investigation with all exhibits and evidence to the Office of General Counsel with a letter stating:

(a) The nature of the case,

(b) The recommended disposition of the case, and

(c) If extraordinary contractual relief is recommended, the opinion of the cognizant contracting officer that such relief will facilitate the national defense The General Counsel or his designee shall review the investigation, the record and other relevant factors and shall forward them to the FEMA Contract Adjustment Board for further action.

§ 44–17.204 Action by the Contract Adjustment Board.

(a) The Board, upon receiving the file from the Office of General Counsel, may make further investigation as deemed necessary and will solicit the views of the contractor. The Board then acting in accordance with its own procedures, will render its decision as expeditiously as possible and shall prepare a Memorandum of Decision, which shall meet the requirements of 41 CFR 1–17.208–3.

(b) Copies of the Board's decision will be transmitted to the cognizant contracting officer or, if none exists, the Chief of the Office of Acquisition Management for implementation. A copy of the decision and any evidence not previously sent will be forwarded to the contractor.

(c) Any adjustment involving expenditure in excess of $50,000 must be approved by the Director before being implemented.

§ 44–17.205 Action by Office of Acquisition Management.

The Office of Acquisition Management shall implement the decision of the Board. Any contract entered into under this Part is subject to the requirements of 41 CFR 1–17.206, and to any applicable limitations of 41 CFR 1–17.205–2. The Memorandum of Decision shall be incorporated (as required by 41 CFR 1–17.304) in the record of the case.

Subpart 44–17.3—Contract Adjustments

§ 44–17.301 General.

This subpart describes adjustments which may be made to existing contracts or arrangements which may be made where a contract should have been made. The remedies prescribed herein are only representative of those which the Contract Adjustment Board may fashion. Wherever possible, normal contracting procedures including, but not limited to, settlements under the Contract Disputes Act, should be utilized.

§ 44–17.302 Amendments without consideration.

Standards for this remedy are set forth at 41 CFR 1–17.204–2. The evidence required to support a claim for this remedy is set forth at 41 CFR 1–17.207–4 (b) and (c).

§ 44–17.303 Correction of mistakes.

Standards for this remedy are set forth at 41 CFR 1–17.204–3. The evidence required to support a claim for this remedy as set forth at 41 CFR 1–17.207–4(d).

§ 44–17.304 Formalization of informal commitments.

Broad authority for contracting officers to ratify informal commitments, after the fact, has been granted under the Contract Disputes Act of 1978. For any cases not falling under the authority of that Act or other statutes or regulation, standards for informal commitments are set forth in 41 CFR 1–17.204–4. The evidence required to support a claim for this remedy is set forth at 41 CFR 1–17.207–4(e).

§ 44–17.305 Advance payments.

Standards and procedures for use of advance payment is set forth in 41 CFR Subpart 1 30 4

§ 44–17.306 Residual powers.

Standards and procedures for use of residual powers under the Act are set forth in 41 CFR Subpart 1–17.3. Authority to approve actions obligating the United States in excess of $50,000 shall be exercised only by the Director of FEMA.

§ 44-17.306-1 Indemnification of contractors for unusually hazardous or nuclear risks.

(a) Contractor requests for indemnification provisions in FEMA contracts should be submitted to the cognizant contracting officer and shall include at least the following:

(1) An identification of the procurement for which the indemnification provisions are requested;

(2) An identification and definition of the unusually hazardous or nuclear risks for which indemnification is requested. This requirement shall include a statement indicating the manner in which the contractor would be exposed to such risk;

(3) A statement of all insurance coverage applicable to the risks to be defined in the contract as usually hazardous or nuclear in nature. The statement shall be executed by a corporate official who has authority contractually to bind the contractor and shall include:

(i) Names of the insurance companies, policy numbers, and expiration dates;

(ii) Types of insurance provided (including a statement of the extent to which the contactor is presently self-insured and any intentions to further self-insure), with emphasis on identifying the risks insured against and the coverage extended to persons or property, or both;

(iii) Dollar limits per occurrence and annual aggregate, or any other limitation, for relevant segments of the total insurance coverage;

(iv) Deductible(s), if any, applicable to losses under the policies;

(v) Any exclusions from coverage under such policies for unusually hazardous or nuclear risks; and

(vi) Applicable workmen's compensation insurance coverage. When significant changes in a contractor's insurance coverage take place or the dollar coverage varies by at least plus or minus 10% after the contractor submits his/her indemnification request and before approval, a brief description of these changes shall be submitted to the contracting officer.

(4) A statement as to the controlling or limiting factors for the establishment of the amount of financial protection to be provided or maintained by the contractor; to include information as to the availability, cost and terms of additional insurance or other forms of financial protection;

(5) A statement as to whether the contractor's insurance program has been approved or accepted by any Agency or Department of the Federal Government; and whether the contractor has an indemnification agreement with respect to similar risks under any other Government program, and if so a brief description of any limitations thereunder;

(6) If the corporation is a division or subsidiary of a parent corporation, the existing insurance coverage of the parent corporation that bears on the risks for which the contractor is seeking indemnification. A description of the precise legal relationship between parent and subsidiary or division should be included.

(b) The contracting officer, with the assistance of legal counsel and cognizant program office personnel, shall review the contractor's request and ascertain that all information required is provided. If the contracting officer, after consideration of all the facts and evidence presented, decides to deny the contractor's request, he/she shall notify the contractor promptly that the request is denied and state the reasons therefor. If the contracting officer recommends approval, he/she shall forward the contractor's request, as might be modified by negotiations between the contracting officer and the contractor, through channels for final processing to the Director. The contracting officer's submission shall include all information submitted by the contractor and the following:

(1) An identification of the proposed procurement or program together with all pertinent contract or program information, including the period of performance locations and facilities;

(2) A definition of the unusually hazardous or nuclear risks involved in the proposed contract or program, together with a statement reflecting agreement of the parties to such definition;

(3) A statement by responsible authority that the indemnification action would facilitate the national defense;

(4) A statement that the contract will involve unusually hazardous or nuclear risks that could impose a liability upon the contractor in excess of financial protection reasonably available;

(5) A statement that the contractor is in compliance with applicable Government safety requirements;

(6) Whether there is need for extension to subcontractors; and

(7) A statement of any significant changes in a contractor's insurance coverage occurring during processing of the indemnification requests.

(c) Approval of a request to include an indemnification provision in a contract shall be by a Memorandum of Approval executed by the Director. The definition of unusually hazardous or nuclear risks approved by the Director shall be incorporated in the contract, along with the applicable indemnity clause.

(d) When authorized by the Director in the Memorandum of Approval and when justified by the circumstances, the contracting officer may approve the contractor's written request to provide for the indemnification of subcontractors using the same procedures as those require of contractors.

Subpart 44-17.4—Administration

§ 44-17.401 Reports.

Reports required under 41 CFR 1-17.105 shall be prepared by the Office of Acquisition Management for approval and forwarding by the Director.

§ 44-17.402 Interagency coordination.

Where a case involves matters of interest to agencies other than FEMA, interagency coordination as prescribed by 41 CFR 1-17.208-2 shall be effectuated by the Office of Acquisition Management in consultation with the Office of General Counsel.

Dated: August 16, 1983.

Louis O. Giuffrida,

Director.

[FR Doc. 83-22938 Filed 8-25-83; 8:45 am]

BILLING CODE 6718-01-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-11

[FPMR Amdt. B-52]

Records Management; Records Equipment and Supplies; Stationery Standards; Correction

AGENCY: Office of Information Resources Management, GSA.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule on specifications governing Federal agencies' use of stationery standards that appeared at page 31033 in the **Federal Register** of Wednesday, July 6, 1983 (48 FR 31033).

FOR FURTHER INFORMATION CONTACT: Richard P. Stephenson, Mail, Correspondence and Files Management Branch (202-535-7462).

Accordingly, the General Services Administration is correcting FR Doc. 83-18118, 41 CFR 101-11.603-5, 101-11.603-12, and table 2 as follows:

1. In § 101-11.603-5, paragraphs (j) and (k) are redsignated as paragraph (j) and revised to read as follows:

§ 101–11.603–5 Printing of letterhead stationery.

* * * * *

(j) End-of-text marks, fold marks, and marks to align the address block in a window envelope are to be preprinted on all letterhead stationery, but the head of the agency or, if so delegated, the senior official for information resources management may grant a written exception to preprinted marks on formal letterhead;

* * * * *

2. In § 101–11.603–5, paragraph (l) is removed and paragraph (m) is redesignated as paragraph (k).

3. The second sentence in § 101–11.603–12 is removed.

4. In § 101–11.603–3, the Table of Standard Specifications, on page 31036, column 6, 1st item, is corrected to read "Determined by Federal Supply and Services."

5. Also in the Table of Standard Specifications, on page 31036, footnote 5 is corrected to read "Weight, per sheet, per square meter."

6. On page 31038, § 101–11.603–13, line 14, "Consequently" is corrected to "Consecutively."

Roger W. Walker,

Chief, Policy Branch.

[FR Doc. 83–23540 Filed 8–25–83; 8:45 am]

BILLING CODE 6820–26–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 421

Medicare Program; Nonrenewal of Carrier Contracts; Correction

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Correction of final rule.

SUMMARY: This document corrects technical errors that appeared in a final rule with comment period, published in the **Federal Register** on June 30, 1983. That rule clarified a regulation concerning the expiration of a contract between HCFA and a carrier.

FOR FURTHER INFORMATION CONTACT: Bernard Gelber, (302) 594–9700.

SUPPLEMENTARY INFORMATION:

On June 30, 1983, we published in the **Federal Register** (48 FR 30118) a final rule clarifying the meaning of the term nonrenewal, as contrasted with termination, of a contract between HCFA and a carrier.

Since publication, we have found that the authority citation we included was incorrect. This document corrects those errors. In addition, the authority citation applies to all of Part 421, not just to Subpart C as was erroneously stated.

FR Doc. 83–17815, "Medicare Program; Nonrenewal of Carrier Contracts," appearing at 48 FR 30118, June 30, 1983, is corrected as follows:

PART 421—INTERMEDIARIES AND CARRIERS

On page 30119, column 2, lines 13 through 17 are corrected to read as follows:

The authority citation for Part 421 reads as follows:

Authority: Secs. 1102, 1815, 1816, 1842, 1861(u), 1871, 1874 and 1875 of the Social Security Act (42 U.S.C. 1302, 1395g, 1395h, 1395u, 1395x(u), 1395hh, 1395kk and 1935ll) and 42 U.S. C. 1395b–1.

Approved: August 22, 1983.

Robert F. Sermier,

Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 83–23480 Filed 8–25–83; 8:45 am]

BILLING CODE 4120–03–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6555]

Suspension of Community Eligibility Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the flood plain management requirements of the program. If FEMA receives documentation that the community has adopted the required flood plain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register**.

EFFECTIVE DATES: The third date ("Susp.") listed in the fourth column.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Acting Chief, Natural Hazards Division, (202) 287–0270, 500 C Street Southwest, Donohoe Building, Room 505, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities are suspended on the effective date in the fourth column, so that as of that date flood insurance is no longer available in the community. However, those communities which, prior to the suspension date, adopt and submit documentation of legally enforceable flood plain management measures required by the program, will continue their eligibility for the sale of insurance. Where adequate documentation is received by FEMA, a notice withdrawing the suspension will be published in the **Federal Register**.

In addition, the Director of Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fifth column of the table. No direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood prone areas. (Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Director finds that notice and public procedure under 5 U.S.C. 533(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified. Each community receives a 6 month, 90 days, and 30 days notification addressed to the Chief Executive Officer that the community will be suspended unless the

required flood plain management measures are met prior to the effective suspension date. For the same reasons, this final rule may take effect within less than 30 days.

Pursuant to the provision of 5 U.S.C. 605(b), the Associate Director of State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. As stated in section 2 of the Flood Disaster Protection Act of 1973, the establishment of local flood plain management together with the availability of flood insurance decreases the economic impact of future flood losses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to (adopt) (enforce) adequate flood plain management, thus placing itself in non-compliance of the Federal standards required for community participation.

In each entry, a complete chronology of effective dates appears for each listed community.

List of Subjects in 44 CFR Part 64

Flood insurance, Flood plains.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date [1]
Region II					
New Jersey:					
Warren	Blairstown, township of	340482B	July 3, 1975, emergency; Sept. 1, 1983, regular; Sept. 1, 1983, suspended.	July 26, 1974, Jan. 16, 1976	Sept. 1, 1983.
Burlington	Evesham, township of	340097B	June 23, 1972, emergency; Sept. 1, 1983, regular; Sept. 1, 1983, suspended.	May 31, 1974, Feb. 27, 1976	Do.
Warren	Hackettstown, town of	340464B	Oct. 1, 1975, emergency; Sept. 1, 1983, regular; Sept. 1, 1983, suspended.	Jan. 13, 1978	Do.
New York: Orange	Harriman, village of	360618B	July 21, 1975, emergency; Sept. 1, 1983, regular; Sept. 1, 1983, suspended.	Mar. 8, 1974, Nov. 21, 1975	Do.
New Jersey: Middlesex.	Woodbridge, township of	345331C	Sept. 25, 1970, emergency; Sept. 1, 1983, regular; Sept. 1, 1983, suspended.	June 1, 1972, July 1, 1974, June 25, 1976.	Do.
Region III					
Maryland: Kent	Rock Hall, town of	240048B	Feb. 26, 1975, emergency; Sept. 1, 1983, regular; Sept. 1, 1983, suspended.	July 26, 1974, Sept. 12, 1975	Do.
Pennsylvania: York	Delta, borough of	422211A	Jan. 20, 1976, emergency; Sept. 1, 1983, regular; Sept. 1, 1983, suspended.	Nov. 22, 1974	Do.
Virginia: Tazewell	Unincorporated areas	5101608	May 13, 1975, emergency; Sept. 1, 1983, regular; Sept. 1, 1983, suspended.	June 2, 1978	Do.
West Virginia: McDowell.	Welch, city of	540123B	October 10, 1974, emergency; Sept. 1, 1983, regular; Sept. 1, 1983, suspended.	May 31, 1974, May 7, 1976	Do.
Region V					
Ohio:					
Lawrence	Athalia, village of	390688B	Aug. 12, 1976, emergency; Sept. 1, 1983, regular; Sept. 1, 1983, suspended.	Aug. 1, 1975, Sept. 8, 1976	Do.
Franklin	Groveport, village of	390174C	Nov. 7, 1974, emergency; Sept. 1, 1983, regular; Sept. 1, 1983, suspended.	May 31, 1974, June 11, 1976, Aug. 31, 1979.	Do.
Lawrence	Hanging Rock, village of	390690A	Dec. 9, 1976, emergency; Sept. 1, 1983, regular; Sept. 1, 1983, suspended.	Mar. 28, 1975	Do.
Stark	Unincorporated areas	390780B	Mar. 2, 1977, emergency; Sept. 1, 1983, regular; Sept. 1, 1983, suspended.	Jan. 13, 1978	Do.
Wisconsin:					
Walworth	Delavan, city of	550463B	Oct. 18, 1974, emergency; Sept. 1, 1983, regular; Sept. 1, 1983, suspended.	June 7, 1974, June 11, 1976	Do.
Waukesha	Oconomowoc, city of	550466B	May 1, 1975, emergency; Sept. 1, 1983, regular; Sept. 1, 1983, suspended.	May 17, 1974, Aug. 15, 1975	Do.
Michigan: Kent	Lowell, city of	260108	Dec. 27, 1974, emergency; May 16, 1983, regular; Sept. 1, 1983, suspended.	May 16, 1983	Do.
Region X					
Alaska: Nome Division.	Nome, city of	020069B	Aug. 9, 1977, emergency; Sept. 1, 1983, regular; Sept. 1, 1983, suspended.	June 28, 1974, Aug. 9, 1977	Do.

[1] Date certain Federal assistance no longer available in special flood hazard area.

(National Flood Insurance Act of 1968 (title XIII, Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: August 16, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-23449 Filed 8-25-83; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Part 101

Medicare, Medicaid, and Maternal and Child Health Services Block Grant Programs; Civil Money Penalties and Assessments for False or Improper Claims

AGENCY: Department of Health and Human Services.

ACTION: Final rule.

SUMMARY: These regulations specify procedures for implementing the authority provided to the Department by section 1128A and 1128(b) of the Social Security Act (the Act), as amended by section 2105 of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35) and section 137(b)(26) of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248), to impose administratively civil money penalties and assessments for making false or certain other improper claims or requests for payment in the Medicare, Medicaid, or Maternal and Child Health Services Block Grant programs. The statute also permits an individual upon whom the Department imposes a civil money penalty or assessment to be suspended from participation in the Medicare and Medicaid programs.

Under section 1128A violators may be fined up to $2,000 as a penalty for each false or improper item or service claimed and an additional assessment of up to twice the amounts falsely claimed. The procedures set forth in the regulations provide persons liable for civil money penalties and assessments an opportunity for a hearing on the record in accordance with the Administrative Procedure Act, for a discretionary appeal to the Secretary, and for judicial review of the Secretary's final determination.

DATE: These regulations are effective September 26, 1983.

FOR FURTHER INFORMATION CONTACT: Harvey Yampolsky, Assistant General Counsel, Inspector General Division, Room 5541, HHS North Building, 330 Independence Avenue, SW., Washington, D.C. 20201, (202) 472–5335.

SUPPLEMENTARY INFORMATION:

I. Regulatory Burden

Regulatory Impact Analysis

This regulation is not a major rule within the meaning of Executive Order 12291 because it does not meet any of the criteria set forth in section 1(b) of the Order, and thus does not require a regulatory impact analysis.

Regulatory Flexibility Analysis

This regulation establishes procedures for imposing civil money penalties, assessments, and suspensions against those who have violated existing requirements of the Medicare, Medicaid, and Maternal and Child Health Services Block Grant programs. It does not impose any new requirements on participants in those programs. Thus, under the Regulatory Flexibility Act, the Secretary certifies that the rule will not have a significant economic impact on a substantial number of small entities.

Recordkeeping and Reporting Requirements

This regulation imposes no recordkeeping or reporting requirements and therefore is not subject to the Paperwork Reduction Act of 1980 (Pub. L. 96–511).

II. Background

The Department published proposed rules for public comment on December 30, 1982. 47 FR 58309. During the 60-day comment period, the Department received and considered comments from 14 sources: four State agencies; four national associations; the Administrative Conference of the United States; one Congressman; one law firm; one public interest law center; one nursing home corporation; and one consulting firm.

Their comments, and our responses are set forth below in the section-by-section analysis. In addition, we made changes in the proposed rule, as follows:

III. Revisions

A. *Numbering.* After the notice of proposed rulemaking was published on December 30, 1982, when the Department proposed adding 45 CFR Part 100 to implement sections 1128A and 1128(b) of the Act, the Department published on January 24, 1983 a notice of proposing rulemaking to implement Executive Order 12372, which also proposed to add a new 45 CFR Part 100. Accordingly, we have designated the regulations implementing the civil monetary penalties statute as 45 CFR Part 101.

B. *Period of Limitations.* Although section 1128A of the Act does not contain a statute of limitations provision limiting the time within which an action may be instituted, and there were doubts whether any general limitations statute applied to proceedings under that section, we have added a regulation, § 101.132, which limits the Department's authority to commence a proceeding under section 1128A to five years from the date that the right of action accrues.

C. *Discovery.* We have liberalized to some extent the discovery provisions of the proposed regulation to permit the earlier exchange of witness lists, the prehearing discovery of prior statements by prospective witnesses, and for depositions of experts in support of or opposition to basing a proposed penalty or assessment on a statistical sampling study.

D. *Statistical Sampling.* To clarify the type of evidence admissible in proceedings brought under section 1128A, we have added section 101.133 which provides for the use of statistical sampling studies in establishing the number and amount of claims and/or requests for payment.

E. *Appeal to the Secretary.* In response to a comment from the Administrative Conference of the United States, we modified final section 101.125(f) to provide for discretionary, rather than mandatory, review by the Secretary.

F. *Administrative Hearing Details.* Final § 101.130 was expanded to provide for routine housekeeping details, such as the computation of time, the form and manner of filing and disposition of motions, and the like.

G. *Mitigating and Aggravating Circumstances.* Under section 1128A(c), before imposing any penalty or assessment the Secretary must consider in every case (1) the nature and circumstances of the claim, (2) the degree of culpability, history of prior offenses, and financial condition of the respondent, and (3) such other matters as justice may require. A number of commenters criticized the way we chose to limit the discretion of those considering these factors in proposing and imposing sanctions under the proposed regulation. Although we have preserved the general format of mitigating and aggravating factors, we have eliminated fixed numbers as triggering devices. As we gain greater experience in imposing sanctions under the statute, we may further refine the guidelines, but at this early stage, we believe that increased flexibility is preferable. At the same time, we have developed a range within which the amount of penalties and assessments should fall in most cases. As a general matter, penalties and assessments should never be less than double the

amount of damages. Where there are substantial or several aggravating circumstances, the combined penalty and assessment should approach or equal the statutory maximum, and where there are substantial or several mitigating circumstances; they should recede from the statutory maximum. In addition, decisions concerning suspension will be based on the same criteria as are used to determine penalties and assessments.

IV. General Comments

Comment: An association remarked that the regulations should be withdrawn because they fail to include any reference to the role of the Attorney General in authorizing the Secretary to initiate a proceeding under section 1128A(a) as provided in section 1128(b)(1) (42 U.S.C. 1320a–7a(b)(1)).

Response: Section 1128A(b)(1) (42 U.S.C. 1320a–7a(b)(1)) provides that the Secretary may initiate a proceeding under subsection (a) "only as authorized by the Attorney General pursuant to procedures agreed upon by them." A memorandum of understanding (MOU) between this Department and the Department of Justice establishes the procedures pursuant to which the Secretary will exercise authority under the statute. It is apparent from the face of the cited provision that the contents of the MOU are rules of procedure that need not be published under 5 U.S.C. § 553(b). It is clear that the procedures are to be mutually agreeable to the Secretary and to the Attorney General, and may be changed by them without notifying or consulting the public.

Comment: Three commenters criticized the regulations for failing to include limitation on the time period during which the Department could seek penalties, assessments, and/or suspensions under § 1128A(a) and § 1128(b). They noted that this could result in unfairness in cases where the passage of time would impair a respondent's ability to defend an action due to lack of memory on the part of witnesses, loss of documentation, etc. One suggested that the six-year statute of limitations in the False Claims Act (31 U.S.C. 3731(b)) might be appropriate. All suggested tailoring the limitations period to the time requirements imposed by the Medicare and Medicaid programs for the retention of records.

Response We agree that a limitations period should be stated expressly in the regulations. We have included final § 101.132, which bars the Department from proceeding against a party for violations concerning which a right of action has accrued more than five years before the filing of a Notice of Proposed Determination as provided in § 101.109(a). The five-year period chosen comports with 28 U.S.C. 2462, governing actions to enforce civil fines, penalties and forfeitures. This time period is sufficient to protect a respondent from being forced to defend stale claims.

Comment: In response to alleged statements by some Department employees that the regulations would permit imposition of penalties and assessments against States, one commenter noted that Congress did not intend to include States within the reach of the statute and that the definitions of "Person" and "State" in proposed § 100.101 did not support such an interpretation.

Response: Section 1128A(a) (42 U.S.C. 1320a–7a(a)) reaches broadly by its terms "any person (including an organization, agency, or other entity)" that presents or causes to be presented false or improper claims, or requests for payment. Thus, Congress clearly intended the Secretary to have authority to impose civil money penalties and/or assessments against those who present or cause to be presented such false or improper claims in the Medicare, Medicaid, and Maternal and Child Health Services Block Grant programs. Because State, county, and municipal institutions are among providers of services in these programs, they are within the ambit of the statute. Public entities may also be among those persons receiving grant funds from a State under the Maternal and Child Health Services Block Grant program. Nothing in the statute or legislative history provides a rationale for excluding these entities or their agents and employees from the scope of the plain meaning of the statute. Hence, we have clarified the proposed definition of "Person" in final § 101.101 by adding the words "public or private" following the word "entity". We recognize that the effect that imposing a penalty, assessment, or suspension on a public entity will have on State or local taxpayers supporting it may be a circumstance that justice may require us to consider.

Comment: A large number of commenters objected to the Department's intention, as stated in the preamble to the NPRM, to apply the statute to claims or requests for payment made before the statute's effective date, August 13, 1981. Some stated that this violated the ex post facto clause of the Constitution, others labeled it unfair, while some simply stated that retroactive application of the statute contravened congressional intent, express or presumed.

Response: The ex post facto clause of the United States Constitution, art. I, section 9, cl. 3, does not bar the retrospective application of this statute to claims filed before the act's effective date. It is well-settled that the clause pertains only to criminal statutes that make punishable conduct that was not criminal at the time it was committed, that increase the amount of punishment for past conduct, or that alter the rules of evidence to make it easier to convict a criminal defendant. *Calder* v. *Bull*, 3 U.S. (3 Dall.) 386 (1798).

Although Congress did not expressly make section 1128A applicable to claims made before the effective date of the statute, there is some indication in the legislative history that Congress intended it to so apply. The provision was conceived as an alternative remedy to criminal prosecution of cases of fraud, which were not being prosecuted. *See*, II H.R. Rep. No. 97–158, 97th Cong., 1st Sess. 344 (1981) and III H.R. Rep. No. 97–158, 97th Cong., 1st Sess. 329 (1981). The Senate Finance Committee estimated annual cost savings of $7 million for fiscal year 1982, which began two months after enactment. S. Rep. No. 97–139, 97th Cong., 1st Sess. 462 (1981).

Since 1863, Congress has provided for the United States to recover in a civil suit double damages and $2,000 forfeitures from those making or causing to be make false claims against the Federal Government. 31 U.S.C. § 3729, formerly 31 U.S.C. § 231. Section 1128A is closely modeled on that statute. Although there are some differences between them, we have restricted the retrospective application section 1128A to circumstances in which the respondent would have been liable under the False Claims Act. 45 CFR 101.114(b). With respect to claims presented before August 13, 1981, we have also limited substantive liability to that which would have been imposed under that statute.

As thus interpreted by the Department, section 1128A adds an alternative administrative procedure for the recovery of damages and forfeitures. As such, it falls within the principal exception to the general rule that statutes are presumed to operate prospectively: Where a statute changes a remedy or a procedure for the enforcement of a right without affecting the substantive liabilities of the parties, it is presumed to apply to all cases brought on or after the effective date even though the cause of action arose before that date.

Judged by the fairness considerations underlying both the ex post facto and the due process clauses, the retroactive

application of section 1128A in the manner proposed is not unfair. Those who filed false claims before the date of enactment of section 1128A were already on notice that their misconduct subjected them to liability for double damages and a $2,000 forfeiture per claim in a civil suit. *See, e.g., Peterson* v. *Richardson*, 370 F. Supp. 1259 (N.D. Tex. 1973), *aff'd sub nom. Peterson* v. *Weinberger*, 508 F.2d 45 (5th Cir. 1975), cert. *denied*, 423 U.S. 830; *United States ex rel. Davis* v. *Long's Drugs*, 411 F. Supp. 1144 (S.D. Cal. 1976). They have no vested right in a particular mode of procedure being used to determine that liability as long as the procedures employed afford due process. *Crane* v. *Hahlo*, 258 U.S. 142 (1922); *Montana Power Co.* v. *Federal Power Commission*, 144 App. D.C. 259, 445 F.2d 739 (D.C. Cir. 1970) (en banc), *cert. denied*, 460 U.S. 1013. Thus, retroactive application of the procedures specified in section 1128A neither deprives respondents of vested rights nor interferes with their reasonable expectations at the time they committed the acts giving rise to liability.

Comment: One State agency suggested that penalties be imposed where claims are false or improper due to consistent and inordinate inaccurate billing practices by those using tape billing and tape billing agents. Where such claims are consistently submitted by those failing to follow billing instructions, the State agency recommended that it be allowed to notify them that it would recommend them for civil money penalties and that it would not accept tape billing until the procedures were corrected.

Response: We believe that the statute and proposed regulations as worded already include the described practices. As to the State's authority to refuse tape billings, that is a question of State authority under its Medicaid plan.

V. Section-by-Section Analysis

Section 101.101 Definitions.

Comment: Two commenters objected to the definition of "item or service", which, in "the case of a claim based on costs" means "any entry or omission in a cost report, books of account or other documents supporting the claim." Because penalties and assessments are computed on the basis of "items or services" falsely claimed, the commenters thought it was unfair for the Department to reach behind the false entry on the cost report to multiply the number of false items or services found in the supporting documents.

Response: No change has been made in the final regulation. The definition of "item or service" is taken directly from the statute. 42 U.S.C. 1320a–7a(h)(3). Furthermore, we should note that the definition of "claim" in the statute, and reflected in our regulation, would include any application for reimbursement submitted by a hospital pursuant to the Department's procedures for making payment under the prospective reimbursement methodology authorized by Pub. L. 98–21.

Section 101.102 Basis for civil monetary penalties and assessments.

Comment: One commenter noted that the statute authorizes the imposition of a penalty only, not an assessment, when a person requests payment in violation of an assignment agreement under section 1842(b)(3)(B)(ii) or an agreement with a State agency not to charge a person for an item or service in excess of the amount permitted to be charged. The modification of section 1128A(a) by Pub. L. 97–248 clearly implies a distinction between "request for payment" and "claim" (defined in section 1128A(h)(2)), upon which an assessment is based.

Response: We agree. Sections 101.102 and 101.104 have been modified accordingly.

Comment: One commenter suggested that the regulation clarify that providers shall not be held liable for errors committed by State agencies or intermediaries in their instructions or interpretations to providers.

Response: This comment does not entail a change in the proposed regulation. The Department will not seek to impose a civil money penalty on a provider that detrimentally relied in good faith on the erroneous advice of the State agency or intermediary. Where the basis for a penalty is section 1128(a)(1)(A), the provider's good faith reliance on erroneous instructions or interpretations would tend to negate that the provider knew or should have known that the items or services for which it was claiming reimbursement were not provided as claimed. With respect to section 1128(a)(2), it is difficult to see how a provider could be held liable for violating an agreement with the State agency if it is interpreting the agreement in the same way as the State agency.

Comment: One commenter stated that the final regulations should clarify that providers should not be liable for claims for items or services made by others who provide contract services in the institution but who claim reimbursement independently under separate provider numbers.

Response: The comment does not require a change in the proposed regulation. Where a person provides services in an institution and files claims for such services as a separate entity, the institution would neither have presented nor caused to be presented false or improper claims, and hence would not be liable under the statute or the regulation.

Comment: One commenter recommended that this regulation specify criteria for determining when sevices are "substantially in excess of the needs of individuals" or "of a quality which fails to meet professionally recognized standards of health care" as used in section 1862(d)(1)(c) of the Act (42 U.S.C. 1395y(d)(1)(c)).

Response: No change is required in the proposed regulation. Because civil monetary penalties and assessments may be levied against persons under section 1128A(a)(1)(B) only if they present or cause to be presented claims for reimbursement *after* they have been suspended or excluded under the provision cited therein, it would not be appropriate to specify in regulations implementing section 1128A the criteria for excluding persons under section 1862(d)(1)(C).

Comment: One commenter stated that in enumerating the bases for imposition of a civil monetary penalty under section 1128A(a)(1)(B), the regulation should reference exclusion under section 1156 pursuant to a determination by a Professional Review Organization.

Response: The regulation includes all of the bases for exclusion cited in section 1128A(a)(1)(B) of the statute.

Section 101.104 Amount of assessment.

Comment: Two commenters objected that the proposed regulation permitted the Secretary to make assessments which exceed any damage the government may have suffered. They suggested that the final regulation should provide that the amount of the assessment be limited to twice the amount falsely claimed, as provided in the False Claims Act, 31 U.S.C 3729.

Response: The proposed regulation follows the statute, and no change is required. Under the False Claims Act (31 U.S.C. 3729, formerly 31 U.S.C. 231), the United States is entitled to recover, in addition to a forfeiture of $2,000 per false claim, "2 times the amount of damages the government sustains . . . ." and the costs of the civil action. Section 1128A(a), on the other hand, subjects the person filing a false or improper claim to "an assessment of not more than twice the amount claimed for each such item or service in lieu of damages sustained by the United States or a State agency because of such

claims." The amount of actual damages sustained as a result of fraud has often been difficult to prove. In enacting the latter provision, Congress clearly intended to obviate the need for the government to prove the amount of damages in order to make an assessment. Because the costs of investigating the false claim and of pursuing administrative sanctions are not separately recoverable, it is reasonable for Congress to have concluded that twice the amount claimed for such items or services would fully compensate the government for all losses incurred as a result of the claim.

However, although the statute *permits* the Secretary to assess *not more than* twice the amount claimed for such items or services, the Secretary exercises discretion in fixing the amount of the assessment, taking into account the factors listed in section 1128A(c). Hence, in instances where the actual damages to the government may be readily calculated, perhaps as a result of evidence supplied by respondents in mitigation of a proposed penalty, the amount of actual damages suffered by the government will be a factor that justice requires be taken into account in arriving at a proper assessment. *See*, comments and responses to § 101.106 *infra*.

Section 101.105 Suspension from participation in Medicare or Medicaid.

Comment: Two commenters noted that section 1128(b) (42 U.S.C. 1320a–7(b)) allows the State to request, and the Secretary to grant, a waiver of a requirement that the State suspend from the Medicaid program a person upon whom a civil money penalty or assessment has been imposed. The proposed regulation did not reflect this.

Response: The final regulation, § 101.105(a), has been revised to provide for waivers of suspensions from the Medicaid program when a shortage of providers or other health care personnel in the area would deny Medicaid beneficiaries access to medical care or when such beneficiaries would suffer hardship. This is similar to the situation under which waivers are currently granted under section 1128(a) (42 U.S.C. 1320a–7(a)). 42 CFR 455.214.

Comment: One commenter suggested that the regulation should make it clear that there can be no final decision by the Secretary if an appeal is pending.

Response: See, comments and response to § 101.128, *infra*.

Comment: Given the trauma that relocation may have on nursing home residents in the event the facility is suspended, a commenter recommended that a long-term care facility be suspended only "in the most egregious situations" and only after residents of the facility have been given notice and an opportunity to intervene.

Response: We recognize the significant interests that Medicaid and Medicare beneficiaries, as well as other residents in long-term care facilities, have in avoiding trauma associated with relocation. We believe that the suspension provisions of the statute and the proposed regulations take them into account in the following ways.

First, where the long-term care facility is faced with a proposed suspension in conjunction with a proposed civil money penalty or assessment, it will be in that facility's interest to present evidence of the hardships that residents would suffer if it were suspended. This is arguably a matter that justice requires be taken into account under the final regulation. 45 CFR 101.106 and 101.107.

Secondly, where the Secretary decides to suspend a long-term care facility under Medicare, a State may request a waiver from the Secretary to avoid its suspension under Medicaid as discussed above.

Finally, even after the facility is finally suspended, section 1128(c) (42 U.S.C. 1320a–7(c)) provides that payment may be made for up to 30 days with respect to post-hospital extended care services furnished to any eligible individual who was admitted to such institution prior to the effective date of the suspension.

To augment these protections further, we have provided in final § 101.105(c) that when the Inspector General proposes to suspend a long-term care facility from participation in Medicare and Medicaid, he will notify the appropriate State Office of Aging, the long term-care ombudsman, and the State Medicaid agency. The ombudsman or agency would then be in a position to inform the residents of the facility that the suspension has been proposed and to make arrangements for alternative placing in the event that the facility is subsequently suspended. Where the State officials determine that suspension of the provider would result in denying Medicaid beneficiaries adequate access to medical care, or in hardship for such beneficiares, they could suggest that the State Medicaid agency request a waiver under § 101.105(a).

We do not believe that the interests of nursing home residents also require that they be authorized to intervene as parties to the proceeding, which could unduly complicate and prolong the administrative proceedings.

Comment: A commenter recommended that the effective date of the suspension "should allow sufficient time to plan relocations carefully" in addition to the 30 days of continued Federal financial participation (FFP). The commenter did not recommend how long that might be.

Response: We believe that the response to the preceding comment addresses this concern. By notifying the State agency responsible for protecting the interests of its elderly citizens, particularly those in nursing homes, at the earliest time possible—when suspension is proposed—the Secretary gives those in a position to aid in the possible relocation as much time as possible to make alternative arrangements. In addition, the suspension, if it occurs, does not become effective until 15 days after the date it becomes final. This 15 days is in addition to the 30 days with respect to which FFP continues for post-hospital extended care services after the suspension becomes effective.

Comment: A commenter expressed concern for the continuity of care to beneficiaries whose practitioner or provider is suspended. He recommended that the regulations require the suspended person to inform his or her patients of his suspension and to recommend another approved practitioner or provider to continue services.

Response: We believe the final regulations answer these concerns. Section 101.129 has been amended to provide for public notice in the area served by a suspended person. *Cf.* 42 CFR 420.124. Furthermore, as the State Medicaid agency is notified, it should publicize the suspension among beneficiaries, social workers, and its employees to reduce hardship on the beneficiary population. With reimbursement suspended, the suspended person will have every incentive to inform his or its beneficiary patients. However, once a person is suspended, the Department no longer has any leverage to enforce an obligation upon the person to refer his or its patients to an approved provider or practitioner.

Comment: One Departmental commenter noted that the proposed regulation should eliminate the need for the Administrator of HCFA to concur in the decision to suspend a person as the authority to suspend and exclude persons from Medicare has been transferred from the Administrator of HCFA to the Inspector General.

Response: Final regulation § 101.105 has been revised in accordance with the comment to reflect the delegation of suspension and exclusion authority to

the Inspector General effective April 18, 1983.

Comment: One State agency noted that the proposed regulation is unclear regarding the effect that a person's suspension under section 1128(b) would have on the the person's participation under the Maternal and Child Health Services Block Grant program (MCH program).

Response: We agree. In providing for the suspension of a person from the Medicare and/or Medicaid programs under section 1128(b), Congress did not specify the effect that this would have on the person's continued participation, if any, under a State's MCH program even though misconduct in the latter program may be the basis for suspension from the former programs. Also, in restructuring title V of the Act in Pub. L. 97–35, Congress did not require States to suspend from participation in their MCH programs those persons who had been suspended from Medicare and/or Medicaid as Congress did with respect to Medicaid under section 1902(a)(39) of the Act (42 U.S.C. 1396a(a)(39)).

The absence of such a requirement is, of course, consistent with the block grant model, which permits greater latitude to the State in administering federal grants in aid.

However, if a person has been suspended from participation in the Medicare and/or Medicaid programs under section 1128(b), it seems reasonable to conclude that Congress intended the State to be able to suspend the person from its MCH program, especially where misconduct in that program is what prompted the imposition of civil money penalities and/or assessments and the suspension. Thus, final regulation § 101.129 provides that notice will be given to the State agency responsible for administering the State's MCH program under section 509(b) of the Act (42 U.S.C. 709(b)). The State may then take whatever steps it deems appropriate.

Section 101.106 Determining the amount of the penalty and assessment.

Comment: Several commenters criticized proposed subsection (b)(1). Two said that there should be a greater difference between those factors which would be considered aggravating and those which would be considered mitigating, *e.g.*, in proposed § 100.106(b)(1). Another challenged the dollar figures and other benchmarks as arbitrary.

Response: In consideration of the comments and upon further reflection, we have made several changes in this section. Under section 1128A(c), in determining the amount or scope of any penalty or assessment, the Secretary is obliged to consider "the nature of claims and the circumstances under which they were presented, the degree of culpability, history of prior offenses, and financial condition of the person presenting the claims, and such other matters as justice may require." We proposed to guide decision-makers' discretion in imposing penalties and assessments by refining these factors by rule, defining what would be considered aggravating and mitigating circumstances. We believed that this would ensure fairness and facilitate settlements because all parties would be able to calculate the appropriate penalty and/or assessment.

On the one hand, we recognized that such a process inevitably involves drawing lines, and that line-drawing inevitably invites the comment that the lines have been drawn arbitrarily. On the other, where few lines are drawn, the proposed rule is criticized for permitting the Secretary unfettered discretion in imposing penalties and assessments.

Ultimately, then, the question is one of balancing flexibility against predictability. In reconsidering these factors in light of the comments, we decided that without experience with the number of claims involved, the period over which they were submitted, the culpability of respondents, etc., the balance would be better struck, at least initially, in favor of more flexibility. Hence, although we continue to regard it as a mitigating circumstance where the total amount of the items and services claimed is less than $1,000, we have deleted a specific dollar figure for defining an aggravating circumstance.

Comment: A commenter suggested that "reciprocal billing", which it defined as the practice of one physician performing services for another physician where the latter bills as though he had performed the service himself (*e.g.*, as a weekend fill-in), should be "exempted" or considered a mitigating circumstance.

Response: If we understand the comment correctly, it is asking the Secretary to approve of this practice. Even if, as the commenter states, this is "common and accepted practice" and does not harm federally financed health programs, this regulation is not the place for such a policy determination to be given expression. In any case involving "reciprocal billing", the Inspector General's determination would be guided by the applicable standards of HCFA.

Comment: Several commenters took exception to proposed §100.106(b)(2), concerning degree of culpability. One commenter thought that to consider it a mitigating circumstance if the false or improper claim was the result of an unintentional or unrecognized error was inconsistent with proposed § 100.102(a)(1)(i). Another objected that it should not be a mitigating factor that an improper claim was the result of unintentional or unrecognized error; "a simple, honest mistake" should not subject anyone to liability for a penalty or assessment. Still another commenter objected that "knowledge" should not be an aggravating factor because it is "simply an element of the offense."

Response: These comments show a misunderstanding of the proposed regulation. Although liability for submitting a "false" claim under section 1128A(a)(1)(A) requires that respondent "knows or has reason to know" that the items or services for which payment is claimed were not provided as claimed, "knowledge" *per se* is not an element of any of the practices giving rise to liability under section 1128A(a). In fact, as noted above, the language just quoted indicates that Congress intended to subject to civil money penalty liability those who present or cause to be presented claims for items or services that they did *not* know, but *should* have known, were not provided as claimed. Sections 1128A (a)(1)(B) and (a)(2) are completely silent as to any element of knowledge or intent on the part of the respondent.

The statute sweeps within its ambit not only the knowing, but the negligent, and we are obliged to give it its scope. Under section 1128A(c)(2) we are also obliged to consider the "degree of culpability" in determining the amount or scope of any penalty or assessment. Thus, it seems reasonable to conclude that Congress intended that those who had inadvertently and unintentionally made a false or improper claim or request for payment, all other things being equal, should not be subjected to as large a penalty or assessment as those who did so knowingly and intentionally. This judgment is reflected in final § 101.106(b)(2).

Comment: A commenter noted that the reference in the last sentence of proposed § 100.106(b)(2) should have been "§ 100.102 (a)(1)(ii) or (a)(2)" rather than § 100.102 (a) or (b)". Another disagreed with language in proposed § 100.106(b)(2) that made it an aggravating circumstance "for claims subject to a determination under § 100.102 (a) or (b)," if the respondent "knew that no payment could lawfully be made for the claim." The commenter regarded this provision as usurping a

providers' statutory right to challenge in court the intermediary's and HCFA Administrator's determination on disputed elements of cost.

Response: The first commenter is correct, and final § 101.106(b)(2) has been modified to reflect our original intent to make an aggravating circumstance the knowing submission of false claims or the knowing making of claims or requests for payment that cannot be paid because a person had been excluded from program reimbursement or because payment would violate an assignment agreement under section 1842(b)(3)(B)(ii) of the Act or an agreement with a State agency.

Contrary to the second commenter's assertion, the proposed regulation was not an "attempt to preempt a provider's legal right to challenge an administrative determination as to the allowability of cost elements of service". Where a provider claims costs it has incurred in providing services to beneficiaries in order to preserve its right to appeal a denial of those costs by the intermediary, the claim is not false under the statute or the regulation. The cost report represents that the provider incurred costs in providing items and services to beneficiaries. It is then up to the intermediary, the PRRB, and the Administrator to determine whether they are allowable under Medicare as costs reasonably related to patient care.

Comment: A commenter recommended that proposed § 100.106(b)(3) should make it clear that "prior offense" is one other than that complained of in the present proceeding, and stated that a final determination of culpability must have been made.

Response: We believe that the proposed regulation was sufficiently clear that the term "prior offenses" does not include the claims or requests for payment that are the subject of the instant proceeding. Further, we do not intend to utilize prior offenses as an aggravating factor unless there has been a final adjudication of liability. In the case of criminal and civil sanctions, a judgment of a United States District Court or state trial court would constitute such a final adjudication. In the case of administrative sanctions, final agency action on the sanction would constitute a final adjudication. The pendency of appeals from such final adjudications will not affect their finality for the purposes of this section. This is in accord with established principles of res judicata and collateral estoppel. Finally, although prior offenses related to reimbursement for medical services will always be an aggravating circumstance, there will be times when justice may require that certain other convictions be considered an aggravating circumstance under § 101.106(b)(5). For example, a conviction for a white collar crime, such as embezzlement, would reflect on the trustworthiness of the respondent, and would therefore be a circumstance to take into account.

Comment: A number of commenters criticized proposed § 100.106(b)(4) for making a provider's or person's "secure financial position" an aggravating circumstance. One remarked that a person's sound financial condition should be taken into account only if the person profited substantially from the conduct constituting a violation. All said that penalties or assessments should be based on the seriousness of the offense, not on the financial condition of the person, which is tantamount to penalizing the financially successful.

Response: We have deleted sound financial condition as an aggravating circumstance in final § 101.106(b)(4). However, consistent with our view of congressional intent that in all cases the Secretary must consider a person's financial condition, we have provided that the resources available to a respondent will be considered in determining the amount of the penalty and assessment.

Comment: A number of commenters challenged proposed § 100.106(c)(1) for fixing the amount of the assessment at "twice the amount of the claim" as a "general matter". Instead, it should be related to damages. One commenter also noted that proposed § 100.106(c) was deficient in failing to take account of the possibility of mitigating factors.

Response: We have revised subsection (c). As indicated in response to a previous comment, we have deleted many of the specific bench-marks delineating aggravating and mitigating circumstances. However, subsection (c) provides that where there are substantial or several mitigating circumstances, the aggregate amount of the penalties and assessments should be set sufficiently below the maximum amount permitted to be set by § 101.103 to reflect that fact. Conversely, where there are substantial or several aggravating circumstances, the aggregate amount should be set at or sufficiently close to the maximum amount permitted to reflect that fact. As a general matter, unless there are extraordinary mitigating circumstances, the amount of the penalties and assessments should not fall below double the amount of damages sustained by the United States or a State government where the amount of damages can be ascertained readily. Although we intend to follow these guidelines, § 101.106(d) provides for the exceptional case by indicating that the provisions of § 101.106 are what we have labelled them—"guidelines". Section 101.106(d) also clearly states that the provisions of § 101.106 do not in any way limit the Department's ability to settle any issue or case as provided in § 101.126 or to compromise any penalty and assessment as provided by § 101.128.

Section 101.107 Determining the duration of a suspension.

Comment: One commenter remarked that proposed regulation §§ 100.105 and 100.107 seem to permit the suspension of a person upon whom a penalty or assessment has been imposed "in the seemingly uncontrolled discretion" of the Secretary or the Administrator of HCFA "without regard to the person's . . . state of mind." (*See also,*. the following comment and response). The commenter suggested that suspension should only occur where the person has acted in reckless disregard of the person's obligations.

Response: Section 1128(b) permits the Secretary to suspend from Medicare and to order suspended from Medicaid a person upon whom a penalty or assessment under section 1128A has been imposed. Congress established factors to guide the Secretary's discretion in imposing penalties and assessments in section 1128A(c), the predicate to suspension under section 1128(b). Because Congress evidently conceived of civil money penalties and assessments and suspension from participation in federally funded health care programs as a sanctions package with remedial and prophylactic aspects, it is appropriate that the same factors be considered in determining whether to suspend a person and for what period of time. Final regulation § 101.107 reflects that judgment by incorporating the factors of § 101.106. We have also added a provision that where there are aggravating circumstances, a person should be suspended.

Final regulation § 101.106(b)(2) provides that the respondent's knowledge or lack thereof be considered in imposing these sanctions. However, we find no support in the statute for the commenter's position that only those who act in reckless disregard of their obligations should be suspended; both the language and the standard are foreign to it.

Comment: A number of commenters attacked proposed § 100.107 as unacceptably vague. Some also regarded the $5,000 penalty-assessment figure as too low a threshould to trigger

suspension. Furthermore, two commenters also said that revised guidelines should apply not only to the duration of the suspension but to a determination of whether to suspend.

Response: Final § 101.107 has been substantially rewritten. It requires the decision-maker to take account of the factors under § 101.106 in reaching a decision to suspend and if so, for how long a period of time. All references to a specific dollar amount triggering suspension have been deleted. Particularly in instances where a heavy penalty and assessment would be warranted but for the poor financial condition of the respondent, the Department may consider its interests vindicated if the respondent is simply suspended from further participation in federally financed health care programs.

Section 101.108 Penalty not exclusive.

Comment: One commenter said that proposed § 100.108 should give specific examples of other laws prescribing penalties.

Response: No change is required. The regulation reiterates a provision of section 1128A(a) that civil monetary penalties and assessments are "in addition to any other penalties that may be prescribed by law". We decline to enumerate all other penalties that are currently or later may be prescribed by law—State or federal. Most obviously, this statute makes it clear that the imposition of criminal penalties does not foreclose the Secretary from imposing civil money penalties and assessments. *Cf. e.g.*, sections 1877 and 1909 of the Act (42 U.S.C. 1395nn and 1396h). The filing of false claims is also grounds for the Secretary to exclude a person from Medicare under section 1862(d) or to terminate a provider agreement under section 1866(b)(2). Regardless of whether these are denominated "penalties", it is clear that civil money penalties and assessments may be imposed in addition to exclusion or termination.

Section 101.109 Notice of proposed determination.

Comment: One commenter regarded proposed § 100.109 as deficient for failing specifically to require the notice to inform respondent of his or its right to an administrative hearing and that failure to respond to the notice could result in automatic imposition of the penalty, assessment, and/or suspension. The commenter suggested that the notice warn in bold letters of the consequences of a failure to respond, and also recommended that where proposed penalties and assessments exceed $1,000, a second notice be sent before the 30-day period commences.

Response: By providing that the notice contain "instructions for responding to the notice; and a copy of the rules", the proposed regulation provided for adequate notice to insure that respondents did not inadvertently waive their rights. Nonetheless, we have added to final § 101.109 a requirement that the notice state respondent's right to a hearing and to request an extension of time and that failure to request a hearing permits imposition of the penalty, assessment, and/or suspension without further right to appeal. We see no reason to require that these elements of notice be highlighted by bold-face type.

We disagree with the comment insofar as it implies that even with these more specific notice provisions it is somehow unfair for the penalties, assessments, and suspensions to take effect upon respondent's failure to respond to the notice. The notice is the functional equivalent of a complaint and summons in a civil proceeding, which a defendant is required to answer to avoid entry of a default judgment against him.

We fail to see how anyone's interest is substantially served by prolonging the process by requiring the Inspector General to send a second notice before imposition of the sanctions. No change is made in this regard.

Comment: One commenter requested that the time for response be extended from 30 days to 60 days.

Response: We believe that in most cases, 30 days will be sufficient time within which to respond; however, final § 101.109(c) allows the Inspector General to extend the 30 day period for good cause shown.

Comment: Two commenters recommended that the respondent be given an opportunity to correct deficiencies and present mitigating factors informally to the Inspector General or to seek modification of the penalty proposed or request a hearing on the limited issue of the amount of the penalty or assessment or the length of the suspension.

Response: We believe that the regulation as proposed adequately meets these concerns. Nothing prevents the respondent from correcting deficiencies whether or not the respondent seeks a hearing. By requesting a hearing, thereby preserving the right to contest in whole or in part liability or the severity of the sanctions proposed, a respondent is not prevented from engaging in negotiations with the Inspector General concerning possible settlement. *See, e.g.*, final § 101.126. In fact, we believe that the procedures we have proposed not only permit, but facilitate, fruitful negotiation. We think that requiring the respondent to state his or its position in an answer responding to the Inspector General's position encourages negotiation before hearing. Should negotiations break down, the process is already on track toward a hearing, and is not subject to further delay in determination of the rights of the parties. This encourages the parties to negotiate in good faith and not merely to delay the process. Accordingly, we have not adopted these suggestions.

Comment: One commenter said the regulations were unclear concerning the Department's obligation to inform a respondent that he or it faces suspension, and for how long, at the same time it notifies respondent of proposed penalties and assessments.

Response: Both proposed § 100.109 and final § 101.109 provide that the Inspector General shall include a proposal to suspend in its notice to respondent concerning proposed penalties and assessments.

Section 101.110 Failure to request a hearing.

Comment: A commenter suggested that the Inspector General's denial of a request for an extension under proposed § 100.109(c) should be appealable, and imposition of the penalty should be tolled pending resolution of the appeal.

Response: We anticipate that the Inspector General will grant extensions of the 30 day period for good cause shown. We have attempted to make the procedures for adjudicating liability under the civil monetary penalty statute both fair and expeditious. Little is to be gained by adding an appeals mechanism to resolve a single preliminary issue, and such a mechanism could readily thwart the resolution of substantive issues by encouraging all respondents to request extensions, and if denied, to appeal their denial. No change has been made in final § 101.110.

Section 101.111 Initiation of a hearing.

Comment: A commenter expressed concern with the use of administrative law judges as presiding officers over the hearing in view of allegations that the agency (Office of Hearings and Appeals of the Social Security Administration) has established production quotas for administrative law judges and has pressured them to decide cases in favor of the agency.

Response: Section 1128A(b)(2) (42 U.S.C. 1320a–7a(b)(2)) provides that "[t]he Secretary shall not make a determination adverse to any person

under subsection (a) until the person has been given written notice and an opportunity for the determination to be made on the record after a hearing * * *" 5 U.S.C. 554(a) makes section 554 applicable "in every case of adjudication required by statute to be determined on the record after opportunity for an agency hearing, * * *" with some exceptions not here applicable. 5 U.S.C. 554(c) states that "the agency shall give all interested parties opportunities for * * * hearing and decision on notice in accordance with sections 556 and 557 of this title." 5 U.S.C. 556(b) provides that the agency, one or more of the members of the body comprising the agency, or one or more administrative law judges appointed under 5 U.S.C. 3105 shall preside at the taking of evidence.

The statute requires a hearing conducted pursuant to 5 U.S.C. 554, and, unless the agency or one or more of the members comprising it is to preside at the taking of evidence, the Administrative Procedure Act requires that administrative law judges preside.

The Department currently intends to have cases under section 1128A heard by one or more administrative law judges placed under the Departmental Grant Appeals Board rather than in the Social Security Administration's Office of Hearings and Appeals.

Section 101.114 Issues and burdens of proof.

Comment: Two commenters argued that the standard of proof in all circumstances, not only with respect to claims presented before the effective date of the statute, should be clear and convincing, as is required in most federal circuits to establish liability under the False Claims Act, 31 U.S.C. 3729 *et seq.*

Response: We have not made the requested change. As discussed above under comments on § 101.111, section 1128A requires that the Secretary provide an opportunity for a hearing under the Administrative Procedure Act, 5 U.S.C. 554, 556, 557. In *Steadman* v. *Securities and Exchange Commission*, 450 U.S. 91, 94, *rehearing denied*, 451 U.S. 933 (1981), the SEC has found by a preponderance of the evidence that the petitioner had violated, *inter alia*, certain anti-fraud provisions of the Securities Act of 1933, the Securities Exchange Act of 1934, and the Investment Advisers Act of 1940, had barred him from associating with any investment adviser or affiliating with any registered investment company, and had suspended him for one year from associating with any broker or securities dealer. The Court upheld the SEC, holding that in enacting section 7(c) of the Administrative Procedure Act (codified at 5 U.S.C. 556(d)), Congress intended to establish a standard of proof and to adopt the traditional preponderance-of-the-evidence standard in hearings thereunder. *Id.* at 102. As we see no countervailing constitutional consideration nor any higher burden dictated by statute, we will adhere to the standard chosen by Congress to govern hearings under the Administrative Procedure Act.

Comment: One commenter suggested that language be added to proposed § 100.114(c) that would clarify (1) that the final determination in the earlier proceeding was made with respect to the same claims at issue in the civil monetary penalties proceeding and (2) that the respondent was a party in the earlier proceeding.

Response: We believe that the proposed regulation was sufficiently clear concerning the first point. We agree as to the second point, and have modified final § 101.114(c) accordingly.

Section 101.116 Rights of parties.

Comment: A commenter stated that parties should be able to compel the appearance of witnesses.

Response: We agree in principle. However, the statute does not provide for compulsory process in these proceedings. Under 5 U.S.C. 556(c), "subject to published rules of the agency and within its powers, employees presiding at hearings may * * * (2) issue subpoenas authorized by law". Thus, the administrative law judge's authority to compel testimony depends on the Secretary's authority to do so.

42 U.S.C. 1395ii incorporates by reference 42 U.S.C. 405(d), giving the Secretary authority to issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence in matters relating to the administration of the Medicare program. However, no such statute makes similar provision with respect to titles V and XIX, and no general statute confers that power on the Secretary with respect to matters within her jurisdiction. Thus, the regulation restricts the authority of the administrative law judge to issue subpoenas to cases involving the Medicare program.

The Department will consider the feasibility of seeking curative legislation on this point.

The final regulations dealing with subpoenas have been revised. Section 101.116(b) makes clear a party's right and the administrative law judge's duty to compel the attendance of witnesses and the production of evidence in cases involving Medicare. Section 101.116(b) also obliges a party in all hearings to produce for examination upon another party's request any person over whom it has control. A party or prospective witness may file an objection to a notice to appear or a motion to quash a subpoena. That section also provides for enforcement under section 205(e) of the Act.

Section 101.117 Discovery.

Comment: Several commenters urged that proposed § 100.117 should be revised to provide for full discovery. One suggested the first sentence be changed to provide that the ALJ must allow a requesting party to inspect and copy all documents relevent to the issues in the proceeding that are in the possession or control of the other party. Three commenters stated that the prior statements of witnesses should be made available before the hearing and that depositions, interrogatories, and other forms of discovery should be authorized. One commenter also noted that discovery from experts upon whom the Inspector General intended to rely in cases involving the use of statistical samples is crucial to giving respondents a fair hearing. That comment also stated that there should be included a mechanism for a party to gain access to documents under the control of non-parties.

Response: We have adopted the first suggestion by changing "may" to "shall" in final § 101.117(a).

We have added a new paragraph (c) to final § 101.117 providing for the exchange of witness lists and hearing exhibits before the hearing. At that time, prior statements of witnesses will also be exchanged.

Because we anticipate that as a general matter, issues in these cases will hinge on documentary evidence, we have not provided for full-scale pre-hearing discovery akin to that provided in the Federal Rules of Civil Procedure. We have provided for prehearing access to all unprivileged documents relevant to issues in the proceeding and under the control of another party. Beyond that, in our estimation, the potential for harassment and unnecessary delay outweighs the limited marginal utility of more expansive discovery rights. We have also added a proviso that the regulation shall not be interpreted to require the disclosure of internal government documents prepared in conjuction with the investigation or litigation of the case, such as documents subject to attorney work product and attorney-client privilege.

In final § 101.117(b) we have provided for depositions in the cases in which the Inspector General intends to introduce the results of a satistical sampling study. In such cases, upon request of the respondent, the Inspector General shall make available for deposition, in accordance with Rules 28 and 30 of the Federal Rules of Civil Procedure, the individual(s) responsible for conducting the statistical sampling study. Likewise, a respondent shall make available for deposition any expert whose testimony it intends to introduce to rebut the statistical sample. Failure to make experts available under the regulation bars their testimony or other evidence from them at the hearing.

With respect to compelling the production of documents in the control of third parties, the Secretary, as indicated above, has authority to issue subpoenas only in cases involving Medicare.

Section 101.118 Evidence and witnesses.

Comment: One commenter remarked that "[e]liminating the 'technical rules of evidence' from the hearing is inequitable."

Response: We fail to see how eliminating technical rules of evidence operates to the advantage of one of the parties and hence is inequitable. Furthermore, it is well established that technical rules of evidence applicable in civil jury trials are neither required nor generally employed in hearings under the Administrative Procedure Act. 5 U.S.C. 556(d). In the absence of any rationale offered by the commentor for doing so, we decline to eschew the well-recognized advantages of less restrictive rules of evidence. *See generally,* 3 Davis, Administrative Law Treatise, 2d ed. § 16.4 (1980).

Section 101.120 Ex parte contacts.

Comment: One commenter objected to proposed § 100.120(a), indicating that it was unclear what ex parte matters or what "facts in issue" might require a party to consult with the administrative law judge in the absence of other parties. Two other commenters said that consultation should be restricted to "minor procedural issues", and a record of such consultations should be kept and made available to all parties.

Response: The language in proposed § 100.120(a) was based on 5 U.S.C. 557(d). It was designed to prohibit all ex parte consultations between the administrative law judge and any party on any matter in issue. We have revised final § 101.120(a) to permit ex parte contacts only with respect to the issuance of subpoenas.

The provisions of 5 U.S.C. 557(d) apply to proceedings under this part. 5 U.S.C. 557(d)(1)(C) requires, "the administrative law judge" or any "other employee who is or may reasonably be expected to be involved in the decisional process" to place on the public record of the proceeding a record as specified therein if he "receives or . . . makes or knowingly causes to be made, a communication prohibited by [that] subsection." The agency may then consider a knowing violation of that section sufficient grounds for a decision adverse to the party violating the prohibition. 5 U.S.C. 556(d).

Comment: Two commenters remarked that intervention should be permitted when useful for clarification of issues or when justice may require. As noted and addressed above, another commenter favored intervention by program beneficiary residents of long-term care facility respondents threatened with suspension.

Response: The interests of non-parties, including beneficiaries, can be recognized and considered without allowing them to intervene as parties with full rights of presenting and cross-examining witnesses, attending prehearing conferences, being party to settlement discussions, and the like. Although their interests are not inconsequential, they will be tangential to the fundamental dispute between the Inspector General and the respondent, *viz.*, liability for the severity of proposed penalties, assessments, or suspensions. Allowing them to participate as witnesses, if called by either party or the administrative law judge, would not encumber the process with additional parties litigant.

Section 101.123 Post-hearing briefs.

Comment: One commenter stated that the final regulation should provide for more flexibility by allowing the administrative law judge to extend the thirty-day time limit for submission of briefs, and that the thirty-day limit should begin with the date of receipt of the transcript rather than the termination of the hearing.

Response: We have adopted these suggestions in part. Final regulation § 101.123 provides that the thirty-day period will begin with receipt of the hearing transcript by the parties. It also provides that the administrative law judge may extend the period for up to 60 days in cases of unusual length or complexity or for other good cause shown upon motion of a party.

Section 101.125 Initial decision: administrative review; finality.

Comment: One commenter recommended that proposed § 100.125(f) be modified so that the Secretary retains discretion to review or refuse to review administrative law judges' decisions rather than making review mandatory at the instance of any party. This would conform with Recommendation 68–6(b) the Administrative Conference of the United States. 1 CFR 305.68–6.

Response: We have adopted this suggestion and revised final § 101.125 to provide for review of the administrative law judge's initial decision at the discretion of the Secretary. The Secretary's decision to grant or deny review is not itself reviewable. The only decision that is reviewable is the final decision of the agency, *i.e.*, (a) the initial decision of the administrative law judge if no exceptions are filed or if the Secretary denies review, or (b) the final decision of the Secretary upon discretionary review.

Comment: Two commenters noted the dual review anomaly created by the statute: civil money penalties and assessments are reviewable in the United States Court of Appeals under section 1128a(d) (42 U.S.C. 1320a–7a(d)); whereas, a suspension imposed as a result of a civil money penalties and assessment determination under section 1128(b) (42 U.S.C. 1320a–7a(b)) is reviewable in district court under section 1128(d) (42 U.S.C. 1320a–7(d)).

One of the commenters recommended that we seek legislative correction. The other commenter suggested that the regulation be amended to compel the Secretary to file a motion for a stay in the district court pending a decision by the circuit court on the penalties and assessments when dual appeals have been filed in both the district and the circuit courts, and the suspension is based on civil money penalties and assessments.

Response: The Department will consider the possibility of seeking legislation to correct the situation. While we agree with the idea that until the statute is amended a stay should be sought in the district court, there is no reason why the Secretary should be obliged to seek it. Especially since the adversely affected party will be filing the appeals, it seems more reasonable for that party to move for a stay.

Section 101.126 Settlements.

Comment: One commenter suggested that there ought to be some mechanism whereby the "Secretary's office" is

informed of the Inspector General's intent to settle.

Response: We agree that if the Secretary has agreed to review a case, the Inspector General should inform the Secretary if the case is settled after a hearing and before a final action by the Secretary; however, as that is an internal matter, we do not believe that this comment requires a change in the regulation.

Section 101.127 Judicial review.

Comment: Three commenters objected to proposed § 100.127 because it appeared to preclude judicial review in cases where a respondent's failure to file an exception to an administrative law judge's finding or conclusion could be "excused because of extraordinary circumstances" as permitted by section 1128A(d) (42 U.S.C. 1320a–7a(d)).

Response: We have amended final § 100.127 to conform to the statute.

Section 101.128 Collection of penalty and assessment.

Two commenters wrote that proposed § 100.128 should make it clear that penalties, assessments, and/or suspensions cannot be imposed unitl all appeals have been exhausted.

Response: Sections 101.125(f) (3) and (4) have been revised to make clear that the Secretary's determination (or the ALJ's determination, in the case where the Secretary declines review) becomes final for the purpose of §§ 101.105(b) and 101.128 sixty days after the respondent receives notice of the final determination. This finality is not affected by the pendency of an appeal. This position is in accord with the clearly stated intent of Congress in enacting section 1128A(f) (42 U.S.C. 1320a–7(f)). See H.R. Rep. 97–208, 97th Cong., 1st Sess. Book 2 (Conference Report) p. 950. Further, this position comports with general administrative practice whereby final administrative orders take effect regardless of the pendency of an appeal, unless an administrative or judicial stay is granted. *Cf.*, 5 U.S.C. 705. *See also*, Fed. R. Civ. P. 62; Fed. R. App. P. 18.

Section 1128A does not provide otherwise, and application of the standard rule on finality will discourage frivolous appeals solely to delay payment of penalties and assessments or imposition of a suspension.

We have added a new subsection (5) to § 100.125(f), which creates a procedure for a respondent to seek a stay of the effective date of the final determination pending judicial review. Such requests must be made to the ALJ, who may grant such requests where justice so requires and to the extent necessary to prevent irreparable harm. A determination requiring the payment of money will not be stayed except where the respondent gives a bond or other adequate security.

A decision by the ALJ refusing to grant a stay is not appealable to the Secretary. However, the respondent may seek a stay from the reviewing court.

Section 101.129 Notice to other agencies.

Comment: One commenter said that notice should not be given until all appeals are exhausted.

Response: Section 1128A(g) (42 U.S.C. 1320a–7a(g)) provides that "'[w]henever the Secretary's determination to impose a penalty or assessment under subsection (a) of this section becomes final, he shall notify" specified organizations and agencies of the fact and the reasons therefor. As discussed in response to the preceding comment, we interpret "final" in the statute and final § 100.129 as meaning at the expiration of the sixty-day period following the respondent's receipt of the final decision. However, § 100.125(f)(5) permits the respondent to seek a stay of imposition of the suspension.

Comment: One commenter noted that the proposed regulations did not provide for public notice of suspensions as required by 42 U.S.C. 1320a–7(c).

Response: Final § 100.129 provides for notice to the public of final determinations to suspend a person.

List of Subjects in 45 CFR Part 101

Penalties, Medicare, Medicaid, Administrative practice and procedure, Archives and records, Grant programs—social programs, Maternal and child health.

45 CFR Subtitle A—Department of Health and Human Services—is amended as set forth below:

1. The table of contents of Subtitle A is amended by adding at the end thereof the following:

Part

101 Civil Money Penalties and Assessments

2. Subtitle A is amended by adding after Part 100 the following new Part 101:

PART 101—CIVIL MONEY PENALTIES AND ASSESSMENTS

Sec.

101.100 Basis and purpose.
101.101 Definitions.
101.102 Basis for civil money penalties and assessments.
101.103 Amount of penalty.
101.104 Amount of assessment.
101.105 Suspension from participation in Medicare or Medicaid.
101.106 Determinations regarding the amount of the penalty and assessment.
101.107 Determinations regarding suspension.
101.108 Penalty not exclusive.
101.109 Notice of proposed determination.
101.110 Failure to request a hearing.
101.111 Initiation of hearing.
101.112 Parties.
101 113 Notice of hearing.
101.114 Issues and burden of proof.
101.115 Authority of ALJ.
101.116 Rights of parties.
101.117 Discovery.
101.118 Evidence and witnesses.
101.119 Exclusion from the hearing for misconduct.
101.120 Ex parte contacts.
101.121 Separation of functions.
101.122 Official transcript.
101.123 Post-hearing briefs.
101.124 Record for decision.
101.125 Initial decision; administrative review; finality.
101.126 Settlement.
101.127 Judicial review.
101.128 Collection of penalty and assessment.
101.129 Notice to other agencies.
101.130 Form, filing and service of papers; computation of time; motions, deposition of motions.
101.131 Records to be public.
101.132 Limitations.
101.133 Statistical sampling.

Authority: Sec. 1102, 1128 and 1128A of the Social Security Act (42 U.S.C. 1302, 1320a–7 and 42 U.S.C. 1320a–7a).

§ 101.100 Basis and purpose.

(a) *Basis.* This part implements sections 1128A and 1128(b) of the Social Security Act (42 U.S.C. 1320a–7a and 1320a–7(b)).

(b) *Purpose.* This part (1) establishes procedures for imposing civil money penalties and assessments against persons who have submitted certain prohibited claims under the Medicare Medicaid, or the Maternal and Child Health Services Block Grant programs; (2) establishes procedures for suspending from the Medicare and Medicaid programs, persons against whom a civil money penalty or assessment has been imposed; and (3) specifies the appeal rights of persons subject to a penalty or assessment.

§ 101.101 Definitions.

For purposes of this part:

Act means the Social Security Act.

Agent includes a Medicare fiscal intermediary or carrier, a Medicaid fiscal agent, or any other claims processing agent under the Medicare, Medicaid, or Maternal and Child Health Services Block Grant program.

ALJ means an Administrative Law Judge.

Assessment means the amount described in section 101.104, and includes the plural of that term.

Claim means an application submitted by a person to an agency of the United States or of a State, or an agent thereof, for payment for:

(a) An item or service for which payment may be made under Medicare, or

(b) An item or service for which medical assistance is provided under a State plan for medical assistance, or

(c) An item or service for which payment may be made under the Maternal and Child Health Services Block Grant program.

Department means the Department of Health and Human Services.

General Counsel means the General Counsel of the Department or his designees.

HCFA means the Health Care Financing Administration.

Inspector General means the Inspector General of the Department or his designees.

Item or service includes (a) any item, device, medical supply or service claimed to have been provided to a patient and listed in an itemized claim for program payment or a request for payment, and (b) in the case of a claim based on costs, any entry or omission in a cost report, books of account or other documents supporting the claim.

Maternal and Child Health Services Block Grant program means the program authorized under title V of the Act.

Medicaid means the program of grants to the States for medical assistance authorized under title XIX of the Act.

Medicare means the program of health insurance for the aged and disabled authorized under XVIII of the Act.

Penalty means the amount described in § 101.103, and includes the plural of that term.

Person means an individual, trust or estate, partnership, corporation, professional association or corporation, or other entity, public or private.

Program means the Medicare, Medicaid or Maternal and Child Health Services Block Grant program.

Request for payment means an application submitted by a person to any person for payment for an item or service covered under the Medicare, Medicaid or Maternal and Child Health Services Block Grant program.

Respondent means the person upon whom the Secretary has imposed, or proposes to impose, a penalty or assessment.

Secretary means the Secretary of the Department or his designees.

State includes the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

Suspension means the temporary barring or permanent exclusion of a person from participation in the Medicare or Medicaid programs under section 1128(b) of the Social Security Act.

§ 101.102 Basis for civil money penalties and assessments.

(a) The Department may impose a penalty and assessment against any person whom it determines in accordance with this part has presented or caused to be presented a claim which is for an item or service:

(1) That the person knew or had reason to know was not provided as claimed; or

(2) For which no payment could be made under the program under which it was submitted because:

(i) The person had been excluded under § 1128 of the Act (42 U.S.C. 1320a–7);

(ii) The person had been excluded from eligibility to provide services on a reimbursement basis under section 1160(b) of the Act as that section read prior to enactment of Pub. L. 97–248 (42 U.S.C. 1320c–8(b));

(iii) Payment had been prohibited under title XVIII of the Act because of a determination under section 1862(d) of the Act (42 U.S.C. 1395y(d)); or

(iv) The Secretary had initiated termination proceedings against the person pursuant to a determination by the Secretary under section 1866(b)(2) of the Act (42 U.S.C. 1395cc(b)(2)).

(b) The Department may impose a penalty against any person whom it determines in accordance with this part has presented or caused to be presented a request for payment in violation of the terms of:

(1) an assignment under section 1842(b)(3)(B)(ii) of the Act, or

(2) an agreement with a State agency not to charge a person for an item or service in excess of the amount permitted to be charged.

(c)(1) In any case in which it is determined that more than one person was responsible for presenting or causing to be presented a claim as described in paragraph (a) of this section, each such person may be held liable for the penalty prescribed by this part, and an assessment may be imposed against any one such person or jointly and severally against two or more such persons, but the aggregate amount of the assessments collected may not exceed the amount that could be assessed if only one person was responsible.

(2) In any case in which it is determined that more than one person was responsible for presenting or causing to be presented a request for payment described in paragraph (b) of this section, each such person may be held liable for the penalty prescribed by this part.

§ 101.103 Amount of penalty.

The Department may impose a penalty of not more than $2,000 for each item or service that is subject to a determination under § 101.102.

§ 101.104 Amount of assessment.

A person subject to a penalty determined under §101.102(a) may be subject, in addition, to an assessment of not more than twice the amount claimed for each item or service which was a basis for the penalty. The assessment is in lieu of damages sustained by the Department or a State agency because of that claim.

§ 101.105 Suspension from participation in Medicare or Medicaid.

(a) A person subject to a penalty or assessment determined under § 101.102 may, in addition, be suspended from participation in Medicare for a period of time determined under §101.107. The Secretary may require the appropriate State agency to suspend the person from the Medicaid program for a period he shall specify. The State agency may request the Secretary to waive suspension of a person from the Medicaid program under this section if it concludes that, because of the shortage of providers or other health care personnel in the area, individuals eligible to receive Medicaid benefits would be denied access to medical care or that such individuals would suffer hardship. The Secretary will notify the State agency if and when the Secretary waives suspension in response to such a request.

(b) Any suspension under this section shall become effective only after there is a final decision of the Secretary pursuant to § 101.125(f), or at any earlier date that the respondent fails, within the time permitted, to exercise his right to a hearing under § 101.109 or administrative review under § 101.125 The effect of such suspension shall be governed by 42 CFR 420.128.

(c) When the Inspector General proposes to suspend a long-term care

facility from the Medicare and Medicaid programs, he shall, at the same time he notifies the respondent, notify the appropriate State Office of Aging, the long-term care ombudsman, and the State Medicaid agency of his intention to suspend the facility.

§ 101.106 Determinations regarding the amount of the penalty and assessment.

(a) In determining the amount of any penalty or assessment, the Department shall take into account, in accordance with this section: (1) The nature of the claim or request for payment and the circumstances under which it was presented, (2) the degree of culpability of the person submitting the claim or request for payment, (3) the history of prior offenses of the person submitting the claim or request for payment, (4) the financial condition of the person presenting the claim or request for payment, and (5) such other matters as justice may require.

(b) *Guidelines for determining the amount of the penalty or assessment.* As guidelines for taking into account the factors listed in paragraph (a), of this section, the following circumstances are to be considered:

(1) *Nature and circumstances of the claim.* It should be considered a mitigating circumstance if all the items or services subject to a determination under § 101.102 included in the action brought under this part were of the same type and occurred within a short period of time, there were few such items or services, and the total amount claimed for such items or services was less than $1,000. It should be considered an aggravating circumstance if such items or services were of several types, occurred over a lengthy period of time, there were many such items or services (or the nature and circumstances indicate a pattern of claims for such items or services), or the amount claimed for such items or services was substantial.

(2) *Degree of culpability.* It should be considered a mitigating circumstance if the claim for the item or service was the result of an unintentional and unrecognized error in the process respondent followed in presenting claims, and corrective steps were taken promptly after the error was discovered. It should be considered an aggravating circumstance if the respondent knew the item or service was not provided as claimed, of if the respondent knew that no payment could be made because he had been excluded from program reimbursement as specified in § 101.102(a)(2) or because payment would violate the terms of an assignment agreement or an agreement with a State agency under § 101.102(b).

(3) *Prior offenses.* It should be considered an aggravating circumstance if at any time prior to the presentation of any claim which included an item or service subject to a determination under § 101.102, the respondent was held liable for criminal, civil, or administrative sanctions in connection with a program covered by this part or any other public or private program of reimbursement for medical services.

(4) *Financial Condition.* It should be considered a mitigating circumstance if imposition of the penalty or assessment without reduction will jeopardize the ability of the respondent to continue as a health care provider. In all cases, the resources available to the respondent will be considered when determining the amount of the penalty and assessment.

(5) *Other matters as justice may require.* Other circumstances of an aggravating or mitigating nature should be taken into account if, in the interests of justice, they require either a reduction of the penalty or assessment or an increase in order to assure the achievement of the purposes of this part.

(c) As guidelines for determining the amount of the penalty and assessment to be imposed, for every item or service subject to a determination under § 101.102:

(1) If there are substantial or several mitigating circumstances, the aggregate amount of the penalty and assessment should be set at an amount sufficiently below the maximum permitted by § 101.103, to reflect that fact.

(2) If there are substantial or several aggravating circumstances, the aggregate amount of the penalty and assessment should be set at an amount sufficiently close to or at the maximum permitted by § 101.103, to reflect that fact.

(3) Unless there are extraordinary mitigating circumstances, the aggregate amount of the penalty and assessment should never be less than double the approximate amount of damages sustained by the United States, or any State, as a result of claims subject to a determination under § 101.102.

(d) The guidelines set forth in this section are not binding. Moreover, nothing in this section shall limit the authority of the Department to settle any issue or case as provided by § 101.126 or to compromise any penalty and assessment as provided by § 101.128.

§ 101.107 Determinations regarding suspension.

In determining whether to suspend a person and the duration of a suspension, the Department will take into account the circumstances set forth in § 101.106(a) and described in § 101.106(b). Where there are aggravating circumstances as described in § 101.106(b), the person should be suspended. The guidelines set forth in this section are not binding. Moreover, nothing in this section shall limit the authority of the Department to settle any issue or case as provided by § 101.126 or to compromise any suspension as provided by § 101.128.

§ 101.108 Penalty not exclusive.

A penalty imposed under this part is in addition to any other penalties prescribed by law.

§ 101.109 Notice of proposed determination.

(a) If the Inspector General proposes to impose a penalty and assessment, or to suspend a respondent from participation in Medicare or Medicaid, in accordance with this part, he must deliver or send by certified mail, return receipt requested, to the respondent, written notice of his intent to impose a penalty, assessment and suspension, as applicable. The notice will include reference to the statutory basis for the penalty, assessment, and suspension; description of the claims and requests for payment with respect to which the penalty, assessment, and suspension are proposed (except in cases where the Inspector General is relying upon statistical sampling pursuant to § 101.133, in which case the notice shall describe those claims and requests for payment comprising the sample upon which the Inspector General is relying and shall also briefly describe the statistical sampling technique utilized by the Inspector General); the reason why such claims and requests for payment subject the respondent to a penalty, assessment, and suspension; the amount of the proposed penalty, assessment, and the period of proposed suspension (where applicable); any circumstances described in § 101.106 which were considered when determining the amount of the proposed penalty and assessment and the period of suspension; instructions for responding to the notice, including a specific statement of respondent's right to a hearing, of the fact that failure to request a hearing within 30 days permits the imposition of the proposed penalty, assessment, and suspension without right to appeal, and of respondent's right to request an extension of time in which to respond to the notice and a copy of the rules contained in this part.

(b) Within 30 days of the date of receipt of the notice, the respondent may submit:

(1) A written statement accepting imposition of the penalty, assessment, and suspension as proposed; or

(2) A written request for a hearing which shall be accompanied by an answer to the notice that (i) with respect to the claims and requests for payment identified in the notice, admits or denies that the respondent presented or caused to be presented such claims and requests for payment, (ii) states any defense on which the respondent intends to rely, and (iii) may state any reasons which respondent contends should result in a reduction or modification of a penalty, assessment, and suspension.

(c) The Inspector General may extend the 30 day period for good cause shown by the respondent upon request made prior to the expiration of the 30 day period.

§ 101.110 Failure to request a hearing.

If the respondent does not request a hearing within the time prescribed by § 101.109 (b) and (c), the Inspector General may impose the proposed penalty, assessment, and suspension, or any less severe penalty, assessment, and suspension.

The Inspector General shall notify the respondent by certified mail, return receipt requested, of any penalty, assessment, and suspension that has been imposed and of the means by which the respondent may satisfy the judgment. The respondent has no right to appeal a penalty, assessment, and suspension, with respect to which he has not requested a hearing.

§ 101.111 Initiation of hearing.

If the respondent requests a hearing in accordance with § 101.109(b)(2), determination of the penalty, assessment, and suspension will be assigned to an ALJ for hearing.

§ 101.112 Parties.

The Inspector General and the respondent are parties to the hearing.

§101.113 Notice of hearing.

The ALJ will send written notice to the respondent and to the Inspector General stating the time and place for the hearing and the issues that will be considered. In fixing the time and place of the hearing, the ALJ will attempt to minimize the costs to the parties.

§ 101.114 Issues and burden of proof.

(a) To the extent that a proposed penalty and assessment is based on claims and/or requests for payment presented on or after August 13, 1981, the Inspector General must prove by a preponderance of the evidence that the respondent presented or caused to be presented such claims and/or requests for payment as described in § 101.102.

(b) To the extent that a proposed penalty and assessment is based on claims presented before August 13, 1981, the Inspector General must prove by clear and convincing evidence that

(1) the respondent presented or caused to be presented such claims as described in § 101.102; and

(2) presenting or causing to be presented such claims could have rendered respondent liable under the provisions of the False Claims Act, 31 U.S.C. 3729 et seq., for payment of an amount not less than that proposed.

(c) Where a final determination that the respondent presented or caused to be presented a claim and/or request for payment falling within the scope of § 101.102 has been rendered in any proceeding in which the respondent was a party and had an opportunity to be heard, the respondent shall be bound by such determination in any proceeding under this part.

(d) The respondent shall bear the burden of producing and proving by a preponderance of the evidence any circumstances described in § 101.106 that would justify reducing the amount of the penalty or assessment, or the period of suspension.

§ 101.115 Authority of ALJ.

(a) The ALJ will conduct a fair hearing, avoid delay, maintain order, and assure that a record of the proceeding is made.

(b) The ALJ shall have the authority to:

(1) Change the date, time, and place on the hearing, upon notice to the parties;

(2) Continue or recess the hearing in whole or in part for a reasonable period of time;

(3) Hold conferences to identify or simplify the issues, or to consider other matters that may aid in the expeditious disposition of the proceeding;

(4) Administer oaths and affirmations;

(5) Issue subpoenas in hearings involving Medicare claims;

(6) Rule on motions and other procedural matters;

(7) Regulate the course of the hearing and the conduct of counsel;

(8) Examine witnesses;

(9) Receive, rule on, exclude, or limit evidence;

(10) Upon motion of a party, decide cases, in whole or in part, by summary judgment where there is no disputed issue of material fact;

(11) Issue a written opinion containing findings of fact, conclusions of law, and an initial decision on whether a penalty or assessment or suspension should be imposed, and if so, the amount.

(c) The ALJ does not have the authority to decide upon the validity of Federal statutes or regulations.

(d)(1) The ALJ shall schedule a prehearing conference at a reasonable time in advance of the hearing, at which the parties or their counsel shall meet with the ALJ to consider:

(i) Simplification of the issues;

(ii) The necessity or desirability of amendments to pleadings for purposes of clarification, simplification, or limitation;

(iii) Stipulations, admissions of fact or the contents and authenticity of documents;

(iv) Limitation of the number of witnesses;

(v) Scheduling dates for the exchange of witness lists and of proposed exhibits; and

(vi) Such other matters as may tend to expedite the disposition of the proceedings.

(2) The ALJ shall issue an order containing all matters described in paragraph (d)(1) of this section agreed upon by the parties or ordered by the ALJ.

§ 101.116 Rights of parties.

(a) All parties may:

(1) Appear by counsel (or, in the case of a government agency, other authorized representative) in all hearing proceedings.

(2) Participate in any prehearing or posthearing conference held by the ALJ.

(3) Agree to stipulations as to facts which will be made part of the record.

(4) Make opening statements at the hearing.

(5) Present material evidence which is relevant to the issues at the hearing.

(6) Present witnesses who then must be available for cross-examination by all other parties.

(7) Present oral arguments at the hearing.

(8) Submit written briefs, proposed findings of fact, and proposed conclusions of law, after the hearing.

(b)(1) A party wishing to procure the appearance and testimony at the hearing of any person having personal knowledge of the matters in issue may serve on the person a notice to appear as witness. The notice shall set forth the time, date, and place at which the person is to appear for the purpose of giving testimony and the categories of documents the witness is to bring to the hearing, if any. A copy of the notice

shall be filed with the ALJ and additional copies shall be served upon all parties.

(2)(i) In all hearings, it shall be the obligation of each party to produce for examination any person, along with such documents as may be requested, at the time and place, and on the date set forth in a notice to appear as witness, if that party has control over such person.

(ii) In hearings involving Medicare claims, a notice to appear as witness may be accompanied by an administrative subpoena. A party who desires the issuance of a subpoena shall, not less than 15 days prior to the time fixed for a hearing, file with the ALJ a written request therefor, designating the witness(es) or document(s) to be produced and describing the address and location thereof with sufficient particularity to permit such witness(es) or document(s) to be found. A subpoena issued under this section shall be in the name of the Secretary. The party requesting the subpoena shall pay the cost of service and the fees and the mileage of any witnesses so subpoenaed, as provided in 28 U.S.C. 1821. Subpoenas shall be served by the party requesting issuance in the manner provided in § 205(d) of the Act. A check for witness fees and mileage shall accompany the subpoena when served.

(3) A party or propsective witness may file an objection to notice to appear as witness or, in the case of a subpoena a motion to quash within five days after the notice or subpoena is served, stating with particularity the reasons why the party should not be required to produce a requested witness or why the prospective witness should not be required to appear. Where the party serving the notice has reason to believe that the party being served is likely to refuse to produce the requested witness, that party may move for an order enforcing the notice to appear as witness. Upon the failure of any person to comply with a subpoena issued under this section, the Secretary shall institute enforcement proceedings before the appropriate district court pursuant to § 205(e) of the Act, unless in the judgment of the Secretary the enforcement of such subpoena would be inconsistent with law or the purposes of the Act.

§ 101.117 Discovery.

(a) Upon request of a party, the ALJ shall allow that party to inspect and copy all documents, unless privileged, relevant to the issues in the proceeding that are in the possession or control of the other party. Depositions, interrogatories, and other forms of discovery are not authorized except as provided for in § 101.117(b). Nothing in this section shall be construed as requiring the disclosure of internal government documents prepared in conjunction with the investigation or litigation of the case.

(b) In those cases in which the Inspector General intends to introduce the results of a statistical sampling study as evidence at the hearing pursuant to § 101.133, the Inspector General, upon request of the respondent, shall make available for desposition, the individual(s) responsible for conducting the statistical sampling study. Should respondent intend to introduce expert testimony to rebut the statistical sampling study at the hearing, the respondent shall, upon request of the Inspector General, make available for deposition the expert witness or witnesses who will be called to so testify at the hearing. Such depositions shall be conducted in accordance with Rules 28 and 30 of the Federal Rules of Civil Procedure. Such depositions may be used by an adverse party for any purpose at the hearing. The failure of a party to make witnesses available for deposition pursuant to this section shall serve to bar the introduction of testimony or other evidence from those witnesses at the hearing.

(c)(1) Witness lists, prior statements of witnesses, and hearing exhibits shall be exchanged at least 15 days in advance of the hearing, or such other later time as is set by the ALJ. Each party shall provide to the other party copies of all exhibits that it then plans to use at the hearing.

(2) All discovery shall be concluded at least 30 days prior to the hearing or by such other later time as ordered by the ALJ. The ALJ shall, however, allow adequate time for discovery.

§ 101.118 Evidence and Witnesses.

(a) Testimony at the hearing is given orally and under oath or affirmation. Written direct testimony may be used in the discretion of the ALJ. Witnesses must be available at the hearing for cross-examination by all parties.

(b) The parties may agree to stipulations of fact. Such stipulations, or any exhibit proposed by a party, must be exchanged at a prehearing conference or otherwise prior to the hearing, if the ALJ so decides.

(c) Technical rules of evidence are not applicable to the hearing, except that when reasonably necessary, the ALJ must apply rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination.

(d) A witness may be cross-examined on any matter relevent to the proceeding without regard to the scope of his or her direct examination.

(e) The ALJ shall exclude irrelevant, immaterial, or unduly repetitious evidence.

(f) All documents and other evidence offered or taken for the record shall be open to examination by the parties.

§ 101.119 Exclusion from the hearing for misconduct.

Disrespectful or disorderly language or conduct, refusal to comply with directions, or continued use of dilatory tactics by any individual at the hearing constitutes grounds for immediate exclusion of that individual from the hearing by the ALJ.

§ 101.120 Ex parte contacts.

(a) Except for matters related to the issuance of ex parte subpoenas, the ALJ may not consult or be consulted by a party or any other individual (except employees of his own office) on any matter in issue, unless on notice and opportunity for all parties to participate.

(b) The ALJ shall not consider letters or other contacts from non-parties expressing views or urging action.

§ 101.121 Separation of functions.

An employee or an agent of the Department, who is engaged in the performance of investigative or prosecutive functions for or on behalf of the Department in a case may not, in that or a factually related case, participate or advise in the decision, except as witness or counsel in public proceedings.

§ 101.122 Official transcript.

The hearing will be recorded and transcribed. Transcripts may be obtained from the reporter by a party or the public at not to exceed the maximum rates fixed by contract between the Department and the reporter.

§ 101.123 Post-hearing briefs.

The ALJ shall fix the time for filing post-hearing briefs, which shall not exceed 30 days from the date of receipt of the hearing transcript by the parties. Upon motion by a party, the ALJ may extend the time in which to file post-hearing briefs for a period of up to 60 days where the hearing was of unusual length or complexity or for other good cause shown. Such briefs may contain proposed findings of fact and conclusions of law. The ALJ may permit the parties to file reply briefs.

§ 101.124 Record for decision.

The transcript of testimony, exhibits, and all papers, requests and rulings filed or made in the proceedings, constitute the exclusive record for the ALJ's initial decision.

§ 101.125 Initial decision; administrative review; finality.

(a) The ALJ shall serve the initial decision on all parties within 60 days after the time for submission of post-hearing briefs and reply briefs (if permitted) has expired.

(b) The initial decision shall contain findings of fact, conclusions of law, and the amount of any penalties and assessments (which may be the amount proposed by the Inspector General, or a greater or lesser amount), and the length of any suspension (which may be for the period proposed by the Inspector General, or a greater or lesser period of time), imposed upon the respondent thereby.

(c) The findings of fact shall include a finding on each of the following issues for every item or service with respect to which a penalty or assessment was proposed:

(1) Whether the item or service is subject to a determination under § 101.102; and

(2) If the item or service is subject to a determination under § 101.102 whether there are mitigating or aggravating circumstances as described in § 101.106(b).

(d) The initial decision of the ALJ becomes final and binding on the parties 30 days after notice thereof is received by the respondent, unless on or before that 30th day a party files with the ALJ written exception to the initial decision and supporting reasons for the exceptions.

(e) A party opposing exceptions may file a brief in opposition to exceptions within 30 days after receipt of the exceptions or may file a brief which is limited to the issue of whether or not the Secretary should review the initial decision of the ALJ.

(f)(1) If a party timely files exceptions under paragraph (d) of this section, the ALJ will forward to the Secretary the record of the proceeding, the exceptions and reasons therefor, and any briefs filed in opposition.

(2) After the Secretary receives the initial decision, the record on which it is based, and submissions of the parties made subsequent to the decision, the Secretary will determine whether or not he will review the initial decision of the ALJ.

(3) In any case in which the Secretary decides to review the initial decision of the ALJ, he will inform each party of his decision by written notice. A party opposing exceptions may file a brief addressing any relevant issues not addressed in any brief filed under paragraph (e) of this section within 30 days after receipt of the Secretary's written notice under this paragraph. After the Secretary has reviewed the initial decision, the record on which it is based, and submissions of the parties made subsequent to the decision, the Secretary will affirm, modify, or reverse the initial decision, or remand the case to an ALJ. The Secretary may modify the penalty, assessment, or suspension, to be more or less severe than that imposed by the ALJ. There is no right to appear personally before the Secretary. A copy of the decision of the Secretary will be sent to the respondent by certified mail, mailed return receipt requested, and served upon the Inspector General. Except in the case of a remand, the decision of the Secretary becomes final and binding on the parties 60 days after notice thereof is received by the respondent.

(4) In any case in which the Secretary declines to review the initial decision of the ALJ, he will notify the respondent by certified mail, return receipt requested, and inform the Inspector General of his decision. The initial decision of the ALJ becomes final and binding on the parties 60 days after the Secretary's notice is received by the respondent.

(5)(i) The respondent may file with the ALJ a request for stay of the effective date of the final decision pending appeal. Such request shall state the grounds upon which respondent relies in requesting the stay, together with a copy of the notice(s) of appeal filed by respondent seeking review of the decision of the Secretary. The filing of such a request shall automatically act to stay the effective date of the decision of the Secretary until such time as the ALJ rules upon the request.

(ii) The Inspector General may file an opposition to respondent's request for a stay within 10 days of receipt of the request. If the Inspector General fails to file such an opposition within the allotted time, or indicates that he has no objection to the request, the ALJ shall grant the stay without requiring respondent to give a bond or other security.

(iii) In those cases in which the Inspector General opposes respondent's request for a stay, the ALJ may grant respondent's request where justice so requires and to the extent necessary to prevent irreparable harm. An ALJ may grant an opposed request to stay a final decision requiring the payment of money only upon the respondent's giving of a bond or other adequate security. The ALJ shall rule upon an opposed request for stay within 10 days of the receipt of the opposition of the Inspector General. A decision of the ALJ denying respondent's request for a stay shall constitute final agency action.

§ 101.126 Settlement.

The Inspector General has exclusive authority to settle any issues or case, without the consent of the ALJ or the Secretary, at any time prior to a final decision by the Secretary. Thereafter, the General Counsel has such exclusive authority.

§ 101.127 Judicial review.

(a) Section 1128A(d) of the Act authorizes judicial review of a penalty or assessment imposed under §§ 101.110 or 101.125 that has become final. Judicial review may be sought by a respondent only with respect to a penalty or assessment with respect to which the respondent filed an exception under § 101.125(d) unless the failure or neglect to urge such exception shall be excused by the court pursuant to section 1128(A) because of extraordinary circumstances.

(b) Section 1128(d) of the Act authorizes judicial review of a determination to bar a person from participation in Medicare or Medicaid pursuant to 1128(b) of the Act. Judicial review may be sought by a respondent only with respect to a suspension with respect to which the respondent filed an exception under § 101.125(d) unless the failure or neglect to urge such exception shall be excused because of extraordinary circumstances.

§ 101.128 Collection of penalty and assessment.

(a) Once a determination by the Secretary has become final under § 101.125(f), collection of any penalty and assessment shall be the responsibility of HCFA, except in the case of the Maternal and Child Health Services Block Grant, where the collection shall be the responsibility of the Public Health Service.

(b) A penalty and assessment imposed under this part may be compromised by the General Counsel, after consultation with the Inspector General, and may be recovered in a civil action brought in the United States district court for the district where the claim was presented, or where the respondent resides.

(c) The amount of a penalty and assessment when finally determined, or the amount agreed upon in compromise, may be deducted from any sum then or later owing by the United States, or by a State agency, to the respondent.

(d) Matters that were raised or that could have been raised in a hearing before an ALJ or in an appeal under section 1128A(d) of the Act may not be raised as a defense in a civil action by the United States to collect a penalty under this part.

§ 101.129 Notice to other agencies.

Whenever a penalty and assessment or suspension imposed under this part becomes final, HCFA and the Public Health Service will notify the appropriate State or local medical or professional association, the appropriate Professional Standards Review Organization, the State Medicaid agency, the appropriate Medicare carrier or intermediary, the appropriate State or local licensing agency or organization (including the Medicare and Medicaid State survey agencies), the long-term care ombudsman, and where appropriate, the State agency administering a Maternal and Child Health Services Block Grant Program, that the penalty and assessment or suspension have become final and the reasons for them. In cases involving suspensions, HCFA will also give notice to the public of the suspension and its effective date. HCFA will also provide to the State Medicaid agency the notice required under section 1128(b) of the Social Security Act.

§ 101.130 Form, filing and service of papers; computation of time; Motions, disposition of motions.

(a) *Form, filing and service of papers*—(1) *Form.* The original and one copy of all papers in a proceeding conducted under this part shall be filed with the ALJ assigned to the case or with the Chief ALJ if the case has not been assigned. Every pleading and paper filed in the proceeding shall contain a caption setting forth the title of the action, the case file number assigned by the ALJ, and a designation of the paper (e.g., motion for summary judgment). The paper shall be signed and shall contain the address and telephone number of the person representing the party or the person on whose behalf the paper was filed. Unless the ALJ otherwise orders with respect to specific papers in a specific case, all such papers are public documents. Papers are considered filed when they are received by the ALJ.

(2) *Service.* Service upon any party shall be made by the party filing the document by delivering or mailing a copy to the party's last known address. When a party is represented by an attorney, service shall be made upon the attorney.

(3) *Proof of service.* A certificate of the person serving the document by personal delivery or by mailing, setting forth the manner of sevice, shall be proof of service.

(b) *Computation of Time.* In computing any period of time under these rules or in an order issued hereunder, the time begins with the day folowing the act, event, or default, and includes the last day of the period, unless it is a Saturday, Sunday, or legal holiday observed by the Federal government, in which event it includes the next business day. When the period of time allowed is less than seven days, intermediate Saturdays, Sundays and legal holidays observed by the Federal government shall be excluded from the computation.

(c) *Motions, disposition of motions*—(1) *Motions.* Motions shall state the relief sought, the authority relied upon and the facts alleged, and shall be filed with the ALJ. If made before or after the hearing itself, the motions shall be in writing. If made at the hearing, motions may be stated orally; bu the ALJ may require that they be reduced to writing and filed and served on all parties in the same manner as a formal motion. Unless otherwise ordered by the ALJ, written motions shall be accompanied by a supporting memorandum. Within 10 days after a written motion is served, or such other time period as may be fixed by ALJ, any party may file a response to a motion.

(2) *Disposition of motions.* The ALJ may not grant a written motion prior to expiration of the time for filing responses thereto, except upon consent of the parties or following a hearing, but may overrule or deny such motion without awaiting response. The ALJ shall make every reasonable effort to dispose of all outstanding motions prior to the beginning of the hearing.

§ 101.131 Records to be public.

All documents contained in the records of formal proceedings for imposing a penalty and assessment or suspension under this part may be inspected and copied, unless ordered sealed by the ALJ.

§ 101.132 Limitations.

No action under this part shall be entertained unless commenced, pursuant to § 101.109(a) of this part, within five years from the date on which the right of action accrued.

§ 101.133 Statistical sampling.

(a) In meeting the burden of proof set forth in § 101.114, the Inspector General may introduce the results of a statistical sampling study as evidence of the number and amount of claims and/or requests for payment as described in § 101.102 that were presented or caused to be presented by respondent. Such as statistical sampling study, if based upon an appropriate sampling and computed by valid statistical methods, shall constitute prima facie evidence of the number and amount of claims or requests for payment as described § 101.102.

(b) Once the Inspector General has made a prima facie case as described in paragraph (a) of this section, the burden of production shall shift to respondent to produce evidence reasonably calculated to rebut the findings of the statistical sampling study. The Inspector General will then be given the opportunity to rebut this evidence.

Approved: July 27, 1983.

Margaret M. Heckler,

Secretary.

[FR Doc. 83-23386 Filed 8-25-83; 8:45 am]

BILLING CODE 4150-04-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 71-3a; Notice 7]

Federal Motor Vehicle Safety Standards; Rearview Mirror Systems

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule and response to petitions.

SUMMARY: This notice responds to a petition for reconsideration filed by Volkswagen of America regarding a recent amendment to Federal Motor Vehicle Safety Standard (FMVSS) 111, and to a related petition for rulemaking filed by Toyota Motor Corporation. The amendment to FMVSS 111 permitted the use of exterior passenger side convex mirrors on passenger cars and trucks, multipurpose passenger vehicles and buses other than schoolbuses with a gross vehicle weight rating of 10,000 pounds or less to meet the field of view requirements of that standard. The amendment required that such convex mirrors must have "indelibly etched" on the mirror's surface the warning "Objects in Mirror Are Closer Than They Appear." The amendment also specified a maximum radius of curvature requirement for such mirrors. The agency is denying Volkswagen requests that the warning and maximum radius requirements be deleted, but in

response to Volkswagen's and Toyota's petition, is modifying the warning requirement to permit the warning to be permanently marked on the mirror by methods other than etching.

DATE: This amendment is effective on August 26, 1983.

FOR FURTHER INFORMATION CONTACT: Kevin Cavey, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590, (202–426–2153).

SUPPLEMENTARY INFORMATION: On September 2, 1982, NHTSA published an amendment to FMVSS 111, *Rearview Mirrors*. Prior to this amendment, the standard specified that field of view requirements (i.e., minimum permissible viewing area behind the vehicle) could be met only by using plane mirrors. This amendment, issued in response to a petition from General Motors Corporation, permitted field of view requirements to be met in part by using an exterior, passenger side convex mirror meeting certain specifications. Among these specifications were the requirements that a warning ("Objects in Mirror Are Closer Than They Appear") must be "indelibly etched" on the mirror and that the radius of curvature of the convex mirror must not exceed 65 inches. The warning was deemed necessary to alert drivers to the fact that the driver is using a convex mirror, which provides a different image than the common plane mirror. The maximum radius of curvature requirement was deemed necessary to limit the range of different image sizes to which drivers would be exposed and to provide an additional warning that the mirror being used is convex. With regard to the latter point, larger radius convex mirrors provide images which approach those of plane mirrors. The agency concluded that large radius convex mirrors might mislead drivers into thinking that a mirror was plane, when in fact it was convex and the distances from following vehicles was less than the drivers would realize.

With respect to the warning requirement, Volkswagen argues in its October 4 petition for reconsideration that the requirement imposes a trade barrier, since other countries do not require a warning and an English language warning would be of no use in non-English speaking countries. The agency agrees that this requirement would, as a practical matter require manufacturers to use different convex mirrors (at least with regard to the warning lettering) in vehicles sold in the U.S. than in vehicles sold in some other countries. However, as noted in the September 2 final rule, the agency's research indicates that providing a clear warning is necessary, given the relative inexperience of U.S. drivers in using automotive convex mirrors. Accordingly, the agency is denying Volkswagen's request to delete the warning requirement altogether.

Nevertheless, in response to Volkswagen's petition and an October 6, 1982 rulemaking petition submitted by Toyota Motor Corporation, the agency will amend the warning requirement to facilitate compliance with it. Making this change may reduce the burdens associated with having to provide different mirrors for different markets. Toyota pointed out that the requirement that the warning be "indelibly etched" on the mirror unnecessarily restricts the methods available for assuring that the warning is permanently marked on the mirror. "Etching" implies that lettering is produced by the corrosive action of an acid on the mirror. Toyota suggests that sandblasting or glass-based ink printing can equally-well produce permanent lettering on mirrors whose reflective surface is at the back side of the mirror glass. The agency agrees that manufacturers should be given additional flexibility in choosing their means of compliance. The agency is amending FMVSS 111 to permit the use of any process which assures that the warning is "permanently and indelibly marked" on the mirror's reflective surface. The agency cannot foresee all possible methods which might be used to "permanently and indelibly" mark warning lettering on a mirror and does not wish to unnecessarily limit the use of new technology in this area. The agency notes that exterior-surface painting or the use of a plastic decal, either of which could be removed or become illegible, would not be deemed "permanent and indelible" by the agency.

Volkswagen also objected to the warning requirement on the basis that no advance notice or opportunity to comment was provided with regard to the enactment of that provision. However, the agency specifically sought comment on this issue and suggested that warning lettering might be required. See 43 FR 51660, November 6, 1978. Further, the provision was adopted in response to several comments suggesting that warning lettering be required.

With regard to the maximum radius of curvature requirement, Volkswagen argues that the requirement differs from European requirements (which impose no maximum) and therefore imposes a trade barrier. Volkswagen also argues that large radius mirrors closely resemble plane mirrors in terms of the image provided, and therefore present no safety concerns. However, the agency still feels this requirement is necessary, given the relative inexperience of U.S. drivers with convex mirrors. The maximum radius requirement assures that drivers will be able to tell from the appearance of the image when they are using a convex mirror. It also assures that drivers will not be exposed to a wide range of image sizes and corresponding depth perception and distortion effects. Further, mirrors meeting the U.S. maximum radius requirement may still be used in European countries, which have no maximum radius requirement. Therefore, this requirement will be retained.

The agency is making this amendment effective immediately upon publication, since the amendment "relieves a restriction" within the meaning of 5 U.S.C. 553(d)(1), by permitting the use of additional methods for marking mirrors. The agency also finds that making this amendment effective immediately is in the public interest, in accordance with section 103(c) of the National Traffic and Motor Vehicle Safety Act, since doing so will facilitate the use of additional mirrors as soon as possible. Also, since the amendment relieves a restriction in FMVSS 111, providing 180 days lead time is unnecessary.

NHTSA has determined that this proceeding does not involve a "major rule" within the meaning of section 1, paragraph (b), of Executive Order 12291 because it is not likely to have an effect on the economy of $100 million or more, to result in a major increase in costs or prices, or to have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of United States firms to meet foreign competition. Similarly, this action is not deemed "significant" for purposes of Department of Transportation procedures for internal review of regulatory actions. The economic impacts of this amendment are so minimal as to not warrant preparation of a full regulatory evaluation, since the amendment merely permits the use of additional methods for labeling rearview mirrors.

Pursuant to the Regulatory Flexibility Act, the agency has considered the impact of this rulemaking action on small entities. I certify that this action will not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis is not required for this action. The agency has concluded

that few, if any, manufacturers of rearview mirrors are small entities and that the impacts of this rule on those companies which decide to take advantage of the new alternative methods of labeling should be small. Since this action will impose no new costs, the action will not affect small governmental units or other organizations which purchase automobiles.

NHTSA has concluded that the environmental consequences of this action will be of such limited scope that they clearly will not have a significant effect on the quality of the human environment.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

In consideration of the foregoing, Section 5.4.2 of 49 CFR 571.111 is revised to read as follows:

§ 571.111 Standard No. 111; Rearview Mirrors.

* * * * *

Section 5.4.2 Each convex mirror shall have permanently and indelibly marked at the lower edge of the mirror's reflective surface, in letters not less than 3/16 of an inch nor more than 1/4 inch high the words "Objects in Mirror Are Closer Than They Appear."

* * * * *

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50 and 501.7)

Issued on August 19, 1983.

Diane K. Steed,

Deputy Administrator.

[FR Doc. 83-23450 Filed 8-25-83; 8:45 am]

BILLING CODE 4910-59-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1056

[Ex Parte No. MC-19 (Sub-No. 36)]

Practices of Motor Common Carriers of Household Goods (Revision of Operational Regulations)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Permissible Change in Moving Service Questionnaire (Form OCP-100A).

SUMMARY: The Director of the Commission's Office of Compliance and Consumer Assistance is allowing affected carriers to change the Moving Service Questionnaire by deleting the phrase (Not a Complaint Form) and inserting in bold face type at the bottom of the questionnaire the following: Survey form only. See pages 1 and 2 of accompanying booklet for complaint and inquiry procedures.

This action implements the recent information collection approval made by the Office of Management and Budget (OMB). Changes in the questionnaire are intended to clarify the purpose of the questionnaire and to direct users to the proper procedure for making complaints and inquiries about mover's services.

EFFECTIVE DATE: August 26, 1983.

FOR FURTHER INFORMATION CONTACT: Patricia M. Schulze, (202) 275-7841 or John H. O'Brien, (202) 275-7148.

SUPPLEMENTARY INFORMATION:

The Commission requested that OMB extend the May 31, 1983, expiration date of the Moving Service Questionnaire (Form OCP-100A) which is part of the publication *Your Rights and Responsibilities When You Move* (Form OCP-100).

The extension was granted by OMB for use through May 31, 1984, conditioned on changes in the questionnaire as described in the Summary portion of this document.

The changes authorized accommodate certain concerns expressed to OMB by representatives of the moving industry. Since these changes are not substantive and are designed to strengthen and clarify consumer understanding of the questionnaire's purpose and its distinction from a specific complaint or inquiry, notice and comment procedures are unnecessary. Instead, the Director of the Office of Compliance and Consumer Assistance is exercising authority under 49 CFR 1056.2 to permit carriers to change the format and text of Form OCP-100 to the extent necessary to accomplish OMB's changes in the questionnaire.

Commission reprints of Form OCP-100 will reflect these changes as soon as possible. Carrier printed copies of Form OCP-100 should reflect these changes immediately or when current supplies of the publication are exhausted.

Dated: August 19, 1983.

By the Commission, Director of the Office of Compliance and Consumer Assistance, J. Warren McFarland.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-23476 Filed 8-25-83; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Parts 1181 and 1183

[Ex Parte No. MC-79 (Sub-No. 2); Ex Parte No. MC-152 (Sub-No. 1)]

Control of Duplicate Operating Rights; Policy Statement Regarding Duplicate Operating Rights

AGENCY: Interstate Commerce Commission.

ACTION: Final rules and policy statement.

SUMMARY: In light of the changes contained in the Bus Regulatory Reform Act of 1982, the Commission is eliminating its regulations at 49 CFR 1181.3(c) and 1183.6 to remove the prohibition against motor carriers of passengers holding duplicate operating rights under common control. Simultaneously, the Commission is issuing a final policy statement that it will no longer deny passenger carrier operating rights applications merely because they would result in commonly controlled carriers holding duplicate authority. The Commission will also permit individual carriers to hold duplicative authority and will no longer require carriers granted authority which duplicates one or more of their outstanding certificates to submit that duplicated authority for cancellation as a precondition to the issuance of new authority.

EFFECTIVE DATES: The change in rules will be effective on September 26, 1983. The policy statement becomes effective on August 26, 1983.

FOR FURTHER INFORMATION CONTACT: Barry Cohen, (202) 275-7971, or Howell I. Sporn, (202) 275-7691.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. Info System, Inc., Room 2227, Interstate Commerce Commission, Washington, D.C. 20423, or call 289-4357 (D.C. Metropolitan area) or toll-free (800) 424-5403.

Environmental and Energy Considerations

We adopt our preliminary finding in the notice that the proposed changes will not have any significant impact on the quality of the human environment or the conservation of energy resources. No comments were submitted on this matter.

Regulatory Flexibility Analysis

We affirm our previous determination that these proceedings will not have a

significant impact on a substantial number of small entities.

List of Subjects in 49 CFR Parts 1181 and 1183

Administrative practice and procedure, Buses.

Removal of Rules and Adoption of Policy Statement

We are removing from Title 49, Code of Federal Regulations, §§ 1181.3(c) and 1183.6, and simultaneously adopting the policy statement set forth above.

PART 1181—TRANSFERS OF OPERATING RIGHTS UNDER 49 U.S.C. 10926

§ 1181.3 [Amended]

1. Section 1181.3 is amended by removing paragraph (c) and reserving it for future use.

PART 1183—CONTROL OR CONSOLIDATION OF MOTOR CARRIERS OR THEIR PROPERTIES

§ 1183.6 [Removed]

2. Section 1183.6 is removed.

This decision is issued pursuant to 49 U.S.C. 10321, 10922(i) and 5 U.S.C. 553.

Dated: August 18, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-23586 Filed 8-25-83; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 48, No. 167
Friday, August 26, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 334

Temporary Assignment of Personnel Under the Intergovernmental Personnel Act; Authority To Approve Agreements

AGENCY: Office of Personnel Management.

ACTION: Proposed rulemaking.

SUMMARY: The Office of Personnel Management is proposing to amend its regulations on temporary assignments of personnel under the Intergovernmental Personnel Act (IPA) to limit agency authority to sign IPA mobility agreements to the Department or agency head, or to an officer of the agency at a level no lower than that of an Assistant Secretary or equivalent in other than Cabinet Departments. This change would improve the planning and control of mobility assignments at the Department and agency level, and should reduce the possibility of assignments being made for personal reasons rather than for organizational purposes. Several agencies have already made this change in their own procedures. The intended effect is to improve the management of the mobility program by more careful IPA assignments.

DATE: Comments must be submitted on or before October 25, 1983.

ADDRESS: Send or deliver written comments to: Ardrey Harris, Chief, Personnel Mobility Programs, Office of Personnel Management, 1900 E Street, NW., Room 7H39, Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Ardrey Harris, (202) 632–7647.

SUPPLEMENTARY INFORMATION: The Intergovernmental Personnel Act (IPA) gives authority to heads of departments and agencies to approve IPA assignments. This authority is usually delegated to senior management in the same ways as other appointing authorities. Such delegation often results in:

(a) Lack of adequate knowledge, planning and control of mobility assignments at the Department level; and

(b) Increased chance that some assignments will be made for personal reasons rather than for organizational purposes consistent with the Act.

Therefore, the Office of Personnel Management is proposing to add a paragraph to 5 CFR Part 334 which would limit delegation to the level of Assistant Secretary or equivalent in other than Cabinet Departments.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule as defined under Section 1(b) of Executive Order 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it primarily affects personnel offices of Federal departments and agencies.

List of Subjects in 5 CFR Part 334

Colleges and universities, Government employees, Indians, and Intergovernmental relations.

Office of Personnel Management.

Donald J. Devine,

Director.

PART 334—TEMPORARY ASSIGNMENT OF EMPLOYEES BETWEEN FEDERAL AGENCIES AND STATE, LOCAL, AND INDIAN TRIBAL GOVERNMENTS, INSTITUTIONS OF HIGHER EDUCATION, AND OTHER ELIGIBLE ORGANIZATION

Accordingly, the Office of Personnel Management is proposing to amend 5 CFR 334.106 by redesignating paragraphs (b) and (c) as (c) and (d) respectively, and adding a new paragraph (b) to read as follows:

§ 334.106 Requirement for written agreement.

* * * * *

(b) Agreements shall be authorized and signed by the head of the Federal agency or delegated to an officer of the agency at a level no lower than that of the Assistant Secretary or equivalent in other than Cabinet Departments.

* * * * *

(5 U.S.C. 3376; E.O. 11589, 3 CFR 557 (1971–1975))

[FR Doc. 83-22809 Filed 8-25-83; 8:45 am]
BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 51

United States Standards for Grades of Summer Squash

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Marketing Service (AMS) proposes to amend the voluntary United States Standards for Grades of Summer Squash. The current standards require that percentages of offsize and defective squash be computed on the basis of weight. This amendment would change the basis for determining percentages of offsize and defects from weight to count. Studies have confirmed that this action would materially reduce lot inspection time without affecting the accuracy of grade certification. AMS has the responsibility to review and amend its grade standards whenever such action would be beneficial to its voluntary inspection program.

DATE: Comments must be received on or before October 25, 1983.

ADDRESS: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in duplicate to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250. Comments should reference the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Philip C. Eastman, Fresh Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–5024.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA

Procedures and Executive Order 12291 and has been designated as a "non-major" rule. It will not result in an annual effect of $100 million or more. There will be no major increase in cost or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. It will not result in significant effects on competition, employment, investments, productivity, innovations, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601), because it reflects current marketing practices.

The voluntary United States Standards for Grades of Summer Squash became effective in March 1945. They specify, by tolerances, that the percentages permitted by the grades for offsize and defective squash are to be computed on the basis of weight. This amendment would change the basis for determining percentages of offsize and defects from weight to count.

Squash marketed at the time the standards were established were shipped in various types and sizes of containers with little apparent interest in product size uniformity. For products not uniformly sized in the shipping container, it is standard policy to use weight as the basis for computing percentages of offsize and defects. This makes it necessary to weigh the individual sample as well as the offsize and defective specimens.

Since these standards became effective, shipping containers have become more standardized and the sizing of the product much more uniform. In consideration of these marketing changes, inspection program personnel have recommended that the basis for determining percentages of offsize and defects be changed from weight to count. Comparative studies confirm that use of count as the basis for computing percentages can reduce lot inspection time up to 50 percent without affecting the accuracy of grade certification. This proposed time-saving change would result in more efficient use of inspection personnel.

List of Subjects in 7 CFR Part 51

Fresh fruits, Vegetables and other products (inspection certification, and standards).

PART 51—[AMENDED]

Accordingly, it is proposed that 7 CFR Part 51 be amended as follows:

1. In § 51.4051, the introductory text of paragraph (a) is revised to read:

§ 51.4051 U.S. No. 1

* * * * *

(a) *Tolerances.* In order to allow for variations incident to proper grading and handling, the following tolerances, by count, are provided as specified:

* * * * *

2. In § 51.4052, the introductory text of paragraph (a) is revised to read:

§ 51.4052 U.S. No. 2.

* * * * *

(a) *Tolerances.* In order to allow for variations incident to proper grading and handling, the following tolerances, by count, are provided as specified:

* * * * *

(Agricultural Marketing Act of 1946, Secs. 203, 205, 60 Stat. 1087, as amended, 1090 as amended (17 U.S.C. 1622, 1624))

Done at Washington, D.C. on: August 23, 1983.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 83-23534 Filed 8-25-83; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 3

[AG Order No. 1029-83]

Forwarding of Record on Appeal

AGENCY: INS, Department of Justice.

ACTION: Proposed regulation.

SUMMARY: Under the present provisions of 8 CFR 3.5, if an appeal is taken to the Board of Immigration Appeals from a decision by an Immigration and Naturalization Service District Director, the record must be forwarded to the Board for adjudication of the appeal. The proposed regulation is designed to permit District Directors to reopen and reconsider their decisions subsequent to a party's filing of an appeal to the Board where, upon review of the matters submitted on appeal, it is concluded that the benefit sought by the appealing party should have been granted. Such reconsideration is only to be authorized where the District Director concludes that the benefit sought should have been granted and the new decision is served on the appealing party within 45 days of receipt of any briefs or the expiration of the time allowed for such submission. In any case in which a new decision granting relief is not served within 45 days or in which the appealing party does not agree that the new decision disposes of the matter, the record must be promptly forwarded to the Board. The proposed regulations should permit a prompt disposition of cases to the benefit of all concerned where the District Director, subsequent to an appeal, concludes that favorable action is warranted. Additionally, unnecessary Board consideration of appeals in such cases can be eliminated.

DATE: Written comments must be received by September 26, 1983.

ADDRESS: All written comments should be addressed to the Chairman, Board of Immigration Appeals, Department of Justice, 2 Skyline Place, 5203 Leesburg Pike, Falls Church, Virginia 22041.

FOR FURTHER INFORMATION CONTACT: David B. Holmes, Chief Attorney Examiner, Board of Immigration Appeals (703/756-6170).

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 605(b), the Attorney General certifies that the proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. Further, the rule is not a major rule within the definition of section 1(b) of E.O. 12291 and is not subject to a regulatory impact analysis.

List of Subjects in 8 CFR Part 3

Administrative practice and procedure, Aliens.

PART 3—[AMENDED]

Accordingly, it is proposed to revise 8 CFR 3.5 to read as follows:

§ 3.5 Forwarding of record on appeal.

If an appeal is taken from a decision, as provided in this chapter, the entire record of the proceeding shall be forwarded to the Board by the office having administrative jurisdiction over the case upon timely receipt of the briefs of the parties, or upon expiration of the time allowed for the submission of such briefs. A district director need not forward an appeal to the Board, but may reopen and reconsider any decision made by the director when an appeal to the Board has been filed, if the district director's new decision will grant the benefit which has been requested; provided that the district director's new decision is served on the appealing party within 45 days of receipt of any briefs or upon expiration of the time allowed for the submission of any briefs. If the district director's new decision is not served within these time limits or

the appealing party does not agree that the new decision disposes of the matter, the record of proceeding shall be promptly forwarded to the Board.

Dated: August 18, 1983.

Edward C. Schmults,

Acting Attorney General.

[FR Doc. 83-23604 Filed 8-25-83; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

FAA Auxiliary Fuel System Forum

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public technical forum.

SUMMARY: This notice announces an FAA-sponsored public technical forum utilizing FAA and industry expertise to discuss improvements to the current airworthiness design and standards for auxiliary fuel system installations applicable to transport category airplanes. This technical basis will then be used by the FAA to develop a draft advisory circular following normal procedures at a later date. This technical forum is open to all parties, both foreign and domestic, who have an interest in this subject. Participation FAA representatives will be from all regions, and it is anticipated that all aspects of industry will participate.

DATES: The forum is scheduled for Tuesday, November 15, through Friday, November 18, 1983. Registration will be on Monday, November 14, 1983, from 2:00–8:00 p.m. and on Tuesday, November 15, 1983, from 7:00–8:00 a.m. The forum sessions will begin at 8:00 a.m. Tuesday with a general session. Concurrent propulsion fuel systems and structural technical sessions will commence on Tuesday at 9:30 a.m. and continue through Thursday until 5:00 p.m. Mechanical, electrical, and flight test aspects will probably be addressed on Thursday, November 17, 1983. The forum will close on Friday with a summary session from 8:00–9:30 a.m. This is to be followed by an in-house FAA meeting from 10:00 a.m.–12:00 noon.

ADDRESS: The forum will be held at the Bahia Hotel, in San Diego, California.

FOR FURTHER INFORMATION CONTACT: Persons interested in attending the FAA Auxiliary Fuel System Forum, being on the mailing list, and/or wishing further information should contact Mr. Sam Frick, FAA, Los Angeles Area Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808; telephone (213) 548–2835.

SUPPLEMENTARY INFORMATION: A proposed auxiliary fuel system technical draft is now being prepared which will include details of the FAA forum as well as hotel reservation information. This draft will be available upon request by September 16, 1983. The intent is that this technical draft be used as the basis for the forum discussions. Each major paragraph will be reviewed and discussed. Comment sheets will be available and submittal will be requested at the conclusion of each discussion item. All comments received will be considered for the advisory circular which is targeted for draft completion by February 1984.

A few examples of the overall technical subjects which will be discussed during the forum are:

1. Fuel system installation integrity and crashworthiness.
2. Auxiliary fuel system arrangement.
3. Component materials.
4. Auxiliary fuel system performance.
5. Impact of system on aircraft operation and performance.
6. User instructional requirements.

Each of these areas will have detailed paragraphs addressing all aspects on each one of these subjects and will be preliminarily defined in the draft available on September 16, 1983. These items will be discussed paragraph by paragraph during the forum. Propulsion, structural, electrical, mechanical sealing, and flight test aspects are involved.

A mailing list is now being prepared so that all information on the forum can be distributed starting September 16, 1983. Included will be a "Survey of Comments" form which is to provide an indication as to which items will have *major* discussion. The schedule for the forum may be adjusted based on the results of this survey.

Pertinent dates associated with the FAA Auxiliary System Forum are:

1. Proposed Auxiliary Fuel System Technical Draft and information/registration kits available—September 16, 1983.
2. "Draft," Survey of Comments requested—October 20, 1983.
3. Hotel reservations (preregistration complete)—November 1, 1983.
4. FAA forum registration—November 14–15, 1983.
5. FAA Auxiliary Fuel System Forum—November 15–18, 1983.
6. Draft advisory circular—February 1984.

Issued in Seattle, Washington, on August 9, 1983.

H. A. Parker,

Acting Manager, Aircraft Certification Division, ANM–100.

[FR Doc. 83-23447 Filed 8-25-83; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[File No. 822-3139]

Emergency Devices, Inc., et al. and Monte Proulx; Proposed Consent Agreements With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreements.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, these consent agreements, accepted subject to final Commission approval, would require a San Francisco, Ca. corporation and three individuals, among other things, to cease representing that the "Extra Margin Emergency Escape Mask" provides protection from carbon monoxide gas; will permit a person to breathe normally or for an express amount of time; or has been endorsed or approved by any municipal, state or federal agency, unless such claims are true and are substantiated by competent and reliable scientific evidence. The orders would also require that any representation that an emergency escape mask protects the user from the hazards associated with fire must be accompanied by a disclosure that, "The mask does not filter carbon monoxide—a lethal gas associated with fire." Additionally, should the company continue to market the "Extra Margin Emergency Escape Mask" or any emergency escape mask in its current packaging, it would be required to affix a white permanent-adhesive label to such packaging, in order to remove any reference to the mask's ability to provide protection from carbon monoxide and its effectiveness for up to 20 minutes and inform the user of the mask's inability to filter out lethal carbon monoxide gas. The orders would further require the respondents to retain documentation substantiating or contradicting advertising claims for a period of 3 years, and provide all present and future sales, advertising, and policy-making personnel with a copy of the order and an acknowledgement form.

DATE: Comments must be received on or before October 25, 1983.

ADDRESS: Comments should be directed to: FTC/S, Office of the Secretary, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: FTC/PA, Wendy Kloner, Washington, D.C. 20580. (202) 724–1479.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreements containing consent orders to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, have been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

List of Subjects in 16 CFR Part 13

Advertising, Gas masks, Trade practices.

Agreement Containing Consent Order To Cease and Desist

[File No. 822–3139]

In the matter of Emergency Devices, Inc., a corporation, Steven Weiss, individually and as an officer of said corporation, and Michael Weiss, individually and as an officer of said corporation.

The Federal Trade Commission having initiated an investigation of certain acts and practices of Emergency Devices, Inc., a corporation, Steven Weiss, individually and as an officer of said corporation and Michael Weiss, individually and as an officer of said corporation, hereinafter sometimes referred to as proposed respondents, and it now appearing that the proposed respondents are willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed by an between Emergency Devices, Inc., by its duly authorized officer, and Steven and Michael Weiss, individually and as officers of Emergency Devices, Inc., and their attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent Emergency Devices, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its office and principal place of business located at 3132 Laguna Street, San Francisco, California, 94123.

2. Proposed respondent Steven Weiss is President of Emergency Devices, Inc. ("EDI"). He directs and controls the acts of EDI, and his business address is the same as that of said corporation.

3. Proposed respondent Michael Weiss is Vice President of EDI. He directs and controls the acts of EDI, and his business address is the same as that said corporation.

4. Proposed respondents admit all the jurisdictional facts set forth in the draft complaint here attached.

5. Proposed respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

6. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby and related material pursuant to Rule 2.34, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

7. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as alleged in the draft of complaint here attached.

8. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondents, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect hereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery of the U.S. Postal Service of the complaint and decision containing the agreed-to-order to proposed respondents' address as stated in this agreement shall constitute service. Proposed respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

9. Proposed respondents have read the proposed complaint and order contemplated hereby. They understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order. Proposed respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

For the purpose of this Order, the following definitions shall apply:

(1) "The Extra Margin Emergency Escape Mask" shall mean the over-the-head vinyl mask with a built-in mouthpiece and filter manufactured by Nihon Saibohgu Company, Ltd., of Japan.

(2) "Competent and reliable scientific test" shall mean a test in which persons with skill and expert knowledge in the filed to which the test pertains conduct the test and evaluate its results in an objective manner using testing, evaluation, and analytical procedures that ensure accurate and reliable results.

I

It is ordered that respondents Emergency Devices, Inc., a corporation, its successors and assigns, and its officers, and Steven Weiss, individually and as an officer of said corporation, and Michael Weiss, individually and as an officer of said corporation, and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of the Extra Margin Emergency Escape Mask or any other emergency escape mask, in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, as

amended, do forthwith cease and desist from:

1. Disseminating, or causing or permitting the dissemination of, any advertisement or other representation, express or implied, that an emergency escape mask provides protection from carbon monoxide gas unless at the time the representation is made, the representation is true and respondents possess and rely upon a competent and reliable scientific test substantiating the representation.

2. Disseminating, or causing or permitting the dissemination of, any advertisement or other representation, express or implied, that an emergency escape mask provides twenty (20) minutes of breathable air or that an emergency escape mask provides any express amount of time of breathable air unless at the time the representation is made, the representation is true and respondents possess and rely upon a competent and reliable scientific test substantiating the representation.

3. Disseminating, or causing or permitting the dissemination of, any advertisement or other representation, express or implied, that an emergency escape mask permits normal breathing unless at the time the representation is made, the representation is true and respondents possess and rely upon a competent and reliable scientific test substantiating the representation.

4 Disseminating, or causing or permitting the dissemination of, any advertisement or other representation, express or implied, that an emergency escape mask has been endorsed or approved by any municipal, state or federal agency unless at the time the representation is made, the representation is true and the respondents possess and rely upon a reasonable basis for the claim consisting of a verified statement from the agency that endorsed or approved the mask. When referring to any test conducted by or on behalf of the aforesaid agency as a basis for the agency's endorsement or approval, the results of such test must be fairly and accurately disclosed in conjunction with the representation or claim.

II

It is further ordered that respondents Emergency Devices, Inc., a corporation, its successors and assigns, and its officers, and Steven Weiss, individually and as an officer of said corporation, and Michael Weiss, individually and as an officer of said corporation, and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of the Extra Margin Emergency Escape Mask or any other emergency escape mask, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, that an emergency escape mask protects the user from the hazards associated with fire without disclosing in close conjunction therewith the following statement in print at least as large as the print in which the representation is made, with nothing to the contrary or in mitigation of this statement.

The mask does not filter carbon monoxide—a lethal gas associated with fire.

III

It is further ordered that should respondents Emergency Devices, Inc., a corporation, its successors and assigns, and its officers, and Steven Weiss, individually and as an officer of said corporation, and Michael Weiss, individually and as an officer of said corporation, and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, continue to market the Extra Margin Emergency Escape Mask, or any other emergency escape mask, in its current packaging, the respondents shall affix a white permanent-adhesive label to all its current packaging. This label shall remove all references on the current packaging relating to the emergency escape mask's ability to provide protection from carbon monoxide and its effectiveness for up to twenty (20) minutes. The first line of this label shall state "The mask does not filter carbon monoxide—a lethal gas associated with fire." As shown in Attachment A of this Order, this sentence shall appear on the label in ten-point bold type.

IV

It is further ordered that respondents distribute a copy of this Order to all present and future personnel, agents or representatives having sales, advertising, or policy responsibilities with respect to the subject matter of this Order and that respondents secure from each such person a signed statement acknowledging receipt of said Order.

V

It is further ordered that respondents, for a period of three years after respondents last disseminate the advertisements for products covered by this Order, shall retain all test results, data, and other documents or information on which they relied for their representations or any documentation which contradicts, qualifies or calls into serious question any claim included in such advertisements which were in their possession during either their creation or dissemination. Such records may be inspected by the staff of the Commission upon reasonable notice.

VI

It is further ordered that respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the Order.

VII

It is further ordered that the individual respondents promptly notify the Commission of the discontinuation of their present business or employment. In addition, for a period of five (5) years from the date of service of this Order, the respondents shall promptly notify the Commission of each affiliation with a new business or employment whose activities include the offering for sale, sale or distribution of emergency escape masks or of their affiliation with a new business or employment in which their duties and responsibilities involve the offering for sale, sale or distribution of emergency gas masks. Each such notice shall include the respondents' new business address and a statement of the nature of the business or employment in which the respondents are newly engaged, as well as a description of the respondents' duties and responsibilities in connection with the business or employment. The expiration of the notice provision of this paragraph shall not affect any other obligation arising under this Order.

VIII

It is further ordered that respondents shall within sixty (60) days after service upon them of this Order, file with the Commission a report, in writing, setting forth in detail, the manner and form in which they have complied with this Order.

Agreement Containing Consent Order To Cease and Desist

[File No. 822-3139]

In the matter of Monte Proulx, an individual.

The Federal Trade Commission having initiated an investigation of certain acts and practices of Monte

Proulx, an individual, hereinafter sometimes referred to as proposed respondent, and it now appearing that proposed respondent is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed by and between Monte Proulx, an individual, and counsel for the Federal Trade Commission that:

1. Proposed respondent Monte Proulx is an individual whose address is 50300 Highway 245, Badger, California 93603.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated hereby and related material pursuant to Rule 2.34, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement pruposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provision of Section 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery of the U.S. Postal Service of the complaint and decision containing the agreed-to-order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right he may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby. He understands that once the order has been issued, he will be required to file one or more compliance reports showing that he has fully complied with the order. Proposed respondent further understands that he may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

For the purpose of this Order, the following definitions shall apply:

(1) "The Extra Margin Emergency Escape Mask" shall mean the over-the-head vinyl mask with a built-in mouthpiece and filter manufactured by Nihon Saibohgu Company, Ltd., of Japan.

(2) "Competent and reliable scientific test" shall mean a test in which persons with skill and expert knowledge in the field to which the test pertains conduct the test and evaluate its results in an objective manner using testing, evaluation, and analytical procedures that ensure accurate and reliable results.

I

It is ordered that respondent Monte Proulx, an individual, his agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of the Extra Margin Emergency Escape Mask or any other emergency escape mask, in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, as amended, do forthwith cease and desist from:

1. Disseminating, or causing or permitting the dissemination of, any advertisement or other representation, express or implied, that an emergency escape mask provides protection from carbon monoxide gas unless at the time the representation is made, the representation is true and respondent possesses and relies upon a competent and reliable scientific test substantiating the representation.

2. Disseminating, or causing or permitting the dissemination of, any advertisement or other representation, express or implied, that an emergency escape mask provides twenty (20) minutes of breathable air or that an emergency escape mask provides any express amount of time of breathable air unless at the time the representation is made, the representation is true and respondent possesses and relies upon a competent and reliable scientific test substantiating the representation.

3. Disseminating, or causing or permitting the dissemination of, any advertisement or other representation, express or implied, that an emergency escape mask permits normal breathing unless at the time the representation is made, the representation is true and respondent possesses and relies upon a competent and reliable scientific test substantiating the representation.

4. Disseminating, or causing or permitting the dissemination of, any advertisement or other representation, express or implied, that an emergency escape mask has been endorsed or approved by any municipal, state or federal agency unless at the time the representation is made, respondent possesses and relies upon a reasonable basis for the claim consisting of a verified statement from the agency that endorsed or approved the mask. When referring to any test conducted by or on behalf of the aforesaid agency as a basis for the agency's endorsement or approval, the results of such test must be fairly and accurately disclosed in conjunction with the representation or claim.

II

It is further ordered that respondent Monte Proulx, an individual, his agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of the Extra Margin Emergency Escape Mask or any other emergency escape mask, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, that an emergency escape mask protects the user from the hazards associated with fire without disclosing in close conjunction therewith the following

statement in print at least as large as the print in which the representation is made, with nothing to the contrary or in mitigation of this statement:

The mask does not filter carbon monoxide—a lethal gas associated with fire.

III

It is further ordered that should respondent Monte Proulx, an individual, his agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, continue to market the Extra Margin Emergency Escape Mask, or any other emergency escape mask, in its current packaging, the respondent shall affix a white permanent-adhesive label to all its current packaging. This label shall remove all references on the current packaging relating to the emergency escape mask's ability to provide protection from carbon monoxide and its effectiveness for up to twenty (20) minutes. The first line of this label shall state "The mask does not filter carbon monoxide—a lethal gas associated with fire." As shown in Attachment A of this Order, this sentence shall appear on the label in ten-point bold type.

IV

It is further ordered that respondent distribute a copy of this Order to all present and future personnel, agents or representatives having sales, advertising, or policy responsibilities with respect to the subject matter of this Order and that respondent secure from each such person a signed statement acknowledging receipt of said Order.

V

It is further ordered that respondent, for a period of three years after respondent last disseminates the advertisements for products covered by this Order, shall retain all test results, data, and other documents or information on which he relied for his representations or any documentation which contradicts, qualifies or calls into serious question any claim included in such advertisement which were in his possession during either their creation or dissemination. Such records may be inspected by the staff of the Commission upon reasonable notice.

IV

It is further ordered that respondent promptly notify the Commission of the discontinuation of his present business or employment. In addition, for a period of five (5) years from the date of service of this Order, the respondent shall promptly notify the Commission of each affiliation with a new business or employment whose activities include the offering for sale, sale or distribution of emergency escape masks or of his affiliation with a new business or employment in which his duties and responsibilities involve the offering for sale, sale or distribution of emergency gas masks. Each such notice shall include the respondent's new business address and a statement of the nature of the business or employment in which the respondent is newly engaged, as well as a description of respondent's duties and responsibilities in connection with the business or employment. The expiration of the notice provision of this paragraph shall not affect any other obligation arising under this Order.

VII

It is further ordered that the respondent herein shall within sixty (60) days after service upon him of this order, file with the Commission a report, in writing, setting forth in detail, the manner and form in which he has complied with this order.

Attachment A

The mask does not filter carbon monoxide—a lethal gas associated with fire.

Analysis of Proposed Consent Orders To Aid Public Comment

[File No. 822-3139]

In the matter of Emergency Devices, Inc. et al.

Agency: Federal Trade Commission.

Action: Provisional Acceptance of Consent Orders in the Matter of Emergency Devices, Inc. et al., File No. 822–3139.

Summary: This document contains an analysis of proposed consent orders to aid public comment on the Federal Trade Commission's provisional acceptance of consent orders in the matter of Emergency Devices, Inc. et al., File No. 822–3139.

Supplemental Information: The Federal Trade Commission has provisionally accepted agreements to proposed consent orders from Emergency Devices, Inc., and from Monte Proulx, an individual, relating to respondents' advertising claims for a product called the Extra Margin Emergency Escape Mask.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement, modify, or make final the agreement's proposed order.

The Complaints charge the respondents with disseminating advertisements containing several unfair, false, misleading or deceptive representations regarding the Extra Margin Emergency Escape Mask. The complaints allege that, contrary to fact, these advertisements claimed that (1) the Extra Margin Emergency Escape Mask provides twenty (20) minutes escape time in the event of fire; (2) The Extra Margin Emergency Escape Mask screens lethal gases associated with fire, including carbon monoxide; (3) The Extra Margin Escape Mask permits normal breathing in the event of fire; and (4) The Extra Margin Emergency Escape Mask has been endorsed or approved by state and federal government agencies.

Based upon its investigation, staff alleges:

(1) The Extra Margin Emergency Escape Mask does not provide twenty (20) minutes escape time in the event of fire. The mask user can be overcome by gases associated with fire, such as carbon monoxide, in less than twenty (20) minutes;

(2) The Extra Margin Emergency Escape Mask is incapable of screening out carbon monoxide, a lethal gas associated with fire;

(3) The Extra Margin Emergency Escape Mask does not permit normal breathing. The mask's filter creates inhalation and exhalation breathing resistance; and

(4) The Extra Margin Emergency Escape Mask has not been endorsed or approved by any state or federal agency. Government test results show that the mask has several significant limitations, listed above.

The consent order contain various provisions designed to remedy the alleged advertising violations.

Part I of the order prohibits dissemination of each of the representations, discussed above, which the complaints allege are contrary to fact, unless at the time the representations are made, they are true and respondents possess and rely upon a competent and reliable scientific test substantiating each representation.

Part II of the order requires the respondents to affirmatively disclose the mask's inability to filter carbon monoxide in all future advertising in which performance claims for the mask are made.

Part III of the order requires respondents to affix a permanent label

on the mask's current packaging, if such packaging continues to be used, which deletes the false performance claims appearing on the current packaging and which provides the affirmative disclosure about carbon monoxide required in Part II of the order.

Part IV of the order requires respondents to distribute copies of the order to their employees and agents.

Part V of the order requires respondents to maintain records for three years involving their substantiation for advertising claims.

Part VI of Emergency Devices, Inc.'s order requires them to notify the Commission thirty (30) days prior to any change in the corporate respondent.

Part VII of Emergency Devices, Inc.'s order (and Part VI of Monte Proulx's order) requires the individual respondents to notify the Commission for five years as to any new affiliation with a business which markets emergency escape masks.

Part VIII of Emergency Devices, Inc.'s order (and Part VII of Monte Proulx's order) requires the respondents to file a compliance report with the Commission within sixty (60) days after the order becomes final.

The purpose of this analysis is to facilitate public comment on the proposed orders. It is not intended to constitute an official interpretation of the complaints, agreements and proposed orders to modify in any way their terms.

Michael A. Baggage,

Acting Secretary.

[FR Doc. 83-23502 Filed 8-25-83; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 355

[Docket No. 80N-0042]

Discussion of Appropriate Laboratory Testing Profiles (Testing Standards) for OTC Abrasive-Containing Fluoride Anticaries Drug Products; Public Meeting and Reopening of the Administrative Record

AGENCY: Food and Drug Administration.

ACTION: Public meeting and reopening of the administrative record.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a public meeting will be held to discuss recommendations of the Advisory Review Panel on over-the-counter (OTC) Dentifrice and Dental Care Drug Products regarding final formulation testing, i.e., "Laboratory Testing Profiles," of Category I (generally recognized as safe and effective and not misbranded) fluoride anticaries active ingredients formulated in a dentifrice (abrasive-containing) dosage form. The meeting will be structured to seek answers to the specific questions listed below in this notice.

DATES: September 26, 27, and 28, 1983, beginning at 9 a.m.

ADDRESS: Conference Rm. M, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

FOR FURTHER INFORMATION CONTACT: Saul Bader, National Center for Drugs and Biologics (HFN-510), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4871.

SUPPLEMENTARY INFORMATION: The Advisory Review Panel on OTC Dentifrice and Dental Care Drug Products recommended in its report published in the **Federal Register** of March 28, 1980 (45 FR 20666), that laboratory testing profiles (testing standards) for Category I (generally recognized as safe and effective and not misbranded) abrasive-containing fluoride anticaries drug products be included in the monograph for OTC anticaries drug products to insure the effectiveness of these drug products. In the preamble to the Panel's report, the agency stated that these laboratory testing profiles would not be included in the proposed monograph (advance notice of proposed rulemaking) because "the Panel's final formulation recommendations represent a new concept with many technical issues yet to be resolved" (45 FR 20666). The agency has received seven comments in response to the Panel's report urging the agency to include the laboratory testing profiles in the anticaries monograph (Ref. 1). The agency did not receive any comments that were opposed to the inclusion of the laboratory testing profiles in the anticaries monograph.

In an effort to resolve technical issues concerning the laboratory testing profiles, the Division of OTC Drug Evaluation invited comments from the Council on Dental Therapeutics of the American Dental Association, the Cosmetic Toiletry & Fragrance Association, and The Proprietary Association (Ref. 2). These organizations responded with comments ranging from recommendations to use only the nonbiological portion of the laboratory testing profiles as a standard for new fluoride dentifrice products that are formulated with an abrasive and fluoride ingredient included in the laboratory testing profiles in the Panel's report (45 FR 20679 to 20681), to requiring further laboratory testing in addition to the Panel's biological and nonbiological testing recommendations for such new formulations (Ref. 3). The administrative record for the OTC anticaries drug products rulemaking is being reopened to include this correspondence.

Under 21 CFR 10.65 the Commissioner has concluded that it would be in the public interest to hold an open public meeting to discuss the issues concerning testing profiles for OTC anticaries drug products. Therefore, the agency is inviting interested individuals or groups to discuss these issues at an open meeting to be held on September 26, 27, and 28, 1983. The questions to be considered during the meeting are:

1. Do the Panel's recommended laboratory testing profiles address all the parameters that are significant in determining the effectiveness of the product? Has the technology changed in the 5 years since the Panel recommended these testing profiles?

2. Are all of the parameters that the Panel recommended be included in the laboratory testing profiles necessary in determining the effectiveness of the product? Are the Panel's established limits for specific gravity necessary? If yes, does a lower specific gravity affect the effectiveness of the anticaries activity? If not, could the Panel's limits (specific gravity: 1.3 to 1.7) be widened to 1.1 to 1.7?

3. Are all of the test values recommended by the Panel in the laboratory testing profiles valid for the abrasive/fluoride formulations listed by the Panel?

4. Are there any laboratory testing profiles, i.e., specific standards, that could validly be applied to new abrasive/fluoride formulations not specifically listed in the Panel's profile tables? Is silica a compatible abrasive for a sodium fluoride dentifrice?

5. The Panel recommended that biological testing in addition to analytical testing be required for abrasive-containing dentifrices. The recommended biological testing would require comparison of test dentifrice formulations to certain dentifrice reference formulations. These reference formulations are discussed in a submission made to the Panel by The Proprietary Association (Ref. 4). The reference formulations are commercial products that have been clinically tested and found to be effective. They are available only from the manufacturers of these commercial products. The following questions and concerns

regarding the recommended biological testing profiles will be discussed:

a. Do the reference formulations consist of lots of dentifrices that have actually been clinically tested and found effective, or do they consist of lots that have been manufactured and formulated in exactly the same manner as those that have been tested clinically? It is obvious that at some time all of the lots that have actually been tested clinically will have been used up.

b. Should reference formulation lots that are manufactured by the same manufacturing process as lots that have been clinically tested be considered equivalent to the clinically tested lots, particularly when these lots have been processed by different manufacturers?

c. How stable are such reference formulations? Should there be specific storage conditions and dating periods established to ensure the stability of these reference formulations? Should a new reference lot be standardized against the previous reference lot? Can the test values of these reference lots "drift" over time after numerous restandardization procedures, creating the possibility that they are no longer equivalent to lots that were clinically tested and found to be effective?

d. In view of the many questions and potential problems that arise concerning the use of reference formulations for the biological portion of the Panel's recommended testing profiles, is there any possibility that the biological portion of the testing could be omitted as a requirement? If not, would a United States Pharmacopeia (U.S.P.) reference standard be a desirable approach?

e. Can a 90-percent confidence level in biological tests be replaced by another appropriate statistical procedure?

6. Is it necessary to specify particular test methods to determine the test values recommended by the Panel in the laboratory testing profiles?

7. Can the testing methods submitted to the Panel by The Proprietary Association (Ref. 4) be considered examples of appropriate test methods that may be used or should they be recommended as the "precise" methods that must be used? Do these test methods represent the "current state of the art" or are there newer and/or better testing methods that could be considered appropriate? Are the precise test values recommended by the Panel in the laboratory testing profiles dependent on the test method used to obtain these test values? Should new abrasive/fluoride formulations be required to either meet specific soluble fluoride levels or else show effectiveness in clinical studies? Is the Panel's recommended dilution factor of 1:10 weight to weight (w/w) appropriate?

8. Are the "Aged minimal F Value" limits provided in the Panel's tables of "Acceptable Test Values" (45 FR 20679 to 20681) appropriate for use in determining expiration dates for abrasive-containing fluoride dentifrices?

9. The Panel recommended that expiration dates be included in the labeling of fluoride dentifrices (45 FR 20671). However, a proposed regulation that would exempt OTC drug products without dosage limitations from including expiration dates in their labeling provided the drug products have been shown to be stable for 3 or more years was published in the **Federal Register** on September 29, 1978 (43 FR 45068 and 45089). As is pointed out in the proposed rule on expiration dates, significant stability problems have been noted with some fluoride toothpastes. Are there specific fluoride/abrasive formulations that have significant stability problems? Are there specific fluoride/abrasive formulations that are stable for more than 3 years? * * * for less than 3 years? Is the stability of the fluoride/abrasive formulation dependent on the manufacturing process?

The agency believes that the concept of using testing standards such as the laboratory testing profiles is a good concept. However, the agency is concerned that inadequate testing standards may result in the marketing of ineffective products. Conversely, unnecessarily stringent laboratory testing profiles might exclude some effective fluoride abrasive-containing dentifrices from the marketplace. Anticaries drug products differ from most other OTC drug products in that they prevent the development of a condition rather than treat the symptoms of a condition already present. The prevention of caries is dependent on long-term use of an effective product over several years. Therefore, the consumer's ability to discriminate between an effective and an ineffective anticaries drug product is limited. In addition, the impact of an ineffective anticaries drug product on the consumer could be an increased incidence of caries resulting in lifelong damage to the teeth.

The agency requests information on the recommended laboratory testing profiles from any interested person. Any individual or group wishing to present information relevant to the questions above should contact Saul Bader, Ph. D., Division of OTC Drug Evaluation (HFN-510), Office of Drugs, National Center for Drugs and Biologics, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4871. Interested persons who wish to participate must send a notice of participation on or before September 9, 1983, to the Dockets Management Branch, Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. All notices submitted should be identified with the docket number found in brackets in the heading of this notice and should contain the following information; name; address; telephone number; business affiliation, if any, of the person desiring to make a presentation; and the approximate amount of time requested for the presentation.

Groups having similar interests are requested to consolidate their comments and present them through a single representative. FDA may require joint presentations by persons with common interests. After reviewing the notices of participation, FDA will notify each participant of the schedule and time allotted to each person.

The administrative record of the OTC anticaries drug products rulemaking is being reopened to include the proceedings of this public meeting. The administrative record will remain open for 15 days after the meeting to allow comment on matters raised at the meeting.

References

(1) Comment Nos. C00001, C00002, C00014, C00016, C00019, C00026, C00028, Docket No. 80N-0042, Dockets Management Branch.

(2) Comment Nos. LET002, LET003, and LET004, Docket No. 80N-0042, Dockets Management Branch.

(3) Comment Nos. C00037, MT, and C00038, Docket No. 80N-0042, Dockets Management Branch.

(4) OTC Volume 080248, Docket No. 80N-0042, Dockets Management Branch.

Dated: August 23, 1983.

Mark Novitch,

Deputy Commissioner of Food and Drugs.

[FR Doc. 83-23552 Filed 8-25-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Ch. I

[FHWA Docket No. 83-7]

Acceleration of Projects; Consolidated Rulemaking

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The FHWA is considering ways to expedite the processing of Federal-aid Highway Projects by promoting wider use of findings and recommendations of a demonstration project carried out under Section 141 of the Federal-Aid Highway Act of 1976, or by techniques in addition to those proposed as a result of that project. The FHWA is seeking ways to simplify, streamline and consolidate requirements in order to advance projects in an accelerated manner. This rulemaking focuses on activities which are not accounted for by current rule. This action is being taken pursuant to Section 129 of the Surface Transportation Assistance Act of 1982.

DATE: Comments must be received by September 25, 1983.

ADDRESS: Submit written comments, preferably in triplicate, to FHWA Docket No. 83–7, Room 4205, HCC–10, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. All comments received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. ET, Monday through Friday. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Steiner M. Silence, Special Procedures Branch, Federal-Aid Division, 202–426–0335, or Mr. Edward V. A. Kussy, Assistant Chief Counsel, 202–426–0791, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Copies of reports and memorandums referenced in the Supplementary Information may be obtained from Mr. Silence.

SUPPLEMENTARY INFORMATION: Pursuant to Section 141 of the Federal-Aid Highway Act of 1976, Pub. L. 94–280, May 5, 1976, the FHWA initiated a demonstration project in Everett, Pennsylvania, in conjunction with the Pennsylvania Department of Transportation. A final report on this project entitled, "Acceleration of Highway Projects," was transmitted to the Congress on January 16, 1981. The report documents how time was saved on the Everett Bypass project and makes several recommendations which could apply to other selected highway projects. FHWA implemented many of the findings through advisory memoranda to its operating offices dated February 25, 1981; June 10, 1981; and December 1, 1981. On May 13, 1982, all offices were advised of the selection of Acceleration of Projects as a special Cost Avoidance, Reduction, and Efficiency; and Effectiveness (CARE) Program effort.

Section 129 of the Surface Transportation Assistance Act of 1982, Pub. L. 97–424, January 6, 1983, requires the FHWA to issue rules and regulations which implement timesaving procedures developed under Section 141 of the Federal-Aid Highway Act of 1976. FHWA issued a new policy on May 27, 1983 (published at 48 FR 25181, June 6, 1983), formalizing acceleration of projects as the FAST program—to Facilitate Acceleration through Special Techniques. This policy is confined to acceleration techniques permitted under existing laws and regulations. Although some significant results are anticipated through use of the FAST procedures, further wide-spread timesavings would require changes to existing policies and regulations. A report was issued by the American Association of State Highway and Transportation Officials (AASHTO) in April 1981 entitled, "Federal Mandates Contributing to Excessive Project Costs," which points out several areas where changes may be desirable and the follow-up actions taken by FHWA to respond to that report will be fully coordinated with the development of this rule.

The FHWA's present policy for accelerating projects is set forth in detail in the policy documents described above. The FAST techniques rely primarily on waivers permitted by existing rules and focus attention on projects selected for FAST processing.

The FHWA is now considering going beyond project-by-project actions into "across-the-board" changes to Federal/State/local procedures by establishing tailor-made processes to assure compliance with applicable laws through (1) various disciplines within State highway agencies (planning, right-of-way, environment, location, design, bridge, etc.), working as a concurrent team; (2) program activity consolidation; (3) project development through FHWA working closely with the State highway agency, relying on combined interagency reviews; and (4) development of alternative procedures which allow operational flexibility in appropriate circumstances.

Responses to the following questions are of particular interest:

1. Should FHWA develop procedures which would accelerate all Federal-aid highway processes or should acceleration techniques be limited to a few projects per State to assure that priority treatment can be maintained?

2. What would be the most valuable procedures for accelerating projects?

3. What would be the most valuable type of project to try the acceleration techniques?

4. Which timesavings techniques set forth in the May 27, 1983, policy statement (48 FR 25181) result in the most time saved?

5. What other timesaving approaches should be included in this rulemaking?

6. What methods would be effective in assuring adequate community involvement while minimizing time required?

7. What methods would be most effective in assuring interagency (local-State-Federal) cooperation while minimizing time required?

8. Should the FHWA require the States to accelerate certain projects? If so, what type of projects?

9. Should each State be permitted to develop its own acceleration techniques?

The FHWA is also considering the development of a regulation which would establish general waiver criteria for regulatory requirements. Under such a regulation, the FHWA could waive or modify specific requirements under appropriate conditions. Project acceleration could be one of the reasons permitting waiver or modification. Comment is also sought on whether such a waiver provision should be prepared, and whether such general waiver criteria would have significant effects on public safety and convenience, and project costs.

The FHWA has determined that this document contains neither a major rule under Executive Order 12291 nor a significant regulation under the regulatory policies and procedures of the Department of Transportation. The FHWA has further determined that it does not have adequate information at this time to prepare a regulatory evaluation and, therefore, specifically solicits information which will assist in the analysis of alternatives available to it as indicated in the nine points referred to immediately above. The FHWA further requests information upon which to determine whether such action would have a significant economic impact on a substantial number of small entities.

(Sec. 129, Pub. L. 97–424, 96 Stat. 2118; 23 U.S.C. 140, 315; 49 CFR 1.48(b))

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The regulations implementing Executive Order 12372 and former OMB Circular A–95 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: August 19, 1983.

R. A. Barnhart,

Federal Highway Administrator, Federal Highway Administration.

[FR Doc. 83-23000 Filed 8-25-83; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. H-059B]

Occupational Exposure to Benzene

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Extension of comment period.

SUMMARY: This notice extends the comment period for written comments and information requested in the advance notice of proposed rulemaking: "Occupational Exposure to Benzene" (48 FR 31412, July 8, 1983).

DATES: Written comments and information should be postmarked on or before September 6, 1983.

ADDRESSES: Written comments should be submitted in quadruplicate to the Docket Officer, Occupational Safety and Health Administration, Docket No. H-059B, Room S-6212, U.S. Department of Labor, 200 Constitution Ave., NW., Washington, D.C. 20210, Telephone (202) 523-7894.

FOR FURTHER INFORMATION CONTACT: Mr. James Foster, Occupational Safety and Health Administration, Room N-3637, U.S. Department of Labor, 200 Constitution Ave., NW., Washington, D.C. 20210 (202) 523-8148.

SUPPLEMENTARY INFORMATION: On July 8, 1983, OSHA published in the **Federal Register** (48 FR 31412) a notice, "Occupational Exposure to Benzene", announcing its plans to revise its benzene regulation at 29 CFR Part 1910. In the notice, OSHA solicited information regarding the content, scope and format of a complete revision of the standard. The written responses were to have been postmarked on or before August 22, 1983.

OSHA has received a request from the Chemical Manufacturers Association for an extension of the comment period to September 6, 1983. Other parties have asked for extensions as well. In order to ensure that interested parties have sufficient time to prepare and submit information, comments and regulatory proposals related to the subject. OSHA extends the written comment period to September 6, 1983.

(Sec. 6 Pub. L. 91-596, 84 Stat. 1593 (29 U.S.C. 655) 29 CFR 1911; Secretary of Labor's Order No. 8-76 (41 FR 25029))

Signed at Washington, D.C., this 22nd day of August 1983.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 83-23400 Filed 8-25-83; 8:45 am]

BILLING CODE 4510-26-M

FEDERAL MARITIME COMMISSION

46 CFR Part 510

[General Order 4, Revised; Docket No. 83-35]

Licensing of Independent Ocean Freight Forwarders

AGENCY: Federal Maritime Commission.

ACTION: Proposed Rulemaking.

SUMMARY: The Federal Maritime Commission proposes to revise General Order 4 which governs the licensing and operations of independent ocean freight forwarders. A majority of the proposed rule changes were suggested by the National Customs Brokers & Forwarders Association of America, Inc. and cover a variety of issues. The suggested changes which the Commission has decided to propose in this rulemaking include the reporting and noticing of shipper affiliations by forwarders, amending the current invoicing rules, sale or transfer of stock, forwarder arrangements with sales agents, accounting to clients for funds due, anti-rebate certification and non-exclusive cooperative working agreements. In addition to the suggestions from the Association, the Commission is proposing to change certain other rules concerning port-wide exemptions and notice of license revocation.

DATES: Comments to be filed by October 25, 1983.

ADDRESS: Comments (Original and fifteen copies) to: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573.

FOR FURTHER INFORMATION CONTACT: Jeremiah D. Hospital, Chief, Office of Freight Forwarders, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573, (202) 523-5843.

SUPPLEMENTARY INFORMATION: The National Customs Brokers & Forwarders Association of America, Inc. (hereinafter referred to as the Association)[1] submitted a number of suggested changes to the rules in the Commission's General Order 4 (46 CFR Part 510). Some of the suggestions are new while others are believed to correct perceived deficiencies in the rules as amended effective October 1981. The Association feels that after more than a year's experience under the current rules, it would be appropriate for the Commission to determine whether changes are justified.

We have carefully reviewed the Association's suggestions and find that many have merit. These have been included, in one form or another, in this proposed rulemaking. The Association also suggested changes in the rules concerning the licensing of carriers and their agents and the liability of forwarders for ocean freight charges. The Commission has addressed the issue of the licensing of carriers and steamship agents on a number of occasions since 1963, the last time being in Docket No. 80-13, Licensing of Independent Ocean Freight Forwarders, and we are not persuaded by the Association's arguments that changes in the current rules are necessary. As for the issue of forwarder liability for ocean freight charges, we also considered this issue in Docket No. 80-13 and believe that this issue should be addressed on an ad hoc basis. We see no reason to disturb that finding at this time. Therefore, no changes are being proposed in either of those two areas.

In addition to the proposed changes generated by the Association's suggestions, we are proposing to amend § 510.33(e) which will dispose of the so-called exemptions issue already before the Commission in Docket No. 82-22, Notice of Intent to Review Certain Port-wide Exemptions. We also are proposing to amend § 510.17(c) to provide for publication of a notice of revocation in lieu of the entire text of the Commission's Order of Revocation. All interested parties are urged to comment on these proposals.

1. Protecting the Shipping Public

The Association suggests that an amendment is required to have forwarders with an exporter affiliation report such fact to the Commission within a specified period of time. The Association further recommends that forwarders who have such affiliations should be required to give notice, on their office stationery and billing invoices, that they are affiliated with an exporter. This suggestion is meant to lessen the opportunity for a forwarder to use the highly confidential information acquired about a customer's business to

[1] The Association is comprised of over three hundred and fifty custom brokers and ocean freight forwarders and is affiliated with twenty-eight local associations.

siphon off such business. The Association believes that the prohibition in section 20 of the Shipping Act, 1916, barring unauthorized release of proprietary information, simply is not sufficient.

General Order 4 currently contains no specific requirement for a licensed forwarder to notify the Commission of any changes in its operations and/or affiliations as there is for applicants (see § 510.13(e) of General Order 4). The application form, FMC–18, does provide that any changes in facts must be reported to the Commission within thirty days, but this has less force than a rule. We now propose to amend § 510.13(e) to require reporting of changes in operations and/or affiliations.

We agree with the suggestion that shipper-affiliated forwarders provide notice of such affiliation to their actual or potential shipper-clients. Notification would give clients the opportunity to choose whether or not to employ certain forwarders who may be controlled by or otherwise affiliated with a competitor. We recognize that requiring forwarders to reveal and keep up to date the specific identity of each exporter affiliate on all stationery and invoices may in some cases create an unreasonable burden. Therefore, we propose to amend § 510.31(b) to allow a forwarder the option of identifying its affiliations or printing a notice on stationery and invoices to the effect that the forwarder is affiliated with one or more shippers or sellers of goods exported from the United States and upon request will identify such affiliations in writing. Either option would give sufficient notice to shipper-clients and the latter option would relieve a forwarder who is affiliated with a number of shippers from the burden and expense of obtaining new stationery items every time its affiliations change. It also would avoid unnecessary cluttering of stationery and invoices.

2. The Invoicing Rules

The Association seeks basic amendments to the present invoicing rules, § 510.32(h). For example, the Association decries the current requirement to disclose the aggregate markup for arranging accessorial services, and seeks clarification of the rule concerning written quotations, § 510.32(h)(2)(i). The Association would prefer the rule to allow forwarders the opportunity to provide lump sum quotations and, if accepted by the client, would allow the forwarder to submit an invoice with no breakdown of charges, such as ocean freight, as is now required.

In an effort to solicit as much comment as possible, we are proposing alternatives ranging from retention of the present invoicing rules to deletion of the rules in their entirety. Comments are requested on these possibilities or on any compromise rule within those parameters. At this time, we are leaning toward a middleground position which would partially adopt the Association's suggestion and allow forwarders to quote and submit lump sum charges. A forwarder, however, would be required to provide its client with copies of all underlying documents (invoices for the trucking, warehousing, insurance, etc., arranged for its client), if the client requested the forwarder to do so. This would provide exporters with the means to protect their interests if they so desired. After considering all comments on this issue, the Commission will make no change, delete the present rule entirely, or modify the current rule.

3. Sale or Transfer of Five Percent or More of a Forwarder's Stock

The Association suggests that in view of the Breaux Amendment [2] there is no need for the currently required approval of such transactions. The requirement was meant to ensure that licensees remain independent of shipper connections. The Association suggests that it would be sufficient if the Commission simply was notified of such changes in stock ownership.

We agree with the sugestion and propose to delete § 510.20(a)(5) in order that the sale or transfer of stock will be subject to notification of the Commission, instead of to prior approval by the Commission.

4. Arrangements with Unauthorized Persons

First, the Association points out that § 510.31(e) appears to prohibit a licensee from sharing its forwarding fee or compensation with any unlicensed person. The Association argues that this unreasonably restricts a licensee from compensating a person for obtaining business for the licensee (e.g., a sales agency arrangement) and would prefer fee sharing to be allowed for this type of arrangement.

Second, the Association believes that the requirement in the second sentence of § 510.31(e) is unnecessary. This requires a licensee to send a copy of its invoice to the actual shipper. On project shipments, for example, the party engaging the forwarder may be an engineering firm coordinating the project. The bills of lading in such cases may show the U.S. supplier as shipper when in fact the goods were sold f.o.b. plant. Under the rule as interpreted by the Association, however, the forwarder must send a copy of its invoice to the supplier, which serves no regulatory purpose. The Association believes that this rule should be deleted.

As to the first issue, the rule was not intended to prohibit forwarders from compensating bona fide sales agents for services rendered, provided that such services are restricted to soliciting and obtaining business for the forwarder and are not otherwise prohibited by law or regulation. We propose to clarify that portion of the rule to so specify. With respect to the second issue, the Association may be misinterpreting the rule's intent. It is the intent of the rule that forwarders send copies of their invoices to the parties who will eventually pay for the forwarding services, not suppliers selling f.o.b. plant. This may be a consignee in the example used by the Association. We propose to clarify the rule.

5. Anti-Rebate Certification

The Association believes that the Commission should reconsider § 510.31(h) which requires forwarders to put an anti-rebate certification on each invoice to clients and on each certification of service to ocean carriers. The Associaton characterizes such repeated anti-rebate certification as overregulaton which just clutters the "already crammed full" documents on which it appears. The Association believes that the annual anti-rebate certification is sufficient.

To obtain as much comment as possible, we propose two alternatives dealing with this issue. First, that no change be made because the current rule serves to "close the loop" among the carrier, shipper and forwarder on the issue of rebates, and, second, that the rule be deleted leaving only the annual certification as suggested by the Association. Comments for a compromise between those alternatives will be considered.

6. Accounting to Principal

The Association states that § 510.32(k) (which requires forwarders to promptly forward funds due their clients, or, with the written consent of the client, offset outstanding receivables due from the client) imposes an unnecessary hardship. By requiring forwarders to wait for written permission to offset

[2] This refers to the changes to the definition of an independent ocean freight forwarder contained in the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97–35. This change in the law allows a forwarder to have a beneficial interest in the goods being forwarded, e.g., allows a forwarder to be owned by a shipper.

funds, forwarders suffer an undue delay in collecting receivables due from clients. Forwarders would like to be able to offset funds and remit only any balance due the client.

We think that it would be unwise to delete the rule and thus permit a forwarder to dispose of funds belonging to its principal without the principal's authority to do so. The relationship between a forwarder and its principal is one of trust. The forwarder is for all purposes the trustee of its clients' funds. It would do violence to such a relationship to allow a forwarder to invade a client's account to satisfy that forwarder's claims. We believe, however, that a compromise rule is possible. Accordingly, we propose to delete the requirement that the forwarder obtain written consent to offset funds on each and every shipment. In its stead, we propose that the forwarder either execute a written agreemnent with its principal which would allow the forwarder to offset funds on all of the principal's shipments, or obtain oral consent on each shipment. Such oral consent would have to be noted in the forwarder's records.

7. Section 15 Agreements, Exemptions

The Association points out that non-exclusive cooperative working agreements between forwarders, as provided for in § 510.36(b), are informal and noncompetitive in nature. Therefore, the Association contends that the requirement that such agreements be reduced to writing serves no useful regulatory purpose, particularly because they are exempt from section 15 approval and filing requirements. The Association requests that such agreements not be required to be reduced to writing, as was the case under previous General Order 4.

In view of the fact that such agreements were not required to be reduced to writing under the previous rule in General Order 4, and because no adverse effects of the previous rule were brought to our attention, we are proposing to amend §§ 510.36(b) and 510.34(e) accordingly.

8. Port-wide Exemptions

In addition to the changes suggested by the Association, we propose to amend § 510.33(e). This rule prohibits a licensee from receiving compensation from an underlying ocean carrier if the licensee has requested the carrier, or its agent, to perform any forwarding services on behalf of the licensee, unless no other licensee is willing and able to perform such services or unless the Commission has granted a port-wide exemption from the rule. We propose to modify the rule in order to allow compensation to be paid if the underlying carrier or its agent is also a licensee. This change would make the port-wide exemption provision unnecessary. Accordingly, we propose to delete the port-wide exemption provisions from the rule. These changes will allow all licensees the same compensation opportunities and will lessen the chance of discrimination against licensees who also happen to be engaged in the steamship agency business. The Commission has the issue of port-wide exemptions under consideration in Docket No. 82-22, and if the port-wide exemption provisions are deleted as we now propose, Docket No. 82-22 could be discontinued.

9. Publication of Orders of Revocations.

The staff points out that § 510.17(c) requires the Commission to publish each entire order of revocation in the **Federal Register**. The publication of each entire order of revocation is unnecessary and expensive. The public will be sufficently informed by a simple notice identifying the forwarder and the revoked license. Accordingly, we purpose to change this section to provide that a "notice" of revocation shall be published in lieu of each entire order.

Pursuant to 5 U.S.C. 601 *et seq.*, The Commission certifies that the rule revisions proposed herein will not have a significant economic impact on a substantial number of small entities. The proposed rules lessen the regulatory burden upon the forwarding industry and thus should have a cost-saving impact on daily operations.

This Notice of Proposed Rulemaking has been submitted to the Office of Management and Budget for review and public comment, in accordance with the Paperwork Reduction Act of 1980. Comments regarding the paperwork burden should be addressed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, D.C. 20503, Attention: Desk Officer for the Federal Maritime Commission.

List of Subjects in 46 CFR Part 510

Freight forwarders.

PART 50—[AMENDED]

Therefore, pursuant to sections 21, 43, and 44 of the Shipping Act, 1916 (46 U.S.C. 820, 841a and 841b), and 5 U.S.C. 553, the Commission proposes to amend 46 CFR Part 510 as follows:

(1) Section 510.13(e) is revised to read as follows:

§ 510.13 Application for license.

* * * * *

(e) *Changes in facts.* Each applicant and each licensee shall submit to the Commission, in duplicate, an amended Form FMC-18 Rev., advising of any changes in the facts submitted in the original application, within thirty (30) days after such change(s) occur. In the case of an application for a license, any unreported change may delay the processing and investigation of the application and may result in rejection or denial of the application. No fee is required when reporting changes to an application for initial license under this section.

* * * * *

(2) Section 510.17(c) is revised to read as follows:

§ 510.17 Revocation of suspension of license.

* * * * *

(c) *Notice of Revocation.* The Commission shall publish in the **Federal Register** a notice of each revocation.

§ 510.20 [Amended]

(3) Section 510.20(a) is amended by removing paragraph (a)(5) and renumbering the subsequent numbered paragraphs as follows: (a)(6) to (a)(5); (a)(7) to (a)(6); and (a)(8) to (a)(7).

(4) Section 510.31(b) is revised to read as follows:

§ 510.30 General duties.

* * * * *

(b)(1) *Stationery and billing forms.* The name and license number of each licensee shall be permanently imprinted on the licensee's office stationery and billing forms. The Commission may temporarily waive this requirement for good cause shown if the licensee rubber stamps or types its name and FMC license number on all papers and invoices concerned with any forwarding transaction.

(b)(2) When a licensee is affiliated with a shipper or seller of goods exported from the United States, the licensee shall have the option of either identifying its affiliations on its office stationery and billing forms, or putting the following notice on such items:

This company is affiliated with a shipper or seller of goods exported from the United States. Upon request, a written list of the names of such affiliates and a general statement of the business activities of each will be provided.

* * * * *

(5) **Section 510.31(e) is revised to read as follows:**

§ 510.31 General duties.

* * * * *

(e) *Arrangements with unlicensed persons.* No licensee shall enter into an

agreement or other arrangement (excluding sales agency arrangements not prohibited by law or this part) with an unlicensed person so that any resulting freight forwarding fee, compensation, or other benefit inures to the benefit of the unlicensed person. When a licensee is employed for the transaction of forwarding business by a person who is not the person responsible for paying the forwarding charges, the licensee shall transmit to the person paying the forwarding charges a copy of its invoice for services rendered.

* * * * *

§ 510.31 [Amended]

(6) The Commission is proposing two alternatives concerning § 510.31(h): delete the rule in its entirety, or retain the rule with no change. Comments supporting an alternative rule between these extremes also will be considered. If the Commission adopts a final rule which deletes the requirements contained in § 510.31(h), then § 510.33(c) would be amended to delete reference to section 510.31(h).

§ 510.32 [Amended]

(7) The Commission is proposing alternatives concerning § 510.32(h):

a. Retain the current rule with no changes,

b. Delete the entire rule, or

c. Any modification of the current rule, including a rule that would allow a forwarder to provide a lump sum invoice but, at the same time, require the forwarder, upon request of its principal, to provide copies of any or all pertinent documents (such as invoices for trucking, warehousing, insurance, etc.) pertaining to the forwarder's invoice.

(8) Section 510.32(k) is amended as follows:

a. The last sentence is revised to read:

§ 510.32 Forwarder and principal; fees.

* * * * *

(k) * * * These sums shall be forwarded promptly to the principal or, with the principal's consent, may be used to offset the licensee's outstanding receivables due from such principal.

b. New language is added to the end of § 510.32 which reads:

"A memorandum of such consent shall be retained by the licensee in each shipment file. Alternatively, the licensee may execute a written agreement with its principal which would authorize the licensee to offset funds on all the principal's shipments handled by the licensee."

(9) Section 510.33(e) is revised to read as follows:

§ 510.33 Forwarder and carrier; compensation.

* * * * *

(e) *Compensation for services performed by underlying carrier.* No licensee shall charge or collect compensation in the event the underlying oceangoing common carrier or its agent has, at the request of such licensee, performed any of the forwarding services set forth in § 510.2(h) of this part, unless such carrier or agent is also a licensee or unless no other licensee is willing and able to perform such services.

* * * * *

(10) Section 510.34(b) is revised to read as follows:

§ 510.34 Records required to be kept.

* * * * *

(b) *Types of services by shipment.* A separate file shall be maintained for each shipment. Each file shall include a copy of each document prepared, processed, or obtained by the licensee, including each invoice for any service arranged by the licensee and performed by others, with respect to such shipment.

* * * * *

(11) Section 510.34(e) is revised to read as follows:

§ 510.34 Records required to be kept.

* * * * *

(e) *Agreements to Offset Funds.* Any written agreement, or a memorandum of any oral agreement, with a principal to offset funds, as provided in § 510.32(k) of this part, shall be retained by the licensee.

§ 510.36 [Amended]

(12) Section 510.36(b) is amended as follows:

a. In the first sentence, everything after "for approval" shall be deleted. The following language shall be inserted in place of the deleted language: "or be reduced to writing."

b. The second sentence shall be deleted and replaced by the following language: "A typical form of such exempt agreement is as follows:"

c. The signature lines contained in the form of exempt agreements shall be removed.

By the Commission

Francis C. Hurney,

Secretary.

[FR Doc. 83-23440 Filed 8-25-83; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 83-514; RM-4431; RM-4561]

FM Broadcast Stations in Susanville, California and Reno, Nevada; Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule; Extension of reply comment period.

SUMMARY: This action extends the time for filing reply comments in the proceeding involving a proposed substitution of channels at Susanville, California. Petitioner, Radio Lassen, requests the additional time to submit a response to a counterproposal for an FM asignment to Reno, Nevada, submitted by David E. Caldwell and Kathryn S. Caldwell.

DATE: Reply comments must be filed on or before September 5, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Order Extending the Time for Filing Reply Comments

In the matter of amendment of § 73.202(b) Table of Assignments, FM Broadcast Stations (Susanville, California, and Reno, Nevada);[1] MM Docket No. 83-514, RM-4431, RM-4561.

Adopted: August 12, 1983.

Released: August 18, 1983.

By the Chief, Policy and Rules Division.

1. On May 19, 1983, the Commission adopted a *Notice of Proposed Rule Making*, 48 FR 28494, published June 22, 1983, in response to a petition filed by Radio Lassen. The *Notice* proposed the substitution of Channel 226 for Channel 224A at Susanville, California. The date for filing reply comments was August 9, 1983. A counterproposal was filed July 25, 1983 by David E. Caldwell and Kathryn S. Caldwell ("Caldwell") requesting that Channel 226 be assigned to Reno, Nevada, and Channel 277 be substituted at Susanville, California.

2. On August 3, 1983, counsel for petitioner filed a request to extend the date for filing reply comments to and including September 5, 1983. Counsel

[1] This community has been added to the caption (RM-4561).

states that the additional time is needed to study and prepare a response to the counterproposal filed in this proceeding. Counsel also states that he will be appearing in a hearing before the F.C.C. beginning August 9, 1983, and will not be available to work on this matter for approximately two weeks.

3. Although the request did not meet the filing deadline of seven (7) days in advance of the reply date, as provided by § 1.46 of the Commission's Rules, counsel did serve the order party to this proceeding. Thus, we believe that it would be in the public interest to waive the filing deadline. We feel that the filing of reply comments would aid in our analysis of this proceeding where a comparative evaluation is to be made. We shall grant the additional time requested.

4. Accordingly, it is ordered that the above request for an extension of time, filed by Radio Lassen, is granted and the date for filing reply comments is extended to, and including, September 5, 1983.

5. This action is taken pursuant to the authority contained in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's rules.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-23483 Filed 8-25-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 80-523; RM-3543; RM-3780]

FM Broadcast Station in Helena, Montana; Order Extending Time for Filing Responses To Petition Requesting the Commission To Hold Channels and Applications in Abeyance

AGENCY: Federal Communications Commission.

ACTION: Expedited Petition; Extension of time for filing responses.

SUMMARY: This action further extends the time for responding to a petition filed by KCAP Broadcasters, Inc. requesting the Commission to hold in abeyance the assigned channels and applications at Helena, Montana.

DATE: Comments must be filed on or before August 31, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Order Extending Time For Filing Responses To Petition Requesting the Commission To Hold Channels and Applications in Abeyance

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Helena, Montana); BC Docket No. 80-523, RM-3543, RM-3780 (See 48 FR 35964, 8-8-83).

Adopted: August 16, 1983.

Released: August 18, 1983.

By the Chief, Policy and Rules Division.

1. On June 28, 1983, KCAP Broadcasters, Inc. filed a petition pursuant to § 1.41 of the Commission's rules that the Commission not accept new applications and withhold processing on pending applications for newly assigned FM channels at Helena, Montana, until final resolution of the captioned docket and any rule making growing out of that proceeding. By an *Order* adopted July 25, 1983, the Commission provided a period of time for filing responses to the petition to August 12, 1983.

2. On August 11, 1983, Capital Investments, a party-applicant in the above captioned matter, requested that the time for responding to the Expedited Petition, filed by KCAP Broadcasters, Inc., be extended to and including August 31, 1983. The additional time is said to be needed to continue discussion of possible settlement procedures. Counsel for KCAP has agreed to the instant request.

3. In light of the possibility that an extension of time would culminate settlement discussions in this proceeding, the Commission believes it would be appropriate to extend the comment date as requested.

4. Accordingly, it is ordered, that the date for filing responses to the petition of KCAP, referred to above, is further extended to and including August 31, 1983.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-23484 Filed 8-25-83; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Public Hearing and Reopening of Comment Period on Endangered Status and Critical Habitat for Astragalus Montii (Heliotrope Milk-Vetch)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of public hearing and reopening of comment period on proposed rule.

SUMMARY: Notice is given that a public hearing will be held and the comment period reopened on a proposal of Endangered status and Critical Habitat for *Astragalus montii*, known only from a few alpine meadows in the Manti-LaSal National Forest in Utah. This public hearing and comment period are to allow any further comment from any interested parties.

DATES: The public hearing will be held on September 12, 1983, from 6 p.m. to approximately 9 p.m. The comment period is reopened effective with the publication of this notice and closes on September 14, 1983, by which time all comments must be received.

ADDRESSES: The public hearing will be held in the basement courtroom of the County Courthouse, across from the Sheriff's office at 160 North Main in Manti, Utah. Comments and materials concerning this proposal should be sent to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225. Comments and related materials will be available for public inspection by appointment during normal business hours at the Service's Endangered Species Division, 134 Union, fourth floor, Lakewood, Colorado.

FOR FURTHER INFORMATION CONTACT: Dr. James L. Miller, Regional Botanist, Regional Endangered Species Division, at either Colorado address shown above (303/234-2496), or Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235-2771).

SUPPLEMENTARY INFORMATION: A proposal of Endangered status and Critical Habitat for *Astragalus montii* (Heliotrope milk-vetch) was published in the **Federal Register** (46 FR 3187-3191) on January 13, 1981. That proposal also

announced a public meeting, which was never held. At the time of the proposal, the species was known only from Heliotrope Mountain in Sanpete County, Utah. Under a management plan in cooperation with the U.S. Forest Service, an second population of a few thousand plants was discovered in 1982 on White Mountain in Sevier County, Utah. No new populations of *Astragalus montii* were found during field work in 1983, and the species remains vulnerable, although probably Threatened rather than Endangered, on limited outcrops of white limestone of the Flagstaff Limestone Formation. Section 4(b)(6) of the Endangered Species Act of 1973, as amended in 1982, requires a listing decision on this species to be published in the **Federal Register** by October 13, 1983.

The U.S. Fish and Wildlife Service will hold a public hearing on the proposed Endangered status and Critical Habitat for *Astragalus montii* at 6 p.m. on September 12, 1983, in the basement courtroom of the County Courthouse, across from the Sheriff's office at 160 North Main, Manti, Utah. The Service is also reopening the comment period on the proposal, effective with the publication of this notice. The reopened comment period will close on September 14, 1983, by which time all comments must be received. This hearing and reopening of the comment period are intended to replace the previously announced public meeting and to allow any additional comment on the proposal to list this species and designate Critical Habitat for it.

The primary author of this notice is Dr. Bruce MacBryde, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1975).

List of Subject in 50 CFR Part 17

Endangered and threatened wildlife, Endangered and threatened plants, Fish, Marine mammals, Plants (agriculture), Wildlife.

Dated: August 19, 1983.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83–23403 Filed 8–25–83; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 48, No. 167
Friday, August 26, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Adjudication; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Committee on Adjudication of the Administrative Conference of the United States, to be held at 10:00 a.m., Monday, September 19, 1983, at the office of the Administrative Conference of the United States, 2120 L Street, NW., Washington, D.C.

The committee will meet to consider (1) a proposed recommendation regarding structure for agency review of administrative law judges' decisions (Cass Report); and (2) Professor David Welborn's report and proposed recommendations regarding agency experience under the Government in the Sunshine Act.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman of the Administrative Conference at least two days prior to the meeting. The committee chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information concerning this meeting, contact Richard K. Berg, Office of the Chairman, Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington, D.C. 20037. (Telephone: 202–254–7020.) Minutes of the meeting will be available on request.

Dated: August 19, 1983.

Richard K. Berg,

General Counsel.

[FR Doc. 23428-83 Filed 8-25-83; 8:45 am]

BILLING CODE 6110-01-M

Committee on Rulemaking; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Committee on Rulemaking of the Administrative Conference of the United States, to be held at 9:30 a.m., Friday, September 16, 1983, at the offices of Hughes, Hubbard and Reed, 1201 Pennsylvania, Avenue NW., Suite 300, Washington, D.C.

The committee will review the status of pending projects and discuss recent administrative law developments. Included on the agenda are discussion of Professor Thomas O. McGarity's ongoing study of agency implementation of regulatory analysis requirements, as well as discussion of agency repeal of rules and Congressional oversight of rules in the light of recent U.S. Supreme Court decisions.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman of the Administrative Conference at least two days prior to the meeting. The committee chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information concerning this meeting, contact Michael W. Bowers, Office of the Chairman, Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington, D.C. 20037. (Telephone: (202–254–7065.) Minutes of the meeting will be available on request.

Dated: August 19, 1983.

Richard K. Berg,

General Counsel.

[FR Doc. 83-23429 Filed 8-25-83; 8:45 am]

BILLING CODE 6110-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

Plant Variety Protection Advisory Board Meeting

Date and Time: Friday, September 23, 1983, 9 a.m. to 2 p.m. open session, 2 p.m. to 4 p.m. closed session.

Place: Conference Room 2096, South Agriculture Building, 1400 Independence Avenue, SW., Washington, D.C.

Status: Most of the meeting will be open to the public. Parts of the meeting will be closed to the public.

Matters To Be Considered

Portion open to the public: The agenda for this portion of the meeting will consist of:

(1) Updating variety files.
(2) Technical variety information.
(3) Conversion to microcomputers.
(4) Funding.
(5) Fee adjustments.
(6) Amended regulations.
(7) Other.

Portion closed to the public: This part of the meeting will involve consideration by the Board of the Commissioner's decision concerning an application for plant variety protection and to advise the Secretary whether to uphold the Commissioner's decision in whole or in part. Review of this application in closed session is required to maintain the confidentiality of the application and its contents as required in section 56 of the Plant Variety Protection Act (7 U.S.C. 2426), and is permitted pursuant to the authority in section 10(d) of the Federal Advisory Committee Act and section 552b(c)(3) of the Administrative Procedure Act (5 U.S.C. 552b).

Contact person for more information: Kenneth H. Evans, Executive Secretary, Plant Variety Protection Board, National Agricultural Library Building, Beltsville, Maryland 20705 (301/344–2518).

Done at Washington, D.C., August 22, 1983.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 83-23437 Filed 8-25-83; 8:45 am]

BILLING CODE 3410-02-M

Forest Service

Extension of Certain Timber Sale Contracts

AGENCY: Forest Service, USDA.

ACTION: Notice of interim policy.

SUMMARY: This policy provides opportunity for additional extension of certain Forest Service timber sale contracts bid before January 1, 1982. Many of these sales were bid at prices which are not profitable in the current

market. Under this policy which has been authorized by the President, extensions can be granted for a maximum of 5 years and can provide purchasers the flexibility to mix the high priced sales with more recent lower priced sales so as to obtain an economical mix. Unless this action is taken promptly, a number of purchasers may be facing imminent contract default which would consequently disrupt employment and the economies of forested regions of the country.

FOR FURTHER INFORMATION CONTACT: Wendell Jones, Timber Management Staff, Forest Service, USDA, P.O. Box 2417, Washington, D.C. 20013, (202) 447-4051.

SUPPLEMENTARY INFORMATION:

Background

The Forest Service sells timber from National Forest System lands to individuals or companies. Each sale transaction begins with an advertised offering which sets the appraised fair market value of the timber to be sold. The sale is awarded to the prospective purchaser who offers the highest qualifying bid. Timber sales vary in value from a few thousand dollars to several million dollars. Each sale is formalized by execution of a contract between the purchaser and the Forest Service. The contract sets forth the explicit terms and provisions of the sale. These include: estimated volume of timber to be removed, period for removal, price to be paid the Government, road construction and logging requirements, and environmental protection measures to be taken. The average contract period is about 3 years. Many sales, however, have contract terms of 1 or 2 years while a few contracts have terms of 7 or 8 years.

In the late 1970's, intense competition in some geographic areas for Forest Service timber sales resulted in bid prices that exceeded, by as much as two or three times, the advertised appraised value of the timber. Many purchasers have been unable to operate under these sale contracts due to low demand, decreased product prices, and strong competition from cheaper Canadian lumber. In a normal situation, an uncompleted sale contract would go into default. The purchaser would be liable for the difference between the contract price and the amount the Government received from reselling the defaulted timber, plus the costs of resale. The spectre of a large number of potential defaults followed by bankruptcies, with all of the consequent disruptive effects to employment and the economy in forested regions of the country caused the Forest Service in the spring of 1980, in October 1981, and in November 1982 to find it in the substantial, overriding public interest to permit, upon request, extensions of timber sale contracts, even though diligent performance conditions for extension may not have been met.

Although timber markets are improving, it is unlikely that many of these contracts could be operated profitably during the current contract period. Thus, many timber purchasers would default without some form of immediate, additional relief. Given this situation, the President has authorized the Secretary of Agriculture, upon a finding of substantial, overriding public interest, to grant additional extensions of certain timber sale contracts without interest for a maximum of 5 years beyond their present termination dates. On August 18, 1983, the Chief of the Forest Service, pursuant to delegated authority, made such a finding. Accordingly, the Forest Service is implementing a new contract extension policy that will give purchasers the opportunity to operate profitably by providing them time to mix newer, less expensive timber sales with their high-priced timber.

Policy

This extension policy applies only to certain sales bid between January 1, 1976, and January 1, 1982. A purchaser may apply for contract extensions for a maximum of 5 years. Total sale life could exceed 10 years. The period of the extension would generally commence upon modification of the contract in accordance with an approved Multi-Sale Extension Plan submitted by the purchaser.

Those purchasers who are facing imminent contract termination may receive a conditional extension. This type of extension would keep the contract in effect until an extension under a Multi-Sale Extension Plan could be approved.

Even though contract termination is not imminent, some purchasers who have previously been granted contract extensions may find it necessary to convert to the extensions available under this policy in order to maintain the economic viability of their operations. These purchasers may apply for, and be granted, an interim modification of the contract until the purchaser receives an extension based on an approved Multi-State Extension Plan.

In order to be eligible for extension under this policy, the extension cannot be injurious to the United States and a National Forest timber sale contract must meet all of the following minimum criteria:

1. The contract is for a sawtimber or pulpwood sale.
2. The contract was bid after January 1, 1976, and before January 1, 1982.
3. The purchaser is in substantial compliance with the terms of the contract.
4. Less than 25 percent of the remaining estimated volume of material is subject to rapid deterioration.
5. The contract was not awarded to assist in the control of forest pest epidemics.

Extensions under this policy are available only upon application. A purchaser applying for extensions will be required to submit a Multi-Sale Extension Plan to the Forest Service by December 31, 1983. The purchaser will be required to show all timber harvest commitments—National Forest, other Federal, and non-Federal purchases within the purchaser's manufacturing area. The purchaser will also set forth a harvest schedule in the extension plan which shows how the contractual commitments for timber in the manufacturing area will be met. Eligible National Forest timber sales included in the Multi-Sale Extension Plan can be scheduled on the premise of the requested period of extension beyond the present termination date.

In order to be acceptable, a plan must provide for completion of operations on National Forest sales within the extended contract period. Moreover, the Forest Service will not approve a schedule that defers removal of disproportionate volumes of timber to the last years of a Multi-Sale Extension Plan.

Contracts to be extended under this policy must also meet the following additional conditions:

1. Roads specified for access to all timber to be removed during the extended contract period will be substantially completed within the first year of extension.
2. To offset the Government's costs associated with the delay in performance, such as remarking trees and restaking roads, a purchaser will deposit $2 per thousand board feet of timber covered by the extension. In accordance with the Granger-Thye Act, this payment for the estimated costs is due prior to the time the extension is granted.
3. The timber covered by the extension will be reappraised under terms set forth in the initial contract to extablish rates applicable during the

extension period. Rates during the extension period could be higher, but not lower than rates established in the initial contract.

4. After a Multi-Sale Extension Plan is approved those National Forest timber sale contracts to be extended shall be modified to implement the approved plan. An elment of the approved plan will be inclusion of additional provisions for calculating damages for default.

5. Those purchasers who request and are granted interim modifications in order to convert current contract extensions to extensions under this policy must pay any deferred interest charges and be current with other payments before the contract can be modified. A contract containing an interim modification will be further modified upon approval of the Multi-Sale Extension Plan in which it is included. However, the effective date of the extension granted under this authority would be as of the date that the interim modification was made. If a previously extended contract containing an interim modification is not included in an approved Multi-Sale Extension Plan harvest schedule, all sums that would have accured had an interim modification not been granted are immediately due and the terms and conditions of the contract prior to the interim modification will continue.

6 Contracts which will terminate before a Multi-Sale Extension Plan can be submitted and approved may be conditionally extended. However, no cutting or removal of timber will be permitted during the conditional extension period.

7. Extension deposits made under a previously extended contract may not be transferred to other contracts or refunded.

8. Contracts extended under this policy will not be eligible for any further extensions, including extensions based on diligent performance.

9. A purchaser must harvest extended sales as scheduled or make payment to cover the lack of harvest.

Public Comment

The Chief of the Forest Service, in accordance with 16 U.S.C. Section 472 a(c), has determined it to be in the substantial, overriding public interest to grant extensions of up to 5 years on certain National Forest timber sales (FINDING OF SUBSTANTIAL, OVERRIDING PUBLIC INTEREST, August 18, 1983). This policy provided the standards, criteria, and guidelines for effecting those extensions.

In accordance with 36 CFR 216.5(f) it is found and determined upon good cause that an emergency exists and that public notice and request for comments would be impracticable and contrary to the public interest. Failure to promptly offer these extensions is likely to result in imminent default of some National Forest timber sale purchasers. It has been found that, unless the standards, criteria, and guidelines for these extensions are implemented now to minimize these defaults, failure of a large number of firms would reduce the capacity of the forest products industry to respond to housing and other national need and would mean decreased competition and further concentration within the industry. These defaults could also result in severe adverse local, regional and national economic impacts. Because of the immediate need for these extensions to the timber sale contracts, compliance with these standards, criteria, and guidelines should not be delayed.

This policy is effective August 26, 1983. Public comments received by November 25, 1983 will be considered and the policy will be revised, if necessary, in light of the public comments received. Comments on the policy should be sent to: R. Max Peterson, Chief (2400), Forest Service, USDA, P.O. Box 2417, Washington, DC 20013.

F. Dale Roberston,

Associate Chief.

[FR Doc. 83-23435 Filed 8-25-83; 0:45 am]
BILLING CODE 3410-11-M

Land and Resource Management Plan Lake Tahoe Basin Management Unit, El Dorado and Placer Counties, California; Intent To Reevaluate Roadless Areas

In January 1979, the Forest Service issued a national environmental impact statement documenting the results of a review of 62 million acres of roadless and undeveloped areas within the 190 million acre National Forest System. The purpose of the roadless area review and evaluation (RARE II) was to determine which areas were most suitable for wilderness and which should be used for other purposes.

In California, RARE II dealt with over 6 million acres located in the Pacific Southwest Region. About 983,000 acres were recommended for wilderness, 2,643,000 acres were recommended for further planning; and 2,395,000 acres were recommended for nonwilderness.

In 1979, the State of California challenged the adequacy of the National RARE II Environmental Impact Statement to be used as the basis for decisions to manage 46 areas in California for other than wilderness. In October, 1982, the United States Court of Appeals for the Ninth Circuit affirmed a lower court decision that the RARE II Environmental Impact Statement was inadequate.

Although the decision applied specifically to only the 46 roadless areas in California, it sets binding precedent in any Federal District Court in the Ninth Circuit.

Because of the October, 1982 court decision, all National Forest roadless areas that meet the original criteria for the RARE II study will be reevaluated. This Notice is being issued because, contrary to earlier regulations (issued 9/30/82), a proposed revision to 36 CFR 219.17 (issued 4/18/83) will allow further evaluation of RARE II wilderness and nonwilderness areas during the Forest planning process.

The reevaluation of areas on the Lake Tahoe Basin Management Unit will be done as part of the Forest's land and resource management plan. During this reevaluation process, current management and protection policies and activities in the roadless areas will be continued. That is, management for other uses will continue in areas recommended for nonwilderness.

The two areas to be reevaluated in the Lake Tahoe Basis are:

Name	RARE II ID number	Gross acres	Net national forest acres	Previous recommendation
Granite Chief	85261	1,243	1,243	Nonwilderness.
Dardanelles	05982	900	900	Nonwilderness.

All other roadless areas in the Basin were recommended for further planning and therefore were already being evaluated. No areas have been recommended for wilderness.

The analysis for the Granite Chief area will be presented in the Tahoe National Forest draft plan and environmental impact statement, since they administer the majority of the roadless area. The Lake Tahoe Basin Management Unit draft plan will present the analysis for the entire Dardanelles Roadless Area including the Eldorado and Toiyabe National Forest portions.

Detailed information on the roadless areas and the reevaluation process will be distributed to individuals on the Forest mailing list and to other individuals and organizations requesting a copy. In addition, there will be an open house held from 2:00–4:00 p.m. and 7:00–9:00 p.m., September 27, 1983 at the

Forest Supervisor's Office, 870 Emerald Bay Road, South Lake Tahoe, California. The purpose of these open houses is to further explain, discuss, and gather new information specifically about these two roadless areas and the reevaluation process.

Written comments concerning the reevaluation are encouraged. These comments should be directed to Jon Hoefer, Planning Staff Officer, Lake Tahoe Basin Management Unit, P. O. Box 8465, So. Lake Tahoe, CA 95731. These comments should be received by November 1, 1983. For further informantion about the reevaluation process, contact Jon Hoefer at the above address, or call (916) 544–6420.

Dated: August 17, 1983.

W. A. Morgan,

Forest Supervisor, Lake Tahoe Basin Management Unit.

[FR Doc. 83-23407 Filed 8-25-83; 8:45 am]

BILLING CODE 3410-11-M

Land and Resource Management Plan; Sawtooth National Forest; Idaho and Utah; Revised Notice of Intent To Prepare an Environmental Impact Statement

This Notice revises a previously issued Notice of Intent published in the **Federal Register** dated August 20, 1980, page 57476.

This Notice is being issued because 36 CFR 219.17 is being revised to allow the reevaluation of roadless areas during the forest planning process. Public participation in the reevaluation permits data collection and analysis activities to proceed pending release of the final regulations.

The proposed revision to 36 CFR 219.17 (issued 4/18/83) will allow further evaluation of the Forest roadless areas. The results of the reevaluation will be included in the Environmental Impact Statement and Sawtooth National Forest Land and Resource Management Plan.

The first steps involving initial public participation, inventory, and analysis of the management situation have been completed. The scoping for the roadless area reevaluation portion of the land management planning process will be initiated by explaining the roadless area reevaluation to all individuals interested and wanting to become involved in the planning process for the Forest. Significant issues relating to reevaluation will be identified and included with those issues already identified for the Forest.

Detailed information on the roadless areas and reevalution processes will be available for individuals and organizations requesting the information. In addition, there will be an informational briefing held October 1983 at Twin Falls, Idaho, to further explain, discuss, and gather information about the roadless areas and reevaluation process. Specific dates and times will be pulbished in local newspapers prior to the October period.

The Sawtooth National Forest Plan will select from a range of alternatives which will include at least:

(1) The "no-action" alternative, which represents continuation of present levels of activity.

(2) One or more alternatives which represent levels of activity that will result in elimination of all backlogs of needed treatment for restoration of renewable resources and ensure that a major portion of planning intensive multiple-use and sustained-yield management procedures are operating on an environmentally sound basis.

(3) One or more alternatives formulated to resolve the identified major public issues and management concerns, including roadless areas.

The Draft Environmental Impact Statement and proposed Land and Resource Management Plan for the Sawtooth National Forest are scheduled for filing with the Environmental Protection Agency for a draft review by December 1984. The final documents are scheduled for filing with the Environmental Protection Agency in November 1985.

During the reevaluation process, current management and protection policies and activities in the roadless areas may be continued. Wilderness values will be protected in the areas recommended in RARE II for Wilderness, and management for other uses may continue in areas recommended for non-Wilderness.

J. S. Tixier, Regional Forester, Intermountain Region, USDA Forest Service, is the responsible official for the Forest Management Plan and Environmental Impact Statement. Roland Stoleson, Sawtooth Forest Supervisor is responsible for preparation of the Forest Plan and Environmental Impact Statement.

Written comments, suggestions, and/or requests for information during this process should be sent to William J. Little, Acting Forest Planner, Sawtooth National Forest, 525 Addison Avenue, Twin Falls, Idaho 83301, phone 208/733–3698.

Dated: August 17, 1983.

R. E. Greffenius,

Deputy Regional Forester.

[FR Doc. 83-23434 Filed 8-25-83; 8:45 am]

BILLING CODE 3410-11-M

Rural Electrification Administration

Commonwealth Telephone Company, Dallas, Pennsylvania; Proposed Loan Guarantee

AGENCY: Rural Electrification Administration (REA), USDA.

ACTION: Proposed loan guarantee.

SUMMARY: Under the authority of Pub. L. 93–32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 320–22 (Guarantee of Loans for Telephone Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $35,721,000 to Commonwealth Telephone Company of Dallas, Pennsylvania. This loan guarantee will be used to finance the construction of facilities to extend telephone service to new subscribers, and improve telephone service for existing subscribers.

FOR FURTHER INFORMATION CONTACT: Mr. William J. Umphred, President, Commonwealth Telephone Company, 100 Lake Street, Dallas, Pennsylvania 18612.

SUPPLEMENTARY INFORMATION: Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed program, including the engineering and economic feasibility studies and the proposed schedule for advances to the borrower of the guaranteed loan funds from Mr. William J. Umphred at the address given above.

In order to be considered, proposals must be submitted September 26, 1983, to Mr. Umphred. The right is reserved to give such consideration and to make such evaluation or other disposition of all proposals received as Commonwealth Telephone Company and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 320–22 are available from the Director, Public Information Office, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

This program is listed in the Catalog of Federal Domestic Assistance as 10.851—Rural Telephone Loans and Loan Guarantees.

Dated: August 18, 1983.

Joe S. Zoller,

Acting Administrator.

[FR Doc. 83-23523 Filed 8-25-83; 8:45 am]

BILLING CODE 3410-15-M

Northeast Missouri Electric Power Cooperative; Finding of No Significant Impact

AGENCY: Rural Electrification Administration, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA), pursuant to the National Environmental Policy Act of 1969, the Council on Environmental Quality Regulations (40 CFR Part 1500), and REA Bulletin 20–21:320–21, Environmental Policies and Procedures, has made a Finding of No Significant Impact with respect to a request for financing assistance from Northeast Missouri Electric Power Cooperative (Northeast Power) for construction of 69 kV transmission facilities in Marion and Shelby Counties, Missouri.

FOR FURTHER INFORMATION CONTACT: REA's Finding of No Significant Impact (FONSI) and Environmental Assessment (EA) and Northeast Power's Borrower's Environmental Report (BER) may be reviewed in the Office of the Chief, Distribution and Transmission Engineering Branch, Southwest Area-Electric, Room 0009 South Agriculture Building, Rural Electrification Administration, Washington, D.C. 20250, telephone (202) 382–1915, or at the office of Northeast Missouri Electric Power Cooperative, (Ralph Shaw, Manager), P.O. Box 191, Palmyra, Missouri 63461, telephone (314) 769–2107, during regular business hours.

SUPPLEMENTARY INFORMATION: REA, in conjunction with a request for financing assistance from Northeast Power, has reviewed the BER submitted by Northeast Power and has determined that it represents an accurate assessment of the environmental impact of the proposed project. Northeast Power's project consists of a 69 kV transmission line about 37 km (23 mi) long between the existing Hagers Grove Substation, the propsed Emden Substation at the junction of Routes 168, W, and T, and the existing Belltown Substation.

REA determined that the proposed project will have no effect on cultural resources, floodplains, wetlands and threatened and endangered species and an insignficant effect on important farmland.

Alternatives examined for the Northeast Power 69 kV facilties included no action and alternative routes. Alternative routes are located in Marion and Shelby Counties also. REA determined that the proposed 69 kV facilties are an acceptable alternative for providing Northeast Power's needs.

Based upon the BER and support documents, REA prepared an EA concerning the proposed project and its impact. REA concluded that any proposed financing assistance for Northeast Power would not be a major Federal action significantly affecting the quality of the human environment.

In accordance with REA Bulletin 20–21:320–21, dated January 21, 1980, Northeast Power advertised and requested comments on the environmental aspects of the proposed project in local newspapers in Marion and Shelby Counties, Missouri. Comments concerning alignment were submitted by several landowners along the proposed route. These comments will be considered when establishing the final alignment of the line and several highway crossings could result between Emden and Belltown.

This program is listed in the Catalog of Federal Domestic Assistance as 10.850-Rural Electrification Loans and Loan Guarantees.

Dated: August 18, 1983.

Joe S. Zoller,

Acting Administrator.

[FR Doc. 83-23524 Filed 8-25-83; 8:45 am]

BILLING CODE 3410-15-M

CIVIL AERONAUTICS BOARD

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits

Permits filed under Subpart Q of the Board's Procedural Regulations; week ended August 19, 1982.

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings (See 14 CFR 302. 1701, et seq.)

Date filed	Docket No.	Description
Aug. 16, 1983	41649	Air America Incorporated, c/o Perry T. Christy, Christy & Robbins, One Parklane Boulevard, Michigan 48126. Application of Air America Incorporated, pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations for an amendment to its certificate of public convenience and necessity to engage in scheduled interstate and oversees air transportation of passengers and their baggage, cargo and mail.
Do	41650	Conforming Applications, Motions to Modify Scope and Answers may be filed by September 13, 1983. Air America Incorporated, c/o Perry T. Christy, Christy & Robbins, One Parklane Boulevard, Michigan 48126. Application of Air America Incorporated pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations for scheduled authority between the following pairs of points in foreign air transportation of persons and their baggage, property and mail: Detroit—Acapulco, Detroit-Cancum/Cozumel/Merida, Detroit—Nassau/Freeport.
Aug. 19, 1983	41655	Conforming Applications, Motions to Modify Scope and Answers may be filed by September 13, 1983. Alaska International Air, Inc., c/o James T. Lloyd, Hyderman, Mason, Burzio & Lloyd, 1220 19th Street, NW., Washington, D.C. 20036. Application of Alaska International Air, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests a certificate in order to provide scheduled air transportation of persons, property and mail in combination service within points in Alaska.
Aug. 15, 1983	41191	Conforming Applications, Motions to Modify Scope and Answers may be filed by September 16, 1983. Michigan Peninsula Airways, Ltd. d/b/a MPA International Airways, c/o Herbert A. Rosenthal, Hausman and Rosenthal, 2020 K Street, NW., Suite 350, Washington, D.C. 20006. Amended Application of Michigan Peninsula Airways, Ltd. hereby amends the application to request domestic passenger charter authority in addition to domestic cargo charter authority.
Do	41192	Answers may be filed by September 12, 1983. Michigan Peninsula Airways, Ltd. d/b/a MPA International Airways c/o Herbert A. Rosenthal, Hausman and Rosenthal, 2020 K Street, NW., Suite 350, Washington, D.C. 20006. Amended Application of Michigan Peninsula Airways, Ltd. d/b/a MPA International Airlines hereby amends its application to request international passenger charter authority in addition to international cargo charter authority.

Date filed	Docket No.	Description
		Answers may be filed by September 12, 1983.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 83-23517 Filed 8-25-83; 8:45 am]
BILLING CODE 6320-01-M

[Docket 41048]

Northeast Imperial Airlines, Inc. Fitness Investigation; Postponement of Hearing

Notice is hereby given that the hearing scheduled in the above-entitled proceeding for September 1, 1983, is rescheduled for September 15, 1983, at 10:00 a.m. (local time), Room 1027, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C., before the undersigned administrative law judge.

Dated at Washington, D.C., August 19, 1983.

Ronnie A. Yoder,
Administrative Law Judge.

[FR Doc. 83-23518 Filed 8-25-83; 8:45 am]
BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census
Title: Annual Survey of Pollution Abatement Costs and Expenditures
Form numbers: Agency—MA-200; OMB—0607-0176
Type of request: Revision of a currently approved collection
Burden: 20,000 respondents; 30,000 reporting hours
Needs and uses: This survey is the only source of comprehensive industry data on pollution abatement capital expenditures, operating costs, and costs recovered. Information on the cost incurred by the manufacturing sector for pollution abatement activities is used in the measurement of the effect of pollution abatement spending on real economic growth and on capital stock investments. The primary users of the data are government agencies, business firms, and trade associations.
Affected public: Business or other for-profit
Frequency: Annually
Respondent's obligation: Mandatory
OMB desk officer: Tim Sprehe, 395-4814

Agency: Bureau of the Census
Title: Unresolved Cases Pilot Study—Post Enumeration Program
Form numbers: Agency—D-8149, D-8153; OMB—N/A
Type of request: New collection
Burden: 70 respondents; 53 reporting hours
Needs and uses: This project is a Census methodology study. Approximately 70 former Post Enumeration Program participants will be traced and interviewed by telephone and personal visits. The Post Enumeration Program has been used to estimate the undercount in the 1980 Census.
Affected public: Individuals or households
Frequency: Nonrecurring
Respondent's obligation: Mandatory
OMB desk officer: Tim Sprehe, 395-4814

Agency: National Bureau of Standards (NBS)
Title: NBS Questionnaire on Magnetic Measurements, Calibrations, and Standards
Form numbers: Agency—NBS 1208, OMB—N/A
Type of request: New collection
Burden: 2,000 respondents; 500 reporting hours
Needs and uses: NBS is considering reinstating a magnetics calibration and standards development program. Survey will be used to assess the interest throughout the magnetics community on the reinstatement of such a program.
Affected public: Businesses or other for-profit, Federal agencies or employees, Non-profit institutions, and small businesses or organizations
Frequency: Nonrecurring
Respondent's obligation: Voluntary
OMB desk officer: Ken Allen, 395-3785

Agency: National Oceanic and Atmospheric Administration
Title: Dealer Purchases and Trip Interviews
Form numbers: Agency—88-20; OMB—0648-0013
Type of request: Revision
Burden: 4,547 respondents; 8,376 reporting hours
Needs and uses: The statistical shrimp reporting system, voluntary since 1956, will become mandatory to ensure timely collection of data needed for effective monitoring, evaluation and refinement of the management strategy for the Shrimp Fishery Management Plan.
Affected public: Businesses or other for-profit, small businesses or organizations
Frequency: On occasion, monthly
Respondent's obligation: Mandatory
OMB desk officer: Ken Allen, 395-3785

Agency: National Oceanic and Atmospheric Administration
Title: Coastal Zone Management Program Administrative Grants
Form numbers: Agency—CS-292; OMB—0648-0119
Type of request: Extension
Burden: 10 respondents; 600 reporting hours
Needs and uses: Program provides funds to states and territories to implement federally-approved coastal zone management plants. Information collected is used for application purposes and to determine if a state is adhearing to its approved plan.
Affected public: State governments
Frequency: Annually
Respondent's obligation: Required to obtain or retain a benefit
OMB desk officer: Ken Allen, 395-3785

Agency: National Oceanic and Atmospheric Administration
Title: Logbook Family of Forms
Form numbers: Agency—88-59, 88-140, 88-153, 88-176; OMB—0648-0016
Type of request: Revision
Burden: 4,966 respondents; 7,475 reporting hours
Needs and uses: Data from these forms is used for proposing and evaluating Fishery Management Plans and other development activities of the National Marine Fisheries Service. The Magnuson Fishery Conservation and Management Act (MFCMA 16 USC 1801) requires that certain data and statistics be submitted for every Fishery Management Plan. This data will be used by NMFS, Regional Fishery Management Councils, Department of State, OMB and the public in the development of fishery

management strategies, monitoring of fishery quotas and changes in fishing effort, disposition of harvested species, allocation of harvests to foreign nations, biological assessments of fish stocks and quantifying regulatory impacts.
Affected public: Business or other for-profit, Small Businesses or organizations
Frequency: On occasion, weekly, monthly
Respondent's obligation: Mandatory
OMB desk officer: Ken Allen, 395–3785
Agency: National Oceanic and Atmospheric Administration
Title: Estuarine Sanctuary Program (Preacquisition, Acquisition, Operations and Management Grants)
Form numbers: Agency—CD–292; OMB—0648–0121
Type of request: Revision
Burden: 25 respondents; 6,300 reporting hours
Needs and uses: The information from this application is necessary to provide funds to states for the pre-acquisition, acquisition, operations and management of estuarine sanctuaries. The information provided enables the Secretary of Commerce to make grants to coastal states to acquire, develop, or operate estuarine sanctuaries as authorized under Section 315(1) of Pub. L. 92–583 of the Coastal Zone Management Act of 1972, as amended.
Affected public: State or Local Governments
Frequency: On occasion
Respondent's obligation: Required to obtain or retain a benefit
OMB desk officer: Ken Allen, 395–3785
Agency: National Oceanic and Atmospheric Administration
Title: Fisheries Development and Utilization Research and Demonstration Grants and Cooperative Agreements
Form numbers: Agency—N/A; OMB—0648–0086
Type of request: Reinstatement of a previously approved collection
Burden: 250 respondents; 3,500 reporting hours
Needs and uses: The Saltonstall-Kennedy Act authorizes a grant program for fisheries research and development. Information is needed to make funding decisions.
Affected public: Individuals, State or local governments, Farms, Businesses or other for-profit, Non-profit institutions, Small businesses or organizations, and Federal Agencies or employees
Frequency: Annually
Respondent's obligation: Required to obtain or retain a benefit
OMB desk officer: Ken Allen, 395–3785
Agency: National Oceanic and Atmospheric Administration
Title: Gulf and Atlantic Coral Fishery Management Plan
Form numbers: Agency—N/A; OMB—N/A
Type of request: New
Burden: 9 respondents; 3 reporting hours
Needs and uses: This information collection will require permittees involved in taking corals for scientific or educational purposes to submit an annual report of their harvest. Data collected will be used for the management of this resource.
Affected public: Businesses or other for-profit, Small businesses or organizations
Frequency: Mandatory
Respondent's obligation: Annually
OMB desk officer: Ken Allen, 395–3785

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Edward Michals (202) 377–4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collections should be sent to the respective OMB Desk Officer, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Ed Michals,

Departmental Clearance Officer.

[FR Doc. 83-23488 Filed 8-25-83; 8:45 am]

BILLING CODE 3510-CW-M

International Trade Administration

Consolidated Decision on Applications for Duty-Free Entry of Election Microscopes; Smith College et al.

The following is a consolidated decision on applications for duty-free entry of electron microscopes pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 AM and 5:00 PM in Room 1523, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket Number 83–225. Applicant: Smith College, Northampton, MA 01063. Instrument: Electron Microscope, Model JEM–100CXII and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of instrument: See notice on page 31278 in the **Federal Register** of July 7, 1983. Instrument ordered: May 20, 1983.

Docket Number 83–226. Applicant: Emory University, Department of Ophthalmology, 1339 Clifton Road, Atlanta, GA 30322. Instrument: Electron Microscope, Model JEM–100CX and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of instrument: See notice on page 31279 in the **Federal Register** of July 7, 1983. Instrument ordered: April 19, 1983.

Docket Number 83–229. Applicant: University of Pittsburgh, School of Medicine, 3550 Terrace Street, Pittsburgh, PA 15261. Instrument: Electron Microscope, Model JEM–100CXII and Accessories. Manufacturer: JEOL Co., Ltd., Japan. Intended use of instrument: See notice on page 31277 in the **Federal Register** of July 7, 1983. Instrument ordered: March 10, 1983.

Docket Number 83–230. Applicant: USDA–ARS–Southern Region, Southeast Area, Russell Research Center, College Station Road, P.O. Box 5677, Athens, GA 30613. Instrument: Electron Microscope, Model JEM–100CX and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of instrument: See notice on page 31278 in the **Federal Register** of July 7, 1983. Instrument ordered: March 17, 1983.

Docket Number 83–231. Applicant: Washington University, Purchasing Department, Box 1069, Lindell and Skinker Blvds., St. Louis, MO 63130. Instrument: Electron Microscope, Model JEM–100CX and Accessories. Manufacturer: JOEL Ltd., Japan. Intended use of instrument: See notice on page 31278 in the **Federal Register** of July 7, 1983. Instrument ordered: March 29, 1983.

Docket Number 83–239. Applicant: Massachusetts Institute of Technology, 77 Massachusetts Avenue, Cambridge, MA 02139. Instrument: Electron Microscope, EM 400 with Accessories. Manufacturer: Philips Electronic Instruments, The Netherlands. Intended use of instrument: See notice on page 31684 in the **Federal Register** of July 11, 1983. Instrument ordered: January 28, 1983.

Docket Number 83–241. Applicant: National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20205. Instrument: Electron Microscope, Model JEM–200CX and Accessories. Manufacturer: JOEL, Japan. Intended use of instrument: See notice on page 33508 in the **Federal Register** of July 22, 1983. Instrument ordered: June 22, 1983.

Docket Number 83–247. Applicant: University of California, Lawrence

Berkeley Laboratory, One Cyclotron Road, Berkeley, CA 94720. Instrument: Electron Microscope, JEM–200CX and Accessories. Manufacturer: JOEL Ltd., Japan. Intended use of instrument: See notice on page 33509 in the **Federal Register** of July 22, 1983. Instrument ordered: October 26, 1982.

Comments: No comments have been received with respect to any of the foregoing applications.

Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used, was being manufactured in the United States at the time the instruments were ordered.

Reasons: Each foreign instrument to which the foregoing applications relate is a conventional transmission electron microscope (CTEM). The description of the intended research and/or educational use of each instrument establishes the fact that a comparable CTEM is pertinent to the purposes for which each is intended to be used. We know of no CTEM which was being manufactured in the United States either at the time of receipt of application by the U.S. Customs Service.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign instruments to which the foregoing applications relate, for such purposes as these instruments are intended to be used, which was being manufactured in the United States either at the time of order or at the time of receipt of application by the U.S. Customs Service.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 83–23452 Filed 8–25–83; 8:45 am]

BILLING CODE 3510–25–M

Applications for Duty-Free Entry of Scientific Instruments; State of Connecticut Health Laboratory et al.

The following are notices of the receipt of applications for duty-free entry of scientific instruments published pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the instrument is intended to be used is being manufactured in the United States. Comments must be filed in accordance with Subsections 301.5(a) (3) and (4) of the regulations. They are to be filed in triplicate with the Director, Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the **Federal Register**.

A copy of each application is on file in the Department of Commerce, and may be examined between 8:30 a.m. and 5:00 p.m., Monday through Friday, Room 1523, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket Number 83–69R. Applicant: State of Connecticut—Health Laboratory, 10 Clinton Street, P.O. Box 1689, Hartford, CT 06101. Instrument: Electron Microscope, JEM–100CX SEG and Accessories. Original notice of this resubmitted application was published in the **Federal Register** of January 28, 1983.

Docket Number 83–172R. Applicant: Eastman Dental Center, 625 Elmwood Avenue, Rochester, N.Y. 14620. Instrument: Osseointegration System-Product System for Association. Manufacturer: Bofors Nobelpharma, Sweden. Intended use of instrument: The instrument is intended to be used in a unique technique of placement of dentures on patients who have severe loss of jaw bone. Detailed technical and clinical information for each patient are collected and compiled in a central computer system which will provide cumulative as well as individualized assessment of the results and therefore provide a better understanding of the applicability of the method and long-term assessment of its effectiveness. Application received by Commissioner of Customs: May 10, 1983.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 83–23451 Filed 8–25–83; 8:45 am]

BILLING CODE 3510–25–M

Applications for Duty-Free Entry of Scientific Instruments; University of Wisconsin et al.

The following are notices of the receipt of applications for duty-free entry of scientific instruments published pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the instrument is intended to be used is being manufactured in the United States.

Comments must be filed in accordance with Subsections 301.5(a) (3) and (4) of the regulations. They are to be filed in triplicate with the Director, Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the **Federal Register**.

A copy of each application is on file in the Department of Commerce, and may be examined between 8:30 a.m. and 5 p.m., Monday through Friday, Room 1523, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket Number 83–264. Applicant: University of Wisconsin, Madison, 750 University Avenue, Madison, WI 53706. Instrument: Spectropolarimeter for Circular Dichroism and Optical Rotatory Disperson. Manufacturer: Japan Spectroscopic Co., Ltd., Japan. Intended use of instrument: The instrument is intended to be used for the investigation of the structure-function relationship of botulinum neurotoxin in different but three complementary ways. These will include:

(1) Selective modification of amino acid residues,

(2) Determining the physiochemical changes in type E neurotoxin after mild trypsinization which produces 100-fold increase in toxicity and

(3) Following the reaction of the neurotoxin with ganglioside G_{T1b}.

Application received by Commissioner of Customs: July 28, 1983.

Docket Number 83–265. Applicant: Thomas Jefferson University, 1025 Walnut Street, Philadelphia, PA 19107. Instrument: Electron Microscope, EM 109. Manufacturer: Carl Zeiss, West Germany. Intended use of instrument: The instrument is intended to be used in the study of ultrastructural changes in a variety of biological systems. The research projects involve studies of the ultrastructure of:

(1) The effects of hyperthermia, local anesthetics and ionizing radiation on

synchronous CHO cells;

(2) Cytochemical localization of heat shock proteins;

(3) Craniofacial development and localized cell death;

(4) Consequences of X-rays on behavioral parameters after birth;

(5) Chondrogenesis and skeletal defects as a consequence of genetic alterations and teratogens;

(6) Regulation of mucosal immunity by enteric bacteria and the route of invasion by *Yersinia* sp.;

(7) Lung-histopathology and the effects of excess vitamin A in lung development;

(8) Normal tissue effects of hyperthermia;

(9) Chondrogenesis *in vitro* and its dependence on prostaglandin synthesis; and

(10) Immunochemical studies of MICG in various immune system cells during development.

Application received by Commissioner of Customs: August 1, 1983.

Docket Number 83–266. Applicant: The Aerospace Corporation, 2350 E. El Segundo Blvd., El Segundo, CA 90245. Instrument: Multigas Laser Head, Model EMG 101, and Accessores. Manufacturer: Lambda Physik, West Germany. Intended use of instrument: The instrument is intended to be used for studies of infrared multiphoton induced decomposition of hydrazine fuels in order to stimulate IR emission spectra of the decomposition products that have been observed in rocket plumes. Application received by Commissioner of Customs: August 1, 1983.

Docket Number 83–267. Applicant: St. Joseph's Hospital and Medical Center, 703 Main Street, Paterson, N.J. 07503. Instrument: Osseous Implant Kit. Manufacturer: Bofors Nobelpharma, Sweden. Intended use of instrument: The instrument is intended to be used for oral surgery training in an Oral Surgery Residency Training Program. Application received by Commissioner of Customs: August 1, 1983.

Docket Number 83–268. Applicant: U.S. Department of Commerce, National Bureau of Standards, Washington, D.C. 20234. Instrument: Accessories for a Laser Microprobe Mass Analyzer. Manufacturer: Leybold-Heraeus, GmBH, West Germany. Intended use of instrument: The instruments are accessories to an existing laser microprobe mass analyzer which is being used to perform trace analysis on particles of micrometer and submicrometer dimensions. Fundamental studies using glass microspheres of known composition are used to develop schemes for quantifying the data generated by the laser microprobe mass analyzer. Application received by Commissioner of Customs: August 2, 1983.

Docket Number 83–269. Applicant: National Bureau of Standards, Center for Materials Science, Bldg. 224, Room A–313. Washington, D.C. 20234. Instrument: Fluorescence Decay Instrument. Manufacturer: Photochemical Research Associates, Inc., Canada. Intended use of Instrument: The instrument is intended to be used for studies of fluorescent polymer blends in solutions or in solid films. The fluorescence from these polymer blends will be used to determine whether the polymer blends are single-phase or two-phase. Properties to be studied include fluorescence lifetime, quantum yield, and decay of fluorescence aniosotropy. These properties will allow measurement of the extent of mixing of the polymers in blends and the microviscosity of the blends. Application received by Commissioner of Customs: August 2, 1983.

Docket Number 83–270. Applicant: National Aeronautics and Space Administration, NASA Resident Office, Jet Propulsion Laboratory, 4800 Oak Grove Drive, Pasadena, CA 91109. Instrument: Color Film Recorder. Manufacturer: McDonald Dettwiler & Associates Ltd., Canada. Intended use of instrument: The foreign instrument is intended for state-of-the-art recording of color images in support of space exploration projects (such as Voyager and Galileo), near earth science, applications activities, medical activities and various other activities. Application received by Commissioner of Customs: August 2, 1983.

Docket Number 83–271. Applicant: National Aeronautics and Space Administration, NASA Resident Office, Jet Propulsion Laboratory, 4800 Oak Grove Drive, Pasadena, CA 91109. Instrument: CCD 2000 Imaging System. Manufacturer: Cambridge Electronic Imaging, United Kingdom. Intended use of instrument: The foreign instrument is intended for use at ground-based astronomical sites for extremely low level photon detection which is needed for astronomical imaging photometry and spectroscopy in a number of current solar system investigations, including planetary atmospheres, Jovian magnetospheric dynamics and comet phenomena. Application received by Commissioner of Customs: August 2, 1983.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 83–23453 Filed 8–25–83; 8:45 am]

BILLING CODE 3510–25–M

Stainless Steel Round Wire; Announcement of Fourth Quarter 1983 Monitoring Prices

AGENCY: International Trade Administration, Commerce.

ACTION: Announcement of the fourth quarter 1983 monitoring price levels for imports of stainless steel round wire products.

SUMMARY: The Department of Commerce announces that base prices for fourth quarter 1983 trigger prices of stainless steel round wire products will decline 1.6 percent from their third quarter base price levels. Changes in the cost of rod accounted for a large part of the decline in base prices. Size extra prices for stainless steel round wire will decrease an average of 2.0 percent from their third quarter 1983 levels. Changes in capacity utilization accounted for much of the decline in size extras. The Department uses trigger prices to monitor the prices of stainless steel wire and cold drawn round bar under 0.703 inch in diameter for possible initiation of antidumping or countervailing duty investigations if unfair sales of these products appear to be injuring domestic producers. Each quarter the Department reviews Japanese steel production and delivery costs and revises trigger prices accordingly. The fourth quarter trigger price applies to stainless steel round wire products and round stainless steel drawn bars in sizes under 0.703 inch in diameter exported to the United States on or after October 1, 1983.

FOR FURTHER INFORMATION CONTACT: Juanita S. Kavalauskas, Agreements Compliance Division, Import Administration, Room 3099, Department of Commerce, Washington, D.C. 20230, telephone: (202) 377–3793.

SUPPLEMENTARY INFORMATION: Trigger price monitoring procedures for stainless steel round wire are the same as those published in the TPM Procedures Manual (46 FR 49928). Japanese stainless steel wire manufacturers agreed to supply cost of production and transportation information necessary to monitor the import prices. Commerce uses Special Summary Steel Invoices to monitor imports of stainless steel round wire and

small cold drawn bar under 0.703 inch diameter. In computing the invoice price for comparison to the trigger price, Commerce will use a 12.0 percent annual rate (1.0 percent per month) when interest must be adjusted and the actual rate is not known. For its calculation of trigger price levels, the yen/dollar exchange rate the Department uses to convert Japanese steel producers' yen denominated production cost to dollars is the average of the 36 months preceding the calculation and publication of the quarter's trigger price levels.

The exchange rate used in the Department's fourth quarter 1983 production cost estimate is 233 yen to the dollar (the yen/dollar exchange rate average for August 1980 through July 1983).

Other Charges

Trigger prices are an estimate of the Japanese stainless steel wire manufacturers' cost of production plus the cost of transporting to the United States and handling in the United States. Each trigger price includes ocean freight, insurance, interest and handling as well as the base prime and extras. The ocean freight, handling and interest are shown for each of the major importing regions: Pacific Coast, Atlantic Coast, Gulf Coast and the Great Lakes. All prices are shown in U.S. dollars per metric ton.

The interest component of the delivery charge has been adjusted to reflect the current level of price interest rate. Handling charges remain unchanged. Ocean freight charges have increased. The extras shown define the coverage in terms of sizes, grades, and qualities.

The following rules apply to product coverage and extras:

(1) If a product fails to fit the general description because the cost of producing that product varies substantially from the cost of producing the product described in the heading, the product is not covered.

(2) If a product is covered by a grade which is not in the base coverage and for which no grade extra is listed, the product is not covered.

(3) If a product has a size specification that falls above the largest size specification shown or below the smallest size specification shown, it is not covered.

(4) If a product has a size specification that falls between two size specification listed, it is covered and the size specification with the higher dollar value is to be used unless otherwise noted on the page.

(5) If a product embodies extras other than size or grade which are not listed, the product is covered. In those cases, the base trigger price plus any applicable extras listed will be applied.

A list of stainless steel round wire and cold drawn bar products subject to trigger price monitoring and the applicable base prices and extras are contained in the Appendix to this notice.

Dated: August 22, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

BILLING CODE 3510-25-M

APPENDIX

4TH QUARTER 1983 TRIGGER PRICES PER METRIC TON

STAINLESS STEEL WIRE

ROUND STAINLESS STEEL DRAWN BARS
IN SIZES UNDER 0.703 INCHES

AISI Categories 20 and 12

Charges to CIF	Ocean Freight	Handling	Interest
Pacific Coast	$110	$9	2.3%
Gulf Coast	135	5	3.0%
Atlantic Coast	135	4	3.0%
Great Lakes	176	4	3.7%

Interest charge equals F.O.B. trigger base price including size extra times interest factor.

Insurance 1% of base price + extras + ocean freight

Extras ($/M.T.):

1. Annealed Wire - Group I
   A. Base Prices Including Grade Extras
   B. Size by Grade Group
   C. Small Bar Size Extras
2. Hard/Spring Wire - Group II
   A. Base Prices Including Grade Extras
   B. Size by Grade Group
3. Soft/Intermediate Wire - Group III
   A. Base Prices Including Grade Extras
   B. Size by Grade Group
4. Coating
5. Finish
   A. Centerless Ground
   B. Centerless Ground and Polished
6. Diameter Tolerance
7. Straightening and Cut to Length
   A. Size Range
   B. Length
8. Packaging

Note: This coverage applies to stainless steel round wire and stainless steel ba under 0.703 inches produced by drawing. Bar, in these sizes, if produced by hot rolling is not covered by published prices.

1. Group I - Annealed Wire: Soft wire in which there is no further cold drawing after the last annealing treatment. This wire is made by annealing in open fired furnaces or molten salt followed by pickling, which produces a clean gray matte finish. It is also made with a bright finish by annealing wet, oil or grease drawn wire in a protective atmosphere, and is sometimes described as bright annealed wire.

A. Grades	Base Price
301	1,746
302	1,699
303	1,793
304	1,746
305	1,912
310	3,215
314	3,689
316	2,504
316-L	2,670
317	2,978
317-L	3,144
304-L	1,912
17-4PH*	2,168
308	1,888
308-L	2,054
309	2,409
309-L	2,575
321	2,054
302 HQ (18-19LW)**	1,865
347	2,362
384	2,315
409	1,414
410	1,106
416	1,106
420	1,154
430	1,154
430-F	1,367
434	1,462
434-A	1,272
446	1,746

*May also be designated as type 630 or as UNS 17400
**May also be designated as type 302 CU and as 306

GROUP I - ANNEALED WIRE (Continued)

B. Size *

Size *	Grade Group: 300 Series & 17-7PH	400 Series	17-4PH 15-5PH
.574" - .703"	338	426	338
.501" - .573"	338	426	338
.500"	345	426	345
.375" - .499"	374	441	374
.3125" - .374"	381	441	381
.250" - .312"	417	441	417
.234" - .249"	465	462	465
.216" - .233"	486	479	486
.200" - .215"	556	498	556
.185" - .199"	603	544	603
.170" - .184"	611	556	611
.155" - .169"	639	577	639
.142" - .154"	668	659	668
.128" - .141"	680	754	679
.113" - .127"	740	802	680
.099" - .112"	843	898	682
.086" - .098"	896	984	689
.076" - .085"	955	1,032	724
.067" - .075"	989	1,087	860
.058" - .066"	1,049	1,207	972
.051" - .057"	1,097	1,262	1,023
.044" - .050"	1,147	1,334	1,071
.038" - .043"	1,224	1,379	1,149
.033" - .037"	1,322	1,537	1,247
.030" - .032"	1,370	1,640	1,370
.027" - .029"	1,463		1,463
.024" - .026"	1,566		1,566
.021" - .023"	1,707		1,707
.019" - .020"	1,783		1,783
.018"	1,863		1,863
.017"	1,908		1,908
.016"	1,937		1,937
.015"	1,985		1,985

*All intermediate sizes to take next higher price.

GROUP I - ANNEALED WIRE (Continued)

Size *	Grade Group: 300 Series & 17-7PH	400 Series	17-4PH 15-5PH
.014"	2,138	--	2,138
.013"	2,258	--	2,258
.012"	2,308	--	2,308
.011"	2,411	--	2,411
.010"	2,569	--	2,569
.009"	2,720	--	2,720
.008"	3,010	--	3,010
.0075"	3,166	--	3,166
.007"	3,395	--	3,395
.0065"	3,822	--	3,822
.006"	4,265	--	4,265
.00575"	4,662	--	4,662
.0055"	5,563	--	5,563
.00525"	5,654	--	5,654
.005"	5,840	--	5,840
.00475"	5,929	--	5,929
.0045"	6,211	--	6,211
.00425"	6,635	--	6,635
.004"	7,246	--	7,246
.00375"	15,011	--	15,011
.0035"	17,415	--	17,415
.00325"	20,061	--	20,061
.003"	22,686	--	22,686
.0027"	24,633	--	24,633
.0025"	25,772	--	25,772
.002"	31,445	--	31,445

*All intermediate sizes to take next higher price.

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C. Small Bar*: Small cold drawn bar in wire gauges is to be trigger priced using these size extras:

Size Range**	Grade Group		
	300 Series & 17-7PH	400 Series	17-4PH 15-5PH
.574" - .703"	304	256	304
.501" - .573"	304	256	304
.500"	331	283	331
.375" - .499"	331	283	331
.3125" - .374"	370	318	370
.250" - .312"	370	318	370
.234" - .249"	370	318	370
.216" - .233"	443	395	443
.185" - .215"	443	395	443

*Annealing and pickling is included in base material cost. Size extras include cost of straightening and cut to length.

**Intermediate sizes to take next higher price.

2. Group II - Hard/Spring Wire: wire drawn in several drafts as required to produce the high tensile strengths required for such products as spring wire.

A. Grades	Base Price
301	1.746
302	1.699
303	1.793
304	1.746
305	1.912
310	3.215
314	3.689
316	2.504
316-L	2.670
317	2.978
317-L	3.144
321	2.054
17-4PH*	2.168
17-7PH***	2.694
308	1.888
308-L	2.054
309	2.409
309-L	2.575
302 HQ (18-19LW)**	1.865
347	2.362
384	2.315
409	1.414
410	1.106
416	1.106
420	1.154
430	1.154
430-F	1.367
434	1.462
434-A	1.272
446	1.746

*May also be designated as type 630 or UNS 17400
**May also be designated as type 302 CU or 306
***May also be designated as typed 631 or UNS 17700

GROUP II - HARD/SPRING WIRE (Continued)

3. Group III - Soft/Intermediate Wire: wire drawn one or more

GROUP II - HARD/SPRING WIRE (Continued)

B. Size *

Size	Grade Group 300 Series & 17-7PH
Over .375"	699
.3125" - .374"	699
.2500" - .312"	699
.234" - .249"	699
.216" - .233"	699
.200" - .215"	699
.185" - .199"	699
.170" - .184"	699
.155" - .169"	699
.142" - .154"	704
.128" - .141"	704
.113" - .127"	704
.099" - .112"	709
.086" - .098"	785
.076" - .085"	843
.067" - .075"	915
.058" - .066"	1,015
.051" - .057"	1,221
.044" - .050"	1,403
.038" - .043"	1,480
.033" - .037"	1,624
.030" - .032"	1,710
.027" - .029"	2,059
.024" - .026"	2,246
.021" - .023"	2,466
.019" - .020"	2,759
.018"	3,338
.017"	3,625
.016"	3,716
.015"	3,803
.014"	3,980
.013"	4,123
.012"	4,416
.011"	5,646
.010"	5,795
.009"	6,020
.008"	6,226

*All intermediate sizes to take next higher price.

3. Group III - Soft/Intermediate Wire: wire drawn one or more drafts after annealing as required to produce minimum strength or hardness. The properties can be varied between soft temper and those approaching spring temper wire. Wire in this temper is usually produced in a variety of dry drawn tempers. Cold heading wire belongs in this group.

A.

Grades	Base Price
301	1,746
302	1,699
302 (302HQ, 18-9LW)	1,865
303	1,793
304	1,746
305	1,912
310	3,215
314	3,689
316	2,504
316-L	2,670
317	2,978
317-L	3,144
321	2,054
17-4PH*	2,168
308	1,888
308-L	2,054
309	2,409
309-L	2,575
347	2,362
384	2,315
409	1,414
410	1,106
416	1,106
420	1,154
430	1,154
430-F	1,367
434	1,462
434-A	1,272
446	1,746

*May also be designated as type 630 or UNS 17400

GROUP III - SOFT/INTERMEDIATE WIRE (Continued)

B. Size *

	Grade Group		
	300 Series & 17-7PH	400 Series	17-4PH 15-5PH
Over .375"	594	465	594
.3125" - .374"	594	465	594
.2500" - .312"	594	465	594
.2340" - .249"	647	508	647
.2160" - .233"	647	508	647
.200" - .215"	647	508	647
.185" - .199"	699	551	699
.170" - .184"	699	551	699
.155" - .169"	699	584	699
.142" - .154"	776	647	776
.128" - .141"	776	757	776
.113" - .127"	829	813	829
.099" - .112"	934	920	934
.086" - .098"	1,030	996	1,030
.076" - .085"	1,078	1,044	1,078
.067" - .075"	1,192	1,135	1,192
.058" - .066"	1,293	1,288	1,293
.051" - .057"	1,336	1,456	1,336
.044" - .050"	1,389	1,475	1,389
.038" - .043"	1,509	1,580	1,509
.033" - .037"	1,604	1,686	1,604
.030" - .032"	1,714	1,849	1,714
.027" - .029"	1,873		1,873
.024" - .026"	2,016		2,015
.021" - .023"	2,174		2,174
.019" - .020"	2,323		2,323

*All intermediate sizes to take next higher price.

4. Coating: Material provided uncoated or coated with lime (or equivalent to lime) and/or soap will carry no extra. Other coatings require an appropriate extra where additional costs are involved. Metallic coatings include copper, nickel, and lead. Non-metallic coatings include plastics, molybdenum disulfide, etc.

Size Range	Metallic		Non-metallic
	Copper	Nickel	
Over .154"	117	36	25
.099" - .154"	175	36	25
.063" - .098"	233	48	32
.041" - .062"		74	49
.030" - .040"		101	65
.025" - .029"		101	65
.020" - .024"		138	93
.015" - .019"		181	123
.010" - .014"		214	148

5. Finish

5. Finish

Size Ranges *	Centerless Ground	Centerless Ground and polished
.595" - .703"	492	619
.501" - .594"	492	619
.500"	544	688
.375" - .499"	556	710
.3125" - .374"	556	710
.250" - .3124	556	710
.234" - .249"	854	1,037
.216" - .233"	854	1,037
.200" - .215"	945	1,152
.185" - .199"	1,105	1,335
.170" - .184"	1,301	1,546
.155" - .169"	1,558	1,822
.142" - .154"	1,816	2,079
.128" - .141"	2,136	2,400
.113" - .127"	2,675	2,961
.093" - .112"	5,448	5,998

*Intermediate sizes to take next higher price.

These extras are applicable to all grades listed.

Straightening and cut to length extras are included in the above finish extras.

6. Diameter Tolerance

Standard: AISI or JIS Specification

	Extra
Standard	Base
Not less than 1/2 standard	101
Closer than 1/2 to 1/4 standard	25% of size extra
Closer than 1/4 standard	50% of size extra

7. Straightening and Cut to Length: Use the sum of the appropriate extras from A and B below to form the total extra.

A.

Size Range	Extras
.595" - .703"	103
.501" - .594"	103
.500"	103
.375" - .499"	129
.3125" - .374"	129
.170" - .3124"	233
.099" - .169"	582
.051" - .098"	1,683
.032" - .050"	1,942

B. Length

Under 12"	91
12" to under 18"	58
18" to under 24"	58
24" to under 30"	38
30" to under 36"	38
36" to under 48"	38
48" to under 60"	38
60" to under 72"	38
72" to under 120"	33
120" to under 168"	33
168" to under 192"	33
192" to under 216"	33
216" to under 240"	33
240" to under 264"	26
264" to under 288"	26
288" to 316"	26

8. Packaging

Bundle	26
Wooden Boxes	90
Fibre Drums	83
Coil Carriers	26
Spools	
Sizes under .020"	162
Both Spools and Wooden Boxes	
Sizes .020" and greater	90
Sizes under .020"	252

[FR Doc. 83-23449 Filed 8-25-83; 8:45 am]
BILLING CODE M 10-25-C

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

August 18, 1983.

The USAF Scientific Advisory Board Ad Hoc Committee on Engineering & Services Role in the Employment of Air Power will meet at Tyndall Air Force Base, Florida on September 21–23, 1983.

The purpose of the meeting will be to consider the role of Air Force engineers in the employment of air power and to finalize the ad hoc committee report. The meeting will convene at 8:00 a.m. to 5:00 p.m. each day.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, Specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202–697–8845.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 83-23405 Filed 8-25-83; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF ENERGY

Office of the Secretary

International Atomic Energy Agreements; Proposed Subsequent Arrangement; International Atomic Energy Agency

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the International Atomic Energy Agency (IAEA) Concerning Peaceful Application of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following sale:

Contract Number S–IA–124, to the IAEA, Seibersdorf Laboratory Austria, 151.96 grams of uranium, depleted in the isotope U-235, 933.62 grams of normal uranium, and 153.65 grams of thorium, for use as standard reference material.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of these nuclear materials will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: August 22, 1983.

George Bradley,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 83-23428 Filed 8-25-83; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Proposed Subsequent Arrangement; Spain

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Spain Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following sale:

Contract Number S–SP–19, to ENUSA, Madrid, Spain, of natural uranium, to be used as standard reference material.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: August 22, 1983.

George Bradley,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 83-23426 Filed 8-25-83; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Proposed Subsequent Arrangement; Venezuela

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the safeguards and guarantee provisions of the Agreement for Cooperation Between the Government of the United States of America and the Government of Venezuela Concerning Civil Use of Atomic Energy, as amended. While this agreement expired by its terms on February 8, 1980, the safeguards and guarantee provisions were extended through an exchange of notes concluded February 18, 1981.

The subsequent arrangement to be carried out under the above mentioned safeguards and guarantee provisions of the expired Agreement for Cooperation involves the signature of a protocol concerning the suspension of the application of safeguards by the IAEA under the trilateral safeguards agreement between the International Atomic Energy Agency, the Government of Venezuela and the Government of the United States of America signed on March 27, 1968. The application of IAEA safeguards in Venezuela under the trilateral agreement shall remain suspended during the time the Venezuela-IAEA NPT Safeguards Agreement is in force. The application of IAEA safeguards in the U.S.A. under the trilateral agreement shall be suspended during the time and to the extent that the U.S.-IAEA voluntary safeguards agreement is in force and safeguards specified therein are being applied by the IAEA in accordance with Article 22 of the agreement, which entered into force on December 9, 1980. The protocol is to be signed in Vienna, Austria by the authorized representatives of the IAEA and the Governments of Venezuela and the United States of America.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that entering into this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after publication in the **Federal Register**.

For the Department of Energy.

Dated: August 22, 1983.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 83-23424 Filed 8-25-83; 8:45 am]

BILLING CODE 6450-01-M

Establishment of Performance Review Board, Names of Board Members

Section 4314(c) of the title 5, United States Code (as amended by the Civil Service Reform Act of 1978), requires that the Department of Energy establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more Performance Review Board(s) to review, evaluate, and make a final recommendation on performance appraisals assigned to Departmental members of the Senior Executive Service. The Performance

Review Board established for the Department of Energy also makes written recommendations to the Executive Personnel Board or the Chairman, Federal Energy Regulatory Commission, regarding Senior Executive Service performance bonuses, awards, and performance-related actions.

Section 4314(c) of title 5, United States Code requires that notice of appointment of Performance Review Board members be published in the **Federal Register**. The following persons have been appointed to serve on the performance review board standing register for the Department of Energy:

William F. Anderson
Earl E. Gjelde
Charles E. Kay
Donald K. Pearlman
William S. Heffelfinger
Harry L. Peebles
J. Merle Schulman
K. Dean Helms
Cleo N. Mitchell
Gene K. Fleming
Robert E. Greeves
John W. Polk
Morris L. Myers
Nathaniel H. Pierson
William V. Vitale
Joseph G. Coyne
Charles R. Tierney
Elizabeth E. Smedley
Carl W. Guidice
Arthur E. Guyer
Hilary J. Rauch
Berton J. Roth
Thomas J. Davin
Vincent Mason
Edwin R. Itnyre
David G. Newman
Eric J. Fygi
Thomas C. Newkirk
Stephen H. Greenleigh
Leonard Rawicz
Ralph Goldenberg
Leon Silverstrom
Gordon W. Harvey
Matthew T. Abruzzo
William R. Partridge
Wayne I. Tucker
James U. De Francis
Constance Stuart
Christopher J. Warner
Thomas P. Cantrell
Thomas O. Mann
Richard T. Tedrow
Thomas L. Wieker
George J. Bradley, Jr.
Edward J. Hanrahan
William J. Silvey
Richard Williamson
Howard E. Perry
James S. Herod
Howard S. Coleman
Robert L. San Martin
Melvin Chiogioji
Linda R. Gregory
Richard A. Benson
Louis V. Divone
Barton R. House
Robert W. Davies
Robert J. Stern
Lawrence A. Pettis
Richard D. Furiga
Ronald L. Winkler
C. Curtis Johnson
Richard E. Weiner
Melinda L. Carmen
James S. Kane
George Y. Jordy
Richard H. Kropschot
James E. Leiss
Antoinette G. Joseph
John F. Clarke
J. Ronald Young
Robert W. Wood
Charles W. Edington
Donald K. Stevens
Louis C. Ianniello
Bernard Hildebrand
Nelia H. Davies
William R. Ellis, Jr.
Ryszard Gajewski
Ira M. Adler
Samuel Rousso
William M. Lamb
James W. Culpepper
Francis C. Gilbert
Ronald W. Cochran
Ralph E. Caudle
Goetz K. Oertel
Maurice J. Katz
Donald K. Gestson
Thomas A. Dillon
Gordon L. Chipman, Jr.
Franklin E. Coffman
William R. Voigt
Neal Goldenberg
Kermit O. Laughon
W. Wade Ballard, Jr.
James W. Vaughan
Charles H. Brown, Jr.
Thomas L. Foster
Robert M. Forssell
Carl H. Schmitt
Donald Erb
David B. Pye
Donald L. Bauer
Cleveland K. Benedict
Richard E. Harrington
Jeremiah E. Walsh
Augustine A. Pitrolo
Sun W. Chun
Paul T. Michael
James W. Workman
Milton C. Lorenz
Sandra L. Delaney
Carl A. Corrallo
Alberet H. Linden, Jr.
Kenneth A. Vagts
Jimmie L. Petersen
John C. Geidl
Yvonne M. Bishop
Frank E. Lalley
Charles C. Heath
Leonard Jacobvitz
Raymond G. Romatowski
Donald Ofte
James R. Nicks
Paul R. Wagner
Jack R. Roeder
Robert H. Bauer
Fred C. Mattmueller
John P. Kennedy
Andrew Mravca
Troy Wade
Nick C. Aquilina
Jon P. Hamric
Joe B. LaGrone
James C. Hill
Percy Brewington, Jr.
John T. Milloway, Jr.
Ewin B. Kiser, Jr.
Herschel D. Hickman
James C. Hall
William Snyder
Richard A. DuVal
Donald W. Pearman
Robert L. Morgan
Richard P. Denise
Thomas R. Clark
Ray D. Duncan
Alex G. Fremling
Robert P. Fasulo
Richard L. Hames
Harry Geisinger
Richard B. Risk, Jr.
Warren L. Jamison
Robert Cross
Peter J. Johnson
Robert E. Ratcliffe
James J. Jura
Robert L. McPhail
William H. Clagett
Lawrence R. Anderson
Scott P. Anger
Andrew W. Battese
Raymond A. Beirne
Charles E. Bullock
Robert W. Cackowski
Bernard B. Chew
Lynne H. Church
William Connelly
Marilyn L. Doria
Quentin A. Edson
Philip L. Essley, Jr.
Russell E. Faudree, Jr.
Jerome M. Feit
Morris R. Fitzgerald
Francis J. Gilmore
Lynn H. Hargis
Howard Kilchrist
Randolph E. Mathura
William G. McDonald
Charles A. McManus
Robert C. Means
Stephen R. Melton
Louis W. Mendonsa
Gordon E. Murdock
Karen K. Nygaard
Rachelle Patterson
Kenneth M. Pusateri
Michael Schopf
Joan Simmons
Leon J. Slavin
Joseph J. Solters
Jon R. Stover
Robert J. Szekely
Anthony F. Toronto
Maynard Ugol
Barbara J. Weller
Bernard Wexler
Kenneth A. Williams

Issued in Washington, D.C. on August 19, 1983.

Harry L. Peebles,

Acting Director, Directorate of Administration.

[FR Doc. 83-23422 Filed 8-25-83; 8:45 am]

BILLING CODE 6450-01-M

Bonneville Power Administration

Proposed Power Sales Contract Offer to Pend Oreille County Public Utility District No. 1

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice and Request for Comments.

SUMMARY:

File No.: PSC-1
Responsible official: Thomas M. Noguchi

Under the Pacific Northwest Electric Power Planning and Conservation Act of 1980 (Regional Act), the Bonneville Power Administration (BPA) is required to offer firm power sales contracts to requesting public bodies and cooperatives to serve those utilities' loads in excess of their resources. Pend Oreille County Public Utility District No. 1 (Pend Oreille) in the State of Washington has requested such a contract.

BPA offered "initial" long-term power sales contracts under the Regional Act to all Northwest utilities on August 28, 1981. Pend Oreille is one of six Northwest utilities which chose to retain their existing BPA power sales contract rather than sign one of these "initial" Regional Act power sales contracts.

Pend Oreille now wishes to execute a Regional Act power sales contract. BPA proposes to offer Pend Oreille a contract using the terms of the "initial" Regional Act power sales contract, excepting only those clauses which specifically apply to the initial offering, and a few housekeeping measures. This notice outlines the terms of BPA's proposed offer, and requests comments on that proposal.

DATES: Comments on the proposed contract offer to Pend Oreille will be accepted by mail or telephone through September 30, 1983. Written comments should be postmarked no later than that date.

ADDRESS: Submit comments to Ms. Donna L. Geiger, Public Involvement Manager, P.O. Box 12999, Portland, Oregon 97212.

FOR FURTHER INFORMATION CONTACT: Public Involvement, at the above address, 503-230-3478. Oregon callers may use 800-452-8429; callers in California, Idaho, Montana, Nevada, Utah, Washington, and Wyoming may use 800-547-6048. Information may also be obtained from:

Mr. George Gwinnutt, Lower Columbia Area Manager, Suite 288, 1500 Plaza Building, 1500 N.E. Irving Street, Portland, Oregon 97232, 503-230-4551.

Mr. Ladd Sutton, Eugene District Manager, Room 206, 211 East Seventh Avenue, Eugene, Oregon 97401, 503-687-6952.

Mr. Ronald H. Wilkerson, Upper Columbia Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509-456-2516.

Mr. George E. Eskridge, Montana District Manager, 800 Kensington, Missoula, Montana 59801, 406-329-3880.

Mr. Ronald K. Rodewald, Wenatchee District Manager, P.O. Box 741, Wenatchee, Washington 98801, 509-662-4377, extension 379.

Mr. Richard D. Casad, Puget Sound Area Manager, 415 First Avenue North, Room 250, Seattle, Washington 98109, 206-442-4130.

Mr. Thomas Wagenhoffer, Snake River Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509-525-5500, extension 701.

Mr. Robert N. Laffel, Idaho Falls District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208-523-2706.

Mr. Frederic Rettenmund, Boise District Manager, Owyhee Plaza, Suite 245, 1109 Main Street, Boise, Idaho 83707, 208-334-9138.

SUPPLEMENTARY INFORMATION:

I. Background

The Regional Act requires BPA to offer long-term power sales contracts upon request to qualifying Northwest public bodies and cooperatives, as well

as other entities. In these contracts, BPA must offer to serve these utilities' loads, to the extent that the utilities do not have resources or develop resources to meet their loads.

Section 5(g)(1) of the Regional Act required BPA to offer such initial long-term power sales contracts to its existing customers and other specified entities within 9 months following enactment of the Regional Act. These contracts are called "5(g)" contracts. BPA offered 5(g) contracts to Northwest utilities and to other BPA customers on August 28, 1981. Customers had 1 year from the date of offer, until August 28, 1982, to accept the 5(g) contracts. Pend Oreille was one of the public bodies to whom this offer was made.

In all, 145 BPA customers signed 5(g) power sales contracts. Pend Oreille was one of six public body and cooperative customers of BPA which chose not to sign the offered contract. Instead, Pend Oreille has continued to rely on its existing contract with BPA. That contract expires on December 31, 1984.

II. Request and Qualifications for Service

On January 12, 1983, Pend Oreille notified BPA that it wishes to sign a Regional Act power sales contract to replace its existing contract. Section 5(b) of the Regional Act obligates BPA to offer such a contract to any Northwest public agency, so long as the prospective customer can comply with BPA's standards for service. As an existing customer, Pend Oreille meets those standards of service.

BPA may also delay service to new customers under the Regional Act until it has sufficient resources available to adequately serve the customer. BPA now has a surplus of resources, so this is not currently an impediment to service.

BPA must, therefore, respond positively to Pend Oreille's request for a new power sales contract.

III. Pend Oreille Contract May Set Precedent

BPA's obligations to offer contracts to public agencies under Section 5(b) of the Regional Act differ slightly from the obligations specified in Section 5(g) for the initial power sales contract. Pend Oreille will be the first utility to receive a power sales contract offer under Section 5(b) of the Regional Act. This contract will be called a "5(b)" contract. The contract BPA offers will, therefore, be the first which reflects the differences between Sections 5(g) and 5(b) of the Regional Act. The Pend Oreille contract may be used as the basis for future 5(b) contracts to be offered to other requesting utility customers.

IV. General Differences Between Proposed Offer and Initial Regional Act Contracts

BPA proposes to offer Pend Oreille a 5(b) contract using the terms of the earlier 5(g) offering, excepting only those clauses which applied to the initial 5(g) contract, and a few housekeeping measures. These changes are described generally below.

The proposed 5(b) contract deletes any reference to Section 5(g)(7) of the Regional Act, in which BPA is deemed to have sufficient resources to offer initial long-term contracts. This section was specifically reserved by statute for those customers which signed the initial 5(g) contracts. BPA currently has an actual surplus of resources.

If BPA should ever enter a period where its resources are insufficient to meet its loads, both contracts provide for an allocation of firm power. Public agency customers which signed the initial 5(g) contracts are guaranteed an amount of power no less than they received in the year immediately preceding the period of insufficiency. The proposed 5(b) contract does not contain this guarantee.

The majority of those utilities which signed initial 5(g) contracts agreed to certain amendments to those contracts. These Amendments Nos. 1, 2, and an amendment to section 8(e) of the General Contract Provisions (GCP's) to the 5(g) contracts, are incorporated in the proposed 5(b) contract.

The (b) contract will be effective upon execution by BPA and will expire on June 30, 2001, the day on which the 5(g) contracts expire.

V. Impacts of Pend Oreille Offer and Precedent It May Set

A. *On Pend Oreille:* Pend Oreille is an existing BPA customer with its own generation, storage arrangements, and a distribution system. Pend Oreille's resources currently exceed its load, but the utility occasionally needs to rely on the return of energy out of storage, or power purchases from other entities. This situation arises in about one-half of the years during May or June when increased tailwater levels at Pend Oreille's Box Canyon hydroelectric project temporarily reduce or eliminate generation. The proposed contract would provide Pend Oreille added flexibility in dealing with this situation, while preserving its access to available nonfirm power from BPA when the Box Canyon project does not generate.

Secondly, Pend Oreille's loads may some day exceed its generation capacity. Under the proposed contract, BPA woud then meet the difference between Pend Oreille's firm loads and firm resources.

Signing a 5(b) power sales contract would make Pend Oreille eligible to participate in all conservation programs BPA develops pursuant to the Regional Act for the full duration of those programs. It would also make Pend Oreille eligible to receive billing credits for qualifying resources.

B. *On BPA:* The six BPA utility customers which did not sign initial 5(g) contracts have a 1983–84 cumulative system load forecasted at about 125 average megawatts. BPA currently serves about 110 average megawatts of this total. If all these utilities were to request and execute 5(b) power sales contracts, the prinicipal effect on BPA would be to simplify BPA's resource planning and operations because, generally, it is easier to operate when all of BPA's customers are under similar contracts. Such contracts would not impose any immediate impact on BPA's load obligations.

VI. Compliance with National Environmental Policy Act (NEPA)

NEPA procedures require that environmental information be available to public officials and citizens before decisions are made and before actions are taken. BPA has undertaken a review of the proposed provisions of the Pend Oreille 5(b) contract to determine the level of NEPA documentation necessary in this case. An Environmental Assessment will be available for public review and comment before any final decision on the contract provisions is made by BPA.

VII. Specific Terms of Proposed Offer

With the exceptions specified below, the terms of the contract BPA proposes to offer Pend Oreille are those published in the **Federal Register** on September 3, 1981, June 4, 1982 and October 20, 1982, as follows:

(46 FR 44340) Notice of Final Action Concerning Power Sales and Residential Exchange Contracts Required by Pacific Northwest Electric Power Planning and Conservation Act;

(47 FR 24381) Notice of Correction of Errors and Ambiguities in Utility Power Sales Contracts Offered August 28, 1981; and

(47 FR 46800) Notice of Final Action Concerning Amendments to Utility Power Sales Contracts Required for Settlement of Lawsuits and Full Implementation of Pacific Northwest Electric Power Planning and Conservation Act.

The proposed changes to these terms follow. In each case, the purpose and effect of the contract change is described. Then, the section or subsection of the 5(b) contract in which the change appears is printed. Additions to the contract are enclosed in arrows; deletions are bracketed.

VIII. Proposed Contract Changes

A. Section 2 Term of Contract

Purpose.—Unlike 5(g) contracts, which BPA signed before sending to the customer for signature, the 5(b) contracts will be sent unsigned. In this way BPA will be able to coordinate the contract's effective date with the beginning of a billing month. Accordingly, the following change is made to Section 2 of the contract:

Changes.—2. *Term of Contract.* This contract shall be effective ◄*upon execution by Bonneville*δ [on the first day of the next Billing Month following the date at least five calendar days after Bonneville acknowledges receipt of an executed contract] and shall continue until 2400 hours on June 30, 2001. Bonneville shall acknowledge receipt of an executed contract upon receipt of a contract signed by the Purchaser and any authorizing resolution necessary for the execution of such contract.

B. Section 7 Allocation Provisions in the Event of Planning Insufficiency

Purpose.—Under the 5(g) "initial" contracts, public body, cooperative, and Federal agency customers are guaranteed an amount of power during a period of insufficiency no less than the amount of firm power provided by BPA to the customer in the year immediately preceding the period of insufficiency. This assurance was required by Section 5(g)(6) of the Regional Act.

The 5(b) contracts are not required to contain this guarantee. The practical impact upon 5(b) customers is impossible to foresee. The guarantee was provided in the 5(g) contracts through an additional allocation of intra-class excess entitlements, power in excess of a customer's load, but less than its entitlement under the allocations formula. If there are enough intra-class excess entitlements available, the 5(b) customers could receive just as much power as if they were 5(g) customers. Whether or not a 5(b) customer will receive any of the intra-class excess entitlements will depend upon increases and decreases in the loads of other customers in its customer class during a period of power restrictions.

Changes.—Section 7(f)(2):

(2) If the sum of the Intra-Class Excess Entitlements for the public body and cooperative class or Federal agency class of Customers is less than Bonneville's respective estimate for such Operating Year of the amounts needed to supply the Firm Capacity or Firm Energy requirements of the Customers of such class after providing such Customers their entitlement to the Federal base system resources and their entitlement to any resources acquired by Bonneville under Pub. L. 96–501 from or on behalf of such Customers, Bonneville shall use the Intra-Class Excess Entitlements for the public body and cooperative class or the Federal agency class to first meet its obligation to supply to each Customer of each class, respectively, ►which has executed a power sales contract offered pursuant to Section 5(g)(1) of Pub. L. 96–501,◄ an amount of Firm Capacity and Firm Energy equal to the amounts actually supplied by Bonneville in the Year Preceding Insufficiency. ►The Purchaser shall not be entitled to an allocation based upon this paragraph.◄

Exhibit D (Allocation Formulas) Factor T:

T=The respective sum of "S" for all Customers in the public body and cooperative or Federal agency class. "T" is zero for the investor-owned utility class ►and for public body and cooperative or Federal agency customers which did not execute power sales contracts offered pursuant to Section 5(g)(1) of Pub. L. 96–501.◄

C. Removal of deemed sufficient clause

Purpose.—Under Section 5(g)(7) of the Regional Act, BPA was deemed to have sufficient power to enter into the 5(g)(1) "initial" contracts. This was necessary to avoid questions as to whether BPA had adequate resources to sign power sales contracts. The 5(b) contracts, however, are not "initial" contracts and are therefore not within the coverage of the deemed sufficient clause. If a request for a contract is made during a future period of insufficiency, BPA will not be obligated to serve that customer until BPA acquires sufficient resources. Since BPA currently has sufficient resources, this change will not impact customers requesting 5(b) contracts in the near future.

Changes.—Section 20(c) Miscellaneous:

(c) If Bonneville offers to enter into a written amendment of any other similar long-term power sales contract other than informal arrangements between the parties referred to in subsection (b) above, Bonneville shall offer to the Purchaser a corresponding amendment of this contract, to the extent such a corresponding amendment would be applicable to the Purchaser under this contract. Bonneville shall advise and use reasonable efforts to consult with the Purchaser during the development or consideration of any offer to enter into such amendments. This contract is offered pursuant to section [s] 5(b) [and 5(g), including, but not limited to section 5(g)(7),] of Pub. L. 96–501, and amendments hereto shall not be construed to represent the offer of a new contract.

D. Offering period

Purpose.—The Regional Act required that the customers receive 1 year from the date of Bonneville's contract offer in which to sign the 5(g) contract. The 5(b) contracts do not have this requirement. BPA expects to leave the 5(b) offers open for approximately 120 days; however, the offer period will not be specified in the contracts. Accordingly, the following change from 5(g) contract language is required.

Change.—21. *[Termination of Offer.* The Purchaser shall have one year from the date it receives a signed copy of this contract from Bonneville to accept this contract. Bonneville's offer to make Firm Power available to the purchaser under the terms of this contract shall expire on such date unless Bonneville has received a signed contract from the Purchaser by such date.]

E. Incorporation of Amendment Nos. 1, 2, and the amendment to section 8(e) of the GCP's

Purpose and Change.—Amendment Nos. 1, 2, and the section 8(e) amendment will be incorporated into the text of the 5(b) contract. Amendment Nos. 1 and 2 were published in the **Federal Register** on June 4 and October 20, 1982, respectively, (47 FR 24381 and 47 FR 46800) along with a summary of the amendments, and were signed by most of the 5(g) contract customers.

Purpose.—The section 8(e) amendment extended the deadline from July 1, 1983, to March 1, 1984, for BPA to publish a methodology for implementing Section 7(b)(2) of the Regional Act. To accomplish this, Section 8(e) of the General Contract Provisions was changed as follows:

Change.—Bonneville's wholesale power rates established on any Rate Adjustment Date shall be developed consistent with the provisions of section 7 of Pub. L. 96–501. Bonneville shall develop in consultation with its utility Customers and shall be published by ►March 1, 1984,◄ [July 1, 1983] methodologies as required for implementing section 7(b)(2).

F. Incorporating revisions to provisions required by statute

Purpose.—The General Contract Provisions of the 5(b) contract will be revised as follows to incorporate the changes recently made in the provisions which BPA is required by statute to include in its contracts.

Changes.—35. *Contract Work Hours and Safety Standards.* This contract, if and to the extent required by applicable law or if not otherwise exempted, is subject to the following provisions:

(a) *Overtime Requirements.* No Contractor or Subcontractor contracting for any part of the contract work which may require or involve the employment of laborers[,] ►or◄ mechanics [, apprentices, trainee, watchmen, and guards] shall require or permit or permit any laborer[,] ►or◄ mechanic [, apprentice, trainee, watchman, or guard] in any workweek in which such worker is employed on such work to work in excess of 8 hours in any calendar day or in excess of 40 hours in such workweek [on work subject to the provisions of the Contract Work Hours and Safety Standards Act] unless such laborer[,] δor γ mechanic [, apprentice, trainee, watchman, or guard] receives compensation at a rate not less than one and one-half times such workers basic rate of pay for all [such] hours worked in excess of eight hours in any calendar day or in excess of 40 hours in such workweek, δas the case may beγ [whichever is the greater number of overtime hours].

(b) *Violation; Liability for Unpaid Wages; Liquidated [Liquidation of] Damages.* In the event of any violation of the provisions of subsection (a), the Contractor and any subcontractor responsible therefor shall be liable to any affected employee for such employee's upaid wages. In addition, such Contractor and subcontractor shall be liable to the Government for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer[,] ►or◄ mechanic [, apprentice, trainee, watchman, or guard] employed in violation of the provisions of subsection (a) in the sum of $10 for each calendar day on which such employee was required or permitted to be employed in such work in excess of eight hours or in excess of such employee's standard workweek of 40 hours without payment of the overtime wages required by subsection (a) above.

(c) *Withholding for Unpaid Wages and Liquidated Damages.* Bonneville may withhold, δor cause to be withheld,γ from [the Government Prime Contractor, from] any moneys payable on account of work performed by the Contractor or subcontractor, such sums as may administratively be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in subsection (b) above.

(d) *Subcontracts.* The Contractor shall insert ►in any◄ subcontracts the clauses set forth in ◄subsections (a) through► (c) of this provision and also a clause requiring the subcontracts to include these clauses in any lower tier subcontracts which they may enter into, together with a clause requiring this insertion in any further subcontracts that may in turn be made◄ [(d) of this section in all subcontracts, and shall require their inclusion in all subcontracts of any tier].

37. *Equal Employment Opportunity.* (g) The Contractor will include the provisions of subsections (a) through ►(f)◄ [(g)] in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as Bonneville may direct as a means of enforcing such provisions, including sanctions for noncompliance. In the event the Contractor becomes involved in, or is threatened with, litigation with a subcontract or vendor as a result of such direction by Bonneville, the Contractor may request the Government to enter into such litigation to protect the interests of the Government.

►38. Additional Provisions. The Contractor agrees to comply with the clauses for Government contracts contained in the following statutes, Executive Orders, and regulations to the extent applicable:

(a) The Rehabilitation Act of 1973, Pub. L. 93–112, as amended, and 41 CFR Part 60–741 (affirmative action for handicapped workers);

(b) the Vietnam Era Veterans Readjustment Assistance Act of 1974, Pub. L. 92–540, as amended, and 41 CFR Part 60–250 (affirmative action for disabled veterans and veterans of the Vietnam era);

(c) Executive Order 11625 and 41 CFR 1–1.1310–2 (utilization of minority business enterprises);

(d) the Small Business Act, as amended.◄

This completes the proposed contract change.

Issued in Portland, Oregon, on August 17, 1983.

Peter T. Johnson,

Administrator.

[FR Doc. 83–23427 Filed 8–25–83; 8:45 am]

BILLING CODE 6450–01–M

Economic Regulatory Administration

[6COX00257]

Apex Oil Co.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration of the Department of Energy hereby gives Notice of a Proposed Remedial Order which was issued to Apex Oil Company of St. Louis, Missouri. This Proposed Remedial Order alleges violations in the pricing of crude oil of 10 CFR 212.131, 210.62(c), 205.202, 212.182 and 212.183. The total violation alleged during April 1978 through January 1979 is $5,974,033.22.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from: U.S. Department of Energy, Economic Regulatory Administration, Attn: John W. Sturges, Director, 440 S. Houston, Room 306, Tulsa, Oklahoma 74127.

Within 15 days of publication of this Notice any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, U.S. Department of Energy, 12th & Pennsylvania Avenue, NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Tulsa, Oklahoma on the 11th day of August 1983.

John W. Sturges,

Director, Tulsa Office, Economic Regulatory Administration.

[FR Doc. 83–23416 Filed 8–25–83; 8:45 am]

BILLING CODE 6450–01–M

[ERA Docket No. 83–CERT–267 et al.]

Donnelley Printing Co. et al., Certification of Eligible Use of Natural Gas To Displace Fuel Oil

The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) has received the following applications for certification of an eligible use of natural gas to displace fuel oil pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). Notice of these applications, along with pertinent information contained in the applications, was published in the **Federal Register** and an opportunity for public comment was provided for a period of ten calendar days from the date of publication. No comments were

received. More detailed information is contained in each application on file and available for inspection at the ERA Fuels Conversion Division Docket Room, RG–42, Room GA–093, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

Applicant and facility location	Date filed	Docket No.	"Federal Register" notice of application
Donnelley Printing Co., Lancaster, Pa	July 18, 1983	83-CERT-267	48 FR 36313, Aug. 10, 1983.
General Electric Co., Lexington, Ky	July 20, 1983	83-CERT-268	48 FR 36312, Aug. 10, 1983.
Mar-Zane, Inc., Haydenville, Ohio	do	83-CERT-269	48 FR 36313, Aug. 10, 1983.

The ERA has carefully reviewed the above applications for certification in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that the applications satisfy the criteria enumerated in 10 CFR Part 595 and, therefore, has granted the certifications and transmitted those certifications to the Federal Energy Regulatory Commission.

Issued in Washington, D.C., on August 22, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-23419 Filed 8-25-83; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Presidential Permit PP–80 to Citizens Utilities Company and Record of Decision for Two 25 kV International Distribution Lines From Canaan and Norton, Vermont, to Quebec, Canada

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of issuance of Presidential Permit PP–80 to the Citizens Utilities Company and record of decision for the corresponding pair of 25 kilovolt international distribution lines.

SUMMARY: The Department of Energy has issued Presidential Permit PP–80 to the Citizens Utilities Company (Citizens) authorizing the construction, connection, operation, and maintenance of two 25 kilovolt (kV) international distribution lines from Vermont to Quebec, Canada. The record of decision appears below.

FOR FURTHER INFORMATION CONTACT:

Garet Bornstein, Division of Petroleum and Electricity (RG–44), Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–5935

Lise Courtney M. Howe, Office of General Counsel (GC–11), Department of Energy, Forrestal Building, Mail Stop 6A–141, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–2900.

SUPPLEMENTARY INFORMATION: Record of Decision for two 25 kV International Transmission Lines from Canaan and Norton, Vermont, to Quebec, Canada.

Pursuant to Regulations of the Council on Environmental Quality (40 CFR Part 1505) and Implementing Procedures of the U.S. Department of Energy (45 FR 20694):

Decision

The U.S. Department of Energy (DOE) has reached a decision to issue a Presidential Permit to the Citizens Utilities Company (Citizens) to construct, connect, operate and maintain electric transmission facilities at the international border between the United States and Canada. This Permit is being issued pursuant to Executive Order 10485, as amended by Executive Order 12038.

Project Description

Citizens proposes to construct, connect, operate and maintain two 25 kV transmission lines from the State of Vermont to Canada. The first will connect a 25/34.5 kV substation, located near Route 141 in Canaan, Vermont, with a 25 kV tie point to be established with Hydro-Quebec (HQ) at the U.S./Canadian border. The second will connect a 25/12.5 kV substation, located near Route 114 in Norton, Vermont, with a 24 kV tie point to be established with HQ at the U.S./Canadian border.

The Canaan Substation will be placed alongside an existing highway near the international border. The Norton Substation will be placed alongside an existing transmission line right-of-way. Both transmission lines will be strung on wooden poles parallel to existing highways or transmission line right-of-way. The power to be imported over the Canaan line is on the order of 5 megawatts (MW) each year. The power to be imported over the Norton line is on the order of 1 MW each year.

Further details concerning this project can be found in the application filed by Citizens and also in the negative determination of environmental impacts issued by DOE on May 11, 1983.

Description of Alternatives

DOE has determined that there are no viable alternatives which would provide more efficient supplemental electric energy to Norton and Canaan, Vermont,than Citizens' proposal.

Basis for Decision

DOE is authorized, pursuant to Executive Order 10485, as amended by Executive Order 12038, to grant a Presidential Permit to construct, connect, operate and maintain a transmission line crossing an international border. DOE must determine that the issuance of a permit is consistent with the public interest.

Considerations in Implementation of the Decision

The construction and maintenance of these lines will not involve significant environmental impacts because the small substations and short lines are being placed alongside existing roads and rights-of-way. Operation of the lines will not cause significant impact due to the small amount of power being imported. Thus, no significant impacts to air, water or land use are expected and it was determined that the project would have no significant effects on the quality of human environment. Additionally, all practicable means to minimize environmental harm have been made part of the Permit. Precautions will be taken to minimize radio and television interference with Citizens being responsible for taking appropriate corrective action where warranted.

Reliability impact from the construction and operation of the line also will be minimal. The substation at Norton, Vermont, will contain a 25 kV/12.5 kV, 1 MVA transformer, while the Canaan, Vermont, substation will contain a 25 kV/34.5 kV, 5 MVA transformer. The facilities will not connect to any regional or local bulk power supply system. All loads will be supplied radially from the two proposed Canadian interconnections. At some future date, the applicant expects to eliminate the HQ supply and integrate these facilities into the remainder of its system in the region. The applicant must notify DOE of any action that would

alter the power supply system reviewed herein.

The only reliability issue apparent in this application is the lack of synchronism between the HQ system and other U.S. electric utility systems. Discussions with the applicant indicated that the proposed substations would be supplied solely from the HQ system and at no time would these facilities be connected in parallel with other U.S. utility systems. However, arrangements have been made for Public Service Company of New Hampshire to provide alternate supply upon temporary loss of the two HQ supply feeders. Based on the information made available by the Applicant, DOE staff has determined that the proposed action will not adversely impact on the reliability of the U.S. electric power supply system.

Pursuant to Executive Order 10485, as amended, DOE must receive concurrences by the Department of State and the Department of Defense on its decision to issue the Permit. Both concurred on July 13, 1983.

A copy of the Presidential Permit is available for public inspection and copying at the DOE Freedom of Information Library, Room 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington D.C. 20585, between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C. August 5, 1983.

Rayburn Hanzlik,

Administrator, Economic Regulatory Administration.

[FR Doc. 83–23487 Filed 8–25–83; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. ER83–369–003]

Alabama Power Co.; Compliance

August 22, 1983.

Take notice that on July 13, 1983, Alabama Power Company (Alabama) in compliance with the Commission's Order of May 5, 1983, submitted for filing its revised cost of service and Period II rates. Included in the filing were revisions to the various statements and exhibits filed under the above-referenced docket.

Any person desiring to be heard or to protest said filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before August 29, 1983. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–23488 Filed 8–25–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER83–681–000]

Georgia Power Co.; Filing

August 23, 1983.

The filing Company submits the following:

Take notice that Georgia Power Company (Georgia Power) on August 16, 1983, tendered for filing an amendment to its contract with the United States of America, Department of Energy, acting by and through Southeastern Power Administration (Georgia Power's Rate Schedule FPC No. 781). The amendment extends the Contract for one year until May 31, 1984, and increases Georgia Power's monthly charge to the government for providing transmission service from $155,192.30 to $194,549.33, effective October 1, 1983.

Georgia Power states that the one-year extension will permit the parties to attempt to negotiate a new contract. Georgia Power contends that its transmission service must be increased to reflect the increased cost of providing transmission service since the rate was established.

Georgia Power requests an effective date of June 1, 1983, and therefore requests waiver of the Commission's notice requirements.

A copy of the filing was served upon the Southeastern Power Administration.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 8, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–23489 Filed 8–25–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER83–679–000]

Kansas Power and Light Co.; Filing

August 23, 1983.

The filing Company submits the following:

Take notice that on August 15, 1983, the Kansas Power and Light Company (KPL) tendered for filing a newly executed renewal contract dated July 19, 1983 with the City of Wathena, Kansas for wholesale service to that community. KPL states that this contract permits the City of Wathena to receive service under rate schedule WSM–81 designated Supplement No. 8 to R.S. FERC No. 147. KPL further states that the proposed contract change provides essentially for the ten year extension of the original terms of the presently approved contract.

KPL requests an effective date of July 19, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing have been mailed to the City of Wathena and the State Corporation Commission of Kansas.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 8, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–23490 Filed 8–25–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER83–677–000]

Louisville Gas and Electric Co.; Filing

August 23, 1983.

The filing Company submits the following:

Take notice that on August 15, 1983, Louisville Gas and Electric Company (LG&E) tendered for filing pursuant to the Agreement between LG&E, the Cincinnati Gas & Electric Company (CG&E) and Tennessee Valley Authority (TVA), an amendment by Letter Agreement.

LG&E states that the purpose of this filing is to amend said Agreement to increase the transmission toll charged by LG&E for energy transactions between CG&E and TVA from the present rate of .365 mill per killowatt-hour on energy furnished by TVA to CG&E and .35 mill per kilowatt-hour on energy furnished by CG&E to TVA to a proposed rate of 1 mill per kilowatt-hour on energy scheduled by either CG&E or TVA. The proposed toll charge was negotiated and agreed to by the affected parties.

Copies of the filing were served upon the Cincinnati Gas & Electric Company, Tennessee Valley Authority and the Public Service Commission of Kentucky.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 8, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-23491 Filed 8-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-675-000]

Madison Gas and Electric Co.; Filing

August 23, 1983.

The filing Company submits the following:

Take notice that on August 12, 1983, Madison Gas and Electric Company (MGE) tendered for filing an Energy Sales Contract (the Contract) for initial service to the Wisconsin Public Power, Inc. System (WPPI). MGE states that the Contract provides for the sale of electric energy to WPPI from time to time when MGE has energy available to sell to other utilities and when purchases of such energy are advantageous to WPPI. MGE states further that rates charged for such energy may vary based on several factors, but shall be subject to maximum on-peak and off-peak rates.

MGE requests waiver of the prior notice requirements of the Commission's regulations to allow the Contract to become effective at the earliest possible date.

According to MGE copies of the filing were served upon WPPI and upon the Public Service Commission of Wisconsin.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 6, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-23492 Filed 8-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER81-779-000]

Pennsylvania Power Co.; Compliance

August 23, 1983.

Take notice that on August 4, 1983, Pennsylvania Power Company (Penn Power) in compliance with the Commission's Order of January 21, 1982 and the Administrative Law Judge's Initial Decision of June 20, 1983, submitted for filing a revised cost of service study and revised rate schedule applicable to wholesale service.

Penn Power also tendered for filing a description of the changes made to the cost of service study and a revenue analysis of the increased rates.

Copies of the filing were served upon the public utility's jurisdictional customers and upon the other parties on the service list.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before September 6, 1983. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-23493 Filed 8-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-680-000]

Public Service Company of New Mexico; Filing

August 23, 1983.

The filing Company submits the following:

Take notice that on August 15, 1983, Public Service Company of New Mexico (PNM) tendered for filing Service Schedule F (Agreement for Block Energy Sale) to the Interconnection Agreement (Rate Schedule FERC No. 46) between PNM and Texas-New Mexico Power Company (TNP).

PNM under this agreement shall make available to TNP block energy in the amount of up to 150 gigawatt hours at a rate of delivery of up to 50 megawatts solely and exclusively for PNM to serve its copper industry customers. Interruptibility provisions are set forth in Section 4 of the Agreement. Service commenced on August 3, 1983, and is to continue until February 29, 1984, and from month to month thereafter until terminated by either party in accordance with Section 2.3 of the Agreement.

PNM requests waiver of the Commission's notice requirements to allow this schedule to remain in effect as of August 3, 1983.

Copies of the filing were served upon TNP and the New Mexico Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 6, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-23494 Filed 8-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-676-000]

Public Service Company of Oklahoma; Filing

August 23, 1983.

The filing Company submits the following:

Take notice that on August 12, 1983, Public Service Company of Oklahoma (PSO) tendered for filing a Letter Agreement (Agreement) dated June 3, 1983, to be made a part of the Interconnection Agreement between PSO and Western Farmers Electric Cooperative (WFEC). The Agreement provides for a one year extension of the in service date of the second 138 kV East West line to be constructed by WFEC.

PSO requests an effective date of June 3, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing have been sent to WFEC and the Oklahoma Corporation Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 6, 1983. Protests will be considered by the Commission in detemining the appropriate action to be taken, but will not serve to make protestant parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-23405 Filed 8-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-678-000]

San Diego Gas & Electric Co.; Filing

August 23, 1983.

The filing company submits the following:

Take notice that on August 15, 1983, San Diego Gas & Electric Company (SDG&E) tendered for filing as an initial rate schedule an Economy Energy Agreement between SDG&E and State of California Department of Water Resources (DWR), dated June 29, 1983.

SDG&E requests waiver of the Commission's notice requirements to allow service to commence on June 29, 1983.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 8, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-23406 Filed 8-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-453-000]

Arkansas Louisiana Gas Co., a Division of Arkla, Inc.; Request Under Blanket Authorization

August 22, 1983.

Take notice that on August 3, 1983, Arkansas Louisiana Gas Company, a division of Arkla, Inc. (Applicant), P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP83-453-000 a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Applicant proposes to construct and operate a sales tap and related facilities to provide gas for retail distribution in Pope County, Arkansas, under the authorization issued in Docket Nos. CP82-384-000 and CP82-384-001 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Applicant proposes to construct and operate a sales tap and related facilities on its Line BT-4 near Dover in Pope County, Arkansas. It is stated that Applicant would distribute the gas to domestic customers along its new Distribution Rural Extension No. 1119. Applicant estimates that approximately 1,000 Mcf of natural gas per year would be delivered through the proposed facilities. It is indicated that the domestic customers would be billed at Applicant's regular standard state-wide retail rates effective for the applicable class of customer.

The cost of the proposed facilities would be approximately $4,800, it is stated.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-23408 Filed 8-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-454-000]

East Tennessee Natural Gas Co.; Request Under Blanket Authorization

August 22, 1983.

Take notice that on August 3, 1983, East Tennessee Natural Gas Company (East Tennessee), P.O. Box 10245, Knoxville, Tennessee 37919, filed in Docket No. CP83-454-000 a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that East Tennessee proposes to construct and operate a new delivery point for its existing customer, United Cities Gas Company (United Cities), under the authorization issued in Docket No. CP82-412-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

East Tennessee proposes to establish a new delivery point for its existing customer, United Cities, at East Tennessee's Main Line Valve 3304 on its 3300 Line near Tennessee State Highway 160 in Hamblen County, Tennessee. It is explained that the new delivery point would enable United Cities to serve the community of Lowland, which presently does not have gas service. The estimated cost of the facilities is $60,000 which cost would be paid from funds on hand. East Tennessee states that all gas to be sold to United Cities through the proposed new facility would be within United Cities' existing contract volume and/or curtailment period quantity entitlement.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to rule 214 of the

Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-23409 Filed 8-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2354-007]

Georgia Power Co.; Application for Change in Land Rights

August 22, 1983.

Take notice that Georgia Power Company, Licensee for the North Georgia Project, FERC No. 2354, on June 22, 1983, filed an application for approval of an easement affecting project land and waters at the Yonah development of the project. The easement would enable the City of Tocoa, Georgia to construct and operate a raw water pumping station at Lake Yonah and to withdraw water from the lake for use in the municipal water works system.

Correspondence with the Licensee should be directed to: Mr. W. L. Westbrook, Senior Vice President, Georgia Power Company, Post Office Box 4545, Atlanta, Georgia 30302.

Agency Comments—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Motions to Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of Rules 211 or 214, 18 CFR 385.211 or 385.214, 47 FR 19025-26 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests or motions to intervene must be filed on or before September 26, 1983.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Project Management Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or motion to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-23410 Filed 8-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-383-000]

J. D. McCollum; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

August 22, 1983.

On August 5, 1983, J. D. McCollum (Applicant) of Box 112, Twin Falls, Idaho 83301, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The hydropower facility will be located on the Canyon Springs Golf Course, which is owned by the Applicant and is located north of Twin Falls, Idaho. The primary energy source for the facility will be water from an artesian well. The plant flow rate will be 6.5 cubic feet per second with a head of 344 feet. The electric power production capacity of the facility will be 120 kilowatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-23411 Filed 8-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-24-001]

Pacific Telephone & Telegraph Co.; Application for Commission Recertification of Qualifying Status of a Cogeneration Facility

August 22, 1983.

On July 22, 1983, Pacific Telephone & Telegraph Company (Applicant), 7337 Trade Street, Room 4110, P.O. Box 26360, San Diego, California 92121, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

Pacific Telephone & Telegraph Company was granted qualifying status for a natural gas-fired topping cycle cogeneration facility, by delegation order issued February 16, 1982. In a letter received by the Commission January 11, 1983, Applicant stated that revisions to the system would result in the facility not meeting the efficiency standard set forth under § 292.205(a)(2) during 1983 but that due to increased thermal demand, the facility would meet the standard in 1984 and thereafter. Applicant states in the July 22, 1983 application, that further revisions to the system operation will result in the facility meeting the standard in 1983 and in future years.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-23612 Filed 8-25-83; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Issuance of Proposed Decision and Order; Period of July 11 Through August 12, 1983

During the period of July 11 through August 12, 1983, the proposed decision and order summarized below was issued by the Office of Hearings and Appeals of the Department of Energy with regard to an application for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of this proposed decision and order are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th and Pennsylvania Ave. NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except federal holidays.

Dated: August 19, 1983.

George B. Breznay,

Director, Office of Hearings and Appeals.

Kentucky Oil and Refining Co., Betsy Layne, Ky., HYX-0013, Crude Oil

The Office of Hearings and Appeals conducted a year-end review of the entitlement exception relief granted to Kentucky Oil and Refining Company for its 1980 fiscal year. The OHA tentatively determined that Kentucky Oil received $1,634,630 more relief than was warranted. On August 12, 1983, the OHA issued a Proposed Decision and Order in which it required Kentucky Oil to purchase entitlements equal in value to $1,634,630. The August 12, 1983 Proposed Decision and Order supersedes a Proposed Decision and Order issued on August 2, 1982, which was found in error with regard to the appropriate level of exception relief that Kentucky Oil should receive for its 1980 fiscal year.

[FR Doc. 83-23621 Filed 8-25-83; 8:45 am]

BILLING CODE 6450-01-M

Cases Filed; Week of August 5 Through August 12, 1983

During the Week of August 5 through August 12, 1983, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Dated: August 19, 1983.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Aug. 5 through Aug. 12, 1983]

Date	Name and location of applicant	Case No.	Type of submission
Aug. 8, 1983	J. C. Yamas Co., Bakersfield, CA	HFA-0175	Appeal of an information request denial. If granted: The June 30, 1983, Freedom of Information Request Denial issued by the Environmental Protection, Safety, and Emergency Preparedness Office would be rescinded and J. C. Yamas Co. would receive access to the report submitted by Williams Brothers Engineering Co.
Do.	Pennzoil Co., Washington, DC	HQF-0024	Implementation of second stage refund procedures. If granted: The Office of Hearigns and Appeals would implement the second stage refund proceeding in the Consent Order entered into with Pennzoil Co. (Case No. BEF-0072).
Aug. 9, 1983	Seneca Oil Co., Washington, DC	HEE-0075	Price exception. If granted: Seneca Oil Co. would be granted retroactive exception relief which would permit the firm to sell the crude oil produced from various wells located in Major County, Oklahoma, in 1979 at market prices.
Aug. 11, 1983	Economic Regulatory Administration/West Coast Oil Co., Oroville, CA.	HRZ-0161	Interlocutory order. If granted: Certain findings in the Proposed Remedial Order issued July 20, 1982 to West Coast Oil Co. (Case No. HRO-0087) will be deemed to be admitted.
Do.	McKenna, Conner & Cuneo, Washington, DC	HFA-0176	Appeal of an information request denial. If granted: The July 8, 1983, Freedom of Information Request Denial issued by the Nevada Operations Office would be rescinded, and McKenna, Connor & Cuneo would receive access to certain Department of Energy's records regarding Cental Business Systems.
Do.	West Coast Oil Co., Oroville, CA	HRZ-0160	Interlocutory order. If granted: The economic regulatory administration's May 18, 1983, comments will be stricken from the record in West Coast Oil Co. (Case No. HRO-0087).
Aug. 12, 1983	ERA/Entex Petroleum, Inc., Washington, DC	HRR-0089	Request for modification/rescission. If granted: The Feb. 26, 1980, Decision and order (Case No. DRO-0087) issued to Entex Petroleum, Inc., would be modified regarding the substitution of an appropirate remedy.

REFUND APPLICATIONS RECEIVED

[Week of Aug. 5 through Aug. 12, 1983]

Date	Name of refund proceeding/name of refund applicant	Case No.
Aug. 12, 1983	Palo Pinto/Montana	RO5-10
Do.	Palo Pinto/Indiana	RO5-11
Aug. 5, 1983–Aug. 12, 1983.	Amoco Refund Applications	RF21-12145-RF21-12160

[FR Doc. 83-23430 Filed 8-25-83; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPRM-FRL 2422-6]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) requires the Agency to publish in the **Federal Register** a notice of proposed information collection requests that have been forwarded to the Office of Management and Budget (OMB) for review. The information collection requests listed are available to the public for review and comment.

FOR FURTHER INFORMATION CONTACT: David Bowers, Office of Standards and Regulations, Information Management Section (PM-223), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, telephone (202) 382-2742 or FTS 382-2742.

SUPPLEMENTARY INFORMATION:

Toxics Programs

Title: Records of Allegations That Chemical Substances Cause Significant Adverse Reactions (EPA ID 1031).

Abstract: TSCA requires certain manufacturers, processors and distributors of chemical substances/mixtures to retain allegations that their product caused significant adverse reactions to health or the environment. EPA will review these records to determine if further testing or regulation is necessary.

Respondents: Chemical manufacturers, processors and distributors.

Comments on all parts of this notice should be sent to:

David Bowers (PM-223), U.S. Environmental Protection Agency, Office of Standards and Regulations, 401 M Street, SW., Washington, D.C. 20460

and

Don Arbuckle, Vartkes Broussalian, or Anita Ducca, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3228), 726 Jackson Place NW., Washington, D.C. 20503.

Dated: August 22, 1983.

N. Phillip Ross,

Chief, Statistical Policy Staff.

[FR Doc. 83-23403 Filed 8-25-83; 8:45 am]
BILLING CODE 6560-50-M

[SAB-FRL 2422-7]

Science Advisory Board, Subcommittee on Integrated Environmental Management, Open Meeting—September 12-13, 1983

Under Public Law 92-463 notice is hereby given of a two-day meeting of the Subcommittee on Integrated Environmental Management of the Science Advisory Board. The meeting will begin at 9:15 am on both days in Rooms 3906-08 Mall, EPA Headquarters, 401 M Street, SW., Washington, D.C.

The principal purpose of the meeting is to enable the Subcommittee to carry out a scientific review of the health scoring methodology developed for the iron and steel industry study that was initiated for the Agency's Integrated Environmental Management Project. Specific issues to be addressed include: weighting of different health effects; the shape of dose-response curves for different health effects; accounting for multiple insults to the same organ from different pollutants or effects to more than one organ system for the same pollutants; and other issues of Subcommittee member interest.

The meeting is open to the public. Any member of the public wishing to attend, obtain information, or submit comments to the Subcommittee should contact Dr. Terry F. Yosie, Staff Director, Science Advisory Board, (202) 382-4126 before close of business on September 7, 1983.

Dated: August 19, 1983.

Terry F. Yosie,

Staff Director, Science Advisory Board.

[FR Doc. 83-23404 Filed 8-25-83; 8:45 am]
BILLING CODE 6560-50-M

[(OPTS-51481) BH-FRL 2421-8]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5 (a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5 (a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of fifteen PMNs and provides a summary of each.

DATES: Close of Review Period:

PMN 83-1047, 83-1048 and 83-1049: November 9, 1983

PMN 83-1050, 83-1051 and 83-1052: November 12, 1983

PMN 83-1053, 83-1054, 83-1055, PMN 83-1056, 83-1057 and 83-1058: November 13, 1983

PMN 83-1059: November 14, 1983

PMN 83-1060, and 83-1061: November 15,1983

Written comments by:

PMN 83-1047, 83-1048 and 83-1049: October 10, 1983

PMN 83-1050, 83-1051 and 83-1052: October 13, 1983

PMN 83-1053, 83-1054, 83-1055, PMN 83-1056, 83-1057 and 83-1058: October 14, 1983

PMN 83-1059: October 15, 1983

PMN 83-1060, and 83-1061: October 16, 1983

ADDRESS: Written comments, identified by the document control number "[OPTS-51481]" and the specific PMN

number should be sent to: Document Control Officer (TS–793), Office of Toxic Substances, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M St., SW., Washington, DC 20460, (202–382–3532).

FOR FURTHER INFORMATION CONTACT: Margaret Stasikowski, Acting Chief, Notice Review Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–216, 401 M St., SW., Washington, DC 20460, (202–382–3729).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E–107.

PMN 83–1047

Manufacturer. Confidential.

Chemical. (S) Polymer of benzophenone tetracarboxylic dianhydride, methylene dianiline, bicyclo (2,2,1)–5–hepten–2,3 dicarboxylic anhydride.

Use/Production. (G) Resin to make products for contained uses. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Condidential.

Environmental Release/Disposal. .025 to .1 kg/batch released to land. Disposal by incineration.

PMN 83–1048

Manufacturer. Confidential.

Chemical. (G) Polyether polyurethane.

Use/Production. (G) Highly dispersive use. Prod. range: 2,000–200,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal, a total of 40 workers, up to 8 hrs/da, up to 50 da/yr.

Environmental Release/Disposal. 3 to 10 kg/yr released to land. Disposal by incineration and landfill.

PMN 83–1049

Manufacturer. Confidential.

Chemical. (G) Alkoxy polyalkyleneoxy alkyl trialkoxy silane.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 18 workers, up to 2 hrs/da, up to 7 da/yr.

Environmental Release/Disposal. No release. Disposal by incineration.

PMN 83–1050

Manufacturer. Hercules Incorporated.

Chemical. (G) Cationic acrylamide copolymer.

Use/Production. (S) Industrial paper fine particle retention aid and wastewater clarification and sludge dewatering aid. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: inhalation, a total of 2 workers, up to 8 hrs/da, up to 110 da/yr.

Environmental Release/Disposal. 100 kg/yr released to air. Disposal by publicly owned treatment works (POTW) and approved landfill.

PMN 83–1051

Manufacturer. GTE Products Corporation.

Chemical (S) Thiomolybdic acid, diammonium salt.

Use/Production. (S) Industrial precursor of a direct methanation catalyst. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 6 workers.

Environmental Release/Disposal. 0.01 kg/batch released to air and water with 0.98 kg/batch to land. Disposal by navigable waterway.

PMN 83–1052

Importer. Calgon Corporation.

Chemical. (S) Polymer of: tannin, formaldehyde, monoethanolamine, hydrochloric acid.

Use/Import. (S) Solid/liquid and oil/water separation for industrial and commercial use. Import range: 250,000–750,000 kg/yr.

Toxicity Data. Acute oral: >5 g/kg; Irritation: Skin—Not an irritant, Eye—An irritant; LC_{50}(tilapia sparmanii)-Negative; TD_{50} (guinea pigs, monkeys)—Negative; Ames test: Negative.

Exposure. Import: dermal and inhalation, minimal time involved.

Environmental Release/Disposal. No release.

PMN 83–1053

Manufacturer. Confidential.

Chemical. (G) Epoxy resin.

Use/Production. (G) Resin in coatings. Prod. range: Confidential.

Toxicity Data. Acute oral: 5.3 g/kg; Acute dermal: 2.0 g/kg; Irritation: Skin—Slight, Eye—Slight; Skin sensitization: Negative.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 83–1054

Manufacturer. Confidential.

Chemical. (G) Substituted polyether polyurethane.

Use/Production. (G) Open use. Prod. range: 10,000–125,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal, a total of 35 workers, up to 4 hrs/da, up to 32 da/yr.

Environmental Release/Disposal. 41 kg/batch released to land. Disposal by incineration and approved landfill.

PMN 83–1055

Manufacturer. Confidential.

Chemical. (G) Trisubstituted heteromonocycle.

Use/Production. (G) Incorporating chemical into an article. Prod. range: 1–20 kg/yr.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture, processing and disposal: dermal and inhalation, a total of 198 workers, up to 24 hrs/da, up to 335 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air, water and land. Disposal by POTW and approved landfill.

PMN 83–1056

Manufacturer. Confidential.

Chemical. (G) Trisubstituted, heteromonocycle.

Use/Production. (S) Industrial and site-limited intermediate. Prod. range: 1–20 kg/yr.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture and processing: dermal and inhalation, a total of 12 workers, up to 8 hrs/da, up to 250 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air, water and land. Disposal by POTW and approved landfill.

PMN 83–1057

Manufacturer. Confidential.

Chemical. (G) 1,1-di(alkylsubstituted)hydrazine.

Use/Production. (S) Site-limited and industrial intermediate. Prod. range: 1–20 kg/yr.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture and processing: dermal and inhalation, a total of 12 workers, up to 8 hrs/da, up to 250 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air, water and land. Disposal by POTW and approved landfill.

PMN 83–1058

Manufacturer. Confidential.

Chemical. (G) Methylated alkene-yne.

Use/Production. (G) Reaction modifier. Prod. range: Confidential.

Toxicity Data. Acute oral: > 5,000 mg/kg; Acute dermal: > 2,000 mg/kg; Irritation: Skin—Slight, Eye—Moderate; Ames Test: Negative.

Exposure. Manufacture: a total or 2 workers, up to 2 hrs/da, up to 88 da/yr.

Environmental Release/Disposal. No release.

PMN 83–1059

Manufacturer. CIBA-GEIGY Corporation.

Chemical. (G) Amine salt of perfluoroalkylamido carboxylate.

Use/Productions. (S) 100% industrial use as an oil and water repellent sizing agent for paper and paperboard. Prod. range: Confidential.

Toxicity Data. Acute oral: > 5 g/kg; Irritation: Skin—Mild, Eye—Minimal.

Exposure. Manufacture and use: 200 manhours, maximum third year production.

Environmental Release/Disposal. No release.

PMN 83–1060

Manufacturer. Confidential.

Chemical. (G) Polyamide of tall oil, diethylenetriamine, and polybasic acid.

Use/Production. (G) Open, non-dispersive use. Prod. range: 255,000–300,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 3 workers, up to 2 hrs/da, up to 61 da/yr.

Environmental Release/Disposal. 1–10 kg/batch released to land. Disposal by incineration and approved landfill.

PMN 83–1061

Manufacturer. Confidential.

Chemical. (G) Tetracarboxylic compound.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Confidential.

Environmental Release/Disposal. Minimal environmental impact.

Dated: August 19, 1983.

V. Paul Fuschini,

Acting Director, Management Support Division.

[FR Doc. 83–23304 Filed 8–25–83; 8:45 am]

BILLING CODE 6560–50–M

[(OPTS–53052) BH–FRL 2422–1]

Premanufacture Notices; Monthly Status Report for July 1983

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(d)(3) of the Toxic Substances Control Act (TSCA) requires EPA to issue a list in the **Federal Register** at the beginning of each month reporting the premanufacture notices (PMNs) pending before the Agency and the PMNs for which the review period has expired since publication of the last monthly summary. This is the report of July 1983.

DATE: Written comments are due no later than 30 days before the applicable notice review period ends on the specific chemical substance. Nonconfidential portions of the PMNs may be seen in Rm. E–106 at the address below between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

ADDRESS: Written comments are to be identified with the document control number "[OPTS–53052]" and the specific PMN number should be sent to: Document Control Officer (TS–793), Management Support Division, Office of Toxic Substances, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M Street, SW., Washington, DC 20460, (202–382–3532).

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–229, 401 M Street, SW., Washington, DC 20460, (202–382–3736).

SUPPLEMENTARY INFORMATION: The monthly status report published in the **Federal Register** as required under section 5(d)(3) of TSCA (90 stat. 2012 (15 U.S.C. 2504)), will identify: (a) PMNs received during July; (b) PMNs received previously and still under review at the end of July; (c) PMNs for which the notice review period has ended during July; (d) chemical substances for which EPA has received a notice of commencement to manufacture during July; and (e) PMNs for which the review period has been suspended. Therefore, the July 1983 PMN Status Report is being published.

Dated: August 18, 1983.

Linda A. Travers,

Acting Director, Management Support Division.

Premanufacture Notices Monthly Status Report, July 1983

I. 126 PREMANUFACTURE NOTICES RECEIVED DURING THE MONTH

PMN No.	Identity and generic name	FR citation	Expiration date
83–882	Generic name: Ester of gluco-heptonic acid	48 FR 32381 (7/15/83)	Sept. 28, 1983.
83–883	Generic name: Modified rosin calcum salt	48 FR 32381 (7/15/83)	Do.
83–884	Generic name: Poly(ester amide)	48 FR 32381 (7/15/83)	Do.
83–885	Generic name: Styrene containing copolymer	48 FR 32381 (7/15/83)	Do.
83–886	Generic name: Carbocyclic diol	48 FR 32381 (7/15/83)	Do.
83–887	Generic name: Carbocyclic isocyenate	48 FR 32381 (7/15/83)	Do.
83–888	Generic name: Carbocyclic isocyanate	48 FR 32381 (7/15/83)	Do.
83–889	Generic name: Carbocyclic urethane	48 FR 32382 (7/15/83)	Do.
83–890	Generic name: Carbocyclic urethane	48 FR 32382 (7/15/83)	Do.
83–891	Generic name: Carbocyclic urethane	48 FR 32382 (7/15/83)	Do.
83–892	Generic name: Carbocyclic urethane	48 FR 32382 (7/15/83)	Do.
83–893	Generic name: Substituted sulfobenzoic acid	48 FR 32382 (7/15/83)	Do.
83–894	Generic name: Trisubstituted benzenesulfonic acid	48 FR 32382 (7/15/83)	Do.
83–895	Generic name: Disubstituted benzenesulfonic acid	48 FR 32382 (7/15/83)	Do.
83–896	Generic name: Trisubstituted benzenesulfonic acid, alkali metal salt	48 FR 32382 (7/15/83)	Do.
83–897	Generic name: Polymer of ethylene oxide, maleic anhydride and alkanepolyol and polymer of ethylene oxide, maleic anhydride and alkanepolyol, ammonium salt.	48 FR 32382 (7/15/83)	Do.
83–898	Generic name: Polyether CR1226B	48 FR 32382 (7/15/83)	Do.
83–899	Generic name: Alkyl (hydroxy aryloxy) alkanoate	48 FR 32382 (7/15/83)	Oct. 2, 1983.
83–900	Generic name: Polyglycol, polyalkyl polymer with polyalkanolamine	48 FR 32382 (7/15/83)	Do.
83–901	Generic name: Polyglycol, polyalkyl polymer with polyalkanolamine acetate	48 FR 32382 (7/15/83)	Do.
83–902	Generic name: Polyglycol polyalkyl, polymer with polyalkanolamine hydrochloride	48 FR 32382 (7/15/83)	Do.
83–903	Generic name: Polyalkylenepolyammonium alkanoate hydrohalide	48 FR 32383 (7/15/83)	Do.
83–904	Generic name: 4,4'-thio diether dianhydride	48 FR 32383 (7/15/83)	Do.
83–905	Generic name: Acetyl anilino ether	48 FR 32383 (7/15/83)	Do.
83–906	Generic name: Brominated aryl alkyl ether	48 FR 32383 (7/15/83)	Do.

I. 126 PREMANUFACTURE NOTICES RECEIVED DURING THE MONTH—Continued

PMN No.	Identity and generic name	FR citation	Expiration date
83-008	Generic name: Substituted benzoyl benzoic acid	48 FR 32383 (7/15/83)	Do.
83-009	Generic name: Ethylated amino phenol	48 FR 32383 (7/15/83)	Do.
83-010	Generic name: Amino phenol	48 FR 32383 (7/15/83)	Do.
83-011	Generic name: Anilino-ether	48 FR 32383 (7/15/83)	Do.
83-012	Generic name: 2,2-dimethyl butenoic acid	48 FR 32383 (7/15/83)	Oct. 3, 1983.
83-013	Generic name: Substituted, amine salt	48 FR 32383 (7/15/83)	Do.
83-014	Generic name: Copper sulfonylphenazopolyhydroxy phenazobenzoate	48 FR 32383 (7/15/83)	Do.
83-015	Generic name: Polyester of dicarboxylic acids and substituted alkanes	48 FR 32383 (7/15/83)	Do.
83-016	Generic name: Poly alkylene polyol	48 FR 32383 (7/15/83)	Do.
83-017	Generic name: [(Benzoquinolinyl)-(Methimidazolylmethylene)] Indenedion-deriv.	48 FR 32383 (7/15/83)	Do.
83-018	Generic name: Substituted (cyanophenyl-thiazolyl) tetrazo dimethoxybenzene	48 FR 32383 (7/15/83)	Do.
83-019	Generic name: Aminomethyl sulfide	48 FR 32384 (7/15/83)	Do.
83-020	Generic name: Trisubstituted pyrimidine	48 FR 32384 (7/15/83)	Do.
83-021	Generic name: Phosphonocarboxylic acid derivative	48 FR 32384 (7/15/83)	Do.
83-022	Generic name: Hydrolyzed copolymes based on maleic anhydride	48 FR 32384 (7/15/83)	Do.
83-023	Generic name: Substituted aniline	48 FR 32384 (7/15/83)	Oct. 4, 1983.
83-024	Generic name: Substituted vinyl pyridine salt	48 FR 32384 (7/15/83)	Do.
83-025	Generic name: Polymer of substituted vinyl pyridine salt	48 FR 32384 (7/15/83)	Do.
83-026	Generic name: Substituted benzenesulfonamide	48 FR 32384 (7/15/83)	Do.
83-027	Generic name: Substituted benzenesulfonamide	48 FR 32384 (7/15/83)	Do.
83-028	Generic name: Amino-aliphatic prepolyate	48 FR 32384 (7/15/83)	Do.
83-029	Generic name: Polyglycolamine	48 FR 32384 (7/15/83)	Do.
83-030	Generic name: Mixed phthalic-glycol polyester polymer	48 FR 32384 (7/15/83)	Do.
83-031	Generic name: Modified phenol/formaldehyde resin	48 FR 33532 (7/22/83)	Oct. 5, 1983.
83-032	Generic name: Branched polyaminoamine	48 FR 33532 (7/22/83)	Do.
83-033	Vinylbenzal-2,4-disodium disulfonate/vinyl alcohol copolymer	48 FR 33532 (7/22/83)	Do.
83-034	Polymer of styrene and sodium styrene sulfonate	48 FR 33532 (7/22/83)	Do.
83-035	Generic name: Fatty acid polyamide	48 FR 33532 (7/22/83)	Do.
83-036	Generic name: Fatty acid polyamide	48 FR 33532 (7/22/83)	Do.
83-037	Generic name: Alkyl ester of alkenyl succinic acid	48 FR 33532 (7/22/83)	Do.
83-038	Generic name: Fatty acid polyamide	48 FR 33533 (7/22/83)	Do.
83-039	Generic name: A polymer of methacrylic acid derivatives and a substituted alkane	48 FR 33533 (7/22/83)	Do.
83-040	Oxo-heptyl acetate	48 FR 33533 (7/22/83)	Do.
83-041	Generic name: Aromatic carbonate	48 FR 33533 (7/22/83)	Oct. 6, 1983.
	Generic name: Reaction product of hexane, 1-6 diisocyanato and 2-alkeneamide, 2 methyl-N-(substituted methoxy).	48 FR 33533 (7/22/83)	Do.
83-042	Generic name: Ethylene polymer with mixed alpha olefins	48 FR 33533 (7/22/83)	Do.
83-043	Generic name: Vinyl aromatic methacrylate polymer	48 FR 33533 (7/22/83)	Do.
83-044	Generic name: Cationic polymer	48 FR 33533 (7/22/83)	Do.
83-045	Generic name: Poly(amide ester)	48 FR 33533 (7/22/83)	Do.
83-046	Generic name: Polyglycol alcohol polymer	48 FR 33533 (7/22/83)	Do.
83-047	Generic name: 1-hydrocarbyl pyridinium halide	48 FR 33533 (7/22/83)	Do.
83-048	Generic name: Halogenated aryl alkoxide	48 FR 33533 (7/22/83)	Do.
83-049	Generic name: Polyglicidyl ethers of hydrocarbon novolac	48 FR 33534 (7/22/83)	Do.
83-050	Generic name: Carboxylated arylalkene alkadiene copolymer	48 FR 33534 (7/22/83)	Do.
83-051	Generic name: Polypropylene glycol/bisphenol copolymer	48 FR 33534 (7/22/83)	Do.
83-052	Void		
83-053	Generic name: Modified phenol-formaldehyde alkyl ether amine	48 FR 33534 (7/22/83)	Do.
83-054	Generic name: Modified styrene—acrylic polymer	48 FR 33534 (7/22/83)	Do.
83-055	Generic name: Polybutadiene ester acylcapreslactam	48 FR 33534 (7/22/83)	Do.
83-056	Generic name: Polyallylether polymer	48 FR 33534 (7/22/83)	Do.
83-057	Generic name: Spiro-[isobenzofuran-xanthene]	48 FR 33534 (7/22/83)	Do.
83-058	Generic name: Diallylphenyl substituted amine	48 FR 33534 (7/22/83)	Do.
83-059	Generic name: Cresol—formaldehyde resin	48 FR 33534 (7/22/83)	Oct. 9, 1983.
83-060	Generic name: Silicone modified polyester resin	48 FR 33534 (7/22/83)	Do.
83-061	2,2'-dihydroxydiethylamine p-methoxy cinnamate	48 FR 33534 (7/22/83)	Do.
83-062	Generic name: Acrylic unsaturated acid terpolymer	48 FR 33534 (7/22/83)	Do.
83-063	Generic name: Modified dialdehyde starch	48 FR 33534 (7/22/83)	Do.
83-064	Magnesium aluminum hydroxy anion chloride	48 FR 33535 (7/22/83)	Oct. 8, 1983.
83-065	Magnesium aluminum hydroxy anion carbonate	48 FR 33535 (7/22/83)	Do.
83-066	Magnesium aluminum hydroxy anion bicarbonate	48 FR 33535 (7/22/83)	Do.
83-067	Generic name: Isocyanate terminated ricinoleate prepolymers	48 FR 33535 (7/22/83)	Oct. 10, 1983.
83-068	Generic name: Isocyanate terminated ricinoleate prepolymers	48 FR 33535 (7/22/83)	Do.
83-069	Generic name: Terpolymer of alkyl methacrylates and divinyl benzene	48 FR 33535 (7/22/83)	Do.
83-070	Generic name: Aromatic aliphatic branched polyester resin	48 FR 33535 (7/22/83)	Do.
83-071	Generic name: Alkyl metallic halide	48 FR 33535 (7/22/83)	Do.
83-072	Methyl fluorene-9-carboxylate	48 FR 33535 (7/22/83)	Do.
83-073	9-methyl carboxylate-9-aminophenyl (4-dimethylaminoi) fluorene	48 FR 33535 (7/22/83)	Do.
83-074	Methyl 9-bromofluorene-9-carboxylate	48 FR 33535 (7/22/83)	Do.
83-075	Generic name: (Polyurethane from polyhydroxy-alkyls and an aromatic diisocyanate)	48 FR 33535 (7/22/83)	Oct. 11, 1983.
83-076	Generic name: Fluoroalkylamine	48 FR 34502 (7/29/83)	Oct. 12, 1983.
83-077	Generic name: Acrylic polymer	48 FR 34507 (7/29/83)	Oct. 16, 1983.
83-078	Generic name: Aromatic copolyester	48 FR 34503 (7/29/83)	Do.
83-079	Generic name: Blocked nitrile fumarate polymer	48 FR 34503 (7/29/83)	Oct. 17, 1983.
83-080	Generic name: Cyanoacetate ester	48 FR 34503 (7/29/83)	Do.
83-081	Generic name: Quaternized alkyl amine	48 FR 34503 (7/29/83)	Oct. 18, 1983.
83-082	Generic name: Cyanoacrylate ester	48 FR 34507 (7/29/83)	Do.
83-083	Generic name: Styrene/acrylic copolymer	48 FR 34502 (7/29/83)	Do.
83-084	Generic name: Styrene/acrylic copolymer	48 FR 34503 (7/29/83)	Do.
83-085	Generic name: Styrene/acrylic copolymer	48 FR 34503 (7/29/83)	Do.
83-086	Generic name: Amino silane	48 FR 34507 (7/29/83)	Do.
83-087	Generic name: Amino silane	48 FR 34508 (7/29/83)	Do.
83-088	Generic name: Hydroxy functional silane	48 FR 34508 (7/29/83)	Do.
83-089	Generic name: Substituted carboxylated oxoimidazoline	48 FR 35713 (8/5/83)	Oct. 22, 1983.
83-090	3-aminonaphthalene-1,5-disulfonic acid, monosodium salt	48 FR 35713 (8/5/83)	Do.
83-091	Generic name: Substituted sulfated naphthylene sodium salt	48 FR 35713 (8/5/83)	Do.
83-092	Generic name: Co-polymer of styrene and an alkyl methacrylate	48 FR 35713 (8/5/83)	Do.
83-093	Polymer of: adipic acid, dipropylene glycol, lauric acid, trimellitic anhydride, bisethylol propane, and triphenyl phosphite.	48 FR 35710 (8/5/83)	Oct. 23, 1983.
83-094	Generic name: Saturated natural fatty acid choline chloride	48 FR 35713 (8/5/83)	Do.
83-095	Generic name: Complex of a substituted oxazoline and a metal-substituted pyrazol	48 FR 35713 (8/5/83)	Do.

I. 126 Premanufacture Notices Received During the Month—Continued

PMN No.	Identity and generic name	FR citation	Expiration date
83-996	1,2-benzenedicarboxylic acid, polymer with 1,4 benzenedicarboxylic acid, [1,1' biphenyl]-4,4'-diol and 4-hydroxybenzoic acid.	48 FR 35713 (8/5/83)	Do.
83-997	Generic name: 6-diethylamino-2-(substituted) spiro(xanthene-9,3'-phthalide)	48 FR 35713 (8/5/83)	Do.
83-998	Generic name: 6-dibutylamino-2-(substituted) spiro(xanthene-9,3'-phthalide)	48 FR 35714 (8/5/83)	Do.
83-999	Generic name: Substituted oxazoline	48 FR 35714 (8/5/83)	Oct. 24, 1983.
83-1000	Generic name: Heptasodium salt of 3,5-bis(4-(7-(2-substituted-phenylazo)-3,6-disulfo-8-hydroxy-1-naphthylamino)-6-chloro-1,3,5-triazin-2-ylamino)benzoic acid.	48 FR 25714 (8/5/83)	Oct. 25, 1983.
83-1001	N,N,N',N',N'',N''-hexaisopropyl thiomelamine	48 FR 36647 (8/12/83)	Oct. 28, 1983.
83-1002	Hexamethylene-1,6-bisthiosulfate, nickel salt, hexahydrate	48 FR 36647 (8/12/83)	Do.
83-1003	Propanoic acid, 3-[(dibutoxyphosphinothioyl) dithio]-methyl ester	48 FR 36648 (8/12/83)	Do.
83-1004	Hexamethylene 1,6-bisthiosulfate, disodium salt, dihydrate	48 FR 36648 (8/12/83)	Do.
83-1005	Generic name: Polycarboxylic acid, alkanolamine salt	48 FR 36648 (8/12/83)	Do.
83-1006	Generic name: (Amino)-(hydroxy)-(substituted)-(substituted) naphthalenedisulfonic acid, and (amino)-(hydroxy)-(substituted)-(substituted) naphthalenedisulfonic acid, salts with sodium and potassium.	48 FR 36648 (8/12/83)	Do.
83-1007	Generic name: (Substituted)-(substituted)-hydroxy-naphthalenesulfonic acid, sodium salts	48 FR 36648 (8/12/83)	Do.
83-1008	Generic name: Dihydro-(substituted)-(substituted)-(substituted)-1H-indole	48 FR 36648 (8/12/83)	Do.

II. 86 Premanufacture Notices Received Previously and Still Under Review At the End of the Month

PMN No.	Identity and generic name	FR citation	Expiration date
83-796	Generic name: Aminomethylphosphonic acid	48 FR 26885 (6/10/83)	Aug. 29, 1983.
83-797	Generic name: Aminomethylene phosphonic acid	48 FR 26885 (6/10/83)	Do.
83-798	Generic name: Blocked polyurethane prepolymer	48 FR 26885 (6/10/83)	Do.
83-799	N, N,-dimethyl-S-benzyldithiocarbamate	48 FR 26885 (6/10/83)	Do.
83-800	Polymer of: coconut oil, coconut fatty acid, glycerin, phthalic anhydride, and maleic anhydride	48 FR 26885 (6/10/83)	Do.
83-801	Polymer of: tall oil fatty acids, isophthalic acid, phthalic anhydride, pentaerythritol, dipentaerythritol, trimethylpentane diol, trimellitic anhydride.	48 FR 26885 (6/10/83)	Do.
83-802	Generic name: Polymer of mixed fatty acids, unsubstituted aromatic and aliphatic dicarboxylic acids, an alky-substituted triol, and substituted alkyl diols.	48 FR 26885 (6/10/83)	Do.
83-803	Generic name: Prepolymerized halogenated silicon magnesium aluminum oxotitanate	48 FR 26885 (6/10/83)	Do.
83-804	3'-(p-(dimethylamino)phenyl)Spiro-(fluorene-9, 4'-oxazolidine-2',5' dione	48 FR 26885 (6/10/83)	Do.
83-805	Generic name: Saturated polyester resin	48 FR 26885 (6/10/83)	Do.
83-806	Generic name: Metal oxide	48 FR 26886 (6/10/83)	Do.
83-807	Generic name: Substituted azo substituted benzenesulfonic acid	48 FR 26886 (6/10/83)	Do.
83-808	2-,3-, and 4-pinanol mixture	48 FR 26886 (6/10/83)	Do.
83-809	Generic name: Saturated polyester	48 FR 26886 (6/10/83)	Do.
83-810	Generic name: Cyclo alkyl acrylate	48 FR 26886 (6/10/83)	Do.
83-811	Generic name: Aliphatic alkyl acrylate	48 FR 26886 (6/10/83)	Do.
83-812	Generic name: Blocked polyurethane prepolymer	48 FR 26886 (6/10/83)	Do.
83-813	Generic name: Cationic polymer	48 FR 29048 (6/24/83)	Sept. 2, 1983.
83-814	Generic name: Styrene, mixed acrylate copolymer	48 FR 29048 (6/24/83)	Do.
83-815	Generic name: Modified polyacrylate	48 FR 29049 (6/24/83)	Do.
83-816	Generic name: Alkenyl mercapto thiadiazole	48 FR 29049 (6/10/83)	Do.
83-817	Generic name: Disperse blue azo dye	48 FR 29049 (6/24/83)	Do.
83-818	Generic name: Disperse blue azo dye	48 FR 29049 (6/24/83)	Do.
83-819	Generic name: Polymer of, a long chain fatty acid, hydroxy functional alkane, phthalic acid, substituted and unsubstituted anhydrides and a hydroxy functional resin.	48 FR 29049 (6/24/83)	Sept. 6, 1983.
83-820	Generic name: Disubstituted heterocyclic azo disubstituted benzene	48 FR 29049 (6/24/83)	Do.
83-821	Generic name: Trisubstituted phenyl azo disubstituted heterocycle	48 FR 29049 (6/24/83)	Do.
83-822	Generic name: Trisubstituted aniline	48 FR 29049 (6/24/83)	Do.
83-823	Generic name: Organofunctional polydimethyl-siloxane	48 FR 29049 (6/24/83)	Do.
83-824	Generic name: Organofunctional polydimethyl-siloxane	48 FR 29049 (6/24/83)	Do.
83-825	Generic name: Disubstituted pyridinium bromide	48 FR 29054 (6/24/83)	Do.
83-826	Generic name: Disubstituted pyridinium bromide	48 FR 29055 (6/24/83)	Sept. 7, 1983.
83-827	Generic name: Disubstituted pyridinium bromide	48 FR 29055 (6/24/83)	Do.
83-828	Generic name: Aliphatic sulfonate salt	48 FR 29055 (6/24/83)	Sept. 11, 1983.
83-829	Generic name: Bis(azo) substituted naphthalene-disulfonic acid, alkali metal salt	48 FR 29055 (6/24/83)	Do.
83-830	Generic name: Arylazo disubstituted naphthalene-disulfonic acid, alkali metal salt	48 FR 29055 (6/24/83)	Do.
83-831	Generic name: Diazo solvent red dye	48 FR 29055 (6/24/83)	Do.
83-832	Generic name: Prepolymerized halogenated magnesium, zirconium, aluminum exo-titanate	48 FR 29055 (6/24/83)	Do.
83-833	Generic name: Coconut oil epoxy polymer	48 FR 29055 (6/24/83)	Do.
83-834	Generic name: Coconut oil alkyd	48 FR 29055 (6/24/83)	Do.
83-835	Generic name: Substituted benzoate salt	48 FR 29055 (6/24/83)	Do.
83-836	Generic name: Aliphatic esters	48 FR 29055 (6/24/83)	Sept. 12,1983.
83-837	Generic name: Barium salts of aliphatic esters	48 FR 29055 (6/24/83)	Do.
83-838	Generic name: Calcium salts of aliphatic esters	48 FR 29055 (6/24/83)	Do.
83-839	4-Nitrophenol-2-sulfonic acid, disodium salt	48 FR 29055 (6/24/83)	Sept. 13, 1983.
83-840	Polymer of: methyl glucoside, propylene oxide, ethylene oxide, diethylene glycol, polyethylene terephthalate.	48 FR 30434 (7/1/83)	Sept. 14, 1983.
83-841	2,2-dimethyl-1, 3-propanediol polymer with 1,4-cyclohexane-dimethanol, 1,6-hexanedioic acid, 1,3-benzenedicarboxylic acid and 1,4-benzenedicarboxylic acid.	48 FR 30434 (7/1/83)	Do.
83-842	2,2-dimethyl-1, 3-propanediol, polymer with 1,6-hexanediol, 1,6-hexanedioic acid, 1,3-benzenedicarboxylic acid and 1,4-benzenedicarboxylic acid.	48 FR 30434 (7/1/83)	Do.
83-843	2,2'-(ethylenedioxy-bis-(2-phenylazo))-bis-(N-2,3-dihydro-2-=oxo-1H-benzimidazol-5-yl) 3-oxo-butanamide.	48 FR 30434 (7/1/83)	Do.
83-844	Generic name: Disubstituted heteropolycyclic dye	48 FR 30434 (7/1/83)	Do.
83-845	Generic name: Tertasodium salt of μ-(2-(2-hydroxy-3-nitro-5-sulfo-phenylazo)-2'-(2-hydroxy-5-substituted-3-sulfphenylazo)-3,3'-disulfo-6,6'-iminodi-1-naphtholate-(0,0',0'',0''')(8⁻)dicopper (II) acid.	48 FR 30434 (7/1/83)	Do.
83-846	Generic name: C.I. basic blue 54	48 FR 30434 (7/1/83)	Do.
83-847	Generic name: Spiro xanthene	48 FR 30434 (7/1/83)	Do.
83-848	Generic name: Modified polyester polyurethene containing substituted alkanediol and diphenylmethane diisocyanate.	48 FR 30434 (7/1/83)	Do.
83-849	Generic name: Metal complex with substituted 4-phenylazo pyrazol-3-one and substituted benzenesulfonic acid.	48 FR 30435 (7/1/83)	Sept. 18, 1983.
83-850	Generic name: Substituted phenylazo naphthalene-sulfonic acid	48 FR 30435 (7/1/83)	Do.
83-851	Generic name: Substituted phosphonium borate	48 FR 30435 (7/1/83)	Do

II. 86 Premanufacture Notices Received Previously and Still Under Review At the End of the Month—Continued

PMN No.	Identity and generic name	FR citation	Expiration date
83-652	Generic name: Addition polymerization product of: isobornyl methacrylate; isobutyl methacrylate and isocyanatoethylmethacrylate.	48 FR 30435 (7/1/83)	Do.
83-653	Generic name: Polymer of aliphatic diol, hydroxy functional resin, aromatic diacid, aliphatic diacid, and aromatic polyacid.	48 FR 30435 (7/1/83)	Do.
83-654	Generic name: Salt of aminomethyl phosphonic acid	48 FR 30435 (7/1/83)	Do.
83-655	Generic name: Salt of aminomethyl phosphonic acid	48 FR 30435 (7/1/83)	Do.
83-656	Generic name: Salt of aminomethyl phosphonic acid	48 FR 30435 (7/1/83)	Do.
83-657	Generic name: Salt of aminomethyl phosphonic acid	48 FR 30435 (7/1/83)	Do.
83-658	Generic name: Salt of aminomethyl phosphonic acid	48 FR 30435 (7/1/83)	Do.
83-659	Generic name: Salt of aminomethyl phosphonic acid	48 FR 30435 (7/1/83)	Do.
83-660	Generic name: Metal complexed substituted aromatic azo compound	48 FR 30435 (7/1/83)	Sept. 19, 1983.
83-661	Generic name: Substituted vinyl polymer	48 FR 30435 (7/1/83)	Do.
83-662	Generic name: Anhydro polyol monoalkanoate	48 FR 30435 (7/1/83)	Do.
83-663	Generic name: Thiazolium salt, N-substituted, 3-substituted	48 FR 30435 (7/1/83)	Sept. 20, 1983.
83-664	Generic name: Diazo pigment of a substituted benzidine and acetoacetanilide derivative	48 FR 30436 (7/1/83)	Do.
83-665	Generic name: Diazo pigment of a substituted benzidine and p-aminoacetoacetanilide derivative	48 FR 30436 (7/1/83)	Do.
83-666	Generic name: Modified rosin zinc salt	48 FR 31461 (7/8/83)	Sept. 21, 1,983.
83-667	Generic name: Alkyl ethoxylated, sulfated salt	48 FR 31461 (7/8/83)	Sept. 24, 1983.
83-668	Generic name: Tallow alkyl, substituted propylene diamine	48 FR 31461 (7/8/83)	Do.
83-669	Generic name: Reaction product of a diamine, cycloaliphatic dieopxide and a hydroxyl functional acid.	48 FR 31461 (7/8/83)	Do.
83-670	Generic name: Modified polyurethane from aliphatic polyester alkanepolyols and aliphatic diisocyanate.	48 FR 31461 (7/8/83)	Do.
83-671	Generic name: [Alkoxyalkyloxadiazol-nitrophenazol]-[Bisalkylamino-methylpyridine nitril]	48 FR 31461 (7/8/83)	Do.
83-672	Generic name: Epoxy modified alkyl polysiloxane	48 FR 31461 (7/8/83)	Sept. 25, 1983.
83-673	Generic name: Substituted polyurethane	48 FR 31461 (7/8/83)	Do.
83-674	Generic name: Copolymer of alkyl and substituted alkyl methacrylates	48 FR 31461 (7/8/83)	Do.
83-675	4-(2-cyano-4-nitrophenylazo)-[N-(2-cyanoethyl)-N(2-phenoxyethyl)amino]benzene	48 FR 31462 (7/8/83)	Sept. 26, 1983.
83-676	4-(2-cyano-4-nitrophenylazo)-[N,N-bis(2-propionyloxyethyl)amino]-3-chlorobenzene	48 FR 31462 (7/8/83)	Do.
83-677	Generic name: Polymer of aliphatic diamine and benzenedicarboxylic acid	48 FR 31462 (7/8/83)	Do.
83-678	2-Propanesulfenamide, N,N',N''-phosphinylidine-tris[N-phenyl]	48 FR 31462 (7/8/83)	Do.
83-679	Generic name: Epoxy modified acrylic copolymer	48 FR 31462 (7/8/83)	Sept. 27, 1983.
83-680	Generic name: Substituted-oxo-N-(substituted) butanamide, dichloride	48 FR 31462 (7/8/83)	Do.
83-681	Generic name: (Substituted) (substituted) anthraquinone	48 FR 31462 (7/8/83)	Do.

III. 77 Premanufacture Notices for Which the Notice Review Period has Ended During the Month. (Expiration of the Notice Review Period Does Not Signify That the Chemical Had Been Added to the Inventory.)

PMN No.	Identity and generic name	FR citation	Expiration date
83-263	Generic name: Substituted thiocyclic compound	47 FR 55423 (12/9/82)	July 2, 1983.
83-350	Withdrawn as of July 6, 1983.		
83-369	Generic name: ((Substituted heterocycle)azo) substituted aniline, acid salts	48 FR 3046 (1/24/83)	July 11, 1983.
83-518	1,1' [isopropylidenebis(6-hydroxy-m-phenylene)] bis[tetrahydiathiophenium hydroxide) bis (inner salt) tetrahydrate.	48 FR 10469 (3/11/83)	July 24, 1983.
83-601	Generic name: Halogenated alkene acid ester	48 FR 15181 (4/7/83)	July 20, 1983.
83-610	Generic name: Disubstituted glycine complex	48 FR 16331 (4/15/83)	July 2, 1983.
83-611	Generic name: Disubstituted glycine	48 FR 16331 (4/15/83)	Do.
83-612	Generic name: Polymer of alkyl and heteromono-cyclic amines and an alkanedioic acid	48 FR 16331 (4/15/83)	Do.
83-613	1,3 Benzenedimethanamine polymer with (chloromethyl) oxirane	48 FR 16331 (4/15/83)	July 3, 1983.
83-614	Generic name: Modified fluoroaliphatic adduct	48 FR 16331 (4/15/83)	Do.
83-615	Generic name: Perfluoroaliphatic isocyanate adduct	48 FR 16331 (4/15/83)	Do.
83-616	Cesium permanganate	48 FR 16332 (4/15/83)	July 4, 1983.
83-617	Cesium aluminum sulfate	48 FR 16332 (4/15/83)	Do.
83-618	Generic name: CI direct red 259	48 FR 16332 (4/15/83)	July 5, 1983.
83-619	Cuprate(5-), [μ-[2-[[1-[4-[2-[4-[[4-[2-[4-[4-[(2-carboxyphenyl]azo]-4,5-dihydro-3-methyl-5-oxo-1H-pyrazol-1-yl]-2-sulfophenyl] ethenyl]-3-sulfophenyl]amino]-6-(phenylamino)-1,3,5-triazin-2-yl]amino]-2-sulfophenyl]ethenyl]-3-sulfophenyl]-4,5-dihydro-3-methyl-5-oxo-1H-pyrazol-4-yl]azo]-5-sulfobenzoato(9-)]]di, pentasodium.	48 FR 16332 (4/15/83)	Do.
83-620	Generic name: CI direct red 260	48 FR 16332 (4/15/83)	Do.
83-621	Benzoic acid, 2-[[1-[4-[2-[4-[[4-[[4-[2-[4-[4-[(2-carboxyphenyl]azo]-4,5-dihydro-3-methyl-5-oxo-1H-pyrazol-1-yl]-2-sulfophenyl]ethenyl]-3-sulfophenyl]amino]-6-(phenylamino)-1,3,5-triazin-2-yl]amino]-2-sulfophenyl]ethenyl]-3-sulfophenyl]-4,5-dihydro-3-methyl-5-oxo-1H-pyrazol 4-yl]azo]-5-sulfo-, pentasodium salt.	48 FR 16332 (4/15/83)	Do.
83-623	Generic name: [Bis(alkylphenamino)-fluoran]](phenimidazolyl)bis methylene] deriv. phosphate	48 FR 16332 (4/15/83)	Do.
83-624	Generic name: Styrene-acrylate-methacrylate copolymer	48 FR 16332 (4/15/83)	Do.
83-625	Generic name: Polyamine adduct	48 FR 16332 (4/15/83)	Do.
83-626	Generic name: Substituted melamine formaldehyde compound	48 FR 16332 (4/15/83)	Do.
83-627	Generic name: Substituted diyne urethane	48 FR 17385 (4/22/83)	July 6, 1983.
83-628	Reaction product of diglycidyl ether of bisphenol A, dimer acid, soya fatty acid and dimethylol propionic acid.	48 FR 17385 (4/22/83)	July 9, 1983.
83-629	Reaction product of 2-butanone oxime and polymethylene polychenylene isocyanate	48 FR 17385 (4/22/83)	Do.
83-630	Generic name: Reaction product of an aromatic diglycidyl ether an amine and a cyclic ester	48 FR 17385 (4/22/83)	Do.
83-631	Generic name: Polymer of formaldehyde and substituted phenols	48 FR 17385 (4/22/83)	Do.
83-632	7-[4-chloro-6-[3-[2-(hydroxy sulfonyloxy) ethylsulfonyl)-N-ethylanilino]-1,3,5-triazine-2-ylamino]-4-hydroxy-3-(4-methoxy-2-sulfophenylazo)-2-naphthalenesulfonic acid, trisodium salt.	48 FR 17385 (4/22/83)	July 10, 1983.
83-633	4-amino-5-hydroxy-3-[3-[2-(hydroxysulfonyloxy) ethylsulfonyl]phenylazo]-6-(1,5-disulfo-2-naphthylazo)-2,7-naphthalenedisulfonic acid, pentasodium salt.	48 FR 17385 (4/22/83)	Do.
83-635	Generic name: Isocyanate functional polyester urethane prepolymer	48 FR 17386 (4/22/83)	July 11, 1983.
83-636	Generic name: Modified polyester polyurethane	48 FR 17386 (4/22/83)	Do.
83-637	Generic name: Polyether alkenyl alkanyl esters	48 FR 17386 (4/22/83)	July 12, 1983.
83-638	Generic name: Polyether alkenyl alkanyl esters	48 FR 17386 (4/22/83)	Do.
83-639	Generic name: Trisubstituted benzoxazolium salt	48 FR 17386 (4/22/83)	Do.
83-640	Generic name: Disubstituted benzenamine	48 FR 17386 (4/22/83)	Do.
83-641	Generic name: Trisubstituted benzothiazolium salt	48 FR 17386 (4/22/83)	Do.
83-642	Generic name: Disubstituted phenol	48 FR 20487 (5/6/83)	July 13, 1983.
83-643	Generic name: Disubstituted benzoxazole	48 FR 20488 (5/6/83)	Do.
83-644	Generic name: Trisubstituted benzoxazolium salt	48 FR 20488 (5/6/83)	Do.

III. 77 PREMANUFACTURE NOTICES FOR WHICH THE NOTICE REVIEW PERIOD HAS ENDED DURING THE MONTH. (EXPIRATION OF THE NOTICE REVIEW PERIOD DOES NOT SIGNIFY THAT THE CHEMICAL HAD BEEN ADDED TO THE INVENTORY.)—Continued

PMN No.	Identity and generic name	FR citation	Expiration date
83-645	Generic name: Alkyd polymer from a vegetable oil with substituted alkanedioic and carbomonocyclic acids.	48 FR 20486 (5/6/83)	Do.
83-646	Generic name: Modified alkyd resin	48 FR 20486 (5/6/83)	Do.
83-647	Generic name: Polymer of formaldehyde and substituted phenols	48 FR 20486 (5/6/83)	Do.
83-648	Generic name: Polymer of formaldehyde and substituted phenols	48 FR 20486 (5/6/83)	Do.
83-649	Generic name: Polymer of formaldehyde and substituted phenols	48 FR 20486 (5/6/83)	Do.
83-650	Generic name: Polymer of a diisocyanate, polyether, alkanol substituted cycloalkane, dipropylene glycol.	48 FR 20486 (5/6/83)	July 16, 1983.
83-651	Generic name: Polymer of a diisocyanate polyether glycol, alkanol substituted cycloalkane, dipropylene glycol, alkanol diamine, substituted bisphenol A polymer.	48 FR 20486 (5/6/83)	Do.
83-652	Generic name: Modified poly(amido-amine)	48 FR 20486 (5/6/83)	July 17, 1983.
83-653	Generic name: Disubstituted isobenzofurandione, disubstituted bis phenyleneoxy bis copolymer with tetracarboxy carbocycle and disubstituted benzenediamine.	48 FR 20486 (5/6/83)	Do.
83-655	Generic name: Naphthalenesulfonic acid, derivative, ester with hydroxybenzo-phenone	48 FR 20486 (5/6/83)	Do.
83-656	Generic name: Substituted alkyl carboxylic acid, carbomonocyclic ester	48 FR 20486 (5/6/83)	July 18, 1983.
83-657	Generic name: Pentasubstituted benzimidazolium salt	48 FR 20489 (5/6/83)	July 19, 1983.
83-658	Generic name: Trisubstituted benzenamine	48 FR 20489 (5/6/83)	Do.
83-659	Generic name: Tetrasubstituted benzene	48 FR 20489 (5/6/83)	Do.
83-660	Generic name: Perfluorinated hydrocarbon	48 FR 20489 (5/6/83)	Do.
83-661	Generic name: Polyimide ester	48 FR 20489 (5/6/83)	July 20, 1983.
83-662	Generic name: Melamine formaldehyde resin	48 FR 20490 (5/6/83)	Do.
83-664	Generic name: Substituted benzoic acid	48 FR 20490 (5/6/83)	July 23, 1983.
83-665	Generic name: Mixed polyalkoxy alkyl siloxanes and silsesquioxanes	48 FR 20490 (5/6/83)	July 24, 1983.
83-666	Generic name: Aromatic alkyd	48 FR 20490 (5/6/83)	Do.
83-667	Generic name: Pentasubstituted benzimidazolium salt	48 FR 20490 (5/6/83)	Do.
83-668	Generic name: Tetrasubstituted benzenamine	48 FR 20490 (5/6/83)	Do.
83-669	Generic name: Chromium complex of substituted phenolazosulfonaphthol with naphtholazosulfonaphthol.	48 FR 20490 (5/6/83)	Do.
83-670	Polymer of: neopentyl glycol, trimellitic anhydride, phthalic anhydride, trimethyl pentanediol	48 FR 20491 (5/6/83)	Do.
83-671	Generic name: Tetrasubstituted benzothiazole salt	48 FR 20491 (5/6/83)	July 25, 1983.
83-672	Generic name: Trisubstituted benzothiazole salt	48 FR 20491 (5/6/83)	Do.
83-673	Generic name: 1-[(4-[(substitutedphenyl)azo]-1-naphthalenyl)amino]-3-methoxy-2-propanol	48 FR 23903 (5/27/83)	Do.
83-674	Generic name: 1-[(4-[(substitutedphenyl)azo]-1-naphthalenyl)amino]-3-butoxy-2-propanol	48 FR 23902 (5/27/83)	Do.
83-675	Generic name: Vinyl acetate, butyl acrylate, substituted methacrylate, terpolymer	48 FR 20491 (5/6/83)	Do.
83-677	Generic name: Chromium complex of substituted alkylaminoformimidophenol with sulfonaphtholazo-sulfophenylpyrazolone.	48 FR 20491 (5/6/83)	July 26, 1983.
83-680	Generic name: Hydroxyethylaminomethylated tannin	48 FR 21370 (5/12/83)	July 27, 1983.
83-681	Generic name: Carbocyclic isocyanate	48 FR 21370 (5/12/83)	Do.
83-682	Generic name: Carbocyclic isocyanate	48 FR 21370 (5/12/83)	Do.
83-683	1-ethynyl-1-cyclopentanol	48 FR 21371 (5/12/83)	July 30, 1983.
83-684	1,4-bis(1-hydroxy cyclopentyl)butadiyne	48 FR 21371 (5/12/83)	Do.
83-685	Generic name: [(Substituted phenyl)hydrazono] substituted oxoheteromonocycle	48 FR 21371 (5/12/83)	Do.
83-686	Generic name: Modified ethylene—tetrafluoroethylene copolymer	48 FR 21371 (5/12/83)	Do.
83-687	Generic name: Carboxylated vinylic polymer	48 FR 21371 (5/12/83)	July 31, 1983.
83-688	Generic name: Substituted acrylamide copolymer	48 FR 21371 (5/12/83)	Do.

IV. 50 CHEMICAL SUBSTANCES FOR WHICH EPA HAS RECEIVED NOTICES OF COMMENCEMENT TO MANUFACTURE.

PMN No.	Chemical identification	FR Citation	Date of commencement
80-63	Alkyl substituted cyclic peroxyketal	45 FR 26200 (4/28/80)	July 12, 1983.
80-359	Generic name: Neutralized polymer of substituted polypropylene oxide and an epoxy resin	46 FR 8714 (1/27/81)	July 7, 1983.
80-364	Generic name: Monoethanol amide of long chain fatty acid	46 FR 8718 (1/27/81)	July 21, 1983.
[1] 80-385	Generic name: Calcium sodium ethylenediamine tetrakis (methylene phosphate)	46 FR 5060 (1/19/81)	Nov. 1, 1982.
81-90	Generic name: Oxime blocked polyurethane prepolymer, water borne	46 FR 19314 (3/30/81)	May 4, 1983.
81-282	Generic name: Modified oletin/carboxylic acid polymer	46 FR 35339 (7/8/81)	Sept. 29, 1981.
81-435	1-(2-nitrophenyl) ethanone	46 FR 45995 (9/16/81)	On or about May 13, 1983.
81-497	Generic name: Polymers of alkylamines and aryl epoxides	46 FR 49947 (10/8/81)	July 28, 1983.
81-592	Sorbitan nonanoate	46 FR 58178 (11/30/81)	June 27, 1983.
81-593	Sorbitan nonanoate, poly(oxy-1,2-ethanediyl) derivatives	46 FR 58178 (11/30/81)	Do.
82-47	Generic name: Alkyl, alkanol derivative of ammonia, chloride salt	47 FR 5326 (2/4/82)	Apr. 21, 1983.
82-77	Generic name: Higher alkyl acrylate copolymer	47 FR 7487 (2/19/82)	On or about July 15, 1983.
82-305	Generic name: Modified hyroxyethyl cellulose	47 FR 19761 (5/7/82)	Aug. 1, 1983.
82-572	Generic name: Organophosphorous compound	47 FR 37954 (8/27/82)	July 28, 1983.
82-647	Generic name: [(Benzoquinolinyl)-(imidazolyl methylene)]-indenedione derivative, mixed salt	47 FR 41166 (9/17/82)	Dec. 3, 1982.
82-648	Generic name: [(Benzoquinolinyl)-(imidazolyl methylene)]-indenedione derivative, mixed salt	47 FR 41166 (9/17/82)	Do.
82-673	Generic name: Substituted polyethyleneamine polyisobutenylsuccinimide	47 FR 42153 (9/24/82)	Mar. 28, 1983.
82-706	Generic name: Sulfophenylazonaphthyl dye	47 FR 44809 (10/6/82)	Apr. 27, 1983.
83-29	Generic name: Alkyldiaryphosphine	47 FR 47067 (10/22/82)	April 1983.
83-238	Generic name: Polyamide	47 FR 53733 (11/29/82)	Mar. 17, 1983.
83-289	Generic name: Substituted thiocyclic compound	47 FR 55423 (12/9/82)	July 7, 1983.
[2] 83-277	2-Oxepanone, polymer with 2,2'-[oxybis (methylene)]bis[2-(hydroxymethyl)-1,2-propanediol]	47 FR 57333 (12/23/82)	Mar. 7, 1983.
83-318	Generic name: Acrylic copolymer of styrene and methacrylate monomers	47 FR 57338 (12/23/83)	May 19, 1983.
83-329	Generic name: Substituted phenyl azo substituted naphthalenedisulfonic acid, sodium salt	48 FR 72 (1/3/83)	July 5, 1983.
83-369	Generic name: Methyl-methyleneimidazole derivative of methyl-pyrazoloquinazolonazo-methyl-phenylbenzothiazole.	48 FR 3045 (1/24/83)	June 22, 1983.
83-428	Generic name: Bis alkoxy aluminum acetoacetic ester complex	48 FR 6396 (2/11/83)	June 20, 1983.
83-430	Generic name: Polyester of aliphatic polyols, vegetable oil, and aromatic dibasic acids	48 FR 6396 (2/11/83)	June 16, 1983.
83-478	Generic name: Carboxylic acid derivatives of alkoxylated phenol derivatives and alkoxylated polyamines.	48 FR 7301 (2/18/83)	July 6, 1983.
83-497	Generic name: Reaction product of 1,3-benzenediamine, hydroxybenzene, and an oxo alkane with sodium sulfide.	48 FR 9366 (3/4/83)	July 21, 1983.
83-507	Generic name: Monocyclic sulfur derivative	48 FR 9367 (3/4/83)	July 8, 1983.
83-511	Generic name: Polyester	48 FR 10469 (3/11/83)	July 20, 1983.
83-535	N,N'-bis(2,2,6,6-tetramethyl-4-piperidyl) hexamethylenediamine polymer with ethane-1,2-dibromo	48 FR 11500 (3/18/83)	July 13, 1983.

IV. 50 CHEMICAL SUBSTANCES FOR WHICH EPA HAS RECEIVED NOTICES OF COMMENCEMENT TO MANUFACTURE.—Continued

PMN No.	Chemical identification	FR Citation	Date of commencement
83-550	Generic name: Polymer of formaldehyde and substituted phenols	48 FR 12590 (3/25/83)	June 20, 1983.
83-551	Generic name: Modified polymer of formaldehyde and substituted phenols	48 FR 12590 (3/25/83)	June 21, 1983.
83-553	Ethanesulfonic acid, 2-[bis(2-cyanoethyl) phosphinol]-potassium salt	48 FR 12591 (3/25/83)	On or about July 15, 1983.
83-554	Generic name: 1,3-benzenedicarboxylic acid, 5-substituted, polymer with 1,2-ethanediol and oxo-heteropolycycle.	48 FR 12591 (3/25/83)	June 20, 1983.
83-555	Generic name: 1,3-benzenedicarboxylic acid, 5-substituted, polymer with 1,2-ethanediol and oxo-heteropolocycle.	48 FR 12591 (3/25/83)	July 5, 1983.
83-564	Generic name: Dialkyl cycloaliphatic diester	48 FR 12591 (3/25/83)	June 23, 1983.
83-578	Generic name: Alkoxymethylpolysilazanes	48 FR 14036 (4/1/83)	July 1, 1983.
83-586	Generic name: Mixed acrylic copolymer	48 FR 14036 (4/1/83)	On or about July 6, 1983.
83-597	Generic name: Cycloaliphatic isocyanate-amine based polyol prepolymer	48 FR 15181 (4/7/83)	On or about June 28, 1983.
83-598	Generic name: Polyester resin of aliphatic polyols, mixed aromatic diacids and aliphatic diacid	48 FR 15181 (4/7/83)	July 7, 1983.
83-599	Generic name: Polyester resin of aliphatic polyol, mixed aromatic diacids, aliphatic diacid and aromatic diisocyanate.	48 FR 15181 (4/7/83)	July 12, 1983.
83-612	Generic name: Polymer of alkyl and heteromonocyclic amines and an alkanedioic acid	48 FR 16331 (4/15/83)	On or about Aug. 15, 1983.
83-614	Generic name: Modified fluoroaliphatic adduct	48 FR 16331 (4/15/83)	July 11, 1983.
83-615	Generic name: Perfluoroaliphatic isocynate adduct	48 FR 16332 (4/15/83)	Do.
83-650	Generic name: Polymer of a diisocyanate, polyether, alkanol substituted cycloalkane, dipropylene glycol.	48 FR 20488 (5/6/83)	July 22, 1983.
83-651	Generic name: Polymer of a diisocyanate polyether glycol, alkanol substituted cycloalkane, dipropylene glycol, alkanol diamine, substituted bisphenol A polymer.	48 FR 20488 (5/6/83)	Do.
83-660	Generic name: Perfluorinated hydrocarbon	48 FR 20489 (5/6/83)	First week of Aug. 1983.

[1] 80-365 chemical identity and date of commencement corrected for typos in June 27, 1983 publication of monthly for May 1983.
[2] 83-277 is corrected from being published as 82-277 of 48 FR 19777, May 2, 1983.

V. 33 PREMANUFACTURE NOTICES FOR WHICH THE REVIEW PERIOD HAS BEEN SUSPENDED.

PMN No.	Identity and generic name	FR citation	Date suspended
80-146	Phosphorodithioci acid *O,O'*-di (isohexyl, isoheptyl, isooctyl, isononyl, isodecyl) mixed esters, zinc salt.	45 FR 49153 (7/23/80)	Sept. 17, 1980.
80-147	Phosphorodithioci acid *O,O'*-di (isohexyl, isoheptyl, isooctyl, isononyl, isodecyl) mixed esters	45 FR 49153 (7/23/80)	do.
81-556	4-hydroxy-3-(5-(2-hydroxysulfonyloxy) ethylsulfonyl)-2-methoxyphenylazo)-7-succinylamino-2-naphthalenesulfonic acid disodium salt.	46 FR 55146 (11/6/81)	Jan. 27, 1982.
81-561	4-[4-[2-(hydroxysulfonyoxy)ethylsulfonyl]-5-methyl-2-methoxyphenylazo]-3-methyl-1-(3-sulfophenyl)-5-pyrazolone disodium salt.	46 FR 55146 (11/6/81)	do.
81-661	4-hydroxy-3-(2-methoxy-5-methyl-4-(2-(hydroxysulfonyloxy)ethylsulfonyl)phenylazo)-6-3-sulfophenyl)amino-2-naphthalenesulfonic acid trisodium salt.	47 FR 1021 (1/8/82)	Mar. 28, 1982.
82-80	Generic name: Zinc, O,O-bis alkylphosphoro dithioate	47 FR 5932 (2/9/82)	Apr. 15, 1982.
82-367	Phosphorodithioic acid, O,O', secondary butyl and isooctyl mixed esters	47 FR 25401 (6/11/82)	July 30, 1982.
82-368	Phosphorodithioic acid, O,O', secondary butyl and isooctyl mixed esters, zinc salt	47 FR 25401 (6/11/82)	do.
83-1	Generic name: Polyhalogenated aromatic alkylated hydrocarbon	47 FR 46371 (10/18/82)	Oct. 22, 1982.
83-110	Generic name: Saturated acid diester	47 FR 52223 (11/19/82)	Jan. 26, 1983.
83-115	Generic name: Naphthalenedisulfonic acid, disodium salt, ((2-((sodium sulfooxyethyl) sulfonyl)aryl)azo), and momochlorotriazinyl amino, substituted, copper complex.	47 FR 52224 (11/19/82)	Apr. 1, 1983.
83-333	Generic name: Reaction product of polycyclesulfonic acid salt with phosphorus halide/halogen, subsequent reaction with an amine, subsequent reaction with an aldehyde/sodium bisulfite alkali.	48 FR 73 (1/3/83)	Mar. 14, 1983.
83-335	Generic name: ((Substituted phenyl)azo) naphthalenesulfonic acid, sodium salt	48 FR 73 (1/3/83)	Mar. 17, 1983.
83-341	Generic name: 7-[4-[4-chloro-6-[3-[2-[hydroxysulfonyloxy)ethylsulfonyl]aniiino]-1,3,5-triazin-2-ylamino]-2-ureidophenylazo]-1,3,6-naphthalenetrisulfonic acid, tetrasodium salt.	48 FR 862 (1/7/83)	Mar. 21, 1983.
83-370	8-acetyl-3-dodecyl-7,7,9,9-tetramethyl-1,3,8-triazaspiro [4,5]decane-2,4-dione	48 FR 3045 (1/24/83)	Apr. 15, 1983.
83-394	Generic name: Polyglycidyl amine	48 FR 5304 (2/4/83)	Apr. 23, 1983.
83-433	Generic name: Mono azo aromatic compound	48 FR 6397 (2/11/83)	Apr. 19, 1983.
83-434	Generic name: Unsaturated aliphatic diether	48 FR 6397 (2/11/83)	Apr. 20, 1983.
83-454	Generic name: Acrylamide copolymer	48 FR 6589 (2/14/83)	Apr. 13, 1983.
83-461	Generic name: Substituted alkoxy silane	48 FR 7300 (2/18/83)	Apr. 25, 1983.
83-479	Generic name: Monoazo substituted aromatic	48 FR 7301 (2/18/83)	May 2, 1983.
83-486	Generic name: Zirconium propenoate, substituted	48 FR 8343 (2/28/83)	May 6, 1983.
83-523	1,1'[isopropylidenebis(6-hydroxy-m-phenylene)] bis(tetrahydrothiophenium hydroxide) mixed salts	48 FR 10470 (3/11/83)	May 27, 1983.
83-525	Generic name: Substituted benzindolium, salt	48 FR 10470 (3/11/83)	May 20, 1983.
83-532	Generic name: Glycerol propoxy diacrylate	48 FR 10470 (3/11/83)	May 30, 1983.
83-543	Generic name: Polymer of diethylenetriamine and higher polyamines with dibasic esters, reacted with epichlorohydrin.	48 FR 11500 (3/18/83)	May 27, 1983.
83-603	Generic name: Substituted nitrile	48 FR 15181 (4/7/83)	June 16, 1983.
83-606	9,10-Anthracenedione, 2-methyl-1-nitro-	48 FR 15182 (4/7/83)	June 24, 1983.
83-622	1,3,6-Naphthalenetrisulfonic acid, 7-[[4-[[4-[[4-[(4,8-disulfo-2-naphthalenyl)azo]-3-methylphenyl]amino]-6-[(4-sulfophenyl)amino]-1,3,5-triazin-2-yl]amino]-2-methylphenyl]azo]-,hexasodium salt.	48 FR 16332 (4/15/83)	July 14, 1983.
83-634	Generic name: Substituted mono azo aromatic	48 FR 17385 (4/22/83)	July 5, 1983.
83-654	Lauryl sulfate salt with 2-amino-2-methyl-1-propanol	48 FR 20488 (5/6/83)	July 17, 1983.
83-663	Generic name: Alkyl-substituted aromatic amine	48 FR 20490 (5/6/83)	July 29, 1983.
83-676	1-Naphthalenesulfonic acid, 6-amino-5-hydroxy-	48 FR 20491 (5/6/83)	July 19, 1983.

[FR Doc. 83-23303 Filed 8-25-83; 8:45 am]
BILLING CODE 6560-50-M

[ER-FRL-2422-6]

Availability of Environmental Impact Statements Filed August 15 Through August 19, 1983, Pursuant to 40 CFR 1506-9

RESPONSIBLE AGENCY: Office of Federal Activities, general information, (202) 382-5075

US Army Corps of Engineers:
- EIS# 830453, Draft, COE, WV, Matheny Flood Damage Reduction and Recreation Project, Wyoming County, due: Oct. 20, 1983
- EIS# 830443, Final, COE, CT, North Haven Mall Development, Permit, New Haven County, due: Sept. 26, 1983
- EIS# 830451, Final, COE, FL, PRO South Florida Limestone Excavation and Use, Wetland Mining, due: Sept. 26, 1983
- EIS# 830459, Report, COE, CA, Report—Sacramento River Bank Stabilization, Sites 209.5R and 227.5L
- EIS# 830452, FSuppl, COE, IL, Kaskaskia River Navigation Project, O/M, St. Clair County, due: Sept. 26, 1983

Department of the Interior:
- EIS# 830445, Final, BLM, CA, Redding Livestock Grazing Management Plan, due: Sept. 26, 1983

Department of Transportation:
- EIS# 830447, Final, FAA, MN, St Paul Downtown Airport/Holman Field Improvement, Ramsey County, due: Sept. 26, 1983
- EIS# 830444, Final, FHW, sev, VT NY US 2/Rouses Point Bridge Replacement, Lake Champlain, due: Sept. 26, 1983
- EIS# 830448, Final, FHW, WA, I-5/I-90 Interchange Completion/Seattle Access Improvements, King County, due: Sept. 26, 1983
- EIS# 830454, Final, UMT, CA, Sacramento Light Rail Transit Project, NE Corridor, Sacramento County, due: Sept. 26, 1983
- EIS# 830456, Final, UMT, CA, Guadalupe Corridor Transportation Improvement, Santa Clara County, due: Sept. 26, 1983

Environmental Protection Agency:
- EIS# 830455, Final, EPA, WA, Metropolitan Seattle Sludge Management Plan, Approval, due: Sept. 26, 1983
- EIS# 830449, Final, EPA, SC, Hilton Head Wastewater Treatment Facilities, Grant, Beaufort County, due: Sept. 26, 1983

Department of Housing and Urban Development:
- EIS# 830450, Final, CDB, MI, Hannah Technology and Research Center, UDAG, Ingham County, due: Sept. 26, 1983

Nuclear Regulatory Commission:
- EIS# 830446, Final, NRC, WY, Teton Solution Mining Project, Operation License, Converse County, due: Sept. 26, 1983

Federal Energy Regulatory Commission:
- EIS# 830457, Draft, FRC, ID, Eagle Rock Hydroelectric Project, C/O/M, License, Power County, due: Oct. 10, 1983

Department of Defense, Air Force:
- EIS# 830458, Draft, UAF, sev, NV UT Gandy Range Supersonic Flight Training Area, Hill AFB, due: Oct. 14, 1983

Amended notices:
- EIS# 820349, Draft, BLM, CA, Central California Study Areas, Wilderness Recommendations, Published FR 6/4/82—Review reopened, due: Sept. 12, 1983
- EIS# 830437, Final, AFS, CA, Angeles NF, Special Use Road Permit, RT-2N06, San Gabriel Mountains, Published FR 08/19/83—Review reestablished due to noncompletion of distribution, due: Sept. 26, 1983
- EIS# 830442, Final, FHW, NH, I-393 and Approach Completion, NH-106 to NH-9/US 4, Merrimack County, Published FR 08/19/83—Officially retracted due to noncompletion of distribution
- EIS# 830359, Draft, SCS, MS, Riverside-Black Bayou Watershed Protection, Bolivar and Washington Counties, Published FR 07/15/83—Officially withdrawn

William D. Dickerson,

Acting Director, Office of Federal Activities.

August 23, 1983.

[FR Doc. 83-23539 Filed 8-25-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Cellular Application Filing Procedures; Changes in Markets Below the 90 Largest

August 19, 1983.

The Commission has received a number of inquiries about Standard Metropolitan Statistical Areas (SMSAs; New England County Metropolitan Areas for the New England States) for markets smaller than the 90 largest. Applications for markets below the top-90, and for areas not included in SMSAs, may be filed beginning December 1, 1983. The Commission has decided to expand and modify its SMSA list.

The Commission has been using the SMSAs listed in *Statistical Abstract of the United States—1980*, 101st Edition, Appendix II. On June 27, 1983, the Office of Management and Budget (OMB) announced revised definitions of SMSAs and adopted new terminology. SMSAs are now called MSAs (Metropolitan Statistical Areas); Standard Consolidated Statistical Areas are now called Consolidated Metropolitan Statistical Areas (CMSAs); and the metropolitan areas within CMSAs are called Primary Metropolitan Statistical Areas (PMSAs), rather than simply MSAs. Between the publication of the 101st Edition of the *Statistical Abstract* and OMB's revised list, which is based on the 1980 decennial census, there have been a number of additions and deletions of SMSAs (including those in Puerto Rico), additions and deletions of counties included in SMSAs, and changes of names.

The Commission has recently decided to use the updated list in connection with applications for Multipoint Distribution Systems (Public Notice, Mimeo 5754, dated August 4, 1983). The Commission will also use the list, with some modifications, for cellular markets below the top-90. There will be no changes for the top-90 markets; counties that have been added to top-90 SMSAs must be applied for as though they were non-SMSA areas.

Below the top-90, the Commission will *add* all SMSAs created since December 31, 1979 (List A, attached). Further, the Commission will alter OMB's listing (1) by *including* counties within an SMSA that have been deleted since December 31, 1979, as well as counties that have been added since that date (Lists B and C, attached); and (2) by *including* as SMSAs those that have been deleted since that date (List D, attached). SMSAs whose names have been changed are included in List E and should be referred to by their current names. Thus, Lists A through D describe the changes in SMSAs and NECMAs with which applications filed beginning December 1, 1983, must conform. There are about 125 SMSAs below the top-90 which have *not* changed since December 31, 1979; they are not included specifically in the attached Lists, so parties must still refer to the 1980 *Statistical Abstract*.

Copies of OMB's publication are available for inspection in the Cellular File Room, Room 650, 1919 M Street, NW., Washington, D.C. during its regular business hours. Information about the publication will not be given over the telephone.

For more information, contact Claudia Borthwick, 202-632-6400.

William J. Tricarico,

Secretary, Federal Communications Commission.

List A—SMSAs (now MSAs) Added Between December 31, 1979, and June 30, 1983

Aguadilla, PR—Aguada, Aguadilla, Isabela and Moca Municipios
Alton-Granite City, IL—Jersey County ONLY (Madison County included with Chicago)
Anderson, SC—Anderson County
Arecibo, PR—Arecibo, Camuy, Hatillo and Quebradillas Muncipios
Athens, GA—Clarke, Jackson, Madison and Oconee Counties
Aurora-Elgin, IL—Kendall County ONLY (Kane County included with Chicago)
Bangor, ME NECMA—Penobscot County

Bellingham, WA—Whatcom County
Benton Harbor, MI—Berrien County
Bremerton, WA—Kitsap County
Burlington, VT NECMA—Chittendon and Grand Isle Counties
Casper, WY—Natrona County
Charlottesville, VA—Albermarle, Fluvanna, Greene Counties and Charlottesville City
Chicao, CA—Butte County
Cumberland, MD-WV—Allegany and Mineral Counties
Danville, VA— Pittsylvania and Danville Counties
Dothan, AL—Dale and Houston Counties
Florence, SC—Colbert and Lauderdale Counties
Fort Pierce, FL—Martin and St. Lucie Counties
Fort Walton Beach, FL—Okaloosa County
Glens Falls, NY—Warren and Washington Counties
Hagerstown, MD—Washington County
Hickory, NC—Alexander, Burke and Catawba Counties
Houma-Thibodaux, LA—Lafourche and Terrebonne Parishes
Jacksonville, NC—Onslow County
Joliet, IL—Grundy County ONLY (Will County included with Chicago)
Joplin, MO—Jasper and Newton Counties
Mayaguez, PR—Anasco, Cabo Rojo, Hormigueros, Mayaguez and San German Municipios
Medford, OR—Jackson County
Ocala, FL—Marion County
Olympia, WA—Thurston County
Orange County, NY—Orange County
Ponce, PR—Juana Diaz, Ponce and Villalba [1]
Portsmouth-Dover-Rochester, NH NECMA—Strafford County, NH and York County,[1] ME (Rockingham included with Boston)
Redding, CA—Shasta County
Saginaw-Bay City-Midland, MI—Bay, Midland and Saginaw Counties
San Juan-Caguas, PR CMSA—Aguas Buenas, Barceloneta, Bayamon, Caguas, Canovanas, Carolina, Catana, Cayey, Cidra, Corozal, Dorado, Fajarado, Florida, Guaynabo, Gurabo, Humacao, Juncos, Las Piedras, Loiza, Luquillo, Manati, Naranjito, Rio Grande, San Juan, San Lorenzo, Toa Alta, Toa Baja, Trujillo, Vega Alta and Bega Baaja Municipios
Sharon, PA—Mercer County
Sheboygan, WI—Sheboygan County
State College, PAS—Centre County
Visalia-Tulare-Porterville, CA—Tulare County

[1] Villalba Municipio (Ponce, PR) and York County (Portsmouth, NH) have been deleted but should be included in cellular proposals.

Wausau, WI—Marathon County
Yuba City, CA—Sutter and Yuba Counties

LIST B—SMSAs (now MSAs) Changed Between December 31, 1979, and June 30, 1983

(Counties Deleted are shown in capital letters; for purposes of cellular applications, they should be *included* in applications.)

Abilene, TX—Taylor, CALLAHAN and JONES Counties
Alexandria, LA—Rapides and GRANT Parishes
Asheville, NC—Buncombe and MADISION Counties
Atlantic City, NJ—Atlantic and Cape May Counties
Augusta, GA-SC—Columbia, McDuffie, Richmond and Aiken Counties
Battle Creek, MI—Calhoun and BARRY Counties
Biloxi-Gulfport, MS—Hancock, Harrison and STONE Counties
Binghamton, NY—Broome, Tioga and SUSQUEHANNA Counties
Colorado Springs, CO—El Paso and TELLER Counties
Des Mones, IA— Dallas, Polk and Warren Counties
Evansville, IN-KY—Posey, Vanderburgh, Warrick, Henderson and GIBSON Counties
Fayetteville-Springdale, AR—Washington and BENTON Counties
Fort Smith, AR-OK—Crawford, Sebastian, Sequoyah and LE FLORE Counties
Fort Wayne, IN—Allen, De Kalb; Whitley, ADAMS and WELLS Counties
Gainesville, FL—Alachua and Bradford Counties
Grand Forks, ND—Grand Forks and POLK Counties
Huntington-Ashland, WV-KY-OH—Cabell, Wayne, Boyd, Carter, Greenup and Lawrence Counties
Huntsville, AL—Madison, LIMESTONE and MARSHALL Counties
Jackson, MS—Hinds, Madison and Rankin Counties
Kalamazoo, MI—Kalamazoo and VAN BUREN Counties
Lafayette, LA—Lafayette and St. Martin Parishes
Lima, OH—Allen, Auglaize, PUTNAM and VAN WERT Counties
Little Rock-North Little Rock, AR—Faulkner, Lonoke, Pulaski and Saline Counties
Lynchburg, VA—Amherst, Campbell and APPOMATTOX Counties and Lynchburg City
Macon-Warner-Robins, GA—Bibb, Houston, Jones, Peach and TWIGGS Counties
Muskegon, MI—Muskegon and OCEANA Counties
Parkersburg-Marietta, WV-OH—Wood, Washington and WIRT Counties
Portland, ME NECMA—Cumberland and SAGAHADOC Counties
Roanoke, VA—Botecourt, Roanoke, Salem, and CRAIG Counties and Roanoke City
St. Joseph, MO—Buchanan and ANDREW Counties
Savannah, GA—Chatham, Effingham and BRYAN Counties
Shreveport, LA—Bossier, Caddo and WEBSTER Parishes
South Bend-Mishawaka, IN—St. Joseph and MARSHALL Counties
Tallahassee, FL—Gadsden, Leon and WAKULLA Counties
Terre Haute, IN—Clay, Vigo, SULLIVAN and VERMILLION Counties
Texarkana, TX-Texarkana, AR—Bowie, Miller and LITTLE RIVER Counties
Topeka, KS—Shawnee, JEFFERSON and OSAGE Counties
Waterloo-Cedar Falls, IA—Black Hawk and Bremer Counties
Wichita FAlls, TX—Wichita and CLAY Counties
Wilmington, NC—New Hanover and BRUNSWICK Counties

LIST C—New England County Metropolitan Statistical Areas Below the Top-90

Bangor, ME—Penobscot County
Burlington, VT—Chittenden and Grand Isle Counties
Lewiston-Auburn, ME—Androscoggin County
Manchester-Nashua, NH—Hillsboro County
New London-Norwich, CT—New London Counties
Pittsfield, MA—Berkshire County
Portland, ME—Cumberland and SAGAHADOC Counties
Portsmouth-Dover-Rochester, NH—Strafford and YORK Counties (Rockingham County included with Boston NECMA)

Counties in capital letters have been deleted from NECMAs but are to be *included* in celluar applications.

LIST D—SMSAs (now MSAs) Deleted Between December 31, 1979, and June 30, 1983

SMSA Filing Rules *Do* Apply to the Areas Listed Here.

Newark, OH (merged into Columbus, OH)— Licking County
Rapid City, SD—Pennington and Meade Counties
Rock Hill, SC (merged into Charlotte-Gastonia-Rock Hill, NC-SC)—York County
Salisbury-Concord, NC (merged into Charlotte-Gastonia-Rock Hill, NC-SC)—Cabarrus and Rowan Counties

Springfield, OH (merged into Dayton-Springfield, OH)—Champaign and Clark Counties.

LIST E—SMSA (now MSA) Name Changes in Markets Below the Top-80

(Old Name in Parentheses).

Appleton-Oshkosh-Neenah, WI—(Appleton-Oshkosh, WI)
Bay City, MI—(see Saginaw)
Beaumont-Port Arthur, TX—(Beaumont-Port Arthur-Orange, TX)
Binghamton, NY—(Binghamton, NY–PA)
Brownsville-Harlingen, TX—(Brownsville-Harlingen-San Benito, TX)
Duluth, MN–WI—(Duluth-Superior, MN–WI)
Elkhart-Goshen, IN—(Elkhart, IN)
Fort Collins-Loveland, CO—(Fort Collins, CO)
Fort Myers, FL—(Fort Myers-Cape Coral, FL)
Grand Forks, ND—(Grand Forks, ND–MN)
Kalamazoo, MI—(Kalamazoo-Portage, MI)
Lafayette, IN—(Lafayette-West Lafayette, IN)
Macon-Warner Robins, GA)—(Macon, GA)
McAllen-Edinburg-Mission, TX—(McAllen-Pharr-Edinburg, TX)
Melbourne-Titusville-Palm Bay, FL—(Melbourne-Titusville-Cocoa, FL)
Muskegon, MI—(Muskegon-Norton Shores-Muskegon Heights, MI)
Newburgh-Middletown, NY—(see Orange County, NY)
Orange County, NY—(Newburgh-Middletown, NY)
Pascagoula, MS—(Pascagoula-Moss Point, MS)
Saginaw-Bay City-Midland, MI—(Saginaw, MI and Bay City, MI)
South Bend-Mishawaka, IN—(South Bend, IN)

[FR Doc. 83-23431 Filed 8-25-83: 8:45 am]
BILLING CODE 6712-01-M

Meeting of the Telecommunications Industry Advisory Group Steering Committee

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Telecommunications Industry Advisory Group Steering Committee scheduled to meet on Thursday September 15, 1983. The meeting will be held at 9:30 a.m. in Conference Room A on the 10th Floor at AT&T located at 1120 20th Street, NW., Washington, D.C., and will be open to the public.

The agenda is as follows:

I. Reveiw of Minutes of Previous Meeting
II. General Administrative Matters
III. Consideration of Auditing and Regulatory Subcommittee Position Paper
IV. Consideration of Plant Accounts Subcommittee Proposed Accounts
V. Other Business
VI. Presentation of Oral Statements
VII. Adjournment

With prior approval of the Chairman, Gerald P. Vaughan, oral statements, while not favored or encouraged, may be allowed if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of Steering Committee objectives. Anyone not a memeber of the Steering Committee and wishing to make an oral presentation should contact Stephen T. Duffy, Group Vice-Chairman (202/634–1509), at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-23433 Filed 8-25-83: 8:45 am]
BILLING CODE 6712-01-M

Meeting of Telecommunications Industry Advisory Group (TIAG); Auditing and Regulatory Subcommittee

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–464), notice is hereby given of a two day meeting of the Telecommunications Industry Advisory Group's (TIAG) Auditing and Regulatory Subcommittee scheduled to meet on Monday, September 12, 1983 and Tuesday, September 13, 1983. The meeting will be held at 10:00 a.m. in Room 330 of the Federal Communications Commission's offices located at 1200 19th Street, NW., Washington, D.C. The meeting will be open to the public. The agenda is as follows:

I. General Administrative Matters
II. Pending and Deferred Issues
III. Results of Revenue Requirements Study
IV. Comments on Drafts of Discussion Paper
V. Other Business
VI. Presentation of Oral Statements
VII. Adjournment

With prior approval of Subcommittee Chairman Hugh A. Gower, oral statements, while not favored or encouraged, may be allowed if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of Subcommittee objectives. Anyone not a member of the Subcommittee and wishing to make an oral presentation should contact Mr. Gower (404/658–1776) at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-23432 Filed 8-25-83: 8:45 am]
BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Forms Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Managemen' Agency (FEMA) has submitted to the Office of Management and Budget the following information collections packages for approval in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Type: New Information Collections
Title: Public Survey of Emergency Management
Abstract: Sample survey of the perceptions of selected members of the public relevant to emergency management planning.
Type of respondents: Individuals or Households
Number of respondents: 1,500
Burden hours: 1,875
Type: New Information Collections
Title: Industry Leaders' Survey
Abstract: Sample survey of selected leaders in US industry relevant to national security emergency management planning.
Type of respondents: Businesses of Other For-Profit, Non-Profit Institutions, Small Businesses or Organizations
Number of respondents: 1,000
Burden hours: 500
Type: New Information Collections
Title: Labor Leaders' Survey
Abstract: Sample survey of selected leaders in industrial plants and organization relevant to their perceptions of national security emergency management planning.
Type of respondents: Businesses or Other For-Profit, Small Businesses or Organizations
Number of respondents: 1,000
Burden hours: 500
OMB desk officer: Ken Allen, (202) 395–3786

Copies of the above information collection clearance packages can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley (202) 287–0906, Federal Plaza Center, 500 C. Street, S.W., Washington, DC 20472.

Written comments and recommendations for the proposed information collection packages should be sent to Linda Shiley, FEMA Reports Clearance Officer, Federal Plaza Center, 500 C Street, S.W., Washington, DC 20472, and to Ken Allen, Desk Officer, OMB, Reports Management Branch, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Dated: August 22, 1983.

Wesley C. Moore,

Acting Assistant Associate Director, Administrative Support.

[FR Doc. 83-23454 Filed 8-25-83; 8:45 am]

BILLING CODE 6718-01-M

Agency Form Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collections package for approval in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Type: Extension of OMB No. 3067-0103
Title: FEMA Nuclear Power Plant Alerting and Notification System: Public Telephone Survey
Abstract: The Federal Emergency Management Agency with subcontractor, International Energy Associates Limited (contract No. 31-109-38-6934), shall randomly telephone survey the residents within the Emergency Planning Zone (EPZ) of 35 nuclear power plants as stipulated in Appendix 3 of NUREG 0654/FEMA-REP-1. From an approximate sample of 750 households, between 250 and 350 residences will be voluntarily surveyed, following the attached standardized questionnaire.
Type of respondents: Individuals or Households
Number of respondents: 300
Burden hours: 20
OMB desk officer: Ken Allen (202) 395-3786

Copies of the above information collection clearance package can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley (202) 287-0906, Federal Plaza Center, 500 C Street, SW., Washington, DC 20472.

Written comments and recommendations for the proposed information collection package should be sent to Linda Shiley, FEMA Reports Clearance Officer, Federal Plaza Center, 500 C Street, SW., Washington, DC 20472 and to Ken Allen, Desk Officers, OMB, Reports Management Branch Room 3235, New Executive Office Building, Washington, D.C. 20503.

Dated: August 16, 1983.

Walter A. Girstantas,

Assistant Association Director, Administrative Support.

[FR Doc. 83-23455 Filed 8-25-83; 8:45 am]

BILLING CODE 6718-01-M

[FEMA-689-DR]

Texas; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Texas (FEMA-689-DR), dated August 19, 1983, and related determinations.

DATED: August 19, 1983.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0501.

Notice

Notice is hereby given that, in a letter of August 19, 1983, the President declared a major disaster under the authority of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 *et seq.*, Pub. L. 93-288) as follows:

I have determined that the damage in certain areas of the State of Texas, resulting from Hurricane Alicia beginning on or about August 18, 1983, is of sufficient severity and magnitude to warrant a major-disaster declaration under Public Law 93-288. I therefore declar that such a major disaster exists in the State of Texas.

In order to provide Federal assistance, you are hereby authorized to allocate, from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under Pub. L. 93-288 for Public Assistance will be limited to 75 percent of total eligible costs in the designated area.

The time period prescribed for the implementation of Section 313(a), priority to certain applications for public facility and public housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, and redelegated to me, I hereby appoint Mr. Robert D. Broussard of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Texas to have been affected adversely by this declared major disaster:

For Individual Assistance: Brazoria, Chambers, Fort Bend, Galveston, Harris and Matagorda Counties.
For Public Assistance to Local Governments only: Brazoria, Chambers, Galveston and Harris Counties.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 83-23456 Filed 8-25-83; 8:45 am]

BILLING CODE 6718-02-M

[Docket FEMA-REP-7 IA-3]

Iowa Radiological Emergency Response Plan

AGENCY: Federal Emergency Management Agency.

ACTION: Notice of receipt of plan.

SUMMARY: For continued operation of nuclear power plants, the Nuclear Regulatory Commission requires approved licensee and state and local governments' radiological emergency response plans. Since FEMA has a responsibility for reviewing the state and local government plans, the State of Iowa has submitted its radiological emergency plans to the FEMA Regional Office. These plans support nuclear power plants which impact on Iowa and include those of local governments near the Duane Arnold Energy Center located in Linn County, Iowa.

DATE PLANS RECEIVED: June 23, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Patrick J. Breheny, Regional Director, FEMA Region VII, 911 Walnut Street, Kansas City, Missouri 64106, (816) 374-5912.

Notice

In support of the Federal requirement for emergency response plans, FEMA has proposed a Rule describing its procedures for review and approval of state and local governments' radiological emergency response plans. Pursuant to this proposed FEMA Rule (44 CFR 350.08), "Review and Approval of State Radiological Emergency Plans and Preparedness," the Iowa Emergency Plan, Book II Site Specific for the Duane Arnold Energy Center was received by the Federal Emergency Management Agency Region VII Office.

Included are plans for local governments which are wholly or partially within the energency planning

zones of the Duane Arnold Energy Center. Plans are included for Benton and Linn Countries.

Copies of the Plan are available for review at the FEMA Region VII Office, or they will be made available upon request in accordance with the fee schedule for FEMA Freedom of Information Act requests, as set out in subpart C of 44 CFR Part 5. There are 767 pages in the document; reproduction fees are $.10 a page, payable with the request for copy.

Comments on the Plan may be submitted in writing to Mr. Patrick J. Breheny, Regional Director, at the above address within thirty days of this Federal Register notice.

Dated: August 11, 1983.

John P. Coleman,

Deputy Regional Director, FEMA, Region VII.

[FR Doc. 83-23457 Filed 8-25-83; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL HOME LOAN BANK BOARD

[No. 83-458]

Mutual to Stock Conversion Application Form

AGENCY: Federal Home Loan Bank Board.

ACTION: Notice.

SUMMARY: The public is advised that the Federal Home Loan Bank Board has submitted its revised Mutual to Stock Conversion Application Forms to the Office of Management and Budget for approval pursuant to 5 CFR 1320.12, pertaining to clearance of information collection requests. Requests for information including copies of the proposed information collection request and supporting documentation, are obtainable from the Board, and comments on the proposal should be directed to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for the Federal Home Loan Bank Board. The Board would appreciate commenters also sending copies of their submission to the Board address given below.

ADDRESS: Send comments to Director, Information Service Section Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTRACT: Larry Fleck, Office of the General Counsel Federal Home Loan Bank Board, 202-377-6413.

Dated: August 23, 1983.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary,

[FR Doc. 83-23433 Filed 8-25-83; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

Item Submitted for OMB Review

The Federal Maritime Commission hereby gives notice that the following item has been submitted to OMB for review pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, et seq.). Requests for information, including copies of the collection of information and supporting documentation, may be obtained from Ronald D. Murphy, Agency Clearance Officer, Federal Maritime Commission, 1100 L Street, NW., Room 9305, Washington, D.C., 20573, telephone number (202) 523-5900. Comments may be submitted to the Office of Information and Regulatory Affairs of the Office of Management and Budget, Attention: Desk Officer for the Federal Maritime Commission, within 15 days after the date of the Federal Register in which this notice appears.

Summary of Item Submitted for OMB Review

46 CFR Part 510—Licensing of Independent Ocean Freight Forwarders (General Order 4) and Related Application Form FMC-18 (Rev.)

Pursuant to Section 44 of the Shipping Act, 1916, General Order 4 sets forths methods and procedures whereby persons wishing to engage in the business of freight forwarding must apply for and be granted a license to carry on the business of forwarding. The Order specifies the reporting, filing, and recordkeeping requirements necessary for applicants and licensees to apply for and retain a license. General Order 4 and the application form FMC-18 are used to determine whether a person is fit, willing and able to properly carry on the business of forwarding.

The Commission estimates a total respondent universe of 2600; 1600 principals and 1000 branch offices with the following annual responses and man-hours:

Agency form No.	Estimated annual response	Estimated annual man-hours
46 CFR Part 510 (G. O. 4)	5,711	22,756
FMC-18 (Rev.)	690	6,105

Total estimated annual cost to the Government for General Order 4 and Form FMC-18 is $220,000; estimated annual cost to the public for General Order 4 and Form FMC-18 is $321,351.

Francis C. Hurney,

Secretary.

[FR Doc. 83-23441 Filed 8-25-83; 8:45 am]

BILLING CODE 7530-01-M

FEDERAL RESERVE SYSTEM

Formation of Bank Holding Companies; Franklin Financial Services Corp. et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Franklin Financial Services Corporation,* Chambersburg, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of Farmers and Merchants Trust Company of Chambersburg, Chambersburg, Pennsylvania. Comments on this application must be received not later than September 19, 1983.

2. *West Boncorp, Inc.,* West Pittston, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of West Side Bank, West Pittston, Pennsylvania. Comments on this application must be received not later than September 19, 1983.

B. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *First Community Bancshares, Inc.,* Princeton, West Virginia; to become a bank holding company by acquiring 100 percent of the voting shares of Upshur

National Bank, Buckhannon, West Virginia. Comments on this application must be received not later than September 19, 1983.

C. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Florida County Banks, Inc.*, Trenton, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of The Farmers and Merchants Bank of Trenton, Trenton, Florida. Comments on this application must be received not later than September 15, 1983.

D. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *MSB Holding Company, Inc.*, Moorhead, Iowa; to to become a bank holding company by acquiring 100 percent of the voting shares of Moorhead State Bank, Moorhead, Iowa. Comments on this application must be received not later than September 15, 1983.

E. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Bank of Sikeston Holding Company*, Sikeston, Missouri; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Sikeston, Sikeston, Missouri. Comments on this application must be received not later than September 19, 1983.

2. *Marionville Bancshares, Inc.*, Neosho, Missouri; to become a bank holding company by acquiring 80 percent of the voting shares of First State Bank of Marionville, Marionville, Missouri. Comments on this application must be received not later than September 19, 1983.

3. *United Danville, Incorporated*, Danville, Kentucky; to become a bank holding company by acquiring 94.7 percent of the voting shares of Bank of Danville, Danville, Kentucky. Comments on this application must be received not later than September 19, 1983.

F. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Higginsville Bancshares*, Inc., Higginsville, Missouri; to become a bank holding company by acquiring 100 percent of the voting shares of Higginsville, State Bank, Higginsville, Missouri. Comments on this application must be received not later than September 19, 1983.

2. *Montgomery County Bancshares, Inc.*, Elk City, Kansas; to become a bank holding company by acquiring at least 80 percent of the voting shares of The First National Bank of Elk City, Elk City, Kansas. Comments on this application must be received not later than September 19, 1983.

G. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Chandler Bancorp, Inc.*, Chandler, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Chandler State Bank, Chandler, Texas. Comments on this application must be received not later than September 19, 1983.

2. *Tejas Bancshares, Inc.*, Fritch, Texas; to become a bank holding company by acquiring 80 percent of the voting shares of Fritch State Bank, Fritch, Texas. Comments on this application must be received not later than September 19, 1983.

H. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Milk River Investments, Inc.*, Hinsdale, Montana; to become a bank holding company by acquiring 80 percent of the voting shares of The First National Bank of Hinsdale, Hinsdale, Montana. This applicaion may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank of Minneapolis. Comments on this application must be received not later than September 19, 1983.

Board of Governors of the Federal Reserve System, August 19, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-23416 Filed 8-25-83; 8:45 am]

BILLING CODE 6210-01-M

Acquisition of Bank Holding Company; Sun Bank, Inc.

Sun Banks, Inc., Orlando, Florida, has applied for the Board's approval under section 3(a)(5) of the Bank Holding Company Act (12 U.S.C. 1842(a)(5)) to merge with Flagship Banks, Inc., Miami, Florida. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Flagship Banks, Inc., Miami, Florida, is also engaged in the following nonbank activities: sale of credit life, accident and health insurance directly related to extensions of credit by the bank holding company or its subsidiaries and providing data processing services for the internal operations of the bank holding company and storing and processing other banking, financial or related economic data. In addition to the factors considered under section 3 of the Act (banking factors), the Board will consider the proposal in the light of the company's non banking activities and the provisions and prohibitions in section 4 of the Act (12 U.S.C. 1843).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than September 19, 1983.

Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 19, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-23417 Filed 8-25-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Advisory Council on Social Security; Meeting

AGENCY: Department of Health and Human Services.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Section 10(a)(2) of Pub. L. 92-463, the Federal Advisory Committee Act, notice is hereby given of a meeting of the Advisory Council on Social Security, as established by the Secretary of Health and Human Services in accordance with Section 706 of the Social Security Act, 42 U.S.C. Sec. 907.

DATE/ADDRESS: The meeting will be held September 28-29, 1983, from 9:00 a.m. to 4:00 p.m. each day in Room 503-A of the Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: Thomas R. Burke, Executive Director, Advisory Council on Social Security, 200 Independence Avenue, SW., Washington, D.C. 20201; telephone (202) 755-8670/71.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Attendance will be limited to the space available.

Sign language interpreting services will be provided if requested in advance.

The proposed meeting agenda includes further briefings and discussion on the Medicare program; and such other business as the Chairperson, the Executive Director, or the membership may put before the Council.

A previous meeting of the Advisory Council on Social Security was announced in 48 FR 32086, July 13, 1983.

Records are kept of all Council proceedings and are available for public inspection at the Office of the Administrative Officer, Advisory Council on Social Security, Room 317–H, HHH Building, 200 Independence Avenue, SW., Washington, D.C. 20201.

Thomas R. Burke,

Executive Director.

[FR Doc. 83-23521 Filed 8-25-83; 8:45 am]

BILLING CODE 4130-03-M

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on August 19.

Public Health Service

Alcohol, Drug Abuse, and Mental Health Administration

Subject: Inventory of General Hospital Mental Health Services (0930–0066)—Reinstatement
Respondents: Non-Federal general hospitals which provide services in separate psychiatric settings
OMB Desk Officer: Fay S. Iudicello

Centers for Disease Control

Subject: Division of Tuberculosis Control Effectiveness Survey—new
Respondents: State and local public health workers
Subject: Preventive Health Services and Health Services Block Grant Reporting Requirements (0920–0106)—extension/no change
Respondents: State governments
OMB Desk Officer: Fay S. Iudicello

National Institutes of Health

Subject: Collection and Evaluation of Human Tissues and Cells (0925–0152)—extension/no change
Respondents: Individuals
OMB Desk Officer: Fay S. Iudicello

Food and Drug Administration

Subject: Good Laboratory Practice Regulations for Nonclinical Laboratory Studies (0910–0119)—extension
Respondents: Manufacturers of drugs, food additives, medical devices, colors, and radiation emitting products; toxicology testing laboratories of product sponsors, universities, contractors and the federal government
OMB Desk Officer: Richard Eisinger

Health Care Financing Administration

Subject: Negative Case Action (NCA) Review Schedule and Negative Case Action Statistical Summary Tables (HCFA 6401)—revision
Respondents: State Medicaid agencies
Subject: Laboratory Personnel Qualifications Appraisal (0938–0049)—extension/no change
Respondents: Clinical laboratories participating in the Medicare and Medicaid programs
Subject: Provider Cost Report Reimbursement Questionnaire (HCFA 339)—new
Respondents: Health care providers participating in the Medicare program
OMB Desk Officer: Fay S. Iudicello

Office of the Secretary

Subject: Vulnerability Survey—new
Respondents: State or local governments, businesses, and non-profit institutions
OMB Desk Officer: Milo Sunderhauf

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202–245–6511.

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503; Attn: (name of OMB Desk Officer).

Dated: August 22, 1983.

Robert F. Semler,

Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 83-23383 Filed 8-25-83; 8:45 am]

BILLING CODE 4110-84-M

Alcohol, Drug Abuse, and Mental Health Administration

Meetings

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following national advisory bodies scheduled to assemble during the month of September 1983.

Mental Health Small Grant Review Committee
September 14–16; 1:30 p.m.
The Henley Park Hotel, Eton Room, Massachusetts Avenue and 10th Street, N.W., Washington, D.C. 20001
Open—September 14; 1:30–2:30 p.m.
Closed—Otherwise
Contact: Ms. Virginia Harter, Room 9–95, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4843

Purpose: The Committee is charged with the initial review of applications for reserach in all disciplines pertaining to alcohol, drug abuse, and mental health for support of research in the areas of psychology, psychiatry, and the behavioral and biological sciences, with recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism, the National Advisory Council on Drug Abuse, and the National Advisory Mental Health Council.

Agenda: From 1:30–2:30 p.m., September 14, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performining initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

National Advisory Mental Health Council
September 19–20; 9:00 a.m.
September 19; National Insitutes of Health, Building 31C, Conference Room 10, 9000 Rockville Pike, Bethesda, Maryland 20205
September 20; Parklawn Building, Conference Room E, 5600 Fishers Lane, Rockville, Maryland 20857
Open—September 19; 9:00 a.m.–5:00 p.m.
Closed—Otherwise
Contact: Ms. Helen W. Garrett, Committee Management Officer, Parklawn Building, Room 17C–26, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4333

Purpose: The National Advisory Mental Health Council advises the Secretary of Health and Human Services, the administrator, Alcohol, Drug Abuse, and Mental Health

Administration, and the Director, National Insititute of Mental Health, regarding policies and programs of the Department in the field of mental health. The Council reviews applications for grants-in-aid relating to research and training in the field of mental health and makes recommendations to the Secretary with respect to approval of applications for, and amount of, these grants.

Agenda: On September 19, the meeting will be open for discussion of MIMH policy issues and will include current administrative, legislative, and program developments. Attendance by the public for the open session will be limited to space available. Otherwise, the Council will conduct a final review of applications for Federal asssitance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 5562b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

National Advisory Council on Drug Abuse
September 20–21; 9:00 a.m.
National Institutes of Health, Building 31C, Conference Room 8, 9000 Rockville, Pike, Bethesda, Maryland 20205
Open—September 20; 9:00 a.m.–12 noon; September 21; 9:00 a.m.–5:00 p.m.
Closed—Otherwise
Contact: Ms. Sheila Gardner, Room 10A–53, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–6720

Purpose: The National Advisory Council on Drug Abuse advises and makes recommendations to the Secretary, Department of Health and Human Services, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, National Institute on Drug Abuse, on the development of new initiatives and priorities and the efficient administration of drug abuse reserach, including prevention and treatment research, and research training. The Council also gives advice on policies and priorities for drug abuse grants and contracts, and reviews and makes final recommenations on grant applications.

Agenda: From 9:00 a.m.–12 noon, September 20, and from 9:00 a.m.–5:00 p.m., September 21, the meeting will be open for discussion of administrative announcements, program development and policy issues. Otherwise, the Council will be performing final review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (U.S.C. Appendix I).

Rape Prevention and Control Advisory Committee
September 20–21; 9:00 a.m.
Parklawn Building, Conference Room 17–09A, 5600 Fishers Lane, Rockville, Maryland 20857
Open
Contact: Mary Lystad, Ph. D., Executive Secretary, Parklawn Building, 5600 Fishers Lane, Room 6C–12, Rockville, Maryland 20857, (301) 443–1910

Purpose: The Committee advises the Secretary, Department of Health and Human Services, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, National Institute of Mental Health, through the National Center for the Prevention and Control of Rape, on matters regarding the needs and concerns associated with rape in the United States and makes recommendations pertaining to activities to be undertaken by the Department to address the problems of rape.

Agenda: The entire meeting will be open to the public. It will include a report from the National Center for the Prevention and Control of Rape on final report research findings, a discussion on future research development plans, a presentation by the Director, Victims of Crime Program Management Team, and preparation of the Committee's Annual Report.

National Advisory Council on Alcohol Abuse and Alcoholism
September 22–23; 9:00 a.m.
Wilson Hall, Building 1, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205
Open—9:00 a.m.–2:00 p.m., September 22 9:00 a.m.—adjournment, September 23
Closed—Otherwise
Contact: Mr. James Vaughan, Room 16C–20, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4375

Purpose: The Council advises the Secretary, Department of Health and Human Services regarding policy direction and program issues of national significance in the area of alcohol abuse and alcoholism. Reviews all grant applications submitted, evaluates these applications in terms of scientific merit and adherence to Department policies, and makes recommendations to the Secretary with respect to approval and amount of award.

Agenda: September 22 and September 23 (open session) will be devoted to general business of the Council and a discussion of current budget, legislative and program activities.

September 22 (closed session) the Council will conduct a final review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions set forth in Section 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Substantive information may be obtained from the contact persons listed above. Summaries of the meetings and rosters of Committee members may be obtained as follows: NIAAA: Mrs. Diana Widner, Committee Management Officer, Room 16C–20, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4375. NIDA: Ms. Claudette Wright, Committee Management Officer, Room 10–22, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1644. NIMH: Ms. Helen W. Garrett, Committee Management Officer, Room 17C–26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4333.

Dated: August 23, 1983.

Sue Simons,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 83–23461 Filed 8–25–83; 8:45 am]

BILLING CODE 4160–20–M

Social Security Administration

Office of Refugee Resettlement

Correction Notice: Volume 48, No. 162, Friday, August 19, 1983;

Announcement of Proposed Availability of Funding for Mainstream English Language Training Projects for Refugees, p. 37722.

Section under *Closing Date* should read:

An application must be mailed or hand delivered by the closing date, September 16, 1983.

Section under *Applications Submission and Approval Procedures* should read:

Prospective grantees must submit an original application and two copies to the Grants Management Branch by 5:00 p.m. Eastern Daylight Time on September 16, 1983.

Section under *Applications Delivered by Hand* should read:

Hand delivered applications will not be accepted after 5:00 p.m. on the closing date, September 16, 1983.

James J. Giganto,

Deputy Director, Office of Refugee Resettlement, Social Security Administration, Department of Health and Human Services.

[FR Doc. 83-23520 Filed 8-25-83; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Availability of Final Environmental Impact Statement for the Redding Livestock Grazing Program, Ukiah District, California

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice of Availability.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Action of 1969, the Bureau of Land Management has prepared an abbreviated final environmental impact statement for the grazing program in the Redding Resource Area of the Ukiah District, California. Alternatives analyzed are (1) continuation of the present program, (2) no grazing, (3) balanced use and (4) emphasis on commodity production.

DATES: Comments on the final environmental impact statement are being solicited from public agencies and interested individuals and organizations. Written comments should be submitted by September 26, 1983, to the Redding Area Manager, 355 Hemsted Drive, Redding, California 96002 in order to be considered in the record of decision.

ADDRESSES: Copies of the statement are available for review at local libraries, and copies can be obtained by contacting the Redding Area Office or the Ukiah District Office, P.O. Box 940, Ukiah, California 95482, telephone (707) 462-3873.

FOR FURTHER INFORMATION CONTACT: Phil Stanbro, Environmental Coordinator, Bureau of Land Management, Redding Area Office, 355 Hemsted Drive, Redding, California 96002, telephone (916) 246-5341.

Dated: August 17, 1983.

Van W. Manning,

District Manager.

[FR Doc. 83-23615 Filed 8-25-83; 8:45 am]

BILLING CODE 4310-84-M

[CA 13253]

California: Modification of Realty Action; Competitive Sale of Public Land in Calaveras County

The following described land has been examined and identified as suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713), at no less than the appraised fair market value ($24,000).

Mount Diablo Meridian, California

T. 5N., R. 12E.,
Sec. 6, S½NE¼SW¼ and NW¼SE¼SW¼.

Containing 30 acres.

The land, which was being offered through direct sale is now being sold by modified competitive bidding, to the following adjacent landowners:

Edward Cavalli, Marc Barenfeld, Milton Craig, David Green, and Charles Luce.

The individuals named above who own land adjoining the sale parcels will be designated bidders; i.e., they will be offered the right to purchase the land indicated below by meeting the highest bid. Refusal or failure to meet the highest bid shall constitute a waiver of such bidding provisions.

The sale is consistent with the land use plan and disposal criteria of 43 CFR 2710.0-3(a).

The terms and conditions applicable to the sale are:

1. A right-of-way for ditches and canals will be reserved to the United States (43 U.S.C. 945).

2. All minerals in the land will be reserved to the United States (43 U.S.C. 1719).

3. Charles C. Luce must file with the Bureau of Land Management a relinquishment of the claims filed with BLM under serial numbers CAMC 123376 and CAMC 123533, prior to the date of the sale.

4. Mr. David Green must sign a relinquishment of grazing preference for grazing lease 4202 with the Bureau of Land Management.

5. A right-of-way for overhead utility and communication purposes to Pacific Gas and Electric Company and Pacific Telephone Company granted under CA 3664 and CA 6399 respectively, California BLM.

6. A right-of-way for existing road (Jesus Maria Road) to Calaveras County under RS 2477.

Federal law requires that bilders be U.S. citizens or, in the case of a corporation, subject to the laws of any State of the U.S. Proof of citizenship shall accompany the bid. The sale will be conducted by oral bidding. Bids must be made by the principal or his agent at the time of the sale. The highest oral bid will establish the sale price. No bids will be acceptable for less than Fair Market Value and bids for the parcel must include all the lands in the parcel. The apparent high bidder will be required to submit a nonrefundable deposit of one-fifth of the full bid price immediately after the sale. The remainder of the full bid price shall be paid within 30 days of the sale. Failure to pay the full price within 30 days shall disqualify the apparent high bidder and deposit shall be forfeited. The sale will be held at 10:00 a.m., November 15, 1983, at the Folsom Resource Area Office, Bureau of Land Management, 63 Natoma Street, Folsom, California 95630.

Comments on the proposed direct sale were considered by the State Director, California State Office, Bureau of Land Management, and resulted in cancellation of the direct sale in favor of modified competitive bidding procedures to allow all adjacent owners to bid on the sale parcel. This constitutes a final decision.

Rory E. Raschen,

Associate District Manager.

[FR Doc. 83-23404 Filed 8-25-83; 8:45 am]

BILLING CODE 4310-84-M

[AA-48034; AA-48048]

Alaska; Proposed Reinstatement of a Terminated Oil and Gas Lease

August 17, 1983.

1. Pursuant to the provisions of Pub. L. 91-245 and Pub. L. 97-451, a petition for reinstatement of oil and gas lease, AA-48043 and AA-48048, has been received covering the following lands:

Kateel Meridian

T. 20 S., R. 22 E.,
Sec. 2, all;
Sec. 11, all.
T. 21 S., R. 22 E.,
Sec. 3, all;
Sec. 10, all;
Sec. 15, all;
Sec. 22, all.

Comprising 3,840 acres.

2. The proposed reinstatement of the lease would be under the same terms and conditions of the original lease, except the rental will be increased to $5 per acre per year, and royalty increased to 16⅔ percent beginning on the reinstatement date.

3. Lessee will reimburse the Department $500 for administrative

costs and for the cost of the notice published in the Federal Register.

Robert E. Sorenson,

Chief, Branch of Mineral Adjudication.

[FR Doc. 83-123405 Filed 8-25-83; 8:45 am]

BILLING CODE 4310-84-M

Bureau of Reclamation

National Park Service

Joint Environmental Impact Statement for Jackson Lake Safety of Dams Program, Wyoming

AGENCY: Bureau of Reclamation and National Park Service, Interior.

ACTION: Notice of intent to prepare a joint environmental impact statement.

SUMMARY: Jackson Lake Dam is located near Jackson, Wyoming, and within the bounaries of Grand Teton National Park. Studies conducted in recent years by the USBR (Bureau of Reclamation) have determined that the structure has a high probability of failure should a major earthquake occur in the vicinity. On April 16, 1980 (45 FR 25953), the USBR published a Notice of Intent to Prepare an EIS (Environmental Impact Statement) on actions proposed to achieve the safety of Jackson Lake Dam in the event of such a major earthquake. Following initial scoping meetings held by USBR in May 1980, the alternatives first considered were reviewed and expanded. In 1983, a series of public involvement meetings were held to aid in evaluating technical alternatives.

It has become apparent that the significant involvement in and responsibilities for actions taken in the area by both the USBR and the NPS (National Park Service) require that any analysis of the environmental impacts of alternative solutions to the safety of Jackson Lake Dam be done jointly. To accomplish that objective, the EIS will now be prepared as a joint effort of the USBR and the NPS.

Scoping and technical studies conducted to date have resulted in the definition of several construction and nonconstruction alternatives to be considered in the joint EIS.

Construction alternatives:

1. Modify the existing Jackson Lake Dam to strengthen it against earthquake damage.

2. Construction of a new, earthquake-resistant dam at Pacific Creek, about 4 miles downstream from the present dam. The new dam could be designed to be either a primary replacement dam to store Jackson Lake water or as an emergency structure to be used only to detain floodwaters in the event the existing Jackson Lake Dam should fail.

Nonconstruction alternatives:

1. Return the lake to its original, natural (pre-dam construction) level at elevation 6730 feet;

2. Reduce the reservoir elevation to approximately 6745 feet to afford protection beyond the present restricted lake level;

2. Maintain the current restriction at lake elevation 6760. Lowering the lake level would be combined with measures to replace the storage elsewhere or otherwise compensate for the lost storage.

4. Take no action; that is, have the lake at its unrestricted level at elevation 6769 and make no effort to strengthen the dam against possible earthquake damage.

Other alternatives have been proposed which would combine aspects of the ones cited above, but these have not been specifically defined.

Previous scoping activities, recent public involvement sessions, and agency evaluations to date have identified a number of issues where there may be a significant impact resulting from one or more of the alternatives. Such issues within the park include:

—The experience of park visitors, encompassing among other things visual aspects, noise levels, and park values such as solitude and naturalness;

—Effects on wildlife such as eagle, heron, beaver, otter, moose, and elk;

—Recreational activities including stream fishing, river rafting, lake boating and fishing, and unique photographic opportunities.

Other impact issues include:

—Safety of humans both inside and outside the park;

—Water supply;

—Economic aspects including downstream farm and ranch income, commercial business in the city of Jackson and other communities, park concesssionaire operations and income, and downstream property damage from flooding;

Traffic and transportation aspects such as park traffic and visitor reaction to construction vehicles and wear and tear on roads and bridges;

Social effects from the influx of the temporary work force on availability of housing and schools;

Impacts on both upland and wetland vegetation;

Effects on flood plains and wetland vegetation;

Endangered species of plants and animals;

Erosional rates and patterns;

Borrow site excavation; and

Archeological resources.

The public is invited to offer additional alternatives and/or issues which it believes should be considered in the EIS or which it believes should be deleted.

Scoping meetings will be held in the following locations on the dates noted at 7:30 p.m. to receive public input on alternatives and issues:

September 12, 1983, Jackson, Wyoming,
Wort Hotel

September 13, 1983, Burley, Idaho,
Burley Inn

September 14, 1983, Idaho Falls, Idaho,
Westbank Motel

Both written and oral suggestions will be received at the meetings. In the interest of allowing everyone who wishes to speak that opportunity, comments will be limited to 10 minutes or less. Individuals may indicate their desire to speak by contacting the Office of Environment, Pacific Northwest Regional Office, Bureau of Reclamation, Box 043,550 West Fort Street, Boise, Idaho 83724, by Friday, September 9, 1983 (phone (208) 334-1207). Requests to speak will also be taken at each of the meetings.

Written comments on the alternatives and environmental issues may also be sent directly to the Bureau of Reclamation at the above address prior to October 14, 1983. All scoping information received will be considered thoroughly by both the NPS and the USBR in reaching a decision on those alternatives and environmental issues to be included in the joint EIS.

FOR FURTHER INFORMATION CONTACT: Mr. Douglas James at the above address, or Mr. Robert Kasparek, Regional Environmental Coordinator, Rocky Mountain Regional Office, National Park Service, 455 Parfet Street, Box 25287, Denver, Colorado 80225.

Dated: August 23, 1983.

Robert N. Broadbent,

Commissioner of Reclamation.

Dated: August 23, 1983.

Mary Lou Grier,

Acting Director, National Park Service.

[FR Doc. 83-23500 Filed 8-25-83; 8:45 am]

BILLING CODE 4310-70-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; ARCO Oil and Gas Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: This Notice annouces that ARCO Oil and Gas Company, Unit Operator of the Mississippi Canyon Block 148 Federal Unit Agreement No. 14-08-0001-16934, submitted on August 10, 1983, a proposed supplemental plan of development/production describing the activities it proposes to conduct on the Mississippi Canyon Block 148 Federal Unit.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the plan and that it is available for public review at the offices of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone (504) 838-0519.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in development and production plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: August 18, 1983.

John L. Rankin,

Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-23414 Filed 8-25-83; 8:45 am]

BILLING CODE 4310-MR-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Kerr-McGee Corp.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Kerr-McGee Corporation has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS-G 1528, Block 233, Ship Shoal Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 838-0519.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: August 19, 1983.

John L. Rankin,

Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-23430 Filed 8-25-83; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Pea Ridge National Military Park, Arkansas; Availability of Finding of No Significant Impact for the Visitor Use/Development Plan and Environmental Assessment

Pursuant to the National Environmental Policy Act of 1969, Title 40 of the Code of Federal Regulations, and Part 516 of the Departmental Manual, the National Park Service has prepared a Finding of No Significant Impact for the Visitor Use/Development Plan and Environmental Assessment for Pea Ridge National Military Park, Benton County, Arkansas.

The Visitor Use/Development Plan and Environmental Assessment inventories existing conditions at Pea Ridge National Military Park, identifies problems, presents a proposal and two alternatives for addressing those problems and discusses their environmental consequences.

Based on public review input received and on management decisions, the proposal has been selected as the plan of development. The proposal best provides for the repair and maintenance of existing facilities to upgrade operational and safety standards and for the development of new facilities and utilities for recreational use and interpretation of the park's resources, while assuring the preservation and management of the park's aesthetic values.

It is the conclusion of the National Park Service that the proposal is not a major Federal action that will significantly affect the human environment.

Therefore, an environmental impact statement will not be prepared. The National Park Service will proceed with development of comprehensive design plans and specifications, and implement the proposal as funds are available.

Copies of the Finding of No Significant Impact are available, upon request, from the Superintendent, Pea Ridge National Military Park, Pea Ridge, Arkansas 72751; and the Southwest Regional Office, National Park Service, Post Office Box 728, Santa Fe, New Mexico 87504.

Dated: August 12, 1983.

Robert Kerr,

Regional Director, Southwest Region.

[FR Doc. 83-23501 Filed 8-25-83; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-160]

Certain Composite Diamond Coated Textile Machinery Components; Investigation

AGENCY: International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337 and 19 U.S.C. 1337a.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on July 19, 1983, under section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, and under 19 U.S.C. 1337a, on behalf of Surface Technology, Inc., Box 2027, Princeton, New Jersey 08540. A supplement to the complaint was filed on August 4, 1983. The complaint alleges unfair methods of competition and unfair acts in the importation of certain composite diamond coated textile machinery components into the United States, or in their sale, by reason of alleged (1) infringement of the claims of U.S. Patent Re. 29,285; (2) infringement of the claim of U.S. Letters Patent No. 3,940,512; and (3) tying arrangements constituting unreasonable restraint of trade. The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy

or substantially injure an industry, efficiently and economically operated, in the United States or to restrain or monopolize trade and commerce in the United States.

The complainant requests that the Commission institute an investigation and, after a full investigation, issue both a permanent exclusion order and a permanent cease and desist order.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930 and in § 210.12 of the Commission's Rules of Practice and Procedure (19 CFR 210.12).

Scope of investigation: Having considered the complaint, the U.S. International Trade Commission, on August 17, 1983, ordered that:

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930 an investigation be instituted to determine whether there is a violation of subsection (a) of section 337 in the unauthorized importation of certain composite diamond coated textile machinery components into the United States, or in their sale, by reason of alleged: (1) Infringement of the claims of U.S. Patent Re. 29,285; (2) infringement of the claim of U.S. Letters Patent No. 3,940,512; and (3) tying arrangements constituting unreasonable restraint of trade, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States or to restrain or monopolize trade and commerce in the United States.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—

Surface Technology, Inc.,
Box 2027,
Princeton, New Jersey 08540

(b) The respondents are the following companies, alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Barmer Maschinenfabrik A.G., Leverkuser Strasse 65, 5630 Remscheid 11, Federal Republic of Germany

Elektroschmelzwerk Kempten GmbH, Herzon-Wilhelm-Strasse 16, 8000 Munich 33, Federal Republic of Germany

FAG Kugelficher Georg Schaefer & Co., Postfach 1260, 8720 Schweinfurt 2, Federal Republic of Germany

Schubert & Salzer Maschinenfabrik A.G., Friedrich-Ebert-Strasse 84,8070 Ingolstadt, Federal Republic of Germany

Schubert & Salzer Machine Works Co., P.O. Box 589, Pendleton, South Carolina 29670

W. Schlafhorst & Co., Blumenbergstrasse 143/43, 4050 Monchengladbach 1, Federal Republic of Germany

American Schlafhorst Co., Inc., 8801 South Boulevard, Charlotte, North Carolina 28224

American Barmag Corporation, P.O. Box 7046, Charlotte, North Carolina 28217

(c) Jeffrey L. Gertler, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, 701 E Street NW., Room 122, Washington, D.C. 20436, shall be the Commission investigative attorney, a party to this investigation; and

(3) For the investigation so instituted, Donald K. Duvall, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding officer.

Responses must be submitted by the named respondents in accordance with § 210.21 of the Commission's Rules of Practice and Procedure (19 CFR 210.21). Pursuant to §§ 201.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings.

The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Room 156, Washington, D.C. 20436, telephone 202–523–0471.

FOR FURTHER INFORMATION CONTACT: Jeffrey L. Gertler, Esq., Unfair Import Investigations Division, Room 122, U.S. International Trade Commission, telephone 202–523–4693.

By order of the Commission.

Issued: August 22, 1983.

Kenneth R. Mason,
Secretary.

[FR Doc. 83–23519 Filed 8–25–83; 8:45 am]
BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers. The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applicaitons may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common

control, fitness, water carrier dual operaitons, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property—that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier—that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker—that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the applicaiton later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly noted.

Please direct status inquiris about the following to Team Three (3) at (202) 275–5223

Volume No. OP3–387

Decided: August 16, 1983.

By the Commission, Review Board Members Dowell, Joyce, and Fortier.

MC 15735 (Sub-89), filed August 1, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Ave., Broadview, Il 60153. Representative: Joseph P. Tuohy, P.O. Box 4403, Chicago, IL 60680, (312) 681–8377. Transporting *Household goods,* between points in the U.S., under continuing contract(s) with Marmon Holdings, Inc., and its subsidiaries, of Chicago, IL.

MC 110325 (Sub-191), filed July 27, 1983. Applicant: TRANSCON LINES, P.O. Box 92220, Los Angeles, CA 90009. Representative: Jerome Biniasz, (same address as applicant), (213) 640–1800. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Lockheed Corporation and its subsidiaries, of Burbank, CA.

MC 125845 (Sub-1), filed July 26, 1983. Applicant: B. B. NASH TRUCKING, INC., Rt. 2, Box 12, Gladys, VA 24554. Representative: Paul D. collins, 7761 Lakeforest Dr., Richmond, VA 23235, (804) 745–0446. Transporting *lumber and wood products, forest products,* and *building materials,* between points in the U.S. (except AK and HI), under continuing contract(s) with (1) H.S. Nash Timber Corp., of Gladys, VA, (2) Holly Hill Forest Industries, Inc., of Holly Hill, SC, and (3) 84 Lumber Company, of Eighty Four, PA.

MC 138415 (Sub-30), filed July 28, 1983. Applicant: TRAILER EXPRESS, INC., P.O. Box 327, Topeka, IN 46571. Representative: Paul D. Borghesani, Suite 300, Communicana Bldg., 421 South Second St., Elkhart, IN 46516, (219) 293–3597. Transportaion *transporting equipment* and *prefabricated buildings,* between points in the U.S. (except AK and HI), under continuing contract(s) with persons who are engaged in business as manufacturers, distributors, and dealers of transportation equipment and prefabricated buildings.

MC 167834, filed July 28, 1983. Applicant: CUMBERLAND FARMS DAIRY INC., 777 Dedham St., Canton, MA 02021. Representative: Francis E. Barrett, Jr., 9 Riverview Rd., Hingham, MA 02043, (617) 749–6500. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AL, CT, DE, FL, GA, ME, MD, MA, NH, NJ, NY, NC, OH, PA, RI, SC, VT, VA, WV, and DC.

MC 169554, filed July 27, 1983. Applicant: JAMES MASON ENTERPRISES, INC., 3810 Bridgeport Circle, Wichita, KS 67219. Representative: Brad T. Murphree, 614 Century Plaza Bldg., Wichita, KS 67202, (316) 265–2634. Transporting *metal products* and *machinery,* between points in AR, CO, IA, IL, IN, KS, MN, MO, NE, NM, OK, SD, TX, and WY.

MC 169575, filed August 1, 1983. Applicant: EASTERN WASHINGTON DISTRIBUTORS TRUCKING DIVISION, INC., 214 South Fourth Ave., Yakima, WA 98902. Representative: Robert A. Donaldson (same address as applicant), (509) 575–8839. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AZ, CA, ID, MT, NV, OR, and WA.

Volume No. OP3–403

Decided: August 3, 1983.

By the Commission, Review Board Members Joyce, Williams, and Dowell.

MC 169275, filed July 15, 1983. Applicant: JOHN A. FRANK AND TWILA J. FRANK d.b.a. JEAN'S TRANSFER, 16 So. 72nd, Kansas City, KS 66111. Representative: Frank W. Taylor, Jr., 1221 Baltimore Ave., Suite 600, Kansas City, MO 64105, (816) 221–1464. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between those points in the U.S. in and east of ND, SD, NE, KS, OK and TX (except CT, RI, MA, NH, VT and ME).

Please direct status inquires about the following to Team Three (3) at (202) 275–5223.

Volume No. OP3–400

Decided: August 19, 1983.

By the Commission, Review Board Members Fortier, Dowell, and Carleton.

MC 15735 (Sub-95), filed August 5, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Richard V. Merrill, P.O. Box 4403, Chicago, IL 60680, (312) 681–8378. Transporting *household goods,* between points in the U.S. (except AK and HI), under continuing contract(s) with NUS Corporation, of Gaithersburg, MD, and its subsidiaries.

MC 65685 (Sub-21), filed August 3, 1983. Applicant: IMPERIAL VAN LINES,

INC., 2805 Columbia St., Torrance, CA 90503. Representative: Alan F. Wohlstetter, 1700 K St., NW., Washington, D.C. 20006, (202) 833–6884. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S., under continuing contract(s) with Imperial Van Lines International, Inc., of Torrance, CA and its subsidiaries and its affiliate, Thru Container International, Inc.

MC 124984 (Sub-76), filed August 3, 1983. Applicant: BOOTH TRANSPORT, INC., P.O. Box 265, Tavares, FL 32778. Representative: E. Stephen Heisley, 1919 Pennsylvania Ave., NW., Suite 500, Washington, DC 20006, (202) 828–5015. Transporting *food and related products* and *such commodities* as are dealt in or used by discount stores, between points in the U.S. (except AK and HI), under continuing contract(s) with the class of persons who are manufacturers, distributors and dealers of food and related products and such commodities as are dealt in or used by discount stores.

MC 133085 (Sub-22), filed August 4, 1983. Applicant: TRENCO, INCORPORATED, P.O. Box 697, Wiliamsport, PA 17701. Representative: E. Stephen Heisley, 1919 Pennsylvania Ave., NW., Suite 500, Washington, DC 20006, (202) 828–5015. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Newgate, Inc., of Williamsport, PA.

MC 162984 (Sub-1), filed July 28, 1983. Applicant: GO 98 CO., 820 East "D" St., Wilimington, CA 90744. Representative: David Zimmerman, P.O. Box 1564, York, PA 17405, (717) 854–3138. Transporting *general commodities* (except classes A and B explosives and household goods), between Creston, Belmont, Hickerson, McMinnville, Smartt, and Sparta, TN, Hamburg, Green Isle, Arlington, Gaylord, Gibbon, Winthrop, Morton, Franklin, Fairfax, Belview, Delhi, Redwood, Hazen Run, Wood Lake, Clarkfield, Echo, Madison, Dawson, Battle Lake, Underwood, Sawbill Landing, Cyrus, and Boyd, MN, Lundgren, Palm Grove, Harcourt, Dayton, Lanyon, Hope, Boxholm, Wolf, Frazer, Logansport, Boone, Napier, Huxley, Alleman, Voohies and Buckingham, IA, Oak Ridge, Brodenax, Dehlco, Archibald, Mangham, Wisher, Gilbert, Basking, Winnsboro, Chase, Peck, Sicily Island, Foules, Lee Bayou and Youngsville, LA, Rosinclare, Shelterville, Golconda, Homberg, Brownsville, Carpentersville, Dundee, North Henderson, and Woodhull, IL, Galina, AZ, Scalley and Grinnell, WA, Rich and Jonestown, MS, Brimfield, Duncan and Moon, IL, Manhattan Beach, Hermosa Beach, Redondo Beach, and Monson, CA, Alto, Wells and Pollok, TX, Rutherfordton, NC, McKinley, Brace, Fair Valley, Freedom, Edith, Lovedale, Selman and Buffalo, OK, Delisle, Abbottsville, and Edon, OH, Summerland, Gitano and Soso, MS, Dr. Phillips, FL, Dousman, Wales, Sullivan, London, Lake Mills, Helenville and Deerfield, WI, Rex, CO, Jonesboro, NC, Caseville, MI, Prince, Pioche and Panaca, NV, Maxine, Praco and Colta, AL, Mountain View and Winona, MO, Foraker, Benton, Topeka, Eddy, South Milford, Helmer, Hudson and Hamilton, IN, Olympia, Bayboro, Grantsboro, Alliance, NC, Lowrys, Dephia and McConnells, SC, Somerton, AZ, Oakfield and Warwick, GA, Hammonton, Egg Harbor, Woodbine, and Cape May, NJ, Palmerton, CT, and Brockway, MT, on the one hand, and, on the other, points in the U.S. (except AK and HI). Note: The purpose of this application is to substitute motor carrier for abandoned rail carrier service.

MC 169685, filed August 5, 1983. Applicant: DIANA TRUCK LINES, INC., 755 East 82nd Ave., Merrillville, IN 46410. Representative: Anthony E. Young, 29 South LaSalle Street, Suite 350, Chicago, IL 60603, (312) 782–8880. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between Chicago, IL, on the one hand, and, on the other, points in IN, KY, MI, IL, WI and OH.

MC 169694, filed August 5, 1983. Applicant: J. LEON WOLFE, P.O. Box 243, Phoenix, OR 97535. Representative: (Same as applicant), (503) 535–1898). Transporting *general commodities* (except classes A and B explosives, and household goods), between points in the U.S., under a continuing contract(s) with R & R Truck Brokers, Inc., of Medford, OR.

MC 169695, filed August 5, 1983. Applicant: NATIONAL TRUCKING & DISTRIBUTION, INC., 19 Pine Ave., Suite 508, Long Beach, CA 90802. Representative: Richard Stanton (same address as applicant), (213) 436–7880. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. under continuing contract(s) with Tech Trans Services Co., of Westminster, CA.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–23474 Filed 8–25–83; 8:45 am]

BILLING CODE 7035–01–M

[Volume No. OP1–354]

Motor Carriers; Proposed Exemptions

AGENCY: Interstate Commerce Commission.

ACTION: Notices of Proposed Exemptions.

SUMMARY: The motor carriers shown below seek exemptions pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property Under 49 U.S.C. 11343*, 367 I.C.C. 113 (1982), 47 FR 53303 (November 24, 1982).

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Joyce D. Lannon (202) 275–7992.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: August 22, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[No. MC–F–15278]

Gorski Bulk Transport Inc.—Purchase (Portion) Exemption—Olin Wooten Transport Co., Inc.

Gorski Bulk Transport, Inc. (MC–142268) and Olin Wooten Transport Co., Inc. (MC–150700) seek an exemption from the requirement under section 11343 of prior regulatory approval for acquisition by Gorski of a portion of the motor carrier operating rights of Olin Wooten, i.e. Certificate No. MC–150700 (Sub-No. 6X, paragraph D) authorizing the transportation of chemicals and related products between points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas, as well as the underlying authority in Sub-No. 1, paragraph 6 which authorizes the transportation of materials and supplies used in the manufacture of paint (except commodities in bulk).

Send comments to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423; and

(2) Petitioners' representative: William H. Shawn, Esquire, 1730 M Street, Northwest, Washington, DC 20036
Sol H. Proctor, Esquire, 1107 Blackstone Building, Jacksonville, FL 32202

Pleadings should refer to No. MC–F15278.

[No. MC–F–15380]

Taylor-Maid Tansportation, Inc.—Purchase Exemption—A & G Express, Inc.

Taylor-Maid Transportation, Inc. ("Buyer") MC–152180 (formerly Container Express, Inc.) files this petition pursuant to 49 U.S.C. 11343(e) seeking an exemption from the requirement under 49 U.S.C. 11343 of prior regulatory approval for its proposed purchase of the operating authority of A & G Express, Inc. ("Seller"), No. MC–146891. Buyer seeks to purchase from Seller, Sub-Nos. 3F, 4X, 5, and 6 certificates, which authorize common carrier irregular route transportation of (1) general commodities (except classes A and B explosives, household goods, and commodities in bulk, between points in the United States (except Oregon, Washington, Idaho, Montana, Wyoming, South Dakota, North Dakota, Alaska, and Hawaii), (2) general commodities (except classes A and B explosives) between points in the southern half of Georgia, on the one hand, and, on the other, points in the United States, and (3) nationwide contract carrier service authorizing the transportation of agricultural chemicals under continuing contract(s) with Helena Chemical Company, of Memphis, TN, and pulp, paper and related products and cellulose products, under continuing contract(s) with The Proctor & Gamble Paper Products Company of Cincinnati, OH. Both Buyer and Seller are controlled by the Fred Taylor Company, Inc., and upon consummation of the purchase of said operating authority, the common control of Buyer and Seller by the Fred Taylor Company, Inc. will continue.

Send comments to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423; and
(2) Petitioner's representative: Robert C. Boozer, Troutman, Sanders, Locherman, & Ashmore, 1400 Chandler Building, Atlanta, GA 30034.

Comments should refer to No. MC–F–15380.

[FR Doc. 83–23479 Filed 8–25–83: 8:45 am]
BILLING CODE 7035–01–M

[Ex Parte No. 417 and Ex Parte No. 417 (Sub-1)]

Rail Carriers; Costing Methodologies for the Northeast Corridor; Commuter Service and Conrail Freight Service

AGENCY: Interstate Commerce Commission.

ACTION: Denial of Petition to Reopen Proceeding.

SUMMARY: The Interstate Commerce Commission is denying a National Railroad Passenger Corporation (Amtrak) petition to reopen Ex Parte No. 417 *Costing Methodologies for the Northeast Corridor: Commuter Service.* (48 FR 9383, March 4, 1983) We do not perceive any need for modifying the methodology at this time and urge that Amtrak and other users of the Northeast Corridor negotiate the resolution of any disputes. However, if such negotiations fail we will consider changes to the final methodology.

FOR FURTHER INFORMATION CONTACT: Stephen Grimm, (202) 275–0839; or James Wells, (202) 275–0840.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision denying the Amtrak petition. For a copy of the denial, write to T. S. Infosystem, Inc. Room 2227, Interstate Commerce Commission, Washington, D.C. 20423 or call (202) 289–4357 or toll-free (800) 424–5403.

Decided: August 19, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 83–23478 Filed 8–25–83: 8:45 am]
BILLING CODE 7035–01–M

[Finance Docket No. 28640 (Sub-No. 9)]

Rail Carriers; Chicago, Milwaukee, St. Paul and Pacific Railroad Co.; Reorganization; Acquisition by Grand Trunk Corp.

AGENCY: Interstate Commerce Commission.

ACTION: Acceptance of Inconsistent Plans of Reorganization and scheduling of proceedings. Acceptance of responsive trackage rights applications. Notice of other responsive proposals.

SUMMARY: The Commission accepts the Inconsistent Plan of Reorganization of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW) filed under section 77 of the Bankruptcy Act and 49 U.S.C. 11343–4 by the Chicago and North Western Transportation Company (C&NW) and sets a procedural schedule. The Commission also accepts responsive trackage rights applications filed by C&NW and Green Bay and Western Railroad Company (GB&W). Also filed and accepted were responsive proposals by the Chicago Milwaukee Corporation (CMC), in the form of an inconsistent plan or reorganization, U.S. Department of Transportation (DOT), La Salle National Bank (LSNB), and Railway Labor Executives' Association (RLEA).

DATES: Verified statements in support or opposition of C&NW's Inconsistent Plan of Reorganization are due November 7, 1983. The complete procedural schedule is contained in the Commission's decision.

ADDRESSES: An original and 20 copies of all pleadings referring to Finance Docket No. 28640 (Sub-No. 9) should be sent to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

Copies should also be served on parties of record in Finance Docket No. 28640 (Sub-No. 9). A list of parties of record is available from the Secretary's Office at (202) 275–7999 for those persons who are not now parties of record. Current parties of record should use the existing service list as amended by pleadings received by new parties.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245; or Joseph C. Levin, (202) 275–7936.

SUPPLEMENTARY INFORMATION: A complete procedural schedule for consideration of C&NW's Inconsistent Plan of Reorganization and additional information are contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (D.C. Metropolitan area) or toll free (800) 424–5403.

C&NW's Inconsistent Plan of Reorganization, identified as Finance Docket No. 28640 (Sub-No. 9C), contemplates that the Reorganized MILW would be acquired by C&NW's wholly-owned subsidiary, Mid America Rail Properties, Inc. (MARP). C&NW also filed 4 related proposals. In Finance Docket No. 28640 (Sub-No. 9D), C&NW seeks an exemption under 49 U.S.C. 10505 from 49 U.S.C. 11343 for stock control and lease and operation of lines acquired by MARP. In MC–F–15231 (Sub-No. 1) C&NW seeks an exemption under 49 U.S.C. 10505 from 49 U.S.C. 11343 to acquire control of Milwaukee Motor Transportation Company. In Finance Docket No. 28640 (Sub-No. 9E),

C&NW and MARP seek an exemption under 49 U.S.C. 10505 from 49 U.S.C. 10901 to construct a rail line between Seymour and Allerton, IA. In Finance Docket No. 28640 (Sub-No. 9F), C&NW seeks an exemption under 49 U.S.C. 10505 from 49 U.S.C. 10903-4 to abandon approximately 1,100 miles of C&NW and MILW rail lines in Illinois, Iowa, Minnesota, Missouri and Wisconsin. The lines sought to be abandoned are identified in the Commission's decision.

CMC filed an Alternate Plan of Reorganiztion in Finance Docket No. 28640 (Sub.No. 9K) proposing that MILW be reorganized as an independent carrier. DOT, RLEA and LSNB propose modifications to the Trustee's Amended Plan of Reorganization relating to the satisfaction of certain claims.

C&NW and GB&W filed trackage rights applications in response to the Trustee's Amended Plan. In Finance Docket 28640 (Sub-No. 9G) C&NW seeks trackage rights over MILW lines from Shermer, IL to Milwaukee, WI to St. Paul, MN; New Lisbon to Necedah, WI: and Milwaukee to Canco, WI. In Finance Docket No. 28640 (Sub-No. 9H), C&NW seeks trackage rights over MILW's line between Madison and Portage, WI. In Finance Docket No. 28640 (Sub-No. 9I), C&NW seeks trackage rights over MILW's line between Wisconsin Rapids and Wausau, WI. In Finance Docket No. 28640 (Sub. No. 9J), C&NW seeks trackage rights over MILW lines from Clinton to Davenport to Fruitland to Seymour, IA. In Finance Docket No. 28640 (Sub-No. 9L), GB&W seeks trackage rights over MILW lines betwen Menominee, WI and Chicago, IL; and Tomahawk and Nekoosa/Port Edwards, WI.

CMC's Alternate Plan of Reorganization and the C&NW and GB&W trackage rights applications will be dealt with as part of the ongoing proceeding concerning the Grand Trunk Corporation's proposed acquisition of MILW, as to which a procedural order is being issued this day by the Administrative Law Judge.

Decided: August 22, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

Agatha L. Mergenovich,

Secretary

[FR Doc. 83-23475 Filed 8-25-83; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30244]

Rail Carriers; Baltimore and Ohio Railroad Co.; Abandonment Exemption in Cuyahoga County, OH

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of prior approval under 49 U.S.C. 10903 *et seq.* the abandonment by the Baltimore and Ohio Railroad Company of 0.98 miles of railroad in Cuyahoga County, OH, subject to conditions for the protection of employees.

DATES: This exemption is effective on September 26, 1983. Petitions to stay must be filed by September 5, 1983; and petitions for reconsideration must be filed by September 15, 1983.

ADDRESS: Send pleadings referring to Finance Docket No. 30244 to:

(1) Office of Secretary, Interstate Commerce Commission, Washington, D.C. 20423

(2) Petitioner's representative: Peter J. Shudtz, Baltimore and Ohio Railroad Company, P.O. Box 6419, Cleveland, OH 44101

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423 or call 289-4357 (D.C. Metropolitan area) or toll free (800) 424-5403.

Decided: August 17, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison. Vice Chairman Sterrett and Commissioner Andre would not impose a deadline on consummation of the exempted transaction.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-23477 Filed 8-25-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

[Order No. 1028-83]

Single Audit Concept for Grant Recipients

AGENCY: Justice.

ACTION: Notice.

Grant recipients that are State and local governments and Indian tribal governments are under an obligation to comply with the requirements concerning non-Federal audits of such governments, as set forth in Office of Management and Budget (OMB) Circular A-102, Attachment P, including any applicable amendments to those requirements published in the **Federal Register** by OMB.

Grant recipients that are institutions of higher education and other non-profit organizations are under an obligation to comply with the requirements concerning non-Federal audits of such organizations, as set forth in OMB Circular A-110, including any applicable amendments to those regulations published in the **Federal Register** by OMB.

FOR FURTHER INFORMATION CONTACT: Guy K. Zimmerman, Director, Audit Staff, Justice Management Division, Department of Justice, Washington, D.C. 20530. (703-756-6121).

Dated: August 18, 1983.

Edward C. Schmults,

Acting Attorney General.

[FR Doc. 83-23480 Filed 8-25-83; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget (OMB)

Background

The Department of Labor, in carrying out its responsibility under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the proposed forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency forms under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new forms, revisions, extensions (burden change), extensions (no change), or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of any particular revision they are interested in. Each entry will contain the following information:

The Agency of the Department issuing this form.

The title of the form.

The Agency form number, if applicable.

How often the form must be filled out.

Who will be required to or asked to report.

Whether small business or organizations are affected.

The standard industrial classification (SIC) codes, referring to specific respondent groups that are affected.

An estimate of the number of responses.

An estimate of the total number of hours needed to fill out the form.

The number of forms in the request for approval.

An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, Telephone 202–523–6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S–5526, Washington, D.C. 20210. Comments should also be sent to the OMB reviewer, Arnold Strasser, Telephone 202–395–6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, NEOB, Washington, D.C. 20503.

Any member of the public who wants to comment on a form which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

Extension (burden change)

Bureau of Labor Statistics

Current Monthly Report on Employment, Payroll and Hours—BLS 790

Monthly

Nonagricultural establishments

Small business affected

SIC: 074, 075, 078, 10–17, 20–86, 89, 91–97, and 99

2,328,000 responses; 383,000 hours; 13 forms

The BLS 790 program provides Current Monthly Employment, Hours, and Earnings by Industry. Data provided are fundamental inputs in the economic decision process at all levels of government, private enterprises, and organized labor. The estimates are vital to the calculation of the Gross National Product and to the Federal Reserve Board's index of industrial production.

Signed at Washington, D.C. this 23rd day of August, 1983.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 83–23510 Filed 8–25–83; 8:45 am]

BILLING CODE 4510–24–M

Employment and Training Administration

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance; Park-Ohio Industries, Inc., et al.

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period August 15, 1983–August 19, 1983.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) that a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) that sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–13,998; Park-Ohio Industries, Inc., Tocco Div., Cleveland, OH

TA–W–14,595; Recticel Foam Corp., Buffalo, NY

TA–W–14,455; American Tool White-BSA, Cincinnati, OH

TA–W–14,411; Lehigh Structural Steel Co., Allentown, PA

TA–W–13,890; Hordis Brothers, Inc., St. Louis, MO

TA–W–13,849; Calef and Shenkman, Inc., New York, NY

TA–W–14,395; Mount Vernon Mills, Inc., Tallassee Div., Tallassee, AL

TA–W–14,416; Cuddle Teen Frocks, Inc., Jersey City, NJ

TA–W–14,220; U.S. Steel Corp., Christy Park Plant, McKeesport, PA

In the following cases the investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to workers separations at the firm.

TA–W–14,499; Ameron, Inc., Protective Coatings Div., Buffalo, NY

TA–W–14,491; GTE Products Corp., Montoursville, PA

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA–W–14,543; Haught, Inc., Parkersburg, WV

Aggregate U.S. imports of petroleum did not increase as required for certification.

TA–W–14,369; Hoover Universal, Inc., Ball & Roller Div., Erwin, TN

Aggregate U.S. imports of metal balls and rollers did not increase as required for certification.

Affirmative Determinations

TA–W–13,984; The Timken Co., Canton Steel Mill, Canton Bearing Plant, Canton, OH

A certification was issued covering all workers separated on or after November 9, 1981 and before January 1, 1983.

TA–W–14,456; Asarco, Inc., Hayden Plant, Hayden, AZ

A certification was issued covering all workers separated on or after January 1, 1983.

TA–W–14,457; Asarco, Inc., Mission Unit, Sahuarita, AZ

A certification was issued covering all workers separated on or after August 1, 1982.

TA–W–13,904; Putnam Manufacturing Co., North Grosvenordale, CT

A certification was issued covering all workers separated on or after October 1, 1982.

TA–W–14,387; Brunswick Manufacturing Co., Brunswick, GA

A certification was issued covering all workers separated on or after October 1, 1982.

TA–W–14,482; Playland Industries, New York, NY

A certification was issued covering all workers separated on or after October 1, 1982.

TA–W–13,995; Jones & Laughlin Steel Corp., Indiana Harbor Works, East Chicago, IN

A certification was issued covering all workers engaged in employment related to the production of hot rolled sheet and strip, cold rolled sheet and strip, seamless pipe and basic steel and semi-finished steel (blooms, billets, slabs and tube rounds) separated on or after November 16, 1981.

I hereby certify that the aforementioned determinations were issued during the period August 15, 1983–August 19, 1983. Copies of these determinations are available for inspection in Room 9120, U.S. Department of Labor, 601 D Street NW., Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: August 23, 1983.

Glenn M. Zech,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 83-23515 Filed 8-25-83; 8:45 am]

BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance; Alaric Textile International, Inc., et al.

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 5, 1983.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 5, 1983.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213.

Signed at Washington, D.C. this 22nd day of August 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Alaric Textile International Corp. (workers)	New York, NY	8/12/83	8/8/83	TA-W-14,913	Polyester fabrics.
Amity Lamp Corp. (OCAW)	Perth Amboy, NJ	8/16/83	8/12/83	TA-W-14,914	Various electric lamps.
Anchor Die Supply (workers)	Fraser, Michigan	8/16/83	8/12/83	TA-W-14,915	Die shoes, plate burning, grinding and machining.
Atari, Inc. (workers)	Somerset, NJ	8/12/83	7/27/83	TA-W-14,916	Video games and home computers.
Birdsboro Corp., Reading plant (USWA)	Reading, PA	8/12/83	8/11/83	TA-W-14,917	Machining and assemble machinery for steel industry.
Burton Shipyard (workers)	Pt. Arthur, Texas	8/16/83	8/11/83	TA-W-14,918	Tuna boats.
Calgon Carbon Corp., Big Sandy plant (USWA)	Catlettsbury, KY	8/16/83	8/15/83	TA-W-14,919	Carbon products.
Camp Branch Coal Co. (workers)	Lyburn, WV	7/29/83	7/22/83	TA-W-14,920	Metallurgical coal mining.
Caroline Pacific Knitwear, Inc.	Statesville, NC	8/9/83	7/27/83	TA-W-14,921	Men's, boys and ladies' sportswear-knit shirts.
Cascade Corp. (Cascade Independent Union)	Springfield, Ohio	8/15/83	8/10/83	TA-W-14,922	Hydraulic cylinders.
Cerro Cooper Tube Co. (IAMAW)	Cleveland, Ohio	8/17/83	8/15/83	TA-W-14,923	Industrial copper tubbing.
Clark Equipment Co. (UAW)	Buchanan, Michigan	8/16/83	8/10/83	TA-W-14,924	Axles.
Cooper Industries, Petroleum Equipment Div. (USWA)	Sunnyvale, Texas	8/4/83	8/2/83	TA-W-14,925	Mud pumps, rotary tables, and boom type cranes.
C.P. & M Corp. (workers)	Akron, Ohio	8/16/83	8/9/83	TA-W-14,926	Tote bags, back packs, roll bags, soft luggage and headwear.
Dresser Industry Corp., Industrial Tool Div. (wkrs)	Springfield, Ohio	8/1/83	7/27/83	TA-W-14,927	Tube expanders and cleaners.
Lesco Trucking Co., Inc. (workers)	Lone Star, Texas	8/15/83	8/5/83	TA-W-14,928	Transportation and warehousing facility for Lone Star Steel.
Metcoa, Inc. (workers)	Solon, Ohio	8/5/83	7/27/83	TA-W-14,929	Custom alloys and metals (specialty metals).
Oak Communications Systems—Div. of Oak Industry (Company).	Carlsbad, CA	8/15/83	7/27/83	TA-W-14,930	Cable TV converters.
Rich Creek Mining Co. (workers)	Man, WV	8/11/83	8/8/83	TA-W-14,931	Mine and metallurgical coal.
Robbins & Myers, Inc. (workers)	Foley, AL	8/11/83	8/9/83	TA-W-14,932	Hunters' ceiling fans.
Robbins & Myers, Inc., Comfort Conditioning Div. (company).	Memphis, Tenn	8/16/83	8/4/83	TA-W-14,933	Residential and commercial ceiling fans.
Sandusky Foundry & Machine Co., Inc. (IAMAW)	Sandusky Ohio	8/11/83	8/1/83	TA-W-14,934	Centrifugal casting cylinders.
Excalibur Coal Co. (workers)	Madison, WV	8/9/83	7/21/83	TA-W-14,935	Coal mining.
Isaacson Steel Co. (Iron Worker's Shopmen Union) (workers).	Seattle, WA	8/11/83	8/9/83	TA-W-14,936	Fabricate and erect fabricated structural steel.
Revenware Company (workers)	Brooklyn, NY	8/16/83	8/1/83	TA-W-14,937	Displays centers—for advertisement—metal and wire products.
T & N Fabricators, Inc. (workers)	Lone Star, Texas	8/15/83	8/5/83	TA-W-14,938	Fabrication and machine shop.
Texas & Northern Railway Co. (company)	Lone Star, Texas	8/15/83	8/5/83	TA-W-14,939	Transportation of products and production materials for Lone Star Steel.
Twin Manufacturing Company (workers)	Bayshore, New York	8/15/83	8/10/83	TA-W-14,940	Men's jackets and vests.
W. R. Case & Sons Cutlery Company (IAMAW)	Bradford, PA	8/15/83	8/10/83	TA-W-14,941	Knives—pocket, lock hunting, throwing, steak, sheers and scissors.

[FR Doc. 83-23514 Filed 8-25-83; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-14,857]

General Motors Corp., Fisher Body Division, Trenton, N.J.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on July 25, 1983, in response to a petition received on July 18, 1983, which was filed by the United Automobile, Aerospace and Argicultural Workers of America (U.A.W.) on behalf of workers and former workers at 26 Fisher Body Division plants and facilities, including the Trenton, New Jersey plant (TA-W-14,857). Workers at the Trenton, NJ plant produce fabricated automotive hardware items for GM cars.

On September 14, 1982, a petition was filed by the local union of U.A.W. on behalf of the same group of workers (TA-W-13,823).

Since the identical group of workers is the subject of an ongoing investigation

(TA-W-13,823), a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 18th day of August 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 83-23513 Filed 8-25-83; 8:45 am]
BILLING CODE 4510-30-M

[TA-W-14,590]

Kennecott Minerals Co., Nevada Mines Division, Ruth, Nevada; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on April 18, 1983 in response to a petition received on February 14, 1983 which was filed by the United Steelworkers of America on behalf of workers at Kennecott Minerals Company, Nevada Mines Division, Ruth, Nevada. No public hearing was requested and none was held.

All workers were separated from the subject firm more than one year prior to the date of the petition. Section 223 of the Act specifies that no certification may apply to any worker whoselast separation occured more than one year before the date of the petition. Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, D.C. this 18th day of August 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 83-23512 Filed 8-25-83; 8:45 am]
BILLING CODE 4510-30-M

Occupational Safety and Health Administration

Construction Safety and Health Advisory Committee; Meeting

Notice is hereby given that the Advisory Committee on Construction Safety and Health, established under Section 107(e) of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) and Section 7(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656) will meet on September 13, 1983 in Room S4215 and on September 14, in Room N3437 of the Department of Labor Building, 300 Constitution Avenue, NW., Washington, D.C. 20210. The meeting is open to the public and will begin at 9:30 a.m.

The agenda for the meeting will include a discussion of fatality/catastrophe investigations, a discussion of targeting inspections in the construction industry, and a general discussion of construction safety and health matters.

Written data, views or comments may be submitted, preferably with 20 copies to the Division of Consumer Affairs. Any such submission received prior to the meeting will be provided to the members of the Committee and will be included in the record of the meeting.

Anyone wishing to make an oral presentation should notify the Division of Consumer Affairs before the meeting. The request should state the amount of time desired, the capacity in which the person will appear, and a brief outline the content of the presentation.

Oral presentations will be scheduled at the discretion of the Chairman depending on the extent to which time permits. Communications may be mailed to Ken Hunt, Committee Management Officer, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N-3635, Washington, D.C. 20210; Telephone: 202-523-8024.

Material provided to members of the Committee are available for inspection and copying at the above address.

Signed at Washington, D.C., the 18th day of August 1983.

Thorne G. Auchter,

Assistant Secretary.

[FR Doc. 83-23511 Filed 8-25-83; 8:45 am]
BILLING CODE 4510-26-M

Office of Pension and Welfare Benefit Programs

John Hancock Mutual Life Insurance Co.; Proposed Exemptions

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. Attention: Application No. stated in the Notice of Pendency. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

Notice to Interested Persons

Notice of the proposed exemption will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing.

SUPPLEMENTARY INFORMATION: The proposed exemption was requested in an application filed pursuant to section 40.8(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

The application contains representations with regard to the proposed exemption which is summarized below. Interested persons are referred to the application on file with the Department for a complete statement of the facts and representations.

John Hancock Mutual Life Insurance Company Pension Plan Located in Boston, Massachusetts (Application No. D-3998)

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975 (c) (2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406 (a), (b) (1) and (b) (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975 (c)(1) (A) through (E) of the Code shall not apply effective September 9, 1983 to the acquisition, holding or redemption of a limited partnership interest in the John Hancock Venture Capital Fund Limited Partnership (the Fund) by the John Hancock Mutual Life Insurance Company Pension Plan (the Plan).

EFFECTIVE DATE: If the proposed exemption is granted, the exemption will be effective on September 9, 1983.

Summary of Facts and Representations

1. John Hancock is a mutual life insurance company organized under the laws of the Commonwealth of Massachusetts. It is one of the largest life insurance companies in the United States and is authorized to transact the business of insurance in all fifty states, the District of Columbia and Puerto Rico.

2. John Hancock has established the Plan to provide retirement benefits for its home office and district agency employees. As of December 31, 1981, the Plan covered 22,548 participants, including active employees and retired or terminated employees with vested benefits. Investment decisions are made by the Employee Benefit Plan Committee (the Committee) which is comprised of officers and directors of John Hancock. The Plan is primarily funded by an Immediate Participation Guarantee type of annuity contract (IPG Contract) issued by John Hancock in its capacity as an insurer to John Hancock as the sponsoring employer of the Plan. The terms and conditions of this contract are generally the same as those contained in similar contracts issued by John Hancock to pension plans of unrelated employers. The IPG Contract permits John Hancock, as employer, to allocate contributions to and among the investment accounts (including the general account and the several classes of its pooled separate account) which John Hancock as insurer, has established or may in the future establish.

3. It was originally contemplated that any venture capital investment to be made by the Plan would be through the creation of a new class of pooled separate account under the IPG Contract. However, as a result of certain limitations on separate account investments under state law, the alternative of a limited partnership has been adopted as the most workable vehicle. The Fund, a Massachusetts limited partnership, has been formed to provide a pooled investment vehicle for certain sophisticated investors (such as pension plans or endowment funds) desiring to make venture capital investments. The offering of limited partnership interests (Interests) in the Fund will not be registered under the Securities Act of 1933 (the Securities Act) or any other securities law. Interests will be offered for investment only to selected recipients of a private placement memorandum (the Memorandum) pursuant to the exception for the registration requirements of the Securities Act provided by section 4(2) thereof. The Memorandum has been placed in circulation with an initial offering of $100,000,000 (subject to increase not to exceed $150,000,000). The Fund has received subscriptions from third party investors exceeding the $100,000,000 initial offering.

The Fund will be operated pursuant to an Amended and Restated Limited Partnership Agreement (the Agreement). The Fund has become operational based on the receipt of the initial capital contributions of third party investors. The Agreement provides that the Plan must elect to participate in the Fund by a date not later than 270 days from the execution date of the Agreement. Based on this provision, the applicant represents that a decision regarding the Plan's participation in the Fund must be made no later than September 9, 1983. Accordingly, the applicant has requested that the effective date of this exemption be September 9, 1983. The Agreement provides that the primary objective of the Fund will be to provide a superior investment return through a carefully selected portfolio of investments in other venture capital limited partnerships (⅘ of the Fund) and directly in emerging privately held operating companies (⅕ of the Fund). The sole general partner of the Fund will be the Manager, a Delaware Corporation and an indirect wholly-owned subsidiary of John Hancock. The staff of the Manager will include the officers of John Hancock who have been primarily responsible for its investments in the venture capital area. Manager is registered as an investment advisor under the Investment Advisors Act of 1940, as amended. The Manager will have full discretionary authority over the management of the Fund. The Agreement provides that limited partners in the Fund will make capital contributions (a minimum of $1,000,000) in three installments. An initial payment of 35 percent of capital contribution upon subscription, 35 percent on December 15, 1983 and the remaining 30 percent on December 14, 1984. The Fund would be in existence for a 10 year period from the date of the final capital contribution, subject to extension by the general partner for not more than three years. The Manager will invest in the Fund an amount equal to at least one percent of the Fund's total capitalization.

For its services to the Fund, the Manager will receive an annual management fee paid in quarterly installments which, on an annual basis, aggregates to one percent of the capital commitment of the respective limited partners to the Fund. The Manager will not receive an override or performance fee on the capital gains to the Fund. However, to the extent that the Fund invests in other venture capital partnerships, it will bear whatever override or performance fee is charged by the managers of such partnerships.

Based on its nature as a private placement investment not subject to the Securities Act, the transferability of the Interests will be restricted and limited partners should not anticipate liquidating their investment prior to termination of the Fund. Upon a termination of the limited partnership, the investments in the Fund will be reduced to cash and cash equivalent items subject to the obtaining of fair market value for such assets. After the payment of dissolution expenses and satisfaction of liabilities, the limited partners will receive distribution based on the values assigned to their respective Interests.

4. The Fund expressly acknowledges the possible investment by the Plan and provides that payment of the management fee may be waived for the Plan. It is the intention of John Hancock to pay this fee on behalf of the Plan should this proposed exemption be granted. The Committee has determined that a Plan investment in the Fund would serve to increase the flexibility and diversity of the Plan's investments. Accordingly, this exemption is being sought to permit an investment not to exceed five percent of the Plan's assets in the Fund.

5. To accommodate the Fund investment and other possible investments not permitted under the IPG Contract, the Plan would be amended to authorize the Plan to appoint a trustee to hold such investments. A bank not affiliated with John Hancock would be appointed as trustee. Under the trust agreement between John Hancock and such bank, the trustee would be expected to invest such amounts as would be allocated to the trust in accordance with instructions provided by the Committee. The trustee would, as required under the Act, determine that a particular investment is prudent, in accordance with the plan instruments, and in the best interests of the Plan participants before complying with such instructions.

6. The applicant argues that but for certain technical problems under state law which prevents the use of a separate account for a venture capital fund, the investment would be exempted from the prohibited transaction provisions by section 408(b)(5) and (8) of the Act. The applicant suggests that the Congressional policy underlying these exemptions argues in favor of using a company's own products (or the products of an affiliated company) for its own employee benefit plans. The applicant also suggests that it would be contrary to normal business practices for an in-house insurance plan to have investments approved by someone they compete with in the investment marketplace. The applicant points out that the Department granted comparable relief to the mutual fund industry in Prohibited Transaction Exemption (PTE) 77–3 (42 FR 18732, April 8, 1977) for the acquisition and sale of shares of a registered open-end investment company by a plan covering the employees of the investment company or its investment advisor or principal underwriter. The applicant also argues that if not permitted to invest in the Fund, investments in venture capital must either be with a competitor or, if the investment is made directly, at a potential conflict with the Fund because of similar investment goals between the Plan and the Fund. The applicant agrees to abide by the conditions of PTE 77–3 which require in the instant case that the investment be made at no cost to the Plan and that all dealings between a Plan and John Hancock or the Manager be on terms no less favorable to the Plan than such dealings are with other limited partners in the Fund.

7. In summary, the applicant has represented that the proposed transaction meets the statutory criteria for an exemption under section 408(a) of the Act because: (a) The Plan does not pay any sales commission, investment management, investment advisory or similar fee to the Manager or any other related person for participation in the Fund, (b) all dealings between the Plan and the Manager will be on a basis no less favorable to the Plan than such dealings are with other limited partners in the Fund, (c) the investment by the Plan will not exceed five percent of Plan assets, (d) it permits the Plan to diversify its investments without dealing with a competitor or investing at a potential conflict with the Manager based on its responsibilities to the Fund, and (e) the Committee has determined that the investment in the Fund is in the best interest of the participants and beneficiaries of the Plan.

FOR FURTHER INFORMATION CONTACT: Paul R. Antsen of the Department, telephone (202) 523–6915. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 23rd day of August 1983.

Jeffrey N. Clayton,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 83-23510 Filed 8-25-83; 8:45 am]
BILLING CODE 4510-29-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel Meetings

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, D.C. 20506:

Date: September 14–15, 1983
Time: 9:00 a.m. to 5:00 p.m.
Room: 315
Program: This meeting will review applications submitted for the Exemplary Projects and Teaching Materials Programs, Division of Education Programs, for projects beginning after January 1, 1984.

Date: September 26–27, 1983
Time: 9:00 a.m. to 5:00 p.m.
Room: 315
Program: This meeting will review applications submitted to Basic Research: Archaeology and Material Studies Panel, Division of Research Programs, for projects beginning after January 1, 1984.

Date: September 30, 1983
Time: 8:30 a.m. to 5:00 p.m.
Room: M07
Program: This meeting will review applications submitted to Basic Research Humanities, Science & Technology and Philosophy Panels, Division of Research Programs, for projects beginning after January 1, 1984.

The proposed meetings are for the purpose of panel review, discussion evaluation and recommendation on

applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and priviledged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and (3) information the disclosure of which would significantly frustrate implementation of proposed agency action; pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meeting will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, D.C. 20506:

Date: September 9, 1983
Time: 8:30 a.m. to 5:00 p.m.
Room: M07
Program: This meeting will be convened to advise the Endowment on new guidelines for its Programs in Museum's and Historical Organizations, and will be open to the public.

Further information about these meetings can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506, or call (202) 786–0322.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 83–23439 Filed 8–25–83; 8:45 am]

BILLING CODE 7536-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 13450; 812–5539]

American Leaders Fund, Inc.; Filing of Application

August 22, 1983.

Notice is hereby given that American Leaders Fund, Inc. ("Leaders Fund"), Federated High Income Securities, Inc. ("High Income Fund"), Federated Tax-Free Income Fund ("Tax-Free Fund"), Fund for U.S. Government Securities ("Government Fund"), Government Money Market Instruments Trust ("Trust"), Money Market Instruments Trust ("Money Market Trust"), Money Market Management ("Management Fund"), Tax-Free Instruments Trust ("Tax-Free Trust"), other funds advised by subsidiaries of Federated Investors, Inc. ("Federated Funds") and other funds advised by investment advisers which are not subsidiaries of Federated Investors, Inc. ("Non-Federated Funds"), all of which are sold through broker-dealers which are or may become a party to dealer agreement with Federated Securities Corp. ("Federated") (collectively, "Applicants"), 421 Seventh Avenue, Pittsburgh, PA 15219, filed an application on May 4, 1983, and amendments thereto on June 13 and July 20, 1983, requesting an order of the Commission, pursuant to Section 11(a) of the Investment Company Act of 1940 ("Act") approving certain proposed offers of exchange on a basis other than relative net asset value, and pursuant to Section 6(c) of the Act exempting Applicants from the provisions of Section 22(d) of the Act and Rule 22d–1 thereunder in connection with those proposed exchanges. All interested persons are referred to the application on file with the Commission for a statement of the representations therein, which are summarized below, and to the Act and the rules thereunder for the text of the applicable sections and rules.

Applicants state that each of the Applicants other than Federated is registered under the Act as an open-end investment company and that Federated, which is registered as a broker-dealer under the Securities Act of 1934, serves as the principal distributor for the Federated Funds, and maintains a continuous public offering of their shares at their current public offering price. According to the application, shares of the Trust, Money Market Trust, Tax-Free Trust and Management are sold without a sales charge ("No-Load Funds"). It is further stated that shares of the Government Fund and Tax-Free Fund are sold with a maximum sales load of 4.5% ("Low Load Funds") and that shares of the Leaders Fund and High Income Fund are sold with a maximum sales load of 6.5% ("High Load Funds").

According to the application, since April 28, 1983, Applicants have permitted certain exchanges of shares among the Federated and Non-Federated Funds on the basis of net asset value and subject to a $10,000 per exchange minimum. Applicants now propose to permit: (1) The High Load Funds and Federated to offer shares of the High Load Funds in exchange for shares of the Low Load Funds, including reinvested shares, on the basis of relative net asset value, plus the difference between the sales charge applicable to purchases of the High Load Funds and the sales charge already paid for shares of the Low Load Fund; (2) the High Load Funds and Federated to offer shares of the High Load Funds in exchange for shares of the No-Load Funds, including reinvested shares (where such shares were acquired in a prior exchange, at net asset value, for shares of Low Load Fund) on the basis of relative net asset value, plus the difference between the sales charge applicable to purchases of the High Load Funds and the sales charge already paid on the original shares; (3) shareholders of other Federated and Non-Federated Funds having no sales load to exchange their shares, including reinvested shares, for shares of each High Load or Low Load Fund at relative net asset value plus the sales load applicable to the Fund into which the shares are to be exchanged; (4) any Federated Fund having a sales load, to offer, together with Federated, to exchange its shares for shares of a Federated Fund having a lower sales load, including reinvested shares, at relative net asset value plus the differences between the sales load of the Fund into which the shares are to be exchanged and the lower sales load already paid on the shares to be exchanged; (5) and Federated Fund having a sales load, to offer, together with Federated, to exchange its shares for shares of certain Federated, and Non-Federated Funds which have executed a dealer agreement with Federated, and which have no sales load, including reinvested shares (where such shares were acquired in a prior exchange, at net asset value, of shares of a Federated Fund having a lower sales load than the Federated Fund into which the shares are to be exchanged) at net asset value plus the difference between the sales load of the Fund into which the shares are to be exchanged and the lower sales load paid initially; and (6) shareholders of each No-Load Fund to exchange their shares, including reinvested shares, for shares of certain Federated Funds which charge a sales load, at net asset value plus the sales load applicable to the Fund into which the shares are to be exchanged.

Applicants state that the proposed exchanges described above at relative net asset value plus a sales charge would violate Section 11(a) of the Act unless an order is issued approving such

exchanges. Moreover, Applicants submit that imposition of a reduced sales charge in certain proposed exchanges involving the Low Load and High Load Funds might be deemed to violate Section 22(d) of the Act absent an exemptive order under Section 6(c) of the Act.

Applicants state that they do not believe Section 22(d) of the Act and the rules thereunder or Section 11(a) of the Act would prohibit the proposed exchanges described in sub-paragraphs (3) and (6) above. Nevertheless, Applicants determined it would be prudent to seek the requested relief should those sections be interpreted to prohibit the proposed exchanges without an appropriate order of the Commission.

In support of the relief requested, Applicants state that a shareholder acquiring shares of any Load Fund through any combination of exchanges or purchase of shares of No-Load Funds or funds having different loads, would pay the same overall sales charge as a proportion of the public offering price that he would have paid had he directly purchased shares of one of the Load Funds. Applicants assert that in the case of the High Load, Low Load and the No-Load Funds, the maximum sales charge payable on such an exchange would be 2.0% of the amount exchanged because that percentage is the maximum difference between the sales charge payable on shares of the High Load Funds and that payable on shares of the Low Load Funds. Applicants propose further that in the event a shareholder desires to make any of the exchanges covered by this application, the shareholder will be obligated to inform Federated that his shares may be exchanged at relative net asset value without sales charge or that they qualify for a reduction in the sales charge.

Finally, Applicants assert that the financial incentives to sales representatives to recommend exchanges are minimal since shareholders will receive credit for all sales loads paid prior to an exchange. To demonstrate, Applicants state that an investor exchanging from a Low Load Fund into a High Load Fund will receive credit for the 4.5% sales load already paid and will pay only the difference in sales loads (2%) on the shares received in the exchange. It is further stated that on any additional exchanges, the shareholder will receive credit for the total 6.5% sales load he has already paid. Since 6.5% is the maximum sales load, Applicants submit the shareholder will pay no further sales load in future exchanges. Applicants further represent that Federated, the principal distributor of the Federated Funds, will monitor its sales representatives to insure that exchanges are not initiated for any sales representative's personal gain.

Notice is further given that any interested person wishng to request a hearing on the application may, not later than September 16, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-23528 Filed 8-25-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 23039; 70-6893]

Appalachian Power Co.; Proposed Issuance and Sale of First Mortgage Bonds and Preferred Stock

August 22, 1983.

Appalachian Power Company ("Appalachian"), 40 Franklin Road, S.W., Roanoke, Virginia 24011, an electric utility subsidiary of American Electric Power Company, Inc., a registered holding company, has filed an application-declaration with this Commission pursuant to Sections 6(b) and 12(c) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 42 and 50 promulgated thereunder.

Appalachian proposes to issue and sell, in one or more transactions from time to time through December 31, 1983, up to $90 million aggregate principal amount of its first mortgage bonds, in one or more new series, each with a maturity of not less than 5 years and not more than 30 years. The terms will be determined by competitive bidding. Appalachian may employ alternative competitive bidding procedures in accordance with the Commission's statement of policy set forth in HCAR No. 22623 (September 2, 1982). The bonds will be issued under Appalachian's Mortgage and Deed of Trust dated as of December 1, 1940, as supplemented and amended and as to be further suplemented and amended.

Appalachian also proposes to issue and sell up to 1,200,000 shares of a new series of its no par value cumulative preferred stock with an involuntary liquidation price of $25 per share. The maximum principal amount of bonds to be issued will be reduced by the aggregate involuntary liquidation price of any cumulative preferred stock issued. The price to be paid to the company will be $25 per share, and the terms will be determined by competitive bidding. A cumulative sinking fund may be provided for. Appalachian may employ alternative competitive bidding procedures in accordance with the Commission's statement of policy set forth in HCAR No. 22623 (September 2, 1982).

Applachian states that if market conditions should not be propitious for the sale of the bonds and/or the cumulative preferred stock on a competitive bidding basis, the company intends either to place them privately with institutional investors or to negotiate with underwriters for their sale. If Appalachian determines to issue the bonds in more than one series, it may sell one or more series on a competitive bidding basis and one or more series on a negotiated basis.

It is stated that the proceeds of the bonds and cumulative preferred stock will be used to repay unsecured short-term indebetedness of the company consisting of short-term notes and commercial paper, to repay maturing lone-term debt, to reimburse the company's treasure for expenditures incurred in connection with its construction program, and for other corporate purposes.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by September 15, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant-declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who só requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued. After said date, the application-declaration, as filed or as it may be

amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegted authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-23525 Filed 8-25-83; 8:45 am]

BILLING CODE 8010-01-M

[File No. 22-12398]

NL Industries, Inc.; Application and Opportunity for Hearing

August 22, 1983.

Notice is hereby given that NL Industries, Inc. ("NL") has filed an application pursuant to clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Commission that the trusteeship of Bankers Trust Company under an indenture dated as of August 15, 1982 (the "Qualified Indenture") between NL and Bankers Trust Company which was heretofore qualified under the Act, and the trusteeship by Bankers Trust under an indenture dated as of December 1, 1982 between Lake Charles Harbor and Terminal District, and Bankers Trust Company as Trustee (the "New Indenture"), are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Bankers Trust Company from continuing to act as Trustee under the Qualified Indenture were it to act as Trustee under the New Indenture.

Section 310(b) of the Act, which is included in Section 608 of the Qualified Indenture, provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in this section), it shall within ninety days after ascertaining that it has such conflicting interest either eliminate such conflicting interest or resign. Subsection (1) of this section provides, with certain exceptions stated therein, that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities, or certificates of interest or participation in any other securities of NL are outstanding.

The present application, filed pursuant to clause (ii) of Section 310(b)(1) of the Act (as set forth in Section 608 of the Qualified Indenture), seeks to exclude the New Indenture from the operation of Section 310(b)(1) of the Act.

The effect of the provisions contained in clause (ii) of Section 310(b)(1) of the Act on the matter of the present application is such that the New Indenture may be excluded from the operation of Section 310(b)(1) of the Act (as set forth in Section 608 of the Qualified Indenture) if NL shall have sustained the burden of proving by this application to the Commission that the trusteeships of Bankers Trust Company under the Qualified Indenture and under the New Indenture are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Bankers Trust Company under the Qualified Indenture and under the New Indenture are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Bankers Trust Company from continuing to act as trustee under the Qualified Indenture were it to act as trustee under the New Indenture.

NL alleges that:

(1) At January 1, 1983, NL Industries Inc., a New Jersey corporation, as issuer, had outstanding $100,000,000 aggregate principal amount of One-Year Extendable Notes, under the Qualified Indenture (the "Notes"). The notes issued pursuant to the Qualified Indenture were registered under the Securities Act of 1933 and the Qualified Indenture was qualified under the Act.

(2) Bankers Trust Company is Trustee under the New Indenture under which there are outstanding $7,000,000 aggregate principal amount of the Lake Charles Harbor and Terminal District Port Facilities Revenue Bonds (NL Industries, Inc. Project) due 1997 (the "District Bonds").

(3) The obligations of NL in respect to the Notes are wholly unsecured and all such obligations will rank equally without seniority or subordination of any such obligations to any of the others. The payment of the principal of, interest and premium on the District Bonds is secured to the extent of a security interest granted by NL pursuant to a mortgage and Chattel mortgage, assigned to Bankers Trust Company as Trustee.

(4) No default has at any time existed under the Qualified Indenture, or the New Indenture.

(5) Such differences as will exist between the Qualified Indenture and the New Indenture are not likely to involve a material conflict of interest so as to make it necessary in the public interest or for the protection of investors to disqualify Bankers Trust Company from acting as trustee under the Qualified Indenture were it to act as trustee under the New Indenture.

NL has waived notice of hearing, hearing and any and all rights to specify procedures under the Rules of Practice of the Securities and Exchange Commission in connection with this matter.

Notice is further given that an order granting the application may be issued by the Commission at any time on or after September 19, 1983, unless prior thereto a hearing upon the application is ordered by the Commission, as provided in clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939. Any interested person may, not later than Sept. 16, 1983 at 5:30 p.m., Eastern Standard Time, in writing, submit to the Commission his views or any additional facts bearing upon this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting a hearing, the reasons for such request, and the issues of fact and law raised by the application which he desires to controvert.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-23529 Filed 8-25-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13452; 811-3559]

Territorial Government Fund; Filing of Application

August 22, 1983.

Notice is hereby given that The Territorial Government Fund ("Applicant"), 421 Seventh Avenue, Pittsburgh, PA 15219, registered as an open-end, diversified, management investment company under the Investment Company Act of 1940 ("Act"), filed an application on June 2, 1983, for an order of the Commission pursuant to Section 8(f) of the Act, declaring that it has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for a statement of its relevant provisions.

Applicant states that its registration under the Act on form N-8A was filed on August 31, 1982. Its registration

statement on Form N–1 pursuant to the Securities Act of 1933 was filed on the same day, but was never declared effective, and no public offering of its securities has taken place. Applicant states that it was dissolved on May 12, 1983, pursuant to its Declaration of Trust and applicable State law.

The application also states that Applicant has no assets and no shareholders, is not a party to any litigation or administrative proceedings, and is not engaged in any business activities other than those necessary for the winding-up of its affairs.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than September 16, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–23530 Filed 8–25–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 13451; 811–2205]

United of Omaha Variable Fund B; Filing of Application

August 22, 1983.

Notice is hereby given that Mutual of Omaha Variable Fund B ("Applicant"), Mutual of Omaha Plaza, Omaha, NE 68175, registered as an open-end, diversified, management investment company under the Investment Company Act of 1940 ("Act"), filed an application on May 12, 1983, for an order of the Commission pursuant to Section 8(f) of the Act declaring that it has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for a statement of its relevant provisions.

Applicant states that it is a separate investment account of United of Omaha Life Insurance Company, which acts as investment adviser to and custodian of the assets of the Applicant. At a special meeting of Contract Owners held on December 20, 1982, a Plan of Liquidation ("Plan") of the Applicant was approved by a vote of the owners of more than 50% of all voting units outstanding.

Pursuant to the Plan, Applicant's assets were reduced to cash, and on January 10, 1983, the liquidation date, the net asset value of each participant's variable annuity contract was distributed. The application also states that Applicant has no remaining assets or securityholders, is not a party to any litigation or administrative proceedings, and is not engaged in any business activities other than those necessary for the winding-up of its affairs.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than September 16, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–23527 Filed 8–25–83; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following stocks:

Aydin Corp.
  Common Stock, $1 Par Value (File No. 7–7003)
E-Systems, Inc.
  Common Stock, $1 Par Value (File No. 7–7004)
First Boston, Inc.
  Common Stock, No Par Value (File No. 7–7005)
Health-Chem Corp.
  Common Stock, $.01 Par Value (File No. 7–7006)
Heizer Corp.
  Common Stock, $.01 Par Value (File No. 7–7007)
Imperial Industries, Inc.
  Common Stock, $.10 Par Value (File No. 7–7008)
Intertec Data Systems Corp.
  Common Stock, $.02 Par Value (File No. 7–7009)
Kirby Explorations Co.
  Common Stock, $.10 Par Value (File No. 7–7010)
Lloyd's Electronics, Inc.
  Common Stock, $.75 Par Value (File No. 7–7011)
Lundy's Electronics & Systems, Inc.
  Common Stock, $.10 Par Value (File No. 7–7012)
Luria (L.) & Sons, Inc.
  Common Stock, $.01 Par Value (File No. 7–7013)
Mony Mortgage Investors
  Common Stock, $.50 Par Value (File No. 7–7014)
National Fuel Gas Co.
  Common Stock, $10 Par Value (File No. 7–7015)
North American Coal Corp.
  Common Stock, $1 Par Value (File No. 7–7016)
Oneida, Ltd.
  Common Stock, $6.25 Par Value (File No. 7–7017)
Orange-Co, Inc.
  Common Stock, $.10 Par Value (File No. 7–7018)
Ultimate Corp.
  Common Stock, No Par Value (File No. 7–7019)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before September 12, 1983 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the

maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-23528 Filed 8-25-83; 8:45 am]

BILLING CODE 8010-01-M

TENNESSEE VALLEY AUTHORITY

Privacy Act of 1974: Systems of Records: Proposed Routine Uses

AGENCY: Tennessee Valley Authority.

ACTION: Notice of systems of records; notice of proposed routine uses for two systems of records.

SUMMARY: TVA is publishing its systems of records in compliance with 5 U.S.C. 552a(e)(4). In addition, TVA is giving notice, as required by the Privacy Act, of proposed new routine uses for two systems of records. Details of the proposed routine uses are described below under the heading, "SUPPLEMENTARY INFORMATION."

DATES: Written comments on the proposed routine uses must be received on or before September 26, 1983. If no comments are received which cause TVA to modify the proposed routine uses, they will be implemented without further notice in the Federal Register.

ADDRESS: Send comments to Privacy Act Coordinator, Division of Personnel, Tennessee Valley Authority, Knoxville, Tennessee 37902.

FOR FURTHER INFORMATION CONTACT: Thomas E. Cressler II, Division of Personnel, Tennessee Valley Authority, Knoxville, Tennessee 37902, (615) 632-2170.

SUPPLEMENTARY INFORMATION: As required by 5 U.S.C 552a(e)(4), this document publishes TVA's systems of records notices, combining the previous notice at 46 FR 62993 (1981) with a new routine use for system TVA-26, Retirement System Records—TVA, which was proposed at 48 FR 565 (1983); no comments were received on this proposed routine use. Pursuant to the Debt Collection Act of 1982, TVA is adding to the notices for systems TVA-7, Employee Accounts Receivable—TVA; TVA-11, Payroll Records—TVA; TVA-12, Employee Travel Advance Records—TVA that disclosures from those systems may be made to consumer reporting agencies. Additionally, several system notices include housekeeping changes, including organization names, retention periods, and citations to statutes, Executive orders, and CFR sections. System TVA-20, Prospective Condemnation Witness File—TVA, is discontinued because the information is no longer maintained in a system of records by TVA. The text of TVA's notice of systems of records is set out below.

This document also gives notice of proposed new routine uses for two TVA systems. TVA proposes to establish a new routine use for TVA-9, Medical Record System-TVA, permitting disclosure, "To provide information to private physicians and other health care professionals or facilities designated by an employee." This would include disclosures to assist in treatment or consultation, and would permit verbal designations by employees when furnishing written authorizations would be inconvenient.

TVA proposes to establish two new routine uses for TVA-15, Land Between The Lakes Register of Hunter Applications—TVA, permitting disclosure, "To provide mailing lists to organizations or contractors cooperating with Land Between The Lakes in activities or events for the purpose of publicizing those activities or events," and "To provide mailing lists to an independent Land Between The Lakes support organization for the purpose of soliciting members for the organization." Such disclosures would aid in informing Land Between The Lakes recreational users of activities or events of possible interest to them and in identifying users interested in continued improvement of recreational opportunities.

Dated: August 19, 1983.

W. F. Willis,

General Manager.

This document gives notice that the following TVA system notices are in effect:

Table of Contents

TVA-1 Apprentice Training Record System.
TVA-2 Personnel Files.
TVA-3 Cooperative Training Program for Construction Craftsmen.
TVA-4 Demonstration Farm Records.
TVA-5 Discrimination Complaint File.
TVA-6 Employee Accident Information System.
TVA-7 Employee Accounts Receivable.
TVA-8 Employee Alleged Misconduct Investigatory Files.
TVA-9 Medical Record System.
TVA-10 Employee Statements of Employment and Financial Interests.
TVA-11 Payroll Records.
TVA-12 Employee Travel Advance Records.
TVA-13 Employment Applicant Files.
TVA-14 Grievance Records.
TVA-15 Land Between The Lakes Register of Hunter Applications.
TVA-16 Land Between The Lakes Register of Law Violations.
TVA-17 Management Appraisal Records
TVA-18 Employee Supplementary Vacancy Announcement Records.
TVA-19 Consultant and Personal Service Contractor Records.
TVA-21 OEDC Quality Assurance Personnel Records.
TVA-22 Questionnaire-Farms in Vicinity of Proposed Nuclear Power Plant.
TVA-23 Radiation Dosimetry Personnel Monitoring Records.
TVA-24 Reforestation, Erosion Control, and Plantation Case History Record.
TVA-25 Rehabilitation and Career Planning Records.
TVA-26 Retirement System Records.
TVA-27 Test Demonstration Farm Records.
TVA-28 Wildland Owner Survey Records.
TVA-29 Electricity Use, Rate and Service Study Records.

TVA-1

SYSTEM NAME:

Apprentice Training Record System—TVA.

SYSTEM LOCATION:

Labor Relations Staff, Tennessee Valley Authority, Knoxville, Tenn. 37902; Division of Personnel, Information Management Systems Branch, Tennessee Valley Authority, Knoxville, Tenn. 37902

Computing Operations Branch, Tennessee Valley Authority, Chattanooga, Tenn. 37401.

All TVA locations where apprentices are employed.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former TVA apprentices.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employment, qualifications, and evaluation information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Apprenticeship Act of 1937, 50 Stat. 664

TVA Act of 1933, 16 U.S.C. 831-831dd.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To the Bureau of Apprenticeship and Training, the Veterans Administration, Tennessee Valley Trades and Labor Council, and the State and local government agencies for reporting and evaluation purposes.

To respond to a request from a Member of Congress regarding the status of an apprentice.

To provide information to a Federal agancy, in response to its request, in

connection with the hiring or retention of an employee, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on that matter.

To provide the following information to a prospective employer of a TVA or former TVA employee: Job description, dates of employment, reason for separation.

To the parties, their representatives, and Board or Office representatives in Merit Systems Protection Board or Office of Personnel Management proceedings to support administrative action by TVA.

To the parties, their representatives, and impartial referees in proceedings under TVA grievance adjustment procedures.

To complainants, their representatives, and complaints examiners in the course of TVA investigation and decision of discrimination complaints under TVA equal employment opportunity procedures.

To request information from a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information and to request information from private individuals if necessary to obtain information relevant to a TVA decision concerning the hiring, retention, or promotion of an employee, the issuance of a security clearance, or other decision within the purposes of this system of records.

For use in litigation including the presentation of evidence and disclosure to opposing counsel in the course of discovery.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on automated data storage devices, microfiche, and in file folders.

RETRIEVABILITY:

Records are indexed by name, craft, job code, union code, and social security number.

SAFEGUARDS:

Access to and use of these records are limited to persons whose official duties require such access. Files are kept in secured facilities.

RETENTION AND DISPOSAL:

Records are maintained from two to five years in accordance with established TVA record retention schedules and are then transferred to the Federal Records Center.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Labor Relations, Tennessee Valley Authority, Knoxville, Tenn. 37902.

NOTIFICATION PROCEDURE:

Individuals seeking to learn if information on them is maintained in this system of records should address inquiries to the system manager named above. Requests should include the individual's full name, craft, and location of employment.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about them in this system of records should contact the system manager named above. Access will not be granted to investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information, to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. Access will not be granted to testing or examination material used solely to determine individual qualification for appointment or promotion in the Federal service, the disclosure of which would compromise the objectivity or fairness of the testing or examination process.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above.

RECORD SOURCE CATEGORIES:

Individual to whom the record pertains.

General Aptitude Test Battery scores from state employment security office.

References from employers, military and educational institutions.

Evaluations from joint committee on apprenticeship.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from subsections (d), (e)(4)(H), (f)(2), (3), and (4) to the extent that disclosure of material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence, and to the extent that disclosure of testimony and examination material would compromise the objectivity of the testing or examination process. This exemption is pursuant to section 3(k) (5) and (6) of the Privacy Act of 1974 (5 USC 552a(k) (5) and (6)) and TVA regulations at 18 CFR 1301.24.

TVA-2

SYSTEM NAME:

Personnel Files—TVA.

SYSTEM LOCATION:

Division of Personnel. Tennessee Valley Authority, Knoxville, Tennessee 37902; Division of Personnel. Information Management Systems Branch, Tennessee Valley Authority, Knoxville Tennessee 37902; area employment offices in Knoxville, Chattanooga, Muscle Shoals, and Nashville; construction project employment offices; Computing Operations Branch, Tennessee Valley Authority, Chattanooga, Tennessee 37401; National Personnel Records Center, St. Louis, Missouri 63118. Security—suitability investigatory files are located separately from other records in this system. Information on education may be maintained in the automated files in the TVA organization that provides the training or that employs the individual and in Equal Opportunity Compliance Staff.

Duplicate copies of certain documents may also be located in the files of division personnel officers, supervisors, and administrative officers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former TVA employees and applicants for employment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information related to education; qualifications; work history; interests and skills; test results; performance evaluation; personnel actions; job description; salary and benefit information; service dates, including other Federal and military service; replies to congressional inquiries; medical data, and security investigation data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 USC 831–831dd; Executive

Order 10577; Executive Order 10450; Executive Order 11478; Executive order 11222; Veterans Preference Act of 1944, 58 Stat. 387, as amended; Equal Employment Opportunity Act of 1972, Pub. L. 92–261, 86 Stat. 103; various sections of Title 5, USC, related to employment by TVA.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To disclose test results to state employment services.

To a state employment security office in response to a request relating to a former employee's claim for unemployment compensation.

To respond to a request from a Member of Congress regarding the status of an employee, former employee, or applicant.

To refer, where there is an indication of a violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency, whether Federal, state, or local, charged with the responsibility of investigating and prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

To request information from a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information and to request information from private individuals if necessary to obtain information relevant to a TVA decision concerning the hiring, retention, or promotion of an employee, the issuance of a security clearance, or other decision within the purposes of this system of records.

To provide information or disclose to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on that matter.

To provide the following information, as requested, to a prospective employer of a TVA or former TVA employee: job descriptions, dates of employment, and reasons for separation.

To provide information as requested to the Office of Personnel Management pursuant to Executive Order 10450, 10577, and other laws.

To any agency of the Federal Government having oversight or review authority with regard to TVA activities.

In litigation including presentation of evidence and disclosure to opposing counsel in course of discovery.

To transfer information necessary to support a claim for life insurance benefits under Federal Employees Group Life Insurance to Office of Federal Employees Group Life Insurance.

To transfer information necessary to support a claim for health insurance benefits to health insurance carrier.

To union representatives in exercising their responsibilities under TVA collective bargaining agreements.

To the parties, their representatives and Board or Office representatives in Merit Systems Protection Board or Office of Personnel Management proceedings to support administrative action by TVA.

To the parties, their representatives, and impartial referees in proceedings under TVA grievance adjustment procedures.

To complainants, their representatives, and complaints examiners in the course of TVA investigation and decision of discrimination complaints under TVA equal employment opportunity procedures.

To TVA contractors and subcontractors engaged in studies and evaluation of TVA personnel management.

To provide pertinent information to local school districts and other government agencies in order to study TVA project impacts and to aid school districts in qualifying for assistance under Pub. L. 81–874 and other laws.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders and on automated data storage devices and microfiche.

RETRIEVABILITY:

Records are indexed by name and social security number.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. All filing systems are locked when unattended. Remote access facilities are secured through physical and system-based safeguards.

RETENTION AND DISPOSAL:

Personal History Records: Nonmicrofilmed records stored at National Personnel Record Center and microfilmed records stored at TVA are destroyed 75 years after birthdate of employee or 60 years after date of earliest document in the record if the date of birth cannot be ascertained. Reference copies are destroyed when no longer needed.

Congressional inquiries are retained indefinitely; test records are retained 10 years; occupational register cards are retained 1 year, with the exception of apprentices which are retained for 5 years; some information maintained on magnetic tape is erased after 1 year, records are disposed of in accordance with established TVA records retention schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Personnel, Tennessee Valley Authority, Knoxville, Tennessee 37902.

NOTIFICATION PROCEDURE:

Individuals wishing to learn if information on them is maintained in this system of records should address inquiries to the Chief, Employment Branch, Tennessee Valley Authority, Knoxville, Tennessee 37902. Requests should include the individual's full name, employing division, job title, and date of birth. A social security number is not required but may expedite TVA's response.

RECORD ACCESS PROCEDURE:

Individuals seeking to gain access to information about them in this system of records should contact Chief, Employment Branch, Tennessee Valley Authority, Knoxville, Tennessee 37902. In addition, current employees may present requests for access to the personel officer of the employing division. Requests should include the individual's full name, employing division, job title, and date of birth. A social security number is not required but may expedite TVA's response. Access will not be granted to investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment or access to classified information to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975, under an implied promise that the identity of the source

would be held in confidence. Access will not be granted to testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal Service the disclosure of which would compromise the objectivity or fairness of the testing or examination process.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the Chief, Employment Branch, Tennessee Valley Authority, Knoxville, Tennessee 37902.

RECORD SOURCE CATEGORIES:

Individual to whom the record pertains; educational institutions, former employers, and other reference sources; state employment services; supervisors and other TVA personnel or personnel records; medical officers; other Federal agencies.

In addition to the above sources, security suitability investigatory files contain information from law enforcement agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from subsections (d), (e)(4)(H), (f) (2) and (3) and (4) to the extent that disclosure of material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence, and to the extent that disclosure of testing or examination material would compromise the objectivity of fairness of the testing or examination process. This exemption is pursuant to section 3(k) (5) and (6) of the Privacy Act of 1975 (5 USC 552a(k) (5) and (6) and TVA regulations at 18 CFR.

TVA–3

SYSTEM NAME:

Cooperative Training Program for Construction Craftsmen—TVA.

SYSTEM LOCATION:

Division of Personnel, Tennessee Valley Authority, Knoxville, Tennessee 37902; constuction project offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Participants in the Cooperative Training Program for Construction Craftsmen.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal identifying information; testing information: evaluations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 USC 831–831dd.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To state employment services and prospective employers for use in placement of the student.

To request informaiton from a Federal, state, or local agency or from private individuals if necessary to obtain information relevant to a TVA decision within the purposes of this system of records.

In litigation including presentation of evidence and disclosures to opposing counsel in the course of discovery.

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatroy in nature, to the appropriate agency, whether Federal, state, or local, charged with the responsibility of investigating and prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

To the appropirate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintanied in file folders.

RETRIEVABILITY:

Records are indexed by name nad social security number.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Filing systems are locked when unattended.

RETENTION AND DISPOSAL:

Records will be retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Personnel
Tennessee Valley Authority
Knoxville, Tennessee 37902

NOTIFICATION PROCEDURE:

Individuals wishing to determine if information on them is maintained in this system of records should address inquiries to the Division of Personnel, Tennessee Valley Authority, Knoxville, Tennessee 37902.

RECORD ACCESS PROCEDURE:

Requests for access should be addressed to the, Division of Personnel, Tennessee Valley Authority, Knoxville, Tennessee 37902.

Access will not be granted to investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information, to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. Access will not be granted to testing or examination material used solely to determine individual qualification for appointment or promotion in the Federal Service, the disclosure of which would Compromise the objectivity or fairness of the testing or examination process.

CONTESTING RECORD PROCEDURES:

Individuals seeking to contest or amend information about them in this system of records should direct their request to the, Division of Personnel, Tennessee Valley Authority, Knoxville, Tennessee 37902.

RECORD SOURCE CATEGORIES:

Individuals to whom the record pertains; instructors.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from subsections (d); (e)(4)(H); (f)(2), (3), and (4) to the extent that disclosure of material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence, and to the extent that disclosure of testing or examination material would compromise the objectivity or fairness of the leasing or examination process. This exemption is pursuant to section 3(k) (5) and (6) of the Privacy Act of 1974 (5 USC 552a(k) (5) and (6)) and TVA regulations at 18 CFR 1301.24.

TVA–4

SYSTEM NAME:

Demonstration Farm Records—TVA.

SYSTEM LOCATION:

Field Programs Branch and Economics and Marketing Research Branch, Division of Agricultural Development, Tennessee Valley Authority, Muscle Shoals, Alabama 35660.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Tennessee Valley farmers participating in: Rapid adjustment farm program: resource management farm program: Resource Management Conservation farm program; fertilizer technology

CATEGORIES OF RECORDS IN THE SYSTEM:

Agricultural, investment, income, and labor information. The information in this system is not used in any determination about the rights, benefits, or privileges of an individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in this system of records may be disclosed to state extension services and the U.S. Department of Agriculture for use in program evaluation and in assistance to program participants.

To request information from a government agency or private individual where such information may be relevant to providing additional assistance under this program.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders and on automated data storage devices, punched cards, microfilm and microfiche.

RETRIEVABILITY:

Records are indexed by an assigned code.

SAFEGUARDS:

Access to and use of these records are limited to persons whose official duties require such access. All records are kept in secured facilities and locked when unattended.

RETENTION AND DISPOSAL

Records are retained for an indefinite period.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Agricultural Development, Tennessee Valley Authority, Muscle Shoals, Alabama 35660.

NOTIFICATION PROCEDURE:

Individuals upon whom information is maintained in this system of records are aware of that fact through participation in the program. However, inquiries may be addressed to the system manager named above. Requests should include the individual's full name and state and county of the farm.

RECORD ACCESS PROCEDURES:

All information maintained in this system of records has been supplied by the subject individual. However, requests for access may be directed to the system manager named above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above.

RECORD SOURCE CATEGORIES:

The information in this system is solicited from the individual to whom the record pertains by state extention services and universities.

TVA–5

SYSTEM NAME:

Discrimination Complaint File—TVA.

SYSTEM LOCATION:

The following locations of the TVA Equal Opportunity Compliance Staff:

Tennessee Valley Authority, Knoxville, Tennessee 37902.

Chattanooga, Tennessee 37401.

Muscle Shoals, Alabama 35660.

Duplicate copies may be maintained in the files of the TVA division where the complaint originated.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees or applicants who have received counseling or filed complaints of discrimination based on race, color, religion, sex, national origin, age, or handicap.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains information or documents relating to a decision or determination made by TVA or the Equal Employment Opportunity Commission affecting an individual. The records consist of the initial appeal or complaint, letters or notices to the individual, record of hearings when conducted, materials placed into the record to support the decision or determination, affidavits or statements, testimonies of witnesses, investigative reports, and related correspondence, opinions, and recommendations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd.

Executive Order 11478.

42 U.S.C. 2000–16.

29 U.S.C. 633a.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A report of each complaint is made to the Equal Employment Opportunity Commission. If an administrative appeal is filed, the entire file is disclosed to the Equal Employment Opportunity Commission.

To the employee's representative.

To respond to a request from a Member of Congress regarding the status of a complaint.

To the parties, their representatives, and impartial referees in proceedings under TVA grievance adjustment procedures.

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency, whether Federal, state, or local, charged with the responsibility of investigating and prosecuting such violation or charged with enforcing or implementing the statute, rule, regulations, or order issued pursuant thereto.

In litigation including the presentation of evidence and disclosure to opposing counsel in the course of discovery.

To complainants, their representatives, and complaints examiners in the course of TVA investigation and decision of discrimination complaints under TVA equal employment opportunity procedure.

To TVA consultants, contractors, and subcontractors who are engaged in studies and evaluation of TVA's administration of its equal employment opportunity program or who are providing support services to the program.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are kept in file folders.

RETRIEVABILITY:

Records in this system are indexed by name.

SAFEGUARDS:

Access to and use of these records are limited to those personnel whose official duties require such access.

RETENTION AND DISPOSAL:

These records are retained in accordance with established TVA records retention schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Equal Opportunity Compliance.

Tennessee Valley Authority, Knoxville, Tennessee 37902.

NOTIFICATION PROCEDURE:

Individuals who have filed discrimination complaints are aware of that fact. However, inquiries may be addressed to the system manager named above. Individuals should provide their full name, the approximate date of their complaint, and their employing organization, if employed.

RECORD ACCESS PROCEDURES:

Individuals who have filed a discrimination complaint have been provided a copy of the record. However, an individual may gain access to the official copy of the complaint record by Writing the system manager named above.

CONTESTING RECORD PROCEDURES:

Individuals who have filed a discrimination complaint have had an opportunity during the complaint procedure to amend their record. However, requests for amendment or correction of items not involving the complaint procedure may be addressed to the system manager named above.

RECORD SOURCE CATEGORIES:

The individual to whom the record pertains.

TVA personnel and other records.

Witnesses.

TVA–6

SYSTEM NAME:

Employee Accident Information System—TVA.

SYSTEM LOCATION:

Division of Occupational Health and Safety, Muscle Shoals, Alabama 35660.

Accident reports may also be maintained in the file of the employing organization.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees who have sustained a work-related injury or illness or have been involved, as the operator of a TVA vehicle, in a vehicular accident.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal identifying information and information related to the accident, injury, or illness.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd; Occupational Safety and Health Act of 1970, Pub. L. 93–237, 87 Stat. 1024; Executive Order 12196

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To the Department of Labor as required by the Occupational Safety and Health Act.

To the Office of Workers Compensation Programs in relation to an individual's claim for compensation.

To respond to a request from a Member of Congress regarding the status of an employee.

To provide information to a Federal agency, in response to its request in connection with the hiring or retention of an employee, the letting of a contract, or inssuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on that matter.

To request information from a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information and to request information from private individuals if necessary to obtain information relevant to a TVA decision concerning the hiring, retention, or promotion of an employee, the inssuance of a security clearance, or other decision within the purposes of this system of records.

For use in litigation, including the presentation of evidence and disclosure to opposing counsel in the course of discovery.

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating and prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information in this system is maintained on automated data storage devices and in file folders.

RETRIEVABILITY:

Records are indexed by name, date of birth, and social security number.

SAFEGUARDS:

Access to and use of these records are limited in those persons whose official duties require such access. All filing systems are locked when unattended. Remote access facilities are secured through physical and system-based safeguards.

RETENTION AND DISPOSAL:

Records are retained for 5 years, and after that period are retained in accordance with established TVA records retention schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Tennessee Valley Authority, Director of Occupational Health and Safety, Muscle Shoals, Alabama 35660.

NOTIFICATION PROCEDURE:

Individuals wishing to know whether information about them is maintained in this system of records should address inquiries to the system manager named above. Requests should include the individual's full name, date of birth, and approximate date of injury.

RECORD ACCESS PROCEDURES:

Individuals who desire access to information about them in this system of records should contact the system manager named above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above.

RECORD SOURCE CATEGORIES:

The individual to whom the record pertains: TVA medical records; witnesses of accidents and injuries, including appraisers of property damage.

TVA–7

SYSTEM NAME:

Employee Accounts Receivable—TVA.

SYSTEM LOCATION:

Division of the Comptroller, Tennessee Valley Authority, Knoxville,

Tennessee 37902; Office of the General Counsel, Tennessee Valley Authority, Knoxville Tennessee 37902.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees or former employees who:

Authorize a payment for specified purposes in their behalf; receive overpayment of earnings; receive duplicate payments; are otherwise indebted to TVA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal identifying information and information concerning indebtedness and repayment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. chapter 55; Tennessee Valley Authority Act of 1933, 16 U.S.C. 831 831dd.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency, whether Federal, state, or local, charged with the responsibility of investigating and prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

Litigation including the presentation of evidence and disclosure to opposing counsel in the course of discovery. The appropriate agency, whether Federal, State or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b) (12): Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 168a(f)) or the Debt Collection act of 1982 (31 U.S.C. 3711(d) (4)).''

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on punch cards, printouts, invoices, and posting documents.

RETRIEVABILITY:

Records are indexed by payroll number, social security number, badge number, name, or invoice number.

SAFEGUARDS:

Access to and use of these records are limited to persons whose official duties require such access. Files are kept in secured facilities.

RETENTION AND DISPOSAL:

Punch cards disposed on in three months, printouts in three years, invoices in seven years and posting documents in 50 years.

SYSTEM MANAGER(S) AND ADDRESS:

Comptroller, Tennessee Valley Authority, Knoxville, Tennessee 37902.

NOTIFICATION PROCEDURE:

Individuals wishing to know whether information about them is maintained in this system of records should address inquiries to the system manager named above. Requests should include the individual's full name and employing organization. Provision of the social security numbr is not required, but may expedite TVA's response:

RECORD ACCESS PROCEDURES:

Individuals who seek access to information about them in this system of records should contact the system manager named above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above.

RECORD SOURCE CATEGORIES:

Individual to whom the record pertains: TVA payroll records; TVA disbursement voucher records.

TVA–8

SYSTEM NAME:

Employee Alleged Misconduct Investigatory Files—TVA.

SYSTEM LOCATION:

Office of the General Counsel, Tennessee Valley Authority, Knoxville, Tennessee 37902.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees or former employees about whom a complaint of misconduct during employment has been made.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information regarding conduct during employment with TVA which may be in violation of law or regulations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

TVA Act, 16 U.C.S. 831b; Executive Order 10450; Executive Order 11222; Hatch Political Activities Act, 5 USC 7324–7327; 28 USC 535.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency, whether Federal, state, or local, charged with the responsibility of investigating and prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

To provide information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the letting of a contract, or issuance of a licence, grant or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on that matter.

To the parties, their representatives, and Board or Office representatives in Merit Systems Protection Board or Office of Personnel Management proceedings to support administrative action by TVA.

To the parties, their representatives and impartial referees in proceedings under the TVA grievance adjustment procedures.

To complainants, their representatives, and complaints examiners in the course of TVA investigation and decision of discrimination complaints under TVA Equal Employment Opportunity procedures.

In litigation including presentation of evidence and disclosures to opposing counsel in the course of discovery.

To request information from a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information and to request information from private individuals if necessary to obtain information relevant to a TVA decision concerning the hiring, retention, or promotion of an employee, the issuance of a security clearance, or other decision within the purposes of this system of records.

To provide information as requested to the Office of Personnel Mangement pursuant to Executive Orders 10450 and 10577 and other laws.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Records are indexed and retrieved by individual name or investigation number.

SAFEGUARDS:

These records are stored in a locked GSA-approved security container. Access to the records is limited to TVA attorneys and their administrative assistants who have a need for them in the course of TVA business and to other TVA employees whose need is approved by Office of the General Counsel management.

RETENTION AND DISPOSAL:

Records are disposed of in accordance with established TVA records retention schedules.

SYSTEM MANAGER(S) AND ADDRESS:

General Counsel
Tennessee Valley Authority
Knoxville, Tennessee 37902

NOTIFICATION PROCEDURE:

This system of records is exempt from the requirement pursuant to section 3(k)(2) of the Privacy Act of 1974 (5 USC 552a(k)(2)) and TVA regulations at 18 CFR 1301.24.

RECORD ACCESS PROCEDURE:

This system of records is exempt from this requirement pursuant to section 3(k)(2) of the Privacy Act of 1974 (5 U.S.C. 552a(k)(2)) and TVA regulations at 18 CFR 1301.24.

CONTESTING RECORD PROCEDURES:

This system of records is exempt from this requirement pursuant to section 3(k)(2) of the Privacy Act of 1974 (5 USC 552a(k)(2)) and TVA regulations at 18 CFR 1301.24.

RECORD SOURCE CATEGORIES:

This system of records is exempt from this requirement pursuant to section 3(k)(2) of the Privacy Act of 1974 (5 USC 552a(k)(2)) and TVA regulations at 18 CFR 1301.24

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempted from subsections (c)(3); (d); (e)(1); (e)(4) (G), (H), and (I); and (f) of section 3 of the Privacy Act of 1974 pursuant to section 3(k)(2) of the Privacy Act (5 USC 552a(k)(2)) and TVA regulations at 18 CFR 1301.24.

TVA-9

SYSTEM NAME:

Medical Record System—TVA

SYSTEM LOCATION:

Division of Medical Services, Tennessee Valley Authority, Chattanooga, Tennessee 37401; all TVA medical facilities; Computing Operations Branch, Chattanooga, Tennessee 37401; National Records Center, St. Louis, Missouri 63118; District Offices, Office of Workers Compensation Programs.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for TVA employment, employees, former employees, official visitors, contractual assignees to TVA, interns, externs, employees of TVA contractors and other Federal agencies who are examined under contract.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical information pertinent to an individual's employment, official visit, or contractual work with TVA or other Federal agencies, including medical and psychological history, examination, testing, counseling, treatment, and related information; workers compensation claim records; rehabilitation records; and information related to employee participation in the alcohol-drug abuse program.

Medical and psychological information relative to nuclear plant security.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 USC 831–831dd; 5 USC 7902; Federal Employees Compensation Act, 5 USC Chapter 81; 5 USC Chapter 87 (Medical information relating to life insurance program); 5 USC 3301; Occupational Safety and Health Act of 1970, Pub. L. 93–237, 87 Stat. 1024 Pub. L. 91–616, Federal Civilian Employee Alcoholism Program and Pub. L. 92–255, Drug Abuse Among Federal Civilian Employees, which are amended in regard to confidentiality of records by Pub. L. 93–282; Public health laws (state and Federal) related to the reporting of health hazards, communicable diseases or other epidemiological information; Energy Reorganization Act of 1974, Pub. L. 93–438, 88 Stat. 1233.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Compensation claim records are used for adjudicating claims and providing therapy. Appropriate information is exchanged with physicians, hospitals, and rehabilitation agencies approved by the Office of Workers' Compensation Programs for service to injured employees.

Medical records are used for employee population health monitoring, which includes includes routine clinical and epidemiological investigations. Such studies may require the transfer of selected items of medical data to health-related agencies, organizations, or professionals for the purpose of obtaining specialized clinical consultation, compiling vital and health statistics, or conducting biomedical investigations.

Alcohol-drug program records may be exchanged with a physician or treatment center working with an employee, or in accordance with the provisions of Pub. L. 93–282.

Information in the Medical Record System provided to officials of other Federal agencies responsible for other Federal benefit programs administered by Office of Workers' Compensation Programs. Retired Military Pay Centers, Veterans Administration, Social Security Administration, and private contractors engaged in providing benefits under Federal contracts.

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency, whether Federal, state, or local, charged with the responsibility of investigating and prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

To provide information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the letting of a contract, the issuance of a security clearance, the reporting of an investigation of an employee, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

To respond to a request from a Member of Congress regarding an employee.

In litigation including the presentation of evidence and disclosures to opposing counsel in the course of discovery.

To transfer information necessary to support a claim for health insurance or disability benefits to the health insurance carrier or plan participant.

To request information from a Government agency or private individual if necessary to obtain information relevant to a TVA decision

within the purposes of this system of records.

To the parties, their representatives, and Board or Office representatives in Merit System Protection Board or Office of Personnel Management proceedings to support administrative action by TVA.

To the parties, their representatives, and impartial referees in proceedings under TVA grievance adjustment procedures.

To complainants, their representatives, and complaints examiners in the course of TVA investigation and decision of discrimination complaints under. TVA equal employment opportunity procedures.

To TVA consultants, contrators, and subcontractors who are engaged in studies and evaluation of TVA's administration of its medical program or who are providing support sources to the program.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

POLICIES AND PRACTICES FOR STORING RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on automated data storage devices, microfilm, and in file folders.

RETRIEVABILITY:

Records are indexed by name, social security number, date of birth, and employee compensation case number.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. All filing systems are locked when unattended. Remote access facilities are secured through physical and system-based safeguards. Special instructions issued to medical staff employees assure the confidentiality of medical records.

RETENTION AND DISPOSAL:

Records are maintained in accordance with TVA rules and regulations approved by the National Archivist. Retention schedules specify the length of time various records are kept. Active medical records are kept indefinitely. Inactive files are kept in the Division of Medical Services, TVA, for six years following the date of last medical record entry. They are then purged and essential record material is microfilmed. The paper records are destroyed by recycling. Microfilm records are destroyed 34 years from date of filming.

X-rays of employees are microfilmed 20 years after termination of employee and the original destroyed. The microfilm records are destroyed in TVA 20 years from date of filming. X-rays of nonemployees and all dependents are destroyed in TVA six years from date of film.

SYSTEM MANAGER(S) AND ADDRESS:

Medical Director, Tennessee Valley Authority, Chattanooga, Tennessee 37-401.

NOTIFICATION PROCEDURE:

Individuals should address inquiries to the system manager named above or to the medical office at the TVA facility where employed, if a current employee.

Individuals should provide their full name, date of birth, employing organization, and date of last employment, and employee compensation case number, if any. Provision of social security number is not required but may expedite TVA's response.

RECORD ACCESS PROCEDURES:

Individuals who desire access to information about them in this system of records should contact or address their inquiries to the system manager *named* above or the medical office at the TVA facility where currently employed.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above.

RECORD SOURCE CATEGORIES:

The individual to whom the record pertains, TVA medical staff; private physicians and medical institutions; Office of Workers' Compensation Programs; TVA personnel records, other health agencies and departments.

TVA-10

SYSTEM NAME:

Employee Statement of Employment and Financial Interests—TVA.

SYSTEM LOCATION:

Office of the General Counsel, Tennessee Valley Authority, Knoxville, Tennessee 37902

Original copies may be kept in division directors' offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All TVA employees at TVA grade M-8 and above who submitted a report prior to the enactment of the Ethics in Government Act of 1978; employees at TVA grades M-5, M-6, and M-7 in positions designated by the General Manager or a division director as requiring submission of a statement; every TVA consultant who is a "special Government employee;" every TVA pernonal service contractor who is a "special Govenment employee" and who is determined to be an "expert" or who is otherwise required to submit a statement.

CATEGORIES OF RECORDS IN THE SYSTEM:

Statement of employment and financial interests.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 11222; 18 U.S.C. 208; Tennessee Valley Authority Act of 1933, 16 U.S.C. 831-831dd.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating and prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

To report as requested to the Office of Personnel Management pursuant to Executive Order 10577 and other laws.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in the file folders.

RETRIEVABILITY:

Records are indexed by name.

SAFEGUARDS:

Access to and use of these records are limited to those persons designated by the General Manager or the Board of Directors to review statements of financial interest.

RETENTION AND DISPOSAL:

Records are retained in accordance with established records retention schedules.

SYSTEM MANAGER(S) AND ADDRESS:

General Manager, Tennessee Valley Authority, Knoxville, Tennessee 37902.

NOTIFICATION PROCEDURE:

Individuals upon whom records are maintained in this system of records are aware of that fact by having filed a statement. However, inquiries may be addressed to the Office of the General Counsel, Tennessee Valley Authority, Knoxville, Tennessee 37902. Requests should include the individual's full name and employing division.

RECORD ACCESS PROCEDURES:

Individuals wishing to gain access to information about them in this system of records should contact the Office of the General Counsel, Tennessee Valley Authority, Knoxville, Tennessee 37902.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this sytem should direct their request to the Office of the General Counsel, Tennessee Valley Authority, Knoxville, Tennessee 37902.

RECORD SOURCE CATEGORIES:

The individual to whom the record pertains.

TVA–11

SYSTEM NAME:

Payroll Records—TVA.

SYSTEM LOCATION:

TVA Division of the Comptroller Knoxville, Tennessee 37902. Garnishment files are located at the Office of General Counsel, Knoxville, Tennessee 37902. Duplicate copies of some records may also be maintained in the files of the employing division: National Personnel Records Center, St. Louis, Missouri 63118.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All employees and personal service contractors selected for certain training programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal identifying information, pay, leave and debt claim information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd: Internal Revenue Code: Fair Labor Standards Act, 29 U.S.C. chapter 8; 5 U.S.C. chapter 63.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To report earnings and other required information to Federal, state, and local taxing authorities as required by law.

To report earnings to the Civil Service Retirement System for members of that system.

To transmit payroll deduction information to financial institutions and employee organizations.

To report earnings to courts when garnishments are served or in bankruptcy or wage earner proceedings.

To report earnings to unions for those crafts on which TVA contributions to union welfare or pension funds are based on earnings. Reports of hours worked are made to unions for those crafts on which such TVA contributions are based on hours worked.

To report earnings to the Department of Housing and Urban Development, state welfare agencies, and state employment security offices where an individual has made a claim for benefit with such agency.

To the parties, their representatives, and impartial referees in proceedings under TVA grievance adjustment procedure.

To provide information as requested to the Office of Personnel Management pursuant to Executive Order 10577 and other laws.

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency, whether Federal, state, or local, charged with the responsibility of investigating and prosecuting such violation or charged with enforcing or implementing the statue, rule, regulation, or order issued pursuant thereto.

To provide information or disclose to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on that matter.

To disclose any agency of the Federal Government having oversight or review authority with regard to TVA activities.

For use in litigation, including the presentation of evidence and disclosure to opposing counsel in the course of discovery.

To transfer information necessary to support a claim for life insurance benefits under Federal Employees Group Life Insurance to Office of Federal Employees Group Life Insurance.

To request information from a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information and to request information from private individuals if necessary to obtain information relevant to a TVA decision concering the hiring, retention, or promotion of an employee, the issuance of a security clearance, or other decision within the purposes of this system of records.

To transfer information necessary to support a claim for healt insurance benefits to health insurance carriers.

To TVA contractors and subcontractors engaged in studies and evaluations to TVA payroll and personnel management.

To union representatives exercising their responsibilities under TVA collective bargaining agreements.

To report earnings to the Department of Housing and Urban Development, and state welfare agencies where an individual makes a claim for benefits and to report earnings to state employment security offices in both manual and automated form for use by these offices in determining unemployment benefits.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures Pursuant to 5 U.S.C. 552a(b)(12): Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Debt Collection Act of 1982 (31 U.S.C. 3711(d)(4)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on automated data storage devices, hard-copy printouts, and in file folders.

RETRIEVABILITY:

Records are primarily indexed by name. They may also be retrieved by reference to employing organization, date of end of pay period, social security or badge number, date of birth, sex, job title.

SAFEGUARDS:

Access to and use of these records are limited to persons whose official duties require such access. Filing systems are

locked when unattended. Remote access facilities are secured through physical and system based safeguards.

RETENTION AND DISPOSAL:

File folders are retained for three years after termination. Time sheets are retained for seven years. Payroll registers are retained in active status for one year, transferred to TVA record storage for five years, and to National Records Center for an additional 50 years. Magnetic tapes are retained for one year after termination.

SYSTEM MANAGER(S) AND ADDRESS:

Comptroller, Tennessee Valley Authority, Knoxville, Tennessee 37902.

NOTIFICATION PROCEDURE:

Individuals wishing to learn if information on them is maintained in this system of records should address inquiries to the system manager named above. Requests should include the individual's full name, employing organization, and date of last employment. The social security number is not required but may expedite TVA's response.

RECORD ACCESS PROCEDURE:

Individuals seeking access to information on them in this system of records should contact the system manager named above.

CONTESTING RECORD PROCEDURES:

Individuals seeking to amend or correct information on them in this system of records should contact the system manager named above.

RECORD SOURCE CATEGORIES:

Individual to whom the record pertains; TVA personnel records; employee's supervisor, for report of hours worked.

TVA–12

SYSTEM NAME:

Employee Travel Advance Records-TVA

SYSTEM LOCATION:

Division of the Comptroller, Tennessee Valley Authority, Knoxville, Tennessee 37902.

Duplicate copies of these records may also be maintained in the files of the employee's division.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

TVA employees requesting travel advances.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, employing organization, date and amount of travel advance, and repayment information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 USC 5701–5709, and related Federal travel regualtions: Tennessee Valley Authority Act of 1933, 16 USC 831–831dd.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in this system or records may be used:

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency whether Federal, State, or local, charged with the responsibility of investigating and prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

In an administrative or regulatory proceeding or in litigation including the presentation of evidence and disclosure to opposing counsel in the course of discovery.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures Pursuant to 5 U.S.C. 552a(b) (12): Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Debt Collection Act of 1982 (31 U.S.C. 3711(d) (4)).''

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on computer printouts and microfiche.

RETRIEVABILITY:

Records are indexed by name and social security number.

SAFEGUARDS:

Access to and use of these records are limited to persons whose official duties require such access. Files are kept in secured facilities.

RETENTION AND DISPOSAL:

These records are retained permanently.

SYSTEM MANAGER(S) AND ADDRESS:

Comptroller, Tennessee Valley Authority, Knoxville, Tennessee 37902.

NOTIFICATION PROCEDURES:

Individuals wishing to know whether information about them is maintained in this system of records should address inquiries to the system manager named above. Requests should include the individual's full name and employing organization.

RECORD ACCESS PROCEDURES:

Individuals who seek access to information about them in this system of records should contact the system manager named above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above.

RECORD SOURCE CATEGORIES:

Individual to whom the record pertains: TVA disbursement voucher records and TVA application for travel advance.

TVA–13

SYSTEM NAME:

Employment Applicant File–TVA

SYSTEM LOCATION:

Division of Personnel Employment Branch and Information Management Systems Branch, Tennessee Valley Authority, Knoxville, Tennessee 37902; are and project employment offices: Computing Operations Branch, TVA, Chattanooga, Tennessee 37401.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for employment including former employees seeking reemployment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Application forms and related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C 831–831dd; 5 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To respond to a request from a Member of Congress regarding the status of an individual's application.

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or

regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating and prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

To request information from a Federal, State, or local agency, or private individual if necessary to obtain information relevant to a TVA decision within the purposes of this system of records.

To disclose test results to State employment services.

To provide information as requested to Office of Personnel Management pursuant to Executive Order 10450 and 10577, and other law.

To provide information to a Federal agency, in response to its request in connection with the hiring or retention of an employee, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on that matter.

For use in litigation including the presentation of evidence and disclosure to opposing counsel in the course of discovery.

To the parties, their representatives, and Board or Office representatives in Merit Systems Protection Board or Office of Personnel Management proceedings to support administrative action by TVA.

To the parties, their representatives, and impartial referees in proceedings under TVA grievance adjustment procedures.

To complainants, their representatives, and complaints examiners in the course of TVA investigation and decision of discrimination complaints under TVA equal employment opportunity procedures.

To the appropriate agency whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

POLICIES AND PRACTICES FOR STORING, RETRIVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders and on automated data storage devices and printout.

RETRIEVABILITY:

Records are indexed by name and social security number.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. All filing systems are locked when unattended. Remote access facilities are secured through physical and system-based safeguards.

RETENTION AND DISPOSAL:

Applications are kept for one year from last indication of interest, with the exception of apprenticeship applications, which are kept for five years.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Personnel, Tennessee Valley Authority, Knoxville, Tennessee 37902.

NOTIFICATION PROCEDURE:

Individual wishing to learn if information on them is maintained in this system of records should address inquiries to Chief, Employment Branch, Tennessee Valley Authority, Knoxville, Tennessee 37902, or to the area or project employment office to which application was sent. Requests should include the individual's full name social security number, date of birth, and approximate date of application.

RECORD ACCESS PROCEDURES:

Individuals wishing to gain access to information on them in this system of records should contact the Chief, Employment Branch, Tennessee Valley Authority Knoxville, Tennessee 37902, or the area or project employment office to which the application was sent. Access will not be granted to investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information, to the extent that the disclosure of such material would reveal the identity of a source who furnished informaiton to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence.

Access will not be granted to testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal Service the disclosure of which would compromise the objectivity or fairness of the testing or examination process.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to Chief, Employment Branch, Tennessee Valley Authority, Knoxville, Tennessee 37902.

RECORD SOURCE CATEGORIES:

The individual on whom the record is maintained; educational institutions, employers, and other references; state employment services.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from subsections (d), (e)(4)(H), (f)(2) and (3) and (4) to the extent that disclosure of material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence and to the extent that disclosure of testing or examination material would compromise the objectivity or fairness of the testing or examination process. This exemption is pursuant to section 3(k)(5) and (6) of the Privacy Act of 1974 (5 USC 552a(k)(5) and (6)) and TVA regulations at 18 CFR 1301.24.

TVA–14

SYSTEM NAME:

Grievance Records—TVA.

SYSTEM LOCATIONS:

Labor Relations Staff, Tennessee Valley Authority, Knoxville, Tennessee 37902.

Duplicate copies are also maintained in the files of the division concerned with the grievance.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

TVA emplyees and former employees who have formally appealed for ajustment of their grievances.

CATEGORIES OF RECORDS IN THE SYSTEM:

Evidence and arguments relevant to the matter giving rise to the grievance and related correspondence.

AUTHORITY FOR MAINTAINED OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 USC 831–831dd.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To respond to a request from a Member of Congress regarding the status of an employee's grievance.

For use in litigation including the presentation of evidence and disclosure to opposing counsel in the course of discovery.

To the parties, their representatives, and Board or Office representatives in Merit Systems Protection Board or Office of Personnel Management proceedings to support administrative action by TVA.

To the parties, their representatives, and impartial referees in proceedings under TVA grievance adjustment procedures.

To complainants, their representatives, and complaints examiners in the course of TVA investigation and decision of discrimination complaints under TVA equal employment opportunity procedures.

To request information from a Federal, state, or local agency or private individual if necessary to obtain information relevant to a TVA decision within the purposes of this system of records.

To prefer, where there is an indication of a violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency, whether Federal, state, or local charged with the responsibility of investigating and prosecuting such violation or charged with enforcing or implementing the statute, rule, regulations, or order issued pursuant thereto.

To the appropriated agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Records are indexed by name.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Records are retained indefinitely.

SYSTEM MANAGERS(S) AND ADDRESS:

Director, Labor Relations Staff, Tennessee Valley Authority, Knoxville, Tennessee 37902.

NOTIFICATION PROCEDURE:

Individuals who have filed grievances are aware of that fact. Inquiries may however be addressed to the system manager named above. Requests should include the individual's full name and employing division.

RECORD ACCESS PROCEDURES:

Individuals who have filed a grievance may gain access to the official copy of the grievance record by contacting the system manager named above.

CONTESTING RECORD PROCEDURES:

The contest, amendment, or correction of a grievance record is permitted during the prosecution of that grievance. However, an individual may address requests for amendment or correction of items not involved in prosecution of the grievance to the system manager named above.

RECORD SOURCE CATEGORIES:

Individual to whom the record pertains; TVA personnel records; statements and testimony of witnesses and related corresondence.

TVA–15

SYSTEM NAME:

Land Between The Lakes Register of Hunter Applications—TVA

SYSTEM LOCATION:

Land Between The Lakes, Tennessee Valley Authority, Golden Pond, Kentucky 42231; Computing Operations Branch, Tennessee, Valley Authority, Chattanooga, Tennessee 37401.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for participation in managed hunts at Land Between The Lakes.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personnel identifying information and information related to the hunt.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 USC 831–831dd; Executive Order 6161.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To respond to a request from a Member of Congress regarding the status of an applicant.

To request information from a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as licenses, or to request information from a private individual to the extent necessary to obtain information relevant to a TVA decision concerning the issuance of a permit to hunt or any other privilege.

To provide hunt information to state agencies concerned with wildlife management practices.

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency whether Federal, state, or local, charged with the responsibility of investigating and prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant theret.

For use in litigation including the presentation of evidence and disclosure to opposing counsel in the course of discovery.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

POLICIES AND PRACTICES FOR STORING, RETREVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE

Records are maintained on automated data storage devices, card files, and computer printouts.

RETRIEVABILITY:

Records are indexed by name.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Files are kept in secured facilities.

RETENTION AND DISPOSAL:

Applications are maintained for one year before disposal. Other information may be retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, Land Betwwen The Lakes, Tennessee Valley Authority, Golden Pond, Kentucky 42231.

NOTIFICATION PROCEDURE:

Individuals wishing to know whether information about them is maintained in this system of records should address their inquiries to the Manager, Land Between The Lakes, Tennessee Valley Authority, Golden Pond, Kentucky 42231. Requests should include the application.

RECORD ACCESS PROCEDURES:

All information maintained in this system of records has normally been supplied by the subject individual. However, requests for access may be directed to the Manager, Land Between The Lakes, Tennessee Valley Authority, Golden Pond, Kentucky 42231.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the Manager, Land Between The Lakes, Tennessee Valley Authority, Golden Pond, Kentucky 42231.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintaianed.

TVA–16

SYSTEM NAME:

Land Between The Lakes Register of Law Violations—TVA.

SYSTEM LOCATION:

Land Between The Lakes, Tennessee Valley Authority, Patrol Office, Golden Pond, Kentucky 42231.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons cited or arrested for violation of state or Federal law at Land Between The Lakes.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal identifying information and information related to the investigation and disposition of the violation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 USC 831–831dd; 18 USC 7, 13; Kentucky Revised Statutes 150, Chapter 43, Kentucky Act, 1974; Tennessee Public Acts 1972, Chapter 552.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating and prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

In litigation including the presentation of evidence and disclosure to opposing counsel in the course of discovery, information to criminal justice agencies and to Federal agencies conducting authorized security investigations.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on cards.

RETRIEVABILITY:

Records are indexed by name.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. All filing systems are locked when unattended.

RETENTION AND DISPOSAL:

Records are kept indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, Land Between The Lakes, Tennessee Valley Authority, Golden Pond, Kentucky 42231.

NOTIFICATION PROCEDURE:

This system of records had been exempted from this provision pursuant to section 3(j)(2) of the Privacy Act of 1974 (5 USC 552a(j)(2)) and TVA regulations at 18 CFR 1301.23.

RECORD ACCESS PROCEDURES:

This system of records had been exempted from this provision pursuant to section 3(j)(2) of the Privacy Act of 1974 (5 USC 552a(j)(2)) and TVA regulations at 18 CFR 1301.23.

CONTESTING RECORD PROCEDURES:

This system of records has been exempted from this provision pursuant to section 3(j)(2) of the Privacy Act of 1974 (5 USC 552a(j)(2)) and TVA regulations at 18 CFR 1301.23.

RECORD SOURCE CATEGORIES:

This system of records has been exempted from this provision pursuant to section 3(j)(2) of the Privacy Act of 1974 (5 USC 552a(j)(2)) and TVA regulations at 18 CFR 1301.23.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from subsections (c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4) (G) and (H) and (J), (e)(5), (f), (g), and (h) of section 3 of the Privacy Act of 1974 pursuant to section 3(j)(2) of the Privacy Act (5 USC 552a(j)(2)) and TVA regulations at 18 CFR 1301.23.

TVA–17

SYSTEM NAME:

Management Appraisal Records—TVA.

SYSTEM LOCATION:

Records in this system are located in the files of the division where the individual is employed: Division of Personnel, Knoxville, Tennessee 37902.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

TVA Management Schedule employees and those showing potential managerial talent.

CATEGORIES OF RECORDS IN THE SYSTEM:

Performance evaluations and other job-related information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

None.

POLICIES AND PRACTICES FOR STORING RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Records are indexed by name.

SAFEGUARDS:

Access to and use of these records are limited to persons whose official duties require such access.

RETENTION AND DISPOSAL:

Records are disposed of in accordance with established TVA records retention schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Personnel, Tennessee Valley Authority, Knoxville, Tennessee 37902.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if information on them is maintained in this system of records should address inquiries to the director of the division where employed.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information on them in this system of records should contract their division director.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to their division director.

RECORD SOURCE CATEGORIES:

Individual on whom the records is maintained; the individuals's supervisor, TVA personnel records.

TVA-18

SYSTEM NAME:

Employee Supplementary Vacancy Announcement Records—TWA

SYSTEM LOCATION:

Employment Branch, Division of Personnel, Tennessee Valley Authority, Knoxville, Tennessee 37902; area employment offices in Knoxville, Chattanooga, and Nashville, Tennessee, and Muscle Shoals, Alabama; division personnel offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees applying for placement in positions covered by the supplementary vacancy announcement procedure.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications and supporting material submitted by employee.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 11478: Equal Employment Opportunity Act of 1972, Pub. L. 92–261, 86 Stat. 103: 5 U.S.C. 3101; Tennessee Valley Authority Act of 1933, 6 U.S.C. 831–831dd.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To the parties, their representatives, and Board or Office representatives in Merit Systems Protection Board or Office of Personnel Management proceedings to support administrative action by TVA.

To the parties, their representatives, and impartial referees in proceedings under TVA grievance adjustment procedures.

To complainants, their representatives, and complaints examiners in the course of TVA investigation and decision of discrimination complaints under TVA equal employment opportunity procedures.

In litigation including the presentation of evidence and disclosure to opposing counsel in the course of discovery.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Records are indexed by name.

SAFEGUARDS:

Access to and use of these records are limited to persons whose official duties require such access. Records are maintained in secured facilities.

RETENTION AND DISPOSAL:

Records are disposed of in accordance with established TVA records retention schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Personnel, Tennessee Valley Authority, Knoxville, Tennessee 37902.

NOTIFICATION PROCEDURE:

Individuals upon whom records are maintained in this system are aware of that fact through filing an application. However, inquiries may be addressed to the Chief, Employment Branch, Tennessee Valley Authority, Knoxville, Tennessee 37902. Requests should include the individual's full name position applied for, and location of job.

RECORD ACCESS PROCEDURES:

Individuals upon whom records are maintained in this system have supplied all information in this system. However, requests for access may be addressed to the Chief, Employment Branch, Tennessee Valley Authority, Knoxville, Tennessee 37902.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the Chief, Employment Branch, Tennessee Valley Authority, Knoxville, Tennessee 37902.

RECORD SOURCE CATEGORIES:

The individual upon whom the record is maintained.

TVA-19

SYSTEM NAME:

Consultant and Personal Service Contractor Records—TVA.

SYSTEM LOCATION:

Employment Branch and Information Management Systems Branch, Tennessee Valley Authority, Knoxville, Tennessee 37902.

Payment records are located at these TVA Division of Finance offices: Knoxville, Tennessee 37902; Chattanooga, Tennessee 37401; Muscle Shoals, Alabama 35660.

Records related to personal service contractors employed under the Comprehensive Employment and Training Act of 1973, Pub. L. 93–203, are located at TVA, Office of Natural Resources, Knoxville, Tennessee, and Land Between The Lakes, Golden Pond, Kentucky 42231.

Duplicate copies of some records may be kept in the files of the employing division.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who provide services to TVA; participants in TVA-state employment programs; and participants in other special employment programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

The Division of Personnel maintains contracts, records of the qualifications of the contractor, and related correspondence. For public service employment program participants the Division of Personnel maintains information related to job placement such as test scores, interest inventories, and supervisor's evaluations. Payment information is maintained by the Division of Finance.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd; Comprehensive Employment and Training Act, Pub. L. 93–203, 87 Stat. 839; Executive Order 11222; Executive Order 10450; Executive Order 10577; provisions of 5 U.S.C. applicable to employment with TVA; Internal Revenue Code.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To transmit reports as requested to the Office of Personnel Management, pursuant to 5 U.S.C. 3323, Executive Orders 10577 and 10450, and other laws.

To report earnings information to the Internal Revenue Service and the Social Security Administration.

To respond to a request from a Member of Congress regarding the status of a contractor or consultant.

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency, whether Federal, state, or local, charged with the responsibility of investigating and prosecuting such violation or charged with enforcing or implementing the statute, rule, regulations, or order issued pursuant thereto.

To request information from a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information and to request information from private individuals if necessary to obtain information relevant to a TVA decision concerning the hiring, retention, or promotion of an employee, the issuance of a security clearance, or other decision within the purposes of this system of records.

To transmit to the appropriate state contracting agency reports of hours worked by participants in the public service employment program, and to request reimbursement.

To provide information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the letting of a contrct, or issuance of a license grant or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on that matter.

To provide the following information to a prospective employer of a TVA or former TVA consultant or personal service contractor job descriptions, dates of employment, and reason for separation.

To the parties, their representatives, and impartial referees in proceedings under TVA grievance adjustment procedures.

To complainants, their representatives, and complaints examiners in the course of TVA investigation and decision of discrimination complaints under TVA equal employment opportunity procedures.

For use in litigation including the presentation of evidence and disclosure to opposing counsel in the course of discovery.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders and on automated data storage devices.

RETRIEVABILITY:

Records are indexed by name, social security number, or voucher number.

SAFEGUARDS:

Access to and use of these records are limited to persons whose official duties require such access. All filing systems are locked when unattended.

RETENTION AND DISPOSAL:

Records are disposed of periodically as appropriate.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Personnel, Tennessee Valley Authority, Knoxville, Tennessee 37902.

NOTIFICATION PROCEDURE:

Individuals wishing to know if records on them are maintained in the system should address inquiries to the system manager named above. Requests shall include the individual's full name, employing or contracting division, and whether the individual was a participant in the public service employment program. Social security numbers are not required but may expedite TVA's response.

RECORD ACCESS PROCEDURES:

Individuals wishing to gain access to information on them in this system of records should contact the system manager named above. Access will not be granted to investigatory material complied solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment. Federal contracts, or access to classified information, to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. Access will not be granted to testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal Service the disclosure of which would compromise the objectivity or fairness of the testing or examination process.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above.

RECORD SOURCE CATEGORIES:

Individual to whom the record pertains; educational institutions, former employers, and other reference sources: state employment services; supervisors and other TVA personnel or personnel records; medical officers; other Federal agencies.

In addition to the above sources, security suitability investigatory files contain information from law enforcement agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from subsections (d), (e)(4)(H), (f)(2) and (3) and (4) to the extent that disclosure of material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence, and to the extent that disclosure of testing or examination material would compromise the objectivity or fairness of the testing or examination process. This exemption is pursuant to section 3(k) (5) and (6) of the Privacy Act of 1974 (5 U.S.C. 552a(k) (5) and (6)) and TVA regulations at 18 CFR 1301.24.

TVA-21

SYSTEM NAME:

Office of Quality Assurance Personnel Records—TVA.

SYSTEM LOCATION:

Office of Quality Assurance, Tennessee Valley Authority, Knoxville, Tennessee 37902.

Copies of records for Quality Assurance Evaluators (construction) are maintained in the office of Supervisor, Quality Assurance Unit at that TVA nuclear power plant. Copies of records for Quality Assurance Evaluators (operation) are maintained in the office of the Supervisor, Quality Assurance, in Chattanooga.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees or former employees involved in quality assurance work.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information related to the qualifications of employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Energy Reorganization Act of 1974, Pub. L. 93–438, 88 Stat. 1233 as implemented at Nuclear Regulatory Commission Regulatory Guide 1.58.

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To the Nuclear Regulatory Commission or its authorized representatives for inspection or evaluation of TVA Quality Assurance procedures.

To respond to a request from a Member of Congress regarding the status of an employee.

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency, whether Federal, state, or local, charged with the responsibility of investigation and prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

To request information from a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information and to request information from private individuals if necessary to obtain information relevant to a TVA decision concerning the hiring, retention, or promotion of an employee, the issuance of a security clearance, or other decision within the purposes of this system of records.

To provide information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on that matter.

In litigation including the presentation of evidence and disclosure to opposing counsel in the course of discovery.

To the parties, their representatives, and Board or Office representatives in Merit Systems Protection Board or Office of Personnel Management proceedings to support administrative action by TVA.

To the parties, their representatives, and Merit Systems Protection Board or Office of Personnel Management representatives in proceedings under TVA grievance adjustment procedures.

To complainants, their representatives, and complaints examiners in the course of TVA investigation and decision of discrimination complaints under TVA equal employment opportunity procedures.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Records are indexed by name.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. All filing systems are locked when unattended.

RETENTION AND DISPOSAL:

Manager, Office of Quality Assurance, Tennessee Valley Authority, Knoxville, Tennessee 37902.

NOTIFICATION PROCEDURE:

Individuals wishing to know whether information about them is maintained in this system of records should address inquiries to the Manager, Office of Quality Assurance, Tennessee Valley Authority, Knoxville, Tennessee 37902. Inquires should include the individual's full name and employing organization.

RECORD ACCESS PROCEDURES:

Individuals who desire access to information about them in this system of records should contact the Manager, Office of Quality Assurance, Tennessee Valley Authority, Knoxville, Tennessee 37902.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the Manager, Office of Quality Assurance, Tennessee Valley Authority, Knoxville, Tennessee 37902.

RECORD SOURCE CATEGORIES:

The individual on whom the record is maintained.

TVA personnel records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system of records is exempt from subsection (d); (e)(4)(H; (f) (2), (3), and (4), to the extent that disclosure of material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. The exemption is pursuant to section 3(k)(5) of the Privacy Act of 1974 (5 U.S.C. 552a(k)(5)) and TVA regulations at 18 CFR 1301.24.

TVA-22

SYSTEM NAME:

Questionnaire—Farms in Vicinity of Proposed Nuclear Power Plant—TVA.

SYSTEM LOCATION:

Economics and Marketing Research Branch, Division of Agricultural Development, Tennessee Valley Authority, Muscle Shoals, Alabama 35660.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals from whom TVA purchases land for proposed nuclear plant, individuals having vegetable gardens, irrigated land, dairy cows, and milk goats within 2-mile radious of proposed plant site.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal identifying information and information related to agriculture, milk consumption, water resources, and farm product value.

This information is not used for making determinations about the rights, benefits, or privileges of any individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd; National Environmental Policy Act, Pub. L. 91–190, 83 Stat. 852; Energy Reorganization Act of 1974, Pub. L. 93–438, 88 Stat. 1233.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in this system of records is used in developing environmental evaluations and impact statements. Certain relevant but nonsensitive information may be disclosed in these statements. Information may also be used:

In administrative and licensing proceedings including the presentation of evidence and disclosure to opposing counsel in the course of discovery.

To disclose to any agency of the Federal Government having oversight or review authority with regard to TVA activities.

For use in litigation including the presentation of evidence and disclosure to opposing counsel in the course of discovery.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Records are indexed by assigned number and aerial photo number.

SAFEGUARDS:

Access to and use of these records are limited to persons whose official duties require such access. Files are kept in secured facilities.

RETENTION AND DISPOSAL:

Records are maintained indefinitely or for the life of the plant.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Tennessee Valley Authority, Muscle Shoals, Alabama 35660.

NOTIFICATION PROCEDURE:

Individuals on whom information is maintained in this system are aware of that fact through response to the questionnaire. However, inquiries may

be addressed to the system manager named above. Requests should include the individual's full name, farm address, and approximate date of survey.

RECORD ACCESS PROCEDURES:

Individuals on whom information is maintained in this system have supplied all such information. However, requests for access may be directed to the system manager named above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to amend information about them maintained in this system should direct their request to the system manager named above.

RECORD SOURCE CATEGORIES:

Individual about whom the record is maintained

TVA-23

SYSTEM NAME:

Radiation Dosimetry Personnel Monitoring Records—TVA.

SYSTEM LOCATION:

Radiological health Staff, Tennessee Valley Authority, Muscle Shoals, Alabama 35660.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees, former employees, and visitors who might be exposed or are exposed to radiation while in TVA installations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information on the magnitude of exposure at TVA installations, exposure prior to employment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Energy Reorganization Act of 1974, Pub. L. 93–438, 88 Stat. 1233.

10 CFR 19, 20.

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To the Nuclear Regulatory Commission for its use in evaluating TVA hazard control measures.

In litigation including the presentation of evidence and disclosure to opposing counsel in the course of discovery.

To the parties, their representatives, and Board or Office representatives in Merit Systems Projection Board or Office of Personnel Management proceedings to support administrative action by TVA.

To the parties, their representatives, and impartial referees in proceedings under TVA grievance adjustment procedures

To conplianants, their representatives, and complaints examiners in the course of TVA investigation and decision of discrimination complaints under TVA equal employment opportunity procedures.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Records are indexed by name.

SAFEGUARDS:

Access to and use of these records are limited to persons whose official duties require such access. Files are kept in secured facilities.

RETENTION AND DISPOSAL:

These records are retained permanently.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Radiological Health Staff, Tennessee Valley Authority, Muscle Shoals, Alabama 35660.

NOTIFICATION PROCEDURE:

Individuals wishing to know whether information about them is maintained in this system of records should address inquiries to the system manager named above. Requests should include the individuals full name and whether or not a TVA employee.

RECORD ACCESS PROCEDURES:

Individuals who desire access to information about them in this system of records should contact the system manager named above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above.

RECORD SOURCE CATEGORIES:

Individuals to whom the record pertains: TVA personnel conducting radiation monitoring programs.

TVA-24

SYSTEM NAME:

Reforestation, Erosion Control, and Plantation Case History Record—TVA.

SYSTEM LOCATION:

Record Staging Area, Tennessee Valley Authority, Muscle Shoals, Alabama 35660, pending official transfer to Federal Archives, East Point, Georgia.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Private landowners involved in early TVA-Civilian Conservation Corps tree planting programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Forest acreage, performance, and yield information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd; Executive Order 6161.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on file cards.

RETRIEVABILITY:

Records are indexed by state, county, and name.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Building is locked when unattended.

RETENTION AND DISPOSAL:

This information is kept permanently for archival purposes.

SYSTEM MANAGER(S) AND ADDRESS:

Manager of the Office of Natural Resources, Tennessee Valley Authority, Knoxville, Tennessee 37902.

NOTIFICATION PROCEDURE:

Individuals on whom records are maintained are aware of that fact through participation in the program. However, inquiries may be addressed to the system manager. Individuals should provide their full name, state, and county of residence.

RECORD ACCESS PROCEDURES:

Individuals who desire access to information about them in this system of records should address their inquiries to the system manager.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above.

RECORD SOURCE CATEGORIES:

The individual to whom the record pertains; state forestry personnel; TVA surveys.

TVA–25

SYSTEM NAME:

Handicap Services and Planning Records—TVA.

SYSTEM LOCATION:

Division of Personnel, Tennessee Valley Authority, Knoxville, Tennessee 37902, area employment offices, and division personnel offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees, former employees, applicants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical, counseling, and employment-related information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd; Rehabilitation Act of 1973, Pub. L. 93–112; Vietnam Era Veterans; Readjustment Assistance Act of 1974, Pub. L. 93–508.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To vocational rehabilitation agencies and private physicians to aid in treatment, rehabilitation, and placement assistance.

To respond to a request from a Member of Congress regarding the status of an employee, former employee, or applicant.

To request information from a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information and to request information from private individuals if necessary to obtain information relevant to a TVA decision concerning the hiring, retention, or promotion of an employee, the issuance of a security clearance or other decision within the purposes of this sytem of records.

To provide information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on that matter.

To the parties, their representatives, and Board or Office representatives in Merit Systems Protection Board or Office of Personnel Management proceedings to support administrative action by TVA.

To the parties, their representatives, and impartial referees in proceedings under TVA grievance adjustment procedures.

In litigation including presentation of evidence and disclosure to opposing counsel in course of discovery.

To complainants, their representatives, and complaints examiners in the course of TVA investigation and decision of discrimination complaints under TVA equal employment opportunity procedures.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Records are indexed by name.

SAFEGUARDS:

Access to and use of these records are limited to persons whose official duties require such access. Filing systems are locked when unattended.

RETENTION AND DISPOSAL:

Records are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Personnel, Tennessee Valley Authority, Knoxville, Tennessee 37902.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if information on them is maintained in this system of records should address inquiries to the system manager named above.

RECORD ACCESS PROCEDURES:

Individuals who seek access to information about them in this system of records should contact the system manager named above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above.

RECORD SOURCE CATEGORIES:

Individual to whom the record pertains; vocational rehabilitation agencies; educational institutions, former employers, and other reference sources; physicians; veterans. Veterans Administration; Office of Workers' Compensation Program.

TVA–26

SYSTEM NAME:

Retirement System Records—TVA

SYSTEM LOCATION:

TVA Retirement System, Tennessee Valley Authority, Knoxville, Tennessee 37902.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active, retired, and former Retirement System; TVA employees and former employees who are members of the Civil Service Retirement System; designated beneficiaries.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal identifying information; retirement, benefit, and investment information; related correspondence; and legal documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 USC 831–831dd; Internal Revenue Code.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To report earnings to the Internal Revenue Service.

To supply information on coverage to Blue Cross-Blue Shield of Tennessee, Provident Life Insurance Company, and other insurance carriers.

To disclose information to actuarial firms for valuation and projecting benefits.

To disclose information to the Medical Board of the TVA Retirement System for determinations related to disability retirement.

To certify insurance status to the Office of Personnel Management, the Office of Federal Employees Group Life Insurance.

To respond to a request from a Member of Congress regarding the status of a system member.

To request information from a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or

other pertinent information and to request information from private individuals if necessary to obtain information relevant to a TVA decision within the purpose of this system of records.

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency, whether Federal, state, or local charged with the responsibility of investigating and prosecuting such violation or charged with enforcing or implementing the statute rule, regulation, or order issued pursuant thereto.

To provide information to a Federal agency, in response to its request, in connection with the issuance of any benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on that matter.

For use in litigation including the presentation of evidence and disclosure to opposing counsel in the course of discovery.

To provide the TVA Retirees Association, retired members of the TVA Retirement System, and retired former TVA employees who are covered by the Civil Service Retirement System, with names and mailing addresses of other retired members and retired employees.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on automated data storage devices, ledgers, and in file folders.

RETRIEVABILITY:

Records are indexed by name, sex, date of birth, address, social security number, active member number, retirement number, or salary.

SAFEGUARDS:

. Records in this system are maintained in locked files or safes, in secure facilities. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Retention periods vary from two years to permanent depending on the nature of the information and the medium in which they are stored.

SYSTEM MANAGER(S) AND ADDRESS:

Executive Secretary of TVA Retirement System Division of Finance Tennessee Valley Authority Knoxville, Tennessee 37902

NOTIFICATION PROCEDURE:

Individuals wishing to know whether information about them is maintained in this system of records should address inquiries to the system manager named above. Inquiries should include the individual's full name and date of birth. The social security number is not required but will expedite TVA's response.

RECORD ACCESS PROCEDURES:

Individuals who desire access to information about them in this system of records should contact the system manager named above.

CONTESTING RECORD PROCEDURES:

Individuals wishing to correct or amend information maintained on them in this system should address inquiries to the system manager named above.

RECORD SOURCE CATEGORIES:

The individual on whom the record is maintained; TVA personnel and payroll records.

TVA–27

SYSTEM NAME:

Test Demonstration Farm Records—TVA.

SYSTEM LOCATION:

Division of Agricultural Development, Tennessee Valley Authority, Field Programs Branch and Economics and Marketing Research Branch, Muscle Shoals, Alabama 35660.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Farmers located outside the Tennessee Valley participating in:

Rapid adjustment demonstration farm program.

Unit test-demonstration farm program.

Fertilizer technology farm program.

Enterprise farm program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Agricultural, income, investment, labor, and food data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 USC 831–831dd.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To request information from a government agency or private individual where such information may be relevant to providing additional assistance under this program.

To disclose to state extension services and the U.S. Department of Agriculture for use in program evaluation and in assistance to program participants.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders and on automated date storage devices, cards, and printouts.

RETRIEVABILITY:

Records are indexed by an assigned number.

SAFEGUARDS:

Access to and use of these records are limited to persons whose official duties require such access. Files are kept in secured facilities and locked when unattended.

RETENTION AND DISPOSAL:

Records are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Agricultural Development, Tennessee Valley Authority, Muscle Shoals, Alabama 35660.

NOTIFICATION PROCEDURE:

Individuals seeking access to information about them in this system of records should contact the system manager named above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above.

RECORD SOURCE CATEGORIES:

Information in this system is solicited from the individual to whom the record pertains by state extension services and universities.

TVA–28

SYSTEM NAME:

Woodland Resource Analysis Program Input Data—TVA.

SYSTEM LOCATION:

Office of Natural Resources, Tennessee Valley Authority, Norris, Tennessee 37828.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Private landowners, agencies, and corporations owning woodlands in Valley region and participating in TVA woodland resource management demonstration program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal, financial, and land resource information pertinent to woodland resource planning. The information in this system is not used by TVA in the determination about the rights, benefits, or privileges of the individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd: Executive Order 6161.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Evaluated information is supplied to state forestry personnel for use in assisting the landowner.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records and maintained on automated data storage devices, hard copy printouts, and in file folders.

RETRIEVABILITY:

Records are indexed by computer run number by State.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Files are kept in secured facilities.

RETENTION AND DISPOSAL

Records are retained for 25 years.

SYSTEM MANAGER(S) AND ADDRESS:

Manager of the Office of Natural Resources, Tennessee Valley Authority, Knoxville, Tennessee 37902.

NOTIFICATION PROCEDURE:

Individuals on whom information is maintained are aware of that fact through participation in the program. However, inquiries may be addressed to the system manager. Individuals should provide their full name, state of residence and the calendar year(s) of participation in the program.

RECORD ACCESS PROCEDURES:

Individuals on whom records are maintained have been provided copies of all information in that record. However, requests for access may be directed to the system manager named above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above.

RECORD SOURCE CATEGORIES:

The individual to whom the record pertains provides the information to state forestry personnel. The information is evaluated by TVA and returned to the state forestry personnel who utilize the information in evaluated form to assist the landowner.

TVA–29

SYSTEM NAME:

Electricity Use, Rate, and Service Study Records—TVA.

SYSTEM LOCATION:

Division of Energy Use and Distributor Relations and the Division of Energy Conservation and Rates, Tennessee Valley Authority, Chattanooga, Tenn. 37401.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals residing in households which are participating in electricity use, rate and service studies including those receiving electricity conservation assistance.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information about an individual's income, employment, family size, characteristics of his dwelling including type of heating and cooling systems and number and kind of appliances, and other characteristics of study participants relevant to patterns of residential electrical use.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To distributors and contractors assisting TVA in the study:

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders and on automated data storage devices.

RETRIEVABILITY:

Records are indexed by an identification number assigned to each household.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. All filing systems are locked when unattended.

RETENTION AND DISPOSAL:

Survey information will be retained until completion of the program and for two years thereafter.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Energy Use and Distributor Relations, Tennessee Valley Authority, Chattanooga, Tenn. 37401.

NOTIFICATION PROCEDURE:

Individuals about whom information is maintained in this system of records are aware of that fact through participation in the program. However, inquiries may be addressed to the system manager named above. Request should include the individuals full name and address.

RECORD ACCESS PROCEDURES:

Requests for access may be directed to the system manager named above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above.

RECORD SOURCE CATEGORIES:

The information in this system is solicited from the individual to whom the record pertains.

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DEPARTMENT OF THE TREASURY

Office of the Secretary

Public Information Collection Requirements Submitted to OMB for Review

On August 19, 1983, the Department of the Treasury submitted the following public information collection requirement(s) to OMB (listed by submitting bureaus), for review and

clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 634–2179. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 309, 1625 I Street, N.W., Washington, D.C. 20220.

Internal Revenue Service

OMB Number: N/A
Form Number: None
Type of Review: Existing Regulation
Title: Lists of Solicitation of Tax Return Business
OMB Number: N/A
Form Number: None
Type of Review: Existing Regulation
Title: Limitation on Reduction in Income Tax Liability Incurred to the Virgin Islands
OMB Number: 1545–0160
Form Number: 3520A
Type of Review: Existing Regulation
Title: Annual Return of Foreign Trust with U.S. Beneficiaries
OMB Number: 1545–0216
Form Number: 5713 Schedules A, B & C
Type of Review: Existing Regulation
Title: Boycott International Report
OMB Number: 1545–0049
Form Number: None
Type of Review: Existing Regulation
Title: Information and Initial Excise Tax Return for Black Lung Benefit Trusts and Certain Related Persons/Return of Excise Tax on Excess Contribution to Black Lung Benefit Trust Under Section 4953 and Computation of Section 192 Deduction
OMB Number: 1545–0159
Form Number: None
Type of Review: Existing Regulation
Title: United States Information Return Creation of or Transfers to Certain Foreign Trusts
OMB Number: 1545–0010
Form Number: None
Type of Review: Existing Regulation
Title: Employee's Withholding Allowance Certificate
OMB Reviewer: Norman Frumkin (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Rita A. DeNagy,

Departmental Reports Management Office.

[FR Doc. 83–23459 Filed 8–25–83; 8:45 am]
BILLING CODE 4810–25–M

[Order No. 113–1]

Redesignation of the Public Liaison and Consumer Affairs Function as the Business and Consumer Affairs Function

August 17, 1983.

By virtue of the authority vested in the Secretary of the Treasury, including the authority under 31 U.S.C. 321(b), and the authority delegated to me by Treasury Department Order No. 101–5, dated 12–21–82, it is ordered that the Assistant Secretary (Public Liaison and Consumer Affairs) be redesignated as the Assistant Secretary (Business and Consumer Affairs). The responsibilities of the Assistant Secretary and of the Office of the Assistant Secretary (Business and Consumer Affairs) remain the same, i.e.:

1. *The Assistant Secretary (Business and Consumer Affairs)* will report to the Secretary through the Deputy Secretary, and will be responsible for:

a. Establishing general operating policies and guidelines, and providing leadership, direction and management strategy for administering business and consumer affairs programs and activities in all Treasury offices and bureaus.

b. Formulating and executing business and consumer affairs policies and programs which will increase the knowledge and understanding of businesses, trade and professional organizations, and consumer groups regarding Treasury's activities and services.

c. Providing business and consumer affairs logistic support, program development, and policy development to the Office of the Secretary.

d. Serving as the principal advisor to the Secretary, the Deputy Secretary, and senior officials throughout the Treasury Department on matters affecting the understanding by businesses, trade and professional organizations, and consumer groups of Treasury policies and programs.

e. Providing executive direction to the Small and Disadvantaged Business Utilization program. In the performance of these functions, the Assistant Secretary shall be known as the "Director, Office of Small and Disadvantaged Business Utilization."

2. *The Office of the Assistant Secretary (Business and Consumer Affairs)* is under the supervision of the Assistant Secretary (Business and Consumer Affairs). This office performs the following functions:

a. Developing materials to inform businesses, trade and professional organizations, and consumer groups regarding the Department's policies, programs, activities, and services.

b. Serving the specialized needs of specific Treasury officials for communications with businesses, trade and professional organizations, and consumer groups.

c. Providing editorial services for publications of the Office of the Assistant Secretary (Business and Consumer Affairs), e.g., brochures, pamphlets, and other communications materials.

d. Coordination business and consumer affairs activities throughout the Department.

e. The functions provided for by Pub. L. 95–507. In performing these functions, the office shall be known as the Office of Small and Disadvantaged Business Utilization.

f. Processing mail from the general public addressed to the Secretary of the Treasury and mail addressed to the President regarding Treasury issues.

3. The Director, Office of Consumer Affairs, will have direct access to the Secretary on consumer affairs matters.

4. The Assistant Secretary (Business and Consumer Affairs) is authorized to define the organizational structure and the specific responsibilities of the positions and personnel assigned to the Office of the Assistant Secretary (Business and Consumer Affairs).

5. This Order amends and supersedes Treasury Department Order No. 113–1, dated June 1, 1981, by changing the functional title of the Assistant Secretary and of the office. The actual functions, authorities and organization are not affected.

Cora P. Beebe,

Assistant Secretary (Administration).

[FR Doc. 83–23532 Filed 8–25–83; 8:45 am]
BILLING CODE 4810–25–M

Customs Service

[T.D. 83–152]

Revocation of Customhouse Cartman's License No. A–966 Issued by the District Director of Customs, Honolulu, to Takaski Brian Uyeno on February 12, 1980; Correction

AGENCY: Customs Service, Treasury.

ACTION: Customhouse cartman's license—revocation; correction.

SUMMARY: This document corrects errors in a document published in the **Federal Register** on Wednesday, July 20, 1983 (48 FR 33399), relating to the revocation of Customhouse Cartman's License No. A–966 issued on February 12, 1980 to

Takashi Brian Uyeno by the District Director of Customs, Honolulu.

FOR FURTHER INFORMATION CONTACT: Ronald W. Gerdes, Assistant Chief Counsel (Administration and Legislation), U.S. Customs Service (202)–566–2482).

Background

In FR Doc. 83–19759, appearing at page 33399, the identification card number should be A–966 in lieu of 3146 which was a temporary identification card number, and the effective date should be February 12, 1980, in lieu of December 5, 1979. Accordingly, the following corrections are made to the document:

On page 33399 substitute the number 3146 with A–966 and replace the date of December 5, 1979 with February 12, 1980, in the summary and heading.

Dated: August 23, 1983.

Alfred R. De Angelus,

Acting Commissioner of Customs.

[FR Doc. 83-23467 Filed 8-25-83; 8:45 am]

BILLING CODE 4820-02-M

[T.D. 83–172]

Revocation of Individual License No. 3837 Issued on June 21, 1973, for District 49–09, San Juan, Puerto Rico; Correction

AGENCY: Customs Service, Treasury.

ACTION: Customhouse broker license—revocation; correction.

SUMMARY: This document corrects errors in a document published in the **Federal Register** on Friday, August 5, 1983 (48 FR 36052) relating to the revocation of Customhouse Broker's License No. 3837 of Norma E. Sanchez issued on June 21, 1973, in San Juan, Puerto Rico.

FOR FURTHER INFORMATION CONTACT: Ronald W. Gerdes, Assistant Chief Counsel (Administration & Legislation), U.S. Customs Service (202–566–2482).

Background

In FR Doc. 83–21502, appearing at page 36052, the decision to revoke Customhouse Broker's License No. 3837 was made by the Assistant Secretary of the Treasury and not the Commissioner of Customs. Also, the date of the decision was omitted in the first sentence of the summary. Accordingly, the following corrections are made to the document:

In the summary, the words "Commissioner of Customs" should be substituted with the words "Assistant Secretary of the Treasury." In addition where the word "Commissioner" appears, it should be replaced with the words "Assistant Secretary." Finally, after the word "on" and before the word "pursuant" the date of August 1, 1983, should be inserted.

Dated: August 23, 1983.

Alfred R. De Angelus,

Acting Commissioner of Customs.

[FR Doc. 83-23468 Filed 8-25-83; 8:45 am]

BILLING CODE 4820-02-M

Internal Revenue Service

Art Print Advisory Panel; Closed Meeting

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of closed meeting of Art Print Advisory Panel.

SUMMARY: A closed meeting of the Art Print Advisory Panel will be held in Washington, D.C.

DATE: The meeting will be held September 21, 1983.

FOR FURTHER INFORMATION CONTACT: Wiley Grant, CC:C:E:V, 1111 Constitution Avenue, N.W., Room 5545, Washington D.C. 20224, Telephone No. (202) 566–4196 (not a toll free number).

Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. app. (1976), that a closed meeting of the Art Print Advisory Panel will be held on September 21, 1983 beginning at 9:30 a.m. in Room 3411, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, D.C. 20224.

The agenda will consist of the review and evaluation of the acceptability of fair market value appraisals and allocations of value of the assets in art print publishing ventures involved in federal income tax returns. This will involve the discussion of material in individual tax returns made confidential by the provisions of section 6103 of Title 26 of the United States Code.

A determination as required by section 10(d) of the Federal Advisory Committee Act has been made that these meetings are concerned with matters listed in section 552b(c) (3), (4), (6), and (7) of Title 5 of the United States Code, and that the meetings will not be open to the public.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the **Federal Register** for Wednesday, November 8, 1978. (43 FR 52122.)

Roscoe L. Egger, Jr.,

Commissioner.

[FR Doc. 83-23535 Filed 8-25-83; 8:45 am]

BILLING CODE 4830-01-M

[Delegation Order No. 112 (Rev. 9)]

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: This is a revision of Delegation Order No. 112 (Rev. 8) which authorizes the District Director of each EP/EO key district to issue determination and revocation letters, to allow amendment of employee plans after the expiration of the remedial amendment period and to issue examination reports relating to employee plans. Section 1(b) of the delegation order is revised to incorporate the provision that the District Director of each Employee Plans and Exempt Organizations key district is authorized to determine that a trust or organization described in section 401(a), which is referred to in section 4975(g) (2) or (3), has engaged in a prohibited transaction and to notify such entity in writing of the revocation of exemption and of the requalification for exemption after such entity establishes that it will not knowlingly again engage in a prohibited transaction. This provision was formerly contained in Delegation Order No. 88 (Rev. 6). Section 1(c) of the delegation order is revised to authorize the District Director of each EP/EO key district to issue determination and revocation letters with respect to exemption from federal income tax of a group trust. Former paragraph (c) of section 1, as reflected in Rev. 8 (relating to the issuance of determination letters with respect to certain nonqualified employee stock ownership plans) has been deleted because of the changes in the applicable tax law made by the Revenue Act of 1978 which require employee stock ownership plans to qualify under section 401(a) of the Internal Revenue Code. Former paragraphs (b), (d), and (e) of section 1, have been recategorized as paragraphs (d), (e), and (f), respectively Section 1(f)(2), as recategorized, is also revised to provide that the authority to issue final revocation letters may be redelegated to the Chief, EP/EO Division, and, in the Western Region only, to the Chief, Quality Review Division. Former section 1(e)(3) has been deleted. Section 4(b) is revised to provide that the authority to allow amendment of employee plans after the expiration of the remedial amendment period may be redelegated, in the Western Region only, to the Chief, Quality Review Division. The text of the delegation order appears below.

EFFECTIVE DATE: August 25, 1983.

FOR FURTHER INFORMATION CONTACT: Sheila M. Connor, OP:E:EP:T:8, 1111 Constitution Ave., NW., Washington, D.C. 20224, (202) 566–3149 (not toll free).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the **Federal Register** for Wednesday, November 8, 1978.

Donald L. Dietz,

Acting Chief, Employee Plans Determination Branch.

Order No. 112 (Rev. 9)

Effective date: 8–25–83.

Authority To Issue Determination and Revocation Letters, To Allow Amendment of Employee Plans After the Expiration of the Remedial Amendment Period and To Issue Examination Reports Relating to Employee Plans

Pursuant to authority vested in the Commissioner of Internal Revenue by Treasury Department Order No. 150–37, authority with respect to issuance of determination and revocation letters, to allow amendment of plans after the expiration of the remedial amendment period and to issuance of examination reports pertaining to employee plans and related matters is delegated as follows:

1. The District Director of each Employee Plans and Exempt Organizations key district is authorized, subject to section 3, to:

(a) issue determination and revocation letters involving the provisions of sections 401, 403(a), 405, 409A, 501(a) and 4975(e)(7) of the Internal Revenue Code of 1954 with respect to:

(1) qualification of stock bonus, pension, profit sharing, employee stock ownership, annuity, and bond purchase plans, and cash or deferred arrangements;

(2) exemption from federal income tax under section 501(a) of trusts forming a part of such plans, provided that the determination does not involve application of section 502 (feeder organizations) or section 511 (unrelated business income), or the question of whether a proposed transaction will be a prohibited transaction under section 4975(c)(1) or section 503 with respect to plans described in section 4975(g)(2) or (3);

(3) conpliance with the applicable requirements of foreign situs trusts as to taxability of beneficiaries (section 402(c)) and deductions for employer contributions (section 404(a)(4)); and

(4) amendments (including those relating to section 414(1) of the Code), partial terminations or terminations of such plans and trusts.

(b) determine that any organization or trust described in section 401(a), the plan of which is referred to in section 4975(g) (2) or (3), has engaged in a prohibited transaction under section 503 and to notify such entity in writing of the revocation of exemption and of the requalification for exemption after such entity establishes that it will not knowlingly again engage in a prohibited transaction and that it also satisfies all applicable requirements of section 401(a).

(c) issue determination and revocation letters with respect to exemption from federal income tax of a group trust:

(1) under section 501(a), with respect to its funds which equitably belong to participating trusts described in section 401(a), and, for taxable years beginning after December 31, 1981, plans and governmental units described in section 805(d)(6); and/or

(2) under section 408(e), with respect to its funds which equitably belong to individual retirement accounts which satisfy the requirements of section 408(a).

(d) issue examination reports with respect to:

(1) Continued qualification under sections 401, 403(a), 405, 409A, and 4975(e)(7) of plans and continued exemption under section 501(a) of the related trust;

(2) imposition of tax under sections 1, 511 through 514, 641 and Chapter 43; and

(3) imposition of penalties under Chapter 68 of the Internal Revenue Code of 1954.

(e) issue modification or revocation of determination letters described above in accordance with currently applicable appeal procedures. If the revocation involves collectively-bargained plans, or plans for which the Internal Revenue Service is proposing to issue a revocation letter because certain fiduciary actions subject to Part 4, Subtitle B of Title I of the Employee Retirement Income Security Act (ERISA) have violated the exclusive benefit rule of section 401(a), the plan must have been submitted for technical advice and the Assistant Commissioner (OP:E) must have concurred with the revocation.

(f) redelegate this authority as follows:

(1) with respect to issuance and modification of favorable determination letters or examination reports, other than a report issued with a proposed revocation letter, not below Internal Revenue Agent and Tax Law Specialist, GS–12, and then only if such individual is a person other than the initiator,

(2) with respect to issuance of proposed and final adverse determination letters or proposed and final revocation letters and related examination reports, not below Chief, EP/EO Division (in the Western Region, not below Chief, Quality Review Division).

2. In each region, the Regional Counsel, the Regional Director of Appeals, Chiefs and Associate Chiefs, Appeals Office, are authorized to:

(a) issue final determination or final revocation letters on appeals from proposed adverse determination and proposed revocation letters issued by key district offices under this delegation.

(b) issue letters as to the decision on appealed examination reports or of deficiency notices as provided in Delegation Order No. 77.

(c) This authority may not be redelegated.

3. The Assistant Commissioner (Employee Plans and Exempt Organizations), with concurrence of the Chief Counsel, is authorized to require preissuance review of final adverse determination and final revocation letters covered by section 7476(a) of the Internal Revenue Code of 1954.

4. The District Director of each Employee Plans and Exempt Organizations key district is authorized to:

(a) allow a plan to be amended after the expiration of its remedial amendment period described in section 401(b) of the Code for any plan year in which a request for a determination letter is made or is pending with the Service, and for the plan year prior to the plan year in which the plan is submitted for a determination letter if the plan is submitted by the end of the time for filing the tax return of the employer (including extensions) for the taxable year of the employer beginning with or within that prior plan year, provided that two conditions are met:

(1) the plan is retroactively amended to comply with the qualification requirements as of the time the defect in the plan arose, and

(2) employee benefit rights are retroactively restored to the levels they would have been had the plan been in compliance with the qualification requirements from the date the defect in the plan arose.

(b) redelegate this authority but not below Assistant Chief, EP/EO Division (in the Western Region, not below Chief, Quality Review Division).

Delegation Order No. 112 (Rev. 8) effective June 16, 1982, is hereby superseded

Dated: August 1, 1983.

Approved:
James I. Owens,
Deputy Commissioner.
[FR Doc. 83-23636 Filed 8-25-83; 8:45 am]
BILLING CODE 4830-01-M

[Delegation Order No. 113 (Rev. 8)]

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: This revision adds the provision that the District Director of each Employee Plans and Exempt Organizations key district is authorized to determine that any trust described in section 501(c)(17) or 501(c)(18) has engaged in a prohibited transaction and to notify such in writing of the revocation of exemption and the requalification for exemption after the trust establishes that it will not knowingly again engage in a prohibited transaction. This provision was formerly contained in Delegation Order No. 88 (Rev. 6). This revision also gives the key District Director authority to issue determination letters on withholding of information from public inspection under section 6104(a)(1)(D). The text of the delegation order appears below.

EFFECTIVE DATE: August 25, 1983.

FOR FURTHER INFORMATION CONTACT: David F. Flavin OP:E:EO:T:TR, 1111 Constitution Ave., NW., Room 6033, Washington, D.C. 20224, Telephone No. (202) 566-4332 (not a toll-free telephone number).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury directive appearing in the **Federal Register** for Wednesday, November 8, 1978.

Edward D. Coleman,
Chief, Exempt Organizations Technical Branch.

Order No. 113 (Rev. 8)

Effective date: 8-25-83.

Authority To Issue Exempt Organization Determination Letters

Pursuant to authority vested in the Commissioner of Internal Revenue by Treasury Department Oder No. 150-37 and the provisions of 26 CFR 1.503(a)-1, authority with respect to issuance of determination letters pertaining to the exempt status of organizations under section 501(a) and related matters is delegated as follows:

1. The District Director of each Employee Plans and the Exempt Organizations key district listed in 4. below is authorized to:

(a) Issue determination letters, except as noted in section 2, below, with respect to exemption from Federal income tax under sections 501 and 521; status under IRC 120, 170(c)(2), 507, 508, 509, 4942(j)(3), 4947, 4948, and 6033, withholding of information from public inspection under IRC 6104(a)(1)(D); imposition of tax under IRC 11, 511 through 514, 527(f), 841, 1381, and Chapters 41 and 42; provided the requests present questions the answers to which are clear from an application of the provisions of the statue, Treasury decisions or regulations, or by a ruling, opinion, or court decision published in the Internal Revenue Bulletin, and

(b) Issue modifications or revocations of rulings or determination letters described above in accordance with currently applicable appeal procedures, and

(c) Determine that any trust described in section 501(c)(17) or 501(c)(18) has engaged in a prohibited transaction and to notify such entity in writing of the revocation of exemption and of the requalification for exemption after the trust establishes that it will not knowingly again engage in a prohibited transaction and that it also satisfies all other requirements under section 501(c)(17) or 501(c)(18), and

(d) Redelegate this authority but not below Exempt Organizations Specialist, Grade GS-12 (other than the originator) and not below Chief, Employee Plans and Exempt Organizations Division with respect to adverse modifications or revocations of such letters.

2. In each region, the Regional Counsel, the Regional Director of Appeals, Chief and Associate Chief, Appeals Office are authorized to issue final determination letters on appeals from proposed adverse determinations and proposed revocations issued by key district offices under this delegation. This authority may not be redelegated.

3. The Assistant Commissioner (Employee Plans and Exempt Organizations), with the concurrence of the Chief Counsel, is authorized to require preissuance review of specific types of final adverse determinations of issues described in IRC 7428(a)(1).

4. In each region, the following Employee Plans and Exempt Organizations key districts are responsible for exempt organizations matters:

Key Districts—IRS District Covered

Central Region

Cincinnati—Cincinnati, Cleveland, Detroit, Indianapolis, Louisville, and Parkersburg

Mid-Atlantic Region

Baltimore—Baltimore (which includes the District of Columbia and Office of International Operations), Pittsburgh, and Richmond

Newark—Newark, Philadelphia, and Wilmington

Midwest Region

Chicago—Aberdeen, Chicago, Des Moines, Fargo, Milwaukee, Omaha, St. Louis, St. Paul, and Springfield

North-Atlantic Region

Brooklyn—Albany, Augusta, Boston, Brooklyn, Buffalo, Burlington, Hartford, Manhattan, Portsmouth, and Providence

Southeast Region

Atlanta—Atlanta, Birmingham, Columbia, Greensboro, Jackson, Jacksonville, and Nashville

Southwest Region

Dallas—Albuquerque, Austin, Cheyenne, Dallas, Denver, Houston, Little Rock, New Orleans, Oklahoma City, and Wichita

Western Region

Los Angeles—Honolulu, Laguna Niguel, Los Angeles, and Phoenix

San Francisco—Reno, Salt Lake City, Sacramento, San Jose, and San Francisco

Seattle—Anchorage, Boise, Helena, Portland, and Seattle

Delegation Order No. 113 (Rev. 7) effective March 21, 1982, is hereby superseded.

Dated: August 1, 1983.

Approved: August 1, 1983.

James I. Owens,
Deputy Commissioner.
[FR Doc. 83-23637 Filed 8-25-83; 8:45 am]
BILLING CODE 4830-01-M

VETERANS ADMINISTRATION

Agency Form Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

The Veterans Administration has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document consists of a proposed extension and the listing contains the following information: (1) The department or staff office issuing the form; (2) The title of the form; (3) The agency form number, if applicable; (4) How often the form must be filled out; (5) Who will be required or asked to

report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to fill out the form; and (8) An indication of whether section 3504(h) of Public Law 96–511 applies.

ADDRESSES: Copies of the proposed form and supporting documents may be obtained from Patricia Viers, Agency Clearance Officer (004A2), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 389–2146. Comments and questions about the items on this list should be directed to the VA's OMB Desk Officer, Rich Shepard, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395–6880.

DATES: Comments on the form should be directed to the OMB Desk Officer by October 25, 1983.

Dated: August 22, 1983.

By direction of the Administrator.

Robert Frongello,

Assistant to the Associate Deputy Administrator for Information Resources Management.

Extension

1. Department of Medicine and Surgery.

2. Authority and Invoice for Travel by Ambulance or Other Hired Vehicle.

3. VA Form 10–2511.

4. On occasion.

5. Individuals or households; businesses or other for-profit; small businesses or organizations.

6. 122,500 responses.

7. 4,900 hours.

8. Not applicable.

[FR Doc. 83–23470 Filed 8–25–83; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 167
Friday, August 26, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Federal Maritime Commission	1
Pacific Northwest Electric Power and Conservation Planning Council	2
Parole Commission	3
Postal Rate Commission	4
Postal Service	5

1

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9 a.m., August 31, 1983.

PLACE: Hearing Room One, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Protest of International Association of NVOCC's to Container Rates of North Atlantic Conferences.
2. Sea-Land Service, Inc., Special Permission Application for blanket authority to meet rates of competitors not subject to regulation by the Commission.
3. Docket No. 82–36: Requirements for Filing Currency Adjustment Factors Reflecting Changes in the Exchange Rate of Tariff Currencies—Consideration of comments received in response to notice of proposed rulemaking.
4. Notice of Inquiry and Intent to Review Regulation of Ports and Marine Terminal Operators.
5. Docket No. 82–57: Clark International Marketing S.A., a Division of Clark Equipment v. Venezuela Line—Consideration of the record.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary, (202) 523–5725.

[S–1219–83 Filed 8–24–83; 9:14 am]

BILLING CODE 6730–01–M

2

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

STATUS: Open.

DATE AND TIME: September 6, 1983, 10 a.m.; September 7, 1983, 9 a.m.

PLACE: Federal Building, South Auditorium, Seattle, Washington.

MATTERS TO BE CONSIDERED:

Discussion of Cost Analysis on WPPSS plants
Discussion of Natural Gas Industry Request to Suspend Power Plan
Discussion of "Implementation Programs for the Northwest Power Planning Council's Two-Year Action Plan"
Council Business
Public Comment will be taken after each item on the agenda.

FOR FURTHER INFORMATION CONTACT: Ms. Bess Wong (503) 222–5161.

Edward Ghasta,

Executive Director.

[S–1220–83 Filed 8–24–83; 11:48 am]

BILLING CODE 0000–00–M

3

PAROLE COMMISSION

National Commissioners (the Commissioners presently maintaining offices at Chevy Chase, Maryland Headquarters)

TIME AND DATE: Thursday, August 25, 1983 10 a.m.

PLACE: Room 420–F, One North Park Building, 5550 Friendship Blvd., Chevy Chase, Maryland 20815.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Referrals from Regional Commissioners of approximately 5 cases in which inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION: Linda Wines Marble, Chief Case Analyst, National Appeals Board, United States Parole Commission (301) 492–5987.

[S–1222–83 Filed 8–24–83; 8:45 am]

BILLING CODE 4410–01–M

4

POSTAL RATE COMMISSION

TIME AND DATE: 12 noon, Wednesday, August 24, 1983.

PLACE: Conference Room, Room 500, 2000 L Street NW., Washington, D.C. 20268.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Closed pursuant to 5 U.S.C. 552b(c)(10):

Opinion and Recommended Decision upon Further Reconsideration of Bulk Third-Class Nonprofit Rates—Docket No. R80–1.

CONTACT PERSON FOR MORE INFORMATION: Cyril J. Pittack, Acting Secretary, Postal Rate Commission, Room 500, 2000 L Street NW., Washington, D.C. 20268, telephone (202) 254–3880.

[S–1221–83 Filed 8–24–83; 1:07 pm]

BILLING CODE 7715–01–M

5

POSTAL SERVICE

Board of Governors

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 CFR 7.5) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice that it intends to hold meetings at 3 p.m. on Wednesday, September 7, 1983, in Boston, Massachusetts, and at 8 a.m. on Thursday, September 8, in Room 4007 of the Boston Post Office, 25 Dorchester Avenue, Boston, Massachusetts. As indicated in the following paragraph, the September 7 meeting is closed to public observation. The September 8 meeting is open to the public. The Board expects to discuss the matters stated in the agenda which is set forth below. Requests for information about the meetings should be addressed to the Secretary of the Board, David F. Harris, at (202) 245–3734.

The Board voted in accordance with the provisions of the Government in the Sunshine Act to close to public observation its meeting scheduled for September 7. (See 48 FR 37335, August 17, 1983 and 48 FR 38371, August 23, 1983.) The agenda items of the meeting to be closed concern strategic planning in regard to possible: (1) Future rate adjustments and (2) changes in E–COM mail classification.

Agenda

Wednesday Session, September 7 (Closed):

3:00 p.m.:

1. Strategic Planning:
   a. Discussion of future rate adjustments.
   b. Discussion of possible changes in the Domestic Mail Classification Schedule with regard to E–COM (Electronic Computer Originated Mail.)

Thursday Session, September 8 (Open):

8:00 a.m.:

1. Minutes of the Previous Meeting, August 1–2, 1983.
2. Remarks of the Postmaster General.

(In keeping with its consistent practice, the Board's agenda provides this opportunity for the Postmaster General to inform the

Members of miscellaneous current developments concerning the Postal Service. Nothing that requires a decision by the Board is brought up under this item.)

3. USPS Tentative Budget Program.
(Mr. Coughlin, Senior Assistant Postmaster General, Finance Group, will discuss the Postal Service's tentative budget program for fiscal year 1985 with the Board.)

4. Postal Rate Commission Budget.
(Under the Postal Reorganization Act, the Postal Rate Commission periodically prepares and submits to the Postal Service a budget of the Commission's expenses. The budget is to be considered approved as submitted if the Governors of the Postal Service do not act to adjust it by unanimous written decision. This matter is included on the agenda to give the Governors an opportunity to act on the Commission's budget.)

5. Report by the Chairman of the Committee on Electronic Communications.
(Mr. Sullivan will report on E–COM.)

6. Update on Real Estate Disposal and Development Program.
(Mr. Craig, Assistant Postmaster General, Real Estate and Buildings Department, will present a report on the results of the program.)

7. Proposed Capital Investment:
Tampa (Florida) General Mail Facility

8. Consideration of a Tentative Agenda for the October 3–4, 1983, meeting of the Board in Washington, D.C.

David F. Harris,

Secretary.

[S–1219–83 Filed 8–24–83; 9:40 am]

BILLING CODE 7710–12–M

VOL
48
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federal register

Friday
August 26, 1983

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Arizona: AZ83–5103; AZ83–5105	Mar. 4, 1983.
California: CA83–5112	July 1, 1983.
Florida:	
FL83–1016	Apr. 1, 1983.
FL83–1024	Apr. 15, 1983.
FL83–1029	Apr. 22, 1983.
FL83–1032	Apr. 29, 1983.
Illinois: IL83–2014	Mar. 4, 1983.
Iowa:	
IA83–4049	Oct. 8, 1982.
IA82–4035	May 13, 1983.
IA83–4050	July 15, 1983.
IA83–4056	July 29, 1983.
Louisiana:	
LA83–4001	Jan. 7, 1983.
LA83–4019	Feb. 4, 1983.
LA83–4059	Aug. 5, 1983.
Pennsylvania:	
PA79–3020	July 20, 1979.
PA81–3076	Oct. 9, 1981.
PA81–3081; PA81–3081	Oct. 25, 1981.
PA82–3016	May 14, 1982.
Puerto Rico: PR83–3034	Aug. 5, 1983.
Texas:	
TX82–4042	Aug. 20, 1982.
TX83–4002, TX83–4003;	
TX83–4004; TX83–4006	Jan. 7, 1983.
TX83–4022	Apr. 8, 1983.
TX83–4045	June 3, 1983.
Utah: UT83–5108	Mar. 25, 1983.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Florida: FL82–1063 (FL83–1060)	Nov. 19, 1982.
Massachusetts: MA83–3004 (MA83–3045).	Apr. 1, 1983.
New York: NY81–3038 (NY83–3044)	June 5, 1981.
Texas: TX81–4084 (TX83–4061)	Aug. 7, 1981.

Signed at Washington, D.C., this 19th day of August 1983.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

MODIFICATION P. 1

	Basic Hourly Rates	Fringe Benefits
DECISION NO. AZ83-5102 - Mod. #5 (48 FR 9424 - March 4, 1983) Maricopa County, Arizona		
ADD: Landscape Sprinkler Fitter/Installer	$6.65	
Landscape Laborer	4.59	
DECISION NO. AZ83-5105 - Mod. #4 (48 FR 9426 - March 4, 1983) Pima County, Arizona		
ADD: Landscape Sprinkler Fitter/Installer	$8.27	$0.24
Landscape Laborers	4.91	0.24
DECISION NO. PR83-3034 - Mod. #1 (48 FR 35849 - August 5 1983) Puerto Rico, Island Wide		
CHANGE: Supersedeas Decision No. to read PR80-3070, dated October 24, 1980 in 45 FR 70668.		

	Basic Hourly Rates	Fringe Benefits

MODIFICATION P. 2

DECISION NO. CA83-5112 - Mod. #2
(48 FR 30557 - July 1, 1983)
Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn; Humboldt, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo, and Yuba Counties, California

	Basic Hourly Rates	Fringe Benefits
Change:		
Roofers:		
Area 1:		
Roofers	$16.75	$6.37
Mastic Workers; Kettlemen (2 kettles without pumps)	17.00	6.37
Bitumastic; Enamelers; Pipewrappers; Coal Tar Built-up	18.25	6.37
Area 5		
Roofers	16.00	6.64
Mastic Workers; Kettlemen (2 kettles without pumps)	16.25	6.64
Bitumastic; Enamelers; Pipewrappers; Coal Tar Pitch	18.00	6.64
Area 8:		
Roofers	16.80	6.09
Mastic Workers; Kettlemen (2 kettles without pumps)	17.05	6.09
Bitumastic; Enamelers; Pipewrappers; Coal Tar	18.80	6.09

	Basic Hourly Rates	Fringe Benefits

MODIFICATION P. 3

	Basic Hourly Rates	Fringe Benefits
DECISION NO. FL83-1016 - Mod. #5 (48 FR 14307 - April 1, 1983) Dade County, Florida Building Construction		
Change:		
Millwrights	$15.12	$2.40
Refrigeration and Air Conditioning Mechanics:		
Air conditioning units 10 tons and over	18.49	2.58
Air conditioning units over 7.5 tons but under 10 tons	13.81	2.58
Sprinkler Fitters	15.00	2.88
Add:		
Marble Finisher	12.70	1.45
DECISION NO. FL83-1029 - Mod. #2 (48 FR 17500 - April 22, 1983) Volusia County (except Cape Kennedy Space Center and Cape Canaveral Air Force Station), Florida Building Construction		
Change:		
Bricklayers	$ 9.10	$0.93
Painters:		
Brush and Roller	11.00	1.73
Paperhangers, Sandblasters and Spray	11.50	1.73

	Basic Hourly Rates	Fringe Benefits
DECISION NO. FL83-1024 - Mod. #1 (48 FR 16405 - April 15, 1983) Alachua County, Florida - Building Construction		
Change:		
Asbestos Workers	$15.65	$1.89
Carpenters, Pile-drivermen, and Soft Floor Layers	12.63	1.68
Millwrights	14.04	1.67
DECISION NO. FL83-1032 - Mod. #3 (48 FR 19562 - April 29, 1983) Broward County, Florida - Building Construction		
Change:		
Asbestos Workers	$17.73	$1.60
Plumbers and Pipefitters:		
Commercial	15.30	2.10
Industrial	16.30	2.10

MODIFICATION P. 4

	Basic Hourly Rates	Fringe Benefits
DECISION NO. IA82-4049 - MOD. #8 (47 FR 44667 - 10/8/82) Scott County, Iowa		
CHANGE:		
Carpenters - Millwright	$16.00	3.70
Sprinkler fitters	16.47	3.23
DECISION NO. IA83-4035 - MOD. #2 (48 FR 21783 - 5/13/83) Pottawattamie Co., Iowa		
CHANGE:		
Boilermakers	17.345	3.00
Bricklayers & stonemason	13.63	2.30
Sprinkler fitters	16.47	3.23
DECISION NO. IA83-4050 - MOD. #1 (48 FR 32455 - 7/15/83) Woodbury County, Iowa		
CHANGE:		
Asbestos workers	15.70	2.30
Sprinkler fitters	16.47	3.23
DECISION NO. IA83-4056 - MOD. #1 (48 FR 34611 - 7/29/83) Black Hawk, Cerro Gordo, Clinton, Des Moines, Dubuque, Johnson, Linn & Polk Cos., Iowa		
CHANGE:		
Bricklayer & stonemason:		
Zone 1	11.83	2.62
Zone 5	13.00	.57
Elevator constructors:		
Zone 6:		
Mechanics	15.10	2.69+a
Helpers	70%JR	2.69+a
Helpers (Prob.)	50%JR	

	Basic Hourly Rates	Fringe Benefits
DECISION NO. IA83-4056 - MOD. #1 (CONT'D)		
Ironworkers:		
Zone 4:		
Maintenance projects of $200,000 & under; metal buildings of 20,000 sq.ft. & under & a maxium of 20' eaves in height	$13.65	2.40
All other work	16.00	2.40
Sprinkler fitters	16.47	3.23

MODIFICATION P. 5

DECISION NO. LA83-4001 - MOD. #7 (48 FR 928 - 1/7/83) Jefferson,Orleans,Bossier, Caddo,Calcasieu,Beauregard,Cameron,Jefferson Davis,Allen,Plaquemines, St.Bernard & St.Charles Pars., Louisiana	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Carpenters & piledrivermen - Zone 2	$13.02	1.78
Painters:		
Zones 3,4 & 5 (Allen Par. except northeast corner):		
GROUP 1 - New work	16.01	.55
GROUP 2 - Repaint	14.50	.55
GROUP 3-Bridge work	18.30	.55

DECISION NO. LA83-4019 - MOD. #6 (48 FR 5448 - 2/4/83) Calcasieu Par.,Louisiana	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Sprinkler fitters	15.07	3.23
OMIT ALL WAGE RATES & CLASSIFICATION DEFINITIONS FOR PAINTERS		
ADD:		
Painters	13.75	.55

DECISION NO. LA83-4059 - MOD. #1 (48 FR 35836 - 8/5/83) Statewide Louisiana	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Boilermakers	16.40	2.645
Laborers classification definitions to read as follows:		
ZONES 4 & 5 changed to read ZONES 5 & 6		
ZONE 6 changed to read ZONE 7		
ZONE 7 changed to read ZONE 8		
ZONE 8 changed to read ZONE 9		
ZONE 9 changed to read ZONE 10		
ZONE 10 changed to to read ZONE 11		

DECISION NO. LA83-4059- MOD. #1 (CONT'D)	Basic Hourly Rates	Fringe Benefits
OMIT ALLWAGE RATES & CLASSIFICATION DEFINITIONS FOR PAINTERS ZONE 1 & POWER EQUIPMENT OPERATORS ZONE 1		
ADD:		
Painters:		
ZONE 1:		
New work	$16.01	.55
Repaint	14.50	.55
Power equipment ops.:		
ZONE 1 - Group 1	13.25	2.20
Group 2	11.42	2.20
Group 3	10.07	2.20
Group 4	9.57	2.20
Group 5	10.81	2.20
Group 6	12.00	2.20
Sprinkler fitters	15.07	3.23

POWER EQUIPMENT OPS. - ZONE 1 CLASSIFICATION DEFINITIONS

GROUP 1 - Asphalt spreader;backhoes, track mounted, over 1 CY;backhoe, rubber tired;crawler tractors,bulldozers & front end loaders(over D-4 & equivalent);Cableways;Concrete mixers,over 16-S;Cranes w/lattice boom;cranes w/hydraulic boom;clamshells;derricks;draglines;forklifts, over 10,000 lbs. capacity;grease serviceman;hoist,material,2 drums & over;hoist,1 drum 4 stories or more or 40 ft.;heavy duty mechanic and/or welder;hydraulifts & boom trucks; motor patrols;piledrivers;pump,concrete(6" & over);road pavers;rollers on asphalt or brick;scoopmobiles; scrapers;sideboom cats;shovels; trenching & ditching machines, over 66" digging depth;tractorvators; winch cats(hoisting)

GROUP 2 - Air compressors,over 500CFM; Asphalt plant op.;Bull floats;crane, hydraulic, 7½ tons & less;crawler tractors,bulldozers & front end loaders (D-4 & equivalent & under); concrete spreader; finish machines; forklifts to 10,000 lbs.;distributor (bitum surface);dowel bar machine; elevator op. riding inside cab; rubber tire tractor with all attachments(excluding backhoe);fireman; hoist,1 drum,less than 4 stories or 40 ft;Kolum buff machine;pull cats; pump,concrete(under 6");rollers,except on asphalt orbrick;straddle

DECISION NO. LA83-4059 - MOD. #1 (CONT'D)	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPS. - ZONE 1 CLASSIFICATIONS DEFINITIONS (CONT'D)		
GROUP 2 (CONT'D) - buggies;motorized sweepers on streets & roads;winch trucks,A-frame; water pumps,gasoline or diesel (over 6")		
GROUP 3 - Unit operator		
GROUP 4 - Oiler		
GROUP 5 - Oiler/Driver		
GROUP 6 - Well point operator		

DECISION NO. UT83-5108- Mod. #8 (48 FR 12651 - March 25, 1983) Statewide, Utah	Basic Hourly Rates	Basic Hourly Rates
Change:	Area 1	Area 2
Laborers:		
Heavy and Highway Construction:		
Group 1	$11.67	$14.67
Group 2	11.80	14.80
Group 3	11.92	14.92
Group 4	12.17	15.17
Group 5	12.67	15.67
Tunnel and Shaft Work:		
Group 1	11.82	14.92
Group 2	11.92	14.92
Group 3	12.12	15.12
Group 4	12.57	15.57
FRINGE BENEFITS: $2.19		

DECISION NO. IL83-2014 Mod # 4 (48 FR 9432 - March 4, 1983) Boone, DeKalb, DuPage, Kane, Kendall, Lake, McHenry & Will Cos., Illinois	Basic Hourly Rates	Fringe Benefits
ADD:		

FOOTNOTES:

a. 4 Paid Holidays: Memorial Day; July 4th; Labor Day; & Thanksgiving Day
b. Per Week, Per Employee
c. Six Paid Holidays: New Years' Day; Memorial Day; July 4th; Labor Day; Thanksgiving Day; & Christmas Day
d. 1 year service - 1 week paid vacation; 2 or more years service - 2 weeks paid vacation

DECISION NO. PA79-3020 - MOD. #12 (44 FR 42080 - July 20, 1979) Carbon, Monroe County, including Tobyhanna Army Depot, and Pike County, Pennsylvania	Basic Hourly Rates	Fringe Benefits
CHANGE:		
CARPENTERS		
ZONE 1	14.40	2.25
LATHERS		
ZONE 2	14.40	2.25
LABORERS		
ZONE 1		
CLASS 1	12.80	2.67
CLASS 2	12.95	2.67
CLASS 3	13.20	2.67
ZONE 2		
CLASS 1	10.09	2.16
CLASS 2	10.34	2.16
CLASS 3	10.59	2.16
CLASS 4	11.11	2.16
CLASS 5	10.84	2.16
PILEDRIVERMEN	14.82	6.16+g
POWER EQUIPMENT OPERATORS:		
ZONE 1		
GROUP 1	14.76	25.6¢ +a
GROUP 2	14.48	25.6¢ +a
GROUP 3	13.63	"
GROUP 4	12.89	"
GROUP 5	12.42	"
GROUP 6	11.53	"
GROUP 7	15.01	"
GROUP 7-A	15.25	"
GROUP 7-B	15.49	"
ZONE 2		
GROUP 1	15.25	"
GROUP 2	14.96	"
GROUP 3	14.09	"
GROUP 4	13.44	"
GROUP 5	12.97	"
GROUP 6	12.06	"
SOFT FLOOR LAYERS ZONE 1	11.94	2.25
SPRINKLER FITTERS	16.92	3.23
OMIT: POWER EQUIPMENT OPERATORS GROUP 7	15.10	25.6¢ +a
GROUP 7-A	15.35	25.6¢ +a
GROUP 7-B	15.59	25.6¢ +a

DECISION NO. PA81-3076 - MOD. #7 (46 FR 50263 - October 9, 1981) SCHUYLKILL COUNTY, PA.	Basic Hourly Rates	Fringe Benefits
CHANGE:		
CARPENTERS	14.40	2.25
LATHERS	14.40	2.25
LABORERS:		
Unskilled laborers & window cleaners	8.95	1.00
Operator of jackhammer, paving breaking & other pneumatic, electric & mechanical tools, laying of all clay, terra cotta, ironstone, virtified concrete or non-metallic pipe & the making of joints for same, wagon drill operators, cofferdams (below 10'), tunnel free air handling & using cutting or burning torches in the wrecking of buildings, blasters, plasterer-tenders, mason tenders, scaffolf builders and removal & power buggier	9.15	1.00

DECISION NO. PA81-3076 - (CONT'D)	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION:		
Linemen, dynamite man, heavy equipment operators	15.64	.65+ 3 3/8¢
Winch truck operators	10.94	.65+ 3 3/8¢
Groundman	10.46	.65+ 3 3/8¢
MILLWRIGHTS	16.57	2.25
PAINTERS:		
Townships of North Union, East Union, Union, Mahonoy, West Mohonoy, Butler, Kline, Delano, Ryan, Rahn, West Penn., and City of Tamaqua:		
Brush	12.55	2.35
Tapers	13.21	2.35
Hazardous	14.21	2.35
ROOFERS:		
Barry, Branch, Butler, Delano, East Brunswick, East Union, Eldred, Foster, Frally, Hegins, Hubley, Kline, New Castle, North Union, Porter, Hahn, Reilly, Rush, Fremont, Union, Upper Mahantango, West Penn.:		
Composition	14.55	2.10
SHEET METAL WORKERS	15.92	2.00
SOFT FLOOR LAYERS	11.94	2.25
SPRINKLER FITTERS	16.92	3.23
POWER EQUIPMENT OPERATORS		
GROUP 1	15.25	25.6¢ +a
GROUP 2	14.96	"
GROUP 3	14.09	"
GROUP 4	13.44	"
GROUP 5	12.97	"
GROUP 6	12.06	"
PILEDRIVERMEN	14.82	6.16+ d
OMIT: POWER EQUIPMENT OPERATORS GROUP 7	15.10	25.6¢ +a
GROUP 7-A	15.35	"
GROUP 7-B	15.59	"

DECISION NO. PA81-3080 - MOD. #5 (46 FR 52078 - October 23, 1981) Lehigh County, Pennsylvania	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ELECTRICIANS	15.35	1.84+3%
LABORERS:		
Laborers & window cleaner	10.09	2.16
Operator of jackhammer, paving breaking and other pneumatic and mechanical tools coming under the jurisdiction of laborers, laying of all clay terra cotta, ironstone, vitrified concrete or non-metallic pipe and the making of joints for same and cofferdams (below 10')	10.34	2.16
Wagon drills and man handling burning torches in the wrecking of buildings	10.84	2.16
Plasterer and mason tenders, scaffold builders and handling of all material to be used by plasterers and masons, brick and block loaded on pallets, cement finisher tenders, gunniting and moldeo-D and sandblaster helper, power buggies, all		

DECISION NO. PA81-3080 - (CONT'D)	Basic Hourly Rates	Fringe Benefits
LABORERS: (CONT'D) floor hardner and "cure" application shall be work of the mason tender, all pumps such as the concrete, plasterer mortar and water, installing plastic or other non-solid rafractory materials in connection with the boiler work	10.59	2.16
Barke tamper operator	11.11	2.16
PILEDRIVERMEN	14.82	6.16+d
POWER EQUIPMENT OPERATORS		
GROUP 1	15.25	25.6% +a
GROUP 2	14.96	"
GROUP 3	14.09	"
GROUP 4	13.44	"
GROUP 5	12.97	"
GROUP 6	12.06	"
SOFT FLOOR LAYERS	13.55	3.11
SPRINKLER FITTERS	16.92	3.23
OMIT:		
POWER EQUIPMENT OPERATORS		
GROUP 7	15.10	25+6% +a
GROUP 7-A	15.35	"
GROUP 7-B	15.59	"

DECISION NO. PA81-3081 - MOD. #4 (46 FR 52080 - October 23, 1981) SULLIVAN COUNTY, PA.	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BOILERMAKERS	17.88	2.415
CARPENTERS:		
Benton Air Force Base	14.99	2.25
Remainder of County	13.22	2.25
CEMENT MASONS	11.90	
LABORERS:		
Unskilled & window washers	12.87	2.60
Semi-skilled: Pneumatic, electrical & mechanical tools ops., under the jurisdiction of the laborers - 2" pumps-non-metallic pipelaying & making of joints clay, terra cotta, ironstone, vitrified concrete, handling of buring torches, asphalt or other hot materials, cement finishers & blaster helers, power buggies, walk along hoists	13.07	2.60
Plasters tenders, blasters & wagon drill operators	13.19	2.60
Mason tenders incl. scaffold builders	13.27	2.60
LINE CONSTRUCTION:		
Linemen, dynamite man, heavy equipment operators	15.66	.65+ 3 3/8%
Winch truck operators	10.94	"
Groundman	10.46	"
MILLWRIGHTS	16.57	2.25
PILEDRIVERMEN	14.82	6.16+b
SPRINKLER FITTERS	16.92	3.23

DECISION NO. PA81-3081 - (MOD. #4) CONT'D	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS		
GROUP 1	15.25	25.6% +a
GROUP 2	14.96	"
GROUP 3	14.09	"
GROUP 4	13.44	"
GROUP 5	12.97	"
GROUP 6	12.06	"
OMIT:		
POWER EQUIPMENT OPERATORS		
GROUP 7	15.10	25.6% +a
GROUP 7-A	15.35	"
GROUP 7-B	15.59	"

DECISION NO. PA82-3016 - MOD. #4 (47 FR 20990 - May 14, 1982) NORTHAMPTON COUNTY, PA.	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ELECTRICIANS:		
Remainder of County	16.00	3%+ 2.69
LABORERS:		
Laborers & window clearners	10.09	2.16
Operator of jackhammer, paing breaking and other pneumatic and mechanical tools coming under the jurisdiction of laborers, laying of all clay, terra cotta, ironstone, vitrified concrete or non-metallic pipe and the making of joints of the same and cofferdams (below 10')	10.34	2.16
Wagon drills and men handling burning torches in the wrecking of buildings	10.84	2.16
Plaster and mason tenders scaffold builders and handling of all materials to be used by plasterers and masons, brick and block loaded on pallets, cement finishers tenders, gunniting and molded-D and sand-blaster helpers, power buggies, all floor hardner and "cure" application shall be the work of the mason tender. All pump such as the concrete, plasterer, mortar and water, installing plastic or other non-solid refactory materials in connection with the boiler work	10.59	2.16
Barke Tamper Operator	11.11	2.16
PILEDRIVERMEN	14.82	6.16+a
POWER EQUIPMENT OPERATORS		
GROUP 1	15.25	25.6% +a
GROUP 2	14.96	"
GROUP 3	14.09	"
GROUP 4	13.44	"
GROUP 5	12.97	"
GROUP 6	12.06	"
OMIT:		
GROUP 7	15.10	25.6% +a
GROUP 7-A	15.35	"
GROUP 7-B	15.59	25.6% +a

MODIFICATION P. 11

	Basic Hourly Rates	Fringe Benefits
DECISION NO. TX82-4042 - MOD. #5 (47 FR 36522 - 8/20/82) Bowie County, Texas		
CHANGE:		
Sprinkler fitters	$16.17	3.23
DECISION NO. TX83-4002 - MOD. #6 (48 FR 931 - 1/7/83) Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Cos., Texas		
CHANGE:		
Sprinkler fitters	16.17	3.23
DECISION NO. TX83-4003 - MOD. #5 (48 FR 935 - 1/7/83) Bexar County, Texas		
CHANGE:		
Sprinkler fitters	16.17	3.23
DECISION NO. TX83-4004 - MOD. #9 (48 FR 936 - 1/7/83) Galveston & Harris Cos., Texas		
CHANGE:		
Sprinkler fitters	16.17	3.23
DECISION NO. TX83-4006 - MOD. #8 (48 FR 933 - 1/7/83) Travis County, Texas		
CHANGE:		
Sprinkler fitters	16.17	3.23
DECISION NO. TX83-4026 - MOD. #5 (48 FR 15425 - 4/8/83) Jefferson & Orange Cos., Texas		
CHANGE:		
Sprinkler fitters	$16.17	3.23
DECISION NO. TX83-4042 - MOD. #3 (48 FR 25106 - 6/3/83) Collin, Dallas, Denton, Ellis, Grayson, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Cos., Texas		
CHANGE:		
Bricklayer & stonemason:		
Zone 1-Collin, Dallas, Ellis, Hunt, Kaufman & Rockwall Cos.	15.18	2.14
Zone 3 -Grayson Co.	12.77	2.14
Boilermakers	16.40	2.645
Sprinkler fitters	16.17	3.23
OMIT ALL WAGE RATES & CLASSIFICATION DEFINITIONS FOR LABORERS		
ADD:		
All laborers	10.04	1.10

SUPERSEDEAS DECISION

STATE: FLORIDA
DECISION NUMBER: FL83-1060
Supersedes Decision No.: FL82-1083 dated November 19, 1982 in 47 FR 52317
DESCRIPTION OF WORK: BUILDING CONSTRUCTION PROJECTS (does not include single family homes or apartments of 4 stories or less); HEAVY CONSTRUCTION & HIGHWAY CONSTRUCTION PROJECTS.
COUNTIES: *SEE BELOW
DATE: Date of Publication
*Cape Canaveral Air Force Station, Patrick Air Force Base, Kennedy Space Flight Center, & Melabar Radar Site in Brevard & Volusia Counties, Florida.

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$15.75	$ 2.16
BOILERMAKERS	16.20	3.31
BRICKLAYERS, BLOCKLAYERS, PLASTERERS, TERRAZZO WORKERS, TILE SETTERS, & CEMENT MASONS	11.61	1.00
CARPENTERS:		
Carpenters	11.62	1.55
Piledrivermen	12.12	1.55
ELECTRICIANS:		
Wiremen	14.30	3%+1.55
Cable Splicers	14.55	3%+1.55
ELEVATOR CONSTRUCTORS:		
Mechanic	13.11	2.69+a
Helper	9.18	2.69+a
IRONWORKERS	13.68	3.10
LABORERS:		
1. Air Tool Oper., Concrete Laborers, Hod Carriers, Mason Tenders, Mortar Mixers, Kettlemen (excluding roofing & waterproofing), Pipelayers, Powdermen, Form Setters (paving curbing & gutter)		
Well Point	8.25	1.01
2. Gunnite Laborer	8.52	1.01
3. Gunnite Nozzlemen	8.92	1.01
4. Unskilled Laborer	8.10	1.01
LINE CONSTRUCTION:		
1. Linemen & Class A Opers. (hole boring machines, cranes, tracked equipment, fifth wheel tractors, tension, & wire pulling machines, mobile cranes & backhoes)	14.57	4%+.65
2. Cable Splicers	14.72	4%+.65
3. Class B Opers. (flatbed material trucks, line trucks when either is mounted with winch and/or 'A' frame, trucks mounted with digging units, power wagons, driving of mobile cranes, & bucket trucks)	9.94	4%+.65
4. Groundmen	$ 7.33	4%+.65
MILLWRIGHTS	14.55	2.72
PAINTERS:		
Brush	11.00	1.73
Spray, Paperhanging, & Sandblasting	11.50	1.73
PLUMBERS, PIPEFITTERS, & STEAMFITTERS:		
1. Industrial-Bulk Plants, Powerhouses, Chemical Plants, Missile Sites, Oil Refineries, etc., and such other work which is related to & considered a part of the above type projects.	16.75	2.17
2. Commercial-Commercial, Schools, Hospitals, Shopping Centers, & work not listed as Industrial.	13.22	1.60
ROOFERS:		
Roofers	11.50	1.00
Kettlemen	10.05	1.00
SHEET METAL WORKERS	13.95	1.68+3%
SPRINKLER FITTERS	15.00	2.88
TRUCK DRIVERS	12.20	.80
WELDERS - Receive rate for craft to which the welding is incidental.		
POWER EQUIPMENT OPERATORS:		
GROUP I	12.30	1.11
GROUP II	11.70	1.11
GROUP III	11.20	1.11
GROUP IV	10.80	1.11
GROUP V	10.00	1.11

POWER EQUIPMENT OPERATORS, DEFINITIONS:

GROUP I- Cranes, Hydraulic or Derrick on Structural or Reinforcing Iron, Cranes or Derrick, Clam Shell, Dragline, Piledriver Operator (including Auger & Boring Machine Operator for Drilling in Piling), Backhoe (including Hydraulic), Hydraulic Crane, Gradall, Shovel, Motor Patrol, Mechanic (heavy equipment), Side Boom Cat & Multi-Drum Hoist.

GROUP II - Bulldozer & Trenching Machine, Bridge Crane, Highlift, Straddle Buggy, Hoist, Earth Hauling Scraper (regardless how powered), Pump Crete & Front End Loader.

GROUP III - Winch Truck, Concrete/Asphalt Paver, Forklift Engineer, Boring Machine, Well Drilling Machine & Mobile Cleaning Plant.

GROUP IV - Tractor, Well Point Pump & Installation Man, Lubrication Engineer, Equipment Greaser, Air Compressor, & Fireman.

GROUP V - Motor Boat, Oiler, Mechanic Helper, Pumpman (other than Wellpoint), Roller (Steel & Rubber Tires), Self-Propelled, Conveyor, Welding Machine, 3 or more Combustion Engines & Pulver Mixer.

FOOTNOTES:
a. Six Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day.
Employer contributes 8% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years; 6% for employee who has worked in business less than 5 years.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: MASSACHUSETTS

COUNTIES: BERKSHIRE, FRANKLIN, HAMPDEN AND HAMPSHIRE

DECISION NO.: MA83-3045 DATE: DATE OF PUBLICATION
Supersedes Decision No. MA83-3004, dated April 1, 1983 in 48 FR 14308
DESCRIPTION OF WORK: Building, Heavy, Highway and Residential Construction

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	16.45	3.31
BOILERMAKERS	18.16	3.381
BRICKLAYERS; CEMENT MASONS; PLASTERERS; STONE MASONS; MARBLE, TILE & TERRAZZO WORKERS; POINTERS; CLEANERS; CAULKERS: HAMPDEN; HAMPSHIRE; FRANKLIN; BERKSHIRE (Becket, Otis, Sandisfield)	13.80	4.24
BERKSHIRE (Adams, North Adams, Cheshire, Florida, Savoy, Clarksbury, Williamstown)	11.85	
BERKSHIRE (Remainder of County)	14.58	1.65
CARPENTERS; SOFT FLOOR LAYERS; DRYWALL CARPENTERS		
BERKSHIRE; FRANKLIN (Monroe, Monroe Bridge)	13.09	2.84
FRANKLIN (Erving, Warwick, Orange, North Orange)	15.81	3.32
HAMPDEN; HAMPSHIRE (South Hadley, Granby, Belchertown, Amherst, Pelham) FRANKLIN (Leverett, Shutesbuby, Sunderland	15.15	2.72
HAMPSHIRE (Remainder of County); FRANKLIN (Remainder of County)	15.40	2.22
ELECTRICIANS		
BERKSHIRE; FRANKLIN (Hawley, Monroe, Rowe); HAMPSHIRE (Middlefield, Cummington, Plainfield)	15.54	1.96+3%
FRANKLIN (Remainder of County); HAMPSHIRE (Remainder of County); HAMPDEN (Chester, Holyoke and North portion of Chicopee)		
Electrical Contracts $115,000 and over	14.86	3.47+3%
Electrical Contracts under $115,000	12.86	3.47+3%
HAMPDEN (Remainder of County); HAMPSHIRE (Belchertown, Ware)	15.80	3.56+3%
ELEVATOR CONSTRUCTORS	15.16	2.69+a+b
ELEVATOR CONSTRUCTORS' HELPERS	10.61	2.69+a+b
ELEVATOR CONSTRUCTORS' PROBATIONARY HELPERS	7.58	
GLAZIERS	13.52	3.02
IRONWORKERS: HAMPSHIRE; HAMPDEN; FRANKLIN; BERKSHIRE Becket, Washington, Lee, Sandisfield, New Marlboro, Hinsdale, Peru, Savoy, Monterey, Sheffield, Windsor, Otis, N. & E. Otis)	15.50	5.07
BERKSHIRE (Remainder of County): Building, Heavy and Highway	13.90	3.79
Residential (4 stories or less)	10.42	2.79
LATHERS	10.85	.26
LATHERS; DRYWALL	9.00	.26
LABORERS (BUILDING):		
GROUP 1	12.70	2.40
GROUP 2	12.95	2.40
GROUP 3	13.20	2.40
GROUP 4	13.45	2.40
GROUP 5	13.70	2.40
LABORERS (HEAVY & HIGHWAY) Except Twps. of Warwick and Orange in FRANKLIN		
CLASS I	12.70	2.40
CLASS II	12.95	2.40
CLASS III	13.45	2.40
CLASS IV	13.70	2.40

DECISION NO. MA83-3045

	Basic Hourly Rates	Fringe Benefits
LABORERS: (CONT'D)		
FRANKLIN (Orange, Warwick):		
CLASS I	13.20	2.40
CLASS II	13.45	2.40
CLASS III	13.95	2.40
CLASS IV	14.20	2.40
LINE CONSTRUCTION:		
Linemen, Cable splicers & Dynamite man	16.67	1.70+3%
Heavy equipment operators	15.17	1.70+3%
Equipment operator, tractor trailer driver & field mechanic	14.31	1.70+3%
Material man	14.07	1.70+3%
Groundman truck driver	12.86	1.70+3%
Groundman	11.37	1.70+3%
MARBLE, TILE & TERRAZZO FINISHERS:		
BERKSHIRE AND HAMPDEN COUNTIES	11.45	
MILLWRIGHTS	16.90	3.95
PAINTERS:		
Brush and Taper	13.56	2.59
Spray and Sandblating	17.43	2.59
Swing stage and steel riding under 40'	13.75	2.59
Swing stage and steel riding over 40'	14.06	2.59
Sign Painters	12.55	1.84
PILEDRIVERMEN	16.65	2.90
PLUMBERS & STEAMFITTERS:		
FRANKLIN (Orange)	16.28	1.85+4%
BERKSHIRE (Except Otis, Becket, Sandisfield); FRANKLIN (Monroe, Towe, and Western part of Charlemont)	18.10	3.50
HAMPDEN; HAMPSHIRE; BERKSHIRE (Otis, Becket, Sandisfield; FRANKLIN (Remainder of County)	16.82	3.61+c
POWER EQUIPMENT OPERATORS BUILDING CONSTRUCTION:		
CLASS I	15.38	2.30+d
CLASS II	15.18	2.30+d
CLASS III	14.98	2.30+d
CLASS IIIA	14.61	2.30+d
CLASS IV	13.08	2.30+d
CLASS V	12.38	2.30+d
CLASS VI	11.23	2.30+d
CLASS VII	16.13	2.30+d
CLASS VIII	12.405	2.30+d
CLASS IX	15.96	2.30+d
CLASS X	15.88	2.30+d
CLASS XI	16.38	2.30+d
POWER EQUIPMENT OPERATORS HEAVY AND HIGHWAY CONSTRUCTION:		
CLASS I	15.28	2.30+e
CLASS II	15.08	2.30+e
CLASS III	14.88	2.30+e
CLASS IIIA	14.51	2.30+e
CLASS IV	12.98	2.30+e
CLASS V	12.28	2.30+e
CLASS VI	11.13	2.30+e
CLASS VII	16.03	2.30+e
CLASS VIII	12.305	2.30+e
CLASS IX	15.86	2.30+e
CLASS X	15.78	2.30+e
CLASS XI	16.28	2.30+e
ROOFERS:		
Composition, Damp Waterproof	10.565	3.13
Slate, Tile, Precast Concrete	11.065	3.13
SHEET METAL WORKERS	15.66	4.06
SPRINKLER FITTERS	18.95	4.23
TRUCK DRIVERS		
CLASS I	12.86	3.00+f + g
CLASS II	13.03	3.00+f + g
CLASS III	13.10	3.00+f + g
CLASS IV	13.22	3.00+f + g
CLASS V	13.32	3.00+f + g
CLASS VI	13.61	3.00+f + g
CLASS VII	13.90	3.00+f + g

DECISION NO. MA83-3045

Welders - Receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5(a)(1)(ii)).

FOOTNOTES:

Paid Holidays: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

a. Employer contributes 8% of basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

b. 6 paid holidays: A through F providing employee has worked 5 consecutive days before and the working day after the holiday.

c. 2 paid holidays: C & D, provided the employee has been employed seven days prior to the holiday by the same employer.

d. 8 paid holidays: A through F, Washington's Birthday and Veterans Day.

e. 9 paid holidays: A through F, Washington's Birthday, Columbus Day and Veterans Day.

f. 10 paid holidays: A through F, Washington's Birthday, Patriot's Day, Columbus Day, and Veterans Day.

g. Paid Vacation: 4 months to 1 year - ½ day's pay per month; 1-5 years - 1 week; 5-10 years - 2 weeks; 10 years or more - 3 weeks. Employee must have received pay for 120 days during last year of employment.

DECISION NO. MA83-3045

CLASSIFICATIONS

LABORERS BUILDING

GROUP 1 - Laborers, carpenter tenders and wrecking laborers

GROUP 2 - Asphalt Rakers, Carbide Core Driller Operators, Chain Saw Operators, Pipelayers, Jackhammer and Paving Breaker Operators, Barco-type Jumping Tampers, Laser Beam Operators, Concrete Pump Operators, Mason-Tenders, Mortar Mixers, Ride-on Motorized Buggy Operators and Wagon Drill Operators

GROUP 3 - Pre-cast Floor and Roof Plank Erectors and Asbestos Removers

GROUP 4 - Air Track Operators, Block Pavers, Rammers and Curb Setters

GROUP 5 - Powdermen and Blasters

LABORERS HEAVY & HIGHWAY

CLASS I - Carpenter Tenders, Cement Finisher Tenders, Labmrers, Wrecking Laborers

CLASS II - Asphalt Rakers, Fence and Guard Rail Erectors, Laser Beam Op., Mason Tender, Pipelayer, Pneumatic Drill Op., Pneumatic Tool Op., Wagon Drill Op.

CLASS III - Air Track Op., Block Pavers, Rammers, Curb Setters

CLASS IV - Blasterers, Powdermen

DECISION NO. MA83-3045

POWER EQUIPMENT OPERATORS: BUILDING

CLASS I - Shovels, Cranes (including all tower, climbing and bridge cranes, as used in Building Construction as defined in Scope of Employment), Hydraulic Cranes--10 ton capacity or over, Draglines, Derricks, Elevators with Chicago Boom, Backhoes, Gradalls, Elevating Graders, Pile Driving Rigs, Concrete Road Pavers, all three Drum Hoisting and Trenching Machines, Belt-type Loaders, Foreman Mechanics, Front End Loaders--5½ yards or over, Dual Drum Paver, Automatic Grader (i e C M I), Combination Backhoe-Loader--3/4 yard or over, Jet Engine Dryer, Tree Shredder, Post Hole Digger, Post Hole Hammer, Post Extractor, Truck Mounted Concrete Pump with boom, Roto-Mill.

CLASS II - Rotary Drill (with mounted compressor), Compressor House (3 to 6 compressors), rock and earth boring machines (excluding McCarthy and similar drills), Graders, Front End Loaders-4 yards to 5½ yards, two Drum Hoists, High Fork Lifts with capacity of 15 ft and over, Scrapers 21 yards and over (struck load), Sonic Hammer Consolidator, Road Planer, Cal Tracks, Ballast Regulators, Rail Anchor Machines Switch Tampers

CLASS III - Combination Backhoe-Loader--up to 3/4 yard hoe, Bulldozers, Push Cats, Scrapers up to 21 yards (struck load) selfpropelled or tractor drawn, Fireman, Front End Loaders--up to 4 yards, Asphalt Paver, Well Drillers, Mechanics, Welders, Pumpcrete Machines, Concrete pumps, and similar type pumps, Engineer or Fireman on High Pressure Boiler (on job), Self-Loading Batch Plant, Well Point Operators (including installing), Electric pumps used in Well Point System, Pumps- 12 inches and over (total discharge), Compressor (one or two 900 cu. ft. and over, Engineers in charge of Powered Grease Truck, all automatic elevators (permanent or temporary) operated manually or remote control (not to be confused with elevators operating from conventional hoist--1, 2 or 3 Drum), Grout pumps, Boom Truck Hydraulic Cranes--under 10 ton.

CLASS IIIA - Asphalt Rollers, Self-powered Rollers and Compactors, Tractor without blade drawing sheepsfoot roller, rubber tire roller, vibratory roller, or other type of compactors including machines for pulverizing and aerating soil.

CLASS IV - Single Drum Hoist, Power Pavement Breakers, Concrete Pavement Finishing Machines, Two Bag Mixers with Skip, McCarthy and similar drills, Batch Plants (not self-loading), Bulk Cement Plants Self propelled material spreaders, A-Frame Trucks, Fork Lifts--up to 15 ft., 3 or more 10KW Light Plants, 30 KW or more Generators.

CLASS V - Compressors (one or two) 315 cu. ft. to 900 cu. ft., Pumps--4 inches to 12 inches (total discharge).

VOL 48 NO 167 FRIDAY AUG 26 1983 FEDERAL REGISTER

DECISION NO. MA83-3045

POWER EQUIPMENT OPERATORS: BUILDING CONT'D

CLASS VI - Compressors (up to 315 cu. ft.), small mixers, pumps (up to 4 inches), power heaters, welding mahines, (when 3 or more heaters or welding machines are used on one job, classification 4 rate will be paid), Conveyors, Oiler, helpers on grease trucks with hand greasing equipment.

CLASS VII - Truck Crane Crews

CLASS VIII - Oiler

CLASS IX - Master Mechanic

CLASS X - Boom lengths over 184 feet (including jib)

CLASS XI - Boom lengths over 225 feet (including jib)

POWER EQUIPMENT OPERATORS: HEAVY & HIGHWAY

CLASS I - Shovels, Crawler and Truck Cranes, Derricks, Backhoes, Trenching Machines, Elevating Graders, Belt-type Loaders, Gradalls, Pile Drivers, Concrete Pavers, on site Processing Plant (Engineer in charge),Dragline,Clam Shell,Cable-ways, Shaft Hoists, Mucking Machines, Front End Loader--5¼ yards and over Tower Cranes, Self-propelled Hydraulic Cranes--10 tons and over, Dual Pavers,Automatic Grader--Excavator (C.M.I. or equal), Scrapers towing pan or wagon, Tandem Dozers or Push Cats (2 units in tandem), Welder using semi-automatic Welding Machine, Shotcrete Machine, Tunnel Boring Machine, Combination Back Hoe-Loader--3/4 yard hoe or over, Jet Engine Dryer, Tree Shredder, Post Hole Digger, Post Hole Hammer, Post Extractor, Truck Mounted Concrete Pumps with boom, Roto-Mill.

CLASS II - Rotary Drill (with mounted Compressor), Compressor House (3 to 6 Compressors), Rock and Earth Boring Machines (excluding McCarthy and similar drills), Grader, Front End Loaders-- 4 yards to 5¼ yards, Scraper--21 yards and over (struck load), Forklifts--7 ft. lift and over or 3 ton capacity and over, Sonic Hammer Concole, Road Planer, Cal Tracks, Ballast Regulators, Rail Anmhor Machines, Switch Tampers.

CLASS III - Bulldozer, Push Cats, Scrapers--up to 21 yards (struck load) self-propelled or Tractor Drawn, Self-powered Asphalt Paver, Front End Loaders--up to 4 yards, Mechanics, Welders, Well Driller, Pumpcrete Machine, Engineer or Fireman on High Pressure Boiler (on job), Self-loading Batch Plant(on job),Well Point Operators, Electric Pumps used in Well point system, Tireman, Pumps--16 inches or over total discharge, Compressors (1 or 2) 900 cu. ft. and over, Powered Grease Truck, Tunnel Locomotives and Dinkeys, Grout pumps, Hydraulic Jacks (jacking pipe, slip forms, etc.), Boom Truck, self-propelled Hydraulic Cranes--up to 10 ton, Combination Back Hoe-Loader--up to 3/4 yard hoe.

DECISION NO. 83-3045

POWER EQUIPMENT OPERATORS: HEAVY & HIGHWAY CONT'D

CLASS IIIA - Asphalt Rollers, Self-Powered Rollers and Compactors, Tractor without blade drawing sheeps foot roller, Rubber tire roller, Vibratory roller, or other type of compactors including machines for pulverizing and aerating soil.

CLASS IV - Hoists, Conveyors, Power Pavement Breaker, Self-propelled Material Spreader, Self-powered Concrete Finishing Machine, Two Bag Mixer with skip, MCarthy and similar Drills, Batch Plant (not self-loading), Bulk Cement Plant, 3 or more 10KW Light Plants, 30 KW or more Generators.

CLASS V - Compressor (315 cu. ft. to 900 cu. dt., 1 or 2), Pumps-4" to 16" total discharge.

CLASS VI - Compressor (up to 315 cu. ft.), Small Mixers with skip, Oiler, Pumps up to 4", Grease Truck, Helper on powered Grease Trucks, Power Heaters, Welding Machines (when 3 or more welding machines are used, Classification 4 rate shall be paid), A-Frame Trucks, Forklifts--up to 7 ft. lift and up to 3 ton capacity, Hydro Boom, Power Safety Boat.

CLASS VII - Truck Crane Crews

CLASS VIII - Oiler

CLASS IX - Master Mechanic

CLASS X - Boom lengths over 184 feet (including jib)

CLASS XI - Boom lengths over 225 feet (including jib)

TRUCK DRIVERS

CLASS I - Station Wagons, Panel Trucks and Pickup Trucks

CLASS II - Two axle Equipment; Helpers on Low Bed When Assigned at the Discretion of the Employer; Warehousemen, Forklift Operators

CLASS III _ Three Axle Equipment and Tiremen

CLASS IV - Four and Five Axle Equipment

CLASS V - Specialized Earth Moving Equipment under 35 tons other than Convential type trucks, Low Bed, Vachual, Mechanics, Paving Restoration Equipment, Mechanic

CLASS VI - Specialized Earth Moving Equipment over 35 Tons

CLASS II - Trailers for Earth Moving Equipment (Double Hookup)

SUPERSEDEAS DECISION

DECISION NO. NY83-3044

SUPERSEDEAS DECISION

STATE: New York COUNTY: Steuben
DECISION NUMBER: NY83-3044 DATE: Date of Publication
Supersedes Decision No. NY81-3038 dated June 5, 1981, in 46 FR 30265
DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories); Heavy and Highway Projects

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$17.93	$3.19
BOILERMAKERS	17.85	3.77
BRICKLAYERS; CEMENT MASONS; MARBLE MASONS; PLASTERERS; TILE and TERRAZZO WORKERS	12.75	1.30
CARPENTERS:		
Area 1:		
Carpenters	13.26	2.655
Millwrights and Piledrivers	13.36	2.655
Carpenters and Piledrivers (Heavy and Highway)	12.885	3.09
Area 2:		
Carpenters and Soft Floor Layers	12.51	2.78
Millwrights and Piledrivers	12.76	2.78
Carpenters (Heavy and Highway)	13.21	2.785 +a
Diver Tender	11.70	2.17
Area 3:		
Carpenters and Soft Floor Layers	11.75	2.43
Millwrights and Piledrivers	12.00	2.43
Carpenters and Piledrivers (Heavy and Highway)	13.46	2.535 +a
Cement Masons (Heavy and Highway)	13.51	2.05
ELECTRICIANS	16.60	3.15+ 3%+b
GLAZIERS	10.92	1.68
IRONWORKERS:		
Area 1:		
Structural, Ornamental, Reinforcing, Machinery Movers, Riggers, Rodmen, Fence Erectors and Stone Derrickmen	16.32	3.37
Sheeters	16.57	3.37
Sheeters, Bucker-up	16.45	3.37

	Basic Hourly Rates	Fringe Benefits
IRONWORKERS: (Cont'd)		
Area 2:		
Structural, Ornamental, Reinforcing, Riggers, Rodmen, Machinery Movers, Fence Erectors and Stone Derrickmen	13.55	$2.20
Sheeters	13.80	2.20
Sheeters, Bucker-up	13.67	2.20
PAINTERS:		
Area 1:		
Brush	10.05	1.45
Toothpick Staging over 25"; Structural Scaffold over 39"	10.30	1.45
Paperhangers; Vinyl Hangers	10.40	1.45
Swing Chair, Swing Scaffold; Power Grinder with Respirator	10.55	1.45
Epoxy - Brush and Roll	10.60	1.45
Stilts	10.80	1.45
Spray	10.90	1.45
Structural Steel; Steeplejack (over 100'); Sandblasting; Steamcleaning (acid or hi-pressure water)	11.05	1.45
Spray - epoxy	11.55	1.45
Area 2:		
Basic	11.00	2.70
Steel above 20'; Ladder or Scaffold over 30' high; Spray; All toxic coating; Taping; Wall covering hanging	11.60	2.70
Bridges	12.25	2.70
PLUMBERS; STEAMFITTERS:		
Area 1	17.74	5.205
Area 2	15.80	2.55
ROOFERS	11.00	2.18
SHEET METAL WORKERS	14.95	2.16+ 3%
SPRINKLER FITTERS	16.92	2.83

DECISION NO. NY83-3044 Page 2

LABORERS:	Basic Hourly Rates	Fringe Benefits
Building Construction:		
Laborers	$ 9.97	$1.05
Heavy and Highway Construction:		
Group 1	12.39	1.35+ c
Group 2	12.59	1.35+ c
Group 3	12.79	1.35+ c
Group 4	12.99	1.35+ c
POWER EQUIPMENT OPERATORS:		
Building Construction:		
Group 1:		
A	12.09	1.40+ d
B	12.37	1.40+ d
C	12.92	1.40+ d
E	13.47	1.40+ d
F	14.03	1.40+ d
G	14.57	1.40+ d
H	15.13	1.40+ d
Group 2	12.09	1.40+ d
Group 3	11.90	1.40+ d
Group 4	10.76	1.40+ d
Heavy and Highway Construction:		
Group 1	15.24	3.55+ e
Group 2	14.74	3.55+ e
Group 3	13.31	3.55+ e

POWER EQUIPMENT OPERATORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits
Heavy and Highway Construction: (Cont'd)		
Group 4	$12.05	$3.55+ e
Group 5	16.15	3.55+ e
TRUCK DRIVERS:		
Heavy and Highway Construction:		
Township of Wayland:		
Group 1	12.24	2.55+ f
Group 2	12.29	2.55+ f
Group 3	12.34	2.55+ f
Group 4	12.49	2.55+ f
Group 5	12.64	2.55+ f
Remainder of County:		
Group 1	12.39	2.40+ f
Group 2	12.44	2.40+ f
Group 3	12.49	2.40+ f
Group 4	12.64	2.40+ f
Group 5	12.79	2.40+ f

WELDERS: Receive rate prescribed for craft to which welding is incidental

FOOTNOTES:
a. C and D
b. Employer shall work 4 hours and receive 8 hours pay on Christmas Eve
c. Paid Holidays: A through F, provided the employee has worked the day before and after the Holiday
d. Paid Holidays: A through F, providing employee works the working day immediately preceding the Holiday, or on the scheduled work day immediately following the Holiday
e. Paid Holidays: A through F, providing the employee works the day before and the day after the Holiday
f. Paid Holidays: A through F, provided the employee has worked the day before and after the Holiday

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

AREA DESCRIPTIONS

CARPENTERS:
Area 1: Townships of Prattsburgh and Pulteney, Village of Hammondsport, Pleasant Valley to Rheims, Village of Tyrone to Watkins Glen
Area 2: Townships of Troupsburg, Hartsville, Fremont, Wayland, Jasper, Hornellsville, Avoca, Cohocton, Canisten, Howard, Dansville, Wheeler, Cameron, Greenwood, and West Union
Area 3: Remainder of County

IRONWORKERS:
Area 1: Townships of Atlantic and South Dansville
Area 2: Remainder of County

PAINTERS:
Area 1: Townships of Cameron, Bath, Thurston, Bradford, Campbell, Erwin, Lindley, Hornby, City of Corning, Caton, Addison and Rathbone
Area 2: Remainder of County

PLUMBERS; STEAMFITTERS:
Area 1: Townships of Avoca, Canisteo, Cohocton, Dansville, Fremont, West Union, Greenville, Hartsville, Hornellsville, Howard, Wheeler, Jasper, Prattsburg, Pulteney, Troupsburg, Wayland, Woodhull, Cameron, Rathbone and Tuscarora
Area 2: Remainder of County

LABORERS
HEAVY and HIGHWAY CONSTRUCTION

Group 1: Laborers; Drill Tenders; Outboard and Hand Boats

Group 2: Bull Float; Chain Saw; Concrete Aggregate; Bin Concrete Bootman; Gin Buggy; Hand or Machine Vibrator; Jackhammer; Mason Tender; Mortor Mixer; Pavement Breaker; Handlers or all Steel Mesh; Small Generators for Laborers' Tools; Installation of bridge drainage pipe; Pipelayers; Vibrator type Rollers; Tamper; Drill Doctor; Tail or Crew Operator on Asphalt Paver; Water Pump Operator (1½" and single diaphram); Nozzle (Asphalt, Gunnite, Seeding and Sandblasting); Laborers on Chain Link Fence Erection; Rock Splitter and Power Unit; Pusher type Concrete Saw and all other gas, electric, oil and air tool Operators; Wrecking Laborer

Group 3: All Rock or Drill Machine Operators (except Quarry Master and similar type); Acetylene Torch Operator; Asphalt Raker; Powderman

Group 4: Blasters; Form Setter; Stone or Granite Curb Setters

POWER EQUIPMENT OPERATORS
BUILDING CONSTRUCTION

Group 1: Cranes:
A - 121 feet and under
B - Between 121 - 151 feet
C - Between 151 - 201 feet
D - Between 201 - 251 feet
E - Between 251 - 301 feet
F - Between 301 - 351 feet
G - Between 351 - 401 feet
H - Between 401 - 451 feet

Group 2: Air Tugger; Backhoe; Clamshell; Dragline; Shovel and similar Machines over 3/8 cu. yd. capacity (factory rating); Big Generator Plant; Bridge Crane (all types); Cableway; Caisson Auger and similar type Machine; Climbing and/or Tower Crane (all kinds and all types); Derrick; Dredge; Forklift (with factory rating of 15 feet or more of lift); Hoist (on steel erection); Mucking Machine; Ross Carrier (and similar types); Three drum Hoist (when all drums are in use)

Group 3: "A" Frame Truck; Back Filling Machine; Barber Green and similar type Loader; Belt Crete and similar type Machine; Bituminous Spreading Machine; Bulldozer; Carry-all type Scraper; Compressors, 4 not to exceed 1200 C.F.M. combined capacity, 3 or less with more than 1200 C.F.M., but not to exceed 200 C.F.M.; Concrete Mixer; Concrete Pump; Core Drill; Crane-Hoe-Shovel (3/8 yd. capacity or less)(factory rating); Dinky Locomotive (all types); Elevating type Grader; Elevator; Fine Grade Machine (all kinds); Front End Loader; Forklift (with factory rating of less than 15 ft. of lift); High Pressure Boiler (over 15 lbs. pressure); Hoist (1 or 2 drums); Motor Grader; Maintenance Engineer; Post Hole Digger; Sheepsfoot Roller; Side Boom; Stone Crusher; Submersible Electric Pump, when used in lieu of Well Point System; Tandem Roller; Tournedozer and similar types; Tournapull; Tower Mobile and similar kinds Trenching Machine; Vibratory type Roller and similar equipment of all kinds; Welder; Well Drill; Well Point System

36964 Federal Register / Vol. 48, No. 167 / Friday, August 26, 1983 / Notices

POWER EQUIPMENT OPERATORS (Cont'd)
BUILDING CONSTRUCTION (Cont'd)

Group 4: Any combination (not to exceed 3 pieces of equipment); Pumps; Welding Machines or Mechanical Conveyors (over 12 ft. in length); Belt Crete Generator; Compressors - 3 or less not to exceed 1200 C.F.M. combined capacity; Fireman; Longitudinal Float; Mechanical Heater; Roller (Fill and Grade); Rubber-tired Tractor; Oilers

HEAVY and HIGHWAY CONSTRUCTION

Group 1: Automated Concrete Spreader (CMI); Automatic Fine Grader; Backhoe (except tractor mounted, rubber tired); Belt Placer (CMI type); Backtop Plant (automated); Cableway; Caisson Auger; Central Mix Concrete Plant (automated); Cherry Picker (over 5 tons capacity); Concrete Pump (8" or over); Crane; Cranes and Derricks (steel erection); Dragline; Dredge; Dual Drum Paver; Excavator (all purpose-hydraulically operated) (Gradall or similar); Fork Lift (factory rated 15 ft. and over); Front End Loader 4 cu. yds. and over); Head Tower (Bauerman or equal) Hoist (2 or 3 drums); Mine Hoist; Mucking Machine or Mole; Over Head Crane (Gantry or Straddle type); Piledriver; Power Grader; Quarry Master (or equivalent); Scraper; Shovel; Sideboom; Skip Farm Paver; Tractor drawn Belt type Loader; Truck Crane; Tunnel Shovel

Group 2: Backhoe (tractor mounted, rubber tired); Bituminous Spreader and Mixer; Blacktop Plant (non-automated); Blast or Rotary Drill Truck or Tractor mounted); Boring Machine; Cage-hoist; Central Mix Plant (non-automated and all Concrete Batching Plants); Cherry Picker (5 tons capacity and under); Compressors (4 or less, exceeding 2000 C.F.M. combined capacity); Concrete Paver (over 16S); Concrete Pump (under 8"); Crusher; Diesel power unit; Drill Rigs (tractor mounted); Front End Loader (under 4 cu. yd.); Hi-pressure Boiler (15 lbs. and over); Hoist (one drum); Kolman Plant Loader and similar type Loaders; Locomotive Maintenance/Engineer/Greaseman/Welder; Mixer for stabilized base Self-monorail Machine; Plant Engineer; Pump Crete; Ready Mix Concrete Plant; Refrigeration equipment (for Soil Stabilization); Road Widener; Roller (all above Subgrade); Tractor with Dozer and/or Pusher; Trencher; Tuggerhoist; Winch; Winch Cat

Group 3: A-Frame Truck; Compressors (4 not to exceed 2000 C.F.M. combined capacity or 3 or less with more than 1200 C.FM. but not to exceed 2000 C.F.M.); Compressors (any size but subject to other provisions for Compressors); Dust Collectors; Generators; Pumps; Welding Machines (4 of any type of combination); Concrete Pavement Spreaders and Finishers; Conveyor; Drill-core; Drill-well; Electric Pumps used in conjunction with Well Point Systems; Farm Tractor with accessories; Fine Grade Machine; Fork Lift (under 15 ft.); Gunite Machine; Hammers (Hydraulic-self-propelled); Post Hole Digger and Post Driver; Power Sweeper; Roller (Grade and Fill); Submersible Electric Pump (when used in lieu of Well Point System); Tractor with tower accessories; Vibratory Compactor; Vibro Tamp; Well Point

POWER EQUIPMENT OPERATORS (Cont'd)
HEAVY and HIGHWAY CONSTRUCTION (Cont'd)

Group 4: Aggregate Plant; Boiler (used in conjunction with production); Cement and Bin Operator; Compressors (3 or less not to exceed 1200 C.F.M. combined capacity); Compressor (any size, but subject to other provisions for Compressors); Dust Collectors; Generator Pumps; Welding Machines (3 or less of any type or combination); Concrete Paver or Mixer (16S and under); Concrete Saw (self-propelled); Fireman; Form Tamper; Hydraulic Pump (jacking system); Lighting Plants; Mulching Machine; Oiler Parapet (Concrete or Pavement Grinder); Power Broom (towed); Power Heaterman; Revinius Widener; Shell Winder; Steam Cleaner; Tractor

Group 5: Master Mechanic

TRUCK DRIVERS - Township of Wayland
HEAVY and HIGHWAY CONSTRUCTION

Group 1: Pickups; Panel Trucks; Flatboy Material Trucks (straight jobs); Single Axle Dump Trucks; Dumpster; Greasers; Truck Tireman

Group 2: Tandems; Batch Trucks and Mechanics

Group 3: Semi-trailers; Low-boy Trucks; Asphalt Distributors Trucks; Agitator; Mixer Trucks and Dumpcrete type vehicles; Truck Mechanic

Group 4: Specialized Earth Moving Equipment, Euclid type or similar off-highway equipment, where not self-loaded, and Straddle (Ross) Carrier

Group 5: Off-highway Tandem Back-dump; Twin engine equipment double hitched equipment where not self loaded

Remainder of County

Group 1: Pickups; Panel Trucks; Flatboy Material Trucks (straight jobs); Single Axle Dump Trucks; Dumpsters; Material Checker and Receivers; Greasers; Truck Tiremen; Mechanic Helpers and Part Chaser

Group 2: Tandems; Batch Trucks; Mechanics and Dispatcher

Group 3: Semi-trailers; Low-boy Trucks; Asphalt Distributors Trucks; Agitator; Mixer trucks and Dumpcrete type vehicles; Truck Mechanic

Group 4: Specialized Earth Moving Equipment, Euclid type or similar off-highway equipment, where not self loaded, and Straddle (Ross) Carrier

Group 5: Off-highway Tandem Back-dump; Twin engine equipment and double hitched equipment where not self loaded

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5(a)(1)(ii))

SUPERSEDEAS DECISION

STATE: Texas
DECISION NO.: TX83-4061
COUNTY: El Paso
DATE: Date of Publication
Supersedes Decision No. TX81-4064, dated August 7, 1981, in 46 FR 40487.
DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories). (Use current highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$10.76	
BRICKLAYERS	10.25	1.47
CARPENTERS	7.33	
CEMENT MASONS	6.13	
ELECTRICIANS:		
Electricians	13.60	.80+ 3-1/2%
Cable Splicers	13.85	.80+ 3-1/2%
GLAZIERS	6.24	
IRONWORKERS	12.45	2.95
LABORERS:		
Unskilled	4.49	
Mason Tenders	6.61	1.03
Lather & Plaster Tenders	5.25	
LATHERS	9.50	
PAINTERS, BRUSH	7.70	.70
PLASTERERS	8.48	1.03
PLUMBERS & PIPEFITTERS	13.57	1.77
ROOFERS	6.51	
SHEET METAL WORKERS	13.80	1.55 +3%
SOFT FLOOR LAYERS	7.73	
SPRINKLER FITTERS	16.17	3.23
TAPERS	6.26	
TERRAZZO, MARBLE & TILE WORKERS	7.75	
TERRAZZO, MARBLE & TILE FINISHERS	4.90	

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS:		
Backhoes	$ 8.74	1.45
Forklifts	8.17	1.03
Foundation Drills	9.71	
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.		
Unlisted classificaitons needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5)a()1)(ii)).		

[FR Doc. 83-23389 Filed 8-25-83 8:45 am]
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federal register

Friday
August 26, 1983

Part III

Department of Education

Higher Education Programs in Modern Foreign Language Training and Area Studies; and Fulbright-Hays Training Grant Programs

DEPARTMENT OF EDUCATION

34 CFR Parts 662, 663, 664, and 665

Higher Education Programs in Modern Foreign Language Training and Area Studies

AGENCY: Department of Education.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Secretary of Education proposes to amend the regulations for the Higher Education Programs in Modern Foreign Language Training and Area Studies (Doctoral Dissertation Research Abroad, Faculty Research Abroad, Group Projects Abroad, and the Foreign Curriculum Consultants Programs). These proposed regulations would simplify and clarify provisions contained in previous regulations. The proposed changes would also reduce administrative burdens on grantees and eliminate unnecessary provisions.

DATES: Comments must be received on or before October 11, 1983.

ADDRESSES: Comments should be addressed to Mr. Kenneth D. Whitehead, Director, Office of International Education Programs, 400 Maryland Avenue, S.W., (Room 3919, ROB 3), Washington, D.C. 20202. Telephone (202) 245–9691.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph Hines, Education Program Specialist, International Education Programs, 400 Maryland Avenue, S.W., (Room 3916, ROB 3), Washington, D.C. 20202. Telephone (202) 245–2794.

SUPPLEMENTARY INFORMATION: These proposed regulations govern four different programs of assistance authorized under Section 102(b)(6) of the Mutual Educational and Cultural Exchange Act of 1961, Pub. L. 87–256 (Fulbright-Hays Act). The main provisions of the regulations are the procedures governing grants designed to assist eligible institutions at various levels in improving and developing their programs in modern foreign languages and area studies.

These regulations would simplify and clarify provisions currently contained in 34 CFR Part 662—especially those provisions pertaining to eligibility. They would also reduce certain administrative requirements and eliminate unnecessary and outdated provisions.

These proposed regulations are essentially the same as the current regulations, except that they have been adapted to the Education Department General Administrative Regulations (EDGAR) format. In addition, many of the general administrative requirements contained in the current regulations have been subsumed by EDGAR, and thus deleted from these proposed regulations.

Executive Order 12291

These proposed regulations have been reviewed in accordance with Executive Order 12291.

They are classified as non-major because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act

The Secretary certifies that these proposed regulations will not have a significant economic impact on a substantial number of small entities. These proposed regulations would merely simplify and clarify provisions contained in previous regulations.

Invitation To Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations. Written comments and recommendations may be sent to the address given at the beginning of this document. All comments submitted on or before the 45th day after publication of this document will be considered before the Secretary issues final regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Room 3919, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C. between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, public comment is invited on whether there may be further opportunities to reduce any regulatory burdens found in these regulations.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects

34 CFR Parts 662 and 663

Colleges and universities, Education, Educational research, Educational study programs, Fellowships.

34 CFR Parts 664 and 665

Colleges and universities, Education, Educational study programs, Teachers.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these proposed regulations.

Dated: August 19, 1983.

T. H. Bell,

Secretary of Education.

(Catalog of Federal Domestic Assistance Numbers—Faculty Research Abroad Program, 84.019; Foreign Curriculum Consultants Program, 84.020; Group Project Abroad Program, 84.021; Doctoral Dissertation Research Abroad Fellowship Program, 84.022)

The Secretary proposes to revise Part 662 and add new Parts 663, 664, and 665 of Title 34 of the Code of Federal Regulations to read as follows:

PART 662—HIGHER EDUCATION PROGRAMS IN MODERN FOREIGN LANGUAGE TRAINING AND AREA STUDIES—DOCTORAL DISSERTATION RESEARCH ABROAD FELLOWSHIP PROGRAM.

Subpart A—General

Sec.

662.1 What is the Doctoral Dissertation Research Abroad Program?
662.2 Who is eligible to apply for grants under this program?
662.3 Who is eligible to receive a fellowship under this program?
662.4 What regulations apply to the Doctoral Dissertation Research Abroad Program?
662.5 What definitions apply to the Doctoral Dissertation Research Abroad Program?

Subpart B—What Kinds of Projects Does the Secretary Assist Under This Program? [Reserved]

Subpart C—How Does an Institution and an Individual Apply for a Grant or Fellowship?

662.20 What is the role of the institution in the application process?
662.21 How does an individual apply for a fellowship?

Subpart D—How Does the Secretary Select Fellows?

662.30 How does the Secretary select individual applicants for recommendation to the Board of Foreign Scholarships for selection for Doctoral Dissertation Research Abroad Fellowships?
662.31 How does the Secretary evaluate an individual student application under the Doctoral Dissertation Research Abroad Program?
662.32 What criteria does the Secretary use in recommending individuals for Doctoral Dissertation Research Abroad Fellowships?
662.33 How does the Board of Foreign Scholarships select fellows?

Subpart E—What Conditions Must Be Met by an Institution?

Sec.

662.40 Administration of the grant.
662.41 Amount of a fellowship.
662.42 Disbursement procedures.

Subpart F—What Conditions Must be Met by an Individual?

662.50 Duration of fellowship.
662.51 Fellowship conditions.
662.52 Conduct abroad.
662.53 Revocation or termination of a fellowship.

Authority: Section 102(b)(6) of the Mutual Educational and Cultural Exchange Act of 1961 (Fulbright-Hays Act), 22 U.S.C. 2452(b)(6), unless otherwise noted.

Subpart A—General

§ 662.1 What is the Doctoral Dissertation Research Abroad Program?

(a) The Doctoral Dissertation Research Abroad Program is designed to contribute to the development and improvement of the study of modern foreign language and area studies in the United States by providing opportunities for scholars to conduct research abroad.

(b) Under the program, the Secretary awards fellowships, through institutions of higher education, to Ph.D candidates who are proposing to conduct dissertation research abroad in modern foreign languages and area studies.

(22 U.S.C. 2452(b)(6))

§ 662.2 Who is eligible to apply for grants under this program?

Institutions of higher education are eligible to apply for a grant under this program.

(22 U.S.C. 2452(b)(6)), 2454(e)(1))

§ 662.3 Who is eligible to receive a fellowship under this program?

An individual is eligible to receive a fellowship if the individual—

(a) (1) Is a citizen or national of the United States;

(2) Is a permanent resident of the United States;

(3) Provides evidence from the Immigration and Naturalization Service that he or she is in the United States for other than a temporary purpose with the intention of becoming a citizen or permanent resident; or

(4) Is a resident of the Trust Territory of the Pacific Islands;

(b) Is a graduate student in good standing at an institution of higher education who, when the fellowship period begins, is admitted to candidacy in a doctoral degree program in modern foreign languages and area studies at that institution;

(c) Is planning a teaching career in the United States upon graduation; and

(d) Possesses adequate skills in the language(s) necessary to carry out the dissertation research project.

(22 U.S.C. 2452(b)(6), 2454(e)(1))

§ 662.4 What regulations apply to the Doctoral Dissertation Research Abroad Program?

The following regulations apply to this program:

(a) The regulations in this Part 662; and

(b) The Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

(22 U.S.C. 2452(b)(6))

§ 662.5 What definitions apply to the Doctoral Dissertation Research Abroad Program?

(a) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR Part 77:

Applicant
Application
Award
EDGAR
Fiscal Year
Grant
Grant period
Nonprofit
Project
Project period
Private
Public
Secretary
State

(22 U.S.C. 2452(b)(6))

(b) *Definitions that apply to this program:* The following definitions apply to the Doctoral Dissertation Research Abroad Program:

Area studies means a program of comprehensive study of the aspects of a society or societies, including the study of their history, cultural, economy, politics, international relations, and languages.

Binational commission means an educational and cultural commission established, through an agreement between the United States and either a foreign government or an international organization, to carry out functions in connection with the program covered by this part.

Board of Foreign Scholarships means the Presidentially appointed board which is responsible for supervision of the program covered by this part.

Dependent means any of the following individuals who accompany the program participant to his or her research or training site if the individual will receive more than 50 percent of his or her support from the participant during the fellowship period:

(1) The participant's spouse;

(2) The participant's or spouse's children who are unmarried and under 21;

(3) The participant's or spouse's mother or father if the mother or father is incapable of self-support.

Foreign currencies means those currencies of foreign countries that are owned by the United States.

Institution of higher education means an educational institution in any State which—

(1) Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate;

(2) Is legally authorized within such State to provide a program of education beyond secondary education;

(3) Provides an educational program for which it awards a bachelor's degree or provides not less than a two-year program which is acceptable for full credit toward such a degree;

(4) Is a public or other nonprofit institution; and

(5) Is accredited by a recognized accrediting agency or association.

(22 U.S.C. 2452(b)(6), 2456)

Subpart B—(What Kinds of Projects Does the Secretary Assist Under this Program? [Reserved]

Subpart C—How Does an Institution and an Individual Apply for a Grant or Fellowship?

§ 662.20 What is the role of the institution in the application process?

An eligible institution is responsible for—

(a) Distributing individual application packets to students;

(b) Accepting and screening individual applications in accordance with its own technical and academic criteria; and

(c) Forwarding individual applications to the Secretary through a request for an institutional grant.

(22 U.S.C. 2452(b)(6), 2454(e)(1))

§ 662.21 How does an individual apply for a fellowship?

(a) An applicant for a fellowship obtains an application from the institution of higher education at which the individual is enrolled in a doctoral program and submits the completed application through that institution to the Secretary.

(b) The applicant shall provide sufficient information concerning his personal and academic background, and proposed research project, to enable the

Secretary to determine whether the individual—

(1) Is eligible to receive a fellowship under § 662.3; and

(2) Should be selected for a fellowship under Subpart D of this part.

(c) If an applicant plans to conduct research in the U.S.S.R., Bulgaria, Czechoslovakia, the German Democratic Republic, Hungary, Poland, Romania, or Yugoslavia, he or she must simultaneously submit an application to the International Research and Exchanges Board (IREX) in accordance with the procedures of that Board.

(22 U.S.C. 2452(b)(6))

Subpart D— How Does the Secretary Select Fellows?

§ 662.30 How does the Secretary select individual applicants for recommendation to the Board of Foreign Scholarships for selection for Doctoral Dissertation Research Abroad Fellowships?

(a) The Secretary makes a preliminary selection of individuals for Doctoral Dissertation Research Abroad Fellows with the advice of—

(1) Panels of U.S. academic specialists in modern foreign languages and area studies; and

(2) Binational commissions and/or U.S. diplomatic missions in the proposed country(ies) of research.

(b) All selections by the Secretary are subject to a review and final approval by the Board of Foreign Scholarships.

(c) The Secretary does not recommend an individual to the Board of Foreign Scholarships if the individual proposes to carry out research in a country with which the United States has no diplomatic relations.

(22 U.S.C. 2452(b)(6), 2456)

§ 662.31 How does the Secretary evaluate an individual student application under the Doctoral Dissertation Research Abroad Program?

(a) The Secretary evaluates an application for a Doctoral Dissertation Research Abroad Fellowship based on the criteria in § 662.32 and any pertinent information provided by binational commissions and/or U.S. diplomatic missions abroad.

(b) In general, the Secretary awards up to 90 possible points. However, if priority criteria are used, the Secretary awards up to 100 possible points. The maximum possible points for each criterion are shown in parentheses.

(22 U.S.C. 2452(b)(6))

§ 662.32 What criteria does the Secretary use in recommending individuals for Doctoral Dissertation Research Abroad Fellowships.

The Secretary uses the criteria in this section and pertinent information provided by U.S. diplomatic missions abroad and binational commissions to evaluate an application of a graduate student for the purpose of recommending to the Board of Foreign Scholarships candidates for fellowships under this part. The Secretary gives preference to American citizens who have served in the armed services of the United States. The criteria are weighted and may total 100 points.

(a) *Quality of proposed project.* (Maximum 45 points) (1) The Secretary reviews each application for information that shows the quality of the research project proposed by the student.

(2) The Secretary looks for information that shows the extent to which—

(i) The project is original; the problems, questions, hypotheses are well formulated;

(ii) The project is well formulated and demonstrates adequate knowledge of related research;

(iii)) The methodology is specifically described, sound, and appropriate to the project;

(iv) The applicant demonstrates knowledge and utilization of resources pertinent to the project in the United States;

(v) The project's location in the proposed foreign country(ies) is necessary for the successful completion of the project;

(vi) The applicant has made preparations to establish research contacts and affiliations abroad, and the overseas facilities indicated will afford sufficient and appropriate locations for the proposed research;

(vii) The application reflects the intent to share with scholars and officials of the host country the results of the research in progress and a copy of the dissertation;

(viii) The application reflects guidance and supervision on the part of the dissertation advisor or committee throughout all stages, including the development of the project, understanding of research conditions abroad, and acutal research in the field; and

(ix) The project can be completed within the proposed fellowship period.

(b) *Qualifications of the applicant* (Maximum 45 points) (1) The Secretary reviews each application for information that shows the qualifications of the applicant.

(2) The Secretary looks for information that shows the extent to which—

(i) The applicant's academic record is excellent and relevant to the proposed project;

(ii) The applicant possesses adequate foreign language skills to carry out the proposed project; and

(iii) The applicant has the ability to conduct research in a foreign cultural context, as evidenced by the applicant's references or previous overseas experience.

(c) *Priorities.* (Maximum 10 points) (1) The Secretary may establish priorities each year for the selection of fellows. These priorities relate to: certain world areas, countries, academic disciplines, languages, or combinations of any of these categories. For example, the Secretary may establish a priority for: A specific world area or country such as the Caribbean or Poland, an academic discipline such as economics or political science, or certain languages such as Tajik or Serbo-Croatian.

(2) The Secretary announces any priorities in the application notice published in the **Federal Register.**

(22 U.S.C. 2452(b)(6), 2456(a)(2))

§ 662.33 How does the Board of Foreign Scholarships select fellows?

(a) (1) The Board of Foreign Scholarships selects Doctoral Dissertation Research Abroad Fellows on the basis of the preliminary selections by the Secretary and pertinent information supplied by U.S. diplomatic missions and binational commissions.

(2) The Board of Foreign scholarships does not select fellows to carry out research in the U.S.S.R. unless the applicant has been approved for that purpose by the International Research and Exchanges Board (IREX).

(b) Pertinent information used by the Board of Foreign Scholarships and the Secretary in the selection process, which is provided by U.S. diplomatic missions and/or binational commissions may include, but is not necessarily limited to, information concerning the feasibility of the project, and the political sensitivity of the host country.

(22 U.S.C. 2452(b)(6) 2456(a)(1))

Subpart E—What Conditions Must Be Met by an Institution?

§ 662.40 Administration of the grant.

(a) An institution to which the Secretary awards a grant under this part is responsible for administering the grant subject to the provisions of § 662.4.

(b) The institution is responsible for processing individual applications in accordance with procedures described in § 662.20.

(c) The institution is responsible for disbursing funds in accordance with procedures described in § 662.42.

(d) The Secretary awards the institution and administrative allowance of $100 for each fellowship listed in the grant agreement.

(22 U.S.C. 2452(b)(6), 2454(e)(1))

§ 662.41 Amount of a fellowship.

(a) In accordance with sections 104(b)(1) and (e)(2) of the Mutual Educational and Cultural Exchange Act of 1961, the Secretary pays—

(1) Travel expenses, including excess baggage to and from the residence of the fellow to the host country of research;

(2) A maintenance allowance for the fellow and his or her dependents;

(3) An allowance for research-related expenses overseas such as books, copying, tuition and affiliation fees, local travel, and other incidental expenses; and

(4) Health and accident insurance premiums.

(b) The Secretary may pay for—

(1) Emergency medical expenses not covered by health and accident insurance; and

(2) The costs of preparing and transporting to his or her former home, participants or dependents who die during the term of the fellowship.

(c) In the application notice published annually in the **Federal Register**, the Secretary announces the amount of benefits expected to be available.

(22 U.S.C. 2452(b)(6), and 2454(e)(1) and (2))

§ 662.42 Disbursement procedures.

The grantee institution is responsible for disbursing funds for allowances authorized by the grant except that the appropriate U.S. diplomatic mission disburses directly to the fellow allowances paid in foreign currencies.

(22 U.S.C. 2452(b)(6))

Subpart F—What Conditions Must Be Met by an Individual?

§ 662.50 Duration of fellowship.

(a) A fellowship is for a period of not fewer than six nor more than twelve months.

(b) The fellowship may not be renewed.

(22 U.S.C. 245(b)(6))

§ 662.51 Fellowship conditions.

A Fellow shall—

(a) Maintain satisfactory progress in the conduct of his or her research;

(b) Devote full time to research on the approved topic;

(c) Not engage in gainful employment during the period of the fellowship; and

(d) Remain a student in good standing with the grantee institution during the entire period of the fellowship.

(22 U.S.C. 2452(b)(6))

§ 662.52 Conduct abroad.

The Secretary furnishes to each fellow a copy of the Board of Foreign Scholarships statement of the rights and obligations of American grantees and participants abroad. Fellows must adhere to the standards in the statement, and comply with the legal and moral standards of the host country(ies). Failure to do so may result in the revocation or termination of the fellowship by the Board of Foreign Scholarships.

(22 U.S.C. 2452(b)(6)), 2456, Policy Statements of the Board of Foreign Scholarships, 1972)

§ 662.53 Revocation or termination of a fellowship

(a) The Board of Foreign Scholarships, upon the recommendation of the Secretary, may revoke or terminate a fellowship because of—

(1) A fellow's failure to maintain eligibility; or

(2) Misconduct by the fellow.

(b) As used in this section misconduct includes, but is not limited to—

(1) A violation of the laws of the United States or the host country; or

(2) An act that gives offense to the host country.

(22 U.S.C. 2452(b)(6)), 2456, Policy Statements of the Board of Foreign Scholarships, 1972)

The Secretary proposes to add a new Part 663 to Title 34 of the Code of Federal Regulations to read as follows:

PART 663—HIGHER EDUCATION PROGRAMS IN MODERN FOREIGN LANGUAGE TRAINING AND AREA STUDIES—FACULTY RESEARCH ABROAD FELLOWSHIP PROGRAM

Subpart A—General

Sec.

663.1 What is the faculty Research Abroad Program?
663.2 Who is eligible to apply for grants under this program?
663.3 Who is eligible to receive a fellowship under this program?
663.4 What regulations apply to this program?
663.5 What definitions apply to the Faculty Research Abroad Program?

Subpart B—What Kinds of Projects Does the Secretary Assist Under This Program? [Reserved]

Subpart C—How Does an Institution and an Individual Apply for a Grant or Fellowship?

663.20 What is the role of the institution in the application process?
663.21 How does an individual apply for a fellowship?

Subpart D—How Does the Secretary Select Fellows?

663.30 How does the Secretary select individual applicants for recommendation to the Board of Foreign Scholarships for selection for Faculty Research Abroad Fellowships?
663.31 How does the Secretary evaluate an individual application under the Faculty Research Abroad Program?
663.32 What criteria does the Secretary use in recommending individuals for Faculty Research Abroad Fellowships?
663.33 How does the Board of Foreign Scholarships select fellows?

Subpart E—What Conditions Must be Met by an Institution?

663.40 Administration of the grant.
663.41 Amount of a fellowship.
663.42 Disbursement procedures.

Subpart F—What Conditions Must be met by an Individual?

663.50 Duration of the fellowship.
663.51 Fellowship conditions.
663.52 Conduct abroad.
663.53 Revocation or termination of a fellowship.

Authority: Section 102(b)(6) of the Mutual Educational and Cultural Exchange Act of 1961 (Fulbright-Hays Act), 22 U.S.C. 2452(b)(6), unless otherwise noted.

Subpart A—General

§ 663.1 What is the Faculty Research Abroad Program?

(a) The Faculty Research Abroad Program is designed to contribute to the development and improvement of modern foreign language training and area studies in the United States by providing opportunities for scholars to conduct research abroad.

(b) Under the program, the Secretary awards fellowships, through institutions of higher education, to faculty of the institutions who are proposing to conduct research abroad in modern foreign languages and area studies to improve their skill in languages and their knowledge of the culture of the people of these countries.

(22 U.S.C. 2452(b)(6)

§ 663.2 Who is eligible to apply for grants under this program?

Institutions of higher education are eligible to apply for grants under this program.

(22 U.S.C. 2452(b)(6), 2454(e)(1))

§ 663.3 Who is eligible to receive a fellowship under this program?

An individual is eligible to receive a fellowship if the individual—

(a)(1) Is a citizen or national of the United States;

(2) Is a permanent resident of the United States;

(3) Provides evidence from the Immigration and Naturalization Service that he or she is in the United States for other than a temporary purpose with the intention of becoming a citizen or permanent resident; or

(4) Is a resident of the Trust Territory of the Pacific Islands;

(b) Is employed by an institution of higher education;

(c) Has been engaged in teaching relevant to his or her foreign language or area studies specialization for the two years immediately preceding the date of the award;

(d) Proposes research relevant to his or her modern foreign language or area studies specialization which—

(1) Cannot be conducted in the United States, or for which a foreign country or region provides significantly superior research facilities;

(2) Will contribute to the development or improvement of the study of modern foreign languages or area studies in those fields needed for full understanding of the area, regions, or countries in which the modern foreign languages are commonly used; and

(3) Is not dissertation research for a Ph.D; and

(e) Possesses adequate skills in the language or languages necessary to successfully carry out the project.

(22 U.S.C. 2452(b)(6), 2454(e)(1))

§ 663.4 What regulations apply to this program?

The following regulations apply to this program:

(a) The regulations in this Part 663; and

(b) The Education Department General Administrative Regulations (EDGAR).

(34 CFR Parts 74, 75, 77, and 78).
(22 U.S.C. 2452(b)(6))

§ 663.5 What definitions apply to the Faculty Research Abroad Program?

(a) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR Part 77:

Applicant
Application
Award
EDGAR
Fiscal Year
Grant
Grant period
Project
Project period
Private
Public
Secretary
State

(22 U.S.C. 2452(b)(6))

(b) *Definitions that apply to this program:* The following definitions apply to the Faculty Research Abroad Program:

Area studies means a program of comprehensive study of the aspects of a society or societies, including the study of their history, culture, economy, politics, international relations, and languages.

Binational commission means an educational and cultural commission established, through an agreement between United States and either a foreign government or an international organization, to carry out functions in connection with the program covered by this part.

Board of Foreign Scholarships means the Presidentially appointed board which is responsible for supervision of the program covered by this part.

Dependent means any of the following individuals who accompany the program participant to his or her training site if the individual will receive more than 50 percent of his or her support from the participant during the fellowship period:

(1) The participant's spouse;

(2) The participant's or spouse's children who are unmarried and under 21;

(3) The participant's or spouse's mother or father if the mother or father is incapable of self-support.

Foreign currencies means those currencies of foreign countries that are owned by the United States.

Institution of higher education means an educational institution in any State which—

(1) Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such certificate;

(2) Is legally authorized within such State to provide a program of education beyond secondary education;

(3) Provides an educational program for which it awards a bachelor's degree or provides not less than a two-year program which is acceptable for full credit toward such a degree;

(4) Is a public or other nonprofit institution; and

(5) Is accredited by a nationally recognized accrediting agency or association.

(22 U.S.C. 2452(b)(6), 2456)

Subpart B—What Kinds of Projects Does the Secretary Assist Under This Program? [Reserved]

Subpart C—How Does an Institution and an Individual Apply for a Grant or Fellowship?

§ 663.20 What is the rule of the institution in the application process?

An eligible institution is responsible for—

(a) Distributing individual application packets to faculty interested in applying for fellowships;

(b) Accepting and screening individual applications in accordance with its own technical and academic criteria; and

(c) Forwarding individual applications to the Secretary through a request for an institutional grant.

(22 U.S.C. 2452(b)(6), 2454(e)(1))

§ 663.21 How does an individual apply for a fellowship?

(a) An applicant for a fellowship obtains an application from the institution of higher education at which he or she is employed and submits his or her application to the Secretary through that institution.

(b) The applicant shall provide sufficient information concerning his or her personal and academic background and proposed research project to enable the Secretary to determine whether the individual—

(1) Is eligible to receive a fellowship; and

(2) Should be selected for a fellowship under subpart D of this part.

(c) If an applicant plans to conduct research in the U.S.S.R., Bulgaria, Czechoslovakia, the German Democratic Republic, Hungary, Poland, Romania, or Yugoslavia, he or she must simultaneously submit an application to the International Research and Exchanges Board (IREX) in accordance with the procedures of that Board.

(22 U.S.C. 2452(b)(6))

Subpart D—How does the Secretary Select Fellows?

§ 663.30 How does the Secretary select individual applicants for recommendation to the Board of Foreign Scholarships for selection for Faculty Research Abroad Fellowships?

(a) The Secretary makes a preliminary selection of individuals for Faculty Research Abroad Fellows with the advice of—

(1) Panels of U.S. academic specialists in modern foreign languages and area studies; and

(2) Binational commissions or U.S. diplomatic missions in the proposed country(ies) of research.

(b) All selections by the Secretary are subject to a review and final approval by the Board of Foreign Scholarships.

(c) The Secretary does not recommend an individual to the Board of Foreign Scholarships if the individual proposes to carry out research in a country with which the United States has no diplomatic relations.

(22 U.S.C. 2452(b)(6), 2456)

§ 633.31 How does the Secretary evaluate an individual application under the Faculty Research Abroad Program?

(a) The Secretary evaluates an application for a Faculty Research Abroad Fellowship based on the criteria in § 663.32 and any pertinent information provided by binational commissions and/or U.S. diplomatic missions.

(b) In general, the Secretary awards up to 90 possible points. However, if priority criteria are used, the Secretary awards up to 100 possible points. The maximum possible points for each criterion are shown in parentheses.

(22 U.S.C. 2452(b)(6))

§ 663.32 What criteria does the Secretary use in recommending individuals for Faculty Research Abroad Fellowships?

The Secretary uses the criteria in this section to evaluate applications of faculty for the purpose of recommending to the Board of Foreign Scholarships candidates for fellowships under this part. The Secretary gives preference to American citizens who have served in the armed services of the United States. The criteria are weighted and may total 100 points.

(a) *Quality of proposed project.* (Maximum 45 points) (1) The Secretary reviews each application for information that shows the quality of the research project proposed by the faculty member.

(2) The Secretary looks for information that shows the extent to which—

(i) The project is well formulated and demonstrates adequate knowledge of related research;

(ii) The methodology is specifically described, sound, and appropriate to the project;

(iii) The objectives of the project are relevant to the sponsoring institution's plans for developing and/or strengthening programs in modern foreign languages and area studies;

(iv) The applicant demonstrates knowledge and utilization of resources pertinent to the project in the United States;

(v) The project's location in the proposed foreign country(ies) is necessary for the successful completion of the projects;

(vi) The applicant has made preparations to establish research contacts and affiliations abroad;

(vii) The application reflects the intent to share the results of the research with host country scholars and officials and the American scholarly community;

(viii) The overseas facilities indicated will afford sufficient and appropriate locations for the proposed research; and

(ix) The project can be completed with the proposed fellowship period.

(b) *Qualifications of the applicant.* (Maximum 45 points) (1) The Secretary reviews each application for information that shows the qualifications of the applicant.

(2) The Secretary looks for information that shows the extent to which—

(i) The applicant's academic record is excellent and relevant to the proposed project;

(ii) The applicant possesses adequate foreign language skills to adequately carry out the proposed project; and

(iii) The applicant's ability to conduct research in a foreign cultural context, as evidenced by the applicant's references or previous overseas experience.

(c) *Priorities.* (Maximum 10 points) (1) The Secretary may establish priorities each year for the selection of fellows. These priorities relate to: certain world areas, countries, academic disciplines, languages, or combinations of any of these categories. For example, the Secretary may establish a priority for a specific world area or country such as East Asia or the U.S.S.R., for an academic discipline such as history or political science, or for languages such as Hausa or Telegu.

(2) The secretary announces any priorities in the application notice published in the **Federal Register**.

(22 U.S.C. 2452(b)(6), 2456(a)(2)

§ 663.33 How does the Board of Foreign Scholarships select fellows?

(a) (1) The Board of Foreign Scholarships selects Faculty Research Abroad Fellows on the basis of the preliminary selections of the Secretary and pertinent information supplied by U.S. diplomatic missions and binational commissions.

(2) The Board of Foreign Scholarships does not select fellows to carry out research in the U.S.S.R. unless the applicant has been approved for the purpose by the International Research and Exchanges Board (IREX).

(b) Pertinent information used by the Board of Foreign Scholarships and the Secretary in the selection process, which is provided by U.S. diplomatic missions and binational commissions, may include, but is not necessarily limited to, information concerning the feasibility of the project and the political sensitivity of the host country.

(22 U.S.C. 2452(b)(6), 2456(a)(1))

Subpart E—What Conditions Must Be Met by an Institution?

§ 663.40 Administration of the grant.

(a) An institution to which the Secretary awards a grant under this part is responsible for administering the grant subject to the provisions of § 663.4.

(b) The institution is responsible for processing individual applications in accordance with procedures described in § 663.20.

(c) The institution is responsible for disbursing funds in accordance with procedures described in § 663.42.

(d) The Secretary awards the institution and administrative allowance of $100 for each fellowship listed in the grant agreement.

(22 U.S.C. 2452(b)(6), 2454(e)(1))

§ 663.41 Amount of a fellowship.

(a) In accordance with sections 104 (b)(1) and (e)(2) of the Mutual Educational and Cultural Exchange Act of 1961, the Secretary pays—

(1) Travel expenses, including excess baggage to and from the residence of the fellow to the host country of research,

(2) A maintenance allowance for the fellow; and

(3) An allowance for research related expenses overseas such as books, copying, tuition and affiliation fees, local travel, and other incidental expenses.

(b) The Secretary may pay for—

(1) Emergency medical expenses not covered by the faculty member's health and accident insurance; and

(2) The costs of preparing and transporting to his or her former home, participants or dependents who die during the term of the fellowship.

(c) In the application notice published annually in the **Federal Register**, the Secretary announces the amount of benefits expected to be available.

(22 U.S.C. 2452(b)(6), and 2454(e)(1) and (2))

§ 663.42 Disbursement procedures.

A grantee institution is responsible for disbursing funds for allowances authorized by the grant except that the appropriate U.S. diplomatic mission disburses directly to the fellow allowances paid in foreign currencies.

(22 U.S.C. 2452(b)(6))

Subpart F—What Conditions Must Be Met by an Individual?

§ 663.50 Duration of the fellowship.

(a) A fellowship is for a period of not fewer than three nor more than twelve months.

(b) The fellowship may not be renewed.

(22 U.S.C. 2452(b)(6))

§ 663.51 Fellowship conditions.

A fellow shall—

(a) Maintain satisfactory progress in the conduct of his or her research;

(b) Devote full time to research on the approved topic;

(c) Not engage in gainful employment overseas during the period of the fellowship; and

(d) Remain employed by the grantee institution during the entire period of the fellowship.

(22 U.S.C. 2452(b)(6))

§ 663.52 Conduct abroad.

The Secretary furnishes to all fellows a copy of the Board of Foreign Scholarships Statement on the rights and obligations of American grantees and participants abroad. Fellows must adhere to the standards in the statement, and comply with the legal and moral standards of the host country(ies). Failure to do so may result in the revocation or termination of the fellowship by the Board of Foreign Scholarships.

(22 U.S.C. 2452(b)(6), 2456, Policy Statements of the Board of Foreign Scholarships, 1972)

§ 663.53 Revocation or termination of a fellowship.

(a) The Board of Foreign Scholarships, upon the recommendation of the Secretary, may revoke or terminate a fellowship because of—

(1) A fellow's failure to maintain eligibility; or

(2) Misconduct by the fellow.

(b) As used in this section misconduct includes, but is not limited to—

(1) A violation of the laws of the United States or the host country; or

(2) An act that gives offense to the host country.

(22 U.S.C. 2452(b)(6), 2456, Policy Statements of the Board of Foreign Scholarships, 1972)

PART 664—HIGHER EDUCATION PROGRAMS IN MODERN FOREIGN LANGUAGE TRAINING AND AREA STUDIES—GROUP PROJECTS ABROAD PROGRAM

Subpart A—General

Sec.

664.1 What is the Group Projects Abroad Program?
664.2 Who is eligible to apply for assistance under the Group Projects Abroad Program?
664.3 Who is eligible to participate in projects funded under the Group Projects Abroad Program?
664.4 What regulations apply to the Group Project Abroad Program?
664.5 What definitions apply to the Group Projects Abroad Program?

Subpart B—What Kinds of Projects Does the Secretary Assist Under This Program?

664.10 What kinds of projects does the Secretary assist?
664.11 Short-term seminar projects.
664.12 Curriculum development projects.
664.13 Groups research and study projects.
664.14 Advanced overseas intensive language training projects.

Subpart C—[Reserved]

Subpart D—How Does the Secretary Make a Grant?

664.30 How does the Secretary evaluate an application?
664.31 What selection criteria does the Secretary use?
664.32 What priorities may the Secretary establish?
664.33 What cost does the Secretary pay?

Subpart E—What Conditions Must Be Met by a Grantee?

664.40 Conduct abroad of individual participants.

Authority: Section 102(b)(6) of the Mutual Educational and Cultural Exchange Act of 1961 (Fulbright-Hays Act), (22 U.S.C. 2452(b)(6), unless otherwise noted.

Subpart A—General

§ 664.1 What is the Group Projects Abroad Program?

(a) The Group Projects Abroad Program is designed to contribute to the development and improvement of the study of modern foreign languages and area studies in the United States by providing opportunities for teachers, students, and faculty to study in foreign countries.

(b) Under the program, the Secretary awards grants to eligible institutions, departments, and organizations to conduct overseas group projects in research, training, and curriculum development.

(22 U.S.C. 2452(b)(6))

§ 664.2 Who is eligible to apply for assistance under the Group Projects Abroad Program?

The following are eligible to apply for assistance under this part:

(a) Institutions of higher education;

(b) State departments of education;

(c) Private non-profit educational organizations; and

(d) A consortium of institutions, departments, and organizations described in paragraphs (a), (b), or (c) of this section.

(22 U.S.C. 2452(b)(6))

§ 664.3 Who is eligible to participate in projects funded under the Group Projects Abroad Program?

An individual is eligible to participate in a Group Project Abroad, if the individual—

(a) (1) Is a citizen or national of the United States,

(2) Is a permanent resident of the United States,

(3) Provides evidence from the Immigration and Naturalization Service that he or she is in the United States for other than a temporary purpose with the intention of becoming a citizen or permanent resident; or

(4) Is a resident of the Trust Territory of the Pacific Islands; and

(b) (1) Is a faculty member who teaches modern foreign languages or area studies in an institution of higher education;

(2) Is a teacher in an elementary or secondary school,

(3) Is an experienced education administrator responsible for planning, conducting, or supervising programs in modern foreign languages or area studies at the elementary, secondary, or postsecondary level; or

(4) Is a graduate student, or a junior or senior in an institution of higher education, who plans a teaching career in modern foreign languages or area studies.

(22 U.S.C. 2452(b)(6))

§ 664.4 What regulations apply to the Group Projects Abroad Program?

The following regulations apply to this program:

(a) The regulations is this Part 664; and

(b) The Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

§ 664.5 What definitions apply to the Group Projects Abroad Program?

(a) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR Part 77:

Applicant
Application
Award
EDGAR
Equipment
Facilities
Fiscal Year
Grant
Grantee
Grant Period
Nonprofit
Project

Project Period
Private
Public
Secretary
State
State educational agency
Supplies

(22 U.S.C. 2452(b)(6))

(b) *Definitions that apply to this program:* The following definitions apply to the Group Projects Abroad Program:

Area studies means a program of comprehensive study of the aspects of a society or societies, including the study of their history, culture, economy, politics, international relations, and languages.

Binational commission means an educational and cultural commission established, through an agreement between the United States and either a foreign government or an international organization, to carry out functions in connection with the program covered by this part.

Board of Foreign Scholarship means the Presidentially appointed board which is responsible for supervision of the program covered by this part.

Institution of higher education means an educational institution in any State which—

(1) Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate;

(2) Is legally authorized within such State to provide a program of education beyond secondary education;

(3) Provides an educational program for which it awards a bachelor's degree or provides not less than a two-year program which is acceptable for full credit toward such a degree;

(4) Is a public or other nonprofit institution; and

(5) Is accredited by a nationally recognized accrediting agency or association.

(22 U.S.C. 2452(b)(6), 2456)

Subpart B—What Kinds of Projects Does the Secretary Assist Under This Program?

§ 664.10 What kinds of projects does the Secretary assist?

The Secretary assists projects which are designed to develop or improve programs in modern foreign language or area studies at the elementary, secondary, or postsecondary level by supporting overseas projects in research, training, and curriculum development by groups of individuals engaged in a common endeavor. Projects may include, as described in § 664.11 through § 664.14, short-term seminars, curriculum development teams, group research or study, and advanced intensive language programs.

(22 U.S.C. 2452(b)(6))

§ 664.11 Short-term seminar projects.

A short-term seminar project is—

(a) Designed to help integrate international studies into an institution's or school system's general curriculum.

(b) Normally six weeks in length and focuses on a particular aspect of area study, such as, for example, the culture of the area or a portion of the culture.

(22 U.S.C. 2452(b)(6))

§ 664.12 Curriculum development projects.

(a) A curriculum development project—

(1) Is designed to permit faculty and administrators in institutions of higher education and elementary and secondary schools, and administrators in State Departments of Education the opportunity to spend generally from six to eight weeks in a foreign country acquiring resource materials for curriculum development in modern foreign language and area studies.

(2) Shall provide for the systematic use and dissemination in the United States of the acquired materials.

(b) For the purpose of this section, resource materials include artifacts, books, documents, educational films, museum reproductions, recordings and other instructional material.

(22 U.S.C. 2452(b)(6))

§ 664.13 Group research or study projects.

(a) (1) A group research or study project is designed to permit a group of faculty of an institution of higher education and graduate and undergraduate students to undertake research or study in a foreign country.

(2) The period of research or study in a foreign country is generally from two to twelve months.

(b) As a prerequisite to participating in a research or training project, participants—

(1) Shall possess the requisite language proficiency to conduct the research or study, and disciplinary competence in their area of research; and

(2) In a project of a semester or longer, shall have completed, at a minimum, one semester of intensive language training and one course in area studies relevant to the project.

(22 U.S.C. 2452(b)(6))

§ 664.14 Advanced overseas intensive language training projects.

(a) (1) An advanced overseas intensive language project is designed to take advantage of the opportunities present in the foreign country that are not present in the United States when providing intensive advanced foreign language training.

(2) Projects may range from two to twelve months and include year projects, academic year projects, semester, trimester, or quarter projects, or summer projects.

(3) Language training shall be given at the advanced level, i.e., at the level equivalent to that provided to students who have successfully completed two academic years of language training.

(4) The language to be studied shall be indigenous to the host country and maximum use shall be made of local institutions and personnel.

(b) Participants in projects under this program shall have successfully completed at least two academic years of language study.

(22 U.S.C. 2452(b)(6))

Subpart C—[Reserved]

Subpart D—How Does the Secretary Make a Grant?

§ 664.30 How does the Secretary evaluate an application?

(a) The Secretary evaluates an application for a Group Project Abroad under the criteria in § 664.31.

(b) In general, the Secretary awards up to 90 possible points for these criteria. However, if priority criteria are used, the Secretary awards up to 105 possible points. The maximum possible points for each criterion are shown in parentheses.

(c) All selections by the Secretary are subject to review and final approval by the Board of Foreign Scholarships.

(22 U.S.C. 2452(b)(6), 2456)

§ 664.31 What selection criteria does the Secretary use?

The Secretary uses the criteria in this section to evaluate applications for the purpose of recommending to the Board of Foreign Scholarships projects for funding under this part. The criteria are weighted and may total 105 points:

(a) *Plan of operation.* (Maximum 25 points) (1) The Secretary reviews each application for information that shows the quality of the plan of operation for the project.

(2) The Secretary looks for information that shows—

(i) High quality in the design of the project;

(ii) An effective plan of management that insures proper and efficient administration of the project;

(iii) A clear description of how the objectives of the project relate to the purpose of the program;

(iv) The way the applicant plans to use its resources and personnel to achieve each objective; and

(v) A clear description of how the applicant will provide equal access and treatment for eligible project participants who are members of groups that have been traditionally underrepresented, such as—

(A) Members of racial or ethnic minority groups;

(B) Women;

(C) Handicapped persons; and

(D) The elderly.

(b) *Quality of Key Personnel.* (Maximum 20 points) (1) The Secretary reviews each application for information that shows the quality of the key personnel the applicant plans to use on the project.

(2) The Secretary looks for information that shows—

(i) The qualifications of the project director;

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (b)(2) (i) and (ii) of this section plans to commit to the project; and

(iv) The extent to which the applicant, as part of its non-discriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally underrepresented, such as—

(A) Members of racial or ethnic minority groups;

(B) Women;

(C) Handicapped persons; and

(D) The elderly.

(3) To determine the qualifications of a person, the Secretary considers evidence of past experience and training in fields related to the objectives of the project as well as other information that the applicant provides.

(c) *Budget and cost effectiveness.* (Maximum 10 points) (1) The Secretary reviews each application for information that shows that the project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(d) *Evaluation plan.* (Maximum 10 points) (1) The Secretary reviews each application for information that shows the quality of the evaluation plan for the project.

(2) The Secretary looks for information that shows that the methods of evaluation are appropriate for the project and, to the extent possible, are objective and produce data that are quantifiable.

(e) *Adequacy of resources.* (Maximum 5 points) (1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources to the project.

(2) The Secretary looks for information that shows that the facilities, equipment, and/or supplies that the applicant plans to use are adequate.

(f) *Specific program criteria.* (Maximum 20 points) (1) In addition to the general selection criteria contained in this section, the Secretary reviews each application for information that shows that the project meets the specific program criteria.

(2) The Secretary looks for information that shows—

(i) The potential impact of the project on the development of the study of modern foreign languages and area studies in American education. (Maximum 5 points).

(ii) The project's relevance to the applicant's educational goals and its relationship to its program development in modern foreign languages and area studies. (Maximum 5 points).

(iii) The extent to which direct experience abroad is necessary to achieve the project's objectives and the effectiveness with which relevant host country resources will be utilized. (Maximum 10 points).

(g) *Priorities.* (Maximum 15 points). The Secretary looks for information that shows the extent to which the project addresses program priorities in the field of modern foreign lanaguages and area studies for that year.

(22 U.S.C. 2452(b)(6), 2454(a)(2))

§ 664.32 What priorities may the Secretary establish?

(a) The Secretary may establish for each funding competition one or more of the following priorities:

(1) Categories of projects described in § 664.10.

(2) Specific languages, countries or geograhic regions of the world; for example, Chinese and Arabic, Brazil and Nigeria, Middle East and South Asia.

(3) Levels of education; for example, elementary and secondary, postsecondary or postgraduate.

(b) The Secretary announces any priorities in the application notice published in the **Federal Register.**

(22 U.S.C. 2452(b)(6), 2456(a)(2))

§ 664.33 What cost does the Secretary pay?

(a) The Secretary pays only part of the cost of a project funded under this part. Other than travel costs, the Secretary does not pay any of the costs for project related expenses within the United States.

(b) The Secretary pays the cost of the following—

(1) A maintenance stipend based on 50 percent of the amount established in the U.S. Department of State publication "Maximum Travel Per Diem Allowances For Foreign Areas;"

(2) Round-trip international travel;

(3) A local travel allowance for necessary project-related transportation within the country of study, exclusive of the purchase of transportation equipment;

(4) Purchase of project-related artifacts, books, and other teaching materials in the country of study;

(5) Rent for instructional facilities in the country of study;

(6) Clerical and professional services performed by resident instructional personnel in the country of study; and

(7) Other expenses in the country of study, if necessary for the project's success and approved in advance by the Secretary.

(22 U.S.C. 2452(b)(6), 2454(e)(1))

Subpart E—What Conditions Must Be Met by a Grantee?

§ 664.40 Conduct abroad of individual participants.

The Secretary furnishes all U.S. participants going abroad under a grant authorized under this part a statement prepared by the Board of Foreign Scholarships which sets forth the rights and obligations of participants. Each participant must adhere to the standards in the statement and comply with the legal and moral standards of the host country. Failure to do so may result in the revocation or termination of the fellowship by the Board of Foreign Scholarships.

(22 U.S.C. 2452(b)(6), 2458, Policy Statements of the Board of Foreign Scholarships, 1972)

PART 665—HIGHER EDUCATION PROGRAMS IN MODERN FOREIGN LANGUAGE TRAINING AND AREA STUDIES—FOREIGN CURRICULUM CONSULTANTS PROGRAM

Supert A—General

Sec.

665.1 What is the Foreign Curriculum Consultants Program?
665.2 Who is eligible to apply for assistance under the Foreign Curriculum Consultants Program?
665.3 Who is eligible to become a Foreign Curriculum Consultant?
665.4 What regulations apply to the Foreign Curriculum Consultants Program?
665.5 What definitions apply to the Foreign Curriculum Consultants Program?

Subpart B—What Kinds of Project Does the Secretary Assist Under This Program?

665.10 What activities does the Secretary assist?

Subpart C—How Does an Applicant Apply for a Grant?

665.20 How does an applicant apply for a grant?

Subpart D—How Does the Secretary Make a Grant?

665.30 How does the Secretary evaluate an application submitted under the Foreign Curriculum Consultants Program?
665.31 What selection criteria does the Secretary use?
665.32 What priorities may the Secretary establish?
665.33 How does the Secretary select foreign curriculum consultants?
665.34 What cost does the Secretary pay?

Subpart E—What Conditions Must be Met by a Grantee?

665.40 What cost does the Grantee pay?

Authority: Section 102(b)(6) of the Mutual Educational and Cultural Exchange Act of 1961 (Fulbright-Hays Act), 22 U.S.C. 2452(b)(6), unless otherwise noted.

Subpart A—General

§ 665.1 What is the Foreign Curriculum Consultants Program?

(a) The Foreign Curriculum Consultants Program is designed to contribute to the development and improvement of curricula for teaching modern foreign languages and area studies in the United States.

(b) Under the program, the Secretary assists institutions of higher education, State and local educational agencies, and nonprofit private educational organizations that are improving or developing curricula to teach modern foreign languages and area studies by recruiting and paying for part of the costs for a foreign curriculum consultant.

(22 U.S.C. 2452(b)(6))

§ 665.2 Who is eligible to apply for assistance under the Foreign Curriculum Consultants Program?

The following are eligible to apply for assistance under this part:

(a) Institutions of higher education;

(b) A State educational agency;

(c) A local educational agency;

(d) A private nonprofit educational organization; and

(e) A consortium of institutions described in paragraphs (a), (b), (c), or (d) of this section.

(22 U.S.C. 2452(b)(6))

§ 665.3 Who is eligible to become a Foreign Curriculum Consultant?

A foreign educator is eligible to be a candidate in the Foreign Curriculum Constultants Program if the individual—

(a) Has at least five years of experience as an educator in modern foreign languages or area studies and appropriate experience in curruculum planning and development, preparation of teaching materials, or training of teachers;

(b) Speaks English fluently;

(c) Is willing to apply for and receive an exchange visitor visa; and

(d) Possesses the special qualifications set forth in the applicant's request.

(22 U.S.C. 2452(b)(6))

§ 665.4 What regulations apply to the Foreign Curriculum Consultants Program?

The following regulations apply to this program:

(a) The regulations in this Part 665; and,

(b) The Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

(22 U.S.C. 2452(b)(6) 2452(e)(1), 2456(a)(2))

§ 665.5 What definitions apply to the Foreign Curriculum Consultants Program?

(a) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR Part 77:

Applicant
Application
Award
EDGAR
Fiscal Year
Grant
Grantee
Grant Period
Local educational agency
Nonprofit
Project
Project Period
Private
Public
Secretary
State educational agency

(22 U.S.C. 2452(b)(6))

(b) *Definitions that apply to this program.* The following definitions apply to the Foreign Curriculum Consultants Program:

Area Studies means a program of comprehensive study of the aspects of a society or societies, including the study of their history, culture, economy, politics, international relations, and languages.

Binational commission means an educational and cultural commission established, through an agreement between the United States and either a foreign government or an international orgnaization, to carry out functions in connection with the program covered by this part.

Board of Foreign Scholarships means the Presidentially appointed board which is responsible for supervision of the program covered by this part.

Institution of higher education means an educational institution in any State which—

(1) Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate;

(2) Is legally authorized within such State to provide a program of education beyond secondary education;

(3) Provides an educational program for which it awards a bachelor's degree or provides not less than a two-year program which is acceptable for full credit toward such a degree;

(4) Is a public or other nonprofit institution; and

(5) Is accredited by a nationally recognized accrediting agency or association.

(22 U.S.C. 2452(b)(6), 2456)

Subpart B—What Kinds of Projects Does the Secretary Assist Under This Program?

§ 665.10 What activities does the Secretary assist?

(a) The Secretary awards grants to eligible applicants to enable them to bring foreign consultants to the United States for a year so that the consultants may assist the applicant in planning and developing curricula in modern foreign languages or area studies.

(b) A foreign consultant May—

(1) Review and evaluate textbooks and other educational materials;

(2) Develop new units of study;

(3) Prepare new instructional materials for use in the classroom;

(4) Conduct demonstration classes, workshops, and other inservice training for teachers;

(5) Evaluate library holdings and recommend new acquisitions;

(6) Speak at community functions; and,

(7) Teach (normally not to exceed one regular classroom course per semester).

(22 U.S.C. 2452(b)(6))

Subpart C—How Does an Applicant Apply for a Grant?

§ 665.20 How does an applicant apply for a grant?

An applicant applies for a grant to receive the services of a foreign curriculum consultant by submitting an application which describes—

(a) The applicant's plan to improve or develop curriculum to teach modern foreign languages and area studies; and

(b) The manner in which the applicant will use a foreign curriculum consultant in that effort.

(22 U.S.C. 2452(b)(6))

Subpart D—How Does the Secretary Make a Grant?

§ 665.30 How does the Secretary evaluate an application submitted under the Foreign Curriculum Consultants program?

(a) The Secretary evaluates an application submitted under this part based upon the criteria in § 665.31.

(b) In general, the Secretary awards up to 100 possible points. However, if priority criteria are used, the Secretary awards up to 110 possible points. The maximum possible points for each criterion are indicated in parentheses.

(c) All selections by the Secretary are subject to review and final approval by the Board of Foreign Scholarships.

(22 U.S.C. 2452(b)(6))

§ 665.31 What selection criteria does the Secretary use?

The Secretary uses the criteria in this section to evaluate applications for the purpose of recommending to the Board of Foreign Scholarships projects for funding under this part. The criteria are weighted and may total 110 points:

(a) *Plan of operation* (Maximum 25 points) (1) The Secretary reviews each application for information that shows the quality of the plan of operation for the project.

(2) The Secretary looks for information that shows—

(i) High quality in the design of the project;

(ii) An effective plan of management that insures proper and efficient administration of the project;

(iii) A clear description of how the objectives of the project relate to the purpose of the program; and

(iv) The way the applicant plans to use its resources and personnel to achieve each objective.

(b) *Quality of key personnel.* (Maximum 20 points) (1) The Secretary reviews each application for information that shows the quality of the key personnel.the applicant plans to use on the project.

(2) The Secretary looks for information that shows—

(i) The qualifications of the project director;

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (b)(2) (i) and (ii) of this section plans to commit to the project; and

(iv) The extent to which the applicant, as part of its nondiscriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally underrepresented, such as—

(A) Members of racial or ethnic minority groups;

(B) Women;

(C) Handicapped persons; and

(D) The elderly.

(3) To determine the qualifications of a person, the Secretary considers evidence of past experience and training in fields related to the objectives of the project as well as other information that the applicant provides.

(c) *Budget and cost effectiveness.* (Maximum 10 points) (1) The Secretary reviews each application for information that shows that the project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(d) *Evaluation plan.* (Maximum 5 points) (1) The Secretary reviews each application for information that shows the quality of the evaluation plan for the project.

(2) The Secretary looks for information that shows that the methods of evaluation are appropriate for the project and, to the extent possible, are objective and produce data that are quantifiable.

(e) *Adequacy of resources.* (Maximum 5 points) (1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources to the project.

(2) The Secretary looks for information that shows that the facilities, equipment, and/or supplies that the applicant plans to use are adequate.

(f) *Specific program criteria.* (Maximum 35 points) (1) In addition to the general selection criteria contained in this section, the Secretary reviews each application for information that shows that the project meets the specific program criteria.

(2) The Secretary looks for information that shows—

(i) Potential impact of the applicant's plans for developing or improving its program in modern foreign languages or area studies; (Maximum 5 points)

(ii) The applicant's need for a foreign curriculum consultant; (Maximum 5 points)

(iii) Potential effective use of the results of the consultant's work following the completion of the project; (Maximum 5 points)

(iv) Appropriateness of the consultant's duties and the allocation of time among the duties; (Maximum 5 points)

(v) Approximate number of faculty, students, and members of the relevant community who are expected to be affected by the consultant's activities; (Maximum 5 points)

(vi) Concrete evidence that other educationala institutions, agencies and organizations, other than the applicant, will share in the consultant's services and that they have participated in helping define the nature of these services; (Maximum 5 points) and,

(vii) Adequacy of the arrangements made for coordinating the consultant's work under the supervision of a project director. (Maximum 5 points)

(g) *Priorities.* (Maximum 10 points) The Secretary looks for information that shows the extent to which the project addresses program priorities in the field of modern foreign languages and area studies for that year

(22 U.S.C. 2452(b)(6); 2456(a)(2))

§ 665.32 What priorities may the Secretary establish?

(a) The Secretary may establish, for each funding competition, one or more of the following priorities:

(1) Specific countries or regions of study: for example, India or Kenya, the Middle East, North Africa, East Asia, or the languages of those areas.

(2) Levels of education: For example, elementary and secondary, postsecondary or postgraduate.

(3) Types of activities: for example, developing or revising language text books, developing or improving new courses, or methodology of foreign language instruction.

(b) The Secretary announces any priorities in the application notice published in the **Federal Register.**

(22 U.S.C. 2452(b)(6), 2456(a)(2))

§ 665.33 How does the Secretary select foreign curriculum consultants?

(a)(1) The Secretary forwards an approved application through the United States Information Agency to the appropriate American diplomatic mission abroad, and if appropriate, to the relevant binational commission, to enable the mission or commission to recruit qualified consultant candidates.

(2) The mission or commission forwards the names of the qualified candidates to the Secretary.

(b)(1) Upon receipt of the list of candidates, the Secretary forwards the names of approved candidates to each applicant for review and selection of the best qualified candidate.

(2) The Secretary forwards the names of the candidates selected by the applicants to the Board of Foreign Scholarships for approval.

(22 U.S.C. 2452(b)(6), 2456(a)(2))

§ 665.34 What cost does the Secretary pay?

The Secretary makes awards under this part for use only on or after the effective date of the grant and only to pay for the following costs and allowances—

(a) Roundtrip international travel, for the consultant only, to and from the consultant's home country to the location of his or her assignment;

(b) An unaccompanied baggage allowance not to exceed a total of 300 pounds roundtrip from the consultant's home country to the location of his or her assignment;

(c) Eighty percent of the consultant's monthly maintenance; the monthly allowance for the 1984–1985 academic year shall be $2,000. This amount will be increased each year to correspond to the increase in the cost of living as represented by the increase in the Consumer Price Index; and

(d) Health and accident insurance, for the consultant only, under a U.S. Government contracted group insurance policy, to be arranged by the grantee institution.

Subpart E—What Conditions Must Be Met by a Grantee?

§ 665.40 What cost does the grantee pay?

The grantee pays—

(a) Twenty percent of the consultant's monthly maintenance allowance; and

(b) Travel costs within the United States incurred by the consultant in connection with his or her assignment.

(22 U.S.C. 2452(b)(2), 2454(e)(1))

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DEPARTMENT OF EDUCATION

Office of Postsecondary Education

Fulbright-Hays Training Grant Programs: Faculty Research Abroad, Foreign Curriculum Consultants, Group Projects Abroad, and Doctoral Dissertation Research Abroad Programs—Application Notice for New Awards for Fiscal Year 1984

Applications are invited for new awards under the Fulbright-Hays Training Grants Programs for Fiscal Year 1984. The Fulbright-Hays Training Grants Programs include the Faculty Research Abroad Program, Foreign Curriculum Consultants Program, Group Projects Abroad Program, and Doctoral Dissertation Research Abroad Program.

The Faculty Research Abroad Program offers opportunities to faculty members of institutions of higher education for research and study abroad in modern foreign languages and area studies.

The Foreign Curriculum Consultants Program brings specialists from other countries to the United States as resource persons for an academic year to assist selected institutions in planning and developing curricula in modern foreign languages and area studies.

The Group Projects Abroad Program provides grants to educational institutions or nonprofit educational organizations for training, research, and study abroad in modern foreign languages and area studies by groups of individuals engaged in a common endeavor.

The Doctoral Dissertation Research Abroad Program provides opportunities for graduate students to engage in full-time dissertation research abroad in modern languages and area studies.

Closing Date for Transmittal of Applications

An application for a grant must be mailed or hand-delivered by October 28, 1983.

Applications Delivered by Mail

An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.019, Faculty Research Abroad Program; 84.020, Foreign Curriculum Consultants Program; 84.021, Group Projects Abroad Program; 84.022, Doctoral Dissertation Research Abroad Program; Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark, or

(2) A mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with the local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand

An application that is hand-delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand-delivered will not be accepted by the Application Control Center after 4:30 p.m. on the closing date.

Eligible Applicants

For the Faculty Research Abroad and Doctoral Dessertation Research Abroad Programs, eligible applicants include institutions of higher education.

For the Foreign Curriculum Consultants and Group Projects Abroad Programs, eligible applicants include institutions of higher education, State and local educational agencies, private nonprofit educational agencies, and consortia of such institutions and agencies.

Program Information

Applications will be evaluated in accordance with the selection criteria set forth in the notice of proposed regulations for these programs published in this issue of the **Federal Register**. These criteria are found in the Notice of Proposed Rulemaking (NPRM) in 34 CFR 662.32, 665.31, 664.31, and 664.32, respectively for the Faculty Research Abroad, Foreign Curriculum Consultants, Group Projects Abroad, and Doctoral Dissertation Research Abroad Programs.

Applications are being accepted based on proposed rules. If any substantive changes are made in the proposed rules for these programs, applicants will be given the opportunity to revise their applications.

Funding Priorities

The proposed regulations for these programs permit the establishment of funding priorities. Under § 662.32, 663.32, 664.31, and 665.31 of the NPRM, projects which address the priorities may receive additional points in the evaluation process. The following priorities have been established for the Fulbright-Hays Training Grant programs for Fiscal Year 1984:

(1) Priority will be accorded to projects which focus upon the Caribbean Basin including Mexico, Belize, Guatemala, Honduras, El Salvador, Nicaragua, Costa Rica, Panama, Colombia, Venezuela, and the island nations of the Caribbean Sea, and which emphasize the following disciplines or types of activity:

(i) For the Faculty Research Abroad Program, research projects in the fields of economics, geography, history (except for Mexico), political science, sociology, and languages not commonly taught in institutions of higher education in the United States.

(ii) For the Foreign Curriculum Consultants Program, projects which demonstrate the need for and promise development of area studies curricula for the Caribbean Basin geographic area in educational institutions in the United States;

(iii) For the Group Projects Abroad Program, projects designed to increase awareness and understanding of the Caribbean Basin geographic area in educational institutions and systems in the United States. The Secretary encourages projects involving group research, curriculum development, and teacher education on the culture, economics, and politics of the area and of the individual nations comprising the area.

(iv) For the Doctoral Dissertation Research Abroad Program, research projects in the fields of economics, geography, history (except for Mexico), political science, sociology, and languages not commonly taught in institutions of higher education in the United States.

(2) For the Doctoral Dissertation Research Abroad, Faculty Research Abroad, and Group Projects Abroad Programs, projects focusing on Western Europe will not be funded.

Available Funds

The President's budget for FY 1984 requests $1,714,500 in special foreign currencies, of which $1,160,000 will be available for the Faculty Research Abroad, Group Projects Abroad, and Doctoral Dissertation Research Abroad programs. The President's budget for FY '84 does not request an appropriation of U.S. dollars for any of the Fulbright-Hays Training Grants programs. In FY '83, the President's budget requested $1,547,000 in U.S. dollars for all Fulbright-Hays programs administered by the Department of Education. The Congress appropriated and the President approved $5,000,000, of which $4,215,432 was allocated to the Fulbright-Hays Training Grants programs.

Since the level of appropriations for these programs has not been established by the Congress and the President, it is not possible to provide precise data on the amount of funds available Pending resolution of the final level of appropriations, applications are invited for all programs to allow sufficient time for evaluation of the applications and complete the grants process prior to the end of the fiscal year. The unusually lengthy time required to review applications for these programs in the United States and abroad and to recruit qualified foreign educators for the Foreign Curriculum Consultants program makes this announcement necessary at this time

Application Forms

Application forms and program information packages are available for mailing. They may be obtained by writing to International Education Programs, Office of Postsecondary Education, U.S. Department of Education, (Room 3923, ROB–3), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Secretary urges that applicants not submit information that is not requested. These forms are approved under the Paperwork Reduction Act of 1981 (OMB No. 1840–0005; OMB No. 1840–0068).

The program information package is intended to aid applicants in applying for assistance under this competition. Nothing in the program information package is intended to impose any paperwork, application content reporting, or grantee performance requirements beyond those specifically imposed under statute and regulations governing the competition.

Applicable Regulations

Regulations applicable to these programs include the following:

(a) Regulations governing the Higher Education Programs in Modern Foreign Language Training and Area Studies as proposed in 34 CFR Parts 662–665. Applications are being accepted based on the notice of proposed rulemaking for these programs which is published in this issue of the **Federal Register**. If any substantive changes are made in the proposed rules for these programs, applicants will be given an opportunity to revise their applications.

(b) Education Department General Administrative Regulations (34 CFR Parts 74, 75, 77, and 78).

Further Information: For further information, contact Mr. Robert Dennis (Faculty Research Abroad program), Telephone (202) 245–2761; Ms. Gwendolyn Lark (Foreign Curriculum Consultants program), (202) 245–2794; Mr. Ralph Hines (Group Projects Abroad program), (202) 245–2794; Mr. John Paul, (Doctoral Dissertation Research Abroad program), (202) 245–2761; Department of Education, (Room 3923, ROB–3), 400 Maryland Avenue S.W., Washington, D.C. 20202.

(22 U.S.C. 2452(b)(6))

(Catalog of Federal Domestic Assistance No 84.019, Faculty Research Abroad Program, No 84.020, Group Projects Abroad Program, No. 84.021, Foreign Curriculum Consultants Program, No. 84.022, Doctoral Dissertation Research Abroad Program)

Dated August 19, 1983

T. H. Bell,

Secretary of Education

[FR Doc. 83–23344 Filed 8–24–83; 8:45 am]

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Part IV

Department of Health and Human Services

Public Health Service

Health Education Assistance Loan (HEAL) Program; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 60

Health Education Assistance Loan (HEAL) Program

AGENCY: Public Health Service (PHS), HHS.

ACTION: Final regulations.

SUMMARY: These regulations set forth the requirements for participating in the Health Education Assistance Loan (HEAL) program, a Federal program of insured loans to students in schools of medicine, osteopathic medicine, dentistry, podiatric medicine, public health, pharmacy, veterinary medicine, optometry, and chiropractic, and graduate students in health administration and clinical psychology.

EFFECTIVE DATE: These regulations are effective August 26, 1983.

FOR FURTHER INFORMATION CONTACT: Ms. Alice M. Swift, Acting Chief, Program Development Branch, Division of Student Assistance, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Room 9A–33, Rockville, Maryland 20857, telephone number 301 443–4540.

SUPPLEMENTARY INFORMATION: Sections 727–739 of the Public Health Service Act (the Act) (42 U.S.C. 294–294l) authorize the Secretary to provide a Federal program of student loan insurance for students in schools of medicine, osteopathic medicine, dentistry, veterinary medicine, optometry, podiatric medicine, public health, pharmacy, and chiropractic, and graduate students in health administration and clinical psychology.

The Department is publishing these final regulations in response to public comments received on the interim-final regulations described below and is incorporating in these final regulations technical amendments to sections 727–739 of the Act made by Pub. L. 97–35. In response to concerns expressed by the General Accounting Office and the Senate Committee on Governmental Affairs, the Department has developed an Action Plan to improve debt management practices and debt collection procedures for other student aid programs administered by the Department. The Department is also considering ways to improve debt management practices and due diligence procedures for making, servicing, and collecting HEAL loans in order to prevent HEAL borrowers from defaulting on their loans and is developing a notice of proposed rulemaking for publication in the near future that will concentrate on effective debt management practices and due diligence procedures.

The U.S. Commissioner of Education, Department of Health, Education, and Welfare, with the approval of the Secretary, published in the **Federal Register** on August 3, 1978 (43 FR 34320), interim-final regulations implementing that authority by adding a new Part 126, entitled "Health Education Assistance Loan Program," to Title 45 of the Code of Federal Regulations (CFR).

On January 27, 1981, the Assistant Secretary for Health, Department of Health and Human Services, with the approval of the Secretary, published in the **Federal Register** final regulations amending the interim-final regulations to implement amendments made to sections 727–739 of the Act by Pub. L. 96–76 and Pub. L. 96–538, and to make certain other technical changes. That final rule also transferred those regulations from Part 126 of Title 45, CFR (Public Welfare), to a new Part 60 in Title 42, CFR (Public Health). The redesignation reflected the transfer of Federal responsibility for the administration of the HEAL program from the Department of Education to the Public Health Service. Due to the technical and nondiscretionary nature of the changes, the amendments were issued as final regulations.

On October 12, 1982, the Assistant Secretary for Health, Department of Health and Human Services, with the approval of the Secretary, published in the **Federal Register** final regulations amending the interim-final regulations to increase the rate of the insurance premium from one-quarter of 1 percent per year of the loan principal to 1 percent per year of the loan principal effective on November 12, 1982.

In addition, these regulations incorporate amendments made to sections 727–739 of the Act by "The Omnibus Budget Reconciliation Act of 1981." Pub. L. 97–35, enacted on August 13, 1981. These amendments raised the student loan limits, added three new eligible disciplines, repealed the requirement that schools be eligible for capitation, repealed the prohibition against schools of medicine, osteopathy, or dentistry making HEAL loans to more than 50 percent of each class, and made other technical changes. Due to the nondiscretionary nature of the regulatory changes necessary to implement those amendments, the Secretary has determined, according to 5 U.S.C. 553 and departmental policy, that it would be unnecessary and contrary to the public interest to follow proposed rulemaking procedures in their issuance or to delay their effective date.

Notwithstanding the omission of rulemaking procedures in the issuance of the original regulations on August 3, 1978, interested parties were invited to submit comments on the interim-final regulations. Additionally, comments were solicited at public hearings held at seven health professions schools across the country.

The Department received comments from 64 respondents either by testimony at the hearings or by letter. The comments came from students, school officials, professional and student organizations, and commercial lenders. The comments and the Department's responses to the comments are discussed below. For clarity, the comments and responses are arranged according to the section numbers and titles of the interim-final regulations to which they pertain.

Section 60.1 What is the HEAL Program?

Six respondents objected to the provision that a loan may be repaid by practicing in a health manpower shortage area. The respondents noted that this provision made the HEAL program a program to redistribute health manpower rather than a program of student assistance and it is intended to force students into practicing in health manpower shortage areas as members of the National Health Service Corps. The Department cannot change this provision since it is provided for in section 735(c)(1) of the Act.

One respondent suggested that individuals who might wish to discharge their indebtedness by contracting with the Secretary for service in a health manpower shortage area would be discouraged by the knowledge that such a contract would add $10,000 a year to their taxable income.

Section 2117 of the Tax Reform Act of 1976, specifies that only those student loans which originated in direct, appropriated funds from Federal, State or District of Columbia Governments are nontaxable income for purposes of the cancellation and loan repayment provisions. However, due to the lack of an appropriation for funding the HEAL loan repayment provision, the Department has not issued rules implementing the loan repayment provision.

One respondent noted that bankruptcy is not a viable option due to the 5-year limitation on it. The Department cannot change the regulations in response to this comment since section 733(g) of the Act, as

amendend by Pub. L. 97–35, does not permit the discharge of a HEAL loan in bankruptcy prior to the expiration of 5 years of the repayment period. However, the Department has amended §§ 60.8 and 60.40 to reflect the amendment to section 733(g) which permits a borrower to discharge a HEAL loan in bankruptcy after 5 years of the repayment period has passed if the nondischarge of the loan would be unconscionable and on the condition that the Secretary may reduce Federal payments for health services under any Federal law in amounts up to the balance of the loan.

Section 60.5 Who is an eligible student borrower?

Many respondents objected to the prohibition against the receipt of a HEAL loan and a Guaranteed Student Loan during the same academic year. Pub. L. 96–538, enacted December 17, 1980, repealed section 731(a)(1)(v) of the Act, which contained this prohibition. Final regulations, published in the **Federal Register** on January 27, 1981, implemented this statutory change by deleting this limitation.

Another respondent noted that the regulations do not make clear when students enrolled in a 6-year program leading to the Doctor of Pharmacy degree would be eligible to participate in the HEAL program. This respondent recommended that this section be expanded to include requirements similar to those prescribed for medical, dental or osteopathic students. One other respondent suggested that the description of borrower eligibility for HEAL loans be amended to include Doctor of Pharmacy.

Section 731(a)(1)(vi) of the Act specifically requires that in the case of a pharmacy student, the student must have successfully completed 3 years of training for HEAL eligibility. The Doctor of Pharmacy is considered to be an eligible degree program under section 731 of the Act only if it is offered as a first professional degree by a school that does not require the Bachelor or Master of Science in Pharmacy as a prerequisite for the Doctor of Pharmacy degree. The regulations have been revised to clarify this point.

One respondent suggested that the word "fully" be deleted from paragraph (e) of this section, since it is doubtful that there are many pharmacy schools that totally accept every single credit when a student transfers. The Department accepts this suggestion and has amended the regulations to delete this word.

Section 60.7 The loan application process.

Several respondents objected to the restriction allowing no more than 50 percent of the students in each class in any school of medicine, osteopathy, or dentistry to receive HEAL loans in a 12-month academic year. Two repondents suggested that the responsibility for determining and assuring that no more than 50 percent of each class receive a HEAL loan imposes an undue administrative burden on the schools. This reguirement was repealed by Pub. L. 97–35 and the regulations have been amended to reflect this change.

The Department has also expanded this section to include application procedures for nonstudent HEAL applicants.

Section 60.10 How much can be borrowed?

One respondent objected to the $10,000 per academic year limit on HEAL loans. Pub. L 97–35, enacted August 13,1981, raised the loan limit to $20,000 per academic year for students of medicine, osteopathy, dentistry, veterinary medicine, optometry and podiatry and to $12,500 per academic year for students of pharmacy, public health, chiropractic, health administration and clinical psychology. The regulations have been changed to reflect this change.

Section 60.11 Terms of repayment.

Three respondents objected to the rules governing the repayment schedule agreement. One respondent suggested that lenders be required to establish graduated repayment schedules. Two others suggested that the repayment schedule be graduated in keeping with the borrower's income.

The Department has amended the regulations to implement the provision of Pub. L. 97–35 which requires the lender to allow bowerw to repay their HEAL loans through graduated repayment schedules. Also, paragraph (f) of this section provides that a lender and a borrower may enter into an agreement supplementing the regular repayment schedule agreement. The purpose of this supplemental repayment schedule is to permit the borrower to enter a repayment agreement based on income. The Department prefers to allow some flexibility in determining a repayment schedule, rather than mandating terms.

Four respondents preferred a 12-month grace period rather than the 9-month period specified in the regulations. Two respondents noted that the 12-month grace period would allow borrowers to begin repayment when they had advanced to a higher salary level at the start of their second year of residency when their financial position would be strengthened and therefore strengthening their repayment ability. Another respondent noted that the 12-month grace period would allow borrowers with multiple loans to "phase-in" their payments over a 3-month period of time.

If the grace period in the HEAL program were to be lengthened from 9 to 12 months, it would increase the period of time when interest is accruing and compounding which would result in increased indebtedness for the borrower. Further, the Education Amendments of 1980, Pub. L. 96–374, enacted October 3, 1980, shortened the grace period in the Guaranteed Student Loan and National Direct Student Loan programs from 9 to 6 months. The Health Professions Student Loan program provides for a 12-month grace period. If the grace period in the HEAL program is 9 months, borrowers with multiple loans can phase-in their payments for the various types of loans for over a 6-month period of time. Therefore, the Department has retained the 9-month grace period in these regulations.

Five respondents recommended that during internship and residency deferment of payment of principal be extended beyond the 3-year period because some specialties require more than 3 years. Pub. L. 97–35 amended section 731(a)(2)(C) of the Act to provide for the deferment of the payment of principal and interest for up to 4 years during periods of internship and residency. The Department has revised the regulations accordingly.

Another respondent objected to minimum repayment terms of $600 a year, or a sum equal to the interest that accrues during the year on all of the loans, whichever is greater.

The Department has deleted the minimum repayment amount of $600 per year. However, the latter requirement of minimum repayment of a sum equal to the interest that accrues during the year on all the loans cannot be deleted since it is mandated by section 731(c) of the Act.

The Department has also expanded this section to specify the accrediting agencies whose approval is accepted for purposes of "accredited internship or residency programs."

Section 60.12 Deferment.

Two respondents recommended a deferment period to complete a post-graduate fellowship program.

Since § 60.12 of the regulations currently provides that certain post-graduate fellowship programs qualify a borrower who is a full-time student at an eligible school for a deferment period, no change is necessary in response to these comments.

Section 60.13 Interest.

Nineteen respondents objected to the maximum interest rate of 12 percent and the compounding of interest. Most of these respondents found the interest far too high to provide a viable option for Federal support of health professions students. They stated that the compounding of interest as provided for in the regulations simply makes the problem worse.

The Department is bound by the provisions of Pub. L. 96–538, enacted December 17, 1980, which sets the maximum per annum interest rate charged on a HEAL loan at the average of the bond equivalent rates reported for the 91-day U.S. Treasury bills auctioned for the preceding calendar quarter, plus 3½ percentage points rounded to the next higher one-eighth of 1 percent. Final regulations published in the Federal Register on January 27, 1981, implemented this statutory change. Since section 731(a)(2)(D) of the Act requires the compounding of interest, the Department cannot revise the regulations in this respect.

Four respondents proposed that the regulations require the lender to permit a borrower to postpone payments of interest before the beginning of the repayment period. Prior to the enactment of Pub. L. 97–35 lenders were permitted to require borrowers to pay interest that accrued before the beginning of the repayment period. However, in almost all instances, lenders allowed borrowers to postpone payment of interest before the beginning of the repayment period. Pub. L. 97–35 amended section 731(a)(2)(C), effective August 31, 1981, to provide that, for loans made after August 31, 1981, interest shall accrue but need not be paid prior to the beginning of the repayment period and during other periods when repayment of principal is not required. The Department has revised the regulations to reflect this change.

Three respondents objected to the provision that the HEAL interest rate overrides any existing State and Federal usury laws. The Department cannot revise this paragraph since section 731(d) of the Act contains this provision.

Section 60.15 Other charges to the borrower.

One respondent objected to the requirement that late charges be assessed if the borrower failed to provide satisfactory evidence of entitlement to deferment or make an installment payment within 10 days after the due date. According to the respondent, 10 days is unduly restrictive based upon current repayment practices of borrowers under other loan programs, and is likely to be ignored if the penalty charge is only $5.00.

The Department believes that the 10-day period provided before late charges are assessed is in keeping with present banking practices. However, the Department agrees that the late charge is too low to be effective. Therefore, the regulations have been amended to provide that the late charges may not exceed 5 percent of the payment due.

Section 60.18 Consolidation of HEAL loans.

Pub. L. 97–35, enacted on August 13, 1981, amended section 732 of the Act to permit HEAL loans to be consolidated with other loans under certain conditions. The Department has revised the regulations to reflect this change.

Section 60.21 Refunds.

One respondent questioned the legality of the provision which states that a student authorizes a participating school to make payment of a refund that is allocable to a HEAL loan directly to the original lender. This respondent believes that this action by the school is improper unless the borrower has given the school specific written authorization to issue such a refund. Another respondent objected to this provision and noted that the normal practice is to make the refund to the student.

The Department considers this provision to be valid since, under section 731(a)(1)(iv) of the Act, the proceeds of a HEAL loan may only be spent on tuition and other reasonable expenses. Therefore, any refund due to the student warrants a reduction in the loan principal, and the student could not legitimately spend these funds. Consequently, the regulations provide that the refund be sent directly by the school to the lender. It should be noted that the student portion of the HEAL Loan Application contains a section which the student must sign authorizing the school to send refunds due to the student to the holder of the note.

Section 60.33 Making a HEAL loan.

Two respondents suggested that the borrower be required to authorize that the check for the HEAL loan be made jointly payable to the borrower and the school. The Department has not adopted this suggestion because programmatic experience suggests that many schools would be reluctant to accept either the responsibility or the additional administrative burden required by joint payee checks.

Three respondents suggested that the regulations require multiple disbursements of loan checks when tuition is payable in more than one installment on the ground that this would encourage proper budgeting on the part of the borrower, hold down interest cost, and protect the Federal Government in the event that a student leaves school in between disbursements. The Department has not adopted this suggestion because it would add to the administrative burden of the lender and could discourage lenders from participating.

Another respondent suggested that the regulations be amended to state that while an interview with the borrower is desirable, it is not required in those cases which would pose an unusual hardship on the borrower. The Department has removed this section from the regulations since notifying the borrower of the borrower's duties and responsibilities is standard lender procedure. Also, duties and responsibilities of the borrower are listed on the back of the promissory note signed by the borrower.

Section 60.35 HEAL loan collection.

One respondent proposed that the regulations be amended to provide that the interval over which the claim can be submitted be described such as not to make a 4-month period mandatory, provided proper intensity of pursuit has been carried out. The Department has not adopted this suggestion since section 733(e)(3) of the Act defines "defaults" as those having existed not less than 120 days for loans payable in monthly installments and not less than 180 days for loans repayable in less frequent installments. Further, paragraph (b) of § 60.35 does not require the 4-month period if the borrower's address is unknown.

Another commenter suggested that the Department provide that skip-tracing be made available through the Internal Revenue Service (IRS) rather than requiring a lender to pay for such services through commercial collection agencies. The Department has not adopted this suggestion since the Public Health Service's preclaim assistance service is available to the lender. The

Department does not require a lender to use outside commercial collection firms.

Section 60.39 Death and disability claims.

One respondent requested clarification of this section. The Department has revised this section to reflect the standard definition of proof of death or disability contained in other student assistance programs authorized under the Act. In the case of a death, the holder must secure a certification of death or whatever official proof is conclusive under State law. In the case of disability, the Secretary will discharge a borrower's liability on the loan if the borrower is found to be totally and permanently disabled based on the recommendation of the holder of the loan supported by whatever medical certification the Secretary may require. A borrower is totally and permanently disabled if he or she is unable to engage in any substantial gainful activity because of a medically determinable impairment which the Secretary expects to continue for a long and indefinite period of time or to result in death.

Section 60.40 Procedures for filing claims.

One respondent objected to the 60-day period for the submission of claims for death, disability and bankruptcy by the lender to the Department. The respondent noted that there are circumstances which frequently occur which could go beyond this deadline.

The Department recognizes this respondent's concern. However, the 60-day period does not refer to the time needed to establish death or disability *before* filing the claim. Section 60.40 requires that the lender file a death, disability, or bankruptcy claim within 60 days only *after* the lender has received the documentation necessary to file the claim. The Secretary, therefore, has determined that the 60-day period is sufficient to complete a claim form, attach the documentation, and mail it to the Department.

Further, the Secretary is changing the period for filing default claims from 90 days to 60 days so that all types of claims must be filed within 60 days after the lender has received the documentation necessary to file the claim. Interest continues to accrue on all outstanding loans through the 60-day period for filing the claims. Therefore, it is important that all claims be filed with the Secretary at the earliest possible time so as to reduce the cost of paying claims. The Secretary does not pay interest on claims filed after the 60-day period

Section 60.50 Which schools are eligible to be HEAL schools?

One respondent noted that the requirement that a school be eligible for capitation funds in order to be eligible to participate in the HEAL loan program seems to discriminate against those schools that are ineligible for capitation funds. The Department has revised the regulations to reflect the repeal of this provision by Pub. L. 97–35.

The Department has also revised paragraph (2) of this section to include the agencies that are approved by the Secretary of Education for the purpose of accrediting schools that are eligible to participate in the HEAL program.

Section 60.51 The student loan application.

Another respondent noted that the provision in the regulations limiting HEAL loans to no more than 50 percent of the students enrolled in each class is unduly restrictive for those schools with the highest tuition rates where the vast majority of students may have no recourse for financing their education other than the HEAL program. The Department has revised the regulations to reflect the repeal of this provision by Pub. L. 97–35 enacted August 13, 1981.

Section 60.52 The student's loan check.

One respondent recommended that the regulations be amended to specify that all checks and drafts for proceeds from HEAL loans be clearly labeled as such. Additionally, in those cases where the HEAL loan check is not made jointly payable to both the student and the school, the check should be given by the lender directly to the student, not forwarded to the school. The school should have no responsibility for the check if it is not co-payee.

The Department has not adopted either of these suggestions. Labeling the check as a HEAL loan is encouraged, but not required, since the Department does not wish to impose an additional administrative burden on the lender. With respect to requiring the lender to forward the check directly to the student when the school is not co-payee, the Department believes that the school is better able to determine the student's status and, therefore, would be able to return the check if the student is not at the institution. This provides a greater measure of control over the use of the loan funds. Thus, lenders are required to mail the check to the school.

Section 60.53 Notification to lender of change in enrollment status.

One respondent objected to the requirement that schools be responsible for reporting a student's status to lenders. He recommended that a reporting system similar to the Guaranteed Student Loan Program's Student Confirmation Report be used on a quarterly or semiannual basis to handle this reporting requirement. Another respondent suggested that the school be required simply to certify the enrollment status of the borrower on a report submitted by the Federal Government.

The Department is giving serious consideration to these valuable suggestions and may develop a new system for schools to report a student's status to the Federal Government. However, the Department has not changed the requirements of § 60.53 in these regulations.

Section 60.56 Records.

The Department has amended this section to extend the required period of retention of HEAL records by schools from 3 to 5 years to conform with other student assistance programs authorized under Title VII of the Act.

Section 60.60 School audits.

Three respondents objected to the biennial audit requirements on the basis that audits conducted by outside auditors are costly and no administrative expenses are provided. The interim-final regulations provide that a school may choose to conduct its own audits and, therefore, would not be required to assume the additional cost for outside auditors.

At the time the interim-final regulations were published by the Department of Education, the audit requirements of this section were established in compliance with Department of Education statutory and regulatory requirements. Inasmuch as the HEAL program is now administered by the Public Health Service, the program no longer must be in compliance with Department of Education requirements. Section 739 of the PHS Act authorizes the Secretary to prescribe regulations as may be necessary to provide for a fiscal audit of schools with regard to funds obtained by a HEAL borrower and further requires that schools retain certain records and make them available to the Secretary. The Secretary has determined that it is unnecessary to require schools to conduct audits, but has retained in § 60.56 the requirements that schools must maintain certain records for certain periods and also retained in § 60.58 the requirement that schools must provide Federal access to school records for the purposes of audit and

examination. The requirements of § 60.60 in the interim-final regulations, therefore, have not been retained in these final regulations.

Section 60.60 limitation, suspension, or termination of the eligibility of a HEAL school.

As indicated above, § 60.60 *Audits* in the interim-final regulations has not been retained in these final regulations and the section is being replaced by § 60.60 *Limitation, suspension, or termination of the eligibility of a HEAL school.*

When the Office of Education in the Department of Health, Education, and Welfare published the interim-final regulations, it did not include in the interim-final regulations provisions governing limitation, suspension, or termination of the eligibility of HEAL schools because they were included in the Student Assistance General Provisions governing all student financial aid programs administered by the Office of Education. The Department has added this section because the HEAL Program is now administered by the Department of Health and Human Services. The Department, however, has not changed the provisions and any actions to limit, suspend, or terminate a HEAL school will be taken in accordance with provisions for the limitation, suspension, or termination of the eligibility of schools under the Student Assistance General Provisions of the Department of Education, which are set forth in 34 CFR Part 668.

This regulation primarily consolidates existing regulations, incorporates technical amendments made by statute, and makes a few clarifying and other minor changes in response to public comment. Therefore, the Secretary has determined that the regulation will not significantly impact on small businesses and a regulatory flexibility analysis under the Regulatory Flexibility Act, Pub. L. 96-354, is not required. The Secretary has also determined that the costs associated with the regulation are negligible, and a regulatory impact analysis is not required under E.O. 12291.

These final regulations contain the following recordkeeping and reporting requirements which have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 (Pub. L. 96-511):

Section	Approval No.	Title	Expiration date
60.7; 60.21; 60.32; 60.33; 60.42; 60.51; 60.53	0915-0038	Student Application	Jan. 1984.
60.12; 60.42	0915-0033	Borrower Status	Do.
60.14; 60.35; 60.37; 60.39; 60.40; 60.42	0915-0036	Lenders Claim	Do.
60.14; 60.38; 60.24; 60.42	0915-0049	Repayment Schedule Truth in Lending, and Promissory Notes.	Do.
60.31	0915-0037	Lenders Application	Do.
60.33	0915-0034	Lenders Manifest	Do.
60.38	0915-0035	Loan Transfer	Do.
60.56	0915-0054	School Recordkeeping Requirements	May 1986.

Additionally, although the Department currently does not require lenders and schools to submit specific reports, §§ 60.42 and 60.57 contain nonspecific requirements for reports and the Department will request OMB approval of any specific reports that would be required in the future.

The Secretary has determined, according to 5 U.S.C. 553 and Department policy, that it would be unnecessary and contrary to the public interest to follow proposed rulemaking procedures or to delay the effective date of these regulations.

List of Subjects in 42 CFR Part 60

Educational study programs, Health professions, Loan programs—education, Loan programs—health, Medical and dental schools, Reporting requirements, Student aid.

The Department has made several minor changes of an editorial or technical nature in order to clarify the regulations, as published in the interim-final regulations. Accordingly, 42 CFR Part 60 is amended as follows:

Dated: March 17, 1983.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

Approved: July 29, 1983.

Margaret M. Heckler,

Secretary.

Authority: Section 215 of the Public Health Service Act, 58 Stat. 690, as amended, 63 Stat. 35 (42 U.S.C. 216); Secs. 727-729 of the Public Health Service Act, 93 Stat. 582 (42 U.S.C. 294-294l).

(Catalog of Federal Domestic Assistance Number 13.108; Health Education Assistance Loan Program)

1. Title 42 of the Code of Federal Regulations, Part 60 is revised to read as follows:

PART 60—HEALTH EDUCATION ASSISTANCE LOAN PROGRAM

Subpart A—General Program Description

Sec.
60.1 What is the HEAL Program?

Subpart B—The Borrower

60.5 Who is an eligible student borrower?
60.6 Who is an eligible nonstudent borrower?
60.7 The loan application process.
60.8 What are the borrower's major rights and responsibilities?

Subpart C—The Loan

60.10 How much can be borrowed?
60.11 Terms of repayment.
60.12 Deferment.
60.13 Interest.
60.14 The insurance premium.
60.15 Other charges to the borrower.
60.16 Power of attorney.
60.17 Security and endorsement.
60.18 Consolidation of HEAL loans.
60.19 Forms.
60.20 The Secretary's collection efforts after payment of a default claim.
60.21 Refunds.

Subpart D—The Lender

60.30 Which organizations are eligible to apply to be HEAL lenders?
60.31 The application to be a HEAL lender.
60.32 The HEAL lender insurance contract.
60.33 Making a HEAL loan.
60.34 HEAL loan servicing.
60.35 HEAL loan collection.
60.36 Consequence of using an agent.
60.37 Forbearance.
60.38 Assignment of a HEAL loan.
60.39 Death and disability claims.
60.40 Procedures for filing claims.
60.41 Determination of amount of loss on claims.
60.42 Records, reports and inspection requirements for HEAL lenders.
60.43 Limitation, suspension, or termination of the eligibility of a HEAL lender.

Subpart E—The School

60.50 Which schools are eligible to be HEAL schools?
60.51 The student loan application.
60.52 The student's loan check.
60.53 Notification to lender of change in enrollment status.
60.54 Payment of refunds by schools.
60.55 Administrative and fiscal procedures.
60.56 Records.
60.57 Reports.
60.58 Federal access to school records.
60.59 Records and federal access after a school is no longer a HEAL school.
60.60 Limitation, suspension, or termination of the eligibility of a HEAL school.

Authority: Sec. 215 of the Public Health Service Act, 58 Stat. 690, as amended, 63 Stat. 35 (42 U.S.C. 216); Secs. 727-739 of the Public Health Service Act, 90 Stat. 2243 (42 U.S.C. 294-294l).

Subpart A—General Program Description

§ 60.1 What is the HEAL program?

(a) The Health Education Assistance Loan (HEAL) program is a program of Federal insurance of educational loans to graduate students in the fields of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, public health, chiropractic, health administration and clinical psychology. The basic purpose of the program is to encourage lenders to make loans to students in these fields who desire to borrow money to pay for their educational costs. In addition, certain nonstudents (such as doctors serving as interns or residents) can borrow in order to pay the current interest charges accruing on earlier HEAL loans. By taking a HEAL loan, the borrower is obligated to repay the lender the full amount of the money borrowed, plus all interest which accrues on the loan.

(b) HEAL loans may be made by schools, banks, credit unions, State agencies, and other institutions eligible as lenders under § 60.30. HEAL school eligibility is described in § 60.50.

(c) The Secretary insures each lender for the losses it may incur in the event that a borrower dies, becomes disabled, files bankruptcy, or defaults on his or her loan. If a borrower defaults on a loan and the Secretary pays the amount of loss to the lender, the borrower's loan is then assigned to the Secretary. At that time, the U.S. Government becomes the borrower's direct creditor and will actively pursue the borrower for repayment of the debt.

Subpart B—The Borrower

§ 60.5 Who is an eligible student borrower?

To receive a HEAL loan, a student must satisfy the following requirements:

(a) He or she must be:

(1) A resident of the United States and either a citizen, national, or an alien lawfully admitted for permanent residence;

(2) A resident of the Commonwealth of the Northern Mariana Islands and either a citizen or a lawful permanent resident;

(3) A resident of the Trust Territory of the Pacific Islands and either a citizen or a lawful permanent resident;

(b) He or she must be enrolled or accepted for enrollment at a HEAL school in a course of study that leads to one of the following degrees:

Doctor of Medicine
Doctor of Osteopathic Medicine
Doctor of Dentistry or equivalent degree
Doctor of Veterinary Medicine or equivalent degree
Doctor of Optometry or equivalent degree
Doctor of Podiatric Medicine or equivalent degree
Bachelor or Master of Science in Pharmacy or equivalent degree
Graduate or equivalent degree in Public Health
Doctor of Chiropractic or equivalent degree
Doctoral degree in Clinical Psychology
Masters or doctoral degree in Health Administration

(c) He or she must be carrying or plan to carry, during the period for which the loan is intended, the normal work load of a full-time student, as determined by the school. The student's work load may include any combination of courses, work experience, research or special studies that the school considers sufficient to classify the student as full time.

(d) If currently enrolled in school, he or she must be in good standing, as determined by the school.

(e)(1) In the case of a pharmacy student, he or she must have satisfactorily completed 3 years of training toward the pharmacy degree. These 3 years of training may have been taken at the pharmacy school or at a different school whose credits are accepted on transfer by the pharmacy school.

(2) The Doctor of Pharmacy degree is considered to be an equivalent degree if it is taken in a school that does not require the Bachelor or Master of Science in pharmacy as a prerequisite for the Doctor of Pharmacy degree.

(f) In the case of a medical, dental or osteopathic student enrolled in a 6-year program that the student may enter directly from secondary school, the student must be enrolled in the last 4 years of the program.

(g) He or she must agree that all funds received under the proposed loan will be used solely for tuition and other reasonable educational expenses, including room and board, fees, books, supplies and equipment, laboratory expenses, transportation and commuting costs, personal expenses, the HEAL insurance premium, and interest on HEAL loans.

§ 60.6 Who is an eligible nonstudent borrower?

To receive a HEAL loan, a person who is not a student must satisfy all of the following requirements:

(a) He or she must have received a HEAL loan prior to August 13, 1981, for which he or she is required to make payments of interest, but not principal, during the period for which the new loan is intended. This may be the grace period or a period of internship, residency or deferment.

(b) He or she must continue to meet the citizenship, nationality, or residency qualifications required of student borrowers.

(c) He or she must agree that all funds received under the proposed loan will be used solely for payment of currently accruing interest on HEAL loans and the HEAL insurance premium.

§ 60.7 The loan application process.

(a)(1)(i) A student seeking a HEAL loan applies to a participating lender for a HEAL loan by submitting an application form supplied by the school.

(ii) The applicant must fill out the applicant sections of the form completely and accurately.

(2) A student applicant must have his or her school complete a portion of the application providing information relating to:

(i) The applicant's eligibility for the loan.

(ii) The cost of his or her education; and

(iii) Other student aid, exclusive of family contribution, of which the school is aware that the applicant will receive for the academic period covered by the proposed HEAL loan.

(b) The applicant pursuing a full-time course of study at an institution of higher education that is a "participating school" in the Guaranteed Student Loan Program but is not pursuing a course of study listed in § 60.5(b), applies for a HEAL loan as a nonstudent under paragraph (c) of this section.

(c)(1)(i) A nonstudent seeking a HEAL loan applies to a participating lender for a HEAL loan by submitting an application form supplied by the lender.

(ii) The applicant must fill out the applicant sections of the form completely and accurately.

(2) A nonstudent applicant must have his or her employer or institution, whichever is relevant, certify on the application that the applicant is:

(i) Enrolled as a full-time student in an eligible school, as described in § 60.12;

(ii) A participant in an accredited internship or residency program, as described in § 60.11(a);

(iii) A member of the Armed Forces of the United States;

(iv) A Peace Corps volunteer;

(v) A member of the National Health Service Corps; or

(vi) A full-time VISTA volunteer under Title I of the Domestic Volunteer Service Act of 1973.

(3) The nonstudent applicant seeking a HEAL loan during the grace period applies to the lender directly.

(Approved by the Office of Management and Budget under control number 0915-0038)

§ 60.8 What are the borrower's major rights and responsibilities?

(a) *The borrower's rights.* (1) Once the terms of the HEAL loan have been established, the lender may not change them without the borrower's consent.

(2) The lender must provide the borrower with a copy of the completed promissory note when the loan is made. The lender must return the original note to the borrower when the loan is paid in full.

(3) A lender must disburse HEAL loan proceeds as described in § 60.33(e).

(4) The lender must provide the borrower with a copy of the repayment schedule before repayment begins.

(5) If the loan is sold from one lender to another lender, or if the loan is serviced by a party other than the lender, the holder must notify the borrower if the borrower is required to send installment payments or direct other matters connected with the loan to a new address.

(6) The borrower does not have to begin repayment until 9 full months after leaving school or an accredited internship or residency program as described in § 60.11.

(7) The borrower is entitled to deferment from repayment of the principal and interest installments during periods described in § 60.12.

(8) The borrower may prepay the whole or any portion of the loan at any time without penalty.

(9) The lender must allow the borrower to repay a HEAL loan according to a graduated repayment schedule.

(10) The borrower's total loan obligation is cancelled in the event of death or total and permanent disability.

(11) In order to assist the borrower in avoiding default, the lender may grant the borrower forbearance. However, whether or not to grant forbearance is within the lender's discretion. Forbearance is more fully described in § 60.37.

(b) *The borrower's responsibilities.* (1) The borrower must pay any insurance premium that the lender may require as more fully described in § 60.14.

(2) The borrower must pay all interest charges on the loan as required by the lender.

(3) The borrower must immediately notify the lender in the event of:

(i) Change of address;

(ii) Change of name;

(iii) Failure to enroll in a HEAL school for the period for which the loan is intended;

(iv) Transfer to another school;

(v) Withdrawal from a HEAL school or change in status to less than full-time attendance at a HEAL school;

(vi) Graduation;

(vii) Failure to enter into or interruption in an internship or residency program; or

(viii) Change of status that authorizes deferment.

(4) The borrower must repay the loan in accordance with the repayment schedule.

(5) A borrower may not have a HEAL loan discharged in bankruptcy during the first 5 years of the repayment period. A borrower may have a HEAL loan discharged in bankruptcy after the first 5 years of the repayment period only upon a finding by the Bankruptcy Court that the nondischarge of such debt would be unconscionable and upon the condition that the Secretary shall not have waived his or her rights to reduce Federal payments for health services under any Federal law in amounts up to the balance of the loan.

(6) If the borrower fails to make payments on the loan on time, the total amount to be repaid by the borrower may be increased by additional interest, late charges, attorney's fees, court costs, and other collection charges. In addition, the Secretary may offset amounts attributable to an unpaid loan from reimbursements or payment for health services provided under any Federal law to a defaulted borrower practicing his or her profession.

Subpart C—The Loan

§ 60.10 How much can be borrowed?

(a) *Student borrower.* An eligible student borrower may borrow an amount for an academic year equal to the difference between the student's cost of education for that period as defined in § 60.5(g) and the amount of other student aid, exclusive of family contribution, he or she will receive for that period within the following limitations:

(1) A student enrolled in a school of medicine, osteopathy, dentistry, veterinary medicine, optometry or podiatry may borrow up to $80,000 under this part. The amount received may not exceed $20,000 in any academic year.

(2) A student enrolled in a school of public health, pharmacy, chiropractic, or a graduate program in health administration or clinical psychology may borrow up to $50,000 under this part. The amount received may not exceed $12,500 per academic year.

(3) For purposes of this paragraph, an academic year means the traditional approximately 9-month September-to-June annual session. For the purpose of computing academic year equivalents for students who, during a 12-month period, attend for a longer period than the traditional academic year, the academic year will be considered to be 9 months in length.

(4) The student's estimated cost of attendance shall not exceed the estimated cost of attendance of all students in like circumstances pursuing a similar curriculum at that school.

(b) *Nonstudent borrower.* An eligible nonstudent may borrow amounts under this authority with the following restrictions:

(1) In no case may an eligible nonstudent borrower receive a loan that is greater than the sum of the HEAL insurance premium plus the interest that is expected to accrue and must be paid on the borrower's HEAL loans during the period for which the new loan is intended.

(2) An eligible nonstudent in the field of medicine, ostepathy, dentistry, veterinary medicine, optometry, or podiatry may borrow up to $80,000 under this part including loans obtained while the borrower was a student. The loan amount may not exceed $20,000 in any 12-month period.

(3) An eligible nonstudent in the field of pharmacy, public health, chiropractic, health administration, or clinical psychology may borrow up to $50,000 under this part including loans obtained while the borrower was a student. The loan amount received under this part may not exceed $12,500 in any 12-month period.

§ 60.11 Terms of repayment.

(a) *Commencement of repayment.* (1) The borrower's repayment period must begin the first day of the 10th month after the month he or she ceases to be a full-time student at a HEAL school. The 9-month period before the repayment period begins is popularly called the "grace period." However, if the borrower becomes an intern or resident in an accredited program within 9 full months after leaving school, then the borrower's repayment period must begin the first day of the 10th month after the month he or she ceases to be an intern or resident. If a nonstudent borrower obtains another HEAL loan during the grace period or a period of internship, residency, or deferment as defined in § 60.12, the borrower must begin to repay this loan when repayment on the borrower's other HEAL loans begins or resumes.

(2) An accredited internship or residency program must be approved by

one of the following accrediting agencies:

(i) Accreditation Council for Graduate Medical Education.

(ii) Council on Optometric Education.

(iii) Commission on Accreditation of Dental and Dental Auxiliary Programs.

(iv) American Osteopathic Association.

(v) Council on Podiatry Education.

(vi) American Council on Pharmaceutical Education.

(vii) Council on Education for Public Health.

(viii) American College of Veterinary Surgeons.

(ix) Council on Chiropractic Education.

(b) *Length of the repayment period.* In general, a lender must allow a borrower at least 10 years, but not more than 25 years, to repay a loan calculated from the beginning of the repayment period. A borrower must fully repay a loan within 33 years after it is made. However, periods of deferment (see § 60.12) are not included when calculating the 10 to 25 or 33 years limitations.

(c) *Prepayment.* The borrower may prepay the whole or any part of the loan at any time without penalty.

(d) *Minimum annual payment.* During each year of repayment, a borrower's payments to all holders of his or her HEAL loans must total the interest that accrues during the year on all of the loans.

(e) *Repayment schedule agreement.* During the grace period, a borrower must contact the holder of the loan to establish the precise terms of repayment. The borrower may select a repayment schedule with substantially equal installment payments or a graduated repayment schedule with installment payments that increase in amount over the repayment period. If a graduated repayment schedule is established, it may not provide for any single installment that is more than five times greater than any other installment.

(f) *Supplemental repayment agreement.* (1) A lender and a borrower may enter into an agreement supplementing the regular repayment schedule agreement. Under a supplemental repayment agreement, the lender agrees to consider that the borrower has met the terms of the regular repayment schedule as long as the borrower makes payments in accordance with the supplemental schedule.

(2) The purpose of a supplemental repayment agreement is to permit a lender, at its option, to offer a borrower a repayment schedule based on other than equal or graduated payments. (For example, a supplemental repayment agreement may base the amount of the borrower's payments on his or her income.)

(3) The supplemental schedule must contain terms which, according to the Secretary, do not unduly burden the borrower and do not extend the Secretary's insurance liability beyond the number of years specified in paragraph (b) of this section. The supplemental schedule must be approved by the Secretary prior to the start of repayment.

(4) The lender may establish a supplemental repayment agreement over the borrower's objection only if the borrower's written consent to enter into a supplemental agreement was obtained by the lender at the time the loan was made.

(5) A lender may assign a loan subject to a supplemental repayment agreement only if it specifically notifies the buyer of the terms of the supplemental agreement. In such cases, the loan and the supplemental agreement must be assigned together.

§ 60.12 Deferment.

(a) After the repayment period has commenced, installments of principal and interest need not be paid during any period:

(1) During which the borrower is pursuing a full-time course of study at a HEAL school or at an institution of higher education that is a "participating school" in the Guaranteed Student Loan Program;

(2) Up to 4 years during which the borrower is a participant in an accredited internship or residency program as described in § 60.11(a)(2);

(3) Up to 3 years during which the borrower is a member of the Armed Forces of the United States;

(4) Up to 3 years during which the borrower is in service as a volunteer under the Peace Corps Act;

(5) Up to 3 years during which the borrower is a member of the National Health Service Corps; or

(6) Up to 3 years during which the borrower is a full-time volunteer under Title I of the Domestic Volunteer Service Act of 1973.

(b) In order to receive a deferment, a borrower must notify the holder of the loan. If the borrower submits written evidence that verifies eligibility for the deferment, the holder of the loan must approve the deferment.

(Approved by the Office of Management and Budget under control number 0915–0033)

§ 60.13 Interest.

(a) *Rate.* At the lender's option, the interest rate on the HEAL loan may be calculated on a fixed rate or on a variable rate basis. However, whichever method is selected must continue over the life of the loan, except where the loan is consolidated with another HEAL loan.

(1) For each calendar quarter the Secretary determines the maximum annual HEAL interest rate by determining the average of the bond equivalent rates reported for the 91-day U.S. Treasury bills auctioned for the preceding calendar quarter, adding 3½ percentage points, and rounding that figure to the next higher one-eighth of 1 percent.

(2) Interest that is calculated on a fixed rate basis is determined for the life of the loan during the calendar quarter in which the loan is executed. It may not exceed the rate determined for that quarter by the Secretary under paragraph (a)(1) of this section.

(3) Interest that is calculated on variable rate basis varies every calendar quarter throughout the life of the loan as the market price of U.S. Treasury bills changes. For any quarter it may not exceed the rate determined by the Secretary under paragraph (a)(1) of this section.

(4) The Secretary announces the rate determined under paragraph (a)(1) of this section on a quarterly basis through a notice published in the Federal Register.

(b) *Compounding of interest.* Interest accrues from the date the loan is disbursed until the loan is paid in full. Unpaid accrued interest must be compounded semiannually and added to principal. However, a lender may postpone the compounding of interest before the beginning of the repayment period or during periods of deferment or forbearance and add interest to principal at the time repayment of principal begins or resumes.

(c) *Payment.* Repayment of principal and interest is due when the repayment period begins. A lender must permit a borrower to postpone paying interest before the beginning of the repayment period or during a period of deferment or forbearance. In these cases, payment of interest begins or resumes on the date repayment of principal begins or resumes.

(d) *Usury laws.* No provision of any Federal or State law that limits the rate or amount of interest payable on loans shall apply to a HEAL loan.

§ 60.14 The insurance premium.

(a) *General.* (1) The Secretary insures each lender of a HEAL loan against losses it may suffer if the borrower defaults in his or her loan, dies, becomes

totally and permanently disabled, or is adjudicated a bankrupt. For this insurance, the Secretary charges each lender an insurance premium.

(2) The lender may pass along the cost of the insurance premium to the borrower in the form of a one-time special charge with no subsequent adjustments required. The lender may bill the borrower separately for the insurance premium or may deduct an amount attributable to it from the loan proceeds. However, the lender must clearly identify to the borrower the amount of insurance premium and the method of calculation. The payment of the insurance premium is due immediately after the lender collects the fee from the borrower.

(3) HEAL insurance coverage ceases to be effective if the insurance premium is not paid within 60 days of the disbursement of the loan.

(4) Except in cases of error, premiums are not refundable by the Secretary, and need not be refunded by the lender to the borrower, even if the borrower graduates or withdraws from the school, defaults, dies or becomes totally and permanently disabled.

(b) *Rate.* The rate of the insurance premium is 1 percent per year of the loan principal.

(c) *Method of calculation*—(1) *Student borrowers.* The lender must calculate the insurance premium on the basis of the number of months beginning with the month following the month in which the loan proceeds are disbursed to the student borrower and ending 9 full months after the month of the students anticipated date of graduation.

(2) *Nonstudent borrowers.* The lender must calculate the insurance premium for nonstudent borrowers on the basis of the number of months beginning with the month following the month the loan proceeds are disbursed to the borrower and ending at the conclusion of the month preceding the month in which repayment of principal is expected to begin or resume on the borrower's previous HEAL loans.

(3) *Multiple installments.* In cases where the lender disburses the loan in multiple installments, the insurance premium is calculated for each disbursement.

(Approved by the Office of Management and Budget under control number 0915–0036 and 0915–0043)

§ 60.15 Other charges to the borrower.

(a) *Late charges.* The lender may, to the extent permitted by State law, require that the borrower pay a late charge if the borrower fails to pay all of a required installment payment within 10 days after its due date or fails to provide written evidence that verifies eligibility for the deferment of the payment. A late charge may not exceed 5 percent of the payment due.

(b) *Collection charges.* The lender may also require that the borrower pay the holder of the note for certain reasonable costs incurred by the holder or its agent in collecting any installment not paid when due. These costs may include attorney's fees, court costs, telegrams, and long-distance phone calls. The holder may not charge the borrower for the normal costs associated with preparing letters and making personal and local telephone contacts with the borrower. A service agency's fee for normal servicing of a loan may not be passed on to the borrower, either directly or indirectly. No charges, other than those authorized by this section, may be passed on to the borrower, either directly or indirectly, without prior approval of the Secretary.

(c) *Other loan making costs.* A lender may not pass on to the borrower any cost of making a HEAL loan other than the costs of the insurance premium.

§ 60.16 Power of attorney.

Neither a lender nor a school may obtain a borrower's power of attorney or other authorization to endorse a disbursement check on behalf of a borrower. The borrower must personally endorse the check and may not authorize anyone else to endorse it on his or her behalf.

§ 60.17 Security and endorsement.

(a) A HEAL loan must be made without security.

(b) With one exception, it must also be made without endorsement. If a borrower is a minor and cannot under State law create a legally binding obligation by his or her own signature, a lender may require an endorsement by another person on the borrower's HEAL note. For purposes of this paragraph, an "endorsement" means a signature of anyone other than the borrower who is to assume either primary or secondary liability on the note.

§ 60.18 Consolidation of HEAL loans.

HEAL loans may be consolidated as follows provided that the lender must first inform the borrower of the effect of the consolidation on the interest rate and explain to the borrower that he or she is not required to agree to the consolidation:

(a) If a lender holds two or more HEAL loans made to the same borrower, the lender and the borrower may agree to consolidate the loans into a single HEAL loan obligation evidenced by one promissory note.

(b) A HEAL loan may be consolidated with any other loan only if:

(1) The consolidation will not result in terms less favorable to the borrower than if no consolidation had occurred, and

(2) The Federal Government does not, as a result of the consolidation, become liable for any payment of principal or interest for a Guaranteed Student Loan under the provisions of section 439(o) of the Higher Education Act of 1965.

§ 60.19 Forms.

All HEAL forms are provided by the Secretary and may not be changed without prior approval by the Secretary. HEAL forms shall not be signed in blank by a borrower, a school, a lender, or an agent of either. The Secretary may prescribe who must complete the forms, and when and to whom the forms must be sent.

§ 60.20 The Secretary's collection efforts after payment of a default claim.

After paying a default claim on a HEAL loan, the Secretary attempts to collect from the borrower and any valid endorser in accordance with the Federal Claims Collection Standards (4 CFR Parts 101–105). The Secretary attempts collection of all unpaid principal and accrued interest, except in the following situations:

(a) *The borrower has a valid defense on the loan.* The secretary refrains from collection against the borrower or endorser to the extent of any defense that the Secretary concludes is valid. Examples of a valid defense include expiration of the statute of limitations and infancy.

(b) *A school owes the borrower a refund for the period covered by the loan.* In this situation, the Secretary refrains from collection to the extent of the unpaid refund if the borrower assigns to the Secretary the right to receive the refund.

(c) *The school or lender is the subject of a lawsuit or Federal administrative proceeding.* In this situation, if the Secretary determines that the proceeding involves allegations that, if proven, would provide the borrower with a full or partial defense on the loan, then the Secretary may suspend collection activity on all or part of a loan until the proceeding ends. The Secretary suspends collection activity only for so long as the proceeding is being energetically prosecuted in good faith and the allegations that relate to the borrower's defense are reasonably likely to be proven.

(d) *The borrower dies or becomes totally and permanently disabled.* In

this situation, the Secretary terminates all collection activity against the borrower. If the borrower dies or becomes totally and permanently disabled, the Secretary also terminates all collection activity against any endorser.

§ 60.21 Refunds.

(a) *Student authorization.* By applying for a HEAL loan, a student authorizes a participating school to make payment of a refund that is allocable to a HEAL loan directly to the original lender (or to a subsequent holder of the loan note, if the school has knowledge of the holder's identity).

(b) *Treatment by lenders.* (1) A holder of a HEAL loan must treat a refund payment received from a HEAL school as a downward adjustment in the principal amount of the loan.

(2) When a lender receives a school refund check for a loan it no longer holds, the lender must transfer that payment to the holder of the loan and either inform the borrower about the refund check and where it was sent or, if the borrower's address is unknown, notify the current holder that the borrower was not informed. The current holder must provide the borrower with a written notice of the refund payment.

(Approved by the Office of Management and Budget under control number 0915–0038)

Subpart D—The Lender

§ 60.30 Which organizations are eligible to apply to be HEAL lenders?

(a) A HEAL lender may make and hold loans under the HEAL program. In these regulations, the term " lender" includes a subsequent holder of a note.

(b) The following types of organizations are eligible to apply to the Secretary to be HEAL lenders:

(1) A financial or credit institution (including a bank, savings and loan association, credit union, or insurance company) which is subject to examination and supervision in its capacity as a lender by an agency of the United States or of the State in which it has its principal place of business;

(2) A pension fund approved by the Secretary;

(3) An agency or instrumentality of a State; and

(4) A HEAL school.

(c) The Student Loan Marketing Association (popularly known as "Sallie Mae") is, by law, eligible to hold HEAL notes.

§ 60.31 The application to be a HEAL lender.

(a) In order to be a HEAL lender, an eligible organization must submit an application to the Secretary.

(b) In determining whether to enter into an insurance contract with an applicant and what the terms of that contract should be, the Secretary may consider the following criteria:

(1) Whether the applicant is capable of complying with the requirements in the HEAL regulations applicable to lenders;

(2) The amount and rate of loans which are currently delinquent or in default, if the applicant has had prior experience with similar Federal or State student loan programs; and

(3) The financial resources of the applicant.

(c) The applicant must submit sufficient materials with his or her application to enable the Secretary to fairly evaluate the application in accordance with these criteria.

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§ 60.32 The HEAL lender insurance contract.

(a)(1) If the Secretary approves a lender's application to be a HEAL lender, the Secretary and the lender sign an insurance contract. Under this contract, the lender agrees to comply with all the laws, regulations, and other requirements applicable to its participation as a lender in the HEAL program and the Secretary agrees to insure each eligible HEAL loan held by the lender against the borrower's default, death, total and permanent disability, or bankruptcy. The Secretary's insurance covers 100 percent of the lender's losses on both unpaid principal and interest, except to the extent that a borrower may have a defense on the loan other than infancy.

(2) HEAL insurance, however, is not unconditional. The Secretary issues HEAL insurance on the implied representations of the lender that all the requirements for the initial insurability of the loan have been met. HEAL insurance is further conditioned upon compliance by all holders of the loan with the HEAL regulations applicable to lenders. The contract may contain a limit on the duration of the contract and the number or amount of HEAL loans a lender may make or hold. Each HEAL lender has either a standard insurance contract or a comprehensive insurance contract with the Secretary as described below.

(b) *Standard insurance contract.* A lender with a standard insurance contract must submit to the Secretary a borrower's loan application for HEAL insurance on each loan that the lender determines to be eligible. The Secretary notifies the lender whether the loan is or is not insurable, the amount of the insurance, and the expiration date of the insurance commitment. A loan which has been disbursed under a standard contract of insurance prior to the Secretary's approval of the application is considered not to have been insured.

(c) *Comprehensive insurance contract.* A lender with a comprehensive insurance contract may disburse a loan without submitting an individual borrower's loan application to the Secretary for approval. All eligible loans made by a lender with this type of contract are insured immediately upon disbursement.

(Approved by the Office of the Management and Budget under control number 0915–0038)

§ 60.33 Making a HEAL loan.

The loan-making process includes the processing of necessary forms, the approval of a borrower for a loan, the determination of the loan amount, the explanation to a borrower of his or her responsibilities under the loan, the execution of the promissory note, and the disbursement of the loan proceeds. A lender may rely in good faith upon statements of a borrower and the HEAL school contained in the application papers. A lender making nonstudent borrower loans may also rely in good faith upon statements by authorizing officials of internship, residency, or other programs for which a borrower may receive a deferment.

(a) *Processing of forms.* Before making a HEAL loan, a lender must determine that all required forms have been completed by the borrower, the HEAL school, the lender, and the authorized official for an internship, a residency, or other deferment activity.

(b) *Approval of borrower.* A lender may make a HEAL loan only to an eligible student or nonstudent borrower.

(c) *Determination of loan amount.* A lender may not make a HEAL loan in an amount that exceeds the permissible annual and aggregate maximums described in § 60.10.

(d) *Promissory note.* (1) Each loan must be evidenced by a promissory note provided by the Secretary. A lender must obtain the Secretary's prior approval of the note form before it makes a HEAL loan evidenced by a promissory note containing any deviation from the provisions of the Secretary's most current form. The lender must give the borrower a copy of each executed note.

(2) The lender must explain to the borrower that the loan must be repaid and that the loan proceeds may be applied toward educational expenses only.

(e) *Disbursement of HEAL loan.* (1) A lender must disburse HEAL loan proceeds:

(i) To a student borrower, by means of a check or draft payable to a student borrower or, if authorized in writing by the student, jointly to the student and the HEAL school. Except where a lender is also a school, a lender must mail the check or draft to the school (to the attention of the school official named on the loan application) for delivery to the student borrower. A lender may not mail the check or draft to a school earlier than is reasonably necessary to meet the cost of education for the period for which the loan is made.

(ii) To a nonstudent borrower, by means of a check or draft payable to the borrower. However, when a previous loan is held by a different lender, the current lender must make the HEAL loan disbursement check or draft payable jointly to the borrower and the holder of the previous HEAL loans for which interest is payable, if authorized in writing by the borrower.

(2) A school lender must disburse the HEAL loan proceeds in one or more installments that correspond to a borrower's educational expenses over the period for which the loan is intended. However, in no case may the school lender disburse the proceeds earlier than is reasonably necessary to meet the costs of education for the period for which the loan is made.

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§ 60.34 HEAL loan servicing.

(a) *Borrower inquiries.* A lender must respond on a timely basis to written inquiries and other communications from a borrower and any endorser of a HEAL loan.

(b) *Conversion of loan to repayment status.* (1) When a lender determines that a borrower's loan is about to enter the repayment period, the lender must promptly contact the borrower in order to establish the terms of repayment.

(2) Terms of repayment are established in a written schedule that is made a part of, and subject to the terms of, the borrower's original HEAL note.

(3) The lender may not surrender the original promissory note to the borrower until the loan is paid in full. At that time, the lender must give the borrower the original promissory note.

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§ 60.35 HEAL loan collection.

A lender must exercise due diligence in the collection of a HEAL loan with respect to both a borrower and any endorser. In order to exercise due diligence, a lender must implement the following procedures when a borrower fails to honor his or her payment obligations:

(a) When a borrower is delinquent in making a payment, the lender must remind the borrower within 15 working days of the date the payment was due by means of a letter, telephone call, or personal contact. If payments do not resume, the lender must attempt to contact both the borrower and any endorser at least three more times at regular intervals during the following 4-month period. These contacts must become progressively more firm in tone.

(b) When a borrower is 60 days delinquent in making a payment, the lender must request preclaim assistance from the Public Health Service. This preclaim assistance consists of a series of letters to the borrower urging the borrower to contact the lender and resume payments. The Secretary does not pay a default claim if the lender fails to request preclaim assistance in this situation.

(c) If a lender does not sue the borrower, it must send a final demand letter to the borrower and any endorser at least 30 days before a default claim is filed.

(d) A lender may omit any or all overdue notices, including the final demand letter, when the borrower's correct address is unknown. However, the lender must attempt to locate the borrower through normal commercial collection techniques, including contacting any endorser or other individual named on the borrower's application. If these efforts are unsuccessful, the lender must request assistance through use of the Public Health Service preclaim assistance. If the Public Health Service preclaim assistance locates the borrower, the lender must implement the due diligence procedures described under § 60.35(a)–(c). When the Public Health Service preclaim assistance is unable to locate the borrower, a default claim may be filed by the lender. The Secretary does not pay a default claim if the lender fails to request preclaim assistance where the borrower's address is unknown.

(e) If a lender sues a defaulted borrower or endorser, it may first apply the proceeds of any judgment against its reasonable attorney's fees and court costs, whether or not the judgment provides for these fees and costs.

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§ 60.36 Consequence of using an agent.

The delegation of functions to a servicing agency or other party does not relieve a lender of its responsibilities under the HEAL program.

§ 60.37 Forbearance.

(a) A HEAL lender may grant forbearance in order to prevent a borrower from defaulting on his or her payment obligations. "Forbearance" means an extension of time for making loan payments or the acceptance of smaller payments than were previously scheduled. A lender may grant forbearance whenever unemployment, health, other personal problems, or study that is ineligible for deferment temporarily affects the borrower's ability to make scheduled payments on a HEAL loan.

(b) A lender may exercise forbearance in accordance with terms that are consistent with the minimum annual payment requirement and the 25- and 33-year limitations on length of repayment (described in § 60.11) if the lender and borrower agree in writing to the new terms.

(c) A lender may also exercise forbearance for periods of up to 6 months in accordance with terms that are inconsistent with the minimum annual payment requirement if the lender complies with the requirements listed below. Subsequent renewals of the forbearance must also be documented in accordance with the following requirements:

(1) The lender must reasonably believe that the borrower intends to repay the loan but is currently unable to make payments in accordance with the terms of the loan note. The lender must state the basis for its belief in writing and maintain that statement in its loan file on that borrower.

(2) Both the borrower and an authorized official of the lender must sign a written agreement of forbearance.

(3) If the agreement between the borrower and lender provides for deferment of all payments, the lender must contact the borrower at least every 3 months during the period of forbearance in order to remind the borrower of the outstanding obligation to repay.

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§ 60.38 Assignment of a HEAL loan.

A HEAL note may not be assigned except to another HEAL lender or the Student Loan Marketing Association (popularly known as "Sallie Mae") and except as provided in § 60.40. In this section "seller" means any kind of assignor and "buyer" means any kind of assignee.

(a) *Procedure.* A HEAL note assigned from one lender to another must be subject to a blanket endorsement together with other HEAL notes being assigned or must individually bear effective words of assignment. Either the blanket endorsement or the HEAL note must be signed and dated by an authorized official of the seller. The buyer must notify the Secretary of the assignment within 30 days of the transaction. The buyer must assure that the borrower is notified if the assignment results in the borrower being required to make installment payments or direct other matters connected with the loan to a party other than the seller. The notice to the borrower must contain a clear statement of all the borrower's rights and responsibilities which arise from the assignment of the loan, including a statement regarding the consequences of making payments to the seller subsequent to receipt of the notice.

(b) *Risks assumed by the buyer.* Upon acquiring a HEAL loan, a new holder assumes responsibility for the consequences of any previous violations of applicable statutes, regulations, or the terms of the note except for defects under § 60.41(d). A HEAL note is not a negotiable instrument, and a subsequent holder is not a holder in due course. If the borrower has a valid legal defense that could be asserted against the previous holder, the borrower can also assert the defense against the new holder. In this situation, if the new holder files a default claim on a loan, the Secretary denies the default claim to the extent of the borrower's defense. Furthermore, when a new holder files a claim on a HEAL loan, it must provide the Secretary with the same documentation that would have been required of the original lender.

(c) *Warranty.* Nothing in this section precludes the buyer of a HEAL loan from obtaining a warranty from the seller covering certain future reductions by the Secretary in computing the amount of insurable loss, if any, on a claim filed on the loan. The warranty may only cover reductions which are attributable to an act or failure to act of the seller or other previous holder. The warranty may not cover matters for which the buyer is charged with responsibility under the HEAL regulations.

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§ 60.39 Death and disability claims.

(a) *Death.* The Secretary will discharge a borrower's liability on the loan in accordance with section 738 of the Act upon the death of the borrower. The holder of the loan may not attempt to collect on the loan from the borrower's estate or any endorser. The holder must secure a certification of death or whatever official proof is conclusive under State law. The holder must return to the sender any payments, except for refunds under § 60.21, received from the estate of the borrower or paid on behalf of the borrower after the date of death.

(b) *Disability.* (1) The Secretary will discharge a borrower's liability on the loan in accordance with section 738 of the Act if the borrower is found to be permanently and totally disabled on recommendation of the holder of the loan and as supported by whatever medical certification the Secretary may require. A borrower is totally and permanently disabled if he or she is unable to engage in any substantial gainful activity because of a medically determinable impairment, which the Secretary expects to continue for a long and indefinite period of time or to result in death.

(2) After being notified by the borrower or the borrower's representative that the borrower claims to be totally and permanently disabled, the holder of the loan may not attempt to collect on the loan from the borrower or any endorser. The holder must promptly request that the Secretary determine whether a borrower has become totally and permanently disabled. With its request, the holder must submit medical evidence no more than 4 months old that it has obtained from the borrower or the borrower's representative.

(3) If the Secretary determines that the borrower is totally and permanently disabled, the lender must return to the borrower any payments, except for refunds under § 60.21, that it receives after being notified that the borrower claims to be totally and permanently disabled.

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§ 60.40 Procedures for filing claims.

(a) A lender must file an insurance claim on a form provided by the Secretary. The lender must attach to the claim all documentation which the Secretary may require. Failure to submit the required documentation may result in a claim not being honored. The Secretary may also deny a claim that is not filed promptly. The Secretary requires for all claims the following documentation:

(1) The original promissory note;

(2) The loan application; and

(3) History of any payments.

(b) The Secretary's payment of a claim is contingent upon receipt of all required documentation and an assignment to the United States of America of all right, title, and interest of the lender in the note underlying the claim. The lender must warrant that the loan is eligible for HEAL insurance.

(c) In addition, the lender must comply with the following requirements for the filing of default, death, disability, and bankruptcy claims:

(1) *Default claims.* (i) Unless a lender has notified the Secretary that it has filed suit against a defaulted borrower, it must file a default claim with the Secretary within 60 days after a loan has been determined to be in default. Default means the persistent failure of the borrower to make a payment when due or to comply with other terms of the note or other written agreement evidencing a loan, under circumstances where the Secretary finds it reasonable to conclude that the borrower no longer intends to honor the obligation to repay. In the case of a loan repayable (or on which interest is payable) in monthly installments, this failure must have persisted for 120 days. In the case of a loan repayable (or on which interest is payable) in less frequent installments, this failure must have persisted for 180 days.

(ii) In addition to the documentation required for all claims, the lender must submit with its default claim the following:

(A) The repayment schedule;

(B) A collection history;

(C) A final demand letter, if required; and

(D) The original or a copy of all correspondence relevant to the amount owed by the borrower (whether or not received by the original lender, a subsequent holder, or an independent servicing agent).

(iii) If the lender files a default claim on a loan and subsequently receives a notice of the first meeting of creditors in the borrower's bankruptcy, the lender must promptly forward that notice to the Public Health Service. The lender may not file a proof of claim with the bankruptcy court in this situation.

(2) *Death Claims.* A lender must file a death claim with the Secretary within 60 days after the lender obtains documentation that a borrower is dead. In addition to the documentation required for all claims, the lender must submit with its death claim those documents which verify the death.

(3) *Disability claims.* A lender must file a disability claim with the Secretary within 60 days after it has been notified

that the Secretary has determined a borrower to be totally and permanently disabled. In addition to the documentation required for all claims, the lender must submit with its claim evidence of the Secretary's determination.

(4) *Bankruptcy claims.* A lender must file a bankruptcy claim with the Secretary within 60 days after the lender receives a notice of the first meeting of creditors in a borrower's bankruptcy proceeding. The lender must file proof of claim with the bankruptcy court. In addition to the documentation required for all claims, the lender must submit with its claim to the Secretary the following:

(i) The repayment schedule;

(ii) A collection history, if any;

(iii) An assignment to the United States of America of its proof of claim;

(iv) All pertinent documents sent to or received from the bankruptcy court; and

(v) A statement of any facts of which the lender is aware that may form the basis for an objection to the bankrupt's discharge or an exeption to the discharge. A borrower may not have a HEAL loan discharged in bankuptcy during the first 5 years of the repayment period. A borrower may have a HEAL loan discharged in bankruptcy after the first 5 years of the repayment period only upon a finding by the Bankruptcy Court that the nondischarge of such debt would be unconscionable and upon the condition that the Secretary may reduce Federal payments for health services under any Federal law in amounts up to the balance of the loan.

(Approved by the Office of Management and Budget under control number 0915–0036)

§ 60.41 Determination of amount of loss on claims.

(a) *General rule.* HEAL insurance covers the unpaid balance of principal and interest on an eligible HEAL loan. In determining whether to approve an insurance claim for payment, the Secretary considers legal defects affecting the initial validity or insurability of the loan. The Secretary also deducts from a claim any amount that is not a legally enforceable obligation of the borrower except to the extent that the defense of infancy applies. The Secretary further considers whether all holders of the loan have complied with the requirements of the HEAL regulations, including those concerned with the making, servicing, and collecting of the loan, the timely filing of claims, and the submission of documents with a claim.

(b) *Special rules for loans acquired by assignment.* If a claim is filed by a lender that obtained a loan by assignment, that lender is not entitled to any payment under this section greater than that to which a previous holder would have been entitled. In particular, the Secretary deducts from the claim any amounts that are attributable to payments made by the borrower to a prior holder of the loan before the borrower received proper notice of the assignment of the loan.

(c) *Special rules for loans made by school lenders.* (1) If the loan for which a claim is filed was originally made by a school and the claim is filed by that school, the Secretary deducts from the claim an amount equal to any unpaid refund that the school owes the borrower.

(2) If the loan for which a claim is filed was originally made by a school but the claim is filed by another lender that obtained the note by assignment, the Secretary deducts from the claim an amount equal to any unpaid refund that the school owed the borrower prior to the assignment.

(d) *Circumstances under which defects in claims may be cured or excused.* The Secretary may permit a lender to cure certain defects in a specified manner as a condition for payment of a default claim. The Secretary may excuse certain defects if the holder submitting the default claim satisfies the Secretary that the defect did not contribute to the default or prejudice the Secretary's attempt to collect the loan from the borrower. The Secretary may also excuse certain defects if the defect arose while the loan was held by another lender and the holder submitting the default claim satisfies the Secretary that the assignment of the loan was an arm's length transaction, that the present holder did not know of the defect at the time of the sale and that the present holder could not have become aware of the defect through an examination of the loan documents.

(e) *Payment of insured interest.* The payment on an approved claim covers the unpaid principal balance and interest that accrues through the date the claim is paid, except:

(1) If the lender failed to submit a claim within the required period after the borrower's default, death, disability, or bankruptcy, the Secretary does not pay interest that accrued between the end of that period and the date the Secretary received the claim.

(2) If the Secretary returned the claim to the lender for additional documentation necessary for the approval of the claim, the Secretary pays interest only for the first 30 days following the return of the claim to the lender.

§ 60.42 Records, reports, and inspection requirements for HEAL lenders.

(a) *Records.* (1) A lender must keep complete and accurate records of each HEAL loan which it holds. The records must be organized in a way that permits ready identification of the current status of each loan. The required records include:

(i) The loan application;

(ii) The original promissory note;

(iii) The repayment schedule agreement;

(iv) Evidence of each disbursement of loan proceeds;

(v) Notices of changes in a borrower's address and status as a full-time student;

(vi) Evidence of the borrower's eligibility for a deferment;

(vii) The borrower's signed statement describing his or her rights and responsibilities in connection with a HEAL loan;

(viii) The documents required for the exercise of forbearance; and

(ix) Documentation of the assignment of the loan.

(2) The lender must maintain for each borrower a payment history showing the date and amount of each payment received on the borrower's behalf, and the amounts of each payment attributable to principal and interest. A lender must also maintain for each loan a collection history showing the date and subject of each communication with a borrower or endorser for collection of a delinquent loan. Furthermore, a lender must keep any additional records which are necessary to make any reports required by the Secretary.

(3) A lender must retain the records required for each loan for not less than 5 years following the date the loan is repaid in full by the borrower. However, in particular cases the Secretary may require the retention of records beyond this minimum period. A lender must keep the original copy of an unpaid promissory note, but may store all other records in microform or computer format.

(b) *Reports.* A lender must submit reports to the Secretary at the time and in the manner required by the Secretary.

(c) *Inspections.* Upon request, a lender must afford the Secretary, the Comptroller General of the United States, and any of their authorized representatives access to its records in order to assure the correctness of its reports.

(Approved by the Office of Management and Budget under control numbers 0915–0033, 0915–0036, 0915–0038, and 0915–0043)

§ 60.43 Limitation, suspension, or termination of the eligibility of a HEAL lender.

(a) The Secretary may limit, suspend, or terminate the eligibility under the HEAL program of an otherwise eligible lender that violates any provision of Title VII, part C, Subpart I of the Act, as amended (42 U.S.C. 294–294), these regulations, or agreements with the Secretary concerning the HEAL program. The Secretary will take this action in accordance with procedures for the limitation, suspension, or termination of the eligibility of lenders under the Federal Insured Student Loan Program which are set forth in 34 CFR Part 682.

(b) This section does not apply to a determination that a HEAL lender fails to meet the statutory definition of an "eligible lender."

(c) This section also does not apply to administrative action by the Department of Health and Human Services based on any alleged violation of:

(1) Title VI of the Civil Rights Act of 1964, which is governed by 45 CFR Part 80;

(2) Title IX of the Education Amendments of 1972, which is governed by 45 CFR Part 86;

(3) The Family Educational Rights and Privacy Act of 1974 (section 438 of the General Education Provisions Act, as amended), which is governed by 34 CFR Part 99; or

(4) Title XI of the Right to Financial Privacy Act of 1978, Pub. L. 95–630 (42 U.S.C. 3401–3422).

Subpart E—The School

§ 60.50 Which schools are eligible to be HEAL schools?

(a) In order to participate in the HEAL program, a school must enter into a written agreement with the Secretary. In the agreement, the school promises to comply with provisions of the HEAL law and the HEAL regulations. For initial entry into this agreement and for the agreement to remain in effect, a school must satisfy the following requirements:

(1) The school must be legally authorized within a State to conduct a course of study leading to one of the following degrees:

Doctor of Medicine
Doctor of Osteopathic Medicine
Doctor of Dentistry or equivalent degree
Bachelor or Master of Science in Pharmacy or equivalent degree
Doctor of Optometry or equivalent degree
Doctor of Veterinary Medicine or equivalent degree
Doctor of Podiatric Medicine or equivalent degree
Graduate or equivalent degree in Public Health
Doctor of Chiropractic or equivalent degree
Doctoral degree of Clinical Psychology
Masters or doctoral degree in Health Administration

For the purposes of this section, the term "State" includes, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(2)(i) The school must be accredited by a recognized agency approved for that course of study by the Secretary of Education, as described in paragraph (a)(2)(ii) of this section, except where a school is not eligible for accreditation solely because it is too new. A new school is eligible if the Secretary of Education determines that it can reasonably expect to be accredited before the beginning of the academic year following the normal graduation date of its first entering class. The Secretary of Education makes this determination after consulting with the appropriate accrediting agency and receiving reasonable assurance to that effect.

(ii) The approved accrediting agencies are:

(A) Liaison Committee on Medical Education.

(B) American Osteopathic Association.

(C) Commission on Dental Accreditation.

(D) Council on Education of American Veterinary Medical Association.

(E) Council on Optometric Education.

(F) Council on Podiatry Education.

(G) American Council on Pharmaceutical Education.

(H) Council on Education for Public Health.

(I) Council on Chiropractic Education.

(J) Accrediting Commission on Education for Health Services Administration.

(K) Committee on Accreditation of American Psychological Association.

(b) If a HEAL school undergoes a change of controlling ownership or form of control, its agreement automatically expires at the time of that change. The school must enter into a new agreement with the Secretary in order to continue its participation in the HEAL program.

§ 60.51 The student loan application.

(a) A school must accurately and completely fill out its portion of the student's loan application.

(b) The school must verify, to the best of its ability, the information provided by the student on the student's loan application.

(c) The school must certify that the student is eligible to receive a HEAL loan according to the requirements of § 60.5.

(Approved by the Office of Management and Budget under control number 0915–0038)

§ 60.52 The student's loan check.

(a) When a school receives from a HEAL lender a loan disbursement check or draft payable to one of its students, it must:

(1) If the school receives the instrument after the student is enrolled, promptly deliver the instrument to the student.

(2) If the school receives the instrument before the student is enrolled, hold the instrument and deliver it to the student at the time of enrollment. However, if the student is unable to meet educational expenses due before the time of enrollment, the school may send the instrument to the student in time to meet those expenses.

(b) When a school receives from a HEAL lender a loan disbursement check or draft payable jointly to the school and to one of its students, it must:

(1) If the school receives the instrument after the student is enrolled, either:

(i) Endorse the instrument and transmit it to the student; or

(ii) Obtain the student's endorsement, retain that portion of funds due the school, and disburse the remaining funds to the student.

(2) If the school receives the instrument before the student is enrolled, it must, prior to endorsing the instrument, send the instrument to the student to endorse and return to the school. The school may then retain that portion of funds then due the school but must hold the remaining funds for disbursement to the student at the time of enrollment. However, if the student is unable to meet other educational expenses due before the time of enrollment, the school may obtain the student's endorsement and disburse to the student that portion of funds required to meet these other educational expenses.

(c) If a school determines that a student does not plan to enroll, the school must return a loan disbursement check or draft to the lender within 30 days of this determination.

§ 60.53 Notification to lender of change in enrollment status.

Each school must notify the holder of a HEAL loan of any change in the student's enrollment status within 60 days following the change in status. Each notice must contain the date of the

student's graduation, formal withdrawal, or failure to enroll as scheduled for any academic period as a full-time student and the student's latest know permanent and temporary addresses. If the school does not know the identity of the current holder of the HEAL loan, it must notify the HEAL Program Office of a change in the student's enrollment status.

(Approved by the Office of Management and Budget under control number 0915–0038)

§ 60.54 Payment of refunds by schools.

A participating school must pay that portion of a refund that is allocable to a HEAL loan directly to the original lender (or to a subsequent holder of the loan note, if the school has knowledge of the holder's identity). At the same time, the school must povide to the borrower written notice that it is doing so.

§ 60.55 Administrative and fiscal procedures.

Each school must establish and maintain administrative and fiscal procedures necessary to achieve the following objectives:

(a) Proper and efficient administration of the funds received from students who have HEAL loans;

(b) Protection of the rights of students under the HEAL program;

(c) Protection of the United States from unreasonable risk of loss due to defaults; and

(d) Compliance with applicable requirements for HEAL schools.

§ 60.56 Records.

(a) In addition to complying with the requirements of section 739(b) of the Act, each school must maintain an easily retrievable record with respect to each student who has a HEAL loan containing all of the following information:

(1) Student's name, address, academic standing and period of attendance;

(2) Name of the HEAL lender, amount of the loan, and the period for which the HEAL loan was intended;

(3) If a noncitizen, documentation of the student's alien registration status.

(4) Amount and source of other financial assistance (exclusive of family contribution) received by the student for the period for which the HEAL loan was made;

(5) Date the school receives the HEAL check or draft and the date it either gives it to the student or returns it to the lender (if the school is not the lender);

(6) Date the school disburses the loan to a student (if the school is the lender);

(7) Date the school signs the loan check or draft (if the school is a copayee);

(8) Amount of tuition, fees and other charges paid by the student to the school for the academic period covered by the loan and the dates of payment;

(9) Copy of each form used by the school in connection with the loan; and

(10) Student's postgraduate destination.

(b) The school must maintain the record for not less than 5 years following the date the student graduates, withdraws or fails to enroll as a full-time student. The school may store the records in microform or computer format.

(Approved by the Office of Management and Budget under control number 0915–0054)

§ 60.57 Reports.

A school must submit reports to the Secretary at the times and in the manner the Secretary may reasonably prescribe. The school must retain a copy of each report for not less than 5 years following the report's completion, unless otherwise directed by the Secretary. A school must also make available to a HEAL lender, upon the lender's request, the name, address, postgraduate destination and other reasonable identifying information for each of the school's students who has a HEAL loan.

§ 60.58 Federal access to school records.

For the purposes of audit and examination, a HEAL school must provide the Secretary of Health and Human Services, the Comptroller General of the United States, and any of their authorized representatives access to the records that the school is required to keep and to any documents and records pertinent to the administration of the HEAL Program.

§ 60.59 Records and Federal access after a school is no longer a HEAL school.

In the event a school ceases to participate in the HEAL program, the school (or its successor, in the case of a school which undergoes a change in ownership) must retain all required HEAL records and provide the Secretary of Health and Human Services, the Comptroller General of the United States, and any of their authorized representatives access to them.

§ 60.60 Limitation, suspension, or termination of the eligibility of a HEAL school.

(a) The Secretary may limit, suspend, or terminate the eligibility under the HEAL program of an otherwise eligible school that violates any provision of Title VII, Part C, Subpart I of the Act, as amended (42 U.S.C. 294–294l), these regulations or agreements with the Secretary concerning the HEAL program. The Secretary will take this action in accordance with procedures for the limitation, suspension, or termination of the eligibility of schools under the Student Assistance General Provisions of the Department of Education, which are set forth in 34 CFR Part 668.

(b) This section does not apply to a determination that a HEAL school fails to meet the statutory definition of an "eligible school."

(c) This section also does not apply to administrative action by the Department of Health and Human Services based on any alleged violation of:

(1) The laws and regulations described in § 60.61;

(2) The Family Educational Rights and Privacy Act of 1974 (section 438 of the General Education Provisions Act, as amended) which is governed by 34 CFR Part 99.

[FR Doc. 83–23384 Filed 8–25–83; 8:45 am]

BILLING CODE 4160–16–M

federal register

Friday
August 26, 1983

Part V

Environmental Protection Agency

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

Hazardous Waste Management System: Identification and Listing of Hazardous Waste

AGENCY: Environmental Protection Agency.

ACTION: Proposed amendment to rule with request for comments.

SUMMARY: The Environmental Protection Agency (EPA) is today proposing to amend its regulations under the Resource Conservation and Recovery Act to delete commercial chemical products containing strontium sulfide from regulation under § 261.33. In addition, it is proposed that strontium sulfide be removed from appendix VIII—Hazardous Constituents. These changes are being proposed because the Agency has determined that the data on which the decision to list was based is incorrect and no data currently exists on which to base a retention of the current listing.

DATES: EPA will accept public comments on this proposed rule until October 24, 1983. Any person may request a hearing on this amendment by filing a request with Eileen Claussen, whose address appears below, by September 26, 1983.

ADDRESSES: Comments should be sent to the Docket Clerk, Office of Solid Waste (WH–562), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C., 20460. Comments should identify the regulatory docket number "Section 3001, 40 CFR 261.33". Requests for a hearing should be addressed to Eileen Claussen, Director, Office of Management Information and Analysis, Office of Solid Waste (WH–562), U.S. Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460.

The public docket for this amendment is located in Room S–269C, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C., 20460, and is available for viewing from 9:00 a.m. to 4:00 p.m. Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: The RCRA Hotline at (800) 424–9346 or at (202) 382–3000. For technical information contact Wanda LeBleu-Biswas, Office of Solid Waste (WH–565B), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (202) 382–4798.

SUPPLEMENTARY INFORMATION:

I. Background

Under the authority of section 3001 of the Resource Conservation and Recovery Act of 1976, as amended (RCRA), the Agency promulgated as 40 CFR 261.33 of the regulations a list of commercial chemical products or manufacturing chemical intermediates which are hazardous wastes if they are discarded or intended to be discarded. The phrase "commercial chemical product or manufacturing chemical intermediate" refers to a chemical substance which is manufactured or formulated for commercial or manufacturing use, and which consists of the commercially pure grade of the chemical, any technical grades of the chemical that are produced or marketed, and all formulations in which the chemical is the sole active ingredient. Section 261.33 also lists as hazardous wastes, off-specification variants and the residues and debris from the clean-up of spills of these chemicals, if discarded or intended to be discarded (§ 261.33 (b) and (d)). Finally, § 261.33 lists as hazardous wastes the containers that have held those chemicals listed in § 261.33(e), if they are discarded or intended to be discarded, unless the containers have been triple-rinsed with an appropriate solvent or have been decontaminated in an equivalent manner.

A chemical substance is listed in 40 CFR 261.33(e) if it meets the criteria of § 261.11(a)(2); that is, it is acutely hazardous because it has been shown to be fatal to humans in low doses or has been shown in animal studies to have an oral (rat) LD50 of less than 50 milligrams per kilogram, a dermal (rabbit) LD50 of less than 200 milligrams per kilogram, an inhalation (rat) LC50 of less than 2 mg/l, or is otherwise capable of causing or significantly contributing to serious illness in low doses.

Appendix VIII—Hazardous Constituents is a list of chemical substances which have been shown in reputable scientific studies to have toxic, carcinogenic, mutagenic or teratogenic effects on humans or other life forms and includes such substances as those identified by the Agency's Carcinogen Assessment Group. Appendix VIII serves to both identify those chemicals whose presence in a waste may be grounds for listing such a waste as a hazardous waste and as a list of those chemicals for which waste management facility operators must monitor groundwater. Section 261.33 was intended to designate chemicals themselves as hazardous wastes, if discarded. The reasons for discarding these materials might be that the materials did not meet required specifications, that inventories were being changed, or that the product line had changed.

The Chemical Products Corporation, Cartersville, GA has petitioned the Agency, pursuant to the provisions in 40 CFR 260.20, to exclude strontium sulfide from 40 CFR 261.33(e) and Appendix VIII, the list of hazardous constituents.

II. Basis for Listing Strontium Sulfide

The Agency listed strontium sulfide in 40 CFR 261.33(e) based on its oral (human) LDLo of 50 mg/kg as listed in the NIOSH *Registry of Toxic Effects of Chemical Substances*.

III. Reason and Basis for Today's Amendment

Since finalization of this listing Chemical Products Corporation, Cartersville, GA petitioned the Agency, pursuant to the provisions in § 260.20, to exclude strontium sulfide from the list of acute hazardous wastes and from Appendix VIII. Chemical Products Corp. recognized in its petition that the oral (human) LDLo value of 50 mg/kg was taken from the National Institute for Occupational Safety and Health (NIOSH) *Registry of Toxic Effects of Chemical Substances* (1977 edition), which cites as its source *The Clinical Toxicology of Commercial Products* (Gosselin, R.E., *et al.*, The Williams and Wilkins Co., Baltimore, MD, 1976). Chemical Products Corp. pointed out that Gosselin assigned a toxicity rating of "4(?)" to strontium sulfide, which is interpreted by a table (*ibid.*, p.4) as a range of 50 to 500 mg/kg for "Probable Oral Lethal Dose (Human)". The petitioner states that the NIOSH *Registry* took the lowest value of this range and reported it as the oral (human) LDLo for strontium sulfide, in spite of a footnote to the table in *Clinical Toxicology* which states "Toxicity ratings followed by interrogation points are based on obviously inadequate data; some represent no more than guesses".

The current edition of the NIOSH *Registry of Toxic Effects of Chemical Substances* no longer cites the previously reported oral (human) LDLo toxicity value, nor does it give any other toxicity data for strontium sulfide. NIOSH reported to EPA that the toxicity data for strontium sulfide was deleted because Gosselin, one of the authors of *Clinical Toxicology of Commercial Products*, informed NIOSH that the listing for strontium sulfide was not based on reliable data.

The Agency has examined a number of other toxicology sources including

Daangerous Properties of Industrial Materials (Sax, N. Irving, Van Nostrand Reinhold Co., New York, 5th ed., 1979), *Casarett and Doull's Toxicology* (Doull, J., C.D. Klaasen and M.O. Amdur, eds., Macmillan Publishing Co., Inc., New York, 2nd ed., 1980), and *Industrial Toxicology* (Hamilton, A. and H.L. Hardy, Publishing Sciences Group, Inc., Acton, MA, 3rd ed., 1974) in an effort to locate any additional data on the toxicity of strontium sulfide. In addition, EPA, through the Office of Research and Development, has conducted an extensive search of the literature to obtain information about possible chronic (specifically, teratongenic) effects of strontium sulfide. These searches have revealed no further data on strontium sulfide.

In view of this information, the Agency feels that there is insufficient evidence to support the listing of strontium sulfide as either an acute hazardous waste or as a toxic waste and so is proposing to delete it from regulation under § 261.33, as well as proposing to remove it from Appendix VIII. It is important to note that the action being proposed today does not totally release strontium sulfide from regulatory control under RCRA. The Agency believes that waste strontium sulfide may meet the definition of a reactive waste [40 CFR 261.23 (a)(5)] [i.e., is a sulfide bearing waste which when exposed to pH conditions below 2 can generate the toxic gas hydrogen sulfide in a quantity sufficient to present a danger to human health]. Thus, if such conditions exist, the waste strontium sulfide would be a hazardous waste subject to the hazardous waste regulation under RCRA.

IV. Request for Comments

The Agency invites comments on all aspects of this proposed rule and on the issues. In particular, we request information concerning both the acute and the chronic toxicity of strontium sulfide, as well as of formulations where this compound is the sole active ingredient. Comments will be accepted until October 24, 1983.

V. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This proposed regulation is not major because it would not result in an effect on the economy of $100 million or more, nor would it result in an increase in costs or prices to industry. In fact, this regulation would reduce the overall costs and economic impact of EPA's hazardous waste managment regulations. There would be no adverse impact on the ability of U.S.-based enterprises to compete with the foreign-based enterprises in domestic or export markets. Because this amendment is not a major regulation no Regulatory Impact Analysis is being conducted.

This amendment was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA responses to those comments are available for public inspection in Room S–269C at EPA.

VI. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must the impact of the rule on small entities (*i.e.*, small business, small organizations, and small governmental jurisdictions). The Adminstrator may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

This amendment would generally have no significant economic impact on small entities. Rather, since producers would not have to dispose of small quantities of waste strontium sulfide as hazardous wastes, today's proposed action would result in a savings to small business, although probably not a very large one. Accordingly, I hereby certify that this final regulation will not have a significant economic impact on a substantial number of small entities. This regulation therefore does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 261

Hazardous materials, Waste treatment and disposal, Recycling.

Dated: August 18, 1983.

William D. Ruckelshaus,

Administrator.

For the reasons set out in the preamble, it is proposed to amend Title 40 of the Code of Federal Regulations as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for Part 261 reads as follows:

Authority: Secs. 1006, 2002(a), 3001, and 3002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended [42 U.S.C. 6905, 6912(a), 6921 and 6922].

§261.33 [Amended]

2. It is proposed to amend §261.33(e) by removing the listing for strontium sulfide (EPA Hazardous Waste No. P107).

3. It is proposed to amend Appendix VIII—Hazardous Constituents by removing the listing for strontium sulfide.

[FR Doc. 83–23401 Filed 8–25–83; 8:45 am]

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VOL
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Friday
August 26, 1983

Part VI

Department of Energy

Federal Energy Regulatory Commission

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Volume 955]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: August 22, 1983.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Rd, Springfield, Va 22161.

Categories within each NGPA section are indicated by the following codes:

Sec.	
102–1	New OCS lease
102–2	New well (2.5 Mile rule)
102–3	New well (1000 Ft rule)
102–4	New onshore reservoir
102–5	New reservoir on old OCS lease
107–DP	15,000 feet or deeper
107–GB	Geopressured brine
107–CS	Coal Seams
107–DV	Devonian Shale
107–PE	Production enhancement
107–TF	New tight formation
107–RE	Recompletion tight formation
108	Stripper well
108–SA	Seasonally affected
108–ER	Enhanced recovery
108–PB	Pressure buildup

Kenneth F. Plumb,

Secretary.

NOTICE OF DETERMINATIONS
ISSUE August 22, 1983
VOLUME 955

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
TEXAS RAILROAD COMMISSION									
-ADA OIL EXPLORATION CORP				RECEIVED:		08/08/83 JA: TX			
8348574	F-03-069083	4205100000		102-2		JOHN NEWMAN #11	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
-ADAMS BRANCH EXPLORATION				RECEIVED:		08/08/83 JA: TX			
8348566	F-7B-068901	4208333445		102-4		SEALY-SMITH 55 #1	MENA GAIL (GARDNER LO	60.0	UNION TEXAS PETRO
-ADAMS EXPLORATION CO				RECEIVED:		08/08/83 JA: TX			
8348588	F-05-069475	4216130739		102-2		WINSTON C DAVIS #1	BEAR GRASS (TRAVIS PE	304.0	TEXAS UTILITIES F
-AM QUEST CORP				RECEIVED:		08/08/83 JA: TX			
8348639	F-05-070294	4216130716		102-4		B P YORK #1	MIMM'S CREEK (BOSSIER	730.0	SEAGULL ENERGY CO
-AMERADA HESS CORPORATION				RECEIVED:		08/08/83 JA: TX			
8348700	F-08-070786	4232900000		108		TEX-HARVEY SPRABERRY UNIT #862	SPRABERRY TREND	0.4	
-ANDERSON PETROLEUM INC				RECEIVED:		08/08/83 JA: TX			
8348508	F-7C-66191	4210534278		103	107-TF	JOE FRIEND ESTATE "B" 1-32	ALDWELL RANCH (CANYON	150.0	OZONA PIPELINE CO
8348504	F-7C-66022	4241331282		103	107-TF	WILTON "A" 1-28	ELDORADO N (CANYON B)	100.0	PRODUCERS GAS CO
-APEX PETROLEUM INC				RECEIVED:		08/08/83 JA: TX			
8348548	F-7B-067930	4208300000		102-4		JOHN E WOLF #20	WOLF (SERRATT LOWER)	0.0	EL PASO HYDROCARB
-ARCO OIL AND GAS COMPANY				RECEIVED:		08/08/83 JA: TX			
8348686	F-04-070750	4213100172		108		J R FOSTER #32	HAGIST RANCH (750)	24.0	NATURAL GAS PIPEL
8348685	F-04-070749	4213133986		108		J R FOSTER #60	HAGIST RANCH (750)	20.0	NATURAL GAS PIPEL
8348649	F-7C-070423	4213510246		108		W M NOELKE ESTATE #53	SIXTY - SEVEN (CANYON	10.5	NORTHERN NATURAL
-AUSANKA OIL OPERATIONS				RECEIVED:		08/08/83 JA: TX			
8348675	F-09-070715	4207731866		108		IVA MAE HOFF #2	SHANNON (CADDO)	1.9	TEXAS UTILITIES F
-BASS ENTERPRISES PRODUCTION CO				RECEIVED:		08/08/83 JA: TX			
8348726	F-08-070835	4249531577		103		M J HILL A/C 3 #39	HALLEY (CLEARFORK)	43.0	TRANSWESTERN PIPE
-BETTIS BOYLE & STOVALL				RECEIVED:		08/08/83 JA: TX			
8348676	F-04-070716	4224900000		108		GOLDAPP HEIRS #3 (014791)	TSESMELIS (3400)	3.0	VALLEY GAS TRANSM
-BURNETT OIL CO INC				RECEIVED:		08/08/83 JA: TX			
8348624	F-01-070203	4231131769		102-4	103	M WHEELER #1	A W P (OLMOS)	34.0	MPI TRANSMISSION
-C F LAWRENCE & ASSOC INC				RECEIVED:		08/08/83 JA: TX			
8348562	F-08-068547	4237134222		103		MCMURTRY #4	LEHM - APCO	0.0	
8348561	F-08-068546	4237134235		103		MCMURTRY #5	LEHN-APCO	0.0	
8348560	F-08-068543	4237134234		103		MCMURTRY #9	LEHN-APCO	0.0	
8348526	F-7C-67293	4210500000		103		SHANNON G-3	TODD (SAN ANDRES)	0.0	APACHE GAS CORP
8348527	F-7C-67294	4210500000		103		SHANNON H-1	TODD (SAN ANDRES)	0.0	APACHE GAS CORP
-C O G CO				RECEIVED:		08/08/83 JA: TX			
8348507	F-7B-66144	4204933378		102-4		MITCHAM CATE #1	COG (MARBLE FALLS)	25.0	EL PASO HYDROCARB
-C. J. WOFFORD				RECEIVED:		08/08/83 JA: TX			
8348576	F-02-069222	4202531845		102-4		G PAGE UNIT 2 #1	COSDEN (Z-12)	144.0	TEXAS EASTERN TRA
-CARTER EXPLORATION CO				RECEIVED:		08/03/83 JA: TX			
8348583	F-02-069409	4223931706		102-4	103	L R DRUSHEL #1 ID #N/A	WILDCAT - CARMICHAEL	55.0	DELHI GAS PIPELIN
-CHANCE RESEARCH CORP				RECEIVED:		08/08/83 JA: TX			
8348570	F-7B-069010	4236732468		102-4		GRIFFIN #1	MARMAC (MARBLE FALLS)	0.0	TEXAS UTILITIES F
-CHENOWETH GROVER L				RECEIVED:		08/08/83 JA: TX			
8348499	F-7B-65638	4213334382		103		J WILLIAMSON #1 (104449)	EASTLAND COUNTY REGUL	109.0	LONE STAR GAS CO
-COASTAL OIL & GAS CORP				RECEIVED:		08/08/83 JA: TX			
8348720	F-8A-070826	4216532570		103		SO HARRIS UNIT 6-16	HARRIS (GLORIETA)	18.0	PHILLIPS PETROLEU
8348701	F-8A-070787	4216532515		103		SO HARRIS UNIT 7-6	HARRIS (GLORIETA)	8.0	PHILLIPS PETROLEU

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-COLA PETROLEUM INC				RECEIVED:	08/08/83	JA: TX			
8348719	F-10-070823	4217930725		108		ALMA #1	EAST PANHANDLE	28.0	PHILLIPS PETROLEU
-CONOCO INC				RECEIVED:	08/08/83	JA: TX			
8348484	F-10-62676	4206500000		108		BURNETT 22A	WEST PANHANDLE	21.0	NORTHWEST CENTRAL
8348668	F-8A-070693	4207900000		108		CONOCO DEAN UNIT #111 I D 60106	SLAUGHTER	8.9	AMOCO PRODUCTION
8348670	F-8A-070695	4207938804		108		CONOCO DEAN UNIT #122 I D 60106	SLAUGHTER	6.0	AMOCO PRODUCTION
8348667	F-8A-070692	4207900000		108		CONOCO DEAN UNIT #68 I D 60106	SLAUGHTER	3.1	AMOCO PRODUCTION
8348669	F-08-070694	4238900000		108		FORD GERALDINE UNIT #139 I D 21021	GERALDINE FORD	8.8	EL PASO NATURAL G
8348671	F-08-070696	4238930308		108		G E RAMSEY JR -7- #4 I D 21019	GERALDINE FORD	6.2	EL PASO NATURAL G
8348741	F-01-070852	4232331421		103		M J CHITTIM #7035	SACATOSA (SAN MIGUEL	8.7	VALERO TRANSMISSI
8348733	F-01-070844	4232331375		103		M J CHITTIM #7123	SACATOSA (SAN MIGUEL	8.7	VALERO TRANSMISSI
8348728	F-01-070838	4232331365		103		M J CHITTIM #7125	SACATOSA (SAN MIGUEL	8.7	VALERO TRANSMISSI
8348735	F-01-070846	4232331377		103		M J CHITTIM #7126	SACATOSA (SAN MIGUEL	8.7	VALERO TRANSMISSI
8348739	F-01-070850	4232331378		103		M J CHITTIM #7127	SACATOSA (SAN MIGUEL	8.7	VALERO TRANSMISSI
8348734	F-01-070845	4232331379		103		M J CHITTIM #7128	SACATOSA (SAN MIGUEL	8.7	VALERO TRANSMISSI
8348740	F-01-070851	4232331380		103		M J CHITTIM #7129	SACATOSA (SAN MIGUEL	8.7	VALERO TRANSMISSI
8348729	F-01-070840	4232331381		103		M J CHITTIM #7130	SACATOSA (SAN MIGUEL	8.7	VALERO TRANSMISSI
8348730	F-01-070841	4232331382		103		M J CHITTIM #7131	SACATOSA (SAN MIGUEL	8.7	VALERO TRANSMISSI
8348737	F-01-070848	4232331383		103		M J CHITTIM #7132	SACATOSA (SAN MIGUEL	8.7	VALERO TRANSMISSI
8348736	F-01-070847	4232331384		103		M J CHITTIM #7133	SACATOSA (SAN MIGUEL	8.7	VALERO TRANSMISSI
8348738	F-01-070849	4232331385		103		M J CHITTIM #7134	SACATOSA (SAN MIGUEL	8.7	VALERO TRANSMISSI
8348732	F-01-070843	4232331507		103		M J CHITTIM #7212	SACATOSA (SAN MIGUEL	8.7	VALERO TRANSMISSI
8348731	F-01-070842	4232331498		103		M J CHITTIM #7213	SACATOSA (SAN MIGUEL	8.7	VALERO TRANSMISSI
8348672	F-8A-070697	4203330583		108		T J GOOD -35- #1 I D 63206	JO-MILL (SPRABERRY)	1.4	GETTY OIL CO
8348673	F-7C-070698	4218500000		108		TODD CRINOIDAL UNIT #13 I D 82014	TODD	8.1	PERMIAN CORP
-DALLAS ENERGY DEVELOPMENT CORP				RECEIVED:	08/08/83	JA: TX			
8348503	F-7B-65983	4213334487		102-4		ST JOHNS #3		0.0	EL PASO HYDROCARB
-DELRAY OIL INC				RECEIVED:	08/08/83	JA: TX			
8348515	F-7B-67061	4208300000		103		BERTIE E STONE #19	COLEMAN COUNTY REGULA	7.4	LONE STAR GAS CO
8348513	F-7B-66929	4208300000		103		BERTIE E STONE #24	COLEMAN COUNTY REGULA	7.3	LONE STAR GAS CO
-DELTA OIL & GAS CO				RECEIVED:	08/08/83	JA: TX			
8348697	F-7B-070773	4242900000		103		R J KELLY ESTATE "D" RRC # 18583	STEPHENS COUNTY REGUL	0.0	LONE STAR GAS CO
-DIAMOND SHAMROCK CORPORATION				RECEIVED:	08/08/83	JA: TX			
8348475	F-10-057943	4242100000		108-ER		BIVINS ESTATE #1-35	TEXAS	0.0	
8348505	F-10-66047	4235700000		108		EDNA J HERNDON "B" #1-L	ELLIS RANCH	0.0	NATURAL GAS PIPE
-DRENNAN & PETERSON				RECEIVED:	08/08/83	JA: TX			
8348635	F-09-070257	4223735055		102-4		PEAVY #1 (N/A)	PEAVY (CONGL 4500) FI	182.0	TEXAS UTILITIES F
-EADS OPERATING CO				RECEIVED:	08/08/83	JA: TX			
8348652	F-04-070520	4235532060		102-4		STATE TRACT 683 #4	NUECES BAY W (9200)	222.0	HOUSTON PIPE LINE
-ENSERCH EXPLORATION INC				RECEIVED:	08/08/83	JA: TX			
8348472	F-08-53193	4222732633		103		S E LUTHER #21-3	S E LUTHER (SIL-DEV)	54.0	GETTY OIL CO
-ENSERCH OIL CO INC				RECEIVED:	08/08/83	JA: TX			
8348471	F-08-52807	4222732634		103		S E LUTHER UNIT #22-3	S E LUTHER (FUSSELMAN	0.0	GETTY OIL CO
-ENTERPRISE ENERGY CORP				RECEIVED:	08/08/83	JA: TX			
8348641	F-7B-070331	4236700000		103		GOFORTH #1 (102465)	WHISKEY FLAT (LOWER A	45.6	SOUTHWESTERN GAS
-EXXON CORPORATION				RECEIVED:	08/08/83	JA: TX			
8348579	F-06-069287	4234730727		103		CATHERINE SPRADLEY DEVAULT #1	DOUGLASS W (TRAVIS PE	388.0	ARMCO STEEL CO
8348612	F-04-069829	4224731505		103		EDUARDO HINOJOSA #2 (ID PENDING)	LA FE (FRIO 4850)	42.0	TRUNKLINE GAS CO
8348687	F-04-070756	4226130738		102-4		GARCIA RANCH 2 (105499)	GARCIA RANCH (L-40 WE	1100.0	ARMCO STEEL CORP
8348519	F-7C-67163	4208131161		103		I A B UNIT #736	I A B (MENIELLE PENN)	9.0	SUN GAS CO
8348623	F-08-070185	4210333119		103		J B TUBB A/C 1 #276	SAND HILLS (TUBB)	15.0	EL PASO NATURAL G
8348518	F-04-67107	4226131239		102-4		JOHN G KENEDY JR "E" 22-F	EL PAISTLE (I-66 M)	168.0	NATURAL GAS PIPEL
8348692	F-04-070761	4227331357		103		K R ALAZAN 337 (105507)	HINOJOSA (E-91)	237.0	ARMCO STEEL CORP
8348691	F-04-070760	4227331739		103		K R ALAZAN 393 (105515)	MADERO (J-24)	600.0	ARMCO STEEL CORP
8348690	F-04-070759	4227331742		102-4		K R ALAZAN 396 (105516)	MADERO (J-36 E)	500.0	ARMCO STEEL CORP
8348689	F-04-070758	4227331478		102-4		K R CHILTIPIN 87 (105510)	HINOJOSA N (E-95)	350.0	ARMCO STEEL CORP
8348694	F-04-070763	4227331480		102-4		K R CHILTIPIN 28 (G93365)	HINOJOSA N (E-95)	1600.0	ARMCO STEEL CORP
8348577	F-7C-069236	4208131175		103		LOU E JOHNSON ESTATE A/C 2 #43	JAMESON (STRAWN)	18.0	
8348688	F-04-070757	4226130754		102-4		MRS S K EAST 144-B (105283)	TAJOS (J-68)	730.0	ARMCO STEEL CORP
8348693	F-04-070762	4204730803		103		R J KLEBERG JR TR VIBORAS PAST 87-F	VIBORAS (G-23 34 N)	438.0	ARMCO STEEL CORP
8348565	F-8A-068826	4216532509		103		ROBERTSON CLEARFORK UNIT #9303	ROBERTSON N (CLEAR FO	15.0	PHILLIPS PETROLEU
8348578	F-04-069284	4226130562		103		SARITA GAS UNIT #7 WELL 2-F	SARITA (1-F(W))	100.0	NATURAL GAS PIPEL
8348640	F-7C-070306	4210534081		103		STATE UNIVERSITY EY #1	INGHAM (DEVONIAN)	96.0	
-FORUM ENERGY INC				RECEIVED:	08/08/83	JA: TX			
8348572	F-7B-069051	4208300000		102-4		CRENSHAW #1	HEMPHILL (JENNINGS)	0.0	EL PASO HYDROCARB
-GENERAL PRODUCTION CO INC				RECEIVED:	08/08/83	JA: TX			
8348721	F-03-070827	4247730469		102-2		BEN R PIETSCH #1 #15491	GIDDINGS (AUSTIN CHAL	0.0	CLAJON GAS CO
-GEORGE L ROUSSEAU				RECEIVED:	08/08/83	JA: TX			
8348580	F-03-069327	4205100000		102-4		GREEN #1	HOOKER CREEK (NAVARRO	18.0	FERGUSON CROSSING
-GETTY OIL COMPANY				RECEIVED:	08/08/83	JA: TX			
8348468	F-05-52393	4216100000		102-4		FRANKLIN SCURLOCK "C" #1	INGRAM TRINITY (RODES	0.0	LONE STAR GAS CO
8348544	F-05-067779	4216100000		102-4		FRANKLIN SCURLOCK "G" #1	INGRAM TRINITY (RODES	0.0	LONE STAR GAS CO
8348539	F-03-067460	4216100000		102-4		FRANKLIN SCURLOCK "H" #1	INGRAM TRINITY (RODES	0.0	LONE STAR GAS CO
8348525	F-03-67258	4216100000		102-4		FRANKLIN SCURLOCK "K" #1	INGRAM TRINITY (RODES	0.0	LONE STAR GAS CO
-GHR ENERGY CORP				RECEIVED:	08/08/83	JA: TX			
8348645	F-04-070363	4250531631		102-2	107-TF	LUNDELL B-3	MCASKILL (LOBO)	350.0	NATURAL GAS PIPEL
-GRACE PETROLEUM CORPORATION				RECEIVED:	08/08/83	JA: TX			
8348473	F-06-56413	4234730692		102-4		IRWIN A-1	GARRISON SOUTH (PETTI	0.0	UNITED GAS PIPELI
-GRAND BANKS ENERGY CO				RECEIVED:	08/08/83	JA: TX			
8348514	F-08-66950	4213534038		103		PARKER "A" #2	HARPER	0.0	PHILLIPS PETROLEU
-GULF OIL CORPORATION				RECEIVED:	08/08/83	JA: TX			
8348567	F-03-068932	4204130511		102-2		BRITTEN-BURLEY UNIT III #1	KURTEN (WOODBINE)	12.3	PRODUCERS GAS CO
8348618	F-09-069780	4223734769		103		FAYETTE YATES #11-L	BOONSVILLE (BEND CONG	192.3	NATURAL GAS PIPEL
8348501	F-08-65772	4237133910		107-DP		LITTLE MEXICO GAS UNIT #1-R	GOMEZ (FUSSELMAN)	1000.0	VALERO TRANSMISSI
8348618	F-08-069879	4238931329		102-4		TXL "BM" (NCT-B) #1	JESS BURNER (DELAWARE	39.0	CONOCO INC
8348617	F-08-069878	4238931323		102-4		TXL "BM" (NCT-B) #2	JESS BURNER (DELAWARE	37.0	CONOCO INC
8348616	F-08-069877	4238931334		102-4		TXL "BM" (NCT-B) #5	JESS BURNER (DELAWARE	28.0	CONOCO INC
8348615	F-08-069876	4238931335		102-4		TXL "BM" (NCT-B) #6	JESS BURNER (DELAWARE	64.0	CONOCO INC
8348614	F-08-069875	4238931354		102-4		TXL "BM" (NCT-B) #8	JESS BURNER (DELAWARE	38.0	CONOCO INC
8348632	F-08-069874	4238931378		102-4		TXL "BM" (NCT-B) #9	JESS BURNER (DELAWARE	84.0	CONOCO INC
8348613	F-08-069873	4238931333		102-4		TXL "BM" (NCT-C) #3	JESS BURNER (DELAWARE	129.0	
8348674	F-08-070712	4238931337		102-4	103	TXL "BM" (NCT-C) #7	JESS BURNER (DELAWARE	21.0	
8348715	F-08-070814	4210330034		108		W N WADDELL #1502	DUNE	0.5	
8348714	F-08-070815	4210330380		108		W N WADDELL #1995	DUNE	0.4	
8348712	F-08-070813	4210301072		108		W N WADDELL #215	WADDELL	1.9	
8348713	F-08-070816	4210301090		108		W N WADDELL #233	EDWARDS	0.4	
8348708	F-08-070809	4210301102		108		W N WADDELL #245	DUNE	0.4	
8348707	F-08-070808	4210301230		108		W N WADDELL #336	DUNE	2.2	
8348706	F-08-070807	4210301322		108		W N WADDELL #478	DUNE	1.3	
8348705	F-08-070806	4210301561		108		W N WADDELL #710	UNIVERSITY WADDELL (D	2.6	
8348709	F-08-070810	4210310373		108		W N WADDELL #356	WADDELL	0.3	
8348710	F-08-070811	4210310598		108		W N WADDELL #912	DUNE	0.9	
8348711	F-08-070812	4210311129		108		W N WADDELL #930	DUNE	1.0	
8348717	F-08-070818	4210311171		108		W N WADDELL #938	DUNE	0.3	

JD NO	DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8348716	F-08-070817	4218330014		108		W M WADDELL #995
-M & S OPERATING INC				RECEIVED:	08/08/83	JA: TX
8348489	F-09-64159	4223700000		102-4		L-100 #1
-MANSON MINERALS CO				RECEIVED:	08/08/83	JA: TX
8348555	F-04-068274	4227933580		102-4		AVIATORS GAS UNIT #3
8348633	F-04-070250	4247933551		102-4		AVIATORS GAS UNIT #4
-HENDERSON CLAY PRODUCTS INC				RECEIVED:	08/08/83	JA: TX
8348542	F-06-067629	4240131610		102-2	107-TF	BARKSDALE ESTATE GAS UNIT
8348521	F-06-67173	4240131596		102-3	107-TF	J W HOLT ESTATE
-HENRY PETROLEUM CORP				RECEIVED:	08/08/83	JA: TX
8348517	F-08-67100	4231700000		103		STRIPLING 82-1
8348516	F-7C-67099	4238300000		103		UNIVERSITY 33 #1-Y
-HIGHLAND RESOURCES INC				RECEIVED:	08/08/83	JA: TX
8348530	F-04-67369	4235531780		102-4	103	STATE TRACT 20 WELL #2
-HILLIARD OIL & GAS INC				RECEIVED:	08/08/83	JA: TX
8348727	F-08-070836	4249531479		103		MITCHELL "C" #1
-HNG OIL COMPANY				RECEIVED:	08/08/83	JA: TX
8348528	F-7C-67386	4243500000		103	107-TF	KELLY "125" #5
8348511	F-7C-66734	4243500000		103	107-TF	VANDERSTUCKEN "67" #4
-HOLT OIL & GAS CORP				RECEIVED:	08/08/83	JA: TX
8348481	F-03-62134	4208931209		107-TF		KLEIMANN UNIT #1
-HUGHES & HUGHES OIL AND GAS				RECEIVED:	08/08/83	JA: TX
8348587	F-04-069467	4250531068		102-4		L A HINNANT -G- #1
-HUNT OIL COMPANY				RECEIVED:	08/08/83	JA: TX
8348644	F-7C-070358	4246132005		102-4		V T AMACKER 79 #4
-INTERNATIONAL OIL & GAS CORP				RECEIVED:	08/08/83	JA: TX
8348491	F-7C-64638	4210534190		102-4		VERNON B COX "B" #6
-J M HUBER CORPORATION				RECEIVED:	08/08/83	JA: TX
8348582	F-03-069382	4232131258		103		LOUIS WOLF & "B-1A"
-J ROSE & ASSOCIATES INC				RECEIVED:	08/08/83	JA: TX
8348609	F-7B-069775	4220700000		102-4		CORNELSON #1
-JOHN L COX				RECEIVED:	08/08/83	JA: TX
8348531	F-7C-67376	4246132002		103		AMERADA - NEAL "D" #1
8348532	F-7C-67377	4246132003		103		AMERADA - NEAL "E" #1
8348533	F-7C-67378	4246131989		103		AMERADA - NEAL "35" #1
8348487	F-7C-63628	4246131963		103		AMERADA - NEAL C #1
8348535	F-08-67381	4231700000		103		J C EPLEY #2 RRC #26187
8348536	F-08-67382	4231700000		103		LUIS MADISON "B" #4 RRC #21969
8348486	F-7C-63627	4246131950		103		MOBIL-NEAL "B" #1
8348534	F-7C-67379	4246132010		103		MOBIL-TXL #1 RRC #10151
8348559	F-7C-068425	4238332499		103		ROCKER B "H" #5 RRC #04586
8348537	F-7C-67384	4238332478		103		ROCKER B "Q" #17 RRC #01289
8348557	F-7C-068423	4238332497		103		ROCKER B "R" #16 RRC #05377
8348558	F-7C-068424	4238332496		103		ROCKER B "T" #13 RRC #05416
8348603	F-7C-069667	4238332503		103		ROCKER B Q #18 RRC#05239
8348538	F-08-67418	4231700000		103		STEWART #2 RRC #26041
-JOHNNY G JONES				RECEIVED:	08/05/83	JA: TX
8348650	F-7C-070427	4238300000		103		S R LEESON ETAL (02514) #1
-KILROY CO OF TEXAS				RECEIVED:	08/08/33	JA: TX
8348551	F-03-068105	4236130450		102-4		ARCO-SHANNON #2-T
-LEWIS & ATKINS OIL & GAS INC				RECEIVED:	08/08/83	JA: TX
8348556	F-7B-068408	4236333094		102-4		TALBERT #2
-LOBO OIL CORP				RECEIVED:	08/08/83	JA: TX
8348585	F-7B-069451	4215130863		103		JONI SUE STIFF #2 (RRC #15428)
8348586	F-7B-069452	4215130942		103		JONI SUE STIFF #3 (RRC # 15428)
-MARATHON OIL COMPANY				RECEIVED:	08/08/83	JA: TX
8348628	F-7C-70219	4238300000		108		J L WATKINS #1
8348627	F-7C-070218	4238300000		108		J L WATKINS #2
8348626	F-7C-070217	4238300000		108		J L WATKINS #3
8348625	F-7C-070216	4238300000		108		J L WATKINS #4
-MARSHALL EXPLORATION INC				RECEIVED:	08/08/83	JA: TX
8348465	F-06-66791	4241930354		102-4	103	WATERS #1
-MITCHELL ENERGY CORPORATION				RECEIVED:	08/08/83	JA: TX
8348483	F-09-062639	4249700000		108-ER		ARIZONA BURNS #2
8348464	F-09-035908	4249700000		108-ER		HAZEL COBB #1
8348490	F-09-064344	4249700000		108-ER		INEZ BLEVINS #1
8348469	F-09-050693	4249700000		108-ER		LEWIS F HOLT #1
8348666	F-09-070662	4249732539		103		MONROE CARAWAY UNIT #2
8348463	F-09-030536	4249700000		108-ER		R J ALEXANDER #1
8348462	F-09-004216	4249700000		108-ER		T L DICKENSON #3
8348653	F-09-070524	4249732291		103		WAGGONER (MAYNARD) "A" #2
-MONTERREY PETROLEUM CORP				RECEIVED:	08/08/83	JA: TX
8348480	F-04-61484	4247932935		102-2	107-TF	APACHE #1
-MORGAS				RECEIVED:	08/03/83	JA: TX
8348647	F-10-070384	4248300000		103		BETTY #1 104986
-MORRISON ENERGY CO				RECEIVED:	08/08/83	JA: TX
8348699	F-7B-070781	4213334475		102-4		MARTIN #1
-MORROW RESOURCES INC				RECEIVED:	08/08/83	JA: TX
8348496	F-7C-65223	4245131142		102-2	103	BROWN "B" #4
8348642	F-7C-070347	4245131228		102-2	103	BROWN "C" #12
8348575	F-7C-069152	4232730523		102-2	103	MAULDIN #1
-MOSBACHER PRODUCTION CO				RECEIVED:	08/08/83	JA: TX
8348630	F-03-070245	4216730371		102-4		STATE TRACT 163 #1
-MYERS PHILIP				RECEIVED:	08/08/83	JA: TX
8348611	F-7B-069805	4244733331		102-4		T G HENDRICK TRACT 5 #6 (103796)
-NIELSON ENTERPRISES INC				RECEIVED:	08/08/83	JA: TX
8348596	F-8A-069576	4207900000		103		COX #1
8348595	F-8A-069575	4207900000		103		COX #2
8348592	F-8A-069572	4207900000		103		COX #3
8348594	F-8A-069574	4207900000		103		COX #4
8348593	F-8A-069573	4207900000		103		COX #5
8348598	F-8A-069578	4207900000		103		FRENCH #1
8348597	F-8A-069577	4207900000		103		FRENCH #2
8348591	F-8A-069571	4207900000		103		FRENCH #3
8348599	F-8A-069579	4207900000		103		MARSHALL #1
8348600	F-8A-069580	4207931595		103		PHILLIPS #1
8348602	F-8A-069582	4207931579		103		SLAUGHTER #1-13
8348590	F-8A-069570	4207900000		103		SLAUGHTER #2
8348601	F-8A-069581	4207900000		103		SLAUGHTER #3
-NUGGET OIL CORP				RECEIVED:	08/08/83	JA: TX
8348506	F-02-66076	4217531680		102-4		PEREIRA #1-C
-PATTERSON PETROLEUM INC				RECEIVED:	08/08/83	JA: TX
8348581	F-03-069372	4214931517		102-2		V H WEIMAN #1
-PENNZOIL PRODUCING COMPANY				RECEIVED:	08/08/83	JA: TX

FIELD NAME	PROD	PURCHASER
EDWARDS "04" (SOUTH 7	1.6	
HOLLIS (CONGL)	40.0	TEXAS UTILITIES F
GEORGE BUCK (4TH MINN	912.5	VALERO TRANSMISSI
GEORGE BUCK (4TH MINN	730.0	HOUSTON PIPE LINE
CYRIL (COTTON VALLEY)	700.0	B & A PIPE LINE C
HENDERSON N (COTTON V	900.0	B & A PIPE LINE C
SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
SPRABERRY (TREND AREA	0.0	J L DAVIS
CORPUS CHANNEL EAST (	365.0	HOUSTON PIPELINE
MONAHANS NE (PENN DET	25.0	PHILLIPS PETROLEU
SAWYER (CANYON)	125.0	INTRATEX GAS CO
SAWYER (CANYON)	125.0	INTRATEX GAS CO
GINTHER (MIDCOX)	54.0	VALERO TRANSMISSI
AVIATORS SOUTH (11,80	738.0	HOUSTON PIPE LINE
AMACKER-TIPPETT S W (	115.0	EL PASO NATURAL G
DUDLEY EAST (DEVONIAN	0.0	INTRASTATE GATHER
LUCKY WEST (HARDY HOR	274.0	DOW CHEMICAL USA
BETTY C (CADDO)	0.0	RUST OIL CORP
BENEDUM (FUSSELMAN)	10.0	PHILLIPS PETR CO
BENEDUM (FUSSELMAN)	10.0	PHILLIPS PETR CO
BENEDUM (FUSSELMAN)	10.0	PHILLIPS PETR CO
BENEDUM (FUSSELMAN)	10.0	PHILLIPS PETR CO
SPRABERRY (TA)	10.0	NORTHERN GAS PROD
SPRABERRY (TA)	10.0	NORTHERN GAS PROD
BENEDUM (FUSSELMAN)	10.0	PHILLIPS PETR CO
PEGASUS (SOUTH BEND)	10.0	MOBIL PRODUCING T
SPRABERRY (TREND AREA	10.0	EL PASO NATURAL G
SPRABERRY (TA)	10.0	EL PASO NATURAL G
SPRABERRY (TREND AREA	10.0	EL PASO NATURAL G
SPRABERRY (TA)	10.0	EL PASO NATURAL G
SPRABERRY (TA)	10.0	EL PASO NATURAL G
SPRABERRY (TREND AREA	10.0	NORTHERN GAS PROD
SPRABERRY (TREND AREA	0.0	EL PASO NATURAL G
SHANNON (HACKBERRY)	29.0	UNITED TEXAS TRAN
KESSLER (3980)	46.0	LIQUID ENERGY COR
CLAYTONVILLE SE (5000	40.0	TIPPERARY CORP
CLAYTONVILLE SE (5000	30.0	TIPPERARY CORP
SPRABERRY TREND AREA	4.5	PHILLIPS PETROLEU
SPRABERRY TREND AREA	5.0	PHILLIPS PETROLEU
SPRABERRY TREND AREA	7.0	PHILLIPS PETROLEU
SPRABERRY TREND AREA	8.0	PHILLIPS PETROLEU
CARLILE & HOWELL (640	100.0	UNITED GAS PIPELI
BOONSVILLE	0.0	NATURAL GAS PIPEL
BOONSVILLE	0.0	NATURAL GAS PIPEL
BOONSVILLE	0.0	NATURAL GAS PIPEL
BOONSVILLE	0.0	NATURAL GAS PIPEL
BOONSVILLE/BEND CONGL	426.8	NATURAL GAS PIPEL
BOONSVILLE	0.0	NATURAL GAS PIPEL
BOONSFIELD	0.0	NATURAL GAS PIPEL
BOONSVILLE/BEND CONGL	405.2	LONE STAR GAS CO
GOLD RIVER NORTH (OLM	0.0	SEAGULL PIPELINE
PANHANDLE EAST	48.0	TRANSWESTERN PIPE
MORENCO (MARBLE FALLS	64.0	LONE STAR GAS CO
K W B (STRAWN)	0.0	LONE STAR GAS CO
K W B (STRAWN)	0.0	LONE STAR GAS CO
CELERY (STRAWN B)	0.0	SUN GAS CO
STEPHENSON POINT (SEA	169.0	TRANSCONTINENTAL
SHINNERY BEND (WOLFCA	70.0	HST GATHERING CO
LEVELLAND	20.0	CABOT CORP
LEVELLAND	12.0	CABOT CORP
LEVELLAND	22.0	CABOT CORP
LEVELLAND	22.0	CABOT CORP
LEVELLAND	12.0	CABOT CORP
LEVELLAND	10.0	CABOT CORP
LEVELLAND	10.0	CABOT CORP
LEVELLAND	15.0	CABOT CORP
LEVELLAND	40.0	CABOT CORP
LEVELLAND	20.0	CABOT CORP
LEVELLAND	70.0	CABOT CORP
LEVELLAND	22.0	CABOT CORP
LEVELLAND	30.0	CABOT CORP
DIAL (2000')	50.0	UNITED GAS PIPE L
GIDDINGS (AUSTIN CHAL	438.0	PHILLIPS PETROLEU

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8348608	F-04-069771	4247931970		102		BRUNI-MILLAM MINERAL FEE #51-1
-PETRO-LEWIS CORPORATION				RECEIVED:	08/08/83	JA: TX
8348620	F-7C-069503	4210500000		103		J R BAILEY ESTATE #2
-PETROLEUM EQUITIES CORP				RECEIVED:	08/08/83	JA: TX
8348546	F-7B-070371	4242933563		102-4		B BRININGER "A" #1-A
-PETROLEUM INTERNATIONAL INC				RECEIVED:	08/08/83	JA: TX
8348589	F-10-069568	4209313940		103		YAMINUM #7
-PEYTON MCKNIGHT JR				RECEIVED:	08/08/83	JA: TX
8348681	F-06-070726	4242300000		102-4		H L SWISENHNT #1
8348680	F-06-070725	4242300000		102-4		J W LLOYD ESTATE #1
8348679	F-06-070724	4242300000		102-4		J W LLOYD ESTATE #2-A
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	08/08/83	JA: TX
8348492	F-10-65042	4242100000		103		COY #2
8348488	F-10-64105	4219530872		103		PEARSON #7
8348512	F-10-66906	4234100000		103		T J HUBLEY #2
8348654	F-03-070572	4210333095		103		TUBB D WELL #7 25121
-R A W EMERGY CORP				RECEIVED:	08/08/83	JA: TX
8348554	F-7B-068199	4208333447		102-4		SEALY-SMITH #5
-RAMPY TY				RECEIVED:	08/08/83	JA: TX
8348563	F-05-068778	4239500000		102-4		TY RAMPY #1
-RICHEY & CO INC				RECEIVED:	08/08/83	JA: TX
8348634	F-7B-070255	4213334906		102-4		M WALKER #1
-RICKS EXPLORATION CO				RECEIVED:	08/08/83	JA: TX
8348476	F-10-59170	4205731222		103		SANTA FE 1057-B
-RIDGE OIL CO				RECEIVED:	08/08/83	JA: TX
8348696	F-7B-070769	4213334846		102-4	103	EARNEST #2
8348540	F-7B-067501	4213334768		102-4	103	ERVIN #1
8348619	F-7B-069899	4213334878		102-4	103	HODGES #1
8348631	F-7B-070246	4213334879		102-4	103	HODGES #2
8348695	F-7B-070767	4213334882		102-4	103	NICKS #2
8348621	F-7B-069910	4213334880		102-4	103	R T S #1
-ROPAR OPERATING CO				RECEIVED:	08/03/83	JA: TX
8348651	F-09-070492	4249732551		103		L A MCMULLEN #2
-RYDER SCOTT OIL CO				RECEIVED:	08/08/83	JA: TX
8348678	F-09-070723	4249732548		102-4		FLETCHER UNIT #2 RRC 23250
8348677	F-09-070722	4249732563		102-4		FLETCHER UNIT #3 RRC 23250
-S & J OPERATING CO				RECEIVED:	08/08/83	JA: TX
8348684	F-09-070748	4200935329		103		ABERCROMBIE #1
8348683	F-09-070746	4200935352		103		T B WILSON #2
-SAXON OIL COMPANY				RECEIVED:	08/08/83	JA: TX
8348498	F-7C-65487	4238331930		103		UNIVERSITY "14-2" #2
-SEELY OIL CO				RECEIVED:	08/08/83	JA: TX
8348553	F-7B-068170	4215131454		103		SOLOMON
8348655	F-7B-070584	4242933601		102-4		T P ROBERTSON-METCALF #2
-SEQUOIA OIL & GAS INC				RECEIVED:	08/08/83	JA: TX
8348636	F-09-070289	4223723274		103		MULLINAX #2 WELL
8348637	F-09-070290	4223700000		102-4		MULLINAX #4
-SHELL OIL CO				RECEIVED:	08/08/83	JA: TX
8348605	F-01-069741	4231131836		102-4		BRACKEN #9
-SKLAR & PHILLIPS OIL CO				RECEIVED:	08/08/83	JA: TX
8348643	F-06-070348	4242330624		103	107-TF	CORLEY #1
8348550	F-03-068011	4204130892		102-2		PARKWAY UNIT #1
-SPILLER J A				RECEIVED:	08/08/83	JA: TX
8348493	F-01-65167	4250731709		102-4		O L GRELLE #1 (102825)
8348494	F-01-65168	4250731842		102-4		O L GRELLE #2 (103643)
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	08/08/83	JA: TX
8348702	F-04-070790	4242731736		102-4		LAUREL C #9
8348703	F-7C-070791	4210533920		103		NAN D GRIMMER #5
8348704	F-04-070804	4242700000		108		V L DE PENA #1
-TED TRUE INC				RECEIVED:	08/08/83	JA: TX
8348478	F-10-60682	4206500000		103		MARE 83-6
8348477	F-10-60680	4206500000		103		MARE 83-7
8348474	F-10-57854	4206500000		103		MARE 84-3
8348479	F-10-60840	4206500000		103		MARE 84-7
-TEE OPERATING CO				RECEIVED:	08/03/83	JA: TX
8348482	F-03-62602	4216730912		102-4		HALLS BAYOU RANCH #2
8348569	F-03-068982	4236130457		102-4		MCKEE #1
-TENNECO OIL COMPANY				RECEIVED:	08/08/83	JA: TX
8348604	F-8A-069701	4216532444		103		WESCOTT 21-1
-TEPCO ENGINEERING INC				RECEIVED:	08/03/83	JA: TX
8348485	F-02-62722	4223900000		103		M T WESTHOFF #1-C
-TEX-WELL OIL & GAS CORP				RECEIVED:	08/08/83	JA: TX
8348718	F-10-070820	4206531434		103		WILLIAMS #4 (ID# 05221)
-TEXACO INC				RECEIVED:	08/08/83	JA: TX
8348547	F-08-067869	4210931674		102-4		CULBERSON "X" FEE #10
8348524	F-8A-67222	4216532427		103		J B ROBERTSON #60
8348470	F-06-52561	4218330536		102-4	107-TF	MARTHA BARTON #1
8348520	F-8A-67169	4221933668		103		MONTGOMERY ESTATE DAVIES NCT-2 #92
8348522	F-03-67206	4213500000		108		O B HOLT NCT-1 #38
8348622	F-8A-070030	4221900000		108		O O BAKER #11
8348549	F-8A-067968	4250132268		103		ROBERTS UNIT #3310
8348509	F-8A-66634	4250132271		103		ROBERTS UNIT #4345
8348510	F-8A-66655	4216532409		103		TOBE FOSTER NCT-2 #5A
8348523	F-8A-67220	4216532486		103		WHARTON UNIT #110
8348546	F-8A-067867	4216532526		103		WHARTON UNIT #116
-TOWNER PETROLEUM CO				RECEIVED:	08/03/83	JA: TX
8348564	F-03-068798	4203931875		102-4		G C CANNAN #1
-TRIGG DRILLING COMPANY INC				RECEIVED:	08/08/83	JA: TX
8348466	F-10-50658	4221131424		103		NOAH 1-8
8348467	F-10-50659	4221131350		103		SADIE TEAS #1-42
-TRINITY RESOURCES INC				RECEIVED:	02/08/83	JA: TX
8348638	F-02-070292	4223931859		102-4		FINLEY #2
-TXO PRODUCTION CORP				RECEIVED:	08/03/83	JA: TX
8348502	F-06-65810	4234730903		102-4		CHANDLER #1
8348507	F-06-059748	4234730947		102-4		CHANDLER #2
8348648	F-7C-070389	4223532077		103		LINDLEY "40" #11
8348495	F-02-65219	4223531635		103		MITCHELL E-3
8348529	F-10-67321	4229531274		102-4		STABEL #2
8348552	F-10-060134	4229500000		102-4		STABEL #4
8348606	F-7B-069744	4236732470		103		WOODY "B" #1
-U S OPERATING INC				RECEIVED:	08/03/83	JA: TX
8348682	F-03-070739	4228731217		103		LYNN CLEMENTS #2 RRC ID# 11994
-UNION OIL COMPANY OF CALIF				RECEIVED:	08/08/83	JA: TX
8348497	F-08-65466	4200333360		103		DOLLARHIDE UNIT #3-18-C

FIELD NAME	PROD	PURCHASER
AVIATORS S (WILCOX 9,	15.0	VALERO INTERSTATE
OZONA N E	11.0	NORTHERN NATURAL
L C CLEVINGER (RANGER	10.0	LONE STAR GAS CO
PANHANDLE GRAY	73.0	KERR-MCGEE CORP
ANN MCKNIGHT (PALUXY)	10.0	LONE STAR GAS CO
ANN MCKNIGHT	11.0	LONE STAR GAS CO
ANN MCKNIGHT	14.0	LONE STAR GAS CO
TEXAS - HUGOTON	0.0	MICHIGAN WISCONSI
TEXAS HUGOTON	0.0	PANHANDLE EASTERN
PANHANDLE MOORE	0.0	EL PASO NATURAL G
SAND HILLS (TUBB)	39.0	
LAKE COLEMAN (MORRIS	300.0	UNION TEXAS PETRO
CALVERT EAST (TRAVIS	547.0	LONE STAR GAS CO.
RED (MARBLE FALLS)	52.0	ENSERCH EXPLORATI
WILDCAT	344.0	PRODUCERS GAS CO
RANGER (BLACK LIME WE	26.0	COMPRESSOR RENTAL
RANGER NW (MARBLE FAL	39.6	COMPRESSOR RENTAL
RANGER NW (MARBLE FAL	36.0	COMPRESSOR RENTAL
RANGER NW (MARBLE FAL	39.6	COMPRESSOR RENTAL
RANGER NW (MARBLE FAL	30.6	COMPRESSOR RENTAL
RANGER NW (MARBLE FAL	64.8	COMPRESSOR RENTAL
PARK SPRINGS CONGLOME	90.0	LONE STAR GAS CO
FLETCHER (CONGLOMERAT	65.0	DELHI GAS PIPELIN
FLETCHER (CONGLOMERAT	160.0	DELHI GAS PIPELIN
ARCHER CITY S E (MISS	18.3	PRONTO COMPRESSIO
ARCHER CITY SE (MISS)	18.3	PRONTO COMPRESSIO
SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
PAUL HUNTER (NODDLE C	18.0	TEXAS UTILITIES F
ANN T (MISS)	496.0	GREAT WESTERN GAS
JACK COUNTY REGULAR	0.0	TEXAS UTILITIES F
MULLINAX (3600 STRAWN	0.0	TEXAS UTILITIES F
A W P (OLMOS)	100.0	HPI TRANSMISSION
OVERTON (COTTON VALLE	500.0	UNITED GAS PIPE L
BRYAN (WOODBINE)	90.0	FERGUSON BRAZOS C
WILDCAT	219.0	NORTHERN NATURAL
PRYOR EAST	219.0	NORTHERN NATURAL
SUN NORTH (H-4-4)	538.0	FLORIDA GAS TRANS
OZONA (CANYON SAND)	43.0	NORTHERN NATURAL
KELSEY SOUTH	9.0	FLORIDA GAS TRANS
PANHANDLE	0.0	CABOT PIPELINE CO
PANHANDLE	0.0	CABOT PIPELINE CO
PANHANDLE (CARSON COU	0.0	CABOT PIPELINE CO
PANHANDLE	0.0	CABOT PIPELINE CO
GREENS LAKE EAST (MIO	0.0	AMOCO GAS CO
PEVETO (9600)	0.0	DOW PIPELINE CO
WESCOTT (STRAWN)	0.0	
TEXANA N (6170)	240.0	HOUSTON PIPE LINE
PANHANDLE CARSON	80.0	GETTY OIL CO
GERALDINE	0.4	EL PASO NATURAL G
ROBERTSON N (CLEARFOR	0.0	PHILLIPS PETROLEU
DANVILLE PROSPECT	235.0	
LEVELLAND	0.0	AMOCO PRODUCTION
NORTH COWDEN	1.1	AMOCO PRODUCTION
SLAUGHTER	0.3	AMOCO PRODUCTION
MASSON	0.0	SHELL OIL CO
MASSON	0.0	SHELL OIL CO
D E B (WOLFCAMP)	0.0	PHILLIPS PETROLEU
HARRIS	0.0	PHILLIPS PETROLEU
HARRIS	16.1	PHILLIPS PETROLEU
DAMBURY DOME-WEST	19.4	HOUSTON PIPE LINE
BUFFALOW WALLOW	365.0	
BUFFALO WALLOW	292.0	
PALMETTO BEND	108.0	LONE STAR GAS CO
TOOLAN (PETTIT LO)	171.5	LIBERTY NATURAL G
TOOLAN (PETTIT LO)	47.5	LIBERTY NATURAL G
ROCK PEN (CANYON)	100.0	NORTHERN NATURAL
SPEAKS SW (WILCOX A)	0.0	HOUSTON PIPE LINE
DUKE - MAY	200.0	DELHI GAS PIPELIN
DUKE-MAY (TONKAWA)	200.0	DELHI GAS PIPELIN
DICEY (CONGLOMERATE)	250.0	TEXAS UTILITIES F
GIDDINGS (AUSTIN CHAL	0.0	PERRY PIPELINE CO
DOLLARHIDE (CLEARFORK	20.0	DOLLARHIDE GASOLI

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8348725	F-8A-070834	4230330844		102-2		G H GRISSOM #1	EDMISSON (CLEARFORK)	5.0	
8348541	F-08-067505	4238931035		108		H F ANTHONY #7	WORSHAM (CHERRY CANYO	10.0	EL PASO NATURAL G
8348722	F-8A-070831	4230330645		102-2		MCCAULEY #1	EDMISSON (CLEARFORK)	5.0	
8348723	F-8A-070832	4230330807		102-2		MCCAULEY #2	EDMISSON (CLEARFORK)	5.0	
8348724	F-8A-070833	4230330808		102-2		MCCAULEY #3	EDMISSON (CLEARFORK)	10.0	
-UNION TEXAS PETROLEUM				RECEIVED:	08/08/83	JA: TX			
8348698	F-7C-070779	4223532074		102-2		SUGG "15" #2	ANDREW A (CANYON)	256.0	FARMLAND INDUSTRI
-VAN OIL CORP				RECEIVED:	08/08/83	JA: TX			
8348543	F-7B-067737	4213334778		102-4		J.S BROWN #107	FAIR (MARBLE FALLS LO	354.0	NORTHERN GAS PROD
-VAUGHN PETROLEUM INC				RECEIVED:	08/08/83	JA: TX			
8348665	F-7B-070642	4235331422		102-4		SIMMONS EST K	J&J (CADDO)	0.0	PALO DURO PIPELIN
-W C PAYNE				RECEIVED:	08/08/83	JA: TX			
8348629	F-10-07022	4221131542		103		MAHLER #1-138	PARSELL - UPPER MORRO	300.0	PHILLIPS PETROLEU
-WCS PETROLEUM CO				RECEIVED:	08/08/83	JA: TX			
8348571	F-03-069013	4214931522		102-2		ROHDE #1	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
-WILLIAMS EXPLORATION COMPANY				RECEIVED:	08/08/83	JA: TX			
8348584	F-02-069414	4205731136		102-4		P H WELDER "D" #6		184.0	SEAGULL PIPELINE
8348545	F-02-06783	4205731236		102-4		P H WELDER D-9	KATIE WELDER (F-4)	183.0	SEAGULL PIPELINE
-WILLIAMS PETROLEUM CO				RECEIVED:	08/08/83	JA: TX			
8348664	F-7B-070618	4236300000		103		B R A #1	PK DAM (CONGLOMERATE	60.0	TEXAS UTILITIES F
8348663	F-7B-070617	4236300000		103		B R A #2	PK DAM (CONGLOMERATE	500.0	TEXAS UTILITIES F
-WINN EXPLORATION/DULCE CO				RECEIVED:	08/08/83	JA: TX			
8348573	F-01-069055	4250731889		102-4		PRYOR RANCH #118	WINN-DULCE	0.0	VALERO TRANSMISSI
-WISENBAKER PRODUCTION CO				RECEIVED:	08/08/83	JA: TX			
8348568	F-06-068956	4236531535		102-4	103	MITCHELL HEIRS #1 RRC ID NO 174344	ITEX (PETTET)	15.0	EASTEX GAS TRANSM
-WOODHAM OIL CORP				RECEIVED:	08/08/83	JA: TX			
8348656	F-01-070590	4250731942		102-4		JESSEE #1-C	DARSEY (SAN MIGUEL-A)	219.0	HOUSTON PIPELINE
8348657	F-01-070591	4250731942		102-4		JESSEE #1-T	DARSEY (SAN MIGUEL-B)	312.0	HOUSTON PIPELINE
8348659	F-01-070593	4250731805		102-4		PRYOR #1-C	WOODHAM (ESCONDIDO)	146.0	HOUSTON PIPELINE
8348658	F-01-070592	4250731805		102-4		PRYOR #1-T	WOODHAM (SAN MIGUEL-1)	278.0	HOUSTON PIPELINE
8348660	F-01-070594	4250731867		102-4		PRYOR #2	WOODHAM (OLMOS-3)	146.0	HOUSTON PIPELINE
8348662	F-01-070596	4250731918		102-4		PRYOR #3-C	WOODHAM (OLMOS)	234.0	HOUSTON PIPELINE
8348661	F-01-070595	4250731918		102-4		PRYOR NO 3-T	WOODHAM (OLMOS-4)	164.0	HOUSTON PIPELINE
-WTG EXPLORATION INC				RECEIVED:	08/08/83	JA: TX			
8348500	F-7C-65647	4210534310		103	107-TF	MILLER #2	OZONA	73.0	NORTHERN NATURAL

[FR Doc. 83-23488 Filed 8-25-83; 8:45 am]

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Friday
August 26, 1983

Part VII

Environmental Protection Agency

Standards of Performance for New Stationary Sources; Appendix A; Calibration Revisions and Amendment to Methods 5 and 6

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD–FRL 2379–3]

Standards of Performance for New Stationary Sources; Appendix A; Calibration Revisions and Amendment to Methods 5 and 6

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Revisions to Appendix A of 40 CFR Part 60 to allow the use of a standardized dry gas meter in place of the wet test meter as a calibration standard in Methods 5 and 6 and an amendment to correct the calibration procedure in Method 6 were proposed in the **Federal Register** on October 7, 1982 (47 FR 44350). This action promulgates the revisions and the amendment. The intended effect of this final rule is to allow those sources, subject to the standards of performance specifying the use of Method 5 or Method 6 equipment, to use a standardized dry gas meter as an alternative calibration standard and to require them to use the amended calibration procedure in Method 6.

EFFECTIVE DATE: August 26, 1983. Under Section 307(b)(1) of the Clean Air Act, judicial review of the revisions and amendment is available *only* by the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of today's publication of this rule. Under Section 307(b)(2) of the Clean Air Act, the requirements that are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

ADDRESSES: *Docket.* A docket, number A–82–06, containing information considered by EPA in the development of the promulgated revisions and amendment is available for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section (LE–131), West Tower Lobby, Gallery 1, 401 M Street SW., Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Roger T. Shigehara, Emission Measurement Branch, Emission Standards and Engineering Division (MD–19), U.S. Environmental Protection Agency, Reseach Triangle Park, North Carolina 27711, telephone (919) 541–2237.

SUPPLEMENTARY INFORMATION:

Revisions and Amendment

The revisions are being made because studies have shown that the dry gas meter can be used as a calibration standard in place of a wet test meter, provided that the dry gas meter is calibrated initially and recalibrated periodically. The amended Method 6 dry gas meter calibration procedure requires the drying tube to be disconnected during calibration. This step eliminates the error caused by moisture from the wet test meter.

This rulemaking does not impose any additional emission measurement requirements on any facilities. Rather, the rulemaking simply allows an alternative calibration procedure and amends a calibration procedure in test methods associated with emission measurement requirements that would apply irrespective of this rulemaking.

Public Participation

The revisions and amendment were proposed and published in the **Federal Register** on October 7, 1982 (47 FR 44350). Public comments were solicited at the time of proposal. A public hearing was offered to provide interested persons the opportunity for oral presentation of data, views, or arguments concerning the proposal, but no person requested to speak. Three comment letters were received.

Significant Comments and Changes to the Proposed Revisions and Amendment

The promulgated revisions differ only slightly from the proposed revisions. Most of the changes were for clarity and editorial in nature.

Two of the commenters stated that although the capital cost is considerably less for the proposed technique, the requirement for the annual or 200-hour recalibration will require periodical calibration costs. The first commenter felt that the overall reduction in cost may not warrant the relaxation of the primary standard requirement. The second commenter felt that it would be more economical to buy the wet test meter initially, rather than to buy both or to buy a dry test meter and the calibration service.

EPA agrees that the overall reduction in cost may not be appreciable over a long term or helpful to a firm that does a high volume of testing. However, the use of a dry test meter may be advantageous to some. Since the relaxation of the primary standard requirement is less than 1 percent, EPA feels there is no reason not to allow this alternative. In addition, if records of dry gas meter stability and accuracy with use demonstrate that the 200-hour limitation can be extended, EPA will amend the limitation.

The third commenter favored the proposed revision.

Docket

The docket is an organized and complete file of all the information considered by EPA in the development of this rulemaking. The docket is a dynamic file, since material is added throughout the rulemaking development. The docketing system is intended to allow members of the public and industries involved to identify readily and locate documents so that they can intelligently and effectively participate in the rulemaking process. Along with the statement of basis and purpose of the proposed and promulgated rule and EPA responses to significant comments, the contents of the docket will serve as the record in case of judicial review [Section 307(d)(7)(A)].

Miscellaneous

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a regulatory impact analysis. This regulation is not major because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices; and there will be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This action was exempt from review under Executive Order 12291.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the attached rule will not have a significant economic impact on small entities, because the revisions include alternative equipment and procedure, and the amendment does not impose any substantial additional cost.

List of Subjects in 40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Asphalt, Cement industry, Coal Copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Metallic Minerals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel, Sulfuric acid plants, Waste Treatment and disposal, Zinc, Tires, Incorporation by Reference, Can surface coating.

Dated: August 18, 1983.
William D. Ruckelshaus,
Administrator.

PART 60—[AMENDED]

Appendix A—[Amended]

Method 5 and Method 6 of Appendix A of 40 CFR Part 60 are amended as follows:

1. The authority citation for these revisions and amendment is as follows:

Authority: Sections 111, 114, and 301(a) of the Clean Air Act, as amended [42 U.S.C. 7411, 7414, and 7601(a)].

2. In Method 5, the words "Section 7" are changed to "Bibliography" in the following three places:

a. Method 5, Section 2.1, first paragraph.

b. Method 5, Section 2.1, second paragraph.

c. Method 5, Section 4.1.5, third paragraph.

3. In Method 5, the heading "7. *Bibliography*" is redesignated as "8. *Bibliography*."

4. In Method 5, a new Section 7 and Citation 10 are added as follows:

Appendix A—Reference Methods

* * * * *

Method 5. Determination of Particulate Matter From Stationary Sources

* * * * *

7. Alternative Procedures

7.1 Dry Gas Meter as a Calibration Standard. A dry gas meter may be used as a calibration standard for volume measurements in place of the wet test meter specified in Section 5.3, provided that it is calibrated initially and recalibrated periodically as follows:

7.1.1 Standard Dry Gas Meter Calibration.

7.1.1.1 The dry gas meter to be calibrated and used as a secondary reference meter should be of high quality and have an appropriately sized capacity, e.g., 3 liters/rev (0.1 ft ^{3}/rev). A spirometer (400 liters or more capacity), or equivalent, may be used for this calibration, although a wet test meter is usually more practical. The wet test meter should have a capacity of 30 liters/rev (1 ft ^{3}/rev) and capable of measuring volume to within ±1.0 percent; wet test meters should be checked against a spirometer or a liquid displacement meter to ensure the accuracy of the wet test meter. Spirometers or wet test meters of other sizes may be used, provided that the specified accuracies of the procedure are maintained.

7.1.1.2 Set up the components as shown in Figure 5.7. A spirometer, or equivalent, may be used in place of the wet test meter in the system. Run the pump for at least 5 minutes at a flow rate of about 10 liters/min (0.35 cfm) to condition the interior surface of the wet test meter. The pressure drop indicated by the manometer at the inlet side of the dry gas meter should be minimized [no greater than 100 mm H_2O (4 in. H_2O) at a flow rate of 30 liters/min (1 cfm)]. This can be accomplished by using large diameter tubing connections and straight pipe fittings.

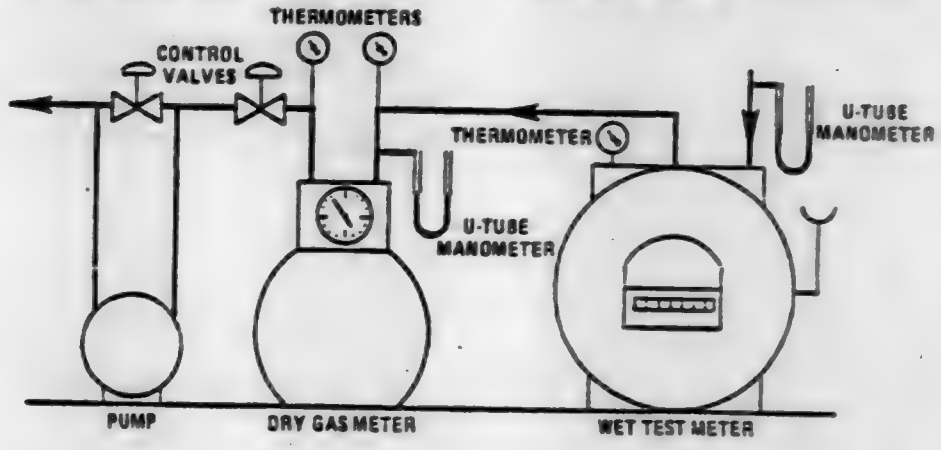

Figure 5.7 . Equipment arrangement for dry-gas meter calibration.

7.1.1.3 Collect the data as shown in the example data sheet (see Figure 5–8). Make triplicate runs at each of the flow rates and at no less than five different flow rates. The range of flow rates should be between 10 and 34 liters/min (0.35 and 1.2 cfm) or over the expected operating range.

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DATE:_____

DRY GAS METER IDENTIFICATION:_____

BAROMETRIC PRESSURE (P_b):_____ in. Hg

APPROXIMATE FLOW RATE ($\tilde{Q}$) cfm	SPIROMETER (WET METER) GAS VOLUME (V_s) ft^3	DRY GAS METER VOLUME (V_{dg}) ft^3	TEMPERATURES				DRY GAS METER PRESSURE (Δp) in. H_2O	TIME (Θ) min.	FLOW RATE (Q) cfm	METER METER COEFFICIENT (Y_{ds})	AVERAGE METER COEFFICIENT ($\bar{Y}_{ds}$)
			SPIROMETER (WET METER) (t_s) °F	DRY GAS METER							
				INLET (t_i) °F	OUTLET (t_o) °F	AVERAGE ($\bar{t}_d$) °F					
0.40											
0.60											
0.80											
1.00											
1.20											

$$Q = 17.65 \cdot \frac{V_s}{\Theta} \cdot \frac{P_b}{(t_s + 460)}$$

$$Y_{ds} = \frac{V_s}{V_{dg}} \cdot \frac{(\bar{t}_d + 460)}{(t_s + 460)} \cdot \frac{P_b}{\left(P_b + \frac{\Delta p}{13.6}\right)}$$

Figure 5.8. Example data sheet for calibration of a standard dry gas meter for method 5 sampling equipment (English units).

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7.1.1.4 Calculate flow rate, Q, for each run using the wet test meter gas volume, V_w, and the run time, θ. Calculate the dry gas meter coefficient, Y_{dm}, for each run. These calculations are as follows:

$$Q = K_1 \frac{P_{bar}}{t_w + t_{std}} \frac{V_w}{\theta}$$

$$Y_{dm} = \frac{V_w}{V_{dm}} \frac{(t_{dm} + t_{std})}{(t_w + t_{std})} \frac{P_{bar}}{\left(P_{bar} + \frac{\Delta p}{13.6}\right)}$$

Where:

K_1 = 0.3858 for international system of units (SI); 17.64 for English units.

V_w = Wet test meter volume, liters (ft^3).

V_{dm} = Dry gas meter volume, liters (ft^3).

t_{dm} = Average dry gas meter temperature, °C (°F).

t_{std} = 273° C for SI units; 460° F for English units.

t_w = Average wet test meter temperature, °C (°F).

P_{bar} = Barometric pressure, mm Hg (in. Hg).

Δp = Dry gas meter inlet differential pressure, mm H_2O (in. H_2O).

θ = Run time, min.

7.1.1.5 Compare the three Y_{dm} values at each of the flow rates and determine the maximum and minimum values. The difference between the maximum and minimum values at each flow rate should be no greater than 0.030. Extra sets of triplicate runs may be made in order to complete this requirement. In addition, the meter coefficients should be between 0.95 and 1.05. If these specifications cannot be met in three sets of successive triplicate runs, the meter is not suitable as a calibration standard and should not be used as such. If these specifications are met, average the three Y_{dm} values at each flow rate resulting in five average meter coefficients, $\bar{Y}_{dm}$.

7.1.1.6 Prepare a curve of meter coefficient, $\bar{Y}_{dm}$ versus flow rate, Q, for the dry gas meter. This curve shall be used as a reference when the meter is used to calibrate other dry gas meters and to determine whether recalibration is required.

7.1.2 Standard Dry Gas Meter Recalibration.

7.1.2.1 Recalibrate the standard dry gas meter against a wet test meter or spirometer annually or after every 200 hours of operation, whichever comes first. This requirement is valid provided the standard dry gas meter is kept in a laboratory and, if transported, cared for as any other laboratory instrument. Abuse to the standard meter may cause a change in the calibration and will require more frequent recalibrations.

7.1.2.2 As an alternative to full recalibration, a two-point calibration check may be made. Follow the same procedure and equipment arrangement as for a full recalibration, but run the meter at only two flow rates [suggested rates are 14 and 28 liters/min (0.5 and 1.0 cfm)]. Calculate the meter coefficients for these two points, and compare the values with the meter calibration curve. If the two coefficients are within ±1.5 percent of the calibration curve values at the same flow rates, the meter need not be recalibrated until the next date for a recalibration check.

8. * * *

11. Westlin, P. R. and R. T. Shigehara. Procedure for Calibrating and Using Dry Gas Volume Meters as Calibration Standards. Source Evaluation Society Newsletter. *3*(1):17–30. February 1978.

* * * * *

5. In Method 6, second paragraph of Section 5.1.1. the phrase "remove the drying tube and" is added at the beginning of the sentence and the words "of the dry tube" are deleted at the end of the sentence as follows:

* * * * *

Method 6—Determination of Sulfur Dioxide Emissions from Stationary Sources

* * * * *

5.1.1 * * *

Next, remove the drying tube and calibrate * * * to the inlet.

* * *

* * * * *

6. In Method 6, the heading "7. *Bibliography*" is redesignated as "8. *Bibliography*."

7. In Method 6, a new Section 7 and Citations 9 and 10 are added as follows:

* * * * *

Method 6—Determination of Sulfur Dioxide Emissions from Stationary Sources

* * * * *

7. *Alternative Procedures*

7.1 Dry Gas Meter as a Calibration Standard. A dry gas meter may be used as a calibration standard for volume measurements in place of the wet test meter specified in Section 5.1, provided that it is calibrated initially and recalibrated periodically according to the same procedures outlined in Method 5, Section 7.1, with the following exception: (1) the dry gas meter is calibrated against a wet test meter having a capacity of 1 liter/rev or 3 liters/rev and having the capability of measuring volume to within ±1 percent; (2) the dry gas meter is calibrated at 1 liter/min (2 cfh); and (3) the meter box of the Method 6 sampling train is calibrated at the same flow rate.

8. * * *

9. Westlin, P. R. and R. T. Shigehara. Procedure for Calibrating and Using Dry Gas Meter Volume Meters as Calibration Standards. Source Evaluation Society Newsletter. *3*(1):17–30. February 1978.

10. Yu, K. K. Evaluation of Moisture Effect on Dry Gas Meter Calibration. Source Evaluation Society Newsletter. *5*(1):24–28. February 1980.

* * * * *

[FR Doc. 83-23308 Filed 8-25-83; 8:45 am]

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Friday
August 26, 1983

Part VIII

Department of Commerce

Patent and Trademark Office

Proposed Revision of Patent Practice

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 1

[Docket No. 30725-143]

Proposed Revision of Patent Practice

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Patent and Trademark Office proposes to amend the rules of practice in patent cases, Part 1 of 37 CFR, to clarify the practice under certain sections of Pub. L. 97-247 of 1982 and to make certain other changes and clarifications in practice which have been found desirable after some experience. The changes proposed would change the practice under §§ 1.27 and 1.28 with regard to subsequently establishing small entity status and qualifying for a refund of fees paid in full. The proposed changes in other rules are intended to clarify and improve the practice in certain areas.

DATES: Comments must be submitted on or before October 18, 1983; a public hearing will be held on October 18, 1983, 9:30 a.m.; requests to present oral testimony should be received on or before October 11, 1983.

ADDRESS: Address written comments and requests to present oral testimony to the Commissioner of Patents and Trademarks, Washington, D.C. 20231, Attention: R. Franklin Burnett, Room 3-11A13. The hearing will be held in Room 6-1215, on the 12th floor of Building 6, Crystal Plaza, located at 2221 Jefferson Davis Highway, Arlington, Virginia. Written comments and a transcript of the public hearing will be available for public inspection in Room 11A13 of Building 3, Crystal Plaza at 2021 Jefferson Davis Highway, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: R. Franklin Burnett by telephone at (703) 557-3054 or by mail marked to his attention and addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231.

SUPPLEMENTARY INFORMATION: This proposed rule change is designed primarily to (1) clarify the small entity status of independent inventors, small business concerns and nonprofit organizations having funding agreements with a federal governmental agency as defined in 35 U.S.C. 202(c)(4); (2) rewrite § 1.28 to provide a system for obtaining a refund of a portion of a fee paid in full when small entity status is established within two months of the date of such payments; (3) provide that a separate statement establishing small entity status is not required in an application filed under § 1.62 when such status has been established in the parent application; and (4) modify certain other rules to clarify practice.

Proposed new § 1.21(1) would establish a fee for processing and retaining any application which is abandoned for failing to complete the application pursuant to § 1.53(d). This proposed new paragraph, as well as the proposed changes to §§ 1.53 and 1.78, would indicate that in order to obtain benefit of a prior U.S. application, either the basic filing fee or the processing and retention fee of § 1.21(1) must be paid. Proposed § 1.53(d) would further establish that the application will be disposed of if the required fee is not paid within a set period. Proposed § 1.56(b) would require submission of copies of foreign patent documents, non-patent publications, or other non-patent items of information diclosed pursuant to the duty to disclose. Proposed new § 1.191(d) would clarify that §§ 1.136 or 1.550(c) apply to all time periods set forth in §§ 1.191-1.194, 1.196 and 1.197.

Discussion of Specific Rules

Section 1.5, paragraph (a), if amended as proposed, would remove a reference to § 1.55, which is no longer appropriate.

Section 1.6, if amended as proposed, would clarify the manner in which letters and papers which are filed in accordance with § 1.10 by "Express Mail" are date stamped when received in the Patent and Trademark Office. Such letters and papers, which comply with § 1.10, will be stamped with the date of deposit as "Express Mail" with the United States Postal Service unless the date of deposit is a Saturday, Sunday or federal holiday within the District of Columbia, in which case the date stamped will be the next succeeding day which is not a Saturday, Sunday, or a federal holiday within the District of Columbia. No papers are received in the Patent and Trademark Office on Saturdays, Sundays, or federal holidays within the District of Columbia.

Section 1.14, if amended as proposed, would revise paragraph (b) to clarify that only complete patent applications as defined in § 1.51(a) which become abandoned will be retained for a period of twenty years from the filing date. Incomplete applications will be retained as provided in proposed §§ 1.21 and 1.53.

Section 1.19, paragraph (b)(3), if amended as proposed, would clarify that only copies made from Office records, but not prepared by the Office, will be compared with the original prior to certification of the copies. The Office will not compare copies made from some other copy or record with Office records for purposes of certification. The stated charge of ten cents per page would not be sufficient to make a word-by-word comparison. The requirements of the public appear to still be served by limiting the use of the comparison fee to Office records.

Section 1.21, if amended as proposed, would revise paragraph (b)(2) and establish a new paragraph (1). The change in paragraph (b)(2) is in accord with the proposed change in § 1.25(a). Proposed new paragarph (1) provides a fee for processing and retaining any application which is abandoned pursuant to § 1.53(d). Such applications have received a filing date pursuant to 35 U.S.C. 111 but have been abandoned for failure to complete the application by filing the oath or declaration, filing fee or surcharge (§ 1.16(e)). The proposed fee would cover the handling, filming, processing, data input and storage required to retain an application. The proposed fee would not be due in any application in which the basic filing fee was paid.

Section 1.25, if amended as proposed, would revise paragraph (a) to set the minimum deposit for a deposit account at $1000 and to clarify that an amount sufficient to cover all fees as well as services, copies, etc., requested must always be on deposit. This minimum amount is considered necessary and proper in view of the substantial increase in the amounts of fees being charged to deposit accounts and the processing costs of handling these accounts. Proposed paragraph (b) would clarify that fees may be charged against a deposit account only where sufficient funds are on depoist to cover the entire amount of the fees. Proposed paragraph (b) would also clarify that an authorization to charge a fee to a deposit account will not be considered payment on the date the authorization to charge is effective as to that fee unless sufficient funds are present in the account to cover the fee.

Section 1.27, if amended as proposed, would revise paragraphs (b), (c) and (d) to provide clearly that an independent inventor, small business concern, or nonprofit organization, which is otherwise qualified as a small entity for purposes of paying reduced patent fees under 37 CFR 1.9 and 1.27, is not disqualified therefrom because of a license to a federal agency pursuant to 35 U.S.C. 202(c)(4). Section 1.27 is proposed to be amended to state that such a license does not constitute a license or a conveyance of rights which

would preclude qualifying for small entity status. The amendment is necessary for clarification and to avoid frustrating the intent of Pub. L. 97-247 and Pub. L. 96.517 when taken together.

The text of title 35, United States Code, section 202(c)(4) reads as follows:

§ 202. Disposition of rights.

(c) Each funding agreement with a small business firm or nonprofit organization shall contain appropriate provisions to effectuate the following:

* * * * *

(4) With respect to any invention in which the contractor elects rights, the Federal agency shall have a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States any subject invention throughout the world, and may, if provided in the funding agreement, have additional rights to sublicense any foreign government or international organization pursuant to any existing or future treaty or agreement.

Section 1.28, if amended as proposed, would revise paragraph (a) to clarify that a separate verified statement is not required to be filed in a file wrapper continuing application filed pursuant to § 1.62, if status as a small entity has been established in the parent application and is still proper. Proposed § 1.28(a) would also permit a refund of a fee timely paid in the full amount if within two months of the date of the full timely payment: (1) Small entity status is properly established, and (2) a refund is requested. Under proposed § 1.28(a), no request for a refund filed later than two months after the date on which a full fee has been paid will be entertained. Proposed § 1.28(a) would provide for, in somewhat modified form, the practice presently in effect pursuant to a waiver of § 1.28 published at 1023 O.G. 77 on October 26, 1982 and extended at 1027 O.G. 115 on February 15, 1983.

The revised refund procedures in proposed § 1.28(a) would apply to any fees timely paid in full on or after the effective date of the final rule. The refund procedures set forth in the Patent and Trademark Office *Official Gazette* Notice entitled "Filing of Verified Statements Claiming Small Entity Status" published at 1023 O.G. 77 on October 26, 1982, and the *Official Gazette* Notice entitled "Requirement for Filing Verified Statements Claiming Small Entity Status" published at 1027 O.G. 115 on February 15, 1983, continue in effect until the effective date of the final rule or until other action is taken.

Section 1.52(d), if amended as proposed, would clarify that the verified English translation of a non-English language application and the fee set forth in § 1.17(k) can be filed with the application or within such time as may be set by the Office.

Section 1.53, paragraphs (b) and (d), if amended as proposed, would clarify in paragraph (b) that the application for patent must be filed in the name of the actual inventor or inventors by giving all their names as required by § 1.41. Proposed paragraph 1.53(d) would state that if a correspondence address is provided, notice would be provided where the appropriate filing fee or oath or declaration do not accompany the application. Proposed paragraph 1.53(d) would also provide that if the required filing fee is not paid, or the processing and retention fee is not paid, within one year of the date of mailing of notification pursuant to proposed paragraph 1.53(d), the application will be disposed of. The proposed paragraph wording would further indicate that no copies will be provided or certified by the Office of an application which has been disposed of or in which neither the basic filing fee nor the processing fee has been paid. Finally, proposed paragraph 1.53(d) would specify that if no correspondence address is included in the application, applicant will have two months from the filing date to file the fee, oath or declaration and to pay the surcharge set forth in § 1.16(e) in order to prevent abandonment of the application.

Section 1.55, paragraph (b), if amended as proposed, would correct an error in referring to paragraph (a) of this section.

Section 1.56, if amended as proposed, would revise paragraph (b) and add a new paragraph (j). Proposed paragraph 1.56(b) would require that a copy of each foreign patent document, non-patent publication, or other non-patent item of information in written form being disclosed pursuant to § 1.56 accompany such disclosure. Proposed paragraph 1.56(b) would also add "or her" to refer to both genders. Proposed new paragraph 1.56(j) would state that applicant would be notified if a copy of each foreign patent document, non-patent publication, or other non-patent item of information in written form is not submitted and given a time period within which to file the copy or state that the copy is not in the possession of the person making the disclosure. Such a time period would be extendable under § 1.136. Failure to respond in a proper and timely manner would result in abandonment of the application.

Section 1.59, if amended as proposed, would clarify that the Office will furnish copies of papers received in the Office at the usual cost only if the basic filing fee or the processing and retention fee has been paid.

Section 1.60, if amended as proposed, would break the section into paragraph (a) and new paragraph (b). Paragraph (a) would add a reference to proposed amended § 1.78(a) to clarify the conditions under which continuation or divisional applications may be filed. Proposed new paragraph 1.60(b) would provide that the signing of the oath or declaration could be omitted if the prior application was complete as set forth in § 1.51(a). Proposed new paragraph 1.60(b) also requires that a true copy of the prior complete application be filed. Proposed paragraph 1.60(b) would also provide that only amendments reducing the number of claims or adding a reference to the prior application will be entered before calculating the filing fee and granting the filing date.

Section 1.62, if amended as proposed, would revise paragraphs (a) and (d). Proposed paragraph 1.62(a) would provide that the file wrapper continuing procedure is applicable only to prior complete applications under § 1.51(a). Proposed paragraph 1.62(d) would clarify that the filing fee referred to is the basic filing fee.

Section 1.78, if amended as proposed, would change the title to more explicitly define the contents of the section and proposed paragraph (a). Proposed paragraph 1.78(a) would specify that in order for an application to claim the benefit of a prior filed copending national application, the prior application must be complete as set forth in § 1.51(a) or be entitled to a filing date as set forth in § 1.53(b) and include the basic filing fee set forth in § 1.16, or be entitled to a filing date as set forth in § 1.53(b) and have paid the processing and retention fee set forth in § 1.21(l) within the time period set forth in § 1.53(d).

Section 1.121, if amended as proposed, would revise paragraph (e) to specify how amendments to the description and claims are to be made in reissue applications.

Section 1.123, if amended as proposed, would clarify that the paper requesting amendments to the drawing should be a separate paper.

Section 1.135 is proposed to be amended by removing paragraph (d) since it is not necessary in view of the ability to obtain extensions of time under § 1.136(a) by petition and payment of fee.

Section 1.136, if amended as proposed, would clarify in paragraphs (a) and (b) that the extension of time practice under this section does not apply in interference proceedings or in

reexamination proceedings. Extension of time practice in interference proceedings, including extension of time for appeal or civil action (§ 1.304), is subject to § 1.245. Extension of time practice in reexamination proceedings, including extension of time for appeal or civil action (§ 1.304), is subject to § 1.550(c).

Section 1.191, if amended as proposed, would add a new paragraph (d) to provide that the time periods for appeal and review set forth in §§ 1.191–1.194, 1.196 and 1.197 are subject to the provisions of § 1.136 for patent applications or § 1.550(c) for reexamination proceedings.

Section 1.192, if amended as proposed, would revise paragraph (a) to delete the reference to § 1.136 since it is provided for in proposed new § 1.191(d).

Section 1.197, if amended as proposed, would revise paragraph (b) to delete the reference to § 1.136 since it is provided for in proposed new § 1.191(d).

Section 1.304, if amended as proposed, would clarify that extensions of time periods set forth therein are subject to the provisions of § 1.245 for interferences or § 1.550(c) where reexamination proceedings are involved rather than to § 1.136 which applies in all other cases.

Section 1.550, if amended as proposed, would revise paragraph (c) to clarify that the time for taking any action, including appeal, by a patent owner in a reexamination proceeding is governed solely by this section.

Section 1.555, if amended as proposed, would revise paragraphs (a) and (b). Proposed paragraph 1.555(a) would change "prior art" statement to—information disclosure—statement to conform to the language of § 1.98. Proposed paragraph 1.555(b) would require that disclosures pursuant to this paragraph be accompanied by a copy of each foreign patent document or non-patent printed publication which is being disclosed and which is in the possession of the person making the disclosure.

Environmental, energy, and other considerations: The proposed rule change will not have a significant impact on the quality of the human environment or the conservation of energy resources.

The proposed rule change is in conformity with the requirements of the Regulatory Flexibility Act (Pub. L. 96–354), Executive Order 12291, and the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

The rule change will not have a significant adverse economic impact on a substantial number of small entities (Regulatory Flexibility Act, Pub. L. 96–354). Public Laws 96–517 and 97–247 have both taken into consideration the impact they may have on small entities.

The Patent and Trademark Office has determined that this rule change is not a major rule under Executive Order 12291. The annual effect on the economy will be less than $100 million.

There will be no major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions. There will be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rule change will not impose a burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, since no significant additional record keeping or reporting requirements are placed upon the public. In fact, some paperwork, especially that related to filing of small entity statements in applications filed under § 1.62 will be reduced.

List of Subjects in 37 CFR Part 1

Administrative practice and procedure, Authority delegations (government agencies), Conflict of interests, Courts, Inventions and patents, Lawyers.

Notice is hereby given that, pursuant to the authority granted to the Commissioner of Patents and Trademarks by 35 U.S.C. 6 and Pub. L. 97–247, the Patent and Trademark Office proposes to amend Title 37 of the Code of Federal Regulations as set forth below.

PART 1—[AMENDED]

It is proposed to amend 37 CFR, Part 1, as follows with deletions indicated by brackets and additions by arrows.

1. Section 1.5 is proposed to be amended by revising paragraph (a) to read as follows:

§ 1.5 Identification of application, patent or registration.

(a) When a letter concerns an application for patent, it should state the name of the applicant, the title of the invention, the serial number or international application number of the application, the date of filing the same, and, if known, the group art unit and name of the examiner to which it has been assigned [(see § 1.55)].

* * * * *

2. Section 1.6 is proposed to be amended by revising paragraph (a) to read as follows:

§ 1.6 Receipt of letters and papers.

(a) Letters and other papers received in the Patent and Trademark Office are stamped with the date of receipt ► Except where such letters and papers are filed in accordance with § 1.10. Any such letters and papers filed in accordance with § 1.10 will be stamped with the date of deposit as "Express Mail" with the United States Postal Service unless the date of deposit is a Saturday, Sunday, or federal holiday within the District of Columbia in which case the date stamped will be the next succeeding day which is not a Saturday, Sunday, or a federal holiday within the District of Columbia ◄. No papers are received in the Patent and Trademark Office on Saturdays, Sundays or federal holidays within the District of Columbia.

* * * * *

3. Section 1.14 is proposed to be amended by revising paragraph (b) to read as follows:

§ 1.14 Patent applications preserved in secrecy.

* * * * *

(b) Except as provided in § 1.11(b) abandoned applications are likewise not open to public inspection, except that if an application referred to in a U.S. patent, or in an application which is open to inspection pursuant to § 1.139, is abandoned and is available, it may be inspected or copies obtained by any person on written request, without notice to the applicant. [Abandoned] ► Complete ◄ applications ► (§ 1.51(a)) which are abandoned ◄ may be destroyed after 20 years from their filing date, except those to which particular attention has been called and which have been marked for preservation. Abandoned applications will not be returned.

* * * * *

4. Section 1.19 is proposed to be amended by revising paragraph (b)(3) to read as follows:

§ 1.19 Document supply fees.

* * * * *

(b) * * *

(3) for comparing copies ► , made from Patent and Trademark Office records but ◄ not prepared by the ►Patent and Trademark ◄ Office ► , ◄ with the original, prior to certification of the copies, per page, $0.10.

* * * * *

5. Section 1.21 is proposed to be amended by revising paragraph (b)(2) and by adding a new paragraph (1) to read as follows:

§ 1.21 Miscellaneous fees and charges.

* * * * *

(b) * * *

(2) Service charge for each month when the balance at the end of the month is below [$40] ►$1000◄, $2.00

* * * * *

►(l) For processing and retaining any application abandoned pursuant to § 1.53(d) unless the required basic filing fee has been paid, $100.00.◄

6. Section 1.25 is proposed to be revised to read as follows:

§ 1.25 Deposit accounts.

(a) For the convenience of attorneys, agents, and the general public in paying any fees due, in ordering services offered by the Office, copies of records, etc., deposit accounts may be established in the Patent and Trademark Office upon payment of the fee for establishing a deposit account (§ 1.21(b)(1)). A minimum deposit of [$50] ►$1000◄ or more, depending on the activity of the individual account, is required. At the close of each month's business, a statement will be rendered. A remittance must be made promptly upon receipt of the statement to cover the value of items or services charged to the account and thus restore the account to its established normal deposit value. An amount sufficient to cover all ►fees,◄ services, copies, etc., requested must always be on deposit. A service charge (§ 1.21(b)(2)) will be assessed for each month that the balance at the end of the month is below [$40] ►1000◄.

(b) Filing, issue, appeal, international-type search report, international application processing, petition, and post-issuance fees may be charged against these accounts ►if sufficient funds are on deposit to cover such fees◄. A general authorization to charge all fees, or only certain fees, set forth in §§ 1.16 to 1.18 to a deposit account ►containing sufficient funds◄ may be filed in an individual application, either for the entire pendency of the application or with respect to a particular paper filed. An authorization to charge to a deposit account the fee for a request for reexamination pursuant to § 1.510 and any other fees required in a reexamination proceeding in a patent may also be filed with the request for reexamination. ►An authorization to charge a fee to a deposit account will not be considered payment of the fee on the date the authorization to charge the fee is effective as to the particular fee to be charged unless sufficient funds are present in the account to cover the fee.◄

7. Section 1.27 is proposed to be amended by revising paragraphs (b), (c) and (d) to read as follows:

§ 1.27 Statement of status as small entity.

* * * * *

(b) Any verified statement filed pursuant to paragraph (a) of this section on behalf of an independent inventor must be signed by the independent inventor except as provided in §§ 1.42, 1.43, or 1.47 of this part, and must aver that the inventor qualifies as an independent inventor in accordance with § 1.9(c) of this part. Where there are joint inventors in an application, each inventor must file a verified statement establishing status as an independent inventor in order to qualify as a small entity. Where any rights have been assigned, granted, conveyed, or licensed, or there is an obligation to assign, grant, convey, or license, any rights to a small business concern, a nonprofit organization, or any other individual, a verified statement must be filed by the individual, the owner of the small business concern, or an official of the small business concern or nonprofit organization empowered to act on behalf of the small business concern or nonprofit organization averring to their status. ►For purposes of a verified statement under this paragraph, a license to a federal agency resulting from a funding agreement with that agency pursuant to 35 U.S.C. 202(c)(4) does not constitute a license as set forth in § 1.9 of this part.◄

(c) Any verified statement filed pursuant to paragraph (a) of this section on behalf of a small business concern must (1) be signed by the owner or an official of the small business concern empowered to act on behalf of the concern; (2) aver that the concern qualifies as a small business concern as defined in § 1.9(d); and (3) aver that exclusive rights to the invention have been conveyed to and remain with the small business concern, or if the rights are not exclusive, that all other rights belong to small entities as defined in § 1.9. Where the rights of the small business concern as a small entity are not exclusive, a verified statement must also be filed by the other small entities having rights averring to their status as such. ►For purposes of a verified statement under this paragraph, a license to a federal agency resulting from a funding agreement with that agency pursuant to 35 U.S.C. 202(c)(4) does not constitute a license as set forth in § 1.9 of this part.◄

(d) Any verified statement filed pursuant to paragraph (a) of this section on behalf of a nonprofit organization must (1) be signed by an official of the nonprofit organization empowered to act on behalf of the organization; (2) aver that the organization qualifies as a nonprofit organization as defined in § 1.9(e) of this part specifying under which one of § 1.9(e)(1), (e)(2), (e)(3), or (e)(4) of this part the organization qualifies; and (3) aver that exclusive rights to the invention have been conveyed to and remain with the organization or if the rights are not exclusive, that all other rights belong to small entities as defined in § 1.9 of this part. Where the rights of the nonprofit organization as a small entity are not exclusive, a verified statement must also be filed by the other small entities having rights averring to their status as such. ►For purposes of a verified statement under this paragraph, a license to a federal agency resulting from a funding agreement with that agency pursuant to 35 U.S.C. 202(c)(4) does not constitute a conveyance of rights as set forth in this paragraph.◄

8. Section 1.28 is proposed to be amended by revising paragraph (a) to read as follows:

§ 1.28 Effect on fees of failure to establish status, or change status, as a small entity.

(a) The failure to establish status as a small entity (§§ 1.9(f) and 1.27 of this part) in any application or patent prior to paying, or at the time of paying, any fee [(1)] precludes payment of the fee in the amount established for small entities [; and (2) precludes a refund pursuant to § 1.26 of this part of any portions of fees paid prior to establishing status as a small entity]. ►A refund pursuant to § 1.26 of this part, based on establishment of small entity status, of a portion of fees timely paid in full prior to establishing status as a small entity may only be obtained if a verified statement under § 1.27 and a request for a refund of the excess amount are filed within two months of the date of the timely payment of the full fee.◄ Status as a small entity is waived for any fee by the failure to establish the status prior to paying, [or] at the time of paying ►, or within two months of the date of payment of,◄ the fee. Status as a small entity must be specifically established by a verified statement filed in each application or patent in which the status is available and desired, except those applications filed under § 1.60 ►or § 1.62◄ of this part where the status as a small entity has been established in a parent application and is still proper. Once status as a small entity has been established in an application or patent, the status remains in that application or patent without the filing of a further verified statement

pursuant to § 1.27 of this part unless the Office is notified of a change in status. Status as a small entity in one application or patent does not affect any other application or patent, including applications or patents which are directly or indirectly dependent upon the application or patent in which the status has been established, except those filed under § 1.60 ►or § 1.62◄ of this part. Applications filed under § 1.60 ►or § 1.62◄ of this part must include a reference to a verified statement in a parent application if status as a small entity is still proper and desired.

* * * * *

9. Section 1.52 is proposed to be amended by revising paragraph (d) to read as follows:

§ 1.52 Language, paper, writing, margins.

* * * * *

(d) An application [including a signed oath or declaration] may be filed in a language other than English [if it is accompanied by the fee set forth in § 1.17(k)]. A verified English translation of the non-English language application [is] ►and the fee set forth in § 1.17(k) are◄ required to be filed with the application or within such time as may be set by the Office.

10. Section 1.53 is proposed to be amended by revising paragraphs (b) and (d) to read as follows:

§ 1.53 Serial number, filing date, and completion of application.

* * * * *

(b) The filing date of an application for patent is the date on which (1) a specification containing a description pursuant to § 1.71 and at least one claim pursuant to §1.75, and (2) any drawing required by § 1.81(a), are filed in the Patent and Trademark Office ►in the name of the actual inventor or inventors as required by § 1.41◄. No new matter may be introduced into an application after its filing date (§ 1.118).

* * * * *

(d) If an application which has been accorded a filing date pursuant to paragraph (b) of this section does not include the appropriate filing fee or an oath or declaration by the applicant, applicant will be so notified ►, if a correspondence address has been provided,◄ and given a period of time within which to file the fee, oath, or declaration and to pay the surcharge as set forth in § 1.16(e) in order to prevent abandonment of the application. ►If the required filing fee is not timely paid, or if the processing and retention fee set forth in § 1.21(1) is not paid within one year of the date of mailing of the notification required by this paragraph, the application will be disposed of. No copies will be provided or certified by the Office of an application which has been disposed of or in which neither the required basic filing fee nor the processing and retention fee has been paid.◄ The notification pursuant to this paragraph may be made simultaneously with any notification pursuant to paragraph (c) of this section. ►If no correspondence address is included in the application, applicant has two months from the filing date to file the fee, oath or declaration and to pay the surcharge as set forth in § 1.16(e) in order to prevent abandonment of the application.◄

* * * * *

11. Section 1.55 is proposed to be amended by revising paragraph (b) to read as follows:

§ 1.55 Claim for foreign priority.

* * * * *

(b) An applicant may under certain circumstances claim priority on the basis of an application for an inventor's certificate in a country granting both inventor's certificates and patents. When an applicant wishes to claim the right of priority as to a claim or claims of the application on the basis of an application for an inventor's certificate in such a country under 35 U.S.C. 119, last paragraph (as amended july 28, 1972), the applicant or his ►or her◄ attorney or agent, when submitting a claim for such right as specified in paragraph ►(a)◄ [(b)] of this section, shall include an affidavit or declaration including a specific statement that, upon an investigation, he or she has satisfied himself or herself that to the best of his or her knowledge the applicant, when filing his or her application for the inventor's certificate, had the option to file an application either for a patent or an inventor's certificate as to the subject matter of the identified claim or claims forming the basis for the claim of priority.

12. Section 1.56 is proposed to be amended by revising paragraph (b) and by adding a new paragraph (j) to read as follows:

§ 1.56 Duty of disclosure; fraud; striking or rejection of applications.

* * * * *

(b) Disclosures pursuant to this section ►must be accompanied by a copy of each foreign patent document, non-patent publication, or other non-patent item of information in written form which is being disclosed and◄ may be made to the Office through an attorney or agent having responsibility for the preparation or prosecution of the application or through an inventor who is acting in his ►or her◄ own behalf. Disclosure to such an attorney, agent or inventor shall satisfy the duty, with respect to the information disclosed, of any other individual. Such an attorney, agent or inventor has no duty to transmit information which is not material to the examination of the application.

* * * * *

►(j) If any disclosure pursuant to this section does not include a copy of each foreign patent document, non-patent publication, or other non-patent item of information in written form which is being disclosed, applicant will be so notified and given a period of time within which to file the copy or state that the copy is not in the possession of the person making the disclosure. The time period set may be extended under § 1.136.◄

13. Section 1.59 is proposed to be revised to read as follows:

§ 1.59 Papers of application with filing date not to be returned.

Papers in an application which has received a filing date pursuant to § 1.53 will not be returned for any purpose whatever. If applicants have not preserved copies of the papers, the Office will furnish copies at the usual cost ►of any application in which either the required basic filing fee (§ 1.16) or the processing and retention fee (§ 1.21(1)) has been paid◄.

14. Section 1.60 is proposed to be revised to read as follows:

§ 1.60 Continuation or divisional application for invention disclosed in a prior application.

►(a)◄ A continuation or divisional application (filed under the conditions specified in 35 U.S.C. 120 or 121 ►and § 1.78(a)◄), which discloses and claims only subject matter disclosed in a prior application may be filed as a separate application before the patenting or abandonment of or termination of proceedings on the prior application. [Signing and execution of the application papers by the applicant may be omitted provided the copy is supplied by and accompanied by a statement by, the applicant or his or her attorney or agent that the application papers comprise a true copy of the prior application as filed. Such statement must be a verified statement if made by a person not registered to practice before the Patent and Trademark Office. Only amendments reducing the number of claims or adding a reference to the prior application (§ 1.78(a)) will be

entered before calculating the filing fee and granting the filing date.]

►(b) An applicant may omit signing of the oath or declaration in a continuation or divisional application if (1) the prior application was a complete application as set forth in § 1.51(a) and (2) applicant files a true copy of the prior complete application as filed including the specification (including claims), drawings, oath or declaration, and any amendments referred to in the oath or declaration filed to complete the prior application. The copy of the prior application must be accompanied by a statement that the application papers filed are a true copy of the prior application and that no amendments referred to in the oath or declaration filed to complete the prior application introduced new matter therein. Such statement must be by the applicant or applicant's attorney or agent and must be a verified statement if made by a person not registered to practice before the Patent and Trademark Office. Only amendments reducing the number of μ claims or adding a reference to the prior application (§ 1.78(a)) will be entered before calculating the filing fee and granting the filing date.◄

15. Section 1.62 is proposed to be amended by revising paragraphs (a) and (d) to read as follows:

§ 1.62 File wrapper continuing procedure.

(a) A continuation, continuation-in-part, or divisional application, which uses the specification ►,◄ [and] drawings ►and oath or declaration◄ from a prior ►complete◄ application ►(§ 1.51(a))◄ to be abandoned, may be filed before the payment of the issue fee, abandonment of, or termination of proceedings on [a] ►the◄ prior application. The filing date of an application filed under this section is the date on which a request is filed for an application under this section including identification of the Serial Number, filing date, and applicant's name of the prior ►complete◄ application.

* * * * *

(d) If an application which has been accorded a filing date pursuant to paragraph (a) of this section does not include the appropriate ►basic◄ filing fee pursuant to paragraph (b) of this section, or an oath or declaration by the applicant in the case of a continuation-in-part application pursuant to paragraph (c) of this section, applicant will be so notified and given a period of time within which to file the fee, oath, or declaration and to pay the surcharge as set forth in § 1.16(e) in order to prevent abandonment of the application. The notification pursuant to this paragraph may be made simultaneously with any notification of a defect pursuant to paragraph (a) of this section.

* * * * *

16. Section 1.78 is proposed to be amended by revising the title and paragraph (a) to read as follows:

§ 1.78 ► Claiming benefit of earlier filing date and cross-references◄ [Cross-references] to other applications.

(a) [When an applicant files an] ►An◄ application ►may claim◄ [claiming] an invention disclosed in ►the same applicant's◄ [a] prior filed copending national application or international application designating the United States of America [of the same applicant,] ►. In order for an application to claim the benefit of a prior filed copending national application, the prior application must be (1) complete as set forth in § 1.51, or (2) entitled to a filing date as set forth in § 1.53(b) and include the basic filing fee set forth in § 1.16; or (3) entitled to a filing date as set forth in § 1.53(b) and have paid therein the processing and retention fee set forth in § 1.21(1) within the time period set forth in § 1.53 (d). Any application claiming the benefit of a prior filed copending national or international application◄ [the second application] must contain or be amended to contain in the first sentence of the specification following the title a reference to such prior application, identifying it by serial number and filing date or international application number and international filing date and indicating the relationship of the applications [, if the benefit of the filing date of such prior application is to be claimed]. Cross-references to other related applications may be made when appropriate. (See § 1.14(b)).

* * * * *

17. Section § 1.121 is proposed to be amended by revising paragraph (e) to read as follows:

§ 1.121 Manner of making amendments.

* * * * *

(e) In reissue applications, both the descriptive portion and the claims are to be amended, [as specified in paragraph (a) of this section.] ►by either (1) submitting a copy of a portion of the description or an entire claim with all matter to be deleted from the patent being placed between brackets and all matter to be added to the patent being underlined, or (2) indicating the exact word or words to be stricken out or inserted and the precise point where the deletion or insertion is to be made. Any word or words to be inserted must be underlined. See § 1.173.◄

* * * * *

18. Section 1.123 is proposed to be revised to read as follows:

§ 1.123 Amendments to the drawing.

No change in the drawing may be made except by permission of the Office. Permissible changes in the construction shown in any drawing may be made only by bonded draftsmen, at applicant's expense, or by the submission of substitute drawings by applicant. A sketch in permanent ink showing proposed changes, to become part of the record, must be filed for approval by the examiner [. The paper requesting amendments to the drawing] ►and◄ should be ►a◄ separate ►paper◄ [from other papers].

19. Section 1.135 is proposed to be amended by removing paragraph (d).

§ 1.135 Abandonment for failure to respond within time period.

* * * * *

[(d) Prompt ratification or filing of a correctly signed copy may be accepted in case of an unsigned or improperly signed paper. (See § 1.7.)]

20. Section 1.136 is proposed to be revised to read as follows:

§1.136 Filing of timely responses with petition and fee for extension of time and extensions of time for cause.

(a) If an applicant is required to respond within a non-statutory or shortened statutory time period, applicant may respond up to four months after the time period set if a petition for an extension of time and the fee set in § 1.17 are filed prior to or with the response, unless (1) the applicant is notified othwise in an Office action or (2) the application is involved in an interference declared pursuant to § 1.207. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for purposes of determining the period of extension and the corresponding amount of the fee. The expiration of the time period is determined by the amount of the fee paid. In no case may an applicant respond later than the maximum time period set by statute, or be granted an extension of time under paragraph (b) of this section when the provisions of this paragraph are available. ►See § .245 for extension of time in interference proceedings and § 1.550(c) for extension of time in reexamination proceedings.◄

(b) When a response with petition and fee for extension of time cannot be filed pursuant to paragraph (a) of this section, the time for response will be extended only for sufficient cause, and for a reasonable time specified. Any request

for such extension must be filed on or before the day on which action by the applicant is due, but in no case will the mere filing of the request effect any extension. In no case can any extension carry the date on which response to an Office action is due beyond the maximum time period set by statue or be granted when the provisions of paragraph (a) of this section are available. See § 1.245 for extension of time in interference proceedings ►and § 1.550(c) for extension of time in reexamination proceedings.◄

21. Section 1.191 is proposed to be amended by adding a new paragraph (d) to read as follows:

§ 1.191 Appeal to Board of Appeals.

* * * * *

►(d) The time periods set forth in § 1.191 through 1.194, 1.196 and 1.197 are subject to the provisions of § 1.136 for patent applications or § 1.550(c) for reexamination proceedings.◄

22. Section 1.192 is proposed to be amended by revising paragraph (a) to read as follows:

§ 1.192 Appellant's brief.

(a) The appellant shall, within 2 months from the date of the notice of appeal under § 1.191 in an application, reissue application, or patent under reexamination, or within the time allowed for response to the action appealed from, if such time is later, file a brief in triplicate. The brief must be accompanied by the requisite fee set forth in § 1.17(f) and must set forth the authorities and arguments on which the appellant will rely to maintain the appeal. The brief must include a concise explanation of the invention which should refer to the drawing by reference characters, and a copy of the claims involved. [The time periods set forth herein are subject to the provisions of § 1.136.]

* * * * *

23. Section 1.197 is proposed to be amended by revising paragraph (b) to read as follows:

§ 1.197 Action following decision.

* * * * *

(b) A single request for rehearing or reconsideration, or modification of the decision, may be made if filed within thirty days from the date of the original decision, unless that decision is so modified as to become, in effect, a new decision, and the Board of Appeals so states. [Such time may be extended under the provisions of § 1.136.]

* * * * *

24. Section 1.304 is proposed to be amended by revising paragraph (a) to read as follows:

§ 1.304 Time for appeal or civil action.

(a) The time for filing the notice and reasons of appeal to the U.S. Court of Appeals for the Federal Circuit (§ 1.302) or for commencing a civil action (§ 1.303) is sixty days from the date of the decision of the Board of Appeals or the Board of Patent Interferences. If a request for rehearing or reconsideration, or modification of the decision, is filed within the time provided pursuant to § 1.197(b) or § 1.256(b), the time for filing an appeal or commencing a civil action shall expire at the end of the sixty-day period or thirty days after action on the request, whichever is later. The time periods set forth herein are subject to the provisions of § 1.136 ►or § 1.550(c) as to decisions of the Board of Appeals, or § 1.245 as to decisions of the Board of Patent Interferences.◄.

* * * * *

25. Section 1.550 is proposed to be amended by revising paragraph (c) to read as follows:

§ 1.550 Conduct of reexamination proceedings.

* * * * *

(c) The time for ►taking any action by a patent owner in a reexamination proceeding◄ [reply set in paragraph (b) of this section] will be extended only for sufficient cause, and for a reasonable time specified. Any request for such extension must be filed on or before the day on which action by the patent owner is due, but in no case will the mere filing of the request effect any extension.

* * * * *

26. Section 1.555 is proposed to be amended by revising paragraphs (a) and (b) to read as follows:

§ 1.555 Duty of disclosure in reexamination proceedings.

(a) A duty of candor and good faith toward the Patent and Trademark Office rests on the patent owner, on each attorney or agent who represents the patent owner, and on every other individual who is substantively involved on behalf of the patent owner in a reexamination proceeding. All such individuals who are aware, or become aware, of patents or printed publications material to the reexamination which have not been previously made of record in the patent file must bring such patents or printed publications to the attention of the Office. ►An information disclosure◄ [A prior art] statement, preferably in accordance with § 1.98, should be filed within two months of the date of the order for reexamination, or as soon thereafter as possible in order to bring such patents or printed publications to the attention of the Office.

(b) Disclosures pursuant to this section ►must be accompanied by a copy of each foreign patent document or non-patent printed publication which is being disclosed and◄ may be made to the Office through an attorney or agent having responsibility on behalf of the patent owner for the reexamination proceeding or through a patent owner acting in his or her own behalf. Disclosure to such an attorney, agent or patent owner shall satisfy the duty of any other individual. Such an attorney, agent or patent owner has no duty to transmit information which is not material to the reexamination.

* * * * *

Dated: July 22, 1983.

Gerald J. Mossinghoff,

Commissioner of Patents and Trademarks.

[FR Doc. 83-23538 Filed 8-25-83; 8:45 am]

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Friday
August 26, 1983

Part IX

Department of the Interior

Fish and Wildlife Service

Migratory Bird Hunting; Early Seasons, Bag Limits, and Possession of Certain Migratory Game Birds in the Contiguous United States, Alaska, Hawaii, Puerto Rico, and the Virgin Islands; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Early Seasons, Bag Limits, and Possession of Certain Migratory Game Birds in the Contiguous United States, Alaska, Hawaii, Puerto Rico, and the Virgin Islands.

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes the hunting seasons, hours, areas, and daily bag and possession limits of mourning doves, white-winged doves, band-tailed pigeons, rails, woodcock, common snipe, gallinules; teal in September, in the contiguous United States; sea ducks in certain defined areas of the Atlantic Flyway; ducks in September in Florida, Iowa, Kentucky, and Tennessee; sandhill cranes in the Central Flyway and Arizona; sandhill cranes and Canada geese in southwestern Wyoming; migratory game birds in Alaska, Hawaii, Puerto Rico, and the Virgin Islands; and special falconry seasons during 1983–84. The taking of these migratory birds is prohibited unless hunting seasons are specifically provided. The rules will permit the hunting of these species within specified periods of time beginning as early as September 1, as has been the case in past years, and benefit the public by relieving existing restrictions.

DATE: Effective on August 26, 1983.

FOR FURTHER INFORMATION CONTACT: John P. Rogers, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Room 536, Matomic Building, 1717 H Street, NW., Washington, D.C., telephone 202–254–3207.

SUPPLEMENTARY INFORMATION: The Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755; 16 U.S.C. 703 et seq.), as amended, authorizes and directs the Secretary of the Interior, having due regard for the zones of temperature and for the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory game birds to determine when, to what extent, and by what means such birds or any part, nest, or egg thereof may be taken, hunted, captured, killed, possessed, sold, purchased, shipped, carried, exported, or transported.

On April 5, 1983, the U.S. Fish and Wildlife Service (hereinafter the Service) published for public comment in the **Federal Register** (48 FR 14700) a proposal to amend 50 CFR Part 20, with comment periods ending June 22, July 15, and August 19, 1983, respectively, for the 1983–84 hunting season frameworks proposed for Alaska, Puerto Rico, and the Virgin Islands; other early seasons; and the late seasons. That document dealt with the establishment of hunting seasons, hours, areas, and limits for migratory game birds under §§ 20.101 through 20.107 and 20.109 of Subpart K. On June 17, 1983, the Service published in the **Federal Register** (48 FR 27799) a second document consisting of a supplemental proposed rulemaking dealing with both the early and late season frameworks. On July 7, 1983, the Service published for public comment in the **Federal Register** (48 FR 31266) a third document consisting of a proposed rulemaking dealing specifically with frameworks for early season migratory bird hunting regulations. On July 22, 1983, the Service published in the **Federal Register** (48 FR 33488) a fourth document consisting of final frameworks for Alaska, Puerto Rico, and the Virgin Islands. On August 3, 1983, the Service published a fifth document (48 FR 35100) consisting of a final rulemaking for the early season frameworks for migratory game bird hunting regulations from which State wildlife conservation agency officials selected early season hunting dates, hours, areas, and limits for the 1983–84 season. On August 3, 1983, the Service published a sixth document consisting of a supplemental proposed rulemaking dealing with black ducks. On August 15, 1983, the Service published a seventh document in the **Federal Register** (48 FR 36853) consisting of a proposed rulemaking dealing specifically with frameworks for late season migratory bird hunting regulations. The final rule described here is the eighth in a series of proposed, supplemental, and final rulemaking documents for migratory game bird hunting regulations and deals specifically with amending Subpart K of 50 CFR 20 to set hunting seasons, hours, areas, and limits for mourning doves, white-winged doves, band-tailed pigeons, rails, woodcock, snipe, and gallinules; September teal seasons; sea ducks in certain defined areas of the Atlantic Flyway; ducks in September in Florida, Iowa, Kentucky, and Tennessee; sandhill cranes in the Central Flyway and Arizona; sandhill cranes and Canada geese in southwestern Wyoming; migratory game birds in Alaska, Hawaii, Puerto Rico, and Virgin Islands; and special falconry seasons.

These regulations contain no information collections subject of Office of Management and Budget review under the Paperwork Reduction Act of 1980.

Nontoxic Shot Regulations

On August 13, 1981, the Service published in the **Federal Register** (46 FR 40879) final rules describing nontoxic shot zones for waterfowl hunting. When eaten by waterfowl, spent lead pellets can have a toxic effect. Nontoxic shot zones reduce availability of lead pellets in selected waterfowl feeding areas.

Amendments to these regulations were published in the **Federal Register** (47 FR 32546; July 28, 1982 and 48 FR 26457; June 8, 1983). These amendments relate to changes in Maine, Massachusetts, Indiana, Nebraska, Michigan, Illinois, and Florida. Some States have State regulations requiring steel shot for waterfowl hunting in areas not included in the Federal regulations published in the **Federal Register** on August 13, 1981 (46 FR 40879). Zones in other States will remain as they were described on August 13, 1981 (46 FR 40879).

Some national wildlife refuges require use of steel shot on hunting areas within their boundaries, and these rules are published with other regulations regarding public use of the refuges (Title 50 CFR Part 32—Hunting).

Waterfowl hunters are advised to become familiar with State and local regulations regarding the use of nontoxic shot for waterfowl hunting.

NEPA Consideration

The "Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES 75–54)" was filed with the Council on Environmental Quality on June 6, 1975, and notice of availability was published in the **Federal Register** on June 13, 1975 (40 FR 24241). In addition, several environmental assessments have been prepared on specific matters which serve to supplement the material in the Final Environmental Statement. Copies of these documents are available from the Service.

Endangered Species Act Consideration

Section 7 of the Endangered Species Act provides that, "The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act" [and]" * * * by taking such action necessary to insure that any action authorized, funded, or carried out * * * is not likely to jeopardize the continued existence of such endangered or threatened species or result ir the destruction or modification of habit of

such species * * * which is determined to be critical."

Subsequently, the Service initiated Section 7 consultation under the Endangered Species Act for the proposed hunting season frameworks.

On June 28, 1983, the Chief, Office of Endangered Species, gave a biological opinion that the proposed action is not likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of their critical habitats.

As in the past, hunting regulations this year are designed, among other things, to remove or alleviate chances of conflict between seasons for migratory game birds and the protection and conservation of endangered and threatened species.

The Service's biological opinion resulting from its consultation under Section 7 is considered a public document and is available for inspection in the Office of Endangered Species and the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

Regulatory Flexibility Act and Executive Order 12291

In the **Federal Register** dated April 5, 1983 (at 48 FR 14706), the Service reported measures it had undertaken to comply with requirements of the Regulatory Flexibility Act and the Executive Order. These included preparing a Determination of Effects and an updated Final Regulatory Impact Analysis, and publication of a summary of the latter. These regulations have been determined to be major under Executive Order 12291 and they have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act. This determination is detailed in the aforementioned documents which are available upon request from the Office of Migratory Bird Management, U.S. Fish and Wildife Service, Department of the Interior, Washington, D.C. 20240.

Authorship

The primary author of this final rule is Mary C. Hill, Office of Migratory Bird Management, working under the direction of John P. Rogers, Chief.

Memorandum of Law

The Service published its Memorandum of Law, required by Section 4 of Executive Order 12291, in the **Federal Register** dated July 22, 1983 (at 48 FR 33489).

Regulations Promulgation

After analysis of migratory game bird survey data obtained through investigations conducted by the Service, State conservation agencies, and other sources, and consideration of all comments received on the early proposals (48 FR 14700, April 5, 1983; 48 FR 27799, June 17, 1983; and 48 FR 31286, July 17, 1983), the Service published in the **Federal Register** on July 22, 1983 (48 FR 33488) final early season frameworks for Alaska, Puerto Rico, the Virgin Islands; and on August 3, 1983 (48 FR 35100), those for the contiguous United States and Hawaii. Copies of the final frameworks were also sent to the officials of the State conservation agencies and to conservation agency officials in Puerto Rico and the Virgin Islands who were invited to submit recommendations for hunting seasons which complied with the season times and lengths, hours, areas, and limits specified in the frameworks.

The taking of the designated species of migratory birds is prohibited unless open hunting seasons are specifically provided. The following amendments will permit taking of the designated species within specified time periods beginning as early as September 1, as has been the case in past years, and benefit the public by relieving existing restrictions.

The rulemaking process for migratory game bird hunting must, by its nature, operate under severe time constraints. However, the Service intends that the public be given the greatest possible opportunity to comment on the regulations. Thus, when proposed rulemakings were published on April 5, June 17, and July 7, 1983, the Service established what it believed were the longest periods possible for public comment. In doing this, the Service recognized that when the comment period closed time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, the States would have insufficient time to select their season dates, shooting hours, hunting areas, and limits; to communicate those selections to the Service; and to establish and publicize the necessary regulations and procedures to implement their decisions. The Service therefore finds that "good cause" exists, within the terms of 5 U.S.C. 553(d)(3) (Administrative Procedure Act), and these regulations will, therefore, take effect immediately upon publication.

Accordingly, each State conservation agency having had an opportunity to participate in selecting the hunting seasons desired for its State on those species of migratory birds for which open seasons are now to be prescribed, and consideration having been given to all other relevant matters presented, certain sections of Title 50, Chapter I, Subchapter B, Part 20, Subpart K, are amended as follows.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Transportation, Wildlife.

PART 20—[AMENDED]

Section 20.101 is revised to read as follows:

§ 20.101 Seasons, limits and shooting hours for Puerto Rico and the Virgin Islands.

Subject to the applicable provisions of the preceding sections of this part, the open seasons (dates inclusive), the shooting and hawking hours, and the daily bag and possession limits, and areas for hunting the species designated in this section are prescribed as follows:

(a) *Puerto Rico.*

	Doves	Pigeons
Daily bag limit	10 singly or in the aggregate of all permitted species.	5
Possession limit	10 singly or in the aggregate of all permitted species.	5
Season dates	(1)	(1)
Shooting hours	(2)	(2)

[1] September 3 to November 1, 1983.
[2] One-half hour before sunrise to sunset daily.

Restrictions: Only the following species of doves and pigeons may be hunted during the open season: Zenaida dove (*Tortola cardosantera*); white-winged dove (*Tortola aliblanca o cubanita*); mourning dove (*Tortola rabilarga o rabiche*); and scaly-naped pigeon (*Paloma turca o torcaz*).

Closed Areas

No season is prescribed for doves and pigeons on Mona Island in order to protect the reduced population of white-crowned pigeon (*Columba leucocephala*), known locally as "Paloma cabeciblanca."

No season is prescribed for doves and pigeons in the Municipality of Culebra and on Desecheo Island.

No season is prescribed in the El Verde Closure Area consisting of those areas of the municipalities of Rio Grande and Loiza delineated as follows: (1) All lands between Routes 956 on the west and 186 on the east, from Route 3 on the north to the juncture of Routes 956 and 186 (Km 13.2) in the south; (2) all lands between Routes 186 and 986 from

the juncture of 186 and 966 on the north, to the Caribbean National Forest Boundary on the south; (3) all lands lying west of Route 186 for one (1) kilometer from the juncture of Routes 186 and 956 south to Km 6 on Route 186; (4) all lands within Km 14 and Km 6 on the west and the Caribbean National Forest Boundary on the east; and (5) all lands within the Caribbean National Forest Boundary whether private or public.

No season is prescribed for doves and pigeons of any species in all of Cidra Municipality and in portions of Aguas Buenas, Caguas, and Cayey, and Comerio Municipalities as encompassed within the following boundary: beginning on Highway 172 as it leaves the Municipality of Cidra on the west edge, north to Highway 156, east on Highway 156 to Highway 1, south on Highway 1 to Highway 765, south on Highway 765 to Highway 763, south on Highway 763 to the Rio Guavata, west along the Rio Guavata to Highway 1, southwest on Highway 1 to Highway 14, west on Highway 14 to Highway 729, north on Highway 729 to Cidra Municipality, and westerly, northerly, and easterly along the Cidra Municipality boundary to the point of beginning.

Check Commonwealth Regulations for Additional Restrictions.

(b) *Puerto Rico.*

	Ducks	Coots	Common gallinules	Common snipe
Daily bag limits	4	6	6	6
Possession limits	8	12	12	12
Season dates	(1)	(1)	(1)	(1)
Shooting hours	(2)	(2)	(2)	(2)

[1] November 5 to December 5, 1983 and February 4 to February 27,1984.
[2] One-half hour before sunrise until sunset daily.

Restrictions: No season is prescribed for waterfowl in the Municipality of Culebra and on Desecheo Island. The season is closed on the ruddy duck (*Oxyura jamaicensis*); Bahama pintail (*Anas bahamensis*); West Indian whistling (tree) duck (*Dendrocygna arborea*); fulvous whistling (tree) duck (*Dendrocygna bicolor*); masked duck (*Oxyura dominica*); and purple gallinule (*Porphyrula martinica*).

Check Commonwealth Regulations for Additional Restrictions.

Note.—Local names for game birds: Ruddy duck (*Oxyura jamaicensis*)—Pato rojo (protected); purple gallinule (*Porphyrula martinica*)—Gallareta azul (protected); and Puerto Rican plain pigeon (*Columba inornata wetmorei*)—Paloma sabanera (protected).

(c) *Virgin Islands.*

	Zenaida dove	Scaly-naped pigeon	Ducks
Daily bag limits	10	5	4
Possession limits	10	5	8
Season dates:			
Zenaida dove and scaly-naped pigeon	(1)	(1)	(1)
Ducks only	(2)	(2)	(2)
Shooting hours	(3)	(3)	(3)

[1] September 1 through October 30, 1983.
[2] December 1, 1983, through January 24, 1984.
[3] One half-hour before sunrise until sunset daily.

Restrictions: No open season is prescribed for ground or quail doves, or other pigeons in the Virgin Islands. The season is closed on the ruddy duck (*Oxyura jamaicensis*); Bahama pintail (*Anas bahamensis*); West Indian whistling (tree) duck (*Dendrocygna arborea*); fulvous whistling (tree) duck (*Dendrocygna bicolor*); masked duck (*Oxyura dominica*), and purple gallinule (*Porphyrula martinica*).

Check Commonwealth Regulations for Additional Restrictions.

Note.—Local names for game birds: Zenaida dove (*Zenaida aurita*)—mountain dove; bridled quail dove (*Geotrygon mystacea*)—Barbary dove, partridge (protected); ground dove (*Columbina passerina*)—stone dove, tobacco dove, rola, tortolita (protected); and scaly-naped pigeon (*Columba squamosa*)—red-necked pigeon, scaled pigeon.

Section 20.102 is revised to read as follows:

§ 20.102 Seasons, limits and shooting hours for Alaska.

Subject to the applicable provisions of the preceding sections of this part, the areas open to hunting, the respective open seasons (dates inclusive), the shooting and hawking hours, and the daily bag and possession limits on the species designated in this section are prescribed as follows:

Shooting hours: One-half hour before sunrise to sunset daily.

Check State Regulations for Additional Restrictions, Including Area Descriptions.

OPEN SEASONS—DUCKS, GEESE, CRANES AND COMMON SNIPE

Area:		
Northern	State Game Mgmt. Units 11–13 and 17–26.	Sept. 1 to Dec. 16.
Gulf Coast	State Game Mgmt. Units 5–7, 9, 14–16, and Unimak Island.	Sept. 1 to Dec.16.
Southeast	State Game Mgmt. Units 1–4.	Sept. 1 to Dec. 16.
Pribilof and Aleutian Islands	State Game Mgmt. Unit 10 except Unimak Island.	Oct. 8 to Jan. 22.
Kodiak	State Game Mgmt. Unit 8	Oct. 8 to Jan. 22.

DAILY BAG AND POSSESSION LIMITS

Area	Ducks [1]	Geese [2]	Emperor geese	Brant	Common snipe	Sandhill cranes
Northern	10–30	6–12	6–12	4–8	8–16	2–4
Gulf Coast	8–24	6–12	6–12	4–8	8–16	2–4
Southeast	7–21	6–12	6–12	4–8	8–16	2–4
Pribilof and Aleutian Islands	7–21	6–12	6–12	4–8	8–16	2–4
Kodiak	7–21	6–12	6–12	4–8	8–16	2–4

[1] In addition to the basic daily bag and possession limits, a daily bag limit of 15 and a possession limit of 30 is permitted singly or in the aggregate of the following species: scoter, eider, oldsquaw, harlequin, and American and red-breasted mergansers.
[2] No more than 4 daily, or 8 in possession may be any combination of Canada or white-fronted geese, provided that: In Units 1–9, 14–16 and 18, no more than 2 daily, or 4 in possession, may be white-fronted geese. In Units 9(E) and 18, no more than 2 daily or 4 in possession, may be Canada geese. In Unit 10, except on Unimak Island, the taking of Canada geese is prohibited. In Unit 1(C), the taking of snow geese is prohibited.

Section 20.103 is revised to read as follows:

§ 20.103 Seasons, limits, and shooting hours for mourning and white-winged doves and wild pigeons.

Subject to the applicable provisions of the preceding sections of this part, the areas open to hunting, the respective open seasons (dates inclusive), the shooting and hawking hours and the daily bag and possession limits on the species designated in this section are prescribed as follows:

(a) *Mourning Doves—Eastern Management Unit.*

In all States except Alabama, Illinois and Tennessee:
- Daily bag limit 12
- Possession limit 24

In Alabama:
- Daily bag limit 15
- Possession limit 15

In Illinois and Tennessee:
- Daily bag limit 15
- Possession limit 30

Shooting hours: One-half hour before sunrise until sunset daily except as noted otherwise.

Check State Regulations for Additional Restrictions, Including Area Descriptions.

Seasons in:	
Alabama:	
North Zone (¹): All of Autauga, Barbour, Bullock, Butler, Chilton, Choctaw, Clarke, Conecuh, Crenshaw, Dallas, Elmore, Lee, Lowndes, Macon, Marengo, Monroe, Montgomery, Pike, Russell, Washington and Wilcox Counties; One-half hour before sunrise to sunset.	Sept. 17 to Oct. 29 and Dec. 17 to Jan. 2.
Remaining counties in North Zone:	
12 noon to sunset	Sept. 17 to Sept. 25.
One-half hour before sunrise to sunset.	Sept. 26 to Oct. 29 and Dec. 17 to Jan. 2.
South Zone (¹):	
Baldwin and Mobile Counties.	
12 noon to sunset	Oct. 7 to Nov. 22 and Dec. 22 to Jan. 3.
Remaining Counties in South Zone:	
12 noon to sunset	Dec. 22 to Jan. 3.
One-half hour before sunrise to sunset.	Oct. 7 to Nov. 22.
Connecticut	Closed.
Delaware (12 noon to sunset)	Sept. 3 to Oct. 1 and Oct. 17 to Oct. 31 and Dec. 17 to Jan. 11.
Florida (²):	
12 noon to sunset	Oct. 1 to Oct. 30.
One-half hour before sunrise to sunset.	Nov. 12 to Nov. 27 and Dec. 10 to Jan. 2.
Georgia:	
North Zone (³)	
12 noon to sunset	Sept. 3
One-half hour before sunrise to sunset.	Sept. 4 to Oct. 8 and Dec. 10 to Jan. 12.
South Zone (³)	
12 noon to sunset	Oct. 1.
One-half hour before sunrise to sunset.	Oct. 2 to Nov. 5 and Dec. 10 to Jan. 12.
Illinois (12 noon to sunset)	Sept. 1 to Oct. 30.
Indiana	Closed.
Kentucky (11 a.m. to sunset)	Sept. 1 to Oct. 31 and Dec. 3 to Dec. 11.
Louisiana:	
North Zone (⁴)	
12 noon to sunset	Sept. 3 to Sept. 4 and Oct. 15 to Oct. 16 and Dec. 10 to Dec. 11.
One-half hour before sunrise to sunset.	Sept. 5 to Sept. 18 and Oct. 17 to Nov. 6 and Dec. 12 to Jan. 8.
South Zone (⁴)	
12 noon to sunset	Oct. 15 to Oct. 16 and Dec. 10 to Dec. 11.
One-half hour before sunrise to sunset.	Oct. 17 to Nov. 27 and Dec. 12 to Jan. 4.
Maine	Closed.
Maryland:	
12 noon to sunset	Sept. 1 to Oct. 18
One-half hour before sunrise to sunset.	Nov. 15 to Nov. 25 and Dec. 21 to Dec. 31.
Massachusetts	Closed.
Michigan	Do.
Mississippi	Sept. 3 to Oct. 2 and Oct. 15 to Nov. 6 and Dec. 24 to Jan. 8.
New Hampshire	Closed.
New Jersey	Closed.
New York	Do.
North Carolina:	
12 noon to sunset	Sept. 3 to Oct. 8.
One-half hour before sunrise to sunset.	Dec. 12 to Jan. 14.
Ohio	Closed.
Pennsylvania:	
12 noon to sunset	Sept. 1 to Oct. 11.
One-half hour before sunrise to sunset (⁵).	Oct. 29 to Nov. 26.
Rhode Island:	
12 noon to sunset	Sept. 12 to Oct. 2.
One-half hour before sunrise to sunset.	Oct. 15 to Dec. 2.
South Carolina	Sept. 3 to Oct. 8 and Nov. 19 to Nov. 26 and Dec. 20 to Jan. 14.
Tennessee (⁵)	Sept. 1 to Sept. 27 and Oct. 8 to Oct. 16 and Dec. 17 to Jan. 9.
Vermont	Closed.
Virginia:	
12 noon to sunset	Sept. 10 to Nov. 5.
One-half hour before sunrise to sunset.	Dec. 19 to Dec. 31.
West Virginia:	
12 noon to sunset	Sept. 1 to Oct. 31.
One-half hour before sunrise to sunset.	Dec. 23 to Dec. 31.
Wisconsin	Closed.

(¹) In Alabama the South Zone is defined as: Mobile, Baldwin, Escambia, Covington, Coffee, Geneva, Dale, Houston and Henry Counties. North Zone: Remainder of the State.

(²) In Florida, the daily bag limit is 12 mourning and white-winged doves in the aggregate, of which not more than 4 may be white-winged doves. The possession limit is 24 mourning and white-winged doves in the aggregate, of which not more than 8 may be white-winged doves.

(³) In Georgia, the North Zone is defined as that area lying north of a division line as follows: U.S. Highway 280 from Columbus to the Little Ocmulgee River down the Little Ocmulgee to the Ocmulgee River, southwesterly along the Ocmulgee River to the western border of Jeff Davis County, south along the western border of Jeff Davis County, east along the southern border of Jeff Davis and Appling Counties, north along the eastern border of Appling County to the Altamaha River, east along the Altamaha River to the eastern border of Tattnall County, north along the eastern boundary of Tattnall and Evans Counties to Candler County, north along the eastern border of Candler County, then east along the northern border of Bulloch County and the southern border of Screven County to the South Carolina line. The South Zone consists of the remainder of Georgia.

(⁴) In Louisiana, the North Zone is defined as that area lying north of Interstate Highway 10 from the Texas State line to Baton Rouge, Interstate Highway 12 from Baton Rouge to Slidell, and Interstate Highway 10 from Slidell to the Mississippi State line. The South Zone consists of the remainder of Louisiana.

(⁵) In Pennsylvania, shooting hours on opening day (Oct. 29) are 9 a.m. to sunset.

(⁶) In Tennessee, shooting hours on opening day (Sept. 1) are 12 noon to sunset.

(b) *Mourning Doves—Central Management Unit.*

In Missouri:	
Daily bag limit	10
Possession limit	20
In Nebraska, Oklahoma, and Texas:	
Daily bag limit	12
Possession limit	24
In Arkansas, Colorado, Kansas, New Mexico, North Dakota, South Dakota, Wyoming, and Montana:	
Daily bag limit	15
Possession limit	30

Shooting hours: One-half hour before sunrise until sunset daily except as noted otherwise.

Check State Regulations for Additional Restrictions, Including Area Descriptions.

Seasons in:	
Arkansas	Sept. 3 to Oct. 2 and Dec. 17 to Jan. 15.
Colorado	Sept. 1 to Oct. 15.
Iowa	Closed.
Kansas	Sept. 1 to Oct. 30.
Minnesota	Closed.
Missouri	Sept. 1 to Nov. 9.
Montana	Oct. 1 to Nov. 27.
Nebraska	Sept. 1 to Oct. 15.
New Mexico ¹	Sept. 1 to Sept. 30 and Nov. 19 to Dec. 18.
North Dakota	Sept. 3 to Nov. 1.
Oklahoma	Sept. 1 to Nov. 9.
South Dakota	Sept. 1 to Sept. 30.
Texas ² ³:	
Panhandle Zone	Sept. 1 to Nov. 9.
Central Zone	Sept. 1 to Oct. 30 and Jan. 7 to Jan.16.
Rio Grande	Sept. 17 to Nov. 5 and Jan. 7 to Jan. 22.
Wyoming	Sept. 1 to Oct. 16.

¹ In New Mexico, the daily bag limit is 15 and the possession limit is 30 white-winged and mourning doves, singly or in the aggregate of these species.

² In Texas the three zones are Panhandle, Rio Grande and Central as follows:

Panhandle Zone—That portion of the State north of a line beginning at the International Bridge south of Fort Hancock; north along FM 1088 to State Highway 20; west along State Highway 20 to State Highway 148; north along State Highway 148 to Interstate Highway 10 at Fort Hancock; east along Interstate Highway 10 to Interstate Highway 20; northeast along Interstate Highway 20 to Interstate Highway 30 at Fort Worth; northeast along Interstate Highway 30 to the Texas-Arkansas State line.

El Paso Portion of Panhandle Zone—That portion of the State south and west of a line beginning at the International Bridge south to Fort Hancock; north along FM 1088 to State Highway 20; west along State Highway 20 to State Highway 148; north along State Highway 148 to Interstate Highway 10 at Fort Hancock; west along Interstate Highway 10 to the Texas-New Mexico State line.

Rio Grande Zone—That portion of the State south and west of a line beginning at the International Bridge south of Fort Hancock; north along FM 1088 to State Highway 20; west along State Highway 20 to State Highway 148; north along State Highway 148 to Interstate Highway 10 at Fort Hancock; east along Interstate Highway 10 to Interstate Highway 37 in San Antonio; south along Interstate Highway 37 to U.S. Highway 181 in San Antonio; southeast along U.S. Highway 181 to State Highway 361 at Gregory; east along State Highway 361 to the Corpus Christi Channel; east along the Corpus Christi Channel to the Gulf of Mexico.

Central Zone—That portion of the State lying between the Panhandle and Rio Grande Zones.

³ In Texas, the daily bag limit is 12 mourning and white-winged doves in the aggregate, of which no more than 2 can be white-winged doves; and the possession limit is 24, of which no more than 4 may be whitewings.

(c) *Mourning Doves—Western Management Unit.*

In Washington:	
Daily bag limit	10
Possession limit	20
In Arizona:	
Daily bag limit	12
Possession limit	24
In California, Idaho, Nevada, Oregon, and Utah:	
Daily bag limit	15
Possession limit	30

Shooting hours: One-half hour before sunrise until sunset.

Check State Regulations for Additional Restrictions, Including Area Descriptions.

Seasons in:	
Arizona ¹	Sept. 1 to Sept. 25 and Nov. 25 to Jan. 8.
California ²	Sept. 1 to Oct. 16 and Nov. 19 to Dec. 3.
Idaho	Sept. 1 to Oct. 30.
Nevada ²	Do.
Oregon	Sept. 1 to Sept. 30.
Utah	Do.
Washington	Sept. 1 to Sept. 15.

¹ In Arizona during September 1 through 25 the daily bag limit is 12 mourning and white-winged doves in the aggregate of which no more than 6 may be white-winged doves. The possession limit after opening day is 24 mourning and white-winged doves in the aggregate of which no more than 12 may be white-winged doves. During November 25 through January 8, the bag and possession limits are 12 and 24 mourning doves, respectively.

² In those counties of California (Imperial, Riverside, and San Bernardino) and Nevada (Clark and Nye) having a season on white-winged doves, the daily bag limit is 15 and the possession limit is 30 mourning and white-winged doves, singly or in the aggregate of these species; however, the bag and possession limits of white-winged doves may not exceed 10 and 20, respectively.

Notice.—Hawaii—Subject to the applicable provisions of the preceding sections of this part, mourning doves may be taken in accordance with the State regulations.

(d) *White-winged Doves.*

Shooting hours: One-half hour before sunrise until sunset except as noted otherwise.

Check State Regulations for Additional Restrictions, Including Area Descriptions.

Seasons in—	Season dates	Limits	
		Bag	Possession
Arizona (Statewide)	Sept. 1 to Sept. 25	[1] 8	[1] 12
California:			
Counties of Imperial, Riverside, and San Bernardino.	Sept. 1 to Oct. 16 and Nov. 19 to Dec. 3.	[2] 10	[2] 20
Remainder of State.	Closed		
Nevada:			
Counties of Clark and Nye.	Sept. 1 to Oct. 30	[2] 10	[2] 20
Remainder of State.	Closed		
New Mexico	Sept. 1 to Sept. 30 and Nov. 19 to Dec. 18.	[2] 15	[2] 30
Texas [4]:			
Area in Rio Grande Zone.	Sept. 3, 4, 10, and 11.	10	20
Remainder of State.	Closed		

[1] In Arizona during September 1 through 25 the daily bag limit is 12 mourning and white-winged doves in the aggregate of which no more than 6 may be white-winged doves. The possession limit after opening day is 24 mourning and white-winged doves in the aggregate of which no more than 12 may be white-winged doves.

[2] In designated counties of California and Nevada, the daily bag limit is 15 and the possession limit is 30 white-winged and mourning doves, singly or in the aggregate of both species; however, the bag and possession limits of white-winged doves may not exceed 10 and 20, respectively.

[3] In New Mexico the daily bag limit is 15 and the possession limit is 30 white-winged and mourning doves, singly or in the aggregate of both species.

[4] Special White-Winged Dove Area in Rio Grande Zone—That portion of the State south and west of a line beginning at the International Bridge south of Fort Hancock; north along FM 1088 to State Highway 20; west along State Highway 20 to State Highway 148; north along State Highway 148 to Interstate Highway 10 at Fort Hancock; east along Interstate Highway 10 to U.S. Highway 277 at Sonora; south along U.S. Highway 277 to State Highway 55; southeast along State Highway 55 to U.S. Highway 83 at Uvalde; south along U.S. Highway 83 to State Highway 44; east along State Highway 44 to State Highway 16 at Freer; south along State Highway 16 to State Highway 285 at Hebbronville; east along State Highway 285 to FM 1017; southeast along FM 1017 to State Highway 186 at Linn; east along State Highway 186 to the Mansfield Channel at Port Mansfield; east along the Mansfield Channel to the Gulf of Mexico.

(e) *Band-tailed Pigeons.*

Shooting hours: One-half hour before sunrise until sunset.

Check State Regulations for Additional Restrictions, Including Area Descriptions.

Seasons in—	Season dates	Limits	
		Bag	Possession
Arizona [1]	Oct. 7 to Nov. 5	5	[2] 10
California:			
Counties of Alpine, Butte, Del Norte, Glen, Humboldt, Lassen, Mendocino, Modoc, Plumas, Shasta, Sierra, Siskiyou, Tehama, and Trinity.	Sept. 24 to Oct. 23	5	5
Remainder of State.	Dec. 10 to Jan. 8	5	5
Colorado:			
In all lands west of U.S. Interstate 25 and small game Management Units 80, 81, 82, and 83.	Sept. 1 to Sept. 30	5	10
Nevada [1]:			
Carson City, Douglas, and Lyon Counties only.	Sept. 24 to Oct. 23	5	5
New Mexico:			
North Zone [3]	Sept. 1 to Sept. 20	5	10
South Zone [3]	Oct. 1 to Oct. 20	5	10
Oregon	Sept. 1 to Sept. 30	5	5
Utah	do	5	10
Washington	do	5	5

[1] Each hunter must have for Arizona a special bird permit stamp issued by the State and for Nevada a special permit issued by the State.

[2] After opening day only.

[3] In New Mexico the *North Zone* is defined as that area lying north and east of a line following U.S. Highway 60 from the Arizona State line east to Interstate Highway 25 at Socorro and then south along Interstate Highway 25 to the Texas State line. The *South Zone* is defined as that area lying south and west of the North Zone.

Section 20.104 is revised to read as follows:

§ 20.104 Seasons, limits, and shooting hours for rails, woodcock, and common snipe.

Subject to the applicable provisions of the preceding sections of this part, the areas open to hunting, the respective open seasons (dates inclusive), the shooting and hawking hours, and the daily bag and possession limits on the species designated in this section are as follows:

	Rails (Sora and Virginia)	Rails (Clapper and King)	Woodcock	Common Snipe
Daily bag limit	[1] 25	See footnote 2	[2] 5	8.
Possession limit	[1] 25	do	10	16.

Shooting Hours: One-half hour before sunrise until sunset daily on all species, except as noted otherwise.
Check State regulations for additional restrictions, including area descriptions.

Seasons in the Atlantic Flyway

Connecticut	Sept. 1 to Nov. 5	Sept. 1 to Nov. 5	Oct. 15 to Dec. 3	Oct. 15 to Dec. 3.
Delaware	Sept. 1 to Nov. 9	Sept. 1 to Nov. 9	Oct. 17 to Oct. 29 and Nov. 21 to Jan. 11.	Oct. 17 to Oct. 29 and Nov. 21 to Jan. 31.
Florida	do	do	Dec. 3 to Feb. 5	Nov. 5 to Feb. 19.
Georgia	Sept. 7 to Nov. 15	Sept. 7 to Nov. 15	Nov. 20 to Jan. 23	Nov. 20 to Feb. 29.
Maine	Sept. 1 to Nov. 9	Closed	Oct. 1 to Nov. 30	Sept. 1 to Dec. 16.
Maryland	do	Sept. 1 to Nov. 9	Oct. 10 to Nov. 25 and Dec. 5 to Dec. 22.	Sept. 12 to Dec. 27.
Massachusetts	do	Closed	Deferred	Sept. 1 to Dec. 16.
New Hampshire	Closed	do	Oct. 1 to Dec. 4	Oct. 1 to Dec. 4.
New Jersey [4]:				
North Zone	Sept. 1 to Nov. 9	Sept. 1 to Nov. 9	Oct. 5 to Nov. 28	Oct. 8 to Jan. 21.
South Zone	do	do	Oct. 22 to Dec. 3	Oct. 8 to Jan. 21 and Dec. 12 to Dec. 23.
New York [4]:				
Northern Zone [4] including Lake Champlain	Sept. 1 to Nov. 9	Closed	Oct. 1 to Nov. 23	Sept. 1 to Nov. 20.
Long Island	Closed	do	do	Closed.
Remainder of State	Sept. 1 to Nov. 9	do	do	Sept. 1 to Nov. 20.
North Carolina	Sept. 19 to Nov. 26	Sept. 19 to Nov. 26	Nov. 11 to Jan. 14	Nov. 11 to Feb. 25.
Pennsylvania	Sept. 1 to Nov 9	Closed	Oct. 15 to Nov. 26	Oct. 15 to Dec. 13.
Rhode Island	Sept. 14 to Nov. 22	Sept. 14 to Nov. 22	Oct. 15 to Dec. 2 and Dec. 12 to Dec. 27.	Sept. 14 to Dec. 2 and Dec. 12 to Jan. 1.
South Carolina	Sept. 3 to Oct. 10 and Nov. 3 to Dec. 4.	Sept. 3 to Oct. 10 and Nov. 3 to Dec. 4.	Nov. 24 to Jan 27	Nov. 14 to Feb. 28.
Vermont	Sept. 24 to Dec. 2	Closed	Oct. 1 to Dec. 4	Sept. 24 to Dec. 4.
Virginia	Sept. 3 to Nov. 11	Sept. 3 to Nov. 11	Nov. 7 to Jan. 10	Oct. 17 to Jan. 31.
West Virginia	Sept. 5 to Nov. 12	Closed	Oct. 15 to Dec. 17	Sept. 5 to Dec. 20.

	Rails (Sora and Virginia)	Rails (Clapper and King)	Woodcock	Common Snipe
Seasons in the Mississippi Flyway				
Alabama	Nov. 12 to Jan. 20	Nov. 12 to Jan. 20	Nov. 26 to Jan. 31	Nov. 14 to Feb. 28.
Arkansas	Sept. 1 to Nov. 9	Closed	Nov. 1 to Jan. 4	Nov. 19 to Feb. 28.
Illinois	do	do	Oct. 1 to Dec. 4	Sept. 10 to Dec. 25.
Indiana	Sept. 3 to Nov. 11	do	Sept. 17 to Nov. 20	Sept. 3 to Dec. 18.
Iowa [5]	do	do	Sept. 17 to Nov. 20	Do.
Kentucky	Deferred	do	Oct. 1 to Dec. 4	Oct. 1 to Dec. 4.
Louisiana	Sept. 17 to Sept. 25 and Nov. 12 to Jan. 11.	Sept. 17 to Sept. 25 and Nov. 12 to Jan. 11.	Dec. 10 to Feb. 12	Nov. 12 to Feb. 28.
Michigan [6]	Sept. 15 to Nov. 14	Closed	Sept. 15 to Nov. 14	Sept. 15 to Nov. 14.
Minnesota	Sept. 1 to Nov. 4	do	Sept. 1 to Nov. 4	Sept. 1 to Nov. 4.
Mississippi	Oct. 22 to Dec. 30	Oct. 22 to Dec. 30	Dec. 24 to Feb. 28	Nov. 12 to Feb. 28.
Missouri	Sept. 1 to Nov. 9	Closed	Oct. 1 to Dec. 4	Oct. 1 to Dec. 4.
Ohio	do	do	Sept. 16 to Nov. 19	Sept. 1 to Nov. 26 and Dec. 8 to Dec. 27.
Tennessee	Deferred	do	Oct. 15 to Nov. 20 and Feb. 2 to Feb. 28.	Nov. 20 to Feb. 28.
Wisconsin	do	do	Sept. 17 to Nov. 20	Deferred.
Seasons in the Central Flyway				
Colorado [7]	Sept. 1 to Nov. 9	Closed	Closed	Sept. 1 to Nov. 9 and Dec. 10 to Jan. 1.
Kansas	Sept. 10 to Nov. 18	do	Oct. 1 to Dec. 4	Sept. 10 to Dec. 25.
Montana [7]	Closed	do	Closed	Deferred.
Nebraska [8]	Sept. 1 to Nov. 9	do	Sept. 15 to Nov. 18	Sept. 1 to Dec. 15.
New Mexico [7]	Sept. 10 to Nov. 18	do	Closed	Sept. 10 to Dec. 11.
North Dakota	Closed	do	do	Sept. 10 to Nov. 27.
Oklahoma	Sept. 1 to Nov. 9	do	Nov. 20 to Jan. 22	Oct. 20 to Feb. 3.
South Dakota [9]	Closed	do	Closed	Sept. 1 to Oct. 31.
Texas	Sept. 1 to Nov. 9	Sept. 1 to Nov. 9	Deferred	Deferred.
Wyoming [7]	Sept. 24 to Dec. 2	Closed	Closed	Sept. 24 to Jan. 8.
Seasons in the Pacific Flyway				
Colorado [7]	Sept. 1 to Nov. 9	Closed	do	Sept. 1 to Nov. 9 and Dec. 10 to Jan. 1.
Montana [7]	Closed	do	do	Deferred.
New Mexico [7]	Sept. 10 to Nov. 18	do	do	Sept. 10 to Dec. 11.
Wyoming [7]	Sept. 24 to Dec. 2	do	do	Sept. 24 to Dec. 25.

[1] The bag and possession limits for sora and Virginia rails apply singly or in the aggregate of these two species.
[2] In addition to the limits on sora and Virginia rails, in Connecticut, Delaware, Maryland, New Jersey, and Rhode Island, there is a daily bag limit of 10 and possession limit of 20 clapper and king rails, singly or in the aggregate of these two species, except that the season is closed on king rails in New Jersey by State regulation. In Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Texas, and Virginia, there is a daily bag limit of 15 and possession limit of 30 clapper and king rails, singly or in the aggregate of these two species.
[3] In Pennsylvania the woodcock daily bag limit is 3 daily and 6 in possession.
[4] For description of zones or management units within a State, see State regulations.
[5] In Iowa, shooting hours are sunrise to sunset. Rail limits are 15 daily and 25 in possession.
[6] In Michigan, in all or portions of the counties of Arenac, Bay, Huron, Macomb, Monroe, St. Clair, Tuscola and Wayne, and adjacent Great Lakes and connecting waters, the rail and snipe seasons shall open concurrently with the duck season and run continuously in all areas through November 14. See State regulations.
[7] The Central Flyway portion consists of: *Colorado* and *Wyoming*—the area lying east of the Continental Divide; *Montana*—the area lying east of Hill, Chouteau, Cascade, Meagher, and Park Counties; *New Mexico*—the area lying east of the Continental Divide but outside the Jicarilla Apache Indian Reservation. The remaining portions of these States are in the Pacific Flyway.
[8] In Nebraska the rail limits are 10 daily and 20 in possession.
[9] In South Dakota, the snipe limits are 5 daily and 15 in possession.

NOTE.—Some States may select rail, woodcock, and snipe seasons at the time they select their duck seasons in August. Consult waterfowl regulations to be published later for information concerning these seasons.

NOTE.—No seasons are prescribed for woodcock. Snipe seasons have been deferred by all other States in the Pacific Flyway. Consult waterfowl regulations to be published later for information concerning the snipe season in Montana.

Section 20.105 is revised to read as follows:

§ 20.105 Seasons, limits, and shooting hours for waterfowl, coots, and gallinules.

Subject to the applicable provisions of the preceding sections of this part, the areas open to hunting, the respective open seasons (dates inclusive), the shooting and hawking hours, and the daily bag and possession limits on the species designated in this section are prescribed as follows:

(a) *Sea Ducks. (1)* An open season for taking scoter, eider, and oldsquaw ducks is prescribed according to the following table during the period between September 15, 1983, and January 20, 1984, in all coastal waters and all waters of rivers and streams seaward from the first upstream bridge in Maine, New Hampshire, Massachusetts, Rhode Island, and Connecticut; in those coastal waters of New York lying in Long Island and Block Island Sounds and associated bays eastward from a line running between Miamogue Point in the Town of Riverhead to Red Cedar Point in the Town of Southampton, including any ocean waters of New York lying south of Long Island; in any waters of the Atlantic Ocean and, in addition, in any tidal waters of any bay which are separated by at least one mile of open water from any shore, island, and emergent vegetation in New Jersey, South Carolina, and Georgia; and in any waters of the Atlantic Ocean and/or in any tidal waters of any bay which are sparated by at least 800 yards of open water from any shore, island, and emergent vegetation in Delaware, Maryland, North Carolina, and Virgina; and provided that any such areas have been described, delineated, and designated as special duck hunting areas under the hunting regulations adopted by the respective States. In all other areas of these States and in all other States in the Atlantic Flyway, sea ducks may be taken only during the regular open season for ducks.

(2) The daily bag limit is 7 and the posession limit 14, singly or in the aggregate of these species. During the regular duck season in the Atlantic Flyway, States may set, in addition to the regular limits, a daily bag limit of 7 and a possesion limit of 14 scoter, eider, and oldsquaw ducks, singly or in the aggregate of these species.

(3) Shooting hours are one-half hour before sunrise until sunset daily.

Check State Regulations for Additional Restrictions.

Seasons in:	
Connecticut	Sept. 24 to Jan. 7.
Delaware	Do.
Georgia	Deferred.
Maine	Oct. 1 to Jan. 15.
Maryland	Deferred.
Massachusetts	Do.

New Hampshire	Sept. 15 to Dec. 30.
New Jersey	Oct. 6 to Jan. 20.
New York (Long Island only)	Sept. 23 to Jan. 7.
North Carolina	Deferred.
Rhode Island	Do.
South Carolina	Do.
Virginia	Do.

(4) Notwithstanding the provisions of this Part 20, the shooting of *crippled* waterfowl from a motorboat under power will be permitted in Maine, Massachusetts, New Hampshire, Rhode Island, Connecticut, New York, Delaware, Virginia, and Maryland in those areas described, delineated, and designated in their respective hunting regulations as being open to sea duck hunting.

Note.—States with deferred seasons may select sea duck seasons at the time they select their waterfowl seasons in August. Consult waterfowl regulations to be published later for information concerning these later seasons.

(b) *Teal.* September season: An open season for teal ducks (blue-winged, green-winged, and cinnamon) is prescribed according to the following table in those areas which are described, delineated, and designated in the hunting regulations of the following States:

Daily bag limit	4
Possession limit	8

Shooting hours: Sunrise until sunset daily.

Check State Regulations for Additional Restrictions.

Seasons in the Mississippi Flyway:	
Alabama (1)	Sept. 10 to Sept. 18.
Arkansas	Do.
Illinois (2)	Do.
Indiana (2)	Sept. 3 to Sept. 11.
Louisiana	Sept. 17 to Sept. 25.
Mississippi	Sept. 10 to Sept. 18.
Missouri	Do.
Ohio	Sept. 9 to Sept. 17.
Seasons in the Central Flyway:	
Colorado (3), (4)	Sept. 3 to Sept. 11.
Kansas	Sept. 10 to Sept. 18.
New Mexico (3)	Do.
Oklahoma	Do.
Texas	Do.

(1) In Alabama, shooting hours in Mobile Bay north of the causeway and south of the L&N Railroad are sunrise to 12 noon.
(2) In Illinois the shooting hours are from 7 a.m. to 4 p.m. local time by State regulation.
(3) The Kankakee and LaSalle Fish and Wildlife Areas, and portions of Attarbury, Hovey Lake, Jasper-Pulaski, and Pigeon River Fish and Wildlife Areas are closed to teal hunting by State regulations.
(4) Only in Lake and Chaffee Counties, and that portion of Colorado east of U.S. Highway-Colorado State Highway 85 from Wyoming State line to its intersection with U.S. Interstate Highway 25 to the New Mexico State line.
(5) Central Flyway portion only.

(c) *Gallinules.*

Daily bag limit	15
Possession limit	30

Shooting hours: One-half hour before sunrise to sunset.

Check State Regulations for Additional Restrictions.

Seasons in the Atlantic Flyway:	
Connecticut	Sept. 1 to Nov. 5.
Delaware	Sept. 1 to Nov. 9.
Florida [1]	Do.
Georgia	Oct. 8 to Oct. 11 and Nov. 24 to Nov. 27 and Dec. 10, to Jan. 20.
Maine	Sept. 1 to Nov. 9.
Maryland	Do.
Massachusetts	Do.
New Hampshire	Closed
New Jersey	Sept. 1 to Nov. 9.
New York:	
Long Island	Closed.
Remainder of State	Sept. 1 to Nov. 9.
North Carolina	Sept. 19 to Nov. 26.
Pennsylvania	Sept. 1 to Nov. 9.
Rhode Island	Sept. 14, to Nov. 22.
South Carolina	Sept. 3 to Oct. 10 and Nov. 3 to Dec. 4.
Vermont	Sept. 24 to Dec. 2.
Virginia	Deferred.
West Virginia	Do.
Seasons in the Mississippi Flyway:	
Alabama	Nov. 12 to Jan. 20.
Arkansas	Nov. 7 to Jan. 15.
Illinois	Closed.
Indiana	Sept. 3 to Nov. 11.
Iowa	Closed.
Kentucky	Deferred.
Louisiana	Sept. 17 to Sept. 25 and Nov. 12 to Jan. 11.
Michigan	Deferred.
Minnesota	Do.
Mississippi	Oct. 22 to Dec. 25.
Missouri	Closed.
Ohio	Sept. 1 to Nov. 9.
Tennessee	Deferred.
Wisconsin	Do.
Seasons in the Central Flyway:	
Colorado (2)	Closed.
Kansas	Do.
Montana (2)	Deferred.
Nebraska	Closed.
New Mexico (2)	Deferred.
North Dakota	Closed.
Oklahoma	Sept. 1 to Nov. 9.
South Dakota	Closed.
Texas	Sept. 1 to Nov. 9.
Wyoming (2)	Closed.
Seasons in the Pacific Flyway:	
All States and portions thereof.	Deferred.

[1] The gallinule season in Florida applies to the common gallinule only. There is no open season on the purple gallinule in Florida.
[2] Seasons apply to Central Flyway portion of State only.

Note.—States with deferred seasons may select gallinule seasons at the time they select their waterfowl seasons in August. Consult waterfowl regulations to be published later for information concerning these later seasons.

(d) *Waterfowl and coots in Atlantic, Mississippi, Central and Pacific Flyways.*

Atlantic Flyway

Flyway Restrictions

Shooting (including hawking) hours: One-half hour before sunrise to sunset daily except as otherwise restricted.

* * * * *

	Season dates	Limits: Bag	Limits: Possession
* * * * *			
Florida:			
Ducks, no more than 1 of which may be a species other than teal or wood ducks, and the possession limit will be double the daily bag limit.	Sept. 24 to Sept. 28..	4	8
* * * * *			

Mississippi Flyway:

Shooting (including hawking) hours: One-half hour before sunrise to sunset daily except as otherwise restricted.

* * * * *

	Season dates	Limits: Bag	Limits: Possession
* * * * *			
Iowa:			
Ducks	Sept. 17 to Sept. 21..	(1)	(1)
* * * * *			
Kentucky:			
Ducks, no more than 1 of which may be a species other than teal or wood ducks, and the possession limit will be double the daily bag limit.	Sept. 7 to Sept. 11....	4	8
* * * * *			
Tennessee			
Ducks, no more than 1 of which may be a species other than teal or wood ducks, and the possession limit will be double the daily bag limit.	Sept. 17 to Sept. 21..	4	8
* * * * *			

[1] Limits to conform to those set for the regular seasons.

* * * * *

Section 20.106 is revised and amended as follows:

§ 20.106 Seasons, limits, and shooting hours for sandhill cranes.

Central Flyway: Subject to the applicable provisions of the preceding sections of this part, open seasons are prescribed for taking sandhill cranes with a daily bag limit of 3 and a possession limit of 6 cranes, and with shooting hours from one-half hour before sunrise until sunset in the following areas for the dates indicated:

(a) In Colorado (the Central Flyway portion except the San Luis Valley) the season has been deferred.

(b) In the New Mexico counties of Chaves, Curry, DeBaca, Eddy, Lea, Quay, and Roosevelt, the inclusive dates for the regular season are October 29, 1983, through January 28, 1984

In the New Mexico experimental sandhill crane season hunt areas, each permittee may take no more than 3 cranes, each of which must be tagged upon taking. In Area 1 (those portions of Dona Ana, Luna, and Sierra Counties west of Interstate Highway 25, north of Interstate Highway 10, east of New Mexico Highways 26 and 27 between Deming and Hillsboro, and south of New Mexico Highway 90), and Area 2 (that portion of Luna County south of Interstate Highway 10), the inclusive season dates are October 28 through October 30, 1983; December 16 through December 18, 1983; and January 13 through January 15, 1984. Each person participating in the experimental season must obtain and have in his possession while hunting, a valid special permit issued by New Mexico.

(c) In Oklahoma (that portion west of I–35) the inclusive dates are October 22, 1983 through January 22, 1984.

(d) In Texas (that portion west of a line from Brownsville along U.S. 77 to Victoria; U.S. 87 to Placedo; Farm Road 616 to Blessing; State 35 to Alvin; State 6 to U.S. 290; U.S. 290 to Sonora; U.S. 277 to Abilene; Texas 351 to Albany; U.S. 283 to Vernon; and U.S. 183 to the Texas-Oklahoma boundary) the season has been deferred.

(e) In North Dakota (west of U.S. 281) the inclusive dates are September 10 through November 6, 1983.

(f) In Montana (the Central Flyway portion except that area south of I-90 and west of the Bighorn River), the season has been deferred.

(g) In South Dakota, the inclusive season dates are October 1 through November 6, 1983.

(h) In Wyoming (in Campbell, Converse, Crook, Goshen, Laramie, Niobrara, Platte, and Weston Counties) the inclusive season dates are September 24 through November 20, 1983.

Each hunter participating in the regular sandhill crane hunting season must obtain and carry in his possession while hunting, a valid Federal sandhill crane hunting permit available without cost from conservation agencies in the States where crane hunting seasons are allowed. The permit must be displayed to an authorized law enforcement official upon request.

Pacific Flyway: In Arizona (within Game Management Units 30A, 30B, 31, and 32), the inclusive season dates are November 18 through November 20, 1983. Hunting will be by special permit to be issued by the State. Each permitee may take 2 sandhill cranes per season.

In the Wyoming experimental sandhill crane-Canada goose hunt areas (Bear River drainage and Star Valley of Lincoln County), hunting is by State permit only with limits of 2 sandhill cranes and 3 Canada geese per season. The inclusive season dates are September 1 through September 14, 1983.

* * * * *

Section 20.109 is revised as follows:

§ 20.109 Extended seasons, limits, and hours for taking migratory game birds by falconry.

Subject to the applicable provisions of this part, the areas open to hunting, the respective open seasons (dates inclusive), the hawking hours, and the daily bag and possession limits on the species designated in this section are prescribed as follows:

Daily bag limit	3 singly or in the aggregate.
Possession limit	6 singly or in the aggregate.

These limits apply during both regular hunting seasons and extended falconry seasons.

Hawking hours: One-half hour before sunrise until sunset daily.

Check State Regulations for Additional Restrictions.

Atlantic Flyway	
Florida:	
Mourning doves and white-winged doves.	Oct. 1 to Jan. 15.
Woodcock	Oct. 29 to Feb. 12.
Snipe	Nov. 5 to Feb. 19.
Ducks, mergansers, and coots	Oct. 15 to Dec. 4 and Dec. 10 to Jan. 15.
Maryland:	
Mourning doves	Sept. 1 to Oct. 18 and Nov. 15 to Jan. 12.
Woodcock	Oct. 10 to Nov. 25 and Dec. 5 to Jan. 31.
Snipe	Sept. 12 to Dec. 27.
Pennsylvania:	
Mourning doves	Sept. 1 to Dec. 15.
Woodcock and snipe	Oct. 1 to Jan. 7.
Ducks, mergansers, and coots	Do.
Virginia:	
Woodcock	Oct. 1 to Jan. 15.
Mourning doves and rails	Sept. 20 to Dec. 5 and Dec. 21 to Dec. 31.
Snipe	Oct. 17, to Jan. 31.
Mississippi Flyway	
Illinois:	
Mourning doves, woodcock, and rails.	Sept. 1 to Dec. 16.
Snipe	Sept. 10 to Dec. 25.
Teal	Sept. 10 to Sept. 18.
Ducks, mergansers, and coots	Oct. 1 to Jan. 6.
Iowa:	
Ducks and Mergansers	Sept. 17 to Jan. 1
Geese	Oct. 1 to Jan. 1.
Michigan:	
Woodcock, snipe, and rails	Sept. 1 to Dec. 16.
Ducks, mergansers, and coots	Oct. 1 to Jan. 15.
Minnesota:	
Woodcock, snipe, and rails	Sept. 1 to Dec. 16.
Ducks, mergansers, coots, gallinules, and geese.	Oct. 1 to Jan. 15.
Missouri:	
Mourning doves	Sept. 1 to Dec. 16.
Wisconsin:	
Rails, woodcock, snipe, and gallinules.	Do.
Ducks, mergansers, and coots	Oct. 1 to Jan. 15.
Central Flyway	
New Mexico: (1)	
Mourning doves, white-winged doves, and band-tailed pigeons.	Sept. 1 to Nov. 6 and Nov. 19 to Dec. 28.
Sandhill cranes only in Chaves, Curry, De Baca, Eddy, Lea, Quay, and Roosevelt Counties.	Oct. 15 to Jan. 28.
Ducks, mergansers, coots, and gallinules.	Oct. 17 to Jan. 22.
Canada and white-fronted geese.	Do.
Snow, blue, and Ross' geese	Oct. 29 to Feb. 12.
Texas:	
Mourning doves (statewide)	Sept. 1 to Nov. 30 and Jan. 7 to Jan. 22.
White-winged doves, rails, and gallinules.	Sept. 1 to Dec. 16.
Wyoming:	
Mourning doves	Sept. 1 to Oct. 15.
Snipe and rails	Sept. 24 to Dec. 2.
Pacific Flyway	
Idaho:	
Mourning doves only	Sept. 1 to Oct. 15.
Ducks, mergansers, coots, and snipe.	Oct. 1 to Jan. 15.
New Mexico:(1)	
Mourning doves, white-winged doves, and band-tailed pigeons.	Sept. 1 to Nov. 6 and Nov. 19 to Dec. 28.
Ducks, mergansers, coots, and gallinules.	Oct. 1 to Nov. 13 and Nov. 21 to Jan. 22.
Geese	Oct. 8 to Jan. 22.
Oregon:	
Mourning doves	Sept. 1 to Dec. 16.
Ducks, mergansers, coots, and snipe.	Oct. 1 to Jan. 15.
Utah:	
Mourning doves	Sept. 1 to Sept. 30.
Ducks, mergansers, and coots	Oct. 1 to Jan. 15.
Wyoming:	
Mourning doves	Sept. 1 to Oct. 15.
Snipe and rails	Sept. 24 to Dec. 2.

(1) In New Mexico, the aggregate bag and possession limits of all species are 3 and 6, respectively.

Note.—See waterfowl season footnotes for descriptions of zones. For some States, the extended falconry season dates also include general season dates.

Dated: August 11, 1983.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83-23564 Filed 8-25-83; 8:45 am]

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VOL
48
ISS
1
6
7
AG
26
1983
UMI

Reader Aids

Federal Register

Vol. 48, No. 167

Friday, August 26, 1983

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419 523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Privacy Act	523-4534
Public Inspection Desk	523-5215
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282 523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235

United States Government Manual 523-5230

SERVICES

Agency services	523-5237
Automation	523-3408
Library	523-4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public Inspection Desk	523-5215
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, AUGUST

34723-34928	1
34929-35068	2
35069-35344	3
35345-35586	4
35587-35872	5
35873-36090	8
36091-36240	9
36241-36438	10
36439-36560	11
36561-36796	12
36797-37000	15
37001-37200	16
37201-37358	17
37359-37602	18
37603-37920	19
37921-38200	22
38201-38446	23
38447-38600	24
38601-38780	25
38781-39032	26

CFR PARTS AFFECTED DURING AUGUST

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Administrative Orders:

Presidential Determinations:

No. 83-8 of July 19, 1983 35587
No. 83-9 of August 5, 1983 36561

Executive Orders:

April 17, 1926 (Revoked in part by PLO 6454) 38240
12217 (Revoked by EO 12437) 36801
July 13, 1910 (Revoked in part by PLO 6455) 38468
12435 34723
12436 34931
12437 36801

Proclamations:

5078 34929
5079 35873
5080 36091
5081 36241
5082 36797
5083 36799

5 CFR

Ch. XIV 38781
550 36803
551 36803
831 38781
950 34910

Proposed Rules:

334 38846
1255 35652

7 CFR

2 37359
28 37001
51 38789
225 38601
226 35589
227 38601
235 38601
246 38601
247 38601
250 38601
253 38601
301 38447
707 35598
720 35599
724 37603
726 36563
796 35599
908 ..... 35345, 36439, 37360, 38601
910 ..... 35600, 36563, 37607, 38791
915 ..... 35345, 38791
916 35345
917 35345
921 35345
922 35345
924 35345
926 35345
930 ..... 35345, 38602
932 38201
944 38791
945 35345
946 35345
947 ..... 35345, 38203
948 35345
953 35345
958 35345
967 35345
982 35345
985 35345
989 35347
993 35345
1030 38448
1106 38204
1124 36439
1139 38205
1207 38603
1427 35348
1430 ..... 34725, 34933
3015 35875

Proposed Rules:

51 38846
68 35411
75 35411
101 37417
201 35417
240 35106
278 35868
279 35868
404 35418
408 35423
413 35427
416 37420
417 35431
421 35435
423 35439
425 35443
432 35447
437 35112
442 35451
983 36272
989 35454
1004 36113
1030 36464
1036 38001
1076 36467
1079 ..... 37424, 38002
1106 37657
1139 35652
1290 35116

8 CFR

100 37201
103 ..... 36441, 36564
212 ..... 35349, 36564, 37608
231 ..... 36093, 37003

235.....35349, 37608
Proposed Rules:
3.....38847

9 CFR

54.....38206
71.....37921
74.....37921
75.....38793
78.....34943
92.....37202
97.....37361
Proposed Rules:
3.....35654
307.....38490
317.....35654
319.....35654
325.....35884
350.....38490
351.....38490
354.....38490
355.....38490
362.....38490
381.....35654, 35884, 38490

10 CFR

20.....38604
21.....38604
73.....38604
25.....35069
40.....35350
71.....35600, 38449
595.....38207
795.....36432
1016.....36432
Proposed Rules:
Ch. I.....34966
Ch. II.....37226
430.....34858
625.....35119
710.....35342
761.....36792
1017.....36825

11 CFR

102.....37921

12 CFR

207.....35070
220.....34944
221.....35074, 37361
225.....37003
303.....34945, 36565
329.....35627, 35629
1204.....38455
Proposed Rules:
226.....35659
705.....37042

13 CFR

Ch. I.....38794
Proposed Rules:
115.....37658
120.....37044
121.....34966
122.....36825

14 CFR

21.....38808
23.....38808
39.....34731, 35355–35364, 36806, 37361–37364, 37922–37924, 38809
71.....35364–35366, 36442, 37365, 37925, 38809, 38810
73.....36806
75.....35366, 38810
91.....36442
95.....36445, 38208
97.....35876, 37926
212.....36445
223.....37928
252.....36093
261.....35080
263.....35081
289.....35081, 37608
291.....38456
398.....36094
1204.....37608
Proposed Rules:
Ch. I.....36826
21.....38002
25.....38004, 38848
39.....36468, 37425–37427, 38005
71.....35456–35458, 35887, 38246
73.....38006, 36827, 37428, 37429
152.....36828
159.....37430
241.....36598, 36601
252.....36273
298.....36601
377.....35459
385.....36601
399.....35119

15 CFR

373.....38811
399.....38811
Proposed Rules:
921.....35120
971.....35888

16 CFR

13.....35367, 37202, 37203, 38214
305.....35385
455.....36096
1013.....36566
Proposed Rules:
13.....34764, 35132–35135, 35888, 38247, 38848
305.....37663
451.....36273
460.....35661

17 CFR

1.....35248
3.....34732, 35248, 35305, 37203
4.....35248
5.....38214
10.....35248
15.....35248
17.....35248
18.....35248
21.....35248
33.....35248
140.....34945
145.....35248
147.....35248
155.....35248
166.....35248
170.....35248
210.....36566, 37609
229.....37609
230.....37928
231.....37609
239.....36566, 37928
240.....35082, 38218, 241.....37609
270.....36097, 36243, 37928
274.....37928
Proposed Rules:
145.....34971
146.....34971
147.....34971
240.....37430, 37664, 38250
249.....36115
270.....35459

18 CFR

2.....35631, 35633
154.....35633
157.....34872, 34875, 35635
270.....35633
271.....35633–35636
282.....38224, 38812
284.....34875, 35635
300.....37006
410.....34946, 36469
Proposed Rules:
154.....38492
271.....35663–35666, 38651

19 CFR

12.....34734
101.....38813
127.....34734
177.....35878
210.....35386
Proposed Rules:
101.....35666
171.....37227
175.....36625

20 CFR

404.....37015, 38814
Proposed Rules:
299.....35460
404.....35135, 36831
410.....35135
416.....35135, 36831, 37228
422.....35135, 36831
652.....34866, 34974
653.....34866
655.....35667

21 CFR

5.....36571
74.....34946, 37020
81.....38814
109.....37020
172.....38225, 38226
173.....37614
175.....37615
176.....37617
177.....36099, 37618, 38604, 38815
178.....37615, 38227
193.....36246, 36448, 37203
201.....37619
211.....37624
430.....38459
436.....34947, 38459
442.....38459
452.....36571
520.....38606
522.....34947, 36100, 36571
555.....37623
558.....34948, 34949, 35637, 36100, 36101, 37620–37622, 38815
561.....36448, 37203
610.....37022
700.....37624
800.....37624
870.....36101
1316.....35087
Proposed Rules:
Ch. I.....37665
131.....37666, 38252
133.....36132, 36625, 37666
146.....37668
184.....34974
291.....35668
353.....36133
355.....38853

22 CFR

11.....38606

23 CFR

Ch. I.....35388
752.....38609
Proposed Rules:
Ch. I.....38854
652.....36470
771.....33894

24 CFR

202a.....36247
203.....34949, 35088, 35638, 36247
205.....35389
207.....35389
209.....36247
211.....36247
213.....35389, 35638, 36247
220.....35393, 36247
221.....35389, 36247
222.....36247
226.....36247
228.....36247
232.....35389
234.....35638, 36247
235.....34949, 36247
237.....36247
244.....35389
300.....36572, 36573
500.....36574
868.....37023
886.....36101
890.....38228
Proposed Rules:
115.....36133
200.....35668–35671, 35890
203.....35140
234.....35140
235.....35140
241.....35891
3280.....37136

25 CFR

Proposed Rules:
11.....37046

26 CFR

1.....36448
31.....35089, 36807
35.....35090, 38446, 36807
51.....35092
150.....35092
301.....36449, 38229
Proposed Rules:
1.....36137, 36474

5c.....36137
20.....35143
31.....36474

27 CFR

9.....35395, 37365–37374, 38462
178.....35398

Proposed Rules:

5.....35460
9.....35462, 37670, 38497

28 CFR

0.....35087
9.....35087
60.....37376

Proposed Rules:

0.....35892
16.....35892

29 CFR

500.....36576, 36736, 38374, 38380
1601.....38231
1910.....36576
1952.....34950, 34951, 37024
1956.....37025
2610.....37027
2619.....36816
2622.....37027

Proposed Rules:

1550.....37047
1697.....34766
1910.....37672, 38856
1926.....35774
2615.....37230

30 CFR

Ch. II.....35639
221.....36582
226.....36582
231.....36588
251.....37967
641.....37377
642.....37377
800.....36418
806.....36418
872.....35399
880.....37377
881.....37377
913.....37625
914.....37626
917.....38463
926.....37382

Proposed Rules:

55.....36789
56.....36789
57.....36789
250.....38500
252.....38500
913.....36625
915.....35903
935.....35146, 36274, 36627
938.....37672

31 CFR

Proposed Rules:

1.....35904

32 CFR

47.....38816
70.....35644
219.....35400
253.....35644
263.....34952
373.....36247
701.....38811
706.....37029, 37030
819a.....35878
842.....37631
865.....37384

Proposed Rules:

65.....34974

33 CFR

1.....35402
8.....36449
25.....36450
53.....36449
100.....36450, 36451, 37396, 37397, 38630, 38631
110.....36452, 38631
117.....35409, 36452, 38632, 38633
154.....34740
160.....35402
161.....35402
165.....35402, 36453, 38633, 38634
167.....36453

Proposed Rules:

100.....36474, 37433
110.....34767, 38652
115.....35464
117.....36475, 36477, 38653–38655
161.....37433
165.....37438

34 CFR

5b.....38817
200.....34953
205.....35879
263.....35330

Proposed Rules:

662.....38968
663.....38968
664.....38968
665.....38968

35 CFR

Proposed Rules:

111.....35905

36 CFR

223.....34740
905.....38232

Proposed Rules:

13.....37673
228.....35580
251.....35465, 35580
261.....35465

37 CFR

202.....37204

Proposed Rules:

1.....34838, 36478, 39016
2.....36478
202.....37232

38 CFR

3.....37031, 38820
17.....37398, 38821
21.....35879, 36577, 37968
36.....35879
40.....36103

Proposed Rules:

17.....36007, 38253
21.....34975, 35146

39 CFR

1.....38234
10.....35409
111.....35645, 38234

Proposed Rules:

111.....37439
3001.....35914

40 CFR

35.....37814
52.....36250, 36818, 36819, 37401–37403, 38235, 38465–38467, 38634, 38635
60.....36579, 37578, 37598, 38728, 39010
61.....36579
65.....38637
81.....37404, 37653, 38236, 38467, 38637, 38639
145.....38237, 38238, 38640, 38641
162.....35095, 38572
180.....35095, 36251, 37210–37214
264.....36582
270.....36582
271.....34742, 34954, 35096, 35097, 35647, 36252, 37215
425.....35649
468.....36942
717.....38178

Proposed Rules:

Ch. II.....34768
50.....38009
51.....38742
52.....34976, 35312–35328, 35672, 35918, 36139, 37232, 38742
60.....35338, 37338
61.....38009
62.....34978
81.....35919, 35920, 36275, 38254, 38255
145.....37673
180.....36486, 38501
228.....35147, 35673
261.....39000
271.....36277, 36628, 38010, 38722
302.....34979
414.....35674
416.....35674
721.....38502
1502.....36486
1508.....36486

41 CFR

Ch. 1.....37031
Ch. 101.....35098
5–1.....37997
5–53.....37405
29–70.....37786
44–17.....38822
101–11.....38824
101–41.....35649

Proposed Rules:

3–1.....37233
3–3.....37233

42 CFR

60.....38984
405.....37408
421.....38825

Proposed Rules:

2.....38758
71.....36143
100.....36390
122.....36402
123.....36402
125.....36390
400.....38146
405.....34979, 38146
408.....38146
409.....38146
418.....38146
420.....38146
421.....34979, 38146
431.....36151
441.....38011
460.....36970, 38656
462.....36970, 38656
489.....38146

43 CFR

2.....37411
1820.....36103
3000.....37654
3100.....37656
3410.....37654
3420.....37654
3430.....37654
3450.....37654
8360.....36382

Public Land Orders:

3160.....36582
3180.....36582
3570.....36588
6380 (corrected by PLO 6451).....35099
6388 (corrected by PLO 6450).....35098
6448.....34743
6449.....34743
6450.....35098
6451.....35099
6452.....38239
6453.....38239
6454.....38240
6455.....38468

Proposed Rules:

36.....37673

44 CFR

64.....34744, 34957, 36590, 36592, 38825
67.....36104
71.....37036

Proposed Rules:

61.....35468
62.....35468
67.....36159–36167, 36829, 38018, 38019, 38258, 38259

45 CFR

1.....35099
10.....35099
67.....35099
99.....35099
101.....38827
303.....38642
1607.....36820

Proposed Rules:

5b.....37440
302.....35468
304.....35468
306.....35468
1606.....36845
1625.....36845

46 CFR

31 36457
32 36457
35 36457
42 38646
221 35881
503 36253
536 ..... 35099, 36254

Proposed Rules:

10 35920
35 35920
50 37441
52 37441
53 37441
54 37441
63 37441
157 35920
162 37441
175 35920
185 35920
186 35920
187 35920
295 37449
298 37453
510 38856
540 35675

47 CFR

0 ..... 37413, 38240
1 ..... 36104, 36459
2 ..... 34746, 37216
15 ..... 34748, 37217
17 38473
18 37217
19 38240
21 ..... 34746, 37216
22 37997
73 ..... 34753–34757, 34959, 36106–36112, 36254, 36459, 37216, 37220–37224, 37414–37416, 38243, 38470–38473
74 ..... 34746, 37216, 38473
83 34961
90 ..... 34961, 36104
95 ..... 35234, 36104
97 ..... 34746, 37224

Proposed Rules:

Ch. I 36167, 37235, 37464, 38511
2 37475
18 37235
68 34985
73 ..... 34772–34779, 35964, 36168–36173, 36276, 37239–37269, 37475–37482, 38020, 38053, 38859, 38860
76 34986
90 ..... 34782, 34987, 35149

48 CFR

Proposed Rules:

Ch. I 35675

49 CFR

1 37998
192 37999
213 35882
391 38483
571 38842
1056 38844
1170 35409
1175 36594
1181 38844
1183 38844
1300 36822
1807 36822

Proposed Rules:

Ch. X 38059
171 ..... 35471, 35965
172 ..... 35471, 35965, 35970
173 ..... 35471, 35965, 35970
175 35471
179 35970
210 ..... 36487, 38511
218 36492
571 ..... 34783, 34784, 36493, 36849
572 37493
622 34894
1105 36284
1152 36284
1160 36285
1165 36290
1180 36284

50 CFR

10 37040
17 ..... 34757, 34961, 36256, 36594
20 ..... 35100, 39024
32 36112
285 ..... 35107, 36597, 36823, 38650
611 ..... 34762, 34962, 35107
649 36266
650 34762
651 34762
652 ..... 34762, 38243
654 34762
655 34762
658 38489
661 ..... 36823, 38244
662 34963
663 ..... 34762, 34763
671 34762
672 ..... 34762, 35107, 37040
674 ..... 34762, 34965, 37224
675 ..... 34762, 35107

Proposed Rules:

17 ..... 35475, 35973, 38860
20 ..... 35152, 35153, 36853
23 37494
32 34987
36 37673
424 36062
641 38511
681 35475

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing August 18, 1983

VOL
48
ISS
1
6
7
AG
26
1983
UMI

S
6
8
G
2.9
1983

8-29-83
Vol. 48 No. 168

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Monday
August 29, 1983

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SECOND CLASS NEWSPAPER

VOL
48
ISS
1
6
8
AG
29
1983
UMI

8-29-83
Vol. 48 No. 168
Pages 39033-39204

federal register

Monday
August 29, 1983

Selected Subjects

Air Pollution Control
Environmental Protection Agency

Air Traffic Control
Federal Aviation Administration

Aliens
Immigration and Naturalization Service

Animal Welfare
Animal and Plant Health Inspection Service

Authority Delegations (Government Agencies)
Federal Reserve System

Aviation Safety
Federal Aviation Administration

Claims
Civil Aeronautics Board
Health Care Financing Administration

Endangered and Threatened Wildlife
Fish and Wildlife Service

Fisheries
National Oceanic and Atmospheric Administration

Flood Insurance
Federal Emergency Management Agency
Small Business Administration

Food Additives
Food and Drug Administration

CONTINUED INSIDE

Selected Subjects

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Legal Services
Legal Services Corporation

Loan Programs—Housing and Community Development
Veterans Administration

Marine Safety
Coast Guard

Milk Marketing Orders
Agricultural Marketing Service

Nuclear Materials
Nuclear Regulatory Commission

Nuclear Power Plants and Reactors
Nuclear Regulatory Commission

Radio
Federal Communications Commission

Contents

Federal Register
Vol. 48, No. 168
Monday, August 29, 1983

Agricultural Marketing Service
RULES
Milk marketing orders:
39033 Middle Atlantic

Agriculture Department
See also Agricultural Marketing Service; Animal and Plant Health Inspection Service; Commodity Credit Corporation.
NOTICES
Meetings:
39100 Agribusiness Promotion Council
39100 Science and Education Research Grants Program Policy Advisory Committee
Senior Executive Service:
39100 Performance Review Board; membership

Air Force Department
NOTICES
Meetings:
39114 Scientific Advisory Board
Senior Executive Service:
39114 Performance Review Board; membership

Animal and Plant Health Inspection Service
RULES
39035 Animal welfare standards; marine mammals; handling, care, treatment, and transportation; granting of variances
PROPOSED RULES
39078 Animal welfare standards; marine mammals; handling, care, treatment, and transportation; extension of time

Bonneville Power Administration
NOTICES
39122 Transmission agreement, draft; availability and meeting

Civil Aeronautics Board
PROPOSED RULES
Procedural regulations:
39081 Collection of claims owed the United States

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
39102 Alabama
39102 Colorado
39102 Kentucky
39102 Michigan
39103 New Hampshire
39103 New Jersey
39103 New York
39103 North Dakota
39103 South Carolina
39103 South Dakota
39104 Wyoming

Coast Guard
RULES
39059 Ports and waterways safety; vessel operation and cargo transfers; correction
PROPOSED RULES
Regattas and marine parades; safety of life:
39083 Chrysler Laser Classic 200

Commerce Department
See also International Trade Administration; National Oceanic and Atmospheric Administration.
NOTICES
Meetings:
39197 Industrial Competitiveness; Presidents' Commission

Commodity Credit Corporation
NOTICES
Price support rates:
39100 Peanuts; 1983 determination

Conservation and Renewable Energy Office
NOTICES
39122 Motor vehicle fuel economy; 1982 gas mileage guide supplement

Defense Department
See Air Force Department; Defense Logistics Agency.

Defense Logistics Agency
NOTICES
39114 Privacy Act; systems of records

Drug Enforcement Administration
NOTICES
Registration applications, etc., controlled substances:
39186 Drug Mart, Inc.

Education Department
NOTICES
Meetings:
39121 Women's Educational Programs National Advisory Council
39199 Meetings; Sunshine Act

Energy Department
See Bonneville Power Administration; Conservation and Renewable Energy Office; Federal Energy Regulatory Commission.

Environmental Protection Agency
RULES
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.:
39058 Hexakis (2-methyl-2-phenylpropyl) distannoxane; correction
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States:
39084 Nebraska

NOTICES
Meetings:
39143 Science Advisory Board
Pesticide, food, and feed additive petitions:
39152 American Cyanamid Co. et al., correction
39153 Rhone-Poulenc Inc., correction
Pesticides; temporary tolerances:
39153 2, 2-Dichlorovinyl dimethyl phosphate; correction
39153 Thiodicarb; correction
Toxic and hazardous substances control:
39153 Premanufacture notices receipts; correction
39153 Premanufacture notices review period extensions
39153 Premanufacture notification requirements; test marketing exemption approvals; correction
Water pollution; discharge of pollutants (NPDES):
39144 Pacific Ocean deep seabed mining

Federal Aviation Administration
RULES
Air traffic operating and flight rules:
39054 Air traffic control system; interim operations plan
Airworthiness directives:
39049 Air Tractor
39050 Cessna
39051 McDonnell Douglas
39052 Sikorsky
39053 Societe National Industrielle Aerospatiale
39054 Transition areas
PROPOSED RULES
39078 VOR Federal airways
39079, 39080 VOR Federal airways and jet routes (2 documents)
NOTICES
39195 Exemption petitions; summary and disposition
39194 National airspace system; VHF air traffic control communications; channel spacing; inquiry

Federal Communications Commission
RULES
Radio services, special:
39072 Maritime services; marine VHF public correspondence frequencies, Puget Sound
39072 Personal services; mobile services, relay stations; temporary permit; effective date and correction
PROPOSED RULES
Common carrier services:
39090 Integrated services digital networks; correction
Radio services, special:
39090 Private land mobile radio services; frequency assignment process; correction

Federal Emergency Management Agency
RULES
Flood insurance program:
39066 Coverage, sales, and eligibility provisions

Federal Energy Regulatory Commission
NOTICES
Hearings, etc.:
39132 Arkansas Louisiana Gas Co.
39132 Arkansas Power & Light Co.
39132 Colorado Interstate Gas Co.
39132 El Paso Natural Gas Co.
39133 Energenics Systems Inc. (2 documents)
39133, 39134 Equitable Gas Co. (2 documents)
39134 Idaho Power Co.
39134 Lone Star Gas Co.
39135 McCloud Community Services District
39135 Mobil Producing Texas & New Mexico, Inc.
39136 National Fuel Gas Supply Corp.
39136 National Fuel Gas Supply Corp. et al.
39137 Natural Gas Pipeline Co. of America
39137 Northampton, Mass.
39137, 39138 Northern Natural Gas Co. (2 documents)
39138 Northern States Power Co.
39138 Northwest Central Pipeline Corp.
39139 Northwest Pipeline Corp.
39139 Pacific Gas & Electric Co.
39140 Panhandle Eastern Pipe Line Co.
39140 Pennsylvania Power & Light Co.
39140 South Georgia Natural Gas Co.
39141 Tennessee Gas Pipeline Co.
39142 Transcontinental Gas Pipe Line Corp.
39142 Transcontinental Gas Pipe Line Corp. et al.
39143 Wyoming Interstate Co., Ltd.
Natural Gas Policy Act:
39202 Jurisdictional agency determinations

Federal Home Loan Bank Board
NOTICES
Applications, etc.:
39153 Central Savings & Loan Association
39154 Coast Federal Savings & Loan Association
39154 Firstsouth Federal Savings & Loan Association
39154 Glendale Federal Savings & Loan Association
39154 Gonzales Federal Savings & Loan Association
39154 Northeast Savings, F.A.
39154 Progress Federal Savings & Loan Association
39155 Savers Federal Savings & Loan Association
39155 Sunbelt Federal Savings & Loan Association
39199 Meetings; Sunshine Act

Federal Reserve System
RULES
Authority delegations:
39047 Nonbanking activities; application approval
NOTICES
Applications, etc.:
39155 Conifer/Essex Group, Inc., et al.
39155 Financial Management Bancshares of West Virginia et al.
39156 First Citizens Bancorporation of South Carolina et al.
39156 Hudson Bancshares, Inc., et al.
39156 Southeast Banking Corp.
Bank holding companies; proposed de novo nonbank activities:
39157 Norwest Corp. et al.
39157 Old Stone Corp. et al.

Fish and Wildlife Service
PROPOSED RULES
Endangered and threatened species:
39090 Amargosa vole
39096 Bahama and Schaus swallowtail butterflies
39093 Long-haired phlox

Food and Drug Administration
RULES
Food additives:
39058 Adjuvants, production aids, and sanitizers; di-tert-butylphenyl phosphonite condensation product with biphenyl

39057 Polymers; fluorine-treated polyethylene
NOTICES
Medical devices; premarket approval:
39159 Upjohn Co.

Health and Human Services Department
See Food and Drug Administration; Health Care Financing Administration; Human Development Services Office.

Health Care Financing Administration
RULES
39060 Claims collection and compromise
NOTICES
Medicare:
39160 Peer review organization (PRO) area designations; utilization and quality control; scope of work

Human Development Services Office
NOTICES
39160 Child abuse and neglect prevention and treatment grants priorities, 1984 FY

Immigration and Naturalization Service
RULES
Aliens:
39034 Deportation; Cuban residents subject to sanctions

Indian Affairs Bureau
NOTICES
Environmental statements; availability, etc.:
39163 Papago Indian community lands, Ariz.; proposed lease

Interior Department
See Fish and Wildlife Service; Indian Affairs Bureau; Land Management Bureau.

International Trade Administration
NOTICES
Countervailing duties:
39109 Cordage from Cuba
39105 Pork rind pellets from Mexico
39109 Refrigeration Compressors from Singapore
Meetings:
39105 President's Export Council (2 documents)
Trade adjustment assistance determination petitions:
39104 AJD Forest Products, Inc., et al.

International Trade Commission
NOTICES
Import investigations:
39164, 39165 Caulking guns; corrections (2 documents)
39164 Copper-clad stainless steel cookware; correction
39165 Portland hydraulic cement from Australia and Japan; correction
39165 Sorbitol from France
39165 Trolley wheel assemblies

Interstate Commerce Commission
NOTICES
Motor carriers:
39166, 39167 Finance applications (2 documents)
39170, 39177 Permanent authority applications (3 documents)
39170 Permanent authority applications; restriction removals
39180 Temporary authority applications
Motor carriers; control, purchase, and tariff filing exemptions, etc.:
39169 Reisch Enterprises, Inc., et al.
Rail carriers:
39185 Atchison, Topeka, Santa Fe Railway Co.; passenger train operation
39186 Union Pacific Railroad Co.; passenger train operation
Rail carriers; contract tariff exemptions:
39185 Seaboard System Railroad, Inc.

Justice Department
See Drug Enforcement Administration.

Land Management Bureau
RULES
Public land orders:
39066 Alaska
NOTICES
Alaska native claims selection; applications, etc.:
39164 Salamatof Native Association, Inc.
Meetings:
39164 Prineville District Grazing Advisory Board

Legal Services Corporation
PROPOSED RULES
39086 Eligibility

National Aeronautics and Space Administration
NOTICES
Environmental statements; availability, etc.:
39186 Space Shuttle program launch, Kennedy Space Center, Fla.

National Credit Union Administration
NOTICES
39188 Agency information collection activities under OMB review

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
39076 Atlantic billfishes and sharks; foreign fishing
NOTICES
Marine mammal permit applications, etc.:
39112 Associacao dos Armadores da Pesca Longinqua
39113 Marine Animal Productions, Inc.
39112 Theater of the Sea

National Science Foundation
NOTICES
Meetings:
39189 Division of Earth Sciences Ad Hoc Oversight Committee
39189 Engineering Advisory Committee
39189 Ocean Sciences Advisory Committee (2 documents)
39190 Physics Advisory Committee
39190 Polar Programs Advisory Committee
39190 Policy Research and Analysis and Science Resources Studies Advisory Committee

39190 Social and Economic Science Advisory Committee

National Transportation Safety Board
NOTICES
39199 Meetings: Sunshine Act

Nuclear Regulatory Commission
RULES
Byproduct and special nuclear material, domestic licensing:
39036 Irretrievable well-logging sources
Production and utilization facilities, domestic licensing:
39039 Immediate notification requirements of significant events at operating power reactors
NOTICES
Applications, etc.:
39191 Power Authority of State of New York
39191 South Carolina Electric & Gas Co. et al.

Occupational Safety and Health Review Commission
NOTICES
39199 Meetings; Sunshine Act

Small Business Administration
RULES
39047 Flood insurance protection, and floodplain management and wetlands protection
NOTICES
Meetings; regional advisory councils:
39193 Montana
39193 Nebraska
39193 Nevada
39193 New York
Small business investment companies:
39194 Maximum annual cost of money; Federal Financing Bank rate

Textile Agreements Implementation Committee
NOTICES
Cotton, wool, and man-made textiles:
39113 Korea

Transportation Department
See Coast Guard, Federal Aviation Administration.

Veterans Administration
RULES
Loan guaranty:
39059 Homes and condominiums; interest rates
NOTICES
Environmental statements; availability, etc.:
39197 West Roxbury, Mass.
39197 Privacy Act; systems of records

Separate Parts in This Issue

Part II
39202 Department of Energy, Federal Energy Regulatory Commission

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
1004.....39033

8 CFR
243.....39034

9 CFR
3.....39035
Proposed Rules:
3.....39078

10 CFR
30.....39036
50.....39039
70.....39036
150.....39036

12 CFR
265.....39047

13 CFR
116.....39047

14 CFR
39 (5 documents).....39049–39053
71.....39054
91.....39054
Proposed Rules:
71 (3 documents).....39078–39080
75 (2 documents).....39079, 39080
316.....39081
385.....39081

21 CFR
177.....39057
178.....39058
193.....39058

33 CFR
160.....39059
Proposed Rules:
100.....39083

38 CFR
36.....39059

40 CFR
Proposed Rules:
52.....39084

42 CFR
401.....39060

43 CFR
Public Land Orders:
6329 (Amended by PLO 6456).....39066
6456.....39066

44 CFR
59.....39066
61.....39066

45 CFR
Proposed Rules:
1611.....39086

47 CFR
1.....39072
2.....39072
81.....39072
95.....39072
Proposed Rules:
Ch. I.....39090
90.....39090

50 CFR
611.....39076
Proposed Rules:
17 (3 documents).....39090–39096

VOL
48
ISS
1
6
8
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29
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Rules and Regulations

Federal Register
Vol. 48, No. 168
Monday, August 29, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1004

[Milk Order No. 4; Docket No. AO-160-A61]

Milk in the Middle Atlantic Marketing Area; Order Amending Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action lowers the pooling requirements for reserve processing plants operated by either a cooperative association or a federation of cooperative associations. The amendment is based on an industry proposal considered at a public hearing held on May 25, 1983. The change reflects current marketing conditions and assures orderly milk marketing in the Middle Atlantic marketing area.

Cooperative associations representing more than two-thirds of the dairy farmers who supply milk for the market have approved issuance of the order, as amended.

EFFECTIVE DATE: September 1, 1983.

FOR FURTHER INFORMATION CONTACT: Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250 (202/447-7183).

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

Prior documents in this proceeding:

Notice of Hearing: Issued May 11, 1983; published May 16, 1983 (48 FR 21961).

Recommended Decision: Issued July 6, 1983; published July 11, 1983 (48 FR 31659).

Final Decision: Issued August 3, 1983; published August 9, 1983 (48 FR 36113).

Findings and Determinations

The findings and determinations hereinafter set forth supplement those that were made when the Middle Atlantic order was first issued and when it was amended. The previous findings and determinations are hereby ratified and affirmed, except where they may conflict with those set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Middle Atlantic marketing area.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than September 1, 1983. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of this order are known to handlers. The recommended decision of the Deputy Administrator, Marketing Program Operations, was issued July 6, 1983, and the decision of the Assistant Secretary containing all amendment provisions of this order was issued August 3, 1983. The change effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective September 1, 1983, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the **Federal Register**. (Sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551-559).

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in Sec. 8c (9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

List of Subjects in 7 CFR Part 1004

Milk marketing orders, Milk, Dairy products.

Order Relative to Handling

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Middle Atlantic marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

PART 1004—MILK IN THE MIDDLE ATLANTIC MARKETING AREA

In § 1004.7, paragraphs (d)(1) and (d)(2) are revised to read as follows:

§ 1004.7 Pool plant.

* * * * *

(d) * * *

(1) A reserve processing plant operated by a cooperative association at which milk from dairy farmers is received if the total of fluid milk products (except filled milk) transferred from such cooperative association plant(s) to, and the milk of member producers physically received at, pool plants pursuant to § 1004.7(a) is not less than 30 percent of the total milk of member producers during the month.

(2) A reserve processing plant operated by a federation of cooperative associations at which milk of member producers of the cooperatives is received if the total of fluid milk products (except filled milk) transferred from such federation plant(s) to, and the milk of member producers of the cooperatives physically received at, pool plants pursuant to § 1004.7(a) is not less than 30 percent of the combined milk of member producers of the cooperatives during the month.

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Effective date: September 1, 1983.

Signed at Washington, D.C., on August 23, 1983.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 83-23300 Filed 8-26-83; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 243

Deportation of Aliens in the United States

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This final rule includes residents of Cuba (other than immediate relatives or returning residents) as subject to the sanctions of section 243(g) of the Immigration and Nationality Act, as amended. These sanctions apply to any country that denies or unduly delays acceptance of the return of nationals and Cuba has refused to accept aliens excludable under law.

EFFECTIVE DATE: August 29, 1983.

FOR FURTHER INFORMATION CONTACT:

For General Information: Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C. 20536, Telephone: (202) 633–3048

For specific Information: John A. Simon, Deportation Officer, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C. 20536, Telephone: (202) 633–4049

Joseph D. Cuddihy, Immigration Examiner, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C. 20536, Telephone: (202) 633–5014

SUPPLEMENTARY INFORMATION: During the Mariel boatlift in 1980, some 125,000 Cubans entered the United States without authorization. The vast majority were law abiding, were allowed to join relatives and friends, and soon found homes and employment. A few thousand, however, had criminal records in Cuba or were otherwise excludable under our laws. Over 1,000 of these remain in detention pending arrangements for their return to Cuba.

The Cuban government has refused to take back these excludables. A new effort is now being made. The Chief of the Cuban Interest Section in Washington was asked by Assistant Secretary for Inter-American Affairs, Thomas O. Enders, to request his government to accept the return of the excludables.

Coincident with the Mariel boatlift, the U.S. Interests Section in Havana was obliged to discontinue the issuance of visas because over 400 Cuban applicants, seeking escape from Cuban police action outside the building, took refuge in its premises. The Section later resumed the issuance of non-immigrant visas and of immigrant visas to immediate relatives (spouses, minor children and parents) of U.S. citizens, but has not resumed issuing immigrant visas to most other applicants.

Under Section 243(g) of the Immigration and Nationality Act, the Department is required to discontinue the issuance of immigrant visas in any country upon notification by the Attorney General that said country, upon request, denies or unduly delays acceptance of the return of its nationals deemed excludable from the United States. The Attorney General has so notified the Secretary of State.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because this final rule relates to foreign affairs functions of the United States and is exempt under 553(a)(1).

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration & Naturalization certifies this rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.

This rule is not a major rule within the meaning of Section 1(b) of E. O. 12291.

List of Subjects in 8 CFR Part 243

Aliens.

Accordingly, Title 8 of the Code of Federal Regulations is amended as follows:

PART 243—DEPORTATION OF ALIENS

1. Section 243.8 is revised as follows:

§ 243.8 Imposition of sanctions.

The provisions of section 243(g) of the Act have been applied to residents of the Union of Soviet Socialist Republics, Czechoslovakia, Hungary, and Cuba. These provisions do not apply to an alien who is residing in Estonia, Latvia, or Lithuania who is not a national, citizen, or subject of the Union of Soviet Socialist Republics. These provisons also do not apply to an alien who is residing in Cuba and can be classified as an immediate relative as defined in section 201(b) or a returning resident as defined in section 101(a)(27)(A). The sanctions imposed on residents of the Union of Soviet Socialist Republics, Czechoslovakia, and Hungary pursuant to section 243(g) may be waived in an individual case for the beneficiary of a petition accorded a status under section 201(b) or section 203(a) of the Act. The sanctions upon the USSR, Czechoslovakia and Hungary may be waived upon an individual request by the Department of State in behalf of a visa applicant. Upon approval of a visa petition or upon an individual request by the Department of State in behalf of a visa applicant, the district director shall determine whether sanctions shall be waived. However, the regional commissioner or the Deputy Commissioner, may direct that any case or class of cases be referred to him for any such determination. The consular officer shall be notified of any determination made with respect to the waiver of sanctions if a visa petition is approved. If the sanctions are not waived, the notice informing the petitoner that the petition has been approved shall also notfiy him that the sanctions imposed by section 243(g) of the Act have not been waived.

(Secs. 242 and 243 of the I & N Act, as amended; 8 U.S.C. 1103 and 1253)

Dated: August 22, 1983.

Alan C. Nelson,

Commissioner of Immigration and Naturalization.

[FR Doc. 83-23670 Filed 8-26-83; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 3

[Docket No. 83-098]

Animal Welfare, Marine Mammals

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the regulations concerning the humane handling, care, treatment, and transportation of marine mammals in order to extend certain outstanding variances granted under these regulations until further action is taken by the Department. This action is needed to avoid the unwarranted imposition of restrictions on certain facilities which house marine mammals.

EFFECTIVE DATE: August 29, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. R. L. Crawford, Animal Care Staff, VS, APHIS, USDA, Room 763, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-7883.

SUPPLEMENTARY INFORMATION:

Background

On July 29, 1983, a document was published in the **Federal Register** (48 FR 34710-34721) which proposed to amend the "Specifications for the Humane Handling, Care, Treatment, and Transportation of Marine Mammals" regulations (contained in 9 CFR 3.100 *et seq.* and referred to below as the regulations). The amendments were proposed to update the regulations and to provide more appropriate requirements for the humane handling, care, treatment, and transportation of marine mammals.

Section 3.100 of the regulations, among other things, contains provisions for the granting of variances. Currently all variances granted under the regulations concern space requirements for marine mammals. A variance is written permission from the Deputy Administrator to operate as a licensee or registrant under the Act without being in full compliance with one or more specified provisions of the regulations. The current provisions relating to variances are set forth in § 3.100 and provide that:

(a) All persons subject to the Animal Welfare Act who maintain or otherwise handle marine mammals in captivity must comply with the provisions of this Subpart, unless they are granted a variance, [footnote omitted] by the Deputy Administrator, from one or more specified provisions. The provisions of this Subpart shall not apply, however, in emergency circumstances where compliance with one or more requirements would not serve the best interest of the marine mammals concerned.

(b) From the effective date of the requirements of this Subpart, all facilities housing marine mammals which are not in full compliance with the standards shall have 60 days during which they may apply to the Deputy Administrator for a variance: *Provided, however,* That such variance may only be granted if application is made to the Deputy Administrator, in writing, listing in detail each requirement of this Subpart which cannot be met, the time period requested for the variance, and the justification for such variance.

(c) The Deputy Administrator shall deny any such application for variance if he determines that it is not justified under the circumstances or that allowing it will be detrimental to the health and well-being of the marine mammals concerned.

(d) Such variance shall not be granted for a period exceeding 3 years from the effective date of these provisions: *Provided, however,* That under circumstances deemed justified by the Deputy Administrator, a maximum extension of 1 year may be granted to attain full compliance. A written request for the extension must be received by the Deputy Administrator at least 60 days prior to the termination of the initial 3-year period. [footnote omitted]

(e) A research facility may be granted variance from specified requirements of this Subpart when such variance is necessary for research purposes and is fully explained in the experimental design. The 3-year time limitation stated in paragraph (b) of this section shall not be applicable in such case.

Previously, any outstanding variances issued under these provisions, other than variances for research facilities, were scheduled to expire on September 20, 1983. The document of July 29, 1983, among other things, proposed to amend these provisions concerning variances. In essence, it was proposed to establish a mechanism that could allow facilities, other than research facilities, operating under variances to continue operating under such variances. When the proposal was published, it was anticipated that the rulemaking proceeding would be completed prior to September 20, 1983, and that a final rule would be in effect by that time. However, as explained in a companion document titled "Animal Welfare, Marine Mammals" and published in the proposed rule section of this issue of the **Federal Register**, the comment period for the proposal of July 29, 1983, is extended to September 30, 1983. Therefore, a final rule based on that proposal cannot be published until after that date, and without a change in the regulations such variances would expire on September 20, 1983.

Accordingly, without an amendment to extend variances, certain facilities currently operating under a variance could not operate after September 20, 1983, without being in violation of the regulations. This could create an unfair situation since a final rule might allow for extension of these same variances.

It is therefore necessary to amend the regulations to allow facilities, other than research facilities, which are operating under variances that would have expired on September 20, 1983, to continue operating under such variances until action can be taken on the proposed rulemaking of July 29, 1983.

Executive Order 12291 and Regulatory Flexibility Act

This action has been reviewed in accordance with Executive Order 12291 and Secretary's Memorandum 1512-1, and has been determined to be not a major rule. The Department has determined that this action will not have any effect on the economy and will not result in any increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or have any adverse effects in competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

It is not anticipated that the action taken by this document will have a significant impact. This is merely an interim action and it is expected that a final rule, including action concerning variances, will be published in October or November of 1983. Further, this document only allows the extension of certain variances that are already in effect.

Based on these circumstances, Mr. Bert W. Hawkins, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic effect on a substantial number of small entities.

Emergency Action and Comments

Dr. E. C. Sharman, Assistant Deputy Administrator for VS, APHIS, USDA, has determined that the nature of this final rule warrants publication without opportunity for public comment. This

amendment must be made effective immediately on an emergency basis to avoid the unwarranted imposition of restrictions on certain facilities which house marine mammals and which are operating under variances which would otherwise expire September 20, 1983. Further, this action will extend certain variances until a final rule is established based on the proposal referred to above. It is expected that the final rule will be published in October or November of 1983.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the Federal Register.

List of Subjects in 9 CFR Part 3

Animal welfare, Humane animal handling, Marine mammals.

PART 3—STANDARDS

Subpart E—Specifications for the Humane Handling, Care, Treatment, and Transportation of Marine Mammals

Accordingly, Subpart E of 9 CFR Part 3 is amended by revising § 3.100(d) to read as follows:

§ 3.100 Special consideration regarding compliance and/or variance.

* * * * *

(d) Variances, other than for research facilities which would have expired on September 20, 1983, are extended until further action is taken by the Department.

* * * * *

(Secs. 3, 5, 8, 10, 11, 12, 16, 17, 21, 80 Stat. 351, 352, 353, 84 Stat. 1561, 1562, 1563, 1564, 90 Stat. 418, 419, 420, 423, 7 U.S.C. 2133, 2135, 2136, 2140, 2141, 2142, 2143, 2144, 2146, 2147, 2151; 7 CFR 2.17, 2.51, 371.2(d))

Done at Washington, D.C., this 24th day of August 1983.

K. R. Hook,

Acting Deputy Administrator Veterinary Services.

[FR Doc. 83-23067 Filed 8-26-83; 8:45 am]

BILLING CODE 3410-34-M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 30, 70 and 150

Irretrievable Well-Logging Sources

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its regulations to establish requirements to be accomplished in the event of an irretrievable well-logging source (any sealed source containing licensed material that is pulled off or not connected to the wireline that suspends the source in the well for which all reasonable effort at recovery has been expended). The final rule establishes requirements for sealing and protecting the well-logging source, identifying the well site, and reporting the occurrence. The Commission believes that uniform and adequate safety requirements contained in this rule are necessary to ensure that no subsequent damage to the source occurs that might result in the dispersal of radioactive material.

EFFECTIVE DATE: September 28, 1983.

ADDRESSES: Copies of the Regulatory Analysis and analysis of comments may be examined at the Commission's Public Document Room at 1717 H Street NW., Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: Dr. Anthony N. Tse, Office of Nuclear Regulatory Research, Washington, DC 20555, telephone (301) 443-7902.

SUPPLEMENTARY INFORMATION: A well-logging operation consists of lowering into and raising from wells on a wireline a well-logging tool, a measuring device, which may contain sealed radioactive sources. The purpose of the well-logging operation is to obtain information about the underground strata. Currently, the Commission has approximately 160–170 licensees authorized to conduct well-logging activities and over 50,000 wells are logged each year. Sealed radioactive sources used in well-logging operations typically contain americium–241 or cesium–137 sources.

Occasionally a well-logging tool containing a radioactive source becomes disconnected from the wireline. In some instances, the well-logging tool is unrecoverable and is left in the well. An irretrievable well-logging source is any sealed source containing licensed material that is pulled off or not connected to the wireline that suspends the source in the well and for which all reasonable effort at recovery has been expended. A review of records indicates that an average of five irretrievable well-logging sources has occurred yearly.

A well containing an irretrievable well-logging source could continue in production. Operation such as redrilling could be performed in that well. If an irretrievable well-logging source was damaged by subsequent operation and radioactive material was brought to the surface, contamination of the well-site, drilling equipment, vehicles, and personnel could occur.

Currently, the Commission treats the abandonment of an irretrievable well-logging source as a condition of the well-logger's license. The licensee is required to specify the procedures that will be used in the abandonment and identification of an irretrievable well-logging source. Because some logging companies operate on an interstate basis and because these activities are licensed by the Commission and the Agreement States, uniformity in the content and application of abandonment procedures is important. In addition, legally binding requirements are required to assure that the well owner or operator performs the required actions when neither the owner or operator is the licensee. This regulation is intended to provide the uniformity and assurance necessary to assure radiological safety in the event of an irretrievable well-logging source.

On September 28, 1978 the NRC published in the Federal Register (43 FR 44547) a notice of proposed rulemaking setting out amendments to 10 CFR Parts 30 and 70 that would require certain procedures be followed if a well-logging tool containing radioactive material was abandoned in a well. These procedures include sealing the source in place with a cement plug, mounting a permanent identification plaque at the surface of the well and reporting the circumstances concerning the irretrievable source to the Commission and to pertinent State agencies within 30 days after the source had been abandoned. The notice provided for a 60-day public comment period.

Ten letters of comment were received in response to the notice. All 10 commenters expressed general agreement with the purpose of the proposed regulations. However, most commenters did express concern about some aspect of the proposed amendments.

Six commenters observed that the definition of an irretrievable well-logging source required the Commission to determine when all reasonable effort at recovery had been expended. These commenters complained that the Commission had neither the expertise nor the resources to make this determination. Although it was never intended that the Commission unilaterally decide whether a source was irretrievable, the definition has been amended to delete the reference to unilateral Commission determination of the status of the source. Accordingly, the

phrase "as determind by the Commission" has been deleted from the definition. However, under §§ 30.56(b) and 70.60(b) as revised, the Commission retains the authority to determine if "all reasonable effort at recovery has been expended" and may deny approval of the abandonment procedures if it feels that this condition has not been met.

Six commenters noted a discrepancy between the language of the proposed amendment and the intent of the amendment regarding a written agreement between the licensee and the well owner or operator. This agreement would require execution of the abandonment procedures when required and within a specific time period. These commenters correctly noted that the language did not reflect the intent of the regulations. Accordingly, the regulations in 10 CFR 30.56(a) and 70.60(a) have been revised to clarify that a written agreement between the licensee and the well owner or operator is required prior to commencement of well-logging activities and that agreement must assure implementation of proper abandonment procedures within thirty days after a well-logging source is declared irretrievable.

One commenter further stated that an executed agreement may be difficult to enforce since neither the well owner nor the well operator is a Commission licensee. The Commission considers the well-logger, as a licensee, responsible for ensuring compliance with the regulations or for pursuing every legal avenue to achieve that compliance. In view of this licensee responsibility, the changes in the regulations proposed by this commenter are not adopted.

Five commenters noted that too much wording was required on the identification plaque. In particular, these commenters stated that much of the information would be available in the report filed with the State and Commission or that some information, such as the name and address of the well owner or operator may be incorrect by the time a well is reentered. These comments were accepted in part. The amendment as revised requires that the plaque contain only information that the Commission considers essential to warn persons of the potential hazard that may be encountered when the well is reentered.

Three commenters suggested that the licensee have the option of reporting the incident to either the Commission or to the appropriate State regulatory authority. The Commission disagrees. All Commission licensees are required to notify the Commission of incidents involving radioactive materials. The Commission also believes that notification of the appropriate State regulatory agency is an important safety requirement since a warning notation is needed in the well records. In addition, the amendments in 10 CFR 30.56 and 70.60 specifically state the information that the report must contain. In view of these considerations, notifications are required for both the Commission and the State regulatory agency.

After careful consideration of the comments on the notice of proposed rulemaking, the Commission has adopted the amendments in final form. The requirements of §§ 30.56(a) and 70.60(a) relating to agreements between the well-logger (licensee) and the well owner or operator will not apply to job sites where operations have begun prior to the effective date of these amendments. The requirements of §§ 30.56(b), 30.56(c), 30.56(d), 70.60(b), 70.60(c), and 70.60(d) will apply to all well-logging sources abandoned after the effective date of these amendments.

In addition to the amendments to 10 CFR Parts 30 and 70, the Commission is also amending 10 CFR Part 150 without public comment. Section 150.20 currently references § 30.56, but not § 70.60. The amendment will correct this difference. Because the amendment to § 150.20 is nonsubstantive and conforming in nature, the Commission has found that good cause exists for omitting notice of proposed rulemaking, and public procedure thereon, as unnecessary and for making the effective date of this amendment coincide with the effective date of the amendments to §§ 30.56 and 70.60.

Paperwork Reduction Act Statement

This final rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3510, et seq.). These requirements were approved by the Office of Management and Budget under approval numbers: Part 30—3150–0017; and Part 70—3150–0009.

Regulatory Analysis

The Commission has prepared a regulatory analysis for this regulation. The regulatory analysis examines the costs and benefits of the alternatives considered by the Commission. Interested persons may examine a copy of the regulatory analysis at the Public Document Room, 1717 H Street NW., Washington, DC. Single copies of the analysis may be obtained from Dr. Anthony N. Tse, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone: (301)443–7902.

List of Subjects

10 CFR Part 30

Byproduct material, Government contracts, Intergovernmental relations, Isotopes, Nuclear materials, Penalty, Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 70

Hazardous materials-transportation, Nuclear materials, Packaging and containers, Penalty, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment, Security measures, Special nuclear material.

10 CFR Part 150

Hazardous materials-transportation, Intergovernmental relations, Nuclear materials, Penalty, Reporting and recordkeeping requirements, Security measures, Source material, Special nuclear material.

Under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the following amendments to 10 CFR Parts 30 and 70, and 150 are published as a document subject to codification.

PART 30—RULES OF GENERAL APPLICABILITY TO DOMESTIC LICENSING OF BYPRODUCT MATERIAL

1. The authority citation for Part 30 is revised to read as follows

Authority: Sections 81, 82, 161, 182, 183, 186, 68 Stat. 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2111, 2112, 2201, 2232, 2236, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 30.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 30.34(b) also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 30.61 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

For purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 30.3, 30.34(b) and (c), 30.41 (a) and (c) and 30.53 are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); and §§ 30.36, 30.51, 30.52, 30.55 and 30.56(b) and (c) are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. A new paragraph (x) is added to § 30.4 to read as follows:

§ 30.4 Definitions.

* * * * *

(x) "Irretrievable well-logging source" means any sealed source containing licensed material that is pulled off or not connected to the wireline that suspends

the source in the well and for which all reasonable effort at recovery has been expended.

3. A new § 30.56 is added to read as follows:

§ 30.56 Well-logging operations using sealed sources.

(a) A licensee may perform well-logging operations with a sealed source only after the licensee executes a written agreement with the well owner or operator that, within thirty (30) days after a well-logging source has been classified as irretrievable, the following requirements will be implemented:

(1) Each irretrievable well-logging source must be immobilized and sealed in place with a cement plug.

(2) A whipstock or other deflection device must be set at some point in the well above the cement plug, unless the cement plug and source are not accessible to any subsequent drilling operations.

(3) A permanent identification plaque, constructed of long lasting material such as stainless steel, brass, bronze, or monel, must be mounted at the surface of the well, unless the mounting of the plaque is not practical. The plaque must contain:

(i) The word "CAUTION";

(ii) A radiation symbol (the color requirement need not be met);

(iii) The date the source was abandoned;

(iv) The name of the well owner or well operator;

(v) The well name and well identification number(s) or other designation;

(vi) An identification of the sealed source(s) by radionuclide and quantity of activity;

(vii) The depth of the source and depth to the top of the plug; and

(viii) An appropriate warning.

(b) When a well-logging source becomes irretrievable, the licensee shall:

(1) Notify the Regional Administrator of the appropriate NRC Regional Office listed in Appendix D of Part 20 of this chapter of the circumstances of the loss by telephone; and

(2) Obtain approval to implement abandonment procedures.

(c) The licensee shall, within 30 days after a well-logging source has been classified as irretrievable, make a report in writing to the appropriate NRC Regional Office listed in Appendix D of Part 20 of this chapter. The licensee shall send a copy of the report to each appropriate State agency that has authority over the particular well-drilling operation. The report must contain the following information:

(1) Date of occurrence.

(2) A description of the irretrievable well-logging source involved, including radionuclide, quantity, and chemical and physical form.

(3) Surface location and identification of well.

(4) Results of efforts to immobilize and seal the source in place.

(5) Depth of source.

(6) Depth of the top of the cement plug.

(7) Depth of the well.

(8) Any other information (e.g., warning statement) contained on the permanent identification plaque.

(9) Notifications made to State agencies.

(10) A brief description of the attempted recovery efforts.

(d) Any licensee or applicant for a license may apply to the Commission for approval of proposed procedures to abandon an irretrievable well-logging source in a manner not otherwise authorized in paragraph (a) of this section.

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

4. The authority citation for Part 70 is revised to read as follows:

Authority: Sections 51, 53, 161,182, 183, 68 Stat. 929, 930, 948, 953, 954, as amended (42 U.S.C. 2071, 2073, 2201, 2232, 2233); secs. 201, as amended, 202, 204, 206, 88 Stat. 1242, as amended, 1244, 1245, 1246 (42 U.S.C. 5841, 5842, 5845, 5846).

Section 70.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 70.21(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 70.31 also issued under sec. 57d, Pub. L. 93–377, 88 Stat. 475 (42 U.S.C. 2077). Sections 70.36 and 70.44 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 70.61 also issued under secs. 186, 187, 68 Stat. 955 (42 U.S.C. 2236, 2237). Section 70.62 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138).

For the purposes of sec. 233, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 70.3, 70.19(c), 70.24 (a) and (b), 70.32(a) (3), (5), (6), and (d), 70.36, 70.39 (b) and (c), 70.41(a), 70.42 (a) and (c), 70.56, 70.57 (b), (c), and (d), 70.58(a)–(g)(3), and (h)–(j) are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 70.20a(d), 70.20b (c) and (e), 70.21(c), 70.24(b), 70.32 (e) and (g), 70.56, 70.57 (b) and (d) and 70.58(a)–(g)(3) and (h)–(j) are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 70.20b (d) and (e), 70.36, 70.51–70.55, 70.58 (g)(4), (k), and (l), 70.59, and 70.60 (b) and (c) are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

5. A new paragraph (w) is added to § 70.4 to read as follows:

§ 70.4 Definitions.

* * * * *

(w) "Irretrievable well-logging source" means any sealed source containing licensed material that is pulled off or not connected to the wireline that suspends the source in the well and for which all reasonable effort at recovery has been expended.

6. A new § 70.60 is added under the center heading "Special Nuclear Material Control, Records, Reports and Inspections," to read as follows:

§ 70.60 Well-logging operations using sealed sources.

(a) A licensee may perform well-logging operations with a sealed source only after the licensee executes a written agreement with the well owner or operator that, within thirty (30) days after a well-logging source has been classified as irretrievable, the following requirements will be implemented:

(1) Each irretrievable well-logging source must be immobilized and sealed in place with a cement plug.

(2) A whipstock or other deflection device must be set at some point in the well above the cement plug, unless the cement plug and source are not accessible to any subsequent drilling operations.

(3) A permanent identification plaque, constructed of long lasting material such as stainless steel, brass, bronze, or monel, must be mounted at the surface of the well, unless the mounting of the plaque is not practical. The plaque must contain:

(i) The word "CAUTION";

(ii) A radiation symbol (the color requirement need not be met);

(iii) The date the source was abandoned;

(iv) The name of the well owner or well operator;

(v) The well name and well identification number(s) or other designation;

(vi) An identification of the sealed source(s) by radionuclide and quantity of activity;

(vii) The depth of the source and depth to the top of the plug; and

(viii) An appropriate warning.

(b) When a well-logging source becomes irretrievable, the licensee shall:

(1) Notify the Regional Administrator of the appropriate NRC Regional Office listed in Appendix D of Part 20 of this chapter of the circumstances of the loss by telephone; and

(2) Obtain approval to implement abandonment procedures.

(c) The licensee shall, within 30 days after a well-logging source has been classified as irretrievable, make a report in writing to the appropriate NRC Regional Office listed in Appendix D of

Part 20 of this chapter. The licensee shall send a copy of the report to each appropriate State agency that has authority over the particular well-drilling operation. The report must contain the following information:

(1) Date of occurrence.

(2) A description of the irretrievable well-logging source involved, including radionuclide, quantity, and chemical and physical form.

(3) Surface location and identification of well.

(4) Results of efforts to immobilize and seal the source in place.

(5) Depth of source.

(6) Depth of the top of the cement plug.

(7) Depth of the well.

(8) Any other information (e.g., warning statement) contained on the permanent identification plaque.

(9) Notifications made to State agencies.

(10) A brief description of the attempted recovery efforts.

(d) Any licensee or applicant for a license may apply to the Commission for approval of proposed procedures to abandon an irretrievable well-logging source in a manner not otherwise authorized in paragraph (a) of this section.

PART 150—EXEMPTIONS AND CONTINUED REGULATORY AUTHORITY IN AGREEMENT STATES AND IN OFFSHORE WATERS UNDER SECTION 274

7. The authority citation for Part 150 is revised to read as follows:

Authority: Section 161, 68 Stat. 948, as amended, sec. 274, 73 Stat. 688 (42 U.S.C. 2201, 2021); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

Sections 150.3, 150.15 150.15a 150.31 150.32 also issued under secs. 11e(2) 81, 68 Stat. 923, 935, as amended, secs 83, 84, 92 Stat. 3033, 3039 (42 U.S.C. 2014e(2), 2111, 2113, 2114). Section 150.14 also issued under sec. 53, 68 Stat. 930, as amended (42 U.S.C. 2073). Section 150.17a also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 150.30 also issued under sec. 234, 83 Stat. 444 (42 U.S.C. 2282).

For the purposes of sec. 223, 68 Stat 958, as amended (42 U.S.C 2273); §§ 150.20(b)(2)–(4) and 150.21 are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); § 150.14 is issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 150.16–150.19 and 150.20(b)(1) are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

§§ 150.3, 150.14, 150.15, 150.15a, 150.30, 150.31, 1509.32 [Amended]

9. In § 150.20, the introductory text of paragraph (b) is revised to read as follows:

§ 150.20 Recognition of Agreement State licenses.

* * * * *

(b) Notwithstanding any provision to the contrary in any specific license issued by an Agreement State to a person engaging in activities in a non-Agreement State or in offshore waters under the general licenses provided in this section, the general licenses provided in this section are subject to the provisions of §§ 30.7 (a) through (e), 30.14(d) and §§ 30.34, 30.41, and 30.51 to 30.63, inclusive, of Part 30 of this chapter; § 40.7 (a) through (e) and §§ 40.41, 40.51, 40.61, 40.63, inclusive, 40.71 and 40.81 of Part 40 of this chapter; and § 70.7 (a) through (e) and §§ 70.32, 70.42, 70.51 to 70.56, inclusive, 70.60, 70.62, inclusive, and 70.71 of Part 70 of this chapter; and to the provisions of Parts 19, 20, and 71 and Subpart B of Part 34 of this chapter. In addition, any person engaging in activities in non-Agreement States or in offshore waters under the general licenses provided in this section:

* * * * *

Dated at Bethesda, Maryland, this 12th day of August, 1983.

For the Nuclear Regulatory Commission.

Jack W. Roe,

Acting Executive Director for Operations.

[FR Doc. 83-23603 Filed 8-26-83; 8:45 am]

BILLING CODE 7590-01-M

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10 CFR Part 50

Immediate Notification Requirements of Significant Events At Operating Nuclear Power Reactors

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its regulations which require timely and accurate information from licensees following significant events at commercial nuclear power plants. Experience with existing requirements and public comments on a proposed revision of the rule indicate that the existing regulation should be amended to clarify reporting criteria and to require early reports only on those matters of value to the exercise of the Commission's responsibilities. The amended regulation will clarify the list of reportable events and provide the Commission with more useful reports regarding the safety of operating nuclear power plants.

EFFECTIVE DATE: January 1, 1984.

FOR FURTHER INFORMATION CONTACT: Eric W. Weiss, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555; Telephone (301) 492–4973.

SUPPLEMENTARY INFORMATION:

I. Background

On February 29, 1980, the Commission amended its regulations without prior notice and comment to require timely and accurate licensee reporting of information following significant events at operating nuclear power reactors (45 FR 13434). The purpose of the rule was to provide the Commission with immediate reporting of twelve types of significant events where immediate Commission action to protect the public health and safety may be required or where the Commission needs accurate and timely information to respond to heightened public concern. Although the rule was made immediately effective, comments were solicited. Many commenters believed the rule was in some respects either vague and ambiguous or overly broad.

After obtaining experience with notifications required by the rule, the Commission published in the **Federal Register** a notice of proposed rulemaking on December 21, 1981 (46 FR 61894) and invited public comment. The proposal was made to meet two objectives: change 10 CFR 50.54 to implement Section 201 of the NRC's 1980 Fiscal Year Authorization Act and change 10 CFR 50.72 to more clearly specify the significant events requiring licensees to immediately notify NRC.

The problems and issues which this rulemaking addresses and the solutions that it provides can be summarized in five broad areas:

1. Authorization Act for FY80

Section 201 of the Nuclear Regulatory Commission Authorization Act for Fiscal Year 1980 (Pub. L. 96–295) provides:

(a) Section 103 of the Atomic Energy Act of 1954 is amended by adding at the end thereof the following new subsections: f. Each license issued for a utilization facility under this section or section 104b. shall require as a condition thereof that in case of any accident which could result in an unplanned release of quantities of fission products in excess of allowable limits for normal operation established by the Commission, the licensee shall immediately so notify the Commission. Violation of the condition prescribed by this subsection may, in the Commission's discretion, constitute grounds for license revocation. In accordance with section 187 of this Act, the Commission shall promptly amend each license for a utilization facility issued under this section or section 104b. which is in effect on the date of enactment of this subsection to include the provisions required under this subsection.

Accordingly, this rulemaking includes an amendment to 10 CFR 50.54 that would add an appropriate notification requirement as a condition in the operating license of each nuclear utilization facility licensed under section 103 or 104b. of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2133, 2134b. These facilities generally are the commercial nuclear power facilities which produce electricity for public consumption. Research and test reactors are not subject to the license condition as they are licensed under section 104a. or 104c. of the Act. Under the amendment to 10 CFR 50.54, licensees falling under sections 103 or 104b. would be required, as a condition of their respective operating licenses, to notify the NRC immediately of events specified in 10 CFR 50.72.

2. Unnecessary Reports

Several categories of reports required by § 50.72 are not useful to the NRC. Among these categories are reports of: worker injury, small radioactive releases, and minor security problems. For example, reports are presently required if a worker onsite experience chest pains or another illness not related to radiation and is sent to a hospital for evaluation; or if the vent stack monitor moves upward a few percent yet radiation levels remain 100,000 times below technical specification limits; or if the security computer malfunctions for a few minutes.

This rulemaking eliminates such reporting requirements from § 50.72 and in general clarifies and narrows the scope of reporting. However, revision of Part 73 of the Commission's regulations is necessary to resolve all problems with security reports.

3. Terminology, Phrasing, and Reporting Thresholds

The various sections of 10 CFR 50 have different phrasing, terminology, and thresholds in the reporting criteria. Even when no different meaning is intended a change in wording can cause confusion.

This rulemaking has been carefully written to use terminology, phrasing, and reporting thresholds that are either identical to or similar to those in § 50.73, whenever possible. Other conforming amendments to Parts 20, 21, 73, and in § 50.55 and Appendix E of Part 50 are under development.

As a parallel activity to the preparation of § 50.72, on July 26, 1983, the Commission has published a Licensee Event Report (LER) Rule (§ 50.73) which requires licensees for operating nuclear power plants to prepare detailed written reports for certain events (48 FR 33850).

4. Coordination with Licensee's Emergency Plan

The current scheme for licensees' emergency plans includes four Emergency Classes. When the licensee declares one of the four Emergency Classes, it must report this to the Commission as required by § 50.72. The lowest of the four Emergency Classes, Notification of Unusual Event, has resulted in unnecessary emergency declarations. Events that fall within the Unusual Event class have been neither emergencies in themselves nor precursors of more serious events that are emergencies.

Although changes to the definition of the Emergency Classes are not being made in this rulemaking, a new reporting scheme that would ultimately eliminate "Unusual Event" as an Emergency Class requiring notification can be adopted consistent with this rule. A proposed rulemaking which would redefine the Emergency Classes in § 50.47 is in preparation and may soon be published for public comment. This final rulemaking makes possible the elimination of "Unusual Event" as an emergency class without further amendment of § 50.72 by including in the category of non-Emergencies the subcategory of "one-hour reports."

5. Vague or Ambiguous Reporting Criteria

The reporting criteria in § 50.72 have been revised in order to clarify their scope and intent. The criteria were revised for the proposed rule and in response to public comment. The "Analysis of Comments" portion of this Federal Register notice describes in more detail specific examples of changes in wording intended to eliminate vagueness or ambiguity.

II. Analysis of Comments

Twenty letters of comment were received in response to the Federal Register notice published on December 21, 1981 (46 FR 61894).[1] Of the twenty letters of comment received, the vast majority (15 of 20) were from utilities owning or operating nuclear power plants. This Federal Register notice described the proposed revision of 10 CFR 50.72, "Notification of Significant Events," and 10 CFR 50.54, "Conditions of Licenses." A discussion of the more significant comments follows:

[1] Copies of these documents are available for public inspection and copying for a fee in the NRC Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555

Conditions of Licenses (§ 50.54)

A few commenters said that the "Commission already has the ability to enforce its regulations and does not need to incorporate the items as now proposed into conditions of license."

The Commission has decided to promulgate the proposed revision of § 50.54, "Conditions of Licenses," in order to satisfy the intent of Congress as expressed in Section 201 of the Nuclear Regulatory Commission Authorization Act for Fiscal Year 1980. This Act and its relationship to § 50.54 are discussed in detail in the Federal Register notice for the proposed rule (46 FR 61894).

Coordination With Other Reporting Requirements (Final Rule § 50.72)

Seven commenters said that the NRC should coordinate the requirements of 10 CFR 50.72 with other rules, with NUREG–0654, "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Plants," and with Regulatory Guide 1.16, "Reporting of Operating Information . . ." Many of these letters identified overlap, duplication, and inconsistency among NRC's reporting requirements.

The Commission is making a concerted effort to ensure consistent and coordinated reporting requirements. The requirements contained in the revision of 10 CFR 50.72 are being coordinated with revision of § 50.73, § 50.55(e), Appendix E of Part 50, § 20.402, § 73.71, and Part 21.

Citing 10 CFR 50.72 as a Basis for Notification (Final Rule § 50.72(a)(4))

A few commenters objected to citing § 50.72 as a basis when making a telephone notification. The letters of comment questioned the purpose, legal effect, and burden on the licensee.

The Commission does not believe that it is an unnecessary burden for a licensee to know and identify the basis for a telephone notification required by § 50.72. There have been many occasions when a licensee could not tell the NRC whether the telephone notification was being made in accordance with Technical Specifications, 10 CFR 50.72, some other requirement, or was just a courtesy call. Unless the licensee can identify the nature of the report, it is difficult for the NRC to know what significance the licensee attaches to the report, and it becomes more difficult for the NRC to respond quickly and properly to the event.

Immediate Shutdown (Final Rule § 50.72(b)(1)(i))

Several commenters objected to the use of the term, "immediate shutdown," saying that Technical Specifications do not use such a term.

The term is used in some but not all Technical Specifications. Consequently, the Commission has revised the reporting criterion in question. The final rule requires a report upon the initiation of any nuclear power plant shutdown required by Technical Specifications.

Plant Operating and Emergency Procedures (Final Rule § 50.72(b)(1)(ii))

Several commenters said that the reporting criteria should not make reference to plant operating and emergency procedures because:

a. It would take operators too long to decide whether a plant condition was covered by the procedures,

b. The procedures cover events that are not of concern to the NRC, and

c. The procedures vary from plant to plant.

While the plant operating personnel should be familiar with plant procedures, it is true that procedures vary from plant to plant and cover events other than those which compromise plant safety. However, the wording of the reporting criteria has been modified (§ 50.72(b)(1)(ii) in the final rule) to narrow the reportable events to those that significantly compromise plant safety. Notwithstanding the fact that the procedures vary from plant to plant, the Commission has found that this criterion results in notifications indicative of serious events. The narrower, more specific wording will make it possible for plant operating personnel to identify reportable events under their specific operating procedures.

Building Evacuation (Final Rule § 50.72(b)(1)(iii))

Ten commenters said that the proposed § 50.72(b)(6)(iii) regarding "any accidental, unplanned or uncontrolled release resulting in evacuation of a building" was unclear and counterproductive in that it could cause reluctance to evacuate a building. Many of these commenters stated that the reporting of in-plant releases of radioactivity that require evacuation of individual rooms was inconsistent with the general thrust of the rule to require reporting of significant events. They noted that minor spills, small gaseous waste releases, or the disturbance of contaminated particulate matter (e.g., dust) may all require the temporary evacuation of individual rooms until the airborne concentrations decrease or until respiratory protection devices are utilized. They noted that these events are fairly common and should not be reportable unless the required evacuation affects the entire facility or a major part of it.

The Commission agrees. The wording of this criterion has been changed to include only those events which significantly hamper the ability of site personnel in performance of duties necessary for safe operation.

One commenter was concerned that events occurring on land owned by the utility adjacent to its plant might be reportable. This is not the intent of this reporting requirement. The NRC is concerned with the safely of plant and personnel on the utility's site and not with non-nuclear activities on land adjacent to the plant.

Explicit Threats (Final Rule § 50.72(b)(1)(vi))

A few commenters said that the intent of the term, "explicitly threatens," was unclear. Those commenting wondered what level of threat was involved. The term, "explicitly threatens," has been deleted from the final rule. Instead, the final rule refers to "any event that poses an actual threat to the safety of the nuclear power plant" [§ 50.72(b)(1)(vi)] and gives examples so that it is clear the Commission is interested in real or actual threats as opposed to threats without credibility.

Notification Timing (Final Rule § 50.72(b)(2))

The commenters generally had two points to make regarding the timing of reports to the NRC. First, the comments supported notification of the NRC after appropriate State or local agencies have been notified. Second, two commenters requested a new four-to six-hour report category for events not warranting a report with one hour.

Allowing more time for reporting some non-Emergency events would lessen the impact of reporting on the individuals responsible for maintaining the plant in a safe condition. Limiting the extension of the deadline to four hours ensures that the report is made when the information is fresh in the minds of those involved and that it is more likely to be made by those involved rather than by others on a later shift.

Other, more significant non-Emergency events and all declarations of an Emergency must continue to be reported within one hour. The one-hour deadline is necessary if the Commission is to fulfill its responsibilities during and following the most serious events occurring at operating nuclear power plants. A deadline shorter than one hour was not adopted because the Commission does not want to interfere with the operator's ability to deal with an accident or transient in the first few critical minutes.

Therefore, based on these comments and its experience, the NRC has established a "four-hour report," as was suggested.

Reactor Scrams (Final Rule § 50.72(b)(2)(ii))

Several commenters said that reactor scrams, particularly those scrams below power operation, should not require notification of the NRC within one hour.

In response to these comments, the Commission had changed the reporting deadline to four hours. However, the Commission does not regard reactor scrams as "non-events," as stated in some letters of comment. Information related to reactor scrams has been useful in identifying safety-related problems. The Commission agrees that four hours is an appropriate deadline for this reporting requirement because these events are not as important to immediate safety as are some other events.

Radioactive Release Threshold (Final Rule § 50.72(b)(2)(iv))

Several commenters said that the threshold of 25% of allowable limits for radioactive releases was too low for one-hour reporting.

Based upon these comments and its experience, the Commission has changed the threshold of reporting to those releases exceeding two times Part 20 concentrations when averaged over a period of one hour. This will eliminate reports of releases that represent negligible risk to the public.

The Commission has found that low level radioactive releases below two times Part 20 concentrations do not, in themselves, warrant immediate radiological response.

This paragraph requires the reporting of those events that cause an unplanned or uncontrolled release of a significant amount of radioactive material to offsite areas. Unplanned releases should occur infrequently; however, when they occur, at least moderate defects have occurred in the safety design or operational control established to avoid their occurrence and, therefore, these events should be reported.

Personnel Radioactive Contamination (Final Rule § 50.72(b)(2)(v))

Several commenters objected to the use of vague terms such as "extensive

onsite contamination" and "readily removed" in one of the reporting criteria of the proposed rule.

Based on this comment, new criteria have been prepared that use more specific terms. For example, one new criterion requires reporting of "Any event requiring the transport of a radioactively contaminated person to an offsite medical facility for treatment." Experience with telephone notifications made to the NRC Operations Center suggests that this new criterion will be easily understood.

III. Paragraph-by-Paragraph Explanation of the Rule

Paragraph 50.72(a) reflects some consolidation of language that was repeated in various subparagraphs of the proposed rule. In general, the intent and scope of this paragraph do not reflect any change from the proposed rule.

Several titles were added to this and subsequent sections. For example, paragraph 50.72(b) is titled "Non-Emergency Events" and it has two subparagraphs: (b)(1), titled, "One-Hour Reports" and (b)(2), "Four-Hour Reports." The events which have a one-hour deadline are those having the potential to escalate to an Emergency Class. The four-hour deadline is explained in the analysis of paragraph (b)(2).

Paragraph 50.72(b)(1)(i)(A) requires reporting of "The initiation of any nuclear plant shutdown required by Technical Specifications." Although the intent and scope have not changed, the change in wording between the proposed and final rule is intended to clarify that prompt notification is required once a shutdown is initiated.

In response to public comment, the term "immediate shutdown" that was used in the proposed rule is not used in the final rule. The term was vague and unfamiliar to those licensees who did not have Technical Specifications using the term.

This reporting requirement is intended to capture those events for which Technical Specifications require the initiation of reactor shutdown. This will provide the NRC with early warning of safety significant conditions serious enough to warrant shutdown of the plant.

Paragraph 50.72(b)(1)(i)(B) was added to be consistent with existing requirements in § 50.54(x) and the existing § 50.72(c) as published in the **Federal Register** on April 1, 1983 (48 FR 13966) which require the licensee to notify the NRC Operations Center by telephone when the licensee departs from a license condition or technical specification.

Paragraph 50.72(b)(1)(ii), encompassing events previously classified as Unusual Events and some events captured by proposed § 50.72(b)(1) was added to provide for consistent, coordinated reporting requirements between this rule and 10 CFR 50.73 which has a similar provision. Public comment suggested that there should be similarity of terminology, phrasing, and reporting thresholds between § 50.72 and § 50.73. The intent of this paragraph is to capture those events where the plant, including its principal safety barriers, was seriously degraded or in an unanalyzed condition. For example, small voids in systems designed to remove heat from the reactor core which have been previously shown through analysis not to be safety significant need not be reported. However, the accumulation of voids that could inhibit the ability to adequately remove heat from the reactor core, particularly under natural circulation conditions, would constitute an unanalyzed condition and would be reportable. In addition, voiding in instrument lines that results in an erroneous indication causing the operator to misunderstand the true condition of the plant is also an unanalyzed condition and should be reported.

The Commission recognizes that the licensee may use engineering judgment and experience to determine whether an unanalyzed condition existed. It is not intended that this paragraph apply to minor variations in individual parameters, or to problems concerning single pieces of equipment. For example, at any time, one or more safety-related components may be out of service due to testing, maintenance, or a fault that has not yet been repaired. Any trivial single failure or minor error in performing surveillance tests could produce a situation in which two or more often unrelated, safety-grade components are out-of-service. Technically, this is an unanalyzed condition. However, these events should be reported only if they involve functionally related components or if they significantly compromise plant safety. When applying engineering judgement, and there is a doubt regarding whether to report or not, the Commission's policy is that licensees should make the report.

Finally, this paragraph also includes material (e.g., metallurgical or chemical) problems that cause abnormal degradation of the principal safety barriers (i.e., the fuel cladding, reactor coolant system pressure boundary, or the containment). Examples of this type of situation include:

(a) Fuel cladding failures in the reactor, or in the storage pool, that exceed expected values, or that are unique or widespread, or that are caused by unexpected factors, and would involve a release of significant quantities of fission products.

(b) Cracks and breaks in the piping or reactor vessel (steel or prestressed concrete) or major components in the primary coolant circuit that have safety relevance (steam generators, reactor coolant pumps, valves, etc.).

(c) Significant welding or material defects in the primary coolant system.

(d) Serious temperature or pressure transients.

(e) Loss of relief and/or safety valve functions during operation.

(f) Loss of containment function or integrity including:

(i) Containment leakage rates exceeding the authorized limits,

(ii) Loss of containment isolation valve function during tests or operation,

(iii) Loss of main steam isolation valve function during test or operation, or

(iv) Loss of containment cooling capability.

Paragraph 50.72(b)(1)(iii), encompassing a portion of proposed 50.72(b)(2), was reworded to correspond to a similar provision of 10 CFR 50.73(a)(2)(iii). Making the requirements of 10 CFR 50.72 and 50.73 similar in language increases the clarity of these rules and minimizes confusion.

The paragraph has also been reworded to make it clear that it applies only to acts of nature (e.g., tornadoes) and external hazards (e.g., railroad tank car explosion). References to acts of sabotage have been removed, since these are covered by § 73.71. In addition, threats to personnel from internal hazards (e.g., radioactivity releases) that hamper personnel in the performance of necessary duties are now covered by paragraph 50.72(b)(1)(vi). This paragraph covers those events involving an actual threat to the plant from an external condition or natural phenomenon, and where the threat or damage challenges the ability of the plant to continue to operate in a safe manner (including the orderly shutdown and maintenance of shutdown conditions). The licensee should decide if a phenomenon or condition actually threatens the plant. For example, a minor brush fire in a remote area of the site that is quickly controlled by fire fighting personnel and, as a result, did not present a threat to the plant should not be reported. However, a major forest fire, large-scale

flood, or major earthquake that presents a clear threat to the plant should be reported. As another example, an industrial or transportation accident which occurs near the site, creating a plant safety concern, should be reported.

Paragraph 50.72(b)(1)(iv), encompassing events previously classified as Unusual Events, requires the reporting of those events that result in either automatic or manual actuation of the ECCS or would have resulted in activation of the ECCS if some component had not failed or an operator action had not been taken.

For example, if a valid ECCS signal were generated by plant conditions, and the operator were to put all ECCS pumps in pull-to-lock, though no ECCS discharge occurred, the event would be reportable.

A "valid signal" refers to the actual plant conditions or parameters satisfying the requirements for ECCS initiation. Excluded from this reporting requirement would be those instances where instrument drift, spurious signals, human error, or other invalid signals caused actuation of the ECCS. However, such events may be reportable under other sections of the Commission's regulations based upon other details; in particular, paragraph 50.72(b)(2)(ii) requires a report within four hours if an Engineered Safety Feature (ESF) is actuated.

Experience with notifications made pursuant to § 50.72 has shown that events involving ECCS discharge to the vessel are generally more serious than ESF actuations without discharge to the vessel. Based on this experience, the Commission has made this reporting criterion a "One-Hour Report."

Paragraph 50.72(b)(1)(v), encompassing events previously classified as Unusual Events, covers those events that would impair a licensee's ability to deal with an accident or emergency. Notifying the NRC of these events may permit the NRC to take some compensating measures and to more completely assess the consequences of such a loss should it occur during an accident or emergency.

Examples of events that this criterion is intended to cover are those in which any of the following are not available:

1. Safety parameter display system (SPDS).
2. Emergency Response Facilities (ERF's).
3. Emergency communications facilities and equipment including the Emergency Notification system (ENS).
4. Public prompt Notification System including sirens.
5. Plant monitors necessary for accident assessment.

Paragraph 50.72(b)(1)(vi), encompassing some portions of the proposed §§ 50.72(b) (2) and (6), has been revised to add the phrase, "including fires, toxic gas releases, or radioactive releases." This addition covers the "evacuation" portion of paragraph 50.72(b)(6)(iii) of the proposed rule. This change in wording for the final rule was made in response to public comments discussed above.

While paragraph 50.72(b)(1)(iii) of the final rule primarily captures acts of nature, paragraph 50.72(b)(1)(vi) captures other events, particularly acts by personnel. The Commission believes this arrangement of the reporting criteria in the final rule lends itself to more precise interpretion and is consistent with those pubic comments that requested closer coordination between the reporting requirements in this rule and other portions of the Commission's regulations.

This provision requires reporting of events, particularly those caused by acts of personnel, which endanger the safety of the plant or interfere with personnel in performance of duties necessary for safe plant operations.

The licensee must exercise some judgment in reporting under this section. For example, a small fire on site that did not endanger any plant equipment and that did not and could not reasonably be expected to endanger the plant, is not reportable.

Paragraph 50.72(b)(1) of the proposed rule was split into § 50.72(b)(1)(ii) and *§ 50.72(b)(2)(i)* in the final rule in order to permit some type of reports to be made within four hours instead of one hour because these reports have less safety significance. In terms of their combined effect, the overall intent and scope of these paragraphs have not changed from those in the proposed rule. Since the types of events intended to be captured by this reporting requirement are similar to § 50.72(b)(1)(ii), except that the reactor is shut down, the reader should refer to the explanation of § 50.72(b)(1)(ii) for more details on intent.

Paragraph 50.72(b)(2) Although the reporting criteria contained in the subparagraphs of § 50.72(b)(2) were in the proposed rule, in response to public comment the Commission established this "Non-Emergency" category for those events with slightly less urgency and less safety significance that may be reported within four hours instead of one hour.

The Commission wants to obtain such reports from personnel who were on shift at the time of the event, when this is possible, because these personnel will have a better knowledge of the circumstances associated with the vent. Reports made within four hours of the event should make this possible while not imposing the more rigid one hour requirements.

The reporting requirement in paragraph 50.72(b)(2)(i) is similar to a requirement in § 50.73. Moreover, except for referring to a shutdown reactor, this reporting requirement is also similar to the "One-Hour Report" in § 50.72(b)(1)(ii). However this paragraph applies to a reactor in shutdown condition. Events within this requirement have less urgency and can be reported within four hours as a "Non-Emergency."

Paragraph 50.72(b)(2)(ii) (proposed 50.72(b)(5)) is made a "Non-Emergency" in response to public comment, because the Commission agrees that the covered events generally have slightly less urgency and safety significance than those events included in the "One-Hour Reports."

The intent and scope of this reporting requirement have not changed from the proposed rule. This paragraph is intended to capture events during which an ESF actuates, either manually or automatically, or fails to actuate. ESFs are provided to mitigate the consequences of the event; therefore, (1) they should work properly when called upon and (2) they should not be challenged unnecessarily. The Commission is interested both in events where an ESF was needed to mitigate the consequences of the event (whether or not the equipment performed properly) and events where an ESF operated unnecessarily.

"Actuation" of multichannel ESF Actuation Systems is defined as actuation of enough channels to complete the minimum actuation logic. Therefore, single channel actuations, whether caused by failures or otherwise, are not reportable if they do not complete the minimum actuation logic.

Operation of an ESF as part of a planned test or operational evolution need not be reported. However, if during the test or evolution the ESF actuates in a way that is not part of the planned procedure, that actuation should be reported. For example, if the normal reactor shutdown procedure requires that the control rods be inserted by a manual reactor trip, the reactor trip need not be reported. However, if conditions develop during the shutdown that require an automatic reactor trip, such a reactor trip should be reported. The fact that the safety

analysis assumes that an ESF will actuate automatically during an event does not eliminate the need to report that actuation. Actuations that need not be reported are those initiated for reasons other then to mitigate the consequences of an event (e.g., at the discretion of the licensee as part of a planned procedure).

Paragraph 50.72(b)(2)(iii) (proposed 50.72(b)(4)) has been revised and simplified.

The words "any instance of personal error, equipment failure, or discovery of design or procedural inadequacies" that appeared in the proposed rule have been replaced by the words "event or condition." This simplification in language is intended to clarify what was a confusing phrase to many of those who commented on the proposed rule. Also in response to public comment, this reporting requirement is a "Non-Emergency" to be reported within four hours instead of within one hour.

This paragraph is based on the assumption that safety-related systems and structures are intended to mitigate the consequences of an accident. While paragraph 50.72(b)(2)(ii) applies to actual demands for actuation of an ESF, paragraph 50.72(b)(2)(iii) covers an event where a safety system could have failed to perform its intended function because of one or more personnel errors, including procedure violations; equipment failures; or design, analysis, fabrication, construction, or procedural deficiencies. The event should be reported regardless of the situation or condition that caused the structure or system to be unavailable.

This reporting requirement is similar to one contained in § 50.73, thus reflecting public comment identifying the need for closer coordination of reporting requirements between § 50.72 and § 50.73.

This paragraph includes those safety systems designed to mitigate the consequences of an accident (e.g., containment isolation, emergency filtration). Hence, minor operational events such as valve packing leaks, which could be considered a lack of control of radioactive material, should not be reported under this paragraph. System leaks or other similar events may, however, be reportable under other paragraphs.

This paragraph does not include those cases where a system or component is removed from service as part of a planned evolution, in accordance with an approved procedure, and in accordance with the plant's Technical Specifications. For example, if the licensee removes part of a system from service to perform maintenance, and the Technical Specifications permit the resulting configuration, and the system or component is returned to service within the time limit specified in the Technical Specifications, the action need not be reported under this paragraph. However, if, while the component is out of service, the licensee identifies a condition that could have prevented the system from performing its intended function (e.g., the licensee finds a set of relays that is wired incorrectly), that condition must be reported.

It should be noted that there are a limited number of single-train systems that perform safety functions (e.g., the High Pressure Coolant Injection System in BWRs). For such systems, loss of the single train would prevent the fulfillment of the safety function of that system and, therefore, must be reported even though the plant Technical Specifications may allow such a condition to exist for a specified length of time. Also, if a potentially serious human error is made that could have prevented fulfillment of a safety function, but recovery factors resulted in the error being corrected, the error is still reportable.

The Commission recognizes that the application of this and other paragraphs of this section involves a technical judgment by licensees. In this case, a technical judgment must be made whether a failure or operator action that disabled one train of a safety system could have, but did not, affect a redundant train. If so, this would constitute an event that "could have prevented" the fulfillment of a safety function, and, accordingly, must be reported.

If a component fails by an apparently random mechanism, it may or may not be reportable if the functionally redundant component could fail by the same mechanism. To be reportable, it is necessary that the failure constitute a condition where there is reasonable doubt that the functionally redundant train or channel would remain operational until it completed its safety function or is repaired. For example, if a pump fails because of improper lubrication, there is a reasonable expectation that the functionally redundant pump, which was also improperly lubricated, would have also failed before it completed its safety function, then the failure is reportable and the potential failure of the functionally redundant pump must be reported.

Interaction between systems, particularly a safety system and a non-safety system, is also included in this criterion. For example, the Commission is increasingly concerned about the effect of a loss or degradation of what had been assumed to be nonessential inputs to safety systems. Therefore, this paragraph also includes those cases where a service (e.g., heating, ventilation, and cooling) or input (e.g., compressed air) which is necessary for reliable or long-term operation of a safety system is lost or degraded. Such loss or degradation is reportable, if the proper fulfillment of the safety function is not or can not be assured. Failures that affect inputs or services to systems that have no safety function need not be reported.

Finally, the Commission recognizes that the licensee has to decide when personnel actions *could* have prevented fulfillment of a safety function. For example, when an individual improperly operates or maintains a component, that person might conceivably have made the same error for all of the functionally redundant components (e.g., if an individual incorrectly calibrates one bistable amplifier in the Reactor Protection System, that person could conceivably incorrectly calibrate all bistable amplifiers). However, for an event to be reportable it is necessary that the actions actually affect or involve components in more than one train or channel of a safety system, and the result of the actions must be undersirable from the perspective of protecting the health and safety of the public. The components can be functionally redundant (e.g., two pumps in different trains) or not functionally redundant (e.g., the operator correctly stops a pump in Train "A" and, instead of shutting the pump discharge valve in Train "A," he mistakenly shuts the pump discharge valve in Train "B").

Paragraphs 50.72(b)(2)(iv) (proposed 50.72(b)(6)) has been changed to clarify the requirement to report releases of radioactive material. The paragraph is similar to § 20.403 but places a lower threshold for reporting events at commercial power reactors. The lower threshold is based on the significance of the breakdown of the licensee's program necessary to have a release of this size, rather than on the significance of the impact of the actual release. The existing licensee radioactive material effluent release monitoring programs and their associated assessment capabilities are sufficient to satisfy the intent of 50.72(b)(2)(iv).

Based upon public comment and a reevaluation by the Commission staff, the reporting threshold has been changed from "25%" in the proposed rule to "2 times" in the final rule and has

been reclassified as a "Non-Emergency" to be reported within four hours instead of within 1 hour.

Also this reporting requirement has been changed to make a more uniform requirement by referring to specific release criteria instead of referring only to Technical Specifications that may vary somewhat among facilities.

This reporting requirement is intended to capture those events that may lead to an accident situation where significant amounts of radioactive material could be released from the facility. Unplanned releases should occur infrequently; however, if they occur at the levels specified, at least moderate defects have occurred in the safety design or operational control established to avoid their occurrence and, therefore, such events should be reported.

Normal operating limits for radioactive effluent releases are based on the limits of 10 CFR Part 20 which establishes maximum annual average concentration in unrestricted areas. This reporting requirement addresses concentrations averaged over a one hour period and represents less than 0.1% of the annual quantities of radioactive materials permitted to be released by 10 CFR Part 20.

Paragraph 50.72(b)(2)(v) (proposed rule 50.72(b)(7)) has three changes. The first eliminates the phrase "occurring onsite" because it is implied by the scope of the rule. The second replaces "injury involving radiation" with "radioactively contaminated person." This change was made because of the difficulty in defining injury due to radiation, and more importantly, because 10 CFR Part 20 captures events involving radiation exposure.

The third change, in response to public comment, was to make this reporting requirement a four-hour notification, instead of one-hour notification. This change was made because these events have slightly less safety significance than those required to be reported within one hour.

Paragraph 50.72(b)(2)(vi) (not in proposed rule) besides covering some events such as release of radioactively contaminated tools or equipment to the public that may warrent NRC attention, also covers those events that would not otherwise warrant NRC attention except for the interest of the news media, other government agencies, or the public. In terms of its effect on licensees, this is not a new reporting requirement because the threshold for reporting injuries and radioactive release was much lower under the proposed rule. This criterion will capture those events previously reported under other criteria when such events require the NRC to respond because of media or public attention.

Paragraph 50.72(c) (proposed 50.72(c)) has remained essentially unchanged from the proposed rule, except for addition of the title "Followup Notification" and some renumbering.

This paragraph is intended to provide the NRC with timely notification when an event becomes more serious or additional information or new analyses clarify an event.

This paragraph also permits the NRC to maintain a continuous communications channel because of the need for continuing follow-up information or because of telecommunications problems.

IV. Regulatory Analysis

The Commission has prepared a regulatory analysis on this regulation. The analysis examines the costs and benefits of the Rule as considered by the Commission. A copy of the regulatory analysis is available for inspection and copying for a fee at the NRC Public Document Room, 1717 H Street, NW., Washington, D.C. Single copies of the analysis may be obtained from Eric W. Weiss, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone (301) 492–4973.

V. Paperwork Reduction Act Statement

The information collection requirements contained in this final rule have been approved by the Office of Management and Budget pursuant to the Paperwork Reduction Act, Pub. L. 96–511 (clearance number 3150–0011).

VI. Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that this regulation will not have a significant economic impact on a substantial number of small entities. This final rule affects electric utilities that are dominant in their respective service areas and that own and operate nuclear utilization facilities licensed under sections 103 and 104b. of the Atomic Energy Act of 1954, as amended. The amendments clarify and modify presently existing notification requirements. Accordingly, there is no new, significant economic impact on these licensees, nor do the affected licensees fall within the scope of the definition of "small entities" set forth in the Regulatory Flexibility Act or within the Small Business Size Standards set forth in regulations issued by the Small Business Administration at 13 CFR Part 121.

List of Subjects in 10 CFR Part 50

Antitrust, Classified information, Fire prevention, Incorporation by reference, Intergovernmental relations, Nuclear power plants and reactors, Penalty, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and section 552 and 553 of Title 5 of the United States Code, the following amendments to Title 10, Chapter I, Code of Federal Regulations, Part 50 are published as a document subject to codification.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for Part 50 continues to read as follows:

Authority: Secs. 103, 104, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat 1244, as amended (42 U.S.C. 2133, 2134, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, 202, 206, 88 Stat. 1242, 1244, 1246, as amended (42 U.S.C. 5841, 5842, 5846), unless otherwise noted.

Section 50.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Sections 50.58, 50.91 and 50.92 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80–50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Sections 50.100–50.102 also issued under sec. 186, 68 Stat. 955 (42 U.S.C. 2236).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273), §§ 50.10 (a), (b), and (c), 50.44, 50.46, 50.48, 50.54, and 50.80(a) are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 50.10 (b) and (c) and 50.54 are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 50.55(e), 50.59(b), 50.70, 50.71, 50.72, and 50.78 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. A new paragaph (z) is added to § 50.54 to read as follows:

§ 50.54 Conditions of licenses.

* * * * *

(z) Each licensee with a utilization facility licensed pursuant to sections 103 or 104b. of the Act shall immediately notify the NRC Operations Center of the occurrence of any event specified in § 50.72 of this part.

3. Section 50.72 is revised to read as follows:

§ 50.72 Immediate notification requirements for operating nuclear power reactors.

(a) *General Requirements.*[1] (1) Each nuclear power reactor under § 50.21(b) or § 50.22 of this part shall notify the NRC Operations Center via the Emergency Notification System of:

(i) The declaration of any of the Emergency Classes specified in the licensee's approved Emergency Plan; [2]or

(ii) Of those non-Emergency events specified in paragraph (b) of the section.

(2) If the Emergency Notification System is inoperative, the licensee shall make the required notifications via commerical telephone service, other dedicated telephone system, or any other method which will ensure that a report is made as soon as practical to the NRC Operations Center.[3]

(3) The licensee shall notify the NRC immediately after notification of the appropriate State or local agencies and not later than one hour after the time the licensee declares one of the Emergency Classes.

(4) When making a report under paragraph (a)(3) of this section, the licensee shall identify:

(i) The Emergency Class declared; or

(ii) Either paragraph (b)(1), "One-Hour Report," or paragraph (b)(2), "Four-Hour Report," as the paragraph of this section requiring notification of the Non-Emergency Event.

(b) *Non-Emergency Events.* (1) *One-Hour Reports.* If not reported as a declaration of an Emergency Class under paragraph (a) of this section, the licensee shall notify the NRC as soon as practical and in all cases within one hour of the occurrence of any of the following:

(i)(A) The initiation of any nuclear plant shutdown required by the plant's Technical Specifications.

(B) Any deviation from the plant's Technical Specifications authorized pursuant to § 50.54(x) of this part.

(ii) Any event or condition during operation that results in the condition of the nuclear powerplant, including its principal safety barriers, being seriously degraded; or results in the nuclear powerplant being:

(A) In a unanalyzed condition that significantly compromises plant safety;

(B) In a condition that is outside the design basis of the plant; or

(C) In a condition not covered by the plant's operating and emergency procedures.

(iii) Any natural phenomenon or other external condition that poses an actual threat to the safety of the nuclear power-plant or significantly hampers site personnel in the performance of duties necessary for the safe operation of the plant.

(iv) Any event that results or should have resulted in Emergency Core Cooling System (ECCS) discharge into the reactor coolant system as a result of a valid signal.

(v) Any event that results in a major loss of emergency assessment capability, offsite response capability, or communications capability (e.g., significant portion of control room indication, Emergency Notification System, or offsite notification system).

(vi) Any event that poses an actual threat to the safety of the nuclear powerplant or significantly hampers site personnel in the performance of duties necessary for the safe operation of the nulcear powerplant including fires, toxic gas releases, or radioactive releases.

(2) *Four-Hour Reports.* If not reported under paragraphs (a) or (b)(1) of this section, the licensee shall notify the NRC as soon as practical and in all cases, within four hours of the occurrence of any of the following:

(i) Any event, found while the reactor is shutdown, that, had it been found while the reactor was in operation, would have resulted in the nuclear powerplant, including its principal safety barriers, being seriously degraded or being in an unanalyzed condition that significantly compromises plant safety.

(ii) Any event or condition that results in manual or automatic actuation of an Engineered Safety Feature (ESF), including the Reactor Protection System (RPS). However, actuation of an ESF, including the RPS, that results from and is part of the preplanned sequence during testing or reactor operation need not be reported.

(iii) Any event or condition that alone could have prevented the fulfillment of the safety function of structures or systems that are needed to:

(A) Shut down the reactor and maintain it in a safe shutdown condition,

(B) Remove residual heat,

(C) Control the release of radioactive material, or

(D) Mitigate the consequences of an accident.

(iv)(A) Any airborne radioactive release that exceeds 2 times the applicable concentrations of the limits specified in Appendix B, Table II of Part 20 of this chapter in unrestricted areas, when averaged over a time period of one hour.

(B) Any liquid effluent release that exceeds 2 times the limiting combined Maximum Permissible Concentration (MPC) (see Note 1 of Appendix B to Part 20 of this chapter) at the point of entry into the receiving water (i.e., unrestricted area) for all radionuclides except tritium and dissolved noble gases, when averaged over a time period of one hour. (Immediate notifications made under this paragraph also satisfy the requirements of paragraphs (a)(2) and (b)(2) of § 20.403 of Part 20 of this chapter.)

(v) Any event requiring the transport of a radioactively contaminated person to an offsite medical facility for treatment.

(vi) Any event or situation, related to the health and safety of the public or onsite personnel, or protection of the environment, for which a news release is planned or notification to other government agencies has been or will be made. Such an event may include an onsite fatality or inadvertent release of radioactively contaminated materials.

(c) *Followup Notification.* With respect to the telephone notifications made under paragraphs (a) and (b) of this section, in addition to making the required initial notification, each licensee, shall during the course of the event:

(1) *Immediately report:* (i) any further degradation in the level of safety of the plant or other worsening plant conditions, including those that require the declaration of any of the Emergency Classes, if such a declaration has not been previously made, or (ii) any change from one Emergency Class to another, or (iii) a termination of the Emergency Class.

(2) *Immediately report:* (i) the results of ensuing evaluations or assessments of plant conditions, (ii) the effectiveness of response or protective measures taken, and (iii) information related to plant behavior that is not understood.

(3) Maintain an open, continuous communication channel with the NRC Operations Center upon request by the NRC.

Dated: at Washington, D.C. this 23d day of August, 1983.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 83-23002 Filed 8-26-83; 8:45 am]

BILLING CODE 7590-01-M

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[1] Other requirements for immediate notification of the NRC by licensed operating nuclear power reactors are contained elsewhere in this chapter, in particular, § 20.205, § 20.403, § 50.36, and § 73.71.

[2] These Emergency Classes are addressed in Appendix E of this part.

[3] Commercial telephone number of the NRC Operations Center is (202) 951-0550.

FEDERAL RESERVE SYSTEM

12 CFR Part 265

[Docket No. R-0478]

Delegation of Authority To Reserve Banks to Approve Applications To Engage in Nonbanking Activities

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: This amendment to the Rules Regarding Delegation of Authority authorizes Reserve Banks to approve additional applications under section 4 of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)). The Board is amending its Rules to allow Reserve Banks to approve an application by a bank holding company to open additional offices to engage in a nonbanking activity when the Board has previously approved an application by the bank holding company to engage in the same activity, even though the activity is not among those listed as permissible for bank holding companies generally under § 225.4(a) of Regulation Y.

EFFECTIVE DATE: August 22, 1983.

FOR FURTHER INFORMATION CONTACT: Bronwen Mason Chaiffetz, Senior Counsel (202/452-3584) or Susan Weinberg, Attorney (202/452-3707), Legal Division.

SUPPLEMENTARY INFORMATION: The Board's Rules currently provide that the Reserve Banks may approve applications by bank holding companies to engage in nonbanking activites the Board has listed as permissible for bank holding companies generally under § 225.4(a) of Regulation Y (12 CFR 225.4(a)). The Board continues to believe that, as a general rule, applications involving an activity that the Board has not determined to be generally permissible within the meaning of § 225.4(a) of Regulation Y, should receive consideration by the Board. However, when the Board has previously determined that an unlisted activity is closely related to banking and that the performance of the activity by a particular bank holding would result in net public benefits, the Board does not believe that subsequent applications by that applicant to open additional offices to engage in that activity are likely to raise significant issues.

The Board has considered and approved a number of applications by bank holding companies where the only aspect of the case that precluded delegation was the fact that the activity was not listed as permissible in § 225.4(a) of Regulation Y. Moreover, the Board has not denied any application by a bank holding company to open additional offices to engage in an unlisted nonbanking activity for which it has previously received Board approval. In light of its experience, the Board believes the Reserve Banks should be delegated the authority to approve applications by a bank holding company to open additional offices to engage in an unlisted nonbanking activity when the bank holding company previously has received the Board's approval to engage in that activity.

The amendment to the Board's Delegation Rules would expedite applications processing and would decrease the number of Board cases that do not present significant issues. Of course, all such applications would be subject to the same conditions and limitations imposed in connection with the Board's approval of the particular bank holding company application to engage in the activity or activities. Moreover, an application being processed under the delegated rule could be brought to the Board if the circumstances warrant.

Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. No. 96-354, 5 U.S.C. 601 et seq.), the Board certifies that the proposed amendment, if adopted, will not have a significant economic impact on a substantial number of small entities. The proposed amendment would ease the application of the existing regulations and does not have any particular effect on small entities.

Regulatory Impact Analysis

Pursuant to section 3(a)(1) of Executive Order 12291 of February 17, 1981, it has been determined that the proposed amendment does not constitute a major rule within the meaning of section (1)(b) of the Executive Order. The proposed amendment has no effect on the operations of the depository institutions subject to them, and thus, will not have an annual effect on the economy of $100 million or more, will not affect costs or prices for consumers, individual industries, government agencies or geographic regions, and will not have adverse effects on competition, employment, investment, productivity or on the ability of United States based enterprises in domestic or export markets.

Public comment

The provisions of section 553 of Title 5, United States Code, relating to notice, public participation, and deferred effective date have not been followed in connection with the adoption of this amendment because the change to be effected is procedural in nature and does not constitute a substantive rule subject to the requirements of that section. The Board's expanded rulemaking procedures have not been followed because the amendment is a technical one and because it relieves a burden that could obstruct necessary and prompt action that would be in the public interest.

List of Subjects in 12 CFR Part 265

Authority delegations (government agencies), Banks, banking, Federal Reserve System.

PART 265—[AMENDED]

Pursuant to its authority under sections 4(c)(8) and 5(b) of the Bank Holding Company Act, the Board of Governors is amending its Rules Regarding Delegation of Authority [12 CFR Part 265]. Specifically, the Board is adding paragraph (f)(57) as follows:

§ 265.2 Specific functions delegated to Board Employees and to Federal Reserve Banks.

* * * * *

(f) * * *

(57) Under sections 4(c)(8) and 5(b) of the Bank Holding Company Act and § 225.4(b) of the Board's Regulation Y, to approve applications by a bank holding company to open additional offices to engage in nonbanking activities for which the particular bank holding company has previously received approval pursuant to Board order, unless one of the conditions specified in § 265.2(f)(22) (i), (ii), (iii), or (iv) is present.

Effective date: The amendment is effective on all applications pending on August 22, 1983, and on all future applications.

Board of Governors of the Federal Reserve System, August 22, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-23546 Filed 8-26-83; 8:45 am]

BILLING CODE 6210-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 116

[Rev. 1, Admt. 2]

Policies of General Application; Flood Insurance Protection; Floodplain Management and Wetlands Protection

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: The Small Business Administration is promulgating its amendments to Part 116 of the Code of Federal Regulations (13 CFR Part 116).

The rule will eliminate the requirement that all SBA borrowers purchase flood insurance if it is made available during the term of the loan, and amends the regulation to include insurance against mudslides and soil erosion (13 CFR 116.11(a) and (b)).

The rule requires disaster borrowers to purchase such insurance in an amount equal to the insurable value of the property or the maximum amount available. (13 CFR 116.11(c)).

The final rule also increases the loan amount under which SBA may waive the 8-step decision-making process, on a case-by-case basis, to determine adverse effects or incompatible development on wetlands or in a floodplain (13 CFR 116.32(a)(6)).

The rule also amends the "Purpose and Scope" section to conform it to current program conditions (13 CFR 116.10)). It further amends the section on "Related Regulations" to conform it to the current regulations of the Federal Emergency Management Agency.

EFFECTIVE DATE: August 29, 1983.

For assistance under Sec. 7(b) of the Small Business Act, 15 U.S.C. 636, this rule applies to disasters occurring on or after August 29, 1983.

FOR FURTHER INFORMATION CONTACT:

Bernard Kulik, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416, 202–653–6879.

SUPPLEMENTARY INFORMATION: On May 10, 1983, SBA published a notice of proposed rule making (48 FR 20933) proposing the rule changes now promulgated. The comment period expired June 9, 1983. No comments were received. Accordingly, the following sections of Part 116 of 13 CFR are amended as follows:

Section 116.10 adds Certified Development Companies (Section 503 of the Small Business Investment Act, 15 U.S.C. 697) to the scope of this Part. This amendment does not create a new requirement since the Flood Disaster Protection Act of 1973 mandates such inclusion. The amendment also omits references to SBA programs which exist no longer, or have been merged into other listed programs.

Section 116.11(a) no longer requires SBA disaster borrowers who have obtained loans at a time when flood insurance is not available in their localities to purchase flood insurance if it becomes available during the term of the loan. Borrowers will continue to be required to purchase such insurance if it is available prior to loan disbursement.

Section 116.11(b) provides that SBA will not offer directly or indirectly, disaster assistance to applicants located in special hazard areas, including those which are prone to mudslides and soil erosion, unless the community is participating in the Federal insurance program, or less than a year has elapsed since the community was advised of the availability of such program in the area. This change conforms the regulation to Federal Emergency Management Agency regulations, 44 CFR 64.3.

Section 116.11(c): The amendment requires borrowers to purchase the maximum amount of insurance available under the National Flood Insurance Act of 1968 not to exceed the insurable value of the property. This requirement assures that the value of SBA's collateral is protected from floods in flood prone locations. This amendment also benefits disaster victims by reducing the amount of debt they must incur due to a subsequent disaster.

This amendment will have an economic effect on all SBA borrowers, businesses as well as home owners, where the amount of the loan is less than the insurable value of the property. The additional cost for each borrower will be the difference between the flood insurance premiums for insurance in the amount of the SBA loan and the premiums for insurance in the amount of the insurable value of the property (or maximum insurance available, whichever is lower). Because of the impossibility of forecasting the time, magnitude or location of disasters, it is not feasible to estimate the total number of borrowers who will be located in flood prone areas nor the gross additional cost to any single borrower or all borrowers as a group. However, the gross amount of additional cost could be significant.

SBA seeks to ensure its collateral for a given loan and avoid multiple loans to the same flood prone borrower by promulgating this requirement. In doing so, SBA is convinced that the benefits of the proposal outweigh its costs. The only reasonable alternative to this proposal is to continue the prior regulation, which has proven unsatisfactory. There are no additional recordkeeping or reporting requirements inherent in this proposal, and it does not contradict, overlap or duplicate any other existent regulations of statutes.

Section 116.12: This amendment conforms the section to current regulations.

Section 116.32(a)(6): The rule now provides that the full implementation of Section 2(a) of Executive Order 11988 may be waived on a case-by-case basis in instances of actions which typically do not create adverse effects or incompatible development on wetlands and floodplains. This amendment relieves applicants for loans in the $300,000 to $500,000 range of the need to supply SBA with the necessary information and studies for the implementation of the prescribed decision-making process, and consequently reduces both the cost and the time required to process such loan applications.

Except to the extent indicated above with respect to the revision of § 116.11(c), these amendments either singly or as a whole, will not have a significant economic impact on a substantial number of small entities. In addition, they do not constitute major regulations for the purpose of Executive Order 12291. To the extent that the revision of § 116.11(c) could have a significant economic impact or constitute a major rule, the statement above as to its potential effect is provided as a regulatory analysis for the purposes of the Regulatory Flexibility Act and E.O. 12291.

List of Subjects in 13 CFR Part 116

Flood insurance, Flood plains, Lead poisoning, Small businesses, Veterans.

Accordingly, pursuant to the authority of section 5(b)(6) of the Small Business Act (15 U.S.C. 631 *et seq*), Subparts B and D of Part 116, Chapter 1, Title 13 of the Code of Federal Regulations are amended as follows:

PART 116—[AMENDED]

Subpart B—[Amended]

1. Section 116.10 is revised to read as follows:

§ 116.10 Purpose and scope.

This subpart is established by the SBA to implement the Agency's responsibilities under section 102(a) of the Flood Disaster Protection Act of 1973, which prohibits Federal financial assistance for acquisition or construction purposes in special flood hazard areas (as designated by the Federal Emergency Management Administration, formerly by the Secretary of Housing and Urban Development), when persons in such areas are eligible for flood insurance which has been made available under the National Flood Insurance Act of 1968, and have not obtained such insurance. The following programs are subject to the legislation: 7(a) Business loans, 7(b) disaster loans, Sections 501,

502 and 503 development company loans, lease guarantees, small business investment companies and pollution control guarantees.

2. Section 116.11 is amended by revising paragraphs (a), (b) and (c) to read as follows:

§ 116.11 Requirements.

(a) *General.* Flood insurance is required of a recipient of SBA direct or indirect assistance for construction purposes as defined in paragraph (d) of this section on the basis of its availability at the time of approval of a loan.

(b) *Community Participation in Insurance Program.* On and after July 1, 1975, no financial assistance will be authorized by which SBA would provide direct or indirect assistance to an applicant located in an identified special hazard area, including an area of mudslides and flood-related erosion as defined in Title 44, Code of Federal Regulations, § 59.1, unless (1) the community in which said applicant is located is participating in the flood insurance program or (2) less than a year has elapsed since the community was formally notified of the identification of a special flood hazard area within its boundaries.

(c) *Amount of coverage required.* The amount of flood insurance required is the maximum flood insurance available under the National Flood Insurance Act of 1968, as amended, but not to exceed the insurable value of the property.

* * * * *

3. Section 116.12 is revised to read as follows:

§ 116.12 Related regulations.

It is the intent of the SBA that this Subpart B be administered in a manner consistent with regulations issued by the Federal Emergency Management Agency (44 CFR Parts 59–77).

Subpart D—[Amended]

4. Section 116.32 is amended by removing from paragraph (a)(6) thereof: "$300,000" and inserting in place thereof "$500,000".

(Catalog of Federal Domestic Assistance Programs Nos. 59.008, Physical Disaster Loans; 59.011 Small Business Investment Companies; 59.012 Small Business Loans; 59.013 State and Local Development Company Loans; 59.031 Small Business Pollution Control Financing Guarantee; 59.030 Certified Development Company Loans)

Dated: August 5, 1983.

James C. Sanders,

Administrator.

[FR Doc. 83-23088 Filed 8-25-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 83-CE-64-AD; Amendment 39-4717]

Airworthiness Directives; Air Tractor Models AT-300, AT-301 and AT-302 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to certain Air Tractor Models AT-300, AT-301 and AT-302 airplanes. It requires inspections of the vertical fin front spar fuselage attach fittings for cracks and replacement of both fittings if either is found cracked. It also establishes a retirement life for these fittings. Reports of cracked and failed fittings have been received. This action will preclude failure of these fittings and possible inflight separation of the vertical fin.

DATES: Effective Date: September 6, 1983.

Compliance: As prescribed in the body of the AD.

ADDRESSES: Snow Engineering Company Service Letters #26 dated February 2, 1978, and #47 dated February 12, 1983, applicable to this AD may be obtained from Air Tractor, Inc., P.O. Box 485, Olney, Texas 76374. A copy of this information is also contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: William A. Simmons, Special Programs Branch, Aircraft Certification Division, ASW-190, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; Telephone (817) 877-2556.

SUPPLEMENTARY INFORMATION: There have been several occurrences of cracking of the sheet metal vertical fin front spar fuselage attach fittings installed on Air Tractor Models AT-300, AT-301 and AT-302 airplanes. The manufacturer issued Service Bulletin No. 26, dated February 2, 1978, which recommended inspections of the sheet metal vertical fin front spar fuselage attach fittings and a torque check of the AN5-7A attaching bolts on these airplanes. In this bulletin, it requested that the factory be contacted for repair instructions and parts if cracks were found. Subsequent to this action, cracks and failure of these fittings continued to occur. These cracks, if undetected, can progress to failure of one or both of the vertical fin front spar fuselage attach fittings which may possibly result in failure of the vertical fin rear spar and inflight separation of the vertical fin. As a result, the manufacturer issued Service Bulletin No. 47, dated February 12, 1983, which contains instructions for replacement of these fittings with an improved Part Number 10398-3 fitting. This Service Bulletin also recommended replacement of the original fittings with the improved fitting when they are found cracked or at 2,000 hours time-in-service.

Since the FAA has determined that the unsafe condition described herein is likely to exist or develop in other airplanes of the same type design, an AD is being issued requiring initial and repetitive inspections of the original fittings and establishing retirement life for these parts on certain Air Tractor Models AT-300, AT-301 and AT-302 airplanes. Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD.

Air Tractor: Applies to Model AT-300, AT-301, AT-302 (Serial Numbers 0001 through 0249) airplanes certificated in any category.

Compliance: Required as indicated, unless already accomplished.

To prevent failure of the vertical fin front spar fuselage attach fittings, accomplish the following:

(a) On airplanes having less than 2,000 hours time-in-service, on the effective date of this AD, within the next 25 hours time-in-service or 100 hours time-in-service since the last inspection per Snow Engineering Company Service Letter No. 26, dated February 2, 1978, whichever occurs later, and

within each 100 hours time-in-service thereafter, inspect the vertical fin front spar fuselage attach fittings using dye penetrant procedures at the locations specified in Snow Engineering Company Service Letter No. 26, dated February 2, 1978.

(b) On airplanes having more than 2,000 hours time-in-service on the effective date of this AD within the next 25 hours time-in-service, or 50 hours time-in-service since compliance with paragraph (a), or the last inspection per Snow Engineering Company Service Letter No. 26 dated February 2, 1978, whichever occurs later, and each 50 hours time-in-service thereafter, inspect the vertical fin front spar fuselage attach fittings using dye penetrant procedures at the locations specified in Snow Engineering Service Letter No. 26, dated February 2, 1978.

(c) Prior to further flight, replace any cracked fittings found during the inspections required by paragraphs (a) and (b) of this AD with a new 10398–3 fitting in accordance with Snow Engineering Company Service Letter No. 47, dated February 12, 1983.

(d) On or before December 31, 1983, or upon reaching 2,000 hours time-in-service, whichever occurs later, replace existing sheet metal vertical fin front spar fuselage attach fittings with a new part number 10398–3 fitting, in accordance with Snow Engineering Company Service Letter No. 47 dated February 12, 1983.

(e) The other requirements of this AD are no longer required when the 10398–3 fittings are installed.

(f) The interval between the repetitive inspections required by this AD may be adjusted up to 10 percent of the specified interval to allow accomplishing these inspections concurrent with other scheduled maintenance of the airplane.

(g) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD can be accomplished.

(h) Any equivalent means of compliance with this AD may be used, if approved, by Manager, Aircraft Certification Division, ASW–100, FAA, P.O. Box 1689, Fort Worth, Texas 76101.

This amendment becomes effective on September 6, 1983.

(Sec. 313(a), 601 and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); § 11.89 of the Federal Aviation Regulations (14 CFR Sec. 11.89))

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket under the caption "ADDRESSES" at a location identified.

Issued in Kansas City, Missouri, on August 19, 1983.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 83-23702 Filed 8-26-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 59

[Docket No. 83–CE–65–AD; Amdt. 39–4716]

Airworthiness Directives; Cessna Models 180 Through 180H, 180J, 180K, 150D Through 150L, 185, 185A Through 185E, A185E, A185F, 182 Through 182R, R182, T182, TR182, 172, and 172A Through 172P Airplanes Modified by Robertson STC's SA1435WE, SA219WE, SA2192WE, SA1441WE, SA1382WE and SA1689WE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to certain Cessna Models 180 through 180H, 180J, and 180K airplanes, modified per Robertson Supplemental Type Certificate (STC) SA143WE; 150D through 150L airplanes, modified per Robertson STC SA2191WE; 150D through 150L airplanes modified per Robertson STC SA2191WE; 185, 185A through 185E, A185E and A185F airplanes modified per Robertson STC SA1441WE; 182 through 182R, R182, T182 and TR182 airplanes, modified per Robertson STC SA1382WE; and 172, 172A through 172P airplanes, modified per Robertson STC SA1689WE. It requires a one-time inspection of the aileron balance weights for conformity with applicable STC data and correction if required. There have been instances of incorrect aileron balance weight installation. This action will assure correct balance of the ailerons and preclude possible destructive aerodynamic flutter.

EFFECTIVE DATE: September 1, 1983.

Compliance: Within the next 50 hours time-in-service after the effective date of this AD.

ADDRESSES: Information pertaining to this AD is contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Owen Schrader, Airframe Branch, ANM–120S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168, Telephone (206) 767–2516.

SUPPLEMENTARY INFORMATION: There have been three reports of incorrect balance weight installations on Cessna airplanes modified by Robertson Aircraft Corporation in accordance with one of the applicable above-mentioned STCs. In these cases, the ailerons were balanced beyond the aft limit. The Robertson modification requires in part that the aileron balance weights be removed, reoriented, and reinstalled and that the ailerons be rebalanced. The reinstallation of the balance weights and rebalancing may not have been properly accomplished on certain airplanes modified at the Robertson facility in Renton or Everett, Washington. In some cases, the balance weights were trimmed with a saw rather than reoriented.

This condition could cause a reduction in aileron flutter margins and result in destructive aerodynamic flutter and possible inflight airplane structural failure.

Since the FAA has determined that the unsafe condition described herein is likely to exist or develop in other airplanes of the same type design, and AD is being issued requiring a one-time inspection of the aileron balance weights for conformity with the applicable STC data and correction if necessary on Cessna Models 180 through 180H, 180J and 180K airplanes, modified per Robertson STC SA1435WE; 150D through 150L airplanes, modified per Robertson STC SA2191WE; 150D through 150L airplanes, modified per Robertson STC SA2192WE; 185, 185A through 185E, A185E, A185F airplanes, modified per Robertson STC SA1441WE; 182 through 182R, R182, T182 and TR182 airplanes, modified per Robertson STC SA1382WE; and 172, 172A through 172P airplanes, modified per Robertson STC SA1689WE airplanes. Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD.

Cessna: Applies to Models 180 through 180H, 180J and 180K airplanes, modified per Robertson STC SA1435WE; 150D through 150L airplanes, modified per Robertson STC SA2191WE; 150D through 150L airplanes, modified per Robertson STC SA2192WE; 185, 185A through 185E, A185E and A185F airplanes, modified per Robertson STC SA1441WE; 182 through 182R, R182, T182 and TR182 airplanes, modified per Robertson STC SA1382WE; and 172, 172A through 172P airplanes, modified Robertson STC SA1689WE airplanes certificated in any category.

Compliance: Required within the next 50 hours time-in-service after the effective date of this AD, unless already accomplished.

To prevent possible destructive aileron flutter, accomplish the following:

(a) Check the permanent aircraft records of the airplane to determine if it has been modified per the applicable STC at Robertson Aircraft Corporation Repair Station No. 415–23. If not modifed at this facility, no further action is necessary. If modifed at this facility, inspect and if necessary, correct the aileron balance weight installation in accordance with paragraph (b) of this AD.

(b) Measure the height of all aileron balance weights. If the measured height of all weights is approximately ¾ inch, the weights are correctly installed and no further action is necessary. If the measured height of any weight is approximatetly ½ inch, prior to further flight, install new balance weights of the appropriate part number in accordance with the applicable STC data or Robertson Service Bulletin No. 20. Rebalance the ailerons within the limits specified by the Cessna Aircraft Company Service Manual for the airplane involved.

(c) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(d) An equivalent method of compliance with this AD may be used if approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98168.

This amendment becomes effective on September 1, 1983.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); Sec. 11.89 of the Federal Aviation Regulations (14 CFR Sec. 11.89))

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involved an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequantly determined to involved a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket under the caption "**ADDRESSES**" at the location identified.

Issued in Kansas City, Missouri, on August 18, 1983.

Murray E. Smith,

Director, Central Region.

[FR Doc. 83-23094 Filed 8-26-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 83-NM-78-AD; Amdt. 39-4718]

Airworthiness Directives; McDonnell Douglas Model DC–8–70 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) which requires a revision to the limitations section of the FAA approved Airplane Flight Manual (AFM) applicable to those McDonnell Douglas DC–8–70 series airplanes using JP4 or Jet B fuel with General Electric P/N 9984M90G20 fuel injectors installed in one or more engines. One incident has been reported where a DC–8–73 fueled with JP4 experienced a three engine flame-out. It has been determined that the probability of flame-outs can be minimized by placing the ignition override switch in the ALL ENGINES position prior to and during descent. This AD mandates that procedure.

DATES: Effective September 8, 1983

Compliance schedule as prescribed in the body of the AD, unless already accomplished.

FOR FURTHER INFORMATION CONTACT: Stephen Kolb, Aerospace Engineer, Propulsion Branch, ANM–140L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 548–2835.

SUPPLEMENTARY INFORMATION: One incident has been reported where a DC–8–73, fueled with JP4, experienced a three engine flame-out during descent from flight level 350. Ignition was placed in override, and all three engines relighted at flight level 280. Prior to this incident, approximately 8 incidents have been reported where single engines have flamed out during descent while using JP4 fuel. Extensive testing conducted by McDonnell Douglas and General Electric has proven that the flame-outs are caused by using JP4 fuel on engines with P/N 9984M90G20 fuel injectors installed. These injectors are located in the lower fifteen positions. Installation of the earlier type P/N 9984M90G14 injectors in one of the problem engines eliminated the problem. Testing also demonstrated that placing the ignition override switch in the ALL ENGINES position, prior to and during descent on only one ignition system, will prevent possible flame-outs regardless of fuel injector configuration.

Since this situation is likely to exist or develop on other airplanes of the same type design, this AD requires a revision to the limitations section of the FAA approved AFM applicable to those airplanes using JP4 or Jet B fuel with P/N 9984M90G20 fuel injectors installed in one or more engines. The limitation will require one ignition system to be placed in the override position prior to and during descent through landing on all airplanes using JP4 or Jet B fuel until P/N 9984M90G20 fuel injectors are replaced.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

McDonnell Douglas: Applies to CFM–56 powered McDonnell Douglas Model DC–8–70 series airplanes, with P/N 9984M90G20 fuel injectors installed on one or more engines, certificated in all categories. Compliance required as indicated, unless previously accomplished:

A. To prevent possible engine flame-outs while using JP4 or Jet B fuel accomplish the following within seven calendar days after the effective date of this AD:

1. Revise the limitations section of the FAA approved Airplane Flight Manual (AFM) to read:

"Aircraft being operated with any amount of JP4 or Jet B fuel and equipped with one or more engines incorporating General Electric P/N 9984M90G20 injectors will require that the ignition override switch be placed in the ALL ENGINES position, on one of both systems, prior to and during descent through landing."

2. Install a placard in the cockpit, in clear view of the pilots, which reads:

"With any amount of JP4 or jet B fuel—Use ignition override prior to and during descent through landing."

B. A copy of this AD inserted in the FAA approved Airplane Flight Manual is considered as an acceptable means of compliance with the required AFM revisions.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

D. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

Note.—Replacement of all P/N 9964M90G20 injectors on an aircraft with approved replacement injectors, removes that aircraft from the applicability of this AD, and permits removal at the AFM revision and placard required by paragraph A., above.

This Amendment becomes effective September 8, 1983.

(Secs. 313(a), 314(a), 601 through 610, and 1102, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Seattle, Washington on August 19, 1983.

Thomas J. Howard,

Acting Director, Northwest Mountain Region.

[FR Doc. 83-23709 Filed 8-26-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 83-ASW-30; Amdt. No. 39-4711]

Airworthiness Directives; Sikorsky Model S-76A Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires an initial and repetitive visual inspection to detect cracking of the vertical pylon forward spar caps and adjacent structure on Sikorsky Model S-76A helicopters. The AD is needed to prevent operation with cracked vertical pylon forward spar web, web doubler, spar caps, and adjacent structure which could result in possible loss of control of the helicopter.

DATES: Effective August 31, 1983. Compliance schedule—as prescribed in the body of AD.

ADDRESSES: The applicable maintenance manuals and overhaul instructions may be obtained from Sikorsky Aircraft, Division of United Technologies, North Main Street, Stratford, Connecticut 06601.

A copy of the pertinent sections of the maintenance manuals and overhaul and repair instructions is contained in the Rules Docket at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas 76106.

FOR FURTHER INFORMATION CONTACT: Donald F. Thompson, Airframe Section, ANE-152, Boston Aircraft Certification Branch, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, telephone (617 273-7336.

SUPPLEMENTARY INFORMATION: During a 100-hour inspection, a crack was found in the Sikorsky Model S-76A vertical pylon forward spar cap, forward spar web, and web doubler. Additional cases of cracked web and web doublers were also reported. Since this condition is likely to exist or develop on other helicopters of the same type design and a failure of the vertical pylon forward spar cap structure could result in possible loss of control of the helicopter, the agency has determined that for Model S-76A helicopters with 2,400 hours' or more time in service, the vertical pylon forward spar cap angles, spar web, and web doubler must be visually inspected prior to the next 25 hours' time in service after the effective date of this AD, and at 50-hour intervals thereafter. If a crack is found in the forward spar web or web doubler, replacement or repair of the structure is required within the next 25 hours' time in service, providing the crack has not progressed beyond a 2½-inch length and the crack is inspected daily for propagation. If a crack is greater than 2½ inches in length, replacement or repair is required before further flight. If a crack is found in the forward spar cap angles, replacement is required prior to further flight. If the spar web or doubler or spar cap angles are repaired or replaced as applicable in accordance with this AD, further inspections will be accomplished under the maintenance manual. Refer to the S-76 Maintenance Manual, Chapter 5, 5-20-00, Table I, page 31, Item No. 27c for the inspections.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD:

Sikorsky Aircraft: Applies to Sikorsky Aircraft Model S-76A helicopters, S/N 76004 (experimental), 76005, 76006, 76007, 760001, through 760263, certified in all categories, equipped with P/N 76201-05001-103 and 76201-05001-104 forward spar cap angles, 76201-05001-101 forward spar web, and 76201-05001-107 forward spar web doubler. (Airworthiness Docket No. 83-ASW-30.)

Compliance is required as indicated unless already accomplished.

To prevent failure of the helicopter vertical pylon forward spar cap, web, and web doubler, accomplish the following:

(a) For helicopters that have attained 2,400 or more hours' time in service, compliance is required within the next 25 hours' time in service after the effective date of this AD unless already accomplished within the last 25 hours' time in service, and thereafter at intervals not to exceed 50 hours' time in service from the last inspection.

(b) For helicopters that have not attained 2400 hours' time in service on the effective date of this AD, compliance is required before attaining 2,400 hours' time in service and thereafter at intervals not to exceed 50 hours' time in service.

(c) Inspect for cracks in the forward spar cap angles, spar web, and web doubler in the area of the tail rotor shaft cutout in the pylon forward spar and areas adjacent to the fuselage shear deck as follows:

(1) Remove the tail rotor drive shaft fairings in the vicinity of the vertical pylon, exposing the shear deck and vertical pylon forward spar.

(2) Clean all accessible areas around the tail rotor drive shaft cutout area in the vertical pylon forward spar using a clean cloth dampened with solvent P-D-680, Type II, or FAA approved equivalent.

(3) Using a light, visually inspect the forward side of the spar for cracks in all areas adjacent to the shear deck attachment to the forward spar, web, and the web doubler.

(4) Using a light and mirror, visually inspect the aft side of the spar for cracks. Inspect through the tail rotor drive shaft cutout.

(5) If cracks are found in the spar web doubler or spar web, accomplish the following:

(i) For each part, if multiple cracks are found or if a single crack equal to or in excess of 2½ inches in length is found, replace cracked parts prior to further flight with new parts of the same part number; or incorporate a repair procedure contained in Sikorsky Overhaul and Repair Instructions (O&RI) 76200-014B or later FAA approved revision or an equivalent procedure approved as noted in paragraph (d) of this AD.

(ii) If a single crack is less than 2½ inches in length, visually inspect the part for crack length prior to the first flight of each day, and

(A) Within 25 hours' time in service after finding a crack, replace or repair the part in accordance with paragraph (c)(5)(i), except

(B) Replace or repair the affected part in accordance with paragraph (c)(5)(i) before further flight, whenever the crack length reaches 2½ inches.

(6) If a crack is found in the spar cap angles, replace the cracked spar cap angles prior to further flight with a new spar cap angle of the same part number in accordance with Sikorsky Maintenance Manual SA 4047-76-2, Section 5-20-00, Paragraph 9.A(1), Stabilizer Installation Repair Procedures, Revision 3, or approved equivalent procedures as noted in paragraph (d) of this AD.

(7) If no cracks are found, install tail rotor drive shaft fairings.

(d) Alternate inspections, repairs, modifications, or other means of compliance which provide an equivalent level of safety must be approved by the Manager, Boston Aircraft Certification Branch, FAA, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

(e) On request of an operator, an FAA maintenance inspector, subject to prior approval of the Manager, Boston Aircraft Certification Branch, may extend the repetitive inspection interval specified in this AD if the request contains justifying data.

This amendment becomes effective August 31, 1983.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g), [Revised, Pub. L. 97-449, January 12, 1983], (14 CFR 11.89))

Note.—The FAA has determined that this regulation only involves approximately 40 aircraft with an estimated cost of $100 for inspecting each aircraft each 50 hours' time in service. Replacement of affected parts is estimated to cost $1500 for each aircraft. Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291, (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979), (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal, and (4) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Fort Worth, Texas, on August 12, 1983.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 83-23082 Filed 8-26-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 83-ASW-28; Amdt. 39-4712]

Airworthiness Directive; Societe Nationale Industrielle Aerospatiale (SNIAS) Model AS355 Series Helicopters Certificated in All Categories

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the **Federal Register** and makes effective as to all persons an amendment adopting a new airworthiness directive (AD) which was previously made effective as to all known U.S. owners and operators of certain Societe Nationale Industrielle Aerospatiale (SNIAS) Model AS355 series helicopters certificated in all categories by individual letters. The AD requires removal of all main transmission epicyclic planet pinion cages, P/N 350A32-3147-20 and 350A32-1081-20 or -21. The AD is needed to prevent failure of the main transmission epicyclic planet pinion cages which could result in loss of drive to the main rotor.

DATES: Effective September 6, 1983, to all persons except those persons to whom it was made immediately effective by priority letter AD 83-08-04, issued April 21, 1983, revised July 21, 1983, which contained this amendment.

Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: The applicable service bulletin may be obtained from Aerospatiale Helicopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75051, Attention: Customer Support.

A copy of the service bulletin is contained in the Rules Docket in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas 76106.

FOR FURTHER INFORMATION CONTACT: Chris Christie, Manager, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, Brussels, Belgium, telephone number 513.38.30, or David Gastinger, Helicopter Policy and Procedures Staff, Aircraft Certification Division, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, telephone number (817) 877-2579.

SUPPLEMENTARY INFORMATION: On April 21, 1983, followed by a revision on July 21, 1983, poriority letter AD 83-08-04 was issued and made effective immediately to all known U.S. owners and operators of certain Societe Nationale Industrielle Aerospatiale Model AS355 series helicopters certificated in all categories. The AD required removal of all epicyclic planet pinion cages P/N 350A32-3147-20 and 350A32-1081-20 or -21. AD action was necessary to prevent loss of drive to the main rotor.

Since it was found that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to public interest, and good cause existed to make the AD effective immediately by individual letters issued April 21, 1983, and revised July 21, 1983, to all known U.S. owners and operators of certain Societe Nationale Industrielle Aerospatiale Model AS355 series helicopters. These conditions still exist and the AD is hereby published in the **Federal Register** as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective to all persons.

List of Subjects in 14 CFR 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Societe Nationale Industrielle Aerospatiale (SNIAS): Applies to Societe Nationale Industrielle Aerospatiale Model AS355 series helicopters certificated in all categories, equipped with epicyclic planet pinion cages P/N 350A32-3147-20 and 350A32-1081-20 or -21 installed.

Compliance is required as indicated (unless already accomplished).

To prevent loss of drive to the main rotor, accomplish the following:

(a) Within 10 hours' time in service after the effective date of this AD, remove from service all helicopter transmission epicyclic planet pinion cages P/N 350A32-3147-20 having 150 hours' or more total time in service and replace with a serviceable part.

(b) For epicyclic planet pinion cages P/N 350A32-3147-20 with less than 150 hours' time in service, replace with a serviceable part prior to accumulation of 160 hours' total time in service.

(c) Within 50 hours' time in service after the effective date of this AD, remove from

service all helicopter transmission epicyclic planet pinion cages P/N 350A32–1061–20 or –21 having 600 hours' or more total time in service and replace with a serviceable part.

(d) For epicyclic planet pinion cages P/N 350A32–1061–20 or –21 with less than 600 hours' time in service, replace with a serviceable part prior to accumulation of 650 hours' total time in service.

Note.—Epicyclic planet pinion cages replaced in accordance with Aerospatiale Telex No. 50069 Telex Service 01.07, as revised by Aerospatiale Telex 6936 comply with the intent of this AD.

This amendment becomes effective September 6, 1983.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g) [Revised, Pub. L. 97–499, January 12, 1983]; 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this act is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "**FOR FURTHER INFORMATION CONTACT.**"

Issued in Fort Worth, Texas, on August 16, 1983.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 83–23683 Filed 8–26–83; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket Number 83–ACE–10]

Designation of Transition Area—Aurora, Missouri

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to designate a 700-foot transition area at Aurora, Missouri, to provide controlled airspace for aircraft executing a new instrument approach procedure to the Aurora, Missouri, Memorial Airport, utilizing the Springfield, Missouri VORTAC as a navigational aid. This action will change the airport status from VFR to IFR. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

EFFECTIVE DATE: November 24, 1983.

FOR FURTHER INFORMATION CONTACT: Dwaine E. Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE–532, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374–3408.

SUPPLEMENTARY INFORMATION: To enhance airport usage, a new instrument approach procedure is being developed for the Aurora, Missouri, Memorial Airport, utilizing the Springfield VORTAC as a navigational aid. The establishment of an instrument approach procedure based on this approach aid entails designation of a transition area at Aurora, Missouri, at or above 700 feet above the ground (AGL) within which aircraft are provided air traffic control service. Transition areas are designed to contain IFR operations in controlled airspace during portions of the terminal operation and while transiting between the terminal and enroute environment. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR). This action will change the airport status from VFR to IFR.

Discussion of Comments

On pages 28667, 28668 of the **Federal Register** dated June 23, 1983, the Federal Aviation Administration published a Notice of Proposed Rulemaking which would amend Section 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Aurora, Missouri. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition area.

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 GMT November 24, 1983, by designating the following transition area:

Aurora, Missouri

That airspace extending upwards from 700 feet above the surface within a 5-mile radius of the Aurora Memorial Airport (Latitude 36°57'40" N.; Longitude 93°41'45" W.)

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and Sec. 11.69 of the Federal Aviation Regulations (14 CFR 11.69))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Kansas City, Missouri, on August 17, 1983.

Murray E. Smith,

Director, Central Region.

[FR Doc. 83–23678 Filed 8–26–83; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 91

[Docket No. 22050; SFAR No. 44–7]

Special Federal Aviation Regulation No. 44–4 and SFAR 44–5; Air Traffic Control System; Interim Operations Plan

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment rescinds and removes Special Federal Aviation Regulation (SFAR) No. 44–4 and amends SFAR 44–5 so as to permanently allocate slots formerly used by Braniff Airways and temporarily allocated to other airlines under SFAR 44–4 to the carriers currently having those slots in their base. The amendment provides that certain slots will be available for Braniff if certain conditions are met by September 15, 1983. This amendment, in part, responds to a letter dated May 19, 1983, from Braniff making a formal request for slots and to a petition for rulemaking submitted by Continental Airlines.

EFFECTIVE DATE: August 25, 1983.

FOR FURTHER INFORMATION CONTACT: J. E. Murdock III, Chief Counsel, Federal Aviation Administration, 800

Independence Avenue, S.W., Washington, D.C. 20591, Telephone: (202) 426–3773.

SUPPLEMENTARY INFORMATION:

Background

On Wednesday, May 12, 1982, Braniff Airways, Inc. (Braniff), suspended operations and filed bankruptcy papers under Chapter 11 of the Federal Bankruptcy Code. Braniff had been using a significant number of arrival slots at various airports within the contiguous United States. Those slots had been allocated to Braniff under the FAA's Interim Operations Plan, consistent with a number of Special Federal Aviation Regulations (SFAR), including SFAR 44–3 (47 FR 7816; February 22, 1982). Braniff had been allocated approximately 400 arrival slots, of which about 150 were at Dallas/Fort Worth Regional Airport (DFW). Immediately after Braniff suspended operations, approximately 25 percent of the slots used by Braniff were allocated to other carriers on an emergency basis to minimize the impact on the traveling public of Braniff's suspension of operations.

In order to allocate the remainder of the slots previously utilized by Braniff, the FAA on May 20, 1982, issued SFAR 44–4 (47 FR 22492; May 24, 1982). Under this SFAR, a random draw was held on May 27, 1982, to determine the order in which the slots used by Braniff would be allocated. The preamble to the SFAR included the following language:

> Braniff slots, either under this SFAR or on an emergency basis, are allocated on a temporary basis only. The slots are for up to a 60-day period. During that time, Braniff's Chapter 11 proceedings will be closely monitored. If Braniff does again operate, then the slots necessary for continued Braniff operations will be returned to Braniff. The carriers should be able to use these slots for 60 days, but all parties are put on notice that the award of these slots may be revoked upon 24-hour notice. Carriers should not apply for these slots unless they will be in a position to operate under these conditions. At no later than the end of that 60-day period, this temporary approval may be extended or a longer term allocation procedure for the particular slots may be promulgated.

The slots so allocated were designated "DS" on FAA records and retain that designation today.

On December 23, 1982, Braniff filed an application for approval of a proposed agreement between Braniff and Pacific Southwest Airlines (PSA). On December 30, 1982, Braniff filed with the Bankruptcy Court a "Memorandum of Understanding" as a basis for a proposed settlement and compromise of all claims, counter-claims, and potential litigations by and among Braniff, certain unsecured creditors, and certain secured creditors. The "Memorandum" contained a proposed arrangement between Braniff and PSA in which PSA would obtain a number of Braniff's aircraft, airport leases and other equipment, and Braniff's landing slots would be transferred to PSA.

On January 28, 1983, the Administrator advised Braniff that the proposed agreement between Braniff and PSA did not satisfy the conditions for the return of the slots set forth in SFAR 44–4; therefore, the slots were not returned to Braniff. The Administrator also stated that it was his intention to take action to permanently allocate these slots.

On March 2, 1983, the United States Court of Appeals for the Fifth Circuit reversed the lower court orders approving the agreement and transfer of slots (In Re Braniff Airways, Inc., 700 F.2d 935 (1983)). The Court of Appeals held that, even under the broad terms of Section 105 of the Bankruptcy Act, slots were not property and that, therefore, the District Court did not have jurisdiction to order the FAA to return landing slots to Braniff or a "successor" of Braniff. Even if the slots rose to "some limited proprietary interest," the Fifth Circuit held that the FAA still had sole authority to approve the transfer contemplated.

On December 30, 1982, Continental Air Lines, Inc., filed a petition for rulemaking requesting the agency to institute proceedings for the adoption of rules to govern the long-term allocation of airport landing slots formerly assigned to Braniff. In support of its petition, Continental stated that the allocation of the slots formerly used by Braniff was originally intended to be for a temporary 60-day period to permit the FAA to monitor Braniff's bankruptcy proceedings. Continental further stated that the agency seems to have contemplated that slots necessary for continued operations would be returned to Braniff if Braniff resumed operations in the near term; otherwise, incumbents would be allowed to continue to use the slots, or some new long-term allocation procedure would be adopted.

By letter (copy is in docket) dated May 19, 1983, Howard Putnam, President of Braniff, formally requested authority to use 188 of the slots previously utilized by Braniff. Mr. Putnam stated that the planned start-up date was October 1, 1983.

On June 16, 1983, the FAA issued Notice No. 83–7 which proposed alternative methods for the disposition of the Braniff slots and the May 19 Braniff request.

On June 23, 1983, an agreement was filed in the Bankruptcy Court between Braniff and Hyatt Air, Inc., which would allow Braniff to resume oeprations.

Discussion of Comments and the Rule

The FAA received a number of comments on Notice No. 83–7. The comments were basically split among the alternatives proposed in the notice.

One commenter questioned the amount of time given to respond to the notice. The NPRM did contain an 8-day comment period. The June 28 slot selection session was a major factor in determining the length of the comment period. It was necessary for the agency to receive comments on the notice prior to the date of the session.

Since the session was set for June 28, it was necessary to ask for comments by June 24. The FAA, in fact, provided advance notice to all air carriers. It must be noted that on May 27, 1983, the FAA issued a telex to all air carriers announcing a change in the date for the slot allocation session. In that telex, the agency stated that several alternative methods to allocate slots to Braniff were being considered, including one which "would be to allocate some or all of the necessary arrivals out of the September 1 allocation." The agency further stated that "such a procedure might diminish or eliminate the need for recall for some or all of the SFAR 44–4 slots." Therefore, the agency raised the specific alternatives discussed in the NPRM with all directly affected parties several weeks before the NPRM was issued. When that telex was sent, the agency reminded all parties that the SFAR 44–4 Docket was open for comment.

In this connection, the issue of disposition of the Braniff slots was initially raised in Continental Airlines' December 30, 1982, petition for rulemaking. Continental's petition requested that the FAA make permanent those former Braniff slots allocated to other carriers while providing some priority to allow Braniff to obtain newly available slots. The petition was published in the **Federal Register**. The majority of the comments submitted in response to Continental's request to permanently allocate the "Braniff" slots supported portions of the petitions. Therefore, the issue of alternative methods of allocating slots to Braniff was originally raised in December by Continental's petition. Thus, interested parties were given several opportunities during the past 8 months to submit their views on this issue. Numerous comments were submitted on that petition as well as in response to Notice No. 83–7.

It must be further noted that although June 24 was listed as close of the comment period, 14 CFR 11.47 provides that comments filed late will be considered.

If the agency were to extend the comment period, it would also have had to delay, for a second time, the slot allocation session. The agency agreed with those commenters who urged the agency not to delay the session because of the impact that would have on the air carriers' ability to finalize and make public their September schedules. For this reason, that alternative was not selected.

Since the comment period (and following slot session) could not be postponed and since the public had several opportunities to have input on the agency's decisionmaking process, the length of the comment period in Notice No. 83–7 was reasonable.

Some commenters stated that it was premature to give slots to Braniff. The agency recognizes that several major additional steps must be taken before Braniff will be in a position to operate. In addition, Braniff has not shown that the Braniff/Hyatt arrangement is consistent with the Administrator's previous determination that slots would be made available to Braniff or an air carrier succeeding to the rights, duties, and obligations of Braniff. That determination cannot be made until later this summer after further bankruptcy proceedings. On the other hand, the agency recognizes that if some provision is not made to provide Braniff with the opportunity to select some slots, then slot availability could be the single factor which prevents Braniff from again operating. While the agency would have preferred to make such a slot determination later in the year, if some action were not taken at this time, there would be no slots available for the remainder of the year. Therefore, the agency needs to act now if Braniff is to be given an opportunity to operate.

Since the agency needs to take some action concerning slots for Braniff, the remaining question was which alternative would be selected.

Various commenters submitting comments to Continental's petition for rulemaking and Notice No. 83–7 were opposed to the agency recalling SFAR 44–4 slots and allocating them to Braniff. A number of commenters stated that requiring carriers to return slots would result in a substantial disruption of airline service patterns to the detriment of the traveling public. One commenter stated that this alternative "would be unnecessarily disruptive to the air traffic control system and it would be difficult to implement on an equitable basis."

A number of commenters were opposed to the alternative which would provide Braniff with slots from the September allocation. Those commenters stated that this proposal unfairly rewards carriers still holding Braniff slots over carriers that have used previous selection to obtain improved positions in the June selection. Another commenter stated that this proposal would deprive it of an opportunity to select slots at certain airports.

After issuance of the NPRM, Braniff advised the FAA that November 15, 1983, not October 1, 1983, is a realistic restart date. As a result of that change in proposed startup date, the total number of slots needed by Braniff for a November 15 operation would be 53 slots (19 airport slots and 34 center slots).

As a result of the relatively small number of slots needed for Braniff's operation, setting aside those slots from new capacity is a more reasonable alternative than recalling the "Braniff" slots from carriers currently holding them. The latter alternative would involve a costly and burdensome process which would affect 30 carriers, the approximate number of carriers with "Braniff" slots at the airports and centers in question. It would take several weeks to complete any process selected. That could create scheduling problems for these carriers and could disrupt large numbers of travellers. On the other hand, the impact on the system of withholding 53 slots from allocation is minimal. For example, the number of slots involved at Chicago, Denver, and Los Angeles represents less than 1 percent of arrival slots at those airports. While the agency acknowledges that there are carriers that could have selected those slots, it is purely speculative to suggest which carriers would have been in a position to select specific slots. In addition, that impact should also be minimal since slot restrictions will, in most cases, be eliminated by the end of the year.

Although there is some impact as a result of withholding the 53 slots from allocation, that impact is minimal and is much less disruptive of the entire system than the alternative of recalling slots. For that reason, the agency will not recall the Braniff slots and will, by this amendment, make those allocations permanent.

Assuming that Braniff is able to obtain the necessary approvals to commence operation, it will need slots to begin operation. Because of the number of slots needed, Braniff would not have been able to obtain a sufficient number of slots in the June 24 slot selection session where FAA allocated new capacity for the September-December period. Even if Braniff were granted new entrant status at that session, it would not have been able to obtain the slots it is seeking.

At the June 28 sessions, the Administrator withheld 53 slots. Those slots will be withheld from allocation until September 15. On that date, those slots will be allocated to Braniff if it has obtained all necessary approvals for its proposed reorganization and the Administrator determines that the reorganization is consistent with previous agency statements (including SFAR 44–4) on this subject. It should be noted that preliminary review of material submitted to the Bankruptcy Court shows that the Braniff/Hyatt proposal is consistent with SFAR 44–4.

If those conditions are not satisfied by September 15 or if the Administrator determines at an earlier time that Braniff will not operate by November 15, 1983, then an allocation in accordance with SFAR 44–5 will be held for the 53 slots. In order to accomplish this, the agency will closely monitor the Braniff bankruptcy proceedings. In this connection, it is expected that Braniff and Hyatt officials will keep agency officials advised as to all bankruptcy developments.

In the NPRM, the agency proposed that other carriers be allowed to utilize the slots set aside for Braniff until Braniff operates or until it is determined that Braniff will not operate. The agency has determined not to allow temporary use of these slots. The administrative workload involved in tracking and perhaps recalling those slots outweighs the possible benefits which might be obtained by temporary usage of the slots by a limited number of carriers.

In order to obtain the information needed from Braniff on or before September 15, 1983, as to whether they will be able to operate by November 15, 1983, it is necessary to make this rule effective in less than 30 days. Therefore, I find that good cause exists for making this regulation effective less than 30 days after its publication in the **Federal Register.**

List of Subjects in 14 CFR Part 91

Air traffic control, Aviation safety.

PART 91—GENERAL OPERATING AND FLIGHT RULES

Accordingly, the FAA rescinds and removes Special Federal Aviation Regulation No. 44–4, in Part 91 effective August 25, 1983, and the FAA amends the Appendix to Part 91 of Special Federal Aviation Regulation No. 44–5 to

Part 91 effective August 25, 1983, as follows:

1. The following paragraph is added to paragraph 1.

* * * * *

(c) Slots allocated in accordance with SFAR 44–4 shall be considered to have been allocated under this Appendix.

2. The following paragraph is added to paragraph 2.

* * * * *

(h) If Braniff notifies the FAA, in writing, prior to September 15, 1983, that it has obtained the necessary legal approvals to begin operations by November 15, 1983, and if that operation is approved by the Administrator, then Braniff will be allocated the 53 slots withheld from the June 28 slot allocation session. If Braniff does not provide that notice by September 15 or if the Administrator determines that Braniff will not be able to operate by November 15, an allocation will be held to allocate the slots.

Note.—The FAA has determined that this rule only affects a minor number of slots and the number of carriers holding slots. There are no apparent direct or indirect (non-industry) costs associated with the rule. Therefore, the preparation of a full regulatory evaluation is unnecessary.

Based on the above, it has been determined that this is not a major regulation under Executive Order 12291 and I certify that, under the criteria of the Regulatory Flexibility Act, the proposed rule will not have a significant economic impact on a substantial number of small entities. In addition, the FAA has determined that this amendment is not significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

(Secs. 307(a) and (c), 313(a) and 601(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a) and (c), 1354(a), 1421(a)); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655 (c)))

Issued in Washington, D.C., on August 24, 1983.

J. Lynn Helms,

Administrator.

[FR Doc. 83-23704 Filed 8-25-83; 2:47 pm]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 177

[Docket No. 83F-0049]

Indirect Food Additives; Polymers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for safe use of fluorine-treated polyethylene as a food-contact surface. This action responds to a petition filed by the Union Carbide Corp.

DATES: Effective August 29, 1983; objection by September 28, 1983.

ADDRESS: Written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Julius Smith, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of March 29, 1983 (48 FR 13098), FDA announced that a petition (FAP 8B3394) had been filed by the Union Carbide Corp., Old Saw Mill River Rd., Tarrytown, NY 10591, proposing that the food additive regulations be amended to provide for safe use of fluorine-treated polyethylene as a component of food-contact surfaces.

FDA has evaluated the data in the petition and concludes that the proposed food additive use is safe and that the regulations should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Bureau of Foods (address above) by appointment with the information contact person listed above. As provided in § 171.1(h)(2), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (address above), between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 177

Food additives, Polymeric food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Foods (21 CFR 5.61), Part 177 is amended in Subpart B by adding new § 177.1615, to read as follows:

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

§ 177.1615 Polyethylene, fluorinated.

Fluorinated polyethylene, identified in paragraph (a) of this section, may be safely used as food-contact articles in accordance with the following prescribed conditions:

(a) Fluorinated polyethylene food-contact articles are produced by modifying the surface of polyethylene articles through action of fluorine gas in combination with gaseous nitrogen as an inert diluent. Such modification affects only the surface of the polymer, leaving the interior unchanged. Fluorinated polyethylene articles are manufactured from basic resins containing not less than 85 weight-percent of polymer units derived from ethylene and identified in § 177.1520 (a)(2) and (3)(i).

(b) Fluorinated polyethylene articles conform to the specifications and use limitations of § 177.1520(c), items 2.1 and 3.1.

(c) The finished food-contact article, when extracted with the solvent or solvents characterizing the type of food and under conditions of time and temperature characterizing the conditions of its intended use as determined from tables 1 and 2 of § 176.170(c) of this chapter, yields fluoride ion not to exceed 5 parts per million calculated on the basis of the volume of food held by the food-contact article.

Any person who will be adversely affected by the foregoing regulation may at any time on or before September 28, 1983 submit to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm 4–62, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such

a description and anlysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective August 29, 1983.

(Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348))

Dated: August 18, 1983.

Richard J. Ronk,

Acting Director, Bureau of Foods.

[FR Doc. 83-22554 Filed 8-26-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 178

[Docket No. 83F-0068]

Indirect Food Additives; Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of di-*tert*-butylphenyl phosphonite condensation product with biphenyl as an antioxidant and/or stabilizer in certain polymers in contact with food. This action responds to a petition filed by the Ciba-Geigy Corp.

DATES: Effective August 29, 1983; objections by September 28, 1983.

ADDRESS: Written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Geraldine E. Harris, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of March 29, 1983 (48 FR 13095), FDA announced that a petition (FAP 3B3703) had been filed by the Ciba-Geigy Corp., Hawthorne, NY 10532, proposing that § 178.2010(b) (21 CFR 178.2010(b)) be amended to remove certain temperature limitations for the use of di-*tert*-butylphenyl phosphonite condensation product with biphenyl as an antioxidant and/or stabilizer for polymers.

FDA has evaluated data in the petition and other relevant material, and concludes that the proposed food additive use is safe and that § 178.2010 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Bureau of Foods (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h)(2), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (address above), between 9:00 a.m. and 4:00 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging, Sanitizing solutions.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Foods (21 CFR 5.61), § 178.2010(b) is amended by revising the limitation currently set for "Di-*tert*-butylphenyl phosphonite condensation product with biphenyl" to read as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

§ 178.2010 Antioxidants and/or stabilizers for polymers.

* * * * *

(b) * * *

List of substances	Limitations
* * *	* *
Di-*tert*-butylphenyl phosphonite condensation product with biphenyl produced by the condensation of 2,4-di-*tert*-butylphenol with the Friedel-Crafts addition product (phosphorus trichloride and biphenyl) so that the food additive has a minimum phosphorus content of 5.4 percent, an acid value not exceeding 10 mg KOH/gm, and a melting range of 85° C to 110° C (185° F to 230° F).	For use at levels not to exceed 0.1 percent by weight of olefin polymers complying with § 177. 1520(c) of this chapter, item 1.1, 2.1, 2.2, 3.1, or 3.2.

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before September 28, 1983 submit to the Dockets Management Branch (address above) written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective August 29, 1983.

(Secs. 201(s), 409 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348))

Dated: August 18, 1983.

Richard J. Ronk,

Acting Director, Bureau of Foods.

[FR Doc. 83-23585 Filed 8-25-83; 8:45 am]

BILLING CODE 4160-01-M

ENVIRONMENTAL PROTECTION AGENCY

21 CFR Part 193

[FAP 3H5387/R588; FAP 2H5336/R589; PH-FRL 2415-8]

Tolerances for Pesticides in Animal Feeds and Food Administered by the Environmental Protection Agency; Hexakis (2-Methyl-2-Phenylpropyl) Distannoxane

Correction

In FR Doc. 83–22170 beginning on page 37203 in the issue of Wednesday, August 17, 1983, make the following correction: On page 37204, the third column, in § 193.236, the entry under "Foods" reading "Prunes, dired" should read "Prunes, dried".

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 160

[CGD 79-026]

Ports and Waterways Safety; Control of Vessel Operations and Cargo Transfers

Correction

In FR Doc. 83-21261 beginning on page 35402 in the issue of Thursday, August 4, 1983, make the following correction:

On page 35406, first column, § 160.115, fifth and sixth lines, "46 U.S.C." should have read "46 U.S.C. 91".

BILLING CODE 1505-01-M

VETERANS ADMINISTRATION

38 CFR Part 36

Decrease in Maximum Interest Rate on New Guaranteed, Insured and Direct Loans for Homes and Condominiums

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The VA (Veterans Administration) is decreasing the maximum interest rate on fixed payment and graduated payment loans for homes and condominiums. The maximum interest rates are decreased because the mortgage money market has eased in recent weeks. The decrease in the interest rates will allow eligible veterans to obtain a loan at a lower monthly cost.

EFFECTIVE DATE: August 23, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. George D. Moerman, Loan Guaranty Service (264), Department of Veterans Benefits, Veterans Administration, 810 Vermont Ave., NW., Washington, D.C. 20420 (202-389-3042).

SUPPLEMENTARY INFORMATION: The Administrator is required by law to establish a maximum interest rate for home and condominium loans guaranteed, insured or made by the Veterans Administration as he finds the loan market demands. Recent market indicators—including the rate of discount charged by lenders on VA and Federal Housing Administration loans and the general availability of mortgage funds—have shown that the mortgage market has eased.

After consultation with the Secretary of Housing and Urban Development as required by law, it has been determined that a decrease in the VA home and condominium interest rate for both graduated payment and fixed payment loans is warranted at this time.

The decrease in the VA maximum home and condominium interest rates should not have an adverse impact on the availability of funds necessary to make VA loans. The decrease in the VA interest rate, however, should allow more veterans to purchase a home because of the lower monthly payment for principal and interest required at the lower interest rate.

The Administrator's statutory authority to establish interest rates has been delegated by 38 CFR 2.6 to the Chief Benefits Director, Deputy Chief Benefits Director, or person authorized to act for them.

Regulatory Flexibility Act/Executive Order 12291

For the reasons discussed in the May 7, 1981, **Federal Register**, (46 FR 25443), it has previously been determined that final regulations of this type which change the maximum interest rates for loans guaranteed, insured, or made pursuant to chapter 37 of title 38, United States Code, are not subject to the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601-612.

These regulatory amendments have also been reviewed under the provisions of Executive Order 12291. The VA finds that they are not "major rules" as defined in that Order. The existing process of informal consultation among representatives within the Executive Office of the President, OMB, the VA and the Department of Housing and Urban Development has been determined to be adequate to satisfy the intent of this Executive Order for this category of regulations. This alternative consultation process permits timely rate adjustments with minimal risk of premature disclosure. In summary, this consultation process will fulfill the intent of the Executive Order while still permitting compliance with statutory responsibilities for timely rate adjustments and a stable flow of mortgage credit at rates consistent with the market.

These final regulations come within exceptions to the general VA policy of prior publication of proposed rules as contained in 38 CFR 1.12. The publication of notice of a regulatory change in the VA maximum interest rates for VA guaranteed, insured or direct loans would deny veterans the benefit of lower interest rates pending the final rule publication date which would necessarily be more than 30 days after publication in proposed form. Accordingly, it has been determined that publication of proposed regulations prior to publication of final regulations is impracticable, unnecessary, and contrary to the public interest.

(Catalog of Federal Domestic Assistance Program numbers, 64.113 and 64.114)

These regulations are adopted under authority granted to the Administrator by sections 210(c), 1803(c)(1) and 1811(d)(1) of title 38, United States Code and delegated to the undersigned by 38 CFR 2.6(b)(3). The regulations are clearly within that statutory authority and are consistent with Congressional intent.

These decreases are accomplished by amending sections 36.4311, and 36.4503, title 38, Code of Federal Regulations.

List of Subjects in 38 CFR Part 36

Condominiums, Handicapped, Housing, Loan programs—housing and community development, Loan programs—business, Manufactured homes, Veterans.

Approved: August 22, 1983.

By direction of the Administrator.

John W. Hagan, Jr.,

Deputy Chief Benefits Director.

PART 36—LOAN GUARANTY

The Veterans Administration is amending 38 CFR Part 36 as follows:

1. In § 36.4311, paragraphs (a) and (b) are revised as follows:

§ 36.4311 Interest rates.

(a) Excepting loans guaranteed or insured pursuant to guaranty or insurance commitments issued by the Veterans Administration which specify an interest rate in excess of 13 per centum per annum, effective August 23, 1983, the interest rate on any home or condominium loan, other than a graduated payment mortgage loan, guaranteed or insured wholly or in part on or after such date may not exceed 13 per centum per annum on the unpaid principal balance. (38 U.S.C. 1803(c)(1))

(b) Excepting loans guaranteed or insured pursuant to guaranty or insurance commitments issued by the Veterans Administration which specify an interest rate in excess of 13¼ per centum per annum, effective August 23, 1983, the interest rate on any graduated payment mortgage loan guaranteed or insured wholly or in part on or after such date may not exceed 13¼ per centum per annum. (38 U.S.C. 1803(c)(1))

* * * * *

2. In § 36.4503, paragraph (a) is revised as follows:

§ 36.4503 Amount and amortization.

(a) The original principal amount of any loan made on or after October 1,

1980, shall not exceed an amount which bears the same ratio to $33,000 as the amount of the guaranty to which the veteran is entitled under 38 U.S.C. 1810 at the time the loan is made bears to $27,500. This limitation shall not preclude the making of advances, otherwise proper, subsequent to the making of the loan pursuant to the provisions of § 36.4511. Except as to home improvement loans, loans made by the Veterans Administration shall bear interest at the rate of 13 percent per annum. Loans solely for the purpose of energy conservation improvements or other alteratons, improvements, or repairs shall bear interest at the rate of 14 percent per annum (38 U.S.C. 1811(d)(1) and (2)(A))

* * * * *

[FR Doc. 83-23007 Filed 8-26-83; 8:45 am]
BILLING CODE 8320-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 401

Federal Claims Collection Act; Claims Collection and Compromise

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule with comment period.

SUMMARY: These regulations implement the Federal Claims Collection Act, which provides authority to Federal agencies for collecting or compromising claims, or suspending or terminating collection action, as appropriate. This authority can be exercised only through agency regulations that conform to the regulations on claims collection (4 CFR Parts 101–105) issued jointly by the Comptroller General and the Attorney General. We intend these regulations to enable HCF to exercise full claims collection authority for all HCF programs, as delegated by the Secretary of HHS.

DATES: This rule is effective September 28, 1983. It is being isued as a final rule for reasons explained in Waiver of Proposed Rulemaking in the Supplementary Information section below. However, we will consider any comments mailed by October 28, 1983 and revise the regulations, if necessary.

ADDRESS: Address comments in writing to: Health Care Financing Administration, U.S. Department of Health and Human Services, Attention: OMB–1–FC, P.O. Box 28676, Baltimore, Maryland 21207.

In commenting, please refer to file code OMB–1–FC. If you prefer, you may deliver your comments to Room 309–G, Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, D.C., or to Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

Comments will be available for public inspection, as they are received, beginning approximately three weeks from today, in Room 309–G of the Department's offices at 200 Independence Ave., SW., Washington, D.C. 20201, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (Phone 202–245–7890).

FOR FURTHER INFORMATION CONTACT: Tom Czerwinski, (301) 594–3068.

SUPPLEMENTARY INFORMATION:

I. Debt Management

A. Background

HCFA provides operational direction and policy guidance for the nationwide administration of the Medicare and Medicaid health care financing programs (titles XVIII and XIX of the Social Security Act (the Act), respectively); the Professional Standards Review Organizations (PSRO) and Peer Review Organizations programs (title XI of the Act), and related quality assurance programs designed to promote quality, safety, and appropriateness of health care services provided under Medicare and Medicaid; quality control programs designed to assure the financial integrity of Medicare and Medicaid funds; and various policy planning, research and demonstration activities.

In administering these programs, HCFA makes payments of various kinds to an assortment of individuals, agencies and organizations. For example, under Medicare, HCFA makes program benefit payments to beneficiaries, providers of health care services (hospitals, skilled nursing facilities, home health agencies), and suppliers. Under the Medicaid program, Medicaid State agencies receive Federal payments from HCFA to help finance medical assistance to certain categories of persons with low income. Each State agency in turn reimburses providers of services that furnish the assistance.

Beyond payments specifically tied to Medicare and Medicaid program benefits, HCFA pays for administrative program costs as well. Medicare payments to beneficiaries and providers are processed by fiscal intermediaries and carriers under contract to HCFA for that purpose. Medicaid State agencies receive Federal funding under Medicaid (in some cases equal to 100 percent of the State cost) for administrative responsibilities such as the operation of State Medicaid fraud control units.

Under title XI of the Act, HCFA has funded PSROs directly from Medicare trust funds through both contractual and grant arrangements. (Beginning in fiscal year 1984, HCFA will award contracts to new peer review organizations under Title I, Part III, Subtitle C of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248). Gradually, PSROs will be replaced by the new peer review organizations.) HCFA also makes grants to non-profit, private, or public agencies or organizations that conduct planning or research experiments and demonstrations concerning health care financing program policy or administration. In addition, in the execution of its duties, HCFA incurs normal administrative costs such as employee compensation, travel pay, and vendor payments.

As a result of these wide-ranging financial obligations, we encounter situations in which individuals and organizations become indebted to HCFA. The size of the debts vary from program overpayments of millions of dollars to a State or a provider, to an administrative overrun of a few dollars in travel pay. In addition to program or administrative overpayments, indebtedness to HCFA also occurs as a result of payments due HCFA in the form of premiums from individuals who must pay for coverage under Part A of Medicare (Hospital Insurance), as well as from all persons who enroll for coverage under Medicare Part B (Supplementary Medical Insurance). Whatever the size or source of the debt we attempt to collect the amount due in accordance with the Federal Claims Collection Act (FCCA) of 1966 (31 U.S.C. 3711).

Collection efforts under the authority of the FCCA may be undertaken only pursuant to regulations (31 U.S.C. 3711(e)). We have regulations in place, or under development, to resolve certain specific types of debts. Nevertheless, we lack regulations that would encompass all collection actions relating to HCFA's mission. Therefore, we are issuing this final rule to establish comprehensive standards and procedures for the collection (or suspension or termination of collection action) and compromise of all claims arising out of HCFA's program and administrative activities.

The FCCA and the Joint Regulations

B. The FCCA is the Federal government's basic statutory authority for debt management practices. Congress intended the FCCA to reduce

the amount of litigation previously required to collect claims and to reduce the volume of private relief legislation in the Congress. The FCCA is independent of other provisions of law, being intended by Congress to add to, rather than to supplant, other authorities. For example, section 1903(d) of the Social Security Act provides specific authority to recover the Federal share of Medicaid overpayments. In addition, it is important to note that neither the FCCA nor any regulations issued pursuant to it affect any rights that HCFA may have under common law as a creditor.

The FCCA specifically imposes primary responsibility for collecting a debt owed to the Federal government on the agency whose operations gave rise to the indebtedness. However, claims involving fraud or misrepresentation, or conduct in violation of anti-trust laws were exempted from the FCCA. As a practical matter, those claims are referred to the Department of Justice.

The FCCA authorizes (31 U.S.C. 3711(a)(1)) the head of an agency to collect claims in any amount. This section also provides that the head of an agency may, under certain conditions, compromise a claim, or suspend or terminate collection action on a claim. Uncollectible claims in excess of $20,000, exclusive of interest, must be referred to either the General Accounting Office (GAO) or the Department of Justice for resolution. Claims requiring litigation to effect resolution are referred to the Department of Justice. In addition, in order to implement FCCA authority, the agency involved must have regulations in place in the Code of Federal Regulations (CFR) that conform with the regulations issued jointly by the Comptroller General and the Attorney General (4 CFR Parts 101–105).

The joint regulations generally require agencies to—

- Issue appropriate internal regulations and adopt cost-effective collection practices.
- Take aggressive collection action.
- Collect amounts by offset, where possible, against payments or compensation due from the Federal government.
- Assess interest on delinquent claims.
- Attempt to reach settlement of claims on a compromise basis, when appropriate.
- Suspend or terminate collection action when conditions warrant.
- Refer claims that cannot be collected or compromised, and on which collection action cannot be suspended or terminated, to the GAO or to the Department of Justice for consideration of litigation.

C. HHS regulations

In accordance with the FCCA and the joint regulations, the Department of Health and Human Services (HHS) issued implementing regulations at 45 CFR Part 30. Those regulations adopt the joint regulations for HHS (including HCFA) and delegate to the Department Claims Officer the authority to perform all duties under the FCCA regarding HHS activities "except with regard to erroneous payments under . . . . (title) XVIII of the Social Security Act" (45 CFR 30.3).

The HHS regulations also state that various components of the Department are authorized to "take all administrative action required under the [FCCA] and (the) Joint Regulations, except that, with respect to claims of $800 or more, no compromise of a claim shall be effected, nor collection action suspended or terminated without the prior approval of the Department Claims Officer . . ." (45 CFR 30.3(c)).

D. HCFA regulations

The Secretary of HHS has concurrently delegated authority under the FCCA to the Department Claims Officer generally, and to the Administrator of HCFA for necessary claims collection actions under HCFA's programs (see 42 FR 57351, November 2, 1977). The authority delegated to the Administrator covers all of HCFA's activities including the Medicare program (title XVIII) and pertains to claims up to $20,000. However, even though HCFA has the authority (as a result of the delegation from the Secretary) to resolve claims arising from all of its activities, it lacks the comprehensive regulations necessary to do so that are required by the FCCA. This is because of the limitations that are contained in the HHS regulations at 45 CFR Part 30. In other words, the HHS regulations, which apply to HCFA, may not serve as a basis for collection or compromise actions on Medicare claims, or as a basis for compromise, or suspension or termination of collection action on other HCFA claims in excess of $800, except as approved by the Department Claims Officer.

Regulations dealing with specific Medicare aspects of debt management have been issued as follows:

- Compromise of, or suspension or termination of collection activities on, claims for overpayments against providers of services, physicians, or other suppliers of services (42 CFR 405.374).
- Interest on Medicare underpayments or overpayments to providers, physicians, or other suppliers of services (42 CFR 405.378, 47 FR 54811, December 6, 1982).
- Collection of unpaid Medicare premiums (42 CFR 405.982).
- Collection and compromise of claims for overpayments to beneficiaries (20 CFR 404.515) and adjustments to Railroad Retirement or Social Security benefits to recover Medicare overpayments (42 CFR 405.350–405.356).

We have also issued or are developing proposed regulations to deal with specific claims collection situations under the Medicaid program as follows:

- Interest on disputed Medicaid claims (see 47 FR 29275, July 6, 1982).
- Medicaid overpayment reporting requirements. (Regulations governing installment repayments by the States of Medicaid overpayments are located at 45 CFR 201.66.)

Lastly, we have issued a proposed rule (47 FR 6304, February 10, 1983) affecting both Medicare and Medicaid that, generally, would authorize the withholding of Medicare payments to Medicaid providers that have failed to repay a Medicaid overpayment, and the withholding of the Federal share of Medicaid payments to a provider if the provider has failed to repay a Medicare overpayment. This rule would implement sections 1885 and 1914 of the Social Security Act.

To summarize, under the HCFA regulations in titles 20 and 42 of the CFR described above, we are authorized to collect specified Medicare claims in any amount, or to compromise, or to suspend or terminate collection action on those types of Medicare claims up to $20,000, exclusive of interest. Based on the HHS regulations in title 45 of the CFR, HCFA may collect any amount arising out of non-Medicare claims, but in order to compromise, or to suspend or terminate collection action on non-Medicare claims exceeding $800, HCFA must obtain the approval of the Department Claims Officer. Therefore, in order to streamline the claims collection process, we are issuing this final rule.

II. Major Provisions

Generally, we intend these regulations to:

- Satisfy the statutory requirement (in the FCCA) for implementing regulations.
- Adapt to HCFA's operating needs the claims collection standards and procedures issued jointly by the Comptroller General and the Attorney General (4 CFR Parts 101–105).

• Describe rules under which HCFA may exercise fully the authority delegated by the Secetary with repect to collecting and resolving claims that arise in carrying out its mission. Regulations already issued to address specific claims collection problems, or which are otherwise applicable to HCFA claims collection processes, serve to supplement this new subpart.

A. Claims collection (§ 401.607)

Generally, the policy of HCFA is to collect all claims in lump sums. Where appropriate, interest is collected. When amounts owed to HCFA are not paid, when payment is late, or when arrangements other than lump sum collections are necessary, HCFA is deprived of the current use of the amounts involved. Moreover, administrative costs necessarily increase in these situations.

If we are unable to collect a debt in a lump sum and if other circumstances permit, we will offset the amount of a claim against the amount of pay, compensation, benefits or other monies to which a debtor is entitled from the Federal government. Factors that would affect the use of this procedure include the length of time during which the debtor is to receive amounts from the government that may be offset and the impact of the offset on the debtor's financial livelihood.

If lump sum collection or collection by offset is not possible, we may agree to collection through an installment agreement. For example, if enough resources are not available to repay the debt in a lump sum, or if lump sum payment would cause insolvency, the debtor can request an extended repayment agreement. In this case, the debtor is responsible for supplying any information required by HCFA to make a decision regarding the request. Failure by the debtor to supply necessary supporting documentation may result in denial of the request. In determining the amount and frequency of each installment payment, we will consider the information submitted by the debtor, the total amount of the claim, the extent of the debtor's resources, as it affects the debtor's ability to pay, and HCFA's costs of administering the agreement. Collection of interest is also provided for, where appropriate. (Special provisions (45 CFR 201.66) apply to installment repayment by the States of Medicaid funds.)

B. Compromise of claims (§ 401.613)

This section provides that, before a compromise is agreed to, HCFA requires that the amount of the compromise must reasonably approach the amount potentially collectible through enforced collection procedures. In this context, enforced collection includes resorting to collection measures outside of HCFA administrative procedures or to legal processes to compel payment. In making a decision concerning a compromise, we consider the age and health of debtors who are individuals, and a debtor's present and potential income. A favorable decision to compromise a claim will be unlikely if the debtor has concealed assets or has improperly transferred them in an attempt to avoid paying the claim.

This section further provides bases for entering a compromise agreement that include the following:

• A debtor, or the estate of a deceased debtor, does not have the present or prospective ability to pay the debt in full.

• It would be difficult for HCFA to prevail before a court of law because of the complexity or uncertainty of the legal issues involved, or because of the inability of all of the parties to stipulate to the facts. In these cases, to decide the amount of a compromise, we will take into account our assessment concerning the likelihood that we would have prevailed in court and whether a full or partial recovery was possible.

• The cost of collecting the claim does not justify the enforced collection of the full amount.

• HCFA determines that acceptance of a compromise amount (in lieu of imposition of a statutory penalty, a forfeiture of property, or establishment of a debt as an aid to collection enforcement procedures) adequately serves enforcement of HCFA's debt collection policies in terms of deterrence and securing compliance.

C. Suspension of collection action (§ 401.617)

Occasionally, we find it necessary to suspend collection action on a claim. Cases of this kind involve missing debtors or debtors who are currently unable to pay the claim or effect a compromise because of financial problems but who nevertheless have future prospects that will justify periodic review of the claim by HCFA. If we determine that there would not be a bar to recovery caused by a statute of limitations and that the debtor has future prospects that would justify the administrative action necessary to reinstitute collection action at a later date, we may temporarily suspend collection action. Furthermore, if we determine in conformity with 4 CFR 104.2 that future collection of the claim is possible by means of offset despite the applicability of a statute of limitations, we may suspend collection action.

D. Termination of collection action (§ 401.621)

In certain situations, we may decide that it would be advantageous to terminate collection action on a claim after efforts to obtain payment are unsuccessful. A decision to terminate collection action may be based on any one of the following determinations:

• HCFA is unable to collect, or to enforce collection of a substantial amount of the debt. This determination would include a consideration of the judicial remedies available to HCFA, the debtor's future financial prospects, and any exemptions from collection action available to the debtor under State or Federal law such as declarations of bankruptcy.

• In cases of missing debtors, HCFA may terminate collection action if no security remains to be liquidated; an applicable statute of limitations has run; or the prospects of collection by offset in the future are considered by HCFA to be unlikely, whether or not an applicable statute of limitations has run.

• The cost of further collection action is not cost effective.

• Factors come to light that show the claim to be legally without merit.

• Evidence or witnesses necessary to prove HCFA's claim are not available.

In making a decision to terminate collection action, we consider factors similar to those that bear on a decision to compromise a claim, such as the age and health of debtors who are individuals, the present and potential income of debtors, and whether assets have been improperly concealed or transferred.

E. Joint and several liability (§ 401.623)

Joint and several liability for debts means that a creditor may hold one or more parties to a debt separately liable for the entire amount of the debt, or all parties liable for their share of the debt. We are providing that HCFA will not allocate, amongst debtors who are jointly and severally liable, the burden of claims payment. In addition, the fact that some jointly and severally liable debtors are delinquent in their debt payment obligations will not prevent HCFA from proceeding with collection action against the other jointly and severally liable debtors. A compromise with one jointly and severally liable debtor will not release remaining debtors, nor will the amount of the compromise be a binding precedent

regarding possible compromises with the remaining debtors.

III. Provisions Not Included

There are several debt collection procedures authorized by the government-wide regulations (4 CFR Parts 101–105) that we have not addressed in these regulations. Although the provisions of the government-wide regulations are already applicable to HCFA by virtue of the HHS regulations at 45 CFR Part 30, we have not yet decided whether specific HCFA regulations relating to these procedures should be proposed and what their content should be. We are also considering the effect of the Debt Collection Act of 1982 (Pub. L. 97–365), which amended the FCCA to include within the statute provisions similar to these procedures, but which provided that the new authorities were not applicable to claims arising under the Social Security Act (see 31 U.S.C. 3701(d)). The procedures are as follows:

- Reporting delinquent debts to credit bureaus (4 CFR 102.4). This provision permits referrals of delinquent debtors to commercial credit bureaus as a means of encouraging the debtor to resolve the obligation.
- The use of collection agencies (4 CFR 102.5). Under this provision, Federal agencies are permitted to contract with private companies for collection of debts.
- Collection of interest (4 CFR 102.12). This provision authorizes Federal agencies to collect interest on delinquent debts as an inducement for prompt payment of the debt and to compensate the Federal government for the loss of the use of its funds. As indicated above, we have already issued or are in the process of developing regulations concerning the assessment of interest in certain situations involving debts under the Medicare and Medicaid programs.
- The use of pre-offset notice and hearings (4 CFR 102.3). This provision concerns the use of notice and hearing procedures applicable to debt situations involving Federal employees when evidentiary matters are at issue.

IV. Impact Analyses

A. Executive Order 12291

We have determined that these regulations do not meet the specific criteria for a major rule as defined in section 1(b) of the Executive Order 12291. That is, these regulations will not have an annual effect on the economy of $100 million or more; or cause a major increase in costs or prices for consumers, individual industries, government agencies, or geographic regions; or cause significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Our intent in issuing this rule is to provide comprehensive regulations for all of HCFA's claims collection activities under the FCCA. We expect that these regulations will result in some administrative savings. By establishing comprehensive debt collection procedures for HCFA, we anticipate a reduction in paperwork, recordkeeping, and documentation currently required to compromise claims valued between $800–$20,000. We also anticipate more timely removal of bad debts from our records, which in turn will save reporting and documentation activities. However, as this anticipated economic effect is significantly below the $100 million threshold, an impact analysis is not required.

B. Regulatory Flexibility Act.

The Secretary certifies under 5 U.S.C. 605(b), enacted by the Regulatory Flexibility Act (Pub. L. 96–354), that these regulations will not have a significant economic impact on a substantial number of small business, nonprofit entities or small local governments. As stated above, these regulations set forth policies for the collection and compromise of claims owed to HCFA. While we do not believe that the regulations will have significant effects on small business entities, the size of a claim will determine the significance of the impact of the collection action on the affected small entity. In any case, we are required by the FCCA to pursue outstanding debts and these regulations give us the uniform means to do so. Any impact on small entities will result from the requirements of the FCCA and not these regulations. Therefore, a regulatory flexibility analysis is not required.

V. Waiver of Proposed Rulemaking

These regulations adopt for all HCFA programs the general rules (4 CFR Part 101–105) that have government-wide application with respect to collecting and resolving claims, and fulfill the FCCA requirement for regulations that will enable HCFA to use fully the FCCA authority delegated to it by the Secretary. Those longstanding rules have been applied generally by the Federal government and by HCFA in the past. The regulations do not establish new standards and procedures, but rather codify existing HHS standards, already applicable to HCFA, located in 45 CFR Part 30 so that the authority delegated to HCFA may be perfected. For these reasons, we believe that publication of a proposed rule is unnecessary and contrary to the public interest. Therefore, we find good cause to waive the requirement.

Although we are publishing these regulations in final form, we are providing a period for public comment. Because of the large number of comments we receive, we cannot acknowledge or respond to them individually. However, if we determine that changes in the regulations are necessary as a result of public comments, we will publish the changes in the **Federal Register** and respond to the comments in the preamble of that rule.

List of Subjects in 42 CFR Part 401

Civil rights, Freedom of information, Health care, Health facilities, Health maintenance organizations (HMO), Medicaid, Medicare, Privacy, Claims, Collection, Compromise of claims, Debtor, Fraud, Overpayments, Premiums, Suspension of collection, Termination of collection.

42 CFR Part 401 is amended as set forth below:

PART 401—GENERAL ADMINISTRATIVE REQUIREMENTS

A. Subparts C—E are reserved and a new Subpart F is added in the table of contents as follows:

Subparts C–E—[Reserved]

Subpart F—Claims Collection and Compromise

Sec.
401.601 Basis and scope.
401.603 Definitions.
401.605 Omissions not a defense.
401.607 Claims collection.
401.613 Compromise of claims.
401.615 Payment of compromise amount.
401.617 Suspension of collection action.
401.621 Termination of collection action.
401.623 Joint and several liability.
401.625 Effect of HCFA claims collection decisions on appeals.

Authority: Sections 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh) and 31 U.S.C. 3711.

B. Subparts C through E are reserved, and a new Subpart F is added as follows:

Subparts C–E—[Reserved]

Subpart F—Claims Collection and Compromise

§ 401.601 Basis and scope.

(a) *Basis.* This subpart implements for HCFA the Federal Claims Collection Act (FCCA) of 1966 (31 U.S.C. 3711), and conforms to the regulations (4 CFR Parts 101–105) issued jointly by the General Accounting Office and the Department of Justice that generally prescribe claims collection standards and procedures under the FCCA for the Federal government.

(b) *Scope.* Except as provided in paragraphs (c)-(f) of this section, the regulations in this subpart describe HCFA's procedures and standards for the collection of claims in any amount, and the compromise of, or the suspension or termination of collection action on , all claims for money or property that do not exceed $20,000 exclusive of interest, arising under any functions delegated to HCFA by the Secretary.

(c) *Amount of claim.* HCFA refers all claims that exceed $20,000, exclusive of interest, to the Department of Justice or the General Accounting Office for the compromise of claims, or the suspension or termination of collection action.

(d) *Related regulations*—(1) *Department regulations* DHHS regulations applicable to HCFA that generally implement the FCCA for the Department are located at 45 CFR Part 30.

(2) *HCFA regulations.* The following regulations govern specific debt management situations encountered by HCFA and supplement this subpart:

(i) Claims against Medicare beneficiaries for the recovery of overpayments are covered in 20 CFR 404.515.

(ii) Adjustments in Railroad Retirement or Social Security benefits to recover Medicare overpayments to individuals are covered in §§ 405.350–405.356 of this chapter.

(iii) Claims against providers, physicians, or other suppliers of services for overpayments under Medicare and for assessment of interest are covered in §§ 405.374 and 405.376 of this chapter, respectively.

(iv) Claims against beneficiaries for unpaid hospital insurance or supplementary medical insurance premiums under Medicare are covered in § 405.962 of this chapter.

(v) State repayment of Medicaid funds by installments is covered in 45 CFR 201.66.

(e) *Collection and compromise under other statutes and at common law.* The regulations in this subpart do not:

(1) Preclude disposition by HCFA of claims under statutes, other than the FCCA, that provide for the collection or compromise of a claim, or suspension or termination of collection action.

(2) Affect any rights that HCFA may have under common law as a creditor.

(f) *Fraud.* The regulations in this subpart do not apply to claims in which there is an indication of fraud, the presentation of a false claim, or misrepresentation on the part of a debtor or any other party having an interest in the claim. HCFA forwards these claims to the Department of Justice for disposition under 4 CFR 105.1.

(g) *Enforced collection.* HCFA refers claims to the Department of Justice for enforced collection through litigation in those cases which cannot be compromised or on which collection action cannot be suspended or terminated in accordance with this subpart or the regulations issued jointly by the Attorney General and the Comptroller General.

§ 401.603 Definitions.

For purposes of this subpart:

Claim means any debt owed to HCFA.

Debtor means any individual, partnership, corporation, estate, trust or other legal entity against which HCFA has a claim.

§ 401.605 Omissions not a defense.

The failure of HCFA to comply with the regulations in this subpart, or with the related regulations listed in § 401.601(d), is not available as a defense to a debtor against whom HCFA has a claim for money or property.

§ 401.607 Claims Collection.

(a) *General policy.* HCFA recovers amounts of claims due from debtors, including interest where appropriate, by:

(1) Direct collections in lump sums or in installments; or

(2) Offsets against monies owed to the debtor by the Federal government where possible.

(b) *Collection in lump sums.* Whenever possible, HCFA attempts to collect claims in full in one lump sum. However, if HCFA determines that a debtor is unable to pay the claim in one lump sum, HCFA may instead enter into an agreement to accept regular installment payments.

(c) *Collection in installments.* Generally, HCFA requires that all claims to be satisfied by installment payments must be liquidated in three years or less. If unusual circumstances exist, such as the possibility of debtor insolvency, an installment agreement that extends beyond three years may be approved.

(1) *Debtor request.* If a debtor desires to repay a claim in installments, the debtor must submit:

(i) A request to HCFA; and

(ii) Any information required by HCFA to make a decision regarding the request.

(2) *HCEA decision.* HCFA will determine the number, amount and frequency of installment payments based on the information submitted by the debtor and on other factors such as:

(i) Total amount of the claim;

(ii) Debtor's ability to pay; and

(iii) Cost to HCFA of administering an installment agreement.

(d) *Collection by offset.* (1) In conformity with 4 CFR 102.3, HCFA may offset, where possible, the amount of a claim against the amount of pay, compensation, benefits or other monies that a debtor is receiving or is due from the Federal government.

(2) Under regulations at §§ 405.350–405.356 of this chapter, HCFA may initiate adjustments in program payments to which an individual is entitled under title II of the Act (Federal Old Age, Survivors, and Disability Insurance Benefits) or under the Railroad Retirement Act of 1974 (45 U.S.C. 231) to recover Medicare overpayments.

§ 401.613 Compromise of claims.

(a) *Amount of compromise.* HFCA requires that the amount to be recovered through a compromise of a claim must:

(1) Bear a reasonable relation to the amount of the claim; and

(2) Be recoverable through enforced collection procedures.

(b) *General factors.* After considering the bases for a decision to compromise a claim under paragraph (c) of this section, HCFA may further consider factors such as:

(1) The age and health of the debtor if the debtor is an individual;

(2) Present and potential income of the debtor; and

(3) Whether assets have been concealed or improperly transferred by the debtor.

(c) *Basis for compromise.* Bases on which HCFA may compromise a claim include the following:

(1) *Inability to pay.* HCFA may compromise a claim if it determines that the debtor, or the estate of a deceased debtor, does not have the present or prospective ability to pay the full amount of the claim within a reasonable time.

(2) *Litigative probabilities.* HCFA may compromise a claim if it determines that it would be difficult to prevail in a case before a court of law as a result of the legal issues involved or inability of the parties to agree to the facts of the case. The amount that HCFA accepts in compromise under this provision will reflect:

(i) The likelihood that HCFA would have prevailed on the legal question(s) involved;

(ii) Whether and to what extent HCFA would have obtained a full or partial recovery of a judgment, depending on the availability of witnesses, or other evidentiary support for HCFA's claim; and

(iii) The amount of court costs that would be assessed to HCFA.

(3) *Cost of collecting the claim.* HCFA may compromise a claim if it determines that the cost of collecting the claim does not justify the enforced collection of the full amount. In this case, HCFA may adjust the amount it accepts as a compromise to allow an appropriate discount for the costs of collection it would have incurred but for the compromise.

(d) *Enforcement policy.* HCFA may compromise statutory penalities, forfeitures, or debts established as an aid to enforcement or to compel compliance, if it determines that its enforcement policy, in terms of deterrence and securing compliance both present and future, is adequately served by acceptance of the compromise amount.

§ 401.615 Payment of compromise amount.

(a) *Time and manner of compromise.* Payment by the debtor of the amount that HCFA has agreed to accept as a compromise in full settlement of a claim must be made within the time and in the manner prescribed by HCFA. Accordingly, HCFA will not settle a claim until the full payment of the compromise amount has been made.

(b) *Effect of failure to pay compromise amount.* Failure of the debtor to make payment, as provided by the compromise agreement, reinstates the full amount of the claim, less any amounts paid prior to the default.

(c) *Prohibition against grace periods.* HCFA will not agree to inclusion of a provision in an installment agreement that would permit grace periods for payments that are late under the terms of the agreement.

§ 401.617 Suspension of collection action.

(a) *General conditions.* HCFA may temporarily suspend collection action on a claim if the following general conditions are met:

(1) *Amount of future recovery.* HCFA determines that future collection action may result in a recovery of an amount sufficient to justify periodic review and action on the claim by HCFA during the period of suspension.

(2) *Statute of limitations.* HCFA determines that:

(i) The applicable statute of limitations has been tolled, waived or has started running anew; or

(ii) Future collections may be made by HCFA through offset despite an applicable statute of limitations.

(b) *Basis for suspension.* Bases on which HCFA may suspend collection action on a particular claim include the following:

(1) A debtor cannot be located; or

(2) A debtor:

(i) Owns no substantial equity in property;

(ii) Is unable to make payment on HCFA's claim or is unable to effect a compromise; and

(iii) Has future prospects that justify retention of the claim.

(c) *Locating debtors.* HCFA will make every reasonable effort to locate missing debtors sufficiently in advance of the bar of an applicable statute of limitations to permit timely filing of a lawsuit to recover the amount of the claim.

(d) *Effect of suspension on liquidation of security.* HCFA will liquidate security, obtained in partial recovery of a claim, despite a decision under this section to suspend collection action against the debtor for the remainder of the claim.

§ 401.621 Termination of collection action.

(a) *General factors.* After considering the bases for a decision to terminate collection action under paragraph (b) of this section, HCFA may further consider factors such as:

(1) The age and health of the debtor if the debtor is an individual;

(2) Present and potential income of the debtor; and

(3) Whether assets have been concealed or improperly transferred by the debtor.

(b) *Basis for termination of collection action.* Bases on which HCFA may terminate collection action on a claim include the following:

(1) *Inability to collect a substantial amount of the claim.* HCFA may terminate collection action if it determines that it is unable to collect, or to enforce collection, of a significant amount of the claim. In making this determination, HCFA will consider factors such as:

(i) Judicial remedies available;

(ii) The debtor's future financial prospects; and

(iii) Exemptions available to the debtor under State or Federal law.

(2) *Inability to locate debtor.* In cases involving missing debtors, HCFA may terminate collection action if:

(i) There is no security remaining to be liquidated;

(ii) The applicable statute of limitations has run; or

(iii) The prospects of collecting by offset, whether or not an applicable statute of limitations has run, are considered by HCFA to be too remote to justify retention of the claim.

(3) *Cost of collection exceeds recovery.* HCFA may terminate collection action if it determines that the cost of further collection action will exceed the amount recoverable.

(4) *Legal insufficiency.* HCFA may terminate collection action if it determines that the claim is legally without merit.

(5) *Evidence unavailable.* HCFA may terminate collection action if:

(i) Efforts to obtain voluntary payment are unsuccessful; and

(ii) Evidence or witnesses necesary to prove the claim are unavailable.

§ 401.623 Joint and several liability.

(a) *Collection action.* HCFA will liquidate claims as quickly as possible. In cases of joint and several liability among two or more debtors, HCFA will not allocate the burden of claims payment among the debtors. HCFA will proceed with collection action against one debtor even if other liable debtors have not paid their proportionate shares.

(b) *Compromise.* Compromise with one debtor does not release a claim against remaining debtors. Furthermore, HCFA will not consider the amount of a compromise with one debtor to be a binding precedent concerning the amounts due from other debtors who are jointly and severally liable on the claim.

§ 401.625 Effect of HCFA claims collection decisions on appeals.

Any action taken under this subpart regarding the compromise of a claim, or suspension or termination of collection action on a claim, is not an initial determination for purposes of HCFA appeal procedures.

(Catalog of Federal Domestic Assistance Program No. 13.766, Health Financing Research, Demonstrations and Experiments; No. 13.714, Medical Assistance Program; No. 13.773, Medicare—Hospital Insurance; No. 13.774, Medicare-Supplementary Medical Insurance)

Dated: January 28, 1983.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: June 8, 1983.

Margaret M. Heckler,

Secretary.

[FR Doc. 83-23583 Filed 8-26-83; 8:45 am]

BILLING CODE 4120-03-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6456

[AA-50218]

Alaska; Modification of Public Land Order No. 6329

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUBJECT: This order modifies Public Land Order No. 6329 of August 30, 1982, to open 10,250 acres of lands in the Slana area to settlement under the trade and manufacturing site, homesite, and headquarters site laws. The lands have been and remain closed to mining but open to mineral leasing.

EFFECTIVE DATE: September 26, 1983.

FOR FURTHER INFORMATION CONTACT:

Beaumont McClure, Washington, D.C., (202) 343-6511

Terry R. Hassett, Alaska State Office, (907) 271-3267

Wayne A. Boden, Anchorage District Office, (907) 267-1200

By virtue of the authority vested in the Secretary of the Interior by Section 17(d)(1) of the Alaska Native Claims Settlement Act of 1971 (43 U.S.C. 1616(d)(1)), it is ordered as follows:

1. In FR Doc. 82-24594, Vol. 47, No. 174, of the issue of September 8, 1982, at page 39499, after the end of the land description and the statement that reads, "The areas described aggregate approximately 2,170,108 acres," a subparagraph 1.d. is added which will read as follows:

d. Subject to valid existing rights, the following described lands are determined to be suitable for and are opened at 8 a.m. on September 26, 1983, to the operation of the settlement laws, specifically trade and manufacturing sites, homesites, and headquarters sites, falling under the authority of Section 10 of the Act of May 14, 1898, as amended (30 Stat. 413; 43 U.S.C. 687a).

Copper River Meridian

T. 11 N., R. 8 E.,
Secs. 24 to 27, inclusive;
Secs. 33 and 34, those portions lying outside the Wrangell-Saint Elias National Park and Preserve;
Secs. 35 and 36.

T. 12 N., R. 9 E.,
Secs. 12, 13;
Secs. 24 to 27, inclusive;
Secs. 34, 35, and 36.

The area described agregates approximately 10,250 acres.

The total area affected by Public Land Order No. 6329 remains at approximately 2,696,659 acres.

2. The lands described in paragraph 1.d. have been and remain closed to location and entry under the United States mining laws, but open to applications and offers under the mineral leasing laws.

3. This order does not serve to otherwise change the provisions or limitations of Public Land Order No. 6329.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands Operations, Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

James G. Watt,

Secretary of the Interior.

August 22, 1983.

[FR Doc. 83-23577 Filed 8-26-83; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Parts 59 and 61

[Docket No. FEMA-FIA]

National Flood Insurance Program, Coverage, Sales and Eligibility Provisions

AGENCY: Federal Insurance Administration (FIA), Federal Emergency Management Agency, (FEMA).

ACTION: Final rule.

SUMMARY: This rule revises the National Flood Insurance Program (NFIP) regulations dealing with flood insurance coverage, the Standard Flood Insurance Policy (SFIP) terms and provisions, and the sale of flood insurance in communities participating in the NFIP. The purpose of the amendment is to revise the Program regulations to reflect changes in the Flood Insurance Manual used by private sector property insurance agents and brokers in producing flood insurance business and coverage changes in the contract of flood insurance, including exceptions from coverage made necessary by reason of statutory changes in the flood insurance eligibility criteria in respect to certain coastal communities participating in the NFIP.

DATE: This rule will be effective October 1, 1983, except for the optional deductibles (set forth at § 61.5(d) and in the Flood Insurance Manual) which will become effective April 1, 1984.

FOR FURTHER INFORMATION CONTACT: Donald L. Collins, Federal Emergency Management Agency, Federal Insurance Administration, Room 429, 500 "C" Street, S.W., Washington, D.C. 20472; Telephone Number (202) 287-0740.

SUPPLEMENTARY INFORMATION: On April 8, 1983, FEMA published for comment in the **Federal Register** (Vol. 48, Page 15278) a proposed rule containing revisions to the National Flood Insurance Program (NFIP) which were intended to support the major FEMA goals of achieving greater administrative and fiscal effectiveness in the operation of the NFIP while at the same time maintaining a business-like approach to the administration of the NFIP by emulating successful property insurance programs in the private sector. Thus, both risk management and cost containment are being achieved through the addition of coverage restrictions aimed at reducing flood losses and loss payments. In keeping with private sector insurance practices, FEMA will offer a range of deductibles geared toward giving the consumer wider deductible options and, at the same time, will initiate a recertification process to assure that the rating of the policy at time of renewal is consistent with the risk exposure.

Although the comments received (twenty-three) were generally supportive of the proposed revisions, comments were divided on some major issues and, in criticism, constructive. Overall, the comments were informative and provided rationale for many of the results reached in this final rule. Most organizations commented favorably on the proposed optional deductibles. Some comments indicated a more moderate raise in deductible levels might be desirable and, as can be seen from the optional deductibles set forth at § 61.5 of this final rule, this suggestion was heeded in that optional amounts will be available in increments of $1,000. A mortgage company expressed concern that the provision for optional deductibles could result in substantial exposure to mortgage lenders in instances where the mortgage loan amount to appraised value ratio was high. One example cited pertained to VA guaranteed loans which are often made for 100 percent of the value. Concern was expressed that where

borrowers have little or no investment in the property, they may elect to walk away from the flood-damaged property rather than bear the cost of a high deductible in effecting repairs. While this is a valid concern, FEMA believes that lenders can adequately protect themselves since bond and mortgage instruments executed by borrowers typically grant the authority to lenders to require adequate hazard insurance. As the lender specifies the amount of flood insurance which must be purchased and maintained for the building, likewise the lender will be able to specify the lowest deductible the borrower may elect for the building consistent with the degree of protection desired by the lending institution.

The proposal for recertification of the information used to rate a policy prior to its renewal did not generate any negative comments. Thus, the final rule will provide for such a recertification program and a policyholder may be asked during the term of the policy to recertify before renewal. Recertification of rating information would not involve any expense to the policyholder, would insure that accurate data is available for properly rating the policy, and is consistent with private sector practices.

The provision for surcharging risks subject to repetitive damage generated the largest number of comments, some of which were highly supportive while others were strongly opposed to the proposal. Concern was expressed that the surcharges would be imposed on those least able to afford them, such as the low income homeowner or the elderly living on fixed incomes. Some individuals questioned the propriety of imposing a surcharge for structures which were built in compliance with FEMA flood plain management regulations and which later suffered a flood loss. Still others expressed the concern that the surcharges would mainly affect structures which had not been subject to flood plain management regulations such as those buildings in existence before base flood elevation data had been provided to the community or buildings constructed in B and C Zone areas. Two organizations suggested an alternative solution such as a dollar "threshold" for applying the surcharge to preclude individuals from being penalized for a few small claims (for example, claim for temporary removal of insured contents). The belief was also expressed that the procedure outlined in the proposed regulation for calculating the surcharge based on the number of losses rather than a dollar amount would decrease the incentive for initiating loss prevention/reduction measures. FEMA believes that these substantive issues are valid and that the proposal should be studied longer and published at a later date after obtaining more input through a subsequent proposed rule. Therefore, FEMA is deferring implementation of the surcharge system at this time, even though it may mean a reduction in expected revenue of $2.7 million a year.

One organization expressed opposition to the exclusion of flood insurance coverage, effective October 1, 1983, for any building, and its contents, newly constructed or substantially improved on and after October 1, 1983, which is located on an undeveloped coastal barrier designated as such by the Congress on maps produced by the Department of the Interior and incorporated into the administration of the NFIP. This provision is statutorily required by the Coastal Barrier Resources Act (Pub. L. 97-348), approved October 18, 1982, and, thus, will be incorporated into the final rule as originally proposed.

Several comments were received concerning the provision for exclusion of coverage for fininshed basements (and contents therein) and enclosures (and contents) beneath the first floor of elevated structures. One insurance agency expressed the belief that the exception language should be amended to also provide coverage for pump equipment and air compressors which are considered as usual and incidental to the occupancy of a residence even though they are not within an enclosed building. On the other hand, one regional advisor supported the exclusion and in fact felt it should be broadened to also exclude coverage for items such as heating, electrical and air conditioning equipment, washers and dryers, etc. Some individuals questioned the propriety of providing coverage for these items in light of flood plain management regulations which require the elevation of such essential equipment. Still other individuals and regional advisors opposed the exclusion (because of their belief that such exclusion would, in effect, encourage violation of flood plain management regulations) and thought FEMA should continue providing coverage for finished basements. Careful consideration was given to these comments. However, FEMA is persuaded that the provision of coverage for certain equipment and other machinery vital to a building's intended use is proper and, in addition, the final rule is being modified to include, as covered items, food freezers and well-water tanks.

Two organizations requested clarification as to how the exclusion provision will effect coverage in communities which have been given exemptions for floodproofed basements. It is believed that the basement exclusion should not create a problem in these communities. If the basements have been floodproofed, then there should be no danger of flooding. On the other hand, if flooding is occurring in the basement as a result of openings above the floodproofed area, then coverage should not be provided for finished areas.

Concern was expressed relating to the application of the exclusions to existing buildings. Recommendations included (1) providing a grandfather clause to retain finished area coverage for existing structures, (2) offering a separate coverage for finished basements as an option, (3) instituting a surcharge for coverage of finished basements, (4) establishing a future implementation date after which the exclusion would apply to both Emergency Program and Regular Program communities, and (5) allowing pre-implementation date basements to be insured but only with a larger deductible. Careful consideration has been given to these divergent issues. However, it is felt that the action being taken in this final rule to exclude basements (and contents therein) and enclosures (and contents) beneath the first floor of elevated structures is consistent with underwriting activities and actions in the private sector where, dependent upon underwriting reviews, policies of insurance coverage are enhanced or, as in this case, decreased depending on underwriting concerns, the financial condition of the Company, and other insurance considerations. Concerning the financial condition of the NFIP, the Program's records show that January 1978 though the end of 1982, for buildings with basements, the NFIP was paying out $5.00 in losses for every $1.00 of premium taken in. FEMA is convinced that the financial exposure does not warrant continuation of coverage for finished basements (and contents therein) and enclosures (and contents) beneath the first floor of elevated structures. Thus, the final rule will, of economic necessity, provide the exclusion as originally proposed except that subsection (10) will be modified to include food freezers and well-water tanks as covered items.

The provisions for waiver of proof of loss in certain cases met with general acceptance and is incorporated in the final rule. In implementing this provision, the Office of the Inspector

General will be consulted to establish a reasonable dollar amount beyond which the proof of loss would not be waived. In setting a dollar amount below which the waiver can be granted, FEMA will reserve the option as to whether the waiver will be given for individual cases where, for example, there may be contrary evidence or questions related to the magnitude of the loss.

Regarding the provision relating to the definition of "start of construction" for insurance purposes, the six comments received were overwhelmingly in support of this change. In addition to supporting the change in definition for insurance purposes, four of the organizations expressed the belief that the definition should also be used for flood plain management purposes and/or for the flood insurance exclusion under the Coastal Barrier Resources Act of 1982. Thus, the definition of "start of construction" for insurance purposes is being incorporated in this final rule as originally proposed.

With respect to the amendment in Appendix A at Article VIII, Paragraph B. Concealment, Fraud, one association expressed the belief that it would be unfair to void flood insurance coverage due to an unintentional misstatement of a fact by an applicant for insurance. FEMA concedes that the standard should be the more commonly understood concept of "misrepresentation" and has changed the final rule, accordingly.

The remaining amendments either clarify policy terms and conditions, conform them to the NFIP Agents' Manual and Rules and Rates, or are editorial in nature and are incorporated into the final rule as originally proposed.

FEMA has determined, based upon an Environmental Assessment, that this rule does not have significant impact upon the quality of the human environment. A finding of no significant impact is included in the formal docket file and is available for public inspection and copying at the Rules Docket Clerk, Office of General Counsel, Federal Emergency Management Agency, 500 "C" Street, SW., Washington, D.C. 20472.

These regulations do not have a significant economic impact on a substantial number of small entities and have not undergone regulatory flexibility analysis.

This final rule is not a "major rule" as defined in Executive Order 12291 dated February 17, 1981.

List of Subjects in 44 CFR Parts 59 and 61

Flood insurance.

Accordingly, Subchapter B of Chapter I of Title 44 is amended as follows:

PART 59—GENERAL PROVISIONS

1. In § 59.1, the definition, "Start of construction", is amended (1) by removing the word "means" in the first sentence and adding the phrase "means for flood plain management purposes" in its place at the beginning of the definition and (2) by adding the following sentence at the end of the definition, as follows:

§ 59.1 Definitions.

* * * * *

"Start of construction" means for flood plain management purposes * * * "Start of construction," for insurance purposes (for other than new construction or substantial improvements under the Coastal Barrier Resources Act [Pub. L. 97–348]) includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. Also, add after the definition of "Eligible community" the following definition: "Elevated Building" for insurance purposes, means a non-basement building which was initially designed or built to have the bottom of the lowest floor beam (or equivalent floor support) above the ground level by extended wall foundations, shear walls, posts, piers, pilings or columns such that there would be air space between the lowest floor beam and the ground.

* * * * *

PART 61—INSURANCE COVERAGE AND RATES

§ 61.1 [Amended]

2. Section 61.1 is amended by the removal of the title "Administrator" and the substitution therefor of the title "Associate Director, State and Local Programs and Support."

§ 61.3 [Amended]

3. Section 61.3 is amended by the addition of the following language at the end thereof:

* * * Buildings entirely in, on or over water and buildings partially over water into which boats are floated are not eligible for coverage; other buildings partially over water may be covered upon submission of the details of the risk to the NFIP for the assignment of a rate commensurate with the risk and presentment of the correct premium to the NFIP.

§ 61.4 [Amended]

4. Section 61.4(c) is amended by the removing of the phrase "which are volcanic or tectonic in origin" and the placement of the period in the sentence after the word "movements."

§ 61.5 [Amended]

5. Section 61.5(a) is amended by the addition of the following at the end thereof:

(a) * * * No new flood insurance shall be written for any building, and its contents, if the building was newly constructed or substantially improved on or after October 1, 1983, in an area designated as an undeveloped coastal barrier within the Coastal Barrier Resources System established by the Coastal Barrier Resources Act (Pub. L. 97–348).

6. Section 61.5(d) is revised, effective April 1, 1984, to read as follows:

* * * * *

(d) Each loss sustained by the insured is subject to a deductible provision under which the insured bears a portion of the loss before payment is made under the policy. The amount of the deductible for each loss occurrence is (1) For structural (i.e., insured building) losses, $500.00; and (2) for contents (i.e., insured personal property) losses, $500.00; and (3) for the reasonable expenses incurred in connection with the temporary removal of an insured mobile home or insured contents (personal property) from the described premises and away from the peril of flood, $50.00.

Optional Deductibles, All Zones, are available as follows:

CATEGORY ONE—1 TO 4 FAMILY BUILDING AND CONTENTS COVERAGE POLICIES

Options	Building/contents
	$500/$500
	$1,000/$1,000
	$2,000/$1,000
	$3,000/$1,000
	$4,000/$2,000
	$5,000/$2,000

CATEGORY TWO—1 TO 4 FAMILY BUILDING COVERAGE ONLY OR CONTENTS COVERAGE ONLY POLICIES

Options	Building	Contents*
	$500	$500
	1,000	1,000
	2,000	2,000
	3,000	3,000
	4,000	4,000
	5,000	5,000

* Also applies to residential unit contents in other residential building or in multi-unit condominium building.

CATEGORY THREE—OTHER RESIDENTIAL AND NONRESIDENTIAL POLICIES

Options	Policy combining building and contents	Single coverage only policy (either building or contents)
	$500/$500	$500
	1,000/1,000	1,000
	2,000/2,000	2,000
	3,000/3,000	3,000
	4,000/4,000	4,000
	5,000/5,000	5,000

Note.—Any other combination may be submitted for rating to the NFIP.

7. Section 61.5(f)(10) is revised to read as follows:

* * * * *

(f) * * *

(10) Enclosures, contents, machinery, building components, equipment and fixtures located at an elevation lower than the lowest elevated floor of an elevated building (except for the required utility connections and the footing, foundation, posts, pilings, piers or other foundation walls and anchorage system as required for the support of the elevated building), including a mobile home; finished basement walls, floors, ceilings and other improvements to a basement having its floor subgrade on all sides, and contents, machinery, building equipment and fixtures in such basement areas; except that coverage is provided in basement areas and in areas below the lowest elevated floor of an elevated building for sump pumps, well-water tanks, oil tanks, furnaces, hot water heaters, clothes washers and dryers, food freezers, air conditioners, heat pumps and electrical junction and circuit breaker boxes; and coverage is also provided in basement areas and in areas below the lowest elevated floor of an elevated building for stairways and staircases attached to the building which are not separated from the building by elevated walkways.

* * * * *

8. Section 61.5(f) is amended by the addition of a new paragraph (11), as follows:

* * * * *

(f) * * *

(11) Any building, and its contents, if the building was newly constructed or substantially improved on or after October 1, 1983, in an area designated as an undeveloped coastal barrier, within the Coastal Barrier Resources System established by the Coastal Barrier Resources Act (Pub. L. 97–348).

* * * * *

9. Section 61.5(g)(2) is revised to read as follows:

* * * * *

(g) * * *

(2) Except for the insurability of "animals, birds and fish," at paragraph (f)(5) of this section, all of the kinds of uninsurable property and contents referenced at paragraph (f) (2) through (5) and at paragraphs (f) (7) through (10).

* * * * *

10. Section 61.5(g) is amended by the addition of a new paragraph (4), as follows:

(g) * * *

(4) Any building, and its contents, if the building was newly constructed or substantially improved on or after October 1, 1983, in an area designated as an undeveloped coastal barrier within the Coastal Barrier Resources System established by the Coastal Barrier Resources Act (Pub. L. 97–348).

§ 61.9 [Amended]

11. Section 61.9 is amended by the removal of the title "Administrator" and the substitution therefor of the title "Associate Director, State and Local Programs and Support."

§ 61.11 [Amended]

12. Section 61.11 is amended by the removal of paragraph (a)(3).

§ 61.12 [Amended]

13. Section 61.12 is amended by the removal, in paragraph (c), of the language "Engineering Division, Office of Flood Insurance, Federal Insurance Administration" and the substitution therefor of the language, "Engineering Branch, Office of Natural and Technological Hazards, Office of State and Local Programs and Support."

Appendix A(1) [Amended]

14. Appendix A(1) of Part 61, referenced at § 61.13, Standard Flood Insurance Policy, is revised, in the following particulars:

a. In the Dwelling Form—Insuring Agreement and in Article II—Definitions, wherever the phrase "Direct Physical Loss by Flood" appears, it is revised to read "Direct Physical Loss by or from Flood."

b. At Article II—Definitions, (i) add, after the definition of "Application," the following definition: "Basement" means any area of the building having its floor subgrade (below ground level) on all sides; and (ii), in the definition of "Direct Physical Loss by or from Flood," delete the parenthetical phrase at the end thereof, placing the period after the word "loss."

c. At Article IV—Property Covered, in the second sentence of paragraph B, delete the word "insured," which appears before the word "building."

d. At Article V—Property Not Covered, revise paragraph F to read as follows:

F. Enclosures, contents, machinery, building components, equipment and fixtures located at an elevation lower than the lowest elevated floor of an elevated building (except for the required utility connections and the footing, foundation, posts, pilings, piers or other foundation walls and anchorage system as required for the support of the elevated building), including a mobile home; finished basement walls, floors, ceilings and other improvements to a basement having its floor subgrade on all sides, and contents, machinery, building equipment and fixtures in such basement areas; except that, as to this subparagraph (F), coverage is provided in basement areas and in areas below the lowest elevated floor of an elevated building for sump pumps, well-water tanks, oil tanks, furnaces, hot water heaters, clothes washers and dryers, food freezers, air conditioners, heat pumps and electrical junction and circuit breaker boxes; and coverage is also provided in basement areas and in areas below the lowest elevated floor of an elevated building for stairways and staircases attached to the building which are not separated from the building by elevated walkways.

e. At Article V—Property Not Covered, paragraph H, is revised to read as follows:

H. On and after October 1, 1982, a mobile home located or placed within a FEMA designated Special Flood Hazard Area that is not affixed to a permanent site (anchored) to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors or that otherwise does not meet the community's flood plain management requirements, unless it is a mobile home on a foundation continuously insured by the National Flood Insurance Program at the same site at least since September 30, 1982.

f. At Article V—Property Not Covered, add a new paragraph K, as follows:

K. A building, and its contents, newly constructed or substantially improved on or after October 1, 1983, in an area designated as an undeveloped coastal barrier within the Coastal Barrier Resources System established by the Coastal Barrier Resources Act (Pub. L. 97–348).

g. Article VI—Deductibles is revised to read as follows:

Article VI—Deductibles

A. Each loss to your insured property is subject to a deductible provision under which your bear a portion of the loss before payment is made under the policy.

B. The loss deductible shall apply separately to each building loss and personal property (contents) loss including, as to each, appurtenant structure, debris removal, and

any reasonable expenses incurred after a flood under Article II or Article III in connection with the preservation and saving of insured property from flood or from the imminent danger of flood.

C. The amount of the deductible for each loss occurrence is determined as follows: We shall be liable only when such loss exceeds $500.00, or the amount of any higher deductible which you selected when you applied for this insurance or when you raised the deductible by endorsement.

D. In the case of reasonable expenses incurred pursuant to Article II in the temporary removal of an insured mobile home or insured personal property from the described premises and away from the peril of flood, the amount of the deductible shall be $50.00.

h. At Article VIII—General Conditions and Provisions, paragraph B, Concealment, Fraud is revised to read:

B. Concealment, Fraud: We will not cover you under this policy, which shall be void, nor can this policy be renewed or any new flood insurance coverage be issued to you if you have sworn falsely, or willfully concealed or misrepresented any material fact, or done any fraudulent act concerning this insurance (See "F," below). In addition we will not cover you under this policy, which shall be void, in the event you have willfully concealed or misrepresented any fact on a "Recertification Questionnaire," which causes us to issue a policy to you based on a premium amount which is less than the premium amount which would have been payable by you were it not for the misstatement of fact (see "G," below).

i. At Article VIII—General Conditions and Provisions, in paragraph G. Policy Renewal, the following is added to the end thereof:

* * * * *

Notwithstanding your responsibility to submit the appropriate renewal premium in sufficient time to permit its receipt by us prior to the expiration of the policy being renewed, we have established a business procedure for mailing renewal notices to assist insureds in meeting their responsibility. Regarding our business procedure, evidence of the placing of any such notices into the U.S. Postal Service, addressed to you at the address appearing on your most recent application or other appropriate form (received by the NFIP prior to to the mailing of the renewal notice by us), does, in all respects, for purposes of the NFIP presumptively establish delivery to you for all purposes irrespective of whether you actually received the notice. However, in the event we determine that, through any circumstances, any renewal notice was not placed into the U.S. Postal Service, or, if placed, was prepared or addressed in a manner which we determine could preclude the likelihood of it being actually and timely received by you prior to the due date for the renewal premium, the following procedures shall be followed:

In the event that you or your agent notifies us not later than one year after the date on which the payment of the renewal was due, of a nonreceipt of a renewal notice prior to the due date for the renewal premium, which we determine was attributable to the above circumstances, we shall mail a second bill providing a revised due date, which shall be thirty days after the date on which the bill is mailed. If the renewal payment is received by such revised due date, the policy shall be renewed as of the date on which the prior policy would have expired. If the renewal payment requested by reason of the second bill is not received by the revised due date, no renewal shall occur and the policy shall remain an expired policy as of the expiration date prescribed on the policy.

j. At Article VIII—General conditions and Provisions, in paragraph I. Requirements in Case of Loss, add the following at the end thereof:

* * * * *

5. We may, at our option, waive the requirement for the completion and filing of a Proof of Loss in certain cases, in which event you will be required to sign and, at our option, swear to an adjuster's report of the loss which includes information about your loss and the damages needed by us in order to adjust your claim;

6. Any false statements made in the course of presentment of a claim under this policy may be punishable by fine or imprisonment under the applicable Federal Laws.

k. At Article VIII—General Conditions and Provisions, paragraph K is revised to read as follows:

* * * * *

K. When Loss Payable: Loss is payable within 60 days after you file your proof of loss (or within 90 days after the insurance adjuster files an adjuster's report signed and sworn to by you in lieu of a proof of loss) and ascertainment of the loss is made either by agreement between us and you expressed in writing or by the filing with us of an award as provided in paragraph "M", below. If we reject your proof of loss in whole or in part, you may accept such denial of your claim, or exercise your rights under this policy, or file an amended proof of loss as long as it is filed within 60 days of the date of the loss or any extension of time allowed by the Administrator.

l. At Article VIII—General Conditions and Provisions, in paragraph "L. Abandonment," add the following to the end thereof:

* * * * *

However, we may permit you to keep damaged, insured property ("salvage") after a loss and reduce the amount of the loss proceeds payable to you under the policy by the value of the salvage.

m. At Article VIII—General Conditions and Provisions, in paragraph O. Mortgagee Clause, the first paragraph is revised to read as follows:

* * * * *

O. Mortgagee Clause—(Applicable to building items only and effective only when policy is made payable to a mortgagee (or trustee) named in the application and declarations form attached to this policy or of whom the Insurer has actual notice prior to the payment of loss proceeds under this policy.)

* * * * *

Appendix A(2)

14. Appendix A(2) of Part 61, referenced at § 61.13. Standard Flood Insurance Policy, is revised, in the following particulars:

a. In the General Property Form the phrase "Direct Physical Loss By Flood" is revised to read "Direct Physical Loss By or From Flood."

b. At the Definitions section, (i) add, after the definition of "Application," the following definition: "Basement" means any area of the building having its floor subgrade (below ground level) on all sides; and, (ii), in the definition of "Direct Physical Loss by Flood" wherever that phrase appears, it is revised to read "Direct Physical Loss by or from Flood" and, at the end of the definition, the paranthetical phrase is deleted and the period is placed after the word "loss."

c. At the Property Covered section, in "A. Building," the second paragraph is removed.

d. At the Property Covered section, in "B. Contents" the matter following the phrase "The Insurer shall not be liable for loss in any one occurrence for more than: * * * " is revised to read as follows:

* * * * *

The Insurer shall not be liable for loss in any one occurrence for more than $250 in the aggregate on paintings, etchings, pictures, tapestries, art glass windows and other works of art (such as but not limited to statuary, marbles, bronzes, antique furniture, rare books, antique silver, porcelains, rare glass, and bric-a-brac), jewelry, watches, necklaces, bracelets, gems, precious and semi-precious stones, articles of gold, silver, platinum and furs and any article containing fur which represents its principal value.

* * * * *

e. At the Property Not Covered section, paragraph F is revised to read as follows:

* * * * *

F. Enclosures, contents machinery, building components, equipment and fixtures located at an elevation lower than the lowest elevated floor of an elevated building (except for the required utility connections and the footing, foundation, posts, pilings, piers or other foundation walls and anchorage system as required for the support of the elevated building), including a mobile home; finished basement walls, floor, ceilings and other improvement to a basement having its floor subgrade on all sides, and contents machinery, building equipment and fixtures in such basement areas; except that, as to this subparagraph (F), coverage is provided in basement areas and in areas below the lowest elevated floor of an elevated building for sump pumps, well-water tanks, oil tanks, furnaces, heat pumps and electrical junction and circuit breaker boxes; and coverage is also provided in basement areas and in areas below the lowest elevated floor of an elevated building for stairways and

staircases attached to the building which are not separated from the building by elevated walkways.

f. At the Property Not Covered section, paragraph H is revised to read, as follows:

* * * * *

H. On and after October 1, 1982, a mobile home located or placed within a FEMA designated Special Flood Hazard Area that is not affixed to a permanent site (anchored) to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors or that otherwise does not meet the community's flood plain management requirements, unless it is a mobile home on a foundation continuously insured at the same site by the National Flood Insurance Program, at least since September 30, 1982.

g. In the Property Not Covered section, new paragraph K, is added, as follows:

* * * * *

K. A building, and its contents, newly constructed or substantially improved on or after October 1, 1983, in an area designated as an undeveloped coastal barrier within the Coastal Barrier Resources System established by the Coastal Barrier Resources Act (Pub. L. 97-348).

h. The section entitled Deductibles is revised to read as follows:

Deductibles

A. With respect to loss to the building and debris removal covered hereunder, Insurer shall be liable for only that portion of the loss in any one occurrence which is in excess of $500.00.

B. With respect to loss to contents, the reasonable expenses incurred by the Insured pursuant to paragraph "F" of "PERILS EXCLUDED," and debris removal coverage hereunder, the Insurer shall be liable for only that portion of the loss in any one occurrence which is in excess of $500.00.

C. In lieu of the $500.00 deductible, the amount of the deductible in "A" and "B," above, shall be the higher amount selected, as an option, by the Insured when applying for this insurance or when raising the deductible by endorsement.

D. In the case of reasonable expenses incurred in the removal of an insured mobile home or personal property from the insured premises away from the peril of flood, the amount of the deductible shall be $50.00.

i. In the section entitled General Conditions and Provisions, paragraph B. Concealment, Fraud is revised to read:

* * * * *

B. Concealment Fraud: This entire policy shall be void and no renewal nor new flood insurance coverage can be issued to the Insured if, whether before or after the loss, the Insured has willfully concealed or misrepresented any material fact or circumstance concerning this insurance or the subject thereof, or the interest of the Insured therein, or in case of any fraud or false swearing by the Insured relating thereto (see "E," below). In addition, this entire policy shall be void if the Insured has willfully concealed or misrepresented any fact on a "Recertification Questionnaire," which causes the Insurer to issue a policy to the Insured based on a premium amount which is less than the premium amount which would have been payable by the Insured if it were not for the misrepresentation of fact (see "J," below).

j. In the section entitled General Conditions and Provisions, in paragraph J. Policy Renewal, the following new paragraphs are added to the end thereof:

* * * * *

Notwithstanding the above mentioned responsibility of the Insured to submit the appropriate renewal premium in sufficient time to permit its receipt by the NFIP prior to the expiration of the policy being renewed, the Insurer has established a business procedure for mailing renewal notices to assist Insureds in meeting their responsibility. Regarding the Insurer's business procedure, evidence of the placing of any such notices into the U.S. Postal Service, addressed to the Insured at the address appearing on the Insured's most recent application or other appropriate form (received by the NFIP prior to the mailing of the renewal notice by the Insurer), does, in all respects, for purposes of the NFIP presumptively establish delivery to the Insured for all purposes irrespective of whether the Insured actually received the notice. However, in the event that the Insurer determines that, through any circumstances, any renewal notice was not placed into the U.S. Postal Service, or, if placed, was prepared or addressed in a manner which the Insurer determines could preclude the likelihood of it being actually and timely received by the Insured prior to the due date for the renewal premium the following procedures shall be followed:

In the event that the Insured or his agent notifies the Insurer, not later than one year after the date on which the payment of the renewal was due, of a non-receipt of a renewal notice prior to the due date for the renewal premium, which the Insurer determines was attributable to the above circumstances, the Insurer shall mail a second bill providing a revised due date, which shall be thirty days after the date on which the bill is mailed. If the renewal payment is received by such revised due date, the policy shall be renewed as of the date on which the prior policy would have expired. If the renewal payment requested by reason of the second bill is not received by the revised due date, no renewal shall occur and the policy shall remain an expired policy as of the expiration date prescribed on the policy.

k. In the section entitled General Conditions and Provisions, redesignate paragraphs K through U as paragraphs L through V and add a new paragraph K to read as follows:

K. *Cancellation of Policy or Reduction in Amount of Insurance.* This policy may be cancelled at any time at the request of the Insured, in which case the Insurer shall, upon demand and surrender of this policy, refund the excess of paid premiums above the pro-rata premium earned with retention of the expense constant; provided, however, that the premium paid for the then current policy term shall be fully earned if the Insured retains an interest in the property covered at the location described in the application and declarations form.

The amount of insurance under this policy may be reduced at any time at the request of the Insured, in which case the Insurer shall, upon demand, refund the excess of paid premium above the pro-rata premium earned for the amount of the reduction; provided, however, that the premium paid for the then current policy term shall be fully earned to the extent that the Insured retains an interest in the property covered at the location described in the application and declarations form.

l. In the section entitled General Conditions and Provisions, in redesignated paragraph M. Mortgagee Clause, the first paragraph is revised to read as follows:

* * * * *

M. Mortgagee Clause (Applicable to building items only and effective only when policy is made payable to a mortgagee (or trustee) named in the application and declarations form attached to this policy or of whom the Insurer has actual notice prior to the payment of loss proceeds under this policy):

m. In the section entitled General Conditions and Provisions, in redesignated paragraph P. Requirements in Case of Loss, add the following paragraph at the end thereof:

* * * * *

The Insurer may, at its option, waive the requirement for the completion and filing of a Proof of Loss in certain cases, in which event the Insured will be required to sign and, at the Insurer's option, swear to an adjuster's report of the loss which includes information about the loss and the damages needed by the Insurer before the loss can be adjusted.

Any false statements made in the course of presentment of a claim under this policy may be punishable by fine or imprisonment under the applicable Federal laws.

* * * * *

n. In the section entitled General Conditions and Provisions, in redesignated paragraph S. Abandonment, add the following to the end thereof:

* * * * *

However, the Insurer may permit the Insured to keep damaged, insured property ("salvage") after a loss and reduce the amount of the loss proceeds payable to the Insured under the policy by the value of the salvage.

* * * * *

o. In the section entitled General Conditions and Provisions, redesignated

paragraph T. When Loss Payable, is revised to read as follows:

* * * * *

T. When Loss Payable: Loss is payable within 60 days after the Insured files the proof of loss (or within 90 days after the insurance adjuster files an adjuster's report signed and sworn to by the Insured in lieu of a proof of loss) and ascertainment of the loss is made either by agreement between the Insurer and the Insured, expressed in writing, or by the filing with the Insurer of an award as provided in paragraph "Q", above. If the Insurer rejects the Insured's proof of loss in whole or in part, the Insured may accept such denial of the claim, or exercise the Insured's rights under this policy, or file an amended proof of loss as long as it is filed within 60 days of the date of the loss or any extension of time allowed by the Administrator.

* * * * *

§ 61.14 [Amended]

15. Section 61.14(b) is amended by the removal of the following:, 1725 I Street, N.W.,

(National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968), 42 U.S.C. 4001–4128; Reorganization Plan No. 3 of 1978 (43 FR 4194); E.O. 12127, dated March 31, 1979 (44 FR 19367); Delegation of Authority to Federal Insurance Administrator)

Issued at: Washington, D.C., August 24, 1983.

Jeffrey S. Bragg,

Federal Insurance Administrator

[FR Doc. 83-23604 Filed 8-26-83; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 2, and 95

[PR Docket No. 82-184]

General Mobile Radio Service Rules; Announcement of Effective Date and Corrections.

AGENCY: Federal Communications Commission.

ACTION: Final Rule; Announcement of effective date and corrections.

SUMMARY: This document sets September 26, 1983, as the effective date of rules amending Part 1, 2, and 95, Subpart A, to provide for a Temporary Permit for additonal users of authorized mobile relay stations in the General Mobile Radio Service (GMRS) (February 3, 1983; 48 FR 4783). The rule amendments were adopted by the Commission on January 20, 1983, but their effective date has been held in abeyance pending Office of Management and Budget approval of the Temporary Permit form. The amendments are necessary in order to eliminate the delay that occurs while a license application is being processed. With the Temporary Permit, the additional users will be able to begin immediate operation in a multiply-licensed GMRS repeater system. The Temporary Permit form number is 574–T.

EFFECTIVE DATE: September 26, 1983.

FOR FURTHER INFORMATION CONTACT: Maurice J. DePont, Private Radio Bureau, Washington, D.C. 20554, (202) 632–4964.

SUPPLEMENTARY INFORMATION: The following corrections are made in FR Doc. 83–2931 on page 4783 in the issue of February 3, 1983:

§ 1.922 [Corrected]

1. On page 4785, in § 1.922, under the column heading *FCC Form,* the number of the form, 574–T, should be entered. This entry should fall between 572 and 577 in the list of forms that comprise § 1.922.

§§ 1.925, 95.15 and 95.16 [Corrected]

2. On page 4785, in §§ 1.925(h), 95.15(d) and 95.16 where there is a blank space following the word Form, insert the number 574–T.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-23634 Filed 8-26-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 81

[PR Docket No. 82-780; RM-3847; FCC 83-379]

Amendment of the Commission's Rules Affecting the Use of Marine VHF Public Correspondence Frequencies Between Certain Areas of Washington State and Canada

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document amends rules governing the channeling arrangements and technical parameters of marine VHF Public Correspondence frequencies in the Puget Sound area. These changes increase spectrum utilization and reduce potential interference on these channels and were undertaken in response to a petition for rule making.

EFFECTIVE DATE: September 21, 1983.

FOR FURTHER INFORMATION CONTACT: Robert P. DeYoung, Private Radio Bureau, (202) 632–7175.

List of Subjects in 47 CFR Part 81

Coast stations, Radio, Telephone.

Report and Order (Proceeding Terminated)

In the matter of amendment of Part 81 of the Commission's rules affecting the use of marine VHF Public Correspondence frequencies between certain areas of Washington State and Canada. PR Docket No. 82–780 RM–3847.

Adopted: August 8, 1983.
Released: August 15, 1983.

By the Commission.

1. This Report and Order amends Subpart S of Part 81 of the rules to increase spectrum utilization and reduce potential interference on marine VHF public correspondence frequencies in the Puget Sound area of Washington State and Canada. A Notice of Proposed Rule Making in this matter was released on November 29, 1982, PR Docket 82–780, FCC 82–509, 47 FR 54836. The comment and reply comment period have passed.

Background

2. Our current rules are based on a channeling arrangement with Canada for west coast VHF maritime mobile public correspondence.[1] The arrangement was established in order to prevent interference between coast stations in the U.S. and those in Canada. This channel assignment plan designates primary, supplementary and local channels for each public correspondence sector of the Puget Sound area. The arrangement also specifies technical standards which each station is required to meet. These technical standards are enumerated in Subpart S.

3. A petition for Rulemaking (RM–3847), requesting amendment of Subpart S, has been filed with the Commission by the North Pacific Marine Radio Council (NPMRC). According to NPMRC, this petition was the result of extensive studies utilizing the criteria of Subpart R of Part 81 of the Commission's rules.[2] The rule changes requested were the product of a coordinated effort of the Public Correspondence Committee of the NPMRC. Representatives of telephone companies serving the United States and Canada, including representatives of the Western Canada Telecommunications Council, participated. The petition requested several changes in Subpart S which NPMRC believes will improve the VHF service.

---

[1] "Canada/U.S.A. Channeling Arrangement for West Coast VHF Maritime Mobile Public Correspondence."

[2] Subpart R of Part 81 sets forth procedures and standards for computing VHF coverage.

4. Comments in this proceeding were filed by the Pacific Northwest Bell Telephone Company (PNB), the North Pacific Marine Radio Council (NPMRC), and the Whidbey Telephone Company (Whidbey). All three commenters generally favored the proposed rule changes which we are adopting. Whidbey, however, expressed two concerns. The first concern was the possible effect of the proposed changes on two applications which Whidbey has on file with the Commission. The second concern was that the language of § 81.904(e) might be read as precluding the reporting of harmful interference directly to the Commission. The Whidbey applications are being processed by the staff on an *ad hoc* basis and we believe the concerns expressed in its comments have been resolved.[3] It was not our intent to preclude direct reports of harmful interference and § 81.904(e) has been modified accordingly.

5. These rule changes adopt new technical parameters in the area which reduce interference and allow increased channel utilization with no degradation of service to the public. The Effective Radiated Power (ERP) of the primary and supplementary channels is reduced from the currently authorized 125 watts to 60 watts. Antenna height is limited to 500 feet for Inland waters primary and secondary channels, to 50 feet for Inland waters local channels, and to 250 feet for Coastal waters local channels. No antenna restrictions are proposed for Coastal waters primary and secondary channels.

6. Changes in channeling are also adopted. Each public correspondence sector is assigned one primary and one supplementary channel with the exception of the three sectors where a supplementary channel is not available. Any channel among those which are included in the arrangement can be used as a local channel in a particular sector except those channels which are designated as primary and secondary channels in that sector. The current arrangement assigns up to two primary and supplementary channels per sector and assigns channels 24 and 25 as local channels. The new channeling arrangement provides more flexibility to local channels without a degradation of service on other channels.

7. Coast stations may still be established by either country in accordance with the provisions of the arrangement without prior coordination. Preliminary local Canadian/U.S. coordination will be required for all applications in variance with the arrangement. Informal coordination may also take place through a committee comprised of members of the North Pacific Marine Radio Council and appropriate Canadian representatives. Applications in compliance with the plan may also be furnished to the committee for informational purposes.

8. Pursuant to Sections 603 and 604 of the Regulatory Flexibility Act of 1980 (Pub. L. 96-354) the Commission certifies the rules will not have a significant economic impact on a substantial number of small entities. Only seven U.S. VHF coast stations are located within the boundaries of Canadian coordination on the west coast. Six of these stations are licensed to Pacific Northwest Bell Telephone Company and one to General Telephone Company of the Northwest.

9. Regarding questions on matters covered in this document, contact Robert P. DeYoung at 202-632-7175.

10. The amendments to the Commission's rules as set forth in the attached Appendix are issued under the authority contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r).

11. For the reasons set forth above, It is ordered, that Part 81 of the rule is amended, as set forth in the attached Appendix effective September 21, 1983.

12. It is further ordered, that a copy of this Report and Order shall be sent to the Chief Counsel for Advocacy of the Small Business Administration.

13. It is further ordered, that this proceeding is terminated.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Part 81 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA—PUBLIC FIXED STATIONS

47 CFR Part 81 is amended by revising §§ 81.901 through 81.904 to read as follows:

§ 81.901 Canada/U.S.A. arrangement.

(a) Pursuant to arrangements between the United States and Canada, assignment of VHF frequencies to public coast stations in certain areas of Washington State, the Great Lakes, and the east coast of the United States shall be made in accordance with the provisions of this subpart.

(b) On the west coast, due to topographic constraints and confined waterways, near sea level transmitter/receiver sites have proved to be superior to high level transmitter/receiver sites in providing reliable and high quality communications. The purpose of this subpart is to:

(1) Provide reliable and widespread service to the marine subscriber.

(2) Simplify licensing and provide preliminary testing procedures for those providing service.

(3) Allow maximum reuse of available channels.

(4) Provide measurable criteria to allow determination of a licensee's compliance.

(5) Provide a means for continued cooperation and coordination with Canada.

§ 81.902 Definitions.

On the west coast, the following terms are defined as follows:

(a) *Inland Waters Public Correspondence Sector.* A distinct geographical area in which one primary and one supplementary channel is allotted. A number of local channels may also be authorized.

(b) *Coastal Waters Public Correspondence Sector.* A distinct geographical area in which one primary and one supplementary channel is allotted. A number of local channels may also be authorized.

(c) *Inland Waters.* Inland waters of western Washington and British Columbia bounded by 47° latitude on the south, the Canada/U.S.A. Coordination Zone Line B on the north, and to the west by 124° 40′ longitude at the west entrance to the Strait of Juan de Fuca.

(d) *Coastal Waters.* Waters along the Pacific Coast of Washington State and Vancouver Island within the Canada/U.S.A. Coordination Zone.

(e) *Inland Waters Primary Channel.* A channel intended to cover the greater portion of an Inland Waters Public Correspondence Sector. It may provide some coverage to an adjacent sector but must not provide coverage beyond the adjacent sector. Harmful interference beyond the adjacent sector must not occur. Only one primary channel will be authorized in any sector.

(f) *Inland Waters Supplementary Channel.* A channel intended to improve coverage within a sector or to relieve traffic congestion on the primary channel. It may provide some coverage of an adjacent sector but must not provide coverage beyond the adjacent

[3] Of the two Whidbey applications pending during the comment period of this proceeding, one (Freedland) has been granted and the second has been placed on public notice (Clinton).

sector. Harmful interference beyond the adjacent sector must not occur. Only one supplementary channel will be authorized in any sector.

(g) *Inland Waters Local Channel.* A channel designed to provide local coverage of certain bays, inlets and ports where coverage by primary or supplementary channels is poor or where heavy traffic loading warrants. A local channel must not cause harmful interference to any primary or supplementary channels. Coverage shall be confined to the designated sector.

(h) *Coastal Waters Primary Channel.* Same as (e) except for technical characteristics.

(i) *Coastal Waters Supplementary Channel.* Same as (f) except for technical characteristics.

(j) *Coastal Waters Local Channel.* Same as (g) except for technical characteristics.

§ 81.903 Technical characteristics.

On the west coast, technical characteristics of public correspondence stations shall be as follows:

(a) *Inland Water Primary and Supplementary Channels.* ERP shall not exceed 60 watts. Antenna height shall not exceed 500 feet AMSL with the exceptions noted in § 81.904(e).

(b) *Inland Waters Local Channel.* ERP shall not exceed 8 watts with an antenna height of no more than 50 feet AMSL or the ERP shall not exceed 2 watts with an antenna height of no more than 100 feet AMSL.

(c) *Coastal Waters Primary and Supplementary Channels.* ERP shall not exceed 125 watts with no antenna restrictions.

(d) *Coastal Waters Local Channel.* ERP shall not exceed 10 watts with a maximum antenna height of 250 feet AMSL.

(e) Harmful Interference shall be determined and resolved using the definition and procedures of the ITU International Radio Regulations.

(f) To keep the ERP's and antenna elevations at a minimum and to limit coverage to the desired areas, an informal application may be filed for special temporary authority in accordance with Section 81.26 and 81.41 to conduct a field survey to obtain necessary data for informal application. Such data may accompany the application and be used in lieu of theoretical calculations as required in Subpart R. The Seattle FCC District Office shall be notified in advance of scheduled tests.

§ 81.904 Canada/U.S.A. channeling arrangement for west coast VHF Maritime Mobile Public Correspondence.

(a) The provisions of the Canada/U.S. channeling arrangement apply to waters of the State of Washington and of the Province of British Columbia within the coordination boundaries of "Arrangement A" of the Canada/U.S.A. Frequency Coordination Agreement above 30 MHz. In addition, all inland waters as far south as Olympia are to be included. A map of these waters is contained in Subsection (f), Figure 1 below.

(b) The channeling arrangement applies to the following VHF public correspondence channels: Channels 24, 84, 25, 85, 26, 86, 27, 87, and 28.

(c) Public correspondence stations any be established by either country in accordance with the provisions of the arrangements. There shall, however, be an exchange of information in respect of the establishment of new stations or a change in technical parameters of existing stations. Any channel except that used as primary or supplementary channel in a given sector is available for use as a local channel in that sector. Local channels shall not be protected from interference caused by primary or supplementary channels in adjacent sectors if these stations are in compliance with this subpart.

(d) Preliminary local Canadian/U.S. coordination is required for all applications in variance with this subpart. This coordination will be in accordance with the provisions of Arrangement "A" of the Canada/U.S. Frequency Coordination Agreement over 30 MHz. Such stations shall not be protected from interference or cause interference to existing or future stations which are in accordance with the agreement.

(e) Existing stations shall comply with the provisions of the arrangement within 12 months after it becomes effective with the following exceptions:

(1) Public coast local service (VHF) stations:

KOH627 Tacoma, Washington
KOH630 Seattle, Washington
WXY956 Camano, Washington
VAI2 Mount Parke, British Columbia
VAS5 Watts Point, British Columbia
XLK672 Bowen Island, British Columbia

(2) These stations employing current assigned frequencies, may be maintained with existing antenna heights in excess of 500 feet unless harmful interference to existing stations is identified and reported directly to the Federal Communications Commission or through the Public Correspondence Committee of the North Pacific Marine Radio Council.

(f) The agreed channeling arrangements for the west coast are as follows:

Public correspondence sector	Primary channel	Supplementary channel
British Columbia (Coastal Waters):		
Tofino	24	26
Barkley Sound	27	87
British Columbia (Inland Waters):		
Juan de Fuca West (Canada)	26	24
Juan de Fuca East (Canada)	86	84
Gulf Islands	27	(1)
Strait of Georgia South	26	86
Howe Sound	24	84
Strait of Georgia North	26	87
Campbell River	28	85
Washington (Inland Waters):		
Cape Johnson	26	85
Point Grenville	28	25
Washington (Coastal Waters):		
Juan de Fuca West (U.S.A.)	28	(1)
Juan de Fuca East (U.S.A.)	25	(1)
San Juan Islands	28	86
Puget Sound North	24	87
Puget Sound Hood Canal	26	25
Lower Puget Sound	28	86

[1] Supplementary channel not available.

BILLING CODE 6712-01-M

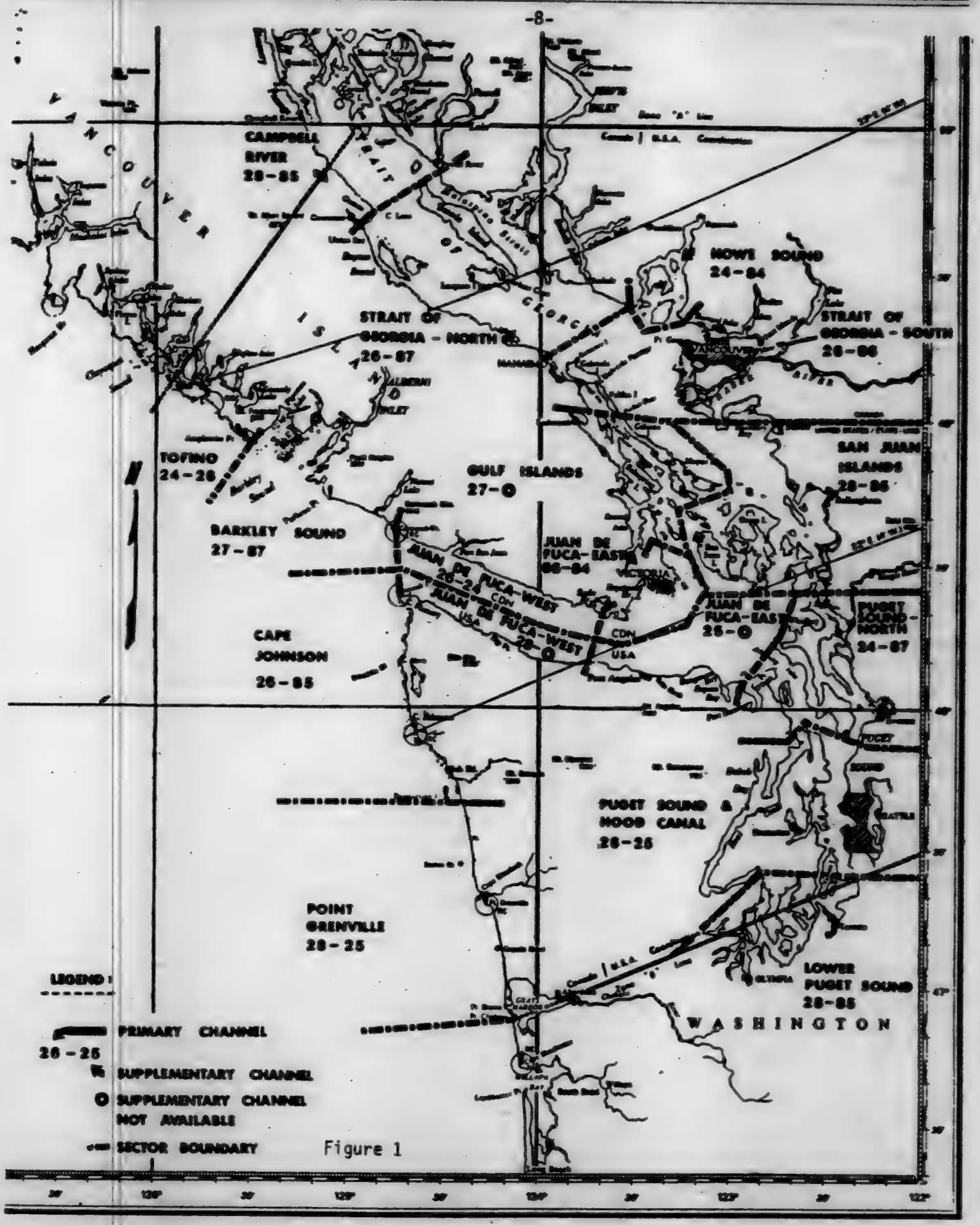

Figure 1

[FR Doc. 83-23631 Filed 8-26-83; 8:45 am]

BILLING CODE 6712-01-C

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

[Docket No. 30719-135]

Atlantic Billfishes and Sharks; Foreign Fishing

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NOAA issues this final rule to implement a portion of Amendment 2 to the Preliminary Fishery Management Plan for Atlantic Billfishes and Sharks. The regulations revise the treatment of prohibited species, and require foreign fishing vessels to stay out of broadcast fixed gear areas. The intended effects of this action are to make available additional billfishes and sharks for domestic fishermen and to reduce gear conflicts between U.S. and foreign fishermen.

EFFECTIVE DATE: September 28, 1983.

FOR FURTHER INFORMATION CONTACT: Donald J. Leedy, Fisheries Process Division, F/M11, National Marine Fisheries Service, Washington, D.C. 20235, Phone 202-634-7449.

SUPPLEMENTARY INFORMATION:

Background

The Assistant Administrator for Fisheries, NOAA, (Assistant Administrator) approved Amendment 2 to the Preliminary Fishery Management Plan for Atlantic Billfishes and Sharks (PMP) on July 7, 1982. The amendment was made available to the public on August 4, 1982 (47 FR 33722), and comments were requested on a proposed rule to implement it. The preamble to the proposed rule discussed the basis of this action. Comments were received for 15 days through August 19, on §§ 611.60 and 611.61(b) of the proposed regulations. Comments on the rest of the rule were received for 60 days, through October 4, 1982. Final rules for §§ 611.60 and 611.11(b), which close an area of the Atlantic north of Cape Lookout to certain foreign longline vessels from June 1 through November 30, were published at 47 FR 40438 (September 14, 1982) and were effective on September 24, 1982.

Comments

NOAA held 15 public hearings during the 60-day comment period and received numerous written comments. Two comments addressed the technical aspects of the revised treatment of prohibited species and requested clarification. No comments were received on the requirement that foreign longliners stay out of broadcast fixed gear areas. The majority of the comments on the proposed regulations addressed the compensatory payment system (CPS). Summaries of these comments are listed below.

A. The Federation of Japan Tuna Fisheries Cooperative Associations, the Japan Fisheries Association, and the Government of Japan provided written comments and representatives of the Japan Fisheries Association attended four public hearings. The major comments by those representing the Japanese fishing industry are summarized below.

1. The CPS is illegal because the Magnuson Fishery Conservation and Management Act (Magnuson Act) does not explicitly authorize it or prohibit incidental hooking and killing of billfishes.

2. The CPS is an attempt to impede the operation of Japanese tuna vessels to an extent that is equivalent to the exercise of U.S. management authority over the Japanese right to fish for tunas. Congress, in excluding tunas from U.S. exclusive authority, determined that the United States would have to endure some incidental catch and mortality of fishes associated with foreign fishing for tunas in the FCZ. The CPS is based on an implied claim of priority for U.S. fishermen, but such claim is superseded by the absolute right of foreign tuna fishermen.

3. The CPS does not allow a reasonable opportunity to fish for tunas. It imposes a great economic burden because incidental catch and mortality of a portion of that catch is a necessary consequence of longline tuna fishing. (The Japanese estimated the economic impact at 63 percent of the value of tuna catches, based on their 1980 catch data, or $1.5 million.)

4. The CPS is unnecessary because the Japanese incidental catch is inconsequential compared with the U.S. catch and the area closure (the seasonal closure north of Cape Lookout, North Carolina) has realized the PMP objective of reducing conflicts.

B. Summaries of the major U.S. comments on the CPS are listed below.

1. The Gulf of Mexico, Mid-Atlantic, and South Atlantic Fishery Management Councils indicated support for the CPS but stated the values of swordfishes and other billfishes were underestimated. The underestimates were attributed to: (1) Using exvessel value for swordfish, rather than wholesale and retail values; (2) using willingness to sell the right to harvest billfishes as the appropriate measurement of consumer surplus, rather than willingness to buy; and (3) overestimating the catch per angler in the billfish recreational fishing study that provided the data base for the CPS. Other commenters stated the values were understated because the cost of a recreational fishing trip often exceeds the $500 CPS value for a recreational billfish (e.g., white marlin).

2. Many commenters stated the proposed CPS values were underestimated because the swordfish value was based on the 1981 exvessel price and the value for billfishes other than swordfish was based on a 1979 survey and, therefore, did not reflect current values of these fishes to the United States.

Response—NOAA has considered all these comments and concluded that the CPS could provide an economic incentive for foreign tuna longline fishermen to reduce billfish hooking mortality at effort levels at or near levels of previous years. NOAA has concluded that a legal basis exists for implementing a CPS. However, voluntary means are preferred to achieve the objectives of the PMP. After considering the voluntary agreement by the Japanese fishing industry to refrain from fishing in the Gulf of Mexico and the overall reduction in fishing effort well below effort levels of 1982 and previous years, NOAA has concluded that implementation of the CPS is not necessary at this time.

C. Other comments.

Several commenters requested NOAA to develop a mechanism to close other areas of the fishery conservation zone to tuna longliners, if the need arises, and to revise procedures for releasing prohibited species.

Response—NOAA finds no immediate need to implement closures in other areas but recognizes that future conditions could necessitate such actions. The other closures approved in the amendment (i.e., Atlantic Area I, Tortugas, Gulf of Mexico) may be implemented in the future, by regulatory amendment or emergency action, based on the evidence of the need for an action and the timeliness of the closure.

Comments received on the proposed rule caused NOAA to clarify the procedures proposed in §611.61(c) to state that all billfish and all prohibited sharks must be released at the surface of the water. Section 611.61(g) has been adopted as proposed, but redesignated as §611.61(f).

Classification

The Assistant Administrator determined that the PMP Amendment 2 and this rule are necessary for the conservation and management of the fishery and that they are consistent with the Magnuson Act and other applicable law. The NOAA Administrator determined that this rule is not a "major rule" requiring a regulatory impact analysis under E.I. 12291.

The Assistant Administrator incorporated a regulatory flexibility analysis in the Amendment. It concludes that this action will have a significant impact on a substantial number of small entities. The PMP governs foreign nations fishing in the FCZ, but the domestic recreational industry and commercial billfish, tuna, tilefish, lobster and red crab fisheries will benefit through anticipated increased recreational fishing success and a reduction in the number of international gear conflicts. Although the CPS is not implemented by this action, the analysis contained in the RIR discusses in general terms and quantifies, where possible, the impacts of the CPS. U.S. fishermen and small businesses are not expected to incur any compliance or reporting burdens.

The Assistant Administrator prepared an environmental assessment for Amendment 2 and concluded that there will be no environmental impact as a result of this rule. You may obtain a copy of the environmental assessment from Mr. Leedy at the address listed above.

This rule does not contain a collection of information requirement for the purposes of the Paperwork Reduction Act.

List of Subjects in 50 CFR 611

Fish, Fisheries, Foreign relations, Reporting and recordkeeping requirements.

Dated: August 24, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

PART 611—FOREIGN FISHING

For the reasons set out in the preamble, 50 CFR Part 611 is amended as follows:

1. The authority citation for Part 611 is:

Authority: 16 U.S.C. 1801 *et seq.*, unless otherwise noted.

2. Section 611.61 is amended by revising § 611.61(c), and by adding to § 611.61 new paragraph (f) to read as follows:

§ 611.61 Atlantic billfishes and sharks fishery.

* * * * *

(c) *Prohibited species.* Unless otherwise specifically instructed by a U.S. observer or Authorized Officer, and instead of following the procedures of § 611.13(b):

(1) No species may be released below the surface of the water;

(2) All prohibited species must be released regardless of the condition of the fish; and

(3) All billfishes and all prohibited sharks must be released at the surface of the water by cutting the line without removing the fish from the water.

* * * * *

(f) *Fixed gear avoidance.* (1) No foreign fishing vessel subject to this section may conduct longline fishing in any fixed-gear area broadcast by the Coast Guard (see § 611.11 and paragraph (f)(2) of this section). Broadcasts of fixed-gear areas will include a buffer zone around the actual reported locations of the fixed gear.

(2) The locations (latitude and longitude) of fixed-gear areas north of Cape Hatteras are broadcast at 1350 G.m.t. on the first day of each month by Coast Guard Communication Station Boston (NMF) on 472 kHz radiotelegraphy. The list of areas is updated each day at 1350 G.m.t. All broadcasts are numbered sequentially by month, day, and year. A printed monthly summary of fixed-gear information is available from Commander (Aol), Coast Guard Atlantic Area, Governors Island, New York, NY 10004. Telephone 212–668–7877; Telex 126831.

[FR Doc. 83–23001 Filed 8–28–83; 8:45 am]
BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 48, No. 168
Monday, August 29, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 83-096]

9 CFR Part 3

Animal Welfare; Marine Mammals

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of comment period for proposed rule.

SUMMARY: This document extends the comment period for a proposal to amend the regulations concerning the humane handling, care, treatment, and transportation of marine mammals. This action is needed to allow industry representatives and other interested persons adequate time in which to prepare meaningful comments concerning the proposal.

DATE: Comments must be received on or before September 30, 1983.

ADDRESS: Written comments should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Written comments received may be inspected at Room 728 of the Federal Building, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. R. L. Crawford, Animal Care Staff, VS, APHIS, USDA, Room 763, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-7833.

SUPPLEMENTARY INFORMATION: On July 29, 1983, a document was published in the **Federal Register** (48 FR 34710-34721) which proposed to amend the "Specifications for the Humane Handling, Care, Treatment, and Transportation of Marine Mammals" regulations (contained in 9 CFR 3.100 *et seq.*). The amendments were proposed to update the regulations and to provide more appropriate requirements for the humane handling, care, treatment, and transportation of marine mammals.

The current regulations contain provisions for granting variances. A variance is written permission from the Deputy Administrator to operate as a license or registrant under the Act without being in full compliance with one or more specified provisions of the regulations. When the proposal was published all outstanding variances, other than for research facilities, were scheduled to expire on September 20, 1983. The proposal contained a mechanism which could allow these variances to continue under certain circumstances.

The proposal provided for a 30 day comment period which was to end on August 29, 1983. This would have allowed action to be taken prior to September 20 concerning whether to establish a mechanism to continue to allow variances.

Copies of the proposal were ordered and it was anticipated that they would be available in the first few days of August for mailing to industry representatives and persons known to be affected by the proposal. However, the copies only became available on August 16, 1983, and have now been mailed. It therefore appears that the comment period should be extended in order to allow these persons and all other interested persons adequate time to present meaningful comments concerning this proposal.

Under these circumstances, the comment period concerning the proposal is extended until September 30, 1983.

Also, a companion document titled "Animal Welfare, Marine Mammals" and published in the final rule section of this issue of the **Federal Register** extends variances granted under the regulations for other than research facilities until further action is taken by the Department.

Done at Washington, D.C., this 24th day of August, 1983.

K. R. Hook,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 83-23659 Filed 8-26-83; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 83-AWA-24]

Proposed Alteration of VOR Federal Airway

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to extend VOR Federal Airway V-91 from Calverton, NY, VORTAC to Sardi, NY, Intersection. The extension would provide a by-pass route to Long Island, NY, and Connecticut Airports. This action would aid flight planning and reduce controller workload.

DATES: Comments must be received on or before October 13, 1983.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Eastern Region, Attention: Manager, Air Traffic Division, Docket No. 83-AWA-24, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, NY 11430.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Air Traffic Rules Branch (AAT-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions

presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 83–AWA–24." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to extend VOR Federal Airway V–91 from Calverton, NY, to Sardi, NY, Intersection. This airway extension would provide controlled airspace along a major southbound route to airports in Long Island, NY, and Connecticut. This action would reduce controller workload by designating an airway in an area where aircraft are vectored and aid flight planning. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70–3A dated January 3, 1983.

List of Subjects in 14 CFR Part 71

VOR Federal airways, Aviation safety.

The Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

V–91 [Amended]

By deleting the words "From Calverton, NY, via" and substituting the words "From INT Calverton, NY, 180°T(193°M) and Hampton, NY, 233°T(236°M) radials; Calverton;"

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983)); and 14 CFR 11.65)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on August 19, 1983.

John W. Baier,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 83–23696 Filed 8–26–83; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Parts 71 and 75

[Airspace Docket No. 83–AAL–4]

Proposed Alteration of VOR Federal Airways and Jet Routes—Alaska

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposed to alter several VOR Federal Airways and a Jet Route in the vicinity of Anchorage, AK. The new Sparrevohn, AK, VORTAC will be commissioned in October of 1983. This action adds Sparrevohn to the description of V–319, V–508, V–498 and Jet Route J–501.

DATES: Comments must be received on or before October 13, 1983.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Alaskan Region, Attention: Manager, Air Traffic Division, Docket No. 83–AAL–4, Federal Aviation Administration, 701 C Street, Box 14, Anchorage, AK 99513.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Air Traffic Rules Branch (AAT–230), Airspace-Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8783.

SUPPLEMENTARY INFORMATION

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposals. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 83–AAL–4." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with

FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposals

The FAA is considering amendments to § 71.125 and 75.100 and Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) to alter the descriptions of V–319, V–508 and V–498, located in the vicinity of Anchorage, AK. Also, realign Jet Route J–501 between Anchorage and Bethel, AK, by adding the new Sparrevohn, AK, VORTAC. The Sparrevohn VORTAC will be commissioned in October 1983 and will be utilized in the descriptions of the routes where necessary. This action will enhance enroute navigation and air traffic control service in nonradar areas. Sections 71.125 and 75.100 of Parts 71 and 75 of the Federal Aviation Regulations were republished in Advisory Circular AC 70–3A dated January 3, 1983.

List of Subjects in 14 CFR Parts 71 and 75

VOR Federal airways, Jet routes.

The Proposed Amendments

PARTS 71 AND 75—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend §§ 71.125 and 75.100 of Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) as follows:

Section 71.125

V–319 [Amended]

By deleting the words "and Anchorage 130° radials." and substituting the words "and Anchorage 130° radials; Sparrevohn, AK; to Bethel, AK."

V–498 [Amended]

By deleting the words "From McGrath, AK," and substituting the words "From King Salmon, AK; via Sparrevohn, AK; McGrath, AK,"

V–508 [Amended]

By deleting the words", to Kenai, AK." and substituting the words"; Kenai, AK; Sparrevohn, AK; to Aniak, AK."

Section 75.100

J–501 [Amended]

By deleting the words "Sparrevohn, AK, NDB;" and substituting the words "Sparrevohn, AK;"

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983)); and 14 CFR 11.65)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendment are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on August 19, 1983.

John W. Baier,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 83-23099 Filed 8-26-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Parts 71 and 75

[Airspace Docket No. 83–AWA–23]

Proposed Alteration to VOR Federal Airways and Jet Routes State of Louisiana

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to realign segments of VOR Federal Airways V–114, V–212, V–245 and Jet Routes J–50 and J–58; and to establish new airways V–542 and V–544. This action is proposed due to the decommissioning of the Alexandria, LA, VORTAC and the upgrading of the Esler, LA, VOR.

DATES: Comments must be received on or before October 13, 1983.

ADDRESS: Send comments on the proposal in triplicate to: Director, FAA, Southwest Region, Attention: Manager, Air Traffic Division, Docket No. 83–AWA–23, P.O. Box 1689, Forth Worth, TX 76101.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Boyd V. Archer, Airpsace and Air Traffic Rules Branch (ATT–230), Airspace-Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposals. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Comments wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 83–AWA–23." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public

Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering amendments to § 71.123 and § 75.100 of Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) to realign segments of VOR Federal Airways V–114, V–212, V–245 and Jet Routes J–50 and J–58; and to establish new V–542 and V–544. The FAA is decommissioning the Alexandria, LA, VORTAC and simultaneously the Esler, LA, VOR will be upgraded with new solid state equipment, changed to a VORTAC, and will be commissioned. Sections 71.123 and 75.100 of Parts 71 and 75 of the Federal Aviation Regulations were republished in Advisory Circular AC 70–3A dated January 3, 1983.

List of Subjects in 14 CFR Parts 71 and 75

VOR Federal airways, Jet routes.

The Proposed Amendments

PARTS 71 AND 75—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 and § 75.100 of Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) as follows:

1. V–114 [Amended]

By deleting the words "; Alexandria, LA, including a north alternate from Gregg County to Alexandria via Shreveport, LA, and INT Shreveport 176° and Alexandria 302° radials; INT Baton Rouge, LA, 307° and Lafayette, LA, 042° radials; 7 miles wide (3 miles north and 4 miles south of centerline) Baton Rouge; New Orleans, LA including a north alternate from Alexandria to New Orleans via INT Alexandria 109° and New Orleans 312° radials, excluding the portion within R–3601B, R–3601C and R–3601D." and substituting the words "; via INT Gregg County 120° and Esler, LA, 289° radials; Esler; Baton Rouge, LA; to New Orleans, LA."

2. V–212 [Amended]

By deleting the words "; Alexandria, LA" and substituting the words ", via INT Lufkin 088° and Esler, LA, 253° radials; Esler" and also deleting ", including a north alternate via Natchez, MS."

3. V–245. [Amended]

By deleting the words "Alexandria, LA, via"

4. V–542 [New]

From Shreveport, LA; via INT Shreveport 166° and Esler, LA, 289° radials; Esler; via INT Esler 122° and New Orleans, LA, 310° radials; New Orleans.

5. V–544 [New]

From Esler, LA; via Natchez, MS; to McComb, MS.

6. J–50 [Amended]

By deleting the words "INT of the Lufkin 086° and the Alexandria, LA, 270° radials; Alexandria;"

7. J–58 [Amended]

By deleting the words "; Alexandria, LA; INT of the Alexandria 126° and the New Orleans, LA, 295° radials; New Orleans" and substituting the words "; Esler, LA; New Orleans, LA"

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983)); and 14 CFR 11.65)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on August 19, 1983.

John W. Baier,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 83–23687 Filed 8–26–83; 8:45 am]

BILLING CODE 4910–13–M

CIVIL AERONAUTICS BOARD

14 CFR Parts 316 and 385

[Procedural Regulation Docket 41660; PDR–84]

Collection of Claims Owed the United States and Delegations and Review of Action Under Delegation: Nonhearing Matters

Dated: August 24, 1983.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The CAB is proposing procedural rules to implement the Federal Claims Collection Act and the Debt Collection Act. Those statutes require the CAB to take action to collect debts owed the United States arising from activities under the CAB's jurisdiction. The rules state how the CAB will collect those debts and how it will charge interest and other charges for unpaid debts.

DATES: *Comments by:* September 28, 1983. Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

Requests to be put on Service List by: September 8, 1983

The Docket Section prepares the Service List and sends it to each person listed on it, who then serves comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 41660, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Joseph L. Kull, Comptroller, 202–673–5225, or Joseph A. Brooks, Office of the General Counsel, 202–673–5442, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUPPLEMENTARY INFORMATION: The Federal Claims Collection Act (Pub. L. 89–308) requires Federal agencies to take aggressive action to collect debts owed the United States. It also allows administrative offset of those debts against payments owned by the United States. The Debt Collection Act (Pub. L. 97–365) gives the agencies the tools to make their collection efforts effective, including the ability to charge interest and to impose penalty charges on upaid debts. The rules proposed in new Part 316 implement those acts, setting forth the procedures the Board will follow to collect debts arising from activities under its jurisdiction.

The Department of Justice and the General Accounting Office have issued regulations to implement the Federal Claims Collection Act for guidance of Federal agencies (4 CFR Parts 101–105). The Board's rules would follow that guidance and incorporate part of them by reference into its own procedures.

The rules in this Part would apply to all claims for debts owed to the United States arising from activities under the Board's jurisdiction. These debts can result from activities such as underpayment of fees by persons for Board services or overpayment of subsidy under the Board's essential air service program. The Debt Collection

Act as passed specifically included those types of debts in the definition of "claim."

In initiating claim recovery action, the Board would follow the Justice Department and General Accounting Office guidelines. Communications between the debtor and the Board would be in writing. Payment will normally be due 30 days from the date the notice of claim is mailed to the debtor (31 U.S.C. 3717(b)). If the debtor cannot make payment in full at that time, the Board must be told why, and how full payment will be made.

Under the Debt Collection Act, the Board is authorized to charge the debtor interest on debts unpaid for more than 30 days. Also, the Board is authorized to collect penalty charges for failure to pay a part of a debt more than 90 days past due and a charge to cover the costs of handling overdue claims payments. Interest is only calculated on the principal of the debt. The proposed rules follow these provisions.

Under certain circumstances under the statutes and GAO rules, the Board may waive interest payment and other charges. It is not authorized, however, to waive the principal of the debt. Under the proposed rules, the Board may consider waiving interest and those charges in three situations: (1) When the debtor is unable to pay, (2) when collection jeopardizes payment of the principal, or (3) when otherwise in the best interests of the United States, including, under such circumstances, where an offset or installment payment agreement is in effect.

Under the statutes, the Board is authorized to settle claims by compromise if the principal is under $20,000. The proposed rules follow GAO guidelines and the statutes. Under the proposed rules, there would thus be four circumstances under which those claims could be compromised: (1) The debtor clearly demonstrates an inability to pay within a reasonable time, (2) the Board will be unable to collect the debt in a reasonable time, (3) the collection costs are not justified by the amount of the claim, or (4) the Board's enforcement policy would be best served by compromise of the debt.

The Board is further proposing procedures supplementary to those in the Federal Claims Collection Act, as amended, for reporting unpaid debts to credit bureaus. The proposed procedures state that the Board will promptly tell the credit bureau of any substantial change in the claim. They also propose to require a statement by the credit bureau that it will comply with Federal statutes on consumer information. These procedural requirements were added by the Debt Collection Act.

The Board proposes to appoint its Comptroller as its Claims Collection Agent. The Comptroller would take necessary actions to collect aggressively all claims under this part. The Comptroller would be delegated authority under Part 385 to waive interest and other charges and to compromise claims under established policy of the Board. The Comptroller will send to the Board, for adoption, any items on which there is no clearly established policy or precedent on issues involving waiver or compromise. A delegated waiver or compromise would have to be made with the concurrence of the Board's General Counsel. Any claims action by the Comptroller involving carriers receiving subsidy would be in consultation with the appropriate Bureau or Office Head. All action under delegated authority may, of course, be appealed to the Board (14 CFR Part 385).

The Board believes that the procedures in proposed Part 316 would fulfill the Board's responsibilities under both Acts and will provide fair and equitable methods for collection.

List of Subjects in 14 CFR Parts 316 and 385

Administrative practice and procedure, Authority delegations (Government agencies), Claims, and Penalties.

Initial Regulatory Flexibility Analysis

The Regulatory Flexibility Act, Pub. L. 96-354, is designed to insure that agencies consider flexible approaches to the regulation of small businesses and other small entities defined in the Act. It requires a regulatory flexibility analysis for a rule that, if adopted, will have a "significant economic impact on a substantial number of small entities."

The analysis is required to describe the need, objectives and legal rationale for, and flexible alternatives to the action proposed here. The need, objectives and the legal rationale for this proposed rule are discussed in this notice of proposed rulemaking.

This proposed rule is designed to minimize the possible burden of debt collection on small carriers. It encourages the use of offset and installment payment agreements to allow small carriers to adjust their cash-flow to meet operational needs to preserve service. The rule, if adopted, would also allow the Board to waive interest, penalty fees, and collection charges, in certain situations. Those fees and charges often have a far greater impact on small carriers. The alternative, without these rules, would be to refer all unpaid debts to the General Accounting Office for litigation, which would increase the costs for both the carriers and the government. The rule would, however, facilitate increased and more aggressive debt collection for both large and small carriers.

Proposed Rule

Accordingly, the Civil Aeronautics Board proposes to amend 14 CFR Chapter II to add a new Part 316, *Collection of Claims Owed the United States*, and to amend 14 CFR Part 385, *Delegations and Review of Action Under Delegation; Nonhearing Matters*, as follows:

PART 316—COLLECTION OF CLAIMS OWED THE UNITED STATES

Sec.

316.1 Purpose.
316.2 Applicability.
316.3 Notice of claim.
316.4 Interest, penalty fees, and collection charges.
316.5 Collection by offset.
316.6 Settlement of claims.
316.7 Referral for litigation.
316.8 Disclosure to consumer reporting agency.
316.9 Board collection agent.

§ 316.1 Purpose.

This part implements the Federal Claims Collection Act, as amended by the Debt Collection Act and interpreted by the General Accounting Office and Department of Justice. It provides procedures under which the Board will collect claims owed to the United States arising from activities under the Board's jurisdiction. The part further sets forth the procedures for the Board to determine and collect interest and other charges on those claims under the Debt Collection Act and for referral of unpaid claims for litigation.

§ 316.2 Applicability.

The part applies to all claims due the United States under the Federal Claims Collection Act as amended by the Debt Collection Act, arising from activities under the jurisdiction of the Board, including amounts due the United States from fees, overpayments, fines, civil penalties, damages, interest, and other sources.

§ 316.3 Notice of claim.

(a) The Board will send a written notice to any person who owes payment to the United States under this part, stating the basis for the claim, the possible interest and penalty charges under this part for non-payment, additional consequences of non-

payment, and the date full payment is due. That payment will normally be due 30 days from the date notice under this part is mailed. The notice of claim will be sent return receipt requested.

(b) The debtor shall respond to the notice in writing and state whether and when full payment is to be made, and if the claim is disputed, the reasons for non-payment. If full payment is not made by the date asked in the notice, the debtor shall state the reasons for the inability to make full payment and how and when payments are to be made.

(c) If no response to the notice is received within 30 days of the date sent, the Board may take further action under this part or under 4 CFR Parts 101–105, and the Federal Claims Collection Act, as amended. These actions may include reports to credit bureaus, contracts with collection agencies, revocation of licensing or offset of Federal salary or other administrative offset, as authorized in 31 U.S.C. 3701–3719.

§ 316.4 Interest, penalty fees, and collection charges.

(a) The Board will assess interest on unpaid claims. The interest rate used by the Board is set by the Secretary of the Treasury. The Board will further charge penalty fees of not more than 6 percent per year of the unpaid claim for failure to pay a part of a debt more than 90 days past due. The Board will also impose collection charges to cover the costs of processing and handling overdue claims, based on the costs incurred.

(b) Interest on debts will be charged and will run from the date the notice of claim is mailed if the amount of the debt is not paid within 30 days from that date. The Board may extend the 30-day period when in the public interest. Interest will be calculated only on the principal of the debt. The rate of interest charged is the rate in effect on the date from which interest begins to run. The rate will remain fixed for the duration of the indebtedness.

(c) The Board may waive interest, collection charges or penalty fees if it finds that:

(1) The debtor is unable to pay any significant sum within a reasonable period of time;

(2) Collection of interest or charges jeopardizes collection of the principal of the claim; or

(3) It is otherwise in the best interests of the United States, including, under such circumstances, where an offset or installment payment agreement is in effect.

§ 316.5 Collection by offset.

(a) Whenever feasible, the Board will collect claims under this Part by means of administrative offset against obligations of the United States to the debtor. Collection by Federal salary will be under the procedures in 4 CFR Part 102.

(b) The Board will notify the debtor in writing of its intent to use offset procedures to collect the debt unless the debtor agrees to repayment. The Board will ask other Federal agencies to help in the offset whenever possible. The notice to the debtor shall also include the type and amount of the claim and an explanation of the debtor's rights for records and review under 31 U.S.C. 3716(a).

§ 316.6 Settlement of claims.

(a) The Board may not waive the principal of any debt owed the United States.

(b) The Board may settle claims not exceeding $20,000 by compromise at less than the principal of the claim if—

(1) The debtor shows an inability to pay the full amount within a reasonable time;

(2) The Government would be unable to enforce collection in full through litigation or administrative means within a reasonable time;

(3) The cost of collecting the full amount is not justified by the amount of the claim; or

(4) With respect to enforcement debts, the Board's enforcement policy would be served by settlement of the claim for less than the full amount.

§ 316.7 Referral for litigation.

Claims that cannot be settled under § 316.6 or for which collection action cannot be ended or suspended under 4 CFR Parts 103 and 104 will be referred to the General Accounting Office for litigation.

§ 316.8 Disclosure to consumer reporting agency.

The Board may disclose delinquent debts to consumer reporting agencies under the Federal Claim Collection Act, as amended. If, after a report has been made under this section, the status or amount of the claim substantially changes, the Board will notify the reporting agency in writing within 15 days of the change. Any request for verification of information will be given to the reporting agency by the Board within 30 days of receipt of the request. Before disclosure to a reporting agency, the Board will obtain in writing a statement by the agency that it will comply with the Fair Credit Reporting Act and other applicable Federal statutes.

§ 316.9 Board claims agent.

(a) The Board's Comptroller is the Claims Collection Agent for all claims under this part. The Comptroller will take action as delegated under Part 385 of this chapter to carry this part and the requirements of 4 CFR Parts 101–105.

(b) All action for the collection of claims under this part will be the responsibility of the Comptroller. All Board bureaus and offices shall send documents supporting claims under this part to the Comptroller for action. Delegated waivers or compromise under this part shall be with the concurrence of the General Counsel. Any action taken by the Comptroller under this Part involving air carriers receiving subsidy will be in consultation with the appropriate Bureau or Office director(s).

PART 385—DELEGATIONS AND REVIEW OF ACTION UNDER DELEGATION; NONHEARING MATTERS

A new paragraph (h) would be added to § 385.27 to read:

§385.27 Delegation to the Comptroller.

* * * * *

(g) Send notices of claim and other communications to a debtor under Part 316, and to impose and to waive interest and other charges and to settle claims by compromise with the concurrence of those Board officials specified in § 316.9(b) of this chapter, in accordance with Board policy and precedent.

(Sec. 102, 204, 401, 402, 403, 407, 416, Pub. L. 85–726, as amended, 72 Stat. 740, 754, 757, 758, 766, 771; 49 U.S.C. 1302, 1324, 1371, 1372, 1373, 1377, 1386. Reoganization Plan No. 3 of 1961, 26 FR 5989. Secs. 3 and 5, Pub. L. 89–306, as amended, 69 Stat. 308, 96 Stat. 1754–1758, 31 U.S.C. 3701–3719)

By the Civil Aeronautics Board:

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-23708 Filed 8-26-83; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD3-83-46]

Regatta; Chrysler Laser Classic 200, New York Harbor, NY

AGENCY: Coast Guard, DOT.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: The Chrysler Laser Classic 200 Power Boat Race sponsored by the New York Offshore Powerboat Association will be held within New York Harbor and adjacent coastal waters on September 24, 1983. The Coast Guard is considering the issuance of a regulation to provide for the safety of participants and spectators on navigable waters during the event.

DATES: Comments must be received on or before September 7, 1983.

ADDRESSES: Comments should be mailed to Commander (b), Third Coast Guard District, Governors Island, New York, NY 10004. The comments will be available for inspection and copying at the Boating Safety Office, Building 110, Governors Island, New York, NY. Normal office hours are between 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this office.

FOR FURTHER INFORMATION CONTACT: LTJG D.R. Cilley, (212) 668–7974.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD3–83–46) and give reasons for each comment. Receipt of comments will be acknowledged if a stamped, self-addressed postcard or envelope is enclosed. All comments received before the expiration of the comment period will be considered before action is taken on this proposal.

Drafting Information

The drafters of this advance notice are LTJG D.R. Cilley, Project Officer, Boating Safety Office, and Ms. MaryAnn Arisman, Project Attorney, Third Coast Guard District Legal Office.

Discussion of Proposed Regulations

The Chrysler Laser Classic 200 is sponsored by the New York Offshore Powerboat Association. This power boat race will be held within New York Harbor and adjacent coastal waters. The event is scheduled to start at 11:00 a.m. and run until 2:00 p.m. Proceeds from this American Powerboat Association sanctioned race are to go to the Statue of Liberty/Ellis Island Restoration Project. Nearly 60 power boats in 5 classes will race around a course designed to give the residents of each of the New York City boroughs a spectacular view of power boat racing. The course will take racers from the lower Hudson River out of New York Harbor under the Verrazano Narrows Bridge, keeping to the west of Ambrose Channel. The course will then run to the vicinity of Romer Shoal and then head out Swash Channel on an offshore leg to Ambrose Light. The power boats will return along the same route back into the harbor, through Buttermilk Channel up into the East River. At Hell's Gate the racers will round Mill Rock and proceed back down the East River. The power boats will pass back through Buttermilk Channel, around Governors Island and back to the finish line in the lower Hudson River. Some of the power boats will make several laps of this course, while others will make shorter loops by not taking the offshore legs. The Coast Guard plans to set up a network of safety patrol vessels using boats provided by the sponsor, local authorities and Coast Guard resources. A large spectator fleet is expected despite the late date of the event. Several areas within New York Harbor and in the vicinity of Sandy Hook may be designated spectator areas for boaters desiring to view the races. In order to provide for the safety of life and property the Coast Guard plans to restrict recreational vessel movement in the vicinity of the race course within New York Harbor and out to the vicinity of Sandy Hook. The East River and Buttermilk Channel will be closed to all recreational boat traffic for the duration of the event.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

(46 U.S.C. 454; 49 U.S.C. 1655(b); 49 CFR 1.46(b) and 33 CFR 100.35)

Date: August 19, 1983.

W. E. Caldwell,

Vice Admiral, U.S. Coast Guard, Commander, Third Coast Guard District.

[FR Doc. 83–23605 Filed 8–26–83; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[NE 1122; A–7–FRL 2423–4]

Approval and Promulgation of Implementation Plans; Nebraska Lead Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: As required by Section 110 of the Clean Air Act and the October 5, 1978 (43 FR 46246), promulgation of national ambient air quality standards (NAAQS) for lead, the State of Nebraska has submitted a State Implementation Plan (SIP) for lead. This action proposes approval of the lead SIP for all areas of the State except Omaha. This area will be addressed in a future rulemaking.

DATES: Interested persons are invited to submit comments on this proposed action on or before September 28, 1983.

ADDRESSES: Copies of the submission and technical support material which explain EPA's actions are available for review at the following address:

Environmental Protection Agency, Region VII, Air Branch, Room 1415, 324 East 11th Street, Kansas City, Missouri 64106

Department of Environmental Control, 301 Centennial Mall, Lincoln, Nebraska 68509

Written comments should be sent to: Dewayne E. Durst, Environmental Protection Agency, Region VII, Air Branch, 324 East 11th Street, Kansas City, Missouri 64106

FOR FURTHER INFORMATION CONTACT: Dewayne E. Durst at the above address or call (816) 374–3791, FTS: 758–3791.

SUPPLEMENTARY INFORMATION:

I. Background

On October 5, 1978, the NAAQS for lead was promulgated by EPA (43 FR 46246). Both the primary and secondary standards were set at a level of 1.5 micrograms per cubic meter of air (ug/m^3) averaged over a calendar quarter. As required by Section 110 of the Clean Air Act (CAA), and the October 5, 1978, promulgation of Lead SIP requirements (43 FR 46264), all States must submit a SIP which will provide attainment and maintenance of the lead NAAQS. Nebraska has developed and submitted such a SIP.

The general requirements for a SIP are outlined in Section 110 of the Clean Air Act (CAA), and in EPA regulations at 40 CFR Part 51, Subpart B. Specific requirements for developing a lead SIP are outlined in 40 CFR Part 51, Subpart E. These provisions require the submission of air quality data, emission data, air quality modeling, control strategies for each are exceeding the NAAQS, a demonstration that the NAAQS will be attained within the time frame specified by the CAA, and provisions for maintenance of the NAAQS by reviewing new or modified lead sources. EPA has evaluated Nebraska's plan by comparing it to the requirements for an approvable SIP, as set forth in the above mentioned regulations.

II. Description of the Nebraska SIP

On January 9, 1981, the Governor of Nebraska submitted to EPA, the State's

SIP for attainment and maintenance of the NAAQS for lead. A hearing was held on this SIP submission on September 19, 1980. Additional information was submitted by the state on August 5, 1981 and January 11, 1983. Air monitoring data was available for Scottsbluff, Omaha, and Lincoln. Only the data for Omaha showed violations of the standard. The monitoring stations where violations of the standard were recorded are located near two point sources of lead in Omaha, the ASARCO lead refinery and the Gould secondary lead smelter. These violations were recorded in 1978, 1979, 1980 and, at one station, in the first quarter of 1981. Since that time, no quarterly violations of the lead standard have occurred at either of these two stations.

The SIP contained a summary of the statewide inventory of lead emissions. Only the two point sources identified above have lead emissions of greater than five tons per year. There are no other significant lead point sources identified in the state. A mobile source inventory was included for the area where violations of the standard occurred.

The SIP did not contain new source review procedures which meet the requirements of 40 CFR 51.18 for new or modified sources with the potential to emit more than five tons of lead per year. Subsequent to the SIP submittal, a regulation which was designed to meet this requirement was prepared, adopted after public hearing, and submitted to EPA.

The SIP contained dispersion modeling for the area in Omaha where violations of the standard had been measured. The modeling indicated that mobile source contributions are small. The two point sources in the area, ASARCO and Gould, were identified as the major cause of the high levels of lead. The SIP contained a compliance schedule for installation of additional controls at the ASARCO refinery which were designed primarily to reduce process fugitive emissions from the plant. These controls included improved local ventilation hooding over a number of processes with associated additions to the air handling and emission control equipment. The reduction in fugitive emissions resulting from these control measures was estimated to be 40%. The state determined that with the above controls added, the control at the plant would represent reasonably available control technology.

The final compliance date contained in the schedule has now passed and the controls have been installed at the ASARCO plant. The SIP also contained a program of interim measures which would be taken to reduce fugitive emissions at the Gould smelter. However, the control strategy prepared by the state assumed zero emissions from the Gould plant because permanent plant closure was contemplated. The plant is presently not operating, but permanent plant closure is not ensured because sale of the plant and land has not been accomplished nor has the plant been razed.

Even with the controls installed on ASARCO and the emissions from Gould reduced to zero, modeling results in the SIP predicted exceedances of the lead standard. Based upon comments from EPA, the state revised the original emission estimates from both and performed another modeling run for the area. Without assuming unrealistically high capture efficiencies for process fugitive emissions from the plant, the state's results still predicted exceedances of the standard.

Because the SIP did not predict attainment of the lead standard in Omaha by a specific date, the state requested a two year extension for that area. The basis for the request was lack of control technology to provide sufficient control to meet the standard and the fact that all available interim control measures were being applied at ASARCO.

III. Results of EPA Review

Based upon a review of the Nebraska lead SIP submission and additional information submitted by the Nebraska Department of Environmental Control, EPA proposes to approve the lead SIP, except as it pertains to Omaha. Specifically, Nebraska regulations 3 and 4 of the State Pollution Control Rules and Regulations provide for review of new or modified lead sources with greater than 5 tons of lead emissions per year. The state has the authority to prevent construction or modification of such sources if they would cause a violation of the applicable control strategy or interfere with maintenance of the National Ambient Air Quality Standard for lead. Also, Federal regulations pertaining to lead phasedown in gasoline will contribute to continued maintenance of the lead standard in areas of the state not affected by lead point sources. Thus, EPA is proposing to approve Nebraska regulations 3 and 4 as they pertain to review of lead sources.

Because there were measured violations of the lead standard in Omaha since 1974, lead monitoring is required in that area. EPA has already approved Nebraska's monitoring SIP (46 FR 49122, October 6, 1981). A lead monitoring network has been established in Omaha which is consistent with that plan. Lead monitoring is conducted in Omaha by the Omaha-Douglas County Health Department. A description of the monitoring network may be inspected at the Health Department offices located at the Omaha-Douglas Civic Center, Room 705, 1819 Farnam Street, Omaha, Nebraska 68183.

Because there were no measured violations in any portion of the state except Omaha, and because there are no point sources except in Omaha, the control strategy for all portions of the state, except Omaha, is acceptable.

In a letter dated January 11, 1983, the State of Nebraska submitted a schedule to reevaluate the control strategy for Omaha using contractual assistance. A final report is to be submitted by September 1, 1983. If the reevaluation shows that the lead standard is not expected to be exceeded, the state is committed to submit a SIP for the area by October 15, 1983. If the reevaluation shows that the standard is exceeded, a second phase of the contract will be awarded to develop a control strategy for the Omaha area. In this case, the state will submit the SIP for Omaha by March 15, 1984.[1] Because the above schedule relates to the control strategy for Omaha, and this proposal does not cover the lead SIP as it relates to Omaha, EPA is not proposing a finding concerning the approvability of the schedule.

The Nebraska lead SIP lists an attainment date of October 31, 1982. The Governor also requested a two year extension of the attainment date for the Omaha area until October 31, 1984. Since all areas of the State are presently in attainment, with the possible exception of Omaha, EPA agrees with the October 31, 1982 date since that date is as expeditious as practicable for areas of the state which are clearly in attainment. For the Omaha area, the control strategy will be reevaluated and a SIP revision developed. Until the Omaha control strategy is reassessed, EPA cannot determine whether the

[1] Since Nebraska submitted their schedule to EPA for reevaluating the lead SIP for the Omaha area, the U.S. District Court for the District of Columbia has approved an Agreement signed by EPA and the Natural Resources Defense Council, Inc., in settlement of litigation concerning promulgation of lead implementation plans under the Clean Air Act. *NRDC* v. *Ruckelshaus*, No. 82-2137 (D.D.C.). The Agreement establishes specific deadlines for completion of lead SIPs and requires EPA to promulgate Federal plans for states that do not submit them in accordance with the schedule in the Agreement. Under the Agreement, EPA would need to receive the necessary SIP revision for Omaha in time to propose approval of that portion of Nebraska's lead SIP by January 3, 1984.

extension request is justified.[2] Therefore, EPA cannot approve the extension request at this time.

EPA's action: EPA has evaluated the Nebraska lead SIP and determined that, with the exception of the control strategy for the Omaha area, it meets the requirements of Section 110(a) of the CAA and 40 CFR Part 51, Subparts B and E. EPA believes the SIP is adequate to attain and maintain the NAAQS for lead and is therefore proposing approval of the plan, except for the control strategy for Omaha. That portion of the plan will be acted on by EPA in future rulemaking.

The Regional Administrator hereby issues this notice setting forth EPA's proposed approval, with exceptions, of the Nebraska lead SIP and advises the public that interested persons may participate by submitting written comments to the Region VII Office. Comments received on or before the date listed in the DATES section will be considered. Comments received will be available for public inspection at the EPA Region VII Office and at the locations listed in the **ADDRESS** section of this notice.

The Administrator's final decision to approve or disapprove the Nebraska lead SIP will be based on the comments received and on a determination whether the SIP meets the requirements of Section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Subpart B and E and Part 58.

Under Executive Order 12291, today's action is not "Major." It has been submitted to the Office of Management and Budget (OMB) for review. Any comments from OMB to EPA and any response are available for public inspection at the EPA Region VII office.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities (See 46 FR 8709).

This notice of proposed rulemaking is issued under the authority of Section 110(a) of the Clean Air Act, 42 U.S.C. 7410(a).

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen oxides, Lead, Particulate matter, Carbon monoxide, and Hydrocarbons.

Dated: June 20, 1983.

Morris Kay,

Regional Administrator.

[FR Doc. 83-23679 Filed 8-26-83; 8:45 am]

BILLING CODE 6560-50-M

[2] Under section 110(e), EPA may extend the attainment date a mixmum of two years, if among other findings, it determines that technology is not available to attain the standard within the prescribed time. EPA cannot make such a finding without further information on the adequacy of the control strategy for Omaha. This information will be submitted by the State of Nebraska when they submit the revised SIP for Omaha.

LEGAL SERVICES CORPORATION

45 CFR Part 1611

Eligibility

AGENCY: Legal Services Corporation.

ACTION: Proposed rule.

SUMMARY: This proposed rule revises the Corporation's regulations governing determination of eligibility for legal services. This revision is needed to clarify the rule, strengthen enforcement procedures, and better focus resources on those in need of legal assistance. This proposed rule sets out more specific and detailed financial eligibility standards, provides for better documentation and verification of eligibility, and slightly narrows the categories of persons and organizations eligible.

DATES: Comments must be received on or before September 28, 1983.

ADDRESS: Comments may be submitted to Office of General Counsel, Legal Services Corporation, 733 Fifteenth Street, N.W., Room 620, Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT: John C. Meyer, Deputy General Counsel, (202) 272-4010.

SUPPLEMENTARY INFORMATION:

General

This regulation has given rise to repeated issues of interpretation, particularly in the areas of allowable group representation and whether the criteria other than income in § 1611.5 should operate to deny representation to persons within the income limits, as well as to allow representation of persons above the income limits. Furthermore, when complaints as to eligibility have been received, the Corporation has often had difficulty in obtaining the necessary information on which to make a determination. Finally, the lack of increase in Corporation appropriations has prompted a reexamination of eligibility criteria so as to focus resources on those in most need. The significant revisions prompted by these considerations are discussed below.

Income Limitations

The basic income limits remain the same. Two changes are proposed in the exceptions to these income limits in Sec. 1611.4. The first is to set an absolute ceiling of 150% of the maximum income level set by the local program. Irrespective of any of the other factors, such as debts or medical expenses, set forth in § 1611.5, no client may be served if that client's income level exceeds this limit. It is to be noted that local programs may set maximum income levels up to 125% of the Federal Poverty Income Guidelines, so the ceiling can be as high as 187.5% of the Federal Poverty Income Guidelines. Although a few people with higher incomes might reasonably be considered to have some legal need, based on unusual circumstances, none of them would be likely to have need comparable to that of an ordinary poverty income client. Consequently, this absolute ceiling will not work injustice and will serve as a safeguard against expenditure of funds for representation of persons who are not defined as poor.

A second change in the income criteria is the elimination of § 1611.4(c) which allows benefits received from a governmental income maintenance program to be disregarded in computing client income. As the purchasing power of dollars is the same whether derived from a government check or a paycheck, there is no apparent justification for this exception. All factors, such as age, which may be used by the government in granting such income maintenance are also available to the local program under § 1611.5 in deciding whether a client is eligible. Indeed, since the income considered is gross income, a person receiving governmental income maintenance payments may have more disposable income than one receiving income solely from employment and paying, at a minimum, social security taxes.

Criteria Other Than Income

These criteria are lumped together in one list in § 1611.5 of the current regulation. The proposed regulation splits them into two groups. Section 1611.5(b)(1) sets out factors which may be used in justifying serving persons over the recipient's maximum income level. Section 1611.5(b)(2) sets out factors which shall be considered in denying assistance to persons under the recipient's maximum income level. This division was implicit in the current list, as some factors, such as medical expenses, clearly could only favor eligibility, while other factors, such as

the existence of assets, could only disfavor eligibility. Some factors, such as current income prospects, could either favor or disfavor eligibility and are, consequently, found in both of the proposed sections.

The favorable factors "may" be considered, while the unfavorable factors "shall" be considered. This difference in terminology serves to allow a program whose resources are very scarce to use its maximum income level as a bar to eligibility without going through a futile process of considering additional factors when its resources are already committed to serving those who are clearly income-eligible. The use of "shall" with the unfavorable factors requires that inquiry be made as to those of the listed factors that might be relevant to the particular applicant.

There have been two substantive changes made in these factors. The first is that only unpaid taxes from prior years may be considered under the proposed regulation. This change is consistent with previous General Counsel's opinions confirming the general concept that gross income is the eligibility criterion. Prior year unpaid taxes are a special circumstance and are in addition to any current taxes. Furthermore, unpaid taxes are usually an indicator of financial distress.

The second change is that all assets above a "maximum allowable amount", and not just liquid net assets, are counted under the proposed rule.

Assets

A new § 1611.6 is added setting forth detailed rules for the computation of assets. In summary, it allows $1,500 of assets per household ($3,000 if a household member is age 60 or over) to be disregarded. The net value of any assets above this maximum allowable amount must be considered by the program in determining eligibility. Certain assets are exempted in determining the maximum allowable amount. The most important exceptions are equity up to $15,000 in a house, $4,500 in vehicles, $30,000 in farmland used to produce income, and $10,000 in work-related equipment is excluded. Household goods, personal effects, and the cash value of life insurance policies and pension funds (except Keough plans and IRA's) also are excluded. Certain governmental payments including home restoration and disaster loans and grants are excluded as are Indian lands held jointly with the tribe. Finally, trust funds and/or income are excluded if not available to the household under detailed criteria set forth in the regulation.

Group Representation

The present regulation, § 1611.5(c), allows representation of a group if it is either composed primarily of eligible clients or if it has as its primary purpose furtherance of the interests of eligible clients and provides information showing that it lacks the funds to obtain private legal counsel. The proposed regulation requires that a group be composed primarily of eligible clients and provide information showing that it lacks the funds to obtain private counsel.

There are two changes made in the porposed regulation. First, all groups must establish a lack of funds, since even a group composed primarily of eligible clients may have some rich members or may have significant sources of funds other than from its membership. Secondly, the regulation abolishes the category of groups whose primary purpose is furtherance of the interests of eligible clients. There are two interrelated reasons for this change. The first reason is that "furtherance of the interests of eligible clients" is a nebulous standard; the second is that representation of individual eligible clients is the purpose of the Corporation. This purpose can arguably be served by representing groups primarily composed of eligible clients because, presumably, these eligible clients will control the group. To extend this logic to groups not primarily composed of eligible clients is, at best, to allow someone else to use these resources for the benefit of eligible clients, rather than allowing the eligible clients to use these resources for their own benefit.

Disclosure of Financial Eligibility Information

The proposed regulation adds to § 1611.7(c) (formerly § 1611.6(c)) a provision for disclosure of financial eligibility information to the Corporation under carefully limited circumstances. The proposed regulation provides that the Corporation may obtain such information only when allegations questioning the eligibility of a previously identified client have been made. The Corporation may seek only information relating to the financial eligibility of that particular client and this information must be necessary to confirm or deny specific allegations as to the financial eligibility of that client and the recipient program's representation of that client. Information shall be denied to the Corporation if it is protected by the attorney-client privilege.

The recipient is required to notify the client before providing the information to the Corporation, thus allowing the client to seek legal redress if in the client's opinion the information is privileged. Finally, the regulation prohibits disclosure of this information outside the Corporation.

Retainer Agreement

A new § 1611.8 has been added requiring that the recipient program execute a written retainer agreement with each client in a form approved by the Corporation. This is normal practice with many recipients and nearly all private law firms. As a matter of good legal practice and to protect both clients and recipients, it should be made universal practice as is proposed herein.

"Brief advice and consultation" is exempted from this requirement. This would include most telephone contacts, unless an action is commenced or continuing services are provided. As a general guideline matters requiring not more than an hour of staff time which are concluded in a day may be included in this category.

List of Subjects in 45 CFR Part 1611

Eligibility, Legal services.

For the reasons set out above, 45 CFR Part 1611 is proposed to be amended by revising §§ 1611.1 through 1611.9 as follows:

PART 1611—ELIGIBILITY

Sec.

1611.1 Purpose.
1611.2 Definitions.
1611.3 Maximum income level.
1611.4 Authorized exceptions.
1611.5 Determination of eligibility.
1611.6 Maximum allowable assets.
1611.7 Manner of determining eligibility.
1611.8 Retainer agreement.
1611.9 Change in circumstances.
Appendix A—Legal Services Corporation Poverty Guidelines

Authority: Section 1007(a)(2); 42 U.S.C. 2996(a)(2).

§ 1611.1. Purpose.

This part is designed to ensure that a recipient will determine eligibility according to criteria that give preference to the legal needs fo those least able to obtain legal assistance, and afford sufficient latitude for a recipient to consider local circumstances and its own resource limitations. The part also seeks to ensure that eligibility is determined in a manner conducive to development of an effective attorney-client relationship.

§ 1611.2 Definitions.

"Governmental income maintenance program" means aid for dependent children, supplemental security income, unemployment compensation and a

State or county general assistance or home relief program.

"Governmental program for the poor" means any Federal, State or local program that provides benefits of any kind to persons whose eligibility is determined on the basis of financial need.

"Income" means actual current annual total cash receipts before taxes of all persons who are resident members of, and contribute to, the support of a family unit.

"Total cash receipts" include money wages and salaries before any deduction, but do not include food or rent in lieu of wages; income from self-employment after deductions for business or farm expenses; regular payments from public assistance; social security; unemployment and worker's compensation; strike benefits from union funds; veterans benefits; training stipends; alimony, child support and military family allotments or other regular support from an absent family member or someone not living in the household; public or private employee pensions, and regular insurance or annuity payments; and income from dividends, interest, rents, royalties or from estates and trusts. They do not include money withdrawn from a bank, tax refunds, gifts, compensation and/or one-time insurance payments for injuries sustained, and non-cash benefits.

§ 1611.3 Maximum income level.

(a) Every recipient shall establish a maximum annual income level for persons to be eligible to receive legal assistance under the Act.

(b) Unless specifically authorized by the Corporation, a recipient shall not establish a maximum annual income level that exceeds one hundred and twenty-five percent (125 percent) of the current official Federal Poverty Income Guidelines. The maximum annual income levels are set forth in Appendix A.

(c) Before establishing its maximum income level, a recipient shall consider relevant factors including:

(1) Cost-of-living in the locality;

(2) The number of clients who can be served by the resources of the recipient;

(3) The population who would be eligible at and below alternative income levels; and

(4) The availability and cost of legal services provided by the private bar in the area.

(d) Unless authorized by Section 1611.4, no person whose income exceeds the maximum annual income level established by a recipient shall be eligible for legal assistance under the Art.

(e) This part does not prohibit a recipient from providing legal assistance to a client whose annual income exceeds the maximum income level established here, if the assistance provided the client is supported by funds from a source other than the Corporation.

§ 1611.4 Authorized exceptions.

A person whose gross income exceeds the maximum income level established by a recipient but does not exceed 150 percent of that level may be provided legal assistance under the Act if:

(a) The person's circumstances require that eligibility should be allowed on the basis of one or more of the factors set forth in § 1611.5(b)(1); or

(b) The person is seeking legal assistance to secure benefits provided by a governmental program for the poor.

§ 1611.5. Determination of eligibility.

(a) The governing body of a recipient shall adopt guidelines, consistent with these regulations, for determining the eligibility of persons seeking legal assistance under the Act. At least once a year, guidelines shall be reviewed and appropriate adjustments made.

(b) In addition to gross income, a recipient shall consider the other relevant factors listed in paragraphs (b)(1) and (b)(2) of this section before determining whether a person is eligible to receive legal assistance.

(1) Factors which may be used to justify serving clients over the maximum income level shall include:

(A) Current income prospects, taking into account seasonal variations in income;

(B) Medical expenses;

(C) Fixed debts and obligations, including unpaid Federal, state and local taxes from prior years;

(D) Child care, transportation, and other expenses necessary for employment;

(E) Expenses associated with age or physical infirmity of resident family members; and

(F) Other significant factors related to financial inability to afford legal assistance.

(2) Factors which shall be considered in denying assistance to an otherwise eligible individual shall include:

(A) Current income prospects, taking into account seasonal variations in income;

(B) The availability of private legal representation at a low cost with respect to the particular matter in which assistance is sought;

(C) The consequences for the individual if legal assistance is denied;

(D) The existence of assets, including both liquid and nonliquid, which exceed the maximum amount allowable set forth in § 1611.6;

(E) Other factors related to financial inability to afford legal assistance, which may include evidence of a prior administrative or judicial determination that the person's present lack of income results from refusal or unwillingness, without good cause, to seek or accept suitable employment; and

(c) A recipient may provide legal assistance to a group, corporation, or association if it is primarily composed of persons eligible for legal assistance under the Act and if it provides information showing that it lacks, and has no practical means of obtaining, funds to retain private counsel.

§ 1611.6 Maximum allowable assets.

The maximum allowable assets, including both liquid and nonliquid assets, of all members of the applicant's household shall not exceed $1,500 for the household, except that, for households of two or more members including a member or members age 60 or over, such assets shall not exceed $3,000.

(a) In determining the assets of a household, the following shall be included and documented by the recipient in sufficient detail to permit verification;

(1) Liquid assets, such as cash on hand, money in checking or savings accounts, savings certificates, stocks or bonds, lump sum payments, funds held in individual retirement accounts (IRA's) and funds held in Keogh plans which do not involve the household member in a contractual relationship with individuals who are not household members. In counting assets of households with IRA's or includable Keogh plans, the recipient shall include the total cash value of the account or plan minus the amount of the penalty (if any) that would be exacted for the early withdrawal of the entire amount in the account or plan; and

(2) Nonliquid assets, personal property, licensed and unlicensed vehicles, buildings, land, recreational properties, and any other property, provided that these assets are not specifically excluded under paragraph (c) of this section. The value of nonexempt assets shall be their equity value. The equity value is the fair market value less encumbrances.

(b) Assets owned jointly by separate households shall be considered available in their entirety to each

household, unless it can be demonstrated by the applicant household that such resources are inaccessible to that household. If the household can demonstrate that it has access to only a portion of the asset, the value of that portion of the asset shall be counted toward the household's asset level. The asset shall be considered totally inaccessible to the household if the asset cannot practically be subdivided and the household's access to the value of the asset is dependent on the agreement of a joint owner who refuses to comply. For the purpose of this provision, ineligible aliens or ineligible individuals residing with the household shall be considered household members. Assets shall be considered inaccessible to persons residing in shelters for battered women and children, if

(1) The assets are jointly owned by such persons and by members of their former household; and

(2) The shelter resident's access to the value of the assets is dependent on the agreement of a joint owner who still resided in the former household.

(c) In determining the assets of a household, only the following shall be excluded:

(1) Equity not to exceed $15,000, in a home and surrounding property which is not separated from the home by intervening property owned by others. Public rights of way, such as roads which run through the surrounding property and separate it from the home, shall not affect the exemption of the property. The home and surrounding property shall remain exempt when temporarily unoccupied for reasons of employment, training for future employment, illness, or uninhabitability caused by casualty or natural disaster, if the household intends to return. Households that currently do not own a home, but are purchasing a lot on which they intend to build or are building a permanent home, shall receive an exclusion for the value of the lot and, if it is partially completed, for the home not to exceed an equity value of $15,000.

(2) Household goods, personal effects, including one burial plot per household member, and the cash value of life insurance policies. The cash value of pension plans or funds shall be excluded, except that Keogh plans which involve no contractual relationship with individuals who are not household members and individual retirement accounts (IRA's) shall not be excluded under this paragraph.

(3) One or more licensed vehicles with a total equity value not exceeding $4,500. The exclusion also includes an unlicensed vehicle on those Indian reservations that do not require vehicles driven by tribal members to be licensed.

(4) Equity value in farmland not to exceed $30,000 provided that the property is essential to the self-employment of a household member and that the owner is attempting to produce income consistent with its fair market value, even if only used on a seasonal basis.

(5) Equity value in work-related equipment not to exceed $10,000.00 which is essential to the employment or self-employment of a household member, provided that the owner is attempting to produce income consistent with its fair market value.

(6) Any governmental payments which are designated for the restoration of a home damaged in a disaster, if the household is subject to a legal sanction if the funds are not used as intended; for example, payments made by the Department of Housing and Urban Development through the individual and family grant program or disaster loans or grants made by the Small Business Administration.

(7) Assets having a cash value which is not accessible to the household, such as but not limited to, irrevocable trust funds, security deposits on rental property or utilities, property in probate, and real property which the household is making a good faith effort to sell at a reasonable price and which has not been sold. The recipient shall verify that the property is for sale and that the household has not declined a reasonable offer. Verification may be obtained through a collateral contact or documentation, such as an advertisement for public sale in a newspaper or general circulation or a listing with a real estate broker. Any funds in a trust or transferred to a trust, and the income produced by that trust to the extent it is not available to the household, shall be considered inaccessible to the household if:

(i) The trust arrangement is not likely to cease during the certification period and no household member has the power to revoke the trust arrangement or change the name of the beneficiary during the certification period;

(ii) The trustee administering the funds is either (A) a court, or an institution, corporation, or organization which is not under the direction or ownership of any household member or (B) an individual appointed by the court who has court imposed limitations placed on his/her use of the funds which meet the requirements of this paragraph;

(iii) Trust investments made on behalf of the trust do not directly involve or assist any business or corporation under the control, direction, or influence of a household member.

(9) Indian lands held jointly with the Tribe, or land that can be sold only with the approval of the Department of the Interior's Bureau of Indian Affairs; and

(10) Reimbursements from the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970 (Pub. L. 91-646, section 216).

§ 1611.7 Manner of determining eligibility.

(a) A recipient shall adopt a simple form and procedure to obtain information to determine eligibility in a manner that promotes the development of trust between attorney and client. The form and procedure adopted shall be subject to approval by the Corporation, and the information obtained shall be preserved, in a manner that protects the identity of the client, for audit by the Corporation.

(b) If there is substantial reason to doubt the accuracy of the information, a recipient shall make appropriate inquiry to verify it, in a manner consistent with an attorney-client relationship.

(c) Information furnished to a recipient by a client to establish financial eligibility shall not be disclosed to any person who is not employed by the recipient in a manner that permits identification of the client, without express written consent of the client, except that the recipient shall provide such information to the Corporation when:

(1) The Corporation is investigating allegations that question the financial eligibility of a previously identified client and the recipient's representation thereof;

(2) The information sought by the Corporation relates solely to the financial eligibility of that particular client;

(3) The information sought by the Corporation is necessary to confirm or deny specific allegations relating to that particular client's financial eligibility and the recipient's representation thereof; and

(4) The specific information sought by the Corporation is not protected by the attorney client privilege.

The information provided to the Corporation by the recipient shall not be disclosed to any person who is not employed by the Corporation. Prior to providing the information to the Corporation, the recipient shall notify the client that the recipient is required to provide to the Corporation the information sought.

§ 1611.8 Retainer agreement.

(a) A recipient shall execute a written retainer agreement, in a form approved by the Corporation, with each client who receives legal services from the recipient. The retainer agreement shall be executed when representation commences, and shall clearly identify the relationship between the client and the recipient, the matter in which representation is sought, the nature of the legal services to be provided, and the rights and responsibilities of the client. The recipient shall retain the executed retainer agreement as part of the client's file, and shall make the agreement available for review by the Corporation in a manner which protects the identity of the client.

(b) A recipient is not required to execute a written retainer agreement when the only service to be provided is brief advice and consultation.

§ 1611.9 Change in circumstances.

If an eligible client becomes ineligible through a change in circumstances, a recipient shall discontinue representation if the change in circumstances is sufficently likely to continue for the client to afford private legal assistance, and discontinuation is not inconsistent with the attorney's professional responsibilities.

* * * * *

Dated: August 25, 1983.

Donald P. Bogard,

President.

[FR Doc. 83-23778 Filed 8-26-83; 8:45 am]

BILLING CODE 6050-26-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[Gen. Docket No. 83-841; FCC 83-83-373]

Integrated Services Digital Networks; Inquiry

Correction

In FR Doc. 83-22592 beginning on page 37464 in the issue of Thursday, August 18, 1983, make the following corrections.

1. On page 37464, second column, the replies comment date now reading "September 2, 1983" should read "October 18, 1983".

2. On page 37471, second column, paragraph numbered 58, "September 2, 1983" should read "October 18, 1983".

BILLING CODE 1505-01-M

47 CFR Part 90

[PR Docket No. 83-737]

Frequency Coordination in the Private Land Mobile Radio Services; Correction

AGENCY: Federal Communications Commission.

ACTION: Notice of Inquiry; Correction.

SUMMARY: This document corrects the Appendix of the Notice of Inquiry of PR Docket 83-737, 48 FR 35149 concerning frequency coordination in the private land mobile radio services by replacing an incorrect rule, § 90.175(a)(1).

ADDRESS: Federal Communications Commission, 1919 M Street, NW., Washington, D.C. 20544.

FOR FURTHER INFORMATION CONTACT: Eugene Thomson, Private Radio Bureau, (202) 634-2443.

Erratum

In the matter of frequency coordination in the private land mobile radio services, PR Docket No. 83-737.

Released: August 19, 1983.

On July 25, 1983, the Commission released a Notice of Inquiry (FCC **Federal Register** on August 3, 1983, 48 FR 35149. This erratum makes a correction in the Appendix of that item.

PART 90—[CORRECTED]

1. In Appendix A, replace § 90.175(a)(1) in its entirety with the following:

§ 90.174 Frequency coordination requirements.

* * * * *

(a) For frequencies below 470 MHz:

(1) A report based on a field study indicating the degree of probable interference to all existing co-channel stations within 120 km. (75 mi.) of the proposed stations, together with a statement that all such co-channel licensees have been notified of the applicant's intention to apply. In addition, for frequencies in the range 150–170 MHz, a report based on a field study indicating the degree of probable interference to existing stations located between 16 and 56 km. (10 and 35 mi.) (12 and 56 km. for taxicabs) from the proposed station, operating on a frequency 15 kHz removed, and a statement that the licensees of such stations have been notified of the applicant's intention to apply. In situations in which adjacent channel licensees in the 150–170 MHz band consent to spacing less than 16 km (12 km in the Taxicab Radio Service) it is unnecessary to submit with the application a report based on a field study indicating the degree of probable interference to existing stations.

* * * * *

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 83-23611 Filed 8-26-83; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status and Critical Habitat for the Amargosa Vole

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine Endangered status and Critical Habitat for the Amargosa vole, a small mammal. This vole has been eliminated from portions of its range as a result of human encroachment and the burning and overgrazing of its habitat. It became so rare that it was once thought extinct, and is now known only from bulrush marshes near Tecopa and Tecopa Hot Springs in southeastern Inyo County, California. This proposal, if made final, would implement the protection provided by the Endangered Species Act of 1973, as amended, for the Amargosa vole. The Service seeks relevant data and comments from the public.

DATES: Comments from the public and the State of California must be received by October 28, 1983.

Public hearing requests must be received by October 13, 1983.

ADDRESSES: Interested persons or organizations are requested to submit comments to the Regional Director, U.S. Fish and Wildlife Service, Lloyd 500 Building, Suite 1692, 500 Northeast Multnomah Street, Portland, Oregon 97232. Comments and materials received will be available for public inspection, by appointment during normal business hours, in the Service's Endangered Species Office at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Sanford R. Wilbur at the above address (503/231-6131 or FTS 429-6131).

SUPPLEMENTARY INFORMATION:

Background

The Amargosa vole (*Microtus californius scirpensis*) was first

described in 1900 from specimens collected at a spring near Shoshone on the Amargosa River, southeastern Inyo County, California (Bailey 1900). Subsequently, the Amargosa vole was extirpated from the Shoshone area (Bleich 1980, Kellog 1918), and it was once thought to be extinct throughout its limited range. However, remnant populations of the subspecies were recently discovered in marshes along the Amargosa River near Tecopa and Tecopa Hot Springs (Bleich 1980, Gould and Bleich 1977). The knowledge that the Amargosa vole was not extinct was brought to the attention of resource agencies in 1979 (Bleich 1979), and the following year the U.S. Fish and Wildlife Service was petitioned to list the vole as Endangered. A notice of acceptance of petition and status review was published in the **Federal Register** of June 18, 1980 (45 FR 41172–41173). Based on the best scientific and commercial data available after the status review, the Service finds that the petitioned action is warranted and hereby publishes this proposed rule to implement the action in accordance with Section 4(b)(3)(B)(ii) of the Act.

The historic range of the Amargosa vole is probably the most restricted of any of the 17 currently recognized subspecies of *Microtus californicus* (Hall 1981). The Amargosa vole is known only from marshes located adjacent to the Amargosa River in southeastern Inyo and northeastern San Bernardino Counties, California. Marshes inhabited by the vole characteristically show a dominance of bulrush (*Scirpus olneyi*) and have some open water nearby (Bleich 1980). The occurrence of bulrush marshes is naturally restricted in this arid region to the vicinity of springs or portions of the Amargosa River with permanent flow. The Amargosa River is dry throughout most of its course.

The primary reasons for the extirpation of the Amargosa vole near Shoshone and its reduction near Tecopa and Tecopa Hot Springs are human encroachment, burning of marshes, and overgrazing. Pumping of ground water may be responsible for drying of some spring habitats. Remaining populations are highly localized and consist of small numbers of animals (Bleich 1980).

Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR Part 424; under revision to accommodate 1982 amendments) set forth the procedures for adding species to the Federal lists. The Secretary of the Interior shall determine whether any species is an Endangered species or a Threatened species due to one or more of the five factors described in Section 4(a)(1) of the Act. These factors, and their application to the Amargosa vole, are as follows.

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* In the arid Amargosa Desert most development activities occur in areas near permanent water sources. Thus the marsh habitat of the Amargosa vole has been considerably modified by human encroachment. The spring at Shoshone has been diverted and channelized to allow for construction of a high school swimming pool. The development of springs in the Tecopa Hot Springs area for mineral baths and the spread of mobile home courts have greatly modified or eliminated marsh habitat. Such modification of springs and marshes in the Tecopa Hot Springs area has already caused the extinction of the Tecopa pupfish, a small fish endemic to the region (see **Federal Register** of January 15, 1982 (47 FR 2317–2319)).

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Not known to be a problem.

C. *Disease or predation.* Not known to be a problem.

D. *The inadequacy of existing regulatory mechanisms.* The California State Fish and Game Commission lists the Amargosa vole as endangered and, therefore, regulations are in effect that prohibit taking. The main problem of the vole, however, is not direct taking, but loss of habitat.

E. *Other natural or manmade factors affecting its continued existence.* Competition from introduced species may have been a contributing factor in the decline of the Amargosa vole at Shoshone. The house mouse (*Mus musculus)* was reported by Bleich (1980) as very common in marsh habitats around Shoshone.

Critical Habitat

Section 4(a)(3) of the Endangered Species Act, as amended, requires the Secretary to designate the "Critical Habitat" of a species, concurrent with listing, "to the maximum extent prudent and determinable." The Act defines Critical Habitat as (i) the specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the provisions of Section 4 of this Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by the species at the time it is listed in accordance with the provision of Section 4 of this Act, upon a determination by the Secretary that such areas are essential for the conservation of the species.

The proposed Critical Habitat for the Amargosa vole falls within an overall zone of 5,960 acres in southeastern Inyo County, California. Within this zone, the Critical Habitat consists of marshes and associated land and water along the Amargosa River, from just north of Tecopa Hot Springs to the Amargosa Canyon, just south of Tecopa.

In considering designation of Critical Habitat, 50 CFR 424.12(b) requires focus on the biological or physical constituent elements within the defined area that are essential to the conservation of the species involved. With respect to the Amargosa vole, the areas proposed as Critical Habitat satisfy all known criteria for the ecological, behavioral, and physiological requirements of the species. The marsh vegetation (primarily bulrush) provides sufficient cover for escape from predators and also serves as a food source. Small populations of the Amargosa vole are still able to survive and reproduce in the remaining suitable marsh habitat around Tecopa and Tecopa Hot Springs. These areas may not, however, include the entire habitat of the Amargosa vole, and modifications to the Critical Habitat designation may be proposed in the future.

Subsection 4(b)(8) of the Act requires that, to the maximum extent practicable, any proposal to determine Critical Habitat be accompanied by a brief description and evaluation of those activities which, in the opinion of the Secretary, may adversely modify such habitat if undertaken, or may be affected by such designation. In the case of the Amargosa vole, such activities include burning or otherwise removing marsh vegetation, overgrazing of marsh or adjacent vegetation, pumping of ground water supplies, diverting or channelizing springs or the Amargosa River, off-road vehicle use in or adjacent to marsh areas, use of herbicides or rodenticides, and introduction of exotic plant or animal species.

Subsection 4(b)(2) of the Act requires the Service to consider economic and other impacts of specifying a particular area as Critical Habitat. Therefore, an impact analysis will be prepared prior to the time of final rule and will be used as the basis of a decision on whether or not to exclude any area from Critical Habitat for the Amargosa vole. The Service is notifying Federal agencies

that may have jurisdiction over the land and water under consideration in this proposal. These agencies and other interested parties are requested to submit information on economic or other impacts of the proposed measure. No activities involving Federal agencies are presently known that may have an impact on the habitat of the Amargosa vole.

It should be emphasized that Critical Habitat designation does not necessarily affect Federal activities. If appropriate, the impacts will be addressed during consultation with the Service as required by Section 7 of the Endangered Species Act of 1973, as amended.

Available Conservation Measures

Endangered species regulations already published in Title 50 Section 17.21 of the U.S. Code of Federal Regulations set forth a series of general prohibitions and exceptions that apply to all Endangered wildlife species. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale any Amargosa vole in interstate or foreign commerce. It also would be illegal to possess, sell, deliver, carry, transport, or ship any such wildlife which was illegally taken. Certain exceptions would apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving Endangered wildlife under certain circumstances. Regulations governing such permits are codified at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes or to enhance the propagation or survival of the species. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship which would be suffered if such relief were not available.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as Endangered or Threatened. This proposed rule requires Federal agencies to satisfy their statutory obligations with respect to the Amargsoa vole. Agencies will now be required, in accordance with Section 7(a)(4), to confer with the Service on any action that is likely to jeopardize this species or result in the destruction or adverse modification of its Critical Habitat. If the Amargosa vole is actually added to the List of Endangered and Threatened Wildlife, Section 7 would require Federal agencies to insure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of this species or result in the destruction or adverse modification of its Critical Habitat.

The proposed rule would also bring Sections 5 and 6 of the Endangered Species Act into effect with respect to the Amargosa vole. Section 5 authorizes the acquisition of lands for the purpose of conserving Endangered and Threatened species. Pursuant to Section 6, the Fish and Wildlife Service would be able to grant funds (should they become available) to the State of California for management actions aiding the protection and recovery of the vole.

Listing the Amargosa vole as Endangered would allow for development of a recovery plan for this mammal. Such a plan would draw together the State and Federal agencies having responsibility for conservation of the vole. The plan would establish an administrative framework, sanctioned by the Act, for agencies to coordinate activities and cooperate with each other in conservation efforts. The plan would set recovery priorities and estimate the cost of the various tasks necessary to accomplish them. It would assign appropriate functions to each agency and a time frame within which to complete them.

The Service also will now review the Amargosa vole to determine whether it should be considered for placement upon the Annex of the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere, and whether it should be considered for other appropriate international agreements.

National Environmental Policy Act

A draft environmental assessment has been prepared in conjunction with this proposal. It is on file in the Service's Portland Regional Office (see **ADDRESSES** section above) and may be examined by appointment during regular business hours. A determination will be made at the time of a final rule as to whether this is a major Federal action that would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969 (implemented at 40 CFR Parts 1500–1508).

Public Comments Solicited

The Service intends that the rules finally adopted will be as accurate and effective as possible in the conservation of Endangered or Threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspect of these proposed rules are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial, or other relevant data concerning any threat (or the lack thereof) to the Amargosa vole;

(2) The location of and the reasons why any habitat of this mammal should or should not be determined to be Critical Habitat as provided for by Section 4 of the Act;

(3) Additional information concerning the range and distribution of this mammal;

(4) Current or planned activities that may adversely modify the area being considered for designation as Critical Habitat; and

(5) The foreseeable economic and other impacts of the Critical Habitat designation of Federal activities, private individuals, etc.

Final promulgation of the regulations on the Amargosa vole will take into consideration the comments and any additional information received by the Service, and such communications may lead to final regulations that differ from the proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests should be made in writing to the Regional Director (See **ADDRESSES** section above).

Author

The primary author of this proposal is Dr. Jack E. Williams, Endangered Species Office, U.S. Fish and Wildlife Service, 1230 "N" Street, 14th Floor, Sacramento, California 95814 (916/484–4664 or FTS 448–2791).

References

Bailey, V. 1900. Revision of American voles of the genus *Microtus*. N. Amer. Fauna 17:1–88.

Bleich, V. C. 1979. *Microtus californicus scirpensis* not extinct. J. Mamm. 60:851–852.

Bleich, V. C. 1980. Amargosa vole study. Final report to California Dept. Fish and Game, W–54–R–10, 8 pp.

California Department of Fish and Game. 1980. At the Crossroads 1980—a report on California's endangered and rare fish and wildlife. 147 pp.

Gould, G. I., and V. C. Bleich. 1977. Amargosa vole study. Report to California Dept. Fish and Game, W–54–R–9, 4 pp.

Hall, E. R. 1981. The mammals of North America, John Wiley and Sons, New York, 2 vols.

Kellogg, R. 1918. A revision of the *Microtus californicus* group of meadow mice. Univ. California Publ. Zool. 21:1–42.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulations Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the U.S. Code of Federal Regulations, as set forth below:

1. The authority citation for Part 17 reads as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. It is proposed to amend § 17.11(h) by adding the following, in alphabetical order, to the List of Endangered and Threatened Wildlife, under Mammals:

§ 17.11 Endangered and threatened wildlife.

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
•	•	•	•	•	•	•	•
Vole, Amargosa	*Microtus californicus scirpensis*	U.S.A. (CA)	Entire	E		17.95(a)	NA
•	•	•	•	•	•	•	•

3. It is further proposed that § 17.95(a), Mammals, be amended by adding the Critical Habitat of the Amargosa vole after that of the Morrois Bay Kangaroo rat as follows:

§ 17.95 Critical habitat—fish and wildlife.

(a) * * *

Amargosa vole

(Microtus californicus scirpensis)

California. Marshes and associated land and water in the following areas of Inyo County (San Bernardino Meridian): T. 20 N., R 7 E., Secs. 4, 5, 9, W½ sec. 10, SW¼SW¼ sec. 15, E½ sec. 16, NW¼ sec. 22; T. 21 N., R 7 E., secs. 20, 28, 29, 32, 33.

Within these areas, the major constituent elements that are known to require special managment considerations or protection are marsh vegetation (primarily bulrushes of the genus *Scirpus*), springs, and some open water along the Amargosa River, which provide escape cover and an adequate food supply.

* * * * *

Dated: July 25, 1983.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

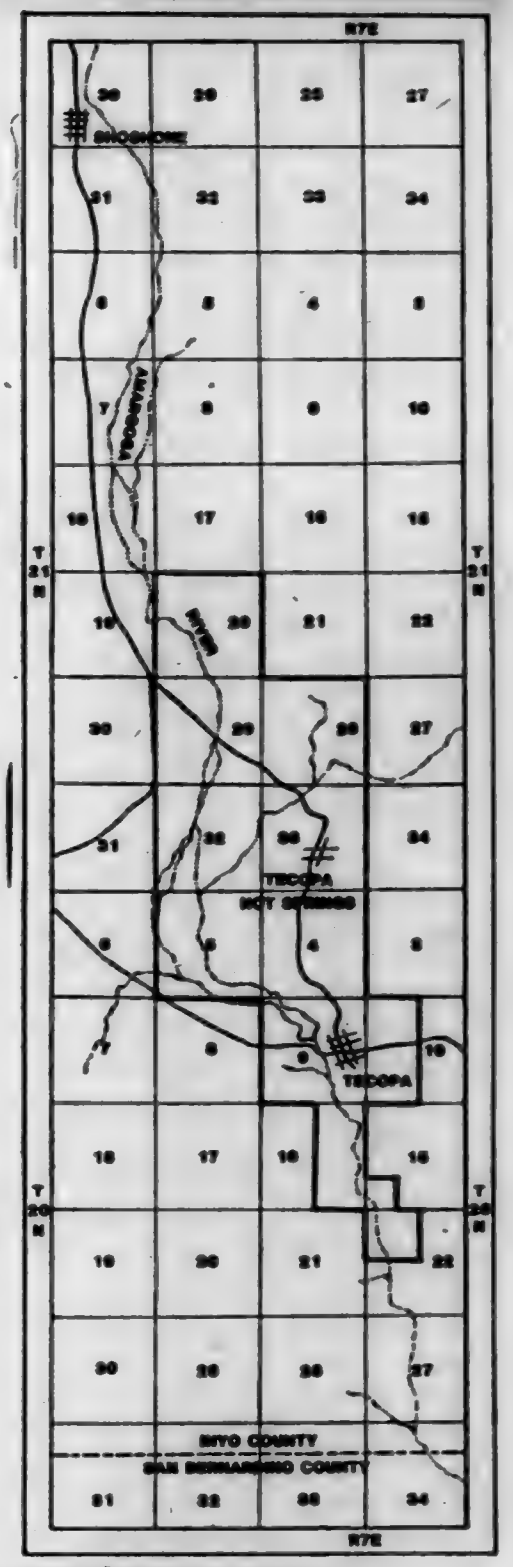

[FR Doc. 83–23578 Filed 8–26–83; 8:45 am]
BILLING CODE 4310–55–M

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposal To Determine Phlox pilosa var. longipilosa (Long-Haired Phlox) To Be a Threatened Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (hereinafter the Service) proposes to list a plant, *Phlox pilosa* var. *longipilosa* (long-haired phlox), as a Threatened species under the authority contained in the Endangered Species Act of 1973, as amended (hereinafter the Act). This plant is endemic to southwestern Oklahoma in Greer and Kiowa Counties, and occurs on State and private lands. The populations are threatened by quarrying, grazing, development, and recreation. If finalized, this proposal will provide *Phlox pilosa* var. *longipilosa* with the official protection provided by the Act for a Threatened species. The Service seeks data and comments from the public on this proposal.

DATES: Comments from the public and the State of Oklahoma must be received by October 28, 1983. Public hearing requests must be received by October 13, 1983.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Comments and materials received will be available for public inspection during normal business hours, by appointment, at the Service's Regional Office of Endangered Species, 421 Gold Avenue, S.W., Room 407, Albuquerque, New Mexico.

FOR FURTHER INFORMATION CONTACT: Dr. Russell L. Kologiski, Botanist, Region 2 Endangered Species staff (see **ADDRESSES** above) (505/766–3972) or Mr. John L. Spinks, Jr., Chief, Washington Officer of Endangered Species, U.S. Fish and Wildlife Services, Washington, D.C. 20240 (703/235–2771).

SUPPLEMENTARY INFORMATION:

Background

Phlox pilosa var. *longipilosa* has rose-purple tubular flowers with horizontal lobes. There are many flower clusters per stem and several stems per plant. The plants are perennial and 30–45 centimeters tall. The leaves are usually opposite, linear, 2.5–6.2 centimeters long, 0.3–0.6 centimeters wide, and borne close together. The inflorescence, stems, and calyx are densely covered with long pointed hairs. Some glandular hairs are also present. Flowering is from late April through mid-June.

This variety presently is known only from the Quartz Mountains in the western extension of the Wichita Mountains in Southwestern Oklahoma, and is a part of the native mid-grass prairie ecosystem. There are herbarium specimens taken in 1937 from the Wichita Mountains National Wildlife Regfuge in Comanche County to the east of the present known distribution. However, a recent survey of the Refuge by Taylor and Taylor (1981) failed to locate any plants, and it is believed that if the species is still extant in that area, its population must be very small.

This plant may have only recently evolved as a separate variety, and thus is of interest in an evolutionary sense (Taylor and Taylor, 1981). This taxon was treated as a variety or subspecies of *Phlox pilosa* by Wherry (1955); Waterfall (1971) considered it to be a full species, *Phlox longipilosa*. After studying this plant however, Taylor and Taylor (1981) concluded that it warrants status as a variety of *Phlox pilosa*.

Ayensu and DeFilipps (1978) considered *Phlox pilosa* var. *longipilosa* (long-haired phlox) to be an Endangered species. This classification by Ayensu and DeFilipps led the Service to include the long-haired phlox (under the synonym *Phlox longipilosa)* in a notice of review for plants published in the **Federal Register** (45 FR 82480) on December 15, 1980. The Service contracted with Drs. R. J. and C. E. Taylor to conduct a survey of the long-haired phlox, and to advise on its current status in the wild. In May 1981, Taylor and Taylor submitted a final report to the Service that documented the threats to the long-haired phlox, delineated its present known range, and recommended that it be listed as a Threatened species pursuant to the Act. The recommendation for Threatened rather than Endangered status was based on the fact that the species occurs at a number of widely scattered sites, and is common on some of these. Thus, it is likely within the foreseeable future to become an Endangered species (definition of Threatened) rather than extinct (definition of Endangered) throughout all or a significant part of its range. The present document acknowledges acceptance of the findings of Taylor and Taylor by officially proposing *Phlox pilosa* var. *longipilosa* to be a Threatened species.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR Part 424) set forth the procedures for adding species to the Federal list. The Secretary of the Interior shall determine whether any species is an Endangered species or a Threatened species due to one or more of the five factors described in Section 4(a)(1) of the Act. Factor A is the most relevant to this species. All of these factors and their application to *Phlox pilosa* var. *longipilosa* (long-haired phlox) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range. Phlox pilosa* var. *longipilosa* is a geographically isolated variety which is restricted to a very small range. Extensive surveys have not located any recent populations other than those in Quartz Mountain State Park and a few to the north and west of the park. Herbarium specimens collected in 1937 indicate that the species may have occurred on the Wichita Mountains National Wildlife Refuge in Comanche County, but recent surveys have failed to disclose its current presence there. There are three presently known populations on about three parcels of private land on a granite outcrop just north of the town of Granite. They are in back yards, a Girl Scout camp, and adjacent to a large quarry. One population is on about 2 acres; the others are on less than ½ acre. The mountain west of Lake Altus has one population on the west side on private land, and two on the east side, in Quartz Mountain State Park. King Mountain, in Quartz Mountain State Park, has populations on the north and west sides. Populations consist from 5 or 6 plants to about 150 plants; the larger populations may be scattered over several acres and are generally in less-used areas in the State Park. The eastern portion of the park has been developed for recreation and has picnic tables, two youth camps, campgrounds, and a lodge. Mowing of grass in this area has damaged the *Phlox* population. This area receives high use. The two park populations on King Mountain are in areas that currently receive less recreational use, and have larger populations of the *Phlox*. Expansion of the quarry, grazing on private land, or expanded park use could easily place this plant in danger of extinction. This species needs additional protection and management as it is being impacted by recreational use in sections of the park and potentially by grazing and development on private land.

B. *Overutilization for commercial, recreational, scientific or educational purposes.* This may be a potential threat to the species. Many species of phlox are in cultivation as ornamentals, and *Phlox longipilosa* is an attractive perennial which could be of horticultural interest. At present, however, the Service is not aware of the species' ever having been used for that purpose and this factor is not applicable.

C. *Disease or predation* (including grazing). This plant appears to be harmed by overgrazing, and further study of this problem is needed.

D. *The inadequacy of existing regulatory mechanisms.* There is currently no specific State or Federal protection for *Phlox pilosa* var. *longipilosa.* An Oklahoma State law prohibits plant collection in State parks, but this prohibition is difficult to enforce and does not affect the harmful actions, other than collection, which are the major threats to this plant.

E. *Other natural or manmade factors affecting its continued existence.* Overgrazing of native mid-grass prairie could reduce some populations by interfering with maintenance or natural succession of this plant community. The

invasion of native prairie by woody species could degrade or eliminate the habitat.

Because this plant occurs at a number of widely scattered sites, and is common at some of these, it is not at present considered to be an Endangered species as defined by the Act. However, based upon the threats enumerated above, the Service believes that it is a Threatened species (viz., one that is likely to become Endangered within the foreseeable future).

Critical Habitat

The Act requires that Critical Habitat be designated at the time a species is listed, to the maximum extent prudent and determinable. Critical Habitat is not being proposed for *Phlox pilosa* var. *longipilosa* because doing so may increase the vulnerability of the species and thus Critical Habitat designation is not considered prudent. Collecting could become a threat to this species, as it has a brightly colored flower and could be cultivated. This attractiveness is substantiated by widespread ornamented cultivation of other *Phlox* species. The Endangered Species Act of 1973, as amended, requires publication of Critical Habitat maps in the **Federal Register** which could draw attention to this phlox and promote taking by collectors.

Available Conservation Measures

This proposal, if made final, could serve to enhance the survival of long-haired phlox in the wild. Listing of a species may lead to the development of a recovery plan, and can result in funds being made available for research and other activities that could benefit the species. For instance, although this phlox is now known to occur only on three isolated granite hills in southwestern Oklahoma, it has been collected in the past (1937) on the Wichita Mountains National Wildlife Refuge farther to the east in Comanche County. Although no extant populations are believed to occur there now, that area is apparently a part of the historic range of the species, and would represent a logical reintroduction site. Planning and funds for such a reintroduction could develop as a result of listing this phlox as Threatened.

Section 7(a)(4) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as Endangered or Threatened. Federal agencies are required under Section 7(a)(4) to informally confer with the Secretary on any action that is likely to jeopardize proposed species. This protection will now accrue to *Phlox pilosa* var. *longipilosa*. If published as a final rule, Federal agencies will be required to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of *Phlox pilosa* var. *longipilosa*. Provisions for Interagency Cooperation which implement Section 7 of the Act are codified at 50 CFR Part 402. The Act and implementing regulations published in the June 24, 1977, **Federal Register** set forth a series of general trade prohibitions and exceptions which apply to all Threatened plant species. The regulations pertaining to Threatened plants are found at 50 CFR Sections 17.71 and 17.72 and are summarized in the following text.

If it is listed as Threatened, all trade prohibitions of Section 9(a)(2) of the Act, implemented by 50 CFR 17.71, would apply to *Phlox pilosa* var. *longipilosa*, except for an exemption with respect to seeds from cultivation. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to import, export, or transport in interstate or foreign commerce in the course of a commercial activity, or sell or offer this species for sale in interstate or foreign commerce. Certain exceptions would apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.72 also provide for the issuance of permits to carry out otherwise prohibited activities involving Threatened species, under certain circumstances.

International and interstate commercial trade in *Phlox pilosa* var. *longipilosa* is known to exist. It is not anticipated that many trade permits involving plants of wild origin would ever be issued since this plant is not common in the wild and is not presently in cultivation.

Section 9(a)(2)(B) of the Act, as amended in 1982, states that it is unlawful to remove and reduce to possession Endangered plant species from areas under Federal jurisdiction. Section 4(d) provides for regulations to provide this protection to Threatened plant species. This new prohibition will apply to *Phlox pilosa* var. *longipilosa* once new regulations are promulgated. Permits for exceptions to this prohibition are available through Sections 10(a) and 4(d) of the Act, following the general approach of 50 CFR 17.72 until revised regulations are promulgated. Although this species is not now known to occur on Federal lands, herbarium specimens indicate that at one time, it did range eastward to the Wichita Mountains National Wildlife Refuge. If populations should be found on that Refuge, all of the above provisions would apply to those populations. Also, if populations are reintroduced onto the Refuge in the future these regulations may apply to them.

Requests for copies of the regulations on plants and inquires regarding them may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1903).

The Service will now review this species to determine whether it should be considered for the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere for placement upon its annex, and whether it should be considered for other appropriate international agreements.

National Environmental Policy Act

An Environmental Assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species, 1000 North Glebe Road, Arlington, Virginia, and the Regional Office (see **ADDRESSES** section), and may be examined by appointment during regular business hours. This assessment will form the basis for a decision which will be made when the final rule is issued as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969 (implemented at 40 CFR Parts 1500–1508).

Public Comments Solicited

The Service intends that the rules finally adopted will be as accurate and effective as possible in the conservation of any Endangered or Threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other party concerning any aspect of these proposed rules are hereby solicited.

Comments particularly are sought concerning:

(1). biological or other relevant data concerning any threat (or the lack thereof) to *Phlox pilosa* var. *longipilosa;*

(2). the location of any additional populations of *Phlox pilosa* var. *longipilosa* and the reasons why any habitat of this species should or should not be determined to be Critical Habitat as provided for by Section 4 of the Act; and

(3). additional information concerning the range and distribution of this phlox.

Final promulgation of the regulations on *Phlox pilosa* var. *longipilosa* will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests should be made in writing and addressed to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103.

Authors

The primary author of this proposed rule is Ms. Sandra Limerick, Endangered Species Staff, U.S. Fish and Wildlife Service, Department of Interior, P.O. Box 1306, Albuquerque, New Mexico 87103 (505/766–3972). Status information and a preliminary listing package were provided under contract to the Service by Dr. R. J. Taylor and Dr. C. E. Taylor, Biology Department, Southeastern Oklahoma State University, Durant, Oklahoma 74701. E. LaVerne Smith and John L. Paradiso of the Washington Office of Endangered Species served as editors.

References

Ayensu, E.S., and R.A. DeFilipps. 1978. Endangered and Threatened Plants of the United States. Smithsonian Institution and World Wildlife Fund, Washington, D.C. 403 pp.

Taylor, R.J., and C.E. Taylor. 1981. Status report: *Phlox pilosa* var. *longipilosa*. Office of Endangered Species, U.S. Fish and Wildlife Service, Albuquerque, New Mexico. 18 pp.

Taylor, R.J., and C.E. Taylor. 1981. *Phlox pilosa* var. *longipilosa (Waterfall) J. and C. Taylor comb. nov. (Polemoniaceae)*. SIDA 9(2):183–184.

Waterfall, U.T. 1971. New species of *Cuscuta* and *Phlox* from Oklahoma. Rhodora 73:576–577.

Wherry, E.T. 1955. The genus *Phlox*. Morris Arboretum Monographs, Philadelphia, Pennsylvania.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the U.S. Code of Federal Regulations, as set forth below:

1. The authority citation for Part 17 is as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531, *et seq.*).

2. It is proposed to amend § 17.12(h) by adding, in alphabetical order, the following to the list of Endangered and Threatened plants:

§ 17.11 Endangered and threatened plants.

(h) * * *

Species						
Scientific name	Common name	Historic range	Status	When listed	Critical habitat	Special rules
Polemoniaceae—Phlox family:						
Phlox pilosa var. *longipilosa*	Long-haired phlox	U.S.A. (OK)	T	NA	NA	

Dated: July 22, 1983.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83–23087 Filed 8–25–83; 8:45 am]

BILLING CODE 4310–55–M

50 CFR Part 17

Proposed Delisting of Bahama Swallowtail Butterfly and Reclassification of Schaus Swallowtail Butterfly from Threatened to Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule and finding on petition.

SUMMARY: The Service proposes to remove the Bahama Swallowtail Butterfly (*Heraclides* [= *Papilio*] *andraemon bonhotei*) from the U.S. list or Endangered and Threatened species, and to reclassify the Schaus swallowtail butterfly (*Heraclides* [= *Papilio*] *aristodemus ponceanus*) from Threatened to Endangered status. The proposals are made under the authority of the Endangered Species Act of 1973, as amended. Both species occur in Dade and Monroe Counties, Florida, and were listed as Threatened species in 1976. A review of the status of each species indicates that the Bahama swallowtail is only a sporadic resident of the U.S. It is not subspecifically distinct from the non-threatened Bahaman populations of this species, and does not qualify for listing under the Endangered Species Act, as amended. The Schaus swallowtail has declined in numbers and range since the time of its listing. This proposal is consistent with a petition filed with the Service on March 9, 1983, by the Florida Game and Fresh Water Fish Commission. If made final, this proposed rule would remove the protection of the Endangered Species Act of 1973 from the Bahama swallowtail butterfly, and would afford the Schaus swallowtail butterfly the protection of Endangered status. Neither species would remain eligible for a special rule at 50 CFR 17.47 that permits non-commercial take of adults, so that special rule would be deleted. Comments and information related to this proposal are solicited.

DATE: Comments from the public and the State of Florida must be received by October 28, 1983. Public hearing requests must be received by October 13, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. David Peterson, Acting Endangered Species Field Supervisor, U.S. Fish and Wildlife Service, 2747 Art Museum Drive, Jacksonville, Florida 32207, phone 904/791–2580.

ADDRESSES: Comments and materials concerning this proposal should be sent to Endangered Species Field Supervisor, U.S. Fish and Wildlife Service, 2747 Art Museum Drive, Jacksonville, Florida 32207. Comments and materials received will be available for inspection during normal business hours, by appointment, at the Service's Endangered Species Field Station, 2747 Art Museum Drive, Jacksonville, Florida 32207.

SUPPLEMENTARY INFORMATION: The Bahama (*Heraclides andraemon bonhotei)* and Schaus (*Heraclides aristodemus ponceanus*) swallowtail butterflies are representatives of tropical species that reach their limits of distribution in southern Florida. The Bahama swallowtail was described by Sharpe in 1900. It has dark brown wings with a medium yellow band and has two pairs of tails on the hindwings. The Schaus swallowtail was described by Schaus in 1911. Adults have blackish-brown wings with broad rusty patches under the hindwings. Only one pair of tails is present. The primary food of the larval Schaus swallowtail is torchwood (*Amyris elemifera*); the larval Bahama swallowtail feeds on key lime (*Citrus aurantifolia*), sour orange (*C. aurantium*)— and garden rue (*Ruta graveolens*).

The Bahama swallowtail has been recorded from Miami and Elliott Key, Dade County, and from Key Largo and Long Key, Monroe County. Most of the records are from Elliott Key. The best available evidence indicates that this species is not a permanent resident of the U.S., nor is it subspecifically distinct from the *Heraclides andraemon* population resident in the Bahamas. This species has occasionally reproduced in the U.S., but apparently soon dies out. The most recent known breeding in the U.S. was on Elliott Key in 1972 (U.S. Fish and Wildlife Service 1982).

The Schaus swallowtail originally occurred from the Miami area south through the Florida Keys as far as Lower Matecumbe Key. The last records for Miami were in 1924. Presumably, urban development eliminated the habitat of the species there. The last records for Upper and Lower Matecumbe Keys are in the mid-1940's. The disappearance of the species from these keys apparently coincided with heavy collecting pressure, although collecting is not known to have caused the decline. In the early 1970's the butterfly was relatively abundant on north Key Largo, but appears to be rare there now. The known range of the Schaus swallowtail is now Elliott and Old Rhodes Keys in Biscayne National Park, Dade County; and north Key Largo, Monroe County.

Both the Bahama and Schaus swallowtail butterflies are restricted to tropical hardwood hammocks, which constitute the climax vegetation of upland areas in the Florida Keys. Formerly, this vegetation type occurred more widely in south Florida, but has been largely eliminated on the mainland. The hammocks are closely related floristically to those of the West Indies, and constitute the only tropical upland plant community found in the continental U.S. The Florida Keys contain the largest remaining hammocks, but many of the areas are highly subject to development pressures because development is restricted in lowland (mangrove) areas. Local, State and Federal laws presently limit development of such lowland areas. The hammocks contain a large number of plant species rare in Florida, many of which are considered threatened or endangered by this State. The tropical hardwood hammock plant community is considered to be one of the most restricted and vulnerable habitat types in the U.S.

Both butterflies were proposed for Federal listing as Threatened on April 22, 1975 (40 FR 17757). The proposal was made final on April 28, 1976 (41 FR 17736–40). The final regulation included a special rule (50 CFR 17.47[a]) exempting both species from some of the protective provisions available to Threatened species under 50 CFR 17.31. Non-commercial take of adults was allowed, provided that other local, State and Federal regulations were complied with. Chapter 39–27 of the Florida Administrative Code, however, presently lists the Bahama and Schaus swallowtail butterflies as Threatened, and prohibits take, possession, sale or transport of all life stages of these species, except by permit. The Federal special rule is superseded by Florida State legislation, because the special rule allows take of adults only if all other local, State and Federal regulations are complied with. This is consistent with Section 6(f) of the Endangered Species Act, which authorizes States to be more restrictive than Federal prohibitions regarding the taking of listed species.

Section 4(c)(2) of the Endangered Species Act, as amended, requires that a 5-year review of the list of Endangered and Threatened species be carried out to determine whether any species should be removed from the list or changed in status. A 5-year review notice for the Bahama and Schaus swallowtail butterflies was published by the Service in the February 27, 1981 **Federal Register** (46 FR 14652).

The Florida Game and Fresh Water Fish Commission recently carried out research on the status of the Bahama and Schaus swallowtail butterflies and this information has been available during the review of these species. The studies were funded in part with Federal funds provided under Section 6 of the Endangered Species Act. The results of this research were incorporated into a recovery plan for the Schaus swallowtail butterfly including recommendations for the Bahama swallowtail (U.S. Fish and Wildlife Service, 1982). Section 4(f) of the Act requires the Secretary to develop and implement recovery plans for listed species. The recovery plan recommended that the Schaus swallowtail be reclassified from Threatened to Endangered, based on its decline in numbers and distribution. Since the U.S. populations of the Bahama swallowtail are not subspecifically distinct from the Bahama populations, and since the subspecies *bonhotei* is not in danger of extinction throughout all or a significant portion of its range, the Act, as amended, requires that this species be removed from the list of Endangered and Threatened species.

In a petition dated February 23, 1983, and received March 9, 1983, The Florida Game and Freshwater Fish Commission requested that the Schaus swallowtail butterfly be reclassified as an Endangered species. An administrative finding that the requested action may be warranted was made on May 9, 1983. Publication of this proposed rule signifies that the requested action is warranted, and constitutes a required finding in accordance with Section 4(b)(3)(B)(ii) of the Act as amended in 1982.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR Part 424, presently under revision to accomodate 1982 amendments) set forth the procedures for adding species to the Federal list. A species may be determined to be an Endangered species or a Threatened species due to one or more of the five factors described in Section 4(a)(1) of the Act.

These factors and their application to the Schaus and Bahama swallowtail butterflies are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The Bahama swallowtail occurs throughout the Bahama Islands. There is no information indicating threat to the species throughout its range. On private lands, development for residential and recreational purposes threatens to modify or eliminate the tropical hardwood forest hammocks on which the Schaus swallowtail depends. Uplands in the Florida Keys are limited

in area, but are the site of much development interest because major development is essentially impossible in wetland (mangrove) areas. The entire range of this butterfly is vulnerable to modification or destruction from hurricanes. As the range of the species becomes increasingly limited and fragmented, the likelihood increases of a single hurricane destroying all or most of the remaining population.

B. *Overutilization for commercial, recreational, scientific or educational purposes.* Both the Bahama and Schaus swallowtail butterflies are popular with collectors. Although a few individuals of the Bahama swallowtail may occasionally be collected when this species appears in Florida, there is no information indicating that the species is threatened by overutilization in the Bahamas.

At the time of the listing of the Schaus swallowtail as a Threatened species, some correspondents believed that collection of this species represented a threat. Since the species was listed, it has decreased in range and numbers. Collecting is now probably a greater threat than at the time of listing.

C. *Disease or predation.* Not applicable.

D. *The inadequacy of existing regulatory mechanisms.* The Bahama swallowtail will not qualify for continued listing if this proposed rule is made final. Federal listing as Threatened and similar listing under Chapter 39–27.04 of the Florida Administrative Code both provide regulatory protections for the Schaus swallowtail, but its population has generally declined, even subsequent to listing. If reclassified from Threatened to Endangered, the Schaus swallowtail may benefit from the increased priority given its recovery needs, pursuant to section 4(g)(4) of the Act, as amended.

E. *Other natural or manmade factors affecting its continued existence.* The Bahaman segment of the Bahama swallowtail populations provides it with insurance against the risk of extinction. The Schaus swallowtail could lose a significant portion of its remaining populations from hurricane or frost. The range of this species has decreased substantially in recent decades. The present restricted range could be greatly reduced or eliminated by a single hurricane. The butterfly is near the limits of its cold-tolerance in South Florida, and a single severe freeze could also greatly reduce the population.

Insecticide application may have adverse effects on the Schaus swallowtail. The Monroe County Mosquito Control District applies insecticides to control adult and larval mosquitoes. Both ground and aerial applications are made. The large amount of insecticides applied annually in Monroe County (4–5 thousand gallons of Dibrom and Baytex mixed with 50 to 60 thousand gallons of diesel fuel) could adversely affect the Schaus swallowtail as well as other insects native to the hardwood hammocks.

Critical Habitat

The Act requires that Critical Habitat be determined at the time any species is listed as Endangered or Threatened, to the maximum extent prudent and determinable. The Service believes that it would not be prudent to determine Critical Habitat for the Schaus swallowtail butterfly. Section 4(a)(3) of the Act requires publication of a Critical Habitat description in the **Federal Register.** Publication of a Critical Habitat description, with maps, could result in increased collecting pressure being placed on the few remaining sites at which the Schaus swallowtail occurs. Though taking prohibitions exist, effective enforcement is difficult, particularly outside Biscayne National Park. The recovery plan for the Schaus swallowtail butterfly recommends that no publicity be given remaining colonies of this species.

Effects of this Rule

The effects of this proposal, if published as a final rule, would include but would not necessarily be limited to those mentioned below.

Section 7(a) of the Act, as amended, requires that Federal agencies insure that activities they authorize, fund or carry out are not likely to jeopardize the continued existence of any Endangered or Threatened species. Removing the Bahama swallowtail butterfly from the list would eliminate the need for Federal agencies to consider this species in planning or carrying out their activities. Reclassifying the Schaus swallowtail from Threatened to Endangered status would not affect the protection currently available under Section 7(a).

Section 9(a)(1) of the Act prohibits take, import and export, possession or transportation of Endangered species of fish and wildlife. Exceptions are provided through permits pursuant to Section 10 of the Act. In the case of Threatened species, protective regulations under Section 4(d) of the Act guard the species well-being. A special rule (50 CFR 17.47(a)) currently applies to both the Bahama and Schaus swallowtail butterflies. This rule allows non-commercial take and noncommercial interstate movement of adults of both species. These exemptions apply, however, only if concordant with State and local regulations and ordinances. Florida State law presently prohibits collecting these species except by permit, thus overriding the special rule. The proposed delisting of the Bahama swallowtail would revove all Section 9 prohibitions for that species. The reclassification of the Schaus swallowtail butterfly from Threatened to Endangered would merely bring the existing Federal regulatory prohibitions into conformance with current State law. Therefore, The Special rule in § 1747(a) is no longer necessary. Few effects are anticipated from this change; the Bahama swallowtail is an occasional migrant to the U.S. and few specimens could be taken here. No additional effects are expected regarding the Schaus swallowtail, because take and trade are already prohibited except under permit. Recovery priority for this species would increase, however, pursuant to Section 4(g)(4) of the Act, as amended.

National Environmental Policy Act

An Environmental Assessment has been prepared in conjunction with this proposal. It is on file in the Service's Endangered Species Field Station, 2747 Art Museum Drive, Jacksonville, Florida 32207, and may be examined by appointment during regular business hours. This assessment will form the basis for a decision as to whether this is or is not a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969 (implemented at 40 CFR Parts 1500–1508).

Public Comments Solicited

The Service intends that the rules finally adopted will be as accurate and effective as possible in the conservation of any Endangered or Threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspect of these proposed rules are hereby solicited. Comments particularly are sought concerning biological or other relevant data concerning any threat (or the lack thereof) to the Bahama and Schaus swallowtail butterflies, and additional information concerning the range and distribution of these butterflies;

Final promulgation of the regulations on Bahama and Schaus swallowtail butterflies will take into consideration the comments and any additional

information received by the Service, and such communications may lead to a final regulation that differs from this proposal.

Author

The primary author of this proposed rule is Dr. Michael M. Bentzien, U.S. Fish and Wildlife Service, 2747 Art Museum Drive, Jacksonville, Florida 32207, phone 904/791–2580; FTS 946–2580. Dr. George Drewry of the Service's Washington Office of Endangered Species served as editor.

References

U.S. Fish and Wildlife Service. 1982.Schaus swallowtail recovery plan. U.S. Fish and Wildlife Service, Atlanta, Georgia. 57 pp.

Loftus, W. F., and J. A. Kushlan. 1982. The status of the Schaus swallowtail and the Bahama swallowtail butterflies in Biscayne National Park. National Park Service South Florida Research Center, Everglades National Park. Report M–649. 18 pp.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, and Marine mammals, Plants (agriculture).

Proposed Regulations Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter 1, Title 50 of the Code of Federal Regulations, as set forth below:

1. The authority citation for Part 17 reads as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304; 96 Stat. 1411 (16 U.S.C. 1531, *et seq.*).

2. It is proposed to amend § 17.11(h) by changing the status of the Schaus swallowtail butterfly, under "INSECTS", from Threatened to Endangered; changing its scientific name, to reflect current usage; and revising the "special rules" column, as follows:

§ 17.11 Endangered and threatened wildlife.

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	* *	*	*	*	*	
Butterfly, Schaus swallowtail.	*Heraclides (= Papilio) aristodemus ponceanus.*	U.S.A. (Florida)	NA	E	13	NA	NA.
*	*	* *	*	*	*	*	

3. It is further proposed to amend § 17.11(h) by removing the Bahama swallowtail butterfly (*Papilio andraemon bonhotei*), under "INSECTS", from the List of Endangered and Threatened Wildlife.

§ 17.47 [Amended]

4. The Service also proposes to amend § 17.47(a) by removing the special rules for the Bahama and Schaus swallowtail butterflies, and by adding the notation "[Reserved]".

Dated: July 8, 1983.

J. Craig Potter,

Acting Assistant Secretary, Fish and Wildlife and Parks.

[FR Doc. 83–23586 Filed 8–26–83; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 48, No. 166
Monday, August 29, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Members of Performance Review Boards

AGENCY: Department of Agriculture.

ACTION: Notice.

SUMMARY: This document amends the list of Performance Review Board members published October 6, 1982, 47 FR 44127, as amended November 26, 1982, 47 FR 53430 and March 1, 1983, 48 FR 8518.

EFFECTIVE DATE: August 29, 1983.

FOR FURTHER INFORMATION CONTACT: Earl C. Hadlock, Chief, Executive Resources, Performance Appraisal, and Merit Pay Staff, Office of Personnel, Department of Agriculture, 14th Street and Independence Avenue, SW., Washington, D.C. 20250 (202/447–6905).

The membership of the Department of Agriculture's Performance Review Boards is amended by adding the names of Bert Hawkins, Daniel Amstutz, Isabel Wolf, Robert E. Leard, Joseph H. Howard, Jacqueline G. Sutton, Leon Anderson, Ava Rodgers, Angelena Bracht, Larry Wilson, and James C. Handley.

John R. Block,

Secretary of Agriculture.

[FR Doc. 83-23301 Filed 8-26-83; 8:45 am]

BILLING CODE 3410-01-M

Agribusiness Promotion Council, Committee on Small-Medium Investors and Management Training; meeting

Notice is hereby given that the USDA Agribusiness Promotion Council committee on Small-Medium Investors and Management Training will meet September 13, 1983, from 9:00 p.m. in Room 201-W of the U.S. Department of Agriculture Administration Building, 14th & Independence Avenue, Washington, D.C. The agenda will consist of selection of committee chairman, and discussion and planning of committee activities. The meeting will be open to the public. Written statements may be submitted to Joan S. Wallace, Administrator, USDA/OICD, Room 3047, South Building, Washington, D.C. 20250 until September 12, 1983.

Joan S. Wallace,

Administrator.

[FR Doc. 83-23300 Filed 8-26-83; 8:45 am]

BILLING CODE 3410-DP-M

Policy Advisory Committee for the Science and Education Research Grants Program: Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the Office of Grants and Program Systems announces the following meeting:

Name: Policy Advisory Committee for the Science and Education Research Grants Program.

Date: September 19, 1983.

Time: 9:00 a.m.

Place: Conference Room 5219, South Building, U.S. Department of Agriculture, 14th and Independence Avenue, SW., Washington, D.C. 20250.

Type of Meeting: Open to the public. Persons may participate in the meeting as time and space permit.

Comments: The public may file written comments before or after the meeting with the contact person listed below.

Purpose: To advise the Secretary of Agriculture with respect to the areas of research to be supported, priorities to be adopted and emphasized, and the procedures to be followed in implementing those programs of research grants to be awarded competitively.

Contact persons for agenda and more information: Anne Holiday Schauer, Associate Chief, Competitive Research Grants Office, Office of Grants and Program Systems, U.S. Department of Agriculture, 1300 Wilson Boulevard, Suite 103, Rosslyn, Virginia 22209, telephone: 703–235–2630.

Done at Washington, D.C. this first day of August, 1983.

E. L. Kendrick,

Director, Office of Grants and Program Systems.

[FR Doc. 83-23650 Filed 8-26-83; 8:45 am]

BILLING CODE 3410-03-M

Commodity Credit Corporation

1983-Crop Peanuts; 1983 Peanut Program; Determination Regarding National Average Support Level for Additional Peanuts and the Minimum Commodity Credit Corporation Export Edible Sales Price for Additional Loan Peanuts

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of Determination.

SUMMARY: This notice affirms for the 1983 crop of peanuts determinations made by the Secretary of Agriculture regarding the following: (1) The national average level of support for additional peanuts, and (2) the minimum price at which the Commodity Credit Corporation (CCC) will sell for export edible uses 1983-crop additional peanuts pledged as collateral for price support loans. These determinations were announced by the Secretary on February 15, 1983, to satisfy the requirements of Section 108A of the Agricultural Act of 1949, as amended.

EFFECTIVE DATE: February 15, 1983.

FOR FURTHER INFORMATION CONTACT: Gypsy Banks, Agricultural Economist, Agricultural Stabilization and Conservative Service, USDA, Room 3732-South Building, P.O. 2415, Washington, D.C. 20013, (202) 447–5953. The Final Regulatory Impact Analysis is available upon request.

SUPPLEMENTARY INFORMATION: This notice of determination has been reviewed in accordance with Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classified "not major." It has been determined that this notice will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local governments, or geographical regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance program that this notice applies to are: Title—Commodity Loans and Purchases; Number—10.051, as

found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

A notice that the Secretary was preparing to make determinations with respect to the 1983-crop quota and additional support levels and the minimum export edible sales price for 1983-crop peanuts pledged as loan collateral was published in the Federal Register on January 25, 1983 (48 FR 3389). The written comment period ended February 11, 1983. A total of 69 comments were received through February 11: 2 from national farm groups, 9 from State farm groups, 16 from members of Congress, 2 from sheller associations, 1 from an area marketing association, 1 from a State Department of Agriculture, and 38 from individuals. The majority of the comments addressed the quota support level. These comments are discussed in the notice of determination published on March 11, 1983 (48 FR 10369).

Eighteen of the comments submitted regarding the matters considered here addressed the additional support level. Eleven respondents recommended that the additional support level be established at a level which would ensure no loss to CCC on the sale of additional peanuts, 1 respondent recommended a level of $170 per ton, 3 respondents recommended a level of $200 per ton, and 3 respondents made a general comment that the 1982 level was too low.

Twelve comments addressed the minimum CCC export edible sales price for additional loan peanuts. Three respondents recommended that the minimum export edible level be set at $475 per ton (the 1982-crop minimum), 4 respondents recommended that the level be established at 86 percent of the quota support level, one recommended the level be established at 90 percent of the quota support level, and 4 others recommended the level be established at 96 percent of the quota support level.

A. *National average level of support for additional peanuts.* The national average support price for 1983-crop additional peanuts applies to 1983-crop farmers stock peanuts in bulk or in bags, net weight basis, which are eligible for price support at the additional support level under the General Price Support Regulations set out at 7 CFR Part 1446.

Section 108A(2) of the Agricultural Act of 1949, as amended, provides that the Secretary shall make price support available to producers through loans, purchases, or other operations on 1983-crop additional peanuts at the level the Secretary determines to be appropriate, taking into consideration the demand for peanut oil and meal, expected prices for other vegetable oils and protein meals, and demand for peanuts in foreign markets. The 1949 Act provides further that the level of support for additional peanuts should be established at a level which is estimated to ensure that there will be no losses to CCC on the sale or disposal of such peanuts.

1. *Demand for peanut oil and meal.* It is expected that the demand for peanuts for edible uses will strengthen during the 1983/84 marketing year and offset production increases resulting in an estimated 235,000 tons of peanuts being available for domestic crushing from the 1983 crop. The amount available for domestic crushing would therefore be about the same as the amount available for such uses from the 1982 crop. Peanut oil and meal prices are expected to average about 29 cents per pound and $190 per ton, respectively, for peanuts from the 1983 crop.

2. *Expected prices of other vegetable oils and protein meals.* It is estimated for the 1982/83 marketing year still in progress that world aggregate production of oilseeds will total 200 million short tons (181.3 million metric tons), 7 percent higher than the level of production of oilseeds in the 1981/82 marketing year. Soybeans in the 1982/83 marketing year are expected to account for 53.4 percent of the total world aggregate oilseed production, while peanuts are expected to account for 9.6 percent of total oilseed production. Because of soybean dominance, the supply-demand situation for soybeans tends to establish the general price patterns for oilseeds. Large supplies and low prices characterize the 1982/83 U.S. soybean outlook. Although both domestic use of exports of soybeans are expected to rise during this season, the increase is expected to fall short of increased supply. Stocks will build and thus soybean prices could fall to their lowest real level in many years. Presently, soybean oil prices range from 15 to 19 cents per pound. Soybean meal prices for the 1982/83 marketing year are expected to range from $165 to $195 per ton, $2 above to $18 per ton below the prices received for the 1981/82 marketing year.

Soybean acreage will likely decrease in 1983, but supplies are expected to continue to be large relative to demand. Demand for soybean oil and meal is expected to strengthen. Compared to the expected range of 1982/83 soybean oil prices, 1983/84 soybean oil prices are expected to remain at the same level or increase modestly. Compared to the expected range of 1982/83 soybean meal prices, 1983/84 soybean meal prices are expected to increase by $5 to $25 per ton.

3. *Demand for peanuts in foreign markets.* U.S. peanuts exported from the 1983 crop during 1983/84 marketing year are projected to increase from the levels of export of peanuts of the immediately preceding crop years, but will likely remain well below the levels exported prior to the 1980 drought. The strength of the dollar overseas and general economic conditions are expected to continue to dampen demand for peanuts in Europe, the major market for exports of U.S. peanuts. Also, in recent years China has become a major supplier of edible peanuts, especially to Japan.

Based on the consideration of these factors, it is estimated that the average price which will be received for peanuts sold from 1983 loan collateral inventories for domestic crushing purposes will be about $255/ton (farmers stock basis).

In establishing the level of support for the 1982 crop, which was the first crop to which the no-loss proviso of Section 108A(1) was applicable, certain assumptions were made about the likelihood of transfers of peanuts from additional pools to quota pools and, more significantly, the likelihood of non-crushing sales of additional peanuts, which did not prove out in the actual marketing of the crop. As a result, it appears that some losses will be experienced for some additional loan pools for the 1982 crop. Under the pool concept, gains from any pool are redistributed to the producers and thus a loss in any pool is a net loss to CCC. For the 1983 crop, it is expected that all peanuts in some additional loan pools will be disposed of exclusively through sales for domestic crushing. On the basis of a worst-pool assumption, it has been estimated that $185/ton additional peanut support level will ensure no losses to CCC on 1983 crop additional peanuts based upon the difference between the estimated $255/ton domestic crushing price and estimated 1983 per ton expenses to CCC of $70 for storage and other costs which are incurred by CCC in handling loan collateral peanuts.

B. *Minimum CCC export edible sales price for additional peanuts pledged as collateral for a price support loan.* Establishing a minimum CCC export edible sales price for additional peanuts pledged as security for price support loans is discretionary with the Secretary. If the minimum export edible

sales price is too high, it discourages export contracting between handlers and growers and encourages the production of additional peanuts for the loan program on the assumption that the minimum sales price is the price growers will receive for their loan peanuts. This assumption may be incorrect, however, since a price misjudgement could result in CCC losing export edible sales and selling more loan collateral peanuts for crushing. In such case, growers, through the pooling mechanism, would only receive the additional loan rate. If the minimum export edible sales price is too low, returns will not be maximized and grower income is reduced. Export contracts between handlers and growers generally do not exceed the CCC minimum sales price. On the basis of these considerations, it is the Department's view that a minimum CCC export edible sales price of $400 per ton for additional peanuts pledged as collateral for price support loans will best serve to maintain farm income on additional peanuts and minimize the risk of CCC losses on the sales of such peanuts.

The commentators on this issue uniformly suggested that the export edible sales price for loan collateral additional peanuts should be nearly equal to or greater than the export edible sales price which was applicable for 1982 crop loan collateral additional peanuts (i.e., $475/ton). The 1982 crop price, however, was based on expected prices in the world market which were higher than those which are expected during the marketing of the 1983 crop. Since the 1982 export edible sales price would be out of line with expected world prices, the continuation of the export edible sales price at that level for the 1983 crop would produce a price that is too high and would thus likely not result in a maximization of returns on additional peanuts for the reasons given above. The overly-high nature of the price which applied for export edible uses for the inventories of additional peanuts from the 1982 crop has been reflected in an absence of sales for those uses from 1982 inventories. A price of $400/ton for export edible uses of additional peanuts is estimated to be the price which will maximize returns on those peanuts.

Since the only purpose of this notice is to affirm the determinations of the national average level of support for the 1983 crop of additional peanuts and the minimum CCC export edible sales price for 1983 crop additional loan collateral peanuts which were announced by the Secretary on February 15, 1983, it has been determined that no further public rulemaking is required.

Determination

For the foregoing reasons, it has been determined that (1) the national average support level for additional peanuts of the 1983 crop shall be $185/ton and (2) that the minimum CCC export edible sales price for 1983 crop additonal peanuts pledged as collateral for price support loans shall be $400/ton.

Signed at Washington, D.C. on August 22, 1983.

Everett Rank,

Executive Vice President, Commodity Credit Corporation.

[FR Doc 83-23582 Filed 8-26-83; 8:45 am]

BILLING CODE 3410-05-M

COMMISSION ON CIVIL RIGHTS

Alabama Advisory Committee; Agenda and Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Alabama Advisory Committee to the Commission will convene at 9:00 am and will end at 6:00 pm, on September 26, 1983, at the Sheraton Waterfront Hotel, Seaboard Room, 200 Coosa Street, Montgomery, Alabama. The purpose of this meeting is to receive information from public officials and citizens on the matter of police-community relations in Montgomery.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Ms. Abigail Turner, P.O. Box 2963, Mobile, Alabama 36601, (205) 433–7409; or the Southern Regional Office, Citizens Trust Bank Building, Room 362, 75 Piedmont Avenue, N.E., Atlanta, Georgia 30303, (404) 242–4391.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C. August 23, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83-23630 Filed 8-26-83; 8:45 am]

BILLING CODE 6335-01-M

Colorado Advisory Committee, Agenda and Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Colorado Advisory Committee to the Commission will convene at 9:00 am and will end 12 Noon, on October 8, 1983, at the Central Classroom Building, Room 306, Metropolitan State College, 1006 Eleventh Street, Box 16, Denver, Colorado. The purpose of the meeting is for program planning.

Persons desiring additional information or planning a presentation to the Committee, should contract the Chairperson, Mr. Minoru Yasui, 1150 South Williams, Denver, Colorado 80210, (303) 575–2621; or the Rocky Mountain Regional Office, Brooks Towers, 1020 Fifteenth Street, Suite 2235, Denver, Colorado, (303) 327–2211.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 24, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83-23625 Filed 8-26-83; 8:45 am]

BILLING CODE 6335-01-M

Kentucky Advisory Committee; Agenda and Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Kentucky Advisory Committee to the Commission will convene at 1:00 pm and will end at 5:00 pm, on September 22, 1983, at the Seelbach Hotel, Green Room, 500 Fourth Street, Louisville, Kentucky. The purpose of the meeting is to provide orientation for new members of the Committee, and to plan programs for fiscal year 1984.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mr. Paul Oberst, 829 Sherwood Drive, Lexington, Kentucky 40506, (606) 257–3950; or the Southern Regional Office, Citizens Trust Bank Building, Room 362, 75 Piedmont Avenue, N.E., Atlanta, Georgia 30303 (404) 242–4391.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 23, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83-23631 Filed 8-26-83; 8:45 am]

BILLING CODE 6335-01-M

Michigan Advisory Committee; Agenda and Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a consultation of the Michigan

Advisory Committee to the Commission will convene at 9:00 am and will end at 6:00 pm, on September 21, 1983, at the Lansing Community College, Old Central Lecture Hall, 419 North Capitol, Lansing, Michigan. The purpose of the consultation is to gather information on tuition tax credits and educational equality.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Dr. M. H. Rienstra, 1225 Thomas South East, Grand Rapids, Michigan 49508 (616) 456–3659; or the Midwestern Regional Office, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604 (312) 353–7371.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 23, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83–23629 Filed 8–26–83; 8:45 am]

BILLING CODE 6335–01–M

New Hampshire Advisory Committee; Meeting Amendment

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeeting of the New Hampshire Advisory Committee of the Commission originally scheduled for September 21, 1983, at Manchester, New Hampshire (FR Doc. 83–22210 on page 36870) has been changed.

The meeting will now be held on September 22, 1983. The time and address will remain the same.

Dated at Washington, D.C., August 23, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83–23624 Filed 8–26–83; 8:45 am]

BILLING CODE 6335–01–M

New Jersey Advisory Committee; Agenda and Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the New Jersey Advisory Committee to the Commission will convene at 6:00 pm and will end at 8:45 pm, on September 21, 1983. The purpose of the meeting is to plan programs for fiscal year 1984.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mr. Clyde C. Allen, 620 Sheridan Avenue, Plainfield, New Jersey 07060 (212) 572–7577; or the Eastern Regional Office, Jacob K. Javits Building, Room 1639, 26 Federal Plaza, New York NY 10278 (212) 264–0400.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 24, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83–23625 Filed 8–26–83; 8:45 am]

BILLING CODE 6335–01–M

New York Advisory Committee; Agenda and Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the New York Advisory Committee to the Commission will convene at 4:30 pm and will end at 6:30 pm, on September 27, 1983, at the Holiday Inn, Medallion Room, 440 West 57th Street, New York, New York. The purpose of the meeting is to plan programs for FY 1984.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mr. Robert J. Mangum, 420 East 23rd Street, New York, New York 10010 (212) 420–3935; or the Eastern Regional Office, Jacob K. Javits Building, Room 1639, 26 Federal Plaza, New York NY 10278 (212) 264–0400.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 24, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83–23627 Filed 8–26–83; 8:45 am]

BILLING CODE 6335–01–M

North Dakota Advisory Committee; Agenda and Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the North Dakota Advisory Committee to the Commission will convene at 2:00 pm and will end at 5:00 pm, on September 30, 1983, at the Bestwestern Townehouse, 1800 North Twelfth, Bismarck, North Dakota. The purpose of the meeting is to plan programs for FY 84 and to receive information on the North Dakota Human Rights Act, 1983.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mr. Robert A. Feder, P.O. Box 1637, Fargo, North Dakota 58102, (701) 235–6515; or the Rocky Mountain Regional Office, Brooks Towers, 1020 Fifteenth Street, Suite 2235, Denver, Colorado 80202, (303) 327–2211.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 23, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83–23632 Filed 8–26–83; 8:45 am]

BILLING CODE 6335–01–M

South Carolina Advisory Committee; Agenda and Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the South Carolina Advisory Committee to the Commission will convene at 11:00 am and will end at 2:00 pm, on September 15, 1983, at the Gressette Senate Office Building, Room 413, State Capitol Complex, Columbia, South Carolina. The purpose of the meeting is to plan programs for fiscal year 1984.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Dr. Oscar P. Butler, Jr., P.O. Box 1705, South Carolina State College, Orangeburg, South Carolina 29115 (803) 536–7040; or the Southern Regional Office, Citizens Trust Bank Building, Room 362, 75 Piedmont Avenue, N.E, Atlanta, Georgia 30303 (404) 242–4391.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 23, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83–23623 Filed 8–26–83; 8:45 am]

BILLING CODE 6335–01–M

South Dakota Advisory Committee; Agenda and Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the South Dakota Advisory Committee to the Commission will convene at 10:30 am and will end at 3:30 pm, on September 23, 1983, at the Airport Holiday Inn, 1301 West Russell, Sioux Falls, South Dakota. The purpose of the meeting is for program planning.

Persons desiring additional information or planning a presentation to the Committee, should contact the

Chairperson, Ms. Rae Johnson, Box 276, Mission, South Dakota 57558 (605) 747–2312; or the Rocky Mountain Regional Office, Brooks Towers, 1020 Fifteenth Street, Suite 2235, Denver, Colorado 80202 (303) 327–2211.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 24, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83-23628 Filed 8-26-83; 8:45 am]

BILLING CODE 6335-01-M

Wyoming Advisory Committee; Agenda and Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Wyoming Advisory Committee to the Commission will convene at 10:00 am and will end at 12 Noon, on September 29, 1983, at the Hitching Post Inn, Presidential Room, 1700 West Lincoln Way, Cheyene, Wyoming. The purpose of the meeting is to release to the public the research report *Accessibility for the Disabled to Wyoming's Higher Education,* and consider followup activities.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mr. Fuji Adachi, 1566 Wyoming Avenue, Laramie, Wyoming 82070 (307) 766–6182; or the Rocky Mountain Regional Office, Brooks Towers, 1020 Fifteenth Street, Suite 2235, Denver, Colorado 80202 (303) 327–2211.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 23, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83-23633 Filed 8-26-83; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Petitions by Producing Firms for Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions have been accepted for filing from the following firms: (1) AJD Forest Products, Inc., P.O. Box 629, Grayling, Michigan 49738, producer of lumber (accepted July 20, 1983); (2) Hurco Manufacturing Company, Inc., P.O. Box 68180, Indianapolis, Indiana 46268, producer of machine tools and parts (accepted July 20, 1983); (3) Gould & Eberhardt Gear Machinery Corporation, Sutton Road, Webster, Massachusetts 01576, producer of machine tools and parts (accepted July 21, 1983); (4) JMC Racing Equipment, Inc., 164 S. Irwindale, Azusa, California 91702, producer of bicycle components (accepted July 20, 1983); (5) Travers Town Manufacturing Company, Inc., P.O. Box 4777, Springfield, Missouri 65804, producer of women's coats, suits and dresses (accepted July 21, 1983); (6) Spindletop Apparel, Inc., 18 Third Street, Passaic, New Jersey 07055, producer of women's jackets (accepted July 25, 1983); (7) Dawson Knitting, Inc., P.O. Box 147, Dawson, Minnesota 56232, producer of men's, women's and children's jackets, vests, shirts, and pants (accepted July 26, 1983); (8) Micro Sensors, Inc., New Englander Industrial Park, Route 126, Holliston, Massachusetts 01746, producer of process control instruments (accepted July 27, 1983); (9) Terra Furniture, Inc., 17855 Arenth Avenue, City of Industry, California 91744, producer of household and commercial furniture (accepted July 27, 1983); (10) Twin City International, Inc., 175 Pineview Drive, Audubon Industrial Park, Amherst, New York 14150, producer of electronic measuring instruments (accepted July 28, 1983); (11) Meyers Manufacturing Company, 330 Fifth Avenue, New York, New York 10001, producer of handbags (accepted July 28, 1983); (12) Jersey Plastic Molders, Inc., 149 Shaw Avenue, Irvington, New Jersey 07111, producer of plastic housewares and automotive accessories (accepted July 28, 1983); (13) Westover Knitting Mills, Inc., P.O. Box 24, Springfield, Massachusetts 01151, producer of knit fabric (accepted July 28, 1983); (14) Globe Seed & Feed Company, Inc., Box 445, Twin Falls, Idaho 83301, producer of agricultural seeds and feeds (accepted August 1, 1983); (15) Sawyer of Napa, Inc., P.O. Box 238, Napa, California 94559, producer of men's and women's coats and vests (accepted August 1, 1983); (16) Jersey Forging, Inc., 803 Jersey Avenue, Jersey City, New Jersey 07302, producer of forged gear blanks and couplings (accepted August 2, 1983); (17) Stan Shinkawa, Inc., Room 206, Halau Building, 2330 Kalaukaua Avenue, Honolulu, Hawaii 96815, producer of jewelry (accepted August 2, 1983); (18) Rockford Chain Company, 4175 22 Mile Road, Utica, Michigan 48087, producer of steel chain and sprockets (accepted August 3, 1983); (19) The Colorado Tent Company, 2228 Blake Street, Denver, Colorado 80205, producer of fishing creels, tents, water bags, tarpaulins and other fabric articles (accepted August 3, 1983); (20) Chateau Esperanza Winery, Ltd., Route 54A, Bluff Point, New York 14417, producer of wine (accepted August 4, 1983); (21) H. Margolin and Company, Inc., 380 River Street, Fitchburg, Massachusetts 01420, producer of handbags (accepted August 5, 1983); (22) Ritchey Manufacturing Company, Inc., P.O. Box 58, Brighton, Colorado 80601, producer of animal identification tags and application accessories (accepted August 5, 1983); (23) Federal Chain Company, 141 Georgia Avenue, Providence, Rhode Island 02905, producer of jewelry chains (accepted August 5, 1983); (24) Trooper, Inc., 2804 Wilco Avenue, Augusta, Georgia 30904, producer of men's, women's and children's pants, shirts, shorts and jackets (accepted August 8, 1983); (25) J. Lash Acquisition Corporation, P.O. Box 126, Reading, Pennsylvania 19603, producer of copper and brass tubing (accepted August 9, 1983); (26) Above the Belt, Inc., 1306 Jefferson Davis Highway, Richmond, Virginia 23224, producer of men's and boys' shirts and pants (accepted August 9, 1983); (27) Ramco Chemicals, Inc., 83 E Street, Minillas Industrial Park, Bayamon, Puerto Rico 00620, producer of industrial chemicals (accepted August 9, 1983); (28) A & S Bias Binding Company, Inc., 159 Varick Street, New York, New York 10013, producer of garment bindings (accepted August 9, 1983); (29) F. L. Russell Corporation, Sterling Road, Mt. Marion, New York 12456, producer of notebooks, tablets, photo albums and other stationery items (accepted August 9, 1983); (30) Tompkins Brothers Company, Inc., 623 Oneida Street, Syracuse, New York 13202, producer of knitting machines and parts (accepted August 9, 1983); (31) Olympic Foundry, P.O. Box 80187, Seattle, Washington 98108, producer of metal castings (accepted August 9, 1983); (32) Magco Plastics, Inc., Four Mill Street, Cumberland, Rhode Island 02864, producer of jewelry and duck decoys (accepted August 10, 1983); (33) Ideal Handbag Frame Mfg. Corporation, 339 Greene Avenue, Brooklyn, New York 11238, producer of handbag frames and ornaments, belt buckles and ice bucket handles (accepted August 10, 1983); (34) Electric Apparatus Company, P.O. Box 275, Howell, Michigan 48843, producer of electric motors and parts (accepted August 10, 1983); (35) Spencer Handbag Corporation, 141, Spencer Street, Brooklyn, New York 11205, producer of handbags (accepted August 10, 1983); (36) Wilderness Group, Inc., 3891 N. Ventura Avenue, Ventura, California

93001, producer of wallets, backpacks, bicycle bags and first aid kits (accepted August 10, 1983); (37) Tobias Kotzin Company, 1300 Santee Street, Los Angeles, California 90015, producer of men's and boys' pants and tops (accepted August 10, 1983); (38) Elegant Merchandising, Inc., 227 W. 29th Street, New York, New York 10001, producer of jewelry (accepted August 10, 1983); (39) NDL Products, Inc., P.O. Box 1867, Pompano Beach, Florida 33061, producer of athletic support products and exercise equipment and accessories (accepted August 10, 1983); (40) New York Twist Drill Corporation, 25 Arrow Road, Ramsey, New Jersey 07446, producer of cutting tools (accepted August 12, 1983); and (41) Saylor-Beall Mfg. Company, Inc., 400 N. Kibbee Street, St. John, Michigan 48879, producer of air compressors (accepted August 16, 1983).

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93–618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Director, Certification Division, Office of Trade Adjustment Assistance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.309, Trade Adjustment Assistance. Inasfar as this notice involves petitions for the determination of eligibility under the Trade Act of 1974, the requirements of Office of Management and Budget Circular No. A–95 regarding review by clearinghouses do not apply.

Charles L. Smith,

Acting Director, Certification Division, Office of Trade Adjustment Assistance.

[FR Doc. 83-23661 Filed 8-26-83; 8:45 am]

BILLING CODE 3510-25-M

President's Export Council, Executive Committee; Open Meeting

A meeting of the President's Export Council's Executive Committee will be held September 13, 1983, 2:00 p.m., at the Herbert C. Hoover Building, Room 4830, 14th Street and Constitution Avenue, NW., Washington, D.C. The Council's purpose is to advise the President on matters relating to United States export trade.

Agenda

A presentation to the President's Export Council by a high level Japanese Trade Mission, reports of subcommittee chairmen that will include discussion of committee activities and resolutions on currency valuation, the engineering and construction industry, cargo preference requirements, agricultural marketing programs, and export control issues. Reports on trade reorganization and other timely issues will also be made.

The meeting will be open to the public with a limited number of seats available. For further information or copies of the minutes contact Suzanne Sakolsky (202) 377–1125, Room 3213, U.S. Department of Commerce, Washington, D.C. 20230.

Dated: August 23, 1983.

Henry Misisco,

Acting Director, Office of Planning and Coordination.

[FR Doc. 83-23659 Filed 8-26-83; 8:45 am]

BILLING CODE 3510-25-M

President's Export Council, Liaison Subcommittee; Open Meeting

A meeting of the President's Export Council's Liaison Subcommittee will be held September 14, 1983, 10:00 a.m., at the Departmental Auditorium Building, Conference Room B, Constitution Avenue between 12th & 14th Streets, Washington, D.C. The Council's purpose is to advise the President on matters relating to United States export trade.

Agenda

The main topic of this meeting is "Labor's Stake in Exports". Presentations will be heard from economists, labor representatives, business representatives and associations on this subject.

The meeting will be open to the public with a limited number of seats available. For further information or copies of the minutes contact Suzanne Sakolsky (202) 377–1125, Room 3213, U.S. Department of Commerce, Washington, D.C. 20230.

Dated: August 23, 1983.

Henry Misisco,

Acting Director, Office of Planning and Coordination.

[FR Doc. 83-23660 Filed 8-26-83; 8:45 am]

BILLING CODE 3510-25-M

Final Negative Countervailing Duty Determination; Pork Rind Pellets From Mexico

AGENCY: International Trade Administration, Commerce.

ACTION: Final negative countervailing duty determination: pork rind pellets from Mexico.

SUMMARY: We determine that no benefits which constitute a bounty or grant within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Mexico of pork rind pellets, as described in the "Scope of Investigation" section of this notice. One program confers a benefit to the pork rind pellet industry; however, the total estimated net bounty or grant is *de minimis*. Therefore, our final countervailing duty determination is negative.

EFFECTIVE DATE: August 29, 1983.

FOR FURTHER INFORMATION CONTACT: Mary J. Jenkins, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., N.W., Washington, D.C. 20230, telephone: (202) 377–1756.

SUPPLEMENTARY INFORMATION:

Final Determination

Based upon our investigation, we determine that no benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Mexico of pork rind pellets. The Guarantee and Development Fund for Medium and Small Industries (FOGAIN) confers a benefit to the producers or exporters in Mexico of pork rind pellets, as described in the "Scope of Investigation" section of this notice. However, the estimated net bounty or grant is 0.218 percent *ad valorem* which is *de minimis*, and therefore our determination is negative.

Case History

On March 14, 1983, we received a petition from counsel for Evans Food Company, filed on behalf of the pork rind pellet industry in the United States. The petition alleged that the government of Mexico bestows bounties or grants

upon the production or exportation of pork rind pellets within the meaning of section 303 of the Act. We found the petition to contain sufficient grounds upon which to initiate a countervailing duty investigation and, on April 4, 1983, we initiated a countervailing duty investigation (48 FR 15308).

Mexico is not a "country under the Agreement" within the meaning of section 701(b) of the Act and, therefore, section 303 of the Act applies to this investigation. Under this section, since the merchandise being investigated is dutiable, the domestic industry is not required to allege that, and the U.S. International Trade Commission (ITC) is not required to determine whether, imports of this product cause or threaten material injury to a U.S. industry.

In our notice of initiation we stated that we would issue a preliminary determination on or before June 7, 1983. On April 18, 1983, we presented a questionnaire concerning the allegations in the petition to the government of Mexico in Washington, D.C. On May 18, 1983 and June 3, 1983, we received the responses of our questionnaire from the government of Mexico. After reviewing the government of Mexico's responses, we submitted additional questions and requests for information is a letter dated June 9, 1983. The government of Mexico responded by providing additional information on June 30, 1983.

On June 7, 1983, we issued our preliminary determination in this investigation (48 FR 27117). We preliminarily determined that certain benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers or exporters in Mexico of pork rind pellets. However, the estimated net bounty or grant was *de minimis*, and therefore our preliminary determination was negative.

The program preliminarily determined to bestow countervailable benefits was the Guarantee and Development Fund for Medium and Small Industries (FOGAIN).

From July 11–19, 1983, we verified the government of Mexico's responses to our questionnaires concerning pork rind pellets.

Our preliminary determination gave interested parties an opportunity to submit oral and written views. Both petitioner and respondent filed briefs after our preliminary determination. We held a public hearing on July 19, 1983, at which counsel for the petitioner and the respondent participated.

Scope of Investigation

The product covered by this investigation is pork rind pellets and is currently imported under item 107.7880 of the *Tariff Schedules of the United States Annotated* (TSUSA). Pork rind pellets are produced by cooking pork skins at very high temperatures. They are used in the production of puffed pork skins, a snack food. Alimentos Selectos de Saltillo S.A. (Selectos) is the sole known producer and exporter of pork rind pellets from Mexico. The period for which we are measuring bounties or grants is January 1, 1982 to April 30, 1983.

Analysis of Programs

In its response, the government of Mexico provided data for the applicable period. Based upon our analysis of the petition, the responses to our questionnaires, our verification, and oral and written comments by interested parties, we determine the following:

I. Program Determined To Confer a Bounty or Grant

We determine that a benefit is provided to manufacturers, producers, or exporters in Mexico of pork rind pellets under the program listed below. The total estimated net bounty or grant is *de minimis* and therefore our determination is negative.

A. Guarantee and Development Fund for Medium and Small Industries (FOGAIN)

FOGAIN is a program that provides financing at interest rates below prevailing commercial rates to all small and medium size firms in Mexico. Our verification showed that interest rates will vary depending upon: whether a medium size business has a designated priority status, and the geographical location of a small or medium size business. Small businesses and medium size businesses, with or without priority designation, and located in specific zones targeted for industrial growth receive loans at preferential interest rates.

We determine this program to be countervailable to the extent it provides preferential financing on the basis of priority status for certain medium size firms and/or on the basis of the location of a small or medium size firm in a particular zone. Without these designations, FOGAIN would not be countervailable, since our verification showed that all small and medium size firms in Mexico are at least eligible to receive FOGAIN loans at the least beneficial rate of interest available under the program. Therefore, we determine the program is countervailable to the extent that the interest rate received by a small or medium size firm is below the least beneficial rate which that firm can receive under FOGAIN.

To determine the estimated bounty or grant conferred upon Selectos, we used as our benchmark the least beneficial interest rate that would have been available under FOGAIN to Selectos. Selectos obtained FOGAIN financing in June 1979, July 1980, June 1981, and July 1982. The highest FOGAIN interest rates applicable on those dates, as verified, were 14%, 21%, 22%, and 37%, respectively. Selectos obtained its loans at rates lower than these.

We computed the difference between payment streams for the FOGAIN loans received by Selectos and that which would have been incurred had the loans been made at the least beneficial rate of interest under this program.

We allocated the amount of benefit from the loans over the company's total value of sales of all products for the period for which we are measuring bounties or grants. We determine the estimated net amount of the bounty or grant to be 0.218 percent *ad valorem*.

II. Programs Determined Not To Be Countervailable

We determine that the following programs do not confer bounties or grants upon the manufacturers, producers, or exporters in Mexico of pork rind pellets.

A. Certificates of Fiscal Promotion (CEPROFI)

In 1979 the government of Mexico introduced a four-year National Industrial Development Plan (NIDP) which sets forth broad economic goals for the country. Tax credits, which are called CEPROFIs, are used to promote the NIDP goals, which include increased employment, encouragement of regional decentralization, and industrial development, particularly of small and medium size firms.

CEPROFIs are non-transferable tax certificates of fixed value which may be used for a five-year period to pay federal taxes. Certain CEPROFI certificates are granted for carrying out investments in "priority" industrial activities; others are available to all industries in any location. We verified that the CEPROFI received by Selectos was granted for investment in Mexican-made machinery and equipment which is available to all industries in any location. Therefore, we determine that CEPROFIs granted for the acquisition of new, Mexican-made capital goods are generally available to all industries on equal terms without regard to region or industrial activity. Therefore, we do not

consider this type of CEPROFI, provided for this purpose, to be countervailable.

B. Dual Level Currency Exchange Rate System

Petitioner alleges that the dual level exchange rate system existing in Mexico constitutes a counterverilable benefit to the pork rind pellet industry. At present in Mexico, all export proceeds must be converted at the controlled rate of exchange established by the Mexican government. During the period for which we are measuring bounties or grants, we verified that Selectos has not yet exchanged to pesos any earnings received for pork rind pellets exported to the United States. We also verified that the Mexican government will require Selectos, upon receipt of any export proceeds, to exchange those proceeds, to pesos at the controlled rate, thus receiving fewer pesos per dollar than if they were converted at the free exchange rate.

Foreign currency to purchase imports may be converted at the controlled rate or the free rate. A Mexican government decree published in the *Diario Oficial de la Federation (Diario Oficial)* on December 20, 1982, the tariff list of which was revised on January 18, 1983, describes the rules pursuant to which foreign currency to purchase imports may be obtained at the controlled rate. Article 1 of this decree states that foreign currency can be purchased at the controlled rate for a wide variety of imports listed in the decree (various items ranging from plants, animals, and chemicals, to medical equipment, heavy machinery, etc.). Pork skins, the principal imput used in the production of pork rind pellets, are contained on the January 18, 1983 revision to the tariff list. Article 2 of the decree provides that imports used in exportation may be paid for using foreign currency obtained at the controlled rate. Therefore, the pork rind pellet industry is eligible to purchase pork skins with foreign currency obtained at the controlled rate both under Article 1 and Article 2, regardless of the destination of the pork rind pellets.

The Department has determined that the operation of the Mexican exchange rate system does not confer an export bounty or grant on pork rind pellets because eligibility to use the controlled rate for making import purchases of pork skins is not contingent upon export performance. In addition, this system does not appear to stimulate export sales of pork rind pellets over domestic sales of pork rind pellets. Whether or not the pork rind pellet industry exported pellets to the United States, it would be eligible to import pork skins at the controlled rate because this item is contained on the January 18, 1983 revision to the tariff list. Further, all exporters are required to convert their foreign earnings at the less favorable controlled exchange rate.

Additionally, we find that the dual exchange rate system does not benefit a "specific enterprise or industry, or group of enterprises or industries" within Mexico as specified in section 771(5)(B) of the Act, because all firms may import many different goods using the controlled exchange rate. As indicated above, the goods on the tariff list for which foreign currency may be obtained at the controlled rate range from plants and animal products to orange peelers to heavy machinery. Because the Mexican government, through the creation of the above-described tariff list, has not singled out for benefit a specific industry or enterprise or a specific group of industries or enterprises, the Department determines that the Mexican dual exchange rate system does not operate to confer a domestic subsidy on the pork rind pellet industry.

III. Programs Determined Not To Be Used

We determine that the following programs have not been used by the pork rind pellet industry.

A. Preferential Rates on Commercial Risk Insurance

The petitioner alleges that the pork rind pellet industry has benefited from preferential rates on commercial risk insurance through Compania Mexicana de Seguros de Credito (COMESEC). COMESEC, which provides export insurance, was specifically established by law, although it is owned by private insurance companies.

In past determinations we have stated that COMESEC does not provide a bounty or grant because the premium rates that COMESEC charged the manufacturers, producers, or exporters cover COMESEC's operating costs and losses on insurance operations.

In this investigation, verification indicated that Selectos has not received commercial risk insurance from COMESEC. We determine that this program was not used during the period for which we are measuring bounties or grants.

B. Fund for the Promotion of Exports of Mexican Manufactured Products (FOMEX)

FOMEX is a trust established by the government of Mexico to promote the manufacture and sale of exported products. The fund is administered by the Mexican Treasury Department with the Bank of Mexico acting as the trustee. The bank of Mexico administers the financing of FOMEX loans through financial institutions, which establish contracts for lines of credit with manufacturers and exporters.

In order for a company to be eligible for FOMEX financing for exports, the following requirements must be met: (1) the product to be manfactured must be included on a list made public by FOMEX; (2) the articles to be exported must have a minimum of 30 percent national content in direct production costs; (3) loans granted for pre-export must be in Mexican currency, while loans for exports sales are established in U.S. dollars or any other foreign currency acceptable to the Bank of Mexico; and (4) the exporter must carry insurance against commercial risks to the extent of the loans. In previous final countervailing duty determinations regarding Mexico, we have found the FOMEX program to confer benefits constituting bounties or grants.

Our verification indicated that Selectos had not received FOMEX financing. Therefore, we determine that this program was not used during the period for which we are measuring bounties or grants.

C. Fund for Industrial Development (FONEI)

FONEI is a specialized financial development fund, administered by the Bank of Mexico, which grants long-term preferential credit for the creation, expansion or modernization of enterprises in order to foster the efficient production of industrial goods, the production of goods capable of competing in the international market, and industrial decentralization.

Our verification revealed that Selectos has not received FONEI loans. Thus, we determine that this program was not used during the period for which we are measuring bounties or grants.

D. Mexican Institute for Foreign Trade (IMCE)

IMCE was created by a law published in the *Diario Official* on December 31, 1970 and has as its organizational purpose the promotion of the foreign trade of Mexico and the coordination of efforts to stimulate foreign trade. In addition, IMCE functions as an advisory board in the previously mentioned matters. IMCE performs a number of functions including organizing and directing trade fairs abroad, promoting the visits of foreign trade missions to Mexico, carrying out investigations to

identify national products or services which might be in demand abroad, and providing exporters with technical assistance. We verified that this program was not used during the period for which we are measuring bounties or grants.

E. Trust for Industrial Parks, Cities and Commercial Centers (FIDEIN)

Operating under Nacional Financiera S.A. (NAFINSA), this program is aimed at the development of industrial parks and cities. We verified that Selectos was not located in an industrial park. Therefore, we determined that this program was not used during the period for which we are measuring bounties or grants.

F. National Preinvestment Fund for Studies and Projects (FONEP)

FONEP is a trust administered by NAFINSA, whose primary objective is to assist firms to invest in economic feasibility studies. We verified that this program was not used during the period for which we are measuring bounties or grants.

G. Favorable Tax Treatment

Petitioner alleged that certain Mexican industries receive special tax incentives such as favorable tax treatment in the form of special rates and a reduction in tax liabilities. We verified that this program was not used during the period for which we are measuring bounties or grants.

H. Preferential Pricing for Fuel and Energy

Petitioner alleged that the pork rind pellet industry might have benefited from preferential prices and discounts on fuel and energy. We verified that this program was not used during the period for which we are measuring bounties or grants.

I. Fondo Nacional de Fomento Industrial (FOMIN)

Petitioner alleged that FOMIN provides producers, manufacturers, or exporters of the subject merchandise with a bounty or grant. FOMIN operates as a trust fund, providing funding to certain companies through either stock acquisition or the provision of convertible loans at rates below those of commercial lending institutions. We verified that this program was not used during the period for which we are measuring bounties or grants.

J. Import Duty Reductions and Exemptions

Petitioner alleges that companies establishing facilities in the border zone are eligible for import duty reductions or exemptions on raw materials, machinery, and equipment. Petitioner also alleges that companies or producers capable of demonstrating increased export volume may receive a reduction or exemption of duties on imported machinery or equipment used in the manufacture of exported products. Petitioner also alleges that producers or exporters of pork rind pellets may benefit from their location in areas which are declared "free zones" into which merchandise may be imported duty free.

We verified that this program was not used during the period for which we are measuring bounties or grants.

K. Preferential State Investment Incentives

Under this program, an industry may receive a partial or total exemption from state taxes or other tax benefits such as special teatment on real estate taxes or infrastructure taxes. We verified that this program was not used during the period for which we are measuring bounties or grants.

L. Certificado de Devolucion de Impuesto (CEDI)

CEDI is a tax certificate issued by the government of Mexico in an amount equal to a percentage of the f.o.b. value of the exported merchandise or, if national insurance and transportation are used, a percentage of the c.i.f. value of the exported product. The CEDIs are non-transferable and may be applied against a wide range of federal tax liabilities (including payroll taxes, value-added taxes, federal income taxes, and import duties) over a period of five years from the date of issuance.

The government of Mexico suspended eligibility for CEDI tax rebates by an executive order published on August 25, 1982, in the *Diario Oficial*. The order abrogates prior executive orders which contained the list of products eligible to receive CEDI certificates. Suspension of eligibility to apply for the CEDI was effective one day after publication of the executive order in the *Diario Oficial* We verified that Selectos did not start exporting to the U.S. unitl February 1983, so it could not have benefited from CEDI while the program was in effect. We determine that this program was not used during the period for which we are measuring bounties or grants.

Petitioner's Comments

Comment 1

The Department of Commerce's method of calculating the FOGAIN benefit produces results that are not consistent with the statute and administrative practice.

DOC Position

The Department verified that all small and medium size firms in Mexico are eligible to receive FOGAIN loans at the least beneficial rate of interest available under the FOGAIN program. Therefore, we consider that loans received at this rate are not countervailable because making this rate available to all small and medium size businesses does not constitute governmental provision of the rate to a specific group of industries or enterprises under section 771(5)(B) of the Act (*see, e.g.*, the "Maribel Program" from *Certain Steel Products from Belgium* (47 FR 39304); "Assistance to Iron Ore Suppliers" from *Certain Steel Products from France* (47 FR 39332); "Articles 8, 9, 12, 14 and 16 of the Law for the Promotion of Exports of Nontraditional Goods" from *Cotton Yarn from Peru* (48 FR 4508); and the "Stumpage Program of Canadian Federal and Provincial Governments", "FRI Industrial Incentives Fund for Small and Medium-Sized Businesses", "PME-Innovation", and "British Columbia Assistance to Small Enterprise Program (ASEP)" from *Certain Softwood Products from Canada* (48 FR 24159)).

However, under FOGAIN, interest rates can vary depending upon (a) whether a medium size business has a designated priority status, and (b) the geographical location of a small or medium size business. To the extent that the government directs that interest rates shall differ from those available to all small and medium size firms due to certain limiting criteria, we consider these preferential rates to be countervailable. We determined the program to be countervailable only to the extent that interest rates received by a particular company are below the least beneficial rate that any small or medium size firm could receive under FOGAIN (*see, e.g.*, "Investment Tax Credit" from *Certain Softwood Products from Canada* (48 FR 24159)). Therefore, to determine the estimated bounty or grant conferred upon Selectos, we compared the interest rate Selectos received to the least beneficial interest rate available under FOGAIN.

Comment 2

Petitioner alleges that the dual level exchange rate system existing in Mexico operates to confer a countervailable benefit on the pork rind pellet industry because it is able to purchase imports from the United States with dollars obtained at the controlled exchange

rate, which requires payment of fewer pesos per dollar than the free rate. Petitioner argues that the use over time of the peso difference between what Selectos paid for its dollars at the controlled rate and what it would have paid had it been obliged to use the free rate constitutes a preferential loan.

DOC Position

The Department has determined that the operation of the Mexican dual exchange rate system confers neither an export nor a domestic bounty or grant (see II B above). We do not consider the use of the controlled rate for imported inputs by the pork rind pellet industry to constitute a preferential loan because we have determined that this program does not confer a bounty or grant.

Verification

In accordance with section 776(a) of the Act, we verified the data used in making our final determination. During the verification we followed normal procedures, including inspection of documents, interviews with government and company officials, and on-site inspection of the records and operations.

Administrative Procedures

The Department gave interested parties an opportunity to present oral views in accordance with its regulations (19 CFR 355.35). In accordance with the Department's regulations (19 CFR 355.34(a)), oral and written views have been received and considered. We hereby conclude our investigation regarding this case.

This notice is published pursuant to sections 303 and 705(d) of the Act (19 U.S.C. 1303, 1671d(d)).

Lawrence Brady,

Assistant Secretary for Trade Administration.

August 19, 1983.

[FR Doc. 83-23387 Filed 8-25-83; 8:45 am]

BILLING CODE 3510-25-M

Cordage From Cuba; Final Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Final Results of Administrative Review of Countervailing Duty Order.

SUMMARY: On May 26, 1983, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on cordage from Cuba. The review covers the period January 1, 1982 through December 31, 1982.

We gave interested parties an opportunity to comment on the preliminary results. We received no comments. Based on our analysis, the final results of the review are the same as the preliminary results.

EFFECTIVE DATE: August 29, 1983.

FOR FURTHER INFORMATION CONTACT: Bernard Carreau or Joseph Black, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On May 26, 1983, the Department of Commerce ("the Department") published in the Federal Register (48 FR 23682) the preliminary results of its administrative review of the countervailing duty order on cordage from Cuba (19 FR 4560, July 23, 1954). The Department has now completed that administrative review, in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

The merchandise covered by the review is cordage which the Cuban government considered "binder twine and baler twine," but which does not meet the definition contained in the Tariff Schedules of the United States Annotated (TSUSA). Normally, binder twine and baler twine, as defined by the TSUSA, enter under items 315.2020 and 315.2040 of the TSUSA. The merchandise under consideration here is currently classifiable under item 315.2500 of the TSUSA. The review covers the period January 1, 1982 through December 31, 1982.

Final Results of the Review

We gave interested parties an opportunity to comment on the preliminary results. We received no comments. Based on our analysis, the final results of the review are the same as the preliminary results. There were no known unliquidated entries of the merchandise during the period of review. This merchandise has not been imported into the United States since 1982, and is covered by the embargo on all trade with Cuba in effect since February 7, 1962 (27 FR 1085).

The Department will instruct the Customs Service to collect a cash deposit of estimated countervailing duties of 2.466 cents per pound, as provided for in section 751(a)(1) of the Tariff Act, on any shipments of Cuban cordage entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review. The Department is now beginning the next administrative review.

The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information during the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: August 23, 1983.

Alan F. Holmer,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 83-23630 Filed 8-25-83; 8:45 am]

BILLING CODE 3510-25-M

Preliminary Affirmative Countervailing Duty Determination; Certain Refrigeration Compressors From the Republic of Singapore

AGENCY: International Trade Administration, Commerce.

ACTION: Preliminary Affirmative Countervailing Duty Determination.

SUMMARY: We preliminarily determine that certain benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Singapore of certain refrigeration compressors, as described in the "Scope of Investigation" section of this notice. The estimated net bounties or grants are 4.87 percent *ad valorem*. Therefore, we are directing the U.S. Customs Service to suspend liquidation of all entries of the product subject to this determination which are entered, or withdrawn from warehouse, for consumption, and to require a cash deposit or the posting of a bond on this product in an amount equal to the estimated net bounties or grants.

If this investigation proceeds normally, we will make our final determination by November 2, 1983.

EFFECTIVE DATE: August 29, 1983.

FOR FURTHER INFORMATION CONTACT: Melissa G. Skinner, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone: (202) 377-3530.

SUPPLEMENTARY INFORMATION:

Based upon our investigation, we preliminarily determine that there is reason to believe or suspect that certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended ("the Act"), are being provided to manufacturers, producers, or exporters in Singapore of certain refrigeration compressors as described in the "Scope of Investigation" section of this notice. The estimated net bounties or grants are 4.87 percent *ad valorem*.

Case History

On May 26, 1983, we received a petition in proper form from counsel for Tecumseh Products Company, a manufacturer of smaller hermetic refrigeration compressors, on behalf of the U.S. industry producing certain refrigeration compressors. The petitioner alleged that certain benefits which constitute bounties or grants within the meaning of section 303 of the Act are being provided, directly or indirectly, to the manufacturers, producers, or exporters in Singapore of certain refrigeration compressors.

Since Singapore is not a "country under the Agreement" within the meaning of section 701(b) of the Act, section 303 of the Act applies to this investigation. Because the product under investigation is dutiable, the domestic industry is not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of this product cause or threaten to cause material injury to a U.S. industry. We found the petition to contain sufficient grounds upon which to initiate a countervailing duty investigation, and on June 13, 1983 we initiated a countervailing duty investigation (48 FR 28888).

On June 29, 1983, we presented a questionnaire concerning the allegations to the government of Singapore at the Department of Commerce in Washington, D.C. On August 8, 1983, we received the responses of the questionnaire.

On August 15, 1982, we received a brief from counsel for petitioner alleging that benefits flowing from the "utilization" of the pioneer program, discussed below, by a company under investigation have ramifications far beyond the period during which this company technically held pioneer status. Petitioner also alleged the companies in Singapore which are producing and exporting refrigeration compressors are receiving private subsidies from their parent companies. These allegations, although not considered for this preliminary determination, will be investigated prior to making our final determination.

Scope of Investigation

The product covered by this investigation is certain hermetic refrigeration compressors rated not over one-quarter horsepower. The merchandise is currently classified under item number 661.0900 of the *Tariff Schedules of the United States Annotated* (TSUSA).

Two companies were identified by the government of Singapore as being producers or exporters of the product under investigation. They are Matsushita Refrigeration Industries (Singapore) Pte. Ltd., producer, and Matsushita Electric Trading (Singapore) Pte. Ltd., exporter. We will be investigating the possible existence of additional producers or exporters of the product under investigation.

The period for which we are measuring subsidization is calendar year 1982 or fiscal year 1982, as appropriate.

Analysis of Programs

Based upon our analysis to date of the petition and responses to our questionnaires, we have preliminarily determined the following:

I. Programs Preliminarily Determined to Confer Bounties or Grants

We preliminarily determine that bounties or grants are being provided to manufacturers, producers, or exporters in Singapore of certain refrigeration compressors under the programs listed below.

A. *The Economic Expansion Incentives Act.* —The petitioner alleges that the partial exemption from company income tax of export profits based on classification as an "export enterprise," as provided for in Part IV of the Economic Expansion Incentives Act ("Incentives Act") confers a bounty or grant on the manufacturer of the product under investigation.

Part IV of the Incentives Act provides that the Minister of the Singapore Economic Development Board ("SEDB") may approve any product manufactured in Singapore as an export product. It further provides that the Minister may issue an export enterprise certificate, "subject to such conditions as he thinks fit," to any company making application which is manufacturing or proposes to manufacture any export product. Section 32 of the Incentives Act provides that once export profits have been determined, an amount equal to 90 percent of such profits shall be exempt from tax.

The Incentives Act also provides for the lenght of time for which an export enterprise will be exempt from income tax on its export profits, as well as for what income shall be included in such calculations.

In their responses, the government of Singapore and the companies stated that the producer of the product under investigation is a certified export enterprise which is receiving a tax exemption on export profits.

Since this tax exemption is provided only to certified export enterprises, we preliminarily determine that the tax exemption provided under Part IV of the Incentives Act confers a bounty or grant on the manufacturers, producers, or exporters in Singapore of certain refrigeration compressors.

We calculated the benefit received under this program by subtracting the amount of taxes paid from the amount of taxes which, without benefit of the exemption, would have been owed. We then allocated this tax savings over total exports. On this basis we calculated a bounty or grant in the amount of 4.74 percent *ad valorem*.

B. *The Singapore Monetary Authority.*—The petitioner alleges that the provision of preferential financing through the Singapore Monetary Authority's rediscount facility for eligible export and pre-export usance bills of exchange confers a bounty or grant.

The Monetary Authority of Singapore operates a rediscounting facility at which banks are permitted to rediscount qualified pre-export and export bills of exchange. Most exporters of manufactured products are eligible to receive financing from commercial banks using this facility. Banks negotiating rediscounted bills are allowed to charge a maximum commission of not more than one and one-half percent, per annum, above the rediscount rate charged by the Authority. The Authority's rediscount rate is subject to change from time to time, and it has fluctuated during the period for which we are measuring subsidization.

The rediscount rate is lower than the prime rate (average prime lending rate of 10 major banks in Singapore) at which comparable commercial loans were available during the period for which we are measuring subsidization. Since the rediscount faciltiy is only available for use by exporters, and the rate of interest charged is less than commercial interest rates on comparable loans, we preliminarily determine that the provision of financing by the rediscount facility of the

Monetary Authority confers a bounty or grant. We note that in a prior investigation, the Treasury Department found the same program to be countervailable. *Certain Textiles and Textile Products from Singapore*, 44 FR 35335 (June 19, 1979).

The benefit provided under this program was determined by applying the interest rate differential for the month in which a loan was received (prime rate − rediscount rate = differential) to the principal amount of the loan, for the number of days the loan was outstanding during the period for which we are measuring subsidization. This was calculated for each loan which was either received or outstanding during this period. We then allocated the aggregate benefit over total exports. On this basis we calculated a bounty or grant in the mount of 0.13 percent *ad valorem*.

II. Programs Preliminarily Determined Not Confer Bounties or Grants

We preliminarily determine that bounties or grants are not being provided to manufacturers, producers, or exporters in Singapore of certain refrigeration compressors under the following programs.

A. The petitioner alleges that the issuance of tax-exempt dividends, as provided for in the Incentives Act, confers a bounty or grant. Under the Incentives Act there are several sections which provide for tax-exempt dividends. Only Part IV, section 33 applied to the manufacturers, producers, or exporters of compressors from Singapore during the period for which we are measuring subsidization.

Under section 33 of the Incentives Act, a qualified exporting corporation may establish an account for the payment of tax-exempt dividends to shareholders from export income which has been determined to be tax-exempt under the provisions of section 32 of the Incentives Act. The exemption of export income from the company tax is discussed in the "Programs Determined to Confer Bounties or Grants" section of this notice.

Since the exemptions for dividends applies to the shareholders, they bestow no benefit on the company. Thus, we preliminarily determine that this program does not confer a bounty or grant upon the manufacturers, producers, or exporters in Singapore of certain refrigeration compressors. See *Bicycle Tires and Tubes from Korea*, 48 FR 32206, 32207 (July 10, 1983).

B. The petitioner alleges that the reduction or exemption from income tax of approved royalties, licenses, and technical assistance fees paid to non-residents abroad, as provided for in Part VI of the Incentives Act, confers a bounty or grant.

Part VI of the Incentives Act provides that a company engaged in any industry which desires to enter into an agreement or arrangement involving payment of royalties, fees, or development contributions to a non-resident may apply to the Minister of the Economic Development Board to have such costs certified as "approved." Upon approval, the non-resident licensor's royalty payments are eligible for partial or complete tax-exempt treatment in Singapore, provided such relief or exemption does not result in an increased tax liability for the non-resident person in its country of residence. One company under investigation responded that the royalties it pays to a non-resident licensor are exempt from taxes. Since Singapore law provides that the licensor, not the licensee, is otherwise liable for taxes owed on such payments, we preliminarily determine that the exemption from income taxes on royalty payments does not confer a bounty or grant upon the manufacturers, producers, or exporters in Singapore of certain refrigeration compressors.

III. Programs Preliminarily Determined Not To Be Used

We preliminarily determine that the following programs which were identified in the notice of "Initiation of Countervailing Duty Investigation, Certain Refrigeration Compressors from Singapore" are not being used by the manufacturers, producers, or exporters in Singapore of certain refrigeration compressors.

A. *The Economic Expansion Incentives Act.*—1. The petitioner alleges that the total exemption from company income tax, based on classification as a "Pioneer Enterprise" or "Pioneer Industry", as provided for in Part II of the Incentives Act, confers a bounty or grant. In their responses, the government of Singapore and the companies stated that they were not classified as "pioneer" during the period for which we are measuring subsidization. Therefore, we preliminarily determine that Part II of the Incentives Act was not used.

2. The petitioner alleges that the total tax exemption on profits derived from plant expansion for companies certified as "expanding enterprises," as provided for in Part III of the Incentives Act, confers a bounty or grant. In their responses, the government of Singapore and the companies stated that they were not classified as "expanding" during the period for which we are measuring subsidization. Therefore, we preliminarily determine that Part III of the Incentives Act was not used.

3. The petitioner alleges that the exemption of one-half of an international trading company's export income from income taxes, as provided for in Part IVA of the Incentives Act, confers a bounty or grant. In their responses, the government of Singapore and the companies stated that they were not certified as an international trading company during the period for which we are measuring subsidization. Therefore, we preliminarily determine that Part IVA of the Incentives Act was not used.

4. The petitioner alleges that the exemption from company income tax of one-half of a certified warehousing company's export income, as provided for in Part VIB of the Incentives Act, confers a bounty or grant. In their responses, the government of Singapore and the companies stated that they were not classified as a certified warehouse company. Therefore, we preliminarily determine that Part VIB of the Incentives Act was not used.

5. The petitioner alleges that the tax-free treatment of interest payments on foreign loans, as provided for in Part V of the Incentives Act, confers a bounty or grant. In their responses, the government of Singapore and the companies stated that neither of the companies had received or had outstanding any foreign loans during the periods of investigation, and therefore did not receive an exemption from withholding tax on interest. Thus, we preliminarily determine that Part V of the Incentives Act has not been used.

6. The petitioner alleges that the tax exemption of up to 50 percent of profits on fixed investments and the fact that these exemptions may be carried forward from year to year, as provided for in Part VIA of the Incentives Act, confers a bounty or grant. In their responses, the government of Singapore and the companies stated that the companies had not received any tax exemption under Part VIA of the Incentives Act. Thus, we preliminarily determine that Part VIA of the Incentives Act has not been used.

B. *Singapore Economic Development Board.*—1. The petitioner alleges that equity participation and preferential term loans, provided under the Capital Assistance Scheme by the SEDB confers a bounty or grant. In their responses, the government of Singapore and the companies stated that the SEDB has not purchased any shares in, nor provided any term loans during the period of investigation to, either company. Therefore, we preliminarily determine

that the Capital Assistance Scheme has not been used.

2. The petitioner alleges that the SEDB, through the provision of matching grants for the financing of substantial technical improvements in products or manufacturing processes under the Product Development Assistance program, confers a bounty or grant. In their responses, the government of Singapore and the companies stated that no grants had been received by the companies under investigation. Therefore, we preliminarily determine that the Product Development Assistance program has not been used.

C. *Export Credit Insurance Corporation.*—The petitioner alleges that the provision of export credit insurance by the Export Credit Insurance Corporation at rates less than commercial rates may confer a bounty or grant. In their responses, the government of Singapore and the companies stated that export credit insurance was not provided to the companies under investigation. Thus, we preliminarily determine that the Export Credit Insurance Corporation has not been used.

D. *Additional Tax Incentives.*—1. The petitioner alleges that the double deduction of export promotional expenses confers a bounty or grant. In their responses, the companies stated that they do not incur export promotional expenses and no deduction was claimed for those types of expenses. Thus, we preliminarily determine that the program for double deduction of export promotional expenses was not used. We will, however, seek additional information concerning the listing of "promotion" as a selling expense in METOS' annual reports.

2. The petitioner alleges that the deduction of research and development costs at twice their value as a business expense confers a bounty or grant. In their responses, the companies stated that they had no expenses for research and development, and therefore no deduction. Thus, we preliminarily determine that the program for deduction of research and development expenses at twice their value has not been used.

3. The petitioner alleges that relief from property tax for companies which erect premises in designated urban development regions confers a bounty or grant. In its response, the government of Singapore stated that this benefit has not been given to any companies producing or exporting compressors. In their responses, the companies stated that they have not received any assistance under this program. Therefore, we preliminarily determine that the program for tax relief based on location in an urban development region has not been used.

Verification

In accordance with section 776(a) of the Act, we will verify all data used in making our final determination.

Suspension of Liquidation

In accordance with section 703 of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of certain refrigeration compressors as defined in the "Scope of Investigation," *supra*, which are entered, or withdrawn from warehouse, for consumption, on or after date of publication of this notice in the **Federal Register**. The Customs Service shall require a cash deposit or bond for each such entry of the merchandise in the amount of 4.87 percent *ad valorem* of exports of certain refrigeration compressors from Singapore.

This suspension will remain in effect until further notice.

Public Comment

In accordance with section 355.35 of the Commerce Department Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m. on September 27, 1983, at the U.S. Department of Commerce, Conference Room 4830, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within ten days of this notice's publication. Requests should contain: (1) The party's name, address,and telephone number; (2) the number of paticipants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs must be submitted to the Deputy Assistant Secretary by September 20, 1983. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 355.34, within thirty days of this notice's publication, at the above address and in at least ten copies.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

August 19, 1983.

[FR Doc. 83-22900 Filed 8-25-83; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Marine Mammal Permits; Modification No. 2 to Permit No. 326

Notice is hereby given that pursuant to the provision of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Public Display Permit 326 issued to Theater of the Sea, P.O. Box 407 Islamorada, Florida 33036 on April 10, 1981 (46 FR 22251), is modified to extend the period of authorized taking for three years.

Accordingly, Section B–2 is deleted and replaced by:

"2. This permit is valid with respect to the taking authorized herein until December 31, 1986."

This modification becomes effective upon publication in the **Federal Register**.

This Permit, as modified, and documentation pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southeast Region 9450 Koger Boulevard, Duval Building, St. Petersburg, Florida 33702

Dated: August 23, 1983.

Richard B. Roe,

Acting Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 23894 Filed 8-26-83; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammal Permits; Receipt of Application for General Permit

Notice is hereby given that the following application has been received to take marine mammals incidental to the pursuit of commercial fishing operations within the U.S. fishery conservation zone during 1983 and 1984 as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) and the regulations thereunder.

Associacao dos Armadores da Pesca Longinqua, Praca Duque da Terceira, no. 24–10 Lisboa Portugal, has applied for a Category 1: "Towed or Dragged Gear" general permit to take 20 small cetaceans and 20 phocid seals in the course of joint venture processing operations for squid, butterfish, and mackerel in the North Atlantic Ocean.

The application is available for review in the Office of the Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300

Whitehaven Street, NW., Washington, D.C.

Interested parties may submit written comments on this application within 30 days of the date of this notice to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Washington, D.C. 20235.

Dated: August 15, 1983.

Richard B. Roe,

Acting Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 83-23662 Filed 8-26-83; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammal Permits; Receipt of Application for Permit

Notice is herby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name: Marine Animal Productions, Inc. (P108G).

b. Address: 150 Debuys Road, Biloxi, Mississippi 39531.

2. Type of Permit: Public Display.

3. Name and Number of Animals: Bottlenose dolphins (*Tursiops truncatus*), 4.

4. Type of Take: Capture and permanent maintenance.

5. Location of Activity: Mobile Bay, AL to Mouth of Mississippi River.

6. Period of Activity: 1 year.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the **Federal Reguster**, the Secretary of Commerce is forwarding copies of this applicaiton to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Fisheries Marine Service.

The application is available for review in the following offices: Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW Washington, D.C.; and Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: August 19, 1983.

Richard B. Roe,

Acting Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 83-23663 Filed 8-26-83; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing Import Control Levels for Certain Cotton, Wool, and Man-Made Fiber Textile Products From the Republic of Korea

August 24, 1983.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Controlling imports of cotton, wool, and man-made fiber textile products in Categories 314, 317, 336, 435, 442, 448, 636, 642, 644, 647 and parts of 669, produced or manufactured in Korea and exported during the agreement year which began on January 1, 1983.

A description of the textile categories in terms of T.S.U.S.A. numbers were published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175) and May 3, 1983 (48 FR 19924).

SUMMARY: During consultations held July 18–25, 1983, between the Governments of the United States and the Republic of Korea, agreement was reached under the terms of the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of December 14, 1982, to establish levels for cotton, wool, and man-made fiber textile products in Categories 314, 317, 336, 435, 442, 448, 636, 642, 644, 647, and parts of 669 during the agreement year which began on January 1, 1983. Notice of the intention to hold these consultations was published in the **Federal Register** on June 6, June 13, June 14, and June 21, 1983 (48 FR 25260, 27122, 27286, and 28312).

EFFECTIVE DATE: September 1, 1983.

FOR FURTHER INFORMATION CONTACT: William Boyd, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

SUPPLEMENTARY INFORMATION: On December 30, 1982 a letter from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs was published in the **Federal Register** (47 FR 58338) which established levels of restraint for certain cotton, wool, and man-made fiber textile products, produced or manufactured in Korea and exported during the twelve-month period which began on January 1, 1983. In the letter published below additional levels are being established for the designated categories as a result of bilateral consultations. The levels have not been adjusted to account for merchandise exported on and after January 1, 1983 and extending to the effective date of this action. As the data become available charges will be made to account for that period, as well as thereafter.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of December 23, 1982 concerning cotton, wool, and man-made fiber textile products, produced of manufactured in the Republic of Korea and exported during the twelve-month period which began on January 1, 1983. Effective on September 1, 1983, paragraph 1 of the directive of December 23, 1982 is further amended to include the following levels:

Category	12-month level of restraint[1]
314 (square yards)	2,500,000
317 (square yards)	15,396,773
336 (dozen)	40,000
435 (dozen)	30,085
442 (dozen)	43,008
448 (dozen)	30,258
636 (dozen)	200,000
642 (dozen)	72,696
644 (dozen)	80,000
647 (dozen)	756,096
669 pt.[2](pounds)	4,250,000
669 pt. [3](pounds)	631,986

[1] The levels of restraint have not been adjusted to reflect any imports after December 31, 1982.
[2] In Category 669, only TSUSA No. 385.5300.
[3] In Category 669, only TSUSA Nos. 335.4530 and 355.4530.

Textile products in the foregoing categories which have been exported to the United

States prior to January 1, 1983 shall not be subject to this directive.

Textile products in the foregoing categories which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The Committee for the implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-23609 Filed 8-26-83; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

August 22, 1983.

The USAF Scientific Advisory Board Electronic Systems Division Advisory Group, Air Force Systems Command will hold meetings on 13 September 1983, 0830 to 1700 and 14 September 1983, 0830 to 1200, at Griffiss Air Force Base, New York in Buildings 240, 3 and 106.

The Group will be briefed on and review on-going projects in the field of C³I Technology.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Division Advisory Group Secretariat at 617-861-2701.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 83-23612 Filed 8-26-83; 8:45 am]

BILLING CODE 3910-01-M

Performance Review Boards, List of Members

Below is a listing of Additional individuals who are eligible to serve on the Performance Review Boards for the Department of the Air Force in accordance with the Air Force Senior Executive Appraisal and Award System.

Secretariat

C. Glenn Armstrong
Sydell P. Gold
Estella Garcia Guerra
Herbert H. Kaiser
Dennis M. Kenneally
Allen R. Stubberud

Air Staff

Wayne A. Robertson
Frederick E. Tillman
MG Robert D. Beckel
BG James B. Davis
MG Harry Falls, Jr.

Air Force Systems Command (AFSC)

Eric E. Abell
Charles E. Adolph
William C. Alexander
Earl A. Alluisi
Robert R. Barthelemy
Robert K. Dismukes
Donald H. Eckhardt
Aubrey L. Freeman
John C. Halpin
Maurice R. Himmelberg
Ted M. Lynch
James J. Mattice
Thomas P. O'Mahony
Daniel N. Payton, II.
BG Daniel B. Geran
Rita C. Sagalyn
Bruce O. Stuart
LTG Robert M. Bond

Air Force Logistics Command (AFLC)

Anthony J. Pansza
MG William P. Bowden
BG Thomas A. Laplante
BG Lee V. Greer
BG Anthony J. Farrington, Jr.

Others

Thurman S. Dunn
Gary S. Flora
George P. Millburn
MG Thomas J. Hickey
BG Donald L. Rans

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 83-23560 Filed 8-26-83; 8:45 am]

BILLING CODE 3910-01-M

Defense Logistics Agency

Privacy Act of 1974; Amendments to Five System Notices

AGENCY: Defense Logistics Agency (DLA), DOD.

ACTION: Amendments to five system notices.

SUMMARY: The Defense Logistics Agency proposes to amend the notices for five systems of records subject to the Privacy Act of 1974. The proposed amendments followed by the system notices as amended are set forth below.

DATE: These amendments shall be effective without further notice on September 28, 1983.

ADDRESSES: Send any comments to: General Counsel, Defense Personnel Support Center, ATTN: Frederick M. Quattrone, 2800 South 20th Street, Philadelphia, PA 19101.

FOR FURTHER INFORMATION CONTACT: Mr. Preston B. Speed, Chief, Administrative Management Branch, HQ Defense Logistics Agency, Cameron Station, Alexandria, VA 22314. Telephone: 202/274-6234.

SUPPLEMENTARY INFORMATION: The Defense Logistics Agency systems of records subject to the Privacy Act of 1974, as amended Title 5 U.S.C. Section 552a were published in the **Federal Register** at 48 FR 26199 (FR Doc. 83-12048).

No altered system reports (see 5 U.S.C. 552a(o)) are required for these changes.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

August 23, 1983.

Amendments

161.30 DLA-T

SYSTEM NAME:

Motor Vehicle Registration Files.

Changes:

PURPOSE(S):

Add caption and insert:

"Information is maintained to provide adequate controls on movement of privately owned motor vehicles on DLA activities and facilities, consistent with safety and applicable traffic regulations.

Information is used by DLA Security personnel to ensure that only authorized vehicles enter DLA facilities and activities and that those vehicles carry required liability insurance. Also, to plan for additions or reductions in parking requirements and to be able to identify vehicles and their owners by decal number in the event of emergency or traffic problems."

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete entry and insert:

"See blanket Routine uses set forth above."

STORAGE:

Add:

"Computer magnetic tapes or discs, computer paper printouts."

SAFEGUARDS:

Add:

"Manual records are either secured in locked storage and/or file cabinets or under the constant observation of security personnel during both duty and non-duty hours. The computer terminal

used for access to, input and changes to the automated system is maintained in an area under constant observation of security personnel. Access to the automated system through the computer terminal is protected by password identification. Magnetic tapes and discs are kept in the computer room, which itself is a security container with locked doors and access-limited persons appropriately cleared and identified. Tapes and disc packs are stored in a tape library when not used in processing and are logged in and out only to cleared personnel with an official need. Reports with individual data are closely controlled. Computer personnel who process these reports are appropriately cleared and maintain continuous observation of reports during all processing phases. Individuals requesting information must identify himself/herself and his/her relationship to the individual on whom the record information is being requested. Individuals other than the individual of record must specify what information is requested and the purpose for which it would be used if disclosed."

S161.50 DLA-T

SYSTEM NAME:

Traffic Violations File.
Changes:

PURPOSE(S):

Add caption and insert:
"Information is maintained to identify traffic offenders, to enforce applicable traffic regulations and to promote safety. Information is used by:

DLA Security Officers DLA and DoD and DoD to identify traffic violations, to enforce applicable traffic regulations, to promote safety and to initiate corrective or disciplinary action against the offenders.

DLA supervisors and managers—to take corrective or disciplinary action against offenders under their supervision."

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

Delete entry and insert:
"See blanket routine uses set forth above."

STORAGE:

Add:
"Computer magnetic tapes or discs, computer paper printouts."

SAFEGUARDS:

After the word "DLA" and before the word "personnel" add the word "security." After the initial sentence add the following:

"Manual records are either secured in locked storage and/or file cabinets or under the constant observation of security personnel during both duty and non-duty hours. The computer terminal utilized for access to, input and changes to the automated system is maintained in an area under constant observation of security personnel. Access to the automated system through the computer terminal is protected by password identification. Magnetic tapes and discs are kept in the computer room, which itself is a security container with locked doors and access-limited persons appropriately cleared and identified. Tapes and disc packs are stored in a tape library when not used in processing and are logged in and out only to cleared personnel with an official need. Reports with individual data are closely controlled. Computer personnel who process these reports are appropriately cleared and maintain continuous observation of reports during all processing phases. Individuals requesting information must identify himself/herself and his/her relationship to the individual on whom the record information is being requested. Individuals other than the individual of a record must specify what information is requested and the purpose for which it would be used if disclosed."

S434.15 DLA-C

SYSTEM NAME:

Automated Payroll Cost and Personnel System (APCAPS).
Changes:

PURPOSE(S):

Add caption and insert:
"Information is used in preparing payrolls, cost and manpower reports.

Information is used by: Agency supervisors and managers—to determine leave usage, manpower allocations and labor distribution. Supervisors and managers of agencies and activities other than DLA who receive payroll/cost accounting support from APCAPS—to determine leave usage, manpower allocations, labor distributions and costs.

Payroll office—to compute and control payroll and allocate labor costs.

Personnel office—to determine leave usage and changes that affect an employee's pay.

Security office—to determine location of employees.

Disbursing office—to determine the distribution of checks and bonds.

Law enforcement/Security personnel: To officials designated by the Head, PLFA or by regulation to perform law enforcement, safety, and vehicle registration/parking duties. Only the shift number, if an individual works shift work, will be accessed and used from APCAPS. The information will be used as a control to ensure the integrity of information in systems S161.30 DLA–T and S161.50 DLA–T and to facilitate the audit of such file."

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete present entry and insert:
"Information may be used by the following activities for the indicated purposes:

Financial Institution—to determine disposition of net pay or allotments of pay.

Treasury Department—to determine registration of bonds and federal tax allocation.

Unions, charities and insurance organizations—to determine participation in these organizations.

Office of Personnel Management—to determine status of employee and for disposition of retirement records.

State and local taking authorities—to determine tax liability.

Non-government organization—to verify employment and credit data furnished to financial institutions by the employee.

Bureau of Employment Compensation—to process employee disability claims.

State employment offices—to submit data for unemployment compensation.

Local courts—to determine the withholding of pay for garnishment of wages.

See also the blanket routine use set forth above."

SAFEGUARDS:

Add the following after the second sentence:
"Security/Law Enforcement personnel who access APCAPS information through computer terminals (used as control for the integrity of information in S161.30 DLA–T and S161.50 DLA–T) have been cleared with an official need. The information accessed from APCAPS is limited to the items and uses under Routine Uses and is password protected in the Automated system."

S434.15 DLA-KP

SYSTEM NAME:

Automated Payroll, Cost and Personnel System (APCAPS) Personnel Subsystem.
Changes:

CATEGORIES OF RECORDS IN THE SYSTEM:

In the second sentence delete the words "minority group designator" and substitute therefor the words "race and national origin identification."

PURPOSE(S):

Add caption and insert:

"Purposes of the system are to effect Federal personnel actions, maintain the Federal personnel service control system, fulfill Federal personnel reporting requirements, and provide information to officials of DLA for effective personnel management and personnel administration.

Officials designated by the Head, PLFA and/or by regulation to perform law enforcement, safety, and vehicle registration/parking duties. Only the following information will be accessed and utilized from APCAPS: Individual's name, address, directorate and office which assigned, grade, and category (military or civilian). The information will be used as a control to ensure the integrity of information in systems of records S161.30 DLA–T and S161.50 DLA–T and to facilitate and audit of such file."

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete current entry and insert:

"Information may be released to the listed activities for the following:

Prospective employers. For employment determination purposes.

Credit firms. For verification of data for credit determination purposes.

Taxing authorities. For tax administration purpose.

Officials of the Executive Branch. For performance of official duties.

Officials of the Judicial Branch. For performance of official duties.

Hospitals, medical offices and institutions. For medical/hospital administration purposes.

Executor or administrator of the estate of a deceased employee, former employee, or annuitant, or next-of-kin. For estate settlement purposes.

See also the blanket routine uses above."

SAFEGUARDS:

Before the last paragraph beginning with the word "Responsible," add the following:

"Security/Law Enforcement personnel who access APCAPS information through computer terminals (used as control for the integrity of information in S161.30 DLA–T and S161.50 DLA–T) have been cleared with an official need. The information accessed from APCAPS is limited to the items and uses under Routine Uses and in password protected in the automated system."

SYSTEM MANAGER(S) AND ADDRESS:

After the word "Staff Director" delete the word "Civilian."

S66.15 DPSC

SYSTEM NAME:

Manufacturing Payroll System; Weekly Piece Work.

Changes:

PURPOSE(S):

Add caption and insert:

"Information is maintained for purposes of affecting the weekly pay. Information is used by Agency supervisors and managers–to determine leave usage, manpower allocations and labor distribution. Payroll office—to compute and control payroll. Personnel office—to determine leave usage and changes that affect an employee's pay. Disbursing office—to determine the distribution of checks and bonds.

"Officials designated by the Commander, DPSC—to perform law enforcement, safety, and vehicle registration/parking duties. Only the following information will be accessed and utilized: name, address, date of birth, office phone number, directorate and office where individual assigned, category (military or civilian), and shift number. This information will be used as a control to ensure the integrity of information in systems of records S161.30 DLA–T and S161.50 DLA–T. The information will also be used to facilitate the audit of such files."

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Delete present entry and insert:

"Information is used by: Financial Institutions—to determine disposition of net pay or allotments of pay. Treasury Department—to determine registration of bonds and federal tax allocation. Unions, charities, and insurance organizations—to determine participation in these organizations. Office of Personnel Management—to determine status of employee and for disposition of retirement records. State and local taxing authorities—to determine tax liability. Non—government organizations—to verify employment and credit data furnished to financial institutions by employee. Bureau of Employment Compensation—to process employee disability claims. State employment offices—to submit data for unemployment compensation. Local courts—to determine disposition of pay witheld for garnishment of wages.

"See also blanket routine uses above."

SAFEGUARDS:

Add the following to the Safeguards listed: "Security/Law Enforcement personnel who access this information through computer terminals (used as control for the integrity of information in systems S161.30 DLA–T and S161.50 DLA–T) have been cleared with an official need. Furthermore, the information accessed from this system is limited to the items and uses under Routine uses and is password protected in the automated system."

S161.30 DLA–T

SYSTEM NAME:

Motor Vehicle Registration Files

SYSTEM LOCATION:

Decentralized: Documents and records relating to permanent registration of private vehicles to include commercial vehicles: Defense Logistics Agency (DLA) Primary Level Field Activities (PLFA).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DLA civilian and military personnel, contractor employees, vendors, and other persons requiring use of private vehicles on DLA activities or facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Application forms and related papers and computerized information from them.

CATEGORIES OF RECORDS IN THE SYSTEM:

Application forms and related papers and computerized information from them.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Highway Safety Act of 1966 and National Highway Safety Program Standards, which direct such programs as vehicle traffic supervision, periodic motor vehicle inspections, pedestrian safety, police traffic services and records, accident investigation and reporting.

PURPOSES:

Information is maintained to provide adequate controls on movement of privately owned motor vehicles on DLA activities and facilities, consistent with safetay and applicable traffic regulations.

Information is used by DLA Security personnel to ensure that only authorized vehicles enter DLA facilities and activities and that those vehicles carry required liability insurance. Also, to plan for additions or reductions in

parking requirements and to be able to identify vehicles and their owners by decal number in the event of emergency or traffic problems.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See blanket routine uses set forth above.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders, application cards and on some activities logs containing accountability for decals.

Computer magnetic tapes or discs, computer paper printouts.

RETRIEVABILITY:

Filed alphabetically by last name and cross-referenced by decal number.

SAFEGUARDS:

Records are maintained in areas accessible only to DLA Security personnel.

Manual records are either secured in locked storage and/or file cabinets or under the constant observation of security personnel during both duty and non-duty hours. The computer terminal used for access to, input and changes to the automated system is maintained in an area under constant observation of security personnel. Access to the automated system through the computer terminal is protected by password identification. Magnetic tapes and discs are kept in the computer room, which itself is a security container with locked doors and access-limited persons appropriately cleared and identified. Tapes and disc packs are stored in a tape library when not used in processing and are logged in and out only to cleared personnel with an official need. Reports with individual data are closely controlled. Computer personnel who process these reports are appropriately cleared and maintain continuous observation of reports during all processing phases. Individuals requesting information must identify himself/herself and his/her relationship to the individual on whom the record information is being requested. Individuals other than the individual of record must specify what information is requested and the purpose for which it would be used if disclosed.

RETENTION AND DISPOSAL:

Destroy upon normal expiration or 3 years after revocation of registration.

SYSTEM MANAGER(S) AND ADDRESS:

Heads of PLFAs which are responsible for the installation on which they are located.

NOTIFICATION PROCEDURE:

Written or personal requests for information may be directed to the SYSMANAGER. Individual must provide full name and name of DLA activity at which registration occurred; or if individual is or was a DLA employee, name of employing activity is also required.

RECORD ACCESS PROCEDURES:

Official mailing addresses of the SYSMANAGERS are in the Department of Defense Directory in the appendix to the DLA systems notice. Written requests for information should contain the full name, current address and telephone numbers of the individual. For personal visits, the individual should be able to provide some acceptable identification, that is, driver's license, employing office identification card, and give some verbal information that could be verified with his 'case' folder.

CONTESTING RECORD PROCEDURES:

DLA rules for contesting contents and appealing initial determinations by the individual concerned may be obtained from the SYSMANAGER.

RECORD SOURCE CATEGORIES:

Information provided by the applicant and DLA security personnel.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

S161.50 DLA-T

SYSTEM NAME:

Traffic Violations File.

SYSTEM LOCATION:

Decentralized: Documents relating to traffic citations for moving and non-moving violations, withdrawal of driver privileges and related papers: Defense Logistics Agency (DLA) Primary Level Field Activities (PLFA).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All persons who commit a traffic violation on DLA controlled property.

CATEGORIES OF RECORDS IN THE SYSTEM:

Traffic tickets, documents relating to withdrawal of driving privileges, and reports of corrective or disciplinary action taken. Computerized records of the above.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Highway Safety Act of 1966 and National Highway Safety Program Standards, which direct such programs as vehicle traffic supervision, periodic motor vehicle inspections, pedestrian safety, police traffic services and records, accident investigation and reporting.

PURPOSE(S):

Information is maintained to identify traffic offenders, to enforce applicable traffic regulations and to promote safety Information is used by:

DLA Security Officers DLA and DoD to identify traffic violations, to enforce applicable traffic regulations, to promote safety and to initiate corrective or disciplinary action against the offenders.

DLA supervisors and managers—to take corrective or disciplinary action against offenders under their supervision.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See blanket routine uses set forth above.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, ticket books, card index files.

Computer magnetic tapes or discs, computer paper printouts.

RETRIEVABILITY:

Filed alphabetically by last name of the offender and cross-indexed by ticket number.

SAFEGUARDS:

Records are maintained in areas accesible only to DLA security personnel. Manual records are either secured in locked storage and/or file cabinets or under the constant observation of security personnel during both duty and non-duty hours. The computer terminal utilized for access to, input and changes to the automated system is maintained in an area under constant observation of security personnel. Access to the automated system through the computer terminal is protected by password identification. Magnetic tapes and discs are kept in the computer room, which itself is security contained with locked doors and access-limited persons appropriately cleared and identified. Tapes and disc packs are stored in a tape library when not used in processing and are logged in and out only to cleared personnel with an

official need. Reports with individual data are closely controlled. Computer personnel who process these reports during all processing phases. Individuals requesting information must identify himself/herself and his/her relationship to the individual on whom the record information is being requested. Individuals other than the individual of record must specify what information is requested and the purpose for which it would be used if disclosed.

RETENTION AND DISPOSAL:

Records are destroyed 5 years after submittal or receipt of a final report in each case or when no longer needed, which ever is later.

SYSTEM MANAGER(S) AND ADDRESS:

Command Security Officer, DLA; Heads of PLFAs.

NOTIFICATION PROCEDURE:

Written or personal requests for information may be directed to the SYSMANAGER.

RECORD ACCESS PROCEDURES:

Official mailing addresses of the SYSMANAGERS are in the Department of Defense Directory in the appendix to the DLA systems notice. Written requests for information should contain the full name, current address and telephone numbers of the individual. For personal visits, the individual should be able to provide some acceptable identification, that is, driver's license, employing office identification card, and give some verbal information that could be verified with the file.

CONTESTING RECORD PROCEDURES:

DLA's rules for contesting contents as well as appealing initial determinations by the individual concerned may be obtained from the SYSMANAGER.

RECORDS SOURCE CATEGORIES:

Reports of investigation by DLA Security Officers, Federal, State and Local law enforcement agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Parts of this system may be exempt under Title 5 U.S.C. 552a(k)(2) as applicable. Agency rules pertaining to this exemption are set forth in Appendix C of 32 CFR Part 1286 and DLA Regulation 5400.21. For additional information, contact the System Manager.

S434.15 DLA-C

SYSTEM NAME:

Automated Payroll Cost and Personnel System (APCAPS).

SYSTEM LOCATION:

Records maintained at Defense Logistics Agency (DLA) Centers, Depots and Defense Contract Administration Service Regions (DCASRs).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former civilian and military personnel who have been paid or costed by APCAPS.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records are maintained in manual and mechanical files for all data which affect an employee's pay, deductions, employer contributions, leave, retirement, position status, or cost accumulation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 136, DoD Dir 5105.22.

PURPOSE(S):

Information is used in preparing payrolls, cost and manpower reports.

Information is used by: Agency supervisors and managers—to determine leave usage, manpower allocations and labor distribution. Supervisors and managers of agencies and activities other than DLA who receive payroll/cost accounting support from APCAPS—to determine leave usage, manpower allocations, labor distributions and costs.

Payroll office—to compute and control payroll and allocate labor costs.

Personnel office—to determine leave usage and changes that affect employee's pay.

Security office—to determine location of employees.

Disbursing office—to determine the distribution of checks and bonds.

Law Enforcement/Security Personnel: To officials designated by the Head, PLFA and/or by regulation to perform law enforcement, safety, and vehicle registration/parking duties. Only the shift number, if an individual works shift work, will be accessed and utilized from APCAPS. The information will be used as a control to ensure the integrity of information in S161.30 DLA–T and S161.50 DLA–T and to facilitate the audit of such file.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information may be used by the following activities for the indicated purposes:

Financial Institutions—to determine disposition of net pay or allotments of pay.

Treasury Department—to determine registration of bonds and Federal tax allocation.

Unions, charities, and insurance organizations—to determine participation in these organizations.

Office of personnel Management—to determine status of employee and for disposition of retirement records.

State and local taxing authorities—to determine tax liability.

Non-government organizations—to verify employment and credit date furnished to financial institutions by the employee.

Bureau of Employment Compensation—to process employee disability claims.

State employment offices—to submit data for unemployment compensation.

Local courts—to determine the withholding of pay for garnishment of wages.

See also blanket routine uses above.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Microfilm, magnetic tape, disc pack, computer paper printouts, vertical file cards, paper records in file folders.

RETRIEVABILITY:

Hardcopy documents are filed by payroll block and/or alphabetically by last name. Date stored on mechanized storage devices are retrieved by SSAN.

SAFEGUARDS:

Access to mechanical records is limited to authorized DLA data systems personnel. All other records are maintained in areas accessible only to agency personnel.

Security/Law Enforcement personnel who access APCAPS information through computer terminals (used as control for the integrity of information in S161.30 DLA–T and S161.50 DLA–T) have been cleared with an official need. The information accessed from APCAPS is limited to the items and uses under Routine uses and is password protected in the Automated system.

RETENTION AND DISPOSAL:

Retention of data varies from 1 to 3 days for mechanical working files up to an employee's total length of service with an activity for permenent payroll information.

SYSTEM MANAGER(S) AND ADDRESS:

Comptroller, DLA.

NOTIFICATION PROCEDURE:

Written or personal requests for information may be directed to the

Chief, Payroll Branch, Accounting and Finance Division, Office of Comptroller at each DLA Center and depot.

RECORD ACCESS PROCEDURE:

Written requests must contain full name and social security account number of the employee. Employees making a personal request must persent indentification. Official mailing addresses are in the Department of Defense directory in the appendix to the DLA system of record notices.

CONTESTING RECORD PROCEDURES:

The agency's rules for contesting contents and appealing initial determination by the individual concerned may be obtained from the SYSMANAGER.

RECORD SOURCE CATEGORIES:

Employee's supervisors, civilian personnel office, financial institutions, local courts, military services or other government agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

S434.15 DLA-KP

SYSTEM NAME:

Automated Payroll, Cost and Personnel System (APCAPS) Personnel Subsystem.

SYSTEM LOCATION:

Office of Civilian Personnel at:, Defense Construction Supply Center (DCSC), Defense Electronics Supply Center (DESC), Defense General Supply Center (DGSC), Defense Personnel Support Center (DPSC), Defense Property Disposal Service (DPDS), Defense Depot Memphis (DDMT), Defense Depot Ogden (DDOU), Defense Depot Tracy (DDTC), Defense Depot Mechanicsburg (DDMP), Defense Logistics Agency Administrative Support Center (DASC).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Defense Logistics Agency (DLA) civilian employees serviced by Offices of Civilian Personnel at the activities listed under location and other Department of Defense civilian employees who are both serviced by the Offices of Civilian Personnel and paid by the activites listed under location.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employee data segment of APCAPS data bank, including data being manually collected prior to implementation of the automated record system. For the civilain personnel segment of APCAPS. the employee data segment of the APCAPS data bank contains, for civilian employees, current personnel data on employment status and selected personal data, such as Social Security Number (SSN), name, sex, race and national origin identification, date of birth, age, physical handicap, Government insurance, military reserve status, retired military status, education whether individual passed the Federal Service Entrance Examination or the Professional and Administrative Career Examination, status preceding employment with DLA, U.S. citizenship, and veterans preference.

Position data segment of APCAPS data bank. For the civilian personnel segment of APCAPS, the position data segment of the APCAPS data bank contains position data pertinent to established positions, both those positions occupied by a civilian employee as well as those not so occupied.

Personnel history file. The personnel history file contains a profile of selected civilian employee personnel data as of the most recent transaction processed against it, as well as a chronological extract of all prior transactions processed on the employee.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C., Secs. 301, 302; EO 10561; Federal Personnel Manual, Chapter 293.

PURPOSE(S):

Purposes of the system are to effect Federal personnel actions, maintain the Federal personnel service control system, fulfill Federal personnel reporting requirements, and provide information to officials of DLA for effective personnel management and personnel administration.

Officials designated by the Head, PLFA and/or by regulation to perform law enforcement, safety, and vehicle registration/parking duties. Only the following information will be accessed and utilized from APCAPS: Individual's name, address, directorate and office which assigned, grade, and category (military or civilian). The information will be used as a control to ensure the integrity of information in § 161.30 DLA–T and § 161.50 DLA–T and to facilitate the audit of such file.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information may be released to the listed activities the following: Prospective employees. For employment determination purposes. Credit firms. For verification of data for credit determination purposes.

Taxing authorities. For tax administration purposes.

Officials of the Executive Branch. For performance of official duties.

Officials of the Legislative Branch. For performance of official duties.

Officials of the Judicial Branch. For performance of official duties.

Hospitals, medical offices and institutions. For medical/hospital administration purposes.

Executor or administrator of the estate of a deceased employee, former employee, or annuitant, or next-of-kin. For estate settlement purposes.

See also the blanket routine uses above.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer magnetic tapes or discs. Computer paper printouts. Paper records in file folders.

RETRIEVABILITY:

Information identified to a specific civilian employee is accessed and retrieved by Social Security Number.

SAFEGUARDS:

Records are either secured in locked storage and/or file cabinets or under the constant observation of personnel office officials during duty hours. During nonduty hours, records are either secured in locked in storage and/or file cabinets; the records file area is locked, and/or the building in which the records are stored is protected by building security guard. If the records area is not protected by security guard, all records must be locked. Individually identifiable personnel documents will either be handcarried or will be transmitted in envelopes addressed to a specific office or individual and marked to be opened by addressee only. Magnetic tapes and disc are kept in the computer room which is itself a security container with locked door and access limited to persons appropriately cleared and identified. Tapes and disc packs are stored in a tape library when not used in processing, and are logged in and out only to cleared personnel with an official need. Reports with individual data are closely controlled. Computer personnel who process these reports are appropriately cleared and maintain continuous observation of reports during all processing phases. Individual requesting information must identify himself/herself and his/her relationship to the individual upon whom the record information is being requested. Individual other than the individual of

record must specify what information is requested and the purpose for which it would be used if disclosed. Personnel office official determines if request is reasonable and consistent with provisions of the Freedom of Information Act and the Privacy Act of 1974. In order to prevent unauthorized modification of records contents, original records documents may only be reviewed in the presence of a witness designated by the Personnel Office.

Physical access, that is the ability to obtain the record, is limited to:

Personnel Office officials
Civil Service Commission officials
Data processing officials
Supervisors for those records for which they are authorized to maintain.

Security/Law Enforcement personnel who access APCAPS information through computer terminals (used as control for the integrity of information in § 161.30 DLA–T and § 161.50 DLA–T) have been cleared with an official need. The information accessed from APCAPS is limited to the items and uses under Routine uses and is password protected in the automated system.

Responsible officials are granted temporary custody of an original record in order to monitor the review of the record by the individual to whom it pertains, when the individual is geographically remote from the personnel office.

RETENTION AND DISPOSAL:

Records which are filed in the Official Personnel Folder (OPF) are retained in the personnel office until the employee leaves the agency. At that time the permanent portion of the OPF is transferred to the gaining Federal agency and temporary OPF records are destroyed by shredding or burning. Copies of records which are furnished to the employee concerned, may be retained at his or her discretion. Copies of records authorized to be maintained by supervisors or other operating offices are destroyed by shredding or burning when the employee leaves the agency. Operating records maintained within the Civilian Personnel Office may be retained up to three years, as needed. At that time, or sooner, they may be destroyed by burning or shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Staff Director, Civilian Personnel, HQ DLA and Directors of Civilian Personnel at DCSC, DPDS, DESC, DGSC, DPSC, DDMT, DDGU, DDTC, DDMP, or DASC.

NOTIFICATION PROCEDURE:

Written or personal requests may be directed to the SYSMANAGER at the activity where the record is maintained. Individual must provide name (last, first, middle initial) and SSN in order to determine whether or not the system contains a record about him/her. If a written request, individual must provide a return address.

For personal visits, the individual should be able to provide some acceptable identification, such as employing office identification card.

RECORD ACCESS PROCEDURES:

Written requests are required. The request is to contain the name of the individual (last, first, middle initial) SSN, return mailing address, telephone number where individual can be reached during the day, and a signed statement certifying that the individual understands that knowingly or willfully seeking or obtaining access to records about another individual under false pretenses in punishable by fine of up to 5,000 dollars. Complete records are maintained only on megnetic tapes or discs and are not available for access by personal visits.

CONTESTING RECORD PROCEDURES:

The agency's rules for contesting contents and appealing initial determination by the individual concerned may be obtained from the SYSMANAGER.

RECORD SOURCE CATEGORIES:

Agency supervisors and administrative personnel, medical officials, previous Federal employers, U.S. Civil Service Commission, applications and forms completed by individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

S866.15 DPSC

SYSTEM NAME:

Manufacturing Payroll System; Weekly Piece Work.

SYSTEM LOCATION:

Defense Personnel Support Center (DPSC), Philadelphia, PA.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former civilian personnel who have been paid by the manufacturing payroll system.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records are maintained for all data which affect an employee's pay, deductions, employer contributions, leave and retirement.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. Ch. 53, Pay Rates & Systems, 10 U.S.C. 136.

PURPOSE(S):

Information is maintained for purposes of affecting the weekly pay. Information is used by Agency supervisors and managers—to determine leave usage, manpower allocations and labor distribution. Payroll office—to compute and control payroll. Personnel office—to determine leave usage and changes that affect an employee's pay. Security office—to determine location of employees. Disbursing office—to determine the distribution of checks and bonds.

Officials designated by the Commander, DPSC—to perform law enforcement, safety, and vehicle registration/parking duties. Only the following information will be accessed and utilized: Name, address, date of birth, office phone number, directorate and office where individual assigned, category (military or civilian), and shift number. This information will be used as a control to ensure the integrity of information in systems of records S161.30 DLA–T and S161.50 DLA–T. The information will also be used to facilitate the audit of such files.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Information is used by: Financial Institutions—to determine disposition of net pay or allotments of pay. Treasury Department—to determine registration of bonds and federal tax allocation. Unions, charities, and insurance organizations—to determine participation in these organizations. Office of Personnel Management—to determine status of employee and for disposition of retirement records. State and local taxing authorities—to determine tax liability. Non-government organizations—to verify employment and credit data furnished to financial institutions by employee. Bureau of Employment Compensation—to process employee disability claims. State employment offices—to submit data for unemployment compensation. Local courts—to determine disposition of pay withheld for garnishment of wages.

See also blanket routine uses above.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tape, disc pack, computer paper printouts, paper records in file folders.

RETRIEVABILITY:

Records are maintained in alphabetical and employee number order.

SAFEGUARDS:

Access to mechanical records is limited to authorized DPSC data systems personnel. All other records are maintained in areas accessible only to office personnel.

Security/Law Enforcement personnel who access this information through computer terminals (used as control for the integrity of information in systems S161.30 DLA–T and S161.50 DLA–T) have been cleared with an official need. Furthermore , the information accessed from this system is limited to the items and uses under Routine uses and is password protected in the automated system.

RETENTION AND DISPOSAL:

Records are retained 18 months to 3 years after their active termination of employment.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Accounting and Finance Division, Office of Comptroller DPSC.

NOTIFICATION PROCEDURE:

Written or personal requests for information may be directed to the SYSMANAGER.

RECORD ACCESS PROCEDURE:

Written requests must contain the full name and social security number of the employee. Employees making a personal request must present identification; i.e., employee badge, driver's license, etc. Official mailing addresses are in the Department of Defense directory in the appendix to the DLA system of record notices.

CONTESTING RECORD PROCEDURES:

The agency's rules for contesting contents and appealing initial determinations by the individual concerned may be obtained from the SYSMANAGER.

RECORD SOURCE CATEGORIES:

Employee's supervisors, civilian personnel offices, financial institutions, local courts, other government agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 83-23508 Filed 8-26-83; 8:45 am]
BILLING CODE 3620-01-M

DEPARTMENT OF EDUCATION

National Advisory Council on Women's Educational Programs; Meeting

AGENCY: National Advisory Council on Women's Educational Programs.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a meeting of the National Advisory Council on Women's Educatioinal Programs, and its Executive, Civil Rights, Federal Policies, Practices, and Programs, and Women's Educational Equity Act Program Committees. This notice also describes the functions of the Council. Notice of this meeting is required under Section 10(a) (2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATE: September 14, 1983, 9:00 a.m. to 1:00 p.m., and 2:00 p.m. to 5:00 p.m.; September 15, 1983, 9:00 a.m. to 10:00 a.m., and 4:00 p.m. to 5:30 p.m.; September 16, 1983, 9:00 a.m. to 3:00 p.m.

ADDRESS: The meetings will be held at Hotel Washington, Pennsylvania Avenue at 15th Street, NW. and also at the Council offices at 425 13th Street, N.W., Suite 416, Washington, D.C. (See details below for exact location and times of meetings.)

FOR FURTHER INFORMATION CONTACT: Sharon Petersen, Administrative Assistant to the Executive Director, National Advisory Council on Women's Educational Programs, 425 13th Street, NW., Suite 416, Washington, D.C., 20004 (202) 376–1038.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Women's Educational Programs is established pursuant to Pub. L. 95–561. The Council is mandated to; (a) Advise the Secretary on matters relating to equal educational opportunities for women and policy matters relating to the administration of the Women's Educational Equity Act of 1978; (b) make recommendations to the Secretary with respect to the allocation of any funds pursuant to the Act, including criteria developed to insure an appropriate geographical distribution of approved programs and projects throughout the Nation; (c) recommend criteria for the establishment of program priorities; (d) make such reports as the Council determines appropriate to the President and Congress on the activities of the Council; and (e) disseminate information concerning the activities of the Council.

On September 14, 1983 from 9:00 a.m. to 11:00 a.m. an informal meeting will be held at the Council offices, 425 13th Street, NW., Suite 416, Washington, D.C. with Council representatives, Federal Policies, Practices and Programs Committee Chair, and representatives from other Presidential Advisory Councils on Education to explore ideas for a proposed cooperative project.

The meeting of the Executive Committee will take place at the Council offices, 425 13th Street, NW., Suite 416, Washington, D.C. from 11:00 a.m. to 1:00 p.m. The agenda will include the fiscal year 1984 Budget, Cooperative Council's project, revised site visit evaluation forms, and the Council's 1984 goals.

The meetings of the Civil Rights Committee, Women's Educational Equity Act Program Committee and the Federal Policies, Practices and Programs Committee will take place on September 14, 1983 from 2:00 p.m. to 5:00 p.m. at the Council offices, 425 13th Street, NW., Suite 416, Washington, D.C.

The agenda of the Civil Rights Committee will include a review of the Ambassadorship program, and a discussion of the menu of services.

The agenda of the Federal Policies, Practices and Programs Committee will include a report on the proposed Cooperative Council's Project on Re-entry and Career Fulfillment.

The agenda for the Women's Educational Equity Act Program Committee will include discussion of the revised site visit evaluation form.

The meeting of the National Advisory Council on Women's Educational Programs will take place on September 15, 1983 from 9:00 a.m. to 10:00 a.m. Meeting will be adjourned for site visits 10:00 a.m. to 3:30 p.m. Meeting will reconvenve at 4:00 p.m. and continue to 5:30 p.m. and September 16, 1983 from 9:00 a.m. to 12:00 p.m. and from 2:00 p.m. to 3:00 p.m. at the Hotel Washington, Pennsylvania Avenue at 15th Street, N.W. The agenda will include the Committee Reports, the Fiscal Year 1984 Budget, Cooperative Council's Project, the revised site evaluation form, and Council 1984 Goals.

Signed at Washington, D.C., on August 24, 1983.

Sharon Petersen,

Acting Executive Director.

[FR Doc. 83-23509 Filed 8-26-83; 8:45 am]
BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Availability of General Transmission Agreement and Technical Information Meeting

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice of Document Availability and Public Meeting.

FILE NO.: TrP–1.

SUMMARY: Copies of a draft general transmisison agreement which incorporates principles contained in the proposed Transmission Policy published on June 1, 1983 (48 FR 24421), are now available from the Bonneville Power Administration. A technical information meeting will be held to discuss planned power scheduling procedures under the draft general transmission agreement.

Responsible Official: James L. Jones, Deputy Power Manager, Office of Power and Resources Management.

DATE: The technical meeting on planned power scheduling procedures under the draft generic wheeling contract will take place on September 7, 1983, beginning at 9 a.m.

ADDRESSES: Copies of the draft general transmision agreement may be obtained by writing to Donna L. Geiger, Public Involvement Manager, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon 97212, or by calling 503–230–3478. Oregon callers may use the toll-free number 800–452–8429: callers in California, Idaho, Montana, Nevada, Utah, Wyoming, and Washington may use 800–547–6048. The technical meeting will be held in Room 104 of the Dittmer System Control Center, Ross Complex, 5911 NE. Highway 99, Vancouver, Washington.

SUPPLEMENTARY INFORMATION: The agenda for the technical meeting will include: interchange accounting, after-the-fact reporting, actual recording of generation transferred, and calculation of losses using the generic contract methodology.

Issued in Portland, Oregon, on August 22, 1983.

Robert E. Ratcliffe,

Acting Administrator.

[FR Doc. 83–23786 Filed 8–26–83; 8:45 am]

BILLING CODE 6450–01–M

Office of Conservation and Renewable Energy

Fuel Economy of Motor Vehicles; Supplemental Information to 1982 Gas Mileage Guide

AGENCY: Department of Energy.

ACTION: Notice of Supplemental Information to the 1982 Gas Mileage Guide.

SUMMARY: The Department of Energy (DOE) publishes an annual Gas Mileage Guide (Guide) as required by section 506(b)(1) of the Motor Vehicle Information and Cost Savings Act. The Guide contains fuel economy information for automobiles and light trucks which has been compiled by the Environmental Protection Agency (EPA) in accordance with the Motor Vehicle Information and Cost Savings Act and the Clear Air Act. However, EPA continues to test additional vehicles, as they become available, even after the publication of the Guide. Because of public interest in fuel economy data, DOE is publishing as an appendix to this Notice fuel economy data for the additional 1982 model year vehicles tested by EPA.

FOR FURTHER INFORMATION CONTACT: Saunders B. Kramer, CE–131, Office of Vehicle and Engine Research and Development, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–8000.

Pamela M. Pelcovits, GC–33, Office of General Counsel, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 252–9527.

Issued in Washington, D.C., August 22, 1983.

Joseph J. Tribble,

Assistant Secretary Conservation and Renewable Energy.

BILLING CODE 6450–01–M

How To Use This Data

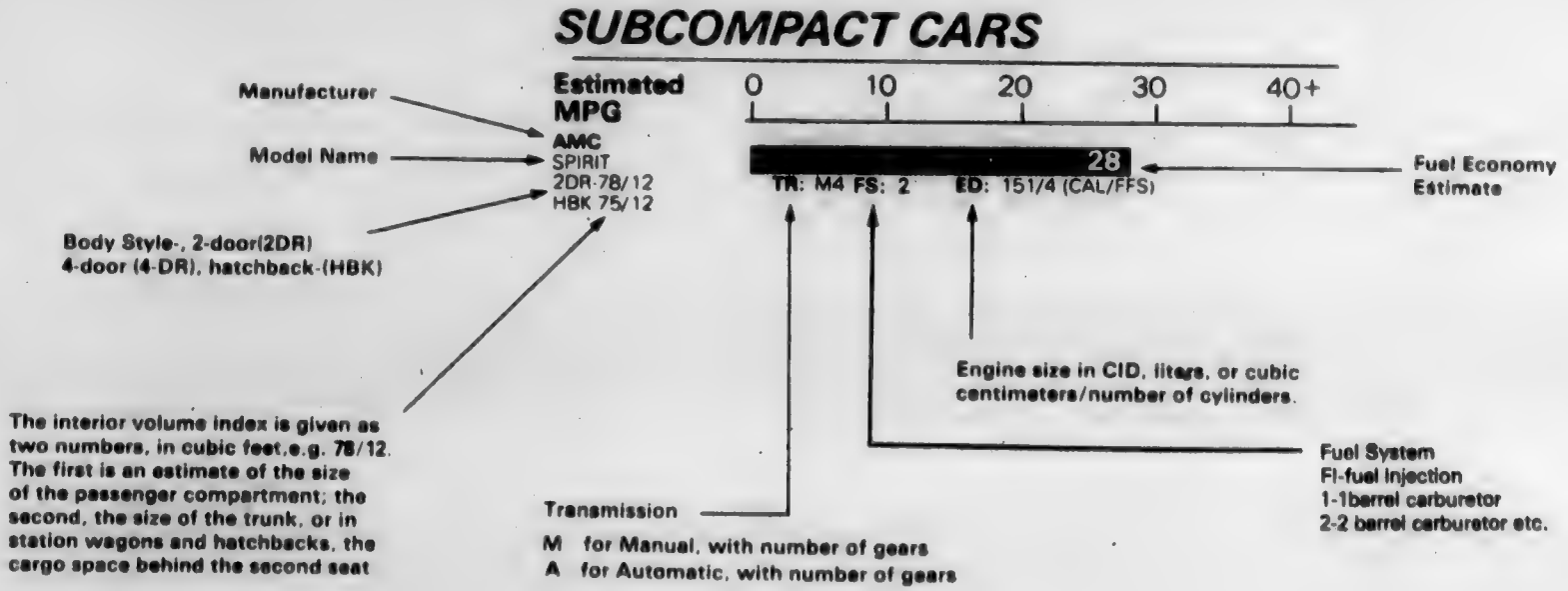

For additional information on how the cars are tested and other terminology about the vehicles, see page 1.

This additional data on model year 1982 vehicles is published by the U.S. Department of Energy and is based on estimates provided by the U.S. Environmental Protection Agency.

How To Use This Data

To help compare the fuel economy of similarly sized passenger cars and station wagons, these vehicles are grouped in classes according to interior size. Trucks are grouped by capacity in terms of gross vehicle weight The manufacturers are listed alphabetically within each size class. Car lines are listed alphabetically under each manufacturer. The bar to the right of each model illustrates the vehicle's estimated mpg for each transmission and engine combination offered.

CAR CLASSES

Two-Seater Cars designed to seat primarily two adults

Sedans

Minicompact Less than 85 cubic feet of passenger and luggage volume

Subcompact Between 85 and 100 feet of passenger and luggage volume

Compact Between 100 and 110 cubic feet of passenger and luggage volume

Mid-Size Between 110 and 120 cubic feet of passenger and luggage volume

Large 120 or more cubic feet of passenger and luggage volume

Station Wagons

Small Less than 130 cubic feet of passenger and cargo volume (pages 7-8)

Mid-Size Between 130 and 160 cubic feet of passenger and cargo volume

Large 160 or more cubic feet of passenger and cargo volume

TRUCK CLASSES

Small Pickups—Trucks having Gross Vehicle Weight Ratings (GVWR, truck weight plus carrying capacity) under 4,500 pounds, 2-Wheel Drive 4-Wheel Drive

Standard Pickups—Trucks having GVWR's of 4,500 to 8,500 pounds, 2-Wheel Drive 4-Wheel Drive

Vans—Cargo (pages 11-12); Passenger

SPECIAL PURPOSE VEHICLES

All other light vehicles not in another car or truck class, 2 Wheel Drive 4-Wheel Drive cab chassis

Manufacturer, Car Line Names and Interior Volume Index

The manufacturers are listed alphabetically within each size class. Car lines are listed alphabetically under each manufacturer.

The interior volume index is listed for each body style except two seaters: 2-door (2-DR), 4-door (4-DR), and hatchback (HBK). The interior volume index is one way of estimating the space in a car It is based on four measurements—head room, shoulder room, hip room, and leg room—for the front and rear seats, plus trunk capacity. The interior volume index is given as two numbers (in cubic feet; example 87/12). The first is an estimate of the size of the passenger compartment; the second, the size of the trunk or, in station wagons and hatchbacks, the cargo space behind the second seat

Vehicle Description

Each line in the data shows an engine-transmission combination available within the listed car line identified by the following designations.

Engine Description (ED): Size listed by cubic inch displacement (CID), and liters (L), or cubic centimeters (CC) where available The single number differentiates between 4 , 5 , 6 , and 8 cylinder engines or 1 and 2 rotors (for example, 97/4). When engine size and number of cylinders are not an adequate description of an engine, the following engine type designations are also given

CAL, CALIF	California emission control system equipment (does not indicate availability in California)
ROTARY	Rotary engine
DIESEL or DSL	Diesel engine
GM-BUICK	Engine produced by GM-Buick Motor Division
GM-CHEV	Engine produced by GM-Chevrolet Motor Division or GM of Canada
GM-OLDS	Engine produced by GM-Oldsmobile Motor Division
GM-PONT	Engine produced by GM-Pontiac Motor Division
FFS	Feedback Fuel System. A system that controls the mixing of air and gasoline by monitoring the exhaust
VARIABLE	An engine designated to operate with different number of cylinders depending on usage
GUZZLER	Gas Guzzler Tax applies See below for details

Prior to purchase, check with your dealer and read the fuel economy label affixed to every car for information on the exact engine with which that vehicle will be equipped.

Transmission (TR): The following abbreviations are used to describe the type of transmission

S2	Semiautomatic two speed
A3	Automatic three speed
A4	Automatic four speed
M3	Manual three speed
M3 (OD)	Manual three speed with separate overdrive unit
M4	Manual four speed
M4 (OD)	Manual four speed with separate overdrive unit
M3/M4C	Manual three speed, or manual four speed with creeper first gear
M4C	Manual four speed with creeper first gear
M5	Manual five speed
M4 x 2	Dual range manual four speed

Fuel System (FS): The following abbreviations are used to describe the type of fuel system:

FI	fuel injection
F1	one barrel carburetor
F2	two barrel carburetor
F4	four barrel carburetor

Gas Guzzler Tax

The Energy Tax Act of 1978 established a Gas Guzzler Tax on the sale of new model year vehicles whose fuel economy fails to meet certain statutory levels The fuel economy figures used to determine the Gas Guzzler Tax are different from the fuel economy values contained in this booklet The tax does not depend on your actual on-the-road mpg, which may be more or less than the EPA published value

The purpose of the Gas Guzzler Tax is to discourage the production and purchase of fuel *inefficient* vehicles The amount of any applicable Gas Guzzler Tax paid by the manufacturer will be disclosed on the automobile's fuel economy label.

How the Fuel Economy

The test conditions are those EPA must use to

ANNUAL FUEL COSTS CHART

How the Fuel Economy Estimates are Obtained

The estimates of the miles each vehicle can cover on a gallon of fuel are based on results of the U S Environmental Protection Agency (EPA) "Emissions Standards Test Procedure".

This procedure is used by EPA to certify that cars, vans, and light trucks comply with the Clean Air Act, as amended Each year, manufacturers submit new vehicle models to EPA The procedure is used to test for exhaust emissions under simulated everyday urban driving conditions

Each vehicle is tested under controlled laboratory conditions by a professional driver By using a dynamometer to simulate driving conditions, the driver can test each vehicle under identical conditions, in exactly the same way each time Therefore, the results that are obtained can be compared accurately

The test vehicles are broken in, properly maintained, and driven in test conditions which simulate warm weather and dry, level roads Quality of the fuel used is also very closely controlled

The test simulates a 7 5 mile, stop-and-go trip with a speed range of 0 to 56 mph and an average speed of 20 mph The trip takes 23 minutes and has 18 stops About 18 percent of the time is spent idling, as in city driving at traffic lights or in rush-hour traffic

Two kinds of engine starts are used—the cold start, which is similar to starting a car in the morning after it has been parked all night, and the hot start, similar to restarting a vehicle after it has been warmed up, driven and stopped for a short time

The test conditions are those EPA must use to assure accurate emissions measurements. However, NO test can cover ALL possible combinations of actual road conditions, climate, driving and car-care habits of individual drivers. Bear in mind that, while EPA tests provide a measure of how much fuel each vehicle uses under precisely controlled laboratory conditions, they CANNOT PREDICT EXACTLY WHAT MILEAGE YOU PERSONALLY WILL ACHIEVE.

How This Data Can Help You

When you have determined the size and type car that can best satisfy your needs, next consider other important factors, such as number of cylinders and type of transmission. Then use miles per gallon estimates and the fuel costs chart to help you decide which model to buy

For those preferring the metric system, 3.785 liters equals one gallon.

The mpg ratings are ESTIMATES, NOT guaranteed fuel economy CLAIMS They are published to help you COMPARE the RELATIVE mpg of each model in a vehicle class.

Annual Fuel Costs

Fuel costs are changing rapidly and vary considerably by area The following chart enables you to estimate annual fuel costs using fuel prices in your area These costs are based on 15,000 miles driving per year (The annual fuel cost displayed on the fuel economy label of 1982 cars is based on 15,000 miles of driving and a gasoline cost of $1 65 per gallon or diesel fuel at $1 50 per gallon.)

ANNUAL FUEL COSTS CHART
For 1982 Model Year
Based on 15,000 Miles Per Year

Est. MPG	Dollars Per Gallon					
	1.65	1.55	1.45	1.35	1.25	1.15
50	495	465	435	405	375	345
49	505	474	444	413	382	352
48	515	484	452	421	390	359
47	527	495	463	431	399	367
46	537	505	472	439	407	375
45	549	516	483	450	416	383
44	562	528	494	460	426	392
43	577	542	507	472	437	401
42	589	553	518	482	446	411
41	604	567	531	494	458	421
40	619	581	544	506	469	431
39	634	595	557	518	480	442
38	651	611	572	533	493	454
37	668	628	587	547	506	466
36	688	646	605	563	521	479
35	708	665	622	579	536	493
34	728	684	639	595	551	507
33	750	704	659	614	568	523
32	772	725	679	632	585	539
31	799	751	703	654	606	556
30	824	774	724	674	624	575
29	854	802	750	699	647	595
28	884	830	776	723	669	616
27	916	860	805	749	694	639
26	953	895	837	780	722	663
25	990	930	870	810	750	690
24	1032	970	907	844	782	719
23	1077	1011	946	881	816	750
22	1126	1058	990	921	853	784
21	1178	1107	1035	964	892	821
20	1238	1162	1088	1012	938	862
19	1302	1223	1144	1065	986	908
18	1376	1293	1209	1126	1042	958
17	1455	1367	1279	1191	1102	1015
16	1547	1453	1359	1266	1172	1078
15	1651	1551	1451	1351	1251	1150
14	1767	1660	1553	1446	1339	1232
13	1903	1788	1673	1557	1442	1327
12	2062	1937	1812	1687	1562	1438
11	2250	2113	1977	1841	1704	1568
10	2475	2325	2175	2025	1875	1725
9	2750	2583	2416	2250	2083	1917

LEGEND TR: Transmission FS: Fuel System ED: Engine Description

TWO SEATERS

Estimated MPG: 0 10 20 30 40+

DATSUN
280ZX
- 20 TR: M5 FS: FI ED: 168/6 (FFS)
- 20 TR: M5 FS: FI ED: 168/6 (FFS,TRBO)
- 20 TR: A3 FS: FI ED: 168/6 (FFS)
- 19 TR: A3 FS: FI ED: 168/6 (FFS,TRBO)

DELOREAN
DELOREAN
- 21 TR: M5 FS: FI ED: 174/6 (FFS)
- 21 TR: A3 FS: FI ED: 174/6 (FFS)

MINICOMPACT CARS

AVANTI
AVANTI II
2DR-75/8
- 17 TR: A4 FS: 4 ED: 305/8 (FFS)

EXCALIBUR AUTOS
PHAETON
2DR-44/4
- 14 TR: A3 FS: 4 ED: 305/8 (GUZZLER) (FFS)

SUBCOMPACT CARS

ASTON MARTIN
SALOON/VANTAGE/VOLANTE
2DR-60/7
- 10 TR: M5 FS: 6 ED: 326 (5340CC)/8 (GUZZLER)
- 10 TR: A3 FS: 6 ED: 326 (5340CC)/8 (GUZZLER)

AUDI
QUATTRO
2DR-84/8
- 17 TR: M5 FS: FI ED: 131/5 (FFS,TRBO)

4000/COUPE
2DR-84/12
4DR-86/12
- 31 TR: M5 FS: FI ED: 97/4 (DSL,TRBO)
- 30 TR: A3 FS: FI ED: 97/4 (DSL,TRBO)

CHEVROLET
CAMARO
2DR-84/12
- 20 TR: M4 FS: 2 ED: 173 (2.8L)/6 (FFS)
- 20 TR: A3 FS: 2 ED: 173 (2.8L)/6 (FFS)
- 16 TR: A3 FS: FI ED: 305 (5.0L)/8 (GM-CHEV) (FFS)

CHEVETTE
HBK-79/10
- 10 TR: M4 FS: 2 ED: 98 (1.6L)/4 (FFS)
- 30 TR: M5 FS: 2 ED: 98 (1.6L)/4 (FFS)
- 28 TR: A3 FS: 2 ED: 98 (1.6L)/4 (FFS)

DATSUN
NISSAN SENTRA
2DR-84/11
4DR-84/11
HBK-82/16
- 34 TR: M4 FS: 2 ED: 97/4
- 41 TR: M4 FS: 2 ED: 97/4 (FFS)
- 35 TR: M5 FS: 2 ED: 97/4
- 43 TR: M5 FS: 2 ED: 97/4 (FFS)
- 30 TR: A3 FS: 2 ED: 97/4

280ZX 2+2
HBK-72/14
- 20 TR: M5 FS: FI ED: 168/6 (FFS)
- 19 TR: M5 FS: FI ED: 168/6 (FFS,TRBO)
- 20 TR: A3 FS: FI ED: 168/6 (FFS)

LEGEND TR: Transmission FS: Fuel System ED: Engine Description

SUBCOMPACT CARS (Continued)

Estimated MPG: 0 10 20 30 40+

DATSUN (Cont.)
280ZX 2+2 (Cont.)
- 19 TR: A3 FS: FI ED: 168/6 (FFS,TRBO)

310
HBK-73/14
- 29 TR: A3 FS: 2 ED: 91/4

FORD
MUSTANG
2DR-84/10
HBK-84/12
- 25 TR: M4 FS: 2 ED: 140 (2.3L)/4 (FFS)
- 21 TR: A3 FS: 2 ED: 140 (2.3L)/4 (FFS)
- 17 TR: M4 FS: 2 ED: 302 (5.0L)/8

JAGUAR
XJ-S
2DR-77/11
- 14 TR: A3 FS: FI ED: 326 (5.3L) /12 (GUZZLER) (FFS)

LINCOLN-MERCURY
CAPRI
HBK-84/12
- 22 TR: M4 FS: 2 ED: 140 (2.3L)/4 (FFS)
- 17 TR: M4 FS: 2 ED: 302 (5.0L)/8

PONTIAC
FIREBIRD
2DR-84/12
- 20 TR: M4 FS: 2 ED: 173 (2.8L)/6 (FFS)
- 20 TR: A3 FS: 2 ED: 173 (2.8L)/6 (FFS)
- 14 TR: A3 FS: FI ED: 305 (5.0L)/8 (GM-CHEV) (FFS)

T1000
HBK-79/10
- 30 TR: M4 FS: 2 ED: 98 (1.6L)/4 (FFS)
- 30 TR: M5 FS: 2 ED: 98 (1.6L)/4 (FFS)
- 28 TR: A3 FS: 2 ED: 98 (1.6L)/4 (FFS)

RENAULT
FUEGO
2DR-83/14
- 26 TR: M5 FS: FI ED: 97/4 (FFS,TRBO)
- 28 TR: M5 FS: 2 ED: 100/4 (FFS)
- 24 TR: A3 FS: 2 ED: 100/4 (FFS)

18 I
4DR-86/12
- 29 TR: M4 FS: FI ED: 100/4 (FFS)
- 24 TR: M5 FS: FI ED: 100/4 (FFS)
- 24 TR: A3 FS: FI ED: 100/4 (FFS)

VOLKSWAGEN
JETTA
2DR-78/13
4DR-77/13
- 42 TR: M5 FS: FI ED: 97/4 (DSL,TRBO)
- 34 TR: A3 FS: FI ED: 97/4 (DSL,TRBO)

COMPACT CARS

AUDI
5000
4DR-80/15
- 28 TR: A3 FS: FI ED: 121/5 (DSL,TRBO)

BMW
528 E
4DR-86/14
- 22 TR: M5 FS: FI ED: 164 (2700CC)/6 (FFS)
- 20 TR: A3 FS: FI ED: 164 (2700CC)/6 (FFS)

BUICK
SKYHAWK
2DR-84/13
4DR-91/13
- 27 TR: A3 FS: 2 ED: 110 (1.8L)/4 (CAL)(FFS)
- 25 TR: M4 FS: 2 ED: 112 (1.8L)/4 (FFS)
- 24 TR: A3 FS: 2 ED: 112 (1.8L)/4 (FFS)

LEGEND TR: Transmission FS: Fuel System ED: Engine Description

COMPACT CARS (Continued)

Estimated MPG: 0 10 20 30 40+

BUICK (Cont.)
SKYLARK
2DR-94/14
4DR-94/14
- 24 TR: M4 FS: 2 ED: 173 (2.8L)/6 (CAL)(FFS)

DATSUN
NISSAN STANZA
HBK-87/19
- 28 TR: A3 FS: 2 ED: 120/4

OLDSMOBILE
FIRENZA
4DR-89/13
HBK-84/16
- 27 TR: A3 FS: FI ED: 110 (1.8L)/4 (CAL)(FFS)
- 25 TR: M4 FS: FI ED: 112 (1.8L)/4 (FFS)
- 24 TR: A3 FS: FI ED: 112 (1.8L)/4 (FFS)

OMEGA
2DR-96/14
4DR-96/14
- 24 TR: M4 FS: 2 ED: 173 (2.8L)/6 (CAL)(FFS)

PEUGEOT
505
4DR-80/11
- 22 TR: M5 FS: FI ED: 120 (1971CC)/4 (FFS)
- 22 TR: A3 FS: FI ED: 120 (1971CC)/4 (FFS)

PONTIAC
J2000
2DR-84/13
4DR-91/13
HBK-84/16
- 27 TR: A3 FS: FI ED: 110 (1.8L)/4 (CAL)(FFS)
- 30 TR: A3 FS: FI ED: 110 (1.8L)/4 (FFS)

VOLKSWAGEN
QUANTUM
4DR-89/12
HBK-88/21
- 30 TR: M5 FS: FI ED: 97/4 (DIESEL)
- 41 TR: M5 FS: FI ED: 97/4 (DSL,TRBO)
- 32 TR: A3 FS: FI ED: 97/4 (DSL,TRBO)

MID-SIZE CARS

BITTER GMBH & CO. KG
SC
2DR-101/16
- 19 TR: M5 FS: FI ED: 181/6 (GUZZLER)
- 14 TR: A3 FS: FI ED: 181/6 (GUZZLER)

BUICK
CENTURY
2DR-98/16
4DR-97/16
- 27 TR: A3 FS: 2 ED: 181 (3.0L)/6 (FFS)
- 26 TR: A3 FS: FI ED: 263 (4.3L)/6 (DIESEL)

REGAL
2DR-98/17
4DR-102/16
- 31 TR: A3 FS: 2 ED: 231 (3.8L)/6 (GM-BUICK) (FFS)
- 25 TR: A3 FS: FI ED: 263 (4.3L)/6 (DIESEL)

RIVIERA
2DR-100/16
- 17 TR: A4 FS: FI ED: 231 (3.8L)/6 (FFS,TRBO)
- 17 TR: A4 FS: 4 ED: 252 (4.1L)/6 (FFS)

CADILLAC
ELDORADO
2DR-99/15
SEVILLE
4DR-101/14
- 17 TR: A4 FS: 4 ED: 252 (4.1L)/6 (FFS)
- 17 TR: A4 FS: 4 ED: 252 (4.1L)/6 (FFS)

CHECKER
MARATHON/TAXICAB
4DR-100/14
- 17 TR: A3 FS: 2 ED: 229 (3.8L)/6 (FFS)
- 19 TR: A3 FS: 2 ED: 267 (4.4L)/8 (FFS) (GUZZLER)

LEGEND TR: Transmission FS: Fuel System ED: Engine Description

MID-SIZE CARS (Continued)

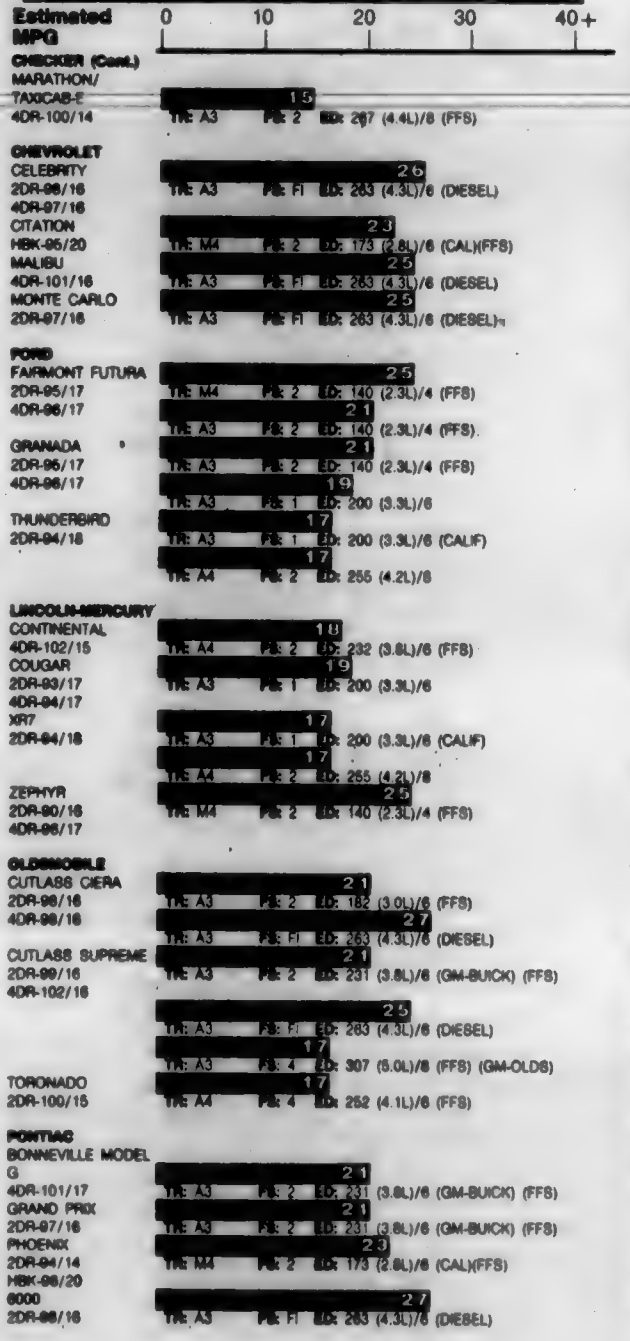

LEGEND TR: Transmission FS: Fuel System ED: Engine Description

MID-SIZE CARS (Continued)

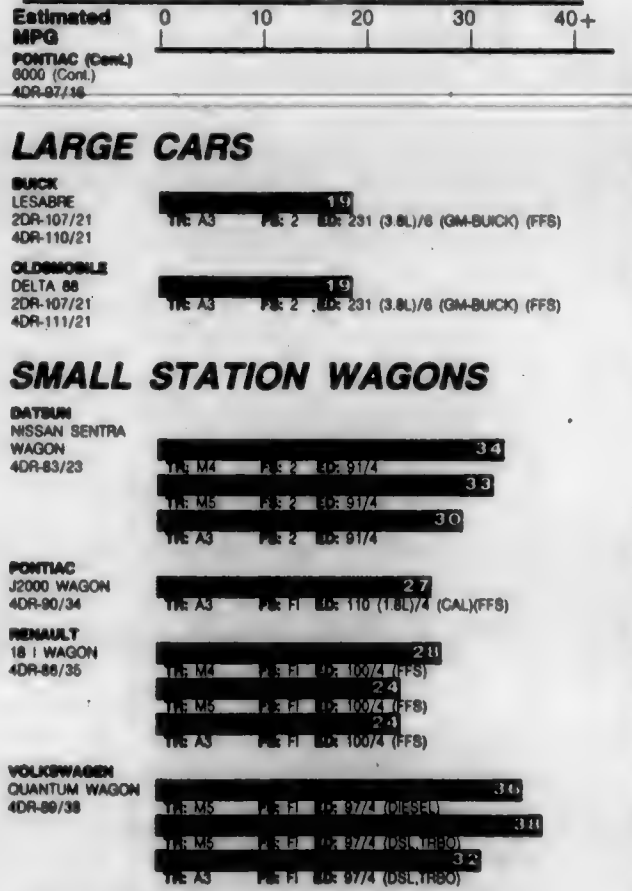

LARGE CARS

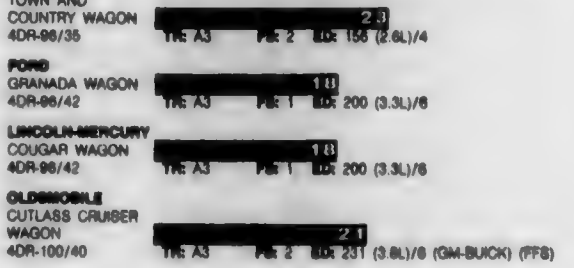

SMALL STATION WAGONS

MID-SIZE STATION WAGONS

LEGEND TR: Transmission FS: Fuel System ED: Engine Description

MID-SIZE STATION WAGONS (Continued)

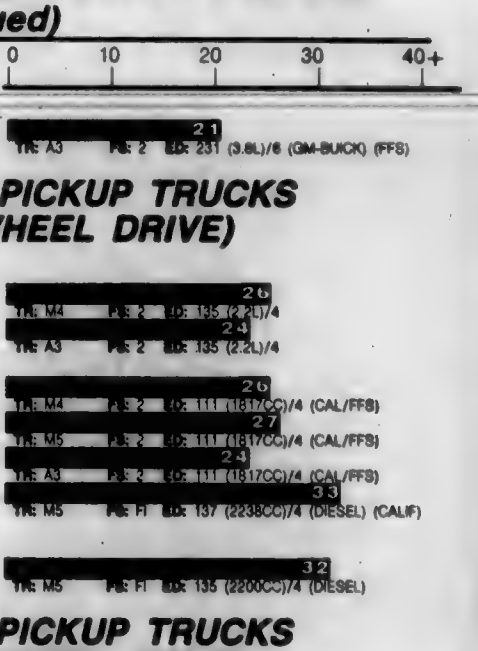

SMALL PICKUP TRUCKS (TWO-WHEEL DRIVE)

SMALL PICKUP TRUCKS (FOUR-WHEEL DRIVE)

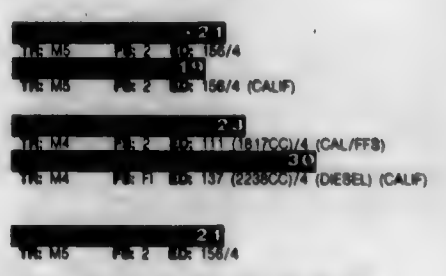

STANDARD PICKUP TRUCKS (TWO-WHEEL DRIVE)

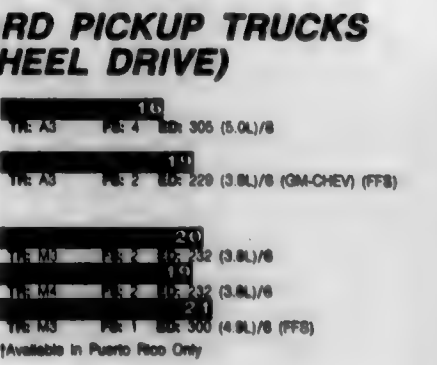

†Available in Puerto Rico Only

LEGEND TR: Transmission PS: Fuel System ED: Engine Description

STANDARD PICKUP TRUCK (Continued) (TWO-WHEEL DRIVE)

Estimated MPG: 0 10 20 30 40+

FORD (Cont.)
F100/F150 PICKUP 2WD (Cont.)
TR: M4 PS: 2 ED: 351 (5.8L)/8 (FFS)
TR: M4C PS: 2 ED: 351 (5.8L)/8 (FFS)
TR: A3 PS: 2 ED: 351 (5.8L)/8 (FFS)
F250 PICKUP 2WD
TR: M4C PS: 2 ED: 351 (5.8L)/8 (FFS)

GMC
CABALLERO PICKUP 2WD
TR: A3 PS: 2 ED: 229 (3.8L)/6 (GM-CHEV) (FFS)
C25 PICKUP 2WD
TR: A3 PS: 4 ED: 305 (5.0L)/8

STANDARD PICKUP TRUCKS (FOUR-WHEEL DRIVE)

FORD
F150 PICKUP 4WD
TR: M4 PS: 2 ED: 351 (5.8L)/8 (FFS)
TR: M4C PS: 2 ED: 351 (5.8L)/8 (FFS)
TR: A3 PS: 2 ED: 351 (5.8L)/8 (FFS)
F250 PICKUP 4WD
TR: A3 PS: 2 ED: 351 (5.8L)/8 (FFS)

VANS (PASSENGER VANS)

CHEVROLET
G30 SPORTVAN 2WD
TR: A3 PS: 4 ED: 350 (5.7L)/8

GMC
G35 SPORTVAN 2WD
TR: A3 PS: 4 ED: 350 (5.7L)/8

SPECIAL PURPOSE VEHICLES (TWO-WHEEL DRIVE)

CHEVROLET
S10 UTILITY BODY 2WD
TR: M4 PS: 2 ED: 173 (2.8L)/6
TR: A3 PS: 2 ED: 173 (2.8L)/6

GMC
S15 UTILITY BODY 2WD
TR: M4 PS: 2 ED: 173 (2.8L)/6
TR: A3 PS: 2 ED: 173 (2.8L)/6

LEGEND TR: Transmission PS: Fuel System ED: Engine Description

SPECIAL PURPOSE VEHICLES (Continued) (TWO-WHEEL DRIVE)

Estimated MPG: 0 10 20 30 40+

ZIMMER HOMES CORPORATION
ZIMMER MOTOR HOME
TR: A3 PS: FI ED: 162 (2664CC)/6

SPECIAL PURPOSE VEHICLES (FOUR-WHEEL DRIVE)

FORD
BRONCO 4WD
TR: M4C PS: 2 ED: 351 (5.8L)/8 (FFS)
TR: A3 PS: 2 ED: 351 (5.8L)/8 (FFS)

SPECIAL PURPOSE VEHICLES (CAB CHASSIS)

CHEVROLET
S10 CAB CHASSIS 2WD
TR: M4 PS: 2 ED: 173 (2.8L)/6
TR: A3 PS: 2 ED: 173 (2.8L)/6

GMC
S15 CAB CHASSIS 2WD
TR: M4 PS: 2 ED: 173 (2.8L)/6
TR: A3 PS: 2 ED: 173 (2.8L)/6

HESS & EISENHARDT
FUNERAL COACH
TR: A3 PS: 4 ED: 366 (6.0L)/8 (FFS)

SUPERIOR COACH
FUNERAL COACH
TR: A3 PS: 4 ED: 366 (6.0L)/8 (FFS)

INDEX

MANUFACTURER / CAR/TRUCK LINE	PAGE
ASTON MARTIN	
SALOON/VANTAGE/VOLANTE	3
AUDI	
QUATTRO	3
4000/COUPE	3
5000	3
AVANTI	
AVANTI II	3
BITTER GMBH & CO. KG	
SC	3
BMW	
528 E	3
BUICK	
CENTURY	3
LESABRE	3
REGAL	3
REGAL ESTATE WAGON	4
RIVIERA	3
SKYHAWK	3
SKYLARK	3
CADILLAC	
ELDORADO	3
SEVILLE	3
CHECKER	
MARATHON/TAXICAB	3
MARATHON/TAXICAB-E	4
CHEVROLET	
CAMARO	3
CELEBRITY	3
CHEVETTE	3
CITATION	3
C20 PICKUP 2WD	4
EL CAMINO PICKUP 2WD	4
G30 SPORTVAN 2WD	4
MALIBU	4
MONTE CARLO	4
S10 CAB CHASSIS 2WD	5
S10 UTILITY BODY 2WD	5
CHRYSLER	
TOWN AND COUNTRY WAGON	4
DATSUN	
NISSAN SENTRA	3
NISSAN SENTRA WAGON	4
NISSAN STANZA	3
280ZX	3
280ZX 2+2	3
310	3
DELOREAN	
DELOREAN	3
DODGE	
POWER RAM50 PICKUP 4WD	4
RAMPAGE PICKUP 2WD	4
EXCALIBUR AUTOS	
PHAETON	3
FORD	
BRONCO 4WD	5
FAIRMONT FUTURA	4
F100/F150 PICKUP 2WD	4, 5
F150 PICKUP 4WD	4
F250 PICKUP 2WD	5
F250 PICKUP 4WD	4
GRANADA	4
GRANADA WAGON	4
MUSTANG	3
THUNDERBIRD	4
GMC	
CABALLERO PICKUP 2WD	4
C25 PICKUP 2WD	4
G35 SPORTVAN 2WD	5
S15 CAB CHASSIS 2WD	5
S15 UTILITY BODY 2WD	5
HESS & EISENHARDT	
FUNERAL COACH	5
ISUZU	
P'UP PICKUP 2WD	4
P'UP PICKUP 4WD	4
JAGUAR	
XJ-S	3
LINCOLN-MERCURY	
CAPRI	3
CONTINENTAL	4
COUGAR	4
COUGAR WAGON	4
XR7	4
ZEPHYR	4
MAZDA	
B2000/B2200 PICKUP 2WD	4
MITSUBISHI	
RAM50/ARROW PICKUP 4WD	4
OLDSMOBILE	
CUTLASS CIERA	4
CUTLASS CRUISER WAGON	4
CUTLASS SUPREME	4
DELTA 88	4
FIRENZA	3
OMEGA	3
TORONADO	4
PEUGEOT	
505	3
PONTIAC	
BONNEVILLE MODEL G	4
BONNEVILLE MODEL G WAGON	4
FIREBIRD	3
GRAND PRIX	4
J2000	3
J2000 WAGON	4
PHOENIX	4
T1000	3
6000	4
RENAULT	
FUEGO	3
18 I	3
18 I WAGON	4
SUPERIOR COACH	
FUNERAL COACH	5
VOLKSWAGEN	
JETTA	3
QUANTUM	3
QUANTUM WAGON	4
ZIMMER HOMES CORPORATION	
ZIMMER MOTOR HOME	5

LEGEND TR: Transmission FS: Fuel System ED: Engine Description

TWO SEATERS

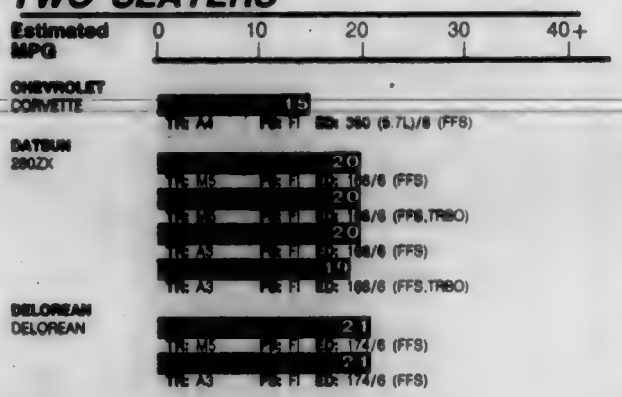

MINICOMPACT CARS

SUBCOMPACT CARS

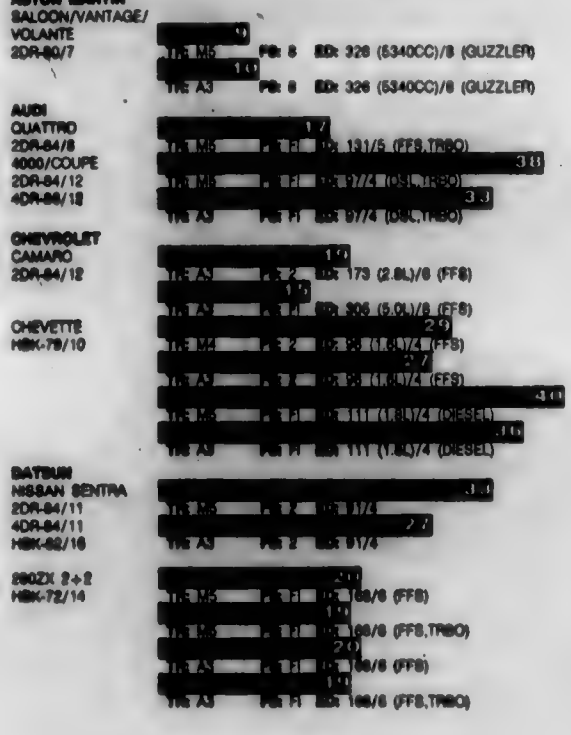

LEGEND TR: Transmission FS: Fuel System ED: Engine Description

SUBCOMPACT CARS (Continued)

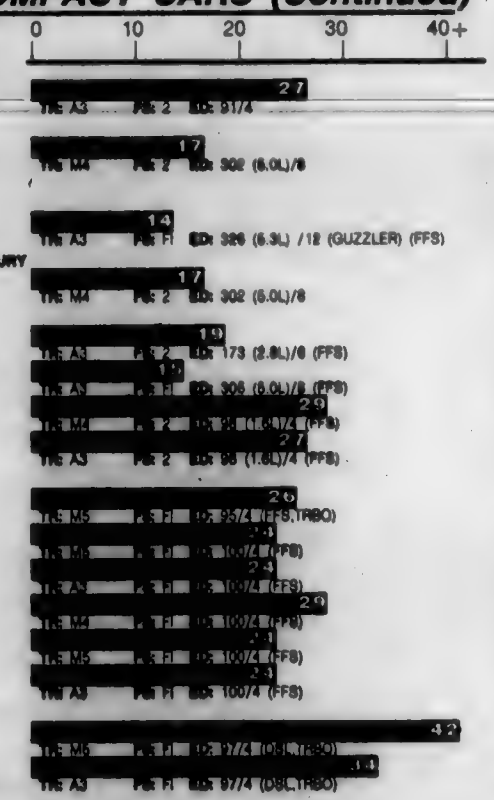

COMPACT CARS

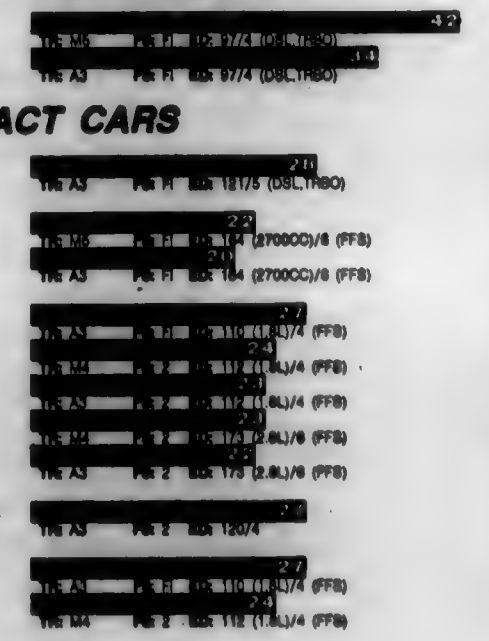

LEGEND TR: Transmission FS: Fuel System ED: Engine Description

COMPACT CARS (Continued)

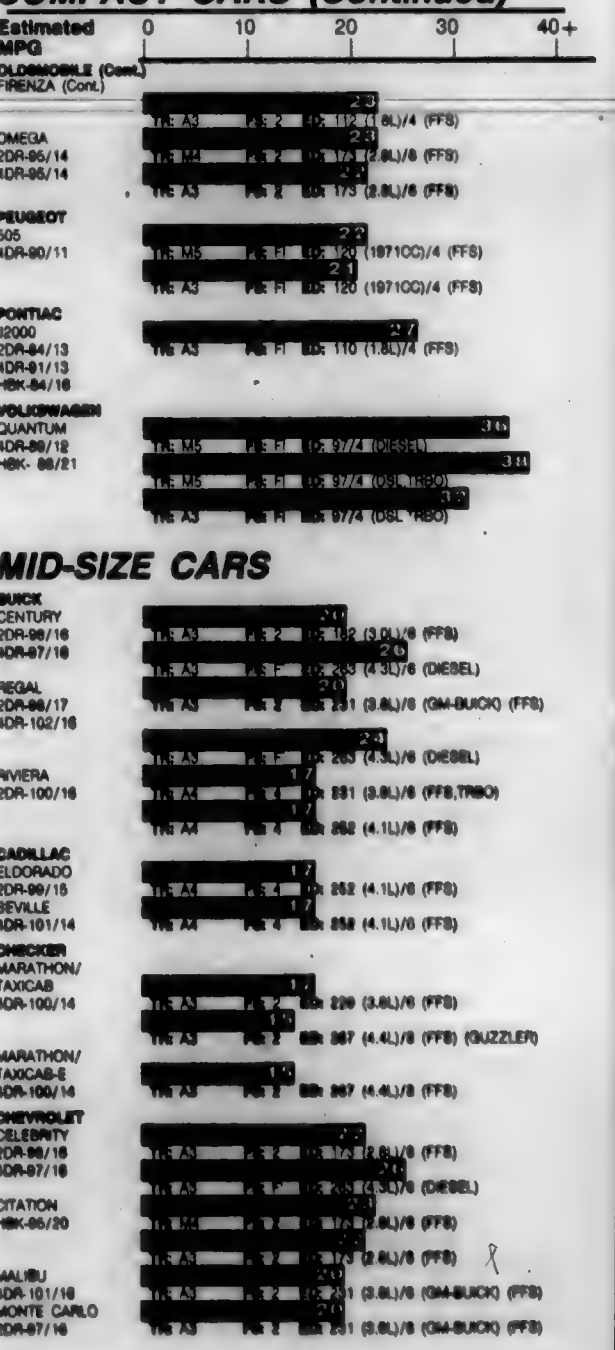

MID-SIZE CARS

LEGEND TR: Transmission FS: Fuel System ED: Engine Description

MID-SIZE CARS (Continued)

Estimated MPG: 0 10 20 30 40+

FORD
THUNDERBIRD
2DR-94/16 — 18 — TR: A3 FS: 1 ED: 200 (3.3L)/6

LINCOLN-MERCURY
XR7
2DR-94/16 — 18 — TR: A3 FS: 1 ED: 200 (3.3L)/6

OLDSMOBILE
CUTLASS CIERA
2DR-98/16 — 20 — TR: A3 FS: 2 ED: 182 (3.0L)/6 (FFS)
4DR-98/16 — 27 — TR: A3 FS: FI ED: 263 (4.3L)/6 (DIESEL)

CUTLASS SUPREME
2DR-99/16 — 20 — TR: A3 FS: 2 ED: 231 (3.8L)/6 (GM-BUICK) (FFS)
4DR-102/16 — 24 — TR: A3 FS: FI ED: 263 (4.3L)/6 (DIESEL)
17 — TR: A3 FS: 4 ED: 307 (5.0L)/8 (FFS) (GM-OLDS)

TORONADO
2DR-100/15 — 17 — TR: A4 FS: 4 ED: 252 (4.1L)/6 (FFS)

PONTIAC
BONNEVILLE MODEL G
4DR-101/17 — 20 — TR: A3 FS: 2 ED: 231 (3.8L)/6 (GM-BUICK) (FFS)
GRAND PRIX
2DR-97/16 — 20 — TR: A3 FS: 2 ED: 231 (3.8L)/6 (GM-BUICK) (FFS)
PHOENIX
2DR-94/14 — 23 — TR: M4 FS: 2 ED: 173 (2.8L)/6 (FFS)
H/K-96/20 — 22 — TR: A3 FS: 2 ED: 173 (2.8L)/6 (FFS)
6000
2DR-98/16 — 22 — TR: A3 FS: 2 ED: 173 (2.8L)/6 (FFS)
4DR-97/16 — 27 — TR: A3 FS: FI ED: 263 (4.3L)/6 (DIESEL)

LARGE CARS

BUICK
LESABRE
2DR-107/21
4DR-110/21 — 18 — TR: A3 FS: 2 ED: 231 (3.8L)/6 (GM-BUICK) (FFS)

CHEVROLET
IMPALA/CAPRICE
2DR-107/21
4DR-110/21 — 18 — TR: A3 FS: 2 ED: 231 (3.8L)/6 (GM-BUICK) (FFS)

OLDSMOBILE
DELTA 88
2DR-107/21
4DR-111/21 — 18 — TR: A3 FS: 2 ED: 231 (3.8L)/6 (GM-BUICK) (FFS)

SMALL STATION WAGONS

DATSUN
NISSAN SENTRA WAGON
4DR-83/23 — 31 — TR: M5 FS: 2 ED: 91/4
27 — TR: A3 FS: 2 ED: 91/4

PONTIAC
J2000 WAGON
4DR-90/34 — 27 — TR: A3 FS: FI ED: 110 (1.8L)/4 (FFS)

RENAULT
18 i WAGON
4DR-86/35 — 28 — TR: M4 FS: FI ED: 100/4 (FFS)
24 — TR: M5 FS: FI ED: 100/4 (FFS)
24 — TR: A3 FS: FI ED: 100/4 (FFS)

VOLKSWAGEN
QUANTUM WAGON
4DR-89/38 — 36 — TR: M5 FS: FI ED: 97/4 (DIESEL)

LEGEND TR: Transmission FS: Fuel System ED: Engine Description

SMALL STATION WAGONS (Continued)

Estimated MPG: 0 10 20 30 40+

VOLKSWAGEN (Cont.)
QUANTUM WAGON (Cont.)
38 — TR: M5 FS: FI ED: 97/4 (DSL,TRBO)
32 — TR: A3 FS: FI ED: 97/4 (DSL,TRBO)

MID-SIZE STATION WAGONS

BUICK
REGAL ESTATE WAGON
4DR-100/40 — 20 — TR: A3 FS: 2 ED: 231 (3.8L)/6 (GM-BUICK) (FFS)

CHEVROLET
MALIBU WAGON
4DR-100/40 — 20 — TR: A3 FS: 2 ED: 231 (3.8L)/6 (GM-BUICK) (FFS)

CHRYSLER
TOWN AND COUNTRY WAGON
4DR-96/35 — 22 — TR: A3 FS: 2 ED: 156 (2.6L)/4

OLDSMOBILE
CUTLASS CRUISER WAGON
4DR-100/40 — 20 — TR: A3 FS: 2 ED: 231 (3.8L)/6 (GM-BUICK) (FFS)

PONTIAC
BONNEVILLE MODEL G WAGON
4DR-100/40 — 20 — TR: A3 FS: 2 ED: 231 (3.8L)/6 (GM-BUICK) (FFS)

LARGE STATION WAGONS

CHEVROLET
IMPALA/CAPRICE WAGON
4DR-110/50 — 16 — TR: A4 FS: 4 ED: 305 (5.0L)/8 (GM-CHEV) (FFS)

SMALL PICKUP TRUCKS (TWO-WHEEL DRIVE)

CHEVROLET
LUV PICKUP 2WD — 33 — TR: M5 FS: FI ED: 137/4 (DIESEL)

DODGE
RAMPAGE PICKUP 2WD
25 — TR: M4 FS: 2 ED: 135 (2.2L)/4 (FFS)
25 — TR: A3 FS: 2 ED: 135 (2.2L)/4 (FFS)

ISUZU
P'UP PICKUP 2WD — 33 — TR: M5 FS: FI ED: 137/4 (DIESEL)

MAZDA
B2000/B2200
PICKUP 2WD — 32 — TR: M5 FS: FI ED: 135 (2200CC)/4 (DIESEL)

SMALL PICKUP TRUCKS (FOUR-WHEEL DRIVE)

CHEVROLET
LUV PICKUP 4WD — 30 — TR: M4 FS: FI ED: 137/4 (DIESEL)

DODGE
POWER RAM50
PICKUP 4WD — 19 — TR: M5 FS: 2 ED: 156/4

LEGEND TR: Transmission FS: Fuel System ED: Engine Description

SMALL PICKUP TRUCKS (Continued) (FOUR-WHEEL DRIVE)

Estimated MPG: 0 10 20 30 40+

ISUZU
P'UP PICKUP 4WD — 30 — TR: M4 FS: FI ED: 137/4 (DIESEL)

STANDARD PICKUP TRUCKS (TWO-WHEEL DRIVE)

CHEVROLET
C10 PICKUP 2WD
24 — TR: M4 FS: FI ED: 379 (6.2L)/8 (DIESEL)
21 — TR: A4 FS: FI ED: 379 (6.2L)/8 (DIESEL)
C20 PICKUP 2WD
23 — TR: M4 FS: FI ED: 379 (6.2L)/8 (DIESEL)
21 — TR: A4 FS: FI ED: 379 (6.2L)/8 (DIESEL)

GMC
C15 PICKUP 2WD
24 — TR: M4 FS: FI ED: 379 (6.2L)/8 (DIESEL)
21 — TR: A4 FS: FI ED: 379 (6.2L)/8 (DIESEL)
C25 PICKUP 2WD
23 — TR: M4 FS: FI ED: 379 (6.2L)/8 (DIESEL)
21 — TR: A4 FS: FI ED: 379 (6.2L)/8 (DIESEL)

STANDARD PICKUP TRUCKS (FOUR-WHEEL DRIVE)

CHEVROLET
K10 PICKUP 4WD
22 — TR: M4 FS: FI ED: 379 (6.2L)/8 (DIESEL)
20 — TR: A4 FS: FI ED: 379 (6.2L)/8 (DIESEL)

GMC
K15 PICKUP 4WD
22 — TR: M4 FS: FI ED: 379 (6.2L)/8 (DIESEL)
20 — TR: A4 FS: FI ED: 379 (6.2L)/8 (DIESEL)

VANS (PASSENGER VANS)

CHEVROLET
G30 SPORTVAN 2WD — 11 — TR: A3 FS: 4 ED: 350 (5.7L)/8

GMC
G35 SPORTVAN 2WD — 11 — TR: A3 FS: 4 ED: 350 (5.7L)/8

SPECIAL PURPOSE VEHICLES (TWO-WHEEL DRIVE)

CHEVROLET
C10 SUBURBAN 2WD — 20 — TR: A4 FS: FI ED: 379 (6.2L)/8 (DIESEL)

[FR Doc. 83-23550 Filed 8-26-83; 8:45 am]
BILLING CODE 4910-01-C

LEGEND TR: Transmission FS: Fuel System ED: Engine Description

SPECIAL PURPOSE VEHICLES (Continued) (TWO-WHEEL DRIVE)

Estimated MPG: 0 | 10 | 20 | 30 | 40+

CHEVROLET (Cont.)
C10 SUBURBAN 2WD (Cont.)
GMC
C15 SUBURBAN
2WD — 20
TR: A4 FS: FI ED: 379 (6.2L)/8 (DIESEL)

SPECIAL PURPOSE VEHICLES (FOUR-WHEEL DRIVE)

CHEVROLET
K10 BLAZER 4WD — 20
TR: A4 FS: FI ED: 379 (6.2L)/8 (DIESEL)

K10 SUBURBAN
4WD — 18
TR: A4 FS: FI ED: 379 (6.2L)/8 (DIESEL)

GMC
K15 JIMMY 4WD — 20
TR: A4 FS: FI ED: 379 (6.2L)/8 (DIESEL)

K15 SUBURBAN
4WD — 18
TR: A4 FS: FI ED: 379 (6.2L)/8 (DIESEL)

SPECIAL PURPOSE VEHICLES (CAB CHASSIS)

HEIL & EISENHARDT
FUNERAL COACH — 11
TR: A3 FS: 4 ED: 366 (6.0L)/8 (FFS)

SUPERIOR COACH
FUNERAL COACH — 11
TR: A3 FS: 4 ED: 366 (6.0L)/8 (FFS)

INDEX

MANUFACTURER CAR/TRUCK LINE	PAGE
ASTON MARTIN	
SALOON/VANTAGE/VOLANTE	3
AUDI	
QUATTRO	3
4000/COUPE	3
5000	3
AVANTI	
AVANTI II	3
BMW	
528 E	3
BUICK	
CENTURY	3
LESABRE	3
REGAL	3
REGAL ESTATE WAGON	4
RIVIERA	3
SKYHAWK	3
SKYLARK	3
CADILLAC	
ELDORADO	3
SEVILLE	3
CHECKER	
MARATHON/TAXICAB	3
MARATHON/TAXICAB-E	3
CHEVROLET	
CAMARO	3
CELEBRITY	3
CHEVETTE	3
CITATION	3
CORVETTE	3
C10 PICKUP 2WD	4
C10 SUBURBAN 2WD	4
C20 PICKUP 2WD	4
G30 SPORTVAN 2WD	4
IMPALA/CAPRICE	3
IMPALA/CAPRICE WAGON	4
K10 BLAZER 4WD	5
K10 PICKUP 4WD	4
K10 SUBURBAN 4WD	5
LUV PICKUP 2WD	4
LUV PICKUP 4WD	4
MALIBU	3
MALIBU WAGON	4
MONTE CARLO	3
CHRYSLER	
TOWN AND COUNTRY WAGON	4
DATSUN	
NISSAN SENTRA	3
NISSAN SENTRA WAGON	4
NISSAN STANZA	3
280ZX	3
280ZX 2+2	3
310	3
DELOREAN	
DELOREAN	3
DODGE	
POWER RAM50 PICKUP 4WD	4
RAMPAGE PICKUP 2WD	4
EXCALIBUR AUTOS	
PHAETON	3
FORD	
MUSTANG	4
THUNDERBIRD	4
GMC	
C15 PICKUP 2WD	5
C15 SUBURBAN 2WD	5
C25 PICKUP 2WD	4
G35 SPORTVAN 2WD	4
K15 JIMMY 4WD	5
K15 PICKUP 4WD	4
K15 SUBURBAN 4WD	5
HEIL & EISENHARDT	
FUNERAL COACH	6
ISUZU	
P'UP PICKUP 2WD	4
P'UP PICKUP 4WD	4
JAGUAR	
XJ-S	3

MANUFACTURER CAR/TRUCK LINE	PAGE
LINCOLN-MERCURY	
CAPRI	3
XR7	4
MAZDA	
B2000/B2200 PICKUP 2WD	4
OLDSMOBILE	
CUTLASS CIERA	4
CUTLASS CRUISER WAGON	4
CUTLASS SUPREME	3
DELTA 88	3
FIRENZA	3
OMEGA	3
TORONADO	3
PEUGEOT	
505	3
PONTIAC	
BONNEVILLE MODEL G	3
BONNEVILLE MODEL G WAGON	4
FIREBIRD	3
GRAND PRIX	3
J2000	3
J2000 WAGON	4
PHOENIX	3
T1000	3
6000	3
RENAULT	
FUEGO	3
18 I	3
18 I WAGON	4
SUPERIOR COACH	
FUNERAL COACH	6
VOLKSWAGEN	
JETTA	3
QUANTUM	3
QUANTUM WAGON	4

Federal Energy Regulatory Commission

[Docket No. CP83-467-000]

Arkansas Louisiana Gas Co.; Request Under Blanket Authorization

August 24, 1983.

Take notice that on August 15, 1983, Arkansas Louisiana Gas Company, a division of Arkla, Inc. (Arkla), P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP83-467-000 a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Arkla proposes to construct and operate sales taps on its jurisdictional Lines JM-20 and JM-9 in st. Francis and White Counties, Arkansas, respectively, to permit direct sales of gas under the authorization issued in Docket Nos. CP82-384-000 and CP82-384-001 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Arkla proposes to construct and operate sales taps and related jurisdictional facilities to permit direct sales of gas to Janell Hawkins (Hawkins) and White County Memorial Gardens, (White County), which would use the gas on a firm basis for domestic purposes and for the operation of a crematorium, respectively. Arkla indicates that Hawkins would purchase up to 1 Mcf of gas on a peak day and about 90 Mcf annually and that White County would purchase up to 12 Mcf of gas on a peak day and about 200 Mcf annually. Arkla states that it would charge the rates under its State of Arkansas residential firm service and commercial firm service rate schedules for sales to Hawkins and White County, respectively. Arkla estimates the cost of facilities to attach each new customer to be approximately $1,280.

Arkla states that the gas would be delivered from its system supply which it claims is adequate to provide the service. Arkla also states that in the foreseeable future it does not project any curtailments except on spike peaks on its system.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-23642 Filed 8-26-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-686-000]

Arkansas Power and Light Co.; Filing

August 24, 1983.

Take notice that on August 16, 1983, Arkansas Power and Light Company (AP&L) tendered for filing the Seventh Amendment to the Power Coordination Interchange and Transmission Service Agreement AP&L and Arkansas Electric Cooperative Corporation (AECC). The amendment provides for one additional point of delivery.

AP&L requests the Commission waive any requirements with which AP&L has not already complied.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests will be should be filed on or before September 9, 1983. Protests considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-23641 Filed 8-26-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-32-000 (PGA84-1)]

Colorado Interstate Gas Co.; Proposed Change in Rates

August 23, 1983.

Take notice that Colorado Interstate Gas Company (CIG) on August 15, 1983, tendered for filing proposed changes in its FERC Gas Tariff, Original Volume No. 1, to be effective October 1, 1983. The decreased jurisdictional cost to CIG of purchased gas proposed by the filing amounts to approximately $47.8 million below the rates which were effective on May 1, 1983, in Docket No. TA83-3-32. Due to the absence of any projected maximum surcharge absorption capability on CIG's system, no reduction in CIG's Estimated Actual Cost of Purchased Gas for incremental pricing purposes is reflected in the filing.

The filing also reflets the proposed collection by CIG of charges attributable to the repricing of certain of its Company-owned production at National Gas Policy Act of 1978 maximum lawful ceilings. This collection, attributable to Company-owned production in the post-September 30, 1982, period, is proposed by CIG in accordance with Article IX of the "Stipulation and Agreement of Settlement" approved by the Commission on March 10, 1983, in Docket No. RP82-54.

Copies of the filing have been served upon the Company's jurisdictional customers and other interested persons, including public bodies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before September 2, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-23661 Filed 8-26-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ST80-77-002]

El Paso Natural Gas Co; Extension Reports

August 24, 1983.

The companies listed below have filed extension reports pursuant to Section 311 of the Natural Gas Policy Act of 1978 (NGPA) and Part 284 of the Commission's regulations giving notice of their intention to continue transportation and sales of natural gas for an additional term of up to 2 years. These transactions commenced on a self-implementing basis without case-by-case Commission authorization. The sales may continue for an additional

term if the Commission does not act to disapprove or modify the proposed extension during the 90 days preceding the effective date of the requested extension.

The table below lists the name and addresses of each company selling or transporting pursuant to Part 284; the party receiving the gas; the date that the extension report was filed; and the effective date of the extension. A letter "B" in the Part 284 column indicates a transportation by an interstate pipeline which is extended under § 284.105. A letter "C" indicates transportation by an intrastate pipeline extended under § 284.125. A "D" indicates a sale by an intrastate pipeline extended under § 284.146. A "G" indicates a transportation by an interstate pipeline pursuant to § 284.221 which is extended under § 284.105. A "G(HS)" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.222 of the Commission's Regulations.

Any person desiring to be heard or to make any protests with reference to said extension report should on or before October 3, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214).

All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants party to a proceeding.

Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

Docket No. and transporter seller	Recipient	Date filed	Part 284 subpart	Effective date
ST80-77-002 [1] El Paso Natural Gas Co., P.O. Box 1492, El Paso, TX 79978	Pacific Gas and Electric Co	8/5/83	B	11/1/83
ST81-421-001 [1] Natural Gas Pipeline Co. of America, 122 South Michigan Ave., Chicago, IL 60603.	Tennessee Gas Pipeline Co	8/10/83	G	7/24/83
ST82-55-001 Superior Pipeline Co., P.O. Box 1521, Houston, Texas 77001	United Gas Pipe Line Co	8/15/83	C	11/13/83
ST82-61-001 Northern Natural Gas Co., 2223 Dodge St., Omaha, NE 68102	Houston Pipe Line Co	8/11/83	B	11/13/83
ST82-63-001 Transcontinental Gas Pipe Line Corp., P.O. Box 1396, Houston, TX 77251	Tennessee Gas Pipeline Co	8/12/83	G	11/12/83
ST82-64-001 Northern Natural Gas Co., 2223 Dodge St., Omaha, NE 68102	Tennessee Gas Pipeline Co	8/11/83	G	11/18/83
ST82-69-001 Arkansas Oklahoma Gas Corp., 115 North 12th Street, Fort Smith, Arkansas 72901.	Columbia Gas Transmission Corp	8/12/83	G	11/10/83
ST82-74-001 El Paso Natural Gas Co., P.O. Box 1492, El Paso, TX 79978	Intrastate Gas Co	8/12/83	B	11/12/83
ST82-92-001 Southern Natural Gas Co., P.O. Box 2563, Birmingham, AL 35202	Sugar Bowl Gas Corp	8/11/83	B	11/10/83
ST82-106-001 Western Slope Gas Co., P.O Box 840, Denver, Colorado 80201	Northern Natural Gas Co	8/5/83	G(HT)	12/18/83
ST82-458-001 Northern Natural Gas Co., 2223 Dodge St., Omaha, NE 68102	Colorado Interstate Gas Co	8/11/83	G	12/12/83

[1] These extension reports were filed after the date specified by the Commission's regulations, and shall be the subject of a further Commission order.
Note: The noticing of these filings does not constitute a determination of whether the filings comply with the Commission's regulations.

[FR Doc. 83-23644 Filed 8-26-83; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 5627-001]

Energenics Systems, Inc.; Surrender of Preliminary Permit

August 24, 1983.

Take notice that Energenics Systems, Inc., Permittee for the proposed Orwell Dam Project No. 5627, has requested that its preliminary permit be terminated. The permit was issued on August 23, 1982, and would have expired on March 31, 1984. The project would have been located on the Otter Tail River in Otter Tail County, Minnesota.

The Permittee filed its request on August 2, 1983, and the surrender of the preliminary permit for Project No. 5627 is deemed accepted 30 days after issuance of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-23645 Filed 8-26-83; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 6607-001]

Energenics Systems Inc.; Surrender of Preliminary Permit

August 24, 1983.

Take notice that Energenics Systems Inc., Permittee for the proposed Okatibbee Reservoir Dam Hydroelectric Project No. 6607, has requested that its preliminary permit be terminated. The permit was issued on March 21, 1983, and would have expired on August 31, 1984. The project would have been located on the Okatibbee Creek in Lauderdale County, Mississippi.

The Permittee filed its request on August 2, 1983, and the surrender of the preliminary permit for Project No. 6607 is deemed accepted 30 days after issuance of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-23646 Filed 8-26-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TA 83-2-24-002]

Equitable Gas Co.; Filing

August 23, 1983.

Take notice that on August 15, 1983, Equitable Gas Company (Equitable), tendered for filing Substitute Sixth Revised Sheet No. 6-F, correcting an error in Equitable's July 29, 1983 filing, which set forth the company's annual purchased gas calculations and tariff sheet.

Equitable states that an error in the interest calculations affected sheets 1, 7 and 8 as well as the tariff sheet of the July 29, 1983 filing. The effect of the corrections is to reduce the total rate from $4.0280 to $4.0232.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before September 2, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-23662 Filed 8-26-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-2-24-003]

Equitable Gas Co.; Filing

August 23, 1983.

Take notice that on August 15, 1983, Equitable Gas Company (Equitable), tendered for filing Substitute Seventh Revised Sheet No. 10–G, correcting an error in Equitable's July 29, 1983 filing, which set forth the company's semi-annual purchased gas calculations and tariff sheet.

Equitable states that an error in the interest calculations affected sheets 1, 6 and 7 as well as the tariff sheet of the July 29, 1983 filing. The effect of the corrections is to reduce the total rate from $3.8406 to $3.8331.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before September 2, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-23663 Filed 8-26-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-687-000]

Idaho Power Co., Filing

August 24, 1983.

Take notice that on August 16, 1983, Idaho Power Company (Idaho) tendered for filing a revised Appendix 1 as required by Exhibit C for retail sales in the State of Idaho, together with the Bonneville Power Administration's Average System Cost Report in which Bonneville determined the Average System Cost for the Idaho residential Purchase and Sale Agreement (Agreement) between Idaho and the Bonneville Power Administration (BPA). Idaho also submitted its agreement with and/or objections to BPA's Average System Cost Adjustments.

Idaho states that the Agreement was entered into pursuant to the Pacific Northwest Electric Power Planning and Conservation Act, Pub. L. 96–501. Idaho further states that the Agreement provides for the exchange of electric power from Idaho and BPA for the benefit of Idaho's residential and farm customers.

A copy of the filing was served upon BPA and all parties that made comment on Idaho's Appendix 1 Filings.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 9, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-23646 Filed 8-26-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-444-000]

Lone Star Gas Co.; Application

August 24, 1983.

Take notice that on July 25, 1983, Lone Star Gas Company, a Division of ENSERCH CORPORATION (Applicant), 301 South Harwood Street, Dallas, Texas 75201, filed in Docket No. CP83–444–000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a regulating and measuring facility for the sale and delivery of natural gas to Washita Construction Company (Washita) in Carter County, Oklahoma, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant indicates that Washita operates an asphalt plant and natural gas would be used as a heating source in the asphalt operations. Applicant states that while Washita is not located adjacent to one of Applicant's main lines, natural gas would be provided by Applicant through an arrangement with Bunker Oil Company (Bunker). It is explained that Applicant presently receives deliveries of natural gas from Bunker through the facilities of Natural Gas Operations Company and that Bunker has agreed to deliver a portion of the gas purchased by Applicant at a point on Natural Gas Operations Company's line where service to Washita can be rendered. Applicant states that Washita is aware of the manner in which deliveries would be made and has agreed to accept service that is dependent upon this isolated gas source.

Applicant concedes that its most recent Form 50, Alternative Fuel Demand Due to Natural Gas Deficiencies Report, indicates some curtailment for interruptible service; however, Applicant notes that said report also indictes no curtailment of firm deliveries. Thus, Applicant avers that the proposed deliveries to be 33,000 Mcf of gas annually and 480 Mcf on peak days in the third year.

Applicant states that the cost of the facilities is estimated to be $1,248, all of which would be financed from funds currently on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 14, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if

the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-23650 Filed 8-26-83; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 6257-002]

McCloud Community Services District; Surrender of Preliminary Permit

August 24, 1983.

Take notice that McCloud Community Services District, Permittee for the Squaw Valley Creek Project No. 6257, has requested that the preliminary permit be terminated. The preliminary permit for Project 6257 was issued on November 2, 1982, and would have expired on April 30, 1984. The project would have been located on Intake and Upper Elk Springs in Siskiyou County, California.

The Permittee filed its request on July 25, 1983, and the surrender of the preliminary permit for Project No. 6257 is deemed as accepted as of July 25, 1983 and effective as of 30 days after the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-23650 Filed 8-26-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. GP83-43-000]

Mobil Producing Texas & New Mexico, Inc.; Petition for Expedited Issuance of a Declaratory Order To Remove Uncertainty

August 24, 1983.

Take notice that on August 3, 1983, Mobil Producing Texas & New Mexico, Inc., Nine Greenway Plaza, Suite 2700, Houston, Texas 77046 (MPTM), filed with the Federal Energy Regulatory Commission (Commission) a "Petition For Expedited Issuance Of A Declaratory Order To Remove Uncertainty." MPTM requests that the Commission issue an order removing an uncertainty and declaring that its intrastate sales of reserved and surplus gas, from the Larsen Reservoir in the Old Ocean Field, Brazoria and Matagorda Counties, Texas, were not improper and, therefore, were not unlawful abandonments of gas "dedicated" to interstate commerce.

In its petition, MPTM states that on September 30, 1982, the Commission issued a "Declaratory Order Establishing Maximum Lawful Prices Under Section 105 and 106(b) of the NGPA" which, *inter alia*, reserved for possible future determination, and therefore created an uncertainty, whether some or all of the sales from the Larsen Reservoir are "sales of gas that was committed or dedicated to interstate commerce* * *".[1] On May 9, 1983, the Commission issued a declaratory order to remove uncertainty as to whether gas from the Larsen Reservoir sold in intrastate commerce by Amoco Production Company (Amoco), pursuant to a contract substantially similar to that of MPTM, was committed or dedicated to interstate commerce.[2]

The Commission held, *inter alia*, that surplus gas, and gas used in connection with lease and plant uses, was not and had never been dedicated to interstate commerce, but that a 75 MMcf/d gas reservation provision in Amoco's contract could not be utilized inconsistently with the commitment to interstate commerce. MPTM states that this declaratory order contains limiting qualifications which, in consideration of the substantial similarity of the Amoco and MPTM contracts and certificates, raise an issue as to whether it can be regarded as applying also to other working interest owners, such as MPTM.

MPTM claims that its certificate in Docket No. G-11997 and its Rate Schedule No. 34 show conclusively that Magnolia Petroleum Company, predecessor of MPTM, and Amoco both executed with Texas Illinois Natural Gas Pipeline Company (TNGP), predecessor to Natural Gas Pipeline Company of America (NGPL), the same form of contract on January 23, 1950. MPTM states that both contracts established four categories of natural gas: (a) reserved gas, including gas for lease and plant use as well as 75 MMcf/d; (b) available gas of 114 MMcf/d to NGPL/TNGP; (c) surplus gas in amounts greater than 1.5 times the requirements of NGPL/TNGP; and (d) cushion gas. MPTM notes that the Commission, in granting the certificate to build the pipeline to Old Ocean Field, mentioned the reserve categories established by the 1950 contracts.[3] MPTM further states that an October 3, 1966 agreement, filed with the Commission on October 6, 1966, amended the contract between MPTM and NGPL such that the daily contract volume was permanently reduced from 114 MMcf to 70 MMcf and further declining in phases to 10 MMcf. MPTM claims that Amoco filed with the Commission on October 6, 1966 an amended contract between it and NGPL containing the same amendment. On March 13, 1969, the Commission granted MPTM's application to amend its certificate and accepted the October 3, 1966 contract amendment as supplements 10 and 11 to MPTM Rate Schedule No. 34.[4]

Among other things, MPTM argues that the Natural Gas Act, via grandfather certification, validates all contractual and operational limitations which were extant as of June 7, 1954. MPTM submits that a May, 1954 Old Ocean Field Unit Report submitted with its petition indicates that the "volume and use reservations" were effectual on, and operative before, June 7, 1954. Moreover, MPTM argues that issuance of a grandfather certificate covering a contract containing a reservation validates the reservation even if the certificate does not expressly accept the reservation. Consequently, MPTM asserts that the contractual commitment to NGPL on June 7, 1954 was MPTM's "proportionate part" of 114 MMcf/d averaged over each accounting year subject to MPTM's reservation of 75 MMcf/d and gas for lease and plant use.

MPTM asserts that the test for whether abandonment authority is necessary is whether the natural gas company in question "permanently reduces a significant portion of a particular service." MPTM submits that its intrastate sales from the Larsen Reservoir did not permanently or temporarily reduce deliveries to NGPL. Further, MPTM claims that, when daily contract volumes were reduced by contract amendment, both MPTM and Amoco applied for, and received, certificate authority to do so.

Finally, MPTM claims that expedited disposition of the subject petition is warranted since the Larsen Reservoir nitrogen injection program, which was granted incentive pricing status, cannot proceed until the aforesaid uncertainties are settled.

Any person desiring to be heard or to protest this petition should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington,

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[1] Mobil Producing Texas & New Mexico, Inc., 20 FERC ¶ 61,400 at 61,899 n.2 (1982). *See also*, Amoco Production Company, 20 FERC ¶ 61,330 at 61,690 n.4 (1982); Amoco Production Company, 21 FERC ¶ 61,103 at 61,306 n.6 (1982).

[2] Amoco Production Company, 23 FERC ¶ 61,211 (1983).

[3] Texas Illinois Natural Gas Pipeline Company, 9 FPC 105, 113 (1950).

[4] Humble Oil Refining Company, *et al.*, Docket Nos. G-3072, *et al.* (March 13, 1969).

D.C. 20426, in accordance with Rule 214 or 211, 18 CFR 385.214 or 385.211 (1983), of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed within 15 days of the issuance date of this notice. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the petition are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-23651 Filed 8-26-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-466-000]

National Fuel Gas Supply Corp.; Application

August 24, 1983.

Take notice that on August 15, 1983, National Fuel Gas Supply Corporation (Applicant), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP83-466-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to sell natural gas to its existing distribution customers for resale to large volume and industrial users under its proposed Suppliers Special Rate (SSR), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to establish a new Rate Schedule SSR, to be incorporated into Applicant's FERC Gas Tariff, Original Volume No. 1, for a period terminating on October 31, 1984. Applicant states that the SSR service would enable it to purchase natural gas from Consolidated Gas Supply Corporation (Consolidated) under Consolidated's market retention program and to resell it to Applicant's present distribution customers under conditions and prices that would assist the distribution customers in regaining and maintaining the large volume and industrial users from competition from alternative fuels. Applicant further states that large volume and industrial users of its distribution customers would be eligible for SSR service in accordance with the eligibility criteria set forth in Consolidated's market retention program. Applicant proposes that the rate for the SSR service include both the costs of the gas purchased from Consolidated under Consolidated's market retention program and Applicant's approved transportation rate under Applicant's Rate Schedule T-1, plus all applicable state taxes and shrinkage.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 13, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-23653 Filed 8-26-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP76-492-030]

National Fuel Gas Supply Corp. and Penn-York Energy Corp.; Amendment

August 24, 1983.

Take notice that on July 29, 1983, Penn-York Energy Corporation (Penn-York), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP76-492-030 an amendment to its pending application filed in Docket No. CP76-492[1] pursuant to Section 7(c) of the Natural Gas Act to reflect a limited-term assignment of storage services between two of Penn-York's existing customers, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Penn-York states that UGI Corporation (UGI) and Valley Gas Company (Valley) currently receive storage service from Penn-York 1981, under Penn-York's Rate Schedule SS-1. It is stated that Valley requires additional storage capacity to meet winter heating season demands on its system, and UGI has agreed to assign to Valley a portion of its available storage capacity with Penn-York for a limited period.

Penn-York states that in order to effectuate the assignment, it would enter into amended service agreements with UGI and Valley providing for annual storage volumes as follows:

[1] This proceeding was commenced before the FPC. By joint Regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

ANNUAL STORAGE VOLUMES

(In Mcf)

	Existing contract amount	April 1, 1983, through March 31, 1984	April 1, 1984, through March 31, 1985	April 1, 1985 and thereafter
UGI	4,000,000	3,900,000	3,800,000	4,000,000
Valley	450,000	550,000	650,000	450,000

It is stated that no new facilities would be required to effectuate the proposed limited-term assignment and that no change in the aggregate level of storage service rendered by Penn-York would be made. Furthermore, it is stated that the proposed assignment will not affect any allocation among Penn-York's customers of availabile storage capacity on Penn-York's system in excess of that

presently certificated by the Commission.

Penn-York states that Tennessee Gas Pipeline Company, a Division of Tenneco Inc., would transport the assigned storage volumes for Valley under the self-implementing provisions of Part 284 of the Commission's Regulations.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before September 14, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. Persons having heretofore filed need not do so again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-23662 Filed 8-26-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP70-119-000, et al., and CP75-274-001]

Natural Gas Pipeline Company of America; Petition to Amend

August 24, 1983.

Take notice that on July 20, 1983, Natural Gas Pipeline Company of America (Natural), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket Nos. CP70-119-000, *et al.*, and CP75-274-001 a petition pursuant to Section 7 of the Natural Gas Act to amend the orders issued in Docket Nos. CP70-119 on March 5, 1980, as amended, CP71-203 on June 3, 1971, as amended, CP72-33 on June 2, 1972, and CP75-274 on July 7, 1977,[1] so as to authorize a limited-term release of approximately 2,600,000 Mcf of storage service for certain Rate Schedule MS-1 and Rate Schedule MS-2 customers, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that to effectuate this release of storage service, Michigan Wisconsin Pipe Line Company (Mich Wis) agreed to release Natural from its obligation to purchase approximately 2,600,000 Mcf of storage service under Mich Wis' Rate Schedule X-14 and X-60 for the same limited term. Further, it is stated that the release does not relieve Natural or the participating MS-1 and MS-2 storage customers of their obligation to pay charges associated with the related transportation service.

It is indicated that the arrangement would be for a limited term of no less than two years commencing December 1, 1983, and that it may continue beyond December 1, 1985, and up to October 31, 1988, at Mich Wis's option. It is explained that the limited-term release would continue beyond December 1, 1985, in the event that Michigan Consolidated Gas Company (Mich Con) requests Mich Wis to provide certain storage service for it and that Mich Wis has entered into an agreement with Mich Con whereby Mich Wis has agreed to attempt to make itself able to store up to 10,000,000 Mcf of gas for Mich Con during each of the years 1983 and 1984 for a period not to extend beyond October 31, 1988. It is asserted that if Mich Con so notifies Mich Wis of its desire to have Mich Wis provide storage service for it, Mich Wis would offer Mich Con the storage service which Natural would release. It is further asserted that if Mich Wis and Mich Con enter into an agreement whereby they agree that the storage capacity released by Natural would be used to provide storage service to Mich Con, then Mich Wis agrees to release Natural from the storage service it provides to Natural for the limited-term period commencing on the date that Mich Wis begins storage injections for Mich Con and until such gas is withdrawn by Mich Con, in no event exceeding October 31, 1988.

Natural states that as a condition of the proposed release, the participating Rate Schedule MS-1 and Rate Schedule MS-2 storage customers have agreed not to intervene or request a hearing in the proceeding in Docket No. CP83-144-000.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 13, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-23664 Filed 8-26-83; 8:45 am]

BILLING CODE 6717-01-M

[1] These proceedings were commenced before the F.P.C. By joint regulation of October 1, 1977 (10 CFR 1000.1), they were transferred to the Commission.

[Project No. 5975-001]

City of Northampton, Mass.; Surrender of Preliminary Permit

August 24, 1983.

Take notice that the City of Northampton (City), Permittee for the proposed Mill River Project No. 5975, has requested that its preliminary permit be terminated. The preliminary permit was issued on July 30, 1982, and would have expired on December 31, 1983. The proposed project would have been located on the Mill River in the town of Northampton, Hampshire County, Massachusetts.

The City filed its request on August 1, 1983, and the surrender of the permit for Project No. 5975 will be deemed effective 30 days from the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-23663 Filed 8-26-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-87-001]

Northern Natural Gas Co.; Filing

August 23, 1983.

Take notice that on August 15, 1983, Northern Natural Gas Company (Northern), tendered for filing Substitute First Revised Sheet No. 732 to its FERC Gas Tariff, Original Volume No. 2, reflecting an effective date of July 7, 1983, in compliance with the Commission's Order of July 6, 1983.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before September 2, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to

intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-23804 Filed 8-26-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-122-000]

Northern Natural Gas Co.; Filing

August 23, 1983.

Take notice that on August 12, 1983, Northern Natural Gas Company, a division of InterNorth, Inc. (Northern), tendered for filing Original Sheet Nos. 49, 49a, 49b, 50, 51 and 51a of its FERC Gas Tariff, Third Revised Volume No. 1. Original Sheet Nos. 49, 49a and 49b establish a new rate schedule for End User Transportation (Rate Schedule EUT-1), Original Sheet No. 50 establishes a new rate schedule for the Additional Inventive Charge (Rate Schedule AIC-1), and Original Sheet Nos. 50 and 51a establish a new rate schedule for Offsystem Sales (Rate Schedule OS-1). The aforementioned rate schedules are requested to be effective August 12, 1983, pursuant to Commission Order Nos. 319 and 234-B pertaining to Docket Nos. RM81-29 and RM81-19 issued by the Commission on July 20, 1983, and published in the **Federal Register** on August 5, 1983.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before September 2, 2983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-23805 Filed 8-26-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP76-84-001]

Northern States Power Co. (Wisconsin); Petition To Amend

August 24, 1983.

Take notice that on July 26, 1983, Northern States Power Company (Wisconsin) [NSP (Wisconsin)], 100 North Barstow Street, Eau Claire, Wisconsin 54701, filed in Docket No. CP76-84-001 a petition to amend the order issued March 15, 1979, in Docket Nos. CP76-84-000, *et al.* (6 FERC ¶61,236), so as to authorize an extension of the term and a revision of the provisions of a gas sale and exchange arrangement, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

The order of March 15, 1979 authorized a sale and exchange of gas between NSP (Wisconsin) and Wisconsin Gas Company (Wisconsin Gas). It is stated that NSP (Wisconsin) accordingly delivers liquefied natural gas (LNG) to Wisconsin Gas to meet the peak service needs of Wisconsin Gas' firm gas customers. In return, it is stated, Wisconsin Gas causes the delivery to NSP (Wisconsin)'s parent company, Northern States Power Company (Minnesota) [NSP (Minnesota)], of vaporous natural gas equivalent to twice the amount of LNG received from NSP (Wisconsin). This arrangement was originally scheduled to expire on March 31, 1983, it is said.

It is submitted that on May 24, 1983, NSP (Wisconsin) and Wisconsin Gas concluded a second addendum to their agreement of July 16, 1973, as amended, providing for an extension of the sale and exchange arrangement between them from September 1, 1983, through March 31, 1984. During this period, it is submitted, NSP (Wisconsin) would deliver quantities of LNG up to an equivalent of 75,000 Mcf of natural gas, on a best-efforts basis, to Wisconsin Gas, or to a subcontracted trucking carrier of Wisconsin Gas, in exchange for which Wisconsin Gas would pay back twice the equivalent volume of natural gas to NSP (Minnesota), at a rate of up to 5,000 Mcf per day.

The instant petition to amend accordingly requests Commission authorization to extend the exchange of natural gas for LNG between NSP and Wisconsin Gas through March 31, 1984.

NSP (Wisconsin) further requests that the Commission declare that its operations continue to be exempt from the provisions of the Natural Gas Act, except for the service for which authorization is specifically sought herein, in accordance with Section 1(c) of the Natural Gas Act.

NSP (Wisconsin) also notes that Wisconsin Gas originally contracted with Michigan Wisconsin Pipe Line Company (Michigan Wisconsin) and with Midwestern Gas Transmission Company (Midwestern) to deliver its payback gas to NSP (Minnesota). It is indicated that pursuant to an exchange agreement between these parties, dated August 30, 1973, as amended on June 1, 1978, Wisconsin Gas reduces the gas it takes from its Michigan Wisconsin allotment and that Michigan Wisconsin, in turn, reduces its own gas receipts from Midwestern by a proportionate amount. Midwestern concurrently delivers an equivalent amount of gas to NSP (Minnesota) through its Fargo sales lateral in Cass County, North Dakota, it is explained. This exchange agreement among Michigan Wisconsin, Midwestern, and Wisconsin Gas was authorized by order issued September 24, 1974, in Docket No. CP74-147, as amended. It is stated that in conjunction with the instant extension of the NSP (Wisconsin)—Wisconsin Gas agreement, Michigan Wisconsin, Midwestern, and Wisconsin Gas concluded a second amendment to their own exchange agreement on March 31, 1983, to extend the term of the latter agreement indefinitely.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 13, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-23855 Filed 8-26-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-448-000]

Northwest Central Pipeline Corp.; Request Under Blanket Authorization

August 24, 1983.

Take notice that on July 29, 1983, Northwest Central Pipeline Corporation (Northwest Central), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP83-448-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Northwest Central proposes to construct and install a new

delivery point in Hutchinson, Kansas, for sale and delivery of gas to The Gas Service Company (Gas Service), under the authorization issued in Docket No. CP82-479-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Northwest Central states Gas Service has requested this additional delivery point in order to serve better the area and to make a sale of gas to a sewage disposal plant operated by the city. It is stated that the projected delivery of gas through these facilities is less than 50,000 Mcf per year with a maximum peak load of 5 Mcf per hour at 25 psig. The estimated cost of these facilities is stated to be $5,620, which would be paid from treasury cash.

Northwest Central states that this change is not prohibited by an existing tariff and it has sufficient capacity to accomplish the deliveries specified without detriment or disadvantage to its other customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-23670 Filed 8-26-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA 84-1-37-000 (PGA 84-1 IPR 84-1)]

Northwest Pipeline Corp.; Change in Rates Pursuant to Purchased Gas Cost Adjustment

August 23, 1983.

Take notice that Northwest Pipeline Corporation (Northwest), on August 15, 1983, tendered for filing a proposed change in rates applicable to service rendered under rate schedules affected by and subject to Article 16, Purchased Gas Cost Adjustment Provision ("PGAC"), contained in its FERC Gas Tariff, First Revised Volume No. 1. Such change in rates is for the purpose of: (1) reflecting changes in Northwest's cost of purchased gas which will become effective during the period October 1, 1983 through March 31, 1984, applied to volumes purchased for the 12-month period ending June 30, 1983; (2) its change in unrecovered purchased gas costs since Northwest's prior semiannual PGAC filing dated February 15, 1983; and (3) projecting incremental surcharges to be assessed Northwest's affected direct and sales for resale customers pursuant to Order 49. Northwest has included as part of this change in rates costs associated with its pipeline-owned production valued at the applicable NGPA rates consistent with the decision of the United States Supreme Court in *Public Service Commission of the State of New York v. Mid-Louisiana Gas Co., et al.*

The current PGAC adjustment, for which notice is given herein, aggregates to an increase of .405¢ per therm in all rate schedules affected by and subject to the PGAC. The annualized change in Northwest's rates is a decrease of $9,438,105. Northwest proposes to recover through a surcharge the adjusted balance of $7,802,608 in its current deferral subaccount of FERC Account No. 191, as of June 30, 1983. The proposed change in rates from the PGAC and the other changes proposed by Northwest would result in a net increase in its annual revenues from jurisdictional sales and service of $10,827,214.

Northwest also tendered for filing and acceptance Seventh Revised Sheet No. 10-B. Seventh Revised Sheet No. 10-B sets forth revised projected incremental pricing surcharges to become effective October 1, 1983 as part of the instant filing.

A copy of this filing has been served on all parties on record in Docket No. RP72-154, upon all jurisdictional customers, and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before September 2, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-23669 Filed 8-26-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-682-000]

Pacific Gas and Electric Co.; Filing

August 24, 1983.

Take notice that on August 16, 1983, Pacific Gas and Electric (PG&E) tendered for filing as an initial rate schedule an August 2, 1983 Contract for transmission service by PG&E for Western Area Power Administration (Western) (U.S. Department of Energy Contract No. DE-MS65-83W58055).

PG&E states that the Contract provides that PG&E will transmit power allocated by Western to the cities of Healdsburg, Lompoc and Ukiah (Cities). Western will pay PG&E the system average functionalized wheeling rate of $1.84 per kilowatt per month for this service. Ukiah will pay an additional $1.25 per kilowatt per month for wheeling over distribution facilities until they convert their delivery point to a higher voltage. Capacity delivered to the Cities will be adjusted for losses by PG&E's system average functionalized losses. PG&E respectfully submits that Western has agreed to the $1.84 per kilowatt per month rate and losses for transmission service as a negotiated rate. A metering charge of $0.03 per kilowatt per month will also be assessed to the Cities.

PG&E requests an effective date of March 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon Western and the California Public Utilities Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before September 8, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-23671 Filed 8-26-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-459-000]

Panhandle Eastern Pipe Line Co.; Application

August 24, 1983.

Take notice that on August 9, 1983, Panhandle Eastern Pipe Line Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP83-459-000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon an exchange of gas with Arkansas Louisiana Gas Company (Arkla), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to abandon an exchange of natural gas with Arkla which it states was on a gas-for-gas basis with no monetary compensation. This service was provided pursuant to Rate Schedule E-12 of Applicant's FERC Gas Tariff, Original Volume No. 2, it is stated. Applicant further states that in accordance with the terms of the exchange contract it has notified Arkla of the cancellation of the exchange contract to be effective July 18, 1983.

Applicant claims it never initiated deliveries to Arkla because it has no source of gas in the area that it could exchange. It is stated that Applicant would balance the exchange prior to July 18, 1983.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 14, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commisison will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commisison on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-23672 Filed 8-26-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-685-000]

Pennsylvania Power & Light Co.; Filing

August 24, 1983.

Take notice that on August 16, 1983, Pennsylvania Power & Light Company (PP&L) tendered for filing as a rate schedule an executed agreement dated as of June 30, 1983 between PP&L and New York State Electric & Gas Corporation (NYSEG). The proposed rate schedule provides for the sale of interruptible power and energy by PP&L to NYSEG.

PP&L states that the rate schedule provides for a maximum energy reservation charge rate of $24.70 per megawatt hour and an energy charge rate based upon the incremental cost of providing the energy.

PP&L requests an effective date of August 16, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served on NYSEG and the Pennsylvania Public Utility Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 8, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-23673 Filed 8-26-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-46-002, *et al.*]

South Georgia Natural Gas Co.; Rate Reduction Filing Pursuant to Stipulation and Agreement

August 23, 1983.

Take notice that on August 15, 1983, South Georgia Natural Gas Company (South Georgia), tendered for filing Twenty-fourth Revised Sheet No. 4 and Fifth Revised Sheet No. 31 to First Revised Volume No. 1 of its FPC Gas Tariff to be effective September 1, 1983. South Georgia states that this filing is being made with the concurrence of its intervening customers and the purpose of the revised tariff sheets is to implement the rate reduction agreed to as part of a comprehensive Stipulation and Agreement arrived at in the captioned proceedings and certified to the Commission on July 8, 1983 by the Presiding Administrative Law Judge. South Georgia states further that the rate reduction below the currently effective rates in Docket No. RP82-46 is due to a lower overall rate of return and lower mainline depreciation rate and a reduction in South Georgia's demand cost allocation factor. South Georgia requests waiver to make the filing effective as of September 1, 1983, and states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions and to all parties in the captioned proceeding.

South Georgia also states that the parties in the captioned proceeding agreed in Article X of the Stipulation and Agreement that if the Commission has not approved the Stipulation on or before September 30, 1983, or if the Commission disapproves the Stipulation (1) South Georgia shall be authorized but is not required to refile tariff sheets reflecting increased rates up to its originally filed rates in Docket No. RP82-46 to be effective on September 1, 1983, or such later date as South Georgia may elect or South Georgia may place the increased rates in Docket No. RP83-54 which were suspended until September 1, 1983, in effect on that date or such later date as South Georgia may elect, and (2) for purposes of

determining South Georgia's jurisdictional refunds in Docket No. RP82–46, any rate reductions in effect on and after September 1, 1983, shall be deemed and treated as jurisdictional refunds in Docket No. RP82–46. Should South Georgia elect to restore its rates in Docket No. RP82–46 to their filed levels or to place the increased rates in Docket No. RP83–54 in effect and the Commission subsequently approves the Stipulation and Agreement, it agrees to make refunds of the difference between such increased rates and the rates computed according to Article V of the Stipulation and Agreement. South Georgia requests that its reduced rates be accepted subject to the procedures set forth above.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before September 2, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceding. Any peson wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-23057 Filed 8-26-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ST83–507]

Tennessee Gas Pipeline Co.; Self-Implementing Transactions

August 24, 1983.

Take notice that the following transactions have been reported to the Commission as being implemented pursuant to Part 284 of the Commission's Regulations and Sections 311 and 312 of the Natural Gas Policy Act of 1978 (NGPA). The "Recipient" column in the following table indicates the entity receiving or purchasing the natural gas in each transaction.

The "Part 284 Subpart" column in the following table indicates the type of transaction. A "B" indicates transportation by an interstate pipeline pursuant to Section 284.102 of the Commission's Regulations.

A "C" indicates transportation by an intrastate pipeline pursuant to § 284.122 of the Commission's Regulations. In those cases where Commission approval of a transportation rate is sought pursuant to Section 284.123(b)(2), the table lists the proposed rate and expiration date for the 150-day period for staff action. Any person seeking to participate in the proceeding to approve a rate listed in the table should file a petition to intervene with the Secretary of the Commission.

A "D" indicates a sale by an intrastate pipeline pursuant to § 284.142 of the Commission's Regulations and Section 311(b) of the NGPA. Any interested person may file a complaint concerning such sales pursuant to § 284.147(d) of the Commission's Regulations.

A "E" indicates an assignment by an intrastate pipeline pursuant to § 284.163 of the Commission's Regulations and Section 312 of the NGPA.

An "F" indicates a fuel oil displacement transaction implemented pursuant to § 284.202 of the Commission's Regulations. Any interested persons may file a complaint concerning such transaction pursuant to § 284.205(d) of the Commission's Regulations.

A "G" indicates transportation by an interestate pipeline on behalf of another interstate pipeline pursuant to a blanket certificate issued under § 284.221 of the Commission's Regulations.

A "G (HT)" "G (HS)" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.222 of the Commission's Regulations.

Kenneth F. Plumb,

Secretary.

Docket No. [1] and Transporter/Seller	Recipient	Date filed	Part 284 subpart	Expiration date [2]	Transportation rate (¢/MMBtu)
ST83–507 Tennessee Gas Pipeline Co	Creole Gas Pipeline Co	7/1/83	B		
ST83–508 Tennessee Gas Pipeline Co	Creole Gas Pipeline Co	7/1/83	B		
ST83–509 Tennessee Gas Pipeline Co	Creole Gas Pipeline Co	7/1/83	B		
ST83–510 Caprock Pipeline Co	Transwestern Pipeline Co	7/1/83	C		
ST83–511 United Gas Pipe Line Co	Delhi Gas Pipeline Corp	7/1/83	B		
ST83–512 Transcontinental Gas Pipe Line Corp	Tennessee Gas Pipeline Co	7/5/83	G		
ST83–513 Producer's Gas Co	Transcontinental Gas Pipe Line Corp	7/5/83	D		
ST83–514 Transcontinental Gas Pipe Line Corp	PNG Energy Co	7/5/83	F		
ST83–515 Michigan Wisconsin Pipe Line Co	Golden Triangle Gas Distribution Co	7/5/83	B		
ST83–516 Michigan Wisconsin Pipe Line Co	Cajun Natural Gas Co	7/5/83	B		
ST83–517 Tennessee Gas Pipeline Co	Creole Gas Pipeline Co	7/5/83	B		
ST83–518 Michigan Wisconsin Pipe Line Co	Cajun Natural Gas Co	7/5/83	B		
ST83–519 Michigan Wisconsin Pipe Line Co	Golden Triangle Gas Distribution Co	7/5/83	B		
ST83–520 Michigan Wisconsin Pipe Line Co	Golden Triangle Gas Distribution Co	7/5/83	B		
ST83–521 Michigan Wisconsin Pipe Line Co	Cajun Natural Gas Co	7/5/83	B		
ST83–522 Mississippi Valley Gas Co	Texas Eastern Transmission Corp	7/5/83	G(HT)	12/2/83	21.90
ST83–523 Michigan Consolidated Gas Co	West Ohio Gas Co	7/5/83	G(HS)		
ST83–524 Florida Gas Transmission Co	Houston Pipe Line Co	7/6/83	B		
ST83–525 Texas Eastern Transmission Corp	Southern Natural Gas Co	7/6/83	G		
ST83–526 Texas Eastern Transmission Corp	Trunkline Gas Co	7/6/83	G		
ST83–527 National Fuel Gas Supply Corp	Union Carbide Corp	7/7/83	F		
ST83–528 Sabine Pipe Line Co	Golden Triangle Gas Distribution Co	7/8/83	B		
ST83–529 United Gas Pipe Line Co	Southern Natural Gas Co	7/7/83	G		
ST83–530 United Gas Pipe Line Co	LGS Intrastate, Inc	7/7/83	B		
ST83–531 Tennessee Gas Pipeline Co	Cajun Natural Gas Co	7/8/83	B		
ST83–532 Tennessee Gas Pipeline Co	Bridgeline Gas Distribution Co	7/8/83	B		
ST83–533 Southern Natural Gas Co	United Gas Pipe Line Co	7/8/83	G		
ST83–534 United Gas Pipe Line Co	Southern Natural Gas Co	7/11/83	G		
ST83–535 Supernn Pipeline	United Gas Pipe Line Co	7/11/83	G		
ST83–536 Florida Gas Transmission Co	United Gas Pipe Line Co	7/11/83	G		
ST83–537 Southern Natural Gas Co	United Gas Pipe Line Co	7/11/83	G		
ST83–538 Transcontinental Gas Pipe Line Corp	Houston Pipe Line Co	7/11/83	B		
ST83–539 Trunkline Gas Co	Sunburst Energies, Inc	7/12/83	B		
ST83–540 Trunkline Gas Co	Texas Eastern Transmission Corp	7/12/83	G		
ST83–541 National Fuel Gas Supply Corp	Al Tech Specialty Steel Corp	7/13/83	F		
ST83–542 National Fuel Gas Supply Corp	Morgan Services, Inc	7/14/83	F		
ST83–543 Oklahoma Natural Gas Co	Cajun Natural Gas Co	7/14/83	C		

Docket No. [1] and Transporter/Seller	Recipient	Date filed	Part 284 subpart	Expiration date [2]	Transportation rate (¢/MMBtu)
ST83-544 Oklahoma Natural Gas Co	Kansas Power and Light Co	7/14/83	C		
ST83-545 El Paso Natural Gas Co	El Paso Hydrocarbons Co	7/15/83	B		
ST83-546 Tennessee Gas Pipeline Co	Transcontinental Gas Pipe Line Corp	7/15/83	G		
ST83-547 Tidal Transmission Co	Cajun Natural Gas Co	7/15/83	C		
ST83-548 Mountain Fuel Supply Co	Northwest Pipeline Corp	7/18/83	G		
ST83-549 Tennessee Gas Pipeline Co	Cajun Natural Gas Co	7/18/83	B		
ST83-550 Tennessee Gas Pipeline Co	Cajun Natural Gas Co	7/18/83	B		
ST83-551 Oklahoma Natural Gas Co	Bridgeline Gas Distribution Co	7/19/83	C		
ST83-552 Northern Natural Gas Co	Intratex Gas Co	7/19/83	B		
ST83-553 Northern Natural Gas Co	El Paso Hydrocarbons Co	7/19/83	B		
ST83-554 Northern Natural Gas Co	Producer's Gas Co	7/19/83	B		
ST83-555 Northern Natural Gas Co	PNG Energy Co	7/19/83	B		
ST83-556 Tennessee Gas Pipeline Co	Transcontinental Gas Pipe Line Corp	7/19/83	[illegible]		
ST83-557 National Fuel Gas Supply Corp	Roblin Industries, Inc	7/20/83	F		
ST83-558 Natural Gas Pipeline Co. of America	Dow Pipeline Co	7/20/83	B		
ST83-559 Panhandle Eastern Pipe Line Co	Kerr Glass Manufacturing Corp	7/20/83	F		
ST83-560 Trunkline Gas Co	South Texas Gathering Co	7/20/83	B		
ST83-561 Trunkline Gas Co	Transcontinental Gas Pipe Line Corp	7/21/83	G		
ST83-562 United Gas Pipe Line Co	United Texas Transmission Co	7/22/83	B		
ST83-563 United Gas Pipe Line Co	City of Milton, Florida	7/22/83	B		
ST83-564 National Fuel Gas Supply Corp	Wilco Chemical Corp	7/25/83	F		
ST83-565 Northwest Pipeline Corp	Mountain Fuel Supply Co	7/27/83	G		
ST83-566 Texas Sea Rim Pipeline Inc	Natural Gas Pipeline Co. of America	7/28/83	C		
ST83-567 Llano, Inc	Tennessee Gas Pipeline Co	7/29/83	C	12/26/83	48.40
ST83-568 Louisiana Intrastate Gas Corp	Columbia Gas Transmission Corp	7/29/83	G(HT)		
ST83-569 United Gas Pipe Line Co	LGS Intrastate, Inc	7/29/83	B		
ST83-570 Tennessee Gas Pipeline Co	Cajun Natural Gas Co	7/29/83	B		
ST83-571 Delhi Gas Pipeline Corp	Bridgeline Gas Distribution Co	7/29/83	D		
ST83-572 Delhi Gas Pipeline Corp	Natural Gas Pipeline Co. of America	7/29/83	C		
ST83-573 Delhi Gas Pipeline Corp	LGS Intrastate, Inc	7/29/83	D		

[1] The noticing of these filings does not constitute a determination of whether the filings comply with the Commission's regulations.
[2] The Intrastate Pipeline has sought Commission approval of its transportation rate pursuant to section 284.123(B)(2) of the Commission's regulations (18 CFR 284.123(b)(2)). Such rates are deemed fair and equitable if the Commission does not take action by the date indicated.

[FR Doc. 83-23674 Filed 8-26-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TA84-1-28-000]

Transcontinental Gas Pipe Line Corp.; Tariff Filing

August 23, 1983.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) on August 16, 1983, tendered for filing certain revised tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1 and Original Volume No. 2. The sheets are proposed to become effective on October 1, 1983 and were filed in accordance with Article IX of Transco's "Settlement Agreement as to Rates" approved by Commission letter order dated April 28, 1983 in Docket No. RP83-11. The revised tariff sheets reflect a "tracking" rate reduction of 0.4¢ per dt in the commodity rate or delivery charge of Transco's sales and firm transportation rate schedules.

Article IX of the settlement agreement provides for adjustments to Transco's jurisdictional rates to give effect to inclusion in rate base of any decreases in the amount of Transco's outstanding advance payments after March 31, 1983. The rate reduction proposed is occasioned by a decrease of $19,981,456 in the advance payment balance of Transco from that which existed at March 31, 1983.

Transco further states that copies of the instant filing have been mailed to each of its customers, and State Commissions and other parties to Docket No. RP83-11.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.211). All such petitions or protests should be filed on or before September 2, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-23668 Filed 8-26-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP82-158-004]

Transcontinental Gas Pipe Line Corp., et al.; Petition and Amendment

August 24, 1983.

Take notice that on July 22, 1983, Transcontinental Gas Pipe Line Corportation (Transco), P.O. Box 1396, Houston, Texas 77251, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, Columbia Gulf Transmission Company (Columbia Gulf), P.O. Box 683, Houston, Texas 77001, Michigan Wisconsin Pipe Line Company (Michigan Wisconsin), One Woodward Avenue, Detroit, Michigan 48226, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska 35202, and Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202, jointly filed in Docket No. CP82-158-004 an amendment to the pending application filed January 18, 1982, in Docket No. CP82-158-000 pursuant to Section 7(c) of the Natural Gas Act so as to reflect Southern as an original Applicant in said application and a petition to amend the order issued July 15, 1982, in Docket No. CP82-158-000 so as to authorize the participation by Southern as an original owner in the expansion of Transco's Central Texas Gathering System (CTGS), which is referred to as the Project Central Texas Loop (PCTL), all as is more fully set forth in the amendment and petition which are on file with the Commission and open to public inspection.

It is stated that on January 18, 1982, Transco, Tennessee, Columbia Gulf, Michigan Wisconsin, and Northern filed a joint application for a certificate of Public convenience and necessity authorizing the construction and operation of the PCTL. Such parties, it is asserted, requested authority to construct and operate certain pipeline loop, measurement and appurtenant facilities in the onshore and offshore

Texas area to expand the capacity of Transco's CTGS from approximately 369,000 Mcf per day to 1,119,000 Mcf per day. It is further stated that such parties had acquired the rights to purchase quantities of gas produced from various offshore Texas blocks located in the vicinity of Transco's CTGS and therefore sought to expand the capacity of that system to enable the system to accommodate the quantities of gas anticipated to be delivered from such blocks.

It is stated that on July 15, 1982, the Commission issued a certificate of public convenience and necessity authorizing the construction and operation of a segment of the PCTL consisting of approximately 30.12 miles of 30-inch loop line extending from a junction platform in Brazos Block 538 to Cities Service Company's A production platform in Brazos Block A–76, offshore Texas, (the Offshore Loop) and certain measuring and regulating facilities at the Markham Plant onshore Texas. It is noted that authorization of the remainder of the PCTL is still pending before the Commission in Docket No. CP82–158–000.

In order for Southern to attach gas reserves committed to it in Brazos Block A–47, offshore Texas, which are located in the vicinity of the proposed PCTL, it is stated that Southern has agreed to purchase an ownership interest in the PCTL sufficient to accommodate the quantities of gas it anticipates would be delivered from Brazos Block A–47. If so authorized by the Commission, Applicants propose to reallocate the ownership interests and capacity entitlements of the various parties in the PCTL (including the Offshore Loop) as follows:

	Percent
Transco	46.0000
Tennessee	27.0667
Columbia Gulf	16.0000
Michigan Wisconsin	6.6667
Northern	2.1333
Southern	2.1333

Applicants note that Transco's presently authorized 48.1333 percent ownership interest in the PCTL includes the 2.1333 percent interest attributable to the portion of the Brazos Block A–47 reserves which are now committed to Southern and the proposed ownership percentages therefore reflect a reduction in Transco's ownership interest corresponding to the percentage ownership interest which Southern seeks to acquire.

Any person desiring to be heard or to make any protest with reference to said amendment and petition should on or before September 14, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by the it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-23075 Filed 8-26-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83–123–000]

Wyoming Interstate Company, Ltd.; Proposed Changes in FERC Gas Tariff

August 23, 1983.

Take notice that Wyoming Interstate Company, Ltd. (WIC) on August 16, 1983, tendered for filing certain proposed changes to (1) the Schedule of Shippers and List of Contract Demands and (2) Rate Schedule T of its FERC Gas Tariff, Original Volume No. 1.

Rate Schedule T is a two-part rate under which WIC provides firm transportation service to its jurisdictional customers (Shippers). WIC intends to place its Cheyenne Compressor Station in service on October 1, 1983, to provide increased system capacity necessary to meet its Shippers' increased nominations which will also become effective on that date as reflected in the revised Schedule of Shippers and List of Contract Demands. WIC's proposed revisions to Rate Schedule T reflects the annualized effect of the additional investment in gas plant for the installation of compression as authorized by the Commission's order in Docket No. CP79–80, *et al.*, Opinion No. 138.

WIC proposes that the tariff revisions become effective on October 1, 1983.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before September 2, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-23080 Filed 8-26-83; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

Science Advisory Board, Clean Air Scientific Advisory Committee, Subcommittee on Risk Assessment; Open Meeting

Under Pub. L. 92–463 notice is hereby given of a meeting on September 14–15 of the Clean Air Scientific Advisory Committee's Subcommittee on Risk Assessment. The meeting will begin at 9:15 a.m. on both days and will be held at the Ramada Inn, 600 Willard Street, Durham, North Carolina.

The principal purpose of the meeting is to brief the Subcommittee and solicit its advice on the development of a lead health risk assessment by the Office of Air Quality Planning and Standards (OAQPS) in support of the review of the national ambient air quality standard for lead. Elements of the program to be discussed by OAQPS Staff include the use of a probabilistic risk model to address scientific uncertainty; probability encoding of lead health experts and encoding strategy; status of lead exposure and physiological models; and relationship of the lead risk assessment program to the ambient standard setting process for lead.

OAQPS documents that address these issues can be obtained by calling or writing Mr. Thomas McCurdy (919) 541–5655, OAQPS, MD–12, Research Triangle Park, N.C. 27711.

The meeting is open to the public. Any member of the public wishing to attend, obtain information or submit comments to the Subcommittee should contact Dr. Terry F. Yosie, Director, Science Advisory Board (202) 382–4126, before close of business September 7, 1983.

Dated: August 23, 1983.

Terry F. Yosie,

Staff Director, Science Advisory Board.

[FR Doc. 83-23082 Filed 8-26-83; 8:45 am]

BILLING CODE 6560-50-M

[OW-FRL-2386-4]

Draft General National Pollutant Discharge Elimination System Permit for Portions of Deep Seabed Mining Exploration Activities in the Pacific Ocean

AGENCY: Environmental Protection Agency.

ACTION: Notice of Draft General Permit.

SUMMARY: The Environmental Protection Agency (EPA) Regional Administrator of Region 9 is today providing notice of a draft general National Pollutant Discharge Elimination System (NPDES) permit for certain discharges from vessels or other floating craft subject to the Deep Seabed Hard Mineral Resources Act (DSHMRA) engaged in deep seabed mining exploration activities under the DSHMRA in the Pacific Ocean. This draft general permit establishes effluent limitations, standards, prohibitions and other conditions on discharges from these activities, except for any discharge from the initial mining tests which is not covered by this permit. The area to be covered by this general permit, when issued, is located within that portion of the deep seabed in the Pacific Ocean between 110 degrees West and 180 degrees West longitude and 5 degrees North and 20 degrees North latitude.

This draft general permit is based on the administrative record available for public review in Region 9 of the Environmental Protection Agency. The fact sheet sets forth the principal facts and the significant factual, legal, and policy questions considered in the development of the draft permit. The terms of the permit are also discussed in the fact sheet. A copy of the fact sheet is reprinted and the draft permit can be obtained at the address given below.

DATES: *Comment Period.*—Interested persons may submit comments on the draft general permit and administrative record to the Regional Administrator, Region 9 at the address below no later than October 20, 1983.

Public Hearing.—The Hearing Officer designated by the Regional Administrator will conduct a public hearing on October 6, 1983, in the Nevada Room (6th floor), Region 9, U.S. Environmental Protection Agency, 215 Fremont Street, San Francisco, California 94105, beginning at 10:00 a.m., Pacific time, until all persons have been heard.

ADDRESS: Comments should be sent to the Regional Administrator, Region 9, U.S. Environmental Protection Agency, 215 Fremont Street, San Francisco, California 94105.

FOR FURTHER INFORMATION CONTACT: Eugene E. Bromley (W–5–1), Region 9, U.S. Environmental Protection Agency, 215 Fremont Street, San Francisco, California 94105 (Telephone No. (415) 974–8330).

FACT SHEET AND SUPPLEMENTARY INFORMATION

I. Background

A. General Permits

Section 402 (33 U.S.C. 1342) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 *et seq.*) (the Clean Water Act (CWA)) authorizes EPA to issue NPDES permits for the purpose of regulating the discharge of pollutants to navigable waters.

Section 301(a) of the CWA (33 U.S.C. 1311(a)) provides that the discharge of pollutants is unlawful except in accordance with a NPDES permit. EPA's regulations authorize the issuance of general NPDES permits to categories of dischargers (40 CFR 122.28). EPA may issue a single general permit to a category of point sources located within the same geographic area whose discharges warrant similar pollution control measures. The Director of an NPDES permit program (in this case the Regional Administrator) is authorized to issue a general NPDES permit, according to criteria contained in 40 CFR 122.28(a)(2)(ii), if there are a number of point sources operating in a geographic area that:

1. Involve the same or substantially similar types of operations;
2. Discharge the same types of wastes;
3. Require the same effluent limitations or operating conditions;
4. Require the same or similar monitoring requirements; and
5. In the opinion of the Director, are more approporiately controlled under a general permit than under individual permits.

As in the case of individual permits, violation of any condition of a general NPDES permit constitutes a violation of the CWA and subjects the discharger to the penalties specified in Section 309 of the CWA (33 U.S.C. 1319). Any owner or operator authorized to discharge by a general permit may be excluded from coverage by applying for an individual permit. This request may be made by submitting a NPDES permit application together with the reasons supporting the request to the Regional Administrator. In addition, the Regional Administrator may require any person who is authorized to discharge under this general permit to apply for and obtain an individual permit. Any interested person may petition the Regional Administrator to take this action. However, an individual NPDES permit will not be issued for a deep seabed mining exploration facility to be covered by this general NPDES permit unless it can be demonstrated that inclusion under the general permit is clearly inappropriate. The Regional Administrator may consider the issuance of individual permits according to the criteria in 40 CFR 122.28(b)(2). These include:

1. The discharge(s) is a significant contributor of pollution;
2. The discharger is not in compliance with the terms and conditions of the general permit;
3. A change has occurred in the availability of demonstrated technology or practices or the control or abatement of pollutants applicable to the point source;
4. Effluent guidelines are subsequently promulgated for the point sources covered by the general permit;
5. A Water Quality Management Plan containing requirements applicable to such point source is approved; or
6. The requirements listed in 40 CFR 122.28(a) and identified in the previous paragraphs are not met.

However, changes in pollutant control or abatement technology, effluent guidelines, or water quality standards affecting a large number of the covered point sources may be more appropriately addressed through modification, or revocation and reissuance of the final general permit.

B. Deep Seabed Mining Exploration Activities in the Pacific Ocean

Manganese nodules containing nickel, cobalt, manganese and copper have been the subject of commercial interest for nearly 25 years. In 1980, the Deep Seabed Hard Mineral Resources Act (DSHMRA) (30 U.S.C. 1401 *et seq.*) was enacted. The DSHMRA authorized the National Oceanic and Atmospheric Administration (NOAA) to issue licenses for exploration to Untied States citizens after July 1, 1981. In preparation of issuance of licenses for exploration, in September 1981 NOAA issued deep seabed mining regulations for exploration licenses at 15 CFR Part 970, a final Programmatic Environmental Impact Statement (PEIS) and a final Technical Guideance Document (TGD).

Section 109(e) of the DSHMRA (30 U.S.C. 1419(e)) provides that any discharge of a pollutant from a vessel or other floating craft subject to the DSHMRA is subject to the provisions of the Clean Water Act. EPA has advised NOAA of its intention to issue a general NPDES permit to cover deep seabed mining exploration activities which are

covered by NOAA deep seabed mining regulations for exploration licenses contained in 15 CFR Part 970. 46 FR 45892 (September 15, 1981). On November 3, 1982, EPA Region 9 sent a letter to over 600 individuals indicating our intent to issue this general permit which would authorize discharges from vessels or other floating craft engaged in exploration activities, which are more fully described in the DASHMRA and NOAA regulations, including prospecting, mapping, surveying, collection of data and collection of samples. Discharges from intitial test mining will not be authorized at this time. NOAA has received applications from four consortia [Ocean Mining Associates (OMA), Ocean Managment, Inc. (OMI), Kennecott Consortium (KCON) and Ocean Minerals Company (OMCO)] to engage in exploration activities in the Northeastern Equatorial Pacific Ocean within the seabed generally known as the Clarion-Clipperton Fracture Zone. 47 FR 27583–27584 (June 25, 1982) and 47 DE 47903 (October 28, 1982).

The application of the general permit program to a vessel or other floating craft used in deep seabed mining exploration operations is particularly appropriate as these facilities will have limited operations at any given location. These types of operations require a permitting decision which will allow maximum flexibility, i.e., the ability to move efficiently from one location to another within the general permit area without having to apply for and obtain a new permit. The owner or operator of vessels or other floating craft engaged in exploration activities under the DSHMRA entering the areas to be covered by this proposed permit will simply be required to notify EPA of their intent to be covered.

General permits eliminate, for EPA, the time consuming and resource intensive process of reviewing and evaluating individual permit applications, and similarly eliminate for the industry the regulatory burden of applying for and obtaining individual permits. In addition, environmental monitoring can be defined by area and imposed on all facilities operating within a permit area, providing EPA a better mechanism to evaluate possible environmental degradation.

II. Nature of Discharges From Vessels or Other Floating Craft Engaged in Deep Seabed Mining Exploration Activities

This draft general permit indicates the EPA intends to authorize and permit nine (9) separate types of discharges from a vessel or other floating craft subject to the DSHMRA engaged in exploration activities under 15 CFR Part 970, including, but not limited to exploration activities enumerated in Section 101(a)(2) of the DSHMRA (30 U.S.C. 1411(a)(2)), and in NOAA regulations at 15 CFR 970.103(a)(2), except for any discharge from the initial mining tests.

Discharges will not be authorized from initial mining tests. "Initial mining test" means the taking from the deep seabed of such quantities of any hard mineral resource as are necessary for the design, fabrication and testing of equipment which is intended to be used in the commercial recovery and processing of such resource. (See Section 4(5)(B) of the DSHMRA (30 U.S.C.1403(5)(B)) and NOAA regulations at 15 CFR 970.101(i)(2).)

A NPDES permit for discharge from the initial mining tests will not be prepared at this time. These activities will be dealt with by EPA under the CWA when dealing with the NPDES permitting decision for the initial mining tests. There are three reasons for this decision. First, after review of the applications for exploration licenses submitted to NOAA and after consultation with NOAA, it appears that any initial mining tests would occur between 1987 and 1990. If the general NPDES permit were issued in 1983, it would expire in 1988. Therefore, initial mining tests may not even occur during the term of this permit. Second, it is not clear how the initial mining tests would differ from test described in the PEIS issued by NOAA in September 1981. The exact timing of NPDES permits for these activities is uncertain at this time, but EPA intends to prepare a general NPDES permit or individual NPDES permit(s) or modify the then existing general NPDES permit (as appropriate) for discharges from the initial mining tests when the details of the test plans concerning these tests are submitted to NOAA as required by 15 CFR 970.204(a). Third, the PEIS and regulations issued by NOAA in September 1981, identified three (3) at-sea activities during exploration activities that have the potential for significant adverse environmental impact and are enumerated at 15 CFR 970.701(b)(2). In the PEIS, NOAA provided generic data evaluating the effect of surface and benthic discharges from mining system tests on the marine environment according to EPA's Ocean Discharge Criteria contained at 40 CFR 125.122. This generic data supplemented by site specific data, should facilitate any EPA decision which may be required under Section 403 of the CWA (33 U.S.C. 1343) in dealing with the NPDES permitting decision for the initial mining tests. EPA encourages the consortia to develop and submit this information to NOAA as specified in the TGD in a timely manner because EPA may be basing its NPDES permitting decision for the initial mining tests in a large part on such information.

The proposed general permits, when issued, will not authorize discharge from a vessel or other floating craft subject to the DSHMRA engaged in commercial recovery under a permit issued by NOAA. EPA will work with NOAA to develop appropriate individual or general NPDES permits to deal with such discharges at the appropriate time. This general permit, when issued, also will not authorize discharge of manganese nodule processing wastes.

This draft general permit proposes authorization of discharges from a vessel or other floating craft subject to the DSHMRA engaged in exploration activities under 15 CFR Part 970, including, but not limited to exploration activities enumerated in Section 101(a)(2) of the DSHMRA (30 U.S.C. 1411(a)(2)), and in NOAA regulations at 15 CFR 970.103(a)(2), except for any discharge from the initial mining tests. EPA intends that these discharges will be authorized when the vessel or other floating craft is actively engaged in exploration activities within the general permit area under the DSHMRA. EPA does not intend for this permit, when issued, to cover discharges form a vessel or other floating craft when the vessel or other floating craft is traveling to or from the sites where exploration is conducted as EPA does not believe the vessel or other floating craft is engaged in exploration activities under the DSHMRA at those times.

The discharges which accompany exploratory operations are discussed below. The exploration activities for which discharge of pollutants will be authorized by the permit fall into categories which have been judged by NOAA to have no potential for significant environmental impact at 15 CFR 970.701(a). EPA has reviewed NOAA's determination and concurs with this judgment. EPA believes these nine (9) types of discharges are the only discharges that will occur during exploration activities except for the initial mining tests. EPA specifically invites comment on the appropriateness of these nine (9) types of discharges for regulation, along with any types of discharged that may have been omitted.

EPA Region 9 has characterized discharge 001–009 as "ancillary" type

discharge which are typical of those which normally occur from a vessel or other floating craft. All nine (9) of these types of discharges contain no or de minimus amounts of process wastes, raw materials, toxic wastes, hazardous wastes or oil and grease. Discharges of these types are typically discharged overboard with the treatments as specified below, and have been determined by EPA to not cause either violation of marine water quality or unreasonable degradation of marine waters.

Discharge No. 001.—Deck Drainage: Deck drainage includes all waste resulting from vessel washings, deck washing, tank cleaning operations, and run-off from curbs, gutters, and drains including drip pans and wash areas.

Discharge No. 002.—Sanitary Wastes: Sanitary wastes include human body waste discharge from toilets and urinals. These wastes are treated prior to discharge.

Discharge No. 003.—Domestic Wastes: Domestic wastes (also referred to as "kitchen and shower discharge" or "grey water") includes materials discharged form galleys; sinks, showers, and laundries. These wastes are normally released directly overboard without treatment, or with minimal grinding to assure that no floating solids are present, because soaps and detergents interfere with the operation of the oil/water separator and adversely affect bacterial sewage treatent systems.

Discharge No. 004.—Water distillation Discharge: Water distillation discharge means wastewater associated with the process of creating fresh water from seawater. Seawater is processed through one (1) of several different types of distillation units to obtain potable water. In the desalinization process, the normal constituents of seawater are concentrated to about twice their normal concentration. No additional chemicals are added during the distillation operation and the waste is discharged without treatment.

Discharge No. 005.—Boiler Blowdown: Boiler blowdown means the discharge of recirculating water from boilers to remove ionic concentrations contained in the water, preventing the further buildup of concentrations exceeding limits established by best engineering practice. This discharge is released directly overboard without treatment.

Discharge No. 006.—Fire Control System Test Water: Fire control system test water is seawater discharged during periodic testing of the fire control system. This discharge is released during the training and testing of personnel in fire protection.

Discharge No. 007.—Cooling Water: Cooling water means once through non-contact cooling water. Non-contact cooling water is seawater used to cool electricity generating equipment. The temperature of seawater is increased a maximum of 3° C (5° F) over ambient and no chemical treatment is required. This discharge is released directly overboard without treatment.

Discharge No. 008.—Uncontaminated Ballast Water: Ballast water means water used by the vessel or other floating craft for stability. Seawater is introduced into or removed from ballast water to maintain the proper ballast floater level and ship draft during operations. No chemicals are introduced and ballast water is discharged without treatment.

Discharge No. 099.—Uncontaminated Bilge Water: Bilge water means water that accumulates in the bilge of the vessel or other floating craft. Bilge water is discharged without treatment.

The exploration acitivities covered by Section 4(5) of the DSHMRA (30 U.S.C. 1403(5)) and NOAA regulations at 15 CFR 970.101(i)(1) may include grab sample and surveying activities at the ocean floor.

EPA has reviewed the licenses applications submitted by the consortia to NOAA and does not believe that there will be any discharge from the various samplers to be used in conveying the sediment and nodule samples to the surface for collection. For this reason, EPA has neither listed this as a possible discharge nor developed technology-based effluent limitations for such a discharge. EPA solicits comment on the issue whether there will be discharges from the various samplers, and if so, appropriate technology-based effluent limitations for such discharges. If comments indicate there will be a discharge from the various samplers, EPA will develop effluent limitations to control these discharges, and evaluate the effect of these limitations on marine water quality criteria and Ocean Discharge Criteria, in the final permit.

In obtaining the grab samples and in conducting surveying activities at the ocean floor, there may be disturbances of sediments at the ocean floor, which EPA does not believe to be discharges from point sources subject to the CWA.

III. Conditions in the Draft General NPDES Permit

A. Geographic Area of the Draft General NPDES Permit

The draft general NPDES permit proposed today is applicable to discharges from a vessel or other floating craft subject to the DSHMRA engaged in exploration activities under 15 CFR Part 970, including, but not limited to exploration activities enumerated in Section 101(a)(2) of the DSHMRA (30 U.S.C. 1411(a)(2)) and in NOAA regulations at 15 CFR 970.103(a)(2), except for any discharge from the initial mining tests. The authorized discharge sites include all the area of the Pacific Ocean between 110 degrees West and 180 degrees West longitude and 5 degrees North and 20 degrees North latitude that lies within the definition of the deep seabed as defined in Section 4(4) of the DSHMRA (30 U.S.C. 1403(4)) and in NOAA regulations at 15 CFR 970.101(h), including, but not limited to, the Northeastern Equatorial Pacific Ocean within the seabed generally known as the Clarion-Clipperton Fracture Zone. The authorized discharge sites specifically excludes all areas which lie within the territorial seas of the State of Hawaii.

The permittee will be the owner or operator of the vessel or other floating craft from which the discharge occurs.

Section 3(a) of the DSHMRA (30 U.S.C. 1402(a)) contains a specific disclaimer of extraterritorial sovereignty. EPA in no way intends to exert jurisdiction over any activity other than the discharge from any vessel or other floating craft subject to the DSHMRA. The nations of Mexico (Islas del ReVillagigeda), France (Clipperton Island) and the United Kingdom (Washington and Fanning Islands) have territory in or near the Pacific Ocean area encompassed between 110 degrees West and 180 degrees West longitude and 5 degrees North and 20 degrees North latitude. A portion of the State of Hawaii is also located within these same coordinates, as are Johnston Atoll, Kingman Reef and Palmyra Atoll. Accordinly, EPA has limited the area covered by the proposed general permit to those areas (1) within the above enumerated corrdinates and (2) within the deep seabed as defined by Section 4(4) of the DSHMRA (30 U.S.C. 1403(4)) and in NOAA regulations at 15 CFR 970.101(h). "Deep seabed; is defined by the DSHMRA and NOAA regulations as "the seabed, and the subsoil thereof to a depth of ten [10] meters, lying seaward of and outside—(1) the Continental Shelf of any nation; and (2) any area of national resource jurisdiction of any foreign nation, if such area extends beyond the Continental Shelf of such nation and such jurisdiction is recognized by the United States." This definition excludes atuhorization of discharge to any area that does not lay seaward of and outside—(1) the

Continental Shelf of any nation; and (2) any area of national resource jurisdiction of any foreign nation, if such area extends beyond the Continental Shelf of such nation and such jurisdiction is recognized by the United States.

In addition, this draft general NPDES permit specifically excludes the territorial seas of the State of Hawaii from the areas in which discharges are authorized. This is consistent with the definition of the Continental Shelf contained in Section 4(2) of the DSHMRA (30 U.S.C. 1403(2)) and in NOAA regulations at 15 CFR 970.101(f), which excludes the territorial seas. The State of Hawaii issues NPDES permits, through the Hawaii Department of Health, to discharges within the State of Hawaii, which includes the territorial seas.

B. Application of the General Permit Program

EPA has determined that discharges from a vessel or other floating craft engaged in exploration activities under the DSHMRA operating within the areas described in this draft permit are more appropriately controlled by a general NPDES permit than by individual permits. In accordance with 40 CFR 122.28(a)(2)(ii), these facilities involve the same or substantially similar types of operations, discharge the same types of wastes, require the same effluent limitations or operating conditions, require the same monitoring requirements, and in the opinion of the Regional Administrator, are more appropriately controlled under a general NPDES permit than under individual permits. The regulations at 40 CFR 122.28(a)(1) require the general permit to cover a category of dischargers within a geographical area. This draft general permit will cover the entire area covered by the NOAA PEIS issued in September 1981, which encompasses those portions of the Pacific Ocean, that lie within the definition of deep seabed, between 110 degrees West and 180 degrees West longitude and 5 degrees North and 20 degrees North latitude, as "[a]ny other appropriate division or combination of boundaries." 40 CFR 122.28(a)(1)(vii). Additionally, as discussed earlier, the provisions for general permits allow EPA to address the cumulative effects of multiple facilities operating in one geographic area, and provide a better mechanism to impose an area wide monitoring program that may more effectively assess potential environmental degradation. The ability of general permits to address area wide concerns may become particularly important in permitting initial mining tests and commercial recovery phases of deep seabed mining activities.

Vessels authorized to discharge in accordance with this permit will remain at any one (1) location for a limited period of time in conducting exploratory activities. The general permit, when issued, will allow these facilities the flexibility to move within the permitted area without applying for and obtaining a new permit. Due to EPA's definition of "new discharger" in 40 CFR 122.2 which includes existing mobile point sources which move to a new location, most, if not all facilities covered by this general permit will be new dischargers. The effluent limitations and conditions proposed in the draft general permit are standard limitations provided for ancillary discharges from mobile point sources in Region 9. EPA regulations, as applied to new dischargers, do not allow for a compliance schedule (40 CFR 122.47(a)(2)) and require compliance within ninety (90) days (40 CFR 122.29(d)(4)). Therefore, the general permit is the best regulatory mechanism available to EPA to impose uniform effluent limitations and conditions upon all facilities entering the permit area.

The Regional Administrator has concluded that discharges authorized under the effluent limitations and conditions of this permit will not cause unreasonable degradation of the marine environment (See Section H. Ocean Discharge Criteria). This determination is based on a review of all the material available for a determination of all issues related to this draft general permit. The only discharges that will be authorized by this general permit, when issued, are ancillary discharges which, subject to the proposed technology-based effluent limitations and conditions, will not cause unreasonable degradation to the marine environment. Possible concerns regarding the effects and impacts of discharges from the initial mining tests will be dealt with at the appropriate time.

Under Section 403 of the CWA (33 U.S.C. 1343), this permit contains a reopened clause (authorized by 40 CFR 125.123(d)(4)) which requires the Regional Administrator to modify or revoke this general permit if new data indicates that continued discharges may cause unreasonable degradation of the marine environment. Permit modification or revocation will be conducted in accordance with 40 CFR 122.62, 122.64 and 124.5 pursuant to Part III.B.5 of the general permit.

The documents particularly applicable to this permit decision include:

(1) NOAA. Final Programmatic Environmental Impact Statement, Deep Seabed Mining, September 1981.

(2) NOAA. Final Technical Guidance Document, Deep Seabed Mining, September 1981.

(3) NOAA. Final Rules. Deep Seabed Mining Regulations for Exploration Licenses, 15 CFR Part 970, as amended.

(4) Various License Applications by Four Consortia, 1982.

C. Covered Facilities

When issued, this general permit will authorize discharges from existing sources and "new dischargers" (40 CFR 122.2) from vessels or other floating craft subject to the DSHMRA engaged in exploration activities under 15 CFR Part 970, except for any discharge from the initial mining tests. EPA has not promulgated new sources performance standards (NSPS) for this activity pursuant to Section 306 of the CWA (33 U.S.C. 1316). If NSPS are ever promulgated, EPA may have an obligation under Section 511(c)(1) of the CWA (33 U.S.C. 1371(c)(1)) and the National Environmental Policy Act (NEPA) (33 U.S.C. 4321, *et seq.*) to do an environmental assessment for all general NPDES permits (covering new sources).

This general permit, when issued, will not authorize discharge from the initial mining tests. This general permit, when issued, will not authorize discharge from a vessel or other floating craft subject to the DSHMRA engaged in commercial recovery under a permit issued by NOAA. This general permit, when issued, also will not authorize discharge of manganese nodule processing wastes. Separate NPDES permits must be obtained from the appropriate permitting authority for all these discharges, unless general NPDES permits have been issued to cover these activities.

D. Notification by Permittees

Individual permit applications are not required to be submitted by permittees entering the general permit area. However, Parts I.A.—I.B of the draft general permit requires each permittee operating in the general permit area to notify the Regional Administrator of Region 9 in writing of the commencement and termination of discharges from each facility. This written notification must be made at least fourteen (14) days prior to the commencement of discharges and include the permittee's name and address, a description of the exploration activities and accompanying discharges and the general area in which the

exploration will take place. The marine call letters assigned to the exploration vessel must also be furnished to provide EPA a means of locating the vessel at any time. Failure to provide this written notification means that the facility is not authorized to discharge under this general permit. Changes in the geographic area of exploration which become necessary during the course of exploration, must be reported in the annual monitoring report submitted pursuant to Part II.C.4 of the draft permit. The permittee shall also notify the Regional Administrator upon permanent termination of operations.

E. Expiration and Termination Dates

Section 301(b)(1) of the CWA (33 U.S.C. 1311(b)(1)) requires the application of effluent limitations representing best practicable control technology currently available (BPT) by July 1, 1977. Section 301(b)(2) of the CWA (33 U.S.C. 1311(b)(2)) requires that all permits effective or issued after July 1, 1984, contain effluent limitations representing best available technology economically achievable (BAT) and best conventional pollutant control technology (BCT) for all categories and classes of point sources. This draft permit contains technology-based effluent limitations found by the Regional Administration to be BPT, BAT and/or BCT. (See F. Technology-Based Effluent Limitations.) The general permit, when issued, will have an expiration date five (5) years after the date of issuance, which is currently projected to be November 30, 1983.

F. Technology-Based Effluent Limitations

The CWA requires all dischargers to meet effluent limitations based on the technological capacity of dischargers to control the discharge of their pollutants. EPA has not promulgated effluent limitations guidelines regulations under Section 304(b) the CWA (33 U.S.C. 1314(b)) for discharges from deep seabed mining activities. Therefore, the technology-based effluent limitations applicable to these discharges have been developed for this permit using best professional judgment (BPJ) as authorized by Section 402(a)(1) of the CWA (33 U.S.C. 1342(a)(1)) and EPA regulations at 40 CFR 125.3.

The BPT effluent limitations that are proposed for deck drainage, sanitary wastes and domestic wastes (outfalls 001, 002 and 003, respectively) in the general permit are based upon BPT effluent limitations guidelines regulations promulgated on April 13, 1979, for the Offshore Subcategory of the Oil and Gas Point Source Category (40 CFR Part 435, Subpart A). The proposed limitations are identical to those imposed by Region 9 on ancillary discharges from exploratory drilling operations for oil and gas operations on the Outer Continental Shelf off Southern California in a final general NPDES permit (Southern California OCS General Permit) issued in 1982. 47 CFR 7312 (February 18, 1982). The BPT limitation for deck drainage specifies "no discharge of free oil." The BPT limitation for sanitary wastes requires that the concentration of chlorine be maintained as close to 1.0 mg/1 as possible from facilities housing ten (10) or more persons. For those facilities that are intermittently manned or for facilities manned by nine (9) or fewer persons, the BPT limitation for sanitary wastes if "no floating solids as a result of the discharge of these wastes." Additionally, this draft general NPDES permit provides that any facility using an approved marine sanitation device that complies with Section 312 of the CWA (33 U.S.C. 1322) and EPA regulations at 40 CFR Part 140 shall be in compliance with requirements for sanitary waste discharges in the final permit. The BPT limitation for domestic wastes is "no floating solids as a result of the discharge of these wastes." The monitoring requirements proposed for deck drainage, sanitary wastes and domestic wastes are very similar to the monitoring requirements for these discharges from offshore oil drilling operations in Region 9. Compliance with the effluent limitaion for deck drainage ("no discharge of free oil"), however, is determined through the newly developed "laboratory sheen test". The permittee shall make visual observations for the presence of free oil in the discharge using the laboratory sheen test. This test shall be conducted once/week, for each week in which a discharge occurs. The laboratory sheen test means those procedures which involve diluting one (1) part whole effluent, collected just prior to discharge, with nine (9) parts ambient seawater. This mixture shall be maintained as close as possible to ambient seawater temperature while being stirred mechanically with a magnetic stirrer for fifteen (15) minutes, after which time the permittee shall make a visual observation for the presence of free oil (sheen) on the surface. This protocol is in part derived from the Environmental Protection Technology Series EPA–R2–72–039, "The Appearance and Visibility of Thin Oil Films on Water". The *Development Document for Interim Final Effluent Limitations Guidelines and Proposed New Source Performance Standards for the Oil and Gas Extraction Point Source Category*, September, 1976 (Development Document) discussed BPT technology to obtain compliance with limitations for deck drainage, sanitary and domestic wastes. The same BPT limitations are imposed here since the nature of the discharges and the impact on the receiving waters are similar. Compliance with the limitations is attainable as these operations and the technology to obtain compliance are the same or similiar to those used in offshore drilling operations.

The BPT limitations that are proposed for miscellaneous discharges [water distillation discharge (outfall 004), boiler blowdown (outfall 005), fire control system test water (outfall 006), cooling water (outfall 007), uncontaminated ballast water (outfall 008) and uncontaminated bilge water (outfall 009)] are identical to those imposed by Region 9 in the Southern California OCS General Permit for similar miscellaneous discharges, i.e., "no discharge of free oil." The same BPT limitations are imposed here since the nature of the discharges and the impact on the receiving waters are similar. Compliance with this limit is determined through the "laboratory sheen test" discussed above. Compliance with the limitations is attainable as these operations and the technology to obtain compliance are the same or similar to those used in offshore drilling operations.

The draft general permit has a proposed expiration date after June 30, 1984, which requires the permit to contain effluent limitations to meet BAT and/or BCT. EPA is not aware of any other treatment technologies available for these ancillary discharges that will result in more stringent effluent limitations above those proposed for BPT. The only viable more stringent treatment technology would involve a no discharge requirement which cannot be justified for such facilities due to the mobile nature and extreme distance from shore of these facilities, along with the cost of imposing such a requirement on these facilities. Therefore, EPA finds that any and all requirements necessary to meet BAT and/or BCT effluent limitations for all discharges proposed in this draft general permit are equal to those proposed for BPT. EPA invites comment as to the appropriateness of this decision.

No effluent limitations for other pollutants have been established in this draft general permit as they are normally reduced incidently with the removal or reduction of another

pollutant parameter, or do not represent a threat to marine water quality.

G. Other Discharge Limitations and Permit conditions

In addition to the technology-based effluent limitations proposed in the draft general permit, the following limitations and conditions are also proposed:

(1) There shall be no discharge of floating solids or visible foam in other than trace amounts;

(2) There shall be no discharge of toxic materials which, after allowance for initial mixing as provided by the Ocean Discharge Criteria (40 CFR Part 125, Subpart M), exceed applicable marine water quality criteria (45 FR 79318, November 28, 1980); and

(3) The permittee is required to minimize the discharge of dispersants, surfactants, and detergents except as necessary to comply with the safety requirements of the Occupational Safety and Health Administration and the U.S. Coast guard. This restriction applies to tank cleaning and other operations which do not directly involve the safety of workers. The restriction is imposed because these chemicals (1) disperse and emulsify oil thereby enhancing its toxicity, (2) reduce the effectiveness of the oil/water separator, and (3) make the detection of an oil discharge more difficult.

The draft general NPDES permit also contains requirements regarding monitoring and records (part II.C), reporting requirements (Part II.D), operation and maintenance of pollution controls (Part III.A), general conditions (Part III.B) and additional general permit conditions (Part II.C). These requirements contain conditions imposed by the CWA and/or EPA regulations. The permit conditions, as specified, reflect requirements as they currently exist. EPA regulations that reflect some of these requirements are currently undergoing regulatory reform. The final general NPDES permit will reflect any changes to such requirements, if the regulations have been changed at the time of issuance of the final general NPDES permit.

EPA has developed this draft general NPDES permit and notice in cooperation with NOAA. NOAA has expressed concern with regard to certain conditions of the draft general NPDES permit, especially conditions regarding inspection and entry and reporting requirements. The proposed permit provides that the permittee shall allow EPA entry and inspection of facilities regulated by the permit. EPA will coordinate with the consortia and NOAA regarding any requirements for inspection and entry of the vessel or other floating craft. EPA believes that present communications systems will allow the proposed permittees to comply, in a timely manner, with any reporting requirements that are contained in the proposed general NPDES permit.

H. Ocean discharge Criteria

Section 403 of the CWA (33U.S.C. 1343) requires that a NPDES permit for discharges into ocean waters be issued in compliance with EPA's guidelines for determining the degradation of marine waters. The Ocean Discharge Criteria, which are contained at 40 CFR Part 125, Subpart M, set forth specific criteria for a determination of unreasonable degradation that must be addressed prior to the issuance of a NPDES permit. If sufficient information is unavailable on the proposed discharge or on its potential effects to make a reasonable judgment the Director (in this case the Regional Administrator) may require the applicant to submit additional information. If EPA determines that there will be no unreasonable degradation, the permit may be issued. If a determination of unreasonable degradation cannot be made, the Regional Administrator must then determine whether a discharge will cause irreparable harm of the marine environment. In assessing the probability of irreparable harm, the Regional Administrator is required to make a reasonable determination that the discharger operating under a permit with monitoring requirements and effluent limitations in place, will not cause permanent and significant harm to the environment. If further data gathered through monitoring indicates that the continued discharge of a pollutant will produce unreasonable degradation, the discharge must be halted or additional permit limitations established.

EPA regulations at 40 CFR 125.122 identify ten (10) factors which are to be considered in making the determination of unreasonable degradation. These factors include:

(1) The quantities, composition and potential for bioaccumulation or persistence of the pollutants to be discharged;

(2) The potential transport of such pollutants by biological, physical or chemical processes;

(3) The composition and vulnerability of the biological communities which may be exposed to such pollutants including the presence of unique species or communities, or the presence of species identified as endangered or threatened pursuant to the Endangered Species Act, or the presence of those species critical to the structure and function of the ecosystem such as those important for the food chain;

(4) The importance of the receiving water area to the surrounding biological community, including the presence of spawning sites, nursery/forage areas, migratory pathways or areas necessary for other functions or critical stages in the life cycle of an organism;

(5) The existence of special aquatic sites including but not limited to marine sanctuaries and refuges, parks, national and historic monuments, national seashores, wilderness areas and coral reefs;

(6) The potential impacts on human health through direct and indirect pathways;

(7) Existing or potential recreational and commercial fishing, including finfishing and shellfishing;

(8) Any applicable requirements of an approved Coastal Zone Management plan;

(9) Such other factors relating to the effects of the discharge as may be appropriate, and (10) Marine water quality criteria developed pursuant to Section 304(a)(1) of the CWA (33 U.S.C. 1314(a)(1)).

The ancillary discharges that are proposed to be limited by this draft general NPDES permit are typical discharges from a vessel or other floating craft which are usually not subject to permitting requirements as a "discharge of a pollutant" under Section 502(12) of the CWA (33 U.S.C. 1362(12)). Section 109(e) of the DSHMRA (30 U.S.C. 1419(e)) requires that these ancilliary discharges, in addition to the potentially more significant mining discharges, be subject to the CWA. The proposed permit contains technology-based effluent limitations and conditions on each of the ancillary discharges.

The Regional Administrator has concluded that discharges from a vessel or other floating craft engaged in deep seabed mining exploration activities, including, but not limited to exploration activities enumerated in Section 101(a)(2) of the DSHMRA (30 U.S.C. 1411(a)(2)) and in NOAA regulations at 15 CFR 970.103(a)(2), excluding discharges from the initial mining tests which are not covered by this permitting action, operating under the proposed effluent limitations and conditions of this draft permit will not cause unreasonable degradation of the marine environment. The proposed limitations for these nine (9) ancillary discharges are identical to those imposed by Region 9 on the same ancillary discharges for exploratory drilling operations in the Southern California OCS General Permit

issued in 1982. The determinations made pursuant to Section 403(c) of the CWA (33 U.S.C. 1343(c)) with regard to Ocean Discharge Criteria in the Southern California OCS General Permit determined that all discharges, including these ancillary discharges, would not cause unreasonable degradation. The only discharges that will be authorized by this general permit, when issued, are ancillary discharges which, subject to the proposed technology-based effluent limitations and conditions, similarly will not cause unreasonable degradation to the marine environment. Possible concerns regarding the effects and impacts of discharges from the initial mining tests will be subjected to rigorous determinations under the Ocean Discharge Criteria by EPA at the appropriate time.

Factor 1 addresses the quantities, composition and potential for bioaccumulation or persistance of the pollutants to be discharged. The pollutants that would be discharged under the proposed limitations and conditions of this draft general permit would consist of minor quantities of oil and grease, non-floating solids from domestic wastes, concentrated constituents of seawater from water distillation units and minimal boiler blowdown. Discharges of these pollutants, under the conditions of this draft permit, have no potential for bioaccumulation or persistence.

Factor 2 addressed the potential transport of such pollutants by biological, physical or chemical processes. Any potential for transport of the pollutants to be discharged under the proposed limitations and conditions of this draft general permit causes a continued reduction in toxicity.

Factor 3 addressed the composition and vulnerability of the biological communities which may be exposed to such pollutants including the presence of unique species or communities, or the presence of species identifies as endangered or threatened pursuant to the Endangered Species Act (16 U.S.C. 1531 *et seq.*) (ESA), or the presence of those species critical to the structure and function of the ecosystem such as those important for the food chain. In 1981 and 1982, the U.S. Fish & Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS), NOAA respectively, presented biological opinions to the Office of Ocean Minerals and Energy (OME), NOAA regarding the effects on threatened or endangered species or their designated critical habitat of proposed deep seabed mining regulations for exploration licenses and the applications submitted by the consortia for exploration licenses. Copies of all opinions are contained in the administrative record for this permit. These actions were initiated pursuant to Section 7 of the ESA (16 U.S.C. 1536). These biological opinions identify six (6) species of whales and four (4) species of turtles found within or near the general permit area which are Federally listed endangered or threatened species, and could potentially be affected by the discharge activities to be authorized by this permit. Following is a listing of the identified species:

Humpback whale	*Megaptera novaeangliae,*
Blue whale	*Balaenoptera musculus,*
Sperm whale	*Physeter catadon,*
Sei whale	*Balaenoptera borealis,*
Fin whale	*Balaenoptera physalus,*
Right whale	*Eubalaena spp.,*
Green sea turtle	*Chelonia mydas,*
Hawksbill sea turtle	*Eretmochelys imbricata,*
Loggerhead sea turtle	*Caretta caretta,*
Leatherback sea turtle	*Dermochelys coriacea.*

The opinions presented by the USFWS and NMFS, NOAA generally concluded that exploration activities would not jeopardize the continued existence of listed species or result in the destruction or adverse modification of critical habitat. As indicated above, these opinions covered even more activities than are proposed to be covered in this draft general permit, which only deals with ancillary discharges which are typical of those from a vessel or other floating craft. EPA has reviewed the conclusions of NOAA and believes that discharges under the effluent limitations and conditions proposed in this permit are consistent with the ESA.

However, EPA will provide a copy of this draft general permit and this notice to both the USFWS and NMFS, NOAA advising them of the draft general permit concurrently with publication of this notice in the **Federal Register**, and will request a formal consultation from NMFS, NOAA and the USFWS concerning the impact of this draft general permit. The responses of each agency will be included in the administrative record and their opinions fully considered.

Factor 4 addresses the importance of the receiving water area to the surrounding biological community, including the presence of spawning sites, nursery/forage areas, migratory pathways or areas necessary for other functions or critical stages in the life cycle of an organism. This factor is intended to ensure that potential impacts on spawning sites, nursery/forage areas, migratory pathways, or other critical functions are evaluated. The previous discussion on factor 3 dealing with the ESA revealed that both the NMFS, NOAA and USFWS concluded that these exploratory activities would not jeopardize the continued existence of listed species or result in the destruction or adverse modification of critical habitat. Due to the fact that this draft general permit will only deal with ancillary discharges which will be limited by proposed effluent limitations and conditions, EPA expects no unreasonable degradation to non-resident species or critical habitats. As indicated above, EPA is requesting formal consultation with both the NMFS, NOAA and USFWS concerning the impact of the draft general permit concurrently with the publication of this notice in the **Federal Register**.

Factor 5 addresses the existence of special aquatic sites including but not limited to marine sanctuaries and refuges, parks, national and historic monuments, national seashores, wilderness areas and coral reefs. In the PEIS, NOAA has stated that there are no such sites in the area to be encompassed by this draft general permit. Due to this fact, there will not be unreasonable degradation of the marine environemnt due to factor 5 of the Ocean Discharge Criteria.

Factor 6 addresses the potential impacts on human health through direct and indirect pathways. Due to the fact that this draft general permit will only deal with ancillary discharges which will be subject to the proposed effluent limitations and conditions and which are typical of those from a vessel or other floating craft, EPA does not expect any potential impacts on human health through direct or indirect pathways.

Factor 7 addresses existing or potential recreational and commercial fishing, including finfishing and shellfishing. The PEIS states that five (5) United States and Japanese tuna and billfish industries were conducted in the area encompassed by this draft general permit and that the activities would not be affected by mining tests. EPA has reviewed this conclusion and believes that since this draft general permit will only deal with ancillary discharges which are typical of those from a vessel or other floating craft, EPA does not expect any impact by the proposed discharges, as limited by the proposed effluent limitations and conditions, on existing or potential recreational and commerical fishing, including finfishing and shellfishing. EPA will provide a copy of the draft general permit and this notice concurrently with publication of this notice in the **Federal Register** to State and Federal agencies with

jurisdiction over fish, finfish, shellfish and wildlife resources in the affected Pacific Ocean areas. Comments will be specifically requested on the adequacy of the effluent limitations and operating conditions contained in the draft permit to mitigate any potential impacts on commerical and recreational fisheries. Any new information or recommendations received during the comment period will be fully considered in the determination of final permit limitations and conditions.

Factor 8 addresses any applicable requirements of an approved Coastal Zone Management Plan (CZMP). In the PEIS, NOAA has determined that the discharges in the area to be authorized under this draft general permit will not directly impact the coastal areas of any State. EPA has reviewed this determination and concurs with NOAA's findings with regard to direct impact and finds there will be no potential impact on the CZMP of the State of Hawaii, the only State within the vicinity of the permitted area. This finding is based on representations by NOAA that any exploration activity for which discharges will be authorized by this permit will occur a considerable distance from the State of Hawaii, including the territorial seas. Therefore, due to this fact, there will not be any unreasonable degradation of the marine environment due to factor 8 of the Ocean Discharge Criteria. However, should an individual State advise EPA that dischargers authorized under the general NPDES permit will directly affect the States coastal zone, a consistency determination under Section 307(c)(3)(A) Subpart D of the Coastal Zone Management Act (16 U.S.C. 1451 *et seq.*) (CZMA) (16 U.S.C. 1456(c)(3)(A) Subpart D) may be required. In such a case, EPA would have to submit to the affected State written certification that the proposed permit will not directly affect the coastal zone, or that the permit complies with and will be conducted in a manner consistent with the applicable State's approved management program. A Coastal Zone Management State would in turn review this certification and indicate whether they concur or object to it. EPA will provide a copy of the draft general permit and this notice, concurrently with publication of this notice in the **Federal Register** to the Hawaii Department of Planning and Economic Development, which is the approved State agency for CZMP in Hawaii. If the Hawaii Department of Planning and Economic Development disagrees with our findings for this draft general permit of no potential or direct impact under their CZMP are incorrect, EPA will work with that agency to insure that the proposed general permit complies with the Hawaii CZMP.

Factor 9 addresses such other factors relating to the effects of the discharge as may be appropriate. Due to the fact that this draft general permit contains effluent limitations and conditions on the ancillary discharges that are typical of those from a vessel or other floating craft, EPA has determined that there are no other factors relating to the effects of these discharges that are appropriate.

Factor 10 addresses marine water quality criteria developed pursuant to Section 304(a)(1) of the CWA (33 U.S.C. 1343(a)(1)). Factor 10 requires that EPA identify conventional, non-conventional and toxic pollutants in the discharge to be permitted and establish that numeric units in applicable marine water quality criteria will be met with permit limitations in place. All ancillary discharges that comply with the effluent limitations and conditions proposed in Part II.B.2. of this draft general permit will comply with all applicable marine water quality critiera developed pursuant to Section 304(a)(1) of the CWA (33 U.S.C. 1343(a)(1)).

I. Oil Spill Requirements

Section 311 of the CWA (33 U.S.C. 1321) prohibits the discharge of oil and hazardous materials in harmful quantities. In the 1978 amendments to Section 311 of the CWA (33 U.S.C. 1321), Congress clarified the relationship between this section and discharges permitted under Section 402 of the CWA (33 U.S.C. 1342). It was the intent of Congress that routine discharges permitted under Section 402 of the CWA (33 U.S.C. 1342) be excluded from Section 311 of the CWA (33 U.S.C. 1321). Discharges permitted under Section 402 of the CWA (33 U.S.C. 1342) are not subject to Section 311 of the CWA (33 U.S.C. 1321) if they are:

1. In compliance with a permit under Section 402 of the CWA (33 U.S.C. 1342);
2. Resulting from circumstances identified, reviewed and made part of the public record with respect to a permit issued or modified under section 402 of the CWA (33 U.S.C. 1342), and subject to a condition in such permit; or
3. Continuous or anticipated intermittent discharges from a point source, identified in a permit or permit application under Section 402 of the CWA (33 U.S.C. 1342), which are caused by events occurring within the scope of the relevant operating or treatment systems.

To help clarify the relationship between discharges permitted under Section 402 of the CWA (33 U.S.C. 1342) and Section 311 of the CWA (33 U.S.C. 1321) discharges, EPA has compiled the following list of discharges which it considers to be regulated under Section 311 of the CWA (33 U.S.C. 1321) rather than under a Section 402 (33 U.S.C. 1342) permit. The list is not to be considered all-inclusive.

1. Discharges of contaminated ballast water or contaminated bilge water.
2. Discharges from burst or ruptured pipelines, manifolds, pressure valves or atmospheric tanks,
3. Discharges from pumps or engines,
4. Discharges from vessel launching and receiving equipment, and
5. Spills of diesel fuel during transfer operations.

Part IV. Other Legal Requirements

A. The Endangered Species Act

The ESA requires that each Federal Agency shall ensure that any of their actions, such as permit issuance, do not jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modifications of their habitats. In 1981 and 1982, the USFWS and the NMFS, NOAA respectively, presented biological opinions to the OME, NOAA regarding the effects on threatened or endangered species or their designated critical habitat of proposed deep seabed mining regulations for exploration licenses and the applications submitted by the consortia for exploration licenses. Copies of all opinions are contained in the administrative record for this permit. These actions were initiated pursuant to Section 7 of the ESA (16 U.S.C. 1536). These biological opinions identify six (6) species of whales and four (4) species of turtles found within or near the general permit area which are Federally listed endangered or threatened species, and could potentially be affected by the discharge activities to be authorized by this permit. The opinions presented by the USFWS and NMFS, NOAA generally concluded that exploration activities would not jeopardize the continued existence of listed species or result in the destruction or adverse modification of critical habitat. As indicated above, these opinions covered even more activities than are proposed to be covered in this draft general permit, which only deals with ancillary discharges which are typical of those from a vessel or other floating craft. EPA has reviewed the conclusions of NOAA and believes that discharges under the effluent limitations and conditions proposed in this permit are consistent with the ESA.

However, EPA will provide a copy of this draft general permit and this notice to both the USFWS and NMFS, NOAA advising them of the draft general permit concurrently with publication of this notice in the **Federal Register**, and will request a formal consultation from NMFS, NOAA and the USFWS concerning the impact of this draft general permit. The responses of each agency will be included in the administrative record and their opinions fully considered.

EPA will join in any future consultation with NMFS, NOAA and USFWS with respect to any activities not now covered by their opinions or the formal consultation that is being requested concurrently with publication of this notice in the **Federal Register**. Additionally, EPA will initiate consultation should new information reveal impacts not previously considered if the activities are modified in a manner beyond the scope of the original opinion or should the activities affect a newly listed species. For a discussion of the affected species and the previous biological opinions, see Part III.H. Ocean Discharge Criteria.

B. The Coastal Zone Management Act

The CZMA and its implementing regulations (15 CFR Part 930) require that any federally licensed or permitted activity affecting the coastal zone of a State with an approved CZMP be determined to be consistent with the CZMP. In the PEIS, NOAA has determined that discharges in the area to be authorized under this draft general permit will not directly impact the coastal areas of any State. EPA has reviewed this determination and concurs with NOAA's finding. In addition, EPA finds there will be no potential impact on the CZMP of the State of Hawaii, the only State within the vicinity of the permitted area. This finding is based on representations of NOAA that any exploration activities for which discharges will be authorized by this permit will occur a considerable distance from the State of Hawaii, including the territorial seas. However, should an individual State advise EPA that dischargers authorized under the general NPDES permit will directly affect the States' coastal zone, a consistency determination under Section 307(c)(3)(A) Subpart D of the CZMA (16 U.S.C. 1456(c) (3)(A) Subpart D) may be required. In such a case, EPA would have to submit to the affected State written certification that the proposed permit will not directly affect the coastal zone, or that the permit complies with and will be conducted in a manner consistent with the applicable State's approved management program. A Coastal Zone Management State would in turn review this certification and indicate whether they concur or object to it, EPA will provide a copy of the draft general permit and this notice, concurrently with publication of this notice in the **Federal Register** to the Hawaii Department of Planning and Economic Development, which is the approved State agency for CZMP in Hawaii. If the Hawaii Department of Planning and Economic Development disagrees with our findings for this draft general permit of no potential or direct impact under their CZMP are incorrect, EPA will work with that agency to insure that the proposed general permit complies with the Hawaii CZMP.

C. The Marine Protection, Research, and Sanctuaries Act

The Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 *et seq.*) (MPRSA) regulates the dumping of all types of materials into ocean waters and establishes a permit program for ocean dumping. In addition the MPRSA establishes the Marine Sanctuaries Program implemented by NOAA, which requires NOAA to designate ocean waters as marine sanctuaries for the purpose of preserving or restoring their conservation, recreational ecological or asthetic values.

Section 302(f) of the MPRSA (33 U.S.C. 1432(f)) requires that the Secretary of Commerce, after designation of a marine sanctuary, consult with other Federal agencies, and issue necessary regulations to control any activities permitted within the boundaries of the marine sanctuary. It also provides that no permit, license, or other authorization issued pursuant to any other authority shall be valid unless the Secretary shall certify that the permitted activity is consistent with the purpose of the marine sanctuaries program and can be carried out within its promulgated regulations. There are presently no marine sanctuaries or active candidates for marine sanctuary designation in the affected Pacific Ocean region. EPA has contacted NOAA and has been informed that, since there are no designated sites in the proposed general permit area, this draft general permit is not affected.

D. Economic Impact (Executive Order 12291)

EPA has reviewed the effect of Executive Order 12291 on this draft general permit and has determined that it is not a major rule under that order. The permit, when promulgated, will result in substantially reduced paperwork required of regulated facilities by eliminating permit applications and reducing reporting requirements.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA responses to those comments are available for public inspection at the Technical Support Branch, Water Management Division, U.S. Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, California 94105.

E. Paperwork Reduction Act

EPA has reviewed the requirements imposed on regulated facilities in this draft general permit under the Paperwork Reduction Act (PRA). The information collection requirements of this permit have been approved by OMB under submissions made for the NPDES permit program under the provisions of the CWA. Furthermore, since less than ten (10) persons will be subject to this general permit when issued, EPA does not believe that this permit contains any information collection requests within the meaning of the PRA.

F. Regulatory Flexibility Act

After review of the facts presented in the notice printed above, I hereby certify, pursuant to the provisions of 5 USC § 605(b), that this general permit will not have a significant impact on a substantial number of small entities. Moreover, it reduces a significant administrative burden on regulated sources.

Dated: August 22, 1983.

John C. Wise,

Acting Regional Administrator, Region 9.

[FR Doc. 83-23583 Filed 8-26-83; 8:45 am]

BILLING CODE 6560-50-M

[PF-340; PH-FRL 2415-4]

Certain Companies, Pesticide Petitions

Correction

In FR Doc. 83-22173 beginning on page 37277 in the issue of Wednesday, August 17, 1983, the agency identification number should read as set forth above.

BILLING CODE 1505-01-M

[PF-330; PH-FRL 2417-1]

Rhone-Poulenc Inc.; Pesticide Petition; Amendment

Correction

In FR Doc. 83-22483 appearing on page 37283 in the issue of Wednesday, August 17, 1983, make the following correction:

Under **SUPPLEMENTARY INFORMATION**, in the paragraph designated "a.", the fifth line, the first open parenthesis should be removed.

BILLING CODE 1505-01-M

[PP 2G2069/T429 PH-FRL 2015-3]

2,2-Dichlorovinyl Dimethyl Phosphate; Establishment of Temporary Tolerances

Correction

In FR Doc. 83-22174 appearing on page 37278 in the issue of Wednesday, August 17, 1983, in the second column, the tenth line from the bottom should be corrected to read "EPA of any findings from the experimental use that have a bearing on safety. The Agriculture Experiment".

BILLING CODE 1505-01-M

[PP 3G2782/T428; PH-FRC 24616-4]

Thiodicarb; Establishment of Temporary Tolerances

Correction

In FR Doc. 83-22344 beginning on page 37282 in the issue of Wednesday, August 17, 1983, under **SUPPLEMENTARY INFORMATION**, the eighth line should be corrected to read "N'-[thiobis[[(methylamino) carbonyl]"

BILLING CODE 1505-01-M

[OPTS-51462B; ISH-FRL 2423-1]

Toxic Substances; Certain Chemical; Premanufacture Termination of an Extended Review Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is terminating the remaining period of a 90-day extension of the review period for premanufacture notice (PMN) PMN 83-622, which was issued pursuant to section 5(c) of the Toxic Substances Control Act (TSCA). The review period will now expire on August 18, 1983. The PMN was submitted for a colorant for textile fibers which will be imported by a company which has claimed its identity to be confidential.

FOR FURTHER INFORMATION CONTACT: Rose Allison, Chemical Control Division (TS-794), Environmental Protection Agency, Rm. E-205, 401 M St., SW., Washington, D.C. 20460, (202-382-3735).

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, anyone who intends to manufacture or import a new chemical substance for commercial purposes in the United States must submit a PMN to EPA 90 days before manufacture or import begins. Under section 5(c) EPA may, for good cause, extend the notice period for additional periods, not to exceed a total of 180 days from the date of receipt.

On April 7, 1983, EPA received PMN 83-622 from a confidential submitter for the following chemical: 1,3,6,-napthalenetrisulfonic acid, 7-[[4-[[4-[[4-[(4,8-disulfo-2-naphthalenyl]azo]-3-methylphenyl]amino]-6-[(4-sulfophenyl)amino]-1,3,5-triazine-2-yl]-amino]-2-methylphenyl]azo]-hexasodium salt. Notice of receipt was published in the **Federal Register** of April 15, 1983 (48 FR 16331). The chemical is a colorant for textile fibers.

The original review period was scheduled to expire on July 5, 1983. On July 11, 1983, EPA published a notice in the **Federal Register** (48 FR 31699) extending the review period for an additional 90 days, to October 3, 1983. On July 14, 1983, the PMN submitter voluntarily suspended the review period.

When the review period was extended, EPA had reason to believe that human exposure could result in carcinogenic effects and significant occupational exposure and possible drinking water contamination could be expected. While the period was suspended, EPA received additional data that addressed the concern. Therefore, the agency has determined that there is insufficient basis for determining that PMN 83-622 may present an unreasonable risk. EPA finds that it will not be necessary to regulate PMN 83-622 under section 5(e) of TSCA. Therefore, the Agency no longer requires the additional review time provided by section 5(c), and terminates the remaining portion of the 90-day extension.

PMN 83-622 is available for public inspection in Rm. E-107, at the EPA headquarters, address given above, from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays. The identity of the submitter has been kept confidential and has been deleted from the documents in the public record.

Dated: August 18, 1983.

Marcia E. Williams,

Acting Director, Office of Toxic Substances.

[FR Doc. 83-22869 Filed 8-29-83; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51490; TSH-FRL 2419-2]

Certain Chemicals; Premanufacture Notices

Correction

In FR Doc. 83-22820 beginning on page 37699 in the issue of Friday, August 19, 1983, make the following correction:

On page 37700, third column, "PMNB 83-1043" should read "PMN 83-1043"; seventeenth line from the top, "azol-" should read "azo]-"; and in the eighteenth line from the top, "arylhy-zino]4-" should read "arylhy-drazino]4-".

Also, the docket number should appear as above.

BILLING CODE 1505-01-M

[OPTS-59131A; TSH-FRL 2419-1]

Certain Chemicals; Approval of Test Marketing Exemption

Correction

In FR Doc. 83-22819 beginning on page 37698 in the issue of Friday, August 19, 1983, on page 37699, first column, fifth and sixth lines from the top, remove "(Insert signature date)" and insert "August 10, 1983" in lieu thereof.

BILLING CODE 1505-01-M

FEDERAL HOME LOAN BANK BOARD

[No. AC-264]

Central Savings and Loan Association, San Diego, California; Final Action; Approval of Conversion Applications

Dated: August 19, 1983.

Notice is hereby given that on July 29, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Central Savings and Loan Association, San Diego, California, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of San Francisco, 600 Stewart Street, San Francisco, California 94120.

By the Federal Home Loan Bank Board.
J. J. Finn,
Secretary.
[FR Doc. 83-23618 Filed 8-26-83; 8:45 am]
BILLING CODE 6720-01-M

[No. AC-266]

Coast Federal Savings and Loan Association, Sarasota, Florida; Final Action; Approval of Conversion Applications

Dated: August 19, 1983.

Notice is hereby given that on August 10, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Coast Federal Savings and Loan Association, Sarasota, Florida, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Atlanta, P.O. Box 56527, Peachtree Center Station, Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.
J. J. Finn,
Secretary.
[FR Doc. 83-23616 Filed 8-26-83; 8:45 am]
BILLING CODE 6720-01-M

[No. AC-267]

Firstsouth Federal Savings and Loan Association, Pine Bluff, Arkansas; Final Action; Approval of Conversion Applications

Dated: August 19, 1983.

Notice is hereby given that on July 29, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Firstsouth Federal Savings and Loan Association, Pine Bluff, Arkansas, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Little Rock, 1400 Tower Building, Little Rock, Arkansas 72201.

By the Federal Home Loan Bank Board.
J. J. Finn,
Secretary.
[FR Doc. 83-23615 Filed 8-26-83; 8:45 am]
BILLING CODE 6720-01-M

[No. AC-262]

Glendale Federal Savings and Loan Association, Glendale, California; Final Action; Approval of Conversion Applications

Dated: August 19, 1983.

Notice is hereby given that on August 8, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Glendale Federal Savings and Loan Association, Glendale, California, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of San Francisco, P.O. Box 7948, San Francisco, California 94120.

By the Federal Home Loan Bank Board.
J. J. Finn,
Secretary.
[FR Doc. 83-23620 Filed 8-26-83; 8:45 am]
BILLING CODE 6720-01-M

[No. AC-261]

Gonzales Federal Savings and Loan Association, Gonzales, Louisiana, Final Action; Approval of Conversion Applications

Dated: August 19, 1983.

Notice is hereby given that on August 10, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Gonzales Federal Savings and Loan Association, Gonzales, Louisiana, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Little Rock, 1400 Tower Building, Little Rock, Arkansas 72201.

By the Federal Home Loan Bank Board.
J. J. Finn,
Secretary.
[FR Doc. 83-23621 Filed 8-26-83; 8:45 am]
BILLING CODE 6720-01-M

[No. AC-265]

Northeast Savings, F.A., Hartford, Connecticut; Final Action; Approval of Conversion Applications

Dated: August 19, 1983.

Notice is hereby given that on August 3, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Northeast Savings, F.A., Hartford, Connecticut, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Boston, P.O. Box 2196, Boston, Massachusetts 02106.

By the Federal Home Loan Bank Board.
J. J. Finn,
Secretary.
[FR Doc. 83-23617 Filed 8-26-83; 8:45 am]
BILLING CODE 6720-01-M

[No. AC-269]

Progress Federal Savings and Loan Association, Norristown, Pennsylvania; Final Action; Approval of Conversion Applications

Dated: August 19, 1983.

Notice is hereby given that on May 31, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting purusant to the authority delegated to the General Counsel or his designee, approved the application of Progress Federal Savings and Loan Association, Norristown, Pennsylvania, for permission to convert to the stock form of organization. Copies of the applications are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Pittsburgh, Eleven Stanwix Street, Fourth Floor, Gateway Center, Pittsburgh, Pennsylvania.

By the Federal Home Loan Bank Board.
J. J. Finn,
Secretary.
[FR Doc. 83-23613 Filed 8-25-83; 8:45 am]
BILLING CODE 6720-01-M

[No. AC-268]

Savers Federal Savings and Loan Association, Little Rock, Arkansas; Final Action; Approval of Conversion Applications

Dated: August 19, 1983.

Notice is hereby given that on August 4, 1982, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Savers Federal Savings and Loan Association, Little Rock, Arkansas, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Little Rock, 1400 Tower Building, Little Rock, Arkansas 72201.

By the Federal Home Loan Bank Board.
J. J. Finn,
Secretary.
[FR Doc. 83-23614 Filed 8-26-83; 8:45 am]
BILLING CODE 6720-01-M

[No. AC-263]

Sunbelt Federal Savings and Loan Association, Watonga, Oklahoma; Final Action; Approval of Conversion Applications

Dated: August 19, 1983.

Notice is hereby given that on August 2, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Sunbelt Federal Savings and Loan Association, Watonga, Oklahoma, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Topeka, P.O. Box 176, Topeka, Kansas 66601.

By the Federal Home Loan Bank Board.
J. J. Finn,
Secretary.
[FR Doc. 83-23619 Filed 8-26-83; 8:45 am]
BILLING CODE 6720-01-M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by Bank Holding Companies; Conifer/Essex Group, Inc., et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *The Conifer/Essex Group, Inc.*, Worcester, Massachusetts; to acquire 100 percent of the voting shares or assets of both Union National Bank, Lowell, Massachusetts, and Falmouth Bank and Trust Company, Falmouth, Massachusetts. Comments on this application must be received not later than September 23, 1983.

B. *Federal Reserve Bank of St. Louis* (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Delta Bancshares Company*, St. Louis, Missouri; to acquire 45.25 percent of the voting shares or assets of Eureka Bank, Eureka, Missouri. Comments on this application must be received not later than September 23, 1983.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *American National Bancorp, Inc.*, Lawton, Oklahoma; to acquire 100 percent of the voting shares of Sheridan Bank and Trust Company, Lawton, Oklahoma. Comments on this application must be received not later than September 23, 1983.

2. *The American Company*, Lawton, Oklahoma; to acquire 67,500 shares of $10.00 par value nonvoting noncumulative 10 percent preferred stock of American National Bancorp, Inc., Lawton, Oklahoma. Comments on this application must be received not later than September 23, 1983.

Board of Governors of the Federal Reserve System, August 23, 1983.
James McAfee,
Associate Secretary of the Board.
[FR Doc. 83-23543 Filed 8-26-83; 8:45 am]
BILLING CODE 6210-01-M

Formation of Bank Holding Companies; Financial Management Bancshares of West Virgina, Inc., et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Financial Management Bancshares of West Virginia, Inc.*; to become a bank holding company by acquiring 100 percent of the voting shares of Farmers' and Merchants' Bank, Morgantown, West Virginia, and F & M Bank of Suncrest, Inc., Morgantown, West Virginia. Comments on this application must be received not later than September 13, 1983.

B. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *First Montgomery Bancorp. Inc.*, Litchfield, Illinois; to become a bank holding company by acquiring 95.93 percent of the voting shares of First

National Bank of Litchfield, Litchfield, Illinois. Comments on this application must be received not later than September 21, 1983.

Board of Governors of the Federal Reserve System, August 22, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-23547 Filed 8-28-83; 8:45 am]

BILLING CODE 6210-01-M

Acquisition of Bank Shares by Bank Holding Companies; First Citizens Bancorporation of South Carolina et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act 12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostain, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *First Citizens Bancorporation of South Carolina,* Columbia, South Carolina; to acquire at least 40 percent of the voting shares or assets of Rock Hill National Bank, Rock Hill, South Carolina. Comments on this application must be received not later than September 21, 1983.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *American Banks of Florida, Inc.,* Jacksonville, Florida; to acquire 100 percent of the voting shares or assets of Flagship National Bank of Alachua County, Gainesville, Florida. Comments on this application must be received not later than September 21, 1983.

Board of Governors of the Federal Reserve System, August 22, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 23548 Filed 8-28-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies; Hudson Bancshares, Inc., et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Hudson Bancshares, Inc.,* Hudson, Iowa; to become a bank holding company by acquiring 58.9 percent of the voting shares of Hudson State Bank, Hudson, Iowa. Comments on this application must be received not later than September 21, 1983.

2. *Wainwright Financial Corporation,* Noblesville, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to Wainwright Bank and Trust Company, Noblesville, Indiana. Comments on this application must be received not later than September 23, 1983.

B. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *First Illinois Bancorp Inc.,* Manchester, Missouri; to become a bank holding company by acquiring at least 80 percent of the voting shares of First National Bank in Chester, Chester, Illinois. Comments on this application must be received not later than September 23, 1983.

C. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Pecos County Bancshares, Inc.,* Fort Stockton, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of The Pecos County State Bank, Fort Stockton, Texas. Comments on this application must be received not later than September 23, 1983.

Board of Governors of the Federal Reserve System, August 23, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-23541 Filed 8-28-83; 8:45 am]

BILLING CODE 6210-01-M

Proposed Arranging of Equity Financing; Southeast Banking Corporation

Southeast Banking Corporation, Miami, Florida, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and §225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to engage through its subsidiary, Southeast Mortgage Company, Miami, Florida, in the activity of arranging equity financing for income-producing real property with institutional and sophisticated individual investors.

These activities would be performed from offices of Applicant's subsidiary in Miami, Florida; Fort Lauderdale, Florida; Maitland, Florida; Tampa, Florida; Atlanta, Georgia; and Houston, Texas, and the geographic area to be served is the southeastern United States, including Texas, Louisiana, Mississippi, Alabama, Georgia, Florida, Tennessee, North Carolina and South Carolina. Although arranging equity financing has not been added to the list of permissible activities specified by the Board in §225.4(a) of Regulation Y, the Board has determined by order that this activity is closely related to banking. *E.g., Trust Company of Georgia,* 69 *Federal Reserve Bulletin* 225 (1983).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking pratices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation

would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta.

Any views or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C., not later than September 22, 1983.

Board of Governors of the Federal Reserve System, August 23, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-23542 Filed 8-26-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities; Old Stone Corp. et al.

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR § 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activites indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. Federal Reserve Bank of Minneapolis (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Norwest Corporation, Minneapolis,* Minnesota (financing, insurance and travelers checks activities; South Dakota): To engage *de novo* through its subsidiary, Norwest Financial South Dakota, Inc., in the activities of consumer finance, sales finance and commercial finance, the offering for sale and selling of travelers checks, the sale of credit life, credit accident and health and property and credit-related casualty insurance related to extensions of credit by that company and through its subsidiary, Centurion Life Insurance Company, in the activities of underwriting credit life and accident and health insurance related to extensions of credit by Norwest Financial South Dakota, Inc. (such underwriting and sale of credit-related insurance being permissible activities under Subparagraphs A and D of Title VI of the Garn-St Germain Depository Institutions Act of 1982). These activities will be conducted from an office in Sioux Falls, South Dakota serving Sioux Falls, South Dakota and nearby communities. Comments on this application must be received not later than September 21, 1983.

B. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *BankAmerica Corporation,* San Francisco, California (financing, servicing, and insurance activities; expansion of geographic scope; Kentucky and Indiana): To continue to engage, through its two indirect subsidiaries, FinanceAmerica Corporation and FinanceAmerica Loan and Investment Company, both Kentucky corporations, in the activities of making or acquiring for their own account loans and other extensions of credit such as would be made or acquired by a finance company; servicing loans and other extensions of credit; and offering credit-related life insurance and credit-related accident and health insurance. The aforementioned types of credit-related insurance are permissible under Section 4(c)(8)(A) of the Bank Holding Company Act of 1956, as amended by the Garn-St Germain Depository Institutions Act of 1982. Such activities will include, but not be limited to, making loans and other extensions of credit to businesses, making loans secured by real and personal property, purchasing installment sales finance contracts, and offering credit-related life and credit-related accident and health insurance directly related to extensions of credit made or acquired by both corporations. Credit-related life and credit-related accident and health insurance may be reinsured by BA Insurance Company, Inc., an affiliate of both corporations. These activities will be conducted from an existing office located in Louisville, Kentucky; both corporations will serve the entire states of Kentucky and Indiana. Comments on this application must be received not later than September 23, 1983.

Board of Governors of the Federal Reserve System, August 23, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-23541 Filed 8-26-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities; Northwest Corp. et al.

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal

Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Old Stone Corporation,* Providence, Rhode Island (loan and investment banking; Rhode Island): To engage, through its subsidiary, Guild Loan & Investment Company, in operating a loan and investment bank as authorized by Rhode Island law, including the acceptance of time and savings deposits but excluding the acceptance of demand deposits, NOW accounts, or other transactional deposits. This activity would be conducted from a proposed new office located in Warwick, Rhode Island, serving primarily the cities and towns of Warwick, West Warwick, Cranston and East Greenwich, and Washington County all in Rhode Island. Comments on this application must be received not later than September 19, 1983.

B. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Schroders PLC; Schroder International Limited* and *Schroder International Holdings Limited,* London, England (investment advising; New York, California): Through their existing subsidiary, Jutland Limited, whose name is to be changed to Schroder Venture Managers Limited, of Hamilton, Bermuda, to establish one *de novo* office in New York, New York and one in the Palo Alto, California area to act as an investment adviser to provide portfolio investment advise to Schroder Venture Trust, a Cayman Islands exempted trust. Comments on this application must be received not later than September 16, 1983.

C. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Corestates Financial Corp,* Philadelphia, Pennsylvania (mortgage and construction lending, *de novo* offices; Missouri and Massachusetts): To engage, through its indirect subsidiary, Colonial Associates, Inc., San Diego, California, in the origination of FHA insured project mortgage loans and conventional income property construction and permanent mortgage loans at proposed new office located in St. Louis, Missouri and Gloucester, Massachusetts. The foregoing activities will be conducted by Colonial Associates, Inc. in all states of the United States from and through the proposed *de novo* offices. Comments on this application must be received not later than September 16, 1983.

D. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Mellon National Corporation,* Pittsburgh, Pennsylvania (mortgage banking, servicing and insurance activities; Louisiana): To engage, through its subsidiary, Carruth Mortgage Corporation, in the general activities of a mortgage banking company, including the origination, sale and servicing of mortgage loans, which encompasses the origination of one-to-four family residential mortage loans, residential and commercial construction loans, and multifamily residential and non-residential mortgage loans; the sale and servicing of such loans for institutional investors; and the sale of credit-related insurance including credit-accident and health, credit-life, and property and credit-related casualty insurance related to extension of credit (such sale of credit-related insurance being a permissible activity under subparagraphs A and D of Title VI of the Garn-St Germain Depository Institutions Act of 1982). These activities would be conducted from an office in Alexandria, Louisiana, serving central Louisiana. Comments on this application must be received not later than September 15, 1983.

E. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Beacon Financial Corporation, Inc.,* Jupiter, Florida (leasing activities; Florida): To engage through its subsidiary, Beacon Leasing Corporation, in the origination and purchase of lease contracts for equipment, machinery, furnishings, and other personal property to corporations, professional associates, partnerships and other business entities. No personal or consumer leasing contracts will be made. These activities will be conducted from an office in Jupiter, Florida serving the State of Louisiana. Comments on this application must be received not later than September 16, 1983.

2. *Florida Park Banks, Inc.,* St. Petersburg, Florida (investment advisory activities; Florida): To engage, through its subsidiary, Park Capital Management, Inc., in acting as an investment or financial advisor to the extent of providing portfolio investment advice to any person; furnishing general economic statistical forecasting services and industry statistics, and serving as the advisory company for a mortgage or real estate investment trust; serving as an investment advisor, as defined in Section 2(a)(20) of the Investment Company Act of 1940, to an investment company registered under that Act; and providing financial advice to State and local governments, such as with respect to the issuance of their securities. These activities would be conducted from an office in St. Petersburg, Florida, serving the State of Florida. Comments on this application must be received not later than September 21, 1983.

F. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Shell Rock Bancorporation,* Shell Rock, Iowa (insurance activities; Iowa): To engage in the sale of general insurance, including credit life, hail, property, casualty and life insurance in a town with a population not exceeding 5,000. These activities would be performed in the City of Shell Rock, Iowa, and the surrounding area. The aforementioned insurance activities are permissible under section 4(c)(8)(c) of the Bank Holding Company Act, as amended. Comments on this application must be received not later than September 12, 1983.

2. *The Indiana National Corporation,* Indianapolis, Indiana, (mortgage lending and servicing, real property leasing, real estate appraising, managment consulting and credit insurance; Indiana, Ohio, Kentucky): To engage through its subsidiary, Indiana Mortgage Corporation, in making and acquiring, for its own account or for the account of others, loans and other extensions of credit; servicing loans and other extensions of credit for any person; leasing real property or acting as agent, broker or advisor in leasing such property; performing appraisals of real estate; providing management consulting advice to nonaffiliated bank and nonbank depository institutions, and acting as insurance agent or broker with respect to credit life and accident and health insurance directly related to extensions or credit by Applicant or its subsidiaries. These activities will be conducted from offices in Indianapolis, Indiana, and Cincinnati, Ohio, and will serve the States of Indiana, Ohio, and Kentucky. Comments on this application must be received not later than September 12, 1983.

3. *Tuscola Bancorp, Inc.,* Springfield, Illinois (insurance activities; Illinois): To engage in the sale of credit life and credit accident and health insurance authorized under Title VI of the Garn-St Germain Depository Institutions Act of 1982, from an office located in Tuscola, Illinois, serving Douglas County, Illinois. Comments on this application must be

received not later than September 15, 1983.

G. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Ruston Bancshares, Inc.*, Ruston, Louisiana (mortgage lending and servicing activities; Louisiana): To engage, through its subsidiary, Access Mortgage Lending, Inc., in first and second mortgage lending, servicing of the same, and secondary market activity in accordance with the Board's Regulation Y. These activities will be performed from an office in Ruston, Louisiana, serving the State of Louisiana. Comments on this application must be received not later than Septemer 16, 1983.

H. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *BankAmerica Corporation*, San Francisco, California (financing, servicing, and insurance activities; expansion of geographic scope; Pennsylvania): To continue to engage, through its indirect subsidiary, FinanceAmerica Consumer Discount Company, a Pennsylvania corporation, in the activities of making or acquiring for its own account loans and other extensions of credit such as would be made or acquired by a finance company; servicing loans and other extensions of credit; and offering credit-related life insurance, credit-related accident and health insurance and credit-related property insurance. The aforementioned types of credit-related insurance are permissible under Section 4(c)(8)(D) of the Bank Holding Company Act of 1956, as amended by the Garn-St Germain Depository Institutions Act of 1982 and Section 2 of the Pennsylvania Act of the General Assembly 1974 (Pub. L. 1148, No. 365, (40 P.S. 281)). Such activities will include, but not be limited to, making consumer installment loans, purchasing installment sales finance contracts, making loans and other extensions of credit to businesses, making loans and other extensions of credit secured by real and personal property, and offering credit-related life, credit-related accident and health and credit-related property insurance directly related to extensions of credit made or acquired by FinanceAmerica Consumer Discount Company. Credit-related life and credit-related accident and health insurance may be reinsured by BA Insurance Company, Inc., an affiliate of FinanceAmerica Consumer Discount Company. These activities will be conducted from three existing offices located in Bethlehem, Monroeville, and Scranton, Pennsylvania; each office will serve the entire State of Pennsylvania. Comments on this application must be received not later than September 22, 1983.

2. *Security Pacific Corporation*, Los Angeles, California (finance and credit-related insurance activities; Missouri): To engage through its subsidiary, Security Pacific Finance Corp, in making or acquiring, for its own account or for others, loans and extensions of credit, including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small businesses and other extensions of credit such as would be made by a factoring company or consumer finance company, and acting as broker or agent for the sale of credit life, accident and health and credit property insurance, such insurance activities being permitted pursuant to Section 601 (A) and (D) of Title VI of the Garn-St Germain Act. These activities would be conducted from an office of Security Pacific Finance Corp. located in St. Charles, Missouri, serving the State of Missouri. Comments on this application must be received not later than September 19, 1983.

Board of Governors of the Federal Reserve System, August 22, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-23540 Filed 8-26-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 83M-0243]

Upjohn Co.; Medical Services; Premarket Approval of Gelfoam® Sterile Sponge, Gelfoam Sterile Compressed Sponge, Gelfoam® Sterile Dental Packs, and Gelfoam® Sterile Prostatectomy Cone

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application for premarket approval under the Medical Device Amendments of 1976 of Gelfoam® Sterile Sponge, Gelfoam® Sterile Compressed Sponge, Gelfoam® Sterile Dental Packs, and Gelfoam® Sterile Prostatectomy Cone, sponsored by the Upjohn Co., Kalamazoo, MI 49001. After reviewing the recommendation of the General and Plastic Surgery Device Section of the Surgical and Rehabilitation Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by September 28, 1983.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles H. Kyper, National Center for Devices and Radiological Health (HFK-402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7445.

SUPPLEMENTARY INFORMATION: On February 22, 1979, the Upjohn Co., Kalamazoo, MI 49001, submitted to FDA an application for premarket approval of Gelfoam® Sterile Sponge, Gelfoam® Sterile Compressed Sponge, Gelfoam® Sterile Dental Pack, and Gelfoam® Sterile Prostatectomy Cone. The application was reviewed by the General and Plastic Surgery Device Section of the Surgical and Rehabilitation Devices Panel, an FDA advisory committee, which recommended approval of the application for the use of the device in surgical procedures as an adjunct to hemostasis when control of bleeding by ligature or conventional procedures is ineffective or impractical. On July 8, 1983, FDA approved the application by a letter to the sponsor from the Associate Director for Device Evaluation of the Office of Medical Devices.

Before enactment of the Medical Device Amendments of 1976 (the amendments) (Pub. L. 94-295, 90 Stat. 539-583), absorbable hemostatic agents were considered to be new drugs. Because the amendments broadened the definition of the term "device" in section 201(h) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(h)), absorbable hemostatic agents (including absorbable gelatin sponges) are now regulated as class III devices (premarket approval). As FDA explained in a notice published in the **Federal Register** of December 16, 1977 (42 FR 63472), the amendments provide transitional provisions to ensure the continuation of premarket approval requirements for class III devices formerly considered to be new drugs. Furthermore, FDA requires, as a condition to approval, that sponsors of applications for premarket

approval of such devices comply with the records and reports provisions of Subpart D of Part 310 (21 CFR Part 310) until these provisions are replaced by similar requirements under the amendments.

A summary of the safety and effectiveness data on which FDA's approval is based is on file in the Dockets Management Branch (address above) and is available upon request from that office. A copy of all approved final labeling is available for public inspection at the office of Medical Devices—contact Charles H. Kyper (HFK–402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition under section 515(g) of the act (21 U.S.C. 360e(g)) for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and of FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants, the petition, the notice will state the issue to be reviewed, the form of review to be used, the person who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before September 28, 1983, filed with the Dockets Management Branch (address above), two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday though Friday.

Dated: August 23,1983.

William R. Cleek,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83–23553 Filed 8–26–83; 8:45 am]

BILLING CODE 4160–01–M

Health Care Financing Administration

Utilization and Quality Control Peer Review Program; Solicitation of Comments on Proposed PRO Program Scope of Work

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice.

SUMMARY: This notice does not constitute a request for proposal (RFP). The purpose of this notice is to solicit comments on the Scope of Work prepared as part of the RFP for Utilization and Quality Control Peer Review Organization (PRO) beginning in the third quarter of fiscal year 1984.

COMMENT DATE: To assure consideration, written comments must be received by October 11, 1983.

ADDRESS: Address request for copies of the Scope of Work as well as comments on the Scope of Work to: Health Care Financing Administration, DHHS, Attention: Allan Lazar, Director, Office of Professional Standards Review Organizations, Health Standards and Quality Bureau, 1849 Gwynn Oak Avenue, Baltimore, Maryland 21207.

FOR FURTHER INFORMATION CONTACT: Allan Lazar, (301) 594–1432.

SUPPLEMENTARY INFORMATION: The Peer Review Improvement Act of 1982 (Title I, Subtitle C of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97–248) (Act) repealed the Professional Standards Review Organization (PSRO) program and replaced it with the Utilization and Quality Control Peer Review Program, commonly referred to as the PRO Program. The Act requires the Secretary to enter into contracts with private Peer Review Organizations (PROs) for the review of the quality, necessity, and appropriateness of health care services furnished under Medicare.

As part of this contracting process we are preparing a Request for Proposals (RFP) which includes a description of the Scope of Work to be performed by PROs. We are requesting comments on the preliminary version of the Scope of Work portion of the RFP. Requests for copies of the Scope of Work and comments on the Scope of Work should be mailed to the address shown above.

All written comments received by the Health Care Financing Administration will be considered, but the Federal government is not obligated to incorporate particular comments into the scope of work which will be included in the RFP. The final version of the RFP is the responsibility of the Federal government.

We intend to solicit proposals from interested organizations beginning in the second quarter of fiscal year 1984. Contracts will be awarded to PROs beginning in the third quarter of fiscal year 1984.

(Section 1153(b) of the Social Security Act (42 U.S.C. 1320c–2(b)))

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance).

Dated: August 22, 1983.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

[FR Doc. 83–23522 Filed 8–25–83; 8:45 am]

BILLING CODE 4120–03–M

Office of Human Development Services

Child Abuse and Neglect Prevention and Treatment Grants Priorities; Fiscal Year 1984

AGENCY: Office of Human Development Services, HHS.

ACTION: Notice of proposed fiscal year 1984 child abuse and neglect research and demonstration activities to be considered for support as a part of the coordinated discretionary program of the Office of Human Development Services (OHDS).

SUMMARY: This notice states proposed priorities for research and demonstration programs related to the prevention and treatment of child abuse and neglect. These priority areas are being considered for inclusion in the OHDS coordinated discretionary program for fiscal year 1984. Final child abuse and neglect priorities will be announced as a part of the OHDS coordinated research and demonstration program and will be carried out by the National Center on Child Abuse and Neglect, an OHDS program unit located in the Children's Bureau, Administration for Children, Youth and Families.

Federal grants and contracts to support projects which address child abuse and neglect issues are presently authorized by the Child Abuse Prevention and Treatment Act (Pub L. 93–247, as amended). That Act provides for publication of priorities under consideration for research and demonstration for the purpose of soliciting comments from individuals

knowledgeable in the field of the prevention and treatment of child abuse and neglect. Final priorities will incorporate and reflect the expertise and recommendations received from the field in response to this notice.

DATE: In order to be considered, comments must be received no later than October 28, 1983. OHDS invites comments on these priorities or suggestions for other priorities. No proposals, concept papers or other forms of application should be submitted at this time.

ADDRESS: Comments should be sent to: Commissioner, Administration for Children, Youth and Families, Attn: Child Abuse and Neglect, P.O. Box 1182, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: National Center on Child Abuse and Neglect, Children's Bureau, P.O. Box 1182, Washington, D.C. 20013 (202–245–2859).

SUPPLEMENTARY INFORMATION: The National Center on Child Abuse and Neglect (NCCAN) is part of the Children's Bureau in the Administration for Children, Youth and Families, OHDS. NCCAN conducts activities designed to assist and enhance national, State and community efforts to prevent, identify and treat child abuse and neglect. These activities include: conducting research and demonstrations; supporting service improvement projects; gathering, analyzing and disseminating information through a national clearinghouse; providing grants to eligible States for strengthening and improving their child protective programs; and coordinating Federal activities related to child abuse and neglect through the Advisory Board on Child abuse and Neglect. Thus, there are activities other than the research and demonstration priorities proposed in this notice which require staff and financial support by NCCAN.

In fiscal year 1984, OHDS intends through NCCAN to continue to support: service improvement through Parents Anonymous; a national information clearinghouse on child abuse and neglect; and technical assistance to States for collecting, analyzing and using data from official reports of child abuse and neglect. Continued support will also be provided for preparation and dissemination of relevant reports and manuals based on the findings of completed research and demonstration projects and the development of materials suitable for children and young adults to help them prevent and reduce the effects of child abuse and neglect.

This statement describes areas under consideration for initiation of new research and demonstration activities in fiscal year 1984. OHDS solicits specific comments and suggestions concerning each of the priorities described below. *No proposals, concept papers or other forms of application should be submitted at this time.* Any such submissions will be discarded. In order to maintain a procedure fair to everyone, concept papers or preapplications will be accepted only in response to the final OHDS Coordinated Research and Demonstration Program Announcement to be published in the Federal Register at a later date.

No acknowledgements will be made of the comments received in response to this notice, but all comments will be considered in preparing the final funding priorities for child abuse and neglect research and demonstration activities for fiscal year 1984. In addition, all persons who comment on these proposed priorities will be sent the final OHDS program announcement. OHDS anticipates that the program announcement for the coordinated research and demonstration program will be published in the fall of 1983.

Proposed Child Abuse and Neglect Research and Demonstration Priorities for Fiscal Year 1984

OHDS is considering the following research and demonstration priorities for fiscal year 1984:

1. Development of Procedures for Ensuring Protection for Handicapped Infants (Infant Doe). States have had to deal with instances of medical, nutritional and social service neglect of impaired infants. The development of model(s) procedures to ensure appropriate child protective action for national dissemination has been identified as an important area. This developmental phase should be followed by a replication in every State to tailor the model(s) as appropriated and to adopt it.

2. Managing Cases of Child Neglect in Public Child Protective Services Agencies. Sixty-one percent of all substantiated cases of child maltreatment are cases of child neglect. Approximately 24 percent of reports result in a child being placed in out-of-home care. This category of reports therefore initiates a prolonged stay in the child welfare system for many children. The development of model programs, training guidelines for paraprofessional and volunteer participants and increased understanding of the dynamics of child protective service intervention in cases of child neglect are the desired results of these efforts and the reunification of children to their families the ultimate outcome.

3. Investigation of the Relationship between Reports of Child Maltreatment and Changes in Economic Indicators. Determining the relationships between child abuse and neglect as reflected in official reports to child protective services and economic changes is important in view of recent concern that increases in the number and severity of child maltreatment reports have coincided with rapid economic change. Research on this subject is limited, fraught with methodological problems and inconclusive. Related research suggests an association between economic change and a variety of social pathologies. An investigation of this issue will extend our understanding of the factors affecting the volume of child maltreatment reports and allowing for better management of resources to handle such cases.

4. Development and Demonstration of A Remedial/Preventive Curriculum for maltreated Adolescents. Most preventive programs aimed at reducing the incidence of child abuse and neglect have focused on parent education, perinatal supports and information and referral for families in stress. To date, there has been little attention given to adolescence as a life stage and maltreated adolescents as a vulnerable, at-risk population appropriate to receive preventive programs. Yet, if maltreated children are particularly at risk of becoming maltreating parents, then preventive interventions aimed at breaking the cycle of abuse and neglect at the adolescent stage may be effective. One Attempt to serve this population is a program focused on prevention, such as the Parents Anonymous teenage groups recently organized in a number of States. There is a need for the development of educational and groups process materials, such as R. E. Helfer's "Crash Course in Childhood for Adults," for use with groups of adolescents who have experienced abusive or neglectful childhoods.

5. Research on Emotional Maltreatment. Emotional maltreatment (or mental injury, or psychological abuse) is a form of child abuse and neglect which remains most difficult to define, identify, investigate, adjudicate or treat. The protective and treatment issues often require intense involvement and a high level of therapeutic skill on the part of service providers; though little programmatic guidance has been developed as training for those providers to cope with this form of child abuse and neglect. Development of

exact operational definitions to improve identification, investigation, and adjudication; clinical diagnostic information to assist in treatment, and guidelines for protective services to decide issues of in-home versus foster care placement are needed.

6. Building Capacity and Resources in Minority Communities To Prevent Child Abuse and Neglect. Minority families are over represented in child abuse and neglect statistics. However, researchers are not agreed as to whether a disproportionate amount of maltreatment occurs in minority communities, whether minority families are selectively referred for child abuse and neglect or whether the high incidence of poverty in minority communities accounts for the over representation. Models are needed to provide support to minority families, thus making referrals to child protective services agencies unnecessary, and to determine the appropriate quantity, quality, mix and service delivery modes requested by at-risk families. This effort will promote the cooperation and understanding between child protective services agencies and the culturally diverse communities they serve.

7. Improving Justice System Procedures for Handling Reported Cases of Intrafamily Child Sexual Abuse and Sexual Exploitation of Children. Increases in reported cases of child sexual mistreatment are a national concern. State legislatures and the Congress have given special attention to the problem by enacting laws which amend both the child abuse reporting laws and the criminal code. All States now define sexual abuse as a reportable act under child abuse and neglect reporting laws. In addition, it is a crime in all States. A growing number of States now include sexual exploitation as a reportable act and within the next two years the few remaining States that do not have such a provision are expected to include it in their laws, since continued funding under the Child Abuse and Neglect State grant program will be contingent upon the inclusion of sexual exploitation in statutory language by 1985. Despite the increased legislative activity resulting in new laws, there has not been significant progress in the development of a systematic, sensitive approach to handling such cases from the point of entry in the justice system to disposition. Significant problems exist in the following areas: confusion of roles and responsibilities in the overall child protective system, including law enforcement and the courts; increased trauma to the child and family; absence or inconsistency of legal representation for the child; confusion in procedures when there is a companion case in the criminal court; and little attention to protecting the child victim who is called to testify in court.

8. Prevention of Child Abuse and Neglect through Public School Programs. School systems, in coordination with child protective service agencies, can serve a unique function in the prevention of child abuse and neglect because of the access they have to large numbers of children. Their presence in every community of the nation and their high visibility give them a special capacity to coordinate with other community resources to see that vulnerable children are recognized and receive necessary services. Program components addressing prevention of child maltreatment and assistance to at-risk children in their enrollment populations can be implemented. Prevention here can include a range of primary, secondary and/or tertiary (that is preventing reoccurrence) approaches. Examples of school system prevention programs could include (but not be limited to): Training for school administrators, teachers and support staff in recognizing stressed children and providing appropriate recreational, educational, remedial or referral assistance to them; development of after school programs for children at risk of child neglect; use of volunteers to assist school counselors and/or school social services to provide outreach to families with problems affecting the welfare of their children; coordination with local Parents Anonymous programs to provide parent education and children-serving-children groups; and improved coordination for purposes of making appropriate child abuse and neglect reports to and getting adequate feedback from child protective service agencies.

9. Demonstrations of Alternatives to Juvenile Court Proceedings in Cases of Child Abuse and Neglect. A number of child abuse and neglect cases now litigated in juvenile or family courts could be handled in a nonjudicial manner. The litigation of child abuse and neglect cases often results in adversarial proceedings that make parental cooperation and participation difficult. This in turn increases the possibility of institutional child placement. Further, there is recognition in the legal and judicial community that there is a trend to over-use litigation for the resolution of disputes or conflict. The trend needs to be halted and attention focused on alternate measures of conflict resolution. The use of alternatives to litigation for cases of abused and neglected children including: (a) screening and referral to community agencies for needed services of cases; (b) mediation; or (c) lay hearing panels, needs to be demonstrated and models developed for replication.

10. A Study of Nonprofessional Sources of Child Abuse and Neglect Reports. While most States do not require nonprofessional sources to report suspected child abuse and neglect, in fact 45% to 50% or referrals to CPS agencies are made by such sources. No other category of source approaches that large a percent of the total allegations of child maltreatment processed by CPS agencies. At the same time, these nonprofessional sources have a much lower substantiation rate than do the professional sources. Consequently, an inordinate amount of CPS time and resources is spent on processing cases which are not substantiated. A systematic study of nonprofessional sources of CAN reports in an attempt to discover the reasons for the relatively low substantiation rates for these sources is needed.

11. Collaborative Approaches to Addressing Needs of Preschool Handicapped Abused and Neglected Children. There is evidence that there is a higher incidence of abuse and neglect in children with handicapping or disabling conditions. The major difficulty experienced by Child Protective Service (CPS) workers appears to be the identification and selection of specific service providers to treat the children and the establishment of an effective client and service provider feedback mechanism. Information about how to work with a consortium of programs and providers at the community level (CPS, Headstart, public school systems, regional mental health centers, medical facilities and group or individual practitioners) to implement an integrated referral and monitoring system for abused and neglected children with handicapping or disabling conditions is needed.

12. Perinatal Prevention for Adolescent Parents through Public School Systems. While a number of urban hospital-based perinatal projects have been tested, little is known about how to use the school system as a potential for support and prevention of child maltreatment by adolescent mothers. What is known is that the school system appears to be a medium through which these young mothers can be reached, in coordination with public health departments. What is needed is information on cost-effective, urban and rural approaches to prevention of child

abuse and neglect, using the school system as the means of access to a population of adolescent mothers.

13. Demonstration of the Role of Retired Persons and the Elderly in Prevention and Treatment of Child Abuse and Neglect. Current demographic trends show an increasing population of older people. This group represents a potential source of support and nurturance for children who have been maltreated and for critical roles in programs directed at prevention of maltreatment. The Foster Grandparent program represents but one model. It is important to determine how the cadres of available and willing elderly can be most effectively used in a variety of roles: as tutors, friendly visitors, parent surrogates for maltreating parents, homemakers, social service aides, drivers, etc.

14. Service Improvement of Community-Based Prevention and Treatment of Child Abuse and Neglect. Evidence has shown that there are practices and procedures with demonstrated effectiveness that require appropriate implementation throughout the child protective service system nationwide. Practices including perinatal prevention services, parent education and peer support groups, home visitor and parent aide, multidisciplinary resource team consultation for difficult cases, and tracking systems for use with children in emergency care are examples of practices and procedures that need to be incorporated into ongoing child protective systems.

15. An Investigation of Children Referred to Child Protective Service Agencies for Reason of Lack of Supervision. Lack of supervision, a sub-category of neglect, is the largest single category of substantiated child maltreatment. It accounted for 21 percent of all substantiated child maltreatment in 1980. The field has not examined the range of reasons why children have been left unattended by their caretakers, nor has it addressed the issue of whether child protective service agencies should have the dominant role in addressing the problem. While a number of day care needs assessments have been conducted, these have only tangentially addressed the issue of being left alone. A systematic investigation of the characteristics and attitudes of parents reported for leaving children unsupervised and the child protective service agency's response to such reports is needed.

Major efforts have been undertaken in the last several years to deal with the problem of maltreatment of children in out-of-home placements including the development of training curricula for direct care workers, guides for evaluation of residential facilities and programs for children, a children's "Bill of Rights," a worker's "Bill of Rights," a training program and guidelines for citizen review of residential programs for children, a crisis intervention curriculum, an institutional assessment methodology, a curriculum for training of investigators, a handbook for residential child care facilities on "Sexually Abused Children: Prevention, Protection and Care," and a draft institutional child abuse statute. Further efforts have resulted in studies of administrative practices of care providers, their willingness to report abuse of children in out-of-home care, the development of a Statewide ombudsman concept of working with residential programs, and a screening program for hiring of direct care workers and supervisors which can indicate potential for success when working in the "care" environment. In fiscal year 1984, we are proposing to supplement grants directly to States to adapt and implement strategies to address the problems of child maltreatment in residential programs and out-of-home care.

(Catalog of Federal Domestic Assistance Program Number: 13.628, Child Development—Child Abuse and Neglect Prevention and Treatment)

Dated: August 12, 1983.

Lucy C. Biggs,

Acting Commissioner, Administration for Children, Youth and Families.

Dated: August 23, 1983.

Dorcas R. Hardy,

Assistant Secretary for Human Development Services.

[FR Doc. 83-23587 Filed 8-26-83; 8:45 am]
BILLING CODE 4130-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Intent To Prepare Environmental Impact Statement on Proposed Lease of Papago Indian Community Lands (San Xavier District) Facilitating Development of San Xavier Planned Community Along Interstate 19, Pima County, Arizona

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Intent to prepare an environmental impact statement.

SUMMARY: This notice advises the public that the Bureau intends to gather information necessary for the preparation of an Environmental Impact Statement (EIS) for the lease of approximately 18,000 acres located along Interstate 19 on Papago Indian Community lands, Pima County, Arizona. The lease will facilitate the development of the San Xavier Planned Community, which could potentially contain 110,000 residents.

Public meetings regarding this proposal and preparation of this EIS will also be held. This notice is being furnished as required by the National Environmental Policy Act (NEPA) Regulations (40 CFR 1501.7) to obtain suggestions and information from other agencies and the public on the scope of issues to be addressed in the EIS. Comments and participation in this scoping process are solicited.

The public meetings will be held on September 29 and October 6, 1983 at the San Xavier District Office, located on San Xavier Road immediately west of the San Xavier Mission; and the Federal Office Building, Conference Room 4–B, 301 W. Congress, Tucson, Arizona 85701, respectively.

FOR FURTHER INFORMATION CONTACT: Robert H. Berger, Environmental Protection Specialist, Bureau of Indian Affairs, P.O. Box 7007, Phoenix, Arizona 85011, telephone (606) 241–2275.

SUPPLEMENTARY INFORMATION: The EIS will evaluate the impacts associated with the potential development facilitated by the lease of approximately 18,000 acres located south of the City of Tucson. The lease area is located on the Papago Indian Community (San Xavier District), approximately 2.5 miles southwest of the Tucson International Airport. The proposed action includes the lease of approximately 18,000 acres which is proposed to be developed as a planned community composed of residential, commercial, industrial, recreational, open space, service uses, and related infrastructure. Alternatives to be considered are not established at this time. Scoping meetings to identify issues and clarify alternatives to be evaluated in the EIS will be held at the San Xavier District Office, located on San Xavier Road immediately west of the San Xavier Mission at 7:30 p.m. on September 29, 1983; and at the Federal Office Building, 301 W. Congress,Tucson, Arizona 85701 in Conference Room 4–B at 2:00 p.m. on October 6, 1983. Significant issues to be covered during the scoping process include cultural resource investigation, paleontological resources, future land use and circulation, socio-economic changes to the area, air quality, and water quality.

The environmental review of this project will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4371 et seq.), Council on Environmental Quality Regulations (40 CFR Parts 1500–1508), and Department of the Interior procedures (516 DM 1–6) for compliance with those regulations.

We estimate the Draft EIS will be available for public review in approximately six months.

This notice is published in excercise of authority delegated by the Secretary of the Interior to the Assistant Secretary-Indian Affairs by 209 DM 8.

Dated: August 23, 1983.

John W. Fritz,

Deputy Assistant Secretary-Indian Affairs (Operations).

[FR Doc. 83-23505 Filed 8-30-83; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[AA-6698-E]

Alaska Native Claims Selection; Salamatof Native Association, Inc.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14 of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (1976) (ANCSA)), will be issued to Salamatof Native Association, Inc., for approximately 1,545 acres. The lands involved are within the Seward Meridian, Alaska:

T. 4 N., R. 9 W.;
T. 4 N., R. 10 W.;
T. 6 N., R. 10 W.; and
T. 6 N., R. 11 W.

The decision to issue conveyance will be published once a week, for four (4) consecutive weeks, in the Anchorage Daily News upon issuance of the decision. For information on how to obtain copies, contact Bureau of Land Management, Alaska State Office, Division of Conveyance Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal Government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E, as revised.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of Conveyance Management (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of the decision by personal service or certified mail, return receipt requested, shall have thirty days from the receipt of the decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt, and parties who received a copy of the decision by regular mail which is not certified, return receipt requested, shall have until September 28, 1983, to file an appeal.

Any party known or unknown who is adversely affected by the decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of Conveyance Management.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Salamatof Native Association, Inc., P.O. Box 2682, Kenai, Alaska 99611
Cook Inlet Region, Inc., P.O. Drawer 4–N, Anchorage, Alaska 99509
State of Alaska, Title Administration, Division of Technical Services, Alaska Department of Natural Resources, Pouch 10–7035, Anchorage, Alaska 99510

Doris Diakokis,

Acting Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 83-23578 Filed 8-26-83; 8:45 am]

BILLING CODE 4310-84-M

Prineville District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Pub. L. 92–463 of a meeting of the Prineville District Grazing Advisory Board to be held September 27, 1983.

The meeting will take place at 10:00 A.M. in the conference room of the Bureau of Land Management office located at 185 East 4th Street, P.O. Box 550, Prineville, OR 97754.

The agenda will center on the following items:

1. Cooperative Management Agreements.

2. Fiscal year 1984 annual work plan.

3. Review of the brothers Rangeland Program Summary.

The meeting is open to the pubic. Anyone wishing to attend and/or make written or oral statements to the board is requested to contact the District Manager at the above address prior to September 21.

Summary minutes of the meeting will be available for review and reproduction within 30 days following the meeting.

August 19, 1983.

James L. Hancock,

Associate District Manager.

[FR Doc. 83-23557 Filed 8-26-83; 8:45 am]

BILLING CODE 4310-84-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-139]

Investigation on Certain Caulking Guns; Commission Decision Not To Review Initial Determination Terminating Respondent

Correction

In FR Doc. 83–22677 appearing on page 37538 in the issue of Thursday, August 18, 1983, the heading contained the word "Antidumping". It should have appeared as set forth above.

BILLING CODE 1505-01-M

[Investigation No. 337-TA-141]

Investigation on Certain Copper-Clad Stainless Steel Cookware; Commission Determination Not To Review Initial Determination Terminating Respondent

Correction

In FR Doc. 83–22678 appearing on page 37538 in the issue of Thursday, August 18, 1983, the heading contained the word "Antidumping". It should have appeared as set forth above.

BILLING CODE 1505-01-M

[Investigation No. 337-TA-139]

Investigation on Certain Caulking Guns; Commission Decision Not To Review Initial Determination Terminating Respondent

Correction

In FR Doc. 83-22679 beginning on page 37538 in the issue of Thursday, August 18, 1983, the heading contained the word "Antidumping". It should have appeared as set forth above.

BILLING CODE 1505-01-M

[Investigations Nos. 731-TA-108 and 109 (Final)]

Investigation on Portland Hydraulic Cement From Australia and Japan; Location of Hearing

Correction

In FR Doc. 83-22680 appearing on page 37539 in the issue of Thursday, August 18, 1983, the heading contained the word "Antidumping". It should have appeared as set forth above.

BILLING CODE 1505-01-M

[731-TA-44; Final]

Sorbitol From France; Public Hearing in Remand Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Schedule a hearing to be held in connection with the remand investigation.

Scope of the Hearing

Parties participating in this investigation may present legal arguments, economic analyses, and factual materials as to whether—at the time of the Commission's determination in March 1982—an industry in the United States was materially injured or threatened with material injury by reason of imports of sorbitol from France, which the Department of Commerce had determined was being sold at less than fair value.

SUMMARY: On August 11, 1983, Roquette Freres requested a public hearing in this remand investigation. On August 24, 1983, the Commission determined to grant Roquette's request and schedule a public hearing in the above investigation.

EFFECTIVE DATE: August 24, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Lynn Featherstone, Office of Investigations, U.S. International Trade Commission, room 346, 701 E Street, NW., Washington, D.C. 20436; telephone (202) 523-0242.

SUPPLEMENTARY INFORMATION: On March 23, 1982, the Commission determined on the basis of the information developed during the course of investigation No. 731-TA-44 (Final), that an industry in the United States was materially injured by reason of imports of sorbitol from France, provided for in TSUS item 493.68, which the Department of Commerce had determined was being sold or was likely to be sold at less than fair value.

On July 18, 1983, the Court of International Trade remanded this investigation for a new determination within sixty days from the date of entry of the order. *Roquette Freres* v. *United States*, Court No. 82-5-00636, Slip Op. 83-71. Accordingly, the Commission instituted investigation No. 731-TA-44 (Final) to determine whether an industry in the United States is materially injured or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise provided for in item 493.68 of the Tariff Schedules of the United States (TSUS). Notice of the investigation was published in the **Federal Register** of August 3, 1983 (48 FR 35186).

Hearing.—The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m. on September 19, 1983, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on September 2, 1983. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 10:30 a.m. on September 9, 1983, in room 117 of the U.S. International Trade Commission. The deadline for filing prehearing briefs is September 14, 1983. If a party has submitted a brief by August 19, 1983, in accordance with the notice of institution of this investigation (48 FR 35186), it may designate this brief as its prehearing brief.

Testimony at the public hearing is governed by section 207.23 of the Commission's rules (19 CFR 207.23, as amended by 47 FR 33682, Aug. 4, 1982). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in the prehearing brief and to information not available at the time the prehearing brief was submitted. All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in the prehearing briefs. Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24) and are to be submitted at a time specified by the presiding officials at the hearing.

Written submissions.—As mentioned, parties to this investigation may file prehearing and posthearing briefs by the dates shown above. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigations on or before September 14, 1983. A signed original and fourteen (14) true copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, subparts A and C (19 CFR Part 207, as amended by 47 FR 33682, Aug. 4, 1982), and Part 201, subparts A through E (19 CFR Part 201, as amended by 47 FR 33682, Aug. 4, 1982).

This notice is published pursuant to § 207.23 of the Commission's rules (19 CFR 207.23, as amended by 47 FR 33682, Aug. 4, 1982).

By order of the Commission.

Issued: August 24, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-23686 Filed 8-26-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-161]

Trolley Wheel Assemblies; Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on July 20, 1983, under section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, on behalf of C. L. Frost & Son, Inc., 2020 Bristol, N.W., Grand Rapids, Michigan 49504. A supplement to the complaint was filed on August 8, 1983. The complaint alleges unfair methods of competition and unfair acts in the importation of certain trolley wheel assemblies into the United States, or in their sale, by reason of alleged (1) infringement of the claims of U.S. Letters Patent No. 4,109,343; (2) common law trademark infringement; (3) false designation of source of origin; (4) passing off; and (5) failure to mark country of origin. The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is destroy or substantially injure an industry, efficiently and economically operated, in the United States.

The complainant requests that the Commission institute an investigation and, after a full investigation, issue both a permanent exclusion order and permanent cease and desist orders.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930 and in § 210.12 of the Commission's Rules of Practice and Procedure (19 CFR 210.12).

Scope of Investigation

Having considered the complaint, the U.S. International Trade Commission, on August 19, 1983, ordered that:

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930 an investigation be instituted to determine whether there is a violation of subsection (a) of section 337 in the unlawful importation of certain trolley wheel assemblies into the United States, or in their sale, by reason of alleged (1) infringement of the claims of U.S. Letters Patent No. 4,109,343; (2) common law trademark infringement; (3) false representation; (4) passing off; and (5) failure to mark country of origin, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—

C. L. Frost & Son, Inc., 2020 Bristol, N.W., Grand Rapids, Michigan 49504

(b) The respondents are the following companies, alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Sam Kwang Metal Ind. Co. Ltd., 775–3 Wonsi-Ri, Kunja-Meun, Siheung-Kun, Kyungik-do, Korea

Sunkyong Limited, C.P.O. Box 1780, Seoul, Korea

Tri-II, Inc., 8505 Dunwoody Place, Atlanta, Ga. 30338

Bestar, 1116 Aris Ave., Metairie, La. 70005

(c) Jeffrey S. Neeley, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, 701 E Street NW., Room 125, Washington, D.C. 20436, shall be the Commission investigative attorney, a party to this investigation; and

(3) For the investigation so instituted, Donald K. Duvall, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding officer.

Responses must be submitted by the named respondents in accordance with § 210.21 of the Commission's Rules of Practice and Procedure (19 CFR 210.21). Pursuant to §§ 201.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings.

The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Room 156, Washington, D.C. 20436, telephone 202–523–0471.

FOR FURTHER INFORMATION CONTACT: Jeffrey S. Neeley, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, telephone 202–523–0115.

By order of the Commission.

Issued: August 24, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-23685 Filed 8-26-83; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Finance Applications; Decision Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10928, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsideration; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1161.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 20 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative

requirements stated in the effective notice to be issued hereafter.

Agatha L. Mergenovich,

Secretary.

Please direct status inquiries to Team 3, (202) 275–5223.

Volume No. OP3–FC–404

MC–FC–81519. By decision of August 17, 1983, issued under 49 U.S.C. 10926 and the transfer rules at CFR 1181, the Review Board, Members Carleton, Joyce and Fortier, approved the transfer to EARL BUCKALLEW AND HERBERT E. VESTAL, d.b.a. B & V TRANSFER & STORAGE, Centerville, IA, of Certificate No. MC 148924, issued May 21, 1982, to LOUIE JOHNSON, d.b.a. LOUIE'S MOVING, Centerville, IA, authorizing the transportation of (1) *livestock,* from Chariton, IA and points within 30 miles of Chariton to Omaha, NE, Chicago, Peoria, and National Stock yards, IL, South St. Paul, MN, Sioux Falls, SD, Kansas City, KS, and Kansas City, St. Louis, and St. Joseph, MO, (2) *feed,* from Omaha, NE, Kansas City, St. Louis, and St. Joseph, MO, Sioux Falls, SD, and Chicago, IL, to Chariton, IA, and points within 30 miles of Chariton, (3) *twine,* from Chicago and Peoria, IL, to Burlington and Creston, IA, points in Iowa within 30 miles of Burlington and Creston, and those in Iowa on and within 30 miles of U.S. Highway 34 between Burlington and Creston, (4) *farm implements,* from Chicago and Peoria, IL, to Chariton, IA and points within 30 miles of Chariton, (5) *flour, petroleum products, hay, sugar, tankage, and seed,* from Omaha, NE, to Chariton, IA and points within 30 miles of Chariton, (6) *seed,* from Chicago, IL, to Chariton, IA and points within 30 miles of Chariton, (7) *tile and cement blocks,* Sheffield, IL, to Chariton, IA, (8) *broom corn,* from Stonington and Springfield, CO, to Chariton, IA, and (9) *household goods, and emigrant movables,* between Chariton, IA and points within 30 miles of Chariton, on the one hand, and, on the other, points in IA, NE, MO, KS, IL, MN, and SD. Representative: Kenneth F. Dudley, 211 E. Second, Suite 115, P.O. Box 279, Ottumwa, IA 52501.

MC-FC-81642. By decision of August 18, 1983 under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, the Review Board, Members Fortier, Dowell and Carleton approved the transfer to K. BELL TRUCKING, INC., of Dublin, GA, of Permit No. MC-159904, issued April 26, 1982, to W. E. HORTON TRUCKING SERVICE, INC., of Dublin, GA, authorizing the transportation of *general commodities* (except classes A and B explosives, household goods and commodites in bulk), between points in the U.S., under continuing contract(s) with Bassett Furniture Co., Wheelers, Inc., and J. P. Stevens Co., Inc., all of Dublin, GA, Cook & Co., Inc., of Lumber City, GA, M & M Clay Co., of McIntyre, GA, and Evans Clay Co., of Summit, NJ. Representative: Virgil H. Smith, 74 Highway N Box 245, Tyrone, GA 30290, (404) 969–1980.

Pleased direct status inquiries to team 4 at (202) 275–7669.

Volume No. OP4–FC–566

MC-FC-81453. By decision of August 18, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, the Review Board, Members Carleton, Fortier, and Dowell, approved the transfer to A–1 MOVING & STORAGE CO., INC., of Des Moines, IA, of Certificate Nos. MC-147436, issued June 30, 1980, MC-147436 Sub 1, issued August 15, 1980, MC-147436 Sub 2, issued September 17, 1980, MC-147436 Sub 3, issued April 10, 1981, and MC-147436 Sub 5, issued March 30, 1983, to BELTMAN NORTH AMERICAN CO. INC., of Minneapolis, MN, authorizing the transportation of household goods, in MC-147436, between Milwaukee, Waukesha, Washington, and Ozaukee Counties, WI, on the one hand, and, on the other, points in IA, IL, IN, KS, KY, MI, MN, MO, NE, ND, OH, and SD; in Sub 1, btween points in Clarke, Dallas, Jasper, Madison, Marion, Polk, Story, and Warren Counties, IA, on the one hand, and, on the other, points in IL, IN, KS, KY, MI, MN, MO, NE, ND, SD, and WI; in Sub 2, between points in Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington Counties, MN, on the one hand, and, on the other, points in IA, IL, IN, KS, KY, MI, MN, MO, ND, NE, OH, OK, SD, and WI; in Sub 3, between points in Cook, DuPage, Kane, Kendall, Lake, McHenry, and Will Counties, IL, on the one hand, and, on the other, points in IA, IL, IN, KS, KY, MI, MN, MO, ND, NE, OH, SD, and WI; and in MC-147436 Sub 5, household goods, furniture and fixtures, (1) between points in WI, IA, IL, IN, KS, KY, MI, MN, MO, ND, NE, OH, SD, and OK, and (2) between points in (1) above, on the one hand, and, on the other, points in the U.S. (except AK and HI). Representative: Robert J. Gallagher, 1000 Connecticut Ave. NW., Suite 1200, Washington, DC. 20036, (202) 833–3315.

MC-FC-81650. By decision of August 18, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, the Review Board, Members Dowell, Carleton, and Fortier approved the transfer to JOHN S. WATSON, d.b.a. JOHN S. WATSON TRUCKING COMPANY, of Weston, WV, of Permit No. MC-151757 (Sub-No. 1), issued May 14, 1982, to EDWARD CAIN, of Grantsville, WV, authorizing the transportation of *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Wirt Inflatable Specialists, Inc., of Elizabeth, WV. Transferee is a carrier holding authority under No. MC-138878. Representative: John M. Friedman, 2930 Putnam Ave., P.O. Box 426, Hurrican, WV 25526, for both transferee and transferor. (304) 562–3460.

Please direct status inquiries to Team 5, (202) 275–7289.

Volume No. OP5–FC–432

MC-FC-81657. By decision of August 16, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, the Review Board, Members Fortier, Carleton and Joyce approved the transfer to GIBRALTAR VAN & STORAGE, INC., of Trenton, MI of Certificate No. MC-20968 issued January 29, 1965, to IMLACH MOVERS, INC., of Trenton, MI, authorizing the transportation of (1) household goods (a) between Rock Island, IL, and points within 25 miles thereof, on the one hand, and, on the other, points in IL, IN, OH, PA, NJ, NY, NE, KS, MO, KY, TN, MN, IA, and DC; (b) between Detroit, MI, and points within three miles of Detroit, on the one hand, and, on the other, points in WI, IL, IN, OH, WV, PA, NY, CT, and (c) between points in NY, MA, NJ, DE, MD, PA, VA, WV, WV, OH, IN, IL, IA, MI, WI, and DC; and (2) mangles and washing machines, from Newton, IA, to Rock Island, IL, and points within ten miles thereof. An application for TA has been filed. Representative: Robert J. Gallagher, 1435 G Street NW., Suite 848, Washington, DC 20005.

[FR Doc. 83–23590 Filed 8–26–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Finance Applications; Decision Notice

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by 49 CFR 1182.1 of the Commission's Rules of Practice. See Ex Parte 55 (Sub-No. 44),

Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C 11344 and 11348, 360 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1182.2. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1182.2 (d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate as applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Agatha L. Mergenovich,

Secretary.

Please direct status inquires to Team 1, (202) 275–7992.

Volume No OPI–353

Dated: August 17, 1983.

By the Commission, the Review Board, Members Carleton, Joyce and Fortier.

MC–F–15376, filed July 29, 1983. NORTH PENN TRANSFER, INC. (Routes 63 and 202, P.O Box 230 Lansdale, PA 19446)—merger—FOLLMER TRUCKING COMPANY (Old Trail Road, Hummers Wharf, PA 17851). Representative: Daniel W. Krane, P.O. Box E, Shiremanstown, PA 17011. North Penn Transfer, Inc. (North Penn), a motor common carrier, in control of NPFT, Inc., a noncarrier, seeks authority to merge all the operating rights and property of Follmer Trucking Company (Follmer Trucking), a motor common carrier controlled by NPFT, Inc., into North Penn; and, in turn, Arthur N. Anders, Arthur F. Anders III, and James P. Anders, controlling shareholders in Anders Holding Company, which control North Penn, NPFT, Inc., and Follmer, seek authority to acquire control of the unified operating rights and property through the transaction. The operating rights of Follmer Trucking are contained in Certificates No. MC–33520 and subnumbers thereunder, which authorize (a) the regular-route transportation of general commodities (with various exceptions), between named points in Pennsylvania, and between Hazelton, PA, and Endicott, NY, chemicals, acids, dyestuffs, paper and paper products, between Lock Haven, PA, and New York, NY, automobile bodies, between Mifflinburg, PA, and New York, NY, boilers, furnaces, and parts, between Williamsport, PA, and New York, NY, and empty vehicles, between New York, NY, and Philadelphia, and between Philadelphia, PA, and Baltimore, MD; and (b) the irregular-route transportation of general commodities (with various exceptions), from Allentown, PA, to points in nine Pennsylvania counties.

Notes.—(1) North Penn is a motor common carrier pursuant to certificates No. MC–52932 and subnumbers thereunder. (2) No TA has been filed.

Please direct status inquiries to Team 2, (202) 275–7251.

Volume No. OP–2–371

Decided: August 11, 1983.

By the Commission.

MC–F–15377, filed July 29, 1983. CON–WAY EASTERN EXPRESS, INC., 167 Flanders Street, Rochester, NY 14619—control—PENN YAN EXPRESS, INC., 100 West Lake Road, Penn Yan, NY 14527, and C.M.A. TRUCK LINES, INC., P.O. Box 24004, Baltimore, MD 21227. Representatives: Eugene T. Liipfert, Suite 1100, 1660 L St., NW., Washington, DC 20036, and Russell R. Sage, Suite 304, Overlook Building, 6121 Lincolnia Road, Alexandria, VA 22312. CON–WAY EASTERN EXPRESS, INC. (Con–Way), a motor carrier, in control of PYA Corporation, a noncarrier, seeks authority to acquire control of Penn Yan Express, Inc. (Penn Yan), a motor carrier, and, through such control of Penn Yan, to acquire control of its motor carrier subsidiary C.M.A. Truck Lines, and of its noncarrier subsidiaries Conn Realty Corporation and Keuka Truck Parts, Inc., through purchase of 247,886 shares of class A capital stock presently held by Robert L. and Frances S. Hinson, constituting a majority (approximately 58.1 percent) of the total outstanding common capital stock of Penn Yan, to be placed in a voting trust of which the American Security Bank, N.A., of Washington, DC will be trustee. in addition, CF Land Services, Inc., not a carrier but sole stockholder of Con-Way, and CF Land Transportation, Inc., not a carrier but sole stockholder of CF Land Services, Inc., and Consolidated Freightways, Inc., a noncarrier holding company which controls CF Land Transportation and also controls CF Land Services, jointly seek control of Penn Yan and of the operating rights and property through the transaction. Con-Way has been granted authority under certificate No. MC–165442, issued July 25, 1983, to transport general commodities, with three exceptions, between points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Virginia, Vermont, and the District of Columbia. Penn Yan was incorporated in 1941 and, under MC–105902 and subnumbers thereunder, is authorized to transport general commodities, principally over regular routes in New York, New Jersey, Pennsylvania, Ohio, West Virginia, Maryland, Delaware, Virginia, the District of Columbia and Chicago, IL, and, over irregular routes, between points in six counties in northern New

York, on the one hand, and, on the other, points in Texas and those points in the United States in the east of Minnesota, Iowa, Missouri, Arkansas, ;and Louisiana. Penn Yan also operates in intrastate commerce in New York. C.M.A. Truck Lines became Penn Yan's subsidiary pursuant to authority acquired in MC–FC–80005, now contained in certificate No. MC–163779, issued January 16, 1983, and generally embracing portions of Penn Yan's authority.

Notes.—(1) Authority is also sought by Con-Way to temporarily control through management the operating rights and property of Penn Yan and its wholly owned carrier and noncarrier subsidiaries, pending disposition. (2) Concurrently with consummation of control, Penn Yan would be merged into PVA Corporation, with Penn Yan to be the surviving corporation of the merger. (3) Con-Way is part of a carrier systemn ultimately controlled by Consolidated Freightways, Inc., which acts as a holding company in control of various subsidiaries engaged in a variety of activities that include, Consolidated Freightways Corporation of Delaware, a large motor carrier of general commodities, other motor carriers, and a freight forwarder. Despite the fact that the carrier system of which Con-Way is a part includes a freight forwarder, no violation of 49 U.S.C. 11323(a) will occur as a result of the transaction because Penn Yan will be controlled directly by a carrier.

[FR Doc. 83–23592 Filed 8–26–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Proposed Exemptions

AGENCY: Interstate Commerce Commission.

ACTION: Notices of Proposed Exemptions.

SUMMARY: The motor carriers shown below seek exemptions pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property Under 49 U.S.C. 11343*, 367 I.C.C. 113 (1982), 47 FR 53303 (November 24, 1982).

DATE: Comments must be received within 30 days after the date of publication in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275–7977.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,
Secretary.

Volume OP2–372

Decided: August 20, 1983.

MC–F–15398, REISCH ENTERPRISES, INC.—continuance in control—REISCH TRUCKING & TRANSPORTATION CO., INC., AND COORDINATED TRANSPORT, INC. Reisch Enterprises, Inc. (REI), a non-carrier, seek an exemption from the requirement under section 11343 of prior regulatory approval for the continuance is control of Reisch Trucking & Transportation Co., Inc. (Reisch) (MC–16513), and Coordinated Transport, Inc. (CTI) (MN-169794) upon institution of operations as a motor contract carrier by the latter. REI controls Reisch through stock ownership. All of the stock of CTI is owned by Coordinated Services, INc., a non-carrier which, is turn, is a wholly owned subsidiary of REI. Send Comments to: (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423; and (2) Petitioner's representative: Russell R. Sage Suite 304, Overlook Bldg. 6121 Lincoln Rd. Alexandria, VA 22312. Comments should refer to NO. MC–F–15398.

Note.—Coordinated Transport, Inc. has filed its initial directly related application in No. MC–169794.

Volume OP3–MCF–410

Decided: August 22, 1983.

MC–F–15401, POLMAN TRANSFER, INC.—purchase exemption—GLORY BOUND EXPRESS, INC. Polman Transfer, Inc. (MC–116227) seeks an exemption from the requirements under section 11343 of prior regulatory approval for its purchase of the permit of Glory Bound Express, Inc. (MC–156005), which authorizes the transportation of (1) lumber and wood products, and (2) metal products, between points in the United States, under continuing contract(s) with Continental Custom Bridge Compay, of Alexandria, MN. Send Comments to: (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423; and (2) Petitioner's representative : Rrobert P. Sack, P.O. Box 21–307, St. Paul, MN 55121. Comments should refer to No. MC–F–15401.

MC–F–15403, TERRY'S EXPRESS, INC.—purchase exemption—LIBERTY TRANSFER & STORAGE CO., INC. Terry's Express, Inc. (No. MC–138113) seeks an exemption from the requirement under section 11343 of prior regulatory approval for its purchase of the operating rights of Liberty Transfer & Storage Co., Inc., authorizing the transportation, in No. MC–3535, of (1) general commodities (except those of unusual value, classes A and B explosives, household goods, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between points in Evansville, IN, and those within 3 miles of Evansville, (2) household goods, between Evansville, IN, on the one hand, and, on the other, points in OH, IL, MI, MO, and IN, and (3) structural and building steel, iron castings, and corrugated steel building parts, from Evansville, IN, to points in KY and IL within 175 miles of Evansville; and, in NO. MC–3535 (Sub-NO. 1), and (1) general commodities (except classes A and B explosives, household goods, and commodities in bulk), between points in Vanderburgh, Warrick, and Spencer Counties, IN, and Daviess and Henderson Counties, KY, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, CO, OK, and TX, (2) machinery, between Indianapolis, IN, on the one hand, and, on the other, points in KY, and (3) metal products, between Chicago, IL, on the one hand, and, on the other, points in IN and KY. Send comments to: (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423; and (2) Petitioners' representative: For Purchaser: J. H. James, 2306 W. Iowa, Evansville, IN 47712. For Seller: Kenneth S. Seals, 910 E. Maxwell Ave., Evansville, IN 47717. Comments should refer to No. MC–F–15403.

Volume OP5–F–431

Decided: August 18, 1983.

MC–F–15402, FREDERICK TRANSPORT (U.S.), INC.—purchase exemption—CONTROLLED DELIVERY SERVICE, INC. Frederick Transport (U.S.), Inc., seeks an exemption from the requirement under section 11343 of prior regulatory approval for its purchase of a portion of the operating rights of Controlled Delivery Service, Inc. Controlled Delivery Service, Inc., holds authority in certificate No. MC–148158 (Sub-No. 18) to transport general commodities (except classes A and B explosives), between points in the United States. Frederick Transport (U.S.), Inc., seeks to purchase that portion of certificate No. MC–148158 (Sub-No. 18) authorizing the transportation of commodities in bulk

between points in the United States. Send comments to: (1) Office of the Secretary Case Control Branch Interstate Commerce Commission Washington D.C. 20423; and (2) Petitioners' representatives: Robert L. Cope, Grove, Jaskiewicz, Gilliam & Cobert 1730 M Street, NW., Washington, DC 20036; and Jeremy Kahn, Kahn and Kahn, Suite 733 Investment Building, 1511 K Street, NW., Washington, DC 20005. Comments should refer to No. MC–F–15402.

[FR Doc. 83–23501 Filed 8–26–83; 8:45 am]
BILLING CODE 7035–01–M

[Volume No. OP 5–441]

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Decided: August 18, 1983.

90-Day Intrastate Motor Common Carriers of Passengers.

The following applications, filed on or after November 19, 1982, are governed by Part 1168 of the Commission's Rules of Practice. See 49 CFR Part 1168, published in the **Federal Register** on November 24, 1982, at 47 FR 53275. For compliance procedures, see 49 CFR 1168.6 and 49 U.S.C. 10922 (c)(2)(E).

Persons wishing to oppose an application must follow the rules under 49 CFR Part 1168. In addition to fitness grounds, applications may be opposed on the grounds that the transportation to be authorized would directly compete with a commuter bus operation and would have a significant adverse effect on all commuter bus service in the area in which the competing service will be preformed. Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representitive of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 25 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 30 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board Number Carleton, Fortier and Dowell.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are filed under 49 U.S.C. 10922(c)(2)(A) for authority to operate as a motor common carrier of passengers in intrastate commerce on a route over which applicant has interstate, regular-route authority on November 19, 1982.

Please direct status inquiries to Team 5, (202) 275–7289.

MC 84728 (Sub-69), filed August 5, 1983. Applicant: SAFEWAY TRAILS, INC., 1200 Eye Street, NW., Washington, DC 20005. Representative: George W. Hanthorn, 1500 Jackson Street Dallas, TX 75201, (214) 655–7937. Applicant seeks authority in intrastate commerce, (1) to conduct service at all intermediate points on routes in that port on No. MC–84728 Sub 51, between Reading, PA, and Lancaster, PA, and (2) to conduct service at all intermediate points on routes in No. MC–84728 Sub 67, in part as follows: To operate over the routes between Baltimore, MD and Lancaster, PA, to provide intrastate service at all intermediate points between (a) Baltimore, MD and the Maryland-Pennsylvania State line and (b) between the Pennsylvania-Maryland State line and Lancaster, PA.

Note.—Applicant intends to tack this authority with its existing authority.

[FR Doc. 83–23503 Filed 8–26–83; 8:45 am]
BILLING CODE 7035–01–M

[Volume No. OP3–385]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

The following restriction removal applications, are governed by 49 CFR 1165. Part 1165 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747 and redesignated at 47 FR 49590, November 1, 1982.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1165.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

Agatha L. Mergenovich,

Secretary.

Please direct status inquiries about the following to Team Three (3) at (202) 275–5223

Volume No. OP3–385

Decided: August 19, 1983.

By the Commission, Review Board Members Carleton, Fortier, and Dowell.

MC 158525 (Sub-1)X, filed July 14, 1983. Applicant: M.B. TRANSPORTS, INC., P.O. Box 1557, Levelland, TX 79336. Representative: George Lynch, 3814 North Santa Fe, Oklahoma City, OK 73118, (405) 840–1071. Lead certificate: (1) Broaden the territorial description to "between points in TX, OK, NM, KS, LA, WY, UT, CO, and ND" and (2) remove the restriction "restricted

against traffic originating at the port facilities of St. Mary, Terrebonne, Jefferson, St. Bernard and St. Charles Parishes, LA".

[FR Doc. 83-23694 Filed 8-26-83; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers. The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an interstate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier-that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker-that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Agatha L. Mergenovich,
Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Please direct status inquiries to Team 1, (202) 275–7030.

Volume No. OP–1–351 (N)

Decided: August 19, 1983.

By the Commission, Review Board Members Carleton, Dowell, and Fortier.

MC 120561 (Sub-2), filed August 8, 1983. Applicant: P & L TRANSPORTATION CO. INC., P.O. Box 3222, Houston, TX 77001. Representative: Charles E. Munson, 500 West Sixteenth Street, P.O. Box 1945, Austin, TX 78767, (512) 478–9808. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), (1) between points in TX, LA, OK, NM, AR, MS, and TN, and (2) between points in TX, LA, OK, NM, AR, MS, and TN, on the one hand, and, on the other, points in WA, OR, CA, NV, ID, UT, AZ, NM, CO, WY, MT, ND, SD, NE, KS, OK, TX, LA, MS, AR, TN, MO, IA, and MN. Condition: issuance of a certificate in this proceeding is subject to the coincidental cancellation, at applicant's written request, of Certificate of Registration No. MC–120561 Sub-No. 1.

MC 125551 (Sub-35), filed August 12, 1983. Applicant: K & W TRUCKING CO., INC., 101 Cooper Avenue North, P.O. Box 1415, St. Cloud, MN 56302. Representative: E. Lewis Coffey (same address as applicant), (612) 255–7474. Transporting *machinery*, between points in the U.S. (except HI), under continuing contract(s) with Evans Equipment Co., of Kent, WA.

MC 151051 (Sub-3), filed August 12, 1983. Applicant: HOMANN TRANSPORT, INC., Route 1, Jim Falls, WI 54748. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703, (608) 256–7444. Transporting *building materials and wood products*, between points in WI, on the one hand, and, on the other, points in IL, IA, MI and MN.

MC 156691 (Sub-2), filed August 11, 1983. Applicant: A. C. LEASING COMPANY, 3023 E. Kemper Road, Cincinnati, OH 45241. Representative: James Duvall, 2515 W. Granville Road, Worthington, OH 43085, (614) 889–2531. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of containers, between points in the U.S. (except AK and HI), under continuing contract(s) with The Continental Group, Inc., of Stamford, CT.

MC 164001 (Sub-2), filed August 12, 1983. Applicant: A. FRANK COWAN, d.b.a.: FRANK COWAN TRUCKING, 5891 Kingston Way, Murray, UT 84107. Representative: Bruce W. Shand, 311

South State St., Suite 280, Salt Lake City, UT 84111, (801) 531–1300. Transporting *chemicals and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Dal-Soglio, Inc., of Midvale, UT.

MC 169540, filed August 11, 1983. Applicant: HIGHWOOD CARRIERS; LTD., P.O. Box 507, High River, Alberta, Canada TOL IBO. Representative: William E. Seliski, 2 Commerce St., P.O. Box 8255, Missoula, MT 59807, (406) 543–8369. Transporting (1) *such commodities* as are dealt in or used by lumber yards, between points in WA, OR, ID, CA, and MT, on the one hand, and, on the other, those points in the U.S. in and west of PA, WV, KY, TN, AR, and LA (except AK and HI), and (2) *Mercer commodities, machinery, and fertilizer,* between ports of entry on the international boundary line between the United States and Canada in WA, ID, MT, ND, and MN, on the one hand, and, on the other, those points in the U.S. in and west of PA, WV, KY, TN, AR, and LA (except AK and HI).

MC 169800, filed August 11, 1983. Applicant: VIRGINIA HAULING, INC., 2729 Valley Avenue, Winchester, VA 22601. Representative: Richard L. Feller (same address as applicant), (703) 667–8044. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in DE, FL, GA, KY, MD, NC, NJ, NY, OH, PA, SC, TN, WV, VA, and DC.

Please direct status inquiries to Team 2, (202) 275–7030.

Volume No. OP–2–369

Decided: August 22, 1983.

By the Commission, Review Board Members Fortier, Carleton, and Dowell.

MC 144922 (Sub-10), filed August 2, 1983. Applicant: A.T.F. TRUCKING CO., INC., Route 11, Box 507–B, Birmingham, AL 35210. Representative: John R. Frawley, Jr., P.O. Box 66111, Irondale, AL 35210–2694, 205–956–9749. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 167482, filed August 19, 1983 (correction), previously published in the **Federal Register** issue of May 9, 1983, and republished this issue, as corrected. Applicant: JAMES THOMPSON, JACK THOMPSON and LARRY THOMPSON, d.b.a. THOMPSON TRUCKING, Country Rd., Rt. 1, Box 161, Canton, TX 75103. Representative: D. Paul Stafford, Suite 1125, Frito Lay Tower, P.O. Box 45538, Dallas, TX 75245, 214–358–3341. Transporting *motorcycles and machinery,* between points in NE, LA, TX, CA, and GA, on the one hand, and, on the other, points in OK, LA, MS, and TX.

Note.—This republication is to include LA, omitted in the prior publication, as a base point in the territory description.

MC 169632, filed August 3, 1983. Applicant: PROVIDENCE AND WORCESTER RAILROAD COMPANY, One Depot Sq., Woonsocket, RI 02895. Representative: Mark D. Russell, Ste. 348, Pennsylvania Bldg., 425–13th St., NW., Washington, DC 20004–1879 (202) 737–2188. Transporting *general commodities* (except classes A and B explosives and household goods), between those points in the U.S. in and east of MN, IA, MO, AR, and TX.

MC 169823, filed August 11, 1983. Applicant: STATEN ISLAND COMMUTER SERVICE, INC., 71 New Hook Access Rd., Bayonne, NJ 07702. Representative: Charles J. Williams, P.O. Box 186, Scotch Plains, NJ 07076, 201–322–5030. Transporting *passengers,* over *regular routes,* between the Boroughs of Staten Island and Manhattan, NY: from Staten Island over the Goethals Bridge to junction NJ Turnpike Interchange 13, then over the NJ Turnpike to junction NJ Turnpike Interchange 16 and access roads to the Lincoln Tunnel, then through the Lincoln Tunnel to Manhattan, and return over the same route, serving all intermediate points. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. § 11343(a), submit an affidavit indicating why such approval is unnecessary, or file a petition seeking exeption under 49 U.S.C. § 11343(e), to the Secretary's Office. In order to expedite issuance of any authority, please submit a copy of the affidavit or proof of filing the application(s) for common control to Team 2, Room 2379.

Note.—Applicant seeks to provide regular-route service in interstate or foreign commerce.

Volume No. OP–2–373

Decided: August 22, 1983.

By the Commission, Review Board Members Carleton, Krock, and Dowell.

MC 161462 (Sub-9), filed August 8, 1983. Applicant: ILLINI 48, INC., 5501 West 109th St., Oak Lawn, IL 60453. Representative: Anthony E. Young, 29 South LaSalle St., Suite 350, Chicago, IL 60603, 312–782–8880. Transporting *such commodities* as are dealt in or used by wholesale, retail and chain grocery and food business houses, between points in the U.S. (except AK and HI), under continuing contract(s) with Libby, McNeill & Libby, Inc., of Chicago, IL.

MC 165043, filed August 3, 1983. Applicant: THE EUREKA PIPE LINE COMPANY, P.O. Drawer 808, 963 Market St., Parkersburg, WV 26101. Representative: Ronald L. Ridgeway (same address as applicant) (304) 485–5548. Transporting *petroleum and petroleum products,* between points in Kanawha and Lincoln Counties, WV, on the one hand, and, on the other, points in Boyd County, KY, under continuing contract(s) with Pennzoil Products Company, a Division of Pennzoil Company, of Houston, TX.

MC 166123 (Sub-1), filed August 4, 1983. Applicant: EL PASO, TEXAS, EXPRESS, INC., 7179 Industrial (P.O. Box 26186), El Paso, TX 79915. Representative: William J. Prince (same address as applicant), (915) 779–7900. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AZ, NM, and points in TX on and west of U.S. Hwy. 83.

MC 169432, filed August 4, 1983. Applicant: ACTION DELIVERY SERVICE, INC., 2401 W. Marshall Dr., Grand Prairie, TX 75051. Representative: A. William Brackett, 623 S. Henderson, 2nd Fl., Fort Worth, TX 76104, (817) 332–4415. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Action Warehouse Services, Inc., of Grand Prairie, TX.

MC 169493, filed July 28, 1983. Applicant: CHIEF'S TRUCKING CO., 19300 Allen Rd., Melvindale, MI 48122. Representative: Alex J. Miller, 555 South Woodward, Suite 512, Birmingham, MI 48011, 313–647–3350. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in MI, OH, IN, and IL.

MC 169593, filed August 2, 1983. Applicant: JOHN HARVAN, d.b.a. HARVAN'S HAULERS, INC., 7 Forestdale Rd., Paxton, MA 01612. Representative: Hughan R. H. Smith, 26 Kenwood Place, Lawrence, MA 01841, 617–657–8250. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in MA, RI, ME, NH, VT, CT, NY, NJ, PA, MD, DE, and DC.

MC 169732, filed August 5, 1983. Applicant: T. E. MARTIN, d.b.a. MARTIN'S TRUCK LINES, P.O. Box 363, Mill Pond Rd., Ludowici, GA 31316.

Representative: John W. Greer III, 57 Forsyth St., NW., 925 Healey Bldg., Atlanta, GA 30303, (404) 523–1601. Transporting *metal products*, between points in FL, GA, TN, AL, MS, KY, IN, IL, OH, MI, WI, MN, IA, AR, LA, MO, CT, SC, NC, VA, MD, DE, NJ, PA, NY, RI, MA, WV, TX, OK, KS, NE, SD, and ND.

MC 169752, filed August 8, 1983. Applicant: JOE K. SMITH TRUCKING COMPANY, Rt. 6, Box 397, Cumming, GA 30130. Representative: Robert C. Boozer, 1400 Candler Bldg., 127 Peachtree St. NE., Atlanta, GA 30043 (404) 658–8010. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in McCormick County, SC, on the one hand, and, on the other, points in Forsyth County, GA.

Volume No. OP–2–374

Decided: August 22, 1983.

By the Commission, Review Board Members Krock, Parker, and Dowell.

MC 263 (Sub-251), filed August 12, 1983. Applicant: GARRETT FREIGHTLINES, INC., P.O. Box 4048, 2055 Garrett Way, Pocatello, ID 83201. Representative: Bruce A. Bullock, One Woodward Ave., 26th Floor, Detroit, MI 48226, 313–496–3546. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Ford Motor Company, of Dearborn, MI, and its subsidiaries.

MC 263 (Sub-252), filed August 16, 1983. Applicant: GARRETT FREIGHTLINES, INC., 2055 Garrett Way, P.O. Box 4048, Pocatello, ID 83201. Representative: Bruce A. Bullock, One Woodward Ave., 26th Floor, Detroit, MI 48226, 313–496–3534. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with The Goodyear Tire and Rubber Company, of Akron, OH.

MC 82093 (Sub-6), filed August 8, 1983. Applicant: PORTAGE TRANSFER COMPANY, Box 86, Hiram, OH 44234. Representative: Stephen J. Habash, 100 E. Broad St., Columbus, OH 43215, 614–228–1541. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with C.E. Industrial Products Combustion Engineering, Inc., of Valley Forge, PA

MC 135562 (Sub-11), filed August 8, 1983. Applicant: O.C.C., INC., 600 S. Dakota St., Seattle, WA 98108. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 239, Renton, WA 98055, 206–228–3807. Transporting *transportation equipment*, between points in the U.S., under continuing contract(s) with persons who are engaged in business as manufacturers, distributors, or dealers of transportation equipment.

MC 141312 (Sub-15), filed August 8, 1983. Applicant: DOKTER TRUCKING CORP., P.O. Box 408, Weeping Water, NE 68463. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501, 402–475–6761. Transporting *clay, concrete, glass, or stone products, metal products, and chemicals and related products*, between points in the U.S. (except AK and HI). Condition: Issuance of this authority is subject to prior or coincidental revocation of permits Nos. MC 141312 Sub-No. 1, issued January 28, 1977, and Sub-No. 11X (and the underlying authority under Sub-Nos. 3, 6, 7, 9, and 10), issued June 3, 1981.

Note.—This purpose of this application is to convert applicant's contracts-carrier permits to common carrier certificates.

MC 156673 (Sub-1), filed August 10, 1983. Applicant: DELOY MEPPEN, Rt. 9, Box 152, Idaho Falls, ID 83401. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701, 208–343–3071. Transporting (1) *general commodities* (except classes A and B explosives and household goods), between points in CA, ID, MT, NV, OR, UT, WA, and WY, and (2) for or on behalf of the United States Government, *general commodities* except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. Part (2) is published in the **Federal Register**, this issue, under the preface with "fitness applications."

MC 169652, filed August 3, 1983. Applicant: VININGS LEASING COMPANY, 2555 Cumberland Parkway, Suite 200, Atlanta, GA 30339. Representative: J.G. Dail, Jr., P.O. Box LL, McLean, VA 22101, 703–893–3050. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with (a) American Industiral Chemical Corporation, of Smyrna, GA, (b) Baychem, Inc., of Norcross, GA, (c) Evans Loper & Co., Inc., of Mobile, AL, (d) Formosa Plastics Corporation, LA, of Baton Rouge, LA, (e) Kelly Liquid Feed & Fertilizer, of Marietta, GA, and (f) Vinings Chemical Company, of Atlanta, GA.

Volume No. OP–2–375

Decided: August 22, 1983.

By the Commission, Review Board Members Dowell, Carleton, and Parker.

MC 10942 (Sub-2), filed August 2, 1983 Applicant: PRIMO HAULAGE COMPANY, 55 Lane Ave., West Caldwell, NJ 07006. Representative: A. David Millner, 7 Becker Farm Rd., P.O. Box Y, Roseland, NJ 07068, (202) 992–2200. Transporting *containers and packaging materials*, between points in Morris County, NJ, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Tri Coast Container Corp., of City of Industry, CA.

MC 124212 (Sub-120), filed August 5, 1983. Applicant: MITCHELL TRANSPORT, INC., 6500 Pearl Rd., P.O. Box 30248, Cleveland, OH 44130. Representative: J.A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114, 216–566–5639. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S.

MC 144293 (Sub–26), filed August 5, 1983. Applicant: DUANE McFARLAND, d.b.a. McFARLAND TRUCK LINES, P.O. Box 1006, Austin, MN 55912. Representative: Robert S. Lee, 1600 TCF Tower, 121 So. 8th St., Minneapolis, MN 55402, 612–333–1341. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI). Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. § 11343(a), submit an affidavit indicating why such approval is unnecessary, or file a petition seeking exemption under 49 U.S.C. §11343(e), to the Secretary's Office. In order to exedite issuance of any authority, please submit a copy of the affidavit or proof of filing the application(s) for common control to Team 2, Room 2379.

MC 147873 (Sub–7), filed July 25, 1983. Applicant: G. BAKER EXPRESS, INC., 1740 Hubbard Dr., Batavia, IL 60510. Representative: Joel H. Steiner, 135 S. LaSalle St., Suite 2106, Chicago, IL 60603, (312) 236–9375. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with G. Baker Transportation Services, Inc., of Batavia, IL. Condition: Issuance of a Certificate in this proceeding is conditioned upon issuance of the license in MC–168790.

MC 148353 (Sub-5), filed August 4, 1983. Applicant: PORTER LINES, INCORPORATED, 2251 N. Dragoon, Tucson, AZ 85745. Representative: Milton W. Flack, 8484 Wilshire Blvd., #840, Beverly Hills, CA 90211, (213) 655-3573. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in GA, NJ, NY, OH, and PA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 152672 (Sub-12), filed August 8, 1983. Applicant: A. ROGER LEASING, LTD., P.O. Box 836, Coraopolis, PA 15108. Representative: Barry Weintraub, 7700 Leesburg Pike, Suite 403, Falls Church, VA 22043, 703-442-8330. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 154613 (Sub-2), filed August 8, 1983. Applicant: DEPENDABLE TRANSPORTATION, INC., P.O. Box 122, Rushville, OH 43150. Representative: Joseph J. LoPresti, Jr., 1105 East Ohio Gas Bldg., Cleveland, OH 44114, 216-621-3480. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 157212 (Sub-2), filed August 4, 1983. Applicant: DES MOINES PIGGYBACK SERVICES, INC., 4551 Delaware Ave., Des Moines, IA 50313. Representative: William L. Fairbank, 1300 United Central Bank Bldg., Des Moines, IA 50309, (515) 288-6041. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Midwest Intermodal Co., Inc., of Des Moines, IA.

MC 159692 (Sub-1), filed August 8, 1983. Applicant: CHARLES G. CREWS & SONS, INC., Rt. 1, Box 230, Moneta, VA 24121. Representative: Robert A. Mega, 25 Esten Ave., Pawtucket, RI 02860, 401-724-1200. Transporting *building materials*, between points in the U.S., under continuing contract(s) with persons engaged in the building and construction industry.

Volume No. OP-2-376

Decided: August 22, 1983.

By the Commission, Review Board Members Fortier, Krock, and Carleton.

MC 69633 (Sub-174), filed August 12, 1983. Applicant: ASSOCIATED TRUCK LINES, INC., 200 Monroe Ave. NW., Grand Rapids, MI 49503. Representative: Bruce A. Bullock, One Woodward Ave., 26th Floor, Detroit, MI 48226, 313-496-3534. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with The Goodyear Tire and Rubber Company, of Akron, OH.

MC 94883 (Sub-2), filed August 5, 1983. Applicant: WATSON'S MOVERS & STORAGE, INC., Route 32, South Windham, CT 06266. Representative: Harold B. Watson (same address as applicant), 203-423-3638. Transporting *household goods and furniture and fixtures*, between points in CT, RI, MA, and NY, on the one hand, and, on the other, points in ME, NH, VT, NY, MA, CT, RI, PA, NJ, DE, MD, VA, WV, and DC.

MC 103993 (Sub-1081), filed August 9, 1983. Applicant: MORGAN DRIVE-AWAY, INC., P.O. Box 1168, 28651 U.S. 20 West, Elkhart, IN 46515. Representative: Timothy J. Abeska (same address as applicant), 219-295-2200. Transporting *transportation equipment*, between points in the U.S. (except AK and HI), under continuing contract(s) with persons who are engaged in business as manufacturers, distributors, or dealers of transportation equipment.

MC 107012 (Sub-864), filed August 15, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant), 209-429-2110. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Deere & Company, of Moline, IL.

MC 129923 (Sub-28), filed August 8, 1983. Applicant: SHIPPERS TRANSPORT, INC., 5010 Commerce St., P.O. Box 1086, West Memphis, AR 72301. Representative: Edward G. Grogan, Twentieth Fl., First Tennessee Bldg., Memphis, TN 38103, 901-526-2000. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI)

MC 145773 (Sub-23), filed August 8, 1983. Applicant: KIRK BROS. TRANSPORTATION, INC., 800 Vandmark Rd., P.O. Box 784, Sidney, OH 45365. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215, 614-228-1541. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Erie and Niagara Counties, NY, and Erie County, PA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 145913 (Sub-3), filed August 8, 1983. Applicant: BART LANG TRUCKING, INC., Route 2, Box 221A1, Lexington, NE 68850. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501-2028, 402-475-6761. Transporting *food and related products*, between points in NE, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 169653, filed August 4, 1983. Applicant: WILCO ENTERPRISES, INC., 1035 SW. 17th, Hermiston, OR 97838. Representative: Lawrence V. Smart, Jr., 419 NW. 23rd Ave., Portland, OR 97210, 503-226-3755. Transporting *household furnishings and consumer electronic goods*, between points in Umatilla, Morrow, Gilliam, and Union counties, OR, on the one hand, and, on the other, points in Yakima, Benton, Franklin, Walla Walla, Adams, and Spokane Counties, WA.

MC 169692, filed August 5, 1983. Applicant: BENTON TRUCKING, INC., 3304 Tucson Dr., Cedar Falls, IA 50613. Representative: Robert F. Benton (same address as applicant), 319-266-2641. Transporting *cement and fly ash*, between points in the U.S. (except AK and HI), under continuing contract(s) with Benton's Ready Mixed Concrete, Inc., of Cedar Falls, IA.

MC 169693, filed August 5, 1983. Applicant: E & R TRANSPORT, INC., R.R. 2, Box 90, Minneota, MN 56264. Representative: Stanley C. Olsen, Jr., 5200 Willson Rd., Suite 307, Minneapolis, MN 55424, 612-927-8855. Transporting (1) *food and related products*, between Chicago, IL, Kansas City, MO, points in MN, and those in Saline County, KS, on the one hand, and, on the other, points in the U.S. (except AK and HI); and (2) *building and construction materials, and machinery*, between points in the U.S. (except AK and HI).

Please direct status inquiries about the following to Team Three (3) at (202) 275-5223

Volume No. OP3-384

Decided: August 19, 1983.

By the Commission, Review Board Members Carleton, Fortier, and Dowell.

FF-715, filed July 27, 1983. Applicant: CARIPAC INTERNATIONAL, INC., 12120 S. W. 94th St., Miami, FL 33186. Representative: Claudia Simon (same address as applicant), (305) 595-8737. As a freight forwarder in connection with

the transportation of *household goods, unaccompanied baggage,* and *used automobiles,* between points in the U.S.

MC 118885 (Sub-17), filed July 15, 1983. Applicant: CEMENT EXPRESS, INC., Hokes Mill Rd. and Lemon St., York, PA 17404. Representative: H. Richard Stickel, 1011 Morris Ave., P.O. Box 1100, Bryn Mawr, PA 19010, (215) 525–5220. Transporting *cement, clay, concrete, glass or stone products,* and *building materials,* between those points in the U.S. in and east of WI, IL, KY, TN, and MS.

Note.—Issuance of a certificate in this proceeding is subject to prior or coincidental cancellation, at applicant's written request, of Certificate No. MC–118885 Subs II, 14, and 16.

MC 134755 (Sub-236), filed July 27, 1983. Applicant: CHARTER EXPRESS, INC., P.O. Box 3772, Springfield, MO 65804. Representative: S. Christopher Wilson (same address as applicant), (417) 862–5588. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Kraft, Inc., of Glenview, IL.

MC 146724 (Sub-12), filed July 27, 1983. Applicant: DEAN RAPPLEYE, INC., 7444 So. 2200 W., West Jordan, UT 84084. Representative: Daniel O. Hands, 104 So. Michigan Ave., Suite 410, Chicago, IL 60603, (312) 641–1944. Transporting (1) *machinery,* (2) *transportation equipment* and (3) *pulp, paper and related products,* between ports of entry on the International Boundary line between the U.S. and Canada at points in MN, ND, MT, ID and WA, on the one hand, and, on the other, those points in the U.S. in and west of ND, SD, NE, KS, OK and TX (except AK and HI)

MC 166495, filed July 18, 1983. Applicant: MARTIN'S DELIVERY SERVICE, INC., 6949 Sherman Ave., Pennsauken, NJ 08110. Representative: James W. Patterson, 1800 Penn Mutual Tower, 510 Walnut St., Philadelphia, PA 19106, (215) 925–8300. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between New York, NY, points in NJ and DE, and those points in PA in and east of Tioga, Lycoming, Union, Snyder, Juniata, Perry, Cumberland, and Adams Counties, PA, on the one hand, and, on the other, those points in the U.S. in and east of WI, IL, KY, TN, and MS.

MC 167955, filed July 27, 1983. Applicant: H. J. MARTENS, INC., P.O. Box 1, Junction City, WI 54443. Representative: Michael J. Wyngaard, 150 E. Gilman St., Madison, WI 53703, (608) 256–7444. Transporting *commodities in bulk,* between points in WI, on the one hand, and, on the other, points in IL, IN, IA, MI, and MN.

MC 168595, filed July 26, 1983. Applicant: DATELINE ENTERPRISES, 1270 N. Main St., P.O. Box 987, Manteca, CA 95336. Representative: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108, (415) 986–8696. Transporting *food and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Hirst Imports, Incorporated, of Oklahoma City, OK.

Volume No. OP3–391

Decided: August 18, 1983.

By the Commission, Review Board Members, Dowell, Fortier, and Carleton.

FF–724, filed August 1, 1983. Applicant: RFC WORLD WIDE, 717 E. Artesia Blvd., Carson, CA 90746. Representative: Kenneth D. Polin, 225 Broadway, Suite 2100, San Diego, CA 92101 (714) 234–1966. As a *freight forwarder,* in connection with the transportation of *household goods, baggage and used automobiles,* between points in the U.S.

MC 145125 (Sub-13), filed August 2, 1983. Applicant: LAUREL MOUNTAIN OVERLAND EXPRESS, INC., P.O. Box 547, Rt. 322, Milroy, PA 17063. Representative: Eugene M. Malkin, 475 So. Main St., Suite 2B, P.O. Box 489, New York City, NY 10956 (914) 638–4007. Transporting *metal products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Howmet Dispatch Corporation of Rockwall, TX.

MC 167655 (Sub-1), filed July 26, 1983. Applicant: ADVANCED TRAFFIC SERVICES, INC., 32261 Camino Capistrano, Suite D103C, San Juan Capistrano, CA 92675. Representative: Robert J. Gallagher, 1435 G St., N.W., Suite 848, Washington, D.C. 20005 (202) 628–1642. As a *broker* arranging for the transportation of *household goods,* between points in the U.S. (except AK and HI).

MC 169354, filed August 2, 1983. Applicant: C. L. STUCKI & SONS, 2817 Colanthe, Las Vegas, NV 89102. Representative: Robert G. Harrison, 4299 James Dr., Carson City, NV 89701, (702) 882–5649. Transporting (1) *food and related products* and (2) *such commodities* as are dealt in by wholesale and retail hardware stores, between points in CA and NV.

MC 169534, filed July 29, 1983. Applicant: CAMDEN-EL DORADO EXPRESS COMPANY, Route 6, Box 361, Sheridan, AR 72150. Representative: M. Douglas Wood, 201 W. Broadway, P.O. Box 5606, North Little Rock, AR 72119, (501) 376–3700. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AR, TN, LA, TX, OK, and MO.

MC 169594, filed August 1, 1983. Applicant: PAC PAPER, INC., 6416 N.W. Whitney Rd., Vancouver, WA 98665. Representative: Robert M. Fike (same address as applicant) (206) 695–7771. Transporting *pulp, paper and related products,* between points in CA, OR and WA.

Please direct status inquiries about the following to Team Four at (202) 275–7669.

Volume No. OP4–561

Decided: August 17, 1983.

By the Commission, Review Board, Members: Dowell, Fortier, and Carleton.

MC 61396 (Sub-413), filed August 2, 1983. Applicant: HERMAN BROS., INC., P.O. Box 189, Omaha, NE 68101. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501, (402) 475–6761. Transporting *such commodities* as are dealt in by manufacturers and distributors of petroleum products and chemical products, between points in the U.S. (except AK and HI), under continuing contract(s) with manufacturers and distributors of petroleum products and chemical products.

MC 127227 (Sub-10), filed August 12, 1983. Applicant: BIRDSALL INCORPORATED, 821 Ave. "E", Riviera Beach, FL 33404. Representative: William E. Ferry 5420 N.W., 37th Ave., Miami, FL 33242 (305) 634–2500.Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in FL.

MC 151087 (Sub-14), filed August 12, 1983. Applicant: AREA INTERSTATE TRUCKING, INC., 15224 Dixie Hwy, Harvey, IL 60426. Representative: Leonard R. Kofkin, Suite 1515, 140 S. Dearborn St., Chicago, IL 60603, (312) 580–2210. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., (except AK and HI), under continuing contract(s) with Jones & Laughlin Steel Corporation, of Pittsburgh, PA.

MC 161157 (Sub-1), filed August 11, 1983. Applicant: TOP LINE EXPRESS, INC., P.O. Box 577, Lima, OH 45802. Representative: Stephen L. Oliver, 275 E. State St., Columbus, OH 43215, (614) 228–8575. Transporting *general commodities* (except classes A and B

explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 166867 (Sub-1), filed August 12, 1983. Applicant: L'EXPRESS DU MIDI, INC., 1076 Union St., P.O. Box 99, St. Catherine, Quebec, Canada J0L1E0. Representative: Robert G. Parks, 20 Walnut St., Suite 101, Wellesley Hills, MA 02181, (617) 235–5571. Transporting *building materials*, between points in the U.S., under continuing contract(s) with Westroc Industries Limited, of Mississaugua, Ontario, Canada.

MC 168226, filed August 11, 1983. Applicant: DOWNS BROTHERS HAULING, INC., 2541 E. Castor Ave., Philadelphia, PA 19134. Representative: James H. Sweeney, P.O.Box 9023, Lester, PA 19113, (215) 365–5141. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in PA and NY, on the one hand, and, on the other, points in DE, NJ and PA.

MC 169496, filed August 12, 1983. Applicant: DON JERRY X–PLO, INC., RD #5, Box 247A, Plattsburgh, NY 12901. Representative: Jack L. Schiller, 111–56 76th Dr., Forest Hills, NY 11375, (212) 263–2078. Transporting *general commodities* (except household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Expro Chemical Products, Inc., of Valley Field, Quebec, Canada and C–I–L, Inc., of North York, Ontario, Canada. Condition: To the extent the permit to be issued in this proceeding authorizes the transportation of classes A and B explosives, it shall be limited in point of time to a period expiring 5 years from its date of issue.

MC 169827 filed August 12, 1983. Applicant: JIM KIDDER, d.b.a. JIM KIDDER TRUCKING, 11503 Birimley St. Norwalk, CA 90650. Representative: Roy Gray, P.O. Box 344, Bloomington, CA 92316, (714) 824–2453. Transporting *metal products, building materials and machinery*, between points in the U.S. (except AK and HI), under continuing contract(s) with Texas General Steel Co., Inc., of Lubbock, TX and General Steel & Wire Co., Inc., of Lynwood, CA.

Volume No. OP4–562

Decided: August 17, 1983.

By the Commission, Review Board, Members Fortier, Dowell, and Joyce.

MC 59306 (Sub–9), filed August 12, 1983. Applicant: NIEDERGERKE TRUCK LINE, INC., P.O. Box 92, Fulton, MO 65251. Representative: Leroy D. Benton (same address as applicant), (314) 642–2601. Transporting *metal products*, between points in IL, IN, MO, OH, PA, and WV.

MC 105457 (Sub–111), filed August 10, 1983. Applicant: THURSTON MOTOR LINES, INC., 600 Johnston Rd., Charlotte, NC 28206. Representative: John V. Luckadoo (same address as applicant), (704) 373–1933. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with J. C. Penney Company, Inc., of New York, NY.

MC 145577 (Sub–30), filed August 12, 1983. Applicant: MUSTANG FREIGHT LINES, INC., 800 East 73rd, Unit 2, Denver, CO 80229. Representative: David E. Driggers, 1600 Lincoln Center, 1600 Lincoln St., Denver, CO 80264, (303) 861–4028. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 166167 (Sub–1), filed August 8, 1983. Applicant: DONALD B. WHITEBREAD & SONS, INC., P.O. Box 128, Conyngham, PA 18249. Representative: Raymond Talipski, 121 S. Main St., Taylor, PA 18517, (717) 344–8030. Transporting *building materials and construction materials*, between points in KS and TX and those points in the U.S. in and east of MN, IA, MO, AR, and LA.

MC 169787, filed August 10, 1983. Applicant: SHORT'S EXPRESS, INC., 77 Elm St., Amesbury, MA 01913. Representative: James F. Martin, Jr., 8 W. Morse Rd., Bellingham, MA 02019, (617) 966–2093. Transporting *general commodities* (except classes A and B explosives, and commodities in bulk), between points in MA, RI, CT, ME, NH, and VT.

MC 169806, filed August 10, 1983. Applicant: MONTGOMERY INDUSTRIES, INC., 370 Arch St., P.O. Box 5565, Spartanburg, SC 29305. Representative: Deas M. Richardson (same address as applicant), (803) 585–9213. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in SC, NC, VA, GA, AL, and TN.

Volume No. OP4–564

Decided: August 17, 1983.

By the Commission, Review Board, Members: Joyce, Carleton and Dowell.

MC 169846, filed August 11, 1983. Applicant: E. HARRIS TRUCK LINES, INC., 2404 Preston, Rockford, IL 61102. Representative: Doyle G. Owens, P.O. Box 7735, Beaumont, TX 77706, (409) 866–8088. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except classes AK and HI).

MC 169847, filed August 11, 1983. Applicant: METROLINA TRANSPORTATION SYSTEMS, INC., P.O. Box 1695, Gastonia, NC 28053. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168, (703) 629–2818. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except classes AK and HI).

For the following, please direct status calls to Team 5 at 202–275–7289.

Volume No. OP5–438

Decided: August 18, 1983.

By the Commission, Review Board, Members: Carleton, Fortier, and Dowell.

MC 128539 (Sub-22), filed August 8, 1983. Applicant: EAGLE TRANSPORT CORPORATION, P.O. Box 4718, Rocky Mount, NC 27801. Representative: Terrell Price, 800 Blair Creek Rd., Suite DD504, Charlotte, NC 28205 (704) 372–8212. Transporting *food and related products* between those points in the U.S. in and east of TX, OK, KS, NE, SD, and ND.

MC 143308 (Sub-6), filed July 27, 1983. Applicant: GENERAL TRUCKING SERVICE, INC., 1101—31st St., Downers Grove, IL 60515. Representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114, (216) 566–5639. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of chemicals, computers and computer supply products, containers, electrical products, food products, metal products, packaging products, paint products, paper products, and transportation equipment, between points in the U.S., under continuing contract(s) with persons who are engaged in the business of manufacturing and distributing the described commodities.

MC 143699 (Sub-9), filed August 5, 1983. Applicant: QUALITY CONTRACT CARRIERS, INC., 1009 W. Edgewood Ave., Indianapolis, IN 46217. Representative: E. Stephen Heisley, 1919 Pennsylvania Ave., NW, Suite 500, Washington, DC 20006, (202) 628–5015. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Shippers Service, Inc., of Indianapolis, IN.

MC 148438 (Sub-4), filed August 8, 1983. Applicant: MARCHAND CONSTRUCTION, INC., P.O. Box 48, Port Allen, LA 70767. Representative: Lawrence A. Winkle, P.O. Box 45538, Dallas, TX 75245, (214) 358–3341. Transporting *those commodities* which because of their size or weight require the use of special handling or equipment, between points in LA, AR, KY, TX, MS, AL, GA, SC, NC, TN, and FL.

MC 157098 (Sub-1), filed August 8, 1983. Applicant: NEVIN L. MARTIN TRUCKING, INC., 1793 Hykes Rd., Greencastle, PA 17225. Representative: Edward N. Button, 635 Oak Hill Ave., Hagerstown, MD 21740, (301) 739–4860. Transporting *building materials* between points in Washington County, MD, on the one hand, and, on the other, points in PA, MD, NJ, NY, DE, WV, VA, OH, and DC.

MC 151889 (Sub-1), filed August 8, 1983. Applicant: DAVID LATHAM, P.O. Box 614, Burnside, KY 42519. Representative: Robert H. Kinker, 314 W. Main Street, P.O. Box 464, Frankfort, KY 40602, (502) 223–6244. Transporting *general commodities* (Except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with The Clorox Company of Oakland, CA, and its divisions.

MC 165858, filed August 8, 1983. Applicant: CHARLES MOELLER, d.b.a. MOELLER TRUCK SERVICE, Box 103, Hwy 28, Bryant, SD 57221. Representative: Charles Moeller (same address as applicant), 605–628–2331. Transporting *lumber and wood products,* between points in WA, OR, ID, MT, WY, ND, SD, NE, KS, MN, IA, MO, WI, IL, MI, IN and OH.

MC 169728, filed August 8, 1983. Applicant: EDWARD A. FABIAN, d.b.a. ED FABIAN EARTH MOVING, 581 Pleasant St., West Rutland, VT 05777. Representative: Edward A. Fabian (same address as applicant), 802–438–5040. Transporting (1) *heavy machinery and equipment,* between points in VT, on the one hand, and, on the other, points in CT, IL, IN, ME, MA, NH, NJ, NY, OH, PA, SC, TN, and WV, and (2) *road maintenance materials* between points in VT, on the one hand, and, on the other, points in NY and NH.

Volume No. OP5–439

Decided: August 18, 1983.

By the Commission, Review Board Members Fortier, Dowell, and Carleton.

MC 99798 (Sub-21), filed August 8, 1983. Applicant: MARSHALL TRUCKING, INC., 1060 East Springfield Rd., Sullivan, MO 63080. Representative: Fred H. Marshall (same address as applicant), 314–468–4479. Transporting *general commodities* (Except classes A and B explosives, household goods, and commodities in bulk), between points in Iron County, MO, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 110948 (Sub-8), filed August 10, 1983. Applicant: MOTORWAYS (1980) LIMITED, 60 Eagle Dr., P.O. Box 738, Winnipeg, Manitoba, Canada R3C 2L8. Representative: Stephen F. Grinnell, 121 South 8th St., 1600 TCF Tower, Minneapolis, MN 55402, 612–333–1341. Transporting *general commodities* (Except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 153938 (Sub-12), filed August 10, 1983. Applicant: ENERGY EXPRESS, INC., P.O. Box 27605, Salt Lake City, UT 84127. Representative: Norval Millsap (same address as applicant), (801) 364–4532. Transporting *chemicals and related products* between points in the U.S., under continuing contract(s) with Ashland Chemical Company, Division of Ashland Oil, Inc., of Dublin, OH.

MC 160279 (Sub-9), filed August 10, 1983. Applicant: EXCEL TRANSPORTATION, INC., P.O. Box 2519, Wichita, KS 67201. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501, (402) 475–6761. Transporting *food and related products* between points in the U.S. (except AK and HI), under continuing contract(s) with persons as defined in section 10923 of the Motor Carrier Act of 1980 who are manufacturers, distributors or dealers of food and related products.

MC 168158, filed August 9, 1983. Applicant BAY TRUCKING, INC., P.O. Box 438, Millersville, MD 21108. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740, (301) 797–6060. Transporting *cement* between points in MD, PA, NJ, DE, WV, VA, NC, and DC.

MC 168279, filed August 11, 1983. Applicant: VICTOR CAMPBELL, JUAN CAMPBELL AND VICTOR CAMPBELL, JR., d.b.a. CAMPBELL TRUCKING COMPANY, 1060 E. Moore Rd., Saginaw, MI 48601. Representative: Karl L. Gotting, 1200 Bank of Lansing Bldg., Lansing, MI 48933, (517) 482–2400. Transporting *chemical and related products* between points in OH and MI.

MC 169618, filed August 3, 1983. Applicant: GREEN VALLEY GROUP OF PENNSYLVANIA, INC., 3569 Bristol Pike, Bensalem, PA 19020. Representative: Don Garrison, 416 Hay Drive, SW–F1, Decatur, AL 35603, (205) 355–0221. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), Between points in the U.S. (except AK and HI), under continuing contract(s) with Continental Traffic Services, of Springfield, MO.

MC 169788 (Sub-1), filed August 10, 1983. Applicant: H.M.H. MOTOR SERVICE, INC., P. O. Box 98, Morris Road, Hazelhurst, GA 31539. Representative: Morton E. Kiel, 475 South Main St., P.O. Box 489, New City, NY 10956, 914–638–4007. Transporting *textile mill products* and *chemicals and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with manufacturers, distributors or dealers of textile mill products and chemicals and related products.

MC 169809 (B), filed August 11, 1983. Applicant: MARS HILL SHIPPERS, INC., Main Street, Mars Hill, ME 04758. Representative: Robert D. Tweedie, FRD #1, Westfield, ME 04787, 207–425–3541. Transporting (1) *lumber and wood products,* and (2) *food and related products,* between points in ME, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Note.—Applicant also seeks authority in No. MC–169809 (A) published in this same issue.

[FR Doc. 83-23598 Filed 8-26-83; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods). The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of

the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Please direct status inquiries to Team 1, (202) 275–7030.

Volume No. OP1–352(F)

Decided: August 18, 1983.

By the Commission, Review Board Members Carleton, Dowell, and Fortier.

MC 37640 (Sub–14), filed August 5, 1983. Applicant: TEXAS BUS LINES, P.O. Box 10, AUSTIN, TX 78767, Representative: Scott Keller (same address as applicant), (512) 837–0088. *Over regular routes,* transporting *passengers,* (1) between Grand Prairie, TX and Montgomery, AL, from Grand Prairie, TX over Interstate Hwy 20 to Meridian, MS, then over U.S. Hwy 80 to Montgomery, AL, and return over the same route, and (2) between San Antonio, TX and Galveston, TX, from San Antonio over U.S. Hwy 87 to Port Lavaca, then over TX Hwy 35 to junction TX Hwy 36, then over TX Hwy 36 to junction TX Hwy 332, then over TX Hwy 332 to Clute, then over TX Hwy 288 to junction TX Hwy 35, then over TX Hwy 35 to junction TX Hwy 6, then over TX Hwy 6 to Galveston, and return over the same routes, serving all intermediate points in connection with routes (1) and (2).

Note.—Applicant seeks to provide regular-route service in interstate or foreign commerce and in intrastate commerce under 49 U.S.C. 10922(c)(2)(B) over the same route.

MC 120781 (Sub-8), filed August 9, 1983. Applicant: KRAFTOURS CORPORATION, P.O. Box 45790, Tulsa, OK 74145. Representative: Maxwell A. Howell, 2554 Massachusetts Ave., N.W. Washington, DC 20008, (202) 483–8633. Transporting *passengers,* in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

Please direct status inquiries to Team 2, (202) 275–7030.

Volume No. OP2–370

Decided: August 22, 1983.

By the Commission, Review Board Members, Fortier, Carleton, and Dowell.

MC 169773, filed August 8, 1983. Applicant: MARTIN M. GOOD, R.D. #2, Box 248, New Holland, PA 17557. Representative: Martin M. Good (same address as applicant), (717) 354–8468. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 169782 filed August 8, 1983. Applicant: M. LEDSON BUS LINES, LIMITED, P.O. Box 165, Lanark, Ontario, Canada KOG IKO. Representative: Allan C. Zuckerman, 221 N. LaSalle St., Suite 826, Chicago, IL 60601, (312) 641–5900. Transporting *passengers,* in special and charter operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 169802, filed August 11, 1983. Applicant: J.T. BARNETT TRUCKING, INC., Box 447, Port Lavaca, TX 77979. Representative: Harry F. Horak, P.O. Box 294, Cherokee, TX 76832, 915–622–4495. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners,* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 169812, filed August 11, 1983. Applicant: KEITH TITUS CORPORATION, P.O. Box 51-South St., Cato, NY 13033–0051. Representative: Roy D. Pinsky, Suite 1020-State Tower Bldg., Syracuse, NY 13202, 315–422–2384. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 169822, filed August 12, 1983. Applicant: ROBERT L. LEUTBECHER, 246 Creath, San Antonio, TX 78221. Representative: Harry F. Horak, P.O. Box 294, Cherokee, TX 76832, 915–622–4495. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners,* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 169832, filed August 12, 1983. Applicant: RUFUS K. GEIB, d.b.a. RUFUS GEIB BUS SERVICE, R.D. 2, Manheim, PA 17545. Representative: Paul J. Keeler, P.O. Box 253, South Plainfield, NJ 07080, 201–757–3478.Transporting *passengers,* in charter

and special operations, between points in the U.S. (except HI)

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 169833, filed August 12, 1983. Applicant: ZINA EILEEN COLONNA, d.b.a. W B C TRUCKING, 3831 Bobwhite Way, West Valley City, UT 84120. Representative: Irene Warr, 311 South State St.—Suite 280, Salt Lake City, UT 84111, 801–531–1300. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 169842, filed August 12, 1983. Applicant: CON-TOM, INC.d.b.a. East American Coach, P.O. Box 4121 C.R.S., Rock Hill, SC 29731. Representative: Thomas E. Thompson (same address as applicant), 803–366–3418. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

Volume No. OP2–377

Decided: August 22, 1983.

By the Commission, Review Board Members Carleton, Krock, and Dowell.

MC 160632, filed August 1, 1983. Applicant: OLIVER E. & GLADYS J. ENGEL d.b.a. ENGELHEIM CHARTER, Box 14, Lipton, Saskatchewan, Canada SOG 3BO. Representative: Gladys J. Engel (same address as applicant), (306) 336–2653. Transporting *passengers*, in charter and special operations, between the ports of entry on the International Boundary line between the U.S. and Canada, on the one hand, and, on the other, points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 169742, filed August 8, 1983. Applicant: EXPERT EXPRESS, INC., 320 E. Luzerne St., Philadelphia, PA 19124. Representative: James H. Sweeney, 468 Kentucky Ave., Williamstown, NJ 08094, (609) 629–2354. As a *broker of general commodities* (except household goods), between points in the U.S.

Volume No. OP2–378

Decided: August 22, 1983.

By the Commission, Review Board Members Krock, Parker, and Dowell.

MC 52362 (Sub-7), filed August 16, 1983. Applicant: MARINEL TRANSPORTATION, INC., Ward Way, North Chelmsford, MA 01863. Representative: William Shields, III, 100 Federal St., Boston, MA 02110, 617–357–9001. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. § 11343(a) or submit an affidavit indicating why such approval is unnecessary to the Secretary's Office. In order to expedite issuance of any authority, please submit a copy of the affidavit or proof of filing the application(s) for common control to Team 2, Room 2379.

MC 156673 (Sub-1), filed August 10, 1983. Applicant: DELOY MEPPEN, Rt. 9, Box 152, Idaho Falls, ID 83401. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701, 208–343–3071. Transporting (1) *general commodities* (except classes A and B explosives and household goods), between points in CA, ID, MT, NV, OR, UT, WA, and WY, and (2) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. Part (1) is published in the **Federal Register**, this issue, under the preface with "regular applications".

MC 169792, filed August 11, 1983. Applicant: BILL RODGERS, INC., d.b.a. TRAV'L EZ COACHLINES, 1406 Clwtr-Largo Rd., Largo, FL 33540. Representative: Bill J. Rodgers (same address as applicant), 813–585–4463. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 169843, filed August 12, 1983. Applicant: PLATTE COUNTY EXPRESS, INC., 10920 Ambassador Drive-Suite 102, Kansas City, MO 64153. Representative: Edward F. Ford, III, 10920 Ambassador Drive-Suite 404, Kansas City, MO 64153, 816–891–6480. Transporting *passengers*, in charter and special operations, between points in the U.S. (including AK, but excluding HI).

Note.— Applicant seeks to provide privately-funded charter and special transportation.

MC 169871, filed August 15, 1983. Applicant: EVAN CHARTER SERVICE, INC., 255 Greenwood Ave., Midland Park, NJ 07432. Representative: Ronald I. Shapss, 450—7th Ave., New York, NY 10123, 212–239–4610. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.— Applicant seeks to provide privately-funded charter and special transportation.

Please direct status inquiries about the following to Team Three (3) at (202) 275–5223.

Volume No. OP3–386

Decided: August 19, 1983.

By the Commission, Review Board Members Carleton, Fortier, and Dowell.

MC 169455, filed July 25, 1983. Applicant: CHARLES R. COOK, JR., d.b.a. GENESIS BROKERAGE COMPANY, P.O. Box 31042, Charlotte, NC 28231. Representative: Charles R. Cook, Jr. (same address as applicant), (704) 365–0119. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

Volume No. OP3–388

Decided: August 16, 1983.

By the Commission, Review Board Members Dowell, Joyce, and Fortier.

MC 169525, filed July 28, 1983. Applicant: C.T.C. INC., P.O. Box 442, Hopkins, MN 55343. Representative: Andrew R. Clark, 1600 TCF Tower, Minneapolis, MN 55402, (612) 333–1341. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 169584, filed August 1, 1983. Applicant: VIP COACH SERVICES, INC., 5400 Tuxedo Rd., Tuxedo, MD 20781. Representative: Ronald W. Malin, Key Bank Bldg., 4th Fl., Jamestown, NY 14701, (716) 664–5210. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

Volume No. OP–392.

Decided: August 18, 1983.

By the Commission, Review Board Members Dowell, Fortier, and Carleton.

MC 169545, filed July 29, 1983. Applicant: DAVID OLD, d.b.a. OLD N' STURDY TRUCKING CO., 4050 McArthur, Riverside, CA 92503. Representative: Roy Gray, P.O. Box 344, Bloomington, CA 92316, (714) 829–0765. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Please direct status inquiries about the following to Team Four at (202) 275–7669.

Volume No. OP4–563

Decided: August 17, 1983.

By the Commission, Review Board, Members Fortier, Dowell, and Joyce.

MC 169616, filed August 2, 1983. Applicant: J. L. JONES V. d.b.a. SUNSHINE TRANSPORTATION, 1300 E. 28th, Denver, CO 80205. Representative: J. L. Jones V (same address as applicant), (303) 388–8423. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 169796, filed August 11, 1983. Applicant: BOSTON CAB ASSOCIATION, INC., 60 Kilmarnock St., Boston, MA 02215. Representative: John F. Curley (same address as applicant), (617) 698–1569. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in CT, ME, MA, NH, NJ, NY, RI, and VT.

MC 169797, filed August 10, 1983. Applicant: CLIFFORD & LILA ROBERG, d.b.a. ROBERG TRUCKING, 35 Jackson, Billings, MT 59101. Representative: Joe Gipe, 5516 Laurel Rd., P.O. Box 31135, Billings, MT 59107, (406) 248–3602. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 169807, filed August 10, 1983. Applicant: ARTHUR MacWILLIAMS, d.b.a. ROBART TRANSPORTATION, 300–C Piedmont Court, Doraville, GA 30340. Representative: Arthur MacWilliams, 204 Noble Forest Drive, Norcross, GA 30092, (404) 448–6640. As a *broker* of *general commodities* (except household goods), between points in the U.S.

Volume No. OP4–565

Decided: August 17, 1983.

By the Commission, Review Board, Members Joyce, Carleton, and Dowell.

MC 169817, filed August 12, 1983. Applicant: FRANK L. BLACK, INC., R.D. 3, Box 84, Andover, NJ 07821. Representative: Frank L. Black (same address as applicant), (201) 786–5333. Transporting *passengers*, in charter and special operations, between points in ME, NH, VT, MA, CT, RI, NY, NJ, PA, DE, MD, VA, WV, OH, and D.C.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 169836, filed August 11, 1983. Applicant: WTS TRANSPORTATION SERVICES, INC., 3907 Northview Dr., Stow, OH 44224. Representative: C. K. Woodring (same address as applicant), (216) 688–9127. As a *broker of general commodities* (except household goods), between points in the U.S.

Volume No. OP4–572

Decided: August 22, 1983.

By the Commission, Review Board, Members Fortier, Dowell, and Carleton.

MC 169856, filed August 12, 1983. Applicant: JAT, INC., P.O. Box 2868, Birmingham, AL 35212. Representative: J. Douglas Harris, 200 S. Lawrence St., Montgomery, AL 36104, (205) 265–0251. Transporting *passengers*, in charter and special operations, beginning and ending at points in AL, GA, FL, MS and TN, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 169886, filed August 16, 1983. Applicant: DON CHRISTIAN d.b.a. M & C TRUCK LINE, 104 West Stacey, Chester, IL 62233. Representative: Hughan R. H. Smith, 26 Kenwood Place, Lawrence, MA 01841, (617) 657–6071. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Volume No. OP4–573

Decided: August 22, 1983.

By the Commission, Review Board, Members: Carleton, Dowell and Fortier.

MC 169766, filed August 8, 1983. Applicant: WALTON and COMPANY, 8205 Magnolia Ave., Riverside, CA 90624. Representative: Steven K. Kuhlmann, 717 17th St., Suite 2600, Denver, CO 80202–3357, (303) 892–6700. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 169767, filed August 8, 1983. Applicant: GOLDEN TOURS, INC., P.O. Box 4306, Airport Rd., Lynchburg, VA 24502. Representative: James B. Moore (same address as applicant), (804) 239–2687. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.— Applicant seeks to provide privately-funded charter and special transportation.

MC 169776, filed August 8, 1983. Applicant: SEACOAST SALES ASSOCIATES, 385 Main St., Somersworth, NH 03878. Representative: George F. Knapp, (same address as applicant), (603) 692–2840. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 169777, filed August 8, 1983. Applicant: ORBIT INVESTMENT, INC., P.O. Box 228, Newport, MN 55055. Representative: Stanley C. Olsen, Jr., 5200 Willson Rd., Suite 307, Minneapolis, MN 55424, (612) 927–8855. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 169786, filed August 10, 1983. Applicant: JAMES' CHARTERS, 12509 Kensington Lane, Bowie, MD 20715. Representative: David K. Doty, (same address as applicant), (202) 822–4224. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

For the following, please direct status calls to Team 5 at 202–275–7289.

Volume No. OP5–440

Decided: August 16, 1983.

By the Commission, Review Board Members Carleton, Fortier and Dowell.

MC 169809 (A), filed August 11, 1983. Applicant: MARS HILL SHIPPERS, INC., Main Street, Mars Hill, ME 04758. Representative: Robert D. Tweedie, RFD #1, Westfield, ME 04787, (207) 425–3541. As a *broker* of *general commodities* (except household goods), between points in the U.S.

Note.—Applicant also seeks authority in No. MC 169809 (B), published in this same issue.

[FR Doc. 83–23509 Filed 8–26–83; 8:45 am]
BILLING CODE 7035–01–M

Motor Carriers; Temporary Authority Applications

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1162. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the

protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significance effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F–288

The following applications were filed in Region I: Send protests to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 169973 (Sub-1–1TA), filed August 18, 1983. Applicant: AAROW MOVING & STORAGE, 360 Civic Center Drive, Augusta, ME 04330. Representative: Norman L. Allen (same as applicant), *Household goods,* between points in AL, AR, CT, DC, DE, FL, GA, IA, IL, IN, KY, LA, MA, ME, MD, MI, MN, MO, MS, NC, NH, NJ, NY, OH, PA, RI, SC, TN, VA, VT, WI, and WV. Applicant intends to tack existing authority. Supporting shipper(s): Cives Steel, Augusta, ME 04330; Bank of Maine, Augusta, ME 04330; International Paper Company, 77 West 45 Street, New York, NY 10036.

MC 76328 (Sub-1–1TA), filed August 16, 1983. Applicant: V. ANN TRUCKING, INC., 32 Montgomery Street, Bloomfield, NJ 07003. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Par, NJ 08904. *Paper and Paper Products, books and printed and lithographed matter* between Commercial Zones of New York NY and Philadelphia, PA and Lancaster, PA, on the one hand, and, on the other, points in CT, DE, MD, NJ, PA and DC. Supporting shippers(s): Ponte Bros., 2 Hope Street, Jersey City, NJ; Gaccione Bros. Co., Inc., P.O. Box 788, Lyndhurst, NJ 07071.

MC 14706 (Sub-1–1TA), filed August 11, 1983. Applicant: FIELD VIEW FARM TRANSPORTATION, INC., 707 Derby Turnpike, Orange CT 06477. Representative: Robert B. Walker, 915 Pennsylvania Building, 425 13th Street, N.W., Washington, DC 20004. *Common carrier:* irregular routes: *Malt beverages* between points in Onondaga County, NY, on the one hand, and, on the other, ponts in CT, MA, RI, NH, VT, ME, NY and NJ. Supporting shipper: Anheuser-Busch Companies, Inc., One Busch Place, St. Louis, MO 63118.

MC 1423 (Sub-1–2TA), filed August 18, 1983. Applicant: MELNI BUS SERVICE, INC., 29 River Road, Chatham, NJ 07928. Representative: Jeremy Kahn, Suite 733, Investment Building, 1511 K Street, NW., Washington, DC 20005. *Common Carrier:* regular routes: *Passengers* from Carrier's existing regular route at Newark International Airport, over NJ Turnpike Extension to the Holland Tunnel, then through the Holland Tunnel to New York, NY and return over the same route. Applicant intends to tack existing authority. Support: There are seventy statements of support with this application which may be examined at the Regional Office of the ICC in Boston, MA.

MC 38591 (Sub-1–1TA), filed August 15, 1983. Applicant: NATIONWIDE MOVING & STORAGE CO., INC., 100 Peters Road, P.O. Box 498, Bloomfield, CT 06002. Representative: Robert J. Gallagher, Esq., 1435 G. Street, NW., Suite 848, Washington, DC 20005. *Household goods as defined by the commission* between points in the U.S., except AK and HI. Supporting shipper(s): Heublein Spirits and Wines, 330 New Park Avenue, Hartford, CT 06101; Ames Department Store, Main Street, Rocky Hill, CT 06067; Fafnir Bearing, 37 Booth Street, New Britain, CT 06053; Emhart Corporation, 225 Episcopal Road, Berlin, CT 06037; Pitney Bowes, Edmond Road, Newtown, CT 06470.

MC 10942 (Sub-1–1TA), filed August 16, 1983. Applicant: PRIMO HAULAGE COMPANY, 55 Lane Avenue, West Caldwell, NJ 07006. Representative: A. David Millner, 7 Becker Farm Road, P.O. Box Y, Roseland, NJ 07068. *Contract carrier:* irregular routes: *containers* from Pine Brook, NJ to Newburgh and Patchogue, NY, under continuing contract(s) with Tri-Coast Container Corp., of City of Industry, CA. Supporting Shipper: TriCoast Container Corp., 315 So. Seventh Avenue, City of Industry, CA 91746.

MC 169972 (Sub-1–1TA), filed August 18, 1983. Applicant: U.S. TRANSIT CORP., 107 West Side Avenue, Jersey City, NJ 07305. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. *General commodities, except classes A and B explosives, commodities in bulk and household goods* between New York, NY Commercial Zone, on the one hand, and, on the other, points in CA, CT, IL, MA, NJ, and NY. Supporting shipper(s): Duro Test Corp. and Tungsten Corp., 2321 Kennedy Blvd., North Bergen, NJ 07047; K Mart Corporation, 3100 West Big Beaver, Troy, MI 48084.

MC 160039 (Sub-1–3TA), filed August 11, 1983. Applicant: WEX ENTERPRISES, INC., 116 Hall Street, P.O. Box 2009, Concord, NH 0301. Representative: David Denault, 848 Pleasant St., Suite 13, New Bedford, MA 02740. *General commodities (except classes A and B explosives, household goods and commodities in bulk),* under continuing contract(s) with Meldisco Division of Melville Corp., Hackensack, NJ; Lawn Boy Distributors, Hopkington, MA, General Felt Industries, Inc., Saddle Brook, NJ; Zayre Corp. Framingham, MA; Wright Line, Inc., Worcester, MA; Millipure Corp., Bedford, NH; Roland Dubois, David Denault d/b/a/ DRD Associates, New Bedford, MA. Supporting shipper(s): There are eight statements with this application which may be examined at the Regional Office of the ICC in Boston, MA.

The following applications were filed in Region 3. Send protests to: ICC, Regional Authority Center, Room 300, 1776 Peachtree Street, N.E., Atlanta, GA 30309.

MC 110410 (Sub-3–5TA), filed August 18, 1983. Applicant: BENTON BROTHERS FILM EXPRESS, INC., 168 Baker Street, NW., Atlanta, GA 30313. Representative: Thomas A. Stroud, 109 Madison Avenue, Memphis, TN 38103. *Printed matter,* between Atlanta, GA and Jacksonville, FL and points in their respective commercial zones, on the one hand, and, on the other, points in AL. Supporting shipper: Family Circle Magazine, 488 Madison Ave., New York, NY 10022.

MC 155079 (Sub-3–4TA), filed August 18, 1983. Applicant: CURTIS L. DODGINS, INC., Route 1, Box 393, Franklin, NC 28734. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Building, Charlotte, NC 28204. *Furniture and fixtures,* from points in Dade County, FL, to points in CA, WA, AZ, NV, NM and OR. Supporting Shippers: New creations, Inc.; Doral Industries, Inc.; and Alva Metals, Inc. all

at 3350 W. 17th Court, Hialeah, FL 33012..

MC 145635 (Sub-3–3TA), filed August 19, 1983. Applicant: THOMAS R. REED d.b.a. RANDLE REED TRUCKING, Rt. 4, Box 50C, Louisville, MS 39339. Representative: James Robert Evans, 145 W. Wisconsin Avenue, Neenah, WI 54956. *Building materials, lumber and wood products* between points in MS, on the one hand, and, on the other, points in AL, AR, GA, IL, IN, KY, LA, MI, MO, OH, OK, TN and TX. Supporting shippers: Dixie Wholesale Waterworks, Inc., P.O. Box 48, Louisville, MS 39339; Louisville Building Supply, 415 W. Main Street, Louisville, MS 39339; Magnolia Forest Products, Inc., P.O. Box 16686, Jackson, MS 39206; and Shuqualak Lumber Company, Inc., P.O. Box 87, Shuqualak, MS 39361.

MC 169909 (Sub-3–1TA), filed August 17, 1983. Applicant: H. BARBOUR AND SONS INCORPORATED, 1023 Brookline Avenue, Louisville, KY 40215. Representative: William R. Barbour, 7812 Mackie Lane, Louisville, KY 40214. *General commodities with the exception of class A and B explosives and liquids,* between points in the U.S. excluding AK and HI. Supporting Shippers: Paramount Foods Inc., fd prods, Pickledilly Station, Louisville, KY 40232. Olicon International, 13030 Aiken Rd., Louisville, KY 40223. American Cleaning Equipment Inc., 3600 Chamberlain Lane, 356 Jefferson Trade Center, Lousiville, KY 40222.

MC 169905 (Sub-3–1TA), filed August 16, 1983. Applicant: Ned Dean d.b.a. DEAN TRANSPORTATION CO., P.O. Box 672, Highway 431 South, Boaz, AL 35957. Representative: Hughan R. H. Smith, 26 Kenwood Place, Lawrence, MA 01841. *Contract Carrier,* irregular routes, *food and food products,* between points in AL, GA, and MS under continuing contract(s) with the State of Alabama, Montgomery, AL 36031. Supporting shipper(s): State of Alabama, 549 State Office Building, Montgomery, AL 36031.

MC 161167 (Sub-3–1TA), filed August 17, 1983. Applicant: OCEANIC SHIPPING COMPANY OF GEORGIA, 8700 W. Flagler Street, Miami, FL 33174. Representative: Gerard J. Donovan, 4791 S.W. 82d Ave., Davie, FL 33328. *Contract carrier;* irregular routes: *General Commodities (Except Classes A and B Explosives, household goods, and Commodities in Bulk)* From Tampa, FL to points in GA, SC, NC, VA, DE, PA, NJ, NY, MA, WI, and AL, on shipments having a prior or subsequent movement by water, in Container Lots. Under a continuing contract with Bank & Savill Lines of New York, NY and Strachan Shipping Company of Savannah, GA. Supporting shippers: Bank & Savill Lines, 26 Broadway, Room 733, New York, NY 10004 and Strachan Shipping Company, 315 Madison St., #712, Tampa, FL 33602.

MC 162895 (Sub-3–2TA), filed August 17, 1983. Applicant: PARRIS TRUCKING COMPANY, INC., P.O. Box 3799, Oxford, AL 36203. Representative: Tony Parris, Same address as applicant. *Lumber* (1) Between Bibb and Tuscaloosa Counties, AL on the one hand and on the other points in MS, LA, TX, FL, GA, TN, SC, NC, VA, KY, AR, MI, IA, MO, IL, IN, OH, MN, WS, WV. (2) From Greene County, TN to points in IL, OH, IN, MI, KY, WV, PA, VA, MD, IA. (3) Between points in Greene County, TN on one hand and on the other points in AL, GA, MS, SC, NC, FL. Between points in Allendale, SC on the one hand and on the other points in GA, NC, TN. Supporting shippers: (1) Cherokee Wood Preservers, Inc., P.O. Box 68, Mosheim, TN 37818. (2) Belcher Lumber Company, Inc., P.O. Bow 175, Centreville, AL 35042. (3) Spartanburg Forest Products, P.O. Box 2882, Spartamburg, SC 29304. Applicant intends to tack with existing authority held under MC 162895.

MC 157428 (Sub-3–2TA), filed August 17, 1983. Applicant: PIONEER WAREHOUSE CARRIERS, INC., P.O. Box 2087, Sebastian, FL 32958. Representative: Albert L. Evans, Jr., Route 61, South, Pottsville, PA 17901 *Contract Carrier,* irregular routes, *General Commodities* (except Classes A and B explosives between points in the U.S., except AK & HI under continuing contracts with U.S. Transportation Corporation, R. D. #3, Pottsville, PA 17901.

MC 149133 (Sub-3–27TA), filed August 17, 1983. Applicant: DIST/TRANS MULTI-SERVICES, INC., d.b.a. TAHWHEELALEN EXPRESS, INC., 1333 Nevada Boulevard, P.O. Box 7101, Charlotte, NC 28217. Representative: Charles L. Garrison, Same as above. *Contract Carrier:* irregular *general commodities* between points in the 48 contiguous U.S. Restricted to service performed under a continuing contract or contracts with Fingerhut Corporation of A Wait Park, Minnesota 56387. Supporting shipper: Fingerhut Corp., A wait Park, MN 56387.

The following applications were filed in Region 5. Send protest to: Consumer Assistance Center, Interstate Commerce Commission, 411 West 7th Street, Suite 500, Fort Worth, TX 76102.

MC 126045 (Sub-5–12TA), filed August 18, 1983. Applicant: ALTER TRUCKING AND TERMINAL CORPORATION, P.O. Box 3122, Davenport, IA 52808. Representative: Edward G. Bazelon, 135 South LaSalle St., Suite 2106, Chicago, IL 60603. *Salt,* from Minneapolis and St. Paul, MN and points in their Commercial Zone to points in Cippewa, Dunn, Pierce and St. Croix Counties, WI. Supporting shipper: International Salt Company, Clarks Summit, PA

MC 136803 (Sub-5–1TA), filed August 17, 1983. Applicant: EAGLE TRANSPORT, INC., P.O. Box 35, Leeds Station, Sioux City, IA 51108. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *Dry fertilizer, in bulk,* from the commercial zone of Depue, IL, to Calumet, IA. Supporting shipper: C-S Agrow Service Co., Inc., Calumet, IA.

MC 139506 (Sub-5–2TA), filed August 15, 1983. Applicant: SMITTY'S VAN & STORAGE CO., 840 No. 44th St., Suite 203, Omaha, NE 68003. Representative: James F. Crosby, 7363 Pacific St., Suite 210B, Omaha, NE 68114. *Household goods,* between points in IA, KS, NE, and TX on the one hand, and, on the other, points in the U.S. Supporting shippers: 6.

MC 141108 (Sub-5–7TA), filed August 17, 1983. Applicant: D & C EXPRESS, INC., P.O. Box 476, Wilton, IA 52778. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. *Metal Products,* (1) Between points in Jefferson County, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI) and (2) between points in Monroe County, MI, on the one hand, and, on the other, points in the U.S. (except AK, CO, HI, IL, IN, IA, KS, MN, MO, NE, NJ, NY, OH, OK, PA, WV, and WY). Supporting shipper: North Star Steel Company, St. Paul, MN.

MC 155207 (Sub-5–2TA), filed August 17, 1983. Applicant: TRANS EAST, INC., R.R. No. 4, Box 154, Rockport, MO 64482. Representative: ARTHUR J. CERRA, P.O. Box 19251, Kansas City, MO 64141. *Rubber Tires,* between points in the U.S. (except AK and HI) Supporting shipper: TELSTAR TYRE AND RUBBER CO., Norristown, PA.

MC 169379 (Sub-5–ITA), filed: August 17, 1983. Applicant: Derrell Lee Fleming, Rt. 1, Box 422, Quapaw, OK 74363,, Representative: Derrell Lee Fleming (same as above). *Sand, flint abrasive for sand blasting, lime and agricultural lime* from OK to points in KS, MO, AR, TX, IL, IN, KY, LA, MS and AL. Supporting Shipper: Humbel Sand Inc., Galena, KS.

MC 169843 (Sub-5–ITA), filed: August 18, 1983. Applicant: PLATTE COUNTY EXPRESS, INC., 10920 Ambassador Drive, Suite 102, Kansas City, MO 64153.

Representative: Edward F. Ford III, Same As Above. *Passengers, in charter and special operations,* between points in the U.S., (including AK and excluding HI) utilizing 20 passenger luxury buses. Supporting shipper: Aquarius Luxury Tours, Inc., Kansas City, Mo.

MC 169880 (Sub-5–ITA), filed: August 16, 1983. Applicant: GATOR TRANSPORTATION INC., No. 14 Shady Acres, Hensley, AR 72065. Representative: Thomas B. Staley, 1500 Tower Building, Little Rock AR 72201. *Food and Related Products* between points in AR on the one hand, and, on the other points in LA, MS, TN and TX. Supporting shippers: Gold Star Dairy, Little Rock, AR.

MC 169911 (Sub-5–ITA), filed: August 17, 1983. Applicant: C. K. DALE, P.O. Box 1983, Liberal KS 67901. Representative: Vicky Dale (same as above). *Corn meal, corn flour, corn grits* from Atchison, KS to points in AZ, WA, ID, CO, CA, NM, TX, OR, UT, OK, NV, and WY. Supporting shipper: Lincoln Grain, Inc., Atchison, KS.

MC 169912 (Sub-5–ITA), Filed: August 17, 1983. Applicant: SERVICE STORAGE AND CARTAGE, 100 11th Street, Monroe, LA 71202. Representative: Billy Middleton, Route 1, Box 168A, Monroe, LA 71202. *General commodities (except Class A and B explosives, household goods and commodities in bulk)* between points in LA having a prior or subsequent move by motor, rail or water. Applicant intends to interline. Supporting shippers: Howard Brothers Discount Stores, Inc., Monroe, LA, Dixie Moving and Storage, Inc., Monroe, LA.

MC 169915 (Sub-5–1TA), Applicant: VIRGIL L. GABEL, Rt. 1, Box 66, Akron, IA 51001. Representative: George L. Hirschbach, 920 W. 21 Street, POB 155, South Sioux City, NE 68776. *Ores and Minerals* from Akron, IA to South Sioux City, NE supporting shipper: Wilson Concrete Co., South Sioux City, NE.

MC 169974 (Sub-5–1TA), filed August 19, 1983. Applicant: BEST SALES CO., INC., 502 F. Ave., Lawton, OK 73501. Representative: Kenneth L Peacher, 3925 N. Ann Arbor, Oklahoma City, OK 73122. Contract, Irregular, *Malt beverages* between Wichita Falls, TX and Ft Sill Military Base, Lawton, OK and Altus AFB, Altus, OK under continuing contract with Reichert-Awtry, Inc., Wichita Falls, TX.

MC 169975 (Sub-5–1TA), filed August 19, 1983. Applicant: MCF ENTERPRISES, INC., R.R. #1, Durant, IA 52747. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. *Metal products,* between Muscatine and Scott Counties, IA, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Tube Technik, North America, Inc., Stockton, IA.

MC 169976 (Sub-5–1TA), filed August 19, 1983. Applicant: REFRIGERATED EXPRESS, INC., 11211 Sheman, Dallas, TX 75229. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. Contract: Irregular, *General Commodities (except classes A and B explosives, household goods or bulk commodities)* between points in the U.S. Restricted to shipments for the account of Certified Shipping of Duncanville, TX. Supporting shipper: Certified Shipping, Duncanville, TX.

The following applications were filed in Region 6. Send protests to: Interstate Commerce Commission, Region 6 Motor Carrier Board, 211 Main St., Suite 501, San Francisco, CA. 94105.

MC 169561 (Sub-6–1TA), filed August 1, 1983. Applicant: RALPH J. STERE and RICHARD O. PARKS, d.b.a A.T.F. TRUCKING, 20630 N.E. Novelty Hill Rd., Redmond, WA 98052. Applicant's Representative: Hugh H. Chaffee (same as applicant). *General Commodities, (except class A and B explosives, household goods, and commodities in bulk,* between points in WA, OR and ID, for 270 days. An underlying ETA seeks 120 days authority. There are 12 supporting shippers. Their statements may be examined at the Regional Office listed above.

MC 169746 (Sub-6–TA), filed August 9, 1983. Applicant: ADELANTO BUILDING SUPPLY, INC., 18031 Adelanto Rd., Adelanto, CA 92301. Representative: Patricia S. Brown, 18201 Billflower, Adelanto, CA 92301. (1) *Lumber, roofing materials,* from Las Vegas, NV to Adelanto, CA (2) *construction materials, lumber, drywall, sheet rock* from OR and ID to Adelanto, CA (3) *nails, wire, construction materials* from points in U.S. to Adelanto, CA for 270 days. Supporting shipper: Paradise Valley Investments, Inc., 18031 Adelanto Rd., Adelanto, CA 92301.

MC 169397 (Sub-6–1TA), filed August 10, 1983. Applicant: BRUYNZEEL TRUCKING INC., 6930 Fair Oaks Blvd., Carmichael, CA 95608. Representative: Karen L. Arbini (same as applicant). *Contract Carrier,* Irregular routes: *Pre-Cut Pallet Lumber* from port of entry on the International Boundary line between Canada and U.S. to points in CA., for the account of Shera Wood Products Inc., for 270 days. An ETA was granted for 120 days. Supporting shipper: Shera Wood Products Inc., 2230 Barnes Street, Penticton, B.C., Can. V2A 7J9.

MC 163721 (Sub-6–2TA), filed August 10, 1983. Applicant: CHAPARRAL EQUIPMENT, LEASING AND RENTAL, INC., 2845 Workman Mill Road, Whittier, CA 90601. Representative: Miles L. Kavaller, 315 South Beverly Dr., S. 315, Beverly Hills, CA 90212. *Contract carrier,* irregular routes, *general commodities* (except household goods, classes A and B explosives, hazardous waste), between points in the U.S., except AK and HI, under a continuing contract with 3 J Freight Service, Inc., of Whittier, CA, for 270 days. Supporting shipper: 3 J Freight Service, Inc., 2845 Workman Mill Road, Whittier, CA 90601.

MC 164001 (Sub-6–4TA), filed August 9, 1983. Applicant: A. FRANK COWAN, d.b.a. FRANK COWAN TRUCKING, 5891 Kingston WY, Murray, UT 84107. Representative: Bruce W. Shand, Ste. 280, 311 S. State St., Salt Lake City, UT 84111. *Contract carriage,* irregular routes, *petroleum or coal products,* between points in CA on the one hand and on the other, points in UT for 270 days. An underlying ETA seeks authority for 90 days. Supporting shipper: Dal-Soglio Inc., 295 North Holden St., Midvale, UT 84047.

MC 161625 (Sub-6–2TA), filed August 8, 1983. Applicant: DAVID GRESSETT, INC., 5601 San Francisco Road NE, Albuquerque, NM 87109. Representative: James C. Ash, 2524 Vermont NE, Albuquerque, NM 87110. Food and Related Products between Finney County, KS and AZ, CA and UT for 270 days. Supporting Shipper: Val-Agri, Inc., P.O. Box 8230, Wichita, KS 67208.

MC 151428 (Sub-6–5TA) filed August 10, 1983. Applicant: J & H TRUCKING, INC., 12425 Telephone Ave., Chino, CA 91710. Representative: Miles L. Kavaller, 315 South Beverly Dr., S. 315, Beverly Hills, CA 90212. *Contract carrier,* Irregular routes *General commodities,* (except household goods, classes A and B explosives, hazardous waste) between points in the U.S., except AK and HI, under a continuing contract with H & E Truck Brokers, Inc. of Chino, CA, for 270 days. Supporting shipper: H & E Truck Brokers, Inc., 12425 Telephone, Chino, CA 91710.

MC 169744 (Sub-6–1Ta), filed August 8, 1983. Applicant: DEAN R. KIRSCH, d.b.a. KIRSCH ENTERPRISES, P.O.B. 13477, Las Vegas, NV 89112–1477. Representative: Same as Applicant. *Contract carrier,* irregular routes, *glass-crushed, ground or powdered; roofing materials.* Between points in CA and NV for 270 days. Supporting shippers: Southern Distributors Corporation of Nevada, 4730 Wynn Rd., Las Vegas, NV

89103 and Artco-Vegas Recycling Center, POB 27317, Las Vegas, NV 89126.

MC 169698 (Sub-6–1TA), filed August 8, 1983. Applicant: LEAMON TEX NELSON d.b.a. NELSON BROS. TRUCKING CO., 2250 Clarkson St. Apt E, Denver, CO 80205. Representative: Leamon Tex Nelson (same as above). *General commodities* (except class A and B explosives, used HHG, commodities in bulk) between AZ, AR, NY, CA, CO, CT, IA, IL, IN, KS, WY, KY, MA, MD, MO, NC, NE, NJ, NM, NV, OH, OK, PA, TN, TX, UT, and VA for 270 days. Supporting shipper(s): Alpha Theary, Inc., 4534 So. 84th St., Omaha, NE 68127; Uplift Enterprises of Denver, Inc., 1855 Gaylord St. #201, Denver, CO 80206.

MC 169841 (Sub-6–1TA), filed August 10, 1983. Applicant: SHAMROCK TRUCKING CO., N. 10211 Roanoke Rd., Spokane, WA. 99208. Representative: James E. Wallingford, So. 5321 Pinebrook Ct., Spokane, WA. 99206. *Contract carrier,* irregular routes, *heavy machinery, prestressed/precast concrete products, sacked concrete products and related articles thereof,* between points, in ID, MT, OR and WA, for 270 days. Supporting shippers: Inland Asphalt Company, P.O. Box 11036, Parkwater Station, Spokane, WA. 99211; Central Pre-Mix Concrete Co., Inc., P.O. Box 3366, spokane, WA. 99220.

MC 151853 (Sub-6–3TA), filed August 11, 1983. Applicant: DONALD L. SHIRLEY, 5242 West Via Camille, Glendale, AZ 85306. Representative: James F. Crosby 7363 Pacific St. Suite 210B, Omaha, NE 68114. *Contract carrier,* Irregular routes: *Such commodities as are used or dealt in by general merchandise stores,* between points in CA and AZ, under a continuing contract(s) with The Price Company, San Diego, CA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: The Price Company, 2657 Ariane Dr., San Diego, CA 92117.

MC 157112 (Sub-6–3TA), filed August 11, 1983. Applicant: F. B. SIMONICH & RANDAL SIMONICH, d.b.a. SIMONICH TRUCKING, 3455 15th Ave. So., Great Falls, MT 59405. Representative: Barney L Hardin, 1471 Shoreline Dr., Suite 106, Boise, ID 83702. *General commodities* (except classes A & B explosives), between MT and points in CA, ID, NV, OR, UT, WA, WY, for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: There are six(6) shippers. Their statements may be examined at the Regional Office listed.

MC 148281 (Sub-6–6TA), filed August 10, 1983. Applicant: SUSANA TRANSPORT SYSTEMS, INC., 2845 Workman Mill Rd., Whittier, CA 90601. Representative: Miles L. Kavaller, 315 South Beverly Dr., S. 315, Beverly Hills, CA 90212. *Contract carrier, irregular routes, general commodities,* (except household goods, classes A and B explosives, hazardous waste) between points in the U.S., except AK and HI, under a continuing contract with 3 J Freight Service, Inc. of Whittier, CA, for 270 days. Supporting shipper: 3 J Freight service, Inc., 2845 Workman Mill Road, Whittier, CA 90601.

MC 169745 (Sub-6–1TA), filed August 9, 1983. Applicant: ROY S. & JUDITH M. SQUIRES d.b.a. TAURUS II TRUCKING, 1522 Amherst Dr., Longmont, CO 80501. Representative: Roy S. & Judith M. Squires (same as applicant). (1) *Lumber and wood products;* (2) *pulp, paper and related products;* (3) *rubber and plastic products;* (4) *metal products;* (5) *building materials;* (6) *clay, concrete, glass or stone products* between Denver, CO and points in WY, OH, TX, KS, VT, NM, CA, MI, PA, and MT; and (7) *food and related products* between CO on the one hand and points in the U.S. on the other for 270 days. Supporting shippers(s): Acoustical & Construction Supply, 6899 East 49th, Commerce City, CO 80216; Longmont Transportation CO., Inc., 150 Main St., Longmont, CO 80501.

MC 169697 (Sub-6–1TA), filed August 5, 1983. Applicant: RAFAEL OLIVA d.b.a. TRANSPORTES "RAYO", 637 West 30th St., Los Angeles, CA 90007. Representative: (same as applicant). *General commodities,* between Los Angeles County, CA and ports of entry on the U.S.-Mexico border for 270 days. Supporting shippers: Jose Daniel Azurdia, 3038½ S. Royal St., Los Angeles, CA; and Celia Villatoro, 3036½ S. Hill St., Los Angeles, CA 90037.

MC 148791 (Sub-6–25TA), filed August 9, 1983. Applicant: TRANSPORT-WEST, INC., 1050 S. 1100 W., Woods Cross, UT 84087. Representative: Rick J. Hall, P.O. Box 2465, Salt Lake City, UT 84116. *Contract Carrier,* Irregular routes: *General commodities* (except Classes A and B explosives, commodities in bulk and household goods), between Hayward, CA and Sparks, NV for the account of Consumers Distributing, Ltd. for 270 days. An underlying ETA seeks 120 days' authority. Supporting shipper: Consumers Distributing, Ltd., 20 Campus Plaza, Edison, NJ. 08837.

MC 52793 (Sub-6–33TA), filed August 17, 1983. Applicant: BEKINS VAN LINES CO., 333 South Center St., Hillside, IL 60162. Representative: David A. Gallagher (same address as applicant). *Contract* irregular: *General commodities (except classes A & B explosives)* between points in the U.S., except AK and HI for 270 days, for Phillips Petroleum Company. Supporting shipper: Phillips Petroleum Company, 820 Adams Bldg., Bartlesville, OK 74004.

MC 140633 (Sub-6–6TA), filed August 16, 1983. Applicant: CAPITAL DELIVERY SYSTEMS, INC., POB 161115, Sacramento, CA 95816. Representative: John F. Parks, III (same address as applicant). *Contract Carrier,* Irregular Route: *Such commodities as are stocked or sold by television and appliance stores* between Sacramento, CA and Reno, NV for Handy Andy Television and Appliance for 270 days. An underlying ETA seeks 120 authority. Supporting shipper: Handy Andy Television and Appliance, 2620 Fulton Ave., Sacramento, CA 95821.

MC 168945 (Sub-6–1TA), filed August 17, 1983. Applicant: DIRECT SERVICE TRANSPORT, INC., P.O. Box 14410, Spokane, WA 99214. Representative: James E. Wallingford, P.O. Box 11841, Spokane, WA 99211. *Building materials, lumber, wood products, sand in* sacks and *metal articles* over irregular routes between points in AR, AZ, CA, CO, ID, IL, IN, IO, MI, MN, MO, MT, ND, NE, NM, NV, OH, OK, OR, SD, TX, WA, WI, and WY, for a period of 270 days. Supporting shippers: There are 6 shippers. Their statement may be examined at the regional office above.

MC 169892 (Sub-6–1TA), filed August 15, 1983. Applicant: William E. Hartman d.b.a. BILL HARTMAN TRUCKING CO., RT. 2 Box 510, Chico, CA. 95926. Representative: (Same as applicant). *Contract carrier;* irregular route; *lumber and building materials* between points in CA, ID and CA for 270 days. Supporting shippers: Whittaker Forest Products Inc., P.O. 1578, Chico, CA. 95927.

MC 169717 (Sub-6–1TA), filed August 18, 1983. Applicant: ALBERT THEW, d.b.a. I.A.T. DISTRIBUTORS, 5334 200th St., Langley, B.C., CD, V3A 1M1. Representative: (Same as above). *Contract carrier,* irregular routes, *Lumber and Wood Products* between points in the U.S. (except AK and HI) for 270 days. Supporting shipper: Fraser Box and Trading Co. Ltd., 9871 River Dr., Richmond, B.C., CD, V6X 1Z1.

MC 169882 (Sub-6–1TA), filed August 16, 1983. Applicant: OTTO TERKILDSEN, INC., 1323 South 3rd St., Oakdale, CA 95361. Representative: Richard C. Celio, 300 S. Harbor Blvd., Suite 914, Anaheim, CA 92805. (1) *Ores and Minerals;* (2) *Clay, Concrete, Glass or Stone Products;* and (3) *Chemicals*

and Related Products between points in CA, AZ, NV, UT, OR, WA, ID, MT, WY, CO and NM for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Geo-Western Drilling Fluids, Geo-Drilling Fluids, Geo-Louisiana, Geo-Oklahoma, Industrial Minerals, P.O.B. 1478, Bakersfield, CA 93302.

MC 149303 (Sub-6–1TA), filed August 15, 1983. Applicant: EUGENE R. HANSEN d.b.a. TRAPPER TRUCKING, 7090 Highway 101 West, Port Angeles, WA 98362. Representative: (Same as applicant). *Lumber, plywood, veneer, peeler cores, cement, shakes, shingles, particle board, treated wood, sheet rock* and *related building materials* between points in WA and OR, for 270 days. Supporting shipper: Sunrise Forest Products Co., 6443 S.W. Beaverton Highway, Raleigh Hills, Portland, OR 97225.

MC 169893 (Sub-6–1TA), filed August 15, 1983. Applicant: VALTRANS, LTD., 185 West Railroad, Kalispell, MT 59901. Representative: David L. Jackson, 203 North Ewing St., Helena, MT 59601. *Lubricating oils, greases and empty containers (except commodities in bulk)* between Ponca City, OK, and points in Flathead, Jefferson, Lake, Lewis and Clark, Lincoln, Mineral, Sanders and Silverbow Counties, MT for 270 days. Supporting shippers: There are six shippers. Their statements may be examined at the Regional Office listed above.

MC 167149 (Sub-6–2TA), filed August 15, 1983. Applicant; KIM WEBB d.b.a. WEBB TRANSPORTING, 1029 Williams Road, Emmett, ID 83617. Representative: John H. Goslin, P.O. Box 921, Caldwell, ID 83605. *Liquid Petroleum and Related Products,* between Boise, ID and Jordan Valley, OR, for 270 days. Supporting shipper: Corta Oil Co., Inc., P.O. Box 255, Jordan Valley, OR.

MC 52793 (Sub-6–34TA), filed August 18, 1983. Applicant: BEKINS VAN LINES CO., 333 South Center St., Hillside, IL 60162. Representative: David A. Gallagher (same address as applicant). *Contract* irregular: *New and used conputer equipment and components* between points in the U.S., excpet AK and HI for 270 days, for account of Comdisco, Inc. Supporting shipper: Comdisco, Inc., 6400 Shafer Ct., Rosemont, IL 60018.

MC 169962 (Sub-6–1TA), filed August 18, 1983. Applicant: UNITED TRUCKERS INC., 10100 Gem Tree Way, Santee, CA 92071. Representative: Alex B. Scheingross, 3232 Fourth Ave., San Diego, CA 92103. *General Commodities, with usual exceptions,* between points in CA and AZ for 270 days. Supporting shipper: There are five shippers. Their statements may be examined at the Regional Office listed.

Republication

MC 65665 (Sub-6–1TA), filed August 18, 1983. Applicant: IMPERIAL VAN LINES, INC., 2805 Columbia St., Torrance, CA 90503. Representative: Alan F. Wohlstetter, 1700 K St., NW, Washington, DC 20006. *Contract carriers,* irregular routes, *general commodities* (except class A & B explosives, and commodities in bulk), between points in the U.S. under continuing contract(s) with Imperial Van Lines International, Inc. of Torrance, CA and its subsidiaries and affiliates for 270 days. Supporting shipper: Imperial Van Lines International, Inc., 2805 Columbia St., Torrance, CA 90503.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–23560 Filed 8–26–83; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte 387 (Sub-957]

Rail Carriers; Seaboard System Railroad, Inc.; Exemption for Contract Tariff ICC-SBD-C-0216 (Chemicals)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: A provisional exemption is granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the above-noted contract tariff may become effective on one day's notice.* This exemption may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 29423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275–7278.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in this instance to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption request meets the requirements of 49 U.S.C. 10505(a) and is granted subject to the following conditions:

This grant neither shall be construed to mean that the Commission has approved the contract for purposes of 49 U.S.C. 10713(e) nor that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to determine its lawfulness.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

Authority: 49 U.S.C. 10505.

Decided: August 22, 1983.

By the Commission, the Review Board, Members, Carleton, Parker, and Dowell.

*Note.—Tariff supplements advancing contract's effective date shall refer to this decision for authority. This exemption procedure is no longer necessary after June 27, 1983, see Ex Parte No. 387 (Sub-No. 200), 48 FR 23824, May 27, 1983.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–23559 Filed 8–26–83; 8:45 am]

BILLING CODE 7035–01–M

[I.C.C. Order P–61]

Rail Carriers; Passenger Train Operation; Atchison, Topeka and Santa Fe Railway Co.

It appearing, that the National Railroad Passenger Corporation (Amtrak) has established through passenger train service between New Orleans, Louisiana, and Los Angeles, California. The operation of these trains requires the use of the tracks and other facilities of Southern Pacific Transportation (SP). A portion of the SP tracks between Indio, California, and Yuma, Arizona, are temporarily out of service because of a washout. An alternate route is available via The Atchison, Topeka and Santa Fe Railway Company between Los Angeles, California, and El Paso, Texas.

It is the opinion of the Commission that the use of such alternate route is necessary in the interest of public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty day's notice.

It is ordered, (a) Pursuant to the authority vested in me by order of the Commission served April 29, 1982, and of the authority vested in the Commission by Section 402(c) of the Rail Passenger Service Act of 1970 (45 U.S.C. 562(c)), The Atchison, Topeka and Santa Fe Railway Company (ATSF) is directed to operate trains of the National Railroad passenger Corporation (Amtrak) between Los Angeles, California, and a connection with South Pacific Transportation Company at El Paso, Texas.

(b) In executing the provisions of this order, the common carriers involved shall proceed even though no

agreements or arrangements now exist between them with reference to the compensation terms and conditions applicable to said transportation. The compensation terms and conditions shall be, during the time this order remains in force, those which are voluntarily agreed upon by and the between said carriers; or upon failure of the carriers to so agree, the compensation terms and conditions shall be as hereafter fixed by the Commission upon petition of any or all of the said carriers in accordance with pertinent authority conferred upon it by the Interstate Commerce Act by the Rail Passenger Service Act of 1970, as amended.

(c) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign commerce.

(d) *Effective date.* This order shall become effective at 1:00 a.m., (EDT), August 18, 1983.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m. (EDT), August 19, 1983, unless otherwise modified, amended, or vacated by order of this Commission.

This order shall be served upon The Atchison, Topeka and Santa Fe Railway Company and upon the National Railroad Passenger Corporation (Amtrak), and a copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C. August 18, 1983.

Interstate Commerce Commission.

John H. O'Brien,

Agent.

[FR Doc. 83-23587 Filed 8-26-83; 8:45 am]

BILLING CODE 7035-01-M

[I.C.C. Order P-60]

Rail Carriers; Passenger Train Operation; Union Pacific Railroad Co.

It appearing, that the National Railroad Passenger Corporation (Amtrak) has established through passenger train service between Oakland, California, and Chicago, Illinois. The operation of these trains requires the use of the tracks and other facilities of Southern Pacific Transportation Company (SP). A portion of the SP tracks in Utah over the Great Salt Lake are temporarily out of service because of flooding. An alternate route is available via Union Pacific Railroad Company (UP) between Alazon, Nevada, and Salt Lake City, Utah.

It is the opinion of the Commission that the use of such alternate route is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

(a) Pursuant to the authority vested in me by order of the Commission decided April 19, 1981, and of the authority vested in the Commission by Section 402(c) of the Rail Passenger Service Act of 1970 (45 U.S.C. 562(c)), Union Pacific Railroad Company (UP) is directed to operate trains of the National Railroad Passenger Corporation (Amtrak) between a connection with Southern Pacific Transportation Company (SP) at Alazon, Nevada, and Salt Lake City, Utah.

(b) In executing the provisions of this order, the common carriers involved shall proceed even though no agreements or arrangements now exist between them with reference to the compensation terms and conditions applicable to said transportation. The compensation terms and conditions shall be, during the time this order remains in force, those which are voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, the compensation terms and conditions shall be as hereafter fixed by the Commission upon petition of any or all of the said carriers in accordance with pertinent authority conferred upon it by the Interstate Commerce Act and by the Rail Passenger Service Act of 1970, as amended.

(c) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign commerce.

(d) *Effective date.* This order shall become effective at 1:00 a.m., August 15, 1983, Eastern Daylight Time.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., August 16, 1983, Pacific Daylight Time, unless otherwise modified, amended, or vacated by order of this Commission.

This order shall be served upon Union Pacific Railroad Company, and upon the National Railroad Passenger Corporation (Amtrak), and a copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., August 15, 1983.

Interstate Commerce Commission.

John H. O'Brien,

Agent.

[FR Doc. 83-23595 Filed 8-26-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 83-17]

Certificates of Registration; Drug Mart, Inc. of Lake Wales; Hearing

Notice is hereby given that on May 20, 1983, the Drug Enforcement Administration, Department of Justice, issued to Drug Mart, Inc. of Lake Wales an Order To Show Cause as to why the Drug Enforcement Administration should not revoke its DEA Certificates of Registration, AD1734169 and AD8070702, as a retail pharmacy under 21 U.S.C. 823(f).

Thirty days having elapsed since the said Order To Show Cause was received by Respondent and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 10:00 a.m. on Tuesday, September 13, 1983, in Courtroom No. 10, Room 309-B, U.S. Claims Court, 717 Madison Place, NW., Washington, D.C.

Dated: August 22, 1983.

Francis M. Mullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 83-23584 Filed 8-26-83; 8:45 am]

BILLING CODE 4410-09-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 83-72]

National Environmental Policy Act; Finding of No Significant Impact

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of finding of no significant impact.

SUMMARY: The eighth flight of the Space Shuttle (STS-8) with a crew of five astronauts is currently scheduled for late August from Kennedy Space Center, Florida. The Shuttle will be launched to a 28.5 degree orbit with an initial altitude of 300 km and later descend to an altitude of 222 km to conduct an evaluation of oxygen interaction with materials. The mission is scheduled for 5 days with a landing at Edwards Air Force Base, California.

The payloads for STS-8 have been significantly revised from previous plans due to the partial failure of the Inertial Upper Stage (IUS) on STS-6 in March 1983. Previously, STS-8 had been scheduled to carry the second Tracking and Data Relay Satellite (TDRS) with its

IUS, the Indian Government's INSAT–1B communications and weather satellite, as well as some research payloads in the crew's compartment. Because the problems with the IUS could not be quickly identified and resolved, the decision was made to postpone the launch of the TDRS/IUS and substitute other payloads.

The STS–8 mission is now scheduled to carry the following payloads in the Shuttle's cargo bay: (1) the Indian communication and weather observation satellite (INSAT–1B) and its associated Propulsion Assist Module (PAM–D) for launch onto geosynchronous transfer orbit; (2) a Payload Flight Test Article mounted on a frame; (3) an Oxygen Interaction with Materials Experiment; and (4) some small, self-contained payloads in cannisters (Get-Away Specials (GAS)) mounted on the side of the cargo bay. The major payload in the crew's cabin is the Continuous Flow Electrophoresis System (CFES), which has been flown on previous STS missions.

The INSAT–1B is the second dual-purpose geosynchronous communications-meteorological satellite built and launched by U.S. companies and NASA for the Indian Government's Space Research Organization. The satellite will provide both a space relay for general communications purposes (voice, data, television) and images of the weather patterns over that area of the world. The satellite has been built by Ford Aerospace and Communications Corporation, and is somewhat different from the Hughes Aircraft Corporation's HS–376 spacecraft launched on previous Shuttle missions. The INSAT–1B uses bipropellants (a hydrazine fuel and nitrogen tetroxide oxidizer) where previous spacecraft have used hydrazine mono-propellants with catalysts. The bipropellants, similar to those used in the Shuttle's Orbital Maneuvering System (OMS), are needed to maintain directional and positional control of the satellite during its planned 7-year lifetime. While there are other mechanical and electronic differences between the INSAT–1B and previously launched commercial communications spacecraft, all have been designed for launch to geosynchronous transfer orbit by the PAM–D propulsion module. From the standpoint of environmental analysis, however, the only difference in the spacecraft from prior launches is the presence of a different propellant for the altitude control system.

The Payload Development and Retrieval System/Payload Flight Test Article is a frame with an inert test mass to be used in tests with the Remote Manipulator Arm to gather information on its capabilities to manipulate future payloads.

The Oxygen Interaction with Materials (OIM) Experiment is mounted on a Development Flight Instrument (DFI) Pallet and consists of two trays which expose six samples maintained at different temperatures to the space environment. A test will be attached to the Remote Manipulator Arm. Another experiment, GLOW, consisting of an image intensifier and a camera, will be operated from the crew's cabin in conjunction with the OIM experiments. Both experiments have been flown previously and are being reflown to gather additional information under different conditions. As part of these tests, the Shuttle will change its orbit slightly so that it dips lower into the residual atmosphere in near-Earth space. The goal is to collect data on the degradation of aerospace materials by the residual oxygen in low-Earth orbits. These data will be used in selecting materials for future spacecraft designs.

Several small, self-contained experiments will be carried in the payload bay. These will be placed in cylindrical cannisters approximately 50 cm in diameter and 80 cm long. These are generally known as Get-Away Specials (GAS) payloads. The Contamination Monitor Package is a new GAS payload. The scientific GAS payloads have been flown before and are either being flown to gather additional data or because the prior experiments did not work as intended. The scientific GAS payloads are: (1) the Cosmic Ray Upset Experiment (CRUX) (flown on STS–7); (2) Photographic Film Investigation (flown on STS–7); and (3) Crystal Growth of Artificial Snow (flown on STS–6). Two payloads will be flown under the sponsorship of the *Asahi Shimbun*, a Japanese newspaper, as a result of a readership contest. In addition, the U.S. Postal Service will be sponsoring eight cannisters of postal covers or stamps for sale to the public. This will constitute the first space mail available to the general public.

The crew's cabin will contain several experiments using the astronauts' services. These payloads, generally called Mid-Deck payloads, are: (1) the Continuous Flow Electrophoresis System (CFES), which is a test-bed for possible future systems which would process pharmaceuticals in space. This system uses the slight differences in the electrical properties of components in solutions to effect their separation. The CFES is the first step in a joint venture between McDonnell-Douglas, an aerospace firm, and Johnson and Johnson, a pharmaceutical firm; (2) the GLOW experiment to be operated in conjunction with the OIM experiment; and (3) student experiments in suitcase-type containers will be carried aboard by the astronauts and placed in lockers for operation during the flight. These are selected from among those ready to go at flight time; consequently, details are not available.

There will be a variety of test and measurement equipment for use in an ongoing test program for the Space Shuttle System and their capabilities. These tests are described further in the Environmental Impact Statement for the Space Shuttle Program.

Possible alternatives to the Proposed Action are: (1) No Action; and (2) the Use of Expendable Launch Vehicles (ELV's).

The No Action Alternative is defined here as the continuation or substitution of terrestrial alternatives to achieve the same goals as the Shuttle payloads. The only goal of the STS–8 payloads, which can be achieved with economical terrestrial alternatives, is that of the INSAT–1B and only for its telecommunication functions. The weather imagery for that part of the world needs the synoptic view provided only from space. The partial imagery which could be obtained by a fleet of high-altitude aircraft would not provide sufficient coverage to be considered equivalent and would be very costly. The telecommunications functions, however, could be approximated by a network of microwave repeater towers, or by the emerging fiber optic cable technology. Ground based communications relay technologies are competitive with satellite relay methods and are frequently used to complement each other. In general, for high subscriber densities and short distances, ground based telecommunications are more cost-effective than satellite relay. For low subscriber densities and long distances, satellite relay is frequently more cost-effective. In the case of India, where a subscriber base must be built along with the telecommunications system, satellite relay is considered preferable because ground stations can be placed in remote areas of the country to satisfy demand without having a large investment in the intervening areas where the demand is not yet developed.

The other payloads require some aspect of the space environment to achieve their objectives. In the case of the OIM and GLOW experiments, this is access to the residual atmosphere at Shuttle altitudes. For other experiments, weightlessness or exposure to space

outside the bulk of the atmosphere is required.

The use of Expendable Launch Vehicles (ELV's) is technically possible, but only in the case of the INSAT–1B is it considered economically feasible. The INSAT–1A, a nearly identical spacecraft, was launched on a Delta ELV in 1982. With some minor modifications, the INSAT–1B could also be launched this way. The other payloads, however, have been designed for use on the Shuttle and would require, at a minimum, extensive modifications to use any other ELV. The Payload Flight Test Article is desinged exclusively for a test of the Shuttle's Remote Manipulator Arm and thus would not be considered for an ELV launch. The other payloads could conceptually be redesigned to fly on one or two Delta vehicles, together with a reentry system to permit their recovery. The Shuttle Orbiter, however, has been designed to provide this reentry capability. It is very questionable whether these or other payloads requiring reentry would be funded in the foreseeable future if this capability were not available as part of NASA's standard launch services. Use of sounding rockets is not considered appropriate for these payloads; they require more time in space environment than can be provided by existing sounding rockets.

For the Proposed Action, the only measurable long term adverse environmental effect from the normal deployment and operation of these payloads is the addition of the expended PAM–D solid rocket motor and the ultimately abandoned INSAT–1B to the population of artificial space debris. This population currently numbers about 5,000 observable objects. The major concern associated with this debris is an increasing probability of collision with an active spacecraft. While the current debris accumulation poses little threat to the terrestrial environment, there is an increasing probability of collisions which would result in the loss of an active spacecraft and the growth of the debris population through the fragmentation process. If the spacecraft were manned, it is possible that a direct hit by debris would result in the loss of life.

If the INSAT–1B were launched by a Delta ELV, the Delta second stage would become part of the space debris with the PAM and the spacecraft. For either alternative, the potential collision risk from the addition to the space debris is considered to be an acceptable risk in exchange for the benefits to be achieved from the INSAT–1B.

Short term adverse effects are anticipated from the launch of the Shuttle and include noise and the spotting of vegetation near the launch facility. These effects occur during launches of Deltas, but with lower intensities. For both launch alternatives, there is a risk of a catastrophic accident caused by the payloads or the failure of a vehicle system. NASA safety procedures for design and operations of both the payloads and the launch vehicles significantly reduce the risks of associated accidents. In the case of the Shuttle, such an accident would very likely result in loss of the crew's lives. The Delta is unmanned. Accident consequences have been examined and have been determined to cause only local and temporary effects to the environment.

The STS–8 payload contribution to the consequences of accidents is small when compared to the launch vehicle itself. Further information on the launch systems, their normal operations, and potential accidents and their consequences is given in the Final Environmental Impact Statements for the Space Shuttle Program and for the Expendable Launch Vehicle Program.

For the Proposed Action and all alternatives, ground based communications facilities will be needed. Whether space relay or ground relay systems are selected, their construction will be noticeable to individuals nearby. Most of these facilities will be built near cities or towns or adjacent to previously developed land. Their major direct impact on the environment will come from their construction, and their operation will not result in further environmental deterioration. For the No Action Alternative, more ground stations would be needed than for the Shuttle or Delta launch of the space relay satellite. For both space launch alternatives, the ground facilities will be the same.

For the ELV launch of the INSAT (and other payloads), the environmental effects of the Delta vehicle(s) would be less than one Shuttle launch in terms of noise and rocket exhaust effluents.

SUPPLEMENTARY INFORMATION: The environmental assessment for this proposed project was completed by the National Aeronautics and Space Administration in August 1983.

Conclusion: The Shuttle launch of the STS–8 payloads will not result in any significant adverse environmental impacts. No environmental impact statement is required for this launch.

EFFECTIVE DATE: Date published in the **Federal Register**.

ADDRESS: National Aeronautics and Space Administration, Code MC, Washington, D.C. 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Ott, 755–7472.

Louis N. Lushina,

Acting Associate Administrator for Management.

August 26, 1983.

[FR Doc. 83–23858 Filed 8–28–83; 12:09 pm]

BILLING CODE 7510–01–M

NATIONAL CREDIT UNION ADMINISTRATION

Agency Forms Submitted to the Office of Management and Budget for Clearance

The following are those packages submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Subject: Claim for Insurance and Assignment of Insured Account (3133–0077); Extension/No Change.

Respondents: Shareholder in liquidating credit unions.

Subject: Notice to Termination of Insured Status (3133–0025); Extension/No Change.

Respondents: Shareholders of credit unions discounting Federal Share Insurance.

Subject: Share Insurance Premium Statement (3133–0073); Extension/No Change.

Respondents: Federally insured credit unions.

Copies of the above information collection clearance packages can be obtained by calling the National Credit Union Administration, Special Projects Officer, on 202–357–1080.

Written comments and recommendations for the listed information collections should be sent directly to the OMB Desk Officer designated above, at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20403, ATTN: Judith McIntosh.

Dated: August 22, 1983.

Rosemary Brady,

Secretary of the NCUA Board.

[FR Doc. 83–23509 Filed 8–26–83; 8:45 am]

BILLING CODE 7535–01–M

NATIONAL SCIENCE FOUNDATION

Division of Civil and Environmental Engineering, Earthquake Hazard Mitigation Advisory Subcommittee; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Subcommittee for the Earthquake Hazard Mitigation Program of the Division of Civil and Environmental Engineering (CEE) Advisory Committee for Engineering.

Date and Time: September 20, 1983–9:00 a.m. to 5:00 p.m.; September 21, 1983—9:00 a.m. to 12:00 Noon.

Place: National Science Foundation, 1800 G Street, NW. Room 540.

Type of Meeting: Open.

Contact Person: Rowena Peacock, Administrative Officer (CEE) National Science Foundation, Room 1130, Washington, D.C. Telephone: (202) 357–9545.

Summary Minutes: Minutes may be obtained from the contact person.

Agenda: Tuesday, September 20, 1983:

9:00–10:00—Welcome and Discussion of Division Activities.

10:00–11:00—Review of Budgets and Reports of Sub-programs.

11:00–12:00—Status Reports on Special Projects.

12:00–1:30—Lunch.

1:30–3:00—Continuation of Status Reports.

3:00–5:00—Interagency Coordination Activities.

Wednesday, September 21, 1983:

9:00–12:00—Discussion of General Issues for Long Range Planning.

Adjournment.

Dated: August 24, 1983.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 83–23572 Filed 8–26–83; 8:45 am]

BILLING CODE 7555–01–M

Ad Hoc Oversight Committee for the Division of Earth Sciences; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Ad Hoc Oversight Committee for the Division of Earth Sciences.

Date and Time: September 19–21, 1983; 8:30 a.m. to 5:00 p.m. each day.

Place: Room 642, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Type of Meeting: Closed.

Contact Person: Dr. James Fred Hays, Division Director, Earth Sciences, Room 602, National Science Foundation, Washington, D.C. 20550. Telephone: (202) 357–7956.

Agenda: Review and comparison of declined proposals (and supporting documentation) with successful awards in the Division of Earth Sciences, including review of peer review materials and other privileged material.

Purpose of Committee: To provide assistance in carrying out external oversight which is concerned with the examination of decision made, procedures and policies in effect and focuses on operations and activities, priorities, program balance, and selection of awards.

Reason for Closing: The committee will be reviewing grants and declination jackets which contain the names of applicant institutions and principal investigators and privileged information contained in declined proposals. This session will also include a review of the peer review documentation pertaining to applicants. These matters are within exemptions (4) and (6) of 5 U.S.C. 552(c), Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determination by the Director, NSF, on July 6, 1979.

Dated: August 24, 1983.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 83–23571 Filed 8–26–83; 8:45 am]

BILLING CODE 7555–01–M

Subcommittee for Oversight and Evaluation of the Oceanographic Facilities Support Section, Advisory Committee for Ocean Sciences; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting.

Name: Subcommittee for Oversight and Evaluation of the Oceanographic Facilities Support Section of the Advisory Committee for Ocean Sciences.

Date and Time: September 21 and 22, 1983; 9 a.m. to 5 p.m. each day.

Place: Room 1224, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.

Type of Meeting: Part-Open.

Contact Person: Mr. Ronald R. La Count, Head, Oceanographic Facilities Support Section, Division of Ocean Sciences, Room 613, National Science Foundation, Washington, D.C. 20550—Telephone: 202–357–7837.

Purpose of Subcommittee: To provide expert assistance in carrying out external oversight which is concerned with the examination of decisions made, procedures and policies in effect and focuses on operations and activities, priorities, program balance, and selection of awards.

Agenda

Will include the following discussions and presentations:

Open 9–5 September 21:

9:00—Introductory Remarks.

9:30—Oceanographic Facility Support Section Overview.

10:30—Ship Operations Program.

11:30—Break.

1:00—Shipboard Scientific Support Equipment Program.

2:00—Shipboard Technician Program.

3:00—Oceanographic Instrumentation and Instrumentation Development Program.

4:00—Adjunct Programs.

Closed 9–5, September 22:

Review and comparison of proposals (and supporting documentation) including review of peer review materials and other privileged materials.

Reason for Closing: The subcommittee will be reviewing grants and declination jackets which contain the names of applicant institutions and principal investigators and privileged information contained in declined proposals. This session will also include a review of the peer review documentation pertaining to applicants. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority To Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determination by the Director, NSF, on July 6, 1979.

Dated: August 24, 1983.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 83–23573 Filed 8–26–83; 8:45 am]

BILLING CODE 7555–01–M

Subcommittee for Ocean Sciences Research of the Advisory Committee for Ocean Sciences; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subcommittee for Ocean Sciences Research.

Date and Time: September 12, 13, and 14, 1983, 9:00 am to 6:00 pm each day.

Place: Rooms 338, 523, 642 and 1224, National Science Foundation, 1800 G Street, NW., Washington, D.C.

Type of Meeting: Closed.

Contact Person: Dr. Robert E. Wall, Head, Ocean Science Research Section, Room 611, National Science Foundation, Washington, D.C. 20550, Telephone (202) 357–7924.

Purpose of Meeting: To provide advice and recommendations concerning support for research in Oceanography.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of U.S.C. 552b(c), Government in the Sunshine Act.

Authority To Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determination by the Director, NSF, on July 6, 1979.

Dated: August 24, 1983.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 83–23575 Filed 8–26–83; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee for Physics, Subcommittee for Review of the NSF Elementary Particle Physics Program; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Physics; Subcommittee for the Review of the NSF Elementary Particle Physics Program.

Date and Time: September 12–13, 1983; 9:00 a.m. to 5:00 p.m., each day.

Place: Room 341, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.

Type of Meeting: Closed.

Contact Person: Dr. Marcel Bardon, Director, Division of Physics, Room 341, National Science Foundation, Washington, D.C. 20550. Telephone (202) 357–7985.

Purpose of Subcommittee: To provide oversight concerning NSF support and planning for research in elementary particle physics.

Agenda: To review NSF Elementary Particle Physics Program documentation as part of the program oversight function.

Reason for Closing: The meeting will deal with a review of grants and declinations in which the Subcommittee will review materials containing the names of applicant institutions and principal investigators and privileged information from the files pertaining to the proposals. The meeting will also include a review of the peer review documentation pertaining to applicants. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Dated: August 24, 1983.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 83–23574 Filed 8–26–83; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee for Polar Programs; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Polar Programs.

Date and Time: September 15–16, 1983, 9:00 a.m. to 5:00 p.m.

Place: Room 642, National Science Foundation, 1800 G. Street, NW., Washington, D.C. 20550.

Type of Meeting: Open.

Contact Person: Dr. Edward P. Todd, Division Director, Division of Polar Programs, Room 620, National Science Foundation, Washington, D.C. 20550. Telephone: (202) 357–7766.

Purpose of Committee: Serves to provide expert advice to the U.S. Antarctic Program and the Arctic Program, including advice on polar operations support, budgetary planning, polar coordination and information and science programs. Provides oversight of program management, overall program balance, and other aspects of program performance. Conducts special studies and analyses as agreed to by the Division Director and the Committee. Advises the Foundation of the impact of its research support program and other policies on the scientific community. Reviews and evaluates proposals as required. Establishes procedures for determining special needs of the research community in polar programs, including those areas in need of special support or stimulation.

Agenda:

September 15:

Overview of U.S. Antarctic Program.
—Overview of U.S. Arctic Program.
—Committee Discussion.
—Review of Polar Science Programs.
—Committee Discussion.

September 16:

—Polar Operations.
—Committee Discussion.
—Budget.
—Polar Coordination and Information.
—Committee Discussion of Activities for the Year.

Summary Minutes: May be obtained from Contact Person.

Dated: August 24, 1983.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 83–23569 Filed 8–26–83; 8:45 am]

BILLING CODE 7555–0–01–M

Advisory Committee for Policy Research and Analysis and Science Resources Studies; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Policy Research and Analysis and Science Resources Studies.

Date and Time: September 26, 1983—9:00 a.m. to 5:00 p.m.

Place: Room 540, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.

Type of Meeting: Open.

Contact Person: Ms. Inez Olson, Division of Policy Research and Analysis, Directorate for Scientific, Technological and International Affairs, Room 1233, National Science Foundation, Washington, D.C. 20550. Telephone (202) 357–9689.

Summary Minutes: May be obtained from the contact at the above address.

Purpose of Committee: To provide advice, recommendations, and oversight concerning program emphases and directions of the Divisions of Policy Research and Analysis and Science Resources Studies.

Agenda:

September 26, 1983:

9:00 a.m.—Opening Remarks.
10:00 a.m.—PRA Status Report.
11:00 a.m.—PRA New Directions.
1:30 p.m.—SRS Status Report.
2:15 p.m.—International S&T Resources Data Program.
3:00 p.m.—Science and Engineering Personnel.
3:30 p.m.—Linkage of Industrial R&D to Other Economic Data.
4:00 p.m.—Priorities for Measuring National Resources Inputs to Rapidly Developing Technological Areas.
4:30 p.m.—Closing Remarks.
5:00 p.m.—Adjourn.

Dated: August 24, 1983.

M. R. Winkler,

Committee Management Coordinator.

[FR Doc. 83–23570 Filed 8–26–83; 8:45 am]

BILLING CODE 7555–01–M

Executive Committee of the Advisory Committee for Social and Economic Science; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: The Executive Committee of the Advisory Committee for Social and Economic Science

Date and time: September 16, 1983, 10:00 a.m. to 4:00 p.m.

Place: Room 628, National Science Foundation, 1800 G Street, NW Washington, DC 20550

Type of meeting: Closed—10:00 a.m.–2:00 p.m.; Open—2:00 p.m.–4:00 p.m.
Contact person: James H. Blackman, Acting Division Director, Social and Economic Science, Room 316, National Science Foundation, Washington, D.C. 20550, Telephone (202) 357–7966
Purpose of committee: To provide advice and recommendations concerning NSF support for regulation and policy analysis research.
Agenda: (Closed 10–2)—Review and comparison of declined proposals (and supporting documentation) with the successful awards under the Regulation and Policy Analysis Program, including review of peer review materials and other privileged material.
(Open 2–4)—Discussion of program priorities and general management of program.
Reason for closing: The Subcommittee will be reviewing grants and declinations jackets which contain the names of applicant institutions and principal investigators and privileged information contained in declined proposals. This session will also include a review of peer review documentation pertaining to applicants. These matters are within exemption (4) and (6) of 5 U.S.C. 552(c), Government in the Sunshine Act.
Authority to close: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Dated: August 24, 1983.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 83–23568 Filed 8–26–83; 8:45 am]
BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–333]

Power Authority of the State of New York (James A. FitzPatrick Nuclear Power Plant); Exemption

I

The Power Authority of the State of New York (the licensee) is the holder of Facility Operating License No. DPR–59 (the license) which authorizes operation of the James A. FitzPatrick Nuclear Power Plant located in Oswego County, New York, at a steady state reactor core power level not in excess of 2436 megawatts thermal. This license provides, among other things, that it is subject to all rules, regulations and Orders of the Commission now or hereafter in effect.

II

On October 2, 1980, the Commission proposed rulemaking on "Interim Requirements Related to Hydrogen Control and Certain Degraded Core Considerations." The proposed amendments to 10 CFR Part 50 would improve hydrogen management in light-water reactor facilities and provide specific design and other requirements to mitigate the consequences of accidents.

On January 4, 1982, the proposed rule became effective and as part of the amendments, it required hydrogen recombiner capability to reduce the likelihood of venting radioactive gases following an accident. The hydrogen recombiner capability applies to light-water nuclear power reactors that rely upon purge/repressurization systems as the primary means of hydrogen control.

Section 50.44(c)(3)(ii) of 10 CFR Part 50 requires that by the end of the first scheduled outage after July 5, 1982 and of sufficient duration to permit required modifications, each light-water power reactor, that relies upon a purge/repressurization system as the primary means for controlling combustible gases following a Loss-of-Coolant Accident, shall be provided with either an internal recombiner or the capability to install an external recombiner following the start of an accident.

III

In a June 29, 1983 submittal, as supplemented by letter dated July 19, 1983, the licensee requested an exemption from the requirement of § 50.44(c)(3)(ii) for provision of either an internal recombiner or the capability to install an external recombiner following the start of an accident. The request was based on BWR Owners Group studies of combustible gas control submitted for NRC review by letter dated June 21, 1982. In the event that the Commission is unable to issue promptly its decision on request for exemption from the equipment requirements of § 50.44(c)(3)(ii), the licensee requested an extension of the schedule requirements of 10 CFR 50.44(c)(3)(ii).

We have very nearly completed our review of the BWR Owners Group studies on which the licensee's exemption request was based. We will be able to consider the licensee's request for permanent exemption following completion of that review.

During the interim period, with respect to combustible gas control in the event of a loss-of-coolant accident, the FitzPatrick plant can use the existing containment atmosphere control systems, in conjunction with the standby gas treatment systems, to avoid unacceptable combustible gas concentrations. The containment atmosphere system maintains an inert atmosphere during normal operation and the Containment Atmosphere Dilution (CAD) system is used to control combustible gas concentrations after an accident. By means of the CAD system, hydrogen and oxygen concentrations are monitored as nitrogen is added to the containment atmosphere to dilute combustible gases. In the unlikely prospect of high containment vessel pressure, the pressure may be relieved by venting through the standby gas treatment system. A detailed procedure has been developed by the licensee, with operating personnel trained to use these systems in the control of combustible gases. We find these means of combustible gas control acceptable for interim operation of the James A. FitzPatrick Nuclear Power Plant through December 31, 1983.

IV

Accordingly, the Commission has determined that pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest. Therefore, the Commission hereby approves the following exemption request.

Exemption is granted from the schedular requirement of § 50.44(c)(3)(ii) to extend the required date from "the end of the first scheduled outage beginning after July 5, 1982 and of sufficient duration to permit modifications" to no later than December 31, 1983, or, if the plant is shutdown on that date, before the resumption of operation thereafter.

The Commission has determined that the granting of this exemption will not result in any significant environmental impact and that, pursuant to 10 CFR 51.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

Dated at Bethesda, Maryland this 22d day of August, 1983.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 83–23600 Filed 8–26–83; 8:45 am]
BILLING CODE 7590–01–M

[Docket No. 50-395]

South Carolina Electric & Gas Company, South Carolina Public Service Authority; Consideration of Issuance of Amendment to Facility Operating License and Proposed no Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-12, issued to South Carolina Electric & Gas Company and South Carolina Public Service Authority (the licensees), for operation of the Virgil C. Summer Nuclear Station, Unit 1, located in Fairfield County, South Carolina.

The amendment would change the Technical Specifications to reflect changes in the licensee's nuclear organization structure. These changes result from upper management efforts to institute a direct communication channel with Plant Operations, and to centralize management of other nuclear departments outside Quality Assurance and Plant Operations in accordance with the licensees' application for amendment dated July 22, 1983.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Technical Specification amendment requested involves changes to the structure of the licensee's nuclear organization. The changes involve the Director, Nuclear Plant Operations, reporting to the Vice-President Nuclear Operations, decreasing the number of personnel reporting directly to the Director, Nuclear Plant Operations from 4 to 3, creation of a Director, Nuclear Services, reporting to the Vice-President, Nuclear Operations, location of a Principal Engineer, Nuclear Safety to review generic and unresolved safety issues, industry studies, and risk analyses, and changing the reporting of the Nuclear Safety Review Committee (NSRC) to the Vice-President, Nuclear Operations.

These changes reflect the licensee's efforts to centralize various related functions within the plant organization and reduce the number of personnel reporting directly to the Director, Nuclear Plant Operations. However, Health Physics supervision will still have direct access to the Director, Nuclear Plant Operations, in matters concerning any phase of radiological protection, and the normal chain of authority at the plant will be similar to the current chain of authority. Also, these changes to both the Corporate and Plant organizations do not affect the basic responsibilities of the various groups, only the management structure of the organizations. Also, all personnel designated to the new positions will have appropriate qualifications for those positions.

The Commission has provided guidance concerning the application of the standards for determining whether license amendments involve no significant hazards considerations by providing certain examples (48 FR 14870). The request involved in this case does not match any of those examples. However, the staff has reviewed the licensee's request for the above amendment and has determined that should this request be implemented, it will not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated (2) create the possibility of a new or different kind of accident from any accident previously evaluated or (3) involve a significant reduction in a margin of safety. Accordingly, the Commission proposes to determine that this change does not involve a significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch.

By September 28, 1983, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfied these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to

intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding, the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Elinor G. Adensam: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Randolph R. Mahan, P.O. Box 764, Columbia, South Carolina, 29218, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specfied in 10 CFR 2.714(a)(1) (i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29218.

Dated at Bethesda, Maryland, this 23rd day of August 1983.

For the Nuclear Regulatory Commissions.

Elinor G. Adensam,

Chief, Licensing Branch No. 4, Division of Licensing.

[FR Doc. 83-23001 Filed 8-26-83; 8:45 am]

BILLING CODE 7590-01-M

SMALL BUSINESS ADMINISTRATION

Region VIII Advisory Council, Montana; Public Meeting

The Small Business Administration Region VIII Advisory Council, located in the geographical area of Helena, Montana, will hold a public meeting at 9:30 a.m. on Friday, October 7, 1983, at the Federal Office Building, 301 South Park, Room 289, Helena, Montana, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call John R. Cronholm, District Director, U.S. Small Business Administration, Federal Office Building, 301 South Park, Drawer 10054, Helena, Montana 59626—(406) 449–5381.

Jean M. Nowak,

Director, Office of Advisory Councils.

August 23, 1983.

[FR Doc. 83-23038 Filed 8-26-83; 8:45 am]

BILLING CODE 8025-01-M

Region VII Advisory Council, Nebraska; Public Meeting

The Small Business Administration Region VII Advisory Council, located in the geographical area of Omaha, Nebraska, will hold a public meeting from 9:30 a.m. to 2:30 p.m. on Monday, September 19, 1983, in the Conference Room, Omaha District Office, U.S. Small Business Administration, 19th and Farnam, Omaha, Nebraska, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Rick Budd, District Director, U.S. Small Business Administration, 19th and Farnam, Omaha, Nebraska 68102—402/221–3620.

Jean M. Nowak,

Director, Office of Advisory Councils.

August 22, 1983.

[FR Doc. 83-23036 Filed 8-26-83; 8:45 am]

BILLING CODE 8025-01-M

Las Vegas District Advisory Council, Nevada; Public Meeting

The Small Business Administration, Las Vegas District Advisory Council will hold a public meeting on September 12, 1983, at the Small Business Administration, located at 301 E. Stewart, Downtown Station, Post Office, 3rd Floor, Las Vegas, Nevada, from 10:00 a.m. to 12:00 noon to discuss such matters as may be presented by Council members, staff of the Small Business Administration, or others present.

For further information, write or call Linda Davis, Secretary for District Director, U.S. Small Business Administration, 301 E. Stewart, Las Vegas, Nevada 89101, or call (702) 385–6611.

Jean M. Nowak,

Director, Office of Advisory Councils.

August 23, 1983.

[FR Doc. 83-23039 Filed 8-26-83; 8:45 am]

BILLING CODE 8025-01-M

Region II Advisory Council, New York; Public Meeting

The Small Business Administration Region II Advisory Council, located in the geographical area of New York, will hold a public meeting at 9:30 a.m., Tuesday, September 27, 1983, at the Jacob K. Javits Federal Building, 26 Federal Plaza, Room 305b (3rd floor), New York, New York, to discuss such matters as may be presented by members, staff of the U.S. Small

Business Administration, or others present.

For further information, write or call Mervyn Shorr, Acting District Director, U.S. Small Business Administration, 26 Federal Plaza, New York, New York 10278 (212) 264–1318.

Jean M. Nowak,

Director, Office of Advisory Councils.

August 23, 1983.

[FR Doc. 83–23637 Filed 8–26–83; 8:45 am]

BILLING CODE 8025–01–M

Small Business Investment Companies; Maximum Annual Cost of Money; Federal Financing Bank Rate

13 CFR 107.301(c) sets forth the SBA Regulations governing the maximum annual cost of money to small business concerns for Financing by small business investment companies.

Section 107.301(c)(2) requires that SBA publish from time to time in the **Federal Register** the current Federal Financing Bank (FFB) rate for use in computing the maximum annual cost of money pursuant to § 107.301(c)(1). It is anticipated that a rate notice will be published each month.

13 CFR 107.301(c) does not supersede or preempt any applicable law that imposes an interest ceiling lower than the ceiling imposed by that regulation. Attention is directed to new subsection 308(i) of the Small Business Investment Act, added by section 524 of Pub. L. 96–221. March 31, 1980 (94 stat. 161), to that law's Federal override of State Usury ceilings, and to its forfeiture and penalty provisions.

Effective *September 1, 1983,* and until further notice, the FFB rate to be used for purposes of computing the maximum cost of money pursuant to 13 CFR 107.301(c) is *11.665%* per annum.

Dated: August 23, 1983.

Edward J. Myerson,

Deputy Associate Administrator for Finance and Investment.

[FR Doc. 83–23635 Filed 8–26–83; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Implementation of 25 kHz Channel Spacing Requiring Airborne 720-Channel Radios in VHF Air Traffic Control Communication Band in Airspace Below 18,000 Feet

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: General notice; Invitation for comments.

SUMMARY: The FAA is seeking comments and suggestions concerning the further integration of 25 kHz spaced channels into the National Airspace System (NAS) in the 118–136 MHz aeronautical mobile band.

There is a shortage of VHF air traffic control (ATC) communication channels in the 118–136 MHz band creating severe frequency congestion problems in many parts of the country. Unless this frequency shortage problem is resolved, it will adversely impact air safety, expeditious ATC operations, and the enhancement and expansion of existing ATC systems requiring VHF communications channels. To maintain the highest level of air traffic safety and to support modernization of ATC, as outlined in the FAA's National Airspace System Plan, the FAA has proposed a three-phase plan for the further implementation of 25 kHz channel spacing in the 118–136 MHz band. The primary impact on aviation users is that aircraft wishing to receive full ATC services must be equipped with 720-channel radios.

DATES: Comments must be received on before: October 28, 1983.

ADDRESSES: Send comments on the proposal in duplicate to: Federal Aviation Administration, Director, Systems Engineering Service, 800 Independence Avenue, SW., Washington, D.C. 20591.

All comments submitted will be available for inspection at 800 Independence Avenue, SW., Room 713, Washington, D.C., between 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald J. Markey, Acting Manager, Spectrum Management Program, Spectrum Engineering Division, Systems Engineering Service, Room 714B, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426–3269.

Early Public Participation

This general notice is issued to invite early public participation in the identification and selection of a course or alternative courses of action with respect to a particular problem.

Interested persons are invited to participate in the making of a solution to the problem by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and recommendations presented are particularly helpful in developing reasoned decisions on the proposals. Comments are specifically invited on the issues identified in this general notice, including the overall economic, environmental, and energy aspects of the various proposals and alternatives. Communications should identify the general notice number, and be submitted in duplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to General Notice on implementation of 25 kHz channel spacing." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on this notice.

All comments submitted will be available for examination in the room listed above under "ADDRESSEES" both before and after the closing date for comments. If it is determined to proceed further, after consideration of the available data and the comments received in response to this notice, a notice of proposed rulemaking or a notice of policy decision will be issued. A report summarizing each substantive public comment with FAA personnel concerned with this rulemaking will be filed in the docket.

SUPPLEMENTARY INFORMATION:

Background

The Federal Aviation Administration (FAA), in a Notice of Policy Decision dated May 21, 1973, (FR Doc. 73–11127), announced its intention to proceed with 25 kHz channel spacing implementation in the VHF air traffic control (ATC) communications band (118–136 MHz) for high altitude en route sectors (the airspace above 18,000 feet) commencing in January 1977. That policy has been implemented with the first 25 kHz spaced communication channels being assigned to Indianapolis Center in June 1977. The FAA is presently assigning 25 kHz spaced channels to the high altitude en route structure as needed on a case-by-case basis. In the 1973 notice, it was anticipated that low altitude en route, terminal, and flight service station (FSS) frequency requirements could be accommodated with 50 kHz spaced channels for a number of years. The implementation of 25 kHz channel spacing below the high altitude en route structure was to be the subject of further study by the FAA.

One study was published by the FAA in June 1980 (FAA–RD–80–32—Study of 25 kHz Channel Spacing Implementation in the VHF Air Traffic Control Communications Band for Low Altitude En Route and Terminal Facilities). That

study, based on the number of existing frequency assignments (as of January 1979) and a projected rate of growth of 4 percent per year, recommended that 25 kHz channel spacing be implemented in the low altitude en route structure beginning in January 1982 and in terminal sectors beginning January 1984. As a result of the 1981 controller strike and its impact on ATC operations, the implementation dates recommended in the June 1980 study have been altered and are reflected in this notice.

Many new and expanded ATC services, which require VHF communication channels, are being developed and introduced into the National Airspace System (NAS). The services include the automated weather observation system (AWOS), hazardous in-flight weather advisory service (HIWAS), high and low altitude en route flight advisory service (EFAS), expanded automated terminal information service (ATIS), aeronautical advisory station (UNICOM), and other ATC services. To meet the anticipated demand for these new aviation services, the air-ground communications spectrum must be divided into 720 channels in accordance with our proposed schedule.

Proposed Schedule for Implementation

For these reasons, the following three-phase schedule has been proposed:

Phase I: Beginning in July 1984, the FAA will introduce 25 kHz channel spacing at selected high density airports. Full FAA services may not be available to users not 720-channel equipped.

Phase II: Beginning in January 1985, the FAA will introduce 25 kHz channel spacing in selected low altitude en route sectors. Full FAA services may not be available to users not 720-channel equipped.

Phase III: Beginning in January 1986, the FAA will introduce 25 kHz channel spacing at flight service stations (FSS) and other controlled and uncontrolled airports as required. Full FAA services may not be available to users not 720-channel equipped.

The proposed schedule, if adopted, would have the following impact on aviation users. Beginning in July 1984, aircraft wishing to receive full ATC service at selected high density airports will require 720-channel radios. By January 1985, aircraft flying in selected low altitude en route sectors would also require 720-channel radios in order to receive unrestricted ATC services. By January 1986, aircraft wishing to receive full ATC services at selected FSS's and other airports would be required to have 720-channel radios. At each individual location, 25 kHz spacing would be adopted only when found necessary due to traffic and frequency congestion conditions.

Aircraft equipped with 360-channel radios would continue to be able to operate in the NAS and receive aircraft separation services. However, those aircraft may encounter rerouting and delays, particularly in congested en route and terminal areas. In addition, in some locations, some or all of the new ATC services mentioned above will not be available to aircraft so equipped.

Section 91.90 of the Federal Aviation Regulations currently requires that aircraft operating into Group I and Group II terminal control areas (TCA), which includes virtually all high density airports, must have an operable two-way radio capable of communicating with ATC on appropriate frequencies for that TCA. Section 91.125 of the FAR provides that the pilot of each aircraft operating under instrument flight rules in controlled airspace, which includes virtually all en route sector traffic, must maintain a continuous watch on the appropriate frequency. Thus, in order to obtain full service into those airports or en route sectors at which 25 kHz spacing is assigned, aircraft would have to be equipped with 720-channel radios. In addition, after Phase III, in order to obtain complete services at flight service stations which have 25 kHz channel assignments, aircraft would need the new radios.

Issued in Washington, D.C., on August 17, 1983.

J. Lynn Helms,

Administrator.

[FR Doc. 83-23080 Filed 8-26-83; 8:45 am]

BILLING CODE 4910-13-M

PETITIONS FOR EXEMPTION

[Summary Notice No. PE-83-20]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before September 20, 1983.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. , 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on August 22, 1983.

John H. Cassady,

Assistant Chief Counsel, Regulations and Enforcement Division.

Docket No.	Petitioner	Regulations affected	Description of relief sought
23715	Mountain West Helicopters	14 CFR 43.3(h)	To permit certain pilots employed by petitioner to inspect Bell Helicopter Company Model 206 series airframe and Detroit Diesel Allison Model 250C series engine magnetic chip detectors under certain circumstances in remote locations.

Petitions for Exemption—Continued

Docket No.	Petitioner	Regulations affected	Description of relief sought
19185	Executive Jet	14 CFR 135.89(b)(3)	To extend Exemption 2901A, which expires December 31, 1983, to permit petitioner to operate its Learjet aircraft above flight level (FL) 350 up to and including FL 410 without one pilot having to wear and use an oxygen mask.
23718	United Technologies Corp	40 CFR 87.21	To exempt certain of petitioner's engines manufactured after 1/1/84 and before 6/1/84 from the standards under 40 CFR § 87.61. The engines are the Pratt & Whitney JT8D-9A, -15, -15A, -17, -17A, -17R, and -17AR.
23717	Garrett Turbin Engine	40 CFR 87.21(e)	To exempt by way of modification certain of the petitioner's engines manufactured after 1/1/84 and before 1/1/88. The engines are Garrett Models RFE731-2, -3, -3R, -3A, -3AR, -3B, -5, and -5R. The exemption would permit these engines to have exhaust emissions equal to a smoke number of 50 or less.
22296	Finnair	14 CFR 21.197	To extend Exemption 3450, which expires 1/1/84, to allow petitioner to use a special flight permit with continuing authorization for DC-10-30 aircraft N-345HC subject to certain conditions and limitations.
23712	Arizona Coors Ballooning Co	14 CFR 101.19	To permit petitioner to operate tethered, passenger-carrying hot air balloons not equipped with automatic rapid deflation devices which activate if a balloon escapes its moorings.
23713	SimuFlite Training Int'l., Inc	14 CFR 61.57(a)(1), (c) & (d); 61.58(b)(1), (c) & (d); 61.63(d)(2) & (d)(3); 61.67(d)(2); 61.157(d)(1) & (e)(1); 135.303; & portions of Appendix H of Part 121.	To permit petitioner, which is not a Part 121 certificate holder, to establish an advanced simulation training program using Phase II simulators; permit pilots attending petitioner's training programs to complete recency of experience and/or practical tests in petitioner's Phase II simulator; and, permit the examination of check pilots by FAA examiners in the petitioner's Phase II simulator.
23685	Dept. of Navy, MCAS, Beaufort, SC	14 CFR 101.23(b)(c)	To permit petitioner to fire Missile Plume Simulator GTR-19 Class B Fireworks, "Smokey Sam." Firings will be done within established Controller Firing Areas at MCAS Beaufort.
83-ANE-002E	Pratt & Whitney Aircraft, East Hartford, CT	14 CFR 33.7(c)(17)	To permit the Maintenance Review Board to establish the initial engine maintenance program in lieu of specifying the time for first overhaul on the engine type certificate data sheet.
		14 CFR 33.14	To permit rotor component cyclic life to be established by an alternate prediction procedure which utilizes statistical analysis of material data, thermal and stress analyses, and service experience.
		14 CFR 33.23	To establish definitions of various types of mount loads and allow mounts to withstand "ultimate" loads without failure but may exhibit permanent deformation.
		14 CFR 33.27	Following the test required by sub-paragraph (c), permit diametral growth no greater than 1 percent for each rotor, but no rotor may be cracked.
		14 CFR 33.66(b)	During 30 minute period at idle, permit periodic engine accelerations to 60 percent N1 at 10-minute intervals.
		14 CFR 33.88	To permit conduct of the rotor test for 5 minutes.

Dispositions of Petitions for Exemption

Docket No.	Petitioner	Regulations affected	Description of relief sought, disposition
23412	Jack O'Neill	14 CFR Part 61	To permit petitioner to apply for a private pilot certificate although he has not obtained instruction in certain areas of aeronautical knowledge appropriate for a helium type airship. The aircraft he operates is a hot air airship. Denied *8/11/83.*
21812	Albuquerque Int'l. Balloon Fiesta, Inc.	14 CFR 61.3 & 91.27	To allow certain foreign balloon pilots and foreign balloons to participate in the 12th Annual Albuquerque Int'l. Balloon Fiesta during the period of October 1–9, 1983, without complying with the pilot certification and airworthiness requirements. *Partial grant 8/9/83.*
21818	The Dept. of Air Force, Military Airlift Command (MAC).	14 CFR 91.119(a) (2), & 91.121 (b)(1)	To amend Exemption 3559 which provided relief from the requirements of these sections to operate IFR under certain circumstances. The amendment will enable MAC's aircraft to operate IFR in instrument meteorological conditions at altitudes no lower than 500 feet above the highest obstacle within 3 nautical miles of the route to be flown. These operations would include areas of uncontrolled airspace. *Granted 8/3/83.*
23556	Canadian Pacific Airlines, Ltd.	14 CFR 21.181	To extend Exemption 3721 to permit petitioner to obtain a supplemental type certificate covering the operation of three DC-10-10 aircraft in accordance with an FAA-approved MEL for the aircraft, subject to conditions and limitations. *Granted 8/9/83.*
21662	China Airlines Limited (CAL)	14 CFR Portions of Parts 21, 61, & 63	To extend Exemption 3360A, to permit petitioner to operate two U.S.-registered Boeing B-747-SP aircraft, using an FAA-approved master minimum equipment list and an FAA-Approved continuous airworthiness maintenance program. *Granted 8/9/83.*
23695	Scandinavian Airlines System	14 CFR 21.181	To permit petitioner to operate in foreign air commerce a leased B-747 using an FAA-approved U.S.-registry B-747 minimum equipment list. *Granted 8/10/83.*
23512	Accelerated Ground Training, Inc.	14 CFR 61.63(d)(2), & 61.157 (d)(2)	To allow petitioner's trainees to complete a practical test for the issuance of a type rating to be added to any grade of pilot certificate that includes the items and procedures for testing in an airplance simulator. Petitioner does not have an operating certificate issued under Part 121. *Granted 8/3/83.*
23698	Flight Dynamics, Inc.	14 CFR 21.195	To permit petitioner, who is not a manufacturer, to apply for an experimental airworthiness certificate for an aircraft to be used for market survey and sales demonstrations. *Granted 8/12/83.*
19109	Pyramid Airlines	14 CFR Portions of Parts 21 & 91	Extension of Exemption 2948A to allow petitioner to obtain a supplemental type certificate covering the operations of YS-11 A-500 aircraft N159P and N187P, and YS-11 A-600 aircraft N924 in accordance with Piedmont Airlines FAA-approved minimum equipment list for those aircraft. Also requested is an amendment which would add an additional aircraft to the existing exemption. *Granted 8/11/83.*

[FR Doc. 83-23681 Filed 8-26-83; 8:45 am]

BILLING CODE 4910-13-M

VETERANS ADMINISTRATION

Addition for Outpatient, Research, Education and Administration; Veterans Administration Medical Center, West Roxbury, Massachusetts; Finding of No Significant Impact

The Veterans Administration (VA) has assessed the potential environmental impacts that may occur as a result of the proposed construction of an Outpatient, Research, Education, and Administration Addition at the West Roxbury Veterans Administration Medical Center (VAMC) and has determined that the potential environmental impacts will be minimal from the development of this project.

The project proposes to construct a new three story addition, connected to the main hospital building. The addition will contain a new emergency care unit, labs and clinics, pharmacy, library, and educational facilities. New construction will total approximately 81,000 net square feet. Approximately 29,000 net square feet of the existing hospital building will be renovated to accommodate the new construction.

Development of the project will cause minor impacts on the human and natural environment affecting noise levels, onsite traffic and parking, solid waste disposal, water quality, and visual impacts. Short term effects of minor air degradation (dust and fumes), soil erosion, and noise levels will occur during construction operations. The VA will adhere to all applicable Federal, State, and local environmental regulations during construction and operation of this project.

The Environmental Assessment was performed in accordance with the requirements of the National Environmental Policy Act (NEPA) Regulations, 1501.3 and 1508.9. The results of the assessment are available for public examination at the VA, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. William F. Sullivan, Director, Office of Environmental Affairs (088C), Room 423, Veterans Administration, 811 Vermont Avenue, NW., Washington, D.C. 20420, (202) 389–3316. Questions or requests for single copies of the Environmental Assessment may be addressed to the above office.

Dated: August 23, 1983.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

[FR Doc. 83–23609 Filed 8–26–83; 8:45 am]

BILLING CODE 8320–01–M

Privacy Act of 1974; Revised Routine Use Statements

Notice is hereby given that the VA (Veterans Administration) is considering revising current routine use number 17 for the system of VA records entitled "Compensation, Pension, Education and Rehabilitation Records-VA" (58VA21/22/28) as set forth on page 372 of the **Federal Register** of January 5, 1982.

The Department of Defense has requested that data currently furnished for purposes of reconciliation of the amount and/or waiver of retired pay be used for the additional purpose of improving the quality and accurancy of the Defense Enrollment Eligibility Reporting System (DEERS) program.

The VA has determined that the proposed use of the data is a necessary and proper use of information in this system of records. Therefore, revision of routine use statement number 17 is proposed.

Interested persons are invited to submit written comments, suggestions, or objections regarding to proposed systems of records to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW, Washington, D.C. 20420. All relevant material received before September 26, 1983 will be considered. All written comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays) until October 11, 1983.

If no public comment is received during the 30-day review period allowed for public comment or unless otherwise published in the **Federal Register** by the Veterans Administration, the revised routine use statement included herein is effective September 26, 1983.

Approved: August 18, 1983.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

In the system identified as 58VA21/22/28, "Compensation, Pension, Education and Rehabilitation Records-VA," appearing at 47 FR 372, January 5, 1982, the following change is made:

SYSTEM NAME:

Compensation, Pension, Education and Rehabilitation Records-VA.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

17. The name, branch of service, effective date of compensation, current and historical benefit pay amounts for disability or pension and the amount and type of education contribution made under title 38, United States Code, Chapter 32, may be disclosed to the following agencies upon their official request: Department of the Army, Navy, and Air Force; Department of Defense; Defense Manpower Data Center, Marine Corps; Department of Transportation (Coast Guard); Department of Health and Human Services; Department of Education; PHS (Public Health Service), NOAA (National Oceanic and Atmospheric Administration), Commissioned Officer Corps in order for these departments and agencies and the VA to reconcile the amount and/or waiver of service, department and retired pay. The Department of Defense will also use this information to identify retired veterans and dependent members of his or her family who have entitlement to Department of Defense benefits but who are not identified in the Defense Enrollment Eligibility Reporting System (DEERS) program and to assist in determining eligibility for CHAMPUS (Civilian Health and Medical Program of the Uniformed Services) benefits.

[FR Doc. 83–23607 Filed 8–26–83; 8:45 am]

BILLING CODE 8320–01–M

DEPARTMENT OF COMMERCE

President's Commission on Industrial Competitiveness; Meeting

AGENCY: Office of Economic Affairs, Commerce.

ACTION: Notice of meeting.

SUMMARY: This notice announces the forthcoming meeting and functions of the President's Commission on Industrial Competitiveness. Notice of this meeting is required under the Federal Advisory Committee Act.

DATE: The first meeting will be held on September 12, 1983 at 8:30 a.m.–5:00 p.m.

ADDRESS: Indian Treaty Room, Room 474, Old Executive Office Building, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: On substantive issues regarding the Commission's agenda, objectives or structure, please contact James L. Wolbarsht, Executive Advisor to the Assistant Secretary for Productivity, Technology and Innovation, Room 4031, Department of Commerce, Washington, D.C. 20230 202–377–8080. On general questions relating to the administration of the Commission as required by the Federal Advisory Committee Act, please contact Yvonne Barnes, Departmental

Committee Management Analyst, 202–377–4217.

Public Availability

The meeting will be open to public attendance. A limited number of seats will be available for the public on a first-come, first-served basis.

SUPPLEMENTARY INFORMATION: The President's Commission on Industrial Competitiveness was established by Executive Order 12428 on June 28, 1983 and its charter was approved on August 23, 1983. The Commission shall review means of increasing the long-term competitiveness of United States industries at home and abroad, with particular emphasis on high technology, and provide appropriate advice to the President through the Cabinet Council on Commerce and Trade and the Department of Commerce. The Commission functions solely as an advisory body in accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. (1982)).

Dated: August 24, 1983.

Yvonne D. Barnes,

Departmental Committee Management Analyst.

[FR Doc. 83–23688 Filed 8–26–83: 2:18 pm]

BILLING CODE 3510–18–M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 168
Monday, August 29, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Education Department	1
Federal Home Loan Bank Board	2
National Transportation Safety Board	3
Occupational Safety and Health Review Commission	4

1

NATIONAL COUNCIL ON EDUCATIONAL RESEARCH

TIME AND DATE: September 2, 1983, Friday 10:00 a.m.—11:45 a.m. (closed) (Executive Committee)

1:00 p.m.—3:00 p.m. (closed) (Executive Session of Council)

3:00 p.m.—5:00 p.m. (open) (Full Council Meeting)

PLACE: 10:00 a.m.—11:45 a.m. NCER conference room, 2000 L Street, N.W., Suite 617.

1:00 p.m.—3:00 p.m. NIE small conference room, 1200 19th Street, N.W., 8th floor.

3:00 p.m.—5:00 p.m. NIE small conference room, 1200 19th Street, N.W., 8th floor.

STATUS: 10:00 a.m.—11:45 a.m. closed.

1:00 p.m.—3:00 p.m. closed.

3:00 p.m.—5:00 p.m. open.

MATTERS TO BE DISCUSSED IN CLOSED SESSION: 1. Discussion of Personnel.

FOR MORE INFORMATION CONTRACT: Dr. Richard T. LaPointe 202-254-7490.

Dated: August 23, 1983.

Richard T. LaPointe,

Executive Director, The National Council of Educational Research.

[S-1223-83 Filed 8-25-83; 10:35 am]

BILLING CODE 4000-01-M

2

FEDERAL HOME LOAN BANK BOARD

TIME AND DATE: 10:00 a.m., Monday, August 29, 1983.

PLACE: Board Room, 6th Floor, 1700 G St., NW., Washington, DC.

STATUS: Open Meeting.

CONTACT PERSON FOR MORE INFORMATION: Ms. Gravlee (202/377-6970).

MATTERS TO BE CONSIDERED:

Financial Reporting Requirements
Charters and Bylaws Available to Federal Associations and Savings Banks
Federal Home Loan Banks Advances to Member Institutions

No. 47, August 25, 1983.

[FR Doc. S-1225-83 Filed 8-25-83; 1:58 pm]

BILLING CODE 6720-01-M

3

NATIONAL TRANSPORTATION SAFETY BOARD

[NM-83-20]

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 37576, August 18, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., Thursday, August 25, 1983.

CHANGE IN MEETING: A majority of the Board determined by recorded vote that the business of the Board required revising the agenda of this meeting and that no earlier announcement was possible. The following item was deleted from the agenda:

1. *Briefing* by Chessie System Railroads on its new substance abuse program.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming (202), 882-6525.

August 25, 1983.

[FR Doc. 83-1224-83 Filed 8-25-83; 11:23 am]

BILLING CODE 4910-58-M

4

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10 a.m. on September 15, 1983.

PLACE: Suite 316, 1825 K Street, NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Mrs. Patricia Bausell, (202) 634-4015.

Dated: August 25, 1983.

[S-1228-83 Filed 8-25-83; 3:47 pm]

BILLING CODE 7600-01-M

VOL
48
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federal register

Monday
August 29, 1983

Part II

Department of Energy

Federal Energy Regulatory Commission

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: August 24, 1983.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Rd., Springfield, Va 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102-1: New OCS lease
102-2: New well (2.5 Mile rule)
102-3: New well (1000 Ft rule)
102-4: New onshore reservoir
102-5: New reservoir on old OCS lease
Section 107-DP: 15,000 feet or deeper
107-GB: Geopressured brine
107-CS: Coal Seams
107-DV: Devonian Shale
107-PE: Production enhancement
107-TF: New tight formation
107-RT: Recompletion tight formation
Section 108: Stripper well
108-SA: Seasonally affected
108-ER: Enhanced recovery
108-PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS
ISSUED AUGUST 24, 1983
VOLUME 956

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
CALIFORNIA DEPARTMENT OF CONSERVATION									
-PETRO-LEWIS CORPORATION				RECEIVED:	08/08/83	JA: CA			
8348822	83-4-0235	0402968777		108		ELLIS 66N-19	SOUTH BELRIDGE	10.0	MOBIL OIL CORP
8348823	83-4-0234	0402968627		108		KING 57E-19	SOUTH BELRIDGE	10.0	MOBIL OIL CORP
LOUISIANA OFFICE OF CONSERVATION									
-IMC EXPLORATION COMPANY				RECEIVED:	08/08/83	JA: LA			
8348889	83-0093	1711123828		103	108	U S GOVERNMENT 85	MONROE	16.0	IMC PIPELINE CO I
-NOE & WOODS				RECEIVED:	08/08/83	JA: LA			
8348890	83-0118	1711123489		103		UNION A 88	MONROE GAS	16.4	DEVON CORP
MONTANA BOARD OF OIL & GAS CONSERVATION									
-BEREN CORPORATION				RECEIVED:	08/08/83	JA: MT			
8348827	8-82-220	2509121262		102-2		CHRISTENSEN #1	LOWELL	4.3	PHILLIPS PETROLEU
-CANTERRA PETROLEUM INC				RECEIVED:	08/08/83	JA: MT			
8348826	9-82-230	2508521265		102-2		SUNDVOLD 1-2	WILDCAT	50.0	PHILLIPS PETROLEU
-MERLAND OIL & GAS INC				RECEIVED:	08/08/83	JA: MT			
8348833	8-82-223	2508521357		103		PICARD #7-11	TARGET FIELD	9.0	DOME PETROLEUM CO
-MESA PETROLEUM CO				RECEIVED:	08/08/83	JA: MT			
8348825	8-82-221	2508521341		102-2		RONNING 21 #1	WILDCAT	91.0	
-MIDLANDS GAS CORPORATION				RECEIVED:	08/08/83	JA: MT			
8348830	8-82-227	2507121801		103		KELLY RANCH #1 2821	BOWDOIN	50.0	KN ENERGY INC
8348832	8-82-226	2507121802		103		PHILLIPS #1 2832	BOWDOIN	54.0	KN ENERGY INC
-SHELL OIL CO				RECEIVED:	08/08/83	JA: MT			
8348828	8-82-228	2502521224		103		UNIT 13X-8B	PENNEL	0.9	MONTANA DAKOTA UT
8348829	8-82-222	2502521221		103		UNIT 33-17B	PENNEL	1.1	MONTANA DAKOTA UT
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	08/08/83	JA: MT			
8348831	8-82-224	2508321581		103		DYNNESON #5-1	BRORSON	44.0	MCCULLOCH GAS PRO
-TRUE OIL COMPANY				RECEIVED:	08/08/83	JA: MT			
8348824	8-82-229	2508321578		102-2		VITT #24-6	BLUE HILL	36.0	TRUE OIL CO
NEW MEXICO DEPARTMENT OF ENERGY & MINERALS									
-AMERADA HESS CORPORATION				RECEIVED:	08/08/83	JA: NM			
8348858		3002500000		108-ER		E WOOD #9	DRINKARD	0.0	NORTHERN NATURAL
8348836		3002500000		108		H CORRIGAN #8	EUNICE	8.9	NORTHERN NATURAL
-AMOCO PRODUCTION CO				RECEIVED:	08/08/83	JA: NM			
8348838		3004511741		108-PB		STATE GAS COM B1	BASIN DAKOTA	0.0	EL PASO NATURAL G
-C & E OPERATORS INC				RECEIVED:	08/08/83	JA: NM			
8348856		3004500000		108-PB		MARY SHERHERD #1	AZTEC-PICTURED CLIFFS	0.0	EL PASO NATURAL G
8348857		3004510064		108-PB		OLIVER #3	AZTEC-PICTURED CLIFFS	0.0	EL PASO NATURAL G
-EL PASO NATURAL GAS COMPANY				RECEIVED:	08/08/83	JA: NM			
8348854		3004520884		108-PB		ATLANTIC D COM J #11	BLANCO PICTURED CLIFF	0.0	EL PASO NATURAL G
8348855		3004506875		108-PB		BROOKHAVEN COM F #7 PC 4 MV	SOUTH BLANCO-PC-BLANC	0.0	EL PASO NATURAL G
8348853		3004506070		108-PB		HUERFANITO UNIT #15	BALLARD PICTURED CLIF	0.0	EL PASO NATURAL G

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8348852		3003921169		108-PB		LINDRITH UNIT COM 088	SOUTH BLANCO - PC	0.0	EL PASO NATURAL G
8348851		3004507630		108-PB		SCHULTZ COM F 011	AZTEC-FRUITLAND	0.0	EL PASO NATURAL G
-ELK OIL COMPANY				RECEIVED:	08/08/83	JA: NM			
8348848		3002527792		102-4		EAST KEMNITZ COMM 01	KEMNITZ ATOKA MORROW	365.0	TRANSWESTERN PIPE
8348849		3000561791		102-2		RUNYAN STATE 02	WILDCAT WOLFCAMP	300.0	TRANSWESTERN PIPE
-FRED POOL OPERATING CO				RECEIVED:	08/08/83	JA: NM			
8348839		3000561174		102-2		GRYNBERG 35 FED COM 01	UNDESIGNATED ABO	0.0	TRANSWESTERN PIPE
-HEDRICK HELEN LORAINE				RECEIVED:	08/08/83	JA: NM			
8348847		3004525540		103		GALE 02	AZTEC-PICTURED CLIFFS	30.0	EL PASO NATURAL G
-KAISER-FRANCIS OIL COMPANY				RECEIVED:	08/08/83	JA: NM			
8348837	73277	3002500000		108		STATE E 8229 022	WILSON YATES SEVEN RI	2.0	PHILLIPS PETROLEU
-MARALO INC				RECEIVED:	08/08/83	JA: NM			
8348845		3000560346		102-4		BUTLER SPRINGS UNIT 01	WILDCAT (MORROW)	38.8	PHILLIPS PETROLEU
-TENNECO OIL COMPANY				RECEIVED:	08/08/83	JA: NM			
8348844		3001523922		103		CATCLAW DRAW UNIT 017	CATCLAW DRAW MORROW	0.0	CABOT CORP
8348846		3004524941		103		COLDIRON COM A - 1M	BLANCO MESAVERDE	235.0	EL PASO NATURAL G
8348850		3004524941		103		COLDIRON COM A 1M	BASIN DAKOTA	106.0	EL PASO NATURAL G
-W A MONCRIEF JR				RECEIVED:	08/08/83	JA: NM			
8348834		3001523621		102-4		CROOKED CREEK STATE COM 01	UNDESIGNATED	0.0	EL PASO NATURAL G
8348835		3001523621		102-4		CROOKED CREEK STATE COM 01	UNDESIGNATED	0.0	EL PASO NATURAL G
-YATES PETROLEUM CORPORATION				RECEIVED:	08/08/83	JA: NM			
8348842		3000561325		102-2		FINLEY "RV" COM 01-Y	PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE
8348840		3000561034		102-2		MCCONKEY "HX" 02	UND ABO	0.0	TRANSWESTERN PIPE
8348841		3000561224		102-2		PENNZOIL SG STATE 01	UND ABO	0.0	TRANSWESTERN PIPE
-ZACHARY OIL OPERATING CO				RECEIVED:	08/08/83	JA: NM			
8348843		3002500000		108-PB		MARSHALL 01	EUMONT	0.0	EL PASO NATURAL G
UTAH DIVISION OF OIL,GAS, & MINING									
-AMOCO PRODUCTION CO				RECEIVED:	08/08/83	JA: UT			
8348896	K-121-18	4304330204		102-2		ANSCHUTZ RANCH E U/W NUGGET SW19-16	ANSCHUTZ RANCH EAST -	1540.0	MOUNTAIN FUEL SUP
8348895	K-121-17	4304330162		102-2		ANSCHUTZ RANCH EAST UNIT/WN/SW32-04	ANSCHUTZ RANCH EAST -	1679.0	MOUNTAIN FUEL SUP
-BELCO DEVELOPMENT CORP				RECEIVED:	08/08/83	JA: UT			
8348894	K-111-19	4304730515		108		MBU 2-36G	NATURAL BUTTES UNIT-W	0.0	NORTHWEST PIPELIN
-CELSIUS ENERGY CO				RECEIVED:	08/08/83	JA: UT			
8348898	K-158-1	4303730870		102-2		UCOLO 02	WILDCAT	460.0	MOUNTAIN FUEL RES
-CHEVRON U S A INC				RECEIVED:	08/08/83	JA: UT			
8348899	K-141-3	4304731052		103		R W U 0279	RED WASH	24.0	NORTHWEST PIPELIN
-CLAYTON INVESTMENT				RECEIVED:	08/08/83	JA: UT			
8348893	K-156-1	4301930908		103		NICOLE 01	GREATER CISCO AREA	108.0	NORTHWEST PIPELIN
-J C THOMPSON				RECEIVED:	08/08/83	JA: UT			
8348891	K-133-4	4301930013		108-ER		HORSE POINT M-6	HORSE POINT	11.7	NORTHWEST PIPELIN
-JAKE L HAMON				RECEIVED:	08/08/83	JA: UT			
8348897	K-155-1	4304330212		103		BOYER 036-2	PINEVIEW	50.0	MOUNTAIN FUEL SUP
-MOUNTAIN RESOURCE CORP				RECEIVED:	08/08/83	JA: UT			
8348892	K-157-1	4301530107		103		MRC 02	FERRON FIELD	182.5	MOUNTAIN FUEL SUP
WEST VIRGINIA DEPARTMENT OF MINES									
-ALLEGHENY & WESTERN ENERGY CORP				RECEIVED:	08/08/83	JA: WV			
8348803		4703903202		108		EASTERN ASSOCIATED COAL 86	CABIN CREEK	36.0	COLUMBIA GAS TRAN
8348804		4703903686		108		OHLEY TRUST 030	CABIN CREEK	36.0	COLUMBIA GAS TRAN
-ALLEGHENY LAND & MINERAL COMPANY				RECEIVED:	08/08/83	JA: WV			
8348799		4709701992		108		A-520	MEADE DISTRICT	0.0	COLUMBIA GAS TRAN
8348798		4708300188		108		A-648	ROARING CREEK DISTRIC	0.0	COLUMBIA GAS TRAN
8348797		4708300190		108		A-650	ROARING CREEK DISTRIC	0.0	COLUMBIA GAS TRAN
8348796		4708300216		108		A-715	MIDDLE FORK DISTRICT	0.0	COLUMBIA GAS TRAN
8348794		4708300222		108		A-716	MIDDLE FORK DISTRICT	0.0	COLUMBIA GAS TRAN
8348793		4708300223		108		A-717	MIDDLE FORK DISTRICT	0.0	COLUMBIA GAS TRAN
8348795		4708300217		108		A-727	MIDDLE FORK DISTRICT	0.0	COLUMBIA GAS TRAN
8348792		4708300228		108		A-741	MIDDLE FORK DISTRICT	0.0	COLUMBIA GAS TRAN
8348791		4708300230		108		A-763	MIDDLE FORK DISTRICT	0.0	COLUMBIA GAS TRAN
8348789		4708300255		108		A-784	MIDDLE FORK DISTRICT	0.0	COLUMBIA GAS TRAN
8348790		4708300241		108		A-801	MIDDLE FORK DISTRICT	0.0	COLUMBIA GAS TRAN
8348818		4708300260		108		A-813	MIDDLE FORK DISTRICT	0.0	COLUMBIA GAS TRAN
8348801		4708300261		108		A-816	MIDDLE FORK DISTRICT	0.0	COLUMBIA GAS TRAN
8348800		4708300263		108		A-819	MIDDLE FORK DISTRICT	0.0	COLUMBIA GAS TRAN
-CABOT OIL & GAS CORP				RECEIVED:	08/08/83	JA: WV			
8348762		4703900931		107-DV		POCAHONTAS COAL 88-1032	UNION	11.0	TENNESSEE GAS PIP
-CITIES SERVICE COMPANY				RECEIVED:	08/08/83	JA: WV			
8348813		4704500133		108		ISLAND CREEK GAS 016	ISLAND CREEK	2.8	SOUTHERN PUBLIC S
8348814		4704500142		108		ISLAND CREEK GAS 022	ISLAND CREEK	2.0	SOUTHERN PUBLIC S
8348812		4704500146		108		ISLAND CREEK GAS 024	ISLAND CREEK	0.6	SOUTHERN PUBLIC S
8348811		4704500147		108		ISLAND CREEK GAS 026	ISLAND CREEK	3.0	SOUTHERN PUBLIC S
8348810		4704500157		108		ISLAND CREEK GAS 035	ISLAND CREEK	5.0	SOUTHERN PUBLIC S
8348809		4704500158		108		ISLAND CREEK GAS 036	ISLAND CREEK	0.3	SOUTHERN PUBLIC S
8348808		4704500163		108		ISLAND CREEK GAS 037	ISLAND CREEK	3.0	SOUTHERN PUBLIC S
8348807		4704500164		108		ISLAND CREEK GAS 038	ISLAND CREEK	0.7	SOUTHERN PUBLIC S
8348806		4704500169		108		ISLAND CREEK GAS 041	ISLAND CREEK	1.0	SOUTHERN PUBLIC S
8348785		4704500170		108		ISLAND CREEK GAS 042	ISLAND CREEK	0.9	SOUTHERN PUBLIC S
8348805		4704500173		108		ISLAND CREEK GAS 044	ISLAND CREEK	7.6	SOUTHERN PUBLIC S
8348782		4704500174		108		ISLAND CREEK GAS 045	ISLAND CREEK	0.7	SOUTHERN PUBLIC S
8348781		4704500175		108		ISLAND CREEK GAS 046	ISLAND CREEK	1.0	SOUTHERN PUBLIC S
8348780		4704500185		108		ISLAND CREEK GAS 050	ISLAND CREEK	8.0	SOUTHERN PUBLIC S
8348779		4704500190		108		ISLAND CREEK GAS 054	ISLAND CREEK	1.0	SOUTHERN PUBLIC S
8348778		4704500191		108		ISLAND CREEK GAS 055	ISLAND CREEK	0.1	SOUTHERN PUBLIC S
8348815		4704500199		108		ISLAND CREEK GAS 057	ISLAND CREEK	1.0	SOUTHERN PUBLIC S
8348816		4704500201		108		ISLAND CREEK GAS 060	ISLAND CREEK	6.0	SOUTHERN PUBLIC S
8348817		4704500205		108		ISLAND CREEK GAS 061	ISLAND CREEK	0.4	SOUTHERN PUBLIC S
8348784		4704500212		108		ISLAND CREEK GAS 066	ISLAND CREEK	0.4	SOUTHERN PUBLIC S
8348783		4704500219		108		ISLAND CREEK GAS 069	ISLAND CREEK	1.0	SOUTHERN PUBLIC S
-COLUMBIA GAS TRANSMISSION CORP				RECEIVED:	08/08/83	JA: WV			
8348786		4703903645		102-4		KAN & HOCKING COAL & COKE 820657	WEST VIRGINIA FIELD A	105.4	COLUMBIA GAS TRAN
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	08/08/83	JA: WV			
8348772		4708505523		102-4		LUCILLE C DEBERRY 12757	UNION	34.0	GENERAL SYSTEM PU
-DAVIS GAS CO				RECEIVED:	08/08/83	JA: WV			
8348821		4708502124		108-SA		DAVIS 01	UNION DISTRICT	12.0	CONSOLIDATED GAS
-DEVON ENERGY CORP				RECEIVED:	08/08/83	JA: WV			
8348742		4701702781		108		DROPPLEMAN 04	ST CLAIR	18.0	CONSOLIDATED GAS
8348752		4702103425		108		FIDDLER 02	ELLIS CREEK	19.0	CONSOLIDATED GAS
8348745		4701702907		108		GEELHAAR 01	ST CLAIR	21.0	CONSOLIDATED GAS
8348746		4701702929		108		GEELHAAR 02	ST CLAIR	13.5	CONSOLIDATED GAS
8348753		4701702865		108		H SCHMIDT 02	ST CLAIR	15.8	CONSOLIDATED GAS
8348751		4701702958		108		KRENN 02	SAINT CLARA	16.0	CONSOLIDATED GAS

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8348754		4701702661		108		LOUIS NICHOLSON #1	LITTLE INDIAN FORK	9.9	COLUMBIA GAS TRAN
8348750		4702103743		108		MOORE #1	GLENVILLE	1.2	CONSOLIDATED GAS
8348747		4701702932		108		RASTLE #2	ST CLAIR	14.9	CONSOLIDATED GAS
8348743		4701702930		108		RASTLE #3	ST CLAIR	18.0	CONSOLIDATED GAS
8348744		4702103703		108		STUMP #1	LITTLE ELLIS	16.1	CONSOLIDATED GAS
8348748		4701702846		108		WYSONG #1	ST CLAIR	13.5	CONSOLIDATED GAS
8348749		4701702848		108		WYSONG #2	ST CLAIR	10.5	CONSOLIDATED GAS
-EASTERN AMERICAN ENERGY CORPORATION				RECEIVED:	08/08/83	JA: WV			
8348756		4704103226		107-DV		COPLEY #5	COURTHOUSE	37.5	COLUMBIA GAS TRAN
8348755		4704103261		107-DV		L BUSH #1	COURTHOUSE	25.0	COLUMBIA GAS TRAN
8348769		4704103242		107-DV		SHEARER #2	COURTHOUSE	34.7	COLUMBIA GAS TRAN
-INLAND EXPLORATION INC				RECEIVED:	08/08/83	JA: WV			
8348763		4708505871		107-DV		ECHARD #1	GRANT	51.1	CONSOLIDATED GAS
-JAMES F SCOTT				RECEIVED:	08/08/83	JA: WV			
8348776		4701703115		107-DV		C M INGRAM S-394	MCCLELLAN	11.0	COLUMBIA GAS TRAN
8348777		4701703106		107-DV		HOSKINSON-EVANS #1 S-413	GRANT	13.0	COLUMBIA GAS TRAN
8348760		4704900737		102-4		WALTER SHAFFER "B" S-439	UNION	0.3	CONSOLIDATED GAS
-KHM ASSOCIATES				RECEIVED:	08/08/83	JA: WV			
8348770		4708703670		107-DV		F HARPER #1	FLAT FORK HARPER DIST	50.0	COLUMBIA GAS TRAN
8348771		4708703670		103		F HARPER #1	FLAT FORK HARPER DIST	50.0	COLUMBIA GAS TRAN
-PEAKE OPERATING CO				RECEIVED:	08/08/83	JA: WV			
8348787		4708100567		108		WELCHLANDS 3-AW	SLAB FORK	5.0	CONSOLIDATED GAS
-PETROLEUM DEVELOPMENT CORP				RECEIVED:	08/08/83	JA: WV			
8348761		4708505628		102-3		MAXINE & FOSTER SMITH #1	GRANT	68.0	CONSOLIDATED GAS
-PETROLEUM TECHNOLOGY CORP				RECEIVED:	08/08/83	JA: WV			
8348775		4704302543		107-DV		WV-1A	MCDONALD FARM	16.0	COLUMBIA GAS TRAN
8348774		4704302545		107-DV		WV-7	BARRETT FARM	7.3	COLUMBIA GAS TRAN
8348773		4704302546		107-DV		WV-8	MEABON FARM	8.0	COLUMBIA GAS TRAN
-REEL ENERGY DRILLING PROGRAM				RECEIVED:	08/08/83	JA: WV			
8348882		4703902795		108		CENTRAL APPALACHIAN COAL #7	CABIN CREEK	36.0	COLUMBIA GAS TRAN
-RIMROCK PRODUCTION CORP				RECEIVED:	08/08/83	JA: WV			
8348759		4710500982		107-DV		HALE #1	LEE RUN	39.4	CABOT CORP
8348757		4708505752		107-DV		MOYERS #1	MEADOW RUN	38.7	COLUMBIA GAS TRAN
8348758		4707301493		107-DV		MULLENIX #1	LITTLE PANTHER RUN	111.6	COLUMBIA GAS TRAN
-SANTA FE DRILLING CORP				RECEIVED:	08/08/83	JA: WV			
8348768		4704103067		107-DV		GLANCY #2	COURT HOUSE DISTRICT	0.0	CONSOLIDATED GAS
-SENECA-UPSHUR PETROLEUM CO				RECEIVED:	08/08/83	JA: WV			
8348766		4709702465		102-4		ARBOGAST #1	WASHINGTON	35.0	TENNESSEE GAS PIP
8348767		4709702331		102-4		J C HOOVER #1-B	WASHINGTON	35.0	TENNESSEE GAS PIP
8348765		4709702466		102-4		JUNIOR WOODY #1	WASHINGTON	35.0	TENNESSEE GAS PIP
8348764		4708300703		102-4		LEHMANN #1	MIDDLE FORK	35.0	COLUMBIA GAS TRAN
-UNION DRILLING INC				RECEIVED:	08/08/83	JA: WV			
8348788		4708300666		102-2		ARTHUR GOBELI #1 1764	MIDDLE FORK DISTRICT	0.0	COLUMBIA GAS TRAN
8348820		4708300604		102-2		COASTAL LUMBER CO #1 1723	MIDDLEFORK DISTRICT	0.0	COLUMBIA GAS TRAN
8348819		4708300590		102-2		J M HUBER CORP #2 1724	MIDDLE FORK DISTRICT	0.0	COLUMBIA GAS TRAN
**********									
** BUREAU OF INDIAN AFFAIRS, OSAGE AGENCY, PAWHUSKA,OK									
**********									
-CENTENNIAL PETROLEUM INC				RECEIVED:	08/08/83	JA: OK 8			
8348887		3511300000		103		WELL #1 NE/4 33-28N-9E	WILDCAT	28.8	PHILLIPS PETROLEU
-DCX RESOURCES LTD				RECEIVED:	08/08/83	JA: OK 8			
8348877		3511300000		102-4		ANDOVER #1D	SIGNAL HILLS	5.0	PHILLIPS PETROLEU
8348874		3511300000		102-4		NORTH BOAR CREEK	NORTH BOAR CREEK NE/4	25.8	SANTA-FE- ANDOVER
-ECC OIL CO				RECEIVED:	08/08/83	JA: OK 8			
8348869		3511300000		103		MULLENDORE #7 (SW/4 S17-T29N-R11E)	TURKEY CREEK	11.0	AJAX OIL & GAS CO
8348886		3511300000		108		SWARTZENDRUBER #1-A	W 11-12 ANTICLINE	16.0	OKAN GAS CO
8348883		3511300000		108		SWARTZENDRUBER #2	W 11-12 ANTICLINE	16.0	OKAN GAS CO
8348884		3511300000		108		SWARTZENDRUBER #3	W 11-12 ANTICLINE	1.6	OKAN GAS CO
8348885		3511300000		108		SWARTZENDRUBER #4	W 11-12 ANTICLINE	0.0	OKAN GAS CO
-GREAT SOUTHWESTERN EXPLORATION INC				RECEIVED:	08/08/83	JA: OK 8			
8348882		3511300000		103		PRATT #1A	BULLDOG	36.0	PHILLIPS PETROLEU
-INCLINE PRODUCTION CO				RECEIVED:	08/08/83	JA: OK 8			
8348870		3511300000		103		ROBINSON #1		18.0	PHILLIPS PETROLEU
-J M GRAVES				RECEIVED:	08/08/83	JA: OK 8			
8348878		3511326475		102-4		BIGHEART #1-29	UNDESIGNATED	30.0	PHILLIPS PETROLEU
8348879		3511327680		102-4		BIGHEART #2	UNDESIGNATED	30.0	PHILLIPS PETROLEU
8348880		3511300000		102-4		BIGHEART #3	UNDESIGNATED	30.0	PHILLIPS PETROLEU
8348881		3511300000		102-4		ED #4	UNDESIGNATED	3.0	PHILLIPS PETROLEU
-K D OIL CO				RECEIVED:	08/08/83	JA: OK 8			
8348871		3511300000		103		LOOKOUT WELL #509	LOOKOUT	0.0	PHILLIPS PET CO
-MIDSTATES OIL CO				RECEIVED:	08/08/83	JA: OK 8			
8348872		3511300000		103		OXLEY #5-18	MISSISSIPPI	18.0	PHILLIPS PETROLEU
8348873		3511300000		103		OXLEY #6-18	MISSISSIPPI	18.0	PHILLIPS PETROLEU
-R D T PROPERTIES				RECEIVED:	08/08/83	JA: OK 8			
8348860		3511300000		103		SPERRY #17	BIRD CREEK	15.0	PHILLIPS PETROLEU
8348861		3511300000		103		SPERRY #18	BIRD CREEK	15.0	PHILLIPS PETROLEU
8348862		3511300000		103		SPERRY #19	BIRD CREEK	15.0	PHILLIPS PETROLEU
8348863		3511300000		103		SPERRY #20	BIRD CREEK	15.0	PHILLIPS PETROLEU
8348864		3511300000		103		SPERRY #21	BIRD CREEK	15.0	PHILLIPS PETROLEU
8348859		3511300000		103		SPERRY #6	BIRD CREEK	15.0	PHILLIPS PETROLEU
-ROUGEOT OIL & GAS CORP				RECEIVED:	08/08/83	JA: OK 8			
8348865		3511300000		103		BRATTON #7	FLATROCK	6.0	PHILLIPS PETROLEU
8348866		3511300000		103		FORD #9	FLATROCK	5.4	PHILLIPS PETROLEU
8348867		3511300000		103		MOORE #16	FLATROCK	5.4	PHILLIPS PETROLEU
8348868		3511300000		103		WILSON B #9	FLATROCK	28.8	PHILLIPS PETROLEU
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	08/08/83	JA: OK 8			
8348876		3511300000		103		PAPPAN (SE 1-22-7) #2	GILLILAND	44.0	PHILLIPS PETROLEU
8348888		3511300000		103		PAPPAN SE 1-22-7 #1A	GILLILAND	37.0	PHILLIPS PETROLEU
-V J HUFF				RECEIVED:	08/08/83	JA: OK 8			
8348875		3511300000		103		EAST PHAROAH #7	QUAPAW	38.0	THOR ENERGY CORP

[FR Doc. 83-23640 Filed 8-26-83; 8:45 am]
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Reader Aids

Federal Register

Vol. 48, No. 168

Monday, August 29, 1983

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419 523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Privacy Act	523-4534
Public Inspection Desk	523-5215
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282 523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235

United States Government Manual 523-5230

SERVICES

Agency services	523-5237
Automation	523-3408
Library	523-4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public Inspection Desk	523-5215
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, AUGUST

34723-34928	1
34929-35068	2
35069-35344	3
35345-35586	4
35587-35872	5
35873-36090	8
36091-36240	9
36241-36438	10
36439-36560	11
36561-36796	12
36797-37000	15
37001-37200	16
37201-37358	17
37359-37602	18
37603-37920	19
37921-38200	22
38201-38446	23
38447-38600	24
38601-38780	25
38781-39032	26
39033-39204	29

CFR PARTS AFFECTED DURING AUGUST

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Administrative Orders:

Presidential Determinations:

No. 83-8 of July 19, 1983 35587
No. 83-9 of August 5, 1983 36561

Executive Orders:

April 17, 1926 (Revoked in part by PLO 6454) 38240
12217 (Revoked by EO 12437) 36801
July 13, 1910 (Revoked in part by PLO 6455) 38468
12435 34723
12436 34931
12437 36801

Proclamations:

5078 34929
5079 35873
5080 36091
5081 36241
5082 36797
5083 36799

5 CFR

Ch. XIV 38781
550 36803
551 36803
831 38781
950 34910

Proposed Rules:

334 38846
1255 35652

7 CFR

2 37359
28 37001
51 38789
225 38601
226 35589
227 38601
235 38601
246 38601
247 38601
250 38601
253 38601
301 38447
707 35598
720 35599
724 37603
726 36563
796 35599
908 ..... 35345, 36439, 37360, 38601
910 ..... 35600, 36563, 37607, 38791
915 ..... 35345, 38791
916 35345
917 35345
921 35345
922 35345
924 35345
926 35345
930 ..... 35345, 38602
932 38201
944 38791
945 35345
946 35345
947 ..... 35345, 38203
948 35345
953 35345
958 35345
967 35345
982 35345
985 35345
989 35347
993 35345
1004 39033
1030 38448
1106 38204
1124 36439
1139 38205
1207 38603
1427 35348
1430 ..... 34725, 34933
3015 35875

Proposed Rules:

51 38846
68 35411
75 35411
101 37417
201 35417
240 35108
278 35868
279 35868
404 35418
408 35423
413 35427
416 37420
417 35431
421 35435
423 35439
425 35443
432 35447
437 35112
442 35451
983 36272
989 35454
1004 36113
1030 36464
1036 38001
1076 36467
1079 ..... 37424, 38002
1106 37657
1139 35652
1290 35116

8 CFR

100 37201
103 ..... 36441, 36564
212 ..... 35349, 36564, 37608

231.....36093, 37003
235.....35349, 37606
243.....39034
Proposed Rules:
3.....38847

9 CFR

3.....39035
54.....38206
71.....37921
74.....37921
75.....38793
78.....34943
92.....37202
97.....37361
Proposed Rules:
3.....35654, 39078
307.....38490
317.....35654
319.....35654
325.....35884
350.....38490
351.....38490
354.....38490
355.....38490
362.....38490
381.....35654, 35884, 38490

10 CFR

20.....38604
21.....38604
25.....35069
30.....39036
40.....35350
50.....39039
70.....39036
71.....35600, 38449
73.....38604
150.....39036
595.....38207
795.....36432
1016.....36432
Proposed Rules:
Ch. I.....34966
Ch. II.....37226
430.....34858
625.....35119
710.....35342
761.....36792
1017.....36825

11 CFR

102.....37921

12 CFR

207.....35070
220.....34944
221.....35074, 37361
225.....37003
265.....39047
303.....34945, 36565
329.....35827, 35629
1204.....38455
Proposed Rules:
226.....35659
705.....37042

13 CFR

Ch. I.....38794
116.....39047
Proposed Rules:
115.....37658
120.....37044
121.....34968
122.....36825

14 CFR

21.....38808
23.....38808
39.....34731, 35355–35364, 36806, 37361–37364, 37922–37924, 38809, 39049–39053
71.....35364–35366, 36442, 37365, 37925, 38809, 38810, 39054
73.....36806
75.....35366, 38810
91.....36442, 39054
95.....36445, 36208
97.....35876, 37926
212.....36445
223.....37928
252.....36093
261.....35080
263.....35081
289.....35081, 37606
291.....38458
398.....36094
1204.....37606
Proposed Rules:
Ch. I.....36826
21.....36002
25.....38004, 38848
39.....36468, 37425–37427, 38005
71.....35456–35458, 35887, 38246, 39078–39080
73.....38006, 36827, 37428, 37429
75.....39079, 39080
152.....36828
159.....37430
241.....36598, 36601
252.....36273
298.....36601
316.....39081
377.....35459
385.....36601, 39081
399.....35119

15 CFR

373.....38811
399.....38811
Proposed Rules:
921.....35120
971.....35888

16 CFR

13.....35367, 37202, 37203, 38214
305.....35385
455.....36096
1013.....36566
Proposed Rules:
13.....34764, 35132–35135, 35888, 38247, 38848
305.....37663
451.....36273
460.....35661

17 CFR

1.....35248
3.....34732, 35248, 35305, 37203
4.....35248
5.....38214
10.....35248
15.....35248
17.....35248
18.....35248
21.....35248
33.....35248
140.....34945
145.....35248
147.....35248
155.....35248
166.....35248
170.....35248
210.....36566, 37609
229.....37609
230.....37928
231.....37609
239.....36566, 37928
240.....35082, 38218, 241.....37609
270.....36097, 36243, 37928
274.....37928
Proposed Rules:
145.....34971
146.....34971
147.....34971
240.....37430, 37664, 38250
249.....36115
270.....35459

18 CFR

2.....35631, 35633
154.....35633
157.....34872, 34875, 35635
270.....35633
271.....35633–35636
282.....38224, 38812
284.....34875, 35635
300.....37006
410.....34946, 36469
Proposed Rules:
154.....38492
271.....35663–35666, 38651

19 CFR

12.....34734
101.....38813
127.....34734
177.....35878
210.....35386
Proposed Rules:
101.....35666
171.....37227
175.....36625

20 CFR

404.....37015, 38814
Proposed Rules:
299.....35460
404.....35135, 36831
410.....35135
416.....35135, 36831, 37228
422.....35135, 36831
652.....34866, 34974
653.....34866
655.....35667

21 CFR

5.....36571
74.....34946, 37020
81.....38814
109.....37020
172.....38225, 38226
173.....37614
175.....37615
176.....37617
177.....36099, 37618, 38604, 38815, 39057
178.....37615, 38227, 39058
193.....36246, 36448, 37203, 39058
201.....37619
211.....37624
430.....38459
436.....34947, 38459
442.....38459
452.....36571
520.....38606
522.....34947, 36100, 36571
555.....37623
558.....34948, 34949, 35637, 36100, 36101, 37620–37622, 38815
561.....36448, 37203
610.....37022
700.....37624
800.....37624
870.....36101
1316.....35087
Proposed Rules:
Ch. I.....37665
131.....37666, 38252
133.....36132, 36625, 37666
146.....37668
184.....34974
291.....35668
353.....36133
355.....38853

22 CFR

11.....38606

23 CFR

Ch. I.....35388
752.....38609
Proposed Rules:
Ch. I.....38854
652.....36470
771.....33894

24 CFR

202a.....36247
203.....34949, 35088, 35638, 36247
205.....35389
207.....35389
209.....36247
211.....36247
213.....35389, 35638, 36247
220.....35393, 36247
221.....35389, 36247
222.....36247
226.....36247
228.....36247
232.....35389
234.....35638, 36247
235.....34949, 36247
237.....36247
244.....35389
300.....36572, 36573
500.....36574
868.....37023
886.....36101
890.....38228
Proposed Rules:
115.....36133
200.....35668–35671, 35890
203.....35140
234.....35140
235.....35140
241.....35891
3280.....37136

25 CFR

Proposed Rules:
11 37046

26 CFR

1 36448
31 ..... 35089, 36807
35 ..... 35090, 36448, 36807
51 35092
150 35092
301 ..... 36449, 38229

Proposed Rules:
1 ..... 36137, 36474
5c 36137
20 35143
31 36474

27 CFR

9 ..... 35395, 37365–37374, 38462
178 35398

Proposed Rules:
5 35460
9 ..... 35462, 37670, 38497

28 CFR

0 35087
9 35087
60 37376

Proposed Rules:
0 35892
16 35892

29 CFR

500 ..... 36576, 36736, 38374, 38380
1601 38231
1910 36576
1952 ..... 34950, 34951, 37024
1956 37025
2610 37027
2619 36816
2622 37027

Proposed Rules:
1550 37047
1697 34766
1910 ..... 37672, 38856
1926 35774
2615 37230

30 CFR

Ch. II 35639
221 36582
228 36582
231 36588
251 37967
641 37377
642 37377
800 36418
806 36418
872 35399
880 37377
881 37377
913 37625
914 37626
917 38463
926 37382

Proposed Rules:
55 36789
56 36789
57 36789
250 38500
252 38500
913 36625
915 35903
935 ..... 35146, 36274, 36627
938 37672

31 CFR

Proposed Rules:
1 35904

32 CFR

47 38816
70 35644
219 35400
253 35644
263 34952
373 36247
701 38611
706 ..... 37029, 37030
819a 35878
842 37631
865 37384

Proposed Rules:
65 34974

33 CFR

1 35402
8 36449
25 36450
53 36449
100 ..... 36450, 36451, 37396, 37397, 38630, 38631
110 ..... 36452, 38631
117 ..... 35409, 36452, 38632, 38633
154 34740
160 ..... 35402, 39059
161 35402
165 ..... 35402, 36453, 38633, 38634
167 36453

Proposed Rules:
100 ..... 36474, 37433, 39083
110 ..... 34767, 38652
115 35464
117 ..... 36475, 36477, 38653–38655
161 37433
165 37438

34 CFR

5b 38817
200 34953
205 35879
263 35330

Proposed Rules:
662 38968
663 38968
664 38968
665 38968

35 CFR

Proposed Rules:
111 35905

36 CFR

223 34740
905 38232

Proposed Rules:
13 37673
228 35580
251 ..... 35465, 35580
261 35465

37 CFR

202 37204

Proposed Rules:
1 ..... 34836, 36478, 39016
2 36478
202 37232

38 CFR

3 ..... 37031, 38820
17 ..... 37398, 38821
21 ..... 35879, 36577, 37968
36 ..... 35879, 39059
40 36103

Proposed Rules:
17 ..... 38007, 38253
21 ..... 34975, 35146

39 CFR

1 38234
10 35409
111 ..... 35645, 38234

Proposed Rules:
111 37439
3001 35914

40 CFR

35 37814
52 ..... 36250, 36818, 36819, 37401–37403, 38235, 38465–38467, 38634, 38635
60 ..... 36579, 37578, 37598, 38728, 39010
61 36579
65 38637
81 ..... 37404, 37653, 38236, 38467, 38637, 38639
145 ..... 38237, 38238, 38640, 38641
162 ..... 35095, 38572
180 ..... 35095, 36251, 37210–37214
264 36582
270 36582
271 ..... 34742, 34954, 35096, 35097, 35647, 36252, 37215
425 35649
468 36942
717 38178

Proposed Rules:
Ch. II 34768
50 38009
51 38742
52 ..... 34976, 35312–35328, 35672, 35918, 36139, 37232, 38742, 39084
60 ..... 35338, 37338
61 38009
62 34978
81 ..... 35919, 35920, 36275, 38254, 38255
145 37673
180 ..... 36486, 38501
228 ..... 35147, 35673
261 39000
271 ..... 36277, 36628, 38010, 38722
302 34979
414 35674
416 35674
721 38502
1502 36486
1508 36486

41 CFR

Ch. 1 37031
Ch. 101 35098
5–1 37997
5–53 37405
29–70 37786
44–17 38822
101–11 38824
101–41 35649

Proposed Rules:
3–1 37233
3–3 37233

42 CFR

60 38864
401 39060
405 37408
421 38825

Proposed Rules:
2 38758
71 36143
100 36390
122 36402
123 36402
125 36390
400 38146
405 ..... 34979, 38146
408 38146
409 38146
418 38146
420 38146
421 ..... 34979, 38146
431 36151
441 38011
460 ..... 36970, 38656
462 ..... 36970, 38656
489 38146

43 CFR

2 37411
1820 36103
3000 37654
3100 37656
3410 37654
3420 37654
3430 37654
3450 37654
8360 36382

Public Land Orders:
3160 36582
3180 36582
3570 36588
6329 (Amended by PLO 6456) 39066
6380 (corrected by PLO 6451) 35099
6388 (corrected by PLO 6450) 35098
6448 34743
6449 34743
6450 35098
6451 35099
6452 38239
6453 38239
6454 38240
6455 38468
6456 39066

Proposed Rules:
36 37673

44 CFR

59 39066
61 39066
64 ..... 34744, 34957, 36590, 36592, 38825
67 36104
71 37036

Proposed Rules:
61 35468

62.....35468
67.....36159–36167, 36629, 38018, 38019, 38258, 38259

45 CFR

1.....35099
10.....35099
67.....35099
99.....35099
101.....38827
303.....38642
1607.....36820

Proposed Rules:

5b.....37440
302.....35468
304.....35468
306.....35468
1606.....36845
1611.....39086
1625.....36845

46 CFR

31.....36457
32.....36457
35.....36457
42.....38646
221.....35881
503.....36253
536.....35099, 36254

Proposed Rules:

10.....35920
35.....35920
50.....37441
52.....37441
53.....37441
54.....37441
63.....37441
157.....35920
162.....37441
175.....35920
185.....35920
186.....35920
187.....35920
295.....37449
298.....37453
510.....38856
540.....35675

47 CFR

0.....37413, 38240
1.....36104, 36459, 39072
2.....34746, 37216, 39072
15.....34748, 37217
17.....38473
18.....37217
19.....38240
21.....34746, 37216
22.....37997
73.....34753–34757, 34959, 36106–36112, 36254, 36459, 37216, 37220–37224, 37414–37416, 38243, 38470–38473
74.....34746, 37216, 38473
81.....39072
83.....34961
90.....34961, 36104
95.....35234, 36104, 39072
97.....34746, 37224

Proposed Rules:

Ch. I.....36167, 37235, 37464, 38511, 39090
2.....37475
18.....37235
68.....34985
73.....34772–34779, 35964, 36168–36173, 36278, 37239–37269, 37475–37492, 38020, 38053, 38859, 38860
76.....34986
90.....34782, 34987, 35149, 39090

48 CFR

Proposed Rules:

Ch. I.....35675

49 CFR

1.....37998
192.....37999
213.....35882
391.....38483
571.....38842
1056.....38844
1170.....35409
1175.....36594
1181.....38844
1183.....38844
1300.....36822
1307.....36822

Proposed Rules:

Ch. X.....38059
171.....35471, 35965
172.....35471, 35965, 35970
173.....35471, 35965, 35970
175.....35471
179.....35970
210.....36487, 38511
218.....36492
571.....34783, 34784, 36493, 36849
572.....37493
622.....34894
1105.....36284
1152.....36284
1160.....36285
1165.....36290
1180.....36284

50 CFR

10.....37040
17.....34757, 34961, 36256, 36594
20.....35100, 39024
32.....36112
285.....35107, 36597, 36823, 38650
611.....34762, 34962, 35107, 39076
649.....36266
650.....34762
651.....34762
652.....34762, 38243
654.....34762
655.....34762
658.....38489
661.....36823, 38244
662.....34963
663.....34762, 34763
671.....34762
672.....34762, 35107, 37040
674.....34762, 34965, 37224
675.....34762, 35107

Proposed Rules:

17.....35475, 35973, 38860, 39090–39096
20.....35152, 35153, 36853
23.....37494
32.....34987
36.....37673
424.....36062
641.....38511
681.....35475

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last Listing August 18, 1983

VOL
48
ISS
1
6
8
AG
29
1983
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8
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8-30-83
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8-30-83
Vol. 48 No. 169
Pages 39205-39446

Federal Register

Tuesday
August 30, 1983

Selected Subjects

Administrative Practice and Procedure
Soil Conservation Service

Authority Delegations (Government Agencies)
Federal Reserve System

Biologics
Food and Drug Administration

Chemicals
Environmental Protection Agency

Color Additives
Food and Drug Administration

Conflict of Interests
Air Force Department
Securities and Exchange Commission

Energy Conservation
Conservation and Renewable Energy Office

Fisheries
National Oceanic and Atmospheric Administration

Government Contracts
Immigration and Naturalization Service

Government Employees
Personnel Management Office

Grant Programs—Education
Education Department

Grant Programs—Energy
Conservation and Renewable Energy Office

CONTINUED INSIDE

Selected Subjects

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Marketing Agreements
Agricultural Marketing Service

Medicare
Health Care Financing Administration

Motor Carriers
Interstate Commerce Commission

Natural Gas
Federal Energy Regulatory Commission

Nutrition
Food and Nutrition Service

Pesticides and Pests
Environmental Protection Agency

Reporting and Recordkeeping Requirements
Federal Communications Commission

Surface Mining
Surface Mining Reclamation and Enforcement Office

Contents

Federal Register
Vol. 48, No. 169
Tuesday, August 30, 1983

The President
EXECUTIVE ORDERS
39205 Veterans' Administration, employee pay (EO 12438)
PROCLAMATIONS
39207 Hispanic Heritage Week, National (Proc. 5084)

Executive Agencies

Agricultural Marketing Service
RULES
39213 Celery grown in Fla.

Agriculture Department
See Agricultural Marketing Service; Federal Grain Inspection Service; Food and Nutrition Service; Forest Service; Soil Conservation Service.

Air Force Department
RULES
39225 Conduct standards; CFR Part removed

Coast Guard
PROPOSED RULES
Ports and waterways safety:
39244 U.S./Canadian Cooperative Vessel Traffic Management System (CVTMS); correction

Commerce Department
See International Trade Administration; National Oceanic and Atmospheric Administration.

Conservation and Renewable Energy Office
RULES
Consumer products:
39376 Refrigerators; refrigerator-freezers, freezers, water heaters, etc.
39356 State energy conservation program

Defense Department
See also Air Force Department; Engineers Corps.
NOTICES
Meetings:
39277 Science Board task forces (2 documents)

Delaware River Basin Commission
NOTICES
39278 Hearings; extension

Economic Regulatory Administration
NOTICES
Natural gas; fuel oil displacement certification applications:
39285 Amstar Corp.
Powerplant and industrial fuel use; prohibition orders, exemption requests, etc.:
39283 Augusta Newsprint Co.
39284 Southern Indiana Gas & Electric Co.

Education Department
RULES
Postsecondary education:
39366 Pell grant program; expected family contribution schedule
NOTICES
39278 Agency information collection activities under OMB review
Senior Executive Service:
39280 Performance Review Board; membership
Special education and rehabilitative services:
39280, 39281 Arbitration panel decision under the Randolph-Sheppard Act (2 documents)

Employment and Training Administration
NOTICES
Adjustment assistance:
39316 Ames Coal Co.
39315 Stainless steel and alloy tool steel products; industry study

Energy Department
See also Conservation and Renewable Energy Office; Economic Regulatory Administration; Federal Energy Regulatory Commission.
NOTICES
Meetings:
39282 International Energy Agency Industry Advisory Board

Engineers Corps
NOTICES
Environmental statements; availability, etc.:
39277 Levisa Fork, Ky. and Va.

Environmental Protection Agency
RULES
Toxic substances:
39225 Records and reports of allegations of significant adverse reactions to health or environment; correction
PROPOSED RULES
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.:
39244 Sulfuric acid
Toxic substances:
39245 1,2-Benzenediamine, 4-ethoxy, sulfate; significant new uses
NOTICES
Toxic and hazardous substances control:
39287 Premanufacture notices review period extensions
39288 Premanufacture notices review period extensions; terminated

Farm Credit Administration
NOTICES
39288 Puget Sound Production Credit Association, Mt. Vernon, Wash.; special supervisory procedures
39290 Southern Oregon Production Credit Association, Medford, Oreg.; special supervisory procedures
39291 Willamette Production Credit Association, Salem, Oreg.; special supervisory procedures

Federal Aviation Administration
NOTICES
Meetings:
39329 Aeronautics Radio Technical Commission

Federal Communications Commission
RULES
Television broadcasting:
39225 Cable television; elimination of annual financial report (FCC Form 326)
NOTICES
Hearings, etc.:
39292 Carney, Billy B., et al.
39292 Fletcher Communications Co. et al.
39293 Fox Com, Ltd., et al.
39293 Greater Peninsula Media, Inc., et al.
39294 Ruarch Associates et al.
Meetings:
39294 ITU 1985 Space World Administrative Radio Conference Advisory Committee
39294, 39295 Telecommunications Industry Advisory Group (3 documents)

Federal Election Commission
NOTICES
Rulemaking petitions; availability, etc.:
39295 National Taxpayers Legal Fund

Federal Energy Regulatory Commission
PROPOSED RULES
Natural gas companies (Natural Gas Act):
39238 Natural gas pipeline minimum commodity bill provisions; elimination of variable costs
NOTICES
Hearings, etc.:
39285 Addison, Edward L.
39285 Arkansas Louisiana Gas Co.
39286 Columbia Gas Transmission Corp. et al.
39286 Consolidated Hydroelectric, Inc.
39286 National Fuel Gas Supply Corp. et al.
39286 Pacific Gas & Electric Co. et al.
39287 Southern California Edison Co. et al. (2 documents)
39287 Zenith Natural Gas Co.
Natural Gas Policy Act:
39438, 39441 Jurisdictional agency determinations (2 documents)

Federal Grain Inspection Service
NOTICES
Agency determination actions:
39263 Nebraska

Federal Highway Administration
RULES
39222 Truck size and weight; designated highway networks; policy statement; modification
NOTICES
Environmental statements; availability, etc.:
39329 Adams County, Nebr.; intent to prepare

Federal Mine Safety and Health Review Commission
NOTICES
39334 Meetings; Sunshine Act

Federal Reserve System
RULES
Authority delegations:
39214 Bank acquisitions approval
NOTICES
39295 Agency information collection activities under OMB review
Applications, etc.:
39296 First Northwest Bancorporation et al.
39296 Florida Central Banks, Inc., et al.
39334 Meetings; Sunshine Act

Fish and Wildlife Service
NOTICES
39303 Endangered and threatened species permit applications

Food and Drug Administration
RULES
Color additives:
39217 D&C Yellow No. 10; permanent listing
39220 D&C Yellow No. 10; provisional listing; closing date postponed
39221 FD&C Blue No. 2; provisional listing closing date postponed
PROPOSED RULES
Biological products:
39243 Allergenic products; maximum volume limit in multiple dose container; withdrawn
GRAS or prior-sanctioned ingredients:
39242 Wheat gluten, corn gluten, and zein; extension of time
Human drugs:
39242 Cold, cough, allergy, bronchodilator, and antiasthmatic drug products (OTC); final monograph for bronchodilator products; reopening of administrative record
NOTICES
Food additive petitions:
39297 Rhone-Poulenc, Inc.

Food and Nutrition Service
RULES
Child nutrition programs:
39211 Nutrition education and training program; reduced administrative requirements

Forest Service
NOTICES
39302 Blue Ridge Parkway and Pisgah National Forest, N.C.; jurisdiction of lands transferred from Interior Department

Health and Human Services Department
See Food and Drug Administration; Health Care Financing Administration; National Institutes of Health; Public Health Service.

Health Care Financing Administration
RULES
Medicare:
39412 Hospital reimbursement costs and rate of hospital cost increases, limitations
NOTICES
Medicare:
39426 Hospital inpatient operating costs; schedule of limits

Historic Preservation, Advisory Council
NOTICES
Programmatic memorandums of agreement:
39263 Coastal Plains of Arctic National Wildlife Refuge, Alaska; Oil and gas exploratory program

Immigration and Naturalization Service
RULES
Transportation line contracts:
39214 Wardair Canada (1975) Ltd.

Interior Department
See also Fish and Wildlife Service; Land Management Bureau; Minerals Management Service; National Park Service; Surface Mining Reclamation and Enforcement Office.
NOTICES
39302 Blue Ridge Parkway and Pisgah National Forest, N.C.; jurisdiction of lands transferred to Forest Service
Meetings:
39302 Fair Market Value Policy for Federal Coal Leasing Commission

International Trade Administration
NOTICES
Antidumping:
39267 Metal-walled above ground swimming pools from Japan
39275 Spindle belting or belts from West Germany, Switzerland, Italy, and Japan
39268 Sugar and syrups from Canada
39270 Tapered journal roller bearings and parts from Italy
39272 Tapered journal roller bearings and parts from Japan
39269 Tapered journal roller bearings and parts from West Germany
Countervailing duties:
39273 Forged undercarriage components from Italy
Scientific articles; duty free entry:
39265 Case Western Reserve University et al.
39266 University of Southern California et al.

International Trade Commission
NOTICES
39334 Meetings; Sunshine Act

Interstate Commerce Commission
PROPOSED RULES
Motor carriers:
39251 Lease and interchange of vehicles; thirty day leasing requirement elimination
Practice and procedure:
39254 Railroad cost recovery; all-inclusive index; extension of time
NOTICES
39306 Agency information collection activities under OMB review
Motor carriers:
39307 Permanent authority applications
Motor carriers; control, purchase, and tariff filing exemptions, etc.:
39306 Groendyke Investment, Inc., et al.

Justice Department
See also Immigration and Naturalization Service; Parole Commission.
NOTICES
39313 National security information program; implementation

Labor Department
See also Employment and Training Administration; Occupational Safety and Health Administration.
NOTICES
39315 Agency information collection activities under OMB review

Land Management Bureau
RULES
39225 Minerals management, and oil and gas leasing on Federal lands; Alaska exploration and development, regulatory burden reduction, etc., correction
NOTICES
Meetings:
39303 Burns District Advisory Council
Opening of public lands:
39304 Arizona

Maritime Administration
NOTICES
Trustees; applicants approved, disapproved, etc.:
39330 Norwest Bank Minneapolis, National Association

Minerals Management Service
NOTICES
Outer Continental Shelf; oil, gas, and sulphur operations; development and production plans:
39304 Huffco Petroleum Corp.
39304 Shell Offshore Inc.

National Highway Traffic Safety Administration
NOTICES
Motor vehicle safety standards; exemption petitions, etc.:
39330 Ford Motor Co.

National Institutes of Health
NOTICES
Meetings:
39297 Arthritis, Diabetes, and Digestive and Kidney Diseases National Advisory Council
39297 Biometry and Epidemiology Contract Review Committee
39298 Blood Diseases and Resources Advisory Committee
39298 Cancer Cause and Prevention Division; Scientific Counselors Board
39298 Communicative Disorders Review Committee
39299 Developmental Therapeutics Contracts Review Committee
39299 Neurological Disorders Program Project Review Committee

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
39229 Precious corals, western Pacific region; domestic and foreign fishing
PROPOSED RULES
Fishery conservation and management:
39254 Atlantic silver and red hake; foreign fishing
39255 Coral and coral reefs of Gulf of Mexico and South Atlantic
NOTICES
Environmental statements; availability, etc.:
39276 Sea turtles, voluntary program conservation; trawling efficiency device in shrimp trawls

National Park Service
NOTICES
Historic Places National Register; pending nominations:
39304 California et al.

Neighborhood Reinvestment Corporation
NOTICES
39334 Meetings; Sunshine Act

Nuclear Regulatory Commission
NOTICES
39334 Meetings; Sunshine Act

Occupational Safety and Health Administration
NOTICES
39317 Training guidelines; inquiry

Parole Commission
NOTICES
39334 Meetings; Sunshine Act

Personnel Management Office
RULES
Excepted service:
39209 Schedule C definition "positions in grades GS–15 and below" removed
Recruitment, selection, and placement:
39209 National Guard technician; placement assistance to persons entitled to disability annuity

Public Health Service
NOTICES
39299 Privacy Act; systems of records

Securities and Exchange Commission
RULES
Conflict of interests:
39215 Travel reimbursement acceptance; non-Federal sponsors payment or reimbursement for expenses
NOTICES
Hearings, etc.:
39323, 39324 Equity Income Fund et al. (2 documents)
39325 Territorial Money Market Fund
39326 World of Technology, Inc., et al.
39335 Meetings; Sunshine Act
Self-regulatory organizations; proposed rule changes:
39325 New York Stock Exchange, Inc.
39327 Options Clearing Corp.

Small Business Administration
NOTICES
Applications, etc.:
39328 Advent Atlantic Capital Co.
39328 Norwest Venture Partners

Soil Conservation Service
PROPOSED RULES
Support activities
39236 Real property acquisition
NOTICES
Environmental statements; availability, etc.:
39264 Dunn-Gilmore Critical Area Treatment RC&D Measure, Fla.
39263 Lower Silver Creek Watershed, Calif.
39264 Mohawk Valley School Water Quality Management RC&D Measure Plan, Ariz.
39264 Parksley Park Land Drainage RC&D Measure, Va.

Surface Mining Reclamation and Enforcement Office
RULES
Permanent program submission; various States:
39223 Virginia
NOTICES
Environmental statements; availability, etc.:
39306 John Henry No. 1 Mine, King County, Wash.

Transportation Department
See also Coast Guard, Federal Aviation Administration, Federal Highway Administration, Maritime Administration, National Highway Traffic Safety Administration.

Treasury Department
NOTICES
39330 Agency information collection activities under OMB review
Notes, Treasury:
39331 K–1988 series
39331 X–1985 series

United States Information Agency
NOTICES
39332 President's International Youth Exchange Initiative; use of logo

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Separate Parts In This Issue

Part II
39356 Department of Energy, Office of Conservation and Renewable Energy

Part III
39366 Department of Education

Part IV
39376 Department of Energy, Office of Conservation and Renewable Energy

Part V
39412 Department of Health and Human Services; Health Care Financing Administration

Part VI
39426 Department of Health and Human Services, Health Care Financing Administration

Part VII
39438 Department of Energy, Federal Energy Regulatory Commission

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Executive Orders:
12438 39205
Proclamations:
5084 39207

5 CFR
213 39209
330 39209

7 CFR
227 39211
967 39213
Proposed Rules:
651 39236

8 CFR
238 39214

10 CFR
420 39356
430 39376

12 CFR
265 39214

17 CFR
200 39215

18 CFR
Proposed Rules:
154 39238

21 CFR
74 39217
81 (3 documents) 39217-39221
82 39217
Proposed Rules:
184 39242
341 39242
680 39243

23 CFR
Ch. I 39222

30 CFR
946 39223

32 CFR
920 39225

33 CFR
Proposed Rules:
161 39244

34 CFR
668 39366
674 39366
675 39366
676 39366
683 39366
690 39366

40 CFR
717 39225
Proposed Rules:
180 39244
721 39245

42 CFR
405 39412

43 CFR
3000 39225
3040 39225
3100 39225
3110 39225
3120 39225
3140 39225
3150 39225

47 CFR
76 39225

49 CFR
Proposed Rules:
1057 39251
1102 39254

50 CFR
611 39229
680 39229
Proposed Rules:
611 39254
638 39255

VOL
48
ISS
1
6
9
AG
30
1983
UMI

Federal Register
Vol. 48, No. 169
Tuesday, August 30, 1983

Presidential Documents

Title 3—

The President

Executive Order 12438 of August 23, 1983

Review of Increases in Rates of Basic Pay for Employees of the Veterans' Administration

By the authority vested in me as President by the Constitution and laws of the United States of America, including Section 4107(g)(4) of title 38 of the United States Code, in order to establish procedures for review of proposed increases in the rates of basic pay of certain employees of the Veterans' Administration, it is hereby ordered as follows:

Section 1. The Director of the Office of Personnel Management is designated to exercise the authority vested in the President by Section 112 of Public Law 96–330 (94 Stat. 1037) to review and disapprove increases in the rates of basic pay proposed by the Administrator of Veterans' Affairs and to provide the appropriate Committees of the Congress with a written statement of the reasons for any such disapprovals.

Sec. 2. In exercising this authority, the Director of the Office of Personnel Management shall assure that any increases in basic pay proposed by the Administrator of Veterans' Affairs are in the best interest of the Federal government; do not exceed the amounts authorized by Section 112; and are made only to:

(1) Provide pay in an amount competitive with, but not exceeding, the amount of the same type of pay paid to the same category of health-care personnel at non-Federal health-care facilities in the same labor market;

(2) Achieve adequate staffing at particular facilities; or

(3) Recruit personnel with specialized skills, especially those with skills which are especially difficult or demanding.

Sec. 3. The Administrator of Veterans' Affairs shall provide to the Director of the Office of Personnel Management such information as the Director may request in order to carry out the responsibilities delegated by this Order.

Sec. 4. The Director shall provide the Administrator of Veterans' Affairs with a copy of any written statement, provided to the appropriate committees of the Congress, which sets forth the reasons for disapproval of any proposed increase in rates of basic pay under this Order.

Ronald Reagan

THE WHITE HOUSE,
August 23, 1983.

[FR Doc. 83–23982
Filed 8–29–83; 11:11 am]
Billing code 3195–01–M

VOL
48
ISS
1
6
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AG
30
1983
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Presidential Documents

Proclamation 5064 of August 25, 1983

National Hispanic Heritage Week, 1983

By the President of the United States of America

A Proclamation

National Hispanic Heritage Week pays tribute to a rich part of America's cultural tradition, offering all Americans a welcome opportunity to recognize the qualities and contributions of Hispanic Americans from earliest colonial times to the present. The dedication to principles of loyalty, patriotism, strong religious faith and devotion to family displayed by Hispanic Americans is basic to the American way of life.

Hispanic Americans have played an important role in the development of our rich cultural heritage and every State has benefitted from their influence. They have distinguished themselves in the arts and sciences, education, industry, government and many other areas of productive endeavor. Indeed, they are a part of all that makes America great.

Just as their forefathers sought a dream in the New World, Hispanic Americans have realized their dreams in our great Nation and will continue to do so. Their dedication to higher purposes reflects what is best in the American spirit.

Through the years, Hispanic American citizens have risen to the call of duty in defense of liberty and freedom. Their bravery is well-known and has been demonstrated time and again, dating back to the aid rendered by General Bernardo de Galvez during the American Revolution.

In recognition of the many achievements of the Hispanic American Community, the Congress, by joint resolution approved September 17, 1968 (82 Stat. 848), authorized and requested the President to issue annually a proclamation designating the week which includes September 15 and 16 as National Hispanic Heritage Week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning September 11, 1983, as National Hispanic Heritage Week in honor of the Hispanic peoples who have enriched our daily lives, our traditions and our national strength. In this spirit, I ask all of our citizens to reflect on the sense of brotherhood that binds us together as one people.

IN WITNESS WHEREOF, I have hereunto set my hand this 25th day of Aug., in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and eighth.

Ronald Reagan

[FR Doc. 83-23981
Filed 8-29-83; 11:10 am]
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VOL
48
ISS
1
6
9
AG
30
1983
UMI

Rules and Regulations

Federal Register
Vol. 48, No. 169
Tuesday, August 30, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 213

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Final rule; technical amendment.

SUMMARY: The Office of Personnel Management is issuing a technical amendment removing from the definition of Schedule C contained in section 213.3301 of Title 5 of the Code of Federal Regulations reference to "positions in grades GS–15 and below." This amendment is needed because Schedule C, as defined in the civil service rules (5 CFR 6.2), is not limited by grade level, and the reference to grade level incorrectly reflects OPM's authority to place positions in Schedule C.

EFFECTIVE DATE: August 30, 1983.

FOR FURTHER INFORMATION CONTACT: William Bohling, 202–632–6000.

SUPPLEMENTARY INFORMATION: OPM's authority to except positions from the competitive service and place them in Schedule C is granted by civil service rule VI (5 CFR 6.2), which states that: "Positions of a confidential or policy-determining character shall be listed in Schedule C." This definition does not speak to grade level and does not limit OPM's authority to positions in certain grades. The authority to place positions in Schedule C is rarely used for positions above the GS–15 level because most positions at GS–16 and above are filled in the Senior Executive Service (SES), which is separate from the competitive service, or through the Executive Assignment System, which provides for noncareer executive assignments (NEA) to positions of the type appropriate for Schedule C exception. When the regulations in 5 CFR Part 213 were recodified in July 1982, it was erroneously believed that all positions in grades GS–16 and above were filed under these two systems; and the reference to "positions in grades GS–15 and below" in 5 CFR 213.3301 was intended, not to limit OPM's authority, but only to reflect actual practice. In fact, however, a few positions exist which do not meet the criteria for inclusion in either SES or the Executive Assignment System, but which do qualify for inclusion in Schedule C. The proposed technical amendment will clarify OPM's authority to grant Schedule C exceptions for those positions.

Pursuant to sections 553(b)(B) and 553(d)(3) of title 5, United States Code, I find that good cause exists to waive the general notice of proposed rulemaking and to make this amendment effective in less than 30 days. The regulation is being made effective immediately because it does not change OPM's actual authority under civil service rule VI (5 CFR 6.2) to except positions under Schedule C, but merely removes from the regulations an inaccurate reference to the extent of that authority.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule as defined under Section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it merely updates information on authorities used to appoint certain employees in Federal agencies.

List of Subjects in 5 CFR Part 213

Government employees.

Office of Personnel Management.

Donald J. Devine,
Director.

PART 213—[AMENDED]

Accordingly, the U.S. Office of Personnel Management is revising 5 CFR § 213.3301, to read as follows:

§ 213.3301 Positions of a confidential or policy-determining character.

Upon specific authorization by OPM, or under the terms of an agreement with OPM, agencies may make appointments under this section to positions which are policy-determining or which involve a close and confidential working relationship with the head of an agency or other key appointed officials. Positions filled under this authority are excepted from the competitive service and constitute Schedule C. Each position authorized under this section will be assigned a number from 213.3302 to 213.3399, or other appropriate number, to be used by the agency in recording appointments made under that authorization.

* * * * *

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 83-23600 Filed 8-29-83; 8:45 am]
BILLING CODE 6325-01-M

5 CFR Part 330

Recruitment, Selection, and Placement (General)

AGENCY: Office of Personnel Management.

ACTION: Final regulations.

SUMMARY: The Office of Personnel Management (OPM) is issuing final regulations to provide for placement assistance for persons previously employed as National Guard Technicians who are eligible and applying for or receiving an annuity by reason of a disability that disqualifies them from membership in the National Guard or from holding the military grade required as a condition of their National Guard employment. This action is necessary to implement the provisions of 5 U.S.C. 8337(h).

EFFECTIVE DATE: September 29, 1983.

FOR FURTHER INFORMATION CONTACT: William Bohling, Noncompetitive Staffing Branch, Staffing Group, 202–632–6000.

SUPPLEMENTARY INFORMATION: 5 U.S.C. 8337(h) provides: (1) That a National Guard Technician who is required as a condition of employment to be a member of the National Guard or to hold a certain military grade may be eligible for disability retirement based on a disability that disqualifies the individual from membership in the National Guard or from holding the required military grade; and (2) that any individual applying for or receiving an annuity

under this provision "shall, in accordance with regulations prescribed by the Office, be considered by any agency of the Government before any vacant position in the agency is filled if—(A) the position is located within the commuting area of the individual's former position; (B) the individual is qualified to serve in such position as determined by the head of the agency; and (C) the position is at the same grade or equivalent level as the position from which the individual was separated." The law further stipulates that a National Guard Technician may retire under 5 U.S.C. 8337(h), and receive placement consideration consistent with the statutory provisions, only if he/she has *not* been found to be disabled under 5 U.S.C. 8337(a).

On March 22, 1983, OPM published final regulations establishing a new Schedule A appointing authority in the excepted service covering positions filled by National Guard Technicians who are eligible for or receiving an annuity based on a disability that disqualifies them from National Guard membership or from holding a military grade required by their technician employment. Since National Guard Technicians are appointed under 32 U.S.C. 709(a), which confers no status or eligibility for movement to other positions, a special appointing authority was needed to permit their placement in other agencies. Schedule A appointing authority, under which agencies determine qualifications for their positions, was appropriate in view of the language of 5 U.S.C. 8337(h).

Interim regulations published April 15, 1983 (48 FR 16229) specified the nature of the placement assistance to be provided to National Guard Technicians. Comments on these regulations were invited for 60 days. Four comments were received: two from Federal agencies, one from a private citizen, and one from a state National Guard facility.

One Federal agency suggested that we clarify a statement contained in the "Supplementary Information" section of the interim regulations which described the conditions under which OPM would provide priority consideration to National Guard Technicians. The statement, in part, stipulates that priority consideration will be given to National Guard Technicians "* * * for any vacant position in the competitive service that agencies plan to fill *through an external hire.* * * *" The agency felt that this statement could be misinterpreted as including situations where an agency is planning to fill a vacant position by the reinstatement of a former Federal employee or the transfer of a current employee from another agency. Such an interpretation would be incorrect. As Section 330.803(a)(1) of the interim regulations states, priority consideration shall be given whenever an agency "* * * plans to seek or is seeking the names of qualified candidates from a register or registers of competitive eligibles maintained by OPM or agencies with delegated examining authority." Such requests do not interfere with an agency's authority to fill a vacant position by a reinstatement or transfer action.

The remaining three commentors either individually or collectively made the following suggestions: (1) That priority placement consideration not be limited to the commuting area of the employee's former National Guard Technician position; rather, assistance should also be provided to the National Guard Technician in the commuting area of his/her current home address or within a geographic area encompassing a specific region of the country. The commentors argued that it would be counterproductive to the employment needs of the Federal Government to limit placement assistance to the commuting area of the former National Guard Technician position *and* would also represent an under hardship to the individual to terminate the disability annuity if he/she failed to accept a position for which qualified in the former commuting area of the National Guard Technician position; and, (2) that mandatory placement assistance be required for a period of one or two years only with continued assistance beyond that period optional. Adoption of these two suggestions would, however, exceed both the letter and intent of 5 U.S.C. 8337(h).

Section 302(a) of Pub. L. 97–253, the Omnibus Budget Reconciliation Act of 1982, which became codified as 5 U.S.C. 8337(h), specifically states, in part, that National Guard Technicians who become disabled from performing their National Guard Technician duties and who apply for or are "* * * receiving any annuity pursuant to this subsection shall * * * be considered by any agency of the Government * * * if the position is located within the commuting area of the individual's former position * * *" It is therefore clear from this statutory language that placement assistance is to be mandatory (due to the use of the word "shall"), is to be indefinite in duration, i.e., extending through the period of annuity entitlement, and is to be confined to the commuting area of the individual's former National Guard Technician position. OPM has no authority to alter statutory provisions; only legislative action can amend these particular provisions and thereby enable OPM to adopt a placement assistance approach consistent with the above suggestions. Further, for OPM to expand placement assistance to include other than the commuting area of the former National Guard Technician position would impose an administrative burden not intended by Congress. Congressional intent in this area, i.e., controlling retirement outlays by encouraging continued employment of and providing *comparable* employment opportunities for Technicians who become disabled for military, but not civilian, duties, also supports the termination of such a disability annuity if a former National Guard Technician declines a regular civilian position for which qualified.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule as defined under Section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it pertains solely to conditions for appointment of certain employees by Federal agencies.

List of Subjects in 5 CFR Part 330

Government employees.

Office of Personnel Management.

Donald J. Devine,

Director.

Accordingly, the Office of Personnel Management is adopting its interim rule (which added subpart H to 5 CFR Part 330) as final with minor editorial amendments. The text is set forth below:

Subpart H—Placement Assistance for National Guard Technicians Who Become Entitled to a Disability Annuity

Sec.

330.801 Coverage.
330.802 OPM assistance.
330.803 Priority referral.
330.804 Department of Defense responsibility for placement assistance.
330.805 Duration of eligibility for assistance.

(5 U.S.C. 3301, 3302, 8337(L))

§ 330.801 Coverage.

This subpart applies to current or former National Guard Technicians who—

(a) Are or were separated from such positions on or after December 31, 1979, because of a medical disability that disqualified them from membership in the National Guard or from holding the

military grade required for such employment;

(b) Have not been found by OPM to be disabled under subchapter III of chapter 83 of title 5, United States Code, section 8337(a);

(c) Have applied for or are receiving an annuity under the provisions of subchapter III of chapter 83 of title 5, United States Code, section 8337(h); and,

(d) Are not eligible for assistance under Subpart C of this part.

§ 330.802 OPM assistance.

An employee covered by this subpart is subject to mandatory enrollment in an OPM placement assistance program. Such an employee shall receive priority consideration for vacant positions in the Federal Government in accordance with the provisions of § 330.803 of these regulations.

§ 330.803 Priority referral.

(a) An employee covered by this subpart shall be referred, both by OPM and agencies with delegated examining authority, and considered by any agency of the Government for any vacant position at GS–15 and below or the equivalent whenever—

(1) An agency plans to seek or is seeking the names of qualified candidates from a register or registers of competitive eligibles maintained by OPM or agencies with delegated examining authority;

(2) The position is expected to last more than one year;

(3) The position is located within the commuting area of the employee's former National Guard Technician position;

(4) The position is at the same grade or equivalent level as the National Guard Technician position from which the employee was separated; and,

(5) The employee is qualified for the vacant position as determined by the head of the agency or his/her designee.

In addition, OPM and agencies with delegated examining authority will refer the names of employees covered by this subpart whenever an agency requests recruiting assistance for positions in the excepted service.

(b) When an agency selects an individual referred under this subpart, it will generally employ him or her under authority of Part 213, Subpart C, § 213.3102(j) of the excepted service or other appropriate excepted service appointing authorities.

§ 330.804 Department of Defense responsibility for placement assistance.

(a) The Department of Defense shall, as the Government agency employing National Guard Technicians and in accordance with its own personnel management policies and practices, ensure that employees covered by this subpart receive appropriate consideration as defined by the Department of Defense for positions within the military departments and defense agencies for which the head of that department or agency, or his/her designee, determines that the individual is qualified, which is in the same commuting area and which is at the same grade or equivalent level as the National Guard Technician position from which the employee was separated.

(b) The Department of Defense will be notified by OPM whenever a National Guard Technician who was separated on or after December 31, 1979, and before October 1, 1982, from such a position of a medical disability that disqualified him/her from membership in the National Guard or from holding the military grade required for such employment has filed a timely application for disability annuity under 5 U.S.C. 8337(h). The department shall, in turn, take steps to provide appropriate internal placement consideration to such individuals beginning on the day following the date that such notification from OPM has been received by the department. Further, the department or its appropriate component will be responsible for enrolling such individuals into OPM's placement assistance program as soon as is reasonably possible, with the expectation that, in most cases, enrollment can be made within 30 calendar days following the date that the department has been notified by OPM that a timely application for a disability annuity under 5 U.S.C. 8337(h) has been filed by the former National Guard Technician.

(c) For National Guard Technicians who are separated on or after October 1, 1982, because of a medical disability that disqualified him/her from membership in the National Guard or from holding the military grade required for such employment, internal Department of Defense placement consideration shall begin as soon as the determination has been made by the department or its appropriate component that the technician is no longer qualified for membership in the National Guard and shall continue after the date of actual separation from the National Guard Technician position in accordance with paragraph (a) of this section. The Department of Defense or its appropriate component will also be responsible for enrolling such individuals into OPM's placement assistance program as soon as is reasonably possible, with the expectation that, in most cases, enrollment can be made within 15 calendar days following the actual date of separation from the National Guard Technician position.

§ 330.805 Duration of eligibility for assistance.

(a) An employee covered by this subpart is eligible for OPM placement assistance without time limit. Eligibility will, however, be terminated upon—

(1) His/her reemployment by a Federal department or agency in a nontemporary position;

(2) His/her declination of any position in the Government for which he/she has been found qualified by the head of the agency or his/her designee, and which is at the same grade or equivalent level, in the same commuting area and with at least the same tenure and work schedule as the former National Guard Technician position;

(3) His/her restoration to earning capacity as determined by OPM pursuant to the terms of section 8337 of title 5, United States Code; or,

(4) Any other circumstance which terminates his/her eligibility for an annuity under section 8337(h)(1) of title 5, United States Code.

(b) When an agency appoints a former National Guard Technician who has applied for or is receiving an annuity under section 8337(h) of title 5, United States Code, *or* when an agency makes an offer of a position which conforms to the requirements of paragraph (a)(2) of this section and the offer is declined, the agency shall notify OPM of such an appointment or declination. This notification shall include the date of the appointment or declination and, if an appointment, the title, pay plan, series, grade, and rate of pay of the position.

[FR Doc. 83-23807 Filed 8-29-83; 8:45 am]
BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 227

Nutrition Education and Training Program; Reduced Administrative Requirements

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends 7 CFR 227.30(c) and 227.37(b)(6) of the

Nutrition Education and Training (NET) Program regulations; the NET Program is authorized in Section 15 of the Child Nutrition Act of 1966, Pub. L. 95–166, 91 Stat. 1340. Section 227.30(c) is revised to allow States the option of appointing a full-time or part-time NET Coordinator. Section 227.37(b)(6) is revised to delete the requirements to establish a State Advisory Council and provide, in the State plan, a description of the functions and membership of the council. This change allows State agencies the option of continuing the council or selecting another method of soliciting advice and recommendations from the public and interested groups.

EFFECTIVE DATE: These amendments will become effective September 29, 1983.

FOR FURTHER INFORMATION CONTACT: Henry S. Rodriguez, Director, Nutrition and Technical Services Division, Food and Nutrition Service, USDA, Alexandria, Virginia 22302 (703) 756–3585.

SUPPLEMENTARY INFORMATION:

Classification

The Department does not consider this final rule to be a "major rule" under the definition established in Executive Order 12291. This final rule will not have an annual effect on the economy of $100 million, will not cause a major increase in costs or prices, and will not have a significant impact on competition, investment, productivity, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises.

Paperwork Reduction Act

This final rule does not contain reporting and record keeping requirements subject to approval by OMB under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Regulatory Flexibility Analysis

This action has been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354, 94 Stat. 1164, September 19, 1980). The Administrator of the Food and Nutrition Service has certified that this action will not have a significant economic impact on a substantial number of small entities.

Background

The Nutrition Education and Training (NET) Program was established in Fiscal Year 1978 under Pub. L. 95–166 to encourage the dissemination of nutrition information to children participating (or eligible to participate) in the school lunch and other child nutrition programs. The program provides grants to State educational agencies for comprehensive nutrition education and training.

In Fiscal Years 1978 and 1979, $26.2 million was appropriated per year. A total grant of 50 cents was authorized for each child enrolled in schools or institutions. No Staste received less than $75,000 per year for the program. In Fiscal Year 1980 the appropriation was $20 million. The Omnibus Budget Reconciliation Act of 1980 reduced the appropriation to $15 million for Fiscal Year 1981 and authorized an extension of the program through Fiscal Year 1984. The Omnibus Budget Reconciliation Act of 1981 reduced the Fiscal Year 1982 appropriation to $5 million and established a ceiling of $5 million on future appropriations. In 1982 Pub. L. 97–370 reduced the minimum grant to $50,000 for Fiscal Year 1983.

On Tuesday, March 15, 1983 the Department published in the **Federal Register** (48 FR 10848) a proposed rule that would amend the NET Program regulations to reduce administrative requirements. On April 14, 1983, the comment period for the proposed rule closed. Thirty-six comments were received during the comment period. Comments were received from representatives of State departments of education, local school districts, State departments of health, a Federal agency, colleges and universities, nutrition and/or education-related councils, nutrition and public health professionals, consumer advocacy groups, a local agency administering the Headstart program, and several concerned citizens. Letters with multiple signatures were counted as one comment.

Summary of Comments

Of the thirty-six responses received, thirty-four respondents commented on the proposal to allow the appointment of a part-time coordinator. Seven of the commentors: five State agencies, one State department of health, and one Federal government office, favored the proposal. Twenty-seven commentors, including three State agencies, one State department of health, two State departments of education, three Federal offices, and eleven citizens and advocate groups were opposed. Four of the commentors who opposed a part-time coordinator as proposed recommended that a part-time coordinator be allowed under specific conditions.

Of the thirty-six respondents, twenty-nine commented on the proposal to eliminate the advisory council requirement. Seven commentors: four State departments of education and three Federal government offices favored eliminating the advisory council requirement. Twenty-two commentors were opposed including five State NET councils, six State offices, one Federal official, and ten public groups and individuals.

Analysis of Comments Concerning Part-Time Coordinator

Four State departments of education and three regional personnel commented in favor of allowing a part-time State coordinator.

Comments favoring the optional part-time appointment of a NET coordinator take reduced NET funding into account: "Given current funding level, minimum funded NET programs may benefit from a part-time coordinator." For example, one State NET program had not been allowed a full-time coordinator by the State. Another State department of education indicates that due to the reduced NET funding level, new teaching materials are no longer being developed and current NET funds are being used to distribute existing materials. Furthermore, at current funding levels, the State argues that to pay a full-time coordinator would require 50 percent of the State's NET funds for salary. In view of this, the State has opted to spend this available money on distribution of materials instead.

Fourteen commentors opposing the optional part-time appointment of a NET coordinator express concern that such a change in the requirements would weaken the program. They point out the need for a full-time specialist to oversee and evaluate efffectiveness of the program; to reduce the potential for fraud, waste, and abuse; and to fulfill the legislative mandate of the program. One commentor states that the prolonged recession makes the NET program, which has been a viable force in changing children's food habits, even more significant. The commentor suggests that expansion not reduction of services is needed to serve the population.

Discussion: This rule returns to the states the right to assume more administrative control of the NET Program by allowing the States to determine whether a full-time or part-time coordinator best meets their needs. The Department does not believe that this change will weaken the NET Program. Since the inception of the Program, States have had great success in implementing nutrition education programs for children, teachers, and food service personnel, and the department believes that States will continue to provide quality services.

Thus, in view of funding levels statutorily established for this program, the Department will amend the regulations to allow States the option of appointing the full-time or part-time coordinator.

Analysis of Comments Concerning Elimination of the State Level Advisory Council Requirement

Seven respondents, four State departments of education and three Federal agency officials, favor the proposal to eliminate the State-level advisory council requirement. Commentors address a number of major considerations: the preference for States to work with groups that are directly affected by the use of NET funds in the State, rather than an intermediate-level council; the problem of funding travel to statewide meetings of advisory council members in those States with a large geographic area; and the difficulty in finding available interested people to serve on the council. Another commentor states that some State departments of education have alternate requirements for obtaining public advice which results in duplication of services if a separate advisory council is required. Another commentor speaks to the desirability of making State-level advisory councils optional.

Sixteen of the commentors opposing this option state that the council serves an essential role in the NET Program: providing a broad base of support, expertise, and an important link with the community. They suggest the council facilitates coordination of professional efforts to promote nutrition education and provides direction as well as creative implementation. Some argue the council maintains the integrity of the program by serving as a checks and balances system. Two commentors suggest reducing the size of the council, another suggests reducing the travel expenses of members by using alternate methods of communicating—such as mail, reducing the number of meetings held each year, or reducing the number of council members. Another commentor suggests that cutting both the council and the full-time coordinator seriously erodes the program and accountability. Others oppose the change without further comment.

Discussion: Statutorily established funding levels make previous regulatory requirements for a State advisory council no longer cost effective in many cases. Therefore, the Department will not require that a State Advisory Council be used for solicitation of advice to the NET Program. Nor will the Department require that membership or functions of the optional council be included in the State plan. However, in response to commentor concerns, the final regulation as amended will require, in accordance with the authorizing legislation, that States through their coordinators continue to obtain advice and recommendations from professionals, parents, and others interested in child nutrition. Plans to solicit such advice and recommendations shall continue to be included in the State plan.

List of Subjects in 7 CFR Part 227

Education, Grant program—education, Grant programs—health, Infants and children, Nutrition.

PART 227—[AMENDED]

Accordingly, 7 CFR Part 227 is being amended as follows:

1. Section 227.30(c) is amended by revising the first sentence to read as follows:

§ 227.30 Responsibilities of State agencies.

* * * * *

(c) State Coordinator. After execution of the agreement the State agency shall appoint a nutrition education specialist to serve as a State Coordinator for the Program who may be employed on a full-time or part-time basis. * * *

* * * * *

2. Section 227.37(b)(6) is revised to read as follows:

§ 227.37 State Plan for Nutrition Education and Training

* * * * *

(b) * * *

(6) plans to solicit advice and recommendations of the National Advisory Council on Child Nutrition, State educational or other appropriate agencies; the U.S. Department of Education; the U.S. Department of Health and Human Services; and other interested groups and individuals concerned with improvement of child nutrition.

* * * * *

(Sec. 15, Pub. L. 95–166, 91 Stat. 1340 (42 U.S.C. 1788)

Dated: August 23, 1983.

Robert E. Leard,

Administrator.

[FR Doc. 83-23725 Filed 8-29-83; 8:45 am]

BILLING CODE 3410-30-M

Agricultural Marketing Service

7 CFR Part 967

Celery Grown in Florida; Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This handling regulation establishes the quantity of Florida celery to be marketed fresh during the 1983–84 season, with the objective of assuring adequate supplies and orderly marketing.

EFFECTIVE DATE: August 30, 1983.

FOR FURTHER INFORMATION CONTACT: Charles W. Porter, Chief, Vegetable Branch, F&V, AMS, USDA, Washington, D.C. 20250 (202) 447–2615.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act.

Information collection requirements contained in this regulation (7 CFR Part 967) have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB No. 0581–0062.

This rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "nonmajor" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities because it will not significantly affect costs for the directly regulated handlers.

Marketing Agreement No. 149 and Order No. 967, both as amended, regulate the handling of celery grown in Florida. The program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The Florida Celery Committee, established under the order, is responsible for local administration.

This regulation is based upon the unanimous recommendations made by the committee at its public meeting in Orlando on June 14.

The committee recommended a Marketable Quantity of approximately 6.9 million crates of fresh celery for the 1983–84 season. This recommendation is based on the appraisal of the expected supply and prospective market demand.

Notice of the proposed regulation was published in the July 13 **Federal Register** (48 FR 32028) inviting written comments by August 12, 1983. None was received.

The Marketable Quantity is about 15 percent more than the approximately six million crates marketed fresh during the season which ended July 31, 1983. Each

producer registered pursuant to § 967.37(f) will have an allotment equal to 100 percent of his historical marketings. This regulation provides the industry an opportunity to (1) produce to its fullest capacity for the benefit of the consumer, and (2) determine its actual or potential maximum production capacity.

As required by § 967.37(d)(1) a reserve of six percent of the 1982–83 total Base Quantities is authorized for new producers and for increases by existing producers. Three applications for increases were recived, and the committee allocated the 259,537 crates available among those three producers.

Findings. On the basis of all considerations it is hereby determined that this regulation will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this section until 30 days after publication in the **Federal Register** (5 U.S.C. 553) in that (1) adequate notice has been given of the requirements of this regulation through publicity in the production area and by publication in the July 13 **Federal Register**; (2) the regulation should become effective as early as possible in the marketing year which begins August 1, so producers and handlers will be afforded maximum time in which to plan their operations; and (3) compliance with this section, which is similar to those issued in previous seasons, requires no special preparation by handlers which cannot be completed prior to the time actual handling of harvested celery begins, generally in the latter part of October.

List of Subjects in 7 CFR Part 967

Marketing agreements and orders, Celery, Florida.

PART 967—[AMENDED]

§ 967.318 [Removed]

Section 967.318 (47 FR 38494, September 1, 1982) is removed and a new § 967.319 is added as follows:

§ 967.319 Handling Regulation; Marketable Quantity; and Uniform Percentage for the 1983–84 Season Ending July 31, 1984.

(a) The Marketable Quantity established under § 967.36(a), is 6,875,737 crates of celery.

(b) As provided in § 967.38(a), the Uniform Percentage shall be 100 percent.

(c) Pursuant to § 967.36(b), no handler shall handle any harvested celery unless it is within the Marketable Allotment of a producer who has a Base Quantity and such producer authorizes the first handler thereof to handle it.

(d) As required by § 967.37(d)(1) a reserve of six percent of the total Base Quantities is hereby authorized for (1) new producers and (2) increases for existing Base Quantity holders.

(e) Terms used herein shall have the same meaning as when used in the said marketing agreement and order.

(Approved by Office of Management and Budget under control number 0581–0082)

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: August 24, 1983. to become effective upon publication.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83–23741 Filed 8–29–83; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 238

Contracts With Transportation Lines; Wardair Canada (1975) Ltd.

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule amends the listing of carriers which have entered into agreements with the Service for the preinspection of their passengers and crews at locations outside the United States by changing the name of Wardair Canada, Ltd. to Wardair Canada (1975) Ltd.

EFFECTIVE DATE: July 25, 1983.

FOR FURTHER INFORMATION CONTACT: Loretta J. Shogren, Director, Policy Directives and Instructions Immigration and Naturalization Service, 425 Eye Street, NW., Washington, D.C. 20536, Telephone: (202) 633–3048.

SUPPLEMENTARY INFORMATION: The Commissioner of the Immigration and Naturalization Service has entered into an agreement with Wardair Canada (1975) Ltd. to provide for the preinspection of its passengers and crews as provided by section 238(b) of the Immigration and Nationally Act, as amended (8 U.S.C. 1228(b)). Preinspection outside the United States facilities processing passengers and crews upon arrival at a U.S. port of entry and is a convenience to the traveling public.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because the amendment merely changes an air carrier's name on the present listing and is editorial in nature.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that the rule will not have a significant economic impact on a substantial number of small entities.

This order constitutes a notice to the public under 5 U.S.C. 552 and is not a rule within the definition of section 1(a) of E.O. 12291.

List of Subjects in 8 CFR Part 238

Air carriers, Airlines, Aliens, Government contracts, Inspections.

Accordingly, Chapter I of Title 8 of Code of Federal Regulations is amended as follows:

PART 238—CONTRACTS WITH TRANSPORTATION LINES

§ 238.4 [Amended]

Section 238.4. is amended as follows:

1. Change "Wardair Canada, Ltd." to "Wardair Canada (1975) Ltd." under "At Montreal".

2. Change "Wardair Canada, Ltd." to "Wardair Canada (1975) Ltd." under "At Toronto".

3. Change "Wardair Canada, Ltd." to "Wardair Canada (1975) Ltd." under "At Winnipeg."

(Secs. 103, 66 Stat. 173 (8 U.S.C. 1103); 238, 66 Stat. 202 (8 U.S.C. 1228))

Dated: August 25, 1983.

Andrew J. Carmichael, Jr.,

Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 83–23777 Filed 8–29–83; 8:45 am]

BILLING CODE 4410–10–M

FEDERAL RESERVE SYSTEM

12 CFR Part 265

[Docket No. R–0479]

Delegation of Authority to Reserve Banks To Approve Applications To Acquire Banks

AGENCY: Federal Reserve System.

ACTION: Technical Amendment.

SUMMARY: This is a technical amendment to § 265.2(f)(22) of the Rules Regarding Delegation of Authority to correct an error in a previous amendment that appeared in the **Federal Register** on July 27, 1983 (48 FR 34016).

EFFECTIVE DATE: August 23, 1983.

FOR FURTHER INFORMATION CONTACT: Bronwen Mason Chaiffetz, Senior Counsel, Legal Division (202/452-3564).

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act analysis and Regulatory Impact analysis have not been included in this notice because the change effected by this amendment is technical in nature. These analysis are included in the **Federal Register** notice that accompanied the previous substantive amendments (48 FR 34016). The provisions of section 553 of Title 5, United States Code, relating to notice, public participation, and deferred effective date have not been followed in connection with this amendment because it is a technical one.

List of Subjects in 12 CFR Part 265

Authority delegations (Government agencies, Banks, banking, Federal Reserve System.

Pursuant to its authority under section 3(a), 4(c)(8) and 5(b) of the Bank Holding Company Act, and section 18(c) of the Federal Deposit Insurance Act (Bank Merger Act, 12 U.S.C. 1828(c)), the Board of Governors is amending its Rules Regarding Delegation of Authority (12 CFR 265). The regulations appearing in FR Doc. 83-20196 (48 FR 34016) are corrected by revising § 252.2(f)(22) (iv) and (v) and by adding paragraph (vi) as follows:

§ 265.2 Specific functions delegated to Board employees and to Federal Reserve Banks.

* * * * *

(f) * * *

(22) * * *

(iv) the application raises a significant policy issue or legal question on which the Board has not established its position; or

(v) with respect to bank holding company formations, bank acquisitions or mergers, the proposed transaction involves two or more banking organizations:

(A) that rank among a State's ten largest banking organizations in terms of total domestic banking assets; or

(B) each of which has more than $100 million of total deposits in banking offices in the same local banking market that, after consummation of the proposal, would control over 10 percent of total deposits in banking offices in that local market; or

(vi) with respect to nonbank acquisitions:

(A) the nonbanking activities involved do not clearly fall within activities that the Board has designated as permissible for bank holding companies under § 225.4(a) of Regulation Y; or

(B) the proposal would involve the acquisition by a banking organization that has total domestic banking assets of $1 billion or more of a nonbanking organization that appears to have a significant presence in a permissible nonbanking activity.[2]

Board of Governors of the Federal Reserve System, August 23, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-23545 Filed 8-29-83; 8:45 am]

BILLING CODE 6210-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

[Release Nos. 33-6490; 34-20105; 35-23040; 39-940; IA-877; IC-13456]

Acceptance of Travel Reimbursement

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: Pub. L. 98-38 which became effective on June 6, 1983, grants to the Commission, subject to the adoption of rules to prevent conflicts of interest, the authority to accept from non-federal sponsors payment or reimbursement for expenses incurred by Commission members and staff in connection with participation at conferences and meetings. The Commission has adopted regulations to implement this authority.

EFFECTIVE DATE: August 30, 1983.

FOR FURTHER INFORMATION CONTACT: Myrna Siegel, Ethics Counsel, Office of the General Counsel, Securities and Exchange Commission, Washington, D.C. 20549, 202-272-2430.

SUPPLEMENTARY INFORMATION: Pub. L. 98-38, which became effective on June 6, 1983, grants to the Commission the authority to accept payment or reimbursement for expenses incurred by Commission members and staff in connection with participation at conferences and meetings. To implement this authority, the Commission has adopted regulations which establish a procedure for determining when and how the Commission will accept such payment or reimbursement. The regulations have a two-fold purpose: To eliminate real or apparent conflicts of interest in connection with the acceptance of payments or reimbursements and to create administrative procedures for determining when reimbursement will be accepted by the Commission and the mechanism for public disclosure of such acceptance.

Discussion

The Commission has generally deemed participation by its members and employees in continuing legal education programs, securities industry conferences, accounting profession meetings, and similar functions as important factors in fostering compliance with and understanding of the federal securities laws. While sponsoring organizations often have been willing to pay the actual expenses of Commission members and employees invited to participate in meetings and conferences of an educational nature, interpretations of federal statutes prohibited acceptance for travel by Commissioners from all sponsors, except those which are tax-exempt pursuant to 26 U.S.C. 501(c)(3). Additionally, the prohibitions imposed by the Foreign Gifts and Decorations Act, 5 U.S.C. 7342, have restricted members of the Commission from accepting reimbursement for assistance in various types of proceedings rendered at the behest of foreign governments.

These constraints on accepting such reimbursements, coupled with the restrictions on the size of the Commission's travel budget, have compelled members of the Commission to limit their participation in educational and similar programs. The authority recently granted to the Commission will permit Commissioners to continue to engage in educational functions, while placing the burden of the cost of such participation on the sponsors, rather than the federal government.

The rules which the Commission has adopted to implement its new authority have been carefully tailored to avoid any real or apparent conflicts of interest. The rules contemplate that all travel by Commission members and staff for participation in educational meetings will be pursuant to the procedures detailed in these regulations. The regulations continue the Commission's current policy of prohibiting acceptance of any payment or reimbursement from entities which are registered with the Commission or directly or indirectly regulated by the Commission. Indirect regulatees are affiliates, parents and subsidiaries of regulated entities. Moreover, no reimbursement will be accepted by the Commission in connection with a conference which is sponsored by a registered or regulated entity, whether or not that sponsor is

[2] While other situations may involve the issue of significant presence, the Board regards, as a general guideline, any company that ranks among the 20 largest independent firms in any industry as having a significant presence.

directly paying for expenses. The determination as to whether payment or reimbursement will be accepted by the Commission from an association predominantly composed of entities regulated by the Commission will be made by the Commission's Chairman.

Except with respect to programs sponsored by groups predominantly composed of entities regulated by the Commission, the decision as to whether the Commission will accept payment or reimbursement in connection with staff member participation at a particular meeting will be made by the Commission's Executive Director. Notice of all determinations with respect to acceptance of payment or reimbursement by the Commission will be placed in a public file in the Commission's Public Reference Room, Washington, D.C., and a compilation of payments or reimbursements accepted will be published quarterly in the *SEC Docket*.

Regulatory Flexibility Act

• No regulatory flexibility analysis (or certification that one is not required) is necessary because the rules are procedural,and thus not within the definition of "rule" for purposes of Chapter 6, Title 54, U.S.C.

List of Subjects in Part 200

Administrative practice and procedure, Freedom of information, Privacy, Securities.

Text of Amendments

PART 200—ORGANIZATION, CONDUCT AND ETHICS, AND INFORMATION AND REQUESTS

In consideration of the foregoing, the Commission hereby amends Part 200 of Chapter II, Title 17, Code of Federal Regulations as follows:

1. Paragraph (b)(6) of § 200.735–4 is revised as follows;

§ 200.735–4. Outside employment and activities.

* * * * *

(b) * * *

(6)(i) Subject to the specific prohibition and requirements set forth below, the Commission may accept payment or reimbursement in cash or in kind, for travel and subsistence expenses actually incurred by Commission members and employees, while on official duty status, in connection with the participation of such members and employees in conferences, proceedings, meetings, seminars, and educational programs concerning the functions and responsibilities of the Commission and related topics.

(ii)(A) The Commission shall accept no payment or reimbursement for expenses described in paragraph (b)(6)(i) of this section from or in connection with a conference sponsored by:

(*1*) A person directly required to file reports or registration statements with the Commission, or

(*2*) A person directly or indirectly regulated by the Commission, or

(*3*) Any association or other group composed predominantly of persons regulated by the Commission, *Provided, however,* That the Chairman may authorize the Commission to accept payment or reimbursement from such a group. In determining whether to authorize such payment or reimbursement, the Chairman shall consider the benefits to the Commission and the public of participation in the particular program and the possibility of any appearance of impropriety.

(B) For purposes of this section, the phrase "person regulated by the Commission" means all persons whose activities are directly regulated by, or who are required to register with, the Commission, including but not limited to, such persons as brokers or dealers in securities, national securities exchanges, national securities associations, investment companies, investment advisers, public utility holding companies, and any self-regulatory organization, as that term is defined in Section 3 of the Securities Exchange Act of 1934, 15 U.S.C. 78(c).

(iii)(A) Subordinate members of the staff who are invited to participate in programs which offer payment or reimbursement meeting the criteria of paragraph (b)(6)(i) of this section must, prior to participation, obtain the written approval of their Division Director, Office Head, or Regional Administrator to participate in the program and the written approval of the Chairman, if paragraph (b)(6)(ii)(A)(*3*) of this section applies. If paragraph (b)(6)(ii)(A)(*3*) of this section does not apply, the Executive Director shall determine in writing whether the Commission will accept the payment or reimbursement.

(*1*) In acting on requests to participate, Division Directors, Office Heads, and Regional Administrators shall consider: (*i*) the benefit to the Commission and the public of participation; (*ii*) the expertise of the proposed participant; and (*iii*) the appropriate allocation of resources.

(*2*) In determining whether the Commission shall accept payment or reimbursement, the Executive Director shall consider the possibility of any appearance of impropriety.

(B) Division Directors, Office Heads, and Regional Administrators must, prior to participation, obtain the written approval of the Chairman, if paragraph (b)(6)(ii)(A)(*3*) of this section applies. If paragraph (b)(6)(ii)(A)(*3*) of this section does not apply, the Executive Director shall determine, in writing, considering the possibility of any appearance of impropriety, whether the Commission will accept the payment or reimbursement. Division Directors, Office Heads, and Regional Administrators shall make the determinations specified in paragraph (b)(6)(iii)(A)(*1*) of this section as to their own participation.

(C) Except if paragraph (b)(6)(ii)(A)(*3*) of this section applies, each Commissioner shall determine for himself or herself whether payment or reimbursement for his or her expenses incident to participation in programs meeting the criteria of paragraph (b)(6)(i) of this section should be accepted by the Commission. Notice of each decision shall be sent to the Executive Director.

(D) Whenever it is determined, pursuant to paragraphs (b)(6)(iii)(A), (B), or (C) of this section that the Commission will accept a particular payment or reimbursement, the Executive Director shall forward notice of that decision to the Public Reference Room, Washington, D.C., for insertion in a public file.

(iv) Payment or reimbursement shall not be accepted for expenses which are unreasonable or lavish.

(v) On a quarterly basis, the Commission shall publish in the *SEC Docket* a compilation of payments and reimbursements accepted.

(vi) The Commission's acceptance from any person of payment or reimbursement for the expenses of a spouse or traveling companion accompanying a member or employee is prohibited. If a staff member wishes to participate in a program which offers payment or reimbursement meeting the criteria of paragraph (b)(6)(i) of this section and acceptance would not be prohibited by paragraph (b)(6)(ii) of this section, but is denied approval in accordance with paragraphs (b)(6)(iii)(A) or (B) of this section, or wishes to accept reimbursement for the travel expenses of his or her spouse or traveling companion, the staff member may participate in the program and accept such reimbursement personally, *Provided,* That:

(A) No reimbursement for travel expenses may be accepted from a person who does, or is seeking to do, business with the Commission, is

regulated directly or indirectly by the Commission, is registered with the Commission, or has interests which may be substantially affected by the official's performance or non-performance of his or her official duties.

(B) No reimbursement may be accepted for the travel expenses of an employee's spouse or traveling companion unless the prior written approval of the General Counsel is obtained. Under appropriate circumstances, such as programs where participants are expected to engage in social activities, the General Counsel may approve acceptance upon written application.

(C) A copy of the General Counsel's approval and notice of the amount of payment or reimbursement accepted from the sponsor must be sent to the Executive Director for inclusion in the public file in accordance with paragraph (b)(6)(iii)(D) of this section.

(D) Such staff member's participation and travel occur only while on annual leave, approved in accord with regular leave procedures. *Note* 7 CFR 200.735–4(e)(2)(ii).

* * * * *

The Commission finds that the foregoing action relates solely to rules of agency procedure or practice and, accordingly, that notice and prior publication for comments under the Administrative Procedure Act, 5 U.S.C. 551 *et seq.*, are unnecessary. *See* 5 U.S.C. 553(b).

By the Commission.

George A. Fitzsimmons,

Secretary.

August 23, 1983.

[FR Doc. 83-23833 Filed 8-29-83; 8:45 am]

BILLING CODE 6010-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 74, 81, and 82

[Docket No. 83C-0128]

Color Additives; D&C Yellow No. 10

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is "permanently" listing D&C Yellow No. 10 for use in drugs and cosmetics, except for use in the area of the eye. This action is in response to a petition filed by the Toilet Goods Association, Inc. (now the Cosmetic, Toiletry and Fragrance Association, Inc.), the Pharmaceutical Manufacturers Association, and the Certified Color Industry Committee (now the Certified Color Manufacturers Association). This rule will remove D&C Yellow No. 10 from the provisional list of color additives for use in drugs and cosmetics. Published elsewhere in this issue of the **Federal Register** is an order extending the closing date for the provisional listing of D&C Yellow No. 10 until November 1, 1983, to provide an opportunity for the filing of objections to this order.

DATES: Effective September 30, 1983, objections by September 29, 1983.

ADDRESS: Written objections may be sent to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: James H. Maryanski, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5740.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of November 20, 1968 (33 FR 17205), FDA announced that a petition (CAP 8C0062) for the permanent listing of D&C Yellow No. 10 as a color additive for use in drugs and cosmetics, except for use in the area of the eye, had been filed by the Toilet Goods Association, Inc. (now the Cosmetic, Toiletry and Fragrance Association, Inc.), the Pharmaceutical Manufacturers Association, and the Certified Color Industry Committee (now the Certified Color Manufacturers Association), c/o Hazleton Laboratories, Inc., P.O. Box 30, Falls Church, VA 22046 (now 9200 Leesburg Turnpike, Vienna, VA 22180).

The petition was filed under section 706 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 376). A later notice in the **Federal Register** of March 5, 1976 (41 FR 9584), amended the notice of filing of the petition to include the use of D&C Yellow No. 10 in cosmetics intended for use in the area of the eye.

I. Toxicological Testing of D&C Yellow No. 10

In the **Federal Register** of September 23, 1976 (41 FR 41860), FDA stated that it no longer considered existing toxicological studies to be adequate to support the continued provisional listing of several color additives, including D&C Yellow No. 10. The agency explained that the studies were deficient in the following respects (41 FR 41863):

1. Many of the studies were conducted using groups of animals, i.e., control and those fed the color additive, that were too small to permit conclusions to be drawn today on the chronic toxicity or carcinogenic potential of the color additives tested. The small number of animals used does not, in and of itself, cause this result but when considered together with the other deficiencies in this listing, does do so. By and large, the studies used 25 animals in each group; today FDA recommends using at least 50 animals per group.

2. In a number of the studies, the number of animals surviving to a meaningful age was inadequate to permit conclusions to be drawn today on the chronic toxicity or carcinogenic potential of the color additives tested.

3. In a number of the studies, an insufficient number of animals was reviewed histologically.

4. In a number of the studies, an insufficient number of tissues was examined in those animals selected for pathology.

5. In a number of the studies, lesions or tumors detected under gross examination were not examined microscopically.

The agency proposed that the continued provisional listing of these color additives, including D&C Yellow No. 10, for use in ingested drugs and cosmetics be conditioned upon at least one petitioner undertaking new chronic feeding studies for each of these color additives. The agency did not require any additional studies for the continued provisional listing of D&C Yellow No. 10 for use in externally applied drugs and cosmetics.

FDA intended that the new chronic studies on the use of D&C Yellow No. 10 in ingested drugs and cosmetics would provide important evidence upon which to determine whether to list this color additive. Additionally, the agency noted that these studies would serve to replace the generally antiquated and deficient studies that supported the provisional listing regulations then in effect for the color additive.

When the petitioners agreed to sponsor the required chronic toxicity studies of the color additive, FDA postponed the closing date for the provisional listing of D&C Yellow No. 10 to January 31, 1981, in a notice published in the **Federal Register** of February 4, 1977 (42 FR 6992).

In the **Federal Register** of August 21, 1979 (44 FR 48964), FDA established temporary tolerances for the use of D&C Yellow No. 10 in ingested drugs and cosmetics. These temporary tolerances were adopted to assure that use of the color additive would not exceed a safe level of exposure. They were based on usage information and data from chronic animal feeding studies, submitted by the petitioners, in which no adverse effects

were noted at the highest dose tested. FDA received an objection in response to this order requesting that the use of D&C Yellow No. 10 be limited only by good manufacturing practice. The agency considered this objection and concluded that the limits prescribed by the order on the use of this color additive were necessary to protect the public health (April 4, 1980; 45 FR 22904).

FDA established a closing date of April 30, 1983, for the provisional listing of D&C Yellow No. 10 in the **Federal Register** of March 27, 1981 (46 FR 18954). The agency subsequently established the closing date of July 1, 1983, for the provisional listing of D&C Yellow No. 10 in a rule published in the **Federal Register** of April 29, 1983 (48 FR 19366). FDA's review and evaluation of the data relevant to the use of D&C Yellow No. 10 required more time than anticipated, however. The agency therefore extended the closing date to September 2, 1983, in the **Federal Register** of July 1, 1983 (48 FR 30357), to provide time to complete its review and prepare this document. Published elsewhere in this issue of the **Federal Register** is an order extending the closing date for the provisional listing of D&C Yellow No. 10 until November 1, 1983, to provide an opportunity for the filing of objections to this order.

II. Analysis of Data

The agency has completed its evaluation of the color additive petition for D&C Yellow No. 10, including the new chronic toxicity studies in rats and mice. The agency previously reviewed reports on a number of other toxicity studies, involving rats and dogs, of D&C Yellow No. 10. These studies included acute oral toxicity studies, 3-month feeding studies, and 2-year feeding studies. These studies did not produce any evidence that the use of this color additive would be unsafe for the petitioned uses. The agency concluded, however, that the additional chronic toxicity feeding studies were required to provide data to permit a final determination to be made on the listing of D&C Yellow No. 10 (41 FR 41860; September 23, 1976).

The new chronic studies in rats and mice represent current state-of-the-art toxicological testing. The protocols for these studies have benefited from knowledge of deficiencies in previously conducted carcinogenesis bioassays and other chronic toxicity studies. The use of large numbers of animals of both sexes, pilot studies to determine maximum tolerated dosages, two control groups (thereby effectively doubling the number of controls), and in utero exposure in one of the two species tested (the rat) significantly increase the power of these tests for detecting dose-related effects. The studies were designed and conducted in full compliance with the current good laboratory practice reglations and were subject to FDA inspection while the studies were conducted.

The chronic feeding study in male and female Charles River CD Sprague Dawley rats actually consisted of two studies of the same design. In the first study, the animals were fed 0.03, 0.10, and 0.5 percent D&C Yellow No. 10 in the diet. The animals in the second study received higher concentrations (2.0 and 5.0 percent) of the color additive in the diet. No effects on tumor incidence, survival, food consumption, clinical observations, or pathological findings were observed that were attributable to the ingestion of D&C Yellow No. 10. The results of the first study showed that mean body weights for the treated males and females were comparable to the control body weights throughout the study. In the second study, body weights of male rats that were fed diets containing 5.0 percent D&C Yellow No. 10 were less than the controls throughout the study ($P < 0.05$). Male and female animals fed 2.0 percent D&C Yellow No. 10 did not demonstrate a significant decrease in body weight over the course of the study.

In the chronic feeding study with Charles River CD–1 mice of both sexes, the animals were fed 0.10, 1.0, and 5.0 percent D&C Yellow No. 10 in the diet. Sporadic occurrences of reduced body weights were observed in treated male animals, but the findings were not statistically significant or dose-related. There was no increased incidence of tumors that could be attributed to the ingestion of D&C Yellow No. 10.

Based on its evaluation of the results of the two new chronic toxicity studies, the agency has determined that D&C Yellow No. 10 is not carcinogenic to Charles River CD Sprague Dawley rats or Charles River CD–1 mice after a lifetime dietary exposure of up to 5.0 percent of the color additive for each species. Based on the occurrence of reduced body weights in rats fed 5 percent D&C Yellow No. 10, the agency has established a "no effect" level at 2 percent in rats. Using an appropriate safety factor (see 21 CFR 70.40), the agency has estimated a maximum acceptable daily intake for humans of aproximately 10 milligrams per kilogram of body weight per day (600 milligrams per day for a 60-kilogram person).

The agency has also completed its evaluation of the other animal studies submitted by the petitioner for the purpose of establishing the safety of D&C Yellow No. 10 for use in externally applied drugs and externally applied cosmetics. Dermal studies intended to support the safety of external uses of D&C Yellow No. 10 were conducted with D&C Yellow No. 11, the oil soluble (nonsulfonated) dye used to manufacture D&C Yellow No. 10. The agency considered the use of D&C Yellow No. 11 as representative in dermal studies for the water soluble D&C Yellow No. 10 because D&C Yellow No. 11 is similar in structure to D&C Yellow No. 10 and expected to have greater skin penetration. Thus, the agency concluded that these dermal studies can appropriately be used in evaluating the safety of D&C Yellow No. 10. The dermal studies included skin irritation and percutaneous toxicity studies in albino rabbits and a lifetime skin painting study for carcinogenesis in Swiss-Webster mice. With respect to dermal safety, the studies on D&C Yellow No. 11 indicate that the closely related D&C Yellow No. 10 is nonirritating to the skin and is not systemically toxic through percutaneous absorption. Furthermore, D&C Yellow No. 11 was not found to be carcinogenic when applied to the skin of mice. Therefore, FDA can conclude to a reasonable certainty that no harm will result from the petitioned dermal uses of D&C Yellow No. 10.

III. Identity and Method of Manufacture

D&C Yellow No. 10 (21 CFR 82.1710) originally was listed as the disodium salt of disulfonic acid of 2-(2-quinolinyl)-1,3-indandione. The agency has since determined that the color additive that was toxicologically tested in the chronic animal feeding studies discussed above and certified as D&C Yellow No. 10 is a mixture of the sodium salts of the mono- and disulfonic acids of 2-(2-quinolinyl)-1*H*-indene-1,3(2*H*)-dione, consisting principally of the sodium salts of 2-(2,3-dihydro-1,3-dioxo-1*H*-indene-2-yl)-6-quinolinesulfonic acid and 2-(2,3-dihydro-1,3-dioxo-1*H*-indene-2-yl)-8-quinolinesulfonic acid, with lesser amounts of disodium salts of the disulfonic acids of 2-(2-quinolinyl)-1*H*-indene-1,3(2*H*)-dione. Therefore, the agency concludes that D&C Yellow No. 10 is appropriately identified as a mixture of mono- and disulfonated sodium salts, principally in the monosulfonated form.

The agency also concludes that it is necessary to include in the listing regulation for D&C Yellow No. 10 a brief description of its manufacturing process to ensure the safety of this color additive. The agency is concerned that

D&C Yellow No. 10 may contain potentially toxic impurities dependent upon the manufacturing process used to produce it.

In the manufacture of D&C Yellow No. 10, one of the starting materials, 2-(2-quinolinyl)-1*H*-indene-1,3(2*H*)-dione (D&C Yellow No. 11), may remain in the color additive as a minor impurity. D&C Yellow No. 11 is permanently listed for use only in externally applied drugs and cosmetics because the available toxicological studies failed to establish a safe level for ingested use. Adverse effects were found in the livers of rats and dogs fed D&C Yellow No. 11 in short-term and chronic studies. Analysis of batches of D&C Yellow No. 10 used in the recent toxicity tests showed the presence of almost 2 parts per million (ppm) of D&C Yellow No. 11 and 1 ppm of other diethyl ether soluble matter, which is mostly chlorinated D&C Yellow No. 11. Although no hepatotoxic effects were observed in animals exposed to the D&C Yellow No. 10 toxicology sample, FDA believes that in the interest of safety it is necessary to set limits for D&C Yellow No. 11 and its chlorinated derivative in D&C Yellow No. 10 because of the adverse effects found in the D&C Yellow No. 11 studies. These limits will ensure that future batches of D&C Yellow No. 10 are consistent with the batches used in the toxicological testing. The agency is setting a specification for D&C Yellow No. 11 of 4 ppm and for the other diethyl ether soluble matter of 2 ppm. FDA expects that, on the average, the levels of these minor constituents in batches of D&C Yellow No. 10 certified under the specifications will be below the levels set in the specifications and consistent with the toxicological sample. To further characterize batches of D&C Yellow No. 10 for certification, the agency is also setting specifications for other impurities that have been detected in certification samples of D&C Yellow No. 10.

The agency, however, is not able at this time to set specifications that would control the presence of all impurities in D&C Yellow No. 10. The agency has contracted with the National Academy of Sciences/National Research Council (NAS/NRC) to develop appropriate specifications for color additives for use in food as part of the Food Chemicals Codex. Similarly, appropriate specifications for color additives for use in drugs and cosmetics will be developed following the general guidelines used by NAS/NRC in its evaluation of color additives used in food. The agency concludes that specifying, through a general description, the manufacturing process in the regulations for these color additives will provide an adequate assurance of safety until suitable specifications can be developed. Production of the color additive by the specified method will assure qualitatively similar batches and thus adequately assure the absence of harmful impurities resulting from changes in the manufacturing process.

The agency is including a description of the manufacturing procedure in 21 CFR 74.1710(a) and is incorporating it by reference in 21 CFR 74.2710(a) for cosmetics.

IV. Conclusions

The agency concludes that D&C Yellow No. 10 is safe under the conditions of use set forth below for use in drugs and cosmetics, and that certification is necessary for the protection of the public health. The final chronic toxicity study reports, interim reports, and the agency's toxicology evaluations of these studies are on file at the Dockets Management Branch (address above). They may be reviewed there between 9 a.m. and 4 p.m., Monday through Friday.

V. Eye-Area Use

FDA notified the petitioners by letters dated June 21, 1974, January 29, 1976, February 5, 1976, and August 15, 1977, of the need for data to support the use of D&C Yellow No. 10 in cosmetics intended for use in the area of the eye. In a fifth letter, dated October 24, 1978, FDA advised the petitioners to consider withdrawing that portion of the petition that sought approval of the use of D&C Yellow No. 10 in cosmetics intended for use in the area of the eye because the required data from eye-area studies apparently were not readily available.

The petitioners have not submitted the required data for eye-area use. Therefore, FDA now considers that portion of the petition that was amended by the filing on March 5, 1976 (Docket No. 76C–0043) to include the permanent listing of D&C Yellow No. 10 for eye-area use to be withdrawn without prejudice in accordance with the provisions of § 71.4 (21 CFR 71.4). Section 71.4 requires that such information be submitted within 180 days after filing of the petition, or the petition will be considered withdrawn without prejudice.

Use of D&C Yellow No. 10 in the area of the eye has never been covered by provisional listing. Future consideration by FDA of the permanent listing of D&C Yellow No. 10 for eye-area use will require the submission of a new color additive petition for that use. The agency's listing of a color additive for use in drugs and cosmetics does not encompass eye-area use.

The agency has determined pursuant to 21 CFR 25.24(b)(12) and (d)(5) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects

21 CFR Part 74

Color additives, Color additives subject to certification, Cosmetics, Drugs.

21 CFR Part 81

Color additives, Color additives provisional list, Cosmetics, Drugs.

21 CFR Part 82

Color additives, Color additives lakes, Color additives provisional list, Cosmetics, Drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 706(b), (c), and (d), 74 Stat. 399–403 (21 U.S.C. 376(b), (c), and (d))) and under the Transitional Provisions of the Color Additive Amendments of 1960 (Title II, Pub. L. 86–618, sec. 203, 74 Stat. 404–407 (21 U.S.C. 376, note)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Parts 74, 81, and 82 are amended as follows:

PART 74—LISTING OF COLOR ADDITIVES SUBJECT TO CERTIFICATION

1. Part 74 is amended:

a. By adding new § 74.1710 to read as follows:

§ 74.1710 D&C Yellow No. 10.

(a) *Identity.* (1) The color additive D&C Yellow No. 10 is a mixture of the sodium salts of the mono- and disulfonic acids of 2-(2-quinolinyl)-1*H*-indene-1,3(2*H*)-dione consisting principally of the sodium salts of 2-(2,3-dihydro-1,3-dioxo-1*H*-indene-2-yl)-6-quinolinesulfonic acid and 2-(2,3-dihydro-1,3-dioxo-1*H*-indene-2-yl)-8-quinolinesulfonic acid with lesser amounts of the disodium salts of the disulfonic acids of 2-(2-quinolinyl)-1*H*-indene-1,3(2*H*)-dione (CAS Reg. No. 8004–92–0). D&C Yellow No. 10 is manufactured by condensing quinaldine with phthalic anhydride to give the unsulfonated dye, which is then sulfonated with oleum.

(2) Color additive mixtures made with D&C Yellow No. 10 for drug use may

contain only those diluents that are suitable and that are listed in Part 73 of this chapter as safe for use in color additive mixtures for coloring drugs.

(b) *Specifications.* The color additive D&C Yellow No. 10 shall conform to the following specifications and shall be free from impurities other than those named to the extent that such other impurities may be avoided by current good manufacturing practice:

Sum of volatile matter at 135° C (275° F) and chlorides and sulfates (calculated as sodium salts), not more than 15 percent.
Matter insoluble in both water and chloroform, not more than 0.2 percent.
Total sulfonated quinaldines, sodium salts, not more than 0.2 percent.
Total sulfonated phthalic acids, sodium salts, not more than 0.2 percent.
2-(2-Quinolinyl)-1*H*-indene-1,3 (2*H*)-dione, not more than 4 parts per million.
Sum of sodium salts of the monosulfonates of 2-(2-quinolinyl)-1*H*-indene-1,3 (2*H*)-dione, not less than 75 percent.
Sum of sodium salts of the disulfonates of 2-(2-quinolinyl)-1*H*-indene-1,3 (2*H*)-dione, not more than 15 percent.
2-(2,3-Dihydro-1,3-dioxo-1*H*-indene-2-yl)-6, 8-quinolinedisulfonic acid, disodium salt, not more than 3 percent.
Diethyl ether soluble matter other than that specified, not more than 2 parts per million, using added 2-(2-quinolinyl)-1*H*-indene-1,3 (2*H*)-dione for calibration.
Lead (as Pb), not more than 20 parts per million.
Arsenic (as As), not more than 3 parts per million.
Mercury (as Hg), not more than 1 part per million.
Total color, not less than 85 percent.

(c) *Uses and restrictions.* The color additive D&C Yellow No. 10 may be safely used for coloring drugs generally in amounts not to exceed 10 milligrams per daily dose of the drug.

(d) *Labeling.* The label of the color additive and any mixtures prepared therefrom and intended solely or in part for coloring purposes shall conform to the requirements of § 70.25 of this chapter.

(e) *Certification.* All batches of D&C Yellow No. 10 shall be certified in accordance with regulations in Part 80 of this chapter.

b. By adding new § 74.2710 to read as follows:

§ 74.2710 D&C Yellow No. 10.

(a) *Identity and specifications.* The color additive D&C Yellow No. 10 shall conform in identity and specifications to the requirements of § 74.1710(a)(1) and (b).

(b) *Uses and restrictions.* The color additive D&C Yellow No. 10 may be safely used for coloring cosmetics in amounts consistent with current good manufacturing practice. D&C Yellow No. 10 may be safely used for coloring lipsticks and other cosmetics intended to be applied to the lips in amounts not exceeding 1.0 percent by weight of the finished lipstick or other cosmetic.

(c) *Labeling.* The label of the color additive shall conform to the requirements of § 70.25 of this chapter.

(d) *Certification.* All batches of D&C Yellow No. 10 shall be certified in accordance with regulations in Part 80 of this chapter.

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOOD, DRUGS, AND COSMETICS

2. Part 81 is amended:

§ 81.1 [Amended]

a. In § 81.1 *Provisional lists of color additives* by removing the entry for "D&C Yellow No. 10" from the table in paragraph (b).

§ 81.25 [Amended]

b. In § 81.25 *Temporary tolerances* by removing the entries for "D&C Yellow No. 10" from paragraphs (a)(1), (b)(1)(i), and (c)(1).

§ 81.27 [Amended]

c. In § 81.27 *Conditions of provisional listing* by removing the entry for "D&C Yellow No. 10" from the table in paragraph (d).

PART 82—LISTING OF CERTIFIED PROVISIONALLY LISTED COLORS AND SPECIFICATIONS

3. Part 82 is amended by revising § 82.1710, to read as follows:

§ 82.1710 D&C Yellow No. 10.

The color additive D&C Yellow No. 10 shall conform in identity and specifications to the requirements of § 74.1710(a)(1) and (b) of this chapter.

Any person who will be adversely affected by the foregoing regulation may at any time on or before September 28, 1983 file with the Dockets Management Branch (address above) written objections thereto. Objections shall show how the person filing will be adversely affected by the regulation, specify with particularity the provisions of the regulation deemed objectionable, and state the grounds for the objections. Objections shall be filed in accordance with the requirements of 21 CFR 71.30. If a hearing is requested, the objections shall state the issue for the hearing and shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Three copies of all documents shall be filed and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective September 30, 1983, except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be announced by publication in the **Federal Register.**

(Sec. 706(d), (c), and (d), 74 Stat. 399–403 (21 U.S.C. 376(b), (c), and (d); sec. 203, Pub. L. 86–618, 74 Stat. 404–407 (21 U.S.C. 376, note))

Dated: August 25, 1983.

Mark Novitch,

Deputy Commissioner of Food and Drugs.

[FR Doc. 83-23708 Filed 8-29-83; 8:45 am]
BILLING CODE 4160-01-M

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21 CFR Part 81

[Docket No. 76N-0366]

Provisional Listing of D&C Yellow No. 10 for Use in Drugs and Cosmetics; Postponement of Closing Date

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is postponing the closing date for the provisional listing of D&C Yellow No. 10 for use as a color additive in drugs and cosmetics. The new closing date will be November 1, 1983. This brief postponement will provide time for the receipt and evaluation of any objections submitted in response to the final rule (published elsewhere in this issue of the **Federal Register,**) approving the petition for the listing of D&C Yellow No. 10 for these uses.

DATES: Effective September 2, 1983, the new closing date for D&C Yellow No. 10 will be November 1, 1983.

FOR FURTHER INFORMATION CONTACT: James H. Maryanski, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5740.

SUPPLEMENTARY INFORMATION: FDA established the current closing date of September 2, 1983, for the provisional listing of D&C Yellow No. 10 for use in drugs and cosmetics by a rule published

in the Federal Register of July 1, 1983 (48 FR 30357). The agency established that closing date to provide additional time for the agency to review and consider the scientific and legal aspects of the results of the toxicological studies on D&C Yellow No. 10 submitted by several petitioners and to prepare the appropriate Federal Register document(s). Previously in the Federal Register of April 29, 1983 (48 FR 19366), FDA had published a rule establishing the July 1, 1983 closing date to provide time for the agency to complete its review and consider the scientific and legal aspects of the results of the toxicological studies on D&C Yellow No. 10 submitted by several petitioners. In the Federal Register of March 27, 1981 (46 FR 18954), FDA had published a rule establishing the April 30, 1983 closing date to provide time for completion of FDA's review and evaluation of the data concerning the use of D&C Yellow No. 10 and preparation of a final decision on the petitions for the permanent listing of this color additive.

After reviewing and evaluating the data, the agency had concluded that D&C Yellow No. 10 is safe for use in drugs and cosmetics. Therefore, elsewhere in this issue of the Federal Register, FDA is publishing a regulation that lists D&C Yellow No. 10 for these uses. The regulation set forth below will postpone the September 2, 1983 closing date for the provisional listing of this color additive until November 1, 1983. This postponement will provide sufficient time for receipt and evaluation of comments or objections submitted in response to the regulation that lists D&C Yellow No. 10 for use in drugs and cosmetics.

Because of the short time until the September 2, 1983 closing date, FDA concludes that notice and public procedure on this regulation are impracticable, and that good cause exists for issuing this postponement as a final rule because the agency has concluded that D&C Yellow No. 10 is safe for its intended uses under the Color Additive Amendments of 1960. This final rule will permit the uninterrupted use of this color additive until November 1, 1983. To prevent any interruption in the provisional listing of D&C Yellow No. 10 and in accordance with 5 U.S.C. 553(d) (1) and (3), this final rule is being made effective on September 2, 1983.

List of Subjects in 21 CFR Part 81

Color additives, Color additives provisional list, Cosmetics, Drugs.

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 701, 706 (b), (c), and (d), 52 Stat. 1055–1056 as amended, 74 Stat. 399–403 (21 U.S.C. 371, 376 (b), (c), and (d))), under the Transitional Provisions of the Color Additive Amendments of 1960 (Title II, Pub. L. 86–618; sec. 203, 74 Stat. 404–407 (21 U.S.C. 376 note)), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 81 is amended as follows:

§ 81.1 [Amended]

1. In § 81.1 *Provisional lists of color additives*, by revising the closing date for "D&C Yellow No. 10" in paragraph (b) to read "November 1, 1983."

§ 81.27 [Amended]

2. In § 81.27 *Conditions of provisional listing*, by revising the closing date for "D&C Yellow No. 10" in paragraph (d) to read "November 1, 1983."

Effective date. This final rule shall be effective September 2, 1983.

(Secs. 701, 706 (b), (c), and (d), 52 Stat. 1055–1056 as amended, 74 Stat. 399–403 (21 U.S.C. 371, 376 (b), (c), and (d); sec. 203, 74 Stat. 404–407 (21 U.S.C. 376 note))

Dated: August 12, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-23707 Filed 8-29-83; 8:45 am]
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21 CFR Part 81

[Docket No. 76N-0366]

Provisional Listing of FD&C Blue No. 2; Postponement of Closing Date

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is postponing the closing date for the provisional listing of FD&C Blue No. 2 for use as a color additive in food and ingested drugs. The new closing date will be December 2, 1983. This brief postponement will provide additional time for the agency to complete evaluation of objections received in response to the final regulation approving the petition for the permanent listing of FD&C Blue No. 2.

DATE: Effective September 2, 1983, the new closing date for FD&C Blue No. 2 will be December 2, 1983.

FOR FURTHER INFORMATION CONTACT: Geraldine E. Harris, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In the Federal Register of February 4, 1983 (48 FR 5252), FDA published a final rule that amended the color additive regulations by "permanently" listing FD&C Blue No 2 under §§ 74.102 and 74.1102 (21 CFR 74.102 and 74.1102). The final rule also amended § 81.1(a) (21 CFR 81.1(a)) by removing FD&C Blue No. 2 from the provisional list of color additives and amended § 81.27(d) (21 CFR 81.27(d)) by removing FD&C Blue No. 2 from the conditions of provisional listing. Additionally, the final rule amended § 82.102 (21 CFR 82.102) for FD&C Blue No. 2 to conform the identity and specifications to the requirements of § 74.102(a)(1) and (b).

The agency received a letter stating objections to the listing regulation and requesting a hearing on those objections. The letter is on file at the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, under Docket No. 83N–0009.

FDA established the current closing date of September 2, 1983, for the provisional listing of FD&C Blue No. 2 for use as a color additive in food and ingested drugs by a rule published in the Federal Register of July 1, 1983 (48 FR 30358). The agency extended the closing date to provide additional time to complete evaluation of the objections received in response to the final regulation approving the petition for the permanent listing of FD&C Blue No. 2. Previously in the Federal Register of April 29, 1983 (48 FR 19364), FDA published a final rule establishing the July 1, 1983 closing date to provide time for the agency to evaluate and act on the objections received. The final rule announced that the regulations that permanently listed FD&C Blue No. 2 for food and ingested drug use were stayed pending final agency action on the objections.

The review and evaluation of the objections received in response to the final rule approving the petition for the permanent listing of FD&C Blue No. 2 have require more time than anticipated. Therefore, FDA concludes that an extension of the closing date to December 2, 1983, is necessary. This postponement will provide the additional time needed for the agency to complete its review and to prepare and to publish the appropriate Federal Register document(s). The agency has

concluded that no harm to the public health will result from this extension.

Because of the short time until the September 2, 1983 closing date, FDA concludes that notice and public procedure on these amendments are impracticable, and that good cause exists for issuing this postponement as a final rule.

This final rule will permit the uninterrupted use of this color additive until December 2, 1983. To prevent any interruption in the provisional listing of FD&C Blue No. 2 and in accordance with 5 U.S.C. 553(d)(1) and (3), this final rule is being made effective on September 2, 1983.

List of Subjects in 21 CFR Part 81

Color additives, Color additives provisional list, Cosmetics, Drugs.

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 701, 706(b), (c), and (d), 52 Stat. 1055–1056 as amended, 74 Stat. 399–403 (21 U.S.C. 371, 376(b), (c), and (d))) and under the transitional provisions of the Color Additive Amendments of 1960 (Title II, Pub. L. 86–618, sec. 203, 74 Stat. 404–407 (21 U.S.C. 376, note)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 81 is amended as follows:

§ 81.1 [Amended]

1. In § 81.1 *Provisional lists of color additives*, by revising the closing date for "FD&C Blue No. 2" in paragraph (a) to read "December 2, 1983."

§ 81.27 [Amended]

2. in § 81.27 *Conditions of provisional listing*, by revising the closing date for "FDC Blue No. 2" in paragraph (d) to read "December 2, 1983."

Effective date. This final rule shall be effective September 2, 1983.

(Secs. 701, 706(b), (c), and (d), 52 Stat. 1055–1056 as amended, 74 Stat. 399–403 (21 U.S.C. 371, 376(b), (c) and (d)); sec. 203, 74 Stat. 404–407 (21 U.S.C. 376, note))

Dated: August 11, 1983.

William F. Randolph

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-23771 Filed 8-29-83; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Ch. I

[FHWA Docket No. 83-4 Notice 10]

Truck Size Policy Statement; Modifications of Certain Interim Designated Highways

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Modification of policy statement.

SUMMARY: The FHWA made an interim designation of each State's Federal-aid primary system highways on April 5, 1983. These roads were to be made available to certain size trucks from April 6 until issuance of the final regulation pursuant to the requirements of the Surface Transportation Assistance Act (STAA) of 1982. By this notice, the FHWA provides modifications to the interim designated highway networks for the States of Delaware, New York, and Tennessee.

DATE: The modifications are effective August 30, 1983 and will expire upon designation of the final network.

FOR FURTHER INFORMATION CONTACT: Mr. Sheldon G. Strickland, Office of Highway Planning (202) 426–0153, or Mr. David C. Oliver, Office of the Chief Counsel (202) 426–0825, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are 7:30 a.m. to 4:00 p.m. e.t., Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION: On April 5, 1983, FHWA issued a policy statement (48 FR 14844) that provided an interim designation of primary system highways on which commercial motor vehicles with dimensions authorized by Sections 411 and 416 of the STAA of 1982 (Pub. L. 97–424, as amended by Pub. L. 98–17) may be permitted to operate from April 6, 1983, until issuance of final regulations. The policy statement also provided that modifications to the interim designated network would be made under certain circumstances.

The designated routes in the Appendix to this notice supersede those routes designated in the April 5, 1983, policy statement. On May 3, 1983 (48 FR 20022), May 12, 1983 (48 FR 21317), June 2, 1983 (48 FR 24852), and July 8, 1983 (48 FR 31588 with corrections published August 4, 1983 at 48 FR 35388) modifications were made to 32 States. At this time, the FHWA is announcing additional modifications to the designation of three States previously modified. The current interim system for the three States is included in the Appendix. Highlights of the three State-by-State modifications follow.

- Delaware—Routes DE 141 and old US 301S have been removed from the interim system. DE Truck Rt. 896 is now US 301S.

- New York—NY 430, NY 426, NY 12F, US 11, NY 56, NY 37, SPUR, US 2, and NY 2, have been removed from the interim system. Portions of NY 17, NY 33, NY 481, US 15, NY 12, NY 49, NY 7, and NY 5 have been removed from the interim system. Portions of NY 104, NY 5, and US 20 have been added to the interim system.

- Tennessee—US 41/70S have been added to the interim system.

Issued: August 23, 1983.

R. A. Barnhart,

Federal Highway Administrator, Federal Highway Administration.

Appendix—List of Other Qualified Routes

DELAWARE

Posted route No.	From	To
US 13	Junction with I–495, South of Wilmington	Marland State Line.
US 301	US 301S, Mt. Pleasant	Maryland State Line.
US 202	I–95, Wilmington	Pennsylvania State Line.
US 301S	US 301, Mt. Pleasant	US 13, Boyds Corner.

NEW YORK

Posted route No.	From	To
NY 17	US 219, Carrollton	Exit 24 Allegany.
NY 17	Exit 24, Allegany	I-87 Thruway, Exit 18 at Harriman.
US 219	Pennsylvania State Line	NY 39, Springville.
US 219	NY 39, Springville	I-90 Thruway, Exit 56.
NY 400	I-90 Thruway, Exit 54	NY 16, South Wales.
NY 198	I-190 Thruway, Exit N11	NY 33, Buffalo.
NY 33	Michigan Avenue Buffalo	Greater Buffalo International Airport.
NY 179	NY 5, Windom	I-90, Windom.
NY 75	NY 5, Mount Vernon	US 20, Mount Vernon.
Walden Avenue	I-90 Thruway, Exit 52	NY 277, Cheektowaga.
NY 277	0.4 miles south of NY 130, Cheektowaga	Walden Avenue, Cheektowaga.
NY 266	Buffalo City Limit	NY 325, Tonawanda.
NY 325	NY 266, Tonwanda	Kenmore Avenue Tonwanda.
NY 390	I-490, Rochester	NY 18, North Greece.
NY 590	I-490, Rochester	NY 104, Irondequoit.
Inner Loop	I-490, Rochester	I-490, Rochester.
NY 15	Consmerce Drive Rochester	NY 252, Rochester.
NY 15A	NY 252, Rochester	I-390, Rochester.
NY 204	NY 33A, Gates	I-490, Gates.
NY 252	NY 15, Rochester	NY 15A, Rochester.
NY 441	I-490, East Rochester	NY 253, East Rochester.
NY 680	I-90, Lakeland	NY 370, Baldwinsville.
NY 481	I-81, North Syracuse	NY 3, Fulton.
NY 695	NY 5, Fairmont	I-690, Solvay.
NY 5	Maple Avenue Camillus	West Genesseo, Fairmont.
NY 298	I-690, Syracuse	I-81, Syracuse.
US 15	Interchange in Presho	NY 17, Corning.
NY 7	I-81, Binghamton	I-88, Port Dickinson.
NY 12	I-790 near I-90 Utica	Putnam Road Trenton.
NY 8	County Road 9, Sauguoit	I-790, Utica.
NY 26	NY 365, Rome	NY 46, Rome.
NY 365	I-90 Thruway, Exit 33	NY 49, Rome.
NY 49	NY 365, Rome	NY 291 near Oriskany.
North Genesseo Arterial	NY 5S, Utica	NY 5, Utica.
NY 254	I-87, Glen Falls	0.3 miles East of US 9.
NY 254	0.3 mile East of U.S. 9	U.S. 4, Hudson Falls.
US 4	NY 254, Hudson Falls	Vermont State Line.
Berkshire Thruway	I-87 Thruway, Exit 21A	I-90 Thruway, Exit B1.
US 9	0.6 miles South of NY 254	0.5-miles North of NY 254.
NY 7	Schenectady-Albany County Line	West City Line of Watervliet.
NY 5	East City Line of Schenectady	North City Line of Albany.
Wolf Road	NY 5 at I-87, Colonie	I-87 at NY 155, Colonie.
NY 440	New Jersey State Line	I-278, Staten Island Expressway.
NY 495	I-278 Brooklyn-Queens Expressway	I-678, Van Wyck Expressway.
NY 495	I-295, Clearview Expressway	NY 25, Riverhead Suffolk.
NY 17	New Jersey State Line	I-87, Suffern.
NY 104	Maplewood Drive Rochester	Monroe-Wayne County Line.
NY 5	NY 179, Windom	NY 75, Mount Vernon.
US 20	NY 75, Mount Vernon	Howard Road, Mount Vernon.

TENNESSEE

Posted route No.	From	To
Briley Parkway	I-40 near Nashville	I-65 near Nashville, Tennessee State Line.
TN 137, US 23	TN 67 Johnson City	TN 1 Kingsport.
US 51	Near Memphis	Purchase Parkway, Kentucky State Line.
US 45	Mississippi State Line	Near Jackson.
US 45/45W Bypass	Near Jackson	Union City near TN 22.
US 79	Memphis near I-40	Guthrie at US 41, Kentucky State Line.
US 641	I-40 near Natchez Trace State Park	Kentucky State Line near TN 140.
US 231	Alabama State Line near Fayetteville	Kentucky State Line near TN 52.
US 127	TN 27 Spur near Chattanooga	Static at Kentucky State Line.
US 27	Walden	Kentucky State Line.
US 25E	I-81	Harrogate at Virginia State Line.
US 70 Alternate	Atwood at US 79	Huntingdon at TN 22.
US 79	Huntingdon at TN 22	Dickson.
US 70	Sparta at TN 111	Crossville at US 127.
US 70 S	Murfreesboro at US 231	Sparta at TN 111.
US 64/41	Memphis at TN 15	I-24 at Monteagle.
US 64	Cleveland near I-40	Near Belltown at North Carolina State Line.
US 43	Near St. Joseph at Alabama State line	Lawrenceburg at US 64.
US 72	Alabama State Line	I-24.
TN 153	I-75	US 27 at Walden.
TN 96	US 70	I-40.
US 70	Briley Parkway	Sparta.
TN 27 Spur	I-124	US 127.
US 41/70 S	US 231, Murfreesboro	TN 102 in Sumyrna.

[FR Doc. 83-23622 Filed 8-29-83; 8:45 am]

BILLING CODE 4310-22-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 946

Imposition of Condition of Approval on the Virginia Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: This document imposes a new condition on the Secretary of the Interior's approval of the Virginia Permanent Regulatory Program (hereinafter referred to as the Virginia program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The new condition relates to the authority of the State to deny an application for a permit or permit renewal unless the applicant submits proof that all required Federal reclamation fees have been paid.

Following notification to the State that a State program amendment was required to meet the requirements of SMCRA and the Federal regulations; receipt of the State's agreement to submit an amendment; and review of the public comments in response to the proposed condition, the Secretary is imposing a new condition on his approval of the Virginia program.

EFFECTIVE DATE: August 30, 1983.

FOR FURTHER INFORMATION CONTACT: Ralph Cox, Director, Big Stone Gap Field Office, Office of Surface Mining, P.O. Box 626, Big Stone Gap, Virginia 24219; Telephone: (703) 523-4303.

SUPPLEMENTARY INFORMATION: The Virginia program was conditionally approved by the Secretary of the Interior on December 15, 1981 (46 FR 61088-61115). Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Virginia program can be found in the December 15, 1981 Federal Register.

Background

Sections 510(b) and 510(c) of SMCRA limit the issuance of new permits and permit renewals to those applicants who are in compliance with the requirements of SMCRA. As specified in section 402 of SMCRA and Subchapter R of 30 CFR,

the operators of coal surface mines are to pay reclamation fees to the Secretary of the Interior. Further, section 402(f) of SMCRA specifically mandates full cooperation with the Secretary by all Federal and State agencies in the enforcement of this provision.

Recently it was brought to the Secretary's attention that the Virginia program does not contain regulatory language consistent with 30 CFR 786.19(h) which requires the State to deny permit applications and permit revision applications unless the applicant has submitted proof that all Federal reclamation fees required under 30 CFR Subchapter R have been paid.

To resolve this issue, on January 4, 1983, the Director, OSM, sent a letter to Virginia to request that Virginia either voluntarily amend its program to add a regulation consistent with 30 CFR 786.19(h), or revise its permitting procedures to ascertain such information prior to approving a permit application. As of June 1, 1983, Virginia had not formally responded to OSM's January 4 letter.

Pursuant to 30 CFR 732.17(e), the Secretary notified Virginia by letter of June 1, 1983, that a State program amendment was required because conditions or events indicate that the approved State program no longer met the requirements of SMCRA and the Federal regulations. The letter notified Virginia, pursuant to 30 CFR 732.17(f)(1), that it must submit to the Secretary within 60 days of receipt of notification either a proposed written amendment or a description of an amendment to be proposed that meets the requirements of SMCRA and the Federal regulations, and a timetable for enactment which is consistent with established administrative or legislative procedures. OSM also noted that the Secretary would propose adding a new condition to the Virginia program requiring the State to amend its program by a specified date to incorporate requirements no less effective than 30 CFR 786.19(h). The proposed rule announcing intent to impose a new condition and requesting public comment was published June 9, 1983 (48 FR 26624).

On August 1, 1983, Virginia responded to OSM's June 1, 1983 letter. The State's letter indicated that it would propose to amend the Virginia permanent program at V786.19 to add a new Subsection (o) stating "The applicant has submitted proof that all reclamation fees lawfully required under Title IV of the Federal Act have been paid." The letter indicated that the amendment would be subject to the State's administrative procedures, thus a completion date of March 1, 1984, to satisfy the condition was requested.

Inasmuch as Virginia has agreed to submit such an amendment within the State's established administrative procedures, the Secretary is granting a deadline of March 1, 1984, to Virginia to submit an amendment to the State's regulations to satisfy the condition. Upon receipt of the promulgated State program amendment, a public comment period and opportunity for public hearing on whether the Virginia amendment is no less effective than the Federal provisions will be announced in the **Federal Register**.

Public Comment

The Environmental Policy Institute (EPI) commented that it supported the proposed condition to the Virginia program. However, EPI expressed concern that a substantial number of operators in Virginia have avoided payment of Federal reclamation fees by establishing operations of two acres or less. The Secretary finds that the latter comment is outside of the scope of this rulemaking in that the issue at hand is whether a new condition should be imposed on the Virginia program. When Virginia submits a State program amendment to satisfy the condition, the Secretary will seek public comment on whether the Virginia proposed amendment is no less effective than the Federal provisions.

The Virginia Mining and Reclamation Association, Inc., urged that the proposed condition be withdrawn from consideration because the condition would improperly extend the regulatory authority's control over mining operations which are exempt under SMCRA and are not subject to the fees. The Secretary disagrees that the condition would improperly extend the regulatory authority's control. The intent of the condition is that the State have the authority to deny an application for a permit or permit renewal unless the applicant submits proof that all required Federal reclamation fees have been paid. As stated in the previous comment, upon receipt of the State program amendment, the Secretary will seek public comment on the adequacy of the amendment to satisfy the condition.

Additional Determinations

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C 601 *et seq.*). This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act.* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 946

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Accordingly, 30 CFR Part 946 is amended as set forth herein.

(Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*))

Dated: August 23, 1983.

William P. Pendley,

Deputy Assistant Secretary for Energy and Minerals.

PART 946—VIRGINIA

30 CFR 946.11 is amended to add a new paragraph (t) as follows:

§ 946.11 Conditions of State regulatory program approval.

* * * * *

(t) Termination of the approval found in § 946.10 will be initiated on March 1, 1984, unless Virginia submits to the Secretary by that date a copy of promulgated regulations or otherwise amends its program to contain provisions no less effective than 30 CFR 786.19(h) to require the State to deny permit applications and permit revision applications unless the applicant has submitted proof that all Federal reclamation fees required under 30 CFR Subchapter R have been paid.

[FR Doc. 83–23842 Filed 8–29–83; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 920

Standards of Conduct

AGENCY: Department of the Air Force, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is amending its regulations by removing Part 920—Standards of Conduct, Chapter VII, Title 32. The source document, Air Force Regulation (AFR) 30–30 has been revised. It is intended for internal guidance and has no applicability to the general public. This action is a result of departmental review in an effort to insure that only regulations which substantially affect the public are maintained in the Air Force portion of the Code of Federal Regulations.

EFFECTIVE DATE: August 30, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Hopson, HQ USAF/JACM, Washington, D.C. (202) 694–4075.

SUPPLEMENTARY INFORMATION: Accordingly, 32 CFR is amended by removing and reserving Subchapter L and by removing Part 920.

List of Subjects in 32 CFR Part 920

Armed forces reserves, Conflict of interest, Government employees, Military personnel.

(10 U.S.C. 8012)

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 83-23709 Filed 8-29-83; 8:45 am]

BILLING CODE 3910-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 717

[OPTS-83001B; TSH FRL 2378-7]

Records and Reports of Allegations That Chemical Substances Cause Significant Adverse Reactions to Health or the Environment; Recordkeeping and Reporting Procedures

Correction

In FR Doc. 83–22942 beginning on page 38178 in the issue of Monday, August 22, 1983, first column, under **EFFECTIVE DATE**, "September" should read "November".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3000, 3040, 3100, 3110, 3120, 3140 and 3150

Minerals Management and Oil and Gas Leasing; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule correction.

SUMMARY: A final rulemaking revising the provisions of the regulations in Groups 3000 and 3100 of Title 43 of the Code of Federal Regulations was published in the **Federal Register** on July 22, 1983 (48 FR 33648). The publication contained a number of errors which are corrected by this notice.

EFFECTIVE DATE: August 30, 1983.

ADDRESS: Any inquiries or suggestions should be sent to: Director (620), Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Jeff Zabler (202) 343–7722 or Robert C. Bruce (202) 343–8735.

SUPPLEMENTARY INFORMATION: The corrections are as follows:

1. On page 33648, in the first column, in the first paragraph of the Summary, the number "300" is corrected by being replaced with the number "3000".

2. On page 33648, in the third column, under the heading *"Section 3045.0–1,"* the second line is corrected by inserting immediately after the word "rulemaking" the word "suggested".

3. On page 33650, in the first column, the first full paragraph, second and third lines, are corrected by removing the phrase " 'favorable petroleum geological structure' " and replacing it with the phrase " 'favorable petroleum geological province' ".

4. On page 33650, in the first column, under the heading *"Section 3100.3,"* the fifth and sixth lines of the first paragraph, are corrected by removing the phrase " 'favorable petroleum geological structure' " and replacing it with the phrase " 'favorable petroleum geological province' ".

5. On page 33652, in the second column, the eighth line, the phrase "remainder to the rental" is corrected to read "remainder of the rental".

6. On page 33652, in the third column, under the heading *"Section 3103.3–2,"* the first sentence is corrected by removing the words "not prorating" and by correcting the second and third sentences by combining them to read "The final rulemaking adopts the provisions of the proposed rulemaking adopted on September 30, 1976, in conjunction with the change in rental policy that was discussed earlier in this preamble."

7. On page 33655, in the second column, the sixth sentence is corrected to read "No other right-of-way statute has been so construed and the need for special leasing authority never existed for any other type of right-of-way."

§ 3102.4 [Corrected]

8. On page 33667, in § 3102.4, the citation "§ 3112.6–1(b)(3)" is corrected to read "§ 3112.6–1(b)(1)(iii)".

§ 3102.5 [Corrected]

9. On page 33667, in § 3102.5, the citation "§ 3100.0–5(k)" is corrected to read "§ 3000.0–5(k)".

§ 3103.2–2 [Corrected]

10. On page 33667, § 3103.2–2(d), the sixth line, the phrase "favorable geologic province" is corrected to read "favorable petroleum geological province".

§ 3103.4–1 [Corrected]

11. On page 33668, in § 3103.4–1(a), the fourth line is corrected to read "upon a determination that it is necessary".

§ 3108.4 [Corrected]

12. On page 33674, in § 3108.4, line nine, is corrected by removing the words "are on notice".

§ 3111.3–4 [Corrected]

13. On page 33678, in § 3111.3–4(d), the sixth line is corrected by removing the word "or" and replacing it with the word "of".

Garrey E. Carruthers,

Assistant Secretary of the Interior.

August 24, 1983.

[FR Doc. 83-23724 Filed 8-29-83; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[CT Docket No. 82-528; RM-4099; FCC 83-365]

Cable Television Service; Annual Financial Report Requirement

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action amends § 76.403 of the Rules by eliminating the annual financial reporting requirement for cable television systems and the form utilized in collecting this information, "Cable

Television Annual Financial Report" (FCC Form 326). The Commission determined that the costs imposed on cable systems and the Commission by the routine, industry-wide collection of financial data were no longer justified in view of the limited benefits derived from such data in connection with Commission policy determinations and consideration of individual cases. Moreover, the Commission determined that alternative, less burdensome, means of collecting or obtaining financial data are or could be made available if the need arises.

DATE: Effective September 2, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Robert H. Ratcliffe, Mass Media Bureau (202) 632–7793.

List of Subjects in 47 CFR 76

Cable television.

Report and Order; Proceeding Terminated

In the matter of amendment of Part 76, Subpart I of the Commission's Rules and Regulations with respect to the Cable Television Annual Financial Report (FCC Form 326); CT Docket No. 82–528, RM–4099.

Adopted: July 28, 1983.
Released: August 3, 1983.

By the Commission.

I. Background and Summary of Action

1. By issuance of a *Notice of Proposed Rule Making* in the above-referenced docket, 47 FR 36257 (August 19, 1982), the Commission proposed elimination of the annual financial reporting requirements for cable television operators and, in particular, that part of § 76.403 of the Rules that requires every cable operator to complete and file a "Cable Television Annual Financial Report" FCC Form 326.

2. In the *Notice*, at paragraph 6, the Commission indicated that the use of cable television annual financial information "has been limited and has not proved essential for our regulation of cable television." It added that the limited use of this information in the past in the context of individual waiver or special relief cases would not appear to justify "annual collection of such information on an industry-wide basis" but rather only collection of such information "in the individual cases where it is deemed essential." *Id.* In addition, the Commission indicated that many of the considerations that led to the elimination of broadcast annual financial reporting requirements in *Report and Order in BC Docket 80–190*, FCC 82–127, 47 FR 13345 (1982), *e.g.*, the burdens these requirements place on the agency and its regulatees, also appeared applicable to the cable financial reporting requirements. Thus, for example, at paragraph 5, it pointed out that "the reporting system occupies a significant amount of internal administrative resources that might be devoted to higher priority matters." The Commission stated that "[i]f the need for such information becomes important, [it] may well be able to rely on special studies tailored to specific policy planning and analysis needs in connection with fulfilling . . . [its] regulatory responsibilities." *Id.* at para. 7. Based upon these and other preliminary findings, it recommended elimination of these requirements and invited interested persons to comment upon proposed deletion of these requirements.

3. In response to the *Notice*, comments were filed by the following cable operators or cable-related interests: Adams-Russell Telecommunications Group and Service Electric Cable TV, Inc. ("Adams-Russell"); Allen's TV Cable Service, Inc., and 50 other cable operators ("Allen's TV *et al.*"); Buckeye Cablevision, Inc., and 9 other cable operators ("Buckeye"); Cable Communications Operations, Inc. ("Operations, Inc."); Donrey, Inc. ("Donrey"); (Law Firm of) Farrow, Schildhause and Wilson ("Farrow"); Heritage Communications, Inc. ("Heritage Communications"); Meyer Broadcasting Company d/b/a Bismarck-Mandan Cable TV ("Meyer Broadcasting"); Missouri Telephone Company ("MTC"); North Carolina CATV Association, Inc. ("NCCATV"); National Cable Television Association, Inc. ("NCTA"); Platteville Cable TV Corporation ("Platteville Cable"); and Prime Cable Corporation ("Prime Cable"). Joint comments were filed by the Office of Communication of the United Church of Christ and the Committee for Community Access ("UCC"). Reply comments were filed by Adams-Russell Telecommunications Group, Service Electric Cable TV, Inc., and Jones Intercable, Inc., jointly ("Adams-Russell *et al.*") and by Donrey, Inc.

4. For the reasons discussed herein, we conclude that retention of the cable television annual financial reporting requirements would not serve the public interest. Accordingly, we are deleting these requirements from Section 76.403 of the Rules.[1] In addition, we also decline to preempt, prescribe or otherwise limit financial disclosure or reporting requirements imposed on cable operators by state or local governmental authorities.

II. Summary of Comments

5. We note that all the above-mentioned parties with the exception of UCC express support in favor of our recommendation to eliminate cable financial reporting requirements. These cable interests take the view that such information is of limited value in regulating cable television, and that the Commission has the responsibility to delete them since they do not presently serve public interest goals. In addition, some cable interests question whether we have the authority to collect such information from cable systems, especially in view of our deletion of similar requirements applicable to broadcasters. They argue that since the Commission's jurisdiction over cable television is "reasonably ancillary" to the effective performance of its statutory responsibilities over television broadcasting, it is doubtful that the Commission could continue to impose these requirements on cable operators. Moreover, they suggest that even if there was once a need for comprehensive annual financial information, the Commission's more limited regulatory approach no longer warrants the present reporting obligations. Indeed, NCTA states that, in view of the limited use of this information, retention of the present requirement represents regulatory "overkill." Further, cable interests assert that if the Commission finds that such information is necessary, it can rely on legislative reports, special studies or trade reports. Cable interests also state that these requirements are precisely the sort of unwarranted burden the *Regulatory Flexibility Act*, Pub. L. 96–354, 94 Stat. 1165, 5 U.S.C. 601–612 (1980), seeks to abolish and the sort of unnecessary paperwork the *Federal Paperwork Reduction Act*, Pub. L. 96–511, 94 Stat. 2812, 44 U.S.C. 3501–3520 (1980), targeted for elimination.

6. Moreover, cable interests argue that the report constitutes an unnecessary burden to cable operators. For example, Meyer Broadcasting and Prime Cable state that they are already required to report their financial condition on diverse forms with the Copyright Royalty Tribunal, with state corporation (and sometimes public utility) commissions, with franchising authorities, and with state, local and federal tax authorities. Some cable operators point out that the burden financial reporting imposes on the

[1] For information already on file with this agency, we shall continue to afford the confidentiality provided under § 0.457(d) of the Rules.

broadcast industry has been previously recognized and eliminated by the Commission and that the counterpart burdens imposed on the cable industry should be similarly lifted. They argue that the burden on the cable industry is even greater because many systems are individually-owned with small staffs already overburdened by other requirements and because many cable systems, unlike radio or television stations, are also subject to regulation at the state or local level.[2] In addition, they emphasize that the costs initially incurred by the cable operator are ultimately borne by the public.

7. Many of the cable interests provided specific information on the costs in terms of financial outlays or workhours expended in complying with these requirements. For example, Heritage Communications, which owns, operates, or controls 116 cable systems serving 200 communities, indicates that approximately two hours per year for each cable system is expended in providing required FCC annual financial information and that this translates into a total cost of approximately $1740. Platteville Cable estimates that these requirements result in annual operating costs ranging between $350 and $500 to its system. It adds that these costs, when added to the costs of the other reports filed with the Commission and with the Copyright Office, result in increased but unnecessary costs of service to its subscribers. Adams-Russell indicates that Service Electric, in Docket 21202, estimated that conformance with revised Form 326 reporting requirements would cost $22,000 and 2,000 workhours, and that such costs were considerable at that time and are even more considerable now, particularly in view of the limited benefit derived from use of this information. Other cable interests provide information on the additional costs of doing business that are incurred in complying with these requirements. In its comments, NCTA states that an informal survey of multiple system operators indicates that an average of 7.7 man hours per system is spent to complete FCC Form 326. NCCATV states that the cost of compliance per system probably does not exceed a few thousand dollars at a maximum, but that if does increase the costs of doing business which, when combined with other costs, affects the price charged to the consumer for service. Cable interests maintain that these requirements are also burdensome on the Commission in terms of staff resources that are needed to administer, collect, and aggregate this information into annual industry financial reports, especially in view of the absence of any significant countervailing benefits of this information to the Commission or the public.

8. Farrow expresses serious reservations that deletion of these requirements at the federal level will lead to increased and unnecessary state and local regulation and, accordingly, recommends that the Commission preempt state and local financial disclosure or reporting requirements unrelated to rate regulation. However, most cable interests are not particularly concerned that state and local authorities might impose similar reporting requirements on cable operators. For example, Donrey indicates that such a prospect is purely speculative.[3] Buckeye states that while some state and local regulatory authorities allow submission of copies of FCC Form 326 in lieu of special state or local reports, many more have imposed reporting obligations requiring different information and some jurisdictions have even imposed their own special accounting systems.

9. UCC maintains that FCC Form 326 is a tool of growing, rather than diminishing, importance to the present and future regulation of cable. In addition, this information provides a consistent, organized and long-range source of otherwise unavailable data to both federal and local governments as well as the public. UCC argues that such information is necessary to make accurate and competent decisions in various regulatory matters such as the current network/cable cross-ownership rule making proceeding and franchise fee matters. UCC maintains that Form 326 information provides for rapid analysis of trends within the cable industry and that it is the only source of information the Commission has regarding the financial status of the cable industry. While "special studies" may be suitable for the now mature television broadcast industry, they would not, according to UCC, reveal basic developmental trends as would the information supplied by Form 326. UCC indicates that the dynamic growth of the cable industry, the rapidly increasing mix of satellite, microwave, and other communications services, and the growing financial and social impact which the cable industry will have upon the American public [4] are some of the factors that call upon the Commission to monitor the financial condition of the cable industry, its relationship to other media, and its effect upon the public interest. UCC maintains that compliance with present requirements is not burdensome to cable operators because they already maintain this type of information in the ordinary course of business. UCC adds that they will continue to do so even if the Commission eliminates FCC Form 326. Moreover, to the extent that local authorities rely upon FCC Form 326 in local franchising and refranchising proceedings, the present requirements relieve cable operators of unnecessary costs and inconvenience that would be occasioned by financial reporting requirements different from those of the Commission.

10. In reply, Adams-Russell *et al.* state that UCC's arguments for retention of FCC Form 326 are premised on the erroneous assumptions that Commission regulation of cable television will increase in the future and that financial information regarding the cable industry is not readily available from other sources. They indicate that UCC is incorrect on both points. First, the Commission has been in the process of disengaging itself from unnecessary and burdensome regulations and, second, while detailed financial ownership for individual systems is not available, industry-wide data is available.[5]

III. Discussion

11. We believe that the initial reasons advanced for recommending elimination of the cable television annual financial reporting requirements have on the whole been substantiated by the comments filed in this proceeding. We have received considerable evidence of the burdens imposed by the present requirements on cable operators, their

[2] In this connection, a number of cable operators as well as NCTA refer to a recent study by Ernst and Whinney, *The Cost of Cable Television Regulatory And Franchise Requirements: A Preliminary Analysis* (April 1982), which indicates that as much as twenty-two percent of the price of cable service is attributable to the cost of compliance with federal, state, and local rules and regulations.

[3] In reply comments, however, Donrey requests that the Commission carefully limit the amount and type of financial information which a state or local entity can require of cable systems.

[4] In this connection, UCC points out that cable penetration will almost double to 80% of all American homes by 1990, that predicted advertising revenues for cable will expand from $100 million in 1981 to $250 million in 1982, and that such revenues will exceed $1 billion annually by 1986 and $3 billion by 1990. UCC states that the "predicted growth of cable advertising will parallel the growing financial and social impact of the cable industry upon the American public" and thus evidences the need for rapid analysis of trends within the cable industry.

[5] Indeed, Adams-Russell *et al.*, as well as Donrey, comment that UCC's own pleading contains citations to industry-wide data from private sector sources rather than from governmental sources.

subscribers, this agency and the public it serves, as well as on federal taxpayers in general. Our review of the evidence in this proceeding convinces us that retention of the cable television annual financial reporting requirements imposed under § 76.403 is a burden which neither this agency or its regulatees should continue to bear in the absence of clear public interest benefits. Indeed, we have not received any evidence to suggest that regulatory acquisition of this financial information under the present rules has proved material in previous cable regulatory endeavors and very little evidence to suggest that continued acquisition of this information through an industry-wide requirement is necessary in the context of the present regulatory environment or regulation in the foreseeable future. Moreover, if a regulatory need for industry-wide financial information arises, we will be able to obtain such information through less costly avenues such as private sector sources or special agency studies or analyses.

12. UCC contends that such financial information is necessary to show basic developmental trends within the industry, and that it is not available elsewhere. However, we believe that information about sudden or gradual trends, financial or otherwise, within the industry would be available from the private sector. Indeed, UCC's comments contain references to private sector sources concerning the projected growth of advertising revenues on cable systems over the next several years. In any event, to the extent that private sector information would not be available for our purposes, we can conduct special studies to obtain information required by any inquiry that may be before the Commission.

13. Moreover, while UCC maintains that such information is necessary in conjunction with regulatory proceedings such as the network/cable cross-ownership rule making proceeding [6] and cable television franchise fee matters,[7] our own regulatory experience indicates otherwise. For example, in both of these areas, we have tended to rely on other internal and external sources of information, primarily of an economic nature, rather than upon the information contained in these financial forms.[8] Thus, the data resulting from the cable television financial reporting requirement has not been a primary tool of regulation.[9] Furthermore, in view of the deregulatory measures initiated and undertaken over the last few years, the need for this information is considerably less today than when this agency first embarked on cable television regulation.

14. Even assuming that we continued to believe that these requirements did serve some valid public interest purpose, we nevertheless would still have to assess whether that purpose was such that it outweighed the burdens placed on this agency and on its regulatees. In the *Notice*, at paragraph 5, we mentioned that approximately 3,000 annual financial reports were filed for approximately 6,600 community cable systems. By integrating the data supplied by cable operators on the efforts and costs involved in compliance with the above statistical information, we can gauge the overall burden to the industry in terms of compliance with this rule. For example, based upon information extrapolated from the comments, cable operators expend between two and ten hours per community system to comply with our reporting obligations. That is between 17,000 and 66,000 workhours spent per year for the entire industry. In terms of money, the same process yields an estimated yearly cost of compliance of $4 million. While such estimates might appear relatively small, they are significant when compared to the minimal value of the information generated by the reporting requirement. In addition, these burdens will tend to fall most heavily on the smaller cable company. In this regard, we note that consistent with the purposes and aims of the *Regulatory Flexibility Act of 1980*, Pub. L. 96-354, we have an obligation to eliminate, to the extent possible, regulatory burdens imposed on small business entities.

15. Similarly, the cable financial reporting requirement exacts a toll on this agency in terms of staff resources. Approximately 5,000 staff hours are spent on an annual basis in the collection of this information and its integration into annual industry reports. In view of the existence of other, more pressing public interest concerns in the communications area and in view of limited agency resources in handling these matters, we can ill-afford continued dedication of these resources to regulatory reporting requirements of dubious value to this agency and the public interest. For all of the foregoing reasons, we conclude that the existing annual financial reporting requirement for cable television systems and the form now utilized in connection with this requirement (FCC Form 326) should be eliminated.

16. On the basis of the record before us, we do not believe it would be appropriate to preempt the collection of financial data by state and local governments. As we indicated in the *Notice* in this proceeding, states and municipalities might consider the collection of this information necessary for their own regulatory purposes. Our decision on the continued collection of financial data is based on a balancing of the burdens of collection against the value of the data to the Commission. The record before us does not permit similar judgments with regard to the needs of local regulatory bodies.

IV. Regulatory Flexibility Analysis

17. Pursuant to relevant provisions of the Regulatory Flexibility Act, we have reviewed this action to determine if there will be a significant financial impact on a substantial number of small businesses. The comments in this proceeding suggest that adoption of our recommendation will reduce reporting and recordkeeping requirements on the part of cable television operators. The only possible adverse effect of eliminating the cable television financial reporting requirement at the federal level might be that state and local governments could react by imposing their own financial reporting requirements. This possibility, however, is quite speculative in nature and would not seem to outweigh the real and tangible benefits to all cable systems, and particularly small ones, of eliminating the Commission's existing financial reporting requirements.

18. Accordingly, it is ordered, that Section 76.403 of the Commission's Rules and Regulations as it relates to FCC Form 326 "Cable Television Annual Financial Report" is amended, effective September 2, 1983 as set forth in the attached Appendix.

19. Authority for this action is contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended.

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[6] *See Notice of Proposed Rule Making in CT Docket No. 82-434*, FCC 82-323, 91 FCC 2d 76 (1982).

[7] *See* § 76.31 of the Rules regarding franchise fee waiver requests and *Memorandum Opinion and Order and Further Notice of Proposed Rule Making in Docket 21002*, FCC 79-228, 71 FCC 2d 569 (1979), relative to this agency's review of present limitations on franchise fee payments.

[8] *See, e.g.*, K. Gordon, J. Levy and R. Preece, *FCC Policy on Cable Ownership* (Staff Report, FCC Office of Plans and Policy), November 1981, as it relates to the cable-television broadcast network cross-ownership rule.

[9] To the extent that UCC suggests that such information is important in individual franchise fee waiver requests, we believe that acquisition of this information on an individual basis as needed is considerably more efficient than imposition of industry-wide requirements for these purposes.

20. It is further ordered, that this proceeding is terminated.

21. For further information on this matter, contact Stephen A. Bailey, Mass Media Bureau, Federal Communications Commission, Washington, D.C. 20554, (202) 632–7792.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 76—CABLE TELEVISION SERVICE

Part 76 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

§ 76.403 [Amended]

1. Section 76.403 is amended as follows:

a. The second sentence in Section 76.403 is amended by removing the following:

Financial unit	"Cable television annual financial report," Form 326.

b. The third sentence in § 76.403 is amended by removing the comma and the phrase "except for the Financial Unit Data, which shall be returned within 90 days after the end of the most recent fiscal year of said financial unit" immediately following the words "by the Commission".

[FR Doc. 83-23780 Filed 8-29-83; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 680

[Docket No. 30728–145]

Foreign Fishing and Western Pacific Precious Corals; Implementation of Fishing Management Plan

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NOAA issues this final rule implementing the Fishery Management Plan for the Precious Corals Fishery of the Western Pacific Region (FMP). The proposed rule is revised to respond to public comments and to impose standard format requirements. The purpose of this FMP and its implementing regulations is to protect coral from overexploitation and provide an opportunity for commercial harvesting.

EFFECTIVE DATE: September 29, 1983.

ADDRESS: A regulatory impact review is available from Alan W. Ford, Director, Southwest Region, 300 South Ferry, Terminal Island 90731.

FOR FURTHER INFORMATION CONTACT: Alan W. Ford (Regional Director, Southwest Region), 213–548–2575; Doyle E. Gates (Administrator, Western Pacific Program Office, Southwest Region), 808–955–8831.

SUPPLEMENTARY INFORMATION:

Background

The Western Pacific Fishery Management Council (Council) prepared the FMP for the Precious Corals Fishery in the fishery conservation zone (FCZ) off the coasts of American Samoa, Guam, and Hawaii. The final rules for the domestic and foreign fisheries implement the management measures in the FMP that (1) establish four categories of management areas, (2) establish optimum yields by management-area category, (3) require domestic fishermen to have permits to fish for corals, (4) allow foreign fishing in exploratory areas, and (5) require certain recordkeeping by foreign and domestic fishermen.

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), approved the FMP on May 20, 1980. Proposed regulations were published in the **Federal Register** on September 15, 1980 (45 FR 60957). A final environmental impact statement (EIS) was filed with the Environmental Protection Agency (EPA) on January 17, 1980 (45 FR 6472).

The management strategy has not changed from that presented in the proposed regulations. The FMP identifies the problem of managing a resource of unknown dimensions characterized by slow growth, low rates of mortality, and low rates of recruitment. The basic change from the proposed rule is one of format and clarification. The comments received during the review period and NOAA's responses are discussed below. Section 680.6, Vessel identification, was revised to incorporate recent U.S. Coast Guard requirements.

Responses to Public Comments

The State of Hawaii Department of Land and Natural Resources, the U.S. Coast Guard, the Department of Interior, the Hawaii Department of Planning and Economic Development, and the Governor of Guam submitted comments.

Comment: The FMP fails to provide a sound biological basis for management because it allows nonselective gear that is not as efficient as estimated in the FMP. Compounding the problem is incomplete knowledge of stock assessment, age-growth relationships, and recruitment. Implementation of the FMP should be suspended until actual efficiency data are collected for the dredge method of harvesting precious coral.

Response: This comment accurately states the problems of managing the precious coral fishery, but NOAA does not agree with the conclusion. Tangle net dredges are inefficient in the harvest of corals and knowledge of the resource is limited; however, there would be little opportunity to harvest corals or to increase knowledge of the resource without using these dredges.

The Council recognized and considered these problems in preparing the plan and adopted a conservative approach that will protect corals from overexploitation and provide an opportunity for commercial harvesting. Four categories of management areas are established and commercial activity is limited in each area depending upon the knowledge available about an area. One category of coral bed is "refugia," which are set aside to serve as baseline study areas and possible reproductive reserves. No coral harvesting is permitted on refugia beds.

The FMP encourages use of selective gear. When nonselective gear is allowed, the plan reduces the quota to 20 percent of the selective-gear quota for conditional beds. The permit and reporting requirements will provide the information needed to improve management of the coral resources. As information is obtained, determinations of maximum sustainable yield and optimum yield may be refined further and gear restrictions may be modified. Finally, if FMP implementation were suspended, domestic harvesting could proceed with no Federal regulation.

Comment: Section 680.6 of the proposed regulations for domestic fishermen does not require that logbooks be completed within a specific time period, which may hinder enforcement.

Response: The final regulations require that logbooks be completed by midnight of the day following the day in which the coral was taken.

Comment: The FMP includes black corals in the management unit, but the proposed rules exclude black coral from the definition of precious corals.

Response: The final regulations include black corals, which are found

principally in State waters. The only regulation for domestic fishermen is that they must report their catches of black coral. Black coral is a prohibited species for foreign fishermen..

Comment: The Coast Guard noted that the weights of coral logged in the daily cumulative catch log required by § 611.9(d) of the foreign fishing regulations will be wet weights, because it takes 24 hours to air-dry coral while the log must be completed within 12 hours of the end of the day. The relationship of wet to dry coral is unknown; therefore, the Coast Guard suggested that foreign vessels engaged in the coral fishery be exempted from the requirements of § 611.82(j) and that the regulations be revised to require the updating of logs within 24 hours of the end of a fishing day rather than "on a timely basis."

Response: The final rule adopts the suggestion.

Comment: The plan is an infringement of the State of Hawaii's jurisdiction over its archipelagic waters and may be inconsistent with Hawaii's coastal zone management program.

Response: NOAA determined that the FMP is consistent with the Hawaii Coastal Zone Management Plan and so informed the State on August 20, 1982. NOAA presumes State agency agreement because the State did not provide a response within the 45-day review period provided in the NOAA regulations implementing the Coastal Zone Management Act (CZMA) (15 CFR 930.41(a)). The Federal government does not recognize the State's claim of archipelagic jurisdiction. In approving the Hawaii Coastal Zone Management Program, the Assistant Administrator for the CZMA specifically found that the seaward portion of the State's coastal zone is the three-mile territorial sea. Furthermore, Hawaii's Precious Corals Regulation 41, which was in effect at the time of the approval of the Hawaii Coastal Zone Management Program, was not and has not been included in Hawaii's Coastal Zone Management Program; therefore the FMP need not be consistent with Regulation 41.

Comment: The Government of Guam recognized that information on the precious corals resource around Guam and the remaining Mariana Islands is very limited; the Governor recommended a stock assessment survey for the area.

Response: Since receipt of the Governor's letter, a resource assessment investigation of the Mariana Archipelago (RAIOMA) has been initiated by the National Marine Fisheries Service, Southwest Fisheries Center, out of the Honolulu laboratory. Bathymetric surveys may locate potential corals habitat where test fishing may be conducted. Although other resources have a higher priority during the RAIOMA cruise, some promising areas may be targeted during the survey.

Classification

The Assistant Administrator has determined that the FMP and the implementing regulations comply with the national standards, other provisions of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), and other applicable laws.

The National Marine Fisheries Service prepared a regulatory impact review (RIR) which concludes that these regulations do not constitute a major rule under Executive Order 12291.

A final EIS was filed with the EPA on January 17, 1980, (45 FR 6472).

Logbooks and permits to fish for precious coral are required by these regulations. Under the Paperwork Reduction Act, the foreign reporting aspects of this rule (50 CFR Part 611) can be merged with existing Office of Management and Budget (OMB) collection number 0648–0075 (foreign fishing vessel reports); domestic permits (50 CFR 680.4) can be merged with OMB 0648–0097 (Federal fisheries permits); and domestic reporting (50 CFR 680.5) can be merged with OMB 0648–0016. No respondents to any of these requirements are expected at the present time. This action has been submitted to OMB for review.

List of Subjects

50 CFR Part 611

Fish, Fisheries, Foreign relations, Reporting and recordkeeping requirements.

50 CFR Part 680

Fish, Fisheries, Reporting and recordkeeping requirements.

Dated: August 24, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

For reasons set forth in the preamble, 50 CFR Part 611 is amended and a new Part 680 is added as follows:

PART 611—FOREIGN FISHING

1. The authority citation for Part 611 reads as follows:

Authority: 16 U.S.C. 1801 *et seq.*, unless otherwise noted.

2. In § 611.9, paragraph (d)(1) is revised to read as follows:

§ 611.9 Reports and recordkeeping.

* * * * *

(d) *Daily cumulative log.* (1) The operator of each foreign fishing vessel, except as otherwise provided in § 611.82(i) and § 611.90(e)(2), must maintain a daily cumulative catch log in English. This log must have recorded on a daily and a cumulative basis the round weight of all catches of all allocated species during the permit period. The operator must maintain the log aboard the vessel during the duration of the permit period. Information for each fishing area must be maintained on a separate page of the log.

* * * * *

3. A new § 611.82 is added to read as follows:

§ 611.82 Precious coral fishery.

(a) *Purpose.* This section regulates foreign fishing under a Governing International Fishery Agreement for precious corals within the fishery conservation zone (FCZ) seaward of Hawaii, Guam, and American Samoa.

(b) *Definitions.* For purposes of this section, the following terms are defined:

(1) *Exploratory area* means the following permit areas in the FCZ outside the closed areas listed in § 611.82(g).

(i) Permit Area X–P–H. All coral beds seaward of the State of Hawaii.

(ii) Permit Area X–P–AS. All coral beds seaward of American Samoa.

(iii) Permit Area X–P–G. All coral beds seaward of Guam.

(2) *Precious Coral* means any of the following species of coral:

Pink coral (also known as red coral) *Corallium secundum*
Pink coral (also known as red coral) *Corallium regale*
Pink coral (also known as red coral) *Corallium laauense*
Gold coral *Gerardia sp.*
Gold coral *Callogorgia gilberti*
Gold coral *Narella sp.*
Gold coral *Calyptrophora sp.*
Bamboo coral *Lepidisis olapa*
Bamboo coral *Acanella sp.*
Black coral *Antipathes dichotoma*
Black coral *Antipathes grandis*
Black coral *Antipathes ulex*

(3) *Regional Director* means the Southwest Regional Director, National Marine fisheries Service, 300 S. Ferry Street, Terminal Island, California 90731.

(4) *Selective gear* means gear that can be used to harvest coral selectivley by differentiating as to type, size, quality, or other characteristics.

(c) *Authorized fishery.* (1) *Allocations.* Foreign vessels may engage in fishing only in accordance with applicable national allocations.

(2) *TALFF and reserve.* The total allowable levels of foreign fishing (TALFF), joint venture processing (JVP), the amounts of coral set aside as reserves, the estimated domestic annual harvest (DAH), and domestic annual processing (DAP) in exploratory areas are published in the **Federal Register** prior to the beginning of each fishing year. Current TALFF and JVP amounts are available from the Regional Director.

(3) *Determination of TALFF and reserves.* The quotas for each of the three exploratory areas (set forth in Table 1 to 50 CFR Part 680) will be held in reserve for harvest by vessels of the United States in the following manner:

(i) At the start of the fishing year (July 1), the reserve for each exploratory area will equal the quota minus the estimated domestic annual harvest for that year.

(ii) As soon as practicable after December 31 each year, the Regional Director will determine the amount harvested by vessels of the United States between July 1 and December 31 of that year.

(4) *Release of reserves.* The Secretary will release to TALFF for each exploratory area an amount of coral equal to the quota minus two times the amount harvested by vessels of the United States in that July 1–December 31 period.

(5) The Secretary will publish in the **Federal Register** a notice of the Regional Director's determination and a summary of the information on which it is based as soon as practicable after the determination is made.

(d) *Open season.* Foreign fishing authorized under this section may be conducted from the time that the reserve is released to TALFF until the national allocation has been reached. This fishery will be closed in accordance with § 611.15.

(e) *Prohibited species.* All species of fish over which the United States exercises fishery management authority and for which there is no applicable national allocation are prohibited species and will be treated in accordance with § 611.13. All black corals are prohibited species.

(f) *Open area.* Foreign vessels may engage in fishing for precious coral in the three exploratory areas in the FCZ seaward of Hawaii, Guam, and American Samoa, but not in those coral beds designated in § 611.82(g).

(g) *Closed areas.* The following precious coral beds are closed to all foreign fishing:

Coral Bed—Midpoint

(1) Ke-ahole Point, Hawaii, 19°46.0′ N. latitude, 156°06.0′ W. longitude;

(2) Makapuu, Oahu, Hawaii, 21°18.0′ N. latitude, 157°35.5′ W. longitude;

(3) Kaena Point, Oahu, Hawaii 21°35.4′ N. latitude, 158°22.9′ W. longitude;

(4) WestPac Bed, 23°18.0′ N. latitude, 162°35.0′ W. longitude;

(5) Brooks Banks, 24°06.0′ N. latitude, 166°48.0′ W. longitude; and

(6) 180 Fathom Bank, N.W. of Kure, 28°50.2′ N. latitude, 178°53.4′ W. longitude.

Each coral bed includes the area within two nautical miles of the midpoint.

(h) *Gear restrictions.* (1) No foreign vessel fishing for coral may use gear other than:

(i) Dredges with tangle nets; or

(ii) Selective gear.

(2) A foreign vessel may use only selective gear to harvest coral from the FCZ of the main Hawaiian Islands, i.e., south and east of a line midway between Niihau and Nihoa Islands.

(i) *Collection, maintenance and reporting of data.* In addition to the requirements of § 611.9, each foreign fishing vessel must collect, maintain, or report on a timely basis accurate data relating to fishing operations as specified in this section. The requirement of § 611.9(d) that each vessel maintain a daily cumulative catch log is waived for vessels fishing for coral under this section. In lieu of that log, vessels must enter into the logbook provided to the vessel by the National Marine Fisheries Service by midnight of the day following the day on which the coral was taken, the information specified in paragraphs (i)(1)(i) through (1)(x) of this section. All submissions required by this section must be sent to the Regional Director, or, in the case of logbook data, must be hand delivered to the National Marine Fisheries Service observer (if an observer is on board the vessel) upon request. The following log and reports are required:

(1) Whenever a permitted vessel lands coral harvested under a permit, the permittee must within 72 hours mail to the Regional Director a copy of the log with complete harvest information for the coral sold or delivered including:

(i) Name of vessel;

(ii) Call sign of vessel;

(iii) Permit number of vessel;

(iv) Area fished by statistical area;

(v) Average depth of water where the coral was harvested;

(vi) Weight of coral harvested by species, to the nearest tenth of a kilogram (landed weight, air dried for at least 24 hours);

(vii) Fishing effort in hours where the coral was harvested;

(viii) Dates of harvest;

(ix) Method of harvest;

(x) Observations that may be made about the habitat (current, bottom type, bottom topography, bottom slope);

(xi) Amount of coral sold by species;

(xii) Sale price;

(xiii) Date of sale; and

(xiv) Name(s) and address(es) of buyer(s).

(2) For any coral that is not sold within 72 hours of landing the permittee shall mail to the Regional Director within 72 hours of its sale the information specified in paragraphs (i)(1)(xi) through (i)(1)((xiv) of this section.

(3) *Annual report.* Each nation whose vessels engage in the precious coral fishery must submit by November 30 of the following fishing year annual catch and effort statistics as follows: (i) Catch in kilogram by gear type by month by area to the nearest one-half degree (0.5°) latitude and by one degree (1°) longitude, by the following species groupings: pink (red), gold, bamboo, other precious coral, and non-precious coral; and (ii) effort, in hours fished by month by area to the nearest one-half degree (0.5°) latitude and one degree (1°) longitude.

(OMB control number: 0648–0075)

4. A new Part 680 is added to read as follows:

PART 680—WESTERN PACIFIC PRECIOUS CORALS

Subpart A—General Provisions

Sec.

680.1 Purpose and scope.
680.2 Definitions.
680.3 Relation to other laws.
680.4 Permits.
680.5 Recordkeeping and reporting.
680.6 Vessel identification.
680.7 Prohibitions.
680.8 Facilitation of enforcement.
680.9 Penalties.

Subpart B—Management Measures

680.20 Seasons.
680.21 Quotas.
680.22 Closures.
680.23 Size restrictions.
680.24 Area restrictions.
680.25 Gear restrictions.
680.26 Test fisheries (Reserved).

Authority: 16 U.S.C. 1801 *et seq.*

Subpart A—General Provisions

§ 680.1 Purpose and scope.

(a) The purpose of this part is to implement the Precious Coral Fishery Management Plan developed by the Western Pacific Fishery Management Council under the Magnuson Fishery Conservation and Management Act. (Magnuson Act).

(b) These regulations govern fishing for precious coral by fishing vessels of the United States within the fishery conservation zone seaward of Hawaii, Guam, and American Samoa.

(c) For regulations governing fishing for precious coral by foreign vessels, see 50 CFR 611.82.

§ 680.2 Definitions.

In addition to the definitions in the Magnuson Act, and unless the context requires otherwise, the terms used in this part have the following meanings:

Assistant Administrator means the Assistant Administrator for Fisheries, NOAA, or a designee.

Authorized officer means—

(a) Any commissioned, warrant, or petty officer of the U.S. Coast Guard;

(b) Any special agent of the National Marine Fisheries Service;

(c) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary of Commerce and the Secretary of Transportation to enforce the provisions of the Magnuson Act; and

(d) Any Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (a) of this definition.

Dead coral means any precious coral that contains holes from borers or is discolored or encrusted at the time of removal from the seabed.

Fishery conservation zone (FCZ) means that area adjacent to the United States which, except where modified to accommodate international boundaries, encompasses all waters from the seaward boundary of each of the coastal states to a line each point of which is 200 nautical miles from the baseline from which the territorial sea of the United States is measured.

Fishing means—

(a) The catching, taking, or harvesting of fish;

(b) The attempted catching, taking, or harvesting of fish;

(c) Any other activity which can reasonably be expected to result in the catching, taking, or harvesting of fish;

(d) Any operations at sea in support of or in preparation of any activity described in paragraphs (a) through (c) of this definition.

Fishing vessel means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or a type which is normally used for fishing or for assisting or supporting a vessel engaged in fishing.

Land or Landing means bringing fish to shore or off-loading fish from a vessel.

Live coral means any precious coral that is free of holes from borers, and has no discoloration or encrustation on the skeleton at the time of removal from the seabed.

Magnuson Act means the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*).

Non-precious coral means any species of coral other than those listed under the definition for *precious coral.*

Non-selective gear means any gear used for harvesting corals that cannot discriminate or differentiate between types, size, quality, or characteristics of living or dead corals.

Operator, with respect to any vessel, means the master or other individual on board and in charge of that vessel.

Owner, with respect to any vessel, means—

(a) Any person who owns that vessel in whole or in part;

(b) Any charterer of the vessel, whether bareboat, time, or voyage;

(c) Any person who acts in the capacity of a charterer, including but not limited to parties to a management agreement, operating agreement, or any similar agreement that bestows control over the designation, function, or operation of the vessel; or

(d) Any agent designated as such by any person described in paragraphs (a), (b), or (c) of this definition.

Management area means the FCZ of the United States seaward of the State of Hawaii; the Territory of Guam, and the Territory of American Samoa.

Permit area is used to describe each precious coral bed in the management area. Each bed is designated by a permit area code and assigned to one of the following four categories:

(a) *Established beds.*

Makapuu (Oahu), *Permit Area E-B-1,* includes the area within a radius of 2.0 nautical miles of a point at 21°18.0′ N. latitude, 157°35.5′ W. longitude.

(b) *Conditional beds.* (1)*Ke-ahole Point* (Hawaii), *Permit Area C-B-1,* includes the area within a radius of 0.5 nautical miles of a point at 19°46.0′ N. latitude, 156°06.0′ W. longitude.

(2) *Kaena Point* (Oahu), *Permit Area C-B-2,* includes the area within a radius of 0.5 nautical miles of a point at 21°35.4′ N latitude, 158°22.9′ W. longitude.

(3) *Brooks Bank, Permit Area C-B-3,* includes the area within a radius of 2.0 nautical miles of a point at 24°06.0′ N. Latitude, 166°48.0′ W. longitude.

(4) *180 Fathom Bank, Permit Area C-B-4,* N.W. of Kure Atoll, includes the area within a radius of 2.0 nautical miles of a point at 28°50.2′ N. latitude, 178°53.4′ W. longitude.

(c) *Refugia. Westpac Bed, Permit Area R–1,* includes the area within a radius of 2.0 nautical miles of a point at 23°18.0′ N. latitude, 162°35.0′ W. longitude.

(d) *Exploratory areas.* (1) *Permit Area X-P-H* includes all coral beds, other than established beds, conditional beds, or refugia, in the FCZ seaward of the State of Hawaii.

(2) *Permit Area X-P-AS* includes all coral beds, other than established beds, conditional beds, or refugia, in the FCZ seaward of American Samoa.

(3) *Permit Area X-P-G* includes all coral beds, other than established beds, conditional beds, or refugia, in the FCZ seaward of Guam.

Person means any individual (whether or not a citizen or national of the United States), corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government, or any entity of any such government.

Precious coral means any of the following species of corals:

Pink coral (also known as red coral), *Corallium secundum*
Pink coral (also known as red coral), *Corallium regale*
Pink coral (also known as red coral), *Corallium laauense*
Gold coral, *Gerardia sp.*
Gold coral, *Callogorgia gilberti*
Gold coral, *Narella sp.*
Gold coral, *Calyptrophora sp.*
Bamboo coral, *Lepidisis olapa*
Bamboo coral, *Acanella sp.*
Black coral, *Antipathes dichotoma*
Black coral, *Antipathes grandis*
Black coral, *Antipathes ulex*

Regional Director means the Director, Southwest Region, National Marine Fisheries Service, 300 S. Ferry Street, Terminal Island, CA 90731, or a designee.

Secretary means the Secretary of Commerce or a designee.

Selective gear means any gear used for harvesting corals that can discriminate or differentiate between type, size, quality, or characteristics of living or dead corals.

State means the State of Hawaii, the Territory of Guam, and the Territory of American Samoa.

U.S. fish processors means facilities located within the United States for, and vessels of the United States used or equipped for, the processing of fish for commercial use or consumption.

U.S.-harvested coral means coral caught, taken, or harvested by vessels of the United States within any fishery for which a fishery management plan has been implemented under the Magnuson Act.

Vessel of the United States means—

(a) Any vessel documented under the laws of the United States;

(b) Any vessel numbered in accordance with the Federal Boat Safety Act of 1971 (46 U.S.C. 1400 *et seq.*) and measuring less than 5 net tons; or

(c) Any vessel numbered under the Federal Boat Safety Act of 1971 (46 U.S.C. 1400 *et seq.*) and used exclusively for pleasure.

§ 680.3 Relation to other laws.

This part recognizes that any State law pertaining to vessels registered under the laws of that State, including any State landing laws, which is consistent with the Precisous Coral Management Plan, will continue to have force and effect respecting fishing activities addressed herein.

§ 680.4 Permits

(a) *General.* (1) Any vessel of the United States fishing for, taking, or retaining precious coral in the management area must have a permit issued under this section.

(2) Each permit will be valid for fishing only in the permit area specified in the permit. Permit areas are described in § 680.2.

(3) No more than one permit will be valid for any one vessel at any one time.

(4) No more than one permit will be valid for any one person at any one time.

(5) The holder of a valid permit to fish one permit area may obtain a permit to fish another permit area only upon surrendering to the Regional Director any current permit issued under this section.

(b) *Applications.* (1) An application for a permit under this section must be submitted to the Regional Director by the vessel owner or operator at least 60 days prior to the date on which the applicant desires to have the permit made effective.

(2) Each applicant must supply the following information to the Regional Director when applying for a permit. Each application must be signed by the vessel owner or operator and contain the following information:

(i) The applicant's name, mailing address, and telephone number;

(ii) The owner's name, mailing address, and telephone number;

(iii) The operator's name, mailing address, and telephone number;

(iv) The name of the vessel;

(v) The vessel's U.S. Coast Guard documentation number or State license number;

(vi) The radio call sign of the vessel;

(vii) The home port of the vessel;

(viii) The engine horsepower of the vessel;

(ix) The approximate fish-hold capacity of the vessel;

(x) The type and quality of fishing gear used by the vessel;

(xi) The permit area in which the applicant proposes to fish;

(xii) Whether the application is for a new permit or a renewal; and

(xiii) The number and expiration date of any prior permit for the vessel issued under this section.

(c) *Fees.* No fee is required for a permit under this section.

(d) *Change in application information.* Any change in the information specified in paragraph (b) of this section must be reported to the Regional Director ten days prior to the effective date of the change.

(e) *Issuance.* (1) Within 60 days after receipt of a properly completed application the Regional Director will determine whether to issue a permit.

(2) If an incomplete or improperly completed permit application is filed, the Regional Director will notify the applicant in writing of the deficiency in the application. If the applicant fails to correct the deficiency within 30 days following the date of notification, the application will be considered abandoned.

(f) *Expiration.* Permits issued under this section expire on June 30 following the effective date of the permit.

(g) *Renewal.* An application for a renewal of a permit must be submitted to the Regional Director in the same manner as described in paragraph (b) of this section.

(h) *Alteration.* Any permit which has been substantially altered, erased, or mutilated is invalid.

(i) *Replacement.* Permits may be issued to replace lost or mutilated permits. An application for a replacement permit will not be considered a new application.

(j) *Transfer.* Permits issued under this section are not transferable or assignable to other persons. A permit is valid only for the vessel for which it is issued.

(k) *Display.* Any permit issued under this section must be on board the vessel at all times while the vessel is fishing for coral in the FCZ. Any permit issued under this section must be displayed for inspection upon request of any authorized officer.

(l) *Sanctions.* Subpart D of 50 CFR Part 621 (Civil Procedures) governs the imposition of sanctions against a permit issued under this section. As specified in that subpart D, a permit may be revoked, modified, or suspended if the vessel for which the permit is issued is used in the commission of an offense prohibited by the Magnuson Act or this part, or if a civil penalty or criminal fine imposed under the Magnuson Act and pertaining to such a vessel is not paid.

(OMB control number: 0648–0097)

§ 680.5 Recordkeeping and reporting.

(a) *Logbook.* The operator of any fishing vessel fishing for precious coral subject to this part must—

(1) Maintain on board the fishing vessel, while fishing for precious coral, an accurate and complete fishing logbook in the required format supplied by the Regional Director, recording all information specified in paragraph (b) of this section with all information entered by midnight of the day following the day on which the coral was taken;

(2) Make the fishing logbook available for inspection by an authorized officer or any employee of the National Marine Fisheries Service designated by the Regional Director to make such inspection;

(3) Keep the fishing logbook one year after the date of the last entry in the logbook; and

(4) Within 72 hours of each landing of precious coral, submit to the Regional Director a copy of the log sheet(s) pertaining to that precious coral.

(b) *Information.* Fishing logbooks must contain the following information for all precious coral taken under this part:

(1) *Vessel information.*

(i) Name of vessel;

(ii) Call sign of vessel; and

(iii) Permit number of vessel.

(2) *Fishing information.*

(i) Date of harvest;

(ii) Fishing effort in hours;

(iii) Method of harvest;

(iv) Area fished;

(v) Depth of water;

(vi) Weight of coral harvested, by species, to the nearest tenth of a kilogram (landed weight, air dried for at least 24 hours); and

(vii) Observations that may be made about the habitat (current, bottom type, bottom topography, bottom slope, proximity to land, etc.).

(3) *Sale information.*

(i) Amount of coral sold (by species);

(ii) Sale price;

(iii) Date of sale;

(iv) Name(s) and address(es) of buyer(s); and

(4) Any other information specified in the permit.

(OMB control number: 0648–0016)

§ 680.6 Vessel identification.

(a) *Permit number.* Each fishing vessel subject to this part must display its permit number on the port and starboard sides of the deckhouse or hull, and on an appropriate weather deck so

as to be visible from enforcement vessels and aircraft.

(b) *Numerals.* The permit number must be affixed to each vessel subject to this part in block Arabic numerals at least 14 inches in height for fishing vessels of 65 feet in length or longer and at least ten inches in height for all other vessels. Markings must be legible and of a color that contrasts with the background.

(c) *Duties of operator.* The operator of each fishing vessel subject to this part must—

(1) Keep the displayed permit number legible and in good repair; and

(2) Ensure that no part of the vessel, its rigging or its fishing gear obstructs the view of the permit number from an enforcement vessel or aircraft.

§ 680.7 Prohibitions.

(a) It is unlawful for any person to—

(1) Use any vessel to fish for, take, or retain precious coral in the management area unless a permit has been issued for that vessel and area as specified in § 680.4 and that permit is on board the vessel;

(2) Fish for, take, or retain any species of precious coral in the management area:

(i) By means of gear or methods prohibited by § 680.25;

(ii) In refugia specified in § 680.24;

(iii) In a bed for which the quota specified in § 680.21 has been attained; or

(iv) In violation of any permit issued under § 680.4;

(3) Take and retain or possess on fishing vessels any pink coral from the Makapuu Bed (Permit Area E–B–1), Ke-ahole Point Bed (Permit Area C–B–1), or Kaena Point Bed (Permit Area C–B–2) which is less than the minimum height specified in § 680.23.

(4) Falsify or fail to make, keep, maintain, or submit any logbook or other record or report required by § 680.5;

(5) Fail to affix and maintain vessel markings, as required by § 680.6;

(6) Fail to comply immediately with enforcement and boarding procedures specified in § 680.8;

(7) Possess, have custody or control of, ship, transport, offer for sale, sell, purchase, import, export, or land, any species of precious coral which was taken in violation of the Magnuson Act, this part, or any regulation issued under the Magnuson Act;

(8) Refuse to allow an authorized officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of the Magnuson Act, this part, or any other regulations issued under the Magnuson Act;

(9) Forcibly assault, resist, oppose, impede, intimidate, or interfere with an authorized officer in the conduct of any search or inspection described in paragraph (e) of this section;

(10) Resist a lawful arrest for any act prohibited by this part;

(11) Interfere with, delay, or prevent, by any means, the apprehension or arrest of another person by an authorized officer, knowing that such other person has committed any act prohibited by this part; or,

(12) Transfer directly or indirectly, or attempt to so transfer, any U.S.-harvested coral to any foreign fishing vessel, while such foreign vessel is within the FCZ, unless the foreign fishing vessel has been issued a permit under § 204 of the Magnuson Act which authorizes the receipt by such vessel of U.S.-harvested coral of the species concerned;

(13) Violate any other provision of this part, the Magnuson Act, or any regulation or permit issued under the Magnuson Act.

(b) It is a rebuttable presumption that any precious coral found on board a fishing vessel in the management area was caught and retained in violation of this part. The presumption can be rebutted by showing that—

(1) A valid permit was issued for the vessel, which was operating under the terms of the permit, or

(2) The coral originated outside the management area through receipts of purchase, invoices, or other documentation.

§ 680.8 Facilitation of enforcement.

(a) *General.* The operator of any fishing vessel subject to these regulations shall immediately comply with instructions issued by an authorized officer to facilitate safe boarding and inspection of the vessel, its gear, equipment and catch for purposes of enforcing the Magnuson Act and this part.

(b) *Signals.* Upon being approached by a U.S. Coast Guard cutter or aircraft, or other vessel or aircraft authorized to enforce the Magnuson Act, the operator of the fishing vessel shall be alert for signals conveying enforcement instructions. The VHF–FM radiotelephone is the normal method of communicating between vessels. Listen to the VHF–FM channel 16 (emergency channel) for instructions to shift to another VHF–FM channel and receive boarding instructions. Visual methods or loudhailer may be used if the radio does not work. The following signals extracted from U.S. Hydrographic Office publication H.O. 102 International Code of Signals, may be communicated by flashing light or signal flags:

(1) "L" meaning "You should stop your vessel instantly."

(2) "SQ3" meaning "You should stop and heave-to; I am going to board you."

(3) "AA AA AA etc." meaning "Call for unknown station or general call." The operator should respond by identifying his vessel by radio, visual signals or illuminating his official number.

(4) "RY–CY" meaning "You should proceed at slow speed. A boat is coming to you."

(c) *Boarding.* The operator of a vessel signaled to stop or heave-to for boarding shall—

(1) Stop immediately and lay to or maneuver in such a way as to allow the boarding party to come aboard; and

(2) Take such other actions as necessary to ensure the safety of the boarding party.

§ 680.9 Penalties.

Any person or fishing vessel found to be in violation of this part is subject to the civil and criminal penalty provisions and forfeiture provisions of the Magnuson Act, and to 50 CFR Part 620 (Citations) and 15 CFR Part 904 (Civil Procedures) and other applicable law.

Subpart B—Management Measures

§ 680.20 Seasons.

The fishing year for precious coral begins on July 1 and ends on June 30 the following year, except at the Makapuu Bed, which has a two-year fishing period that begins July 1 and ends June 30 two years later.

§ 680.21 Quotas.

(a) The quotas limiting the amount of precious coral that may be taken in the management area during the fishing year are listed in Table 1 of this section. Only live coral is counted toward the quota. The accounting period for all quotas begins July 1, 1983.

TABLE 1.—QUOTAS FOR PERMIT AREAS

Name of coral bed	Type of bed	Harvest quota [1]	Number of years	Gear restrictions [2]
Makapuu	Established.	Pink coral—2,000 kg.	2	S
		Gold coral—600 kg.	2	S
		Bamboo coral—600 kg.	2	S
Ke-ahole Point	Conditional.	Pink coral—67 kg.	1	S

TABLE 1.—QUOTAS FOR PERMIT AREAS—Continued

Name of coral bed	Type of bed	Harvest quota [a]	Number of years	Gear restrictions [d]
		Gold coral—20 kg.	1	S
		Bamboo coral—17 kg.	1	S
Kaena Point	Conditional	Pink coral—67 kg.	1	S
		Gold coral—20 kg.	1	S
		Bamboo coral—17 kg.	1	S
Brooks Bank [b]	Conditional	Pink coral [b]—17 kg.	1	N
		Gold coral—133 kg.	1	N
		Bamboo coral—111 kg.	1	N
180 Fathom Bank [b]	Conditional	Pink coral [b]—222 kg.		N
		Gold coral—67 kg.	1	N
		Bamboo coral—56 kg.	1	N
Westpac Bed	Refugia	Zero (0 kg)		[c]
Hawaii, American Samoa, Guam	Exploratory [c]	1,000 kg (all species combined except black corals) per area.	1	N

[a] There are no restrictions under this part on the harvest of black corals, except the data submission requirements (§ 680.5). State regulations on black coral harvesting are not superseded by this part.

[b] Only ⅓ the indicated amount is allowed if nonselective gear is used, that is the nonselective harvest will be multiplied by 5 and counted against the quota. If both selective and nonselective methods are used, the bed will be closed when S+5N=Q, where S=selective harvest amount, N=nonselective harvest amount and Q=total harvest quota, for any single species on that bed.

[c] Only selective gear may be used in the FCZ seaward of the main Hawaiian Islands; i.e., south and east of a line midway between Nihoa and Nihau Islands. Nonselective gear or selective gear may be used in all other portions of exploratory areas.

[d] S=Selective gear only; N=Nonselective or selective gear.

[e] No authorized fishing for coral.

(b) *Conditional bed closure.* A conditional bed will be closed to all nonselective coral harvesting after the quota for one species of coral has been taken.

(c) *Reserves and reserve release.* The quotas for exploratory areas will be held in reserve for harvest by vessels of the United States in the following manner:

(1) At the start of the fishing year, the reserve for each of the three exploratory areas will equal the quota minus the estimated domestic annual harvest for that year.

(2) As soon as practicable after December 31 each year, the Regional Director will determine the amount harvested by vessels of the United States between July 1 and December 31 of that year.

(3) The Secretary will release to TALFF an amount of precious coral for each exploratory area equal to the quota minus two times the amount harvested by vessels of the United States in that July 1–December 31 period.

(4) The Secretary will publish in the **Federal Register** a notice of the Regional Director's determination and a summary of the information on which it is based as soon as practicable after the determination is made.

§ 680.22 Closures.

(a) *Determinations of closure and field orders.* If the Regional Director determines that the harvest quota for any coral bed will be reached prior to the end of the fishing year, or of the two-year fishing period at Makapuu bed, the Secretary will issue a field order closing the bed involved by publication of a notice in the **Federal Register**, and through appropriate news media. Such field order must indicate the reason for the closure, the bed being closed, and the effective date of the closure.

(b) A closure is also effective for a permit holder upon the permit holder's actual harvest of the applicable quota.

§ 680.23 Size restrictions.

Pink coral harvested from the Makapuu bed (E–B–1), the Keahole Point bed (C–B–1), and the Kaena Point bed (C–B–2), must have attained a minimum height of ten inches. There are no size limits for precious coral from other beds or other species.

§ 680.24 Area restrictions.

Fishing for coral on the WestPac bed is not allowed. The specific area closed to fishing is all waters within a 2 nautical mile radius of the midpoint of 23° 18.0′ N. latitude; 162° 35.0′ W. longitude.

§ 680.25 Gear restrictions.

(a) *Selective gear.* Only selective gear may be used to harvest coral from the FCZ of the main Hawaiian Islands, i.e., south and east of a line midway between Niihau and Nihoa Islands.

(b) *Selective or non-selective gear.* Either selective or non-selective gear may be used to harvest coral from Brooks Bank, 180 Fathom Bank, and from exploratory areas other than the FCZ off the main Hawaiian Islands.

§ 680.26 Test fisheries. [Reserved]

[FR Doc. 83-23783 Filed 8-29-83; 8:45 am]
BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 48, No. 169
Tuesday, August 30, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

7 CFR Part 651

Acquisition of Real Property Under Federally Assisted Programs

AGENCY: Soil Conservation Service, USDA.

ACTION: Proposed rule; resubmission.

SUMMARY: The Soil Conservation Service (SCS) published a proposal on August 27, 1982, in the **Federal Register**. (47 FR 37907) to revise and update 7 CFR Part 651 to correspond with related regulations. Some commenters suggested that this part be completely revised to remove procedural detail and other largely explanatory language. Therefore, SCS proposes to revise this part to cover only the basic requirements on the acquisition of real property under federally assisted programs administered by SCS.

DATE: Comments are due no later than October 31, 1983.

ADDRESS: Written comments should be addressed to: Deputy Chief for Administration, Soil Conservation Service, USDA, P.O. Box 2890, Washington, D.C. 20013 (202) 447–6297.

FOR FURTHER INFORMATION CONTACT: Wayne F. Maresch, Director, Administrative Services Division, Soil Conservation Service, USDA, P.O. Box 2890, Washington, D.C. 20013, or telephone (202) 447–5111.

SUPPLEMENTARY INFORMATION: All comments on the first proposal were considered in developing this revision. The revision sets forth only the basic requirements imposed by SCS manuals, watershed or measure plans, or grant documents or contracts. The changes agree or are correlated with, or referenced to the U.S. Department of Agriculture Uniform Federal Assistance Regulations, 7 CFR Part 3015. These changes are being made to conform with 5 U.S.C. 552, which provides that substantive rules of general application be published in the Code of Federal Regulations.

Executive Order 12291 and Regulatory Flexibility Act

This proposed rule is issued in conformance with Executive Order 12291 and Secretary's Memorandum No. 1512–1, and it is determined that this proposed rule is not a "major rule." It is determined that this rule will not have a significant effect on the economy; will not cause a major increase in costs or prices to consumers, individual industries, Federal, State, or local Government agencies, or geographic regions; and will not cause significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The revised rule imposes no new substantive requirements on programs involving technical and financial assistance in which participation is voluntary. Thus, the revised rule will not impose an unnecessary regulatory, information or compliance burden on small businesses, organizations, or governmental jurisdictions as defined in the Regulatory Flexibility Act, Pub. L. 96–354 (5 U.S.C. 601).

List of Subjects in 7 CFR Part 651

Flood prevention, Grant programs—natural resources, Soil conservation, Water resources, Administrative practice and procedure.

Dated: August 18, 1983.

Peter C. Myers,

Chief, Soil Conservation Service.

Accordingly, the Soil Conservation Service proposes to revise the table of contents and text of 7 CFR Part 651 to read as follows:

PART 651—ACQUISITION OF REAL PROPERTY UNDER FEDERALLY ASSISTED PROGRAMS

Subpart A—General

Sec.
651.1 Purpose and scope.
651.2 [Reserved.]

Subpart B—SCS Federal Financial Assistance Not Authorized for Real Property Acquisition

Sec.
651.12 Criteria for determining real property needed.
651.13 Induced flooding requirements.
651.14 Duration of real property rights.
651.10 Responsibilities of sponsors.
651.11 Responsibilities of SCS.

Subpart C—SCS Federal Financial Assistance Authorized for Real Property Acquisition

651.20 General.
651.21 Cost-sharing arrangements.
651.22 Real property rights needed.
651.23 Evidence of title.

Subpart D—Other Land Treatment Programs

651.30 Conservation operations.
651.31 Watershed Protection and Flood Prevention Program.
651.32 Emergency watershed protection.
651.33 Great Plains Conservation Program.
651.34 Rural Abandoned Mine Program.

Authority: 7 CFR 2.62.

Subpart A—General

§ 651.1 Purpose and scope.

(a) This part sets forth the regulations on real property acquisition and related actions under Federal assistance programs administered by the Soil Conservation Service (SCS). Real property acquisition includes the acquisition of real property rights and interests, water rights, mineral or other subsurface rights, and clearances and permits required by Federal, State, or local laws, ordinances and regulations.

(b) This part relates to 7 CFR Part 21 which implements the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601–4655). Also, this part relates to 7 CFR Part 3015 which implements the Uniform Federal Assistance Regulations with regard to the real property aspect of grants and cooperative agreements.

(c) The principal purpose of these published regulations is to set forth uniform basic requirements on the acquisition of real property that apply to sponsors of projects when SCS furnishes financial assistance. The term "sponsors" means an entity legally organized under state law, or an Indian tribe or tribal organization which has the authority to carry out the project.

§ 651.2 [Reserved]

Subpart B—SCS Federal Financial Assistance not Authorized for Real Property Acquisition

§ 651.10 Responsibilities of sponsors.

One or more of the project sponsors are to be responsible for acquiring real property rights and interests and taking related actions needed for the planning, investigation and survey, installation, and operation and maintenance of project measures to be installed with Federal financial assistance. This includes:

(a) Complying with all applicable Federal, State, and local laws, ordinances and regulations pertaining to the real property acquisition and project measures installation.

(b) As required by the program legislation, paying all costs associated with acquiring or failing to acquire real property and taking related actions.

(c) Submitting proposed real property documents, and proposed special provisions to be included in such instruments, to SCS for approval except for documents to be used in eminent domain or other court proceedings.

(d) Assuring and certifying to SCS before SCS financial assistance is furnished that adequate real property rights have been acquired and that other related actions have been taken.

(e) Complying with the requirements of the USDA, Farmers Home Administration, when their loans are involved in the project.

§ 651.11 Responsibilities of SCS.

(a) SCS is to determine for each project measure involving SCS financial assistance:

(1) The minimum area for which real property rights are to be acquired;

(2) The minimum interest that is needed in connection with the various features of the measures;

(3) Known existing structures and improvements that will be affected by the installation of the measure;

(4) routes of ingress and egress when needed; and

(5) Other similar physical features.

(b) This determination is to be set forth in a real property work map developed by SCS and furnished to sponsors. This map is to serve as a basis for sponsors to determine the actual real property rights needed for the project measure, and to acquire such rights.

§ 651.12 Criteria for determining real property needed.

(a) *Structural measures.* The minimum surface areas and any subsurface or other rights needed for the installation, operation and maintenance and inspection of project measures. For dams, the real property rights and interests include, but are not necessarily limited to, structural features, reservoir, spillway, and other areas, both upstream and downstream, which will be adversely affected by the changed water flow characteristics. For channels, the real property rights and interests include, but are not necessarily limited to, areas needed for the installation, inspection, design, operation and maintenance, ingress and egress, disposal and diversion of water, environmental protection features, and areas which will be adversely affected by changed streamflow or induced flooding.

(b) *Nonstructural measures.* In flood plain acquisition, the real property rights or restrictions are to be sufficient and adequate to provide a floodway or to protect the land from development, and to provide for any anticipated land use changes. Any existing structures and improvements to be relocated from the flood plain are to be identified.

§ 651.13 Induced flooding requirements.

Any structural measure installed with SCS financial assistance that may induce flooding because of changed waterflow characteristics must meet the following requirements:

(a) *Railroads.* Railroads that are to remain in use may not be flooded.

(b) *Roads.* Highways and public roads may not be flooded unless such flooding is authorized by State or local law, ordinance or other legal authority.

(c) *Dwellings.* All buildings for human habitation, including basements and related structures, may not remain below the flowage line, unless such structures are floodproofed or otherwise protected from damage.

(d) *Buildings other than dwellings.* When requested by the sponsor and approved by SCS, certain buildings and other structures may remain in the flowage area if they and their contents will not be substantially damaged by flooding, and if flooding will not cause a hazard to human life or to building contents.

(e) *Other.* Water sources such as wells or springs and burial sites such as cemeteries and private family plots may be flooded only as authorized by State and local laws, ordinances or regulations. See 7 CFR Part 656 for the regulations governing archeological resources and historical sites or monuments.

§ 651.14 Duration of real property rights.

(a) When project measures require operation and maintenance after installation, and the operation and maintenance is to be performed by someone other than the landowner, the acquired rights must extend through a reasonable period for planning, installation, and:

(1) The evaluated life of the project measure or the life of project measures that are economically evaluated as a unit; or

(2) The useful life of project measures for land conservation of land use.

(b) When project measures do not require operation or maintenance, or the operation and maintenance is to be performed by the landowner, the rights needed for the planning and installation of the measure may be obtained by permit.

(c) This section provides for minimum real property rights required by SCS. Since the useful life of the project may exceed its evaluated life, sponsors may wish to acquire real property rights for a longer period.

Subpart C—SCS Federal Financial Assistance Authorized for Real Property Acquisition

§ 651.20 General.

This subpart sets forth the additional requirements on real property acquisition when SCS financial assistance is authorized in the acqusition of real property.

§ 651.21 Cost-sharing arrangements.

(a) The amount of Federal financial assistance is to be established in a project plan. The evaluation of the property rights or interests is governed by the Uniform Relocation Assistance and Real Property Acquisition Policies Act (42 U.S.C. 4601–4655), as implemented by 7 CFR Part 21.

(b) The values determined are to be computed in accordance with the following to determine the amount of the SCS financial assistance:

(1) When rights are acquired by negotiation, the SCS share of cost is computed on the basis of the lesser of the price paid by the sponsor or the just compensation value.

(2) When rights are acquired by the eminent domain process, the SCS share of the cost is computed on the basis of the court award. However, if SCS considers the award excessive and the sponsors do not exercise any appeal rights that may be available, SCS will establish a just compensation value for payment purposes.

(3) When real property interests are donated by sponsors or non-federal third parties (other than sponsors), the in-kind values will be established as set

forth in 7 CFR Part 3015 (§§ 3015.50–30156).

(4) The real estate appraisal and review required by 7 CFR Part 21 will be cost shared at the same rate as acquisition of the real property rights.

§ 651.22 Real property rights needed.

When SCS cost sharing is authorized by program legislation for recreation or fish and wildlife purposes in a water resource improvement or development, the following real property interest requirements apply:

(a) Fee simple title is to be obtained when privately-owned land is involved.

(b) Fee simple title is preferred when non-federal public land is involved; however, perpetual easement rights are acceptable.

(c) As a minimum, easement rights are to be obtained for road rights-of-way for access.

(d) As a minimum, easement rights are to be obtained for public utilities that serve the improvement or development.

§ 651.23 Evidence of title.

SCS approval of the title evidence is required for all real property acquisitions before financial assistance may be provided.

Subpart D—Other Land Treatment Programs

§ 651.30 Conservation operations.

Land users who receive technical assistance on conservation practices are responsible for obtaining the real property rights necessary to carry out such practices.

§ 651.31 Watershed Protection and Flood Prevention Programs.

Land users are to have control of the land units to be treated for the contract period by ownership or by documented leasehold interest.

§ 651.32 Emergency watershed protection.

Sponsors are responsible for acquiring real property rights and interests needed for installation of emergency measures.

§ 651.33 Great Plains Conservation Program.

See 7 CFR Part 631.

§ 651.34 Rural Abandoned Mine Program.

See 7 CFR Part 632.

[FR Doc. 83-23742 Filed 8-29-83; 8:45 am]
BILLING CODE 3410-16-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 154

[Docket No. RM83-71-000]

Elimination of Variable Costs From Certain Natural Gas Pipeline Minimum Commodity Bill Provisions

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission proposes to amend its rules to make inoperative the portion of any minimum commodity bill provision on file in any rate schedule for the sale of natural gas which provides for the recovery of purchase gas costs, fuel costs, or other variable costs. Under the proposal, future tariffs providing for such recovery would be rejected. The proposal, if implemented, is intended (1) to prevent customers from having to pay for natural gas they do not need, (2) to enhance competition, and (3) thus, to encourage lower natural gas prices.

DATE: Comments are due on September 29, 1983.

ADDRESS: Comments must be filed with the Office of the Secretary, Room 3110, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT:
Christine P. Benagh, Office of Commissioner Richard, 825 N. Capitol Street NE., Washington, D.C. 20426, (202) 357–8383;
Wayne Guest, Allocation and Rate Design Branch, Office of Producer and Pipeline Regulation, Federal Energy Regulatory Commission, 825 N. Capitol Street NE., Washington, D.C. 20426, (202) 357–9398.

SUPPLEMENTARY INFORMATION:
Elimination of Variable Costs from Certain Natural Gas Pipeline Minimum Commodity Bill Provisions; Docket No. RM83–71–000.

Issued August 25, 1983.

I. Introduction

In order to encourage lower acquisition costs for gas supplies through competition and to ensure that natural gas purchasers are not required to pay their pipeline suppliers when certain costs are not incurred, the Federal Energy Regulatory Commission proposes to amend its rules. We intend to eliminate the purchase gas cost and all other variable costs (*i.e.*, those costs which vary with the sales levels or the level of pipeline throughput or both) from the minimum commodity bill provisions in gas tariffs of natural gas pipelines to the extent that they permit recovery of costs that are not incurred, since the imposition of such payments may constitute unjust and unreasonable rates.

II. Background

Interstate natural gas pipeline companies are entitled to a reasonable opportunity, but not a guarantee, of recovering their prudently incurred costs. One tariff provision used by many pipelines to assure recovery of some portion of costs is the minimum commodity bill. Such provisions generally require the purchaser to pay the full commodity charge for a specified percentage of contracted quantities whether or not the specified amount of gas is actually taken. Frequently, the specified minimum purchase obligation is quite high; for example, they range from 66⅔ percent to more than 90 percent of contracted quantities. To understand the Commission's concern evidenced in the present Notice of Proposed Rulemaking; some detailed background may be helpful.

A. Minimum Bills and Minimum Commodity Bills

A minimum commodity bill should be distinguished from the minimum obligation which consists of the monthly *demand* charge. Demand charges provide only for the recovery of fixed costs, *i.e.*, those costs which do not vary with the level of pipeline usage or throughput. Debt costs (principle and interest), return of and on equity, and associated income taxes are major typical elements of pipelines' fixed costs.

Since fixed costs are by definition incurred regardless of the level of customer purchases, use of a minimum charge to recover some portion of such costs may be appropriate in many instances.[1]

Variable costs by contrast are incurred in proportion to throughout or level of usage. The greatest percentage of variable costs new incurred by interstate pipelines are purchased gas costs. For example, in 1981, purchased gas costs were roughly 90 percent of all operating and maintenance expenses of all Class A and B interstate pipelines filing F.E.R.C. Form 2.[2] They also

[1] Of course, to the extent that a pipeline is effectively guaranteed recovery of all of its fixed costs—including return on equity—it may tend to lessen efforts to minimize *unit* costs by maximizing sales or transportation. *See* Tennessee Gas Pipeline Co. 21 F.E.R.C. ¶61,004 (1982).

[2] E.I.A., *Statistics of Interstate National Gas Pipeline Companies* (1982).

represented roughly 75 percent of the pipeline's total costs.

B. The Role of Minimum Commodity Bills in Ratemaking

The Federal Power Commission identified three ratemaking functions, one or more of which might justify a minimum commodity bill: [3]

- *Fixed cost recovery.* In the landmark case in which the Commission considered approval of a minimum commodity bill, it was accepted that a pipeline is entitled to recover its cost of service plus a reasonable return, comprised of prudent fixed and variable costs. The past attempts of the Commission to ensure that each customer class bears its fair cost burden were taken into account. Traditionally, the allocation of costs among customer classes has required the use of various formulae: some for example, were intended to account fairly for the fixed costs related to serving off-peak customers; [4] others were intended as pure market signals to depress demand during times of curtailment.[5] To the extent that a given formula which shifts fixed costs to the commodity component is coupled with a minimum commodity bill, the pipeline is guaranteed recovery of the amount covered by the minimum commodity bill (in addition to the recovery of the demand charge), even if sales or throughput are lower than the volumes used to design the rates.[6]
- *Equitable cost recovery.* Where a given pipeline is the sole supplier to some customers while only one of several suppliers to another customer (the "partial requirements" customer), the potential exists for the partial requirements customer to "swing" its purchases among its varying suppliers. By sharply decreasing its purchases, a partial requirements customer might force "captive" or single-supplier customers to shoulder a suddenly larger share of pipeline gas acquisition costs. A minimum commodity bill for partial requirements customers tends to discourage this by forcing these customers to pay the full commodity charge for specified volumes regardless of lower takes. When a pipeline is designed, the size, the compression, the route, and the gas purchase arrangements depend upon the customer requirements which the pipeline expects to serve. The pipeline—and the pipelines' captive full requirement customers—rely upon the representations of those customers with alternative sources of gas to shoulder their share of the cost of service. Customers who are capable of "swinging" on the system generally recognize that their willingness to bear their fair share of the fixed costs (depreciation, operation and maintenance, taxes, return, etc.) is the necessary predicate to having reliable gas service when they wish to take gas from the system.[7]
- *Take-or-pay recovery.* To the extent a pipeline is subject to take-or-pay obligations with its supplying producers, the associated carrying costs, when prudently incurred, constitute a fixed minimum obligation.[8] A minimum commodity bill might be used to assure recovery of this particular type of fixed costs and indeed might be structured so as to allocate these costs equitably among customers.[9]

The interplay of the fixed cost recovery objective and the equitable distribution of costs among pipeline customers was well articulated in a 1968 decision:[10]

> Regulation of the gas industry is basically one of costing, and more specifically the allocation of *fixed costs* among utility customers. Since most cost of service elements for transmission facilities are fixed cost elements which simultaneously serve all customers, equitable allocation of fixed costs among customers is usually accomplished by a two-part rate: a demand charge and a commodity charge. In the natural gas industry, unlike the electric industry, by and large, some of the fixed costs are rolled into the commodity charge so that customers will contribute additional amounts to the fixed costs in direct proportion to their overall use of the facilities, since in part customers with the highest use derive the greatest benefits from facilities.
>
> A partial requirements or minimum commodity billing charge serves the same cost recoupment function as the demand charge. It also protects the interests of the existing customers of a pipeline * * *. Thus, distributor customers seeking a second source of supply from a second pipeline which is reasonably available georgraphically, who can avoid partial requirements or minimum commodity billing charges, pass an unfair share of the costs of expansibility to other distributor customers not so favorably situated geographically. If an existing customer transfers load to another supplier, its share of the fixed costs must then be borne by the remaining customers of the original suppliers * * *.
>
> A partial requirements [*i.e.*, minimum commodity bill] schedule is the regulatory mechanism for achieving a public interest compromise between the objective of cheaper gas costs to particular customers, and the conflicting objective of cheap gas costs to all customers.

C. Minimum Commodity Bills and the Overrecovery of Variable Costs

Most minimum commodity provisions do not include a make-up provision.[11] In this respect they differ pointedly from typical producer-to-pipeline take-or-pay provisions, where a five year make-up provision is the norm.

The absence of a make-up period creates a serious possibility of overrecovery by the pipeline. Such overrecovery would result, for example, when the supplying pipeline received minimum commodity bill payments from its customers (which include full payment for purchased gas costs) and the pipeline itself was not required to either purchase the gas volumes or make take-or-pay prepayments.[12]

It was precisely this situation which led the Commission just two years ago to order one pipeline to include a one-year make-up provision in all of its resale tariffs.[13] The Commission explained that: [14]

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[3] Atlantic Seaboard Corp., 38 F.P.C. 91, 95 (1967). (*citing* Lynchburg Gas Co. v. F.P.C., 336 F.2d 942 (D.C. Cir. 1964), *aff'd sub nom.* Atlantic Seaboard Corp. v. F.P.C., 404 F.2d 1268 (D.C. Cir. 1968). It should be noted that these three factors were not, in fact, established in *Lynchburg* nor found to exist by the Commission in *Seaboard.*

[4] Atlantic Seaboard Corp., 11 F.P.C. 43 (1952); Natural Gas Co., 11 F.P.C. 123 (1952), *aff'd sub nom.* State Corp. Comm. of Kansas v. F.P.C., 208 F.2d 660 (8th Cir. 1953), *cert. denied,* 346 U.S. 922 (1954).

[5] United Gas Pipe Line Co., 50 F.P.C. 1348 (1973), *reh. denied,* 51 F.P.C. 1014 (1974), *aff's sub nom.* Consolidated Gas Supply Corp. v. F.P.C. 520 F.2d 1176 (D.C. Cir. 1975).

[6] In recent years, project financing has assured that lenders will recover the costs of constructing and operating new transportation pipelines, but not necessarily in the commodity component. *See* Ozark Gas Transmission Sys., 16 F.E.R.C. ¶ 61,099 at 61,195197, *reh. denied,* 17 F.E.R.C. ¶ 61,024 (1981); Trailblazer Pipeline Co., 18 F.E.R.C. ¶ 61,244 (1982).

[7] The anticompetitive aspects of this aspect of minimum commodity bills is discussed by Judge Fahy in *Lynchburg Gas Co. v. F.P.C.,* 336 F.2d 942, 946–947 (D.C. Cir. 1964).

[8] *See* 18 CFR Part 105 (1983).

[9] While discussed by the Commission in *Atlantic Seaboard* as a separate factor which might justify a minimum commodity bill, the existence of producer take-or-pay prepayment obligations, appears as just one particular example of a fixed cost which must be equitably recovered among customers. 38 F.P.C. 91, 95 (1967).

[10] *Id.* at 98–99. (Commissioner Carver, dissenting, arguing against the "net market loss test" then in vogue for analyzing when to permit interpipeline competition and in favor of rate design changes).

[11] *Cf.* Great Lakes Gas Transmission Co., 15 F.E.R.C. ¶61,161 (1981).

[12] Indeed for jurisdictional contracts, a five year make-up provision was required by the Commission regulations. 18 CFR § 154.109 (1982). The absence of such a provision could result in the disallowance of recovery of any carrying costs associated with such take-or-pay costs.

[13] *Great Lakes Gas Transmission Company,* 15 F.E.R.C. ¶61,161 (1981).

[14] *Id.* at 61,364–365.

A sale for resale minimum bill provision, like the transportation service minimum bill provision, serves to limit a pipeline's underrecovery of capital or fixed, costs. However, the Commission believes that due to the inclusion of the cost of purchased gas in the computation of Great Lakes' resale service minimum bill, there is a possibility of overrecovery of costs. The concern regarding purchased gas costs arises because Great Lakes is able to reduce its takes of gas from TransCanada without triggering the minimum bill provision in its Canadian contracts. Thus, Great Lakes did not incur any purchased gas costs as a result of Michigan Consolidated taking less than 75 percent of the contract quantity.

There, the Commission directed the insertion of a make-up provision to prevent unjustified overpayments to the pipeline. While requiring such a make-up provision on a generic basis might be one alternative to the instant Notice, the Commission believes that removing variable costs altogether from minimum commodity bill provisions may be preferable. This is because current market conditions may continue for some time so that establishing a one-year or even two-year make-up period might be of little utility or benefit. Furthermore, while a regulatory requirement for some make-up provision may reduce the potential for an unjust recovery of variable costs, it may not eliminate it in today's market. Moreover, the question remains of whether there is any sound regulatory purpose for allowing pipelines to receive payments through a minimum commodity bill for costs which are not incurred. To the contrary, inclusion of variable costs in these provisions may unjustifiably prevent customers subject to them from obtaining gas from cheaper sources. The Commission requests comments on the above issues and directs commenters to respond with specificity regarding any date, relevant to their companies or suppliers, which underlie their positions. The weight given by the Commission to comments will reflect the supporting factual data submitted with such comments.

D. Minimum Commodity Bills Today

The shrinking gas markets of the present have been created by a combination of factors: natural gas price increases, increased availability and declining prices of oil supplies, economic recession, conservation and fuel switching. The Natural Gas Policy Act of 1978, which permitted most natural gas prices to rise substantially spurred increased drilling activity. The NGPA also increased the availability of gas supplies to the interstate market by enhancing the movement into that market of surplus higher-priced supplies from the intrastate markets.

The rapidly increasing cost was also pushed by the need to acquire more supplies. The life of reserves attached to most pipelines is relatively short, and the pipelines consider it imperative to maintain aggressive gas acquisition programs in order that future markets might be served. In addition, the 1970s were marked by severe natural gas shortages so that the competition for newly available supplies was often fierce.

It should also be remembered that the debt instruments of many pipelines require the maintenance of certain reserves-to-production (R/P) ratios. If a pipeline's R/P ratio declines, the company may risk accelerated debt repayment or may be unable to arrange financing which may be necessary to attach new supplies or assure system reliability. These factors influenced some companies to seek new supplies at ever-increasing prices. At the same time, the companies have negotiated contracts for the new, expensive gas which committed them to high take-or-pay obligations. The consequence of these actions has been greater proportional takes by the pipeline of higher-priced supplies with an attendant increase in the cost of overall supplies.

At the same time that the cost of gas was being driven up, the demand for natural gas was softening. Industrial consumption also declined due to conservation and the installation of more fuel efficient equipment. Residential gas use fell to roughly 15 percent below what it was preceding the 1973 Arab oil embargo. Other factors were also at work: the economic recession slashed industrial demand and decreased the ability of consumers to absorb the recent price increases. Most recently, the dramatic drop in oil prices has made fuel oil an attractive alternative to natural gas for end-users with dual fuel capacity. In today's market, the inclusion of gas costs in a minimum commodity bill is a serious obstacle to the transmission of market signals, since the minimum commodity bill prevents purchasers from lowering their takes in response to lower demand—an action which would lower prices, especially if the purchaser has more than one supplier and is free to swing to the lowest priced one.

This situation is a significant change from the expanding markets of the 1940s and 1950s when most minimum commodity bill provisions were first incorporated into pipeline rate schedules. Three distinctions are of particular significance. First minimum commodity bills were historically used to insure the debt service for new pipeline construction as the markets were developed, while today a more mature system is leading to little expansion. Second, the cost of purchased gas has increased substantially, both in absolute terms and as a percentage of the delivered cost of gas service. For example, the average wellhead price of gas in 1955 was 10 cents per Mcf, or only about 40 percent of the delivered cost to the city gate.[15] By April, 1983, the average purchase gas cost of the major Class A and B interstate natural gas pipelines was $3.08 per Mcf or almost 75 percent of the average city-gate price charged by these pipelines.[16] Thus, inclusion of gas costs in a minimum commodity bill imposed a far smaller burden on customers during the period when the provisions were first introduced than at present.

Third, pipelines generally faced more risk regarding the recovery of their gas costs before the introductions of Purchased Gas Adjustment (PGA) clauses in the early 1970s. PGAs provide pipelines with a virtual guarantee of recovering their purchased gas costs via the PGA tracking mechanism. Until the early 1970s, PGAs were not available to pipelines. Before implementation of the PGAs pipelines made estimates of the gas costs they expected to incur in the future in determining their rates. As a result, pipelines faced the risk that actual gas costs during the period in which rates were in effect might differ from the estimated cost that was allowed to be recovered in the rates. Moreover, as most pipelines recovered substantial amounts of fixed costs in their commodity charges, recovery of these costs were also subject to greater risk.

The inclusion of minimum commodity bills in many approved tariffs on file with the Commission does not reflect any overriding public policy favoring their universal use. The burden imposed by such provisions was far less when purchased gas costs constituted a far smaller portion of total pipeline costs. In view of these considerations and the potential for overrecovery, the Commission now believes that it may no longer be in the public interest to allow any minimum commodity bill which requires a customer to pay its supplying for variable costs which are not in fact incurred. Indeed, on one system, when competitive forces were felt on at least one pipeline system, triggering

[15] *AGA Gas Facts*, 119 and 124 (1981).

[16] E.I.A., *Summary of F.E.R.C. Form 11* (April, 1983).

challenges to such a provision on anticompetitive grounds, the provision was found wanting.[17]

As stated by Judge Levanthal in *Atlantic Seaboard:*

> Problems of inter-pipeline competition are emerging as important substantive questions requiring application of the Commission's expertise. The considerations are complex and competing. The high fixed costs and immobility of pipeline facilities are economic characteristics of the natural gas industry precluding the sort of competition expected as a norm elsewhere in the economy. However, the Commission may properly look to the existence of some competition, even if entry is limited by legal barriers and regulatory necessity, as an important and effective tool in increasing economic efficiency and quality of service.
>
> The point is, however, that a policy favoring effective competition necessarily brings with it the reality of economic pinch, present or threatened.[18]

Accordingly, the Commission is proposing to modify its regulations to preclude all existing and future minimum commodity bills from recovering variable cost components which are not incurred.[19] The Commission, therefore, is issuing this notice to determine whether the tariffs of natural gas companies that are on file with the Commission need to be modified, under section 5 of the Natural Gas Act, to eliminate from any minimum commodity bill provision all variable costs which are not incurred and to prohibit the inclusion of such variable costs in the future, under section 4 of the Natural Gas Act, since such costs in such provisions may be unjust and unreasonable. The Commission contemplates that, to the extent that minimum bills also assure recovery of a portion of the fixed cost in the commodity rate, the minimum commodity bills should continue to assure such recovery. However, we intend to explore here, and invite comments upon, the extent to which pipelines should be assured full recovery of fixed costs through minimum bill provisions. As capital structures have become less leveraged, the minimum bill provisions may be assuring greater return on equity. The Commission also invites comment on the role of make-up provisions in minimum commodity bills.

[17] *See* Atlantic Seaborad Corp. v. F.P.C. 404 F.2d 1268 (D.C. Cir. 1968).

[18] *Id.* at 1271–72 (footnote deleted).

[19] While the Commission is inclined to consider the carrying costs on pipeline-to-producer take-or-pay prepayment obligations as a fixed cost, we note that there are differences between take-or-pay costs and other fixed costs that may merit different ratemaking implications regarding their recovery through a minimum commodity bill.

III. The Proposed Rule

Pursuant to sections 4, 5, and 16, of the Natural Gas Act, the Commission proposes to amend its rules and regulations prospectively to add a new § 154.111.

The proposed section states that on or after October 30, 1983, any portion of minimum commodity bill provision of any rate schedule for the sale of natural gas which provides for the recovery of purchase gas costs, fuel costs, or other variable costs, are inoperative and of no effect at law to the extent such costs are not incurred in rendering service. On or after that date, any rate schedule which is filed providing for such recovery will be rejected. At this time the Commission contemplates that a final rule in this docket would: (1) Apply to all minimum commodity bill provisions in natural gas tariffs on file with this Commission on the effective date of the rule; and (2) control all cases pending before the Commission in which and to the extent that a minimum commodity bill is at issue.

We do not at this time address the minimum bill provisions of transportation contracts and rate schedules because they respond to particular circumstances. However, we invite comments as to whether these minimum bill provisions should also be precluded from recovering variable costs. (Such comments should be submitted as a separate document in this docket and titled to indicate they relate to transportation). The Commission is aware that the proposed rule does not provide relief in those cases in which the terms of the project financing stand in the place of the variable cost component of a minimum commodity bill. (To date, project financing has been approved by us in cases of pure transportation systems.[20] The Commission invites comment on the issue of whether some mechanism similar in effect to this proposal should be applied in cases of the project financed pipelines, and, if so, suggestions for the structure of such a mechanism. (These comments should also be filed as a separate document in this docket and titled to indicate that they relate to project financing.)

IV. Regulatory Flexibility Act Certification

Pursuant to section 605 of the Regulatory Flexibility Act (5 U.S.C. 601–612 (Supp. V 1980)), the Commission finds that the provisions of the Act do not apply to this rulemaking since there is no "signficant economic impact on a substantial number of small entities." If promulgated, this rulemaking would affect the rate format of natural gas pipelines who file rates and tariffs as natural gas companies under the Natural Gas Act. The format proposed here would not directly effect the recovery of variable costs actually incurred; it merely serves to deny recovery of these costs through a specific rate clause. The costs which may not be recovered through the minimum commodity bill clause may still be recoverable through other devices. In view of the indirect impact of the change proposed here, the Commission sees no basis for a finding of "significant economic impact," and so certifies.

[20] Ozark Gas Transmission Sys., 16 F.E.R.C. ¶61,099 (1981); Trailblazer Pipeline Co., 18 F.E.R.C. ¶61,244 (1982).

V. Public Comment Procedure

The Commission invites interested persons to submit written data, views, and other information concerning matters set out in this Notice. All comments should be submitted to the Secretary, Federal Energy Regulatory Commission, Room 3110, 825 North Capitol Street NE., Washington, D.C. 20426, and should refer to Docket No. RM83–71–000 (Phase II). An original and 14 copies must be filed. Comments must be received by the Commission no later than September 29, 1983.

All comments will be placed in the Commission's public file and will be available for public inspection during regular business hours at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426.

(Natural Gas Act, 15 U.S.C. 717–717w (1976))

List of Subjects in 18 CFR Part 154

Natural gas, Reporting and recordkeeping requirements.

In consideration of the foregoing, the Commission proposes to amend Part 154, Title 18, Chapter 1, Code of Federal Regulations as set forth below.

By direction of the Commission.

Lois D. Cashell,

Acting Secretary.

PART 154—RATE SCHEDULES AND TARIFFS

1. The table of contents is amended by adding a new § 154.111 to read as follows:

* * * * *

Sec.

154.111 Limitations on provisions in rate schedules and tariffs relating to minimum bills.

* * * * *

2. A new § 154.111 is added to read as follows:

§ 154.111 Limitations on provisions in rate schedules and tariffs relating to minimum bills.

On or after October 30, 1983, any portion of any minimum commodity bill provision of any rate schedule for the sale of natural gas which provides for the recovery of purchase gas costs, fuel costs, or other variable costs which are not incurred in providing natural gas service, are inoperative and of no effect at law. Any rate schedule, filed on or after October 30, 1983, which contains a minimum commodity bill provision which provides for the recovery of purchase gas costs, fuel costs, or other variable costs, shall be rejected to the extent that it provides for the recovery of costs which are not actually incurred in rendering service.

[FR Doc. 83-23668 Filed 8-29-83; 8:45 am]
BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 184

[Docket No. 82N-0269]

Wheat Gluten, Corn Gluten, and Zein; Proposed Affirmation of GRAS Status; Extension of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA) is extending the period for submitting comments on its proposal to affirm that wheat gluten, corn gluten, and zein are generally recognized as safe (GRAS) as direct human food ingredients. The International Wheat Gluten Association asked for the extension, and FDA is granting it.

DATE: Comments by October 12, 1983.

ADDRESS: Written comments to the Dockets Managemnet Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Leo F. Mansor, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-8950.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 12, 1983 (48 FR 31887), FDA published a proposal to affirm that wheat gluten, corn gluten, and zein are GRAS as direct human food ingredients. FDA asked for comments by September 12, 1983.

By letter dated August 2, 1983, the International Wheat Gluten Association (IWGA), on behalf of 17 major wheat gluten-producing members throughout the world, asked FDA to extend the comment period by 30 days. The extension will allow time for the IWGA's members to discuss the subject at their next regular quarterly Technical Committee meeting to be held on September 12-13, 1983, and to prepare a formal response.

After carefully evaluating the request, FDA has decided to grant this very brief extension. FDA recognizes the significance of the issues involved in this matter and wishes to ensure that all interested persons have a fair amount of time for comment. Therefore, FDA has concluded that the comment period should be extended an additional 30 days.

Interested persons may, on or before October 12, 1983, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 24, 1983.

William R. Clark,

Acting Associate Director for Regulatory Affairs.

[FR Doc. 83-23705 Filed 8-29-83; 8:45 am]
BILLING CODE 4160-01-M

21 CFR Part 341

[Docket No. 76N-052B]

Cold, Cough, Allergy, Bronchodilator and Antiasthmatic Drug Products for Over-the-Counter Human Use; Tentative Final Monograph for OTC Bronchodilator Drug Products; and Reopening of Administrative Record

AGENCY: Food and Drug Administration.

ACTION: Proposed rule; reopening of administrative record.

SUMMARY: The Food and Drug Administration (FDA) is reopening the administrative record for over-the-counter (OTC) bronchodilator drug products to accept comments that have been filed with the Dockets Management Branch, FDA, since the date that the administrative record officially closed and to include the results of a recent advisory committee meeting. FDA is also reopening the administrative record for the filing of additional comments on the OTC marketing of metaproterenol sulfate metered-dose inhaler products.

DATE: Writtern comments by October 31, 1983.

ADDRESS: Comments are on file in the Dockets Management Branch (HFA-205), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, where additional written comments may be submitted.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, National Center for Drugs and Biologics (HFN-510), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4960.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 26, 1982 (47 FR 47520), FDA published a notice of proposed rulemaking in the form of a tentative final monograph that would establish conditions under which OTC bronchodilator drugs are generally recognized as safe and effective and not misbranded. In that document, FDA proposed OTC marketing of metaproterenol sulfate metered-dose inhaler products. Before the proposal, metaproterenol sulfate had been marketed in that dosage form as a prescription drug only.

At the time FDA proposed OTC marketing of metaproterenol sulfate metered-dose inhaler products, the agency believed that the drug was as safe but more effective than currently available OTC epinephrine products. For this reason, the agency concluded that the conversion of metaproterenol sulfate metered-dose inhaler products to OTC status would improve the overall quality of the OTC drug therapy available to persons suffering from asthma. The agency also concluded that it would be in the interest of the public health for this improvement to be effected immediately, rather than awaiting publication of a final monograph for OTC bronchodilator drugs, an event that might not occur for several years.

After the comment period on this proposal closed on December 27, 1982, two firms commenced the OTC marketing of metaproterenol sulfate in a metered-dose inhaler. Subsequently, FDA received many letters questioning the agency's decision to allow this drug to be marketed OTC. These letters criticized both the decision and the agency's failure to await comment, or seek the advice of its appropriate advisory committee, before allowing the decision to take effect.

In response to these criticisms, FDA scheduled a meeting of its Pulmonary-Allergy Drugs Advisory Committee to present the issue of the OTC marketing of metaproterenol sulfate. The advisory committee met on May 13. Presentations were made by FDA staff responsible for the decision, by several of the principal critics of the decision, by several proponents of the decision, and by representatives of one of the marketing firms, also in favor of the decision. Following these presentations, the advisory committee deliberated and, by a vote of 4 to 3, recommended to FDA that it rescind its decision to permit the OTC marketing of metaproterenol sulfate metered-dose inhaler. In the **Federal Register** of June 3, 1983 (48 FR 24925) the agency announced that metaproterenol sulfate in a metered-dose inhaler for use as a bronchodilator may not be marketed OTC at this time.

FDA has on occasion received comments bearing on a proposed rule after the closing of the administrative record. Under § 330.10(a)(10)(iii) of the procedural regulations for OTC drugs (21 CFR 330.10(a)(10)(iii)), the administrative record closes at the end of the comment period specified in the publication of the proposed rule in the **Federal Register**. Following publication of the proposed rule on OTC bronchodilator drug products, the administrative record for the submission of comments and objections closed on December 27, 1982. As provided in § 330.10(a)(10)(iii), the letters received after December 27, 1982, as well as the results of the May 13 advisory committee meeting, could not be included in the administrative record unless the Commissioner of Food and Drugs reopened the administrative record. Because these letters and the advisory committee's recommendation were part of the basis for the agency's decision to rescind the OTC marketing status of metaproterenol sulfate in a metered-dose inhaler, and because the letters and the advisory committee proceedings also contain a number of comments on epinephrine metered-dose inhaler and on metaproterenol sulfate tablets and syrup, the Commissioner is reopening the administrative record to include the letters and the minutes and transcripts of the advisory committee meeting in the record for agency consideration prior to the publication of the final rule on OTC bronchodilator drug products.

At this time, the agency is also reopening the administrative record for OTC bronchodilator drug products to accept comments relating only to the issue of the OTC marketing of metered-dose inhaler products containing metaproterenol sulfate. Additional comments on this subject only may be submitted for 60 days following this reopening of the administrative record.

The administrative record has been open for the limited purpose of allowing the submission of new data demonstrating the safety and effectiveness of conditions not classified in Category I since publication of the proposed rule for OTC bronchodilator drug products (October 26, 1982). The agency advises that the dates identified in the proposed rule (47 FR 47520) for the submission of new data by October 26, 1983, and comments on the new data by December 26, 1983, are not affected by the 60-day comment period provided for in this document.

This notice serves to inform interested persons of the existence of letters containing comments, objections, data, and information on metaproterenol sulfate metered-dose inhaler products; their availability for review at the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday; and to provide for the filing of additional written comments by October 31, 1983 on the OTC marketing of metaproterenol sulfate metered-dose inhaler products. Three copies of all comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document.

Dated: August 24, 1983.

William R. Clark,

Acting Associate Director for Regulatory Affairs.

[FR Doc. 83-23706 Filed 8-29-83; 8:45 am]
BILLING CODE 4160-01-M

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21 CFR Part 680

[Docket No. 78N-0172]

Allergenic Products; Proposed Limit of Maximum Volume in Multiple-Dose Containers; Withdrawal of Proposed Rule

AGENCY: Food and Drug Administration.

ACTION: Withdrawal of proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing a proposal that would have limited the maximum volume of Allergenic Products contained in multiple-dose containers to 30 milliliters (mL). This regulation was proposed with the intent of reducing the possibility of product contamination and to be consistent with recommendations in the United States Pharmacopeia, Nineteenth Revision ("U.S.P." XIX) regarding maximum volume of drugs in multiple-dose containers. The proposal is being withdrawn because data made available to the agency after publication of the proposal demonstrate no relationship between contamination and the volume of allergenic material in a container.

DATE: Comments by October 31, 1983.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Rada Proehl, National Center for Drugs and Biologics (HFN-813), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301-443-1306.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 14, 1978 (43 FR 30302), FDA proposed to amend § 680.2 (21 CFR 680.2) of the biologics regulations to limit the permitted maximum volume of Allergenic Products in multiple-dose containers to 30 mL. Multiple-dose containers are designed to permit the withdrawal of successive portions of the contents without affecting the strength, quality, or purity of the remaining portion. However, because multiple-dose containers may be entered several times, there is the potential danger of contamination. It would be expected that the smaller the volume of product in a container, the fewer times it would be entered, thereby minimizing the chance of introducing and exposing the product to environmental contaminants. Because there are no existing maximum volume requirements for Allergenic Products, FDA proposed that the volume of Allergenic Products in multiple-dose containers be limited to 30 mL. In addition to reducing the possibility of product contamination, the proposed amendment would have provided consistency between the biologics regulations and the recommendations in "U.S.P." XIX regarding maximum volume of drugs in multiple-dose containers which had not been applied to allergenic biological drugs.

In response to the proposal, 78 comments were received. The consensus among the comments is that there is a lack of evidence to show that larger than 30-mL containers of Allergenic Products present more risks than 30-mL containers if proper precautions are taken each time the container is entered. As expressed by one comment, "Contamination of the multidose container is a function of the care and preparation with which the user

operates." The comments also said that the cost of providing allergy medical care could only be increased as a result of the proposed limitation of container size to 30 mL. Contributing to this cost increase are the more expensive packing and shipping for smaller containers, combined with the need for increased refrigerated storage, space, e.g., two 30-mL vials occupy more space than one 50 or 60-mL vial. As additional supportive argument against requiring a maximum volume limitation of 30 mL for containers of allergenic extracts, many of the comments said most allergists buy large extract containers to be used mainly as stock containers for extraction and dilution purposes and rarely to be used as multiple-dose containers. Accordingly, the contamination risk is diminshed because of infrequent entry into the stock container.

Since the July 14, 1978 publication, FDA has reviewed data that were not previously available concerning the sterility of Allergenic Products in multiple-dose containers that demonstrate no relationship between contamination and volume of material in a container. These data were not available for public display at the time of the July 14, 1978 **Federal Register** publication. The agency believes it desirable, although not legally required, to receive public comments on these data. Accordingly, FDA has placed the documents containing the data on file for public review in the Dockets Management Branch, FDA, under Docket No. 78N-0172 and will accept comments on them until October 31, 1983.

All comments received on these data will become part of the administrative record for this matter and will be placed on file for public review in the Dockets Mangement Branch (address above) under Docket No. 78N-0172.

FDA will review all the comments received on these data and any other data on this issue that become available. But FDA will publish a reproposal only if comments received on these data or new data warrant it.

List of Subjects in 21 CFR Part 680

Biologics, Blood.

PART 680—ADDITIONAL STANDARDS FOR MISCELLANEOUS PRODUCTS

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 501, 510, 701, 704, 52 Stat. 1049–1050 as amended, 1055–1056 as amended, 67 Stat. 477 as amended, 76 Stat. 794 as amended (21 U.S.C. 351, 360, 371, 374)), the Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)), and under 21 CFR 5.11 (see 47 FR 16010; April 14, 1982), the proposed amendment appearing at page 30302 in the **Federal Register** of July 14, 1978, to add new paragraph (e) to § 680.2 *Manufacture, of allergenic products* is withdrawn.

Dated: August 19, 1983.

Mark Novitch,

Deputy Commissioner of Food and Drugs.

Margaret M. Heckler,

Secretary of Health and Human Services.

[FR Doc. 83-23711 Filed 8-29-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 161

[CGO 79-131]

U.S./Canadian Cooperative Vessel Traffic Management System

Correction

In FR Doc. 83-22866, beginning on page 37433, in the issue of Thursday, August 18, 1983, make the following corrections:

1. On page 37435, in the third column, in § 161.202(a), in the first line "or less" should read "of less".

2. On page 37436, in the first column, in § 161.206(b), in the third line, "Transportation" should read "Transport"; in the second column, in the same section, in the fifth line from the top "Van couver" should read "Vancouver".

3. On page 37436, in the second column, in § 161.208(a), in the fifth line, "procedure provides" should read "procedure for use in U.S. waters if he is satisfied that such other procedure provides".

4. Also on page 37436, in the second column, in § 161.214, in the last line of the table "Van Couver" should read "Vancouver".

5. On page 37438, in the third column, in § 161.266(a), in the third line "51.3" should read "53.3".

BILLING CODE 1505-10-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-300076; PH-FRL 2424-4]

Sulfuric Acid; Proposed Exemptions From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rule.

SUMMARY: This document proposes that sulfuric acid that meets the Food Chemicals Codex specifications be exempted from the requirement of a tolerance when used as an inert ingredient pH control agent in pesticide formulations. This proposed regulation was requested by Dow Corning Corporation.

DATE: Written comments must be received on or before September 30, 1983.

ADDRESS: Written comments may be submitted by mail to: Registration Support and Emergency Response Branch, Registration Division (TS-767C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person, deliver comments to: Emergeny Response and Minor Use Section, Registration Division (TS-767C), Environmental Protection Agency, Rm. 716D, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: N. Bhushan Mandava (703-557-7700).

SUPPLEMENTARY INFORMATION: At the request of Dow Corning Corp., the Administrator proposes to amend 40 CFR 180.1001(c) by establishing an exemption from the requirement of a tolerance for sulfuric acid that meets the Food Chemical Codex specifications and is used as an inert ingredient pH control agent.

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as water; baits such as sugar, starches, and meat scraps; dust carriers such as talc and clay; fillers; wetting and spreading agents; propellants in aerosol dispensers; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

Preambles to proposed rulemaking documents of this nature include the common or chemical name of the substance under consideration, the name and address of the firm making the request for the exemption, and toxicological and other scientific bases used in arriving at a conclusion of safety in support of the exemption.

Name of inert ingredient: Sulfuric acid.

Name and address of requestor: Dow Corning Corporation, Midland, Michigan 48640.

Bases for approval—1. Sulfuric acid has been recently affirmed as generally

recognized as safe (GRAS), 21 CFR 184.1095, as a direct food additive.

2. Sulfuric acid is exempted from the requirement of a tolerance under 40 CFR 180.1018 when used as a desiccant on potato vines and garlic.

Based on the above information and review of its use, it has been found that when used in accordance with good agricultural practices this ingredient is useful and does not pose a hazard to humans or the environment. It is concluded, therefore, that the proposed amendment to 40 CFR Part 180 will protect the public health, and it is proposed that the regulation be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide Fungicide, and Rodenticide Act (FIFRA) as amended that contains this inert ingredient may request within 30 days after publication of this document in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating both the subject and the petition and document control number, [OPP–300076]. All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the Registration Support and Emergency Response Branch at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility ACt (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: August 23, 1983.

Robert Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, it is proposed that 40 CFR 180.1001(c) be amended by adding and alphabetically inserting the inert ingredient as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(c) * * *

Inert ingredients	Limits	Uses
* * * * *		
Sulfur acid (CAS Registry No. 7664–93–9) that meets the Food Chemicals Codex specifications.	0.1% of pesticide formulation.	pH control agent.
* * * * *		

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[FR Doc. 83–23661 Filed 8–29–83; 8:45 a.m.]

BILLING CODE 6560–50

40 CFR Part 721

[OPTS–50504; BH–FRL 2387–7]

Toxic Substances; 1,2-Benzenediamine, 4–Ethoxy, Sulfate; Proposed Determination of Significant New Uses BH–FRL 2387–7]

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a Significant New Use Rule (SNUR) under section 5(a)(2) of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2604(a)(2), to require persons to notify EPA at least 90 days before manufacturing, importing, or processing a substance for a "significant new use." EPA is proposing that manufacture, import, or processing in powder or dry solid form of a substance known as 1,2-benzenediamine, 4-ethoxy, sulfate be designated as a "significant new use." The substance was the subject of premanufacture notice (PMN) P–83–105. EPA believes that the new uses defined in this rule may present a risk to health.

DATES: Written comments should be submitted by October 31, 1983.

ADDRESS: Since some comments are expected to contain confidential business information, all comments should be sent in triplicate to: Document Control Officer (TS–793), Office of Toxic Substances, Environmental Protection Agency, Rm. E–108, 401 M St., SW., Washington, D.C. 20460.

Comments should include the docket control number OPTS *50504*. Comments received on this proposal will be available for reviewing and copying from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays, in Rm. E–107, at the address given above.

FOR FURTHER INFORMATION CONTACT: Jack P. McCarthy, Director, TSCA Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. Toll free: (800–424–9065). In Washington, D.C.: (554–1404). Outside the USA: (Operator 202–554–1404).

SUPPLEMENTARY INFORMATION: Section 5(a)(2) of the Toxic Substances Control Act authorizes EPA to determine that a use of a chemical substance is a significant new use. EPA must make this determination by rule, after considering all relevant factors, including those listed in section 5(a)(2). Once a use is determined to be a significant new use, persons must, under Section 5(a)(1)(B), submit a notice to EPA at least 90 days before they manufacture, import, or process the substance for that use. Such a notice is generally subject to the same statutory requirements and procedures as a PMN submitted under Section 5(a)(1)(A). In particular, these include the information submission requirements of section 5(d)(1) and section 5(b), certain exemptions authorized by section 5(h), and the regulatory authorities of section 5(e) and section 5(f). If EPA does not take regulatory action under sections 5, 6 or 7 to control a substance on which it has received a SNUR notice, section 5(g) requires the Agency to explain its reasons for not taking action in the **Federal Register**. Substances covered by proposed or final SNURs are subject to the export reporting requirements of TACA section 12(b). EPA regulations interpreting section 12(b) requirements appear at 40 CFR Part 707.

I. PMN Background

The chemical substance covered by this proposed rule is 1,2-benzenediamine, 4-ethoxy, sulfate, which was the subject of PMN P–83–105.

On November 8, 1982, EPA received the PMN from American Hoechst Corporation. EPA announced receipt of the PMN in the **Federal Register** of November 19, 1982 (47 FR 52223). The notice submitter claimed the proposed import volume of the substance as confidential business information. The notice submitter stated in the PMN that the substance will be used as a dye intermediate. The PMN submission did

not contain any test data on the substance.

The agency is concerned that P–83–105 may possess oncogenic potential following inhalation or ingestion, including swallowing of inhaled particles. This concern is based on positive oncogenicity findings in animal studies with four structural analogues of the substance (*o*-phenylenediamine [CAS 95–54–5]; 4-chloro-*o*-phenylenediamine (CAS 95–83–0); 2, 4-diaminoanisole (CAS 615–05–4); and 3-amino-4ethoxyacetanilide (CAS 17026–812)). The four analogues, as well as the PMN substance, are all derivatives of phenylene diamine. For convenience, the analogues will be referred to by their common names as presented here. The PMN substance will be referred to by its PMN number.

P–83–105 is expected to be readily absorbed in the lungs and in the intestine, since it is neutralized at the pH values found in these tissues to its un-ionized *o*-phenylenediamine parent, a low molecular weight diamine with solubility properties which favor absorption. Absorption in the stomach or penetration of the skin would not be expected, as the substance would remain ionized in the acidic environment of the stomach or on the surface of the skin, and such ionized species are not absorbed by these routes.

There are no known chronic toxicity or oncogenicity test data on the intact substance. However, results from studies with *o*-phenylenediamine and 4-chloro-*o*-phenylenediamine, the two closest structural analogues, show that the *o*-phenylenediamine moiety has oncogenic potential. Additional substituents on *o*-phenylenediamine do not appear to mitigate its oncogenic potential as evidenced by oncogenicity studies on other analogues. Those studies, however, suggest that various substituents may alter the types of tumor induced or the malignancy of the tumor induced. In summary, the data support the proposition that P–83–105 is likely to have oncogenic potential. Results from these studies are summarized below.

Male rats dosed with dietary concentrations of 2,000 mg/kg and 4,000 mg/kg of *o*-phenylenediamine for 18 months and female mice dosed with dietary concentrations of 6,872 mg/kg and 13,743 mg/kg of *o*-phenylenediamine showed a statistically significant increase in hepatomas.

When male and female rats were dosed with dietary concentrations of 5,000 mg/kg and 10,000 mg/kg of 4-chloro-*o*-phenylenediamine, and male and female mice were dosed with dietary concentrations of 7,000 mg/kg and 14,000 mg/kg of 4-chloro-*o*-phenylenediamine, tumors of the urinary bladder in both sexes of rats and hepatocellular carcinomas in both sexes of mice resulted. Neoplastic nodules in the liver and squamous cell papillomas and squamous cell carcinomas of the forestomach may also have been related to administration of the chemical.

When rats were dosed with 2, 4-diaminoanisole sulfate in dietary concentrations of 5,000 mg/kg and 1,200 mg/kg and mice were dosed with dietary concentrations of 2,400 mg/kg and 1,200 mg/kg for 78 weeks, malignant tumors of the skin and its associated glands and malignant thyroid tumors were seen in the rats. Thyroid tumors were seen in the mice.

Rats dosed with 3-amino-4-ethoxyacetanilide for 18 weeks with dietary concentrations of 4,000 mg/kg and 15,000 mg/kg, however, showed no statistically significant neoplastic lesions. On the other hand, mice dosed for 78 weeks with dietary concentrations of 4,000 mg/kg and 8,000 mg/kg showed statistically significant incidence of follicullar cell carcinomas of the thyroid.

Based on the oncogenicity information provided above and the structural similarity of P–83–105 to these structural analogues, EPA believes that the oncogenic potential of P–83–105 merits Agency review of a use if the substance may result in inhalation or ingestion of the substance.

In EPA's review of the PMN exposures, the Agency determined that human exposure would be negligible because of the compound's physical state. P–83–105 will be imported in drums as a water wet solid. The greatest human exposure to the substance would occur during processing. According to the PMN submission, three processing workers may be exposed for about 70 person hours per year during reactor charging operations. Reactor charging will involve either shoveling or dumping the substance from the drums in which it was imported into a hopper. The hopper then feeds the substance into the reactor.

During this operation, inhalation exposure (and any resulting ingestion) will be negligible because the substance, as a water wet solid, will not dust during manual transfers. Dermal exposure may result from splashing or spilling of the water wet solid during shovelling or dumping activities. Thus, the only expected major route of exposure to P–83–105 as a water wet solid is dermal. Since EPA does not believe that the substance will penetrate the skin because of the strongly ionic nature of the substance, the Agency took no action during the review period because of the low human exposure associated with the PMN use.

II. Reasons for Proposing This Rule

The PMN review period for P–83–105 ended on February 5, 1983. Since the notice submitter has commenced commercial manufacture of the substance and submitted a Notice of Commencement of Manufacture to EPA, the Agency is adding the substance to the TSCA Chemical Substance Inventory. When the substance is on the Inventory, another person may manufacture or process the substance in any physical form.

As stated above, EPA identified potential adverse human health effects associated with P–83–105, but took no action during the PMN review period because of the low potential for inhalation or ingestion of the substance in the proposed PMN use. However, if the substance is manufactured, imported, or processed as a powder or dry solid, the exposure would be significantly greater. Therefore, EPA is proposing to designate manufacture, import, or processing of the substance in a powder or dry solid form as a significant new use so that the Agency can review that use before it occurs.

EPA has verified that certain dye intermediates are used in powder or dry solid form and sees no reason why P–83–105 could not be used in this form. If the substance is used as a powder or dry solid, workers potentially could be exposed to the PMN substance during sampling, filtering, drying, drumming, or bagging operations. Powder or dry solid is likely to release dust and inhalation exposures could result if respirators or dust masks are not worn and if adequate ventilation is not provided.

The Occupational Safety and Health Administration (OSHA) has set a limit of 5 mg/m^3 as the maximum eight-hour time weighted average (TWA) concentration of respirable nuisance dust to which a worker can be exposed. However, personal monitoring data taken at a manufacturing site for powder dyes indicated that eight-hour TWA total airborne particulate concentrations range from 1.8 to 12.8 mg/m^3. The amount of dyestuff in the airborne particulate concentrations was estimated to be 80 percent, resulting in estimated eight-hour TWA dyestuff concentrations ranging from 1.4 to 10.2 mg/m^3 with an average of 5.4 mg/m^3. Manufacturing workers exposed to these concentrations could inhale from 1.75 to 12.75 mg of P–83–105 per day with an average dose of 6.75 mg per day. Although EPA assumes that the OSHA

limit is generally followed, these estimates represent realistic worst-case scenarios. (EPA, SNUR Engineering Report, March 8, 1983—not available to the public due to the incorporation of Confidential Business Information)

Given EPA's concern about P–83–105, EPA believes this level of exposure may present significant risks to workers. This level of exposure would present a significant amount of the substance to be inhaled or ingested. Based on the estimated potency of P–83–105 substance as derived from analogues, any significant inhalation or ingestion would present an oncogenic risk to workers.

During processing, workers may also inhale the dust. For example, workers may be exposed to the powder form of the substance during reactor charging operations. Reactor charging would involve either scooping the substance from the drum and dumping it into the hopper for the reactor or ripping open bags and emptying the contents into the reactor hopper. If P–83–105 is handled in this manner as a powder or dry solid, there is a strong possibility that dusting will occur. Thus, workers may inhale the substance. As a worst case, EPA estimates that each worker involved in the charging operation could inhale amounts similar to those experienced during manufacture (approximately 6.75 mg per day). This greater potential for exposure to a new form of the substance (powder or dry solid) would be of significant concern to the Agency. Although the worst-case exposure levels for workers from manufacture and processing are estimated to be similar, actual exposure levels for each activity will vary depending on the methods of manufacture and processing. For example, if processing occurred on a less continuous basis, there would be less exposure for involved workers. However, unless the substance is carefully contrulled, any significant exposure would present an oncogenic risk of concern.

III. Proposed Significant New Use

To determine what would constitute a significant new use of this chemical substance, EPA considered relevant information about the toxicity of P–83–105 and likely exposures associated with possible new uses, including the four factors listed in section 5(a)(2) of TSCA. In particular, EPA considered the extent to which potential new uses may change or increase the exposure to humans. Based on these considerations, EPA proposes to define manufacture or processing in a powder or dry solid form as a significant new use.

By "powder or dry solid form," EPA means a situation where the dyestuff containing P–83–105 would be manufactured or processed in a state where all or part of the substance would have the potential to become fine, loose, solid particles. Typically, this would result from the removal of a solvent from a solution or filtercake, thus isolating P–83–105 as a solute which may undergo further solvent removal by the addition of heat and subsequent crushing or grinding to reduce the particle size. EPA requests comment on use of the term "powder or dry solid form" and its proposed definition.

IV. Alternatives

Before proposing this SNUR, EPA considered other possible approaches. The major alternative is to promulgate a section 8(a) reporting rule for the substance. Under such a rule, EPA could require any person to report to EPA before manufacturing or processing the substance. However, the use of section 8(a) rather than SNUR authority has drawbacks. Small businesses would be exempt from reporting under section 8(a). In addition, if EPA received a report under section 8(a) indicating that a person intended to manufacture or process the substance as a powder, the Agency could not take action under section 5(e) as it can under a SNUR and thus would not be able to regulate the substance pending development of information.

It is difficult to predict what action EPA would take after section 8 reporting for this chemical given: (1) Its concern, (2) the possible scenarios under which reporting would be required, and the information it might receive in an 8(a) report. Depending on the information EPA received in the section 8(a) notice, EPA could require test data under section 4 and then, if necessary, regulate the substance under section 6. As an alternative EPA could promulgate a SNUR. This approach would allow unnecessary risks to human health during the time needed for data development. The Agency specifically requests comment on use of section 8(a) reporting as a possible alternative to promulgating a SNUR.

V. Persons Subject to SNUR Notice Requirements

Section 5(a)(1)(B) requires persons to submit a SNUR notice to EPA before they manufacture, import, or process a substance subject to a SNUR for a significant new use. If a person proposed to manufacture P–83–105 in powder or dry solid form, only the manufacturer would be required to submit a notice. However, if a person were going to process P–83–105 in powder or dry solid form, under the statute both the manufacturer/importer and the processor would be legally subject to the SNUR requirements and, thus, would both be required to submit a notice. However, this may be unnecessary since it could result in the Agency receiving the same information from both parties. Therefore, EPA is considering in such a situation allowing the manufacturer, importer and processor to decide which party should submit what information to EPA so long as all appropriate information is submitted. Thus, the manufacturer, importer and processor could decide to submit one joint SNUR notice or to submit separate notices each containing the information uniquely within the purview of the respective party. For example, under a separate notice, the processor could submit a notice containing such information as likely exposures and releases from processing, while the manufacturer may submit a notice containing information such as expected exposure and release during manufacture and the projected market potential for the substance. Both the manufacturer and processor would submit test data in their sole possession or, control and the parties would determine who is responsible for submitting test data that they both possess or control. Alternatively, the manufacturer and processor could decide to submit one joint notice containing information from both parties.

EPA is also considering requiring only the person most familiar with the exposures resulting from the new use to report. In the case of manufacturing for the new use, the manufacturer would be the one most familiar with exposures during manufacture; in the case of processing for the new use, the processor would be most familiar with processing exposures. In the latter case, EPA would, of course, encourage submission of relevant information by others such as the manufacturer; and, if the information in the notice were insufficient to reasonably assess the risks, EPA could take action under section 5(e) of TSCA to regulate the new use pending submission of the information. In situations where it is not clear who should submit a notice, EPA would encourage potential submitters to consult EPA before submitting a notice.

The Agency specifically requests comment on these various approaches.

VI. Applicability of Proposal to Uses Occurring Before Promulgation of Final Rule

EPA recognizes that when chemical substances proposed to be subject to a SNUR are added to the Inventory, they may be manufactured or processed for "significant new uses" as defined in the proposal before promulgation of the rule. The statute and its legislative history do not make clear whether uses occurring after proposal but before promulgation are to be considered "new uses" subject to SNUR notification. However, EPA believes that the intent of section 5(a)(1)(B) can be best served by determining whether a use is "new" or "existing" as of the proposal date of the SNUR. If EPA considered uses commenced during the proposal period to be "existing" rather than "new" uses, it would be almost impossible for the Agency to establish SNUR notice requirements since any person could defeat the SNUR by initiating the proposed significant new use before the rule becomes final. This is contrary to the general intent of section 5(a)(1)(B).

Thus, under this statutory interpretation, if substances are manufactured or processed between proposal and promulgation for proposed "significant new uses," the Agency will still consider such uses to be "new" if those particular significant new uses are included in the final rule. EPA recognizes that this interpretation may disrupt commercial activities of persons who commenced manufacture or processing for a "significant new use" during the proposal period. However, this proposal puts those persons on notice of that potential disruption, and they proceed at their own risk. The Agency specifically requests comment on ways to minimize this disruption.

VII. Procedures for Informing Persons of the Existence of This Significant New Use Rule

The final rule will be published in the **Federal Register** and codified in the Code of Federal Regulations (CFR). While this will provide legal notice of the rule, EPA is exploring additional ways of informing potential SNUR notice submitters of the existence of the rule.

EPA intends to publish information concerning final SNURs in the TSCA Chemicals-in-Progress Bulletin, published by the TSCA Assistance Office of EPA's Office of Toxic Substances. EPA may also use the TSCA Chemical Substance Inventory to inform persons of the existence of final SNURs through footnotes by the chemical identities of substances subject to SNURs. The footnotes would refer to an Inventory Appendix which would give a **Federal Register** or CFR citation of the SNUR. As a variation of this approach, the Agency is considering publishing a list of substances subject to SNUR's as an Inventory Appendix.

Any person who intends to manufacture, import, or process a substance for the first time should check the Inventory to determine if the substance is listed. If a person found that the substance is on the Inventory, but subject to a SNUR, he could determine whether he would be subject to reporting by contacting EPA or reviewing the rule.

EPA recognizes that some processors may not know the identity of substances they process and therefore may not know they are subject to a SNUR. Therefore, EPA has identified two alternatives for determining liability for submission of a SNUR notice.

First, if a SNUR notice had not been submitted, EPA could hold manufacturers and importers liable if any of their customers process the substance for the significant new use even if the manufacturer or importer did not know that the customer intended to process the substance for a significant new use. However, manufacturers and importers could avoid this problem by informing their customers in writing that the substance is subject to a SNUR. Even if a manufacturer or importer provided such information to a customer, if the manufacturer or importer had reason to believe that the customer is commencing a significant new use before submitting a SNUR notice, the manufacturer or importer would be required to submit a SNUR notice to EPA, to immediately cease sales of the substance to the processor, and to notify EPA enforcement authorities to avoid liability. If the manufacturer or importer notified EPA, the Agency would take this into account in calculating any penalty for that violation.

Second, EPA could hold processors liable if they process a substance for a significant new use without submitting a SNUR notice, even if they did not know the identity of the substance or that the substance was subject to a SNUR. However, processors could avoid this problem by asking their suppliers to verify in writing that the substances are not subject to a SNUR. EPA believes that many processors ask suppliers to certify that chemical substances of unknown identity are on the Inventory. Therefore, the Agency believes that processors can similarly ask suppliers whether substances are subject to SNUR notice requirements.

The Agency specifically requests comment on these two approaches as well as on other approaches to ensure that SNUR notice requirements are followed.

VIII. Required Information

The Agency proposes that SNUR notice submitters use the premanufacture notice form and follow the PMN rules published in the **Federal Register** of May 13, 1983 (48 FR 21722), except as otherwise provided in this SNUR.

IX. Test Data

EPA recognizes that under TSCA section 5, a person is not required to develop any particular test data before submitting a notice. Rather, a person is required only to submit test data in his possession or control and to describe any other data known to him or reasonably ascertainable by him. However, in view of the potential health risk that may be posed by a significant new use of P–83–105, EPA encourages possible SNUR notice submitters to test the substance's potential for oncogenicity. The Agency believes that the results of a two-year rodent bioassay would adequately characterize possible oncogenic effects of the substance. If a SNUR notice is submitted for a use involving significant exposure without adequate test data, EPA is likely to take action under section 5(e). As an alternative to testing the substance, potential notice submitters may want to consider the use of engineering control and personal protective equipment to reduce exposure to the substance. If exposure to the substance is minimized, EPA may allow manufacture or processing of the substance with those controls.

As part of an optional prenotice consultation, EPA will discuss the test data it believes necessary to evaluate a significant new use of the substance. EPA encourages persons to consult with the Agency before selecting a protocol for testing the substance.

Test data shold be developed according to good laboratory practices and through the use of methodologies generally accepted at the time the study is initiated. Failure to do so may lead the Agency to find the data to be insufficient to evaluate reasonably the health effects of the substance.

X. EPA Review of Notice

EPA proposes to review SNUR notices the same way it reviews premanufacture notices and to subject the notices to the

procedures appearing in the final PMN rule. EPA will publish a summary of each notice for publication in the **Federal Register** under section 5(d)(2). The review period for the notice will run 90 days from EPA's receipt of the notice. Under section 5(c) this period may be extended up to an additional 90 days for good cause. The submitter may not manufacture, import, or process the substance for a significant new use until the review period, including extensions, has expired.

The Agency may regulate the substance during the review period. If a significant new use notice is submitted for a chemical substance without information sufficient to judge the toxicity and exposure potential of the substance, EPA may issue a section 5(e) order limiting or prohibiting the new use until sufficient information is developed. In addition, section 5(f) authorizes EPA to prohibit a significant new use that presents or will present an unreasonable risk to health or the environment. EPA may also refer information in a SNUR notice to other EPA offices and other Federal agencies. If EPA does not take action under sections 5,6, or 7 to control a substance on which it has received a significant new use notice, section 5(g) requires the Agency to explain in the **Federal Register** its reasons for not taking action.

XI. Modification of Reporting Requirements

The Agency believes that there may be circumstances that will lead to modification of the proposed requirements.

When a significant new use notice is submitted, EPA will review the use to determine whether any regulatory action is necessary. If after review, EPA allows the use to occur, the use arguably should not be subject to further reporting. EPA will amend the SNUR to eliminate notice requirements for the use if the Agency decides that further notice of that use under a SNUR is not warranted. EPA may also amend the SNUR to eliminate notice requirements for other uses if it determines, based on new data, that the substance no longer presents health or environmental concerns for those uses.

EPA will amend a SNUR through a rulemaking. When EPA revises a SNUR by eliminating notice requirements for a single, narrow use of the substance, the Agency may dispense with notice and comment if it for good cause finds that notice and comment is impracticable, unnecessary, or contrary to the public interest. However, EPA will completely revoke or substantially alter a SNUR only after notice and an opportunity for comment.

XII. Proposed Rule Language

This proposed rule is structured as follows. The chemical and defined significant new use are described in paragaraph (a) of this rule. Paragraph (b), contains definitions applicable for the section, most of which have been used in other TSCA rules. Paragraph (c) describes the persons who must report. In this proposal, EPA also makes clear that the "principal importer" in an import transaction must be the party that submits the SNUR notice. An explanation of the principal importer concept appears in EPA's clarification of its proposed premanufacture notification requirements published in the **Federal Register** of September 23, 1980 (45FR 63006) and in the preamble to the final PMN rule. The notice requirements and procedures for reporting under this rule are stated in paragraph (d).

Paragraph (e) clarifies that the exemptions of TSCA section 5(h) apply in SNURs with the exception of the section 5(h)(4) exemption provisions which apply only to new chemical substances. Thus, substances may be manufactured in small quantities solely for research and development without a SNUR notice being submitted. Similarly, substances may be test marketed for a significant new use, as defined by rule, if a test marketing exemption is approved by EPA. In addition, EPA proposes that the substance not be subject to SNUR notice requirements if it is manufactured or processed only as an impurity or byproduct. This is because such byproducts and impurities are difficult to detect and do not present significant exposure concerns. Paragraph (f) describes enforcement provisions applicable to this rule.

EPA invites comments on all aspects of this proposed rule language.

XIII. Enforcement

It is unlawful for any person to fail or refuse to comply with any provision of section 5 or any rule promulgated under section 5. Manufacture or processing of chemical substances for a significant new use, as defined by rule, without submission of a SNUR notice, would be a violation of section 15.

Section 15 of TSCA also makes it unlawful for any person to:

1. Use for commercial purposes a chemical substance or mixture which such person knew or had reason to know was manufactured, imported or processed in violation of a SNUR.

2. Fail or refuse to permit entry or inspection as required by section 11.

3. Fail or refuse to permit access to or copying of records, as required by TSCA.

Violators may be subject to various penalties and to both criminal and civil liability. The submission of materially misleading or false information in connection with the requirement of any provision of a SNUR would be considered a violation of the SNUR. Under the penalty provision of section 16 of TSCA, any person who violates section 15 could be subject to a civil penalty of up to $25,000 for each violation. Each day of operation in violation could constitute a separate violation. Knowing or willful violations of a SNUR could lead to the imposition of criminal penalties of up to $25,000 for each day of violation and imprisonment for up to one year. Other remedies are available to EPA under sections 7 and 17 of TSCA such as seeking an injunction to restrain violations of a SNUR and the seizure of chemical substances manufactured or processed in violation of a SNUR.

Individuals, as well as corporations, could be subject to enforcement actions. Sections 15 and 16 of TSCA apply to "any person" who violates various provisions of TSCA. EPA may, at its discretion, proceed against individuals as well as companies. In particular, EPA may proceed against individuals who report false information or cause it to be reported.

XIV. Analyses and Assessments

A. Economic Analysis

The Agency has evaluated the potential costs of establishing significant new use reporting requirements for P–83–105. This evaluation is summarized below.

Persons who intend to manufacture or process the substance for a significant new use, as defined in this rule, would be required to submit a SNUR notice with the information required by the statute. The cost of submitting a SNUR notice can be estimated from the cost of submitting a PMN, which has been estimated to range between $1,400 and $7,900 per substance.

The SNUR may also result in delay costs. The delay caused by the preparation of a SNUR notice and the statutory notice review period could reduce the value of future profits. EPA estimates that these delay costs would be about $700.

The SNUR would not require that persons submitting notices perform additional toxicity testing. However, EPA has insufficient information to determine if P–83–105 would present an

unreasonable risk if used in a powder form. The Agency has determined that the results of a two-year rodent bioassay would adequately characterize carcinogenic effects of the substance in powder or dry solid form. EPA could require the submitter of a SNUR notice either to control exposures or limit production under section 5(e) until sufficient information is provided for EPA to make its determination.

In light of the high cost of performing a two-year bioassay (the direct cost of a two-year bioassay, inhalation route test ranges from $742,000 to $874,500 per chemical tested), EPA does not anticipate that a company will perform the testing. However, depending upon the potential market for P–83–105 in a powder or dry solid form, a company may produce and process the substance using certain exposure controls.

EPA believes that there may exist methods of reducing exposure of P–83–105 to the workers during manufacture and processing while data are being developed that would mitigate EPA's concerns. While EPA is unable to specify prior to submission of a SNUR notice the exact combination of exposure controls that would mitigate its concerns for the variety of manufacturing and processing methods, the Agency estimates that a SNUR notice submitter will have to spend a maximum of $12,500 on exposure controls.

Assuming that a company would consider producing P–83–105 in powder or dry solid form with exposure controls in place, the total direct costs, including notification, complying with a section 5(e) order, purchase of exposure controls and delay, would be between $25,700 and $74,100. These direct costs would add between 11.8 and 34 percent to the estimated price of the substance.

EPA has not estimated any indirect costs that may result from this SNUR. These indirect costs may result from decisions not to manufacture or process the substance because of uncertainty about possible Agency regulatory action. Similarly, a decision not to manufacture might result in response to the magnitude of the direct costs. The cost of this impact would be whatever profits or benefits to users that the substance would have generated. In addition, EPA has not estimated the potential public benefits gained through the avoidance of potential health problems. Such benefits include the avoidance of costs such as the medical costs of treating exposed persons. While the Agency acknowledges that indirect costs and benefits exist, it is impossible at this time to estimate their extent precisely.

As a regulatory alternative, EPA considered proposing reporting requirements under section 8(a) rather than a SNUR. Therefore, the Agency also assessed the costs and benefits of a section 8(a) rule. An 8(a) submission is estimated to cost $210–$7,950. Unlike a SNUR, a section 8(a) rule would not cause delay costs.

A regulatory action might follow after the Agency receives a section 8(a) notification because of the concerns EPA has for the substance. However, it is difficult to project what action might be taken following receipt of an 8(a) report because of the different scenarios under which reporting could be required and the different information that could be submitted. One alternative is requiring testing under section 4. The cost of 8(a) reporting together with the cost of analysis and decision for a section 4 rule, subsequent testing, and delay would range from $748,900 to $897,640. Because this cost would be significant, EPA would not expect testing to be a likely response to a section 4 test rule. A more likely response would be cessation of manufacture.

Follow-up action under a SNUR is another possible response, as well as possible action under section 5(e) after receipit of a SNUR notice. These costs would be identical to those outlined above. The direct cost of an 8(a) rule and all subsequent actions (SNUR plus section 5(e) action) would range from $25,900 to $82,100. This would add from 11.9 to 37.8 percent to the estimated price of P–83–105. The Agency did not estimate the costs of other possible follow-up actions to submission of an 8(a) notice, such as controlling the chemical under section 6.

The prime benefit of a SNUR over a section 8(a) rule is that the substance cannot be used in powder or dry solid form until EPA has reviewed a SNUR notice and had the opportunity to take action under section 5(e). For this reason and because small manufacturers and processors are covered, EPA believes that a SNUR is the appropriate course of action in this case.

A more complete economic analysis of this SNUR and other regulatory options is included in the rulemaking record and is available for public review. EPA invites comment on this economic analysis.

B. Regulatory Assessment Requirements

1. *Executive Order 12291.*—Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore requires a Regulatory Impact Analysis. EPA has determined that this proposed rule is not a "Major Rule" because it does not have an effect on the economy of $100 million or more and it will not have a significant effect on competition, costs, or prices. While there is no precise way to calculate the annual cost of this rule, EPA believes that the cost will be low. In addition, becuase of the nature of the rule and the substance subject to it, EPA believes that there will be few significant new use notices submitted. Further, while the expense of a notice and the suggested testing and the uncertainty of possible EPA regulation may discourage certain innovation, that impact may be limited because such factors are unlikely to discourage an innovation which has high potential value. Finally, this SNUR may encourage innovation in safe chemical substances or highly beneficial uses.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection in the record for this rulemaking.

2. *Regulatory Flexibility Act.*— Under the Regulatory Flexibility Act, 5 U.S.C. 605(b), EPA certifies that this proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small businesses. The Agency has not determined whether parties affected by this proposed rule are likely to be small businesses. However, EPA believes that the number of small businesses affected by this rule would not be substantial even if all the potential new uses were developed by small companies. EPA expects to receive few SNUR notices for the substance.

3. *Paperwork Reduction Act.*— Information collection requirements contained in this proposed rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980, U.S.C. 3501 *et seq* and have been assigned OMB control number 2070–0012.

XV. Confidential Business Information

Any person who submits comments which the person claims as confidential business information must mark the comments as "confidential," "trade secret," or other appropriate designation. Any comments not claimed as confidential at the time of submission will be placed in the public file. Any commments marked as confidential will be treated in accordance with the procedures in 40 CFR Part 2. EPA requests that any person submitting

confidential comments prepare and submit a sanitized version of the comments which EPA can place in the public file.

XVI. Rulemaking Record

EPA has established a public record for this rulemaking (docket number OPTS—50504). The complete record is available to the public from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays, in the OPTS Reading Room, RM. E–107, 401 M St. SW., Washington, D.C.

The record includes basic information considered by the Agency in developing this proposed rule. EPA will supplement the record with additional information as it is received. The record now includes the following categories of information:

1. The PMN for this substance with confidential business information deleted.

2. The **Federal Register** notice of receipt of the PMN.

3. The summary of toxicity concerns for the substance.

4. The analysis of potential new uses of the substance, with confidential business information deleted.

EPA will identify the complete rulemaking record by the date of promulgation. The Agency will accept additional materials for inclusion in the record at any time between publication of this notice and designation of the complete record. The final rule will also permit persons to point out any errors or omissions in the record.

(Sec. 5, Pub. L. 94–469, 90 Stat. 2012 (15 U.S.C. 2604))

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous materials, Recordkeeping and reporting requirements, Significant new uses.

Dated: August 18, 1983.

William D. Ruckelshaus,

Administrator.

PART 172—[AMENDED]

It is proposed that a new § 721.45 be added to proposed 40 CFR Part 721 to read as follows:

§ 721.45 1,2-Benzenediamine, 4-ethoxy, sulfate.

This section identifies activities with respect to 1,2-benzenediamine, 4-ethoxy, sulfate which EPA has determined are "significant new uses" under the authority of section 5(a)(2) of the Toxic Substance Control Act (TSCA). In addition, it specifies procedures for reporting on these chemicals.

(a) *Chemical substance and new uses subject to reporting.* Manufacture, import, or processing in powder or dry solid form is a "significant new use" of 1,2-benzenediamine, 4-ethoxy, sulfate.

(b) *Definitions.* The definitions section 3 of TSCA, 15 U.S.C. 2602, apply to this section. In addition, the following definitions apply:

(1) "Process for commercial purposes" means the preparation of a chemical substance or mixture, after its manufacture, for distribution in commerce with the purpose of obtaining an immediate or eventual commercial advantage for the processor. Processing of any amount of a chemical substance or mixture is included. If a chemical substance or mixture containing impurities is processed for commercial purposes, then those impurities are also processed for commercial purposes.

(c) *Persons who must report.* Any person who intends to manufacture, import (other than as part of an article), or process for commercial purposes the substance listed in paragraph (a) of this section for the significant new use defined in that paragraph must submit a notice to the EPA Office of Toxic Substances in Washington, D.C. under the provisions of section 5(a)(1)(B) of the Act, Part 720 of this Chapter, and this section. Any notice of import must be submitted by the principal importer.

(d) *Notice requirements and procedures.* Each person who is required to submit a significant new use notice under this section must submit the notice at least 90 calendar days before commencing the significant new use. The submitter must comply with any applicable requirement of section 5(b) of the Act, and the notice must include the information and test data specified in section 5(d)(1). The notice must be submitted on the notice form in Appendix A to Part 720 of this Chapter and must comply with the requirements of Part 720 of this Chapter except to the extent that they are inconsistent with this section.

(e) *Exemptions and exclusions.* The chemical substance listed in paragraph (a) of this section is not subject to the notification requirements of this section if:

(1) The substance is manufactured only in small quantities solely for research and development if the substance is manufactured in accordance with § 720.36 of this Chapter.

(2) The manufacturer has been granted a test marketing exemption under the authority of section 5(h)(1) of the Act for the use described in paragraph (a) of this section. Applicants wishing a test marketing exemption must submit an application to the Agency in compliance with § 720.38 of this Chapter.

(3) The substance is manufactured or processed only as an impurity or byproduct.

(f) *Enforcement.* (1) Failure to comply with any provision of this section is a violation of section 15 of the Act [15 U.S.C. 2614].

(2) Using for commercial purposes a chemical substance or mixture which a person knew or had reason to know was manufactured, imported or processed in violation of this section is a violation of section 15 of the Act [15 U.S.C. 2614].

(3) Failure or refusal to permit access to or copying of records, as required by section 11 of the Act, is a violation of section 15 of the Act [15 U.S.C. 2614].

(4) Failure or refusal to permit entry or inspection, as required by section 11 of the Act, is a violation of section 15 of the Act [15 U.S.C. 2614].

(5) Violators may be subject to the civil and criminal penalties in section 16 of the Act [15 U.S.C. 2615] for each violation. Persons who submit false or misleading information in connection with the requirement of any provision of this section may be subject to penalties calculated as if they never filed a notice.

(6) EPA may seek to enjoin the manufacture or processing of a chemical substance in violation of this section or act to seize any chemical substance manufactured or processed in violation of this section or take other actions under the authority of TSCA section 7 or 17 of the Act [17 U.S.C. 2606 or 2616].

[FR Doc. 83-23793 Filed 8-29-83; 8:45 am]

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INTERSTATE COMMERCE COMMISSION

49 CFR Part 1057

[Ex Parte No. MC–43; Sub-No. 15]

Elimination of Thirty Day Leasing Requirement

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: In Ex Parte No. MC–43 (Sub-No. 12), *Leasing Rule Modifications,*[1] we eliminated the 30-day minimum lease requirement from our regulations applicable to private carriers to allow them to trip lease their equipment and

[1] 132 M.C.C. 927 (1982); 47 FR 53858 (November 30, 1982). The Effective date has been stayed pending judicial review by an order of the Eleventh Circuit Court of Appeals on April 25, 1983 (No. 82–8787).

drivers to authorized carriers. We found that this administrative prohibition of trip leasing was inconsistent with the Motor Carrier Act of 1980 and the National Transportation Policy. We determined that elimination of this regulatory barrier would permit improvments in operating efficiency and should stimulate competition without compromising highway safety. For similar reasons we now propose to eliminate the requirement at 49 CFR 1057.12(c) that equipment be leased for a minimum duration of 30 days when operated by its owner. By this notice we seek comments on our proposal. We also propose to eliminate the related recordkeeping requirement for the agricultural exemption (49 CFR 1057.25).

DATES: Comments are due September 29, 1983.

ADDRESS: The original and 15 copies of comments should be sent to: Ex Parte No. MC–43 (Sub-No. 15), Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:
Robert G. Rothstein, 202–275–7912
or
Mary Kelly, 202–275–7292.

SUPPLEMENTARY INFORMATION: In Ex Parte No. MC–43 (Sub-No. 12), *Leasing Rule Modifications,*[1] we eliminated the 30-day minimum lease requirement from our regulations applicable to private carriers to allow them to trip lease their equipment and drivers to authorized carriers. We found that this administrative prohibition of trip leasing was inconsistent with the Motor Carrier Act of 1980 and the National Transportation Policy. We determined that elimination of this regulatory barrier would permit improvements in operation efficiency and should stimulate competition without compromising highway safety. For similar reasons we now propose to eliminate the requirement at 49 CFR 1057.12(c) that equipment be leased for a minimum duration of 30 days when operated by its owner. By this notice we seek comments on our proposal. The proposed modifications are set forth in the Appendix.

In *Lease and Interchange of Vehicles by Motor Carriers,* 51 M.C.C. 461 (1950), the Commission's Division 5 issued a report on an investigation concerning the lawfulness of the practices of motor common and contract carriers in leasing and interchanging vehicles. A major issue in that report was the extent of the Commission's authority to regulate leasing practices of carriers. Another important issue was whether the hiring of vehicles, with or without drivers, must be under long-term lease. The evidence consisted generally of improper conditions reported by the Bureau of Motor Carriers' field staff in its 1948 informal investigation of leasing practices. These conditions included falsified drivers' logs, equipment disrepair, and unsafe operating practices. However, this evidence is by no means conclusive in showing that leased vehicles had poorer safety records than owned vehicles. In fact, the evidence presented in the 1950 decision suggests that, if anything, the opposite was true, particularly as regards actual accidents and injuries, as distinguished from violations of ICC recordkeeping requirements.[2]

The Commission responded to these concerns by imposing additional regulatory constraints on the use of leased equipment. *See* 49 CFR Part 1057.[3] The most controversial provision of the leasing rules required a minimum period of 30 days for parties who wished to execute an equipment and driver lease arrangement. *See Simmons* v. *King,* 478 F.2d 857, 865–67 and n.22 (5th Cir. 1973), and cases cited therein; *Christian* v. *United States,* 152 F. Sup. 561, 566–69 (D. Md. 1957); *Lease and Interchange of Vehicles by Motor Carrier,* 68 M.C.C. 553, 555–56 (1956) (all explaining the reasons for the original adoption of the 30 day leasing rule). The only reason given for this minimum leasing period was that some carriers neglected to inspect equipment or to examine driver fitness on trip leases. We do not find the 30-day rule to be an appropriate means of encouraging such inspections. Furthermore, we note that the Department of Transportation, the agency now charged with safety oversight, has advocated elimination of minimum leasing periods in similar proceedings (e.g. Ex Parte No. MC–43 (Sub-No. 12)).

In reviewing the 1950 and 1951 [4] decisions, it is clear that the major concern was not safety, but rather the fact that leasing enabled some carriers to operate more efficiently (balancing traffic flows, filling backhauls, adjusting to demand variations, etc.) and thus to offer lower rates.[5] This was considered contrary to "sound regulation." This economic concern for preventing competition, rather than the alleged safety concern, appears to have been the primary motivation for the 30-day rule.[6]

Over the years, however, several exceptions to the 30-day rule have been established. The general leasing requirements contain a provision for trip leasing between authorized carriers.[7] Additional exemptions from the 30-day requirement appear at 49 CFR 1057.23. This provision permits authorized automobile carriers to trip lease equipment and drivers to other authorized automobile carriers for use in transporting motor vehicles.[8] The section similarly exempts from the 30-day rule authorized tank truck carriers which seek to trip lease to other authorized tank truck carriers to transport bulk commodities. Finally, the rule allows trip leasing of dump equipment for use in transporting salt and calcium chloride, in bulk, for ice and snow control purposes for a six-month period beginning November 1 of each year.

These exemptions demonstrate that even prior to the procompetitive Motor Carrier Act of 1980, the Commission concluded that the need for efficient transportation operations may outweigh whatever historical concerns prompted the adoption of the 30-day rule.

The same trend is evident in the Commission's 1982 decision in Ex Parte No. 43 (Sub-No. 12), *supra.* In that proceeding, the trip-leasing exemption was amended to allow private carriers to be exempted from the otherwise applicable 30-day period when leasing equipment and drivers to authorized carriers. That decision indicated that the Commission's adoption of the 30-day minimum lease period apparently was based to some extent on safety considerations. Our 1982 decision emphasized the need of private carriers to improve their overall efficiency by trip leasing equipment and drivers to authorized carriers. The Commission also determined that trip leasing would not compromise highway safety.

These exceptions to the general leasing requirement reflect a realization by the Commission that the 30-day leasing rule can work a severe hardship on lessors of equipment who must efficiently and optimally utilize their investments; on lessees, who

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[1] 51 M.C.C. at 470, 471, 485, 504

[2] The Commission's authority to adopt leasing regulations was upheld in *American Trucking Assn's. v. United States,* 344 U.S. 298 (1953).

[3] 52 M.C.C. 675 (1951).

[4] 51 M.C.C. at 471, 473, 475, etc.

[5] The 30-day rule was added in a later proceeding under the same title, 52 M.C.C. 675 (1951). This later proceeding found, at 725, that "carriers which conduct operations entirely, or almost entirely, in nonowned equipment * * * are in an extremely favorable competitive position as compared with carriers having substantial investments in equipment * * *".

[6] 49 CFR 1057.22.

[7] *See Lease and Interchange of Vehicles by Motor Carriers,* 84 M.C.C. 361, 370–371 (1955).

individually require specific transportation services attainable by trip leasing; and on the public, which demands a flexible, fluid transportation system for the expeditious movement of consumer and industrial goods.

In 1966 all of the Commission's functions, powers and duties relating to motor vehicle safety were transferred to the Department of Transportation. To the extent that safety concerns were a motivation for the 30-day rule, even if those concerns were still valid, the transfer of safety jurisdiction would make DOT the appropriate agency to maintain such a rule.

Today, much leasing is either exempt from Commission jurisdiction or, by exception, can be effected on a less than 30-day basis. The remaining areas where a 30-day lease is still required may cause significant operating difficulties, primarily for owner-operators and other equipment lessors lacking operating authority. Such difficulties include operating inefficiencies, lost revenues, and lost opportunities for short-term hauling coinciding with equipment repositioning. Owner-operator problems in maintaining a moderate standard of living have been documented in other Commission proceedings.[9] Owner-operators are on record at numerous public Commission hearings and in complaints registered at the Commission's Small Business Assistance Office as being "slow-loaded". This carrier practice occurs, deliberately or not, by the dispatch of leased equipment, held under a 30-day lease, in a less expeditious manner than owned equipment. For owner-operators who, in almost all cases, generate revenues only when loaded, this practice can result in a potentially sizeable loss of income. Their ability to lease for less than 30 days would offer greater opportunities for individual industriousness in securing short-term traffic when the lessee is unable to provide a load in a timely manner. In a similar vein, carriers with inadequate supplies of equipment will enjoy greater flexibility in performing their operations if they are able to enter into trip-lease agreements with owner-operators as an additional source of low-cost, short-term equipment.

We also believe that the proposal to eliminate the 30-day provision is consistent with the National Transportation Policy, at 49 U.S.C. 10101(a)(2). Subsections (C) and (G) direct the Commission, in regulating motor carriers, to do so in a manner that will "allow the most productive use of equipment and energy resources" and "improve and maintain a sound, safe, and competitive privately owned motor carrier system." Elimination of the 30-day requirement will foster those goals.

In view of these considerations, the transfer of safety jurisdiction and the extensive exceptions to the uniform application of the 30-day rule, we are not now convinced that there remain compelling reasons for retention of the 30-day rule.

We seek comment on the desirability and utility of rules permitting all equipment and driver leasing to be effected without minimum duration. We are particularly desirous of obtaining comments from owner-operators, as many benefits which may accrue as a result of disposing of the existing 30-day minimum are likely to inure to them. However, due to the nature of their business, owner-operators frequently will not be apprised in a timely manner of administrative developments which may affect them. We ask lessees and trade associations to assist us in our comment and fact-gathering tasks by placing copies of this notice in places likely to be frequented by owner-operators.

Energy and Environmental Considerations

This proposal should not have any significant adverse impact upon the quality of the human environment or conservation of energy resources. Comments on these issues are welcome, however.

Initial Regulatory Flexibility Analysis

Under 5 U.S.C. 601 *et seq.*, we are required to analyze the potential impact of the proposed rule on small entities. This rulemaking is being considered as part of the Commission's ongoing regulatory review process which seeks to eliminate regulations and rquirements that are burdensome, nonessential, and/or contrary to National Transportation Policy objectives. We conclude that the proposed rule may have a significant economic impact on a substantial number of small entities. The impacts will be beneficial.

Owner-operators, agricultural cooperatives, corporations, and equipment leasing companies would be beneficially affected by this proposal. The new rule would allow these parties to utilize their equipment more efficiently. Short term hauling to coincide with equipment repositioning would be possible.

Estimates of the number of owner-operators vary because of the high degree of turnover in that occupation. Generally, however, the number of owner-operators has been conservatively estimated and relied upon at 120,000. This number includes those who transport exempt commodities. These owner-operators are virtually without exception small entities as defined by the Small Business Administration. There is no practical way to ascertain the number of other equipment-leasing entities which may be affected by the proposed rule.

Another group of potential beneficiaries are shippers. The number which qualify as small entities cannot be ascertained with degree of accuracy. Shippers, however, are perceived as indirect beneficiaries of the proposed rule, to the extent that they are able to receive more timely, expeditious service by those carriers who would avail themselves of the opportunity to lease equipment for short periods.

We are unaware of any reporting, recordkeeping, or other requirements that would be imposed by the proposed rule. We are similary unaware of any relevant federal rules which duplicate, overlap, or conflict with the proposed rule.

We are aware of no alternative to the proposed rule which would result in less burden upon small entities. As explained earlier, the inability to lease for less than 30 days reduces operating flexibility. Removal of this obstacle will promote the ability to operate equipment more flexibly and profitably. The proposed rule, because it is permissive, not mandatory, does not require that leases be negotiated for terms of less than 30 days.

List of Subjects in 49 CFR Part 1057

Motor carriers.

Authority: This notice is issued pursuant to 5 U.S.C. 553.

Decided: August 18, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

Agatha L. Mergenovich,

Secretary.

Appendix

PART 1057—[AMENDED]

Part 1057 of the Code of Federal Regulations, Title 49, would be amended as follows to reflect the modifications proposed here:

§ 1057.2 [Amended]

1. Section 1057.2 would be amended as follows:

[9] See Ex Parte No. 311 (Sub.-No. 4) *Modification of Motor Carrier Fuel Surcharge Program*, 365 I.C.C. 311 (1981).

a. Paragraph (d) would be amended by removing the words "for a period longer than 30 days."

b. Paragraphs (f) and (g) would be removed.

a. Paragraphs (h), (i), (j), (k), (l), (m), (n), and (o) would be redesignated as paragraphs (f), (g), (h), (i), (j), (k), (l), and (m), respectively.

§ 1057.11 [Amended]

2. Section 1057.11 would be amended as follows:

a. Paragraph (d)(1) would be amended by removing the words "If the equipment is being leased for periods of less than thirty days," from the first sentence and by removing the word "Trip" from the beginning of the last sentence.

b. Paragraph (d)(2) would be removed and reserved.

§ 1057.12 [Amended]

3. Section 1057.12 would be amended as follows:

a. Paragraph (c) would be removed.

b. Paragraph (g) would be amended by removing the words "under permanent or trip lease to the authorized carrier" and the words "by the permanent lease carrier" from the first sentence.

c. Paragraph (d), (e), (f), (g), (h), (i), (j), (k), (l), and (m) would be redesignated as paragraphs (c), (d), (e), (f), (g), (h), (i), (j), (k), and (l), respectively.

d. The reference to "paragraph (d)(1)" in the newly redesignated paragraph (c)(3) would be revised to read "paragraph (c)(1)."

e. The reference to "paragraph (e)–(1)" in the newly redesignated paragraph (m) would be revised to read "paragraphs (d)–(k)."

§ 1057.22 [Amended]

4. Section 1057.22 would be amended as follows:

a. The heading would be amended by removing the word "trip".

b. Paragraph (b) would be amended by removing the words "of 30 days or more."

§ 1057.23 [Removed]

5. Section 1057.23 would be removed.

§ 1057.24 [Removed]

6. Section 1057.24 would be removed.

§ 1057.55 [Removed]

7. Section 1057.25 would be removed.

[FR Doc. 83-23775 Filed 8-29-83; 8:45 am]
BILLING CODE 7035-01-M

49 CFR Part 1102

[Ex Parte No. 290 (Sub-No. 2)]

Railroad Cost Recovery Procedures; Extension of Comment Period

AGENCY: Interstate Commerce Commission.

ACTION: Extension of time for filing of comments to notices of proposed rulemaking.

SUMMARY: In decisions served June 20, 1983 and July 25, 1983 (48 FR 29024, June 24, 1983, as supplemented at 48 FR 33932, July 26, 1983), the Commission issued proposals concerning the adoption of a modified version of the "all inclusive" index of railroad costs proposed by the Association of American Railroads. The Commission established August 23, 1983 as the due date for comments in this proceeding. The American Iron and Steel Institute, because of difficulties encountered with certain labor cost data, has requested an extension to September 13, 1983. Considering the nature of the request the extension appears to be warranted and is granted.

DATE: Comments are due September 13, 1983.

FOR FURTHER INFORMATION CONTACT:
William T. Bono (202) 275–7354
Robert C. Hasek (202) 275–0838

By the Commission, Reese H. Taylor, Jr., Chairman.

Dated: August 22, 1983.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-23772 Filed 8-29-83; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

[Docket No. 30602-148]

Foreign Fishing

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule.

SUMMARY: NOAA issues a proposed rule and requests comments on the rule. The rule would revise the conditions that require redeterminations of domestic annual processing capacity in the Atlantic silver and red hake fishery. The rule is intended to minimize administrative procedures and provide opportunity for public comment on redeterminations of domestic processing capacity.

DATES: Comments on the proposed rule must be submitted on or before September 29, 1983.

ADDRESSES: Send comments to Frank Grice, Chief, Management Division, National Marine Fisheries Service, State Fish Pier, Gloucester, Massachusetts 01930–3097.

FOR FURTHER INFORMATION CONTACT:
Peter D. Colosi, Jr. (Atlantic hakes plan coordinator), 617–281–3600.

SUPPLEMENTARY INFORMATION: The foreign fisheries for Atlantic silver and red hake have been governed since 1977 by the Preliminary Fishery Management Plan for the Hake Fisheries of the Northwestern Atlantic (PMP), and by the foreign fishing regulations (50 CFR 611.53) that implement the PMP.

Paragraphs 611.53 (b) and (c) now provide that, upon receipt of a foreign fishing permit application for a joint venture (i.e., a foreign processing vessel receiving U.S.-harvested fish) involving Atlantic silver or red hake, the Director, Northwest Region, National Marine Fisheries Service, (NMFS) shall make an updated estimate of domestic annual processing capacity (DAP) and publish it in the **Federal Register.** A determination and notice must be published each time an application is received. If the new DAP estimate is less than the initial estimate of domestic annual harvest (DAH) (plus any reserve), then the "surplus" U.S. harvest is available for joint venture processing (JVP). If the new DAP estimate is equal to or greater than the initial DAH (plus any reserve), then no U.S.-harvested fish may be made available for joint venture processing.

A recent amendment to the PMP (48 FR 414) specified DAPs for the Georges Bank and Southern New England/Mid-Atlantic management units of silver hake which are less than the corresponding DAHs; these excess amounts of the U.S. harvests may be available for joint ventures. These proposed regulations would simplify procedures contained in § 611.53 (b) and (c) for handling joint-venture applications. In the event foreign fishing applications for joint ventures involving Atlantic hake are received and a surplus U.S. harvest has been identified in the PMP, the formal procedures proposed by § 611.53(b) would not be instituted prior to approval of such applications. However, if a joint venture permit application is received and if the amount of U.S.-harvested hake requested by the applicant exceeds the amount of JVP that can be made

available to the applicant, the Secretary will reassess DAP for hake to determine whether additional JVP may be made available.

NOAA proposes to clarify the definition of JVP in § 611.53(a) and to revise § 611.53(c) further to provide for public comment on redetermination of DAP estimates (i.e., whether and to what extent U.S.-harvested hake will be processed by U.S. fish processors). This will increase the opportunity for public participation in the process of reviewing joint venture permit applications in this fishery and will increase the information available to the Regional Director in revising DAP estimates.

Classification

On October 5, 1982, the Assistant Administrator for Fisheries, NOAA (Assistant Administrator), determined, based upon an environmental assessment, that there will be no significant environmental impact resulting from this action. Accordingly, an environmental impact statement is not required under the National Environmental Policy Act of 1969.

The proposed revision of 50 CFR 611.53 represents procedural changes designed to (1) reduce the frequency of determinations of DAP and (2) provide for public comment in this procedure. These procedural adjustments are of a housekeeping nature and will have no economic impacts. The Assistant Administrator has determined, based upon the fact that this regulatory change is within the scope of the approved PMP and is for housekeeping reasons, that this action is not major under Executive Order 12291. Accordingly, preparation of a regulatory impact analysis is not required.

Voluntary telephone surveys of projected domestic harvesting and processing capacity will be conducted two or three times a year. NOAA has requesed approval from the Office of Management and Budget (OMB) to include the burden hours for this telephone survey under OMB #0648–0114. Voluntary catch reports on hakes are submitted to NOAA under the Three-Tier Fisheries Information Collection System (OMB #0648–0016). No incremental increase of burden hours for the voluntary reporting would result if this rule were made final.

The General Counsel for the Department of Commerce has certified that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act.

List of Subjects in 50 CFR Part 611

Fish, Fisheries, Foreign relations, Reporting and recordkeeping requirements.

Dated: August 24, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

PART 611—FOREIGN FISHING

For the reasons set out in the preamble, Part 611, Subpart C, of Title 50 of the Code of Federal Regulations is proposed to be amended as follows:

1. The authority citation for Part 611 reads as follows:

Authority: 16 U.S.C. 1801 *et seq.*, unless otherwise noted.

2. Section 611.53 is revised to read as follows:

§ 611.53 Hake fishery.

(a) *Definitions.* For purposes of this section, (1) JVP means the estimated U.S. harvest of hakes in excess of the amount which can and will be utilized by U.S. fish processors; JVP may be available for transfer to foreign-flag processing vessels; and (2) DAP means the part of the estimated U.S. harvest of hake which can and will be utilized by U.S. fish processors.

(b) *Procedures to reassess DAP.* (1) *Preliminary reassessment.* (i) If a foreign fishing permit application is received for a joint venture, and if the amount of U.S.-harvested hake requested by the applicant exceeds the amount of JVP that can be made available to the applicant, the Secretary will reassess DAP for hake to determine whether additional JVP may be made available.

(ii) The Secretary will consult with the New England and Mid-Atlantic Fishery Management Councils and consider the following factors in making the reassessment:

(A) U.S. catch and participation in the fishery to date;

(B) Projected U.S. catch and participation in the fishery for the remainder of the fishing year;

(C) U.S. processing performance to date; and

(D) Projected U.S. processing performance for the remainder of the fishing year.

(iii) The preliminary reassessment will be published in the **Federal Register**. A public comment period of 15 days will be provided.

(2) *Final reassessment.* The Secretary will make a final reassessment of DAP after taking into consideration all information received under paragraph (b)(1)(iii) of this section, all factors considered in making the preliminary reassessment under paragraph (b)(1)(ii) of this section, and any additional relevant information that may become available. The final reassessment will be published in the **Federal Register** with the reasons for the determination.

(3) *Availability of data.* All data relevant to the reassessment will be available in aggregate form for public review at the Regional Director's office during the public comment period.

[FR Doc. 83-23788 Filed 8-29-83; 8:45 am]
BILLING CODE 3510-22-M

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50 CFR PART 638

[Docket No. 30603–148]

Coral and Coral Reefs of the Gulf of Mexico and the South Atlantic; Implementation of Fishery Management Plan

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule.

SUMMARY: The Assistant Administrator for Fisheries, NOAA, has approved the Fishery Management Plan for Coral and Coral Reefs of the Gulf of Mexico and the South Atlantic (FMP). NOAA announces that copies of the FMP are available, issues this proposed rulemaking to implement the FMP, and requests comments on the FMP and implementing regulations. The FMP and proposed implementing regulations would (1) establish unique habitat areas of particular concern for coral which are currently or potentially threatened, (2) prohibit the taking or destruction of certain coral except under permit, and (3) provide permit systems for the taking of certain coral for scientific and education purposes and harvesting fish or other marine organisms with toxic chemicals in coral habitat. This action is made necessary by the susceptability of the coral to physical and biological degradation. The intended effect of the regulations is to optimize the benefits from the coral resources while conserving the coral and coral reefs.

DATE: Comments on the FMP and proposed rule must be received on or before October 14, 1983.

ADDRESSES: Comments and requests for copies of the FMP and the regulatory impact review/initial regulatory flexibility analysis should be sent to Jack T. Brawner, Regional Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702. Comments on the collection of information

requirement should be sent to: Office of Information and Regulatory Affairs of OMB, Attn: Desk Officer for NOAA, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Jack T. Brawner, 813–893–3141.

SUPPLEMENTARY INFORMATION: The Assistant Administrator for Fisheries, NOAA (Assistant Administrator) approved the Fishery Management Plan for Coral and Coral Reefs of the Gulf of Mexico and the South Atlantic (FMP), on July 27, 1983, under the authority of the Magnuson Fishery Conservation and Management Act, as amended (Magnuson Act). These proposed regulations implement the FMP which was prepared jointly by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils).

The FMP manages coral resources throughout the fishery conservation zone (FCZ) off the southern Atlantic coastal States from the Virginia-North Carolina border south and through the Gulf of Mexico to the Texas-Mexico border. The management unit consists of the coral and coral reefs throughout this area of the FCZ. Included in this management unit are the corals of the class Hydrozoa (stinging and hydrocorals), the class Anthozoa (sea fans, whips, precious corals, sea pen, and stony coral), and the hard bottoms, deepwater banks, patch reefs, and outer bank reefs as defined in the FMP.

Background

These coral resources are unique in several respects. First is their acute vulnerability to physical and biological degradation. Most of the corals within the management area are at the northern extreme of their range and, therefore, are particularly susceptible to stresses resulting from fluctuating environmental conditions or man-induced activities. Further, researchers have found that many species of coral have extremely slow growth rates. If damaged, such species would not fully recover for many years. Second, unlike other fishery resources, coral and coral reefs are valued mostly for their nonconsumptive uses. The most significant value of coral is the habitat it provides for numerous other fishery resources of recreational and commercial importance, e.g., snapper, grouper, lobster, and shrimp. Many businesses including dive shops, charterboat operations, and tropical fish collectors also depend on the nonconsumptive use of the corals, as do many recreational participants.

The exact magnitude of the total yearly harvest of corals is not known. Available data indicate that the harvest of stony corals for scientific and educational purposes is approximately 140 kilograms (309 lbs.) per year. An estimated 5,845 colonies of octocorals are also harvested annually by commercial fishermen for use in the aquarium trade. The recent discovery of medically important hormones in certain octocorals presents a potential for their large-scale harvest for use by the pharmaceutical industry.

State regulation of coral is exercised in the management area only by Florida, which prohibits the taking, destroying, or selling of live sea fans, hard or stony corals, and fire coral.

Optimum yield

Due to the lack of essential data on growth, mortality, abundance, and recruitment, a maximum sustainable yield (MSY) could not be calculated for the management unit. Optimum yield (OY), therefore, was established by the Councils as that level of harvest as authorized under the criteria established in the FMP. It is the Councils' intent to allow the existing level of legal, reported harvest of coral consistent with the objectives of the FMP. OY for stony corals is to be zero (0) except as may be authorized for scientific and educational purposes (estimated to be about 140 kilograms [309 lbs. per year]). One reason for this OY for stony coral is their slow growth and nonconsumptive value as fishery habitat. OY for octocorals is the amount of harvest authorized uder the FMP. It is to be all octocorals (except sea fans) that are harvested by U.S. fishermen and is estimated to be about 5,845 colonies annually, approximately 1,463 of which come from the FCZ. Domestic users have the capacity and intent to harvest the available OY. Therefore, there is no surplus available to foreign fishermen.

Permits

A permit system is established for the taking of prohibited corals for scientific and educational purposes. Prohibited corals include species belonging to the classes Hydrozoa (fire corals and hydrocorals) and Anthozoa (stony corals and black corals), sea fans, and all corals and coral reefs in the Flower Garden Banks and Florida Middle Grounds habitat areas of particular concern (HAPCs). Permits will also be required for use of toxic chemicals for the harvest of fish or other marine organisms in the area of coral or coral reefs. Federal permits will be issued by the Regional Director, Southeast Region, National Marine Fisheries Service (NMFS), or his designee. The collection of information involved in the permit application process has been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act and has been assigned the OMB control #0648–0097; the approval is effective through March 31, 1986.

Permits issued by the State of Florida under their existing permit system will be acceptable in lieu of a Federal permit for harvesting fish or other marine organisms with toxic chemicals near coral or coral reefs in the FCZ. The requirements for permits will aid enforcement of these regulations and will provide a control mechanism for the harvest of coral resources.

Statistical reporting

Information is needed on the harvesting and use of coral and coral reefs for the proper management of this recource. Reports will be required, therefore, from all permit holders who are authorized to take prohibited coral. These reports will be submitted to the Center Director, Southeast Fisheries Center, NMFS or to the Florida Department of Natural Resources (if that State agency issued the permit) with copies provided to NMFS by the State. (Information request is pending OMB approval).

Harvest restrictions

The taking of prohibited corals or the destruction of these corals or coral reefs will be prohibited in the FCZ except as authorized by a permit issued under these regulations. Prohibited corals taken incidentally in other fisheries must be returned to the water in the general area of capture as soon as possible. An exception to this requirement is provided for the groundfish, scallop, and other fisheries where the entire unsorted catch is landed. Corals taken under this exception may not be sold or traded.

There are no restrictions on the taking of octocorals, other than sea fans, under these proposed regulations except in the Florida Middle Grounds and the Flower Garden Banks HAPCs. Should the harvesting of unprotected octocorals increase to a level which is the Council's judgment is threatening the habitat, the Councils may request the Secretary to take available measures to eliminate such threat of damage to the resource and fishery habitat.

Area limitations

Eight areas are identified as proposed HAPCs. These are specific areas where large concentrations of adult (sedentary) coral are found that are of special biological significance, or that are currently or potentially threatened with

destruction or degradation. Five of these areas are under control of Federal or State entities or designated for such control, and no additional protection is required. Three areas that are not presently designated for any control are the Florida Middle Grounds, the Flower Garden Banks, and the *Oculina* Banks. These areas are not protected, therefore, from exploitation or human impacts. The HAPCs contain outstanding coral community types that provide valuable ecological conditions for species of fish and invertebrates, are of esthetic value to recreational divers, and are valuble for scientific and educational research purposes.

The Flower Garden Banks HAPC is located approximately 110 nautical miles southeast of Galveston, Texas. This area has the most northwestern located coral reefs in the Gulf of Mexico and comprises a unique resource. As such, the area is of significant research interest. It is proposed to prohibit the use of bottom longlines, traps and pots, and bottom trawls within the 50-fathom isobath, and the taking of all corals except by permit.

The Florida Middle Grounds HAPC covers approximately 326 square nautical miles and is located about 87 nautical miles west-northwest of Tampa, Florida. Octocorals, a relatively minor component of other Gulf of Mexico reefs, are prominent in this HAPC. The area provides habitat for commercial fish populations, including red snapper and grouper that are heavily utilized by the commercial fishery. Fishery with bottom longlines, traps and pots, bottom trawls, and taking of all coral except by permit will be prohibited.

The *Oculina* Bank HAPC covers 92 square nautical miles and is located approximately 15 nautical miles east of Fort Pierce, Florida. This shelf-edge strip of coral reefs is composed of banks, thickets, and rubble zones of *Oculina varicosa* (ivory tree coral). The *Oculina* reefs are a unique ecosystem. They are monospecific, i.e., comprised of a single species of colonial coral. These are the only such reefs known to exist on the south Atlantic continental shelf. They support substantial commercial and recreational fisheries for grouper, snapper, and sea bass. Bottom longlines, fish traps or pots, dredges, and bottom trawls will be prohibited within the HAPC to protect this fragile coral.

Classification

The Assistant Administrator for Fisheries, NOAA, has determined that the FMP complies with the national standards, other provisions of the Magnuson Act, and other applicable law.

The adoption and implementation of the FMP is a major Federal action that will have a significant impact on the quality of the human environment. Under the National Environmental Policy Act and NOAA Directive 02-10, the Councils prepared a draft environmental impact statement for this FMP, which was filed with the Environmental Protection Agency. The notice of availability was published on December 18, 1981 (46 FR 61713).

The Administrator, NOAA, has determined that these proposed regulation are not major under Executive Order 12291. A regulatory impact review (RIR) has been prepared that analyzes the expected benefits and costs of the regulatory action. The review provides the basis for the Administrator's determination. The FMP's management measures are designed to maintain corals and coral reefs as habitat for marine resources and for their aesthetic value.

The RIR indicates that the proposed regulations will result in benefits to the nonconsumptive users such as scuba divers and the commercial and recreational fishermen who target fishery resources dependent on the coral habitat. The annual value of the fish and shellfish whose life cycle is critically dependent upon coral and coral reef habitat is conservatively estimated to be in excess of $300,000,000. The coral and coral reefs, except for those in areas under oil and gas lease or exploration permit, are unprotected in the FCZ. Large-scale coral harvesting would threaten several major fish and shellfish fisheries as well as the nonconsumptive value derived from coral.

This rule contains a collection of information requirement subject to the Paperwork Reduction Act (PRA). A request to collect this information has been submitted to the Office of Management and Budget for review under section 3504(h) of the PRA.

These regulations will have a significant impact on a substantial number of small entities under the Regulatory Flexibility Act. An initial regulatory flexibility analysis has been prepared in compliance with the Regualtory Flexibility Act and has been combined with the RIR summarized above.

The Coastal Zone Management offices from each State having an approved program under the Coastal Zone Management Act and whose territorial waters are adjacent to the management area were provided copies of the FMP and a consistency determination for review as to consistency with their coastal zone management programs. The State of Florida has determined that the FMP is inconsistent with the approved Florida coastal management plan. The States of Georgia and Texas do not have approved programs. It has been concluded by the Agency, however, that to the maximum extent practicable the Agency action is consistent with the applicable coastal zone management programs.

List of Subjects in 50 CFR Part 638

Fish, Fisheries, Fishing.

Dated: August 24, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resources Management, National Marine Fisheries Service.

50 CFR is proposed to be amended by adding a new Part 638 to read as follows:

PART 638—CORAL AND CORAL REEFS OF THE GULF OF MEXICO AND THE SOUTH ATLANTIC

Subpart A—General Provisions

Sec.

638.1 Purpose and scope.
638.2 Definitions.
638.3 Relation to other laws.
638.4 Permits and fees.
638.5 Prohibitions.
638.6 Facilitation of enforcement.
638.7 Penalties.

Subpart B—Management Measures

638.20 Seasons.
638.21 Harvest limitations.
638.22 Area, time limitations.
638.23 Gear limitations.
638.24 Specifically authorized activities.

Authority: 16 U.S.C. 1801 *et seq.*

Subpart A—General Provisions

§ 638.1 Purpose and scope.

(a) The purpose of this part is to implement the Fishery Management Plan for Coral and Coral Reefs (FMP) developed by the Gulf of Mexico and South Atlantic Fishery Management Councils under the Magnuson Act.

(b) This part regulates fishing for coral and coral reefs by fishing vessels of the United States within the fishery conservation zone off the South Atlantic coastal States south of the Virginia-North Carolina border and in the Gulf of Mexico.

§ 638.2 Definitions.

In addition to the definitions in the Magnuson Act, and unless the context requires otherwise, the terms used in this part have the following meanings—

Authorized officer means—

(a) Any commissioned, warrant or petty officer of the U.S. Coast Guard;

(b) Any certified enforcement officer or special agent of the National Marine Fisheries Service;

(c) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary to enforce the provisions of the Magnuson Act; or

(d) Any U.S. Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (a) of this definition.

Center Director means the Director, Southeast Fisheries Center, NMFS, 75 Virginia Beach Drive, Miami, Florida 33149; telephone 305–361–5761.

Fish includes the hard and soft corals of the class Hydrozoa (stinging and hydrocorals), and the class Anthozoa (sea fans, whips, precious corals, sea pen, and stony corals).

Fishery conservation zone (FCZ) means that area adjacent to the United States which, except where modified to accommodate international boundaries, encompasses all waters from the seaward boundary of each of the coastal States to a line on which each point is 200 nautical miles from the baseline from which the territorial sea of the United States is measured.

Fishing means any activity, other than scientific research conducted by a scientific research vessel, which involves—

(a) The catching, taking, or harvesting of fish;

(b) The attempted catching, taking, or harvesting of fish;

(c) Any other activity which can reasonably be expected to result in the catching, taking, or harvesting of fish; or

(d) Any operations at sea in support of, or in preparation for, any activity described in paragraph (a), (b), or (c) of this definition.

Fishing vessel means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for—

(a) Fishing; or

(b) Aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

HAPC means coral habitat areas of particular concern.

Magnuson Act means the Magnuson Fishery Conservation and Management Act, as amended (16 U.S.C. 1801 *et seq.*).

Management area means that area of the FCZ off the South Atlantic coastal States south of the Virginia-North Carolina border and in the Gulf of Mexico.

NMFS means the National Marine Fisheries Service.

Operator, with respect to any vessel, means the master or other individual on board and in charge of that vessel.

Owner, with respect to any vessel, means—

(a) Any person who owns that vessel in whole or in part;

(b) Any character of the vessel, whether bareboat, time or voyage; or

(c) Any person who acts in the capacity of a charterer, including, but not limited to, parties to a management agreement, operating agreement, or other similar arrangement that bestows control over the destination, function, or operation of the vessel; and

(d) Any agent designated as such by any person described in paragraphs (a), (b), or (c) of this definition.

Person means any individual (whether or not a citizen of the United States), corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

Prohibited coral means (a) species of coral belonging to the class Hydrozoa (fire corals and hydrocorals) and class Anthozoa, subclass Zoantharia (stony corals and black corals), and sea fans (*Gorgonia flabellum* or *G. ventalina*), and (b) all coral and coral reefs in the HAPCs.

Regional Director means the Regional Director, Southeast Region, NMFS, Duval Building, 9450 Koger Boulevard, St. Petersburg, Florida 33702, telephone 813–893–3141; or a designee.

Scientific and educational purpose means for the purpose of gaining knowledge of coral for management and/or for the benefit of science and humanity.

Secretary means the Secretary of Commerce or a designee.

Take means to damage, harm, kill, or collect, or attempt to damage, harm, kill, or collect.

U.S. fish processors means facilities located within the United States for, and vessels of the United States used for or equipped for, the processing of fish for commercial use or consumption.

U.S.-harvested fish means fish caught, taken, or harvested by vessels of the United States within any foreign or domestic fishery regulated under the Magnuson Act.

Vessel of the United States means—

(a) Any vessel documented under the laws of the United States;

(b) Any vessel numbered in accordance with the Federal Boat Safety Act of 1971 (46 U.S.C. 1400 *et seq.*) and measuring less than five net tons; or

(c) Any vessel numbered under the Federal Boat Safety Act (46 U.S.C. 1400 *et seq.*) and used exclusively for pleasure.

§ 638.3 Relation to other laws.

(a) Persons affected by these regulations should be aware that other Federal and State statutes and regulations may apply to their activities.

(b) These regulations are intended to apply within the FCZ portion of the following National Marine Sanctuaries and National Parks unless regulations establishing such Sanctuaries and/or Parks prohibit their application:

(1) Everglades National Park (36 CFR 7.45);

(2) Looe Key National Marine Sanctuary (15 CFR Part 937);

(3) Fort Jefferson National Monument (36 CFR Part 7.27);

(4) Key Largo Coral Reef National Marine Sanctuary (15 CFR Part 929);

(5) Biscayne National Park (16 U.S.C. 410gg);

(6) Gray's Reef National Marine Sanctuary (15 CFR Part 938); and

(7) Monitor Marine Sanctuary (15 CFR Part 924).

(c) Certain responsibilities relating to data collection, issuance of permits, and enforcement may be performed by authorized State personnel under a cooperative agreement entered into by the State and the Secretary.

§ 638.4 Permits and fees.

(a) *General.* Permits are required for persons—

(1) Fishing for prohibited coral; or

(2) Using toxic chemicals to collect fish (other than as defined at § 638.2) or other marine organisms in coral areas. A State of Florida permit is acceptable in lieu of a Federal permit for use of toxic chemicals.

(b) *Eligibility.* Fishing for prohibited coral must be for a scientific or educational purpose.

(c) *Fees.* There are no fees for Federal permits.

(d) *Application for a prohibited coral permit.* An application for a permit to fish for prohibited coral must be signed and submitted by the applicant on an appropriate form which may be obtained from the Regional Director. Applicants must provide the following information—

(1) Name, address, and telephone number of applicant;

(2) Name and address of harvester, company, institution, or affiliation;

(3) Amount of coral to be fished for by species;

(4) Size of each species;

(5) Projected use of each species;

(6) Collection techniques (vessel types, gear, number of trips);
(7) Period of fishing; and
(8) Location of fishing.

(e) *Application for toxic chemical permit.* An application for a Federal permit to collect fish (other than as defined at § 638.2) or other organisms with toxic chemicals in coral areas must be signed and submitted by the applicant on an appropriate form which may be obtained from the Regional Director. Applicants must provide the following infomation:
(1) Name, address, and telephone number of applicant;
(2) Name and address of harvester, if other than applicant;
(3) Type of chemical;
(4) Period of fishing; and
(5) Location of fishing.

(f) *Permit conditions.* (1) Permits may not be transferred or assigned;
(2) Permits must be in the possession of the permittee while fishing for prohibited corals or using toxic chemicals;
(3) Permits must be presented for inspection upon request of any authorized officer;
(4) A permittee must have in possession sufficient documentation to establish identity as permittee (e.g., valid drivers license, etc.); and
(5) Other specific conditions may be listed on the permits.

(g) Unless otherwise specified, application must be submitted to the Regional Director 45 days prior to the date on which the applicant desires to have the permit effective, and permits will be issued for the period October 1 through the following September. (Approved by the Office of Management and Budget under OMB control number 0648–0097.)

(h) All persons holding permits to take prohibited corals for scientific or educational purposes must submit annual reports of their harvest to the Center Director within 30 days following the effective period for the permit. Specific reporting requirements will be provided with the issued permit. (Information request is pending OMB approval).

§ 638.5 Prohibitions.

It is unlawful for any person to—
(a) Fail to submit a report within 30 days following the effective period for a permit as specified in § 638.4;
(b) Take or collect fish or other marine organisms with toxic chemicals in coral areas except with a permit as specified in § 638.4;
(c) Fish of prohibited coral except as specified in § 638.4 and § 638.21;
(d) Fail to comply immediately with enforcement and boarding procedures specified in § 638.6;
(e) Use bottom longlines, traps, pots, bottom trawls, or dredges in a HAPC as specified in § 638.22;
(f) Possesses, have custody or control of, ship, transport, offer for sale, sell, purchase, import, land, trade, or export any coral taken or retained in violation of the Magnuson Act, this part, or any other regulation or permit issued to a foreign vessel under the Magnuson Act;
(g) Refuse to permit an authorized officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of the Magnuson Act, this Part, or any other regulation or permit issued under the Magnuson Act;
(h) Forcibly to assault, resist, oppose, impede, intimidate, or interfere with any authorized officer in the conduct of any search or inspection described in paragraph (g) of this section;
(i) Resist a lawful arrest for any act prohibited by this part;
(j) Interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any act prohibited by this part;
(k) Transfer directly or indirectly, or attempt to so transfer, any U.S.-harvested fish to any foreign fishing vessel, while such foreign vessel is within the FCZ, unless the foreign fishing vessel has been issued a permit under § 204 of the Magnuson Act which authorize the receipt by such vessel of the U.S.-harvested fish of the species concerned; and
(l) Violate any other provision of this part, the Magnuson Act, or any regulation or permit issued under the Magnuson Act.

§ 638.6 Facilitation of enforcement.

(a) *General.* The owner or operator of any fishing vessel subject to this part must immediately comply with instructions issued by an authorized officer to facilitate safe boarding and inspection of the vessel, its gear, equipment, logbook, permit and catch for purposes of enforcing the Magnuson Act and this part.

(b) *Signals.* Upon being approached by a U.S. Coast Guard cutter or aircraft, or other vessel or aircraft authorized to enforce the Magnuson Act, the operator of a fishing vessel must be alert for signals conveying enforcement instructions. The following signals taken from the International Code of Signals are among those which may be used:
(1) "L" meaning "You should stop your vessel instantly,"
(2) "SQ3" meaning "You should stop or heave to; I am going to board you."
(3) "AA AA AA etc." which is the call to an unknown station, to which the signaled vessel should respond by illuminating the vessel registration number, and
(4) "RY–CY" meaning you should proceed at a slow speed. A boat is coming to you.

(c) *Boarding.* A vessel signaled to stop or heave to for boarding must—
(1) Stop immediately and lay to or maneuver in such a way as to permit the authorized officer and his party to come aboard;
(2) Provide a safe ladder for the authorized officer and his party, when applicable;
(3) When necessary to facilitate the boarding, provide a man rope, safety line, and illumination for the ladder; and
(4) Take such other actions as necessary to ensure the safety of the authorized officer and his party to facilitate the boarding.

§ 638.7 Penalties.

Any person or fishing vessel found to be in violation of this part is subject to the civil and criminal penalty provisions and forfeiture provisions of the Magnuson Act, 50 CFR Part 620 (Citations), 15 CFR Part 904 (Civil Procedures) and to other applicable law.

Subpart B—Management Measures

§ 638.20 Seasons.

The fishing year for all species of coral and coral resources begins at 0001 hours on October 1 and ends at 2400 hours on September 30.

§ 638.21 Harvest limitations.

(a) No person may fish for prohibited coral or fish with toxic chemicals in any coral area unless such person has in possession a valid permit issued under to § 638.4.

(b) Prohibited coral taken as incidental catch to other fishing activities must be returned to the water in the general area of fishing as soon as possible. In those fisheries, such as scallop and groundfish, where the entire catch is landed, unsorted prohibited coral may be landed but not sold or traded.

§ 638.22 Area, time limitations.

The following coral HAPCs are established—

(a) *West and East Flower Garden Banks.* The geographical center point of the West Flower Garden Bank (Figures 1A and 1B) are located at 27° 52′ 14.21″ N. latitude, 93° 48′ 54.79″ W. longitude. The geographical center point of the

East Flower Garden Bank (Figures 1A and 1B), are located at 27° 55'07.44" N. latitude, 93° 36'08.49" W. longitude. The HAPC is limited to the portions of each bank shallower than the 50 fathom (300 foot) isobath. The following restrictions apply within the West and East Flower HAPC:

(1) Fishing for coral is prohibited except as authorized by a permit issued under § 638.4, and

(2) Bottom longlines, traps, pots, and bottom trawls may not be fished in the area above 50 fathoms (300 feet) in depth.

(b) *Florida Middle Grounds.* (1) The area (Figure 2) is bounded by straight lines connecting the following points:

Point

A—28° 42.5' N. latitude, 84° 24.8' W. longitude

B—28° 42.5' N. latitude, 84° 16.3' W. longitude

C—28° 11.0' N. latitude, 84° 0.0' W. longitude

D—28° 11.0' N. latitude, 84° 7.0' W. longitude

E—28° 26.6' N. latitude, 84° 24.8' W. longitude

A—28° 42.5' N. latitude, 84° 24.8' W. longitude

(2) The following restrictions apply within the Florida Middle Grounds HAPC:

(i) Fishing for coral is prohibited except as authorized by a permit issued under § 638.4; and

(ii) Bottom longlines, traps, pots, and bottom trawls may not be fished within the area.

(c) The *Oculina* Bank. The area is located approximately 15 nautical miles east of Fort Pierce, Florida, at its nearest point to shore. The area is bounded on the north by 27° 53' N. latitude; on the south by 27° 30' N. latitude; on the east by 79° 56' W. longitude; on the west by 80° 0'W. longitude (Figure 3). The following restrictions apply within the *Oculina* Bank HAPC: Bottom longlines, traps, pots, dredges, and bottom trawls may not be fished.

§ 638.23 Gear limitations.

Toxic chemicals may not be used in taking fish or other marine organisms in or on coral reef habitat except as may be specified by a permit issued under § 638.4.

§ 638.24 Specifically authorized activities.

The Secretary may authorize, for the acquisition of information and data, activities otherwise prohibited by these regulations.

BILLING CODE 3510-22-M

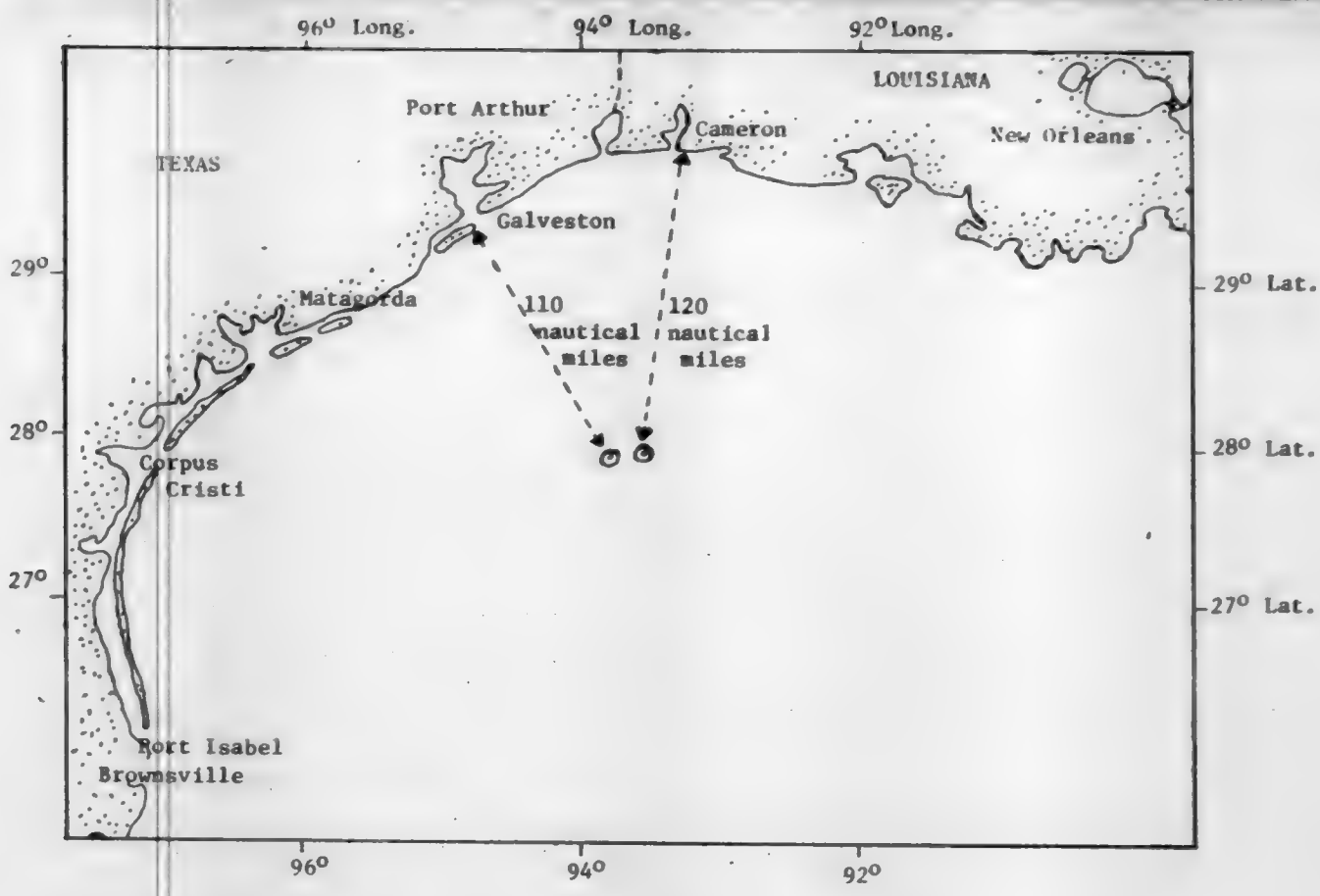

Figure 1A EAST AND WEST FLOWER GARDENS HABITAT AREAS OF PARTICULAR CONCERN

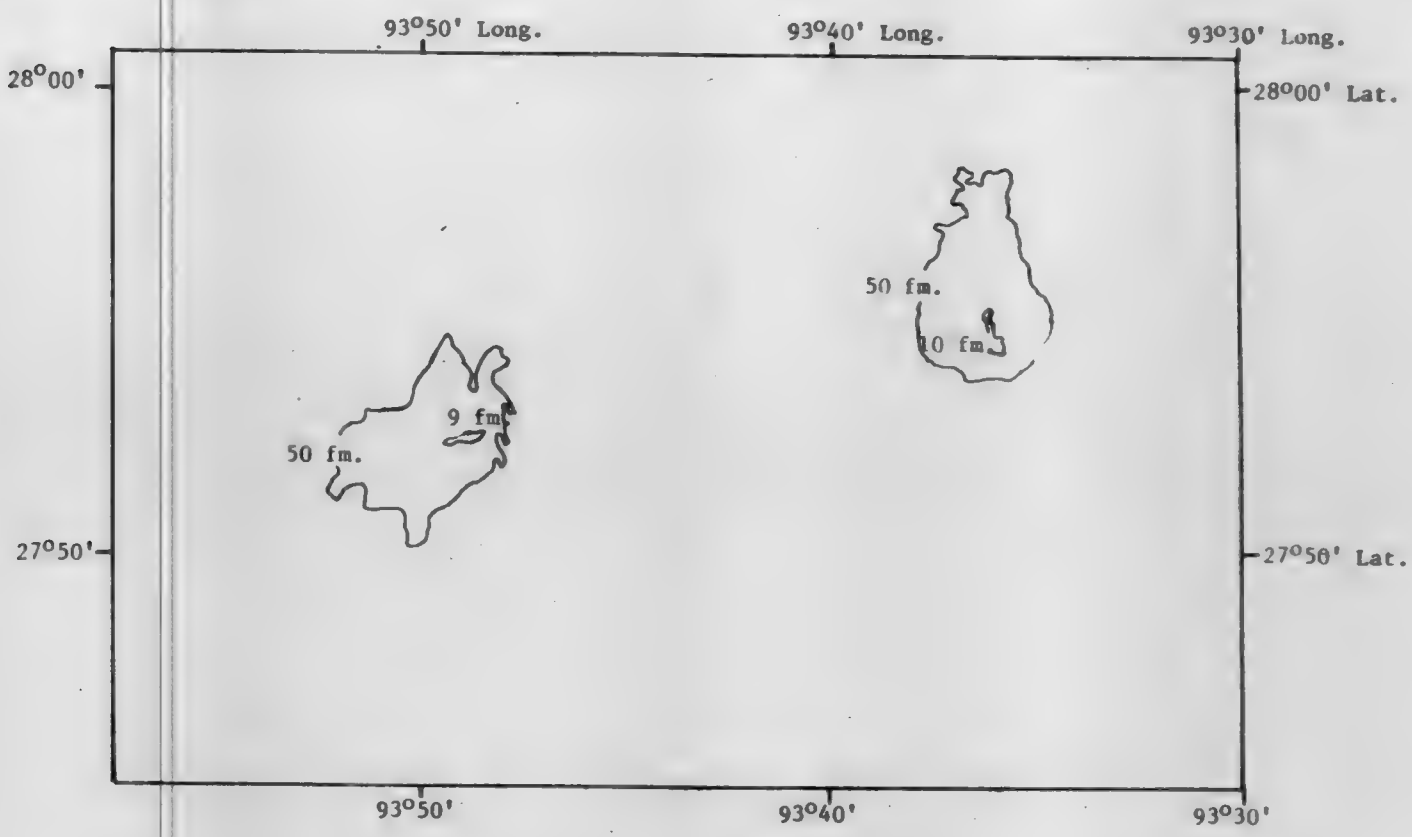

Figure 1B EAST AND WEST FLOWER GARDENS HABITAT AREAS OF PARTICULAR CONCERN

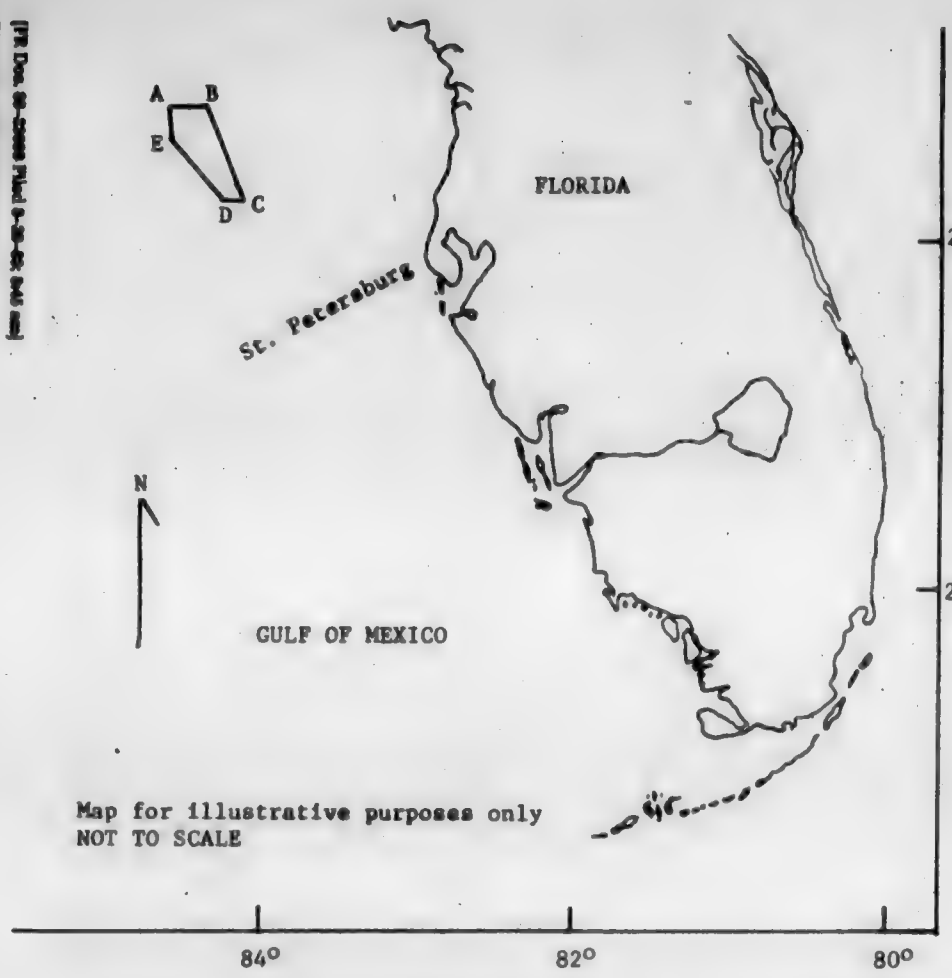

Figure 2. Florida Middle Grounds Habitat Area of Particular Concern

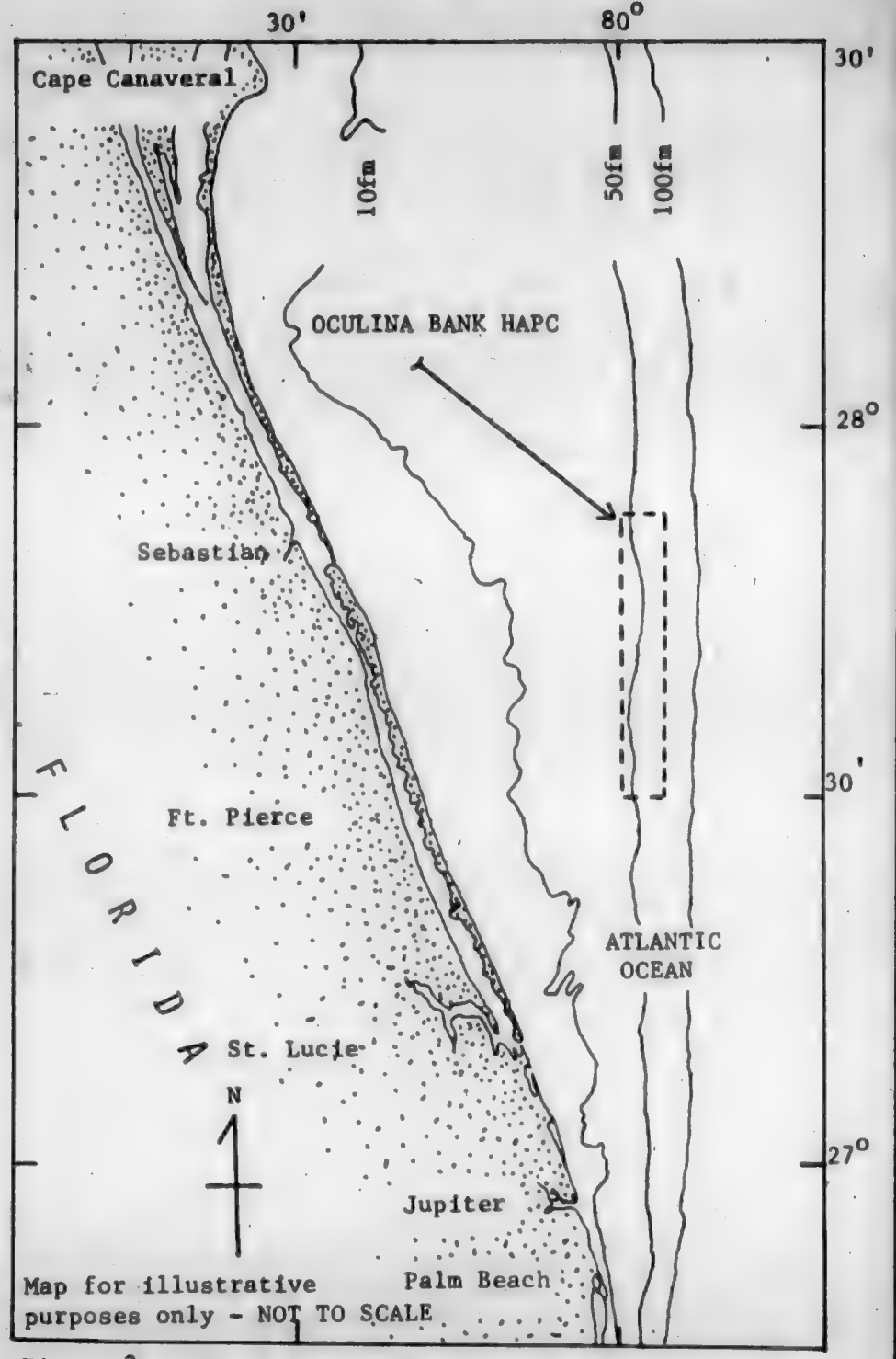

Figure 3. Oculina Bank Habitat Area of Particular Concern.

Notices

Federal Register
Vol. 48, No. 169
Tuesday, August 30, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Programmatic Memorandum of Agreement; Oil and Gas Exploratory Program in the Coastal Plain of the Arctic National Wildlife Refuge, Alaska; Effects on Historic and Cultural Properties

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice.

SUMMARY: The Advisory Council on Historic Preservation proposes to execute a Programmatic Memorandum of Agreement pursuant to § 800.8 of the Council's regulations, "Protection of Historic and Cultural Properties" (36 CFR Part 800), with the Fish and Wildlife Service, U.S. Department of the Interior, and the Alaska State Historic Preservation Officer, providing for the management of historic and cultural properties, including archeological sites, affected by oil and gas exploratory activities in the Coastal Plain of the Arctic National Wildlife Refuge, Alaska. The proposed Programmatic Memorandum of Agreement will establish mechanisms for the identification, evaluation, and protection of such properties in order to meet the requirements of Sections 106 and 110 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470f).

COMMENTS DUE: September 29, 1983.

ADDRESS: Executive Director, Advisory Council on Historic Preservation, Western Division of Project Review, 730 Simms Street, Room 450, Golden, Colorado 80401.

Dated: August 24, 1983.

Robert R. Garvey, Jr.,

Executive Director.

[FR Doc. 83-23701 Filed 8-29-83; 8:45 am]
BILLING CODE 4310-01-M

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

Designation Renewal of Fremont Grain Inspection Department, Inc., Nebraska

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: This notice announces the designation renewal of Fremont Grain Inspection Department, Inc. (Fremont), as an official agency responsible for providing official services under the U.S. Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (Act).

EFFECTIVE DATE: September 1, 1983.

ADDRESS: James R. Conrad, Chief, Regulatory Branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 1647 South Building, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447-8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Secretary's Memorandum 1512-1; therefore, the Executive Order and Secretary's Memorandum do not apply to this action.

The March 1, 1983, issue of the **Federal Register** (48 FR 8519), and as corrected, the April 1, 1983, issue of the **Federal Register** (48 FR 14017), contained a notice from the Federal Grain Inspection Service (FGIS) announcing that Fremont's designation terminated on August 31, 1983, and requesting applications for designation as the agency to provide official services within the specified geographic area. Applications were to be postmarked by April 15, 1983.

There were two applicants for the Fremont designation. Fremont applied for the entire geographic area. The Sioux City Inspection and Weighing Agency, Inc., an official agency, applied for a portion of the Fremont geographic area.

FGIS announced the names of these applicants and requested comments on same in the May 2, 1983, issue of the **Federal Register** (48 FR 19762). Comments were to be postmarked by June 16, 1983.

No comments were received regarding the applicants for the Fremont geographic area.

FGIS has evaluated all available information, regarding the designation criteria in Section 7(f)(1)(A) of the Act and in accordance with Section 7(f)(1)(B), and has determined that Fremont is better able than any other applicant to provide official services in the geographic area for which its designation is being renewed. The assigned area is the entire geographic area, as previously described in the March 1 and April 1 **Federal Register** issues.

Effective September 1, 1983, and terminating August 31, 1986, the responsibility for providing official inspection services in the specified geograhic area is assigned to Fremont.

A specified service point, for the purpose of this notice, is a city, town, or other location specified by an agency to conduct official inspection and where the agency and one or more of its licensed inspectors are located. In addition to the specified service points within the assigned geographic area, the agencies will provide official services not requiring a licensed inspector to all locations within their geographic area.

Interested persons may contact the Regulatory Branch, specified in the address section of this notice, to obtain a list of the specified service points. Interested persons also may obtain a list of the specified service points by contacting the agency at the following address: Fremont Grain Inspection Department, Inc., 603 East Dodge Street, Fremont, NE 68025.

(Sec. 8, Pub. L. 94-582, 90 Stat. 2873 (7 U.S.C. 79))

Dated: August 25, 1983.

Neil E. Porter,

Acting Director, Compliance Division.

[FR Doc. 83-23706 Filed 8-29-83; 8:45 am]
BILLING CODE 3410-02-M

Soil Conservation Service

Lower Silver Creek Watershed, California

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of Availability of a Record of Decision.

SUMMARY: Eugene Andreuccetti, responsible Federal official for projects administered under the provisions of Public Law 83–566, 16 U.S.C. 1001–1008, in the State of California, is hereby providing notification that a record of decision to proceed with the installation of the Lower Silver Creek Watershed project is available. Single copies of this record of decision may be obtained from Eugene Andreuccetti at the address shown below.

FOR FURTHER INFORMATION CONTACT: Eugene Andreuccetti, State Conservationist, Soil Conservation Service, 2828 Chiles Road, Davis, California 95616, telephone (916) 449–2848.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: August 24, 1983

Paul H. Calverley,

Acting State Conservationist.

[FR Doc. 83–23745 Filed 8–29–83; 8:45 am]

BILLING CODE 3410–16–M

Dunn-Gilmore Critical Area Treatment RC&D Measure, Florida; Environmental Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Dunn-Gilmore Critical Area Treatment RC&D Measure, Walton County, Florida.

FOR FURTHER INFORMATION CONTACT: James W. Mitchell, State Conservationist, Soil Conservation Service, P.O. Box 1208, Gainesville, Florida 32602, telephone (904) 377–0946.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, James W. Mitchell, State Conservationist, has determined that the preparation and review of the environmental impact statement are not needed for this project.

The project concerns a plan for critical area treatment. The planned works of improvement include a sediment basin and critical area planting.

Dunn-Gilmore Critical Area Treatment RC&D Measure, Florida, Notice of a Finding of No Significant Impact

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting James W. Mitchell.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.091. Resource Conservation and Development Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: August 23, 1983.

James W. Mitchell,

State Conservationist.

[FR Doc. 83–23713 Filed 8–29–83; 8:45 am]

BILLING CODE 3410–16–M

Parksley Park Land Drainage RC&D Measure, Virginia; Environmental Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service; U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Parksley Park Land Drainage RC&D Measure, Accomack County, Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. Manly S. Wilder, State Conservationist, Soil Conservation Service, 400 North Eighth Street, P.O. Box 10026, Richmond, Virginia 23240, telephone 804–771–2455.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Manly S. Wilder, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for land drainage of the Parksley Park to allow better utilization of the area. The park is located in the Town of Parksley, Accomack County, Virginia. The planned work will include the installation of about 300 feet of 21-inch diameter drain, 970 feet of 5-inch drain and about 1.4 acres of land smoothing and seeding.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Manly S. Wilder.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management an Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: August 22, 1983.

Manly S. Wilder,

State Conservationist.

[FR Doc. 83–23721 Filed 8–29–83; 8:45 am]

BILLING CODE 3410–16–M

Mohawk Valley School Water Quality Managment RC&D Measure Plan; Arizona

AGENCY: Soil Conservation Service, Agriculture.

ACTION: Notice of finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Verne M. Bathurst, State Conservationist, Soil Conservation Service, 230 North First Avenue, Room 3008, Phoenix, Arizona 85025. Telephone: (602) 261–6711.

Notice: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40

CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Mohawk Valley School Water Quality Management RC&D Measure Plan, Arizona.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional or national impacts on the environment. As a result of these findings, Verne M. Bathurst, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for the improvement of an irrigation system in order to reduce the amount of salt being leached into the water table.

The Notice of Finding of No significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Verne M. Bathurst. The FNSI has been sent to various federal, state and local agencies and interested parties. A limited number of copies of the FNSI are available, to fill single copy requests, at the above address.

Implementation of the proposal will not be initiated until 30 days after the date of this publication in the **Federal Register.**

Dated: August 18, 1983.

Verne M. Bathurst,

State Conservationist.

(Catalog of Federal Domestic Assistance Program No. 10–901, Resource Conservation and Development Program, Office of Management and Budget Circular A95, regarding state and local clearinghouse review of federal and federally assisted programs and projects, is applicable)

Finding of No Significant Impact; Mohawk Valley School Water Quality Management RC&D Measure Plan

May 27, 1983.

Inasmuch as the environmental assessment, appended to and made a part of this document, indicates that this federal action will not cause significant local, regional or national impacts on the environment, an environmental impact statement will not be prepared.

The project calls for constructing an irrigation system on the Mohawk Valley School grounds to reduce salt leaching into the water table.

Short-term and long-term effects from installation of the facility are generally beneficial or not significant.

Basic data developed during the environmental assessment may be reviewed by contacting Verne M. Bathurst, State Conservationist, Soil Conservation Service, 230 North First Avenue, Room 3008, Phoenix, Arizona 85025 (602) 261–6711.

Mr. Bathurst has determined that preparation and review of an environmental impact statement are not needed for this RC&D measure.

Environmental Assessment Mohawk Valley School Water Quality Management RC&D Measure Plan

I. Project Setting: The proposed measure is located in Yuma County, Arizona. It is one mile east of Roll, Arizona. The soils are silt loam with very fine sandy loam to 60 inches or more.

II. Problem and Opportunity Identification: The primary purpose of the measure is to develop an irrigation system that will efficiently and uniformly apply irrigation water. This will reduce deep percolation and the movement of salt into the valley water table.

III. Inventory and Analysis of Resources: This measure will have no adverse impact on the environment. There is no natural wildlife habitat. It is a school ground sowed to bermuda grass, mulberry trees, eucalyptus trees, oleander and other exotic ornamentals.

Cropland: No cropland is involved.

Cultural Resources: There are no historical, archaeological or other cultrual resources on the measure site.

Environment: There will be no adverse impact on the environment.

Endangered and Threatened Species: There were no endangered or threatened species identified on the site.

Forecasted Changes: Changes which should occur with installation of measure features:

1. 20 acre feet of water will be conserved.
2. 20 tons of salt now carried into the water table will be stopped.
3. Reduce labor costs.
4. Eliminate irrigation scheduling problems.

IV. Formulation of Alternatives: Planning was dictated by the objectives set forth by the Mohawk Valley School officials. The alternatives considered were:

1. No action.
2. Discontinue irrigation.
3. Install concrete ditches.
4. Install low head, underground pipelines.
5. Install permanent sprinkler irrigation system.

Alternative 1: Would not correct the problem.

Alternative 2: Would cause severe dust/mud problems.

Alternative 3: Ditches are dangerous to young children.

Alternative 4: Too expensive.

Alternative 5: This was selected as most nearly fulfilling the objectives of the measure.

V. Recommended Plan: Alternative 5—No permits or licenses are required.

VI. Impacts of the Recommended Plan: The impacts are outlined in the measure plan. The environmental impacts are negligible.

VII. Consultation and Participation:

1. Mohawk Valley School.
2. Bureau of Reclamation.
3. Wellton-Mohawk Irrigation District.

[FR Doc. 83–23712 Filed 8–29–83; 8:45 am]
BILLING CODE 3410–16–M

DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments

The following are notices of the receipt of applications for duty-free entry of scientific instruments published pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the instrument is intended to be used is being manufactured in the United States.

Comments must be filed in accordance with Subsections 301.5(a)(3) and (4) of the regulations. They are to be filed in triplicate with the Director, Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the **Federal Register.**

A copy of each application is on file in the Department of Commerce, and may be examined between 8:30 A.M. and 5:00 P.M., Monday through Friday, Room 1523, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 83–275. Applicant: Case Western Reserve University, 10900 Euclid Avenue, Cleveland, OH 44106. Instrument: Electron Microscope, Model JEM 200CX. Manufacturer: JEOL, Japan. Intended use of instrument: The instrument is intended to be used in conducting studies involving the following:

(1) Nature of the intereface between matrix and coherent precipitates in partially-stabilized ZrO_2.

(2) Ordered compounds in stabilized ZrO_2.

(3) Diffusion couple interfaces.

(4) Interface between oxide scales and Fe-based alloys.

(5) Radiation damage in materials.

(6) Titanium alloys.

(7) Microstructures of thin films.

(8) Microstructure of electrocatalysts.

(9) Structure of stacked macrocycles.

(10) High resolution electron microscopy of polymers and

(11) Glide dislocation-grain boundary interactions in body-centered cubic metals.

In addition, the instrument will be used to teach students the practical use, theory, and applications of electron microscopy to metallurgy and materials science, particularly the advanced applications of TEM, STEM, XEDS and EELS. Application Received by Commissioner of Customs: August 9, 1983.

Docket No. 83–276. Applicant: University of Wisconsin-Madison, Materials Science Center, 1115 Engineering Research Building, 1500 Johnson Drive, Madison, WI 53706. Instrument: Biaxial Tilting Stage for Electron Microscope. Manufacturer: JEOL Ltd., Japan. Intended use of Instrument: The instrument is an accessory to an existing electron microscope which will be used for electron microscopic studies of superconducting materials, radiation damage and catalysis. Application Received by Commissioner of Customs: August 9, 1983.

Docket No. 83–277. Applicant: Riverside Hospital, 500 J. Clyde Morris Boulevard, Newport News, VA 23601. Instrument: Electron Microscope, Model JEM-100CX and Accessories. Manufacturer: JEOL, Japan. Intended use of Instrument: The instrument is intended to be used for patient care, ultrastructural research studies as well as medical training. Application Received by Commissioner of Customs: August 9, 1983.

Docket No. 83–278. Applicant: Arizona State University, College of Engineering and Applied Sciences, Electrical Engineering, Tempe, AZ 85287. Instrument: Gammacell 220 Co-60 Irradiator. Manufacturer: Atomic Energy Commission Ltd., Canada. Intended use of Instrument: The instrument is intended to be used for the following:

(a) Electrical engineering research in the areas of radiation damage to electronics and radiation hardening of electronics.

(b) Mechnical engineering research in areas of radiation damage to materials.

(c) Agricultural research in food preservation.

The instrument will also be used in numerous graduate and undergraduate courses for research, experiments and demonstration. Application received by Commissioner of Customs: August 9, 1983.

Docket No. 83–279. Applicant: University of California, Davis, Department of Human Physiology, Davis, CA 95616. Instrument: Myograph with Electronic Box/Power Supply and Accessories. Manufacturer: J. P. Trading, Denmark. Intended use of Instrument: The instrument is intended to be used to study the forces generated by extremely small blood vessels (microvessels) when they are stimulated. Experiments will be done on microvessels (those responsible for raising blood pressure) from hypertensive and normotensive animals to analyze differences in vascular contractility relating to hypertensive disease. The objectives will be to determine how early in the process of development of hypertension the blood vessel characteristics change (contractility is one of the characteristics being studied). In addition, the instrument will be used to give students in the course Human Physiology 299 experience in the latest techniques of measuring and evaluating blood vessel responses, particularly those of the smallest blood vessels which are responsible for the blood pressure changes in hypertension; a large number of microscopic techniques are used. Application received by Commissioner of Customs: August 9, 1983.

Docket No. 83–280. Applicant: University of Maryland, Department of Chemistry, Chemistry Building, College Park, MD 20742. Instrument: Mass Spectrometer, Model 7070E. Manufacturer: VG Instruments, United Kingdom. Intended use of Instrument: The instrument is intended to be used to carry out mass spectrographic studies on organic, inorganic and biological materials. Experiments will be conducted to determine the exact empirical formulae and fragmentation pattern of the compounds under study. These data will help to establish the structures of these materials. In addition, the instrument will be used for educational purposes in the courses CHEM 648—Spectral Methods, CHEM 799—Master's Research and CHEM 899–Ph.D. Research. Application Received by Commissioner of Customs: August 9, 1983.

Docket No. 83–281. Applicant: University of California, 405 Hilgard Avenue, Los Angeles, CA 90024. Instrument: Excimer Pump Laser, Model EMG 102 and Dye Laser, Model FL 2001. Manufacturer: Lambda Physik, West Germany. Intended use of Instrument: The instrument is intended to be used for studies of excited state properties (photochemistry, luminescence, excited state absorption, Raman, and excited state Raman spectroscopy) of transition metal and organometallic compounds. The experiments will involve irradiating the above samples with laser light. In the Raman experiments, the scattered light will be detected, recorded and interpreted. In the luminescence studies the light emitted by the samples after they have absorbed the laser light will be measured. In the photochemistry studies, the chemical products after absorption of the laser light will be studied. The instrument will also be used as a central tool in the research program of students in various chemistry courses. Application Received by Commissioner of Customs: August 9, 1983.

Docket No. 83–288. Applicant: USDA, PIADC, APHIS, National Veterinary Services Labs, 13th St. & Dayton Rd., Ames, IA 50010. Instrument: Electron Microscope, EM 10CA. Manufacturer: Carl Zeiss, West Germany. Intended use of Instrument: The instrument is intended to be used for the examination of animal tissue and cell culture inoculated with approximately 40 different foreign animal disease agents, including viruses, mycoplasma, bacteria, rickettsia and hemoparasites. The primary objective in the investigations will be the differential diagnosis of many viral, bacterial, myocoplasma and/or hemoparasitic animal diseases Application Received by Commissioner of Customs: August 12, 1983.

Docket No. 83–289. Applicant: Virginia Polytechnic Institute and State University, Purchasing Department, Blacksburg, VA 24061. Instrument: Electron Microscope, EM 10CA and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of Instrument: The instrument is intended to be used to study biological materials (tissues, isolated organelles, particulates) of interest and pertinence to research in the College of Agriculture and Life Sciences. Application Received by Commissioner of Customs: August 12, 1983.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 83-23630 Filed 8-29-83; 8:45 am]

BILLING CODE 3510-25-M

Consolidated Decision on Applications For Duty-Free Entry of Circular Dichroism Spectropolarimeters

The following is a consolidated decision on applications for dutyfree entry of circular dichroism spectropolarimeters pursuant to Section 6(c) of Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued pursuant thereto (15

CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 AM and 5:00 PM in Room 1523, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 83-162. Applicant: University of Southern California, University Park, Los Angeles, CA 90089-0482. Instrument: Circular Dichroism Spectropolarimeters, Model #J500C. Manufacturer: Japan Spectroscopic Co., Ltd., Japan. Intended use of instrument: See notice on page 16932 in the Federal Register of April 20, 1983. Advice submitted by: The National Institutes of Health: July 20, 1983.

Docket No. 83-201. Applicant: University of Wyoming, University Station, Laramie, WY 82071. Instrument: Spectropolarimeter, Model J-500A and Accessories. Manufacturer: Japan Spectroscopic Co., Ltd., Japan. Intended Use of Instrument: See notice on page 23878 in the Federal Register of May 27, 1983. Advice submitted by: The National Institutes of Health: July 20, 1983.

Comments: No comments have been received with respect to either of the foregoing applications.

Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign instruments, for such purposes as these instruments are intended to be used, is being manufactured in the United States.

Reasons: Each foreign instrument to which the foregoing applications relate provides measurement of circular dichroism spectra and high frequency switching (50,000 times per second) between left-and right-circularly polarized light. The National Institutes of Health advises in its respectively cited memoranda that (1) the capabilities of the foreign instruments described above are pertinent to the purposes for which each article is intended to be used and (2) they know of no domestic instrument or apparatus of equivalent scientific value to either of the foreign instruments for such purposes as these instruments are intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equvalent scientific value to either of the foreign instruments to which the foregoing applications relate, for such purposes as these instruments are intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educatica and Scientific Materials.)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 83-23837 Filed 8-29-83; 8:45 am]

BILLING CODE 3510-25-M

[A-588-058]

Metal-Walled Above Ground Swimming Pools From Japan; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice of final results of administrative review of antidumping finding.

SUMMARY: On May 24, 1983, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on metal-walled above ground swimming pools from Japan. The review covers the three known Japanese exporters and one known third-country reseller of this merchandise to the United States and various periods from November 1, 1977 through August 31, 1982.

We gave interested parties an opportunity to submit oral or written comments on the preliminary results. We received no comments. Based on our analysis, the final result of review are unchanged from those presented in the preliminary results of review.

EFFECTIVE DATE: August 30, 1983.

FOR FURTHER INFORMATION CONTACT: Betty H. Laxague or Susan M. Crawford, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-1130.

SUPPLEMENTARY INFORMATION

Background

On May 24, 1983, the Department of Commerce ("the Department") published in the Federal Register (48 FR 23291) the preliminary results of it last administrative review of the antidumping finding on metal-walled above ground swimming pools from Japan (42 FR 44811, September 7, 1977). The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of metal-walled above ground swimming pools. This merchandise is currently classifiable under items 657.2590 and 774.5595 of the Tariff Schedules of the United States Annotated.

Metal-walled above ground swimming pools exported from third countries which contain walls, frames, and vinyl liners manufactured in Japan are within the scope of the finding.

The review covers the three known Japanese exporters and one known third-country (Canada) reseller of Japanese metal-walled above ground swimming pools to the United States. The review covers various periods from November 1, 1977 through August 31, 1982.

Final Results of the Review

Interested parties were invited to comment on the preliminary results. The Department received no written comments or requests for a hearing. Based on our analysis, the final results of our review remain unchanged from the preliminary results of review, and we determine that the following weighted-average margins exist:

Manufacturer/exporter	Time period	Margin (percent)
Asahi Chemical Industry Co., Ltd	11/1/77-10/31/78	28.09
	11/1/78-10/31/79	28.87
	11/1/79-8/31/80	20.40
	9/1/80-8/31/82	[1] 20.40
Seiwa Sangyo Co., Ltd	9/1/80-8/31/82	[1] 72.00
Hakuyo Sangyo	9/1/80-8/31/82	[1] 72.90
Third-country reseller (country): Irwin Toy, Ltd. (Canada)	4/1/78-10/31/78	28.09
	11/1/78-10/31/79	28.87
	11/1/79-8/31/80	20.40
	9/1/80-8/31/82	[1] 20.40

[1] No shipments during the period.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all appropriate entries with purchase dates during the periods involved. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Further, as provided for in § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based on the most recent of the above margins shall be required on all shipments of Japanese metal-walled above ground swimming pools from these firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. For future entries from a new exporter not covered in this or prior reviews, whose first shipments occurred after August 31, 1982 and who is unrelated to any reviewed firm, a cash deposit of 20.40 percent shall be required. These deposit

requirements shall remain in effect until publication of the final results of the next administrative review. The Department intends to immediately begin the next administrative review.

The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information during the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Dated: August 23, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-23060 Filed 8-29-83; 8:45 am]

BILLING CODE 3510-25-M

[A-122-085]

Sugar and Syrups From Canada; Preliminary Results of Administrative Review of Antidumping Duty Order and Tentative Determination To Revoke in Part

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of administrative review of antidumping duty order and tentative determination to revoke in part.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping duty order on sugar and syrups from Canada. The review covers the seven known manufacturers and/or exporters of this merchandise to the United States and the period April 1, 1981 through March 31, 1982. The review indicates the existence of dumping margins for certain firms during the period.

As a result of the review, the Department has preliminarily determined to assess dumping duties equal to the calculated differences between United States price and foreign market value on each of their sales during the period of review. The Department has also tentatively determined to revoke the order with respect to one of the seven firms, F. W. Jones and Son. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: August 30, 1983.

FOR FURTHER INFORMATION CONTACT: Amy Dale or Robert J. Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-2923/5255.

SUPPLEMENTARY INFORMATION:

Background

On June 11, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 25393-4) the final results of its last administrative review of the antidumping duty order on sugar and syrups from Canada (45 FR 24126-7, April 9, 1980) and announced its intent to conduct the next administrative review. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of sugar and syrups produced from sugar cane and sugar beets. The sugar is refined into granulated or powdered sugar, icing, or liquid sugar. Sugar and syrups are currently classifiable under items 155.2025, 155.2045, and 155.3000 of the Tariff Schedules of the United States Annotated.

The reivew covers the seven known manufacturers and/or exporters of Canadian sugar and syrups to the United States and the period April 1, 1981 through March 31, 1982.

Three firms did not export Canadian sugar and syrups to the United States during the review period. The estimated antidumping duty cash deposit rates for these firms will be the most recent rate for each firm.

United States Price

In calculating United States price the Department used purchase price, as defined in section 772 of the Tariff Act. Purchase price was based on the packed, delivered price to unrelated purchasers in the United States, with deductions, where applicable, for U.S. duty, brokerage, cash discounts, commissions to unrelated parties, and U.S. and Canadian inland freight. Where applicable, we added Canadian duties paid at the time of importation into Canada of the raw material used to produce the sugar and syrups because these duties were debated when the sugar and syrups were exported to the United States. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price, as defined in section 773 of the Tariff Act, since sufficient quantities of such or similar merchandise were sold in the home market to provide a basis for comparison. The foreign market value was based on the f.o.b. factory, packed price, with adjustments where applicable, for differences in packing costs, commissions to unrelated parties, and quantity discounts. We made a further ajdustment where applicable, for differences in the physical characteristics of the merchandise in accordance with section 353.16 of the Commerce Regulations. No other adjustments were claimed or allowed.

Preliminary Results of the Review

As a result of our comparison of United States price to foreign market value, we preliminarily determine that the following margins exist:

Manufacturer/exporter	Margin
Atlantic Sugar, Ltd. (U.S. dollars per lb)	[1] 0.0223
B.C. Sugar (percent)	0
F.W. Jones and Son (percent)	0.004
Lantzco Ltd	[1] 17.33
Redpath Sugar Ltd. (percent)	0.2
Scott Paper Co., Ltd	[1] 17.33
St. Lawrence Sugar, Ltd (percent)	5.69

[1] No shipments during the period.

The Department has also concluded that all sales of Canadian sugar and syrups by F.W. Jones and Son to the United States were made at not less than fair value or had *de minimis* margins during th period April 1, 1980 through March 31, 1982. As provided for in section 353.54(e) of the Commerce Regulations, F.W. Jones and Son has agreed in writing to an immediate suspension of liquidation and reinstatement of the finding if circumstances develop which indicate that Canadian sugar and syrups manufactured by F.W. Jones and Son, and therafter imported into the United States are being sold by that firm at less than fair value.

Therefore, we tentatively determine to revoke the finding on sugar and syrups from Canada with respect to F.W. Jones and Son. If this partial revocation is made final, it will apply to all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice.

Intersted parties may submit written comments on these prelimianry results and tentative determination to revoke in part within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first work day thereafter. Any request for an

administrative protective order must be made no later than five days after the date of publication. The Department will publish the final results of the adminstrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all appropriate entries with purchase dates during the time period. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Further, as provided for by section 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based on the above margins shall be required on all shipments of Canadian sugar and syrups from these firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. Since the margins for F. W. Jones and Son and Redpath Sugars Ltd. are less than 0.5 percent and therefore *de minimis* for cash deposit purposes, the Department waives the deposit requirement for those firms. For any future entries from a new exporter not covered in this or prior reviews, whose first shipments occurred after March 31, 1982 and who is unrelated to any reviewed firm, a cash deposit of 5.69 percent shall be required. These deposit requirements and waivers shall remain in effect until publication of the final results of the next administrative review.

This administrative review, tentative determination to revoke, and notice are in accordance with sections 751(a)(1) and (c) of the Tariff Act (19 U.S.C. 1675(a)(1), (c)) and sections 353.53 and 353.54 of the Commerce Regulations (19 CFR 353.53, 353.54).

Dated: August 22, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-23839 Filed 8-29-83; 8:45 am]

BILLING CODE 3510-25-M

Antidumping; Preliminary Determination of Sales at Not Less Than Fair Value: Certain Tapered Journal Roller Bearings and Parts Thereof From the Federal Republic of Germany

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary determination of sales at not less than fair value: certain tapered journal roller bearings and parts thereof from the Federal Republic of Germany.

SUMMARY: We have preliminarily determined that certain tapered journal roller bearings and parts thereof (TJRB) from the Federal Republic of Germany (FRG) are not being, nor are likely to be, sold in the United States at less than fair value. We have notified the United States International Trade Commission (ITC) of our determination. We found no margins on exports of the subject merchandise during the period of investigation. If this investigation proceeds normally, we will make a final determination by November 7, 1983.

EFFECTIVE DATE: August 30, 1983.

FOR FURTHER INFORMATION CONTACT: Raymond G. Busen or David Johnston, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone: (202) 377-1784 or 377-4087.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We have preliminarily determined that there is no reasonable basis to believe or suspect that TJRB from the FRG are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (the Act). We found no margins for exports of TJRB to the United States.

If this investigation proceeds normally, we will make our final determination by November 7, 1983.

Case History

On January 26, 1983, we received a petition filed by counsel for Brenco, Inc. In accordance with the filing requirements of § 353.36 of the Commerce Department Regulations (19 CFR 353.36), the petitioner alleged that TJRB from the FRG are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that these imports are materially injuring, or are threatening to materially injure, a United States industry.

After reviewing the petition, we determined that it contained sufficient grounds to initiate an antidumping investigation. We notified the ITC of our action and initiated such an investigation on February 15, 1983 (48 FR 7766). On March 8, 1983, we corrected the product description which appeared in the initiation notice (48 FR 10726). On March 14, 1983, the ITC found that there is a reasonable indication that imports of certain TJRB are materially injuring, or are threatening to materially injure, a United States industry.

A questionnaire was presented in the FRG to FAG Kugelfischer Georg Schafer & Co. (FAG), the only known producer of the subject merchandise, on February 16, 1983. The response was received on April 26, 1983. A supplemental questionnaire was sent to counsel for FAG on May 11, 1983. The supplemental response was received on June 1, 1983.

On June 10, 1983, counsel for the petitioner requested that the Department extend the period for the preliminary determination until 210 days after the date of receipt of the petition in accordance with section 733(c)(1)(A) of the Act. We postponed our preliminary determination until not later than August 24, 1983 (48 FR 28681).

Scope of Investigation

For purposes of this investigation, the term "certain tapered journal roller bearings and parts thereof" covers two-row tapered journal roller bearings and parts thereof including cone and cup assemblies in sets, cone assemblies and cups sold separately, and other parts which may or may not be lubricated, sealed at the manufacturer's factory, and/or unitized. This investigation includes only those tapered journal roller bearings with assembled outside diameters between 6.5 and 10.875 inches, and meeting the specifications established by the Association of American Railroads in Specification M-934-81. Such tapered journal roller bearings and parts thereof are currently classified under items 680.3932, 680.3934, 680.3938, and 680.3940 of the *Tariff Schedules of the United States Annotated (TSUSA).*

We investigated sales of TJRB by FAG during the period from August 1, 1982, to January 31, 1983.

Fair Value Comparison

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

As provided in section 772(c) of the Act, we used the exporter's sales price of the subject merchandise to represent the United States price for sales by FAG because the merchandise was sold to unrelated United States purchasers after importation into the United States.

We calculated the exporter's sales price based on the c.i.f., duty paid,

delivered, packed price. We made deductions for FRG inland freight, ocean freight, inland insurance, marine insurance, United States inland freight, customs duties, credit expenses, and brokerage. We will seek additional information on other selling expenses for our final determination.

Foreign Market Value

In accordance with section 773(a) of the Act, we calculated foreign market value based on FAG's third country sales to unrelated customers of FAG Bearings Ltd. (FAG Canada) because such or similar merchandise was not sold in the home market. Our selection of Canada as the third country to be used for fair value comparisons was made because the TJRB exported to Canada had a greater degree of similarity to the TJRB exported to the United States than those exported to other third countries.

We calculated the third country prices on the basis of delivered, packed prices to unrelated purchasers in Canada. From these prices we deducted FRG inland freight and inland insurance, and Canadian inland freight, brokerage, credit expenses, import duties, ocean freight, marine insurance, and inland insurance.

No adjustments were made for packing costs because these costs were claimed to be the same in both markets. We will seek additional information on other selling expenses for our final determination.

Verification

In accordance with section 776(a) of the Act, we will verify all data used in reaching a final determination in this investigation.

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

Public Comment

In accordance with § 353.47 of the Commerce Department Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m. on September 28, 1983, at the United States Department of Commerce, Room 3092, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within 10 days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by September 21, 1983. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, within 30 days of publication of this notice, at the above address and in at least 10 copies.

Dated: August 24, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-23823 Filed 8-29-83; 8:45 am]

BILLING CODE 3510-25-M

Antidumping; Preliminary Determination of Sales at Less Than Fair Value: Certain Tapered Journal Roller Bearings and Parts Thereof From Italy

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice of Preliminary Determination of Sales at Less than Fair Value: Certain Tapered Journal Roller Bearings and Parts Thereof from Italy.

SUMMARY: We have preliminarily determined that certain tapered journal roller bearings and parts thereof (TJRB) from Italy are being, or are likely to be, sold in the United States at less than fair value. We have notified the United States International Trade Commission (ITC) of our determination, and we have directed the United States Customs Service to suspend the liquidation of all entries of the subject merchandise which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice and to require a cash deposit or bond for each such entry in an amount equal to the estimated dumping margins as described in the "Suspension of Liquidation" section of this notice.

If this investigation proceeds normally, we will make a final determination by November 7, 1983.

EFFECTIVE DATE: August 30, 1983.

FOR FURTHER INFORMATION CONTACT: Raymond G. Busen or David Johnston, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone: (202) 377-1784 or 377-4087.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We have preliminarily determined that there is a reasonable basis to believe or suspect that certain tapered journal roller bearings and parts thereof (TJRB) from Italy are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (the Act).

We have found that the foreign market value of TJRB exceeded the United States price on all sales compared. These margins ranged from 4.8 percent to 12.7 percent. The overall weighted-average margin on all sales compared is 12.2 percent.

If this investigation proceeds normally, we will make our final determination by November 7, 1983.

Case History

On January 26, 1983, we received a petition filed by counsel for Brenco, Inc. In accordance with the filing requirements of § 353.36 of the Commerce Department Regulations (19 CFR 353.36), the petitioner alleged that TJRB from Italy are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that these imports are materially injuring, or are threatening to materially injure, a United States industry.

After reviewing the petition, we determined that it contained sufficient grounds to initiate an antidumping investigation. We notified the ITC of our action and initiated such an investigation on February 15, 1983 (48 FR 7767). On March 8, 1983, we corrected the product description which appeared in the initiation notice (48 FR 10726). On March 14, 1983, the ITC found that there is a reasonable indication that imports of certain TJRB are materially injuring, or are threatening to materially injure, a United States industry.

A questionnaire was presented in Italy to RIV-SKF Industrie S.P.A. (RIV-SKF), the only known producer of the subject merchandise, on February 16, 1983. The response was received on April 15, 1983. A supplemental questionnaire was sent to counsel for RIV-SKF on May 10, 1983. The

supplemental response was received on May 26, 1983 and further information was received on July 20, 1983.

On June 10, 1983, counsel for the petitioner requested that the Department extend the period for the preliminary determination until 210 days after the date of receipt of the petition in accordance with section 733(c)(1)(A) of the Act. We postponed our preliminary determination until not later than August 24, 1983 (48 FR 28681).

Scope of Investigation

For purposes of this investigation, the term "certain tapered journal roller bearings and parts thereof" covers two-row tapered journal roller bearings and parts thereof including cone and cup assemblies in sets, cone assemblies and cups sold separately, and other parts which may or may not be lubricated, sealed at the manufacturer's factory, and/or unitized. This investigation includes only those tapered journal roller bearings with assembled outside diameters between 6.5 and 10.875 inches, and meeting the specifications established by the Association of American Railroads in Specification M-934-81. Such tapered journal roller bearings and parts thereof are currently classified under items 680.3932, 680.3934, 680.3938, and 680.3940 of the *Tariff Schedules of the United States Annotated (TSUSA).*

We investigated sales of TJRB by RIV-SKF during the period from August 1, 1982, to January 31, 1983.

Fair Value Comparison

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

As provided in section 772(b) of the Act, we used the purchase price of the subject merchandise to represent the United States price for sales by RIV-SKF because the merchandise was sold to unrelated purchasers prior to its importation into the United States.

We calculated the purchase price based on the f.o.b., Italian port, packed price. We made deductions for foreign inland freight. For the final determination, we will seek information as to whether there are any United States selling expenses.

Foreign Market Value

In accordance with section 773(a) of the Act, we calculated foreign market value based on RIV-SKF's third country sales to unrelated customers of SKF Canada Ltd., since such or similar merchandise was not sold in the home market. Our selection of Canada as the third country to be used for fair value comparisons was made because the TJRB exported to Canada had a greater degree of similarity to the TJRB exported to the United States than those exported to other third countries.

We calculated the third country prices on the basis of delivered, packed prices to unrelated purchasers in Canada, in accordance with section 773(a)(3) of the Act. From these prices we deducted Italian inland freight, ocean freight, marine insurance, and Canadian commissions, import duties, inland freight, and sales tax. We also deducted Canadian packing cost and added the packing cost incurred on sales to the United States. No adjustments were made for export duties rebated and credit expenses because these costs were claimed to be the same in both markets. While terms of credit extended by SKF Canada Ltd. were claimed to be the same, actual repayment schedules will be sought by the Department to determine actual credit expenses. If there are United States selling expenses, we will make appropriate deductions in accordance with § 353.15(c) of the Commerce Regulations.

The following claims were disallowed in calculating foreign market value. SKF Canada Ltd. requested circumstances of sale adjustments for the salary and travel expenses of a product manager, a salesman and a serviceman, as well as warehousing expenses. We did not make these adjustments because the company did not provide sufficient documentation to show a direct relationship between these expenses and the sales under investigation as required by section 353.15 of the Commerce Regulations.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the United States Customs Service to suspend liquidation of TJRB from Italy which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**. The Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price. The suspension of liquidation will remain in effect until further notice. The weighted-average margin is 12.2 percent.

Verification

In accordance with section 776(a) of the Act, we will verify all data used in reaching a final determination in this investigation.

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

Public Comment

In accordance with § 353.47 of the Commerce Department Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 2:00 p.m. on September 28, 1983, at the United States Department of Commerce, Conference Room D, 14th Street and Constitution Avenue NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within 10 days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by September 21, 1983. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, within 30 days of publication of this notice, at the above address and in at least 10 copies.

Dated: August 24, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-23824 Filed 8-29-83; 8:45 am]

BILLING CODE 3510-25-M

Antidumping; Preliminary Determination of Sales at Less Than Fair Value: Certain Tapered Journal Roller Bearings and Parts Thereof From Japan

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice of Preliminary Determination of Sales at Less than Fair Value: Certain Tapered Journal Roller Bearings and Parts Thereof from Japan.

SUMMARY: We have preliminarily determined that certain tapered journal roller bearings and parts thereof (TJRB) from Japan are being, or are likely to be, sold in the United States at less than fair value. We have notified the United States International Trade Commission (ITC) of our determination, and we have directed the United States Customs Service to suspend the liquidation of all entries of the subject merchandise which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice and to require a cash deposit or bond for each such entry in an amount equal to the estimated dumping margins as described in the "Suspension of Liquidation" section of this notice.

If this investigation proceeds normally, we will make a final determination by November 7, 1983.

EFFECTIVE DATE: August 30, 1983.

FOR FURTHER INFORMATION CONTACT: Raymond G. Busen, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone: (202) 377–1784.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We have preliminarily determined that there is a reasonable basis to believe or suspect that certain tapered journal roller bearings and parts thereof (TJRB) from Japan are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (the Act).

We have found that the foreign market value of TJRB exceeded the United States price on 99 percent of the sales. These margins ranged from .06 percent to 26.1 percent. The overall weighted-average margin on all sales compared is 4.3 percent.

If this investigation proceeds normally, we will make our final determination by November 7, 1983.

Case History

On January 28, 1983, we received a petition filed by counsel for Brenco, Inc. In accordance with the filing requirements of § 353.36 of the Commerce Department Regulations (19 CFR 353.36), the petitioner alleged that TJRB from Japan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that these imports are materially injuring, or are threatening to materially injure, a United States industry.

After reviewing the petition, we determined that it contained sufficient grounds to initiate an antidumping investigation. We notified the ITC of our action and initiated such an investigation on February 15, 1983 (48 FR 7767). On March 8, 1983, we corrected the product description which appeared in the initiation notice (48 FR 10728). On March 14, 1983, the ITC found that there is a reasonable indication that imports of certain TJRB are materially injuring, or are threatening to materially injure, a United States industry.

A questionnaire was presented in Japan to Koyo Seiko Co., Ltd. (Koyo), the only known producer of the subject merchandise, on February 16, 1983. The response was received on April 4, 1983. Supplemental questionnaires were sent to counsel for Koyo on April 21 and July 14, 1883. The responses were received on May 20 and August 1, 1983.

On June 8, 1983, we advised counsel for the petitioner that the case was extraordinarily complicated and that the Department was extending the period for the preliminary determination until not later than 210 days after the date or receipt of the petition in accordance with section 733(c)(1)(B) of the Act. We postponed our preliminary determination until not later than August 24, 1983 (48 FR 28520).

Scope of Investigation

For purposes of this investigation, the term "certain tapered journal roller bearings and parts thereof" covers two-row tapered roller bearings and parts thereof including cone and cup assemblies in sets, cone assemblies and cups sold separately, and other parts which may or may not be lubricated, sealed at the manufacturer's factory, and/or unitized. This investigation includes only those tapered journal roller bearings with assembled outside diameters between 6.5 and 10.875 inches, and meeting the specifications established by the Association of American Railroads in Specification M–934–81. Such tapered journal roller bearings and parts thereof are currently classified under items 680.3932, 680.3934, 680.3938, and 680.3940 of the *Tariff Schedules of the United States Annotated (TSUSA)*.

We investigated sales of TJRB by Koyo during the period from August 1, 1982, to January 31, 1983.

Fair Value Comparison

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

As provided in section 772(c) of the Act, we used the exporter's sales price of the subject merchandise to represent the United States price for sales by Koyo, because the merchandise was sold to unrelated purchasers after importation into the United States.

We calculated the exporter's sales price based on the c.i.f., duty paid, delivered packed price. We made deductions for Japanese inland freight, ocean freight, marine insurance, United States inland freight, customs duties, brokerage, warehousing, commissions, credit, and other selling expenses incurred in the United States.

Foreign Market Value

In accordance with section 773(a) of the Act, we calculated foreign market value based on Koyo's third country sales to unrelated customers of Australian Koyo Ltd. because such or similar merchandise was not sold in the home market. Our selection of Australia as the third country to be used for fair value comparisons was made because the TJRB exported to Australia had a greater degree of similarity to the TJRB exported to the United States than those exported to other third countries.

We calculated the third country prices on the basis of delivered, packed prices to unrelated purchasers in Australia. From these prices we deducted Japanese inland freight, insurance, brokerage, ocean freight, marine insurance, and Australian brokerage, import duty, inland freight and insurance. We also made a deduction for selling expenses to offset United States selling expenses in accordance with § 353.15(c) of the Commerce Regulations.

We made deductions, where appropriate, for differences in credit expenses and technical services. No adjustment for packing was made because packing costs were claimed to be the same in both markets.

The following claims were disallowed in calculating foreign market value because they did not meet the

requirements of § 353.15 of the Commerce Regulations. Koyo requested a circumstance of sale adjustment for consulting fees and entertainment. We did not make a circumstance of sale adjustment for these claims because the information submitted was not sufficient to indicate a direct relationship to the sales under investigation. We did consider entertainment to be an indirect selling expense and included the amount in the offset to United States selling expenses as required by § 353.15(c) of the Commerce Regulations. We also disallowed Koyo's claim for interest expense incurred on sales by Koyo to Australian Koyo Ltd. because the firms are related and the intra-company transfer of funds in the form of interest expense is not a corporate expense.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the United States Customs Service to suspend liquidation of TJRB from Japan which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**. The Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price. The suspension of liquidation will remain in effect until further notice. The weighted-average margin is 4.3 percent.

Verification

In accordance with section 776(a) of the Act, we will verify all data used in reaching a final determination in this investigation.

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

Public Comment

In accordance with section 353.47 of the Commerce Department Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m. on September 29, 1983, at the United States Department of Commerce, Conference Room D, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within 10 days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by September 22, 1983. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, within 30 days of publication of this notice, at the above address and in at least 10 copies.

Dated: August 24, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-23785 Filed 8-29-83; 8:45 am]

BILLING CODE 3510-25-M

Preliminary Affirmative Countervailing Duty Determination; Forged Undercarriage Components From Italy

AGENCY: International Trade Commission, United States Department of Commerce.

ACTION: Preliminary Affirmative Countervailing Duty Determination.

SUMMARY: We preliminarily determine that certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Italy of forged undercarriage components, as described in the "Scope of Investigation" section of this notice. The estimated net subsidy is 1.02 percent *ad valorem*. Therefore, we are directing the U.S. Customs Service to suspend liquidation of all entries of the merchandise subject to this investigation which are entered, or withdrawn from warehouse, for consumption, and to require a cash deposit or the posting of a bond on this merchandise in an amount equal to the estimated net subsidy. If this investigation proceeds normally, we will make our final determination by October 28, 1983.

EFFECTIVE DATE: August 30, 1983.

FOR FURTHER INFORMATION CONTACT: Roland MacDonald or Deborah Semb, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone: (202) 377-5498 or 377-3534.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based upon our investigation, we preliminarily determine that there is reason to believe or suspect that the government of Italy provides certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amend (the Act), to manufacturers, producers, or exporters in Italy of forged undercarriage components, as described in the "Scope of Investigation" section of this notice. We estimate the net subsidy to be 1.02 percent *ad volorem*.

Case History

On April 29, 1983, we received a petition from counsel for Jernberg Forgings Co., Lindell Drop Forge Co., Protec, Inc., Prearite Corp., Prearite of Jefferson, Inc., Walco Metal Forming Group, and Walker Forge, Inc. filed on behalf of the U.S. industry producing forged undercarriage components. The petition alleged that certain benefits which constitute subsidies within the meaning of section 701 of the Act are being provided, directly or indirectly, to manufacturers, producers, or exporters in Italy of forged undercarriage components. We found the petition to contain sufficient grounds upon which to initiate a countervailing duty investigation, and on May 24, 1983, we initiated an investigation (48 FR 23288). We stated that we expected to issue a preliminary determination by July 25, 1983. We subsequently determined that the case is "extraordinarily complicated" as defined in section 703(c)(1)(B) of the Act, and postponed our preliminary determination until August 25, 1983 (48 FR 28564).

Since Italy is a "country under the Agreement" within the meaning of section 701(b) of the Act, an injury determination is required for this investigation. Therefore, we notified the International Trade Commission (ITC) of our initiation. On June 13, 1983, the ITC determined that there is a reasonable indication that imports of semifinished forged undercarriage links and rollers are materially injuring U.S. industries. The ITC also determined that there is no reasonable indication that semifinished forged undercarriage segments and finished forged undercarriage links, rollers and

segments are materially injuring U.S. industries. Since Industria Meccanica e Stampaggio S.p.A. is the only known exporter to the U.S. of semifinished forged undercarriage links and rollers, our investigation of the petition's allegations regarding Italtractor ITM S.p.A. and Berco S.p.A., the manufacturers, producers and exporters of semifinished forged undercarriage segments and finished forged undercarriage links, rollers and segments, was terminated.

We presented a questionnaire concerning the allegations to the Embassy of Italy in Washington, D.C. on June 14, 1983 and requested a response by July 14, 1983. In a letter dated July 11, 1983, the government of Italy requested a postponement of the due date of the response; we granted the Italian government a two-week extension.

The government of Italy submitted a response to our questionnaire on July 28, 1983.

Scope of Investigation

The products covered by this investigation are semifinished forged undercarriage links and rollers for crawler-mounted machinery (forged undercarriage components). The merchandise is currently classified under item numbers 664.08, 692.34 and 692.35 of the *Tariff Schedules of the United States Annotated (TSUSA).*

Industria Meccanica e Stampaggio S.p.A. (IMES) of Sumirago (Varese), Italy is the only known exporter of the forged undercarriage components which were exported to the United States. The period for which we are measuring subsidization is January 1, 1982 through April 30, 1983.

Analysis of Programs

In its response, the government of Italy provided data for the applicable period. In addition, a response was provided by IMES through the government of Italy. Based upon our analysis to date of the petition and the responses to our questionnaire, we have preliminarily determined the following:

I. Programs Preliminarily Determined To Confer Subsidies

We preliminarily determine that subsidies are being provided to manufacturers, producers, or exporters in Italy of forged undercarriage components under the programs described below.

A. Rebates of Indirect Taxes

The stated purpose of Italian Law 639 is to rebate customs duties and certain indirect taxes upon the export of products containing iron and steel. The law sets forth the value of the rebate which is expressed in lire per kilogram. Rebate values have remained unchanged since enactment of the law in 1964. Granting of the rebate is automatic provided all the proper information is supplied to and verified by the government of Italy.

Respondents did not provide the Department with information on the criteria for establishing the rebate value and on the indirect taxes which were subject to rebate. No evidence was presented by the respondents to demonstrate the requisite linkage between the amount of the rebate and the incidence of customs duties and certain indirect taxes on various inputs of forged undercarriage components.

Since the requisite linkage was not demonstrated and since this rebate is contingent upon export performance and operates to stimulate export sales over domestic sales, we preliminarily determine that the rebate of indirect taxes provided to IMES under Italian Law 639 confers an export subsidy upon the manufacturers, producers, or exporters in Italy of forged undercarriage components.

We calculated the benefit received under this program by allocating the value of the rebates received between January 1, 1982 and April 30, 1983 over the value of its 1982 and January–April 1983 exports of forged undercarriage components. On this basis, we calculated a net subsidy in the amount of 0.99 percent *ad valorem.*

B. Preferential Financing

Italian Law 623 provided for government loans at preferential rates to small and medium-sized companies which are located in designated "depressed areas." These below market rate loans were granted for the construction of new industrial plants or the renewal, redesign or expansion of existing industrial plants.

In 1974, IMES obtained an 8 year loan from Mediocredito Regionale Lombardo at the commercial market rate of interest. In February 1976, IMES received a reduction in the interest rate of the loan under law 623.

Because these loans are limited to companies which are located in specified regions and because the terms of these loans are inconsistent with commercial considerations, we preliminarily determine that the financing provided under law 623 confers a domestic subsidy upon the manufacturers, producers or exporters in Italy of forged undercarriage components.

We used the quarterly financial statistics published by the Organization for Economic Cooperation and Development (OECD) to determine the benchmark for the commercial lire rate of interest for the first quarter of 1976. We used the Department's standard methodology for calculating the benefit arising from a preferential loan. As this program conferred a domestic subsidy, we allocated the benefit over IMES' total 1982 sales. On this basis we calculated a subsidy in the amount of 0.03 percent *ad valorem.*

II. Programs Preliminarily Determined Not To Confer Subsidies

We preliminarily determined that the Italian government is not providing subsidies to manufacturers, producers or exporters of forged undercarriage components included in this investigation under the following programs:

A. Pricing on Forging Quality Steel Purchased

According to its response, IMES has no relationship with any of the steel suppliers from which it purchased steel. Two of IMES's suppliers were private Italian enterprises, two were government-owned Italian enterprises and one was a company located in the United Kingdom. IMES attempted to purchase forging quality steel from a company in the Federal Republic of Germany but the transaction was never completed because IMES rejected the steel due to its quality.

IMES purchased nearly twice as much steel from private suppliers in 1982 as it did from publicly owned suppliers. The weighted average price of steel purchased from private suppliers was lower than the weighted average price of steel purchased from publicly owned suppliers. Thus, IMES did not benefit from preferential prices on steel purchased from government-owned steel suppliers.

Moreover, IMES stated in its response that all its purchases of steel were at arm's length. Further, IMES stated that it received no discounts on steel prices contingent upon export of forged undercarriage components.

Because IMES has purchased all its steel in arm's length transactions and received no discounts contingent upon export performance, we preliminarily determine that it did not receive a countervailable benefit through its steel purchases.

B. Convertible Debt

IMES issued convertible debt in 1977. This debt was converted to capital stock in November, 1982. According to its response, IMES is 100 percent privately

owned and there was no government participation in the debt conversion. Therefore, we preliminarily determine that conversion of IMES' debt to capital stock did not confer a countervailable benefit.

III. Programs Preliminarily Determined Not To Be Used

We preliminarily determine that the programs listed below which were listed in the notice of "initiation of Countervailing Duty Investigation—Forged Undercarriage Components from Italy" (48 FR 23288) are not being used by the manufacturers, producers or exporters in Italy of forged undercarriage components.

A. Government Equity Infusions Inconsistent with Commercial Considerations

According to its response, IMES is a 100 percent privately owned, family operated company which has not received any government equity infusions.

B. Regional Development Incentives

The petition alleges that IMES receives regional development benefits provided by the government of Italy under the following laws or programs: Law 908 which provides subsidized loans at below market rates and on preferential terms to qualifying industrial projects in northern and central Italy; Law 614 which provides tax incentives, including a ten-year total exemption from local taxes, to certain industrial enterprises establishing or expanding in areas of northern and central Italy; and Law 902 which assists small and medium-sized businesses in northern and central Italy with selective investments, particularly for modernizing existing plants to save labor costs.

According to its response, IMES has neither received any benefits from, nor participated in, any of these regional development programs.

IV. Program for Which Additional Information Is Needed

We will seek additional information on the following program before reaching our final determination in this investigation.

A. Export Credit Financing

Part IV of Italian Law 227 establishes medium-term credit financing to promote the exportation of goods and services. The Istituto Centrale per il Credito a Medio Termine (Mediocredito Centrale) administers the export credit financing through "special medium and long-term credit institutions." The Minister of the Treasury, after consulting the Interministerial Committee for Credit and Savings, establishes the requirements, terms and conditions of the export credit financing. The financing is denominated in Italian lire or in any foreign currency acceptable to the Mediocredito Centrale and the special medium and long-term credit institutions.

In November and December 1982, medium-term export credit financing, denominated in U.S. dollars, at preferential rates was provided under this program for the export of the forged undercarriage components manufactured by IMES.

In its response, the government of Italy stated: "It is the opinion of the Italian government (according to Paragraph K of the Illustrative List of Export Subsidies annexed to the agreement on the interpretation of articles 6 and 16 of the General Agreement on Tariff and Trade) that export financing programs cannot be considered as countervailable subsidies when provided at the terms and conditions of the OECD 'consensus'."

Since the export credit financing may have provided loans for export related purposes at interest rates significantly less than those for comparable commercially available loans, the export credit financing provided under Part IV of Italian Law 227 may have conferred a subsidy upon the company under investigation. Item K of the Illustrative List is not necessarily dispositive of the counteravailability of particular export credit financing. However, the Department needs more complete information on the terms and conditions of this loan before it can determine whether the loan confers a countervailable subsidy. The Department will seek that information before the final determination in this case.

Verification

In accordance with section 776(a) of the Act, we will verify all data used in making our final determination.

Suspension of Liquidation

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of forged undercarriage components from Italy which are entered, or withdrawn from warehouse, for consumption, on or before the date of publication of the notice in the Federal Register, and to require a cash deposit or the posting of a bond for each entry of the merchandise in the amount of 1.02 percent *ad valorem*.

This suspension shall remain in effect until further notice.

ITC Notification

In accordance with section 703(d)(3) and (f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Public Comment

In accordance with § 355.35 of the Commerce Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10 a.m. on September 27, 1983, at the U.S. Department of Commerce, Room 3708, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within 10 days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs must be submitted to the Deputy Assistant Secretary by September 20, 1983. Oral presentations will be limited to issues raised in the briefs.

All written views should be filed in accordance with 19 CFR 355.34, within 30 days of this notice's publication, at the above address and in at least 10 copies.

Dated: August 24, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-23825 Filed 8-29-83; 8:45 am]

BILLING CODE 3510-25-M

Initiation of Antidumping Investigations; Spindle Belting or Belts From the Federal Republic of Germany, Switzerland, Italy and Japan

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Initiation of Antidumping Investigations.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating antidumping investigations to determine whether certain spindle belting or belts from the Federal Republic of Germany, Switzerland, Italy, and Japan are being, or are likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether imports of this merchandise are materially injuring, or are threatening to materially injure, a United States industry. If the investigations proceed normally, the ITC will make its preliminary determinations on or before September 19, 1983 and we will make ours on or before January 11, 1984.

EFFECTIVE DATE: August 30, 1983.

FOR FURTHER INFORMATION CONTACT: John R. Brinkmann, Office of Investigations, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230 telephone: (202) 377–4929.

SUPPLEMENTARY INFORMATION: On August 4, 1983, we received a petition in proper form from Barber Manufacturing Company of Charlotte, North Carolina, the only known producer of spindle belting or belts in the United States. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports of the subject merchandise from the Federal Republic of Germany (FRG), Switzerland, Italy, and Japan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (19 U.S.C. 1673)(the Act), and that these imports are materially injuring, or are threatening to materially injure, a United States industry. In evaluating the sufficiency of the petition concerning foreign sales or costs, the Department took into consideration that this company is a small business and was extremely constrained in its ability to furnish information concerning adjustments for differences between U.S. producer's costs and that of the foreign companies. The allegations of sales at less than fair value of the merchandise under investigation from the FRG, Switzerland, and Italy, are supported by comparisons of offered United States prices with the foreign market value based on the U.S. producer's cost for the merchandise adjusted, where appropriate, for cost differences in the foreign country in question. For Japan, foreign market value was based on a home market price list for spindle belting.

Initiation of Investigations

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition filed by the sole domestic manufacturer of spindle belting or belts, and we have found that it meets the requirements of section 732(b) of the Act. Therefore, we are initiating antidumping investigations to determine whether spindle belting or belts from the FRG, Switzerland, Italy, and Japan are being, or are likely to be, sold at less than fair value in the United States. If our investigations proceed normally, we will make our preliminary determinations by January 11, 1984.

Scope of Investigations

The merchandise covered by these investigations is spindle belting or belts made of man-made fibers, or of such fibers and rubber or plastics, all the foregoing designed for use on spindles, either coated, filled, or laminated with rubber or plastics. Spindle belting or belts is currently classified in items 358.14 and 358.16 of the *Tariff Schedules of the United States.*

Notification to the ITC

Section 732(d) of the Act requires us to notify the ITC of these actions and to provide it with the information we used to arrive at these determinations. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine within 45 days of the date the petition was received whether there is a reasonable indication that imports of spindle belting or belts from the FRG, Switzerland, Italy, and Japan are materially injuring, or are likely to materially injure, a United States industry. If its determinations are negative on any of the countries, that investigation will terminate; otherwise these investigations will proceed according to the statutory procedures.

Dated: August 24, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-23635 Filed 8-29-83; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Environmental Assessment for the Voluntary Program To Conserve Sea Turtles by Using the Trawling Efficiency Device in Shrimp Trawls

AGENCY: National Marine Fisheries Service (NMFS).

ACTION: Notice of Availability.

SUMMARY: The program to encourage voluntary use of the Trawling Efficiency Device (TED) to conserve sea turtles consists of several complimentary actions by NMFS, the National Oceanic and Atmospheric Administration's Sea Grant Advisory Service, shrimp industry representatives, individual shrimpers and environmentalists. Shrimp trawls equipped with a TED catch about 97 percent fewer turtles than shrimp trawls without a TED. NMFS proposes to promote the voluntary use of the TED by the commercial shrimp fishery in the southeast United States to reduce the incidental take of sea turtles in that fishery. Additional benefits of using the TED include: increasing the catch of shrimp up to 7 percent; reducing unwanted by-catch by about 50 percent; and reducing trawl drag, which may result in fuel savings. NMFS has determined that there will be no significant environmental impact from the proposed voluntary program. Copies of the Environmental Assessment and additional information concerning the voluntary program may be obtained by writing to the offices given below.

ADDRESSES: Charles A. Oravetz, National Marine Fisheries Service, Southeast Regional Office, 9450 Koger Boulevard, St. Petersburg, Florida 33702, telephone 813/893–3366 or Charles Karnella, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Washington, D.C. 20235, telephone 202/634–7471.

SUPPLEMENTARY INFORMATION: All species of sea turtles that occur in U.S. waters are listed either as endangered or threatened species pursuant to Section 4 of the Endangered Species Act of 1973, as amended (see 50 CFR

222.23(a) and 227.4). Section 7(a)(1) requires all Federal agencies to utilize their authorities to carry out programs for the conservation of endangered and threatened species. To partially fulfill this requirement NMFS initiated a program to develop gear that would reduce the incidental take of sea turtles in shrimp trawls without reducing the catch of shrimp. (NMFS estimates that each year about 45,000 sea turtles are taken incidentally in shrimp trawls, of these about 12,600 die.) The TED has proven to be the most effective method developed to reduce the number of turtles taken incidentally in shrimp trawls. The shrimp industry, the environmental community and Sea Grant all have cooperated with and assisted NMFS in developing the voluntary program, testing TEDS and in the technology transfer necessary to implement the program.

Dated: August 19, 1983.

Richard B. Roe,

Acting Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 83-23086 Filed 8-29-83; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on Long Endurance Aircraft, Advisory Committee Meeting

The Defense Science Board Task Force on Long Endurance Aircraft will meet in closed session on 19 September 1983 in the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

At the meeting on 19 September 1983, the Task Force will consider the mission potential for long endurance aircraft.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92-463, as amended (5 U.S.C. App. I, (1976)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly these meetings will be closed to the public.

Dated: August 25, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Service, Department of Defense.

[FR Doc. 83-23010 Filed 8-29-83; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Supercomputer Applications; Advisory Committee Meeting

The Defense Science Board Task Force on Supercomputer Applications will meet in closed session on 22-23 September 1983 in the Carnegie-Mellon University, Pittsburgh, Pennsylvania.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

At the meeting on 22-23 September 1983, the Task Force will conduct a review of the Defense Department's program to apply emerging capacity of computers to contribute to military programs and issues. It will attempt to identify areas where the expected many orders of magnitude improvement in computing power can be of aid to the defense establishment.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92-463, as amended (5 U.S.C. App. I, (1976)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly these meetings will be closed to the public.

Dated: August 25, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Service, Department of Defense.

[FR Doc. 83-23011 Filed 8-29-83; 8:45 am]

BILLING CODE 3810-01-M

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Proposed Levisa Fork Flood Damage Reduction Plan in Kentucky and Virginia

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of Intent to Prepare A Draft Environmental Impact Statement.

1. The Levisa Fork formulation studies are being conducted in response to authorization of Section 202 of the Energy and Water Development Appropriation Act of 1981 (Pub. L. 96-367). Study objectives are to determine the best means of affording portions of the Levisa Fork basin flood damage reduction measures.

2. The alternatives to be considered include that of no action, construction of flood control reservoirs, stream modification by channelization, construction of selected floodwalls and/or levees, floodproofing, and relocation of flood-prone development into flood-safe areas.

3. Public activities will deal with the overall flood damage reduction plan. Potential alternatives will be discussed with the elected officials of the study area and will be presented to civic groups, private organizations, and interested individuals as detailed studies progress.

a. Formal meetings will be scheduled to provide for discussion and input to evaluation of alternative plans and plan selection.

b. Significant issues to be analyzed in depth in the DEIS will be the impact of flooding on the existing environment and the effects of alternative plans. The plans may include a reservoir, floodwalls/levees, channel modifications, flood-proofing and/or relocations to new housing and community development sites.

c. Consultation shall be conducted with the U.S. Fish and Wildlife Service pursuant to the requirements of the Fish and Wildlife Coordination Act 16 U.S.C. 661 et seq. (Pub. L. 85-624) and the Endangered Species Act 16 U.S.C. 1531 et seq. (Pub. L. 93-205) and the Heritage Conservation and Recreation Service and State Historical Preservation Officer(s) pursuant to the National Historical Preservation Act of 1966 (80 Stat 915) (Pub. L. 89-665), the Preservation of Historical and Archeological Data (88 Stat 174) (Pub. L. 93-291), and EO 11593.

4. A formal scoping meeting will not be held due to the legislative nature of the DEIS pursuant to paragraph 1506.6b(1) of 43 FR 55978-56007 of 29 November 1978. However, comments from interested members of the public and private and public agencies and organizations are invited.

5. It is anticipated that the DEIS will be available for public review in December 1984.

6. Questions concerning the proposed action and DEIS can be answered by:

Mr. Jim Twohig (Study Manager)
Mr. John Wright (Environmentalist),
Huntington District, Corps of Engineers, 502 Eighth Street, Huntington, West Virginia 25701.

Dated: August 11, 1983.

John W. Devens,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 83-23780 Filed 8-29-83; 8:45 am]

BILLING CODE 3710-92-M

DELAWARE RIVER BASIN COMMISSION

Amendments to Comprehensive Plan, Hearings

AGENCY: Delaware River Basin Commission.

ACTION: Public hearing record; extension of comment period.

SUMMARY: Notice is hereby given that the Delaware River Basin Commission has extended the comment period from August 31, 1983 to September 23, 1983 for submission of written testimony on proposed amendments to the Commission's Comprehensive Plan to revise and update descriptions of the Francis E. Walter, Prompton, Cannonsville and Tocks Island reservoir projects.

These proposed amendments are based upon recommendations in the Commission's final Level B Study and a recent agreement by the Governors of the Commonwealth of Pennsylvania, the State of New York, New Jersey and Delaware, and the Mayor of New York City entitled *Interstate Water Management Recommendations of the Parties to the U.S. Supreme Court Decree of 1954 to the Delaware River Basin Commission Pursuant to Commission Resolution 78-20.*

The proposed amendments provide revised and updated descriptions of the purposes of the projects, applicable project modifications and schedules.

DATES: Public hearing were held as noticed in the July 8, 1983 **Federal Register**, Vol. 48, No. 132, page 31451 on August 3, 1983 in Wilkes Barre, Pennsylvania; August 4, 1983 in Honesdale, Pennsylvania; August 9, 1983 in Walton, New York; and August 11, 1983 in West Trenton, New Jersey.

Written testimony submitted to the Secretary by September 23, 1983 will be included in the hearing record.

ADDRESS: Written comments should be submitted to Susan M. Weisman, Delaware River Basin Commission, P.O. Box 7360, West Trenton, New Jersey 08628.

FOR FURTHER INFORMATION CONTACT: Susan M. Weisman, Commission Secretary, Delaware River Basin Commission, Telephone (609) 883-9500.

Susan M. Weisman,

Secretary.

August 23, 1983.

[FR Doc. 83-23714 Filed 8-29-83; 8:45 am]

BILLING CODE 6360-01-M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education

ACTION: Notice of Proposed Information Collection Requests.

SUMMARY: The Deputy Under Secretary for Management invites comments on the proposed information collection requests as required by the Paperwork Reduction Act.

DATES: Interested persons are invited to submit comments on or before September 24, 1983.

ADDRESSES: Written comments or requests should be addressed to Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., Room 3208 New Executive Office Building, Washington, D.C. 20503 and/or Margaret Webster, Department of Education, 400 Maryland Avenue, SW., Room 4074, Switzer Building, Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: William Wooten, (202) 426-7304.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The requirement for public consultation may be amended or waived by OMB to the extent that the public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform the statutory obligations.

The Deputy Under Secretary for Management publishes this notice containing proposed information requests prior to the submission of these requests to the Office of Management and Budget. Public comment is invited and copies of the requests may be obtained from the addresses named above.

Dated: August 23, 1983.

Charles L. Heatherly,

Deputy Under Secretary for Management.

Office of Elementary and Secondary Education (OESE)

Extension

Application and Recordkeeping for School Assistance in Federally Affected Areas
ED 4019
Annually; Recordkeeping
State or Local Governments
Reporting Burden; Responses: 3,053; Burden Hours: 25,600
Recordkeeping Burden: Recordkeepers: 3,000; Burden Hours: 27,600
Abstract: This is an application for local educational agencies requesting Federal funds to provide free public education for children with a parent residing or employed (or both) on Federal property.

Annual Survey of Children in Institutions for Neglected or Delinquent Children or in Adult Correctional Institutions
ED 4376
Annually
State or Local Governments
Reporting Burden: Responses: 52; Burden Hours: 2,000
Abstract: An annual survey is conducted to collect statutory formula data on (1) the Average Daily Attendence of children in State operated or supported institutions for neglected or delinquent children and (2) the October caseload data of children in local institutions. Affected public are State agencies and public or private institutions.

Revision

Special Condition Application for Federal Student Aid
ED 255-2
Annually
Individuals or Households
Reporting Burden: Responses: 236,000; Burden Hours: 259,600
Abstract: This form is need to collect the data necessary, when a student's family financial situation changes to determine whether the student is eligible for Federal student aid funds, and to calculate a uniform methodology number which financial aid administrators may use to award all other types of financial aid.

Application for Federal Student Aid—Pell Grant Program
ED 255
Annually
Individuals or Households

Reporting Burden: Responses: 5,300,000; Burden Hours: 5,830,000
Abstract: This form is need to collect the data necessary to determine whether the student is eligible for Federal student aid funds, and to calculate a uniform methodology number which financial aid administrators may use to award all other types of financial aid.

Extension

Application for State Student Incentive Grant Program
ED 1288
Annually.
State or Local Governments
Reporting Burden: Responses: 57; Burden Hours: 171
Abstract: Completed application shows States qualification for Federal funds, specifying matching and maintenance of effort capability, methods of determing student financial need, and the extent of institutional eligibility. With its signed assurances, the document commits the State to administer the Federal funds and State matching in compliance with the statute.

Lender's Request for Interest and Special Allowance—GSL and PLUS Programs
ED 799
Quarterly/Semi-Annually/Biennually
Businesses or Other for Profit; Small Businesses or Organizations
Reporting Burden: Responses: 48,000; Burden Hours: 48,000
Abstract: This form is used by lenders to request payment of interest and special allowance. This is the only reporting form to permit the Department to determine the government's obligation to lenders in the GSL and PLUS programs.

Application for Federal Insured Student Loan Program
ED 1154
Annually
Individuals or Households; Non-Profit Institutions
Reporting Burden: Responses: 240,000; Burden Hours: 33,360
Abstract: The Department will use the data to verify the identity of the applicant; to determine program eligibility and benefits and to collect on delinquent or defaulted lonas. Data will be given, upon request, to Federal, State, or local agencies, education institutions and credit and collection agencies. Respondents include eligible student borrowers, lenders, and institutions.

Office of Educational Research and Improvement (OERI)

New

High School and Beyond Second Follow-Up Survey
ED 2441-1 & 2441-2
On Occasion
Individuals or Households
Reporting Burden: Responses: 26,500; Burden Hours: 26,500
Abstract: NCES instituted the National Longitudinal Studies (NLS) program in order to establish a nationally representative sample of high school students. One major component of the NLS is the High School and Beyond (HS&B) study. HS&B is a sample of 1980 high school sophomores and seniors. HS&B data is used to study educational, vocational, and personal development of high school students.

The Use of ERIC Resources by Information Service Provider
NIE 241
Non-Recurring
Businesses or Other for Profit Institutions; Non-Profit Institutions; Small Businesses or Organizations
Reporting Burden: Responses: 800; Burden Hours: 600
Abstract: This project is a study of the NIE funded ERIC program and the use of ERIC and other information resources by information service providers. The findings will inform program managers and policy makers about ERIC and informatin dissemination by indicating how information service providers select, organize, and use information resources. Respondents—libraries and other information providers.

Fast Response Survey System
ED 2379
Non-Recurring
State or Local Governments
Reporting Burden: Responses: 1,200; Burden Hours: 800
Abstract: Surveys are conducted through ED's Fast Response Survey System in ordr to answer requests for urgently needed policy information. The first survey, directed to State Directors of Adult and Vocational Education, asks for their recommendations for initiatives to improve adult and vocational education. This information will be used in guiding ED priorities. The second survey is a sample survey of schools, colleges, and Departments of Education concerning the availability of computers for student use, required courses in computer literacy or computer assisted instruction, and current needs and future plans. This information will be used to identify the current status and needs in this area and determine the need for any ED initiatives. The third survey is a sample survey of public libraries concerning current and planned availability of computer hardware and software services to library patrons. This information will be used to determine the relation of the use of computer technology in libraries to ED initiatives.

A Study of State School Improvement Programs
ED 918
Non-Recurring
State or Local Governments
Reporting Burden: Responses: 2,800; Burden Hours: 280
Abstract: A study of how State education agencies formulate and implement programs to improve local school quality. Data collection will consist of interview with state officials in six to eight states, plus local district and school level respondents.

A study of the Selection of Public Elementary and Secondary School Teachers
ED 919
Non-Recurring
State or Local Governments; Non-Profit Institutions
Reporting Burden: Responses: 2,100; Burden Hours: 210
Abstract: A study to determine how local school districts select teachers, requiring collection of information from local administrators and teachers in six to nine districts plus some data collection at the State level.

A Study of the Minnesota Income Tax Deduction for Public and Private School Expenses.
ED 920
Non-Recurring
Individuals or Households/Non-Profit Institutions
Reporting Burden: Responses: 1,700; Burden Hours: 1,550
Abstract: A study of the history, operation, and effects of the Minnesota income tax deduction for public and private school expenses, recently upheld by Supreme Court. Data collection will consist of a survey of public and non-public school households and a survey administered to heads of private schools.

Office of Bilingual Education and Minority Languages Affairs

Existing Collection—Unapproved

Information Service Reaction Form

ED 922
On Occasion
Individuals or Households; State or Local Governments; Businesses or Other For Profit; Federal Agencies or Employees; Non-Profit Institutions; Small Businesses or Organizations
Reporting Burden: Responses: 3,000; Burden Hours: 250
Abstract: Form is sent to persons who have requested information from the National Clearinghouse for Bilingual Education. The respondents are asked to indicate the usefulness of information provided in response to their requests and to suggest ways in which the clearinghouse may improve its information sources and services. Completion of the form is voluntary.

Recordkeeping Under Bilingual Vocation Education
Recordkeeping
State or Local Governments; Non-Profit Institutions
Recordkeeping Burden: Recordkeepers: 16; Burden Hours: 4,680
Abstract: Grantees are required to maintain records showing the time and funds expended on the project, the project accomplishments, and evidence of program compliance.

Recordkeeping Under the Bilingual Education Fellowship Program
Recordkeeping
Non-Profit Institutions
Recordkeeping Burden: Recordkeepers: 33; Burden Hours: 990
Abstract: Participating institutions must keep records of the amount of each fellowship award expended each year. The Department uses this information to determine students' obligations in the event that they do not meet the legal post-fellowship service requirement and must repay the fellowship award.

Recordkeeping Under Bilingual Education
Recordkeeping
State or Local Governments; Non-Profit Institutions
Recordkeeping Burden: Recordkeepers: 875; Burden Hours: 31,250
Abstract: Grantees are required to maintain records showing the time and funds expended on the project, the project accomplishments, and evidence of program compliance.

Revision

Application for Participation in Bilingual Education Fellowship Program
ED 4561–2
Annually
Non-Profit Institutions
Reporting Burden: Reponses: 303; Burden Hours: 1,040
Abstract: Form is used by institutions of higher education to request approval of their graduate programs of study so that they may nominate students for fellowship awards. The student nomination form becomes part of the award document and is used by institutions to report annually on the amount of funds spent per fellowship.

Reinstatment

Application for Grants Under Bilingual Education
ED 4561
Annually
State of Local Governments; Non-Profit Institutions
Reporting Burden: Responses: 750; Burden Hours: 60,000
Abstract: Form is used by applicants for new awards under Title VII of the Elementary and Secondary Education Act, as amended. The Act authorizes the award of grants to State and local education agencies, institutions of higher education, and non-profit private organizations, that meet the requirements of the Act and governing regulations.

[FR Doc. 83–23747 Filed 8–29–83; 8:45 am]
BILLING CODE 4000–01–M

Membership of the Performance Review Board

AGENCY: Department of Education.

ACTION: Notice of Membership of the Performance Review Board.

SUMMARY: Notice is hereby given of the names of members of the Department of Education Performance Review Board, and the schedule for awarding SES bonuses.

FOR FURTHER INFORMATION CONTACT: Martha C. Brooks, Director, Executive Resources Division, Office of Personnel Resource Management Services, Office of Management, Department of Education, (Room 1085, FOB–6), 400 Maryland Avenue, SW., Washington, D.C. 20202, Telephone: (202)472–3567.

SUPPLEMENTARY INFORMATION: Section 4314(c) (1) through (5) of Title 5, U.S.C. requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Managment, one or more SES performance review boards. The board shall review and evaluate the initial appraisal of a senior executive's performance by the supervisor, along with any recommendations to the appointing authority relative to the performance of the senior executive.

Membership

The following Senior Executive Service members have been selected to serve on the Performance Review Board of the Departfment of Education: Lawrence Davenport, Co-Chair; Linda Combs, Co-Chair; Ralph Olmo; John Wu; Mark Levin; Joan Standlee; Jack Klenk; William Smith; Emerson Elliott; Shirley Jackson; Richard Hastings; Frank Ryan; Mitchell Laine; Barry Bontemps; Garry McDaniels; Sally Christensen; Earl Ingram, Ex-officio Member.

Schedule for Awarding Senior Executive Service Bonuses

The Department of Education's performance appraisal period for the Senior Executive Service ended on June 30, 1983. The appraisal process will be completed and recommendations sent to the Secretary for a decision on performance awards by September 30, 1983.

Dated: August 23, 1983.

Charles L. Heatherly,

Deputy Under Secretary for Management.

[FR Doc. 83–23746 Filed 8–29–83; 8:45 am]
BILLING CODE 4000–01–M

Special Education and Rehabilitative Services; Arbitration Panel Decision Under the Randolph-Sheppard Act

AGENCY: Department of Education.

ACTION: Notice of Arbitration Panel Decision under the Randolph-Sheppard Act.

SUMMARY: Notice is hereby given that on January 29, 1983, an Arbitration Panel rendered a decision in the matter of Dave S. Shell, Vendor, vs State of Nevada Rehabilitation Division, Department of Human Resources, State Licensing Agency (R–S/82–3). This panel was convened by the Secretary of the Department of Education pursuant to 20 U.S.C. 107d–1(a), upon receipt of a complaint filed by petitioner Dave S. Shell on April 9, 1982. Under this section of the Act, a blind licensee dissatisfied with the State's operation or administration of the vending facility program may request a full evidentiary hearing from the State Licensing agency. If the licensee is dissatisfied with the State agency decision, the licensee may complain to the Secretary, who is then required to convene an Arbitration Panel to resolve the dispute.

Note.—Subsequent to the issuance of the panel decision, Mr. Shell has challenged the decision in a court case filed under the judicial review procedures of the Randolph-Sheppard Act, *Shell v. Bell* et al., CA #83–0786 (District of Columbia).

FOR FURTHER INFORMATION CONTACT: Director, Division for Blind and Visually Impaired, Rehabilitation Services, Room 3330, Mary E. Switzer Building,

Department of Education, 330 'C' Street, SW., Washington, D.C. 20202, Area Code (202) 245-0918, TTY (202) 245-0591. The full text of the Arbitration Panel decision can be obtained from this source.

Dated: August 24, 1983.

T. H. Bell,

Secretary of Education.

Arbitration Panel Decision

Petitioner Dave S. Shell, a blind person, participated in the Business Enterprise Program (BEP) administered by the State of Nevada Rehabilitation Division, Department of Human Resources, State Licensing Agency. This program is authorized by the Randolph-Sheppard Act at 20 U.S.C. 107 *et seq.* Mr. Shell was first granted a license by the Bureau in the summer of 1980.

Under his license, Shell was to maintain vending machines located in the Nevada Department of Transportation building, and at the same time run a candy and newsstand located in another State building. The start-up capital was provided by the State. Several months after Mr. Shell began working under license, the State attempted to audit his books and records as provided for in the Rules and Regulations governing the program. At least two audits were attempted, but neither could be completed because of the absence of needed records.

In April 1981, Mervyn J. Flander, Chief of the Bureau of Services to the Blind, wrote a letter to Shell detailing specific requirements that Shell needed to comply with. A subsequent visit by Al Roybal of the Bureau disclosed that the terms of Mr. Flander's letter had not been complied with. Several areas of noncompliance with the contract and BEP rules were noted.

In an attempt to clear up any misunderstandings between what was expected of Shell, and what Shell reasonably could perform, the State entered into a new contract with Shell on June 1, 1981. Shell's agreement was to operate the vending stand in Reno, as well as to maintain and supply vending machines located at the Nevada Department of Transportation building.

This contract supplanted the earlier contract between these same parties, and the slate between the two parties was considered to be "wiped out." Exhibit F, attached to the contract and made a part of it, contained "additional special agreements" between Shell and the State. These special agreements were included in the contract to address specifically the problems that had arisen during the prior year under the first contract, and establish specific duties of both Shell and the State.

In August 1981, Shell received notice of an audit by the State. Shell was informed by Flander that the high cost of operating supplies and telephone expenses on the July report prompted this inquiry. An audit was necessary to locate an apparent error in reporting closing inventory and opening inventory for the month of June. Shell refused to participate in the audit because the State wished to look at his records prior to June 1, 1981. Shell felt those records were irrelevant to his current performance. The State provided a rationale to Shell for the necessity of looking at records prior to June 1, 1981, and assured Shell that no disciplinary action would be taken against him should irregularities be discovered in those earlier records. Nonetheless, Shell refused to participate in the audit.

Additionally, the State received complaints from the Department of Transportation concerning Shell's servicing of vending machines in their building. Although the State attempted to help Shell establish a maintenance and service schedule, he failed to comply with that schedule.

Finally, the State noted several irregular and inadequate record-keeping practices on the part of Shell. These derelictions, combined with the other problems noted above, resulted in the State serving upon Shell a Notice of Intent to Revoke License and Notice of Fair Hearing. The hearing was held by the State on October 19, 1981, and a decision rendered on December 16, 1981. That decision revoked Shell's license.

Shell filed a complaint with the Secretary of Education on April 9, 1982, requesting arbitration under the Randolph-Sheppard Act. Shell appointed James Nyman, the State appointed Delbert Frost, and those two together agreed upon Donald H. Wollett as the Chairman of the Arbitration Panel. The hearing was held on September 24 and 25, 1982 in Reno, Nevada and on October 11, 12, 13 and November 2 and 3, 1982 in Carson City, Nevada. After receipt of briefs by the parties in mid-January 1983, the Arbitration Panel met in executive session in Carson City on January 29, 1983 and made its decision.

The panel made certain procedural rulings to the effect that arbitration under the Randolph-Sheppard Act is a *de novo* proceeding, rather than limited to a review of the record of the State agency fair hearing, and therefore cured alleged procedural defects in such hearing.

Turning to the merits, the panel, Mr. Nyman dissenting, found that the record evidence clearly and convincingly supported the actions of the State. Specifically, Shell breached his contract with the State by refusing to participate in the audit. Second, he failed to maintain books and records as required by Exhibit F of his contract. Third, Shell failed to stock and service the vending machines in the Department of Transportation building. The panel also found that any failure that there may have been by the State in carrying out its obligations under the contract were immaterial to the breaches by Shell, were not the causative factor thereof, and therefore afforded Shell no excuse for his own breaches. Thus, the panel concluded that the revocation by the State of Nevada of petitioner's license to operate a vending facility and the termination of his business as a blind licensee was proper under the Randolph-Sheppard Act and the contract which existed between Shell and the State.

The arbitration panel decision does not necessarily represent the views of the Department of Education.

[FR Doc. 83-23748 Filed 8-29-83; 8:45 am]

BILLING CODE 4000-01-M

Special Education and Rehabilitative Services; Arbitration Panel Decision Under the Randolph-Sheppard Act

AGENCY: Department of Education.

ACTION: Notice of Arbitration Panel Decision under the Randolph-Sheppard Act

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SUMMARY: Notice is hereby given that on November 24, 1982, an arbitration panel rendered a decision in the matter of Robert Albanese, Vendor vs State of Delaware, Division for the Visually Impaired, Department of Health and Social Services, State Licensing Agency (R-S/81-5). This panel was convened by the Secretary of the Department of Education pursuant to 20 USC 107d-1(a), upon receipt of a complaint filed by petitioner Robert Albanese on September 18, 1981. Under this section of the Act, a blind licensee dissatisfied with the State's operation or administration of the vending facility program may request a full evidentiary hearing from the State Licensing agency. If the licensee is dissatisfied with the State agency decision, the licensee may complain to the Secretary, who is then required to convene an arbitration panel to resolve the dispute. NOTE: Subsequent to the issuance of the panel decision, the Delaware Department of Health and Social Services, Division for the Visually Impaired has challenged

the decision in a court case filed under the judicial review procedures of the Randolph-Sheppard Act, *Delaware vs. U.S. Department of Education* et al, CA No. 83–57 (D. Del.).

FOR FURTHER INFORMATION CONTACT: Frederick Sachs, Acting Director, Division for Blind and Visually Impaired, Rehabilitation Services, Room 3030, Mary E. Switzer Building, Department of Education, 330 C Street, S.W., Washington, D.C. 20202, Area Code (202) 245–0918 or TTY (202) 245–0591. The full text of the arbitration panel decision can be obtained from this source.

Dated: August 24, 1983.

T. H. Bell,

Secretary of Education.

Arbitration Panel Decision

A blind vendor, Robert Albanese, grieved a determination by the State of Delaware's Division for the Visually Impaired to award a vacant position to another blind vendor with less seniority than Albanese (the Grievant).

Albanese retained counsel and pursued his claim consistent with the procedural requirements of the Randolph-Sheppard Act at 20 USC 107 *et seq.*, and the Department of Education Revised Interim Policies and Procedures for Randolph-Sheppard arbitrations.

It was determined as the result of a full evidentiary proceeding conducted by the State that the Grievant-Albanese was senior and qualified and should have been assigned to the position in question. Accordingly, he was awarded the position effective April 1, 1981, some seventeen (17) months subsequent to the date the Grievant claimed he should have been awarded the position.

Issues of back pay and attorney's fees were then submitted to federal arbitration and a hearing was conducted regarding these questions on September 22, 1982 before a tri-partite Arbitration Panel. The Panel rendered its decision on November 24, 1982.

The Arbitration Panel found that the questions of qualifications and seniority had been resolved in the Grievant's favor. The Panel found that there was no showing that the State acted in bad faith when it decided to award the vacancy to an individual other than the Grievant.

The Panel found that the Grievant had been wronged and suffered monetary damages as a result of his non-selection for the position in question.

The Panel found that the Grievant, after his own attempt to process his claim with the State was frustrated, acted reasonably and prudently when he retained private outside counsel.

The Panel concluded that the State's defense of sovereign immunity against a claim for monetary damages and attorney's fees was not sustained in an arbitration forum but rather was available only in judicial proceedings. The Panel further found that the State had waived whatever sovereign immunity defenses it might have had by virtue of its "full participation" in a federal program which contains arbitration procedures designed to provide remedies for State agency wrongs. Since, in the view of the Panel, the arbitration proceedings are of a private contract nature and require the application of well-understood and long-established practices for fashioning remedies for wrongs, the Panel concluded that back pay and attorney's fees could be awarded.

The Panel concluded, based upon *Moffitt and Tennessee Department of Human Services*, RS 80–8, the only Randolph-Sheppard arbitration cited, that in the same statutory framework an award of damages in the nature of back pay had been issued in order to make a blind licensee whole.

The Panel held that the Grievant was entitled to the difference between what he earned between the dates of October 1, 1979, to and through March 31, 1981, and what the individual who had been improperly awarded the position earned in that position between the same dates. Back pay was thus awarded.

A claim for interest on the back pay was denied, as such claim was considered punitive and the State's improper actions were found to have not been motivated by bad faith.

Attorney's fees were awarded, as retention of counsel was found to be reasonable and necessary in the circumstances. Attorney's fees claim was found to be reasonable and ordinary and within the fee structure of the marketplace.

Tthe Arbitration Panel's Opinion and Award was unanimous. The Opinion and Award does not necessarily represent the views of the Department of Education.

[FR Doc. 83–23749 Filed 8–29–83; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Voluntary Agreement and Plan of Action To Implement the International Energy Program; Meetings

In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(i)), the following meeting notices are provided:

I. A meeting of Subcommittee A of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held on September 8 and 9, 1983, at the offices of Statoil, Forus, Stavanger, Norway, beginning at 9:30 a.m. on September 8, in order to permit representatives of some of the members of Subcommittee A to participate in a meeting of a joint government/industry Design Group which was established by the IEA in connection with the Fourth IEA Allocation Systems Test (AST–4). The agenda for the meeting is a review of AST–4 (including an exchange of views with a Group of Experts engaged as consultants to the IEA Secretariat).

II. A meeting of Subcommittee A of the IAB will be held on September 12, 1983, at the offices of the IEA, 2 Rue Andre Pascal, Paris 16, France, beginning at 9:30 a.m. The agenda for the meeting is as follows:

1. Opening remarks.
2. AST–4 matters.
3. Pricing in an emergency.
4. Industry chairmanships—staffing/succession.
5. Per diem expenses of Industry Supply Advisory Group (ISAG) members in AST–4.
6. Quarterly Oil Forecast (QOF).
7. Latest monthly Secretariat assessment.
8. Future work program.

III. A meeting of Subcommittee C of the IAB will be held on September 12, 13 and 14, 1983, at the offices of the IEA, 2 Rue Andre Pascal, Paris 16, France, beginning at 2:00 p.m. on September 12. The meeting will be continued on September 13 and 14, if necessary, during periods of those dates when scheduled meetings of the IAB and the IEA's Standing Group on Emergency Questions (SEQ) are not in session. The agenda for the meeting is as follows:

1. Opening remarks.
2. Experience with legal clearances for AST–4.
3. Application for legal clearance under EEC treaty.
4. Status of U.S. legislation.
5. IEA Dispute Settlement Centre developments.
6. Availability of contract breach defense.
7. Future work program.

IV. A meeting of the IAB will be held on September 13, 1983, at the offices of the IEA, 2 Rue Andre Pascal, Paris 16, France, beginning at 9:30 a.m. The agenda for the meeting is as follows:

1. Opening remarks:

(a) Adoption of the agenda;

(b) Approval of Record Notes of March 7, 1983, IAB meeting.

2. Correspondence and communication with IEA and Reporting Companies.
3. AST–4 matters—reports from:
(a) ISAG Manager;
(b) Expert Group;
(c) IEA Secretariat.
4. Report of Subcommittee A on its meeting of September 12, 1983.
5. Oil supply and demand:
(a) Latest monthly Secretariat assessment;
(b) QOF.
6. Report of Subcommittee C on its meeting of September 12, 1983.
7. Staffing of committees and groups.
8. Next IAB meeting.

V. A meeting of the IAB will be held on September 14, 1983, at the offices of the IEA, 2 Rue Andre Pascal, Paris 16, France, beginning at 9:30 a.m., to permit attendance by representatives of members of the IAB at a meeting of the SEQ which is being held at Paris on that date. The agenda for the meeting is under the control of the SEQ. It is expected that the following draft agenda will be followed:

1. Adoption of the draft agenda.
2. Summary record of 44th meeting.
3. Oil supply and demand:
(a) August assessment;
(b) Questionarie C and Monthly Oil Statistics review;
(c) Base Period Final Consumption;
(d) QOF.
4. AST–4:
(a) ISAG appraisal report;
(b) Secretariat appraisal report;
(c) Expert Group report;
(d) Draft SEQ report to Governing Board.
5. Pricing in an emergency.
6. Any other business.
7. Date of next meeting.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, these meetings will not be open to the public.

Issued in Washington, D.C., August 25, 1983.

Craig S. Bamberger,

Assistant General Counsel, International Trade and Emergency Preparedness.

[FR Doc. 83-23789 Filed 8-29-83; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[Docket No. ERA–FC–81–007; OFC Case No. 55001–9201–01–12]

Powerplant and Industrial Fuel Use; Exemptions; Augusta Newsprint Co.

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Notice and Proposed Modification of an Order Granting Permanent Fuels Mixture Exemption to Augusta Newsprint Company, formerly Abitibi-Price Southern Corporation.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) has commenced a proceeding under 10 CFR Part 501, Subpart G to modify the permanent fuels mixture exemption granted by Order ("Order") to a new major fuel burning installation (MFBI), owned and operated by Augusta Newsprint Company, formerly Abitibi-Price Southern Corporation (Augusta Newsprint) at its Augusta, Georgia facility, under the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.*

Based upon its review of Augusta Newsprint's August 15, 1983, modification request, ERA is proposing to modify the Order on the basis of its determination that significantly changed circumstances, as defined in 10 CFR § 501.102(b), exist with respect to the applicability of the original exemption. Accordingly, ERA is hereby giving notice to all parties to the original proceeding of their right, pursuant to 10 CFR § 501.101(d), to file a written response to ERA's proposal within 30 days of the publication of this Notice in the **Federal Register** (see DATE section, below). If no responses are received within the established period, the Order modification, as proposed, shall become final upon the expiration of that period without further action by ERA.

A detailed discussion of the Order and Augusta Newsprint's request for modification thereof is provided in the **SUPPLEMENTARY INFORMATION** section below.

DATE: Written responses to ERA's proposed modification of the Augusta Newsprint Order must be received no later than *September 29, 1983.*

ADDRESS: Written responses are to be addressed to Department of Energy, Economic Regulatory Administration, Office of Fuels Programs, Case Control Unit, GA–093, 1000 Independence Avenue, S.W., Washington, D.C. 20585. OFC–55001–9201–01–12 should be printed on the outside of the envelope and the documents contained therein.

FOR FURTHER INFORMATION CONTACT:

Edward J. Peters, Jr., Office of Fuels Programs Economic Regulatory Administration, Forrestal Building, Room GA–073, 1000 Independence Avenue SW., Washington, D.C. 20585, Telephone (202) 252–8162

Marya Rowan, Office of the General Counsel, Department of Energy, Forrestal Building, Room 6B–222, 1000 Independence Avenue SW., Washington, D.C. 20585, Telephone (202) 252–2967.

SUPPLEMENTARY INFORMATION: On June 25, 1981, ERA exempted, by Order, Augusta Newsprint's new wood waste boiler identified as boiler No. 1, at its Augusta, Georgia plant from the prohibitions of section 202 of FUA, which prohibits the use of natural gas or petroleum as a primary energy source by certain MFBIs. The Order was published in the **Federal Register** on July 7, 1982 (46 FR 35142). Subject to the terms and conditions set forth in the Order, the permanent fuels mixture exemption permitted, in a mixture with wood waste, the use of No. 6 fuel oil or natural gas in the new boiler in an amount not to exceed 25 percent of the total annual Btu heat input of the primary energy sources used in the boiler. Augusta Newsprint's exemption request was filed under the then effective 10 CFR §503.38 (45 FR 38278, June 6, 1980) and was granted pursuant to section 212(d) of FUA.

By letter dated August 15, 1983, Augusta Newsprint requested that ERA modify the Order to delete the annual certification part of the following reporting requirement:

"Reporting requirements: In addition to the above standard terms and conditions, APSC will, pursuant to 10 CFR 503.38(g), report to ERA the date boiler No. 1 is first operated under the provisions of this order, and will annually thereafter, at not later than 30 days after each anniversary of that date, file with ERA a certification that the amount of petroleum or natural gas used in the boiler during the preceding year did not exceed 25 percent of the total annual Btu heat input of the primary energy sources of that MFBI. Such certifications shall be executed by a duly authorized representative of APSC * * *."

Augusta Newsprint based its request on the fact that since the issuance of the Order with its annual reporting requirement, DOE has issued final rules amending § 503.38(g) of the interim rules so as to delete therefrom reporting requirements for boilers granted fuel mixtures exemptions (46 FR 59872, December 7, 1981).

As requested, ERA has, pursuant to 10 CFR 501.101(a), commenced a proceeding and criteria governing this proceeding are found in 10 CFR Part 501, Subpart G (46 FR 59872, December 7, 1981). Based upon the information contained in Augusta Newsprint's modification request and upon the record as a whole, ERA proposes:

(1) To find that the revision of section § 503.38 in the final rules published on December 7, 1981, described *supra,*

constitute significantly changed circumstances that warrant a modification of the Order, as provided by 10 CFR § 501.102(b); and

(2) To modify the Order to delete therefrom the annual certification reporting requirement.

Parties to the original Order proceeding are hereby notified of ERA's proposed modification of the Order exempting Augusta Newsprint's boiler No. 1 from the prohibitions in section 202 of FUA and of their right pursuant to 10 CFR § 501.101(d) to file a response thereto within 30 days after the publication of this Notice in the Federal Register. If ERA receives no responses within the allotted period, the Order modification shall become final as proposed, without further ERA action, upon expiration of that period.

Issued in Washington, D.C., August 25, 1983.

Robert L. Davies,

Deputy Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-23780 Filed 8-29-83; 8:45 am]
BILLING CODE 6450-01-M

[ERA Case No. 52727-1011-22-22]

Powerplant and Industrial Fuel Use; Exemptions; Southern Indiana Gas and Electric Co.

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Notice and Proposed Modification of an Order Granting a Permanent Peakload Exemption to Southern Indiana Gas and Electric Company's Broadway Unit No. 2, Evansville, Indiana.

SUMMARY: In response to a request dated August 15, 1983, from Southern Indiana Gas and Electric Company (SIGECO), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) has commenced a proceeding under the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* ("FUA" or "the Act"), and 10 CFR Part 501, Subpart G, to modify the permanent peakload exemption granted by Order ("Order") to a combustion turbine powerplant identified as Broadway Unit No. 2, which is owned and operated by SIGECO at its facility located in Evansville, Indiana.

Based upon its review of SIGECO's modification request, ERA is proposing to modify the Broadway Unit No. 2 Order on the basis of its determination that significantly changed circumstances, as defined in 10 CFR § 501.102(b), exist with respect to the applicability of the original exemption. Accordingly, ERA is hereby giving notice to all parties to the original proceeding of their right, pursuant to 10 CFR § 501.101(d), to file a written response to ERA's proposal within 30 days of the publication of this Notice in the Federal Register (see DATE section, below). If no responses are received within this period, the Order modification, as proposed, for the combustion turbine shall become final upon the expiration of the period, without further action by ERA.

A detailed discussion of the Order and SIGECO's request for modification thereof is provided in the SUPPLEMENTARY INFORMATION section below.

DATE: Written responses to ERA's proposed modification of the SIGECO Order must be received by ERA no later that September 29, 1983.

ADDRESS: Written responses must be addressed to Department of Energy, Economic Regulatory Administration, Office of Fuels Programs, Case Control Unit, GA-093, 1000 Independence Avenue, S.W., Washington, D.C. 20585. The case number, OFC 52727-1011-22-22, should be printed on the outside of the envelope and the documents contained therein.

FOR FURTHER INFORMATION CONTACT:

Edward J. Peters, Jr., Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA-073, 1000 Independence Avenue SW., Washington, D.C. 20585, Telephone (202) 252-6162.

Maya Rowan, Office of the General Counsel, Department of Energy, Forrestal Building, Room 6B-222, 1000 Independence Avenue SW., Washington, D.C. 20585, Telephone (202) 252-2967.

SUPPLEMENTARY INFORMATION: On December 29, 1980, ERA issued an Order exempting SIGECO's Broadway Unit No. 2, located at its facility in Evansville, Indiana, from the prohibitions of Title II of FUA (46 FR 1016, January 5, 1981). Section 201 of FUA prohibits both the use of natural gas or petroleum as a primary energy source in any new powerplant and the construction of any such facility without the capability to use an alternate fuel as a primary energy source (10 CFR § 503.2) SIGECO's exemption petition was filed and the permanent exemption was granted under Section 503.41 of ERA's interim rules for new facilities and Section 212(g) of FUA, which provide for permanent peakload exemptions for new electric powerplants. Subject to the terms and conditions set forth in the Order, the permanent exemption permitted the use of oil/natural gas to meet peakload requirements in the combustion turbine powerplant.

By letter dated August 15, 1983, SIGECO requested that ERA modify the Order for Broadway Unit No. 2 to delete the reporting requirements of the following terms and conditions:

"A. SIGECO shall not produce more than 122,160,000 KWH during any 12-month period with the proposed unit. SIGECO shall provide annual estimates of the expected periods (hours during specific months) of operation of Broadway 2 for peakload purposes (e.g., 8:00–10:00 a.m. and 3:00–6:00 p.m. during the June-September period, etc.). Estimates of the hours in which SIGECO expects to operate Broadway 2 inside the first 12-month period shall be furnished within 30 days from the date of this order.", and

"B. SIGECO shall comply with the reporting requirements set forth in 10 CFR § 503.41(d)."

SIGECO based its request on the fact that, since the issuance of the Order with the stated annual reporting requirements, DOE has issued final rules amending Section 503.41 of the interim rules by deleting the reporting requirements for a facility operating under a peakload powerplant exemption (46 FR 59872, December 7, 1981).

As requested, ERA has, pursuant to 10 CFR § 501.101(a), commenced a proceeding to modify the above-described exemption Order. The procedures and criteria governing this proceeding are found in 10 CFR Part 501, Subpart B. Based upon the information contained in SIGECO's modification request and upon the record as a whole, ERA proposes:

(1) To find that the revision of Section 503.41 in the final rules published on December 7, 1981, described *supra*, constitutes a significantly changed circumstance that warrants modification of the Order, as provided by 10 CFR § 501.102(b);

(2) To modify the Broadway Unit No. 2 exemption Order issued on December 29, 1980 (46 FR 1016, January 5, 1981), to delete all of the language of Term and Condition A following the sentence, "SIGECO shall not produce more than 122,160,000 KWH during any 12-month period with the proposed Unit.", and to delete Term and Condition B in its entirety.

Parties to the original Order proceeding are hereby notified of ERA's proposed modification of the Order exempting SIGECO's peakload powerplant, Broadway Unit No. 2, from the prohibitions of Section 201 of FUA and of their right pursuant to 10 CFR § 501.101(d) to file a response thereto

within 30 days after the publication of this notice in the **Federal Register**. If ERA receives no responses within the allotted period, the Order modification shall become final as proposed, without further ERA action, upon expiration of that period.

Issued in Washington, D.C., on August 24, 1983.

Robert L. Davies,

Deputy Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-23786 Filed 8-29-83; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

Edward L. Addison; Application

[Docket No. ID-2061-000]

August 25, 1983.

The filing individual submits the following:

Take notice that on August 17, 1983, Edward L. Addison filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Director and Vice President, Alabama Power Company.
Director and Vice President, Georgia Power Company.
Director and Vice President, Gulf Power Company.
Director and Vice President, Mississippi Power Company.
Director, Southern Electric Generating Company.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-23717 Filed 8-29-83; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 83-CERT-176, as Amended]

American Sugar Div., Amstar Corp.; Amended Certification of Eligible Use of Natural Gas to Displace Fuel Oil

The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) has received the following application to amend an existing certification of the eligible use of natural gas to displace fuel oil pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). Notice of this application, along with pertinent information contained in the amendment request, was published in the **Federal Register** and an opportunity for public comment was provided for a period of ten calendar days from the date of publication. No comments were received. More detailed information is contained in the application on file and available for inspection at the ERA Fuels Conversion Division Docket Room, RG-42, Room GA-093, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

Applicant and facility	Existing certification number and dated issued	Date amendment filed	FEDERAL REGISTER notice of applicant's amendment
American Sugar Div., Amstar Corp., Baltimore Plant, Baltimore, Md.	83-CERT-176, July 8, 1983	June 28, 1983, July 8, 1983, July 27, 1983, Aug. 5, 1983.	48 FR 36312, August 16, 1983.

The ERA has carefully reviewed the above applications to amend an existing certification in accordance with 10 CFR 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that the applications satisfy the criteria enumerated in 10 CFR Part 595 and, therefore, has granted the amended certification and transmitted that amended certification to the Federal Energy Regulatory Commission.

Issued in Washington, D.C., on August 24, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-23716 Filed 8-29-83; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP83-422-000]

Arkansas Louisiana Gas Company, a Division of Arkla, Inc.; Request Under Blanket Authorization

August 25, 1983.

Take notice that on July 15, 1983, Arkansas Louisiana Gas Company, a division of Arkla, Inc. (Arkla), P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP83-422-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Arkla proposes to construct and operate a sales tap on its jurisdictional line 0-577 to permit a direct sale of gas to David Quick in Haskell County, Oklahoma, under the authorization issued in Docket Nos. CP82-384-000 and CP82-384-001 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

It is stated that the gas would be used to operate brooders in a chicken hatchery (Arkla's Priority No. 1.1 in its curtailment plan) and that it is anticipated that this particular customer will need about 1,000 Mcf of gas per year.

Arkla states that the impact of service to the new customer would be *de minimis* upon the gas supply of the Arkla system, which during 1982 handled 394,607,813 Mcf. Arkla also indicates it projects no curtailment except on spike peaks on the Arkla system in the foreseeable future.

The estimated cost of the proposed tap is said to be $1,280.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activities shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the request shall be

treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-23814 Filed 8-29-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-452-000]

Columbia Gas Transmission Corp. and Columbia Gulf Transmission Co.; Informal Conference

August 25, 1983.

Take notice that on September 1, 1983, an informal conference will be held in Docket No. CP83-452-000 to discuss issues raised by the joint application of Columbia Gas Transmission Corporation and Columbia Gulf Transmission Company, filed pursuant to section 7(c) of the Natural Gas Act.

The Conference will be held at 10:00 a.m. at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. All interested parties are permitted to attend but attendance at the conference will not be deemed to authorize intervention as a party in these proceedings.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-23815 Filed 8-29-83; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 4157-000, et al]

Consolidated Hydroelectric, Inc.; Public Meeting

August 26, 1983

The Federal Energy Regulatory Commission has before it a number of applications for hydropower development in the Trinity River Basin. In response to petitions to the Commission to consider the cumulative environmental effects of hydropower in the basin, the Commission staff will hold a public meeting at 1:00 pm—5:00 pm on September 22, 1983 in Room 127 of the Food and Agriculture Building, 1220 N Street, Sacramento, California.

The purpose of the meeting will be to determine the scope and validity of the issues involved. Emphasis will be upon technical verification of the various contentions. For example, what resource would be impacted by cumulative effects where, how and to what extent? Participants should be prepared to file written comments at the meeting or within two weeks therafter. Written comments should be sent to Mr. Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. In order to coordinate the meeting and ensure that all verbal presentations are heard, all interested persons who wish to speak longer than 10 minutes should notify David Boergers at (202) 357-8492, at least seven days prior to the meeting.

For further information please contact David Boergers (202) 357-8492, Joseph Vasapoli (202) 357-5630 or Tom Russo on (202) 376-9061.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-23816 Filed 8-29-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP77-363-007]

National Fuel Gas Supply Corp. and Columbia Gas Transmission Corp.; Amendment

August 25, 1983.

Take notice that on August 12, 1983,[1] National Fuel Gas Supply Corporation (National Fuel), Ten Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP71-363-007 an amendment to its pending petition to amend the order issued February 8, 1980, in Docket No. CP77-363 pursuant to Section 7(c) of the Natural Gas Act so as to reflect Columbia Gas Transmission Corporation (Columbia) as joint petitioner and to delete a portion of the petition to amend, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

National Fuel proposes to include Columbia as a joint petitioner [2] and to withdraw Article VII of the petition to amend, which alleged that the proposal contained in the subject petition to amend filed by National Fuel would reduce unnecessary purchases of natural gas from Columbia.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before September 14, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and procedure (18 CFR 385.214 and 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-23818 Filed 8-29-83; 8:45 am]

BILLING CODE 6717-01-M

[1] The amendment was initially tendered for filing on August 12, 1983; however, the fee required by Section 159.1 of the Regulations under the Natural Gas Act (18 CFR 159.1) was not paid until August 22, 1983, thus filing was not completed until the latter date.

[2] Columbia and National Fuel were joint recipients of the authorization issued in Docket No. CP77-363.

[Project Nos. 619-999, et al]

Pacific Gas & Electric Co., et al; Public Meeting

August 26, 1983.

The Federal Energy Regulatory Commission has before it a number of applications for hydropower development in the North Feather River Basin. In response to petitions to the Commission to consider the cumulative environmental effects of hydropower in the basin, the Commission staff will hold a public meeting at 8:00 am-12:00 noon on September 22, 1983 in Room 127 of the Food and Agriculture Building, 1220 N Street, Sacramento, California.

The purpose of the meeting will be to determine the scope and validity of the issues involved. Emphasis will be upon technical verification of the various contentions. For example, what resource would be impacted by cumulative effects where, how and to what extent? Participants should be prepared to file written comments at the meeting or within two weeks thereafter. Written comments should be sent to Mr. Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. In order to coordinate the meeting and ensure that all verbal presentations are heard, all interested persons who wish to speak longer than 10 minutes should notify David Boergers at (202) 357-8492 at least seven days prior to the meeting.

For further information please contact David Boergers (202) 357-8492, Joseph Vasapoli (202) 357-5630 or Tom Russo (202) 376-9061.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-23819 Filed 8-29-83; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 1394-000, et al]

Southern California Edison Co., et al; Notice of Public Meeting

August 26, 1983.

The Federal Energy Regulatory Commission has before it a number of applications for hydropower development in the Owens River Basin. In response to petitions to the Commission to consider the cumulative environmental effects of hydropower in the basin, the Commission staff will hold a public meeting at 1:00 p.m.–5:00 p.m. on September 21, 1983 in Room 127 of the Food and Agriculture Building, 1220 N Street, Sacramento, California.

The purpose of the meeting will be to determine the scope and validity of the issues involved. Emphasis will be upon technical verification of the various contentions. For example, what resource would be impacted by cumulative effects, how and to what extent? Participants should be prepared to file written comments at the meeting or within two weeks thereafter. Written comments should be sent to Mr. Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. In order to coordinate the meeting and ensure that all verbal presentations are heard, all interested persons who wish to speak longer than 10 minutes should notify David Boergers at (202) 357–8492 at least seven days prior to the meeting.

For further information please contact David Boergers (202) 257–8492, Joseph Vasapoli (202) 357–5630 or Tom Russo (202) 376–9061.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-23820 Filed 8-29-83; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 67-999, et al]

Southern California Edison Co., et al;

August 26, 1983.

The Federal Energy Regulatory Commission has before it a number of applications for hydropower development in the Upper San Joaquin River Basin. In response to petitions to the Commission to consider the cumulative environmental effects of hydropower in the basin, the Commission staff will hold a public meeting at 8:00 am–12:00 noon on September 21, 1983 in Room 127 of the Food and Agriculture Building, 1220 N Street, Sacramento, California.

The purpose of the meeting will be to determine the scope and validity of the issues involved. Emphasis will be upon technical verification of the various contentions. For example, what resource would be impacted by cumulative effects where, how and to what extent? Participants should be prepared to file written comments at the meeting or within two weeks thereafter. Written comments should be sent to Mr. Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. In order to coordinate the meeting and ensure that all verbal presentations are heard, all interested persons who wish to speak longer than 10 minutes should notify David Boergers at (202) 357–8492 at least seven days prior to the meeting.

For further information please contact David Boergers (202) 357–8492, Joseph Vasapoli (202) 357–5630 or Tom Russo (202) 376–9061.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-23821 Filed 8-29-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-464-000]

Zenith Natural Gas Co.; Application

August 25, 1983.

Take notice that on August 12, 1983, Zenith Natural Gas Company (Applicant), 601 South Boulder Avenue, Tulsa, Oklahoma 74119, filed in Docket No. CP83-464-000 an application pursuant to Section 7(c) of the Natural Gas Act and § 157.7(b) of the Regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction, during an indefinite period commencing August 1, 1983, and operation of facilities to enable Applicant to take into its pipeline system natural gas supplies, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system supply of natural gas which may become available from various producing areas generally coextensive with its pipeline system or the systems of other pipeline companies which maybe authorized to transport gas for the account of or exchange gas with Applicant and supplies of natural gas from Applicant's own production or acquired for system supply under Sections 311 or 312 or the Natural Gas Policy Act of 1978.

Applicant states that the total cost of facilities will not exceed $500,000 as provided in § 157.7(b)(1)(i) of the Commission's Regulations. The cost of the proposed facilities would be financed from funds on hand, it is stated.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 15, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-23822 Filed 8-29-83; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51469C BH-FRL 2424-6]

Disubstituted Heterocycle, Premanufacture Notice; Extension of Review Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is extending the review period for an additional 90 days for premanufacture notice (PMN) PMN 83–769 under the authority of section 5(c) of the Toxic Substances Control Act (TSCA). The review period will now expire on November 19, 1983.

FOR FURTHER INFORMATION CONTACT: Paul Matthai, Chemical Control Division (TS–794), Environmental Protection Agency, Rm. E–201, 401 M St., SW., Washington, D.C. 20460 (202–382–3746).

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, anyone who intends to manufacture or import a new chemical substance for commercial purposes in the United States must submit a PMN to EPA 90 days before manufacture or import begins. Under section 5(c) EPA may, for good cause, extend the notice period for additional periods, not to exceed a total of 180 days from the date of receipt.

On May 24, 1983, EPA received PMN 83–769 for a substance described generically as disubstituted heterocycle. The PMN substance will be manufactured for use as a chemical intermediate. The submitter claimed its identity, chemical identity, production volume, and marketing data to be confidential business information. Notice of receipt of the PMN was published in the **Federal Register** of June 3, 1983 (48 FR 24968). The original 90-day review period is scheduled to expire on August 21, 1983.

EPA's detailed analysis of the substance described in the PMN addressed the following: chemical analysis of the PMN substance, effects on human health, human exposure, production volume, environmental release, ecological effects, degree of risk relative to available commercial substitutes, potential marketability, and the identification of other information which may be required to resolve outstanding issues.

As a result of this analysis, EPA has reason to believe that significant worker exposure to the PMN substance during manufacturing may result in adverse health effects, among which may be carcinogenicity and/or mutagenicity.

Based on this analysis, EPA finds that there is a possibiity that the substance submitted for review in PMN 83–769 may be regulated under section 5(e) of TSCA. The Agency requires an extension of the review period to examine its regulatory options and to prepare the necessary documents, should regulatory action be required. An administrative order under section 5(e) must be issued no later than 45 days prior to the expiration of the review period. Therefore, EPA has determined that good cause exists to extend the review period for an additional 90 days, to November 19, 1983.

PMN 83–769 is available for public inspection in Rm. E–107, at the EPA Headquarters, address given above, from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holiday.

Dated: August 19, 1983.

Marcia E. Williams,

Acting Director, Office of Toxic Substances.

[FR Doc. 83–23751 Filed 8–29–83; 8:45 am]

BILLING CODE 6560–01–M

[OPTS–51344C; BH–FRL 2424–5]

Mono-azo Dye; Premanufacture Notice; Termination of an Extended Review Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is terminating the remaining period of a 90-day extension of the review period for premanufacture notice (PMN) PMN 81–558, which was issued pursuant to section 5(c) of the Toxic Substances Control Act (TSCA). The review period will now expire on August 22, 1983. The PMN was submitted for a water-soluble, fiber-reactive, mono-azo dye which will be imported by a company which has claimed its identity to be confidential.

FOR FURTHER INFORMATION CONTACT: Rose Allison, Chemical Control Division (TS–794), Environmental Protection Agency, Rm. E–205, 401 M St., SW., Washington, D.C. 20460 (202–382–3735).

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, anyone who intends to manufacture or import a new chemical substance for commerical purposes in the United States must submit a PMN to EPA 90 days before manufacture or import begins. Under section 5(c) EPA may, for good cause, extend the notice period for additional periods, not to exceed a total of 180 days from the date of receipt.

On October 29, 1981, EPA received PMN 81–558 from a confidential submitter for the following chemical: 4-hydroxy-3-(5-(2-hydroxysulfonyloxy)ethylsulfonyl)-2-methoxyphenylazo)-7-succinylamino-2-naphthalenesulfonic acid, disodium salt. Notice of receipt was published in the **Federal Register** of November 6, 1981 (46 FR 55145). The chemical is a fiber-reactive dye for cellulosic fabrics.

The original review period was scheduled to expire on January 26, 1982. On January 29, 1983, EPA published a notice in the **Federal Register** (47 FR 4335) extending the review period for an additional 90 days, to April 26, 1982. On January 27, 1982, the PMN submitter volunterily suspended the review period.

When the review period was extended, EPA had reason to believe that azo reduction of the substance described in PMN 81–558 would produce analogues of carcinogens. Significant occupational exposure and possible drinking water contamination were expected. While the period was suspended, additional testing was conducted to address this concern. Based on analysis of the test results, the Agency has determined that there is insufficient basis for determining that PMN 81–558 may present an unreasonable risk. EPA finds that it will not be necessary to regulate PMN 81–558 under section 5(e) of TSCA. Therefore, the Agency no longer requires the additional review time provided by section 5(c), and terminates the remaining portion of the 90-day extension.

PMN 81–558 is available for public inspection in RM. E–107, at the EPA Headquarters, address given above, from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays. The identity of the submitter has been kept confidential and has been deleted from the documents in the public record.

Dated: August 22, 1983.

Marcia E. Williams,

Acting Director, Office of Toxic Substances.

[FR Doc. 83–23752 Filed 8–29–83; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF AGRICULTURE

Farm Credit Administration

[Farm Credit Administration Order No. 844]

Puget Sound Production Credit Association; Order Establishing Procedures

AGENCY: Farm Credit Administration, USDA.

ACTION: Notice.

SUMMARY: The Governor of the Farm Credit Administration ("FCA") has issued Order No. 844, effective August 10, 1983, declaring the Class B stock and participation certificates of the Puget Sound Production Credit Association, Mt. Vernon, Washington, ("PCA") to be impaired and imposing special supervisory procedures upon the PCA pursuant to 12 CFR 611.1140. The procedures restrict the transfer or retirement of any class of stock of the PCA, restrict the PCA's lending authority, and require that corporate authorities be exercised by the PCA's

directors and employees only in accordance with procedures prescribed by the FCA or with the prior approval of the FCA. The order designates Larry W. Edwards, an FCA employee, as the official representative of the FCA, with full authority to implement the procedures and to give approvals required thereunder. The order will remain in effect until modified or terminated by the Governor. The text of the order is as follows:

In the exercise of its supervisory powers and authorities under the Farm Credit Act of 1971, as amended, 12 U.S.C. 2001 *et seq.*, with respect to the institutions of the Farm Credit System, the Farm Credit Administration ("FCA") hereby finds that the outstanding shares of Class B capital stock and participation certificates of Puget Sound Production Credit Association ("Puget Sound") have a book value of less than their respective par and stated values.

Therefore, pursuant to 12 CFR 611.1140, the FCA hereby orders that further operations of Puget Sound on and after August 10, 1983, shall be subject to the following procedures:

1. No resolution adopted or other action taken by the board of directors of Puget Sound on or after the effective date of this order shall be operative or effective unless previously approved by the FCA, except as otherwise provided in such additional procedures as the FCA may from time to time prescribe.

2. The board of directors of Puget Sound shall exceute an agreement with the Southwest Washington Production Credit Association ("Southwest") providing that Southwest will make and service loans to eligible applicants not currently indebted to Puget Sound to finance operations in the chartered territory of Puget Sound during the effective period of this order. The terms of said agreement are set forth as Exhibit 1 to this order. In the event the board of directors fails for any reason to execute such an agreement, the president of Puget Sound shall be authorized to do so on behalf of such association.

3. No capital stock, participation certificates, equity reserves or allocated equities of Puget Sound shall be issued, allocated, retired, sold, distributed, transferred, assigned, or applied against any indebtedness of the owners of such equities, except as provided for under such procedures as may be approved in advance by the FCA relating to the assignment of equities in conjunction with the sale and transfer of loans to other production credit associations, or the other purposes as otherwise approved by the FCA.

4. No action taken by an officer or employee of Puget Sound during the effective period of this order exercise of any power or authority granted to such officer or employee by statute, regulation, delegation, resolution or order of the board, or otherwise, shall be operative or effective unless previously approval by the FCA, except as provided in such additional procedures as FCA may from time to time prescribe in connection with the operations or affairs of Puget Sound including, but not limited to, the purchase or sale of any asset, including fixtures; the extension or commitment to extend credit or financial assistance, including additional advances on existing loans; the conduct of litigation; the hiring or discharge of any officer or employee; the payment of any obligation or indebtedness; or the making of any verbal or written agreement, commitment or obligation for the purchase or sale of any services or property, both real and personal.

5. Puget Sound shall not settle out of court any litigation to which it is a party that is presently pending or hereafter commenced, without the prior consent of the FCA.

During the effective period of this order, the FCA shall conduct a financial audit and prepare an accounting of the books, records and assets of Puget Sound and take such action as may be necessary to preserve such assets pending a final determination of the financial condition and the viability of Puget Sound. The FCA shall consider such options as may be available for the continuation of service by institutions of the Farm Credit System to eligible borrowers and applications heretofore served by the Puget Sound, including consolidation, transfer of territories or other structural or charter changes.

For the purpose of facilitating the operations of Puget Sound during the term of this order, Larry W. Edwards, an employee of the FCA, is hereby designated as the official representative of the FCA with full authority to implement the terms of this order and such additional procedures as the FCA may from time to time prescribe, including authority to execute written instruments of approval and to give such oral approvals as may be required hereunder. The official representative may delegate such authorities to other FCA employees or employees of the Federal Intermediate Credit Bank of Spokane when such delegation is in the interest of effective administration.

This order and such additional procedures as the FCA may from time to time prescribe supersede the bylaws of Puget Sound to the extent of any inconsistency.

This order shall remain in effect until modified or terminated in writing by the Governor.

Donald E. Wilkinson,

Governor.

Agreement

Whereas on August 10, 1983, the Farm Credit Administration issued an *Order Establishing Procedures* ("Order") with respect to Puget Sound Production Credit Association;

Whereas the undersigned parties believe that the current financial condition of the Puget Sound Production Credit Association and its level of confidence enjoyed in the community currently impedes its ability to provide service on reasonable rates and terms to eligible borrowers in its territory;

Whereas the undersigned parties believe that it is in the best interest of the Farm Credit System ("System") and the institutions in the 12th Farm Credit District to continue to provide such eligible borrowers with a dependable source of credit and services from a System institution;

Now, therefore the Puget Sound Production Credit Association ("Puget Sound"), the Southwest Washington Production Credit Association ("Southwest") and the Federal Intermediate Credit Bank of Spokane ("Bank") agree that pursuant to FCA Regulation 12 CFR 614.4070 and the policies of the Bank issued thereunder, Southwest is authorized, during the period in which Puget Sound is subject to the provisions of the Order, to provide credit to eligible applicants not currently indebted to Puget Sound, to finance operations in the chartered territory of Puget Sound.

The Parties agree that in the event the Order expires or is terminated and Puget Sound resumes normal operations, any loans made by Southwest pursuant to this agreement will be sold and transferred to Puget Sound at Puget Sound's discretion. Each borrower shall agree to the terms of this condition prior to the disbursement of funds on any such loan.

The Parties agree that in the event the territory of Puget Sound is transferred to a production credit association ("PCA") other than Southwest in conjuction with a merger consolidation, territorial transfer, liquidation or otherwise, any loans made by Southwest pursuant to this agreement shall be sold and transferred to the PCA serving such territory, at such other PCA's discretion. Each borrower shall agree to the terms of this condition prior to the disbursement of funds on any such loan.

The Parties further agree that in consideration of the payment by Southwest of fees, in accordance with a schedule of fees which is attached hereto and incorporated as a part of this agreement, Puget Sound agrees to act as agent for Southwest to accept applications from eligible applicants not currently indebted to Puget Sound and make related credit investigations of such applicants with operations in the chartered territory of Puget Sound. All other activities

associated with such loans shall be within the exclusive control of Southwest, including, but not limited to: the making of credit decisions, disbursing of proceeds, acceptance of payments, and all other activities associated with making, renewing, servicing, and accounting for such loans.

Title
Federal Intermediate Credit Bank of Spokane
Date:

Title
Puget Sound Production Credit Association
Date:

Title
Southwest Livestock Production Credit Association
Date:

[FR Doc. 83-23737 Filed 8-29-83; 8:45 am]
BILLING CODE 6705-01-M

[Farm Credit Administration Order No. 845]

Southern Oregon Production Credit Association; Order Establishing Procedures

AGENCY: Farm Credit Administration, 450A.

ACTION: Notice.

SUMMARY: The Governor of the Farm Credit Administration ("FCA") has issued Order No. 845, effective August 10, 1983, declaring the class D stock of the Southern Oregon Production Credit Association, Medford, Oregon, ("PCA") to be impaired and imposing special supervisory procedures upon the PCA pursuant to 12 CFR 611.1140. The procedures restrict the transfer or retirement of any class of stock of the PCA, restrict the PCA's lending authority, and require that corporate authorities be exercised by the PCA's directors and employees only in accordance with procedures prescribed by the FCA or with the prior approval of the FCA. The order designates Larry W. Edwards, an FCA employee, as the official representative of the FCA, with full authority to implement the procedures and to give approvals required thereunder. The order will remain in effect until modified or terminated by the Governor. The text of the order is as follows:

In the exercise of its supervisory powers and authorities under the Farm Credit Act of 1971, as amended, 12 U.S.C. 2001 *et seq.*, with respect to the institutions of the Farm Credit System, the Farm Credit Administration ("FCA") hereby finds that the share of Class D capital stock of Southern Oregon Production Credit Association ("Southern Oregon") have a book value of less than their respective par and stated values. Therefore, pursuant to 12 CFR 611.1140, the FCA hereby orders that further operations of Southern Oregon on and after August 10, 1983, shall be subject to the following procedures:

1. No resolution adopted or other action taken by the board of directors of Southern Oregon on or after the effective date of this order shall be operative or effective unless previously approved by the FCA, except as otherwise provided in such additional procedures as the FCA may from time to time prescribe.

2. The board of directors of Southern Oregon shall execute an agreement with the Northwest Livestock PCA ("Northwest") providing that Northwest will make and service loans to eligible applicants not currently indebted to Southern Oregon to finance operations in the chartered territory of Southern Oregon during the effective period of this order. The terms of said agreement are set forth as Exhibit 1 to this order. In the event the board of directors fails for any reason to execute such an agreement, the president of Southern Oregon shall be authorized to do so on behalf of such association.

3. No capital stock, participation certificates, equity reserves or allocated equities of Southern Oregon shall be issued, allocated, retired, sold, distributed, transferred, assigned, or applied against any indebtedness of the owners of such equities, except as provided under such procedures as may be approved in advance by the FCA relating to the assignment of equities in conjunction with the sale and transfer of loans to other production credit assoiciations, or for other purposes as otherwise approved by the FCA.

43. No action taken by an officer or employee of Southern Oregon during the effective period of this order in the exercise of any power or authority granted to such officer or employee by statute, regulation, delegation, resolution or order of the board, or otherwise, shall be operative or effective unless previously approved by the FCA, except as provided in such additional procedures as the FCA may from time to time prescribe in connection with the operations or affairs of Southern Oregon including, but not limited to, the purchase or sale of any asset, including fixtures; the extension or commitment to extend credit or financial assistance, including additional advances on existing loans; the conduct of litigation; the hiring or discharge of any officer or employee; the payment of any obligation or indebtedness; or the making of any verbal or written agreement, commitment or obligation for the purchase or sale of any services or property, both real and personal.

5. Southern Oregon shall not settle out of court any litigation to which it is a party that is presently pending or hereafter commenced, without the prior consent of the FCA.

During the effective period of this order, the FCA shall conduct a financial audit and prepare an accounting of the books, records and assets of Southern Oregon and take such action as may be necessary to preserve such assets pending a final determination of the financial condition and viability of Southern Oregon. The FCA shall consider such options as may be available for the continuation of service by institutions of the Farm Credit System to eligible borrowers and applicants heretofore served by the Southern Oregon, including consolidation, transfer of territories or other structural or charter changes.

For the purpose of facilitating the operations of Southern Oregon during the term of this order, Larry W. Edwards, an employee of the FCA, is hereby designated as the official representative of the FCA with full authority to implement the terms of this order and such additional procedures as the FCA may from time to time prescribe, including the authority to execute written instruments of approval and to give such oral approvals as may be required hereunder. The official representative may delegate such authorities to other FCA employees or employees of the Federal Intermediate Credit Bank of Spokane when such delegation is in the interest of effective administration.

This order and such additional procedures as the FCA may from time to time prescribe supersede the bylaws of Southern Oregon to the extent of any inconsistency.

This order shall remain in effect until modified or terminated in writing by the Governor.

Donald E. Wilkinson,
Governor.

Agreement

Whereas on August 10, 1983, the Farm Credit Administration issued an *Order Establishing Procedures* ("Order") with respect to Southern Oregon Production Credit Association;

Whereas the undersigned parties believe that the current financial condition of the Southern Oregon Production Credit Association and its level of confidence enjoyed in the community currently impedes its ability to provide service on reasonable rates and terms to eligible borrowers in its territory;

Whereas the undersigned parties believe that it is in the best interest of the Farm Credit System ("System") and the institutions in the 12th Farm Credit District to continue to provide such eligible borrowers with a dependable source of credit and services from a System institution;

Now, therefore, the Southern Oregon Production Credit Association ("Southern Oregon"), the Northwest Livestock Production Credit Association ("Northwest") and the Federal Intermediate Credit Bank of Spokane ("Bank") agree that pursuant to FCA Regulation 12 CFR 614.4070 and the policies of the Bank issued thereunder, Northwest is authorized, during the period in which Southern Oregon is subject to the provisions of the Order, to provide credit to eligible applicants not currently indebted to Southern Oregon, to finance operations in the chartered territory of Southern Oregon.

The Parties agree that in the event the Order expires or is terminated and Southern Oregon resumes normal operations, any loans made by Northwest pursuant to this agreement will be sold and transferred to Southern Oregon at Southern Oregon's discretion. Each borrower shall agree to the terms of this condition prior to the disbursement of funds on any such loan.

The Parties agree that in the event the territory of Southern Oregon is transferred to a production credit association ("PCA") other than Northwest in conjunction with a merger, consolidation, territorial transfer, liquidation or otherwise, any loans made by Northwest pursuant to this agreement shall be sold and transferred to the PCA serving such territory, at such other PCA's discretion. Each borrower shall agree to the terms of this condition prior to the disbursement of funds on any such loan.

The Parties further agree that in consideration of the payment by Northwest of fees, in accordance with a schedule of fes which is attached hereto and incorporated as a part of this agreement, Southern Oregon agrees to act as agent for Northwest to accept applications from eligible applicants not currently indebted to Southern Oregon and make related credit investigations of such applicants with operations in the chartered territory of Southern Oregon. All other activities associated with such loans shall be within the exclusive control of Northwest, including, but not limited to: the making of credit decisions, disbursing of proceeds, acceptance of payments, and all other activities associated with making, renewing, servicing, and accounting for such loans.

Title _____
Federal Intermediate Credit Bank of Spokane
Date: _____

Title _____
Southern Oregon Production Credit Association
Date: _____

Title _____
Northwest Livestock Production Credit Association
Date: _____

[FR Doc. 83-23736 Filed 8-29-83; 8:45 am]
BILLING CODE 6705-01-M

[Farm Credit Administration Order No. 846]

Willamette Production Credit Association; Order Establishing Procedures

AGENCY: Farm Credit Administration; USDA.

ACTION: Notice.

SUMMARY: The Governor of the Farm Credit Administration ("FCA") has issued Order No. 846, effective August 10, 1983, declaring the Class B stock and participation certificates of the Willamette Production Credit Association, Salem, Oregon, ("PCA") to be impaired and imposing special supervisory procedures upon the PCA pursuant to 12 CFR 611.1140. The procedures restrict the transfer or retirement of any class of stock of the PCA, restrict the PCA's lending authority, and require that corporate authorities be exercised by the PCA's directors and employees only in accordance with procedures prescribed by the FCA or with the prior approval of the FCA. The order designates Larry W. Edwards, an FCA employee, as the official representative of the FCA, with full authority to implement the procedures and to give approvals required thereunder. The Order will remain in effect until modified or terminated by the Governor. The text of the order is as follows:

In the exercise of its supervisory powers and authorities under the Farm Credit Act of 1971, as amended, 12 U.S.C. 2001 *et seq.*, with respect to the institutions of the Farm Credit System, the Farm Credit Administration ("FCA") hereby finds that the outstanding shares of Class B capital stock and participation certificates of Willamette Production Credit Association ("Willamette") have a book value of less than their respective par and stated values. Therefore, pursuant to 12 CFR 611.1140, the FCA hereby orders that further operations of Willamette on and after August 10, 1983, shall be subject to the following procedures:

1. No resolution adopted or other action taken by the board of directors of Willamette on or after the effective date of this order shall be operative or effective unless previously approved by the FCA, except as otherwise provided in such additional procedures as the FCA may from time to time prescribe.

2. The board of directors of Willamette shall execute an agreement with the Northwest Livestock PCA ("Northwest") providing that Northwest will make and service loans to eligible applicants not currently indebted to Willamette to finance operations in the chartered territory of Willamette during the effective period of this order. The terms of the said agreement are set forth as Exhibit 1 to this order. In the event the board of directors fails for any reason to execute such an agreement, the president of Willamette shall be authorized to do so on behalf of such association.

3. No capital stock, participation certificates, equity reserves or allocated equities of Willamette shall be issued, allocated, retired, sold, distributed, transferred, assigned, or applied against any indebtedness of the owners of such equities, except as provided under such procedures an may be approved in advance by the FCA relating to the assignment of equities in conjunction with the sale and transfer of loans to other production credit associations, or for other purposes as otherwise approved by the FCA.

4. No action taken by an officer or employee of Willamette during the effective period of this order in the exercise of any power or authority granted to such officer or employee by statute, regulation, delegation, resolution or order of the board, or otherwise, shall be operative or effective unless previously approved by the FCA, except as provided in such additional procedures as the FCA may from time to time prescribe in connection with the operations or affairs of Willamette including, but not limited to, the purchase or sale of any asset, including fixtures; the extension or commitment to extend credit or financial assistance, including additional advances on existing loans; the conduct of litigation; the hiring or discharge of any officer or employee; the payment of any obligation or indebtedness; or the making of any verbal or written agreement, commitment or obligation for the purchase or sale of any services or property, both real and personal.

5. Willamette shall not settle out of court any litigation to which it is a party that is presently pending or hereafter commenced, without the prior consent of the FCA.

During the effective period of this order, the FCA shall conduct a financial audit and prepare an accounting of the books, records and assets of Willamette and take such action as may be necessary to preserve such assets pending a final determination of the financial condition and viability of Willamette. The FCA shall consider such options as may be available for the

continuation of service by institutions of the Farm Credit System to eligible borrowers and applicants heretofore served by Willamette, including consolidation, transfer of territories or other structural or charter changes.

For the purpose of facilitating the operations of Willamette during the term of this order, Larry W. Edwards, an employee of the FCA, is hereby designated as the official representative of the FCA with full authority to implement the terms of this order and such additional procedures as the FCA may from time to time prescribe, including authority to execute written instruments of approval and to give such oral approvals as may be required hereunder. The official representative may delegate such authorities to other FCA employees or employees of the Federal Intermediate Credit Bank of Spokane when such delegation is in the interest of effective administration.

This order and such additional procedures as the FCA may from time to time prescribe supersede the bylaws of Willamette to the extent of any inconsistency.

This order shall remain in effect until modified or terminated in writing by the Governor of the FCA.

Donald E. Wilkinson,
Governor.

Agreement

Whereas On August 10, 1983, the Farm Credit Administration issued an *Order Establishing Procedures* ("Order") with respect to Willamette Production Credit Association;

Whereas the undersigned parties believe that the current financial condition of the Willamette Production Credit Association and its level of confidence enjoyed in the community currently impedes its ability to provide service on reasonable rates and terms to eligible borrowers in its territory;

Whereas the undersigned parties believe that it is in the best interest of the Farm Credit System ("System") and the institutions in the 12th Farm Credit District to continue to provide such eligible borrowers with a dependable source of credit and services from a System institution;

Now, therefore, the Willamette Production Credit Association ("Willamette"), the Northwest Livestock Production Credit Association ("Northwest") and the Federal Intermediate Credit Bank ("Bank") agree that pursuant to FCA Regulation 12 CFR 614.4070 and the policies of the Bank issued thereunder, Northwest is authorized, during the period in which Willamette is subject to the provisions of the Order, to provide credit to eligible applicants not currently indebted to Willamette, to finance operations in the chartered territory of Willamette.

The Parties agree that in the event the Order expires or is terminated and Willamette resumes normal operations, any loans made by Northwest pursuant to this agreement will be sold and transferred to Willamette at Willamette's discretion. Each borrower shall agree to the terms of this condition prior to the disbursement of funds on any such loan.

The Parties agree that in the event the territory of Willamette is transferred to a production credit association ("PCA") other than Northwest in conjunction with a merger, consolidation, territorial transfer, liquidation or otherwise, any loans made by Northwest pursuant to this agreement shall be sold and transferred to the PCA serving such territory, at such other PCA's discretion. Each borrower shall agree to the terms of this condition prior to the disbursement of funds on any such loan.

The Parties further agree that in consideration of the payment by Northwest of fees, in accordance with a schedule of fees which is attached hereto and incorporated as a part of this agreement, Willamette agrees to act as agent for Northwest to accept applications from eligible applicants not currently indebted to Willamette and make related credit investigations of such applicants with operations in the chartered territory of Willamette. All other activities associated with such loans shall be within the exclusive control of Northwest, including, but not limited to: the making of credit decisions, disbursing of proceeds, acceptance of payments, and all other activities associated with making, renewing, servicing, and accounting for such loans.

Title _____
Federal Intermediate Credit Bank of Spokane
Date: _____

Title _____
Willamette Production Credit Association
Date: _____

Title _____
Northwest Livestock Production Credit Association
Date: _____

[FR Doc. 83-23738 Filed 8-29-83; 8:45 am]
BILLING CODE 6705-01-M

FEDERAL COMMUNICATIONS COMMISSION

[File No. BPH-810630AD; MM Docket No. 83-846 et al.]

Applications for Consolidated Hearing; Billy B. Carney et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant	City/State	File No.	MM Docket No.
A. Billy B. Carney	Washburn, Mo.	BPH-810630AD	83-846
B. Hopkins, Hall and Associates, Inc.	Seligman, Mo.	BPH-820607AR	83-847

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for heading in a consolidated proceeding upon issues whose hearings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue heading	Applicant(s)
1. Financial Qualifications	B.
2. 307(B)	A and B.
3. Contingent Comparative	A and B.
4. Ultimate	A and B.

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, NW., Washington, D.C. 20554. Telephone (202) 632-6334.

W. Jan Gay,
Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 83-23760 Filed 8-29-83; 8:45 am]
BILLING CODE 6712-01-M

[File No. BPH-820326AP; MM Docket No. 83-821 et al.]

Applications for Consolidated Hearing; Fletcher Communication Co. et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant	City/State	File No.	MM Docket No.
A. W. E. Fletcher, d.b.a. Fletcher Communications Company.	Seward, Alaska	BPH-820826AP	83-821
B. Mildred Townsend	Seward, Alaska	BPH-820826AE	83-822

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidation proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue heading	Applicant(s)
1. Comparative	A, and B.
2. Ultimate	A, and B.

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, NW., Washington, D.C. 20554. Telephone (202) 632-6334.

Larry D. Eads,

Chief, Audio Service Division, Mass Media Bureau.

[FR Doc. 83-23770 Filed 8-29-83; 8:45 am]

BILLING CODE 6712-01-M

[File No. BPH-820223 AA; MM Docket No. 83-848 et al.]

Applications for Consolidated Hearing; Fox Com, Ltd., et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant	City/State	File No.	MM Docket No.
A. Fox Com, Ltd	Natchitoches, La	BPH-820223AA	83-848
B. Barron Broadcasting Inc.	Natchitoches, La	BPH-820808AE	83-849
C. William W. Brown	Natchitoches, La	BPH-820824AH	83-850
D. Juniper Olyon Trice and Sharon Wesley, d.b.a. Black Star Broadcasting Company.	Natchitoches, La	BPH-820825BE	83-851
E. Sonrose Rutledge, Jr	Natchitoches, La	BPH-820825BK	83-852

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to the particular applicant.

Issue heading	Applicant(s)
1. (See Appendix)	C and D.
2. Air Hazard	A and D.
3. Comparative	A, B, C, D and E.
4. Ultimate	A, B, C, D and E.

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephoned request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, NW., Washington, D.C. 20554. Telephone (202) 632-6334.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

Appendix—Issue(s)

1. If a final environmental impact statement is issued with respect to C (Brown) or D (Black Star) which concludes that the proposed facilities are likely to have an adverse effect on the quality of the environment,

(a) to determine whether the proposal is consistent with the National Environmental Policy Act, as implemented by §§ 1.1301–1319 of the Commission's Rules; and

(b) whether, in light of the evidence adduced pursuant to (a) above, the applicant is qualified to construct and operate as proposed.

[FR Doc. 83-23762 Filed 8-29-83; 8:45 am]

BILLING CODE 6712-01-M

[File No. BPH-810825AF; MM Docket No. 83-853 et al.]

Applications for Consolidated Hearing; Greater Peninsula Media, Inc., et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant	City/State	File No.	MM Docket No.
A. Greater Peninsula Media, Inc	Manistique, Mich	BPH-810825AF	83-853
B. Mighty-Mac Broadcasting Company	Manistique, Mich	BPH-820415BK	83-854
C. American Peakes, Ltd	Gulliver, Mich	BPH-820415AQ	83-855

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue heading	Applicant(s)
1. (See Appendix)	A.
2. (See Appendix)	B.
3. 307 (b)	All applicants.
4. Contingent comparative	All applicants.

Issue heading	Applicant(s)
5. Ultimate	All applicants.

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, NW., Washington, D.C. 20554. Telephone (202) 632-6334.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

APPENDIX—Issue(s)

1. To determine with respect to the following applicant(s) whether, in light of the evidence adduced concerning the deficiency set forth above in paragraph 8,[1] the applicant(s) is financially qualified: A (Greater)

2. If a final environmental impact statement is issued with respect to B (Mighty-Mac) which concludes that the proposed facilities are likely to have an adverse effect on the quality of the environment,

(a) to determine whether the proposal is consistent with the National Environmental Policy Act, as implemented by Sections 1.1303–1319 of the Commission's Rules; and

(b) whether, in light of the evidence adduced pursuant to (a) above, the applicant is qualified to construct and operate as proposed.

[FR Doc. 83-23761 Filed 8-29-83; 8:45 am]

BILLING CODE 6712-01-M

[File No. BPH-820331AH; MM Docket No. 83-843 et al.]

Application for Consolidated Hearing; Ruarch Associates et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant	City/State	File No.	MM Docket No.
A. Arthur D. Stamler and Virginia I. Stamler, d.b.a. Ruarch Associates.	Woodstock, Va	BPH-820331AH	83-843
B. Woodstock Broadcasting, Inc	Woodstock, Va	BPH-820807AE	83-844
C. All Kountry Music Broadcasters, a partnership	Edinburg, Va	BPH-820908AH	83-845

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue heading	Applicant(s)
1. Air Hazard	C.
2. 307(b)	All applicants.
3. Contingent Comparative	All applicants.
4 Ultimate	All applicants.

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, NW., Washington, D.C. 20554 Telephone (202) 632-6334.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 83-23763 Filed 8-29-83; 8:45 am]

BILLING CODE 6712-01-M

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[1] Paragraph 8 reads as follows:

The material submitted by the applicant(s) below does not demonstrate its financial qualifications. Accordingly, an issue will be specified concerning the following deficiency:

Applicant(s)	Deficiency(s)
A (Greater)	Applicant requires $375,166 for the first 3 months operation and construction costs. It has not submitted any documentation that this amount is available.

Advisory Committee for the 1985 ITU World Administrative Radio Conference on the Use of the Geostationary Satellite Orbit and the Planning of the Space Services Utilizing It (Space WARC Advisory Committee) Main Committee Meeting

September 15–16, 1983.[1]

CHAIRMAN: S. E. Doyle (916) 355–6941.

TIME: 9:30 A.M.–4:00 P.M.

LOCATION: Federal Communications Commission, 1200 19th Street, N.W., Room 330, Washington, D.C. 20554.

AGENDA:

(1) Adoption of the Agenda.

(2) Review and Adoption of Minutes of Sixth Meeting.

(3) Briefing on Highlights of the RARC–83.

(4) Work Status Reports from Chairmen of Working Groups.

A—Services, Facilities & U.S. Interests—W. R. Schnicke

B—Political, Institutional & International Considerations—R. F. Stowe

C—Available U.S. Options & Strategies—Perry Acherman

D—Economic Analysis—Kirit Patel

(5) Report on the CCG (Tony Rutkowski). Lunch—12 Noon–1:00 P.M.

(6) Introduction and Background of the Draft Report.

(7) Other Business.

Dated: August 25, 1983.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-23765 Filed 8-29-83; 8:45 am]

BILLING CODE 6712-01-M

[1] Meeting will reconvene on Friday, September 16, 1983, at 9:30 A.M. until Noon, same location, if required. If necessary to reconvene, Friday's agenda will be: Continuation of Work Status Review.

Telecommunications Industry Advisory Group Income and Other Accounts Subcommittee; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Telecommunications Industry Advisory Group's (TIAG) Income and Other Accounts Subcommittee scheduled for Tuesday and Wednesday, September 13 and 14, 1983. The meeting will begin on September 13 at 9:30 a.m. in the offices of Satellite Business Systems (9th Floor Executive Briefing Room), 8283 Greensboro Drive, McLean, Virginia, 22102, and will be open to the public. The agenda is as follows:

I. General Administrative Matters
II. Discussion of Assignments
III. Other Business
IV. Presentation or Oral Statements
V. Adjournment

With prior approval of Subcommittee Chairman Glenn L. Griffin, oral statements, while not favored or encouraged, may be allowed at the

meeting if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of Subcommittee objectives. Anyone not a member of the Subcommittee and wishing to make an oral presentation should contact Mr. Griffin (214/659–3484) at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83–23707 Filed 8–29–83; 8:45 am]

BILLING CODE 6712–01–M

Telecommunications Industry Advisory Group Expense Accounts Subcommittee Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Telecommunications Industry Adivsory Group's (TIAG) Expense Accounts Subcommittee scheduled to meet on September 22 and 23, 1983. The meeting will begin at 1:00 p.m. on September 22 and will be open to the public. The meeting location is: Charmaine La May, Best Western Airport Plaza Hotel, 1981 Terminal Way, Reno, Nevada 89502, Phone (702) 348–6370.

The agenda is as follows:

I. General Administrative Matters
II. Discussion of Assignments
III. Other Business
IV. Presentation of Oral Statements
V. Adjournment

With prior approval of Subcommittee Chairman John Howes, oral statements, while not favored or encouraged, may be allowed if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of Subcommittee objectives. Anyone not a member of a Subcommittee and wishing to make an oral presentation should contact Mr. Howes (212/393–4029) at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83–23706 Filed 8–29–83; 8:45 am]

BILLING CODE 6712–01–M

Meeting of (TIAG) Telecommunications Industry Advisory Group; Auditing and Regulatory Subcommittee

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a two day meeting of the Telecommunications Industry Adivsory Group's (TIAG) Auditing and Regulatory Subcommittee scheduled to meet on Thursday, September 22, 1983 and Friday, September 23, 1983. The meeting will begin at 10:00 a.m. in conference Room A, 10th Floor of the AT&T offices located at 1120–20th Street, N.W., Washington, D.C. The meeting will be open to the public. The agenda is as follows:

I. General Administrative Matters
II. Pending and Deferred Issues
III. Other Business
IV. Presentation of Oral Statements
V. Adjournment

With prior approval of Subcommittee Chairman Hugh A. Gower, oral statements, while not favored or encouraged, may be allowed if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of Subcommittee objectives. Anyone not a member of a Subcommittee and wishing to make an oral presentation should contact Mr. Gower (404/658–1776) at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83–23708 Filed 8–29–83; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL ELECTION COMMISSION

[Notice 1983–22]

Rulemaking Petition; Availability

AGENCY: Federal Election Commission.

ACTION: Rulemaking Petition: Notice of Availability.

SUMMARY: On July 26, 1983, The National Taxpayers Legal Fund filed a Petition for Rulemaking with the Commission. The petition is available for public inspection in the Commission's Public Records Office. Statements in support of or in opposition to the petition must be filed on or before September 29, 1983.

DATE: Comments must be received on or before September 29, 1983.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, 1325 K Street, NW, Washington, D.C. 20463, (202) 523–4143 or (800) 424–9530.

SUPPLEMENTARY INFORMATION:

Rulemaking Petition: Notice of Availability

On July 26, 1983, The National Taxpayers Legal Fund (NTLF) filed a Petition for Rulemaking with the Federal Election Commission. Petitioner seeks promulgation of a rule to amend Subchapter E, Title 11 CFR relating to the Presidential Election Campaign Fund.

Specifically, NTLF requests that the Commission amend Section 9002.15 of its regulations, defining the term "political party," to provide additional requirements to be met by any organization in order to quality as a political party for purposes of the Presidential Election Campaign Fund Act (26 U.S.C. 9001, *et seq).*

Copies of the Petition for Rulemaking are available for public inspection at the Commission's Public Records Office, 1325 K Street, NW, Washington, D.C. 20463, between the hours of 9:00 a.m. and 5:00 p.m.

Statements in support of or in opposition to the Petition for Rulemaking must be filed with the Commission 30 days after the publication.

Dated: August 24, 1983.

Danny L. McDonald,

Chairman, Federal Election Commission.

[FR Doc. 83–23634 Filed 8–29–83; 8:45 am]

BILLING CODE 6715–01–M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

August 24, 1983.

Background

When executive departments and independent agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Paperwork Reduction Act [44 U.S.C. Ch. 35]. Department and agencies use a number of techniques to consult with the public on significant reporting requirements before seeking OMB approval. OMB is carrying out its responsibilities under the act also considers comments on the forms and recordkeeping requirements that will affect the public. Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. OMB's usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register,** but occasionally the public interest requires more rapid action.

List of Forms Under Review

Immediately following the submission of a request by the Federal Reserve for OMB approval of a reporting or recordkeeping requirement, a description of the report is published in

the Federal Register. This information contains the name and telephone number of the Federal Reserve Board clearance officer (from whom a copy of the form and supporting documents is available). The entries are grouped by type of submission—i.e., new forms, revisions, extensions (burden change), extensions (no change), and reinstatements.

Copies of the proposed forms and supporting documents may be obtained from the Federal Reserve Board clearance officer whose name, address, and telephone number appear below. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF 83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review.

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Cynthia Glassman—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202–452–3829)

OMB Reviewer—Judy McIntosh—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503 (202–395–6880).

Request for extension of two related reports

1. Report title: Annual dealer Reports of Condition.

Agency form number: FR 2002, FR 2003
Frequency: Annual
Reporters: Bank and nonbank government security dealers
SIC Code: 641
Small businesses are affected.
General description of report:

Respondent's obligation to reply is required to obtain or retain a benefit; [12 U.S.C. § 248(a)]; a pledge of confidentiality is promised [5 U.S.C. § 552(b)(4)].

Reports provide detailed balance sheet and income and expense information for government securities dealers used by the Federal Reserve and the Treasury to monitor financial developments in the government securities market for supervisory, regulatory and monetary policy purposes.

Request for extension of existing report

1. Report title: OTC Margin Stock Report.

Agency form number: FR 2048
Frequency: Annual; three times per year
Reporters: Industrial and insurance companies, banks, bank holding companies, savings and loan associations, and other financial institutions.
SIC Code: 602, 612, 615, 631, 635, 636, 639, 672
Small businesses are not affected.
General description of report:

Respondent's obligation to reply is voluntary [15 U.S.C. 78g and 78w]; a pledge of confidentiality is not promised.

This report is used to gather information on certain corporations which have stock trading over-the-counter and that are being considered for inclusion on the Board's List of OTC Margin Stocks.

Request for approval with revisions

1. Report title: Monthly Survey of Selected Deposits and Other Accounts.

Agency form number: FR 2042
Frequency: Monthly
Reporters: Sample of insured commercial banks and mutual savings banks
SIC Code: 602, 603
Small businesses are affected
General description of report:

Respondent's obligation to respond is voluntary [12 U.S.C. § 248(a)]; a pledge of confidentiality is promised [5 U.S.C. § 552(b)(8)].

These data are used by the Federal reserve (1) to analyze and interpret movements in the monetary aggregates, (2) to observe competitive developments between banks and thrift institutions, and (3) to help monitor the earnings position of depository institutions.

Board of Governors of the Federal Reserve System, August 24, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83–23726 Filed 8–29–83; 8:45 am]

BILLING CODE 5210–01–M

First Northwest Bancorporation, and LaBelle Bancshares, Inc., Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *First Northwest Bancorporation*, Seattle, Washington; to acquire 100 percent of the voting shares or assets of Cascade Security Bank, Enumclaw, Washington. Comments on this application must be received not later than September 23, 1983.

B. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *LaBelle Bancshares, Inc.*, LaBelle, Missouri; to acquire 100 percent of the voting shares or assets of North Missouri Bancorp, Inc., LaBelle, Missouri. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of St. Louis. Comments on this application must be received not later than September 23, 1983.

Board of Governors of the Federal Reserve System, August 24, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83–23727 Filed 8–29–83; 8:45 am]

BILLING CODE 6210–01–M

Florida Central Banks, Inc., and North Missouri Bancorp., Inc.; Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that request a hearing must include a statement of why a written presentation

would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Florida Central Banks, Inc.*, Chipley, Florida; to become a bank holding company by acquiring at least 97 percent of the voting shares of Bank of Washington County, Chipley, Florida. Comments on this application must be received not later than September 23, 1983.

B. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *North Missouri Bancorp, Inc.*, LaBelle, Missouri; to become a bank holding company by acquiring at least 80 percent of the voting shares of The Citizens Bank of Edina, Edina, Missouri. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of St. Louis. Comments on this application must be received not later than September 23, 1983.

Board of Governors of the Federal Reserve System, August 24, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-23730 Filed 8-29-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 83F-0264]

Rhone-Poulenc, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Rhone-Poulenc, Inc., has filed a petition proposing that the food addditive regulations be amended to provide for the safe use of stearoylbenzoylmethane as a stabilizer for polyvinyl chloride ploymers in contact with food containing up to 50 percent alcohol.

FOR FURTHER INFORMATION CONTACT: Mary W. Lipien, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5740.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 3B3733) has been filed by Rhone-Poulenc, Inc., 52 Vanderbilt Ave., New York, NY 10017, proposing that the food additive regulations be amended to provide for the safe use of stearoylbenzoylmethane as a stabilizer for polyvinyl chloride polymers in contact with food containing up to 50 percent alcohol.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: August 18, 1983.

Richard J. Ronk,

Acting Director Bureau of Foods.

[FR Doc. 83-23710 Filed 8-29-83; 8:45 am]

BILLING CODE 4160-01-M

National Institutes of Health

Arthritis, Diabetes, and Digestive and Kidney Diseases National Advisory Council; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the National Arthritis, Diabetes, and Digestive and Kidney Diseases Advisory Council and its subcommittees on September 20 and 21, 1983 in Conference Room 10, Building 31A, National Institutes of Health, Bethesda, Maryland. The meeting will be open to the public on September 20 from 8:30 a.m. to 1:00 p.m. to discuss administration, management, and special reports. Attendance by the public will be limited to space available.

Meeting of the full Council and its subcommittees will be closed to the public as indicated below in accordance with provisions set forth in Sectibns 552b(c)(4) and 552(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, for the review, discussion and evaluation of individual grant applications. These applications and the discussion could reveal confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The following subcommittees will be closed to the public on September 20, 1983, from 1:00 p.m. to adjournment: Arthritis, Musculoskeletal and Skin Diseases; Diabetes, Endocrine, and Metabolic Diseases; Digestive Diseases and Nutrition; and Kidney, Urology and Hematology. The full Council meeting will be closed to the public on September 21, from 8:30 a.m. to adjournment.

Further information concerning the Council meeting may be obtained from Dr. Walter Stolz, Acting Executive Secretary, National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases, Westwood Building, Room 637, Bethesda, Maryland 20205, (301) 496-7277.

A summary of the meeting and roster of the members may be obtained from the Committee Management Office, NIADDK, Building 31, Room 9A46, National Institutes of Health, Bethesda, Maryland 20205, (301) 496-5765.

(Catalog of Federal Domestic Assistance Program No. 13.846-849, Arthritis, Bone and Skin Diseases; Diabetes, Endocrine and Metabolic Diseases; Digestive Diseases and Nutrition; and Kidney Diseases, Urology and Hematology Research, National Institutes of Health)

Dated: August 11, 1983.

Betty J. Beveridge,

National Institutes of Health, Committee Management Officer.

[FR Doc. 83-23734 Filed 8-29-83; 8:45 am]

BILLING CODE 4140-01-M

Biometry and Epidemiology Contract Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Biometry and Epidemiology Contract Review Committee, National Cancer Institute, National Institutes of Health, October 5, 1983, Building 31, Conference Room 7 Bethesda, Maryland 20205. This meeting will be open to the public from 9:30 a.m., to 10:00 a.m., to review administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on October 5, from 10:00 a.m. to adjournment, for the review, discussion and evaluation of individual contract proposals. These proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the proposals, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, The Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Wilna A. Woods, Executive Secretary, Biometry and Epidemiology Contract Review Committee, National Cancer Institute, Westwood Building, Room 822, National Institutes of Health, Bethesda, Maryland 20205 (301/496–7153) will furnish substantive program information.

Dated: August 12, 1983.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 83–23731 Filed 8–29–83; 8:45 am]

BILLING CODE 4140–01–M

Blood Disease and Resources Advisory Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Blood Disease and Resources Advisory Committee, National Heart, Lung, and Blood Institute, October 17–19, 1983, National Institute of Health, 9000 Rockville Pike, Bethesda, Maryland 20205. The Committee will meet in Building 31, Conference Room 9, C Wing, October 17–18, and in Conference Room 4, A Wing, on October 19.

The entire meeting will be open to the public from 9:00 AM to approximately 10:00 PM, October 17–18, and from 8:30 AM to adjournment October 19, to discuss the status of the Blood Diseases and Resources program needs and opportunities. Attendance by the public will be limited to space available.

Ms. Terry Bellicha, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institute of Health, Bethesda, Maryland 20205, phone (301) 496–4236, will provide summaries of the meeting and rosters of the Committee members.

Dr. Fann Harding, Assistant to the Director, Division of Blood Diseases and Resources, National Heart, Lung, and Blood Institute, Federal Building, Room 5A–08, National Institute of Health, Bethesda, Maryland 20205, phone (301) 496–1817, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.839, Blood Disease and Resources Research, National Institutes of Health)

Dated: August 24, 1983.

Thomas E. Malone, Ph.D.,

Deputy Director, National Institutes of Health.

[FR Doc. 83–23729 Filed 8–29–83; 8:45 am]

BILLING CODE 4140–01–M

Board of Scientific Counselors Division of Cancer Cause and Prevention; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, Division of Cancer Cause and Prevention on September 14–15, 1983, Shannon Building (Bldg. 1), Wilson Hall, National Cancer Institute, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205. The meeting will be open to the public from approximately 1:00 p.m. to recess on September 14, and from 9:00 a.m. to adjournment on September 15, for discussion and review of the Division budget and review of concepts for grants and contracts. Attendance by the public will be limited to space available.

The Board of Scientific Counselors meeting will be closed to the public from 9:00 a.m. to approximately 12:00 NOON on September 14, 1983, in accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, for the review, discussion and evaluation of individual programs and projects conducted by the Division of Cancer Cause and Prevention. These programs, projects, and discussions could reveal personal information concerning individuals associated with the programs and projects, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. David McB. Howell, Executive Secretary of the Board of Scientific Counselors, Division of Cancer Cause and Prevention, National Cancer Institute, Building 31, Room 11A04, National Institutes of Health, Bethesda, Maryland 20205 (301/496–6927) will furnish substantive program information.

Dated: August 12, 1983.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 83–23735 Filed 8–29–83; 8:45 am]

BILLING CODE 4140–01–M

Communicative Disorders Review Committee; Meeting

Pursuant the Pub. L. 92–463, notice is hereby given of the meeting of the Communicative Disorders Review Committee, National Institute of Neurological and Communicative Disorders and Stroke, November 4, 5, 1983, in the Gloucester Room of the Boston Park Plaza Hotel and Towers, 50 Park Plaza, Boston, Massachusetts 02117.

The meeting will be open to the public from 8:30 a.m. until 9:30 a.m. on November 4, to discuss program planning and program accomplishments. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(4), and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on November 4 from 9:30 a.m. to adjournment on November 5, for the review, discussion and evaluation of individual grant applications. The applications and the discussion could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Sylvia Shaffer, Chief, Office of Scientific and Health Reports, Building 31, Room 8A03, NIH, NINCDS, Bethesda, Maryland 20205, telephone (301) 496–5751, will furnish summaries of the meeting and roster of committee members.

Dr. Marilyn Semmes, Executive Secretary, NINCDS, NIH, Federal Building, Room 9C14, Bethesda, Maryland, telephone (301) 496–9223, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.853, Clinical Basis Research: No. 13.854, Biological Basis Research)

Dated: August 11, 1983.

Betty J. Beveridge,

Committee Management Officer, National Institute of Health

[FR Doc. 83–23733 Filed 8–29–83; 8:45 am]

BILLING CODE 4140–01–M

Developmental Therapeutics Contracts Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Developmental Therapeutics Contracts Review Committee, National Cancer Institute, National Institutes of Health, October 27–28, 1983, Building 31, Conference Room 10, Bethesda, Maryland 20205. This meeting will be open to the public on October 27, from 9:00 A.M. to 10:00 A.M. This will be the first meeting of the Committee and time will be spent to discuss organizational matters and administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on October 27, from 10:00 A.M. to 5:00 P.M.; and on October 28, from 9:00 A.M. to adjournment for the review, discussion and evaluation of individual contract purposes. These proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the proposals, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Kendall G. Powers, Executive Secretary, Developmental Therapeutics Contracts Review Committee, National Cancer Institute, Westwood Building, Room 826, National Institutes of Health, Bethesda, Maryland 20205 (301/496–7575) will provide program information.

Dated: August 12, 1983.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 83-23730 Filed 8-29-83; 8:45 am]

BILLING CODE 4140-01-M

Neurological Disorders Program—Project Review B Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Neurological Disorders Program—Project Review B Committee, National Institute of Neurological and Communicative Disorders and Stroke, November 4, 5 and 6, 1983, at the Boston Back Bay Hilton Hotel, 575 Commonwealth Avenue, Boston, Massachusetts 02215.

The meeting will be open to the public from 8:30 p.m. until 9:00 p.m. on November 4, 1983, to discuss program planning and program accomplishments. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(4), and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on November 4th from 9:00 p.m. to adjournment on November 6th for the review, discussion and evaluation of individual grant applications.

The applications and the discussion could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Sylvia Shaffer, Chief, Office of Scientific and Health Reports, Building 31, Room 8A03, NIH NINCDS, Bethesda, MD 20205, telephone (301) 496–5751, will furnish summaries of the meeting and the roster of committee members.

Dr. Ellen G. Archer, Executive Secretary, Federal Building, Room 9C10B, Bethesda, MD 20205, telephone (301) 496–9223, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.853, Clinical Basis Research; No. 13.854, Biological Basis Research)

Dated: August 11, 1983

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 83-23732 Filed 8-29-83; 8:45 am]

BILLING CODE 4140-01-M

Public Health Service

Privacy Act of 1974; System of Records

AGENCY: Public Health Service, HHS.

ACTION: Waiver of advance notice period for a new system of records, and addition of a proposed new routine use.

SUMMARY: FR Doc. 83–18581, appearing at page 31738 in the issue of Monday, July 11, 1983, provided notification of a new system of records proposed by the Health Resources and Services Administration (HRSA). That system is 09–15–0045, "Health Resources and Services Administration Loan Repayment/Debt Management Records System, HHS/HRSA/OA." The document stated that the Public Health Service had requested that the Office of Management and Budget (OMB) grant a waiver of the usual requirement that a system of records not be put into effect until 60 days after the report is sent to OMB and the Congress.

OMB granted the requested waiver on August 3, 1983. Accordingly, the new system of records, 09–15–0045, became effective upon the date of the waiver except for the routine uses established for the system. They became effective August 11, 1983, following the public comment period.

However, in response to a comment received from the responsible oversight committee of the U.S. House of Representatives, we are adding a routine use to permit disclosure of information from these records to the General Accounting Office (GAO) and OMB for auditing financial obligations. We are also modifying one of the existing routine uses. PHS invites interested parties to submit comments on the proposed new routine use on or before September 29, 1983.

In accordance with the Debt Collection Act of 1982 (Pub. L. 97–365), we are also adding the "special disclosure" statement. This statement does not require a public comment period.

DATE: PHS will adopt the new routine use without further notice on or before September 29, 1983, unless comments are received which would result in a contrary determination.

ADDRESS: Please address comments to: HRSA Privacy Act Coordinator, Department of Health and Human Services, Parklawn Building, Room 14A–20, 5600 Fishers Lane, Rockville, MD 20857.

We will make comments available for public inspection at the above address during normal business hours, 8:30 a.m.–5 p.m.

FOR FURTHER INFORMATION CONTACT: Ms. Sandra L. Perry, Privacy Act Coordinator, Health Resources and Services Administration, Parklawn Building, Room 14A–20, 5600 Fishers Lane, Rockville, MD 20857, Telephone: (301) 443–3780. This is not a toll free number.

SUPPLEMENTARY INFORMATION: HRSA established this system of records to protect the programmatic and financial integrity of Federal funds awarded to individuals through student loans, scholarships, traineeships, and educational grants administered by HRSA. The system, which became effective on August 3, is maintained to

reduced the amount of outstanding debts owed to the Federal Government.

In response to a comment received from the responsible oversight committee of the U.S. House of Representatives, we are modifying the fourth routine use. The comment objected to the inclusion of GAO and OMB in the same routine use with the Department of Justice and State agencies on the grounds that, although these agencies are involved in identifying potential violations of law, they are not directly involved with the law enforcement purpose as stated in this routine use.

We are therefore deleting the reference to GAO and OMB from the fourth routine use which relates to disclosures to agencies charged with law enforcement, and are proposing to establish a new routine use to provide for the disclosure of information to GAO and OMB for the purpose of auditing financial obligations owed to the Federal Government under HRSA-administered programs.

The proposed new routine use #6 will read as follow:

"Records may be disclosed to the General Accounting Office and to the Office of Management and Budget for auditing financial obligations to determine compliance with programmatic, statutory, and regulatory provisions."

Following the Routine Uses section, in accordance with the Debt Collection Act of 1982 (Pub. L. 97-365) and OMB guidance, we are also adding, as a separate section, the "special disclosure" statement which will allow HRSA to disclose information to consumer reporting agencies to aid in the collection of debts owed to the Federal Government. The disclosure will consist of the individual's name, Social Security number, and other information necessary to establish the identity of the individual and nature of the claim.

The system notice, which was last published as stated above, is republished in its entirety below to incorporate the proposed changes.

Dated: August 18, 1983.

Wilford J. Forbush,

Deputy Assistant Secretary for Health Operations and Director, Office of Management, Public Health Service.

09-15-0045

SYSTEM NAME:

Health Resources and Services Administration Loan Repayment/Debt Management Records Systems, HHS/HRSA/OA.

SYSTEM LOCATION:

Division of Fiscal Services, Office of the Administrator, HRSA, Parklawn Building, Room 16-05, 5600 Fishers Lane, Rockville, MD 20857.

Bureau of Health Professions, HRSA. Parklawn Building, Room 6-05, 5600 Fishers Lane, Rockville, MD 20857.

Indian Health Service, HRSA. Parklawn Building, Room 6A-23, 5600 Fishers Lane, Rockville, MD 20857.

Bureau of Health Care Delivery and Assistance, HRSA. Parklawn Building, Room 7-05, 5600 Fishers Lane, Rockville, MD 20857.

Washington National Records Center, 4205 Suitland Road, Washington. DC 20405.

Division of Computer Research and Technology, NIH Building 12, 9000 Rockville Pike, Bethesda, MD 20205.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have received student loans, scholarship, traineeships, or grant funds under Titles III, VII, and VIII of the Public Health Service Act, as amended, *and* who are delinquent in repaying either loans or funds owed in lieu of a service obligation under such programs. The individuals covered by this system include health professionals and students in various health professions: physicians, dentists, pharmacists, optometrists, podiatrists, veterinarians, public health personnel, audiologists, speech pathologists, health care administration personnel, medical technologists, chiropractors, clinical psychologists, and other health personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains loan repayment status, amounts of student indebtedness, schools of attendance of borrowers, lending institutions of borrowers, tax identification numbers (Social Security numbers), and demographic information pertaining to borrowers funded by HRSA.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Subpart II, Part D, Title III of the Public Health Service Act, as amended (42 U.S.C. 254d-294y). National Health Service Corps Program which includes the Indian Health Scholarship Program;

Subpart I, Part C, Title VII of the Public Health Service Act, as amended (42 U.S.C. 294-294*l*), Federal Program of Insured Loans to Graduate Students in Health Professions Schools;

Subpart II, Part C, Title VII of the Public Health Service Act, as amended (42 U.S.C. 294m-294q), Health Professions Student Loans;

Section 822 of the Public Health Service Act, as amended (42 U.S.C. 296m), Nurse Practitioner Programs;

Section 830 of the Public Health Service Act, as amended (42 U.S.C. 297), Traineeships for Advanced Training of Professional Nurses;

Subpart II, Part B, Title VIII of the Public Health Service Act, as amended (42 U.S.C. 297a-297h), Nursing Student Loans;

Health Professions Educational Assistance Act of 1976, Pub. L. 94-484 Section 409(b) (42 U.S.C. 295g);

Migration and Refugee Assistance Act of 1962, Pub. L. 87-510 (22 U.S.C. 2601);

Indian Health Care Improvement Act, Pub. L. 94-437, as amended (25 U.S.C. 1601 *et seq.*); and

Debt Collection Act of 1982, Pub. L. 97-365 (5 U.S.C. 5514 note).

PURPOSE(S):

The purpose of the system is to protect the programmatic and financial integrity of Federal funds awarded to individuals through student loans, scholarships, traineeships, and educational grants administered by the Health Resources and Services Administration (HRSA). This system is maintained to reduce the amount of outstanding debts owed to the Federal Government.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

1. Records may be disclosed to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. Records may be disclosed to authorized persons employed at educational institutions where the recipient received a loan, scholarship, or grant. The purpose of this disclosure is to assist institutions in identifying delinquent borrowers and to enforce the conditions and terms of such loans, scholarships and grants.

3. Records may be disclosed to other Federal agencies where an applicant for employment, or a current employee of that agency is delinquent in repaying his/her Federal financial obligation. The purpose of this disclosure is to enlist the agency's cooperation in facilitating repayment.

4. In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued

pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, such as the Department of Justice and State agencies charged with the responsibility of investigating or prosecuting such violation, or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

5. In the event of litigation where the defendant is: (a) The Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to provide an effective defense.

6. Records may be disclosed to the General Accounting Office and to the Office of Management and Budget for auditing financial obligations to determine compliance with programmatic, statutory, and regulatory provisions.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)). The purpose of this disclosure is to aid in the collection of outstanding debts owed to the Federal Government. Disclosure of records will consist of the individual's name, Social Security number (SSN), and other information necessary to establish the identity of the individual, the amount, status, and history of the claim, and the agency or program under which the claim arose.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders, ledgers, magnetic tapes, and electronic word processing diskettes.

RETRIEVABILITY:

Records are retrievable by name, Social Security number (SSN), award number, and by school of attendance.

SAFEGUARDS:

1. *Authorized Users:* Employees and officials directly responsible for programmatic or fiscal activity, including administrative and staff personnel, financial management personnel, computer personnel, and managers who have responsibilities for implementing HRSA-funded programs.

2. *Physical Safeguards:* File folders, reports and other forms of personnel data, and electronic diskettes are stored in areas where fire and life safety codes are strictly enforced. All documents and diskettes are protected during lunch hours and nonworking hours in locked file cabinets or locked storage areas. Magnetic tapes and computer matching tapes are locked in a computer room and tape vault.

3. *Procedural Safeguards:* Password protection of automated records is provided. All authorized users protect information from public view and from unauthorized personnel entering an office.

The safeguards described above were established in accordance with DHHS Chapter 45–13 and supplementary Chapter PHS.hf: 45–13 of the General Administration Manual; and the DHHS ADP Systems Manual Part 6, "ANP System Security."

RETENTION AND DISPOSAL:

Records are retained by the responsible organizations listed under "System Location" for two years after completion of the repayment of the loan. The records are then sent to the Federal Records Center for a four-year retention period, and are subsequently disposed of in accordance with the HRSA Records Control Schedule. The records control schedule and disposal standards for these records may be obtained by writing to the System Manager at the address below.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Administrator for Operations and Management, Health Resources and Services Administration, Parklawn Building, Room 14A–03, 5600 Fishers Lane, Rockville, MD 20857.

NOTIFICATION PROCEDURE:

To find out if the system contains records about you, contact the System Manager.

Requests in person: A subject individual who appears in person at a specific location seeking access to or disclosure of records relating to him/her shall provide his/her name, current address, and at least one piece of tangible identification such as driver's license, passport, voter registration card, or union card. Identification papers with current photographs are preferred but not required. If a subject individual has no identification but is personally known to an agency employee, such employee shall make a written record verifying the subject individual's identity. Where the subject individual has no identification papers, the responsible agency official shall require that the subject individual certify in writing that he/she is the individual who he/she claims to be and that he/she understands that the knowing and willful request or acquisition of record concerning an individual under false pretenses is a criminal offense subject to a $5,000 fine. In addition, the following information is needed: (1) The name of the student assistance program that he/she participated in, (2) dates of enrollment in the program, and (3) school(s) of attendance.

In addition, be informed that provision of the SSN may assist in the verification of your identity as well as the identification of your record. Providing your SSN is voluntary and you will not be refused access to your record for failure to disclose your SSN.

Request by mail: Written request must contain the name and address of the requester, his/her date of birth, and his/her signature which it either notarized to verify his/her identity or a written certification that the requester is who he/she claims to be and understands that the knowing and willful request or acquisition of records concerning an individual under false pretenses is a criminal offense subject to a $5,000 fine. In addition, the following information is needed: (1) The name of the student assistance program that he/she participated in, (2) dates of enrollment in the program, and (3) school(s) of attendance.

In addition, be informed that provision of the SSN may assist in the verification of your identity as well as the identification of your record. Providing your SSN is voluntary and you will not be refused access to your record for failure to disclose your SSN.

Requests by telephone: Since positive identification of the caller cannot be established, telephone requests are not honored.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also provide a reasonable description of the record being sought.

CONTESTING RECORD PROCEDURES:

Contact the System Manager, provide a reasonable description of the record, specify the information you want to

contest, and state the corrective action sought, with supporting justification.

CONTESTING SOURCE CATEGORIES:

Individuals whose records are contained in the system; Federal organizations including but not limited to the Office of Inspector General/DHHS, and the Office of the Administrator, the Bureau of Health Professions, the Indian Health Service, and the Bureau of Health Care Delivery and Assistance—all of which administer HRSA-funded programs; participating schools; and lending institutions.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 83-23723 Filed 8-29-83; 8:45 am]

BILLING CODE 4160-15-M

DEPARTMENT OF THE INTERIOR

DEPARTMENT OF AGRICULTURE

Blue Ridge Parkway and Pisgah National Forest, North Carolina; Joint Order Transferring Administrative Jurisdiction of Department of the Interior Lands and National Forest Lands.

By virtue of the authority vested in the Secretary of the Interior and in the Secretary of Agriculture by the Act of June 8, 1940, which amended the Act of June 30, 1936 (16 U.S.C. 460a–1) and the Act of May 13 1952 (16 U.S.C. 460a–4), it is ordered as follows:

(1) The lands, described at Tract P–164, under the jurisdiction of the Department of the Interior, which lands are within the exterior boundaries of the Pisgah National Forest, in Burke and McDowell Counties, North Carolina, are hereby transferred from the jurisdiction of the Secretary of the Interior to the jurisdiction of the Forest Service, Department of Agriculture, subject to outstanding rights or interests of record. Pursuant to the Act of May 13, 1952, the Department of the Interior lands transferred to the Department of Agriculture shall become National Forest lands subject to all laws, rules, and regulations applicable to lands acquired pursuant to the Weeks Law of March 1, 1911 (36 Stat. 961), as amended.

(2) The National Forest lands described as Tract P–163, which are a part of the Pisgah National Forest, Burke County, North Carolina, are hereby transferred from the jurisdiction of the Secretary of Agriculture to the jurisdiction of the Secretary of the Interior subject to outstanding rights or interests of record. Pursuant to the Act of June 8, 1940, which amended the Act of June 30, 1936, the National Forest lands transferred to the Department of the Interior shall be administered as part of the Blue Ridge Parkway.

Dated: June 3, 1983.

John R. Block,

Secretary of Agriculture.

Dated: August 10, 1983.

James G. Watt,

Secretary of the Interior.

United States Department of Interior; Park Service Tract P–164

All that certain tract or parcel of land lying or being in Burke County, North Carolina, situated approximately one and one-half (1.5) mile southeast of Linville Falls Community on the waters of Linville River, more particularly described as follows:

Beginning at corner 1, which is corner LR15 of the National Park Service Hossfeld Heirs tract, and the beginning corner of Parcel IIIA in the deed recorded in Burke County Deed Book 112, page 474, a point in the center of State Road #105 witnessed by the following bearing trees: 1) a 16" water oak bears S.63°58'W., 11.4 feet; 2) a 24" white oak bears N.64°24'W., 25.7 feet.

Thence, with three (3) lines of the former Hossfeld Heirs tract:

(1) *South 86°55' east,* 551.30 feet to *corner 2,* LR 16.

(2) *North 03°05' east,* 247.50 feet to *corner 3,* LR 17.

(3) *South 87°57' east,* approximately *630* feet to *corner 4,* a point in the line between LR 17 and LR 17.1.

Thence, with four (4) severance lines through lands administered by the National Park Service:

(1) *South,* approximately *1,700* feet to *corner 5,* a point.

(2) *East,* approximately *2,050* feet to *corner 6,* a point in the center of the Linville River.

(3) Thence, with the centerline of the river in a northerly direction to *corner 7,* a point in the center of said river opposite the mouth of Gulf Branch.

(4) Thence, leaving the river and running with the center of Gulf Branch in a northerly direction to *corner 8,* a point in the line from corner 48 to 49 of the United States Packer and Harrison Tract 30, also corner 8 of Tract 163.

Thence with two (2) lines of said tract:

(1) *South 89°39' east,* approximately *986* feet to *corner 9,* which is corner 48 of the Packer and Harrison tract, a large painted stone marked "M" and witnessed by the following described bearing trees scribed "9H68"; 1) an 8" chestnut oak bears N.57°W., 0.21 chain; 2) a 30" pine bears N.32E°., 0.07 chain.

(2) *South 01°04' west,* approximately *2,303* feet to *corner 10,* point X, a point on top of Long Arm Ridge between corners 47 and 48 of Tract 30.

Thence, running with the top of Long Arm Ridge in a westerly direction, crossing the Linville River at approximately 3,700 feet from point X, a total distance of approximately 4,500 feet to point Y, a point in the centerline of Kistler Memorial Highway (S.R. 105) at the intersection of said ridge.

Thence, leaving the ridge and running with the road in a northerly direction approximately 3,200 feet to LR 15, *THE POINT OF BEGINNING,* containing 211.0 acres, be the same more or less, and being a portion of U.S. Park Service Tract 46–108 described in Blue Ridge Parkway Deed No. 55.

[FR Doc. 83-23781 Filed 8-29-83; 8:45 am]

BILLING CODE 4310-70-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Commission on Fair Market Value; Policy for Federal Coal Leasing; Meeting

AGENCY: Department of the Interior.

ACTION: Notice of Second and Third Meetings of the Commission.

SUMMARY: Notice is hereby given that the second and third meetings of the Commission on Fair Market Value Policy for Federal Coal Leasing will be September 6 and 7, and September 26 and 27, respectively. The meeting on September 6 and 7 will be in room 138 of the Dirksen Senate Office Building in Washington, D.C. The meeting for September 26 and 27 will be in Washington, D.C., at a place to be announced later. All meetings will convene at 9:00 a.m. and adjourn at 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: F. Scott Bush, Executive Director, Commission on Fair Market Value Policy for Federal Coal Leasing, Suite 400, 1015 20th Street, N.W., Washington, D.C. 20036. Phone: (202) 632–6501.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to the authority and requirements of Pub. L. 98–63, approved July 30, 1983, making supplemental appropriations for fiscal year 1983, and for other purposes, and in accordance with the Federal Advisory Committee Act (Pub. L. 92–463).

The Commission on Fair Market Value Policy for Federal Coal Leasing will hold its second meeting on Tuesday and Wednesday, September 6 and 7, 1983, in the Dirksen Senate Office Building, Constitution Ave., N.E., Washington, D.C. The meeting agenda is as follows:

Day 1

9:00 a.m.–10:00 a.m., business meeting

10:00 a.m.–5:00 p.m., presentations by General Accounting Office and Department of the Interior on 1982 Powder River sale and response to questions from the Commission

Day 2

Witnesses representing consumers, environmental groups, industry, users and others

The third meeting of the Commission will be Monday and Tuesday, September 26 and 27 in Washington, D.C., at a place to be announced later. The meeting agenda will be to begin with a brief business meeting, followed by the taking of testimony for the remainder of the time the Commission is in session. The meetings will begin at 9:00 a.m. and conclude at 5:00 p.m.

There will be two further meetings of the Commission. The first, in Denver, Colorado, in October, will be specifically to take public comment on fair market value policy and procedures for federal coal leasing from those persons located in the Western coal regions. The fourth meeting, probably in mid-November, will be used to review the draft recommendations of the Commission.

All witnesses will be formally invited to speak by the Commission. Persons who wish to testify on coal fair market value before the Commission at any of these meeting may make themselves known to the Chairman through the Commission staff. The Commission invites written testimony at any time. Witnesses at meetings are requested to submit 10 copies of written testimony or summaries 5 days in advance of their appearance and to make available 75 copies at the meeting. Witnesses will be sworn and all testimony recorded and transcribed.

The six month deadline by which the law requires the Commission to produce recommendations requires that the Commission operate on an expedited schedule. In addition, the schedules of the Commissioners allowed only these two possible dates in September when the Commissioners could all be present. Because of these exceptional circumstances, the usual 15 day notice of an advisory committee meeting provided for by 41 CFR 107–6.1015(b) has been waived for the first of these two meetings.

The Commission was established by charter signed August 4, 1983, by the Secretary of the Interior, and is reviewing the Department's coal leasing statutes, policies, and procedures to ensure receipt of fair market value for Federal coal leases. To complete its mission, the Commission will:

a. Examine the current statutes, policies, and procedures to ensure receipt of fair market value for Federal coal leases;

b. Evaluate efforts to improve the Department's program; and

c. Recommend improvements in those statutes, policies, and procedures.

Dated: August 26, 1983.

Richard R. Hite,

Assistant Secretary—Policy, Budget and Administration, U.S. Department of the Interior.

[FR Doc. 83-23661 Filed 8-29-83; 8:45 am]

BILLING CODE 4310-10-M

Fish and Wildlife Service

Endangered Species Permit; Gibbon & Gallinaceous Bird Center et al.; Receipt of Applications

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

Applicant: Gibbon & Gallinaceous Bird Center, Saugus, CA; PRT 2–10907.

The applicant requests a permit to purchase in foreign commerce and import one female agile gibbon *(Hylobates agilis)* from Valley Zoo, Edmonton, Canada for enhancement of propagation.

Applicant: Knoxville Zoological Park, Knoxville, TN; PRT 2–10914.

The applicant requests a permit to import one captive-born male Asiatic lion *(Panthera leo persica)* from Tierpark Berlin, Berlin, German Democratic Republic, for enhancement of propagation.

Applicant: David L. Bechler—Lamar University, Beaumont, TX; PRT 2–10935.

The applicant requests a permit to take specimens of the Texas blind salamander *(Typhlomolge rathbuni)* for scientific purposes.

Applicant: San Francisco Zoo, San Francisco, CA; PRT 2–10941.

The applicant requests a permit to import two captive-born female mandrills *(Papio sphinx)* from the Singapore Zoological Garden, Singapore, for enhancement of propagation.

Applicant: Walter B. Sturgeon, Jr., Durham, NH; PRT 2–10921.

The applicant requests a permit to export six captive-born nene geese *(Branta sandvicensis)* to the Provincial Wildlife Park, Nova Scotia, Canada, for enhancement of propagation.

Applicant: Cheyenne Mountain Zoological Park, Colorado Springs, CO; PRT 2–10983.

The applicant requests a permit to import one captive-born male black rhinoceros *(Diceros bicornis)* from the Hiroshima Ada Zoological Park, Japan for enhancement of propagation.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 N. Glebe Rd., Arlington, Virginia, or by writing to the U.S. Fish & Wildlife Service, WPO, P.O. Box 3654, Arlington, VA 22203.

Interested person may comment on these applications within 30 days of the date of this publication by submitting written data, views, or arguments to the above address. Please refer to the file number when submitting comments.

Dated: August 26, 1983

R. K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 83-23709 Filed 8-29-83; 8:45 am]

BILLING CODE 4310-55-M

Bureau of Land Management

Oregon; Burns District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting of the Burns District Advisory Council

SUMMARY: This notice sets forth the schedule and proposed agenda of a meeting of the Burns District Advisory Council

DATES: Meeting will be held Sept. 26–27, 1983.

ADDRESS: Meeting Sept. 26, 1983, will be at Harney County Courthouse, Burns, Oregon.

The tour on July 27, 1983 leaves and returns to Burns, Oregon.

FOR FURTHER INFORMATION CONTACT: Josh Warburton, District Manager, Burns District, Bureau of Land Management, 74 South Alvord Street, Burns, Oregon 97220, (503) 573–5241.

SUPPLEMENTARY INFORMATION: This meeting will combine a tour of BLM's Steens Mountain Recreational Area to look at some of the specific issues and the regular District Advisory Council meeting.

The agenda for the Sept. 26, 1983 meeting, which will begin at 10:00 a.m., in the County Courthouse and close about 4:00 p.m., is:

Organizational Items—appointment of chairman

Cooperative Management Agreement (CMA)—nominations of rangeland users

Steens Mountain Recreation Management Plan

Public Comment Period Arrangements for Next Meeting

The tour will leave at 9:00 a.m., Sept. 27, 1983 from the Burns District office and return about 5:00 p.m. This is open to the public, but the BLM will not provide transportation.

Josh Warburton,

Burns District Manager.

[FR Doc. 83-23720 Filed 8-29-83; 8:45 am]

BILLING CODE 4310-84-M

[A-17000-D]

Arizona; Opening of Public Lands

August 22, 1983.

1. In **Federal Register** Volume 46, Number 148, Pages 39479–39480 dated August 3, 1981, approximately 12,837 acres were proposed as suitable for classification for transfer to the State of Arizona under the State Indemnity Selection Program. All of the lands have been transferred to the State of Arizona with the exception of 60.00 acres, which have been deleted from the State's application and are described as follows:

T. 7 N., R. 4 W. G&SRM
Section 33: S½SE¼NE¼, NE¼SE¼.

The areas described aggregate about 60.00 acres in Maricopa County.

2. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands described in paragraph 1 were opened to the operation of the public land laws including the mining laws (Ch. 2, Title 30 U.S.C.) on February 24, 1982.

Appropriation of lands under the general mining laws between April 7, 1944 and February 24, 1982 was unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Section 38, vested no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determination in local courts.

3. The lands have been and will continue to be open to applications and offers under the mineral leasing laws.

4. Inquiries concerning the lands should be addressed to the Bureau of Land Management, Department of the Interior, 2400 Valley Bank Center, Phoenix, Arizona 85073 (602–261–4774).

Mildred C. Kozlow,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-23719 Filed 8-29-83; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Huffco Petroleum Corp.

AGENCY: Minerals Management Service, U.S. Department of the Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Huffco Petroleum Corporation has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 2306, Block 261, South Marsh Island Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 838–0519.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: August 23, 1983.

John L. Rankin,

Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-23717 Filed 8-29-83; 8:45 am]

BILLING CODE 4310-MR-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Shell Offshore Inc.

AGENCY: Minerals Management Service, U.S. Department of the Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Shell Offshore Inc. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 1194, Block 58, South Marsh Island Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 838–0519.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: August 23, 1983.

John L. Rankin,

Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-23716 Filed 8-29-83; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before August 19, 1983. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the

National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by September 14, 1983.

Carol D. Shull,

Chief of Registration, National Register.

CALIFORNIA

Alameda County

Oakland, *Oakland City Hall*, 1421 Washington St.

Del Norte County

Crescent City, *Crescent City Lighthouse*, A St., Battery Point Island

Fresno County

Fresno, *Brix, H.H., Mansion, 2844 Fresno St.*

Humboldt County

Garberville, *Benbow Inn (Hotel Benbow)*, 445 Lake Benbow Dr.

Los Angeles County

Avalon, *Gano, Peter, House*, 718 Crescent Ave.
Hollywood, *Toberman, C.E., Estate*, 1847 Camino Palmero
Pasadena, *Old Pasadena Historic District*, Roughly bounded by Pasadena, Fair Oaks, Raymond Aves., Arroyo Pkwy., Del Mar Blvd., and Corson St.

Merced County

Merced, *Cook, Maj. George Beecher, House*, 356 W. 21st St.

Monterey County

Gonzales, *Community Church of Gonzales*, 301 4th St.

Orange County

Fullerton, *Elephant Packing House*, 201 W. Truslow Ave.

Sacramento County

Sacramento, *Old Traven*, 2801 Capitol Ave.

San Diégo County

San Diego, *Coulter House*, 3162 2nd Ave.
San Diego, *Park Place Methodist Episcopal Church South*, 508 Olive St.
San Diego, *Temple Beth Israel*, Heritage Park—Juan and Harney Sts.

San Francisco County

San Francisco, *Liberty Street Historic District*, Roughly 15—188 Liberty St.
San Francisco, *McMullen, John, House*, 827 Guerrero St.

COLORADO

Denver County

Denver, *Haskell House*, 1651 Emerson St.

Summit County

Frisco, *Frisco Schoolhouse*, 120 Main St.

DISTRICT OF COLUMBIA

Washington, *Bond Building*, 1404 New York Ave., NW
Washington, *Moran Building*, 501–509 G St., NW
Washington, *Prince Hall Masonic Temple*, 1000 U St., NW
Washington, *Wyoming Apartments*, 2022 Columbia Rd., NW

IDAHO

Jerome County

Jerome vicinity, *Doughty, George V., House (Lava Rock Structures in South Central Idaho TR)*, NE of Jerome

Lincoln County

Shoshone, *Purdum Livery Stable (Lava Rock Structures in South Central Idaho TR)*, 113 N. Rail St. E.

INDIANA

LaPorte County

LaPorte, *Downtown LaPorte Historic District*, Roughly bounded by State, Jackson, Maple and Chicago Sts.

KENTUCKY

Fayette County

Lexington, *North Broadway-Short Historic District*, N. Broadway and W. Short St.

LOUISIANA

Assumption Parish

Labadieville, *St. Philomene Catholic Church and Rectory*, LA 1

Rapides Parish

Pineville, *Rose Cottage*, Azalea St., (Central Louisiana State Hospital)

St. Tammany Parish

Mandevill, *Flagsta*, 1815 Lakeshore Dr.

Vernon Parish

Leesville, *Wingate House (Bagents House)*, 800 S. 8th St.

MARYLAND

Allegany County

Lonaconing, *Lonaconing Historic District*, MD 36, MD 657, and Douglas Ave., Church, E. Main and Railroad Sts.

Baltimore (Independent City)

Douglass Place, 516–524 S. Dallas St.
Gallagher Mansion and Outbuilding, 431–435 Notre Dame Lane
Union Square-Hollins Market Historic District, Roughly bounded by Fulton, Fayette, Pratt and Schroder Sts.

Baltimore County

Catonsville, *St. Charles College Historic District*, 711 Maiden Choice Lane

NEW JERSEY

Bergen County

Edgewater, *Ford Motor Company Edgewater Assembly Plant*, 309 River Rd.

NEW MEXICO

Grant County

Silver City, *St. Mary's Academy Historic District*, 1613 N. Alabama St.

NEW YORK

Bronx County

New York, *Morris High School Historic District*, Roughly bounded by Boston Rd., Jackson and Forrest Aves., and E. 166th and Home Sts.
New York, *Sunnyslope*, 812 Faile St.

Erie County

Buffalo, *Durham Memorial A.M.E. Zion Church*, 174 E. Eagle St.

Greene County

Red Falls, *Morss Homestead/Federal City Homestead*, NY 23

Jefferson County

Stone Mills, *Irwin Brothers Store*, NY 180

Kings County

New York, *Ditmas Park Historic District*, Bounded by Marlborough Rd., Dorchester, Ocean, and Newkirk Aves.
New York, *New England Congregational Church and Rectory*, 177–179 S. 9th St.
New York, *United States Army Military Ocean Terminal*, 58th–65th St. and 2nd Ave.

Lewis County

Constableville, *Constableville Village Historic District*, Roughly bounded by Sugar River, Main, N. Main, W. Main, Church, High, West, and James Sts.
West Martinsburg, *Methodist Episcopal Church of West Martinsburg*, W. Martinsburg Rd.

Madison County

Oneida, *Main-Broad-Grove Streets Historic District*, Roughly bounded by Main, Broad, E. Grove, W. Grove, Wilbur, Elizabeth, E. Walnut, W. Walnut, and Stone Sts.

Monroe County

Rochester, *Rochester City School #24 (Ellwanger and Barry School)*, Meigs St.

New York County

New York, *Building at 361 Broadway*, 361 Broadway
New York, *Cary Building*, 105–107 Chambers St.
New York, *Grand Hotel*, 1232–1238 Broadway
New York, *IRT Broadway Line Viaduct (Manhattan Valley Viaduct)*, W. 122nd St. to W. 135th St., Broadway
New York, *Lever House*, 390 Park Ave.
New York, *Liberty Tower*, 55 Liberty St.

Onondaga County

Jordan, *Jordan Village Historic District*, Roughly bounded by N. Main, S. Main, Elbridge, Clinton, Hamilton, Lawrence, and Mechanic Sts.
Syracuse, *Walnut Park Historic District*, Walnut Pl. and Walnut Ave.

St. Lawrence County

Clinton, *St. Lawrence University-Old Campus Historic District*, Park St.
Ogdensburg, *Acker and Evans Law Office*, 315 State St.

Tompkins County

Indian Fort Road Site

Washington County

Ft. Edward, *Old Fort House*, 29 Lower Broadway

Hudson Falls, *Hudson Falls Historic District*, Roughly bounded by Main, Mechanic, Maple, Oak, River,
Pearl, Cherry and Mulberry Sts., Village Park, Hudson Pl. and Park Pl.

Westchester County

Armonk, *Smith Tavern*, 400 Bedford Rd.
Elmsford, *Elmsford Reformed Church and Cemetery*, 30 S. Central Ave.
Port Chester, *Putnam and Mellor Engine and Hose Company Firehouse*, 46 S. Main St.
Yonkers, *Delavan Terrace Historic District*, Roughly bound by Deleware Terr. and Palisade and Park Aves.

OKLAHOMA

Cotton County

Walters, *First United Methodist Church*, 202 E. Oklahoma

Garfield County

Covington vicinity, *Kimmell Barn*, NE of Covington

Pottawatomie County

Asher vicinity, *Sacred Heart Mission Site*, Off OK 39

TENNESSEE

Hamblen County

Morristown, *Morristown College Historic District*, 417 N. James St.

TEXAS

Lamar County

Paris, *Scott-Roden Mansion*, 425 S. Church St.

VERMONT

Orange County

West Newbury, *West Newbury Village Historic District*, Snake and Tucker Mtn. Rds.

[FR Doc. 83-23469 Filed 8-29-83; 8:45 am]
BILLING CODE 4310-70-M

Office of Surface Mining Reclamation and Enforcement

Intent To Prepare a Draft Environmental Impact Statement for the Proposed John Henry No. 1 Mine, King County, Washington

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of intent to prepare a draft environmental impact statement.

SUMMARY: Notice is hereby given that the Office of Surface Mining (OSM), Western Technical Center, intends to prepare an environmental impact statement (EIS) on the permit application submitted by the Pacific Coast Coal Company to OSM for the proposed John Henry No. 1 mine. The EIS will evaluate the alternative actions of approval or disapproval and other alternatives which may be developed after all comments from the scoping process have been evaluated. This EIS will assist the Department in making a decision on Pacific Coast Coal Company's application for surface mining coal next to the City of Black Diamond, Washington.

DATES: A pulbic scoping meeting was held in Black Diamond, Washington, on July 21, 1983, to obtain public input concerning the proposed mine and to aid in the scoping process. All information obtained at and subsequent to the meeting will be considered in determining the scope of the EIS. Any additional written comments or statements on the scope of the EIS must be received no later than 5 p.m. MDT, September 30, 1983 at the address below.

ADDRESSES: Written comments or statements must be mailed or hand delivered to Allen D. Klein, Administrator, Attn: Charles Albrecht, Office of Surface Mining, Western Technical Center, Second Floor, Brooks Towers, 1020 Fifteenth Street, Denver, CO 80202.

Copies of the mine plan are available for review at the OSM office above as well as at: the Building and Land Development Division, 450 King County Administration Building, Seattle, Washington; and, the OSM Casper Field Office, Freden Building, 935 Pendell Boulevard, Mills, Wyoming.

FOR FURTHER INFORMATION CONTACT: Allen D. Klein, Attn: Charles Albrecht (telephone (303) 837-5421) at the Denver, Colorado, location given under "**ADDRESSES.**"

SUPPLEMENTARY INFORMATION: A site-specific EIS is being prepared by the King County Building and Land Development Division on the John Henry No. 1 mine, in response to a request for a decision on rezoning the area from general to quarrying and mining. The Federal EIS will build on the county EIS and use existing data and reports to the extent legally permissible. It should be noted that the decisions which the county and OSM must make are different, and the two EIS's must cover those different decisions..

The proposed John Henry No. 1 mine is a new surface coal mine. A total of 362 acres of privately owned surface will be disturbed over the mine's 16-year life. The maximum annual production at the proposed John Henry No. 1 mine will be 250,000 tons of coal per year. Pacific Coast Coal Company has leased the coal, to be mined, from Palmer Coking Coal Company. The coal will be removed, from two pits, using 12.5-cubic-yard front end loaders and 55-ton articulated haul trucks. Pit No. 1, scheduled to be opened in 1984, will be mined to a maximum depth of approximately 250 feet, with the removal of coal from the Franklin seams 10, 9, 8, and 7. Pit No. 2 scheduled for coal removal in the fourth year of production, will also have a maximum depth of approximately 250 feet, with coal to be removed from the Big Dirty and Franklin number 12 coal seams.

August 22, 1983.

J. R. Harris,
Director, Office of Surface Mining.

[FR Doc. 83-23638 Filed 8-29-83; 8:45 am]
BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

Forms Under Review by Office of Management and Budget

The following proposal for collection of information under the provisions of the Paperwork Reduction Act (44) U.S.C. Chapter 35) is being submitted to the Office of Management and Budget for review and approval. Copies of the forms and supporting documents may be obtained from the Agency Clearance Officer, Lee Campbell (202) 275-7238. Comments regarding this information collection should be addressed to Lee Campbell, Interstate Commerce Commission, Room 1325, 12th and Constitution Ave., NW., Washington, D.C. 20423 and to Gary Waxman, Office of Management and Budget, Room 3001 NEOB, NW., Washington, D.C. 20503. (202) 395-7313.

Type of Clearance: Extension
Bureau/Office: Office of Transportation Analysis
Title of Form: Transmittal Form, ICC Waybill Sample Manual System
OMB Form NO.: 3120-0065
Agency Form No.: OPAD-2
Frequency: monthly/quarterly
Respondents: Railroads terminating 4,500 carloads or more per year
No. of Respondents: 75
Total Burden Hrs.: 450

Agatha L. Mergenovich
Secretary.

[FR Doc. 83-23776 Filed 8-29-83; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Approved Exemptions

AGENCY: Interstate Commerce Commission.

ACTION: Notices of Approved Exemption.

SUMMARY: The motor carriers shown below have been granted exemptions

pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property Under 49 U.S.C. 1343*, 367 I.C.C. 113 (1982), 47 FR 53303 (November 24, 1982).

DATES: The exemption will be effective on September 29, 1983. Petitions to reopen must be filed by September 19, 1983. Petitions for stay must be filed by September 9, 1983.

ADDRESSES: Send pleadings to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423, and

(2) Petitioners representative(s), as shown below

FOR FURTHER INFORMATION CONTACT: Warren C. Wood (202) 275–7977.

SUPPLEMENTARY INFORMATION: For further information, see the decision(s) served in the proceeding(s) listed below. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th and Constitution Ave., NW, Washington, DC 20423; or call (202) 289–4357 in the DC metropolitan area; or (800) 424–5403 Toll-free outside the DC area.

Agatha L. Mergenovich,

Secretary.

[No. MC–F–15250]

Groendyke Investment, Inc.—Continuance in Control Exemption—the Transport Company of Texas and Groendyke Transport, Inc.

Addresses: Send pleadings to:

(1) Office of the Secretary, and

(2) Petitioner's representative: Mike Cotton, P.O. Box 1148, Austin, TX 78767

Pleadings should refer to No. MC–F–15250.

Decided: August 19, 1983.

Under 49 U.S.C. 11343(e), the Interstate Commerce Commission exempts from the requirement of prior review and approval under 49 U.S.C. 11343(a)(5), the continuance in control of Groendyke Transport, Inc. (MC–111401), and The Transport Company of Texas (MC–167667) by Groendyke Investment, Inc. (a non-carrier) and its sole stockholder, H. C. Groendyke.

By the Commission, Division 2, Commissioners Gradison, Taylor, and Sterrett. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

[No. MC–F–15281]

Centra, Inc.—Continuance in Control Exemption—C.T. Transport, Inc., Universal Am-Can Ltd., Et Al

Addresses: Send pleadings to:

(1) Office of the Secretary, and

(2) Petitioner's representative: Leonard R. Kofkin, 140 South Dearborn Street, Suite 1515, Chicago, IL 60603

Pleadings should refer to No. MC–F–15281.

Decided: August 18, 1983.

Under 49 U.S.C. 11343(e), the Interstate Commerce Commission exempts from the requirements of prior review and approval under 49 U.S.C. 11343(a), the continuance in control by Centra, Inc., of C.T. Transportation, Inc., (MC–141609), Universal Am-Can, Ltd. (MC–167922), Superior Forwarding Company, Inc. (MC–75406), Port Side Transport, Inc. (MC–161151), Central Transport, Inc. (MC–19311), U.S. Truck Company, Inc. (MC–59336), and McKinlay Transport Limited (MC–123282).

By the Commission, Division 1, Commissioners Andre, Taylor, and Sterrett. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie vote in this matter, Commissioner Taylor did not participate.

[No. MC–F–15286]

Krajack Tank Lines, Inc.—Purchase Exemption—Kupper Bros., Inc.

Addresses: Send pleadings to:

(1) Office of the Secretary, and

(2) Petitioner's representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048

Pleadings should refer to No. MC–F–15286.

Decided: August 23, 1983.

Under 49 U.S.C. 11343(e), the Interstate Commerce Commission exempts from the requirements of prior regulatory approval under 49 U.S.C. 11343(e), the purchase by Krajack Tank Lines, Inc. of all the operating rights of Kupper Bros., Inc. contained in permits No. MC–106958 (Sub-Nos. 4, 5, and 6X, including underlying authority in superseded No. MC–106958 and Sub-No. 2).

By the Commission, Division 2, Commissioners Gradison, Taylor, and Sterrett. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

[No. MC–F–15301]

U.S. Truck Lines, Inc. of Delaware—Continuance in Control Exemption—Seminole Intermodal Transport, Inc., Et Al.

Addresses: Send pleadings to:

(1) Office of the Secretary, and

(2) Petitioner's representative, Earl N. Mervin, 85 East Gay Street, Columbus, OH 43215

Pleadings should refer to No. MC–F–15301.

Decided: August 23, 1983.

Under 49 U.S.C. 11343(e), the Interstate Commerce Commission exempts from the requirements of prior review and approval under 49 U.S.C. 11343(a) the continuance of control of Be-Mac Transport Company, Inc., Brown Express, Inc., Central Truck Lines, Inc., The Cleveland, Columbus & and Cincinnati, Highway, Inc., Kanawha Cartage Company, Mercury Freight Lines, Inc., Motor Express Inc., of Indiana, Motor Express Inc., (NJ), National Tank Truck Delivery, Inc., Ohio Delivery, Inc., Motor Express Rental Corporation, Union Transport Company, Ken-Dale Express, Inc., and Seminole Intermodal Transport Inc. by U.S. Truck Lines, Inc. of Delaware.

By the Commission, Division 1, Commissioners Andre, Taylor, and Sterrett. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

[FR Doc. 83–23724 Filed 8–29–83; 8:45 am]
BILLING CODE 7035–01–M

Motor Carrier Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carrers; Household Goods Brokers. The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on

or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property—that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier—that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker—that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an application may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract. Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly noted.

Please direct status inquiries to Team 1, (202) 275–7030

Volume No. OP–1–355(N)

Decided: August 22, 1983.

By the Commission, Review Board Members, Fortier, Parker, and Dowell.

MC 16831 (Sub-42), filed August 12, 1983. Applicant: MID SEVEN TRANSPORTATION COMPANY, 2323 Delaware Ave., Des Moines, IA 50317. Representative: William L. Fairbank, 1300 United Central Bank Bldg., Des Moines, IA 50309, (515)–288–6041 Transporting *clay products and building materials*, between points in IL, IN, IA, MN, MO, NE and WI.

MC 125551 (Sub-34), filed August 12, 1983. Applicant: K & W TRUCKING CO., INC., P.O. Box 1415, St. Cloud, MN 56302. Representative: E. Lewis Coffey (same address as applicant), (612)–255–7474. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except HI), under continuing contract(s) with Stearns-Roger, Inc., of Denver, CO.

MC 163721 (Sub-1), filed August 16, 1983. Applicant: CHAPARRAL EQUIPMENT, LEASING AND RENTAL, INC., 2845 Workman Mill Rd., Whittier, CA 90601. Representative: Miles L. Kavaller, 315 South Beverly Drive, S. 315, Beverly Hills, CA 90212, (213)–277–2323. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with 3 J Freight Service, Inc,, of Whittier, CA.

MC 168181 (Sub-2), filed August 11, 1983. Applicant: CINTRAN, INC., 6225 Wiehe Rd., Cincinnati, OH 45237. Representative: James Duvall, 2515 W. Granville Rd., Worthington, OH 43085, (614)–889–2531. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of containers and related products, between points in the U.S. (except AK and HI), under continuing contract(s) with The Continental Group, Inc., of Stamford, CT.

MC 169680, filed August 2, 1983. Applicant: HILLTOP TRUCKING, INC., 1051 East 835 North, Layton, UT 84041. Representative: Neil Whittier, P.O. Box 639, Bountiful, UT 84010, (801)–546–0551. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between those points in the U.S. in and west of TX, NM, CO, WY and MT (except AK and HI).

MC 169791, filed August 11, 1983. Applicant: CHARLES W. DAVIS AND CAROL A. DAVIS, dba. DAVIS TRUCKING, 4026 N. 6th, Fresno, CA 93726. Representative: Charles W. Davis, 25200 S.W. Parkway Ave., Suite 200, Wilsonville, OR 97070. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Superior Transportation Systems, Inc., of Wilsonville, OR.

MC 169840, filed August 12, 1983. Applicant: STEVENS RELOCATION SYSTEMS, INC., A DIVISION OF STEVENS FORWARDERS, INC., 121 South Niagara St., Saginaw, MI 48602. Representative: Robert J. Gallagher, 1435 G St., NW., Suite 848, Washington, DC 20005, (202)–628–1642. As a *broker* of *household goods*, between points in the U.S. (except AK and HI).

Please direct status inquires to Team 1, (202) 275–7030

Volume No. OP–1–357 (N)

Decided: August 23, 1983.

By the Commission, Review Board Members Dowell, Krock, and Fortier.

MC 109431 (Sub-17), filed August 8, 1983. Applicant: FRANK C. KLEIN &

CO., INC., 3680 East 48th Ave., Denver, CO 80216. Representative: James A. Beckwith, 770 Grant St., Suite 228, Denver, CO 80203, (303)–861–4273. Transporting *Petroleum and petroleum products*, (a) between points in Natarona and Carbon County, WY, on the one hand, and, on the other, points in CO, ID, NE, NM, SD, UT and WY, (b) between points in CO, (c) between points in CO, on the one hand, and, on the other, points in ID, KS, NE, NM, OK, TX, UT and WY, and (d) between those points in TX on and north of U.S. Hwy 66, on the one hand, and, on the other, points in CO, KS and NM.

MC 147321 (Sub-10), filed August 10, 1983. Applicant: BILL STARR TRUCKING, INC., 1041 S. Vista Dr., Independence, MO 64056. Representative: Alex Baltimore, Ste. 600, Kansas City, MO 64105, (816)–221–1464. Transporting *printing ink, ink materials and cleaning compounds*, between points in the U.S. (except AK and HI), under continuing contract(s) with Flink Ink Corporation, of Detroit, MI.

MC 148281 (Sub-20), filed August 11, 1983. Applicant: SUSANA TRANSPORT SYSTEMS, INC., 2845 Workman Mill Rd., Whittier, CA 90601. Representative: Miles L. Kavaller, 315 South Beverly Drive, S. 315, Beverly Hills, CA 90212, (213)–277–2323. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with 3 J Freight Service, Inc., of Whittier, CA.

MC 151401 (Sub-8), filed August 8, 1983. Applicant: TRI-SERVICE, INC., P.O. Box 1419, West Chester, PA 19380. Representative: Daniel B. Johnson, 4304 East-West Hwy., Bethesda, MD 20814, (301)–654–2240. Transporting *such commodities* as are dealt in or used by manufacturers of chemicals, between points in the U.S. (except AK and HI).

MC 160461 (Sub-1), filed August 8, 1983. Applicant: LLOYD HOOD d.b.a. HOOD ENTERPRISES, Rt. 1, (P.O. Box 776), Jasper, TN 37347. Representative: D. R. Beeler, P.O. Box 482, Franklin, TN 37064, (615)–790–2510. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Cumberland Corporation, of Chattanooga, TN.

MC 169730, filed August 8, 1983. Applicant: DENNIS BAUMAN, P.O.B. 94, Erhard, MN 56534. Representative: Robert N. Maxwell, P.O.B. 2471, Fargo, ND 58108, (701)–237–4223. Transporting *building materials*, between points in MN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Please direct status inquiries to Team 1, (202) 275–7030

Volume No. OP–1–350 (N)

Decided: August 23, 1983.

By the Commission, Review Board Members Fortier, Carleton, and Parker.

MC 2890 (Sub-64), filed August 8, 1983. Applicant: AMERICAN BUSLINES, INC., 1500 Jackson Street, Dallas, TX 75201. Representative: Rebecca Patton (same address as applicant), (214) 655–7796. *Over regular routes*, transporting *passengers*, (1) between Chicago, IL, and Davenport, IA, from Chicago, IL, over Interstate Hwy 55 to junction Interstate Hwy 80, then over Interstate Hwy 80 to Davenport, IA, and return over the same route, (2) between junction Interstate Hwy 55 and IL Hwy 53, and junction Interstate Hwys 80 and 55, from junction Interstate Hwy 55 and IL Hwy 53 over IL Hwy 53 to Joliet, IL, then over Interstate Hwy 80 to junction Interstate Hwy 55, and return over the same route, (3) between St. Louis, MO, and junction Interstate Hwys 270 and 44, from St. Louis over Interstate Hwy 70 to junction Interstate Hwy 270, then over Interstate Hwy 270 to junction Interstate Hwy 44, and return over the same route, (5) between San Francisco, CA, and Cordelia, CA, from San Francisco over U.S. Hwy 101 to San Jose, then return over U.S. Hwy 101 to junction CA Hwy 17, then over CA Hwy 17 to junction CA Hwy 238, then over CA Hwy 238 to junction Interstate Hwy 680, then over Interstate Hwy 680 to Cordelia, and return over the same route, (5) between San Diego, CA, and junction CA Hwy 31 and Interstate Hwy 15, from San Diego over Interstate Hwy 15 to junction CA Hwys 31 and 91, then over CA Hwy 31 to junction Interstate Hwy 15, and return over the same route, (6) between Rancho, CA, and Riverside, CA, over Interstate Hwy 15E, (7) between Oceanside, CA, and junction CA Hwy 76 and Interstate Hwy 15, over CA Hwy 76, (8) between Brawley, CA and Coachella, CA,over CA Hwy 86, (9) between Santa Ana, CA, and Long Beach, CA, over CA Hwy 22, (10) between Yuma, AZ, and San Diego, CA, over Interstate Hwy 8, (11) between junction Interstate Hwy 8 and CA Hwy 98 (East of Calexico), and junction Interstate Hwy 8 and CA Hwy 98 (West of Calexico), over CA Hwy 98, (12) between Union City, NJ and Camden, NJ, from Union City over access roads to Interstate Hwy 95 (New Jersey Turnpike), then over Interstate Hwy 95 to Exit 4, then over NJ Hwy 73 to junction NJ Hwy 38, then over NJ Hwy 38 to Camden, and return over the same route, then over Interstate Hwy 95 to junction NJ Hwy 70, then over NJ Hwys 70 and 38 to Camden and return over the same route, then over Interstate Hwy 95 to Exit 3, then over NJ Hwy 42 to Camden, and return over the same route, (13) between Baltimore, MD, and Bedford, PA, from Baltimore over Interstate Hwy 70 to Exit 11, then over access routes to Bedford, and return over the same route, and serving the off-route point of Hagerstown, MD, (14) between Washington, DC, and Frederick, MD, from Washington, DC over U.S. Hwy 29 to Silver Spring, then over MD Hwy 97 to junction Interstate Hwy 495, then over Interstate Hwy 495 to junction Interstate Hwy 270, then over Interstate Hwy 270 to Frederick, and return over the same route, (15) between junction Interstate Hwy 76 (East) and Interstate Hwy 680, and junction Interstate Hwy 80 and Interstate Hwy, 76 (West), from junction Interstate Hwy 76 (East) and Interstate Hwy 680 over Interstate Hwy 680 to Youngstown, then over Interstate Hwy 680 to junction Interstate Hwy 80, then over Interstate Hwy 80 to junction Interstate Hwy 76 (West), and return over the same route, and (16) between junction Interstate Hwy 295 and NJ Hwy 73 and junction Interstate Hwy 295 and NJ Hwy 42, over Interstate Hwy 295, serving all intermediate points in connection with routes (1) to (16) above.

Note.—Applicant intends to tack the sought rights to its existing authority. Applicant seeks to provide regular-route service in interstate or foreign commerce and in intrastate commerce under 49 U.S.C. 10922(c)(2)(B) over the same route.

MC 19311 (Sub-84), filed August 16, 1983. Applicant: CENTRAL TRANSPORT, INC., 34200 Mound Road, Sterling Heights, MI 48077. Representative: Elmer J. Maue (same address as applicant), (313) 939–7000. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. under continuing contract(s) with Homelite Div. Textron, Inc., of Memphis, TN.

MC 109780 (Sub-85), filed August 2, 1983. Applicant: TRAILWAYS, INC. 1500 Jackson Street, Dallas, TX 75201. Representative: Rebecca Patton (same address as applicant), (214) 655–7796 *Over regular routes*, transporting *passengers*, (1) Between San Francisco, CA and junction Interstate Hwys 680 and 580, from San Francisco over U.S. Hwy 101 to San Jose, then return over U.S. Hwy 101 to junction CA Hwy 17, then over CA Hwy 17 to junction CA Hwy 237, then over CA Hwy 237 to

junction Interstate Hwy 680, then Interstate Hwy 680 to juncition Interstate Hwy 580, and return over the same route, (2) between Livermore, CA and junction CA Hwy 84 and Interstate Hwy 680, over CA Hwy 84, (3) between Sacramento and Red Bluff, CA, over CA Hwy 99, (4) between Los Angeles and Santa Monica, CA, over Interstate Hwy 10, (5) between Los Angeles and San Fernando, CA, from junction Interstate Hwy 10 and CA Hwy 11 over CA Hwy 11 to junction CA Hwy 42, then over CA Hwy 42 to Inglewood, then over Interstate Hwy 405 to junction CA Hwy 118, then over CA Hwy 118 to San Fernando, and return over the same route, (6) between Pomona, CA and junction Interstate Hwys 210 and 5, over Interstate Hwy 210, (7) between St. Louis, MO, and Champaign, IL, from St. Louis over Interstate Hwy 55 to junction IL Hwy 48, then over IL Hwy 48 to junction Interstate Hwy 72, then over Interstate Hwy 72 to Champaign, and return over the same route, (8) between St. Louis, MO, and junction Interstate Hwys 270 and 55, from St. Louis over Interstate Hwy 70 to junction U.S. Hwy 67, then over U.S. Hwy 67 to junction Interstate Hwy 270, then over Interstate Hwy 270 to junction Interstate Hwy 55 in IL, and return over the same route, (9) between Joplin, MO, and junction Interstate Hwy 44 and U.S. Hwy 66/69 at or near Vinita, OK, from Joplin over U.S. Hwy 71 to junction Interstate Hwy 44, then over Interstate Hwy 44 to junction U.S. Hwy 66/69, and return over the same route, (10) between Cameron, MO and Kansas City, Mo, over Interstate Hwy 35, and (11) between Sikeston, MO, and Cairo, IL, over Interstate Hwy 57, serving all intermediate points in connection with routes (1) to (11) above.

Note: Applicant intends to tack the sought rights to its existing authority. Applicant seeks to provide regular-route service in interstate or foreign commerce and in intrastate commerce under 49 U.S.C. 10922 (c)(2)(B) over the same route.

MC 135100 (Sub-13), filed August 15, 1983. Applicant: SIGNAL TRANSPORT, INC., Box 577 (6th and Locust Streets), Chatsworth, IL 60921. Representative: E. Stephen Heisley, 1919 Pennsylvania Avenue, N.W., Suite 500, Washington, DC 20006, (202) 828–5015. Transporting (1) *food and related products,* under continuing contract(s) with manufacturers, distributors and dealers of food and related products, (2) *pulp, paper and related products,* under continuing contract(s) with manufacturers, distributors and dealers of pulp, paper and related products, (3) *clay, concrete, glass or stone products,* under continuing contract(s) with manufacturers, distributors and dealers of clay, concrete, glass or stone products, (4) *metal products,* under continuing contract(s) with manufacturers, distributors and dealers of metal products, (5) *rubber and plastic products,* under continuing contract(s) with manufacturers, distributors and dealers of rubber and plastic products, and *such commodities* as are dealt in or used by wholesale, retail and discount stores, under continuing contract(s) with wholesale, retail and discount stores, between points in the U.S. (except AK and HI).

MC 158651 (Sub-21), filed August 15, 1983. Applicant: GRAEBEL VAN LINES, INC., 719 North Third Ave., Wausau, WI 54401. Representative: John E. Koci (same address as applicant), (715) 675–9481. Transporting *household goods,* Between points in the U.S., under continuing contract(s) with Nalco Chemical Company, of Oak Brook, IL.

MC 163570 (Sub-3), filed August 15, 1983. Applicant: CHARLES ALFORD TRUCK LINES, INC., P. O. Box 732, Bridge City, TX 77611. Representative: C. W. Ferebee, 3910 FM 1960 W., Suite 106, Houston, TX 77068, (713) 537–8156. Transporting *petroleum products,* between Houston and Dallas, TX, New Orleans, LA, and Tulsa, OK, on the one hand, and, on the other, points in AR, LA, MS, and OK.

MC 169821, filed August 11, 1983. Applicant: REGAL TRUCKING CO., 2317 Westwood Ave., P.O. Box 6786, Richmond, VA 23230. Representative: Paul D. Collins, 7761 Lakeforest Drive, Richmond, VA 23235, (804) 745–0446. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in DE, GA, KY, MD, NJ, NC, PA, SC, TN, VA, WV, and DC.

Please direct status inquiries to Team 1, (202) 275–7030

Volume No. OP–1–361 (NO)

Decided: August 23, 1983.

By the Commission, Review Board Members Carleton, Parker, and Dowell

MC 14761 (Sub-15), filed August 15, 1983. Applicant: GOTTRY CORP., 999 Beahan Rd., Rochester, NY 14624. Paul F. Sullivan, Suite 202, 3408 Wisconsin Ave., N.W., Washington, DC 20016, (202)–363–1848. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in U.S. (except AK and HI).

MC 42261 (Sub-158), filed August 9, 1983. Applicant: LANGER TRANSPORT CORP. Box 305, Rte 1 & Foot of Danforth Ave., Jersey City, NJ 07303. Representative: Daniel J. Sweeney, 1750 Pennsylvania Ave., NW, Washington, DC 20006, (202)–393–5710. Transporting *general commodities* (except classes A and B explosives, and household goods) between points in U.S. (except AK and HI), under continuing contract(s) with (1) Air Products and Chemicals, Inc., of Allentown, PA, (2) Celanese Chemical Co., of Dallas, TX, (3) Mobil Oil Corporation, of Fairfax, VA, and (4) Scott Paper Company, of Philadelphia, PA.

MC 88310 (Sub-5), filed August 17, 1983. Applicant: GOLDEN WEST FREIGHT LINES d./b./a. GOLDEN WEST TRANSPORT, P.O. Box 5817, Bakersfield, CA 93308. Representative: Earl N. Miles, 3704 Candlewood Dr., Bakersfield, CA 93306, (805)–872–11.06. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in CA.

MC 117370 (Sub-49), filed August 8, 1983. Applicant: STAFFORD TRUCKING, INC., 2155 Hollyhock Lane, Elm Grove, WI 53122. Representative: Richard A. Westley, 4506 Regent St., Suite 100, P.O. Box 5086, Madison, WI 53705–0086, (608)–238–3119. Transporting *general commodities* (except classes A and B explosives and household goods), between points in IL, IN, IA, KY, MI, MN, MO, OH and WI.

MC 155051 (Sub-3), filed August 5, 1983. Applicant: COATS & CLARK SALES CORPORATION, 2915 Northeast Parkway, Doraville, GA 30340. Representative: J. L. Fant, P.O. Box 577, Jonesboro, GA 30237, (404)–477–1525. Transporting *general commodities* (except classes A and B explosives and household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Castellaw Transportation Consultants, Inc., of Jonesboro, GA.

MC 159781 (Sub-5), filed August 5, 1983. Applicant: WESTPOINT PEPPERELL TRANSPORTATION COMPANY, P.O. Box 71, West Point, GA 31833. Representative: Michael F. Morrone, 1150 17th St., NW., Washington, DC 20036, (202)–457–1124. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with (1) SCM Corporation of Cleveland, OH, (2) J.A. Tucker Company, of Westville, NJ, (3) West-Point Pepperell Broker Service, West Point-Pepperell, Inc., of West Point, GA.

and (4) Sonnet Transportation Consultants, Inc., of Lansing, IL.

MC 169691, filed August 5, 1983. Applicant: DAY & NIGHT TRANSPORTATION SERVICES, INC., 300 Nixon, Lot 11, Noblesville, IN 46060. Representative: Andrew K. Light, 1301 Merchants Plaza, Indianapolis, IN 46204, (317)–636–1301. Transporting *general commodities* (except classes A and B explosives and household goods), between points in CA and those points in the U.S. in and east of MN, IA, MO, KS, OK and TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 169871, filed August 16, 1983. Applicant: NEW MEXICO VAN LINES, INC., d.b.a. ADMIRAL WAREHOUSE COMPANY, 8225 Washington Blvd., NW., Albuquerque, NM 87113. Representative: Robert W. Wright, Jr., 5711 Ammons St., Arvada, CO 80002, (303)–424–1761. Transporting *general commodities* (except classes A and B explosives and household goods and commodities in bulk), between points in NM.

Please direct status inquires to Team 2, (202) 275–7030.

Volume No. OP–2–379

Decided: August 23, 1983.

By the Commission, Review Board Members Fortier, Krock, and, Carleton.

W–1332 (Sub 1), filed August 15, 1983. Applicant: ALTER BARGE LINE, INC., 2333 Rockingham Rd., Davenport, IA Representative: Edward G. Bazelon, 135 S. LaSalle St., Suite 2106, Chicago, IL 60603, 312–236–8375. To operate as a *contract carrier, by water,* transporting *general commodities* (1) betweet points and port on the Mississippi, Illinois, Ohio, Missouri, Tennessee, Arkansas, and Cumberland Rivers and the Intercoastal Canal and their tributaries, (2) Lake Michigan between Milwaukee, WI and Burns Harbor, IN, and (3) the Gulf of Mexico between Key West, FL and Brownsville, TX, and all tributary and connecting waterways. Such dual operations are approved. This application contemplates operations which should result in decreased energy consumption in comparison with existing energy consumption in the affected area. To the extent traffic will be diverted from existing transportation modes, greater energy efficiencies may be obtained without disruption to existing patterns of energy distribution or to development of energy resources. The application is, in all respects, consistent with prevailing goals and objectives of the National Energy Policy.

Note.—Applicant holds water common carrier authority in the same area.

MC 107012 (Sub 856), filed August 3, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Ft Wayne, IN 46801. Representative: Margaret S. Vegeler (same address as applicant), 219–429–2213. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S., under continuing contract(s) with Management Assistance, Inc., Sorbus Service Division, of Frazer, PA.

MC 147793 (Sub 4), filed August 8, 1983. Applicant: C. L. HALL, P. O. Box 179, Cumby, TX 75433. Representative: Lawrence A. Winkle, P.O. Box 45538, Dallas, TX 75245, 214–358–3341. Transporting *fertilizer,* between points in NM, TX, OK, KS, MO, AR, NE, IA, MS, CO, LA, TN, and KY.

MC 154432 (Sub 2), filed August 8, 1983. Applicant: FORTY EIGHT TRANSPORT, INC., 16059 S. Crawford Ave., Markham, IL 60426. Representative: Philip A. Lee, 120 W. Madison St., Chicago, IL 60602, 312–236–8225. Transporting *machinery, pulp, paper and related products, chemicals and related products, iron and steel articles, plastic film and sheeting, and insulation materials,* between Chicago, IL, on the one hand, and, on the other, point, in the U.S. (except AK and HI).

MC 156623 (Sub-1), filed August 9, 1983. Applicant: LOYLEE COMPANY, INC., East 2223 Cleveland, Spokane, WA 99207. Representative: Reed L. Sherar, 242 Cervantes, Lake Oswego, OR 97034, 503–636–5220. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk) between points in the U.S. (except AK and HI), under continuing contract(s) with Circle H Consolidated, Inc., of Spokane, WA.

MC 166203 filed August 10, 1983. Applicant: CUSTOMIZED TRANSPORTATION, INC., 54 Sheridan Ave., Elmira Heights, NY 14093. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740, 301–797–6060. Transporting *general commodities* (except classes A and B explosives, household good, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 166932, filed August 8, 1983. Applicant: M.W. LOOMER, d.b.a. SPLXPRESS 2200 N. 6th St.—Box 296, Independence, KS 67301. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309, 515–244–2329. Transporting *wallboard adhesives and caulking compounds,* between points in the U.S. (except AK and HI), under continuing contract(s) with Ohio Sealants, Incorporated, of Mentor, OH.

MC 169793 filed August 10, 1983. Applicant: JOHN H. McMULLEN, JR., d.b.a. EAST TEXAS TRANSPORT, Rt. 7, Box 344, Tyler, TX 75707. Representative: Carole W. Clark, P.O. Box 747, Tyler, TX 75710, 214–593–6413. Transporting *repossessed motor vehicles,* between points in the U.S., under continuing contract(s) with Ford Motor Credit Corporation, of Tyler, TX.

MC 169813, filed August 11, 1983. Applicant: ELTON ERICKSON, d.b.a. ERICKSON TRUCKING, Route 2, Box 10, Central City, NE 68826. Representative: Max H. Johnston, P.O. Box 6597, Lincoln, NE 68506, 402–486–4841. Transporting *grain storage, grain drying and handling equipment,* between points in Shelby County, IL, on the one hand, and, on the other, points in Hall County, NE.

Please direct status inquiries about the following to Team Four at (202) 275–7669

Volume No. OP4–567

Decided: August 22, 1983.

By the Commission, Review Board, Members: Carleton, Parker and Fortier.

MC 29957 (Sub-103), filed August 12, 1983. Applicant: TRAILWAYS SOUTHERN LINES, INC., 327 Gayoso, Memphis, TN 38103. Representative: Rebecca Patton, 1500 Jackson St., Suite 422, Dallas, TX 75201, (214) 655–7790. Over regular routes, transporting *passengers,* (1) between Sikeston, MO, and Effingham, IL; from Sikeston over U.S. Hwy 60 to junction Interstate Hwy 57, then over Interstate Hwy 57 to junction IL Hwy 3, then over IL Hwy 3 to Cairo, return over IL Hwy 3 to junction Interstate Hwy 57, then over Interstate Hwy 57 to Effingham, and (2) between junction Interstate Hwy 60 and U.S. Hwy 60 and junction Interstate Hwy 57 and U.S. Hwy 60, from junction Interstate Hwy 55 and U.S. Hwy 60 over Interstate Hwy 55 to junction Interstate Hwy 57, then over Interstate Hwy 57 to junction U.S. Hwy 60, in (1) and (2) above and return the same routes and serving all intermediate points. NOTES: (1) Applicant intends to tack this authority with its presently authorized regular-route operations. (2) Applicant seeks to provide regular-route service in interstate of foreign commerce and in intrastate commerce under 49 U.S.C. 10922 (c)(2)(B) over the same route.

MC 42137 (Sub-3), filed August 16, 1983. Applicant: VICTORY VAN LINES, INC., 6 Van Duzer St., Staten Island, NY

10301. Representative: Alvin Altman, 888 7the Ave., New York, NY 10106, (212) 245–7700. Transporting *household goods*, between points in AL, CT, DE, FL, GA, IL, IN, KY, LA, MD, MA, ME, MI, MS, NC, NH, NJ, NY, OH, PA, RI, SC, TN, TX, VA, VT, WV, WI, and DC.

MC 71106 (Sub-4), filed August 15, 1983. Applicant: MUNCE BROS. TRANSFER & STORAGE CO., 221 South Franklin Ave., Sioux Falls, SD 57103. Representative: A. J. Swanson, P.O. Box 1103, Sioux Falls, SD 57101, (605) 335–1777. Transporting *household goods, machinery,* and *communication equipment,* between points in SD and ND.

MC 146856 (Sub-2), filed August 16, 1983. Applicant: WEST EXPRESS TRUCKING COMPANY, Box 60, Island, KY 42350. Representative: Robert H. Kinker, 314 West Main St., P.O. Box 464, Frankfort, KY 40602, (502) 223–8244. Transporting (1) *lumber and wood products,* between those points in KY on and west of U.S. Hwy 31W, on the one hand, and, on the other, points in the U.S. (except AK and HI); and (2) *metal products,* between Chicago, IL, points in Spencer County, IN, and those points in KY on and west of U.S. Hwy 31W, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 150866 Sub 9, filed August 10, 1983. Applicant: THELL W. GUBLER & SONS, TRUCKING, 1301 East 700 North, P.O. Box 574, St. George, UT 84770. Representative: Thell W. Gubler (same address as applicant), (801) 673–4856. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with R & R Truck Brokers, Inc., of Medford, OR.

MC 154436 (Sub-6), filed August 15, 1983. Applicant: MARILYN THOMAS, d.b.a. MAT TRUCKING, 2604 W. Pleasant Ridge Rd., Arlington, TX, 76016. Representative: Billy R. Ried, 1721 Carl St., Ft. Worth, TX 76103, (817) 332–4718 Transporting *electrical machinery,* between points in the U.S. (except AK and HI), under continuing contract(s) with General Electric Company, of Wawick, RI.

MC 159737 (Sub-2), filed August 12, 1983. Applicant: B V & W TRUCKING, LTD., 219 West Pembroke Ave., Hampton, VA 23669. Representative: Frank L. Willard, Suite No. 1001, First & Merchants National Bank Bldg., Norfolk, VA 23510, (804) 627–0070. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in MD, NC, VA, and DC, on the one hand, and, on the other, points in AL, CA, CT, DE, FL, GA, IL, IN, KS, MD, MO, LA, MA, MI, MS, NC, NH, NJ, NY, OH, PA, RI, SC, TN, TX, VA, VT, WV, and DC.

Volume No. OP4–568

Decided: August 22, 1983.

By the Commission, Review Board, Members: Fortier, Corleton and Parker.

MC 160416 (Sub-1), filed August 15, 1983. Applicant: HARBOR TRANSFER, INC., 2400 S. Weccacoe Ave., Philadelphia, PA 19148. Representative: Francis W. Doyle, 323 Maple Ave., Southampton, PA 18966, (215) 357–7220. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 163526 (Sub-2), filed August 4, 1983. Applicant: TRINITY PAPER & PLASTICS, INC., 529 Fifth Ave., New York, NY 10017. Representative: Ronald I. Shapps, 450 7th Ave., New York, NY 10123, (212) 239–4610. Transporting *general commodities* (except classes A and B explosives, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with TDS Brokerage, Inc., of Des Plaines, IL, Carnation Company, of Los Angeles, CA, Wakefern Food Corporation, of Elizabeth, NJ, and WBC Etrusion Products, Inc., of Lowell, MA.

MC 165466 (Sub-1), filed August 16, 1983. Applicant: GILBERT & SONS TRUCKING, INC., Rt. 4, Box 528, Tecumseh, OK 74873. Representative: William P. Parker, 4400 N. Lincoln, Suite 10, Oklahoma City, OK 73105, (405) 424–3301. Transporting *metal, wood and plastic products, machinery, building and construction materials, and Mercer commodities,* between points in the U.S. (except AK and HI).

MC 169627, filed August 15, 1983. Applicant: STOKELY-VAN CAMP, 941 N. Meridian St., Indianapolis, IN 46204. Representative: C. Thomas Everhart, 1200 W. Troy Ave., Indianapolis, IN 46225, (317) 787–2291. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Oconomowoc Canning Company, of Oconomowoc, WI, Union Camp Corporation, of Wayne, NJ, and American Backhaulers Corporation, of Chicago, IL.

MC 169867, filed August 15, 1983. Applicant: WRUBLE ELEVATOR INC., 224 Water St., Harbor Beach Rd., Harbor Beach, MI 48441. Representative: Robert Wruble, 8154 Sand Beach, MI 48441, (517) 479–3623. Transporting *soybean meal,* between points in MI, OH, IN and IL.

MC 169876, filed August 16, 1983. Applicant: MIKE LEWIS, d.b.a. LEWIS TRANSPORTERS, 3905 Pierce St., Wheat Ridge, CO 80033. Representative: James A. Beckwith, Suite 228, 770 Grant St., Denver, CO 80203, (303) 861–4273. Transporting *construction equipment, materials and supplies,* between points in CO, WY, NE, NM, KS, OK, and UT, under continuing contract(s) with Air Rentals, Inc., of Denver, CO and Monarch Equipment, Inc., of Commerce City, CO.

Volume No. OP4–569

Decided: August 22, 1983.

By the Commission, Review Board, Members: Carleton, Dowell and Fortier.

MC 151566 (Sub-77), filed August 9, 1983. Applicant: PERRY TRANSPORT, INC., 601 S. Beacon Blvd., Grand Haven, MI 49417. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th St., N.W., Washington, DC 20005, (202) 296–3555. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between those points in the U.S. in and east of MN, IA, MO, AR, and TX.

MC 165396 (Sub-1), filed August 10, 1983. Applicant: HOWMET DISPATCH CORPORATION, 475 Steamboat Rd., P.O. Box 1960, Greenwich, CT 06830–1960. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, (201) 234–0301. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI). Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. § 11343(a) or show that a petition has been filed under 49 U.S.C. 11343(e) seeking an exemption from the requirements of 49 U.S.C. 11343 and or submit an affidavit indicating why such approval is unnecessary to the Secretary's Office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the application(s) for common control to Team 4, Room 2410.

MC 169757, filed August 8, 1983. Applicant: RYAN POTATO COMPANY, Box 388, East Grant Forks, MN 56721. Representative: William J. Gambucci, 525 Lumber Exchange Bldg., Minneapolis, MN 55402, (612) 340–0808. Transporting (1) *food and related products,* between points in the U.S. (except AK and HI); (2) *general*

commodities (except classes A and B explosives, household goods, and commodities in bulk), between points in ND, SD, MN, WI, and IA, on the one hand, and, on the other, points in the U.S. (except AK and HI); and (3) *textile mill products,* and *pulp, paper and related products,* between New Orleans, LA, and points in Jefferson County, AR, on the one hand, and, on the other, Kansas City, MO.

Volume No. OP4–570

Decided: August 22, 1983.

By the Commission, Review Board, Members: Dowell, Fortier and Krock.

MC 151887 (Sub-2), filed August 16, 1983. Applicant: BODONA, INC., 1011 No. Colony Rd., Meriden, CT 06450. Representative: Edward M. Taber, 58 Williams St., Thomaston, CT 06787, (203) 283–8313. Transporting *metal products,* between points in CT, MA, ME, NH, RI, VT, NY, NJ, PA, OH, MI, IL, IN, WI, and MO.

MC 159966 (Sub-1), filed August 11, 1983. Applicant: JAMES A. PRICE AND LOUIS J. GREPPI, d.b.a. P&L TRUCKING, 60 W. Barham Ave., Santa Rosa, CA 95401. Representative: James H. Gulseth, 100 Bush St., 21st Fl., San Francisco, CA 94104, (415) 986–5778. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Del Norte, Humboldt, Trinity, Mendocino, Lake, Sonoma, Napa, Yolo, Sacramento, Solano, Marin, Contra Costa, Alameda, Santa Clara, San Mateo, Santa Cruz, and San Francisco Counties, CA.

MC 161246 (Sub-1), filed August 16, 1983. Applicant: KENTON CRATE & PALLET COMPANY, INC., 18 Betty St., Milford, DE 19963. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th St., NW., Washington, DC 20005, (202) 296–3555. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Masten Lumber & Supply, Inc., of Milford, DE.

MC 164117 (Sub-1), filed August 17, 1983. Applicant: ALVIS H. WILBURN, d.b.a. A & H SALVAGE, P.O. Box 668, Henderson, TX 75653–0668. Representative: Alvis H. Wilburn (same address as applicant), (214) 657–9394. Transporting *machinery and metal products,* between points in the U.S., under continuing contract(s) with Dutch Electric Corp., of Reading, PA, Empire Machine Co., of Phoenix, AZ, K.R. Defenbaugh, of Huntsville, TX, O'Brien Power Equipment Co., of Houston, TX, Saltzman Auto Electric & Equipment, of Tulare, CA, Schaefer Valve Service, Inc., of Arroyo Grande, CA, Joy Pipe of Texas, Inc., Uvalde, TX, Nelson and Nelson Equipment Co., of Bakersfield, CA, Coast Petro-Chem, of Camerillo, CA, Campbell Equipment Co., Inc., of Bakersfield, CA, Delta Wire Rope & Slings, Inc., of Broussard, LA, Tractorland, Inc., of Riverside, CA, S&S Pipe & Supply Inc., of Huntsville, TX, P.C. James Company, of Ft. Worth, TX, Chrome Crankshaft Co., of Bell Gardens, CA, Hawthorne Engine Systems, of San Diego, CA, Offield Equipment, of Amarillo, TX, Myers-Ward Tractor & Equipment Co., Inc., of Fresno, CA, Hardin Machinery, Inc., of Carmi, IL, Duquesne Electric & Manufacturing Company, of Pittsburgh, PA, West Coast Wire Rope & Rigging, Inc., of Oakland, CA, and Preco Equipment, Co., of Houston, TX.

MC 164536 (Sub-2), filed August 17, 1983. Applicant: P.D.P.D. CORPORATION, d.b.a. P & K EXPRESS, 98 Frelinghuysen Ave., Newark, NJ 07714. Representative: Morton E. Kiel, Suite 2B, 475 South Main St., P.O. Box 489, New City, NY 10956, (914) 638–4007. Transporting *general commodities* (except classes A and B explosives and household goods), between those points in the U.S. in and east of WI, IL, KY, TN, and MS.

MC 166657, filed August 15, 1983. Applicant: CLATTERBAUGH, INC., P.O. Box 828, Charlottesville, VA 22902. Representative: Carroll B. Jackson, 1810 Vincennes Rd., Richmond, VA 23229, (804) 282–3809. Transporting *aggregates, ammonium sulphate, coal, diammonium phosphate, fertilizer and fertilizer materials,* and *limestone,* between points in AL, CT, GA, IL, IN, KY, MA, MD, MO, NC, OH, PA, SC, TN, VA, WV, and DC.

Volume No. OP4–571

Decided: August 22, 1983.

By the Commission, Review Board, Members: Fortier, Dowell and Carleton.

MC 167906, filed August 16, 1983. Applicant: GRIFF JONES TRANSPORT, INC., 177 Old Churchmans Rd., New Castle, DE 19720. Representative: Colin Barrett, 11764 Indian Ridge Rd., Reston, VA 22091 (703) 860–8521. Transporting *general commodities* (except classes A and B explosives and household goods), between those points in the U.S. in and east of MN, IA, MO, KS, AR, and TX.

MC 169736 (Sub-1), filed August 11, 1983. Applicant: VAN MGT. CORP., P.O. Box 35610, Louisville, KY 40232. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202 (502) 589–5400. Transporting *such commodities* as are dealt in by manufacturers and distributors of building, construction, and mining and metal materials, between points in the U.S. (except AK and HI), under continuing contract(s) with manufacturers and distributors of building, construction, and mining and metal materials. Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. § 11343(A) of submit an affidavit to the Secretary's office indicating why such approval is unnecessary. In lieu of filing an application for approval, such person or persons may wish to file a letter-petition for exemption form Commission action. Such a petition should include the notice required by Section 11343 (e)(2). See Ex Parte 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property under 49 U.S.C. 11343,* 47 FR 42947. In order to expedite issuance of any authority, please submit a copy of the affidavit, or proof of filing the petition or application(s) concerning common contol to Team 4, Room 2410.

MC 169857, filed August 15, 1983. Applicant: DAVE FRANICH, 1231 E. First St., Butte, M-T 59701. Representative: William E. Seliski, 2 Commerce St., P.O. Box 8255 (406) 543–8369. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in CA, ID, MT, OR and WA, on the one hand, and, on the other, those points in the U.S. in and west of MI, OH, KY, TN, GA, and FL (except AK and HI).

MC 169887, filed August 17, 1983. Appliant: WOODWARD TRUCKING CO., 909 West Amador, P.O. Box 190, Las Cruces, NM 88004. Represenative: William J. Lippman, P.O. Box 6060, Snowmass Village, CO 81615 (303) 923–4565. As a *broker of general commodities* (except household goods), between points in the U.S.

[FR Doc. 83-23773 Filed 8-29-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Internal Security Order

AGENCY: Justice Management Division, Justice Department.

ACTION: Notice of internal security order, DOJ 2620.8

SUMMARY: This notice sets forth an internal Department of Justice security order, DOJ 2620.8. DOJ 2620.8 defines the

Justice Department's employees' and contractors' responsibilities to protect classified information and to submit to prepublication review. This order is set out below.

FOR FURTHER INFORMATION CONTACT: Kevin D. Rooney, Assistant Attorney General for Administration, Department of Justice, 10th and Constitution Avenue, NW., Washington, D.C. 20530 (202-633-3191).

Dated August 25, 1983.

William D. Van Stavoren,

Acting Assistant Attorney General for Administration.

[DOJ 2620.8]

August 25, 1983.

Subject: Employee Obligations to Protect Classified Information and Submit to Prepublication Review

Distribution: BUR/H-1, OBD/F-2, OBD/H-1.

Initiated By: Security Staff, Justice Management Division.

1. *Purpose.* The purpose of this order is to explain and clarify Department of Justice (DOJ) policies concerning implementation of the prepublication review program.

2. *Scope.* This order applies to all persons granted access to classified information in the course of their employment at the DOJ and DOJ contractors granted such access.

3. *Authority.*

a. Executive Order 12356, "National Security Information."

b. National Security Decision Directive-84 entitled "Safeguarding National Security Information."

c. 28 CFR 0.75(p).

4. *Policy.* All persons granted access to classified information in the occurs of their employment at the DOJ are required to safeguard that information from unauthorized disclosure. This nondisclosure obligation is imposed by statutes, regulations, access agreements, and the fiduciary relationships of the persons who are entrusted with classified information in the performance of their duties. The nondisclosure obligation continues after DOJ employment terminates.

As an additional means of preventing unlawfully disclosures of classified information, the President has directed that all persons with authorized access to Sensitive Compartmented Information (SCI) be required to sign nondisclosure agreements containing a provision for prepublication review to assure deletion of SCI and other classified information. SCI is information that not only is classified for national security reasons as Top Secret, Secret, or Confidential, but also is subject to special access and handling requirements because it involves or derives from particularly sensitive intelligence sources and methods.

5. *Responsibilities.*

a. The prepublication review provision requires that DOJ employees granted access to SCI submit certain material to the Department, whether prepared during or subsequent to DOJ employment, prior to its publication to provide an opportunity for determining whether an unauthorized disclosure of SCI or other classified information would occur as a consequence of its publication.

The obligations not to disclose classified information and to comply with agreements requiring prepublication review have been held by the Supreme Court to be enforceable in civil litigation. *Snepp* v. *United States*, 444 U.S. 507 (1980).

b. It must be recognized at the outset that it is not possible to anticipate each and every question that may arise. The Department will endeavor to respond, however, as quickly as possible to specific inquiries by present and former employees concerning whether specific material require prepublication review. Present and former employees are invited to discuss their plans for public disclosures of information that may be subject to these obligations with authorized Department representatives at an early stage, or as soon as circumstances indicate these policies must be considered. All questions concerning these obligations should be addressed to the Counsel for Intelligence Policy, Office of Intelligence Policy and Review, Room 6325, U.S. Department of Justice, 10th & Constitution Avenue, NW., Washington, D.C. 20530. The official view of the Department on whether specific materials require prepublication review may only be expressed by the Counsel for Intelligence Policy and persons should not act in reliance upon the view of other Department personnel.

c. Employees with access to SCI will be required to sign agreements providing for prepublication review. Prepublication review is required only as expressly provided for in an agreement. However, all persons who have had access to classified information have an obligation to avoid unauthorized disclosures of such information and are subject to enforcement actions if they disclose classified information in an unauthorized manner. Therefore, present or former employees are encouraged voluntarily to submit material for prepublication review if they believe that such material may contain classified information even if such submission is not required by a prepublication review agreement. Where there is any doubt, present and former employees are urged to err on the side of prepublication review to avoid unauthorized disclosures and for their own protection.

d. Present or former employees who have signed agreements providing for prepublication review are required to submit any material prepared for disclosure to others that contains or purports to contain:

(1) any SCI, any description of activities that produce or relate to SCI, or any information derived from SCI;

(2) any classified information from intelligence reports or estimates; or

(3) any information concerning intelligence activities, sources or methods.

The term "intelligence activities" in paragraph 5.d.(3) means all activities that agencies within the Intelligence Community are authorized to conduct pursuant to Executive Order 12333. However, there is no requirement to submit for review any materials that exclusively contain information lawfully obtained at a time when the author has no employment, contract, or other relationship with the United States Government and which are to be published at such time.

e. A person's obligation to submit material for prepublication review remains identical whether such person actually prepares the material or causes or assists another person, such as a ghost writer, spouse or friend, or editor is preparing the material. Material described in paragraph 5.d must be submitted for prepublication review prior to discussing it with or showing it to a publisher, co-author, or any other person who is not authorized to have access to it. In this regard, it should be noted that a failure to submit such material for prepublication review constitutes a breach of the obligation and exposes the author to remedial action even in cases where the published material does not actually contain SCI or classified information. *See Snepp* v. *United States*, *supra*.

f. The requirement to submit information or materials for prepublication review is not limited to any particular type of material or disclosure. Written materials include not only books but all other forms of written materials intended for public disclosure, such as (but not limited to) newspaper columns, magazine articles, letters to the editor, book reviews, pamphlets, and scholarly papers. Because fictional treatment may convey factual information, fiction is also covered if it is based upon or reflects information described in paragraph 5.d.

g. Oral statements are also included when based upon written materials, such as an outline of the remarks. There is no requirement to prepare such material for prior review, however, unless there is reason to believe in advance that oral statements may contain SCI or other classified information. Thus, a person may participate in an oral presentation of information where there is no opportunity for prior preparation (e.g., news interview, panel discussion) unless there is reason to believe in advance that such oral expression may contain SCI or other clasified information. This recognition of the problems with oral representations does not, of course, exempt present or former employees from liability for any unauthorized disclosures of SCI or classified information that may occur in the course of even extemporaneous oral expressions.

h. Material that consists solely of personal views, opinions or judgments and does not contain or imply any statement of fact that would fall within the description in paragraph 5.d is not subject to the prepublication review requirement. For example, public speeches or publication of articles on such topics as proposed legislation or foreign policy do not require prepublication review so long as the material does not directly or implicitly constitute a statement of an informational nature that falls within paragraph 5.d. Of course, in some circumstances the expression of "opinion" may imply facts and thus be of such a character as to require prior review.

i. Obviously, the purposes of prepublication review will be frustrated where the material in question already has been disseminated to

unauthorized persons. Comparision of the material before and after the review would reveal which items of classified information, if any, had been deleted at the Department's request. Consequently, the Department will consider these obligations to have been breached in any case, whether or not the written material is subsequently submitted to the Department for prepublication review, where it already has been circulated to publishers or reviewers or has otherwise been made available to unauthorized persons. While the Department reserves the right to review such material for purposes of mitigating damage that may result from the disclosure, such action shall not prevent the United States Government and the Department from pursuing all appropriate remedies available under law as a consequence of the failure to submit the materials for prior review and/or any unauthorized disclosure of SCI or classified information.

j. Materials submitted for prepublication review will be reviewed solely for the purpose of identifying and preventing the disclosure of SCI and other classified information. This review will be conducted in an impartial manner without regard to whether the material is critical or favorable to the Department. No effort will be made to delete embarrassing or critical statements that are unclassified. Materials submitted to the Office of Intelligence Policy for review will be disseminated to other persons or agencies only to the extent necessary to identify classified information.

k. The Counsel for Intelligence Policy will respond substantively to prepublication review requests within 30 working days. Priority shall be given to reviewing speeches, newspaper articles, and other materials that the author seeks to publish on an expedited basis. The Counsel's decisions may be appealed to the Deputy Attorney General, who will process appeals within 15 working days. The Deputy Attorney General's decision is final and not subject to further administrative appeal. Authors who are dissatisfied with the final administrative decision may obtain judicial review either by filing an action for declaratory relief or by giving the Department notice and a reasonable opportunity (30 working days) to file a civil action seeking a court order prohibiting disclosure. Of course, until any civil action is resolved in court, employees remain under an obligation not to disclose or publish information determined by the Government to be classified.

l. Nothing in this order should be construed to alter or waive the Department's authority to seek any remedy available to it to prohibit or punish the unauthorized disclosure of classified information.

m. A former DOJ employee who subsequently receives a security clearance or SCI access approval from another department or agency is permitted to satisfy any obligation regarding prepublication review by making submissions to the department or agency that last granted the individual either a security clearance or an SCI access approval.

n. The obligations described herein as applying to DOJ employees also apply with equal force to contractors who are authorized by the Department to have access to SCI or other classified information.

William D. Van Stavoren,

Acting Assistant Attorney General for Administration.

[FR Doc. 83-22770 Filed 8-29-83; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities Under OMB Review

Background

The Department of Labor, in carrying out its responsibility under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the proposed forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency forms under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new forms, revisions, extensions (burden change), extensions (no change), or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of any particular revision they are interested in. Each entry will contain the following information:

The Agency of the Department issuing this form.

The title of the form.

The Agency form number, if applicable.

How often the form must be filled out.

Who will be required to or asked to report.

Whether small business or organizations are affected.

The standard industrial classification (SIC) codes, referring to specific respondent groups that are affected.

An estimate of the number of responses.

An estimate of the total number of hours needed to fill out the form.

The number of forms in the request for approval.

An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, Telephone 202-523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S-5526, Washington, D.C. 20210. Comments should also be sent to the OMB reviewer, Arnold Strasser, Telephone 202-395-6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, NEOB, Washington, D.C. 20503.

Any member of the public who wants to comment on a form which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

EXTENSION (Burden Change)

Employment Standards Administration; Reports of Payments; LS-513; Annually; Business or other for-profit; 720 responses; 360 hours; 1 form.

Form is used by insurance carriers and self-insurers to report compensation and medical payments under the LHWCA and extensions to determine their annual assessment under the Act.

Signed at Washington, D.C. this 25th day of August, 1983.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 83-22791 Filed 8-29-83; 8:45 am]

BILLING CODE 4510-27-M

Employment and Training Administration

Stainless Steel and Alloy Tool Steel; Adjustment Assistance Eligibility

On May 18, 1983, the U.S. International Trade Commission (ITC) determined that increased imports of certain stainless steel and alloy tool steel products are a substantial cause of serious injury to the domestic industry for purposes of the import relief provisions of the Trade Act of 1974. (48 FR 22373).

Section 224 of the Trade Act directs the Secretary of Labor to initiate an industry study whenever ITC begins an investigation under the import relief provisions of the Act. The purpose of the study is to determine the number of workers in the domestic industry petitioning for relief who have been or are likely to be certified as eligible for adjustment assistance, and the extent to which existing programs can facilitate the adjustment of such workers to import competition. The Secretary is required to make a report of this study to the President and also make the report public (with the exception of

information which the Secretary determines to be confidential).

The U.S. Department of labor has concluded its report on certain stainless steel and alloy tool steel products. The report found as follows:

1. DOL has received and processed 248 petitions for trade adjustment assistance involving workers in the stainless steel and alloy tool steel industry since April 3, 1975, the effective date of the adjustment assistance program, including 133 received during the 1980–1982 period. Eighty-seven petitions were certified covering 108,210 wrokers, and 161 petitions were denied involving 45,414 workers. An additional 12 petitions covering industry workers were in process as of the date of preparation of this report, and several of 24 other basic steel industry petitions currently under investigation are expected to involve stainless steel and alloy tool steel workers.

As of February 28, 1983, DOL had completed payment of $71,215,400 in trade readjustment allowances to 36,156 workers formerly employed in plants producing stainless steel and alloy tool steel products. All but $2,156,000 was paid to workers whose petitions were certified during 1975–1978. Job search allowances of $18,700 had been paid to 137 industry workers, job relocation allowances of $99,979 had been paid to 103 industry workers, and 1,577 industry workers had entered training as of February 28, 1983. Payments and benefits data for the 34 petitions certified during early 1983 were not available at the time of this report's preparation.

2. Average employment of production and related workers in the stainless steel and alloy tool steel industry declined steadily 1979 through 1982. Permanent employment levels are expected to continue declining during the next 12 months. Industrywide temporary layoffs are also expected.

3. Unemployment rates for 17 of the 23 areas with plants producing stainless steel and alloy tool steel were above the national unemployment rate of 11.3 percent (unadjusted) for February 1983. Reemployment prospects for present and potentially separated workers in the industry appear to be poor.

4. A total of $30.5 million (including $5.5 million carryover from Fiscal Year 1982) is available in Fiscal Year 1983 to provide training, job search and relocation allowances to eligible stainless steel and alloy tool steel workers as well as other workers adversely affected by import competiton under the trade adjustment assistance program. Although it is unlikely that funding at this level will meet the increased demand for training (a result of an upsurge in certifications in the apparel, mining and steel industries), no additional funds are being sought by DOL due to the scheduled termination of the worker adjustment assistance program on September 30, 1983. Currently $2.0 million in funds has been allotted for Fiscal Year 1984 in order to meet Fiscal Year 1983 phaseout payments of trade readjustment allowances (TRA) which are entitlements funded from the Federal Unemployment Benefit and Allowances (FUBA) account. All other program benefits and allowances (including TRA entitlements for periods of unemployment on or after October 1, 1983) will expire on September 30, 1983, unless the legislative authority is extended. Dislocated workers, including import impacted workers, should benefit from $110.0 million which has been set aside for the administration and delivery by the States of dislocated worker benefits under the Job Training Partnership Act (JTPA) for Fiscal Year 1983 and the $240.0 million which has been requested for Fiscal Year 1984.

Copies of the Department report containing nonconfidential information developed in the course of the 6-month investigaton may be purchased by contacting Larry Ludwig, Office of Trade Adjustment Assistance, U.S. Department of Labor, 601 D Street NW., Room 9120, Washington, D.C. 20213 (phone 202–376–6842).

Signed at Washington, D.C. this 22nd day of August 1983.

Albert Angrisani,

Assistant Secretary of Labor.

[FR Doc. 83–23792 Filed 8–29–83; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–13,932]

Ames Coal Co., Logan County, West Virginia; Negative Determination on Reconsideration

On July 11, 1983, the Department made an Affirmative Determination Regarding Application for Reconsideration for workers and former workers of Ames Coal Company, Logan County, West Virginia. This determination was published in the Federal Register on July 19, 1983 (48 FR 32891).

The Department's original determination denied workers of Ames Coal Company eligibility to apply for trade adjustment assistance benefits. The findings showed that the Ames Coal mined metallurgical coal and that worker separations because of increased import could not be substantiated according to the Trade Act of 1974. The principal reason for the reconsideration was to explore the "appropriate subdivision" and "workers' firm" relationship between the Ames Coal Company and Wheeling Pittsburgh Steel (WPS) and Wheeling Pittsburgh Coal Company (WPCC). The Department in its original determination did not take that relationship into account since workers at WPS and WPCC were not certified at the time of the Department's decision for workers at Ames.

Counsel for the United Mine Workers argued in his request for reconsideration that Ames should be considered an "appropriate subdivision" of WPCC for purposes of certification since WPCC owned the mine and purchased all Ames' coal. Counsel documented other operational integrations as: incurring the exploration costs and securing the mining permits by WPCC, lending of tools and spare parts to Ames, processing Ames' coal together with its own at WPCC's preparation plant, visiting the Ames' minesite—almost on a daily basis—by WPCC supervisory and technical personnel, and both Ames and WPCC were signatories to the 1981 National Bituminous Coal Wage Agreement.

Counsel also argued that even if Ames Coal Company cannot be considered to be an "appropriate subdivision" of WPCC, the Department has certified workers in similarly situated firms, e.g., the Mil Garment Company, TA–W–12,108.

After reconsideration, the question of whether or not the Ames Coal Company was an "appropriate subdivision" of WPCC or WPCC was considered to be the "workers' firm" is irrelevant to a certification determination in this case because the workers at Ames were not separated from employment because of increased imports of coal or steel. Rather, as stated by company officials, Ames' workers were separated because the coal produced by Ames became inferior and unuseable at WPS mills after Ames moved to a new pit at the minesite. Consequently, Ames was unable to meet the terms of the service contract which specified delivery of daily tonnage of clear coal.

Furthermore, counsel's analogy to the Mil Garment Company case (TA–W–12,108) is also irrelevant. The Department certified workers at Mil Garment who produced ladies coats and jackets under contract with clothing manufacturers because, *inter alia*, increased imports of such products contributed importantly to their separation. In the instant case, there was no causal connection between

increased imports of coal or steel and the separation from employment of Ames' workers. As previously stated, Ames company officials attributed the termination of production entirely to the inferior quality of coal produced from the new pit.

Therefore, even if the Ames Coal Company was considered an "appropriate subdivision" of WPCC or if WPCC were determined to be the "workers' firm", Ames' workers could not be certified because their separations from employment were not caused by increased imports as was the separation of WPCC workers.

Conclusion

After reconsideration, I affirm the original denial of eligibility of workers and former workers of Ames Coal Company, Logan County, West Virginia to apply for adjustment assistance.

Signed at Washington, D.C. this 23rd day of August 1983.

Harold A. Bratt,

Deputy Director, Office of Program Management, UIS.

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Occupational Safety and Health Administration

[Docket No. T-100]

Training Guidelines; Request for Comments and Information

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for written comments and information.

SUMMARY: The Occupational Safety and Health Administration seeks comment on an initiative to encourage employers to provide employees more information and instruction on the recognition, avoidance and prevention of unsafe and unhealthful conditions at the worksite. An employee information program should, at the minimum, inform employees of the specific hazards associated with their work environment and what to do about these hazards.

The set of training guidelines proposed herein is designed to assist employers in providing the safety and health information and instruction needed to enable each of their employees to work at minimal risk to themselves, to fellow employees and to the public. The guidelines are designed to help the employer to: (1) determine whether a worksite problem can be solved by training; (2) determine what training, if any, is needed; (3) prepare instructional objectives; (4) design learning activities to meet these instructional objectives; (5) conduct training; (6) assess the effectiveness of the training provided to the employee; and (7) revise the training program based on feedback from the employee, the supervisor and others.

Comments are requested in order to assure maximum input from all interested parties.

DATE: Comments must be submitted by September 29, 1983.

ADDRESS: Materials should be submitted in quadruplicate to: Docket Officer, Room S-6212, Docket No. T-100, U.S. Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, N.W., Washington, DC 20210. Phone: (202) 523-7894.

FOR FURTHER INFORMATION CONTACT: James Foster, Director, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-3637, 200 Constitution Avenue, N.W., Washington, DC 20210. Phone: (202) 523-8148.

I. Background

The Occupational Safety and Health Act of 1970 does not address specifically the responsibility of employers to provide health and safety information and instruction to employees, although Section 5(a)(2) does require that each employer ". . . shall comply with occupational safety and health standards promulgated under the Act." However, more than 100 of the OSH Act's current standards do contain training requirements. This proceed set of training guidelines can assist employers in meeting these requirements, and in providing the information and instruction that each employee needs to work at minimal risk.

In their efforts to combat occupational injury and illness, safety and health practitioners often speak of the "Three E's—Engineering, Enforcement and Education." These form an interdependent relationship; no one of these alone can do the job. In the past, engineering controls and enforcement have been looked to for solutions to the occupational injury and illness problem more frequently than has education. Recently, however, policy makers, as well as managers and safety and health practitioners, have begun to look more carefully to education and to the role that it can and should play as an occupational injury and illness countermeasure. The National Institute for Occupational Safety and Health's Behavioral and Motivational Factors Branch examined techniques for influencing individual employee behavior, actions and attitudes in ways that could offer greater self-protection against workplace hazards, and concluded that ". . . *Training remains the fundamental method for effecting selfprotection against workplace hazards."(1)* (Emphasis added).

Recently, a number of studies have focused on the importance of employee training as an injury and illness countermeasure. For example, the National Academy of Sciences reported that 90 percent of grain elevator explosions could be avoided if employees were trained better and the amount of grain dust in elevators reduced.*(2)* Another study (this one of coal mine accidents) released within the past year by the National Academy of Sciences recommends that the Federal government double the current training requirements in coal mines in order to reduce accidents.*(3)* In still another report of a rapid rail accident involving multiple fatalities in Washington, DC, investigators criticized management's failure to put into place an adequate program of initial and recurrent training for the system's operating personnel.*(4)*

In addition to these reports which discuss the importance of training as an occupational injury and illness countermeasure, several research studies have examined industrial safety practices in general, and specifically, safety training practices.*(5), (6), (7), (8), (9), (10), (11), (12), (13)* These studies incorporated opinion polls, analyses of factors common to companies having outstanding safety performance, and comparisons of safety program practices in companies with high versus low work injury rates. Typically, it was found that the companies with better records: (1) Included information on job risks and what to do about them in new employee orientation programs; (2) gave both initial and follow-up training in safe job procedures to all employees; (3) gave special safety training to supervisors; and (4) used a variety of safety training techniques, including lectures, films, group discussions, demonstrations, simulations, etc.

Information has become available in recent years with regard to the poor quality, and in some instances total lack, of training programs in occupational safety and health for employers. The Bureau of Labor Statistics has conducted and reported on twelve Worker Injury Report (WIR) surveys to date. These are surveys of individuals who had been injured on the job and who were then asked what type of training, if any, they had received in occupational safety and health risks and

what to do about them. Here are a few of the findings of these surveys:

- Of 1,339 workers who sustained injuries resulting from the use of ladders, 73 percent said that they had not received written instructions pertaining to the care and safe use of ladders;
- Of 724 workers who sustained injuries resulting from the use of scaffolds, 27 percent said that they had not received instructions on the safety requirements for installing the type of scaffold on which they were injured;
- Of 1,667 workers who sustained injuries resulting from the use of power saws, 17 percent said that they had not received safety training on how to use the type of saw with which they were injured;
- Of 1,305 workers who sustained injuries resulting from weeding and cutting operations, 11 percent said that they did not received safety training on welding and cutting;
- Of 868 workers who sustained head injuries, 71 percent said that they did not receive any instruction concerning hard hats;
- Of 906 workers who sustained lye injuries, 40 percent said that they had not received any instruction concerning eye protection;
- Of 555 workers who sustained injuries to the face, 59 percent said that they did not receive any instruction concerning face protection (i.e., face shield or welding helmet);

Of 1,146 workers who sustained injuries to the foot, 71 percent said that they had not received any instruction concerning safety shoes;

Of 554 workers who sustained injuries while servicing equipment, 61 percent said that they had received no instructions on power source lockout procedures;

Of 836 workers who sustained back injuries associated with lifting, 51 percent said that they had received no information or instruction on lifting/moving;

Of 815 workers who sustained hand injuries, 66 percent said that they had not been given any information or instruction on gloves or other hand protection; and

Of 785 workers whose injuries resulted in arm, hand or finger amputation, 59 percent said that they did not receive safety training on how to perform the task in which they were engaged when injured.

From data such as those generated by WIR surveys, and the types of inquiries which employers make of OSHA concerning the content and timing of training programs for employees, it is apparent that additional guidance is needed by many employers. The training guidelines proposed in this document are designed to provide such assistance.

OSHA has published a document (*14*) which lists the training requirements which appear in current occupational safety and health standards. OSHA has also published sets of guidelines (*15*), (*16*), (*17*) to assist employers in complying with these requirements, and to aid OSHA compliance safety and health officers and State inspectors in enforcing these requirements in an objective manner. But the majority of current OSHA standards make no reference to the employer's responsibility to provide information and instruction to the employee on job risks and what to do about them.

These proposed guidelines provide the employer with a model for designing, conducting, evaluating and revising training programs. The training model can be used to develop training programs for a variety of occupational safety and health hazards identified at the workplace, and can assist employers in their efforts to meet the training requirements in current or future occupational safety and health standards. A training program designed in accordance with these guidelines can be used to supplement and enhance the employer's other education and training activities.

The set of training guidelines presented here for comment and information does not provide specifics as is true of the training regulations in the Federal Mine Safety and Health act of 1977. It is not OSHA's intention that these guidelines will become mandatory. Thus, they shoud not be considered as a forerunner to further regulation in this area. Instead, the proposed guidelines are designed to assist the employer to provide the information and instruction employees need to work at minimal risk in the job to which they are assigned. The proposed guidelines afford the employer a fair amount of flexibility in the selection of content and training program design. OSHA encourages a personalized approach to the informational and instructional programs at individual worksites, thereby enabling the employer to provide the training that is most needed and applicable to local working conditions. However, these guidelines are not intended to be, nor should they be used by employers as a total or complete guide in training or education matters which can result in enforcement proceedings before the Occupational Safety and Health Review Commission. Employee training programs are always an issue in Review Commission cases which involve alleged violations of training requirements contained in OSHA standards. The adequacy of employee training may also become an issue in contested cases where the affirmative defense of unpreventable employee misconduct is raised. Under case law well-established in the Commission and the courts, an employer may successfully defend against an otherwise valid citation by demonstrating that all feasible steps were taken to avoid the occurence of the hazard, and that actions of the employee involved in the violation were a departure from a uniformly and effectively enforced work rule of which the employer had neither actual nor constructive knowledge. In either type of case, the adequacy of the training given to employees in connection with a specific hazard is a factual matter which can be decided only by considering all the facts and circumstances surrounding the alleged violation. The general guidelines proposed in this notice are not intended, and cannot be used, as evidence of the appropriate level of training in litigation involving either the training requirements of OSHA standards or affirmative defenses based upon employer training programs.

The steps in the development and presentation of training programs to teach employees how to recognize, avoid and prevent unsafe and unhealthful conditions at their worksites are no different than the steps involved in the development and presentation of training programs designed to teach other subjects. What is different is the content of the training program. Even here, however, it is important to realize that information on occupational safety and health is best taught when it is integrated into other subject matter at the time that subject matter is taught to the individual, such as when demonstrating machine operation. Health and safety education is not as effective when presented as a separate subject, or as a separate increment of instruction.

The description of the training process below is applicable to any kind of training, including teaching for the recognition, avoidance and prevention of unsafe and unhealthful conditions at the worksite.

The guidelines contained below are voluntary in nature. It is not OSHA's intention that they become the basis for mandatory requirements for employers.

OSHA proposes training guidelines in the form of a model that would consist of:

A. Identifying Training Needs
B. Determining the Content
C. Preparing Instructional Objectives

D. Developing Learning Activities
E. Conducting the Training
F. Evaluating Program Effectiveness
G. Improving the Program

The model is designed to be one that even the owner of a business with very few employees can use without having to hire a professional trainer or purchase expensive training materials. Using this model, employers can develop and administer safety and health training programs that address problems specific to their own businesses and fulfill the learning needs of their own employees.

A. Identifying Training Needs. The first step in the training process is a very basic one: to determine whether a problem can be solved by training. Whenever employees are not performing their jobs properly, it is very often assumed that training will bring them up to standard. The underlying assumption is that if employees knew better, they would perform better. This is not always true. Gilbert *(18)* found that over half the deficiencies that employees exhibit on the job are deficiencies in execution, not deficiencies in *knowledge*. To distinguish between the two, Gilbert suggests that people thinking about developing a training program ask this question: "Could this person (in this context, the employee) perform correctly if his or her life depended on it?" If the answer is "Yes," then the person has the necessary competence, and the problem is a deficiency in *execution*.

Faulty execution is due not to a lack of training, but to other causes, such as *inadequate supervision or feedback*, where the employee lacks an understanding of the results or the value of his work; *task interference*, where other demands, such as personal problems, daydreaming or even telephone calls, compete for the employee's attention; *punishment*, where the desired performance involves tasks that are perceived by the individual as grueling, arduous, oppressive, or otherwise punishing; or *lack of motivation*, where ambition was never developed, or was discouraged. All of these deficiencies of execution must be handled with remedies other than training. The employer should train only for deficiencies in knowledge.

B. Determining the Content. If the problem is one that can be solved, in whole or in part, by training, the next step is to determine what training is needed. For this, it is necessary to find out *what* the required performance is and in what way, if any, the individual is deficient. In other words, it is necessary to conduct a job analysis.

When designing a new training program, or preparing to instruct an employee in an entirely unfamiliar procedure or system, a job analysis can be developed by doing research in the engineering data or procedural publications on the new equipment, procedures or materials, or by consulting with designers, engineers, or technicians who planned and developed the system. The content of the specific OSHA standards applicable to a business can also provide direction in developing training content. Another option is to use a Task Analysis Inventory. *(19)* These Inventories provide a tool for identifying significant tasks and employee requirements for each. Data in these Inventories were obtained from job analyses, occupational literature, professional associations, trade unions, government agencies, and private organizations and establishments. The actual Inventory is a comprehensive list of the activities in a designated area. The user, after considering all of the items listed, can determine those that are applicable for training purposes. The Department of Labor has developed Inventories for 22 different areas of work, such as Inspecting and Testing, Mechanical Repairing, and Merchandising.

If the employee's learning needs can be met by revising an existing training program rather than developing a new one, or if the employee already has some knowledge of the process or system to be used, the job analysis might include:

(1) *An occupational survey*—obtaining a representative sample of job-holders, their background data, and specific information on the duties and tasks that they perform;

(2) *A questionnaire*—requesting employees to provide, in writing and in their own words, background information and descriptions of their jobs, including the tasks performed and the tools, materials and equipment used;

(3) *A checklist*—a listing of duties and tasks, believed to describe the job requirements (based on specialty description, instructional standards, job proficiency guides, etc.) on which employees select or identify the tasks performed;

(4) *An individual interview*—selecting and interviewing a number of representative employees concerning their tasks and duties; and

(5) *An observation interview*—interviewing employees at the worksite as they perform tasks, asking about the work and recording their answers.

The employees themselves can provide valuable information on the training they need. Safety hazards can be identified through the employees' responses to such questions as:

1. Is there something about my job that frightens me?
2. Do my co-workers perform tasks that appear dangerous to me?
3. Have I ever had any injuries, or near misses that could have injured me?
4. Have I ever changed a procedure to avoid a potential injury?
5. Do I take risks I feel are part of the job?
6. Have I ever asked for help when I felt a job was unsafe to perform alone?
7. Have I ever refused to perform an assigned task because I felt it was hazardous? *(20)*

NIOSH suggests that employees concerned with possible health hazards answer these questions:

1. Are any substances used in this plant known to be harmful to health?
2. Are trade name products used without full knowledge of what is in them?
3. Does the job require contact with mists, vapors, dusts, gases or fumes that are potentially harmful?

Once the kind of training that is needed has been determined, it is equally important to determine what kind of training is *not* needed. Using the information from the job analyses described above, divide the body of required tasks and duties into component parts. Then remove from the list any increments of information, knowledge or skills in which the individual is not deficient. The employer must decide what not to teach, as well as what to teach. Limiting the list to deficiencies allows the employer to omit all instruction on skills and knowledge that the individual already knows, while including instruction on all the needed knowledge and skills.

C. Preparing Instructional Objectives. Given a list of specific deficiencies of the employees selected for training, the employer can then prepare instructional objectives. Instructional objectives, if properly stated, will tell employers what they want their employees to do, to do better, or to stop doing.

An effective, meaningful instructional objective should meet three criteria, namely:

(1) It should identify as precisely as possible what the individual will be doing to demonstrate that the objective has been reached;

(2) It should describe the important conditions under which the individual must demonstrate competence (including restrictions on the performance, or any information or materials given, or both); and

(3) It should define the criteria or standards of acceptable performance expected of each employee. *(21)*

Using specific, action-oriented language, instructional objectives should describe the preferred practice or skill and its observable behavior. For example, rather than using the statement: "The employee will develop a critical understanding of the respirator" as an instructional objective, it would be better to use: "The employee will be able to identify, by name and function, each separate component of the respirator." Instructional objectives should be written in such a way as to provide enough detail so that other qualified persons can recognize the described behavior and not mistake it for any other behavior. Finally, the employer should prepare a separate statement for each objective—the more statements the employer provides, the better the chance of making clear the intent.

D. Developing Learning Activities. Once the employer has stated precisely what the objectives for the training program are, learning activities must be identified and described. Learning activities enable employees to demonstrate that they have acquired the desired skills and knowledge. To ensure that the employee transfers the skills or knowledge from the learning activity to the job, the learning situation must simulate the actual job as closely as possible. Thus, the employer may want to arrange the objectives in a sequence which corresponds to the order in which the tasks are to be performed on the job, if a specific process is to be learned. For instance, if the employee must learn how to begin to use a machine, the sequence might be: (1) To learn to check that the power source is connected; (2) to learn to ensure that all safety devices are in place and are operative; (3) to learn when and how to throw the POWER ON switch; and so on.

A few factors will help to determine the type of learning activity to be incorporated into the training. One is the training resources available to the employer. Another is the kind of skills or knowledge to be learned. Is the learning oriented toward physical skills (such as the use of special tools) or toward mental processes, involving language or abstract concepts? Such factors will influence the type of learning activity designed by the employer. The training activity can be group-oriented, with lectures, role play, and demonstrations; or student-centered as with self-paced instruction. The determination of methods and materials for the learning activity can be as varied as the employer's imagination and available resources will allow. The employer may want to use charts, diagrams, manuals, slides, films, transparencies, videotapes, audiotapes, or simply blackboard and chalk, or any combination of these and other instructional aids. It is important to note that the learning activities should be identified and described in such a way that, upon the employees having completed the activities, the employer will be able to observe whether the employee has acquired the desired skills or knowledge.

E. Conducting the Training. With the completion of the steps outlined above, the employer is ready to begin conducting the training. As far as possible, the training should be presented in such a way that its organization and meaning are clear to the employee. To do so, the employer should: (1) Provide overviews of the material to be learned; (2) relate each specific item of knowledge or skill to the ultimate purpose of the training (i.e., achieving the program's objective; (3) relate, wherever possible, the specific items of knowledge or skill to the employee's goals, interests, or experience. These steps will assist the employer in presenting the training in a clear, unambiguous manner.

Once the employer has studied the equipment and the tasks involved in certain jobs, the employer is now in a good position to determine the structure of the training session. The content developed for the program, the nature of the workplace or other training site, and the resources available for training will help employers determine for themselves the frequency of training activities, the length of the sessions, the instructional techniques, and the individual(s) best qualified to present the information.

In order to motivate employees to pay attention and learn the material that the employer is presenting, they must be assured as to what material is important and why. Among the ways of developing motivation are: (1) Explaining to the employee the objectives—the goals of instruction; (2) asking questions or giving a short quiz before beginning the training session (to alert employees that their learning will be evaluated); (3) explaining to the employees that they will be tested following completion of the training session; (4) previewing the main points to be presented during the training session(s); and (5) pointing out the benefits of the training (e.g., the employee will be better informed and more skilled and thus more valuable both on the job and on the labor market; or the employee will, if he or she applies the skills and knowledge learned, be able to work at reduced risk).

An effective training program allows employees to participate in the training process and to practice their skills or knowledge. This will help to ensure that they are learning the required knowledge or skills, and permit correction if not. Among the ways that employees can become involved in the training process are by participating in discussions, asking questions, contributing their knowledge and expertise, learning through hands-on experiences, and through role-playing exercises.

F. Evaluating Program Effectiveness. To make sure that the training program is accomplishing its goals, it is necessary to perform an evaluation. Training has to have, as one of its critical components, a method of measuring the effectiveness of the training. A plan for evaluating the training session(s) should be designed at the time the course materials are developed. It should not wait until the training has been completed. Evaluation will help the employer to determine the amount of learning achieved and whether performance has improved on the job. Among the methods of evaluating training are: (1) *Tests.* Tests in training situations can be used to monitor the quality of the program, to diagnose instructional difficulties, and to permit a ranking of employees according to accomplishment; (2) *Student opinion.* Questionnaires or informal interviews with employees can help the employer determine the acceptability and relevance of the training program; and (3) *Supervisor's rating.* Supervisors, who are in good positions to observe an employee's performance both before and after the training, can rate the "graduates."

Evaluation of training is essentially a subjective process. The employer can use both "hard data" such as test scores, and "soft data" such as employee feedback to determine the value of the program. Each kind of data is valuable in deciding whether or not the employees achieved the desired results, and whether the training session should be offered again at some future date.

G. Improving the Program. If, after evaluation, it is evident that a significant number of employees did not meet the level of knowledge and skill that was expected, then it is necessary to revise the training program. At this point, asking questions of employees and of administrators of the training may be of some help. Among the questions that could be asked are: (1) What material in the program was already known and, therefore, unnecessary? (2) What material was

confusing or distracting? (3) What material was missing? (4) What did the employees learn, and what did they fail to learn?

It may be necessary to repeat steps in the training process, i.e., to return to the first steps and retrace one's way through the training process. As the program is evaluated, the employer should ask: (1) Was the job analysis accurate? (2) Was any critical feature of the job overlooked? (3) Were all deficiencies of knowledge and skill included? (4) Was material already known by the employee omitted? (5) Were the instructional objectives stated clearly and concretely? (6) Did the instructional objectives state the standards of acceptable performance that were expected of the employee? (7) Did the learning activity simulate the actual jobs? (8) Was the learning activity appropriate for the kinds of knowledge and skills required on the job? (9) When the training was presented, was the organization of the material and its meaning made clear? (10) Was the proper motivation provided? (11) Was the employee allowed to participate actively in the training process? (12) Was the employer's evaluation of the program thorough?

A critical examination of the steps in the training process will help the employer to determine where course revision is necessary.

III. Matching Training to Employees

While all employees are entitled to know as much as possible about the safety and health hazards to which they are exposed, and employers should attempt to provide all relevant information and instruction to all employees, the resources for such an effort frequently are not, or are not believed to be, available. Thus, it becomes necessary for the employer to decide who is in the greatest need of information and instruction.

One way to differentiate between employees who need training and those who do not is to identify employee populations that are at higher levels of risk. The nature of their work indicates that they should receive priority for information on occupational safety and health risks.

A. Identifying Employees at Risk. One method of identifying employee populations at high levels of occupational risk (and thus in greater need of safety and health training) is to pinpoint hazardous occupations. A comprehensive list of specifically defined hazardous-type occupations, grouped by industry, has been compiled by the U.S. Employment Service (USES) of the Department of Labor. Based on the presence of at least one of the three environmental criteria or factors (noise and/or vibration, physical hazards, and unsatisfactory atmospheric conditions affecting the respiratory system and the skin), the *Handbook for Analyzing Jobs* (*22*) lists and defines 5,174 occupational titles as being in a variable risk category. Of these, 3,559 occupations (69 percent) were marked for the presence of one environmental condition, 1,280 (24 percent) for two of these conditions, and 335 (7 percent) for all three conditions present. A general laborer in the iron and steel industry, for example, is cited as an occupation considered hazardous with regard to all three environmental factors. In the Department of Labor's *Dictionary of Occupational Titles* (*23*) which incorporates about 75,000 on-site analyses, USES job analysts rate jobs according to the following seven environmental conditions:

1. Whether the work is performed inside, outside, or both.
2. Extreme cold, with or without temperature changes.
3. Extreme heat, with or without temperature changes.
4. Wet and/or humid conditions.
5. Noise and/or vibration.
6. Hazards, i.e., physical (safety) hazards.
7. Atmospheric conditions.

In this case a general laborer in the iron and steel industry is classified as working both inside and outside, in an environment where there may be conditions of extreme heat, with or without temperature changes, wet and/or humid conditions, noise and/or vibration, physical (safety) hazards, and atmospheric conditions which could affect the respiratory system and skin. This employee's higher level of risk, the variety of tasks performed and the variance in working conditions clearly indicate a great need for occupational safety and health training.

A second method of identifying employee populations at high levels of risk is through relating injury incidence and employment by occupation. The Bureau of Labor Statistics of the U.S. Department of Labor has developed a technique to compare the number of injuries incurred by employees in an occupation to the total number of employees in that population. (*24*) This figure indicates whether the injury rate for that occupation is higher or lower than might be expected for the size of the population.

In summary, information is readily available to help the employer identify which employees should receive safety and health information, education and training, and who should receive it before others. In addition, research has identified the following variables as being related to a disproportionate share of injuries and illnesses at the worksite on the part of employees:

1. The age of the employee (younger employees have higher incidence rates).
2. The length of time on the job (new employees have higher incidence rates).
3. The size of the firm (in general terms, medium-size firms have higher incidence rates than smaller or larger firms).
4. The type of work performed (incidence and severity rates vary significantly by Standard Industrial Classification (SIC) Code, used to classify businesses by the nature of work performed therein).
5. The use of hazardous substances (by SIC code).

These variables should be considered when identifying employee groups for training in occupational safety and health.

B. Training Employees at Risk. Determining the content of training for employee populations at higher levels of risk is similar to determining what any employee needs to know, but more emphasis is placed on the requirements of the job and the possibility of injury, rather than on other contributing factors such as the literature from regulatory bodies or new product information.

One excellent tool for determining training content from job requirements is the Task Analysis Inventory described earlier. These Inventories provide a mechanism for identifying the significant tasks of a job and employee requirements for each. Data in these Inventories were obtained from job analyses, occupational literature, professional associations, trade unions, government agencies, and private organizations and establishments. (*19*)

Still another tool, the application of which has proven highly successful in reducing both the frequency and severity of injuries and illnesses, is the Job Safety and Health Hazard Analysis. This is a procedure for studying and recording each step of a job, identifying existing or potential hazards, and determining the best way to perform the job to reduce or eliminate the hazards. Its key elements are: (1) job description; (2) job location; (3) key steps (preferably in the order in which they are to be performed); (4) tools, machines and materials used; (5) actual and potential safety and health hazards associated with these key job steps; and (6) safe and healthful practices, apparel and equipment required for each job step. (*25, 26*)

Material Safety Data Sheets can also provide information for training employees in safe materials use. These data sheets, supplied along with manufacturing or construction materials, describe the ingredients of a product, its hazards, protective equipment to be used, safe handling procedures, and emergency first aid responses. The information contained in these sheets can assist the employer in identifying employees in need of training (i.e., workers handling substances described in the sheets) and in training the employees in safe use of the substance. Material Safety Data Sheets are generally available from suppliers, manufacturers of the substance, large employers who use the substance on a regular basis, or can be developed by employers or trade associations.

IV. Conclusion

In an attempt to assist employers with their occupational health and safety training activities, OSHA has proposed a set of training guidelines in the form of a model. This model is designed to help employers develop instructional programs as part of their total education and training effort. The model addresses the questions of who should be trained, on what topics, and for what purposes. It also helps the employer determine how effective the program has been, and enables the employer to identify employees in greatest need of education and training. She model is general enough to be used in any area of occupational safety and health training, and allows employers to determine the content and format of training for themselves. Use of this model in training activities is just one of the many ways that employers can comply with the OSHA standards that relate to training.

V. References

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2. *National Safety News*. Published monthly by the National Safety Council, 444 North Michigan Avenue, Chicago, Illinois 60611.

3. *Occupational Hazards.* Published monthly by Penton/IPC Publications, Inc., 1111 Chester Avenue, Cleveland, Ohio 44114.

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5. *Professional Safety.* Published monthly by the American Society of Safety Engineers, 850 Busse Highway, Park Ridge, Illinois 60068.

6. *Training and Development Journal.* Published monthly by the American Society for Training and Development, 600 Maryland Avenue, SW., Washington, D.C. 20024.

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C. Other Publications

1. Occupational Safety and Health Administration, U.S. Department of Labor, *Training Requirements in OSHA Standards* (OSHA Publication 2254). Washington, D.C.: U.S. Department of Labor, November 1979.

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VII. Public Participation

Interested persons are invited to submit written data, views and information with respect to these proposed training guidelines. Written comments must be received by September 29, 1983, and submitted in quadruplicate to the Docket Officer, Docket No. T–100, Room S–6212, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210. Written submissions must clearly identify the issues and areas which are addressed and the position taken with respect to each issue and area.

Authority

This document was prepared under the direction of Thorne G. Auchter, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 24th day of August 1983.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 83–23743 Filed 8–29–83; 8:45 am]
BILLING CODE 4510–26–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 13457; (812–5546)]

The Equity Income Fund, S&P 500 Index, First Monthly Payment Series and Subsequent Series, et al., c/o Merrill Lynch, Pierce, Fenner & Smith Inc.; Application for Order

August 23, 1983.

Notice is hereby given that The Equity Income Fund, S&P 500 Index, First Monthly Payment Series and Subsequent Series ("Fund"), a unit investment trust registered under the Investment Company Act of 1940 ("Act"); and its depositors, Merrill Lynch, Pierce, Fenner & Smith Incorporated, Dean Witter Reynolds Inc., Prudential-Bache Securities Inc. and Shearson/American Express Inc. ("Sponsors") (together, "Applicants"), One Liberty Plaza, 165 Broadway, New York, New York 10080, filed an application on May 17, 1983 requesting an order pursuant to Section 6(c) of the Act exempting the Fund from the provisions of Section 12(d)(3) of the Act to the extent necessary to permit the Fund to acquire the securities of any broker, dealer, underwriter, or investment adviser, provided that (1) such securities are included in the Standard & Poor's 500 Composite Stock Price Index ("S&P Index") and (2) the percentage of the Fund's assets to be invested in any such security is approximately the same as the percentage such securities represent in the S&P Index. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of the provisions to which the application applies.

Applicants represent that as an "index fund", the Fund's investment objective is to produce investment results which correlate with the performance (including dividend income and capital changes) of common stocks in the aggregate—in this case, the S&P Index. The Fund seeks to attain this objective by holding as many of the 500 stocks contained in the S&P Index as is feasible, in substantially the same proportions as the weightings accorded each stock in the S&P Index, it is stated. Applicants further state that the S&P Index is composed of 500 selected common stocks, most of which are listed on the New York Stock Exchange, and which are designated by Standard & Poor's Corporation solely on a statistical basis. Applicants further state that the weightings given the stocks in the S&P Index are based upon each stock's relative total market value, i.e., its market price per share multiplied by the number of shares outstanding. Thus, Applicants state, the percentage of the Fund's assets allocated to each issue will be approximately the same as its weighting in the S&P Index. Applicants represent that the Fund is neither sponsored by, nor affiliated with, Standard & Poor's Corporation.

It is stated further that no attempt will be made to "manage" the Fund's portfolio and that the Fund will have no investment adviser and will pay no advisory fee. The adverse financial condition of an issuer, Applicants also state, will not necessarily result in its removal from the Fund's portfolio; only in the event that the issuer itself is removed from the S&P Index will that company's stock also be removed from the Fund's portfolio. It is further stated that from time to time adjustments will be made in the Fund's portfolio, in accordance with changes made in the composition of the S&P Index.

Section 12(d)(3) of the Act, in pertinent part, prohibits any registered investment company from purchasing or otherwise acquiring any security issued by or any other interest in the business of any person who is a broker, a dealer, is engaged in the business of underwriting, or is an investment adviser. Applicants state that as of May 12, 1983, the S&P Index included the common stocks of Merrill Lynch & Co., Inc. ("Merrill Lynch"), American Express Company ("American Express") and Phibro-Salomon Inc. ("Phibro"), each of which, through subsidiaries acts as a broker, dealer, underwriter and an investment adviser. Therefore, it is stated, without an exemption from Section 12(d)(3) of the Act, the Fund would be unable to purchase the securities of Merrill Lynch, American Express, or Phibro, or the securities of any other broker, dealer, underwriter, or investment adviser which may in the future be included in the S&P Index. Applicants thus assert that the Fund would be precluded from investing its assets in a manner consistent with the composition and weightings of the S&P Index. Applicants submit that this prohibition is unnecessary in the Fund's case and unreasonably impedes its efforts to achieve investment results which duplicate those of the S&P Index. This deviation, it is further asserted, could become material in view of the fact that the common stock of Merrill Lynch, American Express and Phibro is each ranked among the leading 250 securities included in the S&P Index. It is further stated that the current restructuring of the financial services

marketplace, involving the entry into the brokerage and advisory field of companies not previously engaged in such activities, raises the possiblity that the prohibition of Section 12(d)(3), as applied to the Fund, could exacerbate the divergence which Applicants fear, from the realization of the stated objectives of the Fund.

Applicants further assert that the foundation for the prohibitions set forth in Section 12(d)(3) of the Act, is, in part, to be found in Section 1(b)(2) of the Act, which, in pertinent part, states that the national public interest and the interest of investors are adversely affected when the portfolio securities of investment companies are selected in the interests of brokers, dealers, underwriters, or investment advisers, rather than in the interests of investment company shareholders. Applicants contend in addition, that the Commission has articulated positions through its staff indicating that the historic dependence by investment companies upon the efforts of broker-dealers for the distribution of their shares gave rise to three specific abuses which Section 12(d)(3) may in particular be designed to correct: first, the tendency which investment company managers may have to invest fund assets in the securities of a particular broker-dealer in order to secure such firm's efforts in the distribution of the shares of the fund; second, the predisposition upon the past of a broker-dealer to recommend to its customers the shares of investment companies which have invested in the borker-dealer; and third, the inclination on the part of an investment company's managers to allocate brokerage to broker-dealers the securities of which the fund holds merely in order to preserve or enhance the fund's investment in the broker-dealer rather than to obtain the superior quality of that firm's services.

Applicants maintain that the Fund's acquisition of the securities of brokers, dealers, underwriters, or investment advisers included in the S&P Index is unlikely to affect the conduct of the Fund's policies or business affairs. Applicants note that the Fund has no significant discretion to acquire ownership of any security listed in the S&P Index, and that therefore the Fund has no means of using its assets to affect a greater extent than it would have with regard to any other security in the S&P Index. It is asserted, in addition, that the degree to which any individual issue of the S&P Index may be represented in the Fund's portfolio, and the magnitude of the largest companies in the S&P Index, render *de minimis* the possibility that the assets of the Fund could be utilized to manipulate the value of securities in the S&P Index. In this regard, Applicants note that after the public offering of interests in the Fund, it is anticipated that the Fund will have invested in all 500 companies in the S&P Index. If the S&P Index retains its present composition, it is stated, each issuer would individually represent less than 0.5% of the net assets of the Fund. Moreover, it is noted that at May 12, 1983, the securities of only the three largest issuers in the S&P Index (i.e.s International Business Machines Corp., American Telephone and Telegraph Co. and Exxon Corp.), which in the aggregate constituted approximately 13% of the net assets of the S&P Index, exceeded, on an individual basis, 2.5% the aggregate value of the S&P Index; conversely, because these companies are so large, it would be futile for the Fund to attempt to influence the business affairs of such entities through use of Fund assets. Applicants also contend that a broker-dealer the securities of which are included in the S&P Index would not be improperly influenced to recommend purchase of the Fund's securities by reason of the Fund's investment in the S&P Index because the extent to which the stock of such a broker-dealer would be present in the Fund's portfolio will depend entirely upon the independently-determined composition of the S&P Index. This factor, Applicants state, makes it impossible for a broker-dealer to bring about the acquisition by the Fund of a disporportionate amount of the broker-dealer's stock promotion of the sale of the Fund's securities.

Finally, Applicants state that the Fund will not be subjected to a conflict of interest through the acquisition of the stock of a broker, dealer, underwriter, or investment adviser included in the S&P Index, because such acquisition will be predicated solely upon the composition of the S&P Index, rather than upon the discretion of those directing the operations of the Fund. Therefore, Applicants believe, the prophylatic provisions of Section 12(d)(3) of the Act are not needed for the protection of investors under the terms of the Fund's proposed investment policy.

Notice is further given that any interested person wishing to request a hearing on the applicant may, not later than September 19, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-23629 Filed 8-29-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13458; (812-5564)]

The Equity Income Fund, S&P 500 Index, First Monthly Payment Series and Subsequent Series; et al., c/o Merrill Lynch, Pierce, Fenner & Smith Inc.; Application for Order

August 23, 1983.

Notice is hereby given that the Equity Income Fund, S&P 500 Index, First Monthly Payment Series and Subsequent Series ("Fund") (each series individually and all Series collectively are referred to hereinafter as "Series"), a series of unit investment trusts organized under the laws of the State of New York and registered, or to be registered, under the Investment Company Act of 1940 ("Act"); and the depositors of the Fund, Merrill Lynch, Pierce, Fenner & Smith Incorporated, Dean Witter Reynolds Inc., Prudential-Bache Securities Inc. and Shearson/American Express Inc. ("Sponsors") (together with Fund, "Applicants"), One Liberty Plaza, 165 Broadway, New York, New York 10080, filed an application on June 2, 1983, for an order pursuant to Section 6(c) of the Act exempting Applicants from the provisions of Section 22(d) of the Act to permit the sale of units of fractional undivided interest ("Units") in the Fund in accordance with the terms of a proposed reinvestment plan ("Reinvestment Plan"), as described herein. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for a text of the provisions to which the application applies.

Applicants state that each Series is or will be created by a separate trust indenture among the Sponsors and a trustee ("Trustee") meeting the qualifications of Section 26(a) of the Act.

Applicants further state that each Series will have as its investment objective the attainment of results that generally correspond to the price and yield performance of the Standard & Poor's 500 Stock Price Composite Index ("Index"). It is stated that the Sponsors will initially deposit in 100 share lots approximately $10,000,000 of common stocks that are included in the Index, in substantially the same proportions as represented in the Index, with the Trustee, and will receive in exchange certificates representing ownership of all of the Units of the Series so created. The indenture will permit the Sponsors to make subsequent deposits of common stock with the Trustee in exchange for additional Units, it is stated, in each case maintaining as closely as practicable the same proportionate relationship among the common stocks in the Series as their relative weightings in the Index. Upon the effectiveness of the Fund's registration statement on Form S-6 under the Securities Act of 1933, pertaining to a particular Series, Applicants state, the Units of that Series will be offered by the Sponsors to the public at the current public offering price, which will include a 3.90% sales charge.

Applicants state that holders of Units ("Unitholders"), by participating in the Reinvestment Plan, could have their income reinvested in additional Units of the same or a different Series of the Fund, at a sales charge reduced from that imposed upon an initial public offering of Units. Applicants state that a Unitholder would be entitled to reinvest either dividends or capital gains, or both, but that his election would be deemed to apply to all of the Units of a particular Series, as well as to any Units he may have acquired pursuant to the Reinvestment Plan.

Applicants represent, in addition, that it is contemplated that from time to time, the Sponsors may discontinue the offering of Units of a Series, and commence the offering of another Series ("Subsequent Series"). A Subsequent Series, it is stated, would become effective at least 20 days prior to the record date for the first distribution to be reinvested therein, and promptly following such effectiveness, each participating Unitholder of a pervious Series would be provided with a prospectus of the Subsequent Series ("Reinvestment Series"). The Sponsors anticipate that newly-issued Units of a Reinvestment Series would be available on each distribution date, Applicants state. In any event, it is stated, the Sponsors presently intend to maintain a secondary market for Units of each Series, although they are not obligated to do so. Accordingly, if at any time the Sponsors decide that it is inadvisable to offer newly-issued Units of a Reinvestment Series, or if for any other reason an insufficient number of newly-issued Units are available for purposes of the Reinvestment Plan, the Trustee would purchase outstanding Units of one or more previous Series of the Fund with amounts in the accounts of Unitholders. Applicants state that such previously issued Units would have been offered to the Trustee by the Sponsors from among the Units acquired by them in the secondary market, and would not be Units which had remained unsold from the original distribution thereof.

Applicants note that although the composition or portfolios of the Series of the Fund may be expected to vary to some extent, all Series will have the same investment objective, and all will be subject to adjustment from time to time to reflect changes which occur in the weightings or composition of the Index. Therefore, it is stated, it is not expected that any Series will be materially different from any other Series of the Fund.

Applicants submit that because the broker will already have made the initial customer solicitation, ascertained the customer's financial needs, and counseled him on the general attributes of the applicable Series, it is appropriate that the sales load levied upon the purchase of Units under the Reinvestment Plan be reduced from 3.90%, the amount charged on initial (and certain subsequent) distributions of Units, to 2.90%

Notice is further given that any interested person wishing to request a hearing on the application may, not later than September 19, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-23630 Filed 8-29-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20104; (SR-NYSE-83-26)]

New York Stock Exchange, Inc.; Order Approving Proposed Rule Change

August 23, 1983.

The New York Stock Exchange, Inc. ("NYSE"), 11 Wall Street, New York, New York 10005, submitted on July 14, 1983, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to designate NYSE Composite Index options for trading on a February-May-August-November expiration cycle.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 19978, July 15, 1983) and by publication in the Federal Register (48 FR 33382, July 21, 1983). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations there under applicable to a national securities exchange and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-23629 Filed 8-29-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13455; (811-3560)]

The Territorial Money Market Fund; Filing of Application

August 23, 1983.

Notice is hereby given that The Territorial Money Market Fund ("Applicant"), 421 Seventh Avenue, Pittsburgh, PA 15219, registered as an open-end, diversified, management investment company under the Investment Company Act of 1940 ("Act"), filed an application on June 2, 1983, for an order of the Commission

pursuant to section 8(f) of the Act, declaring that it has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for a statement of its relevant provisions.

Applicant states that its registration under the Act on Form N–8A was filed on August 31, 1982. Its registration statement on Form N–1 pursuant to the Securities Act of 1933 was filed on the same day, but was never declared effective, and no public offering of its securities has taken place. Applicant states that it was dissolved on May 12, 1983, pursuant to its Declaration of Trust and applicable state law.

The application also states that Applicant has no assets and no shareholders, is not a party to any litigation or administrative proceedings, and is not engaged in any business activities other than those necessary for the winding-up of its affairs.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than September 19, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-23827 Filed 8-29-83; 8:45 am]

BILLING CODE 8010-02-M

[Release No. 13459; (812–5588)]

World of Technology, Inc. and Financial Programs, Inc.; Application for an Order

August 23, 1983.

Notice is hereby given that World of Technology, Inc. ("Fund"), 7503 Marin Drive, Englewood, Colorado 80111, registered under the Investment Company Act of 1940 ("Act") as a diversified, open end, management investment company, and Financial Programs, Inc. ("Programs"), the Fund's principal underwriter (Collectively, the "Applicants"), filed an application on June 29, 1983, and amendments thereto on August 10 and 18, 1983, for an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicants: (1) from the provisions of Section 22(d) of the Act to permit sales of Fund shares to Britannia World of Technology Fund ("Trust"), an open-end, limited liability investment company to be organized under the laws of Jersey, Channel Islands, at net asset value (without any sales charge), and (2) from the provisions of Sections 12(d)(1) (A) and (B) of the Act to permit sales of Fund shares to the Trust in amounts exceeding the limits set forth in those provisions. All interested persons are referred to the application on file with the commission for a statement of the representations contained therein, which are summarized below, and are referred to the Act for further information as to the provisions to which the exemptions apply.

The Fund seeks long-term capital appreciation and invests, primarily, in the equity securities of domestic and foreign high-technology companies. Shares of the Fund are sold in the United States by Programs, a broker-dealer registered under the Securities Exchange Act of 1934 ("Exchange Act"). Programs is a wholly-owned subsidiary of Britannia Holdings, Inc., which in turn is a wholly-owned subsidiary of Britannia Arrow Holdings PLC ("Britannia"), a financial holding company and a United Kingdom public corporation. Programs and Britannia International Asset Management Limited ("Asset Management", a wholly-owned subsidiary of Britannia), both registered with the Commission as investment advisers, serve as investment advisers to the Fund. Britannia International Investment Management Limited ("Britannia International), a wholly-owned subsidiary of Britannia, manages the assets of 15 Jersey mutual funds and distributes investment company shares. The Trust will compensate Britannia International for various administrative services provided to the Trust and its shareholders, including purchasing Fund shares from Programs and managing uninvested cash.

Because the sale of Fund shares to the Trust at no load would represent a sale at other than the offering price described in the Fund's prospectus, Applicants request exemption from Section 22(d) of the Act. The Fund sells its shares with a sales charge ranging from 5% for purchases less then $30,000 to 1% for purchases of $100,000 or more. The offering price of units of the Trust will include a flat sales charge of 5.25% of the net amount invested (Trust shares will be sold to investors worldwide but will not be sold in the United States or to United States nationals). Applicants assert that if the Trust were required to pay a sales load on its purchases of Fund shares, Trust shareholders would pay two sales charges even though no selling effort was associated with sales of Fund shares to the Trust. From the Fund's perspective, bulk sales of its shares to only one shareholder (the Trust) would involve little or no distribution effort, minimal administrative expenses, and would help the Fund achieve certain economies of scale. Applicants contend that the public policy reasons underlying Rule 22d–1(g) support their exemptive request, and assert that they based their decision to sell Fund shares to the Trust without a sales charge on the best interests on the Fund and its shareholders. Applicants submit that their proposal would not unfairly discriminate against Fund investors required to pay sales charges.

Applicants request exemption from Section 12(d)(1) (A) and (B) of the Act, contending that the Trust's operation does not create the problems that Sections 12(d)(1) (A) and (B) are meant to ameliorate. Applicants submit that their proposal would not result in layering of costs, substantial redemptions that might disrupt the orderly management of the Fund, or the undue concentration of control over U.S. investment companies by investment company holding companies. But for Section 12(d)(1)(E)(i), Applicants assert they would not need exemption from Section 12(d)(1) (A) and (B) because they could rely on the exclusion provided by Section 12(d)(1)(E).

Applicants argue that an analysis of the Exchange Act's applicability to their situation supports their request for exemption from Section 12(d)(1)(E)(i). Applicants assert that Section 12(d)(1)(E)(i) insures that the Commission has administrative recourse under the Exchange Act against principal underwriters of fund holding companies. Applicants contend that such recourse remains where the principal underwriter is a foreign dealer under common control with a registered broker-dealer (Programs). Applicants state that Section 15(b)(4) of the Exchange Act allows the Commission to institute a remedial administrative proceeding against a broker or dealer if

a person associated with such broker or dealer has engaged in any of the prohibited acts set forth in that section (including any willful violation of any provision of the Act). Applicants note that Section 15(b)(6) of the Exchange Act authorizes similar Commission action directly against any person associated with a broker or dealer if such associated person has engaged in certain prohibited conduct (or aided or abetted such conduct, including any willful violation of any provision of the Act). Section 3(a)(18) of the Exchange Act defines a "person associated with a broker or dealer" as, among other things, any person directly or indirectly controlling or controlled or under common control with such broker or dealer. "Person", as defined by Section 3(a)(9) of the Exchange Act, includes a company. Under these provisions, Applicants assert both Britannia (parent of Programs and Britannia International) and Britannia International (the foreign underwriter) would be deemed to be "persons associated with a broker or dealer". Applicants conclude that the Commission's authority under Sections 15(b) (4) and (6) of the Exchange Act is equivalent to the situation that would exist if programs controlled the Trust's principal underwriter.

As for the purpose behind Section 12(d)(1)(E)(i), Applicants argue that it is of no regulatory consequence that Britannia, rather than Programs, controls the Trust's principal underwriter. Applicants assert that, in supervising Britannia International, Britannia cannot avoid the reality that its actions in that at regard will affect the Fund, to whom it has fiduciary responsibilities resulting from its control of Programs. Because shares of the Trust will be underwritten by an entity under common control with the investment advisers and principal underwriter of the Fund, Applicants state that the Trust's underwriter would not act, or cause the Trust to act, in a manner disruptive to the Fund's operations. Applicants assert that strict adherence to Sections 12(d)(1)(E)(i) would serve no regulatory purpose, but would involve considerable expense and administrative burdens. Applicants thus seek exemption from Section 12(d)(1) (A) and (B) of the Act, subject to compliance by them and the Trust with all conditions of Section 12(d)(1)(E), except that condition set forth in Section 12(d)(1)(E)(i), and subject to the requirement that the principal underwriters of the Fund and the Trust remain under common control.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than September 14, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-23831 Filed 8-29-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20108; File No. SR-OCC-83-18]

Filing of Proposed Rule Change by the Options Clearing Corp.

August 23, 1983.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on August 19, 1983, the Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change would amend Sections 13 and 23 of OCC's Restated Participant Exchange Agreement ("Agreement") with the several options exchanges ("participant exchanges").[1] Under the proposal, Section 13 would be amended to require each participant exchange, in certain stated circumstances that indicate a deterioration in the financial condition of an OCC clearing member, to notify OCC immediately by telephone when the participant exchange determines that those circumstances exist and to keep OCC reasonably informed of the results of the exchange's surveillance activities. In addition, each participant exchange would be required to furnish to OCC copies of all written materials relating to the OCC clearing member's financial condition that the participant exchange receives. The receiving exchange would need to furnish those copies to OCC by 2:00 p.m. on the day after the exchange's receipt of the written materials. OCC, in any event, could request that the documents be made available for pick-up contemporaneously with their receipt by the participant exchange. Finally, proposed Section 13 would require participant exchanges to advise OCC of the reasons for, and purposes of, such meeting by telephone and in advance of any meeting that relates to a clearing member. At the end of the meeting, the participant exchange would need to notify OCC by telephone of any conclusion reached and the reasons therefor. Currently, the Agreement only provides that each participant exchange must notify OCC promptly of its determination that one of the stated circumstances exists and must keep OCC reasonably informed of the results of the exchange's surveillance activities.

The proposal also would amend in several ways Section 23 of the Agreement, which relates to indemnification of OCC and the participant exchanges. Under proposed Section 23, OCC or a participating exchange would be indemnified by one or more of the other parties to the Agreement, as appropriate, if it suffers a loss directly (as opposed to a loss arising from liability to a third party to the Agreement) from a breach of the Agreement or the Stockholder's Agreement (OCC is owned jointly by the options exchanges). For example, OCC would not be indemnified by a participant exchange if OCC suffers a direct loss from the failure of that exchange to enforce adequately its financial compliance standards; OCC, however, would be indemnified by the participant exchange if the exchange failed to provide OCC with the information required under proposed Section 13. Currently, the indemnification provisions of Section 23 are broader because all parties to the Agreement are indemnified reciprocally not only for losses arising from breaches of the Agreement and the Stockholder's Agreement, but also for losses arising from violations of: (1) the Act and any rule thereunder, (2) state securities laws, fraud statutes and similar laws, or (3) the rules of the participant exchange or OCC. Proposed Section 23 would

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[1] OCC is requesting accelerated approval by the Commission of the proposed rule change under Section 19(b)(2) of the Act to ensure that the rule change is in place prior to the New York Stock Exchange, Inc. ("NYSE") becoming a participant exchange on September 23, 1983. The proposal should enhance significantly OCC's ability to monitor the operational and financial condition of its clearing members because the NYSE as a participant exchange would be required to furnish OCC with detailed financial and operational surveillance information.

continue the current reciprocal indemnification provisions in all five situations if the loss is indirect, *i.e.*, to a third party to the Agreement. Finally, the proposal clarifies that OCC will be deemed to suffer a loss even if the amount of the loss can be satisfied through *pro rata* assessments of OCC clearing members' contributions to OCC's Stock or Non-Equity Clearing Funds.

OCC believes that the proposed changes to Section 13, among other things, will strengthen OCC's ability to protect itself and its clearing members from financial exposure from financially troubled clearing members. Under the proposal, information regarding a financially deteriorating OCC Clearing Member, discovered by a participant exchange while monitoring its members' compliance with applicable financial responsibility standards, would be provided to OCC quickly and completely. OCC believes that the proposal should enable it to take more timely and appropriate action to protect itself and its clearing members from any increased financial exposure. Furthermore, OCC believes that, because of its enhanced ability to acquire and to act on that information, the current broader indemnification provisions in Section 23 no longer are appropriate. Consequently, OCC believes that the indemnificaiton provisions now can be narrowed without creating any unreasonable financial risks to OCC or its participants.

OCC believes that the proposal will provide further assurance of the safeguarding of securities and funds which are in OCC's custody or control or for which it is responsible, foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions and protect investors and the public interest. Accordingly, OCC believes that the proposal is consistent with Sections 17A(b)(3)(A) and (F) of the Act.

In order to assist the Commission in determining whether to approve the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved, interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register**. Persons desiring to make comments should file six copies thereof with the Secretary of the Commission, 450 Fifth Street, N.W. Washington, D.C. 20549. Reference should be made to File No. SR–OCC–83–18.

Copies of the submission, all subsequent amendments, all written statement with respect to the proposed rule change which are filed with the Commission, and all written communications to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 522, will be available for public inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–23828 Filed 8–29–83; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[License No. 01/01–0327]

Advent Atlantic Capital Company; Application for License To Operate as a Limited Partnership Small Business Investment Company (SBIC)

Notice is hereby given that an application has been filed with the Small Business Administration (SBA) pursuant to § 107.4 of the Regulations governing SBICs (13 CFR 107.4 (1983)) under the name of Advent Atlantic Capital Co. Limited Partnership, 111 Devonshire St., Boston, Massachusetts 02109, for a license to operate in the New England Area as a Limited Partnership SBIC under the provisions of the Small Business Investment Act of 1958 (Act) as amended (15 U.S.C. 661 et seq.).

The partnership will begin operations with private capital of $2,517,780.

The General Partner of the Partnership is SBIP Co., 111 Devonshire St., Boston, Massachusetts 02109.

The general partners of SBIP Co. are:

Peter A. Brooke, 111 Devonshire St., Boston, Massachusetts 02109

C. Kevin Landry, 111 Devonshire St., Boston, Massachusetts 02109

David D. Croll, 111 Devonshire St., Boston, Massachusetts 02109

E. Roe Stamps IV, 111 Devonshire St., Boston, Massachusetts 02109

Richard H. Churchill, Jr., 111 Devonshire St., Boston, Massachusetts 02109

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed General Partner and the reasonable prospects for a successful operation of the SBIC under its management including adequate profitability and financial soundness in accordance with the Act and Regulations.

Notice is further given than any interested person may (not later than 10 days from the publication of this Notice) submit written comments on the application to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this Notice will be published in a newspaper of general circulation in the Boston Area.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: August 24, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83–23806 Filed 8–29–83; 8:45 am]

BILLING CODE 8025–01–M

[Application No. 05/05–0182]

Norwest Venture Partners; Application for License To Operate as a Small Business Investment Company (SBIC)

Notice is hereby given of the filing of an application with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1983)), under the name of Norwest Venture Partners, 1730 Midwest Plaza Building, Minneapolis, Minnesota 55402 for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment act of 1958, as amended (the Act), (15 U.S.C. 661 *et seq.*) and the Rules and Regulations promulgated thereunder.

The proposed general and limited partners and investment advisor are:

General Partners

Robert F. Zicarelli, 1730 Midwest Plaza Building, Minneapois, Minnesota 55402

Daniel J. Haggerty, 1730 Midwest Plaza Building, Minneapolis, Minnesota 55402

Wayne B. Kingsley, 1300 S.W. Fifth Avenue, Suite 3018, Portland, Oregon 97201

Anthony J. Miadich, 1300 S.W. Fifth Avenue, Suite 3018, Portland, Oregon 97201

Douglas E. Johnson, 1730 Midwest Plaza Building, Minneapolis, Minnesota 55402
Timothy A. Stepanek, 1730 Midwest Plaza Building, Minneapolis, Minnesota 55402
Leonard J. Brandt, 1730 Midwest Plaza Building, Minneapolis, Minnesota 55402
Larry R. Wonnacott, 7625 West 5th Avenue, Suite 202, Lakewood, Colorado 80226
Mark Dubovoy, 7625 West 5th Avenue, Suite 202, Lakewood, Colorado 80226
John P. Whaley, 1730 Midwest Plaza Building, Minneapolis, Minnesota 55402
Norwest Investors, Inc., 1730 Midwest Plaza Building, Minneapolis, Minnesota 55402

All the foregoing are general partners of Norwest V. C. Partners, a general partnership, whose address is the same as Norwest Investors, Inc.

Limited Partner

Norwest Corporation, 1730 Midwest Plaza Building, 801 Nicollet Mall, Minneapolis, Minnesota 55402

Investment Advisor

Norwest Venture Capital Management, Inc., 1730 Midwest Plaza Building, 801 Nicollet Mall, Minneapolis, Minnesota 55402

Norwest Corporation is a bank holding company and financial services organization and the parent company of the Investment Advisor.

The Applicant proposes to begin operations with a capitalization, after organization expenses, of approximately $50,725,000 depending upon the success of a private offering of limited partnership interest. The Applicant will be a source of equity capital and long term loan funds for qualified small business concerns. The Applicant may render management consulting services to small business concerns.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including adequate profitability and financial soundness, in accordance with the Act and Regulations.

Notice is further given that any person may, not later than 15 days from the date of the publication of this Notice, submit written comments on the proposed SBIC to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of the Notice will be published in a newspaper of general circulation in Minneapolis, Minnesota.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: August 24, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-23604 Filed 8-29-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Radio Technical Commission for Aeronautics (RTCA), Special Committee 150—Minimum System Performance Standards for Vertical Separation Above Flight Level 290; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Commitltee 150 on Minimum System Performance Standard for Vertical Separation above Flight Level 290 to be held on September 21-22, 1983 in the RTCA Conference Room, Suite 500, 1425 K Street, NW., Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of the Third Meeting Held on January 12-13, 1982; (3) Review Status of FAA Data Collection Activity; (4) Review and Discussion of Working Group Activities on System Performance Requirements, Altimetry System Errors, and Flight Technical Errors; (5) Assignment of Tasks; and (6) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, Suit 500, 1425 K Street, NW., Washington, D.C. 20005; (202) 682-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on August 22, 1983.

Karl F. Bierach,

Designated Officer.

[FR Doc. 83-23700 Filed 8-29-83; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement; Adams County, Nebraska

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Adams County, Nebraska.

FOR FURTHER INFORMATION CONTACT: Howard H. Bryant, District Engineer, FHWA, Federal Building, 100 Centennial Mall North, Lincoln, Nebraska 68508, Telephone: (402) 471-5527. Gerald Grauer, Project Development Engineer, Nebraska Department of Roads, P.O. Box 94759, Lincoln, Nebraska 68509, Telephone: (402) 473-4795.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Nebraska Department of Roads (NDOR), will prepare an Environmental Impact Statement (EIS) on a proposal to upgrade a section of U.S. Highway 6 in Hastings, Nebraska from 1,100 feet west of Elm Avenue to Showboat Road east of Hastings. The length of the project is 2.2 miles. The proposed action consists of the construction of a four-lane divided facility on new location with an overpass structure over the Union Pacific Railroad tracks and an interchange with Showboat Road.

Alternatives under consideration include: (1) Taking no action; (2) reconstruction on existing alignment; or (3) constructing the proposed project.

No formal scoping meeting is planned at this time. A public hearing will be held after the Environmental Impact Statement has been made available for public and agency review and comment. Public notice will be given of the time and place of the public hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning the proposed action and the EIS should be directed to the FHWA or the NDOR at the addresses provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of OMB Circular No. A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program.)

Issued on: August 22, 1983.

Howard H. Bryant,

District Engineer, Nebraska Division, Federal Highway Administration, Lincoln, Nebraska.

[FR Doc. 83-23722 Filed 8-29-83; 8:45 am]

BILLING CODE 4910-22-M

Maritime Administration

Change of Name of Approved Trustee; Northwestern National Bank of Minneapolis

Notice is hereby given that effective May 1, 1983, Northwestern National Bank of Minneapolis, Minneapolis, Minnesota, changed its name to Norwest Bank Minneapolis, National Association.

Dated: August 23, 1983.

By Order of the Maritime Administrator.

Georgia P. Stamas,

Secretary.

[FR Doc. 83-23782 Filed 8-29-83; 8:45 am]

BILLING CODE 4910-81-M

National Highway Traffic Safety Administration

[Docket No. IP 83-15; Notice 1]

Ford Motor Co.; Petition for Exemption From Notice and Remedy for Inconsequential Noncompliance

Ford Motor Company of Dearborn, Michigan, has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for an apparent noncompliance with 49 CFR 571.108, Motor Vehicle Safety Standard No. 108, *Lamps, Reflective Devices and Associated Equipment*, on the basis that it is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition is published under section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Taillamps and stop lamps must comply respectively with SAE Standard J585e *Tail lamps (Rear Position Light)*, September, 1977, and SAE Standard 585c *Stop Lamps*, August 1970. These standards are incorporated by reference in Federal Motor Vehicle Safety Standard No. 108. Paragraph 4 of each of the SAE Standards requires that, when installed on a vehicle, a taillamp and a stop lamp's signals shall be visible through a horizontal angle from 45 degrees to the left to 45 degrees to the right. Further, "to be considered visible, the lamp must provide an unobstructed projected illuminated area of outer lens surface, excluding reflex, at least 2 sq. in. in extent, measured at 45 deg to the longitudinal axis of the vehicle."

Ford has manufactured approximately 4000 1984-model Bronco II vehicles which appear not to comply with the visibility requirements. These vehicles are equipped with the optional "Outside Swing-Away Spare Tire/Wheel carrier and with optional P205/75R-15SL size spare tires." Ford reports a partial obstruction of the right side lens by the rear mount spare tire, when viewed from the left, as from a position in an adjacent traffic lane to the rear of the Bronco II. When viewed at 45 degrees to the left, approximately only 1.1. square inches of illuminated lens area is available, although the requisite minimum of 2 square inches is met at 42 degrees. The nonconformity has been corrected by repositioning the spare tire on the carrier by two inches.

As part of its submission Ford presented mathematical data to support its contention that the eyes of a driver following in the same lane as a Bronco II could not reach or surpass a cut-off boundary of 42 to 45 degrees for the right side lamp unit, even in a bumper to bumper situation (where the angle would be 27 degrees). For vehicles approaching the Bronco II in adjacent lanes to the left, the difference in trailing distances when the driver's eyes are at the 42 and 45 degrees cut-off lines "are insignificant (approximately 1¾ feet to 4¼ feet) as to effect on timely discernability of the rear of the Bronco II vehicle, even if the left side (lamp) were to be inoperative." This difference, Ford believes, is insignificant as it relates "to ability of a driver to discern and react to the stop lamp signal, even when travelling under city vehicle traffic separation and speed conditions." Ford argues that the lamps in question perform their intended functions in a manner indistinguishable for all practical purposes from these on vehicles that meet the standard.

Interested persons are invited to submit written data, views and arguments on the petition of Ford Motor Company described above. Comments should refer to the docket number and be submitted to Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street, SW., Washington D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered.

The application and supporting materials and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the **Federal Register** pursuant to the authority indicated below.

The engineer and attorney principally responsible for this notice are respectively Kevin Cavey and Taylor Vinson.

Comment closing date: September 29, 1983.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on August 24, 1983.

Kennerly H. Digges,

Acting Associate Administrator for Rulemaking.

[FR Doc. 83-23841 Filed 8-29-83; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

On August 23, 1983 the Department of the Treasury submitted the following public information collection requirement(s) to OMB (listed by submitting bureaus), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 634-2179. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 309, 1625 "I" Street, NW., Washington, D.C. 20220.

INTERNAL REVENUE SERVICE

OMB Number: 1545-0046

Form Number: IRS Form 982

Type of Review: Existing Regulation

Title: Adjustments of Basis of Property Under Sections 1017 or 1082(a)(2) of the Internal Revenue Code

OMB Reviewer: Norman Frumkin, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Cathy Thomas,

Departmental Reports Management Office.

[FR Doc. 83-23832 Filed 8-29-83; 8:45 am]

BILLING CODE 4810-25-M

Office of the Secretary

[Supplement to Department Circular, Public Debt Series—No. 25–83]

Notes, Series X–1985

Washington, August 25, 1983.

The Secretary announced on August 24, 1983, that the interest rate on the notes designated Series X–1985, described in Department Circular—Public Debt Series—No. 25–83 dated August 18, 1983, will be 10⅝ percent. Interest on the notes will be payable at the rate of 10⅝ percent per annum.

Carole J. Dineen,

Fiscal Assistant Secretary.

[FR Doc. 83–23809 Filed 8–29–83; 8:45 am]

BILLING CODE 4810–40–M

[Department Circular; Public Debt Series—No. 26–83]

Treasury Notes of November 15, 1988; Series K–1988

Washington, August 24, 1983.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $6,000,000 of United States securities, designated Treasury Notes of November 15, 1988, Series K–1988 (CUSIP No. 912827 PX 4). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The securities will be dated September 6, 1983, and will bear interest from that date, payable on a semiannual basis on May 15, 1984, and each subsequent 6 months on November 15 and May 15 until the principal becomes payable. They will mature November 15, 1988, and will not be subject to call for redemption prior to maturity. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next-succeeding business day.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Securities registered as to principal and interest will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of registered and book-entry securities, and the transfer of registered securities will be permitted. Bearer securities will not be available, and the interchange of registered or book-entry securities for bearer securities will not be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Daylight Saving time, Wednesday, August 31, 1983. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, August 30, 1983, and received no later than Tuesday, September 6, 1983.

3.2. The face amount of securities bid for must be stated on each tender. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10 percent. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender, and the amount may not exceed $1,000,000.

3.3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.5. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination in made as to which tenders are accepted, an interest rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and lowest accepted price above the original issue discount limit of 98.750. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent

to the weighted average yield of accepted competitive tenders.

3.6. competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.4., must be made or completed on or before Tuesday, September 6, 1983. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institution to which the tender was submitted, which must be received from institutional investors no later than Friday, September 2, 1983. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forefeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, and to receive payment for and make delivery of securities on full-paid allotments.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering.

Carole J. Dineen,

Fiscal Assistant Secretary.

[FR Doc. 83-23808 Filed 8-30-83; 8:45 am]

BILLING CODE 4810-40-M

UNITED STATES INFORMATION AGENCY

International Youth Exchange; Approved Logo Usage

AGENCY: United States Information Agency.

ACTION: Announcement.

SUMMARY: The United States Information Agency announces the opportunity for qualifying participants in the President's International Youth Exchange Initiative to use the Initiative's logo for approved purposes.

EFFECTIVE DATE: This announcement is effective August 30, 1983.

FOR FURTHER INFORMATION CONTACT: The International Youth Exchange Staff, Bureau of Educational and Cultural Affairs, United States Information Agency, 400 "C" Street, SW., Room 255, Washington, D.C. 20547.

SUPPLEMENTARY INFORMATION: The United States Information Agency announces the opportunity for qualifying participants in the President's International Youth Exchange Initiative to use the Initiative's logo for approved purposes. This announcement covers the criteria for qualifying to use the logo, under what circumstances the logo may be used, misrepresentation, and the application procedure for obtaining permission to use the logo.

Criteria

The Agency, in its discretion, will grant permission to use the logo to organizations which meet the following three criteria:

1. One of the following: a. a tax exempt organization which holds a Section 501(c)(3) exemption from the Internal Revenue Service; b. a tax supported organization; or c. such other non-profit organizations which can demonstrate to the Agency's satisfaction that they possess community based volunteer support for International Youth Exchange.

2. The organization must sponsor or support international youth exchange programs for 15–25 year olds.

3. a. The organization must have a proven track record, which means that the organization has four years of experience in youth exchange; or

b. The organization must demonstrate, to the Agency's satisfaction, a commitment to community based volunteer participation and support for youth exchange which upholds the goals and aims of the President's Initiative.

Use

Permission will be granted for specific use of the logo. Applicants must specify how the logo will be used. Authorization will only be issued for the stated use in the request. Expanded use will require re-authorization. Authorizations will be effective for one year from the date of authorization.

The Agency contemplates that organizations will be authorized to use the logo for certain purposes. Anticipated authorizations include but are not limited to internal newsletters, in annual reports, for an article about the President's Initiative, on fundraising literature, and for limited commercial purposes as specifically approved.

Misrepresentation

Permission to use the logo indicates that the organization is a participant in the President's Initiative. It in no way implies sponsorship, approval, authorization, guarantee, support, or designation of the organization's programs by the President's International Youth Exchange Initiative, the United States Information Agency or the United States Government and may not be represented by an organization as such.

Application Procedure

Organizations or groups which meet the stated criteria should send a request in writing to the address noted above. The request should state the intended use of the logo. Documentation supporting the application must accompany the request.

The Agency will make its decision on whether to grant permission to use the logo based on 1) the documentation supplied by the organization; and 2) upon any information the Agency possesses by virtue of its involvement in the field of international youth exchange.

Re-Authorization

The Agency will exercise its discretion when re-authorizing permission for an organization to use the logo. The Agency will consider whether:

1. The organization is financially responsible;
2. The organization has appropriately represented international youth exchange, the President's Initiative, or the organization's relationship to the President's Initiative;
3. The organization has complied in good faith with the goals and aims of the President's Initiative; or
4. The organization's conduct has brought either the organization or the President's Initiative into disrepute.

Dated: August 24, 1983.

Ronald L. Trowbridge,

Associate Director, Bureau of Educational and Cultural Affairs, United States Information Agency.

[FR Doc. 83-23699 Filed 8-29-83; 8:45 am]

BILLING CODE 8230-01-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 169
Tuesday, August 30, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Federal Mine Safety and Health Review Commission	1
Federal Reserve System	2
International Trade Commission	3
Neighborhood Reinvestment Corporation	4
Nuclear Regulatory Commission	5
Parole Commission	6
Securities and Exchange Commission	7

1

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10 a.m., Wednesday, August 31, 1983.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. U.S. Steel Mining Co., Inc., Docket No. PENN 82–335; Petition for Discretionary Review. (Issues include whether the judge erred in concluding that violations of mandatory health and safety standards were "significant and substantial", and whether the judge assessed appropriate penalties.)
2. Patrick J. Mooney v. Sohio Western Mining Co., Docket No. CENT 81–157–DM. (Issues include whether the judge properly concluded that the operator did not violate the Mine Act in discharging the miner.)
3. U.S. Steel Corporation, Docket No. LAKE 81–102–RM, etc. (Issues include whether the judge erred in concluding that the operator violated the Mine Act by restricting a Mine Safety and Health Administration inspector's access to the scene of a truck rollover and by insisting that an attorney be present when a foreman was interviewed by inspectors.)

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653–5632.

[S–1229–83 Filed 8–26–83; 12:56 pm]
BILLING CODE 6735–01–M

2

FEDERAL RESERVE SYSTEM (Board of Governors)

TIME AND DATE: 10:00 a.m., Tuesday, September 6, 1983.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposal to seek a formal opinion in connection with disclosure requirements, chiefly under the Board's consumer regulations. (This matter was originally announced for a meeting on August 29, 1983.)
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: August 26, 1983.

James McAfee,

Associate Secretary of the Board.

[S–1233–83 Filed 8–26–83; 4:04 pm]
BILLING CODE 6210–01–M

3

INTERNATIONAL TRADE COMMISSION

[USITC SE–83–39A]

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 38713, August 5, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 2:30 p.m., Tuesday, September 6, 1983.

CHANGES IN THE MEETING: Rescheduling of the Meeting as follows:

By action jacket, the United States International Trade Commission, in conformity with 19 CFR 37(b), voted to reschedule the meeting from Tuesday, September 6, 1983, to Wednesday, September 7, 1983, at 9:30 a.m. No other changes were made in the agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523–0161.

[S–1230–83 Filed 8–26–83; 2:20 pm]
BILLING CODE 7020–02–M

4

NEIGHBORHOOD REINVESTMENT CORPORATION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Published August 23, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2:30 p.m., August 26, 1983.

CHANGE IN THE MEETING: The meeting is cancelled. It will be rescheduled for a later time.

[No. 30, August 26, 1983]

Carol J. McCabe,

Secretary.

[S–1231–83 Filed 8–26–83; 3:40 pm]
BILLING CODE 6000–00–M

5

NUCLEAR REGULATORY COMMISSION

DATE: Week of August 29, 1983.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open. *Thursday, September 1:*

3:30 p.m.
Affirmative/Discussion and Vote (Public Meeting):
a. Motion for Reconsideration of the Indian Point Decision
b. Draft Order ALAB–698 (TMI Restart Emergency Planning) (*postponed* from August 24)
c. Final Rule—NRC Rulemaking to Amend 10 CFR 2.200 and 2.201

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee, (202) 634–1410.

Dated: August 25, 1983.

Walter Magee,

Office of the Secretary.

[S–1232–83 Filed 8–26–83; 3:50 pm]
BILLING CODE 7590–01–M

6

PAROLE COMMISSION.

National Commissioners (the Commissioners presently maintaining offices at Chevy Chase, Maryland Headquarters).

TIME AND DATE: 10 a.m., Wednesday, August 31, 1983.

PLACE: Room 420–F, One North Park Building, 5550 Friendship Blvd., Chevy Chase, Maryland 20815.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Referrals from Regional Commissioners of approximately 3 cases in which inmates of Federal prisons have applied for

parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION: Linda Wines Marble, Chief Case Analyst, National Appeals Board, United States Parole Commission (301) 492–5987.

[S–1228–83 Filed 8–30–83; 11:30 a.m.]

BILLING CODE 4410–01–M

7

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of September 5, 1983, at 450 5th Street, N.W., Washington, D.C.

An open meeting will be held on Wednesday, September 7, 1983, at 10 a.m. in Room 1C30 followed by a closed meeting.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10).

Commissioner Evans, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the open meeting scheduled for Wednesday, September 7, 1983, at 10 a.m., will be:

1. Consideration of whether to publish for comment a proposal to amend and restate the Commission's regulations related to the preservation of records under the Public Utility Holding Company Act of 1935. For further information, please contact Grant G. Guthrie at (202) 272–7677.

2. Consideration of whether to adopt amendments to Rule 206(3)–2 under the Investment Advisers Act of 1940 which would eliminate the requirements that an investment adviser obtain at least annually from a client written renewal of the client's consent to agency cross transactions. For further information, please contact Forrest R. Foss at (202) 272–2309.

3. Consideration of whether to rescind Form X–17A–1 and adopt proposed amendments to Securities Exchange Act Rule 17a–2 which would eliminate the requirement that participants in an offering that is stabilized file with the Commission reports of their transactions, including stabilizing transactions, in offered securities. The amendments would require instead that information concerning stabilizing transactions be retained by the manager of the underwriting syndicate. The Commission will also consider corresponding technical changes to be made to Securities Exchange Act Rule 10b–7. For further information, please contact Howard A. Bartnick at (202) 272–2874.

4. Consideration of whether to issue an order approving a plan for the allocation of regulatory responsibilities pertaining to options-related sales practice matters filed by the American Stock Exchange, Inc., the Chicago Board Options Exchange, Inc., the Midwest Stock Exchange, Inc., the National Association of Securities Dealers, Inc., the New York Stock Exchange, Inc., the Pacific Stock Exchange Inc., and the Philadelphia Stock Exchange, Inc. pursuant to Rule 17d–2 under the Act. For further information, please contact Elizabeth S. York at (202) 272–2377.

The subject matter of the closed meeting scheduled for Wednesday, September 7, 1983, following the 10 a.m. open meeting, will be:

Formal orders of investigation.

Institution of injunctive actions.

Institution of administrative proceedings of an enforcement nature.

Settlement of administrative proceedings of an enforcement nature.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Jerry Marlatt at (202) 272–2092.

August 25, 1983.

[S–1227–83 Filed 8–25–83; 4:15 pm]

BILLING CODE 8010–01–M

VOL
48
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federal register

Tuesday
August 30, 1983

Part II

Department of Energy

Office of Conservation and Renewable Energy

State Energy Conservation Program

DEPARTMENT OF ENERGY

Office of Conservation and Renewable Energy

10 CFR Part 420

[Docket No. CAS-RM-79-501]

State Energy Conservation Program

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) is issuing the final rule today amending the State Energy Conservation Program (SECP) by using the most recent annual census updates instead of July 1976 data for the population component of the funding formula, by making changes to the building lighting and thermal efficiency standards requirements which recognize the different types of constitutional authority States have to adopt such standards, and by making other administrative changes. The current energy savings component of the funding formula is retained for use in FY 1984, should funds be provided for SECP for FY 1984. The formula will be modified for subsequent fiscal years if a pilot test indicates that use of estimated actual energy savings validated by DOE is workable.

The final rule will provide States with greater flexibility to adopt energy efficiency goals and program measures suited to their individual circumstances. It will also reduce the administrative and regulatory burden on States. Since many of today's administrative amendments are the same or similar to changes made to the Energy Extension Service (EES), DOE is improving and simplifying State administration of both programs. The amendments are expected to result in increased program effectiveness for the Federal and State dollars spent, expanded State control over the use of funds, and decreased Federal involvement in State-specific decisions.

EFFECTIVE DATE: Septermber 29, 1983.

FOR FURTHER INFORMATION CONTACT:

Mary Fowler, Office of Energy Management and Extension, Department of Energy, Mail Stop CE-24, 5B-137, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-8287.

Edward H. Pulliam, Office of General Counsel, Department of Energy, Mail Stop 6G-094, Room 6B-144, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-9507.

SUPPLEMENTARY INFORMATION:

I. Introduction
II. Amendments to the State Energy Conservation Program
III. Environmental, Regulatory Impact, Small Entity Impact, and Paperwork Reduction Act Reviews

I. Introduction

When first enacted, Part C of Title III of the Energy Policy and Conservation Act (EPCA), Pub. L. 94-163, 89 Stat. 932 (42 U.S.C. 6321 *et seq.)*, provided financial assistance to develop, modify or implement State energy conservation plans. Part C was subsequently amended by Part B of Title IV of the Energy Conservation and Production Act (ECPA) Pub. L. 94-385, 90 Stat. 1156 (42 U.S.C. 6326 and 6327), which provided financial assistance to develop, modify or implement supplemental State energy conservation plans. Together, the EPCA and ECPA provisions describe the State Energy Conservation Program (SECP).

Regulations for the program, 10 CFR Part 420, were promulgated by the Federal Energy Administration on February 20, 1976 (41 FR 8335, February 26, 1976); October 28, 1976 (41 FR 48325, November 3, 1976); and May 13, 1977 (42 FR 26413, May 24, 1977). The Department of Energy (DOE) amended the guidelines for SECP in order to consolidate and simplify the guidelines on March 29, 1979 (44 FR 20055, April 4, 1979). Proposed amendments were published in the Federal Register on February 11, 1983 (48 FR 6492). The proposed amendments would have replaced joint State and DOE goal setting in terms of projected energy savings with State goal setting under more flexible terms, replaced the use of projected energy savings in the funding formula with estimated actual energy savings as validated or calculated by DOE for a prior 12-month period, replaced July 1976 data with decennial census data for the population component of the funding formula, made changes to the building lighting and thermal efficiency standards requirements, and made other administrative changes. Comments were invited for the following 30 day period ending March 14, 1983. Comments were received from twenty-seven States, one territory, one member of Congress, one public interest group, and one trade association. Five States presented testimony at the public hearing held on March 1, 1983 in conjunction with the public hearing on the Energy Extension Service. The following section summarizes the comments, suggestions, and actions taken.

II. Amendments to the State Energy Conservation Program

Section 420.2 Definitions. One comment suggested that the part of the definition of exempted building referring to any building owned or leased in part by the U.S. government be deleted, and that the decision to exempt any building should be left to the State government. No change has been made, however, because the exempted status of public buildings owned or leased by the United States is specified in the program legislation, 42 U.S.C. 6322(c).

Section 420.3 Financial Assistance. In this section, DOE proposed to delete reference to a calendar year budget period for State grants and add a statement that the State grant budget periods are to be established within parameters set by DOE. All of the comments on these changes were in agreement with the proposed amendments, and the proposed amendment has been adopted in the final rule.

DOE proposed to use decennial census data instead of July 1976 data for the population component of the funding formula. Several comments in favor of this change were received. In addition, several comments favoring use of Bureau of the Census annual updates were received. DOE has amened the regulation to use for the population component of the funding formula the most recent census updates available for all grantees at the time DOE needs to compute SECP formula shares. Because of the current timing of the publication of these figures by the Bureau of the Census and the timing of appropriations, there could be a lag in the population figures used, e.g., if funds are appropriated to SECP in FY 1984, the formula computations would be made in December 1983. They would therefore probably use the annual updates for 1982 published by the Bureau of the Census in the summer of 1983. However, the use of the most recent updates will recognize the population changes in each State and will more accurately reflect current population than the decennial census.

DOE had also proposed to substitute in the funding formula actual energy savings as validated or calculated by DOE for projected energy savings. This proposed change generated the greatest response from those commenting on the proposed rule amendments. Five comments supported the proposed change, sixteen comments expressed opposition to the proposal, and five questioned its advisability without more details and experience.

Several advantages to the proposal were cited by those comments received in support of the change. These advantages included a reduction in State staff workload related to calculating energy savings, since the proposed change eliminated the need to calculate projected energy savings in addition to actual energy savings. The proposed change to the energy savings component of the funding formula was also cited as likely to result in more accurate energy savings reports and, therefore, a more accurate reflection of a State's performance in conserving energy than DOE currently receives. In addition, it was noted that the proposed change would encourage States to use their funds for activities which would result in the greatest energy savings.

While recognizing the need for and value of efforts to evaluate program impact, those opposing the proposed change cited a number of disadvantages to DOE's proposed procedure for tying the results of such evaluations to the allocation of funds among States. They pointed out that energy savings are difficult to measure accurately, since the methodologies available for such measurements vary widely in their reliability depending on the type of activity being evaluated. Moreover, attempting to attribute observed energy savings only to SECP activities (versus price or other factors) is time consuming, expensive, and for some activities impossible. It was further argued that the combined effort required of States and DOE under the proposal would be more complex and time consuming than under the current regulations and thus contrary to DOE's stated intent to simplify requirements and procedures.

It was also suggested that such a change was not needed because it is unnecessary to require States to compete for a large portion of the funds based on energy savings in order to persuade them to choose the most effective energy conservation programs. States noted they have other incentives, such as decreased Federal resources for energy conservation, to allocate funds to the most effective programs.

The proposal was also cited as leading to the adoption of measures which would not be likely to produce the greatest savings over a long period of time. For example, the proposal was viewed as rewarding conservation measures with payoffs of one year or less and deemphasizing activities that produce most of their energy savings several years after initiation. The proposal was also thought to encourage State funding of activities that generate easily verifiable energy savings in the short term and to discourage innovative and untested program measures whose energy savings are uncertain but whose potential may be significant. In addition, States which have completed the relatively easy first steps would be penalized, as they now are involved in more complicated programs that do not necessarily generate large energy savings in the first year of operation.

Some of those opposing the proposal also suggested that States would continue to overstate energy savings and that there would be an ongoing debate between DOE and the States on the process for verifying the energy savings data and on the resulting numbers. It was also suggested that DOE has limited staff capabilities to undertake the activities required by the proposed change, and that expenditure of SECP funds by DOE for contractor validation assistance would reduce sums available to States for more important programmatic activity.

Several comments on the proposed change to the energy savings component of the funding formula offered alternative proposals, such as reducing the weight given to energy savings in the formula, or adding factors like degree days to the current components of the formula. Others suggested that the switch to use of actual energy savings be deferred until a workable validation system is developed by DOE. Some States offered to assist DOE in the development of such a system.

In response to these comments DOE has decided to retain the current use of 35 percent of the funding formula based on projected energy savings through FY 1984. During this time DOE will design and conduct with State help a pilot test of an energy savings validation or calculation system to determine the feasibility and workability of the concept. If, through the pilot test, the system is determined to work, DOE may amend the regulations to incorporate the use of actual energy savings as validated or calculated by DOE to compute 35 percent of the SECP funding formula beginning in FY 1985.

Section 420.4 Annual State Applications. In this section, DOE proposed to delete reference to the State application due date because the appropriations outcome is often not known by the date the applications are due under the existing regulation. One comment in support of this proposal was received. No negative comments on this change were received; however, one comment asked that no changes be made to this entire section. DOE believes its original proposal is the best procedure and has deleted the reference to the application due date in the final rule.

Several additional comments were received on this section. One suggested that this section be amended to permit the Governor or a person designated by the Governor to sign the annual State application, noting that it is sometimes difficult to obtain a Governor's signature on routine administrative documents which are the responsibility of a State agency. A change to this section is not necessary, however, because the definition of Governor contained in § 420.2 already includes provisions for an authorized person to act on the Governor's behalf.

A second suggestion concerned using a 3-year State plan with annual funding for SECP as is done in the Energy Extension Service program. DOE considered this option in the preparation of the proposed amendments but rejected it because the financial problems some States are encountering make the preparation of an annual budget difficult enough without creating additional problems by requiring a multi-year budget.

A third comment was in response to DOE's proposal to request budget information for the total program by object class category. While in agreement with the change, the comment suggested that the language be clarified to indicate that an object class budget is not required for each program measure. To clarify the requirement, DOE has modified § 420.4 (b)(2) and (b)(2)(i) of the proposed revised regulations to indicate that the annual State application shall include a total program budget by object class category and source of funding for the budget period for which financial assistance will be provided. The form which States currently use to convey this information is OMB Standard Form 424, Part III. Budget and milestone details on each program measure, on the other hand, are required in § 420.4(b)(2)(iii) and are conveyed on the Management Summary Report form (OMB No. 1901–0127). The Management Summary Report form does not require object class category information for each program measure.

A comment requested that DOE retain the requirement from the existing rule that a State include in its application information regarding how it will assess actual energy savings under a program measure. The final rule does not request this information as part of the annual State application. However, DOE may require as part of a State's annual energy savings report specified in § 420.11(b) of the revised regulations a similar written statement indicating how

a State obtained and analyzed the energy savings data contained in the report. Until the validation system is designed, it is not possible to specify exactly what data a State may need to submit in its energy savings report.

DOE received one comment concerning the request for an extension of the submission date of the annual State application. The comment requested a clarification of the phrase "acceptable and substantial justification" which is used in § 420.4(c) of the revised regulation to describe the circumstances under which the Operations Office Manager may grant an extension. However, DOE has decided not to limit the discretion of the field offices to respond to the number of situations which could arise requiring an extension of the submission date by further delimiting when an extension may be granted.

In § 420.4 DOE proposed to eliminate the requirement for States to set energy conservation goals only in terms of Btu's saved and allow them to set SECP goals in either qualitative or quantitative terms. Several comments supporting the proposed change were received and the proposed change is adopted. In addition, two States expressed some confusion as to the relationship of the energy conservation goals which a State sets in its plan under the revised regulation to the computation of State shares under the funding formula. The energy conservation goals set by States in their plans will not be used in the funding formula. As in the past three fiscal years, the energy savings numbers for the funding formula in FY 1984 will be calculated by DOE based on States' 1980 projected savings. As mentioned above, the regulations may be amended to permit another system to be used beginning in FY 1985 if the validation system to be tested during FY 1984 is shown to be workable.

Section 420.5 Review and Approval of Annual State Applications and State Plans. One comment suggested that the Operations Office Manager be given 45 days in which to review and approve annual State applications and plans. DOE tries to review and approve plans within 60 days of receipt although it is not always successful in doing so. DOE will continue to try to review and approve plans within 60 days of receipt as a matter of policy but no time frame for the review process has been added to the regulation.

Section 420.6 Minimum Criteria for Required Program Measures for Plans. DOE received one comment concerning minimum criteria based on ASH 90–75 and the Housing and Urban Development Department's Minimum Property Standards (HUD MPS). The comment pointed out that ASHRAE 90–75 has been superseded by ASHRAE 90–1980 and suggested that the updated standard replace reference to ASHRAE 90–75 in all citations. However, DOE has made no change in the reference to the ASHRAE 90–75 standard. No amendment to the use of the standard was proposed in the NOPR, and DOE does not think it appropriate to require a more stringent standard without further review and comment on such an action. However, States may voluntarily move to a more stringent standard such as ASHRAE 90A–1980, and many have done so.

The comment also suggested deleting the option in § 420.6(d)(4) of the revised regulation of using the HUD MPS as an alternative minimum criteria for thermal efficiency standards for new residential construction. Again, no amendment to the use of the standard was included in the NOPR. Further review and comment would be needed to properly evaluate the suggestion, since the technical issues raised are complex. As in the case of the suggested change to the reference to the ASHRAE standard, deleting the option of using HUD MPS is beyond the scope of the present rulemaking. DOE has, therefore, made no change to the references to the HUD MPS.

A territory requested a regulation change to exempt those eligible recipients who do not have traffic lights from being required to enact a right turn on red traffic law. DOE will continue to interpret the regulation to exempt entities in such situations but does not think it necessary to change the regulation.

In § 420.6 DOE proposed building lighting and thermal efficiency standards requirements which recognize the different types of constitutional authority States have to adopt such standards. Ten States and one public interest group responded favorably to the proposed changes. Five States raised issues relating to and requesting more flexibility to adopt the standards. In DOE's view, the program legislation does not allow any greater flexibility in this area. States having the constitutional authority to adopt and implement building lighting and thermal efficiency standards are required to do so. States which have adopted codes they would like to use to fulfill the requirements of the building lighting and thermal standards should continue to submit them to the appropriate DOE field office for a determination that each code meets or exceeds the minimal requirements for the building lighting and thermal efficiency standards.

Section 420.10 Technical Assistance. One comment suggested that technical assistance should be either available or not available, but that this service should not be left to DOE's discretion. DOE is unable, however, to commit itself to an unlimited amount of technical assistance because of budgetary and staff considerations. It will continue to provide this service to the extent possible.

Section 420.11 Reports. One comment suggested making the quarters for which States submit reports to DOE coincide with the State's approved budget period instead of using calendar quarters as required by the proposed regulation. DOE considered this in the preparation of the proposed amendments, but rejected it. For budget monitoring and reporting purposes, DOE needs State reports covering the same calendar time period, although DOE fully recognizes that these reports represent different portions of States' budget periods.

DOE proposed requiring States to submit an annual energy savings report containing the data needed for calculating the proposed 35 percent of the State funding formula involving energy savings. The requirement of an annual savings report is adopted in the final rule; the data will be used in the pilot test of the validation system during FY 1984, and in the validation system if it is adopted subsequently. However, reference to the use of the data provided in the annual savings report has been deleted from the final rule, since the proposed funding formula based on validated actual energy savings will be tested but not implemented in FY 1984. Two comments were received suggesting submission dates for the annual savings report. These suggestions will be considered during the pilot test of the energy savings validation system.

A comment also pointed out that there was a potential error in the OMB control number listed for the quarterly program performance and quarterly financial status reports. A review of the records has shown that the control number listed in the regulation (OMB No. 1901–0127) is correct. The form itself contains a typographical error in the number, which will be corrected when it is reprinted at some future time.

Section 420.12 Prohibited Expenditures. DOE received one comment asking for a clarification on the prohibition of expenditures for utility rate demonstrations. This provision prohibits the use of funds to subsidize such activities as the administration of experimental rates, the solicitation or review of public

comments concerning utility rates, and the preparation of utility rate studies. Since such activities can be very expensive to undertake and may be better handled by utilities or public utility commissions, no change has been made in the regulation on the prohibition of expenditures for utility rate demonstrations.

The prohibition on use of SECP funds to subsidize State insulation tax credits has been expanded to include all tax credits for energy conservation. Many more types of tax credits for energy conservation exist now than did at the time the program legislation was enacted. The prohibition now extends to these other types of tax credits as well.

Five comments were received requesting that the regulations permit use of funds for retrofits, especially for State and local government buildings, and revolving or other loan mechanisms to finance such retrofits. Some States suggested limiting these activities to funds received from the Petroleum Violation Escrow Fund under Section 155 of the Further Continuing Appropriation Act, 1983, Public Law 97–377 (Section 155).

DOE believes that it is not permissible to differentiate between the use of Section 155 and appropriated funds. It was the intent of Congress to have a single set of uses for these two sources of funds.

DOE notes that the Congress has given some consideration in the past to energy conservation retrofits and other types or renovations for State and local government buildings, but legislation has not been reported out of committee which would permit such activities. In addition, a bill has been introduced recently in the Senate to amend Section 155 to allow retrofits for local government buildings to be funded under Section 155. DOE has, therefore, decided not to permit, at this time, the direct purchase or installation of equipment or materials for energy conservation building retrofits or weatherization. For clarity, a prohibition on the use of SECP grant funds for energy conservation building retrofits or weatherization has been added as § 420.12(a)(6) of the final rule. However, SECP funds may be used to reduce the interest rate charged on loans of non-SECP funds made by States, banks or other financial institutions for energy conservation retrofits.

Regarding loans, DOE has decided to allow States in § 420.12(d) of the revised regulation to use regular or revolving loans (but not loan guarantees) to finance services which are consistent with the SECP final rule and which are included in a State's approved SECP plan. This means, for example, that a State could offer building energy audits, on a loan basis, if building energy audits is a measure included in the State's approved SECP plan. But a State cannot make loans to finance energy conservation retrofits, since retrofits are not permitted in the SECP final rule. This addition to the regulation make clear that loans are one type of financing mechanism for providing services which States may use in addition to other means, such as fee-for-services or services at no cost. Repaid loans and interest, if any, must be returned to the State's SECP program for reuse on the same or other activities which are consistent with the SECP final rule and which are included in a State's approved SECP plan.

DOE received several comments opposed to the new prohibition on the use of SECP funds to conduct or purchase equipment to conduct research, development, or demonstrations of conservation techniques and technologies not commercially available which was contained in the proposed rule. This prohibition on the use of funds is the same as in EES and was proposed for SECP in order to make the section on prohibited expenditures the same for both programs. It was also added because the focus of SECP is on supporting energy conservation programs which are very likely to generate energy savings, particularly near-term energy savings, rather than on supporting research into energy conservation hardware which may not begin producing energy savings until some time in the distant future, if at all. DOE believes however, that the demonstration of conservation techniques and technologies presently commercially available, as permitted in EES, can very likely help produce near-term energy savings. DOE has expressly incorporated approval of this activity in § 420.12(c) of the revised regulation at the suggestion of one comment. Pruchases of equipment made for this type of demonstration are not subject to the prohibitions on construction, building repair, and retrofit equipment; or to the 20 percent limitation on other types of equipment.

Section 420.13 Administration of Financial Assistance. DOE received one comment suggesting that too little guidance was provided as to the precise regulations, laws or rules applicable to the grant. A list of the requirements of applicable laws or a list of applicable laws being referenced by the phrase "but without limitation" was requested. The lists provided in 10 CFR § 600.2(e) and Appendix A to 10 CFR Part 600 (47 FR 44063, 44108), part of the DOE Financial Assistance Rules, are the most current lists of applicable laws. DOE has chosen to simply list the Financial Assistance Rules and not to repeat the citation of each applicable law or other document in this regulation. The phrase "but without limitation" permits the flexibility needed to keep the regulation in compliance with future laws without requiring future regulatory changes.

III. Environmental, Regulatory Impact, Small Entity Impact, and Paperwork Reduction Act Reviews

A. Environmental Review

As indicated in the February 11th notice, DOE prepared an environmental assessment for the original SECP program under the Energy Policy and Conservation Act. Notice of the availability of this assessment was published with a proposed rulemaking in the **Federal Register** on June 16, 1978 (41 FR 24410, 24412–13). An environmental impact statement was not prepared because, while the assessment identified certain adverse environmental impacts, they were found not to be "significant" within the meaning of the National Environmental Policy Act of 1969.

A subsequent environmental assessment of the Energy Conservation and Production Act amendments to the program was completed prior to issuance of the guidelines applicable to supplemental plans. Notice of this second assessment was published with a notice of proposed rulemaking in the **Federal Register** on March 25, 1977 (42 FR 16150–51). The assessment identified no significant impacts.

As stated in the February 11th notice, DOE has determined that the proposed amendments would not have any significant impacts, and that no additional environmental assessment or environmental impact statement is required. DOE did not receive any comments on this determination.

B. Executive Order 12291

DOE has concluded that this rule is not a "major rule" under Executive Order 12291 because it will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export

markets. DOE did not receive any comments directed at this certification.

The rule was submitted to the Director of the Office of Management and Budget pursuant to Executive Order 12291. The Director has concluded his review under that Executive Order.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act, Pub. L. 96–354, 94 Stat. 1164 (5 U.S.C. 601 *et seq.*), requires, in part, that agencies prepare an initial regulatory flexibility analysis for any proposed rule unless it determines that the rule will not have a "significant economic impact on a substantial number of small entities." In the event that such an analysis is not required for a particular rule, the agency must publish a certification and explanation of that determination in the **Federal Register.**

DOE certified in the February 11th notice that the proposed amendments would not have a "significant economic impact on a substantial number of small entities." DOE did not receive any comments that disputed this certification. Consequently, DOE certifies that the final rule would not have a significant economic impact on a substantial number of small entities.

D. Paperwork Reduction Act

The information collection requirements contained in this regulation have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980, Pub. L. 96–511, 94 Stat. 2812 (44 U.S.C. 3501 *et seq.*). They have been assigned OMB control numbers 1904–0026 (SECP) and 1901–0127 (DOE Uniform Contractor Reporting System).

E. The Catalogue of Federal Domestic Assistance

The Catalogue of Federal Domestic Assistance number for the State Energy Conservation Program is 81.041.

List of Subjects in 10 CFR Part 420

Energy conservation, Grant programs/energy, Reporting and recordkeeping requirements, Technical assistance.

In consideration of the foregoing, the Department of Energy amends Part 420 of Chapter II of Title 10, Code of Federal Regulations, as set forth below.

Issued in Washington, D.C. August 23, 1983.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

10 CFR Part 420 is revised to read as follows:

PART 420—STATE ENERGY CONSERVATION PROGRAM

Sec.

420.1 Purpose and scope.
420.2 Definitions.
420.3 Financial assistance.
420.4 Annual State applications.
420.5 Review and approval of annual State applications and State plans.
420.6 Minimum criteria for required program measures for plans.
420.7 Minimum criteria for required program measures for supplemental plans.
420.8 Extensions for compliance with required program measures.
420.9 Administrative review.
420.10 Technical assistance.
420.11 Reports.
420.12 Prohibited expenditures.
420.13 Administration of financial assistance.

Authority: Title III, Part C, as amended, of the Energy Policy and Conservation Act (42 U.S.C. 6321 *et seq.*); Department of Energy Organization Act (42 U.S.C. 7101 *et seq.*).

§ 420.1 Purpose and scope.

(a) This part prescribes requirements for program measures included in plans and supplemental plans, and guidelines for the development, modification and funding of plans and supplemental plans. It is the purpose of this part to promote the conservation of energy and to reduce the rate of growth of energy demand through the development and implementation of a comprehensive State energy conservation plans program and the provision of Federal financial and technical assistance to States in support of such program.

(b) DOE has the responsibility to foster and promote comprehensive State energy conservation plans by providing technical and financial assistance for specific State intiatives to conserve and improve efficiency in the use of energy and to encourage the use of renewable resources. Because of the diversity of conditions among the various States and regions of the Nation, a wholly Federally administered program would not be as effective as one which is tailored to meet local requirements and to respond to local opportunities.

§ 420.2 Definitions.

As used in this part:

Act means Title III, Part C, as amended, of the Energy Policy and Conservation Act, 42 U.S.C. 6321 *et seq.*

ASHRAE 90–75 means those designated standards developed by the American Society of Heating, Refrigerating and Air-Conditioning Engineers, Incorporated, as approved by its Board of Directors on August 11, 1975, to provide design requirements for improvements of energy utilization in new buildings.

Btu means British thermal unit.

British thermal unit means the quantity of heat necessary to raise the temperature of one pound of water one degree Fahrenheit at 39.2 degrees Fahrenheit and one atmosphere of pressure.

Building means any structure which includes provision for a heating or cooling system, or both, or for a hot water system.

Carpool means the sharing of a ride by two or more people in an automobile.

Carpool matching and promotion campaign means a campaign to coordinate riders with drivers to form carpools and/or vanpools.

Commercial building means any building other than a residential building, including any building constructed for industrial or public purposes.

DOE means the Department of Energy.

Energy audit means a survey of a building or buildings that is conducted in accordance with § 420.7(d) and Subpart B of 10 CFR Part 450 and which:

(a) Identifies the type, size, energy use level and the major energy using systems of such building or buildings;

(b) Determines appropriate energy conservation maintenance and operating procedures; and

(c) Indicates the need, if any, for the acquisition and installation of energy conservation measures.

Energy conservation means efficient energy use or the utilization of renewable energy resources which results in energy savings based upon a net reduction in the use of non-renewable energy resources.

Energy conservation measure means a measure which is identified as an energy conservation measure in accordance with Subpart D of 10 CFR Part 450.

Energy measure means an energy conservation measure or a renewable-resource energy measure as prescribed in Subpart D of 10 CFR Part 450.

Environmental residual means any pollutant or pollution causing factor which results from any activity.

Exempted building means:

(a) Any building whose peak design rate of energy usage for all purposes is less than one watt (3.4 Btu's per hour) per square foot of floor area for all purposes;

(b) Any building with neither a heating nor cooling system;

(c) Any mobile home; or

(d) Any building owned or leased in whole or in part by the United States.

Exterior envelope physical characteristics means the physical nature of those elements of a building

which enclose conditioned spaces through which thermal energy may be transferred to or from the exterior.

Governor means the chief executive officer of a State and the Mayor of the District of Columbia, or a person duly designated in writing by the Governor to act upon his or her behalf.

Grantee means the State or other entity named in the notice of grant award as the recipient.

HVAC means heating, ventilating and air-conditioning.

Heating, ventilating and air-conditioning means a system that provides heating, ventilation and/or air conditioning within or associated with a building.

HUD minimum property standards means any of the rules and regulations adopted by the Department of Housing and Urban Development establishing minimum acceptable levels of site design, site preparation, exterior and interior appurtenances which standard is applied to single or multifamily housing units which seek assistance under one or more programs administered by the Assistant Secretary for Housing and Mortgage Credit of the Department of Housing and Urban Development.

Industrial plant means any fixed equipment or facility which is used in connection with, or as part of, any process or system for industrial production or output.

Major building type means a class of buildings within which similar functions occur such as hospitals, restaurants, hotels and supermarkets.

Metropolitan Planning Organization means that organization required by the Department of Transportation, and designated by the Governor as being responsible for coordination within the State, to carry out transportation planning provisions in a Standard Metropolitan Statistical Area.

National energy conservation program means a program which is authorized by Federal statute and is wholly implemented by the Federal Government, without the active participation of a State or local government, other than for usual coordination or acknowledgement.

Operations Office Manager means the manager of a DOE Operations Office or his or her designee.

Park-and-ride lot means a parking facility generally located at or near the trip origin of carpools, vanpools and/or mass transit.

Plan means a State energy conservation plan including required program measures in accordance with § 420.6 and otherwise meeting the applicable provisions of this part.

Political subdivision means a unit of government within a State, including a county, municipality, city, town, township, parish, village, local public authority, school district, special district, council of governments, or any other regional or intrastate governmental entity or instrumentality of a local government exclusive of institutions of higher learning and hospitals.

Preferential traffic control means any one of a variety of traffic control techniques used to give carpools, vanpools and public transportation vehicles priority treatment over single occupant vehicles other than bicycles and other two-wheeled motorized vehicles.

Program measure means one or more State actions, in a particular area, designed to effect energy conservation, excluding actions in areas specifically covered by national energy conservation programs.

Public building means any building which is open to the public during normal business hours, except exempted buildings, including:

(a) Any building which provides facilities or shelter for public assembly, or which is used for educational office or institutional purposes;

(b) Any inn, hotel, motel, sports arena, supermarket, transportation terminal, retail store, restaurant, or other commercial establishment which provides services or retail merchandise;

(c) Any portion of an industrial plant building used primarily as office space; or

(d) Any building owned by a State or political subdivision thereof, including libraries, museums, schools, hospitals, auditoriums, sport arenas, and university buildings.

Public transportation means any scheduled or nonscheduled transportation service for public use.

Renewable-resource energy measure means a measure which is identified as a renewable resource energy measure in accordance with Subpart D of 10 CFR Part 450.

Residential building means any structure which is constructed for residential occupancy.

Secretary means the Secretary of DOE.

State means a State, the District of Columbia, Puerto Rico, or any territory or possession of the United States.

Supplemental plan means a supplemental State energy conservation plan including required program measures in accordance with § 420.7 and otherwise meeting the applicable provisions of this part.

Transit level of service means characteristics of transit service provided which indicate its quantity, geographic area of coverage, frequency and quality (comfort, travel, time, fare and image).

Urban area traffic restriction means a setting aside of certain portions of an urban area as restricted zones where varying degrees of limitation are placed on general traffic usage and/or parking.

Vanpool means a group of riders using a vehicle, with a seating capacity of not less than eight individuals and not more than fifteen individuals, for transportation to and from their residences or other designated locations and their place of employment, provided the vehicle is driven by one of the pool members.

Variable working schedule means a flexible working schedule to facilitate carpool, vanpool and/or public transportation usage.

§ 420.3 Financial assistance.

(a) The Operations Office Manager shall provide financial assistance to each State having an approved annual application from funds available for any fiscal year to develop, modify or implement a plan, a supplemental plan, or both.

(b) Financial assistance to develop, implement or modify plans shall be allocated among the States from funds available for any fiscal year, based on the following formula:

(1) Forty percent of available funds will be divided on the basis of the population of the participating States as contained in the most recent census documents available from the Bureau of the Census, Department of Commerce, for all participating States at the time DOE needs to compute State formula shares;

(2) Twenty-five percent of available funds will be divided among the participating States equally; and

(3) Thirty-five percent of available funds will be divided on the basis of estimated energy savings in calendar year 1980 resulting from the implementation of State energy conservation plans; provided, however, that no State shall receive more than twenty percent of the funds available to be divided on the basis of the estimated energy savings in calendar year 1980.

(c) Financial assistance to develop, implement or modify supplemental plans shall be allocated among the States from funds available for any fiscal year, based on the following formula:

(1) Seventy-five percent of available funds will be divided on the basis of the population of the participating States as contained in the most recent census documents available from the Bureau of

the Census, Department of Commerce, for all participating States at the time DOE needs to compute State formula shares; and

(2) Twenty-five percent of available funds will be divided among the participating States equally.

(d) The budget period covered by the financial assistance provided to a State according to § 420.3 (b) and (c) will be set by the State within parameters established by DOE.

§ 420.4 Annual State applications.

(a) To be eligible for financial assistance under this part, a State shall submit to the Operations Office Manager an original and two copies of the annual application executed by the Governor. The date for submission of the annual State application shall be set by DOE.

(b) An application shall include with respect to either a plan or supplemental plan or both:

(1) A description of the energy conservation goals to be achieved by implementation of the State plan, why they were selected, how the attainment of the goals will be measured by the State, and how the program measures included in the State plan represent a strategy to achieve these goals;

(2) For the budget period for which financial assistance will be provided:

(i) A total program budget broken out by object class category and by source of funding;

(ii) A narrative statement detailing the nature of amendments and of new program measures;

(iii) For each program measure, a budget and listing of milestones; and

(iv) An explanation of how the minimum criteria for required program measures prescribed in § 420.6 for plans and § 420.7 for supplemental plans shall be satisfied.

(3) A detailed description of the increase or decrease in environmental residuals expected from implementation of either a plan or supplemental plan, or both, defined insofar as possible through the use of information to be provided by DOE, and an indication of how these environmental factors were considered in the selection of program measures.

(c) The Governor may request an extension of the annual submission date by submitting a written request to the Operations Office Manager not less than 15 days prior to the annual submission date. The extension shall be granted only if, in the Operations Office Manager's judgment, acceptable and substantial justification is shown, and the extension would further objectives of the Act.

(Approved by the Office of Management and Budget under control numbers 1904–0026 and 1901–0127)

§ 420.5 Review and approval of annual State applications and State plans.

(a) The Operations Office Manager shall review each timely annual application and provide financial assistance if he or she determines that:

(1) The application conforms to the requirements of this part;

(2) The proposed program measures are consistent with a State's achievement of its energy conservation goals in accordance with § 420.4;

(3) The provisions of the application regarding program measures satisfy the minimum program requirements prescribed by § 420.6.

(b) If the annual application is not approved according to paragraph (a) of this section, the Operations Office Manager shall return it to the State together with a written statement describing why the annual application fails to meet the requirements of this part. The State will be given a reasonable period of time, as determined by the Operations Office Manager, to amend its annual application and submit it for reconsideration according to paragraph (a) of this section.

§ 420.6 Minimum criteria for required program measures for plans.

A plan shall satisfy all of the following minimum criteria for required program measures.

(a) Mandatory lighting efficiency standards for public buildings shall:

(1) Be implemented throughout the State, except that the standards shall be adopted by the State as a model code for those local governments of the State for which the State's constitution reserves the exclusive authority to adopt and implement building standards within their jurisdictions;

(2) Apply to all public buildings above a certain size, as determined by the State;

(3) For new public buildings, be no less stringent than provisions of Section 9 of ASHRAE 90–75; and

(4) For existing public buildings, contain the elements deemed appropriate by the State.

(b) Program measures to promote the availability and use of carpools, vanpools, and public transportation shall:

(1) Have at least one of the following actions under implementation in at least one urbanized area with a population of 50,000 or more within the State or in the largest urbanized area within the State if that State does not have an urbanized area with a population of 50,000 or more:

(i) A carpool/vanpool matching and promotion campaign;

(ii) Park-and-ride lots;

(iii) Preferential traffic control for carpoolers and public transportation patrons;

(iv) preferential parking for carpools and vanpools;

(v) Variable working schedules;

(vi) Improvement in transit level of service for public transportation;

(vii) Exemption of carpools and vanpools from regulated carrier status;

(viii) Parking taxes, parking fee regulations or surcharge on parking costs;

(ix) Full-cost parking fees for State and/or local government employees;

(x) Urban area traffic restrictions;

(xi) Geographical or time restrictions on automobile use; or

(xii) Area or facility tolls; and

(2) Be coordinated with the relevant Metropolitan Planning Organization, unless no Metropolitan Planning Organization exists in the urbanized area, and not be inconsistent with any applicable Federal requirements.

(c) Mandatory standards and policies affecting the procurement practices of the State and its political subdivisions to improve energy efficiency shall—

(1) With respect to all State procurement and with respect to procurement of political subdivisions to the extent determined feasible by the State, be under implementation; and

(2) Contain the elements deemed appropriate by the State to improve energy efficiency through the procurement practices of the State and its political subdivisions.

(d) Mandatory thermal efficiency standards for new and renovated buildings shall—

(1) Be implemented throughout the State, with respect to all buildings other than exempted buildings, except that the standards shall be adopted by the State as a model code for those local governments of the State for which the State's constitution reserves the exclusive authority to adopt and implement building standards within their jurisdictions;

(2) Take into account the exterior envelope physical characteristics, HVAC system selection and configuration, HVAC equipment performance and service water heating design and equipment selection;

(3) For all new commercial buildings, be no less stringent than a standard consistent with provisions of Sections 4–9 of ASHRAE 90–75, unless the operation of Section 327 of the Energy Policy and Conservation Act, as amended, 42 U.S.C. 6297, renders

reliance on such standard to be impracticable;

(4) For all new residential buildings, be no less stringent than either the HUD minimum property standards or a standard consistent with the provisions of Sections 4–9 of ASHRAE 90–75, unless the operation of Section 327 of the Energy Policy and Conservation Act, as amended, 42 U.S.C. 6297, renders reliance on such standards to be impracticable; and

(5) For renovated buildings:

(i) Apply to those buildings determined by the State to be renovated buildings; and

(ii) Contain the elements deemed appropriate by the State regarding thermal efficiency standards for renovated buildings.

(e) A traffic law or regulation which permits the operator of a motor vehicle to make a right turn at a red light after stopping shall:

(1) Be in a State's motor vehicle code and under implementation throughout all political subdivisions of the State, except as provided in paragraph (e)(3) of this section;

(2) Permit the operator of a motor vehicle to make a right turn (left turn with respect to the Virgin Islands) at a red traffic light after stopping except where specifically prohibited by a traffic sign for reasons of safety or except where generally prohibited in an urban enclave for reasons of safety; and

(3) For any State without such traffic law or regulation in effect before December 31, 1978, be ready for implementation by June 27, 1979, and fully meet the requirements of paragraphs (e)(1) and (2) of this section thereafter.

§ 420.7 Minimum criteria for required program measures for supplemental plans.

A supplemental plan shall satisfy all of the following minimum criteria for required measures.

(a) Procedures for carrying out a continuing public education effort to increase significantly public awareness of the energy and cost savings which are likely to result from the implementation, including implementation through group efforts, of energy measures shall:

(1) Be under implementation; and

(2) Provide a public awareness program regarding energy audits with respect to buildings and industrial plants which at least includes a campaign publicizing the availability of energy audits in at least one urbanized area with a population greater than 50,000 or in the largest urbanized area within a State if the State does not have an urbanized area with a population of 50,000 or more. The campaign must make clear reference to the range of technical assistance available to the owner or occupant of the building or industrial plant and provide a point of contact with the organization administering the energy audits, including a telephone number;

(b) Procedures for carrying out a continuing public education effort to increase significantly public awareness of information and other assistance, including information as to available technical assistance, which is or may be available with respect to the planning, financing, installing, and monitoring the effectiveness of measures likely to conserve, or to improve efficiency in the use of energy, including energy measures shall:

(1) Be in place and under implementation; and

(2) Contain the elements considered appropriate by a State.

(c) Procedures for ensuring that effective coordination exists among various local, State and Federal energy conservation programs within and affecting such State, including the comprehensive energy extension service program, under 10 CFR Part 465, shall:

(1) Be in place and under implementation; and

(2) Contain provisions for activities considered appropriate by a State such as coordinating local and State agencies to prevent duplication of energy conservation activities or conducting public hearings to ensure that individuals and groups concerned with program measures to be incorporated in a plan or supplemental plan and all other energy conservation programs in the State, shall be afforded the opportunity to paricipate in their development, implementation, and modification.

(d) Procedures for encouraging and for carrying out energy audits with respect to buildings and industrial plants shall:

(1) Be under implementation throughout all political subdivisions of the State;

(2) Be in accordance with Subpart B of the 10 CFR Part 450; and

(3) Provide and make available, to the extent feasible, Class A energy audits in at least one political subdivision for the buildings or industrial plants in at least one of the following categories and as many Class C energy audits as are practicable within the State in the remaining categories:

(i) Apartment buildings;
(ii) Educational institutions;
(iii) Hospitals;
(iv) Hotels and motels;
(v) Industrial plants;
(vi) Office buildings;
(vii) Restaurants;
(viii) Retail stores;
(ix) Transportation terminals; and
(x) Warehouses and storage facilities; and

(4) Make available Class B or C audits to all individuals, as requested by such individuals, who are occupants of residential dwelling units in a State at no direct cost to those persons.

§ 420.8 Extensions for compliance with required program measures.

An extension of time by which a required program measure must be ready for implementation may be granted if DOE determines that the extension is justified. A written request for an extension, with accompanying justification and an action plan acceptable to DOE for achieving compliance in the shortest reasonable time, shall be made to the appropriate Operations Office Manager. Any extension shall be only for the shortest reasonable time that DOE determines necessary to achieve compliance. The action plan shall contain a schedule for full compliance and shall identify and make the most reasonable commitment possible to provision of the resources necessary for achieving the scheduled compliance.

§ 420.9 Administrative review.

(a) If the Operations Office Manager intends to deny an annual State application resubmitted by the Governor according to § 420.5(b) or refuses to accept an annual State application resubmitted by the Governor after the time period referred to in § 420.5(b) has expired, the Operations Office Manager shall give notice to the Governor.

(b) If the Operations Office Manager determines that implementation of a State plan approved according to § 420.5 fails to meet the requirements of this part, the Secretary shall give notice to the Governor of his or her intent to terminate or suspend financial assistance to the grantee.

(c) The notice required by paragraphs (a) or (b) of this section shall be issued in writing by registered mail with return receipt requested and include:

(1) A statement of the reasons for the intended denial, termination or suspension of financial assistance, including an explanation of whether any amendments or other actions would result in compliance with this part;

(2) The date, place and time of a public hearing to be held by a review panel concerning the intended denial, termination or suspension of financial assistance, the hearing to be held within 15 working days after the date of receipt by the Governor of the notice; and

(3) The manner in which views may be presented.

(d) The Governor may submit written views with supporting data to the Operations Office Manager on or prior to the date of the public hearing and shall be offered an opportunity to make an oral presentation at the public hearing.

(e) No person who is a member of the SECP office shall be a member of the review panel. The review panel shall be appointed by the Operations Office Manager and shall consist of:

(1) One person generally representative of State interests other than a person who represents the interests of the State whose application is being considered;

(2) One person representative of DOE; and

(3) One person representative of the SECP target audiences in the State affected.

(f) The review panel shall consider all relevant views and data submitted on or prior to the date of the public hearing. The review panel shall submit a written report containing its findings and recommendations to the Operations Office Manager within 10 working days after the date of the public hearing.

(g) The Operations Office Manager shall submit the report, together with his or her recommendations, to the Secretary within 5 working days after receipt of the report.

(h) The Secretary shall issue a final determination, accompanied by a statement of the reasons for the actions taken, within 10 working days after receipt of the submission from the Operations Office Manager.

(i) Upon issuance of the notice referred to in paragraphs (a) and (b) of this section, the Secretary may suspend financial assistance to the grantee pending a final determination. If the Secretary makes a final determination adverse to the grantee, the Operations Office Manager may terminate continued financial assistance to the grantee.

§ 420.10 Technical assistance.

At the request of the Governor of any State to DOE and subject to the availability of personnel and funds, DOE will provide information and technical assistance to the State in connection with effectuating the purposes of this part.

§ 420.11 Reports.

Each State receiving financial assistance under this part shall submit to the Operations Office Manager:

(a) A quarterly program performance report and a quarterly financial status report. The reports shall contain such information as the Secretary may prescribe in order to monitor effectively the implementation of a plan or supplemental plan. The reports shall be submitted within 30 days following the end of each calendar year quarter.

(b) An annual energy savings report. The report shall contain such information concerning energy savings as the Secretary may prescribe and shall be submitted once a year at a time determined by the Secretary.

(Approved by the Office of Management and Budget under control numbers 1904-0026 and 1901-0127)

§ 420.12 Prohibited expenditures.

(a) No financial assistance provided to a State under this part shall be used:

(1) for construction, such as construction of mass transit systems and exclusive bus lanes, or for construction or repair of buildings or structures;

(2) to purchase land, a building or structure or any interest therein;

(3) to subsidize fares for public transportation;

(4) to subsidize utility rate demonstrations or State tax credits for energy conservation;

(5) to conduct or purchase equipment to conduct research, development or demonstration of conservation techniques and technologies not commercially available; or

(6) to purchase or install equipment or materials for energy conservation building retrofits or weatherization, except that this provision shall not prevent such financial assistance from being used to reduce the interest rate charged on loans of non-SECP funds made by a State or financial institutions to fund the purchase or installation, or both, of equipment or materials for energy conservation building retrofits or weatherization.

(b) No more than 20 percent of the financial assistance awarded to the State for this program shall be used to purchase office supplies, library materials, or other equipment whose purchase is not otherwise prohibited by this section.

(c) Demonstrations of commercially available conservation techniques and technologies are permitted, and are not subject to the prohibitions of § 420.12(a) (1) and (6), or to the limitation on equipment purchases of § 420.12(b).

(d) A State may use regular or revolving loan mechanisms to fund SECP services which are consistent with this Part and which are included in the State's approved SECP plan. The State may use loan repayments and any interest on the loan funds only for activities which are consistent with this Part and which are included in the State's approved SECP plan.

§ 420.13 Administration of financial assistance.

Grants provided under this part shall comply with applicable law including, but without limitation, the requirements of:

(a) Office of Management and Budget Circular A-97, entitled "Rules and Regulations Permitting Federal Agencies to Provide Specialized or Technical Services to State and Local Units of Government under Title III of the Intergovernmental Coordination Act of 1968;"

(b) DOE Financial Assistance Rules (10 CFR Part 600); and

(c) Other procedures which DOE may from time to time prescribe for the administration of financial assistance under this part.

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August 30, 1983

Part III

Department of Education

Pell Grant Program; Expected Family Contribution Schedule, 1984–85 Award Year; Final Rule

DEPARTMENT OF EDUCATION

34 CFR Parts 668, 674, 675, 676, 683 and 690

Pell Grant Program—Schedule of Expected Family Contributions; Student Assistance General Provisions, National Direct Student Loan Program, College Work-Study Program, Supplemental Educational Opportunity Grant Program, PLUS Program, and Pell Grant Program—Definition of Independent Student

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary issues final regulations for the Pell Grant Expected Family Contribution Schedule for the 1984–85 award year based on Section 4 of the Student Loan Consolidation and Technical Amendmants Act of 1983, Pub. L. 98–79. These regulations supersede the final regulations that were published in the **Federal Register** on May 13, 1983.

Further, the Secretary issues final regulations setting forth the definition of an "independent student" for the Pell Grant, Supplemental Educational Opportunity Grant, College Work-Study, National Direct Student Loan, Guaranteed Student Loan and PLUS Programs based on Section 4 of the same Act.

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the **Federal Register** or later if Congress takes certain adjournments. It should be noted, however, that these regulatory amendments apply only to the award of student financial assistance under the above noted programs for periods of enrollment beginning on or after July 1, 1984. If you want to know the effective date of these regulations, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Brian Kerrigan, Chief, Pell Grant Policy Section or David Morgan, Pell Grant Program Specialist, Office of Student Financial Assistance, U.S. Department of Education, [ROB–3, Room 4318], 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone (202) 472–4300.

SUPPLEMENTARY INFORMATION:

1. Pell Grant Schedule of Expected Family Contributions for the 1984–85 Award Year

Background

On May 13, 1983, the Secretary published final regulations setting forth the schedule of expected family contributions for the 1984–85 award year for the Pell Grant Program. Those regulations, in accordance with Section 482 of the Higher Education Act of 1965 as amended, made several changes to the Pell Grant expected family contribution schedule used in the 1983–84 award year, such as the exclusion of home equity, the use of state and local taxes, and a higher assessment rate for parental income.

Pell Grant Family Contribution Schedule

Section 4 of the recently enacted Student Loan Consolidation and Technical Amendments Act of 1983, Pub. L. 98–79, requires the Secretary to use, with certain specified modifications, the Pell Grant Expected Family Contribution Schedule for the 1983–84 award year for the 1984–85 award year. The modifications include an increase in the family size offset, and other changes to reflect the most recent and relevant data, such as updating the calendar years used in the 1983–84 award year schedule.

Updating the Family Size Offsets to Account for Inflation

Section 4 of the Student Loan Consolidation and Technical Amendments Act requires that the family size offsets for the 1984–85 award year be based upon the offsets used in the 1983–84 award year schedule, adjusted by a percentage change equal to the percentage increase or decrease in the Consumer Price Index for Wage Earners and Clerical Workers published by the Department of Labor, rounded to the nearest $100. The percentage change reflects the percentage difference between the arithmetic mean for the period of October 1, 1981, through September 30, 1982, and the arithmetic mean for the period of October 1, 1982, through September 30, 1983. The Secretay is directed to publish the family size offset tables for the 1984–85 award year schedule immediately after the Secretary of Labor publishes the Consumer Price Index for September, 1983. Therefore, the family size offsets will be published in the **Federal Register** at that time.

2. Definition of "Independent Student"

Section 4 of the Student Loan Consolidation and Technical Amendments Act provides that the Secretary use the criteria for determining independent student status in effect for the 1982–83 award year for the 1984–85 and 1985–86 award years. These criteria will be published as part of the Student Assistance General Provisions and will apply to the Pell Grant, Supplemental Educational Opportunity Grant, College Work-Study, National Direct Student Loan and PLUS Programs. In 1984–85, the years of reference for determining independent student status are 1983 and 1984; however, for married students, the single relevant year is 1984.

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291.

They are classified as non-major because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act Certification

The Secretary certifies that these regulations will not have a significant economic impact on a substantial number of small entities. These regulations establish the definition of an independent student used in determining student eligibility for financial assistance under the title IV aid programs and revise the Pell Grant family contribution schedule. They do not have an impact on small entities.

List of Subjects

34 CFR Part 690

Administrative practice and procedure, Education, Education of disadvantaged, Grant programs—education, Student aid.

34 CFR Part 668

Administrative practice and procedure, Colleges and universities, Consumer protection, Education, Loan programs, Education, Grant programs—education, Student aid.

34 CFR Parts 674, 675, and 676

Colleges and universities, Education, Grant programs—education, Loan programs, Education, Student aid.

34 CFR Part 683

Administrative practices and procedures, Education, Loan programs—education, Student aid, Vocational education.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these regulations.

(Catalogue of Federal Domestic Assistance Numbers: Supplemental Educational Opportunity Grant Program, 84.007; Guaranteed Student Loan Program, 84.032; PLUS Program, 84.032; College Work-Study Program, 84.033; National Direct Student Loan Program, 84.038; Pell Grant Program, 84.063)

Dated: August 24, 1983.

T. H. Bell,

Secretary of Education.

The Secretary amends Title 34 of the Code of Federal Regulations as set forth below:

PART 690—PELL GRANT PROGRAM

1. Subparts C and D of Part 690 are revised to read as follows:

Subpart C—Expected Family Contribution for a Dependent Student

Sec.
690.31 Indicators of financial strength.
690.32 Special definitions.
690.33 Effective family income.
690.33a Effective student income.
690.34 Computation of the expected family contribution for a dependent student from expected family income.
690.34a Computation of the expected family contribution for a dependent student from the effective student income.
690.35 Computation of the expected contribution from parental assets.
690.36 Computation of the expected contribution from effective family income and parental assets, adjusted for the number of family membes enrolled in programs of postsecondary education.
690.37 Computation of the expected contribution from the assets of the dependent student (and spouse).
690.38 Computation of the total expected family contribution.
690.39 Extraordinary circumstances affecting the expected family contribution determination for a dependent student.

Subpart D—Expected Family Contribution for an Independent Student

690.41 Indicators of financial strength.
690.42 Special definitions.
690.43 Effective family income.
690.44 Computation of the expected family contribution for an independent student from the effective family income.
690.45 Computation of the expected contribution from the assets of the independent student (and spouse).
690.46 Computation of the total expected contribution from the income and assets of the independent student (and spouse), adjusted for the number of family members enrolled in programs of postsecondary education.
690.47 [Reserved]
690.48 Extraordinary circumstances affecting the expected family contribution determination for an independent student.

(Section 5 of Pub. L. 97-301 as amended by Section 4 of Pub. L. 98-79)

Subpart C—Expected Family Contribution for a Dependent Student

§ 690.31 Indicators of financial strength.

"Expected family contribution" for a dependent student means the amount that the student and his or her family may reasonably be expected to contribute toward the cost of his or her education for an award period. Each of the following elements of financial strength will be considered in determining the family contribution for a dependent student;

(a) The effective incomes of (1) the student and his or her spouse, and (2) the student's parent(s).

(b) The number of family members in the household of the student's parent(s).

(c) The number of family members in the household of the student's parent(s) who are enrolled in, on at least a half-time basis, a program of postsecondary education.

(d) The assets of (1) the student and his or her spouse, and (2) the student's parent(s).

(e) The marital status of the student.

(f) The unusual medical expenses of the student's parents.

(g) The additional expenses incurred when both parents of the student are employed or when a family is headed by a single parent who is employed.

(h) The tuition paid by the student's parents for dependent children, other than the student, who are enrolled in an elementary or secondary school.

(Sec. 5, Pub. L. 97-301 as amended by sec. 4, Pub. L. 98-79)

§ 690.32 Special definitions.

For purposes of this subpart:

"Assets" means cash on hand, including amounts in checking and savings accounts, trusts, stocks, bonds, other securities, real estate, home (if owned), income producing property, business equipment, and business inventory. However, for Native American students, the following shall not be considered as an asset of the student or his or her family in determining the expected family contribution:

(a) Any property received under the Distribution of Judgment Funds Act (25 U.S.C. 1401, et seq.), the Alaska Native Claims Settlement Act (43 U.S.C. 1601, et seq), or the Maine Indians Claims Settlement Act (25 U.S.C. 1721, et seq.).

(b) Any property that may not be sold or encumbered without the consent of the Secretary of Interior, or

(c) Any other property held in trust for the student or his family by the United States Government.

"Business assets" means property that is used in the operation of a trade or business, including real estate, inventories, buildings, machinery and other equipment, patents, franchise rights, and copyrights.

"Dependent of the student's parents" means:

(a) The student,

(b) Any of the student's dependent children,

(c) Dependent children of the student's parents including those children who have been determined as to be "dependent students" when applying for Title IV student assistance, and

(d) Other persons (except the student's spouse) who live with and receive more than one-half of their support from the parents and will continue to receive more than half of their support from the parents during the 1984–85 award year.

"Dependent student" means any student who does not qualify as an independent student as defined in 34 CFR 668.1a.

"Dependent student offset" means (a) an offset from the effective income of a dependent student and his or her spouse to meet the basic needs of the student and spouse, plus (b) the portion of negative parental discretionary income that will not be used to offset the normal contribution from parental assets.

"Effective family income" and "effective income of the student and spouse" are described in §§ 690.33 and 690.33a respectively.

"Employment expense offset" means an allowance to meet expenses relating to employment when both parents are employed or when a parent qualifies as a surviving spouse or as head of a household under section 2 of the Internal Revenue Code.

"Family size offset" means an allowance to meet the subsistence expenses of a family, including food, shelter, clothing, and other basic needs. This offset is derived from the "Weighted Average Thresholds at the Low Income Level," as developed by the Social Security Administration.

"Farm assets" means any property owned and used in the operation of a farm for profit, including real estate, livestock, livestock products, crops, farm machinery, and other equipment inventories. A farm is not considered to be operated for profit if crops or livestock are raised mainly for the use of the family, even if some income is derived from incidental sales.

"Federal income tax" means (a) the tax on income paid to the U.S. Government or (b) the tax on income paid to the Governments of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands under the laws applicable to those jurisdictions, or (c) the comparable taxes paid to the central government of a foreign country.

"Legal guardian" means an individual who has been appointed by a court to be a legal guardian of a person and who is specifically required by the court to use his or her own financial resources to support that person.

"Medical expenses" means unreimbursed medical and dental expenses, except premiums for medical insurance, that may be deducted under section 213 of the Internal Revenue Code that were paid in 1983, unless the student files an application with the Secretary under the provisions of § 690.39. In that case the expenses reported are those paid in 1984.

"Net assets" means the current market value at the time of application of the assets included in the definition of "assets" minus the outstanding liabilities (indebtedness) against those assets.

"Parent" means the student's mother, father or legal guardian. An adoptive parent is considered to be the student's mother or father.

(Section 5 of Pub. L. 97-301 as amended by Section 4 of Pub. L. 98-79)

§ 690.33 Effective family income.

(a) Effective family income is the annual adjusted family income minus the Federal income taxes paid or payable for the year that adjusted gross income is used in the calculation of the student's Pell Grant.

(b) "Annual adjusted family income" means, except as provided in paragraphs (c), (d), (e), (f), and (g) of this section, and § 690.39,—

(1) The sum received in 1983 by the student's parents from—

(i) Adjusted gross income, as defined in section 62 of the Internal Revenue Code;

(ii) Investment income upon which no Federal income tax need be paid. An example of such income is the interest on municipal bonds; and

(iii) Other income upon which no Federal income tax is paid except for Social Security educational benefits received on account of the student. Examples of income to be reported include child support payments and income from income maintenance programs such as welfare benefits.

(2) One-half of any veteran's benefits to be paid to the student under chapters 34 and 35 of the United States Code for the 1984-85 award year.

(c) For a Native American student, the annual adjusted family income does not include the income received by the student's parents under the Distribution of Judgment Funds Act (25 U.S.C. 1401, et seq.), the Alaska Native Claims Settlement Act (43 U.S.C. 1601, et seq.), or the Maine Indians Claims Settlement Act (25 U.S.C 1721, et seq.)

(d) For a student whose parents are divorced or separated, the following procedures apply for reporting a parent's income to determine the annual adjusted family income—

(1) Report only the income, as described in paragraph (b) of this section, of the parent with whom the student resided for the greater portion of the 12 month period preceding the date of the application.

(2) If the preceding criterion does not apply, report only the income of the parent who provided the greater portion of the student's support for the 12 month period preceding the date of application.

(3) If neither of the preceding criteria apply, include only the income of the parent who provided the greater support during the most recent calendar year for which parental support was provided.

(e) If either of the parents have died, the student shall report only the income of the surviving parent. If both parents have died, the student shall not report any parental income.

(f) The following rule applies if either a parent whose income is taken into account under paragraph (d) of this section, or a parent who is a widow or widower and whose income is taken into account under paragraph (d)(3) of this section, has remarried. The income of that parent's spouse shall be included in determining the student's annual adjusted family income if, in either 1983 or 1984, the student—

(1) Has received or will receive financial assistance of more than $750 in either of those years from that spouse, or

(2) Has lived or will live for more than six weeks in either of those years in the home of the parent and that spouse.

(g) The annual adjusted family income does not include any student financial assistance except those veteran's benefits cited in paragraph (b)(2) of this section.

(Section 5 of Pub. L. 97-301 as amended by Section 4 of Pub. L. 98-79)

§ 690.33a Effective student income.

(a) Effective student income is the annual adjusted income of the student (and spouse for a married student) minus the Federal income taxes paid or payable for the year that adjusted gross income is used in the calculation of the student's Pell Grant. However, if estimated income is used, as provided by paragraph (f) of this section, estimated income taxes will not be subtracted in determining the effective student income.

(b) "Annual adjusted income of the student and spouse" means, except as provided in paragraphs (c), (d), (e) and (f) of this section and § 690.39, the sum received in 1983 by the student and spouse from—

(1) Adjusted gross income, as defined in section 62 of the Internal Revenue Code;

(2) Investment income upon which no income tax need be paid. An example of such income is the interest on municipal bonds; and

(3) Other income upon which no Federal income tax is paid except for Social Security educational benefits paid to the student. Examples of such income include child support payments, and income from income maintenance programs such as welfare benefits.

(c) For a Native American student, the annual adjusted income of the student and spouse does not include the income received by the student or spouse under the Distribution of Judgment Funds Act (25 U.S.C. 1401, et seq.), the Alaska Native Claims Settlement Act (43 U.S.C. 1601, et seq.), or the Maine Indians Claims Settlement Act (25 U.S.C. 1721, et seq.).

(d) If a student is divorced or separated, or if his or her spouse has died, the spouse's income shall not be considered in determining the "annual adjusted gross income of the student and spouse".

(e) The annual adjusted income of the student and spouse does not include any student financial assistance.

(f) If a student estimates that his or her income plus the income of his or her spouse, in the period of June 1, 1984 through May 31, 1985 will not exceed 60 percent of effective student income for 1983, effective student income will be the income estimated for that period. Estimated income includes only the income categories listed in paragraph (b) of this section.

(Section 5 of Pub. L. 97-301 as amended by Section 4 of Pub. L. 98-79)

§ 690.34 Computation of the expected family contribution for a dependent student from the effective family income.

The expected family contribution for a dependent student from effective family income is calculated as follows:

(a) Determine the parents' discretionary income by deducting the following offsets from the effective family income:

(1) (i) A family size offset. (The Secretary determines the amount of the family size offsets in accordance with section 5 of the Student Financial Assistance Technical Amendments Act of 1982 as amended by the Student Loan Consolidation and Technical Amendments Act of 1983. The Secretary

publishes a table in the Federal Register setting forth the offsets immediately after the Secretary of Labor publishes the Consumer Price Index for September.)

(ii) In determining the family size, the following rules apply—

(A) If the parents are not divorced or separated, family members include the student's parents, and the dependents of the student's parents.

(B) If the parents are divorced or separated, family members include the parent whose income is included in computing the effective family income and that parent's dependents.

(C) If the parents are divorced and the parent whose income is included in computing the effective family income has remarried, or if the parent was a widow or widower who has remarried, family members also include, in addition to those people referenced in paragraph (a)(1)(ii)(B) of this section, the new spouse and any dependents of the new spouse if that spouse's income is included in determining the effective family income.

(2) An unusual expense offset equal to the amount by which the sum of unreimbursed medical and dental expenses exceeds 20 percent of the effective income of the parents. The expenses that may be reported are those expenses paid by the student's parents during 1983, unless the student files an application with the Secretary under the provisions of § 690.39. In that case, the expenses reported will be those paid in 1984. The expenses of both parents are included only if the incomes of both are subject to inclusion in determining the effective family income. Similarly, a stepparent's expenses are included only if his or her income was subject to inclusion.

(3) An employment expense offset in the amount specified as follows—

(i) If both parents were employed in the year for which their income is reported and both have their incomes reported in determining the expected family contribution, use the lesser of $1,500 or 50 percent of the earned income (income earned by work) of the parent with the lesser earned income.

(ii) If a parent qualifies as a head of household as defined in section 2 of the Internal Revenue Code, use the lesser of $1,500 or 50 percent of his or her earned income. The earned income figure to be used in all cases is that figure for 1983 unless the student files an application with the Secretary under the provisions of § 690.39. In that case, the figure to be used is the one for 1984.

(4) An educational expense offset equal to the tuition paid by the student's parents for dependent children, other than the student, enrolled in elementary or secondary school. The tuition which may be reported is the tuition paid in 1983 unless the student files an application with the Secretary under the provisions of § 690.39. In that case, the tuition reported will be that paid in 1984.

(b) If the parents' discretionary income is a positive amount, determine the expected contribution from the effective family income according to the following chart. If the parent's discretionary income is negative, there is no expected contribution from income.

Discretionary income	Expected contribution
$0 to $5,000	11% of discretionary income.
$5,001 to 10,000	$550 + 13% of amount over $5,000.
$10,001 to 15,000	$1,200 + 18% of amount over $10,000.
$15,001 and above	$2,100 + 25% of amount over $15,000.

(Section 5 of Pub. L. 97–301 as amended by Section 4 of Pub. L. 98–79)

§ 690.34a Computation of the expected family contribution for a dependent student from the effective student income.

The expected family contribution for a dependent student from effective student income is calculated as follows:

(a) Determine the student's discretionary income by deducting from the effective student income the relevant dependent student offset.

(1) If the parental discretionary income is positive, the dependent student offset, which is derived from the family size offset, will be the amount published in the Federal Register along with the family size offset.

(See § 690.34(a)(1)(i))

(2) If the parental discretionary income is negative, the relevant offset in paragraph (a)(1) of this section is increased by the amount of negative parental discretionary income that remains after subtracting the amount of the negative parental discretionary income that will be used as an offset against the contribution from parental assets in §690.35(d).

(b) If the student's discretionary income is a positive amount, multiply it by one of the following figures to determine the expected contribution from effective student income:

(1) 75 percent for the single dependent student, or

(2) 25 percent for the married dependent student.

(c) If the student's discretionary income is negative, there is no expected contribution from the effective student income.

(Section 5 of Pub. L. 97–301 as amended by Section 4 of Pub. L. 98–79)

§ 690.35 Computation of the expected contribution from parental assets.

The expected contribution from parental assets is determined in the following manner:

(a) If the parental assets include a principal place of residence, deduct $25,000 from the net value of the principal place of residence. If this subtraction produces a negative number, it shall be changed to zero.

(b) If the parental assets include assets other than a principal place of residence and other than farm and business assets, deduct $25,000 from the net value of those other assets. If this subtraction produces a negative number, it shall be change to zero.

(c)(1) If the parental assets include farm and/or business assets, deduct $80,000 from the net value of the farm and/or business assets. If this subtraction produces a negative number, it shall be changed to zero.

(2) If the sum of the farm and business deduction and the deductions in paragraph (a) and (b) of this section exceeds $100,000, the farm and business deduction shall be reduced by the amount that that sum exceeds $100,000.

(d)(1) Normally, the expected contribution from parental assets equals five percent of the total of the results obtained in paragraph (a), (b), and (c) of this section.

(2) However, if the calculation of discretionary income required by § 690.34(a) produces a negative number, the expected contribution from parental assets, calculated under paragraph (d)(1) of this section, shall be reduced by the amount of that negative discretionary income. If this subtraction produces a negative number, it shall be changed to zero.

(e)(1) If the student's parents are separated, or divorced and not remarried, only the assets of the parent whose income is included in computing annual adjusted family income shall be considered.

(2) However, if that parent has remarried, or if the parent was a widow or widower who has remarried, and the parent's spouse's income also is included under § 690.33, the assets of that parent's spouse shall also be included.

(Section 5 of Pub. L. 97–301 as amended by Section 4 of Pub. L. 98–79)

§ 690.36 Computation of the expected contribution from effective family income and parental assets, adjusted for the number of family members enrolled in programs of postsecondary education.

(a) For each grant, the amount expected from effective family income as determined in § 690.34(b) is added to the amount expected from parental assets as determined in § 690.35.

(b)(1) For each grant, the combined expectation determined in paragraph (a) of this section is adjusted in the following manner for the number of family members who will be attending, on at least a half-time basis, a program of postsecondary education during the award period for which Pell Grant assistance is requested:

Number of family members enrolled in programs of postsecondary education	Expected contribution per student from combined contributions
1	100 percent of the contribution determined in paragraph (a).
2	70 percent of the contribution determined in paragraph (a).
3	50 percent of the contribution determined in paragraph (a)
4 or more	40 percent of the contribution determined in paragraph (a).

(2) Family members are those persons referenced in § 690.34(a)(1).

(Section 5 of Pub. L. 97–301 as amended by Section 4 of Pub. L. 98–79)

§ 690.37 Computation of the expected contribution from the assets of the dependent student (and spouse).

(a) The expected contribution from the net assets of a single dependent student equals 33 percent of the amount of those assets.

(b) The expected contribution from the assets of the married dependent student and spouse is determined in the following manner:

(1) Deduct an asset reserve of $25,000 from the net assets. If this subtraction produces a negative number, it shall be changed to zero.

(2) The expected contribution from the net assets of the dependent student and spouse equals five percent of the remainder obtained in paragaraph (b)(1) of this section.

(c) If the married dependent student is separated, only his or her assets shall be considered.

(Section 5 of Pub. L. 97–301 as amended by Section 4 of Pub. L. 98–79)

§ 690.38 Computation of the total expected family contribution.

For each grant the total expected family contribution is the sum of—

(a) The expected contribution from the effective family income and parental assets as determined in § 690.36,

(b) The expected contribution from effective student income as determined in § 690.34a, and

(c) The expected contribution from the student's (and spouse's) assets as determined in § 690.37.

(Section 5 of Pub. L. 97–301 as amended by Section 4 of Pub. L. 98–79)

§ 690.39 Extraordinary circumstances affecting the expected family contribution determination for a dependent student.

(a) A student may submit an application to the Secretary for determination of his or her expected family contribution using income data from 1984 for effective family income, if—

(1) A parent or stepparent whose 1983 income from work must be reported under § 690.33 has lost his or her job for at least 10 weeks during 1984,

(2) A parent or stepparent whose 1983 income from work must be reported under § 690.33 has been unable to pursue normal income-producing activities for at least 10 weeks during 1984 because of the occurrence—in 1983 or 1984— of (i) a disability, or (ii) a natural disaster,

(3) A parent or stepparent whose income must be reported under § 690.33 received unemployment compensation or nontaxable income in 1983 (that would be used in the calculation of the student's expected family contribution) and had a complete loss for at least 10 weeks in 1984 of one of those benefits. A nontaxable benefit, for purposes of this paragraph, must be paid by a public or private agency, a company, or a person because of a court order. Types of nontaxable benefits would include Social Security benefits, welfare, court ordered child support, etc.

(4) The parent(s) of the student have become separated or divorced after the student submitted his or her application. If such a separation or divorce is between a parent and a stepparent, the stepparent's income must have been reportable on the previous application under § 690.33 for this condition to apply, or

(5) A parent or stepparent whose 1983 income must be reported under § 690.33 has died after the submission of an earlier application for 1984–85. However, if the parent referred to in this paragraph is the last surviving parent with whom the student has or will have a dependency relationship according to § 690.42, the student must file an application under § 690.48(a)(7) if he or she wishes to use income data from 1984.

(b) For an application submitted under paragraph (a) of this section, the student (and parent) shall include the income already received for 1984 and an estimate of the income to be received for the remainder of the year.

(c) A student may submit a revised application to reflect changes in asset amounts reported on the previously submitted application if the student or his or her family has suffered a loss of or damage to assets resulting from a natural disaster in an area that has been declared a national disaster area by the President of the United States.

(Section 5 of Pub. L. 97–301 as amended by Section 4 of Pub. L. 98–79)

Subpart D–Expected Family Contribution for an Independent Student

§ 690.41 Indicators of financial strength.

"Expected family contribution" for an independent student means the amount that the student and his or her spouse may reasonably be expected to contribute toward the cost of his or her education for an award period. Each of the following elements of financial strength will be considered in determining the family contribution for an independent student;

(a) The effective family income of the independent student and spouse.

(b) The number of family members in the household of the student and spouse.

(c) The number of family members in the household of the student and spouse who are enrolled in, on at least a half-time basis, a program of postsecondary education.

(d) The assets of the student and spouse.

(e) The unusual medical expenses of the student and spouse.

(f) The additional expenses incurred when both the student and spouse are employed or when the employed student qualified as a surviving spouse or as head of a household under section 2 of the Internal Revenue Code.

(g) The tuition paid by the student or spouse for dependent children who are enrolled in an elementary or secondary school.

(Section 5 of Pub. L. 97–301 as amended by Section 4 of Pub. L. 98–79)

§ 690.42 Special definitions.

The definitions of "assets", "business assets", "farm assets", "family size offset", "Federal income tax", "legal guardian", "local income tax", "medical expense", "net assets", and "parent", are set forth in § 690.32.

"Dependent" means (a) the student's spouse (unless separated or divorced

from the student), (b) any of the student's or spouse's children who qualify as dependent students (with respect to the student or spouse) and are attending an institution of higher education on at least a halftime basis, (c) other dependent children of the student or spouse, and (d) other persons who live with and receive more than one-half of their support from the student or spouse and will continue to receive more than one-half of their support from the student or spouse during the 1984–85 award period.

"Effective family income" is described in § 690.43.

"Employment expense offset" means an allowance to meet expenses relating to employment when both the independent student and his or her spouse are employed or when the independent student qualifies as a surviving spouse or as head of a household under section 2 of the Internal Revenue Code.

"Independent student" is a student who meets the definition set forth in 34 CFR 668.1a.

(Section 5 of Pub. L. 97–301 as amended by Section 4 of Pub. L. 98–79)

§ 690.43 Effective family income.

(a) Effective family income is the annual adjusted family income minus the Federal income tax paid or payable for the year that adjusted gross income is used in the calculation of the student's Pell Grant.

(b) "Annual adjusted family income" means, except as provided in paragraphs (c), (d), and (e) of this section and § 690.48—

(1) The sum received in 1983 by the student and spouse from—

(i) Adjusted gross income, as defined in section 62 of the Internal Revenue Code;

(ii) Investment income upon which no Federal income tax is paid. An example of such income is the interest on municipal bonds; and

(iii) Other income upon which no Federal income tax is paid except for Social Security educational benefits paid to the student. Examples of such income include child support payments, and income from income maintenance programs such as welfare benefits.

(2) One-half of any veteran's benefits to be paid to a student under Chapters 34 and 35 of Title 38, United States Code for the 1984–85 award year.

(c) For a Native American student, the annual adjusted family income does not include the income received by the student or spouse under the Distribution of Judgment Funds Act (25 U.S.C. 1401, et seq.), the Alaska Native Claims Settlement Act (43 U.S.C. 1601, et seq.), or the Maine Indians Claims Settlement Act (25 U.S.C. 1721, et seq.).

(d) In the case of a student who is divorced or separated, or whose spouse has died, the spouse's income shall not be considered in determining the annual adjusted family income.

(e) The annual adjusted family income does not include any student financial assistance.

(Section 5 of Pub. L. 97–301 as amended by Section 4 of Pub. L. 98–79)

§ 690.44 Computation of the expected family contribution for an independent student from the effective family income.

The expected family contribution for the independent student from effective family income is calculated as follows:

(a) Determine discretionary income by deducting the following offsets from the effective family income.

(1)(i) A family size offset. (The Secretary determines the amount of the family size offsets in accordance with section 5 of the Student Financial Assistance Technical Amendments Act of 1982 as amended by the Student Loan Consolidation and Technical Amendments Act of 1983. The Secretary publishes a table in the **Federal Register** setting forth the offsets immediately after the Secretary of Labor publishes the Consumer Price Index for September.)

(ii) In determining the family size, the following rules apply—

(A) Family members normally include the student and spouse and their dependents.

(B) However, if the student is divorced or separated, the spouse (ex-spouse) and his or her dependents are not counted in the family size.

(2) An unusual expense offset equal to the amount by which the sum of unreimbursed medical and dental expenses exceeds 20 percent of effective family income. The expenses that may be reported are those expenses paid by the student and spouse in 1983, unless the student files an application with the Secretary under the provisions of § 690.48. In that case, the expenses reported will be those paid in 1984. The expenses of both the student and spouse are included only if the incomes of both are subject to inclusion in determining the effective family income.

(3) An employment expense offset in the amount specified as follows—

(i) If both the student and spouse were employed in the year for which their income is reported and both have their incomes reported in determining the expected family contribution, use the lesser of $1,500 or 50 percent of the earned income (income earned by work) of the person with the lesser earned income.

(ii) If a student qualifies as a head of household as defined in section 2 of the Internal Revenue Code, use the lesser of $1,500 or 50 percent of his or her earned income.

The earned income figure to be used in all cases is that figure for 1983, unless the student files an application with the Secretary under the provisions of § 690.48. In that case the figure to be used is the one for 1984.

(4) An educational expense offset equal to the tuition paid by the student and spouse for dependent children enrolled in elementary or secondary school. The tuition that may be reported is the tuition paid in 1983, unless the student files an application with the Secretary under the provisions of § 690.48. In that case the tuition reported will be that paid in 1984.

(b) If the discretionary income is a positive amount, multiply it by one of the following figures to determine the expected family contribution from the effective family income of the student and spouse;

(1) 75 percent for the single independent student with no dependents; or

(2) 25 percent for the independent student with one or more dependents (including a spouse).

If the discretionary income is negative, there is no expected family contribution from effective family income.

(Section 5 of Pub. L. 97–301 as amended by Section 4 of Pub. L. 98–79)

§ 690.45 Computation of the expected contribution from the assets of the independent student (and spouse).

(a)(1) Normally, the expected contribution from the net assets of the single independent student with no dependents equals 33 percent of the amount of those assets.

(2) However, if the calculation of discretionary income required by § 690.44(a) produces a negative number, the expected contribution from the student's assets calculated under paragraph (a)(1) of this section shall be reduced by the amount of that negative discretionary income. If this subtraction produces a negative number, it shall be changed to zero.

(b) For an independent student with dependents, the expected contribution from the assets of the student (and spouse) is determined in the following manner:

(1) If the assets include a principal place of residence, deduct $25,000 from the net value of the principal place of residence. If this subtraction produces a

negative number, it shall be changed to zero.

(2) If the assets include assets other than a principal place of residence and other than farm and business assets, deduct $25,000 from the net value of those other assets. If this subtraction produces a negative number, it shall be changed to zero.

(3)(i) If the assets include farm and/or business assets, deduct $80,000 from the net value of the farm and/or business assets. If this subtraction produces a negative number, it shall be changed to zero.

(ii) If the sum of the farm and business deduction and the deductions in paragraphs (b) (1) and (2) of this section exceeds $100,000, the farm and business deduction shall be reduced by the amount that that sum exceeds $100,000.

(4)(i) Normally, the expected contribution from the assets of the independent student with dependents equals five percent of the total of the results obtained in paragraphs (b) (1), (2), and (3) of this section.

(ii) However, if the calculation of discretionary income required by § 690.44(a) produces a negative number, the expected contribution from the student's (and spouse's) assets calculated under paragraph (b)(4)(i) of this section shall be reduced by the amount of that negative discretionary income. If this subtraction produces a negative number, it shall be reduced to zero.

(5) If the married independent student with dependents is separated, only his or her assets shall be considered.

(Section 5 of Pub. L. 97-301 as amended by Section 4 of Pub. L. 98-79)

§ 690.46 Computation of the total expected contribution from the income and assets of the independent student (and spouse), adjusted for the number of family members enrolled in programs of post-secondary education.

(a) For each grant, the amount expected from family income as determined in § 690.44 is added to the amount expected from assets as determined in § 690.45.

(b) For each grant, the combined expectation determined in paragraph (a) of this section is adjusted in the following manner for the number of family members who will be attending, on at least a half-time basis, a program of postsecondary education during the award period for which Pell Grant assistance is requested:

Number of family members enrolled in programs of postsecondary education	Expected contribution per student from combined contributions
1	100 percent of the contribution determined in paragraph (a).
2	70 percent of the contribution determined in paragraph (a).
3	50 percent of the contribution determined in paragraph (a).
4	40 percent of the contribution determined in paragraph (a).

Family members are those persons referenced in § 690.44(a)(1).

(Section 5 of Pub. L. 97-301 as amended by Section 4 of Pub L. 98-79)

§ 690.47 [Reserved]

§ 690.48 Extraordinary circumstances affecting the expected family contribution determination for an independent student.

(a) A student may submit an application to the Secretary for determination of his or her expected family contribution using income data from 1984 for effective family income if—

(1) The student was employed full-time in 1983 (at least 35 hours per week for a minimum of 30 weeks during 1983) and is no longer employed full-time,

(2) A spouse whose 1983 income from work must be reported under § 690.43 has lost his or her job for at least 10 weeks during 1984,

(3) The student or spouse whose 1983 income from work must be reported under § 690.43 has been unable to pursue normal income-producing activities for at least 10 weeks during 1984 because of the occurrence—in 1983 or 1984—of (i) a disability or (ii) a natural disaster,

(4) The student or spouse whose income must be reported under § 690.43 received unemployment compensation or nontaxable income in 1983 (that would be used in the calculation of the student's expected family contribution) and had a complete loss for at least 10 weeks in 1984 of one of those benefits. A nontaxable benefit, for purposes of this paragraph, must be paid by a public or private agency, a company, or a person because of a court order. Types of nontaxable benefits would include welfare, court ordered child support, etc.,

(5) The student has become separated or divorced after he or she submitted his or her application,

(6) A spouse whose 1983 income must be reported under § 690.43 has died after the submission of an earlier application for 1984 or 1985, or

(7) The student's last surviving parent with whom the student has or will have a dependency relationship according to § 690.42 has died.

(b) For an application submitted under paragraph (a), the student shall include the income already received for 1984 and an estimate of the income to be received for the remainder of that year.

(c) A student may submit a revised application to reflect changes in asset amounts reported on the previously submitted application if the student or his or her spouse has suffered a loss of or damage to assets resulting from a natural disaster in an area that has been declared a national disaster area by the President of the United States.

(Section 5 of Pub. L. 97-301 as amended by Section 4 of Pub. L. 98-79)

PART 668—STUDENT ASSISTANCE GENERAL PROVISIONS

2. A new § 668.1a is added to read as follows:

§ 668.1a Independent student.

(a) An independent student is a student whom the Secretary considers to be independent of his or her parents for purposes of the Pell Grant, Supplemental Educational Opportunity Grant (SEOG), College Work-Study (CWS), National Direct Student Loan (NDSL), Guaranteed Student Loan (GSL), and PLUS Programs. The determination of whether the student is independent is based on the criteria set forth in paragraphs (b) through (d) of this section.

(b) *General criteria.* Subject to the provisions of paragraphs (c) and (d) of this section, a student qualifies as an independent student for an award year if the student—

(1) Does not, during any of the relevant years described in paragraph (c) of this section, live for more than six weeks in the home of his or her parent(s) for whom income must be reported;

(2) Is not, for any of the relevant years described in paragraph (c) of this section, claimed as a dependent for Federal income tax purposes by such parent(s); and

(3) Does not, during any of the relevant years described in paragraph (c) of this section, receive financial assistance of more than $750 from such parent(s).

(c) *Relevant years.* Except as provided in paragraph (d) of this section, to qualify as an independent student for any award year—

(1) An unmarried student must satisfy the criteria set forth in paragraph (b) of this section for the first calendar year of

an award year and the preceding calendar year; and

(2) A married student must satisfy the criteria set forth in paragraph (b) of this section for the first calendar year of the award year

(d) The Secretary considers any student to be an independent student if, before the end of the award year—

(1) The student's parents die; or

(2) The student is declared a ward of a court.

(e) As used in this section:

(1) "Award year" means the period of time from July 1 of one year through June 30 of the following year.

(2) "Parent" means a student's natural or adoptive mother or father. A parent also includes a student's legal guardian who has been appointed by a court and who is specifically required by the court to use his or her own resources to support the student.

(3) "Parent(s) for whom income must be reported" means a parent for whom income must be reported under § 690.33 of the Pell Grant Program regulations, 34 CFR 690.33. For this purpose, the references in § 690.33(d) to the date of the student's application shall be considered to be references to the date the student applies for a loan under the GSL or PLUS Programs or applies to have his expected family contribution determined under the Pell Grant, SEOG, CWS, or NDSL Programs.

20 U.S.C. 1062(c)(2) and Section 5 of Pub. L. 97–301 as amended by Section 4 of Pub. L. 98–79)

PARTS 674, 675 AND 676—[AMENDED]

§§ 674.2, 675.2, and 676.2 [Amended]

3. Sections 674.2, 675.2, and 676.2, respectively, are each amended by revising the definition heading of "Independent student (effective July 1, 1983)" to read "Independent student (effective July 1, 1983 through June 30, 1984)", and by adding immediately following that definition the definition of "Independent student (effective July 1, 1984)", to read as follows:

Independent student (effective July 1, 1984): A student who meets the definition of an "independent student" set forth in 34 CFR 668.1a.

PART 683—[AMENDED]

§ 683.10 [Amended]

4. Section 683.10 is amended by adding, in alphabetical order, the definition "Independent student (effective July 1, 1984)" to read as follows:

Independent student (effective July 1, 1984): A student who qualifies as an "independent student" under 34 CFR 668.1a.

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Part IV

Department of Energy

Office of Conservation and Renewable Energy

Energy Conservation Program for Consumer Products; Final Rule for Refrigerators and Refrigerator-Freezers, Freezers, Water Heaters, Room Air Conditioners, Furnaces and Central Air Conditioners

DEPARTMENT OF ENERGY
Office of Conservation and Renewable Energy
10 CFR Part 430
[Docket No. CAS–RM–76–110]

Energy Conservation Program for Consumer Products; Final Rule for Refrigerators and Refrigerator-Freezers, Freezers, Water Heaters, Room Air Conditioners, Furnaces and Central Air Conditioners

AGENCY: Office of Conservation and Renewable Energy, Energy.

ACTION: Final rule.

SUMMARY: As a general matter, the Energy Policy and Conservation Act, as amended, requires the Department of Energy to prescribe an energy efficiency standard for each of thirteen major household appliances, unless DOE determines by rule that a standard for a product will not result in significant conservation of energy, is not technologically feasible, or is not economically justified. Under the Act, any Federal rule, whether prescribing a standard or determining no standard, would preempt State and local standards and any other requirements with respect to energy efficiency or use of these products.

On April 2, 1982, DOE published a proposed rule that would determine that for eight products an energy efficiency standard would not result in significant conservation of energy or be economically justified. The April 2 proposed rule also proposed procedures governing how States could petition for exemption from the preemption of State and local efficiency or energy use standards and how manufacturers could petition to preempt State or local efficiency or energy use standards for which there were no preempting Federal rules.

DOE published a final rule on December 22, 1982, with respect to clothes dryers and kitchen ranges and ovens, two of the eight products covered by the April 2 notice, in which DOE determined that an energy efficiency standard for either of these products would not result in significant conservation of energy and would not be economically justified. In addition, DOE adopted at that time final procedures governing State and manufacturer petitions.

Today's final rule reflects DOE's final determinations with respect to the other six products: refrigerators and refrigerator-freezers, freezers, water heaters, room air conditioners, furnaces and central air conditioners. For each of these products, except central air conditioners, DOE finds that an energy efficiency standard would not result in significant conservation of energy and would not be economically justified. With respect to the sixth product, central air conditioners, DOE finds that an energy efficiency standard would result in a significant conservation of energy but would not be economically justified.

DATES: Except for section 430.32, the effective date of this rule is September 29, 1983. Section 430.32 is effective February 27, 1984, except in a State that has filed pursuant to Subpart D a notice of petition before October 31, 1983, and a petition before December 28, 1983. The effective date of § 430.32 for States that have filed a petition is thirty days from the date on which DOE issues or denies a final rule concerning that petition.

FOR FURTHER INFORMATION CONTACT:
Michael J. McCabe, U.S. Department of Energy, Office of Conservation and Renewable Energy, Mail Station CE–112, Room GH–068, Forrestal Building, 1000 Independence Ave., SW., Washington, D.C. 20585 (202) 252–9127.
Lona Feldman, Assistant General Counsel for Conservation and Renewable Energy, U.S. Department of Energy, Mail Station GC–33, Room 6B–144, Forrestal Building, 1000 Independence Ave., SW., Washington, D.C. 20585 (202) 252–9507.

SUPPLEMENTARY INFORMATION:

I. Introduction

a. Authority

Part B of Title III of the Energy Policy and Conservation Act (EPCA), Pub. L. 94–163, as amended by the National Energy Conservation Policy Act (NECPA), Pub. L. 95–619,[1] creates the Energy Program for Consumer Products other than Automobiles. The consumer products subject to this program (often referred to hereafter as "covered products") are: refrigerators and refrigerator-freezers; freezers; dishwashers; clothes dryers; water heaters; room air conditioners; home heating equipment, not including furnaces; television sets; kitchen ranges and ovens; clothes washers; humidifiers and dehumidifiers; central air conditioners; and furnaces, as well as any other consumer product classified by the Secretary of Energy, if the product uses a specified minimum amount of energy. *See* section 322. The Secretary has not so classified any additional products.

Under the Act the program consists essentially of three parts: testing, labeling, and mandatory minimum energy efficiency standards. The Department of Energy (DOE or Department), in consultation with the National Bureau of Standards, is required to establish test procedures for each of the covered products. Section 323(a)(2). The purpose of the test procedures is to provide for test results that reflect the energy efficiency, energy use, or estimated annual operating costs of each of the covered products. Section 323(b)(1). All test procedures were required to be adopted not later than May 1, 1978. Section 323(a) (4) and (6). A test procedure is not required if DOE determined by rule that one could not be developed. Section 323(a)(6)(B). One hundred and eighty days after a test procedure for a product is adopted, no manufacturer may represent the energy consumption of or the cost of energy consumed by the product except as reflected in a test conducted according to the DOE procedure. Section 323(c). Test procedures have been prescribed relating to all products, but, on the basis of continuing review, certain classes of products do not have currently applicable test procedures.

The Federal Trade Commission (FTC) is required by the Act to prescribe rules governing the labeling of the covered products for which test procedures have been prescribed by DOE. Section 324(a). These rules are to require that each particular model of a covered product bear a label that indicates its annual operating cost and the range of estimated annual operating costs for other models of that product. Section 324(c)(1). A rule is not required under section 324 if the FTC determines that disclosure of estimated annual operating costs is not likely to assist consumers in making purchasing decisions or is not economically feasible. Section 324(c). At the present time there is an FTC rule requiring labels under the Act for the following products: room air conditioners, furnaces, clothes washers, dishwashers, water heaters, freezers, and refrigerators and refrigerator-freezers. 44 FR 66475 (November 19, 1979). The FTC has proposed a rule to require labels for central air conditioners. 45 FR 53340 (August 11, 1980).

For each of the covered products, DOE is required to establish mandatory energy efficiency standards that are designed to achieve the maximum improvement in energy efficiency that is technologically feasible and economically justified. Section 325(a)(1) and (c). The Act provides, however, that

[1] Part B of Title III of EPCA, as amended by the NECPA, is often referred to in this notice as the "Act." Part B of Title III is codified at 42 U.S.C. 2601 *et seq.*

no standard for a product is to be established if there is no test procedure for the product, or if DOE determines by rule either that establishment of a standard would not result in significant conservation of energy or that establishment of a standard is not technologically feasible or economically justified. Section 325(b). In determining whether an energy efficiency standard is economically justified, the Department is directed to determine whether the benefits of the standard exceed its burdens by weighing six specific factors, as well as any other factors DOE considers relevant. Section 325(d). The factors are:

(1) The economic impact of the standard on the manufacturers and on the consumers of the product subject to such standard;

(2) The savings in operating costs throughout the estimated average life of the covered product in the type (or class), compared to any increase in the price of, or in the initial charges for, or maintenance expenses of the covered products which are likely to result from the imposition of the standard;

(3) The total projected amount of energy savings likely to result directly from the imposition of the standard;

(4) Any lessening of the utility or the performance of the covered products likely to result from the imposition of the standard;

(5) The impact of any lessening of competition, determined in writing by the Attorney General, that is likely to result from the imposition of the standard; and

(6) The need of the Nation to conserve energy.

A rule establishing an energy efficiency standard for a product shall set different levels of efficiencies for different classes [2] of that product if they use a different kind of energy or have different capacity or performance related features that justify different levels of efficiencies. Section 325(f).

The Act specifies the priorities and procedures to be followed in adopting efficiency standards. Nine of the 13 covered products are given priority under the Act. Section 325(g). These nine products are: refrigerators and refrigerator-freezers, freezers, clothes dryers, water heaters, room air conditioners, home heating equipment (other than furnaces), kitchen ranges and ovens, central air conditioners, and furnaces.

The procedures include a requirement for an advance notice of proposed rulemaking upon which interested persons may make written comments. Section 325(i)(1). Thereafter, there is to be a notice of proposed rulemaking, upon which interested persons may make written and oral comments, including an opportunity to question those who make such comments with respect to disputed issues of material fact. Section 325(i)(3) and section 336(a)(1).

Section 327 of the Act addresses the effect of Federal rules concerning testing, labeling, and standards on State laws or regulations concerning such matters. Generally, all such State laws or regulations are superseded by the Federal rule. Section 327(a). A rule by DOE that an efficiency standard is not technologically feasible, economically justified, or likely to save significant amounts of energy is a rule that supersedes any State standard. Section 325(b). If, because there is no Federal rule, a State efficiency standard is not superseded, persons subject to it may petition DOE to have it superseded on the basis that there is no significant State or local interest sufficient to justify the regulation and such regulation unduly burdens interstate commerce. Section 327(b)(1). A State whose energy efficiency standard is superseded may petition the Department for a rule that it not be superseded, on the basis that there is a significant State or local interest to justify the standard and the State standard is a stricter standard. However, DOE cannot issue the requested rule if the State standard would unduly burden interstate commerce. Section 327(b)(3).

b. Background

The DOE published its advance notice of proposed rulemaking pursuant to section 325(i) for the nine first priority products on January 2, 1979. 44 FR 29. On December 13, 1979, the DOE published an advance notice of proposed rulemaking for dishwashers, television sets, clothes washers, and humidifiers and dehumidifiers. 44 FR 72276. An advance notice for central air conditioners (heat pumps) was published on January 23, 1980. 45 FR 5602. These advance notices were designed to present a full discussion of the Department's views concerning the standards program and the process for its implementation. DOE also set forth its views concerning the criteria for selecting classes in each product type and the maximum technologically feasible efficiency standard for each class of product. DOE specifically requested comments on all matters presented in the advance notices. Public meetings were held throughout 1979 and 1980 to solicit the views of all concerned parties.

After receiving comments on the advance notices, on June 30, 1980, the DOE set forth its first proposed rulemaking for the nine products, 45 FR 43978, (hereafter referred to as the June 1980 proposal). The June 1980 proposal set forth the DOE's proposal concerning energy efficiency standards for these covered products. It also proposed procedures for processing petitions by States that sought exemption for regulations subject to the general preemption requirements of Section 327(a) of the Act. The June 1980 proposal considered comments received in response to the advance notice on these nine products and made changes in the DOE's initial determinations concerning classes for each covered product and the methods for determining energy efficiency standards. The June 1980 proposal was based upon five technical support documents which were made available for public review.

To encourage public participation in the rulemaking process, the DOE held a series of public meetings and hearings, starting in July 1980. Public hearings were conducted in Chicago and Washington in August 1980. As a result of these hearings and the solicitation of written comments, over 1,800 comments were received on the June 1980 proposal. These comments addressed all aspects of the rulemaking proposal including the establishment of classes in each covered product type, the feasibility of the standards selected for each covered product, the validity of the assumptions made in the technical support documents, the procedure for seeking exemptions for State regulations from preemption by the Federal standard, the effective date of a final regulation, the propriety of standards for small businesses, whether alternatives to regulations were practical, and the proposal for certification and enforcement procedures.

On December 17, 1980, the Department notified the Congress of its inability to make a final determination on the imposition of energy efficiency standards on the nine covered products by the statutory deadline of January 2, 1981. On February 23, 1981, DOE published a notice of its intent not to issue any energy efficiency standard until it fully studied the comments received on the June 30 proposal and made a thorough reassessment of the data supporting the proposal. 46 FR 13517.

On April 2, 1982, DOE issued a further notice of proposed rulemaking with respect to the nine priority products, 47

[2] Each covered product category may be made up of several classes.

FR 14424 (hereafter referred to as the April 1982 proposal). With respect to eight of the products DOE proposed to make a determination that a standard would not result in significant conservation of energy and would not be economically justified.[3] The April 1982 proposal also proposed rules governing petitions to DOE both by States to obtain exemption from preemption of State or local energy efficiency standards as well as by manufacturers to obtain preemption of State or local standards. Two technical support documents—an Economic Analysis (EcAD) and an Engineering Analysis (EnAD)—supported the proposal.

Hearings were held on the April 1982 proposal over three days in Washington, D.C., in which 39 persons presented statements. Over 130 written comments were received during the initial comment period, and 36 additional written comments were made on earlier submitted comments.

In October 1981, the Natural Resources Defense Council (NRDC) and Consumers Union of the United States, Inc., brought suit against DOE for DOE's failure to adopt a final rule for the nine priority products by the statutory deadline of January 2, 1981. A settlement agreement adopted by the parties required DOE to adopt a final rule for these products (except home heating equipment, other than furnaces) by October 29, 1982. The agreement provided, however, for a modification of that deadline for good cause as approved by the court. Nevertheless, the agreement required that, if the entire rule could not be adopted by October 29, DOE would issue those portions of the rule for which determinations could be made.

Consequently, on December 22, 1982, DOE published a final rule in which the Department determined that energy efficiency standards were not warranted for clothes dryers and kitchen ranges and ovens. 47 FR 57198. (Hereafter referred to as the December 1982 final rule.)[4] At that time, DOE also adopted final procedures by which States might obtain exemption for State or local efficiency standards from Federal preemption and by which manufacturers might obtain preemption of a State or local standard not otherwise preempted.

In light of DOE's failure to adopt a final rule by October 29, 1982, the NRDC filed a motion on November 29, 1982, requesting the court to order DOE to promulgate final rules for all eight products by January 29, 1983. In this motion NRDC argued that, while NRDC believed the Oak Ridge National Laboratory Residential Energy End Use Model (ORNL Model) to be deficient, DOE could not take additional time to conduct further analyses or make nay corrections. As DOE noted in responding to the court, the ORNL Model has been used since before June 1980 to determine the energy savings attributable to standards, a necessary determination whether the conclusion is to promulgate a substantive standard or a no-standard standard. It was not until the comments on the April 1982 proposed rule, however, that NRDC and others raised objections to the particular aspect of the Model that has drawn the greatest attention in this rulemaking. These objections were not dismissed out-of-hand but rather were considered and analyzed. Consequently, as noted in the December 1982 final rule, DOE was unable to make the October 29, 1982 deadline for a final rule for all eight products.

As indicated *infra*, DOE's analysis and review of the ORNL Model is an ongoing matter. In entering into a further settlement agreement with NRDC to issue these rules, DOE did not mean to suggest that all questions would have been resolved and all doubts dispelled concerning the Model. For reasons discussed at length *infra*, however, DOE concluded that within the time constraints of the Act, as enforced by NRDC, Consumers Union, and the court, the ORNL Model as used in this rule is the most reliable and objective means of determining energy savings attributable to a standard.[5]

[3] The April 1982 proposal did not propose any rule with respect to the product type "home heating equipment, not including furnaces" or with respect to that class of the product water heaters made up of heat pump water heaters or with respect to those classes of the product central air conditioners that are heat pumps.

[4] The preamble to the December 1982 final rule is part of the record of this rulemaking, and DOE hereby incorporates it by reference.

[5] NRDC, in a letter dated May 4, 1983, alleged that on March 28, 1983, the Assistant Secretary for Conservation and Renewable Energy met with representatives of the Association of Home Appliance Manufacturers (AHAM) and discussed this pending rule. While a meeting did take place, the discussion did not involve this rule but rather two aspects of the final rule adopted December 22, 1982—the standards upon which petitions for exemption from preemption would be judged and the precentage test for determining whether a given level of energy savings is significant. No change has been made in the standards or tests announced in the December 1982 final rule, nor would DOE consider any such changes without a further rulemaking on the subject.

II. General Discussion

a. General

As indicated above, this rulemaking, begun in January 1979, has been a lengthy and complex process. Millions of dollars have been spent by DOE in furtherance of the rulemaking; manufacturers, interest groups, and States have gone to great efforts not only to make known their views on the ultimate questions but also to expand both the data base and analytical criteria upon which the rulemaking is based. Accordingly, DOE wishes to thank all those who participated in the rulemaking for their efforts. Even where comments or recommendations were not adopted, the comments improved the process and assured that the final decision would be based on a full consideration of all the relevant factors.

Some commenters expressed their belief that DOE had prejudged the outcome of this rulemaking because of an inflexible policy commitment to avoiding mandatory appliance efficiency standards. DOE has acknowledged its general view that the marketplace, together with accurate consumer information, is more effective in improving appliance efficiency than are mandatory appliance standards. DOE, however, has confined its action upon this view to support of legislation that would repeal section 325 of the Act. DOE's consistent policy, moreover, has been that it must and will faithfully execute the law in the absence of any such congressional action. Thus, no prejudgement has been made in this rulemaking. The decisions have been founded on the record in accordance with the statutory terms and requirements.

The record, however, has changed substantially from the record before DOE in June 1980 when substantive standards were proposed for all products. As comments to the June 1980 proposal made clear, that proposal was widely criticized. In 1980, both the Justice Department and the White House's Regulatory Analysis Review Group severely criticized the economic analysis that underlay that proposed rule. The General Accounting Office has also criticized it. *See* Improved Quality, Adequate Resources, and Consistent Oversight Needed if Regulatory Analysis is to Help Control Costs of Regulations (1982), at 12. As a result of these and other comments, a number of changes were made to both the economic and engineering analysis, changes that were fully explained in the April 1982 proposal and supporting documents. With few exceptions, these

changes were not criticized in the comments on the April 1982 proposal.[6] As a result of comments on the April 1982 proposal, further changes were made or responses have been made indicating why DOE did not adopt the comment.[7]

As a result of all of these changes, the data generated by the various models and analyses have changed substantially from those in June 1980. Where required by changes in the data, of course, the conclusions to be drawn from the data have changed as well.

b. Maximum Technological Feasibility

Some commenters criticized DOE in its selection and use of criteria in the Engineering Analysis for choosing design options and candidate standard levels. These commenters argued that the predicted energy savings in the standards case would have been greater had DOE considered a broader range of options.

The comments on the April 1982 proposal addressed three issues: that DOE limited its consideration of possible standards levels to efficiency levels already in the marketplace, thereby ignoring advanced technologies that were available in prototype or could be developed; that DOE failed to consider some high efficiency products already in the marketplace; and that DOE restricted consideration to U.S. models only.

Maintaining that DOE should revise its criteria to include prototypes that could be available by 1987, NRDC, the American Council for an Energy Efficient Economy (ACEEE) and others contend that high efficiency prototype appliances have been developed and tested that substantially surpass, some by 26 percent, the efficiency levels of those currently on the market. Consumers Union added that the Engineering Analysis ignores the 5 year period manufacturers would have to bring products into compliance.

DOE has fully considered the comments suggesting that minimum energy efficiency standards should be analyzed at levels in excess of models available in the market, but has determined that the Act does not require such analyses. First, for the reasons given in the December 1982 final rule, *see* 47 FR 57211, it would be virtually impossible to annalyze possible standards at levels where the data to perform the analyses would be non-existent or largely speculative. Because the Act requires that potential standards be analyzed both as to the likely energy savings attributable to them as well as to their economic justification, the impossibility of meaningful analysis effectively bars the consideration of standards at such levels. Second, the Act specifically prohibits standards for a product (or class of product) if there is no applicable test procedure for which a final rule is being considered currently have applicable test procedures have been validated only with respect to currently marketed products. Experience cautions that advanced technologies for appliance efficiency might well make current test procedures inapplicable.[8] Consequently, it would be improper under the Act to require a standard for which there was an applicable test procedure.

Where commenters specified particular prototypes they believed should be considered, DOE has addressed these particular models in the product-specific discussion.

The ACEEE, National Wildlife Federation, NRDC, the California Energy Commission and others gave examples of appliances now available in the marketplace that reportedly are substantially more efficient than the maximum levels considered by DOE.

The appliance designs mentioned included condensing furnaces, heat pump water heaters, and advanced designs of refrigerators and refrigerator-freezers.

As a general matter,[9] the April 1982 proposal considered a standard level for each product at an efficiency level equal to the maximum efficiency of the product in the domestic market as of the comments on the June 1980 proposal. That is, the original engineering analysis prepared for the June 1980 proposal was updated and revised in light of comments on that proposal. Creating "cost books" (breakdowns of the costs of a given design option into its labor, purchased parts, materials, and investment components, which then can be used to evaluate fully potential standards levels) is a complex and involved affair. By February 1981 a new "cost book" had been completed with respect to the eight products. This was the last "cost book" prepared before the April 1982 proposal, which was expected to be issued much earlier. After the April 1982 proposal, it would not have been possible to assess new models in the market for potential standard levels, change the "cost book," and then run all the computer models with this new data within a reasonable time period, and certainly not within the periods that were required by court-approved settlements with the NRDC and Consumers Union. Moreover, had DOE taken this additional time to change the "cost books" with all the delay that would have entailed, by the time of the final rule there would undoubtedly be still newer, more efficient products available in the market.

This reflects a general problem with a rulemaking that assesses the effects of potential standards, when over the time of the rulemaking the technology and marketed products develop and progress. DOE has continuously attempted to use the most recent, reliable data, where to do so would not inordinately delay the rulemaking.[10] With respect to the potential standard levels, to have adjusted the "cost books" in light of the most recent products in the marketplace and then to have conducted the analyses based upon these new "cost books" would have substantially delayed this rulemaking.[11] Congress, in establishing the appliance program, anticipated this possibility and directed the Department to reevaluate standards (including a no-standard standard) within five years and from time-to-time thereafter. *See* Section 325(h)(1). Therefore, efficiencies of products that have entered the market after 1980 would be considered as potential standards in that reevaluation.

The final comment relating to maximum technologically feasible efficiency levels urged DOE to consider features currently available from foreign products. Consumers Union and NRDC argued that these products can be imported, obtained under license, and incorporated into domestic appliances by the effective date of standards.

DOE's analysis considered only those technologies available in the domestic market because the Department did not have detailed data for foreign designs

[6] Indeed, that part of the ORNL Model most criticized in the April 1982 proposal, the market penetration algorithm, was unchanged from the June 1980 proposal. The market penetration algorithm was not criticized by commenters to the June 1980 proposal.

[7] Depending on the issue, the explanations of these changes or the responses may appear either in the December 1982 final rule or in this rule.

[8] For example, DOE has had to grant test procedure waivers for certain condensing furnaces.

[9] Where there are specific problems involved in assessing particular design options now in the marketplace as potential standard levels, these are addressed in the product specific discussion.

[10] For example, these new products were included as additional points in revising and improving the cost-efficiency curves in the ORNL Model, because these inclusions were simple to accomplish and would not delay the rulemaking.

[11] Moreover, as indicated in the product-specific discussion, the efficiencies of some of these most recent products are not even appropriate as standard levels.

not incorporated in domestic appliances and, therefore, could not analyze properly the impacts of standards based on foreign designs. Although some commenters criticized DOE for not analyzing the impacts of standards using these technologies, DOE received little information on these designs. An additional problem with assessing foreign products was evident from the comments—disagreement and uncertainty as to the facts concerning the product. For example, NRDC and Whirlpool Corporation disagreed fundamentally over the capabilities of a particular Japanese refrigerator.

c. Energy savings

1. *Determination of Energy Savings.* The determination of the likely energy savings attributable to particular, possible appliance efficiency standards is critical in determining whether a standard would result in a significant conservation of energy or whether a standard is economically justified.[12] Thus, whether a rule were to prescribe a standard or a no-standard standard, such a determination is a necessary element. Throughout this rulemaking proceeding DOE has utilized the ORNL Model to form the basis for this determination. In general, the ORNL Model projects residential energy use by a product with and without standards over a given period. By comparing the energy used without a standard during the period to the energy used with a particular standard during the same period, DOE is able to project the amount of energy saved during that period which is attributable to the standard. The energy saved is expressed in Quads (quadrillion BTUs). With respect to electricity, the savings are Quads of source or primary energy; that is, the energy that is necessary to generate and transmit electricity. The ORNL Model is fully explaned in EcAD, at Appendix E.

This Model was originally developed prior to this rulemaking and the appliance efficiency program, but the Model has been subject to continuous refinement and improvement, much of it as a result of this rulemaking. As a result of the June 1980 proposal, a number of changes were made to the Model in light of the comments, *see* EcAD, 29–34. Similarly, as a result of the April 1982 proposal, many comments on the Model were received, and a number of changes subsequently made. Several of these comments and resulting changes were described in the December 1982 final rule, *see* 47 FR 57201–57202.[13] All changes to the ORNL Model since the April 1982 proposal are described in the Supplement to the Economic Analysis Document and Engineering Analysis Document (hereafter "Supplement"), issued with today's rule.

As indicated in the December 1982 final rule, the issue with respect to the ORNL Model that received the greatest attention was the Model's treatment of the relationship between energy prices and the market's responsiveness in producing and selling more energy efficient products. The Model recognizes that the existing marketplace is not perfect; that is, all manufacturers do not make and all consumers do not purchase the type of equipment that would always be a consumer's most energy efficient choice from a life cycle cost standpoint alone. The Model calculates the difference between the optimal and the projected average life cycle costs of equipment in a base year from actual price and sales information of equipment in that year and projected energy prices. The difference between the optimal and projected life cycle costs is defined as the market distortion.[14] In years after the base year, the Model projects the level of market distortion based on the initial level as modified by the market penetration algorithm (EcAD, at 403). The principal issue raised by commenters objecting to the ORNL Model is the manner in which the algorithm projects market distortion in future years.

In general terms the algorithm has the effect of diminishing the distortion between the optimal and the average life costs of equipment being purchased as a function of rising energy prices. In other words, as the price of fuel for an appliance rises, the market in that appliance will become more "rational," i.e., the efficiency of equipment being purchased will be closer to the optimal efficiency (from a life cycle cost perespective) than it was when the fuel price was lower. Under the Model's algorithm, however, distortion always remains. While higher fuel prices reduce distortion over time, they can never eliminate it altogether.

As an initial matter, several objectors took exception even to the general concept that the market responds to higher fuel prices with more efficient equipment. For example, the NRDC maintains that "the evidence that higher price induces consumers to choose higher efficiency is nonexistent: all the evidence says that consumers are almost totally unresponsive to price." (NRDC, No. 2121, at 24).[15] While this objection is broader that one merely directed at the algorithm, were this objection valid it would invalidate the algorithm.

To the contrary, however, DOE finds that there is substantial evidence that as fuel prices rise the market responds in the manufacture and sale of more fuel efficient equipment. For example, even the National Academy of Sciences (NAS) study cited to DOE by the NRDC states "there is ample evidence that energy consumers respond to changes in price . . ."[16] *See also* Beck, Doctors, and Hammond, *Individual Energy Conservation Behaviors* 1–25 (1980). Most objectors conceded that there is a market response, but argued that the market was not perfect or did not respond adequately. *See, e.g.*, New York State Energy Office, 5–18/3, at 7; Environmental Policy Center, 5–19/13, at 3–4; New York State Energy Office, No. 2180, at 3. Moreover, as even many objectors noted, appliances overseas, where energy prices are higher and there are no governmental standards, tend to be more efficient than American

[12] Under Section 325(d), DOE is required to weigh various factors to determine whether a standard is economically justified. One of those factors is the projected energy savings attributable to the standard.

[13] In the December 1982 final rule, DOE concurred in a comment of the General Accounting Office in its report "Appliance Efficiency Standards: Issues Needing Resolution by DOE" (hereafter "GAO Report") that there was an inconsistency in the ORNL Model's treatment of the base and standards cases. *See* 47 FR 57202. At the time of that final rule the computer coding had not been completed to eliminate that inconsistency. *Id.* The Model's calculations that form the basis for this rule reflect the changes made to eliminate that inconsistency.

[14] In the April 1982 proposal, DOE referred to the implicit discount rate rather than the market distortion to describe the difference between the "perfect" and the existing market. In the Economic Analysis Document, DOE also used the term implicit discount rate for this purpose, (EcAD at 144–145), but the Economic Analysis Document, in its explanation of how the Model operates, made clear that it was the difference between the optimal and average life cycle cost (the distortion factor), not any implicit discount rate, that actually was used in the Model (EcAD at 403–406). In the December 1982 final rule, DOE clarified that implicit discount rates are neither an input to nor a formula in the ORNL Model. That is, projected energy savings are not affected by changes in the implicit discount rates. Rather the implicit discount rate is an output that is derived by the Model, and in the 1982 proposal was used as a shorthand method for expressing the market distortion that does in fact drive parts of the Model. *See* 47 FR 57200 n.5. For reasons explained *infra*, DOE now believes it is more accurate to refer directly to the market distortion rather than to implicit discount rates.

[15] Comments on the rulemaking were given docket numbers. Citations to comments provide those docket numbers, unless the comment was submitted as part of an oral presentation, in which case the citation is to the date and numerical order of the presentation, e.g., 5–18/3.

[16] *Behavioral and Social Aspects of Energy Consumption and Production: Preliminary Report*, National Academy Press, at 7 (1982) (hereafter "NAS Study").

appliances. Survey data cited to DOE by commenters also indicated that consumer response to higher fuel prices would be to purchase more efficient equipment. Manufacturers supporting the rule stated their belief, based upon their experience in the field, that the market did respond to higher energy prices in higher efficiency equipment. The fact that there is wide-scale advertising on the basis of efficiency, even at the wholesale level, is evidence that manufacturers and retailers act upon that belief. Some, including trade associations, also found support for this conclusion in the generally increased efficiency of appliances in the past ten years, a period in which energy prices have risen.

The objectors who denied the existence of any evidence of a relation between fuel prices and appliance efficiencies instead suggested that the increase in appliance efficiencies during the period 1972–1981 was caused by factors other than fuel price increases. For example, the NRDC acknowledged that "[t]he data . . . clearly show that appliance efficiences have increased noticeable over the period 1972–1981" (NRDC, No. 2176, at 6–7), and that increased energy prices are one of the important changes that has occurred (*id.*), but NRDC suggests that State efficiency standards, the threat of Federal standards, and increases in efficiency as a by-product of other design objectives, not increased fuel prices, are the more likely explanation for these increased appliance efficiencies. DOE has considered these suggestions but has concluded that the evidence does not support a determination that these other factors, as opposed to increased fuel prices, are responsible for increased appliance efficiencies.

First, no commenter has suggested that an increase in efficiency in any product subject to today's rule is the by-product of other design objectives.

Second, no commenters presented any evidence that the possible imposition of Federal standards had resulted in increased appliance efficiencies that would not have occurred in the absence of such possible imposition.[17] Moreover, increases in efficiency in the 1972–1981 period have occurred with respect to appliances for which no proposed Federal standard has ever been published.

With respect to the suggestion that State standards are responsible for increases in appliance efficiencies, the NRDC, for example, attempted to demonstrate that the manner in which appliance efficiencies have increased is more indicative of regulation-induced changes than changes induced by fuel-price effects (NRDC, No. 2121, at 13–15; NRDC, No. 2176, at 10–13). With respect to refrigerators, NRDC submitted curves representing the frequency of distribution by efficiency for two classes of refrigerator-freezer before and after imposition of the California standard. *See* NRDC, No. 2121, at Appendix A. NRDC interprets these curves as indicating that the increase in average efficiency is due solely to elimination of models that are prohibited by the standard. DOE, however, believes these curves indeed are evidence of a price rather than regulation effect. For example, in the top-freezer, auto-defrost class (by far the most popular class) between 1975 and 1981 the entire curve shifts to the left, and the largest increases in relative frequency are at levels of efficiency *in excess* of that required by the California standard.

With respect to the other class, the efficiency of the most efficient model did not increase in the time period. However, the number of more efficient models increased substantially *prior* to the imposition of the 1979 California standards, and the trend continued after imposition of the standards, with a greatly increased number of models at efficiency levels in excess of that required by the standards.[18] (increased efficiency) does not indicate that fuel price factors are not at work or that the increased efficiency is due to regulation.

The NRDC similarly claims that the pattern of efficiency improvements in room air conditioners also suggests that the improvements were induced by regulations rather than price because the changes in efficiency allegedly occur in "quantum leaps" rather than at the same pace as increases in fuel prices. DOE, however, has never asserted that the relationship between fuel prices and equipment efficiencies is perfect. Nor does the ORNL Model assume a perfect relationship. Obviously, the real world marketplace is subject to fits and starts, such as the development of new technology for increased efficiency or, sometimes more importantly, a low-cost manner of incorporating new technology. Moreover, DOE does not concur that data on room air-conditioners indicate "quantum leaps" of efficiency improvements in individual years, so as to be considered inconsistent with fuel price effects. *See, e.g.*, Association of Home Appliance Manufacturers (AHAM), No. 2105, at 4.

In sum, the evidence and arguments of objectors is insufficient to support the conclusion that fuel prices have no impact on appliance efficiencies.[19] This is not to say that State standards (or even the threat of Federal standards) have had no effect on appliance efficiencies. Rather, the weight of the evidence clearly supports the conclusion that market factors are responsible for increased efficiencies.[20]

Contrary to the NRDC's allegation, however, whatever contribution may be attributable to State standards (or the threat of Federal standards) need not be somehow deducted from the ORNL Model's base case. *See* NRDC, No. 2121, at 23–24, 26. First, the NRDC assumes that all State standards will in fact be eliminated. As indicated in the December 1982 final rule, however, DOE has reviewed existing State standards and found that they would most likely be granted an exemption from preemption. Moreover, States that feel that standards have an impact seem likely to seek exemptions. Second, the promulgation of this rule does not eliminate the threat of Federal standards. Under the Act, DOE must reevaluate a standard (including a no-standard standard) within five years. Third, as even NRDC concedes, fuel price rises have indirect as well as direct effects, and the indirect effects include State standards and the threat of Federal standards. (NRDC, No. 2121, at 24). Moreover, "[t]he 'elasticities' recorded in the Oak Ridge model in fact reflect a number of indirect responses to price." (*Id.*) Indeed, the ORNL Model, by not distinguishing between direct and indirect effects, is intended to reflect *all*

[17] While some manufacturers acknowledged that the proposed standards had affected them in the choice of a specific level of increased efficiency, they also indicated their belief that market pressures were demanding more efficient equipment. *See, e.g.*, Climate Control, 5–20/5, at 2–3. Thus, these statements do not establish that absent proposed standards the observed efficiency increases would not have occurred or been as great.

[18] DOE notes, moreover, that both curves have points indicating the "best Japanese model" as exceeding the U.S. models in efficiency. Inasmuch as Japan does not have mandatory minimum efficiency standards for refrigerators, but does have higher electricity prices than the U.S. and an aggressive labeling program, these points on the curves certainly do not support the absence of a fuel price/appliance efficiency relationship.

[19] Extensive responses to certain of the other arguments raised by objectors are not warranted. For example, the NRDC asserted there was no relationship in the market between the price of an appliance and its efficiency. As alleged evidence of this, NRDC enclosed an attachment listing various appliance models, their initial cost, and their fuel cost. DOE has reviewed this information, but the information is insufficient to determine the comparability of features or amenities associated with these models, so it is impossible to determine whether the information supports NRDC's point.

[20] Consistent improvements in efficiency for appliances not even subject to any State standards is merely one indication.

effects of rising energy prices on appliance efficiencies. Consequently, DOE does not agree that any effects of State standards or the threat of Federal standards must be quantified and deducted from the observed increased efficiencies before DOE can conclude that increased appliance efficiencies do result from increased fuel prices.

Concluding that the record amply supports a finding that increased efficiencies of appliances result from increased energy prices does not, however, exhaust the inquiry. As indicated above, while many objectors conceded that the market worked to one degree or another, these objectors argued that the market was not perfect, did not result in optimal efficiencies, or did not adequately respond to increased energy prices. *See e.g.*, New York State Energy Office, No. 2180, at 3. Several descriptions were made of aspects of market imperfection.

First, many appliances are purchased by persons other than those who will pay the fuel bills, and therefore they will not have a direct financial incentive to lower the life cycle cost of an appliance where to do so incurs a higher initial purchase cost. Specific examples could be builders of new housing and some landlords. *See, e.g.*, GAO/EMD–82–78, at 13. These types of persons are generally referred to as "third-party purchasers." [21]

Second, the ability of consumers to make life cycle cost determinations depends on their knowledge and the availability of adequate information. Until the advent of the appliance labeling program, it would have been exceptionally difficult for consumers to determine the relative life cycle costs of competing appliances. Even now there was substantial evidence in the record that the labeling program for furnaces has serious problems. Moreover, until fairly recently the energy efficiency of appliance was not widely advertised, so consumers has little ability in many cases to distinguish higher efficiency from lower efficiency appliance.[22]

Third, replacement of many appliances may occur when the existing unit fails, and the consumer may be primarily concerned about quick replacement rather than life cycle cost.

Fourth, as noted by the NAS study provided by the NRDC, consumer decisionmaking involves "a range of variables that may be considered 'internal' to the consumer including attitudes, beliefs, uncertainly about personal futures, mode of information processing, interpersonal influences, and personal norms." (NAS Study, at 6).[23] These variables would affect the extent to which the "market" operates to minimize life cycle costs.[24]

DOE recognizes that, for all its efficiencies, the marketplace does not achieve absolute perfection in minimizing life cycle costs. In the April 1982 proposal DOE acknowledged the existence of market failures in the appliance industry and identified several of the possible causes that were also mentioned by objectors. *See* 47 FR 14428 (April 2, 1982). The comments by objectors, however, seem to reflect the erroneous belief that the ORNL Model and the market penetration algorithm ignore these possible market failures. For example, several commenters seem to suggest that the Model ignores the effect of third-party purchasers. *See, e.g.*, Consumers Union, No. 2085; GAO Report, at 12–13. This, however is not so. As indicated above, the Model derives the initial distortion factor (the difference between the actual and optimum average life cycle cost in the base year) on the basis of actual cost and shipments data. This distortion factor necessarily gives effect to *all* market imperfections in the base year, although without quantifying the separate impact of each. Moreover, the way the algorithm is structured, the distortion factor is never eliminated; it can only be reduced. Thus, nothing in the Model or the algorithm denies the existence or continuation or market imperfections. Rather, the algorithm merely represents a judgment that market imperfections will diminish as fuel prices rise.

Several commenters who objected to the ORNL Model contested that as fuel prices rise market distortion diminishes. As DOE noted in the April 1982 proposal, few studies have been made of changes over time of market distortion (or of implicit discount rates) or the relationship between market distortion and changes in fuel price. The only study cited to DOE, a study DOE itself identified in the April 1982 proposal, while certainly not conclusive, does suggest that higher fuel prices may lead to less market distortion. *See* EcAD, at 145.[25]

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[21] Several commenters who objected to the algorithm suggested that builders and landlords would always purchase the least expensive and hence least efficient appliances. The record does not support such a conclusion. For example, DOE received comments from some landlords that because they paid the fuel bills, the landlords would pay an increased price for the more efficient equipment. *See, e.g.*, the Robert A. McNeill Corp., No. 2169. Moreover, it is not uncommon for landlords to pay fuel bills. GAMA submitted data demonstrating that landlords paid gas costs in 37 percent of the cases, oil, coal and wood costs in 70 percent of the cases, and electricity costs in 21 percent of the cases. *See* Gas Appliance Manufacturers Association (GAMA), No. 2177, at 2. With respect to builders, information submitted in the rulemaking indicates that many builders are incorporating high efficiency HVAC equipment in the homes they build. *See* Professional Builders, October 1981 (survey showing 76 percent of builders are installing high efficiency equipment). Perhaps even more importantly, survey data submitted by Carrier indicated that builders were *increasing* the efficiency of the equipment they were installing. Carrier Corp., No. 2120, at 9–10 (72 percent of builders said that they plan to build homes in 1982 with more efficient equipment than those built in 1981, and over 25 percent said that all their 1982 homes would have more efficient equipment than the 1981 homes). Because of some controversy over revisions to the text of a National Association of Home Builders Research Foundation Survey, DOE has not relied on the text accompanying that survey. Nevertheless, the data, while indicating less than total commitment to energy efficiency by builders, also demonstrated that many builders and subcontractors are concerned about the energy consumption of the equipment they install. Finally, the number of advertisements for housing which includes claims as to the energy efficiency of the house indicates builder concern with efficiency, if only because of perception of purchasers' concern.

[22] The availability and credibility of information regarding the efficiency of appliances and the impact of such efficiencies on fuel costs are obviously very important to improving the rationality of the appliance marketplace. *See generally* NAS Study. No one mechanism, such as government required labeling, is determinative, but apparently multiple, reinforcing sources of information, over time, can have a synergistic effect.

[23] The NRDC cited the NAS Study as support of NRDC's criticism of the algorithm and as suppport for NRDC's criticism of the use of *any* econometric model for projecting energy savings. *See* NRDC, No. 2121, at 17.

[24] It should be noted that these variables can have the effect of having consumers value energy efficiency or conservation more *highly* than would be indicated by a life cycle cost analysis. That is, there can be market "imperfections" that tend to overvalue energy efficiency. The NAS Study, for example, describes the growing trend toward "voluntary simplicity." *See* NAS Study, at 27–29.

[25] The study indicated that, while investment in thermal integrity in electrically heated homes showed little change in implicit discount rates over the period 1973–1979, the implicit discount rates for those investments in gas-heated homes declined 15 to 20 percent. Inasmuch as the real price of gas increased almost five times as rapidly during the period as that of electricity, and the initial implicit discount rates for electricity were only a fraction of the initial implicit discount rates for gas, such a differential in changes in implicit discount rates between gas and electricity is explainable. While DOE tentatively characterized this reduction in implicit discount rates as relatively small in the April 1982 proposal, upon further analysis DOE believes such a characterization is inapt. First, Thermal integrity improvements are almost entirely made by "third party" builders of new housing, and therefore market imperfections in this type of investment would tend to be greater than for products directly purchased by the ultimate consumer. Second, there is no labeling program for such improvements. Third, such reductions in discount rates are not inconsistent with those projected for some applicances by the ORNL Model over the same period of time. More importantly, upon reconsideration of the tentative conclusion to be derived form this study, expressed in the last sentance of pages 145 of the EcAD, DOE has determined that the results of the study support the concept of the reduction of market distortion as a result of rising energy prices. Moreover, even the

While this study was the only empirical study of the effects of increased fuel prices on market distortion, there is a theoretical basis for the conclusion that increased fuel prices will result in reduced market distortion. That is, if one considers the nature of several of the causes of market imperfection, it appears logical that increased fuel prices will reduce at least to some degree these imperfections. The NAS Study, for example, in discussing the lack of consumer information and awareness as an impediment to efficient working of the marketplace, states: "This sort of energy unawareness can be reversed if price increases or other stimuli are strong enough to make energy salient." (NAS Study, at 30). And, "[e]nergy price increases will make us more aware of energy flows . . ." (*Id.*, at 32). *See also* Individual Energy Conservation Behaviors, *op. cit.*, at 180–191. Moreover, just as energy price increases can result in better information and awareness of the energy costs of appliances, so also can such awareness become concern, such that third party purchasers would have to consider the salability or rentability of their housing units if they are not energy efficient. The existence of this theoretical and empirical evidence of a *reduction* in market distortion, however, is not evidence of the elimination of market distortion, nor is it necessarily evidence for a *particular rate of decline* of market distortion.[26]

The market penetration algorith *is* a formula for a *particular rate of decline* of market distortion as a function of increased fuel prices. In light of a number of comments that there was no empirical support for the particular algorithm, DOE undertook to try to test the algorithm by applying it to products in past periods and seeing if it accurately projected the present. As indicated earlier, however, the way the algorithm works is to take a base year's actual and optimum average life cycle costs for an appliance from actual data on equipment prices, efficiencies, and shipments. Unfortunately DOE does not have sufficient data for any year prior to 1978 to enable it to test the algorithm with precision. That is, DOE had to estimate some of the data inputs for earlier years, and it is not clear to what extent these estimations could affect the validity of the test. In addition, the scientists who developed the test designed it to measure changes in implicit discount rates, rather than changes in market distortion.[27] In the course of making initial test runs, however, DOE discovered that under certain circumstances relatively minor changes in market distortion could result in drastic changes to the implicit discount rate. The clear implication of this was that implicit discount rates were not a good shorthand for market distortion, and that the test of the algorithm, if run in this manner, would be virtually useless because major deviations in the projected implicit discount rates from "actual" rates would not establish that the algorithm was inaccurate.[28] Finally, in the course of the initial test runs and a general review of the ORNL Model,[29] it was determined that a problem existed in the ORNL Model's life cycle cost-efficiency curve, which has the effect of tending to exaggerate the market distortion in future years. That is, separate from the disputed formula that reduces market distortion as a function of rising energy prices, the algorithm has a bias toward a larger than appropriate market distortion.[30]

In light of these developments, the statutory requirement for a final rule by January 1981, and the lawsuit described above to compel issuance of standards by January 29, 1983, DOE determined that further adjustments of the ORNL Model for the purposes of this rulemaking would not be appropriate. That is, the time that would be required for the analyses, the doubtful usefulness of the conclusions that would be reached, and the limited effect of the market penetration algorithm itself [31] all counselled against delaying final rules in this proceeding pending conclusion of further analyses of the algorithm or the Model.

Accordingly, it remains true that there is no specific empirical or theoretical study to support the particular rate of decline of market distortion as a function of energy prices reflected in the algorithm. On the other hand, there is no such study disproving the algorithm.[32]

Some, including the GAO Report, made the claim that a small increase in the efficiency of some appliances since 1972 despite large energy price increases is inconsistent with the algorithm. These claims, however, misconstrue the effect of the algorithm. That is, large energy price increases do not necessarily mean large increases in efficiency of appliances in the Modal. The relative speed of improvement in efficiency for a product would depend on its initial market distortion. Indeed, in the EcAD, it was apparent that the Model projected efficiency improvements occurring at greatly different rates among appliances. *See, e.g.*, Table 3–12, EcAD. Thus, it is simply incorrect to expect that a given increase in energy prices results in a *similar* increase in appliance efficiencies.

Several commenters argued that the algorithm was inaccurate because linearly projecting historical efficiency improvements into the future provided different results from the algorithm. Such an argument, however, assumes that simply projecting past efficiency improvements into the future is a valid methodology. There is, however, no evidence in the record to support such a

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authors of the study used it to support further work to improve market forces and reduce market imperfections, not to support mandatory efficiency standards.

[26] Some commenters focussed on Table 2–2 in the EcAd to argue that, despite rising fuel prices, four of the six products subject to today's rule showed decline in efficiency between 1978 and 1980 and consequently no decrease in market distortion. As indicated in the ECAD's Table 3–3, however, the 1980 values were estimates based on the engineering analysis. In the Supplement, Table 2–2 has been updated with the most recent data, and estimates have been eliminated. Thus, it shows actual measured increases in efficiency. No product declined in efficiency between the years for which data was available.

[27] As indicated above, DOE had used implicit discount rates as a shorthand for measurements of market distortion, even though implicit discount rates were not used in the algorithm or Model.

[28] In addition to this problem with the use of implicit discount rates as a shorthand for market distortion, the use of the term apparently confused people. Despite the clear statement in the EcAD that the term was *not* used to refer to the decision criteria of individual consumers, but to characterize the behavior of the entire market (EcAd, at 144), persons misunderstood the distinction and consequently made some comments that were non-responsive. *See*, e.g., NRDC, No. 2121, at 10–11.

[29] In light of the many negative comments on the ORNL Model in the rulemaking proceeding DOE assembled a task force of three persons who had never been associated or involved with the appliance rulemaking but who were at least aware of the ORNL Model. The purpose was to have the Model evaluated by technical experts who were disinterested in the rule and the Model. None of the persons was employed under the Assistant Secretary for Conservation and Renewable Energy, and only one was an employee of DOE.

[30] The experts who discovered this problem estimated that perhaps eighteen months of analysis might be required to quantify the effects of this problem.

[31] In the product-specific discussion the limited effect of substituting either the rate of historical improvements or a constant market distortion is described.

[32] As indicated in the April 1982 proposal, the one study acknowledged by DOE and cited by commenters involved thermal integrity improvements which involve circumstances sufficiently dissimilar from the appliance context to render that study's specific figures inconclusive in the appliance context. *See also supra.*

NRDC noted a paper by David Meyer that criticized the Energy Productivity Center's estimates of future electricity demand as being "heavily dependent on over-optimistic assumptions about the future pace of investment in energy efficiency." The ORNL Model's assumptions, however, are much less optimistic than those criticized and indeed produce what Meyer termed "a more realistic portrayal." NRDC, No. 2121, at 20.

conclusion.[33] Rather, there is ample evidence to the contrary. For example, as even NRDC notes, over the period 1948–1975 refrigerator efficiencies declined,[34] NRDC, No. 2121, at 17, but thereafter they improved significantly. Moreover, as the NAS Study stated succinctly, "If there is one certainty about the U.S. energy system over the past 10 years, it is that the recent past has not been a valid guide to the immediate future." NAS Study, at 32.

In light of all of the above, DOE has determined to retain the market penetration algorithm without changes. This does not reflect an arbitrary conviction by DOE that even absent validation the algorithm must be accurate. To the contrary, DOE is continuing analyses and research into the algorithm and the ORNL Model generally to validate or improve them wherever possible.[35] Rather, retention of the algorithm is based upon DOE's conclusion that, given the current state-of-the-art, the algorithm is the best measurement available of the particular relationship between rising energy prices and increased appliance efficiencies. Other methodologies suggested by commenters, such as the rate of past historical improvements or freezing the current market distortion, not only are not superior to the algorithm, but also on the basis of the record are clearly worse.[36]

The ORNL Model with the algorithm has been studied by independent organizations separate from the rulemaking and found to be a useful and appropriate model for analyzing energy policy choices in general and appliance efficiency standards in particular. For example, in April 1981, a draft report for the Electric Power Research Institute by the Energy Laboratory of the Massachusetts Institute of Technology concluded, "[t]he end use detail of the model and its ability to capture the dynamics of applicance acquisition make it particularly suitable for analyzing the impacts of policies which affect specific appliances. * * * The ORNL model is well-suited for forecasting the impacts of mandatory standards." *An Evaluation of the ORNL Residential Energy Use Model*, MIT (April 1981), at 95, 101. A report by the Energy and Resources Group of the University of California at Berkeley compared the ORNL Model with the California Energy Commission (CEC) model. That report concluded that the ORNL Model was not appropriate for energy use forecasts at the level of a utility company's service area, but that it was appropriate to use the ORNL Model "to estimate the comparative impact of new policy initiatives on the national level." *An Assessment of Residential Energy Consumption Data and Their Use in Forecasting Models, Volume I: Overview*, Energy and Resources Group, Berkeley, California (September 1981), at ii–iv, 43–45. Indeed, that report concluded that the ORNL Model represented "the state-of-the-art in demand forecasting of a mechanistic nature." *Id.*, at 18. And the report also found that the CEC Model should *not* be used to estimate energy savings resulting from imposition of appliance standards. *Id.*, at iii–iv. The Energy Modeling Forum in 1979 compared the electric load forecasting of ten different models. The ORNL Model was singled out as the only model that separated the effects that would occur normally in response to higher prices, which the report stated was necessary for an accurate estimation of the effects of standards. *Electric Load Forecasting: Probing the Issues with Models, Vol. I*, Energy Modeling Forum (April 1979), at 28–29. These reports all dealt with earlier versions of the ORNL Model, and some of the reports naturally contained recommended improvements to the Model, many of which have been made. The importance of these reports, however, is that notwithstanding the limitations of the Model it was determined by independent scientists to be an appropriate, and when compared to other models the most appropriate, model for assessing the impacts of appliance efficiency standards.

It is appropriate to note again that the algorithm was developed before and without regard to the appliance efficiency program, by scientists attempting in good faith to model in the most accurate fashion changes in residential energy use. The very questions emphasized by commenters critical of the April 1982 proposal were in fact first raised by DOE as a result of its own research and identified as questions in the April 1982 proposal. The existence of unresolved questions, however, is not a ground for replacing the algorithm, especially when the only presently known possible replacements have established deficiencies.[37] As indicated earlier, DOE has made changes to the ORNL Model's methodology and inputs where the record supports changes. With respect to changes to the algorithm, however, DOE concludes that such record support does not exist.

As the above discussion suggests, DOE's review of the ORNL Model generally, including the algorithm, is a continuing affair, and is not dependent on the existence of a particular rulemaking. Consequently, DOE is now considering and continues to search for possible improvements to the Model. If, in the course of such on-going studies, it is found that improvements to the ORNL Model or of any of the other models or analyses are of a magnitude that might affect the determinations made in today's rule, DOE intends to begin a new proceeding at that time without waiting for the beginning of the statutorily required five year review.

2. *Significance of Savings.* As indicated above, the Act prohibits DOE from adopting an energy efficiency standard for a product unless the standard would result in a significant conservation of energy. In the April 1982 proposal, DOE noted that the Act did not define the term "significant." Thus, DOE indicated its view that Congress used such a term with the intent that DOE would, in the exercise of its informed judgment, determine what

[33] NRDC states that "[o]ne assumption consistent with the data is that appliance efficiencies will generally continue to increase at the same rate that they have increased historicaly, absent standards." NRDC, No. 2121, at 10. At best, this is a tautology—if one assumes that the future will reproduce the past, then data as to the past is consistent with the assumption. At the worst, it is simply incorrect. *See infra.*

[34] Over this period, it should be noted, real electricity prices declined. The algorithm would accordingly project lower efficiencies.

[35] Subsequent to the public comment period and to DOE's analysis of the ORNL Model and the algorithm described above, as an outgrowth DOE's continuing efforts to improve the ORNL Model as both a research and regulatory tool, a preliminary report of an attempt to test the algorithm was submitted to DOE by contract personnel. That preliminary report has not been documented, so DOE does not believe that decisions should be based upon it. Nevertheless, its preliminary, undocumented results indicate that with respect to three of five appliances using electricity, the algorithm's projection from a 1972 base year of the 1980 market distortion (as measured in dollars difference between the optimal and average life cycle costs) was within $10 of the "actual" 1980 market distortion. Although the preliminary report only used electricity prices, it appears to indicate, however, that market distortion increased for furnaces and water heaters during the period 1972 to 1980, which would be inconsistent with the algorithm's projections.

[36] By using these two other methodologies as sensitivity analyses in the product specific discussion, DOE does not intent to suggest that there is any basis for using such methodologies in place of the algorithm.

[37] Not all of the questions, moreover, would have the effect of diminishing the effects of the algorithm. In the April 1982 proposal, for instance, DOE indicated its belief that the algorithm might well understate the speed at which efficiency improvements might be made. 47 FR 14428. Moreover, the rulemaking record provided some support for this belief. Nonetheless, DOE has concluded, in agreement with objectors, that it would be inappropriate to alter the algorithm in this respect in the absence of data or validation to support such a change.

level of savings would be significant and under what circumstances.

Accordingly, in that proposal DOE proposed three different tests for significance, any one of which, if met by a potential standard, would justify a finding by DOE that a significant conservation of energy was attributable to the standard. In the December 1982 final rule, DOE treated at some length the various comments on the three proposed tests and concluded that with certain changes the three tests were appropriate. *See* 47 FR 57202–57209. As indicated in the preamble to that rule, the three tests to be utilized are:

(1) If the standard would result in the saving of 10,000 bpd of oil or the saving of 56,530 mcf per day of natural gas[38] over the period of the average life of the product in question beginning with the year 1987;

(2) If the standard would result in the saving of one percent of national electricity use over the period of the average life of the product in question beginning with the year 1987;

(3) If the savings attributable to a standard for a product were equal to 16.67 percent of the energy that would be used by that product in the absence of a standard, measured over the one year period following the period of the average life of the product purchased in 1986.

In the December 1982 final rule, DOE indicated that it had not yet concluded its consideration on the issue of electricity peak load demand savings. A number of commenters on the April 1982 proposal had criticized DOE's electricity savings significance test because it allegedly ignored the effects of standards on peak load savings. Because the December 1982 final rule did not deal with air conditioning equipment, the products most cited to DOE by commenters as those for which peak load analysis was most important, and in light of the importance of peak load savings, DOE deferred a decision on this issue and stated that it was continuing to study the issue toward the end of perhaps adopting an additional test of significance in this rule. *See* 47 FR 57207–57208.

A number of methodologies can be used to determine peak load savings attributable to a standard *in a particular utility service area. See, e.g.*, New York City Energy Office, No. 2141, at Appendix C; ACEEE, No. 2173, at 3–4.[39] Each of these methodologies requires data specific to the utility service area as to peak and average loads (which is generally available) and as to the contribution of the particular product in question to those peak and average loads (which is generally not available, although it is available for some utilities). The primary difficulty, however, is in making determinations on a national basis. First, it is simply not possible, for data and resource reasons, to determine the effect of a standard for a product on the peak load for each of the utilities in the United States and then simply add them. Second, it would be inaccurate in this instance simply to generalize to all utilities the impacts of a standard on the peak loads of a small number of particular utilities.[40] Third, it is methodologically inaccurate to derive national peak load savings by backing out of aggregated national data regarding peak loads the demand reduction attributable to a standard for a product.[41] The present inability to determine even order-of-magnitude national peak load savings attributable to a standard for any product, especially air conditioning equipment, makes impossible a specific test of the significance of energy savings based on peak load savings.

d. Economic Justification

As indicated above, Section 325(b) of the Act prohibits a standard for a product if DOE by rule determines that the standard is not economically justified. Thus, even if a standard would result in a "significant" conservation of energy, the standard would be prohibited if it were not economically justified. Section 325(d) of the Act addresses how DOE is to determine economic justification.[42] It states that a standard is economically justified only if the benefits of the standard outweigh its burdens. In weighing the benefits and burdens, DOE is required to consider six specified factors, as well as any other factors DOE considers relevant. In the April 1982 proposal, DOE indicated that, in light of the Regulatory Flexibility Act, it would consider as an additional, relevant factor the impact of a standard on small businesses. *See* 47 FR 14434–5. DOE asked for comments on what other, additional factors DOE should consider. DOE did not receive any suggestions for additional factors. Each factor is separately discussed below.

Certain of these factors can be quantified, albeit through projections and computer models; others are not quantifiable. Congress recognized this and indicated that greater weight should not be given to a factor because it was quantifiable. *See* H.R. Rep. No. 95–1751, 95th Cong., 2d. Sess. 116 (1978).

1. *Economic Impact on Manufacturers and Consumers* (Section 325(d)(1)). A. *Manufacturers.* In the April 1982 proposal, in order to quantify a number of impacts on manufacturers, DOE used a computer model, the Financial Impacts Model (FIM), to simulate the effects of standards on different-sized firms in the appliance industry. The FIM is fully explained in the EcAD. *See especially* Appendix A. In general, the FIM compared the projected financial records of prototypical firms over a twelve year period—1980 through 1991—under a base case and two standards cases (levels 2 and 3). The FIM then provides four outputs: the increased risk to a firm of not making a profit in the maufacture and sale of a given product subject to a given standard compared to the base case, and the relative profitability, debt/equity and "quick" ratios[43] of firms in the base case and with standards. *See* EcAD, at § 4.5. These impacts, as relevant, are

[38] 56,530 mcf of natural gas contain the same BTUs as 10,000 barrels of oil.

[39] DOE is in the process of developing a computer model that can be integrated with the ORNL Model that simulates disaggregated hourly residential electricity demand for electric utility service areas.

[40] As indicated in the December 1982 final rule, the nature of a utility's peak load is highly regional, if not local. The New York City Energy Office, for example, stated that its demand curve was unusual. No. 2141, at 6. Moreover, whereas 19 percent of the peak demand was attributable to room air conditioners, less than 2 percent was attributable to central air conditioners. *Id.*, at Appendix C.

[41] This was essentially the methodology used by ACEEE to estimate national impacts. The primary problem with this methodology is that it assumes that all reduction in demand is a reduction of peak demand. There simply is no such coincidence. For example, the overall savings in demand attributable to a standard would not reduce the utility's peak demand by that amount because not all units of the product would be used at the peak load period. In New York City, for example, the percentage of coninicident usage of air conditioning equipment at summer peak is only 47 percent. New York City Energy Office, No. 2141, at Appendix C. Other electrical products are generally considered even less coincident with the peak load. *See* ACEEE, No. 2173, at 4. Even more important with respect to air conditioning equipment is the fact that any demand reduction would have *no* impact on the peak demand of the large number of utilities that are winter peaking. Moreover, many utilities which are summer peaking have summer peaks only slightly in excess of their winter peaks, with the result that air conditioner demand reduction might turn them into winter peaking utilities rather than reducing their overall peak by the amount of the summer peak reduction.

[42] The NRDC suggested that because Section 325(d) by its terms only refers to Section 325(c), not Section 325(b), DOE should not determine economic justification under Section 325(d). As indicated in the December 1982 final rule, DOE believes the test of economic justification in Section 325(d) is appropriate for the determinations required by Section 325(b). *See* 47 FR 57209 n.20.

[43] The quick ratio is a measure of a firm's ability to withstand short-term downturns in business activity. Also called the acid test ratio, it is defined as current assets, less inventory, divided by current liabilities

described in the product-specific discussion.

DOE also conducted for the April 1982 proposal a sensitivity analysis of the risk analysis in the FIM to determine how changing certain variables would affect the output. As indicated in the April 1982 proposal, changing the level of products shipped had a substantial impact on the model's output of increased risk. Where appropriate, these impacts are shown in the product-specific discussion.

Manufacturers and their trade associations were generally of the view that the FIM understated the negative impacts of standards on firms. Most of these comments, however, did not make suggestions as to how to improve the FIM. Perhaps most importantly, the commenters supported DOE's tentative conclusion in the April 1982 proposal that the FIM understated the negative impacts on small businesses, *see* 47 FR 14435. This is discussed in more detail, *infra*.

A few commenters suggested that the FIM's methodology resulted in an overstatement of the negative impacts of standards on firms. These commenters noted that the FIM analysis assumed that the entire investment necessary to raise 1978 efficiencies to standards levels was attributable to the standards, whereas the ORNL Model projected that absent standards efficiencies would increase substantially from 1978 to 1987, suggesting that at least some investments to raise efficiencies were not attributable to standards. *See, e.g.*, GAO Report, at 14; ACEEE, 5–19/4, at 10.

This limitation of the FIM, however, had been fully recognized by DOE in the April 1982 proposal. *See* 47 FR 14431 n.18. Consequently, in order to determine only the impacts on firms attributable to standards, DOE reduced the FIM's projected impacts by a percentage equal to the ORNL model's projected increase in the efficiency of a product between 1978 and 1987. *See* 47 FR 14437 n.31, 14439 n.38, 14443 n.49, 14446 n.59, 14451 n.71, 14454 n.76. No commenter criticized this methodology for adjusting the impacts projected by the FIM.

For the rule today, DOE updated the imputs to the FIM. *See* Supplement. In addition, DOE altered slightly the methodology for adjusting the impacts of the FIM. That is, as indicated in the April 1982 proposal, to reduce the FIM impacts by a percentage equal to the percentage increase in efficiency of a product between 1978 and 1987 presumes that investment occurs at the same rate as increases in efficiency. In fact, however, initial increases in efficiency cost less than later increases in efficiency. That is, the most cost-effective investments in increased efficiency are made first. Therefore, DOE has altered its methodology to account for this situation. The EnAD provides a basis for constructing cost-efficiency curves that correlate increases in efficiency to levels of investment. DOE has, accordingly, determined the percentage of investment that would be made between 1978 and 1987 in the base case and decreased the impacts of the FIM by that percentage. Because the limitation of the FIM relates to its failure to incorporate investments in more efficient products made in the base case between 1978 and 1987, to reduce the impacts of the FIM by the percentage of investments projected for that period will better take account of that limitation.

A few commenters suggested that the negative impacts projected by the FIM were insignificant. A number of manufacturers, however, not only felt that the negative impacts were understated but that they were significant, especially for small businesses. The specific impacts projected by the FIM for each product are indicated in the product-specific discussion, including DOE's conclusion whether the impact is meaningful. As a general matter, however, there can be little doubt that a negative impact on manufacturers attributable to a standard is, no matter how small, a burden to be weighed in assessing the economic justification of a possible standard. The smaller the negative impact, of course, the smaller is the weight to be attributed to it.

Finally, with respect to the FIM, some commenters questioned how it was that DOE projected very small energy savings attributable to standards but substantial negative impacts on manufacturers. These commenters suggested such conclusions were contradictory. *See, e.g.*, Minnesota Department of Energy, No. 2133, at 3. There is no such contradiction, because a small energy savings attributable to standards does not necessarily mean that the investment and other manufacturing resources to obtain that savings are small. Moreover, the FIM's prototypical firms were based on the financial and operating characteristics of firms making the particular appliance, and some sectors of the industry may be highly susceptible to negative impacts because of their particular market peculiarities. No data or analysis was provided by these commenters to suggest a different way of measuring the impacts.

In the April 1982 proposal, DOE noted that in addition to the quantified impacts on manufacturers measured by the FIM there were certain unquantified impacts. DOE specifically mentioned that to the extent that expenditures by manufacturers on energy efficiency improvements to appliances are dictated by standards rather than economics, more appropriate investments may be forgone. DOE indicated that the foregone investments could include investments in increased productivity, increased energy efficiency in the manufacturing sector, or new utility or performance features. *See* 47 FR 14431–32. Manufacturers generally supported this conclusion. Commenters who objected to the conclusion generally did not offer arguments to the contrary, but rather suggested that DOE had no data to support such a conclusion.

DOE does not believe that data is necessary to support a conclusion that is otherwise supported by generally accepted economic theory. Moreover, Congress has indicated that merely because a factor cannot be quantified should not affect its consideration in the weighing of burdens and benefits of a possible standard. However, as was also indicated in the April 1982 proposal, *see* 47 FR 14432, 14435, this particular type of burden is essentially inherent in any appliance efficiency standard and might be characterized as a generic burden of a government standard. As such, in the absence of evidence of a particularized negative impact, this burden alone clearly cannot be enough to outweigh all the potential benefits of a standard, because it would make the remaining economic justification factors superfluous. Thus, while DOE does consider this unquantified burden in weighing the burdens and benefits of standards, DOE does not assign it great weight in the absence of evidence of particularized negative impact with respect to a given product.

In addition to this unquantified burden on manufacturers, several commenters suggested others. Of primary concern was the effect of standards on U.S. exports of appliances. Manufacturers and trade groups generally expressed the view that the current U.S. 20 percent share of the world appliance market would be reduced because, as a result of standards, the U.S. products would be more expensive. DOE has considered this comment but does not believe there is sufficient evidence to conclude that, overall, standards would have a negative effect on U.S. exports of appliances. First, the Act expressly

exempts exports from any efficiency standard. Section 330. Second, while it might raise export unit costs to create new, separate domestic and exports lines, there is insufficient evidence why new separate lines would have to be created. That is, production lines currently producing any noncomplying models could become the export lines. Third, it has not been established that more expensive but more efficient U.S. appliances would not compete as well abroad as less expensive and less efficient U.S. appliances.

Commenters who opposed the April 1982 proposal raised some non-quantifiable impacts on manufacturers that they suggested either mitigated the burden of standards on manufacturers or might make a standard more beneficial for manufacturers than a no-standard determination. One of these impacts was the mandatory elimination of various product lines (because they would not meet the standard's requirement) which supposedly would reduce costs to manufacturers. *See*, e.g., Carrier Corp., 5–18/7, at 7.

While it might be true for large manufacturers that compete across the entire product spectrum that there would be cost savings in reducing the number of product lines, especially if they already had sufficient product lines meeting standards levels, DOE notes that whether elimination of product lines is a benefit or a burden to a manufacturer would depend largely on its specific product line mix and position in that product market. Consequently, DOE does not believe it would be appropriate to consider these alleged cost savings as a general, if unquantifiable, benefit to manufacturers attributable to standards.

Another comment suggesting an unquantified benefit for manufacturers resulting from standards was that, if standards were imposed, U.S. manufacturers would be less vulnerable to competition from imported appliances, especially from Japan. *See, e. g.*, Carrier Corp., 5–18/7, at 7. DOE believes there is no basis for concluding that standards would insulate domestic manufacturers from foreign competition. Indeed, a substantial case could be made that efficiency standards for appliances would benefit foreign competitors at the expense of domestic manufacturers. These commenters first maintain that the marketplace will not result in more efficient products being built, because "getting people to buy higher efficiency equipment is [a problem]." *Id.*, at 6. These commenters, however, do not explain why more efficient foreign equipment would then be successful in the U.S. market, where U.S. equipment supposedly is not. Efficient foreign equipment will only find a market in the U.S. if there is a demand for more efficient equipment. If that demand is artificially created by government regulation before the marketplace would create the demand, foreign competitors would gain an advantage, because they have already developed the more efficient lines. No new investments, for them would be necessary; no change-over costs would be incurred. Consequently, DOE concludes that the negative impacts on manufacturers from foreign competition are not lessened by standards, but, if anything, are increased.

B. *Consumers.* One measure of the economic impact on consumers attributable to standards is through a life cycle cost analysis. Under Section 325 of the Act, however, the life cycle cost impact of standards is a separate factor to be considered. *See* Section 325(d)(2). Accordingly, the life cycle cost impacts are discussed *infra.*

Nevertheless, increased *first* costs can also impact consumers. That is, as suggested in the April 1982 proposal, as a result of increased first costs, certain consumers may retain products longer than they otherwise would, even beyond their normal life. Other consumers might purchase second-hand, rather than new appliances, again generally resulting in an aging of the existing stock of appliances beyond that which would exist absent standards.

Some manufacturers and trade associations submitted data indicating reduced sales of certain appliances in States after the imposition of State standards. This data, they said, supported the conclusion that imposition of standards, with resulting first-cost increases, would result in reduced sales. California, in particular, however, submitted data in response to comments, suggesting that the indicated decrease in sales was unrelated to the imposition of standards. DOE has reviewed all these comments and concludes that there is no substantial evidence that the imposition of State standards has resulted in any significant reduction in sales of products subject to the standards. Similarly, DOE does not believe there is substantial evidence that imposition of any of the potential national standards analyzed would result in any significant reduction in sales of products subject to such standards.[44] That is, while increased first costs attributable to standards might still result in certain consumers not purchasing products, whereas without standards they might have, the number so affected is not large enough to impact significantly overall sales figures.

In the April 1982 proposal, DOE indicated that the group most likely to be affected the greatest by increased first costs would be lower income persons. Commenters on the proposal did not generally argue with this conclusion.[45]

The EcAD, at 595, indicated for certain products the projected number of purchases forgone as a result of increased first costs attributable to standards set at the June 1980 proposed level. In the Supplement, DOE has improved and updated the analysis of appliance purchases forgone as a result of increased first costs attributable to standards. Both analyses confirm the disparate first-cost impact on lower income persons. As a result, some lower income persons may in effect be forced to retain products past their normal life or purchase older, used appliances. These older products are generally less efficient than newer models to begin with, and for some appliances initial efficiencies are likely to deteriorate over time, especially if they are retained beyond their normal life or are not properly maintained.[46] Thus, some lower income persons might, because of standards, be forced to live with less efficient products and thus use more energy. Or the person might simply be forced to do without that type of product. However, if no standards were imposed, it would be possible for a lower income person to purchase a new product with a higher efficiency than the model it was replacing, albeit at an efficiency less than might be available under standards.[47]

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[44] DOE updated an analysis contained in Appendix J of the EcAD. *See* EcAD, at 586. This analysis projects the number of appliance purchases forgone as a result of standards by various income groups. While this analysis and its update indicate that lower income persons are most negatively impacted by increased first costs, they also indicate that the absolute number of appliance purchases forgone are not significant as a percent of total sales. *See* Supplement.

[45] As indicated *infra*, however, a number of commenters disagreed with DOE's ultimate conclusion that lower income persons would be harmed by the imposition of standards.

[46] Comments were received with respect to decreased efficiencies over time for room air conditioners, and refrigerators.

[47] Both analyses indicate that the total number of lower income persons affected in this way is too small to impact national energy use. Thus, the burden of this impact of a standard is not its effect on national energy use, but the imposition of a burden on the lower income persons effectively precluded from purchasing a desired appliance. *See infra.*

In the April 1982 proposal, DOE indicated that it believed that effectively precluding some persons, especially lower income persons, from purchasing a new appliance would be a significant burden to be attributed to standards, even if the number of persons affected was small. The burden is significant because some persons are effectively precluded from obtaining the appliance at all and others are forced to retain or obtain an older appliance that may result in their having increased energy use and costs. Moreover, some consumers may not be able to purchase the appliances they desire, either because of the government standard or because of the increased cost of the appliance attributable to standards. Thus, this burden has both an economic and an unquantifiable social cost involving the effective loss of some economic freedom.[48]

Several consumer-oriented interest groups argued, however, that many lower income persons are renters, whose landlords would purchase the least expensive and least efficient products. *See, e.g.*, Consumers Union, No. 2085, at 8. Such lower income persons, it was suggested, would benefit from standards because standards would force landlords, over time, to upgrade the efficiency of their appliances to the benefit of the lower income renters that would pay the fuel bills. However, little data was submitted on the issue. Although, it would appear that landlords whose rental units remain affordable to lower income persons are not likely to be in a position to invest in the improved energy efficiency of their units, no evidence has been presented to specifically support this position. Moreover, if landlords of lower income persons were required to buy more expensive, albeit, more efficient appliances, as a result of standards, the landlords would probably recover the increased first cost through higher rents or through a reduction in services. Thus, it is not clear that standards requiring higher efficiency products would generally benefit lower income renters.

Moreover, it would be difficult to quantify an economic benefit of standards for lower income persons. For example, while a large percentage of lower income persons are renters, rather than owners of their dwellings,[49] the largest energy using products (furnaces, water heaters, and central air conditioners) in multi-family, rental buildings are often, if not usually, not *consumer* appliances under the Act and therefore would not be subject to possible standards.[50] Room air conditioners, moreover, often are not and freezers are almost never provided as equipment in lower cost rental units, but must be bought by the lower income renter. Thus, the potential benefits to lower income renters would primarily be with respect to refrigerators and refrigerator-freezers. Even here, however, if a landlord provides the cheapest equipment, it would likely be a manual defrost refrigerator, which even now uses less energy than almost all other refrigerator-freezers would under the most stringent standard. Finally, some lower income renters will have their utility costs included in the rent, so that the landlord, rather than the renter, would be faced with the fuel costs.[51] In addition, some landlords might pass through any increase in first cost for equipment in the rent, or might diminish services in order to recover the cost of the equipment. Thus, DOE believes that lower income renters would as a group generally neither benefit from an energy efficiency standard, nor be harmed by a standard. However, individual renters could face reduced housing choices if landlords are required to install more expensive equipment as a result of appliance efficiency standards.

In weighing the impact of a standard on lower income purchasers of appliances against the impact of a standard on lower income renters, DOE is aware that in a sense it is weighing unlike impacts. Thus, it would be improper merely to weigh the number of persons benefited against the persons burdened or the dollars of economic burden against the dollars of economic benefit. In the product-specific discussion, the weighing in terms of the particular product is addressed.

2. *Life Cycle Cost.* Section 325(d)(2) of the Act requires DOE, in weighing the benefits and burdens of possible appliance standards, to consider "the savings in operating costs" over the life of product compared to any increase in the price and maintenance expenses of a product resulting from the imposition of a standard. In other words, DOE is to consider the effect on life cycle costs to a consumer that would result from standards.

The Net Present Value (NPV) analysis is a measurement of the difference between a standards case and the base case for all the units of a product purchased over a given period [52] in terms of a dicounted present value of the life cycle costs of those units. *See* EcAD, at 14. This measurement is made by the ORNL Model.

A positive NPV for a product at a given standard level indicates that, if that standard were adopted, consumers of that product as a whole would save that much more money in fuel costs over the lifetime of the product, discounted to 1980, than they would pay in increased first costs for more efficient products, discounted to 1980 compared to the situation where no standard is adopted.[53] A positive NPV does not signify that the economy as whole benefits (as opposed to consumers of that product). The NPV analysis only compares consumer fuel cost savings against increases in product prices to consumers. For example, the government costs in maintaining and enforcing a particular product standard are not subtracted from the net present value. The NPV analysis is similar to the Life Cycle Cost (LCC) analysis, *see infra*, and the greatest NPV generally should occur at the standard level set at the LCC minimum for the product.[54] The

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[48] A number of commenters on the April 1982 proposal noted that Appendix J of the EcAD was primarily concerned with measuring the impacts of standards on income inequality in the United States. The conclusion of that analysis in Appendix J was that efficiency standards would have no significant impact on income inequality. DOE did not mean to suggest otherwise, and no commenter disputed that conclusion, so DOE has not updated that analysis. The income inequality analysis, however, based on life cycle costs is different from the analysis of the impacts of increased first costs.

[49] Almost sixty percent of lower income households rent, rather than own, their homes. *See* Housing Characteristics, 1980, DOE/EIA-0314 (1982), at Table 5.

[50] Over 5 million households live in buildings with five or more units with a central heating system. Over 11 million households live in buildings with two or more units with a central hot water system. Over 1 million households live in buildings with five or more units with a central air conditioning system. *See* Housing Characteristics, 1980, DOE/EIA-0314 (1982), at Table 20.

[51] Only 35 percent of renters pay all their utilities themselves. Over 15 percent of renters have all their utilities paid by their landlord: that is, their utilities are included in the rental cost. Housing Characteristics, 1980, DOE/EIA-0314 (1982), at Table 3.

[52] In the April 1982 proposal all NPV calculations were made for purchases over the period 1987–2005. While the time period for measuring energy savings has generally been changed from the period 1987–2005 in the April 1982 proposal, to the period of the average life of the product in question, *see* 47 FR 57203, DOE has not changed the time period for the NPV calculations. This is due to DOE'S determination that there would be no substantial change in the results of the NPV analysis as a consequence of changing the time period, and the coding changes would have been both expensive and time consuming.

[53] All NPV's in the analysis overstate the benefit of standards to some degree because the base case analysis did not subtract manufacturer compliance costs, e.g., certification and testing, from the base case product prices. This overestimate, however, is minor.

[54] Because the NPV analysis is done using the ORNL Model and the LCC analysis is done through its own model, this direct correlation may not exist between the two models' data.

NPV for each product at the different standard levels is identified in the product-specific analysis.

The only comments directly concerning the NPV analysis were those of the NRDC and the California Energy Commission (CEC), criticizing the DOE's use of the 10 percent discount rate indicated in OMB Circular A–94 for discounting future energy cost savings to 1980. Essentially, these commenters complained that Circular A–94 did not apply to regulatory programs but only to Government investments, and that a lower discount rate was more appropriate. Nothing in Circular A–94 limits its application to consideration of Government investments or excludes regulatory programs. Even if there were, if a 10 percent discount rate is an appropriate basis for measuring the present value to the Government of future savings the commenters have not sufficiently established why the present value to consumers from the same future savings should be different. Moreover, DOE believes a 3–6 percent discount rate, suggested by the commenters, is inappropriately low. *See* CEC, No. 2097, Comments of the Staff of the Conservation Division of the CEC, at 1 (assuming 40 percent marginal tax rate for consumer).

Separate from the NPV analysis, DOE also conducted an LCC analysis of individual products and classes of products to assess the life cycle cost minima for the various classes and products. *See* EcAD, at Appendix G. The LCC analysis, therefore, is useful in identifying those energy efficiency levels at which the average consumer's economic benefits are maximized and his burdens minimized.

In the absence of mandatory government standards, a consumer purchasing an applicance has the freedom of choosing among various models of a product and, with sufficient information, can choose the model which offers the features which the consumer requires, including the lowest life cycle cost. This would enable the consumer to purchase the most cost-effective product.[55] Depending upon the level at which a mandatory efficiency standard is set, a consumer may be deprived of the freedom to purchase the most cost-effective product. That is, if the minimum energy efficiency standard is sufficiently demanding, the resulting first cost increase to achieve that efficiency may be greater than the discounted value of the energy saved. Thus, it is possible for a mandatory efficiency standard to eliminate from the market the most cost-effective product for a particular consumer and consequently penalize that consumer. Moreover, an energy efficiency standard could also result in the elimination from the market place of the most cost-effective product for the average consumer.

In the April 1982 proposal DOE indicated its view that, if a standard would have the effect of eliminating from the market an existing appliance that would have a lower life cycle cost to the average consumer than the standard level, DOE would consider that a substantial burden in assessing the benefits and burdens of a standard to determine its economic justification. *See* 47 FR 14432. No commenter took issue with this view.[56]

If a particular standard analyzed would have the effect of barring the most cost-effective model of a product from the marketplace, this is raised in the product-specific discussion.

In both the April 1982 proposal and the comments thereon, it was noted that the LCC analysis was based on the *average* consumer in terms of both energy prices and usage. It was also noted that consumers with below average energy prices or usage might be penalized even if a standard did not penalize the average consumer. In the April 1982 proposal, DOE conducted a sensitivity analysis to assess to what extent this might be true. With the exception of certain classes of central and room air conditioners, however, the sensitivity analysis discerned no difference in the life cycle cost minima for the products analyzed at the different usage and fuel prices analyzed. The April 1982 proposal acknowledged that the sensitivity analyses were limited, especially in variations on fuel prices [57] and the fact that there was no analysis of combinations of low prices and low usage. Many commenters stressed that these limitations undermined the conclusion of the sensitivity analysis that in most cases variations from the average did not affect the life cycle cost minimum for a product.

As part of this final rule DOE conducted a regional sensitivity analysis to determine with respect to each State (and in some cases, portions of States) what the life cycle cost minimum was for certain classes of products. In this way the effect of combinations of usage and fuel price differences from the national average could be tested in terms of actual impacts of possible standards. That is, rather than reflecting whether a standard would or would not ban the most cost-effective model for some theoretical consumer with particular usage and fuel price characteristics, this analysis shows in what States, if any, the most cost-effective model would be banned by a particular standard. The results of the analysis, as appropriate, are discussed in the product-specific discussion.

In the April 1982 proposal, DOE compared the life cycle cost of the average product in 1978 to the life cycle cost of a product meeting the various possible standards levels. In most cases the life cycle cost of a product meeting the standard level was less than the life cycle cost of the average 1978 product. This comparison, however, it was noted, was not particularly meaningful. *See* 47 FR 14432. While this analysis has been updated, *see* Supplement, DOE has also compared the life cycle cost of the projected average product in 1987 (the year standards would apply to the life cycle cost of products at the various standard levels. This analysis more appropriately reflects the dollar difference in the average product's life cycle cost in a no-standard environment and a standard environment. The results of this analysis are reflected in the product specific discussion.

Some manufacturers complained that DOE did not include increased maintenance costs as part of the life cycle cost analysis except with respect to the product furnaces. DOE has considered these comments, but there is insufficient evidence of increased maintenance costs occurring as a function of increased efficiency of appliances to justify any change in the LCC analysis.

III. Product Specific Discussion

a. Refrigerators and Refrigerator-Freezers

1. *Technical Issues.* The industry members who commented on the engineering analysis for refrigerators and refrigerator-freezers were generally in agreement that the specific design options considered by DOE for

[55] Obviously, where different models have different features, the consumer may make purchasing decisions based on the value which the consumer places on a particular feature. Lower energy use which would result in lower life cycle costs is only one feature of an appliance, and would be subject to the same type of consumer decision-making as would other features.

[56] In the December 1982 final rule, DOE found that the only standard levels that would save any energy would penalize the average consumer by prohibiting the most cost effective models of the products in question. *See* 47 FR 57211–57213.

[57] The April 1982 proposal's sensitivity analysis only varied fuel prices by less than 5 percent from the average price, whereas differences in electricity prices in the U.S. can vary 80 percent from the national average. *See* 47 FR 14433.

improving the efficiency of this product are appropriate. However, the General Electric Company (GE) questioned the cost-effectiveness of two of these design options. GE stated that the double door gasket design option is cost-effective only on automatic defrost models. For manual defrost and for partial automatic defrost models, GE contended that there is little improvement in efficiency associated with a second door seal. The second design option GE questioned was reducing the heat load of through-the-door service features. GE contested using foam insulation to reduce the heat load in through-the-door service as a cost-effective design option. GE did not provide any test data in support of its position nor any energy savings versus cost estimates to demonstrate that either of these design options are not cost-effective. In its own investigation of this issue, DOE has not found evidence in the public record or in any substantiated technical literature to suggest that the cost and efficiency values developed for these design options are inaccurate. Therefore, DOE has made no change to its engineering analysis regarding these design options.

Whirlpool Corporation expressed concern that while the efficiency levels which DOE evaluated in its engineering analysis may be technologically feasible, in many cases they can only be attained by sacrificing product utility. Whirlpool set forth several factors, which are considered in developing a new refrigerator or freezer design, and stated that no single factor can be maximized without creating quality or performance problems that consumers would find unacceptable. An example cited by Whirlpool concerned the efficiency improvement associated with the direct replacement of fiberglass insulation with foam insulation in existing refrigerator and freezer designs, a design change that has already been effected by some manufacturers. Whirlpool stated that such design change has generally been applied to units that already have relatively thick wall cavities. Whirlpool asserted that if DOE were to issue a standard for a particular class of product based on the efficiency of such units, it could have the adverse impact of eliminating designs which incorporate thinner walls to offer consumers the special utility of maximum internal volume for a given external size. Whirlpool alleged that this could adversely impact consumers in cases where a consumer's space is limited, resulting in the possible replacement of existing larger capacity refrigerators with units of smaller storage capacity because the new units would be too wide or too high to fit into the space occupied by the existing refrigerator.

The EnAD identifies several design options that either increase the exterior dimensions of some classes of refrigerators and refrigerator-freezers or decrease the interior volume.[**] Such increases in exterior dimensions or decreases in interior volume, DOE agrees, would reduce utility. In the Supplement, *see infra*, DOE has analyzed the effects of high-efficiency compressors and separate evaporator coils for refrigerator-freezers. While the analysis did not specifically address use of such options to achieve levels of efficiency without any increase in interior dimensions or decrease in interior volume of refrigerator-freezers, DOE believes the efficiency levels analyzed as possible standards levels could, with these advanced design options, be reached without changes in exterior or interior dimensions, because the advanced design options would increase the efficiency of standard size units sufficienty to meet the standard levels.

Both the CEC and the NRDC commented that the highest efficiency level which DOE evaluated in its engineering analysis is below that which is technically feasible utilizing available technology. In addition NRDC and the City of New York alleged that a Japanese manufacturer, Toshiba, currently markets in Japan a high efficiency refrigerator, model GR-411, which consumes much less energy than the highest efficiency unit of comparable size manufactured in the United States. Annual energy consumption for the Toshiba GR-411 unit was said to be 550 kWH per year and its energy factor, 11.5. In response to these comments to the Association of Home Appliance Manufacturers and Whirlpool Corporation asserted that NRDC and the City of New York were in error in describing the Toshiba unit as a "frost free" design. According to Whirlpool Corporation, the unit is a "cycle defrost" mode with an manual defrost freezer compartment. Whirlpool remarked that the comparison made by the City of New York between the energy consumption of the Toshiba unit and that of the highest efficiency domestic unit of comparable size should reflect some difference in energy consumption since the domestic unit is a "no-frost" model.

[**] The depth of units is increased 0.5 inches in some design options for some classes and the width increased 1 inch in some design options of some classes. The interior volume is decreased 0.4 cubic feet in some design options of some classes.

As discussed *supra*, DOE did not update the standard levels for refrigerators because of serious time constraints. DOE could not assess all new models now available in the marketplace, alter the "cost books" for these products, and rerun all its computer models in a reasonable time frame, especially in light of the court-approved deadlines set by a settlement agreement with Consumers Union and NRDC. Moreover, because of the changing nature of refrigerators, which have shown substantial energy improvements over the last several years, any additional delay to increase standard levels would not guarantee inclusion of the most efficient model as a standard level by the date of issuance of the final rule. However, within the time available DOE did analyse two additional design options for refrigerators and refrigerator-freezers which are recently available in the market. They are high-efficiency compressors and separate evaporator coils for the freezer and the fresh food compartment. As a result of the analysis of these additional design options, DOE established one additional cost-efficiency data point for each of the seven classes of refrigerators and refrigerator-freezers. In each case, the new efficiency data point was higher than the highest one previously considered. Moreover, while DOE did not consider the Toshiba refrigerator model in its engineering analysis, the analysis of the partial automatic defrost class included an additional design option of a high efficiency compressor which raised the highest efficiency level analyzed to an energy factor of 12.3. The Toshiba unit has a lower energy factor which was not considered in the analysis. All of the new data points were included in the ORNL Model, improving the cost efficiency curves and the ORNL Model's life cycle cost curve at the higher efficiency levels.

2. *Significance of Energy Savings.* The table below reflects the energy savings projected by the ORNL model attributable to a standard for refrigerators and refrigerator-freezers at each of the three standard levels analyzed over the period 1983–2005.

Level 1—0.25 Quads
Level 2—0.85 Quads
Level 3—1.65 Quads [**]

[**] DOE ran two sensitivity analyses of the ORNL Model projections of energy savings. One substituted a constant distortion rate for the algorithm; the other substituted the historical rate of increased efficiency for that derived by the ORNL Model. At level 3 the results were 2.03 Quads and 0.27 Quads, respectively. Neither amounts would satisfy the first two tests of significance.

DOE projects that a savings of 1.65 Quads of electricity would not save more than 0.044 Quads of oil and 0.101 Quads of natural gas over the 19-year period [40] which averages to 1,084 barrels per day of oil savings and 14,227 mcf per day of natural gas savings. This is only 11 and 25 percent, respectively, of the amount DOE deems significant.

The maximum savings attributable to standards would constitute less than 0.22 percent of the electricity used in the Nation over the 19-year period.[41] This is only 0.22 percent of the one percent savings that DOE deems significant.

For the year 2006, the highest level of savings attributable to standards would constitute 14.59 percent of the energy that would have been consumed by refrigerators and refrigerator-freezers in the absence of standards, which is less than the 16.67 percent that DOE would deem significant.[42]

On the basis of the above, DOE concludes that standards for refrigerators and refrigerator-freezers would not result in a significant conservation of energy.

3. *Economic justification.* A. *Economic Impact Manufacturers.* In the EnAD accompanying the April 1982 proposal, the DOE indicated that the cost for the most prevalent class of product, the automatic-defrost refrigerator-freezer with top mounted freezer, increases less than $10.00 or 5 percent over the baseline unit. Other models, however, especially the lowest priced classes of product, had increased costs of up to 10 percent. *See* EnAD, Tables 1.15 and 1.16. None of these figures was disputed in the comments received on refrigerators.

The effects of these increased costs on medium-sized firms is reflected in the FIM. The FIM predicts that a prototypical medium-sized manufacturer would suffer a 15 percent increase in business risk at level 3 and a 25 percent increase in business risk at the next lowest level. *See* Supp. to EcAD, Table A.4–1. By 1991 (the last year of the analysis), the FIM predicts that the prototypical medium-sized manufacturer would have a 94 percent decrease in profitability, while the large and small manufacturers would have a 5 and 11 percent decrease, respectively. *See Id.*, Table A.4–2. At the standard level that would save the greatest energy, the prototypical small firm's debt/equity ratio deteriorates by almost 50 percent. *See Id.*, Table A.4–3.

As indicated in the General Discussion section, the FIM impacts are fully accurate only to the extent that the prototypical firm did not make investments in improving appliance efficiency as part of its historically indicated investments.[43] In the case of refrigerators and refrigerator-freezers, in the base case by 1987 the ORNL Model projects that the SWEF will be 6.62 EF (Energy Factor). From the EnAD this would indicate that 52 percent of the necessary investment to achieve the highest standard level would be made as part of historically indicated investments. Thus, the FIM negative impacts actually attributable to the highest standard level should be reduced by about 52 percent. Even with this reduction, the negative impacts of standards for refrigerator-freezers remain substantial for medium-sized firms.

In addition to the above mentioned quantified impacts on manufacturers, an effect of a standard, as indicated previously, would be to require certain investments to be made that might not otherwise have been made. These required investments may result in the forgoing of certain other investments which would be more beneficial to the manufacturer. Commenters who addressed this point generally supported this conclusion.

B. *Economic Impact on Consumers.* As indicated above, and in the April 1982 proposal, DOE found that the greatest increased costs to consumers for refrigerators and refrigerator-freezers are in the lowest priced classes of products, EnAD, Table 1.16. Nevertheless, DOE's analysis of appliance purchases forgone as a result of increased price indicates that the income elasticity of refrigerators is extremely low, suggesting that hardly any refrigerator purchases would be forgone as a result of efficiency standards. Since many lower income consumers rent housing that includes refrigerators and refrigerator-freezers, the imposition of standards on these products could positively benefit these consumers by lowering electricity costs. Although, on the other hand, if landlords furnish more efficient units it is quite probable that they would recover the increased first cost through increased rents or through reduced services. On this basis, DOE concludes that the total impact of standards for refrigerators and refrigerator-freezers on lower-income consumers is slightly positive. DOE is unable to qualify this benefit but given the relativity small life cycle cost savings for the least expensive classes (which low income renters would most likely be provided by landlords) and the number of low income persons who both rent and pay all their utilities, DOE believes the benefit to low income consumers as a class is slight.

C. *Life Cycle Cost.* No specific comments were received concerning DOE's determinations on the life cycle cost of refrigerators and refrigerator-freezers. The LCC analysis indicates that the possible standard level with the lowest life cycle cost is level 3. *See* Supp. to EcAD, Appendix G. This indicates that the highest standard level would not cause any economic burden on the "average" consumer.

The NPV analysis indicates that if a standard were adopted at level 3 there would be a net present value of $1,961.1 million from energy savings over the period 1987–2024. If the net present value were spread across the Nation, the resulting benefits would be less than 80 cents a year per household.

D. *Energy Savings.* As indicated previously, the maximum savings attributable to standards for refrigerators and refrigerator-freezers under any of the analyses would be 1.65 Quads of electricity.

E. *Lessening of Utility or Performance of Products.* In the April 1982 proposal, DOE established new classes of products in order to assure that the standards analyzed would not lessen the existing utility or performance of refrigerators and refrigerator-freezers. Whirlpool commented that at level 2 standards, there is some loss of utility for most classes and a significant loss in a few. At level 3 standards, Whirlpool stated that the suggested levels would result in significant loss of utility. The manufacturer commented that DOE did not consider exterior dimensions in its analysis, and that because of space limitations in current kitchens, manufacturers would have to sacrifice interior volume, thereby reducing the appliance's utility to the consumer. In

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[40] This assumes that oil constitutes 2.65 percent and gas 6.15 percent of the energy used to generate electricity over this time period. These percentages are the average of the projected proportions for the years 1990 and 1995. In the absence of specific data for each of the years 1987–2005, DOE used these years, which it believes is a conservative choice. *See* 1981 Annual Report to Congress, Volume 3: Forecasts, DOE/EIA 0173 (81)/3, February 1982.

[41] Electricity used over the period 1987–2005 is estimated to be 756.6 Quads. It is derived through linear extrapolation of the estimate made for the years 1985, 1990 and 2000. U.S. Department of Energy, July 1981, "The National Energy Policy Plan," Table 1.

[42] As indicated above, DOE ran two sensitivity analyses of the level 3 savings. Under the constant distortion rate the percentage savings are 15.94 percent. Under the historical trend analysis the percentage savings projected would be 1.65 percent

[43] This conclusion, however, applies only to the "average" (in terms of the shipment weighted efficiency of its product) prototypical firm. The negative impacts experienced by a firm that had made limited or no investments in improved product efficiency would still approach or be those reflected by the FIM.

the technical discussion section, DOE concluded that this comment had merit, but that use of more recent, high-technology designs might be able to avoid this loss of utility. There is, however, no assurance that future utility or performance of refrigerators and refrigerator-freezers would not be lessened as a result of disincentives caused by standards to investments in energy-using new features.

F. *Impact of Lessening Competition.* The Attorney General has determined that the absence of a Federal standard for refrigerators and refrigerator-freezers would have no impact on competition.

G. *Need to Save Energy.* Refrigerators and refrigerator-freezers use electricity exclusively as their energy source. While almost three percent of the Nation's electricity powers refrigerators and refrigerator-freezers, less than eight percent of that three percent would be saved by standards for this product.

H. *Other Factors.* The negative impacts on small manufacturers of refrigerators for this product have been presented above. Only with respect to a small firm's debt to equity ratio, however, was there any significant negative impact. In the April 1982 proposal, however, DOE explained its belief that the FIM understates the negative impact of standards on small firms. No comments were received disputing this general conclusion. Thus, DOE concludes that the negative impacts projected by the FIM (as adjusted) understate the negative impact of standards of small manufacturers of refrigerators and refrigerator-freezers.

Weighing of Factors

The benefits of a standard for refrigerators and refrigerator-freezers are, compared to the base case of no standards, that it would save energy, have a positive net present value and have a slightly positive impact on lower-income consumers. At level 3 these benefits are not minimal, but over the period of time involved and numbers of households involved, the benefits remain relatively small.

The burdens of a standard are: (1) It would adversely affect the financial well-being of medium-sized firms making refrigerators and refrigerator-freezers, in some cases causing a significant threat to their continued existence; (2) It might lessen the utility or performance of some current smaller, space constrained models and lessen the utility or performance of this product in the future by creating a disincentive to the development of energy-using new features; and (3) It could cause investment resources by manufacturers of these products to be allocated in a manner that is not the most beneficial to the manufacturer.

In light of all the factors DOE has determined that the burdens of an efficiency standard for refrigerators and refrigerator-freezers outweigh the benefits.

b. Freezers

1. *Technical Issues.* The industry members who commented on the engineering analysis for freezers were generally in agreement that the specific design options considered by DOE for improving the efficiency of this product are appropriate. However, Whirlpool Corporation expressed concern that while the efficiency levels which DOE evaluated in its engineering analysis may be technologically feasible, in many cases they can only be attained by sacrificing product utility. Whirlpool set forth several factors which are considered in developing a new refrigerator or freezer design and stated that no single factor can be maximized without creating quality or performance problems that consumers would find unacceptable. An example cited by Whirlpool concerned the efficiency improvement associated with the direct replacement of fiberglass insulation with foam insulation in existing refrigerator and freezer designs, a design change that has already been effected by some manufacturers. Whirlpool stated that design change has generally been applied to units that already have relatively thick wall cavities. Whirlpool asserted that if DOE were to issue a standard for a particular class of product based on the efficiency of such units, it could have the adverse impact of eliminating designs which incorporate thinner walls to offer consumers the special utility of maximum internal volume for a given external size. Whirlpool alleged that this could adversely impact consumers in cases where a consumer's space is limited, resulting in the possible replacement of existing larger capacity freezers with units of smaller storage capacity because the new units would be too wide or too high to fit into the space occupied by the existing freezer.

Unlike refrigerators, where kitchens and kitchen-cabinetry are designed with a standard-size refrigerator in mind, freezers do not occupy such an accustomed niche in most homes. Consequently, small increases in exterior dimensions of freezers would not appear to have as great an impact on utility as similar increases in refrigerators. Moreover, it appears that the use of advanced, high efficiency compressors not addressed in the EnAD, *see infra*, could allow manufacturers to reach levels of efficiency equivalent to possible standards levels without changing any dimensions of the freezer.

Commenters also stated that the highest freezer energy efficiency level analyzed by DOE is below that which is technically feasible utilizing available technology. As discussed *supra*, DOE has concluded that the necessary assessment of new models in the market for possible standard levels, the inclusion of these new levels in the "cost book" and the rerunning of all DOE's computer models would entail considerable time. As a result of court approved deadlines resulting from settlements with Consumers Union and NRDC, DOE did not have sufficient time in which to conduct such an analysis. Moreover, had DOE conducted this analysis, by the time of the final rule, newer, more efficient freezers would have likely appeared in the market place. However, DOE has reviewed its engineering analysis and had added an additional design option, improved compressors, for all classes of freezers. As a result, one additional cost-efficiency point has been established for each of the three classes of freezers. In each case, the new efficiency data point was higher than the highest one previously considered. These new data points were included in the ORNL Model, improving the cost-efficiency curves and life cycle cost curve at higher efficiency levels.

2. *Significance of Energy Savings.* The projected energy savings attributable to a standard for freezers at each of the three standard levels considered over the period 1987–2007 are:

Level 1—0.19 Quads
Level 2—0.35 Quads
Level 3—0.58 Quads [64]

A savings of 0.58 Quads of electricity would save approximately 0.015 Quads of oil and 0.036 Quads of natural gas over the 21-year period.[65] At most, this

[64] DOE ran two sensitivity analyses of the ORNL Model projections of energy savings. One substituted a constant distortion rate for the algorithm; the other substituted the historical rate of increased efficiency for that derived by the ORNL Model. At level 3 the results were 0.686 Quads and 0.162 Quads, respectively. Neither amounts would satisfy the first two tests of significance.

[65] This assumes that oil constitutes 2.65 percent and gas 6.15 percent of the energy used to generate electricity over this time period. These percentages are the average of the projected proportions for the years 1990 and 1995. In the absence of specific data for each of the years 1987–2007, DOE used these years, which it believes is a conservative choice. See 1981 Annual Report to Congress, Volume 3: Forecasts, DOE/EIA 0173 (81)/3, February 1982.

averages to 347 barrels per day of oil and 4,556 mcf per day of natural gas. This is only 4 percent and 8.1 percent, respectively, of the amount DOE deems significant.

The maximum savings attributable to standards would constitute less than 0.07 percent of the electricity used in the Nation over the 21-year period.[66] This is only 7 percent of the one percent savings that DOE deems significant.

For the year 2006, the highest level of savings attributable to standards would constitute 13.58 percent of the energy that would have been consumed by freezers in the absence of standards, which is less than the 16.67 percent that DOE would deem significant.[67]

On the basis of the above, DOE concludes that standards for freezers would not result in a significant conservation of energy.

3. *Economic Justification.* A. *Economic Impact on Manufacturers.* The EnAD accompanying the April 1982 proposal indicated that the per unit increased cost for a manufacturer to meet level 3 efficiency for manual defrost chest freezers, the most popular class, was $9.05, or about 7 percent as compared to the baseline unit. However, per unit increased costs for a manufacturer to meet level 3 standards for an upright auto defrost freezer could be as much as $23.85. *See* EnAD, Tables 2.11 and 2.12. None of these figures was disputed in the comments to the April 1982 proposal.

The impacts of these increased costs on manufacturers is reflected in the FIM. The FIM shows that a prototypical small-sized manufacturer would suffer an 80 percent increase in business risk at all of the efficiency levels that were studied as a result of standards and a medium-sized manufacturer would suffer a 35 percent increase in business risk at the efficiency levels 2 and 3. *See* Supp. to EcAD, Table A.4–1. By 1991 (the last year of the analysis), the FIM predicts that the prototypical small-sized manufacturer will have been losing increasing amounts of money during the last six years at levels 2 and 3. At level 3, the prototypical medium-sized firm's profitability decreases over 64 percent in the years following imposition of a standard. *See Id.*, Table A.4–3. The debt/equity ratio of the prototypical small manufacturer of freezers deteriorates almost 6 percent and medium sized manufacturers, 183 percent. *See Id.*, Table A.4–6.

As indicated in the General Discussion section, the FIM impacts are fully accurate only to the extent that the prototypical firm did not make investments in improving appliance efficiency as part of its historically indicated investments.[68] In the case of freezers, in the base case by 1987 the ORNL Model projects that the SWEF will be 12.13 EF. From the EnAD this would indicate that 40 percent of the necessary investment to achieve the highest standard level would be made as part of historically indicated investments. Thus, the FIM negative impacts actually attributable to the highest standard level should be reduced by 40 percent. Even with such a reduction, the negative impacts of standards for freezers remain substantial, especially for small and medium-size firms, which would have a substantial increase in business risk and a major drop in profitability.

In addition to the above mentioned quantified impacts on manufacturers, an effect of a standard, as indicated previously, would be to require certain investments to be made that might not otherwise have been made. These required investments may result in the forgoing of certain other investments which would be more benefical to the manufacturer. Manufacturers generally supported this conclusion.

B. *Economic Impact on Consumers.* In the April 1982 proposal, DOE indicated that a level 3 standard for freezers increased prices to consumers by $21.00 for the most prevalent class of product, chest freezers, to $36.00 for an upright automatic defrost freezer. Upright manual defrost freezers, which constitute over 31 percent of the market, have increased prices of $35.00. *See* EnAD, Table 2.12. Despite a relatively high elasticity of demand for freezers, compared to most other appliances, the absolute number and the percentage of freezer purchases forgone by lower income persons as a result of standards remains small. *See* EcAD, Table J–8. On the other hand, few if any lower income renters would be provided freezers by their landlords, and consequently, lower income persons do not suffer from third party effects with respect to freezers. Therefore, DOE concludes that energy efficiency standards for freezers would cause some adverse impact on lower income persons by forcing some not to purchase freezers, but that this burden is very slight.

C. *Life Cycle Cost.* No specific comments were received concerning DOE's determinations on the life-cycle cost of freezers. The LCC analysis indicates that the possible standard level with the lowest life-cycle cost is level 3. *See* Supp. to EcAD, Appendix G. This indicates that the standard level would not cause any economic burden on the "average" consumer.

The NPV analysis indicates that if a standard were adopted at the level that would save 0.584 Quads, there would be a net present value of $743.6 million from energy savings over the period 1987–2026. If the net present value were spread across the Nation, the resulting benefits would be less than 23 cents a year per household.

D. *Energy Savings.* As indicated previously, the maximum savings attributable to standards for freezers under any of the analyses would be 0.584 Quads.

E. *Lessening of Utility or Performance of Products.* In the April 1982 proposal, DOE established new classes of products in order to assure that the standards analyzed would not lessen the existing utility or performance of freezers. As indicated above, Whirlpool commented that at level 3 there is some loss of utility because manufacturers would have to sacrifice interior volume at the expense of maintaining exterior dimensions for some models. As indicated above, because DOE believes small changes in the exterior dimensions of freezers do not meaningfully impact purchasers and because new high efficiency compressors may make any change in dimensions unnecessary in order to achieve the standards levels, DOE has determined that an energy efficiency standard for freezers would not cause a decrease in the existing utility of freezers. There is, however, no assurance that future utility or performance of freezers would not be lessened as a result of disincentives caused by standards to investments in energy using new features.

F. *Impact of Lessening Competition.* The Attorney General has determined that the absence of a Federal standard for freezers would have no impact on competition.

G. *Need to Save Energy.* Freezers use electricity exclusively as their energy source. While almost one percent of the Nation's electricity powers freezers, less than seven percent of that one percent

[66] Electricity used over the period 1987–2007 is estimated to be 858.1 Quads. It is derived through linear extrapolation of the original estimate made for the years 1985, 1990 and 2000. U.S. Department of Energy, July 1981, "The National Energy Policy Plan", Table 1.

[67] As indicated above, DOE ran two sensitivity analyses of the level 3 savings. Under the constant distortion rate the percentage savings are 14.29 percent. Under the historical trend analysis the percentage savings projected would be 3.48 percent.

[68] This conclusion, however, applies only to the "average" (in terms of the shipment weighted efficiency of its product) prototypical firm. The negative impacts suffered by a firm that had made limited or no investments in improved product efficiency would still approach or be those reflected by the FIM.

would be saved by standards for this product.

H. *Other Factors.* The significant negative effects of standards projected by the FIM on the prototypical small manufacturer of freezers were presented above. The business risk to small manufacturers was shown to be substantial. In the April 1982 proposal, however, DOE indicated its belief that the methodology of the FIM tended to understate the negative impacts of standards on small firms. No commenter disputed this conclusion, either generally or with respect to freezers. Thus, DOE concludes that the negative impacts of standards projected by the FIM (as adjusted) understate the negative impacts on small manufacturers of freezers.

Weighing of Factors

The benefits of a standard for freezers are, compared to the base case of no standards, that it would save energy and have a positive net present value. These benefits, however, are minimal in amount even under the highest standard level.

The burdens of a standard are: (1) It would adversely affect the financial well-being of small and medium-size firms making freezers, and in the case of small manufacturers, causing a significant threat to their continued existence; (2) it could lessen the utility or performance of this product in the future by creating a disincentive to the development of energy-using new features; (3) it could cause less than optimal allocation of investment resources by manufacturers of these products; and (4) it could preclude a small number of lower income persons from purchasing new freezers.

In light of all the factors discussed here and in the discussion section above, DOE has determined that the burdens of an efficiency standard for freezers outweigh the benefits.

c. Furnaces

1. *Technical Issues.* Some commenters suggested that DOE's analysis of furnace standards was lacking in that high efficiency designs such as the pulse combustion/condensing furnaces currently in the marketplace were not included as possible standards. On the other hand, the furnace industry reiterated its position that DOE should not consider standard levels that, in effect, require all designs of furnaces to operate at or near the condensing mode. These commenters felt that prescribed minimum levels as low as 80 percent AFUE would result in corrosion problems in most heat exchangers. This position was taken realizing that such a level is below the 90 percent AFUE of the condensing furnace designs recently introduced into the marketplace. DOE is aware that research and development concerning condensing furnaces is ongoing, and questions concerning product life and pollution effects are not totally resolved. In view of the uncertainty associated with the condensing mode of operation, DOE has not analyzed standard levels that would require all future shipments to operate in the condensing mode, but realizing the availability of recently developed designs, DOE has included the condensing furnace designs in the engineering analyses cost efficiency relationships, in light of their general availability in the market.

The addition of pulse combustion/condensing furnaces and associated costs results in efficiency data points that are higher than those previously included. These new data points were included in the ORNL Model which improves the accuracy of the cost efficiency curves and the Model's life cycle cost curve at the higher efficiency levels and improves the Model's forecast of energy consumption. Today's addendum to the EnAD describes the incorporation of this additional data for four classes of gas furnaces.

2. *Significance of Energy Savings.* The projected energy savings attributable to a standard for furnaces at each of the standard levels analyzed under the ORNL Model over the period 1987–2009 is set forth in the following table.

Gas

Level 1—0 Quads
Level 2—0.01 Quads
Level 3—0.10 Quads
Level 4—0.09 Quads

Oil

Level 1—0 Quads
Level 2—0 Quads
Level 3—0.07 Quads
Level 4—0.07 Quads [69]

No analysis was conducted for electric furnaces because they operate near 100 percent efficiency since all of the electric energy is transferred into the conditioned space.

Over the 23-year period, the greatest savings of natural gas under the ORNL Model is the equivalent of 11,582 mcf per day or 20.5 percent of the amount that DOE considers significant. The greatest oil savings is 1,414 barrels per day or 14.1 percent of the amount that DOE considers significant.

No electricity is saved by the imposition of standards at any of the levels analyzed.

For the year 2010, the highest level of savings attributable to standards would constitute only 1.06 percent of the energy that would have been consumed by oil furnaces in the absence of standards and 0.28 percent of gas use, which is less than the 16.67 percent that DOE would deem significant.[70]

On the basis of the above, DOE concludes that standards for furnaces would not result in a significant conservation of energy.

3. *Economic Justification.* A. *Economic Impact on Manufacturers.* The EnAD accompanying the April 1982 proposal indicated that the increased cost to a manufacturer to meet the level 4 requirement for gas, forced air furnaces, which constitute two-thirds of the market and are the least expensive, would be over $100. However, the increased cost for the highest level analyzed of oil, forced air, indoor furnace, which is the most prevalent oil furnace, would be $13.46 per unit. EnAD, Table 4.19.

None of these figures was contested in the comments to the April 1982 proposal.

The impacts of these increased costs are reflected in the FIM. The FIM predicts that a prototypical medium-sized manufacturer would suffer a 10 percent increase in business risk at all the efficiency levels that were studied as a result of standards. *See* Supp. to EcAD, Table A.4–1. By 1991 (the last year of the analysis), the FIM predicts that the prototypical medium-sized manufacturer will have a 32 percent decrease in profitability, while the large and small manufacturers will have a 23 and 7 percent decrease, respectively. *See Id.*, Table A.4–6. At the standard level that would save the greatest energy, the prototypical medium firm's debt/equity ratio deteriorates by almost 200 percent. *See Id.*, Table A.4–8.

As indicated in the General Discussion section, the FIM impacts are fully accurate only to the extent that the prototypical firm did not make investments in improving appliance efficiency as part of its historically indicated investments.[71] In the case of

[69] DOE ran two sensitivity analyses of the ORNL Model projections of energy savings. One substituted a constant distortion rate for the algorithm; the other substituted the historical rate of increased efficiency for that derived by the ORNL Model. At level 4 for gas, the results were 0.27 Quads and 1.352 Quads, respectively. At level 4 for oil, the results were 0.343 Quads and 0.916 Quads, respectively.

[70] As indicated above, DOE ran two sensitivity analyses of the level 4 savings. Under the constant distortion rate the percentage savings are 1.79 percent for gas and 2.23 percent for oil. Under the historical trend analysis the percentage savings projected would be 0.69 percent for gas and 14.85 percent for oil.

[71] This conclusion, however, applies only to the "average" (in terms of the shipment weighted

furnaces in the base case by 1987 the ORNL Model projects that the SWEF will be 76.5 percent for gas and 85.9 percent for oil fired furnaces. From the EnAD this would indicate that 61 percent of the necessary investment to achieve the highest standard level would be made as part of historically indicated investments. Thus, the FIM negative impacts actually attributable to the highest standard level should be reduced by about 61 percent. Even with such a reduction, the negative impacts of standards for furnaces remain substantial, especially for medium-size firms, which have an unusual deterioration in their debt to equity ratio.

In addition to the above mentioned quantified impacts on manufacturers, an effect of a standard, as indicated previously, would be to require certain investments to be made that might not otherwise have been made. These required investments may result in the forgoing of certain other investments which would be more beneficial to the manufacturer. Manufacturers generally supported this conclusion.

B. *Economic Impact on Consumers.* DOE indicated in the April 1982 proposal that the price of level 3, gas forced air indoor furnace, the least expensive class of furnace, increases $200 or over 50 percent to consumers. The oil forced air indoor furnace, the most prevalent class of oil furnace, increases in price to the consumer by approximately $30.00, or about 5.4 percent. *See* EnAD Table 4.20. The most heavily impacted group, however, would be lower income (under $7000 income) households, where 0.81 percent will not purchase new furnaces because of the increased price resulting from standards. In addition many low income consumers rent housing in buildings where heat is provided by the landlord through large, commercial units. Thus, these renters would not receive any positive benefit from standards, since they would not be provided by a unit covered by standards. However, those low income consumers who rent housing in smaller buildings and who pay their own utility bills would be benefitted by standards, since their utility bills would be decreased. Based on both the positive and negative impacts of standards on consumers, DOE has determined that the effect of standards on lower income consumers is essentially neutral.

C. *Life-Cycle Cost.* No specific comments were received concerning DOE's determinations on the life-cycle cost of furnaces. The LCC analysis indicates that standard levels 3 and 4 have the lowest life-cycle cost.[18] *See* Supp. to EcAD, Appendix G. This indicates that the standard level would not cause any economic burden on the "average" consumer.

The NPV analysis indicates that if a standard were adopted at level 4 there would be a net present value of only $108.4 million in gas and oil savings over the period 1987–2028. If the net present value were spread across the Nation, the resulting benefits would be less than 2 cents a year per household.

D. *Energy Savings.* As indicated previously, the maximum savings attributable to standards for furnances under any of the analyses would be 0.17 Quads.

E. *Lessening of Utility or Performance of Products.* In the April 1982 proposal, DOE established new classes of products in order to assure that the standards analyzed would not lessen the existing utility or performance of furnaces. As indicated above, however, there is no assurance that future utility or performance of furnaces would not be lessened as a result of disincentives caused by standards to investments in energy-using new features.

F. *Impact of Lessening Competition.* The Attorney General has determined that the absence of a Federal standard for furnaces would have no impact on competition.

G. *Need to Save Energy.* Because DOE has not proposed any standard for electric furances, only oil and gas would be saved by standards for furnaces. The oil and gas savings from furnace standards are very small, amounting to 0.17 Quads.

H. *Other Factors.* The negative impacts projected by the FIM on the prototypical small manufacturer of furnaces were presented above. Although these impacts were not substantial, DOE has indicated its belief in the April 1982 proposal that the methodology of the FIM would tend to understate the negative impacts of standards on small firms. DOE received no comments on this factor concerning small furnace manufacturers, but no commenter disputed DOE's reasons for concluding that the FIM methodology tends to understate the negative impact of standards on small manufacturers. Consequently DOE concludes that the negative impacts projected by the FIM (as adjusted) understate the negative impact of standards on small manufacturers of furnaces.

Weighing of Factors

The benefits of a standard are, compared to the base case of no standards, that it would save energy and have a positive net present value at standard levels 3 and 4. The benefits, however, are minimal in amount.

The burdens of a standard are (1) it would adversely affect the financial well-being of all firms making furnaces, especially medium-sized firms; (2) it could lessen the utility or performance of this product in the future by creating a disincentive to the development of energy-using new features; and (3) it could cause manufacturers of these products to forgo investments that are more beneficial to them.

In light of all factors, DOE has determined that the burdens of an efficiency standard for furnaces outweigh the benefits.

d. Water Heaters

1. *Technical Issues.* NRDC submitted the only comments which took exception to DOE's engineering analysis for water heaters. With respect to gas water heaters, NRDC stated that DOE did not consider certain technologies currently in the prototype stage, such as prototype gas water heaters with recovery efficiencies of 87–88 percent, undergoing testing at the American Gas Association Laboratories. Additionally, NRDC contended that DOE should have considered increased insulation thickness and intermittent ignition devices in conjunction with stack dampers.

DOE has considered NRDC's comment concerning the inclusion of prototype designs of gas water heaters in its analysis, but has concluded that prototype versions of products that are not available in the marketplace and for which production cost estimates are not available should not generally be included as design options in the Engineering Analysis. Because this is a prototype, there is no evidence that it may be mass-produced efficiently, has general market appeal or even whether this high level of efficiency could be obtained from a mass-produced model.

The "increased insulation thickness" design option mentioned by NRDC was included in DOE's technical analysis for gas water heaters although DOE used the term "improved insulation" since various grades of fiberglass were evaluated along with polyurethane foam. DOE's analysis of this design option resulted in an efficiency versus thermal resistivity curve which

efficiency of its product) prototypical firm. The negative impacts suffered by a firm that had made limited or no investments in improved product efficiency would still approach or be those reflected by the FIM.

[18] For oil furnaces, the savings at the two highest standards levels are approximately equal.

permitted DOE to predict the efficiency improvement for any increase in thermal resistivity of insulating material. Therefore, DOE's analysis already accounts for increasing the thermal resistivity of gas water heater insulation up to the level mentioned by NRDC. Moreover, any substantial change in the dimensions of water heaters as a result of thicker insulation could effectively preclude their installation in many replacement situations where the area for the water heater is constrained.

The design option of intermittent ignition devices (IIDs) in conjunction with stack dampers was rejected by DOE in its analysis because all IIDs require electrical power. Since conventional gas water heaters do not require an electrical hook-up to operate, a design option such as this would adversely affect the utility of gas water heaters, i.e., the capability to function without an electrical power supply. *See* the discussion concerning separate classes of gas kitchen ranges and ovens at 47 FR 14447. Moreover, installation costs would be substantially increased where there is no electrical service in the vicinity of a conventional gas water heater in need of replacement.

NRDC's final comment in regard to DOE's technical analysis for water heaters was that heat pump water heaters should have been included in the analysis and should serve as the basis of a standard for electric water heaters. DOE has not included heat pump water heaters in its analysis because the present DOE water heater test procedure is not valid for heat pump water heaters since it does not properly account for the energy used to extract heat from the surrounding air. Section 325(b) of the Act requires that no standard shall be prescribed for a product or class of product if no final test procedure has been prescribed. Therefore, space has been reserved for the class of heat pump water heaters.

2. *Significance of Energy Savings.* The table below reflects the energy savings projected by the ORNL Model attributable to a standard for water heaters at each of the three standard levels considered over the period 1987–1999.

Gas

Level 1—0.02 Quads
Level 2—0.06 Quads
Level 3—0.08 Quads

Electric

Level 1—0.18 Quads
Level 2—0.61 Quads
Level 3—1.18 Quads [73]

The maximum savings over the 13-year period of 1.18 Quads of electricity amounts to 0.073 Quads of natural gas and 0.031 Quads of oil.[74] This is the equivalent of 15,918 mcf per day or 28 percent of the 56,530 mcf per day that DOE considers significant. The greatest oil savings is 1,135 barrels per day or 11.4 percent of the 10,000 barrels that DOE considers significant.

The maximum savings attributable to standards would constitute less than 0.25 percent of the electricity used in the Nation over the 13-year period.[75] This is only 25 percent of the one percent savings that DOE considers significant.

For the year 2000, the highest level of savings attributable to standards would constitute only 4.9 percent of the energy that would have been consumed by electric water heaters in the absence of standards and 1.69 percent of gas use, which is less than the 16.67 percent that DOE would deem significant.[76]

On the basis of the above, DOE concludes that standards for water heaters would not result in a significant conservation of energy.

3. *Economic Justification.* A. *Economic Impact on Manufacturers.* The EnAD accompanying the April 1982 proposal indicated that the per unit increased cost to manufacturers to meet the level 3 efficiency for water heaters ranges from $13.65 for a gas water heater made by a large manufacturer to $14.85 for an electric water heater made by a medium-sized manufacturer. EnAD, Tables 3.11.

None of these figures were disputed in the comments to the April 1982 proposal. The FIM predicts that a prototypical medium-sized manufacturer would incur a 30 percent increase in business risk at the efficiency levels that would save the two highest amounts of energy as a result of standards. *See* Supp. to EcAD, Table A.4–1. By 1991 (the last year of the analysis), the FIM predicts that the prototypical medium-sized manufacturer will have a 44 percent decrease in profitability as compared to the base case, while large and small manufacturers will have a 49 and 9 percent decrease, respectively. *See Id.*, Table A.4–5. At level 3 the prototypical medium-sized firm's debt/equity ratio deteriorates by approximately 32 percent, small manufacturers, 26 percent, and large manufacturers, 280 percent. *See Id.*, Table A.4–8.

As indicated in the General Discussion section, the FIM impacts are fully accurate only to the extent that the prototypical firm did not make investments in improving appliance efficiency as part of its historically indicated investments.[77] In the case of water heaters, in the base case by 1987 the ORNL Model projects that the SWEF will be 84.1 EF for electric and 55.5 EF for gas water heaters. From the EnAD this would indicate that 19 percent of the necessary investment to achieve the highest standard level would be made as part of historically indicated investments. Thus, the FIM negative impacts actually attributable to the highest standard level should be reduced by 19 percent. Even with such a reduction, the negative impacts of standards for water heaters remain substantial, with a substantial increase in business risk for medium-size firms and a substantial deterioration in the profitability and debt/equity ratio for large firms.

In addition to the above mentioned quantified impacts on manufacturers, an effect of a standard, as indicated previously, would be to require certain investments to be made that might not otherwise have been made. These required investments may result in the foregoing of certain other investments which would be more beneficial to the manufacturer. Manufacturers generally supported this conclusion.

B. *Economic Impact on Consumers.* In the April 1982 proposal, DOE indicated that a level 3 standard for electric water heater increases the price to the consumer by $31.30, while a level 3 gas water heater's price would be increased by $29.90. These price increases are 19 percent and 15 percent greater,

[73] DOE ran two sensitivity analyses of the ORNL Model projections of energy savings. One substituted a constant distortion rate for the algorithm; the other substituted the historical rate of increased efficiency for that derived by the ORNL Model. At level 3, for electricity the results were 2.00 Quads and 3.33 Quads, respectively; for gas, at level 3 for both cases, no energy would be saved. None of these amounts would satisfy the first two tests of significance.

[74] This assumes that oil constitutes 2.65 percent and gas 6.15 percent of the energy used to generate electricity over this time period. These percentages are the average of the projected proportions for the years 1990 and 1995. In the absence of specific data for each of the years 1987–1999, DOE used these years. See 1981 Annual Report to Congress, Volume 3: Forecasts, DOE/EIA 0173 (81)/3, February 1982.

[75] Electricity used over the period 1987–1999 is estimated to be 477.0 Quads. It is derived through linear extrapolation of the original estimate made for the years 1985, 1990 and 2000. U.S. Department of Energy, July 1981, "The National Energy Policy Plan," Table 1.

[76] As indicated above, DOE ran two sensitivity analyses of the level 4 savings. Under the constant distortion rate the percentage savings are 6.95 percent. Under the historical trend analysis the percentage savings projected would be 15.27 percent.

[77] This conclusion, however, applies only to the "average" (in terms of the shipment weighted efficiency of its product) prototypical firm. The negative impacts suffered by a firm that had made limited or no investments in improved product efficiency would still approach or be those reflected by the FIM.

respectively, than current prices. EnAD Table 3.12. Despite these price increases, DOE believes that the number of water heater purchases forgone would not be significant. *See* Supp. to EcAD, Appendix J. The most heavily impacted group would be lower income households (less than $7,000 income). However, even in this group, less than one percent of those who would purchase water heaters, will not purchase them as a result of the increased prices attributable to standards. *See Ibid.* In addition, because many lower income renters live in dwellings which have commercial water heaters, rather than residential-sized water heaters, there would be no impact on the cost to these renters of hot water as a result of standards. Accordingly, DOE concludes that the effect of standards for water heaters on lower-income consumers is neutral.

C. *Life-Cycle Cost.* No specific comments were received concerning DOE's determinations on the life-cycle cost of water heaters. The LCC analysis indicates that the possible standard level with the lowest life cycle cost is level 3. *See* Supp. to EcAD, Appendix G. This indicates that the standard level would not cause any economic burden on the "average" consumer.

The NPV analysis indicates that if a standard were adopted at the highest standard level there would be a net present value of $2,385.8 million in gas and electric savings over the period 1987–2018. If the net present value were spread across the Nation, the resulting benefits would be approximately 95 cents a year per household.

D. *Energy Savings.* As indicated previously, the maximum savings attributable to standards for water heaters under any of the analyses would be 1.26 Quads.

E. *Lessening of Utility or Performance of Products.* In the April 2 proposal, DOE established new classes of products in order to assure that the standards analyzed would not lessen the existing utility or performance of water heaters. However, there is no assurance that the future utility or performance of water heaters would not be reduced as a result of disincentives caused by standards to investments in energy-using new features.

F. *Impact of Lessening Competition.* The Attorney General has determined that the absence of a Federal standard for water heaters would have no impact on competition.

G. *Need to Save Energy.* More energy is used to power electric water heaters than gas water heaters. The maximum amount of electricity that would be saved by standards for water heaters amounts to 0.25 percent of the electricity used in the Nation during this period. Similarly, the maximum gas savings attributable to standards for water heaters would account for about 0.006 percent of natural gas use during the same period.[78]

H. *Other Factors.* The negative impacts projected by the FIM on the prototypical small manufacturer of water heaters were presented above. Although these impacts were not substantial, DOE has indicated its belief in the April 1982 proposal that the methodology of the FIM would tend to understate the negative impacts of standards on small firms. DOE received no comments in this area concerning small water heater manufacturers, but no commenter disputed DOE's reasons for concluding that the FIM methodology tends to understate the negative effect of standards on small manufacturers. Consequently, DOE concludes that the negative impacts projected by the FIM (as adjusted) understate the negative impact of standards on small manufacturers of water heaters.

Weighing of Factors

The benefits of a standard are, compared to the base case of no standards, that it would save energy and have a positive net present value. While the benefits at the highest standard level are not minimal, given the total energy used for water heaters, the savings benefits remain relatively small.

The burdens of a standard are: (1) It would adversely affect the financial well-being of medium-size firms making water heaters by increasing those firms' risk of doing business and decreasing profitability; (2) it would negatively impact the debt/equity ratio and decrease the profitability of large manufacturers of water heaters; (3) it could lessen the utility or performance of this product in the future by creating a disincentive to the development of energy-using new features; and (4) it could cause manufacturers of these products to forgo investments that are more beneficial to them.

In light of all of these factors DOE has determined that the burdens of an efficiency standard for water heaters outweigh the benefits.

e. Room Air Conditioners

1. *Technical Issues.* GE commented that DOE has overlooked the utilitarian aspects that a voltage break would provide in the 8,000–14,000 Btu per hour product class. It is within this cooling capacity range that the power supply requirement steps-up from 115 volts to 230 volts. GE noted that a cooling capacity of 14,000 Btu per hour cannot be achieved for room air conditioners that operate at 115 volts.

DOE has already determined in its engineering analysis that the efficiency of room air conditioners is not significantly affected by voltage. Therefore, DOE has made no changes to the product classes for room air conditioners in response to this comment.

GE also took exception to DOE's position that there are no truly portable room air conditioners. GE commented that while the portability criteria cited by DOE can be considered a valid general definition, portability is best determined by consumer use patterns. GE referred to its "Carry-Cool" line as winning wide acceptance by consumers due to its relatively light weight, unique suitcase configuration, and ease of installation and removal. GE expressed concern that if energy efficiency standards were to be established for room air conditioners then, depending on the efficiency level selected to apply to the lower cooling capacity ranges, e.g., 4000 to 6000 Btu per hour, manufacturers could be forced to abandon their current smaller, lighter weight case sizes and use the largest case size within the product class in order to accommodate the larger coils that would be necessary to achieve higher efficiencies. Moreover, the larger coils themselves would add weight. According to GE, such a change would adversely affect consumer utility. DOE has reviewed the GE submission and concludes that its points are valid as to the possible effect of standards on the portability of some room air conditioners. *See infra.*

Both GE and Whirlpool Corporation commented that DOE's use of computer simulation to determine the design parameters associated with the four levels of efficiency investigation in each product class led to erroneous results. GE and Whirlpool agreed that DOE's computer simulation underestimated the required heat exchanger coil length associated with achieving higher efficiency levels. Whirlpool remarked that DOE's computer simulation overestimates heat exchanger coil air flow parameters. In comparing one of its current models which matches the 8000 Btu per hour example model at Level 3 efficiency (8.8 EER), Whirlpool found that its model has 30–50 percent more heat exchanger coil at about the same

[78] Natural gas used over the period 1987–1999 is estimated to be 241.8 Quads. It is derived through linear extrapolation of the original estimate made for the years 1985, 1990 and 2000. U.S. Department of Energy, July 1981. "The National Energy Policy Plan," Table 1.

air flow as the version. GE said that using its computer simulation technique and actual production model information, it calculated that the DOE estimates of required coil length are greatly underestimated.

DOE agrees that differences in coil length between different designs of room air conditioners of equal capacity and efficiency can occur. There are a number of factors which influence coil length in a room air conditioner design: coil fin type and spacing, compressor capacity and efficiency, air flow rates, fan, blower and fan motor efficiencies, to name a few. However, nothing in the comments made by GE or Whirlpool was sufficiently detailed for DOE to draw a conclusion that the computer simulation technique it employed was faulty.

Both GE and Whirlpool also commented that DOE did not disclose the compressor specifications and performance data used in its analysis leaving them unable to comment on the design cost and efficiency improvement projections that DOE associated with this design option. The compressor specifications and peformance data used by DOE were taken directly from the 1980 Tecumseh product catalog.

AHAM, Whirlpool and Edison Products Company commented that reduced dehumidification capacity occurs as room air conditioner EERs increase beyond 8.0 They cited dehumidification performance of room air conditioners as a consumer utility consideration. DOE used latent heat removal relations based on standard industry data for heat exchangers in the room air conditioner analysis. Latent heat removal rates in excess of 20 percent were maintained throughout the analysis as recommended by manufacturers during the 1980 comment period. DOE has not changed the latent heat removal values in the present analysis.

Whirlpool commented that while it is accepted engineering practice to derate compressors to develop an air conditioner line with desired efficiency and capacity values, it is not always possible to derate to any pumping capacity. Since Whirlpool did not specifically comment that the derated values used in the engineering analysis cannot be attained, no changes have been made to the analysis regarding his comment.

NRDC commented that the DOE engineering analysis for room air conditioners does not consider currently marketed units which achieve higher efficiencies than those analyzed by DOE. DOE acknowledges the existence of such high efficiency units, and DOE did, in fact, consider the technologies incorporated in these units. However, because of the manner in which the engineering analysis was conducted, it did not necessarily yield efficiency values as high as can be found in the marketplace. One reason is that separate analyses were made for each class of room air conditioners and the largest capacity unit in each class was selected for assessing efficiency improvements. As a result, the potential for increasing the cabinet volume of units in each class to accommodate larger coils was limited to the increase that could be made to the largest units in the class such that these units would still fit in existing window sizes or existing air conditioner sleeves. In addition, DOE imposed a minimum dehumidification performance requirement in its analysis in terms of a latent heat removal rate of greater than 20 percent. These parameters largely governed the highest efficiency levels which DOE analyzed. The available room air conditioner models with EERs in excess of the highest efficiency levels analyzed by DOE generally are the smaller capacity units within a product class housed in the same size cabinet as the larger capacity units in the class to accommodate their larger coils. Also, these units have low latent heat removal rates, perhaps lower than DOE's performance criteria. DOE considers the approach of its engineering analysis for room air conditioners appropriate for assessing potential efficiency improvements which do not adversely affect product utility. No changes in this analysis have been made in response to NRDC's comment.

2. *Significance of Energy Savings.* The table below reflects the energy savings projected by the ORNL Model attributable to a standard for room air conditioners at each of the standard levels considered over the period 1987–2001.

Level 1—0.25 Quads
Level 2—0.31 Quads
Level 3—0.37 Quads
Level 4—0.61 Quads [79]

As indicated above, to determine the oil and gas savings that would result from electricity savings attributable to standards for non-seasonal appliances, DOE took the average of the national proportions of oil and gas projected for the years 1990 and 1995. As explained in the April 1982 proposal, however, *see* 47 FR 14450, because air conditioning is used most in the summer and because gas and oil are used in the generation of electricity in substantially different percentages in the summer than they are in the winter or on average over the year, DOE altered the percentages used for deriving oil and gas savings for non-seasonal electrical appliances. The annual use projections were increased or decreased, as appropriate, by the current percentage variation of the summer use of oil and gas to generate electricity from the annual use. *Id.* No commenter criticized this methodology or data, as far as it went. A few commenters, however, suggested that because air conditioning tended to be used at peak load periods and because oil and gas tended to be used as fuel to meet peak demand, even a summer average would understate actual savings of oil and gas attributable to standards for air conditioning equipment. These commenters did not submit data to support their claims, and DOE is unaware of any data series that would enable it to be more specific in assessing the oil and gas used to generate the electricity used by air conditioning equipment.

Using the above described methodology, DOE projects that standards for room air conditioners would not save more than 438 Bpd of oil and 7750 mcf per day of natural gas.[80] This is only 4 and 14 percent, respectively, of the amount DOE deems significant.

The greatest amount of savings would constitute only 0.10 percent of national electricity use over the average life of room air conditioners beginning in 1987.[81] This is only 10 percent of the one percent savings that DOE deems significant.

For the year 2002, the highest level of savings attributable to standards for room air conditioners would constitute less than 13 percent of the energy used by room air conditioners in the absence

[79] DOE ran two sensitivity analyses of the ORNL Model projections of energy savings. One substituted a constant distortion rate for the algorithm; the other substituted the historical rate of increased efficiency for that derived by the ORNL Model. At level 4 the results were 0.63 Quads and 0.29 Quads, respectively. Neither amounts would satisfy the first two tests of significance.

[80] In these computations, DOE has reduced the percentage of oil used to generate electricity by 14 percent and increased the percentage of gas by 16 percent from the average of the annual percentages for the years 1990 and 1995, with the result that oil represents 2.28 percent and gas 7.13 percent of the projected electricity savings. These percentage changes are derived from the actual percentage deviations in 1982. *See* Electric Power Monthly, DOE/EIA–0226.

[81] Electricity used over the period 1987–2001 is estimated to be 566 Quads. It is derived through linear extrapolation of the estimates made for the years 1985, 1990, 2000. U.S. Department of Energy, July 1981, "The National Energy Policy Plan" Table 1.

of standards, less than the amount DOE deems significant.[82]

On the basis of the above, DOE concludes that standards for room air conditioners would not result in a significant conservation of energy.

3. *Economic Justification.* A. *Economic Impact on Manufacturers.* The EnAD accompanying the April 1982 proposal indicated that the per unit increased cost to a manufacturer to meet the level 4 efficiency for the most prevalent class of room air conditioner—the below 8000 Btu/hr with outdoor side louvers, with 44 percent of the market—was a mere $6.13, or less than 5 percent. However, all the rest of the classes of room air conditioners, making up 56 percent of the market, had significantly increased first costs, ranging from 15 to 50 percent increases. Also, it is noteworthy that medium-sized manufacturers had increased costs 15 to 20 percent higher than the large firms. Table 9.16 and Table 9.17.

None of these figures were disputed in the comments on the April 1982 proposal.

The negative effects of these increased costs on medium-sized manufacturers is reflected in the FIM. It shows that the risk of not making a profit increases as a result of standards by 15 percent for levels 1–3, and by 20 percent at level 4. The FIM also indicates that profitability for all sizes of firms decreases under all standards levels compared to the base case. By 1991 (the last year of analysis) medium-sized firms are no longer profitable at any standard level. In 1991 profitability for both large and small firms under level 4 decreases from the base case by 11 percent. The debt/equity ratio of large firms deteriorates 70 percent at level 3, while the debt/equity ratio of medium-size firms, already at very high levels, deteriorates by over 30 percent at levels 2 and 3.

As indicated in the General Discussion section, the FIM impacts are fully accurate only to the extent that the prototypical firm did not make investments in improving appliance efficiency as part of its historically indicated investments.[83] In the case of room air conditioners, in the base case by 1987 the ORNL Model projects that the SWEF will be 7.23 SEER. From the EnAD this would indicate that 72 percent of the necessary investment to achieve the highest standard level would be made as part of historically indicated investments. Thus, the FIM negative impacts actually attributable to the highest standard level should be reduced by about 72 percent. Even with such a reduction, the negative impacts of standards for room air conditioners remain substantial for medium-sized firms.

In addition to the above mentioned quantified impacts on manufacturers, an effect of a standard, as indicated previously, would be to require certain investments to be made that might not otherwise have been made. These required investments may result in the forgoing of certain other investments which would be more beneficial to the manufacturer. Manufacturers generally supported this conclusion.

B. *Economic Impact on Consumers.* In the April 1982 proposal DOE indicated that at a level 4 standard, while the most prevalent class of room air conditioner increased in price only $18, the next two most prevalent classes increased in price more than 25 percent. Indeed, all the remaining classes, making up 56 percent of the market, increased in price 28 percent. Notwithstanding these price increases, DOE believes the number of room air conditioner purchases forgone will generally be insignificant. *See* Supplement. The most heavily impacted group, however, would be lower income (less than $7,500 income) households, where over one percent of those who would purchase air conditioners will forgo purchases of room air conditioners because of their increased price as a result of standards. Persons who forgo purchases of new room air conditioners are likely to make do with older and more inefficient room air conditioners or to have to go without. Because renters most likely have to purchase their own room air conditioners, lower income renters generally would not suffer from landlords purchasing low efficiency room air conditioners. Standards, accordingly, would not particularly benefit renters. Thus, while the percentage and absolute number of lower income persons negatively impacted by standards for room air conditioners is small, so also is the number of lower income renters who would be positively benefited. On this basis, DOE concludes that the effect of standards for room air conditioners on lower income persons is essentially neutral.

C. *Life Cycle Cost.* A standard set at level 4 would require efficiencies for four of the six product classes to be at a level higher than the average consumer's life cycle cost minimum. That is, if a standard at level 4 were adopted, the most cost-effective room air conditioner for the average consumer in four of the six product classes would be banned from the market. A level 4 standard would actually *increase* the life cycle cost to the average consumer of three of the product classes compared to the 1987 SWEF in the absence of standards.

As indicated in the April 1982 proposal, DOE considers the increasing of life cycle costs to consumers and the banning of the most cost-effective products from the market to be substantial negative burdens. Commenters either supported or did not contest this conclusion. Accordingly, DOE considers that a level 4 standard for room air conditioners would cause a substantial burden by its effect on life cycle costs for large numbers of consumers.

The NPV for standards increases with the stringency of the standard, from $350 million to $645 million over the period 1987–2020. Spread over the Nation's 80 million households, this would equate to at most less than 24 cents per household per year.

D. *Energy Savings.* As indicated above, the maximum savings attributable to standards would be 0.61 Quads of electricity.

E. *Lessening of Utility or Performance of Products.* In the April 1982 proposal, DOE explained that despite its best efforts to assure that the standards analyzed would not lessen the *existing* utility or performance of room air conditioners, DOE could not assure that the future utility or performance of room air conditioners would not be lessened as a result of disincentives caused by standards to investments in new, energy-using features. Several commenters supported this conclusion, but, perhaps more importantly, some indicated that some of the standard levels analyzed would decrease the utility of some *existing* room air conditioners. Specifically, GE maintained that in the class of room air conditioners with side louvers with capacity at or below 8,000 BTU/hr. the necessary changes to achieve the standards levels would make otherwise portable room air conditioners too heavy or bulky to be portable. Above, in the technical discussion, DOE concluded that this comment had merit. Consequently, DOE has determined that an energy efficiency standard for room air conditioners would cause a decrease

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[82] As indicated above, DOE ran two sensitivity analyses of the level 4 savings. Under the constant distortion rate the percentage savings are 14 percent. Under the historical trend analysis the percentage savings projected would be 5 percent.

[83] This conclusion, however, applies only to the "average" (in terms of the shipment weighted efficiency of its product) prototypical firm. The negative impacts suffered by a firm that had made limited or no investments in improved product efficiency would still approach or be those reflected by the FIM.

in utility for small, portable room air conditioners, which constitute a very large fraction of the entire room air conditioner market.

F. *Impact of Lessening Competition.* The Attorney General has determined that the absence of a Federal standard for room air conditioners would have no impact on competition.

G. *Need to Save Energy.* Room air conditioners use electricity exclusively as their energy source. The electricity that would be saved by standards for room air conditioners would be concentrated in certain parts of the Nation and will be concentrated during summer peak load periods. While peak load savings are generally more valuable to utilities than normal load savings, the value of the savings depends greatly on the nature of the particular utility's peak load and consequently is highly regional in character. Thus, although savings of electricity associated with air conditioners are potentially more valuable than other forms of electricity savings, the need for those savings is more regional specific than is the case for other electricity savings.

H. *Other Factors.* The significant negative impacts projected by the FIM on the prototypical small manufacturer of room air conditioners were presented above. Only with respect to profitability was there any significant negative impact. In the April 1982 proposal, however, DOE indicated its belief that the methodology of the FIM would tend to understate the negative impacts of standards on small firms. No comments were received specific to small room air conditioner manufacturers, but no commenter disputed DOE's reasons for concluding that the FIM methodology tends to understate the negative effect of standards on small manufacturers. Consequently, DOE concludes that the negative impacts projected by the FIM (as adjusted) understate the negative impact of standards on small manufacturers of room air conditioners.

Weighing of Factors

The benefits of a standard for room air conditioners are, compared to the base case of no standards, that it would save energy and have a positive net present value. These benefits, however, are minimal in amount even at the strictest standard level. The benefits are even less at lower levels of mandated efficiency. While the electricity saved would generally be summer peak load and thereby more valuable than base load savings, these savings and the value of the peak load savings will be regional in nature, if not highly localized, rather than national in nature.

The burdens of any standard for room air conditioners are: (1) It will have a negative impact on manufacturers' profitability, which is especially severe on medium-size manufacturers; (2) it will create an inceased business risk to medium-size firms; (3) it will increase substantially the debt/equity ratio of large and medium-size firms; (4) it would reduce the utility of a large portion of the most popular class of room air conditioner by effectively making it no longer portable; (5) it would create a risk to the utility or performance of room air conditioners in the future by creating a disincentive to the development of new, energy-using features; and (6) it would likely cause investment resources by manufacturers of these products to be allocated in a manner that is not the most appropriate for the manufacturer. At level 4 the standard would impose substantial additional burdens, prohibiting the most cost-effective room air conditioner for the average consumer in four of the six product classes and actually increasing the life cycle cost to the average consumer of three of the product classes.

In light of all the factors, on balance, DOE concludes the burdens of an efficiency standard for room air conditioners outweigh the benefits.[84]

f. Central Air Conditioners

1. *Technical Issues.* The NRDC and some other commenters criticized DOE's analysis of the effect of possible standards for CACs because the highest standard level analyzed for some classes of CACs is lower than the efficiencies claimed for several models of similar sized CACs presently in the marketplace. As indicated in the General Discussion section, this is primarily the result of changes in the marketplace since the original engineering analysis was prepared, and the inability in the time since the April 1982 proposal to provide full "cost book" information on these models to enable full analysis of a potential standard at such a level.

With respect to CACs, however, there are additional factors that make the SEER level claimed by some manufacturers in currently marketed CACs inappropriate as a national standard. For example, some currently marketed high efficiency units obtain their high efficiency at the expense of dehumidification and consequently do not achieve 20 percent dehumidification. DOE indicated in the EnAD that it believed that dehumidification below 20 percent represents a significant loss in product utility in many climatic conditions, and in some areas (i.e., areas with high humidity and temperatures) would be totally unacceptable. This conclusion was generally supported by the commenters that addressed it. Consequently, DOE has determined that any national standard should provide for at least a 20 percent dehumidification.[85] Other factors relate to aspects of the DOE test procedure for CACs. For example, the test procedures provide for testing CACs that have or do not have an integral fan (separate from the furnace) as part of the CAC unit. Where the CAC does not have an integral fan, the DOE test procedure assigns an electricity consumption factor for the separate furnace fan. If, however, the fan is integral to the CAC, it is to be specifically tested under the DOE procedure. Thus, a firm can obtain a higher SEER rating for the same CAC by substituting its own integral fan with a higher efficiency than the assumed DOE test procedure rating for a separate furnace fan. It would be improper, however, to set a standard premised on all CACs having their own fans, because such units would not be compatible with the majority of installations, which involve furnaces with their own fans.

Another example of the effect of the DOE test procedure on CAC SEER levels is the degradation coefficient. Under the DOE test procedure, a degradation coefficient (the measure of the efficiency loss due to the cycling of the unit) of 0.25 is assigned, unless a manufacturer conducts certain additional tests, in which case the actual degradation factor may be used. Because of their cost and complexity these additional tests have always been voluntary. The same CAC, however, might have its SEER increased 10 percent simply as a result of measuring its degradation factor rather than using the assumed degradation factor. DOE believes it would be inappropriate to set a national standard that would in effect require all manufacturers to conduct these additional tests.

While the above factors are indicative of some of the problems that would attend a national standard at such a level of efficiency, DOE has nevertheless updated the cost-efficiency

[84] In the April 1982 proposal DOE indicated that it had not specifically analyzed the class of room air conditioners that are reverse cycle air conditioners. Nevertheless, DOE indicated its belief that the burdens of a standard for that class would outweigh its benefits. No commenter indicated disagreement with that conclusion. Consequently, for the reasons stated in the April 1982 proposal, DOE concludes that a standard would not be economically justified for the class of reverse cycle room air conditioners.

[85] Lower dehumidification may well be appropriate in low humidity areas, e.g., New Mexico, Arizona, etc.

relationships in the EnAD to the extent possible in light of newly marketed products.

Accordingly, today's engineering analysis identifies units with two additional design options—two-speed compressors and all-aluminum heat exchangers. Today's engineering analysis also includes lower degradation coefficients for these two design options. The Supplement describes these additional design options. These changes lead to a higher efficiency level in the engineering analysis, which approaches the highest reports of efficiency in the marketplace. On the basis of this change in the engineering analysis, a new cost-efficiency point was added to the determination of the cost-efficiency curves of ORNL Model, thereby improving the accuracy of those curves and, consequently, of the Model's CAC life cycle cost curves.

The NRDC also disputed the validity of the cost-efficiency relationship reflected in the CAC standard level 4 (efficiency level 6 in Table 8.14 of the EnAd), noting that existing CACs in the marketplace with efficiencies at or above those of the CAC standard level 4 were available at prices well below those indicated in the EnAD. *See* NRDC, No. 2121, at 34–35. In light of the changes made to the engineering analysis described above, DOE believes there is substantial merit to NRDC's comment. Accordingly, DOE deleted the Table 8.14's level 6 cost-efficiency data point from the determination of the ORNL Model's cost-efficiency curve for CACs.[46]

A number of commenters indicated that both DOE's national average CAC capacity and DOE's national average annual hours of CAC use were substantially too high. With regard to the average capacity, the ARI submitted comprehensive data concerning shipment weighted average capacities of CACs. The data indicated that the average capacity of CACs sold in the last few years has decreased. Accordingly, DOE has reduced the capacities in the analysis from 42,000 Btu/hr. to 39,000 Btu/hr. to reflect these changes.

Several manufacturers provided average annual hours of use for CACs that supported their contention that the usage rate in the ORNL Model was overstated. Specifically, some submitted field test data from various locations reporting compressor run times that were substantially less than would be indicated by DOE's assumed distribution of cooling load hours, *see* 10 CFR Part 430, Subpart B, App. M. § 6.1.3. Other commenters submitted usage data they used in assessing proper sizing recommendations for purchasers of this equipment. Finally, incidental usage rates indicated by some States were lower than what DOE's distribution would predict. Indeed, all of the evidence available indicated that the 1,000 hours average annual use for CACs was substantially overstated. Although there was no clear consensus for the average hours of use of CACs, there was general agreement that the value should be less than 1,000 hours/year.

It should be noted that there is a nonstochastic relationship between CAC capacities and hours of use. The product of average capacity and average hours of use will always underestimate the national average cooling load and, thereby, always underestimate the national energy consumption. This is due to the general tendency that higher than average capacities are associated with higher than average hours of use. That is, it is likely that CACs installed in the South will not only have higher than average capacities but also longer than average hours of use. This frustrates any attempt to determine a comprehensive national average hours of use value by simply averaging operating hours data. Accordingly, DOE has determined that the appropriate number of hours of operation to be used in the ORNL Model is not the national average but rather the number of hours of use that when coupled with the national average capacity, yields an energy consumption estimate that is consistent with the national energy consumption attributable to CACs reported by the Edison Electric Institute. Given national average capacity, national average efficiency, total households having CACs, and total national CAC energy consumption and solving for the usage yields a value approximately equal to 750 hours/year. Accordingly, the estimates of national energy use, energy savings, and net present value as determined by the ORNL Model, and the life cycle cost analysis reflect the change in hours of use from 1,000 hours to 750 hours.

The effect on the outputs of the ORNL Model as a result of these changes to capacity and hours of operation is substantial and complicated. Most directly, the unit energy consumption of CACs in both the base and standard cases is substantially decreased. This has the effect of reducing the absolute energy savings attributable to standards.[47] On the other hand, the change in unit energy consumption resulting from usage and capacity changes has the effect of changing dramatically the CAC life cycle cost minimum in the ORNL Model.[48] Specifically, it is reduced to a level well below all of the standards levels. Because the ORNL Model's market penetration algorithm, *see supra*, projects that, with higher energy prices, marketplace efficiencies approach (but do not reach) the life cycle cost minimum, the effect of the reduced life cycle cost minimum is to reduce dramatically the projections of increased efficiencies in the base case. Moreover, because the standard levels are substantially higher than the life cycle cost minimum and because in the base case rational consumers would not knowingly purchase CACs at efficiency levels higher than the life cycle cost minimum, the market-based increase in efficiency would be capped at a level well below the standard levels. Thus, standards result in substantial energy savings relative to the base case, while the absolute savings are not correspondingly large. Consequently, the percentage decrease in energy use under standards compared to the base case is high. *See infra.*

2. *Significance of Energy Savings.* In the April 1982 proposal, DOE identified three aspects of the inputs to the ORNL Model peculiar to CACs that all tended to exaggerate the energy savings attributable to standards. These aspects were: optimistic estimates of real income growth, counting heat pumps as CACs, and counting all central air conditioning in multi-family housing as CACs subject to the *consumer* appliance program. *See* 47 FR 14449–50. The comments on the proposal supported DOE's conclusion that these aspects did indeed exaggerate the savings attributable to standards. In the April 1982 proposal, however, DOE had been unable to quantify the effect of any of

[46] While standard level 4 remains at the *efficiency* equal to that represented by the EnAD's level 6 for CACs, the cost to achieve that efficiency is less than that reflected in the EnAD's level 6. This reduced cost/price is reflected in both the ORNL Model's outputs and the Life Cycle Cost Analysis. It is not reflected in the FIM analysis, because DOE does not have sufficient data to create a full "cost book" for a new design option at this efficiency level. DOE does not believe, however, that the change in cost would be substantial enough to affect the conclusions of the FIM. It should be noted that a lower cost *per se* does not even necessarily mean that the negative impacts in the FIM would be reduced at all.

[47] Another cause of the decrease in absolute energy savings is the elimination of the counting of heat pumps as CACs.

[48] A similar effect can be seen in the two smaller-capacity classes of CAC as reflected in the life cycle cost analysis.

these aspects, and consequently had ignored them in its measurement of energy savings. For today's rule DOE was able to distinguish heat pumps from CACs in the ORNL Model, which has the effect of reducing the number of CACs in both the base and standards cases. The estimate of real income growth has not been changed, because insufficient evidence was provided in the rulemaking to justify a change. Finally, DOE did not distinguish *consumer* CACs subject to this rulemaking from large-scale central air conditioning equipment in multi-family buildings. By overcounting the number of CACs, the Model overstates the aggregate energy saved attributable to standards.[89]

The table below reflects the energy savings projected by the ORNL Model attributable to a standard for CACs at each of the standard levels considered over the period 1987–1998.

Level 1—0.76 Quads
Level 2—0.92 Quads
Level 3—1.07 Quads
Level 4—1.23 Quads [90]

As indicated above, to determine the oil and gas savings that would result from electricity savings attributable to standards for non-seasonal appliances, DOE took the average of the national proportions of oil and gas projected for the years 1990 and 1995. As explained in the April 1982 proposal, however, *see* 47 FR 14450, because air conditioning is used most in the summer and because gas and oil are used in the generation of electricity in substantially different percentages in the summer than they are in the winter or on average over the year, DOE altered the percentages used for deriving oil and gas savings for non-seasonal electrical appliances. The annual use projections were increased or decreased, as appropriate, by the current percentage variation of the summer use of oil and gas to generate electricity from the annual use. *Id.* No commenter critized this methodology or data, as far as it went. A few commenters, however, suggested that because air conditioning tended to be used at peak load periods and because oil and gas tended to be used as fuel to meet peak demand, even a summer average would understate actual savings of oil and gas attributable to standards for air conditioning equipment. These commenters did not submit data to support their claims, and DOE is unaware of any data series that would enable it to be more specific in assessing the oil and gas used to generate the electricity used by air conditioning equipment. However, it should be noted that the measurement of peak load savings on a national basis has little efficacy. Although many utilities are summer peaking, CACs cannot be assumed to always be the major contribution to this increase in energy use. Room air conditioners and additional consumption in the commercial and industrial sector, may also be major factors in such an increase, depending upon the utility. Utilities are generally not now able to disaggregate these other uses from residential CAC use to determine what proportion, if any, of the peak load is attributable to residential CACs.

In addition, each utility has very different characteristics and needs. Some utilities, such as those in some Southern States peak both in the winter and the summer, because of the use of electric resistance heating in the winter. Furthermore, because some utilities have excess capacity which is relatively cheap, there is very little, if any value, in not using that capacity. Accordingly, although DOE recognizes that the saving of peak load electricity can be very valuable to some utilities, DOE cannot generalize and state that such a saving would in fact assist all utilities.

Using the above described methodology, DOE projects that standards would save at most only 1,101 Bpd of oil and 19,468 mcf per day of natural gas.[91] This is only 11 and 34 percent, respectively, of the amount DOE deems significant.

The greatest amount of savings would constitute only 0.28 percent of national electricity use over the average life of CACs beginning in 1987.[92] This is only 28 percent of the one percent savings that DOE deems significant.

In the year 1999, however, the ORNL Model projects that a standard for CACs would result in the following percentage decreases in energy consumption:

Level 1—15.73
Level 2—19.29
Level 3—22.57
Level 4—26.27 [93]

Thus, energy efficiency standards for CACs set at levels 2, 3 or 4 meet DOE's test of significant energy savings. However, as discussed above, the energy savings may be either higher or lower than the savings projected by the ORNL model.

In addition, the absolute energy savings attributable to CACs could be further reduced if DOE found that the usage elasticities used in the ORNL model were much greater than anticipated. The Model currently assumes that consumers will use CACs slightly more, as efficiencies for CACs increase.[94] However, some studies indicate that consumers might greatly increase their usage of CACs as efficiencies increase, so that any reduction in energy use attributable to higher efficiency units could be offset by this higher usage.

Moreover, the ORNL model does not fully explore the impact of higher efficiency CACs on the overall thermal integrity of a housing unit and the efficiencies of other appliances, such as furnaces, within the unit. It has been suggested that the purchase of more efficient CACs could result in lower investments in measures such as insulation or storm windows, which would improve the thermal integrity of a house, or in more efficient furnaces. If CACs did have such an impact on these investment decisions, little if any real energy would be saved by requiring a standard for CACs.

3. *Economic Justification.* A. *Impact on Manufacturers.* In the April 1982 proposal, DOE indicated that the per unit increased cost to manufacturers to meet the highest standard level of efficiency was substantial. *See* 47 FR 14451. As indicated above, however, DOE has altered the cost-efficiency curve in a manner that has the effect of reducing the cost to a manufacturer of

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[89] Over 1 million households live in buildings with 5 or more units with a central air conditioning system for the entire building. *See* Housing Characteristics, 1980, DOE/EIA-0314 (1982), at Table 19.

[90] DOE ran two sensitivity analyses of the ORNL Model projections of energy savings. One substituted a constant distortion rate for the algorithm; the other substituted the historical rate of increased efficiency for that derived by the ORNL Model. At level 4 the results 1.21 Quads and 0.80 Quads, respectively. Neither amounts would satisfy the first two tests of significance.

[91] In these computations, DOE has reduced the percentage of oil used to generate electricity by 14 percent and increased the percentage of gas by 16 percent from the average of the annual percentages for the years 1990 and 1995, *see* note 80, *supra*, with the result that oil represents 2.28 percent and gas 7.13 percent of the projected electricity savings. These percentage changes are derived from the actual percentage deviations in 1982. *See* Electric Power Monthly, DOE/EIA-0226.

[92] Electricity used over the period 1987–1998 is estimated to be 434.1 Quads. It is derived through linear extrapolation of the estimate made for the years 1985, 1990, and 2000. U.S. Department of Energy, July 1981, "The National Energy Policy Plan," Table 1.

[93] As indicated above, DOE ran two sensitivity analyses of the level 4 savings. Under the constant distoration rate the percentage savings projected would be 26.24; under the historical trend analysis the percentage savings projected would be 16.53.

[94] The ORNL model includes a value of .2 as the usage elasticity for CACs. This means that for every unit of energy saved by more efficient equipment, .2 additional units of energy will be consumed due to increased usage.

meeting a level 4 standard compared to what was indicated in the April 1982 proposal. Nevertheless, the increased costs to manufacturers to meet level 4 would remain substantial. To meet even a level 3 standard for the most popular class, the 39,000 BTU and under split system class, as compared to the 1978 base line unit would require over $150 per unit in increased costs to a large manufacturer of CACs. For this same class, to meet a level 2 standard, the increased cost to the manufacturer would be $134 per unit.

The negative impacts on manufacturers projected by the FIM are smaller than might be expected from these increased costs. Thus, the FIM projects no increase in business risk attributable to standards and increased profitability for large firms as a result of standards. On the other hand, profitability over the period 1987–1991 for a medium-size firm decreases over 25 percent at level 4 and over 20 percent, at both levels 2 and 3. Similarly, profitability for small firms declines almost 30 percent over the same period at level 4 and over 20 percent at levels 2 and 3. The effect on firms' debt/equity ratio is not pronounced.

As indicated in the General Discussion section, the FIM impacts are fully accurate only to the extent that the prototypical firm did not make investments in improving appliance efficiency as part of its historically indicated investments.[95] In the case of CACs the ORNL Model projects that by 1987 the SWEF will be 7.40 SEER in the base case. From the EnAD this would indicate that 16 percent of the necessary investment to achieve the highest standard level would be made as part of historically indicated investments. Thus, the FIM negative impacts actually attributable to the highest standard level should be reduced by about 16 percent. At level 3, however, the EnAD indicates that 80 percent of the necessary investment would be made as part of historically indicated investment. Consequently, the FIM impacts at this level should be reduced by 80 percent. At levels 1 and 2 the EnAD indicates that all of the necessary investment would be made as part of the historically indicated investment. Therefore, at these levels there should be virtually no negative impact on manufacturers, notwithstanding the large increase in costs.

However, some commenters stated that the FIM did not fully explore the negative impacts on manufacturers. One commenter, Bard Manufacturing Company, No. 2117, noted that several large firms have recently discontinued their CACs divisions or sold them, because of poor profitability. Bard states that the DOE analysis does not recognize the severe impacts that a standard level could produce on the air conditioning industry, arguing that some firms could be driven out of business.

In addition to the above mentioned quantified impacts on manufacturers, an effect of a standard, as indicated previously, would be to require certain investments to be made that might not otherwise have been made. These required investments may result in the forgoing of certain other investments which would be more beneficial to the manufacturer. Manufacturers generally supported this conclusion.

B. *Impact on Consumers.* At all standards levels, consumers would incur substantial increases in first costs. For example, for a split system, 39,000 BTU and under unit, the most popular class, at a level 2 standard the price increase would be $366 or a 33 percent increase, and at level 3, the price increase would be $414 or a 37 percent increase. For a single system, 39,000 BTU and under unit, at standard level 2 the price increase would be $376 or a 37 percent increase, and at level 3, the price increase would be $442 or a 44 percent increase. For a split system over 39,000 BTU unit, the price increase at a level 2 standard would be $391 or a 20 percent increase, and at level 3, the price increase would be $411 or a 21 percent increase. For a single system over 39,000 BTU unit, the price increase at a level 2 standard would be $383 or a 22 percent increase, and at level 3, the price increase would be $524 or a 30 percent increase. At standard level 4, the price increases would be even greater. As previously discussed, DOE does not have sufficient data to create a full "cost book" for this efficiency level, therefore, DOE does not have a precise estimate of the increase in prices of units at this level. Even at standard level 1, the price increases are not small. The most popular class at level 1 would increase in price by over $319, or over 28 percent, with the prices for other classes increasing by more than $300.

These large price increases, especially when they are not part of a life cycle cost decrease, *see infra*, are likely to have an adverse impact on all income groups. Although the income elasticity for CACs was higher than for any other product measured, it is clear that such large price increases will result in a change in consumer buying patterns. Thus, DOE believes that because of the size of the price increase, there will be a substantial impact on consumers. Supplement, EcAD at 582–611. Nevertheless, the analysis indicates that less than 2 percent of the households with an income of over $15,000 would forgo the purchase of CACs each year as a result of a standard set at the highest level. However, the analysis only measures direct purchases by consumers and does not measure purchases by third parties, such as builders. For purposes of the analysis, DOE determined that only 36 percent of CACs were purchased dirctly. *See* Supplement, EcAD, Appendix J at 584–4. Thus, there could be a substantial number of CACs that would not be purchased by builders or other third party purchasers that would not be reflected in the analysis.[96] The impact on lower income households ($15,000 income or less) is greater, with over 7 percent of those who would have purchased CACs not purchasing them because of the increased price attributable to standard level 4. In the less than $7,000 income range, over 14 percent would forgo CAC purchases each year. While the percentages of lower income households that would forgo CAC purchases are large, the absolute number of households so impacted are small (i.e., 5843 lower income households per year would forgo CAC purchases), since lower income households are the least likely to purchase CACs in any case.[97]

On the other hand, households that rent their housing will probably not purchase CACs in any event and must accept the equipment provided by the landlord. DOE believes that with respect to lower income households, landlords are most likely to provide the least expensive CAC, if any, and hence the least efficient. If such a landlord were to purchase a more expensive CAC, as a result of standards, DOE believes that the landlord will probably recover any increased costs through higher rents or through diminished services. DOE does not have data as to the number of households in this situation—lower income renters with CACs potentially subject to standards whose electricity bills are not paid by the landlord. As to

[95] This conclusion, however, applies only to the "average" (in terms of the shipment weighted efficiency of its product) prototypical firm. The negative impacts suffered by a firm that had made limited or no investments in improved product efficiency would still approach or be those reflected by the FIM.

[96] This analysis only measured the impact of a standard set at level 4. Standards set at level 2 or 3 would necessarily have smaller impacts under this analysis.

[97] Only about 14 percent of the lower income households have CACs. *See* Housing Characteristics, 1980, DOE/EIA–0314 (June 1982), at Figure 9.

these households, however, DOE believes energy efficiency standards would have no positive impact.

Considering the burdens and benefits of possible standards for CACs to all consumers and lower income persons, DOE concludes that the effects of a standard would be somewhat negative because of the substantial increase in first cost to all consumers and the possible foregone purchases of CACs by lower income households. Moreover, since DOE's analysis does not review the 64 percent of all CACs purchased by third parties, it is likely that the large increase in first cost could alter the buying patterns of third party purchasers to the detriment of the ultimate user of the units.

C. *Life Cycle Cost.* As indicated above, DOE has made three changes to the cost/efficiency curves for CACs that affect the life cycle cost. The first and most significant was the change in the capacity and usage of the average CAC, reducing substantially the life cycle cost minimum for CACs in the ORNL Model.[98] Also, DOE added a new point on the cost-efficiency curves, representing more advanced technology than was reflected in the April 1982 proposal, and deleted the previous highest efficiency design option in the EnAD, on the basis of comments on the proposal independently and together, these two changes reduce the cost of more efficient CACs on the cost-efficiency curve and consequently reduce the life cycle costs of the most efficient CACs. They are not reduced enough, however, to become life cycle cost minima.

For the product as a whole, the life cycle cost minimum is below all the standard levels analyzed. For two classes of CACs representing almost 75 percent of the market, their life cycle cost minima are likewise well below all standards levels. For the class of large split systems, the life cycle cost minimum is below only the level 4 standard. For the class of large single package systems, the life cycle cost minimum is below both levels 3 and 4.

[98] The ORNL Model determines energy consumption by product, not by product class. Therefore, the cost-efficiency curves reflected in the cost-efficiency data in the EnAD for the product classes are first recreated into a cost-efficiency curve for the product as a whole. A life cycle cost curve, including the life cycle cost minimum, for the product as a whole can then be determined. The Life Cycle Cost Analysis, however, treats each class of product separately. For CACs, this results in four life cycle costs curves and four life cycle cost minima. For two classes, representing almost 75 percent of the market, the life cycle cost minima are below all standards levels. For the remaining two classes, the life cycle cost minima are only below a level 4 standard.

This indicates that any standard for CACs at level 2 would prohibit the manufacture and sale of the most cost-effective model of CAC to an average consumer in the classes making up 75 percent of the national market. Moreover, a standard at level 4 would prohibit the most cost-effective model of CAC to the average consumer in every class of CAC. Finally, at level 3, a standard would prohibit the most cost-effective model of CAC to the average consumer in three of the four classes, making up 84 percent of the market.

In the April 1982 proposal, DOE indicated that it would consider it to be a significant burden of a standard if the standard prohibited from the market the average consumer's most cost-effective model of an appliance. As indicated in the General Discussion, no commenter disagreed with assigning such a burden to a standard that had such an effect.

Prohibiting the life cycle cost minimum for an appliance denies the freedom to the consumer to purchase the product that is most cost-effective. However, even when consumers have the freedom to make such a choice, they do not always do so. As discussed in the General Discussion section, there is always some market distortion such that the efficiency of the average purchase falls short of the life cycle cost minimum. Thus, it is possible to prohibit the most cost-effective model of an appliance and yet at the same time reduce the average life cycle cost for appliances of that type. That is, a standard may result in a life cycle cost for the appliance that is higher than necessary but still less than the life cycle cost of the average product in the market. On the other hand, a standard not only may prohibit the most cost-effective model of an appliance but also actually increase the average consumer's life cycle cost. In the April 1982 proposal, DOE indicated that it would consider it a substantial burden of a standard if it had the effect of actually increasing consumers' life cycle costs. No commenter contested this position.

The comparison of life cycle costs at the various standard levels to the life cycle cost of a central air conditioner at the 1987 SWEF reveals that for the two classes of 39,000 BTU and under central air conditioners that make up 75 percent of the market, a standard at all central air conditioner levels actually increases the average consumer's life cycle costs. For a split system 39,000 BTU and less central air conditioners, the life cycle cost at level 1 increases by $17, at level 2, by $19 at level 3, by $24, and at level 4, by $153. For a single system 39,000 BTU and less central air conditioner, the life cycle cost at level 1 increases by $8.00, at level 2, by $8.00 at level 3, by $16, and at level 4, by $208. However, for a split system, greater than 39,000 BTU central air conditioner, the life cycle cost decreases by $106 at level 1, by $154 at level 2 by $187 by level 3, and by $131 at level 4. For a single system, greater than 39,000 BTU central air conditioner, the life cycle at level 1 decreases by $164, at level 2 by $215, at level 3, by $169, and at level 4, by $43. *See* EcAD Supplement, Table G–9.

Accordingly, a standard would prohibit the most cost-effective models and would raise life cycle costs for the average consumer of the most popular classes of CACs, However, it should be noted that the narrow differences between the negative financial impacts recorded at levels 1, 2 and 3, result from the almost flat nature of the life cycle cost curves for the two most popular classes of CAC until they reach very high efficiences. Differences in life cycle costs between the various efficiencies below level 4 are therefore small. This is shown, for example, in the Supplement where the life cycle cost differences between the 1987 SWEF and levels 1, 2, and 3 are not more than $24 for one class and not more than $16 for the other.

Thus, it is appropriate to consider the life cycle cost effects of a standard for CACs at all levels to be a burden because a standard would penalize the average consumer, rather than benefit him. While the degree of burden increases as the amount of penalty increases, it should be noted that at level 4 the amount of the penalty is very large (between $150 and $200 for the classes making up 75 percent of the market).[99] Both the amount of the penalty and the fact of the penalty are taken into account in weighing the benefits and burdens of standards.

The regional analysis of the life cycle cost effects of a standard for CACs reflects the fact that the effects of a standard for CACs differ substantially depending upon the area involved. *See* Supplement.[100] For example, in six States the combination of climate and electricity prices results in a life cycle cost minimum above the most stringent

[99] While life cycle cost penalties are measured over the life of the product (12 years for CACs), the penalties are suffered in the year of purchase in the increased purchase price of the product that is never recouped in discounted fuel price savings. Life cycle cost benefits, however, are felt only over the life of the product, as fuel price savings outweigh the increased purchase price.

[100] The analysis in the Supplement reflects only the effects with regard to the most popular class of CAC, making up 60 percent of the market.

standard level—that is, the most cost-effective model would *not* be prohibited even at the highest standard level. On the other hand, in 23 States the most cost-effective CAC would be prohibited at even the lowest standard level, because of those States' low electricity prices, low number of cooling degree days, or a combination of both. Similarly, comparing the difference in the life cycle costs between the projected 1987 SWEF and the various standard levels, the analysis shows that States with average or below average CAC usage and below average electricity prices are generally harmed, while States with above average CAC usage and average or above average electricity prices are benefited. However, it should be noted that any benefits or burdens reflected in this analysis are based upon the average consumer's usage of CACs. To the extent that an individual consumer uses a CAC less than average, even in a State with a positive LCC, that consumer would be harmed. At level 4, 35 States are harmed, compared to 16 benefited, but at levels 1, 2, and 3, 26 States are benefited compared to 23 harmed. Moreover, as might be expected, those States that benefit generally have high levels of CAC saturation because of the hotter climate. The 16 States that benefit at level 4 account for almost half of all the CACs in the Nation. The 26 States that woud be assisted by standard at levels 1, 2 or 3 account for nearly 75 percent of CACs saturation in the market.

The ORNL Model's NPV output is consistent with the life cycle cost analysis. At standards levels 3 and 4 the Model projects a negative NPV, ranging from $85 million at level 3 to $358 million at level 4 over the period 1987–2017. At levels 1 and 2, however, there are positive NPVs of $153 million and $63 million, respectively. The positive NPV at levels 1 and 2, notwithstanding the small increase in life cycle costs for the classes that make up 75 percent of the market, reflects the much larger decrease in life cycle costs for the remaining 25 percent of the market and representing the larger units. None of these amounts, however, are large in an absolute sense. For example, spread over the Nation's 80 million households the negative NPV is less than $.15 per year per household at level 4, while the positive NPV for CACs at level 2 is only $.08 per year per household.

The NPV's for CACs decrease as the standard requires greater efficiency. Thus, moving from a level 1 standard of efficiency (which does not save significant energy) to a level 2 standard (which does) results in a *decrease* in NPV. As indicated in the April 1982 proposal, this reflects that such a mandated increase in efficiency of CACs results in an increase in the negative present values relative to the positive present values.

D. *Energy Savings.* As indicated above, over the 12 years of the average life of a CAC, a standard for CACs would, beginning in 1987, save between 0.76 and 1.23 Quads of electricity,[101] which is an average of .063 to .103 Quads of electricity per year. This amount of energy on a yearly basis is not very great.

E. *Lessening of Utility or Performance of Products.* Concern was expressed by some commenters that standards for CACs could result in the design of CACs that do not achieve a 20 percent dehumidification. Were this true DOE would agree that this would constitute a burden attributable to standard, because dehumidification by CACs is, at least where humidity is a problem, a definite utility or performance aspect of CACs. As was indicated in the technical discussion, however, one of the reasons why DOE's highest analyzed standard level is below the efficiency claimed for some existing models in the market is because that standard level can be achieved with existing technology while retaining necessary dehumidification capabilities.

DOE is not aware of any other factor associated with a standard set at a level analyzed that might affect the performance or utility of existing CACs. However, as was discussed above, despite DOE's best efforts to assure no negative impact on performance or utility of existing products, there is no assurance that as a result of standards disincentives to investment in new performance or utility features that might reduce efficiency would lessen the utility or performance of future products. While manufacturers supported this conclusion in general, they gave no examples specific to CACs.

F. *Impact of Lessening Competition.* The Attorney General has determined that the absence of a Federal standard for CACs would have no impact on competition. The Attorney General did not assess the possible effect on competition attributable to a Federal standard for CACs at the levels analyzed.[102]

G. *Need to Save Energy.* Central air conditioners use electricity exclusively as their energy source. The electricity that would be saved by standards for CACs would be concentrated in certain parts of the Nation and would be concentrated during summer peak load periods. While peak load savings are generally more valuable to utilities than normal load savings, the value of the savings depends greatly on the nature of the particular utility's peak load and consequently is highly regional, if not local, in character. Thus, although savings of electricity associated with CACs are more valuable than other forms of electricity savings, the relative value of those savings depends on the load characteristics of the particular utility.

H. *Other Factors.* The significant negative impacts projected by the FIM on the prototypical small manufacturer of CACs were presented above. Only with respect to profitability was there any significant negative impact. Moreover, after adjusting for investments made as part of historically indicated investments, the only meaningful impact would be at level 4. In the April 1982 proposal, however, DOE indicated its belief that the methodology of the FIM would tend to understate the negative impacts of standards on small firms. No comments were received specific to small CAC manufacturers, but no commenter disputed DOE's reasons for concluding that the FIM methodology tends to understate the negative effect of standards on small manufacturers. Consequently, DOE concludes that the negative impacts projected by the FIM (as adjusted) understate the negative impact of standards on small manufacturers of CACs.

Weighing of Factors

The benefits of a standard for CACs are that it would save electricity and have a positive net present value at levels 1 and 2, while at levels 3 and 4 the benefit of a standard would be that it saves electricity. The amount of electricity saved at each of levels 2, 3, and 4 is greater over the period 1987–2005 than the electricity saved at the highest standard level for any other product. Moreover, the electricity saved is peak load electricity, generally the

[101] As described earlier, these figures actually overstate energy savings to the extent that the ORNL Model includes central air conditioning systems not subject to the Act, such as those systems in large buildings. DOE is not able at this time, however, to quantify the extent of this overstatement.

[102] In 1980 the Attorney General did comment on the June 1980 proposal to set Federal standards. That comment was highly critical of the analysis used and conclusions reached in that proposal, to the extent that it was said that a conclusion as to the impact on competition could not be reached.

most valuable type of electricity savings. While there are positive net present values at levels 1 and 2, they are small in magnitude.

The burdens of a standard for CACs depend on the level analyzed. At level 4 there are very significant burdens. The impacts on manufacturers, while not overwhelming, are negative for small and medium-size manufacturers. The negative life cycle cost impacts, moreover, are substantial—eliminating from the market place the most cost-effective CAC to the average consumer in all four product classes and raising the life cycle cost to the average consumer by large amounts in the two classes that make up 75 percent of the market. The net present value analysis reflects these impacts with the largest negative net present value of any product or class under any analyzed standard level. Accordingly, the negative impact on consumers at level 4 creates a substantial burden. In addition, on a regional basis, standards would have a negative impact on 35 States. Finally, to these quantified burdens must be added the small, additional unquantified burdens reflected in the discussion. Weighing the benefits of the 1.23 Quads of electricity savings, much of which is peak load savings, against all these burdens, DOE concludes that a standard set at level 4 would not be economically justified.

At level 3, while the electricity savings are less, so also are the burdens. The quantified negative impacts set forth in the FIM on small and medium-size manufacturers are quite small. However, a standard set at this level could drive some manufacturers out of business. Such a result could be potentially anti-competitive. Although the increase in life cycle cost for the two most popular classes is reduced by over 90 percent, the most cost-effective models of CACs in three classes are eliminated from the market place. The net present value is also negative. The increase in first cost to consumers is over $400 for all classes of CACs. Thus, this combined negative impact on consumers creates a substantial burden. Moreover, on a regional basis, standards would have a negative impact on 23 States. Finally, to these quantified burdens must be added the small, additional unquantified burdens reflected in the discussion. Weighing the benefits of 1.07 Quads of electricity savings, much of which is peak load savings, against these burdens, DOE concludes that the burdens outweigh the benefits.[103]

[103] Since the 1.07 Quads includes savings attributable to a possible overestimation of the number of CACs, and real income growth, as well as a possible underestimation of increased usage as a result of increased efficiencies, any reduction of the savings figure would tend to tip the balance further in favor of the burdens outweighing the benefits.

At level 2, the electricity savings are reduced to 0.92 Quads, and the burdens are somewhat less. Notably, the negative impacts predicted by the FIM on manufacturers small to begin with, are totally eliminated. However, there is always the possibility that some manufacturers could be driven out of business by a standard set even at this level. This result could potentially be anti-competitive. The negative life cycle cost impacts are again reduced, although the two smallest classes of CACs which represent almost 75 percent of the market, have life cycle cost minima which are below level 2. The net present value for the product as a whole becomes a positive number however, (albeit a number so small as to be within the error range) and the NPV therefore becomes a small benefit. The increase in first cost to consumers ranges from $366 to $391, depending on the class of CAC. When all of these consumer impacts are considered, however, it is clear that the small positive NPV cannot outweigh the negative LCC results and the large increase in first costs. Accordingly, DOE has determined that these negative impacts on consumers constitute an appreciable burden. Finally, to these quantified burdens must be added the small, additional unquantified burdens reflected in the discussion. Weighing the benefits of electricity savings of 0.92 Quads, much of which is peak load savings, against the burdens at a level 2 standard, DOE concludes that the burdens of a standard at level 2 outweigh the benefits and that a standard set at level 2 is not economically justified.[104]

At level 1, the electricity savings are still less and do not meet any of DOE's tests of significance, and the net present value is slightly more positive. The life cycle cost burdens, however, remain virtually the same as level 2. While these burdens are not great, neither at this level are the savings. Consequently, DOE concludes that the burdens of a standard at level 1 outweigh the benefits.

Accordingly, because of the significant negative impacts on consumers at all standard levels as well as negative impacts on some manufacturers, DOE has determined that the economic burdens of any energy efficiency standard for CACs clearly outweigh the small benefits attributable to saving energy.

[104] The 0.92 Quads is subject to the same reductions in savings discussed *supra* in note 103. Such reductions in savings would further tend to tip the balance in favor of the burdens outweighing the benefits.

g. Home Heating Equipment (Not Including Furnaces)

The Department of Energy is not proposing a rule with respect to the product home heating equipment (not including furnaces) (hereafter referred to as "home heating equipment"). At the present time, there is no test procedure applicable to unvented oil or gas home heating equipment. Thus, a standard would be precluded for this class, even though it probably is the largest growing class in the product type. Moreover, it does not appear likely that it would be technologically feasible to improve the efficiency of electric resistance home heating equipment for the same reasons described with respect to electric furnaces, see *infra*. Finally, DOE is proposing major modifications to the existing test procedures relating to vented home heating equipment in light of the burden on manufacturers, as well as concerns raised with respect to the failure of the existing procedure to measure the effects of thermal stack dampers and modulating controls on energy efficiency.

In light of the above, DOE believes it would be premature to propose any rule at the present time with regard to home heating equipment.

IV. Preemption of State Regulations

On December 22, 1982, DOE published a final rule with respect to the procedures by which States may obtain exemptions for State or local efficiency standards that are statutorily preempted and by which manufacturers may obtain preemption of a State or local efficiency standard for which there is no Federal final rule. 47 FR 57198, 57213. DOE also established a rule for determining the effective dates of a final Federal standard or no-standard determination, upon which supersession of State and local standards would take place. The rule stated that a Federal standard or no-standard determination would be effective in a State 180 days after publication of the Federal standard or determination in the Federal Register, unless the State had filed a notice of petition within 60 days and a petition for a rule to exempt its State or local standard within 120 days of publication. If a State filed such a notice and petition, the State standard would not be superseded until DOE had denied the requested rule, but in no event sooner than 180 days after publication of the standard. Thus, no hiatus would occur—when a State or local standard would

not be in effect—if the State obtained an exemption.

The final rule adopted today determines that an energy efficiency standard for refrigerators and refrigerator-freezers, freezers, water heaters, room air conditioners, or furnaces would not result in a significant conservation of energy or be economically justified, and that an energy efficiency standard for CAC's would not be economically justified. Thus, any State or local appliance efficiency standard with respect to these products is preempted on the effective date of this rule unless a State files a notice of petition for a rulemaking within the 60 days and the petition within 120 days.

Since publication of the December 1982 rule, DOE has received several questions concerning the timing of preemption in a State, the requirements for submittal of petitions for exempting a State standard from preemption, and the criteria to be used by DOE to evaluate the petitions.

The California Energy Commission (CEC) specifically requested clarification of Section 430.34(b) which provides that the final effective date for the rule may be:

> With respect to a covered product in a particular State for which that State has filed a notice of petition within 60 days of publication of that standard in the **Federal Register**, and a petition under section 327(b)(3) of the Act within 120 days of publication of that standard in the **Federal Register**, the date upon which the Secretary issues or denies a final rule concerning that petition.

The CEC asserts that because the Secretary's determination with respect to a particular petition is a rule under section 327(b)(3) of the Act, it cannot be effective upon publication of the rule, but instead can only be effective by a date at least 30 days after publication of the rule. 5 U.S.C. 553(d). Thus, there would be a 30 day hiatus during which the Federal standard or no-standard determination would apply in the State and preempt the State standard, before a rule granting an exemption from preemption would take effect.

The CEC's comment has substantial merit. DOE, in promulgating § 430.34(b) did not intend for such a hiatus to occur. Indeed, such a hiatus would directly contravene the purposes of § 430.34(b). In order to clarify DOE's intent, DOE is amending § 430.34(b) to provide:

> With respect to a covered product in a particular State for which that State has filed a notice of petition within 60 days of publication of that standard in the **Federal Register**, and a petition under section 327(b)(3) of the Act within 120 days of publication of that standard in the **Federal Register**, 30 days from the date upon which the issuance or denial of the final rule concerning that petition is published in the **Federal Register**.

This minor amendment makes clear that the effective date of a final energy efficiency standard for which a State files a timely petition occurs 30 days from publication of that rule in the **Federal Register**.

The National Conference of States on Building Codes and Standards, Inc. (NCSBCS) expressed confusion over who may submit petitions for exemption of State rules from preemption. In order to simplify the current procedure which requires each State to submit separate petitions for each covered product, NCSBCS suggests a "class action" filing by NCSBCS on behalf of each concerned State that has adopted ASHRAE Standard 90A–1980 for particular products and that wishes to participate in the action. NCSBCS argues that this approach would be less burdensome on both the States and DOE.

Although DOE agrees that the NCSBCS approach would certainly be less burdensome, the Act prohibits the type of "class action" submission that NCSBCS envisions. Section 327(b)(3) of the Act only permits States to submit petitions for exemption from preemption. Moreover, a separate determination must be made by DOE with respect to each petition. This is not to say, however, that DOE cannot consider a number of petitions in one proceeding. Indeed, DOE expects to proceed in such a fashion. Except for the minimal filing requirements with respect to each State's petition, *see* 10 CFR 430.44(b), a State may, if it wishes, rely on NCSBCS or other persons or organizations to submit data or arguments in the rulemaking proceeding in support of the State's petition. Like any other rulemaking, DOE will make its decision on States' petitions, applying the statutory tests, only after full consideration of the rulemaking record.

DOE has also received comments concerning the criteria used by the Secretary for reaching a determination of the State petitions. As DOE discussed at length in the December 1982 rulemaking, DOE will evaluate the petitions based upon the language of the statute at Section 327(b)(3). 47 FR-57213–4. Thus, DOE will grant an exemption to a State if the State standard is more stringent than the DOE standard, and there is a significant State or local interest to justify the regulation, unless DOE finds that the State standard unduly burdens interstate commerce.

For a fuller discussion of the Department's views, and the type of State and local law that would be subject to supersession, *see* 47 FR 57213.

DOE has incorporated into the final rule a minor technical change concerning the filing requirements for petitions. In § 430.42, the address specified for filing petitions has been changed to read as follows: "U.S. Department of Energy, Section 327 Petition—Energy Efficiency Program for Consumer Products, Assistant Secretary for Conservation and Renewable Energy, Mail Station, CE-1, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585."

V. Procedural Matters

a. Environmental Issues

The 1980 environmental assessment (EA) for the then proposed energy efficiency standards estimated that the energy savings resulting from national standards for eight appliances would be within the range of 0.8 to 1.6 quads per year. The EA then analyzed the environmental impacts of this change in energy use. Based on this EA, a finding of no significant impact was issued concluding that this level of change of energy usage would not significantly affect the quality of the human environment (June 30, 1980 45 FR 44066). In neither the June 1980 proposal nor the April 1982 proposal was any comment received disputing the conclusion that a 1.6 Quads per year change in energy usage would not have a significant impact on the environment.

The NRDC, in commenting upon the April 1982 proposal, however, criticized DOE's reliance upon the June 1980 EA for its determination that the April 1982 proposal would not have significant environmental impacts since the June 1980 EA did not address the impact of a Federal no-standard standard preempting existing State standards. NRDC alleged that the effect of such preemption would be to increase energy usage compared to the *status quo ante* of no Federal standard but the existence of State standards.

Initially, DOE believes that the NRDC's comment is not well-founded. As indicated in the December 1982 final rule, while a Federal no-standard standard would preempt State standards in the absence of an exemption for the State standards, DOE's review of existing State standards makes it appear highly likely that the exemptions would be granted. Both the expressed interest of several States in their standards and the notices of petition for exemption filed with respect to the December 1982 final rule indicate that States will in fact seek

exemptions. Consequently, the circumstance NRDC suggests should be analyzed—the elimination of all existing State standards—would appear to be an exceptionally improbable situation.

Nevertheless, DOE has analyzed the impact of such an improbable situation. First, a "worst case" analysis was constructed. Under this "worst case" it was assumed that all States have standards as strict as California's. This, of course, is factualy incorrect, however, since California has, with respect to all products, the strictest and most pervasive appliance efficiency standards of any State. It was also assumed that all efficiency improvements that have been achieved while these standards have been in place would be abandoned by manufacturers and consumers, and that manufacturers at considerable investment expense would retool to make less efficient equipment than they are currently making. Such an assumption strains credulity and is directly contrary to a determination made by DOE on the record of the rulemaking that energy efficiency improvements have primarily resulted from increased energy prices, not State standards.

From these assumptions DOE took California's claimed energy savings attributable to its standards, which were criticized by some commenters in this rulemaking as unrealistically high, and determined per-capita energy savings in California. These per-capita energy savings were then applied nationwide. This results in a "worst case" of a no-standard determination, eliminating all State standards, causing an increase in energy use of 0.95 Quads per year for all appliances from what would be used with State standards. This 0.95 Quads impact per year is substantially less than the maximum of 1.6 quads per year that DOE had previously determined to result in insignificant impacts on the quality of the human environment. Thus, DOE has concluded that the April 1982 proposal even under the most extreme unrealistic worst case analysis would clearly not result in significant environmental impacts so that neither an EA nor EIS are required.

DOE also attempted to make a more realistic appraisal of potential environmental impacts if all State standrds were eliminated, a situation DOE believes to be highly improbable, as discussed above. In this appraisal, actual individual State standards were used instead of California's. For the products central air conditioners, room air conditioners, gas furnaces, and water heaters, all sales subject to standards were assumed to be made at the standard level.[105] Using the national average SWEF projected by the ORNL Model in the base case, plus the SWEF for all sales subject to standards, DOE calculated a SWEF of sales not subject to standards. *This* SWEF is then applied nationwide for all sales of the four products to determine energy usage if all State standards were preempted. Under the methodology, elimination of State standards would have the following effects:

central air conditioners—a total of 1.22 Quads over the period 1984–2059
room air conditioners—a total of 3.88 Quads over the period 1984–2146
gas water heaters—a total of 0.407 Quads over the period 1984–2018
electric water heaters—a total of 0.321 Quads over the period 1984–2021
gas furnaces—a total of 0.001 Quads over the period 1984–2011

For freezers, refrigerators, and oil furnaces there are hardly any models in commerce that do not satisfy existing State standards, and there is no increased use of energy that would occur as a result of the elimination of State standards.

A copy of this analysis, including the methodology, is available for inspection at the DOE Freedom of Information Reading Room, Room 1E190, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., 20585, between the hours at 8 a.m. and 4:00 p.m., Monday through Friday.

Again, for the reasons explained earlier in the preamble and this section, DOE does not believe that a no-standard determination would result in *any* increase in any energy usage compared to the base case. The figures derived here assume total elimination of State standards with no exemptions and assume that manufacturers and consumers abandon the efficiencies that already are in the marketplace, both of which assumptions are unrealistic.

Based upon the findings of the EA and subsequent analysis, it has been determined that this rule does not constitute a "major Federal action significantly affecting the quality of the human environment" within the meaning of the National Environmental Policy Act, 42 U.S.C. 4321 *et seq.*, and therefore an environmental impact statement is not required by NEPA and the applicable DOE guidelines for compliance with NEPA.

[105] If sales, in fact, were above the standard level, then the standard was not responsible for that efficiency level. Moreover, DOE is making no determination with respect to central air conditioners in this final rule.

b. Executive Order 12291

Executive Order 12291 requires agencies to determine if a rule is a "major rule" under the Order. In the April 1982 proposal, DOE determined that the rule proposed there would not be a major rule because, if adopted, it would not result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. This conclusion was not criticized in the rulemaking proceeding. The rule adopted today is a part of the rule proposed on April 1982 and, accordingly, would likewise not be a major rule under the Executive Order. Consequently, this rule has been reviewed by OMB under the procedures applicable to rules other than major rules.

c. Regulatory Flexibility

In the April 1982 proposal DOE certified, pursuant to Section 605(b) of the Regulatory Flexibility Act, that the proposal, if promulgated, would not have a significant economic impact on a substantial number of small entities. While the April 1982 proposal received comment from small businesses involved in the manufacture of appliances, generally supportive of the proposal, the commenters did not take issue with DOE's certification. Accordingly, DOE certifies that this rule will not have a significant economic impact on a substantial number of small entities.

In consideration of the foregoing, Part 430 of Chapter II of Title 10, Code of Federal Regulations is amended as set forth below.

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Energy conservation, Household appliances.

Issued in Washington, D.C., August 25, 1983.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

1. Section 430.32 is revised to read as follows:

§ 430.32 Final energy efficiency standards.

The final energy efficiency standards for each class of covered products are:

(a) *Refrigerators and refrigerator-freezers.* No standard for all classes.

(b) *Freezers.* No standard for all classes.

(c) *Dishwashers.* [Reserved]

(d) *Clothes dryers.* No standard for all classes.

(e) *Water heaters.* (1) For the classes gas, electric, electric table top, and oil. No standard;

(2) For the class heat pump water heater. [Reserved]

(f) *Room air conditioners.* No standard of all classes.

(g) *Home heating equipment, not including furnaces.* [Reserved]

(h) *Television sets.* [Reserved]

(i) *Kitchen ranges and ovens.* No standard for all classes.

(j) *Clothes washers.* [Reserved]

(k) *Humidifiers and dehumidifiers.* [Reserved]

(l) *Central air conditioners*—(1) For the classes which include all split systems and single package units which do not operate with a heat pump. No standard for all classes;

(2) For the classes which operate with a heat pump. [Reserved]

(m) *Furnaces.* No standard for all classes.

2. Section 430.34 is revised to read as follows:

§ 430.34 Effective date.

The effective date of a final energy efficiency standard (including a determination of no standard) in § 430.32 shall be the later of:

(a) 180 days after publication of that standard in the **Federal Register**, or

(b) With respect to a covered product in a particular State for which that State has filed a notice of petition within 60 days of publication of that standard in the **Federal Register**, and a petition under section 327(b)(3) of the Act within 120 days of publication of that standard in the **Federal Register**, 30 days from the date upon which the issuance or denial of the final rule concerning that petition is published in the **Federal Register**.

3. Section 430.42(a) is revised to read as follows:

§ 430.42 Filing requirements.

(a) A notice of petition or a petition for a rule under this section shall be submitted in triplicate to: U.S. Department of Energy, "Section 327 Petition—Energy Efficiency Program for Consumer Products," Assistant Secretary for Conservation and Renewable Energy, Mail Station, CE–1, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

* * * * *

(Part B of Title III, Energy Policy and Conservaton Act, Pub. L. 94–163, as amended by the National Energy Conservation Policy Act, Pub. L. 95–619, (42 U.S.C. 2691 et seq.))

[FR Doc. 83–23787 Filed 8–29–83; 8:45 am]

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Part V

Department of Health and Human Services

Health Care Financing Administration

Medicare Program; Limitations on Reimbursable Hospital Costs and the Rate of Hospital Cost Increases; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

Medicare Program; Limitations on Reimbursable Hospital Costs and the Rate of Hospital Cost Increases

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rules.

SUMMARY: These rule revise and establish as final rules the interim rules published September 30, 1982 (47 FR 43282) implementing section 101 of the Tax Equity and Fiscal Responsibility Act of 1982. These rules make exceptions available to hospitals consistent with the new cost limits (published elsewhere in this issue of the **Federal Register**), specifically exempt from those cost limits rural hospitals with less than 50 beds in existence as of the enactment of the law, and establish a ceiling on the allowable annual rate of increase in operating costs per case for inpatient hospital services. The rate of increase ceiling takes from the form of a target amount of cost per case against which a hospital's incurred cost per case will be compared, and includes incentives for hospitals to keep their cost increases below the target rate.

EFFECTIVE DATE: These rules are effective for hospital cost reporting periods beginning on or after October 1, 1982.

FOR FURTHER INFORMATION, CONTACT: Marilyn Koch, (301) 594–9344.

SUPPLEMENTARY INFORMATION:

I. Background

A. Legislative History

Section 223 of the Social Security Amendments of 1972 (Pub. L. 92–603, enacted October 30, 1972), amended section 1861(v)(1) of the Social Security Act (42 U.S.C. 1395× (v)(1)), to authorize the Secretary to set prospective limits on the costs that are reimbursed under Medicare. These limits (commonly called section 223 cost limits) may be applied to direct or indirect overall costs or to costs incurred for specific items or services furnished by a Medicare provider, and may be based on estimates of the costs necessary in the efficient delivery of needed health services. Regulations implementing this authority are set forth at 42 CFR 405.460. Under this authority, we have published section 223 limits on hospital inpatient general routine per diem costs annually since 1974.

On September 3, 1982, the President signed into law the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA: Pub. L. 97–24B). Section 101 of this legislation added a new section 1886 of the Social Security Act, supplementing section 1861(v) of the Act by providing for "further limitations on reasonable cost and determination of payment amounts for operating costs of inpatient hospital services * * *" (Section 101(d) of Pub. L. 97–248). These provisions are intended to restrain the growth of hospital costs and to relieve the stress that increases in these costs put on the financial soundness of the Hospital Insurance Trust Fund.

(Section 1886 was subsequently amended by The Social Security Amendments of 1983, Pub. L. 98–21, enacted April 20, 1983. The primary change made by these amendments is to establish a prospective payment system for inpatient hospital services effective for hospital cost reporting periods beginning on or after October 1, 1983. However, Pub. L. 98–21 also amended the limitations on reasonable cost reimbursement established by section 101 of TEFRA. As a result, the final regulations set forth in this document must be further amended to conform to Pub. L. 98–21. Those amendments will be included in the interim final rules implementing the prospective payment system. However, hospital cost reporting periods beginning on or after October 1, 1982 and before October 1, 1983 will still be subject to the rules implementing section 101 TEFRA that were published September 30, 1982 (47 EB 43282), as modified and affirmed by these final rules.)

Section 1886(a) provides for expanding the existing "section 223" limits, which previously applied on a per diem basis only to the inpatient routine operating costs hospitals incur in providing routine services (primarily room, board, and routine nursing services). The expanded limits apply on a per case basis to the operating costs of ancillary services, such as radiology and laboratory services, and the operating costs of special care services, such as intensive or coronary care, as well as operating costs of routine services. Section 1886(a)(1)(B) requires these limits to be adjusted to account for differences between hospitals in the types of cases treated (case-mix).

Section 1886(b) provides for a control on hospital cost increases that is separate and different from the type of limit established under section 223. This provision requires that we establish a ceiling target level for the allowable rate of increase of hospitals' inpatient operating costs per case, and provides for both incentive payments for hospitals that keep their cost below the target, and a reduction in the amount of reimbursement for hospitals that incur costs greater than the target.

Section 101(b)(1) of Pub. L. 97–248 made sections 1886 (a) and (b) effective for cost reporting periods beginning on or after October 1, 1982. Section 101(b)(2)(A) provided that, in order to ensure the prompt implementation of these provisions, regulations needed to implement them could be issued as final regulations (on an interim or other basis) without prior notice and comment. Section 101(b)(2)(B) exempts, until January 1, 1984, these necessary regulations from Office of Management and Budget (OMB) review of information collection requirements, as required under the Paperwork Reduction Act of 1980 (Pub. L. 96–511).

On September 30, 1982 we published interim final regulations (47 FR 43282), and a notice setting forth the new schedule of cost limits (47 FR 43296), that together implemented sections 1886 (a) and (b) for hospital cost reporting periods beginning on or after October 1, 1982. Each of these documents had a 60-day comment period, ending November 29, 1982. During that period, we received approximately 100 comments on both the regulations and the cost limits notice.

We have analyzed these comments and continued to analyze section 1886, the interim regulations, and the problems involved in implementing case-mix adjusted cost limits and the new target rate ceiling on hospital cost increases. In addition, after enactment of Pub. L. 98–21, we analyzed those amendments to section 1886 and the interactions between these rules and the regulations necessary to implement the prospective payment system. As a result, we have decided to make certain changes and refinements in the interim regulations. This document sets forth our analysis of public comments and our responses to those comments, explains our resulting decisions on the interim regulations, and amends those regulations appropriately. A separate document, published as a notice elsewhere in this issue of the **Federal Register**, similarly discusses comments, responses, and changes in the case-mix adjusted cost limits.

B. Provisions of the Interim Final Regulations

1. *General purpose*

The interim regulations implemented section 1886(a) by making changes to 42 CFR 405.460. "Limitations on

reimbursable costs", needed to make exceptions available to hospitals consistent with the new case-mix adjusted cost limits. The amended regulations specified, in § 405.460(e)(5), that the exception to the hospital cost limits based on intensity of routine care would be available only for cost reporting periods in which hospitals were subject to routine per diem costs limits. The regulations, in § 405.460(e)(9), also provided an exception to the case-mix adjusted hospital cost limits if a hospital can show that it has taken certain actions that have substantially altered its mix of patients treated. These changes were immediately effective for cost reporting periods beginning on or after October 1, 1982.

The interim regulations implemented section 1886(b) by establishing a new section 42 CFR 405.463, entitled "Limitations on Rate of Cost Increase". These regulations specified how the statutorily prescribed target rates would be applied, and provided for appropriate exemptions, exceptions, and adjustments. These regulations were immediately effective for cost reporting periods beginning on or after October 1, 1982, and before October 1, 1985.

(We wish to point out here that Pub. L. 98–21 specifically amended the cost reporting periods for which sections 1886 (a) and (b) will apply. Whereas cost limits on total inpatient operating costs under section 1886(a) originally were represented as annual limits continuing indefinitely into the future, section 601(a)(1) of Pub. L. 98–21 provides that such limits shall not apply to cost reporting periods beginning on or after October 1, 1983. On the other hand, the rate of increase limit established under section 1886(b) will now continue indefinitely in accordance with the amendment of section 1886(b) by section 601(b)(4) of Pub. L. 98–21. However, whereas, under TEFRA, the rate of increase limit applies to nearly all hospitals participating in Medicare, effective for cost reporting periods beginning October 1, 1983, it will apply only to hospitals excluded from the prospective payment system and reimbursed on a reasonable cost basis for inpatient hospital services.)

2. *Interim Rules on Limitations on Reimbursable Costs (42 CFR 405.460)*

As noted above, the hospital cost limits effective for cost reporting periods beginning before October 1, 1982, applied only to inpatient general routine operating costs, which generally include primarily the operating costs hospitals incur to furnish room, board, and routine nursing services. Those limits did not apply to the costs of ancillary services (for example, radiology or laboratory services), and special care units, such as intensive or coronary care units. Those limits also excluded capital-related costs (that is, costs classified in the depreciation accounts on a hospital's Medicare cost report), malpractice insurance costs, and costs a hospital allocated to the interns and residents (in approved programs) or nursing school cost centers on its Medicare cost report. Those limits, like those in previous cost limit schedules, were applied on a per diem basis and did not include an explicit adjustment for differences in inpatient routine costs that result from variations in the type and mix of cases treated by various hospitals (that is, case mix differences).

However, in accordance with section 1886(a) of the Act, we implemented a new system of limits on hospital inpatient operating costs for cost reporting periods beginning on or after October 1, 1982. As noted above, the schedule setting forth these limits was described in detail in a notice published in the **Federal Register** on September 30, 1982 separately from the interim regulations implementing section 1886.

The new limits differed in three major ways from previous limits. First, we applied the new hospital cost limits to total inpatient operating costs, including not only inpatient operating costs of general routine services, but also inpatient operating costs of ancillary services and operating costs with respect to inpatient hospital services of special care units such as intensive or coronary care units. This greatly increases the effectiveness of the limits in preventing payment of costs due to inefficiency, since the limits apply to a much larger percentage of all hospital costs.

Second, we now adjust each hospital's limit to reflect its case mix. This adjustment is needed to account for differences in cost that result from differences in the type and mix of patients treated by various hospitals. This adjustment results in more accurate limits, since it enables us to distinguish cost differences that result from variations in case mix from those that result from differences in efficiency. (Because of certain characteristics of the data we use to develop the Medicare case-mix index, we excluded children's hospitals and long-term care hospitals from application of the new limits.)

In addition, as required by the new law, the limits are applied on a per case rather than per diem basis. (To determine a hospital's number of Medicare cases, we use the number of Medicare discharges it reports in each period.) Each hospital's cost per Medicare discharge is limited to a specified amount, regardless of the number of days of care furnished to individual Medicare patients. We believe that cost per discharge is a more accurate measurement of inpatient operating costs than cost per diem, and that applying the limits on a per discharge basis gives hospitals more flexibility to find an efficient balance between intensity of services and lengths of stay. In addition, we expect this approach will alleviate the problems experienced under the previous system by hospitals with high per diem costs put shorter-than-average length of stay. Because these problems will not arise under our proposed system, we decided not to apply an adjustment to the case-mix limits for hospitals in States with below-average Medicare utilization. (Such an adjustment has been available to hospitals subject to the routine per diem cost limits.

As required by section 1886(a)(1)(c), the notice setting forth the new limits also described (on page 43283, column 1) a "hold harmless" provision under which a hospital's limit on allowable operating costs of inpatient hospital services will not be lower than its allowable operating costs of inpatient hospital services in the hospital's reporting period before application of the new limits.

The new system of limits retains several features of the earlier system. Like the per diem limits, the case-mix adjusted limits exclude certain costs (i.e., capital-related costs, malpractice insurance costs, and certain education costs) that can vary for reasons unrelated to efficiency. We also continue use of an adjustment to account for inflation. The amount of this inflation adjustment for each cost reporting period subject to the new limits is set by the new legislation at a "market basket" rate (reflecting the estimated increase in hospital costs compared to the period preceding the application of the limit) plus one percentage point. (The legislation also requires that the data used in computing the limits be updated to the year preceding the year in which the limit is applied. This is done by using the estimated average rate of change of hospital costs industry-wide.) In addition, we continue to use a wage index to account for cost variations due to area wage differences and retain the current adjustment for cost differences due to variations in the level of intern and resident teaching activity.

To make our regulations at 42 CFR 405.460 consistent with section 1886(a) of the Social Security Act, and with the methodology and scope of the new hospital cost limits, it was necessary to make certain changes in those regulations. However, most provisions of those regulations were not inconsistent with the new cost limits established under section 1886(a), and continue to remain in effect under section 1886(a). Thus, provisions at 42 CFR 405.460(e) for exempting sole community hospitals, new providers, and risk-basis health maintenance organizations from the section 223 cost limits remain in effect. Similarly, provisions at § 405.460(f) for allowing a hospital to have its cost limit adjusted upwards on an exception basis due to allowable costs attributable to atypical services, extraordinary circumstances, fluctuating population, medical and paramedical education, and unusual labor costs remain in effect. The provision also remains in effect under which an exception is provided where a hospital providing essential community hospital services would be rendered insolvent through application of the limits.

The amendments made to § 405.460 by the interim rules were relatively few, but significant. As required by section 1886(a)(3), we provided an exemption from the case-mix adjusted limits for rural hospitals in operation with less than 50 beds as of the date of enactment of the new law, September 3, 1982. We amended the existing exception in § 405.460(f)(5) for costs related to more intensive routine care to specify it would be available only for hospital cost reporting periods subject to the per diem routine cost limits. We established a new exception in § 405.460(f)(9) that permits a recalculation of a hospital's case-mix index if the hospital experiences a significant and abrupt change of case mix because it adds or discontinues services. This new exception was not specifically required by statute, but is necessary to prevent inequity to hospitals. (Such exceptions are authorized by section 1886(a)(2) of the Act.) We also made provision in § 405.460(h) for adjustments to the amount of a hospital's inpatient operating costs to take into account factors which could result in significant distortion of those costs. For example, we could make such an adjustment to reduce a hospital's otherwise applicable cost limit to account for lowered operating costs resulting from discontinuation of inpatient hospital services that a hospital previously furnished and that are customarily furnished directly by similar hospitals.

3. *Interim Rules Establishing a Rate of Increase Control (42 CFR 405.463)*

The interim regulations established a target rate percentage system to be applied to restrict the rates of increase of total inpatient operating costs per case for hospital cost reporting periods beginning on or after October 1, 1982 and before October 1, 1985. (The dates of application will be amended in the interim final rules, soon to be published, implementing Pub. L. 98–21.) The target rate percentage equals the market basket index plus one percentage point. In the first year, this target rate percentage will be applied to each hospital's allowable inpatient operating cost per discharge for its immediately preceding cost reporting period. In the case of a hospital whose first reporting period subject to the rate-of-increase control begins October 1, 1982, the target rate percentage would be applied to the inpatient operating cost per discharge for the period beginning October 1, 1981. The resulting amount will be that hospital's target amount for inpatient operating cost per discharge in the first cost reporting period subject to this provision. In each of the subsequent two reporting periods, the target amount will be computed by applying the applicable target rate percentage to the previous period's target amount.

If a hospital's costs in a subject cost reporting period are below its target amount, we will pay the hospital its actual costs per case plus the lower of 50 percent of the difference between the hospital's cost per case and the target amount, or 5 percent of the target amount. If a hospital's cost in a subject period is higher than its target amount, we will pay, in the first two years, the target amount plus 25 percent of the excess costs, and, in the third year, the target amount. In no case will a hospital be reimbursed an amount greater than the applicable cost limit on total inpatient operating costs.

Section 1886(b)(4) gives the Secretary authority to establish exemptions from our exceptions to the rate of increase ceiling. Under this authority, the interim regulations in § 405.463(f) provided that new hospitals and risk-basis health maintenance organizations are exempt from the rate of increase ceiling. Under § 405.463(c), a hospital subject to the ceiling may request an exception to it on the basis of a change in case mix or extraordinary circumstances beyond the hospital's control with substantial cost effects. In addition, under § 405.463(b)(3), the ceiling will not apply to a cost reporting period of less than 12 months that occurs along with a change in hospital operations that makes costs in a reporting period which would otherwise be subject to control not comparable to prior costs. Such a change could occur as a result of a merger or consolidation of hospitals. In addition, in § 405.463(h) we reserve authority to adjust a hospital's cost per case to take into account factors that would otherwise distort the comparison of costs between reporting periods.

(Although, as established by TEFRA, section 1886(b)(6) required the Secretary to provide an adjustment to decrease payment to non-profit hospitals that withdraw from the Social Security program, we did not include provisions for such an adjustment in the interim regulations. The amount of the adjustment under this provision would be offset by the amount of costs incurred by a hospital for an employee benefit program "comparable to, and in lieu of" Social Security benefits. The difficulties in defining the phrases "comparable to" and "in lieu of" prevented us from implementing this provision immediately. Since then, Pub. L. 98–21 rescinded this requirement.)

C. Summary of Changes in the Final Regulations

We have made relatively few changes in the interim regulations. The only change in the cost limit regulations is an amendment to add a new paragraph (b)(4) to § 405.460. This paragraph describes our authority to exclude certain classes of hospitals, such as children's or long-term-care hospitals, from a particular schedule of cost limits due to characteristics of the providers as a class, the cost data on which the limits are based, or the methodology for establishing the limits.

We have amended the rate of increase regulations (42 CFR 405.463) in two ways. First, in § 405.463(c)(1), we have excluded certain kidney acquisition costs from those inpatient operating costs subject to the rate of increase ceiling. (We have also excluded those costs from operating costs subject to the total cost limits. That did not require a revision of § 405.460, and is explained in the notice published elsewhere in this issue of the Federal Register.) Second, we have decided to revise the method of updating and notification of target rate percentages included in the interim regulations. Instead of requiring intermediaries to use the most recent percentage published in the annual cost limits notice, we will publish appropriate percentages quarterly.

Intermediaries will use the target rate percentage applicable to the calendar quarter during which a hospital's cost reporting period closes. We have therefore made conforming changes in the regulations.

In addition to these amendments to the regulations, we are, in response to comments, clarifying in this preamble our policies regarding implementation of the total cost limits and rate of increase traget rates. (See section II. E., below.) For example, we have decided, for purposes of determining the amounts of incentive payments under the rate of increase rules, to recognize the full amount a hospital is able to justify as an exception to their total cost limit by setting their cost limit under the exception at a level that recognizes appropriately their performance under the rate of increase control. (Note that such exceptions would be used only for the determinations of incentive payments, and not for the determinations of allowable costs. Since section 1886(b) applies only to inpatient hospital services, this practice will not be extended to skilled nursing facilities and home health agencies. Exceptions for these providers will continue to be determined on the same basis as used in the past.)

II. Limitations on Reimbursable Costs (42 CFR 405.460)—Discussion of Comments on Interim Regulations

A. Introduction

We received many comments both on the interim regulations and on the separate schedule of cost limits published at the same time. The two documents and their respective comments are, of course, closely interrelated. To some extent, this preamble to the final regulations overlaps the discussion in the final notice published elsewhere in this issue of the **Federal Register**. However, it has not been possible to summarize and discuss all comments in both documents. For a full review of our responses and decisions on these regulations and the final case-mix adjusted hospital cost limits, both documents should be read together.

B. Exemption for Rural Hospitals With Less Than 50 Beds

Section 1886(a)(3) states that the new cost limits, effective for cost reporting periods beginning on or after October 1, 1982, shall not apply to any hospital that is located outside a Standard Metropolitan Statistical Area (SMSA), has less than 50 beds, and was in operation (with less than 50 beds) on September 3, 1982. Therefore, we added this group of hospitals to those exempted from the cost limits under the regulations at § 405.460(e). The official geographic area designations are maintained and published periodically by the Executive Office of Management and Budget (EOMB). Until recently, these designations are called SMSAs. In June 1983, EOMB published new geographic area standards and designations, which are called Metropolitan Statistical Areas, or MSAs. However, we will use the SMSA designation in effect as of October 1, 1982, for all cost reporting periods beginning on or after October 1, 1982 and before October 1, 1983.

Comment: In the preamble to the interim rules, we specified that hospitals must request such an exemption under the rules at § 405.460(c). A number of commenters requested that this exemption be made automatically. They argued that, because of its statutory basis, it should not require approval by HCFA.

Response: We have no basis for making the necessary determination automatically. Qualification for this exemption is dependent on determination of certain facts. We must determine a hospital's location and size as of a particular date. We do not have all the needed information currently on record, so we must obtain and verify it. Since the information is easily available, we expect to be able to expedite our review and determinations.

Historically, under § 405.460(c), any request for an exemption, exception, or reclassification has been submitted by a provider to its intermediary, which passes the request and its recommendation to HCFA for final approval. We have decided to continue this practice for at least the initial implementation of this exemption. Once we gain experience with this exemption, we will reevaluate whether approval authority should be delegated to the intermediaries.

C. Other Bases for Granting Exemptions and Exceptions

Comment: The interim rule provided an exemption in § 405.460(e)(4) for small hospitals only if they are rural, that is, located outside an SMSA. Several commenters argued that small hospitals have similar problems regardless of whether they are urban or rural, and recommended that we also exempt small urban hospitals.

Response: Section 1886(a)(3) clearly requires small rural hospitals to be exempted from the limits. While the Secretary has authority under section 1886(a)(2) to provide other exemptions as he deems appropriate, such exemptions are not required. We do not believe it is appropriate to provide an exemption for small urban hospitals.

Congress exempted small rural hospitals because it was concerned about the impact the limits would have on the ability of these hospitals to provide services. The House version of H.R. 4961 provided an exemption for all small hospitals, but this was removed in Conference Committee (H.R. Rept. No. 97–760, page 418). If a rural hospital closes, Medicare beneficiaries may not have access to needed health services. This is generally not the case in urban areas, where there are more hospitals available.

Comment: In addition to the specific requests discussed above, commenters suggested that we incorporate in the regulations a variety of other bases for exemptions and exceptions. Some commenters argued that, since the case-mix adjusted limits apply to broader areas of costs than the earlier routine cost limits, HCFA should provide additional types of exemptions and exceptions to account for the wide variations in cost among hospitals and to allow for reimbursement of all reasonable costs. Several hospitals and industry associations recommended that we allow exceptions based on differences in the severity of illness. Commenters also pointed out that certain new services, added after approval under certificate-of-need requirements, may result in increased costs but no change in case mix, and recommended that exceptions be provided to account for such instances.

Response: In the interim final rules, we recognized the broadened effect of the new cost limits by providing in § 405.460(f)(9) for an exception to account for changes in case mix. As we implement these limits, we will continue to review their effect and will add or delete exemptions and exceptions as appropriate.

However, we have decided that we do not yet have an adequate basis to justify establishing additional exemptions and exceptions. For example, although we continue to explore the use of severity variables for their possible adoption in a more refined measure of case mix (see discussion in the schedule of limits published elsewhere in this issue of the **Federal Register**), we have not adopted the suggestion to provide exception criteria based on these variables. The state of the art is such that objective measures for assessing patient severity are insufficiently developed to allow for their incorporation in a national reimbursement system using present data. Further, the existing exception

criteria for a typical services (§ 405.460(f)(1)) do not preclude a provider from seeking an exception on the basis of severity of illness.

Similarly, we have not provided for specific exception criteria related to cost increases due to new services, because we do not believe the potential effects described by commenters are substantial enough to warrant establishing additional exceptions criteria. Generally, we expect that the addition of new services would result in enough patients that there would be little if any change in average cost per discharge. Also, we believe that in many instances "new" services, particularly new ancillary services, act as a replacement or substitute for existing services. Further, if the new services added do not generate a sufficient number of additional patients to avoid increased unit costs, that may be a presumptive indication of inefficiency. Since increased unit costs are not always a necessary result of added services, we believe the costs of such services should generally be subject to limitation. To the extent hospitals can demonstrate that increased unit costs are justified, we would consider exception requests on a case-by-case basis. We recognize that there may be situations in which the additional patients to utilize new services materialize slowly, resulting in an initial period during which the average cost per discharge increases temporarily.

We also recognize that there may be situations in which a hospital's overhead costs increase, increasing the average cost per discharge. For example, the hospital may have entered into a new data processing contract prior to implementation of the rate of increase control and the total cost limits, which results in an overhead increase sufficient to raise the hospital's per case costs. In these situations, we believe there is authority under the law and regulations (see 42 CFR 405.460(h) and 405.463(h)) to make adjustments to take account of the resulting cost distortions. An adjustment to take account of these increased costs would, of course, depend on the extent to which the costs are reasonable, attributable to the circumstances specified, separately identified by the hospital, and verified by the intermediary.

D. Exceptions for Change in Case Mix

Comment: The interim rules provided new exception criteria in § 405.460(f)(9) for hospitals that incur costs that exceed the case-mix adjusted limits due to significant and abrupt changes in case mix that result from the addition or discontinuation of services. Most commenters recommended that these criteria be revised to take into account case-mix changes that were not "significant and abrupt", or that were not the result of adding or discontinuing services. The commenters noted that case mix may change as a result of changes in a hospital's medical staff or service area.

Response: Research indicates that a hospital's case-mix index has been relatively stable over time. Therefore, we do not believe that it is necessary to further broaden the exception request. To the extent a hospital believes it has incurred costs in excess of the limits for reasons other than inefficiency, and it does not qualify for the exception due to changes in case mix, there may be other exceptions available under the provisions of 42 CFR 405.460(f). We also wish to point out that the extent to which a hospital's case mix changes, for whatever reason, will be reflected in later schedules of limits, since the data on which the limits and the case-mix index are based are updated periodically.

However, a hospital may experience a change in its case mix as a result of external factors beyond its control. For example, this could occur in an area where a hospital closes, causing significant and abrupt changes in the services furnished by neighboring hospitals as they are forced to accommodate the patients previously served by the closed facility. In such a case, the per case costs of the neighboring hospitals could increase because of circumstances beyond their control. The provison for an exception due to extraordinary circumstances (§ 405.460(f)(2)) would be applicable in this situation.

E. Relation of the Amount of a Provider's Exception to the Provider's Rate of Increase Ceiling Target Amount

Comment: One comment concerned the statement in the interim regulations that the amount of an exception granted could not raise a hospital's cost limit above its actual cost. The commenter recommended that we permit a hospital's cost limit amount to be increased to reflect the additional justified costs established under the exception so that the limit would not reduce the potential reward that a hospital might earn under the rate of increase ceiling.

Response: Under the rate of increase provision of section 1886(b), a hospital may be paid an incentive payment if its actual costs are less than the hospital's target amount set under that provision. Congress provided such an incentive payment in recognition of a hospital's performance in controlling the growth of its costs.

In part, the amount of a hospital's incentive payment is constrained by its cost limit, in that payment made under the rate-of-increase control provisions may not exceed a provider's case-mix adjusted cost limit. Our policy, prior to Pub. L. 97–248, has been to approve an exception (the purpose of which is to recognize a provider's costs in excess of its limit that are not related to inefficiency) only up to the provider's actual incurred cost. The continuation of this policy under the provisions of Pub. L. 97–248 could prevent a hospital from receiving the full amount of a rate-of-increase incentive payment for which it would otherwise qualify.

We agree with the commenters in that we believe it is inappropriate to offer a hospital an incentive payment as a bonus for its efficiency on one hand, while on the other hand, disallowing payment of the full amount of that incentive by applying a limit also designed to encourage efficiency. Therefore, we are revising our procedure for determining the amount of exceptions to allow the amount of a hospital's total cost limit under an exception to be set at a level recognizing the full amount of justified costs for the purpose of qualifying for the incentive payment under the rate-of-increase target rate provision. However, we must point out that this special determination of a cost limit amount recognizing costs justified under applicable exception criteria will be used only for the purpose of determining the incentive payment. We have no authority, except for the purpose of these bonus payments, to pay a provider any amounts in excess of costs that the provider actually incurs and reports on its Medicare cost report. (Note that this practice will not apply to exceptions for skilled nursing facilities and home health agencies, since they are not subject to the rate of increase control.)

F. Adjustments for Hospitals With a Disproportionate Share of Medicare Beneficiaries or Low Income Patients

Under section 1886(a)(2)(B), the Secretary is explicitly authorized to provide for exemptions, exceptions, or adjustments that he considers necessary and appropriate to take into account the special needs of "public or other hospitals that serve a significantly disporportionate number of patients who have low income or are entitled to benefits under Part A [of Medicare]". As explained in the preamble to the interim rules (page 43285, column 2), we did not make specific provision for these

hospitals because we did not have data that enabled us to determine the extent to which special consideration is warranted, or the type of provision that might be appropriate.

Comment: Several commenters stated that they believed we should make provision for adjustments reflecting the needs of these hospitals. It was argued that these hospitals have serious problems with bad debts and that they cannot rely on non-Medicare patients to pay costs that the commenters claim are attributable to Medicare patients but which the Medicare program does not pay.

Response: The commenters submitted little, if any, date that show costs in these hospitals to be higher due to a greater proportion of low-income or Medicare patients. To date we have not been able to demonstrate empirically that public hospitals, as a class, incur higher Medicare costs per discharge, after controlling for the effects of the other variables used to establish the cost limits. Hospitals, particularly public hospitals, have claimed that they face higher costs because they treat disproportionately large numbers of indigent patients and often provide substantial amounts of uncompensated care. They claim this places them at a disadvantage compared to other hospitals with respect to the cost limits.

However, cost of uncompensated care is not an allowable cost in the Medicare program because the law prohibits cross-subsidization, that is, sharing in costs of providing services to patients not covered by the program.

Although the new legislation authorizes special provisions for these hospitals, such an adjustment should be related to higher Medicare costs. The data now available to us do not give us a good basis for developing those provisions, and, to date, commenters have not provided data that would provide us this information. We have not been able to identify generally higher Medicare inpatient operating costs in these hospitals as a group.

In developing the schedule of limits published September 30, 1982, we did some preliminary analysis of case-mix adjusted cost per case in public hospitals and did not find appreciably higher cost in public hospitals as a group. We also found little relationship between cost and increases in Medicaid utilization (a proxy for the proportion of indigent patients). Each 10 percent increase in the ratio of Medicaid utilization above the mean explained only a six-tenth's of one percent increase in cost subject to the cost limit. This effect is negligible.

At the time we developed the interim final notice and regulations, we considered an adjustment similar to the teaching adjustment based on government ownership or Medicaid/Medicare utilization rates. However, we did not adopt this approach because our preliminary regression analysis indicated the result would be insignificant. We did not consider developing an adjustment based directly on income levels because it would require major additional reporting and would force hospitals to screen patient income. We also rejected the possibility of an adjustment based on a hospital's level of uncompensated care or bad debt experience because this would amount to a payment for services to noncovered patients and because it would impose major new reporting and auditing burdens.

Since that time we have continued to investigate the claims of public hospitals. After consultation with industry representatives, we agreed to an independent evaluation of our data and findings. This evaluation is still in progress. For these reasons, we have not added a specific exception or adjustment in 42 CFR 405.460, or in the cost limit methodology contained in the notice, for hospitals serving a disproportionate number of low income or Medicare Part A patients. If the independent evaluations, or additional information from another source, shows there is need and basis for an adjustment, we will revise the provisions on adjustments to the cost limits to take into account hospitals with a disproportionate share of low-income or Medicare patients. However, we wish to point out that at present these hospitals may otherwise qualify for the exceptions in 42 CFR 405.460.

III. Ceiling on the Rate of Hospital Cost Increases (42 CFR 405.463)—Discussion of Comments on Interim Regulations

A. Introduction

Many of the comments on the rate-of-increase ceiling dealt with its interaction with the hospital cost limits. In addition, many comments on exceptions were virtually identical regarding both the cost limit and rate of increase provisions. Readers should be sure to review the discussion of comments both in the schedule of cost limits published separately in this issue of the Federal Register, and in the section on the cost limits earlier in this preamble.

B. Costs Subject to the Ceiling

In § 405.463(c)(1) of the interim regulations, we stated that the rate of increase ceiling would apply to operating costs incurred by a hospital in furnishing inpatient hospital services, including the operating costs of routine services (e.g., room, board, and routine nursing services), ancillary service operating costs (such as the costs of radiology or laboratory services), and special care unit operating costs. We excluded from these costs the cost of malpractice insurance, capital-related costs, and costs a hospital allocates to approved medical education programs on its cost report.

Comment: Several commenters questioned whether kidney acquisition costs would be included among the inpatient operating costs subject to the rate of increase ceiling. They believe that these costs should be excluded. Traditionally, Medicare has recognized these costs separately from other inpatient costs, and has made 100 percent reimbursement of net unrecovered kidney acquisition costs.

Response: We agree, and have appropriately amended § 405.463(c). While relatively few hospitals have large kidney acquisition costs, these costs are treated differently from other costs a hospital incurs. Under special statutory provisions establishing Medicare coverage for end-stage renal disease (ESRD) services, including transplantation, the Medicare program has assumed total liability (net of non-Medicare revenue) for kidney acquisition costs for Medicare beneficiaries even if a transplant has not occurred in a given hospital in a cost reporting period. Because of the unique nature of and special coverage provisions relating to kidney acquisition costs, we believe that these costs should not be subject to the rate of increase control. (We are also excluding these costs from the case-mix adjusted cost limits, as explained in the cost limit notice published elsewhere in this issue of the Federal Register.)

B. Determining Base-Year Costs

Under the interim rate of increase regulations, a hospital's cost increases are subject to a ceiling expressed as a target rate. This target rate is computed based on the hospital's allowable operating costs per case incurred in the 12-month cost reporting period (the "base year") immediately preceding the first cost reporting period subject to the ceiling. For the first period subject to the ceiling, the hospital's target rate would equal the base-year inpatient operating cost per discharge increased by a target rate percentage set at the hospital market basket index plus one percentage point. Each subsequent year's target rate would equal the

previous year's target rate increased by the subsequent year's target rate percentage. Under this system, base-year costs determine a hospital's target rate in all subsequent years subject to the rate. The importance of these base-year costs was reflected in comments concerned with how such base-year costs would be established.

Comment: In § 405.463(b)(1) of the interim rules, we specified that base-year costs would be based on allowable inpatient operating costs per case. Most commenters argued that base-year costs should be determined without regard to cost limits established under § 405.460. They stated that excluding costs in excess of the routine limits would result in those limits, in effect, being carried forward for the three year application of the rate-of-increase ceiling, in addition to the new total cost limits.

Response: We do not believe that we should include in the base-year costs used to calculate a hospital's rate-of-increase target rate those costs that the Medicare program determined to be unreasonable and therefore disallowed under the routine cost limits. There are several reasons for this.

First, if we included these costs in the base year, the target rate calculation method would compound their influence, carrying their effect through the target rates for all three years of the rate-of-increase limit. This result would not only carry forward recognition of expenses that had been legitimately found to be unnecessary and unreasonable in the efficient delivery of hospital services, but would also inflate them annually by the applicable target rate percentage. This does not seem to be an appropriate way to implement incentives established by Congress to reward efficient hospitals.

Second, we do not believe including these costs in the base year would be consistent with the statutory provisions or Congressional intent in establishing those provisions. Congress used the phrase "allowable operating costs of inpatient hospital services" in both section 1886(b)(3)(A)(i), describing the costs to be considered in the base year for purposes of the target rate, and section 1886(a)(1)(C), the "hold harmless" provision for purposes of the total operating cost limits, referring to what would generally be the same cost reporting period, that is, the hospital's last cost reporting period before the first period subject to the provisions of section 1886. In reference to section 1886(a)(1)(C), the Conference Committee report clearly stated that "in no case would reimbursement on a cost-per-case basis be reduced below the allowable cost-per-case *reimbursement* for the hospital's cost reporting period that immediately precedes the first cost reporting period to which the new limitation is applicable." (H.R. Rept. No. 97–760, page 418. Emphasis added.) By applying this explanation of "allowable operating costs" to both contexts in which the identical language is used, it is clear that, for purposes of setting target amounts, we should consider only those base-year costs that were actually reimbursed, thus excluding any costs in excess of the cost limits in that year.

Comment: A number of commenters argued that, since the nursing differential was used to determine allowable costs under the routine cost limits applicable in the base year, these costs should not be excluded or adjusted out of the base year for purposes of determining target rate percentages, as provided in § 405.463(h)(2) of the interim rules.

Response: We disagree. The "inpatient routine nursing salary cost differential", or nursing differential, has been a plus factor incorporated in determining Medicare reasonable cost payment to hospitals and skilled nursing facilities (SNFs) since 1969. This factor was intended to account for the greater amounts of nursing care that older patients (e.g., Medicare beneficiaries) presumably required as compared with the needs of younger patients. This factor was reduced from 8½ percent to 5 percent for hospitals, effective October 1, 1981, by Pub. L. 97–35, and was eliminated for hospitals and SNFs, effective October 1, 1982, by Pub. L. 97–248. As a result of these statutory changes, allowable costs in part or all of the base year of some hospitals include an allowance for the nursing differential, while years subject to the rate of increase control would not include any allowance for the differential.

Therefore, including the nursing differential in base-year costs would distort those costs as compared to costs of years subject to the target rates. Further, it could result in an incentive payment being made in cases in which a hospital has not actually improved its performance against the target, or distort the amount of an incentive payment. This would not be in accordance with congressional intent. In section 1886(b)(4)(A), Congress provided that the Secretary may adjust costs, including costs in the base year, when those costs create a distortion in the increase in costs for a cost reporting period against which a hospital's rate of cost increase is measured. Including the nursing differential costs in a base period creates such a distortion. Since the costs are readily measurable, we believe it is appropriate to adjust base-year costs to take the statutory termination of this differential into account.

C. Determining the Target Rate Percentage

In §405.463(c)(3) of the interim rules, we provided that the target rate percentage for a particular 12-month cost reporting period would equal the market basket index plus one percentage point. The market basket index is a hospital wage and price index that incorporates appropriately weighted indicators of wages and prices that are representative of the mix of goods and services included in the most common categories of inpatient hospital operating costs subject to the ceiling. Since this target rate percentage would be identical to the rate of cost increase used in determining hospital cost limits in accordance with section 1886(a), we provided in § 405.463(c)(5) of the interim rules that the target rate percentage would be determined by intermediaries using the appropriate annual increase percentage published in the annual notice setting forth the schedule of hospital cost limits. (If a cost reporting period spanned portions of two calendar years, the intermediary would proprate the applicable calendar year percentage accordingly.)

Comment: A number of comments concerned the updating of the target rate percentage and expressed confusion as to which published rate should be used to determine the target amount. Some commenters believed that the target rate percentage should be updated and published quarterly and that the rate used should be the most recently published percentage at the time the cost report was filed. Other commenters felt that the rate should be established as of the beginning of the cost reporting period so that hospitals could budget accordingly. Still other commenters felt that at a minimum, the rate of increase percentage should be adjusted if it was underestimated by ⅒ of 1 percent or more. Along with the question of the percentage rate to be used, several commenters raised the question of the point at which the percentage rate would be established when a hospital appeals the reimbursement amount, and final settlement is delayed.

Response: As a result of these varied comments, we have reconsidered the provisions of the interim rules concerning updating and notification of target rate percentages. We decided that the method of determining the applicable target rate percentage should meet two objectives. First, the percentages applied to a given cost

reporting period should be the most accurate available. Second, each hospital should know as of a certain date what percentage will be applied in determining its target amount.

The annual market basket percentages published in the cost limits notices are prospective estimates of expected cost increases in the forthcoming calendar year. As such, they sometimes vary somewhat from the actual percentages shown by later data. Since the cost limits are prospective limits, the use of such prospective estimates is necessary and appropriate. However, the intent under the rate of increase ceiling is to compare a hospital's actual performance with a target rate derived from a base year. Because of the accent on actual performance in determing incentive payments (and reductions of the reimbursement amount), we believe that the market basket percentage used to calculate a hospital's target amount should be the most recent available at the end of a hospital's cost reporting period. Since, unlike settlement or filing dates, the end of a hosptial's cost reporting period ordinarily does not change, this would meet both objectives.

Therefore, instead of using the annual prospective estimates published in the cost limit notices, we have decided to publish the most recent available market basket rates on a quarterly basis. We will publish the latest market basket index in the Medicare Provider Reimbursement Manual (HCFA Pub. 15–1) each quarter. At the same time, we will prepare a corresponding notice for publication in the **Federal Register**, although the procedural requirements in clearing notices for publication in this manner will probably result in its appearance somewhat later than the manual issuance.

Quarterly publication of recent market basket data will enable providers and intermediaries to use them in determining target rate percentages. Since the market basket rates are on a calendar year basis, the manual and notices will also include instructions for computing prorated target percentage rates for those hospitals that report their costs on other than a calendar year basis. Using the most recently available quarterly market basket rate will also ensure that each composite market basket rate will include two quarters of final market basket data, which past experience shows reduces the likelihood that later market basket data will result in final rates that differ significantly from those available at the close of a hosptial's cost reporting period.

For the reason discussed above, we are not providing for retroactive adjustment of the market basket rates used for establishing rate of increase target amounts. (We did make such adjustments to the market basket rates used to determine routine cost limits effective through September 30, 1982. However, as explained in the notice published elsewhere in this issue of the **Federal Register**, we have discontinued this practice with regard to the total cost limits.)

D. Exceptions

Comment: Many commenters objected to the criteria in § 405.463(f)(3) for an exception on the basis of a change in case mix, which require that such an exception be related to a distortion of a hospital's rate of cost increase due to adding or discontinuing services in a year after its base period. The commenters pointed out that case mix may change significantly due to other factors, such as expansion of services already offered, changes in the specialty composition of the medical staff, or changes in the composition of the population served.

Response: Although we agree that case mix may change as a result of many factors, we believe that in most such situations this does not produce a significant distortion in cost per case. Generally, such distortion would most likely occur when there are sudden changes in case mix for which adequate planning is not possible. We believe changes in case mix related to factors other than adding or discontinuing services will be gradual enough to permit the hospital time to adjust so that there will not be large scale cost increases per discharge. For example, expanding existing hospital services would also involve, in most instances, an increased number of patients producing little if any change in cost per discharge.

However, as with the exceptions to the cost limits under § 405.460, we must consider the situation of hospitals affected by the closing of another hospital in their area. These hospitals may experience significant and abrupt changes in their case mix and services as they try to accommodate patients previously served by the closed facility. Since such changes would be due to circumstances beyond a particular hospital's control, we would apply the exception criteria for extraordinary circumstances (§ 405.463(g)(2))in such cases.

Comment: A number of commenters questioned whether the exception based on a change in case mix was available to psychiatric hospitals.

Response: Provided that the requirements for qualifying for an exception are met, psychiatric hospitals are eligible for exceptions under the rate of increase provisions on the same basis as any other hospital.

Comment: One commenter asked us to clarify when an exception request may be filed. Specifically, the commenter wanted to know if a hospital could request an exception before a notice of program reimbursement (NPR) was issued by its fiscal intermediary. (An NPR is a written notice sent by the intermediary to a provider, following application of adjustments and determinations of the final retroactive adjustment to the provider's cost report, setting forth the amount of program reimbursement made to the provider for services furnished in the appropriate cost reporting period, including any underpayment or overpayment.)

Response: Under both the rate of increase ceiling and the total cost limits, a hospital may request an exception whenever it has a reasonable basis for estimating that its costs will exceed its rate of increase target amount or cost limit. We will adjudicate requests received before issuance of an NPR on an interim basis. The amount of exception granted will be subject to adjustment when actual costs are known.

Comment: Some commenters pointed out that a cost-increasing event or a change in case mix could occur late in a hospital's base year, and questioned how this would be treated or accounted for in exception determinations.

Response: We expect that any exception which is granted will take account of the point in time when the increased costs were incurred. The amount of any exception will be adjusted accordingly.

E. Adjustments

Comment: Several commenters expressed concern about the authority granted the Secretary, in section 1886(b)(4) of the Act, to adjust a hospital's subject year or base period costs to take account of cost distortions caused by a hospital eliminating a service it had previously furnished, or contracting out a service it had previously furnished directly (section 1886(b)(4)). The commenters believed that hospitals should be allowed to benefit by an increased incentive payment (or a reduced disallowance of costs over the target amount) when they lower their costs in these ways, since the Medicare program benefits from reduced costs. The hospitals believe they should be rewarded for this behavior, and that it would be inequitable for the Secretary to adjust

either base period or subject year costs so as to deprive them of this benefit.

Response: The purpose of the rate of increase control is to encourage efficiency on the part of hospitals, thereby reducing the growth of hospital costs. However, Congress was concerned that a hospital could, in certain situations, lower its costs by no longer furnishing certain services even though it had not actually become more efficient. In order to prevent such a hospital from benefiting from an incentive payment under the rate of increase provision, Congress authorized the Secretary to make appropriate adjustments.

We also wish to point out that, from the program's perspective, there are costs associated with a provider's ceasing to furnish services. If a hospital ceases to furnish a service, beneficiaries needing that service will be forced to turn to other hospitals, or will have to obtain the service under Part B of the program. In some situations, beneficiaries may not be able to obtain necessary services once the hospital ceases furnishing them. All of these possible outcomes have costs associated with them. The costs of other hospitals could possibly increase, or, if a beneficiary must obtain needed services under Part B of the program, costs are shifted from Part A to Part B. If services are obtained under Part B the beneficiary must pay coinsurance and, if assignment is not accepted, may also be liable for the difference between the reasonable charge and the actual charge. In these situations, it is questionable whether real savings have been obtained.

Comment: Several comments concerned the application of the rate of increase provision to hospitals that have traditionally operated efficiently, as measured by the routine hospital cost limits. These hospitals believe they should receive an adjustment in recognition of the fact that, because their base year costs are low, they will be less able to achieve further economies than will a hospital with higher base year costs, presumably reflecting greater inefficiency. These hospitals stress that their relative inability to improve the efficiency of their operation will make them more susceptible to exceeding their target amounts when they are faced with unavoidable cost increases, such as wage settlements resulting from a labor contract.

Response: Although the law grants the Secretary the authority to make adjustments in computing target amounts under section 1886(b), we do not think it is appropriate to recognize an artificial base for hospitals that previously operated below their section 223 routine cost limits. Congress devised the rate of increase control provision in such a way that each hospital will be compared with its own performance. That is, each hospital's target amount is computed based on its own prior costs. If we were to adjust a hospital's base year costs to take into account efficiency relative to other hospitals, we would have to compare those costs, and possibly its prior year costs, to the costs of other hospitals rather than with its own cost experience. We do not believe that such comparisons would be consistent with the substance or the intent of the statute.

Comment: One commenter suggested that we permit hospitals to charge the beneficiaries to whom they furnish services to recover costs disallowed under the rate-of-increase ceiling.

Response: Section 1886(b) has no provision that would allow a hospital to charge a beneficiary to recover costs disallowed under its rate-of-increase target. Further, the congressional reports that accompanied Pub. L. 97–248 (H.R. 4961) include no indication that such charges should be allowed. Therefore, we have not revised the regulations at CFR 42 405.463 to permit a hospital to charge the beneficiaries it serves in order to recover these costs.

IV. Interaction With Other Regulations

A. Payment for Physician Services Furnished in Hospitals

On March 2, 1983, we published final rules, implementing section 108 of Pub. L. 97–248, on payment for physician services furnished in hospitals, SNFs, and comprehensive outpatient rehabilitation facilities (48 FR 8902). (The proposed rules on this subject were published October 1, 1982 (47 FR 43578), nearly the same date as the interim rules implementing section 101 of TEFRA.) Under those rules, which will be effective on October 1, 1983, we will reimburse on a reasonable cost basis certain physician services that, although of general benefit to patients, do not constitute services furnished to individual patients reimbursable on a Part B reasonable charge basis. This will particularly affect payment for clinical laboratory services furnished in hospitals. Currently, many pathologists customarily bill, and are paid, on a charge basis for professional services related to those clinical laboratory services. Under those new rules, we will pay for services furnished by a hospital laboratory to the hospital's patients on a reasonable cost basis in most cases. Those rules also include special provisions on anesthesia and radiology services.

In the final rules, we projected that those changes would, assuming a May 1, 1983 implementation date, reduce Part B payments by $45 million in fiscal year 1983, and $179 million in fiscal year 1984, and would correspondingly increase Part A payment by $15 million in fiscal year 1983, and $60 million in fiscal year 1984. These changes from Part B to Part A are significantly smaller than those previously projected.

Comment: Based on the projections published in the NPRM on October 1, 1982, many hospital commenters were concerned that this "shift" from Part B to Part A would result in increases in their inpatient operating costs per case beyond their control. We received many inquiries as to whether the cost limits under section 1886(a) and the base year cost for the rate of increase control under section 1886(b) would be adjusted to take into account these other regulatory provisions.

Response: Both section 1886 (a) and (b) provide authority to make adjustments to take into account factors that significantly distort the operating costs of inpatient hospital services. We believe the regulations implementing this authority (at 42 CFR 405.460(h) and 405.463(h), respectively) permit us to make exceptions or adjustments, as appropriate, to account for any increase in costs that a hospital may incur as a result of the changes mandated by new regulations. An adjustment or an exception to account for increased costs would, of course, depend on the extent to which the costs are reasonable, attributable to the circumstances specified, separately identified by the hospital, and verified by the intermediary.

B. Swing-Bed Hospitals

Comment: Some commenters inquired as to the relationship between the inpatient operating costs of swing-bed hospitals and both the rate of increase provision and the total cost limits. The reason for the concern is that hospitals believe that the carve-out method of reimbursement for swing-bed hospitals (which was specified in section 904 of Pub. L. 97–499, the Omnibus Reconciliation Act of 1980, which enacted section 1883 of the Social Security Act) may cause an increase in a hospital's inpatient operating costs. With respect to the rate of increase control, hospitals are concerned that such higher costs would not be recognized in the base year if the hospital was not a swing-bed hospital during that year. With respect to the

total cost limits, swing-bed hospitals are concerned that they may in some situations exceed the limits solely due to the operation of the carve-out methodology.

Response: While we understand the concerns of these hospitals, we wish to point out that one of the major purposes of the swing-bed program is to permit a more efficient and cost-effective use of hospital facilities. Therefore, we would expect the per case costs of swing-bed hospitals to decrease rather than increase. It should be noted further that Congress also did not specifically provide for treatment to be accorded swing-bed hospitals under section 1886 different from the treatment accorded other hospitals. We conclude from this that Congress believed unit costs in swing-bed hospitals would not rise, and that they would not be impacted by the new limits solely because they are swing-bed hospitals. In addition, most swing-bed hospitals will be exempt from the total cost limits under section 1886(a), since those limits do not apply to hospitals of less than 50 beds located in non-SMSA areas that were in operation with less than 50 beds on September 3, 1982. Under section 1883(b), Medicare reimbursement to "swing-bed" hospitals that provide extended care services is made only to rural hospitals that have less than 50 beds.

However, we also believe that Congress meant to encourage eligible hospitals to elect to be swing-bed hospitals. We do not wish to discourage such elections. Therefore, we will review on a case-by-case basis any situation in which a swing-bed hospital believes it is adversely affected under either section 1886(a) or 1886(b) solely because of the operation of the carve-out reimbursement methodology. We wish to point out, in this connection, that the new limits will apply only to inpatient hospital services, and not to SNF-level services in swing-bed hospitals.

C. Prospective Payment System

As noted above, Title VI of Pub. L. 98–21 both amended sections 1886 (a) and (b) of the Act and established a prospective payment system for inpatient hospital services that will be effective for hospital cost reporting periods beginning on or after October 1, 1983. The amendments to §§ 405.460 and 405.463 that are necessary to conform those rules to Pub. L. 98–21 and the prospective payment system will be made by the interim final rules, to be published soon, implementing that system. However, the interim rules implementing section 101 of TEFRA, published September 30, 1982, as modified and affirmed by these final rules, will still govern the cost limits and rate of increase limits for cost reporting periods beginning on or after October 1, 1982 and before October 1, 1983.

V. Impact Analysis

A. Executive Order 12291

Section 1(b) of Executive Order 12291 states that a major rule is one that will:

(1) Have an annual effect on the economy of $100 million or more;

(2) Result in a major increase in costs or prices for consumers, individual industries, or government agencies, or geographic regions; or

(3) Have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

We estimate that as a result of implementation of the case-mix adjusted hospital cost limits, net savings over projected expenditures for inpatient hospital services under the routine cost limits will increase by more than $4.5 billion over the three-year period from fiscal year 1983 through fiscal year 1985.

In the interim final rules, we estimated that these statutory limitations on payment for inpatient hospital services would result in $480 million in savings ($75 million due to the case-mix adjusted cost limits and $405 million due to the rate-of-increase ceiling) in addition to the savings projected at that time in the fiscal year 1983 budget for the routine cost limits. These revisions to the interim final rules will not produce significant differences in the aggregated effect of these limitations, and therefore will not result in changes to the savings we estimate will result from implementation of the total cost and rate-of-increase limits. However, since publication of the interim rules in September, 1982, we have revised the economic assumptions on which our estimates are based. This resulted in changes in assumed cost levels and in revised projections of the market basket index that produced savings estimates significantly different from our earlier estimates. We have reestimated accordingly the savings resulting from implementation of section 101(a) of TEFRA. These revised estimates are as follows:

REDUCTIONS BELOW BUDGET PROJECTIONS OF EXPENDITURES UNDER ROUTINE PER DIEM COST LIMITS

[In millions]

Fiscal year	Case-mix adjusted limits	Rate of increase ceiling[1]	Combined savings
1983	$50	$480	$530
1984[2]	670	780	1,450
1985	1,320	1,200	2,520
Total	2,040	2,500	4,600

[1] The estimate for the rate of increase ceiling is for savings in addition to those due to the case-mix limits.

[2] Estimates for fiscal years 1984 and 1985 are based on the assumption that the case-mix adjusted limits for those periods will be set at 115 and 110 percent, respectively, of the average inpatient operating costs for groups of comparable hospitals.

Although the new rate of increase ceiling will have an annual effect on the economy of $100 million or more, we have determined this impact will be caused by section 101 of Pub. L. 97–248, which requires imposition of the ceiling, rather than by this rule, which merely implements the statutory provisions. We have made this determination because the major features of the rate of increase ceiling are specified in the statute, and we do not have administrative discretion to develop alternatives to them. While the statute does allow the Secretary administrative dicretion with respect to certain features of the ceiling provisions, these discretionary features will not have an impact of $100 million or more, or meet the other threshold criteria of the Order. Therefore, a regulatory impact analysis is not required. (See the cost limits notice published elsewhere in this issue of the **Federal Register** for a discussion of the effects of the new case-mix adjusted cost limits.) However, the preamble to this rule describes the expected impact of the rule, and constitutes a regulatory impact analysis.

B. Regulatory Flexibility Act

The Secretary certifies under 5 U.S.C. 605(b), enacted by the Regulatory Flexibility Act (Pub. L. 96–354), that this final rule will not, in itself, result in a significant impact on a substantial number of small entities.

Generally, nearly all hospitals participating in Medicare are considered small entities for purposes of the Regulatory Flexibility Act. Although rural hospitals of less than 50 beds are exempted by law from the case-mix limits on total inpatient operating costs, they are not exempt from the rate-of-increase ceiling. Both the cost limits and the ceiling will clearly limit the revenues of a large number of small entities. The impact on individual hospitals will vary.

However, any adverse consequences of this impact can be avoided through the cost containment efforts we expect hospitals will make. Accordingly, we do not believe that a substantial number will actually experience a significant impact. In any event, any such impact will be the result of the statutory provisions (section 101(a) of Pub. L. 97–248), and not of the regulations that implement these provisions. Therefore, a regulatory flexibility analysis is not required.

Although a regulatory flexibility analysis is not required, we are aware that some hospitals may be concerned about the impact of these regulations. For the benefit of these hospitals, and to forestall any unnecessary concern regarding the effect of the regulations, the preamble presents an analysis which, taken as a whole, constitutes a regulatory flexibility analysis.

VI. Other Required Information

A. Waiver of 30-Day Delay in Effective Date

Section 101 of Pub. L. 97–248 has a statutory effective date of October 1, 1982. Section 101(b)(2)(A) instructed the Secretary to implement section 101, through final regulations issued on an interim or other basis, by the effective date of the law.

These rules amend and establish as final the interim rules implementing section 101 that we published on September 30, 1982. Because the initial cost reporting periods to which those interim rules apply have not yet ended, and because we believe it best to apply one consistent set of rules to all affected periods beginning on or after the effective date of the interim rules, we are making these amendments effective the same as the interim rules. We believe it would be impracticable and contrary to the public interest to make these amendments effective on a date different from the interim rules. Therefore, we find good cause to waive the usual 30-day delay in the effective date, and to make these final regulations effective for hospital cost reporting periods beginning on or after October 1, 1982.

B. Paperwork Reduction Act

Information collection requirements imposed by regulations are normally subject to OMB review under section 3504(h) of Title 44, United States Code, as enacted by Pub. L. 96–511, the Paperwork Reduction Act of 1980. However section 101(b)(2)(B) of Pub. L. 97–248 specifically states that the information collection requirements imposed by regulations implementing section 101(a) of Pub. L. 97–248 are not subject to that review until January 1, 1984. We have not yet submitted the information collection requirements imposed by the interim regulations (such as those governing requests for exceptions, exemptions, and adjustments) to OMB. These final regulations do not include any additional information collection requirements, but do establish the interim requirements as final. We plan to meet the requirements of Pub. L. 96–511 by January 1, 1984.

C. List of Subjects in 42 CFR Part 405

Administrative practice and procedure, Certification of compliance, Clinics, Contracts (Agreements), End-Stage Renal Disease (ESRD), Health care, Health facilities, Health maintenance organizations (HMO), Health professions, Health suppliers, Home health agencies, Hospitals, Inpatients, Kidney diseases, Laboratories, Medicare, Nursing homes, Onsite surveys, Outpatient providers, Reporting requirements, Rural areas, X-rays.

42 CFR Chapter IV is amended as set forth below:

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

42 CFR Part 405, Subpart D, is amended as set forth below:

1. The authority citation for Subpart D is revised to read as follows:

Subpart D—Principles of Reimbursement for Providers, Outpatient Dialysis, and Services by Hospital-Based Physicians

Authority: Sections 1102, 1814(b), 1833(a), 1861(v), 1871, 1881, and 1886 of the Social Security Act; 42 U.S.C. 1302, 1395f(b), 1395l(a) 1395x(v), 1395hh, 1395rr, and 1395ww.

* * * * *

1. Sections 405.460 (a), (e), (f), (h), and 405.463, which were published in interim form in FR Doc. 82–27082 (47 FR 43282, Septembr 30, 1982) are adopted as final rules as published.

2. Section 405.460 is amended by adding a new paragraph (b)(4), to read as follows:

§ 405.460 Limitations on reimbursable costs.

* * * * *

(b) * * *

(4) In establishing limits under paragraph (b)(1) of this section, HCFA may find it inappropriate to apply particular limits to a class of providers due to the characteristics of the provider class, the data on which those limits are based, or the method by which the limits are determined. In such cases, HCFA may exclude that class of providers from the limits, explaining the basis of the exclusion in the notice setting forth the limits for the appropriate cost reporting periods.

* * * * *

3. Section 405.463 is amended by revising paragraph (c) to read as follows:

§ 405.463 Ceiling on rate of hospital increases.

* * * * *

(c) *Procedure for establishing the ceiling (target amount)*—(1) *Costs subject to the ceiling.* The cost per case ceiling established under this section applies to operating costs incurred by a hospital in furnishing inpatient hospital services. These operating costs *include* operating costs of routine services (as described in § 405.158(c)), ancillary service operating costs, and special care unit operating costs. These operating costs *exclude* the costs of malpractice insurance, certain kidney acquisition costs, capital-related costs, and costs a hospital allocates to approved medical education programs (nursing school or approved intern and resident programs) on its Medicare cost report.

(2) *Costs determined on a per case basis.* Costs subject to the ceiling as described in paragraph (c)(1) of this section will be determined on a per admission or per discharge basis as determined by HCFA for the purpose of the notice of cost limits established under § 405.460.

(3) *Target rate percentage.* The target rate percentage will be equal to the market basket index plus one percentage point. The market basket index is a hospital wage and price index that incorporates appropriately weighted indicators of changes in wages and prices that are representative of the mix of goods and services included in the most common categories of inpatient hospital operating costs subject to the ceiling as described in paragraph (c)(1) of this section.

(4) *Target amount (ceiling).* The intermediary will establish for each hospital a ceiling on the reimbursable costs per case of that hospital. The ceiling for each 12-month cost reporting period will be set at a target amount determined as follows:

(i) For the first 12-month cost reporting period to which this ceiling applies, the target amount will equal the hospital's allowable operating costs per case for the hospital's base period increased by the target rate percentage for the subject period.

(ii) For subsequent 12-month cost reporting periods, the target amount will equal the hospital's target amount for the previous 12-month cost reporting period increased by the target rate percentage for the subject cost reporting period.

(5) *Notification of applicable target rate percentage.* (i) HCFA will publish revised percentage increase data for each quarter in the Medicare Provider Reimbursement Manual and the **Federal Register.**

(ii) The intermediary will use the applicable percentage increase for appropriate periods to determine the ceiling on the allowable rate of cost increase under this section.

(iii) When a cost reporting period spans portions of two calendar years, the intermediary will calculate an appropriate prorated percentage rate based on the published calendar year percentage rates.

(Catalog of Federal Domestic Assistance Program No. 13.773. Medicare-Hospital Insurance)

Dated: August 25, 1983.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: August 25, 1983.

Margaret M. Heckler,

Secretary.

[FR Doc. 83-23800 Filed 8-29-83; 8:45 am]

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Part VI

Department of Health and Human Services

Health Care Financing Administration

Medicare Program; Schedule of Limits on Inpatient Operating Costs for Cost Reporting Periods Beginning On or After October 1, 1982; Final Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Medicare Program; Schedule of Limits on Hospital Inpatient Operating Costs for Cost Reporting Periods Beginning On or After October 1, 1982

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final notice.

SUMMARY: On September 30, 1982, we published an interim final notice with comment period that set forth a schedule of limits on the hospital inpatient operating costs that may be reimbursed under Medicare for cost reporting periods beginning on or after October 1, 1982. These limits implemented changes in the Medicare law that were made by section 101(a) of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), Pub. L. 97–248. The interim final notice provided a 60-day period for public comment. This final notice responds to the comments received and sets forth revisions and corrections to the interim final notice.

EFFECTIVE DATE: October 1, 1982.

FOR FURTHER INFORMATION CONTACT: Marilyn Koch, (301) 594–9344.

SUPPLEMENTARY INFORMATION:

I. Background

A. Legislative History

Section 223 of the Social Security Amendments of 1972 (Pub. L. 92–603, enacted on October 10, 1972) amended section 1861(v)(1) of the Social Security Act (42 U.S.C. 1395x(v)(1)) to authorize the Secretary to set prospective limits on the costs that are reimbursed under Medicare. Section 223 authorizes the Secretary to apply limits to direct or indirect overall costs or to costs incurred for specific items or services furnished by a Medicare provider.

Regulations implementing this authority are at 42 CFR 405.460. Under this authority, we published limits on hospital inpatient general routine per diem costs annually from 1974 through 1981.

On September 3, 1982, the President signed into law the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), Pub. L. 97–248. Section 101(a) of that legislation added section 1886 to the Social Security Act. This new section includes two provisions that restrict the level of Medicare payment for costs of inpatient hospital services—section 1886(a), which provides for case-mix adjusted cost limits on inpatient hospital operating cost per case, and section 1886(b), which provides a ceiling on the allowable rate of increase for inpatient operating costs. (Note that Pub. L. 98–21, enacted April 20, 1983, amended these provisions and established a prospective payment system for inpatient services that will be effective for cost reporting periods beginning on or after October 1, 1983. The interim rules implementing the prospective payement system, to be published soon, will include the amendments to regulations implementing sections 1886 (a) and (b) that are necessary to conform to Pub. L. 98–21 and the prospective payment system.)

Section 1886(a) of the Act provides for the extension of the section 223 hospital cost limits, which had previously been applied only to inpatient general routine operating costs, to the operating costs of inpatient hospital services. These costs are defined in the statute as all routine operating costs, ancillary service operating costs, and special care unit operating costs with respect to inpatient hospital services. Section 1886(a) further specifies that the costs to which the expanded limits apply are to be determined on a per discharge or per admission basis, and requires that the limit for each hospital be set based on the mix of types of Medicare cases treated by the hospital. In addition, section 1886(a) specifies the level of the new limits at 120 percent of the mean for cost reporting periods beginning on or after October 1, 1982 and before October 1, 1983. (Section 101 of TEFRA also specified percentages for future years. However, section 601(a)(1) of Pub. L. 98–21 provided that such cost limits shall not apply to cost reporting periods beginning on or after October 1, 1983.) Section 1886(a) also requires the Secretary to provide for exemptions, exceptions, and adjustments to the limits as the Secretary deems appropriate.

Section 1886(b) provides for a new limitation on payment for hospital costs that is separate from the type of limit currently established under section 223. This provision requires that we establish a ceiling level for the allowable rate of increase of hospitals' inpatient operating costs per case, and provides for incentive payments to hospitals that keep their costs below a target amount, as well as reductions in the amount of reimbursement to hospitals that incur costs greater than the target amount.

Section 101(b) of Pub. L. 97–248 made the new section 1886 effective for cost reporting periods beginning on or after October 1, 1982, and provided that, in order to accomplish the effect of these provisions promptly, regulations needed to implement them could be issued as final regulations without prior notice and comment. Further, section 101(b) exempts, until January 1, 1984, these necessary regulations from the Office of Management and Budget (OMB) review of information collection requirements that would otherwise be required under the Paperwork Reduction Act of 1980 (Pub. L. 96–511).

On September 30, 1982, we published an interim final notice and an interim final rule that implemented sections 1886 (a) and (b) (47 FR 43296 and 47 FR 43282). The reader is referred to those documents for a more detailed explanation of these provisions, and for a description of our implementation of them. For the benefit of the reader, however, we have summarized, in section I.B. of this preamble, the major provisions of the iterim final notice.

B. Major Features of the New Limits

The interim final notice provided for the extension of the section 223 hospital cost limits, which previously applied only to inpatient general routine operating costs, to the total operating costs of inpatient hospital services, including routine operating costs, ancillary service operating costs, and special care unit operating costs. The major features of the interim notice included

- Exclusion from the limits of capital-related costs, medical and nursing education costs, and malpractice insurance costs.
- Application of the limits on an average cost-per-discharge basis, rather than on a per diem basis as under the routine limtis.
- Adjustment of the limit for each hospital based on the Medicare case-mix experience for that hospital. The adjustment is made through a Medicare case-mix index, which is derived by using Diagnosis Related Groups (DRG's).

The limits were calculated using historical Medicare cost report data that had been updated by a factor based on a combination of actual historical rates of increase in hospital costs up to the period subject to the limit and the market basket rate of increase plus one percentage point for the period covered by the limits. However, the interim notice did not provide that the limits will be retroactively adjusted when the forecasted market basket projections understate actual changes in the market basket. The interim notice also contained several provisions to assure that hospitals are not abruptly and adversely affected by the new limits. These provisions included:

- A hold harmless provision that assures that no hospital's limit will be lower that the hospital's reimbursable operating costs per discharge for inpatient services during the hospital's last cost reporting period immediately preceding the first cost reporting period subject to the new limits;
- A system of setting the limits at gradually decreasing percentages of the mean costs (from 120 percent to 110 percent) over the first three cost reporting periods subject to the new limits; and
- Procedures to allow adjustments, exemptions and exceptions to the limits to account for the special needs of hospitals under certain circumstances. (Interim final regulations implementing these adjustments, exemptions and exceptions, 42 CFR 405.460 (f) through (h), were also published on September 30, 1982, and are revised in a final rule published elsewhere in this issue of the **Federal Register**.

II. Summary of Changes

As a result of our evaluation of the public comments on the interim final notice published on September 30, 1982, we are making four major changes to the interim final notice. In summary, these changes include:

- Clarification of the exclusion from the limits of certain kidney acquisition costs;
- Clarification of the long-term care hospital exclusion;
- Addition of psychiatric hospitals, Christian Science Sanatoria, and subproviders to the list of excluded entities; and
- Clarification of the chart showing the estimated increase in hospital costs and the estimated increase in the adjusted market basket rate.

III. Public Comments

The interim final notice published on September 30, 1982, implementing the new hospital cost limits, provided for a 60-day period for public comment. During that time, we received approximately 100 comments, including responses from individual hospitals and hospital interest organizations, such as the American Hospital Association (AHA), law firms representing hospital interests, and intermediaries that make Medicare payment to hospitals. This section summarizes the principal comments received on issues raised by the interim final notice, and presents our response to these comments.

A. Applications of Limits on Cost Per Discharge Basis

Section 1886(a) of the Social Security Act requires that the limits on hospital inpatient costs be applied, at the Secretary's discretion, on either a cost per admission or per discharge basis. This provision of the statute required a significant change in Medicare policy, since all previous hospital cost limit schedules had been applied on a per diem basis. Under limits applied on a per discharge basis, the hospital will be paid no more than a specified amount per Medicare patient stay without regard to the actual number of days of care each patient received or the per diem cost the hospital incurred to furnish this care.

The notice specifies that the intermediary, using the current definition of discharge in § 304.4 of HCFA Pub. 15–II–C (the Provider Reimbursement Manual), will multiply each hospital's per discharge limit by the number of Medicare discharges, and compare the resulting amount with the total inpatient hospital operating cost the hospital incurred to treat Medicare patients. The intermediary will then use the lesser of the two amounts as the basis for determining reimbursement to the hospital.

However, the notice also specifies that hospital inpatient operating cost limits do not apply to several types of costs a typical hospital may incur. These costs include outpatient service costs, capital-related costs, malpractice insurance costs, and costs a hospital allocates to the interns and residents (in approved programs) or nursing school cost centers on its Medicare cost report.

Comment: Several commenters noted that the Medicare cost report is not explicitly designed for application of the new cost per discharge limits. They suggested that we provide the detailed methodology for calculating the inpatient operating cost per discharge so as to properly exclude and apportion those costs outside the scope of the new limits.

Response: We agree that a more detailed explanation of the methodology for application of the new limits is necessary, particularly with respect to their impact on the manner in which costs are reported on the Medicare cost reports. However, we do not believe this explanation should be included in the notice of the limits. This type of detailed information is more appropriately disseminated through the HCFA instructions system. We are in the process of completing detailed instructions for calculating Medicare inpatient operating cost per discharge for application of the section 1886(a) limits. These instructions will be issued as a 1982 Amendments Supplement to the Provider Reimbursement Manual (HCFA Pub. 15–1) in the near future. We anticipate that these instructions, as well as the necessary forms, will be ready in time for hospitals to file their cost reports under the new limits.

Comment: One commenter suggested that the current definition of discharge referenced in the interim final notice was inadequate for purposes of calculating the limits. This commenter noted that the current definition does not address transfers to another hospital, leaves of absence, one day stays, and discharges where the stay begins in one cost reporting period but ends in another.

Response: We do not believe the current manual definition of "discharge" poses a serious obstacle to the implementation of the new cost limits. We recognize minor difficulties presented by discharges that overlap cost reporting periods or that represent transfers between hospitals. However, we believe there are factors that mitigate the consequences of these difficulties. For example, the short stay characteristic of most transfers works to a hospital's advantage under the new per discharge limits. Further, cases that overlap cost reporting periods are also represented in the data base used to determine the limits; therefore, the limits already implicitly recognize the effect of this type of discharge. Consequently, the current definition of "discharge" does not present a severe potential for inaccuracy and, we believe, does not need to be changed.

Comment: Several commenters asked whether kidney acquisition costs are included among the inpatient operating costs subject to the new cost limits. They believe that these costs should be excluded. Traditionally, Medicare has recognized these costs separately from other inpatient costs, and has guaranteed 100 percent reimbursement of net unrecovered kidney acquisition costs.

Response: We agree that these costs should be excluded from the limits. While relatively few hospitals have large kidney acquisition costs, these costs are treated differently from other costs a hospital incurs. Under special statutory provisions establishing Medicare coverage for end-stage renal disease (ESRD) services, including transplantation, the Medicare program has assumed total liability (net of non-Medicare revenue) for kidney acquisition costs even if a transplant has not occurred in a given hospital in a cost reporting period. Because of the unique nature of, and special coverage

provisions for, kidney acquisition costs, we believe that these costs should not be subject to the case-mix adjusted cost limits. (We are also excluding these costs from the rate of increase control, as explained in the final rule published elsewhere in this issue of the Federal Register.)

Comment: Several commenters suggested that the new limits would have an adverse effect on the quality and availability of hospital care. These commenters pointed out that the cost per discharge limits provide several undesirable incentives. These incentives include a tendency to select the cheapest care rather than that which may be medically preferable, an orientation of services toward those who are less seriously ill, and an increased tendency for unnecessary admissions.

Response: We do not expect implementation of the new cost limits, or, for cost reporting periods beginning on or after October 1, 1983, the prospective payment system, to reduce the quality of care or to adversely affect access to services. HCFA demonstration results suggest that the new limits, which have a number of elements in common with several prospective payment systems, will reduce unnecessary services without endangering patient care. Preliminary findings from an evaluation of HCFA demonstration projects by ABT Associates Inc. indicate that of the 11 different prospective payment programs studied, there was no impact of prospective payment on quality of care. This finding is not surprising, since the physician is still ultimately responsible for ensuring appropriate treatment consistent with medical judgment.

We have established a medical review system in conjunction with the implementation of these cost limits and in anticipation of the prospective payment system that will monitor admission patterns to identify hospitals with unusual changes in their admission patterns. If there is no apparent reason for a particular change, the contractor responsible for reviewing the hospital and the appropriate medical review authority will be notified of the potential problem. This will focus quality of care review to ensure that beneficiaries continue to receive high quality care. The medical review authority, in investigating unusual cases, will pay particular attention to practices such as premature discharges, unnecessary readmissions, and inappropriate reduction of ancillary services.

B. Use of a Hospital Specific Case-Mix Index to Reflect Differences in Hospital Inpatient Operating Costs Attributable to Institutional Differences in Medicare Patient Mix

Section 1886(a) requires the Secretary to establish case mix indexes for all short-term hospitals, and to set limits for each hospital based on the mix of types of Medicare cases treated by the hospital. This adjustment recognizes that hospital costs for treating particular cases can vary widely depending on the nature of the patient's illness or injury, the age of the patient, whether medical or surgical treatment is indicated, and many other factors that are beyond a hospital's control and unrelated to the efficiency of its operations. The interim final notice specified that this adjustment would be accomplished by means of a Medicare case-mix index, using Diagnosis Related Groups (DRGs) as described in section III of the final notice.

Comment: Several commenters believed DRGs are not sufficiently sensitive to cost variations associated with the complexity of patient illness. They suggested the exception criteria be broadened to allow exceptions based on differences in severity of illness.

Response: Our primary objective in developing the case-mix index was to provide a measure that represents a valid and generally accurate representation of the expected costliness of an individual hospital's Medicare patient mix. We reviewed several patient classification systems that are currently available before deciding to use DRGs in developing our case-mix index.

After considering the advantages and disadvantages of the classification systems we reviewed, we chose to use DRGs to construct the case-mix index. Because our research on DRGs has shown that this classification system results in a manageable number of groups, relatively high clinical validity, and limited consequences of heterogeneity, we believe that, of the classification systems currently available, it best suits our needs for case-mix indexing of the limits. (For a more detailed explanation of the basis for this decision, see Pettengill and Vertrees, "Reliability and Validity in Hospital Case-Mix Measurement," *Health Care Financing Review*, December 1982, 101–128.) Moreover, the Conference Committee Report on Pub. L. 97–248 (H.R. Rep. No. 97–760, 97th Cong., 2nd Sess. (1982), p. 418) references use of a "currently available indicator of case-mix complexity such as the system developed at Yale University" in setting the case-mix index. While inclusion of this reference to the DRG classification system would not preclude use of a different methodology for determining a case-mix index, it does support the methodology of choice.

With regard to this suggestion that we include an exception based on patient severity, we do not believe it is necessary to explicitly provide for an exception based on this factor. Hospitals experiencing costs in excess of the limits resulting solely from a large number of severely ill patients may apply for an exception under the atypical services criteria permitted by 42 CFR 405.460(f)(1).

Comment: Some commenters stated that HCFA's MEDPAR file failed to discriminate properly among cases with multiple secondary conditions. Because of the alleged prevalence of these cases in public hospitals, these commenters indicated the case-mix indexes were biased against public facilities, yielding inappropriately low cost limits.

Response: In the interim final schedule of limits, we described the data sources used to construct the case-mix indexes. One of these was the 1980 MEDPAR file, a data set consisting of approximately 2 million observations representing a 20 percent sample of claims from Medicare beneficiaries discharged from short-stay hospitals during calendar year 1980. Data elements in the file include patient diagnoses, procedures and billed charges for Medicare inpatient hospital claims. Along with the charge data contained on the inpatient bills (HEFA–1453's) that make up the MEDPAR file, hospitals are required to submit the principal diagnosis, primary procedure and secondary diagnoses and procedures. This information is coded for computer processing and is necessary for the proper assignment of a Medicare discharge to the appropriate DRG.

The case mix indexes are derived from Medicare DRGs constructed from the data items readily available from the HCFA–1453, the best data currently available to HCFA. While several municipal hospitals and hospital associations believed the Medicare DRGs to be inadequate measures of resource consumption in public hospitals, no evidence was submitted which would cause us to conclude the Medicare DRGs are inherently biased against public facilities.

We should point out that, for purposes of these cost limits, the Medicare DRGs differ from the full set of DRGs developed by Yale University. These Medicare DRGs have been specially

adapted to accommodate the elements of the MEDPAR data set. Medicare presently notes only the presence or absence of a secondary diagnosis. Thus, DRGs as developed by Yale University that were defined on the basis of specific secondary diagnoses have been combined to form more general categories in the Medicare case-mix index methodology. Also, Yale University DRGs distinguished on the basis of a substantial comorbidity or complication have been defined in the Medicare adaptation according to the presence of any secondary diagnosis. Further, the Medicare DRGs have not been defined on the basis of specific secondary procedures, or discharge status other than "dead" or "alive". (Under the prospective payment system, we plan to use the full set of DRGs developed by Yale. The use of DRGs in that system will be discussed in detail in the interim final rules, to be published soon, implementing that system.)

Since the presence of any secondary diagnosis is used instead of specific complications for purposes of assigning patient bills to DRGs' the commenters are concerned that some uncomplicated cases would be assigned to a complicated, more resource-intensive DRG. If this occured for a significant number of cases, it would have the effect of lowering the relative cost for the computer program for classifying cases, are assigned to the complicated DRGs automatically. Additionally, many of the Medicare beneficiaries under age 70 have a secondary diagnosis and thus are also classified in the complicated DRGs. Therefore, the number of uncomplicated cases potentially falling into a complicated category must only be a small fraction of the total cases and this is unlikely to have any significant impact on the DRG cost estimates.

Section 1886(a)(2) of the Act requires the Secretary, as appropriate, to consider the special needs of certain classes of hospitals, including public hospitals, which incur additional costs because they serve a disproportionate number of low income patients or Part A Medicare beneficiaries. To date we have not been able to demonstrate empirically that public hospitals, as a class, incur higher Medicare costs per discharge, after controlling for the effects of the other variables believed to influence costs and recognized in establishing the cost limits. We consulted with representatives from the health care field on this issue and have arranged for a review of the available data on an independent basis. This review is still in progress. Until additional work can be completed, we believe it is appropriate to continue the policy contained in the interim final notice. We shall continue our investigations, and, if an adjustment is warranted, we will provide for one in future schedules of limits.

Comment: One commenter noted that the routine and special care costs used to compute the DRG weights are constant (i.e., the average) within a hospital. Higher per diem costs may be associated with patients in higher cost DRGs. If true, this results in some compression of the DRG weights. It was suggested that raising the case mix index values to a power (determined by a regression coefficient) of 1.061 would correct for this compression.

Response: We do not believe it is appropriate to make the adjustment suggested, for several reasons. First, the difference between the suggested coefficient of 1.061 and the expected coefficient of 1.0 (i.e., no adjustment) is not statistically significant. Second, compression of the DRG weights due to the use of average per day costs for all case types is likely to be small. Our analysis indicates that the coefficient value referenced above is slightly greater than 1.0. Finally, the suggested adjustment would have a negative impact on any hospital with a case mix index value less than 1.0. We do not believe it is appropriate to affect adversely these hospitals by instituting an across-the-board adjustment of index values on the basis of an undemonstrated hypothesis concerning the construction of the weights.

Comment: We also received comments that the national sample of inpatient bills from 20 percent of the Medicare beneficiaries used to derive the case-mix indexes (the MEDPAR file) is not sufficiently representative of the actual mix of cases in individual hospitals.

Response: Our research indicates a 20 percent national sample is, on the whole, adequate to compute indexes which are reliable within acceptable statistical precision criteria. A hospital for which the number of usable cases was insufficient is permitted to use the higher of its published case-mix index or the average of the group in which it is classified. We recognize that this alternative does not guarantee that the selected case-mix index will be perfectly representative of the provider's Medicare patient mix. Further, the September 30, 1982 notice provided an opportunity for hospitals to submit 100 percent of their 1980 discharges in order to obtain a recalculation of their case-mix indexes, thus allowing hospitals to test the adequacy of the sample.

Comment: Several commenters pointed out that the interim final notice did not specify whether HCFA intended to compute the Medicare case-mix index annually. These commenters recommended using the most current discharge and related cost report data to annually recalculate the index.

Response: With respect to the frequency of recalculation of the case-mix index, the Conference Committee Report on section 101(a) of Pub. L. 97-248 states only that "The Secretary is expected to recalculate case-mix adjustments periodically." (H.R. No. 97-760, 97th Cong., 2nd Sess. (1982), p. 418.) There is no requirement that the recalculation be done annually.

While our research indicates that the Medicare case-mix index values remain relatively stable over time, there are, of course, circumstances that can alter the patient mix of a facility. In this connection,we also wish to point out that the regulations at 42 CFR 405.460 (f)(9) provide for recalculation of a hospital's case-mix index as a result of the addition or deletion of services.

Comment: Several commenters objected to limiting the case mix recalculation to complete 1980 discharge data, stating that this procedure fails to recognize that similar deficiencies probably exist in the 1981 and 1982 discharge records. Most of these records have already been submitted prior to hospitals becoming aware of the importance of complete and accurate reporting on the inpatient bill. Since we would probably use 1981 and 1982 MEDPAR data to derive case mix indexes for subsequent schedules of limits, these commenters recommended that hospitals be allowed to submit corrected discharge data to obtain recalculated indexes for any cost reporting period subject to the case mix adjustment. (In fact, we will be using 1981 data in implementing the prospective payment system for cost reporting periods beginning on or after October 1, 1983.)

Response: Research indicates that as a rule the case mix index is not greatly affected by errors in the MEDPAR data. As our research reports:

"Regardless of the errors which may exist . . . the most significant finding of our research is the relative insensitivity of the case mix index to errors in the data. Even with 30 percent error, most simulated index values were within plus or minus 10 percent of the corresponding original values. We believe this indicates that the Medicare case mix index provides a valid and generally accurate representation of the expected costliness of an individual hospital's patient mix." (Pettengill and Vertrees, "Reliability and Validity in Hospital Case Mix

Measurement", *Health Care Financing Review*, December 1982, page 123.)

We believe the essential points to emphasize are the data's accuracy, which we expect since an inpatient bill is an official request for payment from the Medicare program for services furnished to a Medicare beneficiary, and the insensitivity of the indexes to the introduction of random error. While we did offer an opportunity for hospitals to obtain recalculations of their case mix indexes for 1 year, we do not believe, based on our research, that hospitals are systematically disadvantaged by our using hospital specific case mix indexes based on a 20 percent MEDPAR sample. Therefore, we do not believe it is necessary to extend the opportunity for the recalculation beyond the 1 year period. However, we will monitor the differences observed in recalculated indexes based on 100 percent submission of corrected 1980 data, and will consider whether it would be appropriate to increase the number of years for which a hospital may request a recalculation.

Comment: Several commenters stated that hospitals should have access to the data used to construct the Medicare case-mix index, since these data would enable them to respond more effectively to the management incentives of the limits.

Response: We agree that hospitals should have access to the data used to develop the new cost limits. We wish to point out that public access to disclosable information is ensured by the Freedom of Information Act. Since the publication of the interim final notice on September 30, 1982, we have made available data enabling a hospital to replicate the calculation of its case-mix index, as well as the MEDPAR records and cost reports used to derive the case-mix index and the limits. However, we wish to point out that the actual MEDPAR records for a hospital, while disclosable to that hospital, contain personal information about individual patients which precludes disclosure to a third party.

We will reply to all requests for information that may aid providers in a focused program of cost and service changes to achieve cost containment goals. While we cannot guarantee that all requested information will be disclosable or available in the desired format, we will continue to respond to all information requests and provide all readily available data to assist hospitals in their evaluation and management of costs.

C. Application of Limits to All Hospitals Except Small Rural Hospitals and Long-Term Care Hospitals

The statute (section 1886(a)) that authorizes the new cost limits specifically exempts rural hospitals that were in operation and had less than 50 beds on September 3, 1982. In addition, the interim final notice provides for the exclusion of children's hospitals and long-term care hospitals (hospitals with lengths of stay generally in excess of 30 days) from application of the hospital cost limits. We provided these exclusions because the number of Medicare discharge records available to us for children's hospitals was, in general, insufficient to permit us to compute statistically reliable case mix indexes. Additionally, it would be inappropriate to use data from short-term acute care hospitals to establish case mix adjusted limits for long-term care facilities.

Although section 1886(a)(2)(B) requires the Secretary to consider the special needs of psychiatric hospitals in developing exemptions from and exceptions and adjustments to the cost limits, the interim final notice did not specifically exclude psychiatric hospitals from the limits. We believed that the exclusion of long-term care hospitals from the limits would ensure that most psychiatric hospitals would not be disadvantaged. For those few psychiatric hospitals that are not long-term care providers, we believed the exception provisions of 42 CFR 405.460(f) would be sufficient to accommodate most circumstances that might result in a provider legitimately exceeding its cost limit.

Comment: Some commenters pointed out that use of the 30-day length of stay criterion might result in unreasonable inconsistency in the application of cost limits to hospitals with variable lengths of stay. Commenters also pointed out that facilities with variable or decreasing average lengths of stay would not know from year to year whether they would be subject to the limits.

Response: After considering the comments received on the long-term care exemption, we have decided to clarify the conditions which a hospital must meet in order to qualify as a long-term care hospital for the purpose of exclusion from the total cost limits. In the September 30, 1982, notice (see 47 FR 43299), we stated "long-term care hospitals are hospitals organized to provide long-term treatment programs with lengths of stay generally in excess of 30 days. These hospitals are identified by a distinct 'type of facility' code in the third digit of the Medicare provider number."

We added the length of stay criterion because some hospitals originally certified as short-term hospitals in the Medicare program may have gradually changed their character so that they are now actually providing long-term care. However, provider numbers may not necessarily have been reissued to reflect the change. We intended that all hospitals that are certified as long-term care facilities be excluded from the cost limits, as well as hospitals that are certified as short-term facilities but have lengths of stay generally in excess of 30 days.

To make our position clear on this matter, we are revising the first paragraph of section E(3) of the September 30, 1982 notice (47 FR 43299) to specify that long-term care hospitals are hospitals organized to provide long-term treatment programs with lengths of stay generally of 25 days or more. This exclusion also applies to those hospitals identified by a distinct "type of facility" code in the third digit of the Medicare provider number, and to those hospitals that are certified as other than long-term care hospitals, but which have lengths of stay generally of 25 days or more. Where the determination is made on the basis of length of stay, the intermediary will use a definition similar to the definition used to determine long-term status for establishing separate cost entities in multiple-facility complexes. (See section 2336.1A of the Provider Reimbursement Manual, HCFA Pub. 15–1.) under that definition, but as modified for the purpose of this notice, an entity is considered "long-term" if over 50 percent of all patients have a stay of 25 days or more.)

We recognize that some facilities may have decreasing or variable lengths of stay. However, in determining that case-mix adjusted limits are inappropriate for application to long-term care hospitals, it was necessary to adopt a definition of those hospitals that is generally recognized.

Comment: Most psychiatric and rehabilitation providers commented that all psychiatric and rehabilitation hospitals should be excluded from the cost limits regardless of their length of stay. These commenters explained that the case mix index does not adequately reflect the types of patients treated in these facilities.

Response: Based on our analysis and the comments received, we agree that all Medicare certified psychiatric hospitals should be excluded from application of the case mix adjusted total cost limits. Since the current

categories of DRGs were developed from data from short-term acute care hospitals, the DRG based case mix index may not be appropriate for psychiatric hospitals. In addition, the trend in recent years has been toward discharging patients from psychiatric hospitals earlier than was formerly the case. We do not want to discourage this trend by instituting a requirement that psychiatric hospitals must have lengths of stay generally in excess of 25 days in order to be excluded from the limits. Keeping patients in the hospital longer than is medically necessary is not in the best interest of the patients and also results in the hospital incurring unnecessary costs.

We have also decided to exclude Christian Science Sanitoria, as identified by the Medicare provider number, from application of the total cost limits. As with long-term care hospitals, data from these facilities are not adequate to enable us to include them in a system of case mix adjusted limits that is based primarily on records from general short-term, acute care hospitals. We have made the necessary change in section E(3) of the September 30, 1982 notice of schedule of limits to reflect this additional exclusion. (See section IV of this notice.)

Rehabilitation hospitals are not separately certified in the same manner as psychiatric hospitals. Consequently, it is not administratively feasible to systematically exclude such hospitals from application of the limits. (We have had no way of easily identifying which hospitals are rehabilitation hospitals. However, Pub. L. 98–21 requires that they be excluded from the prospective payment system. Therefore, we have developed a definition for application in future cost reporting periods that will be included in the interim final rules implementing prospective payment.) Rehabilitation hospitals with lengths of stay less than 25 days, unless they are certified as long-term care hospitals, will be subject to the limits. However, to the extent the costs of these hospitals exceed the limits for reasons other than inefficiency, they will be eligible for exceptions under § 405.460 of the Medicare regulations.

Comment: Several commenters also recommended the exclusion of subproviders from the limits.

Response: A subprovider is an identifiable unit of a hospital whose character differs substantially from that of the main provider. (See sections 2336–2336.4 of the Provider Reimbursement Manual, HCFA Pub. 15–1). For example, a 300 bed acute, short-term hospital may ahve a 50 bed long-term care hospital unit as an integral part. Subproviders are identified by a special identifier in the Medicare provider number.

Under the hospital inpatient routine operating cost limits (section 223 limits), the limit applicable to the main provider was also applied to the subprovider. To a large extent, this was possible because routine services are similar from one institution to another, regardless of differences in types of facilities. Our experience indicated that most subproviders had lower per diem costs than the main providers. To the extent a subprovider exceeded its cost limit, it could file for an exception under § 405.460 of the regulations.

An integral part of the total cost limits under section 1886(a) is a hospital specific case mix index. Subproviders pose special problems under a case mix adjustment system because the case mix index is based on inpatient bills from the main provider; it does not include any bills from the subprovider. In view of this, we have reconsidered our decision to subject subproviders to the new total cost limits. We do not believe it is appropriate to apply the case mix adjusted limit from the main provider to the subprovider, since the limit may not reflect the type of care furnished in the subprovider. Therefore, subproviders will also be excluded from application of the total cost limits.

However, we wish to point out that the potential for a disallowance of costs under the cost limits is not by itself sufficient reason to establish a subprovider. The patient service and accounting criteria described in §§ 2336.1 and 2336.2 of the Provider Reimbursement Manual must be met, and the HCFA regional office must approve the request. These criteria provide that with respect to patient service, the entity that the provider wishes to establish as a subprovider must have:

(1) Separate admission, medical chart, and discharge procedures;

(2) Separate physical arrangements, i.e., separate buildings or an equivalent separation in beds, nursing stations, equipment, etc.;

(3) Separate and exclusive nursing staff organization;

(4) Utilization review plans consistent with proper standards for the type of care furnished in the unit; and

(5) If required by State law, separate licensing of the entity.

With respect to accounting, the provider must meet the following criteria:

(1) Each subprovider must be treated as a separte cost center for cost-finding and apportionment purposes;

(2) Cost reports for all components within a multiple-facility hospital must be submitted simultaneously, cover the same fiscal period, and reflect the same method of cost apportionment;

(3) All components must be serviced by the same fiscal intermediary; and

(4) the provider must comply with all other rules set forth in HCFA manual instructions concerning effective dates of a change to a multiple-facility hospital, billing procedures, and the completion of individual schedules on the cost report.

D. Use of 1980 Medicare Cost Report and Billing Data

We derived the new hospital inpatient operating cost limits from Medicare records from three sources, as follows:

(1) Medicare hospital cost reports available as of May 1, 1981, which primarily consist of cost reports for fiscal years ending in 1980;

(2) Hospital billing data for calendar year 1980 from a 20 percent sample of Medicare beneficiaries (MEDPAR file); and

(3) A quarterly tabulation of Medicare discharges covering the same periods represented in the cost reports.

These data were the latest available for the construction of the cost per discharge limits.

Comment: One commenter made a number of points concerning deficiencies in the data base for the limits. This commenter alleged that cost reports in the data base are largely unaudited, that they are incomplete with regard to discharge data and that they handled malpractice insurance costs inconsistently. In addition, it was stated that high cost providers were excluded from the data base.

Response: In order that our data base be as current as possible, we use the most recent data available. This often means that the cost reports from which we extract data have not yet been audited. To the extent that unaudited cost reports contain higher costs than audited reports, the limits based on unaudited costs are not likely to result in any disadvantage to hospitals.

The comment concerning the accuracy and completeness of hospital reported discharge data may, to some extent, be valid. In the past, admission and discharge data were not used in determining a hospital's reimbursement. Now that costs limits are determined on a cost per discharge basis, we expect that these data in the future will be included on virtually all hospital cost reports, and that the quality of the data will improve. The present condition of the discharge data on the cost report is the reason why discharge data for computing the cost per discharge limits

were taken from HCFA's discharge notice file rather than from the cost reports in the data base. Moreover, we have permitted hospitals to submit actual complete discharge data for the calculation of their case mix index for the first year's application of the new cost limits if they desire.

With regard to the comment that reimbursement for malpractice insurance was not consistently handled, we do not believe this flaw in the data base would be disadvantageous to hospitals. First, malpractice insurance represents a very small portion of overall cost per discharge. Second, to the extent that some malpractice insurance costs are included in the calculation of the limit, but excluded in the application of the limit in determining Medicare reimbursement, the hospital is slightly advantaged.

With regard to the comment concerning the alleged exclusion of high costs providers from the data base, the only cost reports systematically excluded from the 1980 data base are those from long-term care hospitals (including psychiatric hospitals), children's hospitals, rural hospitals with less than 50 beds, and those that reflected periods of other than 12 months duration. These reports were excluded regardless of the relative level of costs. While edits were used to detect discrepancies and inaccuracies in the data, including cases where costs are particularly high, providers were not excluded from the data base because of their high costs.

E. Revised Market Basket Index

Since July 1, 1979, the hospital cost limit schedules have incorporated a market basket index to reflect changes in the prices of goods and services hospitals use in producing general inpatient routine services. Because the limits now apply to total inpatient operating costs, rather than only inpatient routine operating costs, we revised the market basket categories and the weights assigned to each category in the interim final notice to reflect this change in the scope of the limits. (See Appendix I of the September 30, 1982 interim final notice (47 FR 43313).)

Prior schedules of the routine cost limits were automatically increased if the actual rate of market basket inflation exceeded our projection beyond a certain tolerance. However, section 1886(a)(1)(B)(ii) of the Act provides that the cost limits must be derived, in part, using estimates of the actual rate of change in hospital costs to update the cost report data to the period immediately preceding the period subject to the limits. Use of the market basket rate of inflation plus one percentage point is restricted to projecting costs for the period to which the limit applies.

Comment: We received several comments that neither the interim final schedule nor the accompanying rule published on September 30, 1982 specified whether the forecasted market basket rates of inflation would be revised if our projections proved inaccurate.

Response: We do not believe an automatic increase in the market basket when actual inflation exceeds our projection is consistent with the statutory intent of these prospectively determined limits. We should also point out that section 1886(a)(1)(B)(ii) requires that the cost limits incorporate inflation rates that are based not only on the hospital market basket but also on estimates of the actual rate of hospital cost inflation. In past years, the actual rates of hospital cost inflation have been well in excess of the market basket rates. Because prior schedules of cost limits were derived using market basket estimates of inflation exclusively, the effect of underestimating the actual rates was more pronounced. To make these schedules as accurate as possible, it was important to adjust the forecasted market basket rate to equal the actual rate of market basket inflation once a certain level was exceeded. Under the new limits, however, we believe the use of actual estimates of hospital cost inflation for prior periods, will sufficiently accommodate the potential for underestimating inflation in the hospital market basket index. Therefore, we have not adopted the suggestion that the cost limits be increased if our market basket forecasts, which are the latest available when the limits are established, underestimate the actual rates.

Comment: Other commenters recommended that the market basket estimates of inflation be revised based on either the most current forecasts or actual inflation rates available at the time of cost report settlement.

Response: The cost limits established under section 1886(a) are intended to be prospective in their application. We believe using the latest forecasts available at the time the limits are calculated is consistent with the concept of prospectivity. Further, as noted above, the inflation factor recognizes estimated actual rates of hospital cost increases up to the period covered by the limits.

Comment: One commenter suggested that the chart listing the estimated actual rates of increase and the estimated market basket rates of increase plus one percent published in the interim final notice (47 FR 43302) be clarified to indicate the period evaluated.

Response: The chart reflects projected inflation and estimated market basket rates of increase on a calendar year rather than a fiscal year basis. To clarify this, we have reprinted the chart in section IV. of this final notice with a new heading for the first column.

F. Revised Wage Index

Since July 1, 1979, the schedules of hospital cost limits have incorporated a wage index to adjust for differences in the levels of labor-related costs among the areas in which hospitals are located. The hospital wage indexes are based on wage and employment data maintained by the Bureau of Labor Statistics (BLS) of the U.S. Department of Labor. Specifically, the source file has been the ES 202 Employment, Wages, and Contributions File for hospital workers.

The October 1, 1982 wage indexes were based on 1980 non-Federal BLS data. Previously, in developing the wage index, we first calculated the national average wage for hospital workers in urban areas and a separate national average wage for hospital workers in non-urban areas. In the interim final notice, we revised the methodology for calculating the wage index by relating the average area wage for urban and non-urban areas to a single national average wage. Although this change from a split to a combined wage index has no effect on either the accuracy or the dollar amount of any hospital's limit, use of a combined index permits direct comparison of the index values for urban and rural areas.

Comment: Several hospitals and industry associations pointed out that the BLS ES 202 data base has technical deficiencies that make it an imperfect source for a wage index adjuster. As examples, they cited that the data do not control for area differences in the proportion of part time employees and fail to consider local differences in fringe benefits, overtime utilization, or hospital occupational mix.

Response: The comments on the adequacy of the BLS ES 202 data for constructing the wage index correctly recognize that there are a variety of factors that can distort the measure, even where hospital wage levels are otherwise identical. However, to some extent the potential for distortion is mitigated by the use of aggregated data from all hospitals within the designated urban and rural areas. Presently, BLS wage and employment records are the

best available for the development of hospital wage indexes compatible with a national reimbursement system. Pending the development of a uniform national data base specifically designed to overcome the technical limitations of the BLS data, there is little more we can do at this time to improve the present wage index.

Comment: Several commenters also objected to the continued exclusion of wage and employment records from Federal hospitals in deriving the wage index, stating that Federal facilities compete in the same labor market as other hospitals. However, one group commented favorably on this change.

Response: The exclusion of Federal wage and employment records from the BLS data used to construct the hospital wage index has led to higher index values in some areas and lower index values in others. Where local Federal hospital wages are higher than those paid by non-Federal facilities, the exclusion of Federal wages has generally yielded a lower wage index value, other things being equal. In localities without Federal hospitals, the exclusion of Federal data yields higher index values due to the corresponding reduction in the national average hospital wage. Thus, the exclusion of Federal records has not resulted in lower wage index values across the board.

For reasons explained in the interim final schedule (47 FR 43301), the exclusion of Federal data should result in more comparable indexes among areas with otherwise similar hospital wage levels. To the extent hospitals must pay employees wage rates similar to those of Federal facilities to attract qualified personnel, this competitive behavior would be reflected in the non-Federal BLS data used to calculate the index. That is, if non-Federal facilities in an area pay wage rates relatively equivalent with those of Federal hospitals, the exclusion of Federal wages would have little effect on the wage index, other things being equal. Although we received comments objecting to the exclusion of Federal government hospital statistics in constructing the wage index, one commenter favored the exclusion, and stated that it had resulted in an improved measure. We also believe this exclusion is appropriate and have excluded Federal government hospital statistics from the BLS data base used to construct the hospital wage index.

Comment: Some commenters believe that the rural wage index does not adequately reflect wage rates that must be paid by rural hospitals in areas adjacent to urban locales. They recommended rural hospitals be allowed to use the higher of the rural wage index or the index for the nearest urban area.

Response: We have not adopted the recommendation that rural hospitals be permitted to use the higher of the rural wage index or the index for the nearest urban area. The basis for this suggestion is that the application of a single rural wage index does not recognize the widely varying labor market conditions that may prevail throughout a State. However, simply permitting rural hospitals the use of the higher of two indexes would not properly address this problem. The comments concerning accuracy of the rural wage indexes imply that we should investigate a better means for aggregating rural counties to yield indexes more reflective of economically integrated rural areas. We will consider further analysis in this area to determine whether methods can be found to refine the rural area configuration.

IV. Changes in the Notice

As a result of the comments we received during the public comment period, we are making several changes to the interim final notice published September 30, 1982 (47 FR 43296). We are also designating that notice as no longer an interim notice.

A. *Application of Limits to All Hospitals Except Rural Hospitals With Less Than 50 Beds. Children's Hospitals, and Long-Term Care Hospitals (47 FR 43299).*

Section E of the interim final notice specifies that rural hospitals with less than 50 beds are exempt from the limits, and that children's hospitals and long-term with regard to those hospitals exempt from the limits, the title of section E is revised as follows:

E. Application of Limits to All Hospitals Except Rural Hospitals With Less Than 50 Beds, Children's Hospitals, Long-Term Care Hospitals, Psychiatric Hospitals, Christian Science Sanitoriums and Subproviders

With regard to the definition of long-term care hospitals, we are revising the first paragraph of section E. 3. of the September 30, 1982 notice (47 FR 43299) as follows:

(3) *Long-term care hospitals.* Long-term care hospitals are hospitals organized to provide long-term treatment programs with lengths of stay generally of 25 days or more. These hospitals may be identified in 2 ways:

(i) Those hospitals properly identified by a distinct "type of facility" code in the third digit of the Medicare provider number; or

(ii) Those hospitals that are certified as other than long-term care hospitals, but which have lengths of stay generally of 25 days or more. The fiscal intermediary will apply a [the] definition of "long-term" similar to the definition contained in section 2336.1(A) of the Provider Reimbursement Manual in making this determination.

Data from long-term care hospitals are not adequate to include them in a system of case mix adjusted limits based primarily on records from general short term acute care hospitals.

Paragraph 2 of section E. 3. should be deleted and replaced with a new subsection 4.

We are adding subsections 4 through 6 to section E. to read as follows:

4. *Psychiatric Hospitals.* Under section 1886(a)(2)(B), the Secretary is required to consider the special needs of psychiatric hospitals in developing exemptions from and exceptions to the cost limits. All Medicare certified psychiatric hospitals are excluded from application of the case mix adjusted total cost limits. Since the current categories of DRGs were developed from data from short-term acute care hospitals, the DRG based case mix index may not be appropriate for psychiatric hospitals. In addition, the trend in recent years has been toward discharging patients from psychiatric hospitals earlier than was formerly the case. We do not want to discourage this trend by instituting a requirement that psychiatric hospitals, in order to be excluded from application of the cost limit as long-term hospitals, must have lengths of stay generally in excess of 25 days. Keeping patients in a hospital longer than is medically necessary is not in the best interest of the patients and also results in the hospital incurring unnecessary costs.

5. *Christian Science Sanitoria.* Christian Science Sanitoria, as identified by the Medicare provider number, are excluded from application of the total cost limits. As with long-term care hospitals, data from these facilities are not adequate to include them in a system of case mix adjusted limits based primarily on records from general short-term acute care hospitals.

6. *Subproviders.* A subprovider is an identifiable unit of a hospital whose character differs substantially from that of the main provider (see sections 2336–2336.4 of the Provider Reimbursement Manual). A hospital specific case mix index is an integral part of the total cost limit under section 1886(a). However, this index is based on inpatient bills from the main provider; it does not include any bills from any subprovider

of the main provider. In view of this, we do not believe it is appropriate to apply the case mix adjusted limit from the main provider to the subprovider, since the limit may not reflect the type of care furnished in the subprovider. Therefore, subproviders are also excluded from application of the total cost limits.

However, we wish to point out that the potential for a disallowance of costs under the cost limits is not by itself sufficient reason to establish a subprovider. The patient service and accounting criteria described in §§ 2336.1 and 2336.2 of the Provider Reimbursement Manual must be met, and the HCFA regional office must approve the request.

B. Revised Market Basket Index

We are clarifying the chart of annual inflation rates that we used to establish the limits (47 FR 43302) to specify that the figures represent calendar year estimates, as follows:

Calendar year	Estimated actual rate of increase in Medicare inpatient operating costs per discharge	Estimated market basket rate of increase plus one percentage point
1980	12.9	[1] 12.8
1981	15.1	[1] 12.9
1982	14.3	9.9
1983	14.0	7.9
1984	NA	8.6

[1] For comparison only. These rates were not used to construct the cost per discharge limits.

C. Methodology for Determining Hospital Cost Limits

We are not revising the methodology for determining per discharge inpatient operating cost limits. See section VII. of the interim final notice published on September 30, 1982 (47 FR 43309) for a description of this methodology.

D. Corrections

In addition to making the substantive changes and clarifications described earlier in this preamble, we wish to correct a number of inadvertent omissions and errors that appeared in the interim final notice. Therefore, FR Doc. 82–27068, "Medicare Program; Schedule of Limits on Hospital Inpatient Operating Costs for Cost Reporting Periods Beginning on or after October 1, 1982", appearing at 47 FR 43296, September 30, 1982, is corrected as follows:

1. On page 43299, column 1, paragraph E. (1), line 6, "before September 3, 1982" is corrected to read "on September 3, 1982".

2. On page 43301, footnote 2 under the table entitled, "Hypothetical Sample Array" is revised for clarification. Footnote 2 should read, "Mean deflated cost from column 4, multiplied by appropriate value in column 3".

3. On page 43304, column 3, paragraph b., the sentence beginning on line 22 is corrected to change "multiple" to "divide" and add language inadvertently omitted. As corrected, the language reads as follows: "We then divide the FTE intern and resident to bed ratio by 0.1, multiply the result by 6.06 percent, the education cost adjustment factor, and add the product to 1.0."

4. On page 43305, column 1, under Example 2, in the first line of mathematical computation, the second arithmetic sign should be a division sign. As corrected, that line reads "[77÷6861]÷.1=1.1224".

5. On page 43307, column 3, paragraph B, line 20 is corrected by adding the word "not", which was inadvertently omitted. As corrected, the sentence beginning on line 20 reads as follows: "Accordingly, we do not believe that a substantial number will actually experience a significant impact."

6. On page 43309, column 2, line 16, the first number is corrected. As corrected, line 16 reads as follows: "$1646.09÷[1+(.0606×1,1224)]1=$1541.26,".

7. On page 43310, column 2, line 13 is corrected by changing the first figure from ".1122" to ".11224". As corrected, line 13 reads, "Ratio .11224÷.1=1.1224 Adjusted ratio".

8. On page 43310, column 2, line 15, the placement of the bracket is corrected to precede ".0606". As corrected, line 15 reads as follows: "Case-mix adjusted limit $6157.18×[1+[.0606".

9. On page 43311, column 1, the language beginning on line 3 is corrected to add some working inadvertently omitted. As corrected, the language beginning on line 3 and continuing to "Example 3" reads as follows: "1450 Medicare discharges. B's reimbursement for allowable inpatient operating costs cannot be less than 1450×$2,000 or $2,900,000".

10. On page 43312, column 2, line 3, "Redding, PA" is corrected to read "Redding, CA."

11. On page 43312, column 2, the wage index for Rock Hill, S.C. is corrected by adding a decimal point to read ".9181".

12. On page 43312, column 2, Table III.B., the wage index for Rhode Island, "[1].9628, "is corrected to read" [1].9762".

13. On page 43312, column 3, Table V, in the entry for August 1, 1983, "1.06892" is corrected to read "1.06992".

V. Impact Analysis

A. Executive Order 12291

Section 1(b) of Executive Order 12291 states that a major rule is one that will:

(1) Have an annual effect on the economy of $100 million or more;

(2) Result in a major increase in costs or prices for consumers, individual industries, or government agencies, or geographic regions; or

(3) Have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The interim final notice contained an impact analysis of the effects of the new hospital cost limits. That analysis included estimates of program savings as a result of implementation of the new limits. We projected fiscal year 1983 savings of $75 million over the estimated savings of $333 million we would realize under the previous routine cost limits. For fiscal year 1984, we estimated that the new limits would result in net savings of $405 million in addition to the savings we would realize under the routine limits. For fiscal year 1985, we projected additional net savings of $1.03 billion over the savings that would occur under the routine limits.

The changes made in this final notice will not significantly affect the cost savings or otherwise alter the impact analysis contained in the interim final rule. However, since publishing the interim final notice, we have revised the economic assumptions on which our estimates of Medicare spending are based, and have reestimated accordingly the savings we expect to result from implementation of section 101(a) of TEFRA. This resulted in changes in assumed cost levels and in revised projections of the market basket index that produced savings projections significantly different from our earlier projections. The revised savings estimates are as follows:

REDUCTIONS BELOW BUDGET PROJECTIONS OF EXPENDITURES UNDER ROUTINE PER DIEM COST LIMITS

[In millions]

Fiscal year	Case-mix adjusted limits	Rate of increase [1] ceiling	Combined savings
1983	$50	$480	$530
1984 [2]	670	780	1,450
1985	1,320	1,300	2,620
Total	2,040	2,560	4,600

[1] The estimate for the rate of increase ceiling is for savings in addition to those due to the case-mix limits.
[2] Estimates for fiscal years 1984 and 1985 are based on the assumption that the case-mix adjusted limits for those periods will be set at 115 and 110 percent, respectively, of the average inpatient operating costs for groups of comparable hospitals, as provided in section 101(a) of TEFRA.

Regulatory Flexibility Act

The Secretary certifies under 5 U.S.C. 605(b), enacted by the Regulatory Flexibility Act (Pub. L. 96–54), that this final notice will not in itself result in a significant impact on a substantial number of small entities. Under the Regulatory Flexibility Act, the great majority of hospitals (e.g., all non-profit hospitals, regardless of size) are "small entities." The potential impact of this notice will fall on about 20 percent of the hospitals affected by the limits on inpatient operating costs, with an average potential Medicare reimbursement reduction of about 2 percent. However, any adverse consequences of this impact can be avoided through the cost containment efforts we expect hospitals will make. Accordingly, we do not believe that a substantial number of hospitals will actually experience a significant impact. In any event, any impact will be the result of the statutory provisions (section 101(a) of Pub. L. 97–248), and not of the regulations that implement these provisions. Therefore, a regulatory flexibility analysis is not required.

Although a regulatory flexibility analysis is not required, the interim final notice discusses in detail the impact of these limits. *See* 47 FR 43307 for this information.

VI. Other Required Information

Section 101 of Pub. L. 97–248 has a statutory effective date of October 1, 1982. Section 101(b)(2)(A) instructed the Secretary to implement section 101, through final regulations issued on an interim or other basis, by the effective date of the law. Because this notice revises the interim notice, which is effective for cost reporting periods beginning on or after October 1, 1982, we believe it is important that we make this document effective on the same date as the interim document. If we were to provide the usual 30-day delay in effective date, some provisions of the notice would not be applicable to hospital cost reporting periods beginning before the date of publication of this notice, and hospitals with cost reporting periods beginning on October 1, 1982 could be subject to different rules during different parts of a single cost reporting period. We believe that the administrative difficulties that could result from the use of different effective dates make use of a 30-day delay in effective date both impracticable and contrary to the public interest. Therefore, we find good cause to waive the usual 30-day delay in effective date, and to make this notice effective on October 1, 1982.

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance)

Dated: August 25, 1983.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: August 25, 1983.

Margaret M. Heckler,

Secretary.

[FR Doc. 83-22801 Filed 8-29-83; 8:45 am]

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48
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Part VII

Department of Energy

Federal Energy Regulatory Commission

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Volume 957]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: August 25, 1983.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol ST., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Rd, Springfield, Va 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 Mile rule)
102–3: New well (1000 Ft rule)
102–4: New onshore reservior
102–5: New reservior on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal Seams
107–DV: Devonian Shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS
ISSUED AUGUST 25, 1983
VOLUME 957

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
OHIO DEPARTMENT OF NATURAL RESOURCES									
-APPALACHIAN EXPLORATION INC		RECEIVED: 08/10/83 JA: OH							
8348900		3415321385		107-TF		BURSE UNIT #4	COPLEY	54.8	
-BANDS COMPANY INC		RECEIVED: 08/10/83 JA: OH							
8348901		3407524039		103		VARISCO #1	RICHLAND	5.8	COLUMBIA GAS TRAN
-BELDEN & BLAKE & CO #1		RECEIVED: 08/10/83 JA: OH							
8348902		3416923469		103	107-TF	F & M WRIGHT #2 - 341293	CHESTER	8.0	
-BERMAN J SHAFER		RECEIVED: 08/10/83 JA: OH							
8348903		3415321397		107-TF		LINK #1	COPLEY	7.5	EAST OHIO GAS CO
-CA D' ORA INC		RECEIVED: 08/10/83 JA: OH							
8348904		3416727415		103		A KLINGER #1	WATERTOWN	8.0	
-CAVENDISH PETROLEUM OF OHIO INC		RECEIVED: 08/10/83 JA: OH							
8348905		3411926630		103	107-TF	OHIO POWER 26-A	MEIGS	35.2	TEXAS EASTERN TRA
-CBS ENERGY CORP		RECEIVED: 08/10/83 JA: OH							
8348906		3412725921		107-TF		PEARL R & BEULAH M WISEMAN #2-B	BEARFIELD TWP	6.0	NATIONAL GAS & OI
-CLINTON OIL CO		RECEIVED: 08/10/83 JA: OH							
8348943		3408924485		108		AL LIPFERT #4-637		10.0	NEWZANE GAS CO
-DAVID SHAFER OIL PRODUCERS INC		RECEIVED: 08/10/83 JA: OH							
8348907		3415321339		107-TF		KORAN-SHULLE UNIT #1	BOSTON	7.5	EAST OHIO GAS CO
-ENERGY DEVELOPMENT CORP		RECEIVED: 08/10/83 JA: OH							
8348909B		3405520199		107-RT		BARNES #1	HUNTSBURG	16.0	COLUMBIA GAS TRAN
8348909A		3405520199	D	103		BARNES #1	HUNTSBURG	16.0	COLUMBIA GAS TRAN
8348910B		3405520254		107-RT		MILLER #22	HUNTSBURG	18.0	COLUMBIA GAS TRAN
8348910A		3405520254	D	103		MILLER #22	HUNTSBURG	18.0	COLUMBIA GAS TRAN
-GENERAL ELECTRIC CO		RECEIVED: 08/10/83 JA: OH							
8348911		3400722177		103	107-TF	CLYMER #1	CHERRY HILL	20.0	EAST OHIO GAS CO
8348912		3400722217		103	107-TF	YUHASZ #6	COLEBROOK	20.0	EAST OHIO GAS CO
-GEO ENERGY INC		RECEIVED: 08/10/83 JA: OH							
8348913		3409321134		107-TF		FRANK AND MARILYN Y FETCHET #68-1	COLUMBIA	150.0	COLUMBIA GAS TRAN
8348914		3409326436		107-TF		FRUEH-PIDCOCK #21-9	SALEM	200.0	EAST OHIO GAS CO
-GREENLAND PARTNERSHIP 83-1		RECEIVED: 08/10/83 JA: OH							
8348966		3412725887		107-TF		CAMERON #11	MONDAY CREEK	15.0	
8348968		3412725952		107-TF		CAMERON #18	MONDAY CREEK	15.0	
8348967		3412725913		107-TF		GRIFFIN #2	SALT LICK	15.0	FORACKER GAS CO I
-HOPEWELL OIL AND GAS DEVELOPMENT CO		RECEIVED: 08/10/83 JA: OH							
8348915		3412725876		107-TF		MILLIS/PEABODY/LEWIS #2	PIKE	10.0	
-J D DRILLING CO		RECEIVED: 08/10/83 JA: OH							
8348917		3410522205		107-TF		J B & ROBERTA O'BRIEN #5	SALISBURY	5.0	COLUMBIA GAS TRAN
8348916		3405328010		107-TF		MELVIN J STOVER #4	CHESHIRE	7.0	COLUMBIA GAS TRAN
8348918		3410522675		107-TF		NARLEY HYSELL #1	SALISBURY	8.0	COLUMBIA GAS TRAN
8348919		3410522676		107-TF		NARLEY HYSELL #2	SALISBURY	7.0	COLUMBIA GAS TRAN
-JAMES DRILLING CORP		RECEIVED: 08/10/83 JA: OH							
8348920		3400721011		108		BEN C SPRAGUE #1		1.0	JONES & LAUGHLIN
-JOHN C MASON		RECEIVED: 08/10/83 JA: OH							
8348921		3407524009		107-TF		NOAH SCHLABACH #1	BERLIN	12.0	COLUMBIA GAS TRAN
-LEADER EQUITIES INC		RECEIVED: 08/10/83 JA: OH							
8348922		3411926685		103	107-TF	C WATERS #1	MONROE	12.0	

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-LOMAK PETROLEUM INC				RECEIVED:	08/10/83	JA: OH			
8348925		3405520411		107-TF		E HOFSTETTER #1	CLARIDON	30.0	EAST OHIO GAS CO
8348927		3405520492		107-TF		F WILSON #2	CLARIDON	30.0	EAST OHIO GAS CO
8348923		3405520488		107-TF		H STARR #2	CLARIDON	30.0	EAST OHIO GAS CO
8348924		3405520409		107-TF		MIDDLE EAST BAPTIST CONFERENCE #1	CLARIDON	30.0	EAST OHIO GAS CO
8348926		3405520412		107-TF		R WILSON #1	CLARIDON	35.0	EAST OHIO GAS CO
-MAJ				RECEIVED:	08/10/83	JA: OH			
8348928		3414520289		103		WALTER & BETTY FOSTER #2	MADISON	0.7	
-MARK RESOURCES CORP				RECEIVED:	08/10/83	JA: OH			
8348929		3400722237		103		BOJANOWSKI #1	SHEFFIELD	30.0	EAST OHIO GAS CO
-NEIL R. MYRH				RECEIVED:	08/10/83	JA: OH			
8348934		3416727455		103		BURFIELD #2	PALMER	1.0	RIVER GAS CO
8348933		3416727452		103		J LAMP #2	PALMER	2.0	RIVER GAS CO
-PETROLEUM ENERGY PRODUCING CORP				RECEIVED:	08/10/83	JA: OH			
8348935		3400720251	D	108		H & H SPRINGER #1	BUSHNELL	2.5	EAST OHIO GAS CO
-POI ENERGY INC				RECEIVED:	08/10/83	JA: OH			
8348936		3405520481		103	107-TF	SALMEN #1	BAINBRIDGE	37.0	
-RELIANCE ENERGY				RECEIVED:	08/10/83	JA: OH			
8348908		3408323318		103		GORDON BRIGGS #1	HARRISON	6.0	COLUMBIA GAS TRAN
-RSC ENERGY CORP				RECEIVED:	08/10/83	JA: OH			
8348938		3409921571		103	107-TF	AMERICAN FIRE CLAY CORP-AFC #10	BEAVER	36.5	REPUBLIC STEEL CO
8348937		3409921570		103	107-TF	AMERICAN FIRE CLAY CORP-AFC #9	BEAVER	36.5	REPUBLIC STEEL CO
-SHONGUM OIL & GAS INC				RECEIVED:	08/10/83	JA: OH			
8348941		3416923548		107-TF		IVAN GERBER #1	SUGAR CREEK	0.0	
8348939		3416923431		107-TF		J BERG #1	DALTON	0.0	
8348940		3416923512		107-TF		J BERG #2	DALTON	0.0	
-STRATA CORP				RECEIVED:	08/10/83	JA: OH			
8348942		3412724491		107-TF		T JOHNSON #1	CLAYTON	35.0	
-THE MUTUAL OIL & GAS COMPANY				RECEIVED:	08/10/83	JA: OH			
8348930		3411122611		103		ROSSI #4M	SENECA	12.0	COLUMBIA GAS TRAN
8348931		3411122612		103		ROSSI #5M	SENECA	18.0	COLUMBIA GAS TRAN
8348932		3411122902		103		RUBEL/WYATT #1M	SUMMIT	24.0	NATIONAL PETROLEU
-TIGER OIL INC				RECEIVED:	08/10/83	JA: OH			
8348944		3412123025		103	107-TF	GARY W LYONS #1	CENTER	15.0	EAST OHIO GAS CO
8348945		3412725982		103		GORDON #2	HOPEWELL	5.0	NATIONAL GAS & OI
-TRIO PETRO INC				RECEIVED:	08/10/83	JA: OH			
8348946		3407720107		102-2		RICE #1	FITCHVILLE	35.0	
-VALENTINE OIL PROPERTIES				RECEIVED:	08/10/83	JA: OH			
8348947		3416727496		103		WALTER CHRISTMAN #1	ADAMS	0.4	
-VIKING RESOURCES CORP				RECEIVED:	08/10/83	JA: OH			
8348958		3416723518		108		ABBOTT #1		6.0	ASHLAND CHEMICAL
8348956		3416725033		108		ALLMAN #1		2.0	ASHLAND CHEMICAL
8348951		3416723724		108		AMOS/CHURCH #1		2.0	ASHLAND CHEMICAL
8348953		3416724576		108		BURNS #1		1.0	ASHLAND CHEMICAL
8348955		3416724822		108		DENZIL SMITH #1		1.0	ASHLAND CHEMICAL
8348954		3416724821		108		DENZIL SMITH #2		1.0	ASHLAND CHEMICAL
8348952		3416723727		108		J MORELAND #1		0.0	ASHLAND CHEMICAL
8348957		3416725107		108		MORRIS #1		2.0	ASHLAND CHEMICAL
8348949		3416723514		108		O WEAVER #1		2.0	ASHLAND CHEMICAL
8348948		3416723451		108		P WILLIAMS #1		5.0	ASHLAND CHEMICAL
-WILLISTON OIL CORP				RECEIVED:	08/10/83	JA: OH			
8348960		3411925044		107-TF		DAYLE DINGEY #1	BLUE ROCK	14.6	COLUMBIA GAS TRAN
8348959		3411925043		107-TF		DAYLE DINGEY #2	BLUE ROCK	14.6	COLUMBIA GAS TRAN
8348958		3411925042		107-TF		DAYLE DINGEY #3	BLUE ROCK	14.6	COLUMBIA GAS TRAN
8348961		3411925103		107-TF		DAYLE DINGEY #5	BLUE ROCK	14.6	COLUMBIA GAS TRAN
8348963		3411925105		107-TF		DAYLE DINGEY #6	BLUE ROCK	14.6	
8348962		3411925104		107-TF		DAYLE DINGEY #7	BLUE ROCK	14.6	COLUMBIA GAS TRAN
8348964		3411925106		107-TF		DAYLE DINGEY #8	BLUE ROCK	14.6	COLUMBIA GAS TRAN
8348965		3411925708		107-TF		FRANK WIOM #3	BLUE ROCK	14.6	COLUMBIA GAS TRAN
TEXAS RAILROAD COMMISSION									
-AEGEAN OIL CORP				RECEIVED:	08/10/83	JA: TX			
8349021	F-03-070986	4228731367		102-2 103		LOUISE DUBE #1	HOOKER CREEK (NAVARRO	94.9	PHILLIPS PETROLEU
-COASTAL OIL & GAS CORP				RECEIVED:	08/10/83	JA: TX			
8349028	F-8A-070997	4216532573		103		SO HARRIS UNIT 12-S	HARRIS (GLORIETA)	10.0	PHILLIPS PETROLEU
8349018	F-8A-070979	4216532577		103		SO HARRIS UNIT 6-20	HARRIS (GLORIETA)	8.0	PHILLIPS PETROLEU
-COLA PETROLEUM INC				RECEIVED:	08/10/83	JA: TX			
8349003	F-10-070937	4219530753		108		MORTON #1	PHELPS (OSWEGO)	3.5	PHILLIPS PETROLEU
-CONOCO INC				RECEIVED:	08/10/83	JA: TX			
8348982	F-01-070867	4232331499		103		M J CHITTIM #E-3	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8348986	F-01-070871	4232331501		103		M J CHITTIM #H-1	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8348978	F-01-070863	4232331405		103		M J CHITTIM #6928	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8348979	F-01-070864	4232331406		103		M J CHITTIM #6929	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8348980	F-01-070865	4232331352		103		M J CHITTIM #6931	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8348981	F-01-070866	4232331351		103		M J CHITTIM #6932	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8348975	F-01-070859	4232331414		103		M J CHITTIM #6933	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8348983	F-01-070868	4232331415		103		M J CHITTIM #6934	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8348973	F-01-070857	4232331416		103		M J CHITTIM #6935	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8348972	F-01-070855	4232331418		103		M J CHITTIM #6937	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8348984	F-01-070869	4232331419		103		M J CHITTIM #6938	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8348989	F-01-070875	4232331420		103		M J CHITTIM #6939	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8348974	F-01-070858	4232331367		103		M J CHITTIM #7027	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8348977	F-01-070862	4232331371		103		M J CHITTIM #7031	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8348976	F-01-070861	4232331372		103		M J CHITTIM #7032	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8348985	F-01-070870	4232331373		103		M J CHITTIM #7033	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8348988	F-01-070874	4232331374		103		M J CHITTIM #7034	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8348971	F-01-070854	4232331413		103		M J CHITTIM #7036	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8348987	F-01-070873	4232331376		103		M J CHITTIM #7124	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8348970	F-01-070853	4232331506		103		M J CHITTIM #7211	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
-CORPUS CHRISTI OIL AND GAS CO				RECEIVED:	08/10/83	JA: TX			
8349041	F-02-071026	4270330282		102-4		STATE TRACT 596-L NE/4 WELL #4-U	SHERMAN OFFSHORE S W	0.0	HOUSTON PIPELINE
8348993	F-02-070887	4260330199		102-4		STATE TRACT 711-S #1-L	STEAMBOAT PASS S (515	0.0	HOUSTON PIPELINE
8348992	F-02-070885	4260330199		102-4		STATE TRACT 711-S #1-U	STEAMBOAT PASS S (510	0.0	HOUSTON PIPELINE
-EXXON CORPORATION				RECEIVED:	08/10/83	JA: TX			
8349037	F-04-071016	4226130473		103		K R SAN JOSE DE LA PARRA 23-D105416	CALANDRIA (G-33)	825.0	ARMCO STEEL CORP
8349034	F-04-071013	4227331732		102-4		KING RANCH BORREGOS M-35-B (105420)	BORREGOS (M-23 MM III	267.0	ARMCO STEEL CORP
8349035	F-04-071014	4227331753		102-4		KING RAN E LAURELES B-18-D 105418	BINA N E (H-50)	580.0	ARMCO STEEL CORP
8349036	F-04-071015	4227331753		102-4		KING RAN E LAURELES B-18-F 105417	BINA N E (H-22)	425.0	ARMCO STEEL CORP
8349033	F-04-071012	4204731217		102-4		RJ KLEBERG JR VIBORAS PA 107 105552	VIBORAS (MASSIVE SECO	329.0	ARMCO STEEL CORP
-GETTY OIL COMPANY				RECEIVED:	08/10/83	JA: TX			
8348996	F-06-070913	4236500000		108		A R CURTIS #2 RRC ID #32993	CARTHAGE (PALUXY)	21.0	TEXAS GAS TRANSMI
8349038	F-06-071018	4236500000		108		W B BROADWAY RRC ID NO 00105	CARTHAGE	10.0	TEXAS GAS TRANSMI
-GULF OIL CORPORATION				RECEIVED:	08/10/83	JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8349029	F-83-070998	4219931737		103		FOUNTAIN FEE #4	SARATOGA WEST	23.0	MATADOR PIPELINE
8349030	F-83-070999	4219931812		103		FOUNTAIN FEE #5	SARATOGA WEST	31.0	MATADOR PIPELINE
8349031	F-83-071000	4219931836		103		FOUNTAIN FEE #6	SARATOGA WEST	56 0	MATADOR PIPELINE
8348990	F-88-070876	4210332663		108		W M WADDELL #1155	DUNE	0 8	
-HEA EXPLORATION INC				RECEIVED:	08/10/83	JA: TX			
8349042	F-83-071029	4204130900		102-2		D TRIOLA #2 16403	KURTEN (BUDA)	150 0	FERGUSON CROSSING
8349043	F-83-071030	4204130897		102-2		WILCOX UNIT #1 16401	KURTEN (BUDA)	150.0	FERGUSON CROSSING
8349044	F-83-071031	4204130910		102-2		WILCOX UNIT #2 16401	KURTEN (BUDA)	150.0	FERGUSON CROSSING
-KIM PETROLEUM CO INC				RECEIVED:	08/10/83	JA: TX			
8349002	F-10-070935	4217931332		103		CARROLL #1	PANHANDLE GRAY COUNTY	72.0	CABOT PIPELINE CO
-KIRBY EXPLORATION CO				RECEIVED:	08/10/83	JA TX			
8349001	F-82-070938	4270330288		102-4		STATE TRACT 659-L NW/4 #2L	MATAGORDA BLOCK 629 (	180.0	MATAGORDA PIPE LI
-MITCHELL ENERGY CORPORATION				RECEIVED:	08/10/83	JA IX			
8349032	F-84-071004	4260230124		102-4 103		STATE TRACT 926 S #1 #101246	BLOCK 926-S (FRIO 10,	8.0	EL PASO NATURAL G
-MOBIL PRDG TEXAS & NEW MEXICO INC				RECEIVED:	08/10/83	JA: TX			
8349039	F-88-071019	4232931115		103		ROY PARKS #20	PARKS (PENNSYLVANIAN)	7.7	EL PASO NATURAL G
-PENNZOIL PRODUCING COMPANY				RECEIVED:	08/10/83	JA: TX			
8349040	F-84-071020	4221500000		108		GARCIA UNIT #1	SAN CARLOS (FD-93)	13 0	TRUNKLINE GAS CO
-PETROLERO EXPLORATIONS INC				RECEIVED:	08/10/83	JA: TX			
8349023	F-7C-070990	4239932699		103		BRYAN #1 10030	NORTON EAST (GARDNER	53.6	UNION TEXAS PETRO
8349022	F-7B-070989	4213334610		103		SCOTT "B" #1-19508	KLEINER (LAKE SAND)	85.6	EL PASO HYDROCARB
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	08/10/83	JA: TX			
8349009	F-10-070957	4223300000		108		DUBOISE #2	PANHANDLE HUTCHINSON	0.0	EL PASO NATURAL G
8349010	F-10-070958	4217900000		108		JOHNSON T #5	PANHANDLE GRAY	0.0	
8348997	F-81-070914	4219500000		108		MINDA A #2	WILLIAMS - MIDDLE MOR	0.0	PANHANDLE EASTERN
8349007	F-10-070955	4217900000		108		PHIL-PAMPA #7-9	PANHANDLE GRAY	0 0	GETTY OIL CO
8349008	F-10-070956	4223300000		108		WHITTENBURG #14	PANHANDLE HUTCHINSON	0 0	EL PASO NATURAL G
-RANKIN OIL CO				RECEIVED:	08/10/83	JA: TX			
8348994	F-88-070907	4200332147		103		PARKER #4	FUHRMAN-MASCHO	1.0	PHILLIPS PETROLEU
-RUST OIL CORP				RECEIVED:	08/10/83	JA: TX			
8349004	F-7B-070941	4235300000		103		R R PETTY #2	HYLTON NW (GOEN)	3.6	PALO DURO PIPELIN
-SANTA FE ENERGY PRODUCTS CO				RECEIVED:	08/10/83	JA: TX			
8349019	F-8A-070981	4207931652		103		WEST LEVELLAND UNIT #196	LEVELLAND	3.0	AMOCO PRODUCTION
-SHELL OIL CO				RECEIVED:	08/10/83	JA: TX			
8349017	F-88-070977	4210534161		103		SOUTH CROSS UNIT #207	CROSSETT S (DETRITAL)	120.5	SHELL OIL CO
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	08/10/83	JA: TX			
8348998	F-81-070915	4212700000		103		BIG WELLS (SAN MIGUEL) UT #1096	BIG WELLS (SAN MIGUEL	12.0	HOUSTON PIPE LINE
8349014	F-84-070965	4213136058		103		DUVAL COUNTY RANCH COMPANY #52	CASA BLANCA	0.4	VALERO INTERSTATE
8349013	F-6E-070964	4218300000		108		G S MATTOX #3	EAST TEXAS	0.3	WARREN PETROLEUM
8349000	F-88-070917	4233532459		103		J F MCCABE "A" #14	JAMESON N (ELLEN)	24.0	LONE STAR GAS CO
8349011	F-7B-070959	4214300000		108		T P FEE 41-8 #1	X-RAY (MARBLE FALLS)	6.0	LONE STAR GAS CO
8348999	F-7C-070916	4210534186		103		UNIVERSITY D #14	FARMER (SAN ANDRES)	18.0	J L DAVIS
8349015	F-88-070967	4233532492		103		W T MCCABE "D" #19	JAMESON N (ODOM)	7.0	LONE STAR GAS CO
8349012	F-7B-070960	4236700000		108		W L SIMMONS #1	LAKE MINERAL WELLS (4	4.0	SOUTHWESTERN GAS
8349016	F-8A-070969	4207931632		103		WRIGHT UNIT #11-34A	LEVELLAND	2.0	CITIES SERVICE CO
-TED TRUE INC				RECEIVED:	08/10/83	JA: TX			
8349006	F-10-070951	4234100000		103		BROWN 22-3	PANHANDLE MOORE COUNT	0.0	PANHANDLE EASTERN
8349005	F-10-070950	4206500000		103		WARE 84-1	PANHANDLE	0.0	CABOT PIPELINE CO
-TEXACAL DRILLING CO				RECEIVED:	08/10/83	JA: TX			
8348995	F-7B-070910	4204932680		102-4		A A MARTIN "A" #1 (17052)	GROSVENOR SW (DUFFER)	5.0	EL PASO HYDROCARB
-UNION OIL COMPANY OF CALIF				RECEIVED:	08/10/83	JA: TX			
8348991	F-8A-070884	4230330863		102-2		O C HORNE #2	EDMISSON (CLEARFORK)	3.0	
-W B D OIL & GAS CO				RECEIVED:	08/10/83	JA: TX			
8349024	F-10-070993	4234130941		103		SANDRA #1 (ID# 05396)	PANHANDLE MOORE	136.0	DIAMOND SHAMROCK
8349025	F-10-070994	4234130936		103		SANDRA #4 (ID# 05396)	PANHANDLE MOORE	131.0	DIAMOND SHAMROCK
8349026	F-10-070995	4234130875		103		WADE #2 (ID# 05397)	PANHANDLE MOORE	50.0	PHILLIPS PETROLEU
8349027	F-10-070996	4234130877		103		WADE #4 (ID# 05397)	PANHANDLE MOORE	60.0	PHILLIPS PETROLEU
-WILSON ENERGY INC				RECEIVED:	08/10/83	JA: TX			
8349028	F-88-070983	4231732592		103		NAIL "E" #1	SPRABERRY (TREND AREA	8.3	ADOBE OIL & GAS C
********** WEST VIRGINIA DEPARTMENT OF MINES **********									
-ENERGY UNLIMITED INC				RECEIVED:	08/10/83	JA: WV			
8348969		4710701160		103		M WELCH #1	UNION DISTRICT	0.0	CONSOLIDATED GAS
********** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, LOS ANGELES,CA **********									
-UNION OIL COMPANY OF CALIF				RECEIVED:	08/10/83	JA: CA 2			
8349045	OCS-P-15-83	0431120540		102-5		SANTA CLARA UNIT S-12	CALIFORNIA OFFSHORE	0.0	PACIFIC LIGHTING

[FR Doc. 83-23812 Filed 8-29-83; 8:45 am]

BILLING CODE 6717-01-C

[Volume 958]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued August 25, 1983.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the Federal Register.

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487-4808, 5285 Port Royal Rd, Springfield, Va 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102-1: New OCS lease
102-2: New well (2.5 Mile rule)
102-3: New well (1000 Ft rule)
102-4: New onshore reservoir
102-5: New reservoir on old OCS lease
Section 107-DP: 15,000 feet or deeper
107-GB: Geopressured brine
107-CS: Coal Seams
107-DV: Devonian Shale
107-PE: Production enhancement
107-TF: New tight formation
107-RT: Recompletion tight formation
Section 108: Stripper well
108-SA: Seasonally affected
108-ER: Enhanced recovery
108-PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS
ISSUED AUGUST 25, 1983
VOLUME 958

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
ALABAMA OIL & GAS BOARD									
-BROWNING & WELCH INC				RECEIVED:	08/10/83	JA: AL			
8349065	8-4-839PD	0105720318		102-2		J C SHEPHERD 18-6 #1	DAVIS CHAPEL	270.0	CORONADO TRANSMIS
-CARLESS RESOURCES INC				RECEIVED:	08/10/83	JA: AL			
8349064	8-4-837PD	0112520102		102-2		GILLIAM 3-16	LEXINGTON	0.0	SOUTHERN NATURAL
-ENHANCED ENERGY RESOURCES				RECEIVED:	08/10/83	JA: AL			
8349056	6-30-8310PD	0112520100		107-CS		SHOOK LEASE #35-11-3	BROOKWOOD COAL DEGASI	0.0	SOUTHERN NATURAL
8349057	6-30-8311PD	0112520101		107-CS		SHOOK LEASE #35-12-4	BROOKWOOD COAL DEGASI	0.0	SOUTHERN NATURAL
8349058	6-3-8312PD	0112520104		107-CS		SHOOK LEASE #35-14-6	BROOKWOOD COAL DEGASI	0.0	SOUTHERN NATURAL
-GRACE PETROLEUM CORPORATION				RECEIVED:	08/10/83	JA: AL			
8349055	5-26-835PD	0105720011		108-ER		ANTHONY 3-4	DAVIS CHAPEL	0.0	CORONADO TRANSMIS
-TERRA RESOURCES INC				RECEIVED:	08/10/83	JA: AL			
8349059	8-4-831PD	0107520457		102-2		DUBOSE 15-5	LITTLE HELLS CREEK	0.0	HOWELL PIPELINE C
8349061	8-4-833PD	0107520235		102-2		MORRISON #35-1	BLOWHORN CREEK	0.0	HOWELL PIPELINE C
8349060	8-4-832PD	0107520235		102-4		MORRISON #35-1	BLOWHORN CREEK	0.0	HOWELL PIPELINE C
8349063	8-4-835PD	0107520323		102-2		MORRISON #36-4	BLOWHORN CREEK	0.0	HOWELL PIPELINE C
8349062	8-4-834PD	0107520323		102-4		MORRISON #36-4	BLOWHORN CREEK	0.0	HOWELL PIPELINE C
MONTANA BOARD OF OIL & GAS CONSERVATION									
-BEREN CORPORATION				RECEIVED:	08/11/83	JA: MT			
8349047	8-82-218	2509121344		102-2		ANDERSON #1	DAGMAR	9.0	PHILLIPS PETROLEU
8349046	8-82-219	2509121289		102-2		CHRISTENSEN "A" #1	LOWELL	11.5	PHILLIPS PETROLEU
-COASTAL OIL & GAS CORP				RECEIVED:	08/11/83	JA: MT			
8349048	8-82-216	2508321639		102-2		COGC-CANTERRA 35-23-55 BH #1	FOXLAKE	21.0	PHILLIPS PETROLEU
-MIDLANDS GAS CORPORATION				RECEIVED:	08/11/83	JA: MT			
8349049	8-82-217	2507121636		108		9360 HELLIE 1	UNNAMED	21.0	KN ENERGY INC
-SEBASTIAN RESOURCES LTD				RECEIVED:	08/11/83	JA: MT			
8349050	8-82-215	2504122234		102-4		STATE 1-36-T32N-R16E	TIGER RIDGE	18.3	
NORTH DAKOTA INDUSTRIAL COMMISSION									
-BELCO PETROLEUM CORPORATION				RECEIVED:	08/11/83	JA: ND			
8349051	795	3305300000		102-4		EDGAR BH 13-13	ROUGHRIDER	0.0	KOCH OIL CORP INC
-EDWIN L & BERRY R COX				RECEIVED:	08/11/83	JA: ND			
8349054	794	3305301568		102-4		BERTINUSON #11-30	UNDESIGNATED	180.0	PHILLIPS PETROLEU
-MONSANTO COMPANY				RECEIVED:	08/11/83	JA: ND			
8349052	792	3301300832		102-4		GRANDALL #1	N E FOOTHILLS	4.0	CITIES SERVICE CO
-PENNZOIL COMPANY				RECEIVED:	08/11/83	JA: ND			
8349053	793	3305301581		102-4		SPRING CREEK #27-31BH	WILDCAT	40.0	KERR-MCGEE CORP
PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES									
-CASTLE GAS CO INC				RECEIVED:	08/11/83	JA: PA			
8349085	20539	3706325214		108		B ABEL #1 (C-590) IND-25214	GRANT TOWNSHIP	4.4	COLUMBIA GAS TRAN
8349086	20540	3706325215		108		B ABEL #2 (C-591) IND-25215	GRANT TOWNSHIP	4.4	COLUMBIA GAS TRAN
8349087	20541	3706325395		108		B ABEL #3 (C-648) IND-25395	GRANT TWP	4.4	COLUMBIA GAS TRAN

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8349093	20550	3706325381		108		C BROWN #1 (C-595) IND-25381	GRANT TWP	2.1	COLUMBIA GAS TRAN
8349094	20551	3706325382		108		C BROWN #2 (C-645) IND-25382	GRANT TWP	2.1	COLUMBIA GAS TRAN
8349095	20552	3706325473		108		C BROWN #3 (C-696) IND-25473	GRANT TWP	2.1	COLUMBIA GAS TRAN
8349103	20560	3706325563		108		C GREEN #3 (C-636) IND-25563	GREEN TWP	4.4	COLUMBIA GAS TRAN
8349101	20558	3706325562		108		C GREENE #1 (C-634) IND-25562	GREEN TOWNSHIP	2.1	COLUMBIA GAS TRAN
8349102	20559	3706325577		108		C GREENE #2 (C-635) IND-25577	GREEN TWP	2.1	COLUMBIA GAS TRAN
8349114	20571	3706325222		108		D J HILL #1 (C-596) IND-25222	GRANT TWP	4.4	COLUMBIA GAS TRAN
8349112	20569	3706325207		108		E I HENRY #1 (C-593) IND-25207	GRANT TWP	4.4	COLUMBIA GAS TRAN
8349113	20570	3706325387		108		E I HENRY #2 (C-669) IND-25387	GRANT TWP	4.4	COLUMBIA GAS TRAN
8349117	20574	3706325275		108		E LEWIS #1 (C-589) IND-25275	GRANT TOWNSHIP	4.4	COLUMBIA GAS TRAN
8349115	20572	3706325388		108		G LENZ #1 (C-631) IND-25388	GREEN TWP	4.4	COLUMBIA GAS TRAN
8349116	20573	3706325419		108		G LENZ #2 (C-630) IND-25419	GREEN TOWNSHIP	4.4	COLUMBIA GAS TRAN
8349104	20561	3706326272		108		H GREENE #1 (C-637) IND-26272	GREEN TWP	4.4	COLUMBIA GAS TRAN
8349105	20562	3706326273		108		H GREENE #2 (C-638) IND-26273	GREEN TOWNSHIP	4.4	COLUMBIA GAS TRAN
8349106	20563	3706325239		108		J C GREENE #1 (C-655) IND-25239	GREEN TOWNSHIP	4.4	COLUMBIA GAS TRAN
8349107	20564	3706325240		108		J C GREENE #2 (C-656) IND-25240	GREEN TOWNSHIP	4.4	COLUMBIA GAS TRAN
8349099	20556	3706325474		108		J EDWARDS #1 (C-648) IND-25474	GREEN TOWNSHIP	2.1	COLUMBIA GAS TRAN
8349100	20557	3706326228		108		J EDWARDS #2 (C-715) IND-26228	GREEN TOWNSHIP	4.4	COLUMBIA GAS TRAN
8349118	20575	3706325208		108		L MUMAU (167A) #1 (C-599) IND-25208	GRANT TOWNSHIP	4.4	COLUMBIA GAS TRAN
8349119	20576	3706325209		108		L MUMAU (167A) #2 (C-698) IND-25209	GRANT TWP	4.4	COLUMBIA GAS TRAN
8349120	20577	3706325269		108		L MUMAU (167A) #3 (C-646) IND-25269	GRANT TWP	4.4	COLUMBIA GAS TRAN
8349088	20542	3706325242		108		P BORUCH #1 (C-663) IND-25242	GREEN TWP	4.4	COLUMBIA GAS TRAN
8349080	20543	3706325243		108		P BORUCH #2 (C-664) IND-25243	GREEN TWP	2.1	COLUMBIA GAS TRAN
8349081	20544	3706325244		108		P BORUCH #3 (C-665) IND-25244	GREEN TOWNSHIP	2.1	COLUMBIA GAS TRAN
8349082	20545	3706325297		108		P BORUCH #4 (C-666) IND-25297	GREEN TWP	2.1	COLUMBIA GAS TRAN
8349089	20546	3706325245		108		P BORUCH #5 (C-667) IND-25245	GREEN TWP	2.1	COLUMBIA GAS TRAN
8349090	20547	3706325298		108		P BORUCH #6 (C-668) IND-25298	GREEN TWP	2.1	COLUMBIA GAS TRAN
8349091	20548	3706325246		108		P BORUCH #7 (C-669) IND-25246	GREEN TWP	2.1	COLUMBIA GAS TRAN
8349092	20549	3706325697		108		P BORUCH #8 (C-700) IND-25697	GREEN TWP	2.1	COLUMBIA GAS TRAN
8349096	20553	3706325134		108		R BUTERBAUGH #1 (C-586) IND-25134	GRANT TWP	2.1	COLUMBIA GAS TRAN
8349097	20554	3706325135		108		R BUTERBAUGH #2 (C-587) IND-25135	GRANT TWP	2.1	COLUMBIA GAS TRAN
8349098	20555	3706325136		108		R BUTERBAUGH #3 (C-588) IND-25136	GRANT TOWNSHIP	2.1	COLUMBIA GAS TRAN
8349110	20567	3706325480		108		T GREEN #3 (C-632) IND-25480	GREEN TOWNSHIP	4.4	COLUMBIA GAS TRAN
8349108	20565	3706325479		108		T GREENE #1 (C-629) IND-25479	GREEN TOWNSHIP	4.4	COLUMBIA GAS TRAN
8349109	20566	3706326123		108		T GREENE #2 (C-711) IND-26123	GREEN TOWNSHIP	4.4	COLUMBIA GAS TRAN
8349111	20568	3706325481		108		T GREENE #4 (C-633) IND-25481	GREEN TWP	4.4	COLUMBIA GAS TRAN
-CITIES SERVICE OIL & GAS CORP		RECEIVED: 08/11/83 JA: PA							
8349079	20484	3706320050		108		FRED A MUSSER #1	PUNXY	8.3	PEOPLES NATURAL G
-CONSOLIDATED GAS SUPPLY CORPORATION		RECEIVED: 08/11/83 JA: PA							
8349067	18461	3706323886		108		LAYARD GASTON #2 WN-1651	CANOE	23.8	GENERAL SYSTEM PU
8349066	18460	3706323936		108		LAYARD GASTON #3 WN-1673	CANOE	23.8	GENERAL SYSTEM PU
-FOX OIL & GAS INC		RECEIVED: 08/11/83 JA: PA							
8349084	20530	3706327261		103		ROBERT WOLFE #1-A 266	CHERRYHILL	25.5	COLUMBIA GAS TRAN
-HAMILTON-RICHARDS		RECEIVED: 08/11/83 JA: PA							
8349073	20445	3700500008		108		BAIR-KIRKLAND #1	ELDERS RIDGE	6.2	PEOPLES NATURAL G
8349075	20447	3700520105		108		J F BAIR #1	ELDERS RIDGE	2.7	PEOPLES NATURAL G
8349077	20443	3700520129		108		J F BAIR #2	ELDERS RIDGE	6.8	PEOPLES NATURAL G
8349078	20444	3700520182		108		J F BAIR #3	ELDERS RIDGE	6.8	PEOPLES NATURAL G
8349072	20403	3700520043		108		JOSEPH M HEILMAN #2	ELDERS RIDGE	3.6	PEOPLES NATURAL G
8349069	20400	3700520005		108		PAUL MINARIK #3	FREEPORT	1.6	PEOPLES NATURAL G
8349076	20448	3700520051		108		PHILIP RIGGLE ESTATE #1	ELDERS RIDGE	3.3	PEOPLES NATURAL G
8349070	20401	3700520053		108		ROY A WALKER #1	FREEPORT	1.9	PEOPLES NATURAL G
8349074	20446	3712920109		108		ROY M LOWMAN #1	LATROBE	8.1	PEOPLES NATURAL G
8349071	20402	3700520120		108		S L WILCOX #1	ELDERS RIDGE	5.7	PEOPLES NATURAL G
-S T JOINT VENTURE #2-D		RECEIVED: 08/11/83 JA: PA							
8349083	20502	3703321561		103		ZUMSTEIN #2	BRADY	25.0	NATIONAL FUEL GAS
-UNION DRILLING INC		RECEIVED: 08/11/83 JA: PA							
8349068	20371	3706327451		103		EDWARD & EDITH SOKOL #4 8748	CHERRYHILL TOWNSHIP	8.0	COLUMBIA GAS TRAN

TEXAS RAILROAD COMMISSION

-AEGEAN OIL CORP			RECEIVED: 08/12/83 JA: TX						
8349179	F-03-069014	4228731357	102-2	103		KATIE KOCUREK #1	HOOKER CREEK (NAVARRO	36.5	PHILLIPS PETROLEU
-AMERICAN PETROFINA COMPANY OF TEXAS			RECEIVED: 08/12/83 JA: TX						
8349157	F-03-066923	4203931303	103			A B MARSHALL #1	ALTA LOMA SW (BANFIEL	225.0	TEXAS EASTERN TRA
8349153	F-02-066621	4246931869	103			C Y JACOBS #6	HELEN GOHLKE (FRIO 35	121.0	TEXAS EASTERN TRA
-AMOCO PRODUCTION CO			RECEIVED: 08/12/83 JA: TX						
8349165	F-02-067609	4229733274	102-4			F O KINGERY #1	WILDCAT	488.0	TRANSCONTINENTAL
8349244	F-08-071028	4208333394	103			FRANK COWDEN R/A "D" 026	COWDEN NORTH	6.0	AMOCO PRODUCTION
8349220	F-08-070437	4249531562	103			IDA HENDRICK T-88-GX #9	HENDERSON	44.0	CABOT CORP
-ARENA OIL & GAS CO			RECEIVED: 08/12/83 JA: TX						
8349243	F-04-070982	4208730725	102-4			ROUQUETTE #1	ROCKPORT WEST (FRIO &	164.0	FLORIDA GAS TRANS
-ART MACHIN & ASSOCIATES INC			RECEIVED: 08/12/83 JA: TX						
8349173	F-06-068379	4218300000	107-PE			O A BODENHEIM #2	WILLOW SPRINGS (TRAVI	200.0	WESTERN GAS CORP
-AUSTEX ENERGY CO INC			RECEIVED: 08/12/83 JA: TX						
8349155	F-7B-066840	4236333070	102-4			CURTIS SLEMMONS #1 (MA)	WILLIE MAE (3RD CONGL	500.0	TEXAS UTILITIES F
-B & W PETROLEUM INC			RECEIVED: 08/12/83 JA: TX						
8349199	F-06-070214	4240131642	103 107-TF			OAK MILL GAS UNIT #1 WELL #2	OAK MILL S (COTTON VA	360.0	TEXAS EASTERN TRA
-BANAM CORP			RECEIVED: 08/12/83 JA: TX						
8349192	F-7B-069818	4215100000	102-4			BIRDIE CROWDER 2-6 #19526	SATURDAY EAST (CANYON	401.5	CONOCO INC
-BARCO OIL & GAS CO			RECEIVED: 08/12/83 JA: TX						
8349139	F-7B-064756	4204931913	103			C P WATKINS #1	BROWN COUNTY REGULAR	2.1	ODESSA NATURAL GA
8349140	F-7B-064757	4213331807	103			U Z AARON #1	EASTLAND COUNTY REGUL	0.6	ODESSA NATURAL GA
-BEARCO			RECEIVED: 08/12/83 JA: TX						
8349313	F-7B-071186	4244732209	103			MARTHA J SHELTON #3A	THROCKMORTON COUNTY R	0.0	THROCKMORTON GAS
8349312	F-7B-071185	4244732315	103			MARTHA J SHELTON #4A	THROCKMORTON COUNTY R	0.0	THROCKMORTON GAS
8349309	F-7B-071182	4244732428	103			MARTHA J SHELTON #5A	THROCKMORTON COUNTY R	0.0	THROCKMORTON GAS
8349310	F-7B-071183	4244732718	103			MARTHA J SHELTON #6A	THROCKMORTON COUNTY R	0.0	THROCKMORTON GAS
8349311	F-7B-071184	4244732717	103			MARTHA J SHELTON 7A	THROCKMORTON COUNTY R	0.0	THROCKMORTON GAS
-BOW VALLEY PETROLEUM INC			RECEIVED: 08/12/83 JA: TX						
8349122	F-03-049054	4231330355	103			MARKS #1	MADISONVILLE SW DEXTE	85.0	LONE STAR GAS CO
-BTA OIL PRODUCERS			RECEIVED: 08/12/83 JA: TX						
8349226	F-08-070548	4217331410	102-4			8102 JV-P FRY #2	BLALOCK LAKE SE (WOLF	35.5	PHILLIPS PETROLEU
-C F LAWRENCE & ASSOC INC			RECEIVED: 08/12/83 JA: TX						
8349276	F-7C-071108	4210500000	103			TODD "X" #3	TODD SW (SAN ANDRES L	0.0	APACHE GAS CORP
-C M C OIL & GAS CO			RECEIVED: 08/12/83 JA: TX						
8349191	F-7B-069783	4213332277	102-4			MASSEGEE #1	CHANCELLOR (CONGL UP)	100.0	VALERO TRANSMISSI
-CAG PETROLEUM CORP			RECEIVED: 08/12/83 JA: TX						
8349130	F-03-059198	4228731265	102-2			COLVIN #2	GIDDINGS AUSTIN CHALK	365.0	PERRY GAS PRODUCT
-CASS OIL CO			RECEIVED: 08/12/83 JA: TX						
8349143	F-7C-065060	4243532759	103 107-TF			ALLISON-MIERS 8084	SAWYER (CANYON)	220.0	EL PASO NATURAL G
-COASTAL OIL & GAS CORP			RECEIVED: 08/12/83 JA: TX						
8349296	F-8A-071156	4216532581	103			SO HARRIS UNIT 5-7	HARRIS (GLORIETA)	3.0	PHILLIPS PETROLEU
8349261	F-8A-071063	4216532579	103			SO HARRIS UNIT 5-9	HARRIS (GLORIETA)	4.0	PHILLIPS PETROLEU

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8349177	F-8A-068797	4216531562		103		SO HARRIS UNIT 6-12	HARRIS (GLORIETA)	10.0	PHILLIPS PETROLEU
-COLOGNE PRODUCTION CO				RECEIVED:	08/12/83	JA: TX			
8349194	F-02-069839	4246931923		102-4		CLAUDE REEVES #4	COLOGNE (4460)	100.0	HOUSTON PIPELINE
-CONOCO INC				RECEIVED:	08/12/83	JA: TX			
8349281	F-08-071113	4238931346		102-4	103	CALDWELL ESTATE "4" #1 ID 105773	SAN MARTINE SW (WOLFC	236	7
-CONSERVATIVE OIL & GAS				RECEIVED:	08/12/83	JA: TX			
8349262	F-09-071065	4250336489		103		CLARK (SOUTHLAND ROYALTY) #23148	YOUNG COUNTY REGULAR	28.0	J H TAYLOR GAS CO
8349265	F-09-071068	4250336005		103		CLARK #102800	THOMAS (CONGL)	180.0	J H TAYLOR GAS CO
8349264	F-09-071067	4250300000		103		KING-CLARK UNIT #21956	THOMAS (MISS)	44.0	J H TAYLOR GAS CO
8349263	F-09-071066	4250335776		103		KING-CLARK UNIT #22171	YOUNG COUNTY REGULAR	82.0	J H TAYLOR GAS CO
-CORPUS CHRISTI OIL AND GAS CO				RECEIVED:	08/12/83	JA: TX			
8349289	F-02-071132	4260330211		102-4		STATE TRACT 767-S WELL #1-L	OAKVILLE S W (5100')	8.0	HOUSTON PIPELINE
8349290	F-02-071133	4260330211		102-4		STATE TRACT 767-S WELL #1-U	OAKVILLE S W (4300')	0.0	HOUSTON PIPELINE
8349291	F-02-071134	4260330214		102-4		STATE TRACT 770-S WELL #4	OAKVILLE SW (4300') F	0.0	HOUSTON PIPELINE
-DALLAS PRODUCTION INC				RECEIVED:	08/12/83	JA: TX			
8349159	F-7B-067126	4236333045		103		CANTEY ESTATE "A" #1	BELDING (BEND CONGL)	115.0	LIQUID ENERGY COR
-DAVID A SCHLACHTER OIL & GAS				RECEIVED:	08/12/83	JA: TX			
8349195	F-06-069898	4242330635		102-4		WILLIS JACKSON #2	CHAPEL HILL (TRAVIS P	21.9	ETEXAS PRODUCERS
-DIAMOND MINERAL INVESTMENTS INC				RECEIVED:	08/12/83	JA: TX			
8349144	F-7B-065522	4204931846		103		TERRY BENNIE #1	JANELLAN (CADDO)	22.0	LONE STAR GAS CO
-DIAMOND SHAMROCK CORPORATION				RECEIVED:	08/12/83	JA: TX			
8349147	F-10-066177	4242100000		108		BIVINS ESTATE 1-56	TEXAS HUGOTON	0.0	SOUTHWESTERN PUBL
8349148	F-10-066179	4235700000		108		CHARLES ELLZEY #1-583	NORTHRUP	0.0	SOUTHWESTERN PUBL
8349197	F-10-070201	4221131425		108		DAVID Q ISAACS SR #4	CANADIAN SE	0.0	NORTHERN NATURAL
8349198	F-10-070202	4242100000		108		FISHER #1	TEXAS HUGOTON	14.0	NORTHERN NATURAL
8349149	F-10-066180	4235700000		108		LAWRENCE ELLZEY "E" #1-582	NORTHRUP	0.0	SOUTHWESTERN PUBL
8349150	F-10-066183	4229500000		108		MURPHY "C" #1-426	LIPSCOMB	0.0	SOUTHWESTERN PUBL
8349138	F-10-064691	4235731271		102-4		R E WAMBLE ESTATE #2-314	DUTCHER	0.0	
-DYAD ASSOCIATES				RECEIVED:	08/12/83	JA: TX			
8349314	F-7C-071196	4243131289		103		CROWN #2	JAMESON (STRAWN)	29.2	KOCH INDUSTRIES I
-EL PASO EXPLORATION CO				RECEIVED:	08/12/83	JA: TX			
8349167	F-7C-067843	4238300000		108		JALONICK #1-A	SPRABERRY TREND AREA	11.0	EL PASO NATURAL G
-ENERGY-AGRI PRODUCTS INC				RECEIVED:	08/12/83	JA: TX			
8349266	F-10-071084	4217931220		103		ANDERSON #3 (ID #05247)	PANHANDLE GRAY	60.0	GETTY OIL CO
-ENSERCH EXPLORATION INC				RECEIVED:	08/12/83	JA: TX			
8349124	F-08-051075	4222732636		103		S E LUTHER (FUSSELMAN) 20583 #2603	S E LUTHER (SIL-DEV)	50.0	GETTY OIL CO
8349123	F-01-050994	4201300000		103		URBANCZYK UNIT #1 3-LT	FASHING FIELD	0.0	NATURAL GAS PIPEL
-EXXON CORPORATION				RECEIVED:	08/12/83	JA: TX			
8349168	F-7C-067862	4208131162		103		I A B UNIT #1914	I A B (MENIELLE PENN)	9.0	SUN GAS CO
8349183	F-08-069232	4200333468		103		J S MEANS A/C 4 8334	MEANS SOUTH (WOLFCAMP	15.0	PHILLIPS PETROLEU
8349320	F-04-071213	4204700000		108		MCGILL BROS 203-T (071154)	KELSEY DEEP (19-A NW)	0.0	TRUNKLINE GAS CO
8349225	F-06-070528	4240131637		102-4		P R GEURIN OIL UNIT #1 #1	OVERTON NE (PETTIT)	246.0	ARMCO STEEL CORP
8349241	F-04-070765	4248930604		102-4		S H BELL "B" 5-F (ID PENDING)	WILLAMAR (GRABEM 5800	807.0	NATURAL GAS PIPEL
8349209	F-04-070288	4226130797		102-4		SARITA FIELD OIL & GAS UNIT 183-D	SARITA (5-Q SW)	20.0	NATURAL GAS PIPEL
8349208	F-04-070287	4226130797		102-4		SARITA FIELD OIL & GAS UNIT 183-F	SARITA (5- G&N SW)	20.0	NATURAL GAS PIPEL
-EZEKIEL ENERGY				RECEIVED:	08/12/83	JA: TX			
8349322	F-10-071220	4217931315		103		JANIS #2-4 (ID#05336)	PANHANDLE GRAY	30.0	GETTY OIL CO
8349301	F-10-071173	4217931352		103		JANIS "B" #1-5 (ID #05374)	PANHANDLE GRAY	40.0	GETTY OIL CO
8349302	F-10-071174	4217931354		103		JANIS "B" #2-6 (ID #05374)	PANHANDLE GRAY	70.0	GETTY OIL CO
8349304	F-10-071176	4217931375		103		JARVIS #1-11 (ID #05410)	PANHANDLE GRAY	40.0	CABOT PIPELINE CO
8349303	F-10-071175	4217931374		103		JARVIS #2-12 (ID #05410)	PANHANDLE GRAY	50.0	CABOT PIPELINE CO
-GETTY OIL COMPANY				RECEIVED:	08/12/83	JA: TX			
8349161	F-03-067295	4208900000		103		B A JOHNSON "D" #1	SUBLIME (7360 SAND)	0.0	TENNESSEE GAS PIP
8349181	F-03-069175	4205100000		102-2		W T ELSIK #2	GIDDINGS (AUSTIN CHAL	0.0	FERGUSON CROSSING
-GHR ENERGY CORP				RECEIVED:	08/12/83	JA: TX			
8349137	F-04-064542	4250531578		102-4	107-TF	TREVINO #4	FRANCISCO (LOBO)	60.0	NATURAL GAS PIPEL
-GRAHAM ENERGY LTD				RECEIVED:	08/12/83	JA: TX			
8349131	F-08-061519	4235331333		103		JAMESON B-2	JAMESON NORTH (STRAWN	242.6	SUN OIL CO
-GULF AMERICAN OIL & GAS CO				RECEIVED:	08/12/83	JA: TX			
8349172	F-7B-068238	4236732439		102-4		SHUMAKER #1	BROOK WEST (STRAWN)	120.0	TEXAS UTILITIES F
-GULF OIL CORPORATION				RECEIVED:	08/12/83	JA: TX			
8349146	F-10-066801	4239330931		103		B A BYRUM #4-4	RED DEER CREEK (GRANI	572.0	TRANSWESTERN PIPE
8349135	F-08-063973	4238931245		107-DP		NORTHWEST HAMON UNIT #2	HAMON NORTHWEST (ELLE	2172.0	TRANSWESTERN PIPE
-HLM PETROLEUM CORP				RECEIVED:	08/12/83	JA: TX			
8349227	F-7B-070588	4225332528		102-4		TINER ZUMWALT NO 4-9	LOS COLINAS (CANYON R	25.0	CONOCO INC
-HOME PETROLEUM CORPORATION				RECEIVED:	08/12/83	JA: TX			
8349126	F-01-056066	4212732360		102-4		H E STUMBER JR #4-L	BLAKEWAY 4600 GAS SAN	0.0	VALERO TRANSMISSI
-HUNT OIL COMPANY				RECEIVED:	08/12/83	JA: TX			
8349219	F-08-070403	4222733030		102-4		HARDING IDEM #1	MOORE (DEEP FSLM)	4.0	EL PASO HYDROCARB
-INDIAN WELLS OIL CO				RECEIVED:	08/12/83	JA: TX			
8349158	F-7C-066998	4223531732		102-2		HARRIS 60-3	PROBANDT (CANYON)	0.0	NORTHERN NATURAL
-INVESTEK INC				RECEIVED:	08/12/83	JA: TX			
8349133	F-09-063193	4223700000		102-4		SHELBY 1A	SHELBY (STRAWN) (GAS)	163.0	TUFCO
-JOHN L COX				RECEIVED:	08/12/83	JA: TX			
8349134	F-7C-063622	4238300000		103		ROCKER B "R" #14	SPRABERRY (TA)	10.0	EL PASO NATURAL G
8349175	F-7C-068422	4238332500		103		ROCKER B "R" #15 RRC #05377	SPRABERRY (T A)	10.0	EL PASO NATURAL G
-JONES CO				RECEIVED:	08/12/83	JA: TX			
8349316	F-7B-071198	4205934063		102-4		WILLIAMS "301" #1	MASK (CADDO)	100.0	DELHI GAS PIPELIN
-K & N OPERATING CO				RECEIVED:	08/12/83	JA: TX			
8349166	F-03-067673	4205132416		102-2		BATES #5	BIG -A- TAYLOR	0.0	CLAJON GAS CO
-KAARI OIL CO				RECEIVED:	08/12/83	JA: TX			
8349260	F-10-071058	4206531417		103		HAIDUK "D" #2-18 (ID# 05399)	PANHANDLE CARSON	50.0	KERR-MCGEE CORP
8349259	F-10-071057	4206531406		103		HAIDUK "D" #4-22 (ID# 05399)	PANHANDLE CARSON	40.0	KERR-MCGEE CORP
-KENNEDY & MITCHELL INC				RECEIVED:	08/12/83	JA: TX			
8349185	F-10-069280	4229531080		102-4		DORSEY #36-510	COBURN MORROW UPPER	700.0	TRANSWESTERN PIPE
-KEY PRODUCTION COMPANY				RECEIVED:	08/12/83	JA: TX			
8349182	F-02-069197	4246931959		103		HENNIG #1	COLETTO CREEK SOUTH (	150.0	HOUSTON PIPE LINE
-KILLION WELL SERVICE INC				RECEIVED:	08/12/83	JA: TX			
8349221	F-7B-070477	4242933661		102-4		LAUDERDALE #1	WAYLAND (CONGL)	1000.0	SOUTHWEST GAS PIP
-LEGACY PETROLEUM / MCCONATHY				RECEIVED:	08/12/83	JA: TX			
8349187	F-06-069338	4236531510		103	107-TF	W B WIENER JR #1	CARTHAGE (COTTON VALL	275.0	UNITED GAS PIPELI
-MAGNET OIL INC				RECEIVED:	08/12/83	JA: TX			
8349317	F-10-071202	4206531391		103		REINART #2	PANHANDLE	0.0	GETTY OIL CO
-MEWBOURNE OIL COMPANY				RECEIVED:	08/12/83	JA: TX			
8349154	F-10-066689	4235731328		103		SMITH #1 RRC # N/A	BULER NORTH (MORROW U	119.0	PHILLIPS PETROLEU
-MEYER OIL CO INC				RECEIVED:	08/12/83	JA: TX			
8349300	F-10-071172	4206531283		103		CRUTCHFIELD #5	PANHANDLE	36.0	GETTY OIL CO
8349299	F-10-071171	4206531282		103		CRUTCHFIELD #6	PANHANDLE	156.0	GETTY OIL CO
8349298	F-10-071170	4206531292		103		CRUTCHFIELD #7	PANHANDLE	73.0	GETTY OIL CO
-MICHEL T HALBOUTY ENERGY CO				RECEIVED:	08/12/83	JA: TX			
8349223	F-03-070503	4207131415		102-4		MEC U S STEEL #1	TRI-CITY BEACH	1.6	
-MITCHELL ENERGY CORPORATION				RECEIVED:	08/12/83	JA: TX			
8349174	F-03-068399	4232100000		103		C B HARRIMAN #2	PALACIOS (F-SAND)	273.4	FLORIDA GAS TRANS
8349232	F-7B-070663	4236732436		103		JAMES PAUL REED #3	RENO (STRAWN 2900)	72.8	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8349321	F-04-071217	4248900000		108		M B ROBBINS #1 0071620	LA SAL VIEJA (8 9680-	0.0	TENNESSEE GAS PIP
8349163	F-03-067497	4260530145		102-4	103	STATE TRACT 234 S #1	LAFITTES GOLD OFFSHOR	547.5	HOUSTON PIPE LINE
8349211	F-09-070326	4249732511		103		W M PORTWOOD #5	BOONSVILLE (BEND CONG	393.0	NATURAL GAS PIPEL
-MOBIL PRDG TEXAS & NEW MEXICO INC				RECEIVED:	08/12/83	JA: TX			
8349295	F-8A-071153	4221933790		103		NORTH CENTRAL LEVELLAND UNIT #383	LEVELLAND	2.9	AMOCO PRODUCTION
8349292	F-8A-071150	4221933786		103		NORTH CENTRAL LEVELLAND UNIT NO 375	LEVELLAND	7.3	AMOCO PRODUCTION
8349294	F-08-071152	4200333451		103		SHAFTER LAKE SAN ANDRES UNIT #320	SHAFTER LAKE (SAN AND	0.4	PHILLIPS PETROLEU
8349293	F-08-071151	4200333433		103		SHAFTER LAKE SAN ANDRES UNIT NO 319	SHAFTER LAKE (SAN AND	0.4	PHILLIPS PETROLEU
-MMS PETROLEUM & INVESTMENTS LTD				RECEIVED:	08/12/83	JA: TX			
8349239	F-09-070719	4233700000		103		GIFFORD #1	BOEBEKER SE	0.0	LONE STAR GAS CO
-NORDIC PETROLEUMS INC				RECEIVED:	08/12/83	JA: TX			
8349141	F-04-064969	4248900000		102-4		BEUTNAGEL #1	BEUTNAGEL	100.0	SOUTHERN GAS PIPE
-NUGGET OIL CORP				RECEIVED:	08/12/83	JA: TX			
8349180	F-02-069134	4217531726		103		PEREIRA #4 (ID# NOT ASSIGNED)	DIAL (PETTUS 4240')	50.0	UNITED GAS PIPELI
-OIL CREEK ENERGY INC				RECEIVED:	08/12/83	JA: TX			
8349213	F-09-070340	4233700000		102-4		M PATTY #1	OIL CREEK (CADDO LIME	8.0	TEXAS UTILITIES F
-PADRE ENERGY INC				RECEIVED:	08/12/83	JA: TX			
8349142	F-04-064970	4235500000		102-4		F I GANDY #2	GANDY (5675)	75.0	HOUSTON PIPE LINE
-PANHANDLE ENERGY CORP				RECEIVED:	08/12/83	JA: TX			
8349257	F-10-071044	4217931386		103		WADE "L" #1 (ID# 05383)	PANHANDLE GRAY	40.0	CABOT PIPELINE CO
-PETROLEUM EQUITIES CORP				RECEIVED:	08/12/83	JA: TX			
8349215	F-7B-070372	4242933562		102-4		B EMFINGER #1	L C CLEVINGER (RANGER	7.0	LONE STAR GAS CO
-PIONEER PRODUCTION CORPORATION				RECEIVED:	08/12/83	JA: TX			
8349132	F-10-061855	4248300000		107-DP		MOORE #1-62	STILES RANCH	0.0	WESTAR TRANSMISSI
-PITTS OIL CO & DALLAS PROD INC				RECEIVED:	08/12/83	JA: TX			
8349176	F-05-068729	4216100000		102-4		M C WELLS #1-A	SIMSBORO (TRAVIS PEAK	310.0	UNITED TEXAS TRAN
-PRECISION DRILLING CO INC				RECEIVED:	08/12/83	JA: TX			
8349305	F-7B-071138	4208300000		103		SHIELD BROWN #10 09207	COLEMAN COUNTY REGULA	25.0	LONE STAR GAS CO
8349308	F-7B-071181	4208333482		103		SHIELD BROWN #6 09207	COLEMAN COUNTY REGULA	24.0	LONE STAR GAS CO
8349306	F-7B-071179	4208300000		103		SHIELD BROWN #6 09207	COLEMAN COUNTY REGULA	23.0	LONE STAR GAS CO
8349307	F-7B-071180	4208333483		103		SHIELD BROWN #7 09207	COLEMAN COUNTY REGULA	26.0	LONE STAR GAS CO
-PYRO ENERGY CORP				RECEIVED:	08/12/83	JA: TX			
8349193	F-04-069833	4224731532		102-4		ESCONDIDO #2 10267	ESCONDIDO (6220)	0.0	AMERICAN PIPELINE
-QUANAH PETROLEUM INC				RECEIVED:	08/12/83	JA: TX			
8349210	F-08-070309	4243131275		102-4		FOSTER #3	ROSE CREEK N (WOLFCAM	4.0	SUN EXPLORATION &
-R A H ENERGY CORP				RECEIVED:	08/12/83	JA: TX			
8349171	F-7B-068196	4236333078		102-4		WHATLEY #1	MINERAL WELLS S(STRAW	200.0	SOUTHWESTERN GAS
-RICHARDSON WILL				RECEIVED:	08/12/83	JA: TX			
8349235	F-02-070667	4217500000		108		G M BRANDT #1	BRANDT FIELD	10.0	UNITED GAS PIPELI
8349234	F-02-070666	4217500000		108		G M BRANDT #2	BRANDT FIELD	10.0	UNITED GAS PIPELI
8349237	F-02-070669	4217500000		108		G M BRANDT #3	BRANDT FIELD	10.0	UNITED GAS PIPELI
8349236	F-02-070668	4217500000		108		G M BRANDT #5	BRANDT FIELD	10.0	UNITED GAS PIPELI
-RIO BRAVO ROYALTY CO				RECEIVED:	08/12/83	JA: TX			
8349188	F-01-069530	4216331670		103		J L HARLAN #2 0088186	DOERING RANCH (SAN MI	18.0	
-ROBERT M WYNNE				RECEIVED:	08/12/83	JA: TX			
8349230	F-09-070637	4250300000		103		SENTERS #1 RRC 21043	DOLLIE SMITH STRAWN (	449.0	SUN GAS TRANSMISS
8349231	F-09-070638	4250300000		103		SENTERS #2 RRC 21043	DOLLIE SMITH STRAWN	445.0	SUN GAS TRANSMISS
8349315	F-7C-071196	4210500000		103		UNIVERSITY 7 #4-RRC 08115	BLOCK 47 (SHALLOW)	438.0	BIG LAKE GASOLINE
-SAGE ENERGY CO				RECEIVED:	08/12/83	JA: TX			
8349272	F-7C-071097	4210534455		103		UNIVERSITY 14 #3 RRC #07348	FARMER (SAN ANDRES)	0.9	NORTHERN NATURAL
8349273	F-7C-071098	4238332476		103		UNIVERSITY 16 #4 RRC #07556	FARMER (SAN ANDRES)	2.3	NORTHERN NATURAL
8349274	F-7C-071099	4238332586		103		UNIVERSITY 18-G #6	FARMER (SAN ANDRES)	1.6	NORTHERN NATURAL
8349269	F-7C-071094	4210534458		103		UNIVERSITY 7 #5 RRC #07555	FARMER (SAN ANDRES)	0.9	NORTHERN NATURAL
8349270	F-7C-071095	4210534457		103		UNIVERSITY 7 #6 RRC #07555	FARMER (SAN ANDRES)	1.1	NORTHERN NATURAL
8349271	F-7C-071096	4210534456		103		UNIVERSITY 7 #7 RRC #07555	FARMER (SAN ANDRES)	1.6	NORTHERN NATURAL
-SANHALL CORP				RECEIVED:	08/12/83	JA: TX			
8349297	F-03-071158	4247130025		102-4		076118 #1 GIBBS BROS & CO	GIBBS BROTHERS (BUDA)	25.0	
-SEELY OIL CO				RECEIVED:	08/12/83	JA: TX			
8349240	F-09-070734	4249732471		103		JOHN W COX #1	BOONSVILLE (BEND CONG	43.0	DELHI GAS PIPELIN
-SENTINEL PETROLEUM CORP				RECEIVED:	08/12/83	JA: TX			
8349212	F-7B-070329	4213300000		102-2		SPENCER	EASTLAND COUNTY REGUL	0.0	EL PASO HYDROCARB
-SHELL OIL CO				RECEIVED:	08/12/83	JA: TX			
8349248	F-8A-071035	4216500000		108		GAINES WASSON CLEARFORK UNIT #67130	WASSON 72	1.3	COLTEXO CORP
8349249	F-08-071036	4210332224		108		JOHNSON-STATE #1	SAND HILLS (TUBB)	10.4	WARREN PETROLEUM
8349250	F-08-071037	4210332379		108		JOHNSON-STATE #2	SAND HILLS (TUBB)	13.0	WARREN PETROLEUM
8349254	F-08-071041	4213500000		108		JORDAN UNIVERSITY UNIT #319	JORDAN	0.2	PHILLIPS PETROLEU
8349253	F-08-071040	4213500000		108		JORDAN UNIVERSITY UNIT #524	JORDAN	1.0	PHILLIPS PETROLEU
8349252	F-08-071039	4213500000		108		JORDAN UNIVERSITY UNIT #624	JORDAN	1.1	PHILLIPS PETROLEU
8349256	F-8A-071043	4216500000		108		NEWBERN #3	ROBERTSON N (CLEARFOR	4.3	PHILLIPS PETROLEU
8349251	F-08-071038	4247500000		108		SEALY SMITH FOUNDATION #32	MONAHANS (CLEARFORK)	1.8	EL PASO NATURAL G
8349255	F-08-071042	4200300000		108		UNIVERSITY -G- #1	ANDREWS S (DEVONIAN)	16.4	EL PASO NATURAL G
8349247	F-8A-071034	4250100000		108		YOAKUM WASSON CLEARFORK UNIT #3502Y	WASSON 72	1.4	COLTEXO CORP
8349246	F-8A-071033	4250100000		108		YOAKUM WASSON CLEARFORK UNIT #3704Y	WASSON 72	4.2	COLTEXO CORP
8349245	F-8A-071032	4250100000		108		YOAKUM WASSON CLEARFORK UNIT #4508Y	WASSON 72	2.3	COLTEXO CORP
-SO-TEX PETROLEUM, INC.				RECEIVED:	08/12/83	JA: TX			
8349170	F-7B-068117	4244132351		102-4		HOWELL #2	WILDCAT SO-TEX (ODEM	209.0	UNION TEXAS PETRO
-SOUTHLAND ROYALTY CO				RECEIVED:	08/12/83	JA: TX			
8349282	F-08-071117	4210300000		108		EDWARDS FLD GRAYBURG UNIT #7-8	EDWARDS	1.6	PHILLIPS PETROLEU
8349283	F-7C-071118	4238331439		108		ONA WELLS #2	CALVIN DEAN	10.9	UNION TEXAS PETRO
-SUGARBERRY OIL & GAS CORP				RECEIVED:	08/12/83	JA: TX			
8349214	F-03-070360	4248100000		102-4		RECK #1	MILLJE (FRIO 6935')	110.0	LONE STAR GAS CO
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	08/12/83	JA: TX			
8349189	F-01-069635	4212700000		103		BIG WELLS (SAN MIGUEL) #7-17	BIG WELLS (SAN MIGUEL	7.0	HOUSTON PIPE LINE
8349162	F-04-067484	4242731631		102-3		CHAPOTAL LAND CO -B- #21	BRAULIA EAST (7455 VI	475.0	
8349169	F-7C-067938	4210533979		103	107-TF	INEZ HUDSPETH -A- #2	ADAMS-BAGGETT RANCH (	22.0	TEXAS INTRAMARK G
8349216	F-7C-070391	4208131168		103		JAMESON REEF UNIT #10-29	JAMESON	127.0	LONE STAR GAS CO
8349218	F-7C-070393	4208131167		103		JAMESON REEF UNIT #10-32	JAMESON	159.0	LONE STAR GAS CO
8349217	F-7C-070392	4208131165		103		JAMESON REEF UNIT #11-73	JAMESON	163.0	LONE STAR GAS CO
8349268	F-6E-071091	4218300000		108		M T COLE #25	EAST TEXAS	0.3	ARCO OIL & GAS CO
8349184	F-7B-069240	4235331253		102-3		SANDERSON #1	SUGGS (ELLENBURGER)	16.0	LONE STAR GAS CO
8349267	F-6E-071090	4218300000		108		SHILOH SCHOOL #1	EAST TEXAS	0.6	WARREN PETROLEUM
8349224	F-08-070512	4246131992		103		SOUTHWEST MCELROY UNIT #49	MCELROY	7.0	PHILLIPS PETROLEU
-TENNECO OIL COMPANY				RECEIVED:	08/12/83	JA: TX			
8349125	F-04-051987	4250531443		102-2	107-TF	SLATOR RANCH #1	LAS OVEJAS	1000.0	
8349129	F-04-056949	4250531518		102-2	107-TF	SLATOR RANCH #2	LAS OVEJAS	600.0	CHANNEL INDUSTRIE
8349164	F-04-067503	4250531617		102-4		SLATOR RANCH #5	LAS OVEJAS	100.0	
-TEX-HELL OIL & GAS CORP				RECEIVED:	08/12/83	JA: TX			
8349258	F-10-071045	4206531204		103		WHITE #4 (ID# 05160)	PANHANDLE CARSON	90.0	GETTY OIL CO
-TEXACO INC				RECEIVED:	08/12/83	JA: TX			
8349156	F-04-066877	4221531305		103	107-TF	A E GUERRA #23	MCALLEN RANCH	767.0	TENNESSEE GAS PIP
8349160	F-8A-067170	4216532430		103		J B ROBERTSON #57	ROBERTSON (SAN ANDRES	0.0	PHILLIPS PETROLEU
-THOMPSON J CLEO & JAMES CLEO JR				RECEIVED:	08/12/83	JA: TX			
8349233	F-7C-070664	4210534473		103	107-TF	HAGELSTEIN #3	OZONA (CANYON SAND)	650.0	PHILLIPS PETROLEU
-TRINITY RESOURCES INC				RECEIVED:	08/12/83	JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8349222	F-82-070479	4223931848		102-4		E CANERDAY #2-T	PALMETTO BEND W (C-5)	51.0	LONE STAR GAS CO
8349186	F-82-069324	4223931850		102-4		FINLEY #1	PALMETTO BEND W (C-12	0.0	LONE STAR GAS CO
-TXO PRODUCTION CORP				RECEIVED:	08/12/83	JA: TX			
8349136	F-78-066163	4241734695		102-4		WALKER-BUCKLER 72 #2	ROCKWELL (CONGL UPPER	250.0	DELHI GAS PIPELIN
8349196	F-78-070154	4241735120		103		WALKER-BUCKLER 72 #4	ROCKWELL (CONGL UPPER	35.0	DELHI GAS PIPELIN
8349190	F-78-069745	4241735097		102-4	103	WALKER-BUCKLER 74 #2	ROCKWELL (CONGL)	35.0	DELHI GAS PIPELIN
-UNION TEXAS PETROLEUM				RECEIVED:	08/12/83	JA: TX			
8349145	F-88-065648	4247532736		103		MILL 16 #1	MONROE	1.0	LONE STAR GAS CO
-V-F PETROLEUM INC				RECEIVED:	08/12/83	JA: TX			
8349318	F-88-071207	4249500000		102-4		ESTES #1L	V-F (FUSSELMAN)	36.5	
8349319	F-88-071208	4249500000		102-4		ESTES #1U	V-F (DEVONIAN)	36.5	
-VENUS OIL COMPANY				RECEIVED:	08/12/83	JA: TX			
8349152	F-82-066268	4229700000		103		GOEBEL UNIT	GOEBEL	0.0	TRANSCONTINENTAL
8349151	F-82-066267	4229700000		103		GOEBEL UNIT	GOEBEL	0.0	TRANSCONTINENTAL
-VIRLAR EXPLORATION INC				RECEIVED:	08/12/83	JA: TX			
8349238	F-83-070714	4248132472		102-4		BRANDL #1-C	EL CAMPO W (4890)	91.0	DELHI GAS PIPELIN
-W J WHITT				RECEIVED:	08/12/83	JA: TX			
8349202	F-78-070223	4204933097		102-4		4-W RANCH "A" #1	DUDLEY (CADDO)	20.0	EL PASO HYDROCARB
8349201	F-78-070222	4204916599		102-4		4-W RANCH "A" #11	DUDLEY (CADDO)	20.0	EL PASO HYDROCARB
8349204	F-78-070230	4204933477		102-4		4-W RANCH "A" #19	DUDLEY (CADDO)	0.0	EL PASO HYDROCARB
8349205	F-78-070231	4204933526		102-4		4-W RANCH "A" #21	DUDLEY (CADDO)	0.0	EL PASO HYDROCARB
8349206	F-78-070232	4204933527		102-4		4-W RANCH "A" #22	DUDLEY (CADDO)	0.0	EL PASO HYDROCARB
8349203	F-78-070229	4204933524		102-4		4-W RANCH "A" #24	DUDLEY (CADDO)	10.0	EL PASO HYDROCARB
8349207	F-78-070233	4204933523		102-4		4-W RANCH "A" #26	DUDLEY (CADDO)	10.0	EL PASO HYDROCARB
-WARREN PETR CO A DIV OF GULF OIL CO				RECEIVED:	08/12/83	JA: TX			
8349280	F-88-071112	4210333157		103		M B MCKNIGHT #145	SAND HILLS (MCKNIGHT)	0.1	EL PASO NATURAL G
8349279	F-88-071111	4210333141		103		M B MCKNIGHT #146	SAND HILLS (MCKNIGHT)	0.2	EL PASO NATURAL G
8349278	F-88-071110	4210333108		103		W W WADDELL #1115	SAND HILLS (JUDKINS)	0.0	EL PASO NATURAL G
8349277	F-88-071109	4210333094		103		W W WADDELL #1249	SAND HILLS (WOLFCAMP)	0.1	EL PASO NATURAL G
-WCS PETROLEUM CO				RECEIVED:	08/12/83	JA: TX			
8349200	F-86-070221	4228731368		102-2		STORK #1	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
-WESLEY SENKEL INC				RECEIVED:	08/12/83	JA: TX			
8349242	F-89-070788	4250336892		103		LOFTIN B A-1	LANGSTON-KLEINER (STR	0.0	SOUTHWESTERN GAS
-WESTLAND OIL DEVELOPMENT CORP				RECEIVED:	08/12/83	JA: TX			
8349229	F-10-070614	4221150000		103		MARY URSCHEL "72" #1	URSCHEL (KANSAS CITY)	18.0	
8349228	F-78-070610	4241734910		102-4		REAMES 26 #1	REAMES (LAKE SAND)	100.0	DELHI GAS PIPELIN
-WILLIAMS EXPLORATION COMPANY				RECEIVED:	08/12/83	JA: TX			
8349288	F-83-071123	4219931792		103		CHOATE BLK 2 LOT 7 #8	NEW BATSON	3.0	MATADOR PIPELINE
8349284	F-83-071119	4219931790		103		CHOATE BLK 2 LOT 7 #9	NEW BATSON	0.0	MATADOR PIPELINE
8349286	F-83-071121	4219931791		103		CHOATE BLOCK 2 LOT 7 #7	NEW BATSON	3.0	MATADOR PIPELINE
8349287	F-83-071122	4219931796		103		CHOATE BLOCK 4 LOT 3 #6	NEW BATSON	3.0	MATADOR PIPELINE
8349285	F-83-071120	4219931793		103		CHOATE BLOCK 4 LOT 3 #7	NEW BATSON	3.0	MATADOR PIPELINE
-WISENBAKER PRODUCTION CO				RECEIVED:	08/12/83	JA: TX			
8349178	F-86-068955	4240131413		102-4	103	JONES CLYDE HEIRS (ID #101576)	BECKVILLE	188.0	EASTEX GAS TRANSM
-WORLDWIDE ENERGY CORPORATION				RECEIVED:	08/12/83	JA: TX			
8349127	F-7C-056279	4223531770		102-2		SCHLINKE 17-1	PROBANDT	0.0	FARMLAND INDUSTRI
8349128	F-7C-056280	4223531769		102-2		SCHLINKE 18-1	PROBANDT	0.0	FARMLAND INDUSTRI
-WY-VEL CORP				RECEIVED:	08/12/83	JA: TX			
8349275	F-10-071105	4217931309		103		KERSEY (05256) #3	PANHANDLE	42.7	GETTY OIL CO
**********									
** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, LOS ANGELES,CA									
**********									
-TEXACO INC				RECEIVED:	08/12/83	JA: CA 2			
8349121	OCS-P 16-83	0431120504		102-5		PITAS POINT UNIT WELL #A-3	CHANNEL ISLANDS AREA	738.0	PACIFIC INTERSTAT

[FR Doc. 83-23613 Filed 8-29-83; 8:45 am]

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VOL
48
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Federal Register

Vol. 48, No. 169

Tuesday, August 30, 1983

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419 523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Privacy Act	523-4534
Public Inspection Desk	523-5215
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282 523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235

United States Government Manual 523-5230

SERVICES

Agency services	523-5237
Automation	523-3408
Library	523-4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public Inspection Desk	523-5215
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, AUGUST

34723-34928.....1
34929-35068.....2
35069-35344.....3
35345-35586.....4
35587-35872.....5
35873-36090.....8
36091-36240.....9
36241-36438.....10
36439-36560.....11
36561-36796.....12
36797-37000.....15
37001-37200.....16
37201-37358.....17
37359-37602.....18
37603-37920.....19
37921-38200.....22
38201-38446.....23
38447-38600.....24
38601-38780.....25
38781-39032.....26
39033-39204.....29
39205-39446.....30

CFR PARTS AFFECTED DURING AUGUST

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Administrative Orders:

Presidential Determinations:

No. 83-8 of July 19, 1983.....35587
No. 83-9 of August 5, 1983.....36561

Executive Orders:

April 17, 1926 (Revoked in part by PLO 6454).....38240
12217 (Revoked by EO 12437).....36801
July 13, 1910 (Revoked in part by PLO 6455).....38468
12435.....34723
12436.....34931
12437.....36801
12438.....39205

Proclamations:

5078.....34929
5079.....35873
5080.....36091
5081.....36241
5082.....36797
5083.....36799
5084.....39207

5 CFR

Ch. XIV.....38781
213.....39209
330.....39209
550.....36803
551.....36803
831.....38781
950.....34910

Proposed Rules:

334.....38846
1255.....35652

7 CFR

2.....37359
28.....37001
51.....38789
225.....38601
226.....35589
227.....38601, 39211
235.....38601
246.....38601
247.....38601
250.....38601
253.....38601
301.....38447
707.....35596
720.....35599
724.....37603
726.....36563
796.....35599
908.....35345, 36439, 37360, 38601
910.....35600, 36563, 37607, 38791
915.....35345, 38791
916.....35345
917.....35345
921.....35345
922.....35345
924.....35345
926.....35345
930.....35345, 38802
932.....38201
944.....38791
945.....35345
946.....35345
947.....35345, 38209
948.....35345
953.....35345
958.....35345
967.....35345, 39213
982.....35345
985.....35345
989.....35347
993.....35345
1004.....39033
1030.....38448
1106.....38204
1124.....38439
1139.....38205
1207.....38603
1427.....35348
1430.....34725, 34933
3015.....35875

Proposed Rules:

51.....38846
68.....35411
75.....35411
101.....37417
201.....35417
240.....35108
278.....35868
279.....35868
404.....35418
406.....35423
413.....35427
416.....37420
417.....35431
421.....35435
423.....35439
425.....35443
432.....35447
437.....35112
442.....35451
651.....39236
983.....36272
989.....35454
1004.....36113
1030.....36464
1036.....36001
1076.....36467
1079.....37424, 38002
1106.....37657
1139.....35652
1290.....35116

8 CFR

100 37201
103 ..... 36441, 36564
212 ..... 36349, 36564, 37606
231 ..... 36093, 37003
235 ..... 35349, 37606
238 39214
243 39034

Proposed Rules:

3 38847

9 CFR

3 39035
54 38206
71 37921
74 37921
75 38793
78 34943
92 37202
97 37361

Proposed Rules:

3 ..... 35654, 39078
307 38490
317 35654
319 35654
325 35884
350 38490
351 38490
354 38490
355 38490
362 38490
381 ..... 35654, 35884, 38490

10 CFR

20 38604
21 38604
25 35069
30 39036
40 35350
50 39039
70 39036
71 ..... 35600, 38449
73 38604
150 39036
420 39356
430 39376
595 38207
795 36432
1016 36432

Proposed Rules:

Ch. I 34966
Ch. II 37226
430 34858
625 35119
710 35342
761 36792
1017 36825

11 CFR

102 37921

12 CFR

207 35070
220 34944
221 ..... 35074, 37361
225 37003
265 ..... 39047, 39214
303 ..... 34945, 36565
329 ..... 35627, 35629
1204 38455

Proposed Rules:

226 35659
705 37042

13 CFR

Ch. I 38794
116 39047

Proposed Rules:

115 37658
120 37044
121 34966
122 36825

14 CFR

21 38808
23 38808
39 ..... 34731, 35355–35364, 36806, 37361–37364, 37922–37924, 38809, 39049–39053
71 ..... 35364–35366, 36442, 37365, 37925, 38809, 38810, 39054
73 36806
75 ..... 35366, 38810
91 ..... 36442, 39054
95 ..... 36445, 38208
97 ..... 35876, 37926
212 36445
223 37928
252 36093
261 35080
263 35081
289 ..... 35081, 37608
291 38458
398 36094
1204 37608

Proposed Rules:

Ch. I 36826
21 38002
25 ..... 38004, 38848
39 ..... 36468, 37425–37427, 38005
71 ..... 35456–35458, 35887, 38246, 39078–39080
73 ..... 38006, 36827, 37428, 37429
75 ..... 39079, 39080
152 36828
159 37430
241 ..... 36598, 36601
252 36273
298 36601
316 39081
377 35459
385 ..... 36601, 39081
399 35119

15 CFR

373 38811
399 38811

Proposed Rules:

921 35120
971 35888

16 CFR

13 ..... 35367, 37202, 37203, 38214
305 35385
455 36096
1013 36566

Proposed Rules:

13 ..... 34764, 35132–35135, 35888, 38247, 38848
305 37663
451 36273
460 35661

17 CFR

1 35248
3 ..... 34732, 35248, 35305, 37203
4 35248
5 38214
10 35248
15 35248
17 35248
18 35248
21 35248
33 35248
140 34945
145 35248
147 35248
155 35248
166 35248
170 35248
200 39215
210 ..... 36566, 37609
229 37609
230 37928
231 37609
239 ..... 36566, 37928
240 ..... 35082, 38218,
241 37609
270 ..... 36097, 36243, 37928
274 37928

Proposed Rules:

145 34971
146 34971
147 34971
240 ..... 37430, 37664, 38250
249 36115
270 35459

18 CFR

2 ..... 35631, 35633
154 35633
157 ..... 34872, 34875, 35635
270 35633
271 35633–35636
282 ..... 38224, 38812
284 ..... 34875, 35635
300 37006
410 ..... 34946, 36469

Proposed Rules:

154 ..... 38492, 39238
271 ..... 35663–35666, 38651

19 CFR

12 34734
101 38813
127 34734
177 35878
210 35386

Proposed Rules:

101 35666
171 37227
175 36625

20 CFR

404 ..... 37015, 38814

Proposed Rules:

299 35460
404 ..... 35135, 36831
410 35135
416 ..... 35135, 36831, 37228
422 ..... 35135, 36831
652 ..... 34866, 34974
653 34866
655 35667

21 CFR

5 36571
74 ..... 34946, 37020, 39217
81 ..... 38814, 39217–39221
82 39217
109 37020
172 ..... 38225, 38226
173 37614
175 37615
176 37617
177 ..... 36099, 37618, 38604, 38815, 39057
178 ..... 37615, 38227, 39058
193 ..... 36246, 36448, 37203, 39058
201 37619
211 37624
430 38459
436 ..... 34947, 38459
442 38459
452 36571
520 38606
522 ..... 34947, 36100, 36571
555 37623
558 ..... 34948, 34949, 35637, 36100, 36101, 37620–37622, 38815
561 ..... 36448, 37203
610 37022
700 37624
800 37624
870 36101
1316 35087

Proposed Rules:

Ch. I 37665
131 ..... 37666, 38252
133 ..... 36132, 36625, 37666
146 37668
184 ..... 34974, 39242
291 35668
341 39242
353 36133
355 38853
680 39243

22 CFR

11 38606

23 CFR

Ch. I 35388, 39222
752 38609

Proposed Rules:

Ch. I 38854
652 36470
771 33894

24 CFR

202a 36247
203 ..... 34949, 35088, 35638, 36247
205 35389
207 35389
209 36247
211 36247
213 ..... 35389, 35638, 36247
220 ..... 35393, 36247
221 ..... 35389, 36247
222 36247
226 36247
228 36247
232 35389
234 ..... 35638, 36247
235 ..... 34949, 36247
237 36247
244 35389
300 ..... 36572, 36573
500 36574

866.....37023
886.....36101
890.....38228
Proposed Rules:
115.....36133
200.....35668-35671, 35890
203.....35140
234.....35140
235.....35140
241.....35891
3280.....37136

25 CFR

Proposed Rules:
11.....37046

26 CFR

1.....36448
31.....35089, 36807
35.....35090, 36448, 36807
51.....35092
150.....35092
301.....36449, 36229
Proposed Rules:
1.....36137, 36474
5c.....36137
20.....35143
31.....36474

27 CFR

9.....35395, 37365-37374, 38462
178.....35398
Proposed Rules:
5.....35460
9.....35462, 37670, 38497

28 CFR

0.....35087
9.....35087
60.....37376
Proposed Rules:
0.....35892
16.....35892

29 CFR

500.....36576, 36736, 38374, 38380
1601.....38231
1910.....36576
1952.....34950, 34951, 37024
1956.....37025
2610.....37027
2619.....36816
2622.....37027
Proposed Rules:
1550.....37047
1697.....34766
1910.....37672, 38856
1926.....35774
2615.....37230

30 CFR

Ch. II.....35639
221.....36582
226.....36582
231.....36588
251.....37967
641.....37377
642.....37377
800.....36418
806.....36418
872.....35399
880.....37377
881.....37377
913.....37625
914.....37626
917.....38463
926.....37382
946.....39223
Proposed Rules:
55.....36789
56.....36789
57.....36789
250.....38500
252.....38500
913.....36625
915.....35903
935.....35146, 36274, 36627
938.....37672

31 CFR

Proposed Rules:
1.....35904

32 CFR

47.....38816
70.....35644
219.....35400
253.....35644
263.....34952
373.....36247
701.....38611
706.....37029, 37030
819a.....35878
842.....37631
865.....37384
920.....39225
Proposed Rules:
65.....34974

33 CFR

1.....35402
8.....36449
25.....36450
53.....36449
100.....36450, 36451, 37396, 37397, 38630, 38631
110.....36452, 38631
117.....35409, 36452, 38632, 38633
154.....34740
160.....35402, 39059
161.....35402
165.....35402, 36453, 38633, 38634
167.....36453
Proposed Rules:
100.....36474, 37433, 39083
110.....34767, 38652
115.....35464
117.....36475, 36477, 38653-38655
161.....37433, 39244
165.....37438

34 CFR

5b.....38817
200.....34953
205.....35879
263.....35330
Proposed Rules:
662.....38968
663.....38968
664.....38968
665.....38968
668.....39366
674.....39366
675.....39366
676.....39366
683.....39366
690.....39366

35 CFR

Proposed Rules:
111.....35905

36 CFR

223.....34740
905.....38232
Proposed Rules:
13.....37673
228.....35580
251.....35465, 35580
261.....35465

37 CFR

202.....37204
Proposed Rules:
1.....34836, 36478, 39016
2.....36478
202.....37232

38 CFR

3.....37031, 38820
17.....37398, 38821
21.....35879, 36577, 37986
36.....35879, 39059
40.....36103
Proposed Rules:
17.....38007, 38253
21.....34975, 35146

39 CFR

1.....38234
10.....35409
111.....35645, 38234
Proposed Rules:
111.....37439
3001.....35914

40 CFR

35.....37814
52.....36250, 36818, 36819, 37401-37403, 38235, 38465-38467, 38634, 38635
60.....36579, 37578, 37598, 38728, 39010
61.....36579
65.....38637
81.....37404, 37653, 38236, 38467, 38637, 38639
145.....38237, 38238, 38640, 38641
162.....35095, 38572
180.....35095, 36251, 37210-37214
264.....36582
270.....36582
271.....34742, 34954, 35096, 35097, 35647, 36252, 37215
425.....35649
468.....36942
717.....38178, 39225
Proposed Rules:
Ch. II.....34768
50.....38009
51.....38742
52.....34976, 35312-35326, 35672, 35918, 36139, 37232, 38742, 39084
60.....35338, 37338
61.....38009
62.....34978
81.....35919, 35920, 36275, 38254, 38255
145.....37673
180.....36486, 36501, 39244
228.....35147, 35673
261.....39000
271.....36277, 36628, 38010, 38722
302.....34979
414.....35674
416.....35674
721.....38502, 39245
1502.....36486
1506.....36486

41 CFR

Ch. 1.....37031
Ch. 101.....35098
5-1.....37997
5-59.....37405
29-70.....37786
44-17.....38822
101-11.....38824
101-41.....35649
Proposed Rules:
3-1.....37233
3-3.....37233

42 CFR

60.....38984
401.....39060
405.....37408
421.....38825
Proposed Rules:
2.....36756
71.....36143
100.....36390
122.....36402
123.....36402
125.....36390
400.....38146
405.....34979, 38146, 39412
408.....38146
409.....38146
418.....38146
420.....38146
421.....34979, 38146
431.....36151
441.....38011
460.....36970, 38656
462.....36970, 38656
489.....38146

43 CFR

2.....37411
1820.....36103
3000.....37654, 39225
3040.....39225
3100.....37656
3110.....39225
3120.....39225
3140.....39225
3150.....39225
3410.....37654
3420.....37654
3430.....37654
3450.....37654
8360.....36382
Public Land Orders:
3160.....36582
3180.....36582
3570.....36588
6329 (Amended by PLO 6456).....39086

6380 (corrected by PLO 6451)..... 35099
6388 (corrected by PLO 6450)..... 35098
6448..... 34743
6449..... 34743
6450..... 35098
6451..... 35099
6452..... 38239
6453..... 38239
6454..... 38240
6455..... 38468
6456..... 39066
Proposed Rules:
36..... 37673

44 CFR

59..... 39066
61..... 39066
64..... 34744, 34957, 36590, 36592, 38825
67..... 36104
71..... 37036
Proposed Rules:
61..... 35468
62..... 35468
67..... 36159–36167, 36629, 38018, 38019, 38258, 38259

45 CFR

1..... 35099
10..... 35099
67..... 35099
99..... 35099
101..... 38827
303..... 38642
1607..... 36820
Proposed Rules:
5b..... 37440
302..... 35468
304..... 35468
306..... 35468
1606..... 36845
1611..... 39086
1625..... 36845

46 CFR

31..... 36457
32..... 36457
35..... 36457
42..... 38646
221..... 35881
503..... 36253
536..... 35099, 36254
Proposed Rules:
10..... 35920
35..... 35920
50..... 37441
52..... 37441
53..... 37441
54..... 37441
63..... 37441
157..... 35920
162..... 37441
175..... 35920
185..... 35920
186..... 35920
187..... 35920
295..... 37449
298..... 37453
510..... 38856
540..... 35675

47 CFR

0..... 37413, 38240
1..... 36104, 36459, 39072
2..... 34746, 37216, 39072
15..... 34748, 37217
17..... 38473
18..... 37217
19..... 38240
21..... 34746, 37216
22..... 37997
73..... 34753–34757, 34959, 36106–36112, 36254, 36459, 37216, 37220–37224, 37414–37416, 38243, 38470–38473
74..... 34746, 37216, 38473
76..... 39225
81..... 39072
83..... 34961
90..... 34961, 36104
95..... 35234, 36104, 39072
97..... 34746, 37224
Proposed Rules:
Ch. I..... 36167, 37235, 37464, 38511, 39090
2..... 37475
18..... 37235
68..... 34985
73..... 34772–34779, 35964, 36168–36173, 36278, 37239–37269, 37475–37492, 38020, 38053, 38859, 38860
76..... 34986
90..... 34782, 34987, 35149, 39090

48 CFR

Proposed Rules:
Ch. I..... 35675

49 CFR

1..... 37998
192..... 37999
213..... 35882
391..... 38483
571..... 38842
1056..... 38844
1170..... 35409
1175..... 36594
1181..... 38844
1183..... 38844
1300..... 36822
1307..... 36822
Proposed Rules:
Ch. X..... 38059
171..... 35471, 35965
172..... 35471, 35965, 35970
173..... 35471, 35965, 35970
175..... 35471
179..... 35970
210..... 36487, 38511
218..... 36492
571..... 34783, 34784, 36493, 36849
572..... 37493
622..... 34894
1057..... 39251
1102..... 39254
1105..... 36284
1152..... 36284
1160..... 36285
1165..... 36290
1180..... 36284

50 CFR

10..... 37040
17..... 34757, 34961, 36256, 36594
20..... 35100, 39024
32..... 36112
285..... 35107, 36597, 36823, 38650
611..... 34762, 34962, 35107, 39076, 39229
649..... 36266
650..... 34762
651..... 34762
652..... 34762, 38243
654..... 34762
655..... 34762
658..... 38489
661..... 36823, 38244
662..... 34963
663..... 34762, 34763
671..... 34762
672..... 34762, 35107, 37040
674..... 34762, 34965, 37224
675..... 34762, 35107
680..... 39229
Proposed Rules:
17..... 35475, 35973, 38860, 39090–39096
20..... 35152, 35153, 36853
23..... 37494
32..... 34987
36..... 37673
424..... 36062
611..... 39254
630..... 39255
641..... 38511
681..... 35475

LIST OF PUBLIC LAWS

Note: No public bills have which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing August 18, 1983

VOL
48
ISS
1
6
9
AG
30
1983
UMI

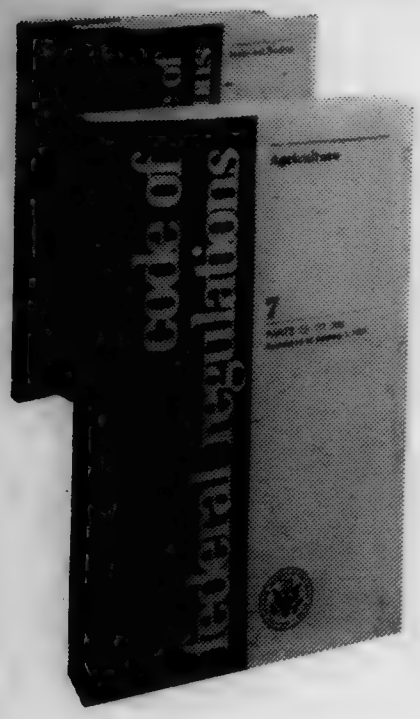

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VOL
48
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1
6
9
AG
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8-31-83
Vol. 48 No. 170

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Wednesday
August 31, 1983

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VOL
48
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1
7
0
AG
31
1983
UMI

8-31-83
Vol. 48 No. 170
Pages 39447-39594

Federal Register

Wednesday
August 31, 1983

Selected Subjects

Air Pollution Control
Environmental Protection Agency

Aviation Safety
Federal Aviation Administration

Fisheries
National Oceanic and Atmospheric Administration

Highways and Roads
Federal Highway Administration

Marketing Agreements
Agricultural Marketing Service

Medicaid
Health Care Financing Administration

Milk Marketing Orders
Agricultural Marketing Service

Motor Carriers
Federal Highway Administration

Pesticides and Pests
Environmental Protection Agency

Radiation Protection
Environmental Protection Agency

Reporting and Recordkeeping Requirements
Federal Aviation Administration

Tobacco
Agricultural Stabilization and Conservation Service

VOL
48
ISS
1
7
0
AG
31
1983
UMI

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Contents

Federal Register
Vol. 48, No. 170
Wednesday, August 31, 1983

Agricultural Marketing Service
RULES
39447 Oranges, grapefruit, tangerines, and tangelos grown in Fla.
PROPOSED RULES
Milk marketing orders:
39470 Chicago Regional

Agricultural Stabilization and Conservation Service
RULES
Marketing quotas and acreage allotments:
39447 Tobacco; fire cured, etc.

Agriculture Department
See also Agricultural Marketing Service; Agricultural Stabilization and Conservation Service; Forest Service; Rural Electrification Administration.
NOTICES
39482 Agency information collection activities under OMB review

Arms Control and Disarmament Agency
NOTICES
Meetings:
39483 General Advisory Committee

Civil Aeronautics Board
NOTICES
39483 Agency information collection activities under OMB review (2 documents)
Hearings, etc.:
39483 Midwest Express Airlines Inc.

Commerce Department
See National Oceanic and Atmospheric Administration.

Commodity Futures Trading Commission
NOTICES
39558 Meetings; Sunshine Act (2 documents)

Consumer Product Safety Commission
NOTICES
39485, 39486 Agency information collection activities under OMB review (2 documents)
39486 Asbestos, Chronic Hazard Advisory Panel; report availability
Meetings:
39486 Toxicological Advisory Board

Defense Department
NOTICES
Meetings:
39487 Electron Devices Advisory Group (2 documents)

Drug Enforcement Administration
NOTICES
Registration applications, etc.; controlled substances:
39535 Ferguson Rexall Drug, Inc.; hearing

Energy Department
See also Federal Energy Regulatory Commission.
NOTICES
Meetings:
39487 National Petroleum Council; date and room change

Environmental Protection Agency
RULES
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.:
39453 Benomyl
39454 Chlorpyrifos
PROPOSED RULES
Air pollution; standards of performance for new stationary sources:
39566 Nonmetallic mineral processing plants
Air quality implementation plans; approval and promulgation; various States:
39472 Nebraska
Motor vehicle fuel economy:
39475 Labeling and data submission requirements; extension of time
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc:
39474 Inorganic bromides resulting from fumigation with methyl bromide
39473 Methamidophos
Radiation protection programs:
39563 Low-level radioactive waste disposal; advance notice
NOTICES
Air pollution control:
39580 Emissions trading policy statement; general principles for creation banking, and use of emission reduction credits; inquiry; extension of time
Air quality; prevention of significant deterioration (PSD):
39507 Final determinations
Meetings:
39507 State FIFRA Issues Research and Evaluation Group
39503 Pesticide emergency exemptions; based on need in terms of integrated pest management (IPM); inquiry
Pesticide programs:
39494 EPN; rebuttable presumptions against registration
Pesticide registration, cancellation, etc.:
39501 Kimberly Clark Corp. et al.
39502 Mole & Gopher Get Manufacturing Co. et al.
Pesticides; emergency exemption applications:
39492 Metalaxyl etc.
Pesticides; experimental use permit applications:
39503–39506 Sodium fluoroacetate (5 documents)

Federal Aviation Administration
RULES
Airworthiness directives:
39449 Beech
39451 Piper
39448 Reporting and recordkeeping requirements

39452 VOR Federal airways

NOTICES

Meetings:

39556 Aeronautics Radio Technical Commission

Federal Communications Commission

NOTICES

Meetings:

39508 Caribbean and North Atlantic Regions; facilities planning

Federal Deposit Insurance Corporation

NOTICES

39558 Meetings; Sunshine Act

Federal Energy Regulatory Commission

NOTICES

Hearings, etc.:

39487 Aswell, Donald L.

39488 Causton, J. Robert

39488 Katherine, Jon A.

39488 Lennox, William M., Jr.

39488 Lynch, J. D.

39489 Michigan Consolidated Gas Co.

39489 Randall, Kenneth A.

Natural gas companies:

39490 Certificates of public convenience and necessity; applications, abandonment of services and petitions to amend (Getty Oil Co. et al.)

Natural Gas Policy Act:

39588 Jurisdictional agency determinations

39489, 39490 Oil pipelines, interstate; tentative valuations (2 documents)

Small power production and cogeneration facilities; qualifying status; certification applications, etc.:

39490 Paper Pak Products, Inc.

Federal Highway Administration

RULES

39455 Motor carrier safety assistance program; interim

PROPOSED RULES

Engineering and traffic operations:

39592 Truck size; routes

Federal Maritime Commission

NOTICES

39508, 39509 Agreements filed, etc. (2 documents)

Complaints filed:

39508 Contract Marine Carriers, Inc., et al.

Investigations, hearings, petitions, etc.:

39508 Jorge Reynoso Import & Export Co.

Federal Reserve System

NOTICES

39558 Meetings; Sunshine Act

Food and Drug Administration

RULES

Drug labeling:

39452 Pregnant or nursing women; warnings on OTC drugs; exemptions and exclusions, advisory opinions availability

NOTICES

39512 Information exchange and development of collaborative projects; memorandum of understanding with National Center for Health Statistics

39509 Inspection duplication minimization; memorandum of understanding with FSIS/USDA

Forest Service

NOTICES

39482 Timber sale contracts, extension; interim policy; correction

Health and Human Services Department

See Food and Drug Administration; Health Care Financing Administration; Public Health Service; Social Security Administration.

Health Care Financing Administration

PROPOSED RULES

Medicaid:

39476 Quality control program; reduction in error rate tolerance

Interior Department

See Land Management Bureau.

International Trade Commission

NOTICES

39515 Agency information collection activities under OMB review

Import investigations:

39515 Caulking guns

39515 Composite diamond coated textile machinery components

39515, 39516 Copper-clad stainless steel cookware (6 documents)

39518 Fresh or chilled round white potatoes from Canada

39517 Lightweight polyester filament fabric from Japan and Korea

39520 Personal computers and components

39519 Potassium permanganate from China and Spain

39517 Poultry cut up machines

39519 Tubes for tires, other than for bicycle tires, from Korea

39518 Vertical milling machines and parts, attachments, and accessories

Interstate Commerce Commission

NOTICES

Motor carriers:

39523 Finance applications

39523, 39526 Permanent authority applications (2 documents)

39533 Temporary authority applications

Motor carriers; control, purchase, and tariff filing exemptions, etc.:

39521 Bell, Jerry, et al.

Railroad operation, acquisition, construction, etc.:

39535 New York, Susquehanna & Western Railway Corp.

Justice Department

See Drug Enforcement Administration.

Labor Department

See Occupational Safety and Health Administration.

Land Management Bureau

RULES

Public land orders:

39455 Oregon; correction (2 documents)

39455 Washington; correction

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
39463 Snapper-grouper, South Atlantic
NOTICES
Coastal zone management programs:
39484 California; correction
39483 California; extension of time and hearing

National Transportation Safety Board
NOTICES
39558 Meetings; Sunshine Act

Nuclear Regulatory Commission
NOTICES
Applications, etc.:
39537 Alabama Power Co.
39537 Boston Edison Co.
39541 Metropolitan Edison Co. et al.
39538 Pacific Gas & Electric Co.
39540 Pennsylvania Power & Light Co. et al.
Meetings:
39542 Reactor Safeguards Advisory Committee
39536 Nuclear waste repository safety guidelines, high-level; NRC concurrence
Reports; availability, etc.:
39535 Human factors program plan

Occupational Safety and Health Administration
PROPOSED RULES
State plans; development, enforcement, etc.:
39471 Virgin Islands

Public Health Service
NOTICES
Organization, functions, and authority delegations:
39513 Food and Drug Administration
39513 Health Resources and Services Administration

Rural Electrification Administration
NOTICES
Environmental statements; availability, etc.:
39482 Dairyland Power Cooperative

Securities and Exchange Commission
NOTICES
Hearings, etc.:
39543 Hospital Corp. of America, Inc.
39544 Southern Farm Bureau Cash Fund, Inc., et al.
Self-regulatory organizations; proposed rule changes:
39545 Chicago Board Options Exchange, Inc.
39545 Midwest Securities Trust Co.
39546, 39547 Municipal Securities Rulemaking Board (2 documents)
39548, 39553, 39555 New York Stock Exchange, Inc. (3 documents)
39549 Options Clearing Corp.
39550 Pacific Clearing Corp.
39551 Pacific Securities Depository Trust Co.
39552 Philadelphia Depository Trust Co.

Small Business Administration
NOTICES
Meetings; regional advisory councils:
39556 Delaware and Pennsylvania
39556 Oregon
39556 Washington

Social Security Administration
NOTICES
Organizations, functions, and authority delegations:
39514 Disability Hearings Office

Textile Agreements Implementation Committee
NOTICES
Cotton, wool, or man-made textiles:
39485 Hong Kong; correction
39485 Indonesia

Transportation Department
See Federal Aviation Administration; Federal Highway Administration; Urban Mass Transportation Administration.

Treasury Department
NOTICES
Organization, functions, and authority delegations:
39557 Deputy Assistant Secretary (Federal Finance)

Urban Mass Transportation Administration
NOTICES
Environmental statements; availability, etc.:
39557 Baltimore, Md. Region; alternative transit improvements

---

Separate Parts in This Issue

Part II
39563 Environmental Protection Agency

Part III
39566 Environmental Protection Agency

Part IV
39580 Environmental Protection Agency

Part V
39588 Department of Energy, Federal Energy Regulatory Commission

Part VI
39592 Department of Transportation, Federal Highway Administration

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
724.....39447
905.....39447
Proposed Rules:
1030.....39470

14 CFR
11.....39448
39 (2 documents).....39449, 39451
71.....39452

21 CFR
201.....39452

23 CFR
Proposed Rules:
658.....39592

29 CFR
Proposed Rules:
1952.....39471

40 CFR
180 (2 documents).....39453, 39454
Proposed Rules:
52.....39472
60.....39566
180 (2 documents).....39473, 39474
193.....39563
600.....39475

42 CFR
Proposed Rules:
431.....39476

43 CFR
Public Land Orders:
6418.....39455
6427.....39455
6447.....39455

49 CFR
350.....39455

50 CFR
646.....39463

Rules and Regulations

Federal Register
Vol. 48, No. 170
Wednesday, August 31, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 724

[Amdt. 5]

Fire-Cured, Dark Air-Cured, Virginia Sun-Cured, Cigar-Binder, Cigar-Filler and Binder—1982–1983 Average Market Price and 1983–1984 Penalty Rate

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final rule.

SUMMARY: This rule sets forth the average market price received by producers of certain minor kinds of tobaccos for the 1982–1983 marketing year and the penalty rate for excess tobacco for the 1983–1984 marketing year for such kinds of tobacco. As required by section 314 of the Agricultural Adjustment Act of 1938, as amended, marketing quota penalties are assessed at the rate of 75 percent of the previous year's average market price.

EFFECTIVE DATE: August 31, 1983.

FOR FURTHER INFORMATION CONTACT: Harry D. Millner, Agricultural Program Specialist, Tobacco and Peanuts Division, USDA–ASCS, P.O. Box 2415, Washington, D.C. 20013, (202) 447–4281.

A Regulatory Impact Analysis was not prepared since the effect of this final rule is primarily administrative.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum No. 1512–1, and has been classified "not major." It has been determined that this rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State or local government agencies, or a geographic region; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program to which this rule applies are: Title: Commodity Loan and Purchases; Number: 10.051 as set forth in the catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since the Agricultural Stabilization and Conservation Service is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Section 314 of the Agricultural Act of 1938 provides that marketing quota penalties shall be assessed whenever a kind of tobacco is marketed in excess of the marketing quota established for the farm on which such tobacco is produced. The rate of penalty per pound for a kind of tobacco as prescribed by section 314 of the 1938 Act is 75 percent of the previous year's average market price for such tobacco.

Since the 1982–1983 average market price producers received for tobacco and the rate of penalty reflect only mathematical computations which are required to be made in accordance with a statutory formula, it has been determined that no further public rulemaking is required. Accordingly, this rule shall become effective upon publication in the **Federal Register**.

List of Subjects in 7 CFR Part 724

Marketing quotas, Penalties, Tobacco.

Final Rule

PART 724—[AMENDED]

Accordingly, the regulations at 7 CFR Part 724 are amended by revising § 724.88(c) to read as follows:

§ 724.88 Rate of penalty.

* * * * *

(c)(1) *Average market price.* The average market prices for the kinds of tobaccos listed below as determined by the Crop Reporting Board for the 1982–83 marketing year are:

AVERAGE MARKET PRICE

Kinds of tobacco	Cents per pound
Fire-cured (type 21)	117.6
Fire-cured (types 22, 23, and 24)	156.0
Dark air-cured	122.9
Virginia sun-cured	106.4
Cigar-filler and binder (types 42, 43, 44, 53, 54, and 55)	101.6
Cigar-binder (types 51 and 52)	160.9

(2) *Rate of penalty per pound.* The penalty rate per pound for marketings of excess tobacco subject to marketing quotas for the 1983–84 marketing year is:

RATE OF PENALTY

Kinds of tobacco	Cents per pound
Fire-cured (type 21)	88
Fire-cured (types 22, 23, and 24)	117
Dark air-cured	92
Virginia sun-cured	80
Cigar-filler and binder (types 42, 43, 44, 53, 54, and 55)	76
Cigar-binder (types 51 and 52)	136

(Sec. 314 of the Agricultural Adjustment Act of 1963, as amended, (7 U.S.C. 1314))

Signed at Washington, D.C. on August 25, 1983.

Everett Rank,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 83-23907 Filed 8-30-83; 8:45 am]

BILLING CODE 3410-05-M

Agricultural Marketing Service

7 CFR Part 905

[Orange, Grapefruit, Tangerine, and Tangelo Reg. 6; Amdt. 24]

Oranges, Grapefruit, Tangerines and Tangelos Grown in Florida; Amendment of Grade Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This action continues the minimum grade requirement of U.S. No. 2 Russet for domestic and export shipments of Florida Valencia oranges, including other late type oranges. This amendment is effective for the period August 25–October 2, 1983. This action recognizes current and prospective demand for such oranges and is

consistent with the remaining crop in the interest of growers and consumers.

EFFECTIVE DATE: August 25, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the Florida Valencia and other late type orange crop for the benefit of producers, and will not substantially affect costs for the directly regulated handlers.

The regulation with respect to Florida Valencia and other late type oranges, is issued under the marketing agreement and Order No. 905 (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines and tangelos grown in Florida.

The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon information which was made available to the Department of Agriculture by the Citrus Administrative Committee's manager, and upon other available information.

The minimum grade requirement specified herein reflects the Department's appraisal of the need to continue the grade requirement applicable to Florida Valencia and other late type oranges of U.S. No. 2 Russet in recognition of the diminishing available supplies of such fruit. Without this amendment the grade requirement would be U.S. No. 1. The industry has reported continued market demand for the remaining supplies of such fruit. Such revision is designed to augment the total available supply of marketable fruit. It is hereby found that this regulation will tend to effectuate the declared policy of the Act.

It is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553). It is necessary to effectuate the declared purposes of the Act to make this regulatory provision effective as specified. This amendment relieves restrictions on domestic and export shipments of Florida Valencia and other late type oranges.

List of Subjects in 7 CFR Part 905

Marketing agreements and orders, Florida, Grapefruit, Oranges, Tangelos, Tangerines.

PART 905—[AMENDED]

Accordingly, the provisions of § 905.306 are amended by revising the following entries in Table I, paragraph (a), applicable to domestic shipments, and Table II, paragraph (b), applicable to export shipments, to read as follows:

§ 905.306 Orange, Grapefruit, Tangerine and Tangelo Regulation 6.

TABLE I

Variety (1)	Regulation period (2)	Minimum grade (3)	Minimum diameter (in.) (4)
• • • • • • •			
Oranges:			
Valencia and other late type.	8/25/83–10/2/83, on and after 10/3/83	U.S. No. 2 Russet, U.S. No. 1	2–8/16, 2–8/16
• • • • • • •			

(b) * * *

TABLE II

Variety (1)	Regulation period (2)	Minimum grade (3)	Minimum diameter (in.) (4)
• • • • • • •			
Oranges:			
Valencia and other late type.	8/25/83–10/2/83, on and after 10/3/83	U.S. No. 2 Russet, U.S. No. 1	2–4/16, 2–4/16
• • • • • • •			

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674)

Dated: August 26, 1983.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83–23856 Filed 8–30–83; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 11

[Docket No. 23738; Amdt. 11–23]

OMB Control Numbers for 14 CFR Chapter I

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment consolidates and displays the Office of Management and Budget (OMB) control numbers assigned to the information collection requirements of the Federal Aviation Administration by listing in Part 11 of the Federal Aviation Regulations (FAR) the part or section of the regulations stating the paperwork burden with the number assigned to that burden. This publication of the control numbers is necessary so that the public may be aware of those paperwork burdens imposed by the FAA that have been approved by the Office of Management and Budget (OMB). While complying with the intent of the Paperwork Reduction Act of 1980 (Title 44 U.S.C. Chapter 35) and the procedures established in 5 CFR Part 1320, the consolidation of the 14 CFR Chapter I control numbers in Part 11 allows easier insertion of the numbers for existing requirements and more efficient changes for later ones.

EFFECTIVE DATE: September 30, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Leonard R. Smith, Executive Secretary, Regulatory Council (AGC–203), Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Ave., SW., Washington, D.C. 20591; telephone (202) 426–9097.

SUPPLEMENTARY INFORMATION:

Background

The Paperwork Reduction Act of 1980 (Title 44, U.S.C. Chapter 35) sought to minimize the paperwork burden imposed by the Federal Government while maximizing the utility of the information requested. The Act requires that the agency responsible for the

burden balance the practical value of the information against the time and cost to the public in providing that information. In March 1983, the Office of Management and Budget (OMB) implemented the Act by adopting the procedures contained in Part 1320 of 5 CFR Chapter III. These procedures became effective May 2, 1983. Accordingly to these procedures, once OMB has approved a collection of information, a control number (and, if appropriate, an expiration date) will be assigned. This control number must be displayed by being published in the **Federal Register** and in the Code of Federal Regulations (CFR's). For existing collection requirements, OMB control numbers must be assigned and displayed by March 1, 1984, or those requirements will become ineffective.

By using a table format, the existing collection requirements for the Federal Aviation Administration can be easily inserted into Part 11 of the Federal Aviation Regulations (FAR) and efficiently amended as changes take place. Because the OMB control numbers for only one chapter are included, this amendment limits the consolidation in accordance with OMB procedures and does so with one of the formats suggested by OMB. Additionally, the consolidation promotes public awareness of approved requirements while limiting the burden on this agency in publishing the information and, thus, conforms to the intent of the Paperwork Reduction Act.

General

This amendment adds a new Subpart F to Part 11 of Title 14 of the Code of Federal Regulations (CFR's), entitled "Agency Information Collection Requirements under the Paperwork Reduction Act." Subpart F consists of § 11.101(a), which outlines the purpose of the new subpart, and § 11.101(b), which provides the display of numbers. Section 11.101(a) states that the purpose of Subpart F is to consolidate and display the OMB control numbers for the information collection requirements of the Federal Aviation Administration (FAA) pursuant to the Paperwork Reduction Act of 1980 (Title 44, U.S.C. Chapter 35). Section 11.101(b) provides the display by using a table containing the 14 CFR part or section that states the burden alongside the burden's current OMB control number.

Comments

This amendment consolidates information already approved and concerns intra-agency procedural matters upon which public comment would not be useful or necessary. Because this amendment is editorial in nature, notice and public procedure are unnecessary.

List of Subjects in 14 CFR Part 11

Reporting and recordkeeping requirements.

Adoption of the Amendment

Accordingly, a new Subpart F is added to 14 CFR Part 11, effective September 30, 1983, to read as follows:

PART 11—GENERAL RULEMAKING PROCEDURES

* * * * *

Subpart F—Agency Information Collection Requirements Under the Paperwork Reduction Act

Sec.

11.101 OMB Control Numbers assigned pursuant to the Paperwork Reduction Act.

Authority: Sec. 313(a) of the Federal Aviation Act of 1958 (49 U.S.C 1354(a)); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983).

* * * * *

Subpart F—Agency Information Collection Requirements Under the Paperwork Reduction Act

§ 11.101 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

(a) *Purpose.* This subpart consolidates and displays the OMB assigned control numbers for the information collection requirements of the Federal Aviation Administration pursuant to the Paperwork Reduction Act of 1980 (Title 44, U.S.C. Chapter 35) which mandates that every collection requirement have a control number displayed in the Code of Federal Regulations.

(b) Display.

Table

14 CFR part or section indentified and described	Current OMB control No.
Part 21	2120-0018
Part 39	2120-0056
Part 43	2120-0020
§§ 47.3, 47.5	2120-0029
§ 47.7	2120-0029, 2120-0042
§ 47.8	2120-0042
§ 47.9	2120-0029, 2120-0042
§§ 47.11 thru 47.47	2120-0042
§ 47.63	2120-0024
Part 49	2120-0043
§ 61.3	2120-0034
§§ 61.13 thru 61.197	2120-0021
Part 63	2120-0007
Part 65	2120-0022
§ 67.11	2120-0034, 2120-0052, 2120-0058, 2120-0060
§ 67.19	2120-0052, 2120-0058, 2120-0060
§ 67.23	2120-0002
Part 77	2120-0001
§ 91.1	2120-0026
§ 91.3	2120-0005
§ 91.18	2120-0027
§§ 91.24 Thru 91.34	2120-0005
§§ 91.39	2120-0027
§§ 91.41 thru 91.56	2120-0005
§ 91.63	2120-0027
§ 91.75	2120-0005
§ 91.83	2120-0026
§§ 91.97 thru 91.217	2120-0005
Part 91, Subpart E	2120-0062
Part 101	2120-0027
Part 105	2120-0027
Part 107	2120-0075
Part 108	2120-0068
Part 121 (except as below)	2120-0008
§§ 121.3 thru 121.155	2120-0008, 2120-0028
§ 121.723	2120-0008, 2120-0025
Part 123	2120-0028
Part 125	2120-0085
Part 127	2120-0028
Part 133	2120-0044
Part 135 (except as below)	2120-0039
§§ 135.11 thru 135.17	2120-0008, 2120-0039
§ 135.43	2120-0025, 2120-0039
§ 1335.415	2120-0003, 2120-0039
Part 137	2120-0049
Part 139	2120-0063
Part 141	2120-0009
Part 143	2120-0021
Part 145 (except as below)	2120-0010
§ 145.63	2120-0003, 2120-0010
Part 147	2120-0040
Part 149	2120-0012
Part 152	2120-0065, 2120-0080
Part 157	2120-0036
§ 159.13	2120-0061
§ 159.99	2120-0064
Part 171	2120-0014
§ 183.11	2120-0002, 2120-0033, 2120-0035
§§ 183.15 thru 183.17	2120-0033
§§ 183-25 thru 183.31	2120-0035
Part 199	2120-0061
SFAR 44-5 Appendix	2120-0502

(Sec. 313(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a)); 49 U.S.C. 106(g) Revised, Pub. L. 97-449, January 12, 1983)

Note: Because this amendment merely consolidates for display control numbers previously approved by the OMB, the FAA has determined that it is editorial in nature and imposes no new burden on any person. Therefore, it has been determined that this amendment involves a regulation that is not: (1) Major under Executive Order 12291 or (2) significant under the Department of Transportation Policies and Procedures (44 FR 11034; February 26, 1979). In addition, because it involves merely a consolidation for informational purposes, the economic impact of this amendment is considered so minimal or nonexistent as to not require a full regulatory evaluation.

Issued in Washington, D.C., on July 29, 1983.

J. Lynn Helms,

Administrator.

[FR Doc. 83-23063 Filed 8-30-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 80-CE-14-AD; Amdt. 39-4715]

Airworthiness Directives; Beech Models E33C and F33C Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), which requires modification or removal of the acrobatic category certification of Beech Models E33C and F33C airplanes. Flight testing has demonstrated these airplanes can enter unrecoverable spins. The AD will prevent an operator from entering an intentional spin that may develop an unrecoverable mode and an ensuing fatal accident.

EFFECTIVE DATE: October 1, 1983.
Compliance: as prescribed in the body of the AD.

ADDRESSES: Beechcraft Class I Service Instructions No. 1249 applicable to this AD may be obtained from Beech Aircraft Corporation, 9709 E. Central, Wichita, Kansas 67201. A copy of this information is also contained in the Rules Docket, FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Charles J. Maple, Flight Test Pilot Wichita Aircraft Certification Office, Room 238, Terminal Building 2299, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 269–7012.

SUPPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking (NPRM) was published in the **Federal Register** on April 10, 1980 (45 FR 24493, 24494), which proposed an AD to rescind the acrobatic category certification of Beech Models E33C and F33C airplanes and limit operation of those airplanes to the utility category. The NPRM was issued following Beech spin testing programs in which there were three occurrences of uncontrollable spins, each requiring spin recovery parachute deployment to obtain recovery. Following the third occurrence Beech discontinued its test program and, at that time, contended that further testing requested by FAA was unnecessary. The issuance of the proposal was prompted by (1) determination that the existing test data showed that it may be possible for airplanes in service to enter a spin mode from which recovery is not possible and (2) the manufacturer's request for correction by means of AD action.

Interested persons were afforded an opportunity to comment on the proposal. More that 35 commenters responded, principally U.S. owners of record of the affected airplanes, organizations representing the views of those owners and the airplane manufacturer. All commenters opposed the proposal, with most contending that the FAA had misinterpreted the relevant provision of Civil Air Regulations (CAR) 3 and that the Beech flight tests described in the Notice may have been conducted to improper standards of test procedure and airplane configuration. Each of these comments was reviewed but, because of the information hereinafter set forth, they must be considered moot. When the FAA proceeded with the steps necessary to issue the AD as originally proposed, and advised Beech of this proposed action, the manufacturer reversed its prior position on further spin testing. As an alternative, it proposed a test program which, if successfully completed, would answer questions raised by the uncontrollable spins that had occurred in earlier testing. Following the FAA's review and concurrence with the proposed test program, it was agreed that final action on the proposed AD would be delayed until the test program was completed. On October 23, 1981, Beech resumed spin testing in accordance with instrumentation, configuration and maneuver schedules which were mutually agreed to by Beech and the FAA. The testing was monitored by FAA personnel. On October 27, 1981, the test airplane entered a spin that developed into an unrecoverable mode, and the installed spin recovery parachute was deployed to obtain recovery.

Following this test incident, Beech recommended that the FAA take AD action to rescind the acrobatic category certification of these airplanes but suggested alternatively that the acrobatic category certification remain in effect if restrictions similar to those earlier published by Beech were imposed on the performance of intentional spins, pending the development of appropriate design changes. The restrictions proposed by Beech were considered and found unacceptable, since the range of conditions which might lead to uncontrollable spins had not been defined.

In further testing, it was determined that the Models E33C and F33C airplanes have two spinning modes. In the first mode, most commonly seen, the piloting cues are generally those of a spin in a steep nose-down attitude and with slowly increasing airspeed. It is entered by the use of normal spin entry techniques and maintained by the pro-spin control inputs specified in the Pilot's Operating Handbook and FAA Approved Airplane Flight Manual (AFM). Recovery from this mode is obtained by normal spin recovery control inputs, and characteristically requires less than one-half turn from any point in a six turn maneuver. This mode is not a true spin as envisioned in the CAR, since a complete stall is not maintained over both lifting surfaces. Notwithstanding this, the FAA does not have any information at this time to show that corrective action on this point for the E33C/F33C design is necessary in the interest of safety.

The second spinning mode is a true spin mode, and it is uncontrollable by the use of aerodynamic controls, with or without the use of power. This mode was not seen during the original type certification program, but the information that is available to the FAA at this time indicates that it was encountered in each of the unrecoverable spins discussed in the Notice. This spinning mode appears only occasionally, after a spin in the recoverable first mode (described above) has been established, and while the prescribed pro-spin controls inputs are maintained. Transition into this mode is marked by a shallowing of the nose-down spining attitude and a substantial increase in yaw rate, and typically has not occurred prior to completion of the second spin turn.

The ability to obtain uncontrollable spins has been confirmed. Therefore, these airplanes do not meet the applicable regulations for acrobatic category approval or for approval of intentional spinning in utility category. Since sufficient evidence exists to establish that an unsafe condition exists, the NPRM is being adopted with revisions to provide for an additional method of compliance whereby the acrobatic category certification may be retained, and with minor technical and clarifying revisions.

There are approximately twenty-nine airplanes registered in the United States that are affected by the AD. The cost of complying with the AD is estimated to be $257,839 to the private sector.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD:

Beech: Applies to Model E33C (Serial Numbers CJ–1 through CJ–25) and Model F33C (Serial Numbers CJ–26 through CJ–155) airplanes certificated in acrobatic and utility categories.

Compliance: Required as indicated, unless previously accomplished.

To prevent maneuvers which may develop into an unrecoverable spin, within the next 100 hours time-in-service after the effective date of this AD, accomplish paragraph a) or b) below.

(a) Install Beech Spin Improvement Kit 33–4002–3 (E33C Serial Numbers CJ–1 through CJ–25 airplanes and F33C Serial Numbers CJ–26 through CJ–38 and CJ–40 through CJ–51 airplanes) or 33–4002–1 (F33C Serial Number CJ–39 and Serial Numbers CJ–52 through CJ–155 airplanes) in accordance with instructions contained in Beechcraft Class I Service Instruction No. 1249.

(b) Remove approval for operation of the airplane in acrobatic category in accordance with the following:

1. Place a copy of this AD in the limitations section of the Pilot's Operating Manual and FAA Approved Flight Manual.

2. Removed the Airplane Flight Manual Supplement (Beech Part Number 33–590006–11, –13, or –17) pertaining to operation in the Acrobatic Category.

3. Cut both electrical leads to the acrobatic category fuel boost pump P/N 4140–00–191 (E33C Serial Numbers CJ–1 through CJ–25 and F33C Serial Numbers CJ–26 through CJ–148 airplanes) or P/N 1297–00–1 (F33C Serial Numbers CJ–149 through CJ–155 airplanes) at a point near the pump motor housing. Cap and stow these leads per AC 43–13.

4. Replace the existing 3–position fuel boost pump switch P/N 35–380053–27 with 2–position switch P/N 35–380053–21, restoring electrical connections for correct operation of the auxiliary fuel boost pump P/N 4140–00–39 (E33C Serial Numbers CJ–1 through CJ–25 and F33C Serial Numbers CJ–26 through CJ–148 airplanes) or P/N 1296–00–1 (F33C Serial Numbers CJ–149 through CJ–155 airplanes). Cap and stow the unused electrical lead per AC 43–13. Secure knob P/N 98–384050–9 to the installed switch with LOCTITE 222 or equivalent bonding agent.

5. Modify the auxiliary fuel pump operation placard (including switch position placarding) to read as follows:

6. Obliterate the words "Remove door hold open rod prior to operation in Acrobatic Category" from the placard on the cabin door side panel.

7. Remove the following placards on the left hand sidewall:

DURING ACROBATIC CATEGORY

OPERATION OCCUPANCY

LIMITED TO PILOT'S OR PILOT'S

AND COPILOT'S SEAT

and, if installed,

REMOVE THIRD & FOURTH

PASSENGER SEATS

PRIOR TO OPERATION

IN ACROBATIC CATEGORY

8. Obliterate from the airplane operation limitations placards on the left side panel the heading "Acrobatic Category Airplane" and all portions of the placard under that heading.

9. Obliterate the word "AEROBATIC" located below the pilot's and co-pilot's window on the exterior of the airplane.

10. On Model E33C (Serial Numbers CJ–1 through CJ–25) airplanes, obliterate from P/N 33–590003–7 Pilot's Operating Handbook and FAA Approved Airplane Flight Manual:

(i) On the cover page, the words "ACROBATIC See Flight Manual Supplement" after "E33C".

(ii) On page 9–3, "33–590006–17 Acrobatic Bonanza E33C."

11. On Model F33C (Serial Numbers CJ–26 through CJ–128) airplanes:

(i) In P/N 33–590009–9 Pilot's Operating Manual and FAA Approved Airplane Flight Manual:

(A) Obliterate the following:

(1) On Page 5–8, all information pertaining to F33C Acrobatic Category limits.

(2) On page 8–1, "Pilot's Operating Manual Acrobatic Supplement P/N 33–590006–9."

(3) On Page 8–3, "33–590006–11 Acrobatic Supplement for the F33C 11/3/72."

(B) Remove P/N 33–590006–9 Pilot's Operating Manual Supplement or

12. In P/N 33–590009–15A1 Pilot's Operating Handbook and FAA Approved Airplane Flight Manual:

(i) Obliterate the following:

(A) On the cover page, the word "Acrobatic" after F33C and the words "See Flight Manual Supplement" after CJ–128.

(B) On page 6–1:

(1) "Sample Weight and Balance Load Form Acrobatic Category)—6–17."

(2) "Weight and Balance Loading Form (Acrobatic Category)—6–18."

(C) On page 6–12, all information pertaining to F33C Acrobatic Category limits.

(D) On page 9–3, "33–590006–11 Acrobatic Supplement for the F33C, Rev. No. 2/11/77."

(ii) Remove pages 6–17 and 6–18.

13. On model F33C (Serial Numbers CJ–129 through CJ–155) airplanes, obliterate from P/N 33–590009–13A3 Pilot's Operating Handbook and FAA Approved Airplane Flight Manual the following:

(i) On page 6–10, all information pertaining to F33C Acrobatic Category limits.

(ii) On cover page: The word "Acrobatic" before F33C and the words "(See Flight Manual Supplement)" after "CJ–129 and after."

(iii) On page 9–3, "33–590006–13 Acrobatic Supplement for the F33C Rev. No. 2/9/78."

14. Remove the existing Utility/Acrobatic Category Airworthiness Certificate and replace it with a new Utility Category Airworthiness Certificate as provided in Paragraph C 15 of this AD.

15. Obtain a new Utility Category Airworthiness Certificate from any FAA General Aviation District Office of Flight Standards District Office by presenting a completed FAA Form 8130–6, Application for Airworthiness Certificate, together with the removed Utility/Acrobatic Category Airworthiness Certificate, citing compliance with this AD as reason for the replacement.

(c) An equivalent method of compliance with this AD may be used if approved by the Manager, Wichita Aircraft Certification Office, FAA, Room 238, Terminal Building 2299, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 269–7000.

This amendment becomes effective October 1, 1983.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449 January 12, 1983); Sec. 11.89 of the Federal Aviation Regulations (14 CFR Sec. 11.89))

Note.—The FAA has determined that this regulation only involves 29 airplanes on the U.S. Registry. The total one time cost of complying with the AD is $257,830. Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the regulatory docket.

Issued in Kansas City, Missouri on August 17, 1983.

Murray E. Smith,

Director, Central Region.

[FR Doc. 83–23679 Filed 8–30–83; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 83–CE–62–AD; Amdt. 39–4720]

Airworthiness Directives; Piper Models PA–60–600 (Aerostar 600), PA–60–601 (Aerostar 601), PA–60–601P (Aerostar 601P) and PA–60–602P (Aerostar 602P) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises Airworthiness Directive (AD) 83–14–07, Amendment 39–4686, applicable to Piper Models PA–60–600 (Aerostar 600), PA–60–601 (Aerostar 601), PA–60–601P (Aerostar 601P) and PA–60–602P (Aerostar 602P) airplanes by allowing normal use of wing flaps when the airplane is operated at an aft CG limit of 163.0 inches. Additional data is now available to the FAA which shows that when this aft CG limit is used, the airplane is controllable during power on stalls with wing flaps extended. This revision makes available an alternate means of compliance with the AD for those operators who do not desire to comply with the restriction required in the original AD.

EFFECTIVE DATE: August 31, 1983. Compliance: Within the next 25 hours time-in-service after the effective date of this AD, unless already accomplished.

ADDRESSES: Information pertaining to this AD is contained in the Rules Docket, FAA, Office of the Regional

Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Curtis Jackson, ACE-120A, Atlanta Aircraft Certification Office, 1075 Inner Loop Road, College Park, Georgia 30337, Telephone (404) 763-7407.

SUPPLEMENTARY INFORMATION: AD 83-14-07, Amendment 39-4686, (48 FR 32553, 32554) applicable to Piper Models PA-60-600 (Aerostar 600), PA-60-601 (Aerostar 601), PA-60-601P (Aerostar 601P) and PA-60-602P (Aerostar 602P) airplanes prohibits use of wing flaps for all operations and limits the aft CG to 166.0 inches. Subsequent to the issuance of this AD, additional data became available to the FAA which showed that when an aft CG limit of 163.0 inches is used, the airplane is controllable during power on stalls with wing flaps extended. Therefore, the FAA is revising AD 83-14-07 by adding an alternate means of compliance which limits the aft CG to 163.0 inches and does not include the prohibition on use of flaps. This amendment provides an option which may be used at the operator's discretion. It imposes no additional burden on any person and is relieving in nature. Therefore, notice and public procedure hereon are unnecessary and not in public interest and good cause exists for making this Amendment effective in less than 30 days.

List of Subjects of 14 CFR 39

Aviation Safety, Aircraft.

Adoption to the Amendment

Accordingly and pursuant to the authority delegated to me by the Administrator, AD 83-14-07, Amendment 39-4686, (48 FR 32553, 32554) § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is revised as follows:

(1) Redesignate existing paragraph (b) and subparagraph (1) under paragraph (a).

(2) Add the word "or" following the new subparagraph (a)(1).

(3) Add a new paragraph (b) which reads as follows:

(b) Revise the aft CG limit in the Limitation Section of the applicable Airplane Flight Manual (AFM) or Pilot's Operating Handbook (POH) by obliterating or marking overall existing aft CG limitations numbers and inserting 163.0 inches.

This amendment becomes effective on August 31, 1983.

(Secs 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449 January 12,, 1983); Sec. 11.89 of the Federal Aviation Regulations (14 CFR Sec. 11.89))

Note.—The FAA has determined that this document involves an amendment that is relieving in nature and does not impose any additional burden on any persons. Therefore, (1) it is not a major rule under Executive Order 12291, and (2) it is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Because its anticipated impact is so minimal, it does not warrant preparation of a regulatory evaluation. I certify it will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act because it is relieving in nature and because it involves few, if any, small entities.

Issued in Kansas City, Missouri on August 26, 1983.

John E. Shaw,

Acting Director, Central Region.

[FR Doc 83-24090 Filed 8-29-83; 2:54 pm]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 83-AWA-12]

Alteration of VOR Federal Airways; Albuquerque, NM

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: To enhance the traffic flow within the Albuquerque Air Route Traffic Control Center (ARTCC) area, 11 VOR Federal Airway segments were amended or revoked. Inadvertently, V-83 was revoked between Corona and Otto, NM. This action reestablishes that airway segment.

EFFECTIVE DATE: September 29, 1983.

FOR FURTHER INFORMATION CONTACT: Boyd V. Archer, Airspace and Air Traffic Rules Branch (AAT-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8783.

SUPPLEMENTARY INFORMATION:

History

FR Doc. 83-20405 was published on July 28, 1983, (48 FR 34248) that amended or revoked 11 VOR Federal Airways in the Albuquerque ARTCC area. Inadvertently, V-83 was revoked between Corona and Otto, NM. This action reestablishes that airway segment.

List of Subjects in Part 71

VOR Federal airways.

Adoption of the Correction

Accordingly, pursuant to the authority delegated to me, FR Doc. 83-20405, as published in the **Federal Register** on July 28, 1983, (48 FR 34248) is corrected as follows:

§ 71.123 [Corrected]

V-83 [Amended]

By deleting the words ", including an E alternative INT Roswell 335° and Corona 124° radials, 85 MSL Corona"

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)); and 14 CFR 11.69)

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on August 24, 1983.

John W. Baier,

Acting Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 83-23854 Filed 8-30-83; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 201

[Docket No. 82N-0050]

Exemptions and Exclusions From the Pregnancy-Nursing Warning Required for Over-the-Counter Drugs That Are Intended for Systemic Absorption; Availability of Advisory Opinions

AGENCY: Food and Drug Administration.

ACTION: Notice; final rule-related.

SUMMARY: The Food and Drug Administration is announcing the availability of two advisory opinions providing a list of further exemptions and a list of exclusions from the general pregnancy-nursing warning in § 201.63 (21 CFR 201.63) that is required for over-the-counter (OTC) drugs intended for systemic absorption.

ADDRESS: Written comments on the two lists and requests for single copies of the advisory opinions to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, National Center for Drugs and Biologics (HFN–510), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4960.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of December 3, 1982 (47 FR 54750), a final rule requiring a general pregnancy-nursing warning to appear in the labeling of all OTC drug products intended for systemic absorption (§ 201.63). The regulation stated that the labeling of all OTC drugs intended for systemic absorption, unless specifically exempted, would contain the following general warning: "As with any drug, if you are pregnant or nursing a baby, seek the advice of a health professional before using this product." The regulation also established in § 201.63(c) two specific exemptions to the labeling requirement: (1) Drugs that are intended to benefit the fetus or nursing infant during the period of pregnancy or nursing and (2) drugs that are labeled exclusively for pediatric use. Paragraphs 5 and 6 of the preamble to the final rule (47 FR 54751–2) also discussed categories of drug products that are excluded from the labeling requirements (i.e. are beyond the scope of the regulation) because they are not intended for systemic absorption.

The effective date of the regulation was December 3, 1982, the date of publication in the **Federal Register**; however, manufacturers were given until December 5, 1983, to comply with the labeling requirement.

Since publication of the final rule, FDA has received a number of inquiries regarding application of the rule. In response to these inquiries, the agency has expanded the list of OTC drug products that are exempted from the regulation and has developed a list of drug products that are excluded. Under the provisions of § 10.85(c) (21 CFR 10.85(c)), the Commissioner of Food and Drugs considers the substance of these lists to be advisory opinions that may be relied on by manufacturers and packers of OTC human drug products. Both advisory opinions are publicly available in the Dockets Management Branch (address above).

The advisory opinion containing the list of additional drug products that are exempted from the labeling requirement includes drug products that, although intended for systemic absorption, either would provide benefits that outweigh any possible risks they might pose to pregnant or nursing women or would not be used by pregnant or nursing women (e.g., drug products intended for men only, such as drug products used for treatment of benign prostatic hypertrophy). At a future date the agency will propose to amend the exemptions stated in § 201.63(c) to add exemptions for these drug products. Until this section is amended, the publicly available advisory opinion containing the list of exemptions is intended as the agency's formal position and may be relied on by interested firms.

The advisory opinion containing the list of OTC drug products that are excluded from the regulation is not intended to be exhaustive, but to aid firms in determining whether their products are covered by this rule. The products on this list are applied topically and/or act locally; they are not intended for systemic absorption. The agency recognizes the possibility that an OTC drug that is not intended for systemic absorption might, nevertheless, pose a risk to a fetus or nursing infant. If FDA determines, based on scientific evidence, that an excluded OTC drug poses such a risk or that there is a need for a warning for some other reason, special warnings may be required. The ongoing OTC review will help identify the need for these warnings.

The lists of additional exemptions and exclusions to the OTC pregnancy-nursing warning requirement issued as advisory opinions are available for public examination between 9 a.m. and 4 p.m., Monday through Friday, in the Dockets Management Branch. Requests for single copies of the advisory opinions may be submitted to the Dockets Management Branch and should be identified with the docket number found in brackets in the heading of this document.

Interested persons may submit written comments on these advisory opinions to the Dockets Management Branch (address above) preferably in three copies, except that individuals may submit one copy, identified with the docket number above. Such comments will be considered by the agency in determining whether amendments of or revisions to either advisory opinion are warranted. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 24, 1983.

William R. Clark,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83–23640 Filed 8–30–83; 8:45 am]

BILLING CODE 4160–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 6E1837, 6E1842/R584; PH–FRL 2424–3]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or On Raw Agricultural Commodities; Benomyl

AGENCY: Enviromental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for the combined residues of the fungicide benomyl and its metabolites in or on the raw agricultural commodities currants and papayas. This regulation to establish maximum permissible levels for residues of the fungicide in or on the commodities was submitted in petitions by the Interregional Research Project No. 4 (IR–4).

EFFECTIVE DATE: Effective on August 31, 1983.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs, Emergency Response and Minor Use Section, Registration Division (TS–767C), Environmental Protection Agency, Rm. 716D, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–1192).

SUPPLEMENTARY INFORMATION: EPA issued a notice of proposed rulemaking, published in the **Federal Register** of June 29, 1983 (48 FR 29889), which announced that the Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petitions 6E1837 and 6E1842 to the Agency on behalf of the IR–4 Technical Committee and the Agricultural Experiment Stations of Oregon and Washington (PP 6E1837) and Florida (PP 6E1842).

These petitions requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the

establishment of tolerances for the combined residues of the fungicide benomyl (methyl 1-[butylcarbamoyl]-2-benzimidazolecarbamate) and its metabolites containing the benzimidazole moiety (calculated as benomyl) in or on the raw agricultural commodities currants at 7 ppm (6E1837) and papayas at 8 ppm (6E1842).

There were no comments or referral to an advisory committee received in response to the proposed rule.

The data submitted in the petitions and other relevant material have been evaluated in the notice of proposed rulemaking. The pesticide is considered useful for the purpose for which the tolerances are sought. It is concluded that the tolerances would protect the public health and are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the Federal Register, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sougth.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346(a)(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: August 17, 1983.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.294 is amended by adding, and alphabetically inserting, the raw agricultural commodities currants and papayas to read as follows:

§ 180.294 Benomyl; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Currants	7.0
Papayas	3.0
* * * * *	

[FR Doc. 83-23758 Filed 8-30-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 3F2778/R591; PH-FRL 2423-3]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or On Raw Agricultural Commodities; Chlorpyrifos

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for the combined residues of the insecticide chlorpyrifos and its metabolite in or on almonds, almond hulls, and walnuts. This regulation to establish maximum permissible levels for residues of chlorpyrifos in or on the commodities was requested, pursuant to a petition submitted, by Dow Chemical Company.

EFFECTIVE DATE: August 31, 1983.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Jay Ellenberger, Product Manager (PM) 12, Registration Division (TS-767C), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. Office location and telephone number: Rm. 202, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202; (703-557-2386).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the Federal Register of December 22, 1982 (47 FR 57127), which announced that Dow Chemical Company, P.O. Box 1706, Midland, MI 48640, had submitted pesticide petition 3F2778 to EPA proposing to amend 40 CFR 180.342 by establishing tolerances for the combined residues of the insecticide chlorpyrifos [*O,O*-diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate] and its metabolite 3,5,6-trichloro-2-pyridinol in or on the raw agricultural commodities almonds at 0.05 part per million (ppm), almond hulls at 12.0 ppm, and walnuts at 0.2 ppm. Dow Chemical Company subsequently amended the petition (48 FR 16982, April 20, 1983) by increasing the proposed tolerance for almonds from 0.05 to 0.2 ppm.

There were no comments received in response to the notices of filing.

The scientific data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the tolerances include a 2-year rat feeding/oncogenicity study with a no-observed-effect level (NOEL) of 0.1 milligram (mg)/kilogram (kg) of body weight (bw) per day based on red blood cells (RBC) cholinesterase activity and was negative for oncogenic effects at the levels tested (0.03, 0.1, 1.0 and 3.0 mg/kg); a dog feeding study with a NOEL of 0.1 mg/kg of bw/day based on RBC cholinesterase activity; a mouse oncogenicity study which was negative for oncogenic effects at the levels tested (0.5, 5.0 and 15.0 ppm); a mouse teratology study which was negative at 25 mg/kg; and acute delayed neurotoxicity study which was negative at 100 mg/kg; and a 3-generation reproduction study which demonstrated a NOEL of 1.0 mg/kg/day. Based on the 2-year chronic rat feeding study with a NOEL of 0.1 mg/kg of bw/day and using a safety factor of 10, the acceptable daily intake (ADI) for humans is 0.01 mg/kg of bw/day. The theoretical maximal residue contribution (TMRC) from previously established tolerances for chlorpyrifos utilizes 105.09 percent of the ADI. The resulting increase in the TMRC from the use on almonds and walnuts is 0.015 percent (0.0001 mg/day (1.5 kg)), an increase in the ADI of 0.01 percent. While the establishment of the requested tolerances will add to the already exceeded ADI, these uses are acceptable since the added increment to the TMRC and ADI are minimal.

The metabolism of chlorpyrifos is adequately understood for this use, and an adequate analytical method, gas chromatography, is available for enforcement purposes. No regulatory actions are pending against the continued registration of chlorpyrifos. The established tolerances for residues in fat, meat, meat byproducts of livestock and milk are adequate to cover any secondary residues resulting from these uses. Because there are no poultry feed items involved, there will be no secondary residues in poultry tissue and eggs.

Data considered desirable but lacking include a 2-generation rat reproduction study and a teratology study in a second species. In a letter dated July 6, 1983, the petitioner indicated that these studies

will be submitted to the Agency by September, 1983. Dow Chemical Company has also agreed to voluntarily delete the use on almonds and walnuts from the label should the results of the studies be found to exceed the risk criteria for unreasonable adverse effects.

The pesticide is considered useful for the purpose for which the tolerances are sought. It is concluded that the tolerances would protect the public health and are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164. 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346(a)(d)(2)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: August 19, 1983.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.342 is amended by (1) increasing the established tolerances for almonds and almond hulls and (2) adding, and alphabetically inserting, the commodity walnuts to read as follows:

§ 180.342 Chlorpyrifos; tolerances for residues.

* * * * *

Commodities	Parts per million
Almonds	0.2
Almond, hulls	12.0
Walnuts	0.2

[FR Doc. 83-23758 Filed 8-30-83; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6418

[OR-21904]

Oregon; Revocation of an Air Navigation Site Withdrawal

Correction

In FR Doc. 83–19421, beginning on page 32830, in the issue of Tuesday, July 19, 1983, on page 32831, in the first column, in the second indented paragraph, in the third line "land use" should read "land for use".

BILLING CODE 1505-01-M

43 CFR Public Land Order 6427

[OR-19188]

Oregon; Revocation of Reclamation Withdrawals

Correction

In FR Doc. 83–19674, appearing on page 33298, in the issue of Thursday, July 21, 1983, in the second column, in paragraph "4.", in the fifth line "2W." should read "3W.".

BILLING CODE 1505-01-M

43 CFR Public Land Order 6447

[WASH-03047, OR-22052 (WASH), OR-22058 (WASH), OR-22059 (WASH)]

Washington; Revocation of Secretarial Orders of December 22, 1905, September 18, 1916, and April 21, 1920, and Public Land Order No. 2342

Correction

In FR Doc. 83–20465, beginning on page 34268, in the issue of Thursday, July 28, 1983, on page 34269, in the first column, under "T. 9 N., R. 27 E.," in Sec. 28, the second line should read "and N½S½S½NW¼."

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 350

[BMCS Docket No. 108; Notice No. 82-15]

Motor Carrier Safety Assistance Program

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of program implementation; interim final rule; request for comments.

SUMMARY: This notice announces that the FHWA, pursuant to Sections 401–404 of the Surface Transportation Assistance Act of 1982 (STAA) (Pub. L. 97–424), and as authorized by the Secretary of Transportation, intends to make grants to qualified States for the development or implementation of programs for the enforcement of Federal rules, regulations, standards, and orders applicable to commercial motor vehicle safety and hazardous materials transportation by highway and compatible State's rules, regulations, standards, and orders. This program hereinafter is referred to as the "Motor Carrier Safety Assistance Program" (MCSAP).

An interim rule is established herein which prescribes the procedures adopted by the FHWA to administer the grant program until a final rule is promulgated. The FHWA inivites comments on this interim rule.

DATES: This interim final rule is effective August 31, 1983. Comments must be received by November 29, 1983.

ADDRESS: All written comments should refer to the docket number that appears at the top of this document and should be submitted preferably in triplicate, to Room 3404, Bureau of Motor Carrier Safety, 400 Seventh Street, SW., Washington, D.C. 20590. Those desiring notification of receipt of comments must include a self-addressed, stamped post card.

FOR FURTHER INFORMATION CONTACT: Mr. W. R. Fiste, Bureau of Motor Carrier Safety, (202) 426–0701 or Mr. Thomas Holian, Office of the Chief Counsel, (202) 426–0346, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C 20590. Office hours are from 7:45 a.m. to 4:14 p.m. ET, Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION: The STAA was enacted on January 6, 1983. Sections 401–404 created a new categorical Federal assistance program to be financed from the Highway Trust

Fund, and authorized five years of funding beginning with $10 million in fiscal year 1984 and increasing by $10 million per year to a maximum of $50 million in fiscal year 1988. The FHWA is adding Part 350 to Title 49 of the Code of Federal Regulations to establish the "Motor Carrier Safety Assistance Program (MCSAP)" and establish the requirements to be met by States in order to qualify for grants to enforce motor carrier safety and highway hazardous materials regulations. To apply for MCSAP grants for fiscal year 1984, States must comply with the provisions of the interim final rule.

Discussion

Federal and State Governments have mutual responsibilities for protecting the public from the risks inherent in the operation of commercial motor vehicles and the transportation of hazardous materials by highway. Federal responsibility to regulate highway commerce between the States was defined in the Motor Carrier Act of 1935 (Part II, Interstate Commerce Act). Federal responsibility for regulating the transportation of hazardous materials is set forth in the Hazardous Materials Transportation Act (Pub. L. 93-633, 88 Stat. 2156, 49 U.S.C. 1801). Federal Motor Carrier Safety Regulations and Hazardous Materials Regulations, pursuant to these laws, have been promulgated and implemented. Commercial motor vehicle and driver inspections are integral parts of the several work activities conducted by FHWA to implement the Federal motor carrier and hazardous materials safety programs.

State responsibilities are contained in various State statutes and rules pertaining to the regulation and control of commercial motor vehicles by various State agencies. State truck and bus safety inspection activities vary widely in technique and quantity. A few States have active programs, some conduct minimal programs, and many have no commercial motor vehicle safety inspection programs at all.

Fragmented Federal and State authority and varying levels of safety enforcement have resulted in: (1) A single Federal commercial motor carrier safety and hazardous materials regulatory program administered throughout the Nation which covers only those motor carriers of property and passengers operating in interstate or foreign commerce, and (2) a variety of State regulations administered by several agencies within a State addressing only certain safety aspects of commercial motor carrier operations.

A Motor Carrier Weighing and Inspection Demonstration Program, initiated in 1979, demonstrated the feasibility of increasing public protection from hazards inherent in commercial motor vehicle operation through a joint Federal/State commercial motor vehicle safety inspection program. A principal objective of the Demonstration Program was to identify the benefits of a uniform, comprehensive program covering both interstate and intrastate commerce. The program addressed commercial motor vehicle equipment condition, hazardous materials transportation, minimum driver qualifications, maximum hours of service and proper cargo loading.

A Federal financial assistance program under which State personnel conduct nationally uniform vehicle/driver/cargo safety inspections has proven to be a viable and cost effective means of achieving compliance with safety regulations and reducing highway accidents and hazardous material incidents involving commercial motor vehicles.

The Department's State Hazardous Materials Enforcement Development (SHMED) program further illustrates the benefits to be derived from development of a Federal/State partnership for safety regulation and enforcement. Initiated in 1981, the SHMED program was designed to encourage States to assume more responsibility for hazardous materials transportation enforcement within their jurisdictions. States that have provided for adoption of the Federal hazardous materials transportation regulations are furnished technical and financial assistance leading to development of a State enforcement capability. The SHMED program increases total resources devoted to hazardous materials safety enforcement more efficiently than would be required to expand the Federal enforcement staff and provides an incentive for State adoption of the Federal regulations leading to a uniform standard of safety. Individual contracts with State participants are of three years' duration. The program will be phased out by 1987.

Motor Carrier Safety Assistance Program (MCSAP)

The objective of the program is to reduce truck and bus related accidents and hazardous materials incidents on the highways by minimizing the causes related to mechanical failures, driver error, hazardous materials handling and careless safety practices by motor carriers. The method of achieving this objective is to encourage States to employ their resources to enforce substantially similar safety rules, regulations, standards and orders uniformly throughout the Nation. Consequently, what is expected of a carrier or driver in one State, in the way of safety requirements, will be consistent with those required in another State. A uniform coordinated inspection program, which substantially increases the likelihood that safety violations will be detected, will encourage carriers to: (1) Correct safety defects, (2) become more cognizant of safety requirements, and (3) comply voluntarily with uniform regulations. The information obtained through such an enforcement program will also identify repeat and flagrant violators thereby contributing to more concentrated and effective compliance measures.

The MCSAP is to be a cooperative effort between the FHWA and States which is not intended to replace or duplicate existing programs, but rather to enhance ongoing efforts. Uniformity of driver/vehicle/cargo safety inspections, out of service criteria and enforcement is essential to the success of the MCSAP. It shall be the responsibility of the FHWA to coordinate State plans to avoid duplication of effort, ensure the implementation of a uniform commercial motor carrier safety program, and provide technical assistance, training and program guidance. The recommended procedures for roadside inspections and terminal safety audits will be provided to each prospective grantee.

a. *Grants.* Section 402 of the STAA authorized the Secretary of Transportation to make grants to States for the development or implementation of programs for the enforcement of both Federal rules, regulations, standards, and orders applicable to commercial motor vehicle safety and compatible States rules, regulations, standards, and orders. Responsibility for the promulgation of procedures concerning the issuance and administration of the grants for the MCSAP has been delegated to the Federal Highway Administrator. The States interested in qualifying for grants must comply with the criteria established in the statute and the administrative requirements adopted by FHWA in this interim rule. Comments received on these requirements will be evaluated as possible grounds for future rulemaking changes.

b. *State Plans.* Grant approval will be based upon enforcement plans submitted by applicant States. A State plan will be reviewed to ensure that the statutory purpose is being pursued, and

that the enforcement efforts undertaken by the State meet the requirements of uniformity, consistency and effectiveness. The State's plan will describe the safety objectives sought to be achieved through the use of grant funds, specify the quantity and content of State activity required during the program period, relate these activities to costs, and provide a method for evaluating the effectiveness of the activities. The plan must also address the statutory conditions enumerated in Section 402 of the STAA, and the administrative criteria considered by FHWA as necessary to carry out uniform program objectives. An outline of a State Plan is appended to the interim rule. (Appendix B).

c. *Certification.* The FHWA believes that some of the conditions mandated by Section 402 of the STAA can be met preliminarily through certification by the Governor of the applicant State or an official specifically designated by the Governor for that purpose. The conditions include adoption by the State of Federal Motor Carrier Safety Regulations and Hazardous Materials Regulations or compatible State requirements, adequate legal authority and resources of the motor vehicle safety agency designated to administer the Federally assisted program, and right of entry and inspection by State enforcement personnel. These issues may require referral to the State's Attorney General for determination. Another condition requires a declaration of knowledge of safety requirements by registrants of commercial motor vehicles while others concern fiscal and recordkeeping matters. If the certifying officer has no direct knowledge of any of the conditions, he or she must consult with the appropriate State officials prior to executing the certification. The form of certification is also appended to the rule. (Appendix A).

d. *Program Activities.* It is anticipated that the basic program will be primarily targeted at roadside driver/vehicle safety inspections of interstate and intrastate commerical motor vehicle traffic. The program will also include roadside inspection procedures directed toward the safety of highway transportation of hazardous materials. Depending on the current level of State effort, additional activities, such as follow-up investigations of evidence on non-compliance and safety audits of carrier facilities, will be incorporated. Technical advisories concerning these activities are being made available to the States through FHWA division offices located in each State.

e. *Types of Grants.* The program provides for both *development* funding in States which need to establish or substantially modify an enforcement program, and *implementation* funding in States which are ready to initiate or have established enforcement programs. These elements are defined in the rule.

f. *Distribution of Funds.* Section 403 of the STAA provides for a Federal/State sharing of program costs as proposed by the State and Federally approved. The Federal share shall not exceed 80 per cent of the approved incremental increase over the average base period expenditures for the State commercial motor vehicle safety program.

Section 404 authorizes a sum of $10,000,000, to be appropriated from the Highway Trust Fund, for the fiscal year ending September 30, 1984. It further authorizes additional sums to be appropriated in each subsequent year through September 30, 1988, in progressive incremental increases of $10,000,000 per year reaching a maximum of $50,000,000 per year in 1988. The amount of funds actually available for obligation in any one fiscal year will be subject to annual appropriations and any limitations contained in accompanying legislation.

The commitment of Federal assistance is to be used to induce those States which do not have active programs to become involved in effective enforcement of commercial motor carrier and hazardous materials transportation safety and to encourage those other States to expand existing programs as practicable. Section 403 of the STAA permits the exercise of broad discretion in the allocation of appropriated funds. In order to facilitate Federal/State planning and continuity of the program, FHWA will seek annual authorization to extend the availability of funds for three years beyond the year in which the funds are appropriated. The 1984 Department of Transportation Appropriations Act, enacted on August 17, 1983, contains such a provision.

The FHWA recognizes that not all States will be prepared to take advantage of implementation grants in the first year or two of the programs. The FHWA also recognizes that those States which developed model programs during the Motor Carrier Weighing and Inspection Demonstration Program may be prepared to continue safety enforcement at the level of activity they achieved using Federal funds.

To accommodate these concerns and to assure equitable access by all States to a limited source of funding, the FHWA is proposing several methods of allocating appropriated funds each year and is seeking comment on these methods. In the interim final rule, the method described in subparagraph (1) will be applied.

(1) *By Formula.* The FHWA will allocate funds each year among the States according to a formula based on the following factors:

—Roadway mileage (all highways in each State)
—Special fuel sales (net after reciprocity adjustment)
—Truck registrations (excluding vehicles less than 10,000 lbs.)
—Vehicle miles traveled (all vehicles)
—Population (1980 census)

A formula incorporating the above factors in equal proportions, will be applied after subtracting an allotment for small (up to $50,000) development grants to each State not prepared for program implementation. The balance will be distributed, after adjusting for minimum and maximum levels, to those other remaining States qualifying for implementation grants. If relatively few States are able to implement a program in the first two years of authorizations, provisions will be made to permit those few to receive a larger amount than would otherwise be available to them by formula. For example, a State will be permitted to receive an amount not to exceed the average sum allocable to it by formula over the 5 years of authorization contained in the STAA. The sums available to such States in later years would also be reduced to a sum not less than such average depending on the rate at which the remaining States use their allocations. Re-allocations of unused funds would be made after the second year's distribution based on the experience gained to that date.

(2) *By Request after set-aside for Development.* Alternatively, the FHWA could distribute funds each year by establishing maximum monetary set-aside for States that wish to "develop" motor carrier safety programs. Unused funds from this set aside together with the balance of annual appropriated funds would be available for all States that wish to "implement" programs. Unobligated annual funds, if authorized by annual appropriations will remain available for distribution for three succeeding fiscal years. The insufficiency of funds to finance all State plans submitted the first or second years of the program will result in a pro-rata reduction in the amount available to each State with an approved plan.

(3) Combinations or variations of the above methods or such methods as may be developed in response to this

document will also receive consideration for inclusion in any revision to this interim final rule.

g. *Qualification Criteria.* The first set of criteria is provided in Section 402 of the STAA. The FHWA has very little discretion in these requirements, but to facilitate matters, initially a certification will be accepted covering most of the statutory criteria. In the first year, it must be supported by some documentation. The statute requires the following:

(1) Agreement by the State to adopt the Federal rules, regulations, standards, and orders or compatible State rules, regulations, standards or orders, and to assume responsibility for their enforcement (the actual State statutes and regulations complying with this requirement are to be provided with the certification);

(2) Designation of a State motor vehicle safety agency responsible for administering the plan throughout the State (the specific lead agency must be designated as part of the plan submitted by the State. Other agencies may be involved, and their roles should be defined in the plan);

(3) Satisfactory assurances that the designated agency and other agencies named to perform functions under the plan have or will have the legal authority, resources, and qualified personnel necessary for the enforcement of the Federal or compatible State rules, regulations, standards, and orders;

(4) Satisfactory assurances that the State will devote adequate resources to the administration of such a plan and enforcement of such rules, regulations, standards, and orders;

(5) Provisions for right of entry and inspection sufficient to carry out the enforcement plan (this includes the authority to break cargo seals to inspect the stability of the load and its hazardous nature. If terminal safety audits are included in a State plan, the agency conducting such activities should have the authority to enter upon the carrier's premises and inspect and copy documents. As in requirement (1), above, the actual statute or other authority is to be cited);

(6) Provision that all reports required in relation to the plan as approved be submitted to the State agency and be made available to the FHWA upon request;

(7) Adoption of such uniform reporting requirements and use of such uniform forms for recordkeeping, inspection, and other enforcement activities as may be established by the FHWA;

(8) Requirement that registrants of commercial motor vehicles declare knowledge of applicable Federal and State motor carrier safety regulations (this declaration is to be made by new and renewing registrants, and should be included on the registration form or attached thereto. A copy of the document to be used by the State is to accompany the certification); and

(9) Provision that State and local expenditures, exclusive of Federal funds, for commercial motor vehicle safety programs, will be maintained at a level not less than the average level of such expenditures for the two (2) fiscal years preceding January 6, 1983 (although certification will be accepted, the FHWA is requiring the States in the first year to submit fiscal or budget confirmation which demonstrates the total expenditures for motor carrier safety enforcement for the two base years).

Additional criteria are established by the FHWA and made conditions of grant eligibility. In the interim final rule, each plan submitted will also demonstrate that the applicant State:

(1) Has authority over all types of carriage (what is contemplated here is the statutory authority of the State to regulate the safety of operations of motor carriers irrespective of whether they are for hire or engaged in private carriage. This is consistent with the definition of "motor carrier");

(2) Has or will have prior to program inception—

(a) Adequate and safe areas for roadside inspection, and

(b) Sufficient space to park "out-of-service" vehicle or safely remove them from the general flow of traffic;

(3) Has determined the aggregate costs of its motor carrier safety enforcement efforts for the two (2) fiscal years prior to January 6, 1983 (this provision supplements item # 9 of the statutory criteria by requiring States to compute the actual expenditures for motor carrier safety enforcement during the base years and to identify that which is to be exempted as related to Federal assistance);

(4) Has program evaluative factors to measure program effectiveness (the FHWA believes that a State should describe the objectives of its program and identify those factors it intends to rely on to determine whether the objectives have been met);

(5) Has or will have a core staff of trained individuals in place (the amount of the grant will be dependent, to a large extent, on the State's readiness to use the funds during the fiscal year in which the grant is awarded); and

(6) Will conduct vehicle inspections at such times and locations as will be reasonably certain to cover a broad range of commercial motor vehicles and carriers (the FHWA proposes that the enforcement effort be directed at all types of commercial motor vehicle operations and this can only be accomplished if the time of enforcement is varied).

h. *Disapprovals or Withdrawn Approvals.* The authorizing provisions in the STAA include evaluation of the State plans as submitted and evaluation of State performance under the plan as approved. The evaluation, in the first instance, could result in a rejection of the plan, in which case the applicant State is given an opportunity to amend the plan. In the event the State does not perform pursuant to the approved plan, or the plan becomes inadequate, the consequence is withdrawal of Federal assistance. Therefore, the rule provides two processes by which a State may respond to an adverse determination.

i. *Evaluation.* In order to allow flexibility in the preparation of plans, the FHWA is providing general guidelines and requiring a mechanism for measuring effectiveness of the plan. Approval of the plan will be conditioned on the State defining objectives compatible with those of the FHWA, adopting consistent standards, and employing uniform practices. Evaluation of the State's performance under the approved plan will be based on the adequacy with which the State is able to demonstrate effectiveness in the accomplishments of its identified objective.

j. *Program Costs.* The rule provides examples of the kinds of costs incurred which will be eligible for proportionate reimbursement under the program. It is not intended that Federal funds be used to finance real property acquisitions. The programs envisioned by the FHWA are primarily operational. Administrative expenses and overhead costs will be limited to those that can be directly allocable to the State's enforcement plan.

Additional information concerning grant application forms, administrative requirements for the Federal grants, technical advisories on program activities, payment procedures, and other procedural counselling is available at the FHWA division offices located in each State. To be considered for grants during FY 1984, State plans must be received within 60 days of the publication of the interim final rule.

The FHWA has determined that this action does not contain a major rule under the Executive Order 12291 or a significant regulation under the regulatory policies and procedures of the Department of Transportation. However, the importance of this

program, as a means of: (1) Achieving compliance with Federal safety regulations, and (2) reducing highway accidents and hazardous materials incidents involving commercial motor vehicles, cannot be overemphasized. It is anticipated that the economic impact of this rulemaking action will be minimal, since such economic impact as will occur is primarily mandated by the cited statutory provisions themselves, and not the rulemaking action. Accordingly, a full regulatory evaluation is not required.

For the foregoing reasons, under the criteria of the Regulatory Flexibility Act, it is certified that this action will not have a significant economic impact on a substantial number of small entities.

The FHWA recognizes that the MCSAP, when implemented, will improve motor carrier safety enforcement by ensuring that statutory purposes at both the Federal and State levels are being pursued in a uniform, consistent and effective manner. The FHWA also recognizes that in order for the MCSAP to be effectively implemented in FY 1984, the States' enforcement plans should be submitted to the FHWA prior to the beginning of FY 1984 (October 1, 1983). For the foregoing reasons and since the regulation imposes no additional burdens on the States, the FHWA finds good cause to make this regulation effective without prior notice and opportunity for comment and without a 30-day delay in effective date. Neither a general notice of proposed rulemaking nor a 30-day delay of the effective date is required under the Administrative Procedure Act because the matters affected relate to grants, benefits, or contracts pursuant to 5 U.S.C. 553(a)(2). Accordingly, the regulation is effective upon publication. However, the FHWA gives notice that comments on the procedures promulgated to administer the program will be accepted and evaluated in determining the need for future revisions to the interim final rule.

While the FHWA does not anticipate that there will be any useful public comment on the general issue of the grant program itself, there may be procedural comments on some provisions of the interim final rule. For this reason, publication of this final rule without an opportunity for prior comment, but with a request for comments following publication, is consistent with the Department of Transportation's regulatory policies.

The collection of information requirements contained in this rule have been submitted to the Office of Management and Budget for review under 44 U.S.C. 3504(h).

In consideration of the foregoing, the FHWA hereby amends Title 49, Code of Federal Regulations, by adding a new Part 350 to read as set forth below.

List of Subjects in 49 CFR Part 350

Highways and roads, Motor carriers, Motor vehicle safety, Reporting and recordkeeping requirements.

PART 350—COMMERCIAL MOTOR CARRIER SAFETY ASSISTANCE PROGRAM

Sec.

350.1 Purpose.
350.3 Definitions.
350.5 Policy.
350.7 Objective.
350.9 Conditions for grant approval.
350.11 Maintenance of effort.
350.13 Distribution of funds.
350.15 Certification by State.
350.17 State Enforcement Plan (SEP).
350.19 Acceptance of SEP.
350.21 Effect of failure to submit a satisfactory SEP.
350.23 Procedure for withdrawal of approval.
350.25 Eligible costs.

Appendix A—Form of State Certification.

Appendix B—Guidelines To Be Used in Preparing State Enforcement Plan.

Appendix C—Table of Allocation formula for Implementation Based on $10 Million Appropriation

Authority: Sec. 401–404, Surface Transportation Assistance Act of 1982, Pub. L. 97–424, 96 Stat. 2154, 49 U.S.C. 2301–2304; 49 CFR 1.48, and 301.60.

§ 350.1 Purpose.

The purpose of this part is to prescribe requirements for Federal assistance to States for the development or implementation of programs for the enforcement of Federal rules, regulations, standards and orders applicable to commercial motor vehicle safety and compatible State rules, regulations, standards and orders.

§ 350.3 Definitions.

As used in this part:

Administrator means the Federal Highway Administrator.

Commercial motor vehicle means any self-propelled or towed vehicle used on the highways in commerce principally to transport passengers or cargo:

(a) If such vehicle has a gross vehicle weight rating of ten thousand or more pounds;

(b) If such vehicle is designed to transport more than ten passengers, including the driver; or

(c) If such vehicle is used in the transportation of materials found by the Secretary to be hazardous for the purposes of the Hazardous Materials Transportation Act, as amended (49 U.S.C. 1801 et seq.);

Development includes the acts of a State in preparing to qualify for or make application for an inplementation grant, which acts include, but are not limited to: (a) Planning the program; (b) initiating any legislative or regulatory actions necessary to comply with the requirements of this part; (c) formulating a budget for a program under this part; (d) designating the State agency responsible for administering the program; and (e) preparing a State Enforcement Plan (SEP).

Implementation includes the acts of a State in carrying out an approved SEP, which acts include, but are not limited to: (a) Recruiting and training of personnel, payment of salaries and fringe benefits, the acquisition and maintenance of equipment, and reasonable overhead costs needed to operate the program; (b) commencement and conduct of new or expanded systems of inspection; (c) establishment of an effective "out-of-service" and compliance enforcement system; and (d) retraining and replacing staff and equipment.

Motor carrier includes a for-hire carrier of passengers or property by motor vehicle and a private carrier of property by motor vehicle.

State means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, or the Commonwealth of the Northern Marianas.

§ 350.5 Policy.

The Federal Highway Administration (FHWA) policy is to encourage each State to enforce uniform motor carrier safety and hazardous materials regulations for both interstate and intrastate motor carriers and drivers so that what is required for compliance with safety standards in one part of the country is reasonably consistent with what is required in another part of the country. A coordinated program of inspection and enforcement activities is needed to avoid duplication of effort, to promote compliance with uniform safety requirements by all types of commercial motor carriers, and to provide a basis for sanctioning carriers for poor safety performance.

§ 350.7 Objective.

The objective of the Motor Carrier Safety Assistance Program (MCSAP) is to reduce the number and severity of accidents and hazardous materials incidents involving commercial motor vehicles by substantially increasing the

level of enforcement activity and the likelihood that safety defects, driver deficiencies and unsafe carrier practices will be detected and corrected.

§ 350.9 Conditions for grant approval.

(a) In order to qualify for a grant under this part, a State shall agree to adopt, and to assume responsibility for enforcing the Federal Motor Carrier Safety Regulations (49 CFR Parts 386 and 388 through 399 except as may be determined by the Administrator to be inapplicable to a State enforcement program) including highway related portions of the Federal Hazardous Materials Regulations (49 CFR Parts 107, 171–173, 177 and 178) (hereinafter jointly referred to as the FMCSR) or compatible State rules, regulations, standards and orders applicable to motor carrier safety, including highway transportation of hazardous materials (hereinafter referred to as State Motor Carrier Safety Regulations (SMCSR)).

(b) Grants are approved for a period of one year upon annual application by a State. Each State shall submit a State Enforcement Plan (SEP) for the conduct of an effective safety program. Such plan, upon acceptance by the FHWA, will serve as the basis for evaluating performance by the State under the grant, and will be updated as necessary in applications for renewals in following years.

(c) The SEP shall designate the State motor carrier safety agency responsible for administering the plan for the State.

(d) The designated motor carrier safety agency and other agencies named to perform functions under the plan shall have the legal authority, resources and qualified personnel necessary to enforce the FMCSR or SMCSR, at the time the State implements the approved SEP.

(e) The State shall dedicate adequate funds for the administration of the SEP and the enforcement of the FMCSR or SMCSR.

(f) State laws shall provide for right of entry and inspection by State personnel sufficient to enforce the FMCSR or SMCSR, and to perform the activities detailed in the SEP.

(g) All reports required in connection with the SEP or other conditions of the grant shall be submitted to the designated State agency and shall be made available to the FHWA upon request.

(h) The designated State agency shall agree to adopt such uniform reporting requirements and use such uniform forms to record work activities performed under the SEP as may be established and required by the FHWA.

(i) The State shall require that registrants of commercial motor vehicles declare, at the time of registration, knowledge of the FMCSR or SMCSR, as applicable.

(j) The statutory authority of the State to regulate motor carriers shall extend to private carriers as well as for-hire carriers.

(k) *Exception.* The above conditions do not apply for development grants.

§ 350.11 Maintenance of effort.

No SEP shall be approved nor grant awarded in the absence of a commitment by the State to maintain the aggregate expenditure of funds by the State and political subdivisions thereof for commercial motor carrier and highway hazardous materials vehicle safety programs at a level which does not fall below the average of such expenditure during the State's last two full fiscal years preceding January 6, 1983. The aggregate expenditure of funds by the State in those preceding fiscal years shall be exclusive of Federal funds authorized and expended for motor carrier and highway hazardous materials safety purposes and any State funds required as the State's share to match such Federal funds.

§ 350.13 Distribution of funds.

(a) The Federal share payable to reimburse States for eligible costs incurred in the development or implementation of a commercial motor carrier safety program shall not exceed 80 percent.

(b) The appropriated funds shall be allocated among the States according to an allocation formula based on the following factors in equal proportion:

(1) Road mileage (all highways);

(2) Vehicle miles travelled (all vehicles);

(3) Number of commercial vehicles over 10,000 lbs.,

(4) Population (1980 census); and

(5) Special fuel consumption (net after reciprocity adjustment).

The estimated dollar amounts for implementation programs based on the first year appropriation allocated to the States under this formula are listed in the Table annexed as Appendix C.

(c) The amount available to any State in any one year for development purposes shall not exceed $50,000 notwithstanding the amount available through application of the allocation formula provided in paragraph (b) of this section.

(d) For imlementation purposes, the allocation formula shall be adjusted so that no State shall be allocated less than $75,000 nor more than $1,250,000 in any one year; provided that, subject to the availability of funds due to unused allocations, the allocation of any such jurisdiction may be increased by a factor of three in FY 1984 and a factor of 1.5 in FY 1985 up to the maximum of $1,250,000.

§ 350.15 Certification by State.

(a) The FHWA will accept a certification, executed by the Governor, the State's Attorney General or other State official specifically designated by the Governor, in the form provided in Appendix A to this part. The certification shall accompany the SEP and be made part thereof.

(b) In the first year of the State's program, the certification shall be supplemented by the following documentation:

(1) A copy of the State law or regulation adopting the FMCSR, or a copy of the SMCSR, including current amendments and any State exceptions or exemptions.

(2) A copy of the State law relied upon by the State to provide right of entry and inspection sufficient to enforce the FMCSR or SMCSR.

(3) A copy of the registration form or other document used by the State to secure from commercial motor vehicle registrants a declaration of knowledge of the FMCSR or SMCSR.

(c) In subsequent years, the certification shall be supplemented by a copy of any State law, regulation or forms pertaining to commercial motor carrier safety adopted since the State's last certification (if any) which bear on the items listed in the certification.

§ 350.17 State Enforcement Plan (SEP).

(a) The State shall submit its proposed SEP or update thereof to the FHWA division office on or before August 1 of each year.

(b) The SEP shall:

(1) Provide an assessment of the commercial motor carrier and highway hazardous materials safety problems within the State;

(2) Determine the aggregate costs of the motor carrier safety enforcement efforts incurred by the State and political subdivisions during the two full fiscal years prior to January 6, 1983, exclusive of Federal funds and State participating shares on which such funds were conditioned;

(3) Demonstrate that the State has authority to regulate and plans to enforce its regulations with respect to private as well as for-hire carriage; and

(4) Describe in detail the objectives sought to be achieved, the resources to be employed, the work items to be performed, the unit costs where feasible and the methods to be used to measure effectiveness. Specifically, the SEP shall:

(i) Identify other agencies participating in the plan and describe the roles of each;

(ii) Identify the number and category of personnel employed and the specialized training provided; and

(iii) Include roadside inspection activity at such times and locations as will assure diversified enforcement.

(c) Guidelines for the preparation of the SEP are provided in Appendix B.

(d) A plan submitted as an application for a development grant need not contain the details required by paragraph (b) of this section except that it must include the objectives sought to be achieved and an assessment of costs. A plan for development must also include an estimate as to when the State will be prepared to submit an SEP for implementation.

§ 350.19 Acceptance of SEP.

(a) Each SEP will be reviewed for content, after which the State will be notified of its acceptance or rejection. Failure of a State to submit a plan will preclude consideration of grant approval for that State under this part for the fiscal year for which application is made. The time for submitting a plan may be extended for good cause shown.

(b) The State's operation under the accepted SEP shall be reviewed on a continuing basis and an annual evaluation report shall be prepared. The State will be advised of the results of the evaluation, and of any needed changes either in the plan itself or in its implementation.

§ 350.21 Effect of failure to submit a satisfactory SEP.

(a) If it is determined that an SEP is not adequate to ensure effective enforcement of the FMCSR or SMCSR the State will be notified in writing that approval of the SEP is being withheld, along with the reasons for such action.

(b) The State shall have 30 days from the date of the notice within which to modify the SEP and resubmit it for approval.

§ 350.23 Procedure for withdrawal of approval.

(a) If it appears that a State is not performing according to an approved SEP or that the State is not adequately enforcing the FMCSR or SMCSR, the Administrator shall issue a written notice of proposed determination of nonconformity to the Governor of the State or the official designated in the SEP. The notice shall state the reasons for the proposed determination and inform the State that it may comment in writing within 30 days from the date of the notice. The comments should address the deficiencies cited in the notice and provide documentation as necessary.

(b) The Administrator's decision, after notice and opportunity for comment, will constitute the final decision of the agency. An adverse decision will result in an immediate cessation of the Federal participation in the SEP.

(c) If the State does not respond to a notice of proposed determination of nonconformity as provided in paragraph (a) of this section, the proposed determination shall become the Administrator's final decision with the same effect as paragraph (b) of this section.

(d) Any State aggrieved by an adverse decision under this part may seek judicial review pursuant to Chapter 7 of Title 5 of the United States Code.

§ 350.25 Eligible costs.

(a) The primary functions to be performed under the MCSAP are uniform roadside inspections, investigations and terminal safety audits with follow-up enforcement actions and compliance measures. Consequently, the major cost will be compensation and expenses of the personnel required to perform these functions. Eligible personnel costs include, but are not limited to:

(1) Recruitment and screening;
(2) Training;
(3) Salaries and fringe benefits; and
(4) Supervision.

(b) Equipment and travel costs directly related to the primary functions are also eligible for proportionate reimbursement. These costs include, but are not limited to:

(1) Vehicles;
(2) Uniforms;
(3) Communications equipment;
(4) Special inapection equipment;
(5) Maintenance;
(6) Motor fuel; and
(7) Travel and per diem expenses.

(c) Indirect expenses related to facilities used to conduct inspections or to house enforcement personnel, support staff and equipment may also be eligible to the extent they are measurable and recurring, such as rent and overhead.

(d) A secondary function of the MCSAP is to develop a data base on which to coordinate resources and improve efficiency. Therefore, costs related to data acquisition, storage and analysis that are discretely identifiable as program expenses may be eligible for reimbursement.

(e) Clerical and administrative expenses to the extent they are necessary and directly attributable to the MCSAP are also eligible.

(f) The eligibility of specific costs is subject to review, and such costs must be necessary, reasonable, allocable to the approved SEP, and allowable under this and related Federal regulations.

Appendix A—Form of State Certification

State Certification

I (name) ————, (title) ————, on behalf of the State of ———, as requested by the Federal Highway Administrator as a condition of approval of a grant under the authority of Sec. 402 of the Surface Transportation Assistance Act of 1982 (Pub. L. 97–424), do hereby certify as follows:

1. The State (has adopted) (will adopt) commercial motor carrier and highway hazardous materials safety rules and regulations, which (are) (will be) substantially similar to and consistent with the Federal Motor Carrier Safety Regulations and the Federal Hazardous Materials Regulations (a copy of the existing or proposed State rules and regulations to be attached in the first year of the program).

2. The State has designated (name of State commercial motor carrier safety agency) ——— as the lead agency to administer the enforcement plan for which the grant is being awarded, and (name of agencies) ——— to perform functions under the plan. These agencies have (will have) the legal authority, resources and qualified personnel necessary for the enforcement of the State's commercial motor carrier and highway hazardous materials safety rules and regulations.

3. The State will devote such of its own funds as may be necessary to provide its matching share to the Federal assistance provided in the grant to administer the plan it is herewith submitting, and to enforce the State's commercial vehicle safety rules and regulations in a manner to be consistent with the approved plan.

4. The laws of the State provide the State's enforcement officers right of entry and inspection sufficient to carry out the purposes of the enforcement plan as approved (a copy of the applicable State law to be attached in the first year of the program).

5. The State shall require that all reports relating to the program be submitted to the appropriate State agency or agencies; and such reports will be made available to the Federal Highway Administration upon request.

6. The State will adopt such uniform reporting requirements and use such uniform forms for recordkeeping, inspection, and other enforcement activities as may be established by the Federal Highway Administration.

7. The State (has) (will have) in effect a requirement that registrants of commercial motor vehicles declare knowledge of the applicable Federal or State commercial motor carrier safety rules and regulations (a copy of the State form used for such purposes to be attached in the first year of the program).

8. The State will maintain the level of its expenditures for motor carrier safety programs, exclusive of Federal assistance, at least at the level of its expenditures for these

purposes during the last two full fiscal years immediately prior to January 6, 1983.

Date: ————

Location: ————

(Signature) ————————————

Appendix B—Guidelines To Be Used in Preparing State Enforcement Plan

A. Designate the motor carrier safety agency responsible for administering the plan.

B. *Define the problem:* In assessing the level of commitment to be made to the enforcement of commercial motor carrier and highway hazardous materials safety regulations, the following factors should be considered:

1. Volume of commercial motor vehicle traffic;
2. Type of commercial motor vehicle traffic;
3. Volume of commercial motor vehicle traffic transporting hazardous materials;
4. Number of frequency (rate) of commercial motor carrier accidents;
5. Severity of accidents involving commercial motor carriers:
   (a) Fatalities;
   (b) Injuries; and
   (c) Property damage.
6. Seasonal commercial motor carrier operational patterns within the State;
7. Projected impact of increased enforcement (economic and operational);
8. Ability to prevent and/or discourage commercial motor vehicle operators from circumventing inspection sites;
9. Costs related to the elements of each State's plan.

(This information may or may not be available to the States at present. To be able to measure program effectiveness, however, States will need to compile this type of data.)

C. *Determine current enforcement efforts:* The plan should identify the activities currently engaged in by the State to address the commercial motor carrier and hazardous materials safety problems. This should include a description of existing laws, regulations and compliance activities, as well as the agencies within the State with enforcement responsibilities, the resources devoted by these agencies, and the cost to the State or local government of these efforts.

D. *Establish the objectives:* A key element in each plan is the establishment of the objectives sought to be achieved through the use of Federal funds. The objectives should be stated in terms of quantifiable measurements of results, where possible, or at least of effort. Ideally, the objectives should include a measureable reduction in highway accidents or hazardous materials incidents involving commercial motor vehicles, but may also refer to quantifiable improvements in legislative or regulatory authorities, problem identification, enforcement strategies and resource allocations. Goals should be identified as:

1. Short term—the year beginning October 1 following submission of a MCSAP enforcement plan.
2. Medium term—two to four years after submission of the enforcement plan.
3. Long term—five years beyond the submission of the enforcement plan.
4. Provision for review and update of the MCSAP enforcement plan.

E. *Identify the resources:* The plan should detail the resources to be used in accomplishing the objectives, and should include:

1. State agencies involved:
   a. Lead agency; and
   b. Cooperating agencies.
2. Personnel (from each agency involved):
   a. Line functions;
   b. Staff and supervision; and
   c. Administrative, technical and clerical.
3. Facilities:
   a. Inspection sites regularly maintained; and
   b. Building space required.
4. Equipment:
   a. Vehicles;
   b. Communication and ADP; and
   c. Other specialized tools.
5. Itemization of Costs:
   a. Personnel (salaries, benefits, etc.);
   b. Equipment (purchase, rental, fuel, maintenance, depreciation, salvage, etc.); and
   c. Facilities (rent and overhead).

F. *Describe the practices:* The plan should describe how the resources are to be employed to achieve the objectives, and should discuss:

1. Schedules of operation of inspection sites and units;
2. Tactics for placing vehicles out of service;
3. Projected number of annual:
   a. Roadside vehicle inspections;
   b. Safety management audits;
4. Methods to inspect all types of carriages;
5. Strategy for preventing circumvention or avoidance of inspections;
6. Procedures for handling hazardous materials carriers; and
7. Supervision and recordkeeping.

G. *Provide for evaluation:* Each plan should include a provision for self-evaluation of its effectiveness. It is not practicable to establish objective minimums, as each State has unique characteristics and varying levels of existing enforcement activity. The FHWA will cooperate with State regulatory and enforcement agencies by gathering useful information and experience on elements of enforcement practices that produce positive results.

The bottom line objective in any safety program is a decrease in the number and severity of accidents. Motor carrier safety regulations should be designed to prescribe methods to eliminate the risks of accidents. Compliance with such regulations should, therefore, reduce accidents. The States are encouraged to design their programs to link their enforcement efforts to causes of accidents, whenever possible, and to develop the data necessary to demonstrate the results.

In assessing State Enforcement Plans, the FHWA will be particularly attentive to the methods by which effectiveness is to be evaluated, and will provide whatever assistance is feasible in developing measurement factors.

Appendix C—Table of Allocation Formula for Implementation Based on $10 Million Appropriation [1]

State	Amount
Alabama	$178,147
Alaska	75,000
Arizona	126,920
Arkansas	125,425
California	843,854
Colorado	126,920
Connecticut	75,000
Delaware	75,000
Dist. of Col.	75,000
Florida	369,820
Georgia	280,362
Guam	75,000
Hawaii	75,000
Idaho	75,000
Illinois	400,254
Indiana	270,217
Iowa	169,692
Kansas	179,838
Kentucky	161,393
Louisiana	161,393
Maine	75,000
Marianas	75,000
Maryland	140,118
Massachusetts	154,014
Michigan	314,485
Minnesota	216,727
Mississippi	112,514
Missouri	237,939
Montana	75,000
Nebraska	118,970
Nevada	75,000
New Hampshire	75,000
New Jersey	224,000
New Mexico	75,000
New York	394,720
North Carolina	242,550
North Dakota	88,535
Ohio	392,876
Oklahoma	190,905
Oregon	158,626
Pennsylvania	390,109
Puerto Rico	75,000
Rhode Island	75,000
Samoa	75,000
South Carolina	130,036
South Dakota	75,000
Tennessee	193,671
Texas	675,082
Utah	75,000
Vermont	75,000
Virgin Islands	75,000
Virginia	201,049
Washington	176,149
West Virginia	75,000
Wisconsin	200,127
Wyoming	75,000

[1] For program implementation, the allocation formula has been adjusted so that no State shall be allocated less than $75,000 nor more than $1,250,000 in any one year. Subject to the availability of funds due to unused allocations, the allocation of any such jurisdiction may be increased by a factor of three in FY 1984 and a factor of 1.5 in FY 1985 up to the maximum of $1,250,000. (See § 350.13(e).)

The allocation figures above make no provision for States requesting development funds. These dollar amounts will be modified when the funding needs for program development become established.

(Catalog of Federal Domestic Assistance Program Number 20.217,) Motor Carrier Safety)

Issued on: August 26, 1983.

R. A. Barnhart,

Federal Highway Administrator, Federal Highway Administration.

[FR Doc. 83-24059 Filed 8-30-83; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 646

[Docket No. 30810-154]

Snapper-Grouper Fishery of the South Atlantic

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NOAA issues this final rule to implement the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic. Currently, a number of the major species in the fishery are being harvested at less than optimal sizes, and certain harvest techniques have resulted in controversy among user groups. This rule establishes (1) minimum sizes for certain species and (2) limitations on the use of certain gear including poisons, explosives, fish traps, and trawls for the taking of fish in the snapper-grouper fishery. The intended effect of this rule is to prevent overfishing, restore to the optimum level those species that are overfished, and promote orderly utilization of the resource.

EFFECTIVE DATE: September 28, 1983.

ADDRESSES: A copy of the combined final regulatory flexibility analysis/regulatory impact review may be obtained from Rodney C. Dalton, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic (FMP) was prepared by the South Atlantic Fishery Management Council (Council). The Regional Director, Southeast Region, National Marine Fisheries Service (Regional Director) approved the FMP, with the exception of the management measure prohibiting the spearing of jewfish, on July 28, 1983, under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act). This final rule implements the FMP.

The disapproval of the measure prohibiting the spearing of jewfish was based on the finding that it was inconsistent with National Standards 2 and 4 and Section 303(a)(1)(A) of the Magnuson Act. This action required disapproval of the related specifications of optimum yield and expected domestic annual harvest. The Regional Director has advised the Council of this partial disapproval and provided recommendations to the Council that would conform the measure to the requirements of applicable law. The Council's reconsideration of the measure and action on the Regional Director's recommendations may result in amendment to this final rule.

A proposed rulemaking was published on June 10, 1983, (48 FR 26483), initiating a 45-day comment period which ended July 25, 1983. The proposed rulemaking contained information on the snapper-grouper fishery, its economic value, and its relative importance to the recreational and commercial sectors. The major problems in the fishery (i.e., harvesting of fish at less than the optimal sizes, user-group conflicts, and limited fishery data) and the management measures to resolve them were also discussed in detail.

In the proposed rulemaking, § 646.5, Gear identification, was reserved. This section is also being reserved in this final rule, pending development of a region-wide identification system.

Comments and Responses

Fourteen comments were received on the proposed rule, addressing 17 issues. Responses are grouped by general categories.

Prevention of overfishing

Several commenters stated that the regulations would not prevent overfishing. According to the FMP, there is no evidence that any species in the fishery is currently experiencing recruitment overfishing (i.e., insufficient spawning to maintain the stock). A number of species are experiencing growth overfishing (i.e., harvesting of a stock to the point that the harvest is less than the maximum possible). These regulations prevent growth overfishing by imposing minimum size limits. However, several commenters expressed concerns that the size limits would not be effective, because traps are not size selective and released fish would not survive. The procedures in the FMP for evaluating minimum sizes incorporate consideration of survival rates of released fish. The analyses of all size limits imposed indicated that long-term yield would increase for each species, despite the mortality of some released fish. This demonstrates that the regulations will be effective in preventing overfishing of most of the regulated species. The FMP does acknowledge, however, that size limits may not be effective for some species with extremely low survival rates. Data collection and analysis specified in the FMP will aid in evaluating other strategies (i.e., time/area closures and quotas) which could be used to protect these species. Such measures, if necessary, would be incorporated by amending the FMP.

Fish Traps

Numerous commenters, including a state marine fishery agency, two sport fishing organizations, two conservation organizations, a diving club, and several individuals recommended that the use of fish traps be prohibited to avoid overfishing and other adverse impacts on the fishery. Although fish traps are an efficient gear, NOAA believes that the restrictions imposed by this final rule (e.g., area restrictions, size limits, degradable panels, minimum mesh size) are sufficient to prevent overfishing and to mitigate potential adverse impacts associated with use of fish traps. Best available scientific information was not sufficient to justify a total prohibition, and a total prohibition would not result in a fair and equitable allocation of fishing privileges. A prohibition on the use of fish traps, therefore, would be inconsistent with National Standards 2 and 4 and Section 303 (a)(1)(A) of the Magnuson Act.

Several commenters suggested that if fish traps were allowed, they should be allowed only beyond certain geographic boundaries. Proposals included allowing traps outside the 200-foot contour, outside the 50-fathom contour south of Cape Canaveral, and prohibiting traps within a 10-nautical mile buffer zone adjacent to state waters north of Cape Canaveral. During public hearings on this FMP, many additional boundaries were recommended. In preparing the FMP, the Council recognized the necessity of mediating the social conflicts associated with the use of fish traps, particularly along the narrow continental shelf area of south Florida. After carefully considering all proposals and the associated impacts on all user groups, the Council concluded that prohibiting traps inside the 100-foot contour south of Fowey Rocks Light (Miami, Florida) would be the most fair and equitable resolution. NOAA concurs with this decision.

A representative of a conservation organization suggested that the minimum mesh size for traps should be greater than 2 × 2 inches to be consistent with the best scientific evidence and the size limits imposed in the FMP. Another commenter proposed a 4-inch trap mesh size. The FMP states that the trap mesh size is not directly correlated to the minimum size limits. The minimum size limits are the primary management tool for controlling the size of fish harvested and preventing

overfishing. The Council has, however, listed studies on the effect of mesh size on size and species composition as a high research priority and will assess the need to modify the mesh size in the near future.

One commenter suggested that the regulations require that the opening (degradable panel) be located on the sides or top of the trap. Most traps are designed with the funnel on one side and the access panel (which frequently will be attached with degrdable hinges) on the opposite side, thus achieving the commenters desired result. NOAA believes further regulation is unnecessary.

One commenter recommended that use of steel cables as trap marker lines be prohibited because of the hazard to navigation. The vast majority of buoy lines are not constructed of steel cable. However, buoy lines are a necessary component of the trap fishery. The material used for the line (i.e., rope versus cable) would not significantly alter the extent of the hazard to navigation, and therefore, does not warrant additional regulation.

One commenter suggested that the boundary for the restriction of pulling traps at night should be south of 28°30′ rather than south of 28°24.5′ to protect fish havens from traps. This measure merely prohibits pulling traps at night in the specified area. Extending the area to 28°30′ would have no significant effect on protection of fish; therefore, the recommendation is not adopted.

As is apparent from the substance and intensity of public reaction to the subject, fish traps are a highly controversial fishing gear. In the preparation of the FMP, the Council considered all the arguments pro and con regarding fish traps and concluded that, within the limitations of its authority under the Magnuson Act, the management regime as proposed was proper. However, the Council likewise recognized that further study is desirable on this gear type and its ecological, economic, and social impact. Further study will be undertaken, and if warranted, modification of the management response to fish traps will be considered.

Powerheads

A number of commenters, including representatives of a state marine fishery agency, a sportfishing club, and a scuba club, and two concerned citizens recommended that the use of powerheads be prohibited. Two commenters suggested that the use of powerheads to take any fish (including jewfish) should be allowed. There is no conclusive scientific information to indicate that the use of powerheads in the regulated area has resulted in any adverse impact on any species that would warrant a total prohibition on use of this gear. Further, the management measure prohibiting the spearing of jewfish has been disapproved because (1) there is insufficient scientific information available to support the measure; (2) it does not result in a fair and equitable allocation of fishing privileges (National Standard 4); and (3) it is devoid of scientific rationale demonstrating its necessity and propriety (Magnuson Act § 303(a)(1)(A)). Therefore, the regulation prohibiting the spearing of jewfish has been deleted from this final rule.

Roller Trawls

A representative of a conservation organization objected to the use of roller trawls along Florida's continental shelf because of potential damage to the fisheries and reef areas. A prohibition on the use of roller trawls was considered but rejected, because less burdensome measures (i.e., minimum mesh size, and size limits) were adopted to mitigate adverse impacts on the fishery, and available evidence of significant habitat damage was inconclusive. Evaluation of the impacts of bottom trawling is identified in the FMP as one of the highest priority research needs. The consideration of prohibiting roller trawls in specific coral reef areas was deferred to the Fishery Management Plan for Coral and Coral Reefs.

Size Limits

Several commenters recommended that minimum size limits be imposed on additional species (i.e., gag grouper and jewfish), and one commenter suggested that the minimum sizes be increased to provide additional protection to the spawning stock. The FMP contains detailed procedures and criteria for evaluating minimum size limits; however, certain basic fishery data such as growth, mortality, and survival rates are essential. Minimum size limits were imposed on all species for which (1) adequate data were available to perform the necessary analysis; and (2) the analysis indicated size limits were warranted based upon the biological, economic, and social criteria in the FMP. The required data were not available to allow evaluation of size limits for jewfish. A minimum size limit for gag grouper was considered but was rejected because the survival rate (after catch and release) was unknown but suspected to be quite low. Survival rates are critical in determining the effectiveness of size limits.

The FMP incorporates a mechanism for timely implementation of additional size limits when data supporting the need for such limits become available. Currently, there is no indication that any species in this fishery is experiencing problems because of insufficient spawning (i.e., recruitment overfishing). The establishment of minimum size limits will control growth overfishing and is expected to ensure adequate spawning.

Enforcement

The United States Coast Guard submitted proposed language to modify paragraphs (a) and (b) of § 646.7, Facilitation of enforcement. The suggested language reflects minor modifications in the procedures the Coast Guard will use in communicating with operators of fishing vessels. This final rule has been revised accordingly. The Coast Guard also noted that since the language in § 646.6 (d), (e), and (f) and § 646.21 prohibits possession or harvesting of undersized fish, any person merely catching an undersized fish would be in technical violation. It was suggested that these sections be revised to prohibit retention of undersized fish. After carefully considering the proposed revisions, NOAA elected to retain the original language and to rely on enforcement agents to distinguish among excusable technical violations and those warranting sanctions under these regulations.

Coastal Zone Consistency

The Florida Department of Natural Resources (FDNR), a sportfishing organization, and a conservation organization questioned the consistency of the regulations with Florida's Coastal Management Program (CMP) to the extent that they allow the use of fish traps and powerheads, and do not impose size limits on black grouper, gag grouper, or jewfish. State law, incorporated into Florida's CMP, prohibits the use and possession of fish traps (with certain exceptions) (Florida Statutes § 370.1105); prohibits the use of explosives or firearms for the taking of foodfish [Florida Statutes section 370.08 (5) and (10)]; and establishes size limits for gag grouper, black grouper, jewfish, red grouper, and Nassau grouper [Florida Statutes section 370.11(2)(a)(8)].

The claim of inconsistency is without legal foundation. Though Federal and State regulations are not identical, identity is not required by the Coastal Zone Management Act (CZMA). The statutory requirement of consistency is qualified. Consistency is required only

to the "maximum extent practicable" [CZMA section 307(c)(1)]. This qualified requirement of consistency requires that Federal activities be fully consistent with State coastal zone programs "unless compliance is prohibited based on the requirements of existing law applicable to the Federal agency's operations" [15 CFR 930.32(a)]. In this instance, NOAA is constrained by the Magnuson Act. The coastal zone consistency determination for this FMP, which was submitted to Florida's Office of Coastal Zone Management on April 27, 1983, clearly indicated that the prohibition of fish traps and powerheads and the implementation of size limits on gag grouper, black grouper, and jewfish would violate several of the national standards as well as section 303(a)(1)(A) of the Magnuson Act. Therefore, to the maximum extent practicable, this final rule is consistent with Florida's CMP. The Administrator of NOAA has considered and rejected Florida's request to delay implementation of the FMP.

Specific State Concerns

The FDNR noted that this FMP and the Fishery Management Plan for the Gulf of Mexico Reef Fish Fishery manage essentially the same species but contain dissimilar management measures which cannot both be appropriate. The FDNR suggested that this situation would complicate enforcement, particularly in the Florida Keys. NOAA acknowledges the differences in the two plans but believes that both management approaches are proper. It is reasonable to expect some variation in the two plans as a result of geographical (i.e., latitude and physical configuration of continental shelf areas) and socio-economic differences between the two areas. NOAA agrees that the differing management measures may complicate enforcement in the Florida Keys and anticipates the need for additional at sea enforcement in that area.

The FDNR also commented that these proposed rules would authorize the use and possession of fish traps, without limitation on the number of traps per vessel nor the number of vessels employing traps, and that such regulation will supersede the application of Florida's trap law with respect to fishing beyond Florida's seaward boundary. This is correct. The FDNR further asserts that NOAA's perceived effect of the proposed rules is to nullify Florida's ban on the possession of traps within Florida's boundaries. This is incorrect. It is NOAA's position that Florida's ban on possession of fish traps in state waters is nullified only to the extent that it would interfere with the exercise of a fisherman's right to utilize fish traps in the FCZ (i.e., Florida's ban may not be used to prohibit the transport of fish traps through state waters to and from the FCZ).

The FDNR further asserts that the provisions of § 646.6(g) and § 646.21(c) constitute further restraint on fishing activities occurring within state boundaries. This position is incorrect. The provisions of these regulations establish permissible activities within the FCZ and with regard to fish harvested from the FCZ. The restraints imposed on the landing of fish within state boundaries applies only to those fish harvested from the FCZ. Those fish harvested from the waters within the jurisdiction of Florida will not be affected by the requirements of §§ 646.6(g) and 646.21(c).

In addition, FDNR contends that allowing fish traps in the FCZ will create an enforcement impossibility for Florida within Florida's boundaries and will decimate Florida's prohibition on the possession of fish traps. NOAA agrees that authorizing the use of fish traps in the FCZ will have a substantial impact upon the ability of Florida to enforce its trap prohibition within state waters. NOAA will work with Florida to minimize this impact.

FDNR asserts further that these conflicts (§§ 646.6(g), 646.21(c) and disparate fish trap regulation) between State and Federal law require resolution under section 306 of the Magnuson Act. However, section 306 of the Magnuson Act was not formulated for resolving regulatory conflicts created by Federal supersession. Rather, section 306 addresses the situation where the Federal government concludes that the regulation of fisheries within State waters is not accomplished in such a fashion as to be in furtherance of effective implementation of federal regulations within the FCZ. In this instance, NOAA does not take issue with the manner in which Florida is regulating its fisheries within state waters. As a result, the preemption provisions of section 306 are not applicable.

FDNR urges that the proposed rules be rejected as inimical to the resources that they were designed to protect. NOAA disagrees. The matters set forth in opposition to implementation of the FMP by FDNR are not persuasive. The Council, with NOAA's agreement, has concluded that the approach proposed in the FMP is the proper approach to management of the subject fishery.

Finally, FDNR requested that an administrative hearing, in accordance with Title 5, U.S.C. 553, be held and that the proposed rules be stayed pending the resolution of the issues raised by FDNR. NOAA declines either to grant such a hearing or to delay the effective date of the proposed rules. To grant a further hearing on these rules would serve no useful purpose and would otherwise delay their implementation. Such delay would result in a violation of the provision of section 304(b)(1) of the Act. Furthermore, the matters brought to issue by FDNR, and its comments on the proposed rules, are more properly resolved in the context of Council deliberation for future modification of the FMP.

General Comments

Several commenters, including two conservation organizations and a state marine fishery agency, have stated that the FMP, or various portions of it, are not based on sufficient scientific information. One of the commenters noted that fundamental fishery data were lacking for all but 17 of the 69 species included in the FMP. This data deficiency is acknowledged in the FMP as a major problem in the fishery. Species for which adequate data were not available are not regulated, except for the purpose of data collection. The data collection procedure specified in the FMP is designed to obtain these essential data and, therefore, provide the basis for more definitive management of the additional species.

One commenter suggested that the proposed data collection system was inadequate to meet the requirements of the Magnuson Act. One advantage of the yield per recruit methodology employed in the FMP is that it requires relatively little fishery data. The collection of basic biological data from a sample of commercial and recreational landings will provide sufficient information. Additional fishery data will be obtained from the traditional voluntary landings data. NOAA concludes that this data system satisfies the requirements of the Magnuson Act.

One commenter stated that the yield per recruit model used in the FMP does not adequately address the effects of an intense localized fishery and should be considered an interim solution. It is acknowledged in the FMP that other management strategies (e.g., time or area closures and quotas) may be required in the future; however, under constraints of existing fishery data, the yield per recruit approach was deemed the most appropriate to resolve overfishing of individual species. Data collection and analysis specified in the FMP will aid in evaluating the feasibility

and necessity of additional management strategies.

One commenter suggested that the fishing year be changed to September 1–August 31 to avoid potential adverse impacts that would result if quotas were reached and the fishery was closed. There are no quotas established for this fishery; therefore, no change in the fishing year is necessary.

One commenter suggested that spearfishing be listed as a major method for harvesting fish if future quotas are imposed. If quotas are established in the future, the spearfishing sector of the fishery will be considered appropriately in any allocation of quotas.

Changes From the Proposed Rule

For the reasons discussed above, the final rule differs from the proposed rule as follows:

Section 646.6

Paragraph (i) was deleted as a result of NOAA's disapproval of the Management measure prohibiting the spearing of jewfish.

The old paragraphs (j) through (q) are redesignated (i) through (p).

Section 646.7

Paragraphs (a) and (b) were revised to reflect recent changes in the Coast Guard's procedures for communication with operators of fishing vessels.

Section 646.22

Paragraph (a)(3) was deleted as a result of NOAA's disapproval of the management measure prohibiting the spearing of jewfish.

Classification

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), after considering all comments received on the FMP and the proposed regulations, has determined that the FMP and this rule are necessary for the conservation and management of the fishery and that they are consistent with the Magnuson Act and other applicable law.

The Council prepared a final environmental impact statement for this FMP; a notice of availability was published on August 19, 1983 (48 FR 37702).

The NOAA Administrator determined that this rule is not a major rule requiring a regulatory impact analysis under Executive Order 12291. The Council prepared a regulatory impact review (RIR) which concludes that this rule will result in benefits to the fishermen and to the economy that are greater than the associated Federal Costs to manage the fishery on continuing basis. Benefits that will accrue from implementing the proposed measures come from the minimum sizes on red snapper, vermilion snapper, yellowtail snapper, black sea bass, red grouper, and Nassau grouper. The benefit/cost analysis was performed utilizing a 20-year planning horizon. The benefit/cost ratio is defined as present value benefits divided by present value costs. There are alternative benefit/costs ratios depending on the assumed per pound value of the fish to commercial and recreational fishermen:

Assumed per pound value	Benefit/cost ratio
$0.75	$15,539,462/$4,085,128=3.80
1.00	20,719,283/$4,085,128=5.07
1.25	25,899,104/$4,085,128=6.34
1.50	31,078,925/$4,085,128=7.61

The conclusion is that the return for government investment, in implementing minimum size restrictions for the six fish species, ranges from $3.80 to $7.61 for each dollar invested. Copies of the RIR are available (see **ADDRESSES**).

The Council prepared a regulatory flexibility analysis (RFA) in conjunction with the RIR, as provided by Section 605(a) of the Regulatory Flexibility Act; this analysis is summarized above. On the basis of this RIR/RFA, the NOAA Administrator determined that this rule will have a significant economic impact on a substantial number of small entities. Copies of the RIR/RFA are available (see **ADDRESSES**).

This rule does not contain a collection of information requirement for purposes of the Paperwork Reduction Act.

The Council determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management programs of Florida, South Carolina, and North Carolina. (The State of Georgia does not have an approved program.) This determination was submitted for review to the responsible State agencies under § 307 of the Coastal Zone Management Act. North Carolina responded and indicated its agreement with the conclusion of the consistency determination. South Carolina did not respond within 45 days, hence its agreement with the Council's consistency determination is presumed under 15 CFR 930.41(a). Florida requested and received a 15-day extension of its comment period and, subsequently, disagreed with the Council's determination. Florida's comments are discussed above. NOAA has concluded that, to the maximum extent practicable, the FMP is consistent with the applicable coastal zone management programs.

List of Subjects in 50 CFR Part 646

Fish, Fisheries, Fishing.

William G. Gordon,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR is amended by adding a new Part 646 to read as follows:

PART 646—SNAPPER-GROUPER FISHERY OF THE SOUTH ATLANTIC

Subpart A—General Provisions

Sec.

646.1 Purpose and scope.
646.2 Definitions.
646.3 Relationship to other laws.
646.4 Catch monitoring.
646.5 Gear identification. [Reserved]
646.6 Prohibitions.
646.7 Facilitation of enforcement.
646.8 Penalties.

Subpart B—Management Measures

646.20 Harvest limitations.
646.21 Size limitations.
646.22 Gear limitations.
646.23 Specifically authorized activities.

Authority: 16 U.S.C. 1801 *et seq.*

Subpart A—General Provisions

§ 646.1 Purpose and scope.

(a) The purpose of this part is to implement the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic prepared by the South Atlantic Fishery Management Council under the Magnuson Act.

(b) This part regulates fishing for fish in the snapper-grouper fishery by fishing vessels within the South Atlantic portion of the fishery conservation zone (FCZ).

§ 646.2 Definitions.

In addition to the definitions in the Magnuson Act, and unless the context requires otherwise, the terms used in this part shall have the following meaning:

Authorized officers means:

(a) Any commissioned, warrant, or petty officer of the U.S. Coast Guard;

(b) Any certified enforcement officer of special agent of the National Marine Fisheries Service (NMFS);

(c) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary and the Commandant of the U.S. Coast Guard to enforce the provisions of the Magnuson Act; or

(d) Any U.S. Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (a) of this definition.

Authorized statistical reporting agent means:

(a) Any person so designated by the Center Director; or

(b) Any person so designated by the head of any Federal or State agency which has entered into an agreement with the Secretary to collect fishery data.

Center Director means the Center Director or a designee, Southeast Fisheries Center, NMFS, 75 Virginia Beach Drive, Miami, Florida 33149; telephone 305–361–5761.

Commercial fisherman means a person who sells, trades, or barters any part of his or her catch of fish.

Dealer means the person who first receives by way of purchase, barter, or trade fish from a commercial fisherman.

Fish in the snapper-grouper species means the following species:

Snappers Lutjanidae

Black snapper—*Apsilus dentatus*
Queen snapper—*Etelis oculatus*
Mutton snapper—*Lutjanus analis*
Schoolmaster—*Lutjanus apodus*
Blackfin snapper—*Lutjanus buccanella*
Red snapper—*Lutjanus campechanus*
Cubera snapper—*Lutjanus cyanopterus*
Gray snapper—*Lutjanus griseus*
Mahogan snapper—*Lutjanus mahogoni*
Dog snapper—*Lutjanus jocu*
Lane snapper—*Lutjanus synagris*
Silk snapper—*Lutjanus vivanus*
Yellowtail snapper—*Ocyurus chrysurus*
Vermilion snapper—*Rhomboplites aurorubens*

Sea Basses—Serranidae

Bank sea bass—*Centropristis ocyurus*
Rock sea bass—*Centropristis philadelphica*
Black sea bass—*Centropristis striata*

Groupers—Serranidae

Rock hind—*Epinephelus adscensionis*
Graysby—*Epinephelus cruentatus*
Speckled hind—*Epinephelus drummondhayi*
Yellowedge grouper—*Epinephelus flavolimbatus*
Coney—*Epinephelus fulvus*
Red hind—*Epinephelus guttatus*
Jewfish—*Epinephelus itajara*
Red grouper—*Epinephelus morio*
Misty grouper—*Epinephelus mystacinus*
Warsaw grouper—*Epinephelus nigritus*
Snowy grouper—*Epinephelus niveatus*
Nassau grouper—*Epinephelus striatus*
Black grouper—*Mycteroperca bonaci*
Yellowmouth grouper—*Mycteroperca interstitialis*
Gag—*Mycteroperca microlepis*
Scamp—*Mycteroperca phenax*
Tiger grouper—*Mycteroperca tigris*
Yellowfin grouper—*Mycteroperca venenosa*

Porgies—Sparidae

Sheepshead—*Archosargus probatocephalus*
Grass porgy—*Calamus arctifrons*
Jolthead porgy—*Calamus bajonado*
Saucereye porgy—*Calamus calamus*
Whitebone porgy—*Calamus leucosteus*
Knobbed porgy—*Calamus nodosus*
Red porgy—*Pagrus pagrus*
Longspine porgy—*Stenotomus caprinus*
Scup—*Stenotomus chrysops*

Grunts—Haemulidae

Black margate—*Anisotremus surinamensis*
Porkfish—*Anisotremus virginicus*
Margate—*Haemulon album*
Tomtate—*Haemulon aurolineatum*
Smallmouth grunt—*Haemulon chrysargyreum*
French grunt—*Haemulon flavolineatum*
Spanish grunt—*Haemulon macrostomum*
Cottonwick—*Haemulon melanurum*
Sailors choice—*Haemulon parrai*
White grunt—*Haemulon plumieri*
Blue stripe grunt—*Haemulon sciurus*

Tilefishes—Malacanthidae

Blueline tilefish—*Caulolatilus microps*
Tilefish (Golden)—*Lopholatilus chamaeleonticeps*
Sand tilefish—*Malacanthus plumieri*

Triggerfishes—Balistidae

Gray triggerfish—*Balistes capriscus*
Queen triggerfish—*Balistes vetula*
Ocean triggerfish—*Canthidermis sufflamen*

Wrasses—Labridae

Hogfish—*Lachnolaimus maximus*
Puddingwife—*Halichoeres radiatus*

Jacks—Carangidae

Yellow jack—*Caranx bartholomaei*
Blue runner—*Caranx crysos*
Crevalle jack—*Caranx hippos*
Bar Jack—*Caranx ruber*
Greater amber jack—*Seriola dumerili*
Almaco jack—*Seriola rivoliana*

Fish trap means any trap and the component parts thereof used for or capable of taking finfish, regardless of the construction material, except those traps historically used in the directed fisheries for crustaceans (blue crab, stone crab, and spiny lobster). Fish trap further means those traps used to fish for black sea bass.

Fishery conservation zone (FCZ) means that area adjacent to the United States which, except where modified to accommodate international boundaries, encompasses all waters from the seaward boundary of each of the coastal States to a line on which each point is 200 nautical miles from the baseline from which the territorial sea of the United States is measured.

Fishing means any activity, other than scientific research conducted by a scientific research vessel, which involves:

(a) The catching, taking, or harvesting of fish;

(b) The attempted catching, taking, or harvesting of fish;

(c) Any other activity which can reasonably be expected to result in the catching, taking, or harvesting of fish; or

(d) Any operations at sea in support of, or in preparation for, any activity described in paragraph (a), (b), or (c) of this definition.

Fishing vessel means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for:

(a) Fishing; or

(b) Aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

Magnuson Act means the Magnuson Fishery Conservation and Management Act, as amended (16 U.S.C. 1801 *et seq.*).

NMFS means the National Marine Fisheries Service.

Operator, with respect to any vessel, means the master or other individual on board and in charge of that vessel.

Owner, with respect to any vessel, means:

(a) Any person who owns that vessel in whole or in part;

(b) Any charterer of the vessel, whether bareboat, time, or voyage; or

(c) Any person who acts in the capacity of a charterer, including, but not limited to, parties to a management agreement, operating agreement, or other similar arrangement that bestows control over the destination, function, or operation of the vessel; or

(d) Any agent designated as such by any person described in paragraphs (a), (b), or (c) of this definition.

Person means any individual (whether or not a citizen of the United States), corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

Powerhead means any device with an explosive charge, usually attached to a speargun, spear, pole, or stick, which fires a projectile upon contact.

Regional Director means the Regional Director, or a designee, Southeast Region, NMFS, Duval Building, 9450 Koger Boulevard, St. Petersburg, Florida 33702; telephone 813–893–3141.

Secretary means the Secretary of Commerce, or a designee.

South Atlantic means that portion of the FCZ along the Atlantic coastal states south of the Viriginia/North Carolina border to the boundary between the Gulf of Mexico and the Atlantic Ocean. The boundary between the Gulf of Mexico and the Atlantic Ocean begins at the intersection of the outer boundary of the FCZ and 83°00′ W. longitude, proceeds north to 24°35′ N. latitude (Dry Tortugas), east to Marquesas Key, then through the Florida Keys to the mainland.

Total length means distance from the tip of the head (snout) to the furthermost tip of the tail (caudal fin).

U.S. fish processors means facilities located within the United States for, and vessels of the United States, used for or equipped for, the processing of fish for commercial use or consumption.

U.S-harvested fish means fish caught, taken, or harvested by vessels of the United States within any foreign or domestic fishery regulated under the Magnuson Act.

Vessel of the United States means:

(a) Any vessel documented under the laws of the United States;

(b) Any vessel numbered in accordance with the Federal Boat Safety Act of 1971 (46 U.S.C. 1400 *et seq.)* and measuring less than five net tons; or

(c) Any vessel numbered under the Federal Boat Safety Act of 1971 (46 U.S.C. 1400 *et seq.)* and used exclusively for pleasure.

§ 646.3 Relationship to other laws.

(a) Persons affected by these regulations should be aware that other Federal and State statutes and regulations may apply to their activities.

(b) Certain responsibilities relating to data collection, issuance of permits, and enforcement may be performed by authorized State personnel under a cooperative agreement entered into by the State, the U.S. Coast Guard, and the Secretary.

(c) These regulations are intended to apply within the FCZ portion of the following National Marine Sanctuaries and National Park unless regulations establishing such Sanctuaries or Park prohibit their application.

(1) Looe Key National Marine Sanctuary (15 CFR Part 937);

(2) Key Largo Coral Reef Marine Sanctuary (15 CFR Part 929);

(3) Biscayne National Park (Title 16 U.S.C. 410gg);

(4) Gray's Reef National Marine Sanctuary (15 CFR Part 938); and

(5) Monitor Marine Sanctuary (15 CFR Part 924).

§ 646.4 Catch monitoring.

Data will be collected by authorized statistical reporting agents from a sample of commercial and recreational catch for YPR analysis. Those fishermen and dealers selected by the Center Director must make their fish available for inspection by those agents.

§ 646.5 Gear identification. [Reserved]

§ 646.6 Prohibitions.

It is unlawful for any person to:

(a) Refuse to make fish available for inspection when requested to do so by an authorized statistical reporting agent, as specified in § 646.4;

(b) Pull or tend fish traps except during the hours specified in § 646.20;

(c) Tend, open, pull, or otherwise molest or have in one's possession aboard a fishing vessel another persons's fish traps except as provided in §646.20(b);

(d) Possess in or harvest from the FCZ red snapper, yellowtail snapper, red grouper, or Nassau grouper under the minimum size specified in § 646.21(a);

(e) Possess in or harvest from that portion of the FCZ south of 35°15′ N. latitude (Cape Hatteras, North Carolina) black sea bass under the minimum size specified in § 646.21(b);

(f) Possess in the FCZ any fish in the snapper-grouper fishery without the heads and fins intact as specified in § 646.21(c);

(g) Land any fish in the snapper-grouper fishery, taken from the FCZ, without the heads and fins intact as specified in § 646.21(c);

(h) Fish for fish in the snapper-grouper fishery with explosives or poisons except as provided in § 646.22(a)(1) and (2);

(i) Fish for fish in the snapper-grouper fishery in the FCZ with trawl nets and fish traps except as specified in §§ 646.20 (a) and (b) or 646.22(b);

(j) Possess, have custody or control of, ship, transport, offer for sale, sell, purchase, import, land, export any fish or parts thereof taken or retained in violation of the Magnuson Act, this part, or any other regulations or any permit issued to a foreign vessel under the Magnuson Act;

(k) Refuse to permit an authorized officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of the Magnuson Act, this part, or any other regulation or permit issued under the Magnuson Act;

(l) Forcibly to assault, resist, oppose, impede, intimidate, threaten, or interfere with any authorized officer in the conduct of any search or inspection described in paragraph (k) of this section;

(m) Resist a lawful arrest for any act prohibited by this part;

(n) Interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any act prohibited by this part;

(o) Transfer directly or indirectly, or attempt to so transfer, any U.S.-harvested fish to any foreign fishing vessel, while such foreign vessel is in the FCZ, unless the foreign fishing vessel has been issued a permit under section 204 of the Magnuson Act which authorized the receipt by such vessel of the U.S.-harvested fish of the species concerned; or

(p) Violate any other provision of this part, the Magnuson Act, or any regulation or permit issued under the Magnuson Act.

§ 646.7 Facilitation of enforcement.

(a) *General.* The operator of any fishing vessel subject to this part must immediately comply with instructions or signals by an authorized officer to stop his vessel and instructions to facilitate safe boarding and inspection of the vessel, its gear, equipment, fishing record, and catch for purposes of enforcing the Magnuson Act and this part.

(b) *Communications.* (1) Upon being approached by a U.S. Coast Guard vessel or aircraft, or other vessel or aircraft with an authorized officer aboard, the operator of a fishing vessel must be alert for communications conveying enforcement instructions.

(2) When the sizes of the vessels and the wind, sea, and visibility conditions permit, loudhailer is the preferred method for communicating between vessels. When use of a loudhailer is not practicable and for communications with an aircraft, VHF–FM or high frequency radiotelephone should be employed. Hand signals or placards may be employed by an authorized officer and message blocks may be dropped from an aircraft.

(3) If verbal communications are not practicable, the visual signal "L" meaning "you should stop your vessel instantly," may be transmitted by flashing light directed at the vessel signaled. If the enforcement vessel is equipped with signal flags, the flashing light signal "L" consists of short and long flashes as follows: short-long-short-short (· — · ·); and the code Flag "L" is a square yellow and black flag shown as follows:

(4) Failure of a vessel's operator to stop his vessel when directed by loudhailer, radiotelephone, or flashing light signal"L" shall constitute *prima facie* evidence of the offense of refusal to permit an authorized officer to board.

(c) *Boarding.* The operator of a vessel directed to stop must:

(1) Guard Channel 16, VHF–FM, if so equipped;

(2) Stop immediately and lay to or maneuver in such a way as to permit the authorized officer and accompanying party to come aboard;

(3) When necessary, to facilitate the boarding and/or when requested by an authorized officer provide a safe ladder, man rope safety line, and ladder illumination for the authorized officer and the boarding party; and

(4) Take such other actions as necessary to ensure the safety of the authorized officer and accompanying party and facilitate the boarding.

(d) *Additional Signals.* The following additional signals, extracted from the International Code of Signals, may be sent by flashing light by a vessel of the U.S. Coast Guard when conditions do not permit communications by loudhailer or radiotelephone. Knowledge of these additional signals by vessel operators is not required. However, knowledge of these additional signals and appropriate action by a vessel operator may preclude the necessity of sending the signal "L" and necessity for the vessel to stop instantly. The operator of a vessel who does not understand a signal from a vessel of the U.S. Coast Guard and who is unable to obtain clarification by loudhailer or radiotelephone should consider the signal to be "L."

(1) "AA AA AA etc." (—— ——— ——) is the call to an unknown station. The operator of the signaled vessel should respond by identifying the vessel by radiotelephone or by illuminating the vessel identification required by § 658.6 or other law.

(2) "RY–CY" (—· ——— ——— ———) meaning "you should proceed at slow speed, a boat is coming to you." This signal is normally employed when conditions permit an enforcement boarding without the necessity of the vessel being boarded coming to a complete stop or, in some cases, without retrieval of fishing gear which may be in the water.

§ 646.8 Penalties.

Any person or fishing vessel found to be in violation of this part will be subject to the civil and criminal penalty provisions and forfeiture provisions of the Magnuson Act, and to 50 CFR Part 620 (Citations), 50 CFR Part 621, and 15 CFR Part 904 (Civil Procedures), the other applicable Federal law.

Subpart B—Management Measures

§ 646.20 Harvest limitations.

(a) Fish traps may be pulled or tended only during the period beginning one hour before official sunrise to one hour after official sunset in the South Atlantic portion of the FCZ south of 28°24.5′ N. Latitude (Cape Canaveral, Florida).

(b) Fish traps may be tended or pulled only by persons (other than authorized officers) aboard the fish trap owner's vessel(s), or aboard another vessel if such vessel has on board written consent of the fish trap owner.

§ 646.21 Size limitations.

(a) The minimum size limit for the harvest or possession in the FCZ of red snapper, yellowtail snapper, red grouper, and Nassau grouper is 12 inches total length.

(b) The minimum size for the harvest or possession in the FCZ of black sea bass south of Cape Hatteras, North Carolina is 8 inches total length.

(c) All fish in the snapper-grouper fishery subject to minimum size limits specified in this section may be possessed in the FCZ or landed, if harvested from the FCZ, only with the head and fins intact.

§ 646.22 Gear limitations.

(a) (1) Explosives (except explosives in powerheads) may not be used to fish for fish in the snapper-grouper fishery.

(2) Poisons may not be used to fish for fish in the snapper-grouper fishery except as authorized by permit under State or Federal law.

(b) (1) Fish traps must have a degradable panel or a door attached with degradable fasteners or material such as jute or sisal twines which normally deteriorate within 42 days. The opening must be at least as large as the entry ports.

(2) Effective [insert date—1 year after effective date of final rule], fish traps must have a minimum mesh size of 1 x 2 inches or 1.5-inch hexagonal (the distance between parallel sides).

(3) Effective September 28, 1984, trawl nets targeting fish in the snapper-grouper fishery (25 percent or more of the fish on board by weight are fish in the snapper-grouper fishery) must have a minimum stretched mesh size of 4 inches. Shrimp trawls, calico scallop trawls, and rock shrimp trawls are specifically exempt from this requirement.

(4) Fish traps may not be placed shoreward of the 100-foot contour in that portion of the South Atlantic FCZ south of 25°35.5′ N. latitude (Fowey Rocks Light, Florida). Fish traps so deployed will be considered unclaimed or abandoned property and may be disposed of in any appropriate manner by the Secretary (including an authorized officer).

§ 646.23 Specifically authorized activities.

The Secretary may authorize for, the acquisition of information and data, activities which are otherwise prohibited by these regulations.

[FR Doc. 83–23950 Filed 8–27–83; 11:00 am]
BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 48, No. 170
Wednesday, August 31, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1030

Milk in the Chicago Regional Marketing Area; Proposed Temporary Revision of Shipping Requirements and Diversion Allowances

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed temporary revision of rule.

SUMMARY: This notice invites written comments on whether the shipping requirements for pool supply plants under the Chicago Regional milk order should be decreased and the diversion allowances increased by a corresponding amount for the months of September, October and November 1983. Such action could help prevent uneconomic shipments of milk to the market and help maintain the pool status of producers who regularly supply the market. Such a revision was suggested in evidence presented at a public hearing held May 24–26, 1983, to consider amendments to the order. The order has since been amended to allow the Director greater discretionary authority to make such changes. Accordingly, the Director now invites comments on whether that authority should be used and the extent of any revisions that should be made for the months indicated.

DATE: Comments are due by September 7, 1983.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–4829.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established to implement Executive Order 12291 and has been classified as a "non-major" action.

It has also been determined that the potential need for adjusting certain provisions of the order on an emergency basis precludes following certain review procedures set forth in Executive Order 12291. Such procedures would require that this document be submitted for review to the Office of Management and Budget at least 10 days prior to its publication in the Federal Register. However, this would not permit the completion of the procedure in time to give interested parties timely notice that the supply plant shipping requirement and diversion allowances for September 1983 would be modified. The order was amended effective August 24, 1983, to provide the Director greater authority to make such revisions.

William T. Manley, Deputy Administrator, Agricutural Marketing Service, has determined that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and would tend to assure that the market would be adequately supplied with milk for fluid use with a smaller proportion of milk shipments from pool supply plants and that milk not needed for fluid uses could be disposed of to surplus outlets in an efficient manner.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the provisions of § 1030.7(b)(5) of the order, the temporary revision of certain provisions of the order regulating the handling of milk in the Chicago Regional marketing area is being considered for the months of September, October and November 1983.

All persons who desire to submit written data, views or arguments in connection with the proposed revision should file the same with the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250, not later than 7 days after publication of this notice in the **Federal Register**. Please submit two copies of the documents filed. The period for filing views is limited because a longer period would not provide the time needed to complete the required procedures and include September 1983 in the temporary revision period.

All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The provisions that are being considered for revision are the supply plant shipping percentages set forth in § 1030.7(b) and the diversion percentage set forth in § 1030.13(d)(3) that are applicable during the month of September, October and November 1983. Consideration will be given to whether the supply plant shipping percentages and diversion allowances should be temporarily revised and, if so, by how much.

Currently, the minimum shipping percentage of total producer receipts for pool supply plants and units of supply plants is 25 percent for September and 30 percent for October and November. During these same months, handlers may divert to nonpool plants up to 70 percent of their producer milk. In partial respond to a public hearing held May 24–26, 1983, at Madison, Wisconsin, the Department has just amended the order to increase from 10 percentage points to 15 percentage points the Director's authority to increase or decrease temporarily the supply plant shipping standards and diversion allowances.

Pursuant to the provisions of § 1030.7(b)(5), the supply plant shipping percentages set forth in § 1030.7(b) and the diversion percentages set forth in § 1030.13(d)(3) may be increased or decreased by up to 15 percentage points during the months of September through March to encourage additional milk shipments to pool distributing plants or to prevent uneconomic shipments.

On the basis of evidence contained in the record of the May 24–26, 1983, hearing and other available market information, the Director is considering whether to revise temporarily one or both of the provisions referred to above. Producer milk receipts at supply plants are estimated at about 1,038 million pounds, 1,025 million pounds, and 967 million pounds during September, October and November 1983, respectively. At the current shipping percentages, supply plants and supply plant units would be required to ship to distributing plants about 260 million pounds of milk in September, 308 million pounds in October, and 290 million pounds in November. It also is estimated that direct deliveries of milk

to distributing plants will approximate 38 million pounds, 33 million pounds, and 31 million pounds for September, October and November, respectively. Thus, total milk deliveries to distributing plants are estimated to approximate 298 million pounds in September, 341 million pounds in October and 321 million pounds in November.

On the other hand, it is projected that distributing plants will need about 240 to 250 million pounds of milk for Class I uses during each of the three months. This appears to be substantially less than the combined quantities of supply plant and direct-delivery milk that are expected to be shipped under the current order provisions in order to maintain pool status for all the milk regularly associated with the market. For this reason, the Director seeks the views of the industry concerning the need to reduce temporarily the supply plant shipping requirements applicable for the months of September, October and November 1983. Also, comments are sought on whether the allowable diversions to nonpool plants should also be revised temporarily if the supply plant shipping requirements are revised.

List of Subjects in 7 CFR Part 1030

Milk Marketing Orders, Milk, Dairy Products.

Signed at Washington, D.C. on August 29, 1983.

Edward T. Coughlin,

Director, Dairy Division.

[FR Doc. 83-24035 Filed 8-30-83; 8:45 am]
BILLING CODE 3410-02-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1952

[Docket No. T-2]

Final Approval Determination for the Virgin Islands State Plan; Opportunity To Comment on New Data

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Reopening of Rulemaking Record on 18(e) Determination for the Virgin Islands State Plan to Introduce Additional Monitoring Data on Operations Under the Virgin Islands State Plan.

SUMMARY: The Virgin Islands maintains a federally approved occupational safety and health program or "State plan." On May 6, 1983, public comments were requested on a proposal to grant Federal "final approval" to the plan. The results of Federal monitoring during FY 1982 have already been placed in the rulemaking record. This document reopens the record for the purpose of submitting additional monitoring data on operations under the Virgin Islands State Plan. Written public comment concerning this data is invited.

DATES: Comments on the new data must be received by September 30, 1983.

ADDRESSES: Comments should be sent in quadruplicate to: Docket Officer, Docket No. T-2, Room S-6212, 200 Constitution Avenue, NW., Washington, D.C. 20210, telephone (202) 523-7894.

FOR FURTHER INFORMATION CONTACT: James Foster, Director, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-3637, 200 Constitution Avenue, NW., Washington, D.C. 20210, telephone (202) 523-8148.

SUPPLEMENTARY INFORMATION:

Background

In a document published in the **Federal Register** May 6, 1983, (48 FR 20434) the Occupational Safety and Health Administration announced the eligibility of the Virgin Islands State plan for a final approval determination under section 18(e) of the Occupational Safety and Health Act. As explained in the May 6 proposal, OSHA seeks public comment and views on whether the criteria in 29 CFR 1902.3, 1902.4, 1902.37, and section 18(c) of the OSH Act are being met in actual operations under the plan. If so, a decision granting "final approval" will be issued and, as provided in section 18(e) of the Act, concurrent Federal standards and enforcement authority over issues covered by the State plan will be terminated.

The May 6 proposal contained an extensive summary of the results of Federal monitoring of operations under the Virgin Islands plan during FY 1982. As noted in the proposal, the plan is generally similar to Federal OSHA, but does not cover the issue of occupational health, except in the public sector, and does not cover safety and health in maritime employment except in the public sector. Complete evaluation reports of monitoring of the plan since its inception were introduced into the record and made available for public inspection. The proposal also invited public participation in an information gathering hearing which was held in St. Thomas, Virgin Islands, on June 29.

The proposed 18(e) determination for the Virgin Islands was based upon the FY 1982 Evaluation Report covering plan operations from October 1981 to September 1982, the last full year for which data are available. Today's notice announces the addition to the record, and the availability for public inspection and comment, of monitoring data covering the period October 1982 through April 1983. The additional information comprises new and additional evidence which was not available prior to the closing of the record of the informal public hearing on August 1, 1983. The data covering the October 1982 through April 1983 period represent the most recent available information on the Virgin Island's administration of its plan.

Summary of the Newly Submitted Data

The data was entered into the record on August 23, 1983, is identified in the docket as Exhibit No. 10 and is briefly summarized below.

In the area of standards development and adoption, the data show that as of April 1983 the Virgin Islands had taken action on two out of a possible three new standards or standards changes within six months of their promulgation by OSHA. The third standard was acted upon on June 2, 1983. In the area of private sector enforcement, the State conducted 64 safety inspections during the data period, consisting of 46 general schedule inspections, 15 follow-up inspections, two complaint inspections and one accident inspection. Thirty-nine of 46 general schedule inspections were in high-hazard industries (84.8%). Thirty-three general schedule inspections (71.7%) resulted in cited violations; one inspection resulted in a serious citation for violation of the general duty clause and the remainder of the not-in-compliance inspections resulted in 60 other-than-serious violations. Of the 35 inspections in which violations were found, 15 resulted in follow-up inspections; no failures-to-correct cited violations were found. The average penalty for serious violations was $240.00; for other-than-serious violations with penalty, $30.00. No hearings or other administrative level review activity occurred during the period covered by the data. However, an appeal by the Virgin Islands Department of Labor from an adverse decision issued during a prior evaluation period was dismissed by the District Court on the grounds that no action had been taken on the appeal.

Of 95 inspections of all kinds conducted by the Department of Labor during the period covered by the data, 31 or 33% were in public sector workplaces; 13 of these inspections (42%) resulted in issuance of citations (two serious, 34 other-than-serious).

Nine consultation visits were performed by the State agency during the data period, including three in the private sector and six in the public sector. The agency also conducted training sessions for 70 public sector supervisors, and 82 private sector supervisors and employees.

Consistent with earlier data derived from the 1980 BLS survey and included in the 18(e) Evaluation Report, the 1981 data show occupations injury and illness rates in the Virgin Islands which compare favorably with data from Federal-enforcement States in the manufacturing and all industry categories. Rates for the construction industry and for petroleum refining remain somewhat above those in States where enforcement is conducted federally.

Miscellaneous other documents have also been filed with the docket office in the interest of a more complete rulemaking record. These include copies of Virgin Islands recordkeeping and reporting regulations more current than those placed in the record at the time of the proposal; of the Virgin Islands Occupational Safety and Health Act, as codified at 24 V.I. Code Ann. §§ 31 *et. seq.* (including amendments not reflected in the version of the Act originally placed in the record); and of notices published in the Virgin Islands to provide information regarding the proposed 18(e) determination and the informal hearing.

Availability of the Documents for Inspection and Copying:

The material described above is available for inspection and copying at the following locations:

U.S. Department of Labor, Occupational Safety and Health Administration, Docket Office, Room S–6212, Docket No. T–2, 200 Constitution Avenue, NW., Washington, D.C. 20210

Regional Administrator, U.S. Department of Labor, OSHA, 1515 Broadway (1 Astor Plaza), Room 3445, New York, New York 10036

Area Director, U.S. Department of Labor, OSHA, U.S. Court House and Fedral Office Building, Carlos Chardon Avenue, Room 555, Hato Rey, Purto Rico 00918

Office of the Commissoner, Virgin Islands Department of Labor, Division of Occupational Safety and Health, Hospital Street, Christiansted St. Croix, Virgin Islands 00820

Comments are invited on the new submissions to the record. All timely submissions will be made a part of the record of this proceeding.

Authority

This document was prepared under the direction of Thorne G. Auchter, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Accordingly, the record in the rulemaking proceeding on the 18(e) determination for the Virgin Islands State plan is reopened for 30 days for the limited purpose of admitting the above described documents and taking written public comments.

(Sec. 18, 84 Stat. 1608 (29 U.S.C. 667); 29 CFR Part 1902; Secretary of Labor's Order No. 9–83.

Signed at Washington, D.C. this 26th day of August, 1983.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 83-23659 Filed 8-30-83; 8:45 am]

BILLING CODE 4510-26-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA Action NE 1275; A–7–FRL 2425–8]

Revision to State Implementation Plan; Nebraska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: On May 23, 1983, the State of Nebraska submitted a revision to the Nebraska State Implementation Plan (SIP) to comply with the new source review and stack height requirements of the Clean Air Act, as amended (Act). The purpose of today's notice is to advise the public that revisions closely paralleling the federal requirements have been received from the state and to solicit comments on them. The EPA has reviewed these regulations and is proposing to approve them as meeting the requirements of Section 110, Section 172(b)(6), Section 173, Section 161, and Section 123 of the Act.

DATES: Comments must be received on or before September 30, 1983.

ADDRESSES: Comments should be addressed to Mary C. Carter, Environmental Protection Agency, Region VII, Air Branch, 324 East 11th Street, Kansas City, Missouri 64106. Copies of the state submission are available for inspection during normal business hours at the above address and at the following location: Nebraska Department of Environmental Control, Air Pollution Control Division, Box 94877, Statehouse Station, 301 Centennial Mall South, Lincoln, Nebraska 68509.

FOR FURTHER INFORMATION CONTACT: Mary C. Carter at (816) 374–3791, FTS 758–3791.

SUPPLEMENTARY INFORMATION: On March 25, 1983, the Nebraska Environmental Control Council adopted revisions to the SIP to comply with the new source review and stack height requirements of the Act. These rules were submitted by the Governor of Nebraska on May 23, 1983 as a revision to the Nebraska SIP. The Submission is comprised of amendments to the following state regulations: Rule 4, "New and Complex Sources; Standards of Performance, Application for Permit, When Required," and Rule 1, "Definitions;" and two new regulations: Rule 4.01, "Prevention of Significant Deterioration of Air Quality," and Rule 3A, "Stack Heights; Good Engineering Practice (GEP)." The proposed amendments and new regulations were heard at public hearing on March 25, 1983.

New Source Review.

Part D of the Clean Air Act, as amended, requires states to include specific new source review regulations in their SIPs for all areas that have not attained the National Ambient Air Quality Standards (NAAQS). Section 172(b)(6) requires plans to have a permit program for the construction and operation of new or modified stationary sources in accordance with the permit requirements of Section 173. Specific requirements are codified at 40 CFR 51.18(j). The permit program must assure that when a new source commences operation, there will be sufficient emissions reductions from existing sources to offset the increase in emissions from the new source and to assure reasonable further progress toward attaining The NAAQS; the permit program must require compliance with the lowest achievable emission rate; all sources in the state owned or operated by the permit applicant must be in compliance with all applicable state and federal emission limits; and the applicable implementation plan must be carried out in the nonattainment area in which the source is to be constructed.

Nebraska submitted new source review regulations in a SIP revision submitted to EPA on September 25, 1980. EPA reviewed these regulations and advised Nebraska of deficiencies. Consequently, the state proceeded to make the necessary changes. Meanwhile, on August 7, 1980, EPA published regulatory changes affecting

new source review in nonattainment areas (45 FR 52676) requiring that states submit SIPs by May 7, 1981, to address these changes. Consequently, Nebraska's new source review regulation, and Rules 1 and 3 underwent revisions designed to comply with all Part D requirements including the August 7, 1980 regulations for new source review in nonattainment areas. The state indicated that corrections to the deficiencies in its new source review regulations could be made by May 15, 1981. On February 6, 1981, EPA proposed conditional approval of Nebraska's new source review and permitting regulations provided that the state adopt and submit the changes that were identified. The reader is referred to the February 6, 1981 proposed rulemaking for further details.

The final Nebraska SIP containing Part D new source review rules adopted on March 6, 1981 by the Environmental Control Council was not submitted to EPA until August 9, 1982. Although many deficiencies had been corrected, no action was taken by EPA on these regulations because the Department of Environmental Control indicated the regulations would be revised in the near term to more closely parallel federal requirements published August 7, 1980. These revisions were submitted on May 23, 1983, and are the subject of today's proposed rulemaking. Final action was taken by EPA on March 28, 1983, to approve certain other portions of the August 9, 1982, submission. See 48 FR 12715 published on March 28, 1983 for further information.

The previous lack of an approved SIP which included new source review regulations for nonattainment areas in Nebraska led to the imposition of the construction moratorium (on July 1, 1979), required by Section 110(a)(2)(I) of the Act, on all primary nonattainment areas in the state. Final approval of these regulations in a separate rulemaking at the close of the present public comment period would have the effect of removing the construction moratorium in the primary nonattainment areas for which a Part D SIP revision has been approved by EPA.

The EPA has reviewed the revisions to Nebraska Rule 4, "New and Complex Sources; Standards of Performance, Application for Permit, When Required" and the supporting definitions in Rule 1 and finds that these rules meet the requirements of Section 172(b)(6) and Section 173 of the Act.

Prevention of Significant Deterioration (PSD)

Section 161 requires each implementation plan to contain emission limitations and other measures to prevent significant deterioration of air quality in each region which is designated attainment or unclassified under Section 107 of the Act. Specific requirements are codified at 40 CFR 51.24. In addition, EPA's regulations promulgated for areas which have no approved SIP are found at 40 CFR 52.21. The new Nebraska Rule 4.01 adopts the federal PSD requirements by reference.

The EPA has reviewed the new Nebraska Rule 4.01, "Prevention of Significant Deterioration of Air Quality" and finds that this rule meets the requirements of 40 CFR 51.24.

Stack Heights

Section 123 prohibits stacks taller than good engineering practice (GEP) height and other dispersion techniques that would affect the emission limitations required for the control of any air pollutant to meet the NAAQS or PSD air quality increments. Specific requirements are found at 40 CFR 51.12 (j), (k) and (l).

The SIP must provide [as required by 40 CFR 51.12(j)] that before a State submits to EPA a new or revised emission limitation that is based on a demonstration of good engineering practice stack height, as provided in § 51.1(ii)(3), the State must notify the public of the availability of the demonstration study and must provide opportunity for public hearing on it.

The EPA has reviewed Nebraska Rule 3A and finds that the requirements of 40 CFR 51.12(j) are not met by the Rule, as written. However, EPA has discussed the deficiency with the State and has been assured that the State had intended the Rule to comply with the public notice and hearing requirements. The State has submitted a commitment to EPA that the Director will not approve an emission limitation that is based on a good engineering practice stack height that exceeds the height allowed by § 51.1(ii) (1) or (2) until he has provided public notice and the opportunity for public hearing on it. Additionally, the State has committed to clarifying the language of the regulation accordingly.

EPA is proposing to approve the new Nebraska Rule 3A, "Stack Height; Good Engineering Practice (GEP)" based on the commitment provided by the State.

The revisions to the Nebraska Rules and new Rules discussed here were heard at state public hearing on March 25, 1983. These revisions were adopted by the Nebraska Environmental Control Council on this date and submitted by the Governor to EPA on May 23, 1983.

Proposed Action

EPA proposes to approve the Nebraska Rules discussed in this notice.

EPA is soliciting comments on the State's submissions and on EPA's actions proposed in this document. The Administrator will consider comments received in deciding to approve or disapprove these submissions.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Pursuant to the provisions of 5 U.S.C. 605(b), the Regional Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities (See 46 FR 8709).

This notice is issued under the authority of section 110 of the Clean Air Act, as amended.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur dioxide, Lead, Particulate matter, Carbon monoxide, hydrocarbons.

Dated: July 11, 1983.

Morris Kay,

Regional Administrator.

[FR Doc. 83-23871 Filed 8-30-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 180

[PP 6E1794/P308; PH-FRL 2421-3]

Methamidophos; Proposed Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that a tolerance be established for residues of the insecticide methanidophos in or on the raw agricultural commodity celery. The proposed regulation to establish a maximum permissible level for residues of the insecticide in or on the commodity was requested in a petition submitted by the Interregional Research Project No. 4 (IR-4).

DATE: Comment must be received on or before September 15, 1983.

ADDRESS: Written comments by mail to: Emergency Response and Minor Use Section, Registration Support and Emergency Response Branch, Registrative Division (TS-767C), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, deliver comments to: Emergency Response and Minor Use Section, Rm. 716B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs (703–557–1192).

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition 6E1794 to EPA on behalf of the IR–4 Technical Committee and the Agricultural Experiment Station of Florida.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for residues of the insecticed methamidophos (*O,S*-dimethyl phosphoramidothioate) in or on the raw agricultural commodity celery at 2 parts per million (ppm). The petition was later amended to propose a tolerance of 1 ppm in or on celery. A related food additive petition (7H5162) proposing a level of 100 parts per million (ppm) in dried celery flakes was later withdrawn by the petitioner; celery grown in Florida is not used in celery flake production.

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicological data considered in support of the proposed tolerance include an acute oral lethal dose (LD_{50}) rat study; acute dermal LD_{50} rabbit study; primary dermal rabbit irritation study; primary eye irritation study (rabbit); a 90-day dog-feeding study with a no-observed-effect level (NOEL) of 1.5 ppm (0.0375 milligrams (mg)/kilogram (kg) of body weight (bw)) based on chlolinesterase inhibition; a 90-day rat-feeding study with a cholinesteranse NOEL of 2.0 ppm (0.1 mg/kg of bw); a rabbit teratology study which was negative at the 2.5 mg/kg dosage level; an acute delayed neurotoxicity study (hen) which was negative at the 50.63 mg/kg dosage level; and an interim report of an oncogenic study (mouse).

Desirable data that are currently lacking and the projected dates of completion of these studies are as follows: a chronic feeding/oncogenic study (rat), August 1984; the final report of the oncogenic study (mouse), in draft; a teratology study (rat), November 1983; a reproduction study (rat), June 1984; mutagenic studies (Ames, being run by Chevron and dominant lethal, in draft); and chronic dog-feeding study, March 1984.

Although there are significant data gaps for the chemical, the available toxicity data are adequate to support the proposed tolerance since the proposed use will result in no increase in the current theoretical maximum residue contribution (TMRC) to the human diet because the tolerance for residues of the related pesticide acephate in celery (40 CFR 180.108) is expressed in terms of residues of methamidophos (1 ppm) as well as of acephate. As stated in the **Federal Register** of May 11, 1979 (44 FR 27932–27954), the "Agency will generally consider as insignificant an increase in the TMRC of 1.0 percent or less."

The nature of the residues is adequately understood, and an adequate analytical method, thermionic emission gas chromatography, is available for enforcement purposes. Residue data to support the proposed tolerance are from the State of Florida. Tolerances have previously been established for residues of methamidophos in or on a variety of raw agricultural commodities (40 CFR 180.315). There are currently no actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency, the tolerance established by amending 40 CFR 180.315 would protect the public health. It is proposed, therefore, that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended that contains any of the ingredients listed herein may request within 15 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. As provided for in the Administrative Procedure Act (5 U.S.C. 553(d)(3)), the comment period is shortened to less than 30 days because of the necessity to expeditiously provide a means for control of dipterious leafminers infesting growing celery in Florida. Comments must bear a notation indicating the document control number (PP 6E1794/P308). All written comments filed in response to this petition will be available in the Emergency Response and Minor Use Section, Registration Division, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: August 12, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR 180.315 be amended by adding and alphabetically inserting the raw agricultural commodity celery to read as follows:

§ 180.315 Methamidophos; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Celery	1
* * * * *	

[FR Doc. 83–23312 Filed 8–30–83; 8:45 am]

BILLING CODE 6560–50–M

40 CFR PART 180

[PP 3E2853/P305; PH–FRL 2424–2]

Inorganic Bromides Resulting From Fumigation With Methyl Bromide; Proposed Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that a tolerance be established for residues of inorganic bromides, resulting from postharvest fumigation with the pesticide methyl bromide, in or on the raw agricultural commodity blueberries. The proposed regulation to establish a maximum permissible level for residues of inorganic bromides in or on the commodity was requested in a petition submitted by the Interregional Research Project No. 4 (IR–4).

DATE: Comments must be received on or before September 30, 1983.

ADDRESSES: By mail, submit comments to: Program Support Division (TS–757C), Office of Pesticide Programs,

Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, deliver comments to: Rm. 236, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs (703–557–1192) at the above address.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick NJ 08903, has submitted pesticide petition 3E2853 to EPA on behalf of the IR–4 Technical Committee and the Agricultural Experiment Station of New Jersey and the New Jersey Department of Agriculture.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for residues of inorganic bromides, resulting from postharvest fumigation with the pesticide methyl bromide, in or on the raw agricultural commodity blueberries at 20 parts per million (ppm).

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicological data considered in support of the proposed tolerance include three studies (using inorganic bromide only) which have been classified as supplemental; a 20-month rat feeding study with a no-observed-effect level (NOEL) of 235 ppm (11.75 mg/kg); a 52-week rabbit feeding study with a NOEL of 90 ppm (2.7 mg/kg); and a 1-year dog feeding study with a NOEL of 2,900 ppm (72.5 mg/kg). Also considered were long-term clinical studies of inorganic bromides in man, deemed highly significant and of sufficient quality to support tolerances in raw agricultural commodities. Agricultural tolerances for residues of inorganic bromides resulting from postharvest commodity fumigation with methyl bromide have previously been established on various commodities at levels ranging from 5 ppm to 240 ppm.

The acceptable daily intake (ADI), based on studies of systemic effects in humans and using a 10-fold safety factor, is calculated to be 60 mg/kg of body weight (bw)/day, calculated as the bromide ion. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 3,600 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5 kg daily diet is currently estimated to be 125 mg/day. This does not take into account inorganic bromides in milk, eggs, meat, and poultry resulting from ingestion of "background" inorganic bromides which are ubiquitous in nature, especially in milk. The incremental exposure to potential residues of inorganic bromides resulting from the proposed use is considered to be toxicologically insignificant. The calculated amount of methyl bromide *per se* resulting from the proposed use is extremely small and not considered to be toxicologically significant. Therefore, a separate tolerance for residues of methyl bromide *per se* will not be necessary.

The nature of the residues is adequately understood. Inorganic bromides comprise the major part of the residue on blueberries; methyl bromide is present as a residue at a level less than 0.01 ppm on blueberries under the proposed conditions of use. Adequate analytical method, gas-liquid chromatography with an electron-capture detector, is available for enforcement purposes. Because there are no animal feed items involved, there will be no secondary residues in meat, milk, poultry, and eggs. There are presently no actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency, the tolerance established by amending 40 CFR 180.123 would protect the public health. It is proposed, therefore, that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this notice in the Federal Register that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [PP 3E2853/P305]. All written comments filed in response to this petition will be available in the Emergency Response and Minor Use Section, Registration Division, at the address given above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: August 22, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, it is proposed that 40 CFR 180.123 be amended by adding, and alphabetically inserting, the raw agricultural commodity blueberries to read as follows:

§ 180.123 Inorganic bromides resulting from fumigation with methyl bromide; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Blueberries	20.0
* * * * *	

[FR Doc. 83-23787 Filed 8-30-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 600

[AMS-FRL-2426-2]

Fuel Economy of Motor Vehicles; Revisions to Improve Fuel Economy Labeling and the Fuel Economy Data Base

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; extension of comment period.

SUMMARY: On June 9, 1983 EPA published a Notice of Proposed Rulemaking (NPRM) entitled Revisions to Improve Fuel Economy Labeling and the Fuel Economy Data Base (48 FR 26698). The NPRM established September 1, 1983 as the closing date for the comments period.

The Motor Vehicle Manufacturers Association and Ford Motor Company have requested that the comment period

be extended to allow additional time to prepare comments. Based on these requests, EPA is extending the comment period for two weeks.

DATE: Comments on the subject NRPM must be submitted on or before September 16, 1983.

ADDRESS: Comments should be submitted to the U.S. Environmental Protection Agency, Central Docket Section (A–130), Gallery 1, West Tower Lobby, 401 M Street, SW., Washington, D.C. 20460, Attn: Docket No. A–80–32.

FOR FURTHER INFORMATION CONTACT: Mr. Clifford D. Tyree, Certification Division, Office of Mobile Sources, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, MI 48105; 313–668–4310.

Dated: August 26, 1983.

Richard Wilson,

Acting Assistant Administrator for Air, Noise and Radiation.

[FR Doc. 83–23869 Filed 8–30–83; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF HEALTH AND HUMAN SEVICES

Health Care Financing Administration

42 CFR Part 431

Medicaid Program; Medicaid Program; Reduction in Error Rate Tolerance Beginning October 1, 1983; Medicaid Quality Control Program

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise current Medicaid regulations and establish new regulations concerning the disallowance of Federal financial participation to States whose eligibility payment error rate for Medicaid, as measured by the Medicaid quality control system, exceeds the 3-percent national standard. Specifically, the proposed rule would provide that the current regulations regarding the 3-percent national standard apply only to the period April 1, 1983 through September 30, 1983. The proposed rule would also establish regulations that would apply to periods beginning October 1, 1983. These modifications to the regulations are based on and implement the provisions of section 133 of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248).

DATES: To assure consideration, comments must be received by September 30, 1983.

ADDRESS: Address comments in writing to: Health Care Financing Administration, Department of Health and Human Services, ATTENTION: BQC–20–P, P.O. Box 26676, Baltimore, Maryland 21207.

If you prefer, you may deliver your comments to Room 309–G Hubert H. Humphrey Building, 200 Independence Ave., S.W., Washington, D.C., or to Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

Comments will be available for public inspection as they are received, beginning approximately three weeks after publication, in Room 309–G of the Department's offices at 200 Independence Ave., S.W., Washington, D.C., 20201, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202–245–7890).

FOR FURTHER INFORMATION CONTACT: Randolph Graydon, (301) 597–1308.

SUPPLEMENTARY INFORMATION:

I. Background

The Medicaid quality control (MQC) system was designed to reduce erroneous expenditures in medical assistance payments by monitoring eligibility determinations, third-party liability activities, and claims processing. The system uses 6-month sampling periods from April-September, and October-March.

Within each 6-month period, a State must select a sample of cases every month and review them for errors. At the end of each 6-month review period, a State's payment eror rate is calculated by HCFA based on the findings submitted by the State. A subsample of the State-selected cases is reviewed by HCFA to verify the State's findings. If a State fails to complete a valid review for any period, HCFA assigns the State an error rate based on either the weighted average of its error rate in the last three review periods, a special Federal sample or audit, or a Federal subsample.

Congress addressed the error rate tolerance level again when considering legislation before the second session of the 97th Congress. Congress decided, as a result of their review of various proposals, to set the payment error rate tolerance level at 3 percent, and to require that rate to be achieved in the third and fourth quarters of FY 1983 and in each succeeding fiscal year. Section 133 (Limitation of Federal financial participation (FFP) in erroneous medical assistance expenditures) of the Tax Equity and Fiscal Responsibility Act (TEFRA) of 1982 (Pub. L. 97–248), enacted on September 3, 1982, includes this tolerance level.

Before this legislation was enacted, all quality control disallowances were computed after final payment error rates were established and the States' requests for relief from disallowance assessed. However, in addition to the disallowance calculation, section 133 further requires the Secretary to reduce prospectively each State's quarterly request for FFP for medical assistance by the difference in the 3-percent standard and the State's anticipated payment error rate (section 1903(u)((C) of the Social Security Act). The method for determining this anticipated error rate is left to the discretion of the Secretary.

If a State fails to cooperate in providing information to establish its anticipated or actual error rate the Secretary is authorized to establish that error rate, on the basis of the best data available and "in accordance with such techniques for sampling and estimating as he finds appropriate" (section 1903(u)(3)(A) of the Act). If this authority must be utilized the Secretary may establish the error rate either directly or through contractual or by any other arrangements as he or she may prescribe. In either case, the State is liable for the cost of establishing the error rate and will have its FFP reduced by the full amount of the cost to the Secretary (section 1903(u)(3)(B) of the Act).

Section 1903(u)(1)(E) of the Act excludes payments as a result of "technical errors" from a state's error rate calculation; however, the definition of technical error is not included in the law. The Conference Committee Report on Pub. L. 97–248 defines technical errors as "errors which if corrected would not have made a difference in the amount of medical assistance paid." (H.R. Rep. No. 97–760, 97th Congress 2d Sess. 439 (1982)). In addition, payments made for services provided to any individual whose eligibility was determined exclusively by the Social Security Administration (SSA) under a section 1634 agreement are excluded, and the Secretary may exclude any other classes of individuals whose eligibility was determined in part under a section 1634 agreement. (Under section 1634 of the Act, a State may enter into an agreement with SSA that allows SSA to determine Medicaid eligibility on behalf of the State for individuals who are eligible for Supplementary Security Income (SSI) or who are receiving a State supplementary payment that is federally administered, or both.)

On June 24, 1983, HCFA published in the **Federal Register** (48 FR 29450) interim final regulations with a 60-day

comment period to implement the provisions of section 133 of TEFRA. Those regulations provide for disallowance of Federal financial participation to States whose eligibility payment error rate for Medicaid, as measured by the Medicaid quality control system, exceeds 3 percent for the period April 1 through September 30, 1983, and for each fiscal year thereafter.

The regulations further provide for HCFA to project a payment error rate for each State and to reduce the State's quarterly estimate of expenditures if the anticipated error rate exceeds the 3-percent national standard.

II. Provisions of the Regulations

We are proposing to revise the regulations at 42 CFR 431.803 so that section will apply only to the period April 1, 1983, through September 30, 1983. Currently these regulations provide that the disallowance of FFP for excess erroneous State payments is effective for the period April 1, 1983, through September 30, 1983, and for each fiscal year thereafter.

We are also proposing to establish at 42 CFR 431.804 new regulations concerning the disallowance of FFP for excess erroneous State payments for periods beginning October 1, 1983. These proposed regulations will differ from the current regulations at 42 CFR 431.803 in the method for determining the States anticipated error rate. This change which is discussed in section II.B. is based on comments received on the interim final regulations published in June 1983 (that established § 431.803) and information contained in plaintiffs' briefs from two lawsuits in which the Department is involved.

The provisions of these new regulations follow.

A. Calculation of the Payment Error Rate

As prescribed by the Act a State's payment error rate would be expressed as a ratio of erroneous payments for medical assistance to total medical assistance expenditures under the State plan.

Erroneous payments are defined in the statute and these proposed regulations as medical assistance payments that were made for an individual or family under quality control review who: (a) Was ineligible for the review month or at the time services were received, (b) was ineligible to receive a service that was provided in the review month, or (c) had not properly met beneficiary liability prior to receiving Medicaid services.

Beneficiary liability would be either the amount of excess income that must be offset with incurred medical expenses to gain eligibility ("spenddown") or the amount of payment a beneficiary must make toward the cost of long term care.

As directed by the Act, in determining the amount of erroneous payments for cases determined to be ineligible due to excess resources, the lesser of the amount of excess resources or the amount of medical assistance payments for the review month would be the amount of the error.

Similarly, in determining the amount of the error for cases in which there is a beneficiary liability error, the amount of the error would be the smaller of the unmet beneficiary liability or the amount of medical assistance payments for the review month.

In addition these regulations would implement the statutory requirement that all payments made on behalf of SSI beneficiaries whose eligibility is determined exclusively by SSA in section 1634 contract States would be excluded from the calculation of the payment error rate. These proposed regulations continue the exclusion of all payments made to SSI beneficiaries in section 1634 contract States in the same manner in which they were excluded in previous disallowance regulations.

These payments are excluded because the conditions of agreement for a section 1634 contract require that the State's Medicaid eligibility criteria be identical to those for SSI eligibility as set forth in 20 CFR 416.2111. Therefore, if Medicaid eligibility is determined under a section 1634 agreement, SSA is exclusively determining eligibility and States should not be held at risk for these determinations. If States impose additional eligibility requirements beyond those for SSI, payments to SSI beneficiaries would then become subject to the provisions of these regulations.

Section 1903(u)(1)(E) of the Act excludes payments made as a result of a technical error from the determination of erroneous payments. As mentioned above, Congress indicated that technical errors were those that, if corrected, would not have made a difference in the amount of medical assistance paid. Based on inquiries made to Congressional staff, we believe that the intent of the conferees was to ensure that errors caused solely by failure of the beneficiary or agency to complete all paperwork-type eligibility requirements not be included as errors in these regulations.

We would, therefore, define technical errors for MQC purposes as errors in conditions of eligibility that, if corrected, would not result in a difference in the amount of medical assistance paid. These errors include but are not limited to, Work Incentive Program requirements, the assignment of Social Security numbers, the requirement for a separate Medicaid application and monthly reporting requirements. However, any change in financial circumstances or categorical eligibility would be counted. For example, if a beneficiary fails to make a monthly report that would have revealed additional income no error would be cited for failure to report but the additional income would be treated under MQC rules. These errors are included as technical errors because they meet the definition of a paperwork requirement. In addition, we propose to include in the definition of technical error the assignment of third party benefits as a condition of Medicaid eligibility. The assignment of third party benefits errors would be included because they meet the definition of a paperwork requirement and we want to encourage States to elect this optional eligibility requirement.

B. Determining a State's Anticipated Erroneous Payment Rate

Section 1903(u)(1)(c) of the Act requires the Secretary to project an anticipated erroneous payment rate for each State and to reduce the State's quarterly estimate of FFP for medical assistance expenditures by the percentage that the State's error rate exceeds 3 percent. The method used to calculate the anticipated error rate is not included in the statute but is left to the Secretary to prescribe.

Prior to publication of the interim final rule which implemented section 133 of TEFRA (48 FR 29450), we considered a number of options for projecting anticipated error rates. Among these options were the use of the 6-month sample period most recently completed by States and HCFA, the use of the average of the two 6-month sample periods most recently completed by States and HCFA, and the use of statistical trend lines. After consultation with the State MQC/Corrective Action Technical Advisory Group, projections for the first two quarters subject to TEFRA reductions were based on the average of the two 6-month sample periods most recently completed by States and HCFA. Subsequent to making these projections of anticipated error rates and withholding Federal funds based on these projections, the Department has been involved in two separate law suits. Based on information contained in the plaintiffs' briefs and comments received from States on the interim final rule, we are proposing to-

change our methodology for projecting anticipated error rates.

We are proposing to base our projections on the 6-month sample period most recently completed by the States and HCFA. This will enable us to base our projections on only the most currently available data.

We propose that the original State findings and Federal subsample findings for that 6-month period will be reviewed by HCFA regional office staff to identify all individuals found to be ineligible. Cases or individuals which are determined to be ineligible due to a technical error as defined in these proposed regulations would be considered eligible in both State finding and the Federal subsample findings (if the case was selected in the subsample).

Cases or individuals which were found to be ineligible due to excess resources would be reviewed to assure that the amount of error reflects the lesser of the amount of excess resources or the amount of paid claims for services provided during the review month to case members. If necessary, the dollar error amount would be adjusted to reflect the correct dollar amount in both the original State finding and the Federal subsample findings (if the case was included in the subsample).

After these adjustments are made the resultant error rate will be the projected anticipated error rate for the next two quarters.

If a State believes that this anticipated error rate does not reasonably represent what it believes will be its actual error rate for the quarter being projected, we propose that the State may present more recent statistical evidence conforming to criteria to be established by the Administrator which demonstrates that the anticipated error rate is significantly unrepresentative of current experience. Historical data which represents a decline in error rate over several periods will not be considered to meet this criteria.

We propose that this evidence be evaluated by HCFA to determine if it meets the proposed criteria. In addition HCFA may validate the accuracy of the evidence. If the evidence is determined to meet the proposed criteria and, at HCFA's discretion, is determined to be valid evidence, the error rate established in this evidence by the State would be accepted by HCFA as the projected anticipated error rate for the quarter. We are soliciting comments on what should be considered as acceptable evidence that the State's error rate would be less than that projected by HCFA. Suggestions should be limited to criteria for statistical data or other objective evidence, rather than information that would entail subjective judgment such as the potential impact of States' corrective actions. For example, possible criteria might require documentation of a statistically valid random sample of at least 100 cases of the entire Medicaid caseload, reviewed in the same manner as required for routine MQC case reviews. If such data demonstrates that the error rate produced from this sample is statistically significantly different, the error rate from this sample could become the projected error rate.

The anticipated erroneous medical assistance expenditures to be withheld from the State's quarterly estimate of medical assistance expenditures would be based on the difference between the State's anticipated error rate and the 3-percent tolerance.

C. Established an Error Rate for States That Fail To Cooperate

Sections 1903(u)(3) (A) and (B) of the Act provide that if a State fails to cooperate in providing information for establishing its error rate or its anticipated error rate, the Secretary must establish those rates in an appropriate manner. This may be done by the Secretary directly or under a contractual or other arrangement. Regardless of the method used by the Secretary, the full costs associated with determining the error rates must also be withheld from the FFP properly claimed by the State.

To implement this provision we decided to follow the language in the current disallowance regulations (42 CFR 431.802(c)(3) and 431.803(c)(5)) for establishing a State's error rate if the State fails to complete a valid review. Therefore, we propose that the State's error rate will be based on: (a) A special sample or audit; (b) the Federal subsample; or (c) other such arrangements as the Administrator may prescribe.

D. Computations for Disallowance of FFP

When States request their quarterly advance of FFP, we propose to reduce the amount of the estimate of FFP medical assistance expenditures by the percentage difference between the 3 percent tolerance level and the anticipated error rate established by HCFA for that quarter. At the close of the quarter, this reduction would be adjusted to reflect the State's actual expenditures for the quarter. These reductions would be noted on the State's grant award and would not be considered disallowances. Therefore, the quarterly reductions would not be appealable.

When the actual error rates for the review period are determined, the final disallowance amount would be computed and adjustments would be made in the FFP to reflect these findings. The final error rates would be either those determined from the State reviews and subsequent Federal re-reviews or, if the State fails to complete a valid sample, those determined by HCFA. The final disallowance amount would be the product of (1) the difference between the 3-percent tolerance level and the State's established adjusted error rate and (2) the amount of the Federal share of medical assistance expenditures for the review period.

Since we will consider and analyze carefully all comments received on this proposed regulation, we may reduce FFP for the October-December 1983 quarter by an adjustment to the initial grant award, at a later time in that quarter.

E. Notice of Disallowance and Waivers of Disallowance Based on "Good Faith"

Section 1903(u)(1)(B) of the Act permits the Secretary to waive, in certain limited cases, all or part of an FFP disallowance if a State is unable to reach the 3-percent tolerance level despite a good faith effort. We propose that HCFA would evaluate requests for waivers at the time of the final disallowance. States would be allowed 30 days from the date of the notice of a potential disallowance to apply for a waiver. We would provide that HCFA will respond within 60 days of receipt of all information needed to reach a decision on the State's request for a waiver.

We propose to adopt the criteria of the current regulation (42 CFR 431.803(e)) for evaluating waivers.

F. Applicability

Guam, Puerto Rico, the Virgin Islands, the Northern Marianas, and American Samoa would be excluded from the provisions of these regulations under section 1903(u)(4) of the Act.

III. Impact Analysis

A. Executive Order

The Secretary has determined that these proposed regulations do not meet the criteria for a major rule that are set forth in section 1(b) of Executive Order No. 12291. That is, these regulations would not have an annual effect on the economy of $100 million or otherwise meet the threshold criteria of the Executive Order.

The provisions of this rule would result in withholdings of FFP in the

amount of $22 million in FY 1984 and $20 million in FY 1985. These estimates reflect the product of the difference between the 3-percent national standard and the adjusted error rate, and the amount of the Federal share of the medical assistance expenditures, for those States that we anticipate would exceed the 3-percent level. We would make prospective adjustments to quarterly grant estimates of States that exceed the 3-percent level.

As the estimates are below the $100 million threshold, and as it is the statutory provisions and not these proposed regulations that would result in the program savings, a regulatory impact analysis is not required.

B. Regulatory Flexibility Analysis

The Secretary certifies, under 5 U.S.C. 605(b) enacted by the Regulatory Flexibility Act (Pub. L. 96–354), that these proposed regulations would not have a significant economic impact on a substantial number of small entities.

These proposed regulations would implement congressionally mandated tolerance levels for erroneous payments in the Medicaid program. The proposed regulations affect only State Medicaid agencies, which do not fall into the category of small governmental jurisdictions as defined by Pub. L. 96–354. However, even if there were a significant effect on a substantial number of small entities, we have determined that this effect is the result of the statutory provisions and not these proposed regulations which merely implement the provisions. Therefore, a regulatory flexibility analysis is not required.

IV. Other Reqired Information

A. Comments

Because of the large number of comments we receive, we cannot acknowledge or respond to them individually. However, we will consider any comments on this proposed rule that are received by the date specified in the "**DATES**" section.

List of Subjects in 42 CFR Part 431

Administrative practice and procedure, Contracts (Agreements), Fair hearings, Federal financial participation, Grant-in-Aid program—health, Health facilities, Health maintenance organizations (HMO), Indians, Information (Disclosure), Medicaid, Mental health centers, Prepared health plans, Privacy, Quality control, and Reporting and recordkeeping requirement.

PART 431—[AMENDED]

42 CFR Part 431 would be amended as set forth below:

1. The table of contents for Part 431, Subpart P is amended by revising the title of § 430.803 and adding a new § 431.804 as follows.

Sec.

* * * * *

431.803 Disallowance of Federal financial participation for erroneous State payments (effective April 1, 1983 through September 30, 1983).

431.804 Disallowance of Federal financial participation for erroneous State payments (effective October 1, 1983).

2. Section 431.802 is amended by revising the title to close the parenthesis after "September 30, 1982" and by revising paragraph (a)(2) to read as follows.

§ 431.802 Disallowance of Federal participation for erroneous State payments (effective October 1, 1980 through September 30, 1982).

(a) *Purpose and applicability* * * *

(2) *Applicability.* This section applies to all States for the 12-month annual assessment periods of October 1980–September 1981 and October 1981–September 1982. For the April–September 1983 assessment period, all States except Puerto Rico, Guam, the Virgin Islands, the Northern Mariana Islands, and American Samoa must follow the rules and procedures specified in § 431.803.

Beginning October 1, 1983, all States except Puerto Rico, Guam, The Virgin Islands, the Northern Mariana Islands and American Samoa must follow the rules and procedures specified in § 431.804.

* * * * *

3. Section 431.803 is amended by revising the title, and paragraph (a)(2), the definition of "State payment error rate" in paragraph (b), and paragraphs (c)(1) and (e)(1) as follows.

§ 431.803 Disallowance of Federal financial participation for erroneous State payments (effective April 1, 1983 through September 30, 1983).

(a) *Purpose and applicability.* * * *

(2) *Applicability.* This section will apply to all States except Puerto Rico, Guam, the Virgin Islands, the Northern Mariana Islands, and American Samoa for the period of April 1983–September 1983.

(b) *Definition* * * *

"State payment error rate" means the ratio of erroneous payments for medical assistance detected under the MQC system for the period April-September 1983 to total expenditures for medical assistance (less payments to Supplemental Security Income beneficiaries in section 1634 contract States) for the same period.

* * * * *

(c) *Setting the State's payment error rate.* (1) A payment error rate for each State is determined by HCFA for the period April–September 1983 by computing the ratio of erroneous payments for medical assistance to total expenditures for medical assistance for that State under its State plan in effect at the time of review. This ratio incorporates the findings of a federally re-reviewed subsample of the State's rereview findings.

* * * * *

(e) *Notice to States and showing of good faith.* (1) When the actual payment error rate data are finalized for the April–September 1983 assessment period HCFA will establish each State's error rate and the amount of any potential disallowance. States that have error rates above the national standard will be notified by letter of their error rates and the amount of the potential disallowance.

* * * * *

4. Section 431.804 is added to read as follows:

§ 431.804 Disallowance of Federal financial participation for erroneous State payments (effective October 1, 1983).

(a) *Purpose and applicability*—(1) *Purpose.* This section establishes rules and procedures for disallowing Federal financial participation (FFP) in erroneous medical assistance payments due to eligibility and beneficiary liability errors, as detected through the Medicaid quality control (MQC) system required under § 431.800.

(2) *Applicability.* This section will apply to all States except Puerto Rico, Guam, the Virgin Islands, and American Samoa for each full fiscal year beginning October 1, 1983.

(b) *Definitions.* For purposes of this section—"Administrator" means the Administrator, Health Care Financing Administration or his or her designee.

"Annual assessment period" means the 12-month period October 1 through September 30 and includes two 6-month sample periods (October–March and April–September).

"Beneficiary liability" means:

(1) The amount of excess income that must be offset with incurred medical expenses to gain eligibility; or

(2) The amount of payment a recipient must make toward the cost of long term care.

"Erroneous payments" means the Medicaid payment that was made for an individual or family under review who:

(1) Was ineligible for the review month or at the time services were received;

(2) Was ineligible to receive a service provided during the review month; or

(3) Had not properly met beneficiary liability prior to receiving Medicaid services.

"National standard" means a 3-percent eligibility payment error rate.

"State payment error rate" means the ratio of erroneous payments for medical assistance detected under the MQC system for each annual assessment period to total expenditures for medical assistance (less payments to Supplemental Scurity Income beneficiaries in section 1634 contract States) for the same period.

"Technical error" means errors in eligibility conditions that, if corrected, would not result in a difference in the amount of medical assistance paid; that is, Work Incentive Program requirements, assignment of social security numbers, the requirement for a separate Medicaid application, monthly reporting requirements, and assignment of rights to third-party benefits as a condition of eligibility for Medicaid.

(c) *Setting of State's payment error rate.* (1) A payment error rate for each State is determined by HCFA for each annual assessment period by computing the ratio of erroneous payments for medical assistance to total expenditures for medical assistance for that State under its State plan in effect at the time of review. This ratio incorporates the findings of a federally re-reviewed subsample of the State's review findings.

(2) The State's payment error rate does not include payments made on behalf of individuals whose eligibility determinations were made exclusively by the Social Security Administration under an agreement under section 1634 of the Act.

(3) The amount of erroneous payments is determined as follows:

(i) For ineligible cases resulting from excess resources, the amount of error is the lesser of:

(A) The amount of the payments made on behalf of the family or individual for the review month; or

(B) The difference between the actual amount of countable resources of the family or individual for the review month and the State's applicable resource standard in the approved State plan.

(ii) For ineligible cases resulting from other than excess resources, the amount of error is the total amount of medical assistance payments made for the individual or family under review for the review month.

(iii) For erroneous payments resulting from failure to properly meet beneficiary liability, the amount of error is the lesser of:

(A) The amount of payments made on behalf of the family or individual for the review month; or

(B) The difference between the correct amount of beneficiary liability and the amount of beneficiary liability met by the individual or family for the review month.

(iv) The amount of payments made for services provided during the review month for which the individual or family was not eligible.

(4) In determining the amount of erroneous payments, errors caused by technical errors are not included.

(5) If a State fails to cooperate in completing a valid MQC sample or individual reviews in a timely and appropriate fashion as required, HCFA will establish the State's payment error rate based on either:

(i) A special sample or audit;

(ii) The Federal subsample; or

(iii) Other arrangements as the Administrator may prescribe.

(6) When it is necessary for HCFA to exercise the authority in paragraph (c)(5) of this section, the amount that would otherwise be payable to the State under title XIX of the Act is reduced by the full costs incurred by HCFA in making these determinations. HCFA may make these determinations either directly or under contractual or other arrangements.

(d) *Computation for disallowance of FFP.* (1) Each State must, for each annual assessment period, have a payment error rate no greater than 3 percent or be subject to a disallowance in FFP.

(2) Before the beginning of each quarter, HCFA will project the anticipated medical assistance payment error rate for each State for that quarter. The anticipated error rate is that reported for the most recent 6-month review period completed by HCFA and the State and adjusted for erroneous payments and technical errors. If a State fails to provide HCFA with information needed to project anticipated excess erroneous expenditures, HCFA will assign the State an error rate as prescribed in paragraph (c)(5) of this section.

(3) If the State believes that the anticipated payment error rate established in paragraph (d)(2) of this section is significantly unrepresentative of current experience, the State may submit statistically valid evidence, conforming to criteria established by the Administrator, which demonstrates with more recent data that the State's latest error rate is significantly below the error rate projected in paragraph (d)(2) of this section. The statistical evidence supplied by the State is subject to validation by the Administrator. This evidence must be submitted to the Administrator at least 40 days prior to the beginning of the quarter for which the projection is being made. If accepted by the Administrator, the error rate supported by State data will be used instead of the anticipated error rate determined under paragraph (d)(2) of this section.

(4) Based on the anticipated error rate established in paragraph (d)(2) or (d)(3) of this section, HCFA will reduce the State's estimate of its requirements for FFP for medical assistance for the quarter by the percentage by which the anticipated payment error rate exceeds the 3-percent national standard. This reduction will be applied against the State's total estimate of FFP for medical assistance expenditures prior to any other required reductions. The reduction will be noted on the State's grant award for the quarter and does not constitute a disallowance, and therefore is not appealable.

(5) After the end of each quarter, an adjustment to the reduction will be made based on the State's actual expenditures.

(6) After the actual payment error rate has been established for an assessment period, HCFA will compute the actual amount of the disallowance and adjust the FFP payable to each State based on the difference between the amount previously withheld for each quarter during the appropriate assessment period and the amount that should have been withheld based on the State's actual final error rate.

(7) HCFA will compute the amount to be withheld or disallowed as follows:

(i) Subtract the 3-percent national standard from the State's anticipated or actual payment error rate percentage.

(ii) If the difference is greater than zero, the Federal medical assistance funds for the period, excluding payments for those individuals whose eligibility for Medicaid was determined exclusively by the Social Security Administration under a section 1634 agreement, are multiplied by that percentage. This product is the amount of the disallowance or withholding.

(8) A State's payment error rate for an annual assessment period is the sum of the weighted average of the payment error rates in the two 6-month review

periods comprising the annual assessment period.

(9) The weights are established as the percent of the total annual payments that occur in each of the 6-month periods.

Example: Assume that the State has an anticipated payment error rate of 6 percent for the October-December 1983 quarter. The State submits an estimate for medical assistance expenditures of $100,000 in FFP for that quarter. The State's actual expenditures for the October-December 1983 quarter justify only $90,000 in FFP. The actual payment error rate for the quarter is determined to be 8 percent.

(i) The State has a payment error rate in excess of the tolerance level equal to 3 percent (6 percent −3 percent).

(ii) The State's initial grant award for the October-December 1983 quarter is reduced by $3,000 ($100,000×0.03).

(iii) After the quarter ends, and the State's actual expenditures are known, HCFA determines that the actual reduction should have been $2,700 ($90,000×0.03).

(iv) When the grant award for the October–December 1983 quarter is finalized, an increasing adjustment of $300 ($3,000−$2,700) is made.

(v) When the actual payment error rate for the October 1983-September 1984 annual assessment period is determined to be 8 percent, the State is 5 percent above the tolerance level. HCFA notifies the State of a final disallowance of $4,500 ($90,000×0.05). Since $2,700 has already been withheld from the State, HCFA would offset a future grant award by an additional $1,800 ($4,500−$2,700).

(e) *Notice of States and showing of good faith.* (1) When the actual payment error rate data are finalized for each annual assessment period beginning October 1, 1983, HCFA will establish each State's error rate and the amount of any potential disallowance. States that have error rates above the national standard will be notified by letter of their error rates and the amount of the potential disallowance.

(i) The State has 30 days from the date of receipt of this notification to show that this disallowance should not be made because it made a good faith effort to meet the national standard.

(ii) If the Administrator finds that the State did not meet its target error rate despite a good faith effort, HCFA will reduce the disallowance in whole, or in part, as the Administrator finds appropriate under the circumstances shown by the State.

(iii) A finding that a State did not meet the target error rate despite a good faith effort will be limited to extraordinary circumstances.

(iv) The decision of the Administrator will be communicated to the State by letter no later than 60 days from the date of receipt of all information needed to make a determination based on the State's request for a good faith waiver.

(2) Some examples of circumstances under which the Administrator may find that a State did not meet the target error rate despite a good faith effort are:

(i) Disasters such as fire, flood, or civil disorders that:

(A) Require the diversion of significant personnel normally assigned to Medicaid eligibility adminstration; or

(B) Destroyed or delayed access to significant records needed to make or maintain accurate eligibility determinations;

(ii) Strikes that result in the disruption of State staff or other government or private personnel necessary to the determination of eligibility or processing of case changes.

(iii) Sudden and unanticipated workload changes which result from changes in Federal law and regulation, or rapid, unpredictable caseload growth in excess of, for example, 15 percent for a 6-month period;

(iv) State actions resulting from incorrect written policy interpretation to the State by a Federal official reasonably assumed to be in a position to provide that interpretation; and

(v) The State timely developed and implemented a corrective action plan which the Administrator finds to be reasonably designed to meet the target error rate, but the target error rate was not achieved. In evaluating whether the State made a good faith effort in these circumstances, the Administrator will consider the following factors:

(A) Submittal of annual corrective action plans to the HCFA Regional Office by July 31 of each year with revisions to the plan made within 60 days of identification of additional error prone areas, other significant changes in the error rate, or changes in planned corrective action.

(B) The State must have operated an MQC eligibility program in accordance with the provisions of § 431.800.

(C) Demonstrated commitment by senior management to the error reduction program; for example, priorities and goals clearly enunciated to staff, accountability for performance, availability of resources.

(D) Sufficiency and quality of systems designed to reduce errors that are operational in the State; for example, BENDEX, SDX, monthly reporting, error prone profiles, local agency monitoring systems, computer clearances.

(E) Use of effective systems and procedures for the statistical and program analysis of QC and related data; for example, statistical tests, tabulations and cross tabulations, error prone profiles, corrective action committees, special studies.

(F) Effective management and execution of the corrective action process; for example, assignment of responsibilities, milestones for completing tasks, substantial completion of tasks, monitoring of progress.

(3) The failure of a State to act upon necessary legislative changes or to obtain budget authorization for needed resources is not a ground for a waiver.

(4) A State may request reconsideration of a disallowance under this section in accordance with the procedures specified in 45 CFR Part 16.

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program)

Dated: August 19, 1983.

Approved: August 25, 1983.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Margaret M. Heckler,

Secretary.

[FR Doc. 83-23049 Filed 8-30-83; 4:50 pm]

BILLING CODE 4120-03-M

Notices

Federal Register
Vol. 48, No. 170
Wednesday, August 31, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

August 26, 1983.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 350(h) or Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Marshall L. Dantzler, Acting Department Clearance Officer, USDA, OIRM, Room 108–W Admin. Bldg., Washington, D.C. 20250, (202) 447–6201.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, Attn: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

Revised

• Animal and Plant Health Inspection Service.

Prohibited and Restricted Importations of Meats, Animals, Animal Byproducts, Poultry, Organisms and Vectors into the U.S.

VS–16–3, 16–25.

On occasion, quarterly.

State and local governments, businesses: 3,033 responses; 4,897 hours; not applicable under 3504(h).

Dr. R. Costigan (301) 436–8499.

• Animal and Plant Health Inspection Service.

Report of Violation.

PPQ–518.

On occasion.

Farms, businesses: 750 responses; 128 hours; not applicable under 3504(h).

L. M. Sedgwick, Jr. (301) 436–8584.

Reinstatement

• Farmers Home Administration.

Environmental Program.

FmHA 1940–20.

On occasion.

Individuals an households, farms, businesses: 8,485 responses; 75,935 hours; not applicable under 3504(h).

John Hansel (202) 382–9626.

• Food and Nutrition Service.

7 CFR Part 230, Food Servcie Equipment Assistance Program—Recordkeeping.

On occasion.

State or local governments, non-profit institutions: 3,553 responses; 10,993 hours: not applicable under 3504(h).

Diane Marcantonio (703) 756–3600.

Marshall L. Dantzler,

Acting Department Clearance Officer.

[FR Doc. 83–23857 Filed 8–30–83; 8:45 am]

BILLING CODE 3410–01–M

Forest Service

Extension of Certain Timber Sale Contracts

Correction

In FR Doc. 83–23435, beginning on page 38862, in the issue of Friday, August 26, 1983, on page 38864, in the second column, in the first complete paragraph, in the third line "November 25, 1983" should read "October 25, 1983".

BILLING CODE 1505–01–M

Rural Electrification Administration

Dairyland Power Cooperative; Finding of No Significant Impact

AGENCY: Rural Electrification Administration (REA), USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: REA has made a Finding of No Significant Impact concerning the proposed reconstruction and upgrading of 28.6 kilometers (17.4 miles) of existing 34.5 kV transmission line to 69 kV in Trempealeau County, Wisconsin, by Dairyland Power Cooperative (DPC) of La Crosse, Wisconsin. DPC plans to request financing assistance from REA for the proposed project.

FOR FURTHER INFORMATION CONTACT: REA's Finding of No Significant Impact and Environmental Assessment (EA) and the Borrower's Environmental Report (BER) may be obtained at the office of the Director, North Central Area—Electric, Room 0230, South Agriculture Building, Washington, D.C. 20250, telephone (202) 382–1400, or the Dairyland Power Cooperative, P.O. Box 817, 2615 East Avenue South, La Crosse, Wisconsin 54601, telephone (608) 788–4000.

SUPPLEMENTARY INFORMATION: REA has prepared an EA concerning the proposed project which incorporates the BER. REA's independent evaluation of the project concludes that approval of the project would not represent a major Federal action that would significantly affect the quality of the human environment.

Alternatives discussed in the EA are no action, alternative routes and new generation facilities. The no action alternative would do nothing to alleviate the problems of future power supply and the limitations of existing long radial lines which supply the area with power, so this alternative was not considered feasible. DPC considered a variety of transmission routing alternatives in Trempealeau County. These alternative routes are located close to the proposed routing, but do not utilize existing rights-of-way. The proposed routing was chosen because it minimizes environmental impacts and construction costs by occupying existing electric transmission and railroad rights-of-way. New electric generation facilities in Trempealeau County were not

considered feasible because of additional environmental impacts and costs. Although some small floodplains are crossed, there is no practicable alternative which entirely avoids floodplains. No change in the flood handling capability of the area is anticipated. REA has determined that the proposed project is an acceptable alternative because it would avoid, to the extent practicable, cultural resources, important farmland, threatened and endangered species and critical habitat, wetlands, and floodplains.

This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated: August 18, 1983.

Joe S. Zoller,

Acting Administrator.

[FR Doc. 83-23012 Filed 8-30-83; 8:45 am]

BILLING CODE 3410-15-M

ARMS CONTROL AND DISARMAMENT AGENCY

General Advisory Committee; Closed Meeting

In accordance with the Federal Advisory Committee Act, as amended, the U.S. Arms Control and Disarmament Agency announces the following meeting:

Name: General Advisory Committee on Arms Control and Disarmament.

Date: September 15 and 16, 1983.

Time: 9:00 a.m. each day.

Place: State Department Building, Washington,

D.C. Type of Meeting: Closed.

Contact Person: Dr. Charles M. Kupperman, Executive Director of the General Advisory Committee, Room 5927, U.S. Arms Control and Disarmament Agency, Washington, D.C. 20451, telephone (202) 632-5176.

Purpose of Advisory Committee: To advise the Director of the U.S. Arms Control and Disarmament Agency on arms control and disarmament policy and activities, and from time to time to advise the President and the Secretary of State respecting matters affecting arms control, disarmament, and world peace.

Agenda: Will include the following discussions and presentations:

September 15:

a.m. and p.m.: Compliance

September 16:

a.m.: Compliance

Reason for Closing: The GAC members will be reviewing and discussing matters specifically required by Executive Order to be kept secret in the interest of national defense and foreign policy.

Authority to Close Meeting: The closing of this meeting is in accordance with a determination by the Director of the U.S. Arms Control and Disarmament Agency dated August 10, 1983, made pursuant to the provisions of Section 10(d) of the Federal Advisory Committee Act as amended.

John E. Grassle,

Committee Management Officer.

[FR Doc. 83-23077 Filed 8-30-83; 8:45 am]

BILLING CODE 6820-32-M

CIVIL AERONAUTICS BOARD

Proposed Collection of Information Under the Provisions of the Paperwork Reduction Act (44 U.S.C. 35)

Agency clearance officer from whom a copy of the collection of information and supporting documents is available: Robin A. Caldwell (202) 673-5922.

Extension

Title of the Collection of Information: Essential Air Service Survey.

Agency Form Number: None.

How often the Collection of Information must be filed: Triennially.

Who is asked or required to report: State and Local Aviation Officials.

Estimate of number of annual responses: 376.

Estimate of number of annual hours needed to complete the collection of information: 752.

Robin A. Caldwell,

Chief, Information Management Division, Office of Comptroller.

August 24, 1983.

[FR Doc. 83-23087 Filed 8-30-83; 8:45 am]

BILLING CODE 6320-01-M

Proposed Collection of Information Under the Provisions of the Paperwork Reduction Act (44 U.S.C. 35)

Agency clearance officer from whom a copy of the collection of information and supporting documents is available: Robin A. Caldwell (202) 673-5922.

Extension

Title of the Collection of Information: CAB Form 205-A—Policies of Insurance For Aircraft Accident Bodily Injury and Property Damage Liability.

Agency Form Number: 205-A.

How often the Collection of Information must be filed: On occasion.

Who is asked or required to report: U.S. route, charter, all-cargo and commuter air carriers; and foreign scheduled and charter air carriers.

Estimate of number of annual responses: 1,140.

Estimate of number of annual hours needed to complete the collection of information: 570.

Robin A. Caldwell,

Chief, Information Management Division, Office of Comptroller.

August 23, 1983.

[FR Doc. 83-23088 Filed 8-30-83; 8:45 am]

BILLING CODE 6320-01-M

[Docket 41453]

Midwest Express Airlines Inc., Fitness Investigation; Hearing

Notice is hereby given that a hearing in the above-entitled matter is assigned to commence on September 22, 1983, at 9:30 a.m. (local time) in Room 1027, Universal Building, 1825 Connecticut Ave., NW., Washington, D.C., before the undersigned Chief Administrative Law Judge.

Dated at Washington, D.C., August 26, 1983.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 83-23089 Filed 8-30-83; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

California Coastal Commission Objection; Federal Consistency Appeal by Exxon Co., U.S.A.

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of public hearing and extension of comment period.

SUMMARY: This notice sets forth the date and address of a public hearing to be held on the appeal filed by Exxon Company, U.S.A. (Exxon) with the Secretary of Commerce to override an objection by the California Coastal Commission to Exxon's certification that Option A (Offshore Oil Treating) of its Outer Continental Shelf Oil and Gas Development and Production Plan for the Santa Ynez Unit in the Santa Barbara Channel is consistent with the California Coastal Management Program. This notice also extends the close of the public comment period.

The appeal was filed on July 22, 1983 pursuant to Section 307(c)(3) (A) and (B) of the Coastal Zone Management Act of 1972, as amended (CZMA), 16 U.S.C. 1456(c)(3) (A) and (B), and implementing regulations at 15 CFR 930, Subpart H. Notice of the appeal was published in

the Federal Register on August 5, 1983 (48 FR 35692).

This public hearing is authorized by 15 CFR 930.129 and will be conducted by the National Oceanic and Atmospheric Administration, Office of Ocean and Coastal Resource Management (OCRM), for the purpose of receiving comments from interested persons and organizations on whether Exxon's Option A (Offshore Oil Treating) complies with the regulatory criteria, as set forth in 15 CFR 930.121 and 930.122, to be considered by the Secretary in deciding whether to override the consistency objection of the California Coastal Commission under Sections 307(c)(3) (A) and (B) of the CZMA. The Secretary shall override the state's objection if he finds that one of two tests have been met. To meet the first test, four criteria must be satisfied: (a) The activity furthers one or more of the competing national objectives or purposes contained in Sections 302 and 303 of the CZMA; (b) when performed separately or when its cumulative effects are considered, the activity will not cause adverse effects on the natural resources of the coastal zone substantial enough to outweigh its contribution to the national interest; (c) the activity will not violate any requirements of the Clean Air Act, as amended, or the Clean Water Act, as amended; and (d) there is no reasonable alternative available which would permit the activity to be conducted in a manner consistent with the state management program. To meet the second test, the Secretary must find that a national defense or other national security interest would be significantly impaired if the activity were not permitted to go forward as proposed.

The hearing will be held on Tuesday, October 4, 1983, at the Lobero Theater, 33 East Canon Perdido, Santa Barbara, California. Interested persons may testify at either the afternoon session which will begin at 1:00 p.m. or the evening session which will begin at 7:00 p.m. OCRM will provide an opportunity at the beginning of both sessions for Exxon and the California Coastal Commission to present a brief summary of their positions.

Persons wishing to testify at the hearing may make their requests at the hearing or in advance by mail to: Peter L. Tweedt, Director, Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration, Department of Commerce, 3300 Whitehaven Street, NW., Washington, D.C. 20235. Requests will be honored in the order in which they are received. Advance requests should indicate at which session the presenter wishes to testify. Presentations will be limited to a maximum of 5 minutes. This time allotment, however, may be extended before the hearing when the number of speakers can be determined. Additional written testimony may be submitted until the close of the public comment period.

The public comment period is extended to October 11, 1983 in order to accommodate the public hearing schedule and to provide an opportunity for persons to respond to comments received at the public hearing. Written comments must be submitted to Peter L. Tweedt at the above address and copies provided to:

1. Shelby Moore, Exxon Company, U.S.A., 225 West Hillcrest Drive, Thousand Oaks, CA 91359;
2. Tim Eichenberg, California Coastal Commission, 631 Howard Street, San Francisco, CA 94105; and
3. William Grant, Minerals Management Service, Pacific OCS Region, 1340 W. 6th Street, Los Angeles, CA 90017.

Written comments and oral testimony will receive equal consideration.

Access to Exxon's Notice of Appeal and accompanying public information are available to the public at the following locations during normal working hours:

1. California Coastal Commission, 631 Howard Street, 4th Floor, San Francisco, 94105.
2. Office of Ocean and Resource Management, National Oceanic and Atmospheric Administration, Department of Commerce, Room 328A, Page 1 Building, 3300 Whitehaven Street, N.W., Washington, D.C. 20235.
3. Minerals Management Service, Pacific OCS Region, Public Information Room, 1340 W. 6th Street, Los Angeles, CA 90017.
4. Santa Barbara Public Library, 40 E. Anapamu, Santa Barbara, CA 93101.

The California Coastal Commission was granted a 30-day extension in which to submit detailed comments in response to Exxon's appeal, pursuant to 15 CFR 930.125 and 930.126. The public information contained in the detailed comments to be submitted by California Coastal Commission and the Minerals Management Service will be available for public inspection at the above addresses no later than September 20, 1983.

FOR FURTHER INFORMATION CONTACT: Nan Evans, Senior Policy Analyst, Office of Ocean and Coastal Resources Management (202–634–4249); or David Drake, Attorney Advisor, Office of General Counsel for Ocean Services (202–254–7512).

SUPPLEMENTARY INFORMATION: For a more detailed description of Exxon's appeal, see Supplementary Information published in the Federal Register, August 5, 1983 (48 FR 35692).

Dated: August 26, 1983.

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Administration)

K. E. Taggart,

Assistant Administrator, National Ocean Service.

[FR Doc. 23933 Filed 8-30-83; 8:45 am]

BILLING CODE 3510-08-M

California Coastal Commission Objection; Federal Consistency Appeal by Exxon Co., U.S.A.

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of appeal; correction.

SUMMARY: This document corrects a statement that appeared in Supplemental Information in the Federal Register of Friday, August 5, 1983 (48 FR 35692) which described the proposed resubmission to the California Coastal commission of a consistency certification by Exxon Company, U.S.A. for the onshore portion of Option B of its Santa Ynez Unit Development and Production Plan.

FOR FURTHER INFORMATION CONTACT: Nan Evans, Senior Policy Analyst, Office of Ocean and Coastal Resource Management (202–634–4249); of David Drake, Attorney Advisor, Office of the General Counsel for Ocean Services (202–254–7512).

The following correction is made to the Federal Register of Friday, August 5, 1983 by striking the sentence immediately preceding the first full paragraph in the first column at page 35693 and inserting in place thereof the following two sentences: "Exxon will resubmit a consistency certification for the onshore portion of Option B after it resolves the pipeline feasibility or transportation issue in the local permitting process with Santa Barbara County. The County has scheduled hearings on the matter for September and October.

Dated: August 26, 1983.

K. E. Taggart,

Assistant Administrator, National Ocean Service.

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Administration)

[FR Doc 83-23932 Filed 8-30-83; 8:45 am]

BILLING CODE 3510-08-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Import Limit for Certain Cotton Apparel From Indonesia

August 26, 1983.

ACTION: On July 26, 1983 a notice was published in the **Federal Register** (48 FR 33928) requesting public comment on bilateral textile consultations between the Governments of the United States and the Republic of Indonesia concerning women's, girls', and infants' cotton coats in Category 335, produced or manufactured in Indonesia.

The purpose of this notice is to announce that consultations concerning this category were held August 11–12, 1983. Inasmuch as a mutually satisfactory level was not agreed during these consultations, the United States Government has decided to control imports of apparel products in Category 335, produced or manufactured in Indonesia at a level of 32,814 dozen during the twelve-month period which began on July 1, 1983. In the event a different solution is agreed in further consultations with the Government of Indonesia, which are anticipated but are not yet scheduled, further notice will be published in the **Federal Register.**

EFFECTIVE DATE: August 31, 1983.

FOR FURTHER INFORMATION CONTACT: Claire McDermott, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

SUPPLEMENTARY INFORMATION: On June 30, 1983 a letter dated June 24, 1983 was published in the **Federal Register** (48 FR 30181) from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs which established levels of restraint for certain cotton textile products, produced or manufactured in Indonesia and exported during the twelve-month period which began on July 1, 1983. The letter published below amends the letter of June 24, 1983 to include a level of restraint of 32,814 dozen for cotton apparel in Category 335.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

August 26, 1983.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of June 24, 1983 from the Chairman of the Committee for the Implementation of Textile Agreements which established levels of restraint for certain cotton textile products, produced or manufactured in Indonesia and exported during the twelve-month period which began on July 1, 1983.

Effective on August 31, 1983, the directive of June 24, 1983 is amended to include a level of restraint of 32,814 dozen for cotton textile products in Category 335.[1]

The action taken with respect to the Government of the Republic of Indonesia and with respect to imports of cotton textile products from Indonesia have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-23927 Filed 8-30-83; 8:45 am]

BILLING CODE 3510-25-M

Announcing an Adjusted Limit for Certain Cotton Textile Products From Hong Kong

Correction

In FR Doc. 83–23232, appearing on page 38530, in the issue of Wednesday, August 24, 1983, in the first column, in the second to last line of the "ACTION" paragraph, "51,516,694" should read "50,516,694".

BILLING CODE 1505-01-M

CONSUMER PRODUCT SAFETY COMMISSION

Proposed Collection of Information

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: In summary with the Paperwork Reduction Act of 1981 (44 U.S.C. 3501 *et seq.*), the Consumer Product Safety Commission has submitted to the Office of Management and Budget a request for approval of a collection of information in the form of a telephone survey of households about unreported residential fires.

The purpose of this survey is to obtain information about the frequency and characteristics of unreported residential fires. The Commission will use the information obtained from this survey to compare trends in unreported fires since 1974, when a similar survey was conducted; to establish the role of smoke detectors and other factors which may permit occupants to extinguish fires without calling a fire department; and to augment statistics concerning reported fires to determine the extent of fire hazards in the United States.

The survey will be conducted by a contractor. Respondents will be selected at random. Telephone interviews will be conducted with 42,000 respondents during a twelve month period. The weighted average of the time required for each interview is .034 hours (approximately two minutes) for a total of 1,429 hours to complete all interviews.

All respondents will be asked screening questions, which will require 1.5 minutes per interview. About 2,000 respondents will be asked additional demographic questions, which will bring the total time to 5 minutes per interview. Approximately 1,500 respondents who indicate that they have experienced a residential fire in the past three months will be asked about the fire, in addition to screening and demographic questions. This third category of interview is expected to require 12 minutes.

Additional Information about the Proposed Collection of Information:

Agency address: Consumer Product Safety Commission, 1111 18th Street NW., Washington, D.C. 20207.

Title of information collection: Unreported residential fire survey.

Type of request: Approval of a new plan.

Frequency of collection: One time.

General description of respondents: Individuals.

Estimated average number of hours per response: .034 (approximately two minutes), weighted average.

Comments: Comments on this proposed collection of information should be addressed to Gwen Pla, Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503; telephone (202) 395–3713. Copies of the proposed collection of information are available from Francine Shacter, Office of Budget, Program Planning and Evaluation; Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 492–6529.

This is not a proposal to which 44 U.S.C. 3503(h) is applicable.

[1] The level of restraint has not been adjusted to account for any imports after June 30, 1983.

Dated: August 26, 1983.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 83-23681 Filed 8-30-83; 8:15 am]

BILLING CODE 6355-01-M

Proposed Collection of Information

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1981 (44 U.S.C. 3501 *et seq.*), the Consumer Product Safety Commission has submitted to the Office of Management and Budget a request for approval of a proposed collection of information in the form of a Compliance Program for the Architectural Glazing Standard, with a requested expiration date of September 30, 1984.

The purpose of this program is to determine compliance with the requirements of the Safety Standard for Architectural Glazing Materials (16 CFR Part 1201) by manufacturers and fabricators of the architectural products which are subject to that standard.

The standard is intended to reduce or eliminate unreasonable risks of injury associated with accidental human-impact breakage of glazing materials used in doors, storm doors, bathtub doors and enclosures, shower doors and enclosures, and sliding glass (patio) doors. The standard prescribes performance requirements for glazing materials used in those products to assure that the glazing materials either will not break if impacted with a specified energy, or will break with characteristics which are less likely to present an unreasonable risk of injury.

The compliance program will be conducted by investigators from the Commission's field staff, who will inspect firms which manufacture or fabricate the five products subject to the architectural glazing standard by on-site installation of new or replacement glazing. The investigators will inspect manufacturing establishments, examine records, question employees of the firms, and observe manufacturing operations.

Information about the Proposed Collection of Information.

Agency address: Consumer Product Safety Commission, 1111 18th Street, NW., Washington, D.C. 20207.

Title of Information collection: Compliance Program—Architectural Glazing Materials.

Type of request: Approval of new plan.

Frequency of collection: Once a year.

General description of respondents: Firms which manufacture or fabricate doors, storm doors, bathtub doors and enclosures, shower doors and enclosures, and sliding glass (patio) doors on-site by installation of new or replacement glazing.

Estimated number of respondents: 60

Estimated average number of hours per response: 6

Comments: Comments on this proposed collection of information should be addresse to Gwen Pla, Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, telephone (202) 395–7313, not later than September 15, 1983. Copies of the proposed collection of information are available from Francine Shacter, Office of Budget, Planning and Program Evaluation, Consumer Product Safety Commission, Washington, D.C. 20207, telephone (301) 492–6529.

This is not a proposal to which 44 U.S.C. 3504(h) is applicable.

Dated: August 26, 1983.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 83-23680 Filed 8-30-83; 8:45 am]

BILLING CODE 6355-01-M

Chronic Hazard Advisory Panel on Asbestos; Report

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: The final report of the Chronic Hazard Advisory Panel on Asbestos, dated July, 1983, has been submitted to, and is available from, the Commission.

For Copies of the Report Contact

Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207; (301) 492–6800. Single copies are available free of charge while the supply lasts.

SUPPLEMENTARY INFORMATION: The Chronic Hazard Advisory Panel on Asbestos was convened in January, 1983 to advise the Commission concerning the potential cancer hazard associated with the use of consumer products containing asbestos. The seven-member panel chosen from candidates selected by the National Academy of Sciences was asked to consider among other things, animal and epidemiologic data relating to the human carcinogenicity of asbestos, the effects of low level human exposure, chronic adverse health effects other than cancer, the significance of fiber type and size and the evidence to support an exposure level (threshold) below which there is no adverse human health effects

During the following six months the Panel met five times in open meetings, distributed a draft report for public comment and held a public meeting on June 20, 1983 to obtain comments on the draft report. Following the meeting the Panel met to revise its draft report to refelct the comments received. The final report to the Commission contains sections on the chemical and physical properties of asbestos, laboratory studies including fiber deposition and clearance, cancers of concern, health effects other than cancer and dose-response relationships. The report is now available to the public upon request.

Dated: August 26, 1983.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 83-23683 Filed 8-30-83; 8:45 am]

BILLING CODE 6355-01-M

Toxicological Advisory Board; Meeting

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of meeting: Toxicological Advisory Board.

SUMMARY: This notice announces a meeting of the Toxicological Advisory Board on Wednesday, September 28, 1983 from 9:00 am to 4:30 pm and Thursday, September 29, 1983, from 9:00 am to 2:00 pm. The meeting, which is open to the public, will be held in Room 456 at 5401 Westbard Avenue, Bethesda, Maryland.

FOR FURTHER INFORMATION CONTACT: Ann L. Hamann, Directorate for Health Sciences, Consumer Product Safety Commission, Washington, D.C. 20207; (301) 492–6957.

SUPPLEMENTARY INFORMATION: The Toxicological Advisory Board is an established nine-member advisory committee which advises the Commission on precautionary labeling for acutely toxic household substances and on instructions for first aid treatment labeling. In addition, the Board reviews labeling requirements that have been issued under the Federal Hazardous Substances Act and recommends revisions it considers appropriate. The Toxicological Advisory Board was established on May 9, 1979, under the authority of 15 U.S.C. 1275 (Pub. L. 95–631, section 10).

The following items will be discussed on September 28, 1983:

Board members will review previous glycol labels in view of new information; they will also discuss prototype labels for (1) chromate, (2) pure chloroflurocarbons, and (3) mixtures of methanol and petroleum distillates.

On September 29, 1983 the Board will discuss:

Inadvisability of administering oil as part of a first aid procedure and labeling of common mixtures of hazardous household substances. The Ventilation Subcommittee will present a discussion concerning the means by which the concept of "adequate ventilation" may be more meaningfully conveyed on a product label. This agenda topic was originally scheduled for presentation at the April 27, 1983 meeting.

The two-day meeting is open to the public; however, space is limited. Interested persons who wish to make oral or written presentations to the board on the subjects described above should notify Dr. Fred Marozzi, Directorate for Health Sciences, Consumer Product Safety Commission, Washington, D.C., telephone (301) 492–6477 by September 19, 1983. The notification should state: the name, address, and phone number of the individual who will make an oral presentation or submit a written presentation; the person, company, group, or industry on whose behalf the presentation will be made; the subject matter; and the approximate time requested for an oral presentation or the number of pages required for written presentation. Time permitting, the presentations, and possibly other oral statements from the audience to members of the board, may be allowed by the presiding officer. Persons who submit their requests by September 19, 1983, as described above, will be notified of the presiding officer's decision before the meeting.

Dated:August 26, 1983.

Sadye Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 83–23882 Filed 8–30–83; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

DOD Advisory Group on Electron Devices; Meeting

Working Group D (Mainly Laser Devices) of the DoD Advisory Group on Electron Devices (AGED) will meet in closed session on 5–6 October 1983 at Night Vision and E–O Laboratory, Fort Belvoir, Virginia.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group D meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. The laser area includes programs on developments and research related to low energy lasers for such applications as battlefield surveillance, target designation, ranging, communications, weapon guidance and data transmission. The review will include classified program details throughout.

In accordance with Section 10(d) of Pub. L. No. 92–463, as amended (5 U.S.C. App. 1 section 10(d) (1976)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly, this meeting will be closed to the public.

Dated: August 26, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83–23928 Filed 8–30–83; 8:45 am]

BILLING CODE 3810–01–M

DOD Advisory Group on Electron Devices; Meeting

Working Group C (Mainly Imaging and Display) of the DoD Advisory Group on Electron Devices (AGED) will meet in closed session on 6 October 1983 at the AGED Secretariat, 1925 N. Lynn Street, Suite 1000, Arlington, Virginia 22209.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group C meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. This special device area includes such programs as infrared and night sensors. The review will include classifed program details throughout.

In accordance with Section 10(d) of Pub. L. No. 92–463, as amended, (5 U.S.C. App. 1 section 10(d) (1976)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly, this meeting will be closed to the public.

Dated: August 26, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83–23929 Filed 8–30–83; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF ENERGY

National Petroleum Council, Miscible Task Group of the Committee on Enhanced Oil Recovery; Changed Dates and Room for Meeting

The dates and room of the eighth meeting of the Miscible Task Group of the Committee on Enhanced Oil Recovery, which was noticed on August 2, 1983, (48 FR 35006), have been changed. The new dates are August 31 and September 1, 1983, in Brookhollow Three Room, Brookhollow Holiday Inn, 7050 North Stemmons Freeway, Dallas, Texas, starting at 9:00 a.m. each day

Issued at Washington, D.C., on August 18, 1983.

Donald L. Bauer,

Principal Deputy Assistant Secretary for Fossil Energy.

[FR Doc. 83–23855 Filed 8–26–83; 2:30 p.m.]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. ID–2060–000]

Donald L. Aswell; Application

August 26, 1983.

The filing individual submits the following:

Take notice that on August 16, 1983, Donald L. Aswell filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Sr. Vice President—New Orleans Public Service Inc

Sr. Vice President—Louisiana Power & Light Company

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR

385.211, 385.214). All such motions or protests should be filed on or before September 8, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 83-23887 Filed 8-30-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-2066-000]

J. Robert Causton; Application

August 26, 1983.

The filing individual submits the following:

Take notice that on August 22, 1983, J. Robert Causton filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Treasurer—Conowingo Power Company
Assistant Treasurer—Philadelphia Electric Company
Assistant Treasurer—Philadelphia Electric Power Company
Assistant Treasurer—The Susquehanna Power Company
Assistant Treasurer—The Susquehanna Electric Company

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 8, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary

[FR Doc. 83-23891 Filed 8-30-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-2065-000]

J. D. Lynch; Application

August 26, 1983.

The filing individual submits the following:

Take notice that on August 22, 1983, J.D. Lynch filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Secretary—Conowingo Power Company
Assistant Secretary—Philadelphia Electric Company
Assistant Secretary—Philadelphia Electric Power Company
Assistant Secretary—The Susquehanna Power Company
Assistant Secretary—The Susquehanna Electric Company

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 823 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 8, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 83-23889 8-30-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-2063-000]

Jon A. Katherine; Application

August 26, 1983.

The filing individual submits the following:

Take notice that on August 22, 1983, Jon A. Katherine filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Assistant Treasurer—Philadelphia Electric Company
Assistant Treasurer—Philadelphia Electric Power Company
Assistant Treasurer—The Susquehanna Power Company
Assistant Treasurer—The Susquehanna Electric Company

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 8, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection

Lois D. Cashell,

Acting Secretary.

[FR Doc. 83-23890 Filed 8-30-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-2064-000]

William M. Lennox, Jr.; Application

August 26, 1983.

The filing individual submits the following:

Take notice that on August 22, 1983, William M. Lennox, Jr. filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Assistant Treasurer—Philadelphia Electric Company
Assistant Treasurer—Philadelphia Electric Company
Assistant Treasurer—The Susquehanna Power Company
Assistant Treasurer—The Susquehanna Electric Company

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR Section 385.211, 385.214). All such motion or protests should be filed on or before September 8, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 83-23895 Filed 8-30-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-502-001]

Michigan Consolidated Gas Co., Interstate Storage Division; Amendment

August 25, 1983.

Take notic that on August 5, 1983, Michigan Consolidated Gas Company (MichCon), 500 Griswold Street, Detroit, Michigan 48226, filed in Docket No. CP82-502-001 an amendment to its pending application filed in Docket No. CP82-502-001 pursuant to Section 7(c) of the Natural Gas Act, so as to reflect certain changes resulting from an amendment to its transportation agreement with ANR Storage Company (ANR), all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

MichCon indicates that, insofar as here pertinent, said application requested authority for MichCon to transport up to 147,675 Mcf or gas per day for, and receive a quantity of gas for compressor fuel equal to 0.6 percent of the daily quantities delivered. The transportation would be incidental to the storage of gas by ANR for Transcontinental Gas Pipe Line Corporation (Transco), it is explained.

MichCon states that on July 29, 1983, MichCon and ANR amended the transportation agreement between them to reflect recent changes in the storage agreement between ANR and Transco. Because of that amendment, MichCon is amending its application herein as follows:

(1) Because of the reduced pressure at which ANR would deliver the gas to MichCon for transportation, MichCon would retain for compressor fuel usage 1.36 percent, rather than 0.6 percent, of the quantities transported.

(2) Because of the increase in the fuel consumption referred to in (1) above, the maximum daily quantity of gas which MichCon would transport for ANR would be 146,910 Mcf, rather than 147,675 Mcf.

(3) The transportation service would begin on April 1, 1985, rather than April 1, 1984. MichCon indicates that though it is not at this time revising its charge for the transportation service to take into account this one-year delay, it may, pursuant to Section 8.4 of the transportation agreement, make an appropriate filing not later than six months prior to the new commencement date to reflect any difference in the cost of service from that projected in its application filed on August 20, 1982.

(4) If requested by ANR at the time of termination of the transportation service, MichCon would accept delivery of and redeliver pursuant to the terms, conditions and limitations of the transprotation agreement, for the account of the ultimate redelivery to, Transco, such quantities of the base gas (currently estimated to be 1,500,000 Mcf) as ANR would request on behalf of Transco, at such daily rates and times and at such charge as ANR and MichCon would then mutually agree upon.

MichCon states that the amendment also includes revisions to Exhibits A, C, D and G to reflect changes since MichCon's application was filed.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before September 15, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-23893 Filed 8-30-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-2062-000]

Kenneth A. Randall; Application

August 26, 1983.

The filing individual submits the following:

Take notice that on August 22, 1983, Kenneth A. Randall filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Director—Virginia Electric and Power Company

Director—Kemper Corporation

Director—Lumbermens Mutual Casualty Company

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 8, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 83-23892 Filed 8-30-83; 8:45 am]

BILLING CODE 6717-01-M

Oil Pipelines, Interstate; Tentative Basic Valuation; Enterprise Pipeline Co.

August 26, 1983.

The Federal Energy Regulatory Commission by order issued February 10, 1978, established an Oil Pipeline Board and delegated to the Board its functions with respect to the issuance of valuation reports pursuant to Section 19a of the Interstate Commerce Act.

Notice is hereby given that a tentative basic valuation is under consideration for the common carrier by pipeline listed below:

1980 Basic Report

Valuation Docket No. PV-1496-000—Enterprise Pipeline Company, P.O. Box 4324, Houston, Texas 77210

On or before October 3, 1983, persons other than those specifically designated in Section 19a(h) of the Interstate Commerce Act having an interest in this valuation may file, pursuant to rule 214 of the Federal Energy Regulatory Commission's "Rules of Practice and Procedure" (18 CFR 385.214), an original and three copies of a petition for leave to intervene in this proceeding.

If the petition for leave to intervene is granted the party may thus come within the category of "additional parties as the FERC may prescribe" under Section 19a(h) of the Act, thereby enabling it to file a protest. The petition to intervene must be served on the individual company at its address shown above and an appropriate certificate of service must be attached to the petition. Persons specifically designated in Section 19a(h) of the Act need not file a petition; they are entitled to file a protest as a matter of right under the statute.

Francis J. Connor,

Administrative Officer, Oil Pipeline Board.

[FR Doc. 83-23888 Filed 8-30-83; 8:45 am]

BILLING CODE 6717-01-M

Oil Pipeline, Interstate; Tentative Basic Valuation; Western Oil Transportation Co., Inc.

August 26, 1983.

The Federal Energy Regulatory Commission by order issued February 10, 1978, established an Oil Pipeline Board and delegated to the Board its functions with respect to the issuance of valuation reports pursuant to Section 19a of the Interstate Commerce Act.

Notice is hereby given that a tentative annual valuation is under consideration for the common carrier by pipeline listed below:

1979 Report

Valuation Docket No. PV-1463-000—Western Oil Transportation Company, Inc., P.O. Box 1183, Houston, Texas 77001

On or before October 3, 1983, persons other than those specifically designated in Section 19a(h) of the Interstate Commerce Act having an interest in this valuation may file, pursuant to rule 214 of the Federal Energy Regulatory Commission's "Rules of Practice and Procedure" (18 CFR 385.214), an original and three copies of a petition for leave to intervene in this proceeding.

If the petition for leave to intervene is granted the party may thus come within the category of "additional parties as the FERC may prescribe" under Section 19a(h) of the Act, thereby enabling it to file a protest. The petition to intervene must be served on the individual company at its address shown above and an appropriate certificate of service must be attached to the petition. Persons specifically designated in Section 19a(h) of the Act need not file a petition; they are entitled to file a protest as a matter of right under the statute.

Francis J. Connor,

Administrative Officer, Oil Pipeline Board.

[FR Doc. 83-23889 Filed 8-30-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-387-000]

Small Power Production and Cogeneration Facilities; Paper Pak Products, Inc.; Application for Commission Certification of Qualifying Status

August 26, 1983.

On August 8, 1983, Paper Pak Products, Inc. (Applicant) of 1941 White Avenue, Box 398, La Verne, California 91750, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The topping-cycle cogeneration facility will be located at the Applicant's paper mill in La Verne, California. Heat and steam, which are extracted from exhaust gases of a reciprocating engine, will be utilized in paper mill production processes. The primary energy source for the facility will be natural gas. The electrical power production capacity of the facility will be 1.5 megawatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 83-23894 Filed 8-30-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-3740-000, et al.]

Getty Oil Company, et al.; Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates[1]

August 24, 1983.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before September 12, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

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[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
G-3740-000, D, Aug. 8, 1983	Getty Oil Co., P.O. Box 1404, Houston, Texas 77251	Tennessee Gas Pipeline Co., East Bay City Field, Matagorda County, Texas.	(1)	
G-4622-000, D, Aug. 5, 1983	Amoco Production Co., P.O. Box 1492, El Paso, Texas 79978.	El Paso Natural Gas Co., Levelland Plant, Hockley County, Texas.	(2)	
G-11782-002, D, Aug. 15, 1983	Sun Exploration and Production Co., P.O. Box 2880, Dallas, Texas 75221.	Northern Natural Gas Co., Harper Ranch Field, Clark County, Kansas.	(3)	
G-20136-000, C, Aug. 15, 1983	Exxon Corp., P.O. Box 2180, Houston, Texas 77001	Transcontinental Gas Pipe Line Corp., San Miguel and Dilworth Fields, McMullen County, Texas.	(4)	14.65
CI61-1147-004, D, Aug. 15, 1983	Sun Exploration and Production Co., P.O. Box 2880, Dallas, Texas 75221.	Michigan Wisconsin Pipe Line Co., Seiling, N.E. Field, Major County, Oklahoma.	(5)	
CI63-657-000, D, Aug. 5, 1983	Amoco Production Co., P.O. Box 1492, El Paso, Texas 79978.	El Paso Natural Gas Co., Levelland Plant, Hockley County, Texas.	(3)	
CI67-230-000, Aug. 5, 1983	Sun Exploration and Production Co., P.O. Box 2880, Dallas, Texas 75221.	Northwest Central Pipeline Corp., K. L. Miller Lease, Grant County, Oklahoma.	(7)	
CI67-474-000, D, July 29, 1983	Energy Reserves Group, Inc., P.O. Box 1201, 217 North Water Street, Wichita, Kansas 67201.	Panhandle Eastern Pipe Line Co., Interstate Field, Hugoton-Asadarko Area.	(8)	
CI83-361-000 (CI80-407), B, Aug. 8, 1983.	Marathon Oil Co., 539 South Main Street, Findlay, Ohio 45840.	Florida Gas Transmission Co., Palacios Field, Matagorda County, Texas.	(9)	
CI83-362-000 (CI71-364), B, Aug. 8, 1983.	Petroleum Inc., 808 R. H. Garvey Building, 300 West Douglas, Wichita, Kansas 67202.	Northern Natural Gas Co., N.W. Fargo Field—Jahay No. 1, All Sec. 18-23N-23W, Ellis County, Oklahoma.	(10)	
CI83-363-000 (CI70-693), B, Aug. 8, 1983.	....do....	Michigan Wisconsin Pipeline Co., Laverne Field, Piersall Unit, All Sec. 25 and all Sec. 26-1N-26ECM, Beaver County, Oklahoma.	(11)	
CI83-364-000 (CI67-513), B, Aug. 8, 1983.	....do....	Northern Natural Gas Co., Camrick Field—Beasley Unit No. 1, All Sec. 35-3N-17ECM, Texas County, Oklahoma.	(12)	
CI83-365-000 CI61-226), B, Aug. 8, 1983.	....do....	El Paso Natural Gas Co., Mocane-Laverne Field—Nelson Unit No. 1, All Sec. 7-2N-26ECM, Beaver County, Oklahoma.	(13)	
CI83-366-000 (G-5332), B, Aug. 8, 1983.	Getty Oil Co., P.O. Box 1404, Houston, Texas 77251	Tennessee Gas Pipeline Co., East Bay City Field, Matagorda County, Texas.	(14)	
CI83-367-000, A, Aug. 11, 1983	Tenneco Oil Co., P.O. Box 2511, Houston, Texas 77001.	Tennessee Gas Pipeline Co., Ship Shoal Area Blocks 170 and 181 "B", Offshore Louisiana.	(15)	14.73
CI83-369-000, A, Aug. 12, 1983	Samedan Oil Corp., P.O. Box 909, Ardmore, Oklahoma 73402.	Trunkline Gas Co., Panhandle Eastern Pipe Line Co. and Transco Gas Supply Co., High Island Blocks A-365 and A-376, Offshore Texas.	(16)	14.73
CI83-370-000, A, Aug. 15, 1983	Tenneco Oil Co., P.O. Box 2511, Houston, Texas 77001.	Florida Gas Transmission Corp., Sabine Pass Block 18, Offshore Texas.	(17)	14.65
CI83-371-000, A, Aug. 15, 1983	TINCO, Ltd., P.O. Box 2511, Houston, Texas 77001	Creole Gas Pipeline Corp., Ship Shoal Area Block 170 Well No. 4 and 181 "B", Offshore Louisiana.	(16)	15.025
CI83-372-000, A, Aug. 15, 1983	Tenneco Oil Company, P.O. Box 2511, Houston, Texas 77001.	Creole Gas Pipeline Corp., Vermilion 122 and East Cameron 128—Offshore Louisiana. Eugene Island 215—Offshore Louisiana South Marsh Island Block 160—Offshore Louisiana South Marsh Island Block 236—Offshore Louisiana South Marsh Island Block 116—Offshore Louisiana Ship Shoal 170—Offshore Louisiana Ship Shoal 181—Offshore Louisiana Brazos Block A-22—Offshore Texas High Island Block A-270—Offshore Texas High Island Block A-416—Offshore Texas	(18)	14.65
CI83-368-000, B, Aug. 11, 1983	Energy Reserves Group, Inc., P.O. Box 1201, 217 North Water Street, Wichita, Kansas 67201.	Tennessee Gas Pipeline Co., Bully Camp Field, La-Fourche Parish, Louisiana.	(19)	
CI72-686-000, Aug. 16, 1983	Phillips Petroleum Co., 336 Home Savings and Loan Building, Bartlesville, Oklahoma 74004.	El Paso Natural Gas Co., Cabot Corp.'s Walton Plant, Winkler County, Texas.	(20)	
CI83-373-000, Aug. 15, 1983	Pelto Oil Co., Two Greenspoint Plaza, Suite 400, 16825 Northchase, Houston, Texas 77060.	Transcontinental Gas Pipe Line Corp., Vermilion Area Block 76 Field, Offshore Louisiana.	(21)	
CI83-374-000, A, Aug. 15, 1983	Sun Exploration and Production Co., P.O. Box 2880, Dallas, Texas 75221.	Texas Eastern Transmission Corp., West Cameron Block 648, Offshore Louisiana.	(15)	15.025
CI83-376-000, F, Aug. 16, 1983	ARCO Oil and Gas Co., Division of Atlantic Richfield Co. (partial successor to Conoco Inc.), P.O. Box 2819, Dallas, Texas 75221.	Texas Eastern Transmission Corp., High Island Block 110/111 Field, Offshore Texas.	(22)	14.65
CI83-377-000, F, Aug. 16, 1983	....do....	Texas Eastern Transmission Corp., High Island Blocks 110/111 Field, Offshore Texas.	(22)	14.65
CI83-378-000, A, Aug. 17, 1983	Getty Oil Co., P.O. Box 1404, Houston, Texas 77251	Texas Eastern Transmission Corp., Vermilion Block 146, Offshore Louisiana.	(24)	15.025
CI83-168-001, D, July 15, 1983	Cities Service Oil & Gas Corp., P.O. Box 300, Tulsa, Oklahoma 74102.	Tennessee Gas Pipeline Co., West Delta Block 58, Offshore Louisiana.	(25)	

(1) Acreage being abandoned has been released.
(2) Applicant is filing to temporarily abandon sales at the Levelland Plant to sell gas to the Slaughter Plant.
(3) Allowed lease to expire by its own terms March 31, 1980. Evaluation indicated no economical justification to retain this property.
(4) Applicant is filing to add interest in L. M. Gubbels #7 Well.
(5) The James Smith Unit #1 was plugged and abandoned September 21, 1970. Sun's interest was 80/821.44. Sun surrendered all leasehold rights effective September 21, 1970; future activity was not considered economically justifiable.
(6) Not used.
(7) Applicant is filing to add K. L. Miller Lease.
(8) Uneconomical.
(9) Gas reserves were depleted, the leases are no longer productive, and most of the wells have been plugged and abandoned. Acreage has subsequently been released to the lessors or assigned to others.
(10) Daily gas from well depleted to only 15 MDFD which was clearly noncommercial. Compressor not feasible due to low deliverability rate.
(11) Both compressor and pumping unit installed to remove fluids from well bore and assist well in delivering gas into purchaser's pipeline. Loss of $2,600 during preceding 3 months period. Daily sales depleted to less than 40 MCFD.
(12) Zone depleted to a point where it will not deliver any gas against a pipeline operating pressure of 60%. Plunger lift system was installed to remove excessive fluids in well bore. No other productive zones.
(13) Daily sales are 30 MCFD, plus 30 BWPD, which resulted in a net operating loss of $5,254 during preceding 3 months. A compressor was installed but no improvement in daily sales. Both Tonkawa and Lovell Sand zones depleted. No other productive zones present in well bore. Final analysis, zone watered out.
(14) Acreage dedicated under Rate Schedule 233 and Rate Schedule 13 is identical. The May 11, 1983 rollover contract encompassed the former "Shelly" interest and the former "Tidewater" interest, therefore rate Schedule 233 is being abandoned.
(15) Applicant is filing under Gas Purchase and Sales Agreement dated August 9, 1983.
(16) Applicant is filing under Gas Purchase Contracts dated April 27, 1983 and June 22, 1983.
(17) Applicant is filing under Gas Purchase Contract dated August 3, 1983.
(18) Applicant is filing under Gas Purchase and Sales Agreement dated August 12, 1983.
(19) The last well covered by the Contract and Rate Schedule has been plugged and service has ceased from acreage involved. Acreage has been released of record or expired of its own terms.
(20) Applicant is filing to reflect the correct delivery point to be Cabot Corporation's Walton Plant rather than Phillips' Winkler Plant.
(21) Applicant is filing under Gas Purchase Agreement dated October 25, 1981, and Ratification and Amendment to Gas Purchase Agreement dated June 9, 1983.

(22) Applicant is filing under Gas Purchase Contract dated July 27, 1983.
(23) Applicant acquired certain interests in High Island Blocks 110 and 111, Offshore Texas, from Conoco, Inc., under three instruments entitled "Assignment, Bill of Sale and Conveyance" dated effective as of January 1, 1983.
(24) Applicant is filing under Gas Purchase Contract dated August 2, 1983.
(25) OCS G-4678 was non-productive acreage and the lease expired on June 6, 1982.
Filing Code: A—Initial Service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Succession. F—Partial Succession.

[FR Doc. 83-23847 Filed 8-30-83; 8:45 am]
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ENVIRONMENTAL PROTECTION AGENCY

[OPP 180624; PH-FRL 2421-4]

Pesticides; Emergency Exemptions Granted; Metalaxyl; etc.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted specific exemptions to the U.S. Department of the Interior, Department of the Army Corps of Engineers, and the States listed below for the control of various pests. Also listed are crisis exemptions initiated by 8 States and 42 quarantine exemptions initiated by the U.S. Department of Agriculture.

DATES: See each specific, crisis, and quarantine exemption for its effective dates.

FOR FURTHER INFORMATION CONTACT: See each specific, crisis, and quarantine exemption for the name of the contact person. The following information applies to all contact people: By mail:
Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.
Office Location and telephone number: Rm. 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA (703-557-7400).

SUPPLEMENTARY INFORMATION: EPA has granted specific exemptions to the:

1. Arizona Commission of Agriculture and Horticulture for the use of metalaxyl on head lettuce to control downy mildew; June 1, 1983 to May 25, 1984. (Jack E. Housenger)

2. Arizona Commission of Agriculture and Horticulture for the use of methamidophos on pistachios to control leaf-footed plantbugs and lygus bugs; June 28, 1983 to September 15, 1983. (Jim Tompkins)

3. Arkansas State Plant Board for the use of triphenyltin hydroxide on rice to control sheath blight; June 3, 1983 to September 30, 1983. (Jack E. Housenger)

4. California Department of Food and Agriculture for the use of metalaxyl on head lettuce to control downy mildew; June 1, 1983 to May 25, 1984. California had initiated a crisis exemption for this use. (Jack E. Housenger)

5. California Department of Food and Agriculture for the use of triadimefon on caneberries to control powdery mildew; June 28, 1983 to December 31, 1983. California had initiated a crisis exemption for this use. (Libby Welch)

6. California Department of Food and Agriculture for the use of methiocarb on crucifers grown for seed to repel birds (horned larks and linnets); June 14, 1983 to June 1, 1984. (Gene Asbury)

7. California Department of Food and Agriculture for the use of methamidophos on safflowers to control beet and yellow-striped armyworms and lygus bugs; July 1, 1983 to June 30, 1984. (Gene Asbury)

8. California Department of Food and Agriculture for the use of iprodione on grapes to control bunch rot; June 14, 1983 to December 1, 1983. California had initiated a crisis exemption for this use. (Libby Welch)

9. California Department of Food and Agriculture for the use of triadimefon on sugar beets to control powdery mildew; July 5, 1983 to June 30, 1984. (Gene Asbury)

10. California Department of Food and Agriculture for the use of triadimefon on cucurbits to control powdery mildew; July 8, 1983 to June 30, 1984. (Gene Asbury)

11. California Department of Food and Agriculture for the use of oxytetracycline hydrochloride on sweet cherries to control western X-disease (buckskin); June 24, 1983 to October 1, 1983. (Gene Asbury)

12. California Department of Food and Agriculture for the use of metalaxyl on almond and cherry trees to control *Phytophthora;* June 20, 1983 to August 31, 1983. California had initiated a crisis exemption for this use. (Libby Welch)

13. California Department of Food and Agriculture for the use of metalaxyl on asparagus to control *Phytophthora megasperma;* May 24, 1983 to March 23, 1983. California had initiated a crisis exemption for this use. (Jack E. Housenger)

14. Florida Department of Agriculture and Consumer Services for the use of cyromazine on tomatoes (fresh market only) to control leafminers; June 28, 1983 to June 15, 1984. Florida had initiated a crisis exemption for this use. (Jack E. Housenger)

15. Illinois Department of Agriculture for the use of permethrin on pumpkins to control squash bugs; June 30, 1983 to November 1, 1983. (Gene Asbury)

16. Indiana State Chemist and Seed Commissioner for the use of cyromazine in layer poultry houses to control flies; June 30, 1983 to December 31, 1983. (Jim Tompkins)

17. Iowa Department of Agriculture for the use of oxyfluorfen on dry bulb onions to control broadleaf weeds; June 14, 1983 to September 30, 1983. (Jim Tompkins)

18. Kansas State Board of Agriculture for the use of cyromazine in poultry houses to control flies; June 21, 1983 to December 31, 1983. Kansas had initiated a crisis exemption for this use. (Jim Tompkins)

19. Louisiana Department of Agriculture for the use of triphenyltin hydroxide on rice to control sheath blight and stem rot; June 3, 1983 to September 30, 1983. (Jack E. Housenger)

20. Massachusetts Department of Food and Agriculture for the use of acephate on cranberries to control brown spanworms; June 22, 1983 to August 1, 1983. (Libby Welch)

21. Massachusetts Department of Food and Agriculture for the use of cyromazine in poultry houses to control flies; June 21, 1983 to December 31, 1983. (Jim Tompkins)

22. Mississippi Department of Agriculture and Commerce for the use of cyromazine in layer poultry houses to control flies; June 30, 1983 to December 31, 1983. (Jim Tompkins)

23. Mississippi Department of Agriculture and Commerce for the use of triphenyltin hydroxide on rice to control sheath blight, sheath spot, and/or stem rot; June 3, 1983 to September 30, 1983. (Jack E. Housenger)

24. Montana Department of Agriculture for the use of dimethoate on lentils to control aphids; June 15, 1983 to August 31, 1983. (Gene Asbury)

25. New Hampshire Department of Agriculture for the use of cyromazine in layer poultry houses to control flies; June 14, 1983 to December 31, 1983. (Jim Tompkins)

26. New Jersey Department of Environmental Protection for the use of cyromazine in layer poultry houses to control flies; June 14, 1983 to December 31, 1983. New Jersey had initiated a crisis exemption for this use. (Jim Tompkins)

27. New Jersey Department of Environmental Protection for the use of methyl bromide on blueberries to control blueberry maggots, plum

curculios, Japanese beetles, redbanded leafrollers, obliquebanded leafrollers, blueberry leafminers, and budmouths; June 29, 1983 to September 1, 1983. (Libby Welch)

28. New Jersey Department of Environmental Protection for the use of ethephon on wheat and barley to control lodging; June 30, 1983 to July 15, 1983. (Libby Welch)

29. New Jersey Department of Environmental Protection for use of metalaxyl on apple trees to control collar rot; June 1, 1983 to December 31, 1983. (Jack E. Housenger)

30. New Jersey Department of Environmental Protection for the use of methomyl on cranberries to control *Sparganothis* fruitworms; June 20, 1983 to August 31, 1983. New Jersey had initiated a crisis exemption for this use. (Libby Welch)

31. New Jersey Department of Environmental Protection for the use of triadimefon on asparagus to control asparagus rust that appears before August 1, 1983 and cannot be controlled by registered alternatives; June 15, 1983 to October 1, 1983. (Jim Tompkins)

32. New Jersey Department of Environmental Protection for the use of cyhexatin on eggplants to control twospotted spider mites; June 16, 1983 to October 1, 1983. (Jack E. Housenger)

33. New York Department of Environmental Conservation for the use of metalaxyl on head lettuce to control downy mildew in Oswego County; July 8, 1983 to October 15, 1983. (Jack E. Housenger)

34. New York State Department of Environmental Conservation for the use of vinclozolin on grapes to control *Botrytis* bunch rot; June 16, 1983 to October 31, 1983. (Libby Welch)

35. North Carolina Department of Agriculture for the use of disulfoton on asparagus to control asparagus aphids; June 21, 1983 to October 20, 1983. (Gene Asbury)

36. North Carolina Department of Agriculture for the use of acephate on non-bell peppers to control European corn borers; June 22, 1983 to October 31, 1983. (Gene Asbury)

37. Ohio Department of Agriculture for the use of acephate on leafy-type lettuce to control green peach aphids; June 30, 1983 to October 31, 1983. (Libby Welch)

38. Ohio Department of Agriculture for the use of vinclozolin on grapes to control *Botrytis* bunch rot; June 16, 1983 to October 31, 1983. (Libby Welch)

39. Oregon Department of Agriculture for the use of vinclozolin on grapes to control *Botrytis* bunch rot; June 16, 1983 to October 31, 1983. (Libby Welch)

40. Tennesse Department of Agriculture for the use of cyromazine in layer poultry houses to control flies; June 30, 1983 to December 31, 1983. (Jim Tompkins)

41. Texas Department of Agriculture for the use of monocrotophos on field corn to control Banks grass mites; July 6, 1983 to November 30, 1983. Texas had initiated a crisis exemption for this use. (Gene Asbury)

42. Texas Department of Agriculture for the use of triphenyltin hydroxide on rice to control sheath blight and sheath spot; June 3, 1983 to September 30, 1983. (Jack E. Housenger)

43. Washington Department of Agriculture for the use of iprodione on grapes to control bunch rot; June 14, 1983 to October 31, 1983. (Libby Welch)

44. Wisconsin Department of Agriculture for the use of thiobencarb on lettuce (iceberg, romaine, Boston, bibb and leaf) to control barnyardgrass and purslane; June 24, 1983 to March 1, 1984. (Gene Asbury)

45. Wyoming Department of Environmental Protection for the use of ethephon on wheat and barley to control lodging; June 30, 1983 to August 15, 1983. (Libby Welch)

46. Department of the Army, Corps of Engineers, for the use of butoxyethanol ester of 2, 4-dichlorophenoxyacetic acid for aquatic use to control Eurasian watermilfoil in Washington; June 15, 1983 to November 15, 1983. (Gene Asbury)

47. United States Department of the Interior for the use of strychnine on seed orchards to control porcupines; EPA initiated a rebuttable presumption against registration (RPAR) on this chemical; the final determination has not yet been made. June 8, 1983 to June 8, 1984. (Libby Welch)

Crisis exemptions were initiated by the:

1. Arkansas State Plant Board on June 3, 1983, for the use of sodium chlorate on wheat as a desiccant. Since it was anticipated that this program would not be needed for more than 15 days, Arkansas did not request a specific exemption to continue it. (Gene Asbury)

2. Louisiana Department of Agriculture on May 31, 1983, for the use of triadimefon on seed corn to control rusts. Since it was anticipated that this program would not be needed for more than 15 days, Louisiana did not request a specific exemption to continue it. (Jim Tompkins)

3. Michigan Department of Agriculture on June 7, 1983, for the use of cyromazine in layer poultry houses to control houseflies. Since it was anticipated that this program would be needed for more than 15 days, Michigan has requested a specific exemption to continue it. The need for this program is expected to last until December 31, 1983. (Jim Tompkins)

4. Mississippi Department of Agriculture and Commerce on June 24, 1983, for the use of sodium chlorate on wheat as a desiccant. Since it was anticipated that this program would not be needed for more than 15 days, Mississippi did not request a specific exemption to continue it. (Gene Asbury)

5. New Jersey Department of Environmental Protection on June 3, 1983, for the use of methomyl on cranberries to control the *Sparganothis* fruitworms. Since it was anticipated that this program would be needed for more than 15 days, New Jersey has requested a specific exemption to continue it. The need for this program is expected to last until July 31, 1983. (Libby Welch)

6. New Jersey Department of Environmental Protection on June 7, 1983, for the use of cyromazine in poultry houses to control flies. Since it was anticipated that this program would be needed for more than 14 days, New Jersey has requested a specific exemption to continue it. The need for this program is expected to last until December 31, 1983. (Jim Tompkins)

7. Texas Department of Agriculture on May 5, 1983, for the use of monocrotophos on field corn to control Banks grass mites. Since it was anticipated that this program would be needed for more than 15 days, Texas has requested a specific exemption to continue it. The need for this program is expected to last until November 30, 1983. (Gene Asbury)

8. Texas Department of Agriculture on June 15, 1983, for the use of cyromazine on laying hens producing eggs for hatching purposes to control flies. Since it was anticipated that this program would be needed for more than 15 days, Texas has requested an amendment to a specific exemption to continue it. The program will end on December 31, 1983. (Jim Tompkins)

9. Wisconsin Department of Agriculture, Trade, and Consumer Protection on June 1, 1983, for the use of iprodione on lettuce to control lettuce drop and bottom rot. Since it was anticipated that this program would be needed for more than 15 days, Wisconsin has requested a specific exemption to continue it. The need for this program is expected to last until November 1, 1983. (Gene Asbury)

10. Wyoming Department of Agriculture on June 28, 1983, for the use of carbaryl in ground squirrel boroughs to control fleas carrying bubonic/pneumonic plague. The program ended on July 4, 1983. (Libby Welch)

The following quarantine exemptions were granted to the United States Department of Agriculture for use around the country on June 14, 1983 and will be in effect until June 14, 1984. (Jack Housenger and Libby Welch):

1. Ethylene oxide-carbon-dioxide mixture to control snails and slugs on miscellaneous cargo.

2. Hydrogen cyanide to control cotton insects, khapra beetles, and snails in ship holds or temporary enclosures.

3. Methyl bromide to control khapra beetles and snails in ship holds or temporary enclosures.

4. Methyl bromide to control golden nematodes, witchweed, cotton insects, and gypsy moths found under tarpaulins or on machinery and nonplant materials.

5. Methyl bromide to control oak wilt fungus on logs.

6. Aluminum phosphide to fumigate stored nonfood products in ship holds, under tarpaulins, or in temporary enclosures.

7. Formaldehyde to fumigate rice straw and bulk in small lots at ports of entry.

8. Formaldehyde as a spot treatment for nematode cyst-infested material moving from an infested area or port of entry.

9. G–1707–Pyrethrum extract to control fruit flies and other soft-bodied insects in aircraft and cargo containers.

10. d-Phenothrin to control fruit flies and other soft-bodied insects in aircraft and cargo containers.

11. Malathion to control quarantined insects when applied to metal and wood-surfaced areas associated with the infestation.

12. Malathion to control insects when applied to asphalt surfaces (asphalt base paint) associated with the infestation.

13. Malathion-carbaryl-dicofol dip to control insects or mites on orchids and other plants or plant parts before propagation.

14. Malathion-carbaryl dip to treat plants (not orchids) not tolerant to methyl bromide at inspection stations.

15. Formaldehyde to treat seeds at inspection stations.

16. Bordeaux mixture as a foliar spray to control surface disease on plants at inspection stations.

17. Carbon disulfide-carbon tetrachloride mixture to treat seeds for propagation at inspection stations.

18. Sodium hypochlorite to treat propagative plant parts and plant materials at inspection stations.

19. Captan and Zineb to treat seeds for plant diseases at designated inspection stations.

20. Copper sulfate to treat some seeds and dead plant material at designated inspection stations.

21. Copper carbonate to treat seeds, which can be completely coated, at inspection stations.

22. Zineb to treat certain plants infested with diseases at designated inspection stations.

23. Propoxur for use in insect traps.

24. Dichlorvos for use in gypsy moth and khapra beetle traps.

25. Naled for use in fruit fly traps.

26. Ethyl acetate for use in black-light insect traps.

27. Trifluralin to control witchweed on established lawns and turf.

28. Methyl bromide to kill witchweed seeds in soil on fallow fields and small plots of land to be relesed from quarantine.

29. Sodium carbonate as a surface disinfectant in semen containers potentially exposed to certain animal diseases.

30. Sodium carbonate-sodium silicate mixture applied to aircraft surfaces potentially exposed to cetain animal diseases.

31. Sodium hypoclorite applied to surfaces potentially exposed to certain animal diseases.

32. Sodium hydroxide applied as a sterilant to exposed surfaces, animal product containers, and hay and straw.

33. Sodium salt of ortho-phenylphenol applied to surfaces exposed to certain animal diseases.

34. Resmethrin aerosol to control fruit flies and other soft-bodied insects in aircraft and cargo containers when people or animals are present.

35. Resmethrin micronized dust to control fruit flies and other soft-bodied insects in aircraft and cargo containers when people or animals are not present.

36. 8-Hydroxyquinoline sulfate to treat plant diseases in citrus and other rutaceous seeds at inspection stations.

37. Sodium hypochlorite to treat propagative plant parts and plant materials at inspection stations.

38. Sodium carbonate as a surface disinfectant in semen containers potentially exposed to certain animal diseases.

39. Nicotine sulfate to control aphids on propagative plants in quarantine.

40. d-Phenothrin to control mealy bugs and aphids on propagative plants in quarantine.

41. Cyhexatin to control spider mites on propagative plants in quarantine.

42. Dienochlor to control spider mites on propagative plants in quarantine.

(Sec. 18, as amended, 92 Stat. 819 (7 U.S.C. 136))

Dated: August 11, 1983.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

[FR Doc. 83-23328 Filed 8-30-83; 8:45 am]

BILLING CODE 6560-50-M

[OPP-30000/33B; PH-FRL No. 2425-1]

Pesticides; Intent To Cancel or Restrict Registrations of Products Containing EPN; Denial of Applications for Registration of Products Containing EPN; Determination Concluding the Rebuttable Presumption Against Registration; Availability of Decision Document

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent to cancel or restrict registrations and notice of denial of applications for registration.

SUMMARY: EPN-containing products are registered as pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 et seq. In September, 1979, EPA initiated a process to consider whether the registrations for EPN products should be cancelled or modified. This notice concludes that process and announces the Administrator's intent to cancel the registration of EPN for one use, to continue the registration of the food uses subject to certain standardized label requirements and use practice prohibitions, and to deny applications for registration of EPN products not in accordance with the terms of this Notice.

DATE: Requests for a hearing must be received on or before September 30, 1983, or (for registrants) within 30 days from receipt of this Notice, whichever occurs later.

ADDRESSES: Requests for a hearing must be submitted to: Hearing Clerk (A–110), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

Copies of the Decision Document are available upon request from: By mail: Harvey L. Warnich, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460, Office location and telephone number: Room 219, CM No. 2, 1921 Jefferson Davis Highway, Arlington, Va.

FOR ADDITIONAL INFORMATION CONTACT: Harvey L. Warnick (703–557–2200).

I. Introduction

A. Regulatory Framework

Before a pesticide product may be sold, held for sale, or distributed in either intrastate or interstate commerce, the product must be registered [FIFRA sections 3(a) and 12(a)(1)]. A pesticide product will be registered only if it performs its intended pesticidal function without causing "unreasonable adverse effects on the environment" FIFRA section 3(c)(5)], that is, without causing "any unreasonable risk to man or the environment, taking into account the economic, social and environmental costs and benefits of the use of [the] pesticide" [FIFRA section 2 (bb)]. (A registration is a license allowing a pesticide product to be sold and distributed for specified uses in accordance with specified use instructions, precautions, and other terms and conditions). For a pesticide product to be registrable, the benefits of each of its uses must exceed the risks of that use when the product is used in accordance with commonly recognized practice and in compliance with the terms and conditions of registration. The burden of proving that a pesticide product satisfies the criteria for registration is on the proponents of initial or continued registration.

Under FIFRA section 6, the Administrator may cancel the registration of a pesticide product or modify the terms and conditions of its registration whenever it is determined that the pesticide product causes unreasonable adverse effects on the environment. The agency created the Rebuttable Presumption Against Registration (RPAR) process to facilitate the identification of pesticide products (or uses thereof) which may not satisfy the statutory standard for registration, and to provide an informal procedure through which to gather and evaluate information about the risks and benefits of these products and uses. The regulations governing the RPAR process are set forth at 40 CFR 162.11.

A rebuttable presumption arises if a pesticide meets or exceeds any of the risk criteria set out in the regulations. The Agency announces an RPAR by issuing a notice for publication in the **Federal Register** and by issuing a Position Document (PD 1), detailing the Agency's position and concerns. Registrants and other interested persons are invited to review the data upon which the presumption is based and to submit data and information to rebut the presumption of risk by showing that the Agency's initial determination of risk was in error, or by showing that use of the pesticide is not likely to result in any siginificant exposure to human beings or the environment. In addition to submitting evidence to rebut the risk presumption, respondents may submit evidence concerning the economic, social and environmental benefits of the use of the pesticide.

The RPAR process is concluded with a notice in which the Agency states and explains its decision as to whether the presumption of risk has been rebutted. If all presumptions of risk are successfully rebutted, the RPAR is concluded and no regulatory action is commenced. If the Agency determines that any presumption of risk is not rebutted, the notice of determination contains an evaluation of the information available to the Agency concerning the social, economic, and environmental costs and benefits of continued use of the pesticide for each individual use pattern. In determining whether each use of such a pesticide poses risks which are greater than the benefits, the Agency considers possible changes to the terms and conditions of registration which can reduce risk and the impacts of such modifications on the benefits of the use. The final notice of determination is supported by a Decision Document (or final Position Document).

B. Background

In the **Federal Register** of September 19, 1979 (44 FR 54384), EPA issued a Notice of Rebuttable Presumption Against Registration of Pesticide Products Containing EPN. The Agency based the presumption against registration upon studies showing that EPN causes delayed neurotoxic effects in test animals, and is acutely toxic to aquatic organisms. The Agency also identified five other possible adverse effects of EPN for which insufficient information existed to issue a rebuttable presumption. These effects were: (1) Teratogenic effects; (2) cholinergic effects; (3) disorders of the eye; (4) possible mutagenic effects; and (5) reductions in populations of nontarget organisms (honeybees). The existence of a data gap for oncogenic effects was also noted. In addition, the Agency noted EPN's ability, when used in combination with another insecticide, to potentiate the effect, i.e., cause the total effect of the two chemicals to be greater than the sum of the two effects taken independently. The Agency invited rebuttal or other comment on these risks and the other issues raised by the presumption against EPN registration.

Since publication of the RPAR, the Agency has evaluated the comments received from registrants and others regarding the risks and benefits of EPN. The Agency has reassessed EPN's chemistry, environmental activity and movement, toxicity, effects upon wildlife populations, and the exposure of humans and animals to EPN, and has evaluated the benefits of EPN use and the effects of cancellation upon the agricultural economy.

These evaluations and analyses confirm that EPN produces delayed neurotoxicity in chickens; is acutely toxic to honeybees, causing reductions in local/regional populations of these nontarget organisms; and is acutely toxic to aquatic organisms (mosquito larvicide use only). Examination of the current patterns of use and the potential for exposure indicates that an ample margin of safety exists for human dietary exposure to the crops on which EPN is used. Likewise, ample margins of safety exists for applicators, with the exception of human flaggers. With regard to honeybees, EPN was found to be acutely toxic to honeybees, and sufficient residues remain two to three days after application to present an acute hazard to bees. However, appropriate labeling requirements were found to mitigate this acute toxicity sufficiently. Overall, the economic and agricultural benefits associated with most major uses of EPN are found to be minor; however, these benefits are substantial for individual growers of certain crops in specific regions of the country. The economic and social benefits of the mosquito larvicide use of EPN are found to be negligible.

C. Content of This Notice

This Notice announces the Agency's intent to cancel the registrations of EPN-containing products for one pesticide use and to modify the terms and conditions of registration for all other uses, and provides notice of the availability of the Decision Document concluding the RPAR for EPN. The Agency has determined that for the mosquito larvicide use of EPN remedial measures short of cancellation would not suffice to avoid unreasonable adverse effects on the environment because, when used according to label directions at recommended dosage rates, one half the LC_{50} for aquatic organisms is exceeded, regardless of any restrictions on applicator practices. Therefore, the Agency has determined that the registrations for this use should be cancelled.

The EPN Decision Document summarizes earlier actions taken by the Agency concerning EPN, and sets forth the Agency's rationale for the cancellation of EPN registration for the mosquito larvicide use and other elements of the regulatory decision. A

summary of the Agency's final regulatory decision on EPN follows; details of the decision are set forth in Unit III of this Notice.

TABLE 1— SUMMARY OF FINAL REGULATORY DECISION ON EPN

Use site	Final decision
Mosquito Larvicide use.	Cancel, effective as of the end of the statutorily prescribed 30-day period.
All other uses	Cancel, unless the following modifications are made to the terms and conditions of registration: Human flagger prohibited unless in totally enclosed vehicles. Standardize label requirements for protective clothing, goggles, and respirators, the phrase "protective clothing required" to appear prominently in bold faced type, as follows: *Protective Clothing Required:* Wear clean protective clothing, goggles, and respirator approved by NIOSH or the American National Standards Institute when applying or handling, or when reentering fields within [at least 24] hours of treatment. The following protective clothing must be worn: lightweight, unlined, natural rubber gloves at least mid-forearm in length; a wide brimmed waterproof hat or waterproof hood; a protective suit or coveralls of a non-permeable, non-cloth material covering the body from ankles to wrists; lightweight, unlined, natural rubber boots at least mid-calf in length; full-face respirators are recommended; half-face respirators and goggles are required. Aerial applicators in positive pressure cockpits and other applicators in comparable ground equipment with appropriate filters at all air intakes need not comply with these protective clothing requirements. The following statement must appear in the "Use Directions" section of the label: "Do not apply this product when weather conditions favor drift from treated areas". The following statement must appear in the "Environmental Hazards" section of the label for WP and EC formulations: "This product is highly toxic to bees exposed to direct treatment or residues on blooming crops or weeds. Do not apply this product or allow it to drift to blooming crops or weeds if bees are visiting the treatment area".
WP and EC formulations for use on cotton.	In addition to the requirements for "All Uses", the following statement must appear in the "Use Directions" section of the label: "Do not apply to blooming cotton if bees are visiting the treatment area".
WP and EC formulations for use on field corn and/or sweet corn.	In addition to the requirements for "All Uses", the following statement must appear in the "Use Directions" section of the label: "Do not apply to corn during the pollen-shed period if bees are visiting the treatment area."
WP and EC formulations for use on stone fruits, pome fruits, and citrus.	In addition to the requirements for "All Uses", the following statemtnt must appear in the "Use Directions" section of the label: "Do not apply when trees or a substantial number of weeds in the orchard/grove are in bloom".
All food uses	Reassess tolerances. Data necessary to reassess EPN tolerances is required.

TABLE 1— SUMMARY OF FINAL REGULATORY DECISION ON EPN—Continued

Use site	Final decision
Areas for further consideration.	Teratogenic effect; Oncogenic effect; Delayed neurotoxic effect; Reentry.

Unit II of this Notice provides a summary of the risk and benefits of the pesticidal uses of EPN. Unit III presents the Agency's regulatory decision. Unit IV sets out the comments submitted to the Agency by the Secretary of Agriculture and former members of the Scientific Advisory Panel. Unit V of this Notice sets out the procedures by which a registrant or other person adversely affected by this Notice may request a hearing to challenge the actions proposed in this Notice. Unit V also sets out the procedures which registrants should follow in seeking amendments of their registrations to conform to the requirements of this Notice in order to continue their registrations for those uses of EPN retained under this Notice.

II. Summary of Risks and Benefits of the Pesticidal Use of EPN

In reaching the decisions set out in the EPN Decision Document, the Agency has considered information on potential health risks, environmental effects and the economic and social benefits associated with the pesticidal uses of EPN. The detailed assessments of risks and benefits and the conclusions regarding its use are set forth in the EPN Decision Document. This section of the Notice summarizes those determinations.

A. Determination of Risks

Based on studies in laboratory animals, the Moeller and Rider human study, and ecological reports, the Agency has concluded that the use of EPN as a pesticide poses risks of: (1) Delayed neurotoxicity; (2) reduction in local/regional populations of nontarget organisms (honeybees); and (3) acute toxicity to aquatic organisms (mosquito larvicide use only). Much of the information supporting this conclusion was set forth in the EPN Position Document 1. As developed fully in Chapters III and IV of the Decision Document, the Agency has determined that the information submitted to overcome the risk concerns cited above was insufficient to overcome the presumption against EPN for these effects. Moreover, additional information has become available to the Agency since the issuance of the RPAR which substantially reinforces the Agency's conclusion.

A quantitative assessment has been conducted of the delayed neurotoxic risk posed: (1) To the general public as a result of EPN residues on food commodities derived from cotton, corn, and soybeans, and (2) to workers subject to dermal and respiratory exposure via involvement in EPN application procedures. It should be noted that estimates of risk can be taken only as an indication of the possible relative magnitude of risk and therefore should not be considered as absolute levels of risk. Given current use patterns, the Agency has determined that an ample margin of safety exists for dietary exposure to the crops on which EPN is used. Likewise, ample margins of safety exist fo the following applicator groups, provided that protective clothing is worn: pilots, mixer/loaders, and ground applicators. An ample margin of safety does not hold for human flaggers.

With regard to the risk of reduction in populations of nontarget organisms (honeybees), the Agency has determined that EPN is acutely toxic to honeybees, and that sufficient residues remain for two to three days after application to present an acute hazard to bees. However, because cancellation of EPN would have a negative economic impact on growers who use EPN, the Agency has determined that EPN will be retained since this hazard can be sufficiently mitigated through standardized labeling requirements.

With regard to the acute risk to aquatic organisms, the Agency has concluded that the risks of EPN use as a mosquito larvicide outweigh the benefits and that therefore this use should be cancelled. This conclusion is based on: (1) The inherent acute risk to aquatic organisms from this use when EPN is used as directed on the label, (2) the negligible economic impact of cancellation, (3) the availability of several less toxic and economical alternatives, and (4) the inability of other less rigorous regulatory options to reduce the risk to an acceptable level.

B. Determination of Benefits

EPN is registered for use as a broad spectrum insecticide and acaricide on a large number of agricultural crops and for ground and aerial application as a mosquito larvicide. Although registered for use on numerous agricultural crops, EPN is used primarily on cotton, field corn, sweet corn, and soybean. EPN's use on other food crops is negligible.

EPN was not used as a cotton insecticide to any significant degree until the mid-1970's. Usage peaked in 1977 at 11.1 million pounds of active ingredient, but dropped sharply in 1978

to 3.8 million pounds active ingredient and has continued to decline to approximately between 1.5 to 2.7 million pounds active ingredient due to the introduction of the synthetic pyrethroids, fenvalerate and permethrin, to the cotton insecticide market.

In terms of comparative efficacy with other insecticides, the Agency has assumed, in the absence of data, that the several alternative insecticides registered to control the target pests on cotton are at least as effective as EPN. Laboratory testing, however, has raised the possibility of eventual resistance to the synthetic pyrethroids. Although no documentation exists to substantiate resistance problems outside the laboratory, this factor is of concern to the agricultural economy. EPN appears to be slightly more costly on a per acre treatment per day than the fenvalerate and permethrin at the minimum and maximum application rates. In isolated cases, growers may experience benefits of $2.00 per acre.

A major limitation of this economic analysis is that the agency relied on estimated treatment intervals which were developed in Mississippi and, therefore, may not reflect pest management practices in other areas of the cotton belt where EPN is primarily applied. Thus, it should be recognized that the benefits of EPN to the cotton market could be greater if the estimates for the synthetic pyrethroids do not reflect practices elsewhere.

Data did not exist on EPN's use on soybeans. Based on estimates supplied by local extension experts, EPN's use on soybeans ranges between approximately two to seven hundred thousand pounds. In the absence of data to the contrary, the agency assumed that alternative pesticides (at least two) for this use were as effective as EPN. EPN, however, is the least costly insecticide. Thus, cancellation of EPN for this use would result in increased treatment costs of from $0.4 to $1.4 million annually to producers. A negligible increase in cost also could result for processors and consumers.

For field corn, EPN is used on 164,000 acres. Several alternatives to EPN are available which, for analytical purposes, were assumed to be of equal efficacy. These alternatives range from much more costly than EPN to less costly than EPN. Because of the wide range of alternatives available for treatment of the target pests on corn, the overall impact of a cancellation on producers and consumers is estimated to be slight.

With respect to pecans, EPN is registered to control a variety of pests although it is commonly used to control the pecan weevil, pecan nut casebearer, hickory shuckworm, aphids, and stinkbugs. Limited test-plot data revealed the availability of alternative pesticides which are as effective as EPN, some of which are more costly and some of which are less costly. Overall, the impact to growers could range from $3.26 to $11.79 per acre treatment or an aggregate cost of from $164 to $173 thousand. Although the aggregate impact is estimated to be negligible nationwide, it could be substantial for some individual growers, depending upon climatic conditions, local pest problems and the alternative which is selected.

EPN is estimated to be used on from 4 to 20 percent of total acre-treatment of sweet corn for the European corn borer. EPN was found to be equal or superior in effectiveness to methomyl and encapsulated methyl parathion. In the absence of data, major alternatives other than methomyl and methyl parathion were assumed to be equally as effective as EPN. For growers in the North Central region, treatment costs could decrease with a potential cancellation. In the Northeast, however, cost would increase. Although small, the net cost for the two regions combined would increase from $10 to $58 thousand per year.

In summary, the overall impact of an EPN cancellation is estimated to be slight; however, substantial cost increases could accrue to individual growers of certain crops in specific regions of the country.

III. Initiation of Regulatory Action

Based upon the determination summarized above and discussed in detail in Position Document 1 and the EPN Decision Document, the Agency has determined that the risks arising from the use of EPN as a mosquito larvicide are greater than the social, economic, and environmental benefits of such use. Accordingly, the Agency has determined that the mosquito larvicide use can be cancelled without placing an unreasonable burden on the pest control community. EPN has been used as a mosquito larvicide in recent years only in California where an annual average of 68 pounds active ingredient were used during the period 1974–1979. Records show no current use of EPN for that purpose in that State. Because this product exceeds one half the LC_{50} for aquatic organisms when used according to label directions at the recommended dosage rates, the Agency has concluded that further label changes or any other remedial measures short of cancellation would not mitigate the adverse effects from use of this product as a mosquito larvicide.

The Agency has determined that the risks of all remaining EPN uses are greater than the social, economic, and environmental benefits of such uses, unless risk reductions are accomplished through modifications in the terms and conditions of registration. Modifications in the terms and conditions of registration will accomplish significant risk reductions without significant impacts on the benefits of use. Accordingly, the Agency has determined that EPN products for use on all other crops may continue to be registered subject to changes in the terms and conditions of their registrations. The determination that these uses can be continued is based on the Agency's conclusion that: (1) Ample margins of safety exists for all applicator groups except for human flaggers. Human flaggers will be adequately protected, however, through implementation of the Agency's decision which requires that flagging be by fully automated mechanical means or by humans working in totally enclosed vehicles; (2) reductions in applicator exposure will be achieved through the standardized protective clothing and other label requirements; (3) most existing registered EPN formulations are restricted use pesticides; (4) users in localized regions of the country could encounter substantial economic impacts if all uses of EPN were cancelled; and (5) possible pest resistance to alternative insecticides which would likely replace EPN if all uses were cancelled is a continuing concern to the agricultural community. The Agency hereby initiates the following regulatory actions:

A. Mosquito Larvicide Use

EPN-containing products which are registered as a mosquito larvicide are cancelled effective as of the end of the statutorily prescribed 30-day period.

B. Cotton

Registrations will be cancelled and applications for registration of EPN products for use on cotton will be denied unless registrants or applicants modify the terms and conditions of registration as described below:

For aerial applications, flagging must be by fully automated mechanical means or by humans working in totally enclosed vehicles.

Label requirements for protective clothing, goggles, and respirators must be standardized, the phrase "protective clothing required" to appear prominently in bold face type, as follows:

Protective Clothing Required: Wear clean protective clothing, goggles, and respirator approved by NIOSH or the American National Standards Institute when applying or handling, or when reentering fields within [at least 24] hours of treatment. The following protective clothing must be worn; lightweight, unlined, natural rubber gloves at least midforearm in length; a wide brimmed waterproof hat or waterproof hood; a protective suit or coveralls of a nonpermeable, non-cloth material covering the body from ankles to wrists; lightweight, unlined, natural rubber boots at least mid-calf in length; full-face respirators are recommended; half-face respirators and goggles are required. Aerial applicators in positive pressure cockpits and other applicators in comparable ground equipment with appropriate filters at all air intakes need not comply with these protective clothing requirements.

The following statements must appear in the "Use Directions" section of the label:

(1) Do not apply this product when weather conditions favor drift from treated area.

(2) [applies to WP and EC formulations only] Do not apply to blooming cotton if bees are visiting the treatment area.

The following statement must appear in the "Environmental Hazards" section of the label for WP and EC formulations:

This product is highly toxic to bees exposed to direct treatment or residues on blooming crops and weeds. Do not apply this product or allow it to drift to blooming crops or weeds if bees are visiting the treatment area.

C. Soybeans

Registrations will be cancelled and applications for registration of EPN products for use on soybeans will be denied unless registrants or applicants modify the terms and conditions of registration as described below:

For aerial applications, flagging must be by fully automated mechanical means or by humans working in totally enclosed vehicles.

Label requirements for protective clothing, goggles, and respirators must be standardized, the phrase "protective clothing required" to appear prominently in bold type on the label. [Label statement given in full in Unit B. above.]

The following statement must appear in the "Use Directions" section of the label:

Do not apply this product when weather conditions favor drift from treated area.

The following statement must appear in the "Environmental Hazards" section of the label for WP and EC formulations:

This product is highly toxic to bees exposed to direct treatment or residues on blooming crops and weeds. Do not apply this product or allow it to drift to blooming crops or weeds if bees are visiting the treatment area.

D. Field Corn

Registrations will be cancelled and applications for registration of EPN products for use on field corn will be denied unless registrants or applicants modify the terms and conditions of registration as described below:

For aerial applications, flagging must be by fully automated mechanical means or by humans working in totally enclosed vehicles.

Label requirements for protective clothing, goggles, and respirators must be standardized, the phrase "protective clothing required" to appear prominently in bold face type. [Label statement given in full in Unit B. above.]

The following statements must appear in the "Use Directions" section of the label:

(1) Do not apply this product when weather conditions favor drift from treated area.

(2) [applies only to WP and EC formulations] Do not apply to corn during the pollenshed period if bees are visiting the treatment area.

The following statement must appear in the "Environmental Hazards" section of the label for WP and EC formulations:

This product is highly toxic to bees exposed to direct treatment or residues on blooming crops and weeds. Do not apply this product or allow it to drift to blooming crops or weeds if bees are visiting the treatment area.

E. Sweet Corn

Registrations will be cancelled and applications for registration of EPN products for use on sweet corn will be denied unless registrants or applicants modify the terms and conditions of registration as described below:

For aerial applications, flagging must be by fully automated mechanical means or by humans working in totally enclosed vehicles.

Label requirements for protective clothing, goggles, and respirators must be standardized, the phrase "Protective clothing required" to appear prominently in bold face type on the label. [Label statement given in full in Unit B. above.]

The following statements must appear in the "Use Directions" section of the label:

(1) Do not apply this product when weather conditions favor drift from treated area.

(2) [applies only to WP and EC formulations]. Do not apply to corn during the pollenshed period if bees are visiting the treatment area.

The following statement must appear in the "Environmental Hazards" section of the label for WP and EC formulations:

This product is highly toxic to bees exposed to direct treatment or residues on blooming crops and weeds. Do not apply this product or allow it to drift to blooming crops or weeds if bees are visiting the treatment area.

F. Pecans

Registrations will be cancelled and applications for registration of EPN products for use on pecans will be denied unless registrations or applications modify the terms and conditions of registration as described below:

Label requirements for protective clothing, goggles, and respirators must be standardized, the phrase "protective clothing required" to appear prominently in bold face type on the label. [Label statement given in full in Unit B. above.]

The following statement must appear in the "Use Directions" section of the label:

Do not apply this product when weather conditions favor drift from treated area.

The following statement must appear in the "Environmental Hazards" section of the label for WP and EC formulations:

This product is highly toxic to bees exposed to direct treatment or residues on blooming crops and weeds. Do not apply this product or allow it to drift to blooming crops or weeds if bees are visiting the treatment area.

G. Other Food Uses

Registrations will be cancelled and applications for registration of EPN products for use on other food crops will be denied unless registrants or applicants modify the terms and conditions of registration as described below:

For aerial applications, flagging must be by fully automated mechanical means or by humans working in totally enclosed vehicles.

Label requirements for protective clothing, goggles, and respirators must be standarized, the phrase "protective clothing required" to appear prominently in bold face type on the label. [Label statement given in full in Unit B. above.]

The following statements must appear in the "Use Directions" section of the label:

Do not apply this product when weather conditions favor drift from treated area.

(2) [applies only to WP and EC formulations labeled for use on stone fruits, pome fruits, and citrus]. Do not apply when trees or a substantial number of weeds in the orchard/grove are in bloom.

The following statement must appear in the "Environmental Hazards" section of the label for WP and EC formulations:

This product is highly toxic to bees exposed to direct treatment or residues on blooming crops and weeds. Do not apply this product or allow it to drift to blooming crops or weeds if bees are visiting the treatment area.

H. Other Recommendations—All Food Uses

Pursuant to Section 408 of the Federal Food, Drugs, and Cosmetic Act, the Administrator may establish tolerances for residues of a pesticide on raw agricultural commodities. Compliance with the tolerances is monitored by the Food and Drug Administration and the Department of Agriculture. The Agency has determined that EPN tolerances require reassessment. Data necessary to reassess EPN tolerances is required.

I. Areas for Further Consideration

The Agency has identified areas in which data are required. The Agency will require these gaps to be filled. The areas in which data are needed are:

(1) *Teratogenic effects.* Teratogenic studies in rats and rabbits are needed.

(2) *Oncogenic effects.* Studies on the oncogenic potential of EPN in rats and mice are needed.

(3) *Delayed neurotoxic effects.* The Agency will require a study to explore the mechanism of "recovery" from a mild case of EPN-induced delayed neurotoxicity in an experimental animal species. The study should be designed to distinguish between regrowth and/or repair of damaged axons or compensation by learning to use the remaining functional system. Use of a combination of electrophysiological and histopathological methodology will be considered. The possibility of using a species other than the chicken will also be considered based on the recent Abou-Donia et al. (1983) demonstration of EPN-delayed neurotoxicity in the cat.

(4) *Reentry time reassessment.* Data necessary to reassess the 24-hour reentry time for EPN is required.

IV. Comments of Scientific Advisory Panel and Secretary of Agriculture

A. Comments of Former Members of the Scientific Advisory Panel

Pursuant to section 25(d) of FIFRA, notices of intent issued under section 6(b) are to be submitted to an advisory panel "for comment as to the impact [of the proposed action] on health and the environment." At the time the Agency compeleted its review of EPN, the statutory authorization for the Scientific Advisory Panel (SAP) had expired. However, in order to obtain peer review of its scientific evaluations and conclusions, the Agency submitted several scientific issues concerning the delayed neurotoxicity trigger to the former members of the SAP for review and comment. The Agency specifically requested the scientists to review the neurotoxicity studies and the human study which served as the basis for the Agency's preliminary risk assessment in the draft Decision Document and its evaluation of those studies. In addition, the Agency requested that the scientists review and evaluate a new neurotoxicity study submitted by the registrants. Of particular concern to the Agency were recommendations from the former SAP members for determining a no effect level for delayed neurotoxicity and an appropriate safety factor to be used for delayed neurotoxicity. The comments received from the former SAP members are excerpted and quoted below. These comments do not require direct response by the Agency, as they are consistent with the regulatory actions set forth in this Notice.

1. *No Effect Level for Delayed Neurotoxicity.* Of the eight documents reviewed, the most significant is the human data provided by Moeller and Rider. Although the end point measured was cholinesterase depression, this should be related in man to an ultimate risk of delayed neurotoxicity. [John E. Davies, M.D., Ph.D., Professor and Chairman, Department of Epidemiology and Public Health, University of Miami School of Medicine—hereinafter Dr. Davies]

The threshold for incipient toxicity for EPN observed in this human volunteer study was a daily dose of 9 mg. This dose produced a 20 percent inhibition of red cell and plasma cholinesterase two weeks after the daily administration of this dose. No neurologic deficits were noted even after a period of treatment and observation of 56 days. No cholinesterase depressions were noted when 6 mg of EPN were administered. This then is the no effect level which, for a 70 kilogram man would mean that no depression was observed when an approximate dose of .1 mg per kg was administered. This then seems to be the most logical no effect level to accept. It happens to be a level which closely approximates the two most acceptable toxicity studies, vis-a-vis the chronic chicken feeding study of the Huntington Laboratory Study (.5 mg per kg) and the Abou Donia Study (.1 mg per kg). Thus, these animal toxicology studies gave levels of the same order of magnitude as the human study. [Dr. Davies]

The major concern about the continuing use of EPN as an insecticide is its status as a delayed neurotoxin. EPN has been confirmed as producing organophosphorus ester induced delayed neurotoxicity (OPIDN) in the white leghorn hen in at least 14 independent studies as compiled in Table IV–1 in the Position Document. The earliest of these was the study of Durham et al (1956). The majority of the studies demonstrated ataxia in the hen following single oral doses of 50–60 mg per kg; paralysis ensued in many of the experiments and histopathology showed characteristic lesions in spinal cord and sciatic nerve. EPN is highly toxic to the hen with an estimated oral LD_{50} of about 5 mg per kg and acute cholinergic symptoms of poisoning greatly complicate survival of the hen for the 10- to 18-day period necessary to evaluate the induction of delayed neurotoxicity. A number of investigators have administered large doses of atropine to EPN-poisoned hens to decrease acute cholinergic effects. This, however, affects the pattern of absorption of EPN from the body and consequent elimination thus further complicating demonstration of OPIDN (Charzanowski and Jellinek 1981). [Dr. Robert Metcalf, Department of Entomology, University of Illinois—hereinafter Dr. Metcalf]

Administered in daily oral or dermal dosages to the hen, the delayed neurotoxic effects of EPN are discernable at very low rates of exposure. Abou Donia and Graham (1978) showed development of ataxia at 0.1 mg per kg per day over a 21-day period. Other studies tabulated in the Position Document produced ataxia at daily oral dosages of 2 to 6.7 mg per kg in feed. Francis et al (1982) showed ataxia in hens fed EPN daily in capsules at dosages ranging from 1.0 to 10 mg per kg with complete paralysis and death after 30 days at the 5.0 and 10 mg per kg dosages. [Dr. Metcalf] EPN also produces OPIDN when applied dermally to the hen at daily dosages ranging from 1.3 to 10 mg per kg (Francis et al 1982) over periods of 44–90 days. It can be concluded that the production of OPIDN in the hen has been studied more thoroughly than for any other pesticide and that there is absolutely no doubt of EPN's capability to produce OPIDN at very low dosages following acute or chronic and oral and dermal exposure. [Dr. Metcalf]

There is evidence that EPN can produce OPIDN in the human. Petty (1958) records a case of an agricultural worker heavily exposed to EPN who suffered severe depression of red cell and plasma acetylcholinesterase following exposure. Several months later he experienced lack of sensation in hands and feet and difficulty in moving

these extremities. Lack of coordination and general disability was present 2 years after exposure. Xintaras and Burg (1980) found evidence of neurological damage in workers producing EPN in a Chicago, Illinois factory. [Dr. Metcalf]

It is concluded that EPN is a highly hazardous insecticide and that exposure to it may cause OPIDN in humans together with other more subtle neurological impairment. The very low chronic dosages 0.1–5.0 mg/kg/day required to produce OPIDN in hens after oral or dermal exposure over relatively short periods of exposure (one to several months) indicate that EPN is a particularly hazardous delayed neurotoxin. It also has a relative high octanol/H_2O partition value, leading to substantial bioaccumulation. [Dr. Metcalf]

Since the study by Moeller and Rider was conducted in man, it is a very important study since it provides the only data in the target species. The conclusions of this study were that 6 mg of EPN could be ingested daily for at least 47 days without toxicity (depression of erythrocyte and/or plasma cholinesterase activity). When the daily dose of EPN was increased to 9 mg, there was a moderate depression of blood esterase activity but no symptoms. Since adult male prisoners were used for these studies, the EPN dose required to produce effects was about 0.1 mg/kg/day. On the basis of this study, a NOEL of 0.1 mg/kg/day of EPN is reasonable. It is important to note that there was no evidence of neuromuscular effects in any of these subjects. The Abou-Donia paper demonstrated progressive, irreversible neurotoxic effects with EPN doses of .5 mg/kg/day (and greater), reversible effects with 0.1 mg/kg/day, and no effects with 0.01 mg/kg/day. [John Doull, M.D., Ph.D., Professor of Pharmacology and Toxicology, the University of Kansas—hereinafter Dr. Doull]

The Huntington study detected ataxia in birds given the two highest dosage levels of EPN (2.5 and 5 mg/kg/day) but not in the controls or lower dosage levels (0.01, 0.1, 0.5 and 1.0 mg/kg/day). The positive control (TOCP) for these studies produced ataxia at dosage levels of 5 and 10 mg/kg/day but not at 1.0 mg/kg/day. The one bird that clearly showed ataxia at the 2.5 mg/kg/day level was near death when the symptoms were noted. Histologic examination of the nervous system of these birds demonstrated treatment-related lesions in the groups given EPN dosage levels of 1.0 mg/kg/day and higher. Although the lesions in the birds exposed to the 1 mg/kg/day of EPN were "mild and only marginally greater than the level of spontaneous change found in the control birds", the authors of this report concluded that the NOEL for delayed neurotoxicity from EPN in white leghorn chickens was 0.5 mg/kg/day. I found this study to be well carried out and much more useful than the two previous IBT studies in assessing the EPN effect. [Dr. Doull]

The EPN document cites two risk criteria which EPN meets or exceeds: . . . neurotoxic effects in chickens and acute aquatic toxicity. The issue . . . is not whether EPN can produce these effects, but whether a threshold or NOEL can be established and what that level should be. The Zendzian letter to Warnick (4/20/83) presents an excellent review of the Huntington study and his subsequent letter to Miller is a good comprehensive review of the problem of neurotoxicity test assays in chickens and other species. In his first letter on page 6 of the data evaluation report, it is stated that, "four birds on EPN 2.5 mg/kg/day showed ataxia". In the table on this page, the authors of the report indicate that only one bird showed ataxia although in the bird health section of their report there is mention of weakness in other birds. There is a clinical difference between weakness and ataxia and the two should not be confused. After rereading the pathologist's description of his grading scale for the histological examination of the slides, . . . there is no real difference between Grades I and II. Thus, my interpretation of data would be to agree with the conclusion of the authors of this report that a NOEL for delayed neurotoxicity of EPN has been established histologically at 0.5 mg/kg/day. Clinically, the NOEL would, of course, be much higher and the issue of whether one uses the clinical or the histologic findings to set the NOEL is discussed in the second letter of [Zendzian] has clearly identified the inability of non-chicken test assays to demonstrate the delayed neurotoxic type injury (Wallerian degeneration with dying-back phenomenon) and some of the problems associated with the chicken assay. The main problem with this assay, however, is that it may be a poor predictor for the target species. Gaines produced "neurotoxic effects" with over two dozen OPs in chickens, but we have not seen similar findings in man even in individuals who have been massively overexposed to the agents which he tested. The studies [performed] at the University of Chicago Toxicity Lab many years ago and the results of many subsequent investigations have clearly demonstrated the need for caution in using the results of neurotoxicity assays in chickens to make predictions of human exposure effects. [Dr. Doull]

. . . The best date that we have regarding the potential toxic effects of EPN are the human date generated by Moeller and Rider. Their findings are supported by the Epidemiologic studies described in the EPN position document, although I would agree with the document that the quality of these studies is inadequate for establishing a NOEL for man. If the agency uses the human data, then the criterion becomes depression of blood esterase, since there were no neurologic findings and the NOEL could be at at 0.1 mg/kg/day of EPN. If one accepts the argument that a cholinesterase depression of less than 50 percent is clinically nonsignificant in that cholinergic symptoms do not usually occur at this level, then the human-based NOEL would be 0.15 mg/kg/day of EPN. . . . The two major inputs would be the Huntington study, which supports a NOEL of 0.5 mg/kg/day for EPN, and the Abou-Donia study, which indicates that the EPN NOEL is closer to 0.1 mg/kg/day (one bird in each of the 0.1 and 0.5 mg/kg/day groups developed T_3 ataxia). It would appear, therefore, that the EPN NOEL should be set betwen 0.2 and 0.5 mg/kg/day on the basis of the leghorn assay. In tha Abou-Donia study, the birds exhibited esterase inhibition (45 percent at 0.1 mg/kg), and these results are consistent with the human data from the Moeller and Rider study. [Dr. Doull]

The results for various mammals are trivial but the results for chickens are extensive. A serious flaw in all studies except Abou-Donia is that the hens were caged in groups. This procedure sets the stage for development of social rank with 2 consequences: (1) the low-ranking birds suffer stress with attendant effects on the adrenal including medullary tissue. The ramifications are complex; (2) the standard deviations are larger when animals are caged in groups than when caged individually. Thus precision is lowered. Therefore, I have more confidence in the Abou-Donia results (the capsule vs. feed problem is not related to the above points). . I have carefully reviewed the new neurotoxicity study. . . . The birds were caged in groups with about 8 ft ^{2} bird, which is rather crowded and could set up adrenal processes. The irregularity of results (e.g. table 1 page 9, right hand column) may arise from variables associated with rank. The calculations of NOEL would have low precision. [Dr. David E. Davis, former Head,

Department of Zoology, North Carolina State University]

12. *Appropriate Safety Factor.* Concern for an additional safety factor for delayed neurotoxicity seems unnecessary for the general populations and the occupationally exposed, provided protective clothing, respirators and goggles are label requirements for the later group. The special proviso for glaggers seems reasonable since historically this occupational subcategory is notoriously unprotected. [Dr. Davies]

B. Comments of the United States Department of Agriculture

Throughout the RPAR review of EPN, the Agency periodically consulted with the U.S. Department of Agriculture (USDA) on matters relating to EPN uses. During the course of those consultations, the USDA expressed concerns aout the economic impact of an EPN cancellation on individual growers of certain crops in specific regions of the country, and the possibility of eventual pest resistance to the synthetic pyrothroids, the major altenative to EPN. The Agency carefully considered these concerns and included a discussion of them in the Benefits Analysis Chapter of the Decision Document.

Section 6(b) of FIFRA specifically requires that all 6(b) notices be sent, with an analysis of the impact of the proposed action on the agricultural economy, to the Secretary of Agriculture for comments, and that any comments received from the Secretary and the Administrator's response to those comments be published with the final notice of determination. As a result of earlier consultations, the Secretary made no additional comments during the statutorily prescribed comment period.

V. Procedural Matters

This Notice announces the Administrator's intent to cancel the registration of products containing EPN for the mosquito larvicide use, and to cancel registrations and deny applications for registrations for EPN products for the remaining uses unless the terms and conditions of registration are modified to comply with the requirements of this Notice. As provided in FIFRA section 6(b), the cancellations and denials proposed in this Notice shall become final and effective at the end of 30 days from receipt by the registrant, or publication, of a notice issued under paragraph (1), whichever occurs later, unless within that time either (i) the registrant makes the necessary corrections, if possible, or (ii) a request for a hearing is made by a person adversely affected by the notice.

Unless the necessary steps to make these changes are taken within 30 days, or unless a hearing is properly requested to contest the cancellation or denial of the registrations for EPN products, the cancellation or denial actions will become final at the end of 30 days. The 30-day time period in which to request a hearing is applicable to all the regulatory actions proposed in this Notice. This unit of the Notice explains how registrants may seek to make any necessary corrections to modify the terms and conditions of registration and how registrants and other adversely affected parties may request a hearing on the cancellation action set forth in this Notice.

A. Procedures for Amending the Term and Conditions of Registration

To make the changes required to avoid cancellation, registrants, within 30 days of receipt of this Notice, must submit amended label(s) and application(s) for amended registration(s) making the necessary corrections. Five copies of the amended labeling and an application for amended registration(s) must be submitted to: By mail:

Jay Ellenberger, Product Manager, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. Office location and telephone number: Rm. 202, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA (703–557–2386).

B. Procedure for Requesting a Hearing

Registrants adversely affected by the actions described above may request a hearing on such actions within 30 days of receipt of this Notice, or within 30 days of publication of this Notice in the **Federal Register**, Whichever occurs later. Any other person adversely affected by the actions described above may request a hearing within 30 days of publication of this Notice in the **Federal Register**.

Applicants for registration affected by the actions described above may request a hearing on such actions within 30 days of receipt of this notice, or within 30 days of publication of this Notice in the **Federal Register**, which ever occurs later. Other interested persons may, with the concurrence of the applicant, request a hearing during the time period available to the applicant.

All registrants, applicants, and other interested affected parties, who request a hearing must file the request in accordance with the procedures established by FIFRA and the Agency's Rules of Practice Governing Hearings (40 CFR 164). These procedures require among other things that (1) all requests must identify the specific registration(s) by registration number(s) and the specific use(s) for which a hearing is requested, (2) all requests must be accompanied by objections that are specific for each use of the identified pesticide product for which a hearing is requested, and (3) all requests must be received by the Hearing Clerk within the applicable 30-day period. Failure to comply with these requirements will result in denial of the request for a hearing.

Request for a hearing must be submitted to: Hearing Clerk (A–110), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

C. Consequence of Filing or Failing To File a Hearing Request

1. *Consequence of filing a timely and effective hearing request.* If a hearing on any action initiated by this Notice is requested in a timely and effective manner, the hearing will be governed by the Agency's rules of practice for hearings under FIFRA section 6 (40 CFR 164). The hearing will be limited to those uses and registrations (or applications) for which a hearing has been requested.

2. *Consequences of Failure to File in a Timely and Effective Manner.* If a hearing concerning the cancellation or denial of registration of a specific use of a specific pesticide product containing EPN has not been requested by the end of the applicable 30-day period, registration of that EPN product will be cancelled, or the application for registration denied, unless the registrant or applicant amends the terms and conditions of his registration as described in this document.

Dated: June 30, 1983.

Don R. Clay,

Acting Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 83-23662 Filed 8-30-83; 8:45 am]

BILLING CODE 6560-50-M

[OPP-31063; PH-FRL 2423-6]

Pesticides; Applications To Register Products Involving Changed Use Pattern; Kimberly Clark Corp. et al.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register or amend registration of pesticide products involving changed use pattern pursuant

to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATE: Comments by September 30, 1983.

ADDRESS: Written comments, identified by the document control number [OPP-31063] and the file or registration number, should be submitted by mail to: Arturo Castillo, Product Manager (PM) 32, Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, deliver comments to: Arturo Castillo, PM-32, CM#2 Rm. 244, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Arturo Castillo, (703-557-3965).

SUPPLEMENTARY INFORMATION: EPA received applications as follows to register, or amend registration of, pesticide products involving changed use pattern pursuant to the provisions of section 3(c)(4) of FIFRA. Notice of receipt of applications does not imply a decision by the Agency on the applications.

Applications Received

1. File Symbol: 9402-G. Applicant: Kimberly Clark Corp., PO Box 999, Neenah, WI 54956. Product name: Kleenex™ Virucidal Tissues. Impregnated facial tissue. Active ingredients: Citric acid 10%, malic acid 5%, and sodium lauryl sulfate 2%. Proposed classification/Use: General. For a new virucidal use as a chemically impregnated dry facial tissue intended to inactivate viruses deposited on the tissue. Type registration: Conditional.

2. File Symbol: 50096-R. Applicant: Wipex Laboratories Corp., c/o U.S. Corporation Co., 306 South St., Dover Kent, DE 19901. Product name: Wipex. Disinfectant. Active ingredients: Polyhexamethylene bisquanide hydrochloride, (P.H.M.B.) 3.6% and Alkyl dimethyl benzyl ammonium chloride, C_{12} — C_{18} 8.9%. Proposed classification/Use: General. To include in its presently registered use in swimming pools a new use as a disinfectant impregnated cloth.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

Written comments filed pursuant to this notice, will be available in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

It is suggested that persons interested in reviewing the application file, telephone the product manager's office to ensure that the file is available on the date of intended visit.

(Sec. 3(c)(4) of FIFRA, as amended))

Dated: August 5, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83-23754 Filed 8-30-83; 8:45 am]

BILLING CODE 6560-50-M

[OPP-31060; PH-FRL 2424-1]

Pesticides; Applications To Register Products Involving Changed Use Pattern; Mole and Gopher Get Manufacturing Co., et al.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register or amend registration of pesticide products involving changed use pattern pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATE: Comments by September 30, 1983.

ADDRESS: Written comments, identified by the document control number [OPP-31060] and the file or registration number, should be submitted to the manager (PM) cited at the address below: Product Manager (PM), Registration Division, Office of Pesticide Programs, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: The product manager at the telephone number cited.

SUPPLEMENTARY INFORMATION: EPA received applications as follows to register, or amend registration of, pesticide products involving changed use pattern pursuant to the provisions of section 3(c)(4) of FIFRA. Notice of receipt of applications does not imply a decision by the Agency on the applications.

Applications Received

1. File Symbol: 10403-E. Applicant: Mole and Gopher Get Manufacturing Co., PO Box 496, Petaluma, CA 94952. Product name: Mole and Gopher Get. Fumigant. Active ingredients: Trichloroethylene 51.1%, methylene chloride 46.4%, paradichlorobenzene 1.24%, and naphthalene 1.24%. Proposed classification/Use: General. To include in its presently registered use the use in underground burrows. Type registration: Conditional. (Product Manager (PM) 16—William Miller (703-557-2600)).

2. File Symbol: 12455-UU. Applicant: Bell Laboratories, Inc., Madison, WI 53704. Product name: Rodent Cake AG. Rodenticide. Active ingredient: Diphacinone 2-(diphenlyacetyl) -1, 3-indandione .005%. Proposed classification/Use: General. To include in its presently registered use in and around buildings the new use to control meadow and pine mice, voles, ground squirrels, and prairie dogs in orchards, noncrop areas, and rangeland. Type registration: Conditional. (PM 16—William Miller (703-557-2600)).

3. Filed Symbol: 3240-EL. Applicant: Motomco Ltd., Clearwater, FL 33518. Product name: Contrax-P-AG. Rodenticide. Active ingredient: 2-Pivalyl-1,3-indandione .025%. Proposed classification/Use: General. To include in its presently registered use in and around buildings the new use to control meadow mice and ground squirrels in orchards and noncrop areas. Type registration: Conditional. (PM 16—William Miller (703-557-2600)).

4. EPA Registration No.: 3125-318. Applicant: Mobay Chemical Corp., PO Box 4913, Kansas City, MO 64120. Product name: Bayleton 25% Wettable Powder. Fungicide. Active ingredient: 1-(4-Chlorophenoxy)-3,3-dimethyl-1-(1*H*-1,2,4-triazol-1-yl)-2-butanone 25%. Proposed classification/Use: General. To include in its presently registered use the new indoor use in greenhouses for control of certain diseases on flowers and foliage plants. Type registration: Conditional. (PM 21—Henry Jacoby (703-557-1900)).

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

Written comments filed pursuant to this notice, will be available in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing the application file, telephone the product manager's office to ensure that the file is available on the date of intended visit.

(Sec. 3(c)(4) of FIFRA, as amended)

Dated: August 16, 1983.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83-23756 Filed 8-30-83; 8:45 am]

BILLING CODE 6560-50-M

[OPP-180629; PH-FRL 2423-7]

Pesticides; Use of Integrated Pest Management (IPM) as Basis for Issuance of Emergency Exemptions; Solicitation of Comments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of solicitation of comments.

SUMMARY: EPA granted an emergency exemption allowing a pesticide to be used for a purpose for which it is not registered based, for the first time, on its need in terms of integrated pest management (IPM). The regulations implementing the governing statute, section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), do not address IPM in relation to emergency situations. The agency is soliciting comments on whether to use IMP in the future as a basis for issuing emergency exemptions.

DATE: Comments should be received by September 30, 1983.

ADDRESS: By mail, submit comments to: Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, bring comments to: Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments should bear the control number OPP-180629. All comments will be available for review in Rm. 236 at the address given above from 8:00 a.m. to 4:00 p.m. Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT:
By mail: Donald R. Stubbs, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.
Office location and telephone number: Rm. 716, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-1192).

SUPPLEMENTARY INFORMATION: On July 13, 1983, EPA granted a specific exemption to the Texas Department of Agriculture (Applicant) for the use of fenvalerate to control the sorghum midge on sorghum. The Applicant requested the use of fenvalerate because the registered alternatives are detrimental to beneficial insects both sorghum and cotton. Thus, the use of fenvalerate, which is not expected to affect these beneficial insects adversely, is necessary in terms of IPM, according to the Applicant.

The issuance of an emergency exemption on the sole basis of the principles of IPM is an issue which has not been dealt with prior to the Applicant's request. The regulations governing section 18 of FIFRA at 40 CFR Part 166 do not specifically address IPM and its relationship to the determination of an emergency situation. This notice solicits comments regarding the general philosophy of whether IPM should be used in the future as a basis for issuing emergency exemptions.

Dated: August 17, 1983.

Edwin L. Johnson,
Director, Office of Pesticide Programs.

[FR Doc. 83-23750 Filed 8-30-83; 8:45 am]
BILLING CODE 6560-50-M

[OPP-50587; PH-FRL 2425-5]

Texas A and M University, Receipt of Application for an Experimental Use Permit for Sodium Fluoroacetate (Compound 1080)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received an application for an experimental use permit from Texas A and M University. The experimental use permit, file symbol 35899-EUP-A, proposes allowing the use of 10.0 grams of sodium fluoroacetate (Compound 1080) in single lethal dose baits on range and pasturelands to determine the primary poisoning hazards for certain non-target wildlife species. A total of 10,000 acres in Texas would be involved.

DATE: Written comments must be received on or before September 30, 1983.

ADDRESS: Comments should bear the document control number OPP-50587 and should be submitted by mail to: Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, bring comments to: Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA.

The public record regarding this notice will be available for public inspection in Rm. 236, at the above address from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT:
By mail: William Miller, Product Manager (PM 16), Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.
Office location and telephone number: Rm. 211, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-2600).

SUPPLEMENTARY INFORMATION: Sodium fluoroacetate, commonly called Compound 1080, is a highly toxic chemical. It is currently registered for use in numerous products to control rodents. In addition, prior to 1972, Compound 1080 was widely used to control coyotes and other species that prey on livestock. In 1972, EPA canceled and suspended all registrations of products containing Compound 1080 that were used as predacides. As explained more fully below, EPA is currently conducting a special review of the registrations of all compound 1080 rodenticides to determine whether any of those uses should be subject to additional restrictions or canceled.

EPA has received several applications under section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (FIFRA) (7 U.S.C. 136c) to use products containing Compound 1080 to collect data necessary for registration of both a rodenticide and several predacide uses. Because of the regulatory history of Compound 1080, the Agency has determined that these applications may be of regional or national significance. Therefore, in accordance with 40 CFR 172.11, the Agency is soliciting public comments on these requests for an experimental use permit. Notices of receipt of the additional requests for experimental use permits may be found elsewhere in this issue of the **Federal Register.**

Texas A and M University seeks an experimental use permit for use of Compound 1080 in single lethal dose baits. The proposed experimental program would involve use of 10 grams of Compound 1080 on 10,000 acres in Texas and would be designed to evaluate the hazards of Compound 1080 single lethal dose baits to certain species of non-target wildlife.

The Agency currently is conducting a proceeding to reconsider whether the 1972 order canceling and suspending the use of Compound 1080 as predacide should be reversed or modified. In 1981, EPA received applications for registration and emergency use of Compound 1080 in single lethal dose baits, livestock protection collars, large meat baits, and smear posts to control livestock predators, principally coyotes. Under Subpart D of the Agency's Rules of Practice (40 CFR 164.130 through 164.133), the applications were considered petitions to reconsider the 1972 cancellation order. Finding that the applications contained substantial new evidence, the Administrator announced

in the **Federal Register** of December 7, 1981 (46 FR 59622) that the Agency would conduct a formal adjudicatory hearing to reconsider the 1972 cancellation order. The presentation of testimony in the hearing concluded on August 5, 1982, and the Administrative Law Judge's decision allowed for use of Compound 1080 in livestock protection collars and single lethal dose baits, subject to specific restrictions. He concluded, however, that the evidence did not support any change in the 1972 order to allow use of Compound 1080 in either large meat baits or smear posts. Several parties to the hearing appealed the decision to the Administrator. The matter is now awaiting a final Agency decision.

While neither the special review nor the reconsideration heaing prevents the Agency from issuing the requested permits, the Agency will take into account the information collected through these procedures in deciding whether to issue the permits.

(Sec. 5, 92 Stat. 819, as amended (7 U.S.C. 136c))

Dated: August 23, 1983.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 23884 Filed 8-30-83; 8:45 am]
BILLING CODE 6560-50-M

[OPP-50602; PH-FRL 2425-4]

University of California; Receipt of Application for an Experimental Use Permit for Sodium Fluoroacetate (Compound 1080)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received an application for an experimental use permit from the University of California. The experimental use permit, file symbol 46879-EUP-R, proposes allowing the use of 0.01 pound of sodium fluoroacetate (Compound 1080) in delivery bait units on livestock grazing areas to evaluate the control of coyotes. A total of 400 acres in California would be involved.

DATE: Written comments must be received on or before September 30, 1983.

ADDRESS: Comments should bear the document control number OPP-50604 and should be submitted by mail to: Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, bring comments to Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA.

The public record regarding this notice will be available for public inspection in Rm. 236, at the above address from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: William Miller, Product Manager (PM) 16, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 211, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-2600).

SUPPLEMENTARY INFORMATION: Sodium fluoroacetate, commonly called Compound 1080, is a highly toxic chemical. It is currently registered for use in numerous products to control rodents. In addition, prior to 1972, Compound 1080 was widely used to control coyotes and other species that prey on livestock. In 1972, EPA canceled and suspended all registrations of products containing Compound 1080 that were used as predacides. As explained more fully below, EPA is currently conducting a proceeding to reconsider the 1972 order canceling the predacidal uses of Compound 1080. The Agency is also conducting a special review of the registrations of all Compound 1080 rodenticides to determine whether any of those uses should be subject to additional restrictions or canceled.

EPA has received several applications under section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (FIFRA) (7 U.S.C. 136c) to use products containing Compound 1080 to collect data necessary for registration of both a rodenticide and several predacide uses. Because of the regulatory history of Compound 1080, the Agency has determined that these applications may be of regional or national significance. Therefore, in accordance with 40 CFR 172.11, the Agency is soliciting public comments on these requests for an experimental use permit. Notices of receipt of the additional requests for experimental use permits may be found elsewhere in this issue of the **Federal Register.**

A researcher at the University of California at Davis, Dr. Walter Howard, has requested an experimental use permit to test a new delivery mechanism for Compound 1080 called the bait delivery unit. The bait delivery unit is a plastic packet containing from 5 mg. to 10 mg. of Compound 1080 in a sugar solution that is wrapped in material soaked with a scent attractive to coyotes. Dr. Howard proposes to use 0.01 pound of Compound 1080 in bait delivery units on 400 acres of livestock grazing land in California.

The Agency currently is conducting a proceeding a reconsider whether the 1972 order canceling and suspending the use of Compound 1080 as a predacide should be reversed or modified. In 1981, EPA received applications for registration and emergency use of Compound 1080 in single lethal dose baits, livestock protection collars, large meat baits, and smear posts to control livestock predators, principally coyotes. Under Subpart D of the Agency's Rules of Practice (40 CFR 164.130 through 164.133), the applications were considered petitions to reconsider the 1972 cancellation order. Finding that the applications contained substantial new evidence, the Administrator announced in the **Federal Register** of December 7, 1981 (46 FR 59622) that the Agency would conduct a formal adjudicatory hearing to reconsider the 1972 cancellation order. The presentation of testimony in the hearing concluded on August 5, 1982, and the Administrative Law Judge issued his Initial Decision on October 22, 1982. The Administrative Law Judge's decision allowed for use of Compound 1080 in livestock protection collars and single lethal dose baits, subject to specific restrictions. He concluded, however, that the evidence did not support any change in the 1972 order to allow use of Compound 1080 in either large meat baits, or smear posts. The Administrative Law Judge ruled that the use of Compound 1080 in bait delivery units was outside the scope of the reconsideration proceeding. Several parties to the hearing appealed the decision to the Administrator. The matter is now awaiting a final Agency decision.

While neither the special review nor the reconsideration hearing prevents the Agency from issuing the requested permits, the Agency will take into account the information collected through these procedures in deciding whether to issue the permits.

(Sec. 5, 92 Stat. 819, as amended (7 U.S.C. 136c))

Dated: August 23, 1983.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83-23885 Filed 8-30-83; 8:45 am]
BILLING CODE 6560-50-M

[OPP-50603; PH-FRL 2425-6]

United States Department of Agriculture; Receipt of Application for an Experimental Use Permit for Sodium Fluoroacetate (Compound 1080)

AGENCY: Evironmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received an application for an experimental use permit from the U.S. Department of Agriculture's Forest Service. The experimental use permit, file symbol 49849–EUP–R, proposes allowing the use of .0009 pound of sodium fluroacetate (Compound 1080) in grain bait on rangeland to evaluate the control of black-tailed prairie dogs. The Department of Agriculture proposes to treat total of 75 acres in Buffalo Gap National Grassland in South Dakota. EPA, however, thinks that additional acreage, possibly up to 10 square miles, would need to be treated to asseas adequately the impact of the use of Compound 1080 to control prairie dogs.

DATE: Written comments must be received on or before September 15, 1983.

ADDRESS: Comments should bear the document control number OPP–50603 and should be submitted by mail to: Program Management and Support Division (TS–757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, bbring comments to: Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA.

The public record regarding this notice will be available for public inspection in Rm. 236, at the above address from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: William Miller, Product Manager (PM 16), Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 211, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703–557–2600).

SUPPLEMENTARY INFORMATION: Sodium fluoroacetate, commonly called Compound 1080, is a highly toxic chemical. It is currently registered for use in numerous products to control rodents. In addition, prior to 1972, Compound 1080 was widely used to control coyotes and other species that prey on livestock. In 1972, EPA canceled and suspended all registrations of products containing Compound 1080 that were used as predacides.

EPA is currently conducting a proceeding to reconsider the 1972 order canceling the predacide uses of Compound 1080. The Agency is also conducting a special review of the registrations of all Compound 1080 rodenticides to determine whether any of those uses should be subject to additional restrictions or canceled.

EPA has received several applications under section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (FIFRA) (7 U.S.C. 136c) to use products containing Compound 1080 to collect data necessary for registration of both a rodenticide and several predacide uses. Because of the regulatory history of Compound 1080, the Agency has determined that these applications may be of regional or national significance. Therefore, in accordance with 40 CFR 172.11, the Agency is soliciting public comments on these requests for an experimental use permit. Notice of receipt of the additional requests for experimental use permits may be found elsewhere in this issue of the **Federal Register.**

The U.S. Department of Agriculture has requested an expeimental use pemit to evaluate the efficacy of Compound 1080 in grain bait to control black-tailed prairie dogs. The Department of Agriculture has proposed to apply Compound 1080 treated grain on only 75 acres of the Buffalo Gap National Grassland in South Dakota. EPA, however, considers the proposed test area to be insufficient to permit an adequate asessment of the impact of the use of Compound 1080. Accordingly, the Agency has informed the Department of Agriculture that it would probably deny the request for the permit unless the size of the test area is increased.

In the **Federal Register** of December 1, 1976 (41 FR 52792), EPA announced the start of a special review, then called a rebuttable presumption against registration, for all rodenticides containing Compound 1080. The Agency initiated the special review because of the acute toxicity of Compound 1080 to mammals and birds, the lack of emergency treatment, and the risk of significant reductions in the populations of non-target wildlife and fatalities to endangered species. The Agency has not yet completed the special review of these products.

While neither the special review nor the reconsideration hearing prevents the Agency from issuing the requested permits, the Agency will take into account the information collected through these procedures in deciding whether to issue the permits.

(Sec. 5, 92 Stat. 819, as amended (7 U.S.C. 136c))

Dated: August 23, 1983.

Robert V. Beaun,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83-23693 Filed 8-30-83; 8:45 am]

BILLING CODE 6560-50-M

[OPP-50604; PH-FRL 2425-2]

United States Department of the Interior; Receipt of Application for an Experimental Use Permit for Sodium Fluoroacetate (Compound 1080)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received an application for an experimental use permit from the U.S. Department of the Interior's Fish and Wildlife Service. The experimental use permit, file symbol 6704–EUP–ET, proposes allowing the use of 0.05 pound of sodium fluoroacetate (Compound 1080) in single lethal dose baits on rangelands to evaluate the control of coyotes. A total of 256,000 acres in Idaho and Montana would be involved.

DATE: Written comments must be received on or before September 30, 1983.

ADDRESS: Comments should bear the document control number OPP–50604 and should be submitted by mail to: Program Management and Support Division (TS–757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460

In person, bring comments to: Rm. 236, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA.

The public record regarding this notice will be available for public inspection in Rm. 236, at the above address from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: William Miller, Product Manager (PM) 16, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 211, CM No. 2 1921 Jefferson Davis Highway, Arlington, VA, (703–557–2600).

SUPPLEMENTARY INFORMATION: Sodium fluoroacetate, commonly called Compound 1080, is a highly toxic chemical. It is currently registered for use in numerous products to control rodents. In addition, prior to 1972,

Compound 1080 was widely used to control coyotes and other species that prey on livestock. In 1972, EPA canceled and suspended all registrations of products containing Compound 1080 that were used as predacides. As explained more fully below, EPA is currently conducting a proceeding to reconsider the 1972 order canceling the predacidal uses of Compound 1080. The Agency is also conducting a special review of the registrations of all Compound 1080 rodenticides to determine whether any of those uses should be subject to additional restrictions or canceled

EPA has received several applications under section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (FIFRA) (7 U.S.C. 136c) to use products containing Compound 1080 to collect data necessary for registration of both a rodenticide and several predacide uses. Because of the regulatory history of Compound 1080, the Agency has determined that these applications may be of regional or national significance. Therefore, in accordance with 40 CFR 172.11, the Agency is soliciting public comments on these requests for an experimetal use permit. Notices of receipt of the additional requests for experimental use permits may be found elsewhere in this issue of the **Federal Register.**

The U.S. Department of the Interior, Fish and Wildlife Service, seeks a permit to use single lethal dose baits containing 5 mg. of Compound 1080 in an experimental program to evaluate the efficacy of this method of delivery in controlling predation. The Fish and Wildlife Service also intends to study the impact of Compound 1080 single lethal dose baits on non-target wildlife. The Fish and Wildlife Service seeks authorization to use 0.05 pound of Compound 1080 on up to 256,000 acres of rangeland in Idaho and Montana. An earlier similar experimental use permit issued to the Fish and Wildlife Service was revoked because the single lethal dose baits contained more Compound 1080 than allowed by the permit and were distributed at a site that had not been authorized under the permit.

The Agency currently is conducting a proceeding to consider whether the 1972 order canceling and suspending the use of Compound 1080 as a predacide should be reversed or modified. In 1981, EPA received applications for registration and emergency use of Compound 1080 in single lethal dose baits, livestock protection collars, large meat baits, and smear posts to control livestock predators, principally coyotes. Under Subpart D of the Agency's Rules of Practice (40 CFR 164.130 through 164.133), the applications were considered petitions to reconsider the 1972 cancellation order. Finding that the applications contained substantial new evidence, the Administrator announced in the **Federal Register** of December 7, 1981 (46 FR 59622) that the Agency would conduct a formal adjudicatory hearing to reconsider the 1972 cancellation order. The presentation of testimony in the hearing concluded on August 5, 1982, and the Administrative Law Judge issued his Initial Decision on October 22, 1982. The Administrative Law Judge's decision allowed for use of Compound 1080 in livestock protection collars and single lethal dose baits, subject to specific restrictions. He concluded, however, that the evidence did not support any change in the 1972 order to allow use of Compound 1080 in either large meat baits, or smear posts. Several parties to the hearing appealed the decision to the Administrator. The matter is now awaiting a final Agency decision.

While neither the special review nor the reconsideration hearing prevents the Agency from issuing the requested permits, the Agency will take into account the information collected through these procedures in deciding whether to issue the permits.

(Sec. 5, 92 Stat. 619, as amended (7 U.S.C. 136c))

Dated: August 23, 1983.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83-23867 Filed 8-30-83; 8:45 am]

BILLING CODE 6560-50-M

[OPP-50606; PH-FRL 2425-3]

United States Department of the Interior; Receipt of Application for an Experimental Use Permit for Sodium Fluoroacetate (Compound 1080)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received an application for the renewal for a year of an experimental use permit from the Fish and Wildlife Service, U.S. Department of the Interior. The request proposes that experimental use permit 6704-EUP-14 be renewed to allow the use of the remaining supply of the previously authorized 299 grams of sodium fluoroacetate (Compound 1080) in 800 toxic collars attached to sheep or goats to evaluate the control of coyotes in Idaho, Montana, Texas, and Utah. The Agency is soliciting comments on the request.

DATE: Written comments must be received on or before September 30, 1983.

ADDRESS: Comments should bear the document control number OPP-50606 and should be submitted by mail to: Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, bring comments to: Rm. 236, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA.

The public record regarding this notice will be available for public inspection in Rm. 236, at the above address, from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: William H. Miller, Product Manager (PM 16), Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 211, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-2600).

SUPPLEMENTARY INFORMATION: Sodium fluoroacetate, commonly called Compound 1080, is a highly toxic chemical. It is currently registered for use in numerous products to control rodents. In addition, prior to 1972, Compound 1080 was widely used to control coyotes and other species that prey on livestock. In 1972, EPA canceled and suspended all registrations of products containing Compound 1080 that were used as predacides. As explained more fully below, EPA is currently conducting a proceeding to reconsider the 1972 order canceling the predacidal uses of Compound 1080. The Agency is also conducting a special review of the registrations of all Compound 1080 rodenticides to determine whether any of those uses should be subject to additional restrictions or canceled.

EPA has received several applications under section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (FIFRA) to use products containing Compound 1080 to collect data necessary for registration for both a rodenticide and several predacide uses. Because of the regulatory history of Compound 1080, the Agency has determined that these applications may be of regional or national significance. Therefore, in accordance with 40 CFR 172.11, the Agency is soliciting public comments on these requests for experimental use permits. Notices of receipt of the additional requests for experimental use

permits may be found elsewhere in this issue of the Federal Register.

The Fish and Wildlife Service has asked EPA to renew its experimental use permit, No. 6704–EUP–14, for use of 1080 in livestock protection collars placed on sheep and goats. The Service has conducted research on the 1080 collar for several years and requests a renewal of its permit to evaluate further the efficacy and safety of this delivery mechanism. The requested renewal would authorize use of 299 grams of 1080 which had been approved under the Service's earlier permit but which had not been used. The 1080 collars would be placed on livestock at sites in Idaho, Montana, Texas, and Utah.

The Agency currently is conducting a proceeding to consider whether the 1972 order canceling and suspending use of Compound 1080 as a predacide should be reversed or modified. In 1981, EPA received applications for registration and emergency use of Compound 1080 in single lethal dose baits, livestock protection collars, large meat baits, and smear posts to control livestock predators, principally coyotes. Under Subpart D of the Agency's Rules of Practice (40 CFR 164.130 through 164.133), the applications were considered petitions to reconsider the 1972 cancellation order. Finding that the applications contained substantial new evidence, the Administrator announced that the Agency would conduct a formal adjudicatory hearing to reconsider the 1972 cancellation order, as announced in the Federal Register of December 7, 1981 (46 FR 59622). The presentation of testimony in the hearing concluded on August 5, 1982, and the Administrative Law Judge issued his Initial Decision on October 22, 1982. The Administrative Law Judge's decision allowed for use of Compound 1080 in livestock protection collars and single lethal dose baits, subject to specific restrictions. He concluded, however, that the evidence did not support any change in the 1972 order to allow use of Compound 1080 in either large meat baits or smear posts. Several parties to the hearing appealed the decision to the Administrator. The matter is now awaiting a final Agency decision.

While neither the special review nor the reconsideration hearing prevents the Agency from issuing the requested permits, the Agency will take into account the information collected through these procedures in deciding whether to issue the permits.

(Sec. 5, Pub. L. 95–396; 92 Stat. 828 (7 U.S.C. 136c))

Dated: August 23, 1983.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83–23866 Filed 8–30–83; 8:45 am]

BILLING CODE 6560–50–M

[A–2–FRL 2426–1]

Prevention of Significant Deterioration of Air Quality (PSD) Final Determinations; International Business Machines Corp. et al.

AGENCY: Environmental Protection Agency.

ACTION: Notice of Final Action.

SUMMARY: The purpose of this notice is to announce that between June 1, 1983, and July 31, 1983, the U.S Environmental Protection Agency, Region II, issued four final determinations relative to the Prevention of Significant Deterioration of Air Quality (PSD) regulations codified at 40 CFR 52.21.

DATES: The effective dates for the above determinations are delineated in the following chart. (See **SUPPLEMENTARY INFORMATION**)

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth Eng, Chief, Air and Environmental Applications Section, Permits Administration Branch, Office of Policy and Management, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, Room 432, New York, New York 10278, (212) 264–4711.

SUPPLEMENTARY INFORMATION: Pursuant to the PSD regulations, the EPA has made final determinations relative to the sources listed below:

Name of applicant	Type of source	Location	Type of final action	Date of final action
International Business Machines Corp.	Installation of five emergency generators	Owego, New York	Final PSD permit	June 9, 1983.
375 Hudson Street Cogeneration Project.	New cogeneration facility	New York, New York	PSD applicability	June 2, 1983.
Gershow Recycling Center (Corporation).	New automobile shredding plant	Medford, New York	PSD non-applicability	July 12, 1983.
Consolidated Gas Supply Corp.	Turbine replacement at gas transmission peaking station.	Tompkins County, New York	PSD applicability	July 8, 1983.

This notice contains only a list of the sources which have received final determinations. Copies of these determinations and related materials are available for public inspection at: Environmental Protection Agency, Region II Office, Permits Administration Branch, Office of Policy and Management, 26 Federal Plaza, Room 432, New York, New York 10278, (212) 264–4711.

If available, pursuant to the Consolidated Permit Regulations (section 124), judicial review of these determinations under section 307(b)(1) of the Clean Air Act (the Act) may be sought *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit October 31, 1983. Under Section 307(b)(2) of the Act, these determinations shall not be subject to later judicial review in civil or criminal proceedings for enforcement.

Dated: August 22, 1983.

Jacqueline E. Schafer,

Regional Administrator.

[FR Doc. 83–23870 Filed 8–30–83; 8:45 am]

BILLING CODE 6560–50–M

[OPP–00167; PH–FRL 2427–5]

State-FIFRA Issues Research and Evaluation Group (SFIREG) Working Committees; Open Meetings

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: There will be a two-day meeting of the Working Committee on Enforcement and Certification of the State FIFRA Issues Research and Evaluation Group (SFIREG) and a two-day meeting of the SFIREG Working Committee on Registration and Classification to discuss various aspects of pesticides. The meetings will be open to the public.

DATES: The Working Committee on Enforcement and Certification will meet on Tuesday and Wednesday, September 20 and 21, 1983. The Working Committee on Registration and Classification will meet on Thursday and Friday, September 22 and 23, 1983. The meetings of both committees will start at 8:30 a.m. each day. The final meeting will

conclude by 12 noon on Friday, September 23.

ADDRESS: Both meetings will be at: Atkinson Hotel, Illinois at Georgia, Indianapolis, IN 46225; (317–639–5611).

FOR FURTHER INFORMATION CONTACT: By mail: Philip H. Gray, Jr., Office of Pesticide Programs (TS–766C), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 1115B, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202; (703–557–7096).

SUPPLEMENTARY INFORMATION: The meeting of the Working Committee on Enforcement and Certification will be concerned with the following topics:

1. EPA policy on termiticides.
2. Policy on "Under the Direct Supervision of a Certified Applicator."
3. Outdoor household article inspections/Impact on applicator certification.
4. Policy on advertising.
5. Use of vegetable oil as a diluent in LV/ULV applications.
6. Consideration of policy of declassification of restricted use products to general use.
7. Consideration of policy on disposal.
8. Criteria for State monitoring program.
9. Proposals for fiscal year 1985 cooperative agreement guidance.
10. Final policy on protective clothing and closed systems.
11. Other topics as appropriate.

The meeting of the Working Committee on Registration and Classification will be concerned with the following topics:

1. Imprecise label language as exemplified by the Killmaster 2 case.
2. Proposed policy and criteria notice on advertising of pesticides.
3. Use of termiticides at less than label rate.
4. National Forest Products Association AAPCO resolution.
5. Classification of granular formulations of certain agricultural pesticides.
6. Classification of grain fumigants.
7. Use of vegetable oil as a diluent in LV/ULV applications.
8. Exposure to ambient air levels of termiticide residues.
9. EPA review process for section 24(c) registrations.
10. Pesticide Incident Monitoring System (PIMS).
11. Participation by State lead agencies in EPA's electronic mail system.
12. Kirkpatrick section 18/24 survey.
13. Other topics as appropriate.

Dated: August 25, 1983.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

[FR Doc. 83–24007 Filed 8–30–83; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 83–525 and 79–184]

Meeting of Interested Parties for Facilities Planning in the Caribbean Region and in the North Atlantic Region

August 24, 1983.

Members of the Common Carrier Bureau staff will convene a meeting of interested parties to the Caribbean and North Atlantic Planning processes in Room 856, FCC, 1919 M Street, NW., Washington, D.C. at 10:00 a.m. on Thursday September 1, 1983.

The meeting for the Caribbean Process will convene at 10:00 a.m. The agenda of the meeting will include: (1) The submission of alternative plans; and (2) any comments on material already submitted in the Process.

The meeting for the North Atlantic Process will convene at 2:00 p.m. The agenda of the meeting will include: (1) Discussion of the traffic forecasts to be submitted on August 26, 1983 and (2) remaining information and the timetable for its submission agreed to during the July 22, 1983 public meeting.

For additional information, contact Margot Bester or Robert Gosse /202/ 632–4047.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83–24081 Filed 8–30–83; 10:39 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

[Agreement Nos. 9951, 9952, 9953 and 9954]

Agreements Filed; Intent To Terminate Various Agreements

Title: Caribbean Trailer Express, Ltd.—Feederships, Inc. Transshipment Agreements.

Parties: Caribbean Trailer Express, Ltd. and Feederships, Inc.

Synopsis: A review of Commission records discloses that neither party to these agreements advertises a service or maintains a tariff in the agreement trades between U.S. Atlantic and Gulf ports and various Caribbean, Central America and South America ports; nor is the Commission able to identify an address at which official inquiries and correspondence can be delivered to the parties. It, therefore, appears that the subject agreements are no longer active and should be terminated. Accordingly, notice is hereby given that, in the absence of any showing of good cause to the contrary, the Commission intends to terminate the approval of Agreements Nos. 9951, 9952, 9953 and 9954, said terminations to be effective twenty days subsequent to the date of publication of this notice in the **Federal Register.**

By Order of the Federal Maritime Commission.

Dated: August 26, 1983.

Francis C. Hurney,

Secretary.

[FR Doc. 83–23847 Filed 8–30–83; 8:45 am]

BILLING CODE 6730–01–M

[Docket No. 83–34]

Filing of Complaint and Assignment; Contract Marine Carriers, Inc. v. Richmond Waterfront Terminals, Inc.

Notice is given that a complaint filed by Contract Marine Carriers, Inc. against Richmond Waterfront Terminals, Inc. was served August 18, 1983. Complainant alleges that respondent is assessing a "wharfage surcharge" against its cargo in violation of section 17 of the Shipping Act, 1916.

This proceeding has been assigned to Administrative Law Judge Norman D. Kline. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

Francis C. Hurney,

Secretary.

[FR Doc. 83–23843 Filed 8–30–83; 8:45 am]

BILLING CODE 6730–01–M

[Docket No. 83–36]

Investigation and Hearing; Jorge Reynoso Import and Export Co.; Possible Violation of Shipping Act, 1916

A preliminary investigation conducted by the Commission's Bureau of Investigation indicates that Jorge Reynoso Import and Export Company

may have violated section 44(a) of the Shipping Act, 1916 (46 U.S.C. 841(b)) by carrying on the business of forwarding in connection with at least 49 ocean shipments between February 22, 1981 and December 28, 1982. Section 44 (a) prohibits any person from carrying on the business of forwarding as defined in section 1 of the Shipping Act, 1916, 46 U.S.C. 801, unless that person has been issued a license by the Federal Maritime Commission. The Commission has not issued Reynoso a license to carry on the business of forwarding. Accordingly, the Commission is instituting a formal proceeding to determine whether Reynoso has violated the Shipping Act, 1916, and if so, whether a civil penalty should be assessed against Reynoso pursuant to section 32 of the Act, 46 U.S.C. 831.

Therefore it is ordered, that pursuant to sections 22, 32 and 44 of the Shipping Act, 1916 (46 U.S.C. 821, 831 and 841b), a proceeding is hereby instituted to determine:

1. Whether Jorge Reynoso Import and Export Co. violated section 44(a) of the Shipping Act, 1916 (46 U.S.C. 801b), by carrying on the business of forwarding without a license issued by the Commission; and

2. Whether a civil penalty should be assessed against Jorge Reynoso Import and Export Co. pursuant to section 32 of the Shipping Act, 1916 (46 U.S.C. 831), for violation of section 44(a) of the Shipping Act, 1916, and, if so, the amount of penalty which should be imposed; and

3. Whether the Commission should order Jorge Reynoso Import and Export Co. to cease and desist from carrying on the business of forwarding without a license obtained pursuant to section 44 of the Shipping Act, 1916.

It is further ordered, that Jorge Reynoso Import and Export Co. be named Respondent in this proceeding.

It is further ordered, that a public hearing be held in this proceeding and that the matter be assigned for hearing and decision by an Administrative Law Judge of the Commission's Office of Administrative Law Judges at a date and place to be hereafter determined by the Presiding Administrative Law Judge, but in no event later than the time limitation set forth in Rule 61 of the Commission's Rules of Practice and Procedure (46 CFR 502.61). The hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record;

It is further ordered, that, in accordance with Rule 42 of the Commission's Rules of Practice and Procedure (46 CFR 502.42), the Bureau of Hearing Counsel shall be a party to this proceeding;

It is further ordered, that this Order be published in the **Federal Register**, and a copy be served upon all parties of record.

It is further ordered, that, any person other than parties of record having an interest and desiring to participate in this proceeding shall file a petition for leave to intervene in accordance with Rule 72 of the Commission's Rules of Practice and Procedure (46 CFR 502.72);

It is further ordered, that, all future notices, orders, and/or decisions issued by or on behalf of the Commission in this proceeding, including notice of the time and place of hearing or prehearing conference, shall be mailed directly to all parties of record;

It is further ordered, that, all documents submitted by any parties of record in this proceeding shall be filed in accordance with Rule 118 of the Commission's Rules of Practice and Procedure (46 CFR 502.118)), as well as being mailed directly to all parties of record.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 83-23844 Filed 8-30-83; 8:45 am]

BILLING CODE 6730-01-M

Agreement Filed

The Federal Maritime Commission hereby gives notice that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and may request a copy of the agreement and the supporting statement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit protests or comments on the agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments and protests are found in § 522.7 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreements Nos.: T-2756-3 and T-2756-4.

Title: Milwaukee/Jacobus Lease Amendments.

Parties: City of Milwaukee (City)/The Jacobus Company (Jacobus).

Synopsis: Agreements Nos. T-2756-3 and T-2756-4 modify the basic agreement between the parties which provides for the lease by City to Jacobus of certain premises located on the South Harbor Tract in the Port of Milwaukee for use in the business of supplying heating oil fuel to industry customers and in the export of inedible oils and greases. The purpose of the modifications is to provide for the extension of the agreement to December 31, 1987, with increases in rental and through-put charges, as well as an additional five-year renewal option.

Filing Agent: Beverly J. Strike, Secretary, Port of Milwaukee, 500 N. Harbor Drive, Milwaukee, Wisconsin 53202.

By Order of the Federal Maritime Commission.

Dated: August 26, 1983.

Francis C. Hurney,

Secretary.

[FR Doc. 83-23828 Filed 8-30-83; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[FDA-225-79-2401]

Memorandum of Understanding With the Food Safety and Inspection Service, Department of Agriculture

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has executed a memorandum of understanding with the Food Safety and Inspection Service, United States Department of Agriculture. The purpose of the understanding is to establish procedures to be followed by the Food Safety and Inspection Service (FSIS) and the FDA to minimize duplication of inspectional effort.

EFFECTIVE DATE: This agreement became effective July 25, 1983.

FOR FURTHER INFORMATION CONTACT: Walter J. Kustka, Intergovernmental and Industry Affairs Staff (HFC–50), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1530.

SUPPLEMENTARY INFORMATION: In accordance with § 20.108(c) (21 CFR 20.108(c)) stating that all agreements and memoranda of understanding between FDA and others shall be published in the **Federal Register**, the agency is publishing the following memorandum of understanding:

Memorandum of Understanding Between The Food Safety And Inspection Service, United States Department of Agriculture And The Food and Drug Administration, Department of Health and Human Services

I. Purpose

This agreement describes procedures to be followed by the Food Safety and Inspection Service (FSIS) and the Food and Drug Administration (FDA) to minimize duplication of inspectional effort. This will be done by exchanging information for work planning and referring violative conditions concerning food manufacturers whose facilities are under the jurisdiction of both FDA and FSIS.

II. Statutes Relating to the Agreement

A. FDA is charged with the enforcement of the Federal Food, Drug, and Cosmetic Act. FDA conducts unannounced inspections and examinations of food products other than meat and poultry for the purpose of determining their status under the statute.

B. FSIS is responsible for enforcing the Federal Meat Inspection Act and the Poultry Products Inspection Act. In carrying out its responsibility, FSIS has inspectors stationed on-site in certain meat and poultry processing plants while one inspector on patrol may be responsible for several smaller plants in other situations.

Nothing in this agreement shall lessen the responsibilities of FSIS under the Federal Meat Inspection Act or the Poultry Products Inspection Act, nor of FDA under the Federal Food, Drug, and Cosmetic Act.

III. Background

A limited General Accounting Office survey conducted during 1975 disclosed inspectional overlap by FSIS and FDA at certain processors of meat products. The two agencies agreed to study the overlap problem to assure that their responsibilities were being carried out efficiently. In October, 1978, officials of the agencies determined that the amount of avoidable overlap was not great enough to justify introducing a management system to prevent it. They agreed that by exchanging information on inspections, the agencies may be able to reduce overlap through better planning of surveillance activities. Both agencies will continue to perform inspections under their own programs and priorities.

The agencies formalized their agreement in a Memorandum of Understanding which became effective August 8, 1979. In June, 1981, this agreement was revised in order to take into consideration the provisions of the Infant Formula Act. This document revises and supersedes the Memorandum of Understanding which became effective June 25, 1981.

IV. Substance of Agreement

A. The Food Safety and Inspection Service will:

1. Upon completion of any inspection during which products under FDA's jurisdiction are being handled under insanitary conditions or are otherwise believed to be adulterated, inform the appropriate FDA District Office by telephone of the conditions founds (see Attachment A).

2. To the extent possible, consider information provided by FDA to minimize duplication of effort.

3. Provide FDA with information concerning the quality control programs of manufacturers of meat-based infant formulas.

4. Provide FDA, prior to approval, with a copy of the proposed labeling or proposed changes in labeling for meat-based infant formulas and information concerning new formulas as well as information regarding proposed changes in the formulation or processing of existing formulas. This information should be submitted to the Director, Division of Regulatory Guidance, Bureau of Foods.

B. The Food and Drug Administration will:

1. Instruct all its investigators to: (a) Attempt to contact any on-site FSIS inspectors on their arrival at a plant; (b) invite the FSIS inspectors' participation in the FDA inspection; and (c) report any adverse findings involving meat and poultry products to on-site FSIS inspectors prior to leaving the premises.

2. Provide FSIS with a copy of a report of findings of each inspection classed "action indicated" when the plant is also inspected by FSIS. Such reports should be forwarded to the FSIS office in whose area the plant is located (see Attachment B).

3. Upon completion of any inspection during which products under FSIS's jurisdiction are being handled under insanitary conditions or are otherwise believed to be adulterated, the appropriate FSIS office should be informed by telephone. Such telephone contact may not be necessary if the FDA investigator has reported his findings to an FSIS inspector at the plant location.

4. After receipt of that information specified in paragraph A.4. above, review and provide comments on proposed labels for meat-based infant formulas, on proposed new formulations or processes, and on proposed changes in the formulation or processing as these may affect the nutrients required by section 412(g) of the Federal Food, Drug, and Cosmetic Act.

5. To the extent possible, consider information provided by FSIS to minimize duplication of effort.

V. Name and Address of Participating Agencies

A. Food Safety and Inspection Service, 12th St. and Independence Ave. SW., Washington, D.C.

B. Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

VI. Liaison Officers

A. For Food Safety and Inspection Service: Assistant to Deputy Administrator, Poultry Inspection Operations, (currently Dr. James K. Payne), Food Safety and Inspection Service, 344 E. Administration Bldg., 14th and Independence Ave. SW., Washington, DC 20250.

As the Project Officer, Dr. Payne will be responsible for implementing, monitoring, and coordinating this MOU. Any inquiries should be directed to Dr. Payne on 202–447–5190.

B. For Food and Drug Administration:

1. For information provided in accordance with section IV.A. 3., above: Director, Investigations and Engineering Branch (HFO–520), (currently Clarence A. Loucks), Office of Regulatory Affairs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3276.

2. For information provided in accordance with section IV.A. 4., above: Director, Division of Regulatory Guidance (HFF–310), (currently John Taylor),.Bureau of Foods, Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–245–1186.

VII. Period of Agreement

This agreement, when accepted by both parties, will be effective indefinitely. It may be modified by mutual consent or terminated by either

party upon a 30-day written notice to the other.

Dated: July 14, 1983.

Approved and accepted for the Food Safety and Inspection Service.

Joseph A. Powers,

Deputy Administrator, Administrative Management.

Dated: July 25, 1983.

Approved and accepted for the Food and Drug Administration.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs and Acting EDRO (HFC–1).

Effective date. This Memorandum of Understanding became effective July 25, 1983.

Dated: August 25, 1983.

William R. Clark,

Acting Associate Commissioner for Regulatory Affairs.

Attachment A—List of Food and Drug Administration District Office Directors of Investigations as of March 1983

Maine, Massachusetts, Vermont, New Hampshire, Connecticut, Rhode Island

Boston District Office: Director of Investigations (Currently Donald J. Johnson), Food and Drug Administration, 585 Commercial St., Boston, MA 02109, Telephone: 617–223–2266 (FTS: 223–2266).

New York City Area (including Westchester, Rockland, Nassua, Suffork, Richmond, Bronx, Kings, New York, and Queens Counties)

Brooklyn District Office: Director of Investigations (Currently Jerome G. Woyshner), Food and Drug Administration, 850 Third Ave., Brooklyn, NY 11232, Telephone: 212–965–5709 (FTS: 633–5709).

New York State (excluding NYC Area)

Buffalo District Office: Director of Investigations (Currently Burton I. Love), Food and Drug Administration, 599 Delaware Ave., Buffalo, NY 14202, Telephone: 716–846–4467 (FTS: 437–4467).

New Jersey

Newark District Office: Director of Investigations (Currently Edward H. Wilkens), Food and Drug Administration, 20 Evergreen Place, East Orange, NJ 07018, Telephone: 201–645–6230 (FTS: 341–6230).

Puerto Rico, U.S. Virgin Islands

San Juan District Office: Director of Investigations (Currently Harry P. Lynch), Food and Drug Administration, Fernandez Juncos Ave., Stop 8½, Puerto de Tierra (P.O. Box S–4427), San Juan, Puerto Rico 00905, Telephone: FTS: 809–753–4495.

Pennsylvania, Delaware

Philadelphia District Office: Director of Investigations (Currently Paula J. Oliver), Food and Drug Administration, U.S. Customhouse, Rm. 900, 2d & Chestnut Sts., Philadelphia, PA 19106, Telephone: 215–597–4393 (FTS: 597–4393).

Virginia, West Virginia, Maryland, District of Columbia

Baltimore District Office: Director of Investigations (Currently Janice F. Oliver), Food and Drug Administration, 900 Madison Ave., Baltimore, MD 21201, Telephone: 301–962–4099 (FTS: 922–4099).

Alabama, Georgia, South Carolina, North Carolina

Atlanta District Office: Director of Investigations (Currently Roger E. Kline), Food and Drug Administration, 880 W. Peachtree St. NW., Atlanta, GA 30309, Telephone: 404–881–3151 (FTS: 257–3151).

Florida

Orlando District Office: Director of Investigations (Currently Carl C. Reynolds), Food and Drug Administration, 7200 Lake Ellenor Drive, (P.O. Box 118), Orlando, FL 32802, Telephone: 305–855–0900 (FTS: 820–6281).

Tennessee, Mississippi, Kentucky

Nashville District Office: Director of Investigations (Currently Patrick J. Pouyar), Food and Drug Administration, 297 Plus Park Blvd., Nashville, TN 37217, Telephone: 615–251–5851 (FTS: 852–5851).

Minnesota, Wisconsin

Minneapolis District Office: Director of Investigations (Currently John H. Scharmann), Food and Drug Administration, 240 Hennepin Ave., Minneapolis, MN 55401, Telephone: 612–725–2121 (FTS: 725–2121).

Illinois

Chicago District Office: Director of Investigations (Currently George A. Masters), Food and Drug Administration, 433 W. Van Buren St., Rm. 1222 Post Office Bldg., Chicago, IL 60607, Telephone: 312–353–7769 (FTS: 353–7769).

Michigan, Indiana

Detroit District Office: Director of Investigations (Currently Eugene S. Spivak), Food and Drug Administration, 1560 E. Jefferson Ave., Detroit, MI 48207, Telephone: 313–226–2259 (FTS: 226–2259).

Ohio

Cincinnati District Office: Director of Investigations (Currently James R. Dupre), Food and Drug Administration, 1141 Central Parkway, Cincinnati, OH 45202, Telephone: 513–684–3505 (FTS: 684–3505).

Arkansas, Louisiana

New Orleans District Office: Director of Investigations (Currently ——— ———),Food and Drug Administration, 4298 Elysian Fields Ave., New Orleans, LA 70122, Telephone: 504–589–6344 (FTS: 682–6344).

Oklahoma, New Mexico, Northern Texas (including cities of Temple, Abilene, San Angelo, Odessa, El Paso)

Dallas District Office: Director of Investigations (Currently Theodore L. Rotto), Food and Drug Administration, 3032 Bryan St., Dallas, TX 75204, Telephone: 214–767–0312 (FTS: 729–0312).

Southern Texas (including cities of Huntsville, Austin, San Antonio, Laredo)

Houston Station Office: Station Director (Currently A. J. Whitehead), Food and Drug Administration, 1440 North Loop—Suite 250, Houston, TX 77009, Telephone: 713–229–3530 (FTS: 526–7530).

Note:—Houston is a Station, not a District.

Kansas, Nebraska, Western Iowa (including cities of Mason City, Marshalltown & Des Moines), Western Missouri (including cities of Columbia & Jefferson City)

Kansas City District Office: Director of Investigations (Currently Mary H. Woleske), Food and Drug Administration, 1009 Cherry St., Kansas City, Mo 64106, Telephone: 816–374–5623 (FTS: 758–5623).

Eastern Iowa, Eastern Missouri

St. Louis Station: Station Director (Currently R. M. Johnson), Food and Drug Administration, 808 North Collins St., St. Louis, MO 63102, Telephone: 314–425–4137 (FTS: 279–4137).

Note: St. Louis is a Station, not a District.

Colorado, Utah, Wyoming, Montana, North Dakota, South Dakota

Denver District Office: Director of Investigations (Currently Douglas C. Payne), Food and Drug Administration, 721—19th St., Rm. 500, U.S. Customhouse, Denver, CO 80202, Telephone: 303–837–4915 (FTS: 327–4915).

Arizona, Southern California (including counties of San Bernardino, Los Angeles, Ventura, Santa Barbara, San Luis Obispo

Los Angeles District Office: Director of Investigations (Currently Roger L. Lowell), Food and Drug Administration, 1521 W. Pico Blvd., Los Angeles, CA 90015, Telephone: 213–688–3781 (FTS: 798–3781).

Hawaii, Nevada, Northern California (including counties of Inyo, Kern, Kings, & Monterey)

San Francisco District Office: Director of Investigations (Currently Wayne A. Mayanec), Food and Drug Administration, 50 U.N. Plaza, Rm. 526 Federal Office Bldg., San Francisco, CA 94102, Telephone: 415–556–8576 (FTS: 556–8576).

Washington, Oregon, Idaho, Alaska

Seattle District Office: Director of Investigations (Currently James A. Davis), Food and Drug Administration, Rm. 5003 Federal Office Bldg., 909 1st Ave., Seattle, WA 98174, Telephone: 206–442–5319 (FTS: 399–5319).

Attachment B—U.S. Department of Agriculture, Food Safety and Inspection Service, Meat and Poultry Inspection Operations

Northeastern Region, 1421 Cherry Street, Seventh Floor, Philadelphia, Pennsylvania 19102. Telephone: (215) 597–4217, FTS: 597–4217.

Area Offices

Laconia Area Office, O'Shea Industrial Park, 56 Primrose Drive, South, Laconia, NH

93246, Telephone: (603) 528–1674, FTS: 834–3765

Boston Sub Area Office (Laconia), Room 2, Customhouse Building, 165 State Street, Boston, MA 02109, Telephone: (617) 223–6557, FTS: 223–6557

Albany Area Office, 80 Wolf Road, Suite 503, Albany, NY 12205, Telephone: (518) 472–6304, FTS: 562–6304

New York City Area Office, 26 Federal Plaza, Room 1737, New York, NY 20278, Telephone: (212) 264–1390, FTS: 264–1390

Ft. Washington Area Office, 275 Commerce Drive, Suite 104, Ft. Washington, PA 19034, Telephone: (215) 951–5400, FTS: 488–5400

Harrisburg Area Office, (Mailing: P.O. Box 575), Federal Building, Room 270, 228 Walnut Street, Harrisburg, PA 17108, Telephone: (717) 782–3413, FTS: 590–3413.

San Juan Sub Area Office, (Mailing: GPO Box AG, San Juan, PR 00936), Federal Office Building, Room 288, Chardon Avenue, Hato Rey, PR 00918, Telephone: (809) 753–4483, FTS: 753–4650

Southeastern Region, 1718 Peachtree Street, NW, Room 216, Atlanta, Georgia 30309. Telephone: (404) 881–3911, FTS: 257–3911.

Area Offices

Tallahassee Area Office, 2027 Thomasville Road, Room 200, Tallahassee, FL 32312, Telephone: (904) 681–7471, FTS: 965–7471

Louisville Area Office, Federal Building, Room 351H, 600 Federal Place, Louisville, KY 40202, Telephone: (502) 582–5291, FTS: 352–5291

Jackson Area Office, (Mailing: P.O. Box 11305), 300 Woodrow Wilson Aenue, Suite 3145, Jackson, MS 39213, Telephone: (601) 960–4312 FTS: 490–4312

Athens Area Office, 355 East Hancock, Room 334, Athens, GA 30601, Telephone: (404) 546–2126, FTS: 250–2125

Hyattsville Area Office, Presidential Building, Room 633, 6525 Belcrest Road, Hyattsville, MD 20782, Telephone: (301) 436–7330, FTS: 436–7330

Raleigh Area Office, (Mailing: P.O. Box 25231), Federal Office Building, Room 442, 310 New Bern Avenue, Raleigh, NC 27611, Telephone: (919) 755–4424, FTS: 672–4424

North Central Region, 607 East Second Street, Des Moines, Iowa 50316. Telephone: (515) 284–4042, FTS: 862–4042.

Area Offices

Springfield Area Office, Lincoln Tower Plaza, 6th Floor, 524 South 2nd Street, Springfield, IL 62701, Telephone: (217) 492–4500, FTS: 955–4500

Pickerington Area Office, 155 East Columbus Street, Pickerington, OH 43147, Telephone: (614) 469–5104, FTS: 943–5104

Madison Area Office, Hilldale Centre Building, Room 203, 310 Price Place, Madison, WI 53705, Telephone: (608) 264–5296, FTS: 364–5296

Chicago Area Office, 55 East Jackson Boulevard, Room 1300, Chicago, IL 60604, Telephone: (312) 353–0177, FTS: 353–0177

Ames Area Office, 619 East Lincoln Way, P.O. Box 604, Ames, IA 50010, Telephone: (515) 232–0250, Ext. 207, FTS: 862–8207; 8200 Southwestern Region, 1100 Commerce Street, Room 5F41, Dallas, Texas 75242. Telephone: (214) 767–9110, FTS: 729–0743

Area Offices

Springdale area Office, San Jose Manor Building, 2nd Floor, 216–½ East Emma Avenue, Springdale, AR 72764, Telephone: (501) 751–8412, FTS: 740–0603

Baton Rouge Area Office, 6130 Renoir Avenue, Baton Rouge, LA 70806, Telephone: (504) 389–0397, FTS: 687–0397

Austin Area Office, 611 East 6th Street, Room 401, Austin, TX 78701, Telephone: (512) 482–5151, FTS: 770–5151

Topeka Area office, Federal Building, Room 271, 444 SE Quincy, Topeka, KS 66683, Telephone: (913) 295–2765, FTS: 752–2765

Jefferson City Area Office, 101 Adams Street, Suite 102 Jefferson City, MO 65101 Telephone: (314) 635–0258, FTS: 276–3521

Western Region, 620 Central Avenue, Building 2C, Alameda, California 94501. Telephone: (415) 273–7402, FTS: 536–7402.

Area offices

Sacramento Area Office, 83 Scripps Drive, 2nd Floor, Suite 202, Sacramento, CA 95825, Telephone: (916) 484–4554, FTS: 468–4554

Long Beach Area Office, 400 Oceangate Plaza Suite 220, Long Beach, CA 90802, Telephone: (213) 548–2415, FTS: 796–2414

Salem Area Office, 530 Center Street, NE, Room 405, Salem, OR 97301, Telephone: (503) 399–5831, FTS: 422–5831

Boulder Area Office, 2995 Baseline Road, Suite 105, Boulder, CO 80303, Telephone: (303) 497–5411, FTS: 320–5411

Billings Area Office, 2602 1st Avenue North Billings, Mt 59105, Telephone: (406) 657–6820, FTS: 585–6820

(FR Doc. 83–23660 Filed 8–30–83; 8:45 am)

BILLING CODE 4160–01–M

[FDA 225–83–6000]

Exchange of Information and Development of Collaborative Projects; Memorandum of Understanding With the National Center for Health Statistics

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has executed a memorandum of understanding (MOU) with the National Center for Health Statistics. The purpose of the MOU is to establish a mechanism for the regular exchange of information in areas of common interest and shared responsibility, and to provide a procedure for fostering the development of collaborative projects.

EFFECTIVE DATE: August 9, 1983.

FOR FURTHER INFORMATION CONTACT: Walter J. Kustka, Intergovernmental and Industry Affairs Staff (HFC–50), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1583.

SUPPLEMENTARY INFORMATION: In accordance with § 20.108(c) (21 CFR 20.108(c)) stating that all agreements and memoranda of understanding between FDA and others shall be published in the **Federal Register**, the agency is publishing the following memorandum of understanding:

Memorandum of Understanding Between the National Center for Health Statistics and the Food and Drug Administration

I. Purpose

This agreement establishes a mechanism for the regular exchange of information in areas of common interest and shared responsibility, and provides a procedure for fostering the development of collaborative projects.

II. Background

The Food and Drug Administration (FDA) provides leadership among Federal agencies in protecting the public health of the Nation by insuring that foods are safe, pure, and wholesome; drugs, medical devices, and biological products are safe and effective; cosmetics are harmless; and that exposure to potentially injurious radiation is minimized.

To accomplish these functions, FDA:

1. Establishes regulations governing the manufacture and distribution of products;

2. Monitors manufacturers' compliance with the statute and applicable regulations;

3. Evaluates the safety and effectiveness of new drugs and certain medical devices;

4. Conducts and supports special surveys and other research and analyses on nutrition, use of drug products, and exposure to radiation; and

5. Collaborates with, and provides assistance to, other Federal agencies; national, State, and local organizations; private establishments; and voluntary groups to facilitate, conduct, and expand programs to provide information and experience on reactions to drug use, exposure to x-rays, problems with medical devices, and hospital-based health hazards.

The National Center for Health Statistics (NCHS) provides national leadership in the areas of health statistics and epidemiology.

In carrying out its responsibilities, NCHS:

1. Collects, analyzes, and disseminates national health statistics on vital events and health

characteristics of the population, the supply and utilization of health facilities and manpower; the operation of the health services system; health costs and expenditures; and environmental, social, and other health hazards.

2. Administers the cooperative health statistics program;

3. Stimulates and conducts basic and applied research in health data systems and statistical methodology;

4. Coordinates, to the maximum extent feasible, the overall health and epidemiological statistical activities of the agencies of the Public Health Service (PHS), and provides technical assistance in the planning, management, and evaluation of statistical programs of the PHS;

5. Maintains operational liaison with statistical units of other health agencies, public and private, and provides technical assistance within the limitations of staff resources;

6. Fosters research, consultation, and training programs in international statistical activities;

7. Participates with other Federal agencies in the development of national health statistics policy; and

8. Provides the Assistant Secretary for Health and the Surgeon General with consultation and advice on statistical matters.

III. Substance of Agreement

The two agencies share common interests in the areas of epidemiology, vital events, and statistical data collection and dissemination of information, particularly as it relates to radiation exposure, nutrition, hospital services, and dispensation of drugs. Both agencies hold interests in exploring further additional avenues where mutually supportive activities can be collaborated in and pursued further.

In order to assure that these collaborations are pursued in a continuing and timely fashion, FDA and NCHS will meet once a quarter, or more frequently if needs arise, alternating meeting sites between the two agencies, and will share information, report on progress, and explore new areas for collaboration. Co-chairpersons will be designated by the Commissioner of Food and Drugs and the NCHS Director on an annual basis.

IV. Name and Address of Participating Parties

A. National Center of Health Statistics, Prince George's Plaza, 3700 East-West Highway, Hyattsville, MD 20782.

B. Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

V. Liaison Officers

A. Director, Division of Health Examination Statistics (currently Mr. Robert S. Murphy), National Center for Health Statistics, Rm. 2–58, Center Bldg., Prince George's Plaza, 3700 East-West Highway, Hyattsville, MD 20782; 301–436–7068.

B. Assistant Director for Health Programs Research, (currently Evelyn W. Gordon, Ph.D.), Office of Radiological Health (HFX–4), National Center for Devices and Radiological Health, 5600 Fishers Lane, Rockville, MD 20857; 301–443–6220.

VI. Period of Agreement

This agreement becomes effective upon acceptance by both parties, and will continue indefinitely. It may be modified by mutual consent or terminated by either party upon a 30-day advance written notice to the other party.

Approved and accepted for the National Center for Health Statistics:

Date: August 9, 1983.

M. Feinleib,

Director.

Approved and accepted for the Food and Drug Administration:

Date: August 9, 1983.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

Effective date. This Memorandum of Understanding became effective August 9, 1983.

Dated: August 25, 1983.

William R. Clark,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-23849 Filed 8-30-83; 8:45 am]

BILLING CODE 4160-01-M

Public Health Service

Health Resources and Services Administration; Delegation of Authority

Notice is hereby given that the Administrator, Health Resources and Services Administration, has delegated the following authorities under 5 U.S.C. 7901 and the authorities vested in this Department by interagency and intra-agency agreements, pertaining to the Federal Employee Occupational Health (FEOH) program:

1. To the Regional Health Administrators (RHAs), Regions I–X:

a. The authorities under 5 U.S.C. 7901 pertaining to the FEOH program;

b. The authority to enter into interagency or intra-agency agreements, excluding agreements that are multiregional or national in scope, regarding the FEOH program; and

c. The authority for the day-to-day operation of the FEOH units, in accordance with the terms of interagency or intra-agency agreements.

2. To the Director, Bureau of Health Care Delivery and Assistance, all of the authorities under 5 U.S.C. 7901 and the authority to enter into interagency and intra-agency agreements excluding those authorities delegated to the RHAs.

Previous delegations and redelegations pertaining to the FEOH program are hereby superseded.

This delegation will be effective as follows:

Director, Bureau of Health Care Delivery and Assistance—July 25, 1983
Region I—October 1, 1983
Region III—October 1, 1983
Region IV—October 1, 1983
Region V—October 1, 1983
Region VI—October 1, 1983
Region VII—October 1, 1983
Region VIII—July 25, 1983
Region IX—October 1, 1983
Region X—October 1, 1983

Dated: July 25, 1983.

Robert Graham, M.D.,

Administrator, Health Resources and Services Administration.

[FR Doc. 83-23804 Filed 8-30-83; 8:45 am]

BILLING CODE 4160-15-M

Food and Drug Administration; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HF (Food and Drug Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (35 FR 3685–92, February 25, 1970, as amended most recently in pertinent part at 43 FR 16423, April 18, 1978), is amended to update the Order of Succession for the Commissioner of Food and Drugs.

Section HF-C, Order of Succession is amended to read as follows:

Section HF-C Order of Succession. During the absence or disability of the Commissioner or in the event of a vacancy in that position the first official who is available in the following positions, or has been designated by the Commissioner to act in such position, shall act as Commissioner:

a. Deputy Commissioner.

b. Associate Commissioner for Regulatory Affairs.

c. Associate Commissioner for Management and Operations.

For a planned period of absence, the Commissioner may specify a different order of succession.

Dated: August 19, 1983.

Wilford J. Forbush,

Deputy Assistant Secretary for Health Operations.

[FR Doc. 83-23013 Filed 8-30-83; 8:45 am]

BILLING CODE 4160-01-M

Social Security Administration

Office of Disability Hearings; Statement of Organization, Functions and Delegations of Authority

Part S of the Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services (HHS) covers the Social Security Administration (SSA). Notice is given that Part S is being amended to reflect the establishment of a new disability hearings procedure at the reconsideration level. Under this new procedure, a face-to-face evidentiary hearing, referred to as a "disability termination hearing," will constitute the first level of appeal on unfavorable continuing disability determinations based on medical or medical/vocational issues by a State Agency Disability Determination Service (DDS).

This new function requires the establishment of a new headquarters office, the Office of Disability Hearings (ODH), reporting directly to the Deputy Commissioner of Social Security, Programs and Policy, and consisting of two divisions, to provide leadership and direction, through a regional network, to 57 hearings offices which are geographically dispersed throughout the United States. It also requires the establishment of a regional structure to support the hearings offices.

Chapter S 44 FR 17218 (March 21, 1979) and last amended as 48 FR 338 (January 4, 1983) is being amended as follows:

Sec. S.10 *Social Security Administration—(Organization).*

Add: Subsection: U. Office of Disability Hearings (SV).

The new material for the Office of Disability Hearings reads as follows:

New title Chapter SV: Office of Disability Hearings.

Sec. SV.00 *Office of Disability Hearings—(Mission):* The Office of Disability Hearings plans and directs the disability termination hearings program throughout the nation. Develops plans and objectives for the programs. Provides or procures administrative support in a wide range of areas, including personnel, facilities, financial management, organization development, training and management information. Plans and coordinates the development of regulations, policy and procedures for the program. Plans, develops and coordinates a quality assurance review process for disability termination hearings. Plans and administers an appraisal and evaluation program for the hearings process. Provides technical advice to SSA components and State agencies on programmatic matters.

Sec. SV.10 *Office of Disability Hearings—(Organization):*

A. Director of the Office of Disability Hearings (SV).

B. Division of Management and Field Liaison (SVA).

C. Division of Policy, Evaluation and Analysis (SVB).

D. Office of the Regional Hearings Representative (SVC).

1. Disability Hearings Unit.

Sec. SV.20 *Office of Disability Hearings—(Functions):*

A. *Director of the Office of Disability Hearings (SV)* is responsible to the Deputy Commissioner, Programs and Policy for directing the administrative and operational activities in support of the disability termination hearings program throughout the nation. Selects or delegates selection of disability hearing officers. Reviews and, if necessary, corrects hearing officer determinations.

B. *Division of Management and Field Liaison (SVA)* designs, develops and coordinates a management planning and control system for the disability termination hearings process; plans, develops, administers and evaluates a national training program for disability hearing offices; provides or procures administrative support, including personnel, facilities and financial activities. Develops long- and short-range plans and objectives, and insures integration with overall SSA goals. Plans, develops and implements organizational improvements and redelegations of authority with appropriate agency approvals. Plans, develops, executes and evaluates operational and management information systems, including a scheduling system, case control and statistical reporting system. Maintains liaison and develops procedures and directives to improve consultation and communications between the field, central office and the DDSs. Formulates and executes the budget for the disability hearings process.

C. *Division of Policy, Evaluation and Analysis (SVB)* plans, develops and coordinates policy and procedural guidelines on the disability termination hearing procedures, as well as on disability development and evaluation relating to the processing of disability termination reconsideration cases by State and SSA personnel. Develops regulations, rulings and operating procedures. Implements a system for communicating instructions for conducting disability termination hearings through handbooks, program directives and informational notices. Reviews and analyzes instructions and issuances of other SSA components, as well as new legislation in associated activities and takes appropriate action. Provides technical advice and guidance to SSA components and the State agencies in the interpretation and application of programmatic matters. Plans, develops and coordinates with the Office of Assessment (OA) the operation of a quality assurance review process for disability termination hearings, including reviewing cases identified and referred by OA as part of that component's pre-effectuation quality review activities and, if necessary, taking corrective action. Plans, develops, administers and evaluates an appraisal and evaluation program of the disability termination hearing process. Designs and conducts special studies and critical analyses of program policy and operations to ensure integrity and fairness. Analyzes data and information from review activities to identify problem areas and initiate corrective action.

D. *Office of the Regional Hearings Representative (SVC)* provides program leadership and technical direction for regional activity for the disability termination hearings process. Assures consistent interpretation and implementation of ODH goals, objectives, policies and plans by establishing regional operating procedures and plans consistent with national objectives. Evaluates program effectiveness. Conducts a liaison and visit program with the Disability Hearings Units and State Disability Determination Services, to provide technical leadership in the resolution of operational problems.

1. *Disability Hearings Unit (SVC1)* under the direction of the Regional Hearings Representative, conducts face-to-face evidentiary hearings for beneficiaries at the first level of appeal followir the decision to cease disabili issues a decision as soon as possible following the conclusion of the hearing based on testimony presented and evidence in file.

Dated: August 16, 1983.
Margaret M. Heckler,
Secretary of Health and Human Services.
[FR Doc. 83-22100 Filed 8-30-83; 8:45 am]
BILLING CODE 4110-07-M

INTERNATIONAL TRADE COMMISSION

Agency Form Submitted for OMB Review

AGENCY: International Trade Commission.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Commission has submitted a proposal for the collection of information to the Office of Management and Budget for review.

PURPOSE OF INFORMATION COLLECTION: The proposed information collection is for use by the Commission with investigation No. 332–167, Quarterly and Annual Surveys on Certain Stainless Steel and Alloy Tool Steel Products, instituted under the authority of section 332(b) of the Tariff Act of 1930 (19 U.S.C. 1332(b)).

Summary of Proposals

(1) Number of forms submitted: One.
(2) Title of form: Certain Stainless Steel and Alloy Tool Steel (Annual)—Questionnaire for U.S. Producers.
(3) Type of request: New.
(4) Frequency of use: Annually.
(5) Description of respondents: Producers of certain stainless steel and alloy tool steel products.
(6) Estimated number of respondents: 27.
(7) Estimated total number of hours to complete the forms: 1,080.
(8) Information obtained from the form that qualifies as confidential business information will be so treated by the Commission and not disclosed in a manner that would reveal the individual operations of a firm.

Additional Information or Comment

Copies of the proposed form and supporting documents may be obtained from Charles Ervin, the USITC agency clearance officer (tel. no. 202–523–4463). Comments about the proposals should be directed to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for U.S. International Trade Commission. If you anticipate commenting on a form but find that time to prepare comments will prevent you from submitting them promptly, you should advise OMB of your intent as soon as possible. Copies of any comments should be provided to Charles Ervin (United States International Trade Commission, 701 E Street, N.W., Washington, D.C. 20436.

Issued: August 26, 1983.
By order of the Commission.
Kenneth R. Mason,
Secretary.
[FR Doc. 83-23035 Filed 8-30-83; 8:45 am]
BILLING CODE 7020-02-M

[Investigation No. 337-TA-139]

Certain Caulking Guns; Commission Determination Not To Review Initial Determination Terminating Respondent

AGENCY: International Trade Commission.

ACTION: The Commission has determined not to review an initial determination (I.D.) (Order No. 29) to terminate this investigation as to respondent Handy Dan Home Improvement Centers, Inc. Accordingly, the I.D. has become the Commission's determination as to this matter.

Authority

19 U.S.C. 1337, 47 FR 25134, June 10, 1982, and 48 FR 20225, May 5, 1983 (to be codified at 19 CFR 210.53 (c) and (h)).

SUPPLEMENTARY INFORMATION: Notice of the I.D. was published in the **Federal Register** of August 3, 1983, 48 FR 35182. The Commission has received neither a petition for review of the I.D. nor comments from the public or other Government agencies.

FOR FURTHER INFORMATION CONTACT: William E. Perry, Esq., Office of the General Counsel, telephone 202–523–0499.

Issued: August, 24, 1983.
By order of the Commission.
Kenneth R. Mason,
Secretary.
[FR Doc. 83-23044 Filed 8-30-83; 8:45 am]
BILLING CODE 7020-02-M

[Investigation No. 337-TA-160]

Certain Composite Diamond Coated Textile Machinery Components; Order

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Janet D. Saxon as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the **Federal Register.**

Issued: August 24, 1983.
Donald K. Duvall,
Chief Administrative Law Judge.
[FR Doc. 83-23041 Filed 8-30-83; 8:45 am]
BILLING CODE 7020-02-M

[Investigation No. 337-TA-141]

Certain Copper-Clad Stainless Steel Cookware; Initial Determination Terminating Respondent on the Basis of Settlement Agreement

AGENCY: International Trade Commission.

ACTION: Notice is herby given that the Commission has received an intitial determination from the president officer in the above-captioned investigtion terminating the following respondent on the basis of a settlement agreement: Rose's Stores, Inc.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determiniation will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on August 8, 1983.

Copies of the initial determination, the settlement agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

Written Comments:

Interested persons may file written comments with the Commission concerning termination of the aforementioned respondent. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, D.C. 20436, no later than 10 days after publication of this notice in the **Federal Register.** Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either

accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202–523–0176.

Issued: August 8, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–23934 Filed 8–30–83; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–141]

Certain Copper-Clad Stainless Steel Cookware; Commission Determination To Modify and Issue a Consent Order Terminating All Foreign Respondents and Intervenors

AGENCY: International Trade Commission.

ACTION: The Commission has determined not to review an initial determination (I.D.) (Order No. 45) to permit intervention by a foreign firm and trade association and to terminate this investigation as to all foreign respondents and intervenors on the basis of a consent order.

Authority

19 U.S.C. 1337, 47 FR 25134, June 10, 1982, and 48 FR 20225, May 5, 1983 (to be codified at 19 CFR 210.53(c) and (h)).

SUPPLEMENTARY INFORMATION: Notice of the I.D. was published in the **Federal Register** of August 4, 1983, 48 FR 35527. The Commission has received neither a petition for review of the I.D. nor comments from the public or from other Government agencies.

FOR FURTHER INFORMATION CONTACT: Jack Simmons, Esq., Office of the General Counsel, telephone 202–523–0493.

Issued: August 25, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–23939 Filed 8–30–83; 8:45 am]

BILLING CODE 702–02–M

[Investigation No. 337–TA–141]

Certain Copper-Clad Stainless Steel Cookware; Commission Determination Not To Review Initial Determination Terminating Respondents

AGENCY: International Trade Commission.

ACTION: The Commission has determined not to review an initial determination (I.D.) (Order No. 49) to terminate this investigation with prejudice as to all remaining respondents that have not entered into settlement agreements. Accordingly, the I.D. has become the Commission's determination as to this matter.

Authority

19 U.S.C. 1337, 47 FR 25134, June 10, 1982, and 48 FR 20225, May 5, 1983 (to be codified at 19 CFR 210.53 (c) and (h)).

SUPPLEMENTARY INFORMATION: The Commission has received neither a petition for review of the I.D. nor comments from the public or other Government agencies.

The respondents terminated are Daewoo International America Corp.; Trend Products Co.; G&S Metal Products Co., Inc.; K Mart Corp.; New Process Co.; Merchandisers' Association, Inc.; Mutual Merchandising Cooperative, Inc.; Consumers Distributing Ltd., USA; and Western Auto Supply Co.

FOR FURTHER INFORMATION CONTACT: Jack Simmons, Esq., Office of the General Counsel, telephone 202–523–0493.

Issued: August 24, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–23945 Filed 8–30–83; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–141]

Certain Cooper-Clad Stainless steel Cookware; Commission Determination Not To Review Initial determination Terminating Respondent

AGENCY: International Trade Commission.

ACTION: the Commission has determined not to review an initial determination (I.D.) (Order No. 47) to terminate this investigation as to respondent Carol Wright Sales, Inc. accordingly, the I.D. has become the Commission's determination as to this matter.

Authority

19 U.S.C. 1337, 47 FR 25134, June 10, 1982, and 48 FR 20225, May 5, 1983 (to be codified at 19 C.F.R. 210.53 (c) and (h)).

SUPPLEMENTARY INFORMATION: Notice of the I.D. was published in the **Federal Register** of August 5, 1983, 48 FR 35729. The Commission has received neither a petition for review of the I.D. nor comments from the public or other Government agencies.

FOR FURTHER INFORMATION CONTACT: Jack Simmons, Esq., Office of the General Counsel, telephone 202–523–0493.

Issued: August 24, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–23946 Filed 8–30–83; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–141]

Certain Copper-Clad Stainless Steel Cookware; Commission Determination Not to Review Initial Determination Terminating Respondent

AGENCY: International Trade Commission.

ACTION: The Commission has determined not to review an initial determination (I.D.) (Order No. 44) to terminate this investigation as to respondent The May Department Stores Co., d/b/a/ Venture Stores, Inc. Accordingly, the I.D. has become the Commission's determination as to this matter.

Authority

19 U.S.C. 1337, 47 FR 25134, June 10, 1982, and 48 FR 20225, May 5, 1983 (to be codified at 19 CFR 210.53 (c) and (h)).

SUPPLEMENTARY INFORMATION: Notice of the I.D. was published in the **Federal Register** of August 3, 1983, 48 FR 35183. The Commission has received neither a petition for review of the I.D. nor comments from the public or other Government agencies.

FOR FURTHER INFORMATION CONTACT: Jack Simmons, Esq., Office of the General Counsel, telephone 202–523–0493.

Issued: August 24, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–23947 Filed 8–30–83; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–141]

Certain Copper-Clad Stainless Steel Cookware; Commission Determination Not to Review Initial Determination Terminating Respondent

AGENCY: International Trade Commission.

ACTION: The Commission has determined not to review an initial determination (I.D.) (Order No. 46) to terminate this investigation as to respondent Wal-Mart Stores, Inc. Accordingly, the I.D. has become the Commission's determination as to this matter.

AUTHORITY: 19 U.S.C. 1337, 47 FR 25134, June 10, 1982, and 48 FR 20225, May 5, 1983 (to be codified at 19 CFR 210.53 (c) and (h)).

SUPPLEMENTARY INFORMATION: Notice of the I.D. was published in the **Federal Register** of August 4, 1983, 48 FR 35526. The Commission has received neither a petition for review of the I.D. nor comments from the public or other Government agencies.

FOR FURTHER INFORMATION CONTACT: Jack Simmons, Esq., Office of the General Counsel, telephone 202–523–0493.

Issued: August 24, 1983.

By order of the Commission,

Kenneth R. Mason,

Secretary.

[FR Doc. 83–23940 Filed 8–30–83; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–159]

Certain Poultry Cut Up Machines; Order No. 1

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Donald K. Duvall as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the **Federal Register.**

Issued: August 24, 1983.

Donald K. Duvall,

Chief Administrative Law Judge.

[FR Doc. 83–23942 Filed 8–30–83; 8:45 am]

BILLING CODE 7020–02–M

[Investigations Nos. 731–TA–118 and 119 (Final)]

Certain Lightweight Polyester Filament Fabric From Japan and the Republic of Korea

AGENCY: International Trade Commission.

ACTION: Institution of final antidumping investigations and scheduling of a hearing to be held in connection with the investigations.

EFFECTIVE DATE: August 23, 1983.

SUMMARY: As a result of affirmative preliminary determinations by the U.S. Department of Commerce that there is a reasonable basis to believe or suspect that imports from Japan and the Republic of Korea of lightweight polyester filament fabrics, provided for in items 338.5009, 338.5011, 338.5012, 338.5013, and 338.5015 of the Tariff Schedules of the United States Annotated, are being, or are likely to be, sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Tariff Act of 1930 (19 U.S.C. 1673), the United States International Trade Commission hereby gives notice of the institution of investigations Nos. 731–TA–118 and 119 (Final) under section 735(b) of the act (19 U.S.C. 1673(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise. The Commission will make its final injury determinations by December 5, 1983 (19 CFR 207.25).

FOR FURTHER INFORMATION CONTACT: Mr. Reuben Schwartz (202–523–0114), Office of Industries, U.S. International Trade Commission.

SUPPLEMENTARY INFORMATION:

Background.—On February 18, 1983, the Commission determined, on the basis of the information developed during the course of its preliminary investigations, that there was a reasonable indication that an industry in the United States was materially injured or threatened with material injury by reason of imports of certain lightweight polyester filament fabric from Japan and the Republic of Korea which are alleged to be sold at LTFV. The preliminary investigations were instituted in response to a petition filed on January 4, 1983, by counsel for the American Textile Manufacturers Institute, Inc., and certain member companies.

Participation in the investigations.—Persons wishing to participate in these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), not later than 21 days after the publication of this notice in the **Federal Register.** Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Upon the expiration of the period for filing entries of appearance, the Secretary shall prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations, pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)). Each document filed by a party to these investigations must be served on all other parties to the investigations (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service (19 CFR 201.16(c), as amended by 47 FR 33682, Aug. 4, 1982).

Staff report.—A public version of the staff report containing preliminary findings of fact in these investigations will be placed in the public record on October 13, 1983, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing.—The Commission will hold a hearing in connection with these investigations beginning at 10:00 a.m., on October 27, 1983, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on October 14, 1983. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 10:30 a.m., on October 18, 1983, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is October 24, 1983.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23, as amended by 47 FR 33682, Aug. 4, 1982). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 (19 CFR 207.22, as amended by 47 FR 33682, Aug. 4, 1982). Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on November 3, 1983.

Written submissions.—As mentioned, parties to these investigations may file prehearing and posthearing briefs by the dates shown above. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations on or before November 3, 1983. A signed original and fourteen (14) true copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for

confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

For further information concerning the conduct of the investigations, hearing procedures, and rules of general application consult the Commission's Rules of Practice and Procedure, part 207, subparts A and C (19 CFR Part 207, as amended by 47 FR 33682, Aug. 4, 1982), and part 201, subparts A through E (19 CFR part 201, as amended by 47 CFR 33682, Aug. 4, 1982).

This notice is published pursuant to section 207.20 of the Commission's rules (19 CFR 207.20).

Issued: August 23, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-23040 Filed 8-30-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-133]

Certain Vertical Milling Machines and Parts, Attachments, and Accessories Thereto; Commission Decision Not To Review Initial Determination Terminating Respondent on the Basis of a Consent Order Agreement; Issuance of Consent Order

AGENCY: International Trade Commission.

ACTION: The Commission has determined not to review the presiding officer's initial determination (I.D.) (Order No. 42) granting a joint motion to terminate this investigation with respect to responent Equipment Importers, Inc. d/b/a Jet Equipment & Tools (Jet) on the basis of a consent order agreement.

Authority: 19 U.S.C. § 1337, 47 FR 25134, June 10, 1982 and 48 FR 2025, May 5, 1983 and §§ 210.53(c), 210.53(h), 211.20, and 211.21 of the Commission's Rules of Practice and Procedure (19 CFR 210.53 (c) and (h) and 19 CFR 211.20 and 211.21).

SUPPLEMENTARY INFORMATION: The Commission published notice of the I.D. in the **Federal Register** of August 3, 1983. 48 FR 35185. The Commission has not received a petition for review of the I.D. or comments from government agencies or the public.

The Commission has determined not to review the initial determinaiton terminating Jet as a respondent and issuing the consent order. The consent order allows Jet to continue importing and selling vertical milling machines that do not infringe Textron's alleged common law trademark rights. The consent order identifies machines that do not violate the order. Thus, available alternatives to the Textron machine do exist. Furthermore, the provisions regarding other alleged unfair acts will not adversely affect the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles, or the U.S. consumer. Jet can sell and advertise its products through other permissible means.

FOR FURTHER INFORMATION CONTACT: Catherine R. Field, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0189.

Issued: August 26, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-23036 Filed 8-30-83; 8:45 am]

BILLING CODE 7020-01-M

[Investigation No. 731-TA-124 (Final)]

Fresh or Chilled Round White Potatoes From Canada

AGENCY: International Trade Commission.

ACTION: Institution of final antidumping investigation and scheduling of a hearing to be held in connection with the investigation.

EFFECTIVE DATE: August 2, 1983.

SUMMARY: As a result of an affirmative preliminary determination by the U.S. Department of Commerce that there is a reasonable basis to believe or suspect that imports of fall-harvested, round, white potatoes from Canada, provided for in items 137.20, 137.21, 137.25, and 137.28 of the Tariff Schedules of the United States, are being, or are likely to be, sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Tariff Act of 1930 (19 U.S.C. 1673), the United States International Trade Commission hereby gives notice of the institution of investigation No. 731-TA-124 (Final) under section 735(b) of the act (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Canada of fresh or chilled round white potatoes. The scope of the Commission's investigation is broader than that of the Department of Commerce's preliminary investigation. The Commission has been informally advised by the Department of Commerce that it intends to revise its notice of preliminary determination of sales at less than fair value to conform the scope of its investigation to the scope of the Commission's investigation. Unless the investigation is extended, the Department of Commerce will make its final dumping determination in the case on or before October 17, 1983, and the Commission will make its final injury determination by November 30, 1983 (19 CFR 207.25).

FOR FURTHER INFORMATION CONTACT: Mr. George Deyman, Office of Investigations, (202-523-0481), U.S. International Trade Commission, Washington, D.C. 20436.

SUPPLEMENTARY INFORMATION:

Background.—On March 28, 1983, the Commission determined, on the basis of the information developed during the course of its preliminary investigation, that there was a reasonable indication that an industry in the United States was materially injured by reason of allegedly LTFV imports of fresh or chilled round white potatoes from Canada. The preliminary investigation was instituted in response to a petition filed on February 9, 1983, on behalf of the Maine Potato Council.

Participation in the investigation.—Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11) not later than 21 days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the later entry for good cause shown by the person desiring to file the entry.

Upon the expiration of the period for filing entries of appearance, the Secretary shall prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation, pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)). Each document filed by a party to this investigation must be served on all other parties to the investigation (as identified

by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service (19 CFR 201.16(c), as amended by 47 FR 33682, Aug. 4, 1982).

Staff report.—A public version of the prehearing staff report containing preliminary findings of fact in this investigation will be placed in the public record on September 23, 1983, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing.—The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m. on October 11, 1983, in Portland, Maine, at a location to be announced. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission, U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436, not later than the close of business (5:15 p.m.) on September 29, 1983. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 10:00 a.m. on September 29, 1983, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is October 5, 1983.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23, as amended by 47 FR 33682, Aug. 4, 1982). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 (19 CFR 207.22, as amended by 47 FR 33682, Aug. 4, 1982). Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on October 26, 1983.

Written submissions.—As mentioned, parties to these investigations may file prehearing and posthearing briefs by the dates shown above. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before October 26, 1983. A signed original and fourteen (14) true copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

For further information concerning the conduct of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and C (19 CFR Part 207, as amended by 47 FR 33682, Aug. 4, 1982), and part 201, subparts A through E (19 CFR part 201, as amended by 47 FR 33682, Aug. 4, 1982).

This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

Issued: August 26, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-23936 Filed 8-30-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-137 (Preliminary)]

Tubes For Tires, Other Than For Bicycle Tires, From the Republic of Korea

Determination

On the basis of the record [1] developed in the subject investigation, the Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from the Republic of Korea of tubes for tires, other than bicycle and aircraft tires, as provided for in items 772.59 and 772.60 of the Tariff Schedules of the United States (TSUS), which are allegedly being sold in the United States at less than fair value (LTFV).

Background

On July 11, 1983, counsel for seven U.S. manufacturers of tubes for tires filed a petition with the U.S. International Trade Commission and with the Department of Commerce alleging that an industry in the United States is materially injured, or is threatened with material injury, by reason of imports from the Republic of Korea of tubes for tires, other than for bicycle tires, which are allegedly being sold in the United States at LTFV. Accordingly, effective July 11, 1983, the Commission instituted a preliminary antidumping investigation under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)).

Notice of the Commission's institution of the investigation and the public conference held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the **Federal Register** on July 20, 1983 (48 FR 33066). All interested parties were afforded the opportunity to present information to the Commission at the public conference which was held in Washington, D.C., on August 2, 1983.

The Commission transmitted its report on the investigation to the Secretary of Commerce on August 25, 1983. The public version of the Commission's report, Tubes For Tires, Other Than For Bicycle Tires, From the Republic of Korea, (investigation No. 731-TA-137 (Preliminary), USITC Publication 1416, August 1983) contains the views of the Commission and the information developed during the investigation.

Issued: August 26, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-23937 Filed 8-30-83; 8:45 am]

BILLING CODE 7020-02-M

[1] The "record" is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

[Investigations Nos. 731-TA-125 and 126 (Final)]

Potassium Permanganate From the People's Republic of China and Spain

AGENCY: International Trade Commission.

ACTION: Institution of final antidumping investigations and scheduling of a hearing to be held in connection with the investigations.

EFFECTIVE DATE: August 9, 1983.

SUMMARY: As a result of affirmative preliminary determinations by the U.S. Department of Commerce that there is a reasonable basis to believe or suspect that imports of potassium permanganate from the People's Republic of China (China) and Spain, provided for in item 420.28 of the Tariff Schedules of the United States, are being, or are likely to

be, sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Tariff Act of 1930 (19 U.S.C. 1673), the United States International Trade Commission hereby gives notice of the institution of investigations Nos. 731–TA–125 and 126 (Final) under section 735(b) of the act (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise. Unless the investigations are extended, the Department of Commerce will make its final dumping determinations in the cases on or before October 17, 1983, and the Commission will make its final injury determinations by December 7, 1983 (19 CFR 207.25).

FOR FURTHER INFORMATION CONTACT: Mr. Robert Carpenter, Office of Investigations, (202–523–0399), U.S. International Trade Commission, Washington, D.C. 20436.

SUPPLEMENTARY INFORMATION:

Background.—On April 8, 1983, the Commission determined, on the basis of the information developed during the course of its preliminary investigations, that there was a reasonable indication that an industry in the United States was materially injured by reason of allegedly LTFV imports of potassium permanganate from China and Spain. The preliminary investigations were instituted in response to a petition filed on February 22, 1983, by counsel on behalf of Carus Chemical Co., of LaSalle, Ill.

Participation in the investigations.—Persons wishing to participate in these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11) not later than 21 days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Upon the expiration of the period for filing entries of appearance, the Secretary shall prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations, pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)). Each document filed by a party to these investigations must be served on all other parties to the investigations (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service (19 CFR 201.16(c), as amended by 47 FR 33682, Aug. 4, 1982).

Staff report.—A public version of the prehearing staff report containing preliminary findings of fact in these investigations will be placed in the public record on October 13, 1983, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing.—The Commission will hold a hearing in connection with these investigations beginning at 10:00 a.m. on October 28, 1983, in the Hearing Room, U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. 20436. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission, not later than the close of business (5:15 p.m.) on October 17, 1983. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 10:00 a.m. on October 18, 1983, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is October 24, 1983.

Testimony at the public hearing is governed by section 207.23 of the Commission's rules (19 CFR 207.23, as amended by 47 FR 33682, Aug. 4, 1982). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 (19 CFR 207.22, as amended by 47 FR 33682, Aug. 4, 1982). Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on November 7, 1983.

Written submissions.—As mentioned, parties to these investigations may file prehearing and posthearing briefs by the dates shown above. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations on or before November 7, 1983. A signed original and fourteen (14) true copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

For further information concerning the conduct of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and C (19 CFR Part 207, as amended by 47 FR 33682, Aug. 4, 1982), and Part 201, subparts A through E (19 CFR Part 201, as amended by 47 FR 33682, Aug. 4, 1982).

This notice is published pursuant to section 207.20 of the Commission's rules (19 CFR 207.20)

Issued: August 22, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–23943 Filed 8–30–83; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–140]

Certain Personal Computers and Components Thereof; Prehearing Conference and Hearing

Notice is hereby given that a prehearing conference will be held in this case at 9:00 a.m. on September 1, 1983, in the Waterfront Center, Room 201, 1010 Wisconsin Avenue, N.W., Washington, D.C. The hearing will commence immediately thereafter.

The purpose of the prehearing conference is to review the trial memoranda submitted by the parties, to stipulate exhibits into the record, and to discuss any questions raised by the parties relating to the hearing.

The Secretary shall publish this notice in the **Federal Register**.

Issued: August 26, 1983.

Janet D. Saxon,

Administrative Law Judge.

[FR Doc. 83–23989 Filed 8–30–83; 8:45 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Notice of Proposed Exemptions

AGENCY: Interstate Commerce Commission.

ACTION: Notices of proposed exemptions.

SUMMARY: The motor carriers shown below seek exemptions pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property Under 49 U.S.C. 11343*, 367 I.C.C. 113 (1982), 47 FR 53303 (November 24, 1982).

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Warren C. Wood (202) 275–7977.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

Volume No. OP2–380

Decided: August 25, 1983.

[No. MC–F–15413]

Jerry Bell—Purchase Exemption—J & J Cattle Company

Jerry Bell (MC–150053) seeks an exemption from the requirement under section 11343 of prior regulatory approval for his purchase of the certificate held in No. MC–147832 (Sub-No. 4) by J & J Cattle Company, which authorizes the transportation of (1) Food and related products, between points in California and Texas and portions of 10 other States (including Cook County, IL), on the one hand, and, on the other, points in the United States, (2) instruments and photographic goods, chemicals and related products, and tobacco products, between points in Colorado, on the one hand, and, on the other, points in 31 States.

Bell also proposes to tack the purchased rights at Cook County, IL, with his existing authority in No. MC–150053 (Sub-No. 4)X so as to transport food and related products between points in Louisa and Des Moines Counties, IA, on the one hand, and, on the other, points in the United States.

Send comments to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423, and

(2) Petitioner's representative: Larry D. Knox, 500 Hubbell Building, Des Moines, IA 50309.

Volume No. OP3–411

Decided: August 24, 1983.

[No. MC–F–15386]

Brink's Armored Car, Inc.—Purchase Exemption (Portion)—International Armored Service, Inc.

Brink's Incorporated (BI) (No. MC–124328) seeks an exemption from the requirement under 49 U.S.C. 11343 of prior regulatory approval of its continuing control of Brink's Armored Car, Inc. (BAC), presently a non-carrier, upon BAC's purchase of the portion of the operating rights of International Armored Service, Inc. (IAS), contained in No. MC–133485 (Sub-Nos. 22, 32, and 33), which authorize the transportation of food coupons; shipments weighing 100 pounds or less; and bullion, coins, precious metal, and articles of unusual value, between points in the United States. BI also controls United States Trucking Corporation (No. MC–11712 and No. MC–83885), an it is controlled by The Pittston Company, a non-carrier.

Send comments to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423, and

(2) Petitioner's representative: Richard H. Streeter, Wheeler & Wheeler, 1729 H Street, NW., Washington, D.C. 20006.

Comments should refer to No. MC–F–15386.

Volume No. OP3–415

Decided: August 25, 1983.

[No. MC–F–15390]

Patrick J. Doyle and Nancy Doyle—Continuance in Control Exemption—Peck Leasing, Inc., H.P. Leasing, Inc., and H.P. Leasing, Inc. d.b.a. H.P.I.

Patrick J. Doyle and Nancy Doyle seek an exemption from the requirement under section 11343 of prior regulatory approval for their continuance in control of three corporations: H.P. Leasing, Inc. (H.P. Leasing); [1] H.P. Leasing, Inc., d/b/a/ H.P.I. (H.P.I.); and Peak Leasing, Inc. (Peck). H.P. Leasing holds Certificate No. MC–156045 (Sub-No. 4), issued June 7, 1983, authorizing the transportation of general commodities (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI). In No. MC–FC–81551, decision entered July 11, 1983, the Review Board approved the transfer of this certificate from H.P. Leasing to H.P.I. This transfer has not yet been consummated. Upon consummation, H.P. Leasing will hold no operating authority (and it is expected to be formally dissolved), and H.P.I. will hold the certificate. Peck now holds no operating authority, but it has pending, in Docket No. MC–168667, an application seeking a permit authorizing the transportation of general commodities (except classes A and B explosives, household goods, and commodities in bulk), between points in the United States (except Alaska and Hawaii), under continuing contract(s) with Hasbro Industries, of Pawtucket, RI. These three corporations (H.P. Leasing, H.P.I., and Peak) are controlled by Patrick J. Doyle and Nancy Doyle through stock ownership: Patrick owns all of the stock of H.P. Leasing and H.P.I., and Nancy owns all of the stock of Peak; and Patrick and Nancy are directors of, and hold common offices in, the three corporations.

Send comments to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423, and

(2) Petitioners' representative: Francis E. Barrett, Jr., Esq., 9 Riverview Road, Hingham, MA 02043.

Comments should refer to No. MC-F-15390.

[No. MC-F-15391]

United Star Express, Inc.—Purchase Exemption—Freightways, Inc.; Freightways, Inc.—Purchase Exemption—United Star Express, Inc.

United Star Express, Inc., seeks an exemption from the requirement in 49 U.S.C. 11343(a)(2) of prior regulatory approval and authorization for its purchase of a portion of the authority issued to Freightways, Inc., in No. MC–144484 (Sub-No. 19), authorizing the transportation of general commodities (except classes A and B explosives, household goods, and commodities in bulk), between points in Missouri, on the one hand, and, on the other, points in the United States (except Alaska and

[1] /As a consequence of the decision entered by the Review Board on July 11, 1983, in No. MC-FC-81551, the transfer of H.P. Leasing's only operating authority (its Sub-No. 4 Certificate) is anticipated. When this transfer is consummated, the Doyles' continuance in control of H.P. Leasing will no longer be subject to the requirements of section 11343.

Hawaii). Freightways seeks an exemption from the requirement in 49 U.S.C. 11343(a)(2) of prior regulatory approval and authorization for its purchase of a portion of the authority held by United Star, in No. MC-70090, authorizing the regular-route transportation of general commodities, with exceptions, between Cole Camp and Sedalia, MO, serving all immediate points.

Send comments to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423, and

(2) Petitioners' representative: Larry D. Knox, Myers, Knox & Hart, 600 Hubbell Building, Des Moines, IA.

Comments should refer to No. MC-F-15391.

[No. MC-F-15387]

Tidwell Industries, Inc.—Continuance in Control Exemption—Winston Carriers, Inc., and Tidwell Motor Carriers, Inc.

Tidwell Industries, Inc. seeks an exemption from the requirement under section 11343 of prior regulatory approval for its continuance in control of Winston Carriers, Inc. (No. MC-134835) and Tidwell Motor Carriers, Inc. (No. MC-138106), both motor common carriers.

Addresses: Send comments to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423, and

(2) Petitioner's representative: E. Stephen Heisley, P.G., 1919 Pennsylvania Avenue, N.W., Washington, DC 20006.

Comments should refer to No. MC-F-15387.

Volume No. OP4-574

Decided: August 23, 1983.

[No. MC-F-15388]

Beryl A. Schatz, Ruth M. Abrams, Richard E. Abrams, Norman L. Rosen, Allen Rosen, Harold Rosen, and Edward J. Donohue—Continuance in Control Exemption—Charlton Bros. Transportation Co., Inc., Certified Brokerage Services, Inc., and Contract Cargo, Inc.

Beryl A. Schatz, Ruth M. Abrams, Richard E. Abrams, Norman L. Rosen Allen Rosen, Harold Rosen, all individuals who control Charlton Bros. Transportation Co., Inc. (MC-29647) (Charlton), Certified Brokerage Services, Inc. (MC-159135) (Certified), Contract Cargo, Inc. (MC-163086) (Contract), and Edward J. Donohue, Jr. who controls Certified Brokerage Services, Inc. (MC-159135) seek an exemption from the requirement of prior regulatory approval for their continuance in control of Charlton, Certified, and Contract.

Send Comments to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423, and

(2) Petitioner's representative: Edward J. Donohue, Jr., 2721 Valley Avenue, Winchester, Va 22601.

Comments should refer to No. MC-15189.

[No. MC-F-15404]

State Transportation, Inc.—Purchase Exemptions—Grant's Transport

State Transportation, Inc. (MC-145895) seeks an exemption from the requirement under section 11343 of prior regulatory approval for its purchase of the permit held in No. MC-157936 by Grant's Transport, which authorizes the transportation of (1) food and related products, between points in the United States, under contracts with four named Maine shippers of beverages, and (2) general commodities (except classes A and B explosives, household goods, and commodities in bulk), between points in the United States, under contract with the Georgia-Pacific Corporation, of Darien, CT.

Send Comments to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423, and

(2) Robert G. Parks, Suite 101, 20 Walnut Street, Wellesley Hills, MA 02181.

[No. MC-F-15370]

Stearly's Motor Freight, Inc.—Purchase Exemption—Motor Freight Express (Debtor-in-Possession)

Stearly's Motor Freight, Inc., and Motor Freight Express seek an exemption from the requirement in 49 U.S.C. 11343(a)(2) of prior regulatory approval and authorization for the purchase by the former of a portion of the latter's authority: No. MC-59957 (Sub-Nos. 25, 29, 35, 36, 37, 38, 39, 44, 46, 47, 50, 58, 60, 62, 64, 66, 67, 68 and 69X, as well as a portion of Sub-No. 32), which collectively authorize the regular-route transportation of general commodities, with exceptions, generally between specified points in and east of Michigan, Wisconsin, Iowa, Missouri, Arkansas and Mississippi, as well as the irregular-route transportation of general commodities, with exceptions, (Sub-Nos. 29 and 52) and specified commodities (Sub-Nos. 36 and 38) between specified points in Pennsylania, Maryland, Illinois, Ohio, West Virginia and New York, and the irregular-route transportation of general commodities, with exceptions, for the United States Government (Sub-No. 65) between points in the United States.

Send comments to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423, and

(2) Petitioner's representative: James W. Patterson, Rubin, Quinn & Moss, 510 Walnut Street, Philadelphia, PA 19106.

Comments should refer to No. MC-F-15370.

Volume No. OP4-578

Decided: August 25, 1983.

[No. MC-F-15371]

Central Delivery Service of Washington, Inc.—Purchase (Portion) Exemption—Motor Freight Express (Debtor-in-Possession)

Central Delivery Service of Washington, Inc., (Central) (MC-138480 and MC-140443) and Motor Freight Express (MFX) (MC-59957), seek an exemption from the requirement under section 11343 of prior regulatory approval for the purchase by Central of a portion of the operating rights of MFX, i.e., (1) a portion of Certificate No. MC-59957 (Sub-No. 32) authorizing the transportation of (a) general commodities (with exceptions), over regular-routes between Petersburg, VA and New York, NY, serving certain specified intermediate and off-route points and areas in Virginia, Washington, DC, Pennsylvania, Maryland, Delaware, New York and New Jersey, and (b) heavy machinery, contractors' equipment, and supplies, from Baltimore, MD, and Washington, DC to points in Delaware, Maryland, New Jersey, and portions of New York, Pennsylania, and Virginia, and (2) Sub-Nos. 45 and 48 authorizing the transportation of general commodities (with the usual exceptions) serving the facilities of named shippers at or near Cheswold, DE, and Chesterfield, VA, as off-route points in connection with carrier's regular-route service.

Send comments to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423, and

(2) Petitioner's representatives:
James W. Patterson, 1800 Penn Mutual Tower, 510 Walnut Street, Philadelphia, PA 19106, and
Jeremy Kahn, Suite 733 Investment Building, 1511 K Street, N.W., Washington, DC 20005.

Pleadings should refer to No. MC–F–15371.

[FR Doc. 83–23878 Filed 8–30–83; 8:45 am]
BILLING CODE 7035–01–M

Motor Carriers; Finance Applications; Decision-Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsideration; any interested peson may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1181.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 20 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission.

Agatha L. Mergenovich,

Secretary.

Please direct status inquiries to Team 1 (202) 275–7992.

Volume No. OP1–FC–362

MC–FC–81582. By decision of August 22, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, the Review Board, Members Carleton, Parker, and Fortier approved the transfer to AIR FREIGHT EXPRESS, INC., of Minneapolis, MN, of Certificate No. MC–138890 Sub-Nos. 3X and 4, issued September 30, 1981, and May 25, 1983, respectively, to RED RIVER TRANSPORT & DEVELOPMENT CO., INC., d.b.a. AIR FREIGHT EXPRESS, INC., of Minneapolis, MN, authorizing the transportation of (1) general commodities, between points in Anoka, Carver, Dakota, Hennepin, Ramsey, Scott and Washington Counties, MN, on the one hand, and, on the other, points in St. Louis and Carlton Counties, MN, and Douglas County, WI, and (2) shipments weighing 100 pounds or less if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI). Representative: Richard P. Anderson, 112 Roberts St., P.O. Box 2581, Fargo, ND 58108; (701) 235–3300.

MC–FC–81674. By decision of August 22, 1983, issued under 49 U.C.C. 10926 and the transfer rules at 49 CFR 1181, the Review Board, Members Krock, Dowell, and Carleton, approved the transfer to GREAT LAKES TRUCKING CO., INC., of Wauwatosa, WI, of Permit No. MC–162041, issued August 17, 1982, to P.M. SMITH CARTAGE, INC., of Milwaukee, WI, authorizing the transportation of empty beverage containers, between points in the U.S., under continuing contract(s) with Jos Schlitz Brewing Company, of Milwaukee, WI. Representative: Joseph P. Duffey, 111 East Wisconsin Ave., Milwaukee, WI 53202; (414) 276–0830.

Please direct status inquiries to Team 3, (202) 275–5223.

Volume No. OP3–FC–412

MC–FC 81659. By decision of August 23, 1983, issued under 49 U.S.C. and the transfer rules at 49 CFR 1181, the Review Board, members Carleton, Krock, and Dowell, approved the transfer to TREK, INC., of Little Rock, AR, of Certificate No. MC–162804, issued June 7, 1983, to PENNY'S WRECKER SERVICE, INC.,of Little Rock, AR, authorizing the irregular-route transportation of disabled motor vehicles, in wrecker service, between points in AR, on the one hand, and, on the other, points in LA, MS, TN, and AR. Applicant's Representative: A. R. Pendergrass, 6404 Geyer Springs Road, Little Rock, AR 72209; (501) 565–6641.

Please direct status inquiries to Team 5, (202) 275–7289.

Volume No. OP–FC–442

MC–FC–81597. By decision of August 22, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, the Review Board, Members Parker, Fortier and Krock, approved the transfer to GLENDELL LEASING, INC., of Gary, IN, of Certificate No. MC 18738 Sub 67X issued April 8, 1982, and its underlying authority in MC 18738 Sub 66F, issued March 11, 1982; MC 18738 Sub 66X issued October 12, 1982, and its underlying authority in MC 18738 issued August 12, 1975, Sub 20 issued July 21, 1954, Sub 21 issued April 16, 1957, Sub 22 issued September 10, 1956, Sub 23 issued May 21, 1957, Sub 24 issued May 26, 1958, Sub 25 issued July 7, 1958, Sub 27 issued January 25, 1962, Sub 33 issued September 4, 1969, Sub 37 issued November 18, 1969, Sub 38 issued April 16, 1970, Sub 44 issued March 18, 1976, Sub 43F issued September 14, 1979, Sub 59F issued July 23, 1980, Sub 61F issued August 11, 1980, Sub 62F issued August 29, 1980, Sub 63F issued August 4, 1980, and Sub 64F issued August 4, 1980; MC 18738 Sub 69 issued August 2, 1982, and MC 18738 Sub 70 issued May 20, 1982, to SIMS MOTOR TRANSPORT LINES, INC. (Jay Weisman, Trustee in Bankruptcy), of Chicago, IL, authorizing the transportation generally of specified commodities over regular and irregular routes in AL, AR, CO, CT, DE, FL, GA, IA, IL, IN, KS, KY, LA, MA, MD, ME, MN, MO, MI, MS, NC, NE, ND, NH, NJ, NM, NY, OH, OK, PA, RI, SC, SD, TN, TX, VA, VT, WI, WV, and DC. Representative: Carl U. Hurst, P.O. Box 691, Madisonville, KY 42431.

[FR Doc. 83–23879 Filed 8–30–83; 8:45 am]
BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions Volume; Decision-Notice

Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods). The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of

passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested only on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings:

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Agatha L. Mergenovich

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Please direct status inquiries to Team 1.

Please direct status inquiries to Team 1 (202) 275–7030.

Volume No. OP–1– 356 (F)

Decided: August 22, 1983.

By the Commission, Review Board Members Fortier, Parker, and Dowell.

MC 169820, filed August 11, 1983. Applicant: MORROW TRUCKING CO., 3109 Onondaga Dr., Maryland Heights, MO 63043. Representative: Kenneth F. Morrow (same address as applicant) 314–739–1820. Transporting *food and other edible products and by-products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizer, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in AL, AR, FL, GA, IL, IN, IA, KY, MN, MO, NC, SC, TN, TX and WI.

Volume No. OP–1– 358 (F)

Decided: August 22, 1983.

By the Commission, Review Board Members Dowell, Krock, and Fortier.

MC 169750, filed August 8, 1983. Applicant: CORBY FLAGLE, Rural Route 1, Box 86, Central City, NE 68826. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501; (402) 475–6761. Transporting *food and other edible products and by-products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 169781, filed August 9, 1983. Applicant: ROANE BUS LINE, INC., P.O. Box 245, Kilmarnock, VA 22482. Representative: Calvin F. Major, 200 West Grace St., P.O. Box 5010, Richmond, VA 23220; (804) 649–7591. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

Volume No. OP–1–360 (F).

Decided: August 23, 1983.

By the Commission, Review Board Members Fortier, Carleton, and Parker.

MC 138910 (Sub-4), filed August 17, 1983. Applicant: GLOWATSKY PIGGYBACK SERVICE, INC., 524 Basin Street, P.O. Box 537, Allentown, PA 18105. Representative: Richard A. Carr, 3015 Lindberg Avenue, Allentown, PA 18103; (215) 423–3103. As a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 160991 (Sub-1), filed August 17, 1983. Applicant: ALBA/SOLE VACATIONS, INC. d.b.a. ALBA/SOLE BUS CHARTERS, 2245 S.W. 27th Terrace, Miami, FL 33133. Representative: Richard B. Austin, 320 Rochester Bldg., 8390 N.W. 53rd St., Miami, FL 33166; (305) 592–0036. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 169901, filed August 16, 1983. Applicant: ANTHONY N. NUZIO, 1662 Cornelius Ave., Wantagh, NY 11793. Representative: Anthony N. Nuzio (same address as applicant); (516) 781–7732. As a *broker* of *general commodities* (except household goods), between points in the U.S.

Please direct status inquiries to Team 2, (202) 275–7030.

Volume No. OP–2–381

Decided: August 24, 1983.

By the Commission, Review Board Members Krock, Dowell, and Carleton.

MC 169552, filed July 29, 1983. Applicant: CENTURY ARTISTS CORPORATION d.b.a. CENTURY LIMOUSINE SERVICE, 29 Guernsey St., Stamford, CT 06901. Representative: Richard W. Farrell, 607 Bedford St., Stamford, CT 06901; 203–348–7773. Transporting *passengers*, in charter and special operations, beginning and ending at points in Fairfield County, CT, and extending to points in DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, and DC.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 160113 (Sub-1), filed July 11, 1983. Applicant: ROADRUNNER MOTOR LINES, INC., 15 W. Union St., P.O. Box 105, Ashland, MA 01721. Representative: Mary E. Kelly, 22 Stearns Ave., Medford, MA 02155; 617–396–4090. Transporting

(1) *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with J.C.P. Truck Brokers, of Ashland, MA. (2) For or on behalf or the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S., and (3) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

Note.—Part (1) is published in the **Federal Register**, this issue, under the preface with "regular applications".

Please direct status inquiries to Team 3, (202) 275–5223.

Volume No. OP–3–398

Decided: August 19, 1983.

By the Commission, Review Board Members Dowell, Fortier, and Carleton.

MC 169595, filed August 2, 1983. Applicant: GALIN TRANSPORTATION, INC., 46 Lockwood Ave., Stanhope, NJ 07874. Representative: Edward F. Bowes, 7 Becker Farm Rd., P.O. Box Y, Roseland, NJ 07068; (201) 992–2200. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

Volume No. OP–3–402

Decided: August 22, 1983.

By the Commission, Review Board Members Carleton, Fortier, and Krock.

MC 165135 (Sub-1), filed June 27, 1983. Applicant: WINSTON AIRPORT TRANSPORTATION SERVICE, INC., d.b.a. WINSTON AMERICAN TRANSPORTATION SERVICE, 1650 Sycamore Avenue, Bohemia, NY 11716. Representative: Sidney J. Leshin, 3 East 54th Street, New York, NY 10022, (212) 759–3700. Applicant seeks authority in intrastate commerce to conduct service at all intermediate points on routes in MC–165135 as follows: To operate over the route between Riverhead, Montauk, Orient Point and Port Jefferson, NY, to provide intrastate service at all intermediate points between Riverhead, Montauk, Orient Point and Port Jefferson, NY. Condition: Issuance of a certificate in this proceeding is conditioned upon the grant and issuance of a certificate in pending No. MC–165135 which will be superseded by the Certificate issued in this proceeding. Failure to be granted and issued authority in the indicated proceeding shall render any grant of pertinent intrastate authority in this proceeding null and void.

Note.—Applicant seeks to provide regular route service in intrastate Commerce under 49 U.S.C. 10922(c)(2)(B).

MC 169674, filed August 5, 1983. Applicant: DAVID A. GLENN d.b.a. DALLAS ASSEMBLY AND DISTRIBUTION SERVICE, Route 2, Box 12A, Seagoville, TX 75159. Representative: David A. Dean (same address as applicant), (214) 287–5627. As a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 169684, filed August 5, 1983. Applicant: CASINO TRAVEL SERVICE, 825 Hastings Court, Newark DE 19702. Representative: Frank Thornton (same address as applicant), (302) 834–6814. Transporting *passengers*, in special operations, beginning and ending at points in New Castle County, DE, and extending to Atlantic City, NJ.

Note.—Applicant seeks to provide privately-funded special transportation.

Volume No. OP3–408

Decided: August 22, 1983.

By the Commission, Review Board Members Fortier, Parker, and Dowell.

MC 122805 (Sub-7), filed August 2, 1983. Applicant: ST. CLOUD CHARTER SERVICE, INC., 427 Lincoln Ave., NE., St. Cloud, MN 56301. Representative: Bruce E. Mitchell, Suite 520, Lenox Towers South, 3390 Peachtree Rd., NE., Atlanta, GA 30326, (404) 262–9488. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 162284 (Sub-2), filed August 3, 1983. Applicant: HOWARD C. KENNEDY, d.b.a. KENNEDY COACHES, P.O. Box 179, Zumbro Falls, MN 55991. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440; (612) 542–1121. Transporting *passengers*, in special and charter operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 167705 (Sub-1), filed August 3, 1983. Applicant: ALL-CONTINENT TRANSPORT, INC., 2016 Tucker Industrial Rd., Tucker, GA 30084. Representative: Paul F. Sullivan, Suite 202, 3408 Wisconsin Ave., NW., Washington, DC 20016; (202) 363–1848. Transporting for or on behalf of the U.S. Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except HI).

MC 168474, filed August 10, 1983. Applicant: FRANK W. McGINNIS, SR., and ROGER L. GRAFEL d.b.a. VOYAGER BUS LINES CO., 7920 Widmer, Lenexa, KS 66215. Representative: Frank W. McGinnis, Sr. (same address as applicant) (913) 492–8905. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 169705, filed August 5, 1983. Applicant: FRANK JACONETTI JR. d.b.a. TOMCO CHARTER SERVICE, Route 1, Box 1079A, Woodland, CA 95695. Representative: Frank Jaconetti Jr. (same address as applicant) (916) 666–6164. Transporting *passengers*, in special and charter operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 169765, filed August 8, 1983. Applicant: WORLDWAY FREIGHT SYSTEMS, INC., 1 Hackensack Ave., S. Kearny, NJ 07032. Representative: Michael R. Werner, 241 Cedar Lane, Teaneck, NJ 07666, (201) 836–1144. Transporting (1) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), and (2) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 169765(A), filed August 8, 1983. Applicant: WORLDWAY FREIGHT SYSTEMS, INC., 1 Hackensack Ave., S. Kearny, NJ 07032. Representative: Michael R. Werner, 241 Cedar Lane, Teaneck, NJ 07666, (201) 836–1144. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 169784, filed August 10, 1983. Applicant: CHARLES C. HIRSCH d.b.a. CHARLES C. HIRSCH TRUCKING, Rural District #2, Box 106, New Ringgold, PA 17960. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309; (515) 244–2329. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers and other soil conditioners* by the owner of motor

vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 169795, filed August 11, 1983. Applicant: EMILIO GUGLIELMELLI & DAVID DAYTON d.b.a. GUGLIELMELLI, DAYTON & ASSOCIATES, 1205 N. 11th, P.O. Box 249, Walla Walla, WA 99362. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 239, Renton, WA 98055; (206) 28–3807. As a *broker* of *general commidities* (except household goods), between points in the U.S.

MC 169824, filed August 11, 1983. Applicant: DELBERT R. FEHNEL d.b.a. ALL SPORTS TOURS, 219 Broad St., Tatamy, PA 18085. Representative: Delbert R. Fehnel (same address as applicant) (215) 253–2538. Transporting *passengers*, in special and charter operations, beginning and ending at points in Northampton County, PA, and extending to points in the United States on the east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the International Boundary line between the United States and Canada.

Note.—Applicant seeks to provide privately-funded special and charter transportation.

Volume No. OP3–408(a)

Decided: August 16, 1983.

By the Commission, Review Borad Members Dowell, Joyce, and Fortier.

MC 169514, filed July 27, 1983. Applicant: RALPH B. CARVER, JR. and RALPH B. CARVER, III d.b.a. R.B.C. CONSOLIDATING COMPANY, Ladge Dr., Avon, MA 02322. Representative: Russell S. Callahan, P.O. Box 1806, Brockton, MA 02403; (617) 697–0405. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

For the following, please direct status calls to Team 5 at 202–275–7289.

Volume No. OP5–448

Decided: August 18, 1983.

By the Commission, Review Board, Members Dowell, Carleton and Fortier.

MC 57298 (Sub-16), filed August 12, 1983. Applicant: TRAILWAYS TEXAS, INC., 1500 Jackson St., Dallas, TX 75201. Representative: Rebecca Patton (same address as applicant.) (214) 655–7796. Transporting (1) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI), and (2) *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

Volume No. OP5–449

Decided: August 18, 1983.

By the Commission, Review Board, Members Fortier, Carleton and Dowell.

MC 169768, filed August 8, 1983. Applicant: THOMAS RUSSELL FRANCIS d.b.a. TOM FRANCIS TOURS, 819 Archbald St., Scranton, PA 18504. Representative: Thomas Russell Francis (same address as applicant) 717–346–6259. Transporting *passengers* in charter and special operation, beginning and ending at points in Lackawanna County, PA, and extending to points in NY, NJ, MD, VT, CT, MA, RI, NH, ME, DE, VA, WV, FL, GA, NC, SC, OH, TN, KY and DC.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 169769, filed August 9, 1983. Applicant: JACKSON TOUR & TRAVEL, INC., 2648 Ridgewood Road, Suite C, Jackson, MS 39211. Representative: Jerry H. Blount, 213 South Lamar Street, Suite 200, Jackson, MS 39201; (601) 354–1608. Transporting *passengers*, in charter and special operations, beginning and ending at points in AL, LA, MS, and TN, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 169778, filed August 8, 1983. Applicant: INTERNATIONAL TRANSPORTATION, INC., 2335 Wheatsheaf Lane, Philadelphia, PA 19137. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110; 215–561–1030. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 169788, filed August 10, 1983. Applicant: H.M.H. MOTOR SERVICE, INC., P.O. Box 98, Morris Rd., Haz hurst, GA 31539. Representative: Morton E. Kiel, Suite 2B, 475 South Main St., P.O. Box 489, New City, NY 10956; 914–638–4007. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

Volume No. OP5–450

Decided: August 19, 1983.

By the Commission, Review Board Members Fortier, Carleton and Parker.

MC 169749, filed August 8, 1983. Applicant: JACK L. SMITH, d.b.a. J.L.S. TRANSPORTATION, 2243 N Indiana Hill Blvd., Claremont, CA 91711. Representative: Jack L. Smith (same address as applicant) (714) 621–4352. To operate as a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 169819, filed August 11, 1983. Applicant: WEST PAC TRUCK BROKERS, P.O. Box 1621, Sparks, NV 89431. Representative: Robert G. Harrison, 4299 James Dr., Carson City, NV 89701; 702–882–5649. As a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 169838, filed August 13, 1983. Applicant: VERNON MEYER and HAROLD MEYER d.b.a. Meyer Bros. Trucking, Box 2, Pollock, SD 57648. Representative: Wanda Stange, RR Box 20, Stratford, SD 57474; (605) 395–6401. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Volume No. OP5–451

Decided: August 22, 1983.

By the Commission, Review Board Members Carleton, Parker and Fortier.

MC 169839(A), filed August 12, 1983. Applicant: SILVER STATE STAGELINE, INC., 1705 Marietta Way, Sparks, NV 89431. Representative: Robert G. Harrison, 4299 James Drive, Carson City, NV 89701; (701) 882–5649. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation. Applicant also seeks authority in MC 169839 (B) published in this same issue.

MC 169848, filed August 12, 1983. Applicant: TOUR-AM LTD., 2800 Buford Rd., Richmond, VA 23235. Representative: Robert L. Dolbeare, Suite 1300, 700 East Main St., Richmond, VA 23219; (804) 780–2900. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

[FR Doc. 83–23870 Filed 8–30–83; 8:45 am]
BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public

interest); Freight Forwarders; Water Carriers; Household Goods Brokers. The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982, at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of aplications as indicated: common carrier of property—that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier—that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker—that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly noted.

Please direct status inquiries to Team 2, (202) 275–7030.

Volume No. OP–2–382

Decided: August 24, 1983.

By the Commission, Review Board Members Krock, Dowell, and Carleton.

MC 142802 (Sub-2), filed August 16, 1983. Applicant: W. V. BRILEY, JR., d.b.a. BRILEY TRANSPORT, 1621 Old Ballinger Rd., San Angelo, TX 79603. Representative: Patrick C. Long, P.O. Box 2307, Austin, TX 78768, 512–472–6207. Transporting *hides*, between points in TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 151153, filed August 3, 1983. Applicant: ALES ENTERPRISES CORP., 1409 15th St., Suites #13 and #3, Moline, IL 61265. Representative: Chris Ales (same address as applicant), 309–762–2818. Transporting (1) *machinery*, (2) *metal products*, and (3) *waste or scrap materials not identified by industry producing*, between points in IA, IL, MI, TX, GA, and CO, on the one hand, and, on the other, points in IA, IL, TX, NE, MN, and KS.

MC 155342 Sub-2, filed August 12, 1983. Applicant: G.W.D. EXPRESS, INC., P.O. Box 396, Pioneer, OH 43554. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with World Wide Transportation Services, Inc., Romulus, MI.

MC 155763 (Sub-2), filed May 31, 1983, published in the **Federal Register** issue of July 8, 1983, and republished, as corrected, this issue. Applicant: CAPSTAN TRANSPORTATION CO., 109 North Broad St., Lancaster, OH 43130. Representative: Mr. D. C. Bolger, (same address as applicant), 614–687–2271. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Anchor Glass Container Corp., c/o Wesray Container Corporation, of Morristown, NJ.

Note.—The purpose of this republication is to remove the restrictions against "household goods and commodities in bulk".

MC 155913 (Sub-5), filed August 1, 1983. Applicant: SELDEN AND SPENCER, INC., Route 661, Chance, VA 22439. Representative: Carroll B. Jackson, 1810 Vincennes Rd., Richmond, VA 23229, 804–282–3809. Transporting (1) *building materials*, (2) *clay, concrete, glass or stone products*, (3) *lumber and wood products*, (4) *machinery*, (5) *metal products*, (6) *pulp, paper and related products*, (7) *rubber and plastic products*, (8) *transportation equipment* and (9) *chemicals and related products*, between those points in the U.S. in and east of MN, IA, MO, OK, and TX.

MC 159823 (Sub-2), filed August 11, 1983. Applicant: WESTEXPRESS, INC., 421 West Erie St., Chicago, IL 60610. Representative: Edward P. Bocko, P.O.

Box 496, Mineral Ridge, OH 44440, 216–652–2789. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 160113 (Sub-1), filed July 11, 1983. Applicant: ROADRUNNER MOTOR LINES, INC., 15 W. Union St. P.O. Box 105, Ashland, MA 01721. Representative: Mary E. Kelley, 22 Stearns Ave., Medford, MA 02155, 617–396–4090. Transporting (1) *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with J.C.P. Truck Brokers, of Ashland, MA, (2) For or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S., and (3) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

Note.—Parts (2) and (3) are published in the Federal Register, this issue, under the preface with "fitness applications".

MC 160463 (Sub-1), filed August 10, 1983. Applicant: McDANIEL WELDING, INC., P.O. Box 579, Cameron, LA 70631. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205, 601–948–8820. Transporting *Mercer commodities*, between points in AL, AK, AR, CA, CO, FL, GA, IL, KS, LA, MD, MS, MT, NJ, ND, OK, SD, TN, TX, and WY.

MC 168963 (Sub-1), filed August 11, 1983. Applicant: V & W, INC., 5085 Mulcare Dr., Minneapolis, MN 55432. Representative: John B. Van de North, Jr., 2200 First National Bank Bldg., St. Paul, MN 55101 612–291–1215. Transporting *metal products*, between points in Box Elder County, UT, and Maricopa County, AZ, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 169853, filed August 15, 1983. Applicant: STAFEK & SON TRUCKING, INC., 3895 Commercial, Springfield, OR 97477. Representative: Terry L. Stafek (same address as applicant), 503–747–2433. Transporting *lumber and wood products and building materials*, between points in Cowlitz and Clark Counties, WA, and Multnomah and Washington Counties, OR.

MC 169863, filed August 16, 1983. Applicant: TERMINAL TRANSPORTATION, INC., 1215 Southern Minerals Rd., Corpus Christi, TX 78403. Representative: James R. Boyd, 1600 Perry Brooks Bldg., Austin, TX 78701, 512–478–8066. Transporting *general commodities*, (except classes A and B explosives and household goods), between points in the U.S., (except AK and HI). Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. § 11343(a), submit an affidavit indicating why such approval is unnecessary, or file a petition seeking exemption under 49 U.S.C. § 11343(e). In order to expedite issuance of any authority please submit a copy of the petition for exemption, the affidavit, or proof of filing the application(s) for common control to Team 2, Room 2379.

MC 169872, filed August 15, 1983. Applicant: UNIVERSAL TRANSPORTATION, INC., 990 W. 1020 S., Provo, UT 84601. Representative: Irene Warr, 311 S. State St. Ste. 280, Salt Lake City, UT 84111, 801–531–1300. Transporting *general commodities*, (except classes A and B explosives and household goods), between points in CA, NV, UT, ID, and WY, on the one hand, and, on the other, points in OR, WA, WY, UT, ID, CA, CO, AZ, IN, NV, MT, IL, OH, MN, OK, MO, WI, TX, NM, NY, SD, and PA.

Please direct status inquiries to Team 3, (202) 275–5223.

Volume No. OP–3–397

Decided: August 19, 1983.

By the Commission, Review Board Members Dowell, Fortier, and Carleton.

MC 15735 (Sub-88), filed August 1, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Ave., Broadview, IL 60153. Representative: Joseph P. Tuohy, P.O. Box 4403, Chicago, IL 60680, (312) 681–8377. Transporting *household goods*, between points in the U.S. (except AK and HI), under continuing contract(s) with Texas Instruments, Inc., and its subsidiaries, of Dallas, TX.

MC 98935 (Sub-3), filed July 28, 1983. Applicant: COMMODORE CARTAGE COMPANY, A Corporation, 2200 E. Ten Mile Rd., Warren, MI 48091. Representative: Robert E. McFarland, 2855 Collidge, Ste. 201A, Troy, MI 48084, (313) 649–6650. Transporting *building materials, machinery, metal products, transportation equipment*, and *those commodities which because of their size or weight require the use of special handling or equipment*, between those points in the U.S. in and east of MN, IA, MO, OK, and TX.

MC 117954 (Sub-36), filed July 29, 1983. Applicant: H. L. HERRIN, JR., d.b.a. H. L. HERRIN TRUCKING CO., P.O. Box 1106, Metaire, LA 70004. Representative: Lester C. Arvin, 814 Century Plaza Bldg., Wichita, KS 67202, (316) 265–2834. Transporting *such commodities* as are dealt in or used by food business houses and chain grocery stores, between points in the U.S. (except AK and HI).

MC 149145 (Sub-6), filed July 18, 1983. Applicant: NATIONAL TRANSPORTATION SYSTEMS, INC., 1315 Directors Row, Suite 10A, Fort Wayne, IN 46808. Representative: Thomas E. Vandenberg, P.O. Box 2545, Green Bay, WI 54306, (414) 498–7689. Transporting *such commodities* as are dealt in or used by department stores and home improvement stores, between points in the U.S. (except AK and HI), under continuing contract(s) with manufacturers and distributors of described commodities.

MC 164775 (Sub-1), filed July 29, 1983. Applicant: MEG INDUSTRIES, INC., 3388 S. 127th St., Omaha, NE 68144. Representative: Arlyn L. Westergren, 9202 W. Dodge Rd., Suite 201, Omaha, NE 68114, (402) 397–7033. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 169544, filed July 29, 1983. Applicant: LES PETROLES BUSSIERES LTEE, 258 Rue Commerciale, C. P. 156, St. Henri de Levis, Quebec, Canada G0R 3E0. Representative: Frank J. Weiner, 15 Court Sq., Boston, MA 02108, (617) 742–3530. In foreign commerce only, transporting *chemicals and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Reed, Inc., of St. Henri de Levis, Quebec, Canada.

Volume No. OP–3–401

Decided: August 22, 1983.

By the Commission, Review Board Members Carleton, Fortier, and Krock.

MC 107515 (Sub-1433), filed August 5, 1983. Applicant: RTC TRANSPORTATION, INC., P.O. Box 308, Forest Park, GA 30051. Representative: Robert W. Gerson, 127 Peachtree Street, NE., Suite 1400, Atlanta, GA 30043, (404) 658–8045. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Minnesota Mining and Manufacturing Company, of St. Paul, MN, and its subsidiaries.

MC 169654, filed August 4, 1983. Applicant: LONG'S TRANSFER & STORAGE, INC., 4603 Long Ave., Pascagoula, MS 39567. Representative: Donald J. Flurry (same address as applicant), (601) 762–2681. Transporting

general commodities (except classes A and B explosives), between points in the U.S. (except AK and HI).

MC 189665, filed August 4, 1983. Applicant: WILSON INDUSTRIAL DOOR SUPPLY, LTD., Route 1, Box 47, Walworth, WI 53184. Representative: Richard A. Westley, 4506 Regent Street, Suite 100, P.O. Box 5068, Madison, WI 53705–0068, (608) 238–3119. Transporting *general commodities* (except classes A and B explosives, commodities in bulk and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Wilson Industrial Doors, Inc., of Walworth, WI.

Volume No. OP–3–407

Decided: August 22, 1983.

By the Commission, Review Board Members Krock, Parker, and Dowell.

MC 15735 (Sub-91), filed August 2, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Ave., Broadview, IL 60153. Representative: Joseph P. Tuohy, P.O. Box 4403, Chicago, IL 60680, (312) 681–8377. Transporting *household goods*, between points in the U.S. (except AK and HI), under continuing contract(s) with Bemis Company, Inc., of Minneapolis, MN.

MC 15735 (Sub-92), filed August 5, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Ave., Broadview, IL 60153. Representative: Joseph P. Tuohy, P.O. Box 4403, Chicago, IL 60680, (312) 681–8377. Transporting *household goods*, between points in the U.S. (except AK and HI), under continuing contract(s) with Kimberly-Clark Corporation, of Neenah, WI, and its subsidiaries.

MC 133215 (Sub-3), filed August 2, 1983. Applicant: INTERIOR MOTOR FREIGHT, INC., P.O. Box 405, 221 Webber St., The Dalles, OR 97058. Representative: John Magill (same address as applicant), (503) 298–1272. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in the U.S., under continuing contract(s) with R & R Truck Brokers, Inc., of Medford, OR and Siskiyou West, Inc., of Yreka, CA.

MC 133655 (Sub-240), filed August 5, 1983. Applicant: TRANS-NATIONAL TRUCK, INC., P.O. Box 809072, Dallas, TX 75380–9072 Representative: Thomas E. Vandenberg, P.O. Box 2545, Green Bay, WI 54306. Transporting *such commodities as are dealt in, or used by, manufacturers and distributors of printed matter, pulp, paper and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with manufacturers and distributors of those commodities.

MC 134835 (Sub-5), filed August 4, 1983. Applicant: WINSTON CARRIERS, INCORPORATED, P.O. Box 347, Double Springs, AL 35553. Representative: E. Stephen Heisley, 1919 Pennsylvania Ave., NW., Suite 500, Washington, DC 20006. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Winston Homes, Inc. of Double Springs, AL.

MC 143991 (Sub-6), filed August 3, 1983. Applicant: MICHAEL W. AMABILE d.b.a. TRIPLE AAA TRUCKING, 29891 Red Arrow Hwy., Paw Paw, MI, 49079. Representative: Michael W. Amabile (same address as applicant), (616) 657–3416. Transporting *pulp, paper and related products*, between points in the U.S., under continuing contract(s) with James River Corporation, of Richmond, VA.

MC 155654 (Sub-2), filed August 5, 1983. Applicant: LAND–LINK TRUCKING CORP., 807 Ocean Rd., Point Pleasant Beach, NJ 08742. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904, (201) 572–5551, Transporting *salt and salt products*, between points in Schuyler County, NY, on the one hand, and, on the other, points in CT, DE, MD, MA, NJ, NY, PA and RI.

MC 157734 (Sub-2), filed August 3, 1983. Applicant: J & J LOGGING CO., INC., P.O. Box 588, Tonasket, WA 98852. Representative: Boyd Hartman, P.O. Box 3641, Bellevue, WA 98009, (206) 453–0312. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S.

MC 162384 (Sub-1), filed August 5, 1983. Applicant: SOUTHWEST EXPRESS, INC., Washington St., East Walpole, MA 02032. Representative: Fred K. Bauer (same address as applicant), (617) 668–2500. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 168594, filed August 4, 1983. Applicant: IDAHO MOBILE TRANSPORT, INC., 4290 Stockman Rd., Pocatello, ID 83204. Representative: Morgan W. Richards, Jr., P.O. Box 829, Boise, ID 83701, (208) 345–2334. Transporting *mobile and modular houses, trailers or buildings, mobile home frames and undercarriages, furniture and appliances*, between points in ID, MT, ND, NV, UT, WY and CO.

Volume No.-OP3–405

Decided: August 23, 1983.

By the Commission, Review Board Members Parker, Fortier, and Krock.

MC 2934 (Sub-172), filed August 9, 1983. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 N. Michigan Rd., Carmel, IN 46032. Representative: W.G. Lowry (same address as applicant), (317) 875–1142. Transporting *household goods*, between points in the U.S. (except AK and HI), under continuing contract(s) with Manville Service Corporation, of Denver, CO.

MC 15735 (Sub-97), filed August 10, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Ave., Broadview, IL 60153. Representative: Joseph P. Tuohy, P.O. Box 4403, Chicago, IL 60680, (312) 681–8377. Transporting *household goods*, between points in the U.S. (except AK and HI), under continuing contract(s) with Armco Inc., of Middletown, OH, and its subsidiaries.

MC 44735 (Sub-59), filed August 10, 1983. Applicant: KISSICK TRUCK LINES, INC., 7101 East 12th Street, Kansas City, MO 64126, Representative: William B. Barker, P.O. Box 1979, Topeka, KS 66601, (913) 234–0565. Transporting *general commodities* (except commodities in bulk, classes A and B explosives and household goods), between points in AR, CO, IL, IN, IA, KS, KY, LA, MN, MO, MS, NE, ND, OK, SD, TN, TX, WI, and WY.

MC 58495 (Sub-3), filed August 10, 1983. Applicant: EDDIE L. BELL AND VERDEAN BELL A PARTNERSHIP, d.b.a. BELL TRANSFER, 518 Lincoln Street, Winner, SD 57580. Representative: Kim L. Bell (same address as applicant), (605) 842–0890. Transporting *lumber and wood products*, between points in SD and WY, on the one hand, and, on the other, points in CO, NE, MT, IA, IL, IN, MN, MI, MO, OH, WI, and TX.

MC 67234 (Sub-86), filed August 10, 1983, Applicant: UNITED VAN LINES, INC., One United Drive, Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105, (314) 727–0777. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S., under continuing contract(s) with Commercial Shippers as defined at 49 CFR 1056.1(b)(6).

MC 149145 (Sub-10), filed August 10, 1983. Applicant: NATIONAL TRANSPORTATION SYSTEMS, INC., 1315 Directors Row, Suite 10A, Fort Wayne, IN 46808. Representative:

Thomas E. Vandenberg, P.O. Box 2545, Green Bay, WI 54306, (414) 498–7689. Transporting *such commodities* as are dealt in, or used by, manufacturers and distributors of food and related products, between points in the U.S. (except AK and HI), under continuing contract(s) with manufacturers and distributors of food and related products.

MC 155885 (Sub-3), filed August 27, 1983. Applicant: GARFIELD TRANSFER CO., INC., d.b.a. GARFIELD TRUCK LINES, P.O. Box 800, Renton, WA 98055. Representative: David Zimmerman, P.O. Box 1564, York, PA 17405, (717) 854–3138. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in Creston, TN, Hamburg, Green Isle, Arlington, Gaylord, Gibbon, Winthrop, Morton, Franklin, Fairfax, Belview, Delhi, Redwood, Hazel Run, Wood Lake, Clarkfield, Echo, Madison, Dawson and Boyd, MN, Lundgren, Palm Grove, Harcourt, Dayton, Lanyon, Hope, Boxholm, Wolf, Frazer, Logansport, Boone, Napier, Huxley, and Alleman, IA, Oak Ridge, Brodenax, Denlco, Archibald, Mangham, Foules and Lee Bayou, LA, Rosinclare, Shelterville, Golconda, Homberg, and Brownsville, IL, Carpentersville and Dundee, IL, Galina, AZ, Scalley, WA, Rich and Jonestown, Summerland, Gitano and Soso, MS, North Henderson, IL, Palmertown, CT, Woodhull, IL, Brockway, MT, Manhattan Beach, Hermosa Beach, and Redondo Beach, CA, Alto, Wells and Pollok, TX, Voorhies and Buckingham, IA, Rutherfordton, NC, McKinley, Brace, Fair Valley, Freedom, Edith, Lovedale, Selman and Buffalo, OK, Delisle and Abbottsville, OH, Battle Lake and Underwood, MN, Sawbill Landing, MN, Dr. Phillips, FL, Dousman, Wales, Sullivan, London, Lake Mills, Helenville and Deerfield, WI, Rex, CO, Brimfield and Duncan, IL, Jonesboro, NC, Moon, IL, Caseville, MI, Cyrus, MN, Prince, Pioche and Panaca, NV, Maxine, Praco and Colta, Al, Belmont, Hickerson, McMinnville, Smartt and Sparta, TN, Mountain View and Winona, MO, Foraker, Benton, Topeka, Eddy, South Milford, Helmer, Hudson and Hamilton, IN, Edon, OH, Youngsville, LA, Olympia, Bayboro, Grantsboro, Alliance, NC, Lowrys, Dephia and McConnells, SC, Somerton, AZ, Oakfield and Warwick, GA, Hammonton and Egg Harbor, NJ, Woodbine and Cape May, NJ, Grinnell, WA, and Monson, CA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 166305, filed August 5, 1983. Applicant: ATLANTIC WEST CORPORATION OF ILLINOIS, 9944 Bryn Mawr, Rosemont, IL 60018. Representative: Victor M. Pilolla, 5423 W. North Ave., Chicago, IL 60639, (312) 622–5044. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 168755 (Sub-1), filed August 8, 1983. Applicant: TIMBERLINE TRANSPORT, INC., N3542 Woodland Rd., Medford, WI 54451. Representative: Richard A. Westley, 4506 Regent St., Suite 100, P.O. Box 5086, Madison, WI 53705, (608) 238–3119. Transporting *general commodities* (except classes A and B explosives and household goods), between points in IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, OH, SD, TN, and WI.

MC 169794, filed August 9, 1983. Applicant: COORDINATED TRANSPORT, INC., 9201 River Road, Pennsauken, NJ 08110. Representative: Russell R. Sage, P.O. Box 11278, Alexandria, VA 22312, (703) 750–1112. Transporting *general commodities* (except household goods, commodities in bulk, and classes A and B explosives), between ponts in the U.S. (except AK and HI), under continuing contract(s) with Coordinated Services, Inc., of Pennsauken, NJ.

Volume No. OP3–409

Decided: August 23, 1983.

By The Commission, Review Board Members Carleton, Fortier, and Krock.

MC 15735 (Sub-96), filed August 8, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Ave., Broadview, IL 60153. Representative: Joseph P. Tuohy, P.O. Box 4403, Chicago, IL 60680, (312) 681–8377. Transporting *houshold goods*, between points in the U.S. (except AK and HI), under continuing contract(s) with Land O'Lakes, Inc., of Arden Hills, MN.

MC 133415 (Sub-11), filed August 2, 1983. Applicant: SNR DELIVERY, INC., 913 Mckinley St., Peekskill, NY 10566. Representative: John L. Alfano, 550 Mamaronech Ave., Harrison, NY 10528 (914) 835–4411. Transporting *paint and paint products*, between points in the U.S. (except AK and HI), under continuing contract(s) with PPG Industries, Inc., Ditzler Color division, of Bronx, NY.

MC 133814 (Sub-12), filed August 10, 1983 Applicant: WHATLEY TRANSPORTATION CO., INC., P.O. Box 1789, Dothan, AL 36302. Representative: Archie B. Culbreth, Suite 570, 2200 Century Parkway, Atlanta, GA 30345 (404) 321–1765. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 146885 (Sub-12), filed August 8, 1983. Applicant: BEN CAPOBIANCO TRUCKING, INC., 9814–9818 Princeton-Glendale Rd., Cincinnati, OH 45246. Representative: Ben Capobianco (same address as applicant) (513) 874–6840. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of sporting goods equipment and apparel, between points in the U.S. (except AK and HI).

MC 165614 (Sub-1), filed August 4, 1983. Applicant: BIG STATE FREIGHT LINES, INC., 2451 Stemmons Freeway, Dallas, TX 75207. Representative: Lawrence A. Winkle, P.O. Box 45538, Dallas, TX 75245 (214) 358–3341. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

MC 169734, filed August 8, 1983. Applicant: CROSS COUNTRY TRANSPORT, INC., 1415 University Blvd., P.O. Box 1846, Melbourne, FL 32936. Representative: Elbert Brown, Jr., P.O. Box 1378, Altamonte Springs, FL 32715, (305) 869–5936. Transporting *plastic fittings, granules and products used in the manufacture and installation of plastic fittings*, between points in the U.S. (except AK and HI), under continuing contract(s) with Colonial Engineering, Inc., of Ft. Pierce, FL.

MC 169764, filed August 9, 1983. Applicant: THE CROM CORPORATION, 250 S. W. 36th Terrace, Gainesville, FL 32607. Representative: William K Kellogg, (same address as applicant), (904) 372–3436. Transporting *chemicals*, between points in the U.S. (except AK and HI), under continuing contract(s) with Zirconium Technology Corporation, of Gainesville, FL.

MC 169774, filed August 9, 1983. Applicant: AMERICAN TRUCKING COMPANY, 4721 Simonton, Dallas, Tx 75234. Representative: David Horne, (same address as applicant), (214) 392–3044. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

MC 169785, filed August 10, 1983. Applicant: STATE INDUSTRIES, INC., Ashland City, TN 37015. Representative: Neal A. Jackson, 1156 15th St., N.W., Washington, D.C. 20005, (202) 223–680. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in

bulk), between points in the U.S. (except AK and HI).

MC 169804, filed August 11, 1983. Applicant: F. B. BETTS INC., 6425 Schurmier Rd., Houston, TX 77048. Representative: Frederick B. Betts III, (same address as applicant), (713) 991–0398. Transporting *lamps*, between points in Carlisle County, KY, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Deena Products Co., of Arlington, KY.

Please direct status inquiries about the following to Team Four at (202) 275–7669.

Volume No. OP4–578.

Decided: August 16, 1983.

By the Commission, Review Board, Members: Williams, Carleton, and Dowell.

MC 12907 (Sub-2), filed July 18, 1983. Applicant: KERRVILLE TOURS, INC., 429 Sidney Baker St., P.O. Box 712, Kerrville, TX 78028. Representative: Jerry Prestridge, P.O. Box 26126, Austin, TX 78755–0126, (512) 345–8596. Over regular routes, transporting *passengers*, between San Marcos, TX and Houston, TX: from San Marcos over Texas State Hwy 80 to junction Interstate Hwy 10, then over Interstate Hwy 10 to Houston, and return over the same route, serving all intermediate points.

Note.—Applicant seeks to provide regular-route service in interstate or foreign commerce.

Volume No. OP4–577

Decided: August 17, 1983.

By the Commission, Review Board, Members: Fortier, Joyce, and Carleton.

MC 169727, filed August 8, 1983. Applicant: GARY LESLIE, INC., P.O. Box 885, Adelanto, CA 92301. Representative: Roy Gray, P.O. Box 344, Bloomington, CA 92316, (714) 824–2453. Transporting (1) *ores and minerals*, (2) *clay, concrete, glass and stone products*, and (3) *building materials*, between points in AZ, CA, CO, NV, NM, OR, TX, UT, and WA.

For the following, please direct status calls to Team 5 at 202–275–7289.

Volume No. OP5–443

Decided: August 18, 1983.

By the Commission, Review Board Members Dowell, Carleton, and Fortier.

MC 79658 (Sub-105), filed August 12, 1983. Applicant: ATLAS VAN LINES, INC., 1212 St. George Rd., P.O. Box 509, Evansville, IN 47711. Representative: Michael L. Harvey (same address as applicant), 812–424–2222. Transporting *household goods*, between points in the U.S. (except AK and HI), under continuing contract(s) with United Technologies Incorporated Sikorsky Aircraft Divison, of Stratford, CT.

MC 79658 (Sub-106), filed August 12, 1983. Applicant: ATLAS VAN LINES, INC., 1212 St. George Rd., P.O. Box 509, Evansville, IN 47711. Representative: Michael L. Harvey (same address as applicant), (812) 424–2222. Transporting *household goods* between points in the U.S. (except AK and HI), under continuing contract(s) with UARCO, Incorporated, of Barrington, IL.

MC 129808 (Sub-34), filed August 4, 1983. Applicant: GRAND ISLAND CONTRACT CARRIER, INC., West Highway 30, Grand Island, NE 68801. Representative: Jack L. Schultz, P.O. Box 82028, Lincoln, NE 68501–2028, (402) 475–6761. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 146078 (Sub-50), filed August 11, 1983. Applicant: CAL-ARK, INC., 854 Moline, Malvern, AR 72104. Representative: James M. Duckett, 221 W. 2nd, Suite 411, Little Rock, AR 72201, (501) 375–3022. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 146148 (Sub-22), filed August 5, 1983. Applicant: B-RIGHT TRUCKING CO., 7087 West Boulevard, Suite 8, Youngstown, OH 44512. Representative: Kim D. Mann, Suite 1301, 1600 Wilson Blvd., Arlington, VA 22209, (703) 522–0900. Transporting (1) *forest products*, (2) *lumber and wood products*, and (3) *building materials*, between points in the U.S. (except AK and HI), under continuing contract(s) with persons engaged in the manufacture, sale, and distribution of commodities dealt in by building supply outlets and home improvement centers.

MC 147318 (Sub-14), filed August 10, 1983. Applicant: DEEP SOUTH TRUCKING, INC., Highway 11 North, P.O. Box 304, Purvis, MS 39475. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205 (601) 948–8820. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 148849 (Sub-12), filed August 12, 1983. Applicant: EQUITABLE BAG CO., INC., 45–50 Van Dam Street, Long Island City, NY 11101. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, (201) 234–0301. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 151118 (Sub-27), filed August 11, 1983. Applicant: M.D.R. CARTAGE, INC., 516 West Johnson, Jonesboro, AR 72401. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38702–1295, 601–335–3576. Transporting (1) *metal products*, and (2) *rubber and plastic products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Halstead Industrial Products, a Division of Halstead Industries, Inc., of Wynne, AR.

MC 151789 (Sub-4), filed August 11, 1983. Applicant: EASTERN CARRIERS, INC., P.O. Box 8492, Station A, Greenville, SC 29604. Representative: Eugene M. Malkin, 475 South Main Street, P.O. Box 489, New City, NY 10956, (914) 638–4007. Transporting *metal products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Berlin Steel Co., Inc., of Albertson, NY, and Metropolitan Metals, Inc., of Cleveland, OH.

Volume No. OP5–444

Decided: August 18, 1983.

By the Commission, Review Board Members Fortier, Carleton, and Dowell.

MC 155118 (Sub-17), filed August 3, 1983. Applicant: T.D.S. TRANSPORTATION, INC., 1700 S. Wolf Rd., Des Plaines, IL 60018. Representative: R. T. Krubeck (same address as applicant) (312) 298–8800. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Alabama Elevators, Inc., of Prattville, AL, Cook Paint and Varnish Company, of Kansas City, MO, The Musicland Group, Division of Pickwick International, Inc., of Minneapolis, MN, Twin City Deshler Broom Co., of Deshler, NE, Tri County Products, Inc., of Raytown, MO, and Avtex Fibers, Inc., of Valley Forge, PA.

MC 159568 (Sub-2), filed August 10, 1983. Applicant: DC&L TRANSPORT, INC., 16521 Van Dam Road, South Holland, IL 60473. Representative: Joseph Winter, 29 South LaSalle Street, Chicago, IL 60603, (312) 263–2306. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 160449 (Sub-1), filed August 12, 1983. Applicant: COMMERCE TRUCKING COMPANY, INC., 127

Jefferson St., Commerce, GA 30529. Representative: David L. Capps, P.O. Box 924, Douglasville, GA 30133, (404) 949–7756. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in AR, CA, NV, TX, and those points in the U.S. in and east of MS, TN, KY, IL, and WI.

MC 164888 (Sub-1), filed August 4, 1983. Applicant: TAX AIRFREIGHT, INC., 4430 South Kansas Ave., Milwaukee, WI 53207. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Rd., Madison, WI 53719, (608) 273–1003. Transporting *general commodities* (except classes A and B explosives household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with freight forwarders.

MC 165868, filed August 11, 1983. Applicant: WELL-COAT, INC., Number 3 Industrial Park, Pauls Valley, OK 73075. Representative: William P. Parker, 4400 N. Lincoln, Suite 10, Oklahoma City, OK 73105, (405) 424–3301. Transporting *metal products and machinery*, between points in OK on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 166169 (Sub-1), filed August 5, 1983. Applicant: SUNDANCE TRANSPORTATION, 1357 Milne Lane, Midvale, UT 84047. Representative: Gordon Jensen (same address as applicant), (801) 942–4340. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between those points in the U.S. in and west of AR, LA, OK, KS, NE, ND, and SD (except AK and HI), on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 169688, filed August 3, 1983. Applicant: RALPH SWIFT, d.b.a SWIFT TRUCK LINE, Walden, CO 80480. Representative: Ralph Swift (same address as applicant), (303) 723–4405. Transporting (1) *farm products and machinery*, between points in CO, WY, ID, and MT, and (2) *lumber and wood products*, between points in Jackson County, CO, on the one hand, and, on the other, points in WY, NE, IA, IL, OH, IN, MO, AR, OK, KS, TX, NM, LA, TN, AL, WI, MN, and MI.

MC 169779, filed August 9, 1983. Applicant: B & L TRUCKING & SONS CO., INC., 28 Wanaque Avenue, Pompton Lakes, NJ 07442. Representative: Harold L. Reckson, 33–28 Halsey Rd., Fair Lawn, NJ 07410, (201) 791–2270. Transporting *textile mill products*, between New York, NY, and points in Warren County, NJ, on the one hand, and, on the other, points in AL, GA, MA, NC, NJ, NY, SC, TN, and VA.

Volume No. OP5–445

Decided: August 19, 1983.

By the Commission, Review Board Members Fortier, Carleton, and Parker.

MC 14708 (Sub-4), filed August 11, 1983. Applicant: FIELD VIEW FARM TRANSPORTATION, INC., 707 Derby Turnpike, Orange, CT 06477. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425—13th St., NW., Washington, DC 20004, (202) 737–1030. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in CT, DE, IL, IN, KY, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VT, VA, WV, WI, and DC.

MC 22509 (Sub-38), filed August 10, 1983. Applicant: MISSOURI-NEBRASKA EXPRESS, INC., P.O. Box 939, St. Joseph, MO 64505. Representative: Harry Ross, Jr., 58 S. Main St., Winchester, KY 49391, (606) 744–3503. Transporting *such commodities* as are distributed or used by manufacturers of containers and container ends, under continuing contract(s) with The Continental Group, Inc., of Stamford, Ct.

MC 148018 (Sub-14), filed August 8, 1983. Applicant: BATT TRUCKING, INC., P.O. Box 921, 121 N. 21st, Caldwell, ID 83605. Representative: John H. Goslin, 911 Main St., Caldwell, ID 83605, (208) 459–6387. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 169798, filed August 10, 1983. Applicant: LEND LEASE TRANSPORTATION CO., 7700 France Avenue South, Minneapolis, MN 55435. Representative: Stanley C. Olsen, Jr., 5200 Willson Rd., Suite 307, Minneapolis, MN 55424, (612) 927–8855. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Holiday Inns, Inc., of Memphis, TN; Coast to Coast Stores, Inc., (Central Organization), of Minnetonka, MN; Ben Franklin Stores, of Des Plaines, IL; T G & Y Stores Co., of Oklahoma City, OK; and Von's Grocery Company, of El Monte, CA.

MC 169818, filed August 12, 1983. Applicant: HATHCOCK TRUCK LINES, P.O. Box 968, Hampton, AR 71744. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205, (601) 948–8820. Transporting *lumber and wood products*, and *building materials*, between points in the U.S. (except AK and HI), under continuing contract(s) with Georgia-Pacific Corporation, of Crossett, AR.

Volume No. OP5–446

Decided: August 22, 1983.

By the Commission, Review Board Members Carleton, Parker, and Fortier.

MC 160349 (Sub-1), filed August 16, 1983. Applicant: J.A.M.M. TRUCKING COMPANY, 1050 North Beltline Highway, Mobile, AL 36608. Representative: George M. Boles, 629 Frank Nelson Bldg., Birmingham, AL, 35203, (205) 251–6602. Transporting *food and related products*, between points in FL, and points in Mobile, Baldwin and Escambia Counties, AL, under continuing contract(s) with Budweiser-Busch Distributing Company, Inc., of Mobile, AL.

MC 160799, filed July 27, 1983. Applicant: H.M. SMITH TRANSPORT, LTD., P.O. Box 421, Elrose, Sask, Canada SOL OZO. Representative: Jerome Anderson, P.O. Drawer 849, Billings, MT 59103–0849, 406–248–2611. Transporting *chemicals and related products*, between points in MT, ND, ID, WY, and MN.

MC 161669 (Sub-3), filed August 16, 1983. Applicant: DIXIE DRAYAGE SERVICE, INC., 680 Industrial Pkwy., Saraland, AL 36571. Representative: George M. Boles, 629 Frank Nelson Bldg., Birmingham, AL 35203, (205) 251–6602. Transporting *food and related products*, between points in Mobile, Baldwin and Escambia Counties, AL, and points in FL, under continuing contract(s) with Budweiser-Busch Distributing Company, Inc., of Mobile, AL.

MC 162008 (Sub-1), filed August 16, 1983. Applicant: GREAT SOUTHWEST EXPRESS CO., INC., 1023 Rockcut Rd., Forest Park, GA 30050. Representative: Benjy Fincher, P.O. Box 577, Jonesboro, GA 30237 (404) 477–1529. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Castellaw Tranportation Consultants, Inc., of Jonesboro, Ga.

MC 169839 (B), filed August 12, 1983. Applicant: SILVER STATE STAGELINE, INC., 1705 Marietta Way, Sparks, NV 89431. Representative: Robert G. Harrison, 4299 James Drive, Carson City, NV 89701 (702) 882–5649. Over regular routes, transporting *passengers*, between Reno, NV and South Lake Tahoe, CA: from Reno over U.S.

Highway 395 to junction U.S. Highway 50 south of Carson City, NV, then over U.S. Highway 50 to South Lake Tahoe, Ca, and return over the same route, serving all intermediate points.

Note.—Applicant seeks to provide regular-route service in interstate or foreign commerce, and in intrastate commerce under 49 U.S.C. 10922(c)(2)(B) over the same route. Applicant also seeks authority in MC 169839(A) published in this same issue.

MC 169859, filed August 15, 1983. Applicant: ADOLPH MARKSTEIN & SONS TRUCKING CO., d.b.a. AM&S TRUCKING CO., 4050 Pell Circle, Sacramento, CA 95815. Representative: Andrew J. Skaff, 100 Bush St., Suite 410, San Francisco, CA 94104, 415–421–6743. Transporting *food and related products*, between points in CA, ID, OR, and WA.

Volume No. OP5–447

Decided: August 22, 1983.

By the Commission, Review Board Members Krock, Carleton, and Parker.

MC 31389 (Sub-353), filed August 15, 1983. Applicant: McLEAN TRUCKING COMPANY 1920 West First Street, Winston-Salem, NC 27154. Representative: Daniel R. Simmons, (same address as applicant) (919) 721–2433. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Walgreens, of Deerfield, IL.

MC 39568 (Sub-18), filed August 15, 1983. Applicant: ARROW TRANSFER & STORAGE CO., 1116 Market Street, Chattanooga, TN 37402. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202, (502) 589–5400. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S.

MC 110988 (Sub-442), filed August 16, 1983. Applicant: SCHNEIDER TANK LINES, INC., P.O. Box 117, Appleton, WI 54912. Representative: Thomas E. Vandenberg, P.O. Box 2545, Green Bay, WI 54306, (414) 498–7689. Transporting *such commodities* as are dealt in, or used by, manufacturers and distributors of chemicals and petroleum products, between points in the U.S. (except AK and HI), under continuing contract(s) with manufacturers and distributors of the above described commodities.

MC 135679 (Sub-3), filed August 15, 1983. Applicant: FRANK E. HICKS TRUCKING, INC., 5830 Mayhew Rd., P.O. Box 26103, Sacramento, CA 95826. Representative: Ellis Ross Anderson 100 Bush St., Suite 410, San Francisco, CA 94104, 415–421–6743. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in WA, OR, CA, NV, UT, ID, MT, AZ and NM.

MC 144428 (Sub-18), filed August 10, 1983. Applicant: TRUCKADYNE INC., Route 16, P.O. Box 308, Mendon, MA 01756. Representative: Joseph A. Reed (same address as applicant), 1–800–982–4723. Transporting *paper and paper articles* between points in the U.S. (except AK and HI), under continuing contract(s) with Scott Paper Company, of Philadelphia, PA.

MC 152658 (Sub-3), filed August 15, 1983. Applicant: HUCKS PIGGYBACK SERVICE, INC., 618 Atando Avenue, Charlotte, NC 28206. Representative: Joseph L. Steinfeld, Jr., 915 Pennsylvania Bldg., 425 13th Street, N.W., Washington, DC 20004, (202) 737–1030. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in NC, SC, GA, VA, and TN.

MC 155719 (Sub-1), filed August 15, 1983. Applicant: DAN RODRIGUEZ, d.b.a. BIG D TRUCKING CO., P.O. Box 5275, McAllen, TX 78501. Representative: Harry F. Horak, P.O. Box 294, Cherokee, TX 76832, (915) 622–4495. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Wal-Mart Stores, Inc., of Bentoinville, AR.

[FR Doc. 83–23877 Filed 8–30–83; 8:45 am]
BILLING CODE 7035–01–M

Motor Carriers; Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interestate Commerce Act and in accordance with the provisions of 49 CFR 1162.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted. 4Motor Carriers of Property

Notice No. F–289

The following applications were filed in Region 2. Send Protests to: ICC, Fed. Res. Bank Bldg., 101 North 7th St. Rm. 620, Philadelphia, PA 19106.

MC 139805 (Sub-II–2TA), filed August 9, 1983. Applicant: B. MOTOR FREIGHT INC., P.O. Box 368, Bear, DE 19701. Representative: Gerald K. Burns, 3308 Englewood Rd., Wilmington, DE 19810 Contract, irregular: *general commodities (except Classes A & B explosives, household goods and commodities in bulk)* from the facilities of GAF located in Annapolis, Baltimore, MD; Bound Brook, Gloucester, South Bound Brook, NJ; Chairman and Erie, PA; Millis, MA, on the one hand, and, on the other, Springfield, VA; Wilmington, DE; Buffalo, NY; Millis, MA; Washington, DC; Huntington, WV; Hartford, CT and Providence, RI, under continuing contract(s) with GAF Corp. An underlying ETA seeks 120 days authority. Supporting shipper(s): GAF Corp., 1361 Alps Rd., Wayne, NJ 07470.

MC 169815 (Sub-II–1TA), filed August 12, 1983. Applicant: WILLIAM R. FOUST, d.b.a. B & R EXPRESS, 910 Thornton Dr., Mechanicsburg, PA 17055. Representative: Jack L. Schiller, 111–56 76th Dr., Forest Hills, NY 11375. Contract, irregular: (1) *chemical (except in bulk)* between the facilities of Chem Serv, Inc., located at or near Minneapolis, MN, on the one hand, and, on the other, points in the U.S. (except AK & HI); and (2) *meat, meat products and meat by-products and merchandise dealt in by meat packinghouse* from the facilities of The Iowa Packing Co., located at or near Des Moines, IA to points in the U.S. (except AK & HI), under continuing contract(s) with Chem

Serv, Inc. and The Iowa Packing Co. An underlying ETA seeks 120 days authority. Supporting shipper(s) Chem Serv, Inc., 207 NE 6th St., Minneapolis, MN 55413. The Iowa Packing Co., 1801 Maury St., Des Moines, IA 50317.

MC 124333 (Sub-II–16TA), filed August 12, 1983. Applicant: BAKER PETROLEUM TRANSPORTATION CO., INC., Pyles Lane, New Castle, DE 19720. Representative: Joseph F. Fogarty (same address as applicant). Contract, irregular: *petroleum and petroleum products, in bulk, in tank vehicles,* between points in DE, NJ, and PA. Under continuing contract(s) with N.V.F. Company. An underlying ETA seeks 120 days authority. Supporting shipper(s): N.V.F. Company, P.O.B. 68, Yorklyn, DE 19736.

MC 124333 (Sub-II–17TA), filed August 12, 1983. Applicant: BAKER PETROLEUM TRANSPORTATION, CO., INC., Pyles, Lane, New Castle, DE 19720. Representative: Joseph F. Fogarty (same address as applicant). Contract, irregular: *petroleum and petroleum products, in bulk, in tank vehicles,* between points in DE, NJ, PA, MD, VA and DC, under continuing contract(s) with Amerada Hess Corp. An underlying ETA seeks 120 days authority. Supporting shipper(s): Amerada Hess Corp., #1 Hess Plaza, Woodbridge, NJ 07095.

MC 169143 (Sub-II–1TA), filed August 8, 1983. Applicant: BERLIN MINERAL, CO., St. Rt. 39, P.O. Box 295, Berlin, OH 44610. Representative: James Duvall, 2515 W. Granville Rd., Worthington, OH 43085. *Clay, clay products, coal and limestone,* between points in Coshocton, Guernsey, Harrison, Holmes, Stark, Tuscarawas and Wayne Counties, OH, on the one hand, and, on the other, points in IN, KY, MI, NY, PA and WV for 270 days. An underlying eta seeks 120 days authority. Supporting shipper: Berlin Mineral Co., St. Rt., 39, P.O. Box 295, Berlin, OH 44610.

MC 141851 (Sub-II–2TA), filed August 15, 1983. Applicant: C. C. CALDWELL TRUCKING, INC., Route 2, P.O. Box 297, Bidwell OH 45614. Representative: John L. Alden, 1396 W. Fifth Ave., Columbus OH 43212. General commodities, (except Classes A & B explosives, household goods, and commodities in bulk), between Gallia County, OH on the one hand, and, on the other, points in the U.S. for 270 days. An underlying eta seeks 120 days authority. Supporting shipper: Robbins & Myers, Inc., P.O. Box 502, Bob McCormick Rd., Gallipolis, OH 45631.

MC 155342 (Sub-II–3TA), filed August 11, 1983. Applicant: G.W.D. EXPRESS, INC., P.O. Box 396, Pioneer, OH 43554. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215. *General commodities* (except Classes A and B explosives, commodities in bulk and household goods) between points in the US (except AK and HI), under continuing contract(s) with WorldWide Transportation Services, Inc., of Romulus, MI, for 270 days. Supporting shipper: WorldWide Transportation Services, Inc., P.O. Box 344, Romulus, MI 48175.

MC 156719 (Sub-II–3TA), filed August 15, 1983. Applicant: LEE TRANSPORT, INC., P.O. Box 39185, Solon, OH 44139. Representative: Ignatius B. Trombetta, 1001 One Public Square, Cleveland, OH 44113. Calcium Carbonate, Clays, Compounds, Silicates, Titanium Dioxide, Kaolin, Barytics, Caulk, Adhesives, Sealants and related materials in containers and bags (1) from points in GA, AL, MD, and NJ on the one hand and on the other to points in Cuyahoga, Summit, Lake and Lorain Counties, OH and (2) from points in Cuyahoga, Summit, Lake and Lorain Counties, OH on the one hand and on the other to points in PA, NY, TX, IL, GA, NC, SC, AL and FL for 270 days. An underlying E.T.A. seeks 120 day authority. Supporting shippers: Dar Tech, Inc., 4900 Lakeside Avenue, Cleveland, OH. Ohio Sealants, Inc., 7249 Commerce Park, Mentor, OH 44060.

This was first published in the **Federal Register** dated July 27, 1983.

MC 98792 (Sub-II–1TA), filed July 6, 1983. Applicant: JON E. GOLASHEWSKI AND EDWARD VAYANSKY, d.b.a. MON VALLEY EXPRESS, 131 Donner Ave., Monessen, PA 15062. Representative: John A. Pillar, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222. *General commodities (except Classes A and B explosives, household goods and commodities in bulk)* between points in Washington, Fayette, Greene, Westmoreland and Allegheny Counties, PA, on the one hand, and, on the other, Pittsburgh PA and its commercial zone and points in OH, NY and WV. Applicant intends to interline at Pittsburgh, PA and its commercial zone and the Counties in PA as mentioned above. Supporting shipper(s): There are 11 supporting statements attached to this application which may be examined at the Phila. Regional office.

The purpose of this re-publication is to show the interlining points which were omitted in the previous publication.

MC 107012 (Sub-II–338TA), filed August 11, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Ft. Wayne, IN 46801. Representative: David D. Bishop (same as applicant). Contract irregular: *household goods* between points in the US (excluding Alaska & Hawaii), under continuing contracts with: Deere & Company of Moline, IL. for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Deere & Company, John Deere Road, Moline, IL 61265.

MC 107012 (Sub-II–339 TA), filed August 12, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Ft. Wayne, IN 46801. Representative: Margaret S. Vegeler (same as applicant). Contract, irregular: *General commodities* (except classes A & B explosives and commodities in bulk) between points in the U.S. under continuing contract(s) with Osborne Computer Corp. of Hayward, CA for 270 days. Supporting shipper: Osborne Computer Corp, 26538 Danti Court, Hayward, CA 94545.

MC 107012 (Sub-II–340 TA), filed August 12, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Gerald A. Burns (same as applicant). Contract, irregular: *General commodities (except classes A & B explosives, commodities in bulk, and household goods as defined by the Commission)* between points in the U.S., under continuing contract(s) with Target Stores, Minneapolis, MN, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Target Stores, 77 Nicollet Mall, Minneapolis, MN 55440.

MC 107012 (Sub-II–341 TA), filed August 17, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Ft. Wayne, IN 46801. Representative: David D. Bishop (same as applicant). Contract, irregular: *household goods* between points in the U.S. (except AK & HI) under continuing contract(s) with Digital Equipment Corp. of Northborough, MA. for 270 days. Supporting shipper: Digital Equipment Corp., 50 Whitney St., Northborough, MA 01532.

MC 145900 (Sub-II–3TA), filed August 15, 1983. Application: THREE RIVERS TRUCKING, INC., Legionville Road, Ambridge, PA 15003. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219. *General commodities, in containers (except Classes A and B explosives and household goods),* between Maspeth and New York, NY; Baltimore and Dundalk, MD; Newark and Port Elizabeth, NJ and Philadelphia, PA, on the one hand, and,

on the other, points in PA, WV, OH, IL, IN and MI. An underlying ETA seeks 120 days authority. Supporting shipper(s): There are fourteen support statements attached to this application which may be examined at the Phila. Regional office.

MC 167805 (Sub-II–2TA), filed August 11, 1983. Applicant: UNION TRANSPORT COMPANY, 785 Union Commerce Building, Cleveland, OH 44115. Representative: Martin J. Leavitt, 22375 Haggerty Rd., P.O. Box 400, Northville, MI 48167. *General commodities*, in containers, between Wayne County, MI on the one hand, and, on the other, Cuyahoga County, OH for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Sofati Container Line (North America) Ltd., 1 Park Lane Blvd., Suite 1612 E., Dearborn Towers, MI 48126.

MC 145194 (Sub-II–2TA), filed August 10, 1983. Applicant: WOOSTER MOTOR WAYS, INC., P.O. Box 767, Wooster, OH 44691. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. *Petroleum products*, except in bulk, between Bayonne, NJ and Detroit, MI, including points in their respective commercial zones, on the one hand, and, on the other, points in CT, DE, IL, IN, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VT, and WV, for a period of 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Texaco USA, P.O. Box 430, Room W 400, Bellaire, TX 77401.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–23875 Filed 8–30–83; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 30245]

Rail Carriers; the New York, Susquehanna and Western Railway Corp.; Abandonment and Trackage Rights Exemption, Hudson County, NJ

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of prior approval under 49 U.S.C. 10901, 10903, and 11343: (1) The abandonment by The New York Susquehanna and Western Railway Corporation (NYS&W) of a line of track between milepost 10.73, North Bergen, NJ, and milepost 3.944, near Croxton Yard, Jersey City, NJ; (2) the acquisition by NYS&W of trackage rights over a Consolidated Rail Corporation (Conrail) branch line known as the Northern Secondary, between milepost 8.2, formerly known as Owens-Illinois Switch, Northern Bergen Township, NJ, and milepost 3.2 north of NYS&W's Bridge 3.51 over New County Road, Jersey City, NJ; (3) the modification dated April 1, 1982, of a previously approved trackage rights agreement between Conrail and NYS&W whereby Conrail has obtained certain trackage rights over NYS&W's lines; and (4) the construction of a connection between NYS&W's line with Conrail's line at the former Owens Illinois Industrial Sidetrack, approximately at milepost 8.2, in North Bergen, NJ., subject to standard labor protection.

DATES: This exemption will be effective on August 31, 1983. Petitions to reopen this decision must be filed by September 20, 1983.

ADDRESSES: Send pleadings referring to Finance Docket No. 30245 to:

(1) Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423

and

(2) Petitioner's representative: Lawrence C. Malski One Railroad Avenue, Cooperstown, NY 13326

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (D.C. Metropolitan area) or toll free (800) 424–5403.

Decided: August 25, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison. Vice Chairman Sterrett and Commissioner Andre would not impose a deadline on consummation of the exempted transaction.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–23874 Filed 8–30–83; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 83–23]

Ferguson Rexall Drug, Inc., Newberg, Oregon; Hearing

Notice is hereby given that on July 7, 1983, the Drug Enforcement Administration, Department of Justice, issued to Ferguson Rexall Drug, Inc., an Order To Show Cause as to why the Drug Enforcement Administration should not revoke its DEA Certificate of Registration, AF1620043.

Thirty days having elapsed since the said Order To Show Cause was received by Respondent and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held on Thursday, September 29, 1983, commencing at 9:30 a.m. in Courtroom No. 6, U.S. District Court, U.S. Courthouse, 620 SW. Main Street, Portland, Oregon.

Dated: August 24, 1983.

Francis M. Mullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 83–23873 Filed 8–30–83; 8:45 am]

BILLING CODE 4410–09–M

NUCLEAR REGULATORY COMMISSION

Availability of Human Factors Program Plan

Notice is given that the Commission's Office of Nuclear Reactor Regulation has published NUREG–0985, Human Factors Program Plan, Volume 1. NUREG–0985 is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C., and in all other Commission Local Public Document Rooms.

The Human Factors Program Plan was developed to ensure consideration of human factors in the design, operation and maintenance of nuclear facilities. This initial issue of the Plan addresses nuclear power plants and outlines staff developmental activities planned to provide technical bases for resolution of the remaining human factors related tasks described in NUREG–0660, "The NRC Action Plan Developed as a Result of the TMI–2 Accident." Activities to investigate and resolve additional human factors problems that have been identified since publication of NUREG–0660 and NUREG–0737 "Clarification of TMI Action Plan Requirements" are also included.

The Plan has seven major program elements: (1) Staffing and Qualifications, (2) Training, (3) Licensing Examinations, (4) Procedures, (5) Man-Machine Interface, (6) Management and Organization, and (7) Human Reliability. Activities within these program elements are directed to providing technical bases for developing guidance to the nuclear industry, improving staff capabilities to perform licensing activities, and supporting staff recommendations regarding the degree

of regulation required to resolve technical issues. Appendixes to the Plan describe the status of TMI Action Plan human factors issues, staff responses to recommendations provided by the Human Factors Society, and schedules for the seven program elements. Volume 1 of the Plan describes activities now in progress and planned for Fiscal Years 1983 through 1985.

The Human Factors Program Plan will be revised on an annual basis. Future Volumes of the Plan will include human factors development activities addressing other regulatory responsibilities of the Commission.

Copies of NUREG–0985 are available for purchase from the GPO Sales Program, Division of Technical Information and Document Control, Nuclear Regulatory Commission, Washington, D.C. 20555, and from the National Technical Information Service, Springfield, Virginia 22161.

For further information, Contact Dr. Daniel B. Jones, Division of Human Factors Safety, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone (301) 492–4618.

Dated at Bethesda, Maryland, this 27th day of August, 1983.

Hugh L. Thompson, Jr.,

Director, Division of Human Factors Safety.

[FR Doc. 83-23906 Filed 8-30-83; 8:45 am]

BILLING CODE 7590-01-M

NRC Concurrence in High-Level Waste Repository Safety Guidelines Under the Nuclear Waste Policy Act of 1982 (Pub. L. 97–425); Memorandum and Order

On June 21, 1983, the Yakima Indian Nation ("Yakima") petitioned the Nuclear Regulatory Commission ("NRC" or "Commission") to institute a notice and comment rulemaking proceeding on the Commission's statutory concurrence [1] in the Department of Energy's ("DOE") General Guidelines for Recommendation of Sites for Nuclear Waste Repositories, 10 CFR Part 960 ("Siting Guidelines"). For the reasons discussed below, the Commission has determined that its concurrence role under Section 112(a) of the Nuclear Waste Policy Act of 1982 ("NWPA") does not constitute a rulemaking action under either the Atomic Energy Act of 1954, as amended ("Atomic Energy Act") or the Administrative Procedure Act ("APA"). Accordingly, the Commission finds that there is no legal obligation to provide an opportunity for notice and comment on the NRC's concurrence or non-concurrence in DOE's Siting Guidelines. However, the Commission recognizes the high level of public interest and concern regarding DOE's Siting Guidelines and, therefore, will provide an opportunity for a limited number of representatives of various groups to address the Commission regarding DOE's Siting Guidelines.

[1] 42 U.S.C. 10132(a).

Background

Section 112(a) of NWPA, 42 U.S.C. 10132(a), directs the Secretary of Energy ("Secretary") to issue general guidelines for the recommendation of sites for geologic high-level radioactive waste repositories following consultation with various federal agencies and states and concurrence by the NRC. On February 7, 1983, DOE issued proposed guidelines for comment. 48 FR 5670. Subsequently, DOE conducted five public hearings around the country. 48 FR 6549 (February 14, 1983), *as amended*, 48 FR 8289 (February 28, 1983). Due to the volume and nature of public comments, DOE assembled a task force which redrafted the proposed guidelines and decided to extend the comment period to July 7, 1983, even though that extension caused DOE to miss the statutory deadline for issuing final Siting Guidelines. 48 FR 26441 (June 7, 1983).

The NRC initiated its concurrence process soon after DOE published its proposed Siting Guidelines. *See* SECY–83–121 (March 31, 1983). On April 7, 1983, the NRC staff provided DOE with extensive comments on the proposed Siting Guidelines. DOE agreed to provide NRC with copies of all public comments as they are submitted to DOE so that the NRC staff can review those comments independently and expeditiously. On June 20, 1983, the NRC staff provided the Commission with a summary of the comments received by DOE (SECY–83–241). DOE has also provided to NRC a draft of DOE's Responses to Public Comments dated May 27, 1983. Representatives from DOE briefed members of the NRC staff and Commission offices on June 27, 1983. On August 2, 1983, DOE provided the NRC staff with draft final guidelines for further review. Thus, the NRC has had complete access to DOE's public comment procedures on the proposed Siting Guidelines.

Yakima Petition

Although the Yakima Petition is somewhat unclear, it appears to be premised on the contention that NRC's statutory concurrence role makes the DOE Siting Guidelines into a rule jointly issued by NRC and DOE. Moreover, the Yakimas somewhat inconsistently contend that NRC concurrence is itself a rulemaking for which notice and opportunity for comment must be provided.[2] Finally, the Yakimas content that the Commission must seek comments directed to NRC responsibilities to make an independent judgment on the Siting Guidelines, and that comments to DOE cannot serve that purpose. The only examples of NRC responsibility identified by the Yakima is the Commission's consideration of alternatives for the purposes of the National Environmental Policy Act of 1969 ("NEPA"). Under Section 114(f) of NWPA, 42 U.S.C. 10134(f), DOE will use the Siting Guidelines to identify a proposed repository site and its alternatives for the purposes of NEPA. Section 114(f) also directs the Commission to adopt DOE's Environmental Impact Statement ("EIS") to the extent practicable. The Yakimas are concerned that such an adoption of DOE's EIS by the NRC will bind the Commission's construction authorization proceeding on a repository to DOE's application of the Siting Guidelines in the same manner that Commission proceedings are bound by Commission rules.[3]

Commission Decision

For the reasons stated below, the Commission finds that the NRC's concurrence responsibility is not rulemaking and does not require notice and opportunity for public comment. However, the Commission will give representatives of various groups an opportunity to comment on the Siting Guidelines as described below.

Section 112(a) of NWPA does not specify any procedures for Commission concurrence in DOE Siting Guidelines. A review of other statutes providing for one agency's concurrence in another agency's actions shows that such concurrence has never been considered rulemaking.[4] The reason that

[2] The Yakimas contend that NRC concurrence in DOE's Siting Guidelines is the same as NRC adoption of industry-developed standards as a rule. That this analogy is incorrect is clear from the differences between DOE's public procedures for issuing Siting Guidelines and an industry group's limited private procedures for adopting standards. DOE has provided hybrid notice and comment procedures that go beyond the statutory maximum that would be required is Section 553 of the APA were aplicable; an industry group does not subject itself to even the most minimal of public participation procedures. Thus, there is no parallel between this situation and the NRC's use of rulemaking to adopt industry standards.

[3] The Yakimas also contend that they should have an opportunity to comment to the NRC on the consistency of DOE's Siting Guidelines with NRC's technical siting criteria in 10 CFR Part 60. Since it is DOE's Siting Guidelines that are involved, it appears that such comments should be directed to DOE in an effort to get DOE to conform to existing NRC regulations. Once those comments have been provided to DOE, they will also automatically come before the NRC.

[4] These other statutes are reviewed in Appendix A.

concurrence has never been considered a separate rulemaking follows directly from the purpose of public opportunity for notice and comment. Notice and comment provides interested parties an opportunity to criticize projected agency action and allows an agency to benefit from the views of others before a rule is fixed in final form. *Council of Southern Mountains, Inc.* v. *Donovan*, 635 F.2d 573, 580 (D.C. Cir. 1981). Where one agency is concurring in another agency's action, it is not the act of concurrence but the underlying substantive rule that is of interest to the public. Where the agency promulgating the substantive rule has provided for public notice and comment, that agency has had the benefit of the public's views in formulating a final rule. The agency with concurrence responsibility also has the benefit of those views because they are a matter of public record. Accordingly, the interpretation of concurrence responsibility as a separate rulemaking requiring another round of public notice and comment would be redundant and wasteful of limited resources.[5]

This analysis is applicable to the current situation. DOE has provided public participation procedures that exceed the minimum that would be required if the APA were applicable to the promulgation of Siting Guidelines. The Yakimas have not identified any issues on which it would be appropriate to comment to NRC but not DOE. Even if the Siting Guidelines were treated in the NRC's construction authorization proceeding as suggested by the Yakimas, there would be no comments to NRC that would not have already been made to DOE. It is DOE's selection criteria that will be applied to alternative sites. There is nothing more that could be said to the NRC over and above the views presented to DOE and known to the NRC to influence the Commission's independent judgment as to whether the DOE Siting Guidelines are adequate for identifying alternative sites. For these reasons, the Commission believes that it would be unreasonable to interpret this statutory concurrence obligation differently from other such concurrence statutes to find that this concurrence would require the provision of an opportunity for public notice and comment.

Notwisthstanding the lack of a legal requirement to provide an opportunity for notice and comment, in the past the Commission has found that oral presentations are sometimes helpful in crystallizing the central issues important to various interested groups. In the present case, moreover, a number of organizations and individuals have already demonstrated their interest in the subject by submitting comments to DOE on the draft guidelines. In summarizing the comments, the NRC staff divided the commenters into seven classes: (1) Federal agencies; (2) state government; (3) local governments; (4) industry; (5) public interest groups; (6) Indian tribes; and (7) individuals.

Accordingly, the Commission will hold a public meeting at which those organizations and individuals which have previously commented on the DOE Draft Siting Guidelines may present their views to the Commission concerning NRC's concurrence or non-concurrence in those guidelines, and on the guidelines themselves. The Commission strongly encourages commenters to consolidate their presentations. The opportunity to participate will also be extended to DOE. The meeting will be held at the NRC's headquarters at 1717 H Street, NW., Washington, D.C., in approximately 30 days. The precise date and time, as well as the amount of time which will be allotted to the various classes of commenters, will be set forth in a further order, to be issued shortly by the Commission's Secretary.

It is so ordered.

Dated at Washington, DC. this 24th day of August, 1983.

For the Commission.[6]

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 83-23005 Filed 8-30-83; 8:45 am]

BILLING CODE 7590-01-M

[5] Even if the Siting Guidelines could be considered a jointly issued rule, it does not follow that each agency must separately seek public comment on one joint action

[6] Commissioner Roberts was not present and did not participate in this action.

[Docket Nos. 50-348 and 50-364]

Alabama Power Co.; Granting of Relief From ASME Section XI Inservice Testing Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components" to the Alabama Power Company (the licensee). The relief relates to the inservice testing program for the Farley nuclear Plant Unit Nos. 1 and 2 located in houston County, Alabama. The ASME Code requirements are incorporated by reference into the Commission's regulations in 10 CFR Part 50. The relief is effective as of its date of issuance.

The relief consists of the substitution of volumetric examinations of cladding welds of closure heads for certain ASME Code Class 1, 2 and 3 components.

The request for relief complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the letter granting relief. Prior public notice of this action was not required since the granting of this relief from ASME Code requirements does not involve a significant hazards consideration.

The Commission has determined that the granting of this relief will not result in any significant environmental impact and that pursuant to 10 CFR 50.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

For further details with respect to this action, see (1) the licensee's requests for relief contained in the submittals to the Commission dated April 17, 1981 and January 10, 1983 (2 letters), and (2) the Commission's letter to the licensee dated December 7, 1979.

These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 24th day of August 1983.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 83-23001 Filed 8-30-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-293]

Boston Edison Co.; Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Prior Hearing

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-35, issued to Boston Edison Company (the licensee), for operation of the

Pilgrim Nuclear Power Station located in Plymouth County, Massachusetts.

The amendment would revise the operating license and the provisions in the Technical Specifications relating to changes to permit reactor operation at power levels in excess of 70% of rated power with one recirculation loop out of service. Presently, the Pilgrim operating license requires plant shutdown if an idle recirculation loop cannot be returned to service within 24 hours. The change proposed by the license would delete this license condition and modify the Technical Specifications (TSs) as necessary to provide for appropriate Average Power Range Monitor (APRM) flux scram trip and rod block settings, an increase in the safety limit Minimum Critical Power Ratio (MCPR) value and revisions to the allowable Average Planar Linear Heat Generation Rate (APLHGR) values suitable for use with an idle recirculation loop, in accordance with the licensee's application for amendment dated May 12, 1981.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By September 30, 1983, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition would specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 377 and the following message addressed to Domenic B. Vassallo: (petitioner's name and telephone number); (date petition was mailed); (plant name); and (publication date and page number of this **Federal Register** notice). A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to W. S. Stowe, Esq., Boston Edison Company, 800 Boylston Street, 36th Floor, Boston, Massachusetts 02199, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated May 12, 1981, which is available for public inspection at the Commission's Public Document room, 1717 H Street, NW., Washington, D.C. and at the Plymouth Public Library, North Street, Plymouth, Massachusetts 02360.

Dated at Bethesda, Maryland this 23rd day of August, 1983

For the Nuclear Regulatory Commission.

Robert A. Hermann,

Action Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 83–23902 Filed 8–30–83; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–275]

Pacific Gas and Electric Co.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–76, issued to Pacific Gas and Electric Company (the licensee), for operation of the Diablo Canyon, Unit 1 nuclear power plant located in San Luis Obispo County, California.

The proposed amendment would update the facility Technical Specifications to reflect the installation of an additional 2500 gpm firewater pump to provide an increased capacity, based on a reanalysis of the largest fire system demand, and modify the surveillance requirements for explosive initiators in the Halon fire suppression system in accordance with the licensee's application dated May 23, 1983.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission has provided guidance for the application of these criteria by providing examples of amendments that are considered not likely to involve a significant hazards consideration (48 FR 14870). One such example is a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications; for example, a more stringent surveillance requirement.

The proposed amendment which increases the required capacity of the firewater system by installing a new fire pump constitutes an additional limitation that is currently required by the Technical Specifications. Therefore, based on this consideration and the three criteria given above we have made a proposed determination that this amendment request involves no significant hazards consideration.

Section 4.7.9.4c of the Technical Specifications currently requires that the explosive initiators in the Halon fire suppression system be replaced at least one every five years with initiators that have a remaining service life of at least 5 years. The licensee states that the greatest service life available for the type of explosive initiators used in the Halon system is 5 years from the time that they are made based on information obtained from the vendor. Consequently, to meet the letter of the Technical Specifications replacement explosive initiators, which must have a remaining service life of at least 5 years, is feasible only if zero time has elapsed from the time of manufacture. The proposed amendment request would require replacement of the explosive initiator prior to the expiration of its service life and at least once every 5 years.

The Commission has provided guidance for the application of the above mentioned criteria by providing examples of amendments that are considered not likely to involve significant hazards consideration (48 FR 14870). One such example is a purely administrative change to the Technical Specifications; for example, a change to achieve consistency throughout the Technical Specification, a correction of an error, or a change in nomenclature.

The proposed amendment is to correct an error in the current Technical Specification which requires replacement explosive initiators having a remaining service life of at least 5 years which is not currently technically feasible, since some period of time must elapse from the moment of fabrication to installation at the facility. Therefore, based on this consideration and the three criteria mentioned above, we have made a proposed determination that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Attn: Docketing and Service Branch.

By September 30, 1983, the licensee may file a request for a hearing with respect to issuance of the ammendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR § 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days perior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisify the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene in the proceeding which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements which respect to at least one contention will not be permited to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearings is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period.

However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 220555, Attention: Docketing and Service Branch, or may be delivered on the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (In Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to George W. Knighton: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Philip A. Crane, Jr., Esq., Pacific Gas and Electric Company, 77 Beale Street, San Francisco, California 94106 and Norton, Burke, Betty and French, P.C., Attn: Bruce Norton, Esq., 2002 East Osborn Road, Phoenix, Arizona 85106, attorneys for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated May 23, 1983, which is available for public inspection at the Commission's Public Document Room 1717 H Street NW., Washington, D.C., and the California Polytechnic State University Library, Documents and Maps Department, San Luis Obispo, California 93407.

Dated at Bethesda, Maryland, this 25th day of August 1983.

For the Nuclear Regulatory Commission.

George W. Knighton,

Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 83-23903 Filed 8-30-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-387]

Pennsylvania Power and Light Co. and Allegheny Electric Co-op., Inc.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–14, issued to Pennsylvania Power & Light Company and Allegheny Electric Cooperative, Inc. (the licensees), for operation of the Susquehanna Steam Electric Station, Unit 1 located in Luzerne County, Pennsylvania.

The amendment would raise the Main Steam Line Radiation—High setpoint from less than or equal to three times normal background to a setpoint of less than or equal to seven times normal background, in accordance with the licensee's application for an amendment dated July 22, 1983, and supplemented by letters dated July 26, 1983 and August 2, 1983. Previous operations at full power have resulted in reactor trips and main steam line isolations during normal plant evolutions such as placing a condensate demineralizer into service.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proosed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequenes of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

No credit is taken for operation of the main steam line radiation detectors in accident analyses. The staff proposes to determine that the proposed change to the Main Steam Line Radiation—High setpoint involves no significant hazards consideration on the basis that the Main Steam Line Radiation—High alarm and trip is not considered in any accident analysis and therefore raising its setpoint does not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch.

By September 30, 1983, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and

how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and state comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to A. Schwencer: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Jay Silberg, Esquire, Shaw, Pittman, Potts & Trowbridge, 1800 M Street, NW., Washington, D.C. 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or request for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Dated at Bethesda, Maryland this 24th day of August 1983.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Licensing Branch No. 2, Division of Licensing.

[FR Doc. 83-23004 Filed 8-30-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-289]

Metropolitan Edison Co., et al.; Additional Opportunity for Comment

On May. 31, 1983, the Commission published in the **Federal Register** [48 FR 24231) a "Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing" related to GPU Nuclear Corporation's (GPUN) May 9, 1983 application for amendment for Facility Operating License No. DPR–50 for the Three Mile Island Nuclear Station, Unit No. 1 (the facility), located in Dauphin County, Pennsylvania.

The requested amendment would revise the Technical Specifications to recognize steam generator tube repair techniques, other than plugging, provided such techniques are approved by the U.S. Nuclear Regulatory Commission (the Commission).

The licensees' application dated May 9, 1983, further requested that the Commission approve, within the provisions of the proposed Technical Specification revision, the kinetic expansion steam generator tube repair technique used at the facility, thus permitting subsequent operation of the facility with the as-repaired steam generators.

The May 31, 1983 Notice solicited public comments on the Commission's proposed no significant hazards consideration determination and offered an opportunity for the licensees to request a hearing and for interested parties to file a written petition for leave to intervene. A number of comments and petitions for leave to intervene were received prior to expiration of the comment period on June 30, 1983.

The Commission has recently completed its Safety Evaluation of the requested amendment and has provided it to licensees and those interested parties that submitted comments and/or

filed written petitions for leave to intervene and to the Public Document Rooms in Washington, D.C., and Harrisburg, Pennsylvania. In view of the additional information contained in the Safety Evaluation, the Commission is reopening the comment period to receive further public comments on the proposed no significant hazards consideration published on May 31 at (48 FR 24231). Any comments received within 30 days after the date of publication of this notice will be considered along with those comments previously received in making a final determination on the amendment authorizing operation of the facility with the as-repaired steam generators after completion of non-nuclear hot functional testing. The Commission is also publishing a notice of issuance of an amendment authorizing non-nuclear hot functional testing of the steam generators. In connection with this amendment, the Commission has made a final determination that such amendment involves no significant hazards considerations.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Att: Docketing and Service Branch.

For further details with respect to this action see: (1) The application for amendment dated May 9, 1983, (2) the May 31, 1983 **Federal Register** Notice (48 FR 24231), and (3) the Commission's Safety Commission's Safety Evaluation provided in a letter dated. August 25, 1983. (J. Stolz (NRC) to H. Hukill (GPUN)). These documents are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126. A copy of the Safety Evaluation may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 25th day of August 1983.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 34941 Filed 8-30-83 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the Advisory Committee on Reactor Safeguards will hold a meeting on August 31–September 2, 1983, in Room 1046, 1717 H Street, NW, Washington, DC. Notice of this meeting was published in the **Federal Register** on August 23, 1983.

The agenda for the subject meeting will be as follows:

Wednesday, August 31, 1983

8:30 A.M.–8:45 A.M.: Opening Remarks (Open)—The ACRS Chairman will report briefly on matters of current interest regarding ACRS activities.

8:45 A.M.–9:45 A.M.: Seismic Design of Nuclear Facilities (Open)—The ACRS members and representatives of the NRC Staff will discuss the use the "Tau" effect in the seismic design of nuclear power plants.

9:45 A.M.–10:45 A.M.: Unresolved Safety Issue A–1, Water Hammer (Open)—The Committee will consider the NRC Staff proposal for resolution of USI A–1, Water Hammer.

10:45 A.M.–12:00 Noon: Unresolved Safety Issue A–43, Containment Emergency Sump Performance (Open)—The members will consider proposed NRC Staff action to resolve USI A–43, Containment Emergency Sump Performance.

1:00 P.M.–2:15 P.M.: Nuclear Plant Security (Open)—The members will consider proposed NRC rules and amendments regarding the security provisions at nuclear facilities.

2:15 P.M.–3:15 P.M.: Operating Experience at Nuclear Facilities (Open)—The members of the Committee will hear reports from representatives of the NRC Staff regarding recent experiences that impact on the safety of nuclear facilities including events leading to IE Information Notices No. 83–07 and No. 83–01 regarding nonconformance to specifications of materials provided for construction of nuclear facilities, and the recent fine levied against the Commonwealth Edison Company for breakdown of plant management at the Quad Cities Station.

3:15 P.M.–4:15 P.M.: ACRS Subcommittee Activities (Open)—The members will hear and discuss reports of ongoing activities from designated subcommittees including the scope and conduct of ACRS activities, emergency procedures guidelines and emergency operating procedures, and a proposed NRC rule on decommissioning of nuclear facilities.

4:15 P.M.–5:15 P.M.: Use of Statistics (Open)—Members of the Committee will hear and discuss a briefing by Dr. H. W. Lewis, ACRS Member, regarding statistical methodology.

Thursday, September 1, 1983

8:30 A.M.–9:00 A.M.: Future Schedule (Open)—The members will discuss anticipated ACRS Subcommittee activity and proposed full Committee activity.

9:00 A.M.–10:00 A.M.: Office of Nuclear Regulatory Research Activities (Open)—The Director of the NRC Office of Nuclear Regulatory Research will brief the ACRS regarding the activities of the NRC Office of Nuclear Regulatory Research.

10:00 A.M.–12:00 Noon and 1:00 P.M.–2:00 P.M.: Severe Accident Research Program (Open)—The Committee members will hear and discuss presentations by representatives of NRR and RES regarding the objectives of the SARP.

2:00 P.M.–2:30 P.M.: ACRS Subcommittee Activities (Open/Closed)—The members will hear and discuss reports of designated subcommittees regarding ongoing activities including the annual ACRS report to the U.S. Congress on the proposed NRC safety research budget and program, and the proposed Westinghouse Electric Corporation advanced PWR standard plant design.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to the matters being considered.

2:30 P.M.–4:30 P.M.: Nuclear Power Plant Operator Training and Qualification (Open)—The members will consider proposed new and revised NRC regulations and regulatory guides on training and qualification of individuals working at nuclear power plants.

4:30 P.M.–5:30 P.M.: Preparation of ACRS Reports (Open)—The Committee will prepare its reports to the NRC regarding items considered during this meeting.

Friday, September 2, 19[illegible]

8:30 A.M.–12:30 P.M. Preparation of ACRS Reports to NRC (Open)—The Committee will prepare its reports to the Nuclear Regulatory Commission regarding items considered during this meeting.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 1, 1982 (47 FR 43474). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a telephone call to the ACRS Executive Director, R. F. Fraley, prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the

conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with Subsection 10(d) Pub. L. 92–463 that it is necessary to close portions of this meeting as noted above to discuss Proprietary Information [5 U.S.C. 552b(c)(4)].

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 202/634–3265), between 8:15 A.M. and 5:00 P.M. EDT.

Dated: August 24, 1983.

Samuel J. Chilk,

Secretary to the Commission.

[FR Doc. 83–23900 Filed 8–30–83; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[File No. 22–12598]

Hospital Corporation of America, Inc.; Application and Opportunity for Hearing

August 25, 1983.

Notice is hereby given that Hospital Corporation of America (the "Applicant") has filed an application under clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Commission that the trusteeship of Commerce Union Bank under three existing indentures of the Company which are qualified under the Act and four existing indentures of various governmental issuing authorities which have not been qualified under the Act in reliance upon Section 304(a)(4) thereof is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Commerce Union Bank from acting as trustee under any of such indentures.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest it shall within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (l) of such Section provides, in effect, with certain exceptions that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities of the same issuer are outstanding. However, under clause (ii) of subsection (l), there may be excluded from the operation of this provision another indenture under which other securities of the issuer are outstanding, if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under such qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public or for the protection of investors to disqualify such trustee from acting as trustee under either of such indentures.

The Applicant alleges that:

1. The Applicant had outstanding as of August 1, 1983 approximately $500,000,000 debentures (the "Debentures") issued under the following indentures under which Commerce Union Bank acts as trustee, each of which indentures was qualified under the Trust Indenture Act of 1939 in connection with the registration of the Debentures issued thereunder pursuant to the Securities Act of 1933:

(a) 16½% Debentures due 2007; principal amount $100,000,000; indenture filed January 15, 1982 (file no. 2–75696);

(b) Zero Coupon Debentures due 1997–2002; principal amount $300,000,000; indenture filed May 20, 1982 (file no. 2–77611); and

(c) 15⅝% Debentures due 2007; principal amount $100,000,000; indenture filed May 20, 1982 (file no. 2–77612).

2. As of August 1, 1983, the Applicant or a wholly-owned subsidiary of the applicant was obligated pursuant to various loan or other similar agreements (the "Loan Agreements") to make payments in order to meet the debt service and other payment requirements under various indentures, and the revenue bonds (the "Tax-exempt Revenue Bonds") issued thereunder, of various governmental issuing authorities with respect to Tax-exempt Revenue Bonds of such issuing authorities to finance hospital or other projects acquired or constructed for the benefit of the Applicant or a wholly-owned subsidiary thereof. The Tax-exempt Revenue Bonds were issued in reliance upon the exemption from registration afforded by Section 3(a)(2) of the Securities Act of 1933. The indentures relating to such Tax-exempt Revenue Bonds were not qualified under the Trust Indenture Act of 1939 in reliance upon the exemption afforded by Section 304(a)(4) of said Act. The Applicant has guaranteed the obligations of its subsidiaries with respect to the Loan Agreements. The Loan Agreements or, in the instances in which the Company guarantees the obligations of its subsidiaries, the Guaranties are senior unsecured obligations of the Company. Information with respect to the Tax-exempt Revenue Bonds is set forth below:

1. The Edmond Industrial Development Authority Industrial Development Revenue Bonds, Series 1983 (Hospital Corporation of America Project), under Trust Indenture by and between the Edmond Industrial Development Authority and Commerce Union Bank, as Trustee, dated as of June 1, 1983. Principal amount $1,000,000.

2. The City of Bountiful, Utah Industrial Development Revenue Bonds, Series 1983 (Hospital Corporation of America Project), under Trust Indenture by and between City of Bountiful, Utah and Commerce Union Bank, as Trustee, dated as of May 1, 1983. Principal amount $2,000,000.

3. West Valley City, Utah Industrial Development Revenue Bonds, Series 1983 (Hospital Corporation of America Project), under Trust Indenture by and between West Valley City, Utah and Commerce Union Bank, as Trustee dated as of June 1, 1983. Principal amount $1,000,000.

4. City of Georgetown, Kentucky Industrial Development Revenue Bonds (Hospital Corporation of America Project) Series 1983, under Trust Indenture by and between City of Georgetown, Kentucky and Commerce Union Bank, as Trustee, dated as of August 1, 1983. Principal amount $1,000,000.

3. Commerce Union Bank, One Commerce Place, Nashville, Tennessee 37219, acts as trustee with respect to the indentures described in section 1, above, and with respect to the Tax-exempt Revenue Bonds to which the Loan Agreements relate, described in section 2, above.

4. The Applicant's respective obligations under the Debentures (and the indentures relating thereto), the Loan Agreements and the Guaranties are wholly unsecured. All of the Debentures, Loan Agreements and Guaranties pertaining to the indentures under which Commerce Union acts as trustee constitute indebtedness of the Company that is not subordinated to any other indebteness of the Applicant. The Debentures (and the indentures relating thereto), the Loan Agreements and the Guaranties rank equally one with the other.

5. Each of the indentures contains the provisions required by Section 310(b) of the Trust Indenture Act of 1939.

6. The Applicant is not in default under the Debentures or with respect to its obligations relating to the Tax-exempt Revenue Bonds.

7. For the foregoing reasons, the Applicant believes that Commerce Union Bank's serving as trustee under any one of the indentures listed in Paragraphs 1 and 2 above, and continuing such trusteeship during such time as the indebtedness under each such indenture is outstanding in each instance, should in no way inhibit, discourage or otherwise influence Commerce Union Bank's actions as trustee under any one or more of such other indentures. Consequently, its trusteeship under all of such indentures is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Commerce Union Bank from acting as trustee under any of such indentures.

The Applicant waives notice of hearing and waives hearing and waives any and all rights to specify procedures under Rule 8(b) of the Commission's Rules of Practice with respect to the application.

For a more detailed account of the matters of fact and law asserted, all persons are referred to the application, which is a public document on file in the offices of the Commission at the Public Reference Room, 450 5th Street, NW., Washington, D.C. 20549.

Notice is further given that any interested person may, not later than September 13, 1983, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of law or fact raised by such application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-23823 Filed 8-30-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13463; 812-5390]

Southern Farm Bureau Cash Fund, Inc., and Southern Farm Bureau Casualty Insurance Co.; Application for an Order

August 25, 1983.

Notice is hereby given that Southern Farm Bureau Cash Fund, Inc. ("Fund"), an open-end, diversified, management investment company registered under the Investment Company Act of 1940 ("Act"), and Southern Farm Bureau Casualty Insurance Company ("Casualty Company") (together, "Applicants"), Suite 300, 1401 Livingston Lane, Jackson, Mississippi 39213, filed an application on June 17, 1983, and an amendment thereto on August 15, 1983, for an order of the Commission, pursuant to Section 17(d) of the Act and Rule 17d-1 thereunder, exempting them from those provisions to the extent necessary to permit the Casualty Company to indemnify the Fund for losses sustained by the sale of the Fund's portfolio securities or obligations at less than amortized cost value or in the event of default by the issuer thereof. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below, and are referred to the Act and the rules thereunder for further information as to the provisions to which the exemption applies.

Designed to provide current income, liquidity, and preservation of principal, the Fund invests in U.S. Government obligations, bank obligations, commercial paper, corporate debt securities, and repurchase and reverse repurchase agreements. No investor may purchase Fund shares unless he is a member of the Farm Bureau federation of the state in which he resides. Each state Farm Bureau federation is a nonprofit memberhsip corporation organized to provide economic and agricultural programs for its members. Southern Farm Bureau Adviser Company, Inc., a wholly-owned subsidiary of the Casualty Company, serves as the Fund's investment adviser (thus making the Casualty Company an affiliate of an affiliate of an investment company). Southern Farm Bureau Distributor, Inc., another wholly-owned subsidiary of the Casualty Company, acts as sole distributor of the Fund's shares.

A Mississippi insurance corporation, the Casualty Company is owned by five Farm Bureau companies located in Arkansas, Louisiana, Mississippi, South Carolina, and Texas. Each state Farm Bureau company is owned by the state Farm Bureau federation in its respective state. The Casualty Company writes casualty insurance only for those Farm Bureau members who belong to their respective state Farm Bureau federation. Applicants state that any distribution of the Casualty Company's profits is made to policyholders or shareholders, and they assert that any such profits are ultimately distributed to the members of state Farm Bureau federations, some of whom are Fund investors. Applicants therefore conclude that a considerable overlapping of interests exists between the Casualty Company and the Fund.

The Fund's board of directors, in response to market pressures and in order to compete with other money market funds and comparable bank accounts, desires that the Fund be indemnified against losses resulting from default by issuers of its portfolio securities and losses resulting from the sale of the Fund's portfolio securities prior to maturity. The Casualty Company proposes to indemnify the Fund against such losses. The Casualty Company does not presently insure or indemnify any similar losses, and does not plan to enter into such arrangements with other funds. The proposed coverage would protect the Fund against default by an issuer of a security in the Fund's portfolio because, upon such a default, the Casualty Company would pay to the fund the amount of the reduction in the value of the assets of the Fund when such reduction results in such net asset value decreasing below $1.00. The Casualty Company would also pay to the Fund the difference between the market value of a portfolio security and the security's amortized cost value in the event the Fund sells the security for an amount less than its amortized cost value prior to maturity. Applicants' proposal would allow the Casualty Company to assume any rights of the Fund in either situation where the Casualty Company covers a Fund loss, upon the Casualty Company's payment of the current market price of the security in question. In such transactions, the Fund intends to fully comply with Rule 17a-7.

The Fund has approached several other insurers and has located only one insurer willing to participate in its proposal. The Fund believes the premium quoted by that insurer to be unreasonably expensive (approximately twice the Casualty Company's proposed premium). Over 14 insurance companies and five major brokerage agencies have been contacted on the Fund's behalf regarding this proposal. The Fund also investigated obtaining such coverage through the Investment Company

Institute. Based upon these investigations, Applicants assert that the Casualty Company's premium will be no higher than the premium the Fund would pay for similar coverage from any unaffiliated insurer were such coverage available from an unaffiliated insurer.

The Casualty Company plans to enter into reinsurance agreements with other insurance companies with regard to a portion of its risk under this proposal. Applicants state that any such reinsurance agreements will not adversely affect the Fund or its shareholders. While the Applicants do not presently intend to change the premiums charged in this proposal, they agree as a condition to the granting of this exemptive request that the disinterested members of the Fund's board of directors will review at least annually the premium paid under this proposal to verify its fairness, and that the disinterested directors' approval will be obtained prior to increasing the premium rates stated in the proposal.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than September 19, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-23015 Filed 8-30-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20120; Filed No. SR-CBOE-83-27]

Filing of Proposed Rule Change by Chicago Board Options Exchange, Inc.

August 26, 1983.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on August 7, 1983, the Chicago Board Options Exchange, Inc., ("CBOE") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change would delete CBOE's market maker financial requirements since the CBOE believes that adequate financial requirements are imposed by the Commission's net capital rule, Rule 15c3-1, under the Act. The present CBOE rule is written to require, generally, that a market maker maintain net liquid assets of the lesser of (a) $10,000 for each class of options to which he is appointed, or (b) $25,000.

In order to assist the Commission in determining whether to approve the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved, interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register**. Persons desiring to submit written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. Reference should be made to File No. SB-CBOE-83-27.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 459 5th Street, NW., Washington, D.C. 20549. Copies of the filing are of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-23025 Filed 8-30-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20116; File Nos. SR-MSTC-83-13, SR-MSTC-83-9, SR-MSTC-83-4]

Midwest Securities Trust Co.; Filing, Immediate Effectiveness, and Withdrawal of Proposed Rule Changes

August 25, 1983.

On August 1, 1983, Midwest Securities Trust Company ("MSTC") submitted a proposed rule change,[1] pursuant to Rule 19b-4 under the Securities Exchange Act of 1934 (the "Act") that authorizes MSTC to change its procedure regarding participants that fail to meet their daily MSTC money settlement obligations in a timely manner.[2] The proposed rule change replaces MSTC's current, automatic, graduated structure of fines with a graduated schedule of automatic, late payment charges. Under the proposal, MSTC will issue a warning notice to a participant on the first occasion that it is late in paying those obligations during any twelve month period. MSTC also will pass through to that participant any interest or overdraft fees incurred by MSTC because of late payment. A participant with more than one late payment during any twelve month period, however, will be assessed stated late payment charges that increase with each late payment, in addition to the pass-through of any overdraft or interest fees. Moreover, the proposal states that when MSTC determines that a participant is at fault in failing to meet its daily money settlement obligations in a timely manner, MSTC not only will assess a late payment charge, but also may take formal disciplinary action against that participant under MSTC Rule 14.[3]

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Securities Exchange Act of 1934

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[1] By letter dated August 11, 1983, from MSTC to the staff, MSTC amended the proposed rule change for clarification purposes.

[2] Under MSTC Rule 3, Section 4, and MSTC's related procedures, every MSTC participant each day must satisfy fully its daily net money settlement obligations to MSTC by presenting to MSTC a certified check drawn on a MSTC approved Chicago bank (*i.e.*, next-day or "clearing house" funds). If a participant cannot meet this requirement, the participant, on the next business day, must pay MSTC the outstanding cash balance in "same-day funds," *i.e.*, federal funds.

[3] MSTC Rule 14 currently authorizes MSTC to fine, suspend, or expel participants for, among other things, violations of MSTC's rules or procedures. When MSTC determines that a participant is "at fault" in connection with its failure to meet timely its payment obligations, MSTC will deem late payment charges to be disciplinary actions that must be reported to the Commission under Section 19(d)(1) of the Act and Rule 19d-1 (17 CFR 240.19d-1) when MSTC's actions become final.

and Rule 19b-4 thereunder. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Publication of the submission is expected to be made in the **Federal Register** during the week of August 29, 1983. Interested persons are invited to submit written data, views and agruments concerning the submission within twenty-one days from the date of publication in the **Federal Register**. Persons desiring to make a written submission should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, N.W. Washington, D.C. 20549. Reference should be made to File No. SR-MSTC-83-13.

Copies of the submission , with accompanying exhibits, and of all written comments will be available for public inspection at the Securities and Exchange Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. Copies of the filing will also be available at the principle office of the above-mentioned self-regulatory organization.

In connection with the filing of File No. SR-MSTC-83-13, MSTC requested that the Commission order the withdrawal of File Nos. SR-MSTC-83-4 and SR-MSTC-83-9, which were filed with the Commission on May 2, 1983, and June 29, 1983, respectively. File No. SR-MSTC-83-13 is intended by MSTC to replace File Nos. SR-MSTC-83-4 and SR-MSTC-83-9, which are substantially similar. The Commission hereby grants MSTC's request and thus orders that File Nos. SR-MSTC-83-4 and SR-MSTC-83-9 be withdrawn.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-23916 Filed 8-30-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-20118; File No. SR-MSRB-83-9]

Self-Regulatory Organizations; Proposed Rule Changes by Municipal Securities Rulemaking Board; Uniform Practice and Customer Confirmations

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on August 15, 1983, the Municipal Securities Rulemaking board filed with the securities and Exchange Commission the proposed rule changes as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. the Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Changes

(a) The Municipal Securities Rulemaking Board ("Board") is filing herewith amendments to rules G-12 on uniform practice and G-15 on customer confirmations. The text of the proposed rule changes is as follows:

Rule G-12.[1] Uniform Practice.

(a) and (b) No change.

(c) Dealer Confirmations.

(i) through (v) No change.

(vi) In addition to the information required by paragraph (v) above, each confirmation shall contain the following information, if applicable:

(A) No change.

(B) If the securities are "fully registered", [or] "registered as to principal only," *or available only in book-entry form*, a designation to such effect;

(C) through (F) No change.

(d) through (1) No change.

Rule G-15. Customer Confirmations.

(a) and (b) No change.

(c) In addition to the information required by paragraphs (a) and (b) above, each confirmation to a customer shall contain the following information, if applicable:

(i) No change.

(ii) if the securities are "fully registered", [or] "registered as to principal only," *or available only in book-entry form*, a designation to such effect;

(iii) through (vii) No change.

(d) through (i) No change.

II. Self-Regulatory Organization's Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Changes

A. Self-Regulatory Organization's Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Changes

(a) Board rules G-12 and G-15 set forth certain requirements concerning the information to be provided on inter-dealer and customer confirmations, respectively. The proposed rule changes would amend rules G-12 and G-15 to require that confirmations of transactions in securities which are available only in book-entry form include a designation to such effect. The Board believes that purchasers of municipal securities available only in book-entry form should be advised of this fact on the confirmation of the transaction, since purchasers of municipal securities customarily expect to be delivered (or to have access to) securities certificates. The Board believes that, in those relatively rare instances where securities are available only in book-entry form (and where this expectation will not be met), purchasers should be advised of this fact, since their inability to obtain physical securities may raise concerns which might affect their investment decision, such as possible restrictions on their ability to hypothecate or otherwise pledge the securities. Further, purchasers may need to make special arrangements to take delivery of book-entry securities particularly if they are not participants in a depository.

(b) The proposed rule changes are adopted pursuant to section 15B(b)(2)(C) of the Securities Exchange Act of 1934, as amended, which requires and empowers the Board to adopt rules

> designed * * * to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in * * * clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, * * * and, in general, to protect investors and the public interest * * *.

The Board believes that the proposed rule changes act to protect investors by ensuring that they, and municipal securities brokers and dealers dealing with them, are advised of the unusual form of the securities they are purchasing.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Board does not believe that the proposed rule changes will impose any burden on competition, inasmuch as the proposed rule changes merely specify an item of detail to be included on confirmations, and will affect all brokers and dealers selling securities in book-entry-only form equally.

C. Self-Regulatory Organization's Statement of Comments on the Proposed Rule Changes Received from Members, Participants, or Others

The Board neither solicited nor received comments on the proposed rule changes from industry members of others.

III. Date of Effectiveness of the Proposed Rule Changes and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal**

[1] Italics indicate new language; [brackets] indicate deletions.

Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule changes, or

(B) Institute proceedings to determine whether the proposed rule changes should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section. Copies of such filing also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: August 25, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-23919 Filed 8-30-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-20110; File No. SR-MSRB-83-8]

Self-Regulatory Organizations; Proposed Rule Change by Municipal Securities Rulemaking Board; Interpretation of Board Rule G-17

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on August 3, 1983, the Municipal Securities Rulemaking Board filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

(a) The Municipal Securities Rulemaking Board is filing herewith an interpretation of Board rule G-17 (hereafter referred to as the "proposed rule change") concerning the conduct of municipal securities business. This interpretation concerns the timing of the mailing of initial "when, as and if issued" confirmations of transactions in new issue municipal securities which are effected pursuant to orders placed with a municipal securities dealer during the "pre-sale" portion of the underwriting period. The text of the proposed rule change, contained in a Board interpretive letter dated October 7, 1982, is as follows:

"* * * [C]onfirmations may not be sent out prior to the date of award of the new issue, in the case of an issue purchased at competitive bid, or on the date of execution of a bond purchase agreement on the new issue, in the case of a negotiated issue. Member firms in your district have questioned whether this interpretation is intended to apply to "all or none" underwritings, in which confirmations have been, at times, sent out prior to the execution of a formal purchase agreement. * * * The Board is of the view that an initial "when, as, and if issued" confirmation of a transaction in a security which is the subject of an "all or none" underwriting may be sent out prior to the time a formal bond purchase agreement is executed. This would be permissable, however, only if two conditions are met: (1) That such confirmations clearly indicate the contingent nature of the transaction, through a statement that the securities are the subject of an "all or none" underwriting or otherwise; and (2) that the dealer has established, or has arranged to have established, the escrow account for the issue as required pursuant to [SEC R]ule 15c2-4.

II. Self-Regulatory Organization's Statement on Purpose of, and Statutory Basis for, the Proposed Rule Change

A. Self-Regulatory Organization's Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Board rules G-12 and G-15 relating to uniform practice and customer confirmations, respectively, contain certain provisions pertaining to the furnishing of initial "when, as and if issued" ("WAII") confirmations on transactions in new issue municipal securities. Rule G-12 requires that WAII confirmations of inter-dealer transactions be sent out within two business days of the trade date, and sets forth certain requirements regarding the information to be included on such confirmations. Rule G-15 does not require that customers be sent WAII confirmations on transactions in new issue municipal securities, but does set forth requirements governing the content of such confirmations if they are sent. Board rule G-17 sets forth a general requirement that municipal securities dealers deal with all persons fairly and not engage in any deceptive, dishonest, or unfair practice.

The Board has previously interpreted rule F-17 as prohibiting the sending of intial WAII confirmations on transactions effected pursuant to orders for new issue securities placed during the pre-sale portion of the underwriting period prior to the date of award or execution of a bond purchase agreement on the new issue and prior to the time the formal allocations are made to such pre-sale orders.[1] (A pre-sale order is an expression of the intention of the party placing the order to purchase new issue securities having certain characteristics at a stated price. Such orders are accumulated by the underwriter, and, upon award of the securities or execution of a bond purchase agreement, formal allocations of the new issue securities are made to such orders.) The Board has taken this position because it believes that the transactions evidenced by the confirmations cannot be considered to be effected until the award or formal purchase of the securities by the underwriter or underwriting syndicate. Therefore, the Board believes that the furnishing of initial WAII confirmations prior to this time may be a deceptive practice and, as such, prohibited by Board rule G-17.

The proposed rule change clarifies the requirements concerning the issuing of initial WAII confirmations with respect to "all or none" underwritings of municipal securities. With respect to such underwritings, the Board believes that municipal securities dealers should be permitted to furnish confirmations to purchasers prior to the time a formal bond purchase agreement is signed, assuming certain conditions are met. In "all or none" underwritings, it is industry custom for the underwriter to accept liability for the issue at a given price only on a stated contingency, that the entire issue is sold within a certain time period. The municipal securities dealer "presettles" with the purchasers of the securities, sending them

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[1] *See* File No. SR-MSRB-82-8.

confirmations and receiving payment while the underwriting is taking place. Pursuant to 17 CFR 240.15c2–4, purchasers' funds must be placed in a special escrow account for the issuer until the entire issue is sold; the funds are then released to the issuer. If the contingency is not met, the funds are returned to the purchasers, the securities are not issued, and the underwriter is released from all liability for the issue.

In view of the customary trade practice in the municipal securities industry of sending confirmations to purchasers of WAII securities underwritten on an "all or none" basis prior to the signing of the formal purchase agreement, and in light of the protection afforded purchasers by the requirements of 17 CFR 240.15c2–4, the Board believes that an exception from the general prohibition against sending WAII confirmations prior to the signing of a bond purchase agreement is warranted, provided that the confirmations clearly indicate the contingent nature of the transaction, and that the dealer has established, or has arranged to have established, the escrow account for the issue as required pursuant to 17 CFR 240.15c2–4.

(b) The Board has adopted the proposed rule change pursuant to section 15B(b)(2)(c) of the Securities Exchange Act of 1934, as amended, which authorizes and directs the Board to adopt rules

> * * * designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest * * *

B. Self-Regulatory Organization's Statement on Burden on Competition

The Board believes that the proposed rule change will not have any impact on competition, since the proposed rule change merely clarifies the manner in which municipal securities brokers and municipal securities dealers are to comply with an existing requirement of Board rules, and applies equally to all municipal securities brokers and dealers.

C. Self-Regulatory Organization's Statement of Comments on Proposed Rule Change Received from Members, Participants and Others

The Board published its initial interpretation concerning the sending of confirmations for transactions in "when issued" securities, an interpretive letter of April 1982, in the Commerce Clearing House *Municipal Securities Rulemaking Board Manual*, at ¶3556.55. Comments received from NASD-member firms through the NASD's Atlanta office prompted the Board to review the application of this interpretation to "all or none" underwritings, and resulted in the interpretation discussed above. The Board has not solicited or received other comments from participants, members, or others.

III. Date of Effectiveness of the Proposed Rule Changes and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section. Copies of such filing also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within *21* days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: August 24, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–23920 Filed 8–30–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–20117; File No. SR–NYSE–83–23]

Self-Regulatory Organizations; Proposed Rule Change By New York Stock Exchange, Inc.; Financial Responsibility Requirements for Competitive Options Traders

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on August 19, 1983, the New York Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Proposed Rule Change proposes to amend the financial responsibility requirement imposed on Competitive Options Traders ("COTs") by Rule 758(a)(ii). Newly proposed Rule 758(a)(ii) requires each self-clearing COT to comply with the financial requirements set forth in the rules of The Options Clearing Corporation ("OCC") and requires each COT that is not self-clearing to be a party to the OCC's Market-Maker's (specialist's) account agreement with a clearing member that meets such financial requirements and the requirements of Rule 15c3–1(c)(2)(x) under the Securities Exchange Act of 1934, as amended (the "1934 Act").

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) *Purpose.* COTs are presently subject to more rigorous financial responsibility requirements than are imposed by the other index stock group option exchanges. In order to prevent the COT financial responsibility requirement from operating as a disincentive to COT registration, and thereby to the development of the Exchange's secondary market making capacity in index group options, the Exchange is proposing to conform its COT financial responsibility requirement to those applicable to CBOE market makers.

(2) *Statutory Basis.* The revised COT financial responsibility requirement is consistent with the requirements of section 6(b)(5) of the 1934 Act in that it removes impediments to, and otherwise facilitates, a free and open market for index group option transactions and promotes just and equitable principles of trade.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that Amendment No. 1 will not impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments regarding the proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange, Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 14 days after the date of this publication.

Dated: August 25, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-23618 Filed 8-30-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-20114; File No. SR-OCC-83-17]

Self-Regulatory Organizations; Proposed Rule Change by the Options Clearing Corp.; Expansion of Number of Stocks Permitted To Be Deposited With OCC As Margin

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby givern that on August 8, 1983, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Proposed Rule Change

OCC proposes to amend its rules as set forth below. Italics indicate material proposed to be added to OCC's existing rules and brackets indicate material to be deleted from existing rules.

Chapter VI of Rules—Margins

Forms of Margin

Rule 604. Required margin may be deposited with the Corporation in one or more of the following forms:

(a) [No change].

(b) [No change].

(c) [No change].

(a) [Underlying] Common Stocks. (1) Clearing Members may deposit, as hereinafter provided, common stocks which *(i) are traded on a national securities exchange, (ii) have last sale reports collected and disseminated pursuant to a consolidated transaction reporting plan and (iii) have a market value greater that $10 per share; provided, however, that stocks which are suspended from trading in the primary market for such stocks, or which are subject to special margin requirements under exchange rules because of volatility, lack of liquidity or similar characteristics, may not be deposited as margin with the Corporation.* [are underlying securities for classes of option contracts outstanding at the time of the deposit.] Each such deposit shall be made with respect to a designated account of the Clearing Member. Such stocks shall be valued on a daily basis at the then maximum loan value of such stocks pursuant to the provisions of Regulation U of the Board of Governors of the Federal Reserve System or such lower value as the Margin Committee of the Corporation may prescribe from time to time with respect to such stocks, or any of them; provided, however, that in no event shall any stock be valued in excess of 70% of its current market value. In determining the maximum loan value of any stock, its current market value shall be deemed to be its *closing price on the primary market for such stock during the preceding trading day or, if it was not traded in the primary market, the lowest reported bid quotation for such stock at or about the close of trading on such day.* ["daily underlying security marking price" as defined in Rule 602.] Stocks of any one issuer shall not be valued at an amount in excess of 10% of the margin requirement in the account for which such stocks are deposited. Stocks deposited pursuant to Rule 610 shall have not value as margin for the purposes of this Rule 604(d).

(2) [No change]

(3) [No change]

(e) [No change]

II. Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of, and basis for, the proposed rule change. The text of these statements may be examined at the places specified below. OCC has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Purpose of, and Statutory Basis for, the Proposed Rule Change

Under OCC's present rules, a clearing member may meet its margin obligations with respect to uncovered short options positions by depositing cash, Government securities, bank letters of credit, or common stocks underlying listed options which are not being used to cover options positions pursuant to Rule 610. The purpose of this proposed rule change is to expand the number of stocks which may be deposited with OCC as margin because OCC's clearing members can achieve substantial cost savings by depositing common stocks instead of cash, Government securities or bank letters of credit in satisfaction of their OCC margin obligations.

These potential cost savings have been realized only to a limited degree under OCC's existing rules, which permit only those stocks underlying listed options to be deposited as margin. This limitation significantly restricts the number of stocks eligible for deposit because the 378 stocks presently underlying listed options comprise only a small fraction of the total number of exchange-traded stocks which would be suitable for that purpose. Moreover, because these underlying stocks are in heavy demand for other uses (*e.g.*, in stock loans and in conversion transactions involving combinations of stock and options positions), they are often not available to be deposited with OCC. As of June 30, 1983, stock valued at about $467 million had been deposited with OCC, representing only 18% of the total margin deposits at OCC on that date. Clearing members have advised OCC that they would deposit considerably more stock if the number of stocks eligible for deposit under OCC's rules were expanded. Accordingly, the proposed rule change would expand the number of stocks that could be used to satisfy OCC's deposit requirements.

The proposed rule change is consistent with the requirements of the Securities Exchange Act of 1934, as amended (the "Act"), in that it would reduce the costs imposed on the securities industry without jeopardizing the purposes of the Act applicable to OCC. Indeed, the reduction of unnecessary costs in the clearance and settlement of securities transactions is a statutory objective under Section 17A of the Act.

The proposed rule change is entirely consistent with OCC's statutory responsibility to maintain adequate financial safeguards to protect itself, its clearing members and the public. OCC's rules, as amended by the proposed rule change, would continue to value common stock very conservatively, at the lesser of 70% of its current market value or the then maximum loan value of such stock pursuant to Regulation U (presently set at 50% of current market value). Moreover, the rules would not permit the stock of any one issuer to be used to cover more than 10% of the total margin requirement for the account in which such stock is deposited. The Commission has previously found similar proposed rules changes to be consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies. Securities Exchange Act Rel. Nos. 18994 (SR–OCC–82–11, Aug. 20, 1982) and 19496 (SR–NSCC–82–26, Feb. 9, 1983).

(B) Burden on Competition

OCC does not believe that the proposed rule change would have any material impact on competition.

(C) Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments were not and are not intended to be solicited by OCC with respect to the proposed rule change, and no written comments have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule should be disapproved.

IV Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: August 25, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–23024 Filed 8–30–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 20115; File No. SR–PCC–83–4]

Filing of Proposed Rule Change by the Pacific Clearing Corp.

August 25, 1983.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on August 16, 1983, the Pacific Clearing Corporation ("PCC") submitted to the Commission a proposed rule change that would amend PCC's rules regarding its clearing fund. The proposed amendments would either update or conform PCC's clearing fund rules to certain Division of Market Regulation Standards for the Registration of Clearing Agencies that concern Sections 17A(b)(3)(A)–(I) of the Act.[1]

The proposed rule change would amend both PCC's authority regarding the clearing fund and the clearing fund's structure. First, PCC would maintain a

[1] *See* Securities Exchange Act Release No. 16900 (June 17, 1980), 45 FR 41920 (June 23, 1980).

clearing fund separate from the participants fund of its affiliated registered securities depository, Pacific Securities Depository Trust Compnay ("PSDTC"). PCC and PSDTC currently maintain a joint participants fund. Second, PCC would be authorized to invest clearing fund cash in United States Government Securities. Currently, the Pacific Stock Exchange, Inc. ("PSE"), PCC's parent corporation, has this investment authority. Third, PCC's authority to use clearing fund assets would be narrowed. Under the proposal, PCC would use clearing fund assets to meet losses or liabilities incident to clearance and settlement activities. PCC's current rules provide that PCC can use clearing fund assets to discharge any liability of a member, including liabilities of PSDTC passed on to PCC for collection.

The proposal also would change individual member and aggregate clearing fund contribution levels. First, a member's minimum contribution would be increased to $5000; currently, that minimum contribution level is $3000. Second, PCC would calculate a member's required clearing fund contribution on the basis of the member's aggregate clearance activity in all of its accounts at PCC (the $5000 minimum contribution also would be applied to the member once and not to each of its accounts). Currently, PCC calculates clearing fund contribution requirements on an account-by-account basis. Thrid, PCC's formula by which individual member's clearing fund requirements are calculated (other that the minimum deposit requirement) would be changed substantially. PCC would calculate a member's contribution requirement by: (a) totalling all of the member's net debits and credits settling through PCC's continuous net settlement ("CNS") system during each calendar quarter (or lesser period of time, as PCC determines in its discretion), (b) dividing that total by the number of business days in the quarter (or such lesser period) to arrive at the member's average daily CNS debits and credits, and (c) multiplying the member's average daily CNS debits and credits by 2½ percent. Currently, the PCC-related portion of a member's required contribution to the PCC/PSDTC participants fund is calculated each quarter by (a) aggregating the member's CNS debits and credits for each of the three calendar months, (b) dividing that total by three to arrive at the member's average monthly CNS activity, and (c) multiplying that average monthly figure by one-half of one percent.

Finally, the proposal would change the types of collateral that members can use to secure their clearing fund "open account indebtedness," *i.e.*, clearing fund assets over and above the member's minimum cash deposit. First, the proposal would enable PCC members to secure their open account indebtedness with irrevocable letters of credit issued in favor of PCC by PCC-approved financial institutions. The proposed rule change contemplates that PCC will control closely participant letter of credit usage through a number of safeguarding mechanisms, such as PCC's approval of financial institutions as letter of credit issuers and PCC's general authority to prevent or to deter an undue concentration of letters of credit from one or more approved letter of credit issuers. PCC intends to design and propose specific concentration requirements shortly. Currently, PCC's rules do not enable members to use letters of credit for clearing fund purposes. Second, under the proposal, members no longer could secure their open account undebtedness with high-grade, bearer municipal bonds.

In its filing, PCC states that the proposal would increase substantially both the aggregate size of PCC's clearing fund and the size of individual members required clearing fund contributions. To ease implementation of the larger clearing fund requirements, PCC, by September 30, 1983, proposes to calculate and to advise each member of its new clearing fund requirement based on its third calendar quarter activity. No payments, however, would be required at that time. At year end, PCC would recalculate each member's new clearing fund requirement based on the member's fourth calendar quarter activity. At that time, the new requirements would become effective, and members would be required to meet the new, increased clearing fund levels. PCC states that the proposed rule change is consistent with section 17A of the Act, and, in particular, subsection (b)(3)(F) of that Section. PCC believes that the proposal assures the safeguarding of securities and funds in the custody or control of PCC or for which it is responsible.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Section. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-23921 Filed 8-30-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20113; File No. SR-PSDTC-83-7]

Filing of Proposed Rule Change by Pacific Securities Depository Trust Co.

August 25, 1983.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on August 16, 1983, the Pacific Securities Depositiory Trust Company ("PSDTC") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

PSDTC submitted the proposed rule change to improve generally various portions of its rules and to conform them to the Division of Market Regulations's Standards for the Registration of Clearing Agencies that concern Sections 17A(b)(A)–(I) of the Act. [1] The proposal, among other things, modifies existing rules or adds new rules regarding: (i) The types of entities that are eligible to participate in PSDTC; (ii) the standards that applicants must satisfy to participate in PSDTC; (iii) background information that applicants must furnish PSDTC; (iv) standards of financial responsibility and operational capacity that participants must satisfy continuously; (v) PSDTC's rights to discipline participants; (vi) PSDTC's rights to suspend summarily participants in certain circumstances and to close-

[1] *See* Securities Exchange Act Release No. 16900 (June 17, 1980), 45 FR 41920 (June 23, 1980).

out their positions; (vii) PSDTC's liens on deposited funds and securities; (viii) PSDTC's insolvency procedures, including rights to reverse certain securities deliveries, or payments for securities; (ix) hearing and appeal rights and procedures for aggrieved applicants and participants; (x) PSDTC's obligation to provide periodically to its participants copies of internal accounting control reports prepared by PSDTC's independent public accountants; (xi) procedures for nominating and electing individuals to PSDTC's board of directors; and (xii) additional non-substantive or technical amendments to PSDTC's rules.

In its filing, PSDTC states that the proposal is consistent with Sections 17A(b)(3)(C), 17A(b)(3)(H), 17A(b)(3)(G), and 17A(b)(5) of the Act because the proposed amendments: (i) assure the fair representation of participants in the selection of its directors and administration of PSDTC's affairs; (ii) assure the safeguarding of securities and funds which are in PSDTC's custody or control or for which it is responsible, (iii) provide that participants shall be appropriately disciplined for violations of PSDTC's rules; and (iv) provide a fair procedure with respect to disciplining participants, denying participation status to any applicant in, and prohibiting of limiting any person's access to, PSDTC's services.

In order to assist the Commission in determining whether to approve the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved, interested persons are invited to submit written data, views and arguments concerining the submission within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR–PSDTC–83–7.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-23022 Filed 8-30-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20112; File No. SR-Philadep-83-3]

Order Approving Proposed Rule Change of the Philadelphia Depository Trust Co. ("Philadep")

August 25, 1983.

I. Introduction

On May 12, 1983, Philadep submitted a proposed rule change (SR–Philadep–83–3) to the Commission pursuant to Section 19(b)(2) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(2), and Rule 19b–4 thereunder. The proposed rule change would permit Philadep, on a pilot basis, to mail directly to the customer certificates that have been transferred into the customer's name. Notice of the proposed rule change was published in the **Federal Register** on July 1, 1983. [1] The Commission solicited but did not receive comments on the proposed rule change. Philadep did not solicit or receive comments on the proposed rule change.

II. Description

The proposed rule change permits Philadep, on a pilot basis, [2] to mail directly to its participants' customers certain newly issued or transferred securities certificates in customer name, thereby expediting the transfer process, in particular, the delivery of certificates to the customer. Currently, upon receipt from the transfer agent of these customer name securities certificates, jPhiladep mails the certificates to the participant who submitted the "customer-name" instruction. After comparing the certificate against the instruction, the participant forwards the customer-name certificates to its customer.

On a daily basis, participants in the pilot program will submit to Philadep a magnetic tape of instructions to register specific quantities of securities held by Philadep for the participant into various participants' customers' names. As part of this program and to facilitate Philadep processing, the instructions must include customer addresses. Each business day, Philadep will deliver the instructions received on the previous day, and the stock or bond certificates necessary to satisfy all requests, to the appropriate transfer agent. [3] Upon receipt of the newly issued or transferred certificates from the transfer agent, Philadep will compare the certificates with the participant's instructions to ensure proper registration. If registration is correct, Philadep, on an undisclosed basis, will mail the certificates directly to the customer. [4] If incorrect, Philadep will return the certificates with appropriate instructions to the transfer agent. Finally, on a daily basis Philadep will provide participants with a magnetic tape of the completed transfers. [5]

Philadep will use First Class (insured) mail service for certificates with a market value of $100,000 or less. [6] For certificates with a market value in excess of $100,000, Philadep will use Registered mail service. With respect to both First Class and Registered mail service, Philadep will insure the certificates with the United States Postal Service for market value. [7]

III. Discussion

Philadep believes the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act because it promotes the prompt and accurate

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[1] *See* Securities Exchange Act Release No. 19917 (June 27, 1983), 48 FR 30507 (July 1, 1983).

[2] The pilot program will involve several participants with whom Philadep has developed a system of tape-to-tape transmission of transfer instructions and movement activity and will involve only certain local securities issues traded mostly in the Philadelphia area.

[3] Philadep will not mail the instructions to the transfer agent until Philadep checks for proper completion of the instructions and sufficiency of the participants' position at Philadep. Ordinarily, this takes one business day.

Participant registration instructions that are unsatisfactory to either Philadep or the transfer agent will be rejected and returned to the participant by Philadep with an appropriate notation of the reason for rejection.

[4] Philadep will perform this service for its participants on an undisclosed basis. The envelope containing the customer's securities certificates is unmarked except for a Post Office Box return address.

[5] This information will be provided to participants after Philadep mails the customer-name certificates to the customer. In addition, Philadep will provide participants with a daily transfer activity report, a daily net position magnetic tape, and the ability to make inquiries in an on-line mode through the Philadep Terminal System.

[6] The Commission understands that the use of First Class insured mail service for the delivery of securities with a market value of less than $100,000 is consistent with industry practice.

[7] In addition to the fees described in note 6 *supra*, Philadep will pass through to participants the cost of Registered Mail Service and insurance purchased from the United States Postal Service.

clearance and settlement of securities transactions. The Commission concurs in this assessment and further believes that the proposed rule change promotes the safeguarding of securities in Philadep's custody or control or for which Philadep is responsible. In general, by mailing certain securities directly to its participants' customers, Philadep will reduce the physical movement of securities certificates, which should reduce delays and enhance the safety of securities certificates in connection with processing securities transfers.

Philadep believes that by eliminating one step in the transfer process—the physical delivery of "customer-name" securities certificates to Philadep's broker or bank participants—the rule change enhances the prompt and accurate transfer of securities. Since the rule change requires the securities certificates to be placed in the mail one less time, net delays in the transfer process should be reduced.[8] In addition, delays ordinarily created by participant processing of these securities transfers will be avoided since participants will not receive the actual "customer-name" certificate for processing, but merely a confirmation of the transfer, once completed.[9] Furthermore, less frequent use of the mails and reduced physical handling generally reduce the risk of loss.

Although the rule change eliminates the opportunity for participant review of these certificates prior to distribution to the customer, the rule change requires Philadep to perform such review. In fact, the rule change actually provides an additional layer of review since participants will compare the confirmations of the securities transfers against original instructions, and will have an obligation to ensure proper registration.

Ordinarily, Philadep's insurance policy would protect against losses of certificates through the mail; however, the use of Registered mail service for deliveries of securities valued in excess of $100,000, in addition to extended insurance coverage for all customer-name securities, should help safeguard these certificates without expanding Philadep's potential liability unreasonably. Philadep's current insurance coverage would in most instances cover the purchase of an indemnity bond to obtain replacement certificates for certificates lost in the mail by Philadep. However, extended insurance coverage through the Postal Service should enable Philadep to pass through to its participants the cost of insurance, and in most instances, to avoid filing claims with its insurance company.

As indicated, although Philadep will mail certain customer-name certificates directly to its participants' customers, it will do so on an undisclosed basis. As a result, customer inquiries will be channeled through Philadep's participants. This arrangement should benefit all parties concerned. Customers will receive their securities in an expedited fashion; participants will be less involved in the transfer process unless a delivery problem arises; and, Philadep, by avoiding costly direct customer contact, should be able to provide this service in an efficient manner.[10]

IV. Conclusion

For the reasons stated above, the Commission finds that the proposed rule change is consistent with the Act and the rules thereunder applicable to registered clearing agencies, and in particular the requirements of Section 17A of the Act. In addition, by streamlining the delivery process in connection with "customer-name" transfers, the rule change reduces costs to Philadep participants and reduces delivery delays experienced by participants' customers.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-23917 Filed 8-30-83; 8:45 am]

BILLING CODE 8010-01-M

[8] Less frequent use of the mails also reduces the risk of loss of the securities certificates. *See* Discussion *infra*.

[9] *See* discussion and note 6 *supra*.

[10] The Commission will monitor this program during the pilot period to assure that Philadep's processing of the certificates and their mailing arrangements do not create unnecessary risks and that the program, in fact, is beneficial to Philadep's participants and their customers, as anticipated.

[Release No. 34-20107; File No. SR-NYSE-83-34]

Self-Regulatory Organizations; Proposed Rule Change by New York Stock Exchange, Inc., Relating to Charges Imposed on Members and Member Organizations To Reimburse the Exchange for Regulatory Oversight Services

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on August 19, 1983, the New York Stock Exchange, Inc. ("NYSE") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Additions *italicized;* deletions [bracketed].

Rule 129. The Board may from time to time impose such charge or charges on members and member organizations as it shall deem appropriate to reimburse the Exchange, in whole or in part, for regulatory oversight services provided the membership by the Exchange. [This rule shall terminate on October 15, 1983 and all charges imposed hereunder shall be refunded unless, prior to that date, the Securities and Exchange Commission shall have approved the first sentence of this rule and the charges initially to be imposed by the Exchange hereunder pursuant to Section 19(b)(2) of the Securities Exchange Act of 1934.]

The initial regulatory oversight services fee shall be as follows:

Additions *italicized;* deletions [bracketed].

ANNUAL REGULATORY FEE

Fee per $1,000 gross revenue (as reported in the FOCUS report)	$0.13
Minimum annual fees for:	
Carrying firms and specialists	2,000
Introducing firms	1,000
Members and firms not dealing with the public	100

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to remove the sunset provision and the refund provision from Exchange Rule 129. These provisions were added when the Rule was amended by a proposed rule change filing which was filed with the Commission pursuant to section 19(b)(3)(A) of the Securities Exchange Act of 1934 (the "Act") (SR–NYSE–83–33). The addition of those provisions was intended to permit the Rule to go into effect upon filing with the Commission while also permitting the Commission to review the substance of the Rule pursuant to section 19(b)(2) of the Act.[1] The proposed rule change, by removing the sunset and refund provisions will permit the Exchange, on a permanent basis, to charge its members and member organizations for regulatory oversight services on the basis of their total gross revenues. Basing the regulatory oversight service fee on gross revenues provides for an equitable allocation of the fee among all members and member organizations of the Exchange. As the Commission is aware, the Exchange has been assigned the primary responsibility to examine its members and member organizations for compliance, and to enforce compliance by its members and member organizations, with applicable financial and operational requirements. All aspects of the business of a member or member organization necessarily have an impact on its compliance with such financial and operational requirements and must therefore be comprehended by the Exchange in its financial and operational oversight of members and member organizations. Consequently, the revenues received from all activities provide the most equitable basis on which the Exchange's regulatory oversight fee should be computed. Basing the service fee on gross revenues will avoid the obvious unfairness which would result if comparable firms were required to pay the Exchange quite different amounts simply because their respective mixes of business—among exchanges, between exchanges and the over-the-counter market, or between securities and commodities business—were different. The regulatory oversight fee is designed to provide for the Exchange substantially the same amount as the regulatory fee heretofore received by the Exchange from the National Stock Clearing Corporation (NSCC) under the terms of an agreement which terminated on June 30, 1983. That fee has provided, and it is expected that the initial regulatory oversight fee will provide, the Exchange with substantially less than the total cost incurred by the Exchange in providing financial and operational oversight of its members and member organizations.

The regulatory oversight fee will be determined for each Exchange member or member organization required to file a FOCUS report by multiplying its gross revenue as reported in the standard NYSE FOCUS report by a factor which will be reviewed at regular intervals by the Finance Committee of the Board of Directors. In addition, certain minimums will be imposed by class of member or member organization required to file FOCUS reports to cover the estimated minimum cost of providing regulatory oversight services.

The new service fee will affect all members and member organizations required to file a FOCUS report and, depending on the relationship of each firm's dollar value of securities cleared through the NSCC (the basis for the former charge collected via the NSCC) to its total gross revenue from all sources, the net effect of the new fee on any particular member or member organization may be either a reduction or an increase in charges payable by it.

The regulatory oversight service fee is imposed pursuant to the Board's authority under Article X, Section 3 of the Exchange Constitution, which authorizes the Exchange Board of Directors, by rule, to impose service fees.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will impose no burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Indeed, the new service fee, since it is based on the gross revenues of members and member organizations and is therefore a more equitable fee than was the regulatory fee previously collected through NSCC, will reduce burdens on competition which were the result of the former NSCC fee.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received any written comments regarding the proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proceedings to determine whether the proposed change should be disapproved.

The Exchange has urged the Commission to approve the proposed rule change as soon as possible following the publication of this notice.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW. Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

Dated: August 23, 1983.

[FR Doc. 83–23784 Filed 8–30–83; 8:45 am]

BILLING CODE 8010–01–M

[1] The proposed rule change (SR–NYSE–83–33) amended Rule 129 to provide that the rule shall terminate on October 15, 1983, and all charges imposed thereunder will be refunded unless, prior to that date, the Commission approves the first sentence of Rule 129 and the charges initially to be imposed thereunder pursuant to Section 19(b)(2) of the Act.

[Release No. 34-20106; File No. SR-NYSE-83-33]

Self-Regulatory Organizations; Proposed Rule Change by New York Stock Exchange, Inc., Relating to Charges Imposed on Members and Member Organizations To Reimburse the Exchange for Regulatory Oversight Services

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on August 19, 1983, the New York Stock Exchange, Inc. ("NYSE") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Additions *italicized;* deletions [bracketed].

Rule 129. The Board may from time to time impose such charge or charges on members and member organizations as it shall deem appropriate to reimburse the Exchange, in whole or in part, for regulatory oversight services provided the membership by the Exchange. *This rule shall terminate on October 15, 1983 and all charges imposed hereunder shall be refunded unless, prior to that date, the Securities and Exchange Commission shall have approved the first sentence of this rule and the charges initially to be imposed by the Exchange hereunder pursuant to Section 19(b)(2) of the Securities Exchange Act of 1934.*

The initial regulatory oversight services fee shall be as follows:

Additions *italicized;* deletions [bracketed].

Annual Regulatory Fee

Fee per $1,000 Gross Revenue (as reported in the FOCUS Report)—$0.13

Minimum Annual Fees for:

Carrying Firms & Specialists—$2,000.
Introducing Firms—$1,000.
Members and Firms not dealing With the public—[$600]*$180.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) *Purpose.* The purpose of the rule change reflected by this filing is to impose on the members and member organizations of the Exchange a regulatory oversight service fee based on their total gross revenues for a limited period of time during which the Commission will be asked to approve the regulatory oversight service fee on a permanent basis pursuant to paragraph (2) of section 19(b) of the Securities Exchange Act of 1934 (the "Act").[1] Basing the regulatory oversight fee on gross revenues provides for an equitable allocation of the fee among all members and members organizations of the Exchange. As the Commission is aware, the Exchange has been assigned the primary responsibility to examine its members and member organizations, for compliance, and to enforce compliance by its members and member organizations with applicable financial and operational requirements. All aspects of the business of a member or member organization necessarily have an impact on its compliance with such financial and operational requirements and are comprehended within the Exchange's examinations. Consequently, the revenues received from all activities provide for the most equitable basis on which the Exchange's regulatory oversight fee should be computed. The regulatory oversight fee proposed by the Exchange is designed to provide the Exchange substantially the same amount as the regulatory fee heretofore received by the Exchange from the National Stock Clearing Corporation (NSCC) under the terms of an agreement which terminated on June 30, 1983. That fee has provided, and it is expected that the initial regulatory oversight fee will provide, the Exchange with substantially less than the total cost incurred by the Exchange in providing financial and operational oversight of its members and member organizations.

The proposed fee will be determined for each Exchange member or member organization required to file a FOCUS report by multiplying its gross revenue as reported in the standard NYSE FOCUS report by a factor which will be reviewed at regular intervals by the Finance Committee of the Board of Directors. In addition, certain minimums will be imposed by class of member or member organization required to file FOCUS reports to cover the estimated minimum cost of providing regulatory oversight services.

The new service fee will affect all members and member organizations required to file a FOCUS report and, depending on the relationship of each firm's dollar value of securities cleared through the NSCC (the basis for the former charge collected via the NSCC) to its total gross revenue from all sources, the net effect of the new fee on any particular member or member organization may be either a reduction or an increase in charges payable by it.

The regulatory oversight service fee is imposed pursuant to the Board's authority under Article X, Section 3 of the Exchange Constitution, which authorizes the Exchange Board of Directors, by rule, to impose service fees.[2]

(2) *Statutory Basis.* The basis under the Act for the proposed rule change is the requirement under section 6(b)(4) that an exchange have rules that provide for the equitable allocation of reasonable dues, fees and other charges among its members. The proposed rule change is also consistent with section 6(b)(1) of the Act which requires an exchange to have the capacity to be able to carry out the purposes of the Act and to enforce compliance by its members with the provisions thereof, the regulations thereunder, and the rules of the exchange. Finally, the proposed rule change is consistent with section 6(b)(5) of the Act which requires that the rules of an exchange be designed to promote just and equitable principles of trade, and to protect investors and the public

[1] On August 19, 1983, the NYSE submitted to the Commission a proposed rule change (SR–NYSE–83–34) under Section 19(b)(2) of the Act to make permanently effective the first sentence of Rule 129 and the charges imposed thereunder.

[2] On June 23, 1983, the NYSE submitted a proposed rule change (SE–NYSE–83–24) which became effective pursuant to Section 19(b)(3)(A) of the Act to impose charges for regulatory oversight services and to amend NYSE Rule 129 by deleting that portion of the rule providing for charges for regulatory oversight services to be measured as required by Article X, Section 10 of the NYSE Constitution. Instead, those charges would be imposed under Article X, Section 3. In connection with that filing, the NYSE stated that it would not actually collect regulatory oversight charges from its members until August 24, 1983. *See* Securities Exchange Act Release No. 19934, July 1, 1983. The NYSE's current filing (SR–NYSE–83–33) further amends Rule 129 as amended under NYSE's previous filing (SR–NYSE–83–24).

interest; and not be designed to permit unfair discrimination between brokers or dealers.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will impose no burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Indeed, the new service fee, since it is based on the gross revenues of members and member organizations and is therefore a more equitable fee than was the regulatory fee previously collected through NSCC, will reduce burdens on competition which were the result of the former NSCC fee.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has neither solicited nor received any written comments regarding the proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective upon filing with the Commission pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b–4 thereunder. At any time within 60 days of the filing of such rule change, the Commission may summarily abrogate such change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: August 23, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–23505 Filed 8–30–83; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Delaware; Region III Advisory Council; Public Meeting

The Small Business Administration Region III Advisory Council, located in the geographical area of Philadelphia, Pennsylvania, will hold a public meeting at 9:00 a.m., Friday, October 7, 1983, at the Radisson Wilmington Hotel, 700 King Street, Customs House Plaza, Wilmington, Delaware 19801, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call William T. Gennetti, District Director, U.S. Small Business Administration, One Bala Plaza, Suite 400-East Lobby, 231 St. Asaphs Road, Bala Cynwyd, Pennsylvania 19004 (215) 596–5801.

Dated: August 25, 1983.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 83–23910 Filed 8–30–83; 8:45 am]

BILLING CODE 8025–01–M

Oregon; Region X Advisory Council; Public Meeting

The U.S. Small Business Administration Region X Advisory Council, located in the geographical area of Portland, will hold a public meeting at 10:00 a.m., on Friday, September 30, 1983, at the First Interstate Bank Tower—1300 SW. 5th Avenue, Suite 2100, Portland, Oregon, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Stewart L. Rollins, District Director, U.S. Small Business Administration, 1220 S.W. 3rd Room 676, Portland, Oregon 97204—(503) 294–5221.

Dated: August 25, 1983.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 83–23909 Filed 8–30–83; 8:45 am]

BILLING CODE 8025–01–M

Washington; Region X Advisory Council; Public Meeting

The Small Business Administration Region X Advisory Council, located in the geographical area of Spokane, Washington, will hold a public meeting at 9:30 a.m., Thursday, September 29, 1983, in Room 752 U.S. Courthouse Building, West 920 Riverside Avenue, Spokane, Washington, to discuss such matters as they may be presented by members, staff of the U.S. Small Business Administration, or others present.

For futher information, write or call Valmer W. Cameron, District Director, U.S. Small Business Administration, Room 651 U.S. Courthouse Building, Post Office Box 2167, Spokane, Washington 99210 (509) 456–3781.

Dated: August 25, 1983.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 83–23911 Filed 8–30–83; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Radio Technical Commission for Aeronautics (RTCA), Executive Committee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is hereby given of a meeting of the RTCA Executive Committee to be held on September 23, 1983, at Headquarters, Aircraft Owners and Pilots Association, 421 Aviation Way, Frederick, Maryland commencing at 10:00 a.m.

The Agenda for this meeting is as follows: (1) Approval of Minutes of Meeting Held on July 15, 1983; (2) Chairman's Report on RTCA Administration and Activities; (3) Special Committee Activities Report for July and August, 1983; (4) Consideration of Resolution Amending RTCA Constitution to add Helicopter Association International to Executive Committee Membership; (5) Report of the Fiscal and Management Sub-Committee; (6) Consideration of Establishing New Special Committees; (7) Approval of Special Committee 135 Proposed Changes to Explosion Proofness Testing Procedures Contained

in RTCA Document DO–160A "Environmental Test Conditions and Test Procedures for Airborne Equipment"; (8) Approval of Special Committee 147 Report on Minimum Operational Performance Standards for Traffic Alert and Collision Avoidance System (TCAS) Airborne Equipment (Volume 1) and Collision Avoidance Algorithms (Volume 2); and (9) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1425 K Street, NW., Suite 500, Washington, D.C. 20005, (202) 683–0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on August 23, 1983.

Karl F. Bierach,

Designated Officer.

[FR Doc. 83–23852 Filed 8–30–83; 8:45 am]

BILLING CODE 4910–13–M

Urban Mass Transportation Administration

Intent To Prepare an Environmental Impact Statement on Alternative Transit Improvements in the Baltimore, Maryland Region

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice to Prepare an Environmental Impact Statement.

SUMMARY: The Urban Mass Transportation Administration (UMTA) and the Mass Transportation Administration are undertaking the preparation of an Environmental Impact Statement (EIS) for alternative transit improvements in the Northeast Corridor of the Baltimore region. The EIS is being prepared in conformance with 40 CFR Part 1500, Council on Environmental Quality (CEQ), Regulations for Implementing the Procedural Requirements of the National Environmental Policy Act of 1969 as amended; and 49 CFR Part 622, Federal Highway Administration and Urban Mass Transportation Administration, Environmental Impact and Related Procedures.

FOR FURTHER INFORMATION CONTACT: Mr. John R. Caruolo, UMTA Region III, 434 Walnut Street, Suite 1010, Philadelphia, Pennsylvania, 19106, telephone (215) 597–4179.

SUPPLEMENTARY INFORMATION:

Scoping Meeting

A public scoping meeting will be held on September 20, 1983 at 7:00 p.m., in the Baltimore City College Auditorium (3220 The Alameda, Baltimore, Maryland 21218) to help establish the purpose, scope, framework, and approach for the analysis. At the scoping meeting, staff will present a description of the proposed scope of the study using maps and visual aids, as well as a discussion of the citizen involvement program, and a projected work schedule. Members of the public and interested Federal, State, and local agencies are invited to comment on the proposed scope of work, alternatives to be assessed, impacts to be analyzed, and evaluation critieria to be used to arrive at a decision. Comments may be made either orally at the meeting or in writing.

Corridor Description

The Baltimore Northeast Corridor is a major travel corridor which includes the Baltimore MetroCenter and radiates into the Northeast area of the Baltimore region. The corridor originates at Charles and Baltimore Streets and proceeds along Fayette Street and Broadway to the Memorial Stadium/Clifton Park area. Possible changes in transit service may also occur in outer portions of northeast Baltimore City and Baltimore County. The corridor is bounded roughly by York Road to the west and Pulaski Highway to the east.

Alternatives

Transportation alternatives proposed for consideration in the corridor are the following:

1. A no-build option, under which existing bus services would continue to operate;
2. A low-cost transportation system management approach that would improve bus service in the corridor; and
3. Rail rapid transit options that would extend Section A of the Baltimore Metro to a number of alternative terminus points, including Johns Hopkins Hospital, North Avenue, Clifton Park, and Memorial Stadium.

Comments at the scoping meeting should focus on the appropriateness of these and other options for consideration in the study, not on individual preferences for a particular alternative as most desirable for implementation.

Probable Effects

Impacts proposed for analysis include changes in the natural environment (air quality, noise, water quality, aesthetics), changes in the social environment (land use, development, neighborhoods), impacts on parklands and historic sites, changes in transit service and patronage, associated changes in highway congestion, capital costs, operating and maintenance costs, and financial implications. Impacts will be identified both for the construction period and for the long term operation of the alternatives.

The proposed evaluation criteria include transportation, environmental, social, economic and financial measures as required by current Federal (NEPA) and State environmental laws and current CEQ and UMTA guidelnes. Mitigating measures will be explored for any adverse impacts that are indentified.

Comments at the scoping meeting should focus on the completeness of the proposed sets of impacts and evaluation criteria. Other impacts or criteria judged relevant to local decision-making should be identified.

Issued: August 19, 1983.

Peter N. Stowell,

Regional Administrator.

[FR Doc. 83–23851 Filed 8–30–83; 8:45 am]

BILLING CODE 4910–57–M

DEPARTMENT OF THE TREASURY

[Order No.103–4]

Delegation of Authority to the Deputy Assistant Secretary (Federal Finance) to Dispose of Warrants to Purchase Common Stock of Chrysler Corp.

August 23, 1983.

By virtue of the authority vested in me as Deputy Secretary of the Treasury, including that delegated to me through a memorandum dated August 8, 1983, from the Secretary of the Treasury entitled "Recusal with respect to the sale of Chrysler Corporation Stock Warrants," I hereby delegate to the Deputy Assistant Secretary (Federal Finance) the authority to exercise any power, make any determination and perform any duty granted to me for the sole purpose of disposing of the warrants to purchase Chrysler common stock which were issued to the United States, acting through the Chrysler Corporation Loan Guarantee Board (the "Board"), in 1980 and 1981 and which have been or will be transferred by the Board to the Secretary of the Treasury for disposal.

R. T. McNamar,

Deputy Secretary of the Treasury.

[FR Doc. 83–23830 Filed 8–30–83; 8:45 am]

BILLING CODE 4810–25–M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 170
Wednesday, August 31, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Commodity Futures Trading Commission	1, 2
Federal Deposit Insurance Corporation	3
Federal Reserve System	4
National Transportation Safety Board	5

1

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11 a.m., Friday, September 9, 1983.

PLACE: 2033 K Street NW., Washington, D.C., eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Surveillance Briefing

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S–1236–83 Filed 8–29–83; 11:35 am]

BILLING CODE 6351–01–M

2

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10 a.m., Tuesday, September 13, 1983.

PLACE: 2033 K Street NW., Washington, D.C., fifth floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Domestic Exchange Traded Options Regulation § 33.4(a)(6).

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S–1234–83 Filed 8–29–83; 11:35 am]

BILLING CODE 6351–01–M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 4:35 p.m. on Friday, August 26, 1983, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to:

(A)(1) Receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in United Southern Bank of Clarksville, Clarksville, Tennessee, which was closed by the Tennessee Commissioner of Banking on Friday, August 26, 1983; (2) accept the bid for the transaction submitted by First American Bank of Nashville, N.A., Nashville, Tennessee; and (3) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction; and

(B) consider a recommendation with respect to the initiation and conduct of a cease-and-desist proceeding against an insured bank (name and location of bank authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), (c)(9)(A)(ii)); and

(C) approve the application of Reelfoot Bank, Hornbeak, Tennessee, an insured State nonmember bank, for the Corportion's consent to merge, under its charter and title, with Reelfoot Interim Bank, Hornbeak, Tennessee, a recently organized interim bank; and

(D) approve the application of California First Bank, San Francisco, California, an insured State nonmember bank, for the Corporation's consent to purchase certain assets of and assume the liability to pay deposits made in 18 branches of The Bank of California, National Association, San Francisco, California, and to establish those 18 branches as branches of California First Bank.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. Doyle L. Arnold, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: August 29, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–1237–83 Filed 8–29–83; 2:51 pm]

BILLING CODE 6714–01–M

4

FEDERAL RESERVE SYSTEM

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 38371, Tuesday, August 23, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Monday, August 29, 1983.

CHANGES IN THE MEETING: One of the items announced for inclusion at this meeting was consideration of any agenda items carried forward from a previous meeting; the following such closed item(s) was added:

1. Proposals regarding employee separation procedures.
2. Issues relating to Federal Reserve notes.

These items were originally announced for a meeting on August 25, 1983.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: August 29, 1983.

James McAfee,

Associate Secretary of the Board.

[S–1238–83 Filed 8–29–83; 3:47 pm]

BILLING CODE 6210–01–M

5

NATIONAL TRANSPORTATION SAFETY BOARD

[NM–83–21]

TIME AND DATE: 9 a.m., Wednesday, September 7, 1983.

PLACE: NTSB Board Room, Eighth floor, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: The first seven items are open to the public; the remainder are closed under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Safety Study:* Child Passenger Protection Against Death, Disability, or Disfigurement in Motor Vehicle Accidents.
2. *Aircraft Accident Report:* A. E. Staley Co., Inc., Canadair Challenger CL–600, N805C, Hailey, Idaho, January 3, 1983.

3. *Reconsideration of Probable Cause* and comments about Safety Recommendations and other issues related to the Pipeline Accident Report, Mid-America Pipeline System Liquefied Petroleum Gas Pipeline Rupture and Fire, Donnellson, Iowa, August 4, 1978.

4. *Response to Reconsideration of Probable Cause*—Aircraft Accident Report: Eastern Air Lines, Inc., Boeing 727–225, N8838E, Raleigh, North Carolina, November 12, 1975.

5. *Marine Summary Reports.*

6. *Special Interest Briefs* of Aviation Accidents Involving Air Traffic Control or the National Weather Service as a Cause or a Factor.

7. *Discussion* of Ad Hoc Task Force Report and Recommendations on Petitions for Reconsideration of Probable Cause.

8. *Opinion and Order:* Administrator v. Anderson, Dkt. SE–5564; disposition of the Administrator's appeal.

9. *Opinion and Order:* Administrator v. Marshall, Dkt. SE–5707; disposition of respondent's interlocutory appeal.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming (202) 382–6525.

August 29, 1983.

[FR Doc. S–1236–83 Filed 8–29–83; 1:47 pm]

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VOL
48
ISS
1
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31
1983
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federal register

Wednesday
August 31, 1983

Part II

Environmental Protection Agency

Environmental Radiation Protection Standards for Low-Level Radioactive Waste Disposal; Advanced Notice of Proposed Rulemaking

VOL
48
ISS
1
7
0
AG
31
1983
UMI

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 193

[A-FRL 2395-3]

Environmental Radiation Protection Standards for Low-Level Radioactive Waste Disposal

AGENCY: Environmental Protection Agency (EPA).

ACTION: Advance Notice of Proposed Rulemaking (ANPRM).

SUMMARY: The U.S. Environmental Protection Agency intends to develop environmental radiation protection standards and/or guides for low-level radioactive waste disposal to protect the public health and the general environment from potential adverse effects from this activity. The Agency also intends to determine if there is some limit of exposure from the disposal of radioactive waste, below which radiation-related regulation is not warranted. As used herein, standards means limits on radiation exposures or levels, or concentrations or quantities of radioactive material, outside the boundaries of locations processing, using, or disposing of radioactive material.

DATES: Comments must be received by November 29, 1983, to be of maximum value. The initial development of the standards or guides is expected to take about one year, at which time they will be proposed in the **Federal Register**. Public hearings will be held after the formal proposal and their dates will be announced at that time.

ADDRESS: Comments should be sent to Docket No. R-82-1, U.S. Environmental Protection Agency, Central Docket Section, (LE-130) 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: G. Lewis Meyer, Office of Radiation Programs (ANR-460), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, telephone (703) 557-8610.

SUPPLEMENTARY INFORMATION:

Low-level radioactive wastes (LLW) means all radioactive wastes except: high-level radioactive wastes (HLW) and transuranic wastes covered by proposed EPA 40 CFR 191; thorium and uranium will tailings controlled under 40 CFR 192; and radioactive wastes which potentially may be regulated under the Resource Conservation and Recovery Act of 1976 (RCRA).

Transuranic wastes are those wastes which contain long-lived alpha-emitting radionuclides of elements heavier than uranium. Transuranic wastes are covered by the proposed HLW standards if they contain 100 nanocuries per gram or more alpha-emitting transuranic isotopes with half-lives greater than one year.

Typical radioactive wastes which may be regulated under RCRA include those wastes not regulated under 40 CFR 191, 40 CFR 192, or 40 CFR 193 such as accelerator-produced radionuclides and naturally-occurring radionuclides, i.e., cobalt-57 and radium.

Low-level radioactive wastes are produced by nuclear power-related facilities, medical and research institutions, industrial facilities, and Government operations. These wastes occur in a wide variety of physical and chemical forms, and may contain only trace quantities of radioactive materials to thousands of curies per cubic foot. In general, however, LLW contain very low concentrations of radioactive contaminants in the range of a few thousandths of a curie per cubic foot.

In 1980, Congress passed the Low-Level Radioactive Waste Policy Act, which makes each State responsible for disposing of low-level waste either: (1) Within the State or (2) outside the State under compacts with other States. The States have requested that EPA provide generally applicable environmental standards for the disposal of low-level radioactive wastes. In 1980, the President approved the Nuclear Waste Management Plan of the Interagency Review Group on Nuclear Waste. This plan charges EPA with issuing standards for radioactive wastes, including a standard for LLW.

We request any information pertinent to the development of environmental radiation protection standards for low-level radioactive waste disposal, especially in the following areas:

1. What is the appropriate form for Low-Level Waste Standards? The Agency currently believes that standards in the form of dose limits may be most suitable. We would particularly appreciate comments on the appropriateness of dose limitations and suggestions regarding alternative forms that may have specific merits. Further, EPA would like to receive comments on the need for other actions in lieu of standards or actions that would supplement standards. For example, should general criteria be considered to augment specific environmental standards? EPA would also appreciate comments regarding the appropriate basis for selecting the level of stringency for Low-Level Waste Standards.

2. Are there some types of classes of radioactive waste which do not need regulatory control to protect the public? Specifically, is there a sufficiently small concentration and/or likelihood of exposure from radioactive materials in some wastes, so that they can be considered to be of no radiation-related regulatory concern, or which can be disposed of with minimal controls? What should be the basis for determining a level below regulatory concern?

3. What are the key factors in reasonably assuring that environmental protection standards will be satisfied? If we consider site characteristics, engineered barriers, and administrative controls, which are the most important?

4. The Agency is currently assuming that authorities will maintain active institutional control at LLW disposal facilities for 100 years after their closure, including maintenance and upkeep of engineered control structures. Is this period reasonable, or should it be longer or shorter?

5. The LLW standards being developed under this rulemaking could be applied to a variety of types of facilities including new facilities licensed by the Nuclear Regulatory Commission (NRC) and the States, existing facilities licensed by NRC and the States, new facilities at Federal installations, and existing facilities at Federal installations. What should be the basis for determining to which facilities the standard should be applied.

6. What methods should be employed to confirm that environmental standards are being met? Consider such alternatives as predictive models, continuous monitors, and sampling programs.

List of Subjects in 40 CFR Part 193

Environmental protection, Low level radioactive waste, Radiation protection

Dated: August 23, 1983.

William D. Ruckelshaus,

Administrator

[FR Doc. 83-23581 Filed 8-30-83; 8:45 am]

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VOL
48
ISS
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AG
31
1983
UMI

federal register

Wednesday
August 31, 1983

Part III

Environmental Protection Agency

Standards of Performance for New Stationary Sources; Nonmetallic Mineral Processing Plants; Proposed Rule and Notice of Hearing

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-2295-7]

Standards of Performance for New Stationary Sources; Nonmetallic Mineral Processing Plants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and notice of public hearing.

SUMMARY: The proposed standards would limit emissions of particulate matter from new, modified, and reconstructed facilities at nonmetallic mineral processing plants. The proposed standards implement Section 111 of the Clean Air Act and are based on the Administrator's determination that emissions from nonmetallic mineral processing plants cause, or contribute significantly to, air pollution which may reasonably be anticipated to endanger public health or welfare. The intent is to require new, modified, and reconstructed facilities at nonmetallic mineral processing plants to use the best demonstrated system of continuous emission reduction, considering costs, nonair quality health, and environmental and energy impacts.

A public hearing will be held, if requested, to provide interested persons an opportunity for oral presentation of data, views, or arguments concerning the proposed standards.

DATES: *Comments.* Comments must be received on or before November 14, 1983.

Public Hearing. If anyone contacts EPA requesting to speak at a public hearing by September 21, 1983, a public hearing will be held on October 12, 1983, beginning at 10:00 a.m. Persons interested in attending the hearing should call Mrs. Naomi Durkee at (919) 541–5578 to verify that a hearing will occur.

Request to Speak at Hearing. Persons wishing to present oral testimony must contact EPA by October 4, 1983.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate if possible) to: Central Docket Section (A–130), Attention: Docket No. OAQPS–78–11, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

Public Hearing. If anyone contacts EPA requesting to speak at a public hearing, it will be held at the Environmental Research Center Auditorium, corner of Hwy. 54 and Alexander Drive, Research Triangle Park, North Carolina. Persons interested in attending the hearing should call Mrs. Naomi Durkee at (919) 541–5578 to verify that a hearing will occur. Persons wishing to present oral testimony should notify Mrs. Naomi Durkee, Standards Development Branch (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5578.

Background Information Document. The background information document (BID) for the proposed standards may be obtained from the U.S. EPA Library (MD–35), Research Triangle Park, North Carolina 27711, telephone number (919) 541–2777. Please refer to "Nonmetallic Mineral Processing Plants-Background Information for Proposed Standards" (EPA–450/3–83–001a).

Docket. Docket No. OAQPS–78–11, containing supporting information used in developing the proposed standards, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Gene Smith, Standards Development Branch, Emission Standards and Engineering Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5624.

SUPPLEMENTARY INFORMATION:

Proposed Standards

Standards of performance for new sources established under Section III of the Clean Air Act reflect:

> • • • application of the best technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, and any nonair quality health and environmental impact and energy requirements) the administrator determines has been adequately demonstrated (Section 111 (a)(1)).

For convenience, this will be referred to as "best demonstrated technology" or "BDT."

The proposed standards would apply to new, modified, and reconstructed facilities at plants that process any of the following 18 nonmetallic minerals: Crushed and broken stone, sand and gravel, clay, rock salt, gypsum, sodium compounds, pumice, gilsonite, talc and pyrophyllite, boron, barite, fluorspar, feldspar, diatomite, perlite, vermiculite, mica, and kyanite. The affected facilities would be each crusher, grinding mill, screening operation, bucket elevator, belt conveyor, bagging operation, storage bin, and enclosed truck or railcar loading station. Common clay plants and pumice plants with capacities of 9 megagrams per hour (Mg/h) (10 tons per hour (tons/h)) or less, fixed sand and gravel plants and crushed stone plants with capacities of 23 Mg/h (25 tons/h) or less, and portable sand and gravel plants and crushed stone plants with capacities of 136 Mg/h (150 tons/h) or less would be exempt from the proposed standards. All nonmetallic mineral processing equipment at lime plants, power plants, steel mills, and other source categories that is not already covered by standards of performance for those categories would be covered by the proposed standards. At asphalt concrete plants and Portland cement plants, equipment used to process nonmetallic minerals that precedes equipment already coverd by other standards of performance would be subject to the proposed standards.

The proposed standards would limit both fugitive and stack emissions of particulate matter from the affected facilities. Fugitive emissions are emissions not collected by a capture system. Fugitive emissions would be limited to 10 percent opacity for all affected facilities with the following exception: fugitive emissions from crushers at which capture systems are not used would be limited to 15 percent opacity. The proposed standard for stack emissions, which are emissions collected by a capture system, would limit the concentration of particulate matter to 0.05 gram per dry standard cubic meter (g/dscm) [0.02 grain per dry standard cubic foot (gr/dscf)] and 7 percent opacity. The stack opacity standard would not apply to affected facilities that use wet scrubbers to control emissions. Instead, the monitoring of the operating parameters of wet scrubbers (pressure drop and scrubber liquid flow rate) would be required in order to ensure proper operation and maintenance of scrubbers.

Summary of Environmental, Energy, and Economic Impacts

Environmental Impact

By the fifth year following proposal, the proposed standards would reduce the total amount of particulate matter emissions into the atmosphere by 41,000 megagrams per year (45,000 tons per year). This reduction is 90 percent greater than that achievable with a typical State process weight regulation.

Uncontrolled emission rates were not used to estimate the reduction in

particulate matter emissions associated with the proposed standards. However, these emission rates are presented in the background information document (BID), and some industry representatives have questioned their validity. They believe the rates are too high and are concerned that States will use them to determine the significance of a plant as an air pollution source. EPA is reviewing the emission factors presented in the BID to determine if they need to be revised, and comments are solicited on this issue. The uncertainty, however, does not affect the determination of best demonstrated technology on which the proposed standards are based.

With the use of dry collection techniques (baghouses) to achieve the standards, no water discharge is generated. Therefore, there would be no adverse water pollution impact from the proposed standards. Where wet dust suppression may be used to meet the standards, there would be no significant water discharge because most of the water adheres to the material being processed until it evaporates.

The solid waste impact of the proposed standards would be very small. When dry collection techniques are used, about 1.4 megagrams (1.5 tons) of solid waste are collected for every 250 megagrams (276 tons) of material processed. In many cases, this material can be recycled back into the process, sold, or used for a variety of purposes. Where no market exists for the collected material, it is typically disposed of in the mine or in an isolated location in the quarry. No subsequent air pollution problems should develop provided the waste pile is protected from wind erosion. Information on control techniques for waste piles is included in the document entitled "Air Pollution Control Techniques for Nonmetallic Minerals Industry" (EPA 450/3–82–014) available from the EPA Library (MD–35), Research Triangle Park, North Carolina 27711, telephone number (919) 541–2777. Where wet dust suppression could be used to meet the standards, no solid waste disposal problem would result from implementing the standards.

Energy Impact

The incremental energy requirements of the proposed standards have been estimated by comparing the use of baghouses to control particulate matter emissions to the use of no control system. The estimates indicate a greater impact than would actually occur because it is expected that less-energy-consuming wet dust suppression systems would be used in many cases to achieve the proposed standards. In addition, many new plants would use baghouses or combinations of baghouses and water spray controls to meet existing State regulations.

The energy required to control all new nonmetallic mineral processing plants constructed by the fifth year after proposal to the level of the proposed standards would be about 430 terajoules per year (1.2 terajoules per day), indicating a minor impact on national electrical energy demand. This would be about a 15 percent increase over the amount of energy that would otherwise be required to meet the industry's projected capacity additions without controls. The increased energy cosumption for typical plants that would result from the proposed standards would range from about 5 percent for a 136 Mg/h (150 tons/h) plant having both crushing and grinding operations to about 20 percent for a 9 Mg/h (10 tons/h) plant having only a crushing operation.

Economic Impact

The costs and economic impacts associated with the proposed standards are considered to be reasonable. The estimated impacts are based on a comparison of baghouse use to no control. Less expensive wet dust suppression systems may be used in many cases to achieve the proposed standards. Also, many new plants would use baghouses or a combination of baghouses and water sprays to meet existing State regulations. Thus, the actual economic impact of the proposed standards would be considerably less than the estimates summarized below.

The impact of the proposed standards on an individual plant was evaluated by developing a discounted cash flow (DCF) analysis for each new model plant size and for each expansion model plant size. DCF is an investment decision analysis that shows the economic feasibility of a planned capital investment project over the life of the project. The results of the analysis indicate that the costs associated with implementing the proposed standards would not preclude construction of most new nonmetallic mineral processing plants that would be built in the absence of the proposed standards. However, the DCF analysis indicated that the incremental costs associated with baghouse control may preclude the construction of new pumice plants and common clay plants with capacities of 9 Mg/h (10 tons/h) or less, fixed sand and gravel plants and crushed stone plants with capacities of 23 Mg/h (25 tons/h) or less, and portable sand and gravel plants and crushed stone plants with capacities of 136 Mg/h (150 tons/h) or less. For this reason, these plants would be exempt from the proposed standards. Representatives of the crushed stone and sand and gravel industries have indicated that few, if any, fixed plants smaller than 23 Mg/h (25 tons/h) and portable plants smaller than 136 Mg/h (150 tons/h) would be built in the future. Nevertheless, these exemptions are provided for those few plants that may be built.

All of the dollar figures presented below are in 1979 dollars. Figures that were reported in different year dollars in the economic impact analysis in the BID were converted to 1979 dollars for comparison purposes only. The capital costs for baghouse control systems for plants having only a crushing operation would range from $70,000 for a 9 Mg/h (10 tons/h) plant to $936,000 for a 544 Mg/h (600 tons/h) plant or from 12 to 9 percent of the plant's total capital costs. Total annualized costs would range from $17,000 to $105,000 per year. For plants having both crushing and grinding operations, capital costs would range from $109,000 for a 9 Mg/h (10 tons/h) plant to $219,000 for a 136 Mg/h (150 tons/h) plant or from 16 to 6 percent, respectively, of the plant's total capital costs. For these plants, annualized costs would range from $25,000 to $53,000 per year. For portable crushing plants, capital costs would range from $88,000 for a 68 Mg/h (75 tons/h) plant to $260,000 for an 816 Mg/h (900 tons/h) plant or from 22 to 15 percent, respectively, of the plant's total capital costs. Annualized costs would range from $34,000 to $105,000 per year. The total additional capital cost to install baghouses on all new plants would be about $125 million for the first 5 years the proposed standards would be in effect. The total annualized cost would increase by $34 million in the fifth year. For each mineral industry, the annualized control cost in the fifth year divided by the annual output is less than 2 percent of the price of a ton of product.

Rationale

Selection of the Source Category for Control

EPA has identified nonmetallic mineral processing plants as sources of emissions that cause or contribute significantly to air pollution that may reasonably be anticipated to endanger public health or welfare. As a result, the Agency listed this source on the Priority List [40 CFR 60.16, 44 FR 49222 (August 21, 1979)], in accordance with Section 111(b)(1)(A) of the Clean Air Act. By the fifth year after proposal new, modified, and reconstructed facilities at

nonmetallic mineral processing plants would cause annual nationwide particulate matter emissions to increase by about 45,000 megagrams per year (50,000 tons per year) if no standards of performance were set.

The production of nonmetallic minerals is projected to increase at compound annual growth rates of up to 6 percent through the first 5 years after proposals, depending on mineral type. The growth rate estimates are based on long-term trends in the industries rather than current economic conditions. They indicate that about 500 new plants will be constructed in the 5-year period. Geographically, the nonmetallic minerals industry is highly dispersed, with plants processing at least 1 of the 18 nonmetallic minerals in all States.

The 18 minerals covered by the proposed standards were selected on the basis of production tonnage rather than on the basis of any health or welfare considerations as compared to other minerals. They are the top 18, excluding minerals for which standards have already been established or are being developed. Also excluded were minerals, such as sulfur, bromine, peat, and slag, with production processes that are not typical for most minerals, and those for which no growth is expected, such as potash and pyrites.

Selection of Pollutant and Emission Sources for Control

Particulate matter is the only pollutant emitted from sources covered by the proposed standards. The process operations included under the proposed standards were selected becasue they are sources of particulate matter emissions at nonmetallic mineral processing plants and because they are all amenable to the same types of air pollution control techniques. Process operations covered include the following pieces of equipment: crushers, grinding mills (including air separators, classifiers, and conveying systems), screening operations, bucket elevators, belt conveyors, bagging operations, storage bins, and enclosed truck and railcar loading stations. Equipment at portable plants is included because this equipment is similar to that used at fixed plants and is able to use the same emission control techniques.

Emissions from the following operations common to nonmetallic mineral processing plants are not covered by the proposed standards: haul roads, stockpiles, drilling, blasting, loading at the mine, and conveying (other than transfer points). There has been limited demonstration of the effectiveness of specific control techniques for these sources for the variety of conditions experienced across the country. EPA's Office of Research and Development is currently assessing these techniques, and the results will be considered in the future in determining the need for standards of performance for these sources. Information on control techniques for these operations is included in the document entitled "Air Pollution Control Techniques for Nonmetallic Minerals Industry" (EPA–450/3–82–014) available from the EPA Library (MD–35), Research Triangle Park, North Carolina 27711, telephone number (919) 541–2777.

Selection of Affected Facilities

The choice of the affected facility for these standards is based on the Agency's interpretation of Section 111 of the Act, and judicial construction of its meaning.[1] Under Section 111, the NSPS must apply to "new sources"; "source" is defined as "any building, structure, facility, or installation that emits or may emit any air pollutant" [Section 111(a)(3)]. Most industrial plants, however, consist of numerous pieces or groups of equipment that emit air pollutants, and that might be viewed as "sources." EPA, therefore, uses the term "affected facility" to designate the equipment, within a particular kind of plant, that is chosen as the "source" covered by a given standard.

In choosing the affected facility, EPA must decide which pieces or groups of equipment are the appropriate units for separate emission standards in the particular industry. The Agency must do this by examining the situation inlight of the terms and purpose of Section 111. One major consideration in this examination is that the use of a narrower definition results in bringing replacement equipment under the NSPS sooner. If, for example, an entire plant were designated as the affected facility, no part of the plant would be covered by the standards unless the plant as a whole is "modified" or "reconstructed." If, on the other hand, each piece of equipment is designated as the affected facility, then as each piece is replaced, the replacement piece will be a source subject to the standards. Because the purpose of Section 111 is to minimize emissions by the application of the best demonstrated control technology (considering cost, other health and environmental effects, and energy requirements) at all new and modified sources, there is a presumption that a narrower designation of the affected facility is proper. This ensures that new emission sources within plants will be brought under the coverage of the standards as they are installed. This presumption can be overcome, however, if the Agency concludes that the relevant statutory factors (technical feasibility, cost, energy, and other environmental impacts) points to a broader definition.

The narrow designation of affected facility for nonmetallic mineral processing plants would be each crusher, grinding mill, screening operation, bucket elevator, belt conveyor, bagging operation, storage bin, enclosed truck loading station, and enclosed railcar loading station. It is technologically feasible to control each facility under the narrow designation. Moreover, the Agency considers the economic, energy, and other impacts associated with the narrow designation of affected facility reasonable. As a result, EPA has selected the narrow designation of affected facility.

In order to promulgate the broader designation, EPA would have to find that it would achieve greater total emission reductions or equivalent total reductions with significant other benefits such as reduced costs, energy consumption or other environmental impacts. EPA solicits comments on this issue.

With the narrow designation of affected facility, the standards would cover new equipment at new plants and new equipment used to expand or refurbish existing plants. Expansions of plant capacity typically occur with the addition of a new crushing or grinding line, which may include one or more of each of the facilities listed above. Each of these facilities in the new line would be covered by the proposed standards as a new source (affected facility), but the rest ot the plant would not be affected.

Replacement of an entire piece of existing process equipment (e.g., a crusher) with new equipment would bring the replacement equipment under the standards as a new source. (See below the Section of Modification and Replacement for a discuasion of equipment whose replacement would be considered only routine maintenance.) Industry representatives have asked for clarification of this provision. As a fixed or portable plant's crushers, screens, etc., wear out or require repair, they are usually replaced by comparable equipment. Further, a portable plant may change configuration, depending on the job for which it is being used, and equipment is either added to or taken from the plant as needed. If a piece of equipment added to a plant in such situations was manufactured before the

[1] The most important case is *ASARCo, Inc. v. EPA*, 578 F., 2d 319 (D.C. Cir. 1978).

date of proposal of the standards, it would be considered an "existing facility" and would not be subject to the standards. If it is manufactured after the date of proposal, it would be considered an "affected facility" and would be subject to the standards. The basis for this is the requirement in Section 111(a)(2) of the Clean Air Act that new source performance standards apply to sources for which construction or modification is "commenced" after proposal of the standards. EPA defines "commenced" in 40 CFR 60.1 to mean "* * * that an owner or operator (i.e., an equipment manufacturer or, in the case of field erection, a plant owner) has undertaken a continuous program of construction or modification or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction or modification." The manufacture of equipment would constitute a "continuous program of construction," and the date of manufacture would determine whether or not the equipment would be subject to the standards.

Selection of the Basis of the Proposed Standards

Section 111 of the Clean Air Act requires that standards of performance reflect the degree of emission limitation achievable through "application of the best system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, and any nonair quality health and environmental impact and energy requirements) has been adequately demonstrated."

Methods currently in use to reduce particulate matter emissions at nonmetallic mineral processing plants include wet dust suppression, dry and wet collection, and a combination of collection and wet dust suppression. Wet dust suppression consists of spraying the materials with a fine mist of water causing fine particulate matter to adhere to the surface of the larger materials rather than becoming airborne. Dry and wet collection involves hooding or enclosing dust-producing points, capturing the dust generated, and passing the dust-laden air through a collection device. Combination systems use both methods at different stages throughout the processing plant. In addition to these control techniques, the use of enclosed structures to house process equipment may also be effective in preventing particulate matter emissions from reaching the atmosphere.

In a wet dust suppression system, water (with or without surfactant) is sprayed on the materials at critical dust-producing points in the process flow. This method has been used on a wide variety of materials including limestone, traprock, granite, shale, dolomite, and sand and gravel. It generally can be applied to materials that undergo crushing.

Wet dust suppression cannot be used in some cases, however, because the moisture may interfere with further processing such as screening or grinding where "blinding" problems may occur. In addition, the thermal capacity of the dryers that are used in some processing steps may limit the amount of water that can be sprayed into the materials. The addition of water at processing steps after the drying operation is not feasible for products sold in dry form and other means of emission control must be used. Where the materials processed contain a high percentage of fines, such as the product from a hammermill, wet dust suppression may be totally inadequate because of the large surface areas involved, which in turn would require large amounts of water. In some cases, wet dust suppression also reduces the maximum production rate because of the added weight to the material being processed. Although the mass emission reduction achieved with wet dust suppression systems cannot be calculated, if properly designed, installed, and operated, these systems are effective in reducing visible emissions in many situations. In addition, they are inexpensive and use little energy.

In both wet and dry collection systems, particulate matter emissions generated during process operations are controlled by capturing the emissions and passing them though a collection device. The most efficient collection device used in the nonmetallic mineral industry is the fabric filter or baghouse. Greater that 99 percent particulate collection control efficiency can be attained for material even as small as submicron sizes. Data gathered during emission tests on baghouse units used to control a variety of process operations indicate that the size distribution of particulate matter, the rock type processed, and the facility controlled do not substantially affect baghouse performance.

Other collection devices used in the nonmetallic mineral processing industry include dry inertial cyclones and wet scrubbers. Although dry inertial collectors demonstrate 95 to 99 percent efficiency for coarse particles (40 microns and larger), their efficiency for medium and fine particles (20 microns and smaller) is less that 85 percent.

The effectiveness of wet scrubber collection devices is directly related to presssure drop across the unit. The collection efficiency for a particle size distribution increases as pressure drop increases. A typical 6-inch pressure drop wet scrubber exhibits removal efficiencies of 80 to 98 percent for particles in a range of 1 to 10 microns in diameter. High-energy wet scrubbers with pressure drops of 30 inches can achieve efficiencies of 99.0 to 99.9 percent for particles from 0.2 to 1 micron. Fifteen-inch pressure drop wet scrubbers provide an intermediate level of control, removing 95.0 to 99.9 percent of the particles in the 1 to 10 micron range and 80 to 95 percent of the submicron particles. Collection efficiencies for wet scrubbers of a given pressure drop are a relatively constant percentage over the range of normal particle loadings. Thus, higher inlet particle loading will result in higher outlet concentrations, all other factors held equal. At abnormally low inlet particle loadings, however, the percentage removal may decrease even though lower outlet concentrations are reached.

Regulatory Alternatives

In determining the basis for the proposed standards, three regulatory alternatives were considered: to set no standards, to set standards based on baghouses and wet dust suppression systems, or to set standards based on baghouses only. To estimate the environmental, economic, and energy impacts of the alternatives, a "worst-case" analysis was conducted in which it was assumed that the model plants would use baghouses only to meet the proposed standards. Thus, the estimates reflect the maximum adverse economic and energy impact that could occur as a result of the standards, and actual impacts may be considerably less, particularly where wet dust suppression systems could be used instead of or in combination with baghouses.

A. *Environmental Impact.* There are many variations in the type and stringency of existing State regulations for nonmetallic mineral processing plants. Many, however, include process weight regulations limiting particulate matter emissions to a certain number of pounds per hour of production. For purposes of analysis, therefore, a typical process weight regulation that would reduce uncontrolled emissions by about 95 percent was selected as the baseline against which the regulatory alternatives were compared.

If no standards were set and the typical State process weight regulations were in effect, there would be an increase in nationwide particulate matter emissions of about 45,000 megagrams per year (50,000 tons per year) in 5 years. Standards based on baghouse control would reduce the increase in emissions to only 4,500 megagrams per year (5,000 tons per year). This is approximately 90 percent lower than the emission level that would be allowed under State regulations. It is not possible to quantify the mass emission reduction that would be achieved by the use of wet dust suppression systems although they are almost as effective as baghouses in reducting visible particulate emissions.

There would be no adverse water pollution impact resulting from any of the three regulatory alternatives. If no standards were set, plant processing operations would continue as in the past with neither an increase nor a decrease in water consumption or discharge. The use of baghouse control systems to meet the standards would not result in any water discharge because the standards would not require the use of any water. If wet dust suppression were used to meet the standards, there would be an increase in water consumption, but there would be no significant water discharge because most of the water adheres to the material being processed until it evaporates.

If no standards were set, there would be no solid waste impact other than that resulting from normal operation. The use of baghouse control systems to meet the standards would result in the collection of about 1.4 megagrams (1.5 tons) of solid waste for every 250 megagrams (276 tons) of material processed. In many cases, however, this material can be recycled back into the process, sold, or used for a variety of purposes. Where no market exists, the material is generally disposed of in the mine or in an isolated location in the quarry. To prevent subsequent air pollution problems, the waste pile should be protected from wind erosion. Methods for minimizing windblown dust are discussed in the document entitled "Air Pollution Control Techniques for Nonmetallic Minerals Industry" (EPA–450/3–82–014) available from the EPA Library (MD–35), Research Triangle Park, North Carolina 27711, telephone number (919) 541–2777. The use of wet suppression systems to meet the standards would result in no solid waste impact other than that resulting from normal operation.

There would be no noise impact if no standards were set. The only source of noise that would result from the standards would be the exhaust fans used in dry emission control systems. When compared to the noise from crushing and grinding process equipment, any additional noise from baghouse control system exhaust fans would be insignificant.

B. *Energy Impact.* There would be no energy impact if no standards were set. The net increase in electrical energy consumption by all new plants using baghouse control would be about 430 terajoules per year (1.2 terajoules per day) by the fifth year after proposal or 15 percent over that which would otherwise be required to meet the projected capacity additions without any controls. The estimates indicate a greater impact than would actually occur because many new plants would use baghouses or combinations of baghouses and water spray controls to meet existing State regulations. The energy impact that would result from the use of wet dust suppression systems has not been quantified, but would be less than the impact that would result from baghouse control.

The incremental increase in energy consumption at a particular plant using baghouse control is dependent on the size of the plant. Although the amount of energy that would be required would be more for a large plant than for a small plant, the percentage increase in the plant's total energy consumption would be less for a large plant than for a small plant. The increased energy consumption associated with baghouse control at a plant having both crushing and grinding operations would range from about 5 percent for a 136 Mg/h (150 tons/h) plant to 14 percent for a 9 Mg/h (10 tons/h) plant. For plants with crushing operations only, the increase would range from about 19 percent for a 544 Mg/h (600 tons/h) plant to 20 percent for a 9 Mg/h (10 tons/h) plant.

C. *Cost and Economic Impact.* There would be no adverse economic impact if no standards were set. The economic impact comparing no control to baghouse control is discussed below. The actual economic impact would be considerable less than the estimates presented because many new plants would use baghouses or combinations of baghouses and wet dust suppression systems to meet existing State standards. All of the dollar figures presented below are in 1979 dollars. Figures that were reported in different year dollars in the economic impact analysis in the BID have been converted to 1979 dollars for comparison purposes only.

The capital costs for baghouse control for a fixed plant with crushing but not grinding operations would range from $70,000 for a 9 Mg/h (10 tons/h) plant to $936,000 for a 544 Mg/h (600 tons/h) plant or from 12 to 9 percent, respectively, of the plant's total capital costs. For a fixed plant with both crushing and grinding operations, the capital costs would range from $109,000 for a 9 Mg/h (10 tons/h) plant to $219,000 for a 136 Mg/h (150 tons/h) plant or from 16 to 6 percent, respectively, of the plant's total capital costs. For portable crushing plants, the capital costs would range from $88,000 for a 68 Mg/h (75 tons/h) plant to $260,000 for an 816 Mg/h (900 tons/h) plant or from 22 to 15 percent of the plant's total capital costs.

The annualized costs for baghouse control at a fixed crushing plant would range from $17,000 to $105,000 per year, corresponding to $0.93 to $0.10/Mg ($0.85 to $0.09/ton) of product, as the plant capacity goes from 9 to 544 Mg/h (10 to 600 tons/h). The annulized costs for a fixed crushing and grinding plant would range from $25,000 to $53,000 per year or $0.33 to $0.05/Mg ($0.30 to $0.04/ton) of product as the plant capacity goes from 9 to 136 Mg/h (10 to 150 tons/h). The annualized costs for a portable crushing plant would range from $34,000 to $105,000 per year or $0.25 to $0.06/Mg ($0.23 to $0.06.ton) of product as the plant capacity goes from 68 to 816 Mg/h (75 to 900 tons/h).

The total additional capital cost for all new plants using baghouses would be about $125 million for the first 5 years the proposed standards would be in effect. These costs would vary for each industry, ranging from about $109,000 for several minerals to $96.5 million for crushed stone. The total annualized costs in the fifth year would increase by about $34 million, ranging from about $25,000 for vermiculite to more than $26 million for crushed stone. The average annualized control costs per ton of output in the fifth year following proposal would range from $0.006 for sand and gravel to $0.165 for kyanite. For each mineral industry, the annualized control cost in the fifth year divided by the annual output is less than 2 percent of the price of a ton of product. The economic impacts associated with standards based on baghouse control techniques would not preclude the building of most new plants. However, discounted cash flow analysis indicates that the incremental costs associated with the use of baghouse control may preclude the construction of new common clay plants and pumice plants with capacities of 9 Mg/h (10 tons/h) or

less, fixed sand and gravel plants and crushed stone plants with capacities of 23 Mg/h (25 tons/h) or less, and portable sand and gravel plants and crushed stone plants with capacities of 136 Mg/h (150 tons/h) or less. For this reason, these plants are exempt from the proposed standards. Representatives of the crushed stone and sand and gravel industries have indicated that few, if any, fixed plants smaller than 23 Mg/h (25 tons/h) and portable plants smaller than 136 Mg/h (150 tons/h) would be built in the future. Nevertheless, these exemptions are provided for those few plants that may be built.

If wet dust suppression systems were used to comply with the proposed standards, the economic impact would be less due to the lower costs of these systems. The capital costs for these systems for a fixed crushing plant would range from $57,000 for a 68 Mg/h (75 tons/h) plant to $135,000 for a 544 Mg/h (600 tons/h) plant. For portable crushing plants, the capital costs would range from $57,000 for a 68 Mg/h (75 tons/h) plant to $154,000 for an 816 Mg/h (900 tons/h) plant. The total annualized costs for a fixed crushing plant would range from $13,000 to $30,000 per year, corresponding to $0.10 to $0.02/Mg ($0.09 to $0.02/ton) of product, as the plant capacity goes from 68 to 544 Mg/h (75 to 600 tons/h). The total annualized costs for a portable crushing plant would range from $13,000 to $34,000 per year, corresponding to $0.10 to $0.02/Mg ($0.09 to $0.02/ton) as the plant capacity goes from 68 to 816 Mg/h (75 to 900 tons/h).

The economic analysis conducted for nonmetallic mineral processing plants would apply also to integrated production plants, such as those at lime plants, power plants, and steel mills. The economic impact for integrated production plants is expected to be the same or less for two reasons. First, the integrated plants would tend to have a lower cost of capital since they are usually affiliated with larger companies. Second, these plants would tend to pass on control costs sooner because the relative magnitude of the control cost in terms of final product value would be less. Therefore, all mineral processing equipment at lime plants, power plants, steel mills, and other source categories that operate separate mineral processing plants, would be covered by the proposed standards. At asphalt concrete plants and Portland cement plants, equipment used to process nonmetallic minerals that precedes equipment already covered by other standards of performance would be subject to the proposed standards. The equipment is identical to equipment at nonmetallic mineral processing plants. For example, an asphalt concrete plant may have all of the stone necessary for its product crushed on-sited. Because the asphalt concrete plant would crush as much stone as a nonmetallic mineral processing plant and use similar equipment, this part of an asphalt concrete plant would be considered a nonmetallic mineral processing plant and would be covered by the proposed standards. However, once the crushed stone is entered as a raw material into the process by which asphalt concrete is manufactured, equipment for handling it is considered part of the asphalt concrete plant and would not be covered by the proposed standards.

Representatives of the Chemical Manufacturers Association have commented that the economic analysis does not address the processing of synthetic nonmetallic minerals. EPA has found that the processing and emission control equipment used for synthetic nonmetallic minerals that would be covered by the standards is comparable to that used for natural nonmetallic minerals. The approach used in the economic analysis is believed to be valid for both synthetic and natural minerals. It indicates impacts that would occur under worst-case conditions for natural minerals, and EPA believes that the processing of synthetic minerals is adequately, although not specifically, represented by the situations analyzed. In the economic analysis, each industry was evaluated for potentially significant impacts as a result of the cost of control. A screening analysis that measured the effect of annualized control cost for the smallest size model plant in each industry (thus resulting in the highest per unit control cost and a worst case situation) on the average selling price of the mineral was prepared. Any industry that had a plant whose per unit production cost could be increased by 2 percent or more because of the cost of control was further evaluated. For these industries, a financial analysis of the impact of the cost of control on different plant sizes was prepared. This approach is believed to be valid for all segments of the industries covered by the standards.

Summary. Comparison of the alternatives indicates that a significant reduction in particulate matter emissions would result from setting standards and there would be minimal adverse water pollution, solid waste, and noise impacts. The increase in energy consumption would not be significant and the costs and economic impacts would be reasonable.

The standards that are being proposed are based on emission levels achievable using well designed and operated baghouse control or wet suppression techniques. Both systems are designated as best demonstrated technology (BDT). The effectiveness of wet dust suppression systems cannot be quantified in terms of mass emissions. However, where their use is feasible technologically, they are almost as effective as baghouse systems in reducing visible emissions. They cost about one-third as much as baghouses and use less energy. Therefore, the Administrator has determined that the small difference in visible emissions is justified by the large difference in cost and energy usage and has selected wet dust suppression as well as baghouses as BDT for cases where it can be used. The standards of performance do not require the installation or operation of any specific type of control equipment, rather, only that the specified emission limits be met. Thus, recognizing the diverse nature of the nonmetallic mineral processing industry, it is expected that effective wet dust suppression can and will be utilized to meet the standards in many cases. As described in another section of this preamble (SELECTION OF EMISSION LIMITS), this capability has been confirmed through EPA emission tests. In other instances, wet dust suppression may not provide the necessary control, and baghouse controls would be needed The proposed standards do not specify that any particular type of control equipment be installed and operated. Rather, they are "performance" standards that simply specify emission limits that must be met. Plants may choose any type of control system appropriate to their situations, as long as the emission limits are met.

Selection of Format for the Proposed Standards

In selecting the format for the proposed standards, it was necessary to differentiate between the two types of particulate matter emissions at nonmetallic mineral processing plants: fugitive emissions and stack emissions. Fugitive emissions are those that are no caught by a capture system before they are released into the atmosphere. Stack emissions, on the other hand, are those that are caught by a capture system, pass through a control device, and are released into the atmosphere from a stack or duct. Fugitive emissions are present when emissions generated at a point are not captured. They are also present when the capture system is not 100 percent effective in catching

emissions. To ensure that all emissions at affected facilities are controlled by the proposed standards, it is necessary to have one standard for fugitive emissions, which effectively requires good capture of emissions, and another standard for stack emissions, which effectively requires good collection of emissions.

Fugitive Emissions Standard. Two different formats could be selected to limit fugitive emissions from nonmetallic mineral processing plants: an equipment standard or a visible emissions standard. An equipment standard would require that a specific control device or technique be used. The Clean Air Act permits the use of equipment standards only when it is infeasible to set emission standards.

The second alternative format for controlling fugitive emissions is a visible emissions standard. A visible emissions standard would specify the maximum allowable opacity. A visible emissions standard could be applied to any process operation regardless of whether or not it is enclosed. For this reason, a visible emissions standard that specifies the maximum allowable opacity was selected for all plant process equipment.

Stack Emissions Standard. Two different formats could be selected to limit stack emissions from nonmetallic mineral processing plants. These are: (1) A mass standard, limiting emissions in terms of mass emissions per unit of production, (2) a concentration standard, limiting the concentration of particulate matter in the effluent gases.

A mass standard may appear more meaningful in the sense that it relates directly to the quantity of emissions discharged into theatmosphere. However, a major disadvantage of a mass standard for nonmetallic mineral processing plants is that, typically, the production or feed rate of a process operation is not measured over the short term. This, an accurate determination of the weight of material processed through an affected facility would not be possible.

A factor to consider when establishing a concentration standard is the possibility of the standard being circumvented by diluting the air going to the control device. This is unlikely to occur at nonmetallic mineral processing plants, because the size and operating costs of the control device are functions of the volume of gas treated an the cost of such a strategy probably would be prohibitive. Consequently, a concentration standard was selected for stack emissions at nonmetallic mineral processing plants. To ensure that the air pollution control system is properly installed, operated, and maintained, an opacity standard is also being proposed for all facilities not controlled by wet scrubbers. As discussed later in this preamble, an opacity standard for scrubbers would not be a meaningful indication of scrubber performance at nonmetallic mineral procesing plants. However, the monitoring of operating parameters of wet scrubbers (pressure drop accross the unit and scrubber liquid flow rate) would be required by the proposed standards.

Selection of Emission Limits

The selection of emission limits is based on the performance of the best systems of continuous emission reduction for the nonmetallic mineral processing industry. Because the proposed standards set emission limits for both capture devices (such as hoods and enclosures) or dust suppression systems, and for control devices (such as baghouses), all of these types of systems require evaluation.

In order to broaden the range of conditions considered for the performance of the control equipment, test data for metallic mineral processing facilities are also included in the data base considered in the selection of emission limits. Data from the metallic mineral processing industries may be appropriately transferred to the nonmetallic mineral industries for several reasons. Much of the process equipment relevant to the proposed standards is similar in the metallic and nonmetallic processing industries. Because the ores from which metallic elements are extracted are primarily nonmetallic in character, the emissions from metallic mineral processing operations are primarily nonmetallic mineral constituents. Furthermore, the similarity of emissions from metallic and nonmetallic processes in key parameters such as particle size distribution and mass loading provides additional evidence of similarity between the two industries. These measurements were made during the testing of both metallic and nonmetallic processing facilities and form the basis for extrapolating control efficiency from one industry, whether metallic or nonmetallic, to another.

Fugitive Emission Standard. Observations of visible emissions were made at hoods and enclosures to record the presence of process fugitive emissions escaping capture. Observations at both metallic and nonmetallic mineral processing plants are included in the data base presented in the background information document. A total of 53 operations at 13 plants were tested including all types of facilities covered by the standards. Visible emission readings were conducted in accordance with procedures outlined in EPA Method 9 (Appendix A 40 CFR Part 60) in which opacity is measured at 15-second intervals on a scale from 0 to 100 percent, to the nearest 5 percent. The sequence of the highest 24 consecutive readings was then averaged to give the maximum 6-minute average.

The maximum 6-minute average at 35 of the 53 processes tested was 0 percent. Only two facilities exceeded 5 percent opacity at any time. A grizzly screen at a copper operation showed maximum visible emissions of 8 percent opacity, and a bagging operation at a talc plant showed maximum visible emissions of 9 percent.

After reviewing the visible emission data for the plants controlled with capture and collection devices, representatives of the crushed stone and the sand and gravel industries commented that a representative cross section of plants had not been tested. Their primary concern was that controlled emissions at plants using dust suppression had not been characterized. Therefore, EPA and industry representatives cooperated in selecting 20 plants to visit as candidates for testing. Five of the twenty plants were judged to have the best wet dust suppression systems, and, therefore, were selected for visible emission observations. EPA and industry representatives observed visible emissions at these plants at the same time. For the most part, the results of the industry observations are in accord with EPA observations discussed below.

Opacity determinations were made at four crush stone processing plants and one sand and gravel processing plant that use wet dust suppression systems. Three of the plants were stationary and two were portable. At all of the process equipment (except crushers) being operated under conditions representative of normal operations and for which the wet dust suppression system was properly designed and operated, emissions were below 5 percent opacity. At crushers operated under the same conditions, emissions were below 15 percent opacity.

Based on the results of the visible emissions tests, a standard is being proposed to limit fugitive emissions to 10 percent opacity for all process equipment, with the following exception: the proposed standard for crushers at which capture systems are not used would limit emissions to 15 percent opacity. This standard, as shown by the date presented above and in the BID, is achievable with an ample margin in all

but the most extreme cases through the application of properly designed, operated, and maintained capture systems and in many cases through the use of properly designed, operated, and maintained wet dust suppression systems.

Stack Emissions Standard. The proposed concentration standard is based on the emission levels achievable using a baghouse. Particulate matter emissions were measured from 25 baghouses used to control emissions at crushing, screening, conveying (transfer points), and grinding operations at 13 plants in the metallic and nonmetallic mineral processing industries. The concentration of particulate matter emissions from these baghouses averaged 0.014 g/dscm (0.006 gr/dscf) and never exceeded 0.041 g/dscm (0.018 gr/dscf). Additional test results in a study performed by the Industrial Gas Cleaning Institute showed emission concentrations below 0.023 g/dscm (0.01 gr/dscf) for two fluid energy grinding mills processing clay (Fuller's earth).

Included in the testing program were emission tests at one gypsum and two talc plants. In all three tests, emissions exceeded the proposed standard of 0.05 g/dscm (0.02 gr/dscf). These test results were not representative of normal plant operation or proper baghouse operation. At the gypsum plant frequent startup and shutdown did not allow the baghouse to build up the necessary filter cake. Opacity determinations ranged continuously from 1 to 6 percent. Periodic visible puffing at one talc plant indicated either that a torn bag was being used or that the baghouse was operated improperly. Test results from the second talc plant indicated that emissions were well above the baghouse manufacturer's specification. To verify that properly designated and operated baghouses should have controlled emissions at these plants to levels below the standards, additional tests were conducted at plants processing Fuller's earth and kaolin. These clays were selected because their emissions contain particles as small or smaller than those from gypsum and talc plants and, therefore, would be just as difficult to control with a baghouse. The emission levels at these clay plants were lower than the proposed standard, confirming that a properly operated baghouse can control emissions to the level of the standard even on very fine particles. However, some industry representatives have previously commented that sufficient consideration was not given to the effect of particle size on collection efficiency, outlet emission grain loading, and opacity. Based on the results of the tests on plants processing Fuller's earth and kaolin, the Administrator believes that the standards are achievable even for very fine particles. However, comments are specifically requested on the effect of particle size on collection efficiency, outlet emission grain loading, and opacity.

The test data and modelling results summarized above indicate that baghouses can be used to achieve an emission limit of 0.05 g/dscm (0.02 gr/dscf). Therefore, the proposed stack emission standard would limit emissions to this level.

A 7-percent opacity standard (based on 6-minute averages) is also proposed for stack emissions. Opacity data were obtained during the emission tests on which the concentration standard is based. At 21 of 25 baghouses tested the maximum 6-minute average was 0 percent opacity. At three of the remaining four baghouses the maximum 6-minute opacity was 1 percent. The last baghouse showed visible emissions of up to 6 percent opacity. Therefore, a 7-percent opacity standard is being proposed to insure the proper operation and maintenance of the air pollution control device. Facilities controlled with wet scrubbers would be exempt from the proposed opacity standard as discussed below.

The opacity standard for stack emissions would be applicable in all cases unless EPA were to approve establishment of a special opacity standard under the provisions of 40 CFR 60.11(e). The provisions allow an owner or operator to apply to EPA for establishment of a special opacity standard for any source that meets the applicable concentration standard (demonstrated through performance tests under conditions established by EPA) but is unable to meet the opacity standard despite operating and maintaining the control equipment so as to minimize opacity. A special opacity standard might be established, for example, where an unusually large diameter stack precludes compliance with the proposed opacity standard.

Stack emission opacity data collected during test of wet scrubbers at metallic mineral processing plants were inconclusive due to their high variability. Some of the highest opacity readings (e.g., 25 percent) were observed at low outlet particle concentrations (e.g., 0.006 gr/dscf); while at other facilities with outlet concentrations closer to the stack emission limits, opacity was essentially zero. Therefore, an opacity standard is not being proposed for wet scrubbers. Instead, monitoring operating parameters of wet scrubbers (pressure drop and scrubber liquid flow rate) would be required by the proposed standard.

Modification and Reconstruction of Existing Facilities

Under the modification provisions applicable to all standards of performance, facilities at existing plants would be required to comply with the proposed standards if some type of physical or operational change is made that results in an increase in particulate matter emissions.

Under the modification provisions, actions that by themselves would not be considered modifications and thus would not cause an existing facility to become subject to the standards, regardless of emission increase, include the following:

1. Routine maintenance, repair, and replacement, such as replacement or refurbishing of components subject to high abrasion and impact (crushing surfaces, screening surfaces, conveyor belts, etc.).

2. An increase in the production rate, if the increase can be accomplished without a capital expenditure exceeding the product of the existing facility's Internal Revenue Service annual asset guideline repair allowance of 6.5 percent per year and the facility's basis.

3. An increase in the hours of operation.

4. Use of an alternative raw material, if the existing facility was designed to accomodate such material. Because process equipment (crushers, screens, conveyors, etc.) is designed to accommodate a variety of rock types, any change in raw material feed would not likely be considered a modification.

5. The addition or use of any air pollution control system except when a system is removed or replaced with a system considered to be less effective.

6. The relocaltion or change in ownership of an existing facility.

Because most changes to nonmetalic mineral processing plants would fall under one of the six categories listed above, there would be few cases where an existing facility would become subject to the standards as a result of modification. Typically, expansions in capacity at an existing plant involves adding completely new process lines. The affected facilities in each new process line would be regulated as new sources subject to the proposed standards.

Under the reconstruction provisions applicable to all standards of performance, an existing facility might become subject to the standards if its

components were replaced to such an extent that the fixed capital cost of new components exceeded 50 percent of the fixed capital cost that would be required to construct a comparable entirely new facility. At nonmetallic mineral processing plants, several types of actions that constitute routine repair and maintenance would conceivably bring an existing facility under the standards within a short period of time. For example, crusher jaw and spindle surfaces and screen meshing are typically replaced on regular intervals ranging from 1 to 6 months. These replacements parts typically represent from 5 to 10 percent of the cost of new equipment. Thus, within a period of 2 years or less, most existing crushers and screens will encounter such replacements. Depending on the application and the material handled, the replacement of conveyor belts is also a routine repair item of many plants. The replacement of crushing surfaces; screen meshes, bars and plates; conveyor belts; and other surfaces subject to abrasion occurs regularly to maintain the equipment in proper working order. However, as explained below, these types of replacements would not bring a facility under the standard.

As noted in the preamble to the regulation regarding reconstruction of existing facilities, 40 FR 58417 (December 16, 1975), the purpose of the reconstruction provisions is to "recognize that replacement of many of the components of a facility can be substantially equivalent to totally replacing it at the end of its useful life with a newly constructed affected facility." By requiring this type of essentially new facility to comply with NSPS, the Agency furthers Congress' intent of ensuring that best demonstrated control technology is applied during the turnover in the nation's industrial base. The reasoning underlying the reconstruction provisions may apply even when replacement of the components of a facility occurs over a relatively long period of time.

Section 60.15 defines the "fixed capital cost" of replacement components as the capital needed to provide all the "depreciable" components. By excluding nondepreciable components from consideration in calculating component replacement costs, this definition excludes many components that are replaced frequently to keep the plant in proper working order. There may, however, be some relatively minor depreciable components that are replaced frequently for similar purposes. In the Agency's judgment, maintaining records of the repair or replacement of these items may constitute an unnecessary burden. Moreover, the Agency does not consider the replacement of these items an element of the turnover in the life of the facility which concerned Congress when it enacted Section 111. Therefore, in accordance with 40 CFR 60.15(g), these proposed standards would exempt certain frequently replaced components, whether depreciable or nondepreciable, from consideration in applying the reconstruction provisions to nonmetallic processing plant facilities. The cost of these components will not be considered in calculating either the "fixed capital cost of the new components" or the "fixed capital costs that would be required to construct a comparable new facility" under § 60.15. In the Agency's judgment, these items are ore-contact surfaces on processing equipment, including crushing surfaces; screen meshes, bars, and plates; conveyor belts; and elevator buckets.

Other types of repairs and replacement also take place at nonmetallic mineral processing plants over a period of time. Section 60.15 currently defines "reconstruction" as the replacement of components of an existing facility to such an extent that "the fixed capital cost of the new components" exceeds 50 percent of the "fixed capital cost" that would be required to construct a comparable entirely new facility and EPA determines that it is technologically and economically feasible to meet the applicable NSPS. The question arises under this wording whether a reconstruction has occurred in the case of an owner who first replaces components of an existing facility at a cost equal to, say, 30 percent of the cost of an entirely new facility and then, shortly after commencing or completing those replacements, replaces an additional 30 percent. More specifically, it is uncertain whether there are two separate actions occuring, neither of which would be a reconstruction, or the actions would be considered as one, and thus a possible reconstruction.

EPA does not believe that the facilities undergoing this type of extensive component replacement should be excluded from NSPS coverage. Failure to cover these sources serves to undermine Congress' intent that air quality be enhanced over the long term by applying best demonstrated technology with the turnover in the Nation's industrial base.

To eliminate the ambiguity in the current wording of § 60.15 and further the intent underlying Section 111 (as described above), the Agency in this notice is interpreting replacement components under § 60.15 to include components that are replaced pursuant to all continuous programs of component replacement that commence (but are not necessarily completed) within the period of time determined by the Agency to be appropriate for the individual NSPS involved. The Agency is selecting a 2-year period as the appropriate period for purposes of the nonmetallic minerals NSPS being proposed today [§ 60.673(b)]. Thus, the Agency will count toward the 50 percent reconstruction threshold the "fixed capital cost" of all depreciable components (except those described above) replaced pursuant to all continuous programs of reconstruction that commence within any 2–year period following proposal of these standards. In the Administrator's judgment, the 2-year period provides a reasonable, objective method of determining whether an owner or operator of a nonmetallic mineral production facility is actually conducting extensive component replacement, within the Agency's original intent in promulgating § 60.15

Selection of Performance Test Methods

Under the proposed standards, performance tests for particulate matter emissions would be required for all air pollution control devices on process equipment. Particulate matter would be measured by Reference Methods 1, 2, 3, and 5 or 17 to determine compliance with the stack emission standards. Performance tests would not be required for fugitive emission sources.

The proposed standards do not include any requirements for continuous emission monitoring for opacity on either baghouses or wet scrubbers.The lack of requirements for opacity monitors for wet scrubbers logically follows from the exemption of wet scrubbers for the stack opacity standard. At many nonmetallic mineral processing plants, the cost of operating continuous monitors on baghouses could be prohibitive. The total annualized cost for monitors would range from 47 percent of the annualized cost for baghouses on a 9 Mg/h (10 tons/h) crushing and grinding plant to 15 percent for a 544 Mg/h (600 tons/h) crushing and grinding plant. Therefore, continuous emissions monitors would not be required by the proposed standards.

In order to provide an inexpensive and easily verified check of the operation and maintenance of wet scrubbers, the owner or operator of an affected facility whose emissions are controlled by a wet scrubber would be

required by the proposed standards to install a device to measure scrubber liquid flow rate to withing ±5 percent. The owner or operator of a wet scrubber on an affected facility would also be required to install a device to measure the pressure drop to within ±250 pascals (±1 inch water) gauge pressure.

Selection of Reporting and Recordkeeping Requirements

The implementation of the proposed standards would involve no reporting by industry beyond the reports required under the General Provisions (40 CFR 60.7). The General Provisions require the owner or operator of a proposed affected facility to notify the Administrator or his designated representative of the construction, anticipated startup, actual startup, and control system performance test of an affected facility.

The Paperwork Reduction Act (PRA) of 1980 (Pub. L. 96–511) requires that the Office of Management and Budget (OMB) approve reporting and recordkeeping requirements that qualify as an "information collection request" (ICR). For the purposes of accommodating OMB's review, EPA uses 2-year periods in its impact analysis procedures for estimating the labor-hour burden of reporting and recordkeeping requirements. During the first 2 years that the proposed standards would be in effect, the average annual industry-wide burden of the reporting and recordkeeping required by the General Provisions (notifications, performance tests, etc.) would be 79,500 person-hours, based on an average of 104 respondents per year. No additional burden would be associated with the proposed standards. The supporting statement that documents calculation of this burden is filed as item II–A–37 in docket number OAQPS–78–11.

The collection of information requirements contained in this rule have been submitted to OMB for review under Section 3504(h) of the Paperwork Reduction Act. Comments on these requirements should be directed to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for EPA.

Public Hearing

A public hearing will be held, if requested, to discuss the proposed standards in accordance with Section 307(d)(5) of the Clean Air Act. Persons wishing to make oral presentations should contact EPA at the address given in the **ADDRESSES** Section of this preamble. Oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement with EPA before, during, or within 30 days after the hearing. Written statements should be addressed to the Central Docket Section address given in the **ADDRESSES** section of this preamble.

A verbatim transcript of the hearing and written statements will be available for public inspection and copying during normal working hours at EPA's Central Docket Section, in Washington, D.C. (See **ADDRESSES** section of this preamble).

Docket

The docket is an organized and complete file of all the information submitted to or otherwise considered by EPA in the development of this proposed rulemaking. The principal purposes of the docket are: (1) To allow interested parties to identify and locate documents so that they can effectively participate in the rulemaking process, and (2) to serve as the record in case of judicial review (except for interagency review materials [section 307(d)(7)(A)]).

Miscellaneous

As prescribed by Section 111 of the Clean Air Act, as amended, establishment of standards of performance for nonmetallic mineral processing plants was preceded by the Administator's determination (40 CFR 60.16, 44 FR 49222, dated August 21, 1979) that these sources contribute significantly to air pollution which may reasonably be anticipated to endanger public health or welfare. In accordance with Section 117 of the Act, publication of this proposal was preceded by consultation with appropriate advisory committees, independent experts, and Federal departments and agencies. In addition, numerous meetings were held with industry representatives and trade associations during development of the proposed standards. The Administrator will welcome comments on all aspects of the proposed regulation, including economic and technological issues.

Comments are also specifically invited on the effect of particle size on collection efficiency, outlet grain loading, opacity, and the designation of an affected facility. Any comments submitted to the Administrator on this issue, however, should contain specific information and data pertinent to an evaluation of the magnitude and severity of its impact and suggested alternative courses of action that could avoid this impact.

This regulation will be reviewed 4 years from the date of promulgation as required by the Clean Air Act. This review will include an assessment of such factors as the need for integration with other programs, the existence of alternative methods, enforceability, improvements in emission control technology, and reporting requirements.

Section 317 of the Clean Air Act requires the Administrator to prepare an economic impact assessment for any new source standard of performance promulgated under Section 111(b) of the Act. An economic impact assessment was prepared for the proposed regulations and for other regulatory alternatives. All aspects of the assessment were considered in the formulation of the proposed standards to insure that the proposed standards would represent the best system of emission reduction considering costs. The economic impact assessment is included in the background information document.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it would result in none of the adverse economic effects set forth in Section 1 of the Order as grounds for finding a regulation to be major. The industry-wide annualized costs in the fifth year after the standards would go into effect would be $34 million, much less than the $100 million established as the first criterion for a major regulation in the Order. The estimated price increase of less than 2 percent associated with the proposed standards would not be considered a "major increase in costs or prices" specified as the second criterion in the Order. The economic analysis of the proposed standards' effects on the industry did not indicate any significant adverse effects on competition, investment, productivity, employment, innovation, or the ability of U.S. firms to compete with foreign firms (the third criterion in the Order).

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

In addition to the economic impact analysis, the emission reductions and annualized costs for typical facilities—expressed in dollars per ton of pollutant removed per year—were examined. Worst-case estimates (assuming the use of baghouses at all affected facilities) indicate that annualized costs per megagram of emission reduction for typical plants would be no more than $32 for stationary plants and $110 for portable plants.

Pursant to the provisions of 5 U.S.C. 605(b), I hereby certify that this rule, if promulgated, will not have a significant

economic impact on a substantial number of small entities.

List of Subject in 40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Asphalt, Cement industry, Coal, Copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Metallic minerals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel, Sulfuric acid plants, Waste treatment and disposal, Zinc, Tires, Incorporation by reference, Can surface coating.

Dated: August 12, 1983.

William Ruckelshaus,

Administrator.

PART 60—[AMENDED]

It is proposed to amend Part 60 of Chapter I, Title 40 of the Code of Federal Regulations by adding Subpart OOO as follows:

Subpart OOO—Standards of Performance of Nonmetallic Mineral Processing Plants

Sec.

60.670 Applicability and designation of affected facility
60.671 Definitions.
60.672 Standard for particulate matter
60.673 Reconstruction.
60.674 Monitoring of operations.
60.675 Test methods and procedures

Authority: Secs. 111 and 301(a) of the Clean Air Act, as amended [42 U.S.C. 7411, 7601(a)], and additional authority as noted below

Subpart OOO—Standards of Performance for Nonmetallic Mineral Processing Plants

§ 60.670 Applicability and designation of affected facility.

(a) Except as provided in paragraphs (b) and (c) of this section, the provisions of this subpart are applicable to the following affected facilities in fixed or portable nonmetallic mineral processing plants: each crusher, grinding mill, screening operation, bucket elevator, belt conveyor, bagging operation, storage bin, enclosed truck or railcar loading station.

(b) An affected facility that is subject to the provisions of Subpart F or I or that follows in the plant process any facility subject to the provisions of Subparts F or I of this part is not subject to the provisions of this subpart.

(c) Facilities at the following plants are not subject to the provisions of this subpart:

(1) Fixed sand and gravel plants and crushed stone plants with capacities of 23 megagrams per hour (25 tons per hour) or less;

(2) Portable sand and gravel plants and crushed stone plants with capacities of 136 megagrams per hour (150 tons per hour) or less; and

(3) Common clay plants and pumice plants with capacities of 9 megagrams per hour (10 tons per hour) or less.

(d) An affected facility under paragraph (a) of this section that commences construction or modification after ——— (date of publication in the **Federal Register**) is subject to the requirements of this part.

§ 60.671 Definitions.

All terms used in this subpart, but not specifically defined in this section, shall have the meaning given them in the Act and in subpart A of this part.

Bagging operation means the mechanical process by which bags are filled with nonmetallic minerals.

Belt conveyor means a conveying device that transports material from one location to another by means of an endless belt that is carried on a series of idlers and routed around a pulley at each end.

Bucket elevator means a conveying device for nonmetallic minerals consisting of a head and foot assembly which supports and drives an endless single or double strand chain or belt to which buckets are attached.

Capture system means the equipment (including buildings, enclosures, hoods, ducts, fans, dampers, etc.) used to capture and transport particulate matter generated by one or more process operations to a control device.

Control device means the air pollution control equipment used to reduce particulate matter emissions released to the atmosphere from one or more process operations at a nonmetallic mineral processing plant.

Crusher means a machine used to crush any nonmetallic mineral, and includes but is not limited to the following types: jaw, gyratory, cone, roll, rod mill, and hammermill.

Enclosed truck or railcar loading station means that portion of a nonmetallic mineral processing plant where nonmetallic minerals are loaded by an enclosed conveying system into enclosed trucks or railcars.

Fixed plant means any nonmetallic mineral processing plant at which any piece of equipment is attached by a cable, chain, turnbuckle, bolt or other means to any anchor, slab, or structure including bedrock.

Fugitive emission means particulate matter that is not collected by a capture system and is released to the atmosphere at the point of generation.

Grinding mill means a machine used for the wet or dry fine crushing of any nonmetallic mineral. Grinding mills include by are not limited to the following types: Hammer, roller, rod, pebble and ball, and fluid energy. The grinding mill includes the air conveying system, air separator, or air classifier, where such systems are used.

Nonmetallic mineral means any of the following minerals or any mixture of which the majority is any of the following minerals:

(a) Crushed and Broken Stone, including Limestone, Dolomite, Granite, Traprock, Sandstone, Quartz, Quartzite, Marl, Marble, Slate, Shale, Oil Shale, and Shell.

(b) Sand and Gravel.

(c) Clay including Kaolin, Fireclay, Bentonite, Fuller's Earth, Ball Clay, and Common Clay.

(d) Rock Salt.

(e) Gypsum.

(f) Sodium compounds, including Sodium Chloride, Sodium Carbonate, and Sodium Sulfate.

(g) Pumice.

(h) Gilsonite.

(i) Talc and Pyrophyllite.

(j) Boron, including Borax, Kernite, and Colemanite.

(k) Barite.

(l) Fluorspar.

(m) Feldspar.

(n) Diatomite.

(o) Perlite.

(p) Vermiculite.

(q) Mica.

(r) Kyanite, including Andalusite, Sillimanite, Topaz, and Dumortierite.

Nonmetallic mineral processing plant means any combination of equipment that is used to crush or grind any nonmetallic mineral wherever located, including lime plants, power plants, steel mills, asphalt concrete plants, Portland cement plants, or any other facility processing nonmetallic minerals except as provided in § 60.670 (b) and (c).

Portable plant means any nonmetallic mineral processing plant that is mounted on any chassis or skids and may be moved by the application of a lifting or pulling force. In addition, there shall be no cable, chain, turnbuckle, bolt or other means by which any piece of equipment is attached or clamped to any anchor, slab, or structure, including bedrock, that must be removed prior to the application of a lifting or pulling force for the purpose of transporting the unit.

Screening operation means a device for separating material according to size by passing undersize material through one or more mesh surfaces (screens) in series, and retaining oversize material on the mesh surfaces (screens).

Stack emission means the particulate matter that is released to the atmosphere from a capture system.

Storage bin means a facility for storage (including surge bins) of nonmetallic minerals prior to further processing or loading.

Transfer point means a point in a conveying operation where the nonmetallic mineral is transferred to or from a belt conveyor except where the nonmetallic mineral is being transferred to a stockpile.

§ 60.672 Standard for particulate matter.

(a) On and after the date on which the performance test required to be conducted by § 60.8 is completed, no owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere from any transfer point on belt conveyors or from any other affected facility any stack emissions which:

(1) Contain particulate matter in excess of 0.05 g/dscm; or

(2) Exhibit greater than 7 percent opacity, unless the stack emissions are discharged from an affected facility using a wet scrubbing control device.

(b) On and after the sixtieth day after achieving the maximum production rate at which the affected facility will be operated, but not later than 180 days after initial startup, no owner or operator subject of the provisions of this subpart shall cause to be discharged into the atmosphere from any transfer point on belt conveyors or from any other affected facility any fugitive emissions which exhibit greater than 10 percent opacity, except as provided in paragraphs (c) and (d) of this section.

(c) On and after the sixtieth day after achieving the maximum production rate at which the affected facility will be operated, but not later than 180 days after initial startup, no owner or operator shall cause to be discharged into the atmosphere from any crusher, at which a capture system is not used, fugitive emissions which exhibit greater than 15 percent opacity.

(d) Truck dumping of nonmetallic minerals into any screening operation, feed hopper, or crusher is exempt from the requirements of this section.

§ 60.673 Reconstruction.

(a) The cost of replacement of ore-contact surfaces on processing equipment shall not be considered in calculating either the "fixed capital cost of the new components" or the "fixed capital cost that would be required to construct a comparable new facility" under § 60.15. Ore-contact surfaces are crushing surfaces; screen meshes, bars, and plates; conveyor belts; and elevator buckets.

(b) Under § 60.15, the "fixed capital cost of the new components" includes the fixed capital cost of all depreciable components (except components specified in paragraph (a) of this section) which are or will be replaced pursuant to all continuous programs of component replacement commenced within any 2-year period following—[date of publication in **Federal Register**].

§ 60.674 Monitoring of operations.

(a) The owner or operator subject to the provisions of this subpart shall install, calibrate, maintain, and operate a monitoring device for the continuous measurement of the pressure loss of the gas stream through the scrubber for any affected facility using a wet scrubbing emission control device. The monitoring device must be certified by the manufacturer to be accurate within ±250 pascals ±1 inch water) gauge pressure and must be calibrated on an annual basis in accordance with manufacturer's instructions.

(b) The owner or operator subject to the provisions of this subpart shall install, calibrate, maintain, and operate a monitoring device for the continuous measurement of the scrubbing liquid flow rate to a wet scrubber for any affected facility using any type of wet scrubbing emission control device. The monitoring device must be certified by the manufacturer to be accurate within ±5 percent of design scrubbing liquid flow rate and must be calibrated on an annual basis in accordance with manufacturer's instructions.

§ 60.675 Test methods and procedures.

(a) Reference methods in Appendix A of this part, except as provided under § 60.8(b), shall be used to determine compliance with the standards prescribed under § 60.672 as follows:

(1) Method 5 or Method 17 for concentration of particulate matter and associated moisture content;

(2) Method 1 for sample and velocity traverses;

(3) Method 2 for velocity and volumetric flow rate;

(4) Method 3 for gas analysis.

(b) For Method 5, the following stipulations shall apply:

(1) The sampling probe and filter holder may be operated without heaters if the gas stream being sampled is at ambient temperature;

(2) For gas streams above ambient temperature, the sampling train shall be operated with a probe and filter temperature slightly above the effluent temperature [up to a maximum filter temperature of 121°C (250°F)] in order to prevent water condensation on the filter;

(3) The minimum sample volume shall be 1.7 dscm (60 dscf).

(c) When determining compliance with the standard prescribed under § 60.672 (b) and (c), the Administrator shall adhere to the following stipulations for Method 9:

(1) The minimum distance between the observer and the emission source shall be 4.57 meters (15 feet).

(2) The observer shall, when possible, select a position that minimizes interference from other fugitive emission sources (e.g., road dust). Note that the required observer position relative to the sun (Method 9, Section 2.1) must be followed.

(3) For affected facilities utilizing wet dust suppression for particulate matter control, a visible water mist is sometimes generated by the spray. Whether or not a visible mist is generated is a function of spray design and wind condition. The water mist must not be confused with particulate matter emissions and is not to be considered a visible emission. When a water mist of this nature is present, the observation of the emissions is to be made at a point in the plume where the mist is no longer visible.

(d) During each performance test of a wet scrubber and at least weekly thereafter, the owner or operator shall record the measurements of pressure loss of the gas stream through the scrubber and the scrubbing liquid flow rate required in § 60.674.

(Sec. 114 of the Clean Air Act, as amended (42 U.S.C. 7414))

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Part IV

Environmental Protection Agency

Emissions Trading Policy Statement; General Principles for Creation, Banking, and Use of Emission Reduction Credits

ENVIRONMENTAL PROTECTION AGENCY

[PRM-FRL-2361-3]

Emissions Trading Policy Statement; General Principles for Creation, Banking, and Use of Emission Reduction Credits

AGENCY: Environmental Protection Agency.

ACTION: Request for further comment on specific issues from previous policy statement and technical issues document, proposed April 7, 1982.

SUMMARY: EPA has received and reviewed numerous formal comments on its interim Emissions Trading Policy (47 FR 15076, April 7, 1982). EPA today requests additional public comment on specific alternatives that could further respond to concerns raised. Alternatives address: (1) The extent to which states may allow emission reduction credits (ERCs) from shutdowns to be used in *existing-source* bubble trades, particularly in nonattainment areas requiring but lacking demonstrations of attainment, and (2) whether and under what conditions *existing-source* bubble trades should be allowed in such areas, as well as in areas required to attain by December 31, 1982 which may ultimately be found not to have attained by that statutory deadline. For easy reference this notice generally addresses such issues *first* within the context and structure of the April 7 Policy, which was drafted long before expiration of the 1982 attainment deadlines (see Sections II ands III below), and *second* with respect to areas where such deadlines have expired (see Section IV below). It does *not* address the use of credits from shutdowns for new source offsets in any such areas.

EPA further requests comment on (1) appropriate methods for determining whether and to what extent State Implementation Plans rely on reductions from anticipated shutdowns for their demonstrations of attainment or reasonable further progress, and on (2) what level of reduced operations should constitute a shutdown for emissions trading purposes.

This notice additionally discusses current emissions trading policy regarding all the above. It should be construed in light of the entire April 7 Policy Statement and Technical Issues Document.

DATES: The deadline for submitting written comments is September 30, 1983.

ADDRESSES: Comments should be sent in triplicate if possible to: Central Docket Section (A–130), U.S. Environmental Protection Agency, Washington, D.C. 20460, Attn: Doc. No. G–81–2.

Docket: EPA has established docket number G–81–2 for this action. This docket is an organized and complete file of all significant information submitted to or otherwise considered by EPA. The docket is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Ivan Tether, Regulatory Reform Staff (PM–223), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 382–2765, or Brock Nicholson, Office of Air Quality Planning and Standards (MD–15), Research Triangle Park, North Carolina 27711, (919) 541–5516.

SUPPLEMENTARY INFORMATION: Under Executive Order 12291, EPA must judge whether this action is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This action is not major because it merely requests further comment on policies that are voluntary and can substantially reduce costs of complying with the Clean Air Act.

This Notice was submitted to the Office of Management and Budget for review. Any comments from OMB to EPA are available for public inspection in Docket G–81–2. Pursuant to 5 U.S.C. 605(b), I hereby certify that this action will not have a significant economic impact on a substantial number of small entities. As a request for further comment on specific issues raised by a previously-issued policy designed to allow firms flexibility and to reduce administrative complexity, it will impose no burdens on either small or large entities.

Format of This Notice

I. Background—The Interim (April 7th) Emissions Trading Policy
II. Discussion of April Policy: Formal Comments, *NRDC* v. *Gorsuch*, and Additional Rationales
  A. Avoiding "Double-Counting"
  B. Use of ERCs From Shutdowns for Bubble Trades in Nonattainment Areas Requiring but Lacking Demonstrations of Attainment
  C. Definition of Shutdown
  D. Conclusion
III. Requests for Comment
  A. Avoiding "Double-Counting"
  B. Alternatives: Use of ERCs From Shutdowns or Other Actions for Bubble Trades in Nonattainment Areas Requiring but Lacking Demonstrations
  C. Definition of Shutdown
IV. Effect of This Notice
  A. On Current Trading Generally
  B. Where 1982 Attainment Deadlines Have Expired

I. Background—The Interim (April 7th) Emissions Trading Policy

EPA's April 7 Emissions Trading Policy Statement and accompanying Technical Issues Document set forth the Agency's interpretation of minimum legal requirements that states [1] and sources must meet to utilize trading consistent with the Clean Air Act. Under this Policy, states could grant credit for emission reductions that were "surplus," "enforceable," "permanent," and "quantifiable." Reductions from shutdowns were generally considered surplus if the state showed they were not "double-counted" and an appropriate baseline had been applied. This generally meant that: *First*, emissions from the shutdown facility must have been included in the inventory used to develop the State Implementation Plan (SIP), so that the facility's emissions were among the pool from which reductions were or would be calculated to produce an approvable SIP. *Second*, the state must not have already taken credit for the shutdown, directly or indirectly, as part of its plan.

Third, like other emission reductions, shutdowns were only considered surplus to the extent the reduction went beyond the required reduction level, or baseline. Where an area was to have attained *by December 1982* but lacked a required demonstration of ambient attainment, this baseline was to consist of either a reduced level of emissions reflecting Reasonably Available Control Technology (RACT) as defined in the SIP, or an agreed-upon "negotiated RACT" level if RACT for the particular source or source category had not been defined in the SIP. Where credit was sought for a pollutant for which the area had received an attainment extension *beyond December 1982* under section 172(a)(2) of the Clean Air Act, states could instead use a baseline consisting of actual emissions, provided the source committed to find or produce additional reductions equivalent to RACT, if and when RACT were subsequently defined in the SIP for that source. See generally 47 FR 15077, 15080–81 (April 7, 1982).[2]

[1] "States" includes local air pollution agencies or any other entity properly delegated authority to administer relevant parts of a State Implementation Plan (SIP) under the Clean Air Act.

[2] Expiration of the July 1982 deadline for submittal of plans demonstrating attainment for such extension areas has generally limited the option of an actual emissions baseline to extension areas for which EPA has approved follow-up ozone SIPs and, within those areas, to VOC sources within source categories which EPA has identified for "Group III" Control Technique Guidelines (CTGs)

Subject to these requirements the April Policy allowed, and currently allows, reductions from shutdowns to be used in existing source bubbles in the same manner as any other emission reduction credit.[3]

II. Discussion of April Policy: Formal Comments, NRDC v. Gorsuch, and Additional Rationales

EPA is re-examining emissions trading with respect to shutdowns, in light of formal comments on the April 7 Policy; the *NRDC* v. *Gorsuch* decision (685 F. 2d 718 (D.C. Cir. 1982), cert. granted, No. 82–1591, May 31, 1983); and the need to further articulate the Policy's approach in this area. Many comments focussed on ways states can avoid double-counting and on whether reductions from shutdowns should be treated differently than other types of reductions for use in existing-source bubbles. The possibility of different treatment, if adopted, would make precise definition of "shutdown" important.

A. Avoiding Double-Counting. The April 7th Policy and accompanying Technical Issues Document noted that under the Clean Air Act states had at least three options to grant credit for shutdowns without double-counting. Where SIPs assumed a fixed quantity of net "turnover" reductions (more reductions from shutdowns than emissions from new plant openings), and took credit for these reductions as part of their approved demonstration of reasonable further progress of attainment, states could: (1) "Re-examine any 'turnover' credits in their SIP, decide not take credit for these reductions," and revise their attainment and maintenance plans accordingly; (2) "allow credit only after the total quantity of shutdown reductions assumed in the SIP has occurred"; or (3) "allow credit for a percentage of the total emission reduction realized from a shutdown, if they can show that such credit is consistent with the SIP's demonstration of attainment and reasonable further progress." 47 FR 15081.

Comments. Concerned commenters found these options either too loose or too restrictive. An environmental group asserted that despite the options, it was not possible "to identify what quantity of shutdowns are above and beyond those assumed in the plan." Other commenters, including an industry and a utility group, asserted that credit should be denied only for shutdowns specifically identified in the plan. EPA Regions also pointed out that a number of SIPs use "OBERS" projections of economic growth, developed by the U.S. Department of Commerce, as a basis for projecting emissions growth. Since such projections reflect net *economic* growth which these SIPs appear to translate directly into *emissions* growth, there seems no straightforward way to disaggregate the projection into shutdowns and new plant openings. Therefore, there seems no straightforward way to determine the extent to which a SIP using "OBERS" projections relies on shutdowns.

If this conclusion is accurate it may be difficult or impossible for states whose SIPs rest on OBERS projections to grant credit from shutdowns for use in existing-source bubble trades, consistent with the Clean Air Act.

B. Use of ERCs From Shutdowns for Bubble Trades in Nonattainment Areas Requiring but Lacking Demonstrations of Attainment.

Comments. A number of comments questioned the extent to which states can allow use of shutdown credits in existing-source bubbles in any area, consistent with the Clean Air Act. A large percentage of comments on this issue supported the Policy authorizing shutdown credits to be used in existing-source bubbles, so long as shutdowns were not double-counted and were measured against appropriate base-lines. Other commenters, however, includng some environmental groups and pollution control agencies, raised concerns. These commenters noted that shutdowns can hasten attainment, and suggested that EPA's shutdown policy might not be consistent with the Act's requirement for attainment "as expeditiously as practicable." Several of these commenters maintained that credit should generally be granted only for shutdowns undertaken solely to obtain credit, and then only for the period before which the source would otherwise have shut down.

Adverse comments were most critical about use of ERCs from shutdowns for bubbles in areas requiring but lacking approved demonstrations of attainment. Several commenters said that no reduction can be surplus without a demonstration. Accordingly, they would not grant credit for any reductions in nonattainment areas lacking demonstrations of attainment, including reductions produced by extra pollution controls or less-polluting process changes.

NRDC v. Gorsuch. The recent Circuit Court decision in *NRDC* v. *Gorsuch* raises similar issues indirectly. The Court decided only the narrow issue of the validity of EPA's plant-wide definition of "source" for New Source Review purposes in nonattainment areas (i.e., nonattainment area "netting"), and ruled that definition invalid.[4] It reaffirmend the validity of the plant-wide definition for PSD review. Moreover, the case did not consider the validity of existing-source bubbles in nonattainment areas, and the Court did not decide this issue. The decision does, however, contain language which might be read to suggest that all emissions trades in nonattainment areas must, in and of themselves, produce progress toward attainment *beyond the progress currently mandated by applicable SIPs.* The implied issue for existing-source bubbles is whether some additional net benefit beyond the current requirement of air quality equivalence to applicable SIP limits (e.g., a substantial net air quality benefit from each bubble trade) might be required by the Clean Air Act.

Discussion—Nonattainment Areas With Demonstrations of Attainment. EPA does not currently believe the concerns discussed above warrant any change in the April Policy's treatment of shutdowns or surplus reductions for bubble trades in nonattainment areas which are required to have *and do have* approved demonstrations of attainment.[5]

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and which States are required to control in their 1982 Plans, but for which EPA has not yet issued final CTGs. See Alternative ONE, Section III. B. below.

In this notice EPA also requests comments (see part IV. B below) on continued trading in areas that may be found not to have attained despite approved SIP demonstrations of attainment, as well as in areas that require but lack such demonstrations.

[3] Use of *past* shutdowns for new source *offsets* is generally limited to replacements (See 40 CFR Part 51, Appendix S (1981)). The latter restriction is being re-examined in implementing the settlement agreement in *Chemical Manufacturers Association* v. *EPA* (D.C. Circuit, No. 79–1112), and is not otherwise discussed here.

For purposes of this notice, "existing-source bubbles" means trades to meet applicable emission limitations between sources subject neither to Federal New Source Review Requirements nor to any Federal New Source Performance Standard promulgated under Section 111 of the Clean Air Act.

[4] EPA does not agree with this ruling. On March 25, 1983 the Solicitor General filed a Petition for Certiorari asking the U.S. Supreme Court to review the decision. On May 31, 1983 the Supreme Court granted the Government's petition. *Ruckelshaus* v. *NRDC*, Nos. 82–1591 et al.

[5] This includes current ozone or CO extension areas, as well as other nonattainment areas subject to December 31, 1982 deadlines until such time as approved SIPs for the later areas may be determined by EPA to be inadequate to attain relevant ambient standards.

Sources in such areas should be aware, however, that future determinations of SIP inadequacy may require their states to impose additional reduction requirements, and that some states may impose requirements which adversely affect some prior trades. See e.g., 47 FR 15077; but cf. n. 10 below.

Once a state had demonstrated it will attain ambient standards by the applicable deadline, subsequent emissions trades amount to fairly routine SIP revisions, which EPA will approve (either directly or through a generic rule) as long as these are enforceable and do not undermine the demonstration. The state has discretion to make and maintain its demonstration through any combination of emission reductions, including shutdowns, so long as these are adequate for attainment, and cannot be required to do more than demonstrate timely attainment and maintain ambient standards. See, e.g., *Train* v. *NRDC*, 421 U.S 60, 79–80 (1975); *Union Electric Co.* v. *EPA*, 427 U.S. 246 (1976). This is true even where EPA may suspect that a previously-approved demonstration is no longer adequate to assure attainment. Until EPA makes a formal finding of inadequacy, based on record evidence, the approved demonstration controls. See Clean Air Act sections 110(a)(2)(H), 110(c)(1).

In short, under the Clean Air Act an approved attainment demonstration is a legal and logical stopping point. Since the state has shown it will attain with the reductions required by its current SIP, there is no ground to deny use of shutdown credits in bubble trades which meet those SIP requirements, so long as the demonstration is protected by assurance that these credits are not doublecounted, that a baseline consistent with the demonstration is applied, and that tests of air quality equivalence are met. See 47 FR 15077, 15080–81 (April 7, 1982). So long as there is an approved attainment demonstration, there seems no reason to treat such shutdowns differently from other sources of credit, since they share the same legal basis supporting use of any surplus emission reductions, whether from positive controls, process changes or other means.

Under this interpretation it follows that all such reductions from shutdowns will be in excess of those currently required by law and need to attain. Moreover, under current policy their use will not compromise the state's ability to secure further reductions, should such steps eventually be necessary to restore progress or maintain attainment. See, e.g., 47 FR 15077, 15080, 15084 (April 7, 1982). Indeed, availability of such reductions for use in bubble trades may encourage faster compliance with applicable SIP limits by reducing the cost of compliance and the time needed to comply.

Discussion—Nonattainment Areas Which Lack Demonstrations of Attainment. The situation differs, however, for nonattainment areas which require *but lack* demonstrations of attainment.[6] In order to attain, such areas will need more reductions thatn their SIPs currently require. Moreover, the extent of thos additional reductions, and the sources from which those reductions will come, are presently unclear. Finally, the state that lacks a required demonstration of attaintment may have more limited flexibility to choose where to secure needed reductions (and consequently to substitute alternative reductions through emissions trading), since it has not yet fulfilled its Clean Air Act responsibilities. Cf. Clean Air Act sections 110(a)(2)(A) and (c)(1), 172.

Nevertheless, to bar existing-source bubbles in such areas could elimnate useful partial solution to their air quality problems. Regulated firms may often be reluctant to disclose information that may be used to require retrofits against them. Even where such emissions information is obtained, it may not be sufficiently precise with respect to, e.g., source-receptor relationships, to allow EPA and the state to resolve remaining ambient problems. While one possible response could be a more aggressive government search for potential retrofits, that response is likely to collide with the very information barriers that discouraged a demonstration of attainment in the first place. EPA believes the bubble can help break such deadlocks by allowing sources to substitute more cost-effective reductions for required ones, subject to conditions—especially use of a RACT baseline—which enhance the state's ability to secure both improvements now and further reductions later, if such further reductions are found necessary for attainment. [7]

Given these conditions, reasons apply which are similar to those that justify use of surplus reductions in nonattainment areas which possess approved demonstrations. Where both the source which seeks to created ERCs and the source which seeks to use them are *already* subject (in an incomplete SIP) to RACT requirements, the creating source must reduce emissions below RACT control levels in order to secure credit, and the difference between current SIP emissions and RACT is not available for credit. That difference goes directly to speed SIP implementation in the short-run. Over the longer run the net reductions produced by the bubble will be at least equal to what RACT would have yield under traditional regulations. The state and public may also benefit by reductions which can be more rapid than under traditional regulation, since sources have a financial motive to surpass RACT quickly in order to trade.

Environmental progress may be accelerated still further where the source which seeks to create ERCs is *not* subject either to RACT levels defined in the SIP or to other SIP emission limits. These sources must also reduce emissions below acceptable, EPA-approved RACT levels to receive credit for surplus reductions, and the larger difference between uncontrolled emissions and RACT is again not available for credit. The state may secure faster RACT definitions, since sources have a strong incentive to agree upon RACT in order to use a bubble. The possibility of credit may also encourage such sources to come forward and request regulation, in order to establish the quantifiable and enforceable emission limits on which credit must be based.[8]

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[6] Some ozone attainment areas do not require full demonstrations of attainment because their pollution problems are primarily caused by sources outside the area. Under long-standing EPA policy, for example, so-called "rural zone nonattainment areas" (whose ambient problem is cause by upwind urban emitters outside the air quality control region) need only show that they have required RACT controls for all major sources for which EPA has issued RACT guidance. Upon such a showing these areas have long been deemed to satify Part D requirements, since they must ultimately rely on reductions from adjacent areas to cure their pollution problem. See 44 FR 20372, 20376 and n. 22 (April 4, 1979).

EPA is considering a requirement (in its final Emissions Trading Policy) that all bubble trades in those areas utilize a RACT baseline, whether or not RACT guidance has been issued for the sources in question. That requirement could help assure that the contribution of these areas towards solving their ozone problem remains current. However, since such areas do not require demonstrations of attainment, they are beyond the scope of discussion here.

[7] Where trades of TSP SO_2 or CO in significant amounts or over significant distances are involved, modelled demonstrations of ambient equvalence to traditional RACT reductions may also produce better data on source-receptor relationships than conventional regulation would yield. E.g., 47 FR 15078, 15082, 15084–85 (April 17, 1982); "Emissions Trading Policy—Technical Clarifications," memorandum from Sheldon Meyers, Director, Office of Air Quality Planning and Standards, U.S. EPA, to Directors, Air Management Divisions, EPA Regions I–X (Feb. 17, 1983).

Under the April 7 Policy states with attainment extensions until 1987 for relevant pollutants could authorize creation of ERCs using an actual emissions baseline, provided the source committed to "find or produce reductions equivalent to future RACT requirements if and when the state imposes them." 47 FR 15080 (April 7, 1982). To EPA's knowledge no state has elected this alternative approach; and as noted in Section I above, expiration of the 1982 deadline for submittal of extionsion-area attainment SIPs has substantially limited its applicability.

[8] It has been asserted that some sources will have greater incentive to press for less stringent "negotiated RACT" limits in these circumstances. However, this incentive does not appear to vary

Thus the bubble may create an incentive for faster compliance, because sources must do better than comply with RACT to secure ERCs and because compliance costs may be reduced by control strategies the source can tailor to its operations. The bubble may also improve air quality planning by encouraging plant managers to submit data on emissions, modeling and unregulated or uninventoried emission sources in order to create usable ERCs. It may help states develop new RACT regulations for categories of sources, both because of improved information and because opportunity for trading reduces those rules' potential cost. It may help states secure additional reductions from existing sources, which comprise over 95% of most nonattainment area emissions.[9]

The Dupont Chambers Works bubble for emissions for volatile organic compounds (VOCs) illustrates several of these points. New Jersey approved this bubble in Deepwater, NJ under its "generic" emissions trading rule, 46 FR 20551 (Apr. 6, 1981). As part of that rule, New Jersey imposed uniform RACT reduction requirements (generally 85% control) on broad categories of sources, including Dupont's 7 large stacks and 112 smaller fugitive sources (See Administrative Code of New Jersey, Title 7, Chapter 27, Subchapter 16 (1981).) The opportunity to meet these uniform requirements through bubbles helped New Jersey avoid both legal challenge by regulated industries and the laborious task of developing process-by-process regulations. Dupont complied by controlling its 7 large stacks to over 99%, enough to meet RACT requirements for all 119 emission sources while producing over 2000 tons per year of extra reductions.

For such reasons EPA continues to believe that in general its April 7 Policy approximately authorizes trading in furtherance of the Act's mandate that nonattainment areas requires RACT "at a minimum" and achieve "reasonable further progress" toward attainment. Clean Air Act sections 171(1), 172(b)(2)–(4).

Notwithstanding these considerations, while bubble trades in such areas may yield progress towards attainment, the area may fall short of "reasonable further progress and attainment as expeditiously as practicable." Clean Air Act sections 171–172. In these circumstances EPA is authorized to promulgate a Federally-developed SIP which does demonstrate attainment.[10]

However, EPA could also take less drastic steps designed to accelerate ambient progress and enhance the state's ability to develop a complete SIP. For example, EPA could mandate that pending a demonstration of attainment, each existing-source bubble produce a substantial net air quality improvement. A substantial net reduction in emissions could be a surrogate for such improvement.[11] Properly structured, such a requirement should not discourage environmentally-beneficial trading activity to a significant degree.

Indeed, requiring a net air quality improvement, beyond the current requirements of no double-counting and application of appropriate baselines, could produce additional enviromental benefits. While it might inhibit some trades, such a requirement would assure that every existing-source bubble make a direct and immediate contribution towards attainment, beyond what the state has required thus far. It could compensate for other SIP uncertainties and further assure that "surplus" designations comport with the Act. Finally, it could increase the stability of the existing Policy, with minimal disruption of current or planned trading activities. This conclusion seems supported by the fact that nearly two-thirds of the existing source bubbles already approved or proposed for approval by EPA will produce extra emission reductions.[12]

Requiring a net air quality imrpovement might be particularly appropriate where trades involve *use of ERCs from shutdowns for existing-source bubbles in areas which require but lack demonstrations of attainment.*[13] Unlike surplus reductions from additional pollution control or less-polluting process changes, shutdowns produce a total reduction of emissions, 100% of which might benefit air quality if credit were not allowed. Granting full or partial credit for their use in existing-source bubbles might reduce that benefit, slow progress, and be inconsistent with the Act's mandate that such areas attain as expeditously as practicable, at least where the source would have shut down anyway. This reasoning (reflecting a desire to avoid granting credit for reductions that may not be "surplus" because they would have occurred in any event) underlies

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from that present in any rulemaking expected to result in new reduction requirements under the Act. Moreover, in all such cases EPA must still approve the agreed-upon baseline as equivalent to RACT, before the trade may be finally approved and implemented. See, e.g., 47 FR 15080 at A.1.b. (i) and (ii) (April 7, 1982).

[9] See, e.g., Goldany, *Issues Related to the Source Definition for New Source Review in Nonattainment Areas*, September 1982 (summarizing data). See generally, Domenici, "Emissions Trading: The Subtle Hersey," *Environmental Forum*, Vol I. No. 8 (Dec. 1982), pp. 18–24, reprinted in *Congressional Record* (daily ed.), (December 15, 1982), pp. S14705–68 (remarks of Majority Leader Baker).

[10] Clean Air Act section 110(c)(1). The Agency has had difficulty acquiring the detailed knowledge of local conditions needed to promulgate such SIPs. One EPA attempt to promulgate a full Federal SIP took over four years to complete. See, e.g., 37 FR 10842 (1972) (Ohio SO_2 SIP: proposal); 41 FR 36324 (1976) (last part of the final rule).

[11] EPA's Emission Offset Interpretive Ruling (40 CFR Part 51, Appendix S) has since 1979 declared net emission reductions an acceptable surrogate for the required positive net air quality benefit for several classes of new source offsets. Similar flexibility, intended "to avoid unnecessary consumption of limited, costly and time consuming modeling resources," has also been incorporated into the Emissions Trading Policy. For example, pound-for-pound trades of VOC or No_x may be treated as equal in ambient effect across broad geographic areas. See 47 FR at 15082 (April 7, 1982).

EPA requests comment on the extent to which a substantial emission reduction could assure a substantial air quality improvement under Section III, Alternatives 3 and 4 below. Comment is specifically requested on the extent to which, once a bubble trade's air quality equivalence is established under the Policy's ambient tests, air quality improvement for all pollutants may be assumed based on substantial additional emission reductions. To the extent this emissions surrogate for ambient improvement may not be warranted, further comment is requested on how currently-required modeling might be modified to define and evaluate substantial air quality improvement. For example, one alternative to a surrogate approach could be a direct ambient demonstration in which some form of dispersion modeling is required to show an actual air quality improvement produced by the emissions trade. Comment is requested on this or other possible alternatives.

[12] For example, of the 34 bubbles approved or proposed by EPA directly through January 1983, 21 or nearly two-thirds are producing or would produce more reductions than required by applicable regulations. Of these 21, VOC bubbles produced an average extra reduction of 191 tons per year (TPY), SO_2 bubbles an average extra reduction of 2825 TPY, and TSP bubbles an average extra reduction of 907 TPY (one group) and 15.9 lb./hr. (another group).

A few jurisdictions (e.g., Jefferson County (Louisville, Ky.), Already require existing-source bubbles to produce significant net reductions in overall emissions. All such bubbles must continue to meet ambient tests as well. See, e.g., 47 FR at 15078, 15082 (April 7, 1982).

[13] The following discussion does not affect the established availability of shutdown credits for offsets or other trading activities to facilitate construction of *new* major sources or major modifications. See, e.g., 44 FR 3284–85 (Jan. 16, 1979).

some commenters' suggestions that credit be allowed only if credit availability were a sole or principal reason for the shutdown, and only then for the remaining useful life of the shutdown facility.

Unfortunately the issue is not this simple. So long as it has not beeen double-counted and a proper RACT baseline is applied, the shutdown does contribute to air quality progress, since much less than 100% credit will be granted.[14] Moreover, the opportunity for credit may improve air quality by encouraging early shutdown of high-polluting facilities that might otherwise be kept running, either because replacement is too expensive or to preserve credit for future plant expansion.

In addition, despite their logical appeal these comments' suggestion of a test based on subjective motive appears administratively unworkable. EPA and states would find it exceedingly difficult to evaluate or rebut source evidence that a shutdown was motivated by credit and that the shutdown facility would otherwise have operated for twenty or forty years.[15] Thus this approach would likely result in either *de facto* approval of all such credits (undermining the reason for the test), or a burden of proof so stringent that none would be approved (penalizing sources whose shutdowns were elicited by trading). More straightforward approaches might either ban shutdown bubbles until a demonstration of attainment, or acknowledge their uncertain nature by applying a margin of safety—e.g., a requirement that such bubbles produce substantial air quality improvement—sufficient to compensate for any uncertainties and protect the integrity of current or future SIPs.

C. Definition of "shutdown." The April Policy and accompanying Technical Issues Document do not explicitly define "shutdown," since credits from shutdowns for use in existing-source bubbles are treated no differently than credits produced by other means of emission reduction. For example, the Policy's discussion of double-counting focusses only on determining the extent to which a particular shutdown is surplus, a requirement for all credits. Under the April Policy, so long as the reduction from a shutdown is enforceable, quantifiable and permanent, as well as surplus, it is eligible for credit.

More precise definition is needed only if shutdowns are to be subject to special requirements for use in existing-source bubbles. Issues raised by that potential approach include whether "shutdowns" should cover all production cutbacks or curtailments; whether the shutdown must be of an entire plant or only identifiable pieces of process equipment; and whether credit should turn on surrender of operating permits or some other action. Such distinctions could have major functional significance, since a broader definition would subject more bubble trades to special requirements. Thus, the definition offers one potential way of balancing possible environmental benefits from special treatment of shutdown credits for bubbles, against the administrative difficulties and negative environmental effects (e.g., discouraging beneficial trades) which might result from such special treatment.

To help evaluate the potential effects of adopting any special treatment of shutdowns, this notice requests comment on the appropriate definition of a "shutdown." See Section III.C. below.

D. Conclusions. EPA wishes both to strengthen emissions trading and to minimize any uncertainty which alterations to the April 7 Policy might create. The Policy set out minimum legal requirements for trading in the belief that this approach comported with the broad primary discretion accorded states to design and implement SIPs. E.g., Clean Air Act section 101(a)(3). EPA sees merit, however, in the concerns raised by commenters and wishes to consider alternatives which might increase the environmental benefits of individual trades.

III. Requests for Comment

A. Avoiding "Double-Counting". Before emissions trading, use of OBERS or similar "turnover" projections had relatively little impact on the integrity of SIP development. Expanded trading has heightened concern over the extent to which SIPs may already have taken credit for shutdowns in their attainment demonstrations. EPA accordingly requests assistance in determining *specifically* how particular SIPs take shutdowns into account either directly or indirectly, especially through use of "OBERS" projections or similar means. EPA further requests suggestions on how to improve its options for avoiding double-counting of shutdown credits in ways which are administratively workable for state agencies and which adequately address these concerns. Commenters should be aware that failure satisfactorily to resolve this issue may endanger continued use of shutdown credits for existing-source bubble trades under all SIPs relying on OBERS (or similar) projections, even in nonattainment areas for which demonstrations of attainment have been or may eventually be approved.

B. Alternatives: Bubble Trades and Use of ERCs from Shutdowns or Other Actions for Bubble Trades in Nonattainment Areas Requiring But Lacking Demonstrations. EPA requests comment on the specific alternatives outlined below or on other alternatives for resolving concerns addressed here. Comments will be most useful where they are based on specific examples from actual experience in pollution control and focus on the extent to which these or other alternatives might adversely affect overall environmental quality as well as specific, planned bubble activities. Commenters should feel free to suggest combinations or variations of these alternatives, which should all be considered in addition to the current Policy's requirements.

1. Where RACT has not already been defined in the SIP, require a "negotiated RACT" baseline before shutdowns can receive bubble credit in any nonattainment areas requiring but lacking complete demonstrations of attainment—even areas with approved attainment extensions beyond 1982.

Discussion: For areas which received attainment extensions past 1982, the April 7 Policy allowed states and sources to use either a negotiated RACT baseline or an actual emissions baseline. States using "actuals" baselines could then regulate source categories other than those involved in a trade, or could seek further reductions from categories including trading sources, where future reductions were needed to assure attainment and maintenance. This option rested on the fact that follow-up SIPs incorporating sufficient additional controls to demonstrate post-1982 attainment "as expeditiously as practicable" would have to be developed for such areas before the end of 1982. Clean Air Act Section 172. These follow-up SIPs were

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[14] This can readily be seen from the fact that most state VOC RACT regulations require between 80% and 85% control of uncontrolled emissions. See, e.g., 46 FR 20551, 20553 (April 6, 1981) (New Jersey: 85% control for sources emitting VOC is RACT). Thus, even under the April Policy only 15% to 20% of the reductions produced by a shutdown would ordinarily be available as a credit for use in bubbles: the remaining 80% to 85% will contribute directly to air quality progress. Even less credit would generally be available for shutdowns involving other pollutants such as TSP, where required RACT reductions are often substantially greater than 85%.

[15] This is especially true because current economic conditions have resulted in plants operating much longer than might have been predicted at their time of construction. Thus, any attempt to credit shutdowns on this basis would require difficult determinations of fact that could frequently demand judicial resolution.

generally required to incorporate or commit to incorporate (a) RACT level controls for all categories of VOC sources for which EPA had issued Control Techniques Guidelines (CTGs), and (b) RACT-level controls for all other 100-ton VOC sources to the extent prior SIPs had not required such controls. See 46 FR 7182 (Jan. 22, 1981).

EPA believes that expiration of the 1982 deadline for submittal of such extension-area attainment SIPs has effectively limited this option under the Clean Air Act. Generally, "actuals" baselines are now appropriate only in extension areas for which EPA has approved follow-up ozone SIPs and, within those areas, only for VOC sources which fall within identified "Group III" Control Techniques Guideline (CTG) categories but for which EPA has not yet issued a CTG.[16] Under the April 7 Policy, states could still authorize such sources to trade using either a "negotiated RACT" baseline, or an actual emissions baseline with a commitment to find or produce further RACT-level reductions when required.

However, where sources in these categories shut down and seek to secure credit based on actual emissions before becoming subject to RACT-level requirements, their future regulation will plainly be more difficult than obtaining enforceable reductions from sources still in operation. The source is no longer in existence, and "revisiting" its former operator or quantifying what additional reductions it might have produced may be impractical. This alternative would better insure enforceability, SIP integrity and ambient progress by assuming that all such shutdown sources in nonattainment areas with approved demonstrations lacking complete RACT requirements would eventually have been subject to RACT if they continued in operation. It would accordingly require a RACT baseline as a precondition to credit for such shutdowns in any bubble trade.

2. Where RACT has not already been defined in the SIP, require a "negotiated RACT" baseline for *all* bubble trades in nonattainment areas requiring but lacking complete demonstrations of attainment—even areas with approved attainment extensions beyond 1982. No special requirement for bubbles using shutdown credits.

Discussion: Certain states may never have had an approved demonstration, or may have received an extension which is not confirmed by an approved 1982 SIP incorporating such a demonstration. Other states may ultimately be found not to have attained despite the presence of an approved demonstration. For all such areas RACT-level control at minimum appears required under the Clean Air Act. Use of a RACT baseline for all sources seeking to use bubble trades in such areas would better effectuate the statutory design by securing immediate RACT-level emission reductions while strengthening the state's ability to attain. This alternative would accordingly confirm application of the April Policy's requirement of a RACT baseline for bubble trades in non-demonstration areas required to attain relevant ambient air quality standards by December 31, 1982, to bubble trades in all areas which require but do not currently possess approved demonstrations of attainment. It would also extend that RACT-baseline requirement to certain additional bubble trades in nonattainment areas with approved but incomplete follow-up SIPs—i.e., even trades involving "Group III" sources which are not being shut down.

3. Require a substantial air quality improvement, beyond a RACT baseline, from each bubble using shutdown credits in nonattainment areas requiring but lacking demonstrations of attainment. E.g., require each such bubble to produce a 20% net reduction in emissions beyond RACT equivalence.

Discussion: This alternative would secure additional air quality progress from bubbles using shutdown credits in areas requiring but lacking attainment demonstrations. Requiring substantial progress from each bubble using shutdowns could accelerate momentum toward attainment, directly improve air quality through each trade, and provide an objective margin of safety against uncertainties associated with some individual shutdowns, while leaving to the state the task of final SIP development.[17] It would also maintain the incentives within the April Policy for industry to shut down high-polluting, economically-marginal sources.

Comment is specifically requested on the extent to which a substantial emission reduction, beyond that required to demonstrate ambient equivalence, could be accepted for substantial air quality improvement. See Footnote 11 above.

In addition to comments on this alternatative, EPA requests specific information on the extent to which particular firms or types of industrial operations have prolonged, or can realistically prolong, the minimal operations of such economically-marginal facilities (e.g., by placing them on "hot idle") in order to preserve credit for future modernization or expansion.

4. Require a substantial air quality benefit, beyond a RACT baseline, from *all bubbles* in nonattainment areas requiring but lacking demonstrations of attainment. No additional requirement for bubbles using shutdown credits.

Discussion: Essentially the same as for *3* above. The more each existing-source bubble contributes directly to accelerated air quality progress, the stronger the justification for authorizing creation and use of surplus reductions for such bubbles in the absence of a demonstration. Moreover, requiring all bubbles to produce a substantial air quality improvement, beyond RACT baselines and RACT equivalence, could provide a margin of safety sufficient to make special treatment of shutdowns unnecessary. Since many bubbles are already producing substantial net reductions in overall emissions, it is not believed that this alternative will significantly reduce bubble opportunities. Indeed, it may be the most rational and reliable way to authorize continued trading in such areas. See Section IV.B. below. Comment is requested on the use of substantial net emission reductions to demonstrate substantial air quality improvement. See Footnote 11 above.

5. For bubbles *using shutdown credits* in nonattainment areas requiring but lacking demonstrations of attainment, require a substantial air quality improvement, beyond RACT baselines, and define that improvement by the severity of the area's pollution problem. For example, require each shutdown bubble to produce net reductions proportional to the extent by which the SIP's design value exceeds the relevant

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[16] Where EPA has approved a 1982 extension plan, all other sources regulated by the SIP will by definition be subject to RACT-level or attainment-level requirements. Their "RACT baseline" will accordingly be defined in the SIP, and the option is no longer open. The option may, however, remain open to certain minor VOC sources which neither fall within designated "Group III" categories nor emit 100 tons per year, since these sources may not be "regulated by the SIP."

Where EPA has not approved a 1982 follow-up SIP, all sources involved in bubble trades appear required to use an EPA-approved RACT baseline. See Alternative 2 and Section IV.B. below.

[17] In light of some comments it is important to reiterate that if further reductions are later required, trading presents no bar to the state's obtaining them from these or similar sources. Current policy simply suggests that the state look first to other potential reductions in the area before revisiting individual sources or source categories which have voluntarily done more than required by agreeing early to "negotiated-RACT," and that if the state does engage in such revisiting, it structure additional requirements so they too may be met through trades.

ambient standard at the time of the trade. Other bubble trades in such areas would simply have to produce a net air quality improvement.

Discussion: This alternative would acknowledge that shutdowns may present special problems absent a demonstration, due to difficulties of determining whether they would have occurred anyway or how much earlier they occurred because of the opportunity to trade. It would continue to authorize use of shutdown credits in existing-source bubble trades, but would require that such bubbles contribute a proportional share of the surplus reduction to attainment. One potential problem with this alternative is that it may require sources to solve a nonattainment problem which is largely not of their making, merely because they have found ways to meet applicable requirements less expensively. Another potential problem is the difficulty of establishing a workable, objective ratio of emission reductions to ambient concentrations. EPA accordingly requests specific suggestions, pollutant-by-pollutant, on how to define a reasonable and legally defensible relationship between an area's general pollution problem and the cleanup responsibility of a particular source engaged in a trade.

6. Prohibit use of shutdown credits for existing-source bubbles in nonattainment areas requiring but lacking demonstrations of attainment.

Discussion: Shutdowns produce a total reduction of source emissions. Prohibiting use of shutdowns for bubble trades in areas where demonstrations are required but lacking would preserve this total reduction, except as shutdowns were used (or "preserved" by continued source operation) to facilitate new source growth. It might also provide additional incentives for states to complete their attainment demonstrations.

This approach would obviate questions of motive or duration regarding shutdowns. However, it might also sacrifice any incentive for early, environmentally-beneficial shutdown of high-polluting marginal facilities.

C. Definition of "Shutdown". EPA requests comment both on the need for further definition of "shutdown," in light of the range of alternatives suggested in III.B above, and on what an appropriate definition might be. Comments will be most helpful if they address the specific economic, administrative and trading consequences of defining "shutdown" for use in bubbles as any reduction created by partly or totally reduced operations. The specific economic, administrative and trading consequences of any other suggested definitions should also be addressed.

IV. Effect of This Notice

A. *On Current Trading in General.* EPA's Emissions Trading Policy was proposed April 7, 1982 but made effective immediately as interim guidance. It was meant to be used "to evaluate trading activities which become ripe for decision [before issuance of a final Policy Statement], including state adoption of generic bubble and banking rules." 47 FR 15076, 15077. This Notice does not change the Policy or alter that intent.[18] If EPA concludes, based on comments and further analysis, that changes in the Policy are warranted, it intends to make such changes effective from the date of issuance of a final Emissions Trading Policy. EPA also intends to apply any such changes prospectively (i.e., not to actions which *already* been approved) and will give careful consideration to *pending* regulatory actions in which a state or source has invested significant resources in good-faith reliance on the April Policy and its accompany Technical Issues Document. EPA solicits comment on whether and on what bases it might "grandfather" such actions.

B. On Trading Where 1982 Attainment Deadlines Have Expired. On January 31, 1983 EPA announced a general policy (the "Sanctions Policy") for areas that were required to but may not have attained the SO_2, TSP, O_3, CO or NO_x ambient air quality standards by December 31, 1982. The same day EPA proposed to make specific findings of nonattainment status for such areas. 48 FR 4972 (Feb. 3, 1983).

These actions do not affect current emissions trading activities in these areas or the ability of states to continue approving transactions under the April 7 Policy. After comment and careful Agency review some areas which were required to but did not demonstrate attainment by December 31, 1982 may nevertheless be found to have attained the relevant NAAQS. Other areas which demonstrated attainment may ultimately be found not to have attained. In the interim the effect of the December deadlines on either class of area cannot be foretold. Moreover, since the "Sanctions Policy" merely proposed to find certain SIPs deficient because they did not provide for attainment by December 31, 1982, it had no legal effect on areas which possessed an EPA-approved demonstration, even though they may eventually be found not to have attained by that date.[19]

Accordingly, pending final determination of their attainment status, areas which had or did not require approved demonstrations of attainment by December 31, 1982 may continue to approve bubbles or other emissions trades under the April Policy, using the appropriate SIP baseline. Areas which required but lacked demonstrations of attainment by December 31, 1982 may continue to approve bubbles or other emissions trades based on RACT as defined in their SIPs or as negotiated among the source, the state and EPA. Comment is requested on the determinations in these paragraphs.

To the extent certain alternatives proposed for comment in III.B. above for bubble trades in areas which require but lack demonstrations of attainment may also be generally appropriate for bubble trades in areas which are ultimately found not to have attained by December 31, 1982 (e.g., Alternatives 4 or 5 above), commenters should address the effects of such additional applications. Commenters should also address whether—or under what other conditions—existing-source trades should be authorized at all in such areas. Any changes in current practice which result from these comments will also be incorporated in the final Emissions Trading Policy. EPA intends to apply any such changes prospectively (i.e., not to actions which have *already* been approved) and will give careful consideration to *pending* regulatory actions in which a state or source has invested insignificant resources in good-faith reliance on the April Policy and its accompanying Technical Issues Document. EPA solicits comment on whether and on what bases it might "grandfather" such actions.

Dated: August 25, 1983.

William D. Ruckelshaus,

Administrator.

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[18] As noted above, however, submittal of extension-area attainment SIPs may have independently restricted one option offered by the April 7th Policy See Alternative *1*, Section III.B. above.

[19] On June 16, 1983 EPA agreed to develop a new sanctions policy which departs from the February 3, 1983 Notice. Generally, the new policy will impose sanctions only where a state is not making reasonable efforts to submit a SIP, correct deficiencies or implement SIP provisions.

federal register

Wednesday
August 31, 1983

Part V

Department of Energy

Federal Energy Regulatory Commission

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Determinations by Jurisdictional Agencies Under the Natural Gas Policy of 1978

Issued: August 26, 1983.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register**.

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, Contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Rd, Springfield, VA 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 Mile rule)
102–3: New well (1000 Ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal Seams
107–DV: Devonian Shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

NOTICE OF DETERMINATIONS

ISSUED AUGUST 26, 1983

VOLUME 959

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
LOUISIANA OFFICE OF CONSERVATION									
-ARCO OIL AND GAS COMPANY				RECEIVED:	08/15/83	JA: LA			
8349395	83-22	1710121149		102-4		RUTH N ROANE #1	JEANERETTE	365.0	MICHIGAN WISCONSI
-EQUITABLE PETROLEUM CORP				RECEIVED:	08/15/83	JA: LA			
8349393	83-195	1705120623		102-4		S L 2383 #6	LITTLE LAKE	365.0	SOUTHERN NATURAL
-EXXON CORPORATION				RECEIVED:	08/15/83	JA: LA			
8349487	82-2672	1704520712		102-4		S L 1706 #21	LAKE SAND	500.0	COLUMBIA GAS TRAN
-PENNZOIL PRODUCING COMPANY				RECEIVED:	08/15/83	JA: LA			
8349489	82-824	1702720817		102-4		MEADOWS SC-2 SMK A RA SU G	LISBON	550.0	UNITED GAS PIPE L
-THE STONE OIL CORPORATION				RECEIVED:	08/15/83	JA: LA			
8349488	82-984	1711321153		102-4		EXXON FEE #16	LAC BLANC	239.5	TENNESSEE GAS PIP
-TODD OIL CORP OF LOUISIANA				RECEIVED:	08/15/83	JA: LA			
8349396	82-3196	1701120477		102-4		BOISE SOUTHERN #1	FIELDS	182.0	TRUNKLINE GAS CO
-WEAVER EXPLORATION CO				RECEIVED:	08/15/83	JA: LA			
8349392	83-194	1772720132		102-4		ST OF LA JOA LLLL #1	CHANDELEUR SOUND	708.0	SUGAR BOWL GAS CO
NORTH DAKOTA INDUSTRIAL COMMISSION									
-AMERADA HESS CORPORATION				RECEIVED:	08/12/83	JA: ND			
8349328		3310500000		108		BEAVER LODGE MADISON UNIT #M011	BEAVER LODGE	8.4	MONTANA-DAKOTA UT
8349327		3310500000		108		TIOGA MADISON UNIT #G147	TIOGA	8.9	MONTANA-DAKOTA UT
-BELCO PETROLEUM CORPORATION				RECEIVED:	08/12/83	JA: ND			
8349323		3305301473		102-4		SHEEP CREEK BN 22-25	ROUGHRIDER	8.0	KOCH OIL CO
-BROSCHAT ENG & MANAGEMENT SERVICES				RECEIVED:	08/12/83	JA: ND			
8349326		3305301483		102-4		JOHN KIRKLAND #1	CROFF	400.0	AMINOIL USA INC
-DEPCO INC				RECEIVED:	08/12/83	JA: ND			
8349325		3310500000		102-4		HOUSTON 41-4	EIGHT MILE	8.0	
8349324		3310500000		102-4		SKARDERUD #2-7	TEMPLE	8.0	AMINOIL USA INC
-MONSANTO COMPANY				RECEIVED:	08/12/83	JA: ND			
8349330		3301300822		102-4		RAMEDEN #1	NE FOOTHILLS	2.0	CITIES SERVICE CO
-PETRO-LEWIS CORPORATION				RECEIVED:	08/12/83	JA: ND			
8349329		3301100295		108		STATE 1-16	LITTLE MISSOURI FIELD	13.0	MONTANA-DAKOTA UT
NEW MEXICO DEPARTMENT OF ENERGY & MINERALS									
-AMOCO PRODUCTION CO				RECEIVED:	08/15/83	JA: NM			
8349411		3004525616		103		CANDELARIA "A" #1	ARMENTA GALLUP	0.0	
8349405		3004595024		103		KEYS GAS COM "G" #1	MT NEBO - FRUITLAND	94.0	EL PASO NATURAL G
8349396		3004500000		108-PB		MCCOY GAS COM C #1	FLORA VISTA	0.0	NORTHWEST PIPELIN
8349410		3004525562		103		STATE GAS COM "BC" #1E	BASIN - DAKOTA	35.0	EL PASO NATURAL G
-ARCO OIL AND GAS COMPANY				RECEIVED:	08/15/83	JA: NM			
8349415		3002525537		103		WIMBERLY WN #11		9.0	EL PASO NATURAL G
-GETTY OIL COMPANY				RECEIVED:	08/15/83	JA: NM			
8349398		3002504659		108		SKELLY "B" STATE #1	EUNICE MONUMENT G-SA	6.6	PHILLIPS PETROLEU
-GREAT WESTERN DRILLING COMPANY				RECEIVED:	08/15/83	JA: NM			
8349399		3002500000		103		GLENN CLEVELAND #1	MORTON - WOLFCAMP	161.3	TIPPERARY CORP
8349407		3002500000		103		STATE 82-1	MORTON WOLFCAMP	33.5	WARREN PETROLEUM

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-HNG OIL COMPANY				RECEIVED: 08/15/83 JA: NM					
8349406		3001524429		103		LOVING 1 STATE #2	BLACK RIVER MORROW	300.0	TRANSWESTERN PIPE
-JACK HUFF				RECEIVED: 08/15/83 JA: NM					
8349404		3002500000		103		SHEARN-STATE	SCARBROUGH YATES - SE	18.0	EL PASO NATURAL G
-MANANA GAS INC				RECEIVED: 08/15/83 JA: NM					
8349403		3004525569		103		GALE #1-R	AZTEC-FRUITLAND	35.0	EL PASO NATURAL G
-MESA PETROLEUM CO				RECEIVED: 08/15/83 JA: NM					
8349400		3002528225		103		VACUUM STATE #3	UNDES SCHARB-WOLFCAMP	121.0	WARREN PETROLEUM
-PHILLIPS PETROLEUM COMPANY				RECEIVED: 08/15/83 JA: NM					
8349408		3002527977		103		CHEM STATE #6	TULK WOLFCAMP	28.0	WARREN PETROLEUM
8349409		3002528153		103		LEA #30	VACUUM GRAYBURG - SAN	292.0	EL PASO NATURAL G
-S & I OIL CO				RECEIVED: 08/15/83 JA: NM					
8349402		3004500000		103		NIELSEN #1	MEADOWS-GALLUP	5.6	INTRASTATE GATHER
-TENNECO OIL COMPANY				RECEIVED: 08/15/83 JA: NM					
8349401		3004525575		103		BLANCETT COM 1	BLANCO MESAVERDE	118.0	NORTHWEST PIPELIN
8349397		3004523587		108		SHEETS COM 1	BASIN DAKOTA	19.3	EL PASO NATURAL G
8349414		3004525419		103		STATE M1M	BLANCO MESAVERDE	100.0	GAS CO OF NEW MEX
-TEXACO INC				RECEIVED: 08/15/83 JA: NM					
8349412		3002500000		103		NEW MEXICO "H" STATE NCT-2 #30	EUMONT-YATES SEVEN RI	1033.7	NORTHERN NATURAL
8349413		3002500000		103		NEW MEXICO "H" STATE NCT-2 #31	EUMONT YATES SEVEN RI	163.2	NORTHERN NATURAL
WEST VIRGINIA DEPARTMENT OF MINES									
-ALLEGHENY & WESTERN ENERGY CORP				RECEIVED: 08/15/83 JA: WV					
8349419		4708703580		103		E HAWKINS #2	HARPER DISTRICT	36.0	ROARING FORK GAS
8349417		4708703643		103		J VINEYARD #1	HARPER DISTRICT	36.0	ROARING FORK GAS
8349421		4708703576		103		PARKER #2	WALTON DISTRICT	36.0	ROARING FORK GAS
8349420		4708703577		103		PARKER #3	WALTON DISTRICT	36.0	ROARING FORK GAS
8349418		4708703642		103		V KYLE	WALTON DISTRICT	36.0	ROARING FORK GAS
-ALLEGHENY LAND & MINERAL COMPANY				RECEIVED: 08/15/83 JA: WV					
8349478		4709701935		108		A-807	WASHINGTON	0.0	COLUMBIA GAS TRAN
-BEREA OIL AND GAS CORPORATION				RECEIVED: 08/15/83 JA: WV					
8349439		4700121620		103		BRADSHAW #2	BARKER	42.0	CONSOLIDATED GAS
8349442		4700121652		103		DELAUDER #1	BARKER DISTRICT	15.0	BROOKLYN UNION GA
8349440		4700121628		103		N PRICE #1	VALLEY DISTRICT	7.0	CONSOLIDATED GAS
8349426		4700121763		103		NESTOR #1	GLADE	28.6	BROOKLYN UNION GA
8349441		4700121640		103		SFAMENI #1	VALLEY DISTRICT	19.0	CONSOLIDATED GAS
8349438		4700121584		103		W BOOTH #1	GLADE	65.0	CONSOLIDATED GAS
-BOW VALLEY PETROLEUM INC				RECEIVED: 08/15/83 JA: WV					
8349427		4710500943		103		CN WELCH #966	BURNING SPRINGS	0.0	COLUMBIA GAS TRAN
-COLUMBIA GAS TRANSMISSION CORP				RECEIVED: 08/15/83 JA: WV					
8349467		4707900748		108		A H MELTON 809565	W VA FIELD AREA A	15.0	COLUMBIA GAS TRAN
8349480		4705900388		108		COTIGA DEV CO #4 808142	W VA FIELD AREA B	67.0	COLUMBIA GAS TRAN
8349469		4705900419		108		COTIGA DEV CO #7 808222	W VA FIELD AREA B	3.3	COLUMBIA GAS TRAN
8349470		4705900513		108		COTIGA DEV CO #9 808383	W VA FIELD AREA B	21.0	COLUMBIA GAS TRAN
8349465		4705900890		108		HENRY MARCUM 804482	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8349466		4703902594		108		KING LAND CO 809778	W VA FIELD AREA A	16.0	COLUMBIA GAS TRAN
8349462		4705900641		108		MINGO WY & COAL & LND #2 808881	W VA FIELD AREA B	3.5	COLUMBIA GAS TRAN
8349468		4705900759		108		MINGO WY COAL & LAND #8 809333	W VA FIELD AREA B	28.0	COLUMBIA GAS TRAN
8349454		4705900762		108		MINGO WY COAL & LAND 809350	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8349455		4705900785		108		MINGO WY COAL & LAND 809415	W VA FIELD AREA B	4.5	COLUMBIA GAS TRAN
8349463		4705900657		108		MINGO WY COAL & LND #3 808882	W VA FIELD AREA B	7.0	COLUMBIA GAS TRAN
8349458		4705900753		108		MINGO WY COAL & LND 7 809258	W VA FIELD AREA B	11.0	COLUMBIA GAS TRAN
8349460		4705900761		108		MINGO WY COAL & LND 809349	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8349456		4705900786		108		MINGO WY COAL & LND 809416	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8349457		4705900798		108		MINGO WY COAL & LND 809466	W VA FIELD AREA B	10.0	COLUMBIA GAS TRAN
8349459		4705900758		108		MINGO WY COAL & LND 9 809343	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8349464		4705900708		108		MINGO WY LAND #5 809091	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8349461		4705900629		108		RUTH PETERS #1 808862	W VA FIELD AREA B	18.0	COLUMBIA GAS TRAN
8349447		4703901715		108		TCO FEE 808938	W VA FIELD AREA A	17.0	COLUMBIA GAS TRAN
8349446		4703901747		108		TCO FEE 809006	W VA FIELD AREA A	22.0	COLUMBIA GAS TRAN
8349448		4703901748		108		TCO FEE 809007	W VA FIELD AREA A	6.0	COLUMBIA GAS TRAN
8349443		4703901744		108		TCO FEE 809008	W VA FIELD AREA A	25.0	COLUMBIA GAS TRAN
8349445		4703901776		108		TCO FEE 809092	W VA FIELD AREA A	7.0	COLUMBIA GAS TRAN
8349477		4704301341		107-DV		TCO MINERAL TR #1 809173	WEST VIRGINIA FIELD A	41.0	COLUMBIA GAS TRAN
8349452		4704700211		108		W SIMPSON C & L #10 809067	W VA FIELD AREA C	4.0	COLUMBIA GAS TRAN
8349453		4704700226		108		W SIMPSON C&L #11 809128	W VA FIELD AREA C	9.0	COLUMBIA GAS TRAN
8349448		4704700168		108		W SIMPSON C&L #2 808319	W VA FIELD AREA C	11.0	COLUMBIA GAS TRAN
8349449		4704700195		108		W SIMPSON C&L #7 808867	W VA FIELD AREA C	24.0	COLUMBIA GAS TRAN
8349450		4704700219		108		W SIMPSON C&L #8 809065	W VA FIELD AREA C	2.0	COLUMBIA GAS TRAN
8349451		4704700210		108		W SIMPSON C&L #9 809066	W VA FIELD AREA C	6.6	COLUMBIA GAS TRAN
-EASTERN AMERICAN ENERGY CORPORATION				RECEIVED: 08/15/83 JA: WV					
8349473		4704132600		107-DV		BONVILLIAN #1	COURTHOUSE	24.0	COLUMBIA GAS TRAN
8349474		4704103215		107-DV		COPLEY #4	COURTHOUSE	30.0	COLUMBIA GAS TRAN
8349472		4704103213		107-DV		KENNEY HEIRS #1	COURTHOUSE	54.0	COLUMBIA GAS TRAN
8349471		4704103234		107-DV		MULLOOLY #6	COURTHOUSE	0.0	COLUMBIA GAS TRAN
8349475		4702103903		107-DV		WOLFE #8	GLENVILLE	10.0	
-JAMES F SCOTT				RECEIVED: 08/15/83 JA: WV					
8349479		4701703187		107-DV		HOSKINSON-EVANS #2 S-412	GRANT	0.9	COLUMBIA GAS TRAN
-NRM PETROLEUM CORPORATION				RECEIVED: 08/15/83 JA: WV					
8349422		4709702446		103		DAYWOOD FOUNDATION #1	ALEXANDER	0.0	COLUMBIA GAS TRAN
8349424		4708300599		103		L L MOSS C #1	CASSITY	0.0	COLUMBIA GAS TRAN
8349423		4708300601		103		L L MOSS D #1	CASSITY	0.0	COLUMBIA GAS TRAN
8349425		4700101722		103		ROHRBAUGH #1	BUCKHANNON-CENTURY	0.0	COLUMBIA GAS TRAN
-PACIFIC STATES GAS & OIL INC				RECEIVED: 08/15/83 JA: WV					
8349476		4702103904		107-DV		C P SNIDER #4	GLENVILLE	10.0	
-R & B PETROLEUM INC				RECEIVED: 08/15/83 JA: WV					
8349416		4700101683		107-DV		GENEVA WARE #1	VALLEY DISTRICT	10.0	COLUMBIA GAS TRAN
8349428		4708300258		107-DV		MORRIS #5	ROARING CREEK	36.0	COLUMBIA GAS TRAN
-STONEWALL GAS CO				RECEIVED: 08/15/83 JA: WV					
8349431		4700101493		103		CLARENCE BEHLING 68-B (SB-409)	GOWER RUN VALLEY DIST	10.0	CONSOLIDATED GAS
8349433		4703302441		103		ERNESTINE ALLEN 62-B (SB-337)	JONES CREEK EAGLE DIS	10.0	CONSOLIDATED GAS
8349436		4704102942		103		JOHN M PROBST 64-B (SB-384)	MAXWELL RUN HACKERS C	13.0	CONSOLIDATED GAS
8349429		4700101457		103		JOHN M REED JR 67-B (SB-387)	MITCHELL RUN PLEASANT	22.0	CONSOLIDATED GAS
8349430		4700101484		103		LONA R SMITH 69-B (SB-417)	FOXGRAPE RUN PLEASANT	24.0	CONSOLIDATED GAS
8349437		4709702405		103		M A MARPLE #2 117-SH (26 AC)	HACKERS CREEK WARREN	2.0	CONSOLIDATED GAS
8349432		4703302399		103		MARY A GERRARD 60-B (SB-332)	TENMILE CREEK SARDIS	20.0	CONSOLIDATED GAS
8349434		4703302509		103		PERRY L HALL 63-B (SB-380)	CUNNINGHAM RUN EAGLE	12.0	CONSOLIDATED GAS
8349435		4703302663		103		RICHARD K BROWN 66-B (SB-435)	LOST CREEK GRANT DIST	15.0	CONSOLIDATED GAS
** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, CASPER,WY									
-AMERICAN QUASAR PETROLEUM CO				RECEIVED: 08/12/83 JA: WY 5					
8349331 W 467-2		4903520670		102-4		RILEY RIDGE GAS UNIT #12-43	SEC 12 T29N R115W	0.0	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-AMOCO PRODUCTION CO									
8349347	W 463-2	4903721686		RECEIVED:	08/12/83	JA: WY 5			
8349346	W 464-2	4903721686		102-2		EMIGRANT TRAIL UNIT #2 (LANCE)	WILDCAT - LANCE	21.3	CITIES SERVICE GA
8349341	W 465-2	4903721686		102-2		EMIGRANT TRAIL UNIT #2 (LEWIS)	WILDCAT - LEWIS	63.9	CITIES SERVICE GA
8349358	W 450-2	4904120321		107-TF		EMIGRANT TRAIL UNIT #2 (LEWIS)	WILDCAT-LEWIS	63.9	CITIES SERVICE GA
8349359	W 446-2	4904120321		102-2		URROZ WI UNIT #1 (PHOSPHORIA)	WILDCAT - PHOSPHORIA	912.5	MOUNTAIN FUEL SUP
8349338	W 474-2	4903721197		102-2		URROZ WI UNIT #1 (WEBER)	WILDCAT-WEBER	647.9	MOUNTAIN FUEL SUP
-BELCO PETROLEUM CORPORATION				107-RT		USA AMOCO R #1 (LEWIS)	SIBERIA RIDGE LEWIS	40.0	CITIES SERVICE GA
8349340	W 476-2	4902320497		RECEIVED:	08/12/83	JA: WY 5			
-CIG EXPLORATION INC				103		BNG 111-4			
8349383	W 424-2	4901321161		RECEIVED:	08/12/83	JA: WY 5	SOUTH HOGS BACK	0.0	NORTHWEST PIPELIN
8349355	W 455-2	4901320890		103		QUINCY 2-34 (34-39-91)			
-CITIES SERVICE COMPANY				103		VICTOR 1-14 (14-39-90)	BATTLE BUTTE	287.0	COLORADO INTERSTA
8349375	W 409-2	4900922042		RECEIVED:	08/12/83	JA: WY 5	MADDEN DEEP	125.0	COLORADO INTERSTA
-CZAR RESOURCES INC				102-2		FEDERAL "P" #1			
8349333	W 503-2	4900526459		RECEIVED:	08/12/83	JA: WY 5	GIBSON DRAW	383.0	
-DAVIS OIL COMPANY				102-4		FEDERAL 29-1			
8349334	W 484-2	4900921982		RECEIVED:	08/12/83	JA: WY 5	PORCUPINE (DAKOTA)	325.0	PHILLIPS PETROLEU
-DIAMOND SHAMROCK CORPORATION				102-2		BITTERN FEDERAL #1			
8349335	W 485-2	4900922015		RECEIVED:	08/12/83	JA: WY 5	WILDCAT	26.6	PHILLIPS PETROLEU
-EXXON CORPORATION				103		SUSAN FEDERAL 44-6			
8349354	W 456-2	4902521159		RECEIVED:	08/12/83	JA: WY 5	KAY	4.8	
-FARMERS UNION CENTRAL EXCHANGE INC				103		GRAHAM UNIT #1			
8349391	W-437-2	4900720726		RECEIVED:	08/12/83	JA: WY 5	FRENCHIE DRAW	783.0	KN ENERGY INC
8349369	W 436-2	4900720729		102-2		FEDERAL 3-1			
-GENERAL AMERICAN OIL COMPANY OF TEX				102-2		FEDERAL 7-14	DUNES	500.0	NORTHERN NATURAL
8349332	W 480-2	4900921912		RECEIVED:	08/12/83	JA: WY 5	SHERARD	200.0	NORTHERN NATURAL
-GETTY OIL COMPANY				102-4		VIRG FEDERAL #1-2			
8349365	W 440-2	4903721883		RECEIVED:	08/12/83	JA: WY 5	WILDCAT	64.0	
8349364	W 441-2	4903721883		102-2		MCPHERSON SPRINGS "B" #26-2			
-HPC INC				107-TF		MCPHERSON SPRINGS "B" #26-2	MCPHERSON SPRINGS UNI	50.0	COLORADO INTERSTA
8349367	W 438-2	4903721768		RECEIVED:	08/12/83	JA: WY 5	MCPHERSON SPRINGS UNI	50.0	COLORADO INTERSTA
8349366	W 439-2	4903721768		102-2		GREAT DIVIDE UNIT #10			
8349357	W 453-2	4900922025		107-TF		GREAT DIVIDE UNIT #10	HAY RESERVOIR	110.2	PANHANDLE EASTERN
8349356	W 454-2	4900922025		102-2		HEDGEHOG FEDERAL #1-25	HAY RESERVOIR	110.2	PANHANDLE EASTERN
-LOMAX EXPLORATION COMPANY				103		HEDGEHOG FEDERAL #1-25	WILDCAT	17.6	PHILLIPS PETROLEU
8349368	W 435-2	4904521871		RECEIVED:	08/12/83	JA: WY 5	WILDCAT	17.6	PHILLIPS PETROLEU
-MICHIGAN WISCONSIN PIPE LINE CO				103		FROG CREEK FEDERAL #2-8			
8349342	W 471-2	4901320655		RECEIVED:	08/12/83	JA: WY 5	FROG CREEK	20.0	PHILLIPS PETROLEU
-MONSANTO COMPANY				108		BOYSEN TRIBAL #1-19			
8349336	W 486-2	4901321025		RECEIVED:	08/12/83	JA: WY 5	SAND MESA	1.2	MONTANA-DAKOTA UT
-NATURAL GAS CORPORATION OF CALIF				107-DP		DOLIS #2-35			
8349379	W 417-2	4902320372		RECEIVED:	08/12/83	JA: WY 5	BATTLE BUTTE UNIT	600.0	COLORADO INTERSTA
8349376	W 414-2	4902320416		107-TF		FEDERAL 13-34			
8349380	W 418-2	4902320392		107-TF		FEDERAL 14-32	FONTENELLE II	105.0	PACIFIC GAS TRANS
8349361	W 444-2	4902320442		107-TF		FEDERAL 14-6	FONTENELLE II	0.0	PACIFIC GAS TRANS
8349384	W 425-2	4902320338		107-TF		FEDERAL 23-25	FONTENELLE II	140.0	PACIFIC GAS TRANS
8349378	W 416-2	4902320375		107-TF		FEDERAL 23-33	FONTENELLE II	0.0	PACIFIC GAS TRANS
8349377	W 415-2	4902320409		107-TF		NGC 13-11 FEDERAL	FONTENELLE II	235.0	PACIFIC GAS TRANS
8349363	W 442-2	4902320468		107-TF		NGC 14-1 FEDERAL	FONTENELLE II	175.0	PACIFIC GAS TRANS
8349385	W 426-2	4902320387		107-TF		NGC 22-22B	FONTENELLE II	630.0	PACIFIC GAS TRANS
8349360	W 445-2	4902320469		107-TF		NGC 24-29 FEDERAL	FONTENELLE II	66.0	PACIFIC GAS TRANS
8349386	W 428-2	4902320376		107-TF		NGC 31-6F	FONTENELLE II	16.0	PACIFIC GAS TRANS
8349387	W 429-2	4902320331		107-TF		NGC 33-24 FEDERAL	FONTENELLE	214.0	PACIFIC GAS TRANS
8349388	W 430-2	4902320418		107-TF		NGC 34-3	FONTENELLE II	19.5	PACIFIC GAS TRANS
8349362	W 443-2	4902320450		107-TF		NGC 34-9 FEDERAL	FONTENELLE II	30.0	PACIFIC GAS TRANS
8349389	W 431-2	4902320434		107-TF		NGC 41-1 FEDERAL	FONTENELLE II	117.0	PACIFIC GAS TRANS
-NORTEX GAS & OIL CO				RECEIVED:	08/12/83	JA: WY 5	FONTENELLE II	137.0	PACIFIC GAS TRANS
8349339	W 475-2	4901321062		102-4		FEDERAL #2-19	FONTENELLE II	50.0	PACIFIC GAS TRANS
8349373	W 407-2	4901321064		102-4		FEDERAL #4-20			
8349378	W 404-2	4901320930		102-4		FEDERAL 193 #2-18	FULLER RESERVOIR	20.0	NORTHERN NATURAL
8349372	W 406-2	4901321000		102-4		FEDERAL 193 #5-18	FULLER RESERVOIR II	20.0	NORTHERN NATURAL
8349374	W 408-2	4901320993		102-4		FEDERAL 886 #1-17	FULLER RESERVOIR	180.0	NORTHERN NATURAL
8349371	W 405-2	4901321057		102-4		FEDERAL 886 #7-18	FULLER RESERVOIR	25.0	NORTHERN NATURAL
8349398	W 434-2	4900921985		103		NORTEX-HART FEDERAL 1-25X	FULLER RESERVOIR II	220.0	NORTHERN NATURAL
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	08/12/83	JA: WY 5	FULLER RESERVOIR	40.0	NORTHERN NATURAL
8349348	W 462-2	4900922142		102-2		THUNDER CREEK FED EE #1	(WILDCAT)	360.0	NATURAL GAS CO
8349382	W 423-2	4900526294		102-3		THUNDER CREEK FED K #1			
8349343	W 472-2	4900922151		102-2		THUNDER CREEK FEDERAL DD #1	SCHOOL CREEK	63.8	PANHANDLE EASTERN
8349344	W 473-2	4900922157		102-2		THUNDER CREEK FEDERAL GG #1	SCHOOL CREEK	20.8	PANHANDLE EASTERN
8349349	W 461-2	4900922152		102-2		THUNDER CREEK FEDERAL GG #2	SCHOOL CREEK	50.3	PANHANDLE EASTERN
-THE ANSCHUTZ CORPORATION				RECEIVED:	08/12/83	JA: WY 5	SCHOOL CREEK	50.7	PANHANDLE EASTERN
8349337	W 477-2	4902921867		102-4		USA 9613 #16-24	SCHOOL CREEK	12.7	PANHANDLE EASTERN
-TURNER SMITH & ASSOCIATES				RECEIVED:	08/12/83	JA: WY 5			
8349381	W 421-2	4901321269		102-4		TRIBAL #16-3	WILDCAT	1400.0	CODY GAS CO
-WESTERN PRODUCTION CO				RECEIVED:	08/12/83	JA: WY 5			
8349350	W 460-2	4902720562		102-4		WESTERN FEDERAL 1-19-B	SHELDON DOME	300.0	NORTHERN NATURAL
8349353	W 457-2	4904521479		102-4		WESTERN FEDERAL 10-17			
8349352	W 458-2	4904521484		102-4		WESTERN FEDERAL 8-17	BOGGY CREEK	332.9	M G P C INC
8349351	W 459-2	4904521483		102-4		WESTERN FEDERAL 8-3-M	SHURLEY	536.7	M G P C INC
-WOODS PETROLEUM CORPORATION				RECEIVED:	08/12/83	JA: WY 5	SHURLEY	606.3	M G P C INC
8349345	W 479-2	4900526578		102-4		PINE TREE UNIT #29-50	FINN	519.0	M G P C INC
**********									
** BUREAU OF INDIAN AFFAIRS, OSAGE AGENCY, PAWHUSKA,OK							PINE TREE	84.0	WESTERN GAS PROCE
**********									
-G/O INTERNATIONAL INC				RECEIVED:	08/15/83	JA: OK 8			
8349481		3511300000		103		FREEMAN #2-A-113661105	FREEMAN	63.0	PHILLIPS PETROLEU
-INCLINE PRODUCTION CO				RECEIVED:	08/15/83	JA: OK 8			
8349482		3511300000		102-2		BARNARD 23-1		233.0	PHILLIPS PETROLEU
8349483		3511300000		102-2		BARNARD 23-2		55.0	PHILLIPS PETROLEU
8349484		3511300000		102-2		BARNARD 23-3		400.0	PHILLIPS PETROLEU
8349485		3511300000		102-2		BARNARD 23-4		27.0	PHILLIPS PETROLEU
-LAMB PRODUCTION CO				RECEIVED:	08/15/83	JA: OK 8			
8349486		3511300000		103		HUNT LEASE #86	HUNT LEASE	3.5	PHILLIPS PET CO

[FR Doc. 83-23886 Filed 8-30-83; 8:45 am]

BILLING CODE 6717-01-C

federal register

Wednesday
August 31, 1983

Part VI

Department of Transportation

Federal Highway Administration

Truck Size; Proposed Rule

DEPARTMENT OF TRANSPORTATION

23 CFR Part 658

[FHWA Docket No. 83-12]

Truck Size

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes an interim network of highways on which commercial motor vehicles with dimensions authorized by sections 411 and 416 of the Surface Transportation Assistance Act of 1982 (STAA), as amended, may operate in the States of Alabama, Florida, Georgia, Pennsylvania, and Vermont.

DATE: Comments on this docket must be received on or before September 30, 1983.

ADDRESS: Submit written comments, preferably in triplicate, to FHWA Docket No. 83-12, Federal Highway Administration, Room 4205, HCC-10, 400 Seventh Street, SW., Washington, D.C. 20590. All comments received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m., ET, Monday through Friday, except legal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Harry B. Skinner, Office of Traffic Operations, (202) 426-1993, or Mr. David C. Oliver, Office of the Chief Counsel, (202) 426-0825, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION: Sections 411 and 416 of the Surface Transportation Assistance Act of 1982 (STAA), Pub. L. 97-424, 96 Stat. 2097, as amended by Pub. L. 98-17, 97 Stat. 59, require the States to permit certain size vehicles to operate on the Interstate System and those Federal-aid Primary System (FAP) highways designed by the Secretary of Transportation, who has delegated this function to the Federal Highway Administration (FHWA). Section 411(e) of the STAA requires that an interim determination of "qualifying highways" be made 90 days after enactment of the STAA (April 6, 1983), and that a final designation be issued within 270 days of enactment (October 3, 1983). Pursuant to section 411(e) of the STAA, the FHWA published a notice on February 3, 1983 (48 FR 5210), which indicated that the FHWA was preparing to designate, on an interim basis, the Interstate System and, at a minimum, all 4-lane divided Federal-aid Primary System (FAP) highways with full control of access. That notice encouraged the States to propose additonal FAP routes, beyond the minimum stated criteria, to satisfy the mandate of the STAA and to facilitate commerce.

On April 5, 1983 (48 FR 14844), the FHWA published a notice which designated, on an interim basis, those FAP routes on which commercial motor vehicles authorized by the STAA could operate. The published list for some States included routes in addition to those proposed by the States and included routes beyond the 4-lane divided, full control of access minimum. For example, all States currently permit the operation of large commercial motor vehicles on some 2-lane highways and the majority of States in responding to the February 3 notice submitted for inclusion 2-lane highway segments for designation as interim highways on which the vehicles authorized by the STAA may operate. In turn, FHWA included some 2-lane segments in making the interim designations. FHWA additions to State proposals were intended to achieve route continuity essential for geographic coverage and interstate commerce.

Alabama, Florida, Georgia, Pennsylvania, and Vermont brought suits in the U.S. District Courts to enjoin the FHWA from including routes in the interim designated system beyond those proposed by the States pursuant to the February 3, 1983, notice. One of the allegations in these suits was that the States had not had an opportunity to comment on the primary system routes added by the FHWA in making the interim designations. Also, in the litigation challenging the April 5 designations it has been alleged that the FHWA February 3 notice had limited the definition of "qualifying primary highways" to four-lane divided highways with full control of access. This was never FHWA's intent. The four-lane divided, full control of access criteria were meant to serve as an initial point of reference for the States in proposing their designations. To the extent that there was any doubt, this notice serves to clarify that FHWA fully intended that "qualifying primary highways" within the meaning of sections 411 and 416 of the STAA include additional routes beyond four-land divided limited access highways.

On April 22, 1983 (48 FR 17347), and May 12, 1983 (48 FR 21317), the FHWA additions to the designated routes proposed by these five States were withdrawn. The purpose of this notice of proposed rulemaking is to provide the States and the public with an opportunity to comment on a revised set of FHWA's proposed interim designations in these five States as set out in the Appendix to the proposed rule. Until a complete interim system is designated as a result of the current process, the designated highway system in Alabama, Florida, Georgia, Pennsylvania, and Vermont will remain as indicated in the April and May 12 notices.

The truck size provisions in the STAA were intended to provide increased productivity for the commercial motor carrier industry which may ultimately result in lower transportation costs to consumers. FHWA has begun to implement these provisions to accommodate this objective without compromising safety on our Nation's highways. The legislative intent is underscored by the enactment of Pub. L. 98-17, 97 Stat. 59, April 5, 1983, which placed the truck width provision, formerly enacted as part of the Department of Transportation and Related Agencies Appropriations Act, 1983, Pub. L. 97-369, 96 Stat. 1765, into Title IV of the STAA, and advanced the effective date of that provision to April 6, 1983, the effective date of the truck length provisions of section 411. One rationale for this legislative change was the need to provide a single system of highways for use by vehicles with the dimensions specified by the Congress. This change reflects Congressional recognition that the need for a coherent system is imperative.

In making the interim designations in the April 5 notice, and in proposing the interim designations in the five States covered by this NPRM, FHWA has attempted to provide consistency in routing among the States, so that a recognizable national network of highways which serve major points of economic activity would be available for use by the larger vehicles allowed by the STAA. Safety has always been of paramount concern to the FHWA in making these designations. In the absence of conclusive evidence attributing increased safety problems to the operation of the commercial motor vehicles with dimensions authorized by the STAA, and in recognition of the fact that the proposed provides a mechanism for deletion of potentially unsafe segments from the designated system, the FHWA has initially determined that any safety effects of this proposal will be minor compared to expected benefits.

The States, the commercial motor vehicle industry, and all other interested parties are encouraged to comment on the proposed designated routes

specified in the Appendix to the proposed rule. The FHWA invites the States to submit any information they may have on any potential adverse safety consequences that might result from allowing vehicles authorized under the STAA to use these roads. If a State believes that there is a safety problem with a particular route, an alternate route that will accommodate the objectives of the STAA should be proposed, if possible. FHWA also invites comments on the proposed designations from the standpoint of whether they adequately provide for the needs of interstate commerce.

In the April 5, 1983 policy statement, FHWA permitted the States to restrict or prohibit the vehicles authorized by the STAA from operating on portions of the designated system, under certain defined circumstances. In addition, the FHWA is continuing to add or delete routes from the interim designations in a number of States, based on continuing discussions with those States. Notices updating the status of these discussions have been published at 48 FR 20022 (May 3, 1983), 48 FR 21317 (May 12, 1983), 48 FR 24853 (June 2, 1983), 48 FR 31588 (July 8, 1983) and 48 FR 35388 (August 4, 1983) and will continue to appear in the **Federal Register**.

The proposed final designations for all States will be published in the near future. Ample opportunity will be provided for all parties to comment on the proposed final designations.

Regulatory Impact

The FHWA has determined that this is not a major rule under Executive Order 12291. However, under the regulatory policies and procedures of the Department of Transportation, this rulemaking action is considered significant based on the public interest involved.

A draft regulatory evaluation and initial regulatory flexibility analysis has been prepared and is available for inspection in the public docket. With regard to the assessment of the impact this proposal will have on small entities pursuant to the Regulatory Flexibility Act (Pub. L. 96–354), the reasons for, objectives, and legal basis for this proposed action have been previously explained in this notice. The proposal will allow any carrier to increase productivity through the use of larger vehicles and therefore should provide benefits to all segments of the motor carrier industry. The FHWA specifically requests information on whether this action would have a significant economic impact on a substantial number of small entities.

In the absence of conclusive evidence attributing increased safety problems to operations with larger trucks or with twin trailers, FHWA has initially determined that any safety effects of this proposal will be minor compared to potential benefits. The safety issue is addressed further in the draft regulatory evaluation. Also, FHWA has determined that this proposal will significantly increase productivity benefits for the trucking industry which may ultimately result in lower transportation costs to consumers. The FHWA invites comments on this initial estimation of effects. Any information that will assist in an improved estimation of the effects of described above, and any suggestions of additional areas that should be considered in the draft regulatory evaluation, are welcome.

The FHWA has determined that this action will not individually or cumulatively have a significant effect on the environment. This proposed action falls within the categorical exclusions set out at 23 CFR 771.115(b), since it is a regulation for which a regulatory impact analysis is not required pursuant to Section 3 of Executive Order 12291, which superseded Executive Order 12044 (See 23 CFR 771.115(b)(27)). Therefore, no environmental assessment or environmental impact statement is required.

Since the interim system being prepared in this rulemaking has been the subject of previous public notices and judicial proceedings, a 30-day comment period has been determined to be sufficient. In consideration of the foregoing, and under the authority of sections 411 and 416 of the Surface Transportation Assistance Act of 1982, 23 U.S.C. 315, and 49 CFR 1.48(b), the Federal Highway Administration proposes to amend Title 23, Code of Federal Regulations, Chapter I, by adding a new Part 658 as set forth below.

List of Subjects in 23 CFR Part 658

Grant programs—transportation, Highways and roads, Motor carriers—size and weight.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 and former OMB Circular A–95 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Issued on: August 29, 1983.

R. A. Barnhart,

Federal Highway Administrator, Federal Highway Administration.

The Federal Highway Administration hereby proposes to amend Chapter I of Title 23, Code of Federal Regulations, by adding a new Part 658 to read as follows.

PART 658—TRUCK SIZE

Sec.

658.1 Purpose.

Appendix.—Proposed Interim Designated Truck Routes on the Federal-Aid Primary System.

Authority: Sec. 411 and 416, Pub. L. 97–424, 96 Stat. 2150, as amended by Pub. L. 98–17, 97 Stat. 59 (49 U.S.C. 2311); 23 U.S.C. 315; 49 CFR 1.48.

§ 658.1 Purpose.

The purpose of this part is to set out an interim designation of qualifying primary system routes available to vehicles authorized by sections 411 and 416 of the Surface Transportation Assistance Act of 1982, as amended, for the States of Alabama, Florida, Georgia, Pennsylvania, and Vermont.

APPENDIX.—Interim Designated Truck Routes on the Federal Aid Primary System

Posted route No.	From	To
	ALABAMA	
US 431	AL 210 in Dothan	US 431/AL 173 in Headland.
US 431	I–20 Anniston	I–59 Gadsden.
US 431	AL 77 Attalla	Tennessee St. Line.
US 72	Mississippi St. Line	Tennessee St. Line.
US 31	AL 152 Montgomery	AL 14 north of Prattville.
US 31	End of I–65 north of Birmingham.	I–65 north of Kimberly.
US 78	Mississippi St. Line	I–59 Birmingham.
US 78	End of I–20 in Irondale.	I–20 west of Leeds.
US 82	Coker (west of Northport).	Eoline(west of Brent).
US 82	AL 206 Prattville	US 31 Prattville
US 80	AL 14 west of Selma	AL 152 Montgomery.
US 84	AL 87 Elba	AL 134 Enterprise.
US 84	AL 92 (east of Daleville).	AL 210 Dothan.
US 84	AL 210 Dothan	End of 4 lane east of Dothan.
US 43	I–65 north of Mobile	AL 5 north of Thomasville.
US 43	AL 5 near Russellville.	US 72 Tuscumbia.
US 43	US 72 Florence	Tennessee St. Line.
US 29	Fairfax	Georgia St. Line.
AL 20	US 72 Tuscumbia	US 231 Huntsville.
AL 21	US 31 at Atmore	I–65 north of Atmore.
AL 21	US 431 Anniston	Jacksonville.
US 280	US 31 Mountain Brook.	Alexander City.
US 280	I–85 Opelika	Georgia St. Line.
US 98	I–10 Daphne	End of 4 lane near Fairhope.
US 231	Florida St. Line	AL 210 Dothan.
US 231	AL 210 Dothan	AL 152 Montgomery.
US 231	AL 152 Montgomery	End of 4 lane north of Wetumpka.
US 231	Arab	US 431 Huntsville.
AL 59	I–10 near Loxley	I–65 north of Bay Minette.
AL 67	I–65 near Priceville	AL 20 west of Decatur

APPENDIX.—Interim Designated Truck Routes on the Federal Aid Primary System—Continued

Posted route No.	From	To
AL 77	I-59 Gadsden	US 431 Attalla.
AL 79	I-59 Birmingham	Pinson.
AL 85	AL 92 near Daleville	Ft. Rucker.
AL 87	US 84 Elba	US 231 Troy.
AL 92	AL 85 west of Daleville.	US 84 near Wicksburg.
AL 134	US 84 Enterprise	AL 85 Daleville.
AL 152	US 31 (north of Montgomery).	I-65 north of Montgomery.
AL 210	Dothan Circle	
AL 248	US 84 Enterprise	Ft. Rucker.
AL 249	Ft. Rucker	US 231

FLORIDA

US 27	Fla Turnpike Extension.	SR 84 at Andytown
US 27	South Bay	Leesburg.
US 27/US 441.	Leesburg	Belleview.
US 27/US 301.	Belleview	Ocala.
US 27	US 301 in Ocala	I-75.
FL 80	South Bay	US 441 at Bell Glade.
US 301	SR 24 in Waldo	I-10.
FL 24	SR 331 in Gainesville.	US 301 in Waldo.
FL 60	US 301 near Tampa	Lake Wales.
FL 84	US 27 at Andytown	I-95 in Ft. Lauderdale.
FL 263	US 90 west of Tallahassee.	I-10.
US 301	FL 60 near Tampa	I-4.
SR 331	I-75 (south of Gainesville).	SR 24.
US 441	US 27 (Leesburg)	Apopka.
SR 436	Apopka	I-4.
US 92	I-4 near Lakeland	US 27 near Haines City.
SR 397	Entrance, Eglin AFB	SR 85.
SR 85	SR 397	I-10.
US 231	Panama City	Alabama St. Line.
US 41	US 301 near Palmetto.	I-4.
US 301	US 41 near Palmetto	I-75.
SR 202	In Jacksonville from I-95.	SR A-1-A.
Florida Tpk.	South end at Miami	I-75 at Wildwood.
SR 528/SR 407	I-4 at Orlando	Cape Canaveral.
20th Street Expressway	In Jacksonville at I-95.	Adams Street.

GEORGIA

GA 400	I-285, near Atlanta	GA 60.
GA 365/US 23.	I-85 Northeasterly	US 441 near Cornelia.
US 411/GA 20 US 41	US 27 at Rome	I-75 near Emerson.
US 129/GA 11.	I-16	North to Gray.
GA 25 Spur	US 17/80	Northerly to I-95.
US 280/SR 1	Alabama St. Line	Fort Benning.
US 82/SR 50	West of Albany	I-75.
GA 300	US 82 Albany	I-75 near Cordele.
US 25/SR 73	I-16	North of Statesboro.
GA 316	I-85 easterly toward Lawrenceville (8 miles).	
GA 21	US 17	GA 204.
GA 14 Spur	I-85/I-285 Interchange.	East to Welcome All Road.
GA 410	Valleybrook Rd	SR 10.
GA 411	End of I-185	South to US 280 near Columbus.
GA 85	I-85 South	Fayetteville.
GA 2	US 27	I-75.
US 76/SR 52	I-75	US 411.
GA 85	GA 411	Ellenslie.
US 41	I-75 South	Near Barnesville.
US 19	US 82 South	Near Pelham.
GA 247/US 129.	I-75 South	Warner Robins.
US 84	Waycross	I-95.
US 78/US 29	GA 138	SR 8 near Athens.
SR 136	I-20	US 78.

PENNSYLVANIA

Posted route No.	Route description
US 1	From Morrisville to US 13.
US 13	Controlled access segment south from US 1.
US 15	From Pennsylvania Turnpike (I-76) Interchange 17 northeast to Harrisburg Expressway South of Camp Hill.
US 15	From PA 642 in Milton to the White Deer Exit at White Deer.
US 15	Controlled access segment north of junction with US 220 at Williamsport.
US 22	From I-279 west to the Pennsylvania-West Virginia St. Line east of Steubenville, Ohio.
US 22	From west of PA 100 near Fogelsville east to the Pennsylvania-New Jersey St. Line at Easton.
US 30	Greensburg Bypass south of Greensburg.
US 30	From a junction with PA 462 west of York to a junction with PA 462 east of Lancaster, excluding the 4-mile uncontrolled access segment north of York.
US 119	Limited access Bypass west of Uniontown.
US 119	From Pennsville north of Pennsylvania Turnpike (I-76) Interchange 8 at New Stanton.
US 202	From the south terminus of the West Chester Bypass north and east to I-76 near King of Prussia.
US 219	From vicinity of Pennsylvania Turnpike southeast of Somerset north to US 422 west Ebensburg.
US 219	From the PA-New York St. Line to just south of Bradford.
US 220	From Pennsylvania Turnpike Interchange 11 north to King.
US 220	From PA 147 near Halls, north of Muncy, west to western terminus of controlled access segment at Linden.
US 220	From just south of Athens north to NY 17 at the Pennsylvania-New York St. Line.
US 222/422	Warren Street Bypass and Extension from Pricetown Road north of Reading west to Wyomissing.
US 322	Commodore Barry Bridge in Chester.
US 422	From eastern terminus of limited access segment southeast of Reading northwest to the Warren Street Bypass.
PA 9	Northeast Extension of Pennsylvania Turnpike from Exit 25 (I-276) southeast of Norristown to Exit 38 at I-81 north of Scranton.
PA 28	From PA 8 near Etna northeast to Creighton, east of the Pennsylvania Turnpike.
PA 33/US 209.	From US 22 near Wilson north to I-80 at Interchange 46 near Stroudsburg via US 209 at Snydersville.
PA 60/US 422.	From I-80 Interchange 1 southeast of Sharon south to including the New Castle Bypass.
PA 60	From PA 51 west of Beaver Falls south to US 22, excluding the uncontrolled access segment near the Greater Pittsburgh International Airport.
PA 147	From I-80 Interchange 31 near Milton north to a junction with US 220 at Halls north of Adamstown.
PA 222	From US northeast of Lancaster to Pennsylvania Turnpike (I-76) Interchange 21 near Adamstown.
PA 283	From junction of US 30 north of Lancaster west to I-283 near the Pennsylvania Turnpike Interchange 19.
	Harrisburg Expressway (LR 767) from I-83 west to US 11 west of Camp Hill.
	Airport Access Road (LR 1081 Spur A) from PA 283 south to the Harrisburg International Airport at Middletown.

PENNSYLVANIA—Continued

Posted route No.	Route description
	Reading Outer Loop (LR 1035) from PA 183 near Leinbachs northeast to US 222 near Tuckerton.
US 6	From the Borough of Conneaut Lake east to just north of Meadville at the terminus of the North-South Bypass.
US 11	From Pennsylvania Turnpike Interchange 16 east to the western terminus of the Harrisburg Expressway near Camp Hill.
US 20	From I-90 Interchange 12 west to Northwest (PA 89).
US 30	Uncontrolled access segment of York Bypass from North Mills Road west to a point one mile north of the junction of PA 74.
US 119	Uncontrolled access segment northeast of Uniontown to Pennsville.
US 119	Uncontrolled access segment from the Pennsylvania Turnpike (I-76) Interchange 8 to the Greensburg Bypass.
US 202	From the PA-Delaware St. Line north to West Chester Bypass.
US 322	From the junction of I-83 and I-283 east to the junction of US 422.
US 422	From the junction of US 322 east to the junction of LR 139 at the west end of Hershey.
PA 3	From West Chester Bypass (US 202) east to Garrett Road at Upper Darby.
PA 13	Uncontrolled access segment from PA 413 west of Bristol northeast to the limited access segment just south of US 1.
PA 42	From I-80 Interchange 34 south to Bloomsburg at US 11.
PA 51	From US 119 near Uniontown north to the Monongahela River at Elizabeth.
PA 54	From I-80 Interchange 33 south to Danville at US 11.
PA 60	Uncontrolled access segment in the vicinity of the Greater Pittsburgh International Airport.
PA 61	From US 222 near Tuckerton north to I-78 Interchange 9 at Hamburg.
PA 93	From I-81 Interchange 41 east and south to PA 924 at west end of Hazelton.
PA 114	From US 11 near Hogestown north to I-81 Interchange 18.
PA 132	From I-95 near Cornwells Heights northwest to Pennsylvania Turnpike Interchange 28 via US 1 connection.
PA 924	From junction with PA 93 west to I-81 Interchange 40 near Hazelton.
PA 100	From 1.1 miles north of Pennsylvania Turnpike entrance Downingtown to US 202 near West Chester.

VERMONT

Posted route No.	From	To
VT 9	I-91 Interchange 3 north of Brattleboro.	New Hampshire St. Line.
US 7	Southern Terminus of the four lane divided highway in the town of Wallingford.	US 4 Rutland.
US 4	New York St. Line	East City Limit of Rutland City.
US 4	East City Limit of Rutland City.	VT 100 near Sherburne Center.
VT 100	US 4 near Sherburne Center.	VT 107.
VT 107	VT 100	I-89

[FR Doc. 83-24066 Filed 8-30-83; 9:47 am]

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Reader Aids

Federal Register

Vol. 48, No. 170

Wednesday, August 31, 1983

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419 523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Privacy Act	523-4534
Public Inspection Desk	523-5215
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282 523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235

United States Government Manual 523-5230

SERVICES

Agency services	523-5237
Automation	523-3408
Library	523-4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public Inspection Desk	523-5215
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, AUGUST

34723-34928.....1
34929-35068.....2
35069-35344.....3
35345-35586.....4
35587-35872.....5
35873-36090.....6
36091-36240.....9
36241-36438.....10
36439-36560.....11
36561-36796.....12
36797-37000.....15
37001-37200.....16
37201-37358.....17
37359-37602.....18
37603-37920.....19
37921-38200.....22
38201-38446.....23
38447-38600.....24
38601-38780.....25
38781-39032.....26
39033-39204.....29
39205-39446.....30
39447-39594.....31

CFR PARTS AFFECTED DURING AUGUST

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Administrative Orders:

Presidential Determinations:

No. 83-8 of July 19, 1983.....35587
No. 83-9 of August 5, 1983.....36561

Executive Orders:

April 17, 1926 (Revoked in part by PLO 6454).....38240
12217 (Revoked by EO 12437).....36801
July 13, 1910 (Revoked in part by PLO 6455).....38468
12435.....34723
12436.....34931
12437.....36801
12438.....39205

Proclamations:

5078.....34929
5079.....35873
5080.....36091
5081.....36241
5082.....36797
5083.....36799
5084.....39207

5 CFR

Ch. XIV.....38781
213.....39209
330.....39209
550.....36803
551.....36803
831.....38781
950.....34910

Proposed Rules:

334.....38846
1255.....35652

7 CFR

2.....37359
28.....37001
51.....38789
225.....38601
226.....35589
227.....38601, 39211
235.....38601
246.....38601
247.....38601
250.....38601
253.....38601
301.....38447
707.....35598
720.....35599
724.....37603, 39447
726.....36563
796.....35599
905.....39447
908.....35345, 36439, 37360, 38601
910.....35600, 36563, 37607, 38791
915.....35345, 38791
916.....35345
917.....35345
921.....35345
922.....35345
924.....35345
926.....35345
930.....35345, 38602
932.....38201
944.....38791
945.....35345
946.....35345
947.....35345, 38203
948.....35345
953.....35345
958.....35345
967.....35345, 39213
982.....35345
985.....35345
989.....35347
993.....35345
1004.....39033
1030.....38448
1106.....38204
1124.....36439
1139.....38205
1207.....38603
1427.....35348
1430.....34725, 34933
3015.....35875

Proposed Rules:

51.....38846
68.....35411
75.....35411
101.....37417
201.....35417
240.....35106
278.....35868
279.....35868
404.....35418
408.....35423
413.....35427
416.....37420
417.....35431
421.....35435
423.....35439
425.....35443
432.....35447
437.....35112
442.....35451
651.....39236
983.....36272
989.....35454
1004.....36113
1030.....36464, 39470
1036.....38001
1076.....36467
1079.....37424, 38002
1106.....37657
1139.....35652
1290.....35116

8 CFR

100.....37201
103.....36441, 36564
212.....35349, 36564, 37608
231.....36093, 37003
235.....35349, 37608
238.....39214
243.....39034

Proposed Rules:

3.....38847

9 CFR

3.....39035
54.....38206
71.....37921
74.....37921
75.....38793
78.....34943
92.....37202
97.....37361

Proposed Rules:

3.....35654, 39078
307.....38490
317.....35654
319.....35654
325.....35884
350.....38490
351.....38490
354.....38490
355.....38490
362.....38490
381.....35654, 35884, 38490

10 CFR

20.....38604
21.....38604
25.....35069
30.....39036
40.....35350
50.....39039
70.....39036
71.....35600, 38449
73.....38604
150.....39036
420.....39356
430.....39376
595.....38207
795.....36432
1016.....36432

Proposed Rules:

Ch. I.....34966
Ch. II.....37226
430.....34858
625.....35119
710.....35342
761.....36792
1017.....36825

11 CFR

102.....37921

12 CFR

207.....35070
220.....34944
221.....35074, 37361
225.....37003
265.....39047, 39214
303.....34945, 36565
329.....35627, 35629
1204.....38455

Proposed Rules:

226.....35659
705.....37042

13 CFR

Ch. I.....38794
116.....39047

Proposed Rules:

115.....37658
120.....37044
121.....34966
122.....36825

14 CFR

11.....39448
21.....38808
23.....38808
39.....34731, 35355–35364, 36806, 37361–37364, 37922–37924, 38809, 39049–39053, 39449, 39451
71.....35364–35366, 36442, 37365, 37925, 38809, 38810, 39054, 39452
73.....36806
75.....35366, 38810
91.....36442, 39054
95.....36445, 38208
97.....35876, 37926
212.....36445
223.....37928
252.....36093
261.....35080
263.....35081
289.....35081, 37608
291.....38458
398.....36094
1204.....37608

Proposed Rules:

Ch. I.....36826
21.....38002
25.....38004, 38848
39.....36468, 37425–37427, 38005
71.....35456–35458, 35887, 38246, 39078–39080
73.....38006, 36827, 37428, 37429
75.....39079, 39080
152.....36828
159.....37430
241.....36598, 36601
252.....36273
298.....36601
316.....39081
377.....35459
385.....36601, 39081
399.....35119

15 CFR

373.....38811
399.....38811

Proposed Rules:

921.....35120
971.....35888

16 CFR

13.....35367, 37202, 37203, 38214
305.....35385
455.....36096
1013.....36566

Proposed Rules:

13.....34764, 35132–35135, 35888, 38247, 38848
305.....37663
451.....36273
460.....35661

17 CFR

1.....35248
3.....34732, 35248, 35305, 37203
4.....35248
5.....38214
10.....35248
15.....35248
17.....35248
18.....35248
21.....35248
33.....35248
140.....34945
145.....35248
147.....35248
155.....35248
166.....35248
170.....35248
200.....39215
210.....36566, 37609
229.....37609
230.....37928
231.....37609
239.....36566, 37928
240.....35082, 38218,
241.....37609
270.....36097, 36243, 37928
274.....37928

Proposed Rules:

145.....34971
146.....34971
147.....34971
240.....37430, 37664, 38250
249.....36115
270.....35459

18 CFR

2.....35631, 35633
154.....35633
157.....34872, 34875, 35635
270.....35633
271.....35633–35636
282.....38224, 38812
284.....34875, 35635
300.....37006
410.....34946, 36469

Proposed Rules:

154.....38492, 39238
271.....35663–35666, 38651

19 CFR

12.....34734
101.....38813
127.....34734
177.....35878
210.....35386

Proposed Rules:

101.....35666
171.....37227
175.....36625

20 CFR

404.....37015, 38814

Proposed Rules:

299.....35460
404.....35135, 36831
410.....35135
416.....35135, 36831, 37228
422.....35135, 36831
652.....34866, 34974
653.....34866
655.....35667

21 CFR

5.....36571
74.....34946, 37020, 39217
81.....38814, 39217–39221
82.....39217
109.....37020
172.....38225, 38226
173.....37614
175.....37615
176.....37617
177.....36099, 37618, 38604, 38815, 39057
178.....37615, 38227, 39058
193.....36246, 36448, 37203, 39058
201.....37619, 39452
211.....37624
430.....38459
436.....34947, 38459
442.....38459
452.....36571
520.....38606
522.....34947, 36100, 36571
555.....37623
558.....34948, 34949, 35637, 36100, 36101, 37620–37622, 38815
561.....36448, 37203
610.....37022
700.....37624
800.....37624
870.....36101
1316.....35087

Proposed Rules:

Ch. I.....37665
131.....37666, 38252
133.....36132, 36625, 37666
146.....37668
184.....34974, 39242
291.....35668
341.....39242
353.....36133
355.....38853
680.....39243

22 CFR

11.....38606

23 CFR

Ch. I.....35388, 39222
752.....38609

Proposed Rules:

Ch. I.....38854
652.....36470
658.....39592
771.....33894

24 CFR

202a.....36247
203.....34949, 35088, 35638, 36247
205.....35389
207.....35389
209.....36247
211.....36247
213.....35389, 35638, 36247
220.....35393, 36247
221.....35389, 36247
222.....36247
226.....36247
228.....36247
232.....35389
234.....35638, 36247
235.....34949, 36247
237.....36247
244.....35389

300.....36572, 36573
500.....36574
868.....37023
886.....36101
890.....38228
Proposed Rules:
115.....36133
200.....35668–35671, 35890
203.....35140
234.....35140
235.....35140
241.....35891
3280.....37136

25 CFR

Proposed Rules:
11.....37046

26 CFR

1.....36448
31.....35089, 36807
35.....35090, 36448, 36807
51.....35092
150.....35092
301.....36449, 38229
Proposed Rules:
1.....36137, 36474
5c.....36137
20.....35143
31.....36474

27 CFR

9.....35395, 37365–37374, 38462
178.....35398
Proposed Rules:
5.....35460
9.....35462, 37670, 38497

28 CFR

0.....35087
9.....35087
60.....37376
Proposed Rules:
0.....35892
16.....35892

29 CFR

500.....36576, 36736, 38374, 38380
1601.....38231
1910.....36576
1952.....34950, 34951, 37024
1956.....37025
2610.....37027
2619.....36816
2622.....37027
Proposed Rules:
1550.....37047
1697.....34766
1910.....37672, 38856
1926.....35774
1952.....39471
2615.....37230

30 CFR

Ch. II.....35639
221.....36582
226.....36582
231.....36588
251.....37967
641.....37377
642.....37377
800.....36418
806.....36418
872.....35399
880.....37377
881.....37377
913.....37625
914.....37626
917.....38463
926.....37382
946.....39223
Proposed Rules:
55.....36789
56.....36789
57.....36789
250.....38500
252.....38500
913.....36625
915.....35903
935.....35146, 36274, 36627
938.....37672

31 CFR

Proposed Rules:
1.....35904

32 CFR

47.....38816
70.....35644
219.....35400
253.....35644
263.....34952
373.....36247
701.....38611
706.....37029, 37030
819a.....35878
842.....37631
865.....37384
920.....39225
Proposed Rules:
65.....34974

33 CFR

1.....35402
8.....36449
25.....36450
53.....36449
100.....36450, 36451, 37396, 37397, 38630, 38631
110.....36452, 38631
117.....35409, 36452, 38632, 38633
154.....34740
160.....35402, 39059
161.....35402
165.....35402, 36453, 38633, 38634
167.....36453
Proposed Rules:
100.....36474, 37433, 39083
110.....34767, 38652
115.....35464
117.....36475, 36477, 38653–38655
161.....37433, 39244
165.....37438

34 CFR

5b.....38817
200.....34953
205.....35879
263.....35330
Proposed Rules:
662.....38968
663.....38968
664.....38968
665.....38968
668.....39366
674.....39366
675.....39366
676.....39366
683.....39366
690.....39366

35 CFR

Proposed Rules:
111.....35905

36 CFR

223.....34740
905.....38232
Proposed Rules:
13.....37673
228.....35580
251.....35465, 35580
261.....35465

37 CFR

202.....37204
Proposed Rules:
1.....34836, 36478, 39016
2.....36478
202.....37232

38 CFR

3.....37031, 38820
17.....37398, 38821
21.....35879, 36577, 37968
36.....35879, 39059
40.....36103
Proposed Rules:
17.....38007, 38253
21.....34975, 35146

39 CFR

1.....38234
10.....35409
111.....35645, 38234
Proposed Rules:
111.....37439
3001.....35914

40 CFR

35.....37814
52.....36250, 36818, 36819, 37401–37403, 38235, 38465–38467, 38634, 38635
60.....36579, 37578, 37598, 38728, 39010
61.....36579
65.....38637
81.....37404, 37653, 38236, 38467, 38637, 38639
145.....38237, 38238, 38640, 38641
162.....35095, 38572
180.....35095, 36251, 37210–37214, 39453, 39454
264.....36582
270.....36582
271.....34742, 34954, 35096, 35097, 35647, 36252, 37215
425.....35649
468.....36942
717.....38178, 39225
Proposed Rules:
Ch. II.....34768
50.....38009
51.....38742
52.....34976, 35312–35328, 35672, 35918, 36139, 37232, 38742, 39084, 39472
60.....35338, 37338, 39566
61.....38009
62.....34978
81.....35919, 35920, 36275, 38254, 38255
145.....37673
180.....36486, 38501, 39244, 39473, 39474
193.....39563
228.....35147, 35673
261.....39000
271.....36277, 36628, 38010, 38722
302.....34979
414.....35674
416.....35674
600.....39475
721.....38502, 39245
1502.....36486
1508.....36486

41 CFR

Ch. 1.....37031
Ch. 101.....35098
5–1.....37997
5–53.....37405
29–70.....37786
44–17.....38822
101–11.....38824
101–41.....35649
Proposed Rules:
3–1.....37233
3–3.....37233

42 CFR

60.....38984
401.....39060
405.....37408
421.....38825
Proposed Rules:
2.....38758
71.....36143
100.....36390
122.....36402
123.....36402
125.....36390
400.....38146
405.....34979, 38146, 39412
408.....38146
409.....38146
418.....38146
420.....38146
421.....34979, 38146
431.....36151, 39476
441.....38011
460.....36970, 38656
462.....36970, 38656
489.....38146

43 CFR

2.....37411
1820.....36103
3000.....37654, 39225
3040.....39225
3100.....37656
3110.....39225
3120.....39225
3140.....39225
3150.....39225
3410.....37654
3420.....37654
3430.....37654
3450.....37654
8360.....36382
Public Land Orders:
3160.....36582

3180.....36582
3570.....36588
6329 (Amended by PLO 6456).....39066
6380 (corrected by PLO 6451).....35099
6388 (corrected by PLO 6450).....35098
6418.....39455
6427.....39455
6447.....39455
6448.....34743
6449.....34743
6450.....35098
6451.....35099
6452.....38239
6453.....38239
6454.....38240
6455.....38468
6456.....39066

Proposed Rules:
36.....37673

44 CFR

59.....39066
61.....39066
64.....34744, 34957, 36590, 36592, 38825
67.....36104
71.....37036

Proposed Rules:
61.....35468
62.....35468
67.....36159–36167, 36629, 38018, 38019, 38258, 38259

45 CFR

1.....35099
10.....35099
67.....35099
99.....35099
101.....38827
303.....38642
1607.....36820

Proposed Rules:
5b.....37440
302.....35468
304.....35468
306.....35468
1606.....36845
1611.....39086
1625.....36845

46 CFR

31.....36457
32.....36457
35.....36457
42.....38646
221.....35881
503.....36253
536.....35099, 36254

Proposed Rules:
10.....35920
35.....35920
50.....37441
52.....37441
53.....37441
54.....37441
63.....37441
157.....35920
162.....37441
175.....35920
185.....35920
186.....35920
187.....35920

295.....37449
298.....37453
510.....38856
540.....35675

47 CFR

0.....37413, 38240
1.....36104, 36459, 39072
2.....34746, 37216, 39072
15.....34748, 37217
17.....38473
18.....37217
19.....38240
21.....34746, 37216
22.....37997
73.....34753–34757, 34959, 36106–36112, 36254, 36459, 37216, 37220–37224, 37414–37416, 38243, 38470–38473
74.....34746, 37216, 38473
76.....39225
81.....39072
83.....34961
90.....34961, 36104
95.....35234, 36104, 39072
97.....34746, 37224

Proposed Rules:
Ch. I.....36167, 37235, 37464, 38511, 39090
2.....37475
18.....37235
68.....34985
73.....34772–34779, 35964, 36168–36173, 36278, 37239–37269, 37475–37492, 38020, 38053, 38859, 38860
76.....34986
90.....34782, 34987, 35149, 39090

48 CFR

Proposed Rules:
Ch. I.....35675

49 CFR

1.....37998
192.....37999
213.....35882
350.....39455
391.....38483
571.....38842
1056.....38844
1170.....35409
1175.....36594
1181.....38844
1183.....38844
1300.....36822
1307.....36822

Proposed Rules:
Ch. X.....38059
171.....35471, 35965
172.....35471, 35965, 35970
173.....35471, 35965, 35970
175.....35471
179.....35970
210.....36487, 38511
218.....36492
571.....34783, 34784, 36493, 36849
572.....37493
622.....34894
1057.....39251
1102.....39254
1105.....36284
1152.....36284
1160.....36285
1165.....36290
1180.....36284

50 CFR

10.....37040
17.....34757, 34961, 36256, 36594
20.....35100, 39024
32.....36112
285.....35107, 36597, 36823, 38650
611.....34762, 34962, 35107, 39076, 39229
646.....39463
649.....36266
650.....34762
651.....34762
652.....34762, 38243
654.....34762
655.....34762
658.....38489
661.....36823, 38244
662.....34963
663.....34762, 34763
671.....34762
672.....34762, 35107, 37040
674.....34762, 34965, 37224
675.....34762, 35107
680.....39229

Proposed Rules:
17.....35475, 35973, 38860, 39090–39096
20.....35152, 35153, 36853
23.....37494
32.....34987
36.....37673
424.....36062
611.....39254
630.....39255
641.....38511
681.....35475

List of Public Laws

Last Listing August 18, 1983

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S. 1696/Pub. L. 98–80 Authorizing three additional Assistant Administrators of the Environmental Protection Agency. (Aug. 23, 1983; 97 Stat. 485) Price: $1.50

S. 1797/Pub. L. 98–81 To name the United States Post Office Building to be constructed in Fort Worth, Texas, as the "Jack D. Watson Post Office Building". (Aug. 23, 1983; 97 Stat. 487) Price: $1.50

S.J. Res. 85/Pub. L. 98–82 To designate September 26, 1983, as "National Historically Black Colleges Day". (Aug. 23, 1983; 97 Stat. 488) Price: $1.50

S.J. Res. 98/Pub. L. 98–83 To designate October 2 through October 9, 1983, as "National Housing Week". (Aug. 23, 1983; 97 Stat. 489) Price: $1.50

S.J. Res. 116/Pub. L. 98–84 To designate the week of September 4, 1983, through September 10, 1983, as "Youth of America Week". (Aug. 23, 1983; 97 Stat. 490) Price: $1.50

H.R. 2895/Pub. L. 98–85 To designate the Federal Building and United States Courthouse at 450 Golden Gate Avenue, San Francisco, California, as the Phillip Burton Federal Building and United States Courthouse. (Aug. 26, 1983; 97 Stat. 491) Price: $1.50

H.R. 3232/Pub. L. 98–86 To amend title 28 of the United States Code to authorize payment of travel and transportation expenses of newly appointed special agents of the Department of Justice. (Aug. 26, 1983; 97 Stat. 492) Price: $1.50

H.J. Res. 297/Pub. L. 98–87 Providing for appointment of Jeannine Smith Clark as a citizen regent of the Board of Regents of the Smithsonian Institution. (Aug. 26, 1983; 97 Stat. 493) Price: $1.50

H.R. 3190/Pub. L. 98–88 Extra Long Staple Cotton Act of 1983. (Aug. 26, 1983; 97 Stat. 494) Price: $1.75

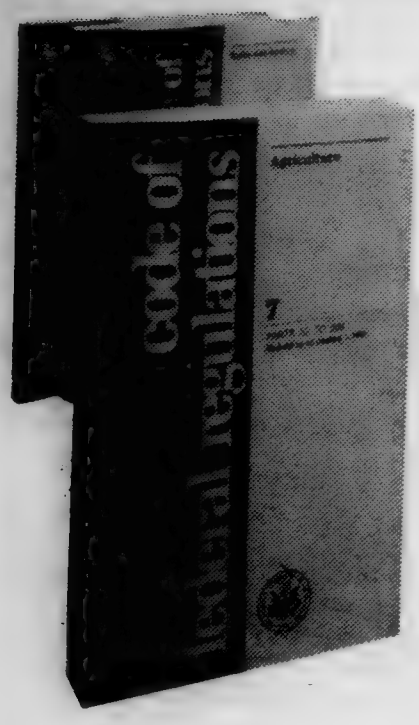

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federal register

Thursday
September 1, 1983

Selected Subjects

Administrative Practice and Procedure
National Transportation Safety Board

Air Pollution Control
Environmental Protection Agency

Animal Drugs
Food and Drug Administration

Banks, Banking
Federal Reserve System

Bridges
Coast Guard

Fisheries
National Oceanic and Atmospheric Administration

Grant Programs—Social Programs
Education Department

Hazardous Materials Transportation
Research and Special Programs Administration

Hazardous Waste
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Marine Safety
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Marketing Agreements
Agricultural Marketing Service

Medicaid
Health Care Financing Administration

CONTINUED INSIDE

Selected Subjects

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Medicare
Health Care Financing Administration

Milk Marketing Orders
Agricultural Marketing Service

Mortgage Insurance
Federal Housing Commissioner—Office of Assistant Secretary for Housing

Motor Vehicle Safety
National Highway Traffic Safety Administration

Organization and Functions (Government Agencies)
Coast Guard

Postal Service
Postal Service

Privacy
General Accounting Office

Quarantine
Animal and Plant Health Inspection Service

Securities
Securities and Exchange Commission

Surface Mining
Surface Mining Reclamation and Enforcement Office

Wildlife Refuges
Fish and Wildlife Service

Contents

Federal Register
Vol. 48, No. 171
Thursday, September 1, 1983

The President
PROCLAMATIONS
39595 Citizenship Day and Constitution Week (Proclamation 5085)

Executive Agencies

Agricultural Marketing Service
RULES
Milk marketing orders:
39603 Eastern South Dakota
39602 Oranges (Valencia) grown in Ariz. and Calif.
PROPOSED RULES
Milk marketing orders:
39643 Texas; hearing

Agriculture Department
See Agricultural Marketing Service; Animal and Plant Health Inspection Service; Cooperative State Research Service; Federal Grain Inspection Service; Forest Service.

Animal and Plant Health Inspection Service
RULES
Plant quarantine, domestic:
39597 Gypsy moth; outdoor household articles

Blind and Other Severely Handicapped, Committee for Purchase from
NOTICES
39675 Procurement list, 1983; additions and deletions

Bonneville Power Administration
NOTICES
Environmental statements; availability, etc.:
39678 Lynch Creek Substation and 115-kV transmission line project, Eatonville, Wash.

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
39672 District of Columbia
39672 Illinois
39672 Louisiana
39672 Virginia

Coast Guard
RULES
Organization, functions, and authority delegations:
39629 Merchant Marine Safety Office; staff codes and addresses; correction
Regattas and marine parades; safety of life:
39609 Elizabeth River Power Boat Race
Safety zones:
39609 Fort McHenry, Baltimore, Md.
39610 Severn River, Annapolis, Md.
PROPOSED RULES
Drawbridge operations:
39646 New York

Commerce Department
See International Trade Administration; National Oceanic and Atmospheric Administration; National Technical Information Service.

Cooperative State Research Service
NOTICES
Meetings:
39669 Cooperative Forestry Research Advisory Council

Economic Regulatory Administration
NOTICES
Natural gas; fuel oil displacement certification applications:
39679 A.E. Staley Manufacturing Co. et al.
39679 Burlington Industries, Inc.
39681 G&M Finishing, Inc., et al.
39681 Lancaster Osteopathic Hospital
Powerplant and industrial fuel use; prohibition orders, exemption requests, etc.:
39680 Container Corp. of America

Education Department
PROPOSED RULES
Special education and rehabilitative services:
39647 Centers for independent living; withdrawn
NOTICES
Grants; availability, etc.:
39677 National direct student loan, college work-study, and supplemental educational opportunity grant programs; fiscal-operations report and application to participate
39675 Undergraduate international studies and foreign language program; new and non-competing continuation projects
Meetings:
39675 Continuing Education National Advisory Council

Energy Department
See Bonneville Power Administration; Economic Regulatory Administration; Energy Information Administration; Federal Energy Regulatory Commission; Southeastern Power Administration.

Energy Information Administration
NOTICES
39682 Agency information collection activities under OMB review

Environmental Protection Agency
RULES
Hazardous waste programs; interim authorizations; State programs:
39623 Texas
Permit programs:
39611 Minimization of regulatory burdens
Water pollution; effluent guidelines for point source categories:
39624 Textile mills; correction
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States:
39653 Illinois

39653 Indiana
Air quality planning purposes; designation of areas:
39655 Illinois
Toxic substances:
39656 Chemical substances testing requirements; cresols; extension of time
NOTICES
Grants; State and local assistance:
39687 Oklahoma; air pollution control grants; continuing eligibility level for 1983 FY; hearing
Meetings:
39688 Science Advisory Board (3 documents)
Toxic and hazardous substances control:
39689 Premanufacture notices receipts

Federal Communications Commission
PROPOSED RULES
Common carrier services:
39656 Telephone network; connection of terminal equipment, systems, and protective apparatus, etc.; extension of time
NOTICES
Hearings, etc.:
39691 Advanced Mobile Phone Service, Inc., et al.
39691 Rulemaking proceedings filed, granted, denied, etc.; petitions
39697 Rulemaking proceedings filed, granted, denied, etc.; petitions; extension of time

Federal Energy Regulatory Commission
NOTICES
Hearings, etc.:
39682 Alabama Power Co.
39683 Cranberry Pipeline Corp.
39683 Florida Power Corp.
39683 Idaho Power Co.
39684 Iowa-Illinois Gas & Electric Co.
39684 Mississippi Power Co.
39684 Montana Power Co.
39685 Northwest Central Pipeline Corp.
39685 Transcontinental Gas Pipe Line Corp.
39686 Trunkline Gas Co.
39686 West Texas Utilities Co.

Federal Grain Inspection Service
NOTICES
Agency designation actions:
39670 Connecticut and Oklahoma
39670 Louisiana, North Carolina, and Ohio
39669 Ohio

Federal Housing Commissioner—Office of Assistant Secretary for Housing
RULES
Mortgage and loan insurance programs:
39606 Interest rate changes

Federal Reserve System
RULES
Interest on deposits (Regulation Q):
39604 Early withdrawal penalty; temporary; Texas
NOTICES
Applications, etc.:
39698 Banks of Iowa, Inc.
39699 Farmers National Bancorp of Cynthiana, Inc., et al.
39698 First City Bancorp, Inc., et al.
39698 First Community Bancshares, Inc., et al.; correction
39698 First Golden Bancorporation
39699 Fuji Bank, Ltd.
39699 Union Bancorp, Inc.
39715 Meetings; Sunshine Act

Fish and Wildlife Service
PROPOSED RULES
Public entry and use:
39661 Back Bay National Wildlife Refuge, Va.

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
39607 *N*-(Mercaptomethyl) phthalimide *S*-(*O,O*-dimethyl phosphorodithioate) emulsifiable liquid
NOTICES
Food additive petitions:
39700 Schenectady Chemicals, Inc.

Forest Service
NOTICES
Environmental statements; availability, etc.:
39671 Bridger-Teton National Forest, Wyo.
39671 Challis National Forest, Idaho

General Accounting Office
PROPOSED RULES
Records:
39632 Privacy procedures for personnel records

Health and Human Services Department
See Food and Drug Administration; Health Care Financing Administration; Health Resources and Services Administration.

Health Care Financing Administration
RULES
Medicaid:
39624 Categorically needy; deeming of income between spouses
Medicare:
39752 Inpatient hospital services, prospective payments (Diagnosis Related Groups): interim
39740 Physician services furnished in hospitals, skilled nursing facilities, and comprehensive outpatient rehabilitation facilities; combined billing
NOTICES
Medicare:
39746 Hospital inpatient operating costs; target rate percentages for limits schedule, etc.; inquiry

Health Resources and Services Administration
NOTICES
Grants; availability, etc.:
39700 Health careers opportunity program

Housing and Urban Development Department
See Federal Housing Commissioner—Office of Assistant Secretary for Housing.

Interior Department
See Fish and Wildlife Service; Land Management Bureau; Surface Mining Reclamation and Enforcement Office.

International Trade Administration
NOTICES
Antidumping:
39673 Roller chain, other than bicycle, from Japan

Interstate Commerce Commission
RULES
Practice and procedure:
39630 Motor and water carrier, freight forwarder, and broker entry applications, etc.; publication in *ICC Register* in lieu of Federal Register
NOTICES
Energy and environmental statements; availability, etc.:
39707 Coal rate guidelines, nationwide
Railroad operation, acquisition, construction, etc.:
39706 Seaboard System Railroad, Inc.
Railroad services abandonment:
39706 Burlington Northern Railroad Co.
39706 Chessie System Railroads
39706 Grand Trunk Western Railroad Co.

Justice Department
NOTICES
Pollution control; consent judgments:
39708 Union Corp. et al.

Land Management Bureau
NOTICES
Alaska native claims selection; applications, etc.:
39704, 39705 Cook Inlet Region, Inc. (2 documents)
39705 Doyon, Ltd.
Committees; establishment, renewals, terminations, etc.:
39706 California Desert District Advisory Council; call for nominations
Conveyance of public lands:
39703 California
Sale of public lands:
39704 Montana
Withdrawal and reservation of lands, proposed, etc.:
39703 Colorado

Libraries and Information Science, National Commission
NOTICES
39715 Meetings; Sunshine Act

Maritime Administration
NOTICES
Applications, etc.:
39713 Delta Steamship Lines, Inc.
39713 Lykes Bros. Steamship Co., Inc.
Meetings:
39712 Maritime Advisory Committee

National Aeronautics and Space Administration
NOTICES
Patent licenses, exclusive:
39708 HealthMate, Inc.

National Highway Traffic Safety Administration
RULES
Motor vehicle safety standards:
39908 Occupant crash protection; automatic restraint requirements; suspension and request for comments
NOTICES
Motor vehicle safety standards; exemption petitions, etc.:
39713 General Motors Corp.
39714 Jaguar Cars, Inc.

National Oceanic and Atmospheric Administration
PROPOSED RULES
Fishery conservation and management:
39665 Spiny lobster, Western Pacific

National Technical Information Service
NOTICES
39674 Inventions, Government-owned; availability for licensing (2 documents)

National Transportation Safety Board
PROPOSED RULES
39657 Air safety proceedings practice rules
NOTICES
Bridge collapses:
39709 Mianus River, Greenwich, Conn.; investigation hearing
39715 Meetings; Sunshine Act

Nuclear Regulatory Commission
NOTICES
Applications, etc.:
39709 Metropolitan Edison Co. et al.
39710 Public Service Electric & Gas Co. et al.
39709 International Atomic Energy Agency draft safety guide; availability and inquiry

Postal Service
RULES
International Mail Manual:
39610 Luxembourg, Macao and Sweden; Express Mail rates
PROPOSED RULES
Domestic Mail Manual:
39648 Post office closing and consolidation procedures
39647 Third-class mailers, special rate bulk; identification; withdrawn
NOTICES
39715 Meetings; Sunshine Act

Research and Special Programs Administration
RULES
Hazardous materials:
39630 Shippers; tank car specifications; tankhead and thermal protection for newly built 105 tank cars, etc.; extension of compliance date, etc.

Securities and Exchange Commission
RULES
Securities:
39604 Exempt credit; reporting rules rescinded

NOTICES
Hearings, etc.:
39710 Citicorp Homeowners, Inc.

Southeastern Power Administration
NOTICES
Power rates:
39687 Cumberland Basin Project; correction

State Department
NOTICES
Meetings:
39711 International Investment, Technology, and Development Advisory Committee
39711 International Telegraph and Telephone Consultative Committee

Surface Mining Reclamation and Enforcement Office
RULES
Permanent and interim regulatory programs:
39692 Postmining land uses and variances
PROPOSED RULES
Permanent program submission; various States:
39645 Ohio
39645 Pennsylvania

Transportation Department
See also Coast Guard; Maritime Administration; National Highway Traffic Safety Administration; Research and Special Programs Administration.
NOTICES
39711 Agency information collection activities under OMB review

Separate Parts in This Issue

Part II
39740 Department of Health and Human Services, Health Care Financing Administration

Part III
39746 Department of Health and Human Services, Health Care Financing Administration

Part IV
39752 Department of Health and Human Services, Health Care Financing Administration

Part V
39692 Department of the Interior, Office of Surface Mining Reclamation and Enforcement

Part VI
39908 Department of Transportation, National Highway Traffic Safety Administration

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Proclamations:
5085 39595

4 CFR
Proposed Rules:
83 39632

7 CFR
301 39597
908 39602
1076 39603
Proposed Rules:
1126 39643

12 CFR
217 39604

17 CFR
240 39604
249 39604

21 CFR
524 39607

24 CFR
203 39608
213 39608
234 39608

30 CFR
701 39892
785 39892
816 39892
817 39892
824 39892
Proposed Rules:
935 39645
938 39645

33 CFR
100 39609
165 (2 documents) 39609, 39610
Proposed Rules:
117 39646

34 CFR
Proposed Rules:
366 39647

39 CFR
10 39610
Proposed Rules:
111 (2 documents) 39647, 39648

40 CFR
122 39611
123 39611
124 39611
144 39611
145 39611
233 39611
270 39611
271 (2 documents) 39611, 39623
410 39624
Proposed Rules:
52 (2 documents) 39653
81 39655
799 39656

42 CFR
405 (2 documents) 39740, 39752
409 39752
435 39624
436 39624
489 39752

46 CFR
153 39629
154 39629

47 CFR
Proposed Rules:
68 39656

49 CFR
179 39630
571 39908
1042 39630
1160 39630
1161 39630
1162 39630
1165 39630
1168 39630
1181 39630
Proposed Rules:
821 39657

50 CFR
Proposed Rules:
26 39661
681 39665

Federal Register
Vol. 48, No. 171
Thursday, September 1, 1983

Presidential Documents

Title 3—

The President

Proclamation 5085 of August 29, 1983

Citizenship Day and Constitution Week, 1983

By the President of the United States of America

A Proclamation

There can be no more precious possession than United States citizenship. As the Columbus, Ohio, *Dispatch* so fittingly stated many years ago:

"In the darkness that has settled over so much of the world and which shadows the existence of men in places where individual liberty still struggles to live, the United States of America has become the source of hope and aid to the millions of oppressed who once knew freedom and the hated enemy of the overlords of darkness who would destroy it wherever they can."

The Constitution provides a framework for our continuous striving to make a better America. It provides the basic balance between each branch of government, limits the power of that government, and guarantees to each of us as citizens our most basic rights. The Constitution, however, is only the outline of our system of government. It is through each individual citizen living out the ideals of the Constitution that we reach for a full expression of those ideals. Therefore, while we celebrate Citizenship Day and Constitution Week, let us rededicate ourselves to a full realization of the potential of the great country which the Founding Fathers struggled to create more than two hundred years ago.

Not only during this week, but throughout the year, we should continue to seek that "more perfect union" which will establish justice and insure domestic tranquility for each of us and our future generations through the Constitution.

In recognition of the importance of our Constitution and the role of our citizenry in shaping our government, the Congress, by joint resolution of February 29, 1952 (36 U.S.C. 153), designated September 17th of each year as Citizenship Day and authorized the President to issue annually a proclamation calling upon officials of the government to display the flag on all government buildings on that day. The Congress also, by joint resolution of August 2, 1956 (36 U.S.C. 159), requested the President to proclaim the week beginning September 17th and ending September 23rd of each year as Constitution Week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, call upon appropriate government officials to display the flag of the United States on all government buildings on Citizenship Day, September 17, 1983. I urge Federal, State and local officials, as well as leaders of civic, educational, and religious organizations to conduct ceremonies and programs that day to commemorate the occasion.

I also proclaim the week beginning September 17th and ending September 23rd, 1983 as Constitution Week, and I urge all Americans to observe that week with appropriate ceremonies and activities in their schools, churches and other suitable places.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of August, in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and eighth.

Ronald Reagan

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Rules and Regulations

Federal Register
Vol. 48, No. 171
Thursday, September 1, 1983

This section of the FEDERAL REGIST contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 83-335]

Gypsy Moth; Outdoor Household Articles

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the gypsy moth and browntail moth quarantine and regulations by providing for the regulation of all outdoor household articles, except outdoor household articles of vacationers to gypsy moth high-risk areas, moved interstate from high-risk gypsy moth areas into or through any nonregulated areas. These amendments are necessary in order to prevent the artificial spread of gypsy moth to nonregulated areas. The effect of these amendments will be to prohibit the interstate movement of such outdoor household articles moving from high-risk gypsy moth areas into or through nonregulated areas unless such articles are free of all life stages of the gypsy moth or are accompanied by an outdoor household articles (OHA) document.

EFFECTIVE DATE: October 3, 1983.

FOR FURTHER INFORMATION CONTACT: Gary E. Moorehead, Staff Officer, Field Operations Support Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 663, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8295.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This final rule is issued in conformance with Executive Order 12291 and Secretary's Memorandum 1512–1, and has been determined to be not a "major rule". Based on information compiled by the Department, it has been determined that this regulation will have an effect on the economy of approximately 6.6 million dollars; that this rule would not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and that this regulation will not have a significant adverse effect on competition, employment, investment productivity, innovation, or on the ability of United States based enterprises to compete with foreign based enterprises in domestic or export markets.

Several alternative actions were considered in developing this regulation. These included:

1. Make no change in the regulation;
2. Add all outdoor household articles to the list of gypsy moth regulated articles (§ 301.45–45–1(v)(1)) and require all outdoor household articles to be accompanied by a certificate or limited permit issued by an inspector after visual inspections;
3. Rescind the gypsy moth quarantine and regulations; and
4. Extend the gypsy moth quarantine (§ 301.45(b)) to all outdoor household articles, and prohibit the interstate movement from high-risk gypsy moth areas into or through nonregulated areas of any outdoor household articles unless it is found free of any life stage of the gypsy moth or is accompanied by a document which indicates that the outdoor household articles have been inspected and/or treated by an individual approved by the Department.

The alternative adopted in this regulation was alternative number 4. Alternative numbers 1 through 3 were not chosen for the following reasons:

Alternative number 1 was not chosen because of the significant pest risk posed by movement of all outdoor household articles from gypsy moth high-risk areas and because of evidence that the present regulatory scheme is not preventing the artificial spread of the gypsy moth to nonregulated areas by outdoor household articles.

Alternative number 2 was not chosen because of the present lack of available inspectors to perform the number of inspections that would be required. As a result, the overall cost of hiring additional inspectors to implement this alternative outweighed the anticipated benefits to the general public and Federal government.

Alternative number 3 was not chosen because rescinding the gypsy moth quarantine and regulations would unnecessarily place the full burden of regulating the artificial spread of gypsy moth on the States. It is believed that some States would not have adequate funds to enact a quarantine and enforce regulations. Thus, the significant pest risk posed by the movement of outdoor household articles from gypsy moth high-risk areas would remain. Further, there is a concern that adoption of alternative number 3 could result in lack of uniformity among State regulations.

Alternative number 4 was adopted for this regulation because it is necessary to take some regulatory action to prevent the artificial spread of gypsy moth to nonregulated areas by outdoor household articles moving from high-risk gypsy moth areas. Additionally, it appears that alternative number 4 is more cost effective than alternative numbers 1 and 2 because the benefits of implementing alternative number 4 are greater than the costs. Alternative number 4 also appears to be a less restrictive regulatory action than alternative numbers 1 and 2 since it provides individuals moving outdoor household articles interstate from high-risk gypsy moth areas into or through nonregulated areas with the option of self-inspection.

The Department also considered whether to regulate the outdoor household articles of vacationers, and decided to exempt from the regulations the outdoor household articles of vacationers to gypsy moth high-risk areas. This was because the Department has determined that the risk of the artificial interstate spread of gypsy moth from the movement of outdoor household articles of vacationers to gypsy moth high-risk areas is unlikely. It appears that most vacationers do not carry outdoor household articles with them, and if they do, the outdoor household articles do not remain stationary for a sufficient time, considering the habits of the gypsy moth

laying eggs, to make infestation likely. Also, it appears to be very unlikely that the vacationers would be in such an area while the gypsy moth was present. Further, the movement from gypsy moth high-risk areas of recreational vehicles (from which there is a greater risk of the artificial spread of gypsy moth) is presently regulated by § 301.45–3 of the regulations.

Certification Under the Regulatory Flexibility Act

Mr. Bert W. Hawkins, Administrator of the Animal and Plant Health Inspection Service, has determined that this action would not have a significant economic impact on a substantial number of small entities. There are approximately 750 commercial carriers that move household articles out of the generally infested areas of the northeastern United States. Although approximately 90 percent of these carriers are small entities ($1,000,000 or less annual income), the estimated annual cost of this action to all these entities would be $100,000. Since this cost will be spread among all of the small entities, there would not be a significant economic impact on any single small entity.

Background

In a document published in the **Federal Register** on June 23, 1983 (48 FR 28646–28652), the Animal and Plant Health Inspection Service proposed to amend the Gypsy Moth and Browntail Moth Quarantine and Regulations (7 CFR 301.45 *et seq.*) by providing for the regulation of all outdoor household articles, except outdoor household articles of vacationers to gypsy moth high-risk areas, moved interstate from gypsy moth high-risk areas into or through any nonregulated area. Specifically, the document of June 23, 1983, proposed prohibiting the movement of such outdoor household articles unless such articles were free of all life forms of gypsy moth at the time of the interstate movement from a gypsy moth high-risk area into or through a nonregulated area, or unless such outdoor household articles were accompanied by an OHA document issued by a qualified certified applicator within five days of the interstate movement from a gypsy moth high-risk area. The proposed regulations also provided a definition of the terms "qualified certified applicator" and "OHA document", and had provisions pertaining to the issuance of OHA documents, the accompaniment of an OHA document during the interstate movement, and the disqualification of a qualified certified applicator to issue OHA documents.

Comments

The Department received ten (10) written comments to the proposed rule. All of the comments supported the intent of the proposed rule, which is to prevent the artificial spread of gypsy moth into or through nonregulated areas. However, changes to the proposed rule were recommended in five (5) of the comments. These recommendations and the Department's response follows.

The proposed rule provided that the regulated outdoor household articles could be moved from a gypsy moth high-risk area into or through a nonregulated area if they were free of life forms of gypsy moth or if accompanied by an OHA document. This allowed, implicitly, a mover of outdoor household articles the option of self-inspection and treatment, or in the alternative, professional inspection, treatment and certification.

A state regulatory agency supported the concept of regulating outdoor household articles but opposed the concept of self-inspection. This comment recommended (1) requiring all outdoor household articles moving from a gypsy moth high-risk area into or through a nonregulated area to be accompanied by an OHA document, (2) requiring USDA to implement a comprehensive public information program and (3) requiring USDA to establish checkpoints along highways for spot checking movers. The concept of requiring all outdoor household articles to be accompanied by an OHA document, issued either by a qualified certified applicator or a USDA inspector, was also recommended by a commercial movers association. For reasons discussed below, no changes in the proposed regulations are made based on these comments.

The Department recognizes that the proposed regulation involves a regulatory approach which is different from the quarantine, inspection and certification procedures normally utilized. Further, the Department believes that the alternative recommended in these comments [i.e., requiring all regulated articles to be professionally inspected, treated, if necessary, and certified prior to movement interstate] is a desirable regulatory approach for other kinds of regulated articles. However, because of the unique nature of outdoor household articles as regulated article (and the attendant difficulty of enforcing a regulatory program that mandates inspection, treatment and certification of all outdoor household articles regardless of the circumstances of the individual mover) and because of the cost involved in implementing such a program, the Department believes that the better regulatory approach for outdoor household articles is the approach adopted in the proposed rule.

Regulating outdoor household articles of individuals is different from regulating other kinds of articles. First, it involves regulating individual movers not just an industry. Second, it involves regulating individuals moving outdoor household articles from widely diverse circumstances. For example, a person moving out of a gypsy moth high-risk area may live in an apartment building where outdoor household articles, such as grills or bicycles, are kept on balconies protected from trees and other areas where the gypsy moth would likely be found. Or, such person may live in a house where the same articles (bicycles or grills) are kept outside on a tree shaded patio or in a wooden shed where they are subjected to gypsy moth infestation. Further, the initial determination on whether an article is kept outside the home (and is, therefore, by definition an outdoor household article) must be made by the owner. These are all factors that make regulating outdoor household articles more complicated than other regulatory articles.

In addition to the unique nature of outdoor household articles, the cost of requiring professional inspection, treatment and certification had to be considered. First, it was determined that it would not be cost-effective for USDA to provide such inspections, treatments and certifications as a service to the moving public. This is because the projected expense of hiring additional personnel to conduct the inspections, treatments and certifications as a service to the public was estimated to be greater than the cost of eradicating isolated outbreaks of gypsy moth caused by moving infested outdoor household articles to noninfested areas.

Second, in considering the average cost to the mover of requiring inspection by a professional ($35 per visit), plus additional costs if treatment of the articles was required, it appears to be unnecessary and undesirable to impose this cost on all movers regardless of their situation.

It was considered unnecessary because, in fact, there are instances when movers are capable of inspecting their articles for gypsy moth themselves and determining that such articles are free of life forms of gypsy moth. In some instances restricted pesticides are not required in treating the articles when

life forms are found and, although an undesirable task, the mover is capable of removing the life forms of gypsy moth from the articles.

Recognizing, then, that there are instances when a mover is capable of ensuring that the outdoor household articles are free of life forms of gypsy moth and, therefore, that the paid services of a professional to inspect and treat are not always necessary, consideration was given to whether it was necessary to the successful implementation of the regulation that professional certification [that the articles were free of life forms of gypsy moth] be required in all instances. In this regard, an important consideration to the Department in deciding what regulatory approach to take was a recognition that public acceptance of the regulation was important to its successful implementation. It is believed that greater public cooperation can be obtained through the alternative chosen in the proposed rule [where individuals have the option to self-inspect or to obtain the services of a professional] rather than mandatory inspection, treatment, and importantly, certification by a professional regardless of the circumstances of the individual.

Therefore, for the reasons discussed above, the Department determined that at this time, the better regulatory approach was that described in the proposed rule. However, if it is determined at a later date that this approach is not effective, the Department will reconsider promulgating a regulation that requires professional inspection, treatment and certification in all instances.

Note that the provision allowing self-inspection does *not* relieve the mover of the outdoor household articles of the responsibility for inspection or, if necessary, treatment. Rather, this provision imposes the responsibility on the individual who self-inspects to ensure that all of the outdoor household articles self-inspected are free of all life forms of the gypsy moth when moved interstate. As discussed in the proposed rule (48 FR 28649), civil and criminal penalties may be imposed upon persons who violate the regulations by moving interstate to nonregulated areas outdoor household articles with life forms of gypsy moth without obtaining an OHA document. Further, as discussed in the proposed rule, the Department believes that a comprehensive public education program is very important to the success of these regulations (48 FR 28649) and intends to implement a comprehensive public education program to make the public aware of the purpose and requirements of any regulations adopted by the Department.

There is no guarantee that requiring an OHA document on all outdoor household articles moved from a gypsy moth high-risk area will necessarily ensure a higher degree of regulatory compliance than will be achieved under the provisions of the proposed regulation. In fact, because of the diverse circumstances surrounding movements of outdoor household articles, such a mandate could arguably cause more public resentment and less voluntary cooperation than the provisions of the proposed rule simply because the public would be required to bear the expense of a professional inspection and, possibly, treatment of outdoor household articles which might be perceived by the public as something they could do themselves. It is, of course, in the self-interest of the owner to move only outdoor household articles that are free of life forms of gypsy moth since it, in all probability, will be the owner's new premises that will be infested first if the gypsy moth is moved.

It is unnecessary to spell out in the regulations the Department's commitment to a public education program or to the establishment of highway checkpoints since the purpose of these regulations is advise the public of the requirements imposed on them when they move outdoor household articles from gypsy moth high-risk areas to or through nonregulated areas. However, as mentioned elsewhere, the Department intends to implement a comprehensive public education program and enforce these regulations as funding allows.

Section 301.34–1(u) of the proposed regulations defined "qualified certified applicator" as a person who is certified as a "commercial applicator" under Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) (86 Stat. 983; 7 U.S.C. 136b) and who has attended and completed a workshop segment on the identification and treatment of gypsy moth and outdoor household articles.

Comments were submitted recommending that the definition of "qualified certified applicator" be limited to commercial applicators certified in the Forest and Ornamental Pest Management category or, in the alternative, to those categories of certified applicators that are allowed to use the restricted pesticides recommended for use by the Department in treatment of gypsy moth. A clarification in the definition of "qualified certified applicator" (Section 301.45–1(u)) is made in the final rule based on these comments.

In developing the proposed rule, the Department considered limiting the class of persons eligible to become approved certified applicators to persons certified under FIFRA in the Forest and Ornamental Pest Management category (or the equivalent category in each state). In discussions with representatives from various states that have designated high-risk gypsy moth areas, however, the Department found that there was a demand in some states to allow persons in other categories beside the Forest and Ornamental Pest Management category to be eligible for approval so that the public would have access to a large pool of available approved certified applicators. The Department agreed with this point of view, and the definition in the proposed rule of "qualified certified applicator" allowed anyone who was a certified commercial applicator under FIFRA (regardless of the category) to be eligible for approval as a qualified certified applicator.

However, the Department's primary concern in approving persons as eligible to issue OHA documents has always been to approve only those persons who were certified under FIFRA to use the restricted pesticides specifically recommended by USDA in the treatment of outdoor household articles for gypsy moth. Further, it appears that each certification category under FIFRA approves the use of only certain restricted pesticides. Thus, the pesticides approved for use in one category may not be the pesticides approved for use in another category. Therefore, the Department's stated objective can be achieved only by allowing those persons certified in specific categories that allow the use of the Department's recommended pesticides to be eligible for approval as a qualified certified applicator. Moreover, since certification as a commercial applicator is done in most States by the State and not by the Federal Government, and since the categories of commercial certification can vary from State to State, specific categories under FIFRA cannot be named.

Therefore, § 301.45–1(u) of the regulations is being revised in the final rule to clarify the Department's purpose that individuals must be certified under FIFRA in a category that allows them to use the specific restricted pesticides recommended by USDA for treatment of outdoor household articles. This is being done by adding the phrase "in a category allowing use of the restricted pesticides recommended for use in the treatment of outdoor household articles

for gypsy moth as provided for in Attachment A of the Appendix to Subpart—Portion of Gypsy Moth and Browntail Moth Program Manual" following the term certified commercial applicator in the definition of Qualified Certified Applicator.

The requirement that such persons attend and complete a workshop on gypsy moth and outdoor household articles is retained since the Department wants to be assured that such certified commercial applicators can recognize and can treat the particular problems of the gypsy moth and outdoor household articles—especially if someone is certified in a category that doesn't usually require treatment for problems relating to gypsy moth.

Several comments were submitted expressing concerns and requesting clarification of the potential liability of commerical shippers who move outdoor household articles interstate without OHA documents from gypsy moth high-risk areas. Specifically, questions were raised about possible delays en route (and attendant economic costs) if outdoor household articles were moved interstate to or through a nonregulated area without an OHA document. A comment also recommended amending the regulations so as to distinguish between commercial shippers who are "movers" and owners of outdoor household articles who are "movers", such that the responsibility of inspection, treatment and certification would lie solely on the owner of the outdoor household articles. For reasons discussed below, no changes to the proposed rule are made based on these comments.

As discussed above and in the proposed rule (48 FR 28647), there is a serious problem of spreading gypsy moth to nonregulated areas through the movement of outdoor household articles. As such, the Department believes from a regulatory point of view that it has correctly placed the responsibility to prevent the movement of gypsy moth to nonregulated areas on *all* parties who move such articles out of gypsy moth high-risk areas. Since it is projected that at least 60% of all regulated household moves will be made through commercial movers, the Department wanted to make sure that commercial movers did not unintentionally aid in the movement of gypsy moth infested outdoor household articles. Moreover, the language in section 8 of the Federal Plant Quarantine Act (7 U.S.C. 161) prohibits any common carrier from receiving for transportation or transporting any article that is capable of carrying any dangerous plant disease.

The Department believes that the policy objective underlying the language of the proposed rule can be achieved without placing an undue burden on commercial movers. Specifically, although a commercial mover may, if desired, self-inspect the outdoor household articles for gypsy moth or may make available the services of an approved certified applicator to ensure that an OHA document is obtained, the Department anticipates that it will normally be the owner who will obtain the inspection and treatment (whether self-inspected or through the services of a professional). This is because it is usually the owner who is in the best position to determine what articles are outdoor household articles and whether professional inspection and certification is desired. The commercial shipper, on the other hand, can refuse to accept outdoor household articles for interstate movement unless the owner presents the shipper with an OHA document or otherwise verifies that the outdoor household articles have been inspected and are free of life forms of gypsy moth. This will protect the commercial shipper from having to physically unload en route so the outdoor household articles can be inspected since the Department has no intention of inspecting, seizing or quarantining outdoor household articles carried by commercial movers unless there is probable cause to believe that such articles are moving out of gypsy moth high-risk areas, have not been inspected and treated and, therefore, may be carrying life forms of the gypsy moth. Therefore, as stated above, if an owner refuses to supply a commercial shipper with an OHA document or to verify that the articles have been self-inspected and are free of life forms of gypsy moth, then a commercial shipper has the option of inspecting the articles himself, of obtaining an OHA document, or of refusing to accept outdoor household articles for shipment.

The Department intends to work closely with the moving industry in advising them, as well as other members of the moving public, of the geographic areas that are designated as gypsy moth high-risk, of the requirements for moving outdoor household articles interstate to nonregulated areas, and where to go to obtain an OHA document if professional certification is desired. This is also information that the moving industry can, if it chooses, distribute along with other information routinely distributed to their customers before the driver arrives to pick up the household goods.

Proposed § 301.45–14(a)(3) requires that approved commercial applicators attend and complete a retraining workshop segment on outdoor household articles and gypsy moth when recertified under FIFRA. A comment was received recommending that this retraining requirement for approved commercial applicators in proposed § 301.45–14(a)(3) be deleted from the recertification process under FIFRA. There was concern that if these requirements were tied into the recertification program under FIFRA it would be an additional burden to an already complicated and time-consuming process. Further, this recertification process under FIFRA varies from State to State. The Department agrees with this recommendation. The Department has also reevaluated the need for such retraining and concluded that it is not necessary to require retraining of such persons whenever a person is recertified under FIFRA. This is because it appears that information on new pesticides will be presented to the commercial certified applicator in any recertification process required by FIFRA and it appears that information on identifying and treating outdoor household articles for gypsy moth needs only to be presented once. Therefore, proposed § 301.45–14(a) is being revised in the final rule by deleting paragraph (3). However, if the Department finds, at a later date that, for operational reasons, some kind of a workshop is needed when persons become reapproved as qualified certified applicators, these regulations will be amended accordingly.

Further, subparagraph (b) in proposed § 301.45–12 requires copies of OHA documents issued by qualified certified applicators to be sent to the plant regulatory officials for the State or Jurisdiction in which the document was issued and to the State or Jurisdiction of destination. The Department has reconsidered the necessity of requiring that copies of such documents be sent to such officials. It has been determined that it does not appear to be necessary to take this action in order to prevent the spread of gypsy moth or for monitoring the issuance of OHA documents by qualified certified applicators. Therefore, this provision is being deleted in the final rule. However, if it is determined at a later date that such action is necessary, the Department will consider amending these regulations to include such a provision.

Lastly, two comments stated that the Department had unintentionally, substantially under-estimated the annual cost of this action upon small business entities. The Department disagrees with these comments. The

Department's estimated cost of this action on small entities is primarily based upon figures and information supplied by the industry. The Department has not received any additional information to establish that those figures and information are not accurate. Furthermore, the additional costs the comments referred to appear to be based on delays for inspection caused by noncompliance with the regulations. It is true that the Department's estimated cost does not include costs incurred by delays due to noncompliance with the regulations. In this regard, the Department believes that the regulations do not place an undue burden on the industry and that the Regulatory Flexibility Act does not require consideration of costs incurred due to noncompliance.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases, Plant pests, Plants (agriculture), Quarantine, Transportation, Gypsy moth.

Accordingly, the gypsy moth and browntail moth quarantine and regulations (7 CFR 301.45 *et. seq.*) are amended as follows:

PART 301—DOMESTIC QUARANTINE NOTICE

§ 301.45 [Amended]

1. In § 301.45(b), the words "and outdoor household articles" are inserted after the words "regulated articles" in the title and language of such section.

§ 301.45–1 [Amended]

2. In § 301.45–1, paragraphs (g) through (s) are redesignated as paragraphs (h) through (t), and a new paragraph (g) is added which reads as follows:

* * * * *

(g) *OHA document.* A document issued for the interstate movement of outdoor household articles by a qualified certified applicator which contains the following information:

(1) Name and address of mover of outdoor household article covered by the OHA document;

(2) Address where outdoor household article was inspected and/or treated;

(3) Destination address of outdoor household article,

(4) Identity of each outdoor household article covered by the OHA document;

(5) Date of inspection, and if applicable, date and type of treatment applied to outdoor household article and date OHA document expires;

(6) Statement by the qualified certified applicator who issued the OHA document that (i) he/she has inspected, or that the inspection was performed under his/her direct supervision, and any outdoor household article listed thereon was found to be free of any life stage of the gypsy moth, or (ii) that any such outdoor household article was treated by or under the direct supervision of the qualified certified applicator to destroy any life stage of gypsy moth, in accordance with the methods and procedures prescribed in the section III.C.5 of the Appendix to Subpart ("Treatment of Outdoor Household Articles"); and

(7) Name, address, signature and company name, if applicable, of the certified applicator issuing the OHA document.

* * * * *

3. In § 301.45–1(v)(1)(iii) and 301.45–1(l)(v), the phrase "(unless moved as an outdoor household article)" is added following the words "firewood" and "Recreational vehicles and associated equipment", respectively.

4. In § 301.45–1(v)(3) the phrase "(e.g., outdoor household articles)" is deleted.

5. In § 301.45–1 paragraphs (t) through (z) are redesignated as paragraphs (v) through (aa), and a new paragraph (u) is added to read as follows:

* * * * *

(u) *Qualified certified applicator.* Any individual who is (1) certified pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (86 Stat. 983; 7 U.S.C. 136b) as a certified commercial applicator in a category allowing use of the restricted pesticides recommended for use in the treatment of outdoor household articles for gypsy moth in section III.C.5 of the Appendix to Subpart—"Portion of Gypsy Moth and Browntail Moth Program Manual"; and (2) who has attended and completed a workshop segment approved by the Deputy Administrator on the identification and treatment of gypsy moth life stages on outdoor household articles.[1]

6. In § 301.45–1 a new paragraph (bb) is be added to read as follows:

* * * * *

(bb) *Under the direct supervision of a qualified certified applicator.* An inspection or treatment shall be considered to be applied under the direct supervision of a qualified certified applicator if the inspection or treatment is performed by a competent person acting under the instructions and control of a qualified certified applicator who is available if and when needed, even though such qualified certified applicator is not physically present at the time and place the inspection or treatment occurred.

§ 301.45–8 [Amended]

7. In § 301.45–8 the words ", outdoor household articles" is added in the title and in the language of such section following the words "regulated articles."

Subpart—Gypsy Moth and Browntail Moth [Amended]

8. Footnotes one (1) through six (6) and references thereto are redesignated as two (2) through seven (7) respectively and a new footnote one (1) is added to read as follows:

* * * * *

[1] Names of qualified certified applicators and plant regulatory officials for the States and Territories of the United States are available upon request from the Technology Analysis and Development Staff, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 600 Federal Building, Hyattsville, MD 20782.

9. A new § 301.45–11 is added to read as follows:

§ 301.45–11 Conditions governing the interstate movement of outdoor household articles from quarantined States.[6]

(a) No outdoor household article shall be moved interstate from a gypsy moth high-risk area into or through any nonregulated area unless:

(1) Such outdoor household article is free from all life stages of the gypsy moth at the time ot the interstate movement; or

(2) such outdoor household article is accompanied by an OHA document issued by a qualified certified applicator in accordance with the provisions of § 301.45–12 and 301.45–13 within five calendar days of the interstate movement from a gypsy moth high-risk area; or

(3) Such outdoor household articles are brought in by vacationers to the gypsy moth high-risk areas.

10. A new §301.45–12 is added to read as follows:

§301.45–12 Issuance of OHA document.

(a) An OHA document may be issued by a qualified certified applicator for the interstate movement of any outdoor household article if such qualified certified applicator determines the following:

(1) That the outdoor household article has been inspected by or under the direct supervision of the qualified certified applicator and found to be free of any life stage of the gypsy moth; or

(2) that the outdoor household article has been treated by or under the direct supervision of the qualified certified applicator to destroy any life stage of the gypsy moth in accordance with methods and procedures prescribed in

section III.C.5 of the Appendix to Subpart ("Treatment of Outdoor Household Articles").

11. A new § 301.45–13 is added to read as follows:

§ 301.45–13 Attachment of OHA document.

(a) An OHA document used in the interstate movement of any outdoor household article shall, at all times during such movement, accompany the vehicle carrying such outdoor household article.

(b) The OHA document covering the movement of outdoor household articles shall be furnished by the carrier to the consignee at the destination of the shipment.

12. A new §301.45–14 is added which reads as follows:

§ 301.45–14 Disqualification of qualified certified applicator to issue OHA documents.

(a) Any qualified certified applicator may be disqualified from issuing OHA documents by the Deputy Administrator if he determines that one of the following has occurred:

(1) Such person is not certified by a State and/or Federal Government as a commercial certified applicator under FIFRA in a category allowing use of the restricted pesticides recommended for use in treating outdoor household articles for gypsy moth as provided in section III.C.5 of the Appendix to the Subpart—Portion of "Gypsy Moth and Browntail Moth Program Manual"; or

(2) Noncompliance with any of the provisions of this subpart

(b) The disqualification is effective upon oral or written notification, whichever is earlier. The reasons for the disqualification shall be confirmed in writing as promptly as circumstances permit, unless contained in the written notification. Any qualified certified applicator who is disqualified from issuing OHA documents may appeal the decision in writing to the Administrator within ten (10) days after receiving written notification of the disqualification. The appeal shall state all of the facts and reasons upon which the person relies to show that the disqualification was a wrongful action. The Administrator shall grant or deny the appeal, in writing, stating the reasons for his decision as promptly as circumstances permit. If there is a conflict as to any material fact, a hearing shall be held to resolve such conflict. Rules of practice concerning such a hearing will be adopted by the Administrator.

Appendix—[Amended]

13. In the authorization section of the Appendix to Subpart—Portion of "Gypsy Moth and Browntail Moth Program Manual" a new sentence would be added after the third sentence and before the fourth sentence to read as follows:

* * * Procedures outlined in section III.C.5 are administratively authorized for the treatment of outdoor household articles by approved certified applicators.* * *

14. A new subpart III.C.5, "Treatment of Outdoor Household Articles" would be added to section III, "Regulatory Procedures", found in the Appendix to Subpart—Portion of "Gypsy Moth and Bowntail Moth Program Manual" to read as described in Attachment A.

(Secs. 8 and 9, 37 Stat. 318; as amended, secs. 105 and 106, 71 Stat. 33; 7 U.S.C. 161, 162, 150dd, 150ee, 37 FR 28464, 28477, as amended; 38 FR 19141)

Done at Washington, D.C. this 26th day of August 1983.

Harvey L. Ford,

Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

Attachment A (III.C.5) Treatment of Outdoor Household Articles

The chemicals authorized for treatment of outdoor household articles, in accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 *et seq.*), are regulated by the Environmental Protection Agency for use against gypsy moth and must be applied according to the label directions and the following instructions.

Treatments (A, B, C, D)	Approved for these GM life stages	Limitations	Special instructions
Remove the infestation by hand	Egg mass caterpillar pupa (cocoon) adult.	*None—use this treatment for most situations*—use pesticides only when hand removal is *not* practical.	If there is an opportunity for the pest to reinfest the household goods: 1. Destroy the gypsy moth life stage by crushing or soaking in fuel oil; 2. Store the household goods inside or safeguard them from reinfestation.
Spray N Kill; gypsy moth egg mass killer (EPA Registration No. 8730–30).	Egg mass only (see limitations)	For the best results, apply within 2 weeks of the date you anticipate egg hatch—never apply this more than 30 days before hatch. See label for additional instructions and follow them precisely.	If the water pH is more than 5, add teaspoons of vinegar until the pH reads 5 then add Spray N Kill to the water—safeguard items in situations where they may become reinfested before the move.
Ficam W (EPA Registration No. 45639–1).	Egg mass only (see limitations)	Apply within *21* days of anticipated egg hatch—see label for additional instructions and follow them precisely.	Don't spray Ficam where electrical short circuits might result—safeguard items in situations where they may become reinfested before the move.
Orthene tree and ornamental spray	Caterpillar only	*Use only on caterpillars* see label for additional instructions and follow them precisely.	Safeguard items in situations where they may become reinfested before the move.

Notice.—Where trade names are used, no discrimination and no endorsement is intended or implied by the USDA, APHIS, PPQ.

[FR Doc. 83–23900 Filed 8–31–83; 8:45 am]

BILLING CODE 3410–34–M

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Reg. 315]

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period September 2–September 8, 1983. Such action is needed to provide for orderly marketing of fresh Valencia oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: September 2, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, 202–447–5975.

SUPPLEMENTARY INFORMATION:

Findings

This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action

will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona Valencia orange crop for the benefit of producers and will not substantially affect costs for the directly regulated handlers.

This regulation is issued under the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Markeing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendation and information submitted by the Valencia Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy for 1982–83. The marketing policy was recommended by the committee following discussion at a public meeting on February 22, 1983. The committee met again publicly on August 30, 1983 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of Valencia oranges deemed advisable to be handled during the specified week. The committee reports the demand for Valencia oranges is improving.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared policy of the Act to make this regulatory provision effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 908

Marketing agreements and orders, California, Arizona, Oranges (Valencia).

PART 908—[AMENDED]

1. Section 908.615 is added as follows:

§ 908.615 Valencia orange regulation 315.

The quantities of Valencia oranges grown in California and Arizona which may be handled during the period September 2, 1983 through September 8, 1983, are established as follows:

(a) District 1: 470,000 cartons;
(b) District 2: 530,000 cartons;
(c) District 3: Unlimited cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: August 31, 1983.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83–24257 Filed 8–31–83; 11:43 am]

BILLING CODE 3410–02–M

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7 CFR Part 1076

Milk in the Eastern South Dakota Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This action suspends for the months of August 1983 through February 1984 the provisions of the Eastern South Dakota milk order that limit the amount of milk not needed for fluid (bottling) use that may be moved directly from farms to nonpool manufacturing plants and still be priced under the order. The suspension was requested by Land O'Lakes, Inc., a cooperative association representing most of the producers supplying the market. The suspension is needed to prevent uneconomic movements of milk.

EFFECTIVE DATE: September 1, 1983.

FOR FURTHER INFORMATION CONTACT: Robert F. Groene, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–2089.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Proposed Suspension: Issued August 5, 1983; published August 11, 1983 (48 FR 36467).

This action has been reviewed under USDA procedures established to implement Executive Order 12291 and has been classified as a "non-major" action.

It has been determined that the need for suspending certain provisions of the order on an emergency basis precludes following certain review procedures set forth in Executive Order 12291. Such procedures would require that this document be submitted for review to the Office of Management and Budget at least 10 days prior to its publication in the **Federal Register**. However, this would not permit the completion of the required suspension procedures in time to include August 1983 in the requested suspension period. The initial request for the action was received on July 28, 1983. A notice of proposed suspension was issued on August 5, 1983, inviting interested parties to comment on the proposed action by August 17, 1983.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. This action lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and of the order regulating the handling of milk in the Eastern South Dakota marketing area.

Notice of proposed rulemaking was published in the **Federal Register** on August 11, 1983 (48 FR 36467) concerning a proposed suspension of certain provisions of the order. Interested parties were afforded opportunity to file data, views, and arguments thereon. No comments were received in opposition to the proposed suspension.

After consideration of all relevant material, including the proposal in the notice and other available information, it is hereby found and determined that for the months of August 1983 through February 1984 the following provisions do not tend to effectuate the declared policy of the Act:

In § 1076.13, paragraphs (c) (2) and (3).

Statement of Consideration

This action makes inoperative for August 1983 through February 1984 the limit on the amount of producer milk that a cooperative association or other handlers may divert from pool plants to nonpool plants. The order now provides that a cooperative association may divert up to 35 percent of its total member milk received at all pool plants or diverted therefrom during the months of August through February. Similarly, the operator of a pool plant may divert up to 35 percent of its receipts of producer milk (for which the operator of such plant is the handler during the month) during the months of August through February.

The suspension was requested by Land O'Lakes, Inc., a cooperative

association that supplies most of the market's fluid milk needs and handles most of the market's reserve milk supplies. The suspension is necessary because milk supplies in the Eastern South Dakota milkshed in 1983 are approximately 11 percent higher than one year ago. In addition, the market's fluid milk sales in 1983 are unchanged from 1982. Furthermore, a large bottling operation, an outlet for substantial volumes of producer milk in this market, closed in August. Consequently, the cooperative's reserve milk supplies during August 1983 through February 1984 will exceed the quantity of producer milk that may be diverted to nonpool manufacturing plants under the order's present diversion limitations. In the absence of this suspension, some of the milk of the cooperative's member producers who have regularly supplied the fluid market would have to be moved, uneconomically, first to pool plants and then to nonpool manufacturing plants in order to continue producer status for such milk during August 1983 through February 1984.

In view of these circumstances, it is concluded that the aforesaid provisions should be suspended to ensure the orderly marketing of milk supplies. The suspension will provide greater flexibility in the handling of the market's reserve milk supplies and thus prevent uneconomic movements of some milk through pool plants merely for the purpose of qualifying it for producer milk status under the order.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions and to assure the orderly marketing of milk in the affected and adjoining marketing areas;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded an opportunity to file written data, views or arguments concerning this suspension. No views opposing this suspension were received.

Therefore, good cause exists for making this order effective upon publication in the Federal Register.

List of Subjects in 7 CFR Part 1076

Milk marketing orders, Milk, Dairy products.

It is therefore ordered, That the aforesaid provisions in § 1076.13 of the order are hereby suspended for August 1983 through February 1984.

Effective Date: September 1, 1983.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Signed at Washington, D.C. on: August 26, 1983.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 83-23994 filed 8-31-83; 8:45 am]

BILLING CODE 3410-02-M

FEDERAL RESERVE SYSTEM

12 CFR Part 217

[Docket No. R-0480]

Interest on Deposits; Regulation Q; Temporary Suspension of Early Withdrawal Penalty

AGENCY: Federal Reserve System.

ACTION: Temporary suspension of the Regulation Q early withdrawal penalty.

SUMMARY: The Board of Governors, acting through its Secretary, pursuant to delegated authority, has suspended temporarily the Regulation Q penalty for the withdrawal of time deposits prior to maturity from member banks for depositors affected by Hurricane Alicia in the Texas counties of Brazoria, Chambers, Fort Bend, Galveston, Harris, and Matagorda.

EFFECTIVE DATE: August 19, 1983.

FOR FURTHER INFORMATION CONTACT: Daniel L. Rhoads, Attorney (202/452-3711), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: On August 18, 1983, pursuant to section 301 of the Disaster Relief Act of 1974 (42 U.S.C. 5141) and Executive Order 12148 of July 15, 1979, the President, acting through the Director of the Federal Emergency Management Agency, designated the Texas counties of Brazoria, Chambers, Fort Bend, Galveston, Harris, and Matagorda major disaster areas. The Board regards the President's action as recognition by the Federal government that a disaster of major proportions had occurred. The President's designation enables victims of the disaster to qualify for special emergency financial assistance. The Board believes it appropriate to provide an additional measure of assistance to victims by temporarily suspending the Regulation Q early withdrawal penalty (12 CFR 217.4(d)). The Board's action permits a member bank, wherever located, to pay a time deposit before maturity without imposing this penalty upon a showing that the depositor has suffered property or other financial loss in the disaster areas as a result of Hurricane Alicia beginning on or about August 18, 1983. A member bank should obtain from a depositor seeking to withdraw a time deposit pursuant to this action a signed statement describing fully the disaster-related loss. This statement should be approved and certified by an officer of the bank. This action will be retroactive to August 19, 1983, and will remain in effect until 12 midnight, February 18, 1984.

List of Subjects in 12 CFR Part 217

Advertising, Banks, banking, Federal Reserve System, Foreign banking.

In view of the urgent need to provide immediate assistance to relieve the financial hardship being suffered by persons in the designated counties in Texas directly affected by Hurricane Alicia, good cause exists for dispensing with the notice and public participation provisions in section 553(b) of Title 5 of the United States Code with respect to this action. Because of the need to provide assistance as soon as possible and because the Board's action relieves a restriction, there is good cause to make this action effective immediately.

By order of the Board of Governors, acting through its Secretary, pursuant to delegated authority, August 26, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83-23975 Filed 8-31-83; 8:45 am]

BILLING CODE 6210-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 240 and 249

[Release No. 34-20121; File No. S7-965]

Exempt Credit; Rescission of Rules Requiring Reporting

AGENCY: Securities and Exchange Commission.

ACTION: Final rulemaking.

SUMMARY: The Commission is rescinding three rules and their related forms under the Securities Exchange Act of 1934 ("Act") which implement the exempt credit provisions of Regulation U under the Act. In addition, the Commission is adopting a single definitional rule, Rule 3b-8 under the Act, which defines certain terms necessary to the proper functioning of the exempt credit provisions administered by the Board of Governors of the Federal Reserve System ("FRB").

EFFECTIVE DATE: September 1, 1983.

FOR FURTHER INFORMATION CONTACT: William U. Uchimoto, (202) 272–2409, Room 5193, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION:

I. Background

Regulation U under the Act [1] regulates the extension of credit by banks to broker-dealers for the purpose of purchasing or carrying margin stocks. Pursuant to the over-the-counter ("OTC") Market Maker Exemption,[2] Qualified Third Market Exemption [3] and Block Positioner Exemption [4] of Regulation U, banks may extend credit exempt from the requirements of Regulation U to broker-dealers meeting the criteria of those exemptions ("exempt credit"), for the purpose of financing broker-dealer market making or block positioning activities. The exemptions, adopted by the FRB, require those seeking exempt credit to file reports "as required pursuant to a rule of the Commission." Accordingly, by 1972 the Commission had adopted Rules 17a–12,[5] 17a–16[6] and 17a–17,[7] and related Forms X–17A–12 (1) and (2), X–17A–16 (1) and (2), and X–17A–17, to oversee compliance with respect to those receiving exempt credit pursuant to Regulation U.

Specifically, Rule 17a–12 implements the provisions of the OTC Market Maker Exemption of Regulation U. The Rule defines "OTC Market Maker" and requires a broker-dealer applying for OTC Market Maker exempt credit for any "OTC Margin Security" [8] to notify the Commission on Form X–17A–12(1) whenever it commences or ceases making a market in an OTC Margin Security. Moreover, should a broker-dealer receive OTC Market Maker exempt credit, it must report to the Commission the amount of such credit that it has outstanding at the end of the quarter on Form X–17A–12(2).

Rule 17a–16 implements the provisions of the Qualified Third Market Maker Exemption of Regulation U. The Rule defines the term "Qualified Third Market Maker" and requires a broker-dealer applying for Qualified Third Market Maker exempt credit on any security that is listed on a national securities exchange to notify the Commission of Form X–17A–16(1). Moreover, should a broker-dealer receive Qualified Third Market Maker exempt credit, it must report the amount of such credit that it has outstanding at the end of the quarter on Form X–17A–16(2).

Rule 17a–17 implements the provisions of the Block Positioner Exemption of Regulation U. The Rule defines "Block Positioner" and requires those broker-dealers applying for Block Positioner exempt credit to notify the Commission, and requires those receiving such credit to file Form X–17A–17 with the Commission. Form X–17A–17 requires a recipient of Block Positioner exempt credit to report, among other things, the amount of Block Positioner exempt credit that it held at the beginning and at the end of the quarter as well as the total amount of credit that was extended to it during the quarter.

II. Discussion

While the Commission believes that it is important that there be vigorous policing of exempt credit under Regulation U, the current scheme of regulation has proven to be costly and inefficient. In this respect, the Commission notes that the filing requirements of the rules impose a continuing financial cost on broker-dealers because they require frequent filings and some of the forms necessitate relatively lengthy quarterly calculations. The Commission believes that these compliance costs are no longer offset by any substantial regulatory benefits because compliance with the rules is primarily ensured through inspections by the Commission and self-regulatory organizations and is not dependent on routine use of the completed forms.

The Commission, however, was not in a position to rescind these rules and forms as long as Regulation U required broker-dealers applying for exempt credit to comply with Commission filing requirements. In this respect, at the request of the Commission, the FRB proposed amending Regulation U to remove the requirement that broker-dealers receiving exempt credit file reports with the Commission.[9] The FRB, also in response to a request by the Commission, proposed amending Regulation U to refer to a single Commission rule which would function solely to define the terms "Qualified OTC Market Maker," "Qualified Third Market Maker" and "Qualified Block Positioner" for the exempt credit provisions of Regulation U.[10]

To coincide with the FRB's amendments to Regulation U, on March 14, 1983 the Commission solicited comment on the proposed rescission of Rules 17a–12, 17a–16 and 17a–17, and related Forms X–17a–12 (1) and (2), X–17A–16 (1) and (2), and X–17A–17.[11] The Commission also on that date proposed Rule 3b–8 under the Act, which would define the terms "Qualified OTC Market Maker," "Qualified Third Market Maker" and "Qualified Block Positioner" for purposes of Regulation U.[12] The Proposal Release noted that, although the definitions contained in proposed Rule 3b–8 would be substantively identical to the definitions contained in Rules 17a–12, 17a–16 and 17a–17, Rule 3b–8 would contain certain minor language changes to reflect past amendments to Rule 15c3–1 under the Act.[13]

In response to the Commission's solicitation of comments, the Commission received one comment letter from the National Association of Securities Dealers, Inc. ("NASD").[14] In supporting the Commission's proposal, the NASD stated that the "cost of compliance with rules and regulations should be offset by substantial regulatory benefits"; and accordingly the NASD "concurs with the Commission's belief that the current reporting scheme under the existing rules is both costly and inefficient."

On July 22, 1983, the FRB adopted the proposed amendments to Regulation U.[15] Accordingly, the Commission is taking corresponding rulemaking action to rescind Rules 17a–12, 16, and 17, and their related forms, and adopt proposed Rule 3b–8.

III. Regulatory Flexibility Act Considerations

The Commission prepared Initial and Final Regulatory Flexibility analyses in accordance with 5 U.S.C. 603 regarding the rescissions of Rules 17a–12, 17a–16, and 17a–17, and the adoption of Rule

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[1] 12 CFR Part 221.

[2] 12 CFR 221.3(w).

[3] 12 CFR 221.3(y).

[4] 12 CFR 221.3(z).

[5] 17 CFR 240.17a–12. Rule 17a–12 was last amended in Securities Exchange Act Release No. 9762 (September 12, 1972), 37 FR 18717.

[6] 17 CFR 240.17a–16. Securities Exchange Act Release No. 9760 (September 12, 1972), 37 FR 18718.

[7] 17 CFR 240.17a–17. Securities Exchange Act Release No. 9761 (September 12, 1972), 37 FR 18720.

[8] An "OTC Margin Security" is defined in Regulation U as a security which is not listed on a national securities exchange and which is on a list published by the FRB.

[9] *See* proposed FRB rule change, Docket No. R–0458 (February 23, 1983), 48 FR 8470.

[10] *Id.*

[11] The Commission proposed rescinding these rules and forms in Securities Exchange Act Release No. 19595 (March 14, 1983), 48 FR 13194 ("Proposal Release").

[12] The Commission proposed Rule 3b–8 in the release proposing rescission of the rules and forms.

[13] 17 CFR 240.15c3–1.

[14] *See* letter to George Fitzsimmons, Secretary, SEC, from Gordon S. Macklin, President, NASD, dated May 6, 1983.

[15] *See FRB rule change, Docket No. R–0458 (July 22, 1983), 48 FR 35074.*

3b–8. No comments were received on the Commission's Initial Regulatory Flexibility Analysis. The Commission in the Final Regulatory Flexibility Analysis indicates that this Commission rulemaking will have a significant positive impact on a substantial number of small broker-dealers in that the filing burdens related to Rules 17a–12, 16 and 17, and their attendant forms will be eliminated without diminishing any regulatory benefits. A copy of the Analysis can be obtained by contacting William W. Uchimoto (202) 272–2409, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549.

IV. Effects on Competition

Section 23(a)(2) of the Act [16] requires the Commission, in adopting rules under the Act, to consider the anticompetitive effects of such rules, if any, and to balance any anticompetitive impact against the regulatory benefits gained in terms of furthering the purposes of the Act. The Commission has determined that this rulemaking reduces compliance burdens on the industry, is not anticompetitive, and does not sacrifice any regulatory benefits.

V. List of Subjects

17 CFR Part 240

Brokers, Confidential business information, Fraud, Reporting and recordkeeping requirements, Securities.

17 CFR Part 249

Brokers, Reporting and recordkeeping requirements, Securities.

VI. Text of the Rule Amendments

Accordingly, the Commission hereby amends Chapter II of Title 17 of the Code of Federal Regulations, pursuant to its authority under the Securities Exchange Act of 1934 [(15 U.S.C. 78a *et seq.*, as amended by Pub. L. No. 94–29 (June 4, 1975)], particularly Sections 2, 3, 11, 15, 17 and 23 thereof (15 U.S.C. 78b, 78c, 78k, 78*o*, 78q and 78w), as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

§§ 240.17a–12, 240.17a–16 and 240.17a–17 [Removed]

1. By removing §§ 240.17a–12, 240.17a–16 and 240.17a–17.

2. By adding § 240.3b–8 to read as follows:

§ 240.3b–8 Definitions of "Qualified OTC Market Maker," "Qualified Third Market Maker" and "Qualified Block Positioner."

For the purposes of Regulation U under the Act (12 CFR 221):

(a) The term "Qualified OTC Market Maker" in an over-the-counter ("OTC") margin security means a dealer in any "OTC Margin Security" [as that term is defined in Section 2(j) of Regulation U (12 CFR 221.2(j)] who (1) is a broker or dealer registered pursuant to Section 15 of the Act, (2) is subject to and is in compliance with Rule 15c3–1 (17 CFR 240.15c3–1), (3) has and maintains minimum net capital, as defined in Rule 15c3–1, of the lesser of (i) $250,000 or (ii) $25,000 plus $5,000 for each security in excess of five with regard to which the broker or dealer is, or is seeking to become a Qualified OTC Market Maker, and (4) except when such activity is unlawful, meets all of the following conditions with respect to such security: (i) He regularly publishes bona fide, competitive bid and offer quotations in a recognized inter-dealer quotation system, (ii) he furnishes bona fide, competitive bid and offer quotations to other brokers and dealers on request, (iii) he is ready, willing and able to effect transactions in reasonable amounts, and at his quoted prices, with other brokers and dealers, and (iv) he has a reasonable average rate of inventory turnover in such security.

(b) The term "Qualified Third Market Maker" means a dealer in any stock registered on a national securities exchange ("exchange") who (1) is a broker or dealer registered pursuant to Section 15 of the Act, (2) is subject to and is in compliance with Rule 15c3–1 (17 CFR 240.15c3–1), (3) has and maintains minimum net capital, as defined in Rule 15c3–1, of the lesser of (i) $500,000 or (ii) $100,000 plus $20,000 for each security in excess of five with regard to which the broker or dealer is, or is seeking to become, a Qualified Third Market Maker, and (4) except when such activity is unlawful, meets all of the following conditions with respect to such security: (i) He furnishes bona fide, competitive bid and offer quotations at all times to other brokers and dealers on request, (ii) he is ready, willing and able to effect transactions for his own account in reasonable amounts, and at his quoted prices with other brokers and dealers, and (iii) he has a reasonable average rate of inventory turnover in such security.

(c) The term "Qualified Block Positioner" means a dealer who (1) is a broker or dealer registered pursuant to Section 15 of the Act, (2) is subject to and in compliance with Rule 15c3–1 (17 CFR 240.15c3–1), (30 has and maintains minimum net capital, as defined in Rule 15c3–1 of $1,000,000 and (4) except when such activity is unlawful, meets all of the following conditions: (i) He engages in the activity of purchasing long or selling short, from time to time, from or to a customer (other than a partner or a joint venture or other entity in which a partner, the dealer, or a person associated with such dealer, as defined in Section 3(a) (18) of the Act, participates) a block of stock with a current market value of $200,000 or more in a single transaction, or in several transactions at approximately the same time, from a single source to facilitate a sale or purchase by such customer, (ii) he has determined in the exercise of reasonable diligence that the block could not be sold to or purchased from others on equivalent or better terms, and (iii) he sells the shares comprising the block as rapidly as possible commensurate with the circumstances.

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

§§ 249.619, 249.620, 249.631, 249.632, and 249.633 [Removed]

3. By removing §§ 249.619, 249.620, 249.631, 249.632 and 249.633.

VII. Effective Date of the Amendments

Pursuant to Administrative Procedure Act, [17] the Commission finds good cause to waive the 30 day period between publication of the amendments and the effective date. In this respect, immediate effectiveness of the amendments (i) ensures that the recent amendments to Regulation U refer to an effective Commission rule and (ii) enables broker-dealer firms immediately to discontinue filing these forms, thereby reducing reporting burdens.

By the Commission.

Dated: August 26, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–23964 Filed 8–31–83; 8:45 am]

BILLING CODE 8010–01–M

[16] 15 U.S.C. 78 (a)(2).

[17] 5 U.S.C. 553(d)(3).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 524

Ophthalmic and Topical Dosage Form New Animal Drugs Not Subject to Certification; N-(Mercaptomethyl) Phthalimide S-(O, O-Dimethyl Phosphorodithioate) Emulsifiable Liquid

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of several supplements to a new animal drug application (NADA) filed by Zoecon Industries, Inc., providing labeling revisions for use in beef cattle of an emulsifiable liquid containing the pesticide *N*-(mercaptomethyl) phthalimide *S-(3O, O*-dimethyl phosphorodithioate). This amendment adds a new claim for controlling the Lone Star Tick (*Amblyomma americanum*), adds dipping as an alternative means of administration for hornfly control, adds new dilution rates, and modifies dip maintenance directions.

EFFECTIVE DATE: September 1, 1983.

FOR FURTHER INFORMATION CONTACT: Adriano R. Gabuten, Bureau of Veterinary Medicine (HFV–135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857; 301–443–4913.

SUPPLEMENTARY INFORMATION: Zoecon Industries, Inc., 12200 Denton Dr., Dallas TX 75234, is sponsor of NADA 98–895 which provides for use of an emulsifiable liquid containing 11.6 percent *N*-(mercaptomethyl) phthalimide *S*-(*O, O*-dimethyl phosphorodithioate). The product is administered topically as a dip, pour-on, or spray to control grubs, lice, hornflies, cattle ticks, Southern cattle ticks, and scabies mites on beef cattle. Zoecon filed several supplements to the NADA to revise the labeling to provide for the following changes in conditions of use: Addition of a dip method as an alternative to the spray procedure for hornfly control; addition of a claim for control of an additional tick species, Lone Star Tick; addition of a lower drug concentration of several approved dip, pour-on, and spray solutions; and modification of directions for maintenance of the dip.

The supplements to this NADA are approved and the regulations are amended to reflect the approval. The basis for approval is discussed in the freedom of information summary referred to below.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 524

Animal drugs, Topical.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), § 524.1742 is amended by revising paragraph (c) (1), (2), and (3) to read as follows:

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

§ 524.1742 N-(Mercaptomethyl) phthalimide S-(O, O-dimethyl phosphorodithioate) emulsifiable liquid.

* * * * *

(c) *Conditions of use*—(1) *Methods of application.* Methods of application to control the following conditions on beef cattle:

To control/method of use	Dilution rate (pt. drug: gal. of water)
Grubs:	
Dip	1:80
Pour-on	1:2
Spray	1:49
Lice:	
Dip	1:80
Pour-on	1:2 or 1:5
Spray	1:49 or 1:100
Hornflies:	
Dip	1:80
Spray	1:49 or 1:100
Cattle Ticks:	
Dip	1:80 or 1:240
Spray	1:49
Southern cattle ticks:	
Dip	1:80 or 1:240
Spray	1:49
Scabies mites:	
Dip	1:80
Lone Star Ticks:	
Dip	1:80
Spray	1:49 or 1:100

(i) *Dip vat procedure.* (*a*) Prior to charging vat, empty old contents and thoroughly clean the vat. Dip vats should be calibrated to maintain an accurate dilution. Add water, then drug to the vat according to the dilution rate indicated in the table. Add super phosphate at a rate of 100 pounds per 1,000 gallons of vat solution. Super phosphate is added to control the pH of the solution and ensure vat stability. Super phosphate is usually available at most fertilizer dealers as 0–45–0 or 0–46–0. Stir the dip thoroughly, preferably with a compressed air device; however, any form of thorough mixing is adequate. Re-stir vat contents prior to each use. During the dipping operation, each time the dip's volume is reduced by ⅛ to ¼ of its initial volume, replenish with water and add the drug at a rate of 1 gallon for each 50 or 200 gallons water added—depending on dilution rate 1:80 or 1:240. Also add super phosphate as necessary to maintain pH between 4.5 and 6.5. Stir well and resume dipping. Repeat replenishment process as necessary. For evaportion, add additional water accordingly. For added water due to rainfall, merely replenish dip with the product according to directions. If overflow occurs, either analyze for drug concentration and adjust accordingly or dispose of vat contents and recharge. Check pH after each addition of water or super phosphate to assure proper pH controls.

(*b*) *Dip maintenance.* (*1*) With use of dip vat tester, dipping may continue as long as the drug concentration is maintained between 0.15 and 0.25 percent, and the dip is not too foul for satisfactory use as indicated by foul odor or excessive darkening (i.e., color changes from beige to very dark brown).

(*2*) Without use of dip vat tester, vat should be emptied, cleaned, and recharged each time one of the following occurs: When the dip has been charged for 120 days; when the dip becomes too foul for satisfactory use, within the 120-day limit; if the number of animals dipped equals twice the number of gallons of the initial dip volume, within the 120-day limit.

(ii) *Spray method.* To prepare the spray, mix drug with water according to table and stir thoroughly. Apply the fresh mixture as a high-pressure spray, taking care to wet the skin, not just the hair. Apply to the point of "runoff," about 1 gallon of diluted spray per adult animal. Lesser amounts will permit runoff for younger animals.

(iii) *Pour-on method.* Dilute the drug with water according to table by slowly adding water to the product while stirring. Apply 1 ounce of the diluted

mixture per 100 pounds of body weight (to a maximum of 8 ounces per head) down the center line of the back.

(2) *Timing of applications for cattle grub control.* For optimum cattle grub control, it is important to treat as soon as possible after the heel fly season, before the grub larvae reach the gullet or spinal canal, as the rapid kill of large numbers of larvae in these tissues may cause toxic side effects, such as bloat, salivation, staggering, and paralysis.

(3) *Treatment regimens.* (i) Control of scabies mites requires two treatments, 10 to 14 days apart.

(ii) Control of Lone Star Ticks and hornflies requires two treatments, 7 days apart.

* * * * *

Effective date: September 1, 1983.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: August 26, 1983.

Richard A. Carnevale,

Deputy Associate Director, Bureau of Veterinary Medicine.

[FR Doc. 83-23670 Filed 8-31-83; 8:45 am]
BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 203, 213, and 234

[Docket No. R-83-1116]

Mortgage Insurance and Home Improvement Loans; Changes in Interest Rates

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: This change in the regulations decreases the maximum allowable interest rates on insured home mortgage programs. This action by HUD is designed to bring the maximum interest rates into line with other competitive market rates and help assure an adequate supply of and demand for FHA financing.

EFFECTIVE DATE: August 23, 1983.

FOR FURTHER INFORMATION CONTACT: James B. Mitchell, Acting Director, Office of Financial Management, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410 (202-426-4325).

SUPPLEMENTARY INFORMATION: The following miscellaneous amendments have been made to this chapter to increase the maximum interest rate which may be charged on loans insured by this Department. The maximum interest rate on HUD/FHA mortgage insurance programs has been lowered from 13.50 percent to 13.00 percent for level payment insured home mortgage programs (including operative builder home loan programs), and from 13.75 percent to 13.25 percent for graduated payment home loan programs (GPM). The Secretary has determined that such changes are immediately necessary to meet the needs of the market and to prevent speculation in anticipation of a change, in accordance with his authority contained in 12 U.S.C. 1709-1, as amended. The Secretary has, therefore, determined that advance notice and public comment procedures are unnecessary and that good cause exists for making this amendment effective immediately.

This is a procedural and administrative determination as set forth in the statutes and as such does not require a determination of environmental applicability.

List of Subjects in 24 CFR Parts 203, 213, and 234

Mortgage insurance.

Accordingly, Chapter II is amended as follows:

PART 203—MUTUAL MORTGAGE INSURANCE AND INSURED HOME IMPROVEMENT LOANS

Subpart A—Eligibility Requirements

1. In § 203.20, paragraph (a) is revised to read as follows:

§ 203.20 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 13.00 percent per annum, except that where an application for commitment was received by the Secretary before August 23, 1983, the mortgage may bear interest at the maximum rate in effect at the time of application.

* * * * *

2. In § 203.45, paragraph (b) is revised to read as follows:

§ 203.45 Eligibility of graduated payment mortgages.

(b) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 13.25 percent per annum, except that where an application for commitment was received by the Secretary before August 23, 1983, the mortgage may bear interest at the maximum rate in effect at the time of application.

* * * * *

3. In § 203.46, paragraph (c) is revised to read as follows:

§ 203.46 Eligibility of modified graduated payment mortgages.

* * * * *

(c) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 13.25 percent per annum, except that where an application for commitment was received by the Secretary before August 23, 1983, the mortgage may bear interest at the maximum rate in effect at the time of application.

* * * * *

PART 213—COOPERATIVE HOUSING MORTGAGE INSURANCE

Subpart C—Eligibility Requirements—Individual Properties Released From Project Mortgage

4. In § 213.511, paragraph (a) is revised to read as follows:

§ 213.511 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 13.50 percent per annum, except that where an application for commitment was received by the Secretary before August 23, 1983, the mortgage may bear interest at the maximum rate in effect at the time of application.

* * * * *

PART 234—CONDOMINIUM OWNERSHIP MORTGAGE INSURANCE

Subpart A—Eligibility Requirements—Individually Owned Units

5. In § 234.29, paragraph (a) is revised to read as follows:

§ 234.29 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 13.00 percent per annum, except that where an application for commitment was received by the Secretary before August 23, 1983, the mortgage may bear interest at the maximum rate in effect at the time of application.

* * * * *

6. In § 234.75, paragraph (b) is revised to read as follows:

§ 234.75 Eligibility of graduated payment mortgages.

* * * * *

(b) The mortgage shall bear interest at the rate agreed upon by the mortgagee

and the mortgagor, which rate shall not exceed 13.25 percent per annum, except that where an application for commitment was received by the Secretary before August 23, 1983, the mortgage may bear interest at the maximum rate in effect at the time of application.

* * * * *

7. In § 234.76, paragraph (c) is revised to read as follows:

§ 234.76 Eligibility of modified graduated payment mortgages.

* * * * *

(c) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 13.25 percent per annum, except that where an application for commitment was received by the Secretary before August 23, 1983, the mortgage may bear interest at the maximum rate in effect at the time of application.

* * * * *

(Sec. 3(a), 82 Stat. 113; 12 U.S.C. 1709–1; Section 7 of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d))

Dated: August 22, 1983.

Philip Abrams,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 83-23914 Filed 8-31-83; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 5-T83-07]

Special Local Regulations; Regatta; Elizabeth River Power Boat Race

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are adopted for the Elizabeth River Power Boat Race. This event will be held on the Elizabeth River, between the Norfolk and Portsmouth downtown areas. It will consist of 35 outboard powered boats 13 feet to 19 feet in length racing a triangular course at the junction of the Eastern and Southern branches of the Elizabeth River. The regulations are needed to provide for the safety of life on navigable waters during the event.

EFFECTIVE DATE: These regulations become effective at 1:00 pm, September 3, 1983 and terminate at 5:00 pm, September 3, 1983.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Duane I. Preston, Chief, Boating Affairs Branch, Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23705 (804–398–6204).

SUPPLEMENTARY INFORMATION: A notice of proposed rule making has not been published for these regulations and they are being made effective in less than 30 days from the date of publication. Following normal rule making procedures would have been impracticable. The application to hold the event was not received until August 4, 1983, and there was not sufficient time remaining to publish proposed rules in advance of the event or to provide for a delayed effective date.

Drafting Information: The drafters of this regulation are LCDR Duane I. Preston, project officer, Chief, Boating Affairs Branch, Fifth Coast Guard District, and LT Walter J. Brudzinski, project attorney, Fifth Coast Guard District Legal Office.

Discussion of Regulations: The following organizations are jointly sponsoring the Elizabeth River Power Boat Race:

1. Norfolk FESTEVENTS, INC.
2. City of Portsmouth.
3. Portsmouth Power Boat Association.

The event will consist of six (06) classes of boats running two (02) heats per class. Closure of the waterway for any extended period is not anticipated and thus commercial traffic should not be severely disrupted at any given time.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

PART 100—[AMENDED]

Regulations: In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended by adding a temporary § 100.35–502 to read as follows:

§ 100.35–502. Elizabeth River, Norfolk, Virginia.

(a) *Regulated Area.* The waters of the Elizabeth River and its branches from shore to shore, bounded by the Midtown tunnel on the north, the Downtown tunnel on the south, and the Berkley Bridge on the east.

(b) *Special Local Regulations.* Except for participants in the Elizabeth River Power Boat Race, or persons or vessels authorized by the Coast Guard Patrol Officer, no person or vessel may enter or remain in the above area. The operator of any vessel in the immediate vicinity of this area shall:

(1) Stop his vessel immediately upon being directed to do so by any Coast Guard officer or petty officer on board a vessel displaying a Coast Guard ensign, and

(2) Proceed as directed by any Coast Guard officer or petty officer.

(c) Any spectator vessel may anchor outside of the area specified in paragraph (a) of these regulations.

(d) The Coast Guard Patrol Officer is a commissioned officer of the Coast Guard who has been designated by the Commander, Fifth Coast Guard District. The Patrol Commander will be stationed at the West side of Otter Berth, Town Point Park.

(e) The Coast Guard Patrol Officer has been authorized to stop the race to allow the transit of backed up marine traffic through the regulated area.

(f) These regulations and other applicable laws and regulations will be enforced by Coast Guard officers and petty officers on board Coast Guard and private vessels displaying the Coast Guard ensign.

(46 U.S.C. 454; 49 U.S.C. 1655(b); 49 CFR 1.46(b); and 33 CFR 100.35)

Dated: August 19, 1983.

John D. Costello,

Rear Admiral, Coast Guard Commander, Fifth Coast Guard District.

[FR Doc. 83-24026 Filed 8-31-83; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 165

[COTP Baltimore, MD Reg. 83-11]

Safety Zone Regulations; Fort McHenry, Baltimore, Md.

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a safety zone at Fort McHenry, Baltimore, Maryland. The zone is needed to protect both spectators and participant craft from a safety hazard associated with a mock bombardment of the Fort by a U.S. Navy Destroyer and a fireworks display being held in conjunction with the 169th Annual Celebration of the Anniversary of the Battle of Baltimore (Defenders Day). Entry into this zone is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATE: This regulation becomes effective on September 11, 1983 at 8:00 pm. It terminates on September 11, 1983 at 8:45 p.m. unless sooner terminated by the Captain of the Port.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Larry H. Gibson, USCG Marine Safety Office, Custom House, Baltimore, Maryland 21202 (301) 962–5105.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was not published for this regulation and it is being made effective in less than 30 days from the date of publication. Publishing a NPRM and delaying the effective date of this safety zone would be contrary to the public interest since action is needed to safeguard watercraft and their occupants on the scheduled display date. It has been determined that this regulation is not a major rule in accordance with Executive Order 12291.

Drafting Information: The drafter of this regulation is Lieutenant John J. O'Brien, Jr., project officer for the Captain of the Port.

Discussion of Regulation: The event requiring this regulation will occur on September 11, 1983. This safety zone is necessary due to the hazards involved with the location of the display launch site and the flammable nature of the fireworks. This action will help prevent possible damage to watercraft and their occupants in the event of a stray pyrotechnic projectile.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

PART 165—[AMENDED]

Regulation: In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations, is amended by adding a new § 165.T511 to read as follows:

§ 165.T511 Safety Zone: Fort McHenry, Baltimore, Maryland.

(a) *Location.* The following area is a safety zone: A 300 yard radius seaward between the Fort McHenry channel range Front Light, approximate position 39°15'.8" N., 076°34'7" W. then following the shoreline in a southwesterly direction to the sourthern most tip of Ft. McHenry, approximate position 39°15'65" N., 076°35'.85" W.

(b) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port.

(33 U.S.C. 1225 and 1231; 49 CFR 1.46; 33 CFR 165.3)

Dated: August 19, 1983.

J. C. Carlton,

Captain, Coast Guard, Captain of the Port, Baltimore, MD.

[FR Doc. 83-24040 Filed 8-31-83; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 165

[COTP Baltimore, MD Reg. 83-12]

Safety Zone Regulations; U.S. Naval Academy, Severn River, MD

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a safety zone on the Severn River at Annapolis, Maryland, in the vicinity of the U.S. Naval Academy.

The zone is needed to protect watercraft from a possible safey hazard associated with the September 3rd fireworks display. Entry into this zone is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATE: This regulation becomes effective at 7:30 pm e.d.t., September 3, 1983. It terminates at 9:00 pm e.d.t., September 3, 1983.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander L. H. Gibson, USCG Marine Safety Office, Customhouse, Baltimore, MD, 21202, (301) 962-5105.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was not published for this regulation and it is being made effective in less than 30 days after Federal Register publication. Publishing a NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to safeguard watercraft and their occupants on the scheduled display date.

Drafting information: The drafter of this regulation is LCDR John F. Whiteley, project officer for the Captain of the Port, Baltimore, MD.

Discussion of regulation: The event requiring this regulation will occur on September 3, 1983. This safety zone is necessary due to the hazards involved with the location of the display launch site and the flammable nature of the fireworks. This action will prevent possible damage to watercraft and their occupants in the event of a stray pyrotechnic projectile.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

PART 165—[AMENDED]

Regulation

In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations, is amended by adding a new § 165.T0512 to read as follows:

§ 165.T0512 Safety Zone: Annapolis, Severn River, Maryland.

(a) Location. The following area is a safety zone: A 300 foot radius centered on a barge or barges located 150 yards northeast of Farragut Field, U.S. Naval Academy, on the Severn River, Approximate Position 38 59'10"N 76 28'30"W.

(b) Regulations:

(1) In accordance with the general regulations in Section 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port.

(33 U.S.C. 1225 and 1231; 49 CFR 1.46; 33 CFR 165.3)

Dated: August 24, 1983.

J. C. Carlton,

Captain, Coast Guard, Captain of the Port, Baltimore, Maryland.

[FR Doc. 83-24004 Filed 8-31-83; 8:45 am]

BILLING CODE 4910-14-M

POSTAL SERVICE

39 CFR Part 10

International Express Mail Service to Luxembourg, Macao and Sweden

AGENCY: Postal Service.

ACTION: Final action on International Express Mail Service to Luxembourg, Macao and Sweden.

SUMMARY: Pursuant to agreement with the postal administrations of Luxembourg, Macao and Sweden, the Postal Service intends to begin International Express Mail Service with Luxembourg, Macao and Sweden at postage rates indicated in the tables below. Service is scheduled to begin on October 1, 1983.

EFFECTIVE DATE: October 1, 1983.

FOR FURTHER INFORMATION CONTACT: Leon W. Perlinn [202] 245-4414.

SUPPLEMENTARY INFORMATION: By a notice published in the **Federal Register** on July 22, 1983 [48 FR 33495], the Postal Service announced that it was proposing to begin International Express Mail Service to Luxembourg, Macao and Sweden on October 1, 1983. Comments were invited on published rate tables, which were proposed amendments to the International Mail Manual [incorporated by reference in the **Federal Register**, 39 CFR 10.1], and which are to become effective on the date service begins. No comments were received.

Accordingly, the Postal Service is confirming that it intends to begin International Express Mail Service with Luxembourg, Macao and Sweden on

October 1, 1983 at the rates indicated in the table below.

List of Subjects in 39 CFR Part 10

Foreign relations.

Luxembourg International Express Mail

Custom designed service [1] [2], up to and including—		On demand service [2], up to and including—	
Pounds	Rate	Pounds	Rate
1	$27.00	1	$19.00
2	29.90	2	21.90
3	32.80	3	24.80
4	35.70	4	27.70
5	38.60	5	30.60
6	41.50	6	33.50
7	44.40	7	36.40
8	47.30	8	39.30
9	50.20	9	42.20
10	53.10	10	45.10
11	56.00	11	48.00
12	58.90	12	50.90
13	61.80	13	53.80
14	64.70	14	56.70
15	67.60	15	59.60
16	70.50	16	62.50
17	73.40	17	65.40
18	76.30	18	68.30
19	79.20	19	71.20
20	82.10	20	74.10
21	85.00	21	77.00
22	87.90	22	79.90
23	90.80	23	82.80
24	93.70	24	85.70
25	96.60	25	88.60
26	99.50	26	91.50
27	102.40	27	94.40
28	105.30	28	97.30
29	108.20	29	100.20
30	111.10	30	103.10
31	114.00	31	106.00
32	116.90	32	108.90
33	119.80	33	111.80
34	122.70	34	114.70
35	125.60	35	117.60
36	128.50	36	120.50
37	131.40	37	123.40
38	134.30	38	126.30
39	137.20	39	129.20
40	140.10	40	132.10
41	143.00	41	135.00
42	145.90	42	137.90
43	148.80	43	140.80
44	151.70	44	143.70

[1] Rates in this table are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a designated Post Office.

[2] Pickup is available under a Service Agreement for an added charge of $5.60 for each pickup stop, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incurs only one pickup charge.

MACAO INTERNATIONAL EXPRESS MAIL

Custom designed service [1] [2], up to and including—		On demand service [2], up to and including—	
Pounds	Rate	Pounds	Rate
1	$28.00	1	$20.00
2	31.70	2	23.70
3	35.40	3	27.40
4	39.10	4	31.10
5	42.80	5	34.80
6	46.50	6	38.50
7	50.20	7	42.20
8	53.90	8	45.90
9	57.60	9	49.60
10	61.30	10	53.30
11	65.00	11	57.00
12	68.70	12	60.70
13	72.40	13	64.40
14	76.10	14	68.10
15	79.80	15	71.80
16	83.50	16	75.50
17	87.20	17	79.20
18	90.90	18	82.90
19	94.60	19	86.60
20	98.30	20	90.30

MACAO INTERNATIONAL EXPRESS MAIL—Continued

Custom designed service [1] [2], up to and including—		On demand service [2], up to and including—	
Pounds	Rate	Pounds	Rate
21	102.00	21	94.00
22	105.70	22	97.70
23	109.40	23	101.40
24	113.10	24	105.10
25	116.80	25	108.80
26	120.50	26	112.50
27	124.20	27	116.20
28	127.90	28	119.90
29	131.60	29	123.60
30	135.30	30	127.30
31	139.00	31	131.00
32	142.70	32	134.70
33	146.40	33	138.40
34	150.10	34	142.10
35	153.80	35	145.80
36	157.50	36	149.50
37	161.20	37	153.20
38	164.90	38	156.90
39	168.60	39	160.60
40	172.30	40	164.30
41	176.00	41	168.00
42	179.70	42	171.70
43	183.40	43	175.40
44	187.10	44	179.10

[1] Rates in this table are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a designated Post Office.

[2] Pickup is available under a Service Agreement for an added charge of $5.60 for each pickup stop, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incurs only one pickup charge.

SWEDEN INTERNATIONAL EXPRESS MAIL

Custom designed service [1] [2], up to and including—		On demand service [2], up to and including—	
Pounds	Rate	Pounds	Rate
1	$28.00	1	$20.00
2	31.70	2	23.70
3	35.40	3	27.40
4	39.10	4	31.10
5	42.80	5	34.80
6	46.50	6	38.50
7	50.20	7	42.20
8	53.90	8	45.90
9	57.60	9	49.60
10	61.30	10	53.30
11	65.00	11	57.00
12	68.70	12	60.70
13	72.40	13	64.40
14	76.10	14	68.10
15	79.80	15	71.80
16	83.50	16	75.50
17	87.20	17	79.20
18	90.90	18	82.90
19	94.60	19	86.60
20	98.30	20	90.30
21	102.00	21	94.00
22	105.70	22	97.70
23	109.40	23	101.40
24	113.10	24	105.10
25	116.80	25	108.80
26	120.50	26	112.50
27	124.20	27	116.20
28	127.90	28	119.90
29	131.60	29	123.60
30	135.30	30	127.30
31	139.00	31	131.00
32	142.70	32	134.70
33	146.40	33	138.40
34	150.10	34	142.10
35	153.80	35	145.80
36	157.50	36	149.50
37	161.20	37	153.20
38	164.90	38	156.90
39	168.60	39	160.60
40	172.30	40	164.30
41	176.00	41	168.00
42	179.70	42	171.70
43	183.40	43	175.40
44	187.10	44	179.10

[1] Rates in this table are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a designated Post Office.

[2] Pickup is available under a Service Agreement for an added charge of $5.60 for each pickup stop, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incurs only one pickup charge.

A transmittal letter making these changes in the pages of the International Mail Manual will be published in the Federal Register as provided in 39 CFR 10.3 and will be transmitted to subscribers automatically.

(39 U.S.C. 401, 404, 407)

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 83-26018 Filed 8-31-83; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 122, 123, 124, 144, 145, 233, 270, and 271

[OW-FRL-2372-8]

Permit Regulations; Revision in Accordance with Settlement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: EPA is today promulgating revisions to regulations governing the following EPA permit programs: the National Pollutant Discharge Elimination System (NPDES) under the Clean Water Act (CWA), Underground Injection Control (UIC) under the Safe Drinking Water Act (SDWA), the State "dredge or fill" (404) program under Section 404 of the CWA, and the Hazardous Waste Management (HWM) permit program under the Resource Conservation and Recovery Act (RCRA). The rules promulgated today cover a number of issues affecting these permit programs and are the result of a settlement agreement between EPA and industry petitioners.

On November 16, 1981, EPA entered into a settlement agreement with numerous industry petitioners in the consolidated pemit regulations litigation (*NRDC* v. *EPA* and consolidated cases, No. 80-1607 [D.C. Cir., filed June 2, 1980]). On June 14, 1982, EPA published proposed rules which implemented the settlement agreement concerning the "common issues" affecting the NPDES, UIC, 404, and RCRA permit programs as well as several proposed rules affecting the NPDES permit program only (47 FR 25546). The final rules promulgated today address the concerns of the commenters to the proposed rules.

DATE: These regulations shall become effective September 1, 1983. For purposes of judicial review under the Clean Water Act, these regulations will be considered issued at 1:00 p.m. eastern time on September 15, 1983; see 45 FR 26894, April 22, 1980. In order to assist EPA to correct typographical errors, incorrect cross-references, and similar technical errors, comments of a technical and nonsubstantive nature on the final regulations may be submitted on or before November 1, 1983. The effective date of these regulations will not be delayed by consideration of such comments.

ADDRESS: Comments of a technical and nonsubstantive nature should be addressed to: Cathy O'Connell, Permits Division (EN–336), Office of Water Enforcement and Permits, U.S. Environmental Protection Agency, Washington, D. C. 20460.

FOR FURTHER INFORMATION CONTACT: Cathy O'Connell, Permits Division (EN–336), Office of Water Enforcement and Permits, U.S. Environmental Protection Agency, Washington, D. C. 20460. (202) 426–2970.

SUPPLEMENTARY INFORMATION:

I. Introduction

On June 7, 1979, EPA published final regulations establishing program requirements and procedures for the NPDES permit program. Shortly thereafter, on June 14, 1979, a number of petitioners representing major industrial trade associations, several of their member companies, and the Natural Resources Defense Council (NRDC) filed petitions for review of the regulations. Also on June 14, 1979, EPA published proposed regulations consolidating the requirements and procedures for five EPA permit programs, including the NPDES program under the Clean Water Act (CWA), the UIC program under the Safe Drinking Water Act (SDWA), State "dredge or fill" programs under Section 404 of the CWA, the Hazardous Waste Management program under the Resource Conservation and Recovery Act (RCRA), and the Prevention of Significant Deterioration (PSD) program under the Clean Air Act (CAA). Final Consolidated Permit Regulations were published on May 19, 1980. Again, these regulations were challenged in court. Petitions for review were filed in several Courts of Appeal and subsequently consolidated in the District of Columbia Circuit (*NRDC* v. *EPA*, and consolidated cases [No. 80–1607]). EPA held extensive discussions on all issues raised in the petitions and subsequently signed four separate settlement agreements with industry litigants. One covered only the UIC program, one all issues affecting the RCRA program, one the NPDES program, and the fourth covered issues which were common to at least two of the three programs involved in the litigation and issues which affect the definition of "new discharger" and its relationship to mobile drilling rigs under the NPDES program. Under the terms of the fourth agreement, referred to as the "Common Issues" settlement agreement, EPA published proposed rules on June 14, 1982. The final rules promulgated today reflect the intent of the "Common Issues" settlement agreement and address public comments received concerning the June 14, 1982, proposed revisions.

Several of the comments made on the proposed regulations were received from companies or organizations who were signatories to either the "Common Issues" settlement agreement or one of the settlement agreements specific to an EPA permit program.

Signatories to those settlement agreements generally agreed that to the extent EPA promulgated final regulations and preamble language which were substantially the same as and did not alter the meaning of language agreed to in the settlement agreements, the parties would drop their challenges to the regulations. Nonetheless, EPA did receive comments from signatories to the settlement agreement which requested further changes to the regulations than those agreed upon in the settlement agreements. In responding to the comments made, EPA in no way waives its right to require that signatories to the settlement agreements be held to those agreements, and in fact, expects good faith adherence to their terms.

Following the common preamble are five separate sections of regulatory language: Parts 122 and 123 covering the NPDES program; Parts 144 and 145 covering the UIC program; Part 233 covering the State "dredge or fill" programs under Section 404 of the CWA, Parts 270 and 271 covering the hazardous waste program under RCRA; and, Part 124, which covers the procedures for issuing, denying, modifying, revoking and reissuing, or terminating EPA-issued NPDES, UIC, 404, RCRA, and PSD permits.

The revisions implementing the "Common Issues" settlement agreement are presented in this manner to reflect the deconsolidation of these programs undertaken as part of the regulatory reform efforts of the President's Task Force on Regulatory Relief. In a final rule published in the **Federal Register** on April 1, 1983, 47 FR 14146, EPA "deconsolidated" what was formerly referred to as the Consolidated Permit Regulations. In that rule the Agency reorganized its presentation of several permit program requirements. While the rulemaking made no substantive changes to any of the regulations of the affected programs, it did result in a renumbering of several sections. Section numbers used in today's rulemaking are the new numbers published in that deconsolidation rulemaking. In the preamble each major section heading is followed by the section references for the NPDES, UIC, 404, and RCRA permit programs in that order. A separate section covering only NPDES issues is also included.

II. Common Issues

A. Signatories To Permit Applications and Reports (§ 122.22, § 144.32, § 233.6, § 270.11)

The May 19, 1980 permit regulations required permit applications submitted by corporations to be signed by a "principal executive officer of at least the level of vice president." Further, the regulations required that such officer had to personally examine the application and certify its truth, accuracy, and completeness based on an inquiry of those individuals who gathered the permit information.

1. *Level of Signer*

Today's revision, which is identical to the June 14, 1982 proposal, changes this requirement to allow permit applications to be signed by "a responsible corporate officer." This definition incorporates into the regulation EPA's interpretation of "executive officer of the level of vice president" adopted in a previously published policy statement (45 FR 562149, August 6, 1980). That statement clarified that an officer performing "policy-making functions" similar to those performed by a corporate vice-president could sign permit applications. The revision also allows the manager of one or more manufacturing, production, or operating facilities of a corporation to qualify as "a responsible corporate officer" if the facilities employ more than 250 persons or have gross national sales or expenditures exceeding $25 million, as long as the manager has been delegated the authority to sign permit applications in accordance with corporate procedures.

Several commenters questioned the rationale which EPA used to arrive at the 250 persons or $25 million criteria. These commenters argued that the criteria could be lowered (for example one commenter advocated a 100 persons

or $10 million criteria) without adversely affecting the company's concern and responsibility for compliance with environmental laws. Other commenters advocated language which would allow the corporation's "environmental officer" to sign permit applications without the restrictions on the size of the work force or the monetary transactions of the corporation.

EPA's goal in establishing the "signatory" requirement was to ensure high level corporate knowledge of a corporation's pollution control operations. In revising the signatory requirement in accordance with the language promulgated in today's rule, EPA recognized that some relief could be granted without compromising that goal. The intent of today's change is to provide relief from the economic and administrative burdens of having a corporation's top executive officers personally sign and be familiar with numerous permit applications for all its operations. Such problems are generally experienced by large corporations with facilities and operations spanning wide geographic areas. The cut-off criteria chosen by EPA will ensure that those plant managers who are authorized to sign permit applications have sufficient authority to direct the affairs of their facilities.

EPA does not agree with the comment which suggests that any "environmental manager" of a corporation be allowed to sign permit applications. It is not the intent of EPA's signatory requirement to designate field supervisors or facility operators to sign permit applications simply because they are located at or near the facility. They may have no ability to direct the activities of the corporation so as to ensure that necessary systems are established or actions taken to gather complete and accurate information. Rather, the signatory provision, as explained above, ensures involvement in the permit process by individuals authorized to make management decisions which govern the operation of the regulated facility. An "environmental manager" may not have sufficient responsibility and authority to direct corporate activities which guarantee that all necessary actions are taken to prepare a complete and accurate application. Of course, in cases where an "environmental officer" is an environmental vice president or comparable "responsible corporate officer" within the definition of today's rule, he would be authorized to sign permit applications.

2. *Certification*

The revisions also change the certification language which required the signer of the form to have personally examined and be familiar with all the information submitted with the permit application. Under the new certification language promulgated today, the person signing the form (the signer) must have some form of direction or supervision over the persons gathering the data and preparing the form (the preparers), although the signer need not personally nor directly supervise these activities. The signer need not be in the same corporate line of authority as the preparers, nor do the persons gathering the data and preparing the form need to be company employees (e.g., outside contractors can be used). It is sufficient that the signer has authority to assure that the necessary actions are taken to prepare a complete and accurate application form.

None of the comments received objected to the proposed change in the certification language; thus, it is unchanged from the proposed language. EPA believes this change will assure an adequate level of corporate involvement and responsibility in the permit application process while eliminating the requirement of personal examination by the signer of all information submitted with the permit application.

The immediate implementation of today's certification language in permit application and reporting forms is infeasible. Because many States and EPA regional offices have large supplies of existing forms which contain the old certification language, it is both administratively and economically impractical to immediately convert to forms containing today's certification language. Therefore, permit application and reporting forms which contain the old signatory language will continue to be used until all have been used up or until provision can be made to replace the forms with new ones containing today's signatory language. However, in order to allow permittees to use the new certification language prior to publication of new forms, the signer may cross out the old language and insert today's language. States and regional offices may also wish to prepare an addendum to permit application and reporting forms which contains the new signatory language.

It should be noted that the HWM program has proposed amendments to § 270.11(d) (formerly § 122.6(d)) which contain additional procedures for owners and operators of HWM facilities (see 47 FR 15304, April 8, 1982 and 47 FR 32038, July 23, 1982).

3. *Governmental Agencies*

Under the June 14 proposal, EPA solicited comments on whether the signatory requirement for public agencies should be amended. The U.S. Departments of the Interior and Agriculture objected to the retention of this signatory provision for Federal agencies, arguing that they are situated similarly to large private corporations and should be allowed the same "relief" as private corporations.

EPA believes that Federal officials responsible for agency operations covering widespread geographical or organizational units (similar to the Federal Regional Offices of many agencies) do experience problems similar to those of large private corporations and thus should also be entitled to relief. Where a Federal official has policy or decisionmaking authority for facilities under his widespread jurisdiction comparable to that of a "responsible corporate officer," that official would be authorized to sign permit applications.

Thus, under today's change a principal executive officer authorized to sign permit applications for a Federal agency will include the agency's chief executive officer and any senior executive officer having responsibility for the overall operations of a major geographic unit of the agency.

The intent of this change is to authorize senior agency officials comparable to EPA's own Regional Administrators to sign permit applications. Considering the information submitted by the two Federal agencies which commented on this regulation, EPA recognizes the State Directors of the Bureau of Land Management as the requisite level of authority intended in the federal signatory provision. In the case of the Forest Service, the Regional Forester would be the appropriate level for signatory authority. EPA does not consider the 122 Forest Supervisors of the Forest Service to have the required level of authority intended by today's change.

EPA does not believe that public notice and comment need be extended on the issue of the appropriate signatory level for Federal agencies. Comments were specifically solicited on the issue of providing relief to Federal agencies similar to that provided to private corporations. The comments received convinced EPA that such a change for Federal agencies is warranted.

EPA does not believe that the problem cited by industry petitioners and Federal agencies, namely the inconvenience of having a corporation's vice-president or Federal agency head personally sign and be familiar with each and every permit application covering a

corporation's or agency's numerous, far-flung operations across the country, is analogous to municipal and State operations. In the case of cities, even large cities, there are a limited number of permitted operations for which a "principal executive officer or ranking elected official" would need to be personally responsible. States also would have far fewer permit applications to deal with than a large corporation or Federal agency.

B. Duty To Mitigate (§ 122.41(d), § 233.7(d), § 270.30(d))

The May 19, 1980 permit regulations included a standard permit condition which required permittees to "take all reasonable steps to minimize or correct any adverse impact on the environment resulting from noncompliance" with NPDES, UIC, 404 or RCRA permits. Industry petitioners feared this language could be interpreted to imply that this provision imposed an obligation to assume liability for medical costs for persons harmed by the results of noncompliance. EPA made clear in the preamble to the proposed revisions published on June 14, 1982 that this was not the intent of this provision. In addition, EPA proposed that the regulatory language be amended. In the case of NPDES and State 404 "dredge or fill" permits, the June 14 proposal focused on the permittee's obligations to "minimize or prevent" noncomplying discharges which have "a reasonable likelihood of adversely affecting human health or the environment." Under the proposed revisions, RCRA permittees would be required in the event of noncompliance to "take all reasonable steps to minimize releases to the environment" and to "carry out such measures as are reasonable to prevent significant adverse impacts on human health or the environment." No change to the May 19, 1980, provision was proposed for UIC permittees.

Many commenters expressed dissatisfaction with the revised language as written, citing the difficulty to enforce the provisions because the language is broad. In addition, commenters expressed dissatisfaction because the proposed language does not explicitly note that liability for medical costs for persons harmed as a result of noncompliance is not intended by these provisions.

EPA does not agree that the language of the provisions is so broad as to be unenforceable. The provisions clearly establish the principle that every permittee is responsible for compliance with his permit and is required to take mitigation measures when noncompliance with the permit presents a risk of environmental harm. EPA also disagrees that the issue of liability for medical costs need be explicitly incorporated in the regulatory language covering a permittee's duty to mitigate. The fact that medical liability is not intended by this provision has been noted several times in the rulemaking proposals and EPA believes that this explanation is sufficient.

A few commenters objected to the retention of the requirement "to minimize or correct any adverse impact resulting from noncompliance" for UIC permittees. They argued that the UIC program should be consistent with the duty to mitigate provisions adopted for the NPDES, State 404 "dredge or fill," and RCRA programs.

The June 14, 1982 rulemaking proposal on the "Duty to Mitigate" provision explained that EPA was not proposing to change this provision for purposes of the UIC program and, therefore, was not opening it up to public comment. Industry UIC petitioners withdrew their challenge to § 122.7(d) as part of the UIC settlement agreement. Accordingly, as EPA is adopting the proposed amendments to the NPDES, 404, and HWM programs in final form, the existing text of that section has been redesignated as § 144.51(d), applicable to UIC only.

C. Other Federal Statutes (§ 122.49, § 144.4, § 270.3)

The May 19, 1980 permit regulations listed a number of Federal statutes which may be applicable to the issuance of NPDES, UIC, or RCRA permits. The introductory paragraph to this provision stated that permits would be issued in a manner and contain conditions consistent with the requirements of the applicable Federal laws. In the proposed revision to this provision, EPA rewrote the introductory paragraph to make it clear that the Agency does not intend to condition or deny permits based on those statutes when such action is not appropriate under the statutes. Today's rule promulgates this introductory language unchanged from the proposal.

Those individuals and organizations which submitted comments on the rewritten introductory paragraph either interpreted it to mean that no permits would ever be conditioned or denied under the National Environmental Policy Act (NEPA) or other Federal statutes or that all permits must be conditioned by these Federal statutes. Neither of these results is intended by this provision. The principal purpose of this provision as promulgated today is to notify permit issuers of requirements that already exist and which may be applicable to particular permits. If other Federal statutes require action on the part of EPA in issuing permits, EPA will comply with the requirements of these statutes and will condition or deny permits accordingly.

Of course, in deciding to condition or deny a permit on the basis of an applicable Federal statute, it is not necessary that the Federal Statute explicitly require the condition or denial. For example, NEPA does not mandate that EPA deny an NPDES permit under the CWA in any particular circumstance, nor does it state how a permit must be conditioned. Nonetheless, EPA, in carrying out its responsibilities under NEPA for a comprehensive evaluation of a proposed action, may determine that denial of a permit in a given case is appropriate or that conditioning the permittee's discharge in some way is justified by the findings in an environmental impact statement (EIS). Today's rule does not alter EPA's responsibilities under other Federal statutes.

D. Continuation of Expired Federal Permits in Approved States (§ 270.51)

The May 19, 1980 permit regulations provide that if an EPA-issued permit expires in a State that has been approved as the permit-issuing authority, the permit does not continue in force unless State law explicitly authorizes such a continuation. If no such State provision exists, the facility is considered to be operating without a permit and is subject to enforcement action. Where EPA is the permit issuing agency, the Administrative procedure Act [5 U.S.C. 558(c)] automatically extends the permit until EPA acts on the permit renewal application if the applicant has submitted a timely and complete application prior to the expiration of the permit.

Industry petitioners requested that the regulations be amended to allow an EPA-issued permit, which expires in a State approved to administer the NPDES or RCRA program, to continue in force, irrespective of the provisions of State law, until the State reissues or denies the permit.

In the June 14, 1982 proposal EPA stated that although it cannot provide for the automatic continuation of Federally-issued NPDES permits upon approval of a State program, the Agency would adopt the following policy. If a State NPDES program has been approved, expired Federally issued permits do not remain in effect unless continued under State law. However, if the discharger, owner, or operator has submitted a timely and complete application for a renewal permit to the

State, and the State has not acted, EPA would refrain from initiating an enforcement action based on the applicant's failure to have a permit if the applicant continues to comply with the terms of the expired permit, unless the permitted activity presents an imminent and substantial endangerment to the environment or human health.

EPA recognized that this NPDES policy would not, nor could it, provide certain protection from citizen suits against facilities without required permits. However, in these circumstances, EPA would not expect a court to assess penalties if delays in permit reissuance were not due to failure of the facility owner or operator to submit required information. No adverse comments were received on this policy, thus today's policy is adopted as proposed.

In addition to the above policy, EPA proposed revisions to allow for the continuation of RCRA permits should the need arise. The proposed revision provided for automatic extension of EPA-issued RCRA permits, even after approval of State permit-issuing authority. No objections were raised to this change in the RCRA permit program, thus today's rule is promulgated as proposed.

Several commenters felt that an Agency enforcement policy similar to that provided for NPDES should be extended to the UIC program. The need for this policy has not been demonstrated with respect to the UIC program because no Federal program has been established as yet and, thus, no Federally-issued permits exist. UIC permits generally will be issued for a term of 10 years for Class I and V wells, and for the life of the facility for Class II and III wells. Given the anticipated duration of UIC permits, and the absence of a Federal UIC program, EPA does not feel it is necessary to extend this policy to the UIC program.

E. State Adoption of EPA Civil Penalty Policy (§ 123.27, § 145.13, § 233.28, § 271.16)

The May 19, 1980 permit regulations required that States adopt specific methods for calculating civil penalties. EPA proposed that the regulation delete specification of the methods for calculating penalties and require only that any civil penalty agreed upon by the State Director be "appropriate to the violation." A note explained that, to the extent the penalties assessed by the State are in amounts substantially inadequate in comparison to amounts EPA would have sought under certain facts, EPA may exercise its authority, when authorized by applicable statute, to initiate its own action for assessment of penalities. No objections to this proposal were received, thus today's rule is promulgated as proposed.

Two commenters, both parties to the Common Issues settlement agreement, noted that the proposed change to the note explaining the requirement for State adoption of EPA's Civil Penalty Policy did not contain the entire text of the language agreed to in the settlement agreement. The language referred to by these commenters was part of the existing regulation and explains various enforcement options available to the States. These enforcement remedies are not mandatory but are highly recommended. The omission of this language was unintentional. The note now contains the entire text.

F. Commencement of Operations Pending Hearing on Appeal (§ 124.60, § 124.119)

Section 124.60 governed the circumstances under which a new source, a new discharger, or a recommencing discharger, whose initial permit has been challenged in a formal hearing, may begin operations pending the outcome of the hearing. The proposed revision established more flexible measures by which the Presiding Officer might grant an "early operation order" which, nonetheless, maintains an adequate degree of environmental protection pending "final agency action" on a permit. Under the proposal the Presiding Officer would be authorized, when granting an early operation order, to impose conditions, in lieu of the conditions set by EPA, to maintain an adequate degree of environmental protection. These conditions could be permit conditions under administrative review, or could be more or less stringent requirements. In addition, a new section, applicable only to NPDES permittees, was proposed which would extend the same procedures for "early operation orders" to non-adversary panel hearings for sources covered by an individual permit. Another section, also applicable to NPDES permittees only, was proposed which would establish a special procedure applicable to mobile drilling rigs excluded from the "new discharger" classification.

The modification to these sections apply to RCRA permits in very limited circumstances. These sections apply to a RCRA permit only to the extent it has been consolidated with an NPDES permit in a formal hearing. No early operation or construction orders are allowed for RCRA permits that are not consolidated with a NPDES permit. Formal hearings are only available for the termination of RCRA permits unless the RCRA permit has been consolidated with an NPDES permit.

Some commenters objected to the language stating that the early operation order must be granted if "no party opposes." These commenters argued that the granting of an early operation order should be discretionary, not mandatory, especially in circumstances where the public is not a party to the proceedings and thus cannot object.

EPA believes it is appropriate to require an "early operation order" to be granted if no party objects to the order, particularly since permit appeals may create significant delays in final permit issuance. It should be noted that in any hearing, EPA itself is a party which can oppose the granting of an early operation order. Thus, the lack of a third party to the hearing does not guarantee that such orders will automatically be granted in cases in which only the permittee has challenged the permit.

An early operation order can be granted if the source or facility makes a three-part showing, that it is likely to receive a permit to operate, that the environment will not be irreparably harmed, and that discharge or operation pending final agency action is in the public interest. One commenter urged EPA to clarify the demonstrations necessary for orders authorizing construction of RCRA facilities saying that the demonstrations listed seemed to apply only to the NPDES program. All demonstrations required for an early operation order must be met by both NPDES and RCRA permittees prior to the issuance of such an order, whether the order is authorizing discharge in the case of NPDES or construction or operation in the case of RCRA permits. The words "construct/construction" have been added to § 124.60(a)(2)(i)–(iii) to make clear that such orders may authorize either construction or operation in the case of RCRA permits. In connection with this, EPA has dropped the last sentence of proposed § 124.60(a)(3). That sentence merely explained that where no party has challenged a construction-related permit term or condition of a RCRA permit, the Presiding Officer shall follow the requirements of § 124.60(a)(2) in granting an order authorizing construction. Since the language "construction/construction" has been added to § 124.60(a)(2) the second sentence to § 24.60(a)(3) is redundant and no longer necessary. Of course, no order may authorize construction if a construction-related RCRA permit condition has been challenged.

In the case of non-adversary panel hearings, it was argued that permittees covered by general permits should be allowed the same opportunity to obtain an "early operation order" as those provided for permittees covered by individual permits.

EPA feels that "early operation orders" are not appropriate in the case of general permits. Because general permits can authorize entire classes or categories of discharge, EPA believes that full administrative action, including the issuance of a final permit, should be completed before an early operation order is allowed.

One commenter argued that any contested conditions of a permit undergoing administrative review should be unenforceable. Another commenter objected to the proposal which would allow contested conditions to be unenforceable pending the outcome of the hearing or subsequent appeal; this commenter believed that all conditions of the permit, including contested conditions, should be enforceable while the permit is undergoing review.

EPA has previously explained its position for staying contested permit conditions pending the completion of agency administrative review, 45 FR 33414. In order to grant some relief to dischargers who are without a permit pending final Agency action, "early operation orders" under this section were authorized. Authorizing an early operation is thus a special privilege. Since the Presiding Officer must assure that any order granted provides adequate protection of the environment during the administrative review process, he needs broad discretion to impose appropriate conditions (even more stringent than the proposed permit, if necessary).

III. NPDES Issues

A. Need To Halt or Reduce Activity Not a Defense (§ 122.41(c))

Under the May 19, 1980 permit regulations a permittee's obligation to halt or reduce activity in order to maintain compliance with the conditions of its permit was addressed in two separate provisions. Section 122.7(c) of these regulations explained that it was not a defense to an enforcement action that it was necessary to halt or reduce the permitted activity to maintain compliance. In addition, § 122.60(b) required that upon reduction, loss, or failure of the treatment facility, a permittee, in order to maintain compliance with its permit limitations, must control production on all discharges or both until treatment is restored.

Industry litigants argued that, in some cases, a mandatory obligation to cease or reduce operation or discharges would be unreasonable. For example, the requirement to halt production was particularly troublesome to the electric utilities industry, which is required under some State laws to provide a continuous reliable supply of electric power. EPA agreed that the appropriateness of controlling production or discharge may vary with the situation and thus, is more suitably dealt with as a question of defense to liability in enforcement proceedings.

In order to carry out this intent EPA made changes to both of the provisions cited above. On April 5, 1982, 47 FR 15304, in a technical amendment to the regulations, EPA revised the caption of § 122.7(c) "Duty to Halt or Reduce Activity" to "Need to Halt or Reduce not a Defense," to clarify the intent of that section that a permittee will not be allowed to defend its noncompliance in an enforcement action on the ground that it would have had to halt or reduce its regulated activity.

In addition, the Agency determined that § 122.7(c) adequately addressed its intent with respect to this issue and that § 122.60(b) was therefore redundant and unnecessary. On June 14, 1982, 47 FR 25550, the Agency proposed to delete section 122.60(b) in its entirety.

Following the technical amendment of § 122.7(c) and the proposed deletion of § 122.60(b), the Agency on April 1, 1983 deconsolidated the May 19, 1980 regulations, 47 FR 14146. In deconsolidating the May 19, 1980 regulations the Agency made no substantive changes; it merely reformatted and renumbered the regulations. In this process then existing §§ 122.7(c) and 122.60(b) were combined and renumbered § 122.41(c). The combination of these sections did not affect EPA's June 14, 1982 proposal to delete then § 122.60(b), currently found in the second and third sentences of § 122.41(c) of the April 1, 1983 regulations. Having received no comments adverse to deleting this provision, today's rule makes final the proposed deletion.

One commenter did point out what appeared to be a discrepancy between the preamble of the June 14, 1982 proposed revisions and the proposed amendment to § 122.60(b). The preamble stated that § 122.60(b) was to be deleted in its entirety. Yet the proposed rulemaking included a § 122.60(b) which concerned a permittee's duty to mitigate adverse impacts resulting from permit violations. In the June 14, 1982 rulemaking EPA did in fact propose to delete then § 122.60(b) of the May 19, 1980 regulations. Because deletion of this section left an opening at § 122.60(b), EPA then proposed to move § 122.7(d) the Duty to Mitigate provision of the May 19, 1980 regulations, to this section, renumbering it new § 122.60(b). That section was subsequently redesignated § 122.41(d) by the April 1, 1983 deconsolidation rulemaking. Consistent with the proposed regulation changes, today's final rules delete the second and third sentence of § 122.41(c) of the April 1, 1983 regulations. The first sentence of this section remains in effect. Final rules affecting § 122.41(d) are explained elsewhere in today's rulemaking.

B. New Discharger Issues (§§ 122.2, 122.28)

Determining Date

Today's rules make two changes to the definition of "new discharger." The first would change the determining date for the application of the "new discharger" classification. Under the present definition, a "new discharger" is any source which is not a "new source," and which discharges pollutants on or after October 18, 1972 from a site for which it has never received a finally effective NPDES permit. The determining date of October 18, 1972 was tied to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972 (Pub. L. 92–500).

Industry petitioners argued that with the creation of the "new discharger" category on June 7, 1979, a new classification potentially subject to more stringent requirements was applied to many sources that had been in operation for years, but had not as yet received NPDES permits, though applications had been filed. In order to prevent this result the Agency proposed to revise the definition to change the triggering date to August 13, 1979, the effective date of the first NPDES regulations defining the "new discharger" classification. EPA received no comments opposed to this change; thus today's rule is promulgated as proposed.

Mobile Drilling Rigs

The definition of "new discharger" in then existing § 122.3 (currently § 122.2) specifically included mobile drilling rigs. Thus, each time a mobile drilling rig moved to a new unpermitted site, for which it is required to apply for a new NPDES permit, it was subjected once again to the new discharger requirements. The June 14, 1982 rulemaking proposed two major changes

to the regulations to address this problem. First, the proposed regulatory amendments established a general permitting scheme for oil and gas operations within the Outer Continental Shelf (OCS). The Agency's experience with the issuance of general permits for drilling operations in OCS lease sale areas in the Gulf of Mexico and off the coast of Southern California has been favorable and the use of general permits appears appropriate for other OCS areas. Therefore, section 122.28 (§ 122.59 of the May 19, 1980 regulations) was proposed to be amended to require EPA Regional Administrators to issue general permits for most discharges from oil and gas exploration and production facilities unless the use of a general permit is demonstrated to be clearly inappropriate. Second, because it will take some time before EPA can issue general permits for oil and gas facilities in all OCS lease sale areas, and because NPDES-approved States are not required to issue permits to oil and gas facilities in all OCS lease sale areas, EPA proposed to exclude mobile drilling rigs from the definition of "new discharger." The proposed exclusion covered all mobile exploratory drilling rigs operating in both offshore and coastal areas, and mobile developmental rigs operating in coastal areas. Mobile developmental rigs operating in any offshore area would continue to be included in the "new discharger" category.

Several commenters argued that developmental drilling rigs operating in offshore areas should not be included in the "new discharger" category. EPA has substantial reasons for treating developmental rigs operating offshore differently. Developmental rigs generally remain at a given site for longer periods of time than do exploratory rigs and have more advance notice before moving to new sites. Thus, the burdens of obtaining a new permit prior to moving to a new site are not as great as for exploratory rigs.

More importantly, developmental rigs pose more risk of harm to the marine environment than exploratory rigs. The volume of pollutants discharged by a developmental rig can be far greater than that from exploratory rigs, and movement to a new site could indeed constitute a significant new environmental harm. Although this is true for developmental activities in both coastal and offshore areas, EPA has an added responsibility under guidelines issued pursuant to section 403(c) of the Clean Water Act to consider the impact of discharges from offshore facilities on the marine environment. Section 403(c) is not applicable to discharges into coastal areas. In light of the increased volume of pollutants potentially discharged during developmental operations, EPA must often perform complex analyses pursuant to section 403(c) to develop adequate permit limitations and conditions to prevent unreasonable degradation of the marine environment. Due to this, EPA has decided that it is appropriate to continue to apply the potentially more stringent procedural requirements which acompany the "new discharger" classification to mobile developmental rigs operating in offshore areas. Thus developmental rigs discharging into offshore waters will continue to be included in the "new discharger" definition.

All mobile oil and gas drilling rigs operating in environmentally sensitive areas will continue to be considered "new dischargers" if they otherwise fit the definition. EPA believes that the commencement of operations in these environmentally sensitive areas (i.e., areas of biological concern) should be carefully examined before imposing appropriate permit limitations.

One commenter suggested that instead of EPA independently developing criteria to identify environmentally sensitive areas of concern on the OCS, these criteria should be subject to the ongoing development of a Memorandum of Understanding (MOU) between the Department of the Interior (DOI) and EPA. It is intended that this MOU will provide the mechanism for coordination of NPDES permit issuance and lease sale activities. EPA will most certainly consult with all interested parties, including DOI, in developing appropriate criteria to determine areas of biological concern on the OCS. However, the Agency does not believe it is necessary to include the development of this criteria in ongoing negotiations with DOI on the MOU in order to ensure DOI input in the process.

EPA proposed to revise § 122.28 (previously § 122.59) to require Regional Administrators to issue general permits, where appropriate, for most discharges from oil and gas exploration and production facilities. General permits will be used for oil and gas facilities in existing lease sale areas, as well as future lease sale areas established by the Minerals Management Service (MMS), the office within the DOI responsible for offshore leasing activities. The use of a general permit will eliminate the post-lease delay in permit issuance because sufficient information should be available to determine permit conditions without application information from individual operators. With sufficient information to determine permit conditions, general NPDES permits may be issued for entire tracts or groups of tracts offered in OCS lease sales.

Four commenters objected to the issuance of general permits either prior to or at the time of the lease sale. The objections ranged from opposition because no general uniformity exists in OCS marine life to a concern that public input in the development of permit conditions would be bypassed. All of the commenters opposed to the concept of general permits feared that such permits would be issued without the accumulation of adequate information.

EPA is committed to the issuance of all permits when, and only when, an adequate amount of information has been gathered with which to determine permit conditions. The use of general permits is an administrative mechanism designed to minimize or eliminate administrative delays in those instances where no useful purpose would be served by issuing individual permits. In each and every case, where a permit, whether individual or general, is issued, EPA will ensure that all necessary and proper public participation measures are taken prior to the issuance of a permit.

Several of EPA's own Regional Offices were concerned about the timing for issuance of general permits. The proposed regulations provided that when petitioned to issue a general permit, the Regional Administrator should issue a project decision schedule providing for the issuance of the final general permit no later than the date of final notice of lease sale or six months after the date of the request. EPA's Regional Offices responsible for the issuance of the general permits pointed out that for some areas, sufficient information to determine appropriate permit limitations may not be available even though an EIS has been completed on the lease sale area. For other areas, final notices of lease sale have been issued by the Department of the Interior (DOI) prior to proposal of these regulations. In addition, DOI has approved significant revisions in its OCS oil and gas leasing program since the time of the proposal of changes to the NPDES regulations in June 1983 which could affect EPA actions. The new leasing program now offers lease sales in whole planning areas which may include ten to over 100 million acres. The new program processes a lease sale under an accelerated, streamlined timeframe. Resources may also be a problem where numerous lease

sales are issued by DOI. In all these cases, it may be impossible for EPA to issue general permits within the timeframes proposed in the regulations.

EPA has, through this regulation, recognized the importance of prompt precessing of OCS permitting activities. As pointed out in the preamble to the proposal, the Regional Administrator should strive to meet all deadlines projected in project decision schedules. However, such decision schedules do not impose binding deadlines upon EPA. There may be situations in which factors beyond the control of EPA (e.g., the situations mentioned above by EPA Regional Offices) will delay issuance of final permits beyond the dates projected in the regulation. Because the regulation does not impose binding deadlines and is flexible enough to allow EPA to address such problem situations, EPA has not changed the proposed language in this final rule. Regional Administrators should work to ensure that permitting is tied, to the maximum extent possible, to lease sale actions.

Finally, although EPA's proposal committed the Agency to issue general permits for offshore oil and gas facilities, EPA's Regional Offices have pointed out that individual permits may be a more practicable option for permitting continental offshore stratigraphic test wells (COST wells). Stratigraphic test wells are drilled to collect seismic and scientific information on the underlying geological strata in a lease sale area. Such wells must generally be drilled at least 60 days prior to the lease sale; usually only one well is drilled per lease area. In Alaska, where the drilling seasons are severely restricted by the weather, a COST well is often drilled at least a year in advance of the lease sale. The Environmental Impact Statement developed for the lease sale area is not available that far in advance of the sale. It is generally feasible and often less time-consuming under these circumstances to develop an individual permit that clearly restricts discharges to a single COST well. Since the intent of this regulation is to expedite the issuance of NPDES permits for offshore oil and gas activities, in circumstances where an individual permit can be issued for a COST well more expeditiously than a general permit, a Region may choose this option.

EPA has determined that each of the above discussed comments can adequately be addressed within the context of the proposed regulations and therefore has promulgated final rules which are identical to the proposed rules.

C. Modification of NPDES Permits (§ 122.62)

A new modification provision was proposed to allow NPDES permits which became final after August 19, 1981, to be modified to conform to the final rules adopted under the settlement agreement for, § 122.7(c) and 122.60(b) of the May 19, 1980 regulations (these sections correspond to § 122.41 (c) and (d) of the deconsolidated NPDES regulations). The cut-off date will prevent unnecessary modifications which could place an unreasonable strain on Agency or State resources. No adverse comments were received on this proposal; thus, the regulation is promulgated unchanged from the proposal.

IV. Effective Date

Section 553(d) of the Administrative Procedure Act (APA) requires publication of a substantive rule not less than 30 days before its effective date. In addition, section 3010(b) of RCRA provides that EPA's hazardous waste regulations, and revisions thereto, take effect six months after their promulgation. The purpose of these requirements is to allow permittees sufficient lead time to prepare to comply with new regulatory requirements. For the amendments proposed today, however, EPA believes that an effective date 30 days to six months after promulgation would cause unnecessary disruption in the implementation of the regulations and would be contrary to the public interest. Section 553(d)(1) of the APA provides an exemption from the requirement to delay the effective date of a promulgated regulation for 30 days in instances where the regulation will relieve restrictions on the regulated community. These amendments relieve restrictions on permittees under the NPDES, UIC, 404, and RCRA programs by providing greater flexibility in meeting the requirements of the programs. EPA believes that these are not the type of regulations that Congress had in mind when it provided a delay between the promulgation and the effective date of revisions to regulations. Therefore, EPA is making these rules effective today.

V. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is major and therefore subject to the requirement of a Regulatory Impact Analysis. These amendments clarify the meaning of several generic permit requirements and generally make the regulations more flexible and less burdensome for affected permittees. They do not satisfy and of the criteria specified in section 1(b) of the Executive Order and, as such, do not constitute major rulemaking. This is not a major regulation. This regulation was submitted to the Office of Management and Budget (OMB) for review.

VI. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, U.S.C. 601 et seq., EPA is required to prepare a Regulatory Flexibility Analysis to assess the impact of rules on small entities. No regulatory flexibility analysis is required, however, where the head of the agency certifies that the rule will not have a significant economic impact on a substantial number of entities. Today's amendments to the regulations clarify the meaning of several generic permit requirements and otherwise make the regulations more flexible and less burdensome for all permittees. Accordingly I hereby certify, pursuant to 5 U.S.C. 605(b) that these amendments will not have a significant impact on a substantial number of small entities.

List of Subjects

40 CFR Part 122

Administrative practice and procedure, Reporting and recordkeeping requirements, Water pollution control, Confidential business information.

40 CFR Part 123

Indians—lands, Reporting and recordkeeping requirements, Water pollution control, Intergovernmental relations, Penalties, Confidential business information.

40 CFR Part 124

Administrative practice and procedure, Air pollution control, Hazardous materials, Waste treatment and disposal, Water pollution control, Water supply, Indians—lands.

40 CFR Part 144

Administrative practice and procedure, Reporting and recordkeeping requirements, Confidential business information, Water supply.

40 CFR Part 145

Indians—lands, Reporting and recordkeeping requirements, Intergovernmental relations, Penalties, Confidential business information, Water supply.

40 CFR Part 233

Administrative practice and procedure, Reporting and recordkeeping requirements, Confidential business information, Water supply, Indians—lands, Intergovernmental relations,

Penalties, Confidential business information.

40 CFR Part 270

Administrative practice and procedure, Reporting and recordkeeping requirements, Hazardous materials, Waste treatments and disposal, Water pollution control, Water supply, Confidential business information.

40 CFR Part 271

Hazardous materials, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Intergovernmental relations, Penalties, Confidential business information.

Dated: August 22, 1983.

Alvin L. Alm,

Deputy Administrator.

Authorities: Clean Water Act (33 U.S.C. 1251 et seq.), Safe Drinking Water Act (42 U.S.C. 300f et seq.), Clean Air Act (42 U.S.C. 7401 et seq.), Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.).

40 CFR Parts 122, 123, 124, 144, 145, 233, 270, and 271 are amended as follows:

PART 122—NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

40 CFR Part 122 is amended as follows:

1. Section 122.2 is amended by revising the definition of "New discharger" as follows:

§ 122.2 Definitions.

* * * * *

"New discharger" means any building, structure, facility, or installation:

(a) From which there is or may be a "discharge of pollutants;"

(b) That did not commence the "discharge of pollutants" at a particular "site" prior to August 13, 1979;

(c) Which is not a "new source;" and

(d) Which has never received a finally effective NDPES permit for discharges at that "site."

This definition includes an "indirect discharger" which commences discharging into "waters of the United States" after August 13, 1979. It also includes any existing mobile point source (other than an offshore or coastal oil and gas exploratory drilling rig or a coastal oil and gas developmental drilling rig) such as a seafood processing rig, seafood processing vessel, or aggregate plant, that begins discharging at a "site" for which it does not have a permit; and any offshore or coastal mobile oil and gas exploratory drilling rig or coastal mobile oil and gas developmental drilling rig that commences the discharge of pollutants after August 13, 1979, at a "site" under EPA's permitting jurisdiction for which it is not covered by an individual or general permit and which is located in an area determined by the Regional Administrator in the issuance of a final permit to be an area or biological concern. In determining whether an area is an area of biological concern, the Regional Administrator shall consider the factors specified in 40 CFR 125.122(a) (1) through (10).

An offshore or coastal mobile exploratory drilling rig or coastal mobile developmental drilling rig will be considered a "new discharger" only for the duration of its discharge in an area of biological concern.

* * * * *

2. Section 122.22 is amended by revising paragraphs (a)(1), (a)(3), and (d), and adding a note following (a)(1) as follows:

§ 122.22 Signatories to permit applications and reports.

(a) * * *

(1) *For a corporation:* by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means: (i) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who perfoms similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

Note: EPA does not require specific assignments or delegations of authority to responsible corporate officers identified in § 122.22(a)(1)(i). The Agency will presume that these responsible corporate officers have the requisite authority to sign permit applications unless the corporation has notified the Director to the contrary. Corporate procedures governing authority to sign permit applications may provide for assignment or delegation to applicable corporate positions under § 122.22(a)(1)(ii) rather than to specific individuals.

(2) * * *

(3) *For a municipality, State, Federal, or other public agency:* by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes: (i) The chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).

* * * * *

(d) *Certification.* Any person signing a document under paragraphs (a) or (b) of this section shall make the following certification:

I certify under penalty of law that this document and all attachments were prepared under the direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

3. Section 122.28 is amended by adding a new paragraph (c) as follows:

§ 122.28 General permits (applicable to State NPDES programs, see § 123.25).

* * * * *

(c) *Offshore Oil and Gas Facilities* (Not applicable to State programs.) (1) The Regional Administrator shall, except as provided below, issue general permits covering discharges from offshore oil and gas exploration and production facilities within the Region's jurisdiction. Where the offshore area includes areas, such as areas of biological concern, for which separate permit conditions are required, the Regional Administrator may issue separate general permits, individual permits, or both. The reason for separate general permits or individual permits shall be set forth in the appropriate fact sheets or statements of basis. Any statement of basis or fact sheet for a draft permit shall include the Regional Administrator's tentative determination as to whether the permit applies to "new sources," "new dischargers," or existing sources and the reasons for this determination, and the Regional Administrator's proposals as to areas of biological concern subject either to separate individual or general permits. For Federally leased lands, the general permit area should generally be no less extensive than the lease sale area defined by the Department of the Interior.

(2) Any interested person, including any prospective permittee, may petition the Regional Administrator to issue a general permit. Unless the Regional Administrator determines under paragraph (c)(1) that no general permit is appropriate, he shall promptly provide a project decision schedule covering the issuance of the general permit or permits

for any lease sale area for which the Department of the Interior has published a draft environmental impact statement. The project decision schedule shall meet the requirements of § 124.3(g), and shall include a schedule providing for the issuance of the final general permit or permits not later than the date of the final notice of sale projected by the Department of the Interior or six months after the date of the request, whichever is later. The Regional Administrator may, at his discretion, issue a project decision schedule for offshore oil and gas facilities in the territorial seas.

(3) Nothing in this paragraph (c) shall affect the authority of the Regional Administrator to require an individual permit under § 122.28(b)(2)(i)(A) through (F).

4. Section 122.41 is amended by revising paragraphs (c) and (d) as follows:

§ 122.41 Conditions applicable to all permits (applicable to State programs, see §123.25)

* * * * *

(c) *Need to Halt or Reduce not a Defense.* It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

(d) *Duty to Mitigate.* The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

* * * * *

5. Section 122.49 is amended by revising the introductory paragraph as follows:

§ 122.49 Considerations under Federal law.

The following is a list of Federal laws that may apply to the issuance of permits under these rules. When any of these laws is applicable, its procedures must be followed. When the applicable law requires consideration or adoption of particular permit conditions or requires the denial of a permit, those requirements also must be followed.

* * * * *

6. Section 122.62 is amended by adding a new paragraph (a)(15) as follows:

§122.62 Modification or revocation and reissuance of permits (applicable to State programs, see § 123.25).

(a) * * *

(15) When the permit becomes final and effective on or after August 19, 1981, if the permittee shows good cause for the modification, to conform to changes respecting the following regulations issued under the Settlement Agreement dated November 16, 1981, in connection with *Natural Resources Defense Council* v. *EPA*, No. 80-1607 and consolidated cases: § 122.41(c) and (d).

* * * * *

PART 123—STATE PROGRAM REQUIREMENTS

40 CFR Part 123 is amended as follows:

1. Section 123.27 is amended by revising paragraph (c) and adding a new paragraph to the beginning of the note following paragraph (c) as follows:

§ 123.27 Requirements for Enforcement Authority.

* * * * *

(c) A civil penalty assessed, sought, or agreed upon by the State Director under paragraph (a)(3) of this section shall be appropriate to the violation.

Note.—To the extent that State judgments or settlements provide penalties in amounts which EPA believes to be substantially inadequate in comparison to the amounts which EPA would require under similar facts, EPA, when authorized by the applicable statute, may commence separate actions for penalties.

* * * * *

PART 124—PROCEDURES FOR DECISION-MAKING

40 CFR Part 124 is amended as follows:

1. Amend paragraph (g) of § 124.3 by removing the word "or" before the words "major NPDES new discharger," and by adding the phrase "or a permit to be issued under provisions of § 122.28(c)" after the words "new discharger," and before the words "the Regional Administrator shall * * *".

2. Section 124.60 is amended by revising paragraph (a)(2) and adding new paragraphs (a)(3) and (c)(7) as follows:

§ 124.60 Issuance and effective date and stays of NPDES permits.

* * * * *

(a) * * *

(2) Whenever a source or facility subject to this paragraph or to paragraph (c)(7) of this section has received a final permit under § 124.15 which is the subject of a hearing request under § 124.74 or a formal hearing under § 124.75, the Presiding Officer, on motion by the source or facility, may issue an order authorizing it to begin discharges (or in the case of RCRA permits, construction or operations) if it complies with all uncontested conditions of the final permit and all other appropriate conditions imposed by the Presiding Officer during the period until final agency action. The motion shall be granted if no party opposes it, or if the source or facility demonstrates that:

(i) It is likely to receive a permit to discharge (or in the case of RCRA permits, to operate or construct) at that site;

(ii) The environment will not be irreparably harmed if the source or facility is allowed to begin discharging (or in the case of RCRA, to begin operating or construction) in compliance with the conditions of the Presiding Officer's order pending final agency action; and

(iii) Its discharge (or in the case of RCRA, its operation or construction) pending final agency action is in the public interest.

(3) *For RCRA only,* no order under paragraph (a)(2) may authorize a facility to commence construction if any party has challenged a construction-related permit term or condition.

* * * * *

(c) * * *

(7) If for any offshore or coastal mobile exploratory drilling rig or coastal mobile developmental drilling rig which has never received a finally effective permit to discharge at a "site," but which is not a "new discharger" or a "new source," the Regional Administrator finds that compliance with certain permit conditions may be necessary to avoid irreparable environmental harm during the administrative review, he may specify in the statement of basis or fact sheet that those conditions, even if contested, shall remain enforceable obligations of the discharger during administrative review unless otherwise modified by the Presiding Officer under paragraph (a)(2) of this section.

3. Section 124.119 is amended by adding new paragraphs (c) and (d) as follows:

§ 124.119 Presiding Officer.

* * * * *

(c) Whenever a panel hearing will be held on an individual draft NPDES permit for a source which does not have an existing permit, the Presiding Officer, on motion by the source, may issue an order authorizing it to begin discharging if it complies with all conditions of the draft permit or such other conditions as may be imposed by the Presiding Officer in consultation with the panel. The motion shall be granted if no party opposes it, or if the source demonstrates that:

(1) It is likely to receive a permit to discharge at that site;

(2) The environment will not be irreparably harmed if the source is allowed to begin discharging in compliance with the conditions of the Presiding Officer's order pending final agency action; and

(3) Its discharge pending final agency action is in the public interest.

(d) If for any offshore or coastal mobile exploratory drilling rig or coastal mobile developmental drilling rig which has never received a finally effective permit to discharge at a "site," but which is not a "new discharger" or "new source," the Regional Administrator finds that compliance with certain permit conditions may be necessary to avoid irreparable environmental harm during the nonadversary panel procedures, he may specify in the statement of basis or fact sheet that those conditions, even if contested, shall remain enforceable obligations of the discharger during administrative review unless otherwise modified by the Presiding Officer under paragraph (c) of this section.

PART 144—REQUIREMENTS FOR UNDERGROUND INJECTION CONTROL PROGRAMS UNDER THE SAFE DRINKING WATER ACT

40 CFR Part 144 is amended as follows:

1. Section 144.4 is amended by revising the introductory paragraph as follows:

§ 144.4 Considerations under Federal law.

The following is a list of Federal laws that may apply to the issuance of permits under these rules. When any of these laws is applicable, its procedures must be followed. When the applicable law requires consideration or adoption of particular permit conditions or requires the denial of a permit, those requirements also must be followed.

* * * * *

2. Section 144.32 is amended by revising paragraph (a)(1); adding a new note following paragraph (a)(1); revising paragraph (a)(3); and adding a new paragraph (d) as follows:

§144.32 Signatories to permit applications and reports.

(a) * * *

(1) *For a corporation:* by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means: (i) A president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decisionmaking functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

Note.—EPA does not require specific assignments or delegations of authority to responsible corporate officers identified in § 144.32(a)(1)(i). The Agency will presume that these responsible corporate officers have the requisite authority to sign permit applications unless the corporation has notified the Director to the contrary. Corporate procedures governing authority to sign permit applications may provide for assignment or delegation to applicable corporate positions under § 144.32(a)(1)(ii) rather than to specific individuals.

(2) * * *

(3) *For a municipality, State, Federal, or other public agency:* by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes: (i) The chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).

* * * * *

(d) *Certification.* Any person signing a document under paragraphs (a) or (b) of this section shall make the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

PART 145—REQUIREMENTS FOR UNDERGROUND INJECTION CONTROL PROGRAMS UNDER THE SAFE DRINKING WATER ACT

40 CFR Part 145 is amended as follows:

1. Section 145.13 is amended by revising paragraph (c) and adding a new paragraph to the beginning of the note following paragraph (c) as follows:

§ 145.13 Requirements for enforcement authority.

* * * * *

(c) A civil penalty assessed, sought, or agreed upon by the State Director under paragraph (a)(3) of this section shall be appropriate to the violation.

Note.—To the extent that State judgments or settlements provide penalties in amounts which EPA believes to be substantially inadequate in comparison to the amounts which EPA would require under similar facts, EPA, when authorized by the applicable statute, may commence separate actions for penalties.

* * * * *

PART 233—DREDGE OR FILL (404) PROGRAM UNDER SECTION 404 OF THE CLEAN WATER ACT

40 CFR Part 233 is amended as follows:

1. Section 233.6 is amended by revising paragraphs (a)(1), (a)(3), and (d) and adding a new note following (a)(1) as follows:

§ 233.6 Signatories to permit applications and reports.

(a) * * *

(1) *For a corporation:* by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means: (i) A president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy—or decisionmaking functions for the corporation, or (ii) the manager of one or more manufacturing, production or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

Note.—EPA does not require specific assignments or delegations of authority to responsible corporate officers identified in § 233.6(a)(1)(i). The Agency will presume that these responsible corporate officers have the requisite authority to sign permit applications unless the corporation has notified the Director to the contrary. Corporate procedures governing authority to sign permit applications may provide for assignment or delegation to applicable corporate positions under § 233.6(a)(1)(ii) rather than to specific individuals.

(2) * * *

(3) *For a municipality, State, Federal, or other public agency:* by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes: (i) The chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations

of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).

* * * * *

(d) *Certification.* Any person signing a document under paragraphs (a) or (b) of this section shall make the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

2. Section 233.7 is amended by revising paragraph (d) as follows:

§ 233.7 Conditions applicable to all permits.

* * * * *

(d) The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

3. Section 233.28 is amended by revising paragraph (c) and adding a new paragraph to the beginning of note following paragraph (c) as follows:

§ 233.28 Requirements for enforcement authority.

* * * * *

(c) A civil penalty assessed, sought, or agreed upon by the State Director under paragraph (a)(3) of this section shall be appropriate to the violation.

Note.—To the extent that State judgments or settlements provide penalties in amounts which EPA believes to be substantially inadequate in comparison to the amounts which EPA would require under similar facts, EPA, when authorized by the applicable statute, may commence separate actions for penalties.

* * * * *

PART 270—EPA-ADMINISTERED PERMIT PROGRAMS: THE HAZARDOUS WASTE PERMIT PROGRAM

40 CFR Part 270 is amended as follows:

1. Section 270.3 is amended by revising the introductory paragraph as follows:

§ 270.3 Considerations under Federal law.

The following is a list of Federal laws that may apply to the issuance of permits under these rules. When any of these laws is applicable, its procedures must be followed. When the applicable law requires consideration or adoption of particular permit conditions or requires the denial of a permit, those requirements also must be followed.

* * * * *

2. Section 270.11 is amended by revising paragraph (a)(1), (a)(3), and (d) and adding a new note following (a)(1) as follows:

§ 270.11 Signatories to permit applications and reports.

(a) * * *

(1) *For a corporation:* by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means (i) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decisionmaking functions for the corporation, or (ii) the manager of one or more manufacturing, production or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

Note.—EPA does not require specific assignments or delegations of authority to responsible corporate officers identified in § 270.11(a)(1)(i). The Agency will presume that these responsible corporate officers have the requisite authority to sign permit applications unless the corporation has notified the Director to the contrary. Corporate procedures governing authority to sign permit applications may provide for assignment or delegation to applicable corporate positions under § 270.11(a)(1)(ii) rather than to specific individuals.

(2) * * *

(3) *For a municipality, State, Federal, or other public agency:* by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes: (i) The chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).

* * * * *

(d) *Certification.* Any person signing a document under paragraphs (a) or (b) of this section shall make the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to be the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

3. Section 270.30 is amended by revising paragraph (d) as follows:

§ 270.30 Conditions applicable to all permits.

* * * * *

(d) In the event of noncompliance with the permit, the permittee shall take all reasonable steps to minimize releases to the environment, and shall carry out such measures as are reasonable to prevent significant adverse impacts on human health or the environment.

* * * * *

4. Section 270.51 is amended by revising a new paragraph (d) as follows:

§ 270.51 Continuation of expiring permits.

* * * * *

(d) *State Continuation.* In a State with an hazardous waste program authorized under 40 CFR Part 271, if a permittee has submitted a timely and complete application under applicable State law and regulations, the terms and conditions of an EPA-issued RCRA permit continue in force beyond the expiration date of the permit, but only until the effective date of the State's issuance or denial of a State RCRA permit.

PART 271— EPA-ADMINISTERED PERMIT PROGRAMS: THE HAZARDOUS WASTE PERMIT PROGRAM

40 CFR Part 271 is amended as follows:

1. Section 271.16 is amended by revising paragraph (c) and adding a new paragraph to the beginning of the note following paragraph (c) as follows:

§ 271.16 Requirements for enforcement authority.

* * * * *

(c) A civil penalty assessed, sought, or agreed upon by the State Director under paragraph (a)(3) of this section shall be appropriate to the violation.

Note.—To the extent the State judgments or settlements provide penalties in amounts which EPA believes to be substantially inadequate in comparison to the amounts which EPA would require under similar facts, EPA, when authorized by the applicable

statute, may commence separate actions for penalties.

* * * * *

[FR Doc. 83-23750 Filed 8-31-83; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 271

[SW-6-FRL 2427-2]

Hazardous Waste Management Programs, Texas; Interim Authorization Phase II, Component C

AGENCY: Environmental Protection Agency.

ACTION: Approval of State Hazardous Waste Management Program.

SUMMARY: The State of Texas has applied for Interim Authorization, Phase II, Component C, permitting program for land disposal facilities. EPA has reviewed Texas' application for Phase II, Interim Authorization, Component C, and has determined that Texas' hazardous waste program is substantially equivalent to the Federal program covered in Component C. The State of Texas is hereby granted Interim Authorization for Phase II, Component C, to operate the State's hazardous waste program covered by Component C in lieu of the Federal program in the State of Texas.

EFFECTIVE DATE: Interim Authorization for Phase II, Component C, for Texas shall become effective September 1, 1983.

FOR FURTHER INFORMATION CONTACT: H. J. Parr, Hazardous Materials Branch, Air and Waste Management Division, Environmental Protection Agency, 1201 Elm St., Dallas, Texas 75270, Telephone (214) 767-2645.

SUPPLEMENTARY INFORMATION:

Background

In the May 19, 1980, **Federal Register** (45 FR 33063) the Environmental Protection Agency (EPA) promulgated regulations, pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976, as amended (RCRA), to protect human health and the environment from the improper management of hazardous waste. RCRA includes provisions whereby a State agency may be authorized by EPA to administer the hazardous waste program in that State in lieu of a Federally administered program. For a State program to receive Final Authorization, its hazardous waste program must be fully equivalent to and consistent with the Federal program under RCRA. In order to expedite the authorization of State programs, RCRA allows EPA to grant a State Interim Authorization if its program is substantially equivalent to the Federal program. During Interim Authorization, a State can make whatever legislative or regulatory changes that may be needed for the State's hazardous waste program to become fully equivalent to the Federal program. The Interim Authorization program is being implemented in two phases corresponding to the two stages in which the underlying Federal program takes effect.

Phase I regulations were published on May 19, 1980, and became effective on November 19, 1980. The Phase I regulations include the identification and listing of hazardous wastes, standards for generators and transporters of hazardous waste, standards for owners and operators of treatment, storage and disposal facilities, and requirements for State Programs. The Phase II regulations cover the procedures for issuing permits under RCRA and the standards that will be applied to treatment, storage, and disposal facilities in preparing permits. In the July 26, 1982, **Federal Register** (47 FR 32373), the Environmental Protection Agency announced that States could apply for Component C of Phase II, Interim Authorization. Component C, published in the **Federal Register** July 26, 1982 (47 FR 32274), contains standards for permitting facilities that dispose hazardous waste in waste piles, surface impoundments, land treatment, and landfills.

The State of Texas received Interim Authorization for Phase I on December 24, 1980, and Interim Authorization for Phase II, Components A & B, on March 23, 1982.

Draft Application

The State of Texas submitted its draft application for Phase II, Component C, Interim Authorization, on January 4, 1983. After detailed review, EPA transmitted comments to the State on February 2, 1983.

Three major issues were identified which the State was required to correct before being authorized. These issues involved the substantial equivalence of the State's requirements with EPA's program requirements in the following areas: (1) The construction of a new facility prior to the issuance of a permit; (2) TDWR's requirements for groundwater monitoring; and (3) necessary additions to the Memorandum of Agreement.

Each of these issues was resolved at the time of submittal of the complete application. Specifically, the Texas Legislature amended the statute so that the state could require permits for construction related elements of all hazardous waste management facilities; TDWR amended its groundwater monitoring requirements to align with those of EPA; and a Memorandum of Agreement was submitted.

On May 16, 1983, Texas submitted to EPA an official application for Phase II, Component C. An EPA review team consisting of both Headquarters and Regional personnel made a detailed analysis of Texas' hazardous waste management program.

EPA comments were forwarded to the State on June 30, 1983. No major questions were raised in the comments; however, some minor clarifications were requested. By letter dated July 13, 1983, the State responded to all the issues raised by EPA.

I conclude that the Texas application for Interim Authorization to operate the RCRA Phase II, Component C program meets all of the statutory and regulatory requirements and as such I approve this authorization.

Public Hearing and Comment Period

As noticed in the **Federal Register** on May 27, 1983, EPA gave the public until July 7, 1983, to comment on the State's application. EPA also issued a public notice for a hearing to be held in Austin, Texas on July 14, 1983, if significant public interest was expressed. EPA received requests to hold the hearing from seven (7) public interest groups and one (1) individual.

EPA found that there was significant public interest in holding a hearing on the Texas application for Phase II, Component C, Interim Authorization. Consequently on the evening of July 14, 1983, in Austin, Texas, EPA held such a public hearing and four presentations were made at that time. In addition, Region VI received eleven (11) written comments on the Texas application. Because of the interest exhibited, the comment period was extended by the hearing officer until July 21, 1983.

All comments whether presented at the hearing or in writing, were considered before reaching a decision on the Texas application for Phase II Interim Authorization for Component C.

None of the commenters opposed granting the state of Texas authorization. Eight (8) commenters specifically supported the authorization and urged EPA to expeditiously grant the authorization. Six (6) commenters made comments which were not specific to the authorization decision and one commenter supported the concept of authorization both in general and for

Texas, but suggested some conditions to be placed on this action.

A complete summary of the comments made on the Texas application, and EPA's response to the comments, may be obtained free of charge by calling or writing the contact listed above.

Decision

EPA has reviewed Texas' complete application for Interim Authorization Phase II, Component C, and has determined that the State program is substantially equivalent to Phase II, Component C, of the Federal program as defined in 40 CFR Part 271, Subpart B, as amended at 47 FR 32373 (July 26, 1982). In accordance with Section 3006(c) of RCRA and implementing regulations, Texas is hereby granted Interim Authorization for Phase II, Component C, to operate the State's hazardous waste program for permitting construction and operation of facilities that dispose of hazardous waste in lieu of the Federal program.

Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. The authorization suspends the applicability of certain Federal regulations in favor of the State program, thereby eliminating duplicative requirements for handlers of hazardous wastes in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Executive Order 12291

The Office of Management and Budget (OMB) has exempted this rule from the requirements of Section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 271

Hazardous materials, Reporting and recordkeeping requirements, Waste treatment and disposal, Intergovernmental relations, Penalties, Confidential business information.

Authority

This notice is issued under the authority of Secs. 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

Dated: August 9, 1983.

Dick Whittington,

Regional Administrator.

[FR Doc. 83-24013 Filed 8-31-83; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 410

[WH-FRL-2427-4]

Textile Mills Point Source Category Effluent Limitations Guidelines, Pretreatment Standards and New Source Performance Standards; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: EPA is correcting errors of omission that appeared in the final regulation for the textile mills point source category. This regulation was published on September 2, 1982 (47 FR 38810). The purpose of this action is to ensure that the final regulation is properly applied in issuing permits applicable to wastewater discharges from the textile industry.

FOR FURTHER INFORMATION CONTACT: Richard E. Williams, Effluent Guidelines Division, (WH-552), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, or by calling (202) 382-7186.

In 40 CFR Part 410, as published on September 2, 1982 (47 FR 38810), the following corrections are made:

1. On page 38824, column 2, § 410.42, paragraph (e); change: "paragraph (a) of this section * * *" to "paragraphs (a), (b), (c) and (d) of this section * * *".
2. On page 38825, column 1, § 410.43, paragraph (e); change: "paragraph (a) of this section * * *" to "paragraphs (a), (b), (c) and (d) of this section * * *".
3. On page 38826, column 1, § 410.52, paragraph (d); change: "paragraph (a) of this section * * *" to "paragraphs (a), (b), and (c) of this section * * *".
4. On page 38826, column 2, § 410.53, paragraph (d); change: "paragraph (a) of this section" to "paragraphs (a), (b), and (c) of this section * * *".

Dated: August 24, 1983.

Rebecca W. Hanmer,

Acting Assistant Administrator for Water.

[FR Doc. 83-24002 Filed 8-31-83; 8:45 am]
BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 435 and 436

Medicaid Program; Deeming of Income Between Spouses; Categorically Needy

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule with comment period.

SUMMARY: These final regulations revise Medicaid rules for determining the financial eligibility and the level of Medicaid payments for the institutional care of aged, blind, and disabled categorically needy individuals when one spouse is institutionalized and the other spouse is not. In accordance with a United States Supreme Court ruling, we are reinstating the rules that were in effect prior to imposition of lower court orders (now reversed) that required HCFA to change its regulations.

The regulations affect those States that, as permitted by statute, use more restrictive eligibility criteria than those applied nationally under the Supplemental Security Income (SSI) requirements. They also apply in Puerto Rico, Guam, and the Virgin Islands. These reinstated rules permit these jurisdictions, in situations when one spouse is institutionalized, to consider a portion of the income of one spouse as available for the care of his or her institutionalized spouse, whether or not the income is actually contributed to the spouse. This practice is known as "deeming of income."

We are also clarifying a regulation that applies in States that use the SSI eligibility criteria and may apply in States that use more restrictive eligibility criteria. This clarification reflects current SSI policy. It provides that the mutual consideration of income between two spouses who are both eligible for Medicaid as aged, blind, or disabled individuals will cease with the month after the month of separation when this separation is due to the institutionalization of one spouse.

DATES:

Effective date: These regulations are effective on October 3, 1983. However, because of the time required by some of the States and Territories to effect changes to implement the requirements, HCFA will not hold a State or Territory out of compliance with the requirements if it makes the necessary changes by November 30, 1983.

Comment period: Although these regulations are final, we will consider comments on the conforming change that we made to § 435.723(c). This regulation clarifies that, in accordance with SSI policy, the mutual consideration of income of two spouses who are both eligible for Medicaid as aged, blind, or disabled individuals ceases with the month after the month of separation when this separation is caused by the institutionalization of one spouse. To assure consideration,

comments must be received by October 3, 1983.

ADDRESS: Address comments in writing to: Health Care Financing Administration, U.S. Department of Health and Human Services, Attention: BERG–214–FC, P.O. Box 26676, Baltimore, Maryland 21207.

In commenting, please refer to file code BERG–214–FC.

If you prefer, you may deliver your comments to Room 309–G Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, D.C., or to Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

Comments will be available for public inspection as they are received, beginning approximately three weeks after publication, in Room 309–G of the Department's offices at 200 Independence Ave., SW., Washington, D.C. 20201, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202–245–7890).

FOR FURTHER INFORMATION CONTACT: Marinos Svolos, Office of Eligibility Policy, (301) 594–9050.

SUPPLEMENTARY INFORMATION:

I. Background

In 1972, when Congress replaced three of the four categorical assistance programs with the Supplemental Security Income program (SSI), the number of individuals who met eligibility requirements for SSI assistance in some States was significantly larger than the number determined eligible under the earlier, State-run programs. In order not to impose a substantial fiscal burden on these States, nor to discourage these States from participating in Medicaid, Congress enacted section 1902(f) of the Social Security Act. This section allows States to provide Medicaid only to those individuals who would have been eligible under the State Medicaid plan in effect on January 1, 1972. (For a more complete discussion, see S. Rep. No. 553, 93rd Cong. 1st Sess. 56 (1973).) States selecting this option are commonly referred to as section 1902(f) States.

Section 1902(a)(17)(B) of the Act requires that, in determining an individual's eligibility for medical assistance and the amount of financial assistance provided under the plan, States must take into account only such income as is determined (under standards prescribed by the Secretary) to be "available" to the Medicaid applicant or beneficiary. Under Medicaid plans in effect on January 1, 1972, some States "deemed" a certain amount of the income of a financially responsible relative (spouse or parent) as available to an individual, without regard to the actual monetary contribution by the relative. In the case of institutionalized applicants or beneficiaries, this was often done by subtracting, from the income of the noninstitutionalized relative, a specific "protected" amount that was considered necessary for his or her own living expenses, and considering the remaining amount available to the institutionalized individual. The State then reduced its payment to the institution based on the amount considered available to the institutionalized individual.

Under the SSI program, the statute generally requires that, if an individual and his or her spouse who apply or are eligible for SSI cease to live together, their income and resources must be considered to be mutually available, for purposes of determining eligibility, for the first six months after the month they cease to live together (see sections 1602, 1611(a) and 1614(b) of the Act). However, under section 1611(e)(1)(B)(ii) of the Act, the determination of eligibility for and the amount of the SSI benefit when one member of the couple is institutionalized is based on the application of the income of each member of the couple to separate SSI income standards. The income of the noninstitutionalized spouse is not used to compute the benefit of the institutionalized spouse except during the month that they ceased to live together.

For couples where only one spouse applies for or is eligible for SSI, a specified amount of income (determined in accordance with a set formula) is deemed from the ineligible spouse to the eligible spouse, in determining the eligibility of the eligible spouse, until the end of the month the couple ceases to live together in the same household (section 1614(f)(1) of the Act). (The SSI program does not deem income or resources from an ineligible spouse when both members of the couple are living in an institution, even if they share a room.)

II. Court Orders

These final regulations represent a return to policy that was in effect until May 30, 1979, when we revised our deeming of income rules in compliance with an order of the United States District Court for the District of Columbia (*Gray Panthers v. Secretary, Department of Health, Education, and Welfare, et al.*, 461 F. Supp 319). That order prohibited any deeming of income between spouses in section 1902(f) States when one spouse is institutionalized, and required HCFA to propose and publish new regulations implementing this prohibition. No change was required in the regulations affecting non-1902(f) States, in situations when neither spouse or both are institutionalized, or regulations concerning deeming of resources.

The District Court order was subsequently amended by the U.S. Court of Appeals, which ordered the Secretary to issue new regulations after considering certain "relevant factors". Final regulations to comply with the decision of the Court of Appeals were issued December 15, 1980. Under those rules, section 1902(f) States were permitted to use SSI deeming of income criteria or any deeming criteria more liberal than SSI, when one spouse was institutionalized. In the preamble to those regulations, we stressed that the new regulations were based on a Court of Appeals decision that rejected the Department's legal analysis of the statute and required the Department to issue new regulations. We added that the Department was seeking Supreme Court review of the *Gray Panthers* decision and, if our earlier regulations were upheld, we would consider revising the December 1980 regulations (45 FR 82254).

On June 25, 1981, the United States Supreme Court ruled that the Court of Appeals was not justified in invalidating our earlier deeming regulatjons because the Secretary had properly exercised the authority delegated by Congress.

Because the United States Supreme Court upheld our earlier deeming regulations, we are reissuing those deeming rules for the categorically needy (aged, blind or disabled individuals who are otherwise eligible for Medicaid and who meet the financial eligibility requirements for SSI or an optional State supplement or are considered under section 1619(b) of the Act to be SSI recipients, or whose categorical eligibility is protected by statute) that we believe are compelled by the requirements of section 1902(f) of the Act.

Therefore, this final rule reflects our longstanding interpretation of the statute, that section 1902(f) States can apply more restrictive deeming of income rules than applied nationally under the SSI program.

III. Provisions of the Regulations

On July 23, 1982, we published a notice of proposed rulemaking in the **Federal Register** (47 FR 31899) in order to reissue our earlier deeming rules for categorically needy individuals in the

section 1902(f) States [1] and Guam, Puerto Rico and the Virgin Islands. Under the proposal, such States would be required to use at least SSI deeming practices or any deeming criteria more extensive than SSI practices, but not more restrictive than under the State's January 1, 1972 Medicaid plan.

This would mean that both the amount and duration of deeming could be more extensive than SSI practice, if authorized under the 1972 plan. For example, some States could continue to deem for indefinite periods of time. Under the proposed rules, section 1902(f) States would no longer be permitted to use any deeming criteria less extensive than SSI practices. Puerto Rico, Guam and the Virgin Islands are permitted to return to requirements in the State plan for OAA, AB, APTD or AABD.

After evaluating the comments, we are adopting the regulations as proposed. Also, we are revising one other regulation (§ 435.723) because several commentors brought to our attention the need to clarify the policy to conform it to current SSI deeming policy.

IV. Medically Needy Deeming Rules

These rules do not apply to "medically needy" aged, blind or disabled individuals. The medically needy are individuals whose incomes and resources are within limits set under each State Medicaid plan but who are otherwise not eligible for Medicaid as categorically needy. Deeming rules for the medically needy in section 1902(f) States were included in regulations implementing the Omnibus Budget Reconciliation Act of 1981 (OBRA), Pub. L. 97–35. Changes were made to 42 CFR 435.330, 435.823 and 436.821. (See 46 FR 47976, September 30, 1981.) However, section 137(b)(8) of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), Pub. L. 97–248, made changes in the provisions of OBRA that had formed the basis for the September 30, 1981 regulations. Therefore, to the extent that those regulations conflict with statutory changes, the regulations have no further force or effect. Since the July 23, 1982 notice of proposed rule making preceded TEFRA, it dealt exclusively with deeming for the categorically needy. Accordingly, this final rule does not apply to the medically needy. We will be issuing separate rules reflecting changes regarding financial eligibility of the medically needy that were made by TEFRA.

[1] At present, these States are—Connecticut, Hawaii, Illinois, Indiana, Minnesota, Missouri, Nebraska, New Hampshire, North Carolina, North Dakota, Ohio, Oklahoma, Utah, and Virginia.

V. Analysis and Response to Public Comments

We received 10 comments on the proposed regulations. The commentors consisted of seven State agencies, one State legislative committee, a social service agency and a legal assistance group. The commentors generally supported the change, but raised some questions about specific aspect of it.

Detrimental Effect on Recipients and Spouses

1. *Comment:* Three commentors objected to the proposed rule because they felt that it could have a detrimental effect on both spouses.

Response: Section 1902(f) of the Social Security Act provides States with the option to refuse to provide Medicaid to any aged, blind, or disabled individual otherwise eligible for SSI unless that individual would be or would have been eligible for Medicaid under the State's Medicaid plan that was in effect on January 1, 1972. Therefore, if we were to require these States to use deeming rules which are more generous to beneficiaries than those which these States used on January 1, 1972, we would be exceeding our statutory authority. Accordingly, it is not appropriate to consider the relative impact of this rule on spouses, since the rule simply restores to the States the option which was provided to them by Congress in 1972 and which we have no legal basis for restricting unless "deeming" were contrary to the provisions of the Medicaid law. Since the validity of deeming under the Medicaid statute was upheld by the United States Supreme Court in its *Gray Panthers* decision, we have no basis for restricting 1902(f) States in the manner suggested by the commentor.

No Six Months Deeming Requirement Under Medicaid

2. *Comment:* Three commentors expressed concern that SSI requires that the income of eligible couples be considered mutually available during the first six months of separation caused by institutionalization of an individual.

Response: We believe that the commentors have called attention to a problem that merits a change in the Medicaid regulations governing the mutual consideration of the income of an eligible couple in SSI States.

As discussed above, the rules governing mutual consideration of income in section 1902(f) States can be no less rigorous than those which are used under the SSI program. Therefore, the mutual consideration of income rules for SSI States prescribe the least restrictive rule that section 1902(f) States may use. The concept of mutual consideration of income for six months where eligible spouses are separated derives from section 1614(b) of the Act. That section defines an "eligible spouse" under the SSI program as the aged, blind, or disabled husband or wife of another aged, blind, or disabled individual who has not been living apart from the eligible individual for more than six months. Section 1611(a)(2) of the Act defines an eligible individual (who has an eligible spouse) in terms of joint consideration of the income and resources of the individual and spouse. Since the definition of eligible spouse contains the six month period, the Medicaid rule at 42 CFR 453.723(c) specified a six month period for the joint consideration of the income and resources of these couples. Section 1611(e)(1)(B)(ii) of the Act was amended in 1976 to specify that where either member of this couple is institutionalized throughout any month, the maximum monthly SSI benefit for the institutionalized spouse is $25 per month and for the noninstitutionalized spouse is the benefit amount established for a single noninstitutionalized individual.

Because the 1976 amendment specifically addressed SSI benefit amounts rather than SSI eligibility, the Medicaid regulations governing mutual consideration of income in SSI States maintained the six months period for eligible couples separated by institutionalization. However, in view of the comments and the SSI practice of treating the eligibility of these couples as a matter that affects both the SSI benefit amount *and* Medicaid eligibility of each individual, we have reconsidered the advisability of maintaining the current Medicaid regulation and have decided that it requires alteration.

Another factor influencing this decision is the recently enacted Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248). Section 137(b)(8) of that Act enacted section 1902(a)(10)(C)(i)(II) of the Social Security Act, which requires States that provide Medicaid to all SSI recipients to use the methodology used by the SSI program in considering income and resources of aged, blind, and disabled medically needy. The reinforced connection between Medicaid and the cash assistance programs dictates the need for greater consistency between Medicaid and SSI eligibility policy.

Therefore, we are clarifying § 435.723(c) to reflect current SSI rules which specify that the mutual

consideration of income between two spouses who are both eligible as aged, blind, or disabled individuals, ceases the month after the month of separation when this separation is caused by the institutionalization of one spouse.

Additionally, the regulation reflects SSI rules which provide that if two spouses who separate both apply for Medicaid and are not eligible as a couple, the State agency must then determine if a spouse is eligible using his or her applicable income standard.

Because this change affects SSI States in addition to the section 1902(f) States, we are soliciting public comments with respect to this change. In order not to delay the adoption of the section 1902(f) State deeming rule, we are making this change in SSI State rules effective at the same time as the section 1902(f) State deeming rule.

3. *Comment:* Three commentors recommended that all deeming of income under Medicaid cease as soon as the couple is no longer living together.

Response: Because the SSI program does not cease deeming in these circumstances until the first full month in which the couple ceases to live together, we reject the commentors' suggestion that deeming cease immediately at separation instead of ceasing at the beginning of the month following the separation.

SSI generally requires the mutual consideration of income during the first 6 months of separation of an eligible couple. The income is used to determine whether both spouses are eligible for SSI benefits and the amount of those benefits. If an SSI benefit is paid, the individual is eligible for Medicaid in States that cover all SSI recipients.

However, in the case of the eligible couple where one spouse is institutionalized, the proper application of SSI policy for purposes of determining Medicaid eligibility is to apply the income of each spouse to seperate standards. The test of the couple's combined income to a couple standard does not present a barrier to attaining Medicaid eligibility because income in excess of the standard is offset by incurred medical expenses in section 1902(f) States. Additionally, a State must consider the income of the spouse at home to be available for the medical expenses of the institutionalized spouse only through the month before the first full month of separation. This is the least restrictive policy States exercising their option under section 1902(f) can apply. To allow section 1902(f) States to apply less restrictive policies is inconsistent with the intent of section 1902(f), which is only to allow States to impose more restrictive requirements than SSI.

The basis of these SSI requirements is section 1611(e)(1)(B)(ii) of the Act.

Minimum Protection Income Level

Three commenters raised issues regarding the protected income level used for recognizing the living expenses of an ineligible spouse if a State chooses to continue deeming beyond the first full month of living apart.

4. *Comment:* One commentor suggested that a minimum protected income level should be established by the regulations with an exception for hardship situations.

Response: In the final rule, we have not set a specific minimum dollar protected income level because we believe that doing so would be inconsistent with the statute. The statute allows a section 1902(f) State to apply financial eligibility criteria as restrictive as the State used under the State plan in effect on January 1, 1972 and no less restrictive than that of the SSI program.

5. *Comment:* One commentor wanted to know if a section 1902(f) State could use the State supplement level as the protected income level for an ineligible spouse.

Response: States have a great deal of flexibility in setting the amount of the protected income level, beginning with the first full month of living apart. There is no maximum protected income level. The minimum for the protected income level is the level in the Medicaid State plan in effect on Janaury 1, 1972. Therefore, there is nothing to prohibit a State from using a State supplement level if it is no more restrictive than the level on January 1, 1972.

6. *Comment:* Another commentor stated that the protected income level is not an equitable or politically viable deeming standard. This commentor felt a fee schedule is preferable to a protected income level. A fee schedule would base the amount to be deemed on an adjusted household income.

Response: This final rule does not set a minimum for the protected level (except the statutory minimum in a section 1902(f) State; that is, the January 1, 1972 level). There is only a minimum standard recognized in the final rule. Again, we believe there is sufficient flexibility to allow a fee schedule as a method of determining the amount of deemed income beginning with the first full month of living apart.

7. *Comment:* One commentor claimed that the United States Supreme Court in *Schweiker* v. *Gray Panthers* required that the amount of income protected for the spouse at home be related to living expenses and that the regulations did not include this provision.

Response: The United States Supreme Court did not rule that the protected amount must be related to living expenses. In upholding the validity of the regulations that we are reissuing here, the Court rejected the notion that "individual determinations of need" are required as part of the "deeming" process. (See 101 S.Ct. 2633 at 2642.) Implicit in the comment that the amount of income protected for the spouse at home must be related to living expenses is the concept of individual determinations which was rejected by the Court. The Court noted that the Medicaid statute's requirement of "availability refers to resources left to a couple after the spouse has deducted a sum on which to live" (*id.* at 2642). However, the issue of whether particular States set aside more income than can reasonably be considered available addresses "a problem not presently before the Court" (*Id.* at 2643, note 21). Moreover, the regulations which we are adopting require section 1902(f) States (when determining the amount of income of the spouse at home which is considered available to the institutionalized spouse) first to deduct an amount for the living expenses of the spouse at home.

Least Restrictive Alternative

8. *Comment:* One commentor argued that the statute allows a State to choose a less restrictive treatment of income and resources of spouses separated by institutionalization than used by SSI, particularly if such a requirement was part of the State's 1972 Medicaid plan.

Response: The Department has consistently interpreted section 1902(f) of the Act to require States electing this option to be no more liberal with respect to eligibility criteria for the categorically needy than the criteria used in the SSI program. This interpretation is based upon reading section 1902(f) in conjunction with section 1902(a)(10)(A) of the Act. Thus, we believe that the pertinent portion of section 1902(f) should be paraphased as follows:

> Notwithstanding any other provision of this title which requires States to provide Medicaid eligibility to all SSI recipients, *i.e.*, section 1902(a)(10)(A), no State * * * shall be required to provide medical assistance to any aged, blind, or disabled individual, unless the State would have been required to provide Medicaid to such individuals under its Medicaid plan in effect on January 1, 1972 * * *

In our view, the obligation to provide Medicaid to aged, blind, and disabled individuals who would have been

eligible for Medicaid under the January 1, 1972 plan is limited to those individuals whom the State otherwise is currently required to make Medicaid eligible by virtue of some other provision of the law; for example, SSI recipients under section 1902(a)(10)(A) of the Act. This reading of section 1902(f) is consistent with the legislative history of section 1902(f) as reported in S. Rep. No. 92–1230, 92d Cong. 2d Sess. (1972) at 222, which characterized it as follows:

> No State would be required to furnish medical assistance *to any individual receiving aid as a needy aged, blind, or disabled adult* unless the State would be (or would have been) required to furnish such assistance to such individual under its Medicaid plan that was in effect on January 1, 1972 [italics added].

As summarized by the Senate Report, it is clear that the section 1902(f) provision applies only with respect to individuals who are both receiving cash assistance *and* with respect to whom the State would be required to furnish Medicaid if the rules of its January 1, 1972 Medicaid plan currently were in effect. Accordingly, the Department has read this portion of section 1902(f) to authorize States to restrict their Medicaid eligibility of aged, blind, and disabled individuals receiving SSI. However, we do not view section 1902(f) as providing Medicaid eligibility for aged, blind, or disabled individuals who do not meet the requirements for SSI eligibility. Therefore, we reject the commentor's suggestion that we amend the regulations to authorize section 1902(f) States to use less restrictive criteria than SSI's (which would have the effect of expanding Medicaid eligibility beyond the SSI recipient population which is the focus of this portion of section 1902(f)).

Cost Associated With Effecting a Change in Policy

8. *Comment:* One commentor agreed that the proposed change would mean a cost savings to the State, but the savings would be small, since only a small portion of the population would be affected. The commentor felt that the cost savings would be offset by the administrative cost associated with implementing the change.

Response: We recognize that changes in policy may create administrative problems. However, we believe that the statute requires this interpretation. We want to emphasize that a section 1902(f) State may choose to apply the SSI deeming rules or more restrictive rules as long as those rules are not more restrictive than allowed under the State plan in effect on January 1, 1972. If a State applies the SSI rules, the State will stop considering the income of the spouse at home to be available for the institutionalized spouse beginning with the month after the month of separation when this separation is due to institutionalization.

VI. Request for Additional Public Comments

We invite comments on one issue that was not addressed in the NPRM published July 23, 1982. In particular, we request comments on the clarification that the mutual consideration of income between two spouses who are both eligible for SSI will cease beginning with the first full month of living apart when this separation is caused by the institutionalization of one spouse. Because of the large number of comments we receive, we cannot acknowledge or respond to them individually. Since we have addressed the issues raised in comments on the July 23, 1982, proposed rule in the context of "section 1902(f) States" in the preamble to these final regulations, we will not respond a second time to any comments already addressed. If appropriate, we will respond to public comments received on this new issue in a future **Federal Register** publication.

VII. Impact Analyses

Executive Order 12291

The HCFA actuary estimates that the fiscal year 1984 savings resulting from removal of the provision that permitted use of eligibility criteria more liberal than SSI requirements in section 1902(f) States will be approximately $1.5 million in Federal funds and $1.4 million in State funds. Savings will be realized to the extent that section 1902(f) States change their deeming practices and that other States choose to become section 1902(f) States because of the flexibility the regulation now affords. The final rule only reiterates the provisions of the proposed regulations and responds to public comments concerning the proposed rule.

The amendments to the regulations to clarify the use of SSI deeming policy (in States that use SSI eligibility criteria) on consideration of income and resources of eligible spouses when they cease to live together because of the institutionalization of one spouse are estimated to result in negligible savings in Federal funds for fiscal year 1984. Savings will be realized as those States that are not currently using separate criteria for deeming income and resources of spouses when one spouse is institutionalized conform their standards to reflect the consideration of income of the noninstitutionalized spouse as available only through the month of separation, and resources as available during the month of separation and during the 6 months after the month of separation.

We have determined that this rule does not meet the threshold criteria for a major rule as defined by section 1(b) of Executive Order 12291. That is, this rule will not have an annual effect on the economy of $100 million or more; or cause a major increase in costs or prices for consumers, government agencies, industry, or a geographic region; or cause significant adverse effects on business or employment.

Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980, Pub. L. 96–354, requires that Federal agencies prepare a regulatory flexibility analysis when regulations will have a significant economic impact on a substantial number of small businesses or small governmental jurisdictions.

These regulations affect individuals who, because a section 1902(f) State may change its deeming practices, may be determined ineligible for Medicaid. Individuals are not considered "small entities" under Pub. L. 96–354. Therefore, the Secretary certifies, under section 605(b) of Title 5, United States Code, that this final rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects

42 CFR Part 435

Aid to Families with Dependent Children, Aliens, Categorically needy, Contracts (Agreements—State Plan), Eligibility, Grant-in-Aid program—health, Health facilities, Medicaid, Medically needy, Reporting and recordkeeping requirements, Spend-down, Supplemental security income (SSI).

42 CFR Part 436

Aid to Families with Dependent Children, Aliens, Contracts (Agreements), Eligibility, Grant-in-Aid program—health, Guam, Health facilities, Medicaid, Puerto Rico, Supplemental security income (SSI), Virgin Islands.

PART 435—ELIGIBILITY IN THE STATES, DISTRICT OF COLUMBIA AND THE NORTHERN MARIANA ISLANDS

The authority citation for Part 435 reads as follows:

> **Authority:** Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

A. 42 CFR Part 435 is amended as set forth below:

1. Section 435.121 is amended by revising paragraph (b)(1) to read as follows:

§ 435.121 Individuals in States using more restrictive requirements for Medicaid than the SSI requirements.

* * * * *

(b) If an agency uses more restrictive requirements under this section—

(1) Each requirement may be no more restrictive than that in effect under the State's Medicaid plan on January 1, 1972, and no more liberal than that applied under SSI or an optional State supplement program that meets the conditions of § 435.230: and

* * * * *

2. Section 435.723 is amended by revising paragraphs (c) and (d) to read as follows:

§ 453.723 Financial responsibility of spouses.

* * * * *

(c) If both spouses apply or are eligible as aged, blind, or disabled and cease to live together, the agency must consider their income and resources as available to each other for the time periods specified below. After the appropriate time period, the agency must consider only the income and resources that are actually contributed by one spouse to the other.

(1) If spouses cease to live together because of the institutionalization of one spouse—

(i) The agency must consider their income as available to each other through the month in which they cease to live together. Mutual consideration of income ceases with the month after the month in which separation occurs.

(ii) The agency must consider their resources as available to each other for the month during which they cease to live together and the six months following that month.

(2) If spouses cease to live together for any reason other than institutionalization, the agency must consider their income and resources as available to each other for the month during which they cease to live together and the six months following that month. If the mutual consideration of income and resources causes the individuals to lose eligibility as a couple, the agency will determine if an individual is eligible in accordance with paragraph (d) of this section.

(d) If only one spouse in a couple applies or is eligible, or both spouses apply and are not eligible as a couple, and they cease to live together, the agency must consider only the income and resources of the ineligible spouse that are actually contributed to the eligible spouse beginning with the month after the month in which they cease to live together.

4. Section 435.734(a) is revised and paragraph (b) is removed and reserved as follows:

§ 435.734 Financial responsibility of spouses and parents.

(a) In determining Medicaid eligibility of an aged, blind, or disabled individual under requirements more restrictive than those used under SSI, the agency must consider the income and resources of spouses and parents as available to the individual in the manner specified in §§ 435.723 and 435.724 or in a more extensive manner, but not more extensive than the requirements in effect under the Medicaid plan on January 1, 1972.

(b) [Reserved]

PART 436—ELIGIBILITY IN GUAM, PUERTO RICO, AND THE VIRGIN ISLANDS

The authority citation for Part 436 reads as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

B. 42 CFR Part 436, § 436.711 is revised to read as follows:

§ 436.711 Determination of financial eligibility.

In determining eligibility of individuals specified in subparts B and C of this part who are not recipients of cash assistance, the agency must apply the financial eligibility requirements of the State plan for OAA, AFDC, AB, APTD, or AABD that would be used if the individual were applying for cash assistance. This includes requirements on financial responsibility of spouses and parents, except that in determining eligibility of families and children, the agency must consider parental income and resources as available to a child who is living with the parents until he becomes 21, even if State law confers adult status below age 21.

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program)

Dated: April 19, 1983.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: August 5, 1983.

Margaret M. Heckler,

Secretary.

[FR Doc. 83-23002 Filed 8-31-83; 8:45 am]

BILLING CODE 4120-03-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 153 and 154

[CGD 82-063b]

Revision of Staff Codes and Addresses

AGENCY: Coast Guard, DOT.

ACTION: Final rule; correction.

SUMMARY: This document corrects inadvertent errors made to the final rule document issued on February 3, 1983 (48 FR 4780). That rule revised or updated the addresses and staff codes of the component divisions of the Office of Merchant Marine Safety, U.S. Coast Guard Headquarters, to reflect recent organizational changes.

FOR FURTHER INFORMATION CONTACT: Mr. Frank K. Thompson, Office of Merchant Marine Safety (G-MTH-3/12), Room 1210, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593 (202) 426-1577.

SUPPLEMENTARY INFORMATION:

List of Subjects in 46 CFR Parts 153 and 154

Hazardous materials transportation, Marine safety, Tank vessels, Barges.

The following corrections are made to CGD 82-063b appearing at 48 FR 4780 on February 3, 1983:

1. On page 4782, column one, change 27, §§ 153.436 and 153.808 are removed.

2. On page 4782, column one, change 27, paragraph (d) is added to § 153.809.

3. On page 4782, column one, change 28, § 153.530(a) is changed to § 153.530(o).

4. On page 4782, column two, change 28, § 154.912 is added to the series.

5. On page 4782, column two, change 32 is removed.

6. On page 4782, column two, change 34 is removed.

7. On page 4782, column two, change 35, reference to the change of zip code is removed.

(14 U.S.C. 632, 49 U.S.C. 1655(b); 49 CFR 1.46(b))

Dated: August 29, 1983.

C. M. Holland,

Captain, USCG, Executive Secretary, Marine Safety Council.

[FR Doc. 83-24083 Filed 8-31-83; 8:45 am]

BILLING CODE 4910-14-M

Research and Special Programs Administration

49 CFR Part 179

[Docket No. HM-174; Amdt. No. 179-27A]

Specifications for Tank Cars

AGENCY: Materials Transportation Bureau (MTB), Research and Special Programs Administration, DOT.
ACTION: Amendment of final rule; extension of the compliance date.

SUMMARY: This document amends the final rule published on January 26, 1981 (46 FR 8005), revised on August 24, 1981 (46 FR 42678) and on September 2, 1982 (47 FR 38697), which established certain construction standards for railroad tank cars used to transport hazardous materials. The amendment extends the compliance date for equipping newly constructed DOT specification 105 tank cars, built to carry ethylene oxide, with a safety valve sized in accordance with 49 CFR 179.106–2(c)(4). The compliance date is extended from September 1, 1983, until March 1, 1984. The extension will permit completion of MTB's and FRA's review and analysis of the study by the Association of American Railroads (AAR) concerning the optimum sizing for the safety valve on cars built to carry ethylene oxide. This action is taken by MTB to ensure a thorough and detailed response to the AAR study before the revised safety valve sizing requirement becomes effective.

DATES: *Effective date:* August 31, 1983. The compliance date is extended from September 1, 1983, until March 1, 1984.

FOR FURTHER INFORMATION CONTACT: Philip Olekszyk (Office of Safety), Federal Railroad Administration, 400 Seventh Street, S.W., Washington, D.C. 20590, (202) 426–0897.

SUPPLEMENTARY INFORMATION: On January 26, 1981, MTB issued a final rule establishing certain construction standards for DOT specification 105 tank cars built to carry specified commodities. The construction standards include a safety valve sizing requirement for DOT specification 105 tank cars built to carry ethylene oxide. The final rule required that after August 31, 1981, each DOT specification 105 ethylene oxide tank car shall be constructed with a safety valve sized in accordance with 49 CFR 179.106–2(c)(4).

After publication of the final rule, MTB received several petitions for reconsideration of the final rule. These petitions addressed, among other things, the safety valve sizing requirement for ethylene oxide. The petitioners argued that the larger safety valve for ethylene oxide would be less safe because of the peculiar commodity characteristics. They also argued that the valve sizing equation in the rule should not be applied because ethylene oxide is a liquid while the equation is designed for gases.

While MTB and the FRA were not persuaded that these arguments were adequately supported, the compliance date was extended from September 1, 1981 until September 1 1982 (46 FR 42678) and then from September 1, 1982 until September 1, 1983 (47 FR 38697). The extensions were granted to permit the AAR Tank Car Committee and other interested parties an opportunity to study the question of safety valve sizing for ethylene oxide and to submit the results for review and consideration.

During the past two years, an Ad Hoc Committee of the AAR Tank Car Committee has conducted an extensive study of safety valve sizing. A final report was furnished to MTB and the FRA earlier this year. FRA and MTB has been evaluating the methodology, assumptions, and computer program, involved in the report. This review and assessment is close to completion. Therefore, MTB is extending the compliance date from September 1, 1983 until March 1, 1984, so that the evaluation by FRA and MTB can be completed before final action is taken.

The final rule extending the compliance date shall become effective in less than 30 days on August 31, 1983. MTB has determined that this final rule relieves a restriction. MTB has also determined that there is good cause for making the rule effective in less than 30 days since the imposition on September 1, 1983 of the safety valve requirement contained in 49 CFR 179.106–2(c)(4) could disrupt the construction of DOT specification 105 tank cars built to carry ethylene oxide.

List of Subjects in 49 CFR Part 179

Railroad safety.

PART 179—SPECIFICATIONS FOR TANK CARS

In consideration of the foregoing, § 179.102–12(a)(9) of Part 179 of Title 49, Code of Federal Regulations, is amended, effective August 31, 1983, as follows:

§ 179.102–12 Ethylene oxide.

(a) * * *

(9) Each tank car built after August 31, 1981, shall be constructed in accordance with class 105J, except that the safety relief valve requirements of § 179.106–2(c)(4) shall not apply. Each tank built after February 29, 1984, shall be constructed in accordance with class 105J.

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53, Appendix A to Part 1)

Note.—The Materials Transportation Bureau has determined that this document will not result in a "major rule" under the terms of Executive Order 12291 or a significant regulation under DOT's regulatory policy and procedures (44 FR 11034) or require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321, *et seq.*). I certify that this proposal will not, as promulgated have a significant economic impact on a substantial number of small entities because the overall economic impact of this amendment is minimal. A regulatory evaluation and environmental assessment for the action taken in HM–174 are available for review in the docket.

Issued in Washington, D.C., on August 25, 1983.

L. D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 83–24080 Filed 8–31–83; 8:45 am]
BILLING CODE 4910–60–M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1042, 1160, 1161, 1162, 1165, 1168, and 1181

[Ex Parte No. MC–163]

Procedures for Providing Notice of Specified Applications Through an ICC Register in Lieu of "Federal Register" Notice

AGENCY: Interstate Commerce Commission.

ACTION: Rule related notice.

SUMMARY: At 48 FR 32175, July 14, 1983, the Commission published final rules that announced the formation of a new *ICC Register* which is to begin publication concurrently with the publication of the notice. The new publication will carry notices pertinent to motor carriers, water carriers, freight forwarders, passenger carriers and property brokers, as well as the text of ICC rulemaking decisions when they apply to the motor carrier industry. A complete listing of the proceedings to be published in the new publication is repeated in the notice.

ADDRESSES: Persons who wish to subscribe to the *ICC Register* should send their requests for a one-year subscription and the $225 fee to: *ICC Register Subscriptions*, Room 2221, Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

Persons who wish to purchase an individual issue should send their request with a check or money order for $2.50 to the above-noted address.

FOR FURTHER INFORMATION CONTACT: For General Information: Ellen R. Watson (Editor), Darlene Proctor, (202) 275–7233.

For Subscription Information: Edward C. Fernandez, Lolita Leak, (202) 275–7591.

SUPPLEMENTARY INFORMATION: Items 1–12, below, will no longer appear in the **Federal Register**, but will appear in the *ICC Register*.

TYPES OF PROCEEDINGS WHICH WILL APPEAR IN THE *ICC Register*.

Type of application or proceeding	Code of Federal Regulation Reference
1. Motor Carriers of Passengers Alternate Route Deviations	49 CFR 1042.2(c)(9)
2. Motor Carriers of Property (Interstate)	49 CFR 1160.1–1160.66
Freight Forwarder	
Water Carriers	
Property Broker	
Water Carrier Exemption	
3. Motor Carriers of Passengers (Interstate and Intrastate under 49 U.S.C. 10922(c)(2)(B)).	49 CFR 1160.70–1160.87
4. Applications for the Issuance of Certificates of Registration	49 CFR 1161
5. Temporary Authority Procedures Under 49 U.S.C. 10928	49 CFR 1162
6. Applications for Authority to Provide Owner-Operator Food Transportation	49 CFR 1164
7. Restriction Removal (both Property and Passenger)	49 CFR 1165
8. Transfers of Operating Rights under 49 U.S.C. 10924, 10926, 10931, and 10932.	49 CFR 1161
9. Motor Carriers of Passengers (Intrastate under 49 U.S.C. 10922(c)(2)(A))	49 CFR 1166
10. Petitions for Exemptions of Motor Carriers of Property for Consolidation, Merger, and Acquisition of Control.	Ex Parte No. 400 (Sub-No. (367 I.C.C.113)
11. Applications for Approval of Pooling Operations	49 CFR Part 1164
12. Petitions for Exemption from Tariff Filing Requirements Filed by Contract Carriers of Passengers.	Ex Parte No. 400 (Sub-No. 1) (367 I.C.C. 113)
13. The following will appear in the *ICC Register* as well as the "Federal Register:"	
a. Notices of Proposed and of Final Rules concerning motor carriers.	
b. Petitions for Declaratory Order concerning motor carriers.	
c. Petitions for Exemptions as Single-State Operators under 49 U.S.C. 10525.	
d. Petitions to Expand the Commercial Zone Exemption under 49 U.S.C. 10526(b)(1).	
e. Motor Carrier Applications to Consolidate, Merge or Acquire Control under 49 U.S.C. 11343, 11344, and 11345a.	

Agatha L. Mergenovich,
Secretary.

[FR Doc. 83-24000 Filed 8-31-83; 8:45 am]
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Proposed Rules

Federal Register
Vol. 48, No. 171
Thursday, September 1, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

GENERAL ACCOUNTING OFFICE

4 CFR Part 83

Privacy Procedures for Personnel Records

AGENCY: General Accounting Office.

ACTION: Proposed regulations.

SUMMARY: These proposed regulations would establish procedures and limitations designed to protect the privacy of General Accounting Office (GAO) personnel records. While GAO is not subject to the procedural requirements of the Privacy Act (Act), 5 U.S.C. 552a, it is GAO policy to conduct its activities, to the maximum extent possible, in a manner consistent with the spirit of the Act and its duties, functions, and responsibilities to the Congress.

DATE: Comments must be received on or before October 3, 1983.

FOR FURTHER INFORMATION CONTACT: Suzanne M. Stover-Carr, Attorney-Adviser, Office of the General Counsel, Room 7740, United States General Accounting Office, 441 G Street NW., Washington, D.C. 20548. Tel: (202) 275–5212.

SUPPLEMENTARY INFORMATION: Although GAO is not covered by the principal requirements of the Privacy Act, it has been GAO's position to conform to the spirit of that Act consistent with its duties and functions and responsibility to the Congress. Consequently, GAO proposes to amend Title 4 of the Code of Federal Regulations by adding a new Part 83 entitled "Privacy Procedures for Personnel Records." This proposal does not list either the various systems of personnel records or routine uses of such records which will be published periodically in the **Federal Register**. A listing of existing systems of personnel records and proposed routine uses will appear in the **Federal Register** after the receipt and evaluation of comments.

Section-by-Section Analysis

Section 83.1 Purpose and Scope of Part

This section would establish the purpose and scope of the proposed regulations, a purpose in harmony with the objectives of the Privacy Act. The proposed regulations would apply to systems of personnel records, which are our most important and extensive systems. The disclosure of these and other GAO records would also be governed by 4 CFR Part 81, concerning the public availability of General Accounting Office Records.

Section 83.2 Administration.

The Director, Personnel, of the General Accounting Office is responsible for administering the proposed regulations.

Section 83.3 Definitions.

The definitions used in this part include those terms defined in the Privacy Act, and Office of Personnel Management regulations published at 5 CFR Parts 294–297 (1982).

Section 83.4 Conditions of Disclosure.

The regulations would adopt most of the same conditions of disclosure that govern executive agencies under the Privacy Act. The exemptions under the Act under which records may be disclosed to the Bureau of the Census and to the National Archives are not included since GAO considers it unlikely that such a use of GAO personnel records would be made. If the records are to be so used, the statutory provisions of title 13, United States Code, concerning disclosure to the Bureau of the Census would control. Also the GAO/OPM/GSA Memorandum of Understanding, reprinted in Appendix I, as well as GSA's own statutory provisions, would govern disclosure to the National Archives.

Section 83.5 Accounting of Certain Disclosures.

This section would adopt accounting provisions similar to those under the Privacy Act, recognizing GAO's record retention schedule.

Section 83.6 GAO Policy and Requirements.

The GAO requirements generally would track the requirements imposed on executive agencies under the Privacy Act.

Section 83.7 Standards of Conduct.

This section would differ from the Privacy Act in that GAO standards of conduct involve internal controls only, whereas the Privacy Act grants statutory Federal civil and criminal jurisdiction over Privacy Act violations. Since GAO is not covered by the procedural requirements of that Act, it cannot grant similar jurisdiction for individuals to bring a cause of action to the United States courts.

Section 83.8 Social Security Number.

This section would reiterate the requirements of section 7 of the Privacy Act, the only section of that Act that is applicable to GAO. Since 1974, GAO has been following the requirements of this section.

Section 83.9 First Amendment Rights.

This section would track the Privacy Act guarantees of protecting First Amendment rights.

Section 83.10 Official Personnel Folder.

This section would reflect the most important record system of personnel systems of records—the Official Personnel Folder. Ownership of the Folder is already established by the GAO/OPM/GSA Memorandum of Understanding (Appendix I); regulations concerning the Folder would be consistent with the Office of Personnel Management's regulations concerning the Official Personnel Folders of executive branch agencies.

Section 83.11 Disclosure of Information.

The regulations concerning the availability of information would generally track the regulations of the Office of Personnel Management concerning availability of records.

Section 83.11(f) states that an Official Personnel Folder shall be disclosed to an official of GAO who has a need for the information in the performance of official duties. This includes the members of the GAO Personnel Appeals Board and its General Counsel.

The remaining regulations in this section concerning GAO disclosure of information would generally track the Privacy Act.

§ 83.12 Procedures for individual Access to Records.

This section would provide the specific procedures and identification requirements for individual requests for access to GAO personnel records and generally tracks the Office of Personnel Management regulations in this regard.

§ 83.13 Inquiries.

This section would direct the individual in making general inquiries about systems of records.

§ 83.14 Denial of Access Requests.

This section would track the Privacy Act and gives the requester the right to receive the reason for the denial of his access request and the identification of the official responsible for the decision.

§ 83.15 Request for Amendment of Record.

This section would prescribe procedures similar to the Privacy Act whereby an individual can request amendment of a personnel record.

§ 83.16 Administrative Review of Request for Amendment of Record.

This section would provide procedures whereby a requester can seek administrative review of GAO's denial of a request for amendment of the requestor's record.

§ 83.17 Fees.

This section would prescribe fees for obtaining copies of records.

§ 83.18 Rights of Legal Guardians.

This section would establish the rights of legal guardians of incompetent individuals.

§ 83.19 Government Contractors.

This section would provide that Government contractors stand in the shoes of GAO personnel when GAO provides, by contract, for the maintenance by or on behalf of GAO of a system of personnel records.

§ 83.20 Mailing Lists.

This section would establish that GAO may not sell or rent mailing lists unless specifically authorized by law.

§ 83.21 Exemptions.

Certain systems of records would be exempted from requirements relating to accounting for disclosures and the criteria for relevant and necessary information. These exemptions generally track those of the Privacy Act.

List of Subjects in 4 CFR Part 83

Administrative practices and procedures, Government employees, Privacy.

Accordingly, it is proposed that Title 4 CFR be amended by the addition of a new Part 83, to read as follows:

PART 83—PRIVACY PROCEDURES FOR PERSONNEL RECORDS

Sec.

83.1 Purpose and scope of part.
83.2 Administration.
83.3 Definitions.
83.4 Conditions of disclosure.
83.5 Accounting of certain disclosures.
83.6 GAO policy and requirements.
83.7 Standards of conduct.
83.8 Social security number.
83.9 First amendment rights.
83.10 Official Personnel Folder.
83.11 Disclosure of information.
83.12 Procedures for individual access to records.
83.13 Inquiries.
83.14 Denial of access requests.
83.15 Request for amendment of record.
83.16 Administrative review of request for amendment of record.
83.17 Fees.
83.18 Rights of legal guardians.
83.19 Government contractors.
83.20 Mailing lists.
83.21 Exemptions.
Appendix I—Memorandum of Understanding

Authority: 31 U.S.C. 711(1); Memorandum of Understanding between the U.S. Office of Personnel Management, the National Archives and Records Service of the General Services Administration and the U.S. General Accounting Office; 4 CFC Part 81; 5 CFC Parts 294–297; and 31 U.S.C. 731 *et seq.*

§ 83.1 Purpose and scope of part.

This part describes the policy and prescribes the procedures of the United States General Accounting Office (GAO) with respect to maintaining and protecting the privacy of GAO personnel records. While GAO is not subject to the Privacy Act (Act) (5 U.S.C. 552a), GAO's policy is to conduct its activities in a manner that is consistent with the spirit of the Act and its duties, functions, and responsibilities to the Congress. Application of the Privacy Act to GAO is not to be inferred from the provisions of these regulations. These regulations are designed to safeguard individuals against invasions of personal privacy by requiring GAO, except as otherwise provided by law, to—

(a) Protect privacy interests of individuals by imposing requirements of accuracy, relevance, and confidentiality for the maintenance and disclosure of personnel records;

(b) Inform individuals of the existence of systems of personnel records maintained by GAO containing personal information; and

(c) Inform individuals of the right to see and challenge the contents of personnel records containing information about them.

This part applies to all systems of personnel records (as defined in § 83.3(g)) for which GAO is responsible.

§ 83.2 Administration.

The administration of this part is the duty and responsibility of the Director, Personnel, United States General Accounting Office, 441 G Street, NW., Washington, D.C. 20548. To this end, the Director, Personnel, in consultation with the Office of the General Counsel, is authorized to issue such supplemental regulations or procedural directives as may be necessary and appropriate.

(a) The Director, Personnel, shall have general responsibility and authority for implementing this part, including—

(1) Approving all systems of personnel records to be maintained by GAO (whether physically located in GAO's Office of Personnel or elsewhere), including the contents and uses of Personnel or elsewhere), inclusing the contents and uses of such systems, accounting methods, and security methods; and

(2) Responding to an indivisual's request to gain access to or amend his or her own personnel records.

(b) The Director, Personnel, may delegate to the Office of Information Systems and Services, GAO, any of his functions under this part.

§ 83.2 Definitions.

As used in this part:

(a) "Individual" means a citizens of the Unites States or an alien lawfully admitted for permanent residence;

(b) "Information" means papers, records, photographs, magnetic storage media, micro storage media, and other documentary materials, regardless of physical form or charateristics, containing data about an individual and required by GAO in pursuance of law or in connection with the discharge of official business, as defined by statute, regulation, or administrative procedure;

(c) "Maintain" includes to collect, to use, or to disseminate;

(d) "Personnel record" means any record concerning and individual which is maintained in GAO's personnel management or personnel policy setting process;

(e) "Record" means any item, collection, or grouping of information about an individual that is maintained by GAO, including, but not limited to, education, financial transactions, medical history, criminal history, or employment history;

(f) "Routine use" means the disclosure of a record for a purpose which is compatible with the purpose for which it was collected; and

(g) "System of personnel records" means a group or records under the control of GAO from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

(h) "System manager" means the Director of Personnel, his designee, or other GAO official designated by the Comptroller General, who has the authority to decide matters relative to systems of personnel records maintained by GAO.

§ 83.4 Conditions of disclosure.

GAO shall not disclosure any record that is contained in a system of personnel records by any means of communication to any person or organization, including another agency, without the prior written consent of the individual to who the record pertains, unless disclosure of the records would be:

(a) To those officers and employees of GAO who have a need for the record in the performance of their duties; or

(b) Authorized under regulations implementing the public availability of GAO records published at Part 81 of this chapter; or

(c) For routine use as defined in § 83.3(f); or

(d) To a receipient who has provided GAO with advance adequate written assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable; or

(e) To another agency or an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, if the head of the agency or instrumentality has made a written request to GAO specifying the particular record desired and the law enforcement activity for which the record is sought; or

(f) To any person pursuant to a showing of compelling circumstances affecting the health of safety of an individual if upon such disclosure notification is transmitted to the last known address of such individual; or

(g) To either House of Congress, or, to the extent of matter within its jurisdiction, any committee or subcommittee of Congress; or

(h) Pursuant to the order of a court of competent jurisdiction or in connection with any judicial or quasi-judicial proceedings;

(i) To the Bureau of the Census for purposes of planning or carrying out a census or survey or related activity pursuant to the provisions of title 13, United States Code; or

(j) To the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by the Administrator of General Services or his designee to determine whether the record has such value.

§ 83.5 Accounting of certain disclosures.

(a) With respect to each system of personnel records, GAO shall, except for disclosures made under §§ 83.4(a) and 83.4(b), keep an accurate accounting of—

(1) The date, nature, and purpose of disclosure of a record to any person; and

(2) The name and address of the person, agency, or organization to whom the disclosure is made.

(b) Such accounting shall be retained for at least 3 years or the life of the record, whichever is longer, after the disclosure for which the accounting is made.

(c) Except for disclosures made under § 83.4(e), the accounting shall be available upon written request to the individual named in the record.

§ 83.6 GAO policy and requirements.

(a) GAO shall maintain in its personnel records only such information about an individual as is relevant and necessary to accomplish an authorized official purpose. Authority to maintain personnel records does not constitute authority to maintain information in the record merely because a need for it may develop in the future. Both Government-wide and internal agency personnel records shall contain only information concerning an individual that is relevant and necessary to accomplish GAO's personnel management objectives as required by statute, executive order, GAO internal directive, or formal agreements between GAO and other Federal agencies.

(b) GAO shall make every reasonable effort to collect information about an individual directly from that individual when the information may result in adverse determinations about the individual's rights, benefits, and privileges under Federal programs. Factors to be considered in determining whether to collect the data from the individual concerned or a third party are:

(1) The nature of the information is such that it can only be obtained from another party;

(2) The cost of collecting the information directly from the individual is unreasonable when compared with the cost of collecting it from another party;

(3) There is virtually no risk that information collected from other parties, if inaccurate, could result in a determination adverse to the individual concerned;

(4) The information supplied by an individual must be verified by another party; or

(5) Provisions are made, to the greatest extent practical, to verify information collected from another party with the individual concerned.

(c) GAO shall inform each individual whom it asks to supply information, on the form which it uses to collect the information or on a separate form that can be retained by the individual, of—

(1) The authority for the solicitation of the information and whether disclosure of such information is mandatory or voluntary;

(2) The principal purpose or purposes for which the information is intended to be used;

(3) The routine uses which may be made of the information, as published pursuant to paragraph (d)(4) of this section; and

(4) The effects, if any, of not providing all or any part of the requested information;

(d) Subject to the provisions of paragraph (i) of this section, GAO shall publish in the **Federal Register** at least every 2 years a notice of the existence and character of its systems of personnel records. Such notice shall include—

(1) The name and location(s) of each system of personnel records;

(2) The categories of individuals about whom records are maintained in each such system;

(3) The categories of records maintained in each system of personnel records;

(4) Each routine use of the records contained in each system of personnel records, including the categories of users and the purpose(s) of such use;

(5) The policies and practices of GAO regarding storage, retrievability, access controls, retention, and disposal of the records;

(6) The title and business address of the GAO official who is responsible for maintaining each system of personnel records;

(7) GAO procedures whereby an individual can ascertain whether a

system of personnel records contains a record pertaining to the individual;

(8) Procedures whereby an individual can request access to any record pertaining to him contained in any system of personnel records, and how the individual may contest its content; and

(9) The categories of sources of records in each system of personnel records.

(e) GAO shall maintain all records which it uses in making any determination about any individual with such accuracy, relevancy, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in the determination;

(f) GAO shall, prior to disseminating any record about an individual to any persons other than a Federal agency, make all reasonable efforts to assure that such records are accurate, complete, timely, and relevant for GAO's purposes;

(g) (GAO shall make reasonable efforts to serve notice on an individual when any record on such individual is made available to any person under compulsory legal process when such process becomes a matter of public record;

(h) GAO shall establish rules of conduct for persons involved in the design, development, operation, or maintenance of any system of personnel records or files or in maintaining any record, and instruct each person with respect to such rules and requirements of this part, including any other rules and procedures adopted pursuant to this part;

(i)(1) GAO shall establish appropriate administrative, technical and physical safeguards to ensure the security and confidentiality of personnel records. At a minimum, these controls shall require that all persons whose official duties require access to and use of personnel records be responsible and accountable for safeguarding those records and for ensuring that the records are secured whenever they are not in use or under the direct control of authorized persons. Generally, personnel records should be held, processed, or stored only where facilities and conditions are adequate to prevent unauthorized access;

(2) Except for access by the data subject, only employees whose official duties require and authorize access shall be allowed to handle and use personnel records, in whatever form or media the records might appear. To the extent feasible, entry into personnel record storage areas shall be similarly limited. Documentation of the removal of records from storage areas must be kept so that adequate control procedures can be established to assure that removed records are returned on a timely basis.

(3) In addition to following the above security requirements, managers of automated personnel records shall establish administrative, technical, physical, and security safeguards for data about individuals in automated records, including input and output documents, reports, punched cards, magnetic tapes, disks, and on-line computer storage. As a minimum, the safeguards must be sufficient to:

(i) Prevent careless, accidental, or unintentional disclosure, modification, or destruction of identifiable personal data;

(ii) Minimize the risk of improper access, modification, or destruction of identifiable personnel data;

(iii) Prevent casual entry by persons who have no official reason for access to such data;

(iv) Minimize the risk of unauthorized disclosure where use is made of identifiable personal data in testing of computer programs;

(v) Control the flow of data into, through, and from computer operations;

(vi) Adequately protect identifiable data from environmental hazards and unnecessary exposure; and

(vii) Assure adequate internal audit procedures to comply with these procedures.

(4) The disposal of identifiable personal data in automated files is to be accomplished in such a manner as to make the data unobtainable to unauthorized personnel. Unneeded personal data stored on reuseable media, such as magnetic tapes and disks, must be erased prior to release of the media for reuse.

(j) At least 30 days prior to publication of information under paragraph (d)(4) of this section, publish in the **Federal Register** notice of any new use or intended use of the information in the system, and provide an opportunity for interested persons to submit written data, views, or arguments to GAO.

§ 83.7 Standards of conduct.

(a) GAO employees whose official duties involve the maintenance and handling of personnel records shall not disclose information from any personnel record unless disclosure is part of their official duties or required by statute, executive order, regulation, or internal procedure.

(b) Any GAO employee who makes an unauthorized disclosure of personnel records or a disclosure of information derived from such records, knowing that such disclosure is unauthorized, or otherwise knowingly violates these regulations, shall be subject to appropriate disciplinary action. GAO employees are prohibited from using personnel information not available to the public, obtained through official duties, for commercial solicitation or sale, or for personal gain. Any employee who knowingly violates this prohibition shall be subject to appropriate disciplinary action.

§ 83.8 Social Security Number.

(a) GAO may not require individuals to disclose their Social Security Number (SSN) unless disclosure would be required—

(1) Under Federal statute; or

(2) Under any statute, executive order, or regulation that authorizes any Federal, State, or local agency maintaining a system of records that was in existence and operating prior to January 1, 1975, to request the SSN as a necessary means of verifying the identity of an individual.

(b) Individuals asked to voluntarily provide their SSN shall suffer no penalty or denial of benefits for refusing to provide it.

(c) When GAO requests an individual to disclose his or her SSN, it shall inform that individual whether that disclosure is mandatory or voluntary, by what statutory or other authority such number is solicited, and what uses will be made of it.

§ 83.9 First amendment rights.

Personnel records or entries thereon describing how individuals exercise rights guaranteed by the First Amendment to the United States Constitution are prohibited, unless expressly authorized by statute, by the individual concerned, or unless pertinent to and within the scope of an authorized law enforcement activity. These rights include, but are not limited to, free exercise of religious and political beliefs, freedom of speech and the press, and freedom to assemble and to petition the Government.

§ 83.10 Official Personnel Folder.

(a) GAO shall establish and maintain an Official Personnel Folder for each of its employees, except when an existing Official Personnel Folder is used upon transfer from or reemployment by any Executive department, independent establishment of the Federal government, corporation wholly owned or controlled by the United States, and positions subject to civil service rules and regulations in the Legislative and Judicial branches of the Federal government and the District of Columbia government. Except as provided for in

Federal Personnel Manual (FPM) Supplement 293-31, there will be only one Official Personnel Folder maintained for each employee.

(b) GAO/U.S. OPM/GSA Memorandum of Understanding. The Memorandum of Understanding agreed to by the U.S. General Accounting Office, the U.S. Office of Personnel Management (U.S. OPM), and the National Archives and Records Service of the General Services Administration (GSA), Appendix I, constitutes the official and sole agreement concerning the continuity and coordination of the Official Personnel Folder.

(c) GAO policy is to assure continuity and coordination of the Official Personnel Folder when a person for whom an Official Personnel Folder has been established, separates from GAO, or transfers to or from GAO from or to a Federal agency subject to regulations of the U.S. OPM relating of Official Personnel Folders.

GAO will maximize the pooling of information between itself and those Federal agencies subject to OPM rules and regulations concerning the Official Personnel Folder so that a GAO employee may transfer to and from other Federal agencies with one complete and informative Official Personnel Folder.

(d) Ownership of Official Personnel Folder.

(1) The Official Personnel Folders of individuals whose employment with GAO terminated prior to October 1, 1980, are the records of U.S. OPM and are under the jurisdiction and control of U.S. OPM.

(2) The Official Personnel Folders of current GAO employees whose GAO employment began or or after October 1, 1980, and who have had no previous employment by an executive branch agency of the Federal government shall be under the jurisdiction and control of, and are the records of GAO. GAO shall retain jurisdiction over such records even when they are transferred to an executive branch agency.

(3) The Official Personnel Folders of current GAO employees who were employed prior to October 1, 1980, by either GAO or an executive branch agency shall be under the control of GAO but those records established prior to October 1, 1980, by GAO, and all records established as a result of employment by an executive branch agency shall remain under the jurisdiction of, and be part of the records of, U.S. OPM.

(4) GAO will maintain those Official Personnel Folders containing records of employment by an executive branch Federal agency, or by GAO prior to October 1, 1980, in compliance with regulations of the U.S. OPM in accordance with the procedures contained in the Memorandum of Understanding and the provisions of regulations of U.S. OPM contained in 5 CFR Parts 293, 294, and 297, as well as the provisions of FPM Chapters 293, 294, and 297.

(e) Maintenance and Content of Folder. GAO shall maintain in the Official Personnel Folder the reports of selection and other personnel actions named in section 2951 of title 5, United States Code. The Folder shall also contain permanent records affecting the employee's status and service as required by U.S. OPM instructions and as designated in FPM Supplement 293-31.

(f) Use of Existing Folders upon Transfer or Reemployment. In accordance with paragraph (a) of this section, GAO shall request the transfer of the Official Personnel Folder for a person who was previously employed with a Federal agency that maintains such a Folder. The Folder so obtained shall be used in lieu of establishing a new Official Personnel Folder.

(1) When a person for whom an Official Personnel Folder has been established transfers from GAO to another Federal agency that maintains the Folder, GAO shall, on request, transfer the Folder to the new employing agency.

(2) Before transferring the Official Personnel Folder, GAO shall—

(i) Remove those records of a temporary nature filed on the left side of the Folder; and

(ii) Ensure that all permanent documents of the Folder are complete, correct, and present in the Folder in accordance with FPM Supplement 293-31.

(g) Disposition of Folders of Former Federal Employees.

(1) Folders containing the personnel records of individuals separated from employment with GAO will be retained by GAO for 30 days after separation, and may be retained for an additional 60 days. Thereafter, the Folder shall be transferred to the same location and in the same manner as Official Personnel Folders of persons separated from Federal Agencies which are subject to U.S. OPM regulations in accordance with the Memorandum of Understanding.

(2) GAO shall remove temporary records from the Folder before it is transferred in accordance with guidelines applicable to Federal agencies which are subject to U.S. OPM regulations.

(3) If a former GAO employee is reappointed in the Federal service, the employee's Folder shall, upon request, be transferred to the new employing agency.

(h) Access Requests and Amendments to the Official Personnel Folder. Requests for access to, disclosure from, correction of, or amendments to documents contained in the Official Personnel Folder will be made in accordance with the Memorandum of Understanding.

§ 83.11 Disclosure of information.

(a) This section governs responses to a member of the public for access to information covered by this part. It does not limit in any way other disclosures of information pursuant to other provisions of this part.

(b) The following information about most present and former GAO employees is available to the public:

(1) Name;

(2) Present and past position title;

(3) Present and past grades;

(4) Present and past salaries; and

(5) Present and past duty stations (which include room numbers, shop designations, or other identifying information regarding buildings or places of employment).

(c) Disclosure of the above information will not be made where the information requested is a list of present or past position titles, grades, salaries, and/or duty stations of Government employees which, as determined by the Director, Personnel, is:

(1) Selected in such a way as to constitute a clearly unwarranted invasion of personal privacy because the nature of the request calls for a response that would reveal more about the employees on whom information is sought than the five enumerated items; or

(2) Would otherwise be protected from mandatory disclosure under an exemption of Part 81 of this title concerning the public availability of GAO records.

(d) In addition to the information that may be made available under paragraph (a) of this section, GAO may make available the following information to a prospective employer of a GAO employee or former GAO employee:

(1) Tenure of employment;

(2) Civil service status;

(3) Length of service in GAO and the Government; and

(4) When separated, the date and reason for separation shown on the required standard form.

(e) In addition to the information to be made available under paragraph (a) of

this section, the home address of an employee shall be made available to a police or court official on receipt of a proper request stating that an indictment has been returned against the employee or that complaint, information, accusation, or other writ involving nonsupport or a criminal offense has been filed against the employee and the employee's address is needed for service of a summons, warrant, subpoena, or other legal process.

(f) Upon a written official request stating the reasons for the request, an Official Personnel Folder may be disclosed to a representative of a congressional committee or subcommittee, or an official of the legislative or judicial branch:

(g) An Official Personnel Folder shall be disclosed to an authorized official of GAO who needs the information in the performance of official duties. Any questions as to whether a GAO officer or employee is entitled to such access shall be resolved by the Director, Personnel, in consultation with the Office of the General Counsel.

(h) Except as provided in paragraphs (a) through (f) of this section, and except as provided in this part, information required to be included in an Official Personnel Folder is not available to the public and is protected from disclosure by § 81.5(a)(6) of this chapter.

(i) Personnel Appeal Files. GAO, upon receipt of a request which identifies the individual from whose file the information is sought, shall disclose the following information from a Personnel Appeal File to a member of the public, except when the disclosure would constitute a clearly unwarranted invasion of personal privacy:

(1) Confirmation of the name of the individual from whose file the information is sought and the names of the other parties concerned;

(2) The status of the case;

(3) The decision on the case;

(4) The nature of the action appealed; and

(5) With the consent of the parties concerned, other reasonably identified information from the file.

(j) Leave Records. The annual and sick leave record of an employee, or information from these records, is not to be made available to the public by GAO or other Government agency. However, the leave record, or information from it, shall be disclosed to the employee concerned or, with his written consent, to a representative of the employee or any other person that he authorizes to have the record.

(k) Classified Information. GAO will not disclose information classified Executive Order 12356 of April 2, 1982, or other executive order, derived from personnel records except to individuals authorized access to it under terms of that authority.

(l) Examinations and Related Subjects. Information concerning the results of examinations will be released only to the individual concerned, and to those parties explicitly designated in writing by the individual. The names of applicants for GAO positions or eligibles on GAO or civil service registers, certificates, employment lists, or other lists of eligibles, or their ratings or relative standings are not information available to the public.

(m) Medical information.

(1) Medical information about an applicant, employee, or annuitant is not made available to the public by GAO or other government agency;

(2) Medical information about an applicant, employee, or annuitant may be disclosed by GAO to the applicant, employee, or annuitant, or a representative designated in writing, except that medical information concerning a metal or other condition of such a nature that a prudent physician would hesitate to inform a person suffering from it of its exact nature and probable outcome may be disclosed only to a licensed physician designated in writing for that purpose by the individual or his designated representative.

(n) Investigations.

(1) Upon written request, GAO will disclose to the parties concerned any report of personnel investigation under its control, or an extract of the report, to the extent the report is involved in a proceeding before GAO. For the purpose of this paragraph, the "parties concerned" means the Government employee involved in the proceeding, his or her representative designated in writing, and the representative of GAO involved in proceeding.

(2) GAO will not make a report of investigation or information from a report under its control available to the public, to witnesses, or, except as otherwise required under GAO regulations implementing the public availability of records published at Part 81 of this chapter, to the parties concerned in the investigation.

§ 83.12 Procedures for individual access to records.

(a) GAO shall, upon written request by any individual to gain access to his or her record or to any information pertaining to the individual which is contained in a system of personnel records, permit the individual and upon the individual's request a person of his or her own choosing to accompany him or her, to review the record and have a copy made of all or any portion thereof in a form comprehensible to him or her, except that the GAO may require the individual to furnish a written statement authorizing discussion of that individual's record in the accompanying person's presence. When access to the records has been granted by a system manager or designee:

(1) Inspection in person may be made in the office designated in the system notice during the hours specified by GAO.

(2) Upon the determination of the designated GAO official, records may be transferred to a GAO office more convenient to the data subject to review.

(3) Generally, GAO will not furnish certified copies of records. Where certified copies of records are to be furnished, they may be mailed at the request of the data subject or, as determined by GAO, only after waiver or payment of any fee levied in accordance with § 83.17 is received.

(4) In no event shall original records be made available for review by the individual except in the presence of a system manager or designee.

(b) The general identifying information items that the designated GAO official may ask to be furnished before a specific inquiry is granted include:

(1) Full name, signature, and home address;

(2) Picture identification card;

(3) The current or last place and dates of Federal employment, if appropriate; and

(4) Social Security Number (for those systems of records retrieved by this identifier).

(c) A request or inquiry from someone other than the individual to whom the information pertains shall contain such documents or copies of documents that establish the relationship or authorize access as follows:

(1) When the requester is the parent or legal guardian of a data subject who is a minor, the requester shall identify the relationship with the data subject and furnish a certified or authenticated (e.g. notarized) copy of any document establishing parentage or appointment as legal guardian.

(2) Where the requester is the legal guardian of a data subject who has been declared incompetent by the courts, the requester shall identify the relationship with the data subject and furnish a certified or authenticated copy of the court's appointment of guardianship.

(3) Where the requester is a representative of the data subject, the requester shall identify the relationship

with the data subject or the data subject's parent or legal guardian, and furnish documentation designating the representative as having the authority to act on behalf of the data subject.

(d) When the requester appears in person and cannot be identifed by sight and signature, proof of identity is required as follows:

(1) When a request is from the data subject, the means of proof, in order of preference, are:

(i) A document bearing the individual's photograph and signature (for example, driver's license, passport, or military or civilian identification card); or

(ii) Two documents bearing the individual's signature (for example, Medicare card, unemployment insurance book, employer identification card, major credit card, professional, draft, or union membership card).

(2) When a request is made by the parent, legal guardian, or authorized representative of the data subject, the means of identifying the requester and his or her authority for acting on behalf of the data subject shall be as prescribed in paragraphs (c) and (d) of this section. In addition, the requester shall establish the identity of the data subject in the manner prescribed in paragraph (b) of this section.

(e) When a written inquiry or request is received from the data subject, or from the data subject's parent, legal guardian, or authorized representative, it should be signed and—

(1) For an inquiry, contain sufficient identifying information about the data subject to permit searching of the record system(s) and to permit response; and

(2) For an access request—

(i) From the data subject, contain sufficient information to locate the record and establish that the requester and the data subject are the same (e.g. matching signatures);

(ii) From the data subject's parent, legal guardian, or authorized representative, contain sufficient information to locate the record, match identity with the data subject, and such documentation of association or authorization as is prescribed in paragraphs (c) and (d) of this section.

(f) The signed request from the data subject, or from the data subject's parent, legal guardian, or authorized representative specified in paragraph (c) of this section shall be sufficient proof of identity of the requester, unless for good cause, the system manager or designee determines that there is a need to require some notarized or certified evidence of the identity of the requester.

§ 83.13 Inquiries.

(a) General inquiries to request assistance in identifying which system of records may contain a record about an individual may be made in person or by mail to the Director, Personnel.

(b) An inquiry that requests GAO to determine if it has, in a given system of personnel records, a record about the inquirer, should be addressed to the official identified in the **Federal Register** notice for that system. Inquirers should specify the name of the system of personnel records, if known, as published in the **Federal Register**. Such inquiries should contain the identifying data prescribed in § 83.12 before a search can be made of that particular system of records.

§ 83.14 Denial of access requests.

(a) If an access request is denied, the official denying the request shall give the requester the following information:

(1) The official's name, position title, and business mailing address;

(2) The date of the denial;

(3) The reasons for the denial, including citation of appropriate sections of this or any other applicable part; and

(4) The individual's opportunities for further administrative consideration, including the name, position title, and address of the GAO official (see paragraph (c) of this section) responsible for such further review.

(b) Denial of a request for access to records will be made only by the official GAO designee and only upon a determination that:

(1) The record is subject to an exemption under § 83.21 when the system manager has elected to invoke the exemption; or

(2) The record is information compiled in reasonable anticipation of a civil action or proceeding; or

(3) The data subject or authorized representative of the data subject refuses to abide by procedures for gaining access to records.

(c) A request for administrative review of a denial shall be made to the Assistant Comptroller General for Human Resources, United States General Accounting Office, 441 G Street, N.W., Washington, D.C. 20548. The Assistant Comptroller General shall acknowledge receipt of a request for administrative review of a denial of access within 10 working days. If it is not possible to reach a decision within an additional 10 working days, the requester shall be informed of the approximate date (within 30 working days) when such a decision may be expected.

(d) In reaching a decision, the Assistant Comptroller General will review the criteria prescribed in this section which were cited as the basis for denying access, and may seek additional information as deemed necessary.

§ 83.15 Request for amendment of record.

(a) Individuals may request the amendment of their records in writing or in person by contacting the system manager or designee indicated in the notice of systems of records published by GAO in the **Federal Register**. Time limits will be measured from receipt at the proper office.

(b) A request for amendment should include the following:

(1) The precise identification of the records sought to be amended, deleted, or added.

(2) A statement of the reasons for the request, with all available documents and material that substantiate the request.

(c) GAO shall permit an individual to request amendment of a record pertaining to the individual. Not later than 10 working days after the date of receipt of such request, the designated GAO official shall acknowledge in writing such request and, promptly, either—

(1) Make any correction of any portion thereof which the individual believes is accurate, relevant, timely, or complete; or

(2) Inform the individual of the refusal to amend the record in accordance with his or her request, the reason for the refusal, and the name and business address of the GAO official responsible for the refusal.

(3) The GAO official shall permit an individual who disagrees with the refusal by the designated GAO official to amend his or her record to request review of such refusal. A request for administrative review of a denial shall be made in accordance with § 83.16.

(4) In any disclosure containing information about which the individual has filed a statement of disagreement, occurring after the filing of the statement under § 83.16(d), GAO shall clearly note any portion of the record which is disputed and provide copies of a concise statement of the reasons for not making the amendments requested, to persons or other agencies to whom the disputed record has been disclosed.

(5) Nothing in this section shall allow an individual access to any information compiled in reasonable anticipation of a civil action or proceeding.

(d) If necessary, the official authorized to rule on a request for amendment may

seek additional information pertinent to the request to assure that a fair, equitable, and accurate decision is reached.

(e) The following criteria will be considered by the system manager or designee in reviewing initial requests for amendment of records:

(1) The sufficiency of the evidence submitted by the data subject;

(2) The factual accuracy of the information submitted and the information in the record;

(3) The relevancy, necessity, timeliness, and completeness of the information in light of the purpose for which it was collected;

(4) The degree of possibility that denial of the request could result in unfair determinations adverse to the data subject;

(5) The character of record sought to be amended;

(6) The propriety and feasibility of complying with specific means of amendment requested by the data subject; and

(7) The possible involvement of the record in a judicial or quasi-judicial process.

§ 83.16 Administrative review of request for amendment of record.

(a) A request for administrative review of GAO's denial to amend a record in GAO's system of personnel records shall be addressed to the Assistant Comptroller General for Human Resources, United States General Accounting Office, 441 G Street, NW., Washington, D.C. 20548. The Assistant Comptroller General shall acknowledge receipt of a request for administrative review of a denial of amendment within 10 working days.

(b) If a decision cannot be made within an additional 10-day period, a letter will be sent within that time explaining the delay and furnishing an expected date for the decision. A decision on the request must be made within 60 working days after receipt of the request. Only for good cause shown, and at the discretion of the Assistant Comptroller General for Human Resources can this time limit be extended. Any extension requires written notification to the requester explaining the reason for the extension and furnishing a new expected date for the decision. Generally, such extension shall be for no more than an additional 60 working days.

(c) When a request for administrative review of an amendment denial is submitted, the individual must provide a copy of the original request for amendment, a copy of the initial denial, and a statement of the specific reasons why the initial denial is believed to be in error.

(d) An individual requesting an amendment of a record has the burden of supplying information in support of the propriety and necessity of the amendment request. The decision on the request will then be rendered based on a review of the data submitted. The GAO official is not required to gather supporting evidence for the individual and will have the right to verify the evidence which the individual submits.

(e) Amendment of a record will be denied upon a determination by the system manager or designee that:

(1) The record is subject to an exemption from the provisions of this part, allowing amendment of records;

(2) The information submitted by the data subject is not accurate, relevant, or of sufficient probative value;

(3) The amendment would violate a statute or regulation;

(4) The individual refuses to provide information which is necessary to process the request to amend the record; or

(5) The record for which amendment is requested is a record presented in a judicial or quasi-judicial proceeding, or maintained in anticipation of being used in a judicial or quasi-judicial proceeding, when such record is or will become available to the individual under that proceeding and may be contested during the course of that proceeding.

(f) If, after review, the Assistant Comptroller General for Human Resources also refuses to amend the record in accordance with the request, the individual will be permitted to file with GAO a concise statement setting forth the reasons for his or her disagreement with the refusal of GAO. Any such statement of disagreement will be treated in accordance with paragraph (c)(4) of § 83.15.

§ 83.17 Fees.

(a) Generally, GAO's policy is to provide the first copy of any record or portion thereof, furnished as a result of this part, at no cost to the data subject or authorized representative. However, in cases where GAO deems it appropriate (for example, where the record is voluminous), the system manager or designee in his or her discretion may charge a fee when the cost for copying the record (at a rate of 10 cents per page) would be in excess of ten dollars ($10).

(b) There shall be no fees charged or collected from a data subject for the following:

(1) Search for or retrieval of the data subject's records;

(2) Review of the records;

(3) Making a copy of a record when it is a necessary part of the process of making the record available for review;

(4) Copying at the initiative of GAO without a request from the individual;

(5) Transportation of the record; and

(6) Making a copy of an amended record to provide the individual with evidence of the amendment.

§ 83.18 Rights of legal guardians.

For the purposes of this part, the parent of any minor, or the legal guardian of any individual who has been declared to be incompetent due to physical or mental incapacity or age by a court of competent jurisdiction, may act on behalf of the individual.

§ 83.19 Government contractors.

When GAO provides by a contract for the operation by or on behalf of GAO of a system of personnel records to accomplish a function of GAO, GAO shall, consistent with its authority, cause the requirements of this part to be applied to such system. Any such contractor and any employee of such contractor, if such contract is agreed to on or after the effective date of this section, shall be considered, for the purposes of this part, to be an employee of GAO. Contractor employees will be required to observe the confidentiality requirements of this part. Violations of this part by contractor employees may be a sufficient ground for contract termination.

§ 83.20 Mailing lists.

An individual's name and address may not be sold or rented by GAO unless such action is specifically authorized by law. This provision shall not be construed to require the withholding of names and addresses otherwise permitted to be made public.

§ 83.21 Exemptions.

(a) All systems of personnel records are exempted from §§ 83.5(c) 83.12, 83.13, 83.14, and 83.15, relating to making an accounting of disclosure available to the data subject or his authorized representative and access to and amendment of the records and other sections relating to procedural requirements of the above-cited sections if the system of records is:

(1) Subject to the provisions of Part 81 of this chapter concerning records which may be exempt from disclosure by the General Accounting Office;

(2) Investigatory material compiled for law enforcement purposes: *Provided, however,* That if any individual is denied any right, privilege, or benefit that he would otherwise be entitled by Federal law, or for which he would

otherwise be eligible, as a result of the maintenance of such material, such material shall be provided to such individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence;

(3) Maintained in connection with providing protection services to the President of the United States or other individuals pursuant to section 3056 of title 18, United States Code;

(4) Required by statute to be maintained and used solely as statistical records;

(5) Investigatory material compiled solely for the purposes of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of the source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence;

(6) Testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service the disclosure of which would compromise the objectivity of fariness of the testing or examination process; or

(7) Evaluation material used to determine potential for promotion in the armed services, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence.

Appendix I—Memorandum of Understanding

This memorandum of understanding constitutes an agreement between the U.S. Office of Personnel Management (OPM), the National Archives and Records Service of the General Services Administration (NARS), and the U.S. General Accounting Office (GAO) concerning:

(1) The maintenance of the Official Personnel Folder (OPF) of an individual who has been employed in a position subject to the provisions of title 5, U.S.C. and to the regulations and procedures issued by OPM to govern the Federal civil service, and also in a position subject to the GAO Personnel Act of 1980 (Pub. L. 96–191) and its implementing regulations and procedures;

(2) The exchange of personnel documents and data between the Federal civil service administered by OPM and the personnel system administered by GAO;

(3) The establishment of procedures for processing requests for access to, disclosure from, and amendment of documents in the OPF of an individual who has service under both personnel systems;

(4) The establishment of procedures to be followed by the National Personnel Records Center (NPRC) when responding to requests pertaining to separated employees in any of the following circumstances:

(a) When the OPF contains documentation resulting from employment in both systems;

(b) When a request is received for transfer of an OPF between systems;

(c) When processing a request for an OPF, and that OPF contains only records of GAO employment since October 1, 1980;

(5) The agreement of the parties to consult and cooperate in matters relating to the establishment and revision of personnel procedures which may have mutual effect so as to insure the sharing of essential information while minimizing the recordkeeping burden on all three parties.

It is recognized that adjustments to this memorandum may be needed from time to time in order to conform to program changes imposed by statute, executive order, or other appropriate authority. Such adjustments will be made by mutual agreement between the parties and will be appended to this agreement.

Legal and Administrative Provisions

The Privacy Act of 1974 and the Freedom of Information Act (as amended)

Records maintained by the Legislative Branch of the Federal Government, including the GAO, are not covered by the Privacy Act of 1974 (5 U.S.C. 552a) or the Freedom of Information Act (5 U.S.C. 552). Both Acts, however, do for the most part apply to those records established as a result of employment in a position subject to regulations and procedures issued by OPM since such records remain the property of OPM even when in the physical possession of GAO.

Title 5, U.S.C.

The General Accounting Office Personnel Act of 1980 (Pub. L. 96–191) exempts the GAO personnel system from most of the provisions of title 5, U.S.C. and from most of the regulations and procedures issued by OPM. Personnel recordkeeping by GAO prior to October 1, 1980 was conducted under the provisions of title 5 U.S.C.

Executive Order 12107

Executive Order 12107, "Relating to the Civil Service Commission and Labor Management in the Federal Service," designated the OPF maintained by most Federal agencies as the property of OPM. However, GAO is not a Government agency subject to the provisions of this executive order.

Use of Existing OPFs upon Transfer to or Reemployment by GAO

Current Federal Employees

When GAO hires an individual who is currently employed by a Federal agency which maintains OPFs in accordance with OPM regulations, GAO will request that agency to transfer the subject employee's OPF. In making such a request, GAO will follow the procedures contained in FPM Supplement 293–31, and the losing agency will furnish the OPF to GAO within the time frame prescribed in that FPM Supplement.

Former Federal Employees

When GAO hires an individual who was formerly employed by a Federal agency (including a former GAO employee who was previously employed by that agency prior to October 1, 1980) which maintained OPFs in accordance with OPM regulations, and such individual is not currently employed by the Federal government, GAO will request the individual's OPF from the National Personnel Records Center (NPRC). In making such requests, GAO will follow the procedures contained in FPM Supplement 293–31, and NPRC will furnish the OPF within the established time frames therein.

Establishment and Maintenance of OPFs

GAO shall establish and maintain an OPF for each of its employees. Although GAO is not bound by OPM regulations and procedures relating to OPFs, GAO agrees to follow the OPF maintenance procedures contained in FPM Supplement 293–31, in so far as is practicable, in order to: (1) Minimize the burden and paperwork inherent in establishing and operating an independent personnel recordkeeping system; (2) insure the sharing of essential information and personnel records between the two systems; and (3) insure proper maintenance of documents related to OPM-controlled functions, e.g., civil service retirement, Federal Employee's Health Benefits (FEHB), and Federal Employee's Government Life Insurance (FEGLI).

Ownership of OPFs

Former GAO Employees

The OPFs of individuals whose employment with GAO terminated prior to October 1, 1980, are under the jurisdiction and control of, and are part of the records of OPM.

Current GAO Employees

The OPFs of current GAO employees whose GAO employment began on or after October 1, 1980, and who have had no previous employment by an Executive Branch agency of the Federal Government shall be under the jurisdiction and control of, and part of the records of GAO. GAO shall retain jurisdiction over such records even when they are transferred to an Executive Branch agency.

The OPFs of current GAO employees who were employed by either GAO prior to October 1, 1980, or an Executive Branch agency shall be under the control of GAO but those records established prior to October 1,

1980 by GAO, and all records established as a result of employment by an Executive Branch agency shall remain under the jurisdiction of, and be part of the records of, OPM.

GAO agrees to maintain those OPFs containing records of employment by an Executive Branch Federal agency, or by GAO prior to October 1, 1980, in compliance with OPM regulations in accordance with the procedures contained in this memorandum and the provisions of OPM regulations contained in 5 CFR Parts 293, 294, and 297, as well as the provisions of FPM Chapters 293, 294, and 297.

Transfer of OPFs From GAO

When a person who is currently employed by GAO, and for whom GAO maintains an OPF, transfers to an Executive Branch agency of the Federal Government, GAO shall, when requested, transfer the OPF to the new employing agency. However, before such transfer, GAO shall:

—Remove any temporary records filed in the OPF by GAO; and
—Ensure that all long term documents in the OPF are complete and correct and that all documents relevant to areas remaining under OPM control (e.g., retirement, FEHB, and FEGLI) are filed in the OPF in accordance with the requirements of FPM Supplement 293–31.

OPFs of individuals separated from employment by GAO, but not transferring to another agency, will be retained by GAO and forwarded to NPRC in accordance with GAO regulations. The OPF will be transferred to the NPRC in the same manner as an OPF of an individual separated from an Executive branch agency subject to OPM regulations. Such OPFs shall be purged of temporary material in accordance with guidelines established by OPM in FPM Supplement 293–31 and this memorandum, prior to transfer to NPRC. When such OPFs are received by NPRC, they will be maintained in accordance with the procedures and practices governing OPFs of Executive branch agencies subject to OPM regulations, including the release of OPFs or data therefrom in the same manner as with all other OPM controlled OPFs.

Use of Existing OPFs Upon Transfer From GAO to an Executive Branch Agency

When an individual who was employed by GAO on or after October 1, 1980, is transferred to, or after a break in service is subsequently reemployed by an Executive branch agency subject to OPM regulations, that agency will request the OPF from GAO or NPRC (as appropriate) in acordance with the procedures contained in FPM Supplement 293–31, and shall use that OPF in lieu of establishing a new OPF. However, records contained in such an OPF which were created by GAO for employment after October 1, 1980, are to remain in the OPF and are not to be purged or modified in any way by the Executive branch agency.

Use of SF 66, Official Personnel Folder Jackets by GAO

GAO will use the SF 66, Official Personnel Folder jacket issued by OPM. However, GAO agrees to mark or annotate the front of all GAO OPFs with the letters "GAO" in order to provide for easy identification by NPRC personnel.

Responding to FOIA Requests

OPF In Custody of GAO

When GAO has custody of an OPF containing records of employment in an Excutive branch agency subject to OPM regulations including employment by GAO prior to October 1, 1980, and GAO receives a request citing either the Freedom of Information Act (FOIA) or GAO's own procedures (if any) which equate to that Act for information about the subject individual, GAO shall respond in accordance with its own regulations. When GAO is processing the, request it will:

—Consult with OPM before releasing records or data created by an Executive Branch agency or by GAO previous to October 1, 1980; and
—Inform requesters that, insofar as there is a denial of records or data created under OPM's regulations, the requester may address a request for review to: General Counsel, U.S. Office of Personnel Management, Washington, D.C. 20415

Current Executive Branch Employee

When an executive branch agency receives a request under the FOIA for information contained in an OPF, and:

—That OPF contains data resulting from employment in GAO on or after October 1, 1980; and
—The agency determines that the request should be denied;

the agency will provide the requester with a decision in accordance with its regulations. In addition, the agency will inform the requester that, insofar as the decision to deny may relate to records created as a result of the individual's employment by GAO, the requester should address any request for review of the denial of access to those records to: General Counsel, U.S. General Accounting Office, Washington, D.C. 20548.

Review of denials of access to other records will be subject to applicable agency regulations and procedures.

Former Federal Employee

When OPM processes a request under the FOIA for records found in the OPF of a former Federal employee and that individual has service in both the Executive branch and in GAO on or after October 1, 1980, OPM will process that request in accordance with applicable regulations. When OPM is processing the request it will:

—Consult with GAO before releasing records or data created by GAO on or after October 1, 1980; and
—Inform the requester that, insofar as there is a denial of records or data created by GAO, the requester may address a request for review to: General Counsel, U.S. General Accounting Office, Washington, D.C. 20548

Privacy Act Requests

Current Employees of GAO Access

Requests for access to personnel records by current employees of GAO will be processed by GAO in accordance with GAO regulations and procedures. However, when processing requests for records which were created by an Executive branch agency subject to OPM regulations and procedures (including GAO prior to October 1, 1980), or for records created by GAO subject to OPM control (e.g., FEGLI, FEHB, retirement), GAO agrees to provide at least the same procedural rights and benefits as apply to the processing of similar requests by an Executive branch agency.

Amendment

Requests for amendment of personnel records by current employees of GAO will be processed in accordance with GAO regulations and procedures. However, when processing requests to amend records which:

—Are contained in an OPF; and
—Were created during a period of employment by an Executive branch agency subject to OPM regulations and procedures; or
—Were created by GAO prior to October 1, 1980; or
—Were created by GAO since October 1, 1980, and relate to an area which remains subject to OPM regulations and procedures;

GAO agrees to abide by OPM regulations contained in 5 CFR Part 297, and procedures contained in FPM Chapter 297. In addition, GAO agrees to consult with OPM prior to acting on any such request and to notify requesters of a right to appeal an adverse decision relating to the amendment of records subject to OPM control to: Assistant Director for Workforce Information, U.S. Office of Personnel Management, 1900 E Street, NW, Washington, D.C. 20415.

Current Employees of Executive Branch Agencies

Access

When processing a request for access to an OPF by a current employee who has previously worked for GAO on or after October 1, 1980, an Executive branch agency will follow OPM's regulations and procedures applicable to other Privacy Act access requests. However, if there is any question as to the propriety of releasing a document created by GAO on or after October 1, 1980, that agency shall consult with GAO.

Amendment

When processing a request for amendment of a record contained in an OPF of an individual who was previously employed by GAO, an Executive branch agency shall first determine whether the record involved was created by GAO on or after October 1, 1980. When the Executive branch agency determines that the record was created by GAO before October 1, 1980, the agency shall proceed to consider the request for amendment in accordance with OPM regulations contained in 5 CFR Part 297, and FPM Chapter 297. When the record in question was created by GAO prior to October 1, 1980, the Executive branch agency may (if it deems appropriate) consult with GAO prior to rendering a decision. When the request deals with a record created by GAO

on or after October 1, 1980, the Executive Branch agency will:

—Notify the requester that the record in question was created by the GAO on or after the effective date of the GAO Personnel Act of 1980, and that it is subject to GAO regulations and procedures; and

—Forward the record in question, the request for amendment and all supporting evidence to: Director of Personnel, U.S. General Accounting Office, Washington, D.C. 20548.

Former Employees

Access

Requests for access to records contained in the OPF of an individual who is not currently employed in an Executive branch agency subject to OPM regulations, or in GAO, shall be processed by OPM in accordance with procedures contained in FPM Chapter 297. When some of the records in question were created by GAO on or after October 1, 1980, and the OPM office processing the request has a question as to the propriety of releasing one or more such documents, it may consult with GAO prior to rendering a decision.

Amendment

Request for amendment of records contained in the OPF of an individual who is not currently employed in an Executive branch agency subject to OPM regulations, or in GAO, shall be processed as follows:

—If all of the records in question were created by GAO on or after October 1, 1980, and are not subject to OPM control, the requester shall be notified that the records in question are under the jurisdiction and control of GAO, and the request shall be transferred to: General Counsel, U.S. General Accounting Office, Washington, D.C. 20548.

—If some of the records in question were created by GAO on or after October 1, 1980, and those records are not subject to OPM control, OPM will: process that portion of the records subject to its control in accordance with regulations contained in 5 CFR Part 297 and FPM Chapter 297; will notify the requester that part of the records requested to be amended were created by GAO after the enactment of the GAO Personnel Act of 1980, and that those records are subject to GAO's sole jurisdiction and control; and will transfer the request, the records in question, a copy of the OPM decision, and any available background information to: General Counsel, U.S. General Accounting Office, Washington, D.C. 20548.

NPRC Procedures Relating to this Memorandum of Understanding

NPRC will process requests for OPFs in its physical custody in accordance with the following instructions:

—When NPRC receives a request from an Executive branch agency for the OPF of a former GAO employee, NPRC will forward that OPF to the requesting agency;

—When NPRC receives a request from GAO for the OPF of a former Executive branch employee, NPRC will forward that OPF to GAO;

—When the request is from an Executive branch agency for an OPF which contains records of employment both in the Executive branch and in GAO, NPRC will forward the OPF to the Executive branch agency;

—When the request is from GAO for an OPF which contains records of employment both in the Executive branch and in GAO, NPRC will forward the OPF to GAO;

—When NPRC receives a direct request for access to or amendment of an OPF which contains records of employment both in the Executive Branch and/or GAO prior to October 1, 1980 as well as in GAO after October 1, 1980, NPRC will:

• Forward the request and the OPF to the following address if the individual was last employed by an Executive branch agency (including GAO prior to October 1, 1980): Assistant Director for Workforce Information U.S. Office of Personnel Management 1900 E Street, N.W. Washington, D.C. 20415

• Forward the request and the OPF to the following address if the individual was last employed by GAO (on or after October 1, 1980):

Director of Personnel
U.S. General Accounting Office
Washington, D.C. 20548

—When NPRC receives a request for verification of employment data or for a transcript of employment, it will process that request as it would any other for the same information;

—NPRC will provide a transcript of employment when requested by a former employee of the Executive Branch or GAO;

—Requests received at NPRC from former employees seeking copies of documents or information from an OPF containing records of employment both in the Executive branch and in GAO (on or after October 1, 1980), will be forwarded either to OPM or GAO as indicated above, together with the appropriate OPF.

Requests Received from Researchers and Genealogists

NPRC will respond to requests received from genealogists, researchers, or other unauthorized third parties for information concerning individuals who were employed by GAO on or after October 1, 1980, by providing only the following information:

—Name of employee;
—Past and present position titles;
—Past and present grades;
—Past and present salaries; and
—Past and present duty stations.

Requests for additional information, or requests which provide information indicating that the individual is deceased will be forwarded to the legal custodian of the record for direct response.

Requests for Documents from the OPF

When NPRC receives a request either from a former employee or an authorized third party for information or photocopies of specified documents filed in the OPF, the request and the OPF in question will be forwarded to the legal custodian for direct response.

Requests From Federal Investigators

NPRC will grant Federal investigators access to OPFs of former GAO employees subject to the same procedures and limitations which apply to granting investigators access to OPFs under the custody and control of OPM. Such investigators shall be allowed to photocopy any material in such OPFs.

Coordination and consultation

OPM, NARS, and GAO agree that there is a need for continuing close cooperation and consultation concerning the exchange of personnel documents and data and the applicability of procedures relating to the maintenance and use of OPFs and that matters of mutual concern which may arise, but are not covered by this memorandum, will be mutually resolved.

The Assistant Director for Workforce Information of OPM, the Assistant Archivist for Federal Records Centers of NARS and The Director of Personnel of GAO are designated as the coordinators and contact points for the establishment and oversight of relevant procedures, and will assign staff members to implement this agreement. Additional detailed agreements that the coordinators jointly establish will be considered to be a part of this agreement.

Procedures and Regulations Issued to Implement this memorandum

It is agreed that OPM, NARS, and GAO may issue regulations and procedures to implement this memorandum of understanding. The coordinators agree that they will consult concerning the development and issuance of such regulations and procedures, and that when such regulations or procedures are issued, a copy will be furnished to the other parties to this agreement.

Approved:

Dated: June 11, 1982.

Felix R. Brandon, II,

Director of Personnel, U.S. General Accounting Office.

Dated: May 20, 1982.

Dr. Philip A.D. Schneider,

Assistant Director for Workforce Information, U.S. Office of Personnel Management.

Dated: July 12, 1982.

G. N. Scaboo,

Acting Assistant Archivist for Federal Records Centers, National Archives and Records Service, General Services Administration.

Dated: *August 23, 1983.*

Charles A. Bowsher,

Comptroller General of the United States.

[FR Doc. 83-23885 filed 8-31-83; 8:45 am]

BILLING CODE 1610-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1126

[Docket No. AO-231-A51]

Milk in the Texas Marketing Area; Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Public hearing on proposed rulemaking.

SUMMARY: The hearing is being held to consider dairy industry proposals to amend the Texas milk marketing order. Two of the proposals to be considered would provide handlers with a temporary credit of either 25 or 40 cents per hundredweight on milk used to produce butter, nonfat dry milk and cheese during the months of December 1983 and March through June 1984. Other proposals would revise the pricing structure of the order by lowering prices in certain northern zones and raising prices in southern zones of the marketing area, change the regulatory treatment of milk containing antibiotics, and revise the standards for pooling supply plants under the order. Proponents contend that the changes are needed to reflect changed marketing conditions.

DATE: The hearing will convene at 9:00 a.m., local time, on October 4, 1983.

ADDRESS: The hearing will be held at the Holiday Inn, DFW North, Highway 114 and Esters Road, Irving, Texas 75062.

FOR FURTHER INFORMATION CONTACT: John F. Borovies, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-2089.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

Notice is hereby given of a public hearing to be held at the Holiday Inn, DFW North, Highway 114 and Esters Road, Irving, Texas 75062, beginning at 9:00 a.m., local time, on October 4, 1983, with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the Texas marketing area.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions in the Texas marketing area which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

Evidence also will be taken to determine whether emergency marketing conditions exist that would warrant omission of a recommended decision under the rules of practice and procedure (7 CFR 900.12(d)) with respect to Proposals Nos. 1 and 2.

Actions under the Federal milk order program are subject to the "Regulatory Flexibility Act" (Pub. L. 96-354). This act seeks to insure that, within the statutory authority of a program, the regulatory and informational requirements are tailored to the size and nature of small businesses. For the purpose of the Federal order program, a small business will be considered as one which is independently owned and operated and which is not dominant in its field of operation. Most parties subject to a milk order are considered as a small business. Accordingly, interested parties are invited to present evidence on the probable regulatory and informational impact of the hearing proposals on small businesses. Also, parties may suggest modifications of these proposals for the purpose of tailoring their applicability to small businesses.

Th proposed amendments, as set forth below, hve not received the approval of the Secretary of Agriculture.

Proposed by Associated Milk Producers, Inc.

Proposal No. 1.

In § 1126.60 add a new paragraph (h) to read as follows:

§ 1126.60 Handler's value of milk for computing uniform price.

* * * * *

(h) During the months of December 1983 and March, April, May and June of 1984, subtract an amount determined by multiplying the pounds of producer milk used to make butter, nonfat dry milk, and cheddar cheese by 40 cents per hundredweight.

Proposed by Land O' Lakes, Inc.

Proposal No. 2.

In § 1126.60 add a new paragraph (h) to read as follows:

§ 1126.60 Handler's value of milk for computing uniform price.

* * * * *

(h) For the months of December 1983, March and May 1984, subtract the amount obtained by multiplying the pounds of milk, skim milk and cream used to produce butter, nonfat dry milk, and cheese by 0.25 cents. For the month of April 1984, subtract the amount obtained by multiplying the pounds of milk, skim milk and cream used to produce butter, nonfat dry milk and cheese by 0.04 cents.

Proposed by Scheppe Dairy, Inc.

Change the adjustments for transportation cost to the various zones by one, or a combination of both, of the following Proposals Nos. 3 and 4.

Proposal No. 3

Revise § 1126.52(a) (1), (2) and (3) to read as follows:

§ 1126.52 Plant location adjustments for handlers.

(a) * * *

(1) For a plant located within one of the zones set forth in § 1126.2, the adjustment shall be as follows:

Zone	Class I	Class II
1	−10¢	None
1-A	−22¢	None
2	−5¢	None
3	None	None
4	None	None
5	None	None
6	+30¢	+30¢
7	+35¢	+35¢
8	+45¢	+45¢
9	+51¢	+51¢
10	+62¢	+62¢
11	+75¢	+75¢
12	+84¢	+84¢

(2) For a plant located in the states of Oklahoma, Arizona, Colorado, Kansas, Missouri, Arkansas and Louisiana, the applicable adjustment shall be the amount of difference existing between the price specified under § 1126.50(a) and the Federal order price computed for such plant had such plant been fully regulated by the order nearest to such plant as measured from the plant location to the zero pricing point in the orders applicable in the states listed herein.

(3) For a plant located outside the areas described in paragraphs (a)(1) and (a)(2) of this section, the adjustment shall be the difference between the price specified in § 1126.50(a) and the higher of the prices computed for Dallas, Abilene and San Antonio, pursuant to § 1126.52(a)(1) reduced by 3.6 cents per hundredweight per 10 miles that the

plant is located from each of these points.

* * * * *

Proposal No. 4

Add a new § 1126.87 as follows:

§ 1126.87 Direct-delivery differential.

For producer milk received at a plant in the following zones, the handler in making payments to producers and cooperative association handlers pursuant to § 1126.9(c), in addition to any amounts required by other provisions of this part, shall pay the amounts shown below per hundredweight of milk so received:

Zone	Without proposal No. 3 (cents)	With proposal No. 3 (cents)
2	+10	
3	+10	
4	+10	
5	+10	
6	+5	
7	+19	
8	+36	+18
9	+23	+6
10	+19	
11	+19	
12	+19	

Proposed by Southland Corporation

Proposal No. 5

Amend § 1126.13 of the current Texas order by adding a new paragraph (f) to read as follows:

§ 1126.13 Producer milk.

* * * * *

(f) In a tank truck that is rejected at a plant due to antibiotics and is not physically received at the plant, if the market administrator is notified of such rejection and is given the opportunity to verify the antibiotics. Milk that is rejected pursuant to this paragraph shall be priced at the location of the plant at which rejected. This paragraph shall not apply to the milk of the producer(s) responsible for the antibiotics.

Proposal No. 6

Revise § 1126.40(c) (3) and (4) of the current Texas order to read as follows:

§ 1126.40 Classes of utilization.

* * * * *

(c) * * *

(3) In fluid milk products and products specified in paragraph (b)(1) of this section, and producer milk that is rejected because of antibiotics pursuant to § 1126.13(f), that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this secuon and producer milk that is rejected because of antibiotics pursuant to § 1126.13(f), that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition or rejection;

* * * * *

Proposed by Mid-America Dairymen, Inc.

Proposal No. 7

Revise § 1126.7 of the current Texas order by adding new paragraphs (b)(3) and (c)(3) as follows:

§ 1126.7 Pool plant.

* * * * *

(b) * * *

(3) The shipping percentages of this paragraph may be increased or decreased temporarily up to 10 percentage points by the Director of the Dairy Division if the Director finds such revision is necessary to obtain needed shipments or to prevent uneconomic shipments, subject to the following conditions:

(i) Before making such a finding, the Director shall investigate the need for revision either on his own initiative or at the request of interested persons. If the investigation shows that a revision might be appropriate, the Director shall issue a notice stating that revision is being considered and inviting data, views, and arguments; and

(ii) No plant may qualify as a pool plant due to a reduction in the shipping percentage pursuant to this subparagraph unless it had been a pool supply plant during each of the immediately preceding three months.

(c) * * *

(3) The shipping percentages of this paragraph may be increased or decreased temporarily up to 10 percentage points by the Director of the Dairy Division if the Director finds such revision is necessary to obtain needed shipments or to prevent uneconomic shipments, subject to the following conditions:

(i) Before making such a finding, the Director shall investigate the need for revision either on his own initiative or at the request of interested persons. If the investigation shows that a revision might be appropriate, the Director shall issue a notice stating that revision is being considered and inviting data, views, and arguments; and

(ii) No plant may qualify as a pool plant due to a reduction in the shipping percentage pursuant to this subparagraph unless it had been a pool supply plant during each of the immediately preceding three months.

* * * * *

Proposed by the Dairy Division, Agricultural Marketing Service

Proposal No. 8

In § 1126.61 revise paragraph (e) to read as follows:

§ 1126.61 Computation of uniform price (including weighted average price).

* * * * *

(e) Subtract not more than 5 cents per hundredweight. The result shall be the "weighted average price."

* * * * *

Proposal No. 9

Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, C. E. Dunham, P.O. Box 29529, Dallas, Texas 75229; or from the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250, or may be there inspected.

From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture
Office of the Administrator, Agricultural Marketing Service
Office of the General Counsel
Dairy Division, Agricultural Marketing Service (Washington Office only)
Office of the Market Administrator, Texas Marketing Area.

Procedural matters are not subject to the above prohibition and may be discussed at any time.

List of Subjects in 7 CFR Part 1126

Milk marketing orders, Milk, Dairy products.

(Secs. 1–19, 48 Stat. 31, as amended, 7 U.S.C. 601–674)

Signed at Washington, D.C., on August 29, 1983.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 83-24061 Filed 8-31-83; 8:45 am]
BILLING CODE 3410-02-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

Proposed Modifications to the Ohio Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Reopening of public comment period.

SUMMARY: OSM is reopening the period for review and comment on modified portions of the Ohio permanent regulatory program. On July 13, 1983 (48 FR 32031), OSM announced a public comment period and procedures for requesting a public hearing on the substantive adequacy of proposed amendments to the Ohio permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA) submitted by the State on June 10, 1983. The amendments submitted by Ohio are modifications to the Ohio regulations concerning the permitting and subsidence control requirements for underground coal mine operators. OSM is reopening the comment period to allow the public an opportunity to comment on supplemental material submitted by Ohio on August 11 and 22, 1983.

DATE: Written comments must be received on or before 4:00 p.m. on September 16, 1983.

ADDRESSES: Written comments should be mailed or hand delivered to Ms. Nina Rose Hatfield, Field Office Director, Columbus Field Office, Office of Surface Mining, Room 202, 2242 South Hamilton Road, Columbus, Ohio 43227.

Copies of the supplemental materials submitted by Ohio and other relevant documents will be available for review at the Columbus Field Office listed above, and at the OSM Headquarters Office and the office of the State regulatory authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Office of Surface Mining Reclamation and Enforcement, Administrative Record Room, 1100 "L" Street, N.W., Washington, D.C. 20240

Ohio Division of Reclamation, Building B, Fountain Square, Columbus, Ohio 43224

FOR FURTHER INFORMATION CONTACT: Ms. Nina Rose Hatfield, Field Office Director, Columbus Field Office, Office of Surface Mining, Room 202, 2242 South Hamilton Road, Columbus, Ohio 43227; Telephone: (614) 866-0578.

SUPPLEMENTARY INFORMATION: The Ohio program was conditionally approved by the Secretary effective August 16, 1982, by notice published in the August 10, 1982 **Federal Register** (47 FR 34668). The approval was conditioned on the State's correction of 28 minor deficiencies contained in 11 conditions. Information pertinent to the general background, revisions, modifications and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and explanation of the conditions of approval of the Ohio program can be found in the August 10, 1982 **Federal Register.**

On June 10, 1983, Ohio submitted proposed regulatory amendments to revise the permitting and subsidence control requirements for underground coal mine operators. The amendments are State-generated revisions not related to conditions. The July 13, 1983 **Federal Register** announced receipt of the modifications by OSM and a public comment period. In that same notice, OSM announced that a public hearing would be held only if requested. In response to several requests, a hearing was scheduled and held August 11, 1983. A notice announcing the hearing was published August 3, 1983 (48 FR 35146). The comment period closed on August 12, 1983.

On August 11 and 22, 1983, Ohio submitted additional modifications to the proposed regulations. Copies of the additional modifications are available in the OSM Administrative Record. OSM is reopening the comment period on the proposed modifications and subsequent amendments to the Ohio program in order to allow the public an opportunity to review and comment on the modifications as clarified by the additional amendments submitted to OSM by the State.

Specifically, OSM is seeking comment on whether the regulatory revisions submitted by Ohio on June 10, 1983, as modified by the supplemental amendments submitted August 11 and 22, 1983, satisfy the criteria for approval of State program amendments at 30 CFR 732.17 and 732.15.

List of Subjects in 30 CFR Part 935

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

(Pub. L. 95-87, 30 U.S.C. 1201 *et seq.*)

Dated: August 26, 1983.

William E. Schmidt,

Assistant Director, Program Operations and Inspection.

[FR Doc. 83-24000 Filed 8-31-83; 8:45 am]

BILLING CODE 4310-05-M

30 CFR Part 938

Public Comment and Opportunity for Public Hearing on Modified Portions of the Pennsylvania Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: OSM is announcing procedures for the public comment period and for a public hearing on the substantive adequacy of certain program amendments submitted by the Commonwealth of Pennsylvania as modifications to the Pennsylvania Permanent Regulatory program (hereinafter referred to as the Pennsylvania program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). These amendments relate to Pennsylvania's subsidence control regulations.

This notice sets forth the times and locations that the Pennsylvania program and proposed amendments are available for public inspection, the comment period during which interested persons may submit written comments on the proposed program elements, and the procedures that will be followed at the public hearing.

DATES: Written comments, data or other relevant information relating to the program amendments not received on or before 4:00 p.m., October 3, 1983 will not necessarily be considered.

A public hearing on the proposed modifications will be held on request only, on September 26, 1983, at the address listed under "ADDRESSES."

Any person interested in making an oral or written presentation at the hearing should contact Robert Biggi at the address and phone number listed below by the close of business *four working days* before the date of the hearing. If no one has contacted Mr. Biggi to express an interest in participating in the hearing by that date, the hearing will not be held. If only one person has so contacted Mr. Biggi, a public meeting, rather than a public hearing, may be held and the results of the meeting included in the Administrative Record.

ADDRESSES: Written comments should be mailed or hand delivered to: Robert Biggi, Director, Harrisburg Field Office, Office of Surface Mining, 101 South 2nd Street, Suite L–4, Harrisburg, Pennsylvania 17101.

The public hearing, if held, will be at the Penn Harris Motor Inn and Convention Center, at the Camp-Hill By-Pass and US 11 and 15, Camp-Hill, Pennsylvania, in the Keystone-A Convention Room.

Copies of the Pennsylvania program, the proposed modifications to the program, a listing of any scheduled public meetings and all written comments received in response to this notice will be available for review at the OSM Pennsylvania Field Office and the Office of the State regulatory authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Harrisburg Field Office, Office of Surface Mining, 101 South 2nd Street, Suite L–4, Harrisburg, Pennsylvania 17101

Pennsylvania Department of Environmental Resources, Fulton Bank Building, Tenth Floor, Third and Locust Streets, Harrisburg, Pennsylvania 17120.

FOR FURTHER INFORMATION CONTACT: Robert Biggi, Director, Harrisburg Field Office, Office of Surface Mining, 101 South 2nd Street, Suite L–4, Harrisburg, Pennsylvania 17101, Telephone: (717–782–4036).

SUPPLEMENTARY INFORMATION: On January 25, 1982, Pennsylvania resubmitted its proposed regulatory program to OSM. On July 30, 1982, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary approved the program subject to the correction of ten minor deficiencies. The approval was effective upon publication of the notice of conditional approval in the July 30, 1982, **Federal Register** (47 FR 33050–33080).

Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Pennsylvania program can be found in the July 30, 1982, **Federal Register**.

Submission of Program Amendments

By letter dated August 1, 1983, OSM received from the Commonwealth of Pennsylvania, pursuant to the 30 CFR 732.17 procedures, certain revisions to its subsidence control regulations. These revisions are contained in a suspension order published in 13 Pennsylvania Bulletin 2057 dated July 2, 1983, suspending certain portions of 25 PA. Code sections 89.143–89.147 pertaining to Pennsylvania's subsidence control regulations. The suspension order is a temporary action that does not amend the Pennsylvania Code, but does suspend certain subsidence regulations pending final action by the Environmental Quality Board (EQB). The suspension will lapse if the EQB does not approve the proposed revisions to the subsidence control regulations. This action was ordered by the Chairman of the EQB in an effort to keep the requirements of the Pennsylvania program consistent with the revised Federal requirements published in the June 1, 1983 **Federal Register** (48 FR 24638).

Additionally, the State submitted to OSM a draft copy of revised subsidence control regulations that was submitted to the EQB on August 16, 1983. If the EQB approves these revised regulations, the State will publish these regulations in the Pennsylvania Bulletin as proposed rulemaking. If the EQB disapproved these regulations, the State will modify the regulations accordingly and resubmit the regulations to the EQB and to OSM for review and public comment. The State will submit to OSM any modification to the program amendments for review and public comment at the earliest possible time after the EQB acts.

The Secretary seeks public comment on these proposed amendments to the Pennsylvania program. If these amendments are approved, they will become part of the Pennsylvania program.

Additional Information

1. *Compliance with the National Environmental Policy Act.* Pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental document need be prepared on this rulemaking as State program decisions are exempt from compliance with the National Environment Policy Act, 42 U.S.C. 4321 *et seq.*

2. *Executive Order No. 12291 and the Regulatory Flexibility Act.* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule does not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules would be met by the State.

3. *Paperwork Reduction Act.* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 938

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

(Pub. L. 95–87, 30 U.S.C. 1201 et seq.)

Dated: August 26, 1983.

J. L. Harris,

Director, Office of Surface Mining.

[FR Doc. 83-24067 filed 8-31-83; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD3 83–037]

Drawbridge Operation Regulations; Harlem River, New York

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Triborough Bridge and Tunnel Authority, the Coast Guard is considering a change to the regulations governing the Triborough Bridge across the Harlem River between Harlem and Wards Island, New York by requiring that advance notice of opening be given between 10 a.m. and 5 p.m. (operational hours for the Harlem River). This proposal is being made because of limited requests to open the draw. This action should relieve the bridge owner of the burden of having a person constantly available to open the draw and should still provide for the reasonable needs of navigation.

DATE: Comments must be received on or before October 17, 1983.

ADDRESS: Comments should be submitted to and are available for examination from 9 a.m. to 3 p.m., Monday through Friday, except holidays at the office of the Commander (oan-br), Third Coast Guard District, Bldg. 135A, Governors Island, NY 10004. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: William C. Heming, Bridge Administrator, Third Coast Guard District (212)668–7994.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data, or arguments. Persons submitting comments should include their name and address, identify the bridge, and give reasons for concurrence with or for any recommended change in the proposal. Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

The Commander, Third Coast Guard District, will evaluate all communications received and determine a final course of action on this proposal. The proposed regulations may be changed in light of comments received.

Drafting Information: The drafters of this notice are Ernest J. Feemster, project manager, and LCDR Frank E. Cooper, project attorney.

Discussion of Proposed Regulations: The Triborough Bridge (over the Harlem River) is a multi-laned bridge carrying a high volume of vehicular traffic. It has a minimum vertical clearance of 54 feet and is only infrequently required to open for passage of a vessel. Bridge opening logs for 1980 through 1982 indicate that an average of less than three openings were required per year from 10 a.m. to 5 p.m.

The proposed regulations would require that four hour notice be given for openings from 10 a.m. to 5 p.m. These proposed regulations are identical to regulations found acceptable for all City of New York (NYC) movable bridges across the Harlem River. This bridge is the second bridge one encounters upon entering the Harlem River from the East River. The first bridge is a NYC foot bridge with a 55 foot minimum vertical clearance. The remainder of the NYC movable bridges found acceptable for four hours notice have a 27-foot minimum vertical clearance or less.

No economic evaluation has been prepared because no economic impact is anticipated. Vessels entering the Harlem River from the East River and requiring opening of this bridge, would probably require an opening of the NYC bridge (at the entrance) since it is only a foot higher.

Economic Assessment and Certification: These proposed regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. In adiditon, these proposed regulations are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–80). As explained above, an economic evaluation has not been conducted since its impact is expected to be minimal. In accordance with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), it is certified that these rules, if promulgated, would not have a significant economic impact on a substantial number of small entities since no existing operations will be adversely affected.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations: In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations, by adding a new §117.160(i) to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§117.160 Harlem River, NY.; bridges.

* * * * *

(i) The draw of the Tiborough Bridge and Tunnel bridge, mile 1.3 at Manhattan shall open on signal from 10 a.m. to 5 p.m. if at least four hours notice is given. The draw need not open at any other time except it shall be opened as soon as possible for passage of a public vessel of the United States.

* * * * *

(33 U.S.C. 499; 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c) (5); 33 CFR 1.05–1 (g)(3)).

Dated: August 17, 1983.

W. E. Caldwell,

Vice Admiral, Coast Guard Commander, Third Coast Guard District.

[FR Doc. 83-24039 Filed 8-31-83; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF EDUCATION

34 CFR Part 366

Centers for Independent Living

AGENCY: Department of Education.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: The Secretary of Education withdraws the Notice of Proposed Rulemaking (NPRM) for the Centers for Independent Living Program. Congress will consider reauthorizing legislation for this program in Fiscal Year 1983, and new regulations may be necessary to implement any changes enacted by Congress. Withdrawal of the NPRM will permit the Department to give further study to the impact of the proposed changes and to implement any new legislation.

DATE: This withdrawal of the proposed rule is effective September 1, 1983.

FOR FURTHER INFORMATION CONTACT: Commissioner of Rehabilitation Services, 330 C Street, S.W., Switzer Building, Room 3066, Washington, D.C. 20202. Telephone: (202) 472–3796.

SUPPLEMENTARY INFORMATION: An NPRM for the Centers for Independent Living Program was published in the **Federal Register** on January 28, 1983 at 48 FR 4007. The public comment period on this NPRM ended on March 14, 1983.

The Centers for Independent Living Program is authorized under section 711 of the Rehabilitation Act of 1973, as amended. Congress will consider reauthorization of the Rehabilitation Act in Fiscal Year 1983. New regulations will be necessary to implement any changes in the legislation enacted by Congress.

In order for the Department to give further study to the proposed changes, to analyze the public comments, and to incorporate possible new legislation into proposed regulations, the Secretary withdraws the NPRM published on January 28. All substantive comments received on the NPRM will be addressed in any future Notice of Proposed Rulemaking. The schedule for completion of review of the Centers for Independent Living regulations published in the Department's Unified Agenda of Federal Regulations on April 25, 1983 (48 FR 17962) will be revised accordingly.

List of Subjects in 34 CFR Part 366

Education, Grant programs—Social programs, Vocational rehabilitation.

(Catalog of Federal Domestic Assistance No. 84.132, Centers for Independent Living)

Dated: August 25, 1983.

T. H. Bell,

Secretary of Education.

[FR Doc. 83-24017 Filed 8-31-83; 8:45 am]

BILLING CODE 4000-01-M

POSTAL SERVICE

39 CFR Part 111

Identification of Special Rate Bulk Third-Class Mail

AGENCY: Postal Service.

ACTION: Withdrawal of proposed rule.

SUMMARY: The proposed rule was designed to assure that when an authorized nonprofit organization or political committee sends bulk third-

class mail at special rates of postage, the full name and return address of the special rate permit holder would appear both on the address side of the mailing piece and in a prominent location on the material being mailed. The existing regulation, Domestic Mail Manual (DMM) 623.6, requires only that this information appear either on the envelope or in a prominent location on the enclosed material.

DATE: The withdrawal of the proposed rule is effective September 1, 1983.

FOR FURTHER INFORMATION CONTACT: Cheryl L. Beller, (202) 245–4655.

SUPPLEMENTARY INFORMATION: On June 13, 1983 (48 FR 27103), the Postal Service published for comments in the **Federal Register** a proposed change to 623.6 DMM. Interested persons were invited to submit written comments concerning the proposed changes by July 13, 1983.

Thirty-four comments were received on the proposal. Three comments favored the change as proposed.

Twelve commenters objected to the portion of the change requiring the name and return address to appear on the address side of the envelope. Six of these commenters objected because they use double window envelopes with the name and return address appearing through the window. If the names and addresses were required to be printed directly on the envelope, their printing costs would increase significantly. The other six stated that scientifically conducted surveys and studies have proved that envelope opening and response, and consequently income, would be lessened if we require the return address of the nonprofit organization on the front of the mailing piece.

Nineteen commenters voiced general objections to any additional restrictions on the direct mailing ability of nonprofit organizations.

The Postal Service was unaware of the direct and indirect financial hardship that implementation of this proposed rule could cause. Therefore, after consideration of all the comments, we are withdrawing the proposed change to DMM 623.6.

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 83–23074 Filed 8–31–83; 8:45 am]

BILLING CODE 7710–12–M

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39 CFR Part 111

Post Office Closing and Consolidation Procedures

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: These proposed regulations would revise the Postal Service procedures for determining whether to close or consolidate a post office. The proposed revisions are designed to reduce internal paper flow, to place decisional responsibility at levels closer to the community involved, and to stress direct efforts by local managers to meet with affected customers to resolve any differences.

DATE: Written comments must be received on or before October 1, 1983.

ADDRESS: Address comments to General Manager, Delivery and Retail Policy Division, Delivery Services Department, U.S. Postal Service, 475 L'Enfant Plaza West SW., Washington, D.C. 20260–7225. copies of all written comments received will be available for public inspection and photocopying in Room 7406 at the above address between 9:30 a.m. and 4:00 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Willam B. Thomas at (202) 245–5758.

SUPPLEMENTARY INFORMATION: On December 15, 1977, the Postal Service published its existing regulations on the standards and procedures governing the consideration of post office closings and consolidations, following completion of a public rulemaking, 42 FR 59079. These regulations, which were adopted to bring Postal Service procedures into line with a provision of Pub. L. 94–421, 39 U.S.C. 404(b) effective March 15, 1977, are currently set forth in Domestic Mail Manual (DMM) 113.2 et. seq. which has been incorporated by reference at 39 CFR 111. The regulations provide necessary guidance to postal managers and to the public in closing or consolidation cases, to help them apply the criteria and follow the procedures outlined in 39 U.S.C. 404(b). These regulations, however, do not apply to the closing or consolidation of post office stations or branches, community post offices, or any other facility which is considered a component service unit of an independent post office. See 42 FR 42695 note 1, 42696, 59080.

The Postal Service wishes to emphasize that the proposed revision to its procedural regulations does not signal a campaign to close or consolidate a large number of post offices. As is now done, any post office recommended for closing or consolidation will be evaluated by local postal managers who are familiar with the surrounding area, and each case will be considered on the merits of its individual circumstances.

As now written, the Postal Service regulations provide for an investigative stage during which the Postal Service gathers information about the postal and nonpostal needs of residents of the community who may be affected by the closing or consolidation of the local post office. This information is obtained from questionnaires sent to and returned by the community residents, as well as from community meetings and other personal contacts with community residents. After gathering and analyzing the information, the Postal Service drafts and posts for 60 days a preliminary closing or consolidation proposal that formally advises the residents of the reasons for the proposed action, and how the Postal Service plans to ensure the continuation of effective and regular postal services. After the posted proposal has been removed, the entire record, at the recommendation of the responsible area postal official (Sectional Center Manager) is sent to the appropriate Postal Service Regional Headquarters for review and the initial drafting of the Postal Service Final Determination. At the recommendation of the Regional Postmaster General, the draft Final Determination and the supporting record on which the Postal Service bases its decision are sent to the Postal Service Headquarters in Washington, D.C., for a final review and determination by the Senior Assistant Postmaster General, Operations Group.

The proposed amendments are designed to reduce the number of decision-making levels required to process these cases with the Postal Service and to encourage more personalized communication with interested customers. An initial survey of community wishes and needs, including the circulation of a questionnaire, would remain the first step. After the results have been reviewed, the next stage is revised to reduce formality and encourage direct personal contact and conciliation. Instead of posting a proposed written decision for comment, the Sectional Center Manager would respond individually in writing to the customers who made comments on the questionnaires that were returned. Any customer who still objects to the closing or consolidation after receiving this response would be entitled to request a personal discussion with the Sectional Center Manager or representative. If still not satisfied, the customer could request a further review of the proposed action by the Regional Director of Customer Services before any further action is taken to effect a closing or consolidation.

The final decision would rest with the Regional Postmaster General, not postal headquarters in Washington.

If the Regional Postmaster General approves a closing or consolidation, the written Final Determination must be publicly posted and the record on which the decision was based must be available for public review. For the first 30 days that the Final Determination is posted, any customer served by the affected office is entitled by law to file an appeal with the Postal Rate Commission. The post office cannot be closed or consolidated until at least 60 days after the Postal Service's written Determination is made available.

Although exempt from the requirements of the Administrative Procedure Act (5 U.S.C. 553(b)(c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comment on the following proposed revision of the Domestic Mail Manual which is incorporated by reference in the **Federal Register**, 39 CFR 111.1

List of Subjects in 39 CFR Part 111

Postal Service.

PART 113—SERVICE IN POST OFFICES

In Part 113, revise 113.2 to read as follows:

113.2 CLOSING OR CONSOLIDATION OF POST OFFICES

.21 Introduction

.211 Coverage. This section establishes the rules and procedures that govern the closing or consolidation of any existing independent post office. The rules cover any decision to replace a post office with a community post office, station, or branch through consolidation with another post office, as well as any decision to close a post office without providing a replacement facility. These regulations *do not* apply to decisions to discontinue or take any other action involving a station, branch, community post office, or any other facility or service unit administratively attached to an independent post office.

.212 Requirements of Law.—a. *General.* By law, 39 United States Code (U.S.C.) 404(b), any decision to close or consolidate a post office must be based on the criteria established by Congress. These include:

(1) the effect on the community served by the office;

(2) the effect on employees of the post office;

(3) compliance with the statutory policy that the Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining;

(4) the economic savings to the Postal Service;

(5) and any other factors determined to be necessary by the Postal Service.

b. *Mandatory Procedures.* Certain procedures must be followed when closing or consolidating a post office. These include:

(1) The public must be given 60 days notice of the Postal Service's intention to close or consolidate a post office in order to enable the persons served by the affected post office to provide comments.

(2) Any Final Determination to close or consolidate a post office, after public comments are received and taken into account, must be made in writing and must include findings covering all of the required considerations.

(3) The written Determination must be made available to the persons served by the office at least 60 days before the contemplated closing or consolidation takes effect.

(4) Within the first 30 days after the written Final Determination is made available, persons served by the affected post office may appeal the decision to the Postal Rate Commission.

(5) The Commission may affirm the Final Determination of the Postal Service, or return the matter for further consideration, but may not modify the Postal Services's Determination.

(6) The Commission is required by 39 U.S.C. 404(b)(5) to make its decision on the appeal no later than 120 days after it is received.

Note.—A summary table of the notice and appeal periods under the statute and these regulations appears in Exhibit 113.212.

.213 Additional Requirements. Section 113.22 includes rules to assure that the community's identity as a postal address will be preserved. Section 113.23 contains rules for the consideration of a proposed closing or consolidation and for its implementation if approved. These rules are designed to assure that the reasons which lead a postal manager to propose the closing or consolidation of a particular post office are fully articulated and disclosed early enough for customers to present their views before a final decision is made.

.22 Preservation of Community Address

.221 Policy. The Postal Service permits use of a community's separate address to the extent practicable.

.222 Assignment of ZIP Code. The Five-Digit ZIP Code for each address formerly served from the discontinued post office ordinarily should be the ZIP Code of the facility providing replacement service to that address. In appropriate circumstances, the ZIP Code originally assigned to the discontinued post office may be retained if the responsible Sectional Center Manager submits a request with justification to the Regional Director of Customer Services before the Final Determination to close or consolidate the post office is posted. These additional procedures also apply:

a. *Consolidations.* In the case of consolidation, the Five-Digit ZIP Code provided for the replacement community post office, station, or branch will be either (1) the ZIP Code originally assigned to the discontinued post office; or (2) the ZIP Code of the replacement facility's parent post office, whichever provides the most expeditious distribution and delivery of mail addressed to the customers of the replacement facility.

b. *Offices With Several Five-Digit ZIP Codes.* If the ZIP Code is changed and the parent post office has more than one Five-Digit ZIP Code, the ZIP Code must be that of the delivery area within which the facility is located.

.223 Post Office Name in Address. If all of the delivery addresses using the name of the post office to be discontinued are assigned the same Five-Digit ZIP Code, each customer may continue to use the name of the discontinued post office in the address, instead of changing to or adding the name of the post office from which delivery is provided after the closing or consolidation.

.224 Name of Facility Established by Consolidation. If a discontinued post office is consolidated with one or more other post offices (by establishing in the place of the discontinued post office, a community post office, classified or contract station, or branch affiliated with another post office involved in the consolidation), the name of the replacement unit will be the same as the name of the discontinued post office.

.225 Listing of Discontinued Post Offices. The names of all post offices discontinued after March 14, 1977, are listed in an appropriate manner in Postal Service official directories, such as Publication 65, National ZIP Code and Post Office Directory, so long as they are used in addresses. The ZIP Codes listed for discontinued offices are assigned in accordance with 113.2.

.23 Predetermination Activity

.231 General. If a Sectional Center Manager believes that the discontinuance of a post office may be warranted, the manager:

a. Must apply the standards and procedures in 113.23 and 113.24.

b. Must investigate the situation.

c. May recommend that the post office be discontinued, if in the manager's judgment that action is justified.

.232 Consolidation. The recommended action may include a consolidation of post offices to substitute a community post office or classified or contract station or branch for the discontinued post office if:

a. The communities served by two or more post offices are being merged into a single incorporated village, town, or city; or

b. Providing a replacement facility is necessary to maintain regular and effective service to the area served by the post office being considered for discontinuance.

.233 Views of Postmasters. Whether or not the discontinuance under consideration involves a consolidation, the Sectional Center Manager must:

a. Discuss the matter with the postmaster of the post office being considered for discontinuance, and with the postmaster of any other post office that would be affected by the change; and

b. Encourage these postmasters to submit written comments and suggestions to become part of the record for further consideration and review of the proposal.

.234 Public Notice. The Sectional Center Manager must gather and preserve for the record all information pertinent to the decision to recommend a post office closing or consolidation. If the Sectional Center Manager believes a change is warranted, the manager must prepare a notice to the public that the Postal Service plans to close or consolidate the (*NAME*) Post Office. A copy of this notice must be posted in the affected post office or offices for 60 days and a copy must be sent to the Assistant Postmaster General, Government Relations Department, at least 12 days before the notice will be posted in the post office. In the case of a suspended post office, every effort should be made to post the notice in the affected community and in the nearest open post office or community post office.

.235 Predetermination Survey. In addition to a description of the planned change, the Sectional Center Manager must include in the posted notice an explanation of the alternate method of service that is being proposed to the affected customers if the post office is closed or consolidated. The manager must also conduct a predetermination survey, usually by soliciting customer comments and response to a questionnaire.

.236 Analysis of Comments. The Sectional Center Manager must prepare and include in the record an analysis of the public comments received in response to the predetermination survey. The manager should attempt to analyze all comments received, including those received late. The analysis must list and describe each of the points made favorable to the recommended closing or consolidation and each of the points made against the change, and should identify, to the extent possible, how many comments supported each point listed.

.237 Responses to Customers. The Sectional Center Manager must respond in writing to written comments received from customers during the 60 days notice period. The response must include notice of the customer's rights under this paragraph and .238 to request further discussion and review with postal management. If a customer is not satisfied with the written response received, the customer may request in writing within 15 days from the date of the response to discuss the matter further with the Sectional Center Manager or an authorized representative. The Sectional Center Manager or an authorized representative must contact the customer and discuss the customer's concerns within 15 days of this written request.

.238 Interim Review.—a. If the customer remains dissatisfied after discussing the proposed changes with the Sectional Center Manager, or an authorized representative, the customer may request in writing that the Regional Director of Customer Services review the proposed action and the supporting record before a Final Determination is made. This request must be received by the Regional Director of Customer Services within 15 days of the discussion between the customer and the Sectional Center Manager or an authorized representative.

b. Upon receiving a written request for a review, the Regional Director of Customer Services shall obtain the file on the proposed action and the supporting record from the Sectional Center Manager, and shall review it with reference to the issues raised by the customer. The Regional Director shall consult with the Regional Counsel regarding the customer's comments and the supporting record, and shall mail a written response to the customer within 30 days. If the supporting record does not contain sufficient information to enable the Regional Director to respond to the customer's comments, the Regional Director shall return the file to the Sectional Center Manager with instructions for further action.

.24 Preparing the Record

.241 Other Steps. In addition to posting notice of a planned discontinuance and inviting public comment through a predetermination survey, the Sectional Center Manager should take any other steps that the manager considers necessary to ensure that the persons served by the affected post office understand the nature and implications of the recommended changes. Such additional actions may include meeting with community groups, and following up on customer comments which suggest corrective action. Note:

a. If oral comments contain views or information not previously documented, whether in favor of or against the proposal, the manager should encourage the customer to provide written comments which can be preserved for the record.

b. In making a decision, the manager may rely upon communications only when submitted for the record. However, the manager should document oral comments and discussions at any community meeting in the form of a narrative and include them in the record for consideration.

.242 Record. The Sectional Center Manager must maintain as part of the record all of the documentation that has been gathered concerning the proposed change. Note:

a. The record must include all information that the manager has considered, and the decision must stand on the record. No information relevant to a decision may be excluded, whether or not it tends to support the recommendation.

b. The docket number assigned to the record must be the ZIP Code of the office recommended for closing or consolidation.

c. The record must contain a chronological index in which each document included is identified and numbered as filed.

d. Any written communications which respond to the public notice and predetermination questionnaires must be included in the record.

e. A complete copy of the record must be made available for public inspection during normal office hours at the post office where the Final Determination is posted, beginning on the date the Final Determination is posted and extending through the appeal period.

f. Copies of documents in the record must be provided upon request and the payment of fees prescribed by 352.6 of the Administrative Support Manual.

Fees will be waived for the Final Determination, initial notice, and predetermination survey form.

.25 Preparing the Written Final Determination

.251 Reevaluation of Recommendation. After completing the analysis of comments under 113.236, the Sectional Center Manager must review the initial recommendation and reevaluate it thoroughly in light of the additional information and public comments included in the record.

a. Closing or Consolidation not Warranted. If the manager decides not to proceed with the closing or consolidation, notice that the closing or consolidation has been determined not to be warranted must be posted in the post office considered for discontinuance.

b. Closing or Consolidation Warranted. If the manager decides that the proposed discontinuance is justified, a response to the comments received from the public must be incorporated into the written Final Determination.

.252 Drafting the Written Final Determination. If closing or consolidation appears warranted on the basis of the information obtained during the predetermination survey period, the Sectional Center Manager should prepare a document entitled, "Final Determination to (Close, Consolidate) the (Name) Post Office." This document must describe and analyze the nature of and justification for the changes to be made in the service. The written Determination must address each of the following matters in separate sections:

a. Responsiveness to Community Postal Needs. The Final Determination must take into account the policy of Title 39, United States Code, Section 101(b), that the Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining. The Determination should compare the services available before and after the recommended change; should describe how the changes respond to the postal needs of the persons served by the post office; and should highlight any particular aspects of service that might be less advantageous to the persons served, as well as those that would be more advantageous.

b. Effect on Community. The Final Determination must include an analysis of the social and economic effects that the closing or consolidation might have on the community served by the affected post office. The requirements in 113.22 must be discussed and taken into account.

c. Effect on Employees. The Final Determination must include a summary of the effect of the change on the postmaster and any supervisors or other employees of the post office to be closed or consolidated. (The Sectional Center Manager must comply with personnel regulations related to the closing and consolidation of post offices.)

d. Economic Savings. The Final Determination must include an analysis of the economic savings anticipated by the Postal Service from the closing or consolidation, including the cost or savings expected from each of the major factors contributing to the overall estimate.

e. Other Factors. The Final Determination should discuss any other factors that the Sectional Center Manager determines are necessary to complete evaluation of the Determination, whether they weigh in favor of or against the recommended change.

f. Summary. The Final Determination must include a summary that explains why the closing or consolidation is considered necessary, including an assessment of how the factors supporting the need for the change outweigh any negative factors. In evaluating competing factors, the need to provide regular and effective service must be paramount.

g. Notices. The Final Determination must include the following notices:

"(1) Supporting Materials. Copies of all materials upon which the Determination is based are available for public inspection at the (Name) Post Office during normal office hours."

"(2) Appeal Rights. This Final Determination to (Close, Consolidate) the (Name) Post Office, may be appealed by any person served by the office to the Postal Rate Commission at 2000 L Street NW., Washington, D.C. 20268. Appeals must be received at the Commission within 30 days after the date this Final Determination is posted in the (Name) post Office. Detailed information about the Commission's appeal procedure may be found in 39 CFR 3001.110–3001.116, or obtained by writing to the Secretary of the Commission at the above address. If an appeal is filed, copies of appeal documents issued by the Postal Rate Commission, or filed by parties to the appeal, will be made available for public inspection at the (Name) Post Office during normal office hours."

.253 Forwarding the File. After writing the draft Final Determination, the Sectional Center Manager must:

a. Forward the draft Determination, together with the entire record, through the District Manager to the Regional Postmaster General for final review.

b. Attach a signed certification that all documents included in the record are originals or true and correct copies of the originals.

.26 Final Determination

.261 Standard of Review. The District Manager and Regional Postmaster General must review the draft Final Determination on the basis of the record forwarded by the Sectional Center Manager. The record must fully support the decision of each reviewing authority. As necessary, each reviewing authority may provide instructions through appropriate channels to the Sectional Center to supplement the record. Each decision and instruction must be added to the record.

.262 Review by District and Regional Management. The District Manager must review the draft Determination, and may approve it with or without making revisions, and forward it with the record to the Regional Postmaster General; or may disapprove it and return it with the record to the Sectional Center Manager, stating the reasons for disapproval.

Note:

a. If the District Manager disapproves and returns the written Determination, the Sectional Center Manager must post a notice in the affected post office that the recommendation to close to consolidate the facility was not appproved.

b. If the District Manager forwards the draft Final Determination, the Regional Postmaster General may,

(1) approve it, with or without making revisions, or,

(2) disapprove it and return it with the record, stating the reasons for disapproval, through the District Manager to the Sectional Center manager, who must post a notice of disapproval in the post office considered for discontinuance.

.263 Final Determination by Regional Postmaster General. Upon approving the Final Determination the Regional Postmaster General must:

(1) Notify the Assistant Postmaster General, Government Relations Department, Headquarters in writing that the Determination has been approved.

(2) Return a copy of the approved Final Determination and the supporting record to the Sectional Center Manager, with notice of the action to the District Manager.

(3) Place a copy of each Final Determination, and a copy of each

disapproval of a recommended action under this section, on public file as provided in 352.412 of the Administrative Support Manual (ASM).

.27 Implementation of Final Determination

.271 Notice of Final Determination to Discontinue Post Office.—a. The Sectional Center Manager will provide notice of the Final Determination by posting a copy prominently in the affected post office or offices. The date of posting must be noted on the first page of the posted copy as follows: "Date of Posting: (month, day, year)."

b. The Sectional Center Manager must ensure that a copy of the completed record is made available for public inspection during normal office hours at the post office or offices where the Final Determination is posted, beginning on the posting date and extending for 30 days.

c. Copies of documents in the record must be provided upon request and payment of the fees prescribed by 352.6 of the ASM.

.27 Implementation of Determinations Not Appealed. If no appeal is filed under 39 U.S.C 404 (b)(5), the Sectional Center Manager will schedule an appropriate date for the approved closing or consolidation. However, the post office may not be discontinued sooner than 60 days after the posting of the notice required by 113.271.

.273 Actions During Appeal.—a. Implementation of Discontinuance. If an appeal is filed, the affected post office may be discontinued before the final disposition of the appeal only by direction of the Senior Assistant Postmaster General, Operations Group. However, the post office may not be discontinued sooner than 60 days after the posting of the notice required by 113.271.

b. Upon being advised that a posted Final Determination has been appealed to the Postal Rate Commission, the Regional Postmaster General must immediately send by Express Mail, the original and one copy of the entire administrative record of the closing or consolidation to the Office of Rates and Mail Classification Law, Headquarters.

c. Display of Documents. The Regional Counsel will provide the Sectional Center Manager with copies of each pleading, notice, order, brief, and opinion filed in the appeal proceeding.

(1) The Sectional Center Manager must assure that a copy of each of these documents is prominently displayed and made available for inspection by the public in the post office to be discontinued, or if it has already been discontinued or its operations have been suspended in the post office or post offices serving the customers affected.

(2) All documents must be displayed until the Commission's final order and opinion are issued. The final order and opinion must be displayed for 30 days.

.274 Actions Following Appeal Decision.—a. Determination Affirmed. If the Commission dismissed the appeal or affirms the Postal Service's Determination, the Sectional Center Manager will schedule an appropriate date to implement the approved closing or consolidation. However, the post office may not be discontinued sooner than 60 days after the posting of the notice required under 113.271.

b. Determination Returned for Further Consideration. If the Commission returns the matter for further consideration, the Regional Postmaster General must direct either (1) that the notice be provided in accordance with 113.262 that the proposed discontinuance was not approved or (2) that the matter be returned to an appropriate stage under these regulations for further action.

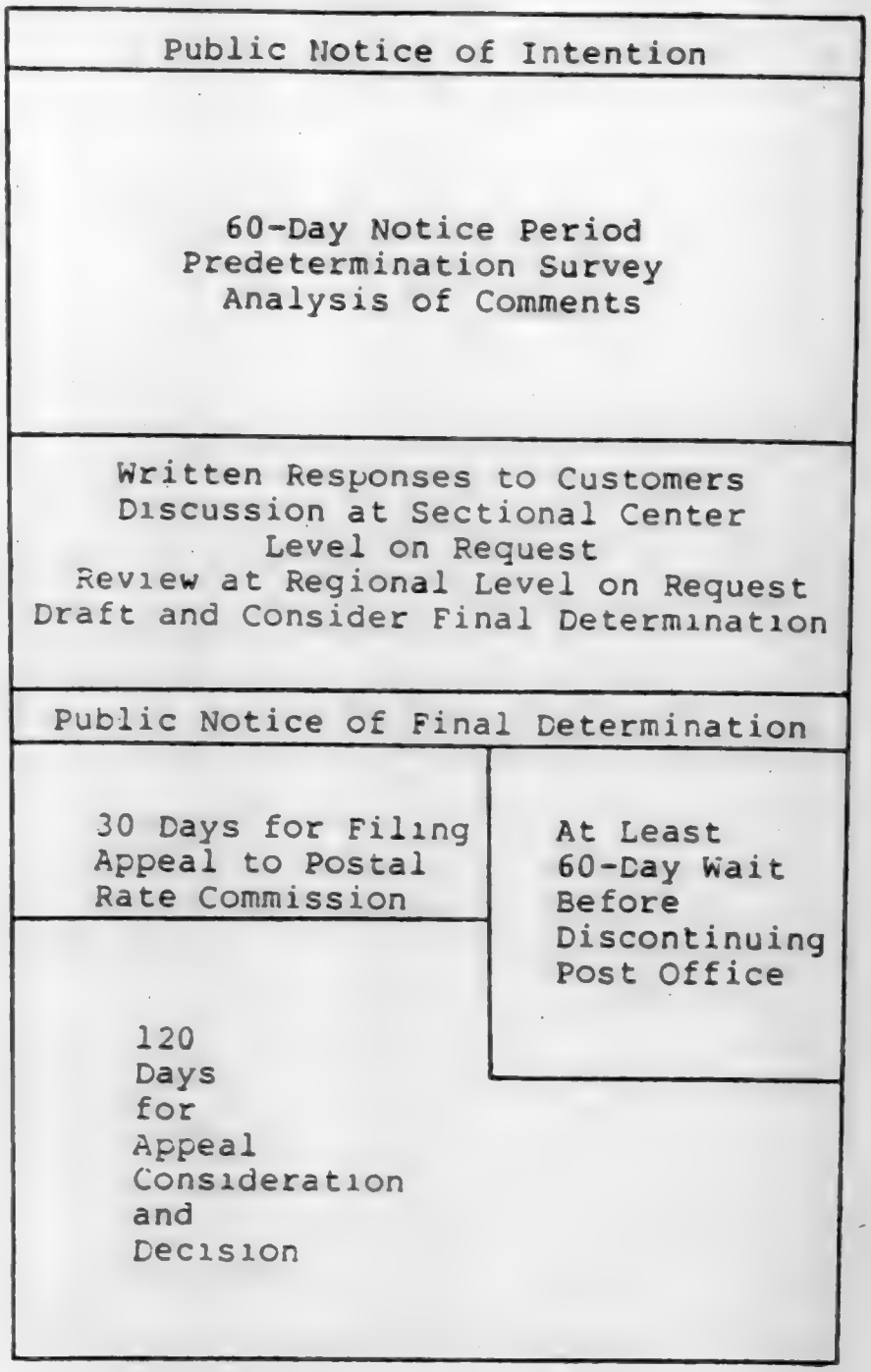

Exhibit 113.712

An appropriate amendment to 39 CFR 111.3 to reflect these changes will be published if the proposal is adopted.

(39 U.S.C. 401, 404 (b))

W. Allen Sanders,
Associate General Counsel, Office of General Law and Administration.

[FR Doc. 83-23673 Filed 8-31-83; 8:45 am]
BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL 2426-5]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: On February 21, 1982 (45 FR 11472) USEPA conditionally approved a revised Part D sulfur dioxide control strategy as part of the Illinois State Implementation Plan (SIP). The SIP approval condition required that the SIP include a reanalysis of the Pekin, Illinois, area; a submittal of the analysis results to USEPA; the proposal of any necessary, additional regulations to the Illinois Pollution Control Board to ensure attainment and maintenance of the sulfur dioxide standard; and the promulgation of any necessary regulations. Any promulgated regulations must be submitted to USEPA. On March 24, 1983, the Illinois Environmental Protection Agency (IEPA) submitted information which satisfies this SIP approval condition for a portion of the Pekin, Illinois area. USEPA is today proposing that this condition to USEPA's approval has been satisfied for all but a portion of the Peoria and Tazewell Counties.

DATE: Comments on this revision and on the proposed EPA action must be received by October 3, 1983.

ADDRESSES: Copies of the SIP revision are available at the following addresses for review. (It is recommended that you telephone Randolph O. Cano, at (312) 886-6035, before visiting the Region V office).

Environmental Protection Agency, Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604

Illinois Environmental Protection Agency, Division of Air Pollution Control, 2200 Churchill Road, Springfield, Illinois 62706

Comments on this proposed rule should be addressed to: Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR-26), USEPA, Region V, 230 South Dearborn, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano, Air and Radiation Branch, Environmental Protection Agency, Chicago, Illinois 60604, (312) 886-6035.

SUPPLEMENTARY INFORMATION: In a March 24, 1983, submittal, IEPA submitted a proposed revision to the Illinois SIP which meets the requirements of USEPA's conditional approval of the Illinois sulfur dioxide SIP for the Pekin, Illinois, area. It also requested USEPA to redesignate Peoria and Tazewell Counties as attainment for the pollutant sulfur dioxide. IEPA requested, on May 3, 1983, that USEPA incorporate recently adopted IPCB Rule 204(f)(2) into the Illinois SIP for sulfur dioxide.

This proposed rulemaking is limited to IEPA's submittal concerning the conditional approval of the Illinois Part D SIP relating to sulfur dioxide in the Pekin, Illinois, area. Separate **Federal Register** notices propose the redesignation of Peoria and Tazewell counties and propose to incorporate IPCB Rule 204(f)(2) into the Illinois SIP for sulfur dioxide.

USEPA has analyzed the information provided by the State of Illinois and determined that redesignations to attainment for SO_2 are warranted at this time for Cincinnati, Pekin, and Elm Grove Townships in Tazewell County and Logan and Limestone Townships in Peoria County. USEPA determined that redesignations to attainment for SO_2 are not warranted for Hollis and Peoria Townships in Peoria County and Groveland Township in Tazewell County until sufficient information is made available to demonstrate that the existing SO_2 SIP will assure attainment and maintenance of the SO_2 NAAQS. The State's request to redesignate Tazewell and Peoria Counties is the subject of a separate **Federal Register** action.

The State has completed the required re-analysis. The re-analysis indicates that redesignations to attainment are warranted for Cincinnati, Pekin, and Elm Grove Townships in Tazewell County and for Logan and Limestone Townships in Peoria County. No further action is required to satisfy this conditional approval since the townships are attainment. USEPA proposed that SO_2 control strategy approval condition, therefore, has been satisfied for these attainment townships. USEPA's conditional approval will remain in effect for the areas USEPA is not proposing to redesignate.

All interested persons are invited to submit written comments on the proposed satisfaction of this control strategy approval condition. Written comments received by the date specified above will be considered in the development of USEPA's final determination. After review of all comments submitted, the Administrator will publish in the **Federal Register** USEPA's final action on the satisfaction of this control strategy approval condition.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

(Secs. 110, 172 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410, 7502, and 7601(a))

Dated: June 15, 1983.

Valdas V. Adamkus,
Regional Administrator.

[FR Doc. 83-24003 Filed 8-31-83; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 52

[A-5-FRL 2367-3]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: On November 29, 1982, the State of Indiana submitted amended rule 325 IAC 11-4 as a revision to the Total Suspended Particulates (TSP) portion of its State Implementation Plan (SIP). This regulation contains site specific emission limitations for Knauf Fiber Glass in Shelby County, Indiana, which consists of an alternative emission

control program (bubble). EPA has designated Shelby County as an attainment area for TSP. Knauf Fiber Glass is using emission reduction credits obtained by a prior permanent shut down of one operation line and by reduction in the allowable emissions at another line to offset increases in allowable emissions at other sources. The regulation also contains procedures which allow emission limits contained in future operation permits to supersede emission limitations contained in this regulation. These revised limits must be submitted to and approved by EPA as a site-specific revision before they become part of the SIP.

EPA has reviewed this regulation and has determined that it has more stringent emission limits than the present SIP, conforms with EPA's emission trading policy, and will have an insignificant impact on the TSP National Ambient Air Quality Standards (NAAQS) in Shelby County. Therefore, EPA is proposing to approve this regulation.

DATE: Comments on this revision and on the proposed EPA action must be *received* by October 3, 1983.

ADDRESSES: Copies of the SIP revision and other materials relating to this rulemaking are available for inspection at the following addresses:

U.S. Environmental Protection Agency, Air and Radiation Branch, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

Indiana Air Pollution Control Division, Indiana State Board of Health, 1330 West Michigan Street, Indianapolia, Indiana 46206.

Comments on this action should be addressed to: Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch, Region V (5AR–26), U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Anne E. Temer, (312) 886–6036.

SUPPLEMENTARY INFORMATION: On April 7, 1982 (47 FR 15076), the EPA issued a proposed Emissions Trading Policy Statement (ETPS). This statement indicates that it is the policy of EPA to encourage use of emissions trades to achieve more flexible, rapid, and efficient attainment of the NAAQS. This policy statement describes emissions trading, sets out general principles EPA will use to evaluate emissions trades under the Clean Air Act, and expands opportunities for states and industry to use these less costly control approaches. The April 7, 1982 notice indicates that until EPA takes final action on its policy statement, state actions involving emission trades will be evaluated under the provisions set forth in the proposed policy statement.

The State of Indiana, on November 29, 1982, submitted amendments to 325 IAC 11–4 as a revision to the Indiana TSP SIP. The State submitted technical information to support the amended rule on December 19, 1982. The amendments add a new section (325 IAC 11–4–3.5) and change/delete particulate emission limitations for six facilities operated by Knauf Fiber Glass Company in Shelby County, Indiana. The emission limit changes are contained in 325 IAC 11–4–4 (Appendix A: Shelby County). EPA has designated Shelby County as an attainment area for TSP under Section 107 of the Act (March 3, 1978 43 FR 8962).

New section 325 IAC 11–4–3.5 allows the State to change emission limitations for specific facilities from those limits contained in 325 IAC 11–4. This is done by issuing, after notice and public hearing, an operating permit containing the new limits and submitting these revised limits to EPA as a revision to the SIP. This procedure has been previously approved by EPA for Indiana in the SIP TSP regulation, 325 IAC Article 6; the SIP sulfur dioxide regulation, 325 IAC Article 7; and the SIP permit regulation, APC 19 (47 FR 30972, July 16, 1982; 47 FR 10613, March 12, 1982; and 47 FR 6621, February 16, 1982, respectively). The SIP emission limits do not change until EPA approves the revised limits. EPA proposes to approve this provision in 325 IAC 11–4.

The changes for the particulate emission limitations for the six facilities operated by Knauf Fiber Glass Company are summarized below:

Facility description	Emission rate (pounds per hour)		
	Old	New	Change
204 oven	2.4	8.00	+5.6
204 furnace	13.78	10.00	−3.78
204 forming	18.62	15.00	−3.62
205 oven	2.44	0	−2.44
205 furnace	8.62	0	−8.62
205 forming	18.16	0	−18.16

In addition to a decrease in plant emission rate (lbs/hr), annual allowable emissions should decrease by 136.9 tons/year.

EPA proposes to approve the revised emission limitations for Knauf Fiber Glass. Knauf Fiber Glass is using emission reduction credits obtained by permanent shutdown of one operation line and by reduction in allowable emissions from the 204 line furnace and forming operations. (The shutdown had already occurred by the date in 1981 that the company submitted its application for revised limitations to Indiana). Consequently, the revision was reviewed with respect to EPA's proposed ETPS. The emission credits involve only particulate matter and are enforceable, permanent and quantifiable. The credits are surplus based on the use of an allowable emission baseline for the trade. The proposed ETPS allows use of an allowable (rather than actual) baseline in attainment areas if proper consideration is given to increment usage for prevention of significant deterioration (PSD). In Shelby County, the baseline date for PSD has not yet been triggered; therefore, the revised emission limits for Knauf will not result in consumption of PSD increment.

It should be noted that actual emissions at the line 204 furnace and forming units have been at a lower level historically than the old allowable emissions level used as the baseline for calculating the emission reduction credits generated at those facilities. This in turn means that the credits from those facilities represent the degree to which their actual emissions were already below their allowable emissions, rather than some new emission reduction below those allowable levels. This should not cause concern here, however, because the real emissions reduction brought about by the shutdown of line 205 creates more than enough emission reduction credits to offset the increase in allowable emissions at the line 204 oven, even without the credits from the line 204 forming and furnace units.

EPA notes that the revised limits represent a new decrease in actual as well as allowable emissions. In addition, an ambient equivalence demonstration was performed consistent with the Level II modeling analysis requirements in the proposed ETPS. That is, the Knauf sources involved in the trade were modeled with MPTER, the appropriate reference model, and one year of meteorological data.

MPTER modeling predicts that under worst case conditions there is a maximum increase in the 24-hour concentrations of 8.4 $\mu g/m^3$, which is below the 10 $\mu g/m^3$ significance level specified in the proposed ETPS. The highest annual TSP concentration increase of any receptor was 0.4 $\mu g/m^3$, which is below the 5 $\mu g/m^3$ significance level.

EPA has concluded that the amended 325 IAC 11–4–4 will not result in a significant degradation of air quality in Shelby County. Therefore, EPA proposes to approve the source specific emission

limits, because the revision will not interfere with the attainment and maintenance of the TSP NAAQS in Shelby County and fulfills the requirements of the proposed ETPS.

EPA is providing a 30-day comment period on this notice of proposed rulemaking. Public comments revised on or before October 3, 1983 will be considered in EPA's final rulemaking. All comments will be available for inspection during normal business hours at the Region V office listed at the front of this notice.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under 5 U.S.C. 605(b), I certify that this SIP approval will not have significant economic impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxides, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

This notice is issued under authority of Section 110 of the Clean Air Act, as amended (42 U.S.C. 7410).

Dated: August 8, 1983.

Valdas V. Adamkus,

Regional Administrator, Region V.

[FR Doc. 83-24004 Filed 8-31-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 81

[A-5-FRL 2426-6]

Designation of Areas for Air Quality Planning Purposes; Attainment Status Designations: Illinois

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: This revision is based on a request from the State of Illinois to redesignate Peoria and Tazewell Counties as attainment for Sulfur Dioxide and on the supporting data the State submitted. Under the Clean Air Act, designations can be changed if sufficient data are available to warrant such change.

ADDRESSES: Copies of the redesignation request, technical documents and the supporting air quality data are available at the following addresses:

Environmental Protection Agency, Region V, Air and Radiation Branch, 230 S. Dearborn Street, Chicago, Illinois 60604

Illinois Environmental Protection Agency, Division of Air Pollution Control, 2200 Churchill Road, Springfield, Illinois 62706

Comments on this proposed rule should be addressed to: Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR-26), USEPA, Region V, 230 South Dearborn, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano, Air and Radiation Branch (5AR-26), Environmental Protection Agency, Region V, Chicago, Illinois 60604, (312) 886-6035.

SUPPLEMENTARY INFORMATION: Under Section 107(d) of the Act, the Administrator of USEPA has promulgated the national ambient air quality standards (NAAQS) attainment status for each area of every State. See 43 FR 8962 (March 3, 1978) and 43 FR 45993 (October 5, 1978). These area designations may be revised whenever the data warrant.

On March 24, 1983, the Illinois Environmental Protection Agency (IEPA) submitted a proposed revision to the Illinois State Implementation Plan (SIP) which responded to USEPA's conditional approval of the Illinois sulfur dioxide SIP for the Pekin area, and it requested redesignation of Peoria and Tazewell Counties to attainment for the pollutant sulfur dioxide. On May 3, 1983, IEPA additionally requested that USEPA take action to incorporate newly revised Illinois Pollution Control Board (IPCB) Rule 204(f)(2) into the Illinois SIP. This proposed rulemaking only concerns the proposed redesignation of Peoria and Tazewell Counties to attainment for sulfur dioxide. The State's other two requests are addressed in separate notices of proposed rulemaking.

IEPA's requested redesignation concerns Hollis, Limestone, Logan and Peoria Townships in Peoria County and Cincinnati, Elm Grove, Pekin and Groveland Townships in Tazewell County which are currently designated primary and/or secondary nonattainment for SO_2. The remaining townships in these counties are presently designated attainment for SO_2.

USEPA's criteria for designations are summarized in an April 21, 1983, memorandum, Section 107 Designation Policy Summary, from Sheldon Meyers, Director, Office of Air Quality Planning and Standards, to Air Management Division Directors. For SO_2 non-attainment designations originally based on modeling, redesignations to attainment can be approved provided that a reference modeling analysis considering the sources' legal emission limits shows attainment of the standards. Information must also be presented showing that the sources, which could cause non-attainment if they violated the emission limits, are in fact in compliance with enforceable SIP measures. The State has certified that the major SO_2 sources located within these townships proposed for redesignation are in compliance with the emission limits contained in the Illinois SO_2 SIP.

The available SO_2 monitor data for Peoria and Tazewell Counties indicate that there have been no monitored exceedances or violations of the SO_2 NAAQS in Peoria or Tazewell Counties during the 1980-1982 period. USEPA's Section 107 designation policy, however, recognizes that a small number of ambient monitors, as in Peoria and Tazewell Counties, is usually not representative of the air quality for the entire area if the area is dominated by point sources. Dispersion modeling employing the legally enforceable SO_2 SIP limits is generally necessary to comprehensively evaluate the sources impacts as well as to identify the areas of highest concentration.

IEPA has submitted the results of several modeling studies which assess SO_2 air quality in these counties. The details of these analyses are available for inspection at the addresses listed in the front of this notice. They are briefly summarized in the technical support document which is available at the USEPA Region V Office.

These modeling analyses employing USEPA reference methodology, clearly indicate that the current federally approved SO_2 SIP and the proposed 5.5 lbs/MMBTU emission limit for Pekin Energy (proposed in a separate rulemaking) will not cause or contribute to SO_2 NAAQS violations in Logan and Limestone Townships in Peoria County or Cincinnati, Pekin and Elm Grove Townships in Tazewell County. In addition, the only major SO_2 sources in the above townships (Commonwealth Edison Powerton and Pekin Energy) will not cause or contribute to potential NAAQS violations in Hollis and Peoria Townships, Peoria County or Groveland Township, Tazewell County.

Based on the available reference modeling and monitoring data, USEPA proposes to designate Peoria and Tazewell Counties as attainment for the SO_2 NAAQS with the exceptions of Hollis and Peoria Townships in Peoria County and Groveland Township in Tazewell County. USEPA takes no action at this time on these three townships until sufficient information is available to demonstrate that the existing SO_2 SIP will assure attainment

and maintenance of the SO_2 NAAQS in these areas. Illinois has certified that the major SO_2 sources in the township proposed for redesignation are in compliance with their federally approved emission limits (and that Pekin Energy is in compliance with their proposed limit which was used as input to the modeling analyses).

All interested persons are invited to submit written comments on the proposed redesignation. Written comments received by the date specified above will be considered in determining whether EPA will approve the redesignation. After review of all comments submitted, the Administrator of USEPA will publish in the Federal Register the Agency's final action on the redesignation.

Under 5 U.S.C. 605(b), the Administrator has certified that redesignations do not have a significant economic impact on a substantial number of small entities (See 46 FR 8709).

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 81

Air pollution control, National Parks, Wilderness areas.

(Sec. 107(d) of the Act, as amended (42 U.S.C. 7407))

Dated June 15, 1983.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 83-24005 Filed 8-31-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 799

[OPTS—42033A; TSH-FRL # 2427-1]

Cresols; Proposed Test Rule; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of comment period.

SUMMARY: EPA is extending the comment period for the proposed test rule for cresols published in the Federal Register of July 11, 1983. The extension is in response to a request by the Cresols Task-Force and the Natural Resources Defense Council for additional time for comment. The date for the public meeting on the proposed rule has also been changed.

DATES: Written comments on the proposed rule should be submitted on or before October 10, 1983. EPA will hold a public meeting on October 25, 1983, on this proposed rule in Washington, D.C., if persons request time for oral comment by September 30, 1983.

ADDRESS: Address written comments identified by the document control number (OPTS-42033A) in triplicate to: TSCA Public Information Office (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-108, 401 M St. SW., Washington, D.C. 20460.

The administrative record supporting this action is available for public inspection at the above address from 8:00 a.m. to 4:00 p.m. Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Jack P. McCarthy, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-545, 401 M St. SW., Washington, D.C. 20460, Toll Free: (800-424-9065), In Washington, D.C.: (554-1404), Outside the USA: (Operator-202-554-1404).

For exact time and place of meeting contact Jack P. McCarthy.

SUPPLEMENTARY INFORMATION: EPA issued a notice of proposed rulemaking published in the Federal Register of July 11, 1983 (48 FR 31812) to consider for testing under section 4(a) of the Toxic Substances Control Act for cresols including the ortho, meta, and para isomers and mixtures of these isomers.

In response to a request by the Cresols Task Force and the Natural Resources Defense Council, the Agency is extending the comment period to October 10, 1983. Additionally, the public meeting for those interested in presenting oral comments will be held October 25, 1983.

Information on the exact time and place of the meeting will be available from the TSCA Assistance Office at the telephone numbers given above. Persons who wish to attend or present comments at the meeting should call the TSCA Assistance Office by September 30, 1983. While the meeting will be open to the public, active participation will be limited to those persons who have arranged to present comments and to designated EPA participants. Attendees should call the TSCA Assistance Office before making travel plans, because the meeting will not be held if members of the public do not wish to make oral comments.

The Agency will transcribe the meeting and will include the written transcript in the public record of the test rule. Participants are invited, but not required, to submit copies of their statements prior to or on the day of the meeting. All such written materials will become part of EPA's record for this rulemaking.

(Sec. 4, Pub. L. 94-469, 90 Stat. 2003 (15 U.S.C. 2601))

Dated: August 23, 1983.

Edwin L. Johnson,

Acting Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 83-24001 Filed 8-31-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 68

[CC Docket No. 81-216; RM Nos. 3206, 3227, 35 et al.]

Connection of Telephone Equipment, Systems and Protective Apparatus to the Telephone Network and; Standards for Inclusion of One and Two-Line Business and Residential Service

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comment/reply comment period.

SUMMARY: In *Third Notice of Proposed Rulemaking*, CC Docket 81-216, FCC 83-268, 48 FR 29014, June 24, 1983, Concerning Telephone equipment connection and One and Two-Line Business and Residential Service of the Commission ordered the unbundling of digital network channel terminal equipment and sought comments on the establishment of technical standards to permit the attachment of such equipment to the telephone network. Comments are currently due on August 26, 1983 and reply comments on September 19, 1983. In response to a motion for extension of time filed by the United Telephone System, Inc., the Commission has extended the date for filing comments and reply comments.

DATES: Comments are due on September 26, 1983 and reply comments on October 19, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Patrick Donovan, Esq., Domestic Services Branch, Common Carrier Bureau, Federal Communications Commission, Washington, D.C. 20554 (202) 634-1832.

In the Matter of Petitions Seeking Amendment of Part 68 of the Commission's Rules Concerning Connection of Telephone Equipment, Systems and Protective Apparatus to the Telephone Network and Notice of Inquiry into Standards for Inclusion of One and Two-Line Business and

Residential Service in Part 68 of the Commission's Rules; CC Docket No. 81-216, RM-3206, RM-3227, RM-3263, RM-3316,RM-3329, RM-3348, RM-3501, RM-3526, RM-3530, RM-4054, RM-2845, RM-2930, RM-3195.

Order

Adopted: August 23, 1983.
Released: August 24, 1983.
By the Chief, Common Carrier Bureau.

1. Before the Chief, Common Carrier Bureau is a motion for extension of time in the above-captioned proceeding filed by United Telephone System, Inc. (UTS). It requests an extension for comments and reply comments to September 26, 1983, and October 19, 1983, respectively. Comments are currently due on August 26, 1983, and reply comments on September 19, 1983.[1]

2. In support of the requested extension UTS states that in this proceeding in *Third Notice of Proposed Rulemaking*, CC Docket No. 81-216, FCC 83-268, released June 14, 1983, the Commission ordered the unbundling of digital network channel terminal equipment (NCTE) and sought comments on the establishment of technical standards to permit the attachment of such equipment to the telephone network under the Part 68 registration program. UTS states that pending the adoption of final standards by the Commission the American Telephone and Telegraph Co. (AT&T) was directed to file tariffs to become effective August 23, 1983 accomplishing such unbundling based on interim technical standards. *Third Notice of Proposed Rulemaking, supra*, paragraphs 45-46. UTS points out that the effective date for these tariffs will now be deferred until October 25, 1983,[2] and that the technical data supporting AT&T's unbundling of NCTE will not be available prior to the date for submitting comments on final standards to be adopted by the Commission in this proceeding. UTS claims that review of AT&T's technical publications in connection with the interim tariff will be necessary in order to sufficiently address the complex technical issues involved in adopting final standards.

3. We find that the requested opportunity to review AT&T's technical publications to be submitted in connection with its proposed tariff to unbundle NCTE will not unduly delay the adoption of final standards by the Commission. Accordingly, we will grant UTS's motion.

4. Accordingly, it is ordered, that the date for filing comments is extended until September 26, 1983 and for reply comments until October 19, 1983.

James R. Keegan,
Chief, Domestic Facilities Division, Common Carrier Bureau.

[FR Doc. 83-23984 Filed 8-31-83; 8:45 am]
BILLING CODE 6712-01-M

[1] *See* Order of the Common Carrier Bureau released July 27, 1983 granting in part a motion for extension of time filed by GTE Service Corporation. Comments had originally been due on July 29, 1983 and reply comments on August 17, 1983.

[2] *See* letter from Chief, Tariff Division to AT&T dated August 15, 1983.

NATIONAL TRANSPORTATION SAFETY BOARD

49 CFR Part 821

Rules of Practice in Air Safety Proceedings; Request for Comments

AGENCY: National Transportation Safety Board.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The purpose of this notice is to request comments on certain proposals that would revise and update portions of the Board's Rules of Practice in Air Safety Proceedings.

The Safety Board conducts three types of proceedings under Part 821 of its Rules of Practice. These are: (1) The review of denials of requests for certification made under Section 602 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1422 et seq.) (the Act) which deal almost exclusively with denials of airman medical certification; (2) the review of suspension and revocation actions, among others, taken by the FAA against airman and other aviation certificates pursuant to section 609 of the Act; and (3) the expedited review of suspensions and revocations taken by the FAA under its emergency authority.

Recommendations for changes to our procedural rules have been received from both the FAA and from counsel for persons who have sought relief through the Safety Board's administratie review procedures. The Board has weighed and considered the recommendations that have been made and now proposes to adopt amendments to its rules that would enhance the Board's ability to accord parties to its appeal procedures a more favorable forum for the just and expeditious resolution of the issues.

DATES: Comments must be received on or before November 1, 1983.

ADDRESS: Comments and requests for further information should be addressed to: Office of General Counsel, National Transportation Safety Board, 800 Independence Avenue, S.W., Washington, D.C. 20594; Telephone [(202) 382-6540].

FOR FURTHER INFORMATION CONTACT: Mr. John N. Stuhldreher, General Counsel, (202) 382-6540.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rules by submitting such written data, views, or arguments as they may desire. All comments received on or before the closing date for comments will be considered by the Board before taking action on any of the proposed changes. The proposals contained in this notice may be changed in the light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket, for examination by interested persons.

Background

The Board's Rules of Practice in Air Safety Proceedings were originally promulgated in 1967 as Part 421 of Title 14 (14 CFR Part 421) and were instituted when the Board was assigned the function of reviewing appeals from the safety enforcement actions taken by the FAA that, until adoption of the Department of Transportation Act (49 U.S.C. 1651), had been exercised by the Civil Aeronautics Board. Amendments to the Rules of Practice have been few and, generally, the procedural rules have been a workable tool in the administration of the Board's review function. The Rules were intended to provide the Board's administrative law judges with a framework for the orderly performance of their review functions without depriving them of the necessary flexibility afforded by the exercise of discretion. The changes proposed in this notice are intended to continue the Board's practice of encouraging its law judges to exercise discretion when the needs of justice are served thereby, while concurrently providing both the Government and the petitioner seeking review with the certainty that an orderly procedural framework can provide. Major matters that, the Board concludes, are in need of revision are: first and foremost, the matter of discovery and prehearing preparation; secondly, the identification of the evidence that can be considered by an administrative law judge and, hence, that becomes part of the record in an airman medical proceeding; third, recognition of the right to judicial review of Board Orders; and, finally, use of the U.S. Government

franked envelope, and the certificate of service as evidence of the date of service. Other areas of concern are also dealt with in the proposal. Noteworthy is the fact that the Board has, for the time being, decided not to propose amendments to its rule refecting the recommendation that has been made that it adopt the provisions of the Federal Rules of Civil Provedure that pertain to depositions and discovery. Nevertheless, we encourage reference to the Federal Rules as general guidelines, and especially to the principles developed in the case law that has emerged in their application, by our law judges and by counsel who appear before them, and are proposing an amendment to § 821.19 to reflect that policy.

Section-by-Section Analysis

Section 821.1 Definitions

In response to a recommendation, a definition of the term "interrogatory" is proposed as an addition to the terms defined in Section 821.1. Moreover, in light of the Board's express intention to enlarge the pre-hearing discovery process, it is proposed to amend § 821.19(a) to clarify the fact that the testimony of any person may be obtained either by deposition or by the submission of a written interrogatory. Moreover, the Board is proposing to dispense with the current requirement that permission to begin discovery be obtained.

Section 821.2—The Board proposes a change to the section to clarify the fact that proceedings under Part 821 also include proceedings involving airman medical certification.

Section 821.6—Although a recommendation was made to limit representation at Board hearings to attorneys of record, the Board believes that the non-attorney representative has not presented an identifiable problem in Board proceedings. Moreover, a non-attorney representative could be useful in dealing with lanuage communication or technical problems. The need for an administrative procedure to ensure attorney qualification has not yet surfaced. The Board is proposing a change, however, to require that the attorney of record be identified at every point in the proceedings. If any party, including the FAA, substitutes an attorney at any stage in the proceedings, particularly on appeal from an initial decision, the name of the attorney of record should be forwarded to the Board in writing.

Section 821.7/812.8—Concerns surrounding the filing of documents with the Board to evidence compliance with a filing date and service of documents on opposing parties have surfaced, especially with respect to the use by the Government of the franked envelope, a use that precludes the availability of a postmark as evidence of the date of mailing. Since the U.S. Post Office no longer provides a category of service designated "air mail", that term has been removed from the various provisions as have references to the so-called "800 mile rule."

As proposed, all provisions that deal with filing of documents will be revised to permit the use of the franked envelope thereby causing the certificate of service that accompanies each document and that contains a certified statement of the date the document was mailed to be evidence of the date of mailing. As proposed, the use of the certificate of mailing as evidence will extend to government and non-government parties alike. In case a party may inadvertently omit the certificate of service, the postmark will serve as evidence of the date of mailing.

Sections 821.9 and 821.16—On the matter of intervenors and the extent to which intervenors may participate, the Board renews and restates its policy of encouraging its law judges to exercise their discretion on the matter at any stage of the proceedings prior to appeal from an initial decision. As in other interlocutory matters, the Board's Rules provide the right to an interlocutory appeal at the discretion of the law judge. Although a recommendation has been made that the rules require a stay in any proceeding from which an interlocutory appeal has been taken, we believe that this is also a matter well within the discretion of the law judge.

Section 821.12—A recommendation has been made to permit settlement of cases without Board or law judge approval. We are not proposing adoption of the recommendation for two reasons:

(1) After having provided a forum for the resolution of issues, the Board is entitled to be apprised that the matter has been resolved by settlement; and

(2) Settlements do not necessarily bring an end to the matter of Board or even judicial review when applications for attorney fees and other issues later emerge; consequently, it is well within the Board's oversight responsibility to determine that cases are settled with reasonable fairness in order to ensure that review of claims for fees can be conducted properly, among other reasons.

Section 821.17—The Board is proposing to amend § 821.17 to provide for a motion for judgment on the pleadings after all pleadings have been filed and before the case has gone to hearing. The law judge may grant such a motion at his discretion.

Section 821.18—The recommendation has been made that the section entitled, "Motion for more definite statement," be expanded to include the use of such a motion to clarify pleadings that do not require a response. In the event that an answer fails to clearly respond either to the complaint in a Section 609 proceeding or to the petition for review in a Section 602(b) proceeding, the Board is proposing to permit the opposing party to file a motion for a more definite statement. The law judge may grant the motion at his discretion.

Section 821.19—Numerous recommendations have been made to amend § 821.19 to permit parties to initiate discovery proceedings without filing the motion requesting permission to conduct a deposition or to serve an interrogatory that the Board's Rules currently require. In response, the Board is proposing to amend the current § 821.19 to permit the taking of testimony by deposition or the service of an interrogatory by either party after a petition for review or a complaint is filed. Similarily we are proposing that the parties pursue other discovery on their own initiative. If disputes arise, they may be referred to the law judge assigned to the case for resolution.

Although the Board is not proposing the recommendation that has been made to adopt the deposition and discovery rules of the Federal Rules of Civil Procedure, we continue to endorse reference to those Rules by both administrative law judges and parties in their pleadings and motions. The Board is also proposing a revision to § 821.19 to encourage the use of pre-hearing discovery to minimize the element of surprise at Board hearings and to accord parties a more favorable opportunity for preparing their cases. We are also proposing to add a provision to the section to encourage use of the Federal Rules and the principles enunciated in

their application in matters that pertain to discovery.

Section 821.20—Although the recommendation has been made that subpoenas be issued routinely without approval of a law judge upon a showing of relevance, it is the Board's view that the issuance of subpoenas, especially if they are to be enforceable, requires that they be issued upon s showing of relevance. In the event that a party wishes to gauge the availability of a prospective witness, he can do so by use of a letter that indicates that a subpoena will be obtained.

Section 821.24—The matter of submission by a party of medical evidence not yet seen and evaluated by the Federal Air Surgeon has been a cause for concern in numerous proceedings, especially when an individual has undergone medical evaluation in the interim period between final denial by the Administrator, and Board review. Depending on the nature of the medical evidence submitted, the entire matter of medical qualification may require reevaluation by the Federal Air Surgeon and his staff. An example of this would be a case in which final denial was based upon a structural defect or condition that was subsequently corrected by surgery. In that event, a review of a petitioner's post-surgical medical circumstances might well lead to issuance of a certificate without Board review. In most Board Cases, however, the petitioner merely wishes to submit the results of further medical evaluation that attest to his continued medical fitness. In cases where the new medical evidence is developed and a petitioner plans to offer it into evidence at the hearing, the Board is proposing to add a new paragraph (e) to § 821.24 to require that the new medical evidence be submitted to the FAA at least 30 days in advance of the date hearing.

Section 821.31—A recommendation has been made that affirmative defenses, such as timely filing under the Aviation Safety Reporting Program or the mistaken identity of the pilot in command, be specifically pleaded in the answer or be made a matter of record at some time prior to hearing. In this way, all parties will be apprised of the matters that will be at issue at the hearing and can make preparations to properly address them. Accordingly, the Board is proposing to amend § 821.31(c) to require that affirmative defenses be specifically pleaded at some time prior to hearing. In the discretion of the law judge, an affirmative defense not so pleaded may be ruled inadmissible.

Section 821.37—The Board proposes to revise the provisions that pertain to the setting of a time and place for hearing to provide that parties are given at least 30 days' notice, that the need for pre-hearing discovery be taken into consideration, and that the availability of witnesses and other concerns of both parties be taken into consideration insofar as such concerns are compatible with the language of Section 602(b) of the Act which states, "The Board shall thereupon assign such petition for hearing at a place convenient to the applicant's place of residence or employment."

Section 821.48—As proposed herein, an additional 10 days would be added to the period of time permissible for the filing of a brief on appeal from an oral initial decision. Although one contributor recommended that the Rules be amended to provide for the filing of a brief in reply to the reply brief, the Board believes that § 821.48(e) provides sufficient flexibility for the filing of additional briefs, in the event that they are needed.

Section 821.57—A few recommendations have been made for amendments to the rules that apply to emergency proceedings. These have been evaluated in light of the fact that Section 609 of the Act requires that the entire emergency proceeding, including Board review, be completed within 60 days of the Administrator's written notice of an emergency. The Board proposes to add a sentence to clarify the fact that the time limitations are not affected by the unavailability of the hearing transcript but require that they be met in order for the Board to meet the 60-day completion date. Despite the rigid time restraints that must be met in emergency proceedings, the Board proposes to extend the period for filing a brief in reply to the appeal brief from 5 to 10 days.

Subpart K—A new Subpart K will be added to the regulations to recognize expressly that the statutory scheme in aviation safety enforcement proceedings provides for judicial review. (Section 1006 of the Act; 49 U.S.C. 1486).

Editorial Changes

In proposing this revision of Part 821, a review has been made of each Section for clarity. Some Sections have been updated in light of changes made to its services by the U.S. Post Office. Changes have been made to reflect the change in title of the FAA's Office of General Counsel to the Office of Chief Counsel.

Regulatory Flexibility

Under the criteria of the Regulatory Flexibility Act, these proposed rules at promulgation will not impose any kind of regulatory burden on any entity. The proposed rules are procedural and are intended to simplify and clarify the Board's procedures in exercising an administrative review function authorized by statute.

Paperwork Reduction

The rules that are proposed herein do not alter in any way the amount of paperwork involved in pursuit of an appeal to the Board.

Authority

Title VI, Federal Aviation Act of 1958, as amended, 49 U.S.C. 1421 et seq., and Sec. 304(a)(9) of the Independent Safety Board Act of 1974, as amended (49 U.S.C. 1903).

List of Subjects in 49 CFR Part 821

Administrative practice and procedure, Airmen, Aviation safety.

The Proposed Regulation

PART 821—[AMENDED]

In consideration of the foregoing, the Safety Board proposes to amend its Rules of Practice in Air Safety Proceedings (49 CFR Part 821) as follows:

1. By adding a definition for the term "interrogatory" to § 821.1 between the terms "initial decision" and "law judge" to read as follows:

§ 821.1 Definitions

* * * * *

"Interrogatory" means a written question directed to any person, including a party to the proceeding, to be answered under oath.

* * * * *

2. By revising § 821.2 to read as follows:

§ 821.2 Applicability and description of part.

The provisions of this part govern all air safety proceedings, including proceedings involving airman medical certification, before a law judge upon petition for review, or upon appeal from any order of the Administrator amending, modifying, suspending, or revoking any certificate, and upon appeal to the Board from any order or decision of a law judge.

3. By adding a new paragraph (d) to § 821.6 to read as follows:

§ 821.6 Appearances and rights of witnesses.

* * * * *

(d) Any party to a proceeding who is represented by an attorney shall notify the Board of the name and address of that attorney. In the event of a change in

counsel of record, each party shall notify the Board, in the manner provided in § 821.7(a), and the other parties to the proceeding prior to participating in any way, including the filing of documents, in any proceeding.

4. By revising § 821.7(a) to read as follows:

§ 821.7 Filing of documents with the Board.

(a) Filing address, date and method of filing.

Documents to be filed with the Board shall be filed with the following:

Office of Administrative Law Judges,
National Transportation Safety Board,
Washington, D.C. 20594,

by personal delivery or by mail (including U.S. Government franked envelope) and shall be deemed to be filed on the date of actual personal delivery, on the mailing date shown on the certificate of service, or the date shown on the postmark if there is no certificate of service.

* * * * *

5. By revising § 821.8 (a), (c), (e), and (h) to read as follows:

§ 821.8 Service of documents.

(a) *Service by the Board.* The Board will serve orders, notices of hearing, initial decisions, and rulings on motions upon all parties to the proceeding by certified mail. Other documents will be served by certified mail or by regular mail.

* * * * *

(c) *How service may be made.* Service may be made by personal delivery, by certified mail, or by regular mail (including U.S. govenment franked envelope).

* * * * *

(e) *Where service may be made.* Service by regular or certifed mail shall be made at the address of the person designated in accordance with §821.7(f) to receive service, or, if no such person is designated, at the usual residence or principal place of business of the party, or, if not know, at the address last furnished by him to the Federal Aviation Administration, except that an agent designated by an air carrier under section 1005(b) of the Act shall be served only at his office or usual place of residence. Service by mail on the Administrator shall be made at the office of his designee to receive service, or if none, at the Federal Aviation Administration, Office of the Chief Counsel, Washington, D.C. 20591. Personal service may be made on any of the persons described in paragraph (d) of this section wherever they may be found, except that an agent designated by an air carrier under section 1005(b) of the Act may be served only at his office or usual place of residence.

* * * * *

(h) *Date of service.* Whenever proof of service by mail is made, the date of service shall be the mailing date shown of the certificate of service, the mailing date shown by the postmark if there is no certificate of service, or the mailing date as shown by other evidence if there is no certificate of service and no postmark. Where personal delivery is made, the date of service shall be the date of personal delivery.

6. By revising §821.9 to read as follows:

§ 821.9 Intervention.

Any person may move for leave to intervene in a proceeding and may become a party thereto, if the law judge finds that such person may be bound by the order to be entered in the proceeding, or that such person has a property, financial, or other legitimate interest which may not be adequately represented by existing parties, and that such intervention will not unduly broaden the issues or delay the proceedings. Except for good cause shown, no motion for leave to intervene will be entertained if filed less than 10 days prior to hearing. The extent to which an intervenor may participate in the proceedings is a matter within the discretion of the law judge.

7. By revising § 821.17 to read as follows:

§ 821.17 Motion to dismiss and for judgment on the pleadings.

(a) *General.* A motion to dismiss may be filed within the time limitation for filing an answer, except as otherwise provided in paragraph (d) of this section. In case the motion is not granted in its entirety, the answer shall be filed within 10 days of service of the law judge's order on the motion.

(b) *Judgment on the Pleadings.* The party that carries the burden of proof may file a motion for judgment on the pleadings where no answer has been filed or where there are no issues to be resolved.

(c) *Appeal of dismissal orders and grants of motions for judgment on the pleadings.* Where a law judge grants a motion for judgment on the pleading or a motion to dismiss in lieu of an answer and terminates the proceeding without a hearing, an appeal of such order to the Board may be filed pursuant to the provisions of § 821.47. Where a law judge grants a motion to dismiss in part, § 821.16 is applicable.

(d) *Motions to dismiss for lack of jurisdiction.* A motion to dismiss on the ground that the Board lacks jurisdiction may be made at any time.

8. By revising § 821.18 to read as follows:

§ 821.18 Motion for more definite statement.

(a) A party, in lieu of an answer, may file a motion requesting that the allegations in the complaint of the petition be made more definite and certain. Such motion shall point out the defects complained of and the details desired. If the motion is granted and the law judge's order is not complied with within 15 days after notice, the law judge shall strike the allegation or allegations in any complaint or petition to which the motion is directed. If the motion is denied, the moving party shall file his answer within 10 days after the denial.

(b) A party may file a motion to clarify an answer in the event that it fails to respond clearly either to complaint or to the petition for review. The law judge may grant such a motion at his discretion.

9. By revising § 821.19 to read as follows:

§ 821.19 Depositions and other discovery.

(a) *Initiation of discovery.* After a petition for review or a complaint is filed, any party may take the testimony of any person, including a party, by deposition or by means of a written interrogatory without seeking prior approval. Reasonable notice shall be given in writing to the other parties of record stating the name of the witness and the time and place of the taking of his deposition. Similarly, a copy of any written interrogatory shall be served on other parties of record in sufficient time to permit them to object. A copy of any notice of deposition or written interrogatory shall be served on the Office of Administrative Law Judges. In other respects, the taking of any deposition shall be in compliance with the provisions of section 1004 of the Act.

(b) *Exchange of information by parties.* At any time before hearing, after the assignment of a proceeding to a law judge has been made in accordance with § 821.35(a), at the instance of either party or at the direction of the law judge, the parties or their representatives may exchange information, such as witness lists, exhibit lists, curricula vitae and bibliographies of expert witnesses, and other data. In the event of a dispute, the law judge may issue an order directing

compliance with any ruling he has made in respect to discovery.

(c) *Use of the Federal Rules of Civil Procedure.* Those portions of the Federal Rules of Civil Procedure that pertain to depositions and discovery may be used as a general guide for discovery practice in proceedings before the Board where appropriate. The Federal Rules and the case law that construes them shall be considered by the Board and its law judges as instructive rather than controlling.

10. By revising paragraph (b) and by adding a new paragraph (e) to § 821.24 to read as follows:

§ 821.24 Initiation of proceedings.

* * * * *

(b) *Filing petition with the Board.* The petition for review shall be filed with the Board and the date of filing shall be determined in the same manner as prescribed by § 821.7(a) for other documents.

* * * * *

(e) *New evidence.* In the event that a petitioner has undergone medical testing and evaluation, in addition to the evaluation that has already been submitted to the Federal Air Surgeon, and wishes to introduce the results of that further evaluation into the record, he/she may do so provided that the newly developed medical evidence is served upon the Administrator at least 30 days prior to the date of hearing.

* * * * *

11. By revising the title and text of paragraph (c) of § 821.31 to read as follows:

§ 821.31 Complaint procedure.

* * * * *

(c) *Answer to complaint.* The respondent shall file an answer to the complaint within 20 days of service of the complaint upon him by the Administrator. Failure to deny the truth of any allegation or allegations in the complaint may be deemed an admission of the truth of the allegation or allegations not answered. Respondent's answer shall also include any affirmative defense that he intends to raise at the hearing. A respondent may amend his answer to include any affirmative defense at any time prior to the date of hearing. In the discretion of the law judge, any affirmative defense not so pleaded may be deemed waived.

12. By revising § 821.37(a) to read as follows:

§ 821.37 Notice of hearing.

(a) *Notice.* The chief law judge or the law judge to whom the case is assigned shall set the date, time, and place for the hearing, at a reasonable date, time and place, and shall give the parties adequate notice at least 30 days in advance thereof, and of the nature of the hearing. Due regard shall be given to the convenience of the parties with respect to the place for the hearing. The location of the majority of the witnesses and the suitability of a site served by a scheduled air carrier are factors to be considered in setting the place for the hearing. Due regard shall be given to any need for discovery in setting the hearing date.

* * * * *

13. By revising § 821.48(a) to read as follows:

§ 821.48 Briefs and oral argument.

(a) *Appeal briefs.* Each appeal must be perfected within 50 days after an oral initial decision has been rendered, or 30 days after service of a written initial decision, by filing with the Board and serving on the other party of a brief in support of the appeal. Appeals may be dismissed by the Board on its own initiative or on motion of the other party, in cases where a party who has filed a notice of appeal fails to perfect his appeal by filing a timely brief.

* * * * *

14. By revising § 821.57 (a) and (b) to read as follows:

§ 821.57 Procedure on appeal.

(a) *Time within which to file a notice of appeal and content.* Within 2 days after the initial decision has been orally rendered, either party to the proceeding may appeal therefrom by filing with the Board and serving upon the other parties a notice of appeal. The time limitations for the filing of documents are not extended by the unavailability of the hearing transcript.

(b) *Briefs and oral argument.* Within 5 days after the filing of the notice of appeal, the appellant shall file a brief with the Board and serve a copy upon the other parties. Within 10 days after service of the appeal brief, a reply brief may be filed with the Board in which case a copy shall be served upon the other parties. The briefs shall comply with the requirements of § 821.48 (b), (c), (d), (e), (f), and (g), covering contents, waiver of objections on appeal, reply brief, other briefs, number of copies, and oral argument. Appeals may be dismissed by the Board on its own initiative or on motion of the other party, in cases where a party who has filed a notice of appeal fails to perfect his appeal by filing a timely brief. Where oral argument is granted, the Board will give 3 days' notice of such oral argument.

* * * * *

15. By adding a new Subpart K to read as follows:

Subpart K—Judicial Review of Board Orders

§ 821.64 Judicial review.

Judicial review of a final decision of the Board may be sought as provided in section 1006 of the Act (49 U.S.C. section 1486) by the filing of a notice of appeal within 60 days of the date of entry of the Board Order. The date of entry of the Board Order is the date on which the order was served.

Signed in Washington, D.C. on August 23, 1983.

Jim Burnett,

Chairman.

[FR Doc. 83-23568 Filed 8-31-83; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 26

Public Access, Use and Recreation; Back Bay National Wildlife Refuge, Virginia

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; denial of petition.

SUMMARY: The Fish and Wildlife Service proposed to issue revised regulations concerning public access, use and recreation for the Back Bay National Wildlife Refuge, Virginia. These proposed regulations will replace the public access, use and recreation regulations published on May 28, 1980 (45 FR 35823), and extended on January 13, 1983 (48 FR 1501). These regulations propose to increase vehicular access through the Back Bay National Wildlife Refuge by revising 50 CFR 26.34, which will effectively increase the total number of permanent resident beach permits from 39 to approximately 49. At the same time the Fish and Wildlife Service denies a petition for rulemaking by the Virginia Wildlife Federation and the Pacific Legal Foundation requesting the extension of access privileges through the Back Bay National Wildlife Refuge to part-time residents of the Outer Banks.

DATE: Comments must be received on or before October 3, 1983.

ADDRESSES: Comments may be addressed to Howard N. Larsen, Regional Director, Attn: AWR, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158.

FOR FURTHER INFORMATION CONTACT: Howard N. Larsen, Regional Director, Attn: AWR, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158 (Telephone 617–965–5100, Ext. 222).

SUPPLEMENTARY INFORMATION: Edward S. Moses, U.S. Fish and Wildlife Service, Newton Corner, Massachusetts 02158 (617–965–5100, Ext. 222), is the primary author of this proposed rule.

General

For many years the Back Bay Refuge was open to the public for a number of purposes, and free access to the beach by vehicles was permitted. In 1961, less than 10,000 persons used the refuge for various purposes. During the late 1960's the development of lands south of the refuge for recreational/residential purposes and the increase in the availability and popularity of off-road recreational vehicles resulted in sharply accelerated use. By 1970, the number of persons using the refuge had increased to 235,000 and in 1971, to 348,000. All but a small fraction of this increase involved off-road vehicular use across the beach portion of the refuge. By 1969, it became evident that total public use had resulted in environmental degradation to the extent that a serious conflict existed with respect to the administration of the entire refuge for its intended purposes. Following careful analysis it was determined that certain controls of vehicular uses of the beach were required to reverse the trend of refuge habitat destruction. On January 12, 1972, the Fish and Wildlife Service provided notice in the **Federal Register** (37 FR 447) that the Back Bay National Wildlife Refuge would be closed to use by unauthorized vehicles. An Environmental Impact Statement assessing the impacts of this restriction was prepared (FES 72–33, 1973). A final rule was published in March 1973, that required authorized users to obtain permits for access. Recreational vehicle traffic was prohibited. Permits were issued to property owners in the proposed False Cape State Park area, permanent, full-time residents of the Outer Banks in North Carolina and their visitors, commercial fishermen, emergency service and utility vehicles and school buses. Implementation of the rulemaking was followed by legal action in a suit against the Service in the District Court for the Eastern District of Virginia. A final decision was handed down by Judge John MacKenzie on February 28, 1975 (Civil Action No. 145–73–N), fully upholding the authority of the Secretary of the Interior to control vehicular access across the Back Bay Refuge. This order was ultimately upheld by the Fourth Circuit Court of Appeals in a decision issued July 7, 1975.

The matter of regulating beach use at Back Bay National Wildlife Refuge continued to be the subject of considerable discussion by the many persons denied vehicular access to recreational properties in North Carolina. On July 29, 1976, following the preparation of an Environmental Assessment on May 4, 1976, a liberalized rulemaking (41 FR 31537) was issued which provided limited access eligibility to all persons who as of October 6, 1975, owned improved property on the Outer Banks of Currituck County, North Carolina, from the Virginia State line south to and including the village of Corolla, North Carolina, and not just permanent residents of the area as the previous rule had provided.

In order to mitigate the impact of travel on the beach by these additional permittees, it was necessary to place more restrictions and limit the number of round trips per day for permanent, full-time residents living between the south boundary of the refuge and the village of Corolla, North Carolina. Based on the restricted access imposed on the permanent, full-time residents by the 1976 regulations (41 FR 22361) and the permit program management experience gained during 1976 and 1977, the 1978–79 rulemaking (43 FR 26314) continued to provide access to qualified permanent, full-time and part-time residents. These special regulations provided notice that the refuge beach would be closed to vehicular traffic after December 31, 1979. Subsequently, in an effort to avoid undue hardship on permanent residents who had established residency prior to December 31, 1976, on the Outer Banks, an interim rule was published on December 13, 1979 (44 FR 72161), which provided for access for those permanent residents only.

Public comments on the interim rulemaking were invited. All comments submitted by January 31, 1980 were given consideration. In summary, of the 247 comments received, 151 supported the adoption of the interim proposed regulations or more restrictive regulations and opposed increased access, and 96 opposed the interim regulations and favored making them more liberal allowing more access.

The final rule on Back Bay National Wildlife Rufuge access, as published on May 28, 1980 (45 FR 35823), provided access for those permanent, full-time residents who could provide adequate proof of continuous residence commencing prior to December 31, 1976, on the Outer Banks from the refuge boundary south to and including the village of Corolla, North Carolina. The May 28 rulemaking also denied a petition for rulemaking received from the Outer Banks Civic League and Pacific Legal Foundation to allow access through Back Bay National Wildlife Refuge for part-time residents of the Outer Banks and False Cape State Park.

On July 25, 1980, President Carter signed into law Pub. L. 96–315 which provided that any time regulations limiting access to the refuge are issued, the Secretary of the Interior shall issue to any "eligible applicant" a permit to enable the applicant to commute across the refuge. The term eligible applicant was defined to include "all full time residents who can furnish * * * adequate proof of residence commencing prior to December 31, 1979, on the Outer Banks from the refuge boundary south to and including the village of Corolla, North Carolina * * *". The south boundary was defind as a "straight east-west line extending from Currituck Sound to the Atlantic Ocean and passing through a point one thousand and six hundred feet due south of the Currituck Lighthouse." On August 7, 1980 (45 FR 53291), the Back Bay access regulations were modified to reflect the legislation.

On September 18, 1981, the Assistant Secretary published in the **Federal Register** (46 FR 46358) a Notice of a Petition for Rulemaking submitted by the Virginia Wildlife Federation and the Pacific Legal Foundation seeking the extension of access privileges through the refuge to part-time residents of the Outer Banks. On January 13, 1983, the Fish and Wildlife Service published in the **Federal Register** (48 FR 1501), an extension of the duration of regulations governing access which were previously promulgated until revised rules are issued so that orderly management of the Back Bay National Wildlife Refuge would not be compromised.

The amendments proposed in this rule would change the date of "continuous and continuing residence commencing prior to December 31, 1979," to July 1, 1982, with the stipulation that the resident held a valid Fish and Wildlife Service access permit during the period from July 29, 1976, through December 31, 1979. Also, the south boundary of the area for access consideration remains

1,600 feet due south of the Currituck Lighthouse, but now includes anyone in continuous residency since 1976 through a point on the east-west prolongation of the centerline of Albacore Street, Whaleshead Club Subdivision, Currituck County, North Carolina. Other minor changes have been made to the existing regulations to further clarify eligibility for access permits.

Conformance with Statutory and Regulatory Authorities

The National Wildlife Refuge System Administration Act, 16 U.S.C. 668 dd, authorizes the Secretary of the Interior to permit the use of any area of the Refuge System for any purpose, including access, whenever he determines that such uses are compatible with the major purposes for which the area was established. The Back Bay National Wildlife Refuge was established by Executive Order No. 7907, June 6, 1933, "as a refuge and breeding ground for migratory birds and other wildlife".

The limited use permitted by these proposed regulations is compatible with the major purposes for which the Back Bay National Wildlife Refuge was established. This determination is based upon consideration of among other things, Environmental Impact Statement FES 72–33 (1973), the Environmental Assessment completed December 12, 1975, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976, the Service's Final Environmental Impact Statement on the Proposed State-Federal Land Exchange Involving Portions of False Cape State Park and Back Bay National Wildlife Refuge, and the Environmental Assessment prepared on this proposed rulemaking.

Information Collection Requirements

Information collection is required for obtaining a vehicular access permit. This information collection has been approved by the Office of Management and Budget (OMB) under number 1018–0053. This proposed rule will not increase the information collection burden authorized by OMB.

Environmental Effects

An environmental assessment was prepared on this proposed rulemaking and denial and is available for public inspection at: Back Bay National Wildlife Refuge Headquarters, Pembroke Office Park, Pembroke No. 2 Building, Suite 218, Virginia Beach, Virginia, and Virginia Beach Public Library, Operations Building, Room 300, Courthouse Complex, Virginia Beach, Virginia. Copies of the environmental assessment can be obtained by addressing Howard N. Larsen, Regional Director, Attn: AWR, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158.

Statement of Effects and Certification of Effects on Small Entities

This rule and petition denial involve local, private residents only. Small entities will not be significantly affected. Accordingly, the Department of the Interior has determined that this rule is not a "major rule" within the meaning of Executive Order 12291 and would not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Authority: 16 U.S.C. 668 dd, 44 U.S.C. 3501 *et seq.*

Public comments are solicited on the proposed regulations. Interested persons may submit written comments, suggestions or objections regarding the proposed rule. All relevant comments will be considered by the Department prior to the issuance of a final rule.

Denial of Petition for Rulemaking

On September 18, 1981, the Assistant Secretary published in the **Federal Register** (46 FR 46358) a Notice of a Petition for Rulemaking submitted by the Virginia Wildlife Federation and the Pacific Legal Foundation. The Notice requested comments from the public on the content of the petition. Comments were to be accepted until November 17, 1981. The comment period was subsequently extended until December 11, 1981 (46 FR 58122).

Generally, the Petition sought to have the Back Bay National Wildlife Refuge access regulations amended to permit access for owners of improved property as of September 15, 1981. After a thorough review of the Petition and letters of comment on the Petition, the Service has found a general lack of substantial evidence. The evidence cited is inadequate and unsubstantiated scientifically. Observations by Fish and Wildlife Service personnel have indicated that permanent resident permit use has an appreciably lower level of impact on the affected environment than part-time resident use because of both numerical and temporal differences.

Thus, the Petitioners have advanced no persuasive rational for expanding access to the degree requested. Moreover, this Petition simply revises the petition previously filed and denied on May 28, 1980, which sought essentially the same relief. Accordingly, the petition is hereby denied.

These proposed rules will supplement the general regulations that govern recreation on wildlife refuge areas, that are set forth in Title 50 Code of Federal Regulations. The refuge, comprising approximately 4,600 acres, is delineated on a map available from either the Refuge Manager or Regional Director.

List of Subjects in 50 CFR Part 26

National Wildlife Refuge System, Recreation, Wildlife refuges.

PART 26—[AMENDED]

Accordingly, it is proposed to revise the special regulations governing public access, use and recreation on Back Bay National Wildlife Refuge by revising § 26.34 as follows:

§ 26.34 Special regulations concerning public access, use and recreation for individual national wildlife refuges.

VIRGINIA

Back Bay National Wildlife Refuge

Access

(a) Who can qualify for access?
(b) Routes of travel.
(c) How many trips are allowed?
(d) Medical emergencies.
(e) Military, fire, or emergency vehicles.
(f) Public utility vehicles.
(g) False Cape State Park employees.
(h) Commercial fishermen and their employees.
(i) Suspension or waiver of rules.
(j) Violation of rules.
(k) Other access rules.

General Rules

(l) Entry on foot, bicycle, or motor vehicle.
(m) Swimming and surfing.
(n) Parking.
(o) Fishing and boating.
(p) Fires.
(q) Dogs.
(r) Other general rules.

Access

(a) *Who can qualify for access?*

(1) Permanent, full-time residents who can furnish to the Refuge Manager, Back Bay National Wildlife Refuge, adequate proof of continuous and continuing residence, commencing prior to July 1, 1982, and who held a valid Fish and Wildlife Service access permit for improved property owners at any time during the period from July 29, 1976, through December 31, 1979, on the Outer Banks from the refuge boundary south to and including the village of Corolla, North Carolina, as long as they remain

permanent, full-time residents, are authorized beach access. The south boundary of the area for access consideration is defined as a straight, east-west line extending from Currituck Sound to the Atlantic Ocean and passing through a point sixteen hundred (1,600) feet due south of the Currituck Lighthouse, or for anyone in continuous residency since 1976, through a point on the east-west prolongation of the centerline of Albacore Street, Whaleshead Club Subdivision, Currituck County, North Carolina. Residence is defined as the place of general abode; the place of general abode of a person means his principal, actual dwelling place in fact, without regard to intent. For the purposes of this section, a dwelling shall mean a residential structure occupied on a year-round basis by the permit applicant and shall not include seasonal or part-time dwelling units such as beach houses, vacation cabins, or structures which are intermittently occupied. The burden of proof showing that the prospective permittee meets these criteria shall be on the applicant by presentation of appropriate documentation. Only one permit will be issued per family.

(2) All permits issued to full-time residents will be terminated in the event that alternate access is provided during the permit period.

(b) *Routes of travel.* Access to, and travel along, the refuge beach by motorized vehicles may be allowed between the dune crossing at the field headquarters and the south boundary of the refuge only after a permit has been issued or authorization provided by the Refuge Manager. Travel along the refuge beach by motorized vehicle shall be below the high tide line, within the intertidal zone to the maximum extent practicable.

(c) *How many trips are allowed?* Permitted vehicles of permanent, full-time residents shall be limited to a total of two round trips per day. Travel is restricted to the designated route of travel between the hours of 5:00 am and 12:00 midnight.

(d) *Medical emergencies.* Private vehicles used in a medical emergency will be granted access. A medical emergency is defined as any condition that threatens human life or limb unless medical treatment is immediately obtained. When evidence of the emergency is not readily apparent, the vehicle operator will be required to provide the refuge office with a doctor's statement confirming the emergency within two working days (Mondays through Fridays) after access is granted.

(e) *Military, fire, or emergency vehicles.* Military, fire, emergency or law enforcement vehicles when used for emergency purposes will be granted access. Vehicles used by an employee/agent of the Federal, state or local government in the course of official duty other than above may be granted access upon advance request to the Refuge Manager.

(f) *Public utility vehicles.* Public utility vehicle used on official business will be granted access. A public utility vehicles is described as any vehicle owned or operated by a public utility company enfranchised to supply Outer Banks residents with electricity or telephone service.

(g) *False Cape State Park Employees.* False Cape State Park employees who are residents in the Park will be considered as permanent, full-time residents as defined in 26.34(a)(1) with access privileges identical to those permittees.

(h) *Commercial fishermen and their employees.* (1) Commercial fishermen who have verified that their fishing operations on the Outer Banks of Virginia Beach, Virginia, or Currituck County, North Carolina, have been dependent since 1972 on ingress and egress to or across the refuge will be granted permits for access. Travel through the refuge by commercial fishermen from Currituck County, North Carolina, will be permitted only when directly associated with commercial fishing operations. Drivers and passengers on trips through the refuge will be limited to commercial fishing crew members. A commercial fisherman is described as one who harvests finfish by gill net or haul seine in the Atlantic Ocean, and who has owned and operated a commercial fishing business since 1972.

(2) Each commercial fisherman may be granted a maximum of five designated employees to travel the refuse beach for commercial fishing purposes. These employees may carry only other commercial fishing employees as passengers. Employees of commercial fishermen engaged in travel directly associated with commercial fishing operations or for the purpose of traveling to and from their homes in Virginia to fishing sites in North Carolina will be granted access.

(i) *Suspension or waiver of rules.* (1) In an emergency, the Refuse Manager may suspend any or all of the foregoing restrictions on vehicular travel and announce each suspension by whatever means are available. In the event of adverse weather conditions, the Refuge Manager may close all or any portion of the refuge to vehicular travel for such period as deemed advisable in the interest of public safety.

(2) The Refuge Manager may make exceptions to access restrictions if they are compatible with refuge purposes for qualified permittees who have demonstrated to the satisfaction of the Refuge Manager a need for additional access relating to health or livelihood.

(3) The Refuge Manager may grant one-time use authorization for vehicular access through the refuge to individuals, not otherwise qualified above, who have demonstrated to the satisfaction of the Refuge Manager that there is no feasible alternative to the access requested. Authorization for access under this provision will not be based on convenience to the applicant.

(4) The Regional Director may grant access to non-eligible permanent residents and improved property owners who can show proof that their physical health is such that life-threatening situations may result from more arduous travel conditions. The submission of substantiating medical records will be required to be considered for a medical access waiver.

(j) *Violation of rules.* Violators of these special regulations or any regulations pertaining to Back Bay National Wildlife Refuge will be subject to legal action as prescribed by 50 CFR 25.43 and 50 CFR Part 28, including suspension or revocation of all permits issued to the violator or responsible permittee. The Refuge Manager may deny access permits to applicants, who during the two years immediately preceding date of applications, have been formally charged and successfully prosecuted for three or more violations of these or other regulations in effect at Back Bay National Wildlife Refuge. Individual whose vehicle access privileges are suspended, revoked, or denied may within 30 days file a written appeal of the action to the Regional Director, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158, in accordance with 50 CFR 25.44(c).

(k) *Other access rules.* (1) No permit will remain in effect beyond December 31 of the year in which it was issued. Permits may be renewed upon the submission of updated information on vehicle drivers and a signed, notarized statement that conditions of the previous permit have changed.

(2) Permitted vehicles shall be operated on the refuge beach only by the permittee or immediate family members residing with the permittee. Permit holders shall not tow vehicules and/or trailers owned by non-permit holders through the refuge. Any towed vehicles or trailer must have advance

approval from the Refuge Manager prior to being brought through the refuge.

(3) The Refuge Manager may prescribe restrictions as to the types of vehicles to be permitted to ensure public safety and adherence to all applicable rules and regulations.

General Rules

(l) *Entry on foot, bicycle, or motor vehicle.* Entry on foot, bicycle, or by motor vehicle on designated routes is permitted during daylight hours for the purpose of nature study, wildlife observation, photography, hiking, surf fishing, swimming, and bicycling.

(m) *Swimming and surfing.* Swimming and surfing are permitted on the entire refuge beach unless designated otherwise by signs. No lifeguards are provided. Swimming and surfing will be at the visitor's own risk.

(n) *Parking.* The parking lot at the end of the paved road is available on a first-come first-served basis.

(o) *Fishing and boating.* Surf fishing from the beach and freshwater fishing in the bay are permitted in accordance with state laws. Vehicular launching of trailered boats and bank fishing from the refuge bay shoreline are prohibited. Boat launching into the bay at field headquarters is limited on non-trailered canoes and small boats.

(p) *Fires.* Open fires are prohibited. Portable grills with a contained fuel supply are permitted on the beach.

(q) *Dogs.* Dogs on a hand-held leash not exceeding ten feet in length are permitted in designated areas.

(r) *Other general rules.* (1) Pedestrains and vehicular traffic in the sand dunes are prohibited.

(2) Registered motor vehicles and motorized bicycles (mopeds) are permitted on the pave refuge access road and on the parking lot at field headquarters. All other motorized vehicular use is prohibited except as specifically authorizes pursuant to this rule.

(3) The information collection requirement contained in the proposed rule has been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq* and has been assigned the clearance number 1018–0053. The information is being collected and used to determine eligibility for issuing a vehicular access permit, and a response is required to obtain a benefit.

Dated: August 17, 1983.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83–23862 Filed 8–31–83; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 681

[Docket No. 30824–172]

Western Pacific Spiny Lobster Fisheries

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule.

SUMMARY: NOAA issues this proposed rule for Amendment 1 to the Fishery Management Plan for the Spiny Lobster Fisheries of the Western Pacific Region (FMP). The FMP amendment and proposed regulations will establish Federal management measures for the spiny lobster fishery in the fishery conservation zone (FCZ) off of the main Hawaiian Islands that are identical to State of Hawaii management meaures for the territorial sea.

Two technical and clarifying changes are also proposed for existing regulations governing this fishery: (1) Changing the number to be used for vessel identification to simplify vessel identification requirements, and (2) rewriting the recordkeeping and reporting requirements to make it clear that there are two separate reports and two separate time tables for submission of the reports. The intended effect of this action is to make management of the spiny lobster fishery more effective.

DATE: Comments are invited until October 14, 1983.

ADDRESSES: Comments should be addressed to Floyd S. Anders, Jr., Acting Regional Director, National Marine Fisheries Service (NMFS), Southwest Region, 300 South Ferry Street, Room 2016, Terminal Island, California 90731. Copies of the amendment are available by writing to either Floyd S. Anders or Kitty Simonds, Acting Executive Director, Western Pacific Fisheries Management Council, 1164 Bishop Street, Suite 1608, Honolulu, Hawaii 96813.

FOR FURTHER INFORMATION CONTACT: James J. Morgan (NMFS, Southwest Region), 213–548–2518.

SUPPLEMENTARY INFORMATION: Amendment 1 establishes Federal regulations for the spiny lobster fisheries in the FCZ off of the main Hawaiian Islands which are identical to State regulations for the fishery in the territorial sea around the main islands. This action will reduce confusion for fishermen and conflicts that may arise and simplify enforcement throughout the fishery. To make Federal management identical to State management, six State measures are adopted for the FCZ. These measures are (1) all spiny lobsters with a carapace less than 8.26 cm must be released; (2) all spiny lobsters carrying eggs must be released; (3) no spiny lobsters may be taken in June, July, and August; (4) no spiny lobsters may be taken using spears, chemicals, poisons, or expolsives; (5) traps must not exceed 6 feet × 6 feet × 10 feet in size; and (6) spiny lobsters must be landed whole.

The FMP for the spiny lobster fishery (February 7, 1983, at 49 FR 5580) established Federal regulations for the management of the commercial fishery in he Northwestern Hawaiian Islands (NWHI). Federal management of the NWHI includes conservation and reporting requirements; however, the FMP only established reporting requirements for the FCZ off of the main Hawaiian Islands.

On September 30, 1981, the Hawaii Department of Planning and Economic Development notified the Council that the FMP was not consistent with Hawaii's Coastal Zone Management Plan "to the maximum extent praticable" as required by subsection 307(c)(1) of the Coastal Zone Management Act. The Council then reached an agreement with the State of Hawaii by which the State would implement State regulations for the NWHI territorial sea identical to Federal regulations for the FCZ, and the Council would prepare an amendment to the FMP adopting managment measures for the FCZ off of the main Hawaiian Islands that are identical to State regulations.

By the time the FMP received final approval by the Assistant Administrator for Fisheries, NOAA had notified the State of Hawaii that the FMP was consistent with Hawaii's Coastal Zone Management Plan to the maximum extent practicable, and regulations implementing the FMP were published in the **Federal Register** on February 7, 1983. Nevertheless, the State of Hawaii's position continues to be that the FMP needs to be amended. The State has argued that failure to adopt regulations in the FCZ that are identical to its regulations would impair its ability to enforce its regulations. Because differences on the consistency issue persisted, the Council decided to proceed with Amendment 1 and held a hearing on the amendment in Honolulu, Hawaii on March 14, 1983 (48 FR 7608).

Measures

The State of Hawaii adopted State regulations identical to Federal regulations for the NWMI (where most of the fishery takes place in the FCZ) which were effective on June 6, 1983. Amendment 1 to the FMP adopts the following Federal measures for the FCZ off of the main Hawaiian Islands (where most of the fishing occurs in State waters) which are identical to State regulations for the territorial sea off of the main islands.

Minimum Size of 8.26 cm

The FMP established a minimum carapace length of 7.7 cm for lobster caught by commercial fishermen in the NWHI fishery. The FMP considered size limits for the NWHI of carapace lengths between 7.50 and 9.00 cm. This range is thought to include all of the reasonable alternatives available to management from the present information. The size limit included in the paln was adopted following an analysis by the Southwest Center, Honolulu Laboratory, of recent information from that area on reproductive capacity. Prior to the analysis, the Council had been considering adopting the State's main Hawaiian Islands size limit of 8.26 cm.

Amendment 1 established an 8.26 cm carapace length size limit for the FCZ off of the main Hawaiian Islands. This is identical to the State size limit for the trerritorial sea off of the main islands.

There is no rational for changing the minimum size limit from that adopted by the State because comercial landings have been relatively stable since the 8.26 cm size limit has been in effect. The heavy recreational fishery around the main islands takes most legal lobster (8.26 cm) when they first become available to the fishery. In addition, other factors not applicable to the main islands fisheries, such as distance to the fishing grounds and the 10-fathom area closures, tend to restrict fishing pressure in the NWHI. For the above reasons, the risk from establishing a size limit smaller than 8.26 cm in the main Hawaiian Islands is much greater than in the NWHI. Also, adopting a size limit for the FCZ off of the main islands that is different from the State of Hawaii's size limit would negate any benefit that is to be gained from Amendment 1 and would cause encorcement problems.

Release of Lobsters Carrying Eggs

Amendment 1 requires that all female lobsters carrying eggs caught in the FCZ off of the main Hawaiian Islands be released. The FMP established this measure for the NWHI and the State regulations have the same requirement for the territorial sea. This measure is expected to contribute to production of the resource.

Closed Season for the FCZ off of the Main Hawaiian Islands

Amendment 1 adopts a closed season on the harvesting of lobster in the FCZ off of the main Hawaiian Islands during the months of June, July, and August. This closure is the same as the State's regulation for the territorial sea which was adopted to maintain some control over the amount of fishing effort directed at spiny lobster. Most of the fishing pressure around the main islands is from recreational fishermen and this effort increases substantially during the summer months. The measure mainly affects recreational fishermen in the territorial sea because the fishery is primarily a recreational fishery; however, implementation in the FCZ will prevent commercial fishermen from claiming that lobsters caught in the territorial sea were caught in the FCZ.

Prohibition Against the Use of Spears, chemicals, Poisons, and Explosives

Amendment 1 adopts restrictions on the use of spears, chemicals, poisons, and explosives for the taking of lobsters in the FCZ off of the main Hawaiian Islands. The FMP established this measure in the FCZ off of the NWHI and it is the same as the State's requirement for the territorial sea off of the main islands.

Prohibiting spears prevents lobsters from being killed before they are measured to determine if they are of legal size. Prohibiting chemicals, posions, and explosives protects lobster of all sizes and the surrounding habitat.

Trap Size Limitation

Amendment 1 adopts for the FCZ off of the main Hawaiian Islands the State regulation that prohibits traps for the multispecies fishery (which also harvests lobster incidentally) larger than 6 feet x 6 feet x 10 feet. The State adopted the rule to regulate the trap fishery for species other than lobster, but the rule applies to lobster as well.

Spiny Lobster Must Be Landed Whole

The Federal regulations for managing the lobster fishery in the FCZ off of the NWHI allow removing the tails from spiny lobsters so that the catch can be frozen on board the fishing vessel.

State rules require lobsters to be landed whole. This is a common practice in lobster fisheries so that the catch can be properly measured by enforcement authorities. Also, there is not as much of a need to allow removal of tails so that they can be frozen on board the fishing vessel in the main islands fishery, because the fishery takes place close to port and it is easier to land live lobster.

Amendment 1 will require that spiny lobsters taken in the FCZ off of the main Hawaiian islands be landed whole.

Other Matters

In addition to proposing a new Subpart C to the spiny lobster regulations to implement the provisions of Amendment 1, § 681.5 on recordkeeping and reporting requirements is revised to clarify exactly what reports are required and when they must be submitted. Some of these reports are renamed but they require the same information as under existing regulations.

Section 681.6 on vessel identification is revised to require that the permit number issued by the NMFS be displayed on the vessel rather than the official number of the vessel. This change was necessary because the official number is too long to be displayed on the vessel in the required size.

The requirement that the approximate fish-hold capacity of a vessel be included on the application for a permit was omitted from the original regulations. It is therefore included in the revised regulations.

Classification

Section 304(a)(1)(C)(ii) of the Magnuson Fishery Conservation and Management Act (Magnuson Act), as amended by Pub. L. 97–453, requires the Secretary of Commerce (Secretary) to publish regulations proposed by a Council within 30 days of receipt of an FMP amendment and regulations. At this time the Secretary has not determined that the amendment these rules would implement is consistent with the national standards, other provisions of the Magnuson Act, and other applicable law. The Secretary, in making that determination, will take into account the data, views, and comments received during the comment period.

The Council prepared an environmental assessment for this amendment and concluded that there will be no significant impact on the environment as a result of this rule. You may obtain a copy of the environmental assessment, which is included in the amendment, from the Council at the address listed above.

Based upon the analysis in the amendment, which serves as a regulatory impact review, the Administrator of NOAA has determined

that the regulations implementing this amendment are not major under Executive Order 12291 and that they do not require a regulatory impact analysis. The main reason for this is that while the commercial fishery extends into the FCZ, this area accounts for only a small portion of the total catch, and the reglations therefore will have a limited economic impact. This rule will have the following economic effects:

1. Economic and social benefits will improve for the recreational fishery because the resource will receive additional protection.

2. The incomes, costs and profits of the commercial fishery will not be affected.

3. The employment impacts will be negligible.

You may obtain a copy of this regulatory impact review, which is included in the Amendment, from the Council at the address listed above.

This proposed rule is exempt from the procedures of E.O. 12291 under section 8(a)(2) of that order. Deadlines imposed under the Magnuson Act, as amended by Pub. L. 97-453, require the Secretary to publish this proposed rule 30 days after its receipt. The proposed rule is being reported to the Director, Office of Management and Budget, with an explanation of why it is not possible to follow procedures of the order.

The General Counsel of the Department of Commerce certified to the Small Business Administration that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities because the amendment adopts existing State regulations and therefore imposes no additional regulatory impact. As a result, a regulatory flexibility analysis was not prepared.

This rule contains collection of information requirements subject to the Paperwork Reduction Act. A request for approval to collect this information has been submitted to the Office of Management and Budget. This action merges the requirements of § 681.4 Permits and § 681.5 Recordkeeping and Reporting into approved collections 0648-0013, 0648-0016 and 0648-0097. Comments on the collection of information requirements should be directed to the Office of Information and Regulatory Affairs of OMB, Attention Desk Officer for Department of Commerce.

In response to a letter from the Council stating that this proposed rule will be implemented to the maximum extent practicable with the approved coastal zone management programs of Hawaii, in accordance with § 307 of the Coastal Zone Management Act, the Hawaii Department of Planning and Economic Development, on June 24, 1983, informed the Council that Amendment 1 is consistent with the Hawaii Coastal Zone Management Plan.

List of Subjects in 50 CFR Part 681

Fish, Fisheries, Reporting requirements.

Dated: August 29, 1983.

William G. Gordon,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons stated in the preamble, 50 CFR Part 681 is proposed to be amended as follows:

PART 681—WESTERN PACIFIC SPINY LOBSTER FISHERIES

1. The authority citation of 50 CFR Part 681 reads as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 681.1, paragraph (b) is revised to read as follows:

§ 681.1 Purpose and scope.

* * * * *

(b) These regulations govern commercial fishing for spiny lobsters by fishing vessels of the United States, within the U.S. fishery conservation zone (FCZ) seaward of American Samoa, Guam, and Hawaii. The management measures specified in Subpart B apply only in the FCZ seaward of the Northwestern Hawaiian Islands (Permit Area 1). The management measures specified in Subpart C apply only in the FCZ seaward of the main Hawaiian Islands (Permit Area 2).

3. In § 681.2, the definition of *Permit Area 2* is revised and three new definitions, one for *Permit Number*, one for *Permit Area 3*, and one for *Processor* are added in appropriate alphabetical order to read as follows:

§ 681.2 Definitions.

Permit Area 2 means the FCZ of the Hawaiian Islands Archipelago lying to the east of 161°00′ W. longitude, commonly known as the main Hawaiian Islands;

Permit Area 3 means the FCZ of the Territory of Guam and the FCZ of the Territory of American Samoa.

Permit Number means the number issued to a vessel under this part by the NMFS.

Processor means any person that changes the form of a lobster through such methods as freezing, cleaning, or removing tails. It does not include a person that only boxes or packages lobsters or lobster parts. It also does not include a person that catches lobsters and processes them at sea.

4. In § 681.4, paragraphs (a)(2) and (b)(2)(ix) are revised to read as follows:

§ 681.4 Permits.

(a) * * *

(2) Each permit is valid for fishing only in the area specified in the permit. Permit areas are defined in § 681.2.

* * * * *

(b) * * *

(2) * * *

(ix) The approximate fish-hold capacity of the vessel;

* * * * *

5. Section 681.5 is amended by revising paragraphs (a), (b) (1) and (2), (c) and by adding paragraph (d) to read as follows:

§ 681.5 Recordkeeping and reporting.

(a) *Reports.* The operator of any vessel engaged in commercial fishing for spiny lobster subject to this part must—

(1) Maintain on board the fishing vessel, while fishing for spiny lobster, an accurate and complete NMFS Daily Lobster Catch Report in English. All information specified in paragraph (b) of this section must be recorded within 24 hours after the completion of the fishing day.

(2) Within 72 hours of each landing of spiny lobster, submit to the Regional Director the NMFS Daily Lobster Catch Report for that fishing trip.

(3) Maintain an accurate and complete NMFS Trip Processing and Sales Report in which is recorded the information specified in paragraph (c) of this section.

(4) Within 72 hours of each landing of spiny lobsters, submit to the Regional Director the NMFS Trip Processing and Sales Report covering all lobsters that have been sold. For any lobsters that have not been sold within 72 hours of landing, the operator must submit a supplemental NMFS Trip Processing and Sales Report within 72 hours of each subsequent sale of the remaining lobsters.

(5) Make the Daily Lobster Catch Report and the Trip Processing and Sales Report available for inspection by an authorized officer or any employee of NMFS designated by the Regional Director to make such an inspection.

(b) *Daily Lobster Catch Report.* The Daily Lobster Catch Report must contain the following information for all spiny lobster taken under this part:

(1) Vessel information—

(i) Name of vessel;

(ii) Call sign of vessel;

(iii) Permit number of vessel;

(iv) Size of crew; and

(v) Number of traps.
(2) Fishing information—
(i) Location of lobster catch by statistical area as depicted in the NMFS Daily Lobster Catch Report form;
(ii) Date and time of trap deployment and number of traps deployed;
(iii) Date and time of trap retrieval and number of traps retrieved;
(iv) Number and species of legal spiny lobsters per trap deployment;
(v) Number and species of sublegal spiny lobsters per trap deployment;
(vi) Number and species of berried female spiny lobsters per trap deployment; and
(vii) Number of slipper lobster and Kona crabs per trap deployment.
(3) * * *
(c) *Trip Processing and Sales Report.* The Trip Processing and Sales Report must contain the following information for all spiny lobsters taken under this part:
(1) Vessel information—
(i) Name of vessel; and
(ii) Permit number.
(2) Landing information—
(i) Date of landing; and
(ii) Port of landing.
(3) Processing information—
(i) Weight of whole lobsters frozen at sea;
(ii) Weight of lobster tails frozen at sea;
(iii) Weight of whole lobsters to be frozen on land; and
(iv) Weight of lobster tails to be frozen on land.
(4) Sales information—
(i) Number, weight, and revenue from sale of live lobsters;
(ii) Number, weight, and revenue from sale of whole, frozen lobsters;
(iii) Number, weight, and revenue from sale of frozen lobster tails; and
(iv) Weight and revenue from sale of lobster byproducts.
(d) *Processor annual report.* Processors of lobster products harvested in the management area must submit an annual report covering the period January 1 to December 31 to the Regional Director on a form which can be obtained from the Regional Director. This report is due by April 1 of the following year and must specify the following:
(1) Source (by FCZ surrounding each State) of lobsters processed:
(2) Poundage of lobsters processed by species;
(3) Number of individual lobsters processed by species;
(4) Method of processing;
(5) Form of final product; and
(6) Current actual lobster-processing capacity.

6. Section 681.6 is revised to read as follows:

§ 681.6 Vessel identification.

(a) *Permit number.* Each fishing vessel subject to this part must display its permit number on the port and starboard sides of the deckhouse or hull, and on an appropriate weather deck so as to be visible from enforcement vessels and aircraft.
(b) *Numerals.* The permit number must be affixed to each vessel subject to this part in block Arabic numerals at least 18 inches in height for fishing vessels of 65 feet in length or longer, and at least ten inches in height for other vessels. Markings must be legible and of a color that contrasts with the background.
(c) *Duties of operator.* The operator of each fishing vessel subject to this part must—
(1) Keep the displayed permit number clearly legible and in good repair; and
(2) Ensure that no part of the vessel, its rigging, or its fishing gear obstructs the view of the permit number from an enforcement vessel or aircraft.

7. In § 681.7, a new paragraph (c) is added to read as follows:

§ 681.7 Prohibitions.

* * * * *

(c) In permit Area 2, in addition to the prohibition in paragraph (a) of this section, it is unlawful for any person to—
(1) Fish for, take, or retain spiny lobsters—
(i) By methods other than lobster traps or by hand, as specified in § 681.34; or
(ii) In the months of June, July, and August, as specified in § 681.33.
(2) Retain or possess on a fishing vessel any spiny lobster taken in Permit Area 2 which is less than the minimum size specified in § 681.31;
(3) Possess on a fishing vessel any spiny lobster or spiny lobster part taken in Permit Area 2 in a condition where the lobster is not whole and undamaged as specified in § 681.35: or
(4) Retain or possess on a fishing vessel, or remove the eggs from, any egg-bearing spiny lobster, as specified in § 681.32.

8. In § 681.8, paragraphs (a) and (b)(3) are revised to read as follows:

§ 681.8 Enforcement.

(a) *General.* The owner or operator of any fishing vessel subject to this part must immediately comply with instructions issued by an authorized officer to facilitate safe boarding and inspection of the vessel, its gear, equipment, logbook, reports, permit, and catch, for purposes of enforcing the Magnuson Act and this part
(b) * * *
(3) "AA AA AA etc." is the call to an unknown station, to which the signaled vessel should respond by identifying his vessel by radio, visual signals, or by lighting his permit number; and
* * * * *

9. The table of contents for this part is amended by adding the sections for a new Subpart C and by placing the existing authority line after this new subpart to read as follows:

Subpart C—Management Measures for Permit Area 2 (the Main Hawaiian Islands)

Sec.
681.30 General.
681.31 Size restrictions.
681.32 Reproductive condition restrictions.
681.33 Closed season.
681.34 Gear restrictions.
681.35 Lobster condition.
* * * * *

Subpart C—Management Measures for Permit Area 2 (the Main Hawaiian Islands)

§ 681.30 General.

The management measures specified in this subpart govern fishing for spiny lobster in the FCZ seaward of the main Hawaiian Islands (Permit Area 2).

§ 681.31 Size restrictions.

Only spiny lobsters with a carapace length of 8.26 cm or greater may be retained.

§ 681.32 Reproductive condition restrictions.

A female spiny lobster of any size may not be retained if it is carrying eggs externally. Eggs may not be removed from female spiny lobsters.

§ 681.33 Closed season.

Spiny lobster fishing is not allowed in Permit Area 2 during the months of June, July, and August.

§ 681.34 Gear restrictions.

(a) Spiny lobsters may be taken only with lobster traps or by hand. Lobsters may not be taken by means of posions, drugs, other chemicals, spears, nets, hooks, or explosives.
(b) A trap may measaure no greater than the following size dimensions: 6 feet×6 feet×10 feet.

§ 681.35 Lobster condition.

Any spiny lobster with a punctured or mutilated body, or a separated carapace and tail, may not be retained.

[FR Doc. 83-24073 Filed 8-30-83; 12:26 pm]
BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 48, No. 171
Thursday, September 1, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Cooperative State Research Service

Cooperative Forestry Research Advisory Council Meeting

According to the Federal Advisory Committee Act of October 6, 1972 (Public Law 92-463, 86 Stat. 770-776), U.S. Department of Agriculture announces the following meeting:

Name: Cooperative Forestry Research Advisory Council
Date: September 26-28, 1983
Time: 8:00 a.m.-5:00 p.m.
Place: University Hall, Room 206, The University of Montana, Missoula, Montana 59812

Type of Meeting: Open to the Public. Persons may participate in the meeting as time and space permit.

Comments: The public may file written comments before or after the meeting with the contact person below.

Purpose: The Council will be deliberating the McIntire-Stennis Forestry Research program with particular emphasis on the forest research priorities, annual distribution of funds and administration of McIntire-Stennis Cooperative Forestry Research programs. Tuesday, September 27, 1983, will be devoted to a review in the field of the regional and State forestry research programs.

Contact Person for Agenda and More Information: Dr. John D. Sullivan, Executive Secretary, Cooperative Forestry Research Advisory Council, Cooperative State Research Service, Room 119, West Auditors Building, U.S. Department of Agriculture, Washington, D.C. 20250

Done in Washington, D.C., this tenth day of August, 1983.

C. I. Harris,

Acting Administrator, Cooperative State Research Service.

[FR Doc. 83-24082 Filed 8-31-83; 8:45 am]
BILLING CODE 3410-03-M

Federal Grain Inspection Service

Agency Designation Actions; Request for Applicants To Perform Official Services in the Geographic Area Currently Assigned to Columbus Grain Inspection, Inc. (OH)

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: Pursuant to the provisions of the U.S. Grain Standards Act, as amended (Act), official agency designations shall terminate not later than triennially and may be renewed in accordance with the criteria and procedures prescribed in the Act. This notice announces that the designation of one agency will terminate, in accordance with the Act, and requests applications from parties, including the agency currently designated, interested in being designated as the official agency to conduct official services in the geographic area currently assigned to the specified agency. The official agency is Columbus Grain Inspection, Inc.

DATE: Applications to be postmarked on or before October 3, 1983.

ADDRESS: Applications must be submitted to James R. Conrad, Chief, Regulatory Branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 1647 South Building, Washington, DC 20250. All applications received will be made available for public inspection at the above address during regular business hours.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447-8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Secretary's Memorandum 1512-1; therefore, the Executive Order and Secretary's Memorandum do not apply to this action.

Section 7(f)(1) of the Act (7 U.S.C. 71 *et seq.*, at 79(f)(1)) specifies that the Administrator of the Federal Grain Inspection Service (FGIS) is authorized, upon application by any qualified agency or person, to designate such agency or person to perform official services after a determination is made that the applicant is better able than any other applicant to provide such official services in an assigned geographic area.

Columbus Grain Inspection, Inc. (Columbus), P.O. Box 167, Circleville, Ohio 43113, was designated as an official agency under the Act for the performance of inspection functions on September 30, 1978.

The agency's designation will terminate on February 28, 1984. This date reflects administrative extensions of official agency designations, as discussed in the July 16, 1979, issue of the Federal Register (44 FR 41275). Section 7(g)(1) of the Act states generally that official agencies' designation shall terminate no later than triennially and may be renewed according to the criteria and procedures prescribed in the Act.

The geographic area presently assigned to Columbus, in Ohio, pursuant to Section 7(f)(2) of the Act, and which is the area that may be assigned to the applicant selected for designation is the following:

Bounded: on the North by U.S. Route 30 east to State Route 154; State Route 154 east to the Ohio-Pennsylvania State line;

Bounded: on the East and South by the Ohio-Pennsylvania State line south to the Ohio River; the Ohio River south-southwest to the western Scioto County line; and

Bounded: on the West by the western Scioto County line north to State Route 73; State Route 73 northwest to U.S. Route 22; U.S. Route 22 west to U.S. Route 68; U.S. Route 68 north to Clark County; the northern Clark County line west to State Route 560; State Route 560 north to State Route 296; State Route 296 west to Interstate 75; Interstate 75 north to State Route 47; State Route 47 northeast to U.S. Route 68; U.S. Route 68 north to U.S. Route 30.

Interested parties, including Columbus, are hereby given opportunity to apply for designation as the official agency to perform the official services in the geographic area, as specified above, under the provisions of Section 7(f) of

the Act and § 800.196(b) of the regulations issued thereunder. Designation in the specified geographic area is for the period beginning March 1, 1984, and ending February 28, 1987. Parties wishing to apply for designation should contact the Regulatory Branch, Compliance Division, at the address listed above for appropriate forms and information. Applications must be postmarked not later than October 3, 1983, to be eligible for consideration.

Applications submitted and other available information will be considered in determining which applicant will be designated to provide official services in a geographic area.

(Sec. 8, Pub. L. 94–582, 90 Stat. 2873 (7 U.S.C. 79))

Dated: August 17, 1983.

Neil E. Porter,

Acting Director, Compliance Division.

[FR Doc. 83–23787 Filed 8–31–83; 8:45 am]

BILLING CODE 3410–02–M

Agency Designation Actions; Renewals of Fostoria Grain Inspection (OH), Louisiana Department of Agriculture (LA), and North Carolina Department of Agriculture (NC)

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the designation renewals of Fostoria Grain Inspection, Louisiana Department of Agriculture, and North Carolina Department of Agriculture as official agencies responsible for providing official services under the U.S. Grain Standards Act, as amended (7 U.S.C. 71 *et seq.)* (Act).

EFFECTIVE DATE: October 1, 1983.

ADDRESS: James R. Conrad, Chief, Regulatory Branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 1647 South Building, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Secretary's Memorandum 1512–1; therefore, the Executive Order and Secretary's Memorandum do not apply to this action.

The April 1, 1983, issue of the **Federal Register** (48 FR 14016) contained a notice from the Federal Grain Inspection Service (FGIS) announcing that Fostoria's, Louisiana's, and North Carolina's designations terminate on September 30, 1983, and requesting applications for designation as the agency to provide official services within each specified geographic area. Applications were to be postmarked by May 2, 1983.

Fostoria, Louisiana, and North Carolina were the only applicants for each respective designation.

FGIS announced the names of these applicants and requested comments on same in the June 1, 1983, issue of the **Federal Register** (48 FR 24401). Comments were to be postmarked by July 18, 1983.

No comments were received regarding designation renewal of these three agencies.

FGIS has evaluated all available information, regarding the designation criteria in Section 7(f)(1)(A) of the Act and in accordance with Section 7(f)(1)(B), and has determined that Fostoria, Louisiana, and North Carolina are able to provide official services in the geographic areas for which their designations are being renewed. Each assigned area is the entire geographic area, as previously described in the April 1 **Federal Register** issue.

Effective October 1, 1983, and terminating September 30, 1986, the responsibility for providing official inspection services in their respective specified geographic areas are assigned to Fostoria and North Carolina; for providing official inspection, official weighing, and supervision of weighing services in its specified geographic area is assigned to Louisiana.

A specified service point, for the purpose of this notice, is a city, town, or other location specified by an agency to conduct official inspection and where the agency and one or more of its licensed inspectors are located. In addition to the specified service points within the assigned geographic area, the agencies will provide official services not requiring a licensed inspector to all locations within their geographic area.

Interested persons may contact the Regulatory Branch, specified in the address section of this notice, to obtain a list of the specified service points. Interested persons also may obtain a list of the specified service points by contacting the agencies at the following addresses:

Fostoria Grain Inspection, P.O. Box 864, Fostoria, OH 44830

Louisiana Department of Agriculture, P.O. Box 44456, Baton Rouge, LA 70804

North Carolina Department of Agriculture, P.O. Box 27647, Raleigh, NC 27611

(Sec. 8, Sec. 9, Pub. L. 94–582, 90 Stat. 2873, 2875 (7 U.S.C. 79, 79a))

Dated: August 17, 1983.

Neil E. Porter,

Acting Director, Compliance Division.

[FR Doc. 83–23794 Filed 8–3–83; 8:45 am]

BILLING CODE 3410–02–M

Agency Designation Actions; Applicants in the Areas Currently Assigned to Alva Grain Inspection Department (OK) and Connecticut Department of Agriculture (CT); Request for Comments

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice requests comments from interested parties on the applicants for official agency designation in the areas currently assigned to Alva Grain Inspection Department and Connecticut Department of Agriculture.

DATE: Comments to be postmarked on or before October 16, 1983..

ADDRESS: Comments must be submitted in writing, in duplicate, to Lewis Lebakken, Jr., Regulations and Directives Management Unit, Resources Management Division, Federal Grain Inspection Service, U.S. Department of Agriculture, Room 0667, South Building, 1400 Independence Avenue, SW., Washington, D.C. 20250. All comments received will be made available for public inspection at the above address during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., telephone (202) 382–1738.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Secretary's Memorandum 1512–1; therefore, the Executive Order and Secretary's Memorandum do not apply to this action.

The July 1, 1983, issue of the **Federal Register** (48 FR 30417) contained a notice from the Federal Grain Inspection Service requesting applications for designation to perform official services under the U.S. Grain Standards Act, as amended (7 U.S.C. 71 *et seq.)* (Act), in the areas currently assigned to the official agencies. Applications were to be postmarked by August 1, 1983.

Alva Grain Inspection Department (Alva), the only applicant, requested designation for the entire geographic area currently assigned on an interim basis to that agency. Connecticut

Department of Agriculture, the only applicant, requested a designation renewal for the entire geographic area currently assigned to that agency.

In accordance with § 800.206(b)(2) of the regulations under the Act, this notice provides interested persons the opportunity to present their comments concerning the applicants for designation. All comments must be submitted to the Regulations and Directives Management Unit, Resources Management Division, specified in the address section of this notice, and postmarked not later than October 16, 1983.

Comments and other available information will be considered before a final decision is made in this matter. Notice of the final decision will be published in the **Federal Register**, and the applicants will be informed of the decision in writing.

(Sec. 8, Pub. L. 94–582, 90 Stat. 2873 (7 U.S.C. 79)).

Dated: August 17, 1983.

Neil E. Porter,

Acting Director, Compliance Division.

[FR Doc. 83–23799 Filed 8–31–83; 8:45 am]

BILLING CODE 3410–03–M

Forest Service

Land and Regional Management Plan; Bridger-Teton National Forest, Resource Wyoming; Revised Notice of Intent to Prepare an Environmental Impact Statement

This Notice revises previously issued Notices of Intent published in the **Federal Register** dated May 1, 1980, page 29107 and March 12, 1982, page 16285.

This Notice is being issued because 36 CFR 219.17 is being revised to allow the reevaluation of roadless areas during the Forest planning process. Public participation in the reevaluation permits data collection and analysis activities to proceed pending release of the final regulations.

The proposed revision to 36 CFR 219.17 (issued 4/18/83) will allow further evaluation of the Forest roadless areas. The results of the reevaluation of roadless areas will be included in the Environmental Impact Statement and Bridger-Teton National Forest Land and Resource Management Plan.

The first steps involving initial public participation, inventory, and analysis of the management situation have been completed. The scoping for the roadless area reevaluation portion of the land management planning process will be initiated by explaining the roadless area reevaluation to all individuals interested and wanting to become involved in the planning process for the Forest. Significant issues relating to reevaluation will be identified and included with those issues already identified for the Forest.

Detailed information on the roadless areas and reevaluation processes will be available for individuals and organizations requesting the information. In addition, there will be a public meeting beginning in October to further explain, discuss, and gather information about the roadless areas and reevaluation process. The specific time and schedule of the meeting will be published in the local newspaper.

The Bridger-Teton National Forest Plan will select from a range of alternatives which will include at least:

(1) The "no-action" alternative, which represents continuation of present levels of activity.

(2) One or more alternatives which represent levels of activity that will result in elimination of all backlogs of needed treatment for restoration of renewable resources and ensure that a major portion of planning intensive multiple-use and sustained-yield management procedures are operating on an environmentally sound basis.

(3) One or more alternatives formulated to resolve the identified major public issues and management concerns, including roadless areas.

The Draft Environmental Impact Statement and proposed Land and Resource Management Plan for the Bridger-Teton National Forest are scheduled for a draft review by March 1985. The final documents are scheduled for filing with the Environmental Protection Agency in September 1985.

During the reevaluation process, current management and protection policies and activities in the roadless areas may be continued. Wilderness values will be protected in the areas recommended in RARE II for Wilderness, and management for other uses may continue in areas recommended for non-Wilderness.

J. S. Tixier, Regional Forester, Intermountain Region, USDA Forest Service, is the responsible official for the Forest Management Plan and Environmental Impact Statement. Reid Jackson, Forest Supervisor, is responsible for preparation of the Forest Plan and Environmental Impact Statement.

Written comments, suggestions, and/or requests for information during this process should be sent to Carl Pence, Forest Planner, Bridger-Teton National Forest, P.O. Box 1888, Jackson, Wyoming 83001, phone (307) 733–2752.

Dated: August 19, 1983.

Richard K. Griswold,

Director, Planning and Budget.

[FR Doc. 83–23879 Filed 8–31–83; 8:45 am]

BILLING CODE 3410–11–M

Land and Resource Management Plan; Challis National Forest, Idaho; Revised Notice of Intent to Prepare an Environmental Impact Statement

This Notice revises a previously issued Notice of Intent published in the **Federal Register** dated February 12, 1981, page 12038.

This Notice is being issued because 36 CFR 219.17 is being revised to allow the reevaluation of roadless areas during the Forest planning process. Public participation in the reevaluation permits data collection and analysis activities to proceed pending release of the final regulations.

The proposed revision to 36 CFR 219.17 (issued 4/18/83) will allow further evaluation of the Forest roadless areas. The results of the reevaluation of roadless areas will be included in the Environmental Impact Statement and Challis National Forest Land and Resource Management Plan.

The first steps involving initial public participation, inventory, and analysis of the management situation have been completed. The scoping for the roadless area reevaluation portion of the land management planning process will be initiated by explaining the roadless area reevaluation to all individuals interested and wanting to become involved in the planning process for the Forest. Significant issues relating to reevaluation will be identified and included with those issues already identified for the Forest.

Detailed information on the roadless areas and reevaluation processes will be available for individuals and organizations requesting the information. In addition, there will be a media announcement and contact with respondents to previous planning activities will be made to further explain, discuss, and gather information about the roadless areas and reevaluation process. These contacts are scheduled to begin 30 days from the date of the publication in the **Federal Register**.

The Challis National Forest Plan will select from a range of alternatives which will include at least:

(1) The "no-action" alternative, which represents continuation of present levels of activity.

(2) One or more alternatives which represent levels of activity that will

result in elimination of all backlogs of needed treatment for restoration of renewable resources and ensure that a major portion of planning intensive multiple-use and sustained-yield mangement procedures are operating on an environmentally sound basis.

(3) One or more alternatives formulated to resolve the identified major public issues and management concerns, including roadless areas.

The Draft Environmental Impact Statement and proposed Land and Resource Management Plan for the Challis National Forest are scheduled for filing with the Environmantal Protection Agency review by August 1985. The final documents are scheduled for filing with the Environmental Protection Agency in January 1986.

During the reevaluation process, current management and protection policies and activities in the roadless areas may be continued. Wilderness values will be protected in the areas recommended in RARE II for Wilderness, and management for other uses may continue in areas recommended for non-Wilderness.

J. S. Tixier, Regional Forester, Intermountain Region, USDA Forest Service, is the responsible official for the Forest Management Plan and Environmental Impact Statement. Jack E. Bills, Forest Supervisor, is responsible for preparation of the Forest Plan and Environmental Impact Statement.

Written comments, suggestions, and/or requests for information during this process should be sent to Jack E. Bills, Forest Supervisor, Challis National Forest, P.O. Box 404, Challis, Idaho 83226, phone 308/879–2285.

Dated: August 19, 1983.

Richard K. Griswold,

Director, Planning and Budget.

[FR Doc. 83–23980 Filed 8–31–83; 8:45 am]

BILLING CODE 3410–11–M

COMMISSION ON CIVIL RIGHTS

District of Columbia Advisory Committee; Agenda and Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the District of Columbia Advisory Committee to the Commission will convene at 4:00 p.m. and will end at 6:00pm, on September 12, 1983, at the National Housing Center, Lower Level, 15th & M Streets, NW.,Washington DC. The purpose of the meeting is to brief Committee members on plans for a hearing on fair housing to be held by the U.S. Commission on Civil Rights.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mr. Walter E. Washington, 1025 15th Street, NW., Washington DC 20005, (202) 659–3300; or the Mid-Atlantic Regional Office, 2120 L Street, NW., Washington DC 20037, (202) 254–6717.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 26, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83–24025 Filed 8–31–83; 8:45 am]

BILLING CODE 6335–01–M

Illinois Advisory Committee; Agenda and Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Illinois Advisory Committee to the Commission will convene at 10:00 am and will end at 2:00 pm, on September 23, 1983, at the John C. Klucaynski Building, Room 3280, 230 South Dearborn Street, Chicago, Illinois. The purposes of the meeting are to hear a report on the National Chairpersons' Conference and discuss progress on two Chicago projects, one on industrial revenue bonds and another on the effectiveness of contract compliance enforcement.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mr. Thomas J. Pugh, 500 West Melbourne Avenue, Peoria, Illinois 61604, (309) 686–3121; or the Midwestern Regional Office, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604, (312) 353–7371.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 26, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83–24022 Filed 8–31–83; 8:45 am]

BILLING CODE 6335–01–M

Louisiana Advisory Committee; Agenda and Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Louisiana Advisory Committee to the Commission will convene at 9:00 am and will end at 1:00 pm, on September 24, 1983, at the Warwick Hotel, Somerset Room, 1315 Gravier Street, New Orleans, Louisiana. The purpose of the meeting will be to orient new Committee members and plan programs for FY 84.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Dr. Louis C. Pendleton, 1514 Grey, Sharveport, Louisiana 71103, (318) 424–1297; or the Southwestern Regional Office, Heritage Plaza, 418 South Main, San Antonio, Texas 78204, (512) 730–5570.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 26, 1983.

John I. Binkley;

Advisory Committee Management Officer.

[FR Doc. 83–24023 Filed 8–31–83; 8:45 am]

BILLING CODE 6335–01–M

Virginia Advisory Committee; Agenda and Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a conference of the Virginia Advisory Committee to the Commission will convene at 5:00 pm and end at 10:00 pm, on September 25; the Committee will also convene at 8:00 am and will end at 5:00 pm, on September 26, 1983, at the Sheraton-Fredericksburg Inn, Conference Center, I–95 and Virginia Route 3, Fredericksburg, Virginia. The purposes of the conference are to gather information about civil rights complaints and enforcement in the State, and to discuss the possible utility of establishing a State human rights agency.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Rev. Curtis W. Harris, 209 Terminal Street, Hopewell, Virginia 23860, (804) 458–7404; or the Mid-Atlantic Regional Office, 2120 L Street, NW., Room 510, Washington, DC 20037, (202) 254–6717.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 26, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83–24024 Filed 8–31–83; 8:45am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-588-028]

Roller Chain, Other Than Bicycle, From Japan; Preliminary Results of Administrative Review of Antidumping Finding and Tentative Determination To Revoke in Part

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of antidumping finding and tentative determination to revoke in part.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on roller chain, other than bicycle, from Japan. The review covers Tsubakimoto Chain Company and the period December 1, 1979 through March 31, 1981. The review indicates a *de minimis* margin for the period.

As a result of the review, the Department has preliminarily determined to assess dumping duties equal to the calculated differences between United States price and foreign market value on each of the sales by Tsubakimoto Chain Company during the period of review. The Department has also tentatively determined to revoke the finding with respect to this firm.

Interested parties are invited to comment on these preliminary results and tentative determination to revoke in part.

EFFECTIVE DATE: September 1, 1983.

FOR FURTHER INFORMATION CONTACT: J. Linnea Bucher, or Robert Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377–5255.

SUPPLEMENTARY INFORMATION:

Background

On September 4, 1981, the Department of Commerce ("the Department") published in the **Federal Register** (46 FR 44488) the final results of its last administrative review of the antidumping finding on roller chain, other than bicycle, from Japan (38 FR 9926, April 12, 1973), and announced its intent to conduct the next administrative review On October 8, 1982, the Department published in the **Federal Register** (47 FR 44597) the preliminary results of the latter review, covering 117 firms but deferring publication of preliminary results with regard to Tsubakimoto Chain Company. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted the administrative review with respect to Tsubakimoto for the period December 1, 1979 through March 31, 1981.

The substantive provisions of the Antidumping Act of 1921 ("the 1921 Act") and the appropriate Customs Service regulations apply to all unliquidated entries made prior to January 1, 1980.

Scope of the Review

Imports covered by the review are shipments of roller chain, other than bicycle, from Japan. The term "roller chain, other than bicycle" as used in the review includes chain, with or without attachments, whether or not plated or coated, and whether or not manufactured to American or British standards, which is used for power transmission and/or conveyance. Such chain consists of a series of alternately assembled roller links and pin links in which the pins articulate inside the bushings and the rollers are free to turn on the bushings. Pins and bushings are press fit in their respective link plates. Chain may be single strand having one row of roller links, or multiple strand having more than one row of roller links. The center plates are located between the strands of roller links. Such chain may be either single or double pitch and may be used as power transmission or conveyor chain.

The review also covers leaf chain which consists of a series of link plates alternately assembled with pins in such a way that the joint is free to articulate between adjoining pitches. The review further covers chain models #25 and #35. Roller chain, other than bicycle, is currently classifiable under various provisions of the Tariff Schedules of the United States Annotated, ranging from item numbers 652.1300 through 652.3800.

The review covers Tsubakimoto, one of the 119 known manufacturers and/or exporters of Japanese rollers, chain, other than bicycle, to the United States, and the period December 1, 1979 through March 31, 1981. In the preliminary results published on October 8, 1982, we preliminarily determined that certain types of chain manufactured by Tsubakimoto are not within the scope of the finding. We will publish our final determination on those types of chain with final results for the 117 firms. We have not included those types of chain in this review

United States Price

In calculating United States price Department used exporter's sales price the ("ESP"), as defined in section 772 of the Tariff Act or section 204 of the 1921 Act, as appropriate. Exporter's sales price was based on the packed delivered price to unrelated purchasers in the United States. Where applicable, deductions were made for ocean freight, insurance, freight forwarders' fees, U.S. and foreign inland freight, loading charges, and the U.S. subsidiary's selling expenses, in accordance with § 353.10 of the Commerce Regulations. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price, as defined in section 773 of the Tariff Act or section 205 of the 1921 Act, where sufficient quantities of such or similar merchandise were sold in the home market to provide a basis for comparison. When there were no sales or insufficient quantities of such similar merchandise sold in the home market, and because there were no sales of such or similar merchandise to third countries, the Department used constructed value, as defined in section 773(e) of the Tariff Act or section 206 of the 1921 Act.

The home market prices were based on packed prices to unrelated parties. Deductions were made, where applicable, for discounts, inland freight, direct selling expenses, credit costs, and indirect selling expenses up to the amount of U.S. indirect selling expenses, in accordance with § 353.15 of the Commerce Regulations and § 153.10 of the Customs Regulations. Further adjustments were made for differences in merchandise in accordance with § 353.16 of the Commerce Regulations and § 153.11 of the Customs Regulations and for differences in packing. No other adjustments were claimed or allowed. Constructed values were calculated as the sum of materials, fabrication costs, general expenses, profit, and the cost of packing. For general expenses the Department used the actual general expenses because they were higher than the statutory minimum of ten percent of the sum of materials and fabrication costs. Because the actual profit was less than eight percent of the sum of materials, fabrication costs, and general expenses, the Department added the statutory minimum of eight percent for profit.

Preliminary Results of the Review and Tentative Determination to Revoke in Part

As a result of our comparison of the United States price to foreign market value, we preliminarily determine that a 0.14 percent margin exists for

Tsubakimoto for the period December 1, 1979 through March 31, 1981.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all appropriate entries made with export dates during the time period involved. Individual differences between United States price and foreign market value may vary from the percentage stated above. The Department will issue appraisement instructions on Tsubakimoto directly to the Customs Service.

We concluded in our last review of Tsubakimoto that the company had a zero percent margin for the period April 1, 1979 through November 30, 1979. When combined with the current review, the firm has had a zero or *de minimis* margin for a two year period.

As provided for in § 353.54(e) of the Commerce Regulations, Tsubakimoto has agreed in writing to an immediate suspension of liquidation and reinstatement of the finding (as an order) if circumstances develop which indicate that roller chain, other than bicycle, manufactured and exported to the United Stated by Tsubakimoto is being sold by the firm at less than fair value.

Therefore, we tentatively determine to revoke the finding on roller chain, other than bicycle, from Japan with respect to Tsubakimoto. If this partial revocation is made final, it will apply to all shipments of roller chain, other than bicycle, manufactured and exported by Tsubakimoto entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than five days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

This administrative review, tentative determination to revoke in part, and notice are in accordance with sections 751 (a)(1) and (c) of the Tariff Act (19 U.S.C. 1675 (a)(1), (c)) and §§ 353.53 and 353.54 of the Commerce Regulations (19 CFR 353.53 353.54).

Dated: August 25, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-24056 Filed 8-31-83; 8:45 am]

BILLING CODE 3510-25-M

National Technical Information Service

Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

Technical and licensing information on specific inventions may be obtained by writing to: Office of Government Inventions and Patents, U.S. Department of Commerce, P.O. Box 1423, Springfield, Virginia 22151.

Please cite the number and title of inventions of interest.

Douglas J. Campion,

Program Coordinator, Office of Government Inventions and Patents, National Technical Information Service, Department of Commerce.

Department of the Air Force

SN 6-399,567 Tubular Singlet Delta Oxygen Generator
SN 6-439,493 Acoustically Tuned Optical Filter System
SN 6-505,166 Machining a Cooled Cylindrical Optic to Compensate for Pressure Distortion
SN 6-511,060 Void Detection and Composition Measurements in Composite Wires
SN 6-511,689 Fire Control Apparatus for a Laser Weapon
SN 6-511,591 Multibeam Lens Antennas
SN 6-511,697 Radio Frequency Lens Antenna

Department of the Army

SN 6-445,405 Ground Contact Area Measurement Device
SN 6-484,326 Phase Scanned Microstrip Array Antenna
SN 6-490,266 Self-Regulating Air Driven Power Supply
SN 6-492,120 Fluidic Absolute-To-Differential Pressure Converter
SN 6-517,607 Stripline Transformer Adapted for Inexpensive Construction
SN 6-519,154 Three Diode Balanced Mixer

Department of Health and Human Services

SN 6-481,934 Cell Matrix Receptor System and Use in Cancer Diagnosis and Management

[FR Doc. 83-23958 Filed 8-31-83; 8:45 am]

BILLING CODE 3510-04-M

Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

Technical and licensing information on specific inventions may be obtained by writing to: Office of Government Inventions and Patents, U.S. Department of Commerce, P.O. Box 1423, Springfield, Virginia 22151.

Please cite the number and title of inventions of interest.

Douglas J. Campion,

Program Coordinator, Office of Government Inventions and Patents, National Technical Information Service, Department of Commerce.

Department of Agriculture

SN 6-311,587 (4,395,959) Hand Apparatus for Continuous Injection of Chemically-Impregnated Filament
SN 6-506,482 Method for Obtaining a Purified Fraction from a Mixture Using Magnetic Fluid

Department of the Air Force

SN 6-486,125 Method of Making a High Stability Quartz Crystal Oscillator
SN 6-470,749 Vertical Launch Alignment Transfer Apparatus
SN 6-471,078 Eccentrically Tightened Latch Device
SN 6-475,417 Storage Cabinet Travel Lock
SN 6-484,107 Method and Apparatus for Signalling On-Line Failure Detection
SN 6-486,127 Scanning Beam Beamrider Missile Guidance System
SN 6-486,130 Liquid Reactant Chemical Pump
SN 6-488,249 Amine Salts as Bonding Agents
SN 6-490,948 Pulse Code Modulation Rate Converter
SN 6-499,581 Porous Catalytic Metal Plate Degeneration Bed in a Gas Generator

SN 6–499,593 Non-Obstructing Laser Beam Sampling Meter
SN 6–499,735 Integrated Dielectric Waveguide Radar Front End Device
SN 6–502,419 Method and Apparatus for Using a Photoacoustic Effect for Controlling Various Processes Utilizing Laser and Ion Beams, and the Like
SN 6–502,907 Recoil Transducer Fixture
SN 6–504,767 An Efficient Optical Design for a Matched Filter Correlator
SN 6–506,934 Waveform Design for Optimized Ambiguity Response
SN 6–507,886 Dual Gunn Diode Self-Oscillating Mixer
SN 6–508,791 Impulse Autocorrelation Function Communications System
SN 6–508,957 Method of Protecting Optical Fibre Against Stress Corrosion
SN 6–511,423 Optical Fiber Splice Sled
SN 6–51,811 Radiatiion Scanning and Detection System

Department of Health and Human Services

SN 6–228,681 (4,395,635) Gamma Bay Coincidence Analysis System
SN 6–352,599 (4,396,628) Antiviral Activities of Dansylcadaverine and Closely Related Compounds

[FR Doc. 83–23982 Filed 8–31–83; 8:45 am]
BILLING CODE 3510-04-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1983; Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additon to Procurement List.

SUMMARY: This action adds to Procurement List 1983 a service to be provided by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: September 1, 1983.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: On June 24, 1983, the Committee for Purchase from the Blind and Other Severely Handicapped published a notice (48 FR 29038) of proposed addition to Procurement List 1983, November 18, 1982 (47 FR 52101).

After consideration of the relevant matter presented, the Committee has determined that the service listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered were:

a. The action will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The action will not have a serious economic impact on any contractor for the service listed.

c. The action will result in authorizing small entities to provide a service procured by the Government.

Accordingly, the following service is hereby added to Procurement List 1983:

SIC 7349

Janitorial/Custodial Base and Survival School Buildings, 2249C, 1224, 1302, 1306, 1336, 1344, 1348, 2248D, 2301, and 2451A, Fairchild Air Force Base, Washington.

C. W. Fletcher,

Executive Director.

[FR Doc. 83–24028 Filed 8–31–83; 8:45 am]
BILLING CODE 6820-33-M

DEPARTMENT OF EDUCATION

National Advisory Council on Continuing Education; Meeting

AGENCY: National Advisory Council on Continuing Education, Ed.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a meeting of the National Advisory Council on Continuing Education. It also describes the functions of the Council. Notice of meetings is required under Section 10(a)(2) of the Federal Advisory Committee act. This document is intended to notify the general public of their opportunity to attend.

DATES: September 14, 15, and 16, 1983.

ADDRESS: The Capitol Hill Hotel, Washington, D.C. 20003.

FOR FURTHER INFORMATION CONTACT: Dr. William G. Shannon, Executive Director, National Advisory Council on Continuing Education, 425 Thirteenth Street, N.W.; Suite 529, Washington, D.C. 20004, Telephone: (202) 376–8888.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Continuing Education is established under Section 117 of the Higher Education Act (20 U.S.C. 1009), as amended. The Council is established to advise the President, the Congress, and the Secretary of the Department of Education on the following subjects:

(a) An examination of all federally supported continuing education and training programs, and recommendations to eliminate duplication and encourage coordination among these programs;

(b) The preparation of general regulations and the development of policies and procedures related to the administration of Title I of the Higher Education Act; and

(c) Activities that will lead to changes in the legislative provisions of this title and other Federal laws affecting Federal continuing education and training programs.

The meetings of the Council are open to the public. However, because of limited space, those interested in attending are asked to all the Council's office to reserve space and to confirm locations of specific sessions.

The Council meeting will be held from 2:00 p.m. until 5:00 p.m., and from 7:00 p.m. until 9:00 p.m. on September 14; from 9:00 a.m. until 5:00 p.m. on September 15; and from 9:00 a.m. until 12:00 Noon on September 16, 1983.

The proposed agenda includes:

—Final review of Council's annual report
—Plans for circulation of Report;
—Installation of new members;
—Discussion of priorities for coming year;
—Other business.

Records are kept of all Council proceedings and are available for public inspection at the office of the National Advisory Council on Continuing Education, 425 Thirteenth Street, N.W., Room 529, Washington, D.C.

Singed at Washington, D.C. on August 29, 1983.

Richard F. McCarthy,

Associate Director.

[FR Doc. 83–23980 Filed 8–31–83; 8:45 am]
BILLING CODE 4000-01-M

Office of Postsecondary Education

Undergraduate International Studies and Foreign Language Program; Application Notice for New and Non-Competing Continuation Projects for Fiscal Year 1984

Applications are invited for new and non-competing continuation projects under the Undergraduate International Studies and Foreign Language Program.

Authority for this program is contained in Title VI, Section 604, of the Higher Education Act of 1965, as amended (20 U.S.C. 1124).

The Undergraduate International Studies and Foreign Language Program

issues awards to institutions of higher education and public and non-profit private agencies and organizations, including professional and scholarly associations. The purpose of the awards is to:

(a) Assist institutions of higher education and consortia of such institutions, to plan, develop, and carry out a comprehensive program to strengthen and improve undergraduate instruction in international studies and foreign languages; and

(b) Assist associations and organizations to develop projects that will make an specially significant contribution to strengthening and improving undergraduate instruction in international studies and foreign languages.

Closing Date for Transmittal of Applications: (1) An application for a new grant must be mailed or hand-delivered by October 31, 1983. (2) An application for a non-competing continuation grant, to be assured of consideration for funding, should be mailed or hand-delivered by January 10, 1984. If the application for a non-competing continuation grant is late, the Department of Education may lack sufficent time to review it with other non-competing continuation applications and may decline to accept it.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.016 (Undergraduate International Studies Program), Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one the following:

(1) A legibly dated U.S. Postal Service postmark;

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service;

(3) A dated shipping label, invoice, or receipt from a commercial carrier; or

(4) Any other proof of mailing acceptable to the Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service. An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant for a new grant will be notified that its application will not be considered.

Applications Delivered by Hand: An application that is hand-delivered should be taken to the U.S. Department of Education, Application Control Center, (Room 5673, Regional Office Building 3), 7th and D Streets, SW., Washington, D.C. 20202.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays and Federal holidays.

An application for a new grant that is hand-delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information: Information regarding this program is set forth in the Undergraduate International Studies and Foreign Language Program Regulations, 34 CFR Parts 655 and 658. Information regarding the continuation of non-competing continuation awards is set forth in the Education Department General Administrative Regulations, EDGAR, 34 CFR 75.253.

Application Topics for New Projects: Applications will be accepted in Fiscal Year 1984 for new projects in all categories included in the program regulations. The Secretary encourages applications designed to promote excellence in education and provide leadership in developing more effective learning strategies in international education and modern foreign language training. The Secretary further encourages applications which demonstrate the active involvement of the institution's administration in program design and implementation, and provide evidence that the project will continue without Federal assistance after the grant terminates. More specifically, the Secretary encourages new projects in the following categories:

(1) Projects initiated by institutions of higher education and consortia of such institutions, which can serve as exemplary or model projects for other higher education institutions, particularly in the field of teacher education;

(2) Projects initiated by organizations and associations which will make a significant contribution to strengthening and improving undergraduate instruction in international studies and foreign languages;

(3) Projects that use Federal dollars in partnership with institutional and private sector funding;

(4) Projects that strengthen the acquisition of basic and higher level skills in modern foreign languages, and in disciplines such as history, anthropology, economics, and the geography of the areas where such foreign languages are spoken;

(5) Projects that strengthen the acquistion of knowledge and skills in professional fields with an international component, such as agriculture, business, education, and journalism, or that develop skills for the analysis of critical issues such as economic development, technology utilization, national security, or international trade; and

(6) Projects that utilize computers to implement more effective means of teaching modern foreign languages, and for the collection and analysis of information about critical international issues.

Because of the planning time required to develop and implement new curricula in modern foreign languages, and to develop curricula that strengthen skills in international fields of study, the Secretary of Education is accepting applications for new projects of up to two years for a single institution, and up to three years for consortia.

Available Funds: The Administration's budget for Fiscal Year 1984 does not include funds for the Undergraduate International Studies and Foreign Language Program. However, applications are being invited to allow for sufficient time to evaluate applications and complete the grant process, should Congress decide to appropriate funds for this program. In Fiscal Year 1983, Congress appropriated $21,000,000 for the International Education and Foreign Language Studies domestic programs, of which $2,300,000 was allocated to the Undergraduate International Studies and Foreign Language Program. If this funding level is maintained for Fiscal Year 1984, it is anticipated that approximately 40 non-competing continuation applications would be funded at an approximate cost of $1,550,000 and approximately $750,000 would be allocated to new projects. Awards to single institutions usually average around $42,000 and consortia awards generally range between $50,000 and $65,000. Using these average figures, we anticipate that between 16 and 20 new awards could be made in Fiscal Year 1984.

Application Forms: Application forms and program information packages are expected to be ready for mailing by September 7, 1983. They may be obtained be writing to Mrs. Susanna C. Easton, International Studies Branch, International Education Programs, U.S. Department of Education (Room 3916, Regional Office Building 3), 7th and D Streets, SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Secretary suggests that the narrative portion of the application not exceed 35 pages in length. The Secretary further urges that applicants not submit information that is not requested.

The program information is intended to aid applicants in applying for assistance under this competition. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those specifically imposed under the statute and regulations governing the competition.

Applicable Regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Undergraduate International Studies and Foreign Language Program, 34 CFR Parts 655 and 658; and

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77 and 78).

Further Information: For further information, contact Mrs. Susanna C. Easton, International Studies Branch, International Education Programs, U.S. Department of Education (Room 3916, Regional Office Building 3), 7th and D Streets., SW., Washington, D.C. 20202. Telephone: (202) 245–2794.

(20 U.S.C. 1124).

(Catalog of Federal Domestic Assistance Number 84.016—Undergraduate International Studies and Foreign Language Program).

Dated: August 23, 1983.

T. H. Bell,

Secretary of Education.

[FR Doc. 83-24026 Filed 8-31-83; 8:45 am]

BILLING CODE 4000-01-M

National Direct Student Loan, College Work-Study, and Supplemental Educational Opportunity Grant Programs

AGENCY: Department of Education.

ACTION: Notice of closing date for filing the Fiscal-Operations Report and application to participate in the National Direct Student Loan (NDSL), College Work-Study (CWS), and Supplemental Educational Opportunity Grant (SEOG) Programs.

The Secretary gives notice to institutions of higher education of the deadline for an institution of higher education to apply for fiscal year 1984 funds—for use in the 1984–85 award year—under the National Direct Student Loan, College Work-Study, and Supplemental Educational Opportunity Grant Programs. Under these programs, the Secretary allocates funds to institutions for students who need financial aid to meet the cost of postsecondary education. Institutions of higher education do not have to be eligible to submit an application for funds. Institutions will be notified of the closing date for establishing institutional eligibility to participate in the NDSL, CWS and SEOG programs through the **Federal Register.**

The Secretary further gives notice that an institution that had a NDSL fund or expended CWS or SEOG funds during the 1982–83 award year is required to report its program expenditures as of June 30, 1983 to the Secretary.

The NDSL, CWS, and SEOG programs are authorized by Parts E, C, and Subpart A–2, respectively, of title IV of the Higher Education Act of 1965.

(20 U.S.C. 1087aa–1087ii; 42 U.S.C. 2751–2756b; and 20 U.S.C. 1070b–1070b–3)

Closing Date For FISAPs: An institution must submit the Fiscal-Operations Report and Application to Participate in the National Direct Student Loan, Supplemental Educational Opportunity Grant, and College Work-Study Programs (FISAP) by October 3, 1983. Institutions that do not submit the FISAP by the closing date will not be considered for 1984–85 funds.

FISAPs Delivered by Mail: A FISAP sent by mail must be addressed to the Department of Education, Office of Student Financial Assistance, Division of Program Operations, Campus and State Grants Branch, 400 Maryland Avenue SW., (Room 4621, Regional Office Building 3), Washington, D.C. 20202.

An institution must show proof of mailing its FISAP. Proof of mailing consists of one of the following: (1) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service, (2) a legibly dated U.S. Postal Service Postmark, or (3) any other proof of mailing acceptable to the Secretary of Education.

If a FISAP is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service. An institution should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an institution should check with its local post office. An institution is encouraged to use certified or at least first-class mail.

FISAPs Delivered by Hand: A FISAP that is hand-delivered must be taken to the Department of Education, Office of Student Financial Assistance, Division of Program Operations, Campus and State Grants Branch, 7th and D Streets, SW., Room 4621, Regional Office Building 3, Washington, D.C. The Campus and State Grants Branch will accept hand-delivered FISAPs between 8:00 a.m. and 4:30 p.m. daily (Washington, D.C. time), except Saturdays, Sundays and Federal holidays.

A FISAP that is hand-delivered will not be accepted after 4:30 p.m. on the closing date.

FISAP Information: FISAPs have been mailed by the program office. An institution shall prepare and submit its FISAP in accordance with the instructions included in the package.

The program information is intended to aid applicants in applying for assistance under this competition. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those specifically imposed under the statute and regulations governing the competition.

Applicable Regulations: The following regulations are applicable to these programs:

National Direct Student Loan—34 CFR Parts 674 and 668.

College Work-Study—34 CFR Parts 675 and 668.

Supplemental Educational Opportunity Grant—34 CFR Parts 676 and 668.

The final regulations governing the awarding of funds under each of the above campus-based programs were published in the **Federal Register** of August 2, 1982 (47 FR 33398).

Further information: For further information, contact Mr. Robert Coates, Chief, Campus and State Grants Branch, Division of Program Operations, Office of Student Financial Assistance, U.S. Department of Education, 400 Maryland Avenue, S.W., (Room 4621, ROB–3), Washington, D.C. 20202, Telephone (202) 245–2320.

(Catalog of Federal Domestic Assistance Nos. 84.038, National Direct Student Loan Program; 84.033, College Work-Study Program; and 84.007, Supplemental Educational Opportunity Grant Program)

Dated: August 26, 1983.

Edward M. Elmendorf,

Assistant Secretary for Postsecondary Education.

[FR Doc. 83-24027 Filed 8-31-83; 8:45 am]
BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Washington; Lynch Creek Substation and 115-kV Transmission Service; Finding of No Significant Impact

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Finding of No Significant Impact (FONSI) for BPA's proposed Lynch Creek Substation and 115–kV Transmission Line Project.

SUMMARY: This project is located near the town of Eatonville about 25 miles south of Tacoma, Washington. Steadily growing loads in the area are expected to exceed the capacity of distribution lines which serve the town of Eatonville and the nearby Ohop Valley area. Also, the quality and reliability of service is reduced because the length of the heavily loaded feeder lines is causing a significant voltage drop at the load centers of both the town of Eatonville and Ohop Mutual Light. Additions to the present electrical system are needed to avoid the consequences of overloads, to reduce system losses which increase as lines approach their rated capability, and to improve operating efficiency.

In order to meet electrical needs in this area, BPA proposes to construct a 3.2–mile, 115–kV wood-pole transmission line from a tap point on Tacoma City Light's Cowlitz-LaGrande 115/kV line to a new 115/12.5kV, 15/20/25 MVA substation about 1 mile northwest of Eatonville.

Alternatives considered for this project are: (1) Five alternative plans of service for the project area; (2) four location alternatives for BPA's proposed plan, as well as two alternative substation sites; (3) conservation; and (4) no action. For a further discussion of the purpose of and need for the project, the proposal, and alternatives, see pages 1–8 of the enviromental assessment (EA) (DOE/EA–0212) which was prepared for this proposal. No other documents are related to this finding.

Following are impacts which would be caused by construction and/or operation of the proposed project, as well as mitigation which would be undertaken by BPA to assure that these impacts on the environment are minimal:

1. Short-term degradation of air quality in the area would result from burning of slash. BPA or its contractor would obtain necessary permits and comply with all requirements of the State of Washington. Merchantable timber would be sold. Unmerchantable material suitable for use as firewood may be salvaged.

2. Short-term disturbance of soils would occur during construction. BPA would avoid erosion of steep slopes and escarpments by spanning areas where they occur. Disturbed areas of the right-of-way would be restored following construction to prevent further erosion.

3. Minimum new access roads would be required. BPA would avoid building new access by following existing roads. Short spurs to structure sites may be necessary in a few locations. Construction of an access road to structures located in the valley may be necessary but would be minimized by locating structures near existing roads. Easements may be obtained for temporary access of equipment and vehicles across fields for construction, emergency repair, and maintenance

4. Approximately 17 acres of forested wildlife habitat would be converted to more open, low-growing vegetation.

5. Approximately 17 acres of timber would be cleared. BPA would use selective clearing criteria in selected areas. Trees within falling distance of the line which would normally be felled to maintain electrical clearance criteria would be left if they are healthy and there is little likelihood that they would fall into the line.

6. Short-term, temporary disturbance would occur in the Ohop Valley during construction. BPA would avoid construction activity in or near the Ohop Creek and its floodplain. The floodplain/wetland area would be spanned, requiring clearing of approximately 0.25 acre of red alder. Alternatives were evaluated in the floodplain/wetland assessment included in the EA. A determination has been made that there is no practicable alternative to clearing a small portion of right-of-way within Ohop Creek floodplain and that the proposed action includes all practicable measures to minimize harm to or within the floodplain/wetland. Construction mats and/or special vehicles would be used for construction activity in the valley to avoid rutting or compaction of soils during wet periods or in wet areas. If rutting or compaction occurs, soils would be restored.

7. Permanent impacts to the visual quality of the Ohop Valley would occur as a result of the line crossing and substation location. Nonspecular conductor would be used for the 1/4-mile portion of the line crossing the valley. The area around the substation would be landscaped in a manner consistent with the surrounding area.

8. Herbicides would be applied periodically on the right-of-way and in the substation yard. BPA would comply with all regulations for the use and disposal of herbicides.

9. A slight amount of Prime Farmland would be removed from potential agricultural use by location of structure(s) within the Ohop Valley BPA would avoid unnecessary conversion of farmland by minimizing structures used in crossing farmlands. Most uses within the right-of-way could continue and the proposal should not affect grazing operations. The loss of a slight amount of Prime Farmland is outweighed by the advantages of the proposed line route over the alternative route (Route B), which are discussed in more detail on pages 25–26 of the EA.

10. Approximately 1 acre of land would be permanently removed from any other potential uses for the life of the substation facility.

Route A–1–3 and Substation Site 2 (see Figure 2 of the EA) are BPA's preferred alternatives, as well as the environmentally preferred options, for this project. Selection of these options is prefered because environmental impacts would be less than along Route B.

BPA evaluated the proposal with respect to current legislation affecting Federal projects and found it to comply with those laws and regulations. A detailed discussion of this evaluation of legislation is on pages 9–25 of the EA.

The EA was distributed to affected landowners and governmental agencies for public review. BPA did not receive any comments during this review. In addition, two public meetings were held in the Ohop Grange in April 1982 and in May 1983. Comments made during the scoping meeting in April 1982 were addressed in the EA. BPA presented its preferred option and environmental conclusions as documented in the EA at the second meeting in May of 1983. No adverse comments were received.

Copies of this finding will also be distributed to those landowners and governmental agencies which received the EA and participated in the public meetings. Copies are available upon request from the Environmental Manager, Bonneville Power Administration, P.O. Box 3621–SJ, Portland, Oregon 97208, telephone (503) 230–5136.

Based upon information in the EA, and after consideration of comments from the public and other agencies, the

Department of Energy has determined that BPA's action will not significantly affect the quality of the human environment. Therefore, an environmental impact statement will not be prepared.

Issued in Washington, D.C., August 18, 1983.

William A. Vaughan,

Asistant Secretary, Environmental Protection, Safety and Emergency Preparedness.

[FR Doc. 83-23900 Filed 8-31-83; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Docket No. 83-CERT-278 et al.]

A. E. Staley Mfg. Co. et al; Certification of Eligible Use of Natural Gas To Displace Fuel Oil

The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) has received the following applications for certification of an eligible use of natural gas to displace fuel oil pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). Notice of these applications, along with pertinent information contained in the applications, was published in the **Federal Register** and an opportunity for public comment was provided for a period of ten calendar days from the date of publication. No comments were received. More detailed information is contained in each application on file and available for inspection at the ERA Fuels Conversion Division Docket Room, RG-42, Room GA-093, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

Applicant and facility	Date filed	Docket No.	Federal Register notice of application
A. E. Staley Mfg. Co., Decatur Plant, Decatur, Ill	July 27, 1983	83-CERT-278	48 FR 36876, Aug. 15, 1983.
A. E. Staley Mfg. Co., Champaign Plant, Champaign, Ill	do	83-CERT-279	48 FR 36876, Aug. 15, 1983.
Lever Brothers Co., Baltimore Plant, Baltimore, Md	do	83-CERT-281	48 FR 36876, Aug. 15, 1983.
United States Steel Corp., Florence Plant, Florence, Ky	do	83-CERT-282	48 FR 36876, Aug. 15, 1983.

The ERA has carefully reviewed the above applications for certification in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that the applications satisfy the criteria enumerated in 10 CFR Part 595 and, therefore, has granted the certifications and transmitted those certifications to the Federal Energy Regulatory Commission.

Issued in Washington, D.C., on August 26, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-24034 Filed 8-31-83; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 83-CERT-306]

Burlington Industries, Inc.; Application for Certification of Eligible Use of Natural Gas To Displace Fuel Oil

The Economic Regulatory Administration (ERA) of the Department of Energy has received the following application for certification of an eligible use of natural gas to displace fuel oil pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). End-users who have the capability to use natural gas in place of fuel oil at any of their facilities can arrange for direct purchases and transportation of the gas to those facilities under the Federal Energy Regulatory Commission's (FERC) fuel oil displacement program. The ERA certification is required by the FERC as a precondition to interstate transportation of fuel oil displacement gas in accordance with the procedures in 18 CFR Part 284, Subpart F.

Pertinent information regarding this application is listed below, while more detailed information is contained in the application on file and available for inspection at the ERA Fuels Conversion Division Docket Room, RG-42, Room GA-093, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

1. 83-CERT-306.

Applicant: Burlington Industries, Inc., Greensboro, N.C.

Date Filed: August 23, 1983.

Facility Location: Asheboro, N.C.

Gas Volume: 30,000 Mcf per year.

Oil Displacement: 205,000 gallons of No. 6 fuel oil (2.1% sulfur).

Eligible Seller: Oklahoma Natural Gas Co., Tulsa, Okla.

Transporters: Transcontinental Gas Pipeline Corp., Houston, Tex.; Northern Natural Gas Co., Omaha, Neb.; and Piedmont Natural Gas Co., Inc., Charlotte, N.C.

To provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Office of Fuels Programs, Fuels Conversion Division, RG-42, Room GA-093, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, Attention: Richard A. Ransom, within ten calendar days of the date of publication of this notice in the **Federal Register**. The docket number of the case should be printed on the outside of the envelope.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of the above application may be requested by any interested person in writing within the ten-day comment period. The request should state the person's interest and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary.

If ERA determines that an oral presentation is necessary, further notice will be given to the applicant and any person filing comments and will be published in the **Federal Register**.

Issued in Washington, D.C., August 26, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-24032 Filed 8-31-83; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-FC-83-017; OFP Case No. 55069-9235-20-24]

Container Corp. of America; Acceptance of Petition for Exemption and Availability of Certification

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of acceptance of petition for exemption and availability of certification by Container Corporation of America.

SUMMARY: On July 28, 1983, Container Corporation of America (CCA), Santa Clara, Calif., filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requesting a permanent cogeneration exemption for an electric powerplant from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 *et seq.*) ("FUA" or "the Act"). Title II of FUA prohibits both the use of petroleum and natural gas as a primary energy source in any new powerplant and the construction of any such facility without the capability to use an alternate fuel as a primary energy source. Final rules setting forth criteria and procedures for petitioning for exemptions from the prohibitions of Title II of FUA were published in the **Federal Register** at 46 FR 59872 (December 7, 1981). Final rules governing the cogeneration exemption were revised on June 25, 1982 (47 FR 29209, July 6, 1982).

CCA seeks an exemption for a proposed powerplant consisting of (1) A gas turbine generator capable of using natural gas or No. 2 distillate oil to produce electricity, (2) a supplementary-fired waste heat recovery system to generate process steam, (3) a duct burner to produce additional steam when the steam demand exceeds the heat-capacity of the gas turbine exhaust, and (4) a backpressure extraction steam turbine that can generate additional electrical power at CCA's Santa Clara Mill in Santa Clara, California. It is expected that virtually all of the net annual electric power produced by the cogenerator will be sold to the Pacific Gas & Electric Company (PG&E), making the cogeneration facility an electric powerplant pursuant to the definitions contained in 10 CFR § 500.2. CCA will operate the facility.

ERA has determined that the petition appears to include sufficient evidence to support an ERA determination on the exemption request and it is therefore accepted pursuant to 10 CFR 501.3. A review of the petition is provided in the SUPPLEMENTARY INFORMATION section below.

As provided for in sections 701 (c) and (d) of FUA and 10 CFR 501.31 and 501.33, interested persons are invited to submit written comments in regard to this petition and any interested person may submit a written request that ERA convene a public hearing.

The public file containing a copy of this Notice of Acceptance and Availability of Certification as well as other documents and supporting materials on this proceeding is available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E-190, Washington, D.C. 20585, Monday through Friday, 8:00 a.m. to 4:00 p.m.

ERA will issue a final order granting or denying the petition for exemption from the prohibitions of the Act within six months after the end of the period for public comment and hearing, unless ERA extends such period. Notice of any such extension, together with a statement of reasons therefor, would be published in the **Federal Register.**

DATES: Written comments are due on or before October 17, 1983. A request for a public hearing must be made within this same 45-day period.

ADDRESSES: Fifteen copies of written comments or a request for a public hearing shall be submitted to: Case Control Unit, Office of Fuels Programs, Room GA-093, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Docket No. ERA-FC-83-017 should be printed on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

George G. Blackmore, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue, SW., Room GA-073L, Washington, D.C. 20585, Phone (202) 252-1774

Marya Rowan, Office of the General Counsel, Department of Energy, Forrestal Building, Room 6B-222, 1000 Independence Avenue, SW., Washington, D.C. 20585, Phone (202) 252-2967

SUPPLEMENTARY INFORMATION: CCA proposes to install a cogeneration system at its Santa Clara Mill, Santa Clara, California, which will (1) generate electric power for sale to PG&E, and (2) produce steam to meet the mill's process requirements. The proposed cogeneration system will be operated by CCA. The system will consist of a gas turbine generator which will produce electric power, a supplementary-fired waste heat recovery system, a duct burner, and a backpressure extraction steam turbine which will produce process steam and additional electric power for CCA's use in the milling process and sale to PG&E.

CCA expects to sell virtually all the net annual electric power generation to PG&E. The sale of more than 50 percent of the facility's net annual electric power-generation causes it to be classified as an electric powerplant under FUA (10 CFR 500.2). It is therefore subject to the Title II construction and fuel use prohibitions contained in the Act.

Section 212(c) of the Act and 10 CFR 503.37 provide for a permanent cogeneration exemption from the prohibitions of Title II of FUA. In accordance with the requirements of § 503.37(a)(1), CCA has certified to ERA that:

1. The oil or gas to be consumed by the cogeneration facility will be less than that which would otherwise be consumed in the absence of the cogeneration facility, where the calculation of savings is in accordance with 10 CFR 503.37(b); and

2. The use of mixture of petroleum or natural gas and an alternate fuel in the cogeneration facility, for which an exemption under 10 CFR 503.38 would be available, would not be economically or technically feasible.

In accordance with the evidentiary requirements of § 503.37(c) (and in addition to the certifications discussed above), CCA has also included as part of its petition:

1. Exhibits containing the basis for the certifications described above; and

2. An environmental impact analysis, as required under 10 CFR 503.13.

In processing this exemption request, ERA will comply with the requirements of the National Environmental Policy Act of 1969 (NEPA); the Council on Environmental Quality's implementing regulations, 40 CFR 1500 *et seq.*; and DOE's guidelines implementing those regulations, published at 45 FR 20694, March 28, 1980. NEPA compliance may involve the preparation of: (1) An Environmental Impact Statement (EIS); (2) an Environmental Assessment; or (3) a memorandum to the file finding that the grant of the requested exemption would not be considered a major Federal action significantly affecting the quality of the environment. If an EIS is determined to be required, ERA will publish a Notice of Intent to prepare an EIS in the **Federal Register** as soon as practicable. No final action will be taken on the exemption petition until ERA's NEPA compliance has been completed.

The acceptance of the petition by ERA does not constitute a determination that CCA is entitled to the exemption

requested. That determination will be based on the entire record of this proceeding, including any comments received during the public comment period provided for in this notice.

Issued in Washington, D.C. on August 26, 1983.

Robert L. Davies,

Deputy Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-24036 Filed 8-31-83; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 83-CERT-090, as Amended, et al.]

G&M Finishing, Inc., et al.; Applications for Amended Certification of Eligible Use of Natural Gas to Displace Fuel Oil

The Economic Regulatory Administration (ERA) of the Department of Energy has received the following applications to amend existing certifications of an eligible use of natural gas to displace fuel oil pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979).

Pertinent information regarding these applications is listed below, while more detailed information is contained in each application on file and available for inspection at the ERA Fuels Conversion Division Docket Room, RG-42, Room GA-093, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

1. 83-CERT-090, as amended.

Applicant: G&M Finishing, Inc.

Date Existing Certification Issued: July 24, 1983.

Date Amendment Filed: July 27, 1983.

Requested Change: Addition of Eligible Seller: Morgan-Pennington, Inc., Wooster, Ohio.

2. 83-CERT-154, as amended.

Applicant: W. R. Grace & Co., Davison Chemical Div.

Date Existing Certification Issued: July 19, 1983.

Date Amendment Filed: August 10, 1983.

Requested Change: Additional Gas Volume: 160,000 Mcf/yr. (for a total of 520,000 Mcf/yr.) Additional Oil Displacement: 28,000 bbls/yr. No. 2 fuel oil 0.3% sulfur.

To provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning any of these applications to amend the existing certifications to submit comments in writing to the Economic Regulatory Administration, Office of Fuels Programs, Fuels Conversion Division, RG-42, Room GA-093, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, Attention: Richard A. Ransom, within ten calendar days of the date of publication of this notice in the **Federal Register**. The docket number of the case should be printed on the outside of the envelope.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of any of the above applications may be requested by any interested person in writing within the ten-day comment period. The request should state the person's interest and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary.

If ERA determines that an oral presentation is necessary in a particular case, further notice will be given to the applicant and any person filing comments in that case and will be published in the **Federal Register**.

Issued in Washington, D.C., August 25, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-24031 Filed 8-31-83; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 83-CERT-300]

Lancaster Osteopathic Hospital; Application for Certification of Eligible Use of Natural Gas To Displace Fuel Oil

The Economic Regulatory Administration (ERA) of the Department of Energy has received the following application for certification of an eligible use of natural gas to displace fuel oil pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). End-users who have the capability to use natural gas in place of fuel oil at any of their facilities can arrange for direct purchases and transportation of the gas to those facilities under the Federal Energy Regulatory Commission's (FERC) fuel oil displacement program. The ERA certification is required by the FERC as a precondition to interstate transportation of fuel oil displacement gas in accordance with the procedures in 18 CFR Part 284, Subpart F.

Pertinent information regarding this application is listed below, while more detailed information is contained in each application on file and available for inspection at the ERA Fuels Conversion Division Docket Room, RG-42, Room GA-093, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holiday.

Applicant: Lancaster Osteopathic Hospital, Lancaster, Pa.

Date Filed: August 12, 1983.

Facility: Lancaster, Pa.

Gas Volume: 35,000 Mcf per year.

Oil Displaced: 262,385 gallons of No. 2 fuel oil (1.2% sulfur).

Seller: Exxon U.S.A., Houston, Tex.

Transporter: Colombia Gas Transmission Corp., Charleston, W. Va., UGI Corp., Reading, Pa.

To provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Office of Fuels Programs, Fuels Conversion Division, RG-42, Room GA-093, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, Attention: Richard A. Ransom, within ten calendar days of the date of publication of this notice in the **Federal Register**. The docket number of the case should be printed on the outside of the envelope.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of the above application may be requested by any interested person in writing within the ten-day comment period. The request should state the person's interest and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary.

If ERA determines that an oral presentation is necessary in a particular case, further notice will be given to the applicant and any person filing comments in that case and will be published in the **Federal Register**.

Issued in Washington, D.C., on August 26, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-24033 Filed 8-31-83; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

Agency Forms Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of submission of request for clearance to the Office of Management and Budget.

SUMMARY: Under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), Department of Energy (DOE) notices of proposed collections under review will be published in the Federal Register on the Thursday of the week following their submission to the Office of Management and Budget (OMB). Following this notice is a list of the DOE proposals sent to OMB for approval since Thursday, August 25, 1983. The listing does not contain information collection requirements contained in regulations which are to be submitted under 3504(h) of the Paperwork Reduction Act.

Each entry contains the following information and is listed by the DOE sponsoring office: (1) The form number; (2) Form title; (3) Type of request, e.g., new, revision, or extension; (4) Frequency of collection; (5) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (6) Type of respondent; (7) An estimate of the number of respondents; (8) Annual respondent burden, i.e., an estimate of the total number of hours needed to fill out the form; and (9) A brief abstract describing the proposed collection.

DATES: Last Notice published Thursday, August 25, 1983.

FOR FURTHER INFORMATION CONTACT:

John Gross, Director, Forms Clearance and Burden Control Division, Energy Information Administration, M.S. 1H-023, Forrestal Building, 1000 Independence Ave., NW., Washington, D.C. 20585, (202) 252-2308

Jefferson B. Hill, Department of Energy Desk Officer, Office of Management and Budget, 726 Jackson Place, NW., Washington, D.C. 20503 (202) 395-7340

Vartkes Broussalian, Federal Energy Regulatory Commission Desk Officer, Office of Management and Budget, 726 Jackson Place, NW., Washington, D.C. 20503 (202) 395-3087

SUPPLEMENTARY INFORMATION: Copies of proposed collections and supporting documents may be obtained from Mr. Gross. Comments and questions about the items on this list should be directed to the OMB reviewer; as shown in "For Further Information Contact." If you anticipate commenting on a form, but find that time to prepare these comments will prevent you from submitting comments promptly, you should advise the OMB reviewer of your intent as early as possible.

Issued in Washington, D.C., August 29, 1983.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

DOE Forms Under Review by OMB

Form No.	Form title	Type of request	Response frequency	Response obligation	Respondent description	Estimated number of respondents	Annual respondent burden	Abstract
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
EIA-254	Quarterly Progress Report on Status of Reactor Construction.	Extension	Quarterly	Voluntary	Electric utilities	35	320 hrs.	Form EIA-254 requests cost and scheduling data on U.S. electric utility nuclear power generating units under construction and on order. The data track the progress and costs of nuclear construction. The data are used to forecast nuclear powerplant costs and are published by the Energy Information Administration.
EIA-821	Annual Sales of Fuel Oil and Kerosene Report.	Revise	Annually	Mandatory	Fuel oil refiners and distributors.	7,000	21,700 hrs.	Data are published in the EIA Report *Petroleum Supply Annual*. Data are used in energy policy activities in forecasting and consumption programs to determine current and projected fuel oil needs on a National, regional and State basis.
EP-411	Coordinated Regional Bulk Power Supply Program Report.	Revise	Annually	Voluntary	Electric utilities	636	20,000 hrs.	The EP-411 provides the Department of Energy with a single, comprehensive source of information on current and planned electric power supply for the U.S. The data are used to evaluate the current and projected reliability of bulk electric power supply, and the effects of unforeseen changes in powerplant construction schedules.

[FR Doc. 83-24697 Filed 8-31-83; 8:45 am]
BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER83-696-000]

Alabama Power Co.; Filing

August 29, 1983.

The filing company submits the following.

Take notice that Alabama Power Company, on August 25, 1983, tendered for filing a supplements contract executed between it and the Southeastern Power Administration ("SEPA") acting on behalf of the Department of Energy. The supplemental contract is filed with the Federal Energy Regulatory Commission by Alabama Power Company because one of its provisions would increase the transmission payment to be made by SEPA for transmission of capacity and energy to certain preference customers designated by SEPA.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C., 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before September 23, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the

Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary

[FR Doc. 83-24045 Filed 8-31-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ST83-559-000]

Cranberry Pipeline Corp.; Application for Approval of Rates

August 29, 1983

Take notice that on August 8, 1983, Cranberry Pipeline Corporation (Applicant), P.O. Box 3753, Charleston, West Virginia 25337, filed in Docket No. ST83-559-000 an application pursuant to § 284.123(b)(2) of the Commission's Regulations for approval of the rates and charges to be assessed by Applicant for transportation services to be provided for Cabot Corporation (Cabot), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that Cabot has entered into an agreement to sell natural gas from supplies in West Virginia to United States Steel Corporation for the displacement of fuel oil consumption in Ohio. Applicant indicates that the sale is to commence on August 8, 1983, and is to continue for a period of two years or until the expiration of the Fuel Shortage Emergency Period under § 284.201(e) of the Commission's Regulations, whichever is earlier.

Pursuant to a transportation and storage agreement between Applicant and Cabot dated April 4, 1983, Applicant proposes to accept gas for Cabot's account from mutually agreeable wellhead delivery points in West Virginia and thereafter store, transport, condition, and redeliver such gas to Columbia Gas Transmission Corporation (Columbia) at Applicant's Bradley Compressor Station, Wyoming County, West Virginia, and Columbia's Lanham Compressor Station, Kanawha County, West Virginia, for subsequent delivery to United States Steel Corporation.

For such service, Applicant proposes to charge Cabot 60.0 cents per Mcf of gas redelivered for the account of Cabot. Applicant asserts that the rate is fair and equitable and that it is less than Applicant's transportation cost of service for its utility operations for the fiscal year ending September 30, 1982.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 19, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-24046 Filed 8-31-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-695-000]

Florida Power Corp.; Filing

August 29, 1983.

The filing Company submits the following:

Take notice that on August 22, 1983, Florida Power Corporation ("Florida Power") tendered for filing a Contract for Interchange Service ("Contract") between Florida Power and Seminole Electric Cooperative, Inc., entered into on August 1, 1983, and an Interconnection Agreement dated March 28, 1980. The Contract for Interchange Service provides for the following interchange services: emergency energy, short-term and long-term firm capacity and energy, and economy energy, and backup and reserve power. The Interconnection Agreement provides for a Transmission Facilities Charge for use of certain facilities by Seminole.

Florida Power request waiver of the Commission's notice requirements so that the Contract for Interchange and the Interconnection Agreement, in accordance with their terms, may be permitted to become effective on August 1, 1983, and March 28, 1980, respectively.

Any person desiring to be heard or protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 13, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-24047 Filed 8-31-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-688-000]

Idaho Power Co.; Filing

August 29, 1983.

The filing company submits the following:

Take notice that Idaho Power Company (Idaho) on August 19, 1983, tendered for filing proposed changes in its rates and charges for sales for resale to its wholesale customers. The proposed increase is $5,477,212 or approximately 39.4 percent, based on the 12 months ending December 31, 1982.

The filing proposes an increase in rates in its contract for sales of electric power and energy to C P National's Oregon Division, as filed with the Commission and designated as Idaho's Rate Schedule FPC No. 57 and to the City of Weiser, as filed with the Commission and designated as Idaho's Rate Schedule FPC No. 42. The proposed changes, requested to become effective on October 19, 1983, would increase revenues from jurisdictional sales and service by approximately $4,611,418 from C P National-Oregon and by $331,481 from the City of Weisser, based on the 12-month period ending December 31, 1982.

The filing also proposes an increase in rates in its contract for sales of electric power and energy to Sierra Pacific Power Company, as filed with the Commission and designated as Idaho's Rate Schedule FPC No. 30. The proposed changes, requested to become effective on October 19, 1983, would increase revenues from Sierra Pacific Power Company by 4534,312 based on the 12-month period ending December 31, 1982, or by $483,991 based on the 12-month period ending December 31, 1983, which reflects the rate for service which has been agreed to by Sierra Pacific Power Company and Idaho.

Idaho states that the proposed increase in rates is required to offset the effect of increased operating expenses, capital costs and plant additions.

Copies of the filing were served upon C P National, Sierra Pacific Power Company, the City of Weiser, the Public Utility Commissioner of Oregon, the Idaho Public Utilities Commission and the Nevada Public Services Commission.

Any person desiring to be heard or to protest said application should file a

petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 19, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary

[FR Doc. 83-24049 Filed 8-31-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-692-000]

Iowa-Illinois Gas & Electric Co.; Filing

August 29, 1983.

The filing Company submits the following:

Take notice that on August 22, 1983, Iowa-Illinois Gas & Electric Company, tendered for filing an Interchange Agreement (Agreement) with Waverly Municipal Electric Utility, Waverly, Iowa (Waverly) dated June 13, 1983, containing schedules reflecting facilities and points of connection; metering; conditions of service and charges associated with emergency energy, short term firm power, and economic dispatch replacement energy (proposed effective on the date of commercial operation of Louisa Generating Station, in which each party has an interest, and to which this schedule relates); and transmission service schedules (including, as an addendum thereto, Transmission Service Schedule No. 1, dated June 13, 1983, proposed effective July 1, 1983).

Iowa-Illinois Gas & Electric states, except as so indicated, the Agreement (with its other schedules) is proposed effective as of its execution date, and therefore requests waiver of the Commission's notice requirements.

Iowa-Illinois states a complete copy of the filing has been mailed to Waverly, the Iowa State Commerce Commission, and the Illinois Commerce Commission.

Iowa-Illinois also states that the various schedules, including those in respect of the exchange or furnishing of power and energy, were negotiated by the parties based upon cost reflective and comparable rates or rate methodologies, or reflective of Waverly's requirements for replacement energy from, or of transmission capacity related to, Louisa Generating Station, that the parties have incorporated into the Agreement, and affected rate schedules, reference to Iowa-Illinois's effective Office of Settlement rates from Docket No. ER80-592, *et al.*, consolidated *sub nom.* Allegheny Power System, *et al.*; and that the rate schedules in respect of exchanges of power and energy include, if applicable, reimbursement for wheeling charges assessed by third parties, since Iowa-Illinois notes Waverly contemplates arrangements with others for further delivery of power and energy to its load center.

It is further stated that Transmission Service Schedule No. 1 provides for utilization by Waverly, in respect to its share of Louisa Generating Station capacity of Iowa-Illinois' 345 kV facilities from Substation 92 to Hills Substation, and incorporates transmission rates, charges and a loss responsibility factor designed to compensate Iowa-Illinois for reflected costs of facilities provided, as the scheduling path, and associated operation and maintenance, and, for transmission losses for which compensation in kind is provided. Iowa-Illinois notes that a related, but independent, filing will be made in respect of the operation of Louisa Generating Station outlet transmission facilities of which Substation 92 is a part.

Any person desiring to be heard or protest said application should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 12, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-24048 Filed 8-31-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-691-000]

Mississippi Power Co.; Filing

August 29, 1983.

The filing Company submits the following:

Take notice that on August 19, 1983, Mississippi Power Company tendered for filing a supplement contract executed between it and the Southeastern Power Administration ("SEPA") acting on behalf of the Department of Energy. The supplemental contract is filed with the Federal Energy Regulatory Commission by Mississippi Power Company because of its provisions would increase the transmission payment to be made by SEPA for transmission of capacity and energy to certain preference customers designated by SEPA.

Mississippi states that due to the general inapplicability of the Commission's regulations to the filing of supplemental contracts, they request waiver of any additional abbreviated filing requirements prescribed by §§ 35.12 and 35.13 that might be considered applicable to this filing.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before September 9, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-24050 Filed 8-31-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-689-000]

The Montana Power Co.; Compliance

August 29, 1983.

The filing Company submits the following:

Take notice that on August 19, 1983, The Montana Power Company ("Montana") tendered for filing in accordance with Section 35 of the Commission's Regulations, a Letter Agreement dated April 1, 1983 between Montana and Western Area Power

Administration (WAPA) providing for sale of nonfirm energy.

Montana states that under the terms of this Letter Agreement, it will make available to WAPA nonfirm energy, and that the terms of the Letter Agreement have been agreed to by the parties.

Montana states further that the rate for nonfirm energy sold to WAPA under this Letter Agreement shall be 9 mills per kilowatt hour.

Montana requests an effective date of April 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 13, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary

[FR Doc.83-24051 Filed 8-31-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-450-000]

Northwest Central Pipeline Corp.; Application

August 29, 1983.

Take notice that on August 3, 1983, Northwest Central Pipeline Corporation (Applicant), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP83-450-000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval: (1) to abandon the exchange of gas with Zenith Natural Gas Company (Zenith); (2) to abandon by sale in place to Zenith of certain facilities in Barber County, Kansas, and Woods County, Oklahoma; (3) to abandon and reclaim or to abandon in place the Zenith No. 1 Compressor Station; and (4) to abandon the sale of gas to The Gas Service Company for resale to one right-of-way customer. Applicant also proposes the total or partial assignment to Zenith of 11 of Applicant's gas purchase contracts. The proposals are more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that since 1954, Applicant and Zenith have executed several agreements providing for the gathering, delivery and exchange of gas produced in certain areas of Kansas and Oklahoma and that the instant facilities are used to perform those activities. Applicant states that, due to their age, the facilities now require considerable maintenance and personnel to keep them operational and that as production from the effected area has declined, Applicant's gas purchases have been substantially reduced. Such gas is currently delivered into Zenith's system, pursuant to the exchange agreement now in effect, it is explained.

Due to the increased maintenance and the decreased production mentioned above, Applicant states that its existing exchange arrangement with Zenith is no longer economical. Therefore, Applicant proposes to terminate its existing exchange arrangement with Zenith, to sell to Zenith certain facilities which are connected to Zenith's pipeline system, and to assign totally or partially to Zenith 11 contracts for the purchase of gas in Barber County, Kansas, and Woods County, Oklahoma, since gas currently being purchased from the assigned portion of these contracts is delivered into Zenith's facilities. It is stated that the facilities proposed to be sold to Zenith would be sold at their depreciated value of $55,137.45 plus applicable Kansas and Oklahoma state sales taxes.

Applicant also seeks authority to abandon by reclaim and in place its 230 horsepower Zenith Compressor Station located on the pipeline proposed to be sold to Zenith, and to abandon the sale to The Gas Service Company for resale to one right-of-way customer. Zenith has agreed to continue to service this customer, it is explained.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 19, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-24052 Filed 8-31-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-465-000]

Transcontinental Gas Pipe Line Corp.; Application

August 29, 1983.

Take notice that on August 12, 1983, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP83-465-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing service revision requests of certain Transco customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Transco states that United Cities Gas Company—North and South Carolina Division (United Cities-N.C. & S.C.), a Rate Schedule CD-2 customer of Transco, has served the natural gas needs of the City of Hendersonville, Henderson County, North Carolina (Hendersonville), through its distribution system. It is stated that Transco has been advised that the Public Service Company of North Carolina, Inc. (Public Service), has purchased the Hendersonville gas distribution facilities from United Cities-N.C. & S.C.

Due to the sale of such facilities, both Public Service and United Cities-N.C. & S.C. have requested the following

changes in allocation and service agreements:

1. A reduction of 3,200 dt equivalent of gas per day in the present 9,900 dt equivalent per day contract demand allocation of United Cities-N.C. & S.C. and a transfer of that 3,200 dt equivalent per day, representing the requirements of Hendersonville, to Public Service, resulting in new contract demand allocations of 6,700 dt equivalent per day for United Cities-N.C. & S.C. and 154,600 dt equivalent per day for Public Service (up from the current daily 151,400 dt equivalent allocation). Upon such transfer, the Mill Spring delivery point would be eliminated from the service agreement with United Cities-N.C. & S.C.

2. United Cities-N.C. & S.C. presently has a contracted Washington Storage Service (WSS) storage capacity quantity with Transco of 370,485 dt equivalent of gas. Due to the Hendersonville sale, that customer requests a reduction of 118,819 dt equivalent in its WSS quantity and a transfer of that quantity to its affiliate, United Cities Gas Company–Georgia Division (United Cities-Ga.), a Rate Schedule CD–1 and WSS customer of Transco, resulting in new storage capacity quantities of 251,666 dt equivalent for United Cities-N.C. & S.C. and 385,574 dt equivalent for United Cities-Ga. Again, upon such transfer, the Mill Spring delivery point would be eliminated from the WSS service agreement with United Cities-N.C. & S.C.

3. Finally, after the Hendersonville sale, United Cities-N.C. & S.C. no longer has any facilities in North Carolina, and it would therefore be renamed United Cities Gas Company—South Carolina Division. It has requested and Transco has agreed subject to certificate approval that its reduced pipeline service from Transco be changed from Rate Schedule CD–2 to Rate Schedule G–2. All other service to Transco's customers referenced herein would remain the same.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 19, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Transco to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-24063 Filed 8-31-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP78-336-004]

Trunkline Gas Co.; Petition To Amend

August 29, 1983.

Take notice that on August 9, 1983, Trunkline Gas Company (Petitioner), P.O. Box 1642, Houston, Texas, 77001, filed in Docket No. CP78-336-004 a petition to amend the order issued October 18, 1978, in Docket No. CP78-336 pursuant to Section 7 of the Natural Gas Act by authorizing the transportation and redelivery of natural gas in accordance with an amendment to a transportation contract between Petitioner and Panhandle Eastern Pipe Line Company, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Specifically, Petitioner proposes to reduce the transportation quantity from 6,000 Mcf of gas per day to 3,000 Mcf per day beginning December 2, 1983, and reduce the associated monthly charge on Petitioner's system at that time from $38,668 to $19,334 and on the High Island Offshore System, U T Offshore System and Natural Gas Pipeline Company of America systems from $45,240 to $22,620.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 19, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb

Secretary.

[FR Doc. 83-24064 Filed 8-31-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-694-000]

West Texas Utilities Co.; Filing

August 29, 1983.

The filing company submits the following:

Take notice that on August 22, 1983, West Texas Utilities Company ("WTU") tendered for filing proposed changes in its FERC Electric Service Tariff, Original Volume No. 1, unexecuted letter amendments to its electric service agreement with Texas-New Mexico Power Company (formerly Community Public Service Company) and unexecuted letter amendments to contracts for electric service with the Cities of Brady and Coleman, Texas. WTU has proposed a phased rate increase based upon a rate base which includes construction work in progress (CWIP) to the extent permitted under the Commission's regulations, as amended by Order No. 298. Level C Rates, proposed to be effective on October 23, 1983, would increase revenues from jurisdictional sales by $3,034,579 based on calendar year 1984. Level D Rates, proposed to be effective on October 24, 1983, would increase revenues from jurisdictional sales by $3,883,812, based on calendar year 1984. The only difference between the two sets of rates is the return on common equity which the rates are designed to produce. WTU requests that both the Level C Rates and the Level D Rates be suspended until January 1, 1984, in accordance with the terms of settlement in the Company's last rate case.

WTU has also proposed Level A Rates and Level B Rates. The Level A

Rates reflect the addition of construction work in progress, other than pollution control CWIP, to Period II revenues generated under present rates. Level A Rates, proposed to be effective on October 21, 1983, would increase revenues from jurisdictional sales by $2,258,734, based on calendar year 1984. The Level B Rates reflect projected Period II increase in cost of service but are premised upon a rate base which includes only pollution control related CWIP. WTU proposes that the Level B Rates become effective on October 22, 1983 but, pursuant to the terms of settlement in the Company's last rate case, requests that the Level B Rates be suspended until January 1, 1984. The Level B Rates would increase revenues from jurisdictional sales by $1,930,996, based on calendar year 1984.

WTU states that it seeks to increase its rates for jurisdictional service in order to earn a fair return on its investment in utility property and thereby attract the capital it needs in order to complete construction of new generating and transmission capability.

Copies of the filing have been served on the customers of WTU affected by the filing and upon the Public Utility Commission of Texas.

Any person desiring to be heard or to protest the filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 20, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-24055 Filed 8-31-83; 8:45 am]

BILLING CODE 6717-01-M

Southeastern Power Administration

Correction of Rate Schedule CR-1-E, Under Order Confirming and Approving Power Rates on an Interim Basis

AGENCY: Southeastern Power Administration (SEPA), DOE.

ACTION: Correction of Rate Schedule CR-1-E, Approved on an Interim Basis in the Cumberland Basin Projects' Rates.

SUMMARY: On May 31, 1983, the Assistant Secretary for Conservation and Renewable Energy confirmed on an interim basis, replacement rate schedule, CR-1-E, for the Cumberland Basin Project. This rete schedule, published in the **Federal Register** Notice of June 8, 1983, 48 FR 26531, has an error in column 3, paragraph A. The monthly installment of $1,573,000 is hereby corrected to read $1,365,000.

FOR FURTHER INFORMATION CONTACT:

Leon Jourolmon, Jr., Chief, Division of Fiscal Operations, Southeastern Power Administration, Department of Energy, Samuel Elbert Building, Elberton, Georgia 30635.

Fred Sheap, Office of Power Marketing Coordination, Department of Energy, James Forrestal Building—Room 6B104, 1000 Independence Avenue, SW., Washington, D.C. 20585

Issued in Washington, D.C., this 24th day of August, 1983.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

Wholesale Power Rate Schedule

CR-1-E

Unless otherwise mutually agreed, the annual unregulated flow of water into the Wolf Creek Reservoir will be established from a consideration of the unadjusted discharge registered at Rowena Gauging Station as determined by the U. S. Geological Survey, adjusted for changes in storage at all reservoirs upstream from said station, in accordance with capacity ratings by the owners thereof, and for other possible factors which may be mutually agreed upon by the parties.

TVA shall pay the applicable annual charge to Energy in monthly installments as follows:

A. For each of the months July through December, the monthly installment payment shall be $1,365,000.

B. For the month of January and for each succeeding month through June, the installment payment for each month shall be the amount computed for that month as follows:

1. The estimated applicable annual charge will first be computed using an estimated average flow for the year determined by combining the inflow from the beginning of the fiscal year through the month for which the installment is being computed with the minimum probable inflow for the remainder of the fiscal year as listed in Table 1 below opposite the month for which said payment is being computed.

2. The installment payment will then be determined by taking the difference between the estimated applicable annual charge for the fiscal year as determined under 1. and the total of the installment payments for the preceding months in that fiscal year and multiplying said difference by the percentage listed in Table 11 opposite the month for which the installment payment is being computed.

Month	Table 1 (second-foot days)	Table 11 (percentage)
January	800,000	20
February	700,000	25
March	290,000	30
April	50,000	40
May	7,900	50
June	0	100

[FR Doc. 83-23959 Filed 8-31-83; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[A-6-FRL 2426-3]

Air Pollution Control Grants; Continuing Eligibility Level for Fiscal Year 1983; State of Oklahoma

AGENCY: Environmental Protection Agency.

ACTION: Notice and opportunity for public hearing.

SUMMARY: The U.S. Environmental Protection Agency (EPA), Region 6 announces an opportunity for public hearing and comment on a request from the Oklahoma State Department of Health (OSDH), Air Quality Service (AQS) for a waiver from the continuing elgibility level (CEL) requirement of Section 105(b) of the Clean Air Act (CAA) in fiscal year 1983.

DATES: Hearing Opportunity: If written requests for a public hearing are received by October 3, 1983, the Agency will hold a hearing at Oklahoma City, Oklahoma.

FOR FURTHER INFORMATION CONTACT:

Dolores S. Johnson, State Programs Section, Air and Waste Management Division, EPA, Region 6, 1201 Elm Street, Dallas, Texas 75270, (214) 767-2742, (FTS) 729-2742.

SUPPLEMENTARY INFORMATION: Section 105(b) of the CAA specifies that no Agency shall receive any grant under this section during any fiscal year when its expenditures of non-federal funds for other than nonrecurrent expenditures for air pollution control programs will be less than its expenditures were for such programs during the preceding fiscal year, unless the Administrator, *after notice and opportunity for public hearing*, determines that a reduction in

expenditures is attributable to a non-selective reduction in expenditures in the programs of all executive branch agencies of the applicable unit of government.

On August 20, 1982, the AQS submitted an application for a grant under Section 105 of the Clean Air Act. At that time, it was determined that the AQS would meet the CEL requirement of the CAA since the State appropriations to the AQS for fiscal year 1983 were equal to fiscal year 1982 and would allow the AQS to expend at least as much in fiscal year 1983 as was expended in fiscal year 1982 on other than nonrecurrent expenditures. However, due to a shortfall in State revenues, the Oklahoma Legislature reviewed the appropriations and made non-selective reductions in expenditures in the programs of all executive branch agencies to maintain a balanced State budget. These adjustments were accomplished by S.B. No. 69. As a result, the AQS' fiscal year 1983 budget of $385,000 was reduced by 6 percent or $23,100.

The OSDH, AQS has requested that the Administrator grant a waiver from the CEL requirement for fiscal year 1983 as a result of this reduction. The waiver, if granted, would allow the AQS to expend up to $23,100 less, in other than nonrecurrent expenditures, in fiscal year 1983 than was expended in fiscal year 1982. If the short fall in the AQS' fiscal year 1983 expenditures exceeds $23,100, the AQS will be required to pay EPA the amount in excess of $23,100.

This notice provides an opportunity for a public hearing as required by the Clean Air Act. EPA will hold the hearing only if actual requests for a public hearing are received. Unless written requests for a hearing on this request for a waiver of the CEL requirement for fiscal year 1983 are received by EPA, Region 6 (Dallas) by October 3, 1983 we will proceed to make a determination on the requested waiver.

Dated: August 17, 1983.

Frances E. Phillips,

Acting Regional Administrator.

[FR Doc. 83-24015 Filed 8-31-83; 8:45 am]

BILLING CODE 6560-50-M

Science Advisory Board, Environmental Health Committee; Open Meeting

[SA—FRL 2426-4]

Under Public Law 92-463, notice is hereby given that a two-day meeting of the Environmental Health Committee of the Science Advisory Board will be held on September 22-23, 1983, in Conference Room 3906-3908, Waterside Mall, U.S. Environmental Protection Agency, 401 M Street, Southwest, Washington, D.C. The meeting will start at 9:00 a.m. on September 22, and adjourn no later than 4:30 p.m. on September 23, 1983.

A principal purpose of the meeting will be to review and comment on the scientific adequacy of three draft health assessment documents prepared by the Office of Health and Environmental Assessment of EPA's Office of Research and Development. The titles and publication numbers of the three documents are:

Title	EPA No.
Health Assessment Document for Inorganic Arsenic.	EPA-600/8-83-021A, June 1983.
Updated Mutagenicity and Carcinogenicity Assessment of Cadmium.	EPA-600/8-83-025A, June 1983.
Health Assessment Document for Nickel.	EPA-600/8-83-012, May 1983

For information on how to obtain copies of the draft corp document, contact: ORD Publications Office, Center for Environmental Research Information, U.S. Environmental Protection Agency, Cincinnati, Ohio 45268, telephone: (513) 684-7562. Requestors should be sure to cite the EPA number assigned to the document.

Another principal purpose of the meeting will be to review and comment on the scientific adequacy of draft revisions (dated September 1983) of the Carcinogen Assessment of Coke Oven Emissions (Revised Draft, EPA-600/6-82-003, November 1982).

For information on how to obtain copies of the revised portions of the Carcinogen Assessment of Coke Oven Emissions please call or write to Ms. Judy B. Theisen, Office of Health and Environmental Assessment, Office of Research and Development, RD-689, U.S. Environmental Protection Agency, Washington, D.C. 20460, telephone: (202) 382-7317.

The agenda will also include brief reports, discussions, and informational items of current interest to the Members.

The meeting will be open to the public. Any member of the public wishing to attend, participate, submit a paper, or wishing further information should contact the Executive Secretary, Environmental Health Committee, Science Advisory Board (A-101), U.S. Environmental Protection Agency, Washington, D.C. 20460 by c.o.b. September 16, 1983. Please ask for Mrs. Patti Howard or Mr. Ernst Linde. The telephone number is (202) 382-2552.

FOR FURTHER INFORMATION CONTACT: Patti Howard 382-2552.

Dated: August 25, 1983.

Terry F. Yosie,

Staff Director Science Advisory Board.

[FR Doc. 83-24014 Filed 8-31-83; 8:45 am]

BILLING CODE 6560-50-M

[SA-FRL 242 7-3]

Science Advisory Board, Subcommittee on the Biological Effects of Radiofrequency Radiation; Open Meeting

Under Public Law 92-463, notice is hereby given of a meeting of the Science Advisory Board's Subcommittee on the Biological Effects of Radiofrequency Radiation. The meeting will be held on September 22-23, 1983 in Room 2123, EPA Headquarters, 401 M Street, SW., Washington, D.C. The meeting will begin at 9:15 a.m. on both days and will adjourn at approximately 12:00 p.m. on September 23.

The Subcommittee was formed by the Science Advisory Board at the request of EPA's Office of Research and Development and Office of Radiation Programs to review and evaluate the available scientific information on the biological effects of radiofrequency radiation as it is assessed in EPA's review draft entitled "Biological Effects of Radiofrequency Radiation." Copies of this document may be obtained by calling or writing to Office of Research and Development Publication-CERI-FR, U.S. EPA, Cincinnati, Ohio 45268 (513). 684-7562.

The meeting is open to the public. Any member of the public wishing to attend, obtain information or submit comments to the Subcommittee should contact Dr. Terry F. Yosie, Director, Science Advisory Board (202) 382-4126 or Dr. Douglas Seba, Executive Secretary, Science Advisory Board (202) 382-2552 by close of business September 15, 1983.

Terry F. Yosie,

Director, Science Advisory Board.

August 26, 1983.

[FR Doc 83-24016 Filed 8-31-83; 8:45 am]

BILLING CODE 6560-50-M

[SAB-FRL 2425-7]

Science Advisory Board, High-Level Radioactive Waste Disposal Subcommittee; Open Meeting

Under Public Law 92-463, notice is hereby given that a two-day meeting of the High-Level Radioactive Waste Disposal Subcommittee of the Science Advisory Board will be held in the Regional Administrator's Conference Room, Ninth Floor, Region VIII, U.S. Environmental Protection Agency, 1860

Lincoln Street, Denver, CO on September 20–21, 1983. The meeting will begin at 9:00 a.m. and last until 5:00 p.m. each day. The purpose of the meeting will be to continue the review of the scientific and technical basis of the Agency's proposed rules for the management and disposal of high-level radioactive wastes. The members of the Subcommittee, and the principal issues for the Subcommittee's consideration, were announced in the Federal Register, Wednesday, January 5, 1983, page 509.

The agenda for the meeting, which will be the ninth in a series of meetings on the proposed rules, will include discussion of Subpart A requirements, a briefing on environmental pathways modeling, finalizing of subgroup reports, and discussion of the Subcommittee's draft final report.

The meeting is open to the public. Any member of the public wishing to attend or obtain further information about the meeting should contact Harry C. Torno, Executive Secretary, at (202) 382–2552 or Terry F. Yosie, Staff Director, Science Advisory Board, at (202) 382–4126. Public comment will be accepted at the meeting. Written comment will be accepted in any form, and there will be opportunity for brief oral statements. Anyone wishing to make such comment must contact Mr. Torno prior to September 14, 1983, in order to be placed on the agenda.

Dated: August 24 , 1983.

Terry F. Yosie,

Staff Director, Science Advisory Board.

[FR Doc. 83–24012 Filed 8–31–83; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–51482; TSH–FRL 2427–7]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the Federal Register of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of twenty-four PMNs and provides a summary of each.

DATES: Close of Review Period:

PMN 83–1062, 83–1063, 83–1064 and 83–1065: November 19, 1983

PMN 83–1066, 83–1067, 83–1068, 83–1069, 83–1070, 83–1071, 83–1072, 83–1073, 83–1074, 83–1075, 83–1076, 83–1077, 83–1078, 83–1079, 83–1080, 83–1081: November 20, 1983

PMN 83–1082 and 83–1083: November 21, 1983

PMN 83–1084 and 83–1085: November 22, 1983

Written comments by:

PMN 83–1062, 83–1063, 83–1064 and 83–1065: October 20, 1983

PMN 83–1066, 83–1067, 83–1068, 83–1069, 83–1070, 83–1071, 83–1072, 83–1073, 83–1074, 83–1075, 83–1076, 83–1077, 83–1078, 83–1079, 83–1080 and 83–1081: October 21, 1983

PMN 83–1082 and 83–1083: October 22, 1983

PMN 83–1084 and 83–1085: October 23, 1983

ADDRESS: Written comments, identified by the document control number "[OPTS–51482]" and the specific PMN number should be sent to: Document Control Officer (TS–793), Office of Toxic Substances, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M St., SW., Washington, DC 20460; (202–382–3532).

FOR FURTHER INFORMATION CONTACT: Margaret Stasiskowski, Acting Chief, Notice Review Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–216, 401 M St., SW., Washington, DC 20460; (202–382–3729).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E–107.

PMN 83–1062

Importer. Confidential.

Chemical. (G) Polycarboxylic acid.

Use/Import. (G) 100% as a manufacturing intermediate. Import range: Confidential.

Toxicity Data. Acute oral: > 5,000 mg/kg; Irritation: Skin—Minimal, Eye—Minimal.

Exposure. Processing: Dermal and inhalation, a total of 16 workers, up to 2 hrs/da, up to 20 da/yr.

Environmental Release/Disposal. 4 kg released to air.

PMN 83–1063

Manufacturer. Ashland Chemical Company.

Chemical. (G) Reaction product of melamine, formaldehyde and polyol.

Use/Production. (G) Open, non-dispersive use. Prod. range: .3–1 M kg.

Toxicity Data. No date submitted.

Exposure. Confidential.

Enviornmental Release/Disposal. No data submitted.

PMN 83–1064

Manufacturer. Confidential.

Chemical. (G) Cyanoacetate ester

Use/Production. Confidential. Prod range: Confidential.

Toxicity Data. Acute oral: Male—4.7 gm/kg, Female—4.3 gm/kg Irritation: Skin—Mild.

Exposure. Confidential.

Environmental Release/Disposal. Little release to environment.

PMN 83–1065

Manufacturer. Confidential.

Chemical. (G) Cyanoacrylate ester.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No date on the PMN substance submitted.

Exposure. Confidential.

Environmental Release/Disposal. Minimal environmental impact.

PMN 83–1066

Manufacturer. The Dow Chemical Company.

Chemical. (S) Magnesium aluminum hydroxy phosphate-monobasic form.

Use/Production. Confidential. Prod. range: 1,000–100,000 ky/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: dermal and possible inhalation, a total of 25 workers, up to 5 hrs/da, up to 120 da/yr.

Environmental Release/Disposal. Minimal release anticipated. Disposal by landfill and on-site industrial waste treatment plant.

PMN 83–1067

Manufacturer. The Dow Chemical Company.

Chemical. (S) Magnesium aluminum hydroxy phosphate-dibasic form.

Use/Production. Confidential. Prod. range: 1,000–100,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: Dermal and possible inhalation, a 25 total of workers, up to 5 hrs/da, up to 120 da/yr.

Environmental Release/Disposal. Minimal release anticipated. Disposal by landfill and on-site industrial waste treatment plant.

PMN 83–1068

Manufacturer. The Dow Chemical Company.

Chemical. (S) Magnesium aluminum hydroxy phosphate-tribasic form.

Use/Production. Confidential. Prod. range: 1,000–100,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: Dermal and possible inhalation, a total of 25 workers, up to 5 hrs/da, up to 120 da/yr.

Environmental Release/Disposal. Minimal release anticipated. Disposal by landfill and on-site industrial waste treatment plant.

PMN 83–1069

Manufacturer. Confidential.

Chemical. (G) Ethylene, polymer with mixed alpha olefins.

Use/Production. (S) Film, blow molding, etrusions. Prod. range: Confidential. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture and use: Dermal, a total of 10,210 workers, up to 40 hrs/wk.

Environmental Release/Disposal. Minimal release anticipated. Disposal by incineration and landfill.

PMN 83–1070

Manufacturer. Confidential.

Chemical. (G) Ethylene, polymer with mixed alpha olefins.

Use/Production. (S) Film, blow molding, etrusions. Prod. range: Cofidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture and use: Dermal, a total of 10,210 workers, up to 40 hrs/wk.

Environmental Release/Disposal. Minimal release anticipated. Disposal by incineration and landfill.

PMN 83–1071

Manufacturer. Confidential.

Chemical. (G) Ethylene, polymer with mixed alpha olefins.

Use/Production. (S) Film, blowing molding, etrusions. Prod. range: Confidential.

Exposure. Manufacture and use: Dermal, a total of 10,210 workers, up to 40 hrs/wk.

Environmental Release/Disposal. Minimal release anticipated. Disposal by incineration and landfill.

PMN 83–1072

Manufacturer. Confidential.

Chemical. (G) Ethylene, polymer with mixed alpha olefins.

Use/Production. (S) Film, blow molding, etrusions. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture and use: Dermal, a total of 10,210 workers, up to 40 hrs/wk.

Environmental Release/Disposal. Minimal release anticipated. Disposal by incineration and landfill.

PMN 83–1073

Manufacturer. Confidential.

Chemical. (G) Ethylene, polymer with mixed alpha olefins.

Use/Production. (S) Film, blow molding, etrusions. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture and use: Dermal, a total of 10,210 workers, up to 40 hrs/wk.

Environmental Release/Disposal. Minimal release anticipated. Disposal by incineration and landfill.

PMN 83–1074

Manufacturer. Confidential.

Chemical. (G) Ethylene, polymer with mixed alpha olefins.

Use/Production. (S) Film, blow molding, etrusions. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture and use: Dermal, a total of 10,210 workers, up to 40 hrs/wk.

Environmental Release/Disposal. Minimal release anticipated. Disposal by incineration and landfill.

PMN 83–1075

Manufacturer. Confidential.

Chemical. (G) Reaction products of triglycerides and polyethylene glycol.

Use/Production. (G) Lubricant additive. Prod. range: 10,000–100,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: Dermal, a total of 2 workers, up to 2 hrs/da, up to 75 da/yr.

Environmental Release/Disposal. 2 kg/batch released to water. Disposal by publicly owned treatment works (POTW).

PMN 83–1076

Manufacturer. Confidential.

Chemical. (G) Polyester urethane—isocyanate terminated.

Use/Production. (S) Industrial component for flexible polyurethane foam for high resiliency seating applications. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: Dermal, a total of 18 workers, up to 1 hr/da, up to 10 da/yr.

Environmental Release/Disposal. 1–5 kg/batch released. Disposal by incineration.

PMN 83–1077

Manufacturer. Confidential.

Chemical. (G) Polyester urethane—isocyanate terminated.

Use/Production. (S) Industrial applications to manufacture elastomeric cast parts or abrasion resistant thick coatings. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: Dermal, a total of 18 workers, up to 1 hr/da, up to 18 da/yr.

Environmental Release/Disposal. 1–5 kg/batch released. Disposal by incineration.

PMN 83–1078

Manufacturer. Confidential.

Chemical. (G) Unsaturated polyester.

Use/Production. (S) Industrial base crosslinking resin for electrical varnish. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal, a total of 24 workers, up to 1 hr/da, up 51 da/yr.

Environmental Release/Disposal. 5–10 kg/ batch released. Disposal by incineration

PMN 83–1079

Importer. Haarmann & Remier Corporation.

Chemical. (S) 2–(3-heptyloxy) acetic acid.

Use/Import. (S) Industrial fragrance compounding. Import range: 100–100,000 kg/yr.

Toxicity Data. Acute oral: 1.600 ml/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; Photosensitization: Negative.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

PMN 83–1080

Manufacturer. Confidential.

Chemical. (G) Silylated silica gel.

Use/Production. (S) Catalyst. Prod. range: Confidential.

Toxicity Data. Acute oral: 324 mg/kg; Acute dermal: >2,000 mg/kg; Irritation: Skin—Very slight, Eye—Severe; Ames Test: Non-mutagenic.

Exposure. Manufacture: Dermal, a total of 1 worker.

Environmental Release/Disposal. No release. Disposal by incineration.

PMN83–1081

Manufacturer. Confidential.

Chemical. (G) Quaternary ammonium chloride.

Use/Production. (S) Intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral: 324 mg/kg; Acute dermal: >2,000 mg/kg; Irritation: Skin—Slight, Eye—Slight; Ames Test: Non-mutagenic.

Exposure. Manufacture: Dermal, a total of 1 worker.

Environmental Release/Disposal. No release. Disposal by incineration.

PMN83–1082

Manufacturer. ALCOLAC Incorporated.

Chemical. (S) Docosyl methacrylate.

Use/Production. (G) Crude oil additive. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: Dermal, a total of 4 workers, up to 3 hrs-da, up to 18 da/yr.

Environmental Release/Disposal. 10kg/batch released to land. Disposal by landfill.

PMN 83–1083

Importer. Confidential.

Chemical. (G) Modified polyurethane from substituted alkanopolyols and an aromatic diisocyanate.

Use/Production. (S) Industrial adhesive for metal to foam. Production range: 1,000-50,000 kg-yr.

Toxicity Data. No data submitted.

Exposure. Manufacturer and processing: Dermal and inhalation, a total of 8 workers, up to 8 hrs/da, up to 50 da/yr.

Environmental Release/Disposal. No release.

PMN 83–1084

Manufacturer. Confidential.

Chemical. (G) Hydrocarbon novolac.

Use/Production. (G) Site-limited intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral: >2,000 mg/kg; Acute dermal: >2,000 mg/kg; Irritation: Skin—Not a primary irritant, Eye—Non- irritant.

Exposure. Manufacture and use: Dermal, a total of 20 workers, up to 6 hrs/da, up to 75 da/yr.

Environmental Release/Disposal. Incidental release. Disposal by incineration and approved landfill.

PMN 83–1085

Importer. Confidential.

Chemical. (G) Substituted phenylacetamide.

Use/Import. (G) Destructive use intermediate. Import range: Confidential.

Toxicity Data. Acute oral: Male—2,593 mg/kg. Female—2,610 mg/kg; Acute dermal: >2,000 mg/kg; Irritation: Skin—Mild, Eye—Non-irritant: Inhalation: 10.34 mg/L.

Exposure. Import: Dermal, a total of 2 workers.

Environmental Release/Disposal. Confidential.

Dated August 29, 1983.

V. Paul Fuschini,

Acting Director, Management Support Division.

[FR Doc. 83–24000 Filed 8–31–83; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 1422]

Petitions for Reconsideration of Actions in Rule Making Proceedings

August 25, 1983.

The following listings of petitions for reconsideration filed in Commission Rulemaking proceedings is published pursuant to 47 CFR 1.429(e). Oppositions to such petitions for reconsideration must be filed within 15 days after publication of this Public Notice in the Federal Register. Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of § 73.606(b) to Effect Changes in the Television Table of Assignments. (MM Docket No. 83–190, RM–4262)

Filed by: Marvin Rosenberg & David G. Rozzelle Attorneys for Griffin Television, Inc. on 7–19–83.

Subject: Amendment of Part 97 of the Commission's Rules to Revise the Procedures for Determining Eligibility for the Novice Class Amateur Radio Operator License. (PR Docket No. 82–727, RM 4044)

Filed by: Christopher D. Imlay Attorney for The American Radio Relay League, Incorporated on 8–10–83.

Subject: Definition and Measurement of Transmitting Power in the Amateur Radio Service. (PR Docket No. 82–624)

Filed by: Donald B. Chester, K4KYV on 8–16–83. F. A. Dunlap, President The American Radio Relay League on 8–17–83. Kevin Alfred Strom on 8–19–83.

Subject: Business communications in the Amateur Radio Service. (PCC 83–298)

Filed by: David B. Popkin on 8–0–83.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83–23863 Filed 8–31–83; 8:45 am]

BILLING CODE 6712–01–M

[File No. 28023–CL–P (15)–82 et al.]

Advanced Mobile Phone Service, Inc., et al.; Hearing

Memorandum Opinion and Order Granting Application, Dismissing Application, and Designating Applications for Hearing

In re applications of Advanced Mobile Phone Service, Inc., File No. 28023–CL–P (15)–82; GTE Mobilnet of Dallas, Inc., File No. 28056–CL–P–(11)–82; for a construction permit to establish a new cellular system operating on frequency block B in the Domestic Public Cellular Radio Telecommunications Service to serve the Dallas-Fort Worth, Texas, Standard Metropolitan Statistical Area (SMSA). In re applications of D/FW Signal, Inc., CC Docket No. 83–945, File No. 28039–CL–P–(20)–82; LIN Cellular Communications Corp., File No. 28143–CL–P–(28)–82; MCI Cellular Telephone Co., File No. 28106–CL–P–(23)–82; Cellular Mobile Systems of Texas, Inc., File No. 28185–CL–P–(35)–82; Mid-American Cellular Systems, Inc., File No. 28158–CL–P–(5)–82; for a construction permit to establish a new cellular system operating on frequency block A in the Domestic Public Cellular Telecommunications Service to serve the Dallas-Fort Worth, Texas, Standard Metropolitan Statistical Area (SMSA).

Adopted August 24, 1983.
Released August 26, 1983.

By the Common Carrier Bureau.

1. Presently before the Chief, Common Carrier Bureau, under delegated authority are (a) the captioned applications of Advanced Mobile Phone Service, Inc. (AMPS), GTE Mobilnet of Dallas, Inc. (GTE), D/FW Signal, Inc. (D/FW), LIN Cellular Communications Corp. (LIN), MCI Cellular Telephone Co. (MCI), Cellular Mobile Systems of Texas, Inc. (CMS), and Mid-America Cellular System, Inc. (MACS), to construct cellular radio systems to serve the Dallas-Fort Worth SMSA, and (B) various petitions and pleadings related to the applications. AMPS and GTE, applicants for the wireline frequency block B, have filed a Joint Request for Approval of Limited Partnership Agreement and a Limited Partnership Agreement for this SMSA.

2. As discussed below, after carefully reviewing the applications and related pleadings, we find that the public interest will be served by our approving the AMPS/GTE settlement agreement and granting the AMPS application. Concerning the nonwireline applications, we find all applicants except for MACS and D/FW, to be fully qualified to construct and operate a cellular system in Dallas-Fort Worth. Since the proposals of D/FW, LIN, MCI, CMS, and MACS, to use the same frequencies in the same geographical area are mutually exclusive, a

comparative proceeding will be held to determine which of the applicants would best serve the public interest.

DF/W Application

3. *Financial qualifications.* Petitioners question whether D/FW has demonstrated the availability of funds to finance the projected construction and operating costs of $15.6 million. D/FW relies on $7 million of equity capital, a $4 million loan commitment from the Republic Bank, Dallas, Texas, and projected revenues from first-year operations. CMS questions the availability of the $4 million loan, arguing that the commitment was not made to the applicant D/FW but rather to Rotan, an investor which has not formally joined D/FW, but which retains the option to join. After reviewing the application, however, we conclude that these funds are available. D/FW has submitted (Exhibit 12, Attachment F) a letter from the Republic Bank, Dallas, extending $4 million in credit, not to the investor Rotan, but to D/FW. The letter specifies an interest rate of 1% above the bank's prime rate. This letter provides reasonable assurance that the $4 million funding is available to the applicant.[1]

4. MACS questions the availability of the $7 million of equity capital, arguing that D/FW relies on letters of credit rather than dedicated funds. We conclude, however, that these funds are available. D/FW has submitted (Exhibit 12, attachments A–E) irrevocable letters of credit from various banks. Each letter refers to a particular shareholder under whose name the account was opened. The letters of credit are addressed to D/FW and give D/FW (rather than the shareholder) the right to make drafts upon the accounts, up to the amount specified under each credit letter. We conclude, therefore, that these funds are irrevocably committed to D/FW and thus are available for the proposed cellular venture.

5. The petitioners further question the applicant's financial qualifications because D/FW relies on projected subscriber revenues. D/FW has obtained $11,005,000 in financing and projects expenses of $15,635,000 through the first year of operation. The applicant relies on projected revenues to cover the $4,630,000 deficit. To support its revenue projections, D/FW submits a detailed analysis, prepared by Peat, Marwick, Mitchell & Company. Application Exhibit 12, attachment G. In *Advanced Mobile Phone Service, Inc. (Buffalo Order),* CC Mimeo 1320, released December 14, 1982, at para. 17, we recognized that cellular systems may generate revenues to offset construction and operating expenses even as construction progresses. However, without the benefit of a hearing, we are unable to determine the validity of the methodology used by D/FW to arrive at its projected revenues. *Advanced Mobile Phone Service, Inc. (New York Order)* CC Mimeo 2418, released February 18, 1983, at para. 34. Thus, we cannot credit D/FW with any projected revenues. Accordingly, we will designate a financial issue against D/FW to the extent of these funds.[2] Even though we cannot credit D/FW with any specific amounts for projected revenues, we recognize that it is likely that D/FW will be able to substantiate some or all of its projections. Therefore, we will permit D/FW to amend its application to provide additional information to the Administrative Law Judge (ALJ) concerning these revenue projections. The ALJ may use our summary procedures to resolve the financial issue if D/FW submits amendments showing reasonable assurance. *Id.*

6. *Accuracy of cost estimates.* The petitioners question the reliability of the D/FW cost estimates, alleging a failure to specify pre-operational expenses such as personnel costs, training expenses, advertising costs, interest expenses, insurance fees, taxes, overhead, and the purchase of mobile units. In its application, D/FW provides a detailed listing of its various start-up costs, categorizing them as either construction costs or first year operational costs. Exhibit 11, Attachment B. D/FW further provides an item-by-item cost estimate, totalling $12,335,000 in construction costs and $3,300,000 in operation costs. Many of the items which the petitioners allege to be omitted from the applicant's estimates are in fact included. For example, advertising costs are listed as "promotion" expenses, and interest expenses are listed as "debt service." Further, Section 22.917 of the rules does not require that the cost of mobile equipment be included in an applicant's financial projections. LIN also faults the D/FW application for failing to provide a cell-by-cell break-down of cost estimates. Section 22.913(a)(8) does not, however, require that cost estimates for the proposed system be itemized for each particular cell. *See* Buffalo Order, *supra* at para. 9. We find that the petitoners have failed to raise any serious questions concerning the D/FW cost estiamtes. Because the estimates submitted by D/FW do not appear unreasonable on their face, we will not designate an issue. *Advanced Mobile Phone Service, Inc. (Chicago Order),* 91 FCC 2d 512 (1982), at para. 13. *See also Buffalo Order,* at para. 9 and n. 7.

7. *Undue concentration of ownership.* MACS contends that the D/FW application should be denied because it involves undue concentration of ownership in the Dallas/Fort Worth mobile radio market. MACS maintains that D/FW is composed of a large group of local, existing mobile radio licensees which already serve a substantial portion of the current mobile telephone market in the Dallas/Fort Worth SMSA. MACS questions whether a grant of the single nonwireline authorization to D/FW would unduly concentrate control of facilities in the hands of these shareholders. MACS also refers to a pending lawsuit brought by one of the D/FW shareholders, Radio Relay, against the remaining stockholders, alleging anti-copetitive conduct and breach of contract,[3] as reflecting adversely on D/FW's qualifications. We conclude, however, that designation of an issue is not warranted on either count. First, as we stated in *Advanced Mobile Phone Service, Inc. (New Orleans Order)* CC Mimeo 5139, released July 11, 1983, at para. 14, the Commission has nowhere indicated that a carrier's participation in the conventional mobile telephone market has any bearing on its eligibility for a cellular license. *Cf. Report and Order,* at 487. Second, we have already declined to designate an issue against D/FW or its principals based on the pending litigation cited by MACS *Celcom Communications Corp. of Georgia (Atlanta Order),* CC Mimeo 1988, released January 26, 1983, at para. 16. However, consistent with prior decisions, we will condition any grant to D/FW on the outcome of the pending litigation. We repeat, however, that it would be premature to examine this matter in a cellular comparative proceeding. *See Peoples Broadcasting Corporation* 68 FCC 2d 1569, 1573–74 (1978); *Atlanta Order, supra.*

8. *Inconsistent application.* LIN contends that the D/FW application is

[1] D/FW filed a petition for Reconsideration of the Mobile Services Division action returning an August 10, 1982 amendment supplementing the Republic Bank commitment letter. Because we find that the Republic Bank funding is available and the amendment only provides clarifying information we will grant reconsideration and accept the amendment.

[2] In cellular proceedings, we have determined that adding a financial issue to the comparative hearing, when we are unable to find a nonwireline applicant financially qualified, is the most efficient method of resolving the issue.

[3] Radio Relay Corp.—Texas v. D/FW Signal, Inc. et al., No. CA3 82–0877 G (N.D. Texas, filed June 7 1982).

defective for violating § 22.21 of the rules, which forbids applicants to file conflicting or inconsistent applications. Specifically, LIN refers to the fact that one of ten D/FW shareholders, Radio Relay is also a subsidiary of Graphic Scanning, which has filed a cellular application in Dallas/Fort Worth through its subsidiary CMS. LIN argues that Graphic Scanning is the same applicant with respect to the CMS application and the D/FW application. We conclude, however that its applications are not conflicting or inconsistent. Radio Relay is a minority shareholder (10%) in D/FW. However, in an amendment filed on July 28, 1982, D/FW indicates that if a grant is made to D/FW, the corporation will be reconstructed and Radio Relay's share will be reduced to 1.33%.[3] The mere fact that Graphic Scanning has an ownership interest in D/FW and owns CMS does not in itself establish common control or an identity of interests so as to render D/FW's application defective. In order to find that Graphic Scanning has filed inconsistent applications, there must be evidence that Graphic Scanning exercises control over D/FW. *See Comark Television*, FCC 82-212, released May 7, 1982. LIN has presented no factual materials that point to any such exercise of control by either Radio Relay or Graphic Scanning and no factual materials that indicate an identity of interest between D/FW and CMS. The mere fact that Graphic Scanning has a small ownership interest in D/FW is not a violation of § 22.21 *See Everett C. Peace, Jr.*, 60 FCC 2d 1087, 1089–1090 (1976). Accordingly, we reject petitioner's arguments and will not designate an issue on this matter.

9. *Rates.* MACS contends that the rates proposed by D/FW are unjustified and unreliable because the need survey used is invalid and the application does not contain a revenue requirements study to support the proposed rates The rules, however, do not require that a study be submitted, and MACS has provided no factual materials to support its allegations of unreasonable rates. Moreover, relative demand forecasts and proposed rates are not qualifying issues but will instead be examined in hearing on a comparative basis. *See Advanced Mobile Phone Service, Inc. et al. (Philadelphia Order)*, CC Mimeo 1882, released January 27 1983, at paras. 19 and 22. Also as we have stated repeatedly, the rates charged to the public for cellular service are a state matter, rather than within the jurisdiction of the Commission. *See generally Morrison Radio Relay Corp.*, 31 FCC 2d 612 (1971); *Buffalo Order, supra* at para. 4.

10. *Site availability.* LIN questions the availability of the proposed sites in the D/FW application, contending that D/FW has submitted only letters of intent from the site owners. After reviewing the application, however, we conclude that the proposed sites have shown to be available. In its application (Exhibit 9, Attachments A–T), D/FW submits letters from site owners. The letters specify the location of the sites and state each owner's intent to permit D/FW to use the particular site as an antenna and equipment location. This information provides reasonable assurance that the proposed cell sites are available for the applicant's use. The cellular rules do not require that copies of lease agreements or deeds of ownership be furnished. *See Sampson Broadcasting, Inc.*, 52 FCC 2d 954, 959 (1975), *Silver Beehive Telephone Company*, 35 FCC 2d 333, 336 (Rev. Bd. 1972), *Philadelphia Order, supra*, at para. 21.

11. *Hand-off capability (cellular design issue).* LIN contends that the D/FW proposal includes major gaps within the SMSA where no cells are proposed and that, consequently, no cell-to-cell hand-off can take place. LIN argues that D/FW has in effect failed to design a cellular system, since subscribers will be unable to receive service as they drive through certain sections of the SMSA. In its reply (Attachment H), D/FW submits an engineering statement which explains that cell-to-cell hand-off will in fact take place throughout the SMSA and that no gaps exist within the service area where service will be provided. D/FW states that the signal level can be adjusted so that a wider service range is possible and no subscribers will travel out of service range within the CGSA. D/FW also replies that as demand increases in the parts of the SMSA not presently included in the D/FW CGSA, the applicant will add cell sites. We conclude that this information fully responds to the matters raised by the petitioner and that D/FW has conformed its proposal to our rules. Moreover, whether hand-off between certain cells is possible is not a qualifying issue because it relates to system design which may be examined during the comparative portion of this proceeding. *See New York Order supra*, at paras. 9–10.

12. *System expansion.* CMS argues that D/FW has not made a proper showing of the basis upon which it will determine when system expansion is warranted. We are not persuaded by these arguments. The D/FW application and reply fully explain the proposed method for system expansion and the grade of service criteria to be applied. We find this showing meets the requirements of § 22.913(a)(4) of the rules. Additionally, these matters may be examined in the comparative portion of this proceeding. *See Cellcom Inc. (Minneapolis Order)*, CC Mimeo 1573, released December 30, 1982, at para. 13.

LIN Application

13. *Financial qualifications.* Petitioners CMS and MACS argue that LIN has failed to establish its financial qualifications. Specifically, the petitioners maintain that LIN has underestimated projected system costs and interest charges, overestimated projected demand and revenues, and failed to provide reasonable assurance of the financial resources necessary to fund the $32 million needed to construct and operate the proposed cellular system in Dallas/Fort Worth.

14. Similar issues were raised against the LIN application filed in the New York market. The Common Carrier Bureau designated a financial issue to examine the LIN proposals for all four markets, including Dallas, in which LIN applied. *See New York Order, supra*, at para. 32. The petitioners have not raised additional matters not covered in the proceeding.[4]

15. *Need survey.* MACS contends that the market survey submitted by LIN is unreliable and cannot be used to justify the proposed CGSA. MACS argues that the application is consequently defective. We reject that contention, however The Commission's rules do no require applicants to submit need surveys Moreover, the validity of the market survey of need is not a qualifying issue but may be examined in a hearing on a comparative basis. *See Philadelphia Order, supra* at paras. 19 and 22.

16. *Site Availability.* MACS questions whether the sites proposed by LIN are in fact available, arguing that the application includes only general letters of intent from site owners. We conclude however, that the sites have been shown to be available. The letters from site owners specify the location of the sites and state that the sites are available to

[3] Radio Relay will reduce its ownership interests by selling its shares in D/FW to other shareholders and will not participate in any way in the management of D/FW's cellular system

[4] In the *New York* proceeding, the Administrative Law Judge found LIN financially qualified in all four markets Memorandum Opinion and Order CC Docket No 83-101 FCC 83M-1398, released April 29 1983. The decision is, of course subject to Commission review

the applicant for use as cellular sites. This showing complies with our rules, which do not require that copies of lease agreements of deeds of ownership be furnished. *See Sampson Broadcasting, supra; Silver Beehive, supra;* and *Philadelphia Order, supra,* at para. 21.

17. *Tariff issue.* MACS argues that the LIN application is defective for proposing to provide mobile equipment under tariff. MACS cites language in the application (Vol. 1, Exhibit 4, Attachment A, at pp. 15 and 21), where the applicant states, "* * * [C]ustomers shall pay monthly in advance all charges for equipment furnished by the Company * * *. Equipment provided by the Company will be maintained and repaired by it subject to the charges specified in this tariff." LIN's reply does not address these allegations. The Commission has prohibited tariffing of cellular mobile equipment as part of a common carrier communication service. *See Memorandum Opinion and Order on Reconsideration,* 89 FCC 2d 58 at para. 59. Since it is unclear from the language contained in the application that LIN will not provide mobile units pursuant to a tariff, we will require LIN to file with the ALJ a statement that the applicant will comply with the rules in this respect.

MCI Application

18. *Financial qualifications.* MCI's financial qualifications to construct cellular systems in 12 of the top 30 markets, including Dallas/Fort Worth, were resolved in *Advanced Mobile Phone Service, Inc. (Pittsburgh Order),* CC Mimeo 1169, released December 6, 1982, at para. 5, and no new issues on this point have been raised here. Hence, our prior findings control and we find that MCI is financially qualified.

19. *Congestion determination, expansion method, need survey, rates.* The petitioners attack the MCI application for failing to adequately detail its method for determining system congestion, for failing to fully explain how it plans to expand its proposed system, and for failing to furnish a statistically valid need survey. MACS further contends that MCI's proposed rates are unjustified and unreliable because they are not based on a revenue requirements study. Our rules do not require submission of either a need survey or a revenue requirements study. MCI has submitted exhibits describing its system design, expansion plans and projected costs which meet our requirements. *See* Exhibits 13 and 16–25 of MCI's application. System design, proposed system expansion and proposed rates are issues to be examined in the comparative portion of this proceeding. *Report and Order,* 86 FCC 2d 469 at 592–03 (1981). Accordingly, we decline to designate a basic qualifying issue with respect to these matters. *See Buffalo Order* at para. 20.

20. *Technical (hand-off capability).* LIN and MACS contend that the MCI application is defective for failure to comply with the Commission's cellular design concept of continuous geographic coverage of the proposed service area. Specifically, they allege that MCI cell 7 is isolated from the remainder of the cellular system and that cells 10, 12, 21 and 23, do not provide complete overlapping coverage. MCI replies that hand-off between all cells will take place because the signal does not stop at the 39 dBu contour. While it is unclear whether MCI's proposed cellular system will permit hand-off between all cells, there is no need to designate for hearing a basic qualification issue on this matter because this question relates to system design which will be examined during the comparative portion of this proceeding. *See New York Order* at para. 10.

21. *Site availability* . MACS questions whether the sites proposed by MCI are in fact available. MACS contends that the proposals for at least eight of the sites are supported only by general letters of intent from site owners and that such letters fail to show that the sites are available. The application (Exhibit 12) contains letters for which the site owners specify the exact location of each proposed site and state that the site is available to MCI for its use as an antenna site. This information provides reasonable assurance that the proposed cell sites are available for the applicant's use. The cellular rules do not require that copies of lease agreements or deeds of ownership be furnished. *See also Sampson Broadcasting, supra; Silver Beehive Telephone Company, supra;* and *Philadelphia Order, supra,* at para. 21.

CMS Application

22. *Financial qualifications.* LIN, MACS, and D/FW question CMS' financial qualifications in the Dallas/Fort Worth market. The Commission considered CMS' financial qualifications and the financial qualifications of its parent corporation, Graphic Scanning, in the Chicago market, and found the applicant qualified in all 30 top markets. *Chicago Order, supra* at para. 6. Since no new issues regarding CMS' financial qualifications have been raised here, those findings control disposition of the petitioners' arguments here.

23. *Rates, costs estimates, revenue requirement, study CGSA size, method of expansion, market survey.* The petitioners question the validity of various portions of the CMS application such as proposed rates, cost estimates, size of CGSA, and method of expansion. The petitioners object that these portions of the application are invalid and unreliable because they are not based on a valid revenue requirement study and market study. As noted above, our rules do not require submission of either a need survey or revenue requirements study. CMS has submitted exhibits describing its system design and rates and projected costs which meet our requirements. These issues may be examined in the comparative portion of this proceeding. *Report and Order,* 86 FCC 2d 469 at 502–03 (1981). CMS has also submitted, in Exhibits III and IV of its application, a proposed method of expansion which meets the requirements of our rules. *Report and Order,* 86 FCC 2d 469 at 502–03 (1981). Accordingly, we decline to designate a basic qualifying issue with respect to these matters. *See Buffalo Order, supra,* at para. 20.

24. *Technical (hand-off capability).* LIN objects that the CMS proposal contains noncontiguous cells with no "hand-off" capability, thus violation the cellular rules. In its reply, CMS explains that its proposed cellular equipment is designed so as to carry a signal beyond the cell's dBu contours sufficiently to permit "hand-off" between all cells, including those which may be noncontiguous. As indicated at para. 21, *supra,* this is not a basic qualifying issue but CMS' "hand-off" capability will be examined during the comparative portion of this proceeding.

25. *Inconsistent application.* LIN contends that the CMS application is defective for being in conflict with the D/FW application. Specifically, LIN refers to the fact that Radio Relay , a D/FW shareholder, is also a subsidiary of CMS' parent corporation Graphic Scanning. These same allegations were raised against the D/FW application. *See* our discussion on that issue, *supra* at para. 8, in which we rejected these arguments.

26. *Abuse of process.* D/FW requests the Commission either to designate an abuse of process issue against CMS or to deny the CMS application. D/FW refers to a lawsuit brought against D/FW by Radio Relay, a CMS subsidary. D/FW alleges that Radio Relay filed the suit for the purpose of pressuring D/FW not to prosecute it cellular application and that Radio Relay was in effect action on behalf of CMS, which (like Radio Relay) is also a subsidiary of Graphic Scanning. In its petition, D/FW

submits a chronology of the disagreements which have taken place between Radio Relay and the other shareholders of D/FW, concerning the filling of the D/FW cellular application. The complaint appears to be not that CMS abused the Commission's processes but rather that CMS has abused the processes of a court of law by filing its civil action. The materials submitted in the D/FW petition do not present a matter bearing on the basic qualifications of CMS to be a licensee. Accordingly, we will not designate an issue on this basis. Additionally, we have already discussed the impact of that litigation on this proceeding in our examination of the D/FW application, *supra*, para. 7.

27. *Site availability.* LIN questions whether CMS has adequately demonstrated that its proposed sites are available. LIN alleges that three letters of site availability submitted in the CMS application are inconsistent with respect to coordinates or addresses. In its reply, CMS explains that these discrepancies are clerical in nature and CMS has since filed amendments to correct any such inconsistencies. This responds fully to the objections. MACS and LIN further object that the letters of intent submitted by CMS are inadequate to demonstrate site availability . We have previously rejected this same argument with respect to the MACS, LIN, and D/FW applications and similary reject it here. LIN further objects that the CGSA map submitted by CMS contains a "phantom" cell number 36 which is not otherwise accounted for in the application. CMS has submitted an amendment, dated August 2, 1982, deleting the cell from the CGSA map. In its reply, CMS explains that just prior to the June 7, 1982, filing of the application, CMS had decided not to include cell number 36 and deleted it from Exhibit X of the application but that the CGSA map was inadvertently not modified. This change in no way improves CMS' comparative position and we conclude that this explantion responds fully to the matters raised by the petitioner

MACS Application

28. *Accuracy of cost estimates.* Petitioners LIN and CMS raise various objections as to whether the MACS application fully and accurately sets forth the projected costs of constructing and operating. LIN faults the application for not providing a cell-by-cell projection of costs and for failing to include costs for mobile units. CMS contends that the applicant's cost estimates cover only a five-cell system, which will be operational the first year, whereas MACS contemplates a 23-cell system by the fifth year of operation. CMS argues that the rules require the MACS application to include cost estimates and show available financing for the fully developed system. The petitioners also object that the applicant's cost estimates are not sufficiently detailed to demonstrate that all pertinent expenses have been included. CMS specifically objects that MACS has not included in its cost estimates such categories as pre-operating cost, advertising and promotional expenses.

29. After reviewing the application and MACS' consolidated reply to the petitioners' pleadings, we have concluded that the cost estimates provided by MACS comply with the requirements of the cellular rules. Initially, we reject the contention that the applicant's cost estimates are insufficiently detailed. Sections 22.917(a)(1) and (2) of the rules require applicants to set forth their proposed costs of construction and operation for one year. The MACS application lists these costs by categories in Exhibit 5, Tables No. 5-1 and 5-0, of the application. These tables also include similar projections through five years of operation. These showings satisfy the requirements of our rules; MACS is not required to demonstrate the itemized costs for each cell. *See Buffalo Order, supra* para. 9. Also, cellular applicants are not required to include the cost of mobile equipment in their financial projections. *See Metrocom of St. Louis (St. Louis Order)*, CC Mimeo 2045, released January 28, 1983, at para. 10. Lastly, we find that the petitioners have failed to raise any serious questions concerning MACS' cost estimates that have not been adequately explained by MACS in its reply. Moreover, MACS' estimates do not appear unreasonable on their face. *See Buffalo Order, supra* at para. 9.

30. *Financial qualifications.* The petitioners raise various objections as to whether MACS has sufficient funds available to construct and operate its proposed system for one year. In the *Kansas City Order*[4] the Bureau examined similar arguments and found them to raise a substantial and material question of fact about MACS' financial ability. In view of this conclusion, the Bureau designated for hearing an issue concerning MACS' overall financial package. As we indicated there, we will not designate a identical issue here because we want to avoid duplicative litigation. However, we will consider the ultimate finding as to the MACS' financial qualifications in the Kansas City proceeding to be dispositive of the issue, and we reserve the right to reexamine and reconsider any authorization to MACS in the event that MACS' Dallas application is granted as a result of the comparative hearing.[5]

31. *CGSA Coverage.* MACS failed to provide coverage of at least 75% of its proposed CGSA in violation of Rule § 22.903(a). By amendment, MACS attempted to cure this patent defect by uniformly shrinking its proposed CGSA so as to comply with § 22.903(a). The amendment was returned as "major" and unacceptable for filing. MACS filed an application for review. In the *Kansas City Order, supra*, at para. 55, the Bureau addressed this problem and upon further review accepted the amendment there shrinking the CGSA.[6] For the same reasons, we will direct MACS to refile the original, returned amendment with the ALJ. Due to these circumstances, brief extensions of time may be granted at the discretion of the Administrative Law Judge (ALJ).

32. *Maintenance, repair, operation, complaints.* LIN alleges that MACS has not sufficiently set forth its proposals for maintenance, repair, and operation of the cellular system. MCI further alleges that MACS has not sufficiently explained how it will handle complaints from subscribers. Similar arguments were raised against the MACS application in the Kansas City market, where we declined to designate a qualifying issue with respect to these matters. *See Kansas City Order, supra*, at para. 51. No new arguments were raised by LIN or MCI which persuade us to designate an issue against MACS' Dallas application.

AMPS Application

33. AMPS is the only remaining applicant for Block B (wireline) in the Dallas/Fort Worth market under the terms of a Limited Partnership Agreement submitted on November 2, 1982.[7] This Agreement is one of a series

[4] Advanced Mobile Phone Service, Inc., (Kansas City Order), CC Mimeo 6988, released July 8, 1983. In addition, in the Kansas City Order at nn. 19 and 20, the Bureau accepted two financial amendments to MAC's application. See Mid-America Cellular Systems, Inc. FCC 83-288, released June 24, 1983. MACS filed the same two amendments in this proceeding and we will accept them for the same reasons

[5] The Kansas City Order stated that petitioners in the instant proceeding may file motions for limited intervention in the Kansas City proceeding on the financial issue.

[6] See Mid America Cellular Systems, Inc., *supra*, and § 22.23(c)(1).

[7] The participants in the agreement are: AMPS, general and limited partner 72.58%; GTE, limited partner, 27% and Lake Dallas Telephone Co., Inc., limited partner, 0.46%.

of similar agreements by which AMPS and GTE, which had filed in 15 of these markets, together with 18 other wireline companies, proposed to settle their electrically mutually exclusive applications in 18 of the top 30 markets. Pursuant to the terms of the Agreements, AMPS will operate cellular systems in twelve markets, including Dallas/Fort Worth, and GTE will operate cellular systems in six markets. Each partner will continue to prosecute its cellular applications in its specified markets, while the other partners to the agreements will withdraw any applications in those sites. An agreement identical in all material aspects to the Dallas/Fort Worth Agreement was approved by the Commission in *Advanced Mobile Phone Service, Inc. (Los Angeles Wireline Order)*, FCC 83–124, released April 26, 1983. We find the Commission's decision to be dispositive of all objections to the Dallas/Fort Worth Agreement itself.[8] To the extent the objections raise the head-start issue, *i.e.*, an alleged anticompetitive effect of allow AMPS to commence service before a nonwireline licenseee can be selected, we will defer action for reasons stated in the *Chicago Order, supra*, at para. 16.

34. D/FW and MCI filed petitions to deny the AMPS application. MCI filed a virtually identical petition against AMPS' application in Pittsburgh. We rejected MCI's arguments there and will not repeat the discussion here. *See Pittsburgh Order, supra* at para. 13. Likewise, D/FW has not raised an issue in its petition that we have not rejected previously. For the most part, D/FW challenges policies adopted and reaffirmed by the Commission in the *Report and Order, supra*. These arguments constitute the untimely request for reconsideration and must be rejected. *Pittsburgh Order, supra* at para. 12; *Advanced Mobile Phone Service, (Atlanta Order)* CC Mimeo 4567, released June 6, 1983, para. 8. To the extent D/FW raises the issue of a head start, we find that it is premature to rule on that issue now, for the reasons stated by the Commission in deferring action on similar petitions in the Chicago market. *See Chicago Order, supra*, at para. 16.; *Atlanta Wireline Order, supra*, at para. 8. In addition, D/FW alleges a history of anticompetitive behavior of wireline carriers generally. This argument has already been rejected as a basis for adverse action. D/FW has raised no specific allegations against any of the wireline applicants here, and we find no reason to designate an issue regarding anticompetitive behavior.

35. Also, D/FW argues that: AMPS' engineering showing is deficient; AMPS has failed to provide a schedule of proposed charges; and AMPS has not disclosed its financial qualifications. Again, we have previously rejected these objections and for the reasons previously stated we do so here. *See Kansas Order, supra*, at para. 5 (proposed rates); *Los Angeles Wireline Order, supra*, at para. 38 (financial qualifications) and *Advanced Mobile Phone Service, Inc. (Denver Order)*, CC Mimeo 4779, released June 17, 1983, at para. 40 and n. 12 (system engineering).

Conclusions

36. Based on our analysis of the applications and our resolution of the contested issues in this order, we find that, except for D/FW and MACS the applicants are legally, technically, financially and otherwise qualified to construct and operate their proposed cellular systems. We are designating a financial issue against D/FW and conditioning any grant made to CMS, D/FW or MACS as set forth below. Finally, we are requiring LIN to submit a statement to the SAJ, as set forth below.

37. Accordingly, it is ordered, pursuant to Section 22.29 of the Commission's Rules, that the Joint Request for Approval of Limited Partnership Agreement filed by GTE Mobilnet of Dallas, Incorporated, Lake Dallas Telephone Co., Inc. and Advanced Mobile Phone Service, Inc., is granted and the accompanying Limited Partnership Agreement is approved.[9]

38. It is further ordered that the request for withdrawal of the application filed by GTE Mobilnet of Dallas, Inc., File No. 26056–CL–P–(11)–82, is granted and the application is dismissed.

39. It is further ordered that the authorization is conditioned upon AMPS' filing an amendment to the Limited Partnership Agreement which eliminates the language contained in Section 11.1 of the Agreement, imposing restraints on the alienation of partnership interests.[10]

40. It is further ordered, pursuant to Section 309 of the Communications Act of 1934, as amended, that the applications of D/FW Signal, Inc., LIN Cellular Communications Corp., MCI Cellular Mobile Systems of Texas Inc., and Mid-America Cellular Systems, Inc., are designated for hearing in a consolidated proceeding, upon the following issues:[11]

(a) To determine whether D/FW is financially qualified to construct and operate for one year its proposed cellular system;

(b) to determine on a comparative basis the geographic area and population that each applicant proposes to serve;[12] to determine and compare the relative demand for the services proposed in said areas; and to determine and compare the ability of each applicant's cellular system to accommodate the anticipated demand for both local and roamer service;

(c) to determine on a comparative basis each applicant's proposal for expanding its system capacity in a coordinated manner within its proposed CGSA in order to meet anticipated increasing demand for local and roamer service;[13]

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[8] The Commission required the deletion of one provision of the Los Angeles Agreement which restrained alienation of partnership interests. We also require deletion of that provision here.

[9] This authorization will be conditioned upon AMPS obtaining antenna structure clearance. Also AMPS will not be authorized to render service to the public during service tests even after it files FCC Form 403 for a license. Service to the public cannot commence until the covering license becomes effective. Equipment tests, however, may be conducted. AMPS' authorization (FCC Form 463) will reflect these conditions.

[10] The Commission will hold issuance of AMPS' authorization until the amendment is received by the Mobile Services Division, Common Carrier Bureau. We also remind the partners that, pursuant to Section 212 of the Communications Act, officers or directors of more than one carrier are required to have authorizations to hold interlocking directorships.

[11] There are two issues that are not to be considered in the comparative hearing. The first is the financial qualifications of the applicants other than D/FW. Financial ability is a basic rather than a comparative qualification for cellular licensing. Cellular Communications Systems, 86 FCC 2d 469, 501–02 (1981). Except as noted, we have found the applicants included in the comparative hearing to be financially qualified. The second issue not to be considered is the qualifications of Cellular Mobile Systems of Texas, Inc. or its parent Graphic, to the extent that such qualifications may be affected by the issues included in the Commission's order designating certain 35 and 43 MHz paging applications for hearing, A.S.D. Answer Service Inc. *et al* (ASD), FCC 82–391, released August 24, 1982. Those issues will be thoroughly reviewed in that separate proceeding and should not be reargued in the context of a cellular hearing. As set forth in para. 50, *infra*, the Commission reserves the right to reexamine and reconsider the qualifications of Cellular Mobile Systems of Texas, Inc. to hold a cellular license should *ASD* be resolved adversely to any of CMS' affiliate or parent companies or to any of their principals.

[12] For purposes of comparison, the geographic area that an applicant proposes to serve includes that area within the proposed 39 dBu contours which, in turn, falls within the proposed Cellular Geographic Service Area and the relevant Standard Metropolitan Statistical Area. Consideration should be given to the presence of densely populated regions, highways and areas likely to have high mobile usage characteristics, as well as indications of a substantial public need for the services proposed. *See* 86 FCC 2d at 502.

[13] In making this comparison, preference should be given to designs entailing efficient frequency use including not only the applicant's plan with regard to cell-splitting and additional channels, but also the degree of frequency reuse the system will be

(d) to determine on a comparative basis the nature and extent of the service proposed by each applicant, including each applicant's proposed rates, charges, maintenance, personnel, practices, classifications, regulations and facilities (including switching capabilities);[14] and

(e) to determine, in light of the evidence adduced under the foregoing issues, what disposition of the referenced applications would best serve the public interest, convenience and necessity.

41. It is further ordered that the burden of proceeding with the introduction of evidence upon the financial qualification issue, and the burden of proof, shall be upon D/FW. Procedures to decide the issue designated against D/FW shall be determined by the Administrative Law Judge (ALJ) in the ALJ's discretion.

42. It is further ordered that the Petition for Reconsideration filed by D/FW is granted.

43. It is further ordered that LIN submit a statement to the ALJ judge certifying that charges for cellular mobile equipment are not included in its tariff. The statement shall be submitted within fifteen days after publication of this order in the Federal Register. The date for filing rebuttal cases under § 22.916(b)(4) of the rules is deferred pending establishment of procedural dates by the ALJ.

44. It is further ordered that any authorization granted to D/FW shall be conditioned on, and without prejudice to, reexamination and reconsideration of that company's qualifications to hold a cellular license following final disposition of the litigation cited in para. 7, *supra*.

45. It is further ordered that MACS is directed to file the conforming amendment specified in this order within 15 days after publication of this order in the Federal Register and that the date for filing rebuttal cases under § 22.916(b)(4) of the Rules is deferred pending establishment of procedural dates by the Administrative Law Judge. Procedures for deciding the issues designated against MACS shall be determined by the Judge in the Judge's discretion.

46. It is further ordered that the Separated Trial Staff (the Hearing Division and other individuals specifically designated) of the Common Carrier Bureau is made a party to the proceeding.[15]

47. It is further ordered that the applicants shall file written notices of appearances under § 22.916(b)(3) of the Commission's rules within 10 days after publication of this order in the Federal Register.

48. It is further ordered that the hearing shall be held according to the procedures specified in § 22.916 of the rules, except as otherwise noted herein, at a time and place and before an Administrative Law Judge to be specified in a later order.

49. It is further ordered that exceptions to the initial decision of the Administrative Law Judge under § 1.276 of the Commission's Rules shall be taken directly to the Commission.

50. It is further ordered that any authorization granted to MACS as a result of the comparative hearing shall be conditioned on, and without prejudice to, reexamination and reconsideration of that company's financial qualifications as determined in *Advanced Mobile Service, Inc.* (*Kansas City Order*), CC Mimeo 5086, released July 8, 1983.

51. It is further ordered that any authorization granted to CMS as a result of the comparative hearing shall be conditioned on, and without prejudice to reexamination and reconsideration of that company's basic qualifications to hold a cellular license following a final decision in the hearing designated in *A.S.D. Answering Service, Inc., et al.*, FCC 82-391 released August 24, 1982, and shall be specifically conditioned upon the outcome of that proceeding.

52. It is further ordered that the AMPS authorization and any other authorization granted as a result of this proceeding shall be conditioned upon the obtaining of the appropriate antenna structure clearances.

53. This Order is issued under § 0.291 of the Commission's Rules and Order Delegating Authority, FCC 82-435, released October 6, 1982, and is effective on its release date. Petitions for reconsideration under § 1.106 or applications for review under § 1.115 of the rules may be filed within the time limits specified in those sections. See also Rule 1.4(b)(2).

54. The Secretary shall cause a copy of this order to be published in the Federal Register.

Kenneth A. Levy,

Acting Deputy Chief/Operations, Common Carrier Bureau.

[FR Doc. 83-23985 Filed 8-31-83; 9:45 am]

BILLING CODE 6712-01-M

[BC Docket No. 82-536]

Amendment of the Commission's Rules Concerning the Use of the Subsidiary Communications Authorizations; Order Extending Time for Filing Oppositions to Petition for Reconsideration

AGENCY: Federal Communications Commission.

ACTION: Petition for reconsideration; extension of time for filing oppositions.

SUMMARY: Action taken herein grants Telocator Network of America's motion for an extension of time for filing comments in opposition to petitions for reconsideration which concerns the use of the Subsidiary Communications Authorizations.

DATE: Oppositions must now be filed by August 31, 1983.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Brian F. Fontes, Mass Media Bureau, (202) 632-6302.

SUPPLEMENTARY INFORMATION:

In the matter of an amendment of Parts 2 and 73 of the Commission's Rules concerning the use of the Subsidiary Communications Authorizations; BC Docket 82-536; order extending time for filing oppositions to petitions for reconsideration.

Adopted: August 23, 1983.
Released: August 26, 1983.

By the Chief, Policy and Rules Division.

1. On April 7, 1983, the Commission adopted the *First Report and Order* in BC Docket No. 82-536. The *Report and Order* amended Parts 2 and 73 of the Commission's rules thereby eliminating restrictions on the use and availability of subcarrier signals in the transmission of FM broadcast stations.

2. On August 22, 1983, Telocator Network of America, the national council of independent, non-wireline radio common carriers, filed a motion with the Commission requesting an extension of time for filing oppositions to petitions for reconsideration.

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capable of, and the applicant's ability to coordinate the use of channels with adjacent or nearby cellular systems. *See* 86 FCC 2d at 502-03.

[14] *See* 86 FCC 2d at 503 for a discussion of the relative importance of the evidence submitted under this issue.

[15] Members of the Separated Trial Staff are non-decision making personnel and they will not participate in decision-making or agency review on an *ex parte* basis in this case, either directly or through contact with other Common Carrier Bureau personnel. Any investigative or prosecuting functions will be performed by the Separated Trial Staff in connection with its role as a party to the adjudication of these cellular radio applications. All other personnel of the Common Carrier Bureau, unless identified in a subsequent order as required to be separated, are designated as decision-making and they may advise the Commission as to the proceeding. *See* Communications Act of 1934 as *amended* section 409(c) (47 U.S.C. section 409(c)); Administrative Procedure Act section 554(d) (5 U.S.C. 554(d)); Section 1.221 of the Commission's Rules.

Telocator requested a one week extension of time from August 24, 1983, to August 31, 1983. Public notice of the filing of petitions for reconsideration of the *Report and Order* in BC Docket No. 82–536 was published in the **Federal Register** on August 9, 1983 (48 FR 36193) and oppositions are due to be filed on August 24, 1983. Telocator in their motion indicated that due in part to transition problems experienced in connection with the relocation of Downtown Copy Center's operations, they did not obtain copies of those petitions for reconsideration until August 19, 1983.

3. Accordingly, it is ordered, that the time for filing oppositions to petitions for reconsideration in BC Docket 82–536 is extended to and including August 31, 1983.

4. This action is taken pursuant to authority found in Sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204 and 0.283(b) of the Commission's Rules.

5. For further information concerning this proceeding, contact Brian F. Fontes, Mass Media Bureau, (202) 632–6302.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83–23086 Filed 8–31–83; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by a Bank Holding Company; Banks of Iowa, Inc.

The company listed in this notice has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons my express their views in writing to the address indicated. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Banks of Iowa, Inc.*, Des Moines, Iowa; to acquire at least 90 percent of the voting shares or assets of Henry County Savings Bank, Mount Pleasant, Iowa. Comments on this application must be received not later than September 23, 1983.

Board of Governors of the Federal Reserve System, August 6, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83–23076 Filed 8–31–83; 8:45 am]

BILLING CODE 6210–01–M

Formation of Bank Holding Companies; First City Bancorp, Inc., et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(1)) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect of each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *First City Bancorp, Inc.*, Gainesville, Florida; to become a bank holding company by acquiring 80 percent or more of the voting shares of First City Bank, Gainesville, Florida. Comments on this application must be received not later than September 23, 1983.

B. Board of Governors of the Federal Reserve System (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *New Mexico Bank Holding Company*, Ruidoso, New Mexico; to become a bank holding company by acquiring 100 percent of the voting shares of Security Bank, Ruidoso, New Mexico. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Dallas. Comments on this application must be received not later than September 23, 1983.

Board of Governors of the Federal Reserve System, August 26, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83–23077 Filed 8–31–83; 8:45am]

BILLING CODE 6210–01–M

Acquisition of Bank Shares by Bank Holding Companies, First Community Bancshares, Inc. et. al.; Correction

This notice corrects a previous **Federal Register** Document (FR Doc. 83–23276), published at page 38676 of the issue for August 25, 1983. First Community Bancshares, Inc.; One Valley Bancorp of West Virginia, Inc.; Midwest Financial Group, Inc.; State Exchange Bancshares, Inc.; Ellis Banking Corporation, Inc.; Falcon Bancorporation, Inc..; and First Bancshares Corporation of Illinois; have each applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842 (a)(3)) to acquire voting shares or assets of various banks.

Board of Governors of the Federal Reserve System, August 26, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83–23085 Filed 8–31–83; 8:45 am]

BILLING CODE 6210–01–M

Acquisition of Bank Shares by a Bank Holding Company; First Golden Bancorporation

The company listed in this notice has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *First Golden Bancorporation*, Golden, Colorado; to acquire 100 percent

of the voting shares of First Interstate Bank of Arvada, N.A., Arvada, Colorado and First Interstate Bank of Westminster, N.A., Broomfield, Colorado. Comments on this application must be received not later than September 26, 1983.

Board of Governors of the Federal Reserve System, August 26, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-23087 Filed 8-31-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies; Farmers National Bancorp of Cynthiana, Inc., et. al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842 (a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842 (c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Cleveland (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Farmers National Bancorp of Cynthiana, Inc.*, Cynthiana, Kentucky; to become a bank holding company by acquiring at least 84 percent of the voting shares of Farmers National Bank of Cynthiana, Cynthiana, Kentucky. Comments on this application must be received not later than September 26, 1983.

B. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Sreet, N.W., Atlanta, Georgia 30303:

1. *Community Banking Corporation*, Bradenton, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of Community Bank of Manatee, Bradenton, Florida. Comments on this application must be received not later than September 26, 1983.

2. *Florida Community Banks, Inc.*, Bonifay, Florida; to become a bank holding company by acquiring 97.8 percent of the voting shares of First Bank of Holmes County, Bonifay, Florida. Comments on this application must be received not later than September 26, 1983.

3. *FN BanCorp, Inc.*, Tullahoma, Tennessee; to become a bank holding company by acquiring 100 percent of the voting shares of First American National Bank of Tullahoma, Tullahoma, Tennessee. Comments on this application must be received not later than September 26, 1983.

C. Federal Reserve Bank of Minneapolis (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Kittson Investment Company*, Grygla, Minnesota; to become a bank holding company by acquiring 99.2 percent of the voting shares of American State Bank of Grygla, Grygla, Minnesota. Comments on this application must be received not later than September 26, 1983.

D. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *American Exchange Bancorp, Inc.*, Norman, Oklahoma; to become a bank holding company by acquiring at least 80 percent of the voting shares of American Exchange Bank & Trust Company, Norman, Oklahoma. Comments on this application must be received not later than September 26, 1983.

Board of Governors of the Federal Reserve System, August 26, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-23088 Filed 8-31-83; 8:45 am]

BILLING CODE 6210-01-M

Proposed Acquisition of Walter E. Heller & Co.; The Fuji Bank, Limited

The Fuji Bank, Limited, Tokyo, Japan, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire all of the voting shares of Walter E. Heller & Company, Chicago, Illinois.

Applicant proposes to engage, through Walter E. Heller & Company, in all of the activities in which Walter E. Heller & Company is currently authorized to engage, including commercial finance and servicing, factoring, real estate lending and servicing, construction finance, real estate appraisal and investment advisory services, leasing activities, and the sale of credit-related life, accident and health, and property and casualty insurance related to extensions of credit. Applicant contends that the insurance activities are permissible under section 4(c)(8) (A) and (D) of the Bank Holding Company Act as amended by the Garn-St Germain Act. Applicant has also proposed to engage *de novo* in arranging for income-producing properties. Although arranging equity financing has not been added to the list of permissible activities specified by the Board in Section 225.4(a) of Regulation Y, the Board has determined by order that this activity is closely related to banking. *E.g., Trust Company of Georgia*, 69 *Federal Reserve Bulletin* 225 (1983). The insurance activities will be conducted primarily from offices in Chicago, Illinois and in Puerto Rico and will serve Puerto Rico. The other activities will be conducted from a total of 67 offices throughout the United States, serving the entire United States.

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of New York.

Any views or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C., not later than September 26, 1983.

Board of Governors of the Federal Reserve System, August 26, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-23089 Filed 8-31-83; 8:45 am]

BILLING CODE 6210-01-M

Proposed Acquisition of Bankers Leasing Services, Inc., Union Bancorp, Inc.

Union Bancorp, Inc., Grand Rapids, Michigan, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and

§ 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Bankers Leasing Services, Inc., Southfield, Michigan.

Applicant states that the proposed subsidiary would engage in the activity of leasing various types of furniture and equipment. These activities would be performed from offices of Applicant's proposed subsidiary in Southfield, Michigan, and the geographic area to be served is the entire United States. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than September 26, 1983.

Board of Governors of the Federal Reserve System, August 26, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-23060 Filed 8-31-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 83F-0254]

Schenectady Chemicals, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Schenectady Chemicals, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of 2,6-bis(1,1-dimethylethyl)-4-(1-methylpropyl) phenol, as an antioxidant and/or stabilizer for adhesives used in food-contact articles.

FOR FURTHER INFORMATION CONTACT: Anthony P. Brunetti, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204; 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (1 U.S.C. 348(b)(5))), notice is given that a petition (FAP 3B3734) has been filed by Schenectady Chemicals, Inc., 2750 Balltown Rd., Schenectady, NY 12309, proposing that § 175.105 *Adhesives* (21 CFR 175.105) be amended to provide for the safe use of 2,6-bis(1,1-dimethylethyl)-4-(1-methylpropyl) phenol, as an antioxidant and/or stabilizer in adhesives used in food-contact articles.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: August 24, 1983.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 83-23072 Filed 8-31-83; 8:45 am]

BILLING CODE 4160-01-M

Health Resources and Services Administration

Application Announcement and Final Funding Preferences for the Health Careers Opportunity Program (HCOP)

The Bureau of Health Professions, Health Resources and Services Administration, announces that applications for Fiscal Year 1984 Health Careers Opportunity Program (HCOP) grants are now being accepted under the authority of section 787 of the Public Health Act.

Section 787 authorizes the Secretary to make grants to schools of medicine, osteopathy, public health, dentistry, veterinary medicine, optometry, pharmacy, podiatry and allied health and other public or private non-profit health or educational entities to carry out programs which assist individuals from disadvantaged backgrounds to enter and graduate from health professions schools. The assistance authorized by this section includes: identification and recruitment, retention, counseling and advice on financial aid.

Based on the President's budget request and projected commitments for currently active projects requiring continued support, an estimated $16 million will be available for competitive HCOP awards in Fiscal Year 1984. This amount may be changed by final action on the Fiscal Year 1984 appropriation.

At least 80 percent of the funds appropriated in any fiscal year must be obligated for grants or contracts to institutions of higher education. Also, no more than five percent of the funds appropriated in any fiscal year can be awarded to projects having information dissemination as their primary purpose.

To receive support, applicants must meet the requirements of the program regulations which are located at Title 42 of the Code of Federal Regulations, Part 57, Subpart S.

Requests for grant application materials and questions regarding grants policy should be directed to: Grants Management Officer (D18), Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 8C-22, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443-6857

For specific information regarding the programmatic aspects of this program, direct inquires to: Mr. Arthur Testoff, Chief, Program Coordination Branch, Division of Disadvantaged Assistance, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 8A-09, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443-4493.

To be considered for Fiscal Year 1984 funding, applications sent by mail must be postmarked no later than November 4, 1983, and received no later than November 14, 1983. Materials postmarked after November 4 will not be included in the review process. The term "postmark" means a printed, stamped, or otherwise placed impression exclusive of a postage meter machine impression, that is readily identifiable as having been affixed on the date of mailing by an employee of the U.S. Postal Service. All hand delivered applications must be received by November 4.

This program is listed at 13.822 in the Catalog of Federal Domestic Assistance. It is not subject to the provisions of Exective Order 12372, Intergovernmental

Review of Federal Programs or 45 CFR, Part 100.

Fiscal Year 1984 Funding Preferences for the Health Careers Opportunity Program (HCOP)

The Division of Disadvantaged Assistance announces the final funding preferences which will govern the distribution of grant awards to approved HCOP grant applications for Fiscal Year 1984.

These preferences were published for public comment in the Federal Register of May 26, 1983 (48 FR 23711), and 17 comments were received during the 30 day comment period. These comments and their responses are discussed below:

Definitions

Feeder Institution: Eight respondents objected to the definition of Fedder Institution, which requires a school to:

(a) Have a student body more than 20 percent of which are individuals from disadvantaged backgrounds; and

(b) Have 10 or more graduates annually (as averaged over the last three years) who are disadvantaged and who are accepted into health professions schools.

Generally, these respondents expressed concern that the definition was too stringent and that few institutions could meet both of the proposed requirements. One respondent proposed that Feeder Institution be defined solely as junior or four-year colleges with student bodies comprised of 30 percent or more of individuals from disadvantaged backgrounds.

The concept of "fedder institution" is introduced in these funding preferences because experience has shown that many undergraduate institutions are relatively unsuccessful in getting their students into health professions schools. This lack of success may be caused by: inadequate identification of promising students; poor counseling; deficiencies in the curriculum; or weak linkages with health professions schools. The Department must use its limited funds to support those institutions with demonstrated capability. Therefore, the Department has not modified the requirements of this definition.

However, the Department has eased the difficulty of meeting the requirement of Fedder Institution for purposes of the first funding preference. This preference has been modified to change the requirement of having an Educational Assistance Agreement (EAA) with *one or more feeder institutions*, to having an EAA with one to five schools which *separately or collectively* satisfy the definition of a feeder institution.

As a result a greater number of health professions schools and undergraduate institutions will be able to participate in the development of educational pathways providing continuity of support to students, and at the same time the focus of providing support to undergraduate institutions with a demonstrated capability of developing applicant pools will not be lost.

Training Center For Allied Health: One respondent proposed expanding the list of the training programs provided by a training center for allied health to include training needed to practice as a nutritionist with a Bachelor's Degree.

The Department wishes to retain the definition of training center for allied health as it is for consistency with the definition used in the regulations for grants for allied health projects at 42 CFR 58.401 *et seq.* It should be noted, however, that a training center for allied health is not precluded from providing training for a Bachelor's Degree in nutrition, in addition to the listed programs.

Individual from a disadvantaged background: One respondent objected to parental income being used as a determinent for being economically disadvantaged.

The Department points out that the purpose of HCOP programs is to assist persons from disadvantaged *backgrounds*, as opposed to individuals who are, by themselves, in need of financial assistance. This definition, therefore, has not been revised.

General Comments: Seven respondents expressed concern that community organizations and professional associations wee not given funding preferences, and suggested adding an additional preference. In addition, they expessed concern that participation of certain disadvantaged students in some geographical areas of the country would be excluded.

The Department did not include community organizations and professional associations in the funding preferences for reasons, as explained below, which it believes are important to the development of the HCOP grant program; therefore, the preferences have not been expanded. The Department has established the preferences in accordance with the Congressional emphasis in supporting institutions of higher education, as expressed by section 787(b) of the Public Health Service Act which directs no less than eighty percent of the funds appropriated for HCOP grants to be awarded to institutions of higher education. The funding preferences do not include participation of community organizations and professional associations; however all eligible entities are invited to submit applications and will be funded as the quality of applications and appropriations permit.

Secondly, the Department wishes to encourage institutions to enter into Educational Assistance Agreements (EAA's) that will identify and support promising disadvantaged students along an educational pathway to successful completion of their preparation for a professional health career. The EAA's result in the establishment of inter-institutional communications to strengthen academic programs and improve the admissions process, and the retention of matriculated students to successful completion of the health professions education.

One respondent expressed concern that the preferences did not address the need for direct student financial assistance. The Department cannot provide for such assistance, since the authorizing legislation does not provide for direct student financial aid.

The intent of the authorizing legislation is to increase the number of disadvantaged persons admitted to and graduated from health professions shools and as such, those states that do not have health profession schools must continue to rely on schools in other states to provide health professions training to their eligible students.

The definitions used in the funding preferences are as follows:

"Health Professions Schools" means schools of medicine, dentistry, osteopathy, pharmacy, optometry, veterinary medicine, podiatry, public health, or graduate programs in health administration, as defined in Section 701(4) of the Public Health Service Act.

"Training Center for Allied Health Professions" means a junior college, or college, or university, as defined in Section 795 of the Public Health Service Act which:

a. Provides educational programs leading to an associate, baccalaureate, or higher degree needed to practice as one of the following:

Doctoral Degree:
- Clinical Psychologist

Master's Degree:
- Speech Pathologist/Audiologist

Associate Degree:
- Clinical Dietetic Technician
- Cytotechnologist
- Dental Assistant

Bachelor's Degree:
- Dental Hygienist
- Dietitian (Coordinated undergraduate program)
- Community Health Educator
- Health Services Administrator

Medical Records Administrator
Medical Technologist
Occupational Therapist
Physical Therapist
Primary Care Physician Assistant
Sanitarian (Environmental Health)
Dental Hygienist
Dental Laboratory Technician
Medical Assistant
Medical Laboratory Technician
Medical Records Technician
Occupational Therapy Assistant
Ophthalmic Medical Assistant
Optometric Technician
Physical Therapy Assistant
Radiologic Technologist
Respiratory Therapist
Sanitarian Technician

b. Provides training for no fewer than 20 persons in the substantive health portion, including clinical experience as required for employment, in three or more of the disciplines listed in paragraph (a) of this definition and has a minimum of six full-time students in that portion of each curriculum by October 15 of the fiscal year of application.

c. Has a teaching hospital as part of the grantee institution or is affiliated with a teaching hospital by means of a formal written agreement. The term "teaching hospital" includes other settings which provide clinical or other health services if they fulfill the requirement for clinical experience specified in an allied health curriculum.

"Feeder institution" means an institution of higher education meeting the requirements of Section 435 of the Higher Education Act, as amended, P.L. 89–239 (20 U.S.C. 1085(b)), which:

a. Has a student body more than 20 percent of which are individuals from disadvantaged backgrounds; and

b. Has 10 or more graduates annually (as averaged over the last three years) who are disadvantaged and who are accepted into health professions schools.

"Educational Assistance Agreement (EAA)" means a formal agreement between the grantee and another school or entity to assure continuity of training through health or allied health professions schools. This agreement must provide for financial or other support (excluding direct student aid) for this purpose and support may include funds from the grant awarded under this program, also joint use of facility, staff, and faculties. An EAA must:

a. Contain the names of the participating institutions;

b. Identify the prime grantee, subcontractors, and other participating institutions;

C. State the HCOP purposes addressed by each participating institution;

d. Identify the specific activities to be performed by the grantee, including a description of program activities and administrative responsibilities;

e. Identify the specific activities to be performed by all collaborating institutions, including a description of program activities;

f. Contain a detailed description of proposed expenditures for each participating institution;

g. Contain a description of how facilities, faculty, and staff will be shared, including times, places, and dates;

h. State the duration of the EAA;

i. Contain the terms for amending the EAA; and

j. Be signed by the President, Chancellor, Dean, or equivalent official from all participating institutions and health or educational entities.

For this program, an "individual from a disadvantaged background" means an individual who (a) comes from an environment that has inhibited the individual from obtaining the knowledge, skill and abilities required to enroll in and graduate from a health professions school or from a program providing education or training in an allied health profession or (b) comes from a family with an annual income below a level based on low income thresholds according to family size, published by the U.S. Bureau of the Census, adjusted annually for changes in the Consumer Price Index and adjusted by the Secretary for use in all health professions programs, 42 CFR 57.1804(b)(2).

The following income figures determine what constitutes a low income family for purposes of these Health Careers Opportunity Program grants for Fiscal Year 1984:

Size of parents' family [1]	Income level [2]
1	$8,500
2	8,400
3	10,000
4	12,800
5	15,100
6 or more	17,100

[1] Includes only dependents listed on Federal income tax forms.
[2] Adjusted gross income for calendar year 1982, rounded to $100.

The funding preferences are final as follows:

Funding Preferences

An applicant may request consideration in one of the following five funding preferences:

(1) Health professions school(s) which have Education Assistance Agreement (EAA) with no more than five undergraduate institutions that separately or collectively satisfy the definition of a feeder institution and who are requesting HCOP support only for:

a. The feeder institution(s) or equivalent to provide individuals from disadvantaged backgrounds with preliminary education; and

b. Either the health professions school or the feeder institution to facilitate the entry of individuals from disadvantaged backgrounds into health professions schools; and

c. The health professions school(s) to provide individuals from disadvantaged backgrounds who are enrolled in their institution(s) with counseling or other retention services.

(2) A feeder institution requesting HCOP support only for:

a. Providing individuals from disadvantaged backgrounds with preliminary education; and

b. Facilitating the entry of individuals from disadvantaged backgrounds into health professions schools.

(3) A health professions school requesting HCOP support only for:

a. Facilitating the entry of individuals from disadvantaged backgrounds into its health professions school; and

b. Providing the students who are individuals from disadvantaged backgrounds with counseling or other retention services.

(4) A joint application from two to five institutions of higher education, which, as a group: (1) Has a student body more than 20 percent of which are individuals from disadvantaged backgrounds; (2) has 20 or more graduates annually (as averaged over the last three years) who are disadvantaged individuals and who are accepted into health professions schools; and (3) is requesting HCOP support only for:

a. Providing individuals from disadvantaged backgrounds with preliminary education; and

b. Facilitating the entry of individuals from disadvantaged backgrounds into health professions schools.

(5) A training center for allied health professions requesting HCOP support only for:

a. Facilitating the entry of individuals from disadvantaged backgrounds into allied health training centers; and

b. Providing its students who are individuals from disadvantaged backgrounds with counseling or other retention services.

Greatest weight will be given to applicants in funding preference Number 1, decreasing, respectively, to funding preference Number 5.

The five preferences, however, do not preclude funding of other eligible approved applications as appropriations permit. Therefore, entities which do not qualify for the preferences are also invited to submit applications.

The applicant must indicate on the upper right-hand corner of page one of the application the funding preference in which the applicant wishes consideration. However, the final determination of the category of funding preference will be based on a staff assessment of the contents of the proposal. An applicant may apply for consideration under only one preference. A feeder institution which is identified in an EAA may not apply as a primary grantee to support the same type of HCOP activities.

[FR Doc. 83-24055 Filed 8-31-83; 8:45 am]

BILLING CODE 4160-16-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA 13093]

Conveyance of Public Land; Humboldt County, California

August 23, 1983.

Under the exchange provisions of the Act of October 21, 1970 (16 U.S.C. 460y), which provides for the establishment of the King Range National Conservation Area, a Patent has been issued to Jay Sooter, c/o Humboldt Land Title Company, Post Office Box 102, Eureka, California 95501, for the following described public lands:

Humboldt Meridian, California

T. 5 S., R. 2 E.,
Sec. 19, Lot 35.

Containing 0.16 acre.

Under this exchange, the Federal Government acquired title to 0.16 acre of equal value private land located in the same county and described as follows:

Humboldt Meridian, California

T. 5 S., R. 2 E.,
Sec. 19, Parcel A of the NE¼SE¼.

Eleanor Wilkinson,

Chief, Land and Locatable Minerals Section, Branch of Lands and Minerals Operations.

[FR Doc. 83-23861 Filed 8-31-83; 8:45 am]

BILLING CODE 4310-84-M

[C-0124534]

Colorado; Proposed Withdrawal and Reservation of Public Minerals; Pinon Canyon Site, Fort Carson Military Reservation

August 23, 1983.

The United States Army Corps of Engineers has filed application to withdraw these Federally owned minerals which are under the jurisdiction of the Secretary of the Interior, and lie within the boundries of the Fort Carson Military Reservation, Pinon Canyon Site, as authorized by 10 U.S.C. 2231 et seq. These areas are more particularly described as follows:

References to the rim of Purgatorie River Canyon mean the boundry of the Pinon Canyon Site as defined by metes and bounds along the northwesterly or left rim of the canyon, facing downstream.

Sixth Principal Meridian

T.28 S., R. 55 W.,
Sec. 4, those portions of Lots 2, 3, 4, and SW¼NW¼, northwesterly of the rim;
Secs. 5 and 6;
Sec. 7, lots 1 and 2.
T. 28 S., R. 56 W.,
Secs. 1 through 12;
Sec. 13, NE¼NW¼;
Sec. 14, those portions of the SE¼SE¼, northwesterly of the rim;
Secs. 21 and 22;
Sec. 23, W½, and those portions of the W½NE¼ and SW¼SE¼, northwesterly of the rim;
Sec. 26, NW¼NW¼;
Secs. 27, 28, 29, 31, and 32.
T.29 S., R. 56 W.,
Sec. 4, lots 3 and 4 and those portions of the S½NW¼ northwesterly of the rim;
Sec. 5, lots 3 and 4;
Sec. 6;
Sec. 7, lots 1, 2, 3, 4, E½NW¼, and NW¼NE¼, and those portions of the S½NE¼, SE¼SW¼, and W½SE¼ westerly of the rim;
Sec. 19, lot 1, that portion westerly of the rim.
T. 28 S., R. 57 W.,
Secs. 1 through 15;
Sec. 18,
Secs. 22 through 34.
T. 29 S., R 57 W.,
Secs. 2, 3, 5, 15;
Secs. 17 through 23;
Sec. N½NE¼, S½N½, N½S½ and S½SW¼, and that portion of S¼SE¼ northerly of the rim;
Sec. 25, those portions of the NW¼NE¼, N½NW¼, and SW¼NW¼ northwesterly of the rim;
Sec. 26, N½, and SW¼, and that portion of the SE¼ northwesterly of the rim;
Sec., 27 through 34;
Sec. 35, those portions of the NW¼ and S½SW¼ northwesterly of the rim;
T. 30 S., R. 57 W.,
Secs. 3 through 9;
Sec. 17, those portions of N½ and S½ lying northerly of rim;
Sec. 18;
Sec. 19, lots 2, 3, and SE¼NW¼, and those portions of NE¼SW¼ and NW¼SE¼ northwesterly of rim;
Sec. 30, lot 1 and those portions of Lot 2 and E½NW¼ northwesterly of rim.
T. 28 S., R. 58 W.,
Secs. 11, 12, 13, and 14;
Sec. 20 through 35.
T. 29 S., R. 58 W.,
Secs. 1 through 15;
Secs. 17 through 35.
T. 30 S., R. 58.,
Secs. 2 through 15;
Secs. 17 through 24;
T. 30 S., R. 58.,
Secs. 2 through 15;
Secs. 17 through 24;
Secs. 25, NE¼NE¼, NW¼NW¼, S½NW¼, SW¼, and those portions of S½NE¼ and W½SE¼ westerly of rim;
Secs. 26 through 30;
Secs. 32 through 34;
Sec. 35, N½ and SW¼, and those portions of NW¼SE¼ northwesterly of rim.
T. 31 S., R. 58 W.,
Sec. 2, SE¼NW¼, SW¼, and those portions of SW¼NE¼ and W½SE¼ westerly of rim;
Secs. 3, 4, 5, 6, 7, and 8;
Sec. 9, N½NE¼, SE¼NE¼, and E½NW¼;
Sec. 10, NE¼NE¼, and those portions of E½E½, SW¼NE¼ and NW¼SE¼ northeasterly and northwesterly from rim;
Sec. 11, those portions of NW¼NE¼ and NE¼NW¼ northerly of rim.
T. 28 S., R. 59 W.,
Sec. 24, E½, E½NW¼, and SW¼;
Sec. 25.
T. 29 S., R. 59 W.,
Secs. 1 through 5;
Secs. 7 through 15;
Secs. 17 through 35.
T. 30 S., R. 59 W.,
Secs. 1 through 15;
Secs. 18 through 21;
Secs. 23 through 32;
Secs. 34 and 35.
T. 31 S., R. 59 W.,
Secs. 1 through 6,
Sec. 7, E½NE¼, NW¼NE¼, NW¼, and those portions of Lots 1 and 2, SW¼NE¼, SE¼NW¼, and W½SE¼ lying northeasterly of a line 10 feet northerly of and parallel to the centerline of Las Animas County road No. 54;
Sec. 8, E½NE¼, SW¼NE¼, and N½S½, and those portions of S½SW¼ and SW¼SE¼ lying northerly of a line 10 feet northerly of and parallel to the centerline of Las Animas County Road No. 54;
Secs. 9 through 12;
Sec. 14, N½NW¼, and SW¼NW¼;
Sec. 15, N½N½, and SW¼NE¼;
Sec. 17, those portions of the NW¼NE¼ lying northeasterly of a line 10 feet northerly of and parallel to the centerline of Las Animas County Road No. 54.
T. 29 S., R. 60 W.,
Sec. 9, SE¼SE¼, and those portions of SE¼NE¼ and NE¼SE¼ lying southeasterly of the southeasterly right-of-way line of U.S. Highway 350;
Secs., 10 through 15;

Sec. 17, that portion of the S½SE¼ lying southeasterly of the southeasterly right-of-way line for U.S. Highway 350;
Secs. 21 through 28;
Secs. 33, 34, and 35.
T. 30 S., R. 60 W.,
Secs. 1, 2, and 3;
Secs. 10 through 15;
Secs. 19 through 28;
Secs. 33, through 35.
T. 31 S., R. 60 W.,
Sec. 1, those portions of the S½ lying northeasterly of a line 10 feet northerly of and parallel to the centerline of Las Animas County Road No. 54;
Sec. 2; those portions of the S½NW¼, NE¼SW¼, and NE¼SE¼ lying northeasterly of a line 10 feet northerly of and parallel to the centerline of Las Animas County Road No. 54;
Sec. 3, lot 2, and those portions of the S½NE¼ lying northeasterly of a line 10 feet northerly of and parallel to the centerline of Las Animas County Road No. 54.

The areas described aggregate approximately 130,139 acres in Las Animas County, Colorado. These lands are intermingled with lands in which the Corps of Engineers has acquired the entire estate, this entire area being within the boundaries of the Fort Carson Military Reservation.

The Department of the Army requests that exploration for, and disposition of, these Federally owned minerals shall only be made when the Secretary of Defense, after consultation with the Secretary of the Interior, determines that such exploration or disposition is consistent with the mission of the Fort Carson Military Reservation.

Effective on the date of publication of this notice, the Federal minerals contained in the lands described by this order shall be segregated from operation of the U.S. mining laws to prevent any form of disposal or appropriation under such laws. This segregation shall continue until May 25, 1985, unless terminated sooner by administrative action and publication in the **Federal Register**. Administrative jurisdiction over these minerals will not be affected by this temporary segregation.

Department of the Interior regulations provide that an authorized officer of the Bureau of Land Management undertake the necessary investigations to determine the existing and potential demands for the mineral resources in this area. The Bureau will also determine that the area requested is the absolute minimum essential to meet the needs of the applicant agency and reach an agreement on management of these resources. If this application is approved, the withdrawal will be made for a minimum of 20 years.

This withdrawal will be authorized under the Act of February 28, 1958 (43 U.S.C. 155–158), and requires legislative action by Congress.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal. Any persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the State Director, at the address shown below, within 90 days of publication date. If a hearing is scheduled, notice of public hearing will be published in the Federal Register giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with BLM Manual, Section 2351.16B.

All communications in connection with this proposed withdrawal should be addressed to State Director, Colorado State Office, Bureau of Land Management, 1037—20th Street, Denver, Colorado 80202.

Robert D. Dinsmore,

Chief Branch of Lands and Minerals Operations.

[FR Doc.83-23963 Filed 8-31-83; 8:45 am]

BILLING CODE 4310-84-M

Sale of Public Lands in Powell County, Montana

This Notice modifies the original Notice of Realty Action for M57661, M57662, published on June 23, 1983 (48 FR 28740). No bids were received before or on the sale date and the tract will now be offered on a continuing basis during regular office hours until December 8, 1983. The tract will be sold on a first-come, first-served basis. Buyers must comply with the requirements of the original Notice. Minimum acceptable price is $6,000 for Tract A and $30,000 for Tract B. Bids will be accepted by mail or in person at the Butte District Office, P.O. Box 3388, Butte, Montana 59702.

Dated: August 23, 1983.

Jack A. McIntosh,

District Manager.

[FR Doc. 83-23956 Filed 8-31-83; 8:45 am]

BILLING CODE 4310-84-M

[AA-37846]

Alaska Native Claims Selection; Cook Inlet Region, Inc.

In accordance with departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14 of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (1976) (ANCSA)), issued to Cook Inlet Region, Inc. June 30, 1982 is hereby amended to include all lands extending Seward to the line of mean high tide. The lands involved are within the Seward Meridian, Alaska:

T. 4 S., R. 22 W.
T. 6 S., R. 24 W.
T. 6 S., R. 25 W.

This amendment does not change the original approximation of acres to be charged contained in the decision of June 30, 1982. If any additional acreage is to be charged, it will be determined at the time of survey.

Except as amended by this decision, the decision of June 30, 1982, stands as written.

The amended decision to issue conveyance will be published once a week, for four (4) consecutive weeks, in the ANCHORAGE TIMES upon issuance of the decision. For information on how to obtain copies, contact Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Akaska 99513.

Any party claiming a property interest in lands affected by this decision an agency of the Federal Government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E, as revised.

If as appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of the decision by personal service or certified mail, return receipt requested, shall have thirty days from the receipt of the decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt, and parties who received a copy of the decision by regular mail which is not certified, return receipt requested, shall have until October 3, 1983 to file an appeal.

Any party known or unknown who is adversely affected by the decision shall

be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Cook Inlet Region, Inc., P.O. Drawer 4–N, Anchorage, Alaska 99509
Ninilchik Native Association, Inc., P.O. Box 173, Ninilchik, Alaska 99639
Salamatof Native Association, Inc., P.O. Box 2682, Kenai, Alaska 99611
Seldovia Native Association, Inc., P.O. Box 185, Seldovia, Alaska 99663
Tyonek Native Corporation, 445 East Fifth Avenue, Suite 9, Anchorage, Alaska 99501
Knikatu, Inc., P.O. Box 2130, Wasilla, Alaska 99687
Alexander Creek, Inc., 8126 Tri-Lake Road, Anchorage, Alaska 99502
Chickaloon Moose Creek Native Associaiton, Inc., 2600 Fairbanks Street, Anchorage, Alaska 99501
State of Alaska, Land Exchange & Entitlement Unit, Land Management Section, Division of Land & Water Management, Alaska Department of Natural Resources, Pouch 7–005, Anchorage, Alaska 99510.

Doris Diakakis,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 83–24019 Filed 8–31–83; 8:45 am]
BILLING CODE 4310–84–M

[F–70029]

Alaska Native Claims Selection; Cook Inlet Region, Inc.

In accordance with departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Secs. 12(b)(6) of the act of January 2, 1976 (89 Stat. 1151), and I.C. (2) of the Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area, as clarified August 31, 1976 (90 Stat. 1835), will be issued to Cook Inlet Region, Inc. for approximately 1,597.50 acres. The lands involved are within T. 1 S., R. 2 E., Seward Meridian, Alaska.

The decision to issue conveyance will be published once a week, for four (4) consecutive weeks, in the FAIRBANKS DAILY NEWS-MINER upon issuance of the decision. For information on how to obtain copies, contact Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal Government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E, as revised.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of Conveyance Management (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 710 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of the decision by personal service or certified mail, return receipt requested, shall have thirty days from the receipt of the decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt, and parties who received a copy of the decision by regular mail which is not certified, return receipt requested, shall have until October 3, 1983 to file an appeal.

Any party known or unknown who is adversely affected by the decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of Conveyance Management.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are: Cook Inlet Region, Inc., P.O. Drawer 4–N, Anchorage, Alaska 99509.

Doris Diakakis,

Acting Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 83–24020 Filed 8–31–83; 8:45 am]
BILLING CODE 4310–84–M

[AA–8103–5]

Alaska Native Claims Selection; Doyon, Limited

On September 29, 1980, a Decision to Issue Conveyance (DIC) was issued to Doyon, Limited and published in the **Federal Register** (45 FR 64741–64742, September 30, 1980).

The DIC of September 29, 1980, included those water bodies determined to be navigable as recommended in the Alaska State Director (SD) BLM memorandum dated April 16, 1980, as amended by SD BLM memorandum dated August 29, 1980, concerning final easements and navigability determinations for certain lands in the vicinity of Anvik.

On May 3, 1983, a further amendment to the SD memorandum of April 16, 1980, was issued which contained an administrative redetermination of Paradise Creek, locally known as Lower Sandstrom Creek, in Sec. 36, T. 28 N., R. 60W., Seward Meridian, Alaska.

Paradise Creek is identified on the attached navigability map, the original of which will be found in easement case file AA–16630–5.

The DIC of September 29, 1980, approved for conveyance the surface and subsurface estates of the bed of Paradise Creek to Doyon, Limited. As Paradise Creek is now considered to be navigable, the submerged land beneath it is not public land and is not available for conveyance to the Native corporation under the Alaska Native Claims Settlement Act of December 18, 1971 (43 CFR 2650.0–5(g)).

Therefore, the DIC of September 29, 1980, is hereby modified to exclude the submerged lands beneath Paradise Creek from the approval for conveyance to Doyon, Limited. Approximately 23 acres will not be charged toward the regional corporation's entitlement.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the TUNDRA TIMES.

Except as modified by this decision, the decision of September 29, 1980, stands as written.

Ruth Stockie,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 83-24021 Filed 8-31-83; 8:45 am]

BILLING CODE 4310-84-M

Nominations; California Desert District Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Call for Nominations for the California Desert District Advisory Council.

SUMMARY: The purpose of this notice is to solicit public nominations to fill five positions which will become vacant this year on the Bureau of Land Management's California Desert District Advisory Council.

The Council comprises 15 members. Under the staggered-term arrangement instituted by the Secretary of the Interior in 1981, the terms of five members on the Council will expire on December 31, 1983. Current council members may be reappointed or new members may be appointed. Appointments made by the Secretary pursuant to this call will assure continued representation of specific categories of interest on the Council. The new terms will expire December 31, 1986.

To ensure Council membership that is balanced in terms of categories of interest represented and functions performed, nominees must be qualified to provide advice in one of the following areas:

Non-Renewable Resources (mining, oil and gas, extractive industries)
Recreation
Public-at-Large.

The purpose of the Council is to provide informed advice to the California Desert District Manager on the management of the public lands within the California Desert District. Members will serve without salary, but will be reimbursed for travel and per diem expenses at current rates for Government employees.

The Council normally will meet at least twice annually. Additional meetings may be called by the District Manager or his designee in connection with special needs for advice.

Persons wishing to nominate individuals or to be nominated to serve on the Council should provide the District Manager with the names, addresses, professions, and other biographic data of qualified nominees.

DATE: All nominations should be received by October 1, 1983.

ADDRESS: The mailing address of the District Manager is as follows: California Desert District Manager, Bureau of Land Management, 1695 Spruce Street, Riverside, California 92507.

James M. Parker,

Acting Director.

Dated: August 25, 1983.

[FR Doc. 83-24029 Filed 8-31-83; 8:45 am]

BILLING CODE 4310-84-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-6 (Sub-No. 160F)]

Rail Carriers; Burlington Northern Railroad Co.—Abandonment—In Stillwater and Yellowstone Counties, MT; Notice of Findings

The Commission has issued a certificate authorizing Burlington Northern Railroad Company to abandon its 38.16-mile rail line near Hesper at milepost 0.0 and the end of the line near Rapelje at milepost 38.16 in Stillwater and Yellowstone Counties, MT. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB-OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-23998 Filed 8-31-83; 8:45 am]

BILLING CODE 7035-01-M

[AB 18 SDM et al.]

Rail Carriers; Chessie System Railroads; Amended System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.23, that the Chessie System Railroads has filed with the Commission its amended color-coded system diagram map in docket No. AB 18 SDM et al. The Commission on August 24, 1983, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 18 SDM et al.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-23997 Filed 8-31-83; 8:45 am]

BILLING CODE 7035-01-M

[AB 31 SDM]

Rail Carriers; Grand Trunk Western Railroad Co.; Amended System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.23, that the Grand Trunk Western Railroad Company has filed with the Commission its amended color-coded system diagram map in docket No. AB 31 SDM. The Commission on August 22, 1983, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 31 SDM.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-23996 Filed 8-31-83; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30227]

Rail Carriers; Seaboard System Railroad, Inc.—Abandonment Exemption—Between Sanford and Forest City, FL

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts Seaboard System Railroad, Inc. from the requirements of 49 U.S.C. 10903, *et seq.* in connection with abandonment of 13.76 miles of rail lines from Sanford to Forest City in Seminole County, FL, subject to conditions for protection of employees.

DATES: This exemption is effective on October 3, 1983. Petitions to stay must be filed by September 12, 1983; and petitions for reconsideration must be filed by September 21, 1983.

ADDRESS: Send pleadings referring to Finance Docket No. 30227 to:

(1) Office of the Secretary Interstate Commerce Commission Washington, DC 20423

(2) Petitioner's representative: Charles M. Rosenberger Seaboard System Railroad, Inc. 500 Water Street Jacksonville, FL 32202

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423 or call 289–4357 (D.C. Metropolitan area) or toll free (800) 424–5403.

Decided: August 23, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison. Vice Chairman Sterrett and Commissioner Andre would not impose a deadline on consummation of the exempted transaction.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–23999 Filed 8–31–83; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. 347 (Sub-1)]

Coal Rate Guidelines—Nationwide

AGENCY: Interstate Commerce Commission.

ACTION: Notice of final scope for environmental impact statement.

SUMMARY: The Commission recently issued (48 FR 8362, February 28, 1983) proposed freight rate guidelines governing railroad movements of coal throughout the United States, for which an environmental impact statement is to be prepared. A notice of proposed scope for the environmental study was published (48 FR 9706, March 8, 1983) and comment was invited. In response to comments submitted, and following further analysis of the issues, modifications to the proposed scope of the environmental study (see "**SUPPLEMENTAL INFORMATION,**" below) have been made.[1]

FOR FURTHER INFORMATION CONTACT: Carl Bausch or Robert Maestro at (202) 275–0800.

SUPPLEMENTARY INFORMATION: Briefly, our proposed scope of environmental analysis for this proceeding contemplated examination, using predictive computer models, of electric-generating utility industry responses to coal freight rate fluctuations. Responses might include relying to a greater extent on fuel sources other than coal, such as nuclear power, and converting or delaying conversion to coal-fired generating facilities, among others. These in turn could affect the quality of the physical, social, and economic environment within the United States. We envisioned a regional as well as a national analysis. Additionally, we proposed to consider the effects of the guidelines on potential overseas demand for domestic coal.

Notwithstanding some criticism, we believe that the basic structure of analysis announced in our proposed scope is sound. In response to certain comments, however, we intend to expand somewhat the scope of the study. We also plan to compare, if possible, at least one plausible alternative not previously considered.

The Nation's major coal-hauling railroads maintain that an environmental impact statement and statement of energy impact are not required for this proceeding. We disagree.

There can be little doubt that the proposal we are advancing is a "major Federal action." See 40 CFR 1508.18. Compare *Aberdeen & Rockfish R. Co.* v. *SCRAP*, 422 U.S. 289 (1975). Notwithstanding preliminary threshold inquiries, the question remains whether our proposal will affect significantly the quality of the human environment. NEPA compliance is particularly appropriate in situations where the possible effects of a proposal on the human environment are highly uncertain. See 40 CFR 1508. 27(b)(5). Under the circumstances of this case we believe that NEPA requires preparation of an environmental impact statement for this proceeding. Moreover, even if an environmental impact statement were not required, the Commission would not be prohibited from developing one.

It has been suggested that the proposed scope of study is too narrow in that it focuses exclusively on the electric-generating utility industry. Although that industry is by far the largest consumer of coal in the United States, we recognize that there are other major industrial users of coal. Their predictive responses to the proposed guidelines will be considered in the environmental document.

Commenters also have suggested that the study examine the potential effects of the proposed action on consumers of electricity within the United States. The omission of consumer interests from the proposed scope was inadvertent. The effects of the proposed action on consumers of electricity within the United States will be examined on a regional basis in the environmental document.

The environmental impact statement will consider, as feasible, the effect of the proposed guidelines and alternatives on other modes of transportation and other fuel sources, as several commenters have requested.

Many commenters believe that other actions pending before the Commission [2] may ultimately influence coal freight rate fluctuations. These commenters contend that consideration of the potential effects of these actions must be considered together with the potential effects of the coal freight rate guidelines proceeding.

Other actions pending before the Commission will be addressed in the environmental analysis to the extent they may influence coal freight rate fluctuations. See 40 CFR 1502.16(c). However, we will not prepare a programmatic environmental impact statement evaluating simultaneously the potential impacts of all pending Commission preceedings that arguably could affect coal rates. We believe that one massive cumulative or programmatic environmental impact statement would neither be feasible nor practical to undertake. The diverse actions identified by commenters—*i.e.*, decisions involving the adoption of depreciation accounting principles for railroads, new standards for determining carrier revenue adequacy, the exemption from regulation of coal destined for export and the policy statement involving implementation of the Long-Cannon Amendment—involve significantly different subject matters and differ markedly in their potential environmental effects. We have and will continue to consider the environmental

[1] The environmental document prepared for this proceeding will also serve as the basis for the Statement of Energy Impact. See 49 CFR Part 1106.

[2] See e.g., Docket No. 36000, *Alternative Methods of Accounting for Railroad Track Structures*, and Ex Parte No. 393 (Sub-No. 1), *Standards for Railroad Revenue Adequacy*.

effects of each proposed action, to the extent required by NEPA. But this is not a case where different proceedings are so interrelated to be, in effect a single course of action that should be evaluated in one environmental impact statement. See 40 CFR 1502.4(a); 1508.25(a). Accordingly, it would not be feasible or worthwhile to consider all of their environmental consequences together. See *Kleppe* v. *Sierra Club*, 427 U.S. 390, 398–402 (1976).

Similarly, we decline at this time to consider the environmental and energy consequences of applying the methodology developed in this proceeding to commodities other than coal. If the standards are in fact applied to other commodities, we will consider the environmental consequences of that action at that time.

As for the suggestion that we consider the potential impacts of this proceeding at 5, 10, 15, and 20 year intervals, we point out that we will use 1985 as the base year on our computer runs and that our computer models will analyze projected data for 1990 and 1995. While we believe that computer runs directed beyond 1995, if available, would be too speculative to be useful, we intend to address qualitatively likely consequences of the proposed action and alternatives in the year 2000. We believe that this course of action will allow consideration of both the long- and short-term consequences of the proposed coal rate guidelines.

Some commenters believe that the environmental document should confine its analysis to the potential effects of freight rate fluctuations only for coal traffic which would be affected by the proposed guidelines. It is suggested that coal traffic: (a) Moving over non-market dominant lines, (b) destined for export, (c) moving under contract, and (d) presently within the zone of rate flexibility, not be included in the evaluation. To the extent possible, we will attempt such an analysis for comparative purposes.

We recognize, as pointed out by some commenters, that the computer models which we plan to use in our analysis are not without imperfections. Nevertheless, we are persuaded that, properly qualified, the computer models' predictive capabilities are well suited to analyzing the potential impacts of the proposed action. Every precaution will be taken to assure accuracy of results.

Finally, a number of commenters have proffered counter-proposals to the proposed action, many of which have been cast as alternatives. None of these so-called alternatives, however, has been designed to accomplish the stated objectives of the policymaking endeavor. Accordingly, they will not be considered in the environmental documentation.

Decided: August 26, 1983.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-23005 Filed 8-31-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

Pollution Control; Union Corp. et al.; Lodging of Stipulation Pursuant to the Resource Conservation and Recovery, the Toxic Substances Control, and the Refuse Acts

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on August 16, 1983, a proposed Stipulation in *United States of America* v. *Union Corporation, Metal Bank of America, Irvin G. Schorsch, Jr., and John B. Schorsch*, Civil Action No. 80–1589, was lodged with the United States District Court for the Eastern District of Pennsylvania. The proposed Stipulation concerns recovery, treatment, and disposal of PCB-contaminated oil and water at Metal Bank of America's site in Philadelphia, Pennsylvania.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530; and should refer to *United States* v. *Union Corp. et al.*, D.J. Ref. 90–7–1–17.

The proposed Stipulation may be examined at the office of the United States Attorney for the Eastern District of Pennsylvania, 3310 U.S. Courthouse, Independence Mall West, 601 Market Street, Philadelphia, Pennsylvania; at the Region III Office of the Environmental Protection Agency, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pennsylvania; and at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed Stipulation may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $2.50 (10 cents per page reproduction cost) payable to the Treasurer of the United States.

F. Henry Habicht, II,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 83-23007 Filed 8-31-83; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 83-73]

Intent To Grant An Exclusive Patent License; HealthMate, Inc.

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Intent to Grant an Exclusive Patent license.

SUMMARY: NASA hereby gives notice of intent to grant to HealthMate, Inc., of Northbrook, Illinois a limited, exclusive, revocable license to practice the Nonradioactive Isotope version of the invention described in claims 4–6, 10–14, 20–28, 30, 31, 36 and 37 of U.S. Patent No. 4,142,101 for a "Low Intensity X-Ray and Gamma-Ray Imaging Device" which issued on February 27, 1979 to the Administrator of the National Aeronautics and Space Administration on behalf of the United States of America. The proposed exclusive license will be for a limited number of years and will contain appropriate terms and conditions to be negotiated in accordance with the NASA Patent Licensing Regulations, 14 CFR 1245.2. NASA will negotiate the final terms and conditions and grant the exclusive license unless, within 60 days of the date of this Notice, the Director of Patent Licensing receives written objections to the grant, together with supporting documentations. The Director of Patent Licensing will review all written responses to the Notice and then recommend to the Assistant General Counsel for Patent Matters whether to grant the exclusive license.

DATE: Comments to this notice must be received by October 31, 1983.

ADDRESS: National Aeronautics and Space Administration, Code GP–4, Washington, D.C. 20546.

FOR FURTHER INFORMATION CONTACT: Mr. John G. Mannix, (202) 755–3954.

Dated: August 24, 1983.

Gary L. Tesch,

Acting General Counsel.

[FR Doc. 83-23063 Filed 8-31-83; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

Collapse of I-95 Bridge, Mianus River, Greenwich CT, Hearing

In conection with its investigation of the collapse of a section of the I-95 bridge over the Mianus River, Greenwich, Connecticut, on June 28, 1983, the Safety Board will convene a hearing at 9 a.m. (local time) on September 19, 1983, in the Nutmeg Room of the Sheration-Greenwich Inn, Greenwich, Connecticut.

H. Ray Smith, Jr.,
Federal Register Liaison Officer.
August 25, 1983.

[FR Doc. 83-23739 Filed 8-31-83; 8:45 am]
BILLING CODE 4910-58-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-289]

Metropolitan Edison Co. et al.; Issuance of Amendment to Facility Operating License and Final No Significant Hazards Consideration Determination (Partial)

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 86 to Facility Operating License No. DPR-50, issued to Metropolitan Edison Company, Jersey Central Power and Light Company, Pennsylvania Electric Company, and GPU Nuclear Corporation (the licensees), which revised the license and the Technical Specification (TSs) for operation of the Three Mile Island Nuclear Station, Unit No. 1 (the facility) located in Dauphin County, Pennsylvania. The amendment is effective as of the date of issuance.

The amendment revises the TSs to recognize and approve the steam generator tube kinetic expansion repair technique as an alternative to plugging of defective tubes, only for purposes of steam generator hot functional testing using pump heat (non-nuclear), and permits such testing. As such, it addresses a portion of the Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing identified below.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with this action was published in the Federal Register on May 31, 1983 (48 FR 24231), and corrected June 14, 1983 (48 FR 27328). That notice covers a requested amendment which would: recognize steam generator repair techniques other than plugging, provided such techniques are approved by the Commission; approve the kinetic expansion repair technique; and authorize subsequent operation (both non-nuclear and nuclear) of the facility with the repaired steam generators. This notice addresses a portion of, and is encompassed by, that May 31, notice.

In response to the May 31, notice, request for hearing were filed by TMIA on May 19, 1983, as amended on June 23, 1983, and by Lee, Molholt, and Aamodt on June 30, 1983, as amended on July 13, 1983. Comments were made by six other persons and the Commonwealth of Pennsylvania.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the Safety Evaluation related to this action. Accordingly, as described above, the amendment has been issued and made immediately effective and any hearing in connection with this amendment will be held after issuance. A final determination regarding significant hazards considerations on the remainder of the subject matter of the May 31 notice, i.e., nuclear operation with the repaired steam generators, has not yet been made.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environment impact appraisal need not be prepared in connection with issuance of the amendment.

For further details with respect to the action see (1) the application for amendment dated May 9, 1983, (2) Amendment No. 86 to Facility Operating License No. DPR-50, and (3) the Commission's related Safety Evalation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 25th day of August, 1983.

For the Nuclear Regulatory Commission.
John F. Stolz,
Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 83-24062 Filed 8-31-83; 8:45 am]
BILLING CODE 7590-01-M

International Atomic Energy Agency Draft Safety Guide; Availability of Draft for Public Comment

The International Atomic Energy Agency (IAEA) is completing development of a number of internatinally acceptable codes of practice and safety guides for nuclear power plants. These codes and guides are in the following five areas: Government Organization, Design, Siting, Operation, and Quality Assurance. All of the codes and most of the proposed safety guides have been completed. The purpose of these codes and guides is to provide guidance to countries beginning nuclear power programs.

The IAEA codes of practice and safety guides are developed in the following way. The IAEA receives and collates relevant existing information used by member countries in a specified safety area. Using this collation as a starting point, and IAEA working group of a few experts develops a preliminary draft of a code or safety guide which is then reviewed and modified by an IAEA Technical Review Committee corresponding to the specified area. The draft code of practice or safety guide is then sent to the IAEA Senior Advisory Group which reviews and modifies as necessary the drafts of all codes and guides prior to their being forwarded to the IAEA Secretariat and thence to the IAEA Member States for comments. Taking into account the comments received from the Member States, the Senior Advisory Group then modifies the draft as necessary to reach

agreement before forwarding it to the IAEA Director General with a recommendation that it be accepted.

As part of this program, Safety Guide SG–010, "Core Management and Fuel Handling for Nuclear Power Plants," has been developed. The working group consisting of Mr. A. Recalde from Argentina; Mr. D. B. Upendra from India; and Mr. F. L. Langford (Westinghouse Electric Corporation) from the U.S.A., developed the initial draft of this guide from an IAEA collation. This draft was subsequently modified by the IAEA Technical Review Committee for Operation and the Senior Advisory Group, and we are now soliciting public comment on a modified draft (Rev. 7, dated November 20, 1982). Comments received by the Director, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, by September 23, 1983, will be particularly useful to the U.S. representatives to the Technical Review Committee and the Senior Advisory Group in developing their positions on its adequacy prior to their next IAEA meetings.

Single copies of this draft Safety Guide may be obtained by a written request to the Director, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(5 U.S.C. 522(a))

Dated at Washington, D.C. this 26th day of August 1983.

For the Nuclear Regulatory Commission.

Robert B. Minogue,

Director, Office of Nuclear Regulatory Research.

[FR Doc. 83–24044 Filed 8–31–83; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–354A]

Public Service Electric & Gas Company and Atlantic City Electric Company; Receipt of Antitrust Information

The Public Service Electric and Gas Company and the Atlantic City Electric Company have submitted antitrust information accompanying their application for an operating license for a boiling water nuclear reactor known as Hope Creek Generating Station, located in Lower Alloways Creek Township, Salem County, New Jersey. The data submitted contains antitrust information for review pursuant to NRC Regulatory Guide 9.3 necessary to determine whether there have been any significant changes since the completion of the antitrust review at the construction permit stage.

S–A01093 0042(02)(31–AUG–83–14:37:56)

On Completion of the staff's antitrust review, the Director of Nuclear Reactor Regulation will issue an initial finding as to whether there have been "significant changes" under section 105c(2) of the Atomic Energy Act. A copy of this finding will be published in the **Federal Register** and will be sent to the Washington, D.C. and local public document rooms and to those persons providing comments or information in response to this notice. If the initial finding concludes that there have not been any significant changes, requests for reevaluation may be sumitted for a period of 30 days after the date of the **Federal Register** notice. The results of any reevaluation that is requested will also be published in the **Federal Register** and copies sent to the Washington, D.C. and local public document rooms.

A copy of the general information portion of the application for an operating license and the antitrust information submitted is available for public examination and copying for a fee at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the local public document room at the Salem Free Public Library, 112 West Broadway, Salem, New Jersey 08079.

Any person who desires additional information regarding the matter covered by this notice or who wishes to have his views considered with respect to significant changes related to antitrust matters which have occurred in the applicants' activities since the construction permit antitrust review should submit such requests for information or views to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Section Leader, Antitrust and Economic Analysis Section, Site Analysis Branch, Office of Nuclear Reactor Regulation, on or before October 6, 1983.

Dated at Bethesda, Maryland this 25th day of August 1983.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Licensing Branch No. 2, Division of Licensing.

[FR Doc. 83 24043 Filed 8–31–83; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[File No. 81–683]

Citicorp Homeowners, Inc., Application and Opportunity for Hearing

August 26, 1983.

Notice is hereby given that Citicorp Homeowners, Inc. (the "Applicant"), as seller and servicer under a number of Pooling and Servicing Agreements (the "Agreements") providing for the issuance of Mortgage Pass-Through Certificates (the "Certificates"), has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "Act"), for exemption from certain reporting requirements under Section 13 of the Act and from the operation of Section 16 of the Act.

The application states in part:

In the absence of an exemption, Applicant would be required to file reports adhering to all the item requirements of Form 10–K, 10–Q and 8–K under the 1934 Act.

Applicant believes that the exemptive order requested by it is appropriate in that Form 10–Q and certain items or Form 10–K under the 1934 Act are inapplicable to its pass-through mortgage pool arrangement, and the requirements of Section 16 of the 1934 Act are inapplicable to holders of its mortgage pass-through certificates.

For a more detailed statement of the information presented, all persons are referred to said application, which is on file in the Office of the Commission at the Public Reference Room 450 Fifth Street, N.W., Washington, DC 20549.

Notice is further given that any interested persons may submit to the Commission in writing, not later than September 20, 1983, his views on any substantial facts bearing on the application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert.

Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[Fr Doc. 83–23971 Filed 8–31–83; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

[Public Notice CM-8-656]

Advisory Committee on International Investment, Technology, and Development; Meeting

The Department of State will hold a meeting of the Working Group on Transborder Data Flows (TBDF) of the Advisory Committee on International Investment, Technology, and Development on Friday, September 23, 1983, from 10:00 a.m. to noon in Room 1912, Department of State, 2201 C Street, NW., Washington, D.C.

An agenda for the meeting will include a report on the OECD Committee for Information, Computer and Communications Policy (ICCP) Working Group on TBDF meeting held last June and preparations for the ICCP committee meeting in October and the ICCP Symposium on TBDF in November/December.

Members of the public wishing to attend the meeting must contact Mr. Lincoln's office (202–632–2728) in order to arrange admittance to the State Department. Please use the "C" Street entrance.

The Chairman of the Working Group will, as time permits, entertain oral comments from members of the public attending the meeting.

Dated: August 23, 1983.

Philip T. Lincoln, Jr.,

Executive Secretary.

[FR Doc. 83-23954 Filed 8-31-83; 8:45 am]

BILLING CODE 4710-61-M

[Public Notice CM-8/655]

Modem Working Party of Study Group D of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that the Modem Working Party of Study Group D of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on September 22 and 23, 1983 at the Sheraton-Tara Hotel, Braintree, Massachusetts. Meetings on both days will begin at 8:30 a.m. This Working Party deals with matters in telecommunications relating to the development of international digital data transmission.

The agenda for the meetings is as follows:

1. To act on certain V.aa (9600 bits-per-second two-wire full duplex modem) modifications proposed during the Working Party's last meeting in Boulder, Colorado;

2. To review the proposed 14,400 bits-per-second modem draft recommendations and prepare a U.S. paper on areas of mutual agreement.

Members of the general public may attend the meeting and join in the discussion subject to the instructions of the Chairman. Requests for further information may be directed to Mr. Earl Barbely, State Department, telephone 202 632–3405 or Mr. T. de Haas, Chairman of U.S. Study Group D, Department of Commerce, Boulder, Colorado, telephone 303 497–3728.

Dated: August 18, 1983.

Richard E. Shrum,

Acting Director, Office of International Communications Policy.

[FR Doc. 83-23955 Filed 8-31-83; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms, and Recordkeeping Requirements: Submittals to OMB August 3–August 23, 1983

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: The notice lists those forms, reports, and recordkeeping requirements, transmitted by the Department of Transportation, during the period Aug. 3-Aug. 23, 1983, to the Office of Management and Budget (OMB) for its approval. This notice is published in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

FOR FURTHER INFORMATION CONTACT: John Windsor, John Chandler, or Annette Wilson, Information Requirements Division, M–34, Office of the Secretary of Transportation, 400 7th Street, SW., Washington, D.C. 20590, (202) 426–1887 or Gary Waxman or Wayne Leiss, Office of Management and Budget, New Executive Office Building, Room 3001, Washington, D.C. 20503, (202) 395–7313.

SUPPLEMENTARY INFORMATION:

Background

Section 3507 of Title 44 of the United States Code, as adopted by the Paperwork Reduction Act of 1980, requires that agencies prepare a notice for publication in the Federal Register, listing those information collection requests submitted to the Office of Management and Budget (OMB) for approval under that Act. OMB reviews and approves agency submittals in accordance with criteria set forth in that Act. In carrying out its responsibilities, OMB also considers public comments on the proposed forms, reporting and recordkeeping requirements.

On Mondays and Thursdays, as needed, the Department of Transportation will publish in the Federal Register a list of those forms, reporting and recordkeeping requirements that it has submitted to OMB for review and approval under the Paperwork Reduction Act. The list will include new items imposing paperwork burdens on the public as well as revisions, renewals and reinstatements of already existing requirements. OMB approval of an information collection requirement must be renewed at least once every three years. The published list also will include the following information for each item submitted to OMB:

(1) A DOT control number.

(2) An OMB approval number if the submittal involves the renewal, reinstatement or revision of a previously approved item.

(3) The name of the DOT Operating Administration or Secretarial Office involved.

(4) The title of the information collection request.

(5) The form number used, if any.

(6) The frequency of required responses.

(7) The persons required to respond.

(8) A brief statement of the need for, and uses to be made of, the information collection.

Information Availability and Comments

Copies of the DOT information collection requests submitted to OMB may be obtained from the DOT officials listed in the "For Further Information Contact" paragraph set forth above.

Comments on the requests should be forwarded, as quickly as possible, directly to the OMB officials listed in the "For Further Information Contact" paragraph set forth above. If you anticipate submitting substantive comments, but find that more than 5 days from the date of publication is needed to prepare them, please notify

the OMB officials of your intent immediately.

Items Submitted for Review by OMB

The following information collection requests were submitted to OMB from Aug. 3–Aug. 23, 1983.

- DOT No: 2196
- OMB No: None (new)
- By: Federal Aviation Administration
- Title: Indirect Air Carrier security—FAR 109
- Forms: None
- Frequency: On occasion
- Respondents: Each air carrier, including each air freight forwarder and each cooperative shippers' association engaged indirectly in air transportation of property.

Need/Use: To ensure that the property received by an air carrier from an indirect air carrier does not contain bombs or other explosive or incendiary devices. Security programs required by FAR 109 set forth procedures to be used by indirect air carriers in carrying out their responsibilities involving the protection of persons and property against acts of criminal violence and aircraft piracy in the forwarding of air cargo.

- DOT No: 2197

OMB No: 2127–0009
By: National Highway Traffic Safety Administration
Title: Monthly Report of Motor Vehicle Traffic Fatalities
Forms: HS–251
Frequency: Monthly
Respondents: State Agencies

Need/Use: The Report gives the total fatalities involving motor vehicles each month.

- DOT No: 2198

OMB No: 2125–0092
By: Federal Highway Administration
Title: Preparation of the 1985 Estimate of the Cost of Completing the Interstate System
Forms: None
Frequency: Biennually
Respondents: State Highway Agencies

Need/Use: To provide Congress with a detailed estimate of the cost of completing the Interstate System, and for FHWA to determine the allocation of Federal funds authorized as a result of the withdrawal of Interstate routes in favor of substitute projects.

- DOT No: 2199

OMB No: 2120–0065
By: Federal Aviation Administration
Title: Airport Aid Program—FAR 152 (Airport Layout Plan)
Forms: FAA Forms 5100–100 and FAA 5100–60, 61, 62, 63
Frequency: On occasion, Quarterly, Annually
Respondents: Airport sponsors (State and Local Governments)

Need/Use: The FAA collects information from airport sponsors and planning agencies in order to administer the Airport Grants Programs. Data is used to determine eligibility, proper use of Federal funds and project accomplishment.

- DOT No: 2200

OMB No: 2125–0040
By: Federal Highway Administration
Title: Annual Interstate Maintenance Program
Forms: None
Frequency: Annually
Respondents: State Highway Agencies

Need/Use: To meet the requirements contained in 23 CFR Subpart E, which requires each State to certify that the Interstate System is being maintained in accordance with an approved Interstate Maintenance Program.

- DOT No: 2201

OMB No: To be assigned
By: Maritime Administration
Title: Application for Excess or Surplus Property
Forms: None
Frequency: On Occasion
Respondents: Maritime Educational Agencies or Institutions

Need/Use: Excess or surplus vessels and marine equipment may be applied for by certain approved Maritime training institutions to upgrade Maritime training.

- DOT No: 2202

OMB No: To be assigned
By: Research and Special Programs Administration
Title: Approval of Sampling and Test Procedures Used to Determine if A Gas is Flammable (49 CFR 173.300(b)(1)
Forms: None
Frequency: Occasionally (as produced)
Respondents: Packagers (bottlers) of a new gas

Need/Use: The Materials Transportation Bureau retains in the regulations the criteria for determining the flammability of a gas so that when a new gas is developed the procedures for documenting its flammability will exist. Compressed gas packaging, handling and transportation safety requirements are based on the hazard class of a material. Once tested and documented, the criteria for shipment is established indefinitely.

- DOT No: 2203

OMB No: 2135–0003
By: St. Lawrence Seaway Development Corporation
Title: Transit Declaration
Forms: S/VM 755–11–77 (Canadian form)
Frequency: On occasion
Respondents: Businesses or for-profit sole proprietors

Need/Use: Used to assess toll charges in accordance with the St. Lawrence Seaway Tariff of Tolls.

- DOT No: 2204

OMB No: 2135–0004
By: St. Lawrence Seaway Development Corporation
Title: Seaway Explosives Permit
Forms: SLSDC–LO–7–1–6200.31
Frequency: On Occasion
Respondents: Businesses or for-profit sole proprietors

Need/Use: To provide for safe guards in transiting the Seaway system.

- DOT No: 2205

OMB No: 2135–0002
By: St. Lawrence Seaway Development Corporation
Title: Application for preclearance
Forms: S/VM 429–01–80 (Canadian form)
Frequency: On occasion
Respondents: Businesses or for-profit sole proprietors

Need/Use: Used by the St. Lawraence Seaway Development Corporation to determine whether a vessel is properly fitted to allow it to safely transit through the St. Lawrence Seaway System.

Issued in Washington, D. C. on August 25, 1983.

Karen S. Lee,

Deputy Assistant Secretary for Administration.

[FR Doc. 83–24006 Filed 8–31–83; 8:45 am]
BILLING CODE 4910–62–M

Maritime Administration

Maritime Advisory Committee—Working Group on Tanker Operations; Meeting

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Maritime Advisory Committee's Working Group on Tanker Operations will meet on September 14, 1983, at 10 a.m. The meeting will be held in Room 8334, Department of Transporation, 400 7th Street, SW., Washington, D.C. The Committee will discuss the probable size and composition of the American tanker fleet in 1988, with a view toward advising the Secretary of Transportation in this regard. This meeting will be open to the public on a space available basis.

By order of the Maritime Administrator.

Dated: August 30, 1983.

Georgia P. Stamas,

Secretary.

[FR Doc. 83-24184 Filed 8-31-83; 8:45 am]

BILLING CODE 4910-61-M

[Docket No. S-740]

Application; Delta Steamship Lines, Inc.

Notice is hereby given that, by application dated August 23, 1983, Delta Steamship Lines, Inc. (Delta) has requested all necessary approvals and consents under the Merchant Marine Act, 1936, as amended (Act), and its Operating-Differential Subsidy Agreements (ODSAs), including such approval under section 605(c) of the Act as may be necessary, for the substitution of two and possibly three new containerships on a one-for-one basis for the three C9-S-81d LASH type vessels presently operated on Delta's Trade Route (TR) 20 service (U.S. Gulf/East Coast South America). Delta proposes to acquire the new containerships from a West German shipyard, pursuant to the Maritime Subsidy Board's September 30, 1982 authorization to Delta under section 615 of the Act.

Until recently, Delta provided service with three LASH vessels on TR 20 with one sailing approximately every 14 days. Since November 1982, as a result of a sharp cargo decline in the trade, Delta has been operating only two LASH vessels with one sailing every 21 days. Assuming that Delta exercises the option to acquire three vessels, sailings will be provided once every 14 days. If only two new vessels are acquired, sailings will be provided every 21 days, supplemented as necessary by other Delta vessels if and when the trade picks up sufficiently to require additional service. The new container vessels will call at essentially the same ports as the LASH vessels. Delta has not requested any change in the maximum number of subsidized sailings on the route presently permitted under its ODSA. Delta does not at this time request any transfer or interchange privileges for the new vessels but reserves the right to request such privileges in the future.

Delta's C9-S-81d LASH vessels have a deadweight tonnage of 40,710 metric tons and capacity for 60 barges and 559 TEU's. The new container vessels, which are self-sustaining have a deadweight tonnage of 25,500 metric tons and 1265 TEU's. Delta advises that the container vessels also will have the capability to be enlarged to an approximate 1650 TEU capacity by insertion of a mid-body, should increases in the trade warrant an increase in capacity. Delta indicates that the new vessels will be able to compete for all cargoes. Cargoes which are containerizable will be carried in containers, while non-containerizable cargoes will be carried using lift capability and liquid cargoes can be carried in tanks.

Delta indicates that the C9 vessels proposed to be replaced will be used in non-liner operations on an unsubsidized basis or laid up unless they can be utilized for military or emergency deployment. Delta advises that the subject application is not dependent on the outcome of its application in Docket No. S-738 for a settlement and early termination of its ODSAs.

The application may be inspected during normal business hours in the Office of the Secretary, Maritime Subsidy Board/Maritime Administration, Room 7300, Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590. Interested parties who desire to comment on Delta's application may submit their views thereon to the Secretary, Maritime Subsidy Board/Maritime Administration, in triplicate, on or before 5:00 p.m. on September 14, 1983. Any request for a hearing shall specify the issues for such a hearing. All timely responses will be considered in MarAd's evaluation of Delta's application. MarAd will take such action as may be deemed appropriate with respect thereto, which may or may not include a hearing.

(Catalog of Domestic Assistance Program No. 11.504 Operating-Differential Subsidy (ODS)).

By Order of the Maritime Subsidy Board/Maritime Administration.

Dated: August 29, 1983.

Georgia P. Stamas,

Secretary.

[FR Doc. 83-24056 Filed 8-31-83; 8:45 am]

BILLING CODE 4910-61-M

[Docket S-739]

Lykes Bros. Steamship Co., Inc.; Application

Notice is hereby given that Lykes Bros. Steamship Co., Inc. has filed an application dated August 26, 1983, to amend its present Operating-Differential Subsidy Agreement, Contract MA/MSB-451, so as to increase the maximum number of sailings permitted from 48 to 56 sailings for calendar year 1983 only on its subsidized Trade Route 13—Freight Service (Line C—Mediterranean Line).

Any person, firm, or corporation having any interest in such application and desiring to offer views and comments thereon for consideration by the Maritime Subsidy Board should submit them in writing, in triplicate, to the Secretary, Maritime Subsidy Board, Washington, D.C. 20590 by close of business on September 14, 1983.

The Maritime Subsidy Board will consider these views and comments and take such action with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 20.804 Operating-Differential Subsidies (ODS))

By order of the Maritime Subsidy Board.

Dated: August 29, 1983.

Georgia P. Stamas,

Secretary.

[FR Doc. 83-24057 Filed 8-31-83; 8:45 am]

BILLING CODE 4910-61-M

National Highway Traffic Safety Administration

[Docket No. IP83-3; Notice 2]

General Motors Corp.; Grant of Petition for Determination of Inconsequential Noncompliance

This notice grants the petition by General Motors Corporation of Warren, Michigan, to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for an apparent noncompliance with 49 CFR 571.115, *Vehicle Identification Number.* The basis of the grant is that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of receipt of the petition was published on May 2, 1983, and an opportunity afforded for comment (48 FR 19163).

GM determined that 61 of its 1982-model Chevrolet C-10 and K-10 trucks, and GMC C-15 and K-15 trucks had an incorrect gross vehicle weight rating designator in the vehicle identification number, required by Motor Vehicle Safety Standard No. 115. The designator incorrectly given was "C", indicating a GVWR of 4001 to 5000 pounds, while the correct letter was "E", as the trucks actually had a GVWR of 6200 pounds.

Petitioner argued that the noncompliance was inconsequential as it related to motor vehicle safety since it would not result in a potential overloading, nor did it jeopardize traceability of the vehicles in the event of a recall. The trucks are intended to carry a load greater than was indicated in the erroneous character, and the uniqueness of the VIN's assured traceability of the trucks. Nevertheless, GM intends to provide the owners of the

61 trucks with a letter informing them of the error to minimize possible difficulties with State registration. The National Auto Theft Bureau will also be informed.

No comments were received on the petition.

NHTSA believes that the incorrect GVWR designator poses no risk to motor vehicle safety. The information present in the designator is sufficient to identify vehicles in the event of a recall campaign and does not affect information retrieval. The agency views with approval petitioner's willingness to notify owners of the trucks concerned as well as the National Auto Theft Bureau. General Motors has met its burden of persuasion that the noncompliance herein described is inconsequential as it relates to motor vehicle safety, and its petition is herewith granted.

The engineer and attorney primarily responsible for this notice are Nelson Erickson and Taylor Vinson, respectively.

(Sec. 102, Pub. L. 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on August 24, 1983.

Kennerly H. Digges,

Acting Associate Administrator for Rulemaking.

[FR Doc. 83-24070 Filed 8-31-83; 8:45 am]

BILLING CODE 4910-59-M

[Docket No. Ex 83-3; Notice 1]

Jaguar Cars, Inc.; Petition for Temporary Exemption From Federal Motor Vehicle Standard No. 108

Jaguar Cars, Inc. of Leonia, N.J., has petitioned for a temporary exemption of its XJ-S model from the headlighting requirements of Federal Motor Vehicle Safety Standard No. 108 on the basis that it will facilitate the "field evaluation of a styled, aerodynamic headlamp fitted with an externally mounted wash and wipe system."

This notice of receipt of petition for temporary exemption is published in accordance with NHTSA regulations on this subject (49 CFR 555.7) and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Under 49 CFR 555.6(b), a motor vehicle manufacturer may petition for an exemption from a Federal motor vehicle safety standard for a period up to two years, covering no more than 2500 vehicles for any 12-month period the exemption is in existence on the basis that the exemption would facilitate the development or field evaluation of a new motor vehicle safety feature which provides a level of safety which is equivalent to or exceeds the level of safety established in the standard from which an exemption is sought. Jaguar seeks a two-year exemption from the headlighting requirements of 49 CFR 571.108 Motor Vehicle Safety Standard No. 108 *Lamps, Reflective Devices, and Associated Equipment.* The exemption would cover the XJ-S model, approximately 1000 of which (accounting for about 50% of total production) were sold in the United States in 1982.

Jaguar would fit the exempted models with styled, aerodynamic headlamps equipped with an externally mounted wash and wipe system. The headlamps are identical to those non-sealed beam headlamps used on the XJ-S model destined for markets other than the United States. The headlamp and wash/wipe system will be fitted as standard equipment on 1984 model XJ-S cars intended for the Canadian market. According to the petitioner, the system will enable the headlamps to function without a deterioration in performance under a wide variety of extreme operating conditions, such as exist in North America and nowhere else in the world: temperatures ranging from −30 degrees Celsius to +50 degrees Celsius, high and low humidity, high and low altitude, sea spray, dust, sand and road salt. Jaguar believes that its ordinary mileage-accumulation fleets are too small to provide "the field evaluation we envision for the wipe/wash system." The company intends to survey owners of cars with wash/wipe systems. It will also provide spare bulbs with each car.

The headlamps do not comply with current requirements of Standard No. 108 for all headlamps in that they are not mechanically aimable, possess a maximum design wattage that slightly exceeds that specified for upper and lower beams of Type 2B1 headlamps (the US headlamp to which it is most similar in size), and when installed have an object in front of the lens, i.e., a wiper blade. However, Jaguar avers that the "driving beam" is "only minimally affected by the presence of the wiper blade." The status of compliance of these non-sealed headlamps with respect to the recently adopted environmental test procedures for semi-sealed replaceable bulb headlamp systems (48 FR 24690, June 2, 1983) is not known.

Jaguar argues that an exemption would be in the public interest because of the unique cleaning feature of the wipe/wash system, and the contribution of aerodynamic headlamps to fuel economy.

Interested persons are invited to submit comments on the petiton for exemption for exemption of Jaguar Cars, Inc. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street, SW, Washington, D.C., 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials, and all comments received, are available for examination in the docket both before and after the closing date. Comments received after the closing date will also be filed and will be considered to the extent practicable. Notice of final action on the petition will be published in the **Federal Register.**

Comment closing date: October 3, 1983.

(Sec. 3, Pub. L. 92-548, 86 Stat. 1159 (15 U.S.C.1410); delegation of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on August 29, 1983.

Kennerly H. Digges,

Acting Associate Administrator for Rulemaking.

[FR Doc. 83-24069 Filed 8-31-83; 8:45 am]

BILLING CODE 4910-59-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 171
Thursday, September 1, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Federal Reserve System	1
Libraries and Information Science, National Commission	2
National Transportation Safety Board	3
Postal Service	4

1

FEDERAL RESERVE SYSTEM

(Board of Governors)

TIME AND DATE: 10 a.m., Wednesday, September 7, 1983.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Legislative proposals relating to banking structure.

2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: August 31, 1983.

James McAfee,

Associate Secretary of the Board.

[S–1242–83 Filed 8–30–83; 3:39 pm]

BILLING CODE 6210–01–M

2

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

Blue Ribbon Panel on the Information Policy Implications of Archiving Satellite Data

DATE AND TIME: September 12, 1983, 9 a.m.–4 p.m.

PLACE: The Capitol Holiday Inn, 550 C Street SW., Washington, D.C. 20024.

STATUS: Open.

MATTERS TO BE DISCUSSED: Description of the work of the Department of Commerce's Source Evaluation Board (SEB); SEB's need for General Policy Guidance on Archiving Requirements of data from LandSat and MetSat; the Satellite Data System; current Archiving Systems and Practices; and Discussion of Issues and Preliminary Recommendations.

CONTACT PERSON FOR MORE INFORMATION: Toni Carbo Bearman, Executive Director.

Toni Carbo Bearman,

Executive Director, National Commission on Libraries and Information Science.

August 25, 1983.

[S–1240–83 Filed 8–30–83; 10:19 am]

BILLING CODE 7527–01–M

3

NATIONAL TRANSPORTATION SAFETY BOARD

[NM–83–22]

A majority of the Board determined by recorded vote that the business of the Board required holding this meeting on less-than-normal notice and that no earlier announcement was possible.

TIME AND DATE: 11:30 a.m., Friday, August 26, 1983.

PLACE: NTSB Board Room, eighth floor, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Request for Depositions* in connection with the accident involving Landry Aviation Lockheed 18, N116CA, Arlington, Washington, August 21, 1983.

2. *Request for Depositions* in connection with the accident involving Las Vegas Airlines, Inc., Piper PA-31–350 Chieftain, N88LV, near Peach Springs, Arizona, August 17, 1983.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming (202) 382–6525.

August 30, 1983.

[S–1241–83 Filed 8–30–83; 10:10 am]

BILLING CODE 4910–58–M

4

POSTAL SERVICE

(Board of Governors)

Amendment to Notice of a Meeting

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 38948, August 26, 1983.

PREVIOUSLY ANNOUNCED DATE OF MEETING: September 7–8, 1983.

CHANGE: On August 26, 1983, the Postal Rate Commission issued a Recommended Decision on Bulk Third-Class Nonprofit Rates (Docket R80–1). By telephone vote on August 26 the board voted to add consideration of the commission's Recommended Decision to the agenda for the closed session on Wednesday, September 7.

The Board determined that pursuant to section 552b(c)(3) of title 5, United States Code, and § 7.3(c) of title 39, Code of Federal Regulations, the consideration of this matter is exempt from the open meeting requirement of the Government in the Sunshine Act (5 U.S.C. 552b) because it is likely to disclose information in connection with proceedings under chapter 36 of title 39 (having to do with postal ratemaking) which is specifically exempted from disclosure by section 410(c)(4) of title 39, United States Code. The Board determined further that pursuant to section 552b(c)(10) of title 5 United States Code, and § 7.3(j) of title 39 Code of Federal Regulations, the discussions are exempt, because they are likely to specifically concern the participation of the Postal Service in a civil action or proceeding or the litigation of a particular case involving a determinationon the record after opportunity for a hearing.

In accordance with section 552b(f)(1) of title 5, United States Code, and § 7.6(a) of title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in his opinion the consideration by the Board of the Commission's Recommended Decision may properly be closed to public observation, pursuant to section 552b(c)(3) and (10) of title 5 United States Code and section 7.3 (c) and (j) of title 39, Code of Federal Regulations.

CONTACT PERSON FOR MORE INFORMATION: David F. Harris (202) 245–3734.

David F. Harris,

Secretary.

[S–1239–83 Filed 8–30–83; 10:19 am]

BILLING CODE 7710–12–M

VOL
48
ISS
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federal register

Thursday
September 1, 1983

Part II

Department of Health and Human Services

Health Care Financing Administration

Medicare Program; Payment for Physician Services Furnished in Hospitals, Skilled Nursing Facilities, and Comprehensive Outpatient Rehabilitation Facilities; Combined Billing; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

Medicare Program; Payment for Physician Services Furnished in Hospitals, Skilled Nursing Facilities, and Comprehensive Outpatient Rehabilitation Facilities; Combined Billing

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: This document announces our decisions on the new issues raised in the final rule on Medicare reimbursement of physicians' services furnished in providers published March 2, 1983. The decisions are based on public comments and our analysis of them. Specifically, we are eliminating combined billing procedures.

EFFECTIVE DATE: October 1, 1983.

FOR FURTHER INFORMATION CONTACT: Leonard Peshkin, (301) 594–1115.

SUPPLEMENTARY INFORMATION: This document responds to comments to rules published on March 2, 1983. We decided not to make any changes in the text of the rules.

I. Background

On March 2, 1983, we published in the **Federal Register** (48 FR 8902) a final rule with comment period that set forth regulations governing Medicare reimbursement of physicians' services furnished in providers. The March 1983 final rule incorporated our decisions on the proposed rule published October 1, 1982 (47 FR 43578) and the public comments we received as a result of publishing the proposed rule. In addition, the final rule contained issues that had not been addressed in the October 1982 proposed rule.

In the preamble to the October 1982 proposal, we had proposed to extend the combined billing option to all physicians' services furnished to hospital patients regardless of specialty. Since April 1, 1968, the combined billing procedure has been available to hospitals and physicians for radiology and pathology services furnished to hospital inpatients and all physicians' services (except psychiatric) furnished in hospital outpatient departments. Its availability to only two inpatient specialties was based on a provision of the 1967 Amendments to the Social Security Act (the Act) that specified Medicare payment at 100 percent of the Part B reasonable charge for pathology and radiology services. Beneficiaries bore no liability for copayment for those services. Since the Part A component of the services was also reimbursable at 100 percent, a single bill could be submitted to the fiscal intermediary, thus eliminating the need for two bills. In order to use the procedure, a physician had to have a salary or percentage arrangement with a hospital, and the procedure had to be used for all services furnished within a hospital medical specialty department.

Section 112 of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248) eliminated the special provision regarding 100 percent payment for radiology and pathology services effective October 1, 1982. This change in the law meant that henceforth, such physicians' services would be payable on the same basis as the services of other physicians. Therefore, there was no need to restrict combined billing for services to hospital inpatients to the two specialties, and the October 1982 regulations proposed to expand the availability of this billing option. A key consideration in this expansion proposal was the proposed application of Reasonable Compensation Equivalent (RCE) limits to the full range of services for which a physician is compensated by a hospital.

However, in the March 1983 final rule, we decided not to apply at that time the RCE limits to Part B reasonable charge payments. In addition, that publication solicited comments on the total elimination of combined billing (except for all-inclusive-rate hospitals that charge patients a single rate for all hospital and physicians' services), since the test of reasonableness of the charges was being eliminated. Also, we requested comments on the delayed implementation of 42 CFR 405.550(e) concerning lease arrangements.

To afford the public the opportunity to comment on new issues in the March 1983 final rule, we provided an additional 30-day comment period. Also, we indicated that we would publish an additional notice announcing our decision on these issues based on our analyusis of the public comments in response to the March 1983 final rule.

Subsequent to the publication of the March 1983 final rule, Congress enacted Pub. L. 98–21, the Social Security Amendments of 1983. Title VI of Pub. L. 98–21 amends section 1886 and related provisions of the Social Security Act to establish a prospective payment system for hospitals under Medicare. Due to the close relationship of provisions of Pub. L. 98–21 and the March 1983 regulations, on May 31, 1983 (48 FR 24308) we delayed th effective date of those regulations unit October 1, 1983.

II. Discussion

A. Combined Billing

We have decided to eliminate the combined billing procedure under which we have permitted physicians' services to individual patients to be billed using forms HCFA–1453 and HCFA–1483. However, we will allow all-inclusive-rate hospitals that charge patients a single rate that covers hospital and physicians' services to continue to use the provider billing forms for all-inclusive-rate billing (HCFA–1453 and HCFA–1483) that include physicians' services. We believe such hospitals will be almost exclusively composed of governmental providers. We will allow these all-inclusive-rate hospitals to use a form of combined billing because it may be difficult for these hospitals to identify specific physician services, since they do not use a fee-for-service charge structure. Also, it might be overly burdensome and costly for these hospitals to begin to identify specific physician services. Further, the form used in the past for such type of billing (HCFA–1554) is being eliminated. Therefore, we believe that it is appropriate to enter these per diem amounts on the provider billing forms (HCFA–1453 and HCFA–1483). For a description of the combined billing procedure and our rationale for eliminating the procedure, refer to section VI. E. of the March 1983 final rule (48 FR 8915).

With the elimination of the combined billing procedure, all physicians' services to individual patients, including those physicians' services furnished in providers, must, beginning on the effective date of these regulations, be billed on the HCFA–1500 billing form. The comments received on this issue are discussed in section III. B. of this final rule.

B. Other Issues

Subsequent to publication of the March 1983 rule and in regard to the prospective payment legislation, some individuals inquired about the payment policy for anesthesia services where they are personally furnished by the anesthesiologist versus the situation where the anesthesiologist directs concurrent procedures.

In the March 1983 rule, we discussed at some length our considerations in distinguishing between anesthesiologists' "medical direction" and supervision of concurrently furnished services (48 FR 8927). We also

drew certain parallels between personally furnished anesthesiology services and those that are "medically directed". Anesthesiologists' "medical direction" exists both when the individuals directed are employees of the physician (and the services of such individuals are "incident to" the physician's own services) and when they are not, e.g., the individuals are certified registered nurse anesthetists employed by a hospital. The primary issue, as we viewed it at that time was a decrease of physician involvement in the care furnished to an anesthesia patient and Medicare payment where concurrent anesthesia procedures occurred. We indicated that "One commenter pointed out that the NPRM did not discuss payment for personal performance by a physician of a single anesthesia procedure." (48 FR 8928). We responded that * * * "the NPRM was sufficiently clear that such a service would be reimbursable on a reasonable charge basis as a physician's service to an individual patient (47 FR 43588). We were concerned to make provision for circumstances that required special and explicit treatment. The proposed section 405.552(a) was unambiguous in this matter." Since there still appears to be a question regarding this matter, and because we must further deal with Medicare payment for anesthesia services furnished to hospital inpatients as a result of the amendments adding sections 1862(a)(14) and 1866(a)(1)(h) in section 602 of Pub. L. 98–21, we address the issue in rules that implement the Medicare prospective payment system that are located elsewhere in this issue of the **Federal Register**.

In the March 1983 rule, we also provided special dates of application for the provisions on lease arrangements (in which a physician assumes some or all of the operating costs of a hospital department) set forth at 42 CFR 405.550(e). However, the "unbundling" provision of section 1862(a)(14) of the Social Security Act (discussed below) as added by section 602(e) of Pub. L. 98–21, in effect superseded those provisions as they affect inpatient hospital services and moot all comments on this issue resulting from the March 1983 rule. (The "unbundling" provision provides for payment of nonphysician services furnished in an inpatient setting as hospital services only and will be effective on October 1, 1983 as mandated by Pub. L. 98–21.) As a result, we are amending § 405.550(e) in the interim final regulations implementing the prospective payment system for Medicare inpatient hospital services to eliminate the provisions on its dates of application and to make other changes. These regulations are published elsewhere in this issue of the **Federal Register**. Because these further changes in our provisions on lease arrangements are necessary to implement the prospective payment system, and an additional opportunity for comment is provided in those interim rules, we are not discussing comments on § 405.550(e) in this document.

III. Major Comments and Responses

We requested comments on the new issues raised in the preamble to the March 2, 1983 final rule. These are discussed below. Although we received some comments on other issues, we are responding only to comments on the new issues identified in the March 1983 document. A period for public comment on the original issues was allowed in connection with the October 1, 1982 proposed rule, and we already have responded to the comments raised in response to that rulemaking.

A. Combined Billing

In response to our proposal to eliminate the use of combined billing for physicians' services, we received approximately 60 comments. The majority of the comments were from individual physicians and the remainder were from hospitals and associations.

Following are specific comments received and our responses.

Comment (1). Although many commenters either favored the elimination of combined billing, or did not oppose it as long as adequate time was allowed for implementing its elimination, the majority of the commenters, specifically pathologists, opposed the proposal to eliminate combined billing. The principal objection was that the proposal would increase the cost of billing for physicians' services by requiring separate itemized bills for physicians' services.

Response (1). We realize that the elimination of combined billing will increase the cost of billing for physicians' services where the combined billing method has been used. However, we believe this consideration must be viewed against the advantage of desirable uniformity in billing and reimbursement practices that the elimination of combined billing permits. All physicians' services to individual patients will be billed to the carrier or the beneficiary and be reimbursed by the carrier on an itemized basis. An accurate prevailing charge screen is especially important because with the elimination of RCE limits from Part B charge payments, there will be no other tests of reasonableness of payments.

Physicians' whose services were previously combined billed may continue their relationships with hospitals and have the hospitals bill for their services or make other billing arrangements.

We do not have any data that identifies the costs that hospitals currently incur for combined billed services. Any increase in billing costs that hospitals may incur as a result of the elimination of combined billing is not measurable. Moreover, the existence of any increase is conditioned to a large extent on whether hospitals, rather than outside billing entities, bill for those physicians' services. In spite of these quantitative problems, we estimate that hospitals, either collectively or individually, should not experience a significant increase in their billing costs.

This is based on the fact that there will not be a significant shift from combined billing to HCFA–1500 billing by the two types of specialists who have been the principal beneficiaries of combined billing. Nearly 70 percent of hospital radiologists currently do not use combined billing. Moreover, the great bulk of services furnished in hospital laboratories supervised by hospital pathologists will not qualify for reasonable charge reimbursement. We will continue to pay the hospital for these services on a reasonable cost basis or as an element of prospective payment, as appropriate. We will, however, consider any studies that are submitted that quantify the cost of billing for physician services that previously were combined billed.

The elimination of combined billing allows us to more properly determine program reimbursement as mandated by section 1842(b) of the Act, which specifies that we should, in determining reasonable charges for services, consider among other things the customary charges for similar services, as well as the prevailing charges for similar services in the locality and that reasonable charges should not exceed the charge applicable for comparable services in the locality. Under combined billing, data would be lost in the carrier screens because specific charges cannot be determined from combined billing and, therefore, would be excluded from prevailing charge screens. The result would not be equitable to those who bill on the HCFA–1500 or the Medicare program because the screens would not be totally representative.

Further, physicians had to have salary or percentage arrangements with hospitals to be eligible to use combined

billing. Recently there have been many changes in the financial arrangements between physicians and hospitals that resulted in some physicians losing their eligibility for combined billing. However, in some cases, intermediaries allowed physicians to continue to use combined billing even though the physicians were not eligible for purposes of combined billing. By eliminating combined billing, physicians who were erroneously utilizing combined billing will no longer be able to do so.

We believe the advantages of eliminating combined billing far outweigh the disadvantages of maintaining the procedure.

Physicians' services currently billed using the combined billing method must be billed on the HCFA–1500 billing form beginning on October 1, 1983. Carriers will be responsible for determining the compensation-related customary charge for services furnished by physicians who are compensated by or through a provider to furnish services to individual patients. The compensation-related customary charge data will be used in the calculation of the prevailing charge screens for physicians' services in the locality.

If a physician who has been compensated by or through a provider or other entity for physicians' services to individual patients ends his or her compensation agreement and instead bills all patients, that is, the physician no longer receives any compensation from the hospital for his or her services, the physician's customary charge will be determined on the basis of the former compensation agreement until the carrier has accumulated charge data from at least three months of the calendar year preceding the annual reasonable charge update. Any changes in charges will be reflected in his or her customary charges at the next update.

Comment (2). Some physicians stated that the proposal would prevent them from using the hospital as a billing and collection agent for their services.

Response (2). This is not intended. Physicians are not prohibited by the regulations from having the hospital or another entity provide billing services for them, nor are they required to do so. Physicians may give hospitals the right to bill for them either as agents or as a term of their employment. (See section 1842(b)(5) of the Act and 42 CFR 405.1680.) This is a matter for agreement between physicians and hospitals. Further, the hospital, if authorized by various compensated physicians, could bill Medicare for their services on the same form HCFA–1500. For example, if the hospital compensates its cardiologists and radiologists for furnishing physicians' services and is authorized to claim Medicare payments for the physicians' services, the hospital could bill for the services of both on the same claim form HCFA–1500. There are currently procedures in place under which a single signature on a billing form is sufficient for the services of all physicians for whom the hospital is authorized to bill. However, when the hospital bills as a billing agent for a physician or physician group, it can only include on the same form those services furnished by that physician or group. While the HCFA–1500 billing form can be used in the above situation to bill for multiple physicians' services, the same form cannot be used to bill for more than one patient. A separate HCFA–1500 form must be used for each patient.

Comment (3). A few commenters, both physicians and organizations, proposed various ways to continue combined billing, including prior approval of charge schedules by intermediaries, application of carrier screens by intermediaries, and sending a copy of the hospital billing form to the carrier for processing. Another commenter requested that combined billing be continued for outpatient services if the physician's compensation level is reasonable.

Response (3). Our purpose in eliminating combined billing is twofold. First, our previous decision not to apply the RCE limits to the compensation the physician receives from the hospital for physicians' services to individual patients means that if intermediaries continue to process combined bills, they would do so without testing the reasonableness of their payments for physicians' services that are reimbursed under Part B because the services are not itemized. Secondly, the simplification in reimbursement procedures and claims processing envisioned in the 1967 Amendments for both providers and intermediaries under combined billing never materialized because the option was never widely used and section 112 of Pub. L. 97–248 eliminated the special provision regarding 100 percent payment for radiology and pathology services. Thus, the additional special processing routines necessary for combined billing have not been justified. (See discussion in section VI. E. 3. of the preamble of the March 2, 1983 (48 FR 8915) rule for further discussion of combined billing.)

Also, we do not believe the recommendation to continue combined billing subject to the condition that the intermediary approve the physician's charge schedule is workable. The intermediary does not have the expertise or data needed to evaluate reasonable charges for physicians' services (that is, the intermediary would not have data to transfer to the carrier reflecting the frequency with which each service was rendered). Under combined billing, services are not itemized and the intermediary would not be able to evaluate the reasonableness of payment for the unknown quantity of services. These data would be necessary to compute prevailing charge screens.

In addition, it should be noted that in all of these suggestions, there would be no identification of the individual services furnished. Itemization of physician services is necessary if carrier screens are to reflect the actual going rate for physicians' services furnished in providers. Also, the discrete charge for the physician's service alone is necessary for implementation of the "unbundling" provision of the prospective payment system that is effective October 1, 1983. Under section 1862(a)(14) of the Act, "unbundling" will be prohibited; that is (with one exception), all nonphysician services provided in an inpatient setting will be paid only as hospital services. Physician direction of certain hospital services; e.g., anesthesiology, will continue to be reimbursed under Part B as indicated in the response to comments on other issues in this preamble. Regulations implementing the "unbundling" provision are published as part of the final rule implementing prospective payment for inpatient hospital services, elsewhere in this issue of the **Federal Register.**

Comment (4). Several commenters noted that elimination of combined billing will add to the beneficiaries' copayment burden, and that the separate bill would confuse beneficiaries.

Response (4). Since the enactment of section 112 of Pub. L. 97–248 on October 1, 1982, beneficiaries have been liable for copayment in connection with inpatient pathology and radiology services and have received bills for copayment amounts. There is no reason for these amounts to increase unless the charges for such services increase. Thus, these services are now treated the same as other physician services reimbursed under Part B of Medicare.

Comment (5). Some commenters suggested that combined billing be phased out over one year or that more time be permitted to help assure a smooth transition. Others asked that the change be delayed to coincide with the implementation of certain provisions of the Social Security Amendments of 1983 (effective October 1, 1983) that affect

payment for items and services furnished to hospital inpatients.

Response (5). As previously mentioned, subsequent to our publishing the final regulations on March 2, 1983, Congress passed the Social Security Amendments of 1983. These amendments require some further modification in the way Medicare pays for certain items and services, generally nonphysician services, furnished to hospital inpatients. Therefore, in order to assure a smooth transition and to assure that the effective dates here are consistent with the provisions of the Social Security Amendments of 1983, the effective dates applicable to the March 1983 final rule were uniformly changed to October 1, 1983.

Also, we stated in the March 1983 final rule, that we would, if feasible, publish an announcement of our decision on the elimination of the combined billing procedure before the regulations become effective in order to implement the elimination of combined billing at the same time as the provisions of the March 1983 final rule. The elimination of combined billing will be effective October 1, 1983. We are allowing 30 days notice before these regulations are effective. We believe this is ample time because no changes in agreements between physicians and hospitals are required by this rule. Also, we gave notice in the March 1983 rule that this change was likely to occur.

B. Comments on Other Issues

Comment. A number of commenters noted that while 42 CFR 405.552(a)(1)(vii) requires that an anesthesiologist, as a condition for payment on the basis of charges, provide indicated postanesthesia care, the general discussion in the preamble of the March 1983 final rule (48 FR 8928, column 3) states ". . . checking or discharging patients in the recovery room and handling scheduling matters is not compatible with our reimbursing the physician on a reasonable charge basis for directing concurrent anesthesia procedures." The commenters requested clarification.

Response. Implicit in the payment of charges for the medical direction of concurrent anesthesiology services is that the physician is directing services furnished by others. As a condition for charge payment for direction of up to four concurrent services, the physician must furnish or assure that a qualified individual furnishes indicated care in the recovery room. We did not mean to suggest otherwise.

However, if a physician is directing four concurrent surgical procedures and devotes extensive time to checking or discharging other patients in the recovery room or handling scheduling matters, this could unduly diminish physician involvement in the surgical cases. If significantly reduced, a physician's involvement in the surgical cases would become "supervision" rather than "medical direction". Also, a physician cannot *personally* be extensively involved in recovery room or scheduling matters of significant duration, because such personal services would diminish the scope of control necessary for "medical direction".

The carrier will review medical records and operating room logs to assure that the requirements for medical direction are met. Any questions regarding these issues as they apply in individual cases will be resolved by the carrier's medical director.

IV. Impact Analysis

A. Executive Order 12291

Executive Order 12291 requires us to prepare and make available to the public a regulatory impact analysis for any regulations likely to result in an annual effect on the economy of $100 million or more, cause a major increase in costs or prices, or meet other threshold criteria specified in section 1(b) of the Order.

1. Combined Billing. Combined billing has been used by providers to include charges for certain physician services, especially radiology and pathology services, on the provider's bill. Charges billed by this method have not been subject to prevailing charge screens. We believe that elimination of combined billing will enable us to test the reasonableness of all charges for physicians' services furnished to Medicare beneficiaries. This will avoid creating incentives for physicians or hospitals to shift to combined billing to escape the effects of reasonable charge determinations made by carriers using prevailing charge screens.

As noted in the March 1983 final rule, we expect that eliminating combined billing will result in additional one-time start-up costs of $6 million in FY 1984, and will generate ongoing operational costs as well as some program savings. As a result of decisions made in the final rule, we estimate ongoing operational costs of $18 million in FY 1984. These costs will result from increased costs for processing claims formerly included in combined billing coupled with the higher average cost, as compared to combined bills, to process the HCFA–1500 billing form, which will now be used for almost all physician services reimbursed on a reasonable charge basis. However, these operational costs will be offset by administrative savings from other features in the hospital-based physician regulation published March 2, 1983. If we do not eliminate combined billing, we can expect our billing costs to be significantly higher, since maintaining parallel optional billing methods entails the additional costs of changes between billing methods.

We believe that this provision will also realize some program savings resulting from the use of the itemized HCFA–1500 billing form. Carriers will be able to make the necessary comparisons of actual amounts billed to customary and prevailing charges for similar services. This will assure that payment amounts for physician services furnished in providers do not exceed what we would otherwise have paid for comparable services and will allow us to retain control over Medicare program expenditures. However, because we do not have data on the extent to which this now occurs, we cannot quantify the expected savings of this provision. However, we expect that this will result in savings that are greater than the anticipated costs. There is no indication, at this time, that any savings would exceed the $100 million threshold.

2. Anesthesiologists' Services. We are not making any changes to the regulations concerning physician direction of concurrent anesthesia procedures while a physician is checking and discharging patients in the recovery room. We included the effect of these regulations in our analysis published in the March 1983 rule (48 FR 8943).

B. Regulatory Flexibility Act

The Secretary certifies under 5 U.S.C. 605(b), enacted by the Regulatory Flexibility Act of 1980 (Pub. L. 96–354), that this rule will not result in a significant impact on a substantial number of small entities.

1. Combined Billing. Some physicians may experience revenue losses because of the application by carriers of the regular prevailing charge screens. However, we are unable to estimate the extent to which this may occur, although any loss should not be significant given the average income for most physicians.

Hospitals or physicians previously subject to combined billing will also experience some increase in operating expenses to comply with this new billing procedure, although some of these costs can be recovered through various means.

2. Anesthesiologists' Services. We are not making any changes to the

regulations concerning physician direction of concurrent anesthesia procedures while a physician is checking and discharging patients in the recovery room. We included the effect of these regulations in our analysis published in the March 1983 rule (48 FR 8943).

C. Information Collection Requirements

This final rule does not contain information collection requirements that are subject to Executive Office of Management and Budget review under the Paperwork Reduction Act of 1980, Pub. L. 96-511.

List of Subjects in 42 CFR Part 405

Administrative practice and procedure, Certification of compliance, Clinics, Contracts (agreements), End-stage renal disease (ESRD), Health care, Health facilities, Health maintenance organizations (HMO), Health professions, Health suppliers, Home health agencies, Hospitals, Inpatients, Kidney diseases, Laboratories, Medicare, Nursing homes, Onsite surveys, Outpatient providers, Reporting requirements, Rural areas, X-rays.

(Secs. 1102, 1814(b), 1815, 1832, 1833(a), 1842(b), 1861(b), 1861(v), 1871, 1881, 1886, and 1887 of the Social Security Act, as amended (42 U.S.C. 1302, 1395f(b), 1395g, 1395k, 1395l(a), 1395u(b), 1395x(b), 1395x(v), 1395hh, 1395rr, 1395ww, and 1395xx))

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance Program, No. 13.774, Medicare—Supplementary Medical Insurance Program)

Dated: August 17, 1983.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: August 25, 1983.

Margaret M. Heckler,

Secretary.

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Thursday
September 1, 1983

Part III

Department of Health and Human Services

Health Care Financing Administration

Medicare Program; Schedule of Target Rate Percentages for Limits on the Rate of Hospital Cost Increases and Updating Factors for Transition Prospective Payment Rates; Interim Final Notice With Comment Period.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Medicare Program; Schedule of Target Rate Percentages for Limits on the Rate of Hospital Cost Increases and Updating Factors for Transition Prospective Payment Rates

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Interim final notice with comment period.

SUMMARY: This interim notice sets forth target rate percentages needed to limit the rate of increase of hospital inpatient operating costs and related updating factors for use in computing the hospital-specific portions of transition payment rates under the prospective payment system. The notice also explains which hospitals are subject to the ceiling on the rate of hospital cost increases (as established by the Tax Equity and Fiscal Responsibility Act of 1982, and amended by the Social Security Amendments of 1983), and describes how the calendar year target rate percentages are applied to cost reporting periods that span two calendar years.

EFFECTIVE DATE: See the text of this notice for an explanation of the application of these target rate percentages to particular cost reporting periods.

COMMENT DATE: To assure consideration, comments should be received by October 16, 1983.

ADDRESS: Address comments in writing to: Health Care Financing Administration, Department of Health and Human Services, Attention: BERC–284–FNC, P.O. Box 28676, Baltimore, Maryland 21207.

In commenting, please refer to BERC–284–FNC.

If you prefer, you may deliver your comments to Room 309–G Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, D.C., or to Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

Comments will be available for public inspection as they are received, beginning approximately three weeks after publication, in Room 309–G of the Department's offices at 200 Independence Ave., S.W., Washington, D.C. 20201, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (200–245–7890).

FOR FURTHER INFORMATION CONTACT: Terence Skelly, (301) 594–9343.

SUPPLEMENTARY INFORMATION:

I. Background

Section 101(a)(1) of the Tax Equity and Fiscal Responsibility Act of 1982, or TEFRA (Pub. L. 97–248, enacted September 3, 1982), added two new sections 1886(a) and 1886(b) to the Social Security Act (the Act), supplementing section 1861(v) of the Act by providing for a limit on the amount of inpatient operating cost per discharge and a new three-year control on the rate of increase of operating costs of inpatient hospital services. (This rate of increase limit is separate and different from the type of limit established under section 1861(v) (as amended by section 223 of Pub. L. 92–603) and section 1886(a), which were applied to the level of costs, rather than to their rate of increase.) This new provision requires that we establish a ceiling on the rate of increase of operating costs per case for inpatient hospital services and provides for both incentive payments for hospitals that keep their cost below the target, and a reduction in the amount of reimbursement for hospitals that incur costs greater than the target.

On September 30, 1982, we published interim final regulations (47 FR 43282) implementing section 1886(b) of the Act for hospital cost reporting periods beginning on or after October 1, 1982 (42 CFR 405.463). The interim rules had a 60-day comment period, ending November 29, 1982, during which we received approximately 100 comments on the regulations.

As a result of review of comments on and further analysis of the interim regulations, we published final regulations making certain amendments to the interim rules and establishing them as permanent program regulations (FR Doc. 83–23800, Part V of the issue of August 30, 1983). In those final rules, we amended the interim rate of increase regulations (42 CFR 405.463) in two ways. First, we excluded certain kidney acquisition costs from those inpatient operating costs subject to the rate of increase ceiling. Second, we decided to revise the method of updating and providing notice of target rate percentages included in the interim regulations. Instead of requiring intermediaries to use the most recent percentage published in the annual cost limits notice, we decided to publish appropriate percentages quarterly. Those amendments provided that intermediaries use the most recent percentage available as of the close of the hospital's cost reporting period, and that HCFA publish revised market basket percentages each quarter in the Provider Reimbursement Manual (HCFA Pub. 15–1), and also publish the updated percentages in an appropriated **Federal Register** notice.

However, amendments to section 1886(b) made by Title VI of Pub. L. 98–21, enacted April 20, 1983, which also established the prospective payment system, require us to further amend the regulation on the rate of increase ceiling.

We are implementing the amendments made to section 1886(b) by section 601 of Pub. L. 98–21 by amending our regulations at 42 CFR 405.463 as part of the conforming changes made in the interim rules implementing the prospective payment system, published elsewhere in this issue of the **Federal Register**. The changes are as follows:

- We are deleting all references to the inapplicability of the rate of increase limits to cost reporting periods beginning on or after October 1, 1985. Section 405.463 will now apply indefinitely (section 1886(b)(2) of the Act, as repealed by section 601(b)(4)).
- We are clarifying the costs subject to the ceiling, specifying that for cost reporting periods beginning on or after October 1, 1983, capital-related costs (including the return on equity which is treated like a capital-related cost), and the direct costs of approved medical education programs will be excluded from the ceiling (sections 1886(a)(4) and (b)(4)(A) of the Act, as amended by sections 601(a)(2) and 601(b)).
- Hospitals must treat such costs consistently with treatment in their base period.
- We are providing for adjustment of base period costs to account for FICA taxes incurred by a non-profit hospital that had not incurred such taxes for all its employees in its base period (section 1886(b)(6) of the Act, as amended by section 601(b)(9)).
- Hospitals engaged in kidney transplantation encounter a unique set of circumstances with respect to their cost experience because of special provisions of the law applicable to end stage renal disease (ESRD). Kidney acquisition costs are reimbursed pursuant to section 1881 of the Act, under which the Secretary reimburses: (1) the hospital for obtaining kidneys from Organ Procurement Agencies (OPA) in amounts not to exceed the costs incurred by OPAs and histocompatability laboratories; and (2) the reasonable expenses incurred by an individual donor. In view of the unique characteristics of organ procurement activities and the desirability of maintaining an adequate supply of kidneys, certain kidney acquisition costs will not be subject to the rate of increase control.

• We are providing that the target rate percentages by which target amounts will be determined will be established prospectively and published in a quarterly Federal Register notice. Target rate percentages will still be prorated for cost reporting periods that span portions of two calendar years. Further, we have made it explicit in the regulations that we will apply the appropriate target rate percentage prospectively, and will not retroactively adjust the prospectively set target rate percentages if the actual increase in the market basket differs from the prospective estimate.

II. How the Rate of Increase Ceiling Works

The regulations, as amended, establish a target rate percentage system to be applied to control the rates of increase of total hospital inpatient operating costs per case effective for 12-month cost reporting periods beginning on or after October 1, 1982 (see our regulations at 42 CFR 405.463(b)). The target rate percentage equals the market basket index plus one percentage point. In the first year, this target rate percentage will be applied to each hospital's allowable inpatient operating cost per discharge for its immediately preceding cost reporting period (§ 405.463(c)). In the case of a hospital whose first reporting period subject to the rate-of-increase control begins October 1, 1982, the target rate percentage would be applied to the allowable inpatient operating cost per discharge for the period beginning October 1, 1981. The resulting amount will be that hospital's target amount for inpatient operating cost per discharge in the first cost reporting period subject to this provision (§ 405.463(b)). The rules provide that in each subsequent cost reporting period, the target amount will be computed by applying the applicable target rate percentage to the previous period's target amount (§ 405.463(c)(4)(ii)).

If a hospital's costs in a subject cost reporting period are below its target amount, we will pay the hospital its actual costs per case plus the lower of 50 percent of the difference between the hospital's cost per case and the target amount, or 5 percent of the target amount. If a hospital's cost in a subject period is higher than its target amount, we will pay, in the first two years, the target amount plus 25 percent of the excess costs, and, in the third year, the target amount (§ 405.463(d)). For periods beginning on or after October 1, 1982 and before October 1, 1983, the maximum payment is limited by the TEFRA limits on total inpatient operating cost established under section 1886(a).

New hospitals, risk-basis health maintenance organizations, and hospitals paid under the prospective payment system are exempt from the rate of increase ceiling (§ 405.463(f)). A hospital subject to the ceiling may request an exception to it on the basis of a change in case mix or extraordinary circumstances that are beyond the hospital's control and which have substantial cost effects (§ 403.463(g)). The ceiling will not apply to a cost reporting period of less than 12 months that occurs along with a change in operations of the facility as a result of changes in ownership, merger or consolidation (§ 405.463(b)(3)). In addition, HCFA may adjust a hospital's cost per case to take into account factors, such as a decrease in the inpatient hospital services, that would otherwise distort the comparison of costs between reporting periods (§ 405.463(h)).

III. Hospitals Subject to the Rate of Increase Ceiling

Under the rules implementing TEFRA, only new hospitals and risk-basis health maintenance organizations (HMOs) were exempt from the rate of increase ceiling. All other hospitals participating in Medicare were subject to this new limit on inpatient operating costs for cost reporting periods beginning on or after October 1, 1982.

Under Pub. L. 98–21, most participating short-term acute care hospitals will be paid under the prospective payment system and will not be subject to the rate of increase ceiling for cost reporting periods beginning on or after October 1, 1983. Rather, this ceiling will apply to hospitals and hospital units (that is, distinct part psychiatric and rehabilitation units) that are excluded from the prospective payment system and paid on a reasonable cost basis under our regulations at 42 CFR Part 405, Subpart D. The criteria for identifying these hospitals and units are set forth in the interim regulations published elsewhere in this issue, at § 405.471(c).

In summary, the following classes of hospitals will be subject to the rate of increase ceiling for cost reporting periods beginning on or after October 1, 1983:

- Psychiatric hospitals;
- Rehabilitation hospitals;
- Psychiatric and rehabilitation distinct part units;
- Children's hospitals;
- Long-term hospitals; and
- Hospitals outside the 50 States and the District of Columbia (for example, Puerto Rico).

IV. Inpatient Operating Costs Subject to the Rate of Increase Ceiling

The rate of increase ceiling applies to operating costs incurred by a hospital in furnishing inpatient hospital services. These operating costs *include* the operating costs related to routine services, such as nursing services and room and board, ancillary services, and special care units.

For cost reporting periods beginning on or after October 1, 1982 and before October 1, 1983, inpatient operating costs *exclude* capital-related costs, the direct costs of medical education, malpractice insurance costs, and certain costs of kidney acquisition. However, section 601(a)(2) of Pub. L. 98–21 amended section 1886(a)(4) of the Act, which defines inpatient operating costs, effective for cost reporting periods beginning on or after October 1, 1983. For those cost reporting periods, costs *excluded* from operating costs are capital-related costs, direct medical education costs, and certain kidney acquisition costs. A new regulation section describing capital-related costs is included in the interim rules implementing the prospective payment system, at § 405.414. Those interim rules also amend the regulations describing direct medical education costs, at § 405.421, as explained in the preamble to the interim rules.

V. Application of Target Rate Percentages

As mentioned above, we are, beginning with this notice, publishing quarterly notices of target rate percentages. Each of these notices will include tables (see below) of target rate percentagers set at the market basket index plus one percentage point, in accordance with section 1886(b)(3)(B) of the Act. The market basket index is an estimate of the annual rate of increase in the costs of certain goods and services used by hospitals in the production of inpatient care. The items and services used in the market basket index have been selected and weighted to reflect the effect that general price changes have on hospital inpatient operating costs.

The calculation of the market basket index is explained in the interim rules on prospective payment. We have revised the market basket index to take into account the inclusion of malpractice insurance among inpatient operating costs. For administrative simplicity, and because the minimal increase in the

market basket estimates resulting from this change will not disadvantage any hospitals, we have decided to use the same market basket index for all cost reporting periods subject to this notice.

When a hospital's cost reporting period spans two calendar years (i.e., begins in one calendar year and ends in another), the hospital's target rate percentage will be determined by prorating the applicable percentages for the calendar years the period spans.

For 12-month cost reporting periods beginning on or after October 1, 1982, and before October 1, 1983, the applicable target rate precentages will be taken from the notice published for the quarter in which the hospital's cost reporting period ends. Thus, the percentages published in this notice will be used to determine the rate of increase ceilings for hospital cost reporting periods *ending* on or after September 30, 1983 and *before* January 1, 1984. These percentages will not be adjusted later if the actual rates of increase differ from the market basket estimates.

Cost reporting periods of other than 12 months that *do not* occur along with a change in operations of the facility as a result of changes in ownership, merger, or consolidation, are subject to the rate of increase limit. In such cases, the applicable target rate percentage must be obtained from HCFA. We will adjust the target percentage rate to reflect fewer months in the case of a short reporting period, using a monthly factor corresponding to the annual percentage rate and apply the ceiling. (We will also use such a monthly factor to make adjustments for cost reporting periods longer than 12 months.)

As noted above, Pub. L. 98–21 specified that, effective for cost reporting periods beginning on or after October 1, 1983, the target rate percentages must be established prospectively. Therefore, the target rate percentages published in this notice will also be applied to 12-month cost reporting periods *beginning* on or after October 1, 1983 and before January 1, 1984. Again, these percentage rates will not be revised later based on actual market basket experience.

A hospital's intermediary will prorate the appropriate calendar year percentages from Table A to determine the target rate percentage for a hospital with a cost reporting period that spans two calendar years. The intermediary will compute a prorated target rate percentage as follows:

1. The intermediary will determine the number of months in each calendar year covered by the hospital's cost reporting period.

2. The number of months for each calendar year will be divided by twelve and multiplied by the applicable target rate percentage for that year.

3. The two resulting percentages are added, yielding the hospital's target rate percentage for that cost reporting period.

Example A: Hospital A has a cost reporting period beginning October 1, 1982 and ending September 30, 1983. Therefore, there are 3 months of the period in 1982 and 9 months of the period in 1983.

The applicable calendar year target rate percentages are:

1982.....10.3 (0.103)
1983.....7.2 (0.072)

Hospital A's rate percentage is calculated as follows:

$$\frac{(3\times 0.103)}{12} + \frac{(9\times 0.072)}{12} = 8.0\%$$

Example B:

Hospital B has a cost reporting period beginning November 1, 1983 and ending October 31, 1984. Therefore, there are 2 months of the period in 1983 and 10 in 1984.

The applicable calendar year target rate percentages are:

1983.....7.2 (0.072)
1984.....6.8 (0.068)

Hospital B's target rate percentage is calculated as follows:

$$\frac{(2\times 0.072)}{12} + \frac{(10\times 0.068)}{12} = 6.9\%$$

Note that in Example A, in which the cost reporting period begins *before* October 1, 1983, the resulting percentage will be applied retrospectively. In Example B, the resulting percentage will be applied prospectively, since the cost reporting period begins *after* October 1, 1983.

VI. Updating Factors for Determining Transition Payment Rates Under the Prospective Payment System

The preamble to the interim final rules implementing the prospective payment system established by Title VI of Pub. L. 98–21 and amending the regulations governing the rate of increase ceiling, which are published elsewhere in this issue of the **Federal Register**, explains how prospective payment rates during the initial three-year transition period will be determined using a blend of Federal prospective payment rates (based on standardized payment amounts) and rates based on each hospital's cost experience. The hospital-specific portion of the transition payment rates will be based on per case target amounts computed generally in the same way as are amounts for hospitals subject to the rate of increase ceiling. This computation is described in the interim regulations published elsewhere in this issue at 42 CFR 405.474. The differences will be that, for hospitals paid under the prospective payment system:

- The target amounts will be standardized to take a hospital's historical case mix into account;
- The case-mix adjusted base year costs will be reduced to take into account outlier payments; and
- The applicable updating factors will be based on the rate of increase target rate percentage as adjusted for budget neutrality, in accordance with section 1886(e)(1)(A) of the Social Security Act.

Therefore, for cost reporting periods beginning on or after October 1, 1983, we are publishing in Table B, below, updating factors for computing the hospital-specific portion of transition period prospective payment rates. The updating factors are computed by adjusting the calendar year target rate percentages by an actuarily estimated factor. This adjustment is necessary to implement the budget neutrality provisions of the statute. The factor is computed to ensure that the estimated amount of aggregate Medicare payments made based on the hospital-specific portion of the transition payment rates for Federal fiscal year 1984 is neither greater nor less than 75 percent of the payment amounts that would have been payable for the inpatient operating costs incurred by those same hospitals for fiscal year 1984 under the Social Security Act as it was in effect on April 19, 1983.

VII. Tables of Target Rate Percentages and Hospital-Specific Portion Updating Factors

TABLE A.—TARGET RATE PERCENTAGES

[Applicable to hospitals subject to the rate of increase ceiling]

Calendar year	Estimated market basket index (percent) [1]	Target rate percentage
1982	9.3	10.3
1983	6.2	7.2
1984	5.8	6.8
1985	6.2	7.2

[1] This market basket index includes malpractice insurance costs.

TABLE B.—UPDATING FACTORS

[Applicable to hospitals under the prospective payment system]

If base year cost reporting period ends	And first cost reporting period under PPS ends	Updating factor[1]
Sept. 30, 1982	Sept. 30, 1984	1.13570
Oct. 31, 1982	Oct. 31, 1984	1.13265
Nov. 30, 1982	Nov. 30, 1984	1.12961
Dec. 31, 1982	Dec. 31, 1984	1.12658
Jan. 31, 1983	Jan. 31, 1985	1.12658
Feb. 28, 1983	Feb. 28, 1985	1.12658
Mar. 31, 1983	Mar. 31, 1985	1.12658
Apr. 30, 1983	Apr. 30, 1985	1.12658
May 31, 1983	May 31, 1985	1.12658
June 30, 1983	June 30, 1985	1.12658
July 31, 1983	July 31, 1985	1.12658
Aug. 31, 1983	Aug. 31, 1985	1.12658

[1] If a hospital's base year cost reporting period ends on a date other than as specified above, the fiscal intermediary will contact HCFA for the appropriate adjustment factor.

VIII. Impact Analysis

Executive Order 12291 requires us to prepare and publish a regulatory impact analysis for any regulations that are likely to have an annual effect on the economy of $100 million or more, cause a major increase in costs or prices, or meet other threshold criteria that are specified in that order. In addition, the Regulatory Flexibility Act (Pub. L. 96–354) requires us to prepare and publish a regulatory flexibility analysis for regulations unless the Secretary certifies that the regulations will not have a significant economic impact on a substantial number of small entities. (For purposes of the Regulatory Flexibility Act, small entities include all nonprofit and most for-profit hospitals.) Under both the Executive Order and the Regulatory Flexibility Act, such analyses must, when prepared, show that the agency issuing the regulations has examined alternatives that might minimize unnecessary burden or otherwise ensure the regulations to be cost-effective.

Although this notice implements two regulatory provisions, its primary purpose is to publish the target rate percentages for purposes of determining the rate-of-increase ceiling for hospitals subject to our regulations at 42 CFR 405.463. The effect of the updating factors used to determine the hospital-specific portion of transition payment rates under the prospective payment system is included in the cost and impact estimates of the impact analysis of the interim rules implementing that system. Therefore, in this section, we address only the rate of increase ceiling provisions implemented through this notice.

In previous documents implementing the rate of increase ceiling, we noted that although the estimated effect of the rate of increase ceiling clearly exceeded the $100 million annual threshold of the Executive Order, we determined that impact to be caused by section 1886(b) of the Social Security Act, rather than by our regulations, now codified at 42 CFR 405.463. (See interim rules at 47 FR 43282, published September 30, 1982 and final rules in FR Doc. 83–23800, Part V of the issue of August 30, 1983. With the implementation of the prospective payment system, the rate of increase ceiling will be applied to many fewer hospitals, since hospitals paid on a prospective rate basis are not subject to the ceiling. Further, our prior estimates for the rate of increase ceiling were stated as savings in addition to savings achieved by the hospital cost limits, which will not apply to cost reporting periods beginning on or after October 1, 1983.

As established under TEFRA, the rate of increase ceiling was expected to substantially reduce Medicare expenditures for inpatient hospital services, resulting, according to our re-estimate in February 1983, in savings for the Part A Trust Fund of $480 million in Fiscal Year 1983 and $780 million in Fiscal Year 1984. However, nearly all of these savings were the result of the effect of the ceiling on hospitals that will be subject to the prospective payment system. This notice will not result in a change of Fiscal Year 1983 savings, or savings related to cost reporting periods phased in during Fiscal Year 1983. However, due to the implementation of the prospective payment system, the rate of increase ceiling will apply to only a very small proportion of Medicare expenditures for inpatient hospital services furnished in cost reporting periods beginning on or after October 1, 1983.

We estimate that only about two percent of such expenditures have been made historically to hospitals that will be excluded from the prospective payment system. However, we have not previously collected special data on these groups of hospitals, and cannot determine whether their rates of cost increase have been similar to those of hospitals as a whole. It is possible that their costs have increased significantly less rapidly than those of short-term acute-care hospitals. If this is so, then the rate of increase ceiling may have little effect on them. In any event, the savings attributable directly to the rate of increase ceiling will be much smaller than would have been attributed to the ceiling if the prospective system had not been established.

Any savings would be the direct result of implementation of section 1886(b), which clearly specifies the major features of the rate of increase ceiling. The discretionary features with respect to the ceiling, such as the decision to publish updated target rate percentages quarterly, will not have an impact of $100 million or more, or meet the other threshold criteria of the Executive Order. Therefore, we have determined that this notice is not a major rule and that a regulatory impact analysis is not required.

For similar reasons, we have determined, and the Secretary certifies, under the Regulatory Flexibility Act, that this notice will not, in itself, result in a significant economic impact on a substantial number of small entities.

Nearly all hospitals participating in Medicare will, as a result of implementation of section 1886 of the Social Security Act, be subject to the rate of increase ceiling, the prospective payment system, or a State cost control system. As regards the rate of increase ceiling, we have exercised discretionary authority affecting the impact on small entities primarily in developing criteria for excluding certain hospitals from the prospective payment system. However, the categories for which we developed such criteria are prescribed by statute (section 1886(d)(1)(B)), and we do not believe that our criteria have resulted in subjecting a substantial number of hospitals to the rate of increase ceiling that would otherwise have been subject to the prospective payment system. Since the impact of the ceiling is attributable to the effect of the statute, rather than our regulations, we have determined that a regulatory flexibility analysis is not required.

IX. Other Required Information

A. Public Comments on This Interim Notice

Because the updating factors included in this notice will be used to implement interim rules published elsewhere in this issue of the **Federal Register**, this notice must be published on an interim basis also. We are providing a 45-day comment period on both this interim notice and the interim rules implementing the prospective payment system. We expect to respond to comments on those rules and this notice in the final rules on prospective payment. Because this is the first of a series of notices that we plan to publish quarterly, those final rules and responses to comments on this notice may not be published before the next quarterly notice. Quarterly notices will be published on an interim basis until final rules on the prospective payment system are promulgated.

Because of the large number of comments we receive, we cannot

acknowledge them individually. Although the target rate percentages and updating factors published in this interim notice will take effect as described above before the close of the comment period on [45 days from date of publication], we will review all comments received by that date and respond to them in a future publication.

B. Paperwork Reduction Act

This final notice with comment period does not contain information collection requirements that are subject to review by the Executive Office of Management and Budget under the Paperwork Reduction Act of 1980 (Pub. L. 96–21).

C. Waiver of Prior Public Comment Period and 30-Day Delay in Effective Date

The Administrative Procedure Act (5 U.S.C. 553) provides for a period of public comment and for a 30-day delay in the effective date of rulemaking documents, unless there is good cause to waive the requirements.

The target rate percentages and updating factors published in this interim notice are necessary for three purposes:

- To compute appropriate rate of increase ceilings under our regulations at 42 CFR 405.463 for hospital cost reporting periods ending during the quarter from September 30, 1983 through December 31, 1983;
- To compute appropriate rate of increase ceilings under § 405.463 for hospital cost reporting periods beginning on or after October 1, 1983 and before January 1, 1983; and
- To update the cost data used to determine the hospital-specific portion of transition payment rates under the prospective payment system.

The first purpose requires a retroactive application of percentages to cost reporting periods beginning as long ago as October 1, 1982. As explained above, we provided in the final rules concerning the rate of increase limit (FR Doc. 83–23800, Part V of the issue of August 30, 1983) that we would publish quarterly notices of target rate percentages. The purpose of quarterly publication is to ensure the availability of timely and accurate estimates. Less frequent publication (for example, annual notices of percentages, as originally provided under the interim rules published September 30, 1982) would result in accidental accrual of unintended and unnecessary advantages or disadvantages to affected hospitals, depending on how their cost reporting periods related to the publication schedule and how the percentages varied. Therefore, although generally there are no other changes in the methodology by which target rate percentages are derived, we have decided to publish revised estimates as often as feasible. (The basis for retroactive application of these estimates is explained more fully in the final rules concerning the rate of increase limit referred to above.)

Regarding the updating factors, section 604(c) of Pub. L. 98–21 provides that we must publish interim regulations and rates implementing the prospective payment system no later than September 1, 1983. These updating factors are necessary for the calculation of the transition payment rates that we will pay during the first year of that payment system.

Similarly, since the methodology used to compute the rates of increase contained in this notice is essentially the same as provided in the original interim rate of increase rules, we believe it would be inappropriate to use a different, outdated, and less accurate market basket estimate to compute rate of increase ceiling target amounts for cost reporting periods already begun. If we were required to submit the rates of increase for public comment and to provide a delayed effective date, the alternative to using these quarterly estimates would be to use the market basket estimate published September 30, 1982 for all cost reporting periods beginning before October 1, 1983.

To summarize, section 604(a) of Pub. L. 98–21, enacted on April 20, 1983, provides that the prospective payment system, to which this notice conforms and which it in part implements, is effective for cost reporting periods beginning on or after October 1, 1983. In addition, section 604(c) of Pub. L. 98–21 mandates that final rules to implement the prospective payment system be published in the **Federal Register** by September 1, 1983 without the benefit of a prior period for public comment.

For the reasons stated above, and in view of the time frames for implementation of the prospective payment system required by Pub. L. 98–21, we believe that it is not practicable, necessary, or in the public interest to publish this notice as a proposal for public comment or to provide for a delay in the effective date. However, we are offering an opportunity for comment on both this interim notice and the interim rules implementing the prospective payment system, including the amendments to the regulations governing the rate of increase ceiling.

(Secs. 1102, 1871, and 1886(b) and (d) of the Social Security Act (42 U.S.C. 1302, 1395hh, and 1395ww(b) and (d); 42 CFR 405.463 and 405.474)

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare-Hospital Insurance)

Dated: August 17, 1983.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: August 25, 1983.

Margaret M. Heckler,

Secretary.

[FR Doc. 83–23803 Filed 8–31–83; 8:45 am]

BILLING CODE 4120–03–M

federal register

Thursday
September 1, 1983

Part IV

Department of Health and Human Services

Health Care Financing Administration

Medicare Program; Prospective Payments for Medicare Inpatient Hospital Services; Interim Final Rule With Comment Period

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 405, 409, and 489

Medicare Program; Prospective Payments for Medicare Inpatient Hospital Services

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Interim final rule with comment period.

SUMMARY: This interim final rule sets forth the revised conditions and procedures for making Medicare payments to hospitals for inpatient services, effective with cost reporting periods that begin on or after October 1, 1983. It also contains certain provisions effective on October 1, 1983 for all providers. This rule is needed to implement the Social Security Amendments of 1983 (Pub. L. 98–21), which change the method of payment for inpatient hospital services from a cost-based, retrospective reimbursement system to a diagnosis specific prospective payment system. The new system will be phased in over a three-year period and is primarily intended to provide incentives to hospitals to manage their operations in a more cost-effective manner. The attached addendum sets forth the schedule of standardized amounts and relative weights applicable for cost reporting periods beginning on or after October 1, 1983 and before October 1, 1984.

DATES: Effective Date: In general, these regulations are effective on October 1, 1983. They will be applied with cost reporting periods beginning on or after October 1, 1983, with the following exceptions. The amendments to §§ 405.310(m), 489.21, and 489.23 will be applied for services furnished on or after October 1, 1983 irrespective of cost reporting periods. The amendments to § 405.429 will be applied for cost reporting periods beginning on or after April 20, 1983. The amendments to § 405.455 will be applied for cost reporting periods beginning on or after October 1, 1982. The amendments to §§ 405.1837, 405.1841, and 405.1877 concerning group appeals will be applied as of April 20, 1983. The amendments to § 405.453(f)(3) are effective September 1, 1983.

Comment Date: To assure consideration, comments should be received by October 17, 1983.

ADDRESS: Address comments in writing to: Health Care Financing Administration, Department of Health and Human Services, Attention: BERC–263–IFC, Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

Please address a copy of any comments relating to information collection requirements to: Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503, Attention: Desk Officer for HCFA.

If you prefer, you may deliver your comments to Room 309–G Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, D.C., or to Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland. When commenting, please refer to file code BERC–263–IFC.

Comments will be available for public inspection as they are received, beginning approximately three weeks after today, in Room 309–G of the Department's offices at 200 Independence Ave., SW., Washington, D.C., on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (phone: 202–245–7890).

FOR FURTHER INFORMATION CONTACT:

Paul Olenick, (301) 594–9349; Determination of Federal Rates; Exceptions and Adjustments; Addendum

Barbara Wynn, (301) 597–1869; Determination of Hospital-Specific Rates; Excluded Costs; 602(k) Waivers; Interim Payments

Sheridan Gladhill, (301) 594–9441; Excluded Hospitals

Tom Hoyer, (301) 594–9446; Medical Review Activities; Exclusions From Coverage

George Cray, (301) 594–9755; Provider Appeals

Ed Roth, (301) 594–9437; Charges to Beneficiaries; Secondary Liability

William Morse, (301) 594–1160; Definition of and Payment for Physician Services

SUPPLEMENTARY INFORMATION:

TABLE OF CONTENTS

I. BACKGROUND
A. Medicare Reimbursement—General Discussion
B. Social Security Amendments of 1972
C. Tax Equity and Fiscal Responsibility Act of 1982
II. SUMMARY OF TITLE VI OF THE SOCIAL SECURITY AMENDMENTS 1983
III. MAJOR FEATURES OF PROSPECTIVE PAYMENT SYSTEM
A. Applicability
1. Excluded Hospitals and Hospital Units Subject to Rate of Increase Limits
a. Psychiatric Hospitals
b. Rehabilitation Hospitals
c. Distinct Part Psychiatric and Rehabilitation Units
d. Children's Hospitals
e. Long-term Hospitals
f. Hospitals Outside the 50 States and the District of Columbia
2. Excluded Hospitals Paid Under Alternative Reimbursement Programs
3. Other Special Cases
a. Nonparticipating Hospitals Furnishing Emergency Services
b. Veterans Administration Hospitals
c. Services Furnished by Risk-Basis HMOs and CMPs
B. Basis of Payment Under the Prospective Payment System
1. General Description
2. Discharges and Transfers
a. Transfers to Hospitals Paid under Prospective Payment
b. Transfers to Hospitals or Units Excluded from Prospective Payment
3. DRG Classification
4. Costs Included Under the Prospective Payment System
a. Inpatient Operating Costs for Routine, Ancillary, and Special Care Services
b. Nonphysician Services
c. Waivers
5. Costs Excluded From the Prospective Payment System
a. Capital-Related Costs
b. Direct Medical Education Costs
6. Cost Reporting Periods
7. Publication of Standardized Amounts and Relative Weights
a. Initial Rates
b. Annual Publication of Standardized Amounts and Relative Weights
C. Determination of the Prospective Payment Rates
1. Calculation of Adjusted Standardized Payment Amounts
a. Base Year Cost Data
b. Updating for Inflation
c. Standardization
i. Variations in Case-Mix Among Hospitals
ii. Indirect Medical Education Costs
iii. Adjustments for Variation in Hospital Wage Levels (Federal Portion)
iv. Cost-of-living Factor for Alaska and Hawaii
d. Urban/Rural Averages within Geographic Areas
e. Calculation of Adjustments to Standardized Amounts
i. Part B Costs
ii. FICA Taxes
iii. Outliers
iv. Budget Neutrality
f. Summary of Calculations Resulting in Adjusted Standardized Amounts
2. Adjustments For Area Wage Levels and Cost-of-Living in Alaska and Hawaii
a. Adjustment for Area Wage Levels
b. Adjustment for Cost-of-Living in Alaska and Hawaii
3. Federal DRG Prospective Payment Rates
a. DRG Classification
b. Weighting Factors
1. Computation of Adjusted Cost for Each Case

ii. Standardization of Adjusted Cost Per Case for Variation Due to Teaching Activity and Hospital Wage Levels
iii. Adjustments to the Weighting Factors to Remove Kidney Acquisition Cost
4. Calculation of Prospective Payment Rates
a. Hospital-Specific Portion
i. Base-Year Costs
ii. Case-Mix Adjustment
iii. Outlier Adjustment
iv. Budget Neutrality
v. Updating Factor
vi. Example of Calculation of Hospital-Specific Rate
vii. Calculation of Hospital-Specific Portion
viii. New Providers
b. Federal Portion
c. Phase-In Period
d. Phase-In Period for New Providers
e. Annual Update of Schedule of Standardized Amounts
i. Update of Standardized Amounts for FY 85
ii. Update of Standardized Amounts Beginning FY 86
D. Additional Payment Amounts
1. Outliers
2. Alternate Placement Days
3. Additional Payments on Reasonable Cost Basis
a. Capital-Related Costs
b. Direct Medical Education
c. Direct Medical and Surgical Services of Teaching Physicians
4. Bad Debts
5. Indirect Medical Education
E. Interim Payments
1. General
2. Methodology for Determining Payments Under PPS
F. Change of Ownership
G. Special Treatment of Sole Community Hospitals, Christian Science Sanitoria, Cancer Hospitals, Referral Centers, and Certain Kidney Acquisition Costs Incurred by Renal Transplantation Centers
1. Sole Community Hospitals (SCHs)
a. Criteria for SCH Status
b. Procedures for SCH Classification
c. Payment to SCHs
i. Criteria for Determining Eligibility for Additional Payments
ii. Amount of Payment Adjustment
iii. Procedures for Requesting Special Adjustments
2. Christian Science Sanitoria
3. Hospitals involved Extensively in Treatment for and Research on Cancer
4. Referral Centers
5. Hospitals with Disproportionate Numbers of Low Income Patients or Medicare Beneficiaries or Both
6. Kidney Acquisition Costs Incurred by Renal Transplantation Centers
7. Other Exceptions and Adjustments
H. Appeals
1. Beneficiaries
2. Hospitals
a. The Board
b. Errors in DRG Coding
c. Outlier Claims
I. Charges to Beneficiaries
J. Review Activities
1. Medical Review
a. Medical Review Agents
b. Background
c. General Policies and Assumptions
i. Technical Exclusions
ii. Physician Certification
iii. Medically Related Coverage
iv. Operational Assumptions
d. Review and Denial System
i. For Technical Exclusion
ii. Specific Review
A. Admission Review
B. Admission Pattern Monitoring
C. Outliers
1. Day Outliers
2. Cost Outliers
D. DRG Validation
iii. Waiver of Liability
iv. For Other Medically-Related Statutory Exclusions
e. Provisions of Interim Regulations
2. Utilization Review
a. Discussion
b. Changes to the Regulations
3. Physician Certification and Recertification
a. Discussion
b. Changes to the Regulations
4. Quality Review
IV. PAYMENT FOR NONPHYSICIAN SERVICES FURNISHED TO HOSPITAL INPATIENTS
A. Background
B. Part A Billing
C. Definition of Nonphysican Services
D. Services "Incident to" Physicians' Services
E. Payment for Physician Radiology Services Furnished to Hospital Inpatients
F. Payment for Physician's Services Furnished through Independent Laboratories
V. HOSPITAL PROVIDER AGREEMENTS
A. Background
B. Changes Affecting Basic Provider Agreement Commitments
C. Waiver of Requirements of Section 1866(a)(1)(H)
VI. CONFORMING CHANGES
A. Explanation
B. Introduction to Subpart D—§ 405.401
C. Methods of Apportionment Under Title XVIII—§ 405.404
D. Cost of Educational Activities—§ 405.421
E. Grants, Gifts, and Income from Endowments—§ 405.423
F. Compensation of Owners—§ 405.426
G. Allowance in Lieu of Specific Recognition of Other Costs—§ 405.428
H. Return of Equity Capital—§ 405.429
I. Inpatient Routine Nursing Salary Differential—§ 405.430
J. Physical and Other Therapy Services Furnished Under Arrangements—§ 405.432
K. Swing-Bed Hospitals—§§ 405.434 and 405.452
L. Cost of Services to Beneficiaries—§ 405.452
M. Private Room Cost Differential—§ 405.452
N. Cost Data and Cost Finding—§ 405.453
O. Lower of Cost or Charges—§ 405.455
P. Hospital Cost Limits—§ 405.460
Q. Rate of Increase Limit—§ 405.463
R. Physician Compensation Limits—§ 405.462
S. Physician's Assumption of Operating Costs—§ 405.550(e)
T. Payment for Anesthesia Services Furnished Directly by a Physician
U. Reimbursement of Health Maintenance Organizations (HMOs)—§ 405.2041(d)
V. Lifetime Reserve Days—§ 409.65(e)
W. Technical Corrections
VII. OTHER REQUIRED INFORMATION
A. Effective dates
B. Waiver of 30-day Delay of Certain Effective Dates
C. Waiver of Proposed Rulemaking
D. Paperwork Reduction Act
E. Public Comments
VIII. IMPACT ANALYSES
A. Executive Order 12291 and the Regulatory Flexibility Act
B. Nature of the Problem of Increased Health Care and Hospital Costs
C. Prospective Payment System as Best Response to Certain Problems Related to Hospital Rate of Increase
D. Economic Impacts
E. Benefits
F. Conclusion

REGULATIONS TEXT

Title 42—Public Health

A. Part 405
1. Subpart A
2. Subpart C
3. Subpart D
4. Subpart E
5. Subpart G
6. Subpart J
7. Subpart P
8. Subpart R
9. Subpart T
B. Part 409, Subpart A
C. Part 489
1. Subpart A
2. Subpart B

ADDENDUM

Schedule of Standardized Amounts and Relative Weights Effective with Cost Reporting Periods Beginning on or after October 1, 1983

I. BACKGROUND

A. Medicare Reimbursement—General Discussion

The Social Security Amendments of 1965 (Pub. L. 89-97) established Title XVIII of the Social Security Act (the Act), which authorized the establishment of the Medicare program to pay part of the costs of health care services furnished to eligible beneficiaries. Part A of the program (Hospital Insurance) provides basic health insurance protection against the costs of inpatient hospital care and other inpatient or home health care. Part B of the program (Supplementary Medical Insurance) provides voluntary supplementary insurance covering most physicians' services and certain other

items and services not covered under Part A.

Generally, there are two bases for payment under the Medicare program. The first is "reasonable cost" and the second is "reasonable charge". Essentially, reasonable costs include all direct and indirect costs that are necessary and proper for the efficient delivery of needed health services to beneficiaries. Within this general framework, there are numerous rules regarding the reasonableness of certain categories of cost, how they are to be calculated, and how they are to be reported.

Section 1861(v)(1)(A) of the Act defines, subject to certain limitations, reasonable costs of any services as the costs actually incurred excluding any part of incurred costs found to be unnecessary in the efficient delivery of needed health services. The principles of reasonable cost reimbursement are further described and clarified in regulations in Subpart D of 42 CFR Part 405. Because actual reasonable costs cannot be determined until the end of the provider's cost reporting period, interim reimbursement amounts, approximating actual costs are determined by the fiscal intermediary serving each provider and paid to the provider throughout the year.

Providers are required to maintain sufficient financial records and statistical data for proper determination of costs payable under the program. Cost reports must be submitted to the intermediary on an annual basis. Upon receipt of the cost report, the intermediary makes a tentative adjustment based on the report as submitted. Final settlement is made following further review and/or audit of the cost report and records.

The second basis of payment, "reasonable charge", is for physicians' services and other medical and health services that are not furnished directly by a provider of services or by others under an arrangement with the provider. The principles of reasonable charge reimbursement are described in section 1842(b)(3) of the Act and further described and clarified in regulations at 42 CFR Part 405, Subpart E.

B. Social Security Amendments of 1972

The Social Security Amendments of 1972 (Pub. L. 92-603) contained numerous provisions affecting the Medicare program. Two sections, however, are particularly relevant to changes in Medicare reimbursement.

Section 222 of the 1972 Amendments authorized the Secretary to engage in experiments and demonstration projects in order to determine the advantages and disadvantages of making payments to Medicare providers on a prospective basis. Resulting studies on prospective payment have primarily been aimed at discovering methods of determining rates that would have long-term constraining effects on total payment without concurrently reducing quality of care.

Section 223 of the Social Security Amendments of 1972 amended section 1861(v)(1) of the Act to authorize the Secretary to set prospective limits on the costs that are recognized as reasonable under Medicare. Section 223 authorized the Secretary to apply limits to direct and indirect overall costs or to costs incurred for specific items or services furnished by a Medicare provider and to base these limits on estimates of the cost necessary for the efficient delivery of needed health services. Regulations implementing this authority are at 42 CFR 405.460. Under this authority, we published limits on hospital inpatient general routine per diem costs annually from 1974 through 1981.

C. Tax Equity and Fiscal Responsibility Act of 1982

On September 3, 1982, the President signed into law the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), Pub. L. 97-248. Section 101(a) of that legislation added section 1886 to the Act. This new section included two provisions that limited Medicare reimbursement for costs of inpatient hospital services. Section 1886(a) of the Act provided for the extension of the section 223 hospital cost limits, which had previously been applied only to inpatient general routine operating costs, to the total operating costs of inpatient hospital services. The expanded limits were to apply on a per discharge or per admission basis, and were to take into account the mix of types of Medicare cases treated by the hospital. Section 1886(b) of the Act provided for a new three-year limitation on payment for hospital costs that was separate from the type of limit established under section 223. This provision required that we limit for the allowable rate of increase in a hospital's inpatient operating costs per case through reductions in the amounts of reimbursement to hospitals that incur costs greater than the target amount. Section 1886(b) provided for incentive payments to hospitals that keep their costs below a target amount. The regulations implementing this provision were set forth at 42 CFR 405.463.

On September 30, 1982, we published in the Federal Register an interim final notice and an interim final rule that implemented sections 1886 (a) and (b) of the Act (47 FR 43298 and 47 FR 43282). The reader is referred to those documents for a more detailed explanation of the cost limit provisions and for a description of our implementation of them.

Additionally, section 101(b)(3) of Pub. L. 97-248 further required the Secretary to develop, in consultation with the Senate Committee on Finance and the House of Representatives Committee on Ways and Means, a legislative proposal for Medicare payment to hospitals, skilled nursing facilities, and to the extent feasible, other providers, on a prospective basis. In response to this requirement, the Secretary submitted, on December 27, 1982 the Department's proposal in a Report to Congress titled Hospital Prospective Payment for Medicare. A proposal on prospective payment for skilled nursing facilities will be issued in the near future.

II. SUMMARY OF TITLE VI OF THE SOCIAL SECURITY AMENDMENTS OF 1983

On April 20, 1983, the President signed Pub. L. 98-21, the Social Security Amendments of 1983. Title VI of Pub. L. 98-21 provides for Medicare payment for hospital inpatient services under a prospective payment system, rather than on a reasonable cost basis. Essentially, Medicare payment will be made at a predetermined, specific rate for each discharge. All discharges are classified according to a list of diagnosis-related groups (DRGs). This list contains 470 specific categories. The prospective payment rate will not include capital-related costs (e.g., depreciation, taxes, rent, etc.) or direct medical education costs, which will continue to be reimbursed under a reasonable cost-based system.

The statute provides for a 3-year transition period during which a declining portion of the total prospective payment will be based on hospitals' historical costs in a given base year and a gradually increasing portion will be based on a regional and/or national Federal rate per discharge. Beginning with the fourth year and continuing thereafter (i.e., cost reporting periods beginning on or after October 1, 1986), Medicare payment for hospital inpatient services will be determined fully under a national DRG payment methodology.

The statute excludes several types of hospitals and hospital units from the prospective payment system. These include psychiatric, long-term, children's, and rehabilitation hospitals as well as psychiatric and rehabilitation units operating as distinct parts of acute

care hospitals. Hospitals located outside the 50 States and the District of Columbia are also excluded. The excluded facilities and units will continue to be reimbursed on the basis of reasonable costs subject to the target rate of increase limits. In addition to the above categorical exclusions from prospective payment, the statute provides for other special exclusions, such as hospitals that are covered under approved State reimbursement control systems.

The Federal payment rates are determined based on the mean urban or rural standard amount per discharge. This amount is then adjusted to account for area differences in hospital wages. The standard amounts per discharge will be updated annually. For FY 84 and FY 85, the prospective payment system must be "budget neutral." That is, payments may not be greater than, nor less than, the payments that would have been paid under the law previously in effect. Beginning with FY 86, the Secretary will determine the update factor taking into consideration recommendations made by a commission of independent experts appointed by the Director of the Office of Technology Assessment.

Additional payments will be made to hospitals for discharges meeting specified criteria as "outliers". Outliers are cases that have an extremely long length of stay or unusually high cost when compared to most discharges classified in the same DRG. Additional payments will also be made for indirect costs of approved graduate medical education programs.

Beneficiaries may be charged only for deductibles, coinsurance amounts, and non-covered services (e.g., phone, television, etc.). They may not be charged for differences between the hospital's cost of providing covered care and the Medicare payment amount.

Under the prospective payment system, payment will be made to the hospital on a per discharge basis. Therefore, hospitals may have incentives to increase admissions or reduce services. To safeguard against such practices, the statute requires the establishment of a monitoring system to review admission practices and quality of care. If an abuse of the prospective payment system is discovered (e.g., unnecessary multiple admissions of the same beneficiary or inappropriate medical practices), payment may be partially or totally denied to the hospital.

In addition to the general Medicare demonstration authority, Pub. L. 98–21 requires that certain research projects be conducted related to Medicare program costs and payment methods. The statute also requires a large number of reports to the Congress on specified areas of study, including recommendations for legislative changes.

III. MAJOR FEATURES OR PROSPECTIVE PAYMENT SYSTEM

A. Applicability

The prospective payment system will apply to all inpatient hospital services furnished by all hospitals participating in the Medicare program except for those hospitals, or units excluded as discussed below. A hospital's status as to whether it is subject to, or excluded from, prospective payment will generally be determined at the beginning of each cost reporting period and this status, for reimbursement purposes, will continue throughout the period, which is normally one year. An exception to this general rule is when a hospital comes under prospective payment after a cost reporting period has begun, or is excluded at some time during its cost reporting period because of its participation in an approved demonstration project or State reimbursement control program, or regional demonstration.

1. Excluded Hospitals and Hospital Units Subject to Rate of Increase Limits

In accordance with section 1886(d)(1)(B) of the Act, hospitals or distinct part units categorized below are excluded from the prospective payment system. Medicare will continue to pay for services furnished to inpatients of these hospitals or units on the basis of reasonable costs. These payments will, however, be subject to the rate of increase ceiling in the amended regulations at § 405.463.

a. Psychiatric Hospitals

In accordance with section 1886(d)(1)(B)(i) of the Act, hospitals that meet the definition of psychiatric hospitals in section 1861(f) of the Act are excluded from the prospective payment system. Section 1861(f) of the Act defines a psychiatric hospital as an institution that:

(i) Is primarily engaged in providing, by or under the supervision of a physician, psychiatric services for the diagnosis and treatment of mentally ill persons;

(ii) Satisfies the requirements of paragraphs (3) through (9) of section 1861(e) (i.e., the statutory requirements of a "hospital", which are implemented by regulations set forth at 42 CFR 405.1020 through 405.1035);

(iii) Maintains clinical records on all patients and maintains such records as the Secretary finds necessary to determine the degree and intensity of the treatment provided to individuals entitled to hospital insurance benefits under Part A (i.e., meets the special medical records requirements for psychiatric hospitals set forth in 42 CFR 405.1036 and 405.1037);

(iv) Meets the staffing requirements that the Secretary finds are necessary for the institution to carry out an active program of treatment for individuals who are furnished services in the institution (i.e., meets the special staff requirements for psychiatric hospitals set forth in 42 CFR 405.1038); and

(v) Is accredited by the Joint Commission on Accreditation of Hospitals.

Section 1861(f) further specifies that, in the case of an institution that satisfies the first two items above and that contains a distinct part that also satisfies the third and fourth items above, the distinct part will be considered to be a "psychiatric hospital" if the institution is accredited by the Joint Commission on Accreditation of Hospitals or if the distinct part meets requirements equivalent to the accreditation requirements, as determined by the Secretary.

The regulations implementing section 1886(d)(1)(B)(i) of the Act are set forth at § 405.471(c)(1). Compliance with the requirements in the statute and regulations for psychiatric hospitals is demonstrated by having a provider agreement in effect to participate in the Medicare program and HCFA's assignment of a special provider number indicating participation as a psychiatric hospital. Institutions meeting the above requirements will be paid on a reasonable cost basis, subject to the rate of increase provisions of § 405.463. It should be noted, as a matter of clarification, that the distinct part referred to in the section 1861(f) definition of a psychiatric hospital is not the same as a section 1886(d)(1)(B) distinct part psychiatric unit in a general hospital (see section 1.c. below).

There are approximately 410 hospitals or distinct parts currently participating as psychiatric hospitals.

b. Rehabilitation hospitals

While section 1886(d)(1)(B)(ii) of the Act specifies that rehabilitation hospitals (as defined by the Secretary) are excluded from the prospective payment system, neither that section nor the Conference Committee report (H.R. Rep. No. 98–47, 98th Cong., 1st Sess. 193

(1983)) accompanying Pub. L. 98–21 provide explicit guidance on how the term "rehabilitation hospital" is to be defined for purposes of this exclusion. However, the report of the Committee on Ways and Means, U.S. House of Representatives, on the House bill that was considered by the Conference Committee (H.R. 1900) in recommending enactment of Pub. L. 98–21 does provide some recommendations regarding this definition (H.R. Rep. No. 98–25, 98th Cong., 1st Sess. 147 (1983)). This report states that the Committee understands that there are currently extensive rules pertaining to rehabilitation hospitals, and suggests that the Secretary use such regulations, and consult with the Joint Commission on Accreditation of Hospitals (JCAH) in order to define a rehabilitation hospital.

To comply with these recommendations, we reviewed our current regulations at 42 CFR 405.1031(d). Those regulations establish standards that must be met by rehabilitation, physical therapy, and occupational therapy departments in hospitals that participate in Medicare. (Hospitals accredited by the JCAH are ordinarily deemed to meet those requirements.) Those standards apply to all hospitals participating in Medicare that furnish rehabilitation services through the use of organized departments, without regard to the extent of the hospitals' involvement with rehabilitation. Thus, the regulations are not useful in determining the extent of a particular hospital's involvement in rehabilitation.

Moreover, we have recently proposed, in a separate **Federal Register** document, to apply new, less prescriptive requirements to all hospitals, including those that provide rehabilitation, physical therapy, occupational therapy, audiology, or speech pathology services (48 FR 299 January 4, 1983). These would apply without regard to whether the services are provided in organized departments (48 FR 299). We are currently analyzing the public comments we received on this proposal.

Because the current regulations on hospital rehabilitation services are not specific to those hospitals primarily engaged in rehabilitation, and are likely to be replaced by revised regulations in the near future, we have decided not to use those regulations as a basis for the definition of "rehabilitation hospital."

In addition, we consulted the JCAH and other accrediting bodies to identify features of their standards that could be used as a basis for our definition of rehabilitation hospitals. We have incorporated elements of these accreditation requirements in our definition. However, due to the unique nature of the prospective payment system, we found it necessary to include other criteria that are not common to the accreditation requirements. We believe the comprehensive definition that has been developed meets the legislative intent as to the application of the exclusion of rehabilitation hospitals and rehabilitation units of general hospitals from the prospective payment system.

To distinguish rehabilitation hospitals from other hospitals that offer general medical and surgical services but also provide some rehabilitation services, it was necessary to develop and include in the new regulations provisions that describe the criteria that hospitals must meet to be excluded from the prospective payment system as rehabilitation hospitals. These provisions are at § 405.471(c)(2). In summary, the criteria are as follows:

- The hospital must have in effect a provider agreement to participate in Medicare as a hospital;
- The hospital must be primarily engaged in furnishing intensive rehabilitation services as demonstrated by patient medical records showing that, during the hospital's most recently completed 12-month cost reporting period, at least 75 percent of the hospital's inpatients were treated for one or more conditions specified in these regulations that typically require intensive inpatient rehabilitation;
- The hospital must have in effect a preadmission screening procedure under which each patient's condition and medical history are reviewed to determine whether the patient is likely to benefit significantly from an intensive inpatient hospital rehabilitation program or assessment;
- The hospital must ensure close medical supervision, and furnish rehabilitation nursing, physical therapy, and occupational therapy, plus, as needed, speech therapy, social services or psychological services, and orthotic and prosthetic services;
- The hospital must have a full-time Director of Rehabilitation who is a Doctor of Medicine or Osteopathy, is licensed under State law, and either has experience in the medical management of rehabilitation patients, or is Board-certified in one of a number of rehabilitation-related medical specialties;
- The hospital must have a plan of treatment for each inpatient that is established, reviewed, and revised as needed by a physician in consultation with other professional personnel who provide services to the patient;
- The hospital must use a coordinated multidisciplinary team approach in the rehabilitation of each inpatient. This must be documented by periodic clinical entries made in the patient's medical record noting the patient's status in relationship to goal attainment, and by team conferences held at least every 2 weeks to determine the appropriateness of treatment.

The first criterion that the provider have an agreement in effect to participate in Medicare as a hospital is an administrative requirement that we are imposing to ensure that hospitals are properly classified for purposes of exclusion from the prospective payment system.

We require the second criterion because we believe that examining the types of conditions for which a hospital's inpatients are treated, and the proportion of patients treated for conditions that typically require intensive inpatient rehabilitation, will help distinguish those hospitals in which the provision of rehabilitative services is a primary, rather than secondary, goal. To develop the specific list of medical conditions set forth in the new regulations at § 405.471(c)(2), and the requirement that 75 percent of a hospital's patients be treated for one or more of these conditions, we relied on HCFA Technical Assistance Document No. 24 ("Sample Screening Criteria for Review of Admissions to Comprehensive Medical Rehabilitation Hospitals/Units"). This document was developed by the Committee on Rehabilitation Criteria for PSRO of the American Academy of Physical Medicine and Rehabilitation and the American Congress of Rehabilitation Medicine.

The project that produced the sample screening criteria was funded under a purchase order with HCFA. The project built on work performed by the American Academy of Physical Medicine and Rehabilitation in 1975 under subcontract to the American Medical Association, and on the efforts of PSROs that had previously developed and implemented criteria for review of admissions to comprehensive medical rehabilitation hospitals and units. The project was intended primarily to provide a basis for reviewing the medical necessity of admission to, and continued stay in, these hospitals and units, and for assessing the quality of care furnished in them. The seven medical conditions for which sample screening criteria were developed accounted for approximately 75 percent of the admissions to comprehensive medical rehabilitation hospitals and units. These conditions are:

- Stroke;

- Dorsal or lumbar spinal cord injury with paraparesis/paraplegia;
- Cervical spinal cord injury with quadriparesis/quadriplegia;
- Congenital deformity or amputation of the leg or lower limb;
- Polyarthritic, rheumatoid, or acquired deformity of the leg or lower limb;
- Fracture of femur; or
- Head injury.

In addition, we obtained advice from the National Association of Rehabilitation Facilities (NARF) and from the American Hospital Association (AHA) regarding the types of medical conditions most often treated by hospitals and hospital units that specialize in rehabilitation. We also consulted HCFA staff physicians who had been involved in developing the Technical Assistance Document. Based on information received from these groups and physicians, we developed the list of medical conditions set forth in the new regulations at § 405.471(c).

We plan to use the second criterion as a test of whether a hospital provides specialized rehabilitation services to such an extent that it incurs costs significantly different from those of a general medical/surgical hospital and, therefore, should be excluded from the prospective payment system.

The remaining criteria for rehabilitation hospitals relate to the preadmission screening of prospective inpatients, to the types of services that must be furnished by or made available in the hospital, and to the hospital's management of the rehabilitative services it furnishes. Except for the criterion relating to a full-time director of rehabilitation, these criteria are based on similar requirements for the coverage of rehabilitation services under Medicare (see section 211 of Medicare's Hospital Manual).

In the context of these regulations, however, we plan to use these criteria, in conjunction with those described above, to determine whether particular hospitals furnish the type and intensity of rehabilitation services necessary to warrant exclusion from the prospective payment system as rehabilitation hospitals. We wish to note that we recognize that some of these criteria (e.g., the plan of treatment requirement) may also be met by hospitals in which rehabilitation is secondary to general medical/surgical treatment. However, we believe only those hospitals that primarily engage in rehabilitation could meet all of these criteria.

In addition to the general rationale set forth above, we have additional reasons for requiring each of the criteria in paragraphs (iii) through (vii) of § 405.471(c)(2).

These are as follows:

- *Preadmission screening procedure.* We believe this procedure is needed to help demonstrate that a hospital specializes in the treatment of patients who primarily require intensive impatient rehabilitation, rather than patients who primarily require medical/surgical treatment.
- *Provision of specified services.* The types of services listed are those that are typically required for the rehabilitation of patients. While some of the services listed are also available in other settings, we believe provision of all of these services would help to demonstrate that a hospital is extensively engaged in rehabilitation.
- *Director of rehabilitation.* We selected this criterion because we believe an intensive hospital inpatient rehabilitation program will require the full-time direction of a physician with special expertise in the medical management of patients who require rehabilitation services. Meeting this requirement would help a hospital to document the extent of its involvement in rehabilitation.
- *Plan of treatment.* We selected this criterion because we believe the existence of a plan of treatment for each hospital impatient who receives rehabilitation services will help to demonstrate the existence of an intensive impatient rehabilitation program. In addition, the presence of a plan of treatment in each patient's medical record would simplify the administration of the exclusion provision, since it would help HCFA or its agents determine the frequency and intensity of the rehabilitation services furnished by particular hospitals.
- *Coordinated multidisciplinary team approach.* This type of approach is currently required for the coverage of rehabilitation services. Use of this approach for all rehabilitation patients treated in the hospital would help document the primacy of rehabilitation in the hospital.

c. Distinct Part Psychiatric and Rehabilitation Units

(i) General Criteria for Distinct Part Units

Section 1886(d)(1)(B) specifies that the prospective payment system will not be applied to a psychiatric or rehabilitation unit of a hospital which is a distinct part of the hospital (as defined by the Secretary). Units that qualify for this exclusion will be paid on a reasonable cost basis, subject to the rate of increase provisions of 42 CFR 405.463.

To implement this exclusion, we have developed general criteria that will apply to both types of excluded units and additional, more specific, criteria for psychiatric and for rehabilitation units, respectively. The general criteria for distinct part units are set forth in § 405.471(c)(3)(i), and are discussed in the following paragraphs. The specific criteria for psychiatric units are set forth in a new § 405.471(c)(3)(ii), and are discussed in item (ii) below. The specific criteria for rehabilitation units are set forth in § 405.471(c)(3)(ii), and are discussed in item (iii).

All excluded units must meet the general criteria in new § 405.471(c)(3)(i). The first criterion is an administrative requirement that an institution has in effect an agreement under Part 489 for participation as a hospital under Medicare. We are imposing this requirement to ensure that all units are properly classified for purposes of exclusion from the prospective payment system. The second criterion, which requires uniform application of written admission criteria to all patients, both Medicare and non-Medicare, is designed to discourage hospitals from placing patients in excluded units for reasons related to the hospital's reimbursement rather than to the type of services the patients need. We do not believe it would be appropriate for these units to be set up primarily for reimbursement reasons, rather than for reasons related to patient needs. To prevent this result, we are requiring each unit to have written policies for admission, and to apply these policies uniformly to all patients, both Medicare and non-Medicare. In addition, to ensure that all units are operated in compliance with applicable State law, we are requiring that psychiatric and rehabilitation units meet applicable State licensing laws.

The remaining criteria are administrative requirements that are necessary to enable Medicare intermediaries to distinguish costs incurred for the unit from costs of other parts of the hospital, and to measure and reimburse unit costs accurately. These criteria are based on the long standing requirements for reimbursement of separate cost entities in multiple-facility hospitals, as set forth in section 2336 of the Medicare Provider Reimbursement Manual (HCFA Pub. 15–1).

(ii) Specific Criteria for Psychiatric Units

In developing specific criteria for the exclusion of distinct part psychiatric units, we wish to ensure that the exclusion is available only to a unit that

predominantly provides psychiatric services. To identify and exclude these units, we have developed the criteria set forth in § 405.471(c)(3)(ii). Our specific reasons for selecting each of these criteria are as follows:

• *Treatment of patients with psychiatric diagnoses.* This requirement is necessary to ensure that patients are not improperly placed in the psychiatric unit for financial rather than medical reasons.

• *Direction by qualified psychiatrist.* This requirement is necessary to ensure professional oversight of policies and procedures in the unit (e.g. to assure appropriateness of admission criteria). Patients with a psychiatric diagnosis will normally require such direction. Consequently this is an appropriate identifier of this type of facility.

• *Provision of specified services: supervising nurse.* The provision of these services and use of a qualified supervising nurse is typical of units which treat patients whose characteristics are like those in psychiatric hospitals. Consequently, the provision of these services is an identifier of such a patient population.

• *Plan of treatment.* This requirement is necessary to ensure proper placement of patients. A unit which treats a patient population similar to that in a psychiatric hospital would routinely have a plan of treatment and would routinely use a multidisciplinary team approach. As such, this is an identifier of a unit whose patient population and services differ sufficiently as to warrant exclusion.

(iii) Specific Criteria for Rehabilitation Units

As in the case with the specific criteria for psychiatric units, our rehabilitation unit criteria are designed to enable us to identify those units in which the costs are sufficiently different from those of the hospitals in which the units are located to warrant exclusion of the units from the prospective payment system. We believe that the patients treated, and the types of services furnished, in units of this type are likely to be more similar to those of rehabilitation hospitals than to those of hospitals in which the primary concern is the provision of general medical/surgical services. Therefore, we are applying the same criteria in excluding rehabilitation units as in excluding rehabilitation hospitals.

d. Children's Hospitals

Section 1886(d)(1)(B) of the Act also excludes from the prospective payment system hospitals whose inpatients are predominantly individuals under 18 years of age. Generally, this includes all children's hospitals. For purposes of this exclusion children's hospital is defined at § 405.471(c)(4) of these regulations as a hospital having a provider agreement, meeting applicable requirements in subpart J, and furnishing services to inpatients who are predominantly individuals under the age of 18.

e. Long-term Hospitals

The statute (section 1886(d)(1)(B)(iv) of the Act) excludes from the prospective payment system hospitals with an average length of stay (as determined by the Secretary) greater than 25 days. The average length of stay is calculated by dividing the total number of inpatient days (excluding leave of absence or pass days) for all patients by the total number of discharges for a cost reporting period. We will make this determination based on the hospital's most recently filed cost report, except where these data may not accurately reflect a hospital's current classification. In this case, data for the most recent 6-month period will be used. Section 405.471(c)(5) of these regulations sets forth the requirements regarding long-term hospitals.

f. Hospitals Outside the 50 States and the District of Columbia

Initially, hospitals in Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Marianas will be excluded from the prospective payment system. However, the statute mandates that the Secretary complete a study before April 1, 1984, and make recommendations to the Congress regarding the possible inclusion of these hospitals.

2. Excluded Hospitals Paid Under Alternative Reimbursement Programs

Section 402 of the Social Security Amendments of 1967 (Pub. L. 90–248) and Section 222(a) of the Social Security Amendments of 1972 (Pub. L. 92–603) authorize demonstrations and studies for various purposes, primarily to analyze alternative methods of payment. For the most part these authorities were not altered by Pub. L. 98–21, therefore, the demonstrations and studies that are currently approved may continue unaffected.

Additionally, section 1886(c) of the Act was amended by Pub. L. 98–21 to permit approval by HCFA of State reimbursement control systems for Medicare reimbursement purposes if the systems meet certain conditions prescribed by the statute relating to applicability and administrative matters. Hospitals covered by these systems will also be excluded from the prospective payment system. The regulations implementing section 1886(c) of the Act will be published separately in the **Federal Register**.

3. Other Special Cases

Discussed below are additional special cases where the prospective payment system would be inappropriate.

a. Nonparticipating Hospitals Furnishing Emergency Services

Sections 1814(d) and 1835(b) of the Act authorize Medicare payments to hospitals not participating in the Medicare program, for emergency services (i.e., both inpatient and outpatient) provided to eligible beneficiaries under special circumstances. These statutory sections provide the basis of payment for emergency services, and Pub. L. 98–21 did not amend them. Therefore, payment for emergency services to nonparticipating hospitals will not be made under the prospective payment system. Regulations providing for payments to nonparticipating hospitals are set forth at § 405.152 and § 405.249.

b. Veterans Administration Hospitals

Veterans Administration (VA) hospitals are generally excluded from participation in the Medicare program as required by sections 1814(c) and 1835(d) of the Act. However, in some limited situations, special provisions are made for services not otherwise available in the community to be furnished by a VA hospital to the general public, including Medicare beneficiaries. When this is the case (generally for renal services) the payment mechanism will not be the prospective payment system. Rather, payment will be determined, as it has in the past, in accordance with 38 U.S.C. 5053(d).

There is authority contained in section 1814(h) of the Act, as amended by section 602(c) of Pub. L. 98–21, for applying the prospective payment system for certain hospital services provided in VA hospitals. This authority allows for payment in such circumstances to be an amount equal to the charges imposed by the VA or the prospective payment rate as established by section 1886, whichever is lower. Rather than establish a complete system by which the VA hospitals can be reimbursed under the prospective payment system for a situation which virtually never occurs, we believe the VA charges (i.e., the rates prescribed by the Secretary after consultation with the

VA Administrator) should be paid if this situation should exist.

c. Services Furnished by Risk-Basis HMOs and CMPs

At its election, a health maintenance organization (HMO) or a competitive medical plan (CMP) that receives Medicare payments on a risk basis may choose to have payment made by HCFA directly to hospitals for inpatient hospital services furnished to Medicare enrollees of the HMO or CMP. If the HMO does not exercise the option, it may negotiate its own rate with the hospital. If the HMO exercises the option, the hospital will be paid either under the prospective payment system or on a reasonable cost basis if the hospital is excluded. If the hospital is paid directly by HCFA, the payment for inpatient hospital services to Medicare HMO/CMP enrollees and administrative costs for paying hospitals directly is deducted from the Medicare capitation payments otherwise paid to the HMO or CMP.

B. Basis of Payment Under the Prospective Payment System

1. General Description

Unless excluded from prospective payment, all Medicare participating hospitals will be paid, for inpatient services provided, a specific amount for each discharge based on the case's classification into one of 468 Diagnosis-Related Groups (DRGs).

2. Discharges and Transfers

The terms "discharge" and "transfer" are defined, for purposes of prospective payment, at § 405.470(c) of these regulations. These definitions are essentially the same as they were under the hospital cost limits established as a result of TEFRA except that in cases where a patient is transferred to another hospital paid under the prospective payment system, the transfer will not be considered a discharge. A patient on a leave of absence from a hospital will not be considered discharged. In summary, a patient will be considered discharged when he or she:

- Is formally released from the hospital (Release of the patient to another hospital as described in § 405.470(c)(2) of these regulations will not be recognized as a discharge for the purpose of determining payment under the prospective payment system.);
- Dies in the hospital; or
- Is transferred to another hospital or unit that is excluded from the prospective payment system.

It was necessary to distinguish between discharges where the patient has received complete treatment and discharges where the patient is transferred to another institution for related care. The prospective payment system was intended to provide full payment, less deductibles and coinsurance, for all inpatient services associated with a particular diagnosis.

It is emphasized that discharges and transfers will be subject to medical review to assure that patients are properly categorized.

a. Transfers to Hospitals Paid Under Prospective Payment

The policy set forth in this section and contained in these regulations at § 405.470(c)(4) is intended as an interim policy. It should be noted that our ultimate goal is to pay a single rate to one hospital for a given service. Therefore, we will be reviewing discharge/transfer patterns following implementation of the prospective payment system and will revise this policy as appropriate.

When patients are transferred between hospitals receiving payment under the prospective payment system full payment will be made to the final hospital from which the patient is released. The transferring hospital will be paid a per diem for each day of the hospital stay.

The prospective payment rate paid to each hospital will be the rate specific to each hospital. That is, the rate will be composed of the Federal portion and the hospital-specific portion for each hospital. Similarly, the wage indexes and any adjustments will be those which are appropriate for each hospital, and in cases where treatment is provided under different DRGs, payment will be based on the DRG under which the patient was treated at each hospital.

Since the final discharging hospital will generally provide the greatest portion of the patient's treatment, payment to this hospital will be made at the full prospective payment rate. The transferring hospital, generally providing a limited amount of treatment to the transferred patient, is not entitled to payment at the full prospective payment rate. Therefore, payment to the transferring hospital will be made based on a per diem rate (i.e., the prospective payment rate divided by the average length of stay for the specific DRG into which the case falls) and the patient's length of stay at the transferring hospital. Payment to the transferring hospital may not exceed the full prospective payment rate.

Example 1: A patient stays at Hospital A for 2 days and is subsequently transferred to Hospital B. The prospective payment rate is $10,000 at each hospital, with an average length of stay of 10 days for the DRG. Hospital A would be paid $2,000 (2/10 × $10,000) and Hospital B would be paid $10,000, the full prospective payment rate. Total payment is $12,000.

Example 2: A patient stays at Hospital A for 8 days and is subsequently transferred to Hospital B. The prospective payment rate is $10,000 at Hospital A and $12,000 at Hospital B. The average length of stay for the DRG is 5 days. The payment to Hospital A would be limited to $10,000, the full prospective payment rate, since the length of stay exceeds the average length of stay for the DRG. Hospital B would be paid the full prospective payment rate of $12,000. Total payment is $22,000.

Example 3: A patient stays at Hospital A for 2 days under DRG X, which has an average length of stay of 10 days. The prospective payment rate is $10,000 for the hospital for X. He is subsequently transferred to Hospital B under DRG Y. The prospective payment rate at Hospital B is $16,000 for DRG Y. Hospital A would be paid $2,000 (2/10 × $10,000). Hospital B would be paid $16,000, the full prospective payment rate for DRG Y at Hospital B. Total payment is $18,000.

Example 4: A patient stays at Hospital A for 4 days under DRG X, which has an average length of stay of 8 days. The prospective payment rate at Hospital A is $16,000 for DRG X. He is subsequently transferred to Hospital B for 4 days under DRG Y which has an average length of stay of 10 days. The prospective payment rate is $10,000 for DRG Y. He is finally transferred to Hospital C. The prospective payment rate for DRG Y in this hospital is $15,000. Hospital A would be paid $8,000 (4/8×$16,000). Hospital B would be paid $4,000 (4/10×$10,000). Hospital C would be paid $15,000, the full prospective payment rate for DRG Y at Hospital C. Total payment is $27,000.

Payment to a transferring hospital is based on a per diem rate and is limited to the full prospective payment rate. Therefore, outlier payments may not be made to the transferring hospital. The criteria for making outlier determinations for the receiving hospital (i.e., the final discharging hospital) in cases involving transfers between hospitals would be the same as for any other outlier (i.e., length of stay or charges adjusted to cost for the DRG in the hospital receiving the transferred patient exceeds a certain level). In determining outlier payment in transfer cases, only the length of stay or costs in the discharging hospital, rather than combining the total period of hospitalization, will be considered.

b. Transfers to Hospitals or Units Excluded From Prospective Payment

When patients are transferred to hospitals or units excluded from the prospective payment system (e.g., psychiatric, rehabilitation, children s hospitals), the transfers will be considered discharges and the full

prospective payment will be made to the transferring hospital. Hospitals and units excluded from the prospective payment system are organized for treatment of conditions distinctly unlike treatment encountered in short-term acute care facilities. Therefore, the services obtained in excluded facilities would not be the same services obtained in transferring hospitals (i.e., paid under the prospective payment system), and payment to both facilities would be appropriate.

When patients are transferred to hospitals that would ordinarily be paid under the prospective payment system, but, for reasons listed below, are not, payment to the transferring hospital will be a per diem amount based on the prospective payment rate for the number of days of care delivered (i.e., in the same manner as when the patient is transferred to another hospital paid under the prospective payment system). These cases are:

- When the receiving hospital is excluded from prospective payment because of participation in a statewide cost control program or demonstration; or
- When the receiving hospital's first cost reporting period (i.e., bringing it under prospective payment) has not yet begun

3 DRG Classification

A system has been developed for classifying patients into groups that are clinically coherent and homogenous with respect to resource use. Over the past several years, a case classification system called Diagnosis Related Groups (DRGs) has been developed at Yale University. The latest series of Yale DRGs is based on records of patients discharged during the last half of 1979.

Using a universe of over 1.4 million records selected from a nationally representative sample of 332 hospitals participating in the hospital discharge abstract service of the Commission on Professional and Hospital Activities, the Yale researchers created a stratified sample of 400,000 medical records, classified into 23 Major Diagnostic Categories (MDCs). Each MDC represents a broad clinical category that is differentiated from all others based on body system involvement and disease etiology The specification of the MDCs was developed by a committee of clinicians using the following guidelines:

- Clinical consistency
- A sufficient number of patients.
- Coverage of the complete range of diagnoses represented in the *International Classification of Diseases, 9th Revision, Clinical Modification (ICD-9-CM)*, without overlay

The patient records in each MDC were then partitioned using a classification algorithm called AUTOGRP and a prespecified set of variables to suggest subgroups of cases that were expected to be distinct in terms of length of stay. The variables used to split the MDCs were intentionally limited to those that are descriptive of the patient's clinical condition and that are readily available on most discharge abstracts, such as principal diagnosis, secondary diagnoses, surgical procedures, age, sex, and discharge status. Suggested subgroups of cases within the MDCs were examined by physicians to determine whether the proposed distinctions were clinically sensible and whether the cases in each group were medically similar. These purely statistical subgroups were modified if they were not supported clinically.

For example, in MDC 11 (Diseases and Disorders of the Kidney and Urinary Tract), the initial statistical grouping of medical (i.e., nonsurgical) cases suggested three subgroups that were different in terms of length of stay. Each of these subgroups, however, contained several different kinds of cases (e.g., urinary tract infections, signs and symptoms, renal failure, and neoplasms). Clinical judgment suggested that the major clinical subsets of these three groups should be revised to form seven more clinically coherent initial groups: kidney stone, infection, renal failure, neoplasms, signs and symptoms; urethral stricture, and other

This process ultimately resulted in the development of the set of 470 mutually exclusive and comprehensive case classfication categories called diagnosis-related groups. Under the prospective payment system, each Medicare discharge will be classified into one of these DRGs, which are listed in section VII, Table 5, of the addendum to this document. For 468 of the DRGs, we have established weighting factors that reflect the relative resources used for furnishing inpatient services to that classification of cases. Generally, this weighting factor will be applied to determine the amount that will be paid for each, DRG-discharge, regardless of the individual services furnished or the number of days of care (except for "outlier" cases discussed below). However, classification of a discharge under DRG numbers 468 through 470 require special consideration as follows:

- *DRG No. 468* represents a discharge with an operating room procedure unrelated to a given MDC. This does not necessarily represent an invalid record. For example, a patient may be admitted for cataract surgery, but have a coronary bypass operation rather than the cataract procedure, or may be hospitalized for treatment of pneumonia and be given an appendectomy during the same stay. In such instances, intermediaries will return the claims to the provider for clarification. If the accuracy of the discharge data is affirmed, the prospective payment rate will be paid as for any other DRG classification. Otherwise, the case will be reassigned to the appropriate DRG using corrected data.
- *DRG No. 469* represents discharges with a valid diagnosis in the principal diagnosis field, but not acceptable as a principal diagnosis. Examples of such cases may include a diagnosis of diabetes mellitus during pregnancy or a diagnosis of an infection of the genitourinary tract during pregnancy, both unspecified as to episode of care. These diagnoses may be valid, but they are not sufficient to determine the principal diagnosis for DRG assignment purposes. In these instances, intermediaries will return the claim to the provider in order to enter the correct principal diagnosis for proper DRG assignment. The provider will resubmit the claim for payment.
- *DRG No. 470* represents discharges with invalid data. In these instances, the intermediary will return the claim to the provider for correction of data elements affecting proper DRG assignment. The provider will resubmit the claim for payment.

Because the assignment of a case to a particular DRG determines the amount that will be paid for the case, it is important that this assignment be done systematically and uniformly Therefore, we have established an automated classification algorithm (that is, the Grouper Program) that will be used in all cases to assign discharges to their proper DRGs using essential information abstracted from the inpatient bill. The process will work as follows:

- The hospital will submit a bill for a particular case, using classifications and terminology consistent with *ICD-9-CM* and the Uniform Hospital Discharge Data Set (UHDDS) prescribed by the National Committee on Vital and Health Statistics *(Uniform Hospital Discharge Data: Minimum Data Set*, National Center for Health Statistics, DHEW Pub No. (PHS) 80—1157, April, 1980).
- The fiscal intermediary will assign a DRG to the discharge using the Grouper program.

—The Grouper program screens the essential information from the inpatient bill against the criteria that distinguish the DRGs.

—The DRG criteria include the patient's age, sex, principal diagnosis (that is, the condition established after study to be chiefly responsible for occasioning the admission of the patient to the hospital), secondary diagnoses, procedures performed, and discharge status.

• If the discharge is assigned to DRG numbers 1 to 467, the intermediary will determine the appropriate prospective payment and pay the hospital.

• If the discharge is assigned to DRG number 468, 469, or 470, the intermediary will initiate appropriate special consideration, as described above.

We wish to point out that the definitions of principal diagnosis and other criteria for the UHDDS are not HCFA requirements. (Principal diagnosis is defined on page 12 of the minimum data set criteria published in April, 1980, cited above.) The UHDDS was developed for the U.S. National Committee on Vital and Health Statistics. It has been used as a standard for the development of policies and programs related to hospital discharge statistics by both governmental and non-governmental sectors for quite some time. In particular, it was used by Yale University in creating the DRG classification.

Interested parties may order the DHEW Pub. No. (PHS) 80–1157 from the Government Printing Office, and may purchase Grouper program software and ICD–9–CM DRG user manuals from the following: Health Systems International, 345 Whitney Avenue, New Haven, Connecticut 06511.

It has been suggested that the use of "principal diagnosis" and the Grouper program would in some cases result in paying a hospital based on DRG classification that does not reflect the most resource-intensive services furnished to a patient. For example, assume a hypothetical case in which a patient leaves a hospital with diagnoses A, B, C, and D. The official UHDDS definition of principal diagnosis is "the condition established after study to be chiefly responsible for occasioning the admission of the patient to the hospital for care" (*Uniform Hospital Discharge Data, Minimum Data Set*, April 1980, p. 12.). Under this standard, the patient *must be* assigned to a particular DRG, once it is determined which one of the four diagnoses caused the admission. If diagnosis A caused the admission, even though diagnosis C required the most resource-intensive treatment, the case will be assigned to a DRG related to diagnosis A.

Because of this occasional result, it has been suggested that we revise the definition of principal diagnosis, permitting hospitals to report the most-resource intensive condition of a patient as the principal diagnosis rather than the current "diagnosis established after study to be chiefly responsible for occasioning the hospitalization." Adoption of this revision presumably would result in the case being accurately assigned to a more costly DRG, yielding an appropriately greater prospective payment rate.

We have decided not to make such a change for the following reasons. First, as noted above, the definition of "principal diagnosis" is part of the UHDDS definitions. As such, it has been used to develop the current DRG classification system. (An earlier DRG system used a definition of "primary diagnosis" very similar to the proposal. This definition was one of the deficiencies in the old DRGs, as discussed in December, 1982 Report to Congress, *Hospital Prospective Payment for Medicare*, pages 66 to 75.) Second, modification as proposed of the "principal diagnosis" definition would introduce subjectivity into the process of classifying cases into DRGs. Patients with identical diagnoses could be assigned to different DRGs solely because of differing hospital and/or physician judgments as to the most resource intensive condition. This would result in our inability to definitely assign a case with multiple diagnosis to a specific DRG because of our requirement to accept the hospital's judgment as to which diagnosis was the most resource intensive.

Hospitals would determine this for us by selecting the principal diagnosis which resulted in assignment to the DRG with the highest prospective payment rate. Third, in the absence of data demonstrating relatively frequent occurrence, we question whether there are frequent multiple diagnosis cases in which the most resource-intensive diagnosis is not also the principal diagnosis. To the extent such cases do occur, we believe the costs associated with them have already been taken into account in the data base used to construct the average standardized cost amounts and the DRG relative weights. Finally, the provision of outlier payments, as required by law, will ensure additional payment in some cases in which the resources required for treatment of comorbidities and complications exceed the resources required by the principal diagnosis, and also ensures that there will be no reduction in reimbursement for cases that are unusually short lengths of stay, or for cases that are unusually inexpensive to treat. Presumably, a hospital has at least as much chance of encountering one of these cases as it does of encountering a case of the other type discussed.

Example:

To make clear the effect of our use of the "principal diagnosis" definition, let us consider the following case.

A patient age 65 is admitted for skin graft of a skin ulcer. Under normal circumstances, this case would be assigned to DRG 264, which has a weighting factor of 2.2031. However, during the stay a hip and femur procedure (except major joint procedure) is performed. Disregarding the skin ulcer, this surgical procedure would normally be assigned to DRG 211, with a weighting factor of 1.9530.

There would be an obvious inconsistency between the principal diagnosis (skin ulcer) and the operating room procedure (hip and femur procedure). In such a situation, the bill would be returned to the hospital for validation and re-verification. If the apparently inconsistent diagnosis and procedure are affirmed, this would result in the case being assigned to DRG 468 (Operating Room Procedure Unrelated to Principal Diagnosis). This DRG has a comparatively high weighting factor of 2.1037.

4. Costs Included Under the Prospective Payment System

a. Inpatient Operating Costs for Routine, Ancillary, and Special Care Services

The statute requires that the prospective payment rate serve as total Medicare payment for inpatient operating costs for all items and services furnished other than physicians' services (as defined in regulations) associated with each discharge. These include the Part A operating costs for routine services, ancillary services, and intensive care type unit services. Although we excluded the costs of malpractice insurance from the definition of total inpatient operating costs under TEFRA, these costs will be included in the definition of inpatient operating costs under prospective payment. Malpractice insurance costs allowable under the Medicare program are associated with providing inpatient care and, therefore, are included as operating costs.

We believe that by including all inpatient operating costs, the system maintains financial incentives which will permit hospitals to plan the most efficient use of resources given their unique operating circumstances. Thus, the decisions concerning the allocation of all resources rest with the managers

responsible for planning care. It is only in this manner that the most effective use of health care funds can be achieved.

b. Nonphysician Services

Other than services furnished under waivers as discussed in section c. below, effective October 1, 1983, the only services provided in an inpatient hospital setting that may be billed by an entity other than the hospital are physicians' services to individual patients reimbursable on a reasonable charge basis. (These services are defined in § 405.550(b) (published March 2, 1983 at 48 FR 9937), as discussed below. Note that physician services to providers, defined in § 405.480 (48 FR 8935), are provider services for which payment may be made only to the provider. Payment for a physician's services to the provider, rather than to an individual patient, is included in the prospective payment. These services may not be billed separately.) Therefore, all nonphysician services furnished to hospital inpatients must be payable only to the hospital regardless of whether the hospital is subject to the prospective payment system. (See Sections 1862(a)(14) and 1866(a)(1)(H) of the Act.) This includes "incident to" physician services, medical items, supplies, and services, etc. See section IV of this preamble for additional details on this provision.

c. Waivers

Section 602(k) of Pub. L. 98–21 permits waivers to be granted under special circumstances for cost reporting periods beginning prior to October 1, 1986 (the 3-year transition period), allowing continued separate direct billing under Part B by suppliers or other providers of services to hospital inpatients. This waiver is restricted to situations where this practice was in effect prior to October 1, 1982 and was so extensively used that immediate compliance would threaten the stability of patient care. If hospitals have been granted this waiver, the reasonable charges for the nonphysician services billed under Part B will be subtracted from the Part A payment amount. Hospitals that believe they would qualify and wish to request a waiver should apply to the HCFA Regional Office through their intermediary. See section V.C. of this preamble for a detailed explanation of this waiver.

5. Costs Excluded From the Prospective Payment System

Section 1886(a)(4) of the Act, as amended, excludes capital-related costs and costs of direct medical education from the definition of inpatient operating costs. Therefore, payment for these costs will continue on a reasonable cost basis.

a. Capital-Related Costs

The rules applying to capital-related costs for purposes of the prospective payment system also will apply for purposes of determining such costs under the rate of increase limit at § 405.463 and the SNF cost limits issued under § 405.480 of the regulations.

As a result, all hospitals reimbursed under Subpart D will need to identify their capital-related costs. Therefore, we are establishing in these interim final rules a new section 405.414 of Subpart D, which identifies in detail costs that are includable in a hospital's capital-related costs. Generally, the following items are treated as capital-related costs and will be reimbursed under the reasonable cost method.

- Net depreciation expense.
- Leases and rentals (including license and royalty fees) for the use of assets that would be depreciable if the provider owned them outright (except in certain cases).
- Betterments and improvements that extend the estimated useful life of an asset at least 2 years beyond its original estimated useful life or increase the productivity of an asset significantly over its original productivity.
- The cost of minor equipment that are capitalized rather than charged off to expense.
- Interest expense incurred in acquiring land or depreciable assets (either through purchase or lease) used for patient care.
- Insurance on depreciable assets used for patient care or insurance that provides for the payment of capital-related costs during business interruption.
- Taxes on land or depreciable assets used for patient care.
- For proprietary providers, a return on equity capital.

If services, facilities, or supplies are provided to the hospital by a supplying organization related to the hospital within the meaning of § 405.427, then the hospital must include in its capital-related costs, the capital-related costs of the supplying organization. However, if the supplying organization is not related to the provider within the meaning of § 405.427, no part of the charge to the provider may be considered a capital-related cost (unless the services, facilities, or supplies are capital-related in nature) and:

- The capital-related equipment is leased or rented by the provider;
- The capital-related equipment is located on the provider's premises; and
- The capital-related portion of the charge is separately specified in the charge to the provider.

All hospitals, whether paid under the prospective payment system or excluded, must treat capital-related costs in a manner consistent with the way identical or similar costs were treated in the base period. This is necessary since the target amount is established on the basis of a hospital's base year costs. If costs were included as inpatient operating costs for purposes of the target amount computation and considered as capital-related costs in a subsequent year, there would be an unfair and inaccurate distortion in the year-to-year comparison.

Section 603(a)(1) of Pub. L. 98–21 requires that the Secretary study, develop, and report to the Congress within 18 months after the date of enactment of Pub. L. 98–21 on proposals for legislation by which capital-related costs associated with inpatient hospital services can be included within the prospective payment amounts.

b. Direct Medical Education Costs

The direct costs (including appropriate overhead costs) of approved education programs will be excluded from prospective payment. These costs will be reimbursed separately in accordance with regulations at § 405.421. (Costs of interns and residents hired to replace anesthetists will not be included. This adjustment is being adopted to preclude reimbursement for medical education programs instituted for the purpose of maximizing medical reimbursements.) Generally, approved educational activities mean formally organized or planned programs of study usually engaged in by providers in order to enhance the quality of care in an institution. Those programs may also include nursing schools and medical education of paraprofessionals (e.g., radiologic technicians). These programs do not include on-the-job training or other activities which do not involve the actual operation or support except through tuition or similar payments of an approved education program. Also, they do not include patient education or general health awareness programs offered as a service to the community at large.

6. Cost Reporting Periods

Hospitals subject to prospective payment will be paid under the new payment system for inpatient services effective with the hospital's first cost reporting period beginning on or after

October 1, 1983. The appropriate blend of the hospital's target amount and the DRG-rate will be paid for each discharge occurring on or after the first day of the cost reporting period. It is likely that a number of patients will be admitted and receive services before the beginning of the new period, but will be discharged after the period begins. Because the prospective payment rate is intended to cover an entire hospital stay, this situation would result in duplicate payment for a portion of the inpatient stay. Section 604(b) of Pub. L. 98–21 requires that, in this situation, an appropriate reduction in the prospective payment rate will be made to take into account amounts payable for items and services furnished before the cost reporting period begins. Therefore, the amounts payable on a reasonable cost basis for the portion of a hospital stay occurring before the beginning of the first cost reporting period on or after October 1, 1983 (i.e., the effective date for prospective payment) will be subtracted from the prospective payment rate for the applicable discharge. However, the prospective payment rates will not be reduced below zero; that is, if reasonable cost payments exceed the prospective payment rate, no additional payment will be made but pass through costs will not be reduced.

Section 604(a)(1) of Pub. L. 98–21 states that a change in a hospital's cost reporting period made after November 1982 will be recognized, for purposes of the effective date of the prospective payment system, only if the Secretary finds good cause for the change. We are implementing this requirement through regulations at § 405.453(f)(3), which are effective for cost reporting periods ending on or after the date of publication of these interim rules. We considered applying this requirement to all changes since November, 1982. However, a number of hospitals have had changes approved for cost reporting periods that have already closed. We decided that retroactive application of the requirements of § 405.453(f)(3) was not feasible, but that making them effective as soon as possible was necessary, since we did not wish to afford hospitals an additional 30-day or more period in which to effectuate such changes before the rules take effect. Therefore, even if our fiscal intermediaries have approved such changes, we will not recognize them for purposes of a hospital's entry into the prospective payment system unless the period for which the change is approved has already closed. Under this policy, a hospital will be required to adhere to the cost reporting period initially selected unless a change is authorized in writing by the hospital's fiscal intermediary.

To establish good cause for a change, the hospital must show that there are specific circumstances that support its request for the change. The hospital's written request must be received by the intermediary 120 days prior to the reporting period to be changed. Good cause would be found to exist, for example, if a hospital that is part of a multi-hospital system requests that its cost reporting period be changed to coincide with the periods used by all other components of the system. However, good cause would not be found to exist where the effect of the change is to change the date by which the provider becomes subject to, or is excluded from, the prospective payment system.

7. Publication of Standardized Amounts and Relative Weights

a. Initial Rates

Section 604(c) of Pub. L. 98–21 requires that a notice of the interim final DRG prospective payment rates effective with cost reporting periods beginning on or after October 1, 1983, be published in the **Federal Register** no later than September 1, 1983. Additionally, while a period for public comment is required, the rates as published will be effective on October 1, without consideration of comments received. However, by notice published in the **Federal Register** not later than December 31, 1983, the payment amounts must be affirmed or modified after consideration of those comments. Section 604(c) also requires that if a modification is made reducing payment rates, this modification will apply only to discharges occurring after 30 days from the date the notice of modification is published in the **Federal Register**. The above requirements are included in regulations at § 405.470(d)(1).

b. Annual Publication of Standardized Amounts and Relative Weights

Beginning in 1984, HCFA will publish in the **Federal Register** annual notices setting forth amounts and factors necessary to determine prospective payment rates applicable to discharges occurring during the Federal fiscal year. See the regulations at 405.470(e)(2) that establish dates by which the notices will be published.

C. Determination of the Prospective Payment Rates

This section contains a detailed explanation of how the final DRG-based prospective payment rates are determined, adjusted, and updated. An explanation of applicable rates during the 3-year transition period is presented in section C.4. of this preamble.

1. Calculation of Adjusted Standardized Payment Amounts

The statute requires that the Secretary determine national and regional adjusted DRG prospective payment rates for each DRG to cover the operating costs of inpatient hospital services. The methodology for arriving at the appropriate rate structure is essentially prescribed in the Act in section 1886(d)(2). It requires that certain base period cost data be developed and modified in several specified ways (i.e., inflated, standardized, grouped, and adjusted) resulting in 20 average standard amounts per discharge according to urban/rural designation in each of the nine census divisions and the nation. Table 1, section VII of the addendum contains the 18 regional standardized amounts (further divided into labor/nonlabor portions). The national standardized amounts are not included in the table because, for FY 84, Federal rates are based on regional averages. (In FY 85, Federal rates will be based on a combination of regional and national averages.) For the interested reader, the national standardized amounts for FY 84 have been calculated to be $2,837.91 as the urban average ($2,206.22 for the labor share and $631.69 for the nonlabor share) and $2,264.00 as the rural average ($1,847.42 for the labor share and $416.58 for the nonlabor share). These amounts are only estimates that, for comparison purposes, have been computed in the same manner as the regional amounts contained in Table 1 section VII of the addendum.

a. Base Year Cost Data

Section 1886(d)(2)(A) of the Act requires that, in determining allowable costs for the base period, the most recent cost reporting period for which data are available be used. Therefore, we have used Medicare hospital cost reports for reporting periods ending in 1981.

In calculating standardized amounts, we gathered cost reports from nearly all hospitals participating in Medicare, manually extracted necessary information, and prepared the information in computer-readable form. Because this process required a great deal of staff time, there was considerable lag time between the filing

of cost reports and the availability of complete data for use by HCFA. Thus, calendar year 1981 cost data were the most recent cost reporting period data available for use.

As explained in section III.B. of this preamble, prospective payment is intended to cover all hospital inpatient operating costs for treating Medicare beneficiaries. The base year cost data include all allowable hospital costs incurred in treating Medicare patients except, to the extent possible, the following:

(i) Costs from psychiatric, rehabilitation, children's, and long-term hospitals, and subproviders;

(ii) Capital-related costs, as recorded in the depreciation cost centers of the Medicare cost reports and return on equity capital, if applicable;

(iii) Direct medical education costs;

(iv) Nursing differential costs, which were previously reimbursable but are now disallowed under section 1861(v)(1)(J) of the Act, effective with services furnished on or after October 1, 1982. (The reported hospital operating costs were adjusted to reflect a zero nursing salary differential.)

Since only Medicare allowable inpatient operating costs were used in the data base, routine costs in excess of the routine cost limits provided for in section 223 of Pub. L. 92–603 were not included in the calculation of the standardized amounts.

The resulting Medicare cost was then divided by the number of Medicare discharges during the year, resulting in total Medicare allowable inpatient operating costs per discharge, for each hospital included in the data base. To determine discharges we relied on a monthly tabulation of Medicare discharges covering the same periods represented in the cost report. These final amounts represent the base year cost data.

b. Updating for inflation

Section 1886(d)(2)(B) of the Act requires that the base year cost data be updated. This requires a two-step process.

(i) The base year cost data, representing allowable costs per Medicare discharge (per hospital), are inflated through fiscal year 1983 using actuarial estimates of the rate of increase in hospital inpatient operating costs nationwide. The estimated actual rates of inflation for the hospital industry are as follows:

Calendar year	Inflation rate (percent)
1981	15.9
1982	15.0
1983	11.7

(ii) The resulting amounts are further inflated through fiscal year 1984 by using the estimated annual rates of increase in the hospital market basket, plus 1 percentage point, in accordance with section 1886(b)(3)(B) of the Act. (See the notice of target rate percentages published elsewhere in this issue of the **Federal Register**.)

Since July 1, 1979, the hospital cost limit schedules have incorporated a "market basket index" to reflect changes in the prices of goods and services that hospitals use in producing general inpatient services. We developed the current market basket by identifying the most commonly used categories of hospital inpatient operating expenses and by weighting each category to reflect the estimated proportion of hospital operating expenses attributable to each category. We then obtained historical and projected rates of increase in the resource prices for each category. Based on the rate of increase and the weight of each category, we developed an overall annual rate of increase in the hospital market basket. The categories of expenses used to develop the revised market basket are based primarily on those used by the American Hospital Association in its analysis of costs, and by the U.S. Department of Commerce in publishing price indices by industry.

In developing the market basket index used in establishing the prospective payment rates, we have revised in two ways the market basket previously used under the hospital cost limits, which were published in the **Federal Register** (47 FR 43313) on September 30, 1982. First, we have added malpractice insurance to the categories of expenses included in the market basket. We made this change because malpractice insurance premiums, which were excluded from the hospital cost limits, are included in the prospective payment rates. Second, we have revised the proportions assigned to each expense category to reflect the estimated proportion of total inpatient operating costs, including malpractice insurance attributable to each category.

The price variables used to predict price changes for each category of expenses are specified in Table 2, section VII of the attached addendum. For further background on the development of the market basket index, see Freeland, Anderson and Schendler, "National Hospital Input Price Index", *Health Care Financing Review*, Summer 1979, pp. 37–61.

c. Standardization

Section 1886(d)(2)(C) of the Act requires that each hospital's updated base year cost per discharge be standardized. Standardization means the removal of the effects of certain variable costs from the cost data.

i. Variations in Case Mix Among Hospitals

Section 1886(d)(2)(c)(iii) of the Act requires that the updated amounts be standardized to adjust for variations in case mix among hospitals. The methodology used for determining the appropriate adjustment factor (i.e., the case-mix index) is similar to that used for the hospital cost limits published in the **Federal Register** on September 30, 1982 (47 FR 43303). Essentially, a case-mix index has been calculated for each hospital (based on 1981 cost and billing data) reflecting the relative costliness of that hospital's mix of cases compared to a national average mix of cases. Standardization, necessary to neutralize the effects of variations in case mix among hospitals, is accomplished by dividing each hospital's average cost per Medicare discharge by that hospital's case-mix index. Table 3, section VII of the addendum contains the case-mix index values used for this purpose.

While the case-mix indexes used to develop the prospective payment rates are similar to those previously published (see 47 FR 43314), they differ in one respect. The weights used in their construction are not limited to the DRGs represented in the 1981 MEDPAR data set. The case-mix indexes have been calculated using weighting factors derived for all DRGs. Section III.B.3. of this preamble contains an explanation of the development of the DRG weighting factors. We computed each hospital's case-mix index by multiplying the weighting factor for each DRG by the number of MEDPAR cases classified in that DRG and dividing that result by the hospital's total number of MEDPAR discharges.

ii. Indirect Medical Education Costs

After adjusting each hospital's inpatient operating cost per discharge for inflation and case-mix complexity, we divided each cost by 1.0 plus the product of double the education adjustment factor (11.59 percent) and the individual hospital's adjusted intern-and-resident to bed ratio. (Section III.D.4. of this preamble contains a

detailed explanation of the education adjustment factor and ratio.) We determined that adjusted ratio by dividing the number of FTE interns and residents for the cost reporting period to which the average cost per discharge applies by the hospital's bed size determined at the beginning of that period to obtain the hospital's intern-and-resident to bed ratio, and dividing that ratio by .1. In order to appropriately standardize base year data for indirect medical education costs, it is necessary to use the same education adjustment factor in standardization as is used in making additional payments to teaching hospitals. Since the statute requires that the education adjustment factor be doubled in determining the amount of additional payments, we must also double the factor for standardization.

Example: After adjusting for inflation and standardizing for case-mix, the cost per discharge of a hospital with 686 beds available for use in Queens County, New York, is $1646.09. The hospital employed 77 FTE interns and residents in approved teaching programs.

The cost per case is adjusted for education costs as follows:

77 divided by 686=.11224, which is the intern-and-resident to bed ratio for this hospital.

.11224 divided by .1=1.12240—Adjusted Ratio.

$1646.09 divided by [1+(.1159×1.12240)] =$1456.61, Education-adjusted cost per discharge.

iii. Adjustments for Variation in Hospital Wage Levels (Federal Portion)

Section 1886(d)(2)(C)(ii) of the Act requires that the updated amounts be standardized by adjusting for area variations in the hospital wage levels. This adjustment requires the division of the average cost per discharge into labor-related and nonlabor-related portions. To determine the labor-related portion, we summed the percentages of the labor-related items (i.e., wages and salaries, employee benefits, professional fees, business services, and miscellaneous items) from the market basket. Using the most current market basket, the labor-related portion is 79.15 percent. Under the operating cost limits, the labor-related portion equaled 80.77 percent.

However, as mentioned in section C.1.b. of this preamble, the market basket applicable for the prospective payment system has been revised to include malpractice insurance. Therefore, the resulting labor-related percentage has also been revised.

To remove the effects of local wage differences from hospital costs, the labor-related portion is then divided by the appropriate wage index for the geographic area in which the hospital is located. The wage index reflects the average hospital wage level in the geographic area in which the hospital is located compared to the national average. The index is calculated based on wage and employment data maintained by the Bureau of Labor Statistics (BLS) of the U.S. Department of Labor. Specificially, the source file is the 1981 ES 202 Employment, Wages, and Contributions File for hospital workers (Standard Industrial Classification code 806).

The data used to develop the wage index were supplied by BLS, and are the most reliable national data available. If we discover that we, or BLS, have made any error that results in an incorrect wage index for any area, we will direct the Medicare intermediaries to recalculate the payment rates. However, BLS has advised us that they are unable to correct any inaccuracies in the wage index that may result from a hospital's failure to report the required wage and employment data. Moreover, any revisions in wage indexes will only apply to the adjustment of the standardized amounts as described in section C.2.a. of this preamble. We will not recalculate the standardized amounts themselves based on revised wage indexes.

In developing the wage index, we used approximate values for certain areas because BLS confidentiality requirements prohibit the disclosure of actual data or indexes for areas that include fewer than three reporting units. (A reporting unit is the smallest unit for which data are recorded on the employer's contribution report. Therefore, two or more hospitals owned by one organization could appear as one reporting unit.) The BLS has identified the areas having wage index values closest to, but not less than, the wage index for those areas where actual disclosure is prohibited. Additionally, data from Federal hospitals (e.g., VA hosptials) are excluded in determing wage indexes because these hospitals typically use national pay scales. Therefore, the amounts paid to employees do not necessarily reflect area wage levels.

Previously, we have published wage indexes for each Standard Metropolitan Statistical Area (SMSA), New England County Metropolitan Area (NECMA), and State rural area. On June 30, 1983, the Executive Office of Management and Budget (EOMB) began using Metropolitan Statistical Areas (MSAs) in lieu of SMSAs (see section III.C.1.d. of this preamble).

An example of standardization for wages follows:

Assume a hospital has an average cost per Medicare discharge of $3,000 and the wage index for the area is 1.0293.

$3000×79.15% (labor-related portion)=$2374.50 (labor share).

$2374.50=$2306.91 (wage adjusted labor share) 1.0293.

The wage indexes are listed in Table 4, section VII of the addendum.

iv. Cost-of-Living Factor for Alaska and Hawaii

Section 1886(d)(5)(C)(iv) of the Act authorizes the Secretary to provide for such adjustments to the payment amounts as the Secretary deems appropriate to take into account the unique circumstances of hospitals located in Alaska and Hawaii. Generally, these two States have higher levels of cost in comparison to other States in the nation. The high cost of labor is accounted for in the wage index adjustments discussed above. However, the high cost-of-living in the States also affects the cost of nonlabor items (e.g., supplies and equipment). Under the Amendments, hospitals in Alaska and Hawaii will be entitled to an increased prospective payment rate because of the generally higher cost of living in those States. The effect of this higher cost of living is to increase Alaska and Hawaii hospital nonlabor costs from the levels generally prevalent in the rest of the country. Therefore, we believe it is desirable to reduce, as much as possible, the effect of the higher nonlabor costs in deriving each hospital's standardized cost per discharge. Accordingly, we divided the nonlabor-related portion of the average Medicare cost per discharge for hospitals located in Alaska and Hawaii by an appropriate cost-of-living adjustment factor. We point out that aside from being technically desirable, the effect of standardizing nonlabor hospital costs in Alaska and Hawaii is to decrease the reduction for budget neutrality stemming from the requirements in section 1886(e)(1)(B) of the Act. The adjustment factors contained in the table below are based on data obtained from the U.S. Office Of Personnel Management as published in their FPM–591 letter series.

Table.—Cost-of-Living Adjustment Factors, Alaska and Hawaii Hospitals

Alaska: All areas	1.25
Hawaii:	
Oahu	1.20
Kauai	1.175
Maui	1.20
Molokai	1.20
Lanai	1.20
Hawaii	1.10

As explained above, the average labor-related portion of hospital costs (i.e., based on the market basket) equals 79.15 percent of total costs. Therefore, the nonlabor portion equals 20.85 percent. The formula used to make the standardization adjustments for the nonlabor related costs in Alaska and Hawaii is as follows:

$$\frac{\text{(Average Cost Per Medicare Discharge)} \times (20.85\%)}{\text{(Cost-of-Living Adjustment Factor)}}$$

d. Urban/Rural Averages Within Geographic Areas

Section 1886(d)(2)(D) of the Act requires that average standardized amounts (i.e., per discharge) be determined for hospitals located in urban and rural areas of the nine census divisions and the nation. The statute further specifies that the term "urban area" means an area within a Standard Metropolitan Statistical Area (SMSA), as defined by EOMB, or within such similar area as the Secretary has recognized by regulation. The term "rural area" means any area outside of urban areas.

On June 30, 1983, EOMB began using Metropolitan Statistical Areas (MSAs) in lieu of SMSAs. MSAs are designated and defined following a set of new standards prepared by the Federal Committee on MSAs, which advises EOMB on metropolitan area definitions. Under these standards, an area qualifies for recognition as an MSA in one of two ways: (1) if a city of at least 50,000 population is located in the area, or (2) if it is an urbanized area of at least 50,000 with a total metropolitan population of at least 100,000. In addition to the county containing the main city, an MSA may also include additional counties that have close economic and social ties to the central county. MSAs are defined in terms of entire counties, except in the six New England States. In most cases, there is little difference between the SMSA designations and the MSA designations beyond the change in title. For example, the Los Angeles SMSA is now the Los Angeles MSA. Therefore, we are using MSA designations for purposes of the prospective payment system because this is the classification system currently used by EOMB, and the new designations recognize area changes reflecting 1980 census data. The MSA designations announced by EOMB on June 27, 1983 and effective June 30, 1983 are contained in Table 4, section VII of the addendum.

Section 601(g) of Pub. L. 98–21 requires that any hospital located in New England will be classified as being in an urban area if the hospital was classified as being in an urban area under the classification system in effect in 1979. As a result of this provision, the following counties are deemed to be urban areas: Litchfield County, Connecticut; York County, Maine; Sagadahoc County, Maine; Merrimack County, New Hampshire; and Newport County, Rhode Island.

As a result of the adjustments explained above, we have calculated 18 average adjusted standardized amounts per Medicare discharge. In summary, these amounts: are adjusted for inflation; are standardized to remove the effects of area wage differences, indirect medical education, case mix, and cost-of-living in Alaska and Hawaii; and are grouped by urban/rural and geographic designations.

e. Calculation of Adjustments to Standardized Amounts

The various calculations explained in the sections above resulted in a determination of 18 separate average standardized amounts. These amounts were further adjusted taking into consideration various provisions of Pub. L. 98–21.

i. Part B Costs

As explained above, the prospective payment rates are intended to cover all costs associated with inpatient hospital services for Part A beneficiaries except physicians' services to individual patients. Because many of these services have previously been billed under Part B of the program, the standardized costs per discharge do not include these amounts.

Section 602(e) of Pub. L. 98–21 added section 1862(a)(14) to the Act to prohibit payments for nonphysician services furnished to hospital inpatients unless the services are furnished either directly by the hospital or furnished by an entity under arrangements (as defined in section 1861(w)(1) of the Act) made by the hospital. Section 1861(w)(1) of the Act defines the term "arrangements" as "arrangements under which receipt of payment by the hospital (whether in its own right or as agent), with respect to services for which an individual is entitled to have payment made under this title discharges the liability of such individual or any other person to pay for the services." Because the term "arrangements" is defined in a way that satisfies all beneficiary liability for the services (except for the Part A cost-sharing provisions), Part B billing by an entity other than the hospital for nonphysician services furnished to hospital inpatients is essentially prohibited, effective October 1, 1983. This prohibition applies to all hospitals participating in the Medicare program, not just those subject to prospective payment.

In order to adjust the standardized amounts per discharge so that the Federal rate payable in FY 84 includes an approximation of costs previously billed under Part B, they must be increased based on estimates that have been made by HCFA's Office of Financial and Actuarial Analysis.

Since 1980 and 1981 data are used to set the prospective payment rates, the estimated amounts for inpatient services billed to Part B of Medicare should be consistent with policies and practices existing in 1980 and 1981. The amounts for inpatient services billed to Part B were derived from Part B billing data and then projected to FY 1984 consistent with estimated-growth and with 1980–81 policies and practices. (Most of those amounts are attributable to lab tests sent out to independent labs.) The effect of the hospital based physician regulations is excluded from this adjustment since section 1886(d)(5)(D) specifies adjustment only for the effects of section 1862(a)(14). The projections of the FY 84 amounts were divided by HCFA's estimate of FY 84 Medicare inpatient costs to derive the adjustment factor of 0.13%. Therefore, the standardized amounts have been increased by this percentage. Because section 1886(d)(5)(D)(ii) provides that an adjustment to the Federal payment rates will be made in each fiscal year for nonphysician inpatient hospital services previously billed under Part B, we will estimate the amount of this percentage adjustment to the standardized amounts on an annual basis.

ii. FICA Taxes

Section 102 of Pub. L. 98–21 requires that certain hospitals (i.e., non-profit organizations) enter the Social Security system and begin paying FICA taxes for employees beginning January 1, 1984. Section 1886(b)(6) of the Act is also amended by Pub. L. 98–21, requiring that adjustments be made in the rate of increase base period costs in recognition of these higher payroll costs. The conference committee report accompanying Pub. L. 98–21 expressed the intent that the Federal rate also be adjusted to reflect this change. (H.R. Rep. No. 98–47, 98th Cong. 1st Sess. 184 (1983).) Our actuaries have estimated the amount of the adjustment to the

standardized amounts necessary to account for increased payroll taxes for hospitals entering the Social Security system.

The Office of the Actuary (OACT) in the Social Security Administration (SSA) supplied us with an estimate of the 1984 payroll of non-profit hospitals not covered by the FICA tax in 1981. IRS data were combined with SSA internal data to identify which of the health services employers with fifty or more employees were not covered by the FICA tax 1981. (Since hospitals are not identified in the data, health services employers with fifty or more employees are used as a proxy.) The OACT estimated that the 1984 payroll for hospitals not covered by FICA in 1981 was about $2.7 billion.

The $2.7 billion payroll was multiplied by 87% to derive the inpatient share and further multiplied by 36% to derive Medicare's share of the inpatient share. The result was multiplied by the 1981 FICA tax rate of 6.65% to derive Medicare's share of the employer portion of the FICA taxes. Medicare's share of the FICA taxes was divided by the 1981 Medicare hospital costs to derive the adjustment factor of 0.18%. Therefore, the standardized amounts were increased by this percentage.

The 87% ration of inpatient costs to total costs was derived from American Hospital Association data and verified by analysis of Medicare hospital cost report data. The 36% Medicare share of inpatient cost was derived from analysis of Medicare hospital cost reports for non-profit—non-government hospitals.

iii. Outliers

Section 1886(d)(5)(A) of the Act requires that payments, in addition to the basic prospective payment rates, be made for discharges involving day or cost outliers as explained in section III.D.1 of this preamble. Section 1886(d)(2)(E) of the Act correspondingly requires that the standardized amounts be reduced by a proportion that is estimated to reflect additional payments for outlier cases.

The statute further requires that outlier payments may not be less than 5 percent or more than 6 percent of total payments projected to be made based on the prospective payment rates in any year. In accordance with this requirement, we estimate that outlier payments for FY 84 will be 6.0 percent of total payments (including both prospective and outlier payments). Therefore, we have reduced the standardized amounts by multiplying by .943, which is a factor computed to achieve the result. Prior to each fiscal year, an estimate of outlier payments for that year will result in an adjustment to the standardized amounts used in calculating Federal rates. The methodology for determining the adjustment factor needed to actualize that estimate is closely related to the method for determining the budget neutrality adjustment factor discussed in the next section, and is explained in section VIII of the addendum along with the derivations of the budget neutrality adjustments.

iv. Budget Neutrality

Section 1886(e)(1) of the Act requires that the prospective payment system result in aggregate program reimbursement equal to "what would have been payable" under the reasonable cost provisions of prior law; that is, for fiscal years 1984 and 1985, the prospective payment system should be "budget neutral."

Under the Amendments the prospective payment rates are a blend of a hospital-specific portion and a Federal portion. Section 1886(e)(1)(A) of the Act requires that projected aggregate payments for the hospital specific portion should equal the comparable share of estimated reimbursement under prior law. Similarly, section 1886(e)(1)(B) of the Act requires that projected aggregate reimbursement for the Federal portion of the prospective payment rates should equal the corresponding share of estimated amounts payable prior to the passage of Pub. L. 98–21. Thus, for FY 84, 75 percent of projected payment for inpatient operating costs based on the hospital-specific portion should equal 75 percent of the amount projected to be payable for inpatient operating costs under the law in effect before enactment of Pub. L. 98–21. Likewise, total estimated prospective payments incurred deriving from the 25 percent Federal portion, including outlier payments and adjustments and special treatment of certain classes of hospitals, should equal 25 percent of projected payments incurred under the prior reasonable cost reimbursement system. (Note that this does not apply to payments such as payments of a return on equity capital, made in addition to prospective payments.)

This adjustment of the Federal portion was determined as follows:

- *Step 1*—Estimate total incurred payments for inpatient hospital operating costs (for FY 84 and FY 85) that would have been made on a reasonable cost basis under Medicare prior to Pub. L. 98–21.
- *Step 2*—Multiply total incurred payments by 25 percent (for FY 84) and 50 percent (for FY 85), i.e., the Federal portions of the total payment amounts for each year.
- *Step 3*—Estimate Federal portion of total payments that would have been made without adjusting for budget neutrality, but with the adjustment for outlier payments.
- *Step 4*—Add an estimate of total adjustments and payments made under the special treatment provisions of § 405.476 (e.g., outliers, indirect medical education) to the Federal portion.
- *Step 5*—The difference between amounts calculated in Step 4 and Step 2 is divided proportionally among the standardized amounts resulting in the budget neutrality adjusted (standardized) amounts.

The resulting adjustment factor for the FY 84 Federal portion is .969. Payment amounts of hospitals excluded from the prospective payment system (for example, psychiatric and children's hospitals) and of hospitals not participating in prospective payment because of their participation in demonstrations and studies were not included in the calculations above. For a more detailed explanation of budget neutrality, see section VIII of the addendum.

f. Summary of Calculations Resulting in Adjusted Standardized Amounts

In summary, we began our calculations by developing base year cost data for individual hospitals; we updated these amounts to account for inflation through fiscal year 1984; we standardized the data; we grouped the data from individual hospitals resulting in average standardized amounts for urban and rural hospitals located in the nine census divisions; and we adjusted the resulting 18 standardized amounts in accordance with requirements of the Act. Throughout the remainder of this discussion, when we refer to "adjusted standardized amounts", we are referring to the 18 separate average amounts calculated as described above.

2. Adjustments for Area Wage Levels and Cost-of-Living in Alaska and Hawaii

This section contains and explanation of two types of adjustments that will be made by the fiscal intermediaries to the adjusted standardized amounts. For discussion purposes, it is necessary to present the adjusted standardized amounts divided into labor and non-labor portions. See Table 1, section VII of the addendum, which contains the actual divided amounts which will be used for calculation of prospective payment rates.

a. Adjustment for Area Wage Levels

Section 1886(d)(2)(H) of the Act requires that an adjustment be made to the labor-related portion of the national and regional Federal rates to account for area differences in hospital wage levels. This adjustment will be made by the fiscal intermediaries by multiplying the labor-related protion of the adjusted standardized amount (i.e., 79.15 percent of the total amount) by the appropriate wage index for the area in which the hospital is located. The wage indexes, applicable for fiscal year 1984, are presented in Table 4, section VII of the addendum.

b. Adjustment for Cost-of-Living in Alaska and Hawaii

As explained in section III.C.1.c.iv. of this preamble, the statute provides for an adjustment to take into account the unique circumstances of hospitals in Alaska and Hawaii. Higher labor-related costs for these two States were included in the adjustment explained in section a. above. The adjustment necessary for nonlabor-related costs for hospitals in Alaska and Hawaii will be made by the fiscal intermediaries by multiplying the nonlabor portion (i.e., 20.85 percent) of the standardized amounts by the appropriate adjustment factor contained in the table in section III.C.1.c.iv.

3. Federal DRG Prospective Payment Rates

a. DRG Classification

As explained in section III.B. of this preamble, all Medicare discharges will be classified according to one of 467 DRGs. (Note that DRG No. 468 may also be assigned when valid discharge records contain an operating room procedure unrelated to the Major Diagnostic Category.)

b. Weighting Factors

The actual DRG Federal payment rates are determined by multiplying the standardized amounts by weights appropriate to each discharge. These weights are intended to reflect the relative resource consumption associated with each DRG. That is, each weight reflects the relative cost, across all hospitals, of treating cases classified in that DRG. To establish these weights, we used data from the MEDPAR file (MP) (a statistical file containing coded clinical information and billed charge data based on a 20 percent sample of all Medicare claims), from the Medicare cost reports (MCR), and from non-MEDPAR discharge records for Maryland and Michigan hospitals (NMP). Maryland and Michigan discharge records were used to calculate the weights for 109 DRGs that either contained no MEDPAR cases or had too few cases to provide a reasonably precise estimate of the average cost of care. Because the prospective payment system requires the establishment of a rate for all DRGs, Maryland and Michigan records were used to calculate the weighting factors for DRGs which were not prevalent in the 1981 MEDPAR file. Discharges falling within the 109 DRGs for which non-MEDPAR records were used to construct the prospective payment weighting factors represent less than .3 percent of all Medicare discharges.

In addition, of the 468 categories which required the determination of prospective payment weighting factors, the DRG assignment program (i.e., the MEDPAR grouper) collapsed 25 into 16 more general categories because specific clinical information essential for the assignment of Medicare discharges to these DRGs was not available in the MEDPAR data set. For example, DRGs 106 and 107, corresponding to coronary bypass with and without cardiac catheterization, are not distinguished in the MEDPAR file. Instead, there is a single group (labeled DRG 107) containing coronary bypass patients with or without catheterization. To derive prospective payment weighting factors for DRGs that had been combined in the MEDPAR data set, we relied on the same non-MEDPAR discharge records from Maryland and Michigan used to construct the weights for the 109 empty or low volume DRGs.

Based on the Maryland and Michigan records, we first computed weighting factors for all 468 categories. For example, assume relative weights for DRGs 106 and 107 as shown in the following table:

DRG	Maryland	Michigan
106	1.3882 (30)	1.2418 (80)
107	1.4722 (20)	1.3162 (50)

The numbers in parentheses represent the number of discharges on which each weight is based. The weighting factor for DRGs 106 and 107 combined (i.e. weighted by the number of discharges in each DRG) is 1.3121.

We then divided the weighting factor for the combined DRGs in the MEDPAR data set by the combined Maryland-Michigan weight for the corresponding DRGs to yield an adjustment ratio. Using our hypothetical example, if the weighting factor for DRG 107 in the MEDPAR file (representing DRGs 106 and 107 combined) is 1.2600, we computed the adjustment ratio 1.2600 divided by 1.3121 or .9603. We then multiplied all of the original Maryland and Michigan weighting factors by this ratio. Using our example, the revised weights would be:

DRG	Maryland	Michigan	Combined
106	1.3312 (30)	1.1925 (80)	1.2303
107	1.4126 (20)	1.2639 (50)	1.3067

The combined column, the weighted average of the adjusted original State weights, represents the weighting factors for the MEDPAR DRGs that were collapsed or otherwise combined. Thus, in our example the hypothetical prospective payment weighting factors for DRGs 106 and 107 would be 1.2303 and 1.3067, respectively.

The calculation below illustrates the use of the data in constructing the weighting factors. The source of the data items is given in parentheses for each step of the calculation.

i. Computation of Adjusted Cost for Each Case

To derive DRG weights, we first calculated an adjusted cost for each case by: (1) Multiplying the number of days the patient spent in a regular room (MP or NMP) by the hospital's routine cost per day (MCR); (2) Multiplying the number of days the patient spent in a special care unit (MP or NMP) by the hospital's special care unit cost per day (MCR); and (3) Multiplying the ancillary charges for services to the patient (MP or NMP) by the relevant departmental ancillary cost to charge ratios (MCR) to determine the cost of ancillary services. All hospital routine and special care per diem costs were standardized to July 1, 1981 to coincide with the mid-point of the period represented in the MEDPAR file (i.e. calendar year 1981 records). Example 1 depicts the hypothetical calculation of the adjusted cost per case for a patient who spent 10 days in a hospital in New York City. Two of the 10 days were spent in a special care unit. During the stay, the patient incurred charges for radiology, laboratory and pharmacy services.

EXAMPLE 1.—Calculation of Adjusted Cost Per Case for Cases Classified Within a DRG

Routine care cost per diem (MCR)	×	Routine care days (MP or NMP)	=	Routine care cost
$150		8		$1,200

Special care cost per diem (MCR)	×	Special care days (MP or NMP)	=	Special care cost
$200		2		$400

Ancillary department	Cost to charge ratio (MCR)	×	Ancillary charges (MP or NMP)	=	Ancillary cost
Radiology	$0.80		$56		$44
Laboratory	.85		175		149
Pharmacy	1.20		80		96
Total					289

NOTE.—Adjusted Cost Per Case $289 + $1,200 + $400 = $1,889.

ii. Standardization of Adjusted Cost Per Case for Variation Due to Teaching Activity and Hospital Wage Levels

The next step was to standardize each adjusted cost per case for the effects of variations in the level of hospital specific teaching activity and area-specific hospital wage levels, so that the cost values would be comparable across hospitals. The method for standardizing adjusted costs per case for differences in teaching activity is as follows. First, for each hospital with an approved internship and residency program, we determine the ratio of full-time equivalent (FTE) interns and residents per bed. We compute this ratio for each hospital from data contained on Medicare institutional certification surveys where available, and from data submitted directly by the intermediary. We then multiply the FTE intern and resident to bed ratio by 5.795 percent, the indirect education cost adjustment factor, and add the product to 1.0. This results in a teaching activity adjustment factor which we then use to divide the hospital's adjusted cost per case. The result of this division is a cost value for each case adjusted for hospital differences in teaching activity.

Next, we divided each hospital's adjusted cost per case into labor related and non-labor components. The labor related component was derived from the market basket and represents a fixed share (79.15 percent) of cost per case. This share represents the sum of the 1981 market basket relative importance weights for wages and salaries, employee benefits, professional fees, business services, and miscellaneous expenses (see Table 2, section VII of Addendum). The labor related component of adjusted cost per case was then divided by the hospital's applicable wage index from Tables 4A and 4B. This result was added to the non-labor component of the adjusted cost per case to yield a revised cost per case that is standardized for hospital differences in teaching activity and area wage levels. The resulting adjusted cost values for the cases from each hospital represent estimates of the treatment costs that would prevail if the hospital had no teaching programs, and paid the prevailing national average wage rates. Example 2 depicts the hypothetical calculation of this standardized cost per case.

Example 2

Calculation of Standardized Cost Per Case
Adjusted cost per case = $1889
Hospital intern and resident to bed ratio (based on 686 bed facility with 77 FTE interns and residents)
(77 divided by 686) divided by .1 = 1.1224
Education adjustment factor = 5.795 percent
Adjusted cost per case, standardized for differences in teaching activity
$1,889 divided by (1.0 + (1.1224) (.05795) = $1,773.64)
Labor-related portion of adjusted cost per case, standardized for differences in teaching activity
$1773.64 × .7915 = $1403.84
Non-labor portion of adjusted cost per case, standardized for differences in teaching activity
$1773.64 − $1403.84 = $369.80
Adjusted cost per case, standardized for area wage differences
$1403.84 divided by 1.3979 (Wage index) + $369.80 = $1374.05

We did not use every case included in the MEDPAR file and from the non-MEDPAR discharge records for Maryland and Michigan hospitals in constructing the DRG weighting factors. We were concerned that those cases of a typically long or short duration would distort the results. Therefore, we eliminated all cases in each DRG for which the standardized cost values were outside three standard deviations from the geometric mean of the values for the DRG.

The average standardized cost for each of the 468 DRGs was calculated by summing the standardized adjusted costs for all cases in the DRG and dividing that amount by the number of cases classified in the DRG. The average standardized cost for each DRG was then divided by the overall average standardized cost to determine the weighting factor.

We have depicted the construction of the DRG prospective payment weights and the case-mix indexes in the table below. The table has been structured to make DRGs 1 through 4 correspond to the 358 DRGs with sufficient Medicare cases in the 1981 MEDPAR data set. DRGs 5 and 6 correspond to the 109 DRGs with insufficient Medicare cases to which Maryland and Michigan non-MEDPAR records were added to derive the DRG weighting factors. Hospitals A through E correspond to the 5853 hospitals represented in the MEDPAR file and used to calculate the weights for the 358 DRGs with sufficient Medicare cases.

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CALCULATION OF MEDICARE PROSPECTIVE PAYMENT WEIGHTS

Standardized Cost Per Discharge, Classified By DRG[1]

HOSPITAL	DRG 1	DRG 2	DRG 3	DRG 4	DRG 5	DRG 6	Expected Cost Per Discharge[2]	Case Mix Index[3]
A	1100 2000	3000	None	4000	--	--	2575	1.0210
B	None	2000 1000 5000	2000	4000 5000	--	--	3092	1.2259
C	1200 900	3000	2500 2000	3000	--	--	2367	.9384
D	2000 3000 2000	3200 2500 1900	1800 1600 1500	None	--	--	2067	.8194
E	1000	1800	1900 2300	6000	--	--	2510	.9952
Number of MEDPAR Discharges by DRG	8	9	8	5	--	--	--	--
MEDPAR Average Expected Cost Per Discharge (hospital weighted)	--	--	--	--	--	--	2522[3]	--
DRG Cost Weight	1650	2600	1950	4400	3400[4]	4000[4]	--	--
MEDPAR Average DRG Cost Weight (DRG weighted)	--	--	--	--	--	--	2650[5]	--
MEDPAR DRG Relative Cost Weights[6]	.6226	.9811	.7358	1.6604	1.2143	1.4286	--	--
Prospective Payment DRG Relative Cost Weights[7]	.6542	1.0309	.7732	1.7447	1.2760	1.5012	--	--

1/ Structured to make these 6 DRGs represent all 468 DRGs. DRGs 5 and 6 correspond to the 109 low volume or empty MEDPAR DRGs for which primarily Maryland and Michigan non-MEDPAR records were used to compute the relative weights. Their weights are not derived from the national set of hospitals represented in the MEDPAR file. DRGs 1 through 4 correspond to the 358 MEDPAR DRGs with sufficient Medicare discharges.

2/ For hospital A, calculated as follows:

1/4 [2(1650) + 1(2600) + 0(1950) + 1(4400)] = 2575

3/ Computed as follows:

1/5 (2575 + 3092 + 2367 + 2067 + 2510) = 2522

4/ Based primarily on Maryland and Michigan non-MEDPAR records. MEDPAR cases were also included to the extent they were available for these DRGs.

5/ Computed as follows: 1/4 (1650 + 2600 + 1950 + 4400) = 2650

6/ For DRGs 1 through 4 (i.e. representing the 358 MEDPAR DRGs), computed by dividing each DRG cost weight by the arithmetic mean MEDPAR DRG cost weight. For DRG 1, this equals:

1650 divided by 2650 = .6226

For DRGs 5 and 6 (representing the DRGs for which primarily Maryland and Michigan non-MEDPAR discharges were used), computed by dividing each DRG cost weight by the arithmetic mean DRG cost weight for the 358 MEDPAR DRGs in the Maryland-Michigan data set. Assume, in this hypothetical example, an average of 2800, For DRG 5, this equals:

3400 divided by 2800 = 1.2143

Note that the resulting cost weights are "unweighted."

7/ For DRG 1, computed as follows:

.6226 (2650 divided by 2522) = .6542

The ratio 2650 divided by 2522 represents an adjustment factor required to properly transform the "unweighted" relative cost weights described in footnote 6. This transformation is necessary to obtain cost weights that reflect the relative cost of treatment of a case in DRG X compared to the cost of treatment of the typical Medicare discharge in the average hospital.

8/ For hospital D, computed as follows:

1/9 [3(.6542) + 3(1.0309) + 3(.7732)] = .8194

$\approx \frac{2067}{2522}$ (Numbers are not identical solely due to rounding.)

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iii. Adjustments to the Weighting Factors To Remove Kidney Acquisition Costs

Weighting factors were originally calculated including costs of kidney acquisition. To adjust the weighting factors in order to correct for treating kidney acquisition costs as a special payment under the prospective payment system, 1981 average cadaveric and live donor acquisition costs were used. These average costs were obtained from a survey of intermediaries conducted in preparation for a report to Congress on the End Stage Renal Diseases program. The average cadaveric and live donor costs were combined to obtain an overall average kidney acquisition cost. Further adjustments had to be made to this average cost since it included capital and medical education costs and it had not been standardized for area wage levels or indirect teaching costs. The adjustment for capital and direct medical education was made based on an estimate of the proportion of capital and medical education costs to inpatient operating cost. To adjust for the fact that the average costs was a hospital weighted average rather than a discharge weighted average and was not standardized, a ratio of the unweighted, unstandardized average kidney acquisition costs (after adjustment for capital and medical education) to the unstandardized, unweighted average transplant cost was calculated. The compliment of this ratio produces the portion of transplant costs unrelated to kidney acquisition and can be applied directly to the relative weight of DRG 302 to remove the value of kidney acquisition. This results in a revised weighting factor for DRG 302 of 4.2286. Once the revised weight was obtained, the weights for all DRG's were renormalized to assure the correct relative values and the case-mix index for all hospitals was recalculated. The final weight for DRG 302, after removing kidney acquisition cost and correcting the relative weights was 4.2279.

4. Calculation of Prospective Payment Rates

To ease the sudden impact of a completely new method of payment for hospital services, the statute provides for a three-year transition period. For the first three years under the prospective payment system, hospitals will be paid a prospective payment rate for each discharge that is a blend of a hospital-specific portion and a Federal portion. This section contains an explanation of how each is calculated and the formula for determining each hospital's appropriate prospective payment rate during the transition period.

a. Hospital-Specific Portion

The hospital-specific portion of the prospective payment rate is determined in a manner similar to the target amount under the rate of increase ceiling established by TEFRA. The conference committee report expresses the committee's expectation that the hospital-specific portion be based on the best data available at the time the rate is established for purposes of the transition period (H.R. Rep. No. 98–47 at p. 182). Therefore, fiscal intermediaries will be estimating the hospital-specific portion amounts using the best data for the base period cost reporting period available prior to the hospitals entry into the prospective payment system. Once the amounts have been calculated, they will be applied throughout the entire 3-year transition period, except as indicated below.

We believe that it is important for the effectiveness of the prospective payment system to ensure that payment rates are actually prospective in their effect and as accurate as possible based on available data. To meet these objectives, the hospital may submit additional adjustment data and request an informal reconsideration of the determination within 3 weeks of receipt of the intermediary's notice of base period costs/target amount. In addition, due to the short timeframes involved in the initial implementation of the prospective payment system, we are allowing hospitals which become subject to the prospective payment system on or after October 1, 1983, and before November 16, 1983 to request that their intermediary (up to November 15, 1983) recompute their base period costs to take into account inadvertent omissions in their previous submissions to the intermediary related to changes made by the prospective payment legislation for purposes of determining base period costs. After the initial 3-week period when the hospital can submit additional adjustment data pertaining to all base year costs, omissions that can be considered under this special provision are limited to those items specified in § 405.474(b)(1)(iii)(B), for example, capital-related costs, direct medical education costs, FICA taxes, and nonphysician services billed under Part B.

We are also allowing hospitals to notify their intermediaries of errors of calculation, and we will correct such errors when notified timely, that is, within 90 days of the date on which the intermediary notifies the hospital of its rates.

Medicare fiscal intermediaries may initiate revisions to the determination of the hospital's base period costs and hospital-specific amount as follows:

- For any reason up to the date the hospital is subject to the prospective payment system;
- To make adjustments for capital-related costs and direct medical education costs and adjustments specified in paragraphs (b)(1)(iii)(A) and (b)(2)(ii) of § 405.474 during the extended reconsideration period for hospitals beginning participation in the prospective payment system on or after October 1, 1983 and before November 16, 1983; and
- To correct errors in calculation within 90 days of the date on which the intermediary notifies the hospital of its rates.

When a hospital succeeds in appealing the disallowance of costs in its base period, we will adjust the costs used in determining the hospital-specific portion for hospital cost reporting periods beginning after the date of the favorable appeal decision. We will not retroactively adjust payment rates, or adjust rates in the middle of a cost reporting period because to do so would undermine the prospectivity of the rates and would undo the budget neutrality adjustments. Therefore, we will only allow prospective adjustments to reflect revisions in base year costs when a hospital successfully contests a disallowance of costs.

If a hospital's base year costs, as estimated for purposes of determining the hospital-specific portion, are determined, by criminal conviction, imposition of a civil money penalty or assessment, a civil judgment under the False Claims Act (31 U.S.C. 3729–3731), or a proceeding for exclusion from the Medicare program to include costs that were unlawfully claimed, the hospital's base period costs will be adjusted to remove the effect of the excess costs, and HCFA will recover both the excess costs reimbursed for the base period and the additional amounts paid due to the inappropriate increase of the hospital-specific portion of the hospital's transition payment rates. Similarly, we will adjust payments for the remaining portion of the transition period to account for the reduction in funds.

The hospital-specific portion is an amount derived from the following formula:

$$\frac{\text{(Base year costs)}}{\text{(Case-mix index)}} \times \text{Outlier adjustment} \times \text{Updating factor} \times \text{Transition period percentage} \times \text{DRG weight}$$

i. Base-Year Costs

Base year costs, necessary for calculating the hospital-specific portion of the prospective payment rates, are developed from cost data for the 12-month (or longer) reporting period ending on or after September 30, 1982 and before September 30, 1983. If the applicable period is less than 12 months, then preceding 12-month (or longer) period is used.

Costs in excess of the routine cost limits (i.e., the section 223 limits) will be excluded from base year costs in calculating the hospital-specific portion in the same manner as they are excluded when determining base period costs for the rate-of-increase ceiling under § 405.463. This is necessary for the following reasons.

- We wish to be consistent with respect to interpretation of the term "allowable operating costs" between the prospective payment system and the rate of increase ceiling.
- Inclusion of costs in excess of the limit, in determining base year costs, would result in recognition of costs which have been legitimately found to be unnecessary and unreasonable in the efficient delivery of hospital services under section 1861(v)(1)(A) of the Act.
- The method, specified in Pub. L. 98–21, of updating base period costs would carry forward those costs, recognized as unnecessary and unreasonable (inflated by the target rate percentage), into future years.
- Because of the budget neutrality provision of Pub. L. 98–21, the increased base period costs due to inclusion of costs in excess of the limits must be offset against all hospitals' costs. Therefore, inefficient hospitals would be advantaged at the expense of efficient hospitals.

Each hospital's total allowable Part A costs will be adjusted:

- To remove any capital-related costs;
- To remove any medical education costs;
- To remove the nursing differential previously permitted;
- To include allowable malpractice insurance costs;
- To include estimated FICA taxes for those hospitals that did not incur such costs for all their employees in the base period;
- To remove the kidney acquisition costs incurred by hospitals approved as renal transplantation centers; and
- To include the costs of services that were billed under Part B of the program by another provider or supplier during the base period but will be billed under Part A as inpatient hospital services effective October 1, 1983.
- To eliminate any higher costs resulting from changes in accounting principles initiated in the base period and to exclude any base year costs that were incurred for the purpose of increasing base year costs or that have the effect of distorting base year costs as an appropriate basis of the hospital-specific rate. This would involve, for example, a change in the hospital's accounting principles in pricing inventory or change from the cash to the accrual basis, or other actions taken to increase base period costs such as one-time salary bonuses and pension fund contributions. Any costs removed from the base period due to the operation of this provision would only be removed for purposes of the determination of the hospital-specific payment rates. Such costs, if otherwise allowable and reasonable in amount, would be reimbursed in the base period settlement.

In order to make some of these adjustments, the intermediary must receive documentation from the hospitals as outlined in PRM Chapter 2800 (Transmittal 291).

Total allowable Medicare inpatient operating costs for each hospital, resulting from the above adjustments, are divided by the number of Medicare discharges during the applicable base year. The amount resulting from this calculation will be used as the base year cost per case for purposes of calculating the hospital-specific portion (HSP) of the transition period prospective payment rates.

ii. Case-Mix Adjustment

In order to take into consideration the hospital's individual case mix, the base year cost amount is divided by the case-mix index applicable in FY 81 (See Table 3, section VII, of the Addendum which contains 1981 case-mix indexes.) Adjusted base period costs are divided by the hospital's case-mix index to neutralize them for the effects of the complexity of the mix of patients treated.

The effects of individual case complexity will be taken into account by multiplying the hospital-specific rate by the weighting factor for each discharge in determining the hospital-specific portion of payment for each case.

We have decided to adjust the hospital-specific rate for case-mix for the following reasons:

- It immediately protects hospitals from losses based on changes in current case mix under the prospective payment system compared to the base period, and eliminates disincentives to changes in services.
- It is conceptually consistent with the long term prospective payment approach, i.e., a specific rate for each type of discharge.
- It will facilitate the transition to the DRG prospective payment system by allowing all the planning, budgeting, and financial analysis of a hospital to be by diagnosis.
- It is responsive to concerns raised by major industry associations.

Current HCFA policy permits a hospital with a statistically unreliable case-mix index to use the higher of its published index or the average index for its classification cell under the case-mix adjusted hospital cost limits published September 30, 1982. Under those limits, the higher a provider's case-mix index, the greater its reimbursement. Under the prospective payment system transition period, the incentives are reversed. The lower the case-mix index, the greater the hospital-specific portion (HSP), since the HSP is deflated by the case-mix index. The methodology used for determining case-mix indexes is comparable to that used for the hospital cost limits published in the **Federal Register** on September 30, 1982 (47 FR 43303). A case-mix index has been calculated for each hospital based on 1981 cost and billing data. At least 50 discharges are required for a hospital's case-mix index to be considered statistically reliable. For those hospitals whose case-mix index may be statistically unreliable (i.e., indicated by an asterisk in Table 3a), there is also an issue of deriving an appropriate case-mix index for the prospective payment system.

We have decided, for prospective payment purposes, when the case-mix index is statistically unreliable, to use the lower of either the published questionable case-mix index or the average index for the hospital's TEFRA cost limits classification cell, shown in Table 3b. This revises the current policy to conform with the changed incentive for a hospital to seek a lower case-mix index in view of our decision to

calculate the HSP by DRG. We believe this is a fair alternative absent sufficient data to construct a statistically reliable case-mix index. Table 3a, section VII of the addendum, contains the case-mix indexes for each hospital. The indexes based on insufficient data are indicated by an asterisk. In determining the case-mix adjustment to the hospital-specific rate for hospitals so indicated, fiscal intermediaries will use either the case-mix index from Table 3a, section VII, or the appropriate average case-mix index from Table 3b, whichever is lower. Additionally, where a hospital is not included in Table 3a (e.g., in the case of new providers), the intermediary will use the appropriate average case-mix index from Table 3b.

iii. Outlier Adjustment

The intermediary will reduce the case-mix adjusted base year costs to take into account outlier payments under § 405.475. The case-mix adjusted base year costs are multiplied by a factor calculated to take into account outlier payments of 6.0 percent of total payments. This factor is .943.

iv. Budget Neutrality

The hospital-specific portion of the payment rates will be adjusted for cost reporting periods that begin between October 1, 1983 and October 1, 1985, to maintain budget neutrality in accordance with section 1886(e)(1)(A) of the Act. The hospital-specific portion of the rate is set at 75 percent in the first year and 50 percent in the second year.

An adjustment is made to the otherwise applicable target rate percentage to maintain budget neutrality of the hospital specific portion of the payment. To determine the necessary adjustment, we estimated expenditures for inpatient operating costs payable under the law as it was in effect on April 19, 1983, the latest date prior to enactment of the Social Security Amendments of 1983. The appropriate share of this estimate is compared to a projection of aggregate payments from the hospital-specific portion of the prospective payment amount. For example, if estimated outlays for inpatient operating payments under TEFRA would have been $10 billion, the total payments under the hospital-specific portion must equal $7.5 billion (75 percent of $10 billion) for FY 84. In making the above estimates, the statute specifies that payments made, or estimated to be made, for utilization review activities be excluded. See section VIII of the addendum which contains a detailed explanation of budget neutrality. The factor calculated to maintain budget neutrality for the FY 84 hospital-specific portion is .984. (This factor is included in the calculation of the updating factor below.)

v. Updating Factor

The case-mix adjusted base year cost is updated to apply to cost reporting periods beginning on or after October 1, 1983. To update, the base year costs are multiplied by an updating factor that is equal to be compounded applicable target rate percentage (as used for the rate of increase ceiling under revised § 405.463), multiplied by the adjustment factor for budget neutrality and added to 1.0.

The target rate percentages are based on the latest available calendar year market basket inflation rates plus one percentage point. Based on the most recent market basket data, the target rate percentages for calendar years 1982 through 1984 are as follows:

Calendar year	Target rate percentages (percent)
1982	10.3
1983 [1]	7.2
1984 [1]	6.8

[1] These rates will be updated regularly using the latest available data. The updated target rate percentages and the resulting budget neutrality adjusted updating factors will be published in a quarterly FEDERAL REGISTER notice.

In order to compute an updating factor, the above target rate percentages are compounded using the number of months in each calendar year and applying the adjustment factor for budget neutrality (.984 for FY 84). The chart below shows the updating factor for each base year month.

COMPOUNDED PROSPECTIVE PAYMENT, TARGET RATES OF INCREASE ADJUSTED FOR BUDGET NEUTRALITY FOR HOSPITAL-SPECIFIC PORTION (10/1/83 CYCLE)

If 12-month base year cost reporting period ends	And first cost reporting period under PPS ends	Updating factor
Sept. 30, 1982	Sept. 30, 1984	1.13570
Oct. 31, 1982	Oct. 31, 1984	1.13266
Nov. 30, 1982	Nov. 30, 1984	1.12961
Dec. 31, 1982	Dec. 31, 1984	1.12658 **
Jan. 31, 1983	Jan. 31, 1985	1.12658 **
Feb. 28, 1983	Feb. 28, 1985	1.12658 **
Mar. 31, 1983	Mar. 31, 1985	1.12658 **
Apr. 30, 1983	Apr. 30, 1985	1.12658 **
May 31, 1983	May 31, 1985	1.12658 **
June 30, 1983	June 30, 1985	1.12658 **
July 31, 1983	July 31, 1985	1.12658 **
Aug. 31, 1983	Aug. 31, 1985	1.12658 **

** These updating factors are subject to change depending on changes in the target rate percentages used to compute them. We will publish a quarterly notice in the FEDERAL REGISTER setting forth the percentages and factors to be used for cost reporting periods beginning in the subsequent calendar quarter.

If a hospital's base year cost reporting period ends on a day other than those listed above, the intermediary will use the nearest whole month to the date on which the hospital's cost reporting period actually ends. For example, if a hospital's base year cost reporting period ends on December 27, 1982, the inflation factor for cost reporting periods ending December 31, 1982 will be used.

If a hospital's base year cost reporting period is other than as specified above, the intermediary should contact HCFA for the appropriate updating factor.

In subsequent years, the hospital specific rate will be increased by multiplying the previous year's hospital-specific rate by the updating factor. This factor will be published annually in the **Federal Register.**

vi. Example of Calculation of Hospital Specific Rate

Assume that a hospital's base year costs equal $3,000, its case-mix index is 1.0235, the outlier adjustment is .943 (i.e., 1.0−0.057), and the prorated updating factor for its cost reporting period is 1.14258. The hospital specific rate would be computed as follows:

Base year costs / Case-mix index	×	Outlier adjustment	×	Updating factor	=	Hospital specific rate
3000 / 1.0235		.943		1.14258		$3,171.54

vii. Calculation of Hospital-Specific Portion

The hospital-specific portion of a hospital's transition payment rate for a given discharge is calculated by:

Step 1—Multiplying the hospital-specific rate by the appropriate percent (as explained in section 4.c. below). (Following the end of the 3-year transition period, the hospital-specific portion will no longer be determined for hospitals participating under the prospective payment system, except for sole community hospitals, which will continue to be paid a rate based on the first-year transition rates.)

Step 2—Multiplying the amount from Step 1 by the specific DRG weighting factor applicable to the discharge (see Table 5, section VII of the addendum).

viii. New Providers

A relatively small number of hospitals are likely to begin operation during the transition period. For these new providers there is no historical cost experience on which to base a target amount. The report of the Committee on Ways and Means, in considering H.R. 1900 H.R. Rep. No. 98–25, 98th Cong. 1st Sess, 137 (1983), expresses

Congressional intent that such hospitals be included under the prospective payment system. The Committee expects the Secretary to make "appropriate provision" for applying a prospective payment rate. Although the Committee report suggests that this might be accomplished by applying the average hospital operating cost limit for the classification group applicable to the new provider's location and bed size, we believe an alternative method of paying new providers is more appropriate in view of the other adjustments necessary in computing the hospital-specific rate, and because we have no historical data or experience that would justify such a policy.

For new providers, we will not apply the hospital-specific portion of the prospective payment rate. Instead, full payment to these providers will be based on a blend of regional and national Federal rates only. That is, rather than following the phase-in period as described in section III. C.4.c. of this preamble (i.e., blending a hospital-specific rate with a Federal rate), new providers will use a phase-in methodology combining regional and national Federal rates only, as described in section III. C.4.d. of this preamble.

b. Federal Portion

The Federal portion of the prospective rate, during the transition period, is a percentage of the Federal prospective rate. The applicable percentages for each year are presented in section c. below. During the first year of the transition period, the Federal rate will be derived from the regional urban and rural standardized amounts. During the second and third year of the transition period, the Federal rate will be comprised in part from regional urban and rural standardized amounts and in part from national urban and rural standardized amounts.

The Federal rates are determined by:

Step 1—Selecting the appropriate regional or national adjusted standardized amount considering the location and urban/rural designation of the hospital (see Table 1, section VII of the addendum);

Step 2—Multiplying the labor-related portion of the standardized amount by the appropriate wage index;

Step 3—For hospitals in Alaska and Hawaii, multiplying the nonlabor-related portion of the standardized amount by the appropriate cost-of-living adjustment factor;

Step 4—Summing the amounts from step 2 and the nonlabor portion of the standardized amount (adjusted if appropriate under step 3); and

Step 5—Multiplying the final amount from step 4 by the weighting factor corresponding to the appropriate DRG classification.

c. Phase-In Period

The total prospective payment rate containing the hospital-specific portion and the Federal portion for discharges in a given cost reporting period are calculated as described below.

i. For cost reporting periods beginning on or after October 1, 1983 and before October 1, 1984, the prospective payment rate is equal to the sum of:

(A) 75 percent of the hospital-specific rate, plus

(B) 25 percent of the appropriate Federal prospective rate. The Federal rate will be 100 percent of the regional rate for discharges occurring before October 1, 1984. After that date the Federal rate will be 75 percent of the regional rate and 25 percent of the national rate.

ii. For cost reporting period beginning on or after October 1, 1984 and before October 1, 1985, the prospective payment rate is equal to the sum of:

(A) 50 percent of the hospital-specific rate, plus

(B) 50 percent of the Federal prospective rate. The Federal rate will be 75 percent of the regional rate and 25 percent of the national rate for discharges occurring before October 1, 1985. After that date the Federal rate will be 50 percent of the regional rate and 50 percent of the national rate.

iii. For cost reporting periods beginning on or after October 1, 1985 and before October 1, 1986, the prospective payment rate is equal to the sum of:

(A) 25 percent of the hospital-specific rate, plus

(B) 75 percent of the Federal prospective rate. The Federal rate will be 50 percent of the regional rate and 50 percent of the national rate for discharges occurring before October 1, 1986. After that date the Federal rate will be 100 percent of the national rate.

iv. For cost reporting periods beginning on or after October 1, 1986, all hospitals (including hospitals that begin operation on or after that date) paid under the prospective payment system will be paid at the national Federal prospective payment rates, except for those hospitals eligible for special treatment as provided in § 405.476.

d. Phase-In Period for New Providers

As was stated in section III.C.4.a.viii. above, new providers will be paid prospective payment rates based entirely on the Federal rates. Therefore, in determining prospective payment rates for new providers, we will blend the regional and national Federal rates as follows:

i. For discharges occurring on or after October 1, 1983 and before October 1, 1984, the prospective payment rate is equal to the regional Federal prospective rate.

ii. For discharges occurring on or after October 1, 1984 and before October 1, 1985, the prospective payment rate is equal to the sum of:

(A) 75 percent of the regional Federal prospective rate, plus

(B) 25 percent of the national Federal prospective rate.

iii. For discharges occurring on or after October 1, 1985 and before October 1, 1986, the prospective payment rate is equal to the sum of:

(A) 50 percent of the regional Federal prospective rate, plus

(B) 50 percent of the national Federal prospective rate.

iv. For discharges occurring on or after October 1, 1986, the prospective payment rate will equal the national Federal prospective payment rates.

e. Annual Update of Schedule of Standardized Amounts

i. Update of Standardized Amounts for FY 85

For FY 85, the average standardized amount determined for FY 84 will be increased by the estimated applicable percentage change in the cost (excluding non-operating costs) of the mix of goods and services comprising routine, ancillary, and special care unit inpatient hospital services for FY 85 over those in FY 84 (i.e., market basket), plus 1 percentage point. HCFA will use the market basket index that appropriately weights indicators of changes in wages and prices that are representative of the mix of goods and services included in inpatient hospital operating services. Additionally, the updated standardized amounts for FY 85 will be adjusted for "outliers", for unbundling, and for adjustments that may be necessary to maintain budget neutrality. We will publish a notice in the **Federal Register** by September 1, 1984 announcing the updated standardized amounts.

ii. Update of Standardized Amounts Beginning—FY 86

For years beginning with FY 86 (i.e., applicable for cost reporting periods beginning on or after October 1, 1985), the Secretary will determine the update factor which will take into account amounts necessary for the efficient and effective delivery of medically appropriate and necessary care of high quality.

In determining the update factor, the Secretary will take into account such factors as changes in the market basket, productivity, technological and scientific advances, quality of health care, the long-term cost-effectiveness of the program, and recommendations of a commission of independent experts, the Prospective Payment Assessment Commission. This commission will be appointed by the Director of the Congressional Office of Technology Assessment to review the adequacy of the payment rates and to make recommendations to the Secretary.

The Secretary's proposed update factor and the recommendations of the commission will be published in the **Federal Register** for public comment by June 1 each year. The final percentage increase will be published by September 1 each year.

HCFA will adjust the DRG classification and weighting factors for FY 86 and at least once every four years thereafter to reflect changes in treatment patterns, technology, and other factors that may alter the consumption of hospital resources. Adjustments may be made to individual DRG classifications and would not necessarily involve rebasing the entire classification system. The Commission shall consult with and make recommendations to the Secretary with respect to the need for adjustments.

D. Additional Payment Amounts

In addition to prospective payment rates per discharge, payments will be made for items or services as specified below.

1. Outliers

Section 1886(d)(5)(A) of the Act requires that additional amounts be paid for atypical cases known as "outliners". These cases are those that have either an extremely long length of stay or extraordinarily high costs when compared to most discharges classified in the same DRG.

The regulations on outlier payments are at § 405.475. These regulations provide that a discharge will qualify as an outlier if the length of stay exceeds the average length of stay for discharges in the DRG by a fixed number of days or a fixed number of standard deviations, whichever is the fewer number of days. A per diem payment will be made for each covered day of care beyond the outlier threshold. Upon the request of a hospital, an extraordinarily high cost case, that does not qualify as an outlier based on length of stay, will qualify for an outlier payment if covered charges, adjusted to operating cost, exceed a fixed multiple of the Federal prospective payment rate or a fixed dollar amount whichever is greater. (See III.J.1.d.ii.C. of this preamble for a discussion of medical review of outlier claims).

Since total outlier payments must be between 5 and 6 percent of the total prospective payments estimated for the fiscal year, the specific criteria for determining whether a case qualifies for an outlier payment may change each fiscal year and will be published as part of the annual notice setting forth the standardized amounts and factors necessary to determine prospective payment rates. The FY 84 threshold criteria are published in the addendum to the regulations. These criteria should result in outlier payments approximating 6.0 percent of the estimated FY 84 total prospective payments (including outlier payments). As explained elsewhere in this preamble, we have adjusted the amount of basic prospective payment rates to achieve this result (section III.C.1.e.iii and III.C.4.a.iii).

We are providing that a discharge in FY 84 will be considered an outlier if the number of days in the stay exceeds the mean length of stay for discharges within that DRG by the lesser of 20 days or 1.94 standard deviations. The first criterion will primarily identify cases in the long-stay, resource intensive DRGs, whereas the second criterion should identify slightly less than 2 percent of the cases within primarily short-stay DRGs as outliers. In total, we estimate 5.1 percent of all cases will qualify as day outliers.

We established the day outlier criteria based on the geometric mean length of stay for each DRG. We used the geometric mean (the antilogarithm of the mean of the logarithms of length of stay) instead of the arithmetic mean because the length of stay data are highly skewed. That is, there are cases at the high end of the distribution which are not matched at the low end. This occurs because, while there is no limit to how long an inpatient stay can be, the number of days can never be below zero. By using the geometric mean, the percent of cases that will be outliers within each DRG is more predictable. Overall, the geometric criteria will identify a smaller percentage of total discharges as outliers. However, because the geometric mean is lower than the arithmetic mean, the per diem payment rate under the geometric criteria is higher.

For FY 84, we are also providing that a discharge that does not qualify as a day outlier will be considered a high cost outlier if the cost of covered services exceeds the greater of 1.5 times the Federal rate (regional) for the DRG or $12,000. Both criteria will be adjusted for area wage differences. The first criterion will operate only for the relatively few DRGs with a Federal rate of $8,000 or more. In most cases, the $12,000 criterion will operate. In total, we estimate .9 percent of all cases will qualify as high cost outliers.

We selected criteria that will result in substantially more cases being identified as day outliers than as cost outliers for two basic reasons. First, the identification and payment determination for day outliers will be an automatic feature of the intermediary bill processing system. Hospitals must identify and specifically request payment for cost outliers and the intermediary must review and make a payment determination in each case. Thus, cost outliers carry a greater administrative burden for both hospitals and HCFA. Second, because the application of the outlier criteria is sequential (a discharge cannot be considered a cost outlier if it meets the applicable day outlier criterion), the day outlier criteria would have to be set very high and the cost criteria would have to be set very low in order to obtain an even allocation of payments between types of outliers. A low threshold for cost outliers could result in outlier payments simply because the hospital is a high cost provider, and not as a direct consequence of extraordinary services provided an individual patient.

The statute specifies that the outlier payments should approximate the marginal cost of care beyond the cut-off criteria. Marginal cost is the change in total cost associated with a one unit change in output. Due to the presence of fixed costs, the marginal cost of care is generally less than the average cost. In the short run, marginal cost is usually low since hospitals cannot respond to volume changes by immediately adjusting costs such as labor. Depending on the measure of output (days, admissions or services) and the time interval examined, estimates of marginal cost have ranged from 21 percent to over 90 percent of average cost. The analyses suggest that the short-run marginal cost to average cost ratio is less than .58 and with patient days as the measure of output, as low as .22. (J. Lipscomb, I. Raskin, and J. Eichenholz, "The Use of Marginal Cost Estimates in Hospital Cost-Containment Policy;" *Hospital Cost Containment: Selected Notes for Future Policy*, ed. M. Zubkoff, I. Raskin, and R. Hanft (New York: Prodist, 1978), pp. 527–532.)

To date, the estimates of the ratio of marginal cost to average cost have been based on total costs, including capital-related and medical education costs. We

believe an estimate of marginal cost to average operating costs would be somewhat higher.

Therefore, the regulations provide that the marginal cost of outlier care will be based on a 60 percent factor.

For day outliers, an additional per diem payment will be made for each covered day of care beyond the threshold (including SNF-level days of care when a SNF bed is not available). The per diem payment will be based on 60 percent of the average per diem Federal rate for the DRG. The average per diem payment is determined by dividing the wage-adjusted Federal rate for the DRG by the mean length of stay for that DRG. For cost reporting periods beginning on or after October 1, 1983, and before October 1, 1984, the Federal rate will be 100 percent of the regional prospective payment rate. During the remainder of the transition period, it will be a combination of the Federal national and regional prospective payment rates.

For high cost outliers, the regulations provide that the additional payment will be based on 60 percent of the difference between the hospital's adjusted cost for the discharge and the threshold. The cost of the discharge will be determined by multiplying the billed charges for covered services by .72. This figure represents a national ratio of Medicare inpatient operating costs to Medicare inpatient charges and was derived from an analysis of the cost and billing data used to establish the DRG relative weights. We are removing the non-operating costs since payment for these costs will be made on a reasonable cost basis. The cost will be further adjusted to exclude an estimate of indirect medical education costs. This adjustment is necessary since payment for indirect teaching costs is separately determined based on total federal DRG revenue. If these costs were not removed, we would be paying for them twice. For those few hospitals who receive a Section 602(K) waiver (see Part V of this preamble), the cost will also be adjusted to include the reasonable charges for non-physician services billed by the outside supplier.

The following is an example of how the additional payment will be determined for a high cost outlier:

Step 1—Determination of the Hospital's Cost:

Billed Charges = $35,000	
National Ratio of Cost to Charges	.72
Educational Adjustment Factor	1.1924

$$\text{Hospital's cost} = \frac{\$35{,}000 \times .72}{1.1924} = \$21{,}134$$

Step 2—Determination of Outlier Threshold:

Federal DRG Rate = $3600	
Wage Index	1.10
Labor-Related Portion	.7915
Non-Labor Related Portion	.2085

Since 1.5 times the DRG rate would be less than $12,000, the threshold will be based on $12,000

Wage-Adjusted Threshold = ($12,000 × .7915 × 1.10) + (12,000 × .2085) = $12,949.

Step 3—Determination of Outlier Payment: Outlier Payment = ($21,134 − $12,949) × 60% = $4,911.*

*This payment will be included in total Federal DRG revenue for puposes of the educational adjustment.

The relationship between the educational adjustment factor and outlier payments is as follows:

- The additional payment for indirect medical education costs is intended to account for a variety of factors which may legitimately increase costs in teaching institutions. Since many of these factors are as applicable to the outlier portion of an inpatient stay as they are applicable to the non-outlier portion, an additional payment will be made for the indirect medical education costs associated with the marginal cost of outlier care.
- The additional payment for indirect medical education costs associated with length of stay outliers will be determined by applying the educational adjustment factor to the outlier payment. In the case of a high cost outlier, the hospital's costs include indirect teaching costs that must be removed before determining the amount of the outlier payment. Once the outlier payment has been determined, the additional payment will be made for the associated indirect medical education costs by applying the educational adjustment factor to the outlier payment.

2. Alternate Placement Days

Medicare provides for continued coverage when a beneficiary who no longer requires an acute level of hospital care remains hospitalized because medically necessary skilled nursing facility (SNF) services are not available. Until the 1980 and 1981 Reconciliation Acts, reimbursement for these alternate placement days was at the regular hospital rate. In order to reduce program expenditures and encourage the conversion of excess hospital beds into long-term care beds, Congress passed section 1861(v)(1)(G) of the Social Security Act which provides that alternate placement days must be reimbursed at the estimated Medicaid SNF rate if there are excess hospital beds in the facility or in the area. If there are no excess hospital beds, reimbursement is at the regular acute care hospital rate.

The reimbursement provisions of section 1861(v)(1)(G) have not been implemented. As a result, the SNF-level alternate placement days have not been distinguished from other inpatient hospital days and are included at full cost in the data bases used to establish the prospective payment rate. Given the presence of the alternate placement days in the data base and in view of the incentive hospitals will have under the prospective payment system to reduce the incidence of alternate placement days by locating available SNF beds in the area or converting excess capacity to SNF beds, we are continuing to treat alternate placement days the same as other inpatient hospital days. No separate payment will be made for the alternate placement days occurring in a regular inpatient stay. However, medically necessary SNF-level days of care will continue to constitute covered inpatient hospital services and will qualify for an outlier payment when the outlier threshold is crossed.

3. Additional Payments on Reasonable Cost Basis

a. Capital-Related Costs

In accordance with the statute, payment for capital-related costs (as described in § 405.414) will be determined on a reasonable cost basis. During the transition period, the capital-related costs must be determined consistently with the treatment of such costs for purposes of determining the hospital-specific portion of the hospital's prospective payment rate.

b. Direct Medical Education

In accordance with the statute, the direct costs of medical education programs will be reimbursed on the basis of reasonable cost subject to applicable regulations in Subpart D.

c. Direct Medical and Surgical Services of Teaching Physicians

Payment for direct medical and surgical services of physicians in teaching hospitals will be made on a reasonable cost basis under § 405.465 where the hospital exercises the election as provided for in § 405.521(d).

4. Bad Debts

An additional payment will be made to each hospital in accordance with

§ 405.420 for bad debts attributable to deductibles and coinsurance amounts related to covered services received by beneficiaries.

5. Indirect Medical Education

Section 1886(d)(5)(B) of the Act provides for additional payments to be made to hospitals under the prospective payment system for the indirect costs of medical education. This payment is computed in the same manner as the indirect teaching adjustment under the notice of hospital cost limits published September 30, 1982 (47 FR 43310), except that the educational adjustment factor is to equal twice the factor computed under that method.

If a hospital has a graduate medical education program approved under 42 CFR 405.421, an additional payment will be made equal to 11.59 percent of the aggregate payments made to the hospital, based on the Federal portion of prospective payments and outlier payments related to those portions, for each .1 increase (above zero) in the hospital's ratio of full-time equivalent (FTE) interns and residents (in approved programs) to its bed size. The number of full-time equivalent interns and residents is the sum of:

1. Interns and residents employed for 35 hours or more per week, and
2. One half of the total number of interns and residents working less than 35 hours per week (regardless of the number of hours worked).

For purposes of this adjustment, a hospital will be allowed to count only interns and residents in teaching programs approved under 42 CFR 405.421 who are employed at the hospital. Interns and residents in unapproved programs and those who are on the hospital's payroll but furnish services at another site will not be taken into account in making this adjustment nor will interns and residents employed to replace anesthetists. In determining the amount of the adjustment, the fiscal intermediary will use the number of interns and residents employed at the end of the immediately preceding cost reporting period.

The teaching adjustment does not apply to any hospital not paid under the prospective payment system, such as those hospitals or distinct part psychiatric and rehabilitation units that are paid on a reasonable cost basis, since the payments to those facilities already include the indirect costs of medical education. Therefore, the number of beds in an excluded psychiatric and rehabilitation unit, as well as interns and residents assigned those units, may not be included in calculating the ratio of interns and residents to beds. However, due to the way in which the adjustment factor was originally computed, interns and residents working in outpatient areas and emergency rooms should be included in the calculation of the ratio. In the original computation of the adjustment factor, interns and residents working in these areas were included in the analysis, even though the costs were excluded. Further, these areas would not affect the bed count assigned to the facility. Therefore, if we were to exclude these interns and residents in applying the factor, the amount of the adjustment would be incorrect because we would be altering only one element of the variable and failing to maintain comparability between the methodology used for developing the adjustment factor and subsequently standardizing hospital costs based on that factor.

Congress was particularly concerned that the prospective payment system not have an adverse impact on teaching hospitals because these hospitals provide an essential service in that they assure a continuing supply of essential health care personnel. As a result, the statute requires that the teaching adjustment factor under the prospective payment system be computed in a manner similar to the adjustment in effect on January 1, 1983, except the adjustment factor shall equal twice the factor determined under that method.

In computing the education adjustment for the prospective payment system, we calculated the adjustment factor from 1981 base year cost data using the same methodology used to calculate the indirect medical adjustment figure from 1980 cost data for the cost limits in effect on January 1, 1983. We used this method, rather than simply multiplying the previous adjustment factor by 2, because we wanted to relate the payment rate and the adjustments to the same data base, 1981 cost data, before doubling the adjustment factor.

The teaching adjustment factor is computed by comparing the inpatient operating costs of all hospitals. Using the ratio of FTE interns and residents to beds as a variable to measure relative intensity of teaching activity, we estimated the effect of teaching activity on operating costs through regression analysis in the same manner as used previously. Since the 1980 data base used to calculate the teaching adjustment factor in effect on January 1, 1983, did not include malpractice insurance as an operating cost, while the prospective payment system includes malpractice insurance as an operating cost, it is inappropriate to update the data before doubling the adjustment factor. Additionally we have a new series of case-mix indexes and wage indexes (i.e., based on 1981 data) to be included. Therefore, we have recomputed the adjustment factor using the same data used to calculate the standardized amounts and doubled that result.

The resulting teaching adjustment factor is 11.59 percent. The adjustment factor is applied only to revenue under the Federal portion of the payment rates. Since the hospital-specific portion of the rates is based on the hospital's actual allowable costs, this portion already includes the higher costs of indirect education in an individual hospital. Therefore, it would not be appropriate to increase this portion of the prospective payment rates further.

An example of the application of indirect teaching adjustment payment follows:

A 686-bed hospital in Queens County, New York has a total revenue from the Federal portion of the prospective payments of $1.32 million. The hospital employed 77 FTE interns and residents in approved teaching programs on September 30, 1983 (their cost reporting period ending date).

77 divided by 686 = .11224 (ratio of interns and residents to beds) divided by .1 = 1.1224 (adjusted ratio).

Federal portion of DRG revenue × teaching adjustment factor × adjusted ratio = additional payment amount
$1,320,000 × .1176 × 1.1224 = $174,232.

The indirect teaching adjustment payment is an annual lump sum additional payment to teaching hospitals. However, to alleviate cash flow problems for these hospitals, the intermediary may include estimated teaching adjustment amounts in the periodic payment to the hospital. If a hospital does not have a graduate medical education program approved under 42 CFR 405.421, the education adjustment will not apply.

E. Interim Payments

1. General

The prospective payments for inpatient hospital operating costs (a blend of hospital-specific and Federal payment rates during a 3-year transition period), including amounts for outlier cases, are intended to represent final payment for services rendered. Excluded from inpatient operating costs are capital-related costs and direct medical education costs. (See § 405.2102(e)(1) regarding kidney acquisition costs in hospitals approved as renal transplantation centers.) These costs and the costs of services rendered to inpatients under Part B when Part A benefits are not payable and outpatient

services continue to be reimbursed on a reasonable cost basis. In addition, payments to hospitals and distinct part hospital units which are exempt from the prospective payment system continue to be made on a reasonable cost basis.

Prior to implementation of the prospective payment system, hospitals may receive interim payments for their costs of covered inpatient and outpatient services furnished to Medicare beneficiaries as described in 42 CFR 405.454(a) through (j). Those interim payments are computed to approximate as closely as possible actual reimbursement which will be determined at year end based on the hospital's submitted cost report. There are two methods of interim reimbursement for inpatient hospital services.

One method is based on actual bills submitted by the hospital. Under this method, interim payments are calculated by applying a predetermined per diem amount to the number of days reflected on actual bills or by applying a predetermined percentage to the charges reflected on the actual bills submitted. The predetermined per diem amount or percentage factor applied to billed patient days or charges represents an estimate of the hospital's costs as related to days or charges which will be incurred.

Under the second method, referred to as the periodic interim payment (PIP) method, interim payments are not made based on individual bills. Instead, total reimbursable cost for the year is estimated and periodic level payments are made to hospitals without regard to the submission of individual bills. Under either interim reimbursement method, any over or under estimation of the hospital's actual costs, to the extent not adjusted during the year, is adjusted at the time of cost report settlement.

Effective with cost reporting periods beginning on or after October 1, 1983, hospitals subject to the prospective payment system for Part A inpatient services will be paid a prospectively determined amount for each discharge based on actual bills submitted. Such payment constitutes final payment for each discharge claimed. On the other hand, hospitals meeting the qualifications for PIP in § 405.454(j) may elect to receive level biweekly payments representing their estimated annual prospective amounts. Only in this circumstance would year-end reconciliation be required.

Payments for costs of capital-related and direct medical education costs and for kidney acquisition costs in hospitals approved as renal transplantation centers, which are payable on a reasonable cost basis, continue to require interim payments and a year-end reconciliation based on a submitted cost report. In addition, the indirect teaching adjustment, if appropriate, will be paid on an interim basis subject to final settlement.

Interim payment for all services under the prospective payment system are specifically addressed in a new § 405.454(m). Cost of services rendered to inpatients under Part B when Part A benefits are not payable and rendered to outpatients continue to be reimbursed as currently addressed in § 405.454.

2. Methodology for Determining Payments Under PPS

Except for hospitals qualifying to receive payments under the PIP method, prospective payments for Part A inpatient operating costs will be made on the basis of a submitted bill. Such payments represent final payments and are not subject to retroactive adjustment at the end of the hospital's fiscal year. Payment for outlier cases may be computed and paid only after the intermediary is assured that the outlier claim is justified. Payment for outliers resulting from extraordinary costs, i.e., cost outliers, must be requested by the hospital and are payable after approval, subject to a medical review determination. Payment for day outliers, i.e., outliers resulting from length of stay exceeding the day outlier threshold criteria for the DRG, need not be specifically requested by the hospital and can be paid after a medical necessity determination is made, along with the prospective payment for the discharge.

We recognize that errors can be made, and adjustment bills to correct errors will be submitted after the initial bill is submitted. Such adjustment bills will be scrutinized closely to ensure correctness and completeness. Copies of medical records or other evidence may be requested to document procedures, diagnoses, etc.

Hospitals (including hospitals not previously on PIP) that meet the qualifications in § 405.454(j) may elect to receive their prospective payments in the form of level payments. They may convert to payments on a per discharge basis at any time. For hospitals making the election to receive level payments, the interim payment amount will be based on the total estimated discharges for the reporting period multiplied by the hospital's estimated average prospective payment amount. This amount is the blended sum of the hospital-specific rate and the Federal rate multiplied by the hospital's case-mix index. The total estimated annual amount will be paid in 26 equal biweekly payments. The payments will be reviewed and adjusted at least twice during the reporting period and are subject to final settlement at year end. For hospitals making this election, payment for outliers will not be included in the biweekly payments. Rather, the payments for both day and cost outliers, after medical review approval, will be paid based on submitted bills. These additional payments will be final with no retroactive year end adjustment.

During the early period that a hospital first becomes subject to the prospective payment system, some patients discharged will have been admitted in the prior period. Prospective payments must be adjusted for the portion of the stay occurring in the prior period which was reimbursed on a reasonable cost basis. The adjustment will be made by subtracting from the prospective payment rate (made either on the basis of a bill or on level payments) the hospital's interim reimbursement for inpatient operating costs applicable to the days in the prior period. The interim reimbursement applicable to the prior period must be adjusted to exclude costs related to capital and direct medical education.

Accelerated payments will be available only to hospitals not electing to receive level payments and which demonstrate the existence of cash flow problems caused by a temporary delay in preparing and submitting bills to the intermediary beyond its normal billing cycle.

For items applicable to inpatient hospital services not reimbursable on a prospective basis (capital-related and direct medical education costs and for kidney acquisition costs in hospitals approved as renal transplantation centers, and the indirect teaching adjustment), interim payments will be made subject to final settlement. Interim payments for capital-related and direct medical education costs and for kidney acquisition costs in hospitals approved as renal transplantation centers will be determined by estimating the reimbursable amount for these costs for the year, using Medicare principles of cost reimbursement, and dividing it into 26 equal biweekly payments. If appropriate, these payments will be combined with the biweekly interim payments for inpatient services subject to the prospective payment system. The estimated amount may be based on the previous year's experience and on additional substantiated information for the current year. The interim payments will be reviewed and adjusted at least

twice annually by the intermediary with final settlement based on a submitted cost report.

Level payments on a biweekly basis for capital-related and direct medical education costs are required and are not at the hospital's option. Interim payment on the basis of a percentage of billed charges or on an average cost per diem will no longer be available to hospitals subject to prospective payment for Part A inpatient services.

The indirect teaching adjustment is calculated based on the Federal portion of the prospective payment amount. To estimate the adjustment, the hospital's total discharges for the reporting period and the ratio of full time equivalent (FTE) interns and residents to the number of hospital beds must be estimated and multiplied by the education adjustment factor. The total estimated annual amount of the adjustment will be divided into 26 biweekly payments and combined with inpatient costs reimbursed on a reasonable cost basis. This estimate is subject to year end adjustment.

To reflect these changes, § 405.454(a) has been revised and a new paragraph (m) has been added to § 405.454, "Payments to providers".

F. Change of Ownership

The circumstances under which a change of ownership is recognized are described in 42 CFR 489.18. Under prior law, which reimbursed reasonable costs and required that providers file cost reports, the last cost reporting period ended and a new one began on the date a provider changed ownership. Costs were accumulated, reported, and reimbursed accordingly. Under the new law, Medicare prospective payments for inpatient operating costs are to be made on a discharge basis, so that the correct amount of the payment cannot be known until the beneficiary is discharged from a hospital. Further, the payment represents full payment for the entire patient stay.

In accordance with regulations at § 405.477(f), payment for inpatient operating costs, including outlier payments and payments for indirect teaching costs, will be made to the legal owner or operator of the hospital as of the date of discharge, without proration between the buyer and seller. It is the intent of the Medicare program that any adjustments to any prospective payments be negotiated by the former and new owners as they see fit, without Government involvement or interference. The capital-related costs and the direct costs of approved medical education programs will continue to be reimbursed on a reasonable cost basis. As such, each party to the sale will be reimbursed for these costs in accordance with the costs incurred and the return on equity capital in the case of for-profit hospitals during each party's respective period of participation.

There is no change to our rules and policies with respect to revaluation of assets, treatment of goodwill, etc., upon the sale, transfer or other change of ownership. The direct capital-related costs and costs of approved medical education programs will continue to be paid on the basis of reasonable costs, and there will continue to be a need to accumulate costs and charges separately for the pre- and post-change of ownership so that those costs can be properly allocated.

G. Special Treatment of Sole Community Hospitals, Christian Science Sanitoria, Cancer Hospitals, Referral Centers, and Certain Kidney Acquisition Costs Incurred by Renal Transplantation Centers

Section 1886(d)(5)(C) of the Act authorizes the Secretary to make certain exceptions and adjustments to the prospective payment rates under circumstances as he or she deems appropriate. The Secretary is authorized to make adjustments for:

- Regional and national referral centers,
- Hospitals with disproportionate numbers of low income and/or Medicare beneficiaries,
- Sole community hospitals,
- Hospitals extensively involved in treatment for and research on cancer,
- Hospitals in Alaska and Hawaii (addressed in section III.C. of this preamble), and
- Other exceptions and adjustments as the Secretary deems appropriate.

1. Sole Community Hospitals (SCHs)

Section 1886(d)(5)(C)(ii) of the Act requires the Secretary to take into account the special needs of SCHs by using a special payment formula for hospitals so classified. The law defines SCHs as those that, by reason of factors such as isolated location, weather conditions, travel conditions, or absence of other hospitals (as determined by the Secretary), are the sole source of inpatient hospital services reasonably available to individuals in a geographic area who are entitled to benefits under Part A of the program. Regulations regarding SCH exceptions are set forth at § 405.476.

a. Criteria for SCH Status

A hospital will be classified as an SCH for purposes of the prospective payment system and receive payment adjustments if the hospital has an approved exemption from hospital cost limits (see § 405.460) as an SCH prior to October 1, 1983. However, if there is a change in circumstances affecting this classification under the cost limits, the classification for purposes of adjustments under prospective payment will be reevaluated in accordance with other criteria explained below.

Hospitals which have not been approved for an exemption prior to the effective date of these regulations must be located in a rural area and meet one of the following criteria in order to be classified as a SCH.

i. The hospital is located more than 50 miles from other like hospitals; or

ii. The hospital is located between 25 and 50 miles from other like hospitals and either:

- No more than 25 percent of the residents in the hospital's service area are admitted to other like hospitals for care, or
- Because of local topography, weather, etc., the other hospitals are generally not accessible for more than one month during a 12-month period; or

iii. The hospital is located between 15 and 25 miles of other like hospitals and because of local topography, weather, etc., the other hospitals are generally not accessible for more than one month during a 12-month period.

We recognize that it might be to a hospital's advantage in certain instances to give up its SCH classification and elect to be reimbursed under the prospective payment system as other hospitals in the region. Although Congress did make special provisions for SCHs, we do not believe it was the Congressional intent to permit hospitals to continually alter the method under which they are reimbursed solely to maximize reimbursement. Therefore, we are permitting hospitals to voluntarily give up their SCH classification at any time.

However, this decision is irrevocable unless all other hospitals within 50 miles close.

A SCH classification is not available for those hospitals located within 15 miles of another hospital nor for those located in an urban area unless they qualify under paragraph i. above. Since EOMB considers local commuting patterns in establishing urban designations, we presume that residents in urban areas have access to hospital services either by living in close proximity to a hospital or by establishing a heavy commuting pattern to an area in which a hospital is located

For purposes of evaluating whether a hospital meets the criteria for aSCH classification, HCFA will measure the distance between hospitals using "improved road miles." We have decided to use improved road miles rather than radius miles because this is the actual distance that must be traveled in order to reach alternative hospital services. An improved road is a road which is maintained for regular use by a governmental entity (i.e., local, State, or Federal) and which is available for use by the general public.

HCFA will consider "like" hospitals as those hospitals furnishing short-term acute care. A hospital may not qualify for a SCH classification on the grounds that neighboring hospitals do not offer comparable specialty services. Thus, a hospital that has an intensive care unit but is located only 12 miles from another acute care hospital without such specialty services would not be granted a SCH classification.

For the purpose of evaluating utilization outside of the service area, the service area would be defined as the geographical area from which the hospital draws or expects to draw its patients. Optimally, the boundaries of the service area would be defined by a statewide planning agency. If not, the hospital would determine the service area based on where it draws at least 75 percent of its admissions. A hospital must submit admissions data documenting the boundaries of its service area if such boundaries are not established by a statewide planning agency. In order to document that no more than 25 percent of the residents of the service area utilize services outside of the area, hospitals must also gather and submit applicable admissions data from all surrounding hospitals located within 50 miles of the requesting hospital.

Finally, those hospitals requesting an SCH classification on the grounds that alternative hospitals were inaccessible for more than one month each year must submit data to document a history of such inaccessibility. For example, reports of a State Highway Department or local public safety officials specifying the locations of road closure and periods of time the road was inaccessible over the past three years would be necessary to substantiate the request. The fact that alternative hospital services were not available during one month of a single 12-month period is not sufficient evidence to substantiate the prolonged and predictable inaccessibility intended in this criterion.

b. Procedures for SCH Classification

Hospitals may submit a written request to be designated as an SCH to the appropriate intermediary at any time during their cost reporting period. The intermediary, based on the information submitted, will send its recommendation regarding the request to HCFA. HCFA will make the final determination and will respond in writing to the intermediary. The hospital will receive notification of the decision from its intermediary. The new payment rates for an SCH as described in c. below, will be effective 30 days after the date of HCFA approval. There will be no retroactive effective dates on SCH designations.

Once a hospital is classified as an SCH, at its option it retains that classification indefinitely until there is a change in circumstances suggesting a need for reevaluation (for example, if there is a change in MSA designations).

c. Payment to SCHs

Hospitals, that are classifed as SCHs, will be paid in accordance with the methods of establishing rates for the first year of the transition period (i.e., effective with the first cost reporting period on or after October 1, 1983). Use of the methods for rates established for the first year of the transition period (i.e., 75 percent of the hospital-specific rate and 25 percent of the Federal rate) will continue to be the basis of payment to SCHs indefinitely.

In addition to the payment rates calculated as explained above, SCHs may also receive an additional amount if the hospital has experienced a decrease of more than five percent in its total number of inpatient cases, due to circumstances beyond its control. However, this additional payment only applies during the transition period.

i. Criteria for Determining Eligibility for Additional Payments

Effective for cost reporting periods beginning on or after October 1, 1983 and before October 1, 1986, if an SCH experiences more than a 5 percent decrease in its total number of inpatient cases, i.e., discharges, compared to the immediately preceding cost reporting period, HCFA will provide for a payment adjustment.

The basic test for evaluating a hospital's request for special payment due to extraordinary circumstances is that the decrease in volume is the result of an unusual situation or occurrence externally imposed on the hospital and beyond its control. Such situations may include, but are not limited to, strikes, fires, earthquakes, floods, inability to recruit essential physician staff, unusual prolonged severe weather conditions, or similar unusual occurrences with substantial cost effects.

In making the comparision of dicharges, the number of discharges in a cost reporting period is compared to the immediately preceding cost reporting period only. This policy is based on the language in section 1886(d)(5)(C)(ii) which states that this additional payment is available "in the case of a sole community hospital that experiences, in a cost reporting period * * * compared to *the previous* cost reporting period, a decrease of more than 5 percent in its total number of inpatient cases * * *" (emphasis added). Thus, if a hospital experiences an occurrence that results in a sustained decrease in cases, an adjustment would be made for the cost reporting period where the change occurred but would not be made during subsequent periods unless dicharges decreased another 5 percent.

Example: Hospital A loses its community physician during its cost reporting period ending September 30, 1984. This results in sustained lower case load until June 1986 when the physician is replaced.

- Discharges for cost reporting period ended September 30, 1983—5,000
- Discharges for cost reporting period ended September 30, 1984—3,000
- Discharges for cost reporting period ended September 30, 1985—3,500

An adjustment is available only for the cost reporting period ending September 30, 1984, even though discharges for the period ending September 30, 1985 were more than 5 percent less than the year immediately preceding the onset of prospective payments.

(ii) Amount of Payment Adjustment

The statute requires that the payment adjustment be made to compensate the hospital for the fixed costs it incurs in the period in providing inpatient hospital services including the reasonable cost of maintaining necessary core staff and services.

Fixed costs are defined as those over which management has no control. Most true fixed costs such as rent, interest, and depreciation are capital-related costs and would be paid on a reasonable cost basis, regardless of volume. Variable costs, on the other hand, are those costs for items and services that vary directly with utilization. However, in a hospital setting many costs are neither perfectly fixed nor perfectly variable, but are semifixed. Semifixed costs are those costs for items and services that are essential for the hospital to maintain operation but will also vary with volume. For purposes of this adjustment,

many semifixed costs, such as personnel related costs, may be considered as fixed on a case by case basis. An adjustment will not be made for truly variable costs, such as food and laundry services.

In evaluating semifixed costs, such as personnel, HCFA will consider the length of time the hospital has experienced a decrease in utilization. For a short period of time, most semifixed costs would be considered fixed. As the period of decreased utilization continues, we would expect that a cost-effective hospital would take some action to reduce unnecessary expenses. Therefore, if a hospital did not take such action, we would not include such costs in determining the amount of the adjustment.

The statute also requires that the adjustment amount include the reasonable cost of maintaining necessary core staff and services. HCFA will review the determination of core staff and services based on an individual hospital's needs and circumstances; e.g., minimum staffing requirements imposed by State agencies.

iii. Procedures for Requesting Special Adjustments

Sole community hospitals that believe they qualify for an adjustment as explained above must submit a written request for an adjustment to HCFA through the intermediary The request must clearly document the extraordinary circumstances causing the decrease in patient volume and its effect on costs.

The hospital's request must be made to its intermediary within 180 days of the date on the intermediary's notice of program reimbursement. The intermediary will make a recommendation on the hospital's request to HCFA, which will make the decision. We will respond to the request, through the intermediary, within 180 days of the date we receive the request from the intermediary HCFA's decision will be reviewable under the provisions of Subpart R of 42 CFR Part 405.

The Secretary is required to study and make legislative recommendations to the Congress by April 1, 1985, with respect to an equitable method of reimbursing SCHs which takes into account their unique vulnerability to substantial variations in occupancy

2 Christian Science Sanitoria

There are approximately 22 Christian Science Sanitoria participating in Medicare Patients in these institutions are allowed to determine whether the services they receive constitute hospital or SNF services. The basic prospective payment system clearly would be inappropriate for these facilities since they do not furnish the kind of medical services, particularly ancillary services, that are generally provided in acute care hospitals.

Therefore, if a Christian Science Sanitorium is not excluded from the prospective payment system under § 405.471 (e.g., by meeting criteria as a long-term hospital), HCFA will pay for inpatient hospital services furnished to a beneficiary by that sanitorium on the basis of a predetermined fixed amount per discharge based on the sanitorium's historical inpatient operating costs per discharge (see § 405.476(e)). For cost reporting periods beginning on or after October 1, 1983, the sanitorium's prospective payment rate will be equal to the amount that would constitute the sanitorium's target amount under § 405.463(c)(4) if the institution were subject to the rate of increase ceiling (at § 405.463) instead of the prospective payment system. This amount will not be adjusted for the DRG weighting factor. Additionally, a sanitorium is not eligible for outlier payments under § 405.475.

3. Hospitals Involved Extensively in Treatment for and Research on Cancer

Congress specifically mentioned hospitals extensively engaged in cancer treatment and research as a class of hospitals for which some exception might be provided. It is clear that the concern was limited to a few hospitals that are primarily devoted to cancer treatment and research. We could not identify hospitals engaged extensively in cancer treatment based on Medicare records because we do not approve hospitals based on the particular types of cases they treat.

We are able, however, to identify certain characteristics which need to exist in a hospital setting for it to fit the category described in the law. First, the primary mission of the hospital must be restricted to cancer care. Second, most of the cases treated by the hospital must be cancer cases, i.e., involvement must be extensive Third, the hospital must have a substantial commitment to research on cancer

Therefore we will define cancer hospitals as follows:

- The hospital must have been recognized by the National Cancer Institute of the National Institutes of Health as a comprehensive cancer center or clinical cancer research center as of April 20, 1983 (i.e., the date of Pub. L. 98–21 was enacted).
- The hospital must demonstrate that the entire facility is organized primarily for treatment of and research on cancer.
- 80 percent or more of the hospital's total discharges must be classified in those DRGs reflecting the condition of cancer as the principal diagnosis.

Hospitals meeting the above criteria will be given an opportunity, before their first cost reporting period begins under the prospective payment system, to opt for reimbursement on a reasonable cost basis subject to the target rate ceiling. If this option is chosen, they will have an additional option of converting to the prospective payment system at a future date. No further options will be allowed.

A number of hospitals have over the course of time devoted a major share of their attention to cancer treatment and research. These facilities, which play a significant role in the development of cancer treatment, represent an existing concentration of resources in the area of cancer care.

We believe Congress was concerned that the prospective payment system might produce an unintended disincentive for current programs if those institutions involved extensively in treatment of and research on cancer were found to be legitimately more costly than typical short-term general hospitals. Since the standardized amounts are based on expenditures in short-term general hospitals, a hospital could, under the circumstances, be encouraged to reduce its commitment to cancer treatment in order to operate within the prospective rate. Such a diminution of existing cancer programs would be an unintended negative consequence.

Additionally, we believe it is desirable to avoid the opposite effect. That is, we do not think it is appropriate for the system to become the chief determinant of whether existing resources will be shifted among broad classes of illness. We recognize the power of the prospective payment system to create incentives for particular actions and realize that hospitals might be encouraged to create duplicative programs if the system provided financial incentives.

In order to assure that cancer treatment and research are maintained while avoiding incentives for artificial expansion, we believe it is appropriate to focus our policy on current programs which might be limited or curtailed. This is, we think, consistent with the evident desire of the Congress to afford some level of protection to hospitals whose involvement in cancer treatment and

research over the years has been extensive.

Therefore, as stated in the first criteria above, we are restricting the special provision for cancer centers to those hospitals whose programs were recognized as of April 20, 1983.

4. Referral Centers

Section 1886(d)(5)(C)(i) of the Act states that "the Secretary shall provide for such exceptions and adjustments to the payment amounts established under this subsection as the Secretary deems appropriate to take into account the special needs of regional and national referral centers (including those hospitals of 500 or more beds located in rural areas) . . ." The Conference Committee Report accompanying Pub. L. 98–21 contains little additional language clarifying what the Congress intended by "regional and national referral centers." The Report does state, however, that they include very large acute care hospitals in rural areas. In addition, since the law specifies "regional and national" referral centers it appears that Congress intended that such referral centers would serve a substantial number of patients outside the local area.

There is no commonly accepted definition of a referral center. However, we have developed criteria that we believe fulfill the intent of the law, and have included them at § 405.476(g) of these interim regulations.

To be considered a referral center, a hospital must be a short-term acute care hospital with a provider agreement in effect under Part 489 to participate in the Medicare program; and

a. The hospital must be located outside of any Metropolitan Statistical Area (MSA) or the New England County Metropolitan Area (NECMA) recognized by the EOMB and have at least 500 beds as defined in section 2510.5 of the Provider Reimbursement Manual; or

b. The hospital must have a patient population such that at least 60 percent of all Medicare patients reside out-of-State or more than 100 miles from the hospital (whichever is more stringent) and at least 60 percent of all services received by Medicare beneficiaries must be provided to Medicare beneficiaries residing out-of-State or more than 100 miles from the hospital.

The above criteria are considered appropriate as they clearly distinguish hospitals that are predominant for the purpose of referrals from other institutions. We wish to encourage comments on these criteria.

We believe that the few rural referral centers with 500 or more beds clearly require some recognition in their payments, and that they are not comparable to other rural hospitals. Generally, these hospitals offer a variety of specialized services, employ many specially trained personnel, and have a medical staff composed of many different types of specialists. In these factors and in the services they furnish, they are similar to urban acute care centers, and pay salaries and have costs comparable to those hospitals. Therefore, we will determine prospective payments to these hospitals on the basis of the urban, rather than rural, adjusted standardized amounts. (These amounts will be adjusted appropriately, as for any other hospital, by the applicable DRG weighting factor and the hospital's area wage index.)

Except for rural referral centers with 500 or more beds, there will be no adjustments made for referral centers during the first year of the transition period. We must first determine which facilities are affected. We do not believe that this interim period will present difficulties for referral centers for the following reasons.

- During the first year, 75 percent of the prospective payment rate will be based on the hospital's own experience (i.e., the hospital-specific portion).
- Hospitals may request additional payment for "cost-based" outliers.
- We expect that virtually all referral centers will be teaching hospitals which will benefit from the doubling of the teaching adjustment.

During the first six months of the first transition year, hospitals must submit written requests, including all data necessary for a determination based on the above criteria, to their fiscal intermediaries. The intermediaries will make a recommendation to HCFA which will make the final determination.

During the second six months of the first transition year, HCFA will, after analyzing all data submitted, make a judgement regarding any adjustments that may be appropriate for referral centers beginning with the second year of the transition period.

5. Hospitals with Disproportionate Numbers of Low Income Patients or Medicare Beneficiaries or Both

The statute authorizes the Secretary to make adjustments to the prospective payment rates in consideration of the special needs of certain classes of hospitals, including public or other hospitals that incur additional costs because they serve a significantly disproportionate number of low income patients or Medicare Part A beneficiaries. We have not made special provision for these hospitals in the regulations because our current data do not show that such an adjustment is warranted.

To date, we have conducted a preliminary analysis of Medicare inpatient operating costs per case adjusted for case-mix and, after considering other factors already recognized in the prospective payment amounts, have not found a significant association between higher Medicare cost per case and either public ownership or the proportion of low-income patients. (Using a ratio of Medicaid utilization as an indicator of low-income patients, we found no significant influence on costs per case.) Likewise, we have no indication that the volume of Medicare patients significantly affects a hospital's costs.

We have been consulting with representatives from the health care field on this issue and, in a joint effort with them, are conducting a review of the available data. Therefore, adjustments will not be made initially for hospitals with disproportionate numbers of low income or Medicare patients. If, after more detailed study, we find that adjustments are appropriate we will publish a notice in the **Federal Register** informing the public of the change.

6. Kidney Acquisition Costs Incurred by Renal Transplantation Centers

Kidney acquisition costs incurred by Renal Transplantation Centers (RTC) will be treated as an adjustment to prospective payment. Hospitals engaged in kidney transplantation encounter a unique set of circumstances with respect to their cost experience because of special provisions of the law applicable to End Stage Renal Disease (ESRD). Kidney acquisition costs are reimbursed under section 1881 which requires the Secretary to: (1) Reimburse the hospital for obtaining kidneys from Organ Procurement Agencies (OPA) in amounts not to exceed the costs incurred by OPAs and histocompatability laboratories; and (2) Reimburse the reasonable expenses incurred by an individual donor. In view of the unique characteristics of organ procurement activities and the desirability of maintaining an adequate supply of kidneys, we believe these costs should be handled outside of the prospective payment system. Therefore, payments to a hospital will be adjusted in each reporting period to compensate hospitals for reasonable expenses of kidney acquisition, and costs of this type will not be included in determining the prospective payments rates.

Kidney acquisition costs have been removed from the standardized amounts

and from the cost weight for DRG 302 (Kidney Transplant). An adjustment will be made to the RTC's base year costs to remove the estimated cost of kidney acquisition. Interim reimbursement for kidney acquisition costs incurred by RTCs will continue to be based on the average acquisition costs of the hospital. Final settlement will be made based on the hospital's cost report. Other hospitals that excise kidneys for transplant will no longer be paid for this activity directly by Medicare. They must receive payment from the OPA or RTC.

An adjustment to the RTC's operating costs, used to compute the average standardized amount, was made by estimating the kidney acquisition costs in the RTC using the unweighted average kidney acquisition costs. This average was first adjusted for area wages and indirect teaching costs. This standardized average kidney acquisition cost was multiplied by the number of kidney transplants for the RTC to obtain the kidney acquisition costs for the RTC. The operating ocsts were reduced by the kidney acquisition cost.

7. Other Exceptions and Adjustments

While the statute authorizes the Secretary to provide for exceptions and adjustments for any class of hospitals deemed appropriate by the Secretary, we are initially providing exceptions and adjustments only as discussed above. At the present time, we have no reason to believe that any other exceptions or adjustments are appropriate.

H. Appeals

For the most part, disputes that arise in connection with the prospective payment system will be resolved under the administrative and judicial appeals procedures and authorities already established under the Medicare program.

1. Beneficiaries

Pub. L. 98–21 left undisturbed those provisions of title XVIII of the Act that set forth processes for beneficiaries who pursue appeals of determinations with respect to matters such as entitlement to benefits or coverage of health care services under the Medicare program. Thus, the procedures described in Subparts G and H of 42 CFR Part 405 for beneficiary appeals will remain in effect under the prospective payment system.

In addition, the waiver of liability provisions of section 1879 of the Act, as implemented through regulations at §§ 405.330–405.332, continue to apply. In this regard, under section 1866(a)(1)(G) of the Act, hospitals that are receiving payment under the prospective payment system must agree not to charge beneficiaries for inpatient hospital services that are furnished to beneficiaries under the system but for which the hospital is denied payment under section 1886(f)(2) of the Act. Under this latter section, if HCFA makes a determination that a hospital has taken an action that results in an unnecessary admission of a Medicare Part A beneficiary or unnecessary multiple admissions of the same individual or other inappropriate practice with respect to the individual in order to circumvent the prospective payment system, HCFA may deny part or all of the payment for the services furnished by the hospital in connection with the unnecessary admission. HCFA may also require the hospital to take corrective action to prevent or correct the inappropriate practices. Whatever action is taken by HCFA in either of these circumstances, the hospital will already have agreed not to hold the beneficiary liable for the costs of the services, and the beneficiary may not be charged regardless of fault.

2. Hospitals.

With regard to appeals by hospitals, the jurisdiction of the Provider Reimbursement Review Board (hereafter referred to as "the Board") under section 1878 of the Act will apply generally to questions concerning payments to hospitals arising under prospective payment. For other types of questions, different appeal procedures will apply. In addition, we have determined that the waiver of liability regulations at §§ 405.330–405.332 will apply if an entire patient stay, a "day outlier", or a "cost outlier" (as discussed in section III.H. of this preamble), is denied under section 1862(a)(1) or (9) of the act because health care services were found to be not medically reasonable and necessary or to constitute custodial care. Section 1879 waiver of liability considerations will also apply if a PSRO/PRO or FI finds that services are not payable. Therefore, we changed the regulations in 42 CFR Part 405, Subpart G (which contains procedures for appeals under Part A of Medicare) to govern appeals stemming from individual claims determinations, accordingly.

Essentially, there are three areas of hospital appeal procedures that must be addressed in this final rule.

a. The Board

To be reimbursed for services covered by the Medicare program, providers generally have been required to file cost reports with their fiscal intermediaries. These reports are used by the intermediaries to determine the amount of program reimbursement due to the provider for health care items and services furnished to beneficiaries. If a provider is dissatisfied with the amount of reimbursement (or if the intermediary does not make its determination within 12 months after receiving a cost report), and the amount in controversy is $10,000 or more, the provider has the right under section 1878 of the Act to request a hearing before the Board. The provider must meet specified time limits for filing an appeal. In addition, the Administrator and Deputy Administrator of HCFA have been delegated the authority by the Secretary under section 1878(f) of the Act to reverse, affirm, or modify a decision of the Board on his or her own motion.

If a provider is dissatisfied with the Board's decision or, if the decision has been reviewed by the Administrator or Deputy Administrator and the provider is dissatisfied with that decision, the hospital may request judicial review of the final decision by a U.S. District Court. (In certain cases, the hospital may appeal directly to a U.S. District Court when the Board determined that it does not have the authority to decide the questions appealed.)

In the exercise of its review authority, the Board decides all questions relating to its jurisdiction to grant a hearing.

Except for the restrictions (discussed below) contained in section 1886(g)(2) of the Act, as added by Pub. L. 98–21, appeal procedures for hospitals receiving payments under the prospective payment system are basically the same as for all providers being reimbursed on the basis of reasonable cost. Under section 1878(a) of the Act, as amended by section 602(h) of Pub. L. 98–21, hospitals receiving payment under the reasonable cost subject to the target rate system (section 1886(b) of the Act) and hospitals receiving payment under the prospective payment system may obtain a Board hearing with respect to the payments if—

- The hospital has submitted required reports;
- The amount in controversy is $10,000 or more; and
- The hospital files its appeal within 180 days after receiving notice of "the Secretary's final determination . . ."

Other amendments to section 1878 of the Act by Pub. L. 98–21 are as follows:

- Section 1878(f)(1) was amended to provide that in a civil action brought jointly by several providers, the suit may be brought in the judicial district in which the greatest number of such providers are located. This section was further amended to provide that an

appeal to the Board or the courts by providers that are under common ownership or control must be brought by the providers as a group with respect to any matter involving an issue common to the providers. Before Pub. L. 98–21 was enacted, providers were limited to bringing joint civil actions in the judicial district in which all the providers were located, or in the U.S. District Court in Washington, D.C.

• Section 1878(g)(2) was added to the Act to state that the determinations and decisions described in section 1886(d)(7) of the Act may not receive Board or judicial review. Section 1886(d)(7) of the Act precludes administrative and judicial review of the following:

—A determination of the requirement, or the proportional amount, of any "budget neutrality" adjustment effected under section 1886(e)(1) of the Act; or

—The establishment of DRGs, of the methodology for the classification of hospital discharges within DRGs, or of the appropriate weighting factors of DRGs under section 1886(d)(4) of the cost.

It was the clear intent of Congress that a hospital would not be permitted to argue that the level of the payment that it receives under the prospective payment system is inadequate to cover its costs. Thus, as discussed above, neither the definition of the different DRGs, their weight in relation to each other, nor the method used to assign discharges to one of the groups is to be reviewable. However, if there is an error in the coding of an individual patient's case, review would be permitted. (See the Report of the Committee on Ways and Means on H.R. 1900, H. Report No. 98–25, (98th Cong., 1st Sess.) 143 (1982).) As noted below, we believe the appropriate review concerning coding errors should be conducted by the entity (i.e., the PSRO/PRO or fiscal intermediary) which made the initial determination.

In order to implement these changes, we have included in this final rule amendments to 42 CFR Part 405, Subpart R, Provider Reimbursement Determinations and Appeals.

i. To implement the changes to sections 1878(a) and (g)(2) of the Act contained in Pub. L. 98–21, it was necessary to amend the following sections of the regulations:

• In § 405.1801, we expanded the definition of "intermediary determination" (and also made conforming changes in § 405.1803) to include a determination as to the total amount of payment under the reasonable cost subject to the target rate system or under the prospective payment system due a hospital for the cost reporting period covered by the determination. For purposes of appeal to the Board, the definition is synonymous with the "final determination of the Secretary," as that term is used in section 1878(a) of the Act.

• In § 401.1801(c), we stated that the prospective payment appeals regulations will be effective with a hospital's first cost reporting period under the Medicare program beginning on or after October 1, 1983.

• We added a new § 405.1804 (and also made conforming changes in § 405.1873 and § 405.1877) to describe the matters that are not reviewable by the Board or by the courts as provided in section 1886(d)(7) of the Act.

• For purposes of determining the amount in controversy in a particular period, we expanded § 405.1839 by providing that the amount will include amounts computed by deducting the total amount due the hospital under the target rate or prospective payment system from the total amount that would be payable to the hospital after taking into consideration any exemption, exception, exclusion, adjustment or additional payment originally denied the hospital under § 405.463 or §§ 405.470–405.477, as applicable, but disputed by the hospital in its request for a hearing.

• We made conforming changes in other sections of 42 CFR Part 405, Subpart R as necessary to incorporate references to the intermediary's determination and notice about prospective payment.

ii. With certain changes, the regulations at § 405.1837 (Group appeal), § 405.1841 (Time, place, form, and content of request for Board hearing), and § 405.1877 (Judicial review) are consistent with and can accommodate the Pub. L. 98–21 amendments to section 1878(f)(1) of the Act. These amendments were effective April 20, 1983, the date on which they were signed into law. The statute is self-implementing and our changes are merely conforming regulations. Thus, the regulations specify the effective date of the statute, and will apply to an appeal to the Board or an action for judicial review filed prior to the publication date of the final regulations, as well as those filed after the publication date. Under the amendment to section 1878(f)(1) of the Act concerning providers under common ownership or control, we have changed the regulations to state that effective April 20, 1983, an appeal to the Board or an action for judicial review by providers that are under common ownership or control, as that phrase is defined in § 405.427 of the regulations, must be brought by the providers as a group with respect to any matter involving an issue common to them. Section 405.427 states that common ownership exists if an individual or individuals possess significant ownership or equity in the provider and in the institution or organization serving the provider. Control exists if an individual or an organization has the power, directly or indirectly, to influence significantly or to direct the actions or policies of an organization or institution whether or not that power is actually exercised. Under the amendment concerning judicial review venue, we further changed § 405.1877 to add a third permissible venue, effective April 20, 1983, in the case of a civil action brought jointly, by several providers, that is, the judicial district in which the greatest number of the providers is located.

b. Errors in DRG Coding

As noted above, it is clear that Congress intended hospitals to be entitled to a review of DRG classifications if errors occur concerning the coding of an individual patient's case.

Intermediaries will assign discharges to DRGs initially. Where errors in coding occur, the hospital may resubmit the billing data with the revised coding for the case. Additionally, the hospital may request individual review of claims. The review would appropriately be conducted by the entity (i.e., the PSRO/PRO or fiscal intermediary) which made the initial determination. However, in general, the DRG classification system may not be appealed.

We are presently developing a proposed rule, to be issued in the **Federal Register** in the near future, to deal with PRO hearings and appeals.

c. Outlier claims

A hospital's claim for outlier payments will be subject to review by a peer review organization (PSRO/PRO) under Part B of Title XI of the Act, or in their absence, the hospital's fiscal intermediary, which will make appropriate coverage determinations. The PSRO/PRO or the intermediary will examine outlier cases and will deny claims for additional payment for those days of care in the outlier case that are not covered. (See the more detailed discussion of PSRO/PRO or intermediary review in section III. J. of this preamble.).

An adverse PSRO/PRO coverage determination may be challenged by the provider under the authority of section 1155 of the Act, which provides for a

reconsideration of the issue by the PRO. However, a provider may not appeal the PRO coverage determination beyond the reconsideration stage. On the other hand, for denials under section 1154, section 1879 of the Act gives the provider the same appeal rights as a beneficiary concerning whether it knew that the services were not covered. If section 1879 considerations are applicable, the provider may request, as part of the appeals process authorized under § 405.704(b)(12) of the regulations, a reconsideration, a hearing before the Office of Hearings and Appeals of the Social Security Administration, and judicial review. Accordingly, we amended § 405.704(b)(12) to provide that, if items or services for which payment could otherwise be made under section 1866(d)(5)(A) of the Act are excluded from coverage based on a determination that the services are not medically necessary, constitute custodial care, or are excluded under section 1154(a) (1) and (2), and a determination is made under section 1879 as to whether the hospital knew or could reasonably have been expected to know the items or services were excluded, the section 1879 determination is appealable.

I. Charges to Beneficiaries

Except as described below, a hospital may not charge a beneficiary for services covered under the Medicare program. However, Medicare Part A beneficiaries are responsible for payment of deductible and coinsurance amounts. The deductible is a set amount of inpatient hospital costs for which the beneficiary is liable when he or she first enters the hospital during a benefit period. Under Medicare, coinsurance is a daily charge for inpatient hospital care for which the beneficiary is liable after he or she has been hospitalized for 60 days. These amounts are changed each year as required by law.

Generally, a hospital paid under the prospective payment system must bill its intermediary, under Medicare Part A, for all inpatient hospital services furnished to a beneficiary. Except as described below, a hospital may not bill either a beneficiary or Medicare Part B for services for which payment is made under the prospective payment system. However, in cases in which no payment is made under the prospective payment system for inpatient hospital services (either because a beneficiary's Medicare Part A benefits were exhausted before admission to the hospital, or because the inpatient admission was denied as not covered), a hospital may seek payment for those specific services which can be covered under Medicare Part B, if the beneficiary is entitled to have the service paid for under Part B.

In addition, a hospital furnishing inpatient hospital services to a Medicare beneficiary for which it expects to receive payment under the prospective payment system may charge the beneficiary for certain items and services for which payment is not made by Medicare. These items and services include:

- Items and services, furnished at any time during the stay, which are excluded from coverage on some basis other than § 405.310(g), (k), and (m) (i.e., as custodial care, medically unnecessary items and services, and nonphysician services furnished to hospital inpatients by other than a hospital or a provider or supplier under arrangements made by the hospital).
- Days of care subsequent to a length-of-stay outlier (as described in § 405.475(a)(1)) which:

—Will not be paid for by Medicare because the patients' benefits under Medicare have been exhausted, or

—Are not covered under Medicare Part A for other reasons and waiver of liability under § 405.330 does not apply. When payment is considered for outlier days, the entire stay will be reviewed and days up to the number of days by which the total stay exceeds the day-outlier threshold may be denied. In applying this rule, the latest days of the stay will be denied first. However, unless the entire stay is denied, the basic prospective payment rate will not be affected.

—Items and services attributable to cost-outliers which will not be paid for by Medicare because the services are not covered and waiver of liability under § 405.330 does not apply. (Exhaustion of benefits during the stay will have no effect on cost-outliers.) When payment is considered for cost-outliers, the coverage of services throughout the stay will be reviewed. When payment for services is denied solely on the basis of § 405.310(g) or (k) (i.e., custodial care and medically unnecessary items and services), the amount which the beneficiary may be billed for the denied services is limited to an amount which, when added to the Medicare payment for the stay, results in a total payment for the stay no greater than the Medicare payment would have been had all the denied services been viewed as covered.

- The customary charge differential for a private room or other luxury item or service that is more expensive than is medically required and is furnished for the personal comfort of the beneficiary at his or her request (or that of the person acting on his or her behalf).

Under section 1866(a)(2)(B)(ii), a beneficiary could also be charged, if certain conditions were met, for costs in excess of the cost limits, established under section 405.460. Section 1866(a)(2)(B)(ii) was amended, however, by section 602(f)(2) of Pub. L. 98–21 to provide that these charges may not be imposed for services provided under the prospective payment system. Except as indicated above with respect to luxury items and services, a hospital may not charge a beneficiary for any services for which payment is made by Medicare, even if the hospital's costs of furnishing those services to that beneficiary are greater than the amount the hospital is paid under the prospective payment system.

As noted above in the discussion about beneficiary appeals, Congress provided in section 602(f)(1) of Pub L. 98–21 that beneficiaries may not be held responsible for charges for services furnished by a hospital in connection with unnecessary admissions, unnecessary multiple admissions, or inappropriate medical or other practices. To implement this provision, we have amended § 489.21 of the regulations. This section describes specific limitations on charges that a provider may impose on a beneficiary. We state in a new § 489.21(e) that, as part of its agreement with the Secretary under section 1866 of the Act, the provider (in this case, a hospital under prospective payment) may not charge a beneficiary for inpatient hospital services for which the beneficiary would be entitled to have payment made but for the improper practices of the provider with respect to admissions or other inappropriate medical practices.

J. Review Activities

1. Medical Review

a. Medical Review Agents.

The conforming amendments contained in Section 602 of Pub. L. 98–21 require hospitals receiving Medicare payments to enter into an agreement with a Utilization and Quality Control Peer Review Organization (PRO) by October 1, 1984. Until a PRO contract is awarded in an area, medical review will be conducted by existing Professional Standards Review Organizations (PSROs) or fiscal intermediaries, absent a federally funded PSRO in the area.

As a result of PRO contracts being awarded over the course of FY 84 (i.e., October 1, 1983 through September 30, 1984), the medical review role will be spread between the above mentioned

entities. Therefore, for the sake of clarity, we will use the term "medical review agent", which will encompass the entities listed above.

b. Background

The Social Security Amendments of 1983 did not modify the statutory provisions that prohibit Medicare from paying for certain care. For example, the law retains the following technical exclusions providing that Medicare will not pay:

- For hospital care when the patient has no legal obligation to pay (section 1862(a)(2) of the Act);
- When another government entity pays (section 1862(a)(3) of the Act); or
- When payment may be made under worker's compensation, an automobile medical liability, no fault insurance, or an employer's group health plan that is primary insurance for an ESRO beneficiary or an employed beneficiary or spouse age 65 to 69 (section 1862(b) of the Act).

Also, the law retains requirements that no payment be made for the following: services that are not certified by a physician as needed services (section 1814(a)(2) of the Act), services that are not reasonable and necessary (section 1862(a)(1) of the Act), services that constitute custodial care (section 1862(a)(9) of the Act), and services that are personal comfort items (section 1862(a)(6) of the Act).

We need to adjust our policies for excluding payment for such noncovered care to reflect Medicare's shift in reimbursement policy. Prior to the recent amendments, the financial incentives of cost-based reimbursement built in logical assumptions that there might be a tendency on the part of providers to overutilize services, thus leading to increases in their costs associated with treating Medicare patients. Now, however, aside from the potential for inappropriate admissions, the incentives work in the opposite direction in that, regarding inpatient operating costs for which payment is made under the prospective payment system, hospitals are benefited *only* if they provide solely those services needed to care for the patient in an appropriate manner. Therefore, it is essential that we reshape some of our approaches to identifying noncovered care so that they reflect the realities of the new system of payment.

It is our intent to describe review methods and policies necessary to avoid payment for noncovered care that will apply to all HCFA medical review agents. We are continuing to consider alternative proposals and we wish to encourage comments on these provisions.

c. General Policies and Assumptions

Specifically, we will apply the following coverage principles under prospective payment:

i. Technical Exclusions

We will not change our implementation of the statutory "technical" exclusions. Generally, those exclusions are absolute and not sensitive to fiscal incentives built into the new payment policies. Therefore, no changes will be made in provisions such as §§ 405.311–405.314.

ii. Physician Certification

Adjustments will be made to the implementation of physician certification requirements in section 1814(a)(3) of the Act so that physicians must certify at new "key" points where payment incentives could lead to inappropriate utilization (i.e., at what the hospital reasonably assumes to be the beginning of outlier status for a case and, as appropriate, during that outlier status).

iii. Medically Related Coverage

Adjustments will be made to the procedures for enforcement of medically-related coverage provisions in a way that focuses on whether admissions were appropriate and otherwise covered (i.e., reasonable and necessary and not for the purpose of delivering statutorily or otherwise excluded care), with further review being conducted only in outlier cases.

iv. Operational Assumptions

One operational assumption inherent in these adjustments and approaches is that once an admission has been found to be covered (i.e., it was a reasonable and necessary admission for the particular patient and it was not for the delivery of statutorily or otherwise excluded care, (e.g., for cosmetic or experimental care), *any* services or days needed by and provided to a beneficiary are included in the Medicare prospective payment rate and that it is these services which the hospital has provided. This based on the realities of the new fiscal incentives involved.

d. Review and Denials System

i. For Technical Exclusion

FIs will continue their current system of ensuring no Medicare payment where these exclusions apply. We are making no changes in §§ 405.311–405.314.

At present, we will continue to require FIs to review for care not reasonable and necessary based on *national* coverage policy and, where medical judgments are required to implement national coverage provisions, to use PSROs or PROs to make those judgments. For example, Medicare does not pay for procedures or services which have not been proven to be safe and effective (i.e., for services which are generally experimental in nature). The program denies such payment on "reasonable and necessary" grounds. This policy will continue and FIs will continue to be ultimately responsible for this enforcement (deferring to PSROs or PROs as noted above), although, as in the past, PSROs/PROs will be expected to consider such policies when performing their case-specific admission and outlier review.

Therefore, as in the case of PSRO/PRO review, payment for nonoutlier cases will be totally denied or totally approved based on a finding regarding the appropriateness of the admission. When an FI finds, in conducting retrospective review, that the sole or primary services provided to a patient above and beyond routine services were experimental and therefore noncovered (as enumerated in program instructions), the patient's admission will be found to have been inappropriate and payment for the entire stay will be denied.

Continuation of our current policy will generate a substantial incentive for providers to adhere to generally accepted medical practices in their treatment of Medicare patients. Therefore, to avoid potential payment loss, providers must remain sensitive to and cognizant of "nationally" noncovered care.

It should be noted in this regard that only if the *sole or primary* services (beyond routine care) provided to a patient are noncovered will the admission (and therefore prospective payment) be denied. This means that as long as an acceptable or proven diagnostic or treatment course (for the DRG) is present, even if noncovered care is also present, the payment will be made.

ii. Specific Review

We will specify in PRO contracts, the process by which PROs will meet the review requirements under prospective payment. Until a PRO contract is awarded in an area, the PSRO or FI will perform the following review functions.

A. Admission Review

After finding that an admission is appropriate, the medical review agent will not "carve out" days or services to affect the DRG rate portion of a prospective payment, based on findings of overutilization occurring in a nonoutlier case. This will be the

approach because the absence of such noncovered care will be presumed based on the fiscal incentives involved and the assumption that DRG rates are set at a level to pay only for care essential to treat the patient and delivered in the most appropriate setting.

If the medical review agent finds that the admission is inappropriate, it will deny the admission, and the hospital would not receive DRG payment.

B. Admission Pattern Monitoring

Under TEFRA, HCFA put in place an admission pattern monitoring (APM) plan which will continue under the prospective payment system. Based upon a file of all Medicare discharges, HCFA compares the number of discharges from a provider during a quarter to the number of discharges from the provider over the previous eight quarters. If the percent of increase in discharges exceeds a predetermined threshold, the information is sent to the medical review agent for analysis.

If the medical review agent's data analysis cannot justify the increase in discharges, then medical review of discharges during the quarter in question takes place. The review is performed at the hospital using, at a minimum, an accepted random sample technique. The purpose of the review is to determine if the admission was medically necessary and appropriate.

C. Outliers

Once a case becomes an outlier, medical review policy and systems will shift to a mode designed to carve out unnecessary services or days. For day outlier cases, the medical review agent would deny unnecessary days, not specific services. Should the medical review agent find that noncovered treatment occurred in an appropriately admitted outlier case, the appropriate prospectively determined payment will be made for that DRG, and the specific noncovered days or services will be carved out of the outlier payment or, if appropriate, the entire outlier payment will be denied.

1. Day Outliers

Day outliers constitute one of the two types of outliers recognized under prospective payment. They are cases involving unusually long stays and result in per diem payments beyond the DRG rate for each day exceeding a specified number of days (i.e., for each day exceeding the day-outlier threshold criteria for the DRG) on which covered care is provided. Day-outlier cases occur automatically when a stay exceeds a specified number of days for each DRG. The determination of eligibility for extra Medicare payment is "automatic" for outlier days (i.e., a hospital need not specifically request it) and, therefore, appropriate medical review agent review of the day-outlier cases must occur.

When medical review occurs for the purpose of affecting payment for day outlier cases, that review includes: (1) reviewing to determine that the admission was medically necessary and appropriate; (2) "looking back" at the days occurring prior to the day outlier threshold being met (particularly unnecessary preprocedure or pretesting delays occurring at the beginning of the hospital stay or just prior to outlier status); (3) reviewing for unnecessary or excessive days actually occurring after the case reaches the day outlier threshold criteria; and (4) ascertaining that the diagnostic and procedural coding area reflective of the information found in the medical records.

If the medical review agent finds the patient's entire hospitalization to be reasonable and necessary, the hospital will receive the outlier payment. If the medical review agent's finding is negative, it will appropriately deny days of outlier payment. These denials will be subject to waiver of liability considerations under section 1879 of the Act.

2. Cost Outliers

Cost outliers, the other type of "unusual" cases under prospective payment, are recognized as such only if they are not eligible for payment as day outliers. They are cases where payment can be made beyond the prospective payment rate because extraordinary costs are incurred in a short period of time in treating the patient. Medicare payment beyond the prospective rate for that DRG would not be made until a certain threshold of "excess" costs above the amount of the prospective payment rate is reached, and Medicare would then pay only a certain percentage of costs incurred *beyond* that threshold point. Review by a medical review agent for noncovered services would occur whenever a hospital requests cost outlier payment. (Note that cost outliers, unlike day outliers, are not paid automatically. Hospitals must request cost outlier payment.) That review would include the monitoring of outlier services and, like day outliers, also involve "looking back" at the medical necessity and appropriateness of the admission as well as the previously provided services to determine whether they were noncovered (including their appropriateness). The medical review agent would also validate that the diagnostic and procedural information listed was substantiated by the medical records and that all charged services were actually rendered, ordered by a physician, and not duplicatively billed. Costs of unnecessary and otherwise noncovered services would be excluded both for purposes of determining arrival at the cost outlier threshold (i.e., by excluding costs for noncovered services occurring between admission and the point at which the request is made) and determining the amount of outlier payment (i.e., by excluding costs for noncovered care occurring between the outlier threshold and the end of care).

For cost outliers, the medical review agent review will be for the purpose of denying unnecessary services, rather than days. If the medical review agent approves the services, outlier payment will be made. If, however, it finds the services unnecessary, payment would be denied for some or all of the services (i.e., for noncovered care provided before cost outlier status, as identified by the hospital, for noncovered services actually generating outlier costs, or both). These denials also will be subject to waiver of liability considerations under section 1879 of the Act.

D. DRG Validation

To assign a DRG to a case the following elements must be present: principal diagnosis, secondary diagnoses (if any), names of surgical procedures (if applicable), age, sex, and discharge destination of the beneficiary. As a requirement for prospective payment, we are requiring that, shortly before, at or shortly after discharge (but before a claim is submitted), the attending physician will attest in writing to the principal diagnosis, secondary diagnoses, and procedures performed, to be utilized when assigning the DRG.

The medical review agent will review, at the hospital, at a minimum a random sample of discharges every quarter. The purpose of the review will be to ascertain that the diagnostic and procedural coding used to assign the DRG are substantiated by the medical records.

iii. Waiver of Liability

It is important to note here that, as discussed above in section III. E. of this preamble, the waiver of liability regulations (§§ 405.330–405.332) will apply if an entire patient stay or a day or cost outlier is denied under section 1862(a) (1) or (9) or 1154(a) (1) and (2) of the Act.

iv. For Other Medically-Related Statutory Exclusions (e.g., Foot Care, Dental Services, Cosmetic Surgery, and Personal Comfort Items)

We will continue to hold FIs responsible for monitoring for the presence of these statutory exclusions. When these coverage rules require the use of a medical judgment in their application, a PRO/PSRO must be used to make the medical necessity decision.

However, for purposes of prospective payment, FI's will assume that the cost of any noncovered care identified in a nonoutlier case has already been excluded by the process by which the prospective payment rate was developed. They will make full payment of that rate, unless, as in the above discussion, that assumption is not a reasonable one because the primary or significant nonroutine care provided was noncovered; in which case the admission will be denied and total prospective payment is to be denied.

On the other hand, if these noncovered items (e.g., personal comfort items, foot care) are identified in the review of an outlier case, the intermediary is to carve out appropriately from the outlier payment, consistent with the amount of noncovered care identified. Again, this would be day denials in day outliers (when it is clear that the days were solely or primarily for the delivery of noncovered care) and services denials for cost outliers.

e. Provisions of Interim Regulations

Under the prospective payment system, we are concerned that hospitals may be able to circumvent the intent of the system by unnecessarily admitting or readmitting individuals. Sharing this concern, Congress provided in Pub. L. 98–21 a new section 1886(f)(2) of the Act, requiring that:

> (2) If the Secretary determines, based upon information supplied by a utilization and quality control peer review organization under part B of title XI, that a hospital, in order to circumvent the payment method established under subsection (b) or (d) of this section, has taken an action that results in the admission of individuals entitled to benefits under part A unnecessarily, unnecessary multiple admissions of the same such individuals, or other inappropriate medical or other practices with respect to such individuals, the Secretary may—
>
> (A) deny payment (in whole or in part) under part A with respect to inpatient hospital services provided with respect to such an unnecessary admission (or subsequent admission of the same individual), or
>
> (B) require the hospital to take other corrective action necessary to prevent or correct the inappropriate practice.

Section 1886(f)(3) continues by specifying that the provisions of sections 1862(d) (2), (3), and (4), apply equally to determinations under section 1886(f)(2), and section 602(f)(1) of Pub. L. 98–21 adds a new paragraph (F) to section 1866(a)(1) of the Act.

Sections 1862(d) of the Act contains general provisions prohibiting fraudulent billing practices and provision of unnecessary services, or services that fail to meet professionally recognized standards and provides for notice to providers and suppliers, the public, and State Medicaid agencies when it is determined that such practices have occurred. Section 1866 sets forth the requirements of provider agreements, which must be complied with for a provider to participate in Medicare.

It is clear from these provisions that Congress wished to provide strong sanctions against circumventing the prospective payment system. However, section 1886(f)(2) determinations must, according to the statutory language, be based upon the findings of a PRO. We are implementing prospective payment under section 1886(d) before any PRO regulations become effective or any PRO contracts established. Nonetheless, it is clear that we must have regulations in place providing for admissions review at the very inception of the prospective payment system.

We are providing, in § 405.472(e), general regulations setting forth review requirements modeled after the requirements of sections 1862(a), 1862(d), and 1886(f)(2), establishing general authority for HCFA to impose sanctions based on this review, and cross-referring to appropriate regulations providing for notice and appeal.

In § 405.472(e)(2), we are providing for appropriate procedures when payment is denied in individual cases, depending on whether the denial was the result of review by a PRO, PSRO, or fiscal intermediary. In §§ 405.472(e) (3) to (5), we are providing appropriate procedures when review shows a pattern of inappropriate admissions or billings that have the effect of circumventing the prospective payment system. Such cases would come under the Medicare quality review regulations at 42 CFR Part 420, and could result in termination of a hospital's provider agreement.

We do not intend these interim regulations to implement section 1886(f)(2) (or the provisions of 1866(a)(1)(F) concerning agreements between hospitals and PROs and per case payment for PRO reviews). Those statutory requirements will be implemented at a later date under the PRO regulations. Rather, under the authority of sections 1102, 1862(d), and 1876 of the Act, we are establishing the regulatory authority that we believe, at a minimum, is required to ensure that timely implementation of payment under 1886(d) does not result in incentives, loopholes, and payment outcomes clearly contrary to the intent of Congress.

We expect, initially, that we will implement these regulations through fiscal intermediary and PSRO review. After PRO regulations, and regulations explicitly implementing section 1886(f)(2), are in place, we would expect these functions to be taken over by PROs.

2. Utilization Review

a. Discussion

For hospitals under prospective payment, Congress has retained the requirement that Medicare hospital providers have a utilization review (UR) committee, which operates in conformance with certain statutory provisions (section 1861(k) of the Act). For hospitals under PSRO review, this statutory requirement does not apply. In regulations now being developed for hospitals under PRO review, we plan to propose similar exceptions. Currently, another statutory provision, section 1866(d), further privides that no Medicare payment will be made beyond a certain point in "long stay" cases (i.e., no payment beyond 20 days) if the Secretary has found inadequate UR compliance (Also see section 1814(a)(6) of the Act). And, finally, section 1814(a)(7) of the Act provides that program payment cannot be made if a hospital UR committee has found that further care is not necessary, except that up to 3 grace days may be provided.

Hospitals covered by section 1861(k) of the Act must comply with the basic terms of the statute and a partial set of implementing regulations, parts of which have been permanently enjoined. (See *AMA et al. v. Weinberger*, 395 F. Supp. 515 (N.D. Ill., 1975), affd. 522 F. 2d 921 (7th Cir., 1975).) The proposed new UR regulations appearing in the proposed rule, *Conditions of Participation for Hospitals*, published in the January 4, 1983, **Federal Register** (48 FR 299), impose basic requirements which adhere closely to the statute. Essentially, the requirements that hospitals would have to meet include:

- Having an UR committee;
- Reviewing admissions and durations of stay;

- Reviewing extended stay cases no later than 7 days after specified time intervals; and
- Notifying parties of denials.

b. Changes to the Regulations

i. For purposes of prospective payment, we are revising 42 CFR Part 405, Subpart J, Conditions of Participation, Hospitals, by adding a new condition § 405.1042—Condition of Participation: Special Utilization Review Requirements for Hospitals Paid Under the Prospective Payment System. The changes contained in this new condition represent, for hospitals under the prospective payment system, a revision and adoption of the proposed § 482.30 on utilization review that appeared in our proposed regulations for hospital conditions published on January 4, 1983.

The comments we received on proposed § 482.30, and the changes in this provision that we made based on these comments, are discussed below. We are publishing this material in this interim final rule, rather than in a separate final rule on the hospital conditions of participation, because this will enable us to revise our utilization review requirements to reflect changes required by the prospective payment legislation. In addition, we believe prompt publication is justified because the new utilization review requirements will allow hospitals greater flexibility, and impose a lesser compliance burden, than our current regulations. This special condition becomes effective when each hospital begins participation in the prospective payment system. The current regulation at § 405.1035 on utilization review will continue to apply to all other hospitals participating in Medicare.

This special condition is an interim rule intended to contribute to the implementation of the prospective payment system. Comments on these interim rules will be responded to in the final rules on prospective payment that the law requires us to publish by December 1983.

Some comments received in response to the January, 1983 proposed rule are reflected in these special requirements. Therefore, a summary of our response to them is appropriate here.

Services for Which Review Is Required

Comment: Several commenters suggested that the opening paragraph of this section be revised to specify that services furnished by members of the medical staff of the institution, as well as by the institution, are subject to review. They also suggested that the term "individual" be changed to "patient," to avoid misunderstanding.

Response: We agree, and have revised this paragraph accordingly under § 405.1042.

Composition of Utilization Review Committee

Comment: Several commenters recommended that we require the utilization review (UR) committee to be composed of two or more fully licensed physicians (Doctors of Medicine or Osteopathy), rather than of two practitioners who meet the proposed definition of "physician." These commenters believe that only MDs and DOs are qualified to review the medical necessity of services to hospital patients, and that other practitioners included in the proposed definition of "physician" are not qualified to perform review responsibilities independently. One commenter suggested that if proposed § 480.30(b) and the proposed definition of physician were implemented without change, services furnished by MDs and DOs could be reviewed by other practitioners. Other commenters recommended that we require that at least one MD or DO be on each utilization review committee.

Response: This provision of our regulations implements section 1861(k) of the Act (42 U.S.C. 1395x(k)). Section 1861(k)(1) provides, in pertinent part, that the utilization review committee of a hospital or skilled nursing facility is to be "composed of two or more physicians (of which at least two must be physicians described in subsection (r)(1) of this section) * * *". Section 1861(r)(1) defines a physician as a doctor of medicine or osteopathy legally authorized to practice medicine and surgery by the State in which he performs such function or action. To comply with these statutory provisions, we have specified in the regulation that a hospital UR committee must be composed of two or more physicians, of whom at least two must be doctors of medicine or osteopathy. Thus, we have adopted the first comment. However, we have not specified the review responsibilities of various categories of practitioners. As explained more fully below, specificity on this issue is not required by section 1861(k) and could unnecessarily limit hospitals' flexibility in complying with the UR requirements.

Comment: Some commenters suggested that we require, rather than merely permit, participation by non-physician health care personnel on utilization review committees. These commenters argue that if services of these personnel are available in the hospital, the personnel should participate in review of those services. In particular, one commenter suggested that an RN be required on the utilization review committee.

Response: Section 1861(k)(1) permits, but does not require, participation on UR committees by non-physician personnel. We believe it would be inappropriate to restrict by regulation a hospital's discretion with regard to inclusion of these personnel on UR committees. Therefore, we have not modified this provision to require participation by non-physician health care personnel in UR committee decisions. For the same reason, we have not required RN participation on the UR committee.

Comment: Some commenters stated that the prohibition against conduct of reviews by a physician who is financially interested in the hospital is unnecessarily broad (proposed § 482.30(b)(3)(i)), since all physicians who practice in a hospital have a stake in its financial well-being. They suggested that we prohibit review by physicians with a direct financial interest, such as an ownership interest.

Response: We agree, and have specified this provision that reviews by physicians who have a direct financial interest (e.g., an ownership interest) in the hospital are prohibited.

Comment: One commenter suggested that the regulation be modified to ensure that services of practitioners in a particular category would be reviewed only by other practitioners in the same category.

Response: We have not adopted this comment. This type of review procedure is not specifically required by section 1861(k) of the Act, and we believe that requiring the procedure in regulations would unnecessarily limit hospitals' flexibility in conducting utilization review.

Final Determination Regarding Admissions or Continued Stays

Comment: One commenter stated that it is unnecessary to require the UR committee to consult the attending physician and give him or her the opportunity to present his or her view before making a final determination that an admission or continued stay is not medically necessary. This commenter suggested that such a consultation could lead the attending physician to order additional, unnecessary services in order to justify the admission or stay. This commenter also expressed the view that the procedures for making negative determinations is too burdensome and that, rather than providing for grace days, HCFA should put more emphasis on discharge planning. On the other hand, another commenter suggested that

we require the UR committee to notify the patient as well as the attending physician before making a final determination that a continued stay is not necessary. This commenter believes that this notice would help ensure that attending physicians present their views regarding the need for continued stay to the UR committee, and thus would be an important safeguard against premature discharge.

Response: We have not adopted either comment. While requiring the UR committee to consult the patient's attending physician before making a final determination may delay the determination somewhat, we believe this consultation is essential to ensure accurate medical decisions regarding the need for admissions or continued stays. On the other hand, we do not believe that it is necessary to require UR committees to give separate notice to the patient before making final determination that continued stay is not necessary. This decision is a medical judgment that is made by the UR committee after consultation with the patient's attending physician, and we believe requiring notice to the patient would not increase the accuracy of the judgment.

We do not believe there is any incentive for a physician to order unnecessary services in order to justify a stay to the UR committee. Part of the committee's function is to identify unnecessary services, and such an attempt would be readily identified during the course of review. Moreover, the physician does not stand to gain anything by such action.

Comment: One commenter objected to the proposed utilization review provisions, since they do not permit the patient's attending physician to make the final decision as to whether a continued stay is medically necessary.

Response: The utilization review provisions are needed to implement section 1861(k) of the Act. This section requires the utilization review committee to review the duration of stays in the hospital and to give notification if it finds that further stay is not medically necessary. We have provided in the interim final rule that this decision is to be made only after consultation with the attending physician. We believe this provision is adequate to ensure that the attending physician's views are taken into account before a decision is made.

Comment: Some commenters suggested that we require all decisions regarding admissions and continued stays to be made by a minimum number of MDs or DOs (i.e., either one or two).

Response: As noted earlier, section 1861(k) specifies that decisions regarding admissions and continued stays may be made by a staff committee composed of two or more physicians, of whom at least two are MDs or DOs. The statute does not further require that only MDs or DOs may make decisions regarding admissions or continued stays. We do not believe it would be either necessary under the statute, or consistent with hospital flexibility, to impose such a further requirement in our regulations.

Comment: One commenter stated that our proposal to remove many credentialling requirements from other areas of the hospital conditions would reduce the quality of UR in hospitals, since many of the affected personnel are involved in UR.

Response: We are continuing to analyze the issues raised with regard to credentialling, and have not yet made final decisions on these issues. However, we have not seen any evidence to indicate that our credentialling proposals would adversely affect UR activities in hospitals. Therefore, we have not adopted any changes based on this comment.

Comment: One commenter suggested that we require UR to be conducted to determine the "health care necessity" rather than "medical necessity" of services. This commenter, a State nursing association, stated that it is primarily the need for nursing services, rather than for physician services, that justifies hospital admissions. The commenter suggested that use of the term "health care necessity" would emphasize this point.

Response: We believe the proposed provision makes it clear that services provided by the hospital, including nursing services, are subject to UR, and that introducing a new term not contained in section 1861(k) or the current or proposed regulations would not clarify this provision. Therefore, we did not adopt this comment.

Comment: One commenter opposed the adoption of less restrictive UR requirements, and suggested that this could increase unnecessary utilization of services. This commentor suggested we retain the current UR requirements.

Response: As explained in the preamble to our January 4, 1983 NPRM, we believe it is essential to reduce the regulatory burdens on hospitals to the minimum level consistent with patient health and safety and statutory requirements. We have not seen any concrete evidence that our current UR requirements are more effective in preventing excessive utilization than our proposed special requirements. Moreover, we are enjoined (as discussed below) from implementing many of our current UR requirements. Therefore, we did not adopt this comment.

Comment: One commenter suggested that we make our UR requirements less restrictive by permitting a subgroup of the UR committee, or an individual designee, to conduct admission or continued stay reviews.

Response: While we support, in general, efforts to reduce unnecessary regulatory burdens on hospitals, we are unable to accept this comment. One of the benefits of UR is the educational aspect of committee review that comes from committee discussions of the proper use of expensive health care services, such as hospital services. To reduce decisions to a small component of the URC or an individual could markedly hamper this effort and could give the appearance of permitting one individual's judgment concerning care to override that of the attending physician. We believe that benefits of full committee participation far outweigh the benefits of a more streamlined approach.

Comment: One commenter suggested that we eliminate the current UR regulation and not replace it. This commenter believes this approach would enable hospitals to integrate UR activities into their overall quality assurance systems.

Response: Because of the specific requirements in section 1861(k), we do not believe it would be legally supportable to eliminate UR requirements entirely. However, hospitals would be free, under the UR requirements, to combine UR activities with other quality control measures.

Comment: Several commenters suggested that the reference to Professional Standards Review Organizations (PSROs) in proposed § 482.30 be changed to Peer Review Organizations (PROs), to reflect changes made by TEFRA.

Response: The statutory provisions for PROs have not yet been implemented. Therefore, we have decided to defer making this change until PROs are fully operational.

Additional comments were received regarding psychiatric hospitals. However, because such hospitals are excluded from the prospective payment system, related comments will not be discussed here.

Specifically, we are adding § 405.1042 to replace the current UR provisions for hospitals under prospective payment and avoid certain overly prescriptive and detailed specifics for those

hospitals. A more indepth discussion of the revisions can be found in the preamble to the proposal published on January 4, 1983. However, for purposes of these regulations, we are revising certain sections to reflect appropriate review under prospective payment. This review, in the way it is adjusted to the incentives created by prospective payment, should be similar to the approach taken with PSRO, PRO, and FI review under prospective payment. However, we must point out that the findings of such utilization review, particularly regarding approval of admissions and outlier care, do not substitute for FI review. These utilization review requirements are necessary to comply with current statutory requirements (e.g., 1861(k), 1814(a) (6) and (7)). As long as they are necessary, we believe it is important to conform them to the dominant incentives of the payment system, especially as it is inappropriate to continue existing requirements despite their diminished relevance and significance. We are concerned that the UR committee findings be appropriate and useful to the hospital. However, we cannot equate the activities of a hospital committee with FI review activities, and we will not be bound by UR committee approval of an admission or outlier case for purposes of Medicare payment under the prospective payment system.

Section 405.1042(c) requires that the UR plan provide for some type of admission review, either pre-admission, upon admission, or after admission. In appropriate admissions we will not recognize, for DRG rate payment purposes, any UR committee determinations regarding the appropriateness of individual days or services in non-outlier cases (§ 405.1042(d)).

As discussed above in the case of PSROs/PROs and FIs, days would be denied in day outliers and services would be denied in cost outliers. We will, in advance, determine the day and cost outlier points for each DRG. Hospital UR plans must include procedures under which the UR committee will automatically review day outliers (based on the hospital's reasonable estimate of the proper DRG) and will review the necessity for continued services in cases which the hospital believes will qualify for "extra" or outlier payment. Appropriate hospital personnel (e.g., those in the hospital finance office) should provide prompt notification to UR committees of cases which have reached or are about to reach the cost outlier point (§ 405.1042(e)), and retrospective review of such cases by UR committees will be permitted.

ii. We believe Medicare outlier payment should be denied or reduced if the quality of UR committee activities is inadequate. That should be reflected in the way in which the program adjusts its implementation of section 1866(d) of the Act, i.e., long stay cases. Current regulations (§405.163) prohibit payment after the 20th consecutive day if the Secretary determines the hospital has substantially failed to make timely utilization review decisions in long stay cases. However, under prospective payment, it is only when the 20th day occurs after the beginning of what the hospital reasonably estimates to be outlier status that we are interested in penalizing inadequate UR committee activities. We do not intend that the quality of UR committee long-stay review activities affect the DRG rate payment for an appropriate admission. Therefore, we are amending §405.163 to provide that, in non-outlier cases, the Secretary will not find that a UR committee failed to make timely utilization review based solely on its failure to conduct continued stay review after an appropriate admission. This retains the penalty for ineffective UR, when and if cases become day outliers and the day outlier point is at 20 days or beyond.

iii. Section 1814(a)(7) of the Act, which prohibits payment after a UR committee finding that further care is not necessary, will now be interpreted to include only those committee findings that relate to situations in which additional payment would be made on the basis of medical need and utilization, i.e., outliers. To accomplish this, we are revising §405.162. Similar changes will be included in PRO regulations.

Physician Certification and Recertification

a. Discussion

Section 1814(a)(3) of the Act requires that no Medicare payment be made where a physician has failed to certify and, as appropriate, recertify that care is needed. Under the statute, in hospitals that are not tuberculosis or psychiatric hospitals, the certification must be no later than the 20th day of an inpatient hospital stay. Implementing regulations at §405.1627 (1) set forth what certifications and recertifications should contain; (2) permit certifications and recertifications of the need for inpatient hospital care due to unavailability of covered needed care in a skilled nursing facility; (3) allow for UR committee continued stay review to substitute for recertifications; and (4) require certifications no later than the 12th day of hospitalization and the first recertification no later than the 18th day of hospitalization.

b. Changes to the Regulations

We are revising current § 405.1627(b) to reflect prospective payment changes. For hospitals under prospective payment, we are requiring certification at the beginning of what the hospital reasonably assumes to be an outlier (cost or day), or no later than 20 days into the stay, whichever is earlier. As is currently the case, we will accept delayed certifications and recertifications.

The content of the physician certification statement will remain substantially the same. However, we are amending § 405.1627(a) to require a showing as to the need for special or unusual services in cost outlier cases. The physician is still authorized to recertify the need for hospital care if other needed covered care in an SNF is unavailable.

We are making no substantive changes in § 405.1629, governing certification and recertification for inpatient psychiatric and tuberculosis hospital services, because we assume that these hospitals, for the most part, will be excluded from prospective payment. We are, however, making minor technical amendments to this section to conform its language and cross-references to related regulations. In addition, we are making similar minor technical amendments to § 405.1630, concerning certification and recertification requirements applicable when a beneficiary is not entitled to benefits at the time of admission.

4. Quality Review

Section 1866(a)(1)(F) of the Act, effective October 1, 1984, authorizes PROs to review the quality of care provided by a hospital. Specific guidelines and procedures for PRO quality review will be included in PRO regulations and contracts which will be developed at a later date.

IV. PAYMENT FOR NONPHYSICIAN SERVICES FURNISHED TO HOSPITAL INPATIENTS

A. Background

Prior to Pub. L. 98–21, nonphysician services provided to Medicare beneficiaries who are hospital inpatients have generally been billed by the hospitals under Part A of the Medicare program. However, under certain circumstances, payments have been made for nonphysician services which

are furnished by an outside supplier or another provider and which have been billed by the outside source as a Part B service even though furnished to a hospital inpatient. Thus, some nonphysician services may have been billed under Part A in one hospital and under Part B in another. The practice of billing under Part B for these services has been referred to in the legislative history as "unbundling" of Part A services.

Under the new law, effective October 1, 1983, "unbundling" will be prohibited; that is, all nonphysician services provided in an inpatient setting will be paid only as hospital services. This rule will apply to all participating hospitals as of that date, regardless of a hospital's fiscal period, or inclusion or exclusion from the prospective payment system.

Section 602(e) of Pub. L. 98–21 added a new paragraph (14) to section 1862(a) of the Act, which provides for certain exclusions from Medicare coverage. The new section 1862(a)(14) provides that payment may not be made under either Medicare Part A or Part B for any expenses incurred for items or services—

> (14) which are other than physicians' services (as defined in regulations promulgated specifically for purposes of this paragraph) and which are furnished to an individual who is an inpatient of a hospital by an entity other than the hospital, unless the services are furnished under arrangements (as defined in section 1861(w)(1)) with the entity made by the hospital.

Further, section 602(f)(1) of Pub. L. 98–21, in adding certain additional statutory requirements, in section 1866(a)(1) of the Act, to the basic commitments into which a hospital must enter in making a provider agreement to participate in Medicare (see section V., on provider agreements following this section), provided that a participating hospital must agree—

> . . . to have all items and services (other than physicians' services as defined in regulations for purposes of section 1862(a)(14)) (i) that are furnished to an individual who is an inpatient of the hospital, and (ii) for which the individual is entitled to have payment made under this title, furnished by the hospital or otherwise under arrangements (as defined in section 1861(w)(1)) made by the hospital.

Although most of the provisions of Title VI of Pub. L. 98–21 are effective for cost reporting periods beginning on or after October 1, 1983, these provisions, in accordance with section 604(a)(2), take effect on October 1, 1983. We wish to make it clear that these requirements do not apply only to hospitals under the prospective payment system, or even to hospitals reimbursed under our regulations at Part 405, Subpart D, but to all hospitals participating in Medicare, including those reimbursed under alternative arrangements such as demonstrations or State cost control systems, and to emergency hospital services furnished by nonparticipating hospitals. There is, however, a statutory provision for a waiver of this requirement, which could defer, for a time, application of these provisions to a hospital meeting certain criteria. Section 602(k) of Pub. L. 98–21 provides that, if a hospital has been extensively allowing Part B billing of inpatient services since before October 1, 1982, and if immediate compliance with these requirements would threaten the stability of patient care, the Secretary may waive these requirements for any cost reporting period beginning before October 1, 1986. The criteria for and terms of such waivers are discussed in the section V.C., below.

B. Part A Billing

The basic unbundling provision, section 1862(a)(14), provides that Medicare payment will not be made under Parts A or B if non-physician services are furnished to a hospital inpatient by anyone other than the hospital (that is, the hospital would have to furnish the services directly or under "arrangements", as defined in section 1861(w)(1). The term "under arrangements" refers to a manner of arranging to have services (other than physicians' services to individual patient) furnished by a supplier or provider outside the hospital. Under such arrangements, payment to the hospital for those services discharges the beneficiary's liability to pay for the services. Thus, the supplying organization must accept its payment from the hospital. The amount charged by the supplying organization and paid by the hospital is a cost to the hospital. If the hospital is not being paid under the prospective payment system, those costs are includable in its cost report. If the hospital is being paid on a prospective rate basis for the particular inpatient services, the prospective payment would include full payment for services furnished under arrangements.

In order to be paid under this provision, a hospital must bill under Medicare Part A for any service that falls within the scope of "inpatient hospital services" (see 1861(b)). Section 1833(d) prohibits Part B payment for services that may be paid for under Part A. The Senate Finance Committee report states that section 1862(a)(14) is intended to have the effect that payment under the prospective-payment system be "payment in full for all covered items and nonphysician services to hospital inpatients." It further notes that this is done by providing that "all nonphysician services provided to hospital inpatients would be paid only as inpatient hospital services under Part A * * *" (S. Rept. No. 98–23, 98th Cong., 1st Sess. 50 (1983)).

Because Section 1862(a)(14) requires that, to qualify for Medicare payment, all services, with limited exceptions, provided to hospital inpatients must be provided directly or arranged for by the hospital, those services become "inpatient hospital services" payable under Part A for patients with Part A eligibility. Section 1833(d) then in turn requires that those services, to the extent that payment can be made for them under Part A, not be paid for under Part B. Therefore, it is essential that we require all services within the definition of inpatient hospital services to be billed under Part A, except when the patient is not eligible for Part A benefits, or if Part A benefits are exhausted before the patient is admitted or enters outlier payment status. Our interim final regulations include this requirement at § 405.470(b)(6).

C. Definition of Nonphysician Services

Section 1862(a)(14) excludes from Medicare coverage all items, supplies, and services furnished to an inpatient, "other than physicians' services (as defined in regulations promulgated specifically for purposes of this paragraph)" that are not directly furnished by the hospital or by others under arrangements. As a result, we must make clear for purposes of this section which services furnished to inpatients are "physicians' services" within the meaning of the Act.

The definition of physicians' services reimbursable on a reasonable charge basis has been a matter of great controversy since the beginning of the Medicare program. To resolve this issue, Congress added a new section 1887(a) for the Social Security Act (enacted September 3, 1982 under section 108 of Pub. L. 97–248, the Tax Equity and Fiscal Responsibility Act of 1982). This section requires the Secretary to establish criteria in regulations that distinguish between physicians' services that are professional medical services personally furnished to an individual patient by a physician, and which contribute to the diagnosis or treatment of that patient and physicians' services and those that are for the general benefit of patients, such as quality control activities, are furnished to the provider, and, as provider services, must be paid for on

the basis of provider costs. In so establishing section 108 of TEFRA, Congress confirmed our long-standing interpretation of the requirements of the Social Security Act.

On March 2, 1983, we published final rules (with a comment period) on payment for physician services furnished in providers (48 FR 8902), implementing section 108 of TEFRA. In those regulations, we established explicit distinctions between physician services to individual patients, which are reimbursable on a reasonable charge basis under Medicare Part B, and physician services to the provider, which are of general benefit to patients and are reimbursable only on a reasonable cost basis. These regulations apply to services furnished in hospitals, SNFs, and CORFs, and apply to outpatient services covered under Medicare Part B (and paid on a reasonable cost basis) as well as to Part A services.

Pub. L. 98-21 amended section 1887(a) only to provide that physician services to the provider may be paid for only on a reasonable cost basis or under prospective payments under section 1886(d). Therefore, a hospital under the prospective payment system will be paid in full for physicians' services to the hospital related to care of Medicare inpatients as part of its prospective payments, and will be paid on a reasonable cost basis for such services related to care of Medicare outpatients. This amendment also clearly implies that, for purposes of implementing prospective payment, criteria for identifying physicians' services to inpatients payable on a reasonable charge should be consistent with criteria implementing section 1887(a).

Under the March 2, 1983 rules, § 405.550(b) of our regulations provides that physicians' services are medical services to individual patients and payable on a Part B charge basis if—

- The services are personally furnished to an individual patient by a physician;
- The services contribute directly to the diagnosis or treatment of an individual patient;
- The services ordinarily require performance by a physician; and
- If applicable, the services meet certain special rules that apply to services of certain physician specialties. (It was necessary to develop special distinguishing criteria for physicians' services furnished by anesthesiologists, radiologists, and pathologists (§§ 405.552, 405.554, and 405.556, respectively).)

We believe that we can best implement section 1862(a)(14) by identifying nonphysician services as those services furnished to hospital inpatients that do not meet the criteria of § 405.550(b), including the special criteria for anesthesiologists, radiologists, and pathologists. Therefore, we have added a new § 405.310(m) governing exclusions from coverage under section 1862(a). This new provision will ensure the greatest consistency and simplicity throughout the program. As a result, for the services a beneficiary receives as an inpatient of a hospital, we will be making separate and mutually exclusive payments for either physicians' services or hospital services. This new provision will minimize inconsistencies of coverage and payment between hospitals, and will greatly limit the opportunities for duplicate payments.

D. Services "Incident to" Physicians' Services

Another issue in implementing section 1862(a)(14) involves whether we should classify services furnished "incident to" physicians' services as physicians' or nonphysicians' services when they are furnished to a hospital inpatient for purposes of determining coverage under Medicare Part A or Part B. Section 1861(s) of the Act lists the medical and health services covered under Part B. Section 1861(s)(1) is "physicians' services" and section 1861(s)(2)(A) is "services and supplies . . . furnished as an incident to a physican's professional service." For coverage of the services furnished by nonphysicians as "incident to" services, Medicare requires an employer-employee relationship between the physician and the nonphysician (common law definition), that the physician be present when the service is furnished, and that the services be of the type commonly furnished in physicians' offices. Over the years, the "incident to" provision has been used as a basis for coverage of the services in hospitals of certain nurse anesthetists and various nonphysician therapists, such as physical and occupational therapists, employed by physicians. It is also the basis for coverage of items and supplies physicians furnish to patients, such as pacemakers, lenses, and artificial hip and knee joints.

However, many items and services paid for as incident to a physician's services have also been paid for under Part A as inpatient hospital services. For example, services of nurse anesthetist have been covered as inpatient hospital services when an anesthetist is employed by or contracts with a hospital. Thus, under current payment procedures, services and supplies furnished to inpatients in some hospitals are remibursed under Part A while, in other hospitals, the same services and supplies are payable on a reasonable charge basis under Part B. The trend toward the provision of supplies and services by individuals and entities other than hospitals has contributed to higher program expenditures and a higher copayment burden on beneficiaries.

We believe that it is vital to the success of the prospective payment system that the services and supplies included in the payment be essentially the same in every hospital. Further, there is a strong statutory basis for discontinuing the use of "incident to" billing for services and supplies furnished to hospital inpatients. Section 1862(a)(14) states explicitly that only physicians' services are exempt from the requirement that all items and services furnished to hospital inpatient be provided directly or under arrangement. We could only exempt services incident to a physician's services if we determined that they were included within the definition of "physicians' services". The definition of such services in section 1861(q) of the Act, and our regulations at 42 CFR 405.550(b), both specify that physicians' services are performed by a physician. Thus, it is clear that services incident to a physician's services, which by definition are not performed by a physician, are subject to the exclusion from coverage under section 1862(a)(14). Therefore, we have included inpatient hospital services furnished incident to a physician's services, with one exception, in the new § 405.310(m), as services subject to that coverage exclusion.

The single, time-limited exception to this policy is the inpatient hospital services of anesthetists, such as certified registered nurse anesthetists, employed by physicians. During the prospective payment transition period, we will permit physicians who have customarily employed and billed on a reasonable charge basis for the services of anesthetists to continue this practice. The practice of physician-employer and anesthetist-employee is so wide spread, and the relationship of anesthesiologist to anesthetist is so unique, that we believe that it would be disruptive of medical practice and adverse to the quality if patient care to require all such contracts to be renegotiated in the limited time available before the implementation of the prospective payment system.

Therefore, we are providing, in § 405.553(b)(4), that, if a physician's practice was to employ anesthetists as

of the last day of a hospital's most recent 12-month or longer cost reporting period ending before September 30, 1983, then the physician may continue that practice through subsequent cost reporting periods beginning before October 1, 1986. However, if the physician chooses to continue this practice the hospital may not add the costs of the anesthetists' services to its base period costs for purposes of determining the hospital-specific portion of its transition payment rates.

E. Payment for Physician Radiology Services Furnished to Hospital Inpatients

The final rules published March 2, 1983 established a special test of reasonableness for charges for radiology services furnished in providers; that is, § 405.555(c)(2) provided that a carrier could not pay a physician, for any radiology service furnished in a provider, an amount exceeding 40 percent of the prevailing charge for a similar service furnished in a nonprovider setting. This limit ensured that payment for such services does not inappropriately include amounts reflecting the overhead costs associated with producing such services. However, that provision did not expressly apply to services furnished to provider inpatients outside the provider setting. (For example, since many hospitals do not own equipment for performing computed tomography (CT) scans, their patients may be transported to another hospital or a physician's office for such services.)

Under section 1862(a)(14) of the Act, we must pay the hospital for nonphysician services, such as overhead and operating costs, associated with furnishing radiology services to hospital inpatients. We may pay a physician (or other entity) only for the physician radiology services. We believe the best way to accomplish this is to apply the test we developed for services furnished in providers, thus ensuring consistent payment for all physician radiology services furnished to hospital inpatients. The nonphysician services associated with furnishing such radiology services will be paid for through the hospital since they must be furnished either directly or under arrangements. Therefore, we are amending § 405.555(c)(2) to ensure that the reasonable charge for any physician radiology service furnished to a hospital inpatient, regardless of the site at which the service is furnished, does not exceed 40 percent of the prevailing charge in a nonprovider setting.

F. Payment for Physicians' Services Furnished Through Independent Laboratories

Independent laboratories may furnish a variety of services to hospitals and their inpatients. Historically, these services have sometimes been paid for under Medicare Part B, in accordance with section 1861(s)(3), and have sometimes been furnished under arrangements and covered under Medicare Part A. These practices have not taken into consideration whether the service furnished through the independent laboratory included any services that qualified as physicians' service under section 1861(s)(1). In implementing section 1862(a)(14), however, we must distinguish between independent laboratory services which are nonphysician services for purposes of this provision, and which therefore must be furnished under arrangements, and any independent, laboratory services which qualify as physicians' services reimbursable on a reasonable charge basis under Part B.

In the March 2, 1983, regulations on payment for physicians' services furnished in providers, we established criteria for identifying physician laboratory services that are reimbursable on a reasonable charge basis. We believe that these criteria afford the most appropriate and consistent basis for distinguishing physicians' services reimbursable on a reasonable charge basis furnished by independent laboratories. These regulations, at 42 CFR 405.556, provide that physician laboratory services, to be reimbursable on a reasonable charge basis, must meet the requirements of § 405.550(b) (see discussion in paragraph V.C. of this preamble), and are—

- Anatomical pathology services;
- Services performed by a physician in personal administration of test devices, isotopes, or other materials to an individual patient; or
- Consultative pathology services that—
  - Are requested by the patient's attending physician;
  - Relate to a test result that lies outside the clinically significant normal or expected range in view of the condition of the patient;
  - Result in a written narrative report included in the patient's medical record; and
  - Require the exercise of medical judgment by the consultant physician.

In order to ensure that these criteria are applied to independent laboratory services furnished to hospital inpatients, we are amending § 405.556 in these interim rules by adding a paragraph explaining this application.

V. HOSPITAL PROVIDER AGREEMENTS

A. Background

Part 489 of Title 42 of the Code of Federal Regulations implements section 1866 of the Act, which specifies the terms of provider agreements and the providers that may enter into such agreements. Provider agreements are the basic legal instrument by which a provider enters into participation in the Medicare program. In these agreements providers agree to comply with the requirements of the Act, Title XVIII and related programs. If we find that a provider has not complied with those requirements and the implementing regulations, we may terminate the provider agreement, and thus terminate the provider's participation in the Medicare program.

Section 602(f) of Pub. L. 98–21 added three new paragraphs to section 1866(a)(1) of the Act. All three of these paragraphs refer explicitly to hospitals, rather than providers in general. They provide, in addition to the other requirements of section 1866, that in order to participate in Medicare and receive Medicare payment, a hospital must file an agreement with the Secretary—

(F) in the case of hospitals which provide inpatient hospital services for which payment may be made under subsection (c) or (d) of section 1886, to maintain an agreement with a utilization and quality control peer review organization (if there is such an organization which has a contract with the Secretary under part B of title XI for the area in which the hospital is located) under which the organization will perform functions under that part with respect to the review of the validity of diagnostic information provided by such hospital, the completeness, adequacy, and quality of care provided, the appropriateness of admissions and discharges, and the appropriateness of care provided for which additional payments are sought under section 1886(d)(5), with respect to inpatient hospital services for which payment may be made under part A of this title (and for purposes of payment under this title, the cost of such agreement to the hospital shall be considered a cost incurred by such hospital in providing inpatient services under part A, and (i) shall be paid directly by the Secretary to such organization on behalf of such hospital in accordance with a rate per review established by the Secretary, (ii) shall be transferred from the Federal Hospital Insurance Trust Fund, without regard to amounts appropriated in advance in appropriation Acts, in the same manner as transfers are made for payment for services provided directly to beneficiaries, (iii) shall be not less than an amount which reflects the rates per review

established in fiscal year 1982 for both direct and administrative costs (adjusted for inflation), and (iv) shall not be less in the aggregate for a fiscal year than the aggregate amount expended in fiscal year 1982 for direct and administrative costs (adjusted for inflation)) of such reviews.

(G) in the case of hospitals which provide inpatient hospital services for which payment may be made under subsection (b) or (d) of section 1886, not to charge any individual or any other person for inpatient hospital services for which such individual would be entitled to have payment made under part A but for a denial or reduction of payments under section 1886(f)(2), and

(H) in the case of hospitals which provide inpatient hospital services for which payment may be made under this title, to have all items and services (other than physicians' services as defined in regulations for purposes of section 1862(a)(14)) (i) that are furnished to an individual who is an inpatient of the hospital, and (ii) for which the individual is entitled to have payment made under this title, furnished by the hospital or otherwise under arrangements (as defined in section 1861(w)(1)) made by the hospital.

In addition to these new provisions, section 1886 was amended to conform generally to the prospective payment system established by Pub. L. 98–21. As a result, we must also make conforming changes in our regulations at Part 489.

B. Changes Affecting Basic Provider Agreement Commitments

In these interim regulations, we are amending Part 489 to eliminate inappropriately restrictive references to reasonable cost reimbursement (see § 489.3), and are amending § 489.20 (dealing with the basic commitments providers must make in their agreements) to add specific reference to the new commitments hospitals must make under sections 1866(a)(1) (F), (G) and (H).

Further, we are adding new language to § 489.21 (Specific limitations on charges) to reflect the requirements of the prospective payment system in general. This will take the form of a new paragraph (e), referring to inpatient hospital services paid for under the prospective payment system, and a new paragraph (f), referring to nonphysician services furnished to hospital inpatients. The new § 489.21(e) specifies that a hospital may not charge a beneficiary for inpatient hospital services for which the beneficiary would be entitled to have prospective payment made but for a denial or reduction in payments as a result of admissions or quality review. (See § 405.47 of this chapter or section 1886(f) of the Act.)

A new § 489.20(d) specifies that all Medicare covered services furnished to hospital inpatients, other than physician services reimbursable on a reasonable charge basis under § 405.550(b), must be furnished by the hospital or by others under arrangements made with them by the hospital. A new § 489.21(f) specifies that the hospital may not charge or permit others to charge for these services.

C. Waiver of Requirements of Section 1866(a)(1)(H)

Section 602(k) of Pub. L. 98–21 temporarily authorizes waiver, in certain circumstances, of the requirement that nonphysician inpatient hospital services be furnished either directly or under arrangements. Section 602(k) reads as follows:

(k) The Secretary of Health and Human Services may, for any cost reporting period beginning prior to October 1, 1986, waive the requirements of sections 1862(a)(14) and 1866(a)(1)(H) of the Social Security Act in the case of a hospital which has followed a practice, since prior to October 1, 1982, of allowing direct billing under part B of title XVIII of such Act for services (other than physician services) so extensively, that immediate compliance with those requirements would threaten the stability of patient care. Any such waiver shall provide that such billing may continue to be made under part B of such title but that the payments to such hospital under part A of such title shall be reduced by the amount of the billings for such services under part B of such title. If such a waiver is granted, at the end of the waiver period the Secretary may provide for such methods of payments under part A as is appropriate, given the organizational structure of the institution.

Since we are implementing section 1866(a)(1)(H) through amendments to our regulations governing provider agreements, we are also implementing this waiver authority through regulations in Part 489. This also ensures applicability of these requirements and waivers to all hospitals participating in Medicare, including not only hospitals paid under the prospective payment system, but those paid under reasonable cost reimbursement (regulations at 42 CFR Part 405, Subpart D), demonstrations, or the new regulations (published elsewhere in this issue of the **Federal Register** in 42 CFR Part 403 on State cost control systems implementing section 1886(c) of the Act.

We are establishing in these final rules a new § 489.23 that sets forth criteria for a waiver under section 602(k), specifies how a hospital must apply, and gives the terms that a hospital and its suppliers must meet under a waiver agreement. Essentially, to qualify for a waiver, a hospital must have allowed extensive billing under Part B for services furnished to inpatients before October 1, 1982, and must demonstrate that certain criteria we have established to determine whether this practice was so extensive that the hospital's immediate compliance with section 1862(a)(14) is impossible and that a sudden change in attempting to so comply would threaten the stability of patient care.

The first criterion is that a hospital must show that the outside suppliers' reasonable charges for nonphysician services in the hospital's base period must have been at least 125 percent of the reasonable cost of the nonphysician ancillary services furnished to Medicare inpatients by the hospital, exclusive of the costs for operating room, recovery room, labor and delivery room, and drugs and medical supplies charged to patients. Second, the hospital must show that at least three ancillary services furnished for its inpatients have been provided by outside suppliers and billed directly under Medicare Part B.

In developing these criteria, we relied on the clear intent expressed in the Senate Finance Committee Report (S. Rept. No. 98–23, 98th Congress, 1st Session, 50 (1983)) and the House Committee on Ways and Means Report (H. Rept. No. 98–25, 98th Congress, 1st Session, 138 (1983)). Congress intended that the waiver of the requirements of sections 1862(a)(14) and 1866(a)(1)(F) be granted in relatively few cases, that the administrative burden be limited, and yet that flexibility be provided for hospitals that currently do permit extensive Part B billing for inpatient services furnished to their inpatients.

We believe the 125 percent criterion is a reasonable measure of whether a significant proportion of services have been billed under Part B. By excluding from the comparison those ancillary services that generally are not reimbursable under Part B for hospital inpatients, the criterion recognizes that certain ancillary services must be furnished by the hospital and, at the same time, assures that the Part B billings are extensive for those services that can be billed by an outside supplier. The second criterion is based on the expectation expressed in the House Report that a change in billing arrangements for one or two services would not create hardship (H. Rept. 98–25, page 138).

The regulations also require that a hospital must show that its suppliers have agreed to certain conditions. First, the suppliers must agree to bill only for services for which payment may be made under Part B. This condition has the effect of limiting the waiver only to services that are covered under Part B and of protecting the beneficiary from being billed for services, such as drugs,

which would be covered under Part A if furnished by the hospital but cannot be covered under Part B when billed by an outside supplier.

Other requirements are necessary to enable us to make the required reduction in the hospital's prospective payment amounts to reflect Part B billings. Under section 602(K), we must reduce Medicare Part A payments to a hospital for the amount of Part B billings for nonphysician services furnished to the hospital's inpatients. To implement this requirement, we are requiring a hospital to show that its suppliers have agreed to the following practices:

- To bill the program directly (even if assignment is not taken) for services furnished to Medicare beneficiaries;
- To submit a bill within 30 days of a beneficiary's discharge;
- To specify on the bill that the services were furnished to an inpatient of a particular hospital; and
- To identify the nonphysician services that were furnished and the charge for each service.

VI. CONFORMING CHANGES

A. Explanation

The preamble to this interim final rule discusses many amendments, additions, and changes to our regulations as published in 42 CFR Chapter IV. There are a number of other changes that must be made in the CFR to make it consistent with the prospective payment system and the statutory changes made by Pub. L. 98–21.

In order to make clear the actual changes we are making in HCFA regulations as codified in the CFR, we are providing the following discussion, including some brief explanations of additions, deletions, and amendments to the regulations that are not discussed elsewhere in this document, but which are necessary and appropriate for the consistent implementation of Pub. L. 98–21. We are also including some technical corrections not directly related to the prospective payment system.

B. Introduction to Subpart D—§ 405.401

Because we have decided to incorporate the main prospective payment regulations in Subpart D, it is necessary to revise § 405.401, which serves as a general introduction to the entire Subpart. In addition, we are amending the table of contents of Subpart D by adding center headings designed to ease finding of the applicable sections of the regulations.

As revised, § 405.401 summarizes the applicability, structure, and scope of the provisions of Subpart D. In this section, we point out which providers and which cost will be reimbursed on a reasonable cost basis, and which will be paid on a prospective basis. We also point out special rules applying to ESRD facilities, teaching hospitals, and the costs of physician services to hospitals.

C. Methods of Apportionment Under Title XVIII—§ 405.404

The apportionment regulations set forth in § 405.404 are either obsolete or repetitive of regulations in §§ 405.452 (Cost related to patient care) and 405.453 (Adequate cost data and cost finding). Therefore, we are deleting this section.

D. Cost of Educational Activities—§ 405.421

Under section 1886(a)(4) of the Social Security Act, costs of approved educational activities will continue to be reimbursed on a reasonable cost basis. We have defined approved educational activities as those meeting the criteria of and within the scope of 42 CFR 405.421, Cost of Educational Activities. However, § 405.421(d) distinguishes only orientation and on-the-job training as not being within the scope of this regulation. Prior to the prospective payment system, this distinction was not significant, since training costs not within the scope of § 405.421, as well as costs of approved educational activities, were reimbursed on a reasonable cost basis.

This is no longer true for hospitals paid under the prospective payment system, since any training costs incurred by a hospital which are within the scope of § 405.421 will continue to be reimbursed on a reasonable cost basis, while costs not within the scope of the regulation will be considered part of inpatient operating costs to be included in the prospective payment rates. As the regulation now stands, costs of many types of training activities, which we do not consider within the scope of the regulation, will nonetheless qualify for separate reasonable cost reimbursement in addition to the prospective payments.

Therefore, it is important that we clearly differentiate between approved educational activities in which a hospital may be engaged and other training costs a hospital may incur. Approved educational activities are already adequately addressed. These activities are defined in § 405.421(b), while § 405.421(e) (and § 405.116(f)) list recognized approved medical and paramedical programs. Further, § 405.421(f) recognizes there may be additional approved training programs in which a provider is engaged.

On the other hand, other training activities are not adequately addressed in the regulations at §§ 405.421(d) and 405.451. To better define these activities, we are listing common examples of such training, currently listed in the Provider Reimbursement Manual section 416 (i.e., costs of a medical library, refresher and post-graduate programs, part-time education, educational workshops and training in use of medical appliances), in the regulations in § 405.421(d).

E. Grants, Gifts, and Income From Endowments—§ 405.423

Medicare policy concerning the treatment of grants and gifts has been in a state of transition for some time. As a general rule, grants and gifts that have been restricted by the donor to pay for a specific operating cost (or group of costs) have been used to reduce that cost. However, a number of exceptions to the general rule on the treatment of restricted contributions have been administratively established and implemented over time. The exceptions (which represent a liberalization of the rule) have resulted from situations where strict application of the general rule would not yield an equitable or desirable effect. These exceptions have included:

- Seed money grants;
- Deficit financing grants;
- Grants for primary care education programs;
- Contributions which benefit only non-Medicare patients; and
- Capital assets purchased with donated funds.

Except for grants for primary care education programs, the exceptions are not contained in the regulations, although they are being applied by the Medicare intermediaries.

The Omnibus Reconciliation Act of 1980 (Pub. L. 96–499) contained a provision dealing specifically with hospital philanthropy. Section 901 set out the same general rule pertaining to those contributions which shall not be offset as our regulations contain. In addition, the section reaffirmed the Secretary's authority not to offset those types of donor-restricted grants and gifts which the Secretary finds, in the best interests of needed health care, should be encouraged.

The intent behind the general rule pertaining to restricted contributions is to prevent providers from receiving double payment for a given cost—once from the contribution and once from Medicare—and to permit the Medicare program to derive the same benefit from the contribution as do others. We believe the general rule no longer has a significant impact on Medicare program outlays.

Hospitals are the largest beneficiary of restricted grants and contributions. Under the prospective payment system, the treatment of the grants and contributions for purposes of determining reasonable cost will not affect Medicare reimbursement for inpatient operating services.

Since the offset of donor restricted contributions appears to dilute the effect of the contribution, it may discourage private philanthropy. Because we believe it is in the best interests of needed health care to increase private sector support of health care institutions, we are eliminating § 405.423. As a result, restricted grants and gifts will no longer be used to offset costs effective with cost reporting periods beginning on or after October 1, 1983.

F. Compensation of Owners—§ 405.426

Existing regulations at § 405.426(d) state payment requirements that do not need to be incorporated in such regulations. Paragraph (d)(1) includes requirements concerning sole proprietorships that are implicit in other regulations at § 405.426(c)(2). Paragraph (d)(2) sets forth special rules on the compensation paid corporate "owners".

However, our program instructions in section 2305 of the Provider Reimbursement Manual (HCFA Pub. 15–1) provide rules applicable to liquidation of short-term liabilities that are sufficient to safeguard against abuse in this area. Therefore, we are deleting paragraph (d) from § 405.426.

G. Allowance in Lieu of Specific Recognition of Other Costs—§ 405.428

The provisions of this regulation have not been applicable to cost reporting periods beginning after June 30, 1969. It has long been obsolete, and we are therefore repealing it.

H. Return on Equity Capital—§ 405.429

Currently, we allow proprietary providers (as described in § 405.429(a)(2)) a reasonable return on equity capital invested and used in the provision of patient care. For these providers, we allow the amount of such a return as an amount in addition to the reasonable cost of covered services. This return on equity capital is being treated as a capital-related cost for the rate of increase ceiling (§ 405.463), and the prospective payment system.

Under regulations at § 405.429, we have, since 1966, determined the amount of the allowable return on equity "by applying to the provider's equity capital a percentage equal to one and one-half times the average of the rates of interest on special issues of public debt obligations issued to the Federal Hospital Insurance Trust Fund for each of the months during the provider's reporting period or portion thereof covered under the program". (§ 405.429(a)(1))

However, section 1886(g)(2) of the Act, added to title XVIII by Pub. L. 98–21, enacted April 20, 1983, provides that the amount of allowable return on equity capital related to inpatient hospital services shall "be equal to amounts otherwise allowable under regulations in effect on March 1, 1983, except that the rate of return to be recognized shall be equal to the average of the rates of interest, for each of the months any part of which is included in the reporting period, on obligations issued for purchase by the Federal Hospital Insurance Trust Fund." This provision is effective for cost reporting periods beginning on or after the date of enactment, that is, April 20, 1983.

We issued appropriate instructions revising chapter 12 of the Provider Reimbursement Manual (HCFA Pub. 15–1, Transmittal 292) in July, 1983. In addition, we are making conforming changes to our regulations at § 405.429(a)(1), in order to make clear that the rate of return on equity capital related to inpatient hospital services, as calculated for cost reporting periods beginning before April 20, 1983, is calculated in an identical manner, but set at a reduced level, for cost reporting periods beginning on or after April 20, 1983. No other regulatory changes are necessary to implement section 1886(g)(2) of the Act.

I. Inpatient Routine Nursing Salary Differential—§ 405.430

Section 103 of TEFRA eliminated this differential effective with services furnished on or after October 1, 1982. As a result, § 405.430 does not affect cost reporting periods ending on or after September 30, 1983. Therefore, we are eliminating this section effective October 1, 1983.

J. Physical and Other Therapy Services Furnished Under Arrangements—§ 405.432

Section 1861(v)(5) of the Act specifies that the reasonable cost of therapy services furnished under arrangements shall not exceed the amount that would be payable on a salary-related basis. The statutory provision is intended to control program expenditures and to prevent abuse. This abuse generally occurs by therapists contracted by other providers who have little or no financial incentive to control therapy costs. Since the costs of providing therapy services under arrangement are operating costs, the salary equivalency guidelines will not be applicable to inpatient hospital services covered under the prospective payment system. With respect to hospitals that are excluded from the prospective payment system, we believe that the rate of increase limitation under § 405.463 establishes a definite incentive to provide services in a prudent and cost-conscious manner and that the guidelines are unnecessary to assure that the requirement of Section 1861 (v)(5) is met with respect to inpatient hospital services. Therefore, effective with cost reporting periods beginning on or after October 1, 1983, inpatient hospital services will be excepted, under a new provision at § 405.432(f)(4), from the guidelines if the costs of the therapy services furnished under arrangements are subject to the provisions of §§ 405.463 or 405.470. The guidelines will continue to apply to services furnished to outpatients and to patients of a hospital-based SNF or hospital-based HHA, as well as for other providers reimbursed on a reasonable cost basis.

K. Swing-Bed Hospitals—§§ 405.434 and 405.452

On July 20, 1982, we published interim final regulations (with a comment period), implementing section 904, the "swing-bed" provision, of Pub. L. 96–499 (47 FR 31518).

This provision allowed certain small rural hospitals to use their inpatient facilities to furnish skilled nursing facility (SNF) services to Medicare and Medicaid beneficiaries, and intermediate care facility (ICF) services to Medicaid beneficiaries. These hospitals are reimbursed for SNF and ICF services at rates appropriate to those services, which are generally lower than hospital rates. Special Medicare reimbursement rules for swing-bed hospitals were established at § 405.434, and special provisions for determining the appropriate cost of hospital and SNF services for purposes of Medicare reimbursement were added to § 405.452, Determination of cost of services to beneficiaries.

Those regulations governing Medicare reimbursement for swing-bed hospital services were based on reasonable cost reimbursement principles. However, under the prospective payment system, swing-bed hospitals are not excluded from prospective payment for the inpatient hospital services they furnish, and therefore we must change our method for paying swing-bed hospitals for inpatient hospital services. Since the prospective payment system applies only to payment for inpatient hospital services, the swing-bed regulations on

Medicare reimbursement for SNF-type routine and SNF-type ancillary services furnished in a swing-bed hospital will not change. That is, routine SNF-type services will continue to be reimbursed based on the prior calendar year Statewide Medicaid rate, and ancillary services furnished to swing-bed patients will continue to be reimbursed on a cost basis.

Under the present system, routine service costs applicable to swing-bed patients are subtracted (that is, carved-out) from total inpatient general routine service costs before computing the cost of furnishing routine services to hospital inpatients. The carve-out calculation is not appropriate under the prospective payment system because Medicare reimbursement for inpatient hospital services will not be based on cost. Swing-bed hospitals subject to the prospective payment system will be paid like any other hospital and the carve-out provision will not be applied.

Therefore, in these interim final regulations, we are amending existing swing-bed regulations as follows:

- § 405.434(c)(3) is revised to provide that the cost of swing-bed ancillary services will be determined in the same manner as the reasonable cost of other ancillary services furnished by the hospital which are not inpatient services.
- The provisions of § 405.452(b)(3) (now located at § 405.452(b)(2)) are being revised to stipulate that the carve-out method for computing general routine inpatient hospital service costs does not apply to swing-bed hospitals that are subject to prospective payment.

L. Costs of Services to Beneficiaries—§ 405.452

Most of the provisions of § 405.452 have become obsolete. We are deleting those provisions and reorganizing the rest of the regulation.

M. Private Room Cost Differential—§ 405.452

We are amending the Medicare regulations on cost apportionment (42 CFR 405.452) to revise the methodology for computing reimbursement for inpatient general routine service costs. The regulations now provide that for cost reporting periods beginning October 1, 1982, or later, that in computing reimbursement for inpatient routine services, the difference in costs between private and semiprivate accommodations will be reimbursed only when private rooms are furnished to Medicare beneficiaries for medically necessary reasons. For hospitals subject to the prospective payment system, it will no longer be necessary to determine the higher costs of private rooms since the same amount per discharge will be paid regardless of whether private or semiprivate accommodations are provided. (Hospitals will, however, continue collecting the private room charge differential when private rooms are requested and are not medically necessary.)

N. Cost Data and Cost Finding—§ 405.453

Section 405.453(g) sets forth rules on outstanding current financing payments. All such cases involving current financing are now referred to either the General Accounting Office or to the Department of Justice for collection. Removal of this provision for future cost reporting periods will not affect the status of existing overpayment cases.

O. Lower of Cost or Charges—§ 405.455

We are revising the regulations at 42 CFR 405.455 to provide that the lower of cost or charges (LCC) provision will not apply to the determination of payment for Part A Medicare inpatient hospital services under either the rate of increase or the prospective payment system. With respect to the rate of increase provision, section 1886(b) of the statute, enacted by section 101 of TEFRA effective for cost reporting periods beginning on or after October 1, 1982, provides that the rate of increase ceiling provisions are to be applied in determining payment for inpatient operating costs notwithstanding section 1814(b) which is the LCC provision. With respect to hospitals subject to the prospective payment system, payment for inpatient operating costs is to be made on the basis of a fixed amount per discharge rather than on the basis of the lower of reasonable costs or charges.

We are discontinuing application of the lesser of cost or charges rule with respect to all Part A Medicare inpatient hospital services, effective October 1, 1982, rather than suspending application of the rule for only the operating costs of inpatient hospital services. "Operating costs of inpatient hospital services" are defined under the statute as "all routine operating costs, ancillary services operating costs and special care unit operating costs with respect to inpatient hospital services." Operating costs exclude capital-related costs, and costs allocated by a hospital to approved medical education programs, such as nursing school or approved intern and resident programs, on its Medicare cost report. In order to apply the lesser of cost or charges rule to capital-related costs, and costs of medical education programs, we would have to identify separate charges for these costs. However, hosptials generally do not establish separate charges for these types of costs. Therefore, we would be imposing a significant new recordkeeping burden on hospitals if we were to apply the lesser of cost or charges rule to these costs. For this reason, we have chosen to discontinue application of the lesser of cost or charges rule with respect to all Part A Medicare inpatient hospital services furnished in cost reporting periods beginning on or after October 1, 1982.

We do not permit any unreimbursed costs from a prior cost reporting period to be recovered in any cost reporting period in which the allowable costs for that cost reporting period will exceed the cost limits established for inpatient hospital operating costs under 42 CFR 405.460. Therefore, we are also revising 42 CFR 405.455(d)(1) to state that we will not permit unreimbursed costs from a prior cost reporting period to be recovered in a current cost reporting period if the allowable costs of the current cost reporting period will exceed the rate of increase ceiling under 42 CFR 405.463.

P. Hospital Cost Limits–§ 405.460

Pub. L. 98–21 enacted section 1886(a)(1)(D) of the Act to provide that cost limits on hospital inpatient operating costs established under section 1886(a) would not apply to hospital cost reporting periods beginning on or after October 1, 1983. We had implemented section 1886(a) by amending our regulations at 42 CFR 405.460, which had been established to implement the cost limits authorized by section 1861(v)(1)(A) of the Act, as amended by section 223 of Pub. L. 92–603.

We are now further amending § 405.460 to provide that it does not apply to the operating costs of inpatient hospital services furnished in cost reporting periods beginning on or after October 1, 1983. With this one qualification, section 405.460 continues in effect unchanged, and we will continue to issue cost limits on SNF and HHA services under its authority. Further, we could at a future date, issue limits on hospitals' reimbursable costs, such as outpatient or capital-related costs, under the authority of § 405.460 and section 1861(v)(1) of the Act.

Q. Rate of Increase Limit—§ 405.463

In addition to establishing the prospective payment system, Title VI of Pub. L. 98–21 amended section 1886(b) of the Act which is implemented by regulations at § 405.463. Section 601(b) of Pub. L. 98–21 provided that:

- The rate of increase limit would continue indefinitely instead of being limited to 3 years duration;
- The target rate percentage must be based on a prospective estimate of the market basket increase;
- The rate of increase ceiling applies to all hospitals excluded from the prospective payment system under section 1886(d) of the Act; and
- The existing provisions on the FICA adjustment, which had not been implemented, were repealed, and a new paragraph 1886(b)(6) was added to the Act providing for adjustment of base period costs to account for FICA taxes incurred by a hospital that had not incurred such taxes in its base period.

In addition, section 601(a) of Pub. L. 98–21 amended the definition of inpatient operating costs for all hospitals under Medicare (see amended section 1886(a)(4) of the Act); therefore, changes are required in the rate of increase ceiling regulations.

As a result of these statutory amendments, we are amending § 405.463 in several ways:

- We are deleting all references to the inapplicability of the rate of increase limits to cost reporting periods beginning on or after October 1, 1985. Section 405.463 will now apply indefinitely.
- We are clarifying the costs subject to the ceiling, representing that for cost reporting periods beginning on or after October 1, 1983, only capital-related costs and the direct costs of approved medical education programs will be excluded from the ceiling. Hospitals must treat such costs consistently with treatment in their base period.
- We are providing that the target rate percentages by which target amounts will be determined will be published in a quarterly **Federal Register** notice. Target rate percentages will still be prorated for cost reporting periods that span portions of two calendar years. Further, we have made it explicit in the regulations that we will not retroactively adjust the prospectively set target rate percentages if the actual increase in the market basket differed from the estimate.

R. Physician Compensation Limits—§ 405.482

On March 2, 1983, we published in the **Federal Register** (48 FR 8902) final regulations on payment for physician services furnished in providers. (On May 31, 1983, we also published a notice (48 FR 24308) delaying the effective date of those rules from May 31, 1983, to October 1, 1983, coinciding with the effective date of these regulations.) Among other provisions, those regulations established reasonable compensation equivalent (RCE) limits on the amount of physician compensation allowable under Medicare for furnishing services to providers, implementing section 1887(a)(2) of the Act, enacted by section 108 of TEFRA.

Since March 2, 1983, Pub. L. 98–21 established the prospective payment system implemented in these regulations. Conforming changes made to section 1887(a)(1) by section 602(i) of Pub. L. 98–21 ensured that payment for physician services to included would be in prospective payments for inpatient hospital services. However, section 1887(a)(2) was not amended and applies only to cost reimbursement. As a result, RCE limits do not apply to the operating costs of inpatient hospital services paid for under the prospective payment system.

Therefore, we are amending § 405.482 to provide that the RCE limits do not apply to physician compensation related to inpatient hospital services paid for under the prospective payment system. As a result, we will apply these limits to inpatient operating costs, beginning October 1, 1983, only to hospital cost reporting periods, or portions thereof, that are not subject to the prospective payment system. However, even after a hospital comes under the prospective payment system, the RCE limits will apply to the hospital's outpatient costs.

S. Physician's Assumption of Provider Operating Costs—§ 405.550(e).

This provision was also added by the March 2, 1983 rules on payment for physician services furnished in providers. This paragraph had differing effective dates as set forth in § 405.550(e)(2) due to the impact of its provisions on lease arrangements, particularly the long-established relationships. Generally, these rules were to be effective June 30, 1983, but for such arrangements that predated the Medicare program, application of these rules was delayed until March 2, 1985. The rules made no provision for separate treatment of services based on the inpatient or outpatient status of provider patients.

As noted above, Pub. L. 98–21 established a new section 1862(a)(14), affecting services furnished to hospital inpatients, including those furnished by leased departments. In order to evaluate the relationships between the prospective payment legislation and the March 2, 1983 rules, the effective date of the entire package was delayed until October 1, 1983. The May 31 **Federal Register** notice (48 FR 24308) that announced this delay was not specific on the application of the rules to providers which would have qualified for the March 2, 1985 effective date.

The question now being addressed is whether the rules in § 405.550(e) should be applied with respect to services furnished to outpatients in those hospitals in which lease arrangements were established before July 1, 1966. We have decided that in view of the requirement of section 1862 (a)(14) and the exception to that requirement made available under section 602(k) of Pub. L. 98–21, we are deleting paragraph (e)(2). Thus, the March 2, 1985 effective date is not applicable to any hospital services. Hospitals that are granted the special waiver for the 3-year transition period under section 602(k) of Pub. L. 98–21 may continue to have such arrangements for outpatient services as well. No requests for exceptions from compliance with section 405.550(e) for services to outpatients will be considered.

In addition, we are making minor changes in the language of the other provisions of paragraph (e) to conform to the prospective payment system.

T. Payment for Anesthesia Services Furnished Directly by a Physician

Medicare policy has permitted payment for a physician's personally furnished anesthesiology services and anethetist services furnished "incident to" a physician's service in the same way, that is, on a reasonable charge basis under Part B, and in the same amount, that is, the reasonable charge for such service has been the same for an individual physician whether the service was personally furnished or furnished by an anesthetist in his or her employ. The final rules published on March 2, 1983, limited the number of concurrent services furnished by anesthetists that would qualify for reasonable payment. This limitation applied to services furnished "incident to" a physician's service. (We also, for the first time, provided for payment on a reasonable charge basis for a physician's medical direction of CRNAs not in his or her employ, but this change is not pertinent to this discussion.) Further, we provided a specific method for determining the reasonable charge for a physician's concurrent service.

We assumed that generally it would be understood that the method established in §§ 405.552 and 405.553 would apply when the carrier determined the reasonable charge for an anesthesiology service that was personally furnished by a physician. However, we did not explicitly provide this in our regulations. It is, of course, necessary to determine reasonable

charges for similar services in the same way. The carrier considers, in determining a reasonable charge, both the physician's customary charge for the service and the prevailing charge for the service in the locality. The prevailing charge is intended, among other things, to cover 75 percent of the customary charges made for similar services in the same locality during a specified period. It is only possible to do this if our carriers use a single system.

In the case of anesthesia, since physicians generally vary their charge for anesthesia services based on the duration of the surgery, the system we (and many Blue Shield Plans) use recognizes this factor. The majority of anesthesiologists bill charges that are derived from procedure-specific base units to which they add units for time intervals, e.g., 10, 12, or 15 minutes of elapsed time. They multiply the total units (e.g. base plus time) by a dollar amount to arrive at their charge for an individual service. Hence, our carriers base the customary and prevailing charges for anesthesiology services on the dollar amount multiplier because this is the sole constant factor used by most anesthesiologists nationwide. This is the applicable method for determining Medicare reasonable charges for personally furnished anesthesiology services, services of anesthetists that are "incident to" an anesthesiologist's services, and when applicable, for the "medical direction" an anesthesiologist furnishes to anesthetists who are not in his employ.

After publication of the March 2, 1983 final rules we received comments on how this would apply to physicians furnishing services directly, since there are some who do not set their charges this way. We have discussed those comments and our response to them in the notice on payment for physician services published elsewhere in this issue of the **Federal Register**. As a result, we are amending our regulations at §§ 405.552 and 405.553 to explicitly refer to services furnished by a physician without the assistance of an anesthetist. This conforms those provisions to our original intent, and ensures consistent payment for anesthesia services.

(**Note:** See section IV. D. of this preamble for other changes affecting payment for anesthesia services.)

U. Reimbursement of Health Maintenance Organizations (HMOs)—§ 405.2041(d)

We are amending paragraph (d) of § 405.2041 to delete inappropriate references to reasonable cost reimbursement. This regulation allows an HMO to elect to have providers of services that furnished covered services to the HMO's enrollees paid directly by Medicare. The HMOs will continue to have this election regarding hospitals paid under the prospective payment system.

V. Lifetime Reserve Days—§ 409.65(e)

Medicare provides coverage of up to 90 days of inpatient hospital services in a benefit period. Days of inpatient hospital services count toward this limit without regard to whether the beneficiary chooses to have Medicare pay for them. In addition, each beneficiary has a lifetime reserve of 60 additional days of inpatient hospital coverage to draw on after he or she uses the 90 days in a benefit period. Medicare payment is made for these additional days of hospital care after the 90 days of benefits have been exhausted, unless the beneficiary elects not to have such payment made (and thus save his or her reserve days for a later time). Under existing regulations at § 409.65, the beneficiary may, subject to certain restrictions, file an election not to use his or her lifetime reserve days for a particular hospital stay or part of a stay.

The option not to use lifetime reserve days for part of the nonoutlier portion of a stay, in conjunction with the prospective payment provisions, would give the beneficiary an advantage in the use of his or her lifetime reserve days not contemplated by the statute. Under § 405.470(b)(2) of the prospective payment regulations, the full prospective payment, exclusive of outliers, will be made for each stay during which the beneficiary receives at least one day of payable care. Thus, under the existing rules, a beneficiary would need to use only one lifetime reserve day for each hospital stay in order to have full prospective payment made on his or her behalf for the stay, not including outlier days, and could save the other reserve days to ensure full prospective payment for up to 59 additional hospital stays.

To avoid this unwarranted expansion of Medicare coverage, we are revising § 409.65(e) of the regulations to provide that if a beneficiary has exhausted his or her regular coverage in the benefit period, any election not to use lifetime reserve days under the prospective payment system must apply either to the entire stay, to all outlier days, or to all outlier days after a specified date. On the other hand, if a beneficiary has one or more days of regular coverage available upon entering the hospital, there will be no advantage in using lifetime reserve days, and he or she will be deemed not to use them, for days which are not outlier days. In this situation, the beneficiary may also elect not to use lifetime reserve days for outlier days but this election must apply either to all outlier days or to all outlier days after a specified date.

W. Technical Corrections

1. On April 5, 1983, we published final rules on coverage of services that are reimbursable under automobile medical, no-fault, or liability insurance, and services to ESRD beneficiaries covered under employer group health plans (48 FR 14802), adding new §§ 405.322 through 405.329 to Subpart C of our regulations. However, we did not at that time amend § 405.301, Scope of subpart, to reflect the new sections. Since we are amending Subpart C in these regulations, we are also correcting the oversight by adding appropriate language to § 405.301.

2. On March 2, 1983, we published in the **Federal Register** (48 FR 8902) final regulations on payment for physician services furnished in providers such as hospitals, skilled nursing facilities, and comprehensive outpatient rehabilitation facilities. Among other changes, those regulations established new §§ 405.550 to 405.556 to Subpart E, setting forth rules on payment on a reasonable charge basis for physicians' services to individual patients furnished in providers.

In these regulations, we are amending portions of those new sections of Subpart E, in order to implement the prospective payment system. However, since publication of those rules on March 2, 1983, we have also found the following technical errors in the regulations text published in that document, and are taking this opportunity to correct them. In § 405.550(d)(2), the word "applicable" was omitted before "conditions in §§ 405.552, 405.554, and 405.556". In § 405.554(b), a cross-reference to "§ 405.551(e)(2)" should have referred the reader to "§ 405.550(e)(2)". We erroneously stated in § 405.556(a) that certain rules would apply to "laboratory services furnished by a physician to an individual inpatient", when, in fact, it was clear from the preamble that we intended those rules to apply to all patients who received services in the provider, whether on an inpatient or outpatient basis. This document corrects that error by changing the term "inpatient" to "patient" in § 405.556(a).

VII. OTHER REQUIRED INFORMATION

A. Effective Dates

These interim final regulations are effective October 1, 1983.

In accordance with section 604(a)(1) of Pub. L. 98–21, these rules will generally apply to hospital cost reporting periods beginning on or after October 1, 1983. This is true of all the regulatory provisions, in particular §§ 405.470 through 405.477, that implement the prospective payment system for inpatient hospital services, and for other conforming changes except as specified.

The interim regulations implementing the "unbundling" provisions of Pub. L. 98–21, that is, sections 1862(a)(14) (added to Act by section 602(e)(3) of the 1983 amendments) and section 1866(a)(1)(H) (added to the Act by section 602(f)(1) of the 1983 amendments), are applied to items and services furnished on or after October 1, 1983, regardless of hospital cost reporting periods, in accordance with section 604(a)(2) of Pub. L. 98–21. This affects the amendments to §§ 405.301(m), 489.21, and 489.23.

In accordance with section 1886(g)(2) of the Act, enacted by section 601(e) of Pub. L. 98–21, the amendments to § 405.429 will be applied for cost reporting periods beginning on or after April 20, 1983.

The provisions of § 405.453(f)(3), relating to changes in cost reporting periods, implement section 604(a)(1) of Pub. L. 98–21 and are effective for cost reporting periods ending on or after the date of publication of these interim rules.

The amendments to § 405.455, referring to payment of the lesser of costs or charges, will be applied to all inpatient hospital services furnished in cost reporting periods beginning on or after October 1, 1982.

Section 602(h)(2) of Pub. L. 98–21 amended section 1878(f)(1) of the Act regarding group appeals. These statutory amendments are self-implementing and were effective April 20, 1983. Therefore, our conforming amendments to regulations in §§ 405.1837, 405.1841, and 405.1877 cite that effective date and will be applied to such appeals as of April 20, 1983.

B. Waiver of 30-day Delay of Certain Effective Dates

As noted above, certain provisions of these interim rules will take effect without a 30-day delay in effective date. The amendments to § 405.429, Return on equity capital of proprietary providers; § 405.1837, Group Appeal; § 405.1841, Time, place, form, and content of request for Board hearing; and § 405.1877, Judicial review, will be applied as of April 20, 1983. The amendments to §405.455, Amount of payments where customary charges for services furnished are less than reasonable cost, will be applied to cost reporting periods beginning on or after October 1, 1982. The provisions of § 405.453(f)(3) relating to changes in cost reporting periods will be applied to cost reporting periods ending on or after the date of publication of these interim rules.

Generally, the Administrative Procedure Act requires us to provide a 30-day delay of a substantive rule (except for a rule that grants or recognizes an exemption or relieves a restriction), unless we find good cause and publish it with the rule (5 U.S.C. 553(d)). We have found good cause to waive this 30-delay for each of the regulation sections cited above.

Regarding § 405.429, section 1886(g)(2) of the Act specifies the applicable date. That statutory requirement is clear and self-implementing. Our amendment to § 405.429 merely conforms our published regulation to existing law and practice. A 30-day delay in implementing this amendment is unnecessary and would violate the statute.

The amendments to section 1878(f)(1) of the Act, requiring conforming changes to §§ 405.1837, 405.1841, and 405.1877, are also effective on the date of enactment of Pub. L. 98–21, April 20, 1983. Further, these changes are procedural, rather than substantive, and the provisions of the law are clear and self-implementing. Therefore a 30-day delay in effective date is unnecessary and impracticable.

The amendment to § 405.453, adding paragraph (3) regarding changes in cost reporting periods, is necessary to implement section 604(a)(1) of Pub. L. 98–21. It is primarily procedural, is necessary to ensure appropriate entry of hospitals into the prospective payment system, and is consistent with the intent of the law. Therefore, a 30-day delay in effective date is unnecessary and not in the public interest.

We have also found a delay in the effective date of § 405.455 to be unnecessary and impracticable. In implementing section 101 of TEFRA, which established a new section 1886 of the Act effective October 1, 1982, we provided, in accordance with the law, that the rate of increase limit implemented by § 405.463 would apply to inpatient hospital services without regard to the lesser of costs or charges provisions of section 1814(b) of the Act, as implemented in § 405.455 (§ 405.463(d)(1)). However, we did not make conforming changes to § 405.455 at the time we implemented § 405.463. As a result, § 405.455 has lacked substantial effect on payments for inpatient hospital services furnished in cost reporting periods beginning on or after October 1, 1982. The amendments made in these interim rules are merely conforming changes that reflect existing law and practice.

C. Waiver of Proposed Rulemaking

The Administrative Procedure Act (5 U.S.C. 553) requires us to publish general notice of proposed rulemaking in the **Federal Register**, and afford prior public comment on proposed rules. Such notice includes a statement of the time, place, and nature of rulemaking proceedings, reference to the legal authority under which the rule is proposed, and the terms or substance of the proposed rule or a description of the subjects and issues involved. However, this requirement does not apply when an agency finds good cause that such a notice-and-comment procedure is impracticable, unnecessary, or contrary to the public interest, and incorporates a statement of the finding and its reasons in the rules issued.

These interim final rules include many amendments to our regulations. Generally, these amendments are necessary for the timely implementation of the prospective payment system established by section 1886(d) of the Act. As such, affording a proposed rulemaking process is impracticable, not in the public interest, and would violate the provisions of Pub. L. 98–21. Section 604(c) of Pub. L. 98–21 requires us to publish in the **Federal Register**, no later than September 1, 1983, interim final rules and an interim final notice of prospective payment rates for purposes of implementing section 1886(d) effective October 1, 1983. (The statute also requires us to afford a period of public comment on the interim final rules and rates, and to affirm or modify them, after considerations of comments, by December 31, 1983.) Therefore, we find good cause to waive proposed rulemaking for those regulatory provisions that are necessary to implement section 1886(d).

Section 1886(d) is primarily implemented by the new regulation provisions in §§ 405.414, 405.470 through 405.477, the amendments to various regulations such as those on utilization review, provider appeals, and lifetime reserve days necessary to avoid direct conflict with the prospective payment system, and the notice of prospective payment rates for hospital cost reporting periods beginning in Federal fiscal year 1984, which is published as an addendum to these interim rules. However, we believe that proper implementation of Pub. L. 98–21 and the prospective payment system

necessitates amendments to other regulations, both to prevent perverse interactions between existing rules and rules implementing prospective payment, and to ensure that the objectives of the prospective payment system are realized. As a result, we are including in these interim final rules a number of amendments to existing regulations that do not directly implement section 1886(d). In each case, however, we believe there is adequate justification for including these amendments with the prospective payment regulations, waiving proposed rulemaking and issuing them in interim final form.

The amendments to §§ 405.310(m), 489.21, and 489.23 implement provisions of sections 602 (e), (f), and (k) of Pub. L. 98–21 that have a statutory effective date of October 1, 1983 under section 604(a)(2) of Pub. L. 98–21. These provisions prohibit the "unbundling" of inpatient hospital services, as discussed in section IV of this preamble, and provide for waiver of that prohibition in certain circumstances. In addition, as also discussed in section IV, we have determined that it is necessary to amend §§ 405.550(e), 405.552, 405.553, 405.555, and 405.556, relating to reasonable charge payments for certain specialist physicians' services furnished in providers, to ensure that these charges appropriately exclude payment for inpatient hospital services furnished by nonphysicians. Implementation of these amendments as of October 1, 1983 is necessary to ensure that payments for inpatient hospital services under the prospective payment system is consistent from hospital to hospital. Because of the statutory effective date and the effect of these provisions on the implementation of section 1886(d) of the Act, we find that affording prior public comment before issuing these regulations in interim form is impracticable and not in the public interest.

Similarly, the amendments to § 405.463, Ceiling on rate of hospital cost increases, implement amendments to sections 1886 (a) and (b) of the Act made by sections 601 (a) and (b) of Pub. L. 98–21. Under section 604(a)(1) of Pub. L. 98–21, these amendments are effective for items and services furnished in cost reporting periods beginning on or after October 1, 1983. Further, since hospitals and distinct part units excluded from the prospective payment system will generally be subject to the rate of increase limits implemented by § 405.463, we believe it is necessary to implement these amendments concurrently with the implementation of the prospective payment system. Therefore, we have found that proposed rulemaking procedures are impracticable and not in the public interest.

We are also amending § 405.421 to clarify the definition of allowable costs for medical education, because certain medical education costs are excluded from payment under the prospective payment system. This was not necessary before, since all the costs were reimbursed on the same reasonable cost basis. However, under the prospective payment system, failure to properly define those medical education costs, for which payment in addition to prospective payments is permitted, could result in unnecessary and inappropriate payments. We have found that prevention of this adverse effect requires rulemaking on an interim basis concurrently with the prospective payment rules. Therefore, we find proposed rulemaking impracticable and not in the public interest.

Several other amendments implement recent statutory changes. These include § 405.429, Return on equity capital; § 405.430, Inpatient routine nursing salary cost differential; § 405.1837, Group appeal; § 405.1841, Time, place, form, and content of request for Board hearing; and § 405.1877, Judicial review. Since these statutory changes are clear and self-implementing, the amendments to these regulations are not necessary to implement section 1886(d). However, in view of the large number of changes we are making in payment practices, and the inevitable confusion that will occur during the initial implementaton of the prospective payment system, we do not believe that it is necessary or in the public interest to delay amending regulations to afford public comment when we have already changed our practices to implement the statute. Therefore, we have found good cause to include these technical and procedural (as opposed to substantive) amendments in these interim rules.

For similar reasons, we have decided to eliminate certain provisions of our Subpart D regulations that are outdated and no longer applied. These include § 405.404 Methods of apportionment under Title IVIII; the provisions of § 405.426(d), Compensation of owners, related to sole proprietorships; § 405.428, Allowance in lieu of specific recognition of other costs; most of the provisions of § 405.452, Costs of services to beneficiaries; and the provisions of paragraph (g) of § 405.453, Cost data and cost finding, relating to outstanding current financing payments. Since formal elimination of these provisions will have no adverse impact, and will not in fact result in changes in our payment practices, we find proposed rulemaking unnecessary.

Finally, we are also amending certain provisions of the Subpart D regulations in order to eliminate certain specialized limits on the costs of inpatient hospital services. We believe that these limits are contrary to the objectives of the prospective payment system. The sections affected by these amendments include § 405.423, Grants, gifts, and income from endowments; § 405.432, Physical and other therapy services furnished under arrangements; § 405.455, Amount of payments where customary charges for services furnished are less than reasonable cost; and the provisions of § 405.452, Determination of cost of services to beneficiaries, related to the private room cost differential. For reasons discussed above, we are eliminating § 405.423 entirely. We are amending the other sections in more limited ways: Sections 405.432 and 405.452 are being amended to ensure that they do not apply to hospitals paid under the prospective payment system, and § 405.455 is being amended to provide that the lesser of cost or charges provision does not apply to the costs of inpatient hospital services. We believe that the incentives established by the prospective payment system and rate of increase limits will appropriately restrain the costs of such services without the necessity for such intrusive rules on specific costs. Further, these amendments relieve existing restrictions and will simplify and improve program administration. Therefore, we find that delay of these amendments to afford comment before they take effect is unnecessary and contrary to the public interest.

For the above reasons, we find good cause to waive notice and public procedure before implementation of these interim final rules.

D. Paperwork Reduction Act

Certain sections of these regulations contain information collection requirements that are subject to the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3507). As required by that act, HCFA requested Office of Management and Budget (OBM) approval of these requirements. Under 44 U.S.C. 3507(g), OBM granted approval for 90 days after the date of publication of the regulations (September 1, 1983) under the following control numbers:

Section	Control Number
§ 405.476(d)(2)	0938-0306
§ 405.1042(c)	0938-0305
§§ 405.1627 and 405.1629	0938-0306
§ 489.23(b)(2) and (c)	0938-0304
§ 405-476(b)	0938-0309

We will submit a request for continued approval of the information collection requirements to OMB and will publish a notice in the **Federal Register** before the expiration of the interim OMB approval date when the continued approval is obtained.

The reporting requirements on base-year adjustments described in § 405.474(b)(2)(ii) and in section V. A.1. of the addendum are approved by EOMB. The control number is 0938-0288. The form that collects this data is the HCFA-1008, "Transmittal of Supplementary Information for Determination of the Target Amount Under the Medicare Prospective Payment System".

E. Public Comments

We are providing an opportunity for comment on these interim final rules in accordance with requirements in section 604(c)(1) of Pub. L. 98-21. Although these rules generally will be effective on October 1, 1983, regardless of comments received by that date, we will consider all comments received by the date specified in the "Dates" section of this preamble in the development of the final rules, which is to be published by December 31, 1983. Because of the large number of comments we receive, we cannot acknowledge or respond to them individually.

VIII. IMPACT ANALYSES

A. Executive Order 12291 and the Regulatory Flexibility Act

Executive Order 12291 requires that a regulatory impact analysis be performed on any major rule. A "major rule" is defined as one which would:

- Result in annual effect on the national economy of $100 million or more;
- Result in a major increase in costs or prices for consumers, any industries, any government agencies, or any geographic regions; or
- Have significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or import markets.

The Regulatory Flexibility Act requires that a regulatory flexibility analysis be prepared when a notice of proposed rulemaking is utilized. For purposes of the Regulatory Flexibility Act, small entities include all nonprofit and most for-profit hospitals.

Under both the Executive Order and the Regulatory Flexibility Act, such analyses must, when prepared, examine regulatory alternatives which minimize unnecessary burden or otherwise assure that regulations are cost-effective.

We are treating these regulations as a major rule under Executive Order 12291. Although the statute requires that the prospective payment system be budget neutral in fiscal years 1984 and 1985, we anticipate that the changed incentives of the system will result in annual program savings exceeding $100 million in subsequent years. Accordingly, the Executive Order definition of a "major rule" is met. The major features of the prospective payment system are specified in the statute, and we do not have administrative discretion to develop alternatives to them. The statute does allow the Secretary some administrative discretion in the implementation of the prospective payment system, and we will examine these provisions in another part of this analysis.

Because of the extensive changes in our methods of paying for inpatient hospital services under this rule, we are providing the following discussion which, combined with the rest of this preamble, constitutes a preliminary regulatory impact analysis and a preliminary and voluntary regulatory flexibility analysis. We solicit comments and factual information that would enable us to describe and quantify in greater detail the effects of the rule in the final analyses.

B. Nature of the Problem of Increased Health Care and Hospital Costs

Numerous studies have highlighted the dynamic growth in health care spending in the United States, particularly the rapid increase in Medicare program hospital costs. These cost issues have been, for many years, a focal point of discussion and action on the part of all levels of government and various sections of the health care industry. Of concern to us is that these increasing Medicare expenditures constrain the ability of the Federal government to fund other needed programs.

Hospital care represents a significant portion of present and projected health care expenditures. The cost increases experienced by hospitals, and the Medicare program, appear to be caused by several factors. Primary among these is general inflation in the economy. Inflation contributes significantly to the rapid rise in hospital costs particularly with regards to employee salaries and hospital supplies and equipment. A second contributing factor is the absence of traditional supply and demand forces operating to curb excessive expenditures. As third-party payors of medical care, including Medicare, cover an increasing portion of consumer medical care costs, the normal restraints on utilization and price that in other sectors of the economy are provided, in part, by consumers' capacity to pay, have been weakened. Decreasing consumer financial risk when medical care decisions are made tends to increase consumer demand for medical care services; this further exacerbates excessive health care expenditures.

A third factor is Medicare's current cost reimbursement system, which by its very nature tends to aggravate this cost problem. The economic incentives of this system contribute to cost increases by rewarding hospitals and physicians who increase utilization and thus their allowable reimbursable costs. There is little incentive for hospitals and physicians to operate more efficiently as all allowable costs are fully reimbursed.

A fourth factor that contributes to cost increases is the growth and increasing age of the beneficiary population.

As the percentage of the aged rises in contrast to the general population, the intensity and the costs of services rise because of the increased prevalence of chronic conditions and the incidence of serious illness common to the elderly. This trend can be seen especially among persons aged 75 years and over, an ever-increasing portion of the beneficiary population.

The combined effect of these factors is the explosion of overall health care utilization and expenditures, and of particular interest to the Medicare program, its payments for hospital care provided to beneficiaries.

C. Prospective Payment System as the Best Response to Certain Problems Related to Medicare Hospital Rate of Increase

Prospective payment rates begin to address increased hospital utilization by providing hospitals with a fixed set of payment rates for each type of discharge. Prospective rates represent a set of prices with characteristics similar to the prices a hospital would face in a more conventional market. The hospital knows the amount it will be paid per discharge and that the payment rate will remain unchanged regardless of its own cost experience. Of importance to the Medicare program, is that a prospective payment system will tend to restructure

the current incentives that influence the use of hospital resources and, therefore, the amount of Medicare payments for inpatient hospital services. As a means of restraining hospital expenditure growth, prospective payment places hospitals at risk in terms of the management of their operations and the use of their resources. Thus, we believe that this system will begin to address some of the serious problems inherent in the present cost reimbursement payment methodology and, therefore, will allow us to better manage the Medicare program and preserve the integrity of the trust funds.

Under this rule, hospital payment will be related to the treatment provided to each patient. However, since patients have different diagnoses, require different treatments, are of different ages, and differ in other ways, it is important that the payment system explicitly adjust for these differences. The failure of any system to account for these differences would severely harm certain types of hospitals.

In recognition of these concerns, Congress has determined that these differences will be accommodated by the use of diagnosis related groups (DRG) as the basis of payment determinations. This patient classification system has been under development at Yale University since 1969 and has been used in New Jersey's hospital reimbursement system since 1979.

DRGs offer the following advantages that will allow us to make prospective payment in full to hospitals for services provided to Medicare beneficiaries:

- The category definitions cover virtually the entire patient population;
- The groupings have been extensively reviewed by physicians for clinical coherence throughout their development;
- The DRGs conform closely to the organization (by clinical specialty) of the delivery of inpatient care in the hospital;
- The DRGs group those inpatient cases together which are generally quite similar in use of resources; and
- The DRGs allow inpatient records to be easily classified by an efficient computer program using readily available discharge abstract data.

Congress concluded that, based on these considerations, the DRG prospective payment system is the best available response to the problems of increased hospital expenditures currently experienced by the Medicare program.

D. Economic Impacts

As noted above, this analysis constitutes a voluntary regulatory impact analysis and a voluntary regulatory flexibility analysis. This portion of the analysis will discuss our estimates of the various impacts that are likely to result from the prospective payment system. We will discuss the impact on hospitals and beneficiaries and also examine the effect of this system on Medicare program operations. Finally, we will discuss the impacts resulting from other provisions within this final rule.

- *Hospital Impact*—During its first two years, aggregate payments under the prospective payment system will be adjusted, in accordance with Section 1886(e)(1) of the Act, to be "budget neutral"; that is, so that aggregate payments under the prospective payment system, including outlier payments, exceptions, and adjustments, will be neither more nor less than the estimated payment amounts to affected hospitals that would have resulted under the Social Security Act as in effect before April 20, 1983. During the three years of the transition period, payment rates to about 5500 hospitals will be a blend of hospital-specific amounts based on each hospital's cost experience, and Federal amounts based on the averaged experience of hospitals. (See section III. C. of the preamble.) The initial impact of the prospective payment system will be like the impact that would have occurred to affected hospitals under the TEFRA provisions, because the hospital-specific portion of the first year's rate will be set at 75 percent of the TEFRA target amount. However, this impact will gradually change during the transition period, as the hospital-specific portion of the payment rate will be set at an increasingly lower percentage of each fiscal year's TEFRA target amounts. To correspond to the budget neutrality provision of the law, this estimated impact assumes no change in hospitals' economic behavior in response to this system.

However, prospective payment systems will change the economic incentives that influence a hospital's decisions in the use of resource inputs for each case. The profit potential inherent in this system alone should encourage hospitals to begin changing their behavior to decrease their operating costs. We believe that individual hospitals with lower current year operating costs per case will probably do better under this system than hospitals that cannot reduce or control these costs.

We also anticipate minimal differential impacts between hospitals in the first year, compared to the impact under the TEFRA provisions. Since we are required to use a transition period payment formula that blends both hospital-specific cost experience and Federal rates, the differential impact resulting from bed size or other economic factors, should not be significant between hospitals. This difference in impacts could be more pronounced in the long-run relative to each hospital's ability to respond to the incentives of this payment system.

The following provisions in the legislation seek to further moderate the impact of the prospective payment system.

- *Three-year Transition Period*—The phase-in process will not only reduce the possibility of a hospital experiencing extreme losses or profits during the initial years of this payment system, but it will also offer a financial incentive for improved hospital productivity throughout this period.
- *Blending of National and Regional Prospective Payment Rates*—During the second and third years of the transition period, the Federal portion of the prospective payment rates will be determined by using a blend of regional standardized amounts for urban and rural areas in addition to the national standardized amounts. This blending recognizes that there are some regional variations that exist in the cost of providing hospital care.
- *Other Provisions*—Other considerations aimed at moderating any impact include the exclusion of certain costs, wage adjustments, additional payments for the indirect costs of approved graduate medical education programs and additional payments for unusually long stay or costly cases.

We believe that hospitals can also temper any impact they experience resulting from this payment system. Several examples of management strategies that could be used by a hospital include:

- Management control systems that allow managers to formulate and monitor various efforts at improving the performance of individual cost centers. These control systems would provide information about the cost influencing variables that impact on a hospital's performance;
- Improving medical data processing and billing routines. The task of accurately coding and processing medical records is important in any hospital setting. Under prospective payment, medical records will become crucial because they indicate the

diagnoses, procedures, and factors used in determining which DRGs should be assigned and, therefore, how much a hospital is paid; and

• Examining the present relation of hospital management and attending physicians to determine the appropriate extent of physician involvement in the management control process. This is necessary because of the direct authority attending physicians have over inputs per case, which are key components of any hospital's costs. Also, there is demonstrable variation in treatment patterns among physicians according to various physician characteristics, such as specialty, Board certification, and age, which must be considered in selecting management strategies.

In the implementation of this system, we exercised some discretion in designing the following provisions with potential impact on hospitals. Alternative, non-selected criteria are discussed elsewhere in this preamble. Our rationale for these decisions is discussed below:

• *Criteria for Excluded Hospitals*—In establishing these criteria, we determined that a restrictive definition for excluded hospitals was preferred. A precise definition reduces potential administrative problems with intermediary billing determinations and ensures that appropriate payment is made to each hospital.

• *Exceptions and Adjustments Criteria*—We have adhered to the statute concerning exceptions and adjustments in developing these criteria. We believe that this decision preserves the integrity of the prospective payment system by limiting the number of hospitals that might receive an exception or an adjustment. To allow for numerous exceptions and adjustments could alter the payment amounts to other prospective payment hospitals in a manner not intended by Congress in requiring a budget neutral position. This definition will also cause hospitals to focus on ways to reduce operating costs instead of seeking ways to gain exceptions or adjustments.

• *Criteria for Waiver of Nonphysician Services Requirement*—Effective October 1, 1983, all non-physician inpatient services must be furnished under Part A directly by the hospital or billed to the hospital by the outside supplier. The statute gives the Secretary authority to waive this requirement and permit continued Part B billing during the transition period where the services have been so extensively billed under Part B that immediate compliance would threaten the stability of patient care. We selected a stringent approach in implementing this provision to ensure that a limited number of hospitals will operate under this waiver prior to October 1, 1986. To grant waiver status to others would result in administrative difficulties and increased costs in facilitating the billing requirements of such an arrangement.

• *Establishing Prospective Payment Prices*—The law is very specific regarding how prices shall be determined for operating costs of inpatient hospital services. However, some technical discretion is required to develop many of the technical features of the payment system. In developing this system we believe that we are using the best methodology available.

• *"Incident To" Provision*—Section 602(e)(3) of Pub. L. 98–21 establishes a new section 1862(a)(14) of the Act and provides the statutory authority, we believe, to include services "incident to" physicians' services furnished to hospital patients as hospital services paid for from the Part A trust fund instead of as Part B physicians' services. We are exercising our discretion in this manner to ensure consistency in determining which services are to be paid as hospital services and which services can be billed separately under Part B.

We believe that our discretion in all of these cases will result in cost-effective outcomes and will preserve the integrity of the prospective payment system.

• *Operational Impact*—To implement the prospective payment system, intermediaries will be required to make some changes in their claims processing system, increase auditing activities, and train providers to submit appropriate forms. The intermediaries will be reimbursed in full for their costs. The estimated incremental administrative costs for implementing and operating the prospective payment plan are: $27.5 million in FY 1983, $17 million in FY 1984, and $3.8 million in FY 1985.

• *Beneficiary Impact*—We believe that Medicare beneficiaries will be affected by the prospective payment system in several ways. First, their financial liability will remain limited to the coinsurance and deductible payments mandated by Congress. However, some beneficiaries will be advantaged by our prohibiting the "unbundling" of Part A services (as discussed in section IV of the preamble). Their previous Part B coinsurance payments for these services would now be eliminated as these services are now considered inpatient hospital services subject to the prospective payment methodology.

Second, we anticipate that quality of care for beneficiaries will be maintained or improved. Quality of care is protected in a number of ways separate from this regulation, and results of several recent studies indicate that prospective payment programs operating to date have not compromised the quality of care provided in hospitals, even while such programs generally reduce the intensity of care provided to patients. In addition, insofar as prospective payment encourages specialization in certain services, we believe treatment may be improved for beneficiaries and other patients. And insofar as prospective payment acts to constrain cost increases, it will contribute to maintaining the affordability and accessibility of quality care.

We intend to monitor admission and physician practice patterns to ensure that beneficiaries continue to receive care that is reasonable and necessary and of good quality.

• *Impact of Other Provisions*

—Section 1886(c) of the Social Security Act sets forth the conditions and procedures under which Medicare payment will be made for hospital services under State reimbursement control systems. This provision immediately impacts hospitals in four States (New York, Massachusetts, Maryland and New Jersey). The impact of this provision is examined in the Impact Analysis section of the "Recognition of State Reimbursement Control Systems" final rule published separately in another **Federal Register** issue.

—Section 601(b) of Pub. L. 98–21 amends section 1886(b) of the Act. This amendment sets forth target rate percentages needed to limit the rate of increase on hospital inpatient operating costs and related updating factors for use in computing the hospital-specific portions of transition payment rates under the prospective payment system. The impact resulting from this provision is examined in the final notice for "Schedule of Target Rate Percentages" published elsewhere in this **Federal Register** issue.

—We have noted several conforming changes in section VI. of the preamble. These changes must be made to make our existing regulations consistent with the objectives of the prospective payment system and the statutory changes made by Pub. L. 98–21. We are also including some technical corrections that have no economic impact.

We believe that apart from the return on equity capital provision (§ 405.429), these changes do not result in significant

economic impacts. We estimate that the amendment to the return on equity capital provision will generate $100 million in savings in FY 1984 and $115 million in FY 1985. However, this impact results from the statute (section 1886(g)(2) of the Act) and not this regulation, which merely implements the statute.

E. Benefits

This change in our payment methods will result in numerous net benefits to society and to the Medicare program. In the near term, these benefits will probably not result in a significant impact on the economy. Due to our phasing-in of the payment system, the full extent of the anticipated benefits will be realized when the system is fully operational and hospitals have implemented cost-effective management strategies in response to the system.

Included among these benefits are:

- Restructuring the economic incentives facing the health care system to establish market like forces;
- Restraining hospital cost increases which will preserve the integrity of the Medicare trust funds and the financial status of other payors;
- Adopting an active role on behalf of Medicare beneficiaries, in determining payment made for inpatient services. This will establish the Federal government as a prudent buyer of services;
- Payment being based upon the type of discharge will identify, more accurately than the present system, the product being purchased on behalf of Medicare beneficiaries. This approach over time will have desirable effects regarding hospitals' decisions on which services to provide.
- A strong link between payment and diagnosis, along with the ability for hospitals to retain any amounts by which their prospective payment rates exceed their costs. This will invite more active medical participation in the financial and operating routines of hospitals; and,
- Providers being able to identify, in terms of revenue to the institution, what services they deliver well and what services they do not provide efficiently.

F. Conclusion

Taken together, these statutory and regulatory provisions and the flexibility these rules provide hospitals mean that these rules meet the objectives of E. O. 12291 and the Regulatory Flexibility Act, including:

- Minimization of significant economic impact on small entities, including use of timetables, adjustments for geographic and other differences, and use of performance rather than design standards; and
- Choosing alternatives involving the least net cost to society, taking into account the conditions of the hospital industry.

List of Subjects

42 CFR Part 405

Administrative practice and procedure, Certification of compliance, Clinics, Contracts (Agreements), End-Stage Renal Disease (ESRD), Health care, Health facilities, Health maintenance organizations (HMO), Health professions, Health suppliers, Home health agencies, Hospitals, Inpatients, Kidney diseases, Laboratories, Medicare, Nursing homes, Onsite surveys, Outpatient providers, Reporting requirements, Rural areas, X-rays.

42 CFR Part 409

Blood, Health insurance, Home health, Hospitals, Inpatients, Medicare, Nursing homes.

42 CFR Part 489

Clinics, Health care, Health facilities, Medicare, Provider Agreements, Rural health clinics, Termination procedures.

42 CFR Chapter IV is amended as set forth below:

A. Part 405 is amended as follows:

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

1. Subpart A is amended as set forth below:

Subpart A—Hospital Insurance Benefits

a. The authority citation for Subpart A is revised to read as follows:

Authority: Secs. 1102, 1814, 1815, 1861, 1866(d), and 1871 of the Social Security Act (42 U.S.C. 1302, 1395f, 1395g, 1395x, 1395cc(d), and 1395hh).

b. Section 405.162 is revised to read as follows:

§ 405.162 Prohibition against payment for inpatient hospital services furnished after utilization review finding that further services are not medically necessary.

(a) *Hospital system of utilization review.* If a finding has been made under a hospital system of utilization review (see §§ 405.1035 and 405.1042) that further inpatient hospital services are not medically necessary, payment may be made only for those inpatient hospital services furnished before the fourth day following the day on which the hospital received notice of the finding.

(b) *PSRO and PRO system of review.* If a Professional Standards Review Organization (PSRO) or a Utilization and Quality Control Peer Review Organization (PRO) has assumed review responsibility in accordance with the applicable provisions of § 405.472 and of Part 463 of this chapter for the inpatient hospital services furnished by or in the hospital, the payment limitation described in § 463.17(a) applies to the inpatient hospital services furnished to a beneficiary and shall be in lieu of the payment limitation in paragraph (a) of this section.

(c) If a hospital is paid for inpatient hospital services under the prospective payment system established by §§ 405.470 through 405.477, the payment limitation in paragraph (a) of this section applies only in cases otherwise eligible for outlier payment under § 405.475 if the utilization review committee determines that—

(i) Excess days of care furnished in the case of a length of stay outlier are not necessary to furnish services covered under Medicare Part A; or

(ii) Additional items and services furnished in the case of a high cost outlier are either not covered or not necessary to furnish services covered under Medicare Part A.

c. Section 405.163 is amended by redesignating the previously uncoded paragraph as paragraph (a), revising it, and adding a new paragraph (b). As revised the section reads as follows:

§ 405.163 Prohibition against payment for inpatient hospital services furnished after 20th consecutive day by a hospital which has failed to make timely utilization review.

(a) When HCFA has determined that a hospital has substantially failed to make timely utilization review in long stay cases and has imposed the limitation on days of services provided in section 1866(d), no payment may be made under this Subpart A for inpatient hospital insurance services furnished by such hospital to any individual after the 20th consecutive day on which such services have been furnished to him if the individual is admitted after the effective date of such determination.

(b) HCFA will not make a finding of failure to make timely utilization review, as described in paragraph (a) of this section, that would have the effect of altering prospective payment amounts determined under §§ 405.473, 405.474, and 405.476.

2. Subpart C is amended as set forth below:

Subpart C—Exclusions, Recovery of Overpayment, Liability of a Certifying Officer and Suspension of Payment

a. The authority citation for Subpart C is revised to read as follows:

Authority: Secs. 1102, 1815, 1833, 1842, 1862, 1866, 1870, 1871, and 1879 of the Social Security Act (42 U.S.C. 1302, 1395g, 1395l, 1305u, 1395y, 1305cc, 1395gg, 1395hh, 1395pp), and 31 U.S.C. 3711.

b. Section 405.301 is revised to read as follows:

§ 405.301 Scope of subpart.

Sections 405.310 to 405.320 describe certain exclusions from coverage applicable to hospital insurance benefits (Part A of Title XVIII) and supplementary medical insurance benefits (Part B of Title XVIII). The exclusions in this subpart are applicable in addition to any other conditions and limitations in this Part 405 and in Title XVIII of the Act. Sections 405.322 to 405.325 relate to exclusion of services covered under automobile medical, no-fault, or liability insurance. Sections 405.326 to 405.329 relate to limitations on payment for services to ESRD beneficiaries who are covered under employer group health plans. Sections 405.330 to 405.332 relate to payments for expenses for certain items or services otherwise excluded from coverage. Sections 405.340 to 405.344 relate to limitation on payment for services furnished to employed aged and their spouses. Sections 405.350 to 405.359 relate to the adjustment or recovery of an incorrect payment, or a payment made under section 1814(e) of Part A of Title XVIII of the Act. Sections 405.370 to 405.373 relate to the suspension of payment to a provider of services or other supplier of services where there is evidence that such provider or supplier had been or may have been overpaid.

c. Section 405.310 is amended by reprinting the undesignated introductory material unchanged and adding a new paragraph (m) to read as follows:

§ 405.310 Types of expenses not covered.

Notwithstanding any other provisions of this Part 405, no payment may be made for any expenses incurred for the following items or services.

* * * * *

(m)(1) Except as provided under paragraph (m)(3) of this section, items, supplies and services furnished to hospital inpatients on or after October 1, 1983, that—

(i) Do not meet the criteria set forth in § 405.550(b) that describe services of physicians to provider patients that are reimbursable on a reasonable charge basis; and

(ii) Are not furnished by the hospital either directly or under arrangements as defined in § 409.3 of this chapter.

(2) Items, supplies, and services (other than physicians' services to individual patients) that are excluded if they are not furnished directly or under arrangements include, but are not limited to—

(i) Clinical laboratory services;

(ii) Pacemakers;

(iii) Artificial limbs, knees, and hips;

(iv) Intra-ocular lenses;

(v) Total parenteral nutrition; and

(vi) Services and supplies furnished incident to physicians' services (except for anesthetist services that continue to be billed for by a physician employer under § 405.553(b)(4)), as described in §405.231(b).

(3)(i) Except as provided in paragraph (m)(3)(ii) of this section, the items, supplies, and services described in paragraphs (m) (1) and (2) of this section—

(A) Are inpatient hospital services;

(B) May not be paid for under Medicare Part (B); and

(C) Must be billed by the hospital to its intermediary under Medicare Part A for the hospital to be paid for such services.

(ii) A hospital may seek payment under Medicare Part B for the items and services described in paragraphs (m) (1) and (2) of this section only if—

(A) No payment will be made for such items or services under Medicare Part A; and

(B) The beneficiary is entitled to have payment made for such services under Medicare Part B.

(4) HCFA may waive the requirements of paragraphs (m) (1), (2), and (3) of this section for any cost reporting period beginning before October 1, 1986, in accordance with § 489.23 of this chapter.

* * * * *

3. Subpart D is amended as set forth below:

a. The authority citation for Subpart D reads as follows:

Authority: Secs. 1102, 1814(b), 1815, 1833(a), 1861(v), 1871, 1881, 1886, and 1887 of the Social Security Act as amended (42 U.S.C. 1302, 1395f(b), 1395g, 1395l(a), 1395x(v), 1395hh, 1395rr, 1395ww, and 1395xx).

b. The table of contents of Subpart D is revised by adding undesignated center headings, removing §§ 405.404, 405.423, 405.428, and 405.430, adding a new § 405.414, and adding new § 405.470 through 405.477 to read as follows:

Subpart D—Principles of Reimbursement for Providers, Outpatient Maintenance Dialysis, and Services by Hospital-Based Physicians

Sec.
405.401 Introduction.

Reasonable Cost Reimbursement: General Rules

405.402 Cost reimbursement; general.
405.403 Apportionment of allowable costs.
405.405 Payments to providers; general.
405.406 Financial data and reports.

Specific Categories of Costs

405.414 Hospital capital-related costs.
405.415 Depreciation: Allowance for depreciation based on asset costs.
405.416 Depreciation: Optional allowance for depreciation based on a percentage of operating costs.
405.417 Depreciation: Allowance for depreciation on fully depreciated or partially depreciated assets.
405.418 Depreciation: Allowance for depreciation on assets financed with Federal or public funds.
405.419 Interest expense.
405.420 Bad debts, charity, and courtesy allowances.
405.421 Cost of educational activities.
405.422 Research costs.
405.424 Value of services of nonpaid workers.
405.425 Purchase discounts and allowances, and refunds of expenses.
405.426 Compensation of owners.
405.427 Cost to related organizations.
405.429 Return on equity capital of proprietary providers.
405.432 Reasonable cost of physical and other therapy services furnished under arrangements.
405.433 Determining allowable cost for drugs.
405.434 Reasonable cost of extended care services furnished by a swing-bed hospital.
405.435 Nonallowable costs related to certain capital expenditures.
405.436 Reimbursement of independent organ procurement agencies and histocompatibility laboratories.

Payment for Outpatient Maintenance Dialysis and Related Services

405.438 Reasonable costs of home dialysis equipment furnished between October 1, 1978, and July 31, 1983.
405.439 Payments for covered outpatient maintenance dialysis treatments.
405.440 Target rate reimbursement for home dialysis services furnished between April 1, 1979 and July 31, 1983.
405.441 Recordkeeping and cost reporting requirements for outpatient maintenance dialysis.

Additional General Rules on Reasonable Cost Reimbursement

405.451 Cost related to patient care.
405.452 Determination of cost of services to beneficiaries.
405.453 Adequate cost data and cost finding.

Sec.
405.454 Payments to providers.
405.455 Amount of payments where customary charges for services furnished are less than reasonable cost.
405.456 Payment to a foreign hospital.

Limits on Cost Reimbursement

405.460 Limitations on reimbursable costs.
405.461 Limitations on coverage of costs: charges to beneficiaries where cost limits are applied to services.
405.463 Ceiling on rate of hospital cost increases.

Payments to Teaching Hospitals

405.465 Determining reimbursement for certain physician and medical school faculty services rendered in teaching hospitals.
405.466 Payment to a fund.

Prospective Payment for Inpatient Hospital Services

405.470 Prospective payment: general provisions.
405.471 Hospitals and hospital services subject to and excluded from the prospective payment system.
405.472 Conditions for payment under the prospective payment system.
405.473 Basic methodology for determining Federal prospective payment rates.
405.474 Determining transition period payment rates.
405.475 Payment for outlier cases.
405.476 Special treatment of sole community hospitals, Christian Science sanitoria, cancer hospitals, referral centers, and renal transplantation centers.
405.477 Payments to hospitals under the prospective payment system.

Payment for Services of Physicians to Providers

405.480 Payment for services of physicians to providers: General rules.
405.481 Allocation of physician compensation costs.
405.482 Limits on compensation for services of physicians in providers.

c. Section 405.401 is revised to read as follows:

§ 405.401 Introduction.

(a) *Scope.*

(1) *General summary.* This subpart sets forth regulations governing Medicare payment for services furnished to beneficiaries by—

(i) Hospitals;

(ii) Skilled nursing facilities (SNFs);

(iii) Home health agencies (HHAs);

(iv) Comprehensive outpatient rehabilitation facilities (CORFs);

(v) End-stage renal disease (ESRD) facilities; and

(vi) Providers of outpatient physical therapy and speech pathology services (OPTs).

(2) *Applicability.* The principles of payment and the related policies described in this subpart apply to HCFA, to the fiscal intermediaries acting as payors of claims on HCFA's behalf, to the Provider Reimbursement Review Board, and to the hospitals, SNFs, HHAs, CORFs, ESRD facilities, and OPTs receiving payment under this subpart.

(b) *Reasonable cost reimbursement.* Except as provided under paragraphs (c) through (e) of this section, Medicare is generally required, under section 1814(b) of the Act (for services covered under Part A) and under section 1833(a)(2) of the Act (for services covered under Part B) to pay for services furnished by providers on the basis of reasonable costs as defined in section 1861(v) of the Act, or the provider's customary charges for those services, if lower. Regulations implementing section 1861(v) are found generally in this subpart beginning at § 405.402.

(c) *Oupatient maintenance dialysis and related services.* Section 1881 of the Act authorizes special rules for the coverage of and payment for services furnished to ESRD patients. Sections 405.438 through 405.441 implement various provisions of section 1881. In particular, § 405.439 establishes a prospective payment method for outpatient maintenance dialysis services that applies both to hospital-based and independent ESRD facilities, and under which Medicare pays for both home and infacility dialysis services furnished on or after August 1, 1983.

(d) *Payment for inpatient hospital services.*

(1) For cost reporting periods beginning before October 1, 1983, the amount paid for inpatient hospital services is determined on a reasonable cost basis.

(2) Except as provided in paragraph (e) of this section, for cost reporting periods beginning on or after October 1, 1983 the following applies:

(i) Payment to short-term general hospitals (other than children's, psychiatric, and rehabilitation hospitals, and psychiatric and rehabilitation units, as described in § 405.471(c)) located in the 50 States and the District of Columbia for the operating costs of inpatient hospital services is determined prospectively on a per discharge basis under §§ 405.470 through 405.477. Payment to these hospitals for capital-related costs (as described in § 405.414) and direct medical education costs (as described in § 405.421, with the exception of those costs described in § 405.421(d)) is made on a reasonable cost basis.

(ii) Payment to children's, psychiatric, rehabilitation and long-term hospitals (as well as separate psychiatric and rehabilitation units (distinct parts) of short-term hospitals), which are excluded from the prospective payment system under § 405.471(e), and to hospitals outside the 50 States and the District of Columbia is on a reasonable cost basis, subject to the provisions of § 405.463.

(e) *State reimbursement control systems.* Beginning October 1, 1983, Medicare reimbursement for inpatient hospital services may be made in accordance with a State reimbursement control system rather than under the Medicare reimbursement principles set forth in this subpart, if the State system is approved by HCFA. Regulations implementing this alternative reimbursement authority are set forth at 42 CFR Part 403, Subpart C.

§ 405.404 [Removed]

d. Section 405.404 is removed.

e. A new § 405.414 is added to read as follows:

§ 405.414 Capital-related costs.

(a) *General rule.* Capital-related costs and allowance for return on equity are limited to the following:

(1) Net depreciation expense as determined under §§ 405.415, 405.417, and 405.418, adjusted by gains and losses realized from the disposal of depreciable assets under § 405.415(f)(2).

(2) Taxes on land or depreciable assets used for patient care.

(3) Leases and rentals, including license and royalty fees, for the use of depreciable assets, as described in paragraph (b) of this section.

(4) The costs of betterments and improvements as described in paragraph (c) of this section.

(5) The costs of minor equipment that are capitalized, rather than expensed, as described in paragraph (d) of this section.

(6) Insurance expense on depreciable assets, as described in paragraph (e) of this section.

(7) Interest expense as determined under § 405.419, subject to the qualifications of paragraph (f) of this section.

(8) For proprietary providers, return on equity capital, as determined under § 405.429.

(9) The capital-related costs of related organizations (as described in § 405.427), as determined in accordance with paragraph (g) of this section.

(b) *Leases and rentals.* (1) Subject to the qualifications of paragraphs (b)(2) and (4) of this section, leases and rentals, including licenses and royalty fees, are includable in capital-related costs if they relate to the use of assets that would be depreciable if the provider owned them outright. The terms "leases" and "rentals of assets"

signify that a provider has possession, use, and enjoyment of the assets.

(2) A provider must include incurred rental charges in its capital-related costs, as specified in a sale and leaseback agreement with a nonrelated purchaser involving plant facilities or equipment, only if—

(i) The rental charges are reasonable based on consideration of rental charges of comparable facilities and market conditions in the area; the type, expected life, condition and value of the facilities or equipment rented; and other provisions of the rental agreements;

(ii) Adequate alternate facilities or equipment which woud serve the purpose are not or were not available at lower cost; and

(iii) The leasing was based on economic and technical considerations.

(3) If the conditions of paragraph (b)(2) of this section are not met, the amount a provider may include in its capital-related costs as rental or lease expense under a sale and leaseback agreement may not exceed the amount which the provider would have included in capital-related costs had the provider retained legal title to the facilities or equipment, such as interest on mortgage, taxes, depreciation, and insurance costs.

(4) A lease that meets the following conditions is a virtual purchase:

(i) The rental charge exceeds rental charges of comparable facilities or equipment in the area.

(ii) The term of the lease is less than the useful life of the facilities or equipment.

(iii) The provider has the option to renew the lease at a significantly reduced rental, or the provider has the right to purchase the facilities or equipment at a price which appears to be significantly less than what the fair market value of the facilities or equipment would be at the time acquisition by the provider is permitted.

(5)(i) If a lease is a virtual purchase under paragraph (b)(4) of this section, the rental charge is includable in capital-related costs only to the extent that it does not exceed the amount which the provider would have included in capital-related costs if it had legal title to the asset (the cost of ownership), such as straight-line depreciation, insurance, and interest. A provider may not include in its capital-related costs accelerated depreciation in this situation.

(ii) The difference between the amount of rent paid and the amount of rent allowed as capital-related cost is considered a deferred charge and is capitalized as part of the historical cost of the asset when the asset is purchased.

(iii) If an asset is returned to the owner, instead of being purchased, the deferred charge may be included in capital-related costs in the year the asset is returned.

(iv) If the term of the lease is extended for an additional period of time at a reduced lease cost and the option to purchase still exists, the deferred charge may be included in capital-related costs to the extent of increasing the reduced rental to an amount not in excess of the cost of ownership.

(v) If the term of the lease is extended for an additional period of time at a reduced lease cost and the option to purchase no longer exists, the deferred charge may be included in capital-related costs to the extent of increasing the reduced rental to a fair rental value.

(c) *Betterments and improvements.* (1) Betterments and improvement are changes which extend the estimated useful life of an asset at least two years beyond its original estimated useful life, or increase the productivity of an asset significantly over its original productivity.

(2) A provider must capitalize and pro-rate the costs of betterments and improvements over the remaining estimated useful life of the asset, as modified by the betterment or improvement.

(d) *Minor equipment.* A provider must include in its capital-related costs the costs of minor equipment that are capitalized rather than charged off to expense if—

(1) The net book value of minor equipment at the time the provider enters the program is pro-rated over three years (that is, one-third of the net book value is written off each year), and new purchases are also pro-rated over a 3-year period; or

(2) The cost of minor equipment is prorated over their actual useful lives.

(e) *Insurance.* (1) A provider must include in its capital-related costs the costs of insurance on depreciable assets used for patient care or insurance that provides for the payment of capital-related costs during business interruption.

(2) If an insurance policy also provides protection for other than the replacement of depreciable assets or to pay capital-related costs in the case of business interruption insurance, only that portion of the premium related to the replacement of depreciable assets or to pay capital-related costs in the case of business interruption insurance is includable in capital-related costs.

(f) *Interest expense.* (1) A provider must include in its capital-related costs interest expense, as described in § 405.419, if such expense is incurred in—

(i) Acquiring land and/or depreciable assets (either through purchase or lease) used for patient care; or

(ii) Refinancing existing debt, if the original purpose of the refinanced debt was to acquire land an/or depreciable assets used for patient care.

(2) If investment income offset is required under § 405.419(b)(2)(iii), only that portion of investment income that bears the same relationship to total investment income as the portion of capital-related interest expense bears to total interest expense is offset against capital-related costs.

(g) *Costs of supplying organizations.* (1) *Supplying organization related to the provider.*

(i) If the supplying organization is related to the provider within the meaning of § 405.427, except as provided in paragraph (g)(1)(ii) of this section, a provider's capital-related costs include the capital-related costs of the supplying organization.

(ii) If the costs of the services, facilities or supplies being furnished exceed the open market price, or if the provisions of § 405.427(d) apply, no part of the cost to the provider of the services, facilities, or supplies are considered capital-related costs, unless the services, facilities or supplies would otherwise be considered capital-related.

(2) *Supplying organizations not related to the provider.* If the supplying organization is not related to the provider within the meaning of § 405.427, no part of the charge to the provider may be considered a capital-related cost (unless the services, facilities or supplies are capital-related in nature) unless—

(i) The capital-related equipment is leased or rented by the provider;

(ii) The capital-related equipment is located on the provider's premises; and

(iii) The capital-related portion of the charge is separately specified in the charge to the provider.

(h) *Cost excluded from capital-related costs.* The following costs are not capital-related costs. To the extent that they are allowable, they must be included in determining each provider's operating costs:

(1) Costs incurred for the repair or maintenance of equipment or facilities.

(2) Amounts included in rentals or lease payments for repair or maintenance agreements.

(3) Interest expense incurred to borrow working capital (for operating expenses).

(4) General liability insurance or any other form of insurance to provide

protection other than for the replacement of depreciable assets or to pay capital-related costs in the case of business interruption.

(5) Taxes other than those assessed on the basis of some valuation of land or depreciable assets used for patient care. (Taxes not related to patient care, such as income taxes, are not allowable, and are therefore not included among either capital-related or operating costs.)

(6) The costs of minor equipment that are charged off to expense rather than capitalized as described in paragraph (d) of this section.

f. Section 405.421 is amended by revising paragraph (d) to read as follows:

§ 405.421 Cost of educational activities.

* * * * *

(d) *Activities not within the scope of this principle.* The costs of the following activities are not within the scope of this principle but are recognized as normal operating costs and are reimbursed in accordance with applicable principles—

(1) Orientation and on-the-job training;

(2) Part-time education for bona fide employees at properly accredited academic or technical institutions (including other providers) devoted to undergraduate or graduate work;

(3) Costs, including associated travel expense, of sending employees to educational seminars and workshops which increase the quality of medical care or operating efficiency of the provider;

(4) Maintenance of a medical library;

(5) Training of a patient or patient's family in the use of medical appliances; and

(6) Other activities which do not involve the actual operation or support (except through tuition or similar payments) of an approved education program including the costs of interns and residents in anesthesiology who are employed to replace anesthetists.

* * * * *

§ 405.423 [Removed]

g. Section 405.423 is removed.

§ 405.426 [Amended]

h. Section 405.426 is amended by removing paragraph (d).

§ 405.428 [Removed]

i. Section 405.428 is removed.

j. Section 405.429 is amended by revising paragraph (a) to read as follows:

§ 405.429 Return on equity capital of proprietary providers.

(a) *Principle* (1) *Rate of return.*

(i) A reasonable return on equity capital invested and used in the provision of patient care is paid as an allowance in addition to the reasonable cost of covered services furnished to beneficiaries by proprietary providers.

(ii) Except as provided in paragraph (a)(1)(iii) of this section, the amount allowable on an annual basis is determined by applying to the provider's equity capital a percentage equal to one and one-half times the average of the rates of interest on special issues of public debt obligations issued to the Federal Hospital Insurance Trust Fund for each of the months during the provider's reporting period or portion thereof covered under the program.

(iii) For cost reporting periods beginning on or after April 20, 1983, the amount allowable in determining the return related to inpatient hospital services is determined using a percentage equal to the average of the rates of interest as described in paragraph (a)(1)(ii) of this section.

(2) *Proprietary providers.* For the purposes of this subpart the term "proprietary providers" is intended to distinguish providers, whether sole proprietorships, partnerships, or corporations, that are organized and operated with the expectation of earning profit for the owners, from other providers that are organized and operated on a nonprofit basis.

* * * * *

§ 405.430 [Removed]

k. Section 405.430 is removed.

l. Section 405.432 is amended by reprinting the introductory material of paragraph (f) unchanged and adding a new paragraph (f)(4), to read as follows:

§ 405.432 Reasonable cost of physical and other therapy services furnished under arrangements.

* * * * *

(f) *Exceptions.* The following exceptions may be granted but only upon the provider's demonstration that the conditions indicated are present:

* * * * *

(4) *Exemptions for inpatient hospital services.* Effective with cost reporting periods beginning on or after October 1, 1983, the costs of therapy services furnished under arrangements to a hospital inpatient will be excepted from the guidelines issued under this section if such costs are subject to the provisions of §§ 405.463 or 405.470. The intermediary will grant the exemption without request from the provider.

* * * * *

m. Section 405.434 is amended by reprinting the introductory language of paragraph (c) unchanged, and revising paragraph (c)(3), to read as follows:

§ 405.434 Reasonable cost of extended care services furnished by a swing-bed hospital.

* * * * *

(c) *Principle.* The reasonable cost of extended care services furnished by a swing-bed hospital is determined as follows:

* * * * *

(3) The reasonable cost of ancillary services furnished as extended care services is determined in the same manner as the reasonable cost of other ancillary services furnished by the hospital in accordance with § 405.452(a)(1).

n. Section 405.452 is amended by removing the existing paragraphs (a), (c), (d) and (e), revising paragraph (b) and redesignating it as paragraph (a), and adding new paragraphs (b), (c), (d), and (e). As revised the section reads as follows:

§ 405.452 Determination of cost services to beneficiaries.

(a) *Principle.* Total allowable costs of a provider shall be apportioned between program beneficiaries and other patients so that the share borne by the program is based upon actual services received by program beneficiaries. The methods of apportionment are defined as follows:

(1) *Departmental Method*—(i) *Methodology.* Except as provided in paragraph (a)(1)(ii) of this section with respect to the direct apportionment of malpractice costs, and in paragraph (a)(1)(iii) of this section with respect to the treatment of the private room cost differential for cost reporting periods starting on or after October 1, 1982, the ratio of beneficiary charges to total patient charges for the services of each ancillary department is applied to the cost of the department; to this is added the cost of routine services for program beneficiaries, determined on the basis of a separate average cost per diem for general routine patient care areas as defined in paragraph (b) of this section, taking into account, in hospitals, a separate average cost per diem for each intensive care unit, coronary care unit, and other intensive care type inpatient hospital units.

(ii) *Exception: Malpractice insurance.* For cost reporting periods beginning on or after July 1, 1979, costs of malpractice insurance premiums and self-insurance fund contributions must be separately accumulated and directly apportioned to Medicare. The apportionment must be based on the dollar ratio of the provider's Medicare paid malpractice

losses to its total paid malpractice losses for the current cost reporting period and the preceding 4-year period. If a provider has no malpractice loss experience for the 5-year period, the costs of malpractice insurance premiums of self-insurance fund contributions must be apportioned to Medicare based on the national ratio of malpractice awards paid to Medicare beneficiaries to malpractice awards paid to all patients. The Health Care Financing Administration will calculate this ratio periodically based on the most recent departmental closed claim study. If a provider pays allowable uninsured malpractice losses incurred by Medicare beneficiaries, either through allowable deductible or coinsurance provisions, or as a result of an award in excess of reasonable coverage limits, or as a governmental provider, such losses and related direct costs must be directly assigned to Medicare for reimbursement.

(iii) *Exception: Indirect cost of private rooms.* For cost reporting periods starting on or after October 1, 1982, except with respect to hospital receiving payment under § 405.470, the additional cost of furnishing services in private room accommodations is apportioned to Medicare only when these accommodations are furnished to program beneficiaries, and are medically necessary. To determine routine service cost applicable to beneficiaries.

(A) Multiply the average cost per diem (as defined in paragraph (b) of this section) by the total number of Medicare patient days (including private room days whether or not medically necessary).

(B) Add the product of the average per diem private room cost differential (as defined in paragraph (b) of this section) and the number of medically necessary private room days used by beneficiaries.

(C) The days in paragraphs (b)(iii) (A) and (B) of this section do not include private rooms furnished for SNF type and ICF services under the swing bed provision.

(2) *Carve out method.* (i) The carve out method is used to allocate hospital inpatient general routine service costs in a participating swing-bed hospital, as defined in § 405.434(b). Under this method, the total costs attributable to the SNF-type and ICF-type services furnished to all classes of patients are subtracted from total general routine inpatient service costs before computing the average cost per diem for general routine hospital care.

(ii) The cost per diem attributable to the routine SNF-type services furnished by a swing-bed hospital is based on the reasonable cost per diem for services determined in accordance with § 405.434.

(iii) The cost per diem attributable to the routine ICF services furnished by the swing-bed hospital is determined as follows:

(A) If the hospital is located in a State that provides for ICF services under Medicaid, the cost per diem for ICF services furnished by a swing-bed hospital in that State is based on the Statewide average rate paid for routine services in ICFs (other than ICFs for the mentally retarded) during the preceding calendar year under the State Medicaid plan. The Statewide average rate will be computed either by the State and furnished to HCFA, or by HCFA directly based on the best available data.

(B) If the hospital is located in a State that does not provide for ICF services under Medicaid or that does not have a Medicaid program, the cost per diem for ICF services will be based on the average ratio of the ICF rate to the SNF rate in those States that provide for both SNF and ICF services under Medicaid. The ratio will be applied to the SNF cost per diem determined under paragraph (a)(2)(ii) of this section.

(iv) The sum of (A) total SNF-type days furnished to all classes of patients multiplied by the SNF cost per diem and (B) total ICF-type days furnished to all classes of patients multiplied by the appropriate ICF cost per diem will be subtracted from inpatient general routine service costs. The cost per diem for inpatient general routine hospital care will be based on the remaining general routine service costs.

(v) Costs other than general inpatient routine service costs will be determined in the same manner as specified in the Departmental Method in paragraph (a) of this section.

(b) *Definitions.* As used in this section—

"Ancillary services" means the services for which charges are customarily made in addition to routine services.

"Apportionment" means an allocation or distribution of allowable cost between the beneficiaries of the health insurance program and other patients.

"Average cost per diem for general routine services" means the following:

(1) For cost reporting periods beginning on or after October 1, 1982, subject to the provisions on swing-bed hospitals, the average cost of general routine services net of the private room cost differential. The average cost per diem is computed by the following methodology:

(i) Determine the total private room cost differential by multiplying the average per diem private room cost differential determined in paragraph (c) of this section by the total number of private room patient days.

(ii) Determine the total inpatient general routine service costs net of the total private room cost differential by subtracting the total private room cost differential from total inpatient general routine service costs.

(iii) Determine the average cost per diem by dividing the total inpatient general routine service cost net of private room cost differential by all inpatient general routine days, including total private room days.

(2) For swing-bed hospitals, the amount computed by (i) subtracting the costs attributable to SNF-type and ICF-type services from the total allowable inpatient cost for routine services (excluding the cost of services provided in intensive care units, coronary care units, and other intensive care type inpatient hospital units, and nursery costs), and (ii) dividing the remainder (excluding the total private room cost differential) by the total number of inpatient hospital days of care (excluding SNF-type and ICF-type days of care, days of care in intensive care units, coronary care units, and other intensive care type inpatient hospital units, and newborn days and including total private room days).

"Average cost per diem for hospital intensive care type units" means the amount computed by dividing the total allowable costs for routine services in each of these units by the total number of inpatient days of care rendered in each of these units.

"Average per diem private room cost differential" means the difference in the average per diem cost of furnishing routine services in a private room and in a semi-private room. (This differential is not applicable to hospital intensive care type units.) (The method for computing this differential is described in paragraph (c) of this section.)

"Charges" means the regular rates for various services which are charged to both beneficiaries and other paying patients who receive the services. Implicit in the use of charges as the basis for apportionment is the objective that charges for services be related to the cost of the services.

"ICF-type services" means routine services furnished by a swing-bed hospital that would constitute intermediate care facility (ICF) services, as defined in § 440.150 of this chapter, if furnished by an ICF. ICF-type services are not covered under the Medicare program.

"Intensive care type inpatient hospital unit" means a hospital unit that furnishes services to critically ill inpatients. Examples of intensive care type units include, but are not limited to, intensive care units, trauma units, coronary care units, pulmonary care units, and burn units. Excluded as intensive care type units are postoperative recovery rooms, postanesthesia recovery rooms, maternity labor rooms, and subintensive or intermediate care units. (The unit must also meet the criteria of paragraph (d) of this section.)

"SNF-type services" means routine services furnished by a swing-bed hospital that would constitute extended care services if furnished by a skilled nursing facility. SNF-type services include routine services furnished in the distinct part SNF of a hospital complex that is combined with the hospital general routine service area cost center under § 405.453(d)(5).

"Ratio of beneficiary charges to total charges on a departmental basis" means the ratio of charges to beneficiaries of the health insurance program for services of a revenue-producing department or center to the charges to all patients for that center during an accounting period. After each revenue-producing center's ratio is determined, the cost of services rendered to beneficiaries of the health insurance program is computed by applying the individual ratio for the center to the cost of the related center for the period.

"Routine services" means the regular room, dietary, and nursing services, minor medical and surgical supplies, and the use of equipment and facilities for which a separate charge is not customarily made.

(c) *Method for computing the average per diem private room cost differential.* Compute the average per diem private room cost differential as follows:

(1) Determine the average per diem private room charge differential by subtracting the average per diem charge for all semi-private room accommodations from the average per diem charge for all private room accommodations. The average per diem charge for private room accommodations is determined by dividing the total charges for private room accommodations by the total number of days of care furnished in private room accommodations. The average per diem charge for semi-private accommodations is determined by dividing the total charges for semi-private room accommodations by the total number of days of care furnished in semi-private accommodations.

(2) Determine the inpatient general routine cost/charge ratio by dividing total inpatient general routine service cost by the total inpatient general routine service charges.

(3) Determine the average per diem private room cost differential by multiplying the average per diem private room charge differential determined in paragraph (c)(1) of this section by the ratio determined in paragraph (c)(2) of this section.

(d) *Criteria for identifying intensive care type units.* For purposes of determining costs under this section, a unit will be identified as an intensive care type inpatient hospital unit only if the unit—(1) Is in a hospital;

(2) Is physically and identifiably separate from general routine patient care areas, including subintensive or intermediate care units, and ancillary service areas. There cannot be a concurrent sharing of nursing staff between an intensive care type unit and units or areas furnishing different levels or types of care. However, two or more intensive care type units that concurrently share nursing staff can be reimbursed as one combined intensive care type unit if all other criteria are met. Float nurses (nurses who work in different units on an as-needed basis) can be utilized in the intensive care type unit. If a float nurse works in two different units during the same eight hour shift, then the costs must be allocated to the appropriate units depending upon the time spent in those units. The hospital must maintain adequate records to support the allocation. If such records are not available, then the costs must be allocated to the general routine services cost areas;

(3) Has specific written policies that include critiera for admission to, and discharge from, the unit;

(4) Has registered nursing care available on a continuous 24-hour basis with at least one registered nurse present in the unit at all times;

(5) Maintains a minimum nurse-patient ratio of one nurse to two patients per patient day. Included in the calculation of this nurse-patient ratio are registered nurses, licensed vocational nurses, licensed practical nurses, and nursing assistants who provide patient care. Not included are general support personnel such as ward clerks, custodians, and housekeeping personnel; and

(6) Is equipped, or has available for immediate use, life-saving equipment necessary to treat the critically ill patients for which it is designed. This equipment may include, but is not limited to, respiratory and cardiac monitoring equipment, respirators, cardiac defibrillators, and wall or canister oxygen and compressed air.

(e) *Application.* (1) *Departmental method; Cost reporting periods beginning on or after October 1, 1982.*

(i) The following example illustrates how costs would be determined, using only inpatient data, for cost reporting periods beginning on or after October 1, 1982, based on apportionment of—

(A) The average cost per diem for general routine services (subject to the private room differential provisions of paragraph (a)(1)(iii) of this section);

(B) The average cost per diem for each intensive care type unit;

(C) The ration of beneficiary charges to total charges applied to cost by department.

HOSPITAL Y

Department	Charges to program beneficiaries	Total charges	Ratio of beneficiary charges to total charges	Total cost	Cost of beneficiary services
			Percent		
Operating rooms	$20,000	$70,000	28½	$77,000	$22,000
Delivery rooms	0	12,000	0	30,000	0
Pharmacy	20,000	60,000	33⅓	45,000	15,000
X-ray	24,000	100,000	24	75,000	18,000
Laboratory	40,000	140,000	28½	98,000	28,000
Others	6,000	30,000	20	25,000	5,000
Total	110,000	412,000		350,000	88,000

	Total inpatient days	Total cost	Average cost per diem	Program in patient days	Cost of beneficiary services
General routine	30,000	$630,000	$21	8,000	$168,000
Coronary care unit	500	20,000	40	200	8,000
Intensive care unit	3,000	108,000	36	1,000	36,000
	33,500	758,000		9,200	212,000
Total					300,000

(ii) The following illustrates how apportionment based on an average cost per diem for general routine services is determined.

HOSPITAL E

Facts	Private accommodations	Semi-private accommodations	Total
Total charges	$620,000	$175,000	$195,000
Total days	100	1,000	1,100
Programs days	70	400	470
Medically necessary for program beneficiaries	20		20
Total general routine service costs			165,000
Average private room per diem charge ($20,000 private room charges ÷ 100 days)			[1] $200
Average semi-private room per diem charge ($175,000 semi-private charge ÷ 1,000 days)			[1] $175

[1] Per diem.

Average per diem private room cost differential.

1. Average per diem private room charge differential ($200 private room per diem—$175, semi-private room per diem), $25.

2. Inpatient general routine cost/charge ratio ($165,000 total costs ÷ $195,000 total charges), .8461538.

3. Average per diem private room cost differential ($25 charge differential × .8461538 cost/charge ratio), $21.15.

Average cost per diem for inpatient general routine services.

4. Total private room cost differential ($21.15 average per diem cost differential × 100 private room days), $2,115.

5. Total inpatient general routine service costs net of private room cost differential ($165,000 total routine cost −$2,115 private room cost differential), $162,885.

6. Average cost per diem for inpatient general routine services ($162,885 routine cost net of private room cost differential ÷ 1,100 patient days), $148.08.

Medicare general routine service cost.

7. Total routine per diem cost applicable to Medicare ($148.08 average cost per diem × 470 Medicare private and semi-private patient days), $69,598.

8. Total private room cost differential applicable to Medicare ($21.15 average per diem private room cost differential × 20 medically necessary private room days), $423.

9. Medicare inpatient general routine service cost ($423 Medicare private room cost differential + $69,598 Medicare cost of general routine inpatient services), $70,021.

(9) *Carve out method.* The following illustrates how apportionment is determined in a hospital reimbursed under the carve out method (subject to the private room differential provisions of paragraph (a)(1)(ii) of this section):

HOSPITAL K

[Determination of cost of routine SNF-type and ICF-type services and general routine hospital services [1]]

Facts	Days of care		
	General routine hospital	SNF-type	ICF-type
Total days of care	2,000	400	100
Medicare days of care	600	300	
Average medicaid rate	N/A	$35	$20

Total inpatient general routine service costs: $250,000

Calculation of cost of routine SNF-type services applicable to medicare:
$35 × 300 = $10,500

Calculation of cost of general routine hospital services:

Cost of SNF-type services: $35 × 400	$14,000
Cost of ICF-type services: $20 × 100	2,000
Total	$16,000

Average cost per diem of general routine hospital services:
$250,000 − $16,000 ÷ 2,000 days = $117

Medicare general routine hospital cost:
$117 × 600 = $70,200

Total medicare reasonable cost for general routine inpatient days:
$10,500 + $70,200 = $80,700

o. Section 405.453 is amended by adding a new paragraph (f)(3), and removing and reserving paragraph (g) to read as follows:

§ 405.453 Adequate cost data and cost finding.

* * * * *

(f) *Cost reports.* * * *

(3) *Changes in cost reporting periods.* A provider may change its cost reporting period only if—

(i) The provider requests the change in writing from its intermediary;

(ii) The intermediary receives the request at least 120 days before the close of the new reporting period requested by the provider; and

(iii) The intermediary determines that good cause for the change exists. Good cause would not be found to exist if the effect is to change the initial date by which a hospital would be affected by the rate of increase ceiling (see § 405.463), or be paid under the prospective payment system.

(g) [Reserved]

* * * * *

p. Section 405.454 is amended by revising paragraph (a) and adding a new paragraph (m) to read as follows:

§ 405.454 Payments to providers.

(a) *Principle.*

(1) *Reimbursement on a reasonable cost basis.* Providers of services paid on the basis of the reasonable cost of services furnished to beneficiaries will receive interim payments approximating the actual costs of the provider. These payments will be made on the most expeditious schedule administratively feasible but not less often than monthly. A retroactive adjustment based on actual costs will be made at the end of reporting period.

(2) *Payments under the prospective payment system.* For cost reporting periods beginning on or after October 1, 1983, hospitals and hospital units (see § 405.401(d)) are paid a prospectively determined rate under §§ 405.470 to 405.477 for Medicare Part A inpatient operating costs on a per discharge basis. Part A inpatient hospital operating costs include those costs (including malpractice costs) for general routine service, ancillary service, and intensive care-type unit services with respect to inpatient hospital services but exclude capital-related and direct medical education costs. Payments for capital-related and direct medical education applicable to inpatient costs that are payable under Part A, for certain kidney acquisition costs of renal transplantation centers (see § 405.2102(e)(1)), and for medical and other health services furnished to inpatients under Part B and outpatient services with respect to such hospitals and hospital units continue on a reasonable basis. The method of payment for hospitals under the prospective payment system is described in paragraph (m) of this section.

* * * * *

(m) *Prospective payments.*

(1) For cost reporting periods beginning on or after October 1, 1983, hospitals will receive payments with respect to Part A inpatient operating costs determined on a per discharge basis using prospectively determined rates. The amounts will represent final payment based on the submission of a discharge bill. Medical education costs and capital-related costs are excluded from prospective payments. For these items, reimbursement on the basis of reasonable costs, using Medicare principles of reimbursement, will continue to apply.

(2) (i) No year end retroactive adjustment is made for prospective payments. However, hospitals meeting the criteria in paragraph (j) of this section may elect to receive periodic interim payments. Therefore, at the discretion of the intermediary, the hospital's prospective payments will be estimated and made on a periodic interim basis (26 biweekly payments). These payments are subject to final settlement. Hospitals electing periodic interim payments may convert to

payments on a per discharge basis at any time.

(ii) For the hospitals receiving periodic interim payments for inpatient operating costs, the biweekly interim payment amount is based on the total estimated Medicare discharges for the reporting period multiplied by the hospital's estimated average prospective payment amount. These interim payments are reviewed and adjusted at least twice during the reporting period.

(iii) For purposes of determining periodic interim payments under this paragraph, the intermediary computes a hospital's estimated average prospective payment amount by multiplying its transition payment rates as determined under § 405.474(a)(3), but without adjustment by a DRG weighting factor, by the hospital's case-mix index.

(3) For items applicable to inpatient hospital services not reimbursed on a prospective basis (capital-related costs and direct medical education costs), interim payments are made subject to final cost settlement. Interim payments for the estimated cost of capital-related and approved medical education items (applicable to inpatient costs payable under Part A and for kidney acquisition cost in hospitals approved as renal transplantation centers) are determined by estimating the reimbursable amount for the year based on the previous year's experience and on substantiated information for the current year and divided into 26 equal biweekly payments.

(4) Payments for the indirect costs of medical education (described in § 405.477(d)(2)) are paid based on an estimate of the total for the Federal portion of the DRG revenue to be received in the current period. The total estimated annual amount of the adjustment will be divided into 26 equal biweekly payments and included with other inpatient costs reimbursed on a reasonable cost basis.

(5) Payments for outlier cases (described in § 405.475) are not made on an interim basis. The outlier payments are made based on submitted bills and represent final payment regardless of whether or not the provider is receiving periodic interim payments during the period.

q. Section 405.455 is amended by revising paragraphs (a) and (d)(1) and (2)(ii) to read as follows:

§ 405.455 Amount of payments where customary charges for services furnished are less than reasonable cost.

(a) *Principle.* Providers of services, other than comprehensive outpatient rehabilitation facilities, are paid the lesser of the reasonable cost of services furnished to beneficiaries or the customary charges made by the provider for the same services. (Payment to comprehensive outpatient rehabilitation facilities is based on the reasonable cost of services.) Public providers of service furnishing services free of charge or at a nominal charge are paid fair compensation for services furnished to beneficiaries. This principle is applicable to services furnished by providers in cost reporting periods beginning after December 31, 1973. This principle does not apply to payments for the costs of Part A inpatient hospital services for cost reporting periods subject to the rate of increase ceiling under § 405.463 or the prospective payment system under § 405.471. However, the carryover from previous periods is recognized, subject to the provisions of paragraph (d) of this section. For special rules concerning HMO's and providers of services and other health care facilities that are owned or operated by an HMO, or related to an HMO by common ownership or control, see §§ 405.2042(b)(14) and 405.2050(c).

* * * * *

(d) *Accumulation of unreimbursed costs and carryover to subsequent periods*—(1) *General.* Any provider of services whose charges are lower than costs in any cost reporting period beginning after December 31, 1973, may carry forward costs attributable to program beneficiaries which are unreimbursed under the provisions of this section for the two succeeding reporting periods. Where beneficiary charges exceed reasonable cost in such subsequent periods, such previously unreimbursed amounts carried forward shall be reimbursed to the provider to the extent that such previously unreimbursed amounts carried forward, together with costs applicable to program beneficiaries in such subsequent periods, do not exceed customary charges with respect to services to program beneficiaries in such subsequent periods. If such two succeeding cost reporting periods combined include fewer than 24 full calendar months, the provider may carry forward costs unreimbursed under this section for one additional reporting period. However, no recovery may be made in any period in which costs are unreimbursed under §§ 405.460 or 405.463.

Example. In the reporting period ending December 31, 1974, the provider's reimbursable costs attributable to covered services furnished program beneficiaries were $100,000. The provider's customary charges for these services were $90,000. The provider will, therefore, be reimbursed $90,000 less any deductible and coinsurance amounts but will be permitted to carry the unreimbursed $10,000 forward for the next two succeeding reporting periods. If, in the reporting period ending December 31, 1975, the charges to beneficiaries for covered services exceeded the reimbursable reasonable costs of such services by $10,000 or more, the provider could recover the entire $10,000 previously not reimbursed. If, however, beneficiary charges exceeded costs by $8,000, this amount would be added to the provider's reimbursable costs for this period. The balance of the unreimbursed amount or $2,000 would be carried over to the next reporting period.

(2) *New provider*—(i) *General* * * *

(ii) New provider base period; unreimbursed costs under lower of cost or charges. Where costs of a new provider are unreimbursed under this section, such previously unreimbursed amounts which a provider may recover during any cost reporting period in the new provider base period or carry forward period is limited to the amount by which the aggregate customary charges applicable to health insurance beneficiaries during any such period exceed the aggregate costs applicable to such beneficiaries during that period, except that no recovery may be made in any period in which costs are unreimbursed under §§ 405.460 or 405.463.

* * * * *

r. Section 405.460 is amended by revising paragraph (a)(1), the introductory language of paragraph (e), paragraph (e)(1), the introductory language of paragraph (f), paragraph (f)(9), and paragraph (h), to read as follows:

§ 405.460 Limitations on reimbursable costs.

(a) *Introduction*—(1) *Scope.* This section implements section 1861(v)(1)(A) of the Social Security Act, by setting forth the general rules under which HCFA may establish limits on provider costs recognized as reasonable in determining Medicare program payments, and sections 1861(v)(7)(B) and 1886(a) of the Social Security Act, by setting forth the general rules under which HCFA may establish limits on the operating costs of inpatient hospital services that are recognized as reasonable in determining Medicare program payments. (For cost reporting periods beginning on or after October 1, 1983, the operating cost incurred in furnishing inpatient hospital services is not subject to the provisions of this section.) This section also sets forth rules governing exemptions, exceptions, and adjustments to limits established under this section that HCFA may make

as appropriate in consideration of special needs or situations of particular providers.

* * * * *

(e) *Exemptions.* Exemptions from the limits imposed under this section may be granted in the following circumstances:

(1) *Sole community hospital.*

A sole community hospital is a hospital which, by reason of factors such as isolated location or absence of other hospitals, is the sole source of such care reasonably available to beneficiaries.

* * * * *

(f) *Exceptions.* Limits established under this section may be adjusted upward for a provider under the circumstances specified in paragraphs (f)(1) through (f)(8) of this section, and may be adjusted upward or downward under the circumstances specified in paragraph (f)(9) of this section. An adjustment is made only to the extent the costs are reasonable, attributable to the circumstances specified, separately identified by the provider, and verified by the intermediary.

* * * * *

(9) *Changes in case mix for cost reporting periods beginning before October 1, 1983.* The hospital:

(i) Is subject to limits issued under paragraph (b)(3) of this section for cost reporting periods beginning before October 1, 1983, that are calculated by use of a case-mix index;

(ii) Has added or discontinued services in a year after the year represented in the discharge data used to establish the limits described in paragraph (f)(9)(i) of this section;

(iii) Has experienced a significant and abrupt change in case mix as a result of the addition or deletion of services; and

(iv) Submits discharge data, in the format required by HCFA, for Medicare discharges in the cost reporting period for which the exception is requested.

* * * * *

(h) *Adjustments.* For cost reporting periods beginning on or after October 1, 1982 and before October 1, 1983, HCFA may adjust the amount of a hospital's inpatient operating costs to take into account factors which could result in a significant distortion in the operating costs of inpatient hospital services. Such factors could include a decrease in the inpatient services that a hospital provides that are customarily provided directly by similar hospitals, or the manipulation of discharges to increase reimbursement. A decrease in inpatient services could result from changes that include, but are not limited to, such actions as closing a special care unit or changing the arrangements under which such services may be furnished, such as leasing a department.

8. Section 405.463 is amended by revising paragraphs (a), (b)(2), (c)(1), (2), (3), and (5), (d), and (h), to read as follows:

§ 405.463 Ceiling on rate of hospital cost increases.

(a) *Introduction.*—(1) *Scope.* This section implements section 1886(b) of the Social Security Act establishing a ceiling on the rate of increase of operating costs per case for inpatient hospital services that will be recognized as reasonable for purposes of determining Medicare reimbursement. This ceiling on allowable rate of cost increases applies to hospital cost reporting periods beginning on or after October 1, 1982 and, for cost reporting periods beginning before October 1, 1983, is applied in addition to the limitations on reasonable cost established under § 405.460. This section also sets forth rules governing exemptions from and exceptions and adjustments to the ceiling.

(2) Applicability. (i) This section is not applicable to hospitals reimbursed in accordance with section 1814(b)(3) of the Act, or under State reimbursement control systems that have been approved under section 1886(c) of the Act.

(ii) For cost reporting periods beginning on or after October 1, 1983, this section is applicable to hospitals excluded from the prospective payment system under § 405.471(c), including subprovider psychiatric and rehabilitation units (distinct parts) and those hospitals eligible for special treatment under the prospective payment system as described in § 405.476(f)(2).

(b) *Cost-reporting periods subject to the rate of increase ceiling.* * * *

(2) *Periods subject to the ceiling.* Ceilings established under this section will be applied to all full 12-month cost reporting periods that:

(i) Immediately follow either a base period as described in paragraph (b)(1) of this section, or another 12-month cost reporting period subject to the ceiling; and

(ii) Begin on or after October 1, 1982.

* * * * *

(c) *Procedure for establishing the ceiling (target amount).*

(1)(i) *Costs subject to the ceiling.* The cost per case ceiling established under this section applies to operating costs incurred by a hospital in furnishing inpatient hospital services. (ii) For cost reporting periods beginning on or after October 1, 1982 and before October 1, 1983, these operating costs *include* operating costs of routine services (as described in § 405.158(c)), ancillary service operating costs, and special care unit operating costs. These operating costs *exclude* the costs of malpractice insurance, certain kidney acquisition costs, capital-related costs, and costs a hospital allocates to approved medical education programs (nursing school or approved intern and resident programs) on its Medicare cost report.

(iii) For cost reporting periods beginning on or after October 1, 1983, these operating costs exclude only capital-related costs as described in § 405.414, return on equity capital as described in § 405.429, the costs of approved medical education programs as described in § 405.421. Further, kidney acquisition costs incurred by hospitals approved as renal transplantation centers will be reimbursed on a reasonable cost basis. Appropriate adjustments to a hospital's base year costs will be made under paragraph (h) of this section.

(2) *Cost determined on a per case basis.* Costs subject to the ceiling as described in paragraph (c)(1) of this section will be determined on a per discharge basis.

(3) *Target rate percentage.*

(i) The target rate percentage for each calendar year will equal the prospectively estimated increase in the market basket index for that calendar year, plus one percentage point.

(ii) The market basket index is a hospital wage and price index that incorporates appropriately weighted indicators of changes in wages and prices that are representative of the mix of goods and services included in the most common categories of inpatient hospital operating costs subject to the ceiling as described in paragraph (c)(1) of this section.

* * * * *

(5) *Applicable target rate percentage.*

(i) The intermediary will use the target rate percentage increase applicable to each 12-month cost reporting period to determine the ceiling on the allowable rate of cost increase under this section.

(ii) When a cost reporting period spans portions of two calendar years, the intermediary will calculate an appropriate prorated percentage rate based on the published calendar year percentage rates.

(iii) The applicable target rate percentage will be the prospectively determined percentage published by HCFA. HCFA will publish quarterly **Federal Register** notices, beginning in 1983, including the applicable estimate of the market basket rate of increase

and the resulting target rate percentage for the next two calendar years. The target rate percentage for each hospital will be based on the percentages published in the latest quarterly notice before the beginning of the hospital's cost reporting period, will be applied prospectively, and will be prorated, in accordance with paragraph (c)(5)(ii) of this section, but will not be retroactively adjusted if the actual market basket rate of increase differs from the estimate.

(d) *Application of target amounts in determining reimbursement*—(1) *General process.*

(i) At the end of each 12-month cost reporting period subject to this section, the hospital's intermediary will compare a hospital's allowable cost per case with that hospital's target amount for that period.

(ii) The hospital's actual allowable costs will be determined without regard to the lower of cost or charges provisions of § 405.455, but, for cost reporting periods beginning on or after October 1, 1982 and before October 1, 1983, are subject to other limitations on reimbursable cost established under § 405.460.

(iii) If the hospital's actual allowable costs do not exceed the target amount, reimbursement will be determined under paragraph (d)(2) of this section.

(iv) If the hospital's actual costs exceed the target amount, reimbursement will be determined under paragraph (d)(3) of this section.

(2) *Inpatient operating costs are less than or equal to the target amount.* If a hospital's allowable inpatient operating costs per case do not exceed the hospital's target amount for the applicable cost reporting period, reimbursement to the hospital will be determined on the basis of the lowest of:

(i) The inpatient operating costs per case plus 50 percent of the difference between the inpatient operating cost per case and the target amount;

(ii) The inpatient operating cost per case plus 5 percent of the target amount; or

(iii) The hospital's allowable inpatient operating cost per case under applicable limits established under § 405.460, if applicable.

(3) *Inpatient operating costs are greater than the target amount.* If a hospital's allowable inpatient operating costs per case exceed the hospital's target amount for the applicable cost reporting period, reimbursement to the hospital will be determined as follows:

(i) For cost reporting periods beginning on or after October 1, 1982 and before October 1, 1984, reimbursement will be based on the lower of:

(A) The hospital's target amount plus 25 percent of the allowable operating costs per case in excess of the target amount; or

(B) The hospital's allowable cost per case under applicable limits established under § 405.460, if applicable.

(ii) For cost reporting periods beginning on or after October 1, 1984, reimbursement will be based on the hospital's target amount per case.

* * * * *

(h) *Adjustments*—(1) *Comparability of cost reporting periods.* (i) HCFA may adjust the amount of the operating costs considered in establishing cost per case for one or more cost reporting period(s), including both periods subject to the ceiling and the hospital's case period, to take into account factors which could result in a significant distortion in the operating costs of inpatient hospital services.

(ii) In determining the target amount for cost reporting periods beginning on or after October 1, 1983, the intermediary will adjust the base period costs to explicitly include in the costs subject to the ceiling malpractice insurance costs, FICA taxes (if the hospital did not incur costs for FICA taxes in its base period), and services billed under Part B of the program during the base period, but paid under Part A during the subject cost reporting period.

(iii) HCFA may adjust the amount of operating costs, under paragraph (b)(1)(i) of this section, to take into account factors such as a change in the inpatient hospital services that a hospital provides, that are customarily provided directly by similar hospitals, or the manipulation of discharges to increase reimbursement. A change in the inpatient hospital services provided could result from changes that include, but are not limited to, opening or closing a special care unit or changing the arrangements under which such services may be furnished, such as leasing a department.

(2) *Nursing differential.* Because the Medicare inpatient routine nursing salary cost differential does not apply in the cost reporting periods subject to ceilings established under this section, HCFA will adjust base period costs to remove the effect of this differential.

t. New §§ 405.470 through 405.477, and an undesignated center heading between § 405.466 and § 405.470, are added to read as follows:

Prospective Payment for Inpatient Hospital Services

§ 405.470 Prospective payment: general provisions.

(a) *Scope.*

(1) *Purpose.* Sections 405.470 through 405.477 of this subpart implement section 1886(d) of the Act by establishing a prospective payment system for inpatient hospital services furnished to beneficiaries in cost reporting periods beginning on or after October 1, 1983. Under the prospective payment system, payment for the operating costs of inpatient hospital services furnished by hospitals subject to the system (generally, short-term, acute-care hospitals) is made on the basis of prospectively determined rates and applied on a per discharge basis. Payment for other costs related to inpatient hospital services (capital-related costs, kidney acquisition costs incurred by hospitals with approved renal transplantation centers, and the direct costs of medical education) is made on a reasonable cost basis. Additional payments are made for outlier cases, bad debts, and indirect medical education costs. Under the prospective payment system, a hospital may keep the difference between its prospective payment rate and its operating costs incurred in furnishing inpatient services, and is at risk for operating costs that exceed its payment rate.

(2) *Summary of specific sections.* This section describes the basis of payment for inpatient hospital services under the prospective payment system, and sets forth the general basis of this system. Section 405.471 sets forth the classifications of hospitals that are included in and excluded from the prospective payment system, and sets forth requirements governing the inclusion or exclusion of hospitals in the system as a result of changes in their classification. Section 405.472 sets forth certain conditions that must be met for a hospital to receive payment under the prospective payment system. Section 405.473 sets forth the basic methodology by which prospective payment rates are to be determined. Section 405.474 describes the transition rate-setting methods that are to be used to determine transition payment rates during the first three years of the prospective payment system. Section 405.475 sets forth the methodology for determining additional payments for outlier cases. Section 405.476 sets forth special rules for treatment of sole community hospitals, Christian Science Sanitoria, cancer hospitals, referral

centers, and kidney acquisition costs. Section 405.477 describes the types, amounts, and methods of payment to hospitals under the prospective payment system.

(b) *Basis of payment.*

(1) *Payment on a per discharge basis.* Under the prospective payment system, hospitals are paid a predetermined amount per discharge for inpatient hospital services furnished to Medicare beneficiaries. The prospective payment rate for each discharge (as described in paragraph (c) of this section) is determined according to the methodology described in §§ 405.473, 405.474, or 405.476, as appropriate. An additional payment is made in accordance with § 405.475 for cases that have an atypically long length of stay or are extraordinarily costly to treat.

(2) *Payment in full.*

(i) The prospective payment amounts paid for inpatient hospital services is the total Medicare payment for the inpatient operating costs (as described in paragraph (b)(3) of this section) incurred in furnishing services covered by the Medicare program.

(ii) The full prospective payment amount, as determined under §§ 405.473, 405.474, and 405.476, is made for each stay during which there is at least one Medicare payable day of care.

(iii) Payable days of care, for purposes of paragraph (b)(2)(ii) of this section, include:

(A) Waiver of liability days payable under § 405.330; and

(B) Guarantee of payment days, as authorized under § 409.68, for inpatient hospital services furnished to an individual whom the hospital has reason to believe is entitled to Medicare benefits at the time of admission.

(3) *Inpatient operating costs.* The prospective payment system provides a payment amount for inpatient operating costs, including—

(i) Operating costs for routine services (as described in § 405.452(b)), such as the costs of room, board, and routine nursing services;

(ii) Operating costs for ancillary services, such as radiology and laboratory services furnished to hospital inpatients;

(iii) Special care unit operating costs (intensive care type unit services, as described in § 405.452(b)); and

(iv) Malpractice insurance costs related to services furnished to inpatients.

(4) *Excluded costs.* The following inpatient hospital costs are excluded from the prospective payment amounts and paid for on a reasonable cost basis:

(i) Capital-related costs, as described § 405.414 and an allowance for return on equity, as described in § 405.429.

(ii) Direct medical education costs, for those approved education programs described in § 405.421.

(iii) Costs for direct medical and surgical services of physicians in teaching hospitals exercising the election in § 405.521.

(iv) Kidney acquisition costs incurred by a certified renal transplantation centers.

(5) *Additional payments to hospitals.* In addition to payments based on the prospective payment rates, hospitals will receive payments for:

(i) Outlier cases, as described in § 405.475;

(ii) The indirect costs of graduate medical education (see §§ 405.475(f) and 405.477(d)(2));

(iii) Costs excluded from the prospective payment rate under paragraph (b)(4) of this section (see § 405.477(c)); and

(iv) Bad debts of Medicare beneficiaries (see §§ 405.420 and 405.477(d)(2)).

(c) *Discharges and transfers.*

(1) *Discharges.* A hospital inpatient is discharged when—

(i) The patient is formally released from the hospital (release of the patient to another hospital as described in paragraph (c)(2) of this section will not be recognized as a discharge for the purpose of determining payment under the prospective payment system);

(ii) The patient dies in the hospital; or

(iii) The patient is transferred to a hospital or unit that is excluded from the prospective payment system under § 405.471.

(2) *Transfers.* Except as provided under paragraph (c)(1)(iii) of this section, a discharge of a hospital inpatient is not counted for purposes of the prospective payment system when the patient is transferred—

(i) From one inpatient area or unit of the hospital to another area or unit of the hospital;

(ii) From the care of a hospital paid under this section to the care of another such hospital; or

(iii) From the care of a hospital paid under this section to the care of another hospital—

(A) Excluded from the prospective payment system because of participation in an approved statewide cost control program or demonstration; or

(B) Whose first cost reporting period under the prospective payment system has not yet begun.

(3) *Payment in full to the discharging hospital.* The hospital discharging an inpatient (under paragraph (c)(1) of this section) is paid in full, in accordance with paragraph (b)(2) of this section.

(4) *Payment to a hospital transferring an inpatient to another hospital.* If a hospital paid under the prospective payment system transfers an inpatient to another such hospital, as described in paragraphs (c)(2) (ii) and (iii) of this section, the transferring hospital is paid a per diem rate for each day of the patient's stay in that hospital, not to exceed the amount that would have been paid under §§ 405.473 or 405.474 if the patient had been discharged to another setting. The per diem rate is determined by dividing the appropriate prospective payment rate (as determined under §§ 405.473 or 405.474) by the average length of stay for the specific DRG into which the case falls.

(d) *Cost reporting periods subject to the prospective payment system.*

(1) *Initial cost reporting period.*

(i) Each subject hospital is paid under the prospective payment system for inpatient hospital services effective with the hospital's first cost reporting period beginning on or after October 1, 1983.

(ii) The hospital is paid the applicable prospective payment rate for each discharge occurring on or after the first day of its first cost reporting period subject to the prospective payment system.

(iii) If a discharged beneficiary was admitted to the hospital before the first day of the hospital's first cost reporting period subject to prospective payment, the reasonable costs of services furnished before that day are reimbursable under the cost reimbursement provisions of this subpart. For such discharges, the amount otherwise payable under the applicable prospective payment rate is reduced by the amount paid on a reasonable cost basis for

- Inpatient hospital services furnished to that beneficiary during the hospital stay. Where the amount reimbursed under reasonable cost exceeds the prospective payment amount, the reduction is limited to the prospective payment amount.

(2) *Changes in cost reporting periods.* HCFA will recognize a change in a hospital's cost reporting period made after November 30, 1982 only if the change has been requested in writing by the hospital and approved by the intermediary in accordance with § 405.453(f)(3).

(e) *Publication of schedule for determining prospective payment rates.*

(1) *Initial prospective payment rates.*

(i) HCFA will publish in the **Federal Register** by September 1, 1983, interim

standardized amounts and DRG weighting factors (determined under § 405.473) as needed to compute prospective payment rates effective for discharges occurring in cost reporting periods beginning on or after October 1, 1983.

(ii) HCFA will publish a notice in the **Federal Register** by December 31, 1983 confirming or modifying the interim initial schedule of standardized amounts and weighting factors. If the resulting interim payment rates are modified, the new rates will apply to discharges occurring after 30 days following the date of publication of this notice.

(2) *Annual publication of schedule for determining prospective payment rates.*

(i) Beginning in 1984, HCFA will publish annual notices setting forth the methodology and data used, including the percentage increase factor, to determine prospective payment rates applicable to discharges occurring during the Federal fiscal year beginning on or after October 1 of that year.

(ii) HCFA will propose changes in the methods, amounts, and factors used to determine prospective payment rates in a **Federal Register** notice published for public comment not later than the June 1 before the beginning of the Federal fiscal year in which the proposed changes would apply.

(iii) HCFA will publish a **Federal Register** notice setting forth final methods, amounts, and factors for determining prospective payment rates not later than the September 1 before the Federal fiscal year in which the rates would apply.

(iv) If HCFA does not meet the September 1 publication date requirement of this paragraph, the prospective payment rates in effect on September 1 of the year in question will apply unchanged for the following Federal fiscal year.

§ 405.471 Hospitals and hospital services subject to and excluded from the prospective payment system.

(a) *Hospitals subject to the prospective payment system.*

(1) Except for services described in paragraph (a)(2) of this section, all covered inpatient hospital services furnished to beneficiaries during subject cost reporting periods are paid for under the prospective payment system.

(2) Inpatient hospital services will not be paid for under the prospective payment system if—

(i) The services are furnished by a hospital (or distinct part hospital unit) explicitly excluded from the prospective payment system under paragraphs (b) and (c) of this section;

(ii) The services are emergency services furnished by a nonparticipating hospital in accordance with § 405.152; or

(iii) The services are paid for by a health maintenance organization (HMO) that elects not to have HCFA make payments directly to a hospital for inpatient hospital services furnished to the HMO's Medicare enrollees (see § 405.2040(d)).

(b) *Excluded hospitals: general rules.*

(1) *Criteria.* A hospital will be excluded from the prospective payment system if it meets the criteria for one or more of the excluded classifications described in paragraph (c) of this section.

(2) *Cost reimbursement.* Except for those hospitals specified in paragraph (b)(3) of this section, all excluded hospitals (and distinct part hospital units, as described in paragraph (c)(3)(i) of this section) are reimbursed under the cost reimbursement rules set forth in this subpart, and will be subject to the ceiling on the rate of hospital cost increases described in § 405.463.

(3) *Special reimbursement provisions.* The following classifications of hospitals are reimbursed under special provisions and therefore are not generally subject to the cost reimbursement or prospective payment rules of this subpart:

(i) Veterans Administration hospitals.

(ii) Hospitals reimbursed under State cost control systems approved under Part 403 of this chapter.

(iii) Hospitals reimbursed in accordance with demonstrations projects authorized under section 402(a) of the Social Security Amendments of 1967 or section 222(a) of the Social Security Amendment of 1972.

(iv) Nonparticipating hospitals furnishing emergency services to medicare beneficiaries.

(c) *Excluded hospitals and hospital units: classifications.* Hospitals and distinct part units of hospitals that meet the requirements for the classifications set forth in this paragraph may not be reimbursed under the prospective payment system.

(1) *Psychiatric hospitals.* A psychiatric hospital must—

(i) Be primarily engaged in providing, by or under the supervision of a psychiatrist, psychiatric services for the diagnosis and treatment of mentally ill persons; and

(ii) Meet the conditions of participation for hospitals (§§ 405.1020 through 405.1035) and special conditions of participation for psychiatric hospitals (§§ 405.1036 through 405.1038).

(2) *Rehabilitation hospitals.* A rehabilitation hospital must—

(i) Have a provider agreement under Part 489 of this chapter to participate as a hospital;

(ii) Have treated, during its most recent 12-month cost reporting period, an inpatient population of which at least 75 percent required intensive rehabilitative services for the treatment of one or more of the following conditions:

(A) Stroke.

(B) Spinal cord injury.

(C) Congenital deformity.

(D) Amputation.

(E) Major multiple trauma.

(F) Fracture of femur (hip fracture).

(G) Brain injury.

(H) Polyarthritis, including rheumatoid arthritis.

(iii) Have in effect a preadmission screening procedure under which each prospective patient's condition and medical history are reviewed to determine whether the patient is likely to benefit significantly from an intensive inpatient hospital program or assessment;

(iv) Ensure that the patients receive close medical supervision and furnish, through the use of qualified personnel, rehabilitation nursing, physical therapy, and occupational therapy, plus, as needed, speech therapy, social services or psychological services, and orthotic and prosthetic services;

(v) Have a full-time director of rehabilitation who is a Doctor of Medicine or Osteopathy, is licensed under State law to practice medicine or surgery, and has had, after completing a one-year hospital internship, at least one year of training in the medical management of patients requiring rehabilitation services, or is Board-certified in physiatry, neurology, neurosurgery, orthopedic surgery, or rheumatology;

(vi) Have a plan of treatment for each inpatient that is established, reviewed, and revised as needed by a physician in consultation with other professional personnel who provide services to the patient; and,

(vii) Use a coordinated multidisciplinary team approach in the rehabilitation of each inpatient, as documented by periodic clinical entries made in the patient's medical record to note the patient's status in relationship to goal attainment, and that team conferences are held at least every two weeks to determine the appropriateness of treatment.

(3) *Psychiatric and rehabilitation units (distinct parts).* A psychiatric unit must meet the requirements of paragraphs (c)(3)(i) and (c)(3)(ii) of this section. A rehabilitation unit must meet

the requirements of paragraphs (c)(3)(i) and (c)(3)(iii) of this section.

(i) A distinct part unit must—

(A) Be part of an institution that has in effect an agreement under Part 489 of this chapter to participate as a hospital;

(B) Have written admission criteria that are applied uniformly to both Medicare and non-Medicare patients;

(C) Have admission and discharge records that are separately identified from those of the hospital in which it is located and are readily available;

(D) Have policies specifying that necessary clinical information is transferred to the unit when a patient of the hospital is transferred to the unit;

(E) Meet applicable State licensure laws;

(F) Have utilization review standards applicable for the type of care offered in the unit;

(G) Have beds physically separate from (i.e., not commingled with) the hospital's other beds;

(H) Be serviced by the same fiscal intermediary as the hospital;

(I) Be treated as a separate cost center for cost finding and apportionment purposes;

(J) Use an accounting system that properly allocates costs;

(K) Maintain adequate statistical data to support the basis of allocation; and

(L) Report its costs in the hospital's cost report covering the same fiscal period and using the same method of apportionment as the hospital.

(ii) A psychiatric unit (distinct part) must—

(A) Treat only patients whose primary reason for admission to the unit was for treatment of a diagnosis contained in the Third edition of the American Psychiatric Association's Diagnostic and Statistical Manual;

(B) Be directed by a psychiatrist who is certified by the American Board of Psychiatry and Neurology or is eligible for examination by the Board;

(C) Furnish, through the use of qualified personnel, psychological services, social work services, psychiatric nursing, occupational therapy, and recreational therapy;

(D) Have a supervising nurse who is a registered professional nurse qualified in psychiatric or mental health nursing; and

(E) Have a plan of treatment for each patient which is established, reviewed, and revised as needed by a multidisciplinary team consisting of at least a Doctor of Medicine or Osteopathy, a psychologist, and a psychiatric nurse.

(iii) A rehabilitation unit (distant part) must—

(A) Have treated, during its most recent 12-month cost reporting period, an inpatient population of which at least 75 percent required intensive rehabilitative services for the treatment of one or more of the following conditions:

(1) Stroke.
(2) Spinal cord injury.
(3) Congenital deformity.
(4) Amputation.
(5) Major multiple trauma.
(6) Fracture of femur (hip fracture).
(7) Brain injury.
(8) Polyarthritis, including rheumatoid arthritis.

(B) Have in effect a preadmission screening procedure under which each prospective patient's condition and medical history are reviewed to determine whether the patient is likely to benefit significantly from an intensive inpatient program or assessment;

(C) Ensure that the patients receive close medical supervision and furnish, through the use of qualified personnel, rehabilitation nursing, physical therapy, and occupational therapy, plus, as needed, speech therapy, social services or psychological services, and orthotic and prosthetic services;

(D) Have a plan of treatment for each inpatient that is established, reviewed, and revised as needed by a physician in consultation with other professional personnel who provide services to the patient; and

(E) Use a coordinated multidisciplinary team approach in the rehabilitation of each inpatient, as documented by periodic clinical entries made in the patient's medical record to note the patient's status in relationship to goal attainment, and that team conferences are held at least every two weeks to determine the appropriateness of treatment; and

(F) Have a full-time director of rehabilitation who is a Doctor of Medicine or Osteopathy, is licensed under State law to practice medicine or surgery, and has had, after completing a one-year hospital internship, at least one year of training in the medical management of patients requiring rehabilitation services, or is Board-certified in physiatry, neurology, neurosurgery, orthopedic surgery, or rheumatology.

(4) *Children's hospitals.* A children's hospital must—

(i) Have a provider agreement under Part 489 of this chapter to participate as a hospital; and

(ii) Be engaged in furnishing services to inpatients who are predominantly individuals under the age of 13.

(5) *Long-term hospitals.* A long-term care hospital must—

(i) Have a provider agreement under part 489 of this chapter to participate as a hospital; and

(ii) Have an average length of inpatient stay greater than 25 days—

(A) As computed by dividing the number of total inpatient days (less leave or pass days) by the number of total discharges for the hospital's most recent complete cost reporting period; or

(B) If a change in the hospital's average length of stay is indicated, as computed by the same method for the immediately preceding six-month period.

(6) *Hospitals outside the 50 States or the District of Columbia.* A hospital is excluded from the prospective payment system if it is not located in one of the fifty States or the District of Columbia.

(7) *Hospitals reimbursed under special arrangements.* A hospital must be excluded from prospective payment for inpatient hospital services if it is reimbursed under special arrangement as provided in § 405.471(b)(3).

§ 405.472 Conditions for payment under the prospective payment system.

(a) *General requirements.*

(1) A hospital must meet the conditions of this section to receive payment under the prospective payment system for inpatient hospital services furnished to Medicare beneficiaries.

(2) If a hospital fails to comply with these conditions with respect to a particular inpatient hospital stay for a single individual, HCFA may deny payment for that discharge.

(3) If a hospital fails to comply with these conditions with respect to inpatient hospital services furnished to Medicare beneficiaries generally, HCFA may, as appropriate—

(i) Withhold all Medicare payment to the hospital until the hospital provides adequate assurances of future compliance; or

(ii) Terminate the hospital's provider agreement.

(b) *Charges to beneficiaries.*

(1) *Permitted charges-stay covered.* A hospital furnishing covered inpatient hospital services (in accordance with § 405.310(m)) to a Medicare beneficiary for which it expects to receive payment under the prospective payment system may charge that beneficiary for—

(i) The applicable deductible and coinsurance amounts under §§ 409.82, 409.83, and 409.87 of this chapter;

(ii) Items and services, furnished at any time during the stay, which are excluded from coverage except for items and services excluded from coverage solely on the basis of requirements at § 405.310(g) (custodial care), § 405.310(k)

(medically unnecessary items and services), or § 405.310(m) (nonphysician services furnished to hospital inpatients by other than a hospital or provider or supplier under arrangements made by a hospital);

(iii) Days of care attributable to a length-of-stay outlier (as described in § 405.475(a)(1)) which—

(A) Are not paid for by Medicare because of the patients' benefits under Medicare are exhausted; or

(B) Are not covered under Medicare Part A for other reasons and waiver of liability under § 405.330 does not apply; (when payment is considered for outlier days, the entire stay is reviewed and days up to the number of days by which the total stay exceeds the outlier day threshold may be denied. In applying this rule, the latest days of the stay will be denied first.);

(iv) Items and services attributable to cost outliers which will not be paid for by Medicare because the services are not covered (for reasons other than exhaustion of benefits) and waiver of liability under § 405.330 does not apply. When payment is considered for cost outliers, the coverage of services throughout the stay will be reviewed. If items and services are denied solely on the basis of § 405.310 (g) or (k), the liability of the beneficiary for those items and services is limited to an amount which, when added to the Medicare payment to the hospital (before application of deductibles and coinsurance), does not exceed the total amount which would have been paid (before application of deductible and coninsurance) if all the services had been viewed as covered.); and

(v) The customary charge differential for a private room or other luxury service that is more expensive than is medically required and is furnished for the personal comfort of the beneficiary at his or her request (or that of the person acting on his or her behalf).

(2) *Prohibited charges.* A hospital may not charge a beneficiary for any services for which payment is made by Medicare, even if the hosptial's costs of furnishing services to that beneficiary are greater than the amount the hospital is paid under the prospective payment system.

(c) *Admissions and quality review.* Beginning on October 1, 1984 a hospital must have an agreement with a Utilization and Quality Control Peer Review Organization (PRO) to have its admission patterns, length of stays, transfers, services furnished in outlier cases, the validity of diagnostic information, and the quality of its services reviewed on an on-going bases.

(d) *Medical review activities for hospitals paid under the prospective payment system.*

(1) *Admission pattern monitoring (APM).* HCFA will prepare a report which compares a hospital's discharge rate for a quarter with the same hospital's discharge rate for the previous eight quarters. If the hospital's discharge rate increases significantly, the report will be sent to the medical review agent for analysis.

(i) The medical review agent, during the course of its analysis, may request information or records from the hospital, and may conduct on-site medical record review to determine if the increased discharges reflected medically necessary and appropriate admissions.

(ii) If, as a result of analysis under paragraph (d)(1)(i) of this section, the medical review agent finds a pattern of unnecessary or inappropriate admissions, the medical review agent will intensify medical review activities.

(2) *DRG validation.* (i) The attending physician must, shortly before, at or shortly after discharge (but before a claim is submitted), attest to in writing the principal diagnosis, secondary diagnoses, and names of procedures performed.

(ii) The medical review agent will review, every six months, at the hospital, a random sample of discharges for the previous six-month period, to verify that the diagnostic and procedural coding, used by the hospital for DRG assignment, is substantiated by the corresponding medical records.

(iii) If the diagnostic and procedural information, attested to by the attending physician, is found to be inconsistent with the hospital's coding or DRG assignment, the hospitals' coding will be appropriately changed and payments recalculated, based on the appropriate DRG assignments.

(iv) If the information attested to by the physician as stipulated under paragraph (d)(2)(i) of this section is found not to be correct, the medical review agent will change the coding and assign the appropriate DRG, based upon the changed coding.

(e) *Denial of payment as a result of admissions and quality review.*

(1) If HCFA determines, based upon information supplied by a medical review agent, that a hospital has misrepresented admissions, discharge, or billing information, or has taken an action that results in the unnecessary admission of an individual entitled to benefits under Part A, unnecessary multiple admissions of an individual, or other inappropriate medical or other practices with respect to beneficiaries or billing for services funished to beneficiaries, HCFA may as appropiate—

(i) Deny payment (in whole or in part) under Part A with respect to inpatient hospital services provided with respect to such an unnecessary admission or subsequent readmission of an individual; or

(ii) Require the hospital to take other corrective action necessary to prevent or correct the inappropriate practice.

(2) When payment with respect to admission of an individual patient is denied under paragraph (e)(1)(i) of this section, and liability is not waived in accordance with §§ 405.330 to 405.332—

(i) If the medical review agent is a PRO, notice and appeals will be provided under procedures established by HCFA to implement the provisions of sections 1155 of the Act, Right to Hearing and Judicial Review.

(ii) If the medical review agent is a PSRO, assuming review in accordance with § 463.26(c)(1), notice and appeals will be provided in accordance with regulations in Part 473 of this chapter, Hearings and Appeals on PSRO determinations.

(iii) If, in the absence of a PRO or PSRO, a fiscal intermediary acts as a medical review agent, notice and appeals will be provided in accordance with regulations in Subpart G of this part, Reconsiderations and Appeals under the Hospital Insurance Program.

(3) A determination made by HCFA under paragraph (e)(1) of this section, related to a pattern of inappropriate admissions and billing practices that have the effect of circumventing the prospective payment system, shall be effective at such time and upon such reasonable notice to the public and to the person furnishing the services involved as specified in Part 420 of this chapter. Such determination shall be effective in the manner provided in section 1866(b) (3) and (4) of the Act, and regulations in Part 489 of this chapter, with respect to terminations of agreements, and shall remain in effect until HCFA finds and gives reasonable notice to the public that the basis for such determination has been removed and that there is reasonable assurance that it will not recur.

(3) Any person furnishing services described in paragraph (e)(1) of this section who is dissatisfied with a determination made by HCFA under paragraph (e)(3) shall be entitled to reasonable notice and opportunity for a hearing thereon by HCFA to the same extent as is provided in section 205(b) of the Act and to judicial review of the final decision after such hearing as is provided in section 205(g).

(4) HCFA will promptly notify each State agency which administers or supervises the administration of a State plan approved under title XIX of the Act of any determination made under the provisions of paragraph (e)(3) of this section.

(f) *All inpatient hospital services furnished either directly or under arrangements.* The applicable payments made under the prospective payment system, as described in § 405.477, are payment in full for all inpatient hospital services, as defined in § 409.10, other than physicians' services to individual patients reimbursable on a reasonable charge basis (in accordance with the criteria of § 405.550(b)). Except as provided in § 489.23 of this chapter, HCFA will not pay any provider or supplier other than the hospital for services furnished to a beneficiary who is an inpatient, except for physicians' services reimbursable under § 405.550(b). The hospital must furnish all necessary covered services to the beneficiary either directly or under arrangements (as defined in § 409.3).

(g) *Reporting and recordkeeping requirements.* All hospitals participating in the prospective payment system under this section must meet the recordkeeping and cost reporting requirements of §§ 405.406 and 405.453.

§ 405.473 Basic methodology for determining Federal prospective payment rates.

(a) *DRG classification and weighting factors.*

(1) *Diagnosis-related groups.* HCFA will establish a classification of inpatient hospital discharges by Diagnosis-Related Groups (DRGs).

(2) *DRG weighting factors.* HCFA will assign an appropriate weighting factor for each DRG that reflects the estimated relative cost of hospital resources used with respect to discharges classified within that group compared to discharges classified within other groups.

(3) *Assignment of Discharges to DRGs.* HCFA will establish a methodology for classifying specific hospital discharges within DRGs that ensures that each hospital discharge is appropriately assigned to a single DRG based on essential data abstracted from the inpatient bill for that discharge.

(i) The classification of a particular discharge will, as appropriate, be based on the patient's age, sex, principal diagnosis (that is, the diagnosis established after study to be chiefly responsible for causing the patient's admission to the hospital), secondary diagnoses, procedures performed, and discharge status.

(ii) Each discharge will be assigned to only one DRG (related, except as provided in paragraph (a)(3)(iii) of this section, to the patient's principal diagnosis) regardless of the number of conditions treated or services furnished during the patient's stay.

(iii) When the discharge data submitted by a hospital show a surgical procedure unrelated to a patient's principal diagnosis, the bill will be returned to the hospital for validation and reverification. HCFA's DRG classification system will provide a DRG, and an appropriate weighting factor, for the group of cases for which the unrelated diagnosis and procedure are confirmed.

(4) *Revision of DRG classification and weighting factors.* HCFA will adjust the classifications and weighting factors established under paragraphs (a) (1) and (2) of this section, for discharges as necessary, but at a minimum for fiscal year 1986 and at least every four fiscal years thereafter, to reflect changes in treatment patterns, technology, and other factors which may change the relative use of hospital resources.

(b) *Federal rates for fiscal year 1984.*

(1) *General rule.* HCFA will determine national adjusted DRG prospective payment rates, for each inpatient hospital discharge in fiscal year 1984 involving inpatient hospital services of a hospital in the United States subject to the prospective payment system under § 405.471, and will determine regional adjusted DRG prospective payment rates for such discharges in each region, for which payment may be made under Medicare Part A. Such rates will be determined for hospitals located in urban or rural areas within the United States and within each such region, respectively, as described in paragraphs (b)(2) through (b)(11) of this section.

(2) *Determining allowable individual hospital costs.* HCFA will determine the Medicare allowable operating costs per discharge of inpatient hospital services for each hospital in the data base for the most recent cost reporting period for which data are available.

(3) *Updating for fiscal year 1984.* HCFA will update each amount determined under paragraph (b)(2) of this section for fiscal year 1984 by:

(i) Updating for fiscal year 1983 by the estimated average rate of change of hospital costs industry-wide between the cost reporting period used under paragraph (b)(2) of this section and fiscal year 1983; and

(ii) Projecting for fiscal year 1984 by the applicable percentage increase (as defined in § 405.463(c)(3)) for fiscal year 1984.

(4) *Standardizing amounts.* HCFA will standardize the amount updated under paragraph (b)(3) of this section for each hospital by:

(i) Adjusting for area variations in case mix among hospitals;

(ii) Excluding an estimate of indirect medical education costs;

(iii) Adjusting for area variations in hospital wage levels; and

(iv) Adjusting for the effects of a higher cost of living for hospitals located in Alaska and Hawaii.

(5) *Computing urban and rural averages.* HCFA will compute an average of the standardized amounts determined under paragraph (b)(4) of this section for urban and rural hospitals in the United States and for urban and rural hospitals in each region.

(6) *Geographic classifications.* For purposes of paragraph (b)(5) of this section:

(i) The term "region" means one of the nine census divisions, comprising the fifty States and the District of Columbia, established by the Bureau of the Census for statistical and reporting purposes.

(ii) The term "urban area" means:

(A) A Metropolitan Statistical Area (MSA) or New England County Metropolitan Area (NECMA), as defined by the Executive Office of Management and Budget; or

(B) The following New England counties, which are deemed to be urban areas by section 601(g) of the Social Security Amendments of 1983: Litchfield County, Connecticut; York County, Maine; Sagadahoc County, Maine; Merrimack County, New Hampshire; and Newport County, Rhode Island.

(iii) The term "rural area" means any area outside an urban area.

(7) *Adjusting the average standardized amounts.* HCFA adjusts each of the average standardized amounts determined under paragraphs (b)(3) through (b)(5) of this section by factors representing estimates made by HCFA of:

(i) The estimated amount of Medicare payment for nonphysician services to hospital inpatients that would have been paid under Part B during the first cost reporting period subject to propsective payment were it not for the fact that such services must be furnished either directly by hospitals or under arrangements in order for any payment to be made under Medicare after September 30, 1983 (the effective date of § 405.310(m)).

(ii) The estimated amount of FICA taxes that would be incurred during the first cost reporting period subject to the propsective payment system, by hospitals which had not incurred such

taxes for any or all of their employees during the base period described in paragraph (b)(2) of this section.

(8) *Reducing for value of outlier payments.* HCFA reduces each of the adjusted average standardized amounts determined under paragraph (b)(3) through (b)(7) of this section by a proportion equal to the proportion (estimated by HCFA) of the total amount of payments based on DRG prospective payment rates which are additional payments for outlier cases under § 405.475.

(9) *Maintaining budget neutrality.* HCFA adjusts each of the reduced standardized amounts determined under paragraphs (b)(3) through (b)(8) of this section as required for fiscal year 1984 so that the estimated amount of aggregate payments made, excluding the hospital specific portion (that is, the total of the Federal portion of transition payments, plus any adjustments and special treatment of certain classes of hospitals for Federal fiscal year 1984) is not greater or less than 25 percent of the payment amounts that would have been payable for the inpatient operating costs for those same hospitals for fiscal year 1984 under the Social Security Act as in effect April 19, 1983. The aggregate payments considered under this paragraph exclude payments for per case review by a utilization and quality control peer review organization, as allowed under section 1866(a)(1)(F) of the Act.

(10) *Computing Federal rates for urban and rural hospitals in the United States and in each region.* For each discharge classified within a diagnosis-related group, HCFA will establish a national prospective payment rate and will establish a regional prospective payment rate for each region, each of which is equal:

(i) For hospitals located in an urban area in the United States or in that region respectively, to the product of—

(A) The adjusted average standardized amount (computed under paragraphs (b)(3) through (b)(9) of this section) for hospitals located in an urban area in the United States or that region; and

(B) The weighting factor (determined under paragraph (a)(2) of this section) for that Diagnosis-Related Group; and

(ii) For hospitals located in a rural area in the United States or in that region respectively, to the product of—

(A) The adjusted average standardized amount (computed under paragraphs (b)(3) through (b)(9) of this section) for hospitals located in a rural area in the United States or that region; and

(B) The weighting factor (determined under paragraph (a)(2) of this section) for that Diagnosis-Related Group.

(11) *Adjusting for different wage levels.* HCFA will adjust the proportion (as estimated by HCFA from time to time) of Federal rates computed under paragraph (b)(10) of this section which are attributable to wages and labor-related costs, for area differences in hospital wage levels by a factor (established by HCFA) reflecting the relative hospital wage level in the geographic area of the hospital compared to the national average hospital wage level.

(c) *Federal rates for fiscal years after Federal fiscal year 1984.*

(1) *General rule.* HCFA will determine a national adjusted prospective payment rate, for each inpatient hospital discharge in a Federal fiscal year after fiscal year 1984 involving inpatient hospital services of a hospital in the United States subject to the prospective payment system under § 405.471, and will determine a regional adjusted prospective payment rate for such discharges in each region, for which payment may be made under Medicare Part A. Each such rate will be determined for hospitals located in urban or rural areas within the United States and within each such region respectively, as described in paragraphs (c)(2) through (c)(6) of this section.

(2) *Updating previous standardized amounts.*

(i) *For fiscal year 1985.* HCFA will compute an average standardized amount for each group of hospitals described in paragraph (b)(5) of this section (urban areas and rural areas within the United States, and urban areas and rural areas within each region), equal to the respective adjusted average standardized amount computed for fiscal year 1984 under paragraph (b)(7) of this section—

(A) Increased for fiscal year 1985 by the applicable percentage increase under § 405.463(c);

(B) Adjusted by the estimated amount of Medicare payment for nonphysician services furnished to hospital inpatients that would have been paid under Part B were it not for the fact that such services must be furnished either directly by hospitals or under arrangements;

(C) Reduced by a proportion equal to the proportion (estimated by HCFA) of the total amount of prospective payments which are additional payment amounts attributable to outlier cases under § 405.475; and

(D) Adjusted for budget neutrality under paragraph (c)(4) of this section.

(ii) For fiscal year 1986 and thereafter, HCFA will compute an average standardized amount for each group of hospitals described in paragraph (b)(5) of this section, equal to the respective adjusted average standardized amounts computed for the previous fiscal year—

(A) Increased by the applicable percentage increase determined under paragraph (c)(3) of this section; and

(B) Adjusted by the estimated amount of Medicare payment for nonphysician services furnished to hospital inpatients that would have been paid under Part B were it not for the fact that such services must be furnished either directly by hospitals or under arrangements.

(C) Reduced by a proportion equal to the proportion (estimated by HCFA) of the amount of payments based on the total amount of prospective payments which are additional payment amounts attributable to outlier cases under § 405.475.

(3) *Determining applicable percentage changes for fiscal year 1986 and following.* The Secretary will determine for each fiscal year (beginning with fiscal year 1986) the applicable percentage change which will apply for purposes of paragraph (c)(2)(ii) of this section as the applicable percentage increase for discharges in that fiscal year, and which will take into account amounts the Secretary believes necessary for the efficient and effective delivery of medically appropriate and necessary care of high quality. In making this determination, the Secretary will consider the recommendations of the Prospective Payment Assessment Commission.

(4) *Maintaining budget neutrality for fiscal year 1985.* For fiscal year 1985, HCFA will adjust each of the reduced standardized amounts determined under paragraph (c)(2) of this section as required for fiscal year 1985 to ensure that the estimated amount of aggregate payments made, excluding the hospital-specific portion (that is, the total of the Federal portion of transition payments, plus any adjustments and special treatment of certain classes of hospitals for fiscal year 1985) is not greater or less than 50 percent of the payment amounts that would have been payable for the inpatient operating costs for those same hospitals for fiscal year 1985 under the law as in effect on April 19, 1983. The

aggregate payments considered under this paragraph exclude payments for per case review by a utilization and quality control peer review organization, as allowed under section 1866(a)(1)(F) of the Act.

(5) *Computing Federal rates for urban and rural hospitals.* For each discharge classified within a Diagnosis-Related Group, HCFA will establish for the fiscal year a national prospective payment rate and will establish a regional prospective payment rate, for each region, each of which is equal—

(i) For hospitals located in an urban area in the United States or that region respectively, to the product of—

(A) The adjusted average standardized amount (computed under paragraph (c)(2) of this section) for the fiscal year for hospitals located in an urban area in the United States or that region; and

(B) The weighting factor (determined under paragraph (a)(2) of this section) for that diagnosis-related group; and

(ii) For hospitals located in a rural area in the United States or that region (respectively), to the product of—

(A) The adjusted average standardized amount (computed under paragraph (c)(2) of this section) for the fiscal year for hospitals located in a rural area in the United States or that region; and

(B) The weighting factor (determined under paragraph (a)(2) of this section) for that diagnosis-related group.

(6) *Adjusting for different area wage levels.* HCFA will adjust the proportion (as estimated by HCFA from time to time) of Federal rates computed under paragraph (c)(5) of this section which are attributable to wages and labor-related costs, for area differences in hospital wage levels by a factor (established by HCFA) reflecting the relative hospital wage level in the geographic area of the hospital compared to the national average hospital wage level.

§ 405.474 Determination of transition period payment rates.

(a) General description. (1) *Transition period.* During the initial three-year transition period, payments to all hospitals paid under the prospective payment system will be based on a combination of the Federal prospective payment rates, as determined under § 405.473, and rates based on each hospital-specific rate as determined under paragraph (b) of this section. For the first two years of the transition period, both portions of the payment rates will also be adjusted to ensure budget neutrality. At the end of the transition period (that is, for cost reporting periods beginning on or after October 1, 1986), payments will be based on the national prospective payment rates determined under § 405.473, except for payments which may be made under the specific treatment provisions of § 405.476.

(2) *Payment amounts based on the hospital-specific portion and the Federal portion.* For discharges occurring in cost reporting periods beginning on or after October 1, 1983 and before October 1, 1986, the Medicare transition payment rate for a particular covered discharge will equal a blend of the applicable portion of the hospital-specific rate, as determined under paragraph (b) of this section, plus the applicable portions of the Federal national and regional prospective payment rates, as described in paragraph (a)(3) of this section, and summarized in the Table. Payments to new hospitals will be based on the Federal national and regional prospective payment rates, as described in paragraph (a)(4) of this section.

(3) *Amount of blended portions.* The blend of hospital-specific and Federal portions will be as follows:

(i) For cost reporting periods beginning on or after October 1, 1983 and before October 1, 1984—

(A) 75 percent of the hospital-specific rate; and

(B) 25 percent of the appropriate Federal prospective payment rate.

(ii) For cost reporting periods beginning on or after October 1, 1984 and before October 1, 1985—

(A) 50 percent of the hospital-specific rate;

(B) 50 percent of the appropriate Federal prospective payment rate.

(iii) For cost reporting periods beginning on or after October 1, 1985, and before October 1, 1986—

(A) 25 percent of the hospital-specific rate;

(B) 75 percent of the appropriate Federal prospective payment rate.

(iv) The appropriate Federal prospective payment rate is a combined regional and national rate and changes with the Federal fiscal year. Beginning October 1, 1984, the combined rate is 75 percent regional and 25 percent national. Beginning October 1, 1985, the combined rate is 50 percent regional and 50 percent national. Effective October 1, 1986, the Federal prospective payment rate is 100 percent national.

TABLE—SUMMARY OF HOSPITAL-SPECIFIC AND FEDERAL PORTION PERCENTAGES FOR DETERMINING TRANSITION PAYMENT RATES

Cost reporting period beginning on or after	Hospital-specific portion percentage	Federal portion*
October 1, 1983	75	25
October 1, 1984	50	50
October 1, 1985	25	75
October 1, 1986		100

*Note: The Federal portion percentages are applied to the combined national or regional prospective payment rates, as appropriate, as determined under § 405.473 for the Federal fiscal year in which the discharge occurs.

(4) *Blended portions for new hospitals.* The prospective payment rates for new hospitals will be a blend of the Federal regional and national rates as follows:

(i) For discharges occurring on or after October 1, 1983 and before October 1, 1984, the prospective payment will equal the appropriate Federal regional rate.

(ii) For discharges occurring on or after October 1, 1984 and before October 1, 1985—

(A) 75 percent of the appropriate Federal regional prospective payment rate; and

(B) 25 percent of the appropriate Federal national rate.

(iii) For discharges occurring on or after October 1, 1985 and before October 1, 1986—

(A) 50 percent of the appropriate Federal regional; prospective payment rate; and

(B) 50 percent of the appropriate Federal national prospective payment rate.

(b) Determining the hospital-specific rate. (1) *Base-year costs.*

(i) For each hospital, the intermediary will estimate the hospital's Medicare Part A allowable inpatient operating costs, as described in § 405.470(b)(3), for the 12-month or longer cost reporting period ending on or after September 30, 1982 and before September 30, 1983.

(ii) If the hospital's last cost reporting period ending before September 30, 1983 is for less than 12 months, the base period will be the hospital's most recent 12-month or longer cost reporting period ending before such short-period report, with an appropriate adjustment for inflation. (See paragraph (c) of this section for rules applicable to new hospitals.)

(iii) The intermediary will use the best data available at the time in estimating each hospital's base-year costs.

(A) Higher costs that were incurred for purposes of increasing base year costs, or that have the effect of distorting base year costs as an

appropriate basis for computing the hospital-specific rate, or higher costs that result from changes in hospital accounting principles initiated in the base year will be excluded from base year costs for purposes of this section.

(B) A hospital that becomes subject to the prospective payment system beginning on or after October 1, 1983 and before November 16, 1983, may, up to November 15, 1983, have its base period cost per case recomputed, either at the hospital's request or the intermediary's initiative, to take into account inadvertent omissions in its previous submissions to the intermediary related to changes made by the prospective payment legislation for the purpose of determining base period costs. Such omissions pertain to adjustments to exclude capital-related costs and the direct medical education costs of approved educational activities and to adjustments specified in paragraph (b)(1)(iii)(A) and (b)(2)(ii) of this section.

(iv) The intermediary's estimate of base-year costs is final and may not be changed except as follows:

(A) To correct mathematical errors of calculations. The hospital must report such errors of calculations to the intermediary within 90 days of the intermediary's notification to the hospital of the hospital's payment rates. The intermediary may also identify such errors and initiate their correction during this period. The intermediary will either make an appropriate adjustment or notify the hospital that no adjustment is warranted within 30 days of receipt of the hospital's report of an error. Corrections of errors of calculations will be effective with the first day of the hospital's first cost reporting period subject to the prospective payment system.

(B) To take into account a successful appeal relating to base period costs. If a hospital successfully contests a disallowance of costs incurred in its base year, the intermediary will recalculate the hospital's base year costs, incorporating the additional costs recognized as allowable as a result of the appeal. Adjustments to base period costs to take into account such previously disallowed costs will be effective with the first day of the hospital's first cost reporting period beginning on or after the date of the appeal decision. The hospital's revised base period costs will not be used to recalculate the hospital-specific portion as determined for fiscal years beginning before the date of the appeal decision.

(c) To exclude costs that were unlawfully claimed as determined as a result of criminal conviction, imposition of a civil money penalty or assessment, a civil judgment under the False Claims Act (31 U.S.C. 3729–3731), or a proceeding for exclusion from the Medicare program. In addition to adjusting base year costs, HCFA will recover both the excess costs reimbursed for the base period and the additional amounts paid due to the inappropriate increase of the hospital-specific portion of the hospital's transition payment rates. The amount to be recovered will be computed based on the final resolution of the amount of the inappropriate base-year costs.

(v) Except as provided in paragraphs (b)(1)(iii)(B) and (b)(1)(iv) of this section, the intermediary's estimate of base-year costs for purposes of determining the hospital-specific portion is final, and may not be changed after the first day of the first cost reporting period beginning on or after October 1, 1983.

(2) *Adjustments to base-year cost.*

(i) The intermediary will adjust the hospital's estimated base year inpatient operating costs, as necessary, to eliminate nursing differential costs (as described in § 405.430), direct medical education costs (as described in § 405.421), capital-related costs (as described in § 405.414), and kidney acquisition costs incurred by hospitals approved as renal transplantation centers (as described in § 405.476(h)). Kidney acquisition costs in the base year will be determined by multiplying the hospital's average kidney acquisition cost per kidney times the number of kidney transplants covered by Medicare Part A during the base period. Malpractice insurance costs will be included in the inpatient operating costs, as described in § 405.452.

(ii) A hospital may request the intermediary to further adjust its estimated base period costs to take into account—

(A) Services paid for under Medicare Part B during the hospital's base year that will be paid for under prospective payments. The base year costs may be increased to include estimated payments for certain services previously billed as physicians' services before the effective date of § 405.550(b), and estimated payments for nonphysicians' services that were not furnished either directly or under arrangements before October 1, 1983 (the effective date of § 405.310(m)), but may not include the costs of anesthetists services for which a physician employer continues to bill under § 405.553(b)(4).

(B) The payment of FICA taxes during cost reporting periods subject to the prospective payment system, if the hospital had not paid such taxes for all its employees during its base period and will be required to participate effective January 1, 1984.

(iii) If a hospital requests its base period costs to be adjusted under paragraph (b)(2)(ii) of this section, it must timely provide the intermediary with sufficient documentation to justify the adjustment and adequate data to compute the adjusted costs. The intermediary will determine whether to use part or all of the data based on audit, survey, and other information available.

(3) *Costs on a per discharge basis.* The intermediary will determine the hospital's estimated adjusted base year operating cost per discharge by dividing the total adjusted operating costs by the number of discharges in the base period.

(4) *Case-mix adjustment.* The intermediary will divide the adjusted base year costs by the hospital's 1981 case-mix index. If the hospital's case-mix index is statistically unreliable (as determined by HCFA), the hospital's base year costs will be divided by the lower of:

(i) The hospital's estimated case-mix index; or

(ii) The average case-mix index for the appropriate classifications of all hospitals subject to cost limits, established under § 405.460 for cost reporting periods beginning on or after October 1, 1982 and before October 1, 1983.

(5) *Outlier adjustment.* The intermediary will reduce the case-mix adjusted base year costs by a percentage equal to the proportion (estimated by HCFA) of the amount of payments based on prospective payment rates that will be additional payments for outlier cases under § 405.475.

(6) *Updating base year costs.*

(i) *For Federal fiscal year 1984.* The case-mix adjusted base year cost per discharge will be updated by the applicable updating factor (that is, the target rate percentage determined under § 405.463(c)), as adjusted for budget neutrality.

(ii) *For Federal fiscal year 1985.* The amount determined under paragraph (b)(6)(i) of this section will be updated by the applicable updating factor, as adjusted for budget neutrality.

(iii) *For Federal fiscal year 1986.* The amount determined under paragraph (b)(6)(ii) of this section will be updated by the applicable updating factor, that is, the target rate percentage determined under § 405.463(c).

(7) *Budget neutrality.*

(i) *Federal Fiscal year 1984.* For cost reporting periods beginning on or after October 1, 1983 and before October 1,

1984, HCFA will adjust the target rate percentage used under paragraph (b)(6) of this section by a factor actuarially estimated to ensure that the estimated amount of aggregate Medicare payments made based on the hospital-specific portion of the transition payment rates are neither greater nor less than 75 percent of the payment amounts that would have been payable for the inpatient operating costs for those same hospitals for fiscal year 1984 under the law in effect before April 20, 1983.

(ii) *Federal fiscal year 1985.* For cost reporting periods beginning or or after October 1, 1984 and before October 1, 1985, HCFA will adjust the target rate percentage used under paragraph (b)(6) of this section by a factor actuarially estimated to ensure that the estimated amounts of aggregate Medicare payment made based on the hospital-specific portion of the transition payment rates are neither greater nor less than 50 percent of the payment amounts that would have been payable for the inpatient operating costs for those same hospitals for fiscal year 1985 under the Social Security Act as in effect on April 19, 1983.

(8) *DRG adjustment.* The applicable hospital-specific cost per discharge will be multiplied by the appropriate DRG weighting factor to determine the hospital-specific base payment amount (target amount) for a particular covered discharge.

(c) *Determining transition payment rates for new hospitals.* (1) For purposes of this section, a new hospital is a hospital that:

(i) Is newly participating in the Medicare program (under previous and present ownership); and

(ii) Does not have a 12-month cost reporting period ending before September 30, 1983.

(2) For purposes of computing transition payment rates for a new hospital, HCFA will not use the hospital-specific portion of the prospective payment rate. Payments to new providers will be based solely on the Federal regional and national prospective payment rates, as described in paragraph (a)(4) of this section.

(d) *Recovery of excess transition period payment amounts resulting from unlawful claims.* If a hospital's base year costs, as estimated for purposes of determining the hospital-specific portion, are determined, by criminal conviction or imposition of a civil money penalty or assessment, to include costs that were unlawfully claimed, the hospital's base period costs will be adjusted to remove the effect of the excess costs, and HCFA will recover both the excess costs reimbursed for the base period and the additional amounts paid due to the inappropriate increase of the hospital-specific portion of the hospital's transition payment rates.

§ 405.475 Payment for outlier cases.

(a) *General rule.* HCFA will provide for additional payment, approximating a hospital's marginal cost of care beyond thresholds specified by HCFA, to a hospital for covered inpatient hospital services furnished to a Medicare beneficiary if—

(1) The beneficiary's length of stay (including days at the SNF level of care if a SNF bed is not available in the area) exceeds the mean length of stay for the applicable DRG by the lesser of—

(i) A fixed number of days, as specified by HCFA; or

(ii) A fixed number of standard deviations, as specified by HCFA;

(2) The beneficiary's length of stay does not exceed criteria established under paragraph (a)(1) of this section, but the hospital's charges for covered services furnished to the beneficiary, adjusted to cost by applying a national cost/charge ratio, exceed the greater of—

(i) A fixed dollar amount (adjusted for area wage levels) as specified by HCFA; or

(ii) A fixed multiple of the Federal prospective payment rate. During the transition period, the Federal rate is a combination of the national rate and regional rate as follows:

Federal fiscal year	Regional rate percentage	National rate percentage
October 1, 1983	100	
October 1, 1984	75	25
October 1, 1985	50	50
October 1, 1986		100

(b) *Publication and revision of outlier criteria.* HCFA will issue threshold criteria for determining outlier payment in the annual notice of prospective payment rates published in accordance with § 405.470(f).

(c) *Payment for extended length of stay (day outliers).* (1) If the hospital stay reflected by a discharge includes covered days of care beyond the applicable threshold criterion, the intermediary will make an additional payment, on a per diem basis, to the provider for those days. A special request or submission by the hospital is not necessary to initiate this payment.

(2) The additional payment will be made only after the medical review agent has reviewed and approved:

(i) The admission;

(ii) The number of outlier days; and

(iii) The validity of the diagnostic and procedural coding.

(3) The per diem payment made under paragraph (c)(1) of this section will be based on 60 percent of the average per diem payment for the applicable DRG, as determined by dividing the Federal prospective payment rate as determined under § 405.475(a)(2)(ii) by the mean length of stay for that DRG.

(4) Any days in the stay identified as noncovered will reduce the number of days reimbursed at the day outlier rate but not to exceed the number of days which occur after the day outlier threshold.

(d) *Payment for extraordinarily high-cost cases (cost outliers).*

(1) A hospital may request its intermediary to make an additional payment for inpatient hospital services that meet the criteria established in accordance with paragraph (a)(2) of this section.

(2) The hospital must request additional payment within 60 days of receipt of the intermediary's initial determination of the prospective payment rate for the discharge.

(3) The hospital must request medical review agent review and approval of all services. The review, using the medical records and itemized charges will determine that:

(i) The admission was medically necessary and appropriate,

(ii) All services were medically necessary and delivered in the most appropriate setting,

(iii) All services were actually rendered, ordered by the physician, and not duplicatively billed, and

(iv) The diagnostic and procedural coding are correct.

(4) The intermediary will base the cost of the discharge on 72 percent of the billed charges for covered inpatient services. The cost will be further adjusted to exclude an estimate of indirect medical education costs, and to include the reasonable charges for nonphysician services billed by an outside supplier under § 489.23.

(5) If any of the services are determined to be noncovered, the charges for these services will be deducted from the requested amount of reimbursement but not to exceed the amount claimed above the cost outlier threshold.

(6) The additional payment amount will be 60 percent of the difference between the hospital's adjusted cost for the discharge (as determined under paragraph (d)(3) of this section) and the threshold criteria established under paragraph (a)(2) of this section.

(e) *Relation to indirect medical education costs.* The outlier payment amounts will be included in total DRG

revenue for purposes of determining payments for indirect medical education costs under § 405.477(d)(2).

§ 405.476 Treatment of sole community hospitals, Christian Science sanitoria, cancer hospitals, referral centers, and kidney acquisition costs incurred by hospitals approved as renal transplantation centers.

(a) *General rules.*

(1) *Sole community hospitals.* HCFA may adjust the prospective payment rates determined under §§ 405.473 or 405.474 if a hospital, by reason of factors such as isolated location, weather conditions, travel conditions, or absence of other hospitals, is the sole source of inpatient hospital services reasonably available in a geographic area to Medicare beneficiaries. If a hospital meets the criteria for such an exception under paragraph (b) of this section, its prospective payment rates will be determined under paragraph (c) of this section.

(2) *Christian Science Sanitoria.* HCFA will adjust the prospective payment rates determined under §§ 405.473 or 405.474 if a hospital is a Christian Science sanitorium. Such a sanitorium's prospective payment rates will be determined in accordance with paragraph (e) of this section.

(3) *Hospitals involved extensively in treatment for and research on cancer.* HCFA may adjust the prospective payment rates determined under §§ 405.473 and 405.474 if a hospital is involved extensively in treatment for and research on cancer. Criteria for identifying such hospitals are set forth at paragraph (f) of this section.

(4) *Referral center.* HCFA may make an adjustment to the prospective payment rates determined under §§ 405.473 and 405.474 if a hospital acts as a referral center for patients transferred from other hospitals. Criteria for identifying such referral centers are set forth at paragraph (g) of this section.

(5) *Kidney acquisition costs incurred by hospitals approved as renal transplantation centers.* HCFA will pay for kidney acquisition costs incurred by renal transplantation centers on a reasonable cost basis. The criteria for this special payment provision are set forth at paragraph (h) of this section.

(b) *Requests and criteria for classification as a sole community hospital (SCH).*

(1) *Request for classification.* A hospital may request classification as a sole community hospital according to the following procedures:

(i) The hospital must make its request to its fiscal intermediary.

(ii) The intermediary will review the request and will send the request, with its recommendation, to HCFA.

(iii) HCFA will review the request and the intermediary's recommendation and forward its approval or disapproval to the intermediary.

(iv) An approved classification as a sole community hospital will remain in effect without need for reapproval unless there is a change in the circumstances under which the classification was approved.

(2) For purposes of paragraph (b)(3) of this section:

(i) The term "urban area" means:

(A) A Metropolitan Statistical Area (MSA) or New England County Metropolitan Area (NECMA), as defined by the Executive Office of Management and Budget; or

(B) The following New England counties, which are deemed to be urban areas: Litchfield County, Connecticut; York County, Maine; Sagadahoc County, Maine; Merrimack County, New Hampshire; and Newport County, Rhode Island.

(ii) The term "rural area" means any area outside an urban area.

(3) *Criteria for classification as a sole community hospital.*

(i) A hospital that has been granted an exemption from the hospital cost limits under § 405.460(e)(1) on or before September 30, 1983 will be automatically classified as a sole community hospital under the prospective payment system unless the hospital's classification has been cancelled under paragraph (b)(6) of this section or unless the area in which the hospital is located has been designated as an urban area.

(ii) A hospital will be classified as a sole community hospital if it is located in a rural area; and

(A) The hospital is located more than 50 miles from other like hospitals; or

(B) The hospital is located between 25 and 50 miles from other like hospitals and, either no more than 25 percent of the residents in the hospital's service area are admitted to the other like hospitals for care, or because of local topography or periods of prolonged severe weather conditions, the other like hospitals are inaccessible for at least one month out of each year; or

(C) The hospital is located between 15 and 25 miles from other like hospitals but because of local topography or periods of prolonged severe weather conditions, the other like hospitals are inaccessible for at least one month out of each year.

(4) The term "miles" as used in this section means the distance in miles measured over improved roads. An improved road for this purpose is any road which is maintained by a local, State, or Federal government entity and which is available for use by the general public.

(5) The term "like hospital", as used in this section, means hospitals furnishing short-term, acute care. HCFA will not evaluate comparability of specialty services in making determinations on SCH classification.

(6) *Cancellation of classification.*

(i) A hospital may request to have its classification as a sole community hospital cancelled at any time, and to be paid rates determined under §§ 405.473 or 405.474, as appropriate.

(ii) If a hospital requests to have its sole community hospital classification cancelled, it may not apply later for reclassification as a sole community hospital unless all hospitals within 50 miles of the facility have closed.

(c) *Determining prospective payment rates for sole community hospitals.* For all cost reporting periods beginning on or after October 1, 1983, the prospective payment rates for sole community hospitals will equal 75 percent of the hospital-specific base payment rate (as determined under § 405.474(b)) plus 25 percent of the appropriate regional prospective payment rate (as determined under § 405.473).

(d) *Additional payments to sole community hospitals experiencing a significant volume decrease during the transition period.*

(1) For cost reporting periods beginning on or after October 1, 1983 and before October 1, 1986, HCFA will provide for a payment adjustment for a sole community hospital in any cost reporting period during which the hospital experiences, due to circumstances as described in paragraph (d)(2) of this section, more than a 5 percent decrease in its total discharges of inpatients as compared to its immediately preceding cost reporting period.

(2) To qualify for a payment adjustment due to a decrease in discharges, a sole community hospital must—

(i) Submit documentation to the intermediary demonstrating the size of the decrease in discharges, and the resulting effect on per discharge costs; and

(ii) Show that the decrease is due to extraordinary circumstances beyond the hospital's control. Such circumstance include unusual situations or occurrences externally imposed on the hospital, such as (but not limited to) strikes, fires, earthquakes, floods, inability to recruit essential physician staff, unusual prolonged severe weather

conditions, or similar unusual occurrences with substantial cost effects.

(3) HCFA will determine a per discharge payment adjustment amount, including at least an amount reflecting the reasonable cost of maintaining the hospital's necessary core staff and services, based on—

(i) The individual hospital's needs and circumstances, including minimum staffing requirements imposed by State agencies;

(ii) The hospital's fixed (and semi-fixed) costs, other than those costs reimbursed on a reasonable cost basis under this subpart; and

(iii) The length of time the hospital has experienced a decrease in utilization.

(e) *Determining prospective payment rates for Christian Science sanitoria.*

(1) *General rule.* If a Christian Science Sanitorium is not excluded from the prospective payment system under § 405.471, HCFA will pay for inpatient hospital services furnished to a beneficiary by that sanitorium on a basis of a predetermined fixed amount per discharge based on the sanitorium's historical inpatient operating costs per discharge.

(2) *Prospective payment rates.* For cost reporting periods beginning on or after October 1, 1983, the sanitorium's prospective payment rate will be equal to the amount that would constitute the sanitorium's target amount under § 405.463(c)(4) if the institution were subject to the rate of increase ceiling at 405.463 instead of the prospective payment system. This amount will not be adjusted for the DRG weighting factor.

(3) *Outlier payments.* A Christian Science sanitorium is not eligible for outlier payments under § 405.475.

(f) *Cancer hospitals*

(1) *Criteria for classification.* HCFA will consider a hospital's request for an adjustment to a cancer hospital's prospective payment rates only if the hospital—

(i) Was recognized as a comprehensive cancer center or clinical cancer research center by the National Cancer Institute of the National Institutes of Health as of April 20, 1983;

(ii) Demonstrates that the entire facility is organized primarily for treatment of and research on cancer; and

(iii) Has a patient population such that at least 80 percent of the hospital's total discharges are in Diagnosis-Related Groups incorporating a finding of cancer in the principal diagnosis (that is, the condition established after study to be chiefly responsible for occasioning the admission of the patient to the hospital).

(2) *Payment.*

(i) A hospital meeting the criteria in paragraph (f)(1) of this section may elect, during its first cost reporting period subject to the prospective payment system, to be reimbursed on a reasonable cost basis under this subpart, subject to the rate of increase limit under § 405.463.

(ii) If the hospital elects reasonable cost reimbursement under paragraph (f)(2)(i) of this section, it will continue to be reimbursed on that basis until it elects to enter the prospective payment system.

(iii) A hospital that does not elect reasonable cost reimbursement under paragraph (f)(2)(i) of this section before the end of its first cost reporting period subject to prospective payment, or that elects to enter the prospective payment system under paragraph (f)(2)(ii) of this section, may not again apply for an adjustment under this paragraph.

(g) *Referral centers.*

(1) *Criteria.* HCFA will consider a hospital's request for a referral center adjustment to the hospital's prospective payment rates only if the hospital is an acute care hospital that has a provider agreement under Part 489 of this chapter to participate in Medicare as a hospital; and

(i) Is located in a rural area (as defined in § 405.473(b)(6)) and has 500 or more beds available for use; or

(ii) Has an inpatient population such that at least 60 percent of all Medicare patients reside out-of-state or more than 100 miles from the hospital (whichever is further), and at least 60 percent of all the services it furnishes to beneficiaries are furnished to beneficiaries who reside either out of the State or 100 miles or more from the hospital, whichever is further.

(2) *Payments to rural referral centers with 500 or more beds.* A hospital that meets the criteria of paragraph (g)(1)(i) of this section will be paid prospective payments per discharge based on the applicable urban payment rates as determined in accordance with § 405.473 (b)(10) or (c)(7), as adjusted by the hospital's area wage index.

(h) *Adjustments for renal transplantation centers.*

HCFA will adjust the prospective payment rates determined under § § 405.473 and 405.474 for hospitals approved as renal transplantation centers (described at § § 405.2170 and 405.2171) to remove the estimated net expenses associated with kidney acquisition. Kidney acquisition costs will be treated apart from the prospective payment rate and reimbursement to the hospital will be adjusted in each reporting period to reflect an amount necessary to compensate the hospital for reasonable expenses of kidney acquisition. Expenses recognized under this section include costs of acquiring a kidney, from a live donor or a cadaver, irrespective of whether the kidney was obtained by the hospital or through an organ procurement agency. These costs include—

(1) Tissue typing, including tissue typing furnished by independent laboratories;

(2) Donor and recipient evaluation;

(3) Other costs associated with excising kidneys, such as donor general routine and special care services;

(4) Operating room and other inpatient ancillary services applicable to the donor;

(5) Preservation and perfusion costs;

(6) Charges for registration of recipient with a kidney transplant registry;

(7) Surgeons' fees for excising cadaver kidneys;

(8) Transportation;

(9) Costs of kidneys acquired from other providers or kidney procurement organizations;

(10) Hospital costs normally classified as outpatient costs applicable to kidney excisions (services include donor and donee tissue typing, work-up, and related services furnished prior to admission);

(11) Costs of services applicable to kidney excisions which are rendered by residents and interns not in approved teaching programs; and

(12) All pre-admission physicians services, such as laboratory, electroencephalography, and surgeon fees for cadaver excisions, applicable to kidney excisions including the costs of physicians services.

§ 405.477 Payments to hospitals under the prospective payment system.

(a) *Total Medicare payment.* Under the prospective payment system Medicare's total payment for inpatient hospital services furnished to a Medicare beneficiary by a hospital will equal the sum of the payments listed in paragraphs (b), (c), and (d) of this section, reduced by the amounts listed in paragraph (e) of this section.

(b) *Payments determined on a per case basis.* A hospital will be paid on a per case basis the following amounts:

(1) The appropriate prospective payment rate for each discharge as determined in accordance with § § 405.473, 405.474, and 405.476;

(2) The appropriate outlier payment amounts determined under § 405.475.

(c) *Payments determined on a reasonable cost basis*—(1) *Capital-related costs.* Payment for capital-related costs (as described in § 405.414) will be determined on a reasonable cost basis. For cost reporting periods beginning before October 1, 1986, the capital-related costs for each hospital must be determined consistently with the treatment of such costs for purposes of determining the hospital-specific portion of the hospital's prospective payment rate under § 405.474(b).

(2) *Direct medical education costs.* Payment for the cost of approved medical educational activities as defined in § 405.421 will be made on a reasonable cost basis (except with respect to activities defined in § 405.421(d)). For cost reporting periods beginning prior to October 1, 1986, the costs of medical education must be determined consistently with the treatment of such costs for purposes of determining the hospital-specific portion of the transition payment rate in § 405.474.

(d) *Additional payments*—(1) *Bad debts.* An additional payment will be made to each hospital in accordance with § 405.420 for bad debts attributable to deductible and coinsurance amounts related to covered services received by beneficiaries.

(2) *Indirect medical education costs.*

(i) An additional payment may be made to a hospital for indirect medical education costs attributable to an approved graduate medical education.

(ii) To determine the indirect medical education costs, HCFA will determine for each hospital its:

(A) Ratio of full-time equivalent interns and residents to beds, excluding those interns and residents in anesthesiology who are employed to replace anesthetists;

(B) Total revenue based on DRG-adjusted prospective payment rates (for transition period payments, the Federal portion of the hospital's payment rates), including outlier payments determined under § 405.475.

(iii) Based on a comparison of the inpatient operating costs (as defined in § 405.470(b)(3)) of all hospitals, HCFA will determine a factor, expressed as a percentage, representing the effect of teaching activity on operating costs in the same manner as for the limit on hospital inpatient operating costs in effect on January 1, 1983, and will set an education adjustment factor at twice that percentage.

(iv) Each hospital's indirect medical education payment will be determined by multiplying its:

(A) Total DRG revenue, as determined under paragraph (d)(2)(ii)(B) of this section;

(B) A factor representing each 0.1 increase in the hospital's ratio of full-time equivalent interns and residents to beds, as determined under paragraph (d)(2)(ii)(A) of this section; and

(C) The education adjustment factor determined under paragraph (d)(2)(iii) of this section.

(v) The number of full-time equivalent interns and residents under paragraph (d)(2)(ii)(A) will include only interns and residents in teaching programs approved under § 405.421 (excluding those employed by the hospital, but furnishing services at another site), and will equal the sum of:

(A) Interns and residents employed for 35 hours or more per week; and

(B) One half of the total number of interns and residents working less than 35 hours per week (regardless of the number of hours worked).

(e) *Reductions to total payments*—(1) *Deductible and Coinsurance.* Subject to paragraph (e)(2) of this section, the total Medicare payments otherwise payable to a hospital will be reduced by the applicable deductible and coinsurance amounts related to inpatient hospital services as determined in accordance with §§ 409.82, 409.83, and 409.87.

(2) *Payment by Workers' Compensation, Automobile Medical, No-fault or Liability Insurance or an employer Group Health Plan Primary to Medicare.* If workers' compensation, automobile medical, no-fault, or liability insurance or an employer group health plan which is primary to Medicare pays in full or in part, the Medicare payment will be determined in accordance with the following guidelines:

(i) If workers compensation pays, in accordance with the applicable provisions of §§ 405.316 through 405.321.

(ii) If automobile medical, no-fault, or liability insurance pays, in accordance with the applicable provisions of §§ 405.322 through 405.325.

(iii) If an employer group health plan which is primary to Medicare pays for services to ESRD beneficiaries, in accordance with the applicable provisions of §§ 405.326 through 405.329.

(iv) If an employer group health plan which is primary to Medicare pays for services to employees age 65–69 and their spouses age 65–69, in accordance with the applicable provisions of §§ 405.340 through 405.344.

(3) HCFA will reduce payments for inpatient hospital services to take into account 100 percent of the reasonable charges (before application of Medicare Part B deductible and coinsurance amounts) for nonphysician services furnished, to beneficiaries entitled to benefits under Medicare Part A, by an outside supplier under § 489.23.

(f) *Effect of change of ownership on payments under the prospective payment system.*

(1) When a hospital's ownership changes, as described in § 489.18 of this chapter, payment for the operating costs of inpatient hospital services for each patient, including outlier payments, as described in paragraph (b) of this section, and payments for indirect medical education costs as described in paragraph (d)(2) of this section, will be made to the legal owner of the hospital at the time of discharge. Payments will not be prorated between the buyer and seller.

(i) The owner on the date of discharge is entitled to submit a bill for all inpatient hospital services furnished to a beneficiary regardless of when the beneficiary's coverage began or ended during a stay, or of how long the stay lasted.

(ii) Each bill submitted must include all information necessary for the intermediary to compute the payment amount, whether or not some of that information is attributable to a period during which a different party legally owned the hospital.

(2) Payment for costs described in paragraphs (c) and (d)(1) of this section, will be made to each owner or operator of the hospital (buyer and seller) in accordance with the principles of reasonable cost reimbursement.

4. Section 405.482 is amended by revising paragraph (a) to read as follows:

§ 405.482 Limits on compensation for services of physicians in providers.

(a) *Principle and scope.* (1) Except as provided in paragraphs (a) (2) and (3) of this section, HCFA will establish reasonable compensation equivalent (RCE) limits on the amount of compensation paid to physicians by providers. These limits will be applied to a provider's costs incurred in compensating physicians for services to the provider, as described in § 405.480(a).

(2) Limits established under this section will not apply to costs of physician compensation attributable to furnishing inpatient hospital services that are paid for under the prospective payment system implemented under §§ 405.470 to 405.477.

(3) Compensation that a physician receives for activites that may not be paid for under either Part A or Part B of

Medicare will not be considered in applying these limits.

* * * * *

4. Subpart E is amended as follows:

Subpart E—Criteria for Determination of Reasonable Charges; Reimbursement for Services of Hospital Interns, Residents, and Supervising Physicians

a. The authority citation for Subpart E is revised to read as follows:

Authority: Secs. 1102, 1814(b), 1832, 1833(a), 1842 (b) and (h), 1861 (b) and (v), 1862(a)(14), 1866(a), 1871, 1881, 1886 and 1887 of the Social Security Act as amended (42 U.S.C. 1302, 1395f(b), 1395k, 1395(a), 1395u (b) and (h), 1395x (b) and (v), 1395y (a)(14), 1395cc(a), 1395hh, 1395rr, 1395ww and 1395xx).

b. In the table of contents of subpart E, the title of § 405.552 is amended as set forth below:

Subpart E—Criteria for Determination of Reasonable Charges; Reimbursement of Services of Hospital Interns, Residents, and Supervisory Physicians

Sec.

* * * * *

405.552 Conditions for payment of charges: Anesthesiology services.

* * * * *

c. Section 405.550 is amended by revising paragraphs (d) (1) and (2) and (e) as follows:

§ 405.550 Conditions for payment of charges for physician services to patients in providers: General provisions.

* * * * *

(d) *Effect of billing charges for physician services to a provider.* (1) If services performed by a physician may be paid for under the reasonable cost rules in §§ 405.480 and 405–481, neither the provider nor physician may seek charge payment for the carrier, beneficiary, or another insurer.

(2) The carrier will not pay on a reasonable charge basis for services furnished by a physician to an individual patient that do not meet the applicable conditions in §§ 405.552, 405.554, and 405.556.

* * * * *

(e) *Effect of physician's assumption of operating costs.* If a physician or other entity enters into an agreement (such as a lease or concession) with a provider, under which the physician (or entity) assumes some or all of the operating costs of the provider department in which the physician furnishes physician services in the provider, the following rules apply:

(1) The carrier will make reasonable charge payments only for a physician's services to an individual patient.

(2) To the extent the provider incurs a cost reimbursable on a reasonable cost basis under Subpart D of this part, the intermediary will pay the provider on a reasonable cost basis for the costs associated with producing these services, including overhead, supply, and equipment costs, and services furnished by nonphysician personnel.

(3) The physician (or other entity) will be treated as related to the provider within the meaning of § 405.427.

(4) The physician (or other entity) must make its books and records available to the provider and the intermediary as necessary to verify the nature and extent of the costs of the services furnished by the physician (or other entity).

d. In § 405.552, the title and paragraph (a) are revised to read as follows:

§ 405.552 Conditions for payment of charges: Anesthesiology services.

(a) *Services furnished directly or concurrently.* The carrier will reimburse a physician for anesthesiology services furnished to patients in a provider on a reasonable charge basis only if the services meet the conditions for reasonable charge payment in § 405.550(b) and the following additional conditions are met:

(1) For each patient, the physician—

(i) Performs a pre-anesthetic examination and evaluation;

(ii) Prescribes the anesthesia plan;

(iii) Personally participates in the most demanding procedures in the anesthesia plan, including induction and emergence;

(iv) Ensures that any procedures in the anesthesia plan that he or she does not perform are performed by a qualified individual;

(v) Monitors the course of anesthesia administration at frequent intervals;

(vi) Remains physically present and available for immediate diagnosis and treatment of emergencies; and

(vii) Provides indicated postanesthesia care.

(2) The physician either performs the procedure directly, without the assistance of an anesthetist, or directs no more than four anesthesia procedures concurrently, and does not perform any other services while he or she is directing the concurrent procedures.

* * * * *

e. Section 405.553 is amended by revising paragraph (b) to read as follows:

§ 405.553 Reasonable charges for anesthesiology services.

* * * * *

(b) *Services furnished by the anesthesiologist or by an anesthetist employed by the anesthesiologist.*

(1)(i) The provisions of this paragraph apply to anesthesia services furnished by an anesthesiologist without the assistance of an anesthetist or to anesthesia services furnished to hospital outpatients or SNF or CORF patients by an anesthetist who is employed by an anesthesiologist.

(ii) Except as provided in paragraph (b)(4) of this section, anesthesia services furnished to a hospital inpatient by an anesthetist under the medical direction of an anesthesiologist will be paid for in accordance with paragraph (c) of this section.

(iii) If the anesthetist who administers anesthesia under the direction of the anesthesiologist is employed by the anesthesiologist, the carrier will determine the amount of payment for the services under the reasonable charge rules for physician services in providers in § 405.551 and the general reasonable charge rules in §§ 405.501 through 405.508.

(2) In determining reasonable charges for these anesthesia services, the carrier will allow for no more than one time unit for each 15 minute interval, or fraction thereof, beginning from the time the physician or anesthetist begins to prepare the patient for induction of anesthesia, and ending when the patient may be safely placed under post-operative supervision and the physician or anesthetist is no longer in personal attendance.

(3) If a physician constructs his or her charges using time units of other than 15 minutes, the carrier will adjust the customary and prevailing charge screens to ensure that in a one-hour period the value of four 15-minute intervals will not be less than would have been allowed if the entire hour had consisted of intervals of another length, such as five 12-minute intervals or six 10 minute intervals.

(4) If the following conditions are met, the provisions of paragraph (b)(1)(ii) of this section do not apply to inpatient hospital services furnished by an anesthetist employed by a physician:

(i) The services are furnished to inpatients of a hospital during a cost reporting period beginning before October 1, 1986.

(ii) It was the physician's practice to employ anesthetists as of the last day of the hospital's most recent 12-month or longer cost reporting period ending before September 30, 1983.

(iii) The cost of the anesthetist services are not added to the hospital's base year costs, as otherwise allowed

under § 405.474(b)(2)(ii)(A), for purposes of determining transition period payment rates under the prospective payment system.

* * * * *

f. Section 405.554 is amended by revising paragraph (b) to read as follows:

§ 405.554 Conditions for payment of charges: Radiology services.

* * * * *

(b) *Services to providers.*—The carrier will not pay on a reasonable charge basis for physician services to the provider (for example, administrative or supervisory services) or for provider services needed to produce the X-ray films or other items that are interpreted by the radiologist. However, allowable costs for such services will be paid to the provider by the intermediary. (See § 405.480 for provider costs, and § 405.550(e) for costs borne by a physician, such as under a lease or concession agreement.)

g. Section 405.555 is amended by revising paragraph (c)(2) to read as follows:

§ 405.555 Reasonable charges for radiology services.

* * * * *

(c) *Services furnished in providers.*

* * *

* * * * *

(2) The reasonable charge for a physician's radiology service furnished to a hospital inpatient or furnished in a provider to a provider patient may not exceed 40 percent of the prevailing charge for a similar service furnished in a nonprovider setting.

h. Section 405.556 is amended by revising paragraph (a) and adding a new paragraph (c) to read as follows:

§ 405.556 Conditions for payment of charges: Physician laboratory services.

(a) *Physician laboratory services.*—The carrier will reimburse laboratory services furnished by a physician to an individual patient on a reasonable charge basis only if the services meet the conditions for reasonable charge payment in § 405.550(b) and are—

(1) Anatomical pathology services;

(2) Consultative pathology services that meet the requirements in paragraph (b) of this section; or

(3) Services performed by a physician in personal administration of test devices, isotopes, or other materials to an individual patient.

* * * * *

(c) *Independent laboratory services furnished to hospital inpatients.* Laboratory services furnished to a hospital inpatient by an independent laboratory (as defined in § 405.1310(a)) will be reimbursed on a reasonable charge basis under this Subpart only if they are physician laboratory services as described in paragraph (a) of this section. Payment for nonphysician services furnished to a hospital inpatient by an independent laboratory will be made by the intermediary to the hospital in accordance with Subpart D.

5. Subpart G is amended as follows:

Subpart G—Reconsiderations and Appeals Under the Hospital Insurance Program

a. The authority citation for Subpart G is revised to read as follows:

Authority: Secs. 1102, 1154, 1155, 1869(b), 1871, 1872 and 1879 of the Social Security Act (42 U.S.C. 1302, 1320c, 1395ff(b), 1395hh, 1395ii and 1395pp).

b. Section 405.704 is amended by reprinting the introductory language of paragraph (b) unchanged and revising paragraph (b)(12) to read as follows:

§ 405.704 Actions which are initial determinations.

* * * * *

(b) *Requests for payment by or on behalf of individuals.* An initial determination with respect to an individual includes any determination made on the basis of a request for payment by or on behalf of the individual under Part A of Medicare, including a determination with respect to:

* * * * *

(12) When items or services are excluded from coverage pursuant to § 405.310(g) or § 405.310(k) or a determination by a Peer Review Organization under section 1154(a)(1) of the Act, whether such individual or the provider of services who furnished such items or services, or both, knew or could reasonably have been expected to know that such items or services were excluded from coverage (see § 405.332); and

* * * * *

c. Section 405.706 is revised by designating the single undesignated paragraph as paragraph (a), and adding a new paragraph (b). As revised the section reads as follows:

§ 405.706 Decisions of utilization review committees.

(a) *General rule.* A decision of a utilization review committee is a medical determination by a staff committee of the provider or a group similarly composed and does not constitute a determination by the Secretary within the meaning of section 1869 of the Act. The decision of a utilization review committee may be considered by HCFA along with other pertinent medical evidence in determining whether or not an individual has the right to have payment made under Part A of title XVIII.

(b) *Applicability under the prospective payment system.* HCFA may consider utilization review committee decisions related to inpatient hospital services paid for under the prospective payment system (see §§ 405.470 through 405.477) only as those decisions concern:

(1) The appropriateness of admissions resulting in payments under §§ 405.473, 405.474, and 405.476;

(2) The covered days of care involved in determinations of outlier payments under § 405.475(a)(1); and

(3) The necessity of professional services furnished in high cost outliers under § 405.475(a)(2).

6. Subpart J is amended as set forth below:

Subpart J—Conditions of Participation; Hospitals

a. The Table of Contents for Subpart J is amended by adding the heading for new § 405.1042 and revising the authority citation to read as follows:

Subpart J—Conditions of Participation; Hospitals

Sec.

* * * * *

§ 405.1042 Condition of participation—Special utilization review requirements for hospitals paid under the prospective payment system.

Authority: Sections 1102, 1154(a)(10), 1861 (e), (f), (g), and (k), 1871, and 1886 of the Social Security Act, as amended (42 U.S.C. 1302, 1395x (e), (f), (g), and (k), 1395hh, and 1395ww).

b. New § 405.1042 is added to read as follows:

§ 405.1042 Condition of participation: Special utilization review requirements for hospitals paid under the prospective payment system.

The hospital must have in effect a utilization review plan that provides for review of services furnished by the institution and by members of the medical staff to patients entitled to benefits under the Medicare and Medicaid programs. The provisions of this section do not apply to a hospital for which a Professional Standards Review Organization or a Utilization and Quality Control Peer Review Organization has assumed binding review.

(a) *Applicability of Utilization Review (UR) plan requirements under titles XVIII and XIX.*

(1) Except as specified in paragraph (a)(2) of this section, for title XVIII purposes the facility must meet the UR requirements specified in this section.

(2) If HCFA determines that the UR procedures established by the State under title XIX of the Act are superior to the procedures required in this section. HCFA may require hospitals in that State to meet the UR plan requirements under §§ 456.50 through 456.245 of this chapter.

(b) *Standard: Composition of utilization review committee.* A UR committee, of which at least two members must be doctors of medicine or Osteopathy, with or without participation of other professional personnel, must carry out the UR functions.

(1) Except as specified in paragraphs (b) (2) and (3) of this section, the UR committee must be one of the following:

(i) A staff committee of the institution;

(ii) A group outside the institution—

(A) Established by the local medical society and some or all of the hospitals in the locality; or

(B) Established in a manner approved by HCFA.

(2) If, because of the small size of the institution, it is impracticable to have a properly functioning staff committee the UR committee must be established as specified in paragraph (b)(1)(ii) of this section.

(3) The committee's or group's reviews may not be conducted by any physician who—

(i) Has a direct financial interest (for example in ownership interest) in the hospital; or

(ii) Was professionally involved in the care of the patient whose case is being reviewed.

(c) *Standard: Scope and frequency of reviews.*

(1) Except as provided in paragraph (c)(2) of this section, the UR plan must provide for review with respect to the medical necessity of—

(i) Admissions to the institution;

(ii) The duration of stays; and

(iii) Professional services furnished, including drugs and biologicals.

(2) In hospitals paid for inpatient hospital services under the prospective payment system (see § 405.470–405.477), the UR plan must provide for:

(i) Review of the duration of stays as required under paragraph (c)(1)(ii) of this section only in cases reasonably assumed by the hospital to be outlier cases based on extended length of stay, as described in § 405.575(a)(1); and

(ii) Review of services furnished as required under paragraph (c)(1)(iii) of this section only in cases reasonably assumed by the hospital to be outlier cases based on extraordinarily high costs, as described in §405.475(a)(2).

(3) Except as specified in paragraph (e) of this section, reviews may be conducted on a sample basis.

(4) The UR plan may provide for review of admissions before, at, or after hospital admission.

(d) *Standard: Final determination regarding admissions or continued stays.*

(1) The final determination that an admission or continued stay is not medically necessary—

(i) May be made by one physician on the UR committee in cases where the attending physician concurs with the determination or fails to present his or her views when afforded the opportunity; and

(ii) Must be made by a least two physicians on the UR committee in all other cases.

(2) Before making a final determination that an admission or continued stay is not medically necessary the UR committee must consult the attending physician and afford him or her the opportunity to present his or her views.

(3) If the committee decides that admission to or further stay in the hospital is not medically necessary, written notification must be given—

(i) To the hospital, the attending physicain and the individual;

(ii) No later than two days after the determination;

(iii) No later than two days after the end of the certified period.

(e) *Standard: Extended stay review.*

(1) Except as provided in paragraph (e)(2) of this section, the UR committee must make a periodic review, as specified in the UR plan, of each current inpatient receiving hospital services during a continuous period of extended duration. The scheduling of the periodic reviews may—

(i) Be the same for all cases; or

(ii) Differ for different classes of cases.

(2) In hospitals paid under the prospective payment system (see §§ 405.470 to 405.477), the UR committee must review all cases reasonably assumed by the hospital to be outlier cases based on extended length of stay (as described in § 405.475(a)(1)).

(3) The UR committee must make the periodic review no later than 7 days after the day required in the UR plan.

(f) *Standard: Review of professional services:* The committee must review professinal services provided, to determine medical necessity and to promote the most efficient use of available health facilities and services.

7. Subpart P is amended as set forth below:

Subpart P—Certification and Recertification; Claims and Benefit Payment Requirements; Check Replacement Procedures

a. The authority citation for Subpart P reads as follows:

Authority: Sections 1102, 1814, 1835, 1871, and 1883, 49 Stat. 647 as amended; 79 Stat. 294; 79 Stat. 303; 79 Stat. 331; 42 U.S.C. 1302, 1395f, 1395n, 1395hh, 1395it, unless otherwise noted.

b. Section 405.1627 is amended by revising paragraphs (a)(1) and (4) and (b) to read as follows:

§ 405.1627 Inpatient hospital services other than inpatient psychiatric or tuberculosis hospital services; certification and recertification for services furnished on or after January 3, 1968.

(a) *General.*

(1) The certification and recertification statement should contain the following information:

(i) An adequate written record of the reasons for:

(A) Continued hospitalization of the patient for medical treatment or for medically required inpatient diagnostic study; or

(B) In the case of certifications or recertifications required under paragraph (b)(2)(i)(B) of this section, special or unusual services;

(ii) The estimated period of time the patient will need to remain in the hospital, or, in the case of certifications or recertifications required under paragraph (b)(2)(i)(B) of this section, the estimated period of time that special or unusual services will be required; and

(iii) Any plans, where appropriate, for posthospital care.

* * * * *

(4) A separate recertification statement is not necessary where the requirements for a second or subsequent recertification are satisfied through utilization review consistent with paragraph (b)(3) of this section. It is sufficient if records of the utilization review committee show that consideration was given to the reasons for continued hospitalization, estimated time the patient will need to remain in the hospital, and plans for posthospital care.

(b) *Timing of certifications and recertifications.*

(1) *For inpatient hospital services that are not paid for under the prospective payment system.* When inpatient

hospital services are not paid for under the prospective payment system (see §§ 405.470 through 405.477), certification is required no later than as of the 12th day of hospitalization. A hospital may, at its option, provide for the certification to be made earlier, or it may vary the timing of the certification within the 12-day period by diagnostic or clinical categories. The first recertification is required no later than as of the 18th day of hospitalization. Thereafter, subsequent recertifications are to be made at intervals established by the utilization review committee (on a case by case basis if it so chooses), but in no event may the prescribed interval between recertifications exceed 30 days.

(2) *For inpatient hospital services that are paid for under the prospective payment system.*

(i) When inpatient hospital services are paid for under the prospective payment system (see §§ 405.470 through 405.477), certification is required as follows:

(A) In cases reasonably assumed by the hospital to be day outlier cases, certification is required no later than one day after the case reasonably appears to meet the day outlier criteria, established under § 405.475(a)(1), or no later than 20 days into the hospital stay, whichever is earlier. The first recertification is required at an interval to be established by the UR Committee (which can be pursuant to a general rule or on a case by case basis) and subsequent recertifications are to be made consistent with paragraph (b)(1) of this section as it relates to subsequent recertifications.

(B) In cases for which payment may be made or has been requested for a cost outlier, as described in § 405.475(a)(2), certification is required no later than the date on which the hospital requests cost outlier payment, or no later than 20 days into the hospital stay, whichever is earlier, except that, where possible, certification is to occur prior to the hospital incurring costs for which it will seek cost outlier payment. In cost outlier cases, the first recertification and subsequent recertifications are to be made at intervals established by the utilization review committee (on a case by case basis if it so chooses).

(ii) Delayed certifications and recertifications, consistent with § 405.1625(e), are acceptable.

(3) *Option to conduct review of stay of extended duration.* At the option of the hospital, review of a stay of extended duration, pursuant to the hospital's utilization review plan, may take the place of the second and any subsequent physician recertifications required under paragraphs (b)(1) and (b)(2)(i)(A) of this section. Such review may be performed before the date on which such physician recertification would otherwise be required, but would be considered timely if performed as late as the seventh day following such date. The next physician recertification would need to be made no later than the 30th day following such review; if review by the utilization review committee took the place of this physician recertification, the review could be performed as late as the seventh day following such 30th day.

(4) *Description of procedure.* The hospital should have available in the files a written description of the procedure it adopts on timing of certifications and recertifications—that is, the intervals at which the necessary statements are required and whether review of long-stay cases by the utilization review committee serves as an alternative to recertification by a physician in the case of the second or subsequent recertifications required under paragraphs (b)(1) and (b)(2)(i)(A) of this section.

c. Section 405.1629 is amended by revising the introductory paragraph to read as follows:

§ 405.1629 Inpatient tuberculosis hospital services and inpatient psychiatric hospital services; certification and recertification.

The requirements for physician certification and recertification for inpatient psychiatric and tuberculosis hospital services are generally similar to the requirements for certification and recertification for inpatient hospital services under § 405.1627. However, for inpatient tuberculosis and psychiatric hospital services, certification is required at the time of admission or as soon thereafter as is reasonable and practicable, and the content of the certification and recertification statements is to conform with the requirements of this section and, in the case of patients admitted to the hospital on or after January 1, 1970, recertification statements are to be obtained in accordance with the intervals set forth in § 405.1627(b)(1). The content requirements differ because of recognition that there frequently is a difference between treatment provided in mental and tuberculosis hospitals and the treatment provided in other hospitals. Often the care provided in such hospitals is purely custodial, while the Medicare program's intent is to cover only active care and not to cover custodial care.

* * * * *

d. Section 405.1630 is revised to read as follows:

§ 405.1630 Certification and recertification for beneficiary admitted to a hospital before entitlement to benefits.

(a) *General rule.* If an individual is admitted to a hosptial (including a psychiatric or tuberculosis hospital) before he is entitled to hospital insurance benefits (for example, before he reaches age 65), the following rules are applicable when he does become entitled.

(b) *For hospitals that are not included in the prospective payment system.* If the hospital is not included in the prospective payment system under § 405.471, certifications and recertifications are required as of the time they would be required under § 405.1627(b)(1) has the patient been admitted to the hospital on the day he became entitled. Such certifications and recertifications must satisfy the content requirements in § 405.1627(a)(1) in the case of inpatient hospital services; § 405.1629(b) in the case of inpatient psychiatric hospital services; and §405.1629(d) in the case of inpatient tuberculosis hospital services. For example, if a patient becomes entitled on September 1, 1988, but was admitted to a general hospital 1 week prior to that date, the certification is required no later than September 14; the first recertification no later than September 21; subsequent recertifications are required at intervals not to exceed 30 days.

(c) *For hospitals included in the prospective payment system.* If the hospital is included in the prospective payment system under § 405.471, certifications and recertifications are required as of the time they would be required under § 405.1627(b)(2) if the patient had been entitled to benefits on the day he or she was admitted. However, delayed certifications and recertifications, consistent with § 405.1625(e), are acceptable in these cases.

8. Subpart R is amended as set forth below:

Subpart R—Provider Reimbursement Determinations and Appeals

a. The authority citation for Subpart R is revised to read as follows:

Authority: Secs. 205, 1102, 1814(b), 1815(a), 1833, 1861(v), 1871, 1872, 1878 and 1886 of the Social Security Act (42 U.S.C. 405, 1302, 1395f(b), 1395g(a), 1395, 1395x(v), 1395hh, 1395ii, 1395oo and 1395ww).

b. The table of contents for Subpart R is amended by adding a new § 405.1804 and revising the title of § 405.1835 as follows:

Subpart R—Provider Reimbursement Determinations and Appeals

Sec.

* * * * * *

405.1804 Matters not subject to administrative or judicial review under prospective payment.

* * * * * *

405.1836 Right to Board hearing.

* * * * * *

c. Section 405.1801 is amended by revising the definition of "intermediary determination" in paragraph (a)(1) and revising paragraphs (b) and (c) to read as follows:

§ 405.1801 Introduction.

(a) *Definitions.* As used in this subpart:

(1) "Intermediary determination" means the following:

(i) With respect to a provider of services that has filed a cost report under §§ 405.408 and 405.453(f), the term means a determination of the amount of total reimbursement due the provider for items and services furnished to beneficiaries for which reimbursement may be made on a reasonable cost basis under Medicare for the period covered by the cost report.

(ii) With respect to a hospital that has filed a cost report and receives payments for inpatient hospital services based on reasonable cost subject to the target rate system (§ 405.463), the term includes a determination of the total amount of payment due the hospital under that system for the period covered by the cost report.

(iii) With respect to a hospital that receives payments for inpatient hospital services under the prospective payment system (§§ 405.470–405.477), the term includes a determination of the total amount of payment due the hospital under that system for the hospital's cost reporting period covered by the determination.

(iv) For purposes of appeal to the Provider Reimbursement Review Board, the term is synonymous with the phrases "intermediary's final determination" and "final determination of the Secretary", as those phrases are used in section 1878(a) of the Act.

(v) For purposes of § 405.374 concerning claims collection activities, the term does not include an action by HCFA with respect to a compromise of a Medicare overpayment claim, or termination or suspension of collection action on an overpayment claim, against a provider or physician or other supplier.

* * * * *

(b) *General rule.*

(1) *Providers.* The principles of reimbursement for determining reasonable costs, reasonable cost subject to the target rate, and prospective payment are contained in Subpart D of this part. In order to be reimbursed for covered services furnished to Medicare beneficiaries, providers of services are obliged to file cost reports with their intermediaries as specified in § 405.453(f). Where the term "provider" appears in this subpart, it includes hospitals paid under the target rate or the prospective payment systems for purposes of applying the appeal procedures described in this subpart to those hospitals.

(2) *Other entities participating in Medicare Part A.* In addition to providers of services whose status as such is indicated in the Act, there are entities (such as health maintenance organizations) that do not meet the statutory test for providers of services, which may also participate in Medicare. These entities are required to file periodic cost reports and are reimbursed on the basis of information furnished in the reports. Although the entities do not qualify for Board review, the rules as set forth in this subpart with respect to intermediary hearings are applicable to the entities to the maximum extent possible, for cost-reporting periods ending on or after December 31, 1971, where the amount of program reimbursement in controversy is at least $1,000.

(c) *Effective dates.*

(1) Except as provided in paragraphs (c)(2), (c)(3), and (c)(4) of this section or in § 405.1885(e), this subpart applies to all cost reporting periods ending on or after December 31, 1971, for which reimbursement may be made on a reasonable cost basis.

(2) Sections 405.1835–405.1877 apply only to cost reporting periods ending on or after June 30, 1973, for which reimbursement may be made on a reasonable cost basis.

(3) With respect to hospitals under the reasonable cost subject to target rate system (see § 405.463), the appeals procedures in §§ 405.1811–405.1877 that apply become applicable with a hospital's first cost reporting period beginning on or after October 1, 1982.

(4) With respect to hospitals under the prospective payment system (see §§ 405.470–405.477), the appeals procedures in §§ 405.1811–405.1877 that apply become applicable with the hospital's first cost reporting period beginning on or after October 1, 1983.

d. Section § 405.1803 is revised to read as follows:

§ 405.1803 Intermediary determination and notice of amount of program reimbursement.

(a) *General requirement.* Upon receipt of a provider's cost report, or amended cost report where permitted or required, the intermediary must within a reasonable period of time (see § 405.1835(b)), furnish the provider and other parties as appropriate (see § 405.1805) a written notice reflecting the intermediary's determination of the total amount of reimbursement due the provider. The intermediary must include the following information in the notice, as appropriate:

(1) *Reasonable cost.* The notice must—

(i) Explain the intermediary's determination of total program reimbursement due the provider on the basis of reasonable cost for the reporting period covered by the cost report or amended cost report; and (ii) Relate this determination to the provider's claimed total program reimbursement due the provider for this period.

(2) *Target rate.* With respect to a hospital that receives payments for inpatient hospital services under the reasonable cost subject to the target rate system (see § 405.463), the intermediary must include in the notice its determination of the total amount of payment due the hospital under that system for the cost reporting period covered by the notice. The notice must explain (with appropriate use of the applicable money amounts) the procedure the intermediary followed under § 405.463 in making its determination.

(3) *Prospective payment.* With respect to a hospital that receives payments for inpatient hospital services under the prospective payment system (see § 405.470–405.477), the intermediary must include in the notice its determination of the total amount of the payments due the hospital under that system for the cost reporting period covered by the notice. The notice must explain (with appropriate use of the applicable money amounts) any difference in the amount determined to be due, and the amounts received by, the hospital during the cost reporting period covered by the notice.

(b) *Requirements for intermediary notices.* The intermediary must include in each notice appropriate references to law, regulations, HCFA Rulings, or program instructions to explain why the intermediary's determination of the amount of program reimbursement for the period differs from the amount the provider claimed. The notice must also

inform the provider of its right to an intermediary or Board hearing (see §§ 405.1809, 405.1811, 405.1815, 405.1835, and 405.1843) and that the provider must request the hearing within 180 days after the date of the notice.

(c) *Use of notice as basis for recovery of overpayments.* The intermediary's determination as contained in its notice constitutes the basis for making the retroactive adjustment (required by § 405.454(f)) to any program payments made to the provider during the period to which the determination applies, including the suspending of further payments to the provider in order to recover, or to aid in the recovery of, any overpayment identified in the determination to have been made to the provider, notwithstanding any request for hearing on the determination the provider may make under § 405.1811 or § 405.1835. Any suspension will remain in effect as specified in § 405.373(a).

e. A new § 405.1804 is added to read as follows:

§ 405.1804 Matters not subject to administrative and judicial review under prospective payment.

(a) *Limitation.* In accordance with section 1886(d)(7) of the Act, administrative or judicial review under this subpart is precluded for certain aspects of the prospective payment system, as provided in paragraph (b) of this section.

(b) *Subject matter.* Administrative or judicial review is not permitted for controversies about the following matters:

(1) The determination of the requirement, or the proportional amount, of any budget neutrality adjustment in the prospective payment rates.

(2) The establishment of—

(i) Diagnosis related groups (DRGs);

(ii) The methodology for the classification of inpatient discharges within the DRGs; or

(iii) Appropriate weighting factors that reflect the relative hospital resources used with respect to discharge within each DRG.

f. Section 405.1805 is revised to read as follows:

§ 405.1805 Parties to intermediary determination.

The parties to the intermediary's determination are the provider and any other entity found by the intermediary to be a related organization of the provider under § 405.427.

g. Section 405.1809 is revised to read as follows:

§ 405.1809 Intermediary hearing procedures.

(a) *Hearings.* Each intermediary must establish and maintain written procedures for intermediary hearings, in accordance with the regulations in this subpart, for resolving issues that may arise between the intermediary and a provider concerning the amount of reasonable cost reimbursement, reasonable cost subject to the target rate, or prospective payment due the provider (except as provided in § 405.1804) under the Medicare program. The procedures must provide for a hearing on the intermediary determination contained in the notice of program reimbursement (§ 405.1803), if the provider files a timely request for a hearing.

(b) *Amount in controversy.* In order for an intermediary to grant a hearing, the following dates and amounts in controversy apply:

(1) For cost reporting periods ending prior to June 30, 1973, the amount of program reimbursement in controversy must be at least $1000.

(2) For cost reporting periods ending on or after June 30, 1973, the amount of program reimbursement in controversy must be at least $1000 but less than $10,000.

h. Section 405.1811 is amended by revising paragraphs (a) and (b) to read as follows:

§ 405.1811 Right to intermediary hearing; time, place, form, and content of request for intermediary hearing.

(a) A provider that has been furnished a notice of amount of program reimbursement may request an intermediary hearing if it is dissatisfied with the intermediary's determination contained in the notice and the amount in controversy requirement described in § 405.1809 is met. The request must be in writing and be filed with the intermediary within 180 calendar days after the date of the notice. (See § 405.1835(c)). No other individual, entity, or party has the right to an intermediary hearing.

(b) The request must (1) identify the aspect(s) of the determination with which the provider is dissatisfied, and (2) explain why the provider believes the determination on these matters is incorrect, and (3) be submitted with any documentary evidence the provider considers necessary to support its position.

* * * * *

i. Section 405.1813 is revised to read as follows:

§ 405.1813 Failure to timely request an intermediary hearing.

If a provider requests an intermediary hearing on an intermediary's determination after the time limit prescribed in § 405.1811, the designated intermediary hearing officer or panel of hearing officers will dismiss the request and furnish the provider a written notice that explains the time limitation, except that for good cause shown, the time limit prescribed in § 405.1811 may be extended. However, an extension may not be granted if the extension request is filed more than 3 years after the date of the original notice of the intermediary determination.

j. Section 405.1835 is revised to read as follows:

§ 405.1835 Right to Board hearing.

(a) *Criteria.* The provider (but no other individual, entity, or party) has a right to a hearing before the Board about any matter designated in § 405.1801(a)(1), if:

(1) An intermediary determination has been made with respect to the provider; and

(2) The provider has filed a written request for a hearing before the Board under the provisions described in § 405.1841(a)(1); and

(3) The amount in controversy (as determined in § 405.1839(a)) is $10,000 or more.

(b) *Prospective payment exceptions.* Except with respect to matters for which administrative or judicial review is not permitted as specified in § 405.1804, hospitals that are paid under the prospective payment system are entitled to hearings before the Board under this section if they otherwise meet the criteria described in paragraph (a) of this section.

(c) *Right to hearing based on late intermediary determination about reasonable cost.* Notwithstanding the provisions of paragraph (a)(1) of this section, the provider also has a right to a hearing before the Board if an intermediary determination concerning the amount of reasonable cost reimbursement due a provider is not rendered within 12 months after receipt by the intermediary of a provider's perfected cost report or amended cost report (as permitted or as required to furnish sufficient data for purposes of making such determination—see § 405.1803(a)) provided such delay was not occasioned by the fault of the provider.

k. Section 405.1837 is revised to read as follows:

§ 405.1837 Group appeal.

(a) *Criteria for group appeals.* Subject to paragraph (b) of this section, a group of providers may bring an appeal before the Board but only if—

(1) Each provider in the group is identified as one which would, upon the filing of a request for a hearing before the Board, but without regard to the $10,000 amount in controversy requirement, be entitled to a hearing under § 405.1835;

(2) The matters at issue involve a common question of fact or of interpretation of law, regulations or HCFA Rulings; and

(3) The amount in controversy is, in the aggregate, $50,000 or more.

(b) *Providers under common ownership or control.* Effective April 20, 1983, any appeal filed by providers that are under common ownership or control must be brought by the providers as a group appeal in accordance with the provisions of paragraph (a) of this section with respect to any matters involving an issue common to the providers and for which the amount in controversy is, in the aggregate, $50,000 or more (see § 405.1841(a)(2)). A single provider involved in a group appeal that also wishes to appeal issues that are not common to the other providers in the group must file a separate hearing request (see § 405.1841(a)(1)) and must separately meet the requirements in § 405.1811 or § 405.1835, as applicable.

l. Section 405.1839 is revised to read as follows:

§ 405.1839 Amount in controversy.

(a) *Single appeals.* The $1000 amount in controversy required under § 405.1809 for an intermediary hearing and the $10,000 amount in controversy required under § 405.1835 for a Board hearing is the combined total of the amounts computed as follows:

(1) By deducting the adjusted total reimbursable program costs due the provider on the basis of reasonable cost from the total reimbursable program costs (less any amounts excluded by section 1862 of the Act) claimed by the provider.

(2) By deducting, as applicable, the total amount of payment due the hospital for inpatient hospital services under the reasonable cost subject to the target rate system or the prospective payment system from the total amount under that system that would be payable after a recomputation that takes into account any exemption, exception, exclusion, adjustment, or additional payment denied the hospital under § 405.463 or §§ 405.470–405.477, as applicable, and for which it has requested a hearing.

(b) *Group appeals.* The $50,000 amount in controversy required under § 405.1837 for group appeals to the Board is the combined total of the amounts computed as follows:

(1) By deducting the adjusted total reimbursable program costs due the provider on the basis of reasonable cost (in the aggregate) from the total reimbursable program costs (less any amounts excluded by section 1862 of the Act) which are claimed in the aggregate by the providers and are related to a common issue or interpretation of law or regulations.

(2) By deducting, as applicable, the total amount of payment due the hospitals (in the aggregate) for inpatient hospital services under the reasonable cost subject to the target rate system or the prospective payment system from the total amount (in the aggregate) under that system that would be payable after a recomputation that takes into account any exemption, exception, exclusion, adjustment, or additional payment denied the hospitals under § 405.463 or §§ 405.470–405.477, as applicable, and for which they have requested a hearing with respect to any matter involving an issue common to the hospitals.

m. Section 405.1841 is revised to read as follows:

§ 405.1841 Time, place, form, and content of request for Board hearing.

(a) *General requirements.* (1) The request for a Board hearing must be filed in writing with the Board within 180 days of the date the notice of the intermediary's determination was mailed to the provider or, where notice of the determination was not timely rendered, within 180 days after the expiration of the period specified in § 405.1835(c). Such request for Board hearing must identify the aspects of the determination with which the provider is dissatisfied, explain why the provider believes the determination is incorrect in such particulars, and be accompanied by any documenting evidence the provider considers necessary to support its position. Prior to the commencement of the hearing proceedings, the provider may identify in writing additional aspects of the intermediary's determination with which it is dissatisfied and furnish any documentary evidence in support thereof.

(2) Effective April 20, 1983, any request for a Board hearing by providers that are under common ownership or control (see § 405.427) must be brought by the providers as a group appeal (see § 405.1837(b)) with respect to any matters at issue involving a question of fact or of interpretation of law, regulations, or HCFA Rulings common to the providers and for which the amount in controversy is $50,000 or more in the aggregate. If a group appeal is filed, the provider seeking the appeal must be separately identified in the request for hearing, which must be prepared and filed consistently with the requirements of paragraph (a)(1) of this section.

(b) *Extension of time limit for good cause.* A request for a Board hearing filed after the time limit prescribed in paragraph (a) of this section shall be dismissed by the Board, except that for good cause shown, the time limit may be extended. However, no such extension shall be granted by the Board if such request is filed more than 3 years after the date the notice of the intermediary's determination is mailed to the provider.

n. Section 405.1873 is revised to read as follows:

§ 405.1873 Board's jurisdiction.

(a) *Board decides jurisdiction.* The Board decides questions relating to its jurisdiction to grant a hearing, including (1) the timeliness of an intermediary determination (see § 405.1835(c)), and (2) the right of a provider to a hearing before the Board when the amount in controversy is in issue (see §§ 405.1835(a)(3) and 405.1837).

(b) *Matters not subject to board review.* The determination of a fiscal intermediary that no payment may be made under title XVIII of the Act for any expenses incurred for items and services furnished to an individual because such items and services are excluded from coverage pursuant to section 1862 of the Act, 42 U.S.C. 1395y (see Subpart C of this part), may not be reviewed by the Board. (Such determination shall be reviewed only in accordance with the applicable provisions of Subpart G or H of this part.)

(2) The Board may not review certain matters affecting payments to hospitals under the prospective payment system as provided in § 405.1804.

o. Section 405.1877 is revised to read as follows:

§ 405.1877 Judicial review.

(a) *General rule.* Section 1878(f) of the Act, 42 U.S.C. 1395oo(f), permits providers to obtain judicial review of any final decision of the Board, or of any reversal, affirmance, or modification of a Board decision by the Secretary, by a civil action commenced against the Secretary within 60 days of the date on which notice of any final decision by the Board or of any reversal, affirmance, or modification by the Secretary is received.

(b) *Matters not subject to judicial review.* Certain matters affecting payments to hospital under the prospective payment system are not subject to judicial review, as provided in section 1886(d)(7) of the Act and § 405.1804.

(c) *Group appeals.* Any action under this section by providers that are under common ownership or control (see § 405.427) must be brought by the providers as a group with respect to any matter involving an issue common to the providers.

(d) *Venue for appeals.* An action for judicial review must be brought in the District Court of the United States for the judicial district in which the provider if located (or, effective April 20, 1983, in an action brought jointly by several providers, the judicial district in which the greatest number of such providers are located) or in the District Court for the District of Columbia. Effective April 20, 1983, any action for judicial review by providers under common ownership or control (§ 405.427), must be brought by such providers as a group with respect to any matter involving an issue common to the providers.

(e) *Service of process.* Process must be served as described under 45 CFR Part 4.

9. Subpart T is amended as follows:

Subpart T—Health Maintenance Organizations

a. The authority citation for Subpart T reads as follows:

Authority: Secs. 1102, 1871, and 1876, 49 Stat. 647, as amended, 79 Stat. 331, 86 Stat. 1396 (42 U.S.C. 1302, 1395hh, and 1395mm).

b. Section 405.2041 is amended by revising paragraph (d) to read as follows:

§ 405.2041 Cost reimbursement—general.

* * * * *

(d) An HMO may elect to have providers of services that furnish covered services to enrollees who are title XVIII beneficiaries, obtain reimbursement directly from the health insurance program. The election, which is binding for the entire contract period, must be made in writing to HCFA prior to the beginning of the contract period. When the HMO makes the election, the providers are each paid for covered services they furnish enrollees of the organization in accordance with Subpart D of this part. The amount of such reimbursement will not be included in payments made to the HMO.

B. Part 409, Subpart A, is amended as set forth below:

PART 409—MEDICARE BENEFITS, LIMITATIONS, AND EXCLUSIONS

Subpart A—Hospital Insurance

1. The authority citation for Subpart A is revised to read as follows:

Authority: Secs. 1102, 1812, 1813, 1814, 1886, 1871, 1881, and 1883 of the Social Security Act (42 U.S.C. 1302, 1395d, 1395e, 1395f, 1395x, 1395cc, 1395hh, 1395rr, and 1395tt). Sec. 602(k) of Pub. L. 98-21 (42 U.S.C. 1395y note).

2. Section 409.65 is amended by revising paragraph (e) to read as follows:

§ 409.65 Lifetime reserve days.

* * * * *

(e) *Period covered by election.*

(1) *General rule.* Except as provided in paragraph (e)(2) of this section, an election not to use lifetime reserve days may apply to an entire hospital stay or to a single period of consecutive days in a stay, but cannot apply to selected days in a stay. For example, a beneficiary may restrict the election to the period covered by private insurance but cannot use individual lifetime reserve days within that period. If an election not to use reserve days is effective after the first day on which reserve days are available, it must remain in effect until the end of the stay, unless it is revoked in accordance with § 409.66.

(2) *Exception.* A beneficiary election not to use lifetime reserve days for an inpatient hospital stay for which payment may be made under the prospective payment system (see §§ 405.470-405.477) is subject to the following rules:

(i) If the beneficiary has one or more regular benefit days (see § 409.61(a)(1) of this chapter) remaining in the benefit period upon entering the hospital, an election not to use lifetime reserve days will apply automatically to all days that are not outlier days. The beneficiary may also elect not to use lifetime reserve days for outlier days but this election must apply either to all outlier days or to all outlier days after a specified date.

(ii) If the beneficiary has no regular benefit days remaining in the benefit period upon entering the hospital, an election not to use lifetime reserve days must apply either to the entire hospital stay, to all outlier days, or to all outlier days after a specified date.

3. Section 409.69 is revised to read as follows:

§ 409.69 Amounts payable.

The amounts payable for Medicare Part A services are subject to the deductible and coinsurance requirements set forth in this subpart, and are generally determined in accordance with Part 405, Subpart D of this chapter. (See §§ 405.153(c)(2) and 405.158(a) for payment on a charge basis for certain services furnished by hospitals outside the United States or by hospitals not participating in Medicare.)

C. Part 489 is amended as set forth below:

PART 489—PROVIDER AGREEMENTS UNDER MEDICARE

1. The table of contents for Part 489 is amended by adding a new § 489.23 under Subpart B, to read as follows:

Sec.

* * * * *

Subpart B—Essentials of Provider Agreements

489.23 Special provisions for waiver of certain inpatient hospital services requirements.

* * * * *

2. The authority citation for Part 489 is revised to read as follows:

Authority: Secs. 1102, 1861, 1864, 1866, and 1871 of the Social Security Act (42 U.S.C. 1302, 1395x, 1395aa, 1395cc, and 1395hh).

3. Section 489.3 is revised to read as follows:

§ 489.3 Definition.

"Provider agreement" means an agreement between HCFA and one of the providers specified in § 489.2(b) to provide services to Medicare beneficiaries and to comply with the requirements of section 1866 of the Act.

4. Section 489.20 is amended by reprinting the undesignated introductory language unchanged and adding paragraphs (d) and (e) to read as follows:

§ 489.20 Basic commitments.

The provider agrees—

* * * * *

(d) In the case of a hospital that furnishes inpatient hospital services to a beneficiary to either furnish directly or make arrangements for all items and services (other than physicians' services as described in § 405.550(b) of this chapter) for which the beneficiary is entitled to have payment made under Medicare.

(e) In the case of a hospital that furnishes inpatient hospital services for which payment may be made under Subpart D of Part 405 of this chapter, to maintain an agreement with a utilization and quality control peer review organization (if there is such an organization for the area in which the hospital is located, which has a contract with HCFA under Part B of title XI of the

Act) for that organization to review the admissions, quality, appropriateness, and diagnostic information related to such inpatient hospital services.

5. Section 489.21 is amended by reprinting the undesignated introductory language unchanged and adding new paragraphs (e) and (f) to read as follows:

§ 489.21 Specific limitations on charges.

Except as specified in Subpart C of this part, the provider agrees not to charge a beneficiary—

* * * * *

(e) For inpatient hospital services for which a beneficiary would be entitled to have payment made under Part A of Medicare but for a denial or reduction in payments under regulations at § 405.472(e) of this chapter or under section 1886(f) of the Act.

(f) For items and services furnished to a hospital inpatient (other than physicians' services as described in § 405.550(b)) for which Medicare payment would be made if furnished by the hospital or by other providers or suppliers under arrangements made with them by the hospital. For this purpose, a charge by another provider or supplier for such an item or service is treated as a charge by the hospital for the item or service, and is also prohibited.

6. A new § 489.23 is added to read as follows:

§ 489.23 Special provisions for waiver of certain inpatient hospital services requirements.

(a) *General rule.* For any cost reporting period beginning before October 1, 1986, HCFA may waive the requirements of §§ 489.20(d) and 489.21(f), regarding items and services furnished to hospital inpatients, for a hospital that—

(1) Since before October 1, 1982, has extensively followed the practice of allowing suppliers of items and services furnished to the hospital's inpatients to bill directly under Medicare Part B for those items and services.

(2) Could not comply with the requirements of §§ 489.20(d) and 489.21(f) by October 1, 1983 without threatening the stability of patient care furnished to its inpatients.

(b) *Procedure.*

(1) The hospital must submit a written request to its intermediary for a waiver under this section not later than September 10, 1983.

(2) The intermediary will forward the request and their opinion as to whether the hospital meets the criteria for a waiver to the appropriate HCFA Regional Office within 10 days of receipt of the request.

(3) The Regional Office will determine if the hospital's waiver request meets the criteria of paragraph (c) of this section.

(4) The Regional Office will notify the hospital whether its waiver request has been approved not later than October 1, 1983.

(5) The Regional Office's determination to approve or deny a waiver request is final.

(6) The hospital must request revocation of a waiver under this section in writing at least 60 days before the date on which the revocation is to take effect.

(7) Upon 60 days written notice, the Regional Office may revoke a waiver under this section if the outside supplier does not comply with the terms of the billing agreement under paragraph (c)(2) of this section.

(8) Unless a waiver is revoked, it will apply to all cost reporting periods beginning before October 1, 1986.

(c) *Waiver criteria.*

(1) The hospital must show that, before October 1, 1982, a significant proportion of all ancillary services furnished to the hospital's inpatients have been furnished by outside suppliers and directly billed by those suppliers under Medicare Part B.

(2) The criteria in paragraph (c)(1) of this section are met if—

(i) The outside suppliers' reasonable charges for nonphysician services in the hospital's base period (as described in § 405.474(b)(1)) are at least 125 percent of the reasonable cost of the nonphysician ancillary services furnished to Medicare inpatients by the hospital exclusive of the costs of operating room, recovery room, labor and delivery room, pharmacy, and medical supplies; and

(ii) The hospital's inpatients receive at least three distinct types of ancillary services (such as pathology, radiology, and physical therapy services) primarily from outside suppliers.

(3) The hospital must show that outside suppliers furnishing items and services to its Medicare inpatients under the waiver have agreed that:

(i) The supplier will bill only for services for which payment may be made under Part B (or would be made if the beneficiary were entitled to Part B benefits);

(ii) The supplier will bill the program directly for services furnished to an inpatient of the hospital (even if assignment is not accepted) within 30 days of his or her discharge from the hospital;

(iii) The supplier's billing will specify that the services were furnished to an inpatient of a particular hospital, identify the nonphysician services that were furnished, and identify the charge for each service.

(Catalog of Federal Domestic Assistance Program No. 13.733, Medicare—Hospital Insurance, No. 13774, Medicare—Supplementary Medical Insurance)

Dated: August 26, 1983.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: August 26, 1983.

Margaret M. Heckler,

Secretary.

[**Editorial Note.**—The following addendum will not appear in the Code of Federal Regulations.]

Addendum.—Schedule of Standardized Amounts and Relative Weights Effective With Cost Reporting Periods Beginning on or After October 1, 1983

I. Summary and Background

This addendum sets forth the schedule of standardized amounts and relative weights that will be used to calculate prospective payment amounts under the Medicare program for inpatient, nonphysician services associated with a discharge occurring during cost reporting periods, beginning on or after October 1, 1983, and before October 1, 1984. This schedule is combined, for publication purposes, with the interim final rule implementing the prospective payment system because of the close relationship between this schedule, applicable for fiscal year (FY) 1984, and the rules governing prospective payment as a whole. In the future, notices, similar to this schedule, will be published on or before September 1, of each year, setting forth the schedule of standardized amounts and, if appropriate, relative weights applicable for future periods. The attached preamble to the interim final rule contains a detailed explanation of prospective payment, how the rates have been determined, and its overall relationship to the Medicare program.

II. Calculation of Adjusted Standardized Payment Amounts

This section contains a brief explanation of how the adjusted standardized payment amounts, applicable for FY 84, have been derived. The methodology for arriving at the appropriate rate structure is essentially prescribed in section 1886(d)(2) of the Act.

A. *Base Year Data*

Section 1886(d)(2)(A) of the Act requires the establishment of base year cost data containing allowable operating

costs per discharge of inpatient hospital services for each hospital. See section III C.1.a. of the preamble which contains a detailed explanation of how base year cost data are established.

B. *Updating for Inflation*

Section 1886(d)(2)(B) of the Act requires that the base year cost data be updated for FY 84. A two-step process is necessary.

1. The base year cost data, representing allowable costs per Medicare discharge (per hospital), are inflated through FY 83 using actuarial estimates of the rate of increase in hospital costs nationwide.

2. The resulting amounts are further inflated through FY 84 by using the estimated annual rate of increase in the hospital market basket, plus 1 percentage point, in accordance with the section 1886(b)(3)(B) of the Act.

Since July 1, 1979, the hospital cost limit schedules have incorporated a "market basket index" to reflect changes in the prices of goods and services that hospitals use in producing general inpatient services. We developed the current market basket by identifying the most commonly used categories of hospital inpatient operating expenses and by weighting each category to reflect the estimated proportion of total hospital operating expenses attributable to that category. We then obtained historical and projected rates of increase in the resource prices for each category. Based on the rate of increase and the weight of each category, we developed an overall annual rate of increase in the hospital market basket. The categories of expenses used to develop the revised market basket are based primarily on those used by the American Hospital Association in its analysis of costs, and by the U.S. Department of Commerce in publishing price indexes by industry.

For the purpose of updating base year cost data for FY 84, we revised the market basket previously used under the hospital cost limits, which was published in the **Federal Register** (47 FR 43313) on September 30, 1982. First, we have added malpractice insurance as a new category of expense in the market basket. This change was necessary because malpractice insurance premiums, which were excluded from the hospital cost limits, are to be included under the prospective payment rates. Second, because of the addition of this new category, it was also necessary to revise the relative proportions assigned to each expense category.

Table 2, section VII contains the price variables used to predict price changes for each category of expense. For further background on the development of the market basket index, see Freeland, Anderson and Schendler, "National Hospital Input Price Index", *Health Care Financing Review*, Summer 1979, pp. 37–61.

C. *Standardization*

Section 1886(d)(2)(C) of the Act requires that the updated base year per discharge costs be standardized. Standardization means the removal of the effects of certain causes of variation in cost among hospitals from the cost data.

1. *Variations in Case Mix Among Hospitals*

Section 1886(d)(2)(c)(iii) of the Act requires that the updated amounts be standardized to adjust for variations in case mix among hospitals. The methodology used for determining the appropriate adjustment factor (i.e., the case-mix index) is comparable to that used for the hospital cost limits published in the **Federal Register** on September 30, 1982 (47 FR 43303). A case-mix index has been calculated for each hospital based on 1981 cost and billing data.

Standardization, necessary to neutralize the effects of variations in case mix, is accomplished by dividing the hospital's average cost per Medicare discharge by that hospital's case-mix index. Table 3, section VII contains the case-mix index values used for this purpose.

2. *Indirect Medical Education Costs*

Section 1886(d)(2)(C)(i) of the Act requires that the updated amounts be standardized for indirect medical education costs. Therefore, after adjusting each hospital's inpatient operating cost per discharge for inflation and case-mix, we divided each cost by 1.0 plus the product of double the education adjustment factor (11.59 percent) and the individual hospital's adjusted intern-and-resident to bed ratio. We determined that adjusted ratio by dividing the hospital's number of FTE interns and residents for the cost reporting period by the hospital's bed size determined at the beginning of the cost reporting period represented in the data base period to obtain the hospital's intern-and-resident to bed ratio, and dividing that ratio by .1. See section III.C.1.c.ii. of the attached preamble which contains an example of the above calculation.

3. *Adjustments for Variation in Hospital Wage Levels*

Section 1886(d)(2)(C)(ii) of the Act requires that the updated amounts be standardized by adjusting for variations among hospitals in the average area hospital wage level. Therefore, the updated average cost per discharge is divided into labor-related and non labor-related portions. We determined the labor-related portion by multiplying each hospital's cost per discharge by 79.15 percent which is the labor-related portion of costs from the market basket. The labor-related portion is then divided by the appropriate wage index for the geographic area in which the hospital is located to remove the effects of local wage differences from hospital costs. See section III.C.1.c.iii. of the preamble, which contains a detailed explanation of the hospital wage indexes. An example of standardization for area wage differences follows.

Assume a hospital has an average cost per Medicare discharge of $3,000 and the wage index for the area is 1.0293.

$3000 \times 79.15\% = 2374.50$ (labor share)

$\frac{2374.50}{1.0293} = 2306.91$ (wage adjusted labor share)

Table 4, section VII, contains the wage indexes. Basically, the wage index relates wage and employment data, gathered by the Bureau of Labor Statistics, to a single national average. Since the wage index is used for measuring the differences between wages in any area and the national average, the index does not vary with changes in State or census division designations. The variation in adjusted standardized amounts between regions (as shown in Table 1) is significantly less than it would have been if regional wage indexes had been used. We considered but rejected using regional wage indexes for the following reasons:

- Since DRG weighting factors are determined using national cost data, regional wage indexes would have to be converted to a national base to derive the appropriate weighting factor for each DRG.
- The use of regional wage indexes would not result in prospective payment rates that are different from those based on a national wage index.
- Regional wage indexes would confuse hospitals because the numerous base levels would result in index values that could not be directly compared across areas.

4. *Cost-of-Living Factor for Alaska and Hawaii*

Section 1886(d)(5)(C)(iv) of the Act authorizes the Secretary to provide for such adjustments to the payment amounts as the Secretary deems appropriate to take into account the unique circumstances of hospitals located in Alaska and Hawaii.

Generally, these two States have higher levels of cost in comparison to other States in the nation. The high cost of labor is accounted for in the wage index adjustments discussed above. However, the high cost-of-living in these States also affects the cost of nonlabor items (e.g., supplies and equipment). Therefore, in order to remove the effects of the higher nonlabor costs from the overall cost data (i.e., for standardization purposes), the nonlabor portion of the average cost per Medicare discharge in hospitals located in Alaska and Hawaii is divided by an appropriate cost-of-living adjustment factor. Below are the factors used for this adjustment.

TABLE.—COST-OF-LIVING ADJUSTMENT FACTORS, ALASKA AND HAWAII HOSPITALS

Alaska—All areas	1.25
Hawaii—	
Oahu	1.20
Kauai	1.175
Maui	1.20
Molokai	1.20
Lanai	1.20
Hawaii	1.10

(The above factors are based on data obtained from the U.S. Office of Personnel Management, published in their FPM–591 letter series.)

The formula used to make the standardization adjustments for the nonlabor related costs in Alaska and Hawaii is as follows:

(Average Cost Per Medicare Discharge) × (20.85%) (Cost-of-Living Adjustment Factor)

D. *Urban-Rural Averages Within Geographic Areas*

Section 1886(d)(2)(D) of the Act requires that average standardized amounts per discharge be determined for hospitals located in urban and rural areas of the nine census divisions and the nation. Table 1, section VII contains the 18 regional standardized amounts (further divided into labor/nonlabor portions). The national standardized amounts are not included in the table because, for FY 84, Federal rates are based on regional averages only. The statute further specifies that the term "urban area" means an area within a Standard Metropolitan Statistical Area, as defined by the Executive Office of Management and Budget (EOMB), or within such similar area as the Secretary has recognized by regulation. As explained in detail in section III.C.1.d. of the preamble, EOMB began using Metropolitan Statistical Areas (MSAs), in lieu of SMSAs, on June 30, 1983. The term "rural area" means any area outside of urban areas.

As a result, the average standardized amounts per Medicare discharge for each hospital have been grouped according to urban or rural designation into the nine census divisions (i.e. 18 separate means).

E. *Adjustments to Average Standardized Amounts*

The average standardized amounts, calculated as described above, were further adjusted as explained below.

1. *Part B Costs*

Section 602(e) of Pub. L. 98–21 amends section 1862(a) of the Act to prohibit payments for nonphysicians services furnished to hospital inpatients unless the services are furnished either directly by the hospital or by an entity under arrangements made by the hospital. Section III.C.1.e.i. of the preamble contains a detailed explanation of this provision. While this provision applies both to inpatient hospital services paid for on the basis of prospective payment rates and to such services paid for on a reasonable cost basis (i.e., furnished by hospitals excluded from prospective payment), it is discussed here only as it applies to adjustments to the standardized amounts for prospective payment.

Essentially, the prospective payment rates are intended to cover all inpatient services except "physicians' services". Since, in the past, many services for inpatients were billed under Part B, the standardized amounts calculated here were derived from data which did not reflect all services provided to inpatients. Therefore, in order to adjust the standardized amounts per discharge so that they represent costs previously billed under Part B, the amounts were increased by .13 percent. This is an estimate of the costs of inpatient hospital services previously billed to HCFA under Part B (updated to reflect 1984 costs) made by HCFA's Office of Financial and Actuarial Analysis.

2. *FICA Taxes*

Section 102 of Pub. L. 98–21 requires that certain hospitals (i.e., non-profit organizations), enter the Social Security system and begin paying FICA taxes for employees beginning January 1, 1984. Section 1886(b)(6) of the Social Security Act is also amended requiring that adjustments be made in the base period costs used to determine the hospital-specific portion of the prospective payment rate (see section III.C.1.e.ii. of the preamble) in recognition of these higher payroll costs. The conference committee report accompanying Pub. L. 98–21 expressed the intent that the Federal rate also be adjusted to reflect this change. HCFA's actuaries have estimated the amount of the adjustment to the standardized amounts necessary to account for additional costs of payroll taxes for hospitals entering the Social Security system to be .18 percent. Therefore, we have increased the standardized amounts by this percentage.

3. *Outliers*

Section 1886(d)(5)(A) of the Act requires that payments, in addition to the basic prospective payment rates, be made for discharges involving day or cost outliers as explained in section III.C.1.e.iii. of the preamble. Section 1886(d)(2)(E) of the Act correspondingly requires that the standardized amounts be reduced by a proportion which is estimated to reflect additional payments for outlier cases. The statute further directs that outlier payments may not be less than 5 percent or more than 6 percent of total payments projected to be made based on the prospective payment rates in any year. In accordance with these requirements, we have calculated a factor necessary to adjust standardized amounts for FY 84 to take into account outlier payments of 6.0 percent of total payments. This factor is .943.

4. *Budget Neutrality*

Section 1886(e)(1) of the Act requires that the prospective payment system result in aggregate program reimbursement equal to "what would have been payable" under the reasonable cost provisions of prior law; that is, for fiscal years 1984 and 1985, the prospective payment system should be "budget neutral."

Under the Amendments, the prospective payment rates are a blend of a hospital-specific portion and a Federal portion. Section 1886(e)(1)(A) of the Act requires that aggregate payments for the hospital specific portion should equal the comparable share of estimated reimbursement under prior law. Similarly, section 1886(e)(1)(B) of the Act requires that aggregate reimbursement for the Federal portion of the prospective payment rates plus any adjustments and special treatment of certain classes of hospitals should equal the corresponding share of estimated outlays prior to the passage of Pub. L. 98–21. Thus, for fiscal year 1984, 75 percent of total projected reimbursement based on the hospital-specific portion should equal 75 percent of total estimated outlays under law as in effect prior to April 20, 1983. Likewise, total estimated prospective payment system outlays deriving from the 25 percent Federal portion, including adjustments and special payment provisions, should equal 25 percent of projected reimbursement under prior laws.

The adjustment of the Federal portion was determined as follows:

- *Step 1*—Estimate total incurred payments for inpatient hospital operating costs for fiscal year 1984 that would have been made on a reasonable cost basis under Medicare prior to Pub. L. 98–21.
- *Step 2*—Multiply total incurred payments by 25 percent, i.e., the Federal portion of total payment amounts for fiscal year 1984.
- *Step 3*—Estimate the Federal portion of total payments that would have been made without adjusting for budget neutrality, but with the adjustment for outlier payments.
- *Step 4*—Add an estimate of total adjustments and payments under special payment provisions to the Federal portion (e.g., outliers, indirect medical education).
- Step 5—The difference between the step 2 and step 4 amounts is divided proportionally among the standardized amounts, resulting in the budget neutrality adjusted (standardized) amounts.

The resulting adjustment factor for the fiscal year 1984 Federal portion is .969. Payment amounts of hospitals excluded from the prospective payment system (e.g., psychiatric and children's hospitals) and of hospitals not participating in prospective payment because of their participation in demonstrations and studies were not included in the calculations above. For a more detailed explanation of budget neutrality, see section VIII of this addendum.

F. *Summary of Calculations Resulting in Adjusted Standardized Amounts*

In summary, we began our calculations by developing base year cost data for individual hospitals; we updated these amounts to account for inflation through fiscal year 1984; we standardized the data for variations in case mix, indirect medical education, area wage levels, and cost-of-living in Alaska and Hawaii; we grouped the data from individual hospitals and calculated average standardized amounts for urban and rural hospitals located in the nine census divisions and the nation; and we adjusted the resulting 18 average amounts in accordance with requirements of the Act. Throughout the remainder of this addendum, when we refer to "adjusted standardized amounts", we are referring to the 18 separate average amounts calculated as described above.

III. Adjustments for Area Wage Levels and Cost-of-Living in Alaska and Hawaii

This section contains an explanation of the application of two types of adjustments to the adjusted standardized amounts that will be made by the fiscal intermediaries in determining the prospective payment rates as described in section IV below. For discussion purposes, it is necessary to present the adjusted standardized amounts divided into labor and non-labor portions. Table 1, section VII contains the actual labor-related and nonlabor-related shares which will be used to calculate the prospective payment rates.

A. *Adjustment for Area Wage Levels*

Section 1886(d)(2)(H) of the Act requires that an adjustment be made to the labor-related portion of the national and regional prospective payment rates to account for area differences in hospital wage levels. This adjustment will be made by the fiscal intermediaries by multiplying the labor-related portion of the adjusted standardized amount by the appropriate wage index for the area in which the hospital is located. The wage indexes applicable for fiscal year 1984 are presented in Table 4, section VII of this addendum.

B. *Adjustment for Cost-of-Living in Alaska and Hawaii*

As explained in section III.C.1.c.iv. of the attached preamble the statute provides for an adjustment to take into account the unique circumstances of hospitals in Alaska and Hawaii. Higher labor-related costs for these two States were included in the adjustment for area wages above. The adjustment necessary for nonlabor-related costs for hospitals in Alaska and Hawaii will be made by the fiscal intermediaries by multiplying the nonlabor portion of the standardized amounts by the appropriate adjustment factor contained in the table in section II.C.4. of this addendum.

IV. Federal Prospective Payment Rates

This section contains a brief explanation of how the adjusted standardized amounts are converted to prospective payment rates per dishcharge.

A. *Discharge*

The prospective payment system provides for payment of an amount per discharge. See section III.B.2. of the attached preamble which provides a detailed explanation of discharges and transfers. A "discharge" is defined in the attached regulations at 42 CFR 405.470(c). Generally, a patient will be considered discharged when:

- Formally released from the hospital (but not transferred as explained in section III.B.2 of the preamble);
- The patient dies in the hospital; or
- When the patient is transferred to another institution or unit that is excluded from the prospective payment system.

B. *DRG Classification System*

All inpatient hospital discharges will be categorized according to one of 470 DRGs. (Note that no payment is made for DRG numbers 469 and 470). Every hospital discharge case will fit into a DRG category and no case will apply to more than one category. The assignment is based on the principal diagnosis, secondary diagnoses (if any), procedures performed, and age, sex, and discharge status of the patient. Table 5, section VII, contains the list of DRGs. See section III.B.3 of the preamble, which provides background information regarding the development of the DRG classification system.

C. *DRG Weighting Factors*

We have developed weighting factors for each DRG that are intended to reflect the relative resource consumption associated with each DRG. Each factor reflects the average cost, across all hospitals, of treating cases classified in that DRG relative to all other DRGs. In establishing the weighting factors, we used data from the MEDPAR file, from Medicare cost reports, and from non-Medicare discharge records for Maryland and Michigan hospitals. Table 5, section VII, contains the weighting factors corresponding to each DRG applicable for fiscal year 1984. See Section III.C.3.b of the preamble, which contains a detailed explanation of the calculation of DRG weighting factors.

V. Calculation of Prospective Payment Rates for fiscal year 1984

To ease the sudden impact of a completely new method of payment for hospital services, Pub. L. 98–21 provides for a 3-year transition period. This addendum contains the method that will be used for calculating prospective payment rates for cost reporting periods beginning on or after October 1, 1983.

Section 1886(d)(1)(C)(i) of the Act requires that the prospective payment rate for cost reporting periods beginning on or after October 1, 1983 be a blend of 25 percent of a Federal portion and 75 percent of a hospital-specific portion. See section III.C.4. of the attached preamble, which explains in detail how

the portions will be determined throughout the transition period.

General Formula for Calculation of Prospective Payment Rates for Cost Reporting Periods Beginning on or after October 1, 1983 and Before October 1, 1984.

Prospective Payment rate = Hospital—Specific Portion plus Federal Portion

A. *Hospital-Specific Portion*

The hospital-specific portion (HSP) of the prospective payment rate is based on a hospital's historical cost experience. The conference committee report expresses the committee's expectation that the hospital-specific portion be based on the best data available at the time the rate is established for purposes of the transition period. Therefore, fiscal intermediaries will be estimating the hospital-specific portion amounts using the best data for the base period cost reporting period available prior to the hospital's entry into the prospective payment system. Once the amounts have been calculated, they will be applied without further adjustment throughout the entire 3-year transition period, unless the calculations contain a mathematical error, the hospital successfully appeals their base period allowable costs within the specified time or the facility establishes a distinct part.

The hospital-specific portion is an amount derived from the following formula:

$$\frac{\text{(Base year costs)}}{\text{(Case-mix index)}} \times \text{Outlier adjustment} \times \text{Updating factor} \times \text{75 percent} \times \text{DRG weight}$$

1. Base-year Costs

Base year costs, necessary for calculating the hospital-specific portion of the prospective payment rates, are developed from cost data for the 12-month (or longer) reporting period ending on or after September 30, 1982 and before September 30, 1983. If the applicable period is less than 12 months, then the preceding 12-month (or longer) period is used. Costs in excess of the routine cost limits (i.e., the section 223 limits) will be excluded from base year costs in calculating the hospital-specific portion in the same manner as they are excluded when determining base period costs for the rate-of-increase ceiling under 42 CFR 405.463.

Each hospital's total allowable Part A costs will be adjusted:

- To remove any capital-related costs;
- To remove any medical education costs;
- To remove the nursing differential previously permitted;
- To remove net kidney acquisition costs incurred in hospitals approved as renal transplantation centers;
- To include allowable malpractice insurance costs;
- To include estimated FICA taxes for those hospitals that did not incur such costs in the base period;
- To include the costs of services that were billed under Part B of the program during the base period but will be billed under Part A as inpatient hospital services effective October 1, 1983.

In order to make some of these adjustments, the intermediary must receive documentation from the hospitals as outlined in PRM Chapter 2800 (Transmittal 291).

Total allowable Medicare inpatient operating costs for each hospital, resulting from the above adjustments, are divided by the number of Medicare discharges during the applicable base year. The amount resulting from this calculation will be used as the base year cost per case for purposes of calculating the hospital-specific portion (HSP) of the transition period prospective payment rates.

2. Case-Mix Adjusted Base Year Cost

In order to take into consideration the hospital's individual case mix, the base year cost amount is divided by the case-mix index. (See Table 3, section VII, which contains applicable case-mix indexes.) Adjusted base period costs are divided by the hospital's case-mix index to neutralize them for the effects of the mix of patients treated.

The effects of individual case complexity will be taken into account at the time the rate is applied by multiplying the hospital-specific rate by the weighting factor for the corresponding DRG in which the case is classified to determine the hospital-specific portion of payment for each case.

See section III.C.4.a.ii. of the preamble which contains a detailed explanation of the need for this case-mix adjustment and an explanation of statistically unreliable case-mix indexes.

3. Outlier Adjustment

The case-mix adjusted base year costs are multiplied by a factor calculated to take into account outlier payments of 6.0 percent of total payments. This factor is .943.

4. Budget Neutrality

The hospital-specific portion of the payment rates will be adjusted for cost reporting periods that begin between October 1, 1983 and October 1, 1985, to maintain budget neutrality in accordance with section 1886(e)(1)(A) of the Act. The hospital-specific portion of the rate is set at 75 percent in the first year.

An adjustment will be made to the otherwise applicable target rate percentage to maintain budget neutrality of the hospital-specific portion of the payment. To determine the necessary adjustment we estimated total expenditures under the reasonable cost methodology under TEFRA. The appropriate share of this estimate is compared to a projection of aggregate payments from the hospital-specific portion of the prospective payment amount. For example, if estimated outlays for inpatient operating payments under the law as in effect before April 20, 1983 would have been $10 billion, the total payments under the hospital-specific portion must equal $7.5 billion (75 percent of $10 billion) for fiscal year 1984. In making the above estimates, the statute specifies that payments made or estimated to be made for utilization review activities be excluded. The applicable adjustment factor for maintaining budget neutrality in the hospital-specific portion is .984. This factor has been included in the updating factor discussed in section 5 below. For a more detailed explanation of budget neutrality, see section VIII of this addendum.

5. Updating Factor

The hospital-specific rate is calculated by increasing the case-mix adjusted base year costs (further adjusted for outlier payments as described in paragraph 3. above) by an applicable updating factor in accordance with sections 1886(d)(2)(B) and 1886(e)(1)(A). For cost reporting periods beginning on or after October 1, 1983 and before October 1, 1984, the updating factor is equal to the compounded applicable target rate percentage (as used for the rate-of-increase ceiling under revised 42 CFR 405.463), multiplied by the adjustment factor for budget neutrality (.984) and added to 1. The table below sets forth the updating factors applicable in fiscal year 1984.

If base year cost reporting period ends	And first cost reporting period under PPS ends	Updating factor
Sept. 30, 1982	Sept. 30, 1984	1.13570
Oct. 31, 1982	Oct. 31, 1984	1.13285
Nov. 30, 1982	Nov. 30, 1984	1.12981
Dec. 31, 1982	Dec. 31, 1984	1.12658
Jan. 31, 1983	Jan. 31, 1985	1.12658
Feb. 28, 1983	Feb. 28, 1985	1.12658
Mar. 31, 1983	Mar. 31, 1985	1.12658
Apr. 30, 1983	Apr. 30, 1985	1.12658
May 31, 1983	May 31, 1985	1.12658
June 30, 1983	June 30, 1985	1.12658
July 31, 1983	July 31, 1985	1.12658
Aug. 31, 1983	Aug. 31, 1985	1.12658

If a hospital's base year cost reporting period ends on a day other than those listed above, the update factor for the month nearest to (i.e., either before or after) the actual ending date will be used. For example, if a hospital's cost reporting period ends between October 16 and November 15, the October 31 update factor will be used.

6. Example of Calculation of Hospital Specific Rate

Assume that a hospital's base year costs equal $3,000, its case-mix index is 1.0235, the outlier adjustment is .943, and the update factor for its cost reporting period is 1.14258 percent. The hospital specific rate would be computed as follows:

Base Year Costs / Case-Mix Index	×	Outlier adjustment	×	Updating factor	=	Hospital-specific rate
$3,000 / 1.0235		.943		1.14258		$3,171

7. Calculation of Hospital-Specific Portion

The hospital-specific portion of a hospital's payment rate for a given discharge is calculated by:

Step 1—Multiplying the hospital-specific rate (as determined in subsection 1 through 6 above) by 75 percent, and

Step 2—Multiplying the amount resulting from Step 1 by the specific DRG weighting factor applicable to the discharge (see Table 5, section VII). The result is the hospital-specific portion.

8. New Providers

Hospitals that have not completed a 12 month cost reporting period under Medicare (either under current or previous ownership) prior to September 30, 1983 will be considered new providers for purposes of the prospective payment system. These hospitals do not have any historical cost experience from which we could calculate a hospital-specific rate. Therefore, prospective payment rates for new providers will be computed without regard to the hospital-specific portion. Thus, new providers will be paid 100 percent of the Federal regional rate for discharges occurring on or after October 1, 1983 and before October 1, 1984.

B. *Federal Portion.* For discharges occurring before October 1, 1984, the Federal portion of the prospective payment rate is 25 percent of the Federal regional prospective rate. The Federal rates are determined by:

Step 1—Selecting the appropriate regional adjusted standardized amount considering the location and urban/rural designation of the hospital (See Table 1, section VII);

Step 2—Multiplying the labor-related portion of the standardized amount by the appropriate wage index;

Step 3—For hospitals in Alaska and Hawaii, multiplying the nonlabor-related portion of the standardized amount by the appropriate cost-of-living adjustment factor;

Step 4—Summing the amounts from step 2 and the nonlabor portion of the standardized amount (adjusted if appropriate under step 3); and

Step 5—Multiplying the final amount from step 4 by the weighting factor corresponding to the appropriate DRG Classification.

VI. Additional Payment Amounts

In addition to prospective payment rates per discharge, payments will be made for items or services as specified below.

A. *Outliers.* In accordance with the statute, and as explained in the attached preamble (section III.D.1.), additional amounts are to be paid on a per case basis for atypical cases known as "outliers." These cases are those that have either an extremely long length of stay or extraordinarily high costs when compared to most discharges classified in the same DRG. See § 405.475 of the attached regulations regarding payment for outliers cases.

The statute specifies that outlier payments are to be between 5 and 6 percent of total projected prospective payment amounts. Within this overall requirement, we established as our objectives in FY 84 to define the outlier criteria so that total outlier payments for both types of outlier cases would amount to approximately 6.0 percent of total basic prospective payments (exclusive of outlier payments) that would be payable based on 100 percent of Federal (regional) rates and that approximately 85 percent of the outlier payments would be paid for day outliers and the remaining 15 percent would be paid for high cost outliers.

We analyzed the 1981 MEDPAR file to identify the criteria that would meet our objectives. In doing so, we set the per diem payment for day outliers at 60 percent of the hospital's Federal rate divided by the national geometric mean length of stay for the DRG. For high cost outliers, we set the payment at 60 percent of the difference between adjusted covered charges and the applicable cost criterion for the DRG. We calculated the adjusted covered charges by inflating the covered charges for the case to FY 84, multiplying them by .72 (the national ratio of operating cost to total inpatient charges, and dividing the result by the hospital's educational adjustment factor).

We tested alternative sets of criteria to identify the combination that would result in the desired levels of outlier payments. Based on this analysis, we are providing that a discharge in FY 84 will be considered an outlier if the number of days in the stay exceeds the mean length of stay for discharges within that DRG by the lesser of 20 days or 1.94 standard deviations. The first criterion will primarily identify cases in the long-stay resource intensive DRGs whereas the second criterion should identify slightly less than 2 percent of the cases within primarily short-stay DRGs as outliers. In total, we estimate 5.1 percent of all cases will qualify as day outliers.

For fiscal year 1984, we are also providing that a discharge that does not qualify as a day outlier will be considered a high cost outlier if the cost of covered services exceeds the greater of 1.5 times the Federal rate (regional) for the DRG or $12,000. Both criteria will be adjusted for area wage differences. The first criterion will operate only for the relatively few DRGs with a Federal rate of $8,000 or more. In most cases, the $12,000 criterion will operate. In total, we estimate .9 percent of all cases will qualify as high cost outliers.

For an explanation of payment for alternate placement days, see section III.D.2 of the preamble. In summary, alternate placement days are paid only when a case is in outlier status and are paid the same as outliers.

B. *Additional Payments on Reasonable Cost Basis.*

1. *Capital-Related Costs.* In accordance with the statute, payment for capital-related costs (as described in § 405.414) will be determined on a reasonable cost basis. The capital-related costs must be determined consistently with the treatment of such costs for purposes of determining the hospital-specific portion of the hospital's

prospective payment rate under § 405.474(b).

2. *Direct Medical Education.* In accordance with the statute, the direct costs of medical education programs will be paid on the basis of reasonable cost subject to applicable regulations at § 405.421.

3. *Direct Medical and Surgical Services of Teaching Physicians.* In accordance with the statute, payment for direct medical and surgical services of physicians in teaching hospitals will be made on a reasonable cost basis under § 405.465 where the hospital exercises the election as provided for in § 405.521(d).

C. *Bad Debts.* An additional payment will be made to each hospital in accordance with § 405.420 for bad debts attributable to deductibles and coinsurance amounts related to covered services received by beneficiaries.

D. *Indirect Medical Education.* Section 1886(d)(5)(B) of the Act provides for additional payments to be made to hospitals under the prospective payment system for the indirect costs of medical education. This payment is computed in the same manner as the indirect teaching adjustment under the notice of hospital cost limits published September 30, 1982 (47 FR 43310), except that the educational adjustment factor is to equal twice the factor computed under that method. See section III.D.5. of the preamble for a detailed explanation of additional payments for indirect medical education, and § 405.477(d)(2) of the regulations.

If a hospital has a graduate medical education program approved under 42 CFR 405.421, an additional payment will be made equal to 11.59 percent of the aggregate payments made to the hospital, based on the Federal portion of prospective payments and outlier payments related to those portions, for each .1 increase (above zero) in the hospital's ratio of full-time equivalent (FTE) interns and residents (in approved programs) to its bed size. The number of FTE interns and residents is the sum of:

1. Interns and residents employed for 35 hours or more per week, and

2. One-half of the total number of interns and residents working less than 35 hours per week (regardless of the number of hours worked).

For purposes of this payment, a hospital will be allowed to count only interns and residents in teaching programs approved under 42 CFR 405.421 who are employed at the hospital. Interns and residents in unapproved programs, interns and residents employed to replace anesthetists, and those who are employed by the hospital but furnish services at another site or in a psychiatric or rehabilitation distinct part unit will not be counted in determining this payment amount. An example of the application of the indirect medical education payment follows:

A 686-bed hospital in Queens County, New York has a total revenue from the Federal portion of the prospective payments of $1.32 million. The hospital employed 77 FTE interns and residents in approved teaching programs on September 30, 1983 (their cost reporting period ending date).

77 divided by 686 = .11224 (ratio of interns and residents to beds) divided by .1 = 1.1224 (adjusted ratio)

Federal portion × teaching adjustment factor × adjusted ratio = additional payment amount.

$1,320,000 × .1159 × 1.1224 = $171,714

VII. Tables

This section contains all tables referred to throughout the preamble to the interim final and this addendum.

TABLE 1.—ADJUSTED STANDARDIZED AMOUNTS, LABOR/NONLABOR

Region	Urban		Rural	
	Labor related	Nonlabor related	Labor related	Nonlabor related
1. New England (CN, ME, MA, NH, RI, VT)	2,342.75	638.28	2,003.02	484.24
2. Middle Atlantic (PA, NJ, NY)	2,106.03	630.78	1,993.64	491.11
3. South Atlantic (DL, D.C., FL, GA, MD, NC, SC, VA, WV)	2,192.95	584.52	1,803.89	408.07
4. East North Central (IL, IN, MI, OH, WS)	2,340.95	660.40	1,959.42	457.10
5. East South Central (AL, KT, MS, TN)	1,990.97	520.25	1,619.64	381.83
6. West North Central (IA, KS, MN, MO, NB, ND, SD)	2,263.48	605.28	1,820.58	392.30
7. West South Central (AR, LA, OK, TX)	2,146.37	572.51	1,762.09	390.42
8. Mountain (AZ, CO, ID, MT, NV, NM, UT, WY)	2,108.90	607.69	1,826.56	426.96
9. Pacific (AK, CA, HA, OR, WA)	2,219.62	711.58	1,908.93	497.67

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Table 2. - HOSPITAL PROSPECTIVE REIMBURSEMENT INPUT PRICE INDEX (the "Market Basket")

Category of costs[1]	Relative Importance[2] 1981	Forecaster,[3] percent changes, 1982-1985	Price variable used
1. Wages and salaries	56.53	DRI-CFS.....	Percentage change in average hourly earnings of hospital industry workers (SIC 806). Source: U.S. Department of Labor, Bureau of Labor Statistics, Employment and Earnings (monthly).
2. Employee benefits	8.16	DRI-##.....	Percentage change in supplements to wages and salaries per worker in nonagricultural establishments. Sources: For supplements to wages and salaries - U.S. Department of Commerce, Bureau of Economic Analysis, Survey of Current Business (monthly). July issue has detailed components. For total employment - U.S. Dept. of Labor, Bureau of Labor Statistics, Employment and Earnings (monthly).
3. Professional fees, other (legal, auditing, consulting, etc.)	0.56	DRI-##.....	Percentage change in hourly earnings index for production or nonsupervisory workers on private nonagricultural payrolls, total private. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, Monthly Labor Review.
4. Malpractice insurance	2.12	DHHS, HCFA.....	Percentage change in hospital malpractice insurance premiums. Source: Unpublished data compiled by the Health Care Financing Administration. Historical percent changes beginning with 1982 are from the Insurance Services Organization (ISO).
5. Food	3.32	DRI-##.....	A. Percentage change in food and beverages component of Consumer Price Index, All Urban (relative importance, 1.71). Source: U.S. Dept. of Labor, Bureau of Labor Statistics, Monthly Labor Review.
		DRI-##.....	B. Percentage change in processed foods and feeds component of Producer Price Index (relative importance, 1.61). Source: U.S. Dept. of Labor, Bureau of Labor Statistics, Monthly Labor Review.
6. Fuel and other utilities	3.52	DRI-##.....	A. Percentage change in implicit price deflator - consumption of fuel oil and coal (derived from fuel oil component of Consumer Price Index) (relative importance, 1.73) Source: U.S. Dept. of Commerce, Bureau of Economic Analysis, Survey of Current Business.
		DRI-##.....	B. Percentage change in implicit price deflator - consumption of electricity (derived from electricity component of Consumer Price Index) (relative importance, 0.80) Source: U.S. Dept. of Commerce, Bureau of Economic Analysis. Unpublished data provided to Data Resources, Inc. by the Bureau of Economic Analysis. Historical time series data are available from the Health Care Financing Administration or the Bureau of Economic Analysis.
		DRI-##.....	C. Percentage change in implicit price deflator for natural gas, derived from utility (piped) gas component of Consumer Price Index (relative importance, 0.67). Source: Same as B., electricity, above.

Table 2. - HOSPITAL PROSPECTIVE REIMBURSEMENT INPUT PRICE INDEX (the "Market Basket")

Category of costs[1]	Relative Importance[2] 1981	Forecaster,[3] percent changes, 1982-1985	Price variable used
		DRI-CFS.....	D. Percentage change in water and sewerage maintenance component of Consumer Price Index (relative importance, 0.32). Source: U.S. Dept. of Labor, Bureau of Labor Statistics, Monthly Labor Review.
7. Drugs	2.61	DRI-CFS.....	Percentage change in pharmaceutical preparations, ethical component of Producer Price Index. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, Producer Prices and Price Indexes (monthly), Table 6.
8. Chemicals and cleaning products	2.17	DRI-MM.....	Percentage change in chemicals and allied products components of Producer Price Index. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, Monthly Labor Review.
9. Surgical and medical instruments and supplies	2.09	DRI-CFS.....	Percentage change in special industry machinery and equipment component of Producer Price Index. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, Monthly Labor Review.
10. Rubber and miscellaneous plastics	1.73	DRI-MM.....	Percentage change in rubber and plastic products component of Producer Price Index. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, Monthly Labor Review.
11. Business travel and motor freight	1.84	DRI-CFS.....	Percentage change in transportation component of Consumer Price Index. All Urban. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, Monthly Labor Review.
12. Apparel and textiles	1.45	DRI-MM.....	Percentage change in textile products and apparel component of Producer Price Index. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, Monthly Labor Review.
13. Business services	5.00	DRI-MM.....	Percentage change in services component of Consumer Price Index. All Urban. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, Monthly Labor Review.
14. All other miscellaneous expenses[4]	8.90	DRI-MM.....	Percentage change of Consumer Price Index for all items. All Urban. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, Monthly Labor REview.
Total	100.00		

[1]Costs not within the scope of the limits (i.e. capital, medical education, and medical professional fees) were excluded in deriving the input price index.

[2]A Laspeyres price index was constructed using 1977 base value weights and the price variables indicated in the table. Base value weights (cost shares) were derived from special studies by the Health Care Financing Administration using primarily data from the American Hospital Association and the Interindustry Economics Division of the Bureau of Economic Analysis, U.S. Department of Commerce. In 1977 each price variable has an index value of 100.00. The "relative importance" changes over time in accordance with price changes for each variable. Cost categories with relatively higher price increases get higher relative importance values and vice versa. For an explanation of the basic methodology used, see Freeland, Mark S., Anderson, Gerard, and Schendler, Carol Ellen, "National Hospital Input Price Index," Health Care Financing Review, Summer 1979, pp. 37-61.

[3]DRI-CFS = Data Resources, Inc., Cost Forecasting Service, 1750 K Street, NW., Washington, D.C. 20006 (Forecast 833). DRI-MM = Data Resources, Inc., Macro Model, 29 Hartwell Avenue, Lexington, Massachusetts 02173 (Trendlong 0783)

[4]This is a residual category of costs not included in the 13 specific categories above. It consists primarily of miscellaneous and unallocated items.

TABLE NO. 3a HOSPITAL CASE MIX INDEXES Page 1

TABLE NO. 3a HOSPITAL CASE MIX INDEXES Page 1

PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX
01-0001	.9832	* 01-0057	.9686	01-0117	.8900	03-0001	1.1067	03-0064	1.2277
01-0004	.9292	01-0058	1.0098	01-0118	.9385	03-0002	1.2290	03-0065	1.1227
01-0005	1.0154	01-0059	.8585	01-0119	1.0191	03-0003	1.0627	03-0067	.9563
01-0006	1.0036	01-0060	.9637	01-0120	.9346	* 03-0004	.9546	03-0068	1.0042
01-0007	.8912	01-0061	.9109	01-0121	.9376	03-0005	.9971	03-0069	.9869
01-0008	.9718	01-0062	.8962	01-0122	.8813	03-0006	1.1888	03-0080	1.0158
01-0009	.8826	01-0064	1.1158	01-0123	.9277	03-0007	1.0447	* 03-0081	.9167
01-0010	.8842	01-0065	.9792	01-0124	.9376	03-0008	1.0430	04-0001	.9388
01-0011	1.0440	01-0066	.8290	01-0125	.8982	03-0009	1.2163	04-0002	.9696
01-0012	.9722	01-0067	.9057	01-0126	.9575	03-0010	1.1295	04-0003	.9221
01-0014	.9941	01-0068	1.0269	01-0127	.9812	03-0011	1.0386	04-0004	1.1041
01-0015	.9070	01-0069	.9465	01-0128	.9409	03-0012	.9647	04-0005	.9428
01-0016	1.0052	01-0070	.9310	01-0129	.9362	03-0013	1.1089	04-0006	.9051
01-0017	.9734	01-0072	1.0348	01-0130	.9118	03-0014	1.0825	04-0007	1.0973
01-0018	.8060	01-0073	.9218	01-0131	.8060	03-0016	.9908	04-0008	1.0076
01-0019	.9667	01-0074	.8338	01-0132	.8846	03-0017	1.0508	04-0009	.9171
01-0020	.8996	* 01-0075	.8507	01-0134	.8892	03-0018	1.1135	04-0010	.9737
01-0021	.8749	01-0078	1.0557	* 01-0136	.8258	03-0019	.9815	04-0011	.8466
01-0022	.9466	01-0079	.9873	01-0137	1.1134	03-0020	1.0141	04-0013	.9411
01-0023	1.0350	01-0080	.8676	01-0138	1.0109	03-0022	1.1599	04-0014	.9634
01-0024	.9904	01-0081	1.1292	01-0139	1.1461	03-0023	1.0633	04-0015	.9348
01-0025	.9636	01-0082	.9586	01-0142	.7670	03-0024	1.2056	04-0016	1.1255
01-0026	.9789	01-0083	.9181	01-0143	.9605	03-0025	.9732	04-0017	1.0617
01-0027	.8641	01-0084	.9815	01-0144	.9422	* 03-0026	.8584	04-0018	.9772
01-0028	.9321	01-0085	.9504	01-0145	.9505	03-0027	.9358	04-0019	.8971
01-0029	1.0477	01-0086	.9490	01-0146	.9112	03-0030	1.1025	04-0020	1.0279
01-0030	.9686	01-0087	1.1789	* 01-0147	1.0651	03-0033	1.0059	04-0021	.9806
01-0031	.9615	01-0089	.9310	01-0148	.9206	03-0034	1.0011	04-0022	.9887
01-0032	.9727	01-0090	1.0335	01-0149	1.0689	03-0035	1.0006	04-0024	.9274
01-0033	1.3224	01-0091	1.0037	01-0150	.9657	03-0036	1.0490	04-0025	.9033
01-0034	.8579	01-0092	1.0878	* 01-0151	1.3335	03-0037	1.2471	04-0026	1.0343
01-0035	.9150	01-0094	.8669	* 01-0152	1.1303	03-0038	1.1375	04-0027	1.0504
01-0036	.8431	01-0095	.8948	02-0001	1.1090	* 03-0039	.9586	04-0028	.9798
01-0038	.8853	* 01-0096	.8250	* 02-0002	.9209	* 03-0040	.9408	04-0029	.9953
01-0039	1.1250	01-0097	.9480	* 02-0004	1.0177	03-0041	.9091	04-0030	.8746
01-0040	1.0180	01-0098	.9372	* 02-0005	.8172	03-0043	1.0309	04-0031	.9531
* 01-0041	.9162	01-0099	.9679	* 02-0006	.9725	03-0044	1.0026	04-0032	.9178
01-0042	.8951	01-0100	1.0522	* 02-0007	.9063	* 03-0046	.9470	04-0033	.8764
01-0044	.8968	01-0101	.8824	02-0008	1.0302	* 03-0047	.9182	04-0035	.9711
01-0045	.8635	01-0102	.9121	* 02-0009	.8583	* 03-0048	1.0781	04-0036	1.0482
01-0046	1.0349	01-0103	1.1826	* 02-0010	1.0603	03-0049	.9377	04-0037	.9515
01-0047	.8364	01-0104	1.1231	* 02-0011	.8499	03-0051	1.0685	04-0039	.9464
01-0048	.9140	01-0108	.9146	02-0012	1.0808	03-0054	1.0038	04-0040	.9323
01-0050	.8993	01-0109	.8935	* 02-0013	.8552	03-0055	1.0446	04-0041	.9743
01-0051	.9805	01-0110	.9393	* 02-0014	.9464	03-0057	1.0562	04-0042	1.0488
01-0052	.8758	* 01-0111	.7712	* 02-0016	1.0212	03-0059	.8912	04-0043	.9030
01-0053	.9076	01-0112	1.0060	02-0017	1.0744	03-0060	.9883	04-0044	.8782
01-0054	1.0025	01-0113	1.0462	* 02-0024	.9003	03-0061	1.1040	04-0045	.8946
01-0055	.9292	01-0114	.9671	* 02-0025	1.1863	03-0062	.9891	04-0047	.9744
01-0056	1.0784	01-0115	.9794	* 02-0026	1.1107	03-0063	1.1397	04-0048	.9765

INDEXES DERIVED FROM FEWER THAN 50 DISCHARGES DO NOT MEET THE SELECTED STATISTICAL PRECISION CRITERION FOR RELIABILITY. THESE CASE MIX INDEXES ARE ASTERISKED.

TABLE NO. 3a HOSPITAL CASE MIX INDEXES Page 2

PROVIDER NUMBER	CASE MIX INDEX
04-0050	.9526
04-0051	.9651
04-0053	.9207
04-0054	.9095
04-0055	1.0786
04-0057	.9252
04-0058	.9073
04-0060	.9856
04-0062	1.0553
04-0063	1.0360
04-0064	.9226
04-0066	.9167
04-0067	.9235
04-0068	.9588
04-0069	.9488
04-0070	.9115
04-0071	1.0298
04-0072	.9259
04-0074	.9664
04-0075	.9725
04-0076	.9253
04-0077	.9189
04-0078	.9827
04-0080	.9183
04-0081	.8732
04-0082	.9355
04-0084	.9617
04-0085	.9383
04-0087	.9332
04-0088	1.0211
04-0090	.9449
04-0091	.9376
04-0093	.8601
04-0095	.8956
04-0096	1.0604
04-0100	.9924
04-0105	1.0183
04-0106	.9498
04-0107	.9721
04-0108	.8972
04-0109	.9786
* 04-0113	.8520
04-0114	1.1386
04-0115	.9714
04-0116	1.0959
04-0118	.9936
04-0119	.9330
* 04-0121	.8941
04-0122	1.0113
04-0123	.8984
04-0124	.9450
04-0125	.8489
* 04-0126	.9780
05-0002	1.1385
05-0004	1.0327
05-0005	1.0288
05-0006	1.1518
05-0007	1.1022
05-0008	1.0878
05-0009	1.1206
* 05-0010	1.0116
05-0011	.9354
05-0013	1.2513
05-0014	1.0081
05-0015	1.0016
05-0016	1.0410
05-0017	1.1733
05-0018	1.0222
05-0019	.8854
* 05-0020	1.0482
05-0021	1.0188
05-0022	1.0812
05-0024	1.0932
05-0025	1.1997
05-0026	1.0994
05-0028	1.1142
05-0029	1.1326
05-0030	1.0527
* 05-0031	1.0969
05-0032	.9707
05-0033	1.0855
05-0034	1.0090
05-0036	1.0962
05-0038	1.1626
05-0039	1.2292
05-0040	1.0349
05-0041	.9848
05-0042	1.0266
05-0043	1.2187
05-0045	1.0441
05-0046	1.1551
05-0047	1.2084
05-0049	1.1119
05-0051	1.0122
* 05-0052	.9275
05-0053	1.0955
05-0054	1.0502
05-0055	1.0378
05-0056	1.0363
05-0057	1.0244
05-0058	1.0126
05-0060	1.0282
05-0061	1.0225
05-0063	1.0752
05-0065	1.0174
05-0066	1.0339
05-0067	1.0413
05-0068	.9389
05-0069	1.2049
05-0070	1.1731
05-0071	1.0732
05-0072	1.0996
05-0073	1.0940
05-0074	.9628
05-0075	1.1624
05-0076	1.1348
05-0077	1.1256
05-0078	1.0842
05-0079	1.1006
05-0080	1.0622
05-0081	1.1310
05-0082	1.0461
05-0084	1.2228
05-0085	1.1193
* 05-0086	1.1714
05-0087	1.1316
* 05-0088	1.0211
05-0089	1.0871
05-0090	1.0779
05-0091	.9535
05-0092	1.0324
05-0093	1.1938
05-0095	.9543
05-0096	1.0251
05-0097	1.0619
05-0098	.9974
05-0099	1.0963
05-0100	1.3490
05-0101	1.1182
05-0102	1.0768
05-0103	1.1692
05-0104	1.0904
05-0107	1.0585
05-0108	1.0811
05-0109	1.3608
05-0110	.9176
05-0111	1.1660
05-0112	1.1477
05-0113	.9883
05-0114	1.0449
05-0115	1.1034
05-0116	1.1430
05-0117	1.1211
05-0118	1.0667
* 05-0119	.8404
05-0121	.9999
05-0122	1.1187
05-0124	1.0588
05-0125	1.1113
05-0126	1.0191
05-0127	1.1234
05-0128	1.0531
05-0129	1.1500
05-0131	1.1071
05-0132	1.0643
05-0133	1.0023
05-0134	1.0381
05-0135	1.0607
05-0136	1.0472
05-0137	1.0703
05-0138	1.1345
05-0139	1.1072
05-0140	1.0790
05-0141	1.0617
05-0143	.9257
05-0144	1.1692
05-0145	1.1063
05-0146	1.1302
* 05-0147	.9817
05-0148	1.0125
05-0149	1.0185
05-0150	1.1131
05-0151	1.0858
05-0152	1.0843
05-0153	1.1884
05-0154	1.0767
05-0155	1.0277
05-0156	1.1163
05-0158	1.0694
05-0159	1.0142
05-0161	1.0142
05-0162	.9979
05-0164	1.1066
* 05-0166	1.0496
05-0167	1.1218
05-0168	1.1716
05-0169	1.1219
05-0170	1.0584
05-0172	1.2717
05-0173	.9447
05-0174	1.1936
05-0175	1.0239
05-0177	1.1591
05-0179	1.0400
05-0180	1.1140
05-0181	.9668
05-0182	.9947
05-0183	1.0824
* 05-0185	.8810
05-0186	1.0043
05-0187	1.0359
05-0188	1.0902
05-0189	.9212
* 05-0190	.9895
05-0191	1.0849
05-0192	1.0037
05-0193	1.0351
05-0194	1.0168
05-0195	1.0233
05-0196	1.0938
05-0197	1.1920
05-0199	.9775
05-0200	1.0114
05-0201	1.0076
05-0202	1.0306
05-0204	1.1812
05-0205	1.1367
05-0207	1.1068
05-0208	1.0878
05-0210	1.0813
05-0211	1.0585
05-0212	.9981
05-0213	1.0898
05-0214	1.0915
05-0215	1.1320
05-0217	1.0607
05-0219	1.1221
05-0220	.9967
05-0221	1.1089
05-0222	1.0517
05-0224	1.0852
05-0225	1.0448
05-0226	1.0850
05-0228	1.0938
05-0229	1.0446
05-0230	1.0127
05-0231	1.0750
05-0232	1.0588
05-0233	1.0372
05-0234	.9944

INDEXES DERIVED FROM FEWER THAN 50 DISCHARGES DO NOT MEET THE SELECTED STATISTICAL PRECISION CRITERION FOR RELIABILITY. THESE CASE MIX INDEXES ARE ASTERISKED.

TABLE NO. 3a HOSPITAL CASE MIX INDEXES Page 3

TABLE NO. 3a HOSPITAL CASE MIX INDEXES Page 3

PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX
05-0235	1.1215	05-0295	1.0735	05-0368	1.0107	05-0430	.9004	05-0502	1.3153
05-0236	1.0397	05-0300	1.1298	05-0369	1.0912	* 05-0431	1.0235	05-0503	1.0598
05-0238	1.0586	05-0301	1.0586	05-0371	1.0653	05-0432	1.1696	05-0506	1.1033
05-0239	1.1063	05-0302	1.1443	05-0372	1.0541	* 05-0433	.8973	05-0510	1.0360
05-0240	1.0716	05-0303	1.0700	05-0373	1.0012	05-0434	1.0907	05-0512	1.0835
05-0241	1.0493	05-0305	1.0989	05-0375	1.0311	05-0435	1.0889	* 05-0513	.6051
05-0242	1.1156	05-0307	1.0852	05-0376	1.0137	05-0436	.9550	05-0515	1.1152
05-0243	1.0036	05-0308	1.1922	05-0377	.9907	05-0438	1.1464	05-0516	1.1152
05-0245	1.0870	05-0309	1.0678	05-0378	.9926	05-0440	1.0273	05-0517	1.0380
05-0248	1.1474	05-0310	1.0596	05-0379	.9518	05-0441	1.3670	* 05-0521	.7630
05-0251	.8793	05-0312	1.1227	05-0380	1.2889	05-0442	1.0084	05-0522	1.0828
05-0253	.9469	05-0313	.9923	05-0381	.9380	* 05-0443	.8811	05-0523	1.0154
05-0254	1.0006	* 05-0314	.9753	05-0382	1.0376	05-0444	1.0651	* 05-0525	.8705
05-0255	.9844	05-0315	1.0882	* 05-0383	1.1290	05-0446	.9367	05-0526	1.0795
05-0256	1.2081	05-0317	1.0984	05-0385	1.0993	05-0447	1.0182	05-0527	.9795
05-0257	.9582	05-0318	.8862	05-0387	.8981	05-0448	.9638	05-0528	1.0444
05-0258	.9892	05-0319	.9726	05-0388	.9952	05-0449	.9852	* 05-0530	.9808
* 05-0260	.9916	05-0320	1.0348	05-0390	1.0616	* 05-0450	.9135	05-0531	.9648
05-0261	1.0582	* 05-0322	1.1381	05-0391	1.0709	* 05-0451	.9219	05-0534	.9087
05-0262	1.1009	05-0323	1.0705	* 05-0392	.8399	05-0454	1.3758	05-0535	1.0652
05-0263	1.0583	05-0324	1.1126	05-0393	1.0531	05-0455	1.1145	05-0537	1.2116
05-0264	1.1435	05-0325	1.0766	05-0394	1.0846	05-0456	1.1351	05-0539	1.0444
05-0266	1.0448	05-0326	1.0763	05-0395	.9552	05-0457	1.1980	05-0540	.9018
05-0267	1.1399	05-0327	1.1379	05-0396	1.2081	05-0458	1.0651	05-0541	1.2708
05-0268	1.1927	05-0328	1.0433	* 05-0397	.9978	05-0459	1.0883	05-0542	1.0126
05-0269	1.0928	05-0329	.9231	05-0400	1.1283	05-0464	1.2063	05-0543	1.1597
05-0270	1.0821	05-0331	1.1220	05-0401	1.1014	05-0467	1.1166	05-0544	1.0349
05-0272	1.0783	* 05-0333	.9669	05-0403	.9771	05-0468	.9893	05-0549	1.1777
* 05-0273	.8927	05-0334	1.1080	05-0404	1.0778	05-0469	.9773	05-0550	.9311
* 05-0274	.9532	05-0335	.9975	05-0405	1.0504	05-0470	1.0117	05-0551	1.1195
* 05-0275	.8918	05-0336	1.1107	* 05-0406	.8711	05-0471	1.1025	05-0552	.9229
05-0276	.9779	05-0337	1.1016	05-0407	1.1328	05-0473	1.0825	05-0557	1.1092
05-0277	1.0113	05-0342	1.0352	05-0410	.9344	05-0476	.9565	05-0559	1.0808
05-0278	1.0725	05-0343	1.0500	05-0411	1.0912	05-0477	.9771	05-0560	1.0865
05-0279	.9703	05-0345	.9503	05-0413	1.1422	05-0478	1.0818	05-0561	1.0326
05-0280	1.1014	05-0348	1.0730	05-0414	.9633	05-0481	1.0233	05-0562	.8976
05-0281	1.1742	* 05-0349	.9562	* 05-0415	.9389	* 05-0482	.9323	05-0564	1.0579
05-0282	1.0434	05-0350	1.1807	* 05-0416	1.0837	05-0483	1.0209	05-0565	1.0056
05-0283	1.0971	05-0351	1.0815	05-0417	1.0566	05-0485	1.0870	* 05-0566	.9527
* 05-0284	1.0275	05-0352	1.0546	05-0418	1.0979	05-0486	1.1087	05-0567	1.0019
* 05-0285	.9618	05-0353	1.1031	05-0419	1.0122	* 05-0487	1.0801	05-0568	1.0034
05-0286	1.0130	* 05-0355	.9078	05-0420	1.0520	05-0488	1.1072	05-0569	1.0983
05-0288	1.1077	05-0357	1.1085	05-0421	1.1279	05-0489	.9734	05-0570	1.1743
05-0290	.9776	05-0358	1.0752	05-0423	.9584	05-0491	1.0349	05-0571	1.0619
05-0291	1.1263	05-0360	1.0767	05-0424	1.0862	05-0492	1.1737	05-0573	1.1165
05-0292	1.1511	* 05-0361	.9867	05-0425	1.1030	05-0494	.9604	05-0575	1.0466
* 05-0293	.9192	05-0362	1.1200	05-0426	1.0332	05-0496	1.1867	05-0576	1.1037
05-0295	1.0285	05-0363	1.0186	* 05-0427	.9510	* 05-0497	.8447	05-0577	1.0757
05-0296	1.1077	05-0366	1.0584	* 05-0428	.9424	05-0498	1.0463	05-0578	.9951
05-0298	.9560	05-0367	1.1085	* 05-0429	.9406	* 05-0500	.8565	05-0579	.9730

INDEXES DERIVED FROM FEWER THAN 50 DISCHARGES DO NOT MEET THE SELECTED STATISTICAL PRECISION CRITERION FOR RELIABILITY. THESE CASE MIX INDEXES ARE ASTERISKED.

TABLE NO. 3a HOSPITAL CASE MIX INDEXES Page 4

PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX
05-0580	1.0407	05-0641	1.0741	* 06-0047	.9735	07-0013	1.0861	10-0010	1.0935
05-0581	1.0587	* 05-0642	.8194	* 06-0049	1.0569	07-0014	1.0478	10-0011	.8948
05-0583	1.2832	05-0644	1.1762	06-0050	.9110	07-0015	1.0927	10-0012	1.0005
05-0584	1.0659	* 05-0645	1.2401	06-0051	1.0440	07-0016	1.1340	10-0013	.9917
05-0585	1.0746	* 05-0646	.8148	* 06-0052	.8830	07-0017	1.0725	10-0014	.9613
05-0586	1.0962	* 05-0648	.9371	* 06-0053	.9271	07-0018	1.0242	10-0015	1.0740
05-0587	1.0229	* 05-0650	.7355	06-0054	.9205	07-0019	1.0727	10-0016	1.0385
05-0588	1.0750	06-0001	.9766	* 06-0055	.9238	07-0020	1.1070	10-0017	1.0732
05-0589	1.0100	06-0003	1.0307	* 06-0056	1.0222	07-0021	1.0243	10-0018	1.1244
05-0590	1.0888	06-0004	.9204	* 06-0057	1.2874	07-0022	1.1782	10-0019	1.0590
05-0591	1.0349	06-0005	1.0385	* 06-0058	.9523	07-0023	1.0325	10-0020	.9692
05-0592	1.0240	06-0006	1.0115	* 06-0059	1.0491	07-0024	1.0418	10-0021	1.0124
05-0593	1.0135	* 06-0007	1.0706	* 06-0060	.9717	07-0025	1.2112	10-0022	1.2099
05-0594	1.0578	06-0008	.9748	06-0061	.9398	07-0026	1.0548	10-0023	.9897
* 05-0595	1.0550	06-0009	1.0370	* 06-0062	1.0009	07-0027	1.1202	10-0024	1.0638
05-0597	.9991	06-0010	1.0874	* 06-0063	.9830	07-0028	1.1668	10-0025	1.1482
05-0598	.9759	06-0011	1.0180	06-0064	.9851	07-0029	.9829	10-0026	1.0235
05-0599	1.1840	06-0012	1.0365	06-0065	.9874	07-0030	1.0638	10-0027	.8842
05-0601	1.0236	06-0013	.9855	* 06-0066	.9155	07-0031	1.0532	10-0028	.9967
05-0602	1.1318	06-0014	1.1360	* 06-0067	.9246	07-0033	1.1269	10-0029	1.0272
05-0603	1.0694	06-0015	1.0779	* 06-0068	1.0324	07-0034	1.0543	10-0030	.9146
05-0604	1.0898	06-0016	.9070	* 06-0069	.9111	07-0035	1.1471	10-0031	.8162
* 05-0605	.9752	06-0017	1.0158	* 06-0070	.9513	07-0036	1.1461	10-0032	1.1125
* 05-0606	1.1537	06-0018	.9065	06-0071	1.0276	* 07-0038	1.1131	10-0033	1.0085
05-0607	.9494	06-0019	1.0646	* 06-0072	.9264	08-0001	1.1347	10-0034	1.1234
05-0608	1.1844	06-0020	1.1525	* 06-0073	.6120	08-0002	.9799	10-0035	1.0316
05-0609	1.1661	06-0022	.9652	* 06-0074	.9640	08-0003	1.0952	10-0036	.9988
* 05-0613	.9382	06-0023	.9920	06-0075	1.0738	08-0004	1.1281	10-0038	1.0969
05-0615	1.1514	06-0024	1.2706	06-0076	1.0534	08-0005	.9634	10-0039	1.0944
05-0616	.9886	06-0025	.9073	* 06-0077	.8436	08-0006	1.0334	10-0040	1.1597
05-0617	.9037	06-0026	1.0283	* 06-0083	.8367	08-0007	.9906	10-0042	.9668
* 05-0618	.9848	06-0027	1.0882	* 06-0085	.8034	09-0001	1.1448	10-0043	1.0705
05-0619	1.0745	06-0028	1.0916	06-0087	1.0867	09-0002	1.1164	10-0044	1.0579
05-0622	1.0244	* 06-0029	.9002	* 06-0088	.9126	09-0003	1.0848	10-0045	1.0774
05-0623	.8713	06-0030	1.0277	* 06-0090	1.0171	09-0004	1.1598	10-0046	.9336
05-0624	1.0340	06-0031	1.1204	* 06-0092	.8104	09-0005	1.0715	10-0047	1.0081
05-0625	1.1515	06-0032	1.0281	* 06-0093	1.0408	09-0006	1.0445	10-0048	.8103
05-0626	.8177	06-0033	1.0823	* 06-0096	1.2619	09-0007	.9484	10-0049	1.1048
05-0627	.8239	06-0034	1.0785	07-0001	1.2649	09-0008	1.1052	10-0050	.9604
05-0628	.8183	06-0035	1.0038	07-0002	1.1663	09-0009	1.0053	10-0051	.9206
* 05-0629	.8968	06-0036	1.1184	07-0003	1.0895	* 09-0010	1.0990	10-0052	.9760
05-0630	1.1223	06-0037	.9545	07-0004	1.0698	09-0011	1.2288	10-0053	1.0482
* 05-0631	.8194	* 06-0038	.9473	07-0005	1.0958	10-0001	1.0682	10-0054	.9049
* 05-0632	1.1354	06-0039	.5093	07-0006	1.1094	10-0002	1.0739	10-0055	.9604
05-0633	1.1203	* 06-0041	.8816	07-0007	1.1398	10-0004	.8855	10-0056	.9161
05-0635	1.0908	* 06-0042	.9578	07-0008	.9974	10-0005	.9529	10-0057	.9799
05-0636	1.0441	* 06-0043	.8800	07-0009	1.0739	10-0006	1.0106	10-0059	1.0683
05-0637	1.0448	06-0044	.9595	07-0010	1.1312	10-0007	1.1365	10-0060	1.2135
* 05-0638	1.0921	06-0045	.9538	07-0011	1.1014	10-0008	1.0724	10-0061	1.1032
* 05-0640	.8021	* 06-0046	1.0590	07-0012	1.1253	10-0009	1.0806	10-0062	1.1738

INDEXES DERIVED FROM FEWER THAN 50 DISCHARGES DO NOT MEET THE SELECTED STATISTICAL PRECISION CRITERION FOR RELIABILITY. THESE CASE MIX INDEXES ARE ASTERISKED.

TABLE NO. 3a HOSPITAL CASE MIX INDEXES Page 5

TABLE NO. 3a HOSPITAL CASE MIX INDEXES Page 5

PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX
10-0063	1.1144	10-0126	1.0640	10-0185	.9440	* 10-0245	1.1042	11-0044	.9777
10-0065	1.0366	10-0127	1.1200	10-0186	1.1082	10-0246	1.0694	11-0045	.8755
10-0067	1.0551	10-0128	1.6495	10-0187	1.0223	* 10-0247	.8934	11-0046	1.0803
10-0068	1.0204	10-0129	1.0563	10-0189	1.0065	10-0248	1.0688	11-0047	.9205
10-0069	.9949	10-0130	1.0389	10-0191	1.0607	10-0249	1.0087	11-0048	.9806
10-0070	1.1454	10-0131	1.0484	10-0193	.8154	10-0251	.9416	11-0049	.8592
10-0071	.9462	10-0132	1.0491	10-0194	.9307	10-0252	.9774	* 11-0050	.9055
10-0072	.9720	* 10-0133	.7304	10-0195	1.0393	10-0253	1.1254	11-0051	.8806
10-0073	1.1166	10-0134	.8981	10-0196	1.0745	10-0254	1.0055	11-0052	.8946
10-0074	.9340	10-0135	1.0937	10-0199	1.0670	10-0255	.9890	11-0054	1.0631
10-0075	1.0288	10-0137	.9508	10-0200	1.1049	10-0256	1.0832	11-0055	.9383
10-0076	.9971	10-0138	.8588	* 10-0201	1.0267	11-0001	1.0519	11-0056	.9213
10-0077	.9929	10-0139	.9637	10-0203	1.0578	11-0002	.9648	11-0059	.9808
10-0078	.8304	10-0140	.9484	10-0204	1.1522	11-0003	.9917	11-0061	.9265
10-0079	.9714	10-0142	.9485	10-0206	1.0562	11-0004	1.0138	11-0062	.9056
10-0080	1.1434	10-0143	1.0168	10-0207	1.0625	11-0005	.9454	11-0063	.9116
10-0081	.9140	10-0144	1.0874	10-0208	1.0151	11-0006	1.0981	11-0064	1.0884
10-0082	1.0811	10-0145	.9808	10-0209	1.0666	11-0007	1.1442	11-0065	.8885
10-0083	1.0445	10-0146	.9618	10-0210	1.0681	11-0008	.9432	11-0066	1.1061
10-0084	.9633	10-0147	.8898	10-0211	.9674	11-0009	.9493	11-0067	.9104
10-0085	1.0009	10-0149	1.1224	10-0212	1.0909	11-0010	1.3363	11-0069	1.0165
10-0086	1.0531	10-0150	.8953	10-0213	1.0958	11-0011	.9824	11-0070	.8622
10-0087	1.1042	10-0151	1.0853	10-0214	.9939	11-0013	.9816	11-0071	.9172
10-0088	1.1095	10-0152	.9622	10-0217	1.0519	11-0014	.8929	11-0072	.9816
10-0089	1.0600	10-0153	.8243	10-0218	.9841	11-0015	1.0211	11-0073	.9176
10-0090	.9528	10-0154	1.0969	10-0219	1.0176	11-0016	1.0565	11-0074	1.0833
10-0092	1.0443	10-0156	.8921	10-0220	1.1208	11-0017	.9680	11-0075	.9963
10-0093	.9903	10-0157	1.0616	10-0221	1.2535	11-0018	.9423	11-0076	1.1442
10-0098	1.0257	10-0159	.8523	10-0222	.9698	11-0020	.9665	11-0077	.8655
10-0099	.9673	10-0160	.9428	10-0223	1.0461	11-0023	.8969	11-0078	1.1304
10-0100	1.0049	10-0161	1.0513	10-0224	1.0023	11-0024	1.0558	11-0079	1.0339
10-0102	.8946	10-0162	1.0735	10-0225	1.0309	11-0025	1.0642	11-0080	.9845
10-0103	.9386	10-0164	.9035	10-0226	1.0312	11-0026	.9091	11-0081	.9231
10-0105	1.0643	10-0165	.9334	* 10-0227	.8952	11-0027	.9145	11-0082	1.2646
10-0106	.9344	10-0166	.9976	10-0228	.9461	11-0028	1.1037	11-0083	1.0904
10-0107	.9627	10-0167	.9926	10-0229	1.0374	11-0029	.9616	11-0084	.9123
10-0108	.9320	10-0168	1.1004	10-0230	.9871	11-0030	.9779	11-0085	1.0407
10-0109	.9931	10-0169	1.1685	10-0231	1.2066	11-0031	1.0098	11-0086	.9582
10-0110	1.0207	10-0170	1.0898	10-0232	.9872	11-0032	.9862	11-0087	.9528
10-0112	.9481	10-0172	1.0283	10-0234	1.0546	11-0033	1.0089	* 11-0088	.8658
10-0113	1.2969	10-0173	1.0432	10-0235	1.0099	11-0034	1.0439	11-0089	.9022
10-0114	1.0162	10-0174	1.0298	10-0236	1.0693	11-0035	1.0316	11-0091	1.0836
10-0115	1.0204	10-0175	.8913	10-0237	1.2402	11-0036	1.2982	11-0092	.9760
10-0117	1.0215	10-0176	1.1192	10-0238	1.0036	11-0037	.9232	11-0093	.9375
10-0118	.8933	10-0177	1.0443	10-0239	1.0142	11-0038	1.0183	11-0094	.8218
10-0120	.9384	10-0179	1.1436	10-0240	.9811	11-0039	1.0365	11-0095	1.0566
10-0121	.8768	10-0180	1.1645	10-0241	.8441	11-0040	.9155	11-0096	.9680
10-0122	.8883	10-0181	.8386	10-0242	.9964	11-0041	.9430	11-0097	.8496
10-0124	.9826	* 10-0182	.7765	10-0243	1.0448	11-0042	.9496	11-0098	.8959
10-0125	.9702	10-0183	.9580	10-0244	1.0682	11-0043	1.0478	11-0099	.9589

INDEXES DERIVED FROM FEWER THAN 50 DISCHARGES DO NOT MEET THE SELECTED STATISTICAL PRECISION CRITERION FOR RELIABILITY. THESE CASE MIX INDEXES ARE ASTERISKED.

TABLE NO. 3a HOSPITAL CASE MIX INDEXES Page 6

PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX
11-0100	1.0060	11-0165	1.1029	13-0002	1.0657	14-0008	1.0198	14-0066	.9968
11-0101	.5142	11-0166	1.0236	13-0003	1.0849	14-0009	.9615	14-0067	1.0883
11-0103	1.0011	11-0168	.5848	13-0005	.9900	14-0010	1.0866	14-0068	1.0140
11-0104	1.0013	11-0169	.5502	13-0006	1.2374	14-0011	.9835	14-0069	.9858
11-0105	1.0075	11-0170	.8359	13-0007	1.1374	14-0012	.9508	14-0070	1.0107
11-0107	1.2246	11-0171	1.0729	* 13-0008	1.1162	14-0013	1.0468	14-0072	.9986
11-0108	.9378	11-0172	1.0751	13-0009	.9710	14-0014	.9741	14-0074	1.0464
11-0109	.9521	11-0174	.8839	13-0010	1.0040	14-0015	1.0298	14-0075	1.1733
11-0111	.9188	11-0175	1.0178	13-0011	1.0358	14-0016	1.0195	* 14-0076	1.0612
11-0112	.5127	11-0176	.8922	* 13-0012	.9443	14-0017	1.0693	14-0077	.9727
11-0113	1.0123	11-0177	1.0456	13-0013	1.0266	14-0018	1.1214	14-0079	1.0622
11-0114	.9488	11-0178	.6516	13-0014	1.0386	14-0019	.8946	14-0080	1.1877
11-0115	1.0940	11-0179	1.0162	13-0015	.9223	14-0023	.9319	14-0081	1.0367
11-0117	.5752	11-0181	1.0134	13-0016	1.0009	14-0024	.8915	14-0082	1.0584
11-0118	.9134	11-0182	.9651	* 13-0017	.9126	14-0025	1.0586	14-0083	1.0592
11-0120	.9052	11-0183	1.0087	13-0018	1.0991	14-0026	1.0121	14-0084	1.0529
11-0121	.9130	11-0184	1.0163	13-0019	1.0681	14-0027	1.0208	14-0085	1.0529
11-0122	1.0306	11-0185	.9735	* 13-0021	.9488	14-0029	1.0745	14-0086	1.0597
11-0123	.9745	11-0186	.9589	13-0022	.9851	14-0030	1.0324	14-0087	1.0682
11-0124	.9226	11-0187	.9004	13-0024	1.0057	14-0031	1.0378	14-0088	1.1969
11-0125	.5551	11-0188	1.0465	13-0025	.9795	14-0032	.9316	14-0089	.9670
11-0127	.8602	11-0189	.9092	13-0026	1.1308	14-0033	1.0267	14-0090	1.0303
11-0128	.9626	11-0190	.8736	13-0027	.9108	14-0034	.9350	14-0091	1.1295
11-0129	1.1402	11-0191	1.0976	13-0028	1.0524	14-0035	1.0017	14-0093	.9552
11-0130	.9027	11-0192	1.0347	13-0029	.9766	14-0036	.9385	14-0094	1.0678
* 11-0131	.8366	11-0193	.9768	* 13-0030	.8698	14-0037	.9191	14-0095	1.0778
11-0132	.9492	11-0194	.5190	* 13-0031	.8937	14-0038	1.0347	14-0097	.9668
11-0133	1.0048	11-0195	1.0051	* 13-0032	.9382	14-0039	.9487	14-0098	1.0323
11-0134	.8720	* 11-0196	1.3425	13-0034	.9412	14-0040	1.0124	14-0099	.9979
11-0135	.9242	12-0001	1.1640	13-0035	.9567	14-0041	1.0290	14-0100	1.0324
* 11-0136	1.1293	12-0002	1.1302	13-0036	1.0433	14-0042	.9170	14-0101	.9887
11-0140	.8943	12-0003	1.0201	13-0037	.8659	14-0043	.9866	14-0102	.9306
11-0141	.9238	12-0004	.9541	* 13-0038	.9225	* 14-0044	.9107	14-0103	1.0306
11-0142	.8892	12-0005	1.0775	* 13-0039	1.2372	14-0045	.9940	14-0104	.9278
11-0143	1.0518	12-0006	1.0852	* 13-0040	.9952	14-0046	1.0195	14-0105	1.0717
11-0144	.9968	12-0007	1.0316	* 13-0041	.8961	14-0047	1.0167	14-0107	.9968
11-0146	.8830	* 12-0008	.8456	13-0042	.9667	14-0048	1.0089	14-0108	1.0141
11-0149	.9328	* 12-0009	.9751	* 13-0044	.9363	14-0049	1.0803	14-0109	.9597
11-0150	1.0311	12-0010	1.2607	13-0045	.9961	14-0051	1.0160	14-0110	.9663
11-0151	1.0358	12-0011	1.0968	* 13-0048	.9749	14-0052	.8966	14-0111	1.0219
11-0152	.9408	* 12-0012	1.0962	13-0049	1.0238	14-0053	1.1470	14-0112	.9595
11-0153	.8838	12-0014	1.0788	* 13-0050	.8341	14-0054	1.0592	14-0113	1.0894
11-0154	.9238	* 12-0015	.7000	13-0051	.8803	14-0055	.9848	14-0114	1.0628
11-0155	.9615	* 12-0016	.9687	* 13-0053	.8164	14-0058	1.0065	14-0115	.9881
* 11-0156	.9015	* 12-0018	1.0077	* 13-0054	.8738	14-0059	.9643	14-0116	1.0492
11-0157	.9318	12-0019	.9944	14-0001	1.0277	14-0061	.9687	14-0117	1.0594
11-0158	.9313	12-0020	1.0181	14-0002	1.0154	14-0062	1.0376	14-0118	1.1804
11-0161	1.1617	* 12-0021	1.0288	14-0004	.9768	14-0063	1.0669	14-0119	1.2373
11-0163	1.0685	12-0022	1.2126	14-0005	.9269	14-0064	1.1127	14-0120	1.0277
11-0164	.9875	13-0001	1.0328	14-0007	1.0623	14-0065	1.0496	14-0121	1.0368

INDEXES DERIVED FROM FEWER THAN 50 DISCHARGES DO NOT MEET THE SELECTED STATISTICAL PRECISION CRITERION FOR RELIABILITY. THESE CASE MIX INDEXES ARE ASTERISKED.

TABLE NO. 3a HOSPITAL CASE MIX INDEXES Page 7

TABLE NO. 3a HOSPITAL CASE MIX INDEXES Page 7

PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX
14-0122	1.0336	14-0174	1.0244	14-0235	.9163	15-0018	1.0779	15-0073	.9974
14-0123	1.0282	14-0176	.9796	* 14-0236	1.0097	15-0019	.9761	15-0074	1.1167
14-0124	.9125	14-0177	1.0729	14-0239	1.0830	15-0020	.9428	15-0075	1.0620
14-0125	1.0830	14-0178	.9726	14-0240	.9743	15-0021	1.1973	15-0076	1.0254
14-0126	1.1078	14-0179	1.0392	* 14-0241	.8370	15-0022	.9621	15-0077	1.0728
14-0127	1.0273	14-0180	1.0997	14-0242	1.0811	15-0023	1.0327	15-0078	.9737
14-0128	.9813	14-0181	1.0294	14-0243	1.0343	15-0024	1.0790	15-0079	.9515
14-0129	.9581	14-0182	1.0989	14-0245	.9070	15-0025	1.0217	15-0081	.9309
14-0130	1.0423	14-0184	1.0193	14-0246	.9258	15-0026	.9829	15-0082	1.1202
14-0131	1.0872	14-0185	1.0796	14-0247	.9483	15-0027	.9562	15-0083	1.0475
14-0132	1.1623	14-0186	1.0022	14-0248	1.0350	15-0029	1.0923	15-0084	1.2278
14-0133	1.0902	14-0187	1.0205	14-0250	1.1370	15-0030	.9730	15-0085	.9222
14-0134	.9524	14-0188	.8778	14-0251	.9657	15-0031	.9514	15-0086	.9950
14-0135	1.0306	14-0189	1.0883	14-0252	1.0885	15-0032	1.2476	15-0088	.9758
14-0136	.9395	14-0190	.9395	14-0253	1.0041	15-0033	1.0836	15-0089	1.1158
14-0137	.9600	14-0191	1.0881	* 14-0255	.7836	15-0034	.9923	15-0090	.9765
14-0138	.8994	14-0192	1.0466	14-0257	.9008	15-0035	1.0681	15-0091	.9802
14-0139	.9609	14-0193	.9301	14-0258	1.0638	15-0036	.8788	15-0092	.9807
14-0140	1.0022	14-0197	1.0797	14-0261	1.1199	15-0037	1.0385	15-0094	.9333
14-0141	.9896	14-0199	.9740	14-0271	.9059	15-0038	1.0181	15-0095	.9943
14-0142	.9786	14-0200	1.0789	14-0273	.8767	15-0039	1.0479	15-0096	.8796
14-0143	.9780	* 14-0201	.9595	14-0275	1.0002	15-0042	1.0232	15-0097	.9699
14-0144	.9931	14-0202	1.0490	14-0276	1.3641	15-0043	1.0047	15-0098	.9801
14-0145	1.0337	14-0203	1.0754	14-0280	1.0668	15-0044	1.0204	15-0099	1.0215
14-0146	.9216	14-0204	1.0753	14-0281	1.1752	15-0045	1.0154	15-0100	1.0903
14-0147	.9855	14-0205	1.0238	14-0285	1.0664	15-0046	1.0829	15-0101	.9390
14-0148	1.0767	14-0206	.9232	14-0286	1.0756	15-0047	1.0160	15-0102	.9763
14-0150	1.1012	14-0207	1.0589	14-0288	1.0559	15-0048	1.0461	15-0103	.9166
14-0151	.9463	14-0208	1.1441	14-0289	1.0571	15-0049	.9429	15-0104	1.0193
14-0152	1.1137	14-0209	1.0960	14-0290	1.0453	15-0050	.9927	15-0105	1.0128
14-0153	1.0424	14-0210	.9720	14-0291	.9999	15-0051	1.0169	15-0106	.9096
14-0154	1.0703	14-0211	1.0875	14-0292	1.1100	15-0052	.8753	15-0109	1.0529
14-0155	.9720	14-0212	.9684	14-0293	.8747	15-0053	.9116	15-0110	.9597
14-0156	1.0435	14-0213	1.0751	* 14-0294	1.0786	15-0054	.9866	15-0111	.9880
14-0157	.9074	14-0215	1.0135	15-0001	.9564	15-0056	1.1972	15-0112	1.0499
14-0158	1.1130	* 14-0216	.7820	15-0002	1.0920	15-0057	.8407	15-0113	.9976
14-0159	.9561	14-0217	1.0471	15-0003	1.0777	15-0058	1.1102	15-0114	.9526
14-0160	1.0525	14-0218	.9678	15-0004	1.0839	15-0059	.9781	15-0115	.9627
14-0161	1.0470	14-0219	.9898	15-0005	1.0581	15-0060	.9536	15-0122	.9145
14-0162	1.0437	14-0220	.9876	15-0006	1.0462	15-0061	1.0629	15-0123	.9314
14-0163	.9480	14-0223	1.0668	15-0007	.9287	15-0062	.9157	15-0124	.9832
14-0164	1.0330	14-0224	1.0981	15-0008	1.1659	15-0063	1.0806	15-0125	1.0358
14-0165	.8155	14-0226	1.0135	15-0009	.9703	15-0064	.9821	15-0126	1.1981
14-0166	1.0201	14-0228	1.1015	15-0010	1.0147	15-0065	.9536	15-0127	.9988
14-0167	.9930	* 14-0229	.9464	15-0011	1.0328	15-0066	1.0205	15-0128	1.0406
14-0168	.9918	* 14-0230	1.0367	15-0012	1.1669	15-0067	1.0234	15-0129	1.0023
14-0170	.9867	14-0231	1.0343	15-0013	.9508	15-0069	.9804	15-0130	1.0826
14-0171	.9638	14-0232	.9209	15-0014	1.0265	15-0070	.9564	15-0132	1.1104
14-0172	1.0901	14-0233	1.1146	15-0015	.9955	15-0071	.9961	15-0133	1.0384
14-0173	1.0407	14-0234	.9709	15-0017	1.1603	15-0072	1.0550	15-0134	.9459

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TABLE NO. 3a HOSPITAL CASE MIX INDEXES Page 8

PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX
* 15-0135	.9017	16-0058	1.1575	16-0114	.9217	17-0019	1.0838	17-0077	.8956
16-0001	.8709	16-0059	1.0513	16-0115	.9608	17-0020	.9913	* 17-0079	.8607
16-0002	.9441	16-0060	.9737	16-0116	.9758	17-0021	.9021	17-0080	.8378
16-0003	.9382	16-0061	.8915	16-0117	1.1057	17-0022	.9968	17-0081	.9772
16-0004	1.0930	16-0062	.9512	16-0118	.9012	17-0023	.9711	* 17-0082	.9883
16-0005	.9311	* 16-0063	1.0559	16-0119	1.0276	17-0024	.9493	17-0084	.9362
16-0007	.8993	16-0064	1.0414	16-0120	.9099	17-0025	.9338	* 17-0085	.9806
16-0008	.9701	16-0065	.8879	16-0121	1.0462	17-0026	1.0273	17-0086	1.1570
16-0009	.9438	16-0066	.9823	16-0122	.9339	17-0027	.8861	17-0087	1.0730
16-0012	.9383	16-0067	1.0509	16-0123	1.0544	17-0030	.8896	17-0088	.8904
16-0013	1.1140	16-0068	.9216	16-0124	.9847	17-0031	.9888	* 17-0089	.9630
16-0014	.9151	16-0069	1.1521	16-0126	.9564	17-0032	.9338	* 17-0090	.9407
16-0016	1.0586	16-0070	.8766	16-0129	1.0416	17-0033	.9641	17-0091	.9707
16-0018	.9466	16-0071	.9612	16-0130	.9575	* 17-0034	.8950	17-0092	.9160
16-0020	.9144	16-0072	1.0014	16-0131	.9614	17-0035	.9429	17-0093	1.0174
16-0021	.9182	16-0073	.9424	* 16-0132	.8988	* 17-0036	.9685	17-0094	.9874
16-0023	1.0287	16-0074	.9539	16-0133	.9465	17-0037	1.1138	17-0095	.9817
16-0024	.9645	16-0075	.9192	16-0134	.9036	17-0038	.8767	* 17-0096	.8736
16-0025	1.1566	16-0076	.9317	16-0135	.9458	17-0039	.9387	17-0097	.9641
16-0026	.9562	16-0077	.8631	* 16-0136	.9803	17-0040	1.1560	17-0098	.9076
16-0027	1.0405	16-0079	1.0715	16-0138	1.0581	17-0041	.9614	* 17-0099	1.0587
16-0028	1.0014	16-0080	.9411	* 16-0139	.8507	17-0043	.9060	* 17-0100	.8790
16-0029	1.0750	16-0081	.9912	16-0140	.9611	17-0044	.8957	17-0101	.8871
16-0030	1.0370	16-0082	1.1875	* 16-0141	.9379	17-0045	.7839	17-0102	.9581
16-0031	.9210	16-0083	1.1702	16-0142	.9689	17-0046	.9319	17-0103	1.1044
16-0032	1.0155	16-0085	1.0772	16-0143	.9327	17-0049	.9345	17-0104	.9702
16-0033	1.0315	16-0086	.8919	16-0145	1.0121	* 17-0050	1.0050	17-0105	.9291
16-0034	.9906	16-0088	.9259	16-0146	1.0205	17-0051	1.0296	17-0106	.9148
16-0035	.9234	16-0089	.9876	16-0147	1.0292	17-0052	.9623	* 17-0108	.8051
16-0036	.9854	16-0090	.9605	16-0151	1.0694	17-0053	.9401	17-0109	.9384
16-0037	.9965	16-0091	1.0612	16-0152	.9475	17-0054	.9468	17-0110	.8804
16-0038	1.0089	16-0092	.9327	16-0153	1.0515	17-0055	.8655	17-0112	.8976
16-0039	.9037	16-0093	.8604	17-0001	.9209	* 17-0056	.9463	17-0113	.9585
16-0040	1.0277	16-0094	.9919	17-0002	.9120	17-0057	.9217	17-0114	.9562
16-0041	.9537	* 16-0095	1.0695	17-0003	1.0064	17-0058	.9632	17-0115	.9775
16-0043	.9584	16-0097	.9817	17-0004	.9135	17-0060	.9343	17-0116	.9307
16-0044	.9758	16-0098	.9321	17-0005	.8775	17-0061	.9587	* 17-0117	.8014
16-0045	1.1178	16-0099	.9470	17-0006	1.0041	* 17-0062	.8347	* 17-0119	.8537
16-0046	1.0272	16-0101	1.0357	17-0007	1.0314	* 17-0063	.8519	17-0120	.9813
16-0047	1.0414	16-0102	1.0704	17-0008	.9434	* 17-0064	.9365	* 17-0121	.9287
16-0048	.8794	16-0103	.8999	17-0009	1.0711	17-0066	.8725	17-0122	1.1276
16-0049	.8741	16-0104	1.0503	17-0010	.9820	17-0067	.9339	17-0123	1.0627
16-0050	.9462	16-0106	.9766	17-0011	1.0016	17-0068	.9690	17-0124	.8710
16-0051	.8637	16-0107	.9454	17-0012	1.1158	* 17-0069	.8835	17-0125	.9524
16-0052	1.0065	16-0108	1.0012	17-0013	.9495	17-0070	.9707	17-0126	.8839
16-0053	1.0201	* 16-0109	.9942	17-0014	.9052	17-0072	.9159	17-0128	.9710
16-0054	.9344	16-0110	1.1255	17-0015	.9207	17-0073	1.0027	* 17-0130	.8772
16-0055	.9558	* 16-0111	.9188	17-0016	1.2296	17-0074	1.0609	17-0131	.9727
16-0056	.9519	16-0112	.9775	17-0017	1.0086	* 17-0075	.9490	17-0133	1.0174
16-0057	1.0402	16-0113	1.0005	17-0018	.9673	17-0076	.9065	17-0134	.9429

INDEXES DERIVED FROM FEWER THAN 50 DISCHARGES DO NOT MEET THE SELECTED STATISTICAL PRECISION CRITERION FOR RELIABILITY. THESE CASE MIX INDEXES ARE ASTERISKED.

TABLE NO. 3a HOSPITAL CASE MIX INDEXES Page 9

TABLE NO. 3a HOSPITAL CASE MIX INDEXES Page 9

PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX
17-0137	1.0300	18-0026	.9924	18-0093	1.0900	19-0019	1.0792	19-0106	.9494
17-0138	.9568	18-0027	1.0494	18-0094	.9676	19-0020	1.0083	19-0109	.9969
* 17-0139	.9025	18-0028	.9286	18-0095	1.0038	19-0023	.9024	19-0110	.9550
17-0140	.9322	18-0029	.9826	18-0099	.9301	19-0025	1.0134	19-0111	1.0267
17-0142	.9367	18-0030	.9566	18-0100	1.0877	19-0026	1.0334	19-0112	1.0251
17-0143	1.0385	18-0031	.9172	18-0101	.9670	19-0027	1.0244	19-0113	1.0366
17-0144	1.0269	18-0032	.9468	18-0102	1.0800	19-0029	.9529	19-0114	.9081
17-0145	1.0038	18-0033	.9249	18-0103	1.1573	19-0033	.8821	19-0115	1.0686
17-0146	1.0101	18-0034	1.0210	18-0104	1.0384	19-0034	.8966	19-0116	.9871
17-0147	.9959	18-0035	1.0821	18-0105	.9566	19-0035	1.0852	19-0117	.9891
17-0148	1.0253	18-0036	.9155	18-0106	.9495	19-0036	1.2043	19-0118	.9556
17-0150	.8949	18-0037	1.0433	18-0108	.8972	* 19-0037	.8452	19-0119	.9256
17-0151	.9642	18-0038	1.0249	18-0112	.9275	19-0039	1.0430	19-0120	.9692
17-0152	.9458	18-0040	1.2040	18-0114	.8872	19-0040	.9363	19-0122	.9477
* 17-0159	.9979	18-0041	1.0190	18-0115	.9391	19-0041	1.1263	19-0124	1.0370
17-0160	.8553	18-0042	.9739	18-0116	1.0192	19-0043	.9607	19-0125	1.0734
17-0164	.9367	18-0043	.9556	18-0117	.9116	19-0044	.9607	19-0127	1.0161
* 17-0166	1.1136	18-0044	.9701	18-0118	.9479	19-0045	1.0243	* 19-0128	1.1076
* 17-0168	.9231	18-0045	.9771	18-0120	.8757	19-0046	1.1456	19-0130	.8181
* 17-0170	.9325	18-0046	.9832	* 18-0121	.8679	19-0047	.9124	19-0131	.8982
17-0171	.9876	18-0047	.9707	18-0122	.8533	19-0048	1.0231	19-0132	.9495
17-0172	1.0079	18-0048	1.0651	18-0123	1.0630	19-0049	.9818	19-0133	.8491
* 17-0173	.8992	18-0049	1.0335	18-0124	.9706	19-0050	.8941	19-0134	.8713
* 17-0174	.8404	18-0050	.9865	18-0125	.9849	19-0053	.9793	19-0135	1.1397
17-0175	1.0205	18-0051	1.0648	18-0126	.9759	19-0054	1.0709	19-0136	.9008
17-0176	1.0583	18-0053	.9462	18-0127	1.0378	19-0058	.9625	19-0137	.8813
* 17-0177	.9725	18-0054	.9869	18-0128	1.0156	19-0059	.9436	19-0138	.6082
18-0001	1.0709	18-0055	.9061	18-0129	.9727	19-0060	.9820	19-0139	.9407
18-0002	.9511	18-0056	1.0333	18-0130	1.0472	19-0064	1.0936	19-0140	.9449
18-0004	1.0031	18-0058	.9297	18-0132	1.0321	19-0065	1.1627	19-0141	.8396
18-0005	1.0411	18-0059	.9138	18-0133	1.0776	19-0067	.9807	19-0142	.8827
18-0006	.8580	18-0060	.9834	* 18-0134	.9591	19-0071	.9339	19-0144	1.0087
18-0007	1.0447	18-0062	.9355	19-0001	.8346	19-0073	.8813	19-0145	.9399
18-0008	1.0612	18-0063	.9572	19-0002	1.2784	19-0075	1.0185	19-0146	1.1908
18-0009	.9809	18-0064	1.0531	19-0003	.9550	19-0077	.8931	19-0147	.9493
18-0010	1.0681	18-0065	.8582	19-0004	1.0482	19-0078	.9861	19-0148	.8992
18-0011	.9270	18-0066	.9475	19-0005	1.0586	19-0079	.9848	19-0149	.9251
18-0012	1.0211	18-0067	1.2336	19-0006	1.0253	19-0081	.9389	19-0151	.9897
18-0013	1.0650	18-0069	1.0367	19-0007	.8952	19-0083	.8974	* 19-0152	.9584
18-0014	1.0480	18-0070	.9486	19-0008	1.0114	19-0086	1.0223	19-0155	.8901
18-0015	1.0048	18-0072	1.0455	19-0009	1.1204	19-0088	.9180	19-0156	.8743
18-0016	1.0485	18-0075	.8683	19-0010	.9805	19-0089	.9412	19-0157	.9419
18-0017	1.0015	18-0078	.9242	19-0011	.9175	19-0090	.8945	19-0158	.9832
18-0018	1.0143	18-0079	.9280	19-0012	.9089	19-0092	.9731	19-0160	.9594
18-0019	.9566	18-0080	1.0033	19-0013	1.0048	19-0095	.8903	19-0161	.9101
18-0020	.9264	18-0081	1.0882	19-0014	.9094	19-0098	1.1622	19-0162	1.0585
18-0021	.9814	18-0085	1.0867	19-0015	.9235	19-0099	.9808	* 19-0163	.8486
18-0023	.8962	18-0087	1.0065	19-0016	.9625	19-0101	.9144	19-0164	.8771
18-0024	.9564	18-0088	1.1082	19-0017	.9791	19-0102	1.1039	19-0165	.8665
18-0025	1.0485	18-0092	.9451	19-0018	1.0120	19-0103	.8798	19-0166	.8529

INDEXES DERIVED FROM FEWER THAN 50 DISCHARGES DO NOT MEET THE SELECTED STATISTICAL PRECISION CRITERION FOR RELIABILITY. THESE CASE MIX INDEXES ARE ASTERISKED.

TABLE NO. 3a HOSPITAL CASE MIX INDEXES Page 10

PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX
19-0167	.9391	20-0040	.9538	21-0037	1.0339	22-0040	1.0443	22-0099	.9926
19-0168	1.1499	20-0041	.9659	21-0038	1.0228	22-0041	1.0764	22-0100	1.1699
19-0169	.9533	20-0043	1.0265	21-0039	1.0652	22-0042	1.0339	22-0101	1.1010
19-0170	.8832	20-0044	1.0559	21-0040	1.1181	22-0045	1.0373	* 22-0102	.9951
* 19-0172	.9060	20-0046	1.0178	21-0041	1.1473	22-0046	1.1115	22-0104	1.0761
19-0173	1.0689	20-0047	1.0097	21-0042	1.1731	22-0048	1.0942	22-0105	1.0542
19-0175	1.0057	* 20-0049	.9825	21-0043	1.1080	22-0049	1.0116	22-0106	1.0614
19-0176	1.1434	20-0050	1.0132	21-0044	.9528	22-0050	.9545	22-0107	1.0060
19-0177	.9806	20-0051	.9798	21-0045	1.1417	22-0051	1.0834	22-0108	1.0809
19-0178	.8678	20-0052	1.0005	21-0046	.9388	22-0052	1.0779	22-0110	1.4383
19-0179	.9197	20-0055	.9629	21-0047	.8841	22-0053	1.0180	22-0111	1.0552
19-0180	.9477	* 20-0056	.6173	21-0048	1.0411	22-0054	1.0932	22-0114	1.0488
19-0182	.9571	20-0062	.9783	21-0049	1.0495	22-0055	1.0671	22-0115	1.0770
19-0183	.8654	20-0063	1.0755	21-0051	1.1342	22-0057	1.0101	22-0116	1.2472
19-0184	.8515	* 20-0065	.8455	21-0054	1.0338	22-0058	.9629	22-0117	1.0851
19-0185	1.0029	20-0066	1.0966	21-0055	1.0622	22-0060	1.1056	22-0118	1.3412
19-0186	.9097	21-0001	1.1188	21-0056	1.1138	22-0061	1.0457	22-0119	1.1389
19-0187	.8960	21-0002	1.3013	21-0057	1.0593	22-0062	.9252	22-0120	1.0075
19-0190	.8987	21-0003	1.1090	22-0001	1.0446	22-0063	1.0140	22-0121	.9789
20-0001	1.1242	21-0004	1.1257	22-0002	1.1860	22-0064	1.0855	22-0123	1.0710
20-0002	1.0354	21-0005	1.1249	22-0003	1.0149	22-0065	1.0460	22-0126	1.0763
20-0003	1.0132	21-0006	1.0503	22-0004	1.0500	22-0066	1.0916	22-0128	1.0649
20-0005	.9744	21-0007	1.1316	22-0005	1.0124	22-0067	1.1152	22-0129	1.0683
20-0006	1.0168	21-0008	1.0889	22-0006	1.0948	22-0068	.9373	* 22-0130	.8748
20-0007	.9863	21-0009	1.1551	22-0008	1.1228	22-0069	1.0008	22-0131	.9983
20-0008	1.0975	21-0010	.9992	22-0009	.9923	22-0070	1.0336	* 22-0133	.9459
20-0009	1.2182	21-0011	1.0896	22-0010	1.0801	22-0071	1.3760	22-0135	1.0700
20-0012	1.0153	21-0012	1.0857	22-0011	1.1204	22-0072	.9717	* 22-0153	.8649
20-0013	1.0606	21-0013	1.0941	22-0012	1.1164	22-0073	1.0552	22-0154	.9329
20-0015	1.0176	21-0015	1.1154	* 22-0014	.9750	22-0074	1.0290	22-0156	1.0487
20-0016	.9980	21-0016	1.1283	22-0015	1.1118	22-0075	.6230	22-0162	.9720
20-0017	1.0576	21-0017	1.0638	22-0016	1.0657	22-0076	1.0961	22-0163	1.2228
20-0018	1.0278	21-0018	1.1361	22-0017	1.1005	22-0077	1.1132	22-0171	1.2348
20-0019	1.1084	21-0019	1.1574	22-0019	1.0433	22-0079	1.1111	23-0001	.9684
20-0020	1.0029	21-0021	.9903	22-0020	1.0950	22-0080	1.0542	23-0002	1.0687
20-0021	1.0446	21-0022	1.1216	* 22-0021	1.0692	* 22-0081	.8834	23-0003	1.0892
* 20-0023	.8911	21-0023	1.1240	22-0022	.9330	22-0082	1.0513	23-0004	1.0978
20-0024	1.0771	21-0024	1.1571	22-0023	1.0161	22-0083	1.0553	23-0006	.9592
20-0025	1.0167	21-0025	1.0231	22-0024	1.0928	22-0084	.9993	23-0006	.9310
20-0026	.9758	21-0026	1.1061	22-0025	1.0893	22-0086	1.2005	23-0007	.8410
20-0027	1.0305	21-0027	1.0826	22-0026	1.0469	22-0087	.8742	* 23-0008	.9513
20-0028	.8993	21-0028	.9538	22-0028	1.0623	22-0088	1.1413	23-0011	1.0340
* 20-0029	.8341	21-0029	1.1682	22-0029	1.0088	22-0089	1.0278	23-0012	.9573
20-0031	1.0622	21-0030	.9736	22-0030	.9845	22-0090	.9752	23-0013	1.1131
20-0032	1.2217	21-0031	1.3379	22-0031	1.1018	* 22-0091	1.1029	23-0014	.9293
20-0033	1.2252	21-0032	1.0141	22-0033	1.0340	22-0092	1.0759	23-0015	.9740
20-0034	1.0034	21-0033	1.0383	22-0034	.9989	22-0094	1.0097	23-0017	1.1286
20-0037	1.0063	21-0034	1.0842	22-0035	1.1012	22-0095	1.0326	23-0019	1.1608
20-0038	.9629	21-0035	1.0260	22-0036	1.1360	22-0097	.9499	23-0020	1.0908
20-0039	1.1013	21-0036	1.0354	22-0038	1.0724	22-0098	.9898	23-0021	1.0901

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TABLE NO. 3a HOSPITAL CASE MIX INDEXES Page 11

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PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX
23-0022	1.0352	23-0087	1.0522	23-0146	1.1130	23-0208	.9804	24-0011	.9650
23-0024	1.1680	23-0089	1.0754	23-0147	1.0221	23-0211	.9526	24-0013	1.0063
23-0027	.9279	23-0090	1.0731	23-0149	.9541	23-0212	1.0166	24-0014	.8950
23-0029	1.0605	23-0092	1.0389	23-0150	1.0510	23-0213	.9733	24-0016	1.1454
23-0030	1.1263	23-0093	.9824	23-0151	1.1209	23-0216	1.0185	24-0017	.9702
23-0031	1.0636	23-0095	1.0167	23-0152	1.0040	23-0217	.9583	24-0018	1.0439
23-0032	1.2689	23-0096	.9551	23-0153	1.0729	23-0219	.9277	24-0019	.8819
23-0034	1.0322	23-0097	1.1004	23-0154	.9359	23-0221	1.0057	24-0020	.9670
23-0035	.9756	23-0098	1.1159	23-0155	.9281	23-0222	1.0540	24-0021	.9412
23-0036	1.0768	23-0099	.9793	23-0156	1.2181	23-0223	1.0657	24-0022	1.0012
23-0037	1.0628	23-0100	.9677	23-0157	1.0853	23-0224	.9286	24-0023	.9747
23-0038	1.3303	23-0101	.9823	23-0158	.9418	23-0225	.9959	24-0024	.9931
23-0039	1.1440	23-0102	1.0724	23-0159	1.0099	23-0227	.9992	24-0025	.9953
23-0040	1.0684	23-0103	.9594	* 23-0161	.8907	23-0228	1.1018	24-0026	1.1332
23-0041	1.0495	23-0104	1.1643	* 23-0162	.9122	23-0230	1.1027	24-0027	.9556
23-0042	1.0437	23-0105	1.1648	23-0163	.8140	23-0231	.9444	24-0028	.9996
23-0043	.8928	23-0106	1.0109	23-0165	1.1788	* 23-0232	.9400	24-0029	1.0552
23-0046	1.1290	23-0107	.9550	23-0167	1.0682	23-0235	.9706	24-0030	.9814
23-0047	1.0119	23-0108	1.0005	23-0168	.9775	23-0236	1.0135	24-0031	.9032
23-0051	.9524	23-0110	1.0366	23-0169	1.0731	23-0237	1.0454	* 24-0033	.8338
23-0052	1.0233	23-0111	.9198	* 23-0170	1.0616	23-0238	.9359	24-0036	1.0376
23-0053	1.2677	23-0113	.8222	23-0171	.9091	23-0239	.9743	24-0037	.9374
23-0054	1.1038	23-0114	.7375	23-0172	1.0217	23-0241	.9633	24-0038	1.1108
23-0055	.9545	23-0115	.9726	23-0173	1.0398	23-0244	1.0353	24-0040	1.0081
23-0056	.9174	23-0116	.9404	23-0174	1.0264	23-0253	.9854	24-0041	1.0902
23-0057	.9261	23-0117	1.2480	23-0175	1.0687	23-0254	1.0412	24-0043	1.0826
23-0058	.9616	23-0118	.9968	23-0176	.9781	23-0255	.9263	24-0044	1.0217
23-0059	1.1477	23-0119	.9517	23-0177	.9469	23-0256	.9779	24-0045	1.0477
23-0060	.9804	23-0120	.9371	23-0178	.9548	23-0257	.8808	24-0046	1.1560
23-0062	.9766	23-0121	.9387	* 23-0179	.9752	* 23-0258	1.0079	24-0047	1.0904
23-0063	1.1055	23-0122	1.1144	23-0180	.9314	23-0259	.9562	24-0048	.8959
23-0065	1.0275	* 23-0123	.9917	23-0181	1.0110	23-0261	.9214	24-0049	1.2813
23-0066	1.0457	23-0124	.9620	23-0183	1.0031	23-0264	.8772	24-0050	1.0450
* 23-0067	1.0845	23-0125	1.1132	23-0184	.9285	23-0265	1.0251	24-0051	1.0010
23-0068	1.1545	23-0128	1.0558	23-0186	.9236	23-0266	1.0126	24-0052	1.0800
23-0069	1.0468	23-0129	1.2222	23-0188	.9488	23-0269	1.0547	24-0053	1.1423
23-0070	1.0550	23-0130	1.1437	23-0189	1.0176	23-0270	1.0600	24-0054	.9837
* 23-0071	.8333	23-0132	1.1141	* 23-0190	.8368	23-0271	.9425	24-0055	1.0975
23-0072	.9993	23-0133	1.0595	23-0191	.8730	* 23-0272	.9660	24-0056	1.0470
23-0075	1.0727	23-0134	1.0621	23-0193	1.0149	23-0273	1.1789	24-0057	1.1405
23-0076	1.0635	23-0135	1.0575	23-0194	1.0518	24-0001	1.1200	* 24-0058	.8842
23-0077	1.1086	23-0137	1.0053	23-0195	1.0813	24-0002	1.1281	24-0059	.9382
23-0078	.9278	* 23-0138	.8944	* 23-0196	.9290	24-0003	1.0405	24-0061	1.1568
23-0079	1.0183	23-0139	.9367	23-0197	1.0365	24-0004	1.2734	24-0062	1.0451
23-0080	.9590	23-0140	.9524	23-0199	.9684	* 24-0005	.9712	24-0063	1.0950
23-0081	1.0119	23-0141	1.1356	23-0201	.9302	24-0006	.9450	24-0064	.9896
23-0082	1.0066	23-0142	1.1282	* 23-0203	.8411	24-0007	.9134	24-0065	.9073
23-0084	.9423	23-0143	1.0450	23-0204	1.1133	24-0008	1.0126	24-0066	.9587
23-0085	.9174	23-0144	.9640	23-0205	1.0821	24-0009	.8950	24-0069	.9657
23-0086	.9450	23-0145	1.0005	23-0207	1.0026	24-0010	1.3895	24-0071	.9605

INDEXES DERIVED FROM FEWER THAN 50 DISCHARGES DO NOT MEET THE SELECTED STATISTICAL PRECISION CRITERION FOR RELIABILITY. THESE CASE MIX INDEXES ARE ASTERISKED.

TABLE NO. 3a HOSPITAL CASE MIX INDEXES Page 12

PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX
24-0072	.8222	* 24-0125	.9851	* 24-0189	.8866	25-0046	.9159	25-0105	.8514
24-0073	.9130	* 24-0127	.9177	* 24-0192	.8474	25-0047	.8940	* 25-0106	.9617
24-0074	.8752	24-0128	1.0353	* 24-0193	1.0278	25-0048	1.1494	25-0107	.8977
24-0075	.9339	24-0129	.9510	* 24-0194	.8868	25-0049	.9255	25-0109	.9361
24-0076	.9721	24-0130	.9318	* 24-0195	1.0512	25-0050	.9851	25-0110	.9658
24-0077	.9534	24-0131	1.0914	24-0196	1.0864	25-0051	.9377	25-0111	.8626
24-0078	1.0248	24-0132	1.0222	* 24-0200	1.0219	* 25-0054	.9136	25-0112	.8660
24-0079	.9036	24-0133	.9449	* 24-0201	.9029	25-0057	.9451	25-0113	.9875
24-0080	1.1530	24-0134	.9991	* 24-0204	1.0355	25-0058	.9919	* 25-0114	.9063
24-0081	1.1226	* 24-0135	.7673	25-0001	1.2191	25-0059	.8961	* 25-0116	.8799
24-0082	1.1253	24-0136	.9484	25-0002	.8921	25-0060	.9139	25-0117	.9704
24-0083	1.0034	24-0137	.9445	25-0003	.8625	25-0061	.9153	25-0118	1.1073
24-0084	1.0369	24-0138	.9277	25-0004	1.0664	25-0062	.9288	25-0119	.9110
24-0085	.9380	24-0139	1.0546	25-0005	.8959	25-0063	.8733	25-0120	1.0279
24-0086	.9187	* 24-0140	.9546	25-0006	.9593	25-0065	.9245	* 25-0121	.8468
24-0087	1.0874	24-0141	.9094	25-0007	.9961	25-0066	.8765	25-0122	.8881
24-0088	1.0921	24-0142	.9791	25-0008	.8665	25-0067	.9375	25-0123	.9257
24-0089	.9716	* 24-0143	.9427	25-0009	1.0087	25-0068	.8567	25-0124	.8461
24-0090	.9960	24-0144	.9451	25-0010	.8812	25-0069	1.0010	25-0125	1.0594
* 24-0091	.8966	* 24-0145	.8650	25-0012	.9510	25-0071	.9685	25-0126	.9385
24-0092	1.1343	24-0146	.8759	25-0014	.8995	25-0072	1.0273	* 25-0127	1.0294
24-0094	.9883	* 24-0148	.9009	25-0015	.8968	25-0073	.9419	25-0128	.9731
24-0096	.9614	24-0150	.8836	25-0016	.8497	25-0075	.9071	25-0129	.9344
24-0097	1.0680	24-0152	.9588	25-0017	.9303	25-0076	.8516	* 25-0130	.9012
24-0098	.8565	24-0153	.9358	25-0018	.9288	25-0077	.9046	* 25-0131	.8633
24-0099	.9422	24-0154	.8975	25-0019	1.0827	25-0078	1.0536	25-0132	.9443
24-0100	.9688	24-0155	.9026	25-0020	.9160	* 25-0079	.9380	* 25-0133	.8452
24-0101	1.0012	* 24-0156	.9408	25-0021	.9002	25-0080	.9363	* 25-0134	.9787
24-0102	.9193	24-0157	.9809	25-0023	.8388	25-0081	1.0674	26-0001	.9644
24-0103	.9451	24-0158	.9804	25-0024	.9121	25-0082	1.0475	26-0002	.9760
24-0104	.9808	24-0160	.9598	25-0025	.9465	25-0083	.9142	26-0003	.8945
24-0105	.8945	24-0161	.8726	25-0026	.8344	25-0084	.9577	26-0004	.9927
24-0106	1.1811	24-0162	1.0457	25-0027	.9356	25-0085	.8883	26-0005	.9890
24-0107	.8959	* 24-0163	.8375	25-0029	.9334	25-0086	.9019	26-0006	.9707
24-0108	.9163	* 24-0165	.9575	25-0030	.9132	* 25-0087	.9578	26-0007	.8953
24-0109	.9362	24-0166	.9476	25-0031	1.0279	25-0088	.9532	26-0008	1.0054
24-0110	1.0055	* 24-0167	.9711	25-0032	1.0534	25-0089	.9936	26-0009	.9322
24-0111	.8594	24-0169	.9058	25-0033	.8983	25-0091	.9802	26-0010	.9614
24-0112	.9230	24-0170	.9890	25-0034	.8715	25-0093	.9470	26-0011	.9505
24-0114	.9581	24-0171	.8899	25-0035	.9447	25-0094	1.0130	26-0012	.8546
24-0115	1.1096	24-0172	1.0088	25-0036	.8618	25-0095	.8524	26-0013	.9324
24-0116	.9385	24-0173	.9526	25-0037	.9271	25-0096	.9758	26-0014	.9735
24-0117	.9734	24-0175	1.0362	25-0038	.9142	25-0097	.9781	26-0015	.9031
* 24-0118	.8569	* 24-0176	1.0251	25-0039	.8664	25-0098	.8437	26-0016	.9535
* 24-0119	.9079	* 24-0177	.9334	25-0040	1.0201	25-0099	.9716	26-0017	.9627
24-0120	1.0441	24-0179	.9393	25-0041	.8957	25-0100	1.0533	26-0018	.9506
24-0121	.8929	24-0180	.9083	25-0042	.9965	* 25-0101	.8603	26-0019	.9283
24-0122	.9424	24-0183	.8928	25-0043	.8357	25-0102	1.0449	26-0020	.9704
24-0123	1.0043	* 24-0184	.9664	25-0044	.8783	25-0103	.8964	26-0021	.9580
24-0124	.9603	24-0187	.9601	25-0045	.9749	25-0104	1.0482	26-0022	.9547

INDEXES DERIVED FROM FEWER THAN 50 DISCHARGES DO NOT MEET THE SELECTED STATISTICAL PRECISION CRITERION FOR RELIABILITY. THESE CASE MIX INDEXES ARE ASTERISKED.

TABLE NO. 3a HOSPITAL CASE MIX INDEXES Page 13

TABLE NO. 3a HOSPITAL CASE MIX INDEXES Page 13

PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX
26-0023	.9153	26-0082	.9438	* 26-0146	1.0181	* 27-0027	.9490	28-0014	.8279
26-0024	.9829	26-0083	.9712	26-0147	.9331	27-0028	.9417	28-0015	.8809
26-0025	.9210	26-0084	.9589	26-0148	.8746	27-0029	.9094	28-0017	.9270
* 26-0026	1.0170	26-0085	.9953	26-0150	1.0352	* 27-0030	.9040	28-0018	.8896
26-0027	1.0752	* 26-0086	1.1100	26-0158	.9628	* 27-0031	.8988	28-0020	1.1066
26-0029	.9282	26-0088	.8732	26-0159	.8431	27-0032	.9623	28-0021	.9512
26-0030	.9339	26-0089	.9329	26-0160	1.0073	* 27-0033	.8449	* 28-0022	1.0049
26-0031	.9682	26-0090	1.0125	26-0162	.9831	27-0035	.9876	28-0023	1.0940
26-0032	1.0257	26-0091	1.0110	26-0163	.8918	* 27-0036	1.0833	28-0024	.8972
26-0033	.9945	26-0092	.8941	* 26-0164	.8924	27-0039	.9156	28-0025	.8989
26-0034	.9170	* 26-0093	.9800	26-0165	.9064	27-0040	1.0056	* 28-0026	.8580
26-0035	.8850	26-0094	.9346	26-0166	.9959	27-0041	1.0437	28-0028	.9489
26-0036	.9142	26-0095	.9412	26-0172	.9036	* 27-0042	.8319	* 28-0029	.9457
26-0037	.9322	26-0096	1.0226	* 26-0173	.9660	27-0043	.8881	28-0030	1.1435
26-0039	.9779	26-0097	.9186	26-0175	.9815	27-0044	1.0093	28-0031	.9067
26-0040	1.0646	26-0100	.9276	26-0176	.9454	27-0046	.9132	28-0032	.9558
* 26-0041	.9710	* 26-0102	.9959	26-0177	1.0081	* 27-0047	1.0169	28-0033	.8678
26-0042	.7859	26-0103	.9968	26-0178	.9355	27-0048	.9130	28-0034	1.0480
26-0044	.9556	26-0104	1.0058	26-0179	.9867	27-0049	1.1399	28-0035	.9352
26-0045	.9641	26-0105	1.2045	26-0180	.9842	27-0050	.9492	28-0037	1.0073
26-0047	.9308	* 26-0106	.8694	* 26-0182	.9038	27-0051	.9831	28-0038	.9523
26-0048	1.0249	26-0107	.9496	26-0183	.9198	* 27-0052	.9202	28-0039	.8805
* 26-0049	.9620	26-0108	.9835	26-0186	.9706	* 27-0053	.9622	28-0040	1.1572
26-0050	.9045	* 26-0109	.9157	* 26-0187	1.0212	27-0054	1.0716	28-0041	.8828
26-0051	.9812	26-0110	.9594	26-0188	.9590	27-0057	1.0499	28-0042	.8660
26-0052	.9894	26-0111	.9231	* 26-0189	.9921	27-0058	1.0114	28-0043	.9727
26-0053	.9643	26-0112	.9957	26-0190	1.1026	* 27-0059	.8726	28-0045	.9986
26-0054	.9649	26-0113	.9468	26-0191	.9102	* 27-0060	.9411	28-0046	.9703
26-0055	.9035	26-0115	.9790	26-0192	.6325	* 27-0061	.9799	28-0047	1.0296
26-0056	.9158	26-0116	.9124	* 26-0193	.8196	* 27-0063	.9714	28-0048	.9766
26-0057	.9627	* 26-0117	.9501	* 27-0001	.9560	27-0065	1.0095	28-0049	.9450
26-0058	1.0431	26-0118	1.0480	27-0002	.9860	* 27-0067	.9620	* 28-0050	.8994
26-0059	.9515	26-0119	.9357	27-0003	1.0115	* 27-0068	.7694	28-0051	.9311
26-0061	.9217	26-0120	.9517	27-0004	1.3210	* 27-0070	.9134	28-0052	.9781
26-0062	.9694	26-0121	.9700	* 27-0006	.8997	* 27-0071	.8458	28-0054	1.0389
* 26-0063	1.0437	26-0122	.9597	27-0007	.9377	* 27-0072	.9772	28-0055	1.0058
26-0064	.9622	* 26-0123	1.0046	27-0008	.8427	* 27-0073	.8259	* 28-0056	.8730
26-0065	1.0444	26-0127	.9554	27-0009	.9368	* 27-0079	1.0242	28-0057	.9139
26-0066	.9198	26-0128	.9418	27-0011	.9962	27-0080	.9823	28-0058	1.0419
26-0067	.9021	26-0129	.8653	27-0012	1.0398	* 27-0081	.8917	28-0060	1.0656
26-0068	1.0179	26-0131	.9346	27-0013	1.0006	28-0001	.9406	28-0061	1.0217
26-0070	.9391	* 26-0133	.9302	27-0014	1.0960	28-0003	1.0863	28-0062	.9484
* 26-0072	.8490	26-0134	.9431	* 27-0016	.8855	28-0004	1.0572	* 28-0063	.7933
26-0073	.8225	26-0136	.9398	27-0017	1.0804	28-0005	1.1059	28-0064	.9530
26-0074	.9679	26-0137	.9291	27-0018	.9102	28-0006	1.0326	28-0065	.9742
26-0077	.9567	26-0138	1.1557	* 27-0019	.8785	28-0009	1.0231	28-0066	.9890
26-0078	.9598	* 26-0140	1.2003	27-0021	.9631	28-0010	1.0548	28-0068	.9595
26-0079	.9272	26-0141	1.0604	27-0023	1.1087	28-0011	.9380	* 28-0070	.8623
* 26-0080	1.0343	26-0142	.9863	27-0024	1.0212	28-0012	.9814	* 28-0071	.9278
26-0081	.9821	* 26-0143	.9603	* 27-0026	.9051	28-0013	1.1002	28-0073	.8898

INDEXES DERIVED FROM FEWER THAN 50 DISCHARGES DO NOT MEET THE SELECTED STATISTICAL PRECISION CRITERION FOR RELIABILITY. THESE CASE MIX INDEXES ARE ASTERISKED.

TABLE NO. 3a HOSPITAL CASE MIX INDEXES Page 14

PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX
28-0074	1.0289	* 29-0013	.6597	31-0015	1.0960	31-0070	1.0536	32-0018	1.0059
28-0075	.9726	* 29-0014	1.0151	31-0016	1.1085	31-0071	1.0804	32-0019	1.0040
28-0076	.9315	* 29-0015	.5930	31-0017	1.1523	31-0072	1.0768	32-0021	1.1639
28-0077	.9993	* 29-0016	1.0624	31-0018	.9787	31-0073	1.0272	32-0022	1.0315
* 28-0078	.8858	* 29-0018	.6031	31-0019	1.0951	31-0074	1.0366	32-0023	.8735
28-0079	.9294	29-0019	1.0609	31-0020	1.0467	31-0075	1.1427	32-0027	.9523
28-0080	.8683	* 29-0020	.5352	31-0021	1.0751	31-0076	1.1005	32-0030	.9663
28-0081	1.0490	29-0021	1.0904	31-0022	1.0882	31-0077	1.1304	* 32-0031	.9315
28-0082	.9434	29-0022	1.1776	31-0024	1.1180	31-0078	1.1169	32-0032	.9578
28-0083	.9467	29-0024	.8157	31-0025	1.0936	31-0081	1.1154	32-0033	1.0266
28-0084	.9439	* 29-0027	.9567	31-0026	1.1187	31-0083	1.0242	32-0035	.9305
28-0085	1.0672	30-0001	1.0626	31-0027	1.0293	31-0084	1.0749	32-0036	1.1487
28-0087	1.0585	30-0002	.9741	31-0028	1.0569	31-0085	1.0174	32-0037	.9401
28-0088	1.0779	30-0003	1.1819	31-0029	1.2483	31-0086	1.0579	32-0038	.9487
28-0089	.9877	30-0005	.9971	31-0031	1.3207	31-0087	1.0287	32-0046	1.0988
28-0090	.9650	30-0006	.9597	31-0032	.9895	31-0088	1.0745	32-0048	1.0943
28-0091	1.0010	30-0007	.9384	31-0033	1.0595	31-0090	1.0206	32-0049	.9361
28-0092	.9385	30-0008	1.0189	31-0034	1.0798	31-0091	1.0166	* 32-0051	.9649
28-0093	.8678	30-0009	.8804	31-0036	1.0578	31-0092	1.0290	32-0053	.8844
28-0094	.9867	30-0010	.9994	31-0037	1.0913	31-0093	.9869	* 32-0058	.9535
28-0097	.8671	30-0011	.9992	31-0038	1.0798	31-0094	.9889	32-0063	1.0416
* 28-0098	.9852	30-0012	1.0274	31-0039	1.0524	31-0096	1.2247	32-0065	1.0216
* 28-0100	.8165	30-0013	1.0017	31-0040	1.0365	31-0104	.9909	* 32-0066	.9907
* 28-0101	.8180	30-0014	1.0027	31-0041	1.0710	31-0105	1.0052	* 32-0067	.8004
* 28-0102	1.0060	30-0015	.9829	31-0042	1.0900	31-0106	1.2050	* 32-0068	.8874
28-0103	.9752	30-0016	1.0131	31-0043	.9773	31-0108	1.0989	* 32-0069	.8979
28-0104	.9370	30-0017	.9052	31-0044	1.0680	31-0110	1.0527	* 32-0070	.9775
28-0105	1.1237	30-0018	.9756	31-0045	1.0901	31-0111	1.1177	* 32-0071	.8792
28-0106	.8780	30-0019	1.0318	31-0046	1.0617	31-0112	1.0997	33-0001	1.0707
28-0107	.8582	30-0020	.9870	31-0047	1.1547	31-0113	1.0318	33-0002	1.0852
28-0108	.9354	30-0021	.9215	31-0048	1.1065	31-0115	1.0557	33-0003	1.0985
28-0109	.9743	30-0022	.9373	31-0049	1.0498	31-0116	1.1307	33-0004	1.0721
28-0110	.9582	30-0023	1.0989	31-0050	1.0937	31-0117	1.1102	33-0005	1.1711
28-0111	.9747	30-0024	.9893	31-0051	1.1191	31-0118	1.0360	33-0006	1.0927
* 28-0114	.9218	30-0028	.9610	31-0052	1.0896	31-0119	1.0545	33-0007	1.0835
28-0115	.9347	30-0029	.9965	31-0053	1.0204	31-0120	.9947	33-0008	1.0168
* 28-0116	.9174	30-0033	1.0008	31-0054	1.1130	32-0001	1.1152	33-0009	.9728
28-0117	.9463	30-0034	1.0394	31-0056	1.0607	32-0002	1.0754	33-0010	1.0223
28-0118	.9424	31-0001	1.1071	31-0057	1.1844	32-0003	.9701	33-0011	1.0800
29-0001	1.1370	31-0002	1.2552	31-0058	1.0344	32-0004	.8990	33-0012	1.1143
* 29-0002	.9180	31-0003	1.0655	31-0059	1.0421	32-0005	1.0387	33-0013	1.1827
29-0003	1.0872	31-0005	1.0424	31-0060	1.0512	32-0006	.9850	33-0014	1.1195
29-0005	.9375	31-0006	1.0930	31-0061	1.0492	32-0009	1.0646	33-0015	1.0311
29-0006	.9525	31-0008	1.0950	31-0062	.9188	32-0010	1.0269	33-0016	.9488
29-0007	1.1624	31-0009	.9945	31-0063	1.1017	32-0011	1.0163	33-0019	1.0086
29-0008	.9312	31-0010	1.1064	31-0064	1.0868	32-0012	.9105	33-0020	.9321
29-0009	1.0545	31-0011	1.0063	31-0065	1.0511	32-0013	.9888	33-0022	1.0063
29-0010	.9113	31-0012	1.1359	31-0067	1.0537	32-0014	.8386	33-0023	1.0816
* 29-0011	.8946	31-0013	1.0653	31-0068	1.0371	32-0016	1.0045	33-0024	1.2231
29-0012	1.1661	31-0014	1.1715	31-0069	1.0405	32-0017	1.0669	33-0025	.9994

INDEXES DERIVED FROM FEWER THAN 50 DISCHARGES DO NOT MEET THE SELECTED STATISTICAL PRECISION CRITERION FOR RELIABILITY. THESE CASE MIX INDEXES ARE ASTERISKED.

TABLE NO. 3 a HOSPITAL CASE MIX INDEXES Page 15

TABLE NO. 3 A HOSPITAL CASE MIX INDEXES Page 15

PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX
33-0027	1.1568	33-0090	1.2291	33-0154	1.2640	33-0214	1.2031	33-0279	1.0998
33-0028	1.1000	33-0091	1.1041	33-0155	1.0282	33-0215	.9964	33-0281	.9534
33-0029	1.0881	* 33-0092	1.0457	33-0157	1.0699	33-0217	1.0142	33-0283	.9941
33-0030	.9901	33-0094	1.0626	33-0158	1.0628	33-0218	.9970	33-0285	1.2526
33-0032	1.0244	33-0095	1.0544	33-0159	1.1886	33-0219	1.1063	33-0286	1.1182
33-0033	1.0796	33-0096	.9804	33-0160	1.0955	33-0221	1.0512	33-0288	1.1165
33-0034	1.0166	33-0097	.9803	33-0161	.9691	33-0222	1.0143	33-0290	1.2041
33-0036	.9811	33-0098	1.0529	33-0162	1.1546	33-0223	.9113	33-0291	.9870
33-0037	1.0347	33-0100	.6004	33-0163	.9961	33-0224	1.0632	33-0293	1.0680
33-0038	.9770	33-0101	1.2181	33-0164	1.2089	33-0225	1.0988	33-0297	1.0436
33-0039	1.0497	33-0102	1.0728	33-0165	.9417	33-0226	1.0164	33-0298	.9786
33-0041	1.0334	33-0103	1.1194	33-0166	1.0457	33-0229	1.0657	33-0299	1.0585
33-0043	1.0369	33-0104	1.1164	33-0167	1.1779	33-0230	1.0298	33-0300	.8906
33-0044	1.1218	33-0106	1.1934	33-0168	1.0165	33-0231	1.0120	33-0304	1.1065
33-0045	1.1361	33-0107	.9918	33-0169	1.0373	33-0232	1.0488	33-0305	1.0328
33-0046	1.1211	33-0108	1.0468	33-0171	1.1459	33-0233	1.0865	33-0306	1.1225
33-0047	1.0517	33-0109	.9744	33-0172	.9834	33-0234	1.1982	33-0307	.9876
33-0048	1.0661	33-0110	.8375	33-0174	.9227	33-0235	1.0735	33-0308	1.1567
33-0049	1.0643	33-0111	1.0875	33-0175	1.0321	33-0236	1.1379	33-0309	1.0575
33-0050	.9954	33-0114	.9619	33-0176	.9614	33-0238	1.0087	33-0314	1.0316
33-0052	.9577	33-0115	1.0590	33-0177	.8971	33-0239	1.0850	33-0315	1.1244
33-0053	.9650	33-0116	.9167	33-0179	.8887	33-0240	1.0837	33-0316	1.0730
33-0055	1.1121	33-0117	1.0633	33-0180	1.0152	33-0241	1.2926	33-0318	1.0805
33-0056	1.0973	33-0118	1.1670	33-0181	1.1301	33-0242	1.1195	33-0320	1.0562
33-0057	1.1700	33-0119	1.0664	33-0182	1.4320	33-0244	1.0890	33-0323	.9037
33-0058	1.0612	33-0120	1.2460	33-0183	1.1687	33-0245	1.0816	33-0324	1.0485
33-0059	1.1475	33-0121	.9859	33-0184	1.1186	33-0246	1.0420	33-0327	.9465
33-0061	1.1003	33-0122	1.0275	33-0185	1.1468	33-0247	.6252	33-0331	1.0617
33-0062	.9374	* 33-0124	1.0004	33-0186	1.0037	33-0249	1.0115	33-0332	.9698
33-0063	1.0309	33-0125	1.2926	33-0188	1.0661	33-0250	1.0200	33-0333	.8983
33-0064	1.1060	33-0126	1.0589	33-0189	.7159	33-0252	.8745	33-0335	1.0876
33-0065	1.0396	33-0127	1.0748	33-0191	1.1037	33-0254	1.0387	33-0336	1.0547
33-0066	1.0373	33-0128	1.1179	33-0193	1.1702	33-0256	.9811	33-0338	1.0322
33-0067	1.0176	33-0132	1.0034	33-0194	1.1064	33-0257	1.0552	* 33-0339	.9743
33-0069	1.1045	33-0133	1.0475	33-0195	1.2097	33-0258	1.0920	33-0340	.9705
33-0072	1.1107	33-0134	1.0091	33-0196	1.1279	33-0259	1.0983	33-0342	1.0631
33-0073	1.0287	33-0135	1.0392	33-0197	.9373	33-0260	1.0813	33-0345	.7829
33-0074	1.0515	33-0136	1.1556	33-0198	1.0912	33-0261	1.1243	33-0350	1.3625
33-0075	.9582	* 33-0139	1.0244	33-0199	1.0833	33-0263	1.0096	33-0351	.9895
33-0076	1.0459	33-0140	1.1922	33-0201	1.0811	33-0264	1.0187	33-0353	1.0596
33-0077	.9745	33-0141	1.0800	33-0202	1.0452	33-0265	1.0718	33-0354	1.0517
33-0078	1.1013	33-0142	1.0609	33-0203	1.1069	* 33-0266	.8913	33-0355	.9424
33-0079	1.0304	33-0143	1.0425	33-0204	1.0981	33-0267	1.0505	33-0357	1.0703
33-0080	1.0165	33-0144	1.0347	33-0205	1.0164	33-0268	1.0409	33-0359	1.0117
33-0082	1.0240	33-0146	.9432	33-0208	1.0613	33-0270	1.5653	33-0372	1.0078
33-0084	1.0201	33-0148	.9610	33-0209	1.0500	33-0272	1.0135	* 33-0377	.8905
33-0085	1.1516	33-0150	.8648	33-0210	.9254	33-0273	1.0301	33-0382	1.0292
33-0086	1.0412	33-0151	1.0140	33-0211	1.0233	33-0275	1.1081	33-0383	1.0806
33-0087	1.0157	33-0152	1.0912	33-0212	.9992	33-0276	.9637	33-0385	1.0568
33-0088	1.0735	33-0153	1.0988	33-0213	.9730	33-0277	.9725	33-0386	1.0233

INDEXES DERIVED FROM FEWER THAN 50 DISCHARGES DO NOT MEET THE SELECTED STATISTICAL PRECISION CRITERION FOR RELIABILITY. THESE CASE MIX INDEXES ARE ASTERISKED.

TABLE NO. 3a HOSPITAL CASE MIX INDEXES Page 16

PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX
* 33-0387	.9398	* 34-0048	.8616	34-0109	1.0377	35-0011	1.2418	36-0011	1.0796
33-0389	1.2192	34-0049	.8589	34-0111	1.0052	35-0012	.9328	36-0012	1.4608
33-0390	.9752	34-0050	1.0301	34-0112	.9553	35-0013	1.0078	36-0013	1.0238
33-0391	1.2053	34-0051	1.0809	34-0113	1.2067	35-0014	.8766	36-0014	.9537
* 33-0392	.6935	34-0052	.8838	34-0114	1.0484	35-0015	1.1057	36-0015	1.1237
33-0393	1.1718	34-0053	1.0003	34-0115	1.0584	35-0016	1.0155	36-0016	1.1150
33-0394	1.0248	34-0054	.9077	34-0116	1.0335	35-0017	1.0131	36-0017	.9883
34-0001	.9741	34-0055	.9726	34-0117	.9773	35-0018	.9567	36-0018	1.0505
34-0002	1.1400	* 34-0056	.9608	34-0119	1.0044	35-0019	1.0875	36-0019	1.0409
34-0003	1.0405	* 34-0057	1.0531	34-0120	.9806	35-0020	1.0380	36-0020	1.1056
34-0004	1.0236	* 34-0058	1.0752	34-0121	.9397	* 35-0021	.9119	36-0021	.9931
34-0005	.9935	34-0060	.9955	* 34-0122	.9160	35-0023	1.0153	36-0022	1.0289
34-0006	.9681	34-0061	1.1783	34-0123	1.0102	35-0024	.9512	36-0023	1.0295
34-0007	1.0058	34-0063	1.0023	34-0124	.9331	* 35-0025	.8645	36-0024	1.0183
34-0008	.9985	34-0064	1.0206	34-0125	1.0693	* 35-0027	.8704	36-0025	.9981
34-0009	.5144	34-0065	1.0398	34-0126	1.0907	35-0029	.8971	36-0026	1.0028
34-0010	.9796	34-0067	.9137	34-0127	1.0247	35-0030	.9782	36-0027	1.1155
34-0011	.9845	34-0068	.9898	34-0128	.9549	* 35-0031	.9170	36-0028	.9949
34-0012	.9789	34-0069	1.1732	34-0129	.9703	35-0032	.9798	36-0029	1.0437
34-0013	1.0059	34-0070	1.0106	34-0130	1.0217	35-0033	.9452	36-0030	1.0109
34-0014	1.1303	34-0071	.9409	34-0131	1.0451	35-0034	1.0534	36-0031	1.0144
34-0015	.9909	34-0072	.9590	34-0132	1.0114	* 35-0035	.9173	36-0032	1.0423
34-0016	.9427	34-0073	.9790	34-0133	1.0075	* 35-0036	1.2218	36-0033	.9773
34-0017	1.0251	34-0075	.9454	* 34-0141	1.0749	* 35-0037	.9749	36-0034	.9620
34-0018	1.0222	34-0076	.9780	34-0142	1.0741	35-0038	.9155	36-0035	1.1233
34-0019	.9777	* 34-0077	.9453	34-0143	.9256	35-0039	.9529	36-0036	.9439
34-0020	1.0158	* 34-0078	.9382	34-0144	.9936	35-0041	.9835	36-0037	1.1652
34-0021	1.0000	* 34-0079	.9001	34-0145	.9350	* 35-0042	.9055	36-0038	.9396
34-0022	.9519	34-0080	.9130	* 34-0146	.5714	35-0043	1.0368	36-0039	.9894
34-0023	.9727	34-0084	1.0024	34-0147	1.0595	35-0044	.9927	36-0040	1.0036
34-0024	1.0054	34-0085	1.0074	34-0148	.9563	* 35-0045	.8731	36-0041	1.1285
34-0025	.9601	34-0086	.8971	* 34-0150	1.0683	35-0047	.9444	36-0042	.9897
34-0026	.9728	34-0087	.9174	34-0151	.9405	* 35-0048	.8176	36-0044	.9619
34-0027	.9826	34-0088	.9896	34-0153	1.4737	* 35-0049	1.1046	36-0045	1.0771
34-0028	1.0533	34-0089	.9673	34-0155	1.1230	35-0050	.9277	36-0046	.9283
34-0030	1.1685	34-0090	1.0533	34-0157	.7927	35-0051	.9237	36-0047	.9730
34-0031	.9671	34-0091	1.1142	34-0158	.9663	* 35-0053	.9083	36-0048	1.2269
34-0032	1.0605	34-0092	.9497	34-0159	1.0848	* 35-0055	.8444	36-0049	1.0857
34-0034	1.0289	34-0093	1.0536	34-0160	.5757	35-0056	1.0108	36-0050	.9790
34-0035	.8948	34-0094	.9662	34-0162	.8613	* 35-0058	.9643	36-0051	1.1254
34-0036	.9876	34-0096	.9677	35-0001	.9186	* 35-0060	.9139	36-0052	1.1578
34-0037	.9526	34-0097	1.0448	35-0002	1.0391	35-0061	.9721	36-0053	1.0776
34-0038	.9646	34-0098	1.0293	35-0003	1.0331	36-0001	1.0895	36-0054	1.1116
34-0039	.9841	34-0099	.9603	35-0004	1.1571	36-0002	.9625	36-0055	1.0974
34-0040	1.1093	34-0100	1.0567	* 35-0005	1.1135	36-0003	1.0940	36-0056	1.0224
34-0041	1.0171	34-0101	.9882	35-0006	1.0913	36-0006	1.1718	36-0057	1.0020
34-0042	1.0318	34-0104	.9199	35-0007	.9269	36-0007	.9259	36-0058	.9586
34-0044	.9854	34-0105	1.1105	35-0008	.9307	36-0008	.9790	36-0059	1.1235
34-0045	.5658	* 34-0106	.8760	35-0009	.9720	36-0009	1.0952	36-0060	.9223
34-0047	1.2335	34-0107	.9824	35-0010	.9393	36-0010	1.0342	* 36-0061	.9028

INDEXES DERIVED FROM FEWER THAN 50 DISCHARGES DO NOT MEET THE SELECTED STATISTICAL PRECISION CRITERION FOR RELIABILITY. THESE CASE MIX INDEXES ARE ASTERISKED.

TABLE NO. 3a HOSPITAL CASE MIX INDEXES Page 17

TABLE NO. 3a HOSPITAL CASE MIX INDEXES Page 17

PROVIDER NUMBER	CASE MIX INDEX
36-0062	1.1544
36-0063	.8698
36-0064	1.1829
36-0065	1.1058
36-0066	1.0667
36-0067	1.0041
36-0068	1.1507
36-0069	.9993
36-0070	1.0933
36-0071	.9924
36-0072	1.0804
36-0074	1.0359
36-0075	1.1012
36-0076	.9901
36-0077	1.0830
36-0078	.9825
36-0079	1.2200
36-0080	.9633
36-0081	1.0383
36-0082	1.1501
36-0083	1.0172
36-0084	1.0879
36-0085	1.1935
36-0086	1.0338
36-0087	1.1116
36-0088	.9955
36-0089	1.0199
36-0090	1.0401
36-0091	1.0473
36-0092	.9971
36-0093	.9100
36-0094	1.0636
36-0095	1.0227
36-0096	.9950
36-0097	1.0243
36-0098	1.1312
36-0099	.9826
36-0100	1.0466
36-0101	1.1807
36-0102	1.1652
36-0103	1.0859
36-0104	1.0082
36-0106	1.0791
36-0107	.9959
36-0108	1.0231
36-0109	1.0235
* 36-0110	.8935
36-0112	1.1642
36-0113	1.1358
36-0114	.9545
36-0115	1.0000
36-0116	.9414
36-0118	1.1334
36-0119	.9808
36-0120	.9272
36-0121	1.1484
36-0122	1.0133
36-0123	1.0655
36-0124	1.0460
36-0125	1.0383
36-0126	1.0077
36-0127	.9767
36-0128	.9670
36-0129	.9113
36-0130	.9889
36-0131	1.0519
36-0132	1.0124
36-0133	1.0582
36-0134	1.1740
36-0135	.9492
36-0136	.9489
36-0137	1.2097
36-0139	.9762
36-0140	.8724
36-0141	1.1088
36-0142	.9103
36-0143	1.0616
36-0144	1.0320
36-0145	1.1032
36-0147	.9634
36-0148	1.0261
36-0149	.9417
36-0150	1.0525
36-0151	1.0694
36-0152	1.0898
36-0153	1.0404
36-0154	1.0588
36-0155	1.0752
36-0156	.9481
36-0159	1.0809
36-0161	.9793
36-0162	1.0396
36-0163	1.1769
36-0164	.9659
36-0165	1.0014
36-0166	.9560
36-0167	.9606
36-0168	.9213
36-0169	.9278
36-0170	1.0265
36-0171	1.0938
36-0172	1.0445
36-0174	.5680
36-0175	.5984
36-0176	1.0147
36-0177	1.0918
36-0178	.5198
36-0179	1.0498
36-0180	1.2534
36-0184	.9930
36-0185	1.0459
36-0186	.9275
36-0187	1.0512
36-0188	.9658
36-0189	.9954
36-0190	1.0679
36-0192	1.0675
36-0193	1.0552
36-0194	.9926
36-0195	1.0265
36-0197	.5712
36-0200	.9887
36-0203	.5831
36-0204	1.0782
36-0210	.9511
36-0211	.9764
36-0212	1.1325
36-0213	.9947
36-0218	1.0783
36-0230	1.1072
36-0231	.9767
36-0232	1.0383
36-0234	1.0488
36-0236	1.1009
* 36-0237	.7847
* 36-0238	.9432
36-0239	1.0575
36-0345	.9899
37-0001	1.1255
37-0002	.9834
* 37-0003	.8822
37-0004	.9952
37-0005	.9382
37-0006	1.0279
37-0007	1.0877
37-0008	1.0420
37-0011	.9587
37-0012	.9018
37-0013	1.0845
37-0014	.9531
37-0015	.9608
37-0016	.9962
37-0017	.9076
37-0018	1.0054
37-0019	.8402
37-0020	.9963
37-0021	.9500
37-0022	1.0255
37-0023	1.0188
37-0025	1.0122
37-0026	1.0173
37-0028	1.2163
37-0029	.9646
37-0030	1.0015
37-0032	.9443
37-0033	.9760
37-0034	.9932
37-0035	1.2044
37-0036	.8567
37-0037	1.1276
37-0038	.8961
37-0039	.9826
37-0040	.9518
37-0041	.9457
37-0042	.8995
37-0043	.8652
37-0045	.9202
37-0046	.9134
37-0047	.9496
37-0048	.8820
37-0049	1.0442
37-0050	.8428
37-0051	.9990
37-0054	1.0056
37-0056	1.0518
37-0057	1.0434
37-0059	.9242
37-0060	.9893
37-0061	.9341
37-0063	.9210
37-0064	.9293
37-0065	.9527
37-0069	.9568
37-0071	.8754
37-0072	.8873
37-0076	1.0016
37-0077	.9764
37-0078	1.0240
37-0079	.9619
37-0080	.9963
37-0082	.9106
37-0083	.8954
37-0084	.8921
37-0085	.9673
37-0086	1.0435
37-0089	.9394
37-0090	.9999
37-0091	1.1486
37-0092	.9452
37-0093	1.0779
37-0094	1.0269
37-0095	.8612
* 37-0096	.8888
37-0097	.9353
37-0098	.8436
37-0099	.8841
37-0100	.8725
37-0103	.8297
37-0105	1.4783
37-0106	.9301
37-0107	.9141
37-0108	.9427
* 37-0109	.9113
37-0110	.9251
37-0112	.9040
37-0113	.9019
37-0114	1.1370
37-0116	.8567
37-0117	.9884
37-0121	1.0397
37-0122	.9038
37-0123	.9674
37-0125	.8649
37-0126	1.0155
37-0130	.9780
* 37-0131	.8865
37-0133	.9134
37-0136	.9288
37-0138	.8483
37-0139	.9997
37-0140	.8988
37-0141	1.0358
37-0144	1.0192
* 37-0146	.8437
37-0148	1.0321
37-0149	1.0381
37-0153	.9367
37-0154	.9479
37-0156	.9291
37-0157	.9119

INDEXES DERIVED FROM FEWER THAN 50 DISCHARGES DO NOT MEET THE SELECTED STATISTICAL PRECISION CRITERION FOR RELIABILITY. THESE CASE MIX INDEXES ARE ASTERISKED.

TABLE NO. 3a HOSPITAL CASE MIX INDEXES Page 18

PROVIDER NUMBER	CASE MIX INDEX
37-0158	.9127
37-0159	1.0243
37-0161	1.0204
37-0162	.8728
37-0165	.8425
37-0166	.8721
* 37-0168	.9874
37-0169	.9466
37-0176	.9470
* 37-0177	1.0181
37-0178	.9450
* 37-0179	.8989
* 37-0180	1.0293
* 37-0181	.8430
* 37-0182	.8461
37-0183	.9819
* 37-0184	.8629
38-0001	1.0744
38-0002	1.0186
38-0003	1.1095
38-0004	1.2804
38-0005	.9453
38-0006	.9848
38-0007	1.1346
38-0008	1.0419
38-0009	1.1940
38-0010	1.1183
38-0011	1.0279
38-0013	.9986
38-0014	1.0885
* 38-0016	.8116
38-0017	1.1698
38-0018	1.1393
38-0019	1.1214
38-0020	1.0257
38-0021	1.0401
38-0022	1.1219
38-0023	.9264
38-0024	1.0584
38-0025	1.0185
38-0026	1.0877
38-0027	1.0879
38-0029	.9990
38-0030	.8691
38-0031	.9401
38-0032	1.1882
38-0033	1.0398
38-0036	1.0213
38-0037	1.0822
38-0038	1.1095
38-0039	1.0715
38-0040	.9400
38-0041	.8696
38-0042	.9850
38-0043	.9894
* 38-0044	.8237
38-0045	1.0737
38-0047	1.1664
38-0048	.9716
38-0050	1.1133
38-0051	1.1109
38-0052	1.0269
* 38-0054	.8491
38-0055	1.1223
38-0056	1.0097
* 38-0059	.9955
38-0060	1.1123
38-0061	1.1552
* 38-0062	.9218
38-0063	1.0768
38-0064	1.0051
38-0065	.8970
38-0066	1.0498
* 38-0067	.8843
38-0068	1.0221
38-0069	.8637
38-0070	1.0181
38-0071	1.0909
38-0072	.9935
38-0074	.9591
38-0075	1.0598
38-0077	.9402
38-0078	1.0513
38-0079	1.1512
38-0081	.9335
38-0082	1.0666
38-0083	1.0300
38-0084	1.0011
38-0087	.9149
38-0088	.8695
38-0089	1.0801
38-0090	1.1300
38-0091	1.0424
* 38-0093	.8194
* 38-0094	.8473
39-0001	1.1594
39-0002	1.0724
39-0003	1.0407
39-0004	1.0333
39-0005	.9678
39-0006	1.1436
39-0007	1.0298
39-0008	1.0156
39-0009	1.1233
39-0010	1.0774
39-0011	1.1019
39-0012	1.0437
39-0013	.9767
39-0014	.9684
39-0015	1.0674
39-0016	1.0367
39-0017	1.0228
39-0018	1.0770
39-0019	1.0016
39-0020	1.0052
39-0021	1.1208
39-0022	1.1046
39-0023	1.0745
39-0024	.6069
* 39-0025	.9388
39-0026	1.1525
39-0027	1.1783
39-0028	1.2008
39-0029	1.1751
39-0030	1.0073
39-0031	1.0187
39-0032	1.0900
39-0034	1.0420
39-0035	1.1584
39-0036	1.0277
39-0037	1.0681
39-0038	1.0694
39-0039	1.0191
39-0040	.9606
39-0041	1.0789
39-0042	1.0320
39-0043	1.0302
39-0044	1.1304
39-0045	1.1232
39-0046	1.1702
39-0047	1.1986
39-0048	1.0956
39-0049	1.1245
39-0050	1.2457
39-0051	1.2259
39-0052	1.0127
39-0054	1.0564
39-0055	1.2206
39-0056	1.0502
39-0057	1.1322
39-0058	1.0721
39-0059	1.1402
39-0060	1.0690
39-0061	1.0849
39-0062	.9557
39-0063	1.1498
39-0064	1.1415
39-0065	1.0619
39-0066	1.0203
39-0067	1.1552
39-0068	1.0696
39-0069	1.0162
39-0070	1.0286
39-0071	1.0387
39-0072	.9451
39-0073	1.0897
39-0074	1.1130
39-0075	1.0788
39-0076	1.0302
39-0077	1.1055
39-0078	.9577
39-0079	1.2673
39-0080	1.1272
39-0081	1.0898
39-0082	.9883
39-0083	1.1348
39-0084	.9850
39-0086	1.0332
39-0087	.9579
39-0088	1.0060
39-0090	1.1688
39-0091	1.0183
39-0092	1.0336
39-0093	1.0495
39-0095	.9274
39-0096	1.1145
39-0097	1.1207
39-0098	1.1712
39-0099	.9809
39-0100	1.1075
39-0101	1.0554
39-0102	1.1027
39-0103	.9400
39-0104	.9452
39-0106	.9886
39-0107	1.0792
39-0108	1.0969
39-0109	.9741
39-0110	1.0483
39-0111	1.3768
39-0112	1.0510
39-0113	1.0157
39-0114	1.0837
39-0115	1.1414
39-0116	.9872
39-0117	1.0054
39-0118	.9534
39-0119	1.0898
39-0120	1.0328
39-0121	1.0640
39-0122	.9651
39-0123	1.0854
39-0125	1.0178
39-0126	1.1832
39-0127	1.0928
39-0128	1.0518
39-0130	.9994
39-0131	1.0946
39-0132	.9771
39-0133	1.1867
39-0135	1.1171
39-0136	1.0486
39-0137	1.0927
39-0138	1.0961
39-0139	1.1848
39-0142	1.1843
39-0143	.7425
39-0145	1.0743
39-0146	.9705
39-0147	1.0260
39-0148	1.0638
39-0149	1.0167
39-0150	1.0093
39-0151	1.0847
39-0152	.9963
39-0153	1.0971
39-0154	1.0410
39-0155	1.0401
39-0156	1.0997
39-0157	1.0135
39-0158	1.0732
39-0159	1.0777
39-0160	1.0009
39-0161	.9495
39-0162	1.0707
39-0163	1.1397
39-0164	1.2645
39-0165	.9831
39-0166	1.0449
39-0167	1.0790

INDEXES DERIVED FROM FEWER THAN 50 DISCHARGES DO NOT MEET THE SELECTED STATISTICAL PRECISION CRITERION FOR RELIABILITY. THESE CASE MIX INDEXES ARE ASTERISKED.

TABLE NO. 3a HOSPITAL CASE MIX INDEXES Page 19

TABLE NO. 3a HOSPITAL CASE MIX INDEXES Page 19

PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX
39-0168	1.0296	39-0231	1.1058	42-0010	.9179	42-0074	.8984	43-0043	.9891
39-0169	1.0846	39-0232	1.0140	42-0011	.8723	42-0075	.8916	43-0044	.9706
39-0170	1.3111	39-0233	1.1090	42-0014	.8506	42-0076	.8662	43-0047	.8958
39-0171	1.0564	39-0234	1.0842	42-0015	.9568	* 42-0077	.8790	43-0048	.9184
39-0172	1.1009	39-0235	1.1258	42-0016	.9478	42-0078	.9164	* 43-0049	.9482
39-0173	1.0125	39-0236	1.0019	42-0017	.8453	42-0079	1.1670	* 43-0051	.8875
39-0174	1.3002	39-0237	1.0924	42-0018	1.0100	42-0080	.9757	43-0054	.9157
39-0176	1.0156	* 39-0238	.8421	42-0019	.9654	* 42-0081	.9106	* 43-0056	.8944
39-0177	.9120	39-0240	.9750	42-0020	.9616	42-0082	.9570	43-0057	.8753
39-0178	1.1707	39-0242	1.0722	42-0022	.9688	42-0083	.9175	* 43-0060	.8120
39-0179	1.0880	39-0244	.8741	42-0023	.9465	* 42-0084	.7081	43-0062	.7729
39-0180	1.0689	39-0245	1.0583	* 42-0024	.8990	42-0085	.9578	43-0064	.8416
39-0181	.9947	39-0246	.9446	42-0026	.9142	42-0086	1.0027	* 43-0065	.9263
39-0183	.9169	39-0247	1.0126	42-0027	.9578	42-0087	1.0379	43-0066	.8469
39-0184	.9331	* 39-0248	1.3254	42-0028	.9035	* 42-0088	.8182	43-0072	.9549
39-0185	1.0842	39-0249	.9531	42-0029	1.0440	43-0001	1.0078	43-0073	.9603
39-0186	1.0343	* 39-0252	.8421	42-0030	.9026	43-0004	.9762	43-0076	.9809
39-0187	1.0254	39-0256	1.2816	42-0031	.9165	43-0005	.9782	43-0077	1.0850
39-0188	1.0219	39-0258	1.1590	42-0032	1.0077	43-0007	.9632	* 43-0079	.9269
39-0189	1.0100	39-0260	1.1116	42-0033	.9922	43-0008	.9092	* 43-0080	.8998
39-0190	.9659	39-0261	1.4337	42-0036	1.0166	43-0009	1.0603	43-0087	.8439
39-0191	.9519	39-0262	.9566	42-0037	1.0705	43-0010	.9381	44-0001	.9338
39-0192	.9161	39-0263	1.1069	42-0038	.9249	43-0011	1.0255	44-0002	1.0785
39-0193	1.0347	39-0265	1.0866	42-0039	.9353	43-0012	1.0129	44-0003	.9778
39-0194	.9857	39-0266	1.0072	42-0040	.9547	43-0013	.9245	44-0005	.9321
39-0195	1.2539	39-0267	1.1041	42-0042	.8870	43-0014	1.0866	44-0006	1.0028
39-0196	1.2122	39-0268	1.0543	42-0043	.9269	43-0015	.9406	44-0007	.9111
39-0197	1.0204	39-0269	1.0581	42-0044	.9234	43-0016	1.0928	44-0008	.8963
39-0198	1.0026	39-0270	1.0079	42-0048	.9042	43-0017	.8968	44-0009	.9006
39-0199	1.0026	41-0001	1.1671	42-0049	.9206	43-0018	.8715	44-0010	.9068
39-0200	1.0758	41-0002	1.1419	42-0050	.9789	43-0020	1.0227	44-0011	1.0544
39-0201	1.0867	41-0004	1.1600	42-0051	.9752	43-0022	.9047	44-0012	1.0241
39-0203	1.0921	41-0005	1.1154	42-0053	.9432	43-0023	.9364	44-0014	.9124
39-0204	1.1139	41-0006	1.0272	42-0054	1.0222	43-0024	.9729	44-0015	1.0940
39-0205	1.0547	41-0007	1.2133	42-0055	.9029	* 43-0025	.8603	44-0016	.9447
39-0206	1.1282	41-0008	.9721	42-0056	.9294	* 43-0026	.9256	44-0017	1.0036
39-0209	1.0082	41-0009	1.1547	42-0057	.9190	43-0027	1.1824	44-0018	.9984
39-0211	.9874	* 41-0010	.9250	42-0059	.9513	43-0028	.9313	44-0019	1.0185
39-0213	.8861	41-0011	1.0369	42-0061	.9388	43-0029	.8949	44-0020	.9153
39-0215	1.0197	41-0012	1.1392	42-0062	.9278	43-0030	.9588	44-0022	.9264
39-0217	1.0472	41-0013	1.0159	42-0064	.9128	43-0031	.8533	44-0023	.8699
39-0219	1.0379	41-0014	1.0062	42-0065	.9679	43-0033	.9459	44-0024	.9589
39-0220	1.0677	41-0016	.8815	42-0066	.9034	43-0034	.8856	44-0025	.9489
39-0222	1.0329	42-0002	.9587	42-0067	.9398	43-0036	1.0099	44-0026	1.0677
39-0223	1.1659	42-0003	.9693	42-0068	.9629	43-0037	.8821	* 44-0028	.9120
39-0224	.9623	42-0004	.9422	42-0069	.9196	43-0038	.9551	44-0029	.9276
39-0225	1.0557	42-0005	.9254	42-0070	.9763	* 43-0039	.9286	44-0030	.9898
39-0226	1.2274	42-0006	.9979	42-0071	.9797	43-0040	.9506	44-0031	.9189
39-0228	1.1033	42-0007	1.0074	42-0072	.9237	* 43-0041	.9002	44-0032	.8641
39-0229	1.1642	42-0009	.9277	42-0073	.9680	43-0042	.9088	44-0033	.9484

INDEXES DERIVED FROM FEWER THAN 50 DISCHARGES DO NOT MEET THE SELECTED STATISTICAL PRECISION CRITERION FOR RELIABILITY. THESE CASE MIX INDEXES ARE ASTERISKED.

TABLE NO. 3a HOSPITAL CASE MIX INDEXES Page 20

PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX
44-0034	1.0083	44-0105	.8525	44-0178	.9014	45-0043	.9430	45-0104	.9724
44-0035	1.0420	44-0109	.9419	44-0180	.9308	45-0044	1.0250	45-0107	1.0183
44-0038	.9381	44-0110	.9136	44-0181	.8956	* 45-0045	1.0360	* 45-0108	1.0055
44-0039	1.2889	44-0111	1.1246	44-0182	.8691	45-0046	.9588	45-0109	.9143
44-0040	.9168	44-0113	.8869	44-0183	1.1206	45-0047	.9667	45-0110	1.0171
44-0041	.8934	44-0114	.9130	44-0184	1.0724	45-0048	.9189	45-0111	.9374
* 44-0044	.7143	44-0115	.9444	44-0185	1.0134	45-0050	.9893	45-0112	.9262
44-0046	.9524	44-0117	.8080	44-0186	.9228	45-0051	1.0168	45-0113	.9069
44-0047	.5129	44-0120	1.0542	44-0187	.8603	45-0052	.9533	45-0115	.9277
44-0048	1.1881	44-0121	.9318	44-0189	.9844	45-0053	1.0153	45-0116	1.0063
44-0049	1.1111	44-0123	.9541	44-0191	.9104	45-0054	1.0182	45-0118	1.0444
44-0050	.9869	44-0125	1.0525	44-0192	.5981	45-0055	.9084	45-0119	.9336
44-0051	.9302	44-0130	1.0013	44-0193	.9846	45-0056	.9819	45-0121	.9568
44-0052	.9224	44-0131	.9542	44-0194	1.0105	45-0057	.9374	* 45-0122	.7969
44-0053	.9336	44-0132	.8581	44-0196	.8673	45-0058	.9922	45-0123	.9580
44-0054	.9400	44-0133	1.1839	44-0197	1.1010	45-0059	.9682	45-0124	1.0599
* 44-0055	.8293	44-0134	.9001	44-0200	.8473	45-0060	.9781	45-0126	.9094
44-0056	.8747	44-0135	.9437	45-0001	.9886	* 45-0063	.8766	45-0127	.9597
44-0057	.9198	44-0136	.9505	45-0002	.9836	45-0064	.9571	45-0128	.8748
44-0058	.9166	44-0137	.8763	45-0004	.9023	45-0065	.9168	* 45-0129	.8428
44-0059	.9058	44-0141	.9453	45-0005	.9433	45-0066	.9124	45-0130	.9315
44-0060	.9034	44-0142	.7948	45-0007	.9322	45-0068	.9903	45-0131	.8831
44-0061	.9790	44-0143	.9371	45-0008	.9390	* 45-0069	.9632	45-0132	.9218
44-0063	1.0710	44-0144	.9113	45-0010	.9784	45-0070	.8780	45-0133	1.0165
44-0064	.8974	44-0145	.9121	45-0011	.9348	45-0072	.8999	45-0134	.9608
44-0065	.9039	* 44-0146	.9710	45-0013	.9910	45-0073	.9112	45-0135	1.0444
44-0067	.9196	* 44-0147	.6601	45-0014	.8851	45-0074	.9282	* 45-0136	1.0614
44-0068	.9508	44-0148	.9199	45-0015	1.0901	45-0076	1.0584	45-0137	.9482
44-0069	.9624	44-0149	.8956	45-0016	.9933	45-0077	.9001	* 45-0140	.8575
44-0070	.9291	44-0150	1.0217	45-0018	1.0592	45-0078	.8339	45-0141	.8468
44-0071	1.0051	44-0151	.9021	45-0019	.9892	45-0079	.9547	45-0142	.9215
44-0072	1.0049	44-0152	1.0729	45-0020	.9025	45-0080	.9660	* 45-0143	1.0436
44-0073	1.0112	44-0153	.8931	45-0021	1.0548	45-0081	.9490	45-0144	1.0023
44-0074	.8190	44-0156	1.0108	45-0022	.9225	45-0082	.8706	* 45-0145	.8649
44-0078	.9595	44-0157	.8904	45-0023	1.0007	45-0083	.9567	* 45-0146	.8732
44-0079	.9063	44-0159	1.0280	45-0024	.9746	45-0084	.9044	45-0147	.9646
44-0081	1.0117	44-0160	.9229	45-0025	1.0152	45-0085	.9289	45-0148	.9449
44-0082	1.2130	44-0161	1.0599	45-0027	.8588	* 45-0086	.5919	45-0149	.9490
44-0083	.8667	44-0162	.8901	45-0028	1.0261	45-0087	.9468	45-0150	.9456
44-0084	.9463	44-0166	1.1648	45-0029	.9884	45-0090	.8948	45-0151	.9488
* 44-0086	.9272	44-0167	1.0541	45-0031	.9588	45-0092	.8929	45-0152	1.0192
44-0087	.8825	44-0168	1.1194	45-0032	.9204	* 45-0093	.9869	45-0153	.9831
* 44-0090	.8440	44-0169	.6271	45-0033	.9946	45-0094	.9329	45-0154	.8997
44-0091	1.0386	44-0170	.6472	45-0034	1.0143	45-0095	.8701	45-0155	.9335
44-0095	.8692	44-0171	.9201	45-0035	.9587	45-0096	.9579	45-0157	.9330
44-0100	.8912	44-0173	.9747	45-0037	.9882	45-0097	.9980	* 45-0160	.9190
* 44-0101	.9051	44-0174	.9008	45-0039	1.1286	45-0098	.9517	45-0162	1.0377
44-0102	.9471	44-0175	.9236	45-0040	.9487	45-0099	.9400	45-0163	.9038
44-0103	.9369	44-0176	1.0016	45-0041	.9283	45-0101	.9269	45-0164	.8554
44-0104	1.0256	44-0177	.9019	45-0042	1.0002	45-0102	.8449	45-0165	.8910

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TABLE NO. 3a HOSPITAL CASE MIX INDEXES Page 21

TABLE NO. 3a HOSPITAL CASE MIX INDEXES Page 21

PROVIDER NUMBER	CASE MIX INDEX
* 45-0166	.8619
45-0165	.9488
* 45-0170	.9027
45-0173	.8625
45-0174	.9591
45-0175	.9767
45-0176	.9595
45-0177	.8960
* 45-0178	.9079
45-0179	.9444
* 45-0181	.8540
45-0182	.8747
45-0183	.9428
45-0184	.9622
45-0185	.8596
* 45-0186	.9867
45-0187	.9757
45-0188	.9266
45-0190	.9882
45-0191	.9852
45-0192	.9244
45-0193	1.1852
45-0194	.9710
45-0195	.9426
45-0196	.9106
45-0197	.9133
45-0198	.8899
45-0200	.9546
45-0201	.8532
45-0203	.9050
45-0206	.9111
45-0207	.8655
45-0208	.9176
45-0209	1.0026
45-0210	.9090
45-0211	.9881
45-0213	1.0873
45-0214	.8569
* 45-0215	.7973
45-0216	.9911
45-0217	.9118
45-0218	.9174
45-0219	.9100
45-0221	.8664
45-0222	.9842
45-0224	.9957
45-0229	.9066
* 45-0230	.8996
45-0231	1.0165
45-0233	.8697
45-0234	.8626
45-0235	.9954
45-0236	.8780
45-0237	1.0121
45-0239	.9862
45-0241	.8569
* 45-0242	.8844
* 45-0243	.9124
45-0244	.9044
45-0246	.8544
45-0247	.9096
45-0248	.8918
45-0245	.9036
45-0250	.8302
45-0253	.9670
45-0256	.9010
45-0258	.8754
45-0259	1.0154
* 45-0260	.8722
45-0261	.9219
* 45-0263	.9431
* 45-0264	.8843
* 45-0265	.8376
* 45-0267	.9090
45-0268	.9341
* 45-0269	.9033
45-0270	.9423
45-0271	.9603
45-0272	.9284
* 45-0274	.8225
45-0275	.9238
45-0276	.9339
45-0278	.8801
45-0280	.9815
45-0281	.9256
45-0282	.9064
45-0283	.9005
45-0284	.8616
45-0286	.9715
45-0288	.9322
45-0289	.9654
45-0292	.9963
45-0293	.8672
45-0296	.8752
45-0297	.8745
45-0299	.9002
45-0300	.9416
45-0303	.9279
45-0304	.8813
* 45-0305	.9573
45-0306	.8623
* 45-0307	.7899
45-0309	.9592
45-0311	.8742
45-0312	.9273
45-0315	.9242
45-0317	.8655
45-0319	.9196
45-0320	1.0014
45-0321	.9260
* 45-0322	.8024
45-0324	.9870
45-0325	.9443
45-0327	.7962
45-0328	.8566
45-0330	.9534
45-0331	.8782
45-0332	.8772
45-0333	.9810
45-0334	.9561
* 45-0335	.8913
45-0337	.9765
* 45-0338	1.0130
45-0340	.8826
45-0341	.8981
* 45-0342	.9292
45-0343	.8803
45-0346	.9468
45-0347	.8934
45-0348	.8931
45-0349	.9303
45-0351	.9326
45-0352	.9789
45-0353	.9506
* 45-0355	.9424
45-0357	.9648
45-0358	1.0750
* 45-0365	1.0499
45-0362	.9072
45-0365	.9365
45-0366	.9657
45-0369	.9061
45-0370	.7397
45-0371	.9058
45-0372	1.0286
45-0373	.9349
* 45-0374	.8965
45-0376	.9339
45-0378	1.0025
45-0379	1.0080
45-0381	.9547
45-0382	.8449
45-0388	.9795
45-0389	.9687
45-0391	.9760
45-0393	.9125
45-0394	.9271
45-0395	.8604
45-0398	.8822
45-0399	.9591
45-0400	.8527
45-0402	.9508
45-0403	.9080
* 45-0405	1.1684
45-0410	.8714
45-0411	.8850
45-0415	.9568
45-0416	.9814
45-0417	.8972
45-0418	.9708
45-0419	.8904
* 45-0421	.9775
45-0422	.5411
45-0423	.7937
45-0424	.9350
45-0425	.8940
45-0429	.9147
45-0431	.9141
45-0438	.9207
* 45-0440	.8591
* 45-0446	.9539
45-0447	1.0694
45-0450	.8269
* 45-0451	.7982
45-0454	.9156
45-0455	.8796
45-0457	1.0650
* 45-0458	.8336
45-0459	.8454
45-0460	.8679
45-0462	1.0075
45-0464	.8847
45-0465	.8954
45-0467	.9180
45-0469	.9377
45-0472	.9677
45-0473	.9114
45-0475	.9199
45-0476	.8953
45-0481	.8954
* 45-0482	.9105
45-0484	.9409
45-0486	.9006
45-0488	.9183
45-0489	.8876
* 45-0490	.9014
45-0492	.8934
45-0493	.8719
45-0497	.9414
45-0498	.9162
45-0508	1.0109
45-0513	.8632
45-0514	.9877
45-0517	.8323
45-0518	1.0252
45-0523	1.0247
45-0527	.8860
45-0530	.9441
45-0534	.8623
45-0535	.9344
45-0537	.9718
45-0538	.9328
45-0539	.9256
45-0544	.9362
45-0545	.8856
45-0546	.9374
45-0547	.8818
45-0550	1.0166
45-0551	.9159
45-0552	.9082
* 45-0557	.9265
45-0558	.9385
* 45-0559	.8889
45-0561	.8983
45-0563	.8778
45-0565	.9651
45-0568	1.0093
45-0569	.9974
45-0570	.8961
45-0571	.9884
45-0573	.8736
45-0574	.9199
45-0575	1.0019
45-0577	.8737
* 45-0578	.9076
* 45-0579	.8813
45-0580	.9763
45-0581	.9319
* 45-0582	.8724
* 45-0583	.8221

INDEXES DERIVED FROM FEWER THAN 50 DISCHARGES DO NOT MEET THE SELECTED STATISTICAL PRECISION CRITERION FOR RELIABILITY. THESE CASE MIX INDEXES ARE ASTERISKED.

PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX
45-0584	.8935	45-0651	1.0862	* 45-0706	.9897	47-0016	.9271	49-0048	1.0334
45-0586	.9287	45-0652	.8562	46-0001	1.0254	47-0018	.9547	49-0050	1.0803
45-0587	.9280	45-0653	.9701	46-0003	1.0681	* 47-0020	.9265	* 49-0051	1.0335
45-0588	.9664	45-0654	.9205	46-0004	1.0855	47-0023	.9435	49-0052	1.0734
45-0590	.9341	* 45-0655	.9524	46-0005	.9546	47-0024	.9576	49-0053	1.0719
45-0591	.8962	45-0656	.9345	46-0006	1.0434	48-0001	.9970	49-0054	.9467
45-0592	.9975	* 45-0657	.8949	46-0007	1.0015	48-0002	.9477	49-0055	.9010
45-0595	.9493	45-0658	.8899	46-0008	1.0302	49-0001	.9536	49-0056	.8233
45-0596	.9723	45-0659	1.0655	46-0009	1.1584	49-0002	.8822	49-0057	1.0614
45-0597	.8769	45-0660	1.0184	46-0010	1.1425	49-0003	.9799	49-0059	1.1129
45-0600	.9658	* 45-0661	.9153	46-0011	1.0131	49-0004	1.0534	49-0060	.9194
* 45-0601	.8602	45-0662	1.0413	46-0012	1.1321	49-0005	1.0918	49-0063	1.1684
* 45-0603	.8630	45-0665	.8625	46-0013	.9540	49-0006	.9935	49-0066	1.0461
45-0604	.9410	45-0666	.9563	* 46-0014	1.0508	49-0007	1.1950	49-0067	1.0266
45-0605	.9330	45-0667	.8950	46-0015	.9932	49-0008	.9928	49-0069	1.0772
* 45-0607	.8471	45-0668	.9495	46-0016	.9402	49-0009	1.2700	49-0071	1.0622
45-0609	.8612	45-0669	1.0072	46-0017	1.0854	49-0010	.9715	49-0073	.9937
45-0610	.9511	45-0670	.9424	* 46-0018	.9740	49-0011	1.1117	49-0074	.9731
45-0611	.9192	45-0671	.9491	* 46-0019	.8904	49-0012	.9269	49-0075	1.0398
45-0613	.9247	45-0672	.9867	* 46-0020	.9694	49-0013	1.0269	49-0077	1.0363
45-0614	.8830	* 45-0673	.9642	46-0021	1.0212	49-0014	1.0581	49-0078	.8829
45-0615	.8837	* 45-0674	.8254	* 46-0022	.9723	49-0015	1.0896	49-0079	1.0296
* 45-0616	.9179	45-0675	1.0250	46-0023	.9891	49-0017	1.0981	49-0083	.5535
45-0617	1.0593	* 45-0676	.8609	* 46-0024	.8690	49-0018	1.0109	49-0084	.9272
* 45-0618	.8863	45-0677	.9829	* 46-0025	.8435	49-0019	1.0046	49-0085	.8819
45-0620	.8518	45-0678	.9230	46-0026	.8752	49-0020	.9501	49-0088	.9534
45-0621	.9177	45-0679	.9369	* 46-0027	.8264	49-0021	1.0299	49-0089	.9320
45-0623	.9335	45-0681	.9545	* 46-0029	.8898	49-0022	.9719	49-0090	1.0218
45-0624	.9016	45-0682	.9028	46-0030	1.0205	49-0023	1.0727	49-0091	1.1151
45-0626	.8876	45-0683	.9402	* 46-0032	.9128	49-0024	1.1107	49-0092	.9970
45-0627	.8646	45-0684	1.0288	* 46-0033	.9657	49-0027	1.0082	49-0093	1.0323
45-0628	.8864	45-0685	.8987	* 46-0035	.9272	49-0028	1.0557	49-0094	1.0094
45-0629	.9216	45-0686	1.0537	* 46-0036	.8464	49-0029	.9999	49-0095	1.0228
45-0630	1.1784	45-0687	.9722	46-0037	.9908	49-0030	.9494	49-0097	1.0161
45-0631	1.1751	45-0688	1.0055	* 46-0038	1.0251	49-0031	1.0272	49-0098	1.0205
45-0632	.8935	45-0690	1.0460	* 46-0039	.9337	49-0032	1.3347	49-0099	.9566
45-0633	.9823	* 45-0691	.9974	* 46-0040	.8194	49-0033	1.0259	49-0100	1.0523
45-0634	1.0538	* 45-0693	.8490	46-0041	1.0147	49-0034	.8661	49-0101	1.0457
45-0635	1.0044	45-0694	.9890	46-0042	1.0947	49-0035	.9023	* 49-0104	1.0536
45-0637	.9485	45-0695	.8154	47-0001	1.0074	49-0037	.9962	49-0107	.9579
45-0638	.9566	45-0696	.8508	47-0003	1.1952	49-0038	1.0013	49-0110	.9437
45-0639	.9549	45-0697	1.0079	47-0004	1.0491	* 49-0039	.8315	49-0111	.9582
45-0641	.9071	45-0698	.8650	47-0005	1.0046	49-0040	1.0954	49-0112	1.1454
45-0643	.9150	45-0699	.9352	47-0006	.8514	49-0041	.9070	49-0113	1.0125
45-0644	1.0156	45-0700	.8766	47-0008	.9455	49-0042	.9930	49-0114	.9866
45-0646	1.0192	* 45-0701	.8792	47-0010	1.0212	49-0043	.9952	49-0115	.9709
45-0647	1.1791	45-0702	.9384	47-0011	.9357	49-0044	.9964	49-0116	.9767
45-0648	.9447	45-0703	.9303	47-0012	1.0441	49-0045	1.1164	49-0117	.9781
45-0649	.9208	45-0704	.8647	47-0013	1.0117	49-0046	1.0549	49-0118	1.0856
* 45-0650	.8226	* 45-0705	.7538	47-0015	1.0710	49-0047	1.0935	49-0119	1.0813

INDEXES DERIVED FROM FEWER THAN 50 DISCHARGES DO NOT MEET THE SELECTED STATISTICAL PRECISION CRITERION FOR RELIABILITY. THESE CASE MIX INDEXES ARE ASTERISKED.

TABLE NO. 3 a HOSPITAL CASE MIX INDEXES Page 23

PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX
49-0120	1.1419	50-0051	1.1453	50-0114	1.1112	51-0047	1.0400	52-0024	.8822
49-0122	1.1050	50-0052	.9577	50-0118	1.0620	51-0048	.9360	52-0025	.9436
49-0123	1.1050	50-0053	1.0902	50-0119	1.0226	51-0050	.9995	52-0026	1.0809
49-0124	1.0271	50-0054	1.1854	* 50-0121	.5237	51-0052	.9733	52-0027	.9274
* 49-0125	.7661	50-0055	1.0015	50-0122	1.1391	51-0053	.9819	52-0028	1.0831
49-0126	.9935	50-0057	1.0206	* 50-0123	1.0264	51-0054	.8739	52-0029	.9215
49-0127	.9642	50-0058	1.0740	50-0124	1.1361	51-0055	1.0007	52-0030	1.0835
50-0001	1.1115	50-0059	.9561	* 50-0125	1.0155	51-0058	1.1020	52-0031	1.0037
50-0002	1.0546	50-0060	.9915	* 50-0127	.8194	51-0059	.6972	52-0032	1.0706
50-0003	1.0520	50-0061	.9833	50-0129	1.1829	51-0060	.9343	52-0033	1.0264
50-0005	1.2008	* 50-0062	1.0287	50-0130	.8120	51-0061	1.0094	52-0034	.9994
50-0006	1.0971	50-0064	1.1139	* 50-0132	.9323	51-0062	.9854	52-0035	1.0455
50-0007	1.0018	50-0065	1.0221	51-0001	1.1357	51-0063	.9118	52-0037	1.2080
50-0008	1.3425	* 50-0066	.7883	51-0002	1.0171	51-0064	.9435	52-0038	1.0239
50-0009	1.0167	50-0068	.9228	51-0003	1.0150	51-0065	.8868	52-0039	.9805
50-0010	1.1090	50-0069	.9256	* 51-0004	.9083	51-0066	1.0072	52-0040	1.0656
50-0011	1.0376	50-0070	.9969	51-0005	.9445	51-0067	.7935	52-0041	.9240
50-0012	1.1831	50-0071	1.0021	51-0006	1.0332	51-0068	.9455	52-0042	.9689
50-0014	1.1016	50-0072	1.0612	51-0007	1.0738	51-0070	1.0025	52-0043	1.1278
50-0015	1.1142	* 50-0073	.9906	51-0008	1.0243	51-0071	.9983	52-0044	1.0060
50-0016	1.1583	50-0074	.8896	51-0009	.9795	51-0072	.9415	52-0045	1.1357
50-0017	1.1128	50-0075	1.0264	* 51-0011	1.0343	51-0074	.9200	52-0047	.9357
50-0019	1.0327	50-0076	.9518	51-0012	.9319	* 51-0076	.8332	52-0048	1.0390
50-0020	1.0858	50-0077	1.0854	51-0013	.9730	51-0077	.9993	52-0049	1.2907
50-0021	1.1578	50-0078	1.0603	51-0014	.9672	51-0080	.9391	52-0051	1.1577
50-0023	.9862	50-0079	1.0671	51-0015	.9693	51-0081	.9190	52-0053	.9608
50-0024	1.1953	* 50-0080	.7897	51-0016	.9304	51-0082	.9558	52-0054	.9893
50-0025	1.4125	50-0081	.5735	51-0018	1.0011	* 51-0083	1.0264	52-0056	1.0067
50-0026	1.0829	50-0084	1.0786	* 51-0019	.5526	51-0084	.9114	52-0057	.8910
50-0027	1.1987	50-0085	.8664	51-0020	1.0253	52-0001	1.0504	52-0058	.9612
50-0028	.9635	50-0086	.9865	51-0022	1.1713	52-0002	1.0937	52-0059	.9832
50-0029	.8550	50-0087	1.0951	51-0023	1.0197	52-0003	.9690	52-0060	.9931
50-0030	1.1864	50-0088	1.0554	51-0024	1.0476	52-0004	.9844	52-0062	1.0309
50-0031	1.0360	50-0089	1.0643	51-0025	.9083	52-0006	1.0247	52-0063	1.0530
50-0033	.9881	* 50-0090	.7980	51-0026	.9258	52-0007	.9630	52-0064	1.1446
50-0034	.9713	* 50-0092	.9846	51-0027	.9713	52-0008	.9837	52-0066	1.0332
50-0035	1.0482	50-0093	1.0425	51-0028	.5186	52-0009	1.0875	52-0067	1.1307
50-0036	1.0438	50-0094	.8180	51-0029	1.0160	52-0010	1.0290	52-0068	.9087
50-0037	1.0243	50-0096	.9863	51-0030	.9578	52-0011	.9900	52-0069	.9828
50-0039	1.1232	50-0097	1.0252	51-0031	.9533	52-0012	.9688	52-0070	1.0799
50-0040	.9227	* 50-0098	.8788	51-0033	1.1249	52-0013	1.0001	52-0071	1.0065
50-0041	1.1154	* 50-0100	.9668	51-0035	.9665	52-0014	1.0323	52-0074	.9549
50-0042	.9347	50-0101	.9279	51-0036	.8573	52-0015	1.1151	52-0075	1.0264
* 50-0043	.5182	* 50-0102	.9032	51-0038	.9658	52-0016	.9945	52-0076	.9799
50-0044	1.2015	50-0104	1.0521	51-0039	1.0826	52-0017	1.0065	52-0077	.8965
50-0045	1.0452	* 50-0106	.8332	* 51-0040	.8995	52-0018	.9419	52-0078	1.1014
50-0046	1.1289	50-0107	.9928	* 51-0041	.8643	52-0019	1.0788	52-0081	1.1486
50-0048	1.0151	50-0108	1.2193	* 51-0043	.9502	52-0020	1.0474	52-0082	.9717
50-0049	1.1058	50-0109	.9536	51-0045	.9049	52-0021	1.0104	52-0083	1.1348
50-0050	.9855	50-0110	1.0895	51-0046	1.0098	52-0022	.9474	52-0084	.9425

INDEXES DERIVED FROM FEWER THAN 50 DISCHARGES DO NOT MEET THE SELECTED STATISTICAL PRECISION CRITERION FOR RELIABILITY. THESE CASE MIX INDEXES ARE ASTERISKED.

TABLE NO. 3a HOSPITAL CASE MIX INDEXES Page 24

PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX
52-0087	1.1425	52-0112	.9396	52-0135	1.0400	52-0161	.9014	53-0008	.9574
52-0088	1.0933	52-0113	.9780	52-0136	1.0884	* 52-0164	.8194	53-0009	.9445
52-0089	1.0739	52-0114	.9198	52-0138	1.2047	* 52-0165	.8757	53-0010	1.0170
52-0090	.9255	52-0115	1.0573	52-0139	1.0442	52-0167	.9620	53-0011	1.0919
52-0091	1.0339	52-0116	1.0002	52-0140	1.0873	52-0170	1.0195	53-0012	1.0588
52-0092	.5920	52-0117	.9757	52-0141	1.0612	52-0171	.8855	53-0015	.9940
52-0094	1.0451	52-0118	.9264	* 52-0142	.9243	52-0173	.9723	53-0016	.9997
52-0095	.9578	52-0119	.9428	* 52-0143	.9135	52-0174	1.1057	* 53-0017	.9316
52-0096	1.1377	* 52-0120	1.1297	52-0144	1.0248	* 52-0175	.8194	53-0018	.8243
52-0097	1.0299	52-0121	1.1022	52-0145	.9961	* 52-0176	.7895	53-0019	.8440
52-0098	1.2397	52-0122	.9882	52-0146	.9278	52-0177	1.1405	* 53-0021	.9321
52-0100	1.0606	52-0123	1.0863	52-0148	.9311	52-0178	.9735	53-0022	.9425
52-0101	.9410	52-0124	.9328	52-0149	.9637	* 52-0179	.8194	* 53-0023	.7906
52-0102	1.0271	52-0125	.8269	52-0151	.9411	* 52-0180	.8194	* 53-0024	.9282
52-0103	1.1217	52-0126	.9649	52-0152	.9841	53-0001	1.0338	53-0025	.9396
52-0104	.9020	52-0127	.9720	52-0153	1.0404	53-0002	1.0746	53-0026	.8943
* 52-0105	.9169	* 52-0129	.8519	52-0154	.9765	* 53-0003	.9331	* 53-0027	.9491
52-0107	.9893	52-0130	.9099	52-0156	.9639	53-0004	1.0450	* 53-0029	.9590
52-0109	.9444	52-0131	.9638	52-0157	.9830	* 53-0005	1.0770	* 53-0031	.8191
52-0110	.9190	52-0132	.9973	52-0159	.9524	53-0006	.9996		
52-0111	1.0312	52-0134	.9678	52-0160	1.1446	53-0007	.9001		

INDEXES DERIVED FROM FEWER THAN 50 DISCHARGES DO NOT MEET THE SELECTED STATISTICAL PRECISION CRITERION FOR RELIABILITY. THESE CASE MIX INDEXES ARE ASTERISKED.

BILLING CODE 4120-03-C

TABLE 3b.—AVERAGE CASE-MIX INDEXES BY HOSPITAL CLASSIFICATION GROUP

Bed size	Mean case-mix index
Urban Hospitals:	
Less than 100	0.9692
100 to 404	1.0485
405 to 684	1.1077
685 and above	1.1408
Rural Hospitals:	
Less than 100	.9449
100 to 169	.9881
170 and above	1.0262

TABLE 4a.—WAGE INDEX FOR URBAN AREAS

MSA area	Wage index
Abilene, TX	.9414
Taylor, TX	
Akron, OH	1.0734
Portage, OH	
Summit, OH	
Albany, GA	[1].8907
Dougherty, GA	
Lee, GA	
Albany-Schenectady-Troy, NY	.8925
Albany, NY	
Greene, NY	
Montgomery, NY	
Rensselaer, NY	
Saratoga, NY	
Schnectady, NY	
Albuquerque, NM	1.0579
Bernalillo, NM	
Alexandria, LA	.9735
Rapides, LA	
Allentown-Bethlehem, PA-NJ	1.0518
Warren, NJ	
Carbon, PA	
Lehigh, PA	
Northampton, PA	
Alton-Granite City, IL	.9587
Jersey, IL	
Madison, IL	
Altoona, PA	1.0249
Blair, PA	
Amarillo, TX	.9696
Potter, TX	
Randall, TX	
Anaheim-Santa Ana, CA	1.2445
Orange, CA	
Anchorage, AK	1.4657
Anchorage, AK	
Anderson, IN	.9690
Madison, IN	
Anderson, SC	.8746
Anderson, SC	
Ann Arbor, MI	1.2090
Washtenaw, MI	
Anniston, AL	.8625
Calhoun, AL	
Appleton-Oshkosh-Neenah, WI	9704
Calument, WI	
Outagamie, WI	
Winnebago, WI	
Asheville, NC	.9508
Buncombe, NC	
Athens, GA	.8817
Clarke, GA	
Jackson, GA	
Madison, GA	
Oconee, GA	
Atlanta, GA	.9417
Barrow, GA	
Butts, GA	
Cherokee, GA	
Clayton, GA	
Cobb, GA	
Coweta, GA	
De Kalb, GA	
Douglas, GA	
Fayette, GA	
Forsyth, GA	
Fulton, GA	
Gwinnett, GA	
Henry, GA	
Newton, GA	
Paulding, GA	
Rockdale, GA	
Spalding, GA	
Walton, GA	
Atlantic City, NJ	1.0648
Atlantic, NJ	
Cape May, NJ	
Augusta, GA-SC	.9614
Columbia, GA	
McDuffie, GA	
Richmond, GA	
Aiken, SC	
Aurora-Elgin, IL	.9958
Kane, IL	
Kendall, IL	
Austin, TX	1.0590
Hays, TX	
Travis, TX	
Williamson, TX	
Bakersfield, CA	1.2271
Kern, CA	
Baltimore, MD	1.0660
Anne Arundel, MD	
Baltimore, MD	
Baltimore City, MD	
Carroll, MD	
Harford, MD	
Howard, MD	
Queen Annes, MD	
Bangor, ME	.9271
Penobscot, ME	
Baton Rouge, LA	1.0174
Ascension, LA	
East Baton Rouge, LA	
Livingston, LA	
West Baton Rouge, LA	
Battle Creek, MI	1.0600
Calhoun, MI	
Beaumont-Port Arthur, TX	.9874
Hardin, TX	
Jefferson, TX	
Orange, TX	
Beaver County, PA	1.0863
Beaver, PA	
Bellingham, WA	[1] 1.0544
Whatcom, WA	
Benton Harbor, MI	.8734
Berrien, MI	
Bergen-Passaic, NJ	1.0290
Bergen, NJ	
Passaic, NJ	
Billings, MT	[1].9648
Yellowstone, MT	
Biloxi-Gulfport, MS	.8710
Hancock, MS	
Harrison, MS	
Binghamton, NY	.9528
Broome, NY	
Tioga, NY	
Birmingham, AL	1.0047
Blount, AL	
Jefferson, AL	
Saint Clair, AL	
Shelby, AL	
Walker, AL	
Bismarck, ND	1.0100
Burleigh, ND	
Morton, ND	
Bloomington, IN	[1].9143
Monroe, IN	
Bloomington-Normal, IL	[1] 1.0139
McLean, IL	
Boise City, ID	1.0755
Ada, ID	
Boston-Lawrence-Salem-Lowell-Brockton, MA	1.0949
Essex, MA	
Middlesex, MA	
Norfolk, MA	
Plymouth, MA	
Suffolk, MA	
Boulder-Longmont, CO	.9962
Boulder, CO	
Bradenton, FL	[1].9199
Manatee, FL	
Brazoria, TX	.9409
Brazoria, TX	
Bremerton, WA	[1].9969
Kitsap, WA	
Bridgeport-Stamford-Norwalk-Danbury, CT	1.1572
Fairfield, CT	
Brownsville-Harlingen, TX	.9217
Cameron,TX	
Bryan-College Station, TX	.9077
Brazos, TX	
Buffalo, NY	.9787
Erie, NY	
Burlington, NC	.9480
Alamance, NC	
Burlington, VT	[1].9654
Chittenden, VT	
Grand Isle, VT	
Canton, OH	.9797
Carroll, OH	
Stark, OH	
Casper, WY	1.0255
Natrona, WY	
Cedar Rapids, IA	.9379
Linn, IA	
Champaign-Urbana-Rantoul, IL	1.0246
Champaign, IL	
Charleston, SC	1.0262
Berkeley, SC	
Charleston, SC	
Dorchester, SC	
Charleston, WV	1.1033
Kanawha, WV	
Putnam, WV	
Charlotte-Gastonia-Rock Hill, NC-SC	.9776
Cabarrus, NC	
Gaston, NC	
Lincoln, NC	
Mecklenburg, NC	
Rowan, NC	
Union, NC	
York, SC	
Charlottesville, VA	1.2925
Albermarle, VA	
Charlottesville City, VA	
Fluvanna, VA	
Greene, VA	
Chattanooga, TN-GA	.9671
Catoosa, GA	
Dade, GA	
Walker, GA	
Hamilton, TN	
Marion, TN	
Sequatchie, TN	
Chicago, IL	1.2196
Cook, IL	
DuPage, IL	
McHenry,IL	
Chico, CA	1.0558
Butte, CA	
Cincinnati, OH-KY-IN	1.0558
Dearborn, IN	
Boone, KY	
Campbell, KY	
Kenton, KY	
Clermont, OH	
Hamilton, OH	
Warren, OH	
Clarksville-Hopkinsville, TN-KY	.8342
Christian, KY	
Montgomery,TN	
Cleveland, OH	1.2028
Cuyahoga, OH	
Geauga, OH	
Lake, OH	
Medina, OH	
Colorado Springs, CO	1.1089
El Paso, CO	
Columbia, MO	1.1357
Boone, MO	
Columbia, SC	.9603

TABLE 4a.—WAGE INDEX FOR URBAN AREAS—Continued

MSA area	Wage index
Lexington, SC	
Richland, SC	
Columbus, GA–AL	.9199
Russell, AL	
Chattahoochee, GA	
Muscogee, GA	
Columbus, OH	1.0423
Delaware, OH	
Fairfield, OH	
Franklin, OH	
Licking, OH	
Madison, OH	
Pickaway, OH	
Union, OH	
Corpus Christi, TX	.9648
Nueces, TX	
San Patricio, TX	
Cumberland, MD-WV	.9460
Allegany, MD	
Mineral, WV	
Dallas, TX	1.0774
Collin, TX	
Dallas, TX	
Denton, TX	
Ellis, TX	
Kaufman, TX	
Rockwall, TX	
Danville, VA	[1].8701
Danville City, VA	
Pittsylvania, VA	
Davenport-Rock Island-Moline, IA–IL	.9621
Scott, IA	
Henry, IL	
Rock Island, IL	
Dayton-Springfield, OH	1.1117
Clark, OH	
Greene, OH	
Miami, OH	
Montgomery, OH	
Daytona Beach, FL	.9093
Volusia, FL	
Decatur, IL	[1].9631
Macon, IL	
Denver, CO	1.2141
Adams, CO	
Arapahoe, CO	
Denver, CO	
Douglas, CO	
Jefferson, CO	
Des Moines, IA	1.0709
Dallas, IA	
Polk, IA	
Warren, IA	
Detroit, MI	1.1892
Lapeer, MI	
Livingston, MI	
Macomb, MI	
Monroe, MI	
Oakland, MI	
Saint Clair, MI	
Wayne, MI	
Dothan, AL	.8948
Dale, AL	
Houston, AL	
Dubuque, IA	1.0281
Dubuque, IA	
Duluth, MN-WI	.9154
St. Louis, MN	
Douglas, WI	
East St Louis-Belleville, IL	.9717
Clinton, IL	
St. Clair, IL	
Eau Claire, WI	.9703
Chippewa, WI	
Eau Claire, WI	
El Paso, TX	.8991
El Paso, TX	
Elkhart-Goshen, IN	[1].8907
Elkhart, IN	
Elmira, NY	1.0257
Chemung, NY	
Enid, OK	.9016
Garfield, OK	
Erie, PA	.9927
Erie, PA	
Eugene-Springfield, OR	.9982
Lane, OR	
Evansville, IN-KY	1.0093

TABLE 4a.—WAGE INDEX FOR URBAN AREAS—Continued

MSA area	Wage index
Posey, IN	
Vanderburgh, IN	
Warrick, IN	
Henderson, KY	
Fargo-Moorhead, ND–MN	1.0051
Clay, MN	
Cass, ND	
Fayetteville, NC	[1].9325
Cumberland, NC	
Fayetteville-Springdale, AR	.8307
Washington, AR	
Flint, MI	1.1523
Genesee, MI	
Florence, AL	.8088
Colbert, AL	
Lauderdale, AL	
Florence, SC	.9072
Florence, SC	
Fort Collins-Loveland, CO	.9276
Larimer, CO	
Fort Lauderdale-Hollywood-Pompano Beach, FL	1.1105
Broward, FL	
Fort Myers, FL	.9242
Lee, FL	
Fort Pierce, FL	.9843
Martin, FL	
St. Lucie, FL	
Fort Smith, AR–OK	.9705
Crawford, AR	
Sebastian, AR	
Sequoyah, OK	
Fort Walton Beach, FL	[1].7873
Okaloosa, FL	
Fort Wayne, IN	.9446
Allen, IN	
De Kalb, IN	
Whitley, IN	
Fort Worth-Arlington, TX	.9281
Johnson, TX	
Parker, TX	
Tarrant, TX	
Fresno, CA	1.1951
Fresno, CA	
Gadsden, AL	.9234
Etowah, AL	
Gainesville, FL	.9709
Alachua, FL	
Bradford, FL	
Galveston-Texas City, TX	1.1822
Galveston, TX	
Gary-Hammond, IN	1.1222
Lake, IN	
Porter, IN	
Glens Falls, NY	.8813
Warren, NY	
Washington, NY	
Grand Forks, ND	[1].9708
Grand Forks, ND	
Grand Rapids, MI	.9988
Kent, MI	
Ottawa, MI	
Great Falls, MT	[1] 1.0307
Cascade, MT	
Greeley, CO	[1].0829
Weld, CO	
Green Bay, WI	.9974
Brown, WI	
Greensboro-Winston-Salem-High Point, NC	.9578
Davidson, NC	
Davie, NC	
Forsyth, NC	
Guilford, NC	
Randolph, NC	
Stokes, NC	
Yadkin, NC	
Greenville-Spartanburg, SC	.9474
Greenville, SC	
Pickens, SC	
Spartanburg, SC	
Hagerstown, MD	1.0001
Washington, MD	
Hamilton-Middletown, OH	1.0435
Butler, OH	
Harrisburg-Lebanon-Carlisle, PA	1.0956
Cumberland, PA	
Dauphin, PA	
Lebanon, PA	
Perry, PA	
Hartford-New Middletown-Britain-Bristol, CT	1.0992

TABLE 4a.—WAGE INDEX FOR URBAN AREAS—Continued

MSA area	Wage index
Hartford, CT	
Litchfield, CT	
Middlesex, CT	
Tolland, CT	
Hickory, NC	.9503
Alexander, NC	
Burke, NC	
Catawba, NC	
Honolulu, HI	1.1471
Honolulu, HI	
Houma-Thibodaux, LA	.9786
Lafourche, LA	
Terrebonne, LA	
Houston, TX	1.1119
Fort Bend, TX	
Harris, TX	
Liberty, TX	
Montgomery, TX	
Waller, TX	
Huntington-Ashland, WV-KY-OH	.9609
Boyd, KY	
Carter, KY	
Greenup, KY	
Lawrence, OH	
Cabell, WV	
Wayne, WV	
Huntsville, AL	.8989
Madison, AL	
Indianapolis, IN	1.0555
Boone, IN	
Hamilton, IN	
Hancock, IN	
Hendricks, IN	
Johnson, IN	
Marion, IN	
Morgan, IN	
Shelby, IN	
Iowa City, IA	1.1423
Johnson, IA	
Jackson, MI	[1] 1.0281
Jackson, MI	
Jackson, MS	.9110
Hinds, MS	
Madison, MS	
Rankin, MS	
Jacksonville, FL	.9814
Clay, FL	
Duval, FL	
Nassau, FL	
St. Johns, FL	
Jacksonville, NC	[1].8848
Onslow, NC	
Janesville-Beloit, WI	.9907
Rock, WI	
Jersey City, NJ	1.0913
Hudson, NJ	
Johnson City-Kingsport-Bristol, TN–VA	.9240
Carter, TN	
Hawkins, TN	
Sullivan, TN	
Unicoi, TN	
Washington, TN	
Bristol City, VA	
Scott, VA	
Washington, VA	
Johnstown, PA	1.0284
Cambria, PA	
Somerset, PA	
Joliet, IL	1.0869
Grundy, IL	
Will, IL	
Joplin, MO	.9579
Jasper, MO	
Newton, MO	
Kalamazoo, MI	1.2268
Kalamazoo, MI	
Kankakee, IL	.9143
Kankakee, IL	
Kansas City, KS	.9764
Johnson, KS	
Leavenworth, KS	
Miami, KS	
Wyandotte, KS	
Kansas City, MO	.9810

TABLE 4a.—WAGE INDEX FOR URBAN AREAS—Continued

MSA area	Wage index
Cass, MO Clay, MO Jackson, MO Lafayette, MO Platte, MO Ray, MO	
Kenosha, WI	[1]1.0313
Kenosha, WI	
Killeen-Temple, TX	.9402
Bell, TX Coryell, TX	
Knoxville, TN	.9186
Anderson, TN Blount, TN Grainger, TN Jefferson, TN Knox, TN Sevier, TN Union, TN	
Kokomo, IN	.9618
Howard, IN Tipton, IN	
LaCrosse, WI	[1].9402
LaCrosse, WI	
Lafayette, LA	1.0162
Lafayette, LA St. Martin, LA	
Lafayette, IN	.9112
Tippecanoe, IN	
Lake Charles, LA	.9942
Calcasieu, LA	
Lake County, IL	1.1066
Lake, IL	
Lakeland-Winter Haven, FL	.9276
Polk, FL	
Lancaster, PA	1.0372
Lancaster, PA	
Lansing-East Lansing, MI	1.0514
Clinton, MI Eaton, MI Ingham, MI	
Laredo, TX	[1].8561
Webb, TX	
Las Cruces, NM	[1].8455
Dona Ana, NM	
Las Vegas, NV	1.2190
Clark, NV	
Lawrence, KS	[1].9797
Douglas, KS	
Lawton, OK	[1].9276
Comanche, OH	
Lewiston-Auburn, ME	[1].9177
Androscoggin, ME	
Lexington-Fayette, KY	.9574
Bourbon, KY Clark, KY Fayette, KY Jessamine, KY Scott, KY Woodford, KY	
Lima, OH	.9967
Allen, OH Auglaize, OH	
Lincoln, NE	.9570
Lancaster, NE	
Little Rock-North Little Rock, AR	1.0183
Faulkner, AR Lonoke, AR Pulaski, AR Saline, AR	
Longview-Marshall, TX	.9561
Gregg, TX Harrison, TX	
Lorain-Elyria, OH	1.0549
Lorain, OH	
Los Angeles-Long Beach, CA	1.3037
Los Angeles, CA	
Louisville, KY–IN	1.0554
Clark, IN Floyd, IN Harrison, IN Bullitt, KY Jefferson, KY Oldham, KY Shelby, KY	
Lubbock, TX	1.0097
Lubbock, TX	
Lynchburg, VA	.9240

TABLE 4a.—WAGE INDEX FOR URBAN AREAS—Continued

MSA area	Wage index
Amherst, VA Campbell, VA Lynchburg City, VA	
Macon-Warner Robins, GA	.9853
Bibb, GA Houston, GA Jones, GA Peach, GA	
Madison, WI	1.0259
Dane, WI	
Manchester-Nashua, NH	.9346
Hillsboro, NH Merrimack, NH	
Mansfield, OH	.9177
Richland, OH	
McAllen-Edinburg-Mission, TX	.8378
Hidalgo, TX	
Medford, OR	.9853
Jackson, OR	
Melbourne-Titusville-Palm Bay, FL	.9333
Brevard, FL	
Memphis, TN–AR/MS	1.0766
Crittenden, AR De Soto, MS Shelby, TN Tipton, TN	
Miami-Hialeah, FL	1.1492
Dade, FL	
Middlesex-Somerset-Hunterdon, NJ	1.0833
Hunterdon, NJ Middlesex, NJ Somerset, NJ	
Midland, TX	1.0783
Midland, TX	
Milwaukee, WI	1.0522
Milwaukee, WI Ozaukee, WI Washington, WI Waukesha, WI	
Minneapolis-St. Paul, MN–WI	1.0271
Anoka, MN Carver, MN Chisago, MN Dakota, MN Hennepin, MN Isanti, MN Ramsey, MN Scott, MN Washington, MN Wright, MN St. Croix, WI	
Mobile, AL	.9330
Baldwin, AL Mobile, AL	
Modesto, CA	1.0796
Stanislaus, CA	
Monmouth-Ocean, NJ	.9863
Monmouth, NJ Ocean, NJ	
Monroe, LA	.9550
Ouachita, LA	
Montgomery, AL	.9726
Autauga, AL Elmore, AL Montgomery, AL	
Muncie, IN	[1].9789
Delaware, IN	
Muskegon, MI	.9326
Muskegon, MI	
Nashville, TN	1.2267
Cheatham, TN Davidson, TN Dickson, TN Robertson, TN Rutherford, TN Sumner, TN Williamson, TN Wilson, TN	
Nassau-Suffolk, NY	1.2093
Nassau, NY Suffolk, NY	
New Bedford-Fall River-Attleboro, MA	.9662
Bristol, MA	
New Haven-Waterbury-Meriden, CT	1.0667
New Haven, CT	
New London-Norwich, CT	1.0667
New London, CT	
New Orleans, LA	1.0184

TABLE 4a.—WAGE INDEX FOR URBAN AREAS—Continued

MSA area	Wage index
Jefferson, LA Orleans, LA St. Bernard, LA St. Charles, LA St. John The Baptist, LA St. Tammany, LA	
New York, NY	1.3657
Bronx, NY Kings, NY New York City, NY Putnam, NY Queens, NY Richmond, NY Rockland, NY Westchester, NY	
Newark, NJ	1.1288
Essex, NJ Morris, NJ Sussex, NJ Union, NJ	
Niagara Falls, NY	.8741
Niagara, NY	
Norfolk-Virginia Beach-Newport News, VA	.9783
Chesapeake City, VA Gloucester, VA Hampton City, VA James City Co., VA Newport News City, VA Norfolk City, VA Poquoson, VA Portsmouth City, VA Suffolk City, VA Virginia Beach City, VA Williamsburg City, VA York, VA	
Oakland, CA	1.2815
Alameda, CA Contra Costa, CA	
Ocala, FL	[1]1.0100
Marion, FL	
Odessa, TX	[1].9776
Ector, TX	
Oklahoma City, OK	1.0573
Canadian, OK Cleveland, OK Logan, OK McClain, OK Oklahoma, OK Pottawatomie, OK	
Olympia, WA	[1]1.0573
Thurston, WA	
Omaha, NE–IA	.8944
Pottawattamie, IA Douglas, NE Sarpy, NE Washington, NE	
Orange County, NY	1.0061
Orange, NY	
Orlando, FL	1.0146
Orange, FL Osceola, FL Seminole, FL	
Owensboro, KY	[1].8648
Daviess, KY	
Oxnard-Ventura, CA	1.1987
Ventura, CA	
Panama City, FL	[1].9077
Bay, FL	
Parkersburg-Marietta, WV–OH	.9953
Washington, OH Wood, WV	
Pascagoula, MS	[1]1.0139
Jackson, MS	
Pensacola, FL	.9110
Escambia, FL Santa Rosa, FL	
Peoria, IL	1.1158
Peoria, IL Tazewell, IL Woodford, IL	
Philadelphia, PA–NJ	1.1760
Burlington, NJ Camden, NJ Gloucester, NJ Bucks, PA Chester, PA Delaware, PA Montgomery, PA Philadelphia, PA	
Phoenix, AZ	1.1122

TABLE 4a.—WAGE INDEX FOR URBAN AREAS—Continued

MSA area	Wage index
Maricopa, AZ	
Pine Bluff, AR	[1].8774
Jefferson, AR	
Pittsburgh, PA	1.1387
Allegheny, PA	
Fayette, PA	
Washington, PA	
Westmoreland, PA	
Pittsfield, MA	.9615
Berkshire, MA	
Portland, ME	.9654
Cumberland, ME	
Sagadahoc, ME	
York, ME	
Portland, OR	1.1194
Clackamas, OR	
Multnomah, OR	
Washington, OR	
Yamhill, OR	
Portsmouth-Dover-Rochester, NH	.8455
Rockingham, NH	
Strafford, NH	
Poughkeepsie, NY	1.0919
Dutchess, NY	
Providence-Pawtucket-Woonsocket, RI	.9773
Bristol, RI	
Kent, RI	
Newport, RI	
Providence, RI	
Washington, RI	
Provo-Orem, UT	.9471
Utah, UT	
Pueblo, CO	1.1600
Pueblo, CO	
Racine, WI	1.0014
Racine, WI	
Raleigh-Durham, NC	1.0139
Durham, NC	
Franklin, NC	
Orange, NC	
Wake, NC	
Reading, PA	1.0265
Berks, PA	
Redding, CA	1.0544
Shasta, CA	
Reno, NV	1.2966
Washoe, NV	
Richland-Kennewick-Pasco, WA	.9547
Benton, WA	
Franklin, WA	
Richmond-Petersburg, VA	.8966
Charles City Co., VA	
Chesterfield, VA	
Colonial Heights City, VA	
Dinwiddie, VA	
Goochland, VA	
Hanover, VA	
Henrico, VA	
Hopewell City, VA	
New Kent, VA	
Petersburg City, VA	
Powhatan, VA	
Prince George, VA	
Richmond City, VA	
Riverside-San Bernardino, CA	1.1793
Riverside, CA	
San Bernardino, CA	
Roanoke, VA	1.0019
Botetourt, VA	
Roanoke, VA	
Roanoke City, VA	
Salem City, VA	
Rochester, MN	1.0255
Olmsted, MN	
Rochester, NY	1.0379
Livingston, NY	
Monroe, NY	
Ontario, NY	
Orleans, NY	
Wayne, NY	
Rockford, IL	1.0432
Boone, IL	
Winnebago, IL	
Sacramento, CA	1.1422
Eldorado, CA	
Placer, CA	
Sacramento, CA	
Yolo, CA	
Saginaw-Bay City-Midland, MI	1.0060

TABLE 4a.—WAGE INDEX FOR URBAN AREAS—Continued

MSA area	Wage index
Bay, MI	
Midland, MI	
Saginaw, MI	
St. Cloud, MN	.8908
Benton, MN	
Sherburne, MN	
Stearns, MN	
St. Joseph, MO	.9878
Buchanan, MO	
St. Louis, MO-IL	1.0716
Monroe, IL	
Franklin, MO	
Jefferson, MO	
St. Charles, MO	
St. Louis, MO	
St. Louis City, MO	
Salem, OR	1.0580
Marion, OR	
Polk, OR	
Salinas-Seaside-Monterey, CA	1.2769
Monterey, CA	
Salt Lake City-Ogden, UT	.9666
Davis, UT	
Salt Lake, UT	
Weber, UT	
San Angelo, TX	.8298
Tom Green, TX	
San Antonio, TX	1.0517
Bexar, TX	
Comal, TX	
Guadalupe, TX	
San Diego, CA	1.1607
San Diego, CA	
San Francisco, CA	1.3074
Marin, CA	
San Francisco, CA	
San Mateo, CA	
San Jose, CA	1.2954
Santa Clara, CA	
Santa Barbara-Santa Maria-Lompoc, CA	1.1117
Santa Barbara, CA	
Santa Cruz, CA	1.1387
Santa Cruz, CA	
Santa Rosa-Petaluma, CA	1.1832
Sonoma, CA	
Sarasota, FL	.9880
Sarasota, FL	
Savannah, GA	.9521
Chatham, GA	
Effingham, GA	
Scranton-Wilkes Barre, PA	.9762
Columbia, PA	
Lackawanna, PA	
Luzerne, PA	
Monroe, PA	
Wyoming, PA	
Seattle, WA	1.0881
King, WA	
Snohomish, WA	
Sharon, PA	.9660
Mercer, PA	
Sheboygan, WI	.8657
Sheboygan, WI	
Sherman-Denison, TX	.9015
Grayson, TX	
Shreveport, LA	1.0656
Bossier, LA	
Caddo, LA	
Sioux City, IA-NE	1.0022
Woodbury, IA	
Dakota, NE	
Sioux Falls, SD	.9448
Minnehaha, SD	
South Bend-Mishawaka, IN	.8969
St. Joseph, IN	
Spokane, WA	1.1193
Spokane, WA	
Springfield, IL	1.1417
Menard, IL	
Sangamon, IL	
Springfield, MO	.9637
Christian, MO	
Greene, MO	
Springfield, MA	.9875
Hampden, MA	
Hampshire, MA	
State College, PA	[1] 1.0678
Centre, PA	
Steubenville-Weirton, OH-WV	.9769

TABLE 4a.—WAGE INDEX FOR URBAN AREAS—Continued

MSA area	Wage index
Jefferson, OH	
Brooke, WV	
Hancock, WV	
Stockton, CA	1.1647
San Joaquin, CA	
Syracuse, NY	1.4557
Madison, NY	
Onondaga, NY	
Oswego, NY	
Tacoma, WA	1.0445
Pierce, WA	
Tallahassee, FL	.9270
Gadsden, FL	
Leon, FL	
Tampa-St. Petersburg-Clearwater, FL	.9963
Hernando, FL	
Hillsborough, FL	
Pasco, FL	
Pinellas, FL	
Terre Haute, IN	.9674
Clay, IN	
Vigo, IN	
Texarkana-TX-Texarkana, AR	1.1104
Miller, AR	
Bowie, TX	
Toledo, OH	1.1330
Fulton, OH	
Lucas, OH	
Wood, OH	
Topeka, KS	1.1131
Shawnee, KS	
Trenton, NJ	1.0366
Mercer, NJ	
Tucson, AZ	1.0161
Pima, AZ	
Tulsa, OK	1.0302
Creeks, OK	
Osage, OK	
Rogers, OK	
Tulsa, OK	
Wagoner, OK	
Tuscaloosa, AL	1.0166
Tuscaloosa, AL	
Tyler, TX	1.0029
Smith, TX	
Utica-Rome, NY	.9361
Herkimer, NY	
Oneida, NY	
Vallejo-Fairfield-Napa, CA	1.3293
Napa, CA	
Solano, CA	
Vancouver, WA	[1] 1.0829
Clark, WA	
Victoria, TX	.9634
Victoria, TX	
Vineland-Millville-Bridgeton, NJ	.9496
Cumberland, NJ	
Visalia-Tulare-Porterville, CA	1.1354
Tulare, CA	
Waco, TX	.9330
McLennan, TX	
Washington, D.C.-MD-VA	1.1637
District of Columbia, DC	
Calvert, MD	
Charles, MD	
Frederick, MD	
Montgomery, MD	
Prince Georges, MD	
Alexandria City, VA	
Arlington, VA	
Fairfax, VA	
Fairfax City, VA	
Falls Church City, VA	
Loudoun, VA	
Manassas City, VA	
Manassas Park City, VA	
Prince William, VA	
Stafford, VA	
Waterloo-Cedar Falls, IA	.9100
Black Hawk, IA	
Bremer, IA	
Wausau, WI	[1] .9815
Marathon, WI	
West Palm Beach-Boca Raton-Delray Beach, FL	.9696
Palm Beach, FL	
Wheeling, WV-OH	.9691

TABLE 4a.—WAGE INDEX FOR URBAN AREAS—Continued

MSA area	Wage index
Belmont, OH Marshall, WV Ohio, WV	
Wichita, KS	1.1213
Butler, KS Sedgwick, KS	
Wichita Falls, TX	.8718
Wichita, TX	
Williamsport, PA	1.0262
Lycoming, PA	
Wilmington, DE-NJ-MD	1.0893
New Castle, DE Cecil, MD Salem, NJ	
Wilmington, NC	.9015
New Hanover, NC	
Worcester-Fitchburg, Leominster, MA	.9769
Worcester, MA	
Yakima, WA	1.0039
Yakima, WA	
York, PA	1.0307
Adams, PA York, PA	
Youngstown-Warren, OH	1.1040
Mahoning, OH Trumbull, OH	
Yuba City, CA	1.0629
Sutter, CA Yuba, CA	

[1] Approximate value for area.

TABLE 4b.—WAGE INDEX FOR RURAL AREAS

Non-MSA area	Wage index
Alabama	.7791
Alaska	1.3788
Arizona	.8948
Arkansas	.7810
California	1.0108
Colorado	.8322
Connecticut	.9973
Delaware	.9015
Florida	.8721
Georgia	.8502
Hawaii	1.1771
Idaho	.9002
Illinois	.8663
Indiana	.8617
Iowa	.8174
Kansas	.8126
Kentucky	.8154
Louisiana	.8358
Maine	.8672
Maryland	.9315
Massachusetts	.9710
Michigan	.9475
Minnesota	.8569
Mississippi	.8020
Missouri	.8297
Montana	.8701
Nebraska	.7426
Nevada	1.0178

TABLE 4b.—WAGE INDEX FOR RURAL AREAS—Continued

Non-MSA area	Wage index
New Hampshire	1.0318
New Jersey [1]	
New Mexico	.9290
New York	.8716
North Carolina	.8503
North Dakota	.8326
Ohio	.9146
Oklahoma	.8592
Oregon	.9562
Pennsylvania	1.0329
Rhode Island [1]	
South Carolina	.8087
South Dakota	.7873
Tennessee	.7876
Texas	.8123
Utah	.8261
Vermont	.8774
Virginia	.8519
Washington	.9486
West Virginia	.9182
Wisconsin	.8302
Wyoming	.9565

[1] All counties within the State are classified urban.

BILLING CODE 4120-03-M

LIST OF DIAGNOSIS RELATED GROUPS (DRGS), RELATIVE WEIGHTING FACTORS, GEOMETRIC MEAN LENGTH OF STAY, AND LENGTH OF STAY OUTLIER CUTOFF POINTS USED IN THE PROSPECTIVE PAYMENT SYSTEM

DRG	MDC		TITLE	RELATIVE WEIGHTS	GEOMETRIC MEAN LOS	OUTLIER CUTOFFS
1	1	SURG	CRANIOTOMY AGE >17 EXCEPT FOR TRAUMA	3.3548	19.4	39
2	1	SURG	CRANIOTOMY FOR TRAUMA AGE >17	3.2829	15.8	36
3	1	SURG	* CRANIOTOMY AGE <18	2.9489	12.7	33
4	1	SURG	SPINAL PROCEDURES	2.2452	16.0	36
5	1	SURG	EXTRACRANIAL VASCULAR PROCEDURES	1.6780	9.8	30
6	1	SURG	CARPAL TUNNEL RELEASE	.3993	2.6	8
7	1	SURG	PERIPH & CRANIAL NERVE & OTHER NERV SYST PROC AGE >69 &/OR C.C.	1.0279	5.3	25
8	1	SURG	PERIPH & CRANIAL NERVE & OTHER NERV SYST PROC AGE <70 W/O C.C.	.7239	4.1	23
9	1	MED	SPINAL DISORDERS & INJURIES	1.3958	9.1	29
10	1	MED	NERVOUS SYSTEM NEOPLASMS AGE >69 AND/OR C.C.	1.3087	9.6	30
11	1	MED	NERVOUS SYSTEM NEOPLASMS AGE <70 W/O C.C.	1.2545	8.5	29
12	1	MED	DEGENERATIVE NERVOUS SYSTEM DISORDERS	1.1136	9.4	29
13	1	MED	MULTIPLE SCLEROSIS & CEREBELLAR ATAXIA	1.0150	8.9	29
14	1	MED	SPECIFIC CEREBROVASCULAR DISORDERS EXCEPT TIA	1.3527	9.9	30
15	1	MED	TRANSIENT ISCHEMIC ATTACKS	.6673	5.6	24
16	1	MED	NONSPECIFIC CEREBROVASCULAR DISORDERS WITH C.C.	.8592	7.4	27
17	1	MED	NONSPECIFIC CEREBROVASCULAR DISORDERS W/O C.C.	.8392	7.2	27
18	1	MED	CRANIAL & PERIPHERAL NERVE DISORDERS AGE >69 AND/OR C.C.	.7915	6.6	27
19	1	MED	CRANIAL & PERIPHERAL NERVE DISORDERS AGE <70 W/O C.C.	.6975	5.7	26
20	1	MED	NERVOUS SYSTEM INFECTION EXCEPT VIRAL MENINGITIS	1.3141	7.6	28
21	1	MED	* VIRAL MENINGITIS	.6301	4.5	15
22	1	MED	HYPERTENSIVE ENCEPHALOPATHY	.7869	6.4	26
23	1	MED	NONTRAUMATIC STUPOR & COMA	1.1568	5.9	26
24	1	MED	SEIZURE & HEADACHE AGE >69 AND/OR C.C.	.7279	5.6	26
25	1	MED	SEIZURE & HEADACHE AGE 18-69 W/O C.C.	.6392	4.9	25
26	1	MED	* SEIZURE & HEADACHE AGE 0-17	.4349	3.3	13
27	1	MED	* TRAUMATIC STUPOR & COMA, COMA >1 HR	1.1368	4.1	24
28	1	MED	TRAUMATIC STUPOR & COMA, COMA <1 HR AGE >69 AND/OR C.C.	1.0701	5.9	26
29	1	MED	* TRAUMATIC STUPOR & COMA <1 HR AGE 18-69 W/O C.C.	.7175	3.8	24
30	1	MED	* TRAUMATIC STUPOR & COMA <1 HR AGE 0-17	.3576	2.0	8
31	1	MED	CONCUSSION AGE >69 AND/OR C.C.	.6051	4.6	25
32	1	MED	CONCUSSION AGE 18-69 W/O C.C.	.4519	3.3	19
33	1	MED	* CONCUSSION AGE 0-17	.2483	1.6	5
34	1	MED	OTHER DISORDERS OF NERVOUS SYSTEM AGE >69 AND/OR C.C.	.9927	7.1	27
35	1	MED	OTHER DISORDERS OF NERVOUS SYSTEM AGE <70 W/O C.C.	.8460	6.2	26
36	2	SURG	RETINAL PROCEDURES	.7093	5.0	15
37	2	SURG	ORBITAL PROCEDURES	.5630	3.4	11
38	2	SURG	PRIMARY IRIS PROCEDURES	.4325	3.0	9
39	2	SURG	LENS PROCEDURES	.5010	2.8	6
40	2	SURG	EXTRAOCULAR PROCEDURES EXCEPT ORBIT AGE >17	.3977	2.4	7
41	2	SURG	* EXTRAOCULAR PROCEDURES EXCEPT ORBIT AGE 0-17	.3695	1.6	4
42	2	SURG	INTRAOCULAR PROCEDURES EXCEPT RETINA, IRIS & LENS	.5906	3.8	12
43	2	MED	* HYPHEMA	.3828	4.2	12
44	2	MED	ACUTE MAJOR EYE INFECTIONS	.6298	6.5	22
45	2	MED	NEUROLOGICAL EYE DISORDERS	.5641	4.3	18

* MEDPAR DATA HAVE BEEN SUPPLEMENTED BY DATA FROM MARYLAND AND MICHIGAN FOR LOW VOLUME DRGS.
** DRG CATEGORIES COMBINED (IN PAIRS) IN THE CALCULATION OF THE CASE MIX INDEX.
*** DRGS 469 AND 470 CONTAIN CASES WHICH COULD NOT BE ASSIGNED TO VALID DRGS.

35970 Federal Register / Vol. 48, No. 171 / Thursday, September 1, 1983 / Rules and Regulations

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DRG	MDC		TITLE	RELATIVE WEIGHTS	GEOMETRIC MEAN LOS	OUTLIER CUTOFFS
46	2	MED	OTHER DISORDERS OF THE EYE AGE >17 WITH C.C.	.5964	4.1	23
47	2	MED	OTHER DISORDERS OF THE EYE AGE >17 W/O C.C.	.5064	3.0	12
48	2	MED	* OTHER DISORDERS OF THE EYE AGE 0-17	.4060	2.9	13
49	3	SURG	MAJOR HEAD & NECK PROCEDURES	2.5270	13.6	34
50	3	SURG	SIALOADENECTOMY	.7160	4.6	14
51	3	SURG	SALIVARY GLAND PROCEDURES EXCEPT SIALOADENECTOMY	.6702	4.2	15
52	3	SURG	* CLEFT LIP & PALATE REPAIR	.6488	3.8	11
53	3	SURG	SINUS & MASTOID PROCEDURES AGE >17	.5895	3.5	11
54	3	SURG	* SINUS & MASTOID PROCEDURES AGE 0-17	.6961	3.2	11
55	3	SURG	MISCELLANEOUS EAR, NOSE & THROAT PROCEDURES	.4153	2.5	7
56	3	SURG	RHINOPLASTY	.4144	2.8	8
57	3	SURG	* T&A PROC EXCEPT TONSILLECTOMY &/OR ADENOIDECTOMY AGE >17	.5251	2.7	9
58	3	SURG	* T&A PROC EXCEPT TONSILLECTOMY &/OR ADENOIDECTOMY AGE 0-17	.3130	1.5	3
59	3	SURG	* TONSILLECTOMY AND/OR ADENOIDECTOMY ONLY AGE >17	.3147	2.0	4
60	3	SURG	* TONSILLECTOMY AND/OR ADENOIDECTOMY ONLY AGE 0-17	.2643	1.5	3
61	3	SURG	* MYRINGOTOMY AGE >17	.4273	2.1	5
62	3	SURG	* MYRINGOTOMY AGE 0-17	.3121	1.3	3
63	3	SURG	OTHER EAR, NOSE & THROAT O.R. PROCEDURES	1.1090	5.8	26
64	3	MED	EAR, NOSE & THROAT MALIGNANCY	1.0812	5.7	26
65	3	MED	DYSEQUILIBRIUM	.4857	4.6	17
66	3	MED	EPISTAXIS	.4116	3.7	15
67	3	MED	* EPIGLOTTITIS	.6762	4.3	17
68	3	MED	OTITIS MEDIA & URI AGE >69 AND/OR C.C.	.6289	6.0	22
69	3	MED	OTITIS MEDIA & URI AGE 18-69 W/O C.C.	.5417	4.8	19
70	3	MED	* OTITIS MEDIA & URI AGE 0-17	.3697	3.1	10
71	3	MED	* LARYNGOTRACHEITIS	.3589	2.9	9
72	3	MED	NASAL TRAUMA & DEFORMITY	.4857	3.8	16
73	3	MED	OTHER EAR, NOSE & THROAT DIAGNOSES AGE >17	.5217	3.5	17
74	3	MED	* OTHER EAR, NOSE & THROAT DIAGNOSES AGE 0-17	.3463	2.1	9
75	4	SURG	MAJOR CHEST PROCEDURES	2.6044	14.4	34
76	4	SURG	O.R. PROC ON THE RESP SYSTEM EXCEPT MAJOR CHEST WITH C.C.	1.8734	10.6	31
77	4	SURG	O.R. PROC ON THE RESP SYSTEM EXCEPT MAJOR CHEST W/O C.C.	1.8178	9.5	30
78	4	MED	PULMONARY EMBOLISM	1.4095	10.4	30
79	4	MED	RESPIRATORY INFECTIONS & INFLAMMATIONS AGE >69 AND/OR C.C.	1.7982	11.2	31
80	4	MED	RESPIRATORY INFECTIONS & INFLAMMATIONS AGE 18-69 W/O C.C.	1.7445	10.9	31
81	4	MED	* RESPIRATORY INFECTIONS & INFLAMMATIONS AGE 0-17	.8743	6.1	26
82	4	MED	RESPIRATORY NEOPLASMS	1.1400	7.4	27
83	4	MED	MAJOR CHEST TRAUMA AGE >69 AND/OR C.C.	.9809	8.1	28
84	4	MED	* MAJOR CHEST TRAUMA AGE <70 W/O C.C.	.7738	5.3	22
85	4	MED	PLEURAL EFFUSION AGE >69 AND/OR C.C.	1.1461	8.4	28
86	4	MED	PLEURAL EFFUSION AGE <70 W/O C.C.	1.1217	7.6	28
87	4	MED	PULMONARY EDEMA & RESPIRATORY FAILURE	1.5529	7.7	28
88	4	MED	CHRONIC OBSTRUCTIVE PULMONARY DISEASE	1.0412	7.5	28
89	4	MED	SIMPLE PNEUMONIA & PLEURISY AGE >69 AND/OR C.C.	1.1029	8.5	29
90	4	MED	SIMPLE PNEUMONIA & PLEURISY AGE 18-69 W/O C.C.	.9849	7.6	28

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DRG	MDC		TITLE	RELATIVE WEIGHTS	GEOMETRIC MEAN LOS	OUTLIER CUTOFFS
91	4	MED	* SIMPLE PNEUMONIA & PLEURISY AGE 0-17	.5131	4.6	14
92	4	MED	INTERSTITIAL LUNG DISEASE AGE >69 AND/OR C.C.	1.0370	7.8	28
93	4	MED	INTERSTITIAL LUNG DISEASE AGE <70 W/O C.C.	.9724	6.9	27
94	4	MED	PNEUMOTHORAX AGE >69 AND/OR C.C.	1.4374	9.2	29
95	4	MED	PNEUMOTHORAX AGE <70 W/O C.C.	1.1252	7.7	28
96	4	MED	BRONCHITIS & ASTHMA AGE >69 AND/OR C.C.	.7996	6.9	24
97	4	MED	BRONCHITIS & ASTHMA AGE 18-69 W/O C.C.	.7256	6.2	21
98	4	MED	* BRONCHITIS & ASTHMA AGE 0-17	.4275	3.7	11
99	4	MED	RESPIRATORY SIGNS & SYMPTOMS AGE >69 AND/OR C.C.	.8035	5.5	26
100	4	MED	RESPIRATORY SIGNS & SYMPTOMS AGE <70 W/O C.C.	.7730	5.1	24
101	4	MED	OTHER RESPIRATORY DIAGNOSES AGE >69 AND/OR C.C.	.9035	6.8	27
102	4	MED	OTHER RESPIRATORY DIAGNOSES AGE <70	.9024	6.1	26
103	5	SURG	* HEART TRANSPLANT	.0000	.0	0
104	5	SURG	** CARDIAC VALVE PROCEDURE WITH PUMP & WITH CARDIAC CATH	6.8527	20.9	41
105	5	SURG	** CARDIAC VALVE PROCEDURE WITH PUMP & W/O CARDIAC CATH	5.2308	16.2	36
106	5	SURG	** CORONARY BYPASS WITH CARDIAC CATH	5.2624	20.4	40
107	5	SURG	** CORONARY BYPASS W/O CARDIAC CATH	3.9891	13.5	34
108	5	SURG	CARDIOTHOR PROC,EXCEPT VALVE & CORONARY BYPASS,WITH PUMP	4.3756	13.3	33
109	5	SURG	CARDIOTHORACIC PROCEDURES W/O PUMP	3.6963	12.1	32
110	5	SURG	MAJOR RECONSTRUCTIVE VASCULAR PROCEDURES AGE >69 AND/OR C.C.	2.9328	14.3	34
111	5	SURG	MAJOR RECONSTRUCTIVE VASCULAR PROCEDURES AGE <70 W/O C.C.	2.5851	13.2	33
112	5	SURG	VASCULAR PROCEDURES EXCEPT MAJOR RECONSTRUCTION	2.3500	11.2	31
113	5	SURG	AMPUTATION FOR CIRC SYSTEM DISORDERS EXCEPT UPPER LIMB & TOE	2.6800	21.6	42
114	5	SURG	UPPER LIMB & TOE AMPUTATION FOR CIRC SYSTEM DISORDERS	2.1067	16.6	37
115	5	SURG	PERMANENT CARDIAC PACEMAKER IMPLANT WITH AMI OR CHF	3.9150	15.8	36
116	5	SURG	PERMANENT CARDIAC PACEMAKER IMPLANT W/O AMI OR CHF	2.8665	9.3	29
117	5	SURG	CARDIAC PACEMAKER REPLACE & REVIS EXC PULSE GEN REPL ONLY	1.8210	6.4	26
118	5	SURG	CARDIAC PACEMAKER PULSE GENERATOR REPLACEMENT ONLY	1.7809	4.2	18
119	5	SURG	VEIN LIGATION & STRIPPING	1.0610	7.2	27
120	5	SURG	OTHER O.R. PROCEDURES ON THE CIRCULATORY SYSTEM	2.5204	15.0	35
121	5	MED	** CIRCULATORY DISORDERS WITH AMI & C.V. COMP. DISCH. ALIVE	1.8648	11.9	32
122	5	MED	** CIRCULATORY DISORDERS WITH AMI W/O C.V. COMP. DISCH. ALIVE	1.3651	9.8	30
123	5	MED	CIRCULATORY DISORDERS WITH AMI, EXPIRED	1.1360	3.1	23
124	5	MED	CIRCULATORY DISORDERS EXC AMI,WITH CARD CATH & COMPLEX DIAG	2.2200	8.4	28
125	5	MED	CIRCULATORY DISORDERS EXC AMI,WITH CARD CATH W/O COMPLEX DIAG	1.6455	5.0	25
126	5	MED	ACUTE & SUBACUTE ENDOCARDITIS	2.6645	18.4	38
127	5	MED	HEART FAILURE & SHOCK	1.0408	7.8	28
128	5	MED	DEEP VEIN THROMBOPHLEBITIS	.8639	9.6	28
129	5	MED	CARDIAC ARREST	1.5506	4.6	25
130	5	MED	PERIPHERAL VASCULAR DISORDERS AGE >69 AND/OR C.C.	.9645	7.1	27
131	5	MED	PERIPHERAL VASCULAR DISORDERS AGE <70 W/O C.C.	.9491	6.4	26
132	5	MED	ATHEROSCLEROSIS AGE >69 AND/OR C.C.	.9182	6.7	27
133	5	MED	ATHEROSCLEROSIS AGE <70 W/O C.C.	.8599	5.2	25
134	5	MED	HYPERTENSION	.7049	6.1	26
135	5	MED	CARDIAC CONGENITAL & VALVULAR DISORDERS AGE >69 AND/OR C.C.	.9922	6.1	26

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DRG	MDC		TITLE	RELATIVE WEIGHTS	GEOMETRIC MEAN LOS	OUTLIER CUTOFFS
136	5	MED	CARDIAC CONGENITAL + VALVULAR DISORDERS AGE 18-69 W/O C.C.	.9674	4.9	25
137	5	MED	* CARDIAC CONGENITAL + VALVULAR DISORDERS AGE 0-17	.6381	3.3	20
138	5	MED	CARDIAC ARRHYTHMIA + CONDUCTION DISORDERS AGE >69 AND/OR C.C.	.9297	5.7	26
139	5	MED	CARDIAC ARRHYTHMIA + CONDUCTION DISORDERS AGE <70 W/O C.C.	.8303	4.8	23
140	5	MED	ANGINA PECTORIS	.7548	5.5	21
141	5	MED	SYNCOPE + COLLAPSE AGE >69 AND/OR C.C.	.6475	5.0	21
142	5	MED	SYNCOPE + COLLAPSE AGE <70 W/O C.C.	.5680	4.3	18
143	5	MED	CHEST PAIN	.6814	4.4	19
144	5	MED	OTHER CIRCULATORY DIAGNOSES WITH C.C.	1.1267	7.0	27
145	5	MED	OTHER CIRCULATORY DIAGNOSES W/O C.C.	1.0020	6.4	26
146	6	SURG	RECTAL RESECTION AGE >69 AND/OR C.C.	2.7082	19.1	39
147	6	SURG	RECTAL RESECTION AGE <70 W/O C.C.	2.5087	17.9	38
148	6	SURG	MAJOR SMALL + LARGE BOWEL PROCEDURES AGE >69 AND/OR C.C.	2.5493	17.0	37
149	6	SURG	MAJOR SMALL + LARGE BOWEL PROCEDURES AGE <70 W/O C.C.	2.2154	15.2	35
150	6	SURG	PERITONEAL ADHESIOLYSIS AGE >69 AND/OR C.C.	2.3746	15.3	35
151	6	SURG	PERITONEAL ADHESIOLYSIS AGE <70 W/O C.C.	2.0274	13.4	33
152	6	SURG	MINOR SMALL + LARGE BOWEL PROCEDURES AGE >69 AND/OR C.C.	1.4851	10.6	31
153	6	SURG	MINOR SMALL + LARGE BOWEL PROCEDURES AGE <70 W/O C.C.	1.2599	9.3	29
154	6	SURG	STOMACH, ESOPHAGEAL + DUODENAL PROCEDURES AGE >69 AND/OR C.C.	2.6901	14.8	35
155	6	SURG	STOMACH, ESOPHAGEAL + DUODENAL PROCEDURES AGE 18-69 W/O C.C.	2.3336	13.0	33
156	6	SURG	* STOMACH, ESOPHAGEAL + DUODENAL PROCEDURES AGE 0-17	.8470	6.0	20
157	6	SURG	ANAL PROCEDURES AGE >69 AND/OR C.C.	.7985	6.0	25
158	6	SURG	ANAL PROCEDURES AGE <70 W/O C.C.	.6408	5.2	19
159	6	SURG	HERNIA PROCEDURES EXCEPT INGUINAL + FEMORAL AGE >69 AND/OR C.C.	.9297	7.1	23
160	6	SURG	HERNIA PROCEDURES EXCEPT INGUINAL + FEMORAL AGE 18-69 W/O C.C.	.7676	6.0	18
161	6	SURG	INGUINAL + FEMORAL HERNIA PROCEDURES AGE >69 AND/OR C.C.	.7068	5.7	16
162	6	SURG	INGUINAL + FEMORAL HERNIA PROCEDURES AGE 18-69 W/O C.C.	.5854	4.8	12
163	6	SURG	* HERNIA PROCEDURES AGE 0-17	.4358	2.1	6
164	6	SURG	APPENDECTOMY WITH COMPLICATED PRINC. DIAG AGE>69 AND/OR C.C.	1.8320	11.9	32
165	6	SURG	APPENDECTOMY WITH COMPLICATED PRINC. DIAG AGE <70 W/O C.C.	1.6154	11.3	29
166	6	SURG	APPENDECTOMY W/O COMPLICATED PRINC. DIAG AGE >69 AND/OR C.C.	1.4328	9.4	29
167	6	SURG	APPENDECTOMY W/O COMPLICATED PRINC. DIAG AGE <70 W/O C.C.	1.0818	7.4	22
168	6	SURG	PROCEDURES ON THE MOUTH AGE >69 AND/OR C.C.	.8631	4.3	24
169	6	SURG	PROCEDURES ON THE MOUTH AGE <70 W/O C.C.	.8992	4.2	24
170	6	SURG	OTHER DIGESTIVE SYSTEM PROCEDURES AGE >69 AND/OR C.C.	2.6602	14.6	35
171	6	SURG	OTHER DIGESTIVE SYSTEM PROCEDURES AGE <70 W/O C.C.	2.3976	13.3	33
172	6	MED	DIGESTIVE MALIGNANCY AGE >69 AND/OR C.C.	1.2268	8.2	28
173	6	MED	DIGESTIVE MALIGNANCY AGE <70 W/O C.C.	1.0517	6.7	27
174	6	MED	G.I. HEMORRHAGE AGE >69 AND/OR C.C.	.9281	6.7	27
175	6	MED	G.I. HEMORRHAGE AGE <70 W/O C.C.	.8236	5.8	24
176	6	MED	COMPLICATED PEPTIC ULCER	1.2438	8.1	28
177	6	MED	UNCOMPLICATED PEPTIC ULCER >69 AND/OR C.C.	.7422	6.6	24
178	6	MED	UNCOMPLICATED PEPTIC ULCER <70 W/O C.C.	.6141	5.5	20
179	6	MED	INFLAMMATORY BOWEL DISEASE	1.0153	8.0	28
180	6	MED	G.I. OBSTRUCTION AGE >69 AND/OR C.C.	.8197	6.2	26

* MEDPAR DATA HAVE BEEN SUPPLEMENTED BY DATA FROM MARYLAND AND MICHIGAN FOR LOW VOLUME DRGS.
** DRG CATEGORIES COMBINED, (IN PAIRS) IN THE CALCULATION OF THE CASE MIX INDEX.
*** DRGS 469 AND 470 CONTAIN CASES WHICH COULD NOT BE ASSIGNED TO VALID DRGS.

TABLE 5 Page 5 of 11

LIST OF DIAGNOSIS RELATED GROUPS (DRGS), RELATIVE WEIGHTING FACTORS, GEOMETRIC MEAN LENGTH OF STAY, AND LENGTH OF STAY OUTLIER CUTOFF POINTS USED IN THE PROSPECTIVE PAYMENT SYSTEM

DRG	MDC		TITLE	RELATIVE WEIGHTS	GEOMETRIC MEAN LOS	OUTLIER CUTOFFS
181	6	MED	G.I. OBSTRUCTION AGE <70 W/O C.C.	.7845	5.9	26
182	6	MED	ESOPHAGITIS,GASTRCENT.+ MISC. DIGEST. DIS AGE >69 +/OR C.C.	.6185	5.4	22
183	6	MED	ESOPHAGITIS,GASTRCENT.+ MISC. DIGEST. DIS AGE 18-69 W/O C.C.	.5682	4.8	19
184	6	MED	* ESOPHAGITIS, GASTROENTERITIS + MISC. DIGEST. DISORDERS AGE 0-17	.3822	3.3	11
185	6	MED	DENTAL + ORAL DIS. EXC EXTRACTIONS + RESTORATIONS,AGE >17	.6681	4.2	24
186	6	MED	* DENTAL + ORAL DIS. EXC EXTRACTIONS + RESTORATIONS,AGE 0-17	.4155	2.9	11
187	6	MED	DENTAL EXTRACTIONS + RESTORATIONS	.3990	2.7	8
188	6	MED	OTHER DIGESTIVE SYSTEM DIAGNOSES AGE >69 AND/OR C.C.	.7444	5.1	25
189	6	MED	OTHER DIGESTIVE SYSTEM DIAGNOSES AGE 18-69 W/O C.C.	.6576	4.5	23
190	6	MED	* OTHER DIGESTIVE SYSTEM DIAGNOSES AGE 0-17	.3379	2.1	8
191	7	SURG	MAJOR PANCREAS, LIVER + SHUNT PROCEDURES	4.1791	20.8	41
192	7	SURG	* MINOR PANCREAS, LIVER + SHUNT PROCEDURES	3.9197	20.1	40
193	7	SURG	BILIARY TRACT PROC EXC TOT CHOLECYSTECTOMY AGE >69 +/OR C.C.	2.4513	17.3	37
194	7	SURG	BILIARY TRACT PROC EXC TOT CHOLECYSTECTOMY AGE <70 W/O C.C.	1.9881	13.9	34
195	7	SURG	** TOTAL CHOLECYSTECTOMY WITH C.D.E. AGE >69 AND/OR C.C.	2.1690	16.8	36
196	7	SURG	** TOTAL CHOLECYSTECTOMY WITH C.D.E. AGE <70 W/O C.C.	2.0594	15.8	36
197	7	SURG	** TOTAL CHOLECYSTECTOMY W/O C.D.E. AGE >69 AND/OR C.C.	1.4868	11.5	29
198	7	SURG	** TOTAL CHOLECYSTECTOMY W/O C.D.E. AGE <70 W/O C.C.	1.2752	10.1	24
199	7	SURG	HEPATOBILIARY DIAGNOSTIC PROCEDURE FOR MALIGNANCY	2.4574	17.9	38
200	7	SURG	HEPATOBILIARY DIAGNOSTIC PROCEDURE FOR NON-MALIGNANCY	2.5818	15.1	35
201	7	SURG	OTHER HEPATOBILIARY OR PANCREAS O.R. PROCEDURES	2.7291	16.9	37
202	7	MED	CIRRHOSIS + ALCOHOLIC HEPATITIS	1.1965	9.3	29
203	7	MED	MALIGNANCY OF HEPATOBILIARY SYSTEM OR PANCREAS	1.0937	8.0	28
204	7	MED	DISORDERS OF PANCREAS EXCEPT MALIGNANCY	.9682	7.5	28
205	7	MED	DISORDERS OF LIVER EXC MALIG,CIRR,ALC HEPA AGE >69 AND/OR C.C.	1.0822	7.9	28
206	7	MED	DISORDERS OF LIVER EXC MALIG,CIRR,ALC HEPA AGE <70 W/O C.C.	.9247	6.8	27
207	7	MED	DISORDERS OF THE BILIARY TRACT AGE >69 AND/OR C.C.	.8492	6.6	27
208	7	MED	DISORDERS OF THE BILIARY TRACT AGE <70 W/O C.C.	.7315	5.5	24
209	8	SURG	MAJOR JOINT PROCEDURES	2.2912	17.1	37
210	8	SURG	HIP + FEMUR PROCEDURES EXCEPT MAJOR JOINT AGE >69 AND/OR C.C.	2.0833	17.8	38
211	8	SURG	HIP + FEMUR PROCEDURES EXCEPT MAJOR JOINT AGE 18-69 W/O C.C.	1.9530	15.9	36
212	8	SURG	* HIP + FEMUR PROCEDURES EXCEPT MAJOR JOINT AGE 0-17	1.7132	11.1	31
213	8	SURG	AMPUTATIONS FOR MUSCULOSKELETAL SYSTEM + CONN. TISSUE DISORDERS	2.1315	14.3	34
214	8	SURG	BACK + NECK PROCEDURES AGE >69 AND/OR C.C.	1.8427	15.6	36
215	8	SURG	BACK + NECK PROCEDURES AGE <70 W/O C.C.	1.4920	13.0	33
216	8	SURG	BIOPSIES OF MUSCULOSKELETAL SYSTEM + CONNECTIVE TISSUE	1.5596	11.3	31
217	8	SURG	WND DEBRIC + SKN GRFT EXC HAND,FOR MUSCSKELETAL + CONN.TISS.DIS	2.2824	13.1	33
218	8	SURG	LOWER EXTREM + HUMER PROC EXC HIP,FOOT,FEMUR AGE >69 +/OR C.C.	1.4250	10.9	31
219	8	SURG	LOWER EXTREM + HUMER PROC EXC HIP,FOOT,FEMUR AGE 18-69 W/O C.C.	1.0790	8.3	27
220	8	SURG	* LOWER EXTREM + HUMER PROC EXC HIP,FOOT,FEMUR AGE 0-17	.9339	5.3	25
221	8	SURG	KNEE PROCEDURES AGE >69 AND/OR C.C.	1.2727	8.3	28
222	8	SURG	KNEE PROCEDURES AGE <70 W/O C.C.	.9897	6.4	26
223	8	SURG	UPPER EXTREMITY PROC EXC HUMERUS + HAND AGE >69 AND/OR C.C.	1.0723	6.9	27
224	8	SURG	UPPER EXTREMITY PROC EXC HUMERUS + HAND AGE <70 W/O C.C.	.8952	5.6	24
225	8	SURG	FOOT PROCEDURES	.6476	4.8	18

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LIST OF DIAGNOSIS RELATED GROUPS (DRGS), RELATIVE WEIGHTING FACTORS, GEOMETRIC MEAN LENGTH OF STAY, AND LENGTH OF STAY OUTLIER CUTOFF POINTS USED IN THE PROSPECTIVE PAYMENT SYSTEM

DRG	MDC		TITLE	RELATIVE WEIGHTS	GEOMETRIC MEAN LOS	OUTLIER CUTOFFS
226	8	SURG	SOFT TISSUE PROCEDURES AGE >69 AND/OR C.C.	.7984	5.1	25
227	8	SURG	SOFT TISSUE PROCEDURES AGE <70 W/O C.C.	.6337	4.2	18
228	8	SURG	GANGLION (HAND) PROCEDURES	.3626	2.2	7
229	8	SURG	HAND PROCEDURES EXCEPT GANGLION	.5998	3.4	14
230	8	SURG	LOCAL EXCISION + REMOVAL OF INT FIX DEVICES OF HIP + FEMUR	1.3594	8.9	29
231	8	SURG	LOCAL EXCISION + REMOVAL OF INT FIX DEVICES EXCEPT HIP + FEMUR	.9519	5.3	25
232	8	SURG	ARTHROSCOPY	.6063	3.6	15
233	8	SURG	OTHER MUSCULOSKELET SYS + CONN TISS O.R. PROC AGE >69 +/OR C.C.	1.7737	13.1	33
234	8	SURG	OTHER MUSCULOSKELET SYS + CONN TISS O.R. PROC AGE <70 W/O C.C.	1.2454	8.2	28
235	8	MED	FRACTURES OF FEMUR	1.7586	13.6	34
236	8	MED	FRACTURES OF HIP + PELVIS	1.3855	11.9	32
237	8	MED	SPRAINS, STRAINS, + DISLOCATIONS OF HIP, PELVIS + THIGH	.7929	6.4	26
238	8	MED	OSTEOMYELITIS	1.5511	12.3	32
239	8	MED	PATHOLOGICAL FRACTURES + MUSCULOSKELETAL + CONN.TISS.MALIGNANCY	1.0979	9.2	29
240	8	MED	CONNECTIVE TISSUE DISORDERS AGE >69 AND/OR C.C.	.9709	8.6	29
241	8	MED	CONNECTIVE TISSUE DISORDERS AGE <70 W/O C.C.	.9048	8.0	28
242	8	MED	SEPTIC ARTHRITIS	1.5880	11.2	31
243	8	MED	MEDICAL BACK PROBLEMS	.7551	7.5	28
244	8	MED	BONE DISEASES + SEPTIC ARTHROPATHY AGE >69 AND/OR C.C.	.7792	7.5	28
245	8	MED	BONE DISEASES + SEPTIC ARTHROPATHY AGE <70 W/O C.C.	.7177	6.3	26
246	8	MED	NON-SPECIFIC ARTHROPATHIES	.7147	6.8	27
247	8	MED	SIGNS + SYMPTOMS OF MUSCULOSKELETAL SYSTEM + CONN TISSUE	.6559	5.8	26
248	8	MED	TENDONITIS, MYOSITIS + BURSITIS	.6136	5.4	24
249	8	MED	AFTERCARE, MUSCULOSKELETAL SYSTEM + CONNECTIVE TISSUE	1.0203	7.6	28
250	8	MED	FX,SPRNS,STRNS + CISL OF FOREARM,HAND,FOOT AGE >69 +/OR C.C.	.7428	6.0	26
251	8	MED	FX,SPRNS,STRNS + CISL OF FOREARM,HAND,FOOT AGE 18-69 W/O C.C.	.5964	4.2	24
252	8	MED	* FX,SPRNS,STRNS + CISL OF FOREARM,HAND,FOOT AGE 0-17	.3533	1.8	7
253	8	MED	FX,SPRNS,STRNS + CISL OF UPARM,LOWLEG EX FOOT AGE >69 +/OR C.C.	.7466	6.6	27
254	8	MED	FX,SPRNS,STRNS + CISL OF UPARM,LOWLEG EX FOOT AGE 18-69 W/O C.C.	.6258	5.3	25
255	8	MED	* FX,SPRNS,STRNS + CISL OF UPARM,LOWLEG EX FOOT AGE 0-17	.4687	2.9	15
256	8	MED	OTHER DIAGNOSES OF MUSCULOSKELETAL SYSTEM + CONNECTIVE TISSUE	.8706	6.5	27
257	9	SURG	TOTAL MASTECTOMY FOR MALIGNANCY AGE >69 AND/OR C.C.	1.1085	9.3	25
258	9	SURG	TOTAL MASTECTOMY FOR MALIGNANCY AGE <70 W/O C.C.	1.0729	8.9	21
259	9	SURG	SUBTOTAL MASTECTOMY FOR MALIGNANCY AGE >69 AND/OR C.C.	1.0141	7.4	27
260	9	SURG	SUBTOTAL MASTECTOMY FOR MALIGNANCY AGE <70	.9325	6.4	26
261	9	SURG	BREAST PROC FOR NON-MALIG EXCEPT BIOPSY + LOC EXC	.7329	4.8	19
262	9	SURG	BREAST BIOPSY + LOCAL EXCISION FOR NON-MALIGNANCY	.4617	3.0	10
263	9	SURG	SKIN GRAFTS FOR SKIN ULCER OR CELLULITIS AGE >69 AND/OR C.C.	2.4737	21.3	41
264	9	SURG	SKIN GRAFTS FOR SKIN ULCER OR CELLULITIS AGE <70 W/O C.C.	2.2031	18.2	38
265	9	SURG	* SKIN GRAFTS EXCEPT FOR SKIN ULCER OR CELLULITIS WITH C.C.	1.4959	8.6	29
266	9	SURG	SKIN GRAFTS EXCEPT FOR SKIN ULCER OR CELLULITIS W/O C.C.	.9485	5.9	26
267	9	SURG	PERIANAL + PILONIDAL PROCEDURES	.6113	5.0	18
268	9	SURG	SKIN,SUBCUTANEOUS TISSUE + BREAST PLASTIC PROCEDURES	.5388	3.0	15
269	9	SURG	OTHER SKIN, SUBCUT TISS + BREAST O.R. PROC AGE >69 +/OR C.C.	.9947	5.7	26
270	9	SURG	OTHER SKIN, SUBCUT TISS + BREAST O.R. PROC AGE <70 W/O C.C.	.8123	4.5	25

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TABLE 5 Page 7 of 11

LIST OF DIAGNOSIS RELATED GROUPS (DRGS), RELATIVE WEIGHTING FACTORS, GEOMETRIC MEAN LENGTH OF STAY, AND LENGTH OF STAY OUTLIER CUTOFF POINTS USED IN THE PROSPECTIVE PAYMENT SYSTEM

DRG	MDC		TITLE	RELATIVE WEIGHTS	GEOMETRIC MEAN LOS	OUTLIER CUTOFFS
271	9	MED	SKIN ULCERS	1.3802	12.1	32
272	9	MED	MAJOR SKIN DISORDERS AGE >69 AND/OR C.C.	.8620	7.8	28
273	9	MED	MAJOR SKIN DISORDERS AGE <70 W/O C.C.	.8286	7.3	27
274	9	MED	MALIGNANT BREAST DISORDERS AGE >69 AND/OR C.C.	1.0108	7.5	28
275	9	MED	MALIGNANT BREAST DISORDERS AGE <70 W/C C.C.	.9014	6.4	26
276	9	MED	NON-MALIGANT BREAST DISORDERS	.6066	4.2	22
277	9	MED	CELLULITIS AGE >69 AND/OR C.C.	.8863	8.3	28
278	9	MED	CELLLLITIS AGE 18-69 W/O C.C.	.8096	7.2	27
279	9	MED	* CELLULITIS AGE 0-17	.4789	4.2	13
280	9	MED	TRAUMA TO THE SKIN, SUBCUT TISS + BREAST AGE >69 +/OR C.C.	.6201	5.4	25
281	9	MED	TRAUMA TO THE SKIN, SUBCUT TISS + BREAST AGE 18-69 W/O C.C.	.5377	4.2	23
282	9	MED	* TRAUMA TO THE SKIN, SUBCUT TISS + BREAST AGE 0-17	.3460	2.2	9
283	9	MED	MINOR SKIN DISORDERS AGE >69 AND/OR C.C.	.6394	5.3	25
284	9	MED	MINOR SKIN DISORDERS AGE <70 W/O C.C.	.5971	4.4	24
285	10	SURG	AMPUTATIONS FOR ENDOCRINE,NUTRITIONAL + METABOLIC DISORDERS	2.8658	24.8	44
286	10	SURG	* ADRENAL + PITUITARY PROCEDURES	2.8952	16.1	36
287	10	SURG	SKIN GRAFTS + WOUND DEBRIDE FOR ENDOC,NUTRIT + METAB DISORDERS	2.8143	22.8	43
288	10	SURG	* C.R. PROCEDURES FOR OBESITY	1.5695	10.8	24
289	10	SURG	PARATHYROID PROCEDURES	1.3736	8.3	28
290	10	SURG	THYROID PROCEDURES	.8549	6.0	17
291	10	SURG	* THYROGLOSSAL PROCEDURES	.4909	2.9	8
292	10	SURG	OTHER ENDOCRINE, NUTRIT + METAB O.R. PROC AGE >69 +/OR C.C.	2.0307	10.8	31
293	10	SURG	* OTHER ENDOCRINE, NUTRIT + METAB O.R. PROC AGE <70 W/O C.C.	1.4951	8.0	28
294	10	MED	DIABETES AGE =>36	.8087	7.7	28
295	10	MED	DIABETES AGE 0-35	.7457	5.6	26
296	10	MED	NUTRITIONAL + MISC. METABOLIC DISORDERS AGE >69 AND/OR C.C.	.8979	7.3	27
297	10	MED	NUTRITIONAL + MISC. METABOLIC DISORDERS AGE 18-69 W/O C.C.	.7923	6.0	26
298	10	MED	* NUTRITIONAL + MISC. METABOLIC DISORDERS AGE 0-17	.7538	5.4	25
299	10	MED	INBORN ERRORS OF METABOLISM	.9407	6.8	27
300	10	MED	ENDOCRINE DISORDERS AGE >69 AND/OR C.C.	.9731	7.8	28
301	10	MED	ENDOCRINE DISORDERS AGE <70 W/O C.C.	.8143	6.4	26
302	11	SURG	KIDNEY TRANSPLANT	6.6322	24.1	44
303	11	SURG	KIDNEY,URETER + MAJOR BLADDER PROCEDURE FOR NEOPLASM	2.5397	16.2	36
304	11	SURG	KIDNEY,URETER + MAJ BLDR PROC FOR NON-MALIG AGE >69 +/OR C.C.	1.7952	12.8	33
305	11	SURG	KIDNEY,URETER + MAJ BLDR PROC FOR NON-MALIG AGE <70 W/O C.C.	1.7043	11.9	32
306	11	SURG	PROSTATECTOMY AGE >69 AND/OR C.C.	1.1399	8.6	29
307	11	SURG	PROSTATECTOMY AGE <70 W/O C.C.	.9513	7.2	26
308	11	SURG	MINOR BLADDER PROCEDURES AGE >69 AND/OR C.C.	1.0441	7.1	27
309	11	SURG	MINOR BLADDER PROCEDURES AGE <70 W/O C.C.	.9290	5.7	26
310	11	SURG	TRANSURETHRAL PROCEDURES AGE >69 AND/OR C.C.	.7071	4.9	20
311	11	SURG	TRANSURETHRAL PROCEDURES AGE <70 W/O C.C.	.5871	4.1	18
312	11	SURG	URETHRAL PROCEDURES, AGE >69 AND/OR C.C.	.7424	5.2	22
313	11	SURG	URETHRAL PROCEDURES, AGE 18-69 W/O C.C.	.6897	5.1	21
314	11	SURG	* URETHRAL PROCEDURES, AGE 0-17	.4368	2.3	11
315	11	SURG	OTHER KIDNEY + URINARY TRACT O.R. PROCEDURES	2.4884	9.8	30

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TABLE 5 Page 8 of 11

TABLE 5 Page 8 of 11

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DRG	MDC		TITLE	RELATIVE WEIGHTS	GEOMETRIC MEAN LOS	OUTLIER CUTOFFS
316	11	MED	RENAL FAILURE W/O DIALYSIS	1.3314	6.7	27
317	11	MED	* RENAL FAILURE WITH DIALYSIS	.2385	1.2	3
318	11	MED	KIDNEY + URINARY TRACT NEOPLASMS AGE >69 AND/OR C.C.	.9142	5.5	26
319	11	MED	KIDNEY + URINARY TRACT NEOPLASMS AGE <70 W/O C.C.	.7942	4.2	24
320	11	MED	KIDNEY + URINARY TRACT INFECTIONS AGE >69 AND/OR C.C.	.8123	7.0	27
321	11	MED	KIDNEY + URINARY TRACT INFECTIONS AGE 18-69 W/O C.C.	.6803	5.6	23
322	11	MED	* KIDNEY + URINARY TRACT INFECTIONS AGE 0-17	.4553	3.7	13
323	11	MED	URINARY STONES AGE >69 AND/OR C.C.	.7131	4.9	25
324	11	MED	URINARY STONES AGE <70 W/O C.C.	.5472	3.9	19
325	11	MED	KIDNEY + URINARY TRACT SIGNS + SYMPTOMS AGE >69 AND/OR C.C.	.7247	5.4	25
326	11	MED	KIDNEY + URINARY TRACT SIGNS + SYMPTOMS AGE 18-69 W/O C.C.	.5875	4.3	21
327	11	MED	* KIDNEY + URINARY TRACT SIGNS + SYMPTOMS AGE 0-17	.5027	3.1	14
328	11	MED	URETHRAL STRICTURE AGE >69 AND/OR C.C.	.6508	4.8	22
329	11	MED	URETHRAL STRICTURE AGE 18-69 W/O C.C.	.5326	3.9	17
330	11	MED	* URETHRAL STRICTURE AGE 0-17	.2817	1.6	6
331	11	MED	OTHER KIDNEY + URINARY TRACT DIAGNOSES AGE >69 AND/OR C.C.	.8919	6.3	26
332	11	MED	OTHER KIDNEY + URINARY TRACT DIAGNOSES AGE 18-69 W/O C.C.	.7763	5.8	25
333	11	MED	* OTHER KIDNEY + URINARY TRACT DIAGNOSES AGE 0-17	.5146	3.2	10
334	12	SURG	MAJOR MALE PELVIC PROCEDURES WITH C.C.	1.5612	12.7	30
335	12	SURG	MAJOR MALE PELVIC PROCEDURES W/O C.C.	1.3590	11.8	29
336	12	SURG	TRANSURETHRAL PROSTATECTOMY AGE >69 AND/OR C.C.	1.0079	8.4	22
337	12	SURG	TRANSURETHRAL PROSTATECTOMY AGE <70 W/O C.C.	.8491	7.2	17
338	12	SURG	TESTES PROCEDURES, FOR MALIGNANCY	.9069	6.3	26
339	12	SURG	TESTES PROCEDURES, NON-MALIGNANT AGE >17	.6093	4.5	15
340	12	SURG	* TESTES PROCEDURES, NON-MALIGNANT AGE 0-17	.4381	2.4	7
341	12	SURG	PENIS PROCEDURES	.9983	6.8	23
342	12	SURG	CIRCUMCISION AGE >17	.4228	2.8	10
343	12	SURG	* CIRCUMCISION AGE <17	.3828	1.7	4
344	12	SURG	OTHER MALE REPRODUCTIVE SYSTEM O.R. PROCEDURES FOR MALIGNANCY	1.1284	7.4	27
345	12	SURG	OTHER MALE REPRODUCTIVE SYSTEM O.R. PROC EXCEPT FOR MALIG	.8334	5.6	26
346	12	MED	MALIGNANCY, MALE REPRODUCTIVE SYSTEM, AGE >69 AND/OR C.C.	.9395	6.9	27
347	12	MED	MALIGNANCY, MALE REPRODUCTIVE SYSTEM, AGE <70 W/O C.C.	.8304	5.7	26
348	12	MED	BENIGN PROSTATIC HYPERTROPHY AGE >69 AND/OR C.C.	.8864	6.2	26
349	12	MED	BENIGN PROSTATIC HYPERTROPHY AGE <70 W/O C.C.	.6998	4.9	22
350	12	MED	INFLAMMATION OF THE MALE REPRODUCTIVE SYSTEM	.6096	5.2	22
351	12	MED	* STERILIZATION, MALE	.2655	1.3	3
352	12	MED	OTHER MALE REPRODUCTIVE SYSTEM DIAGNOSES	.6388	4.4	20
353	13	SURG	PELVIC EVISCERATION, RADICAL HYSTERECTOMY + VULVECTOMY	1.9376	12.4	32
354	13	SURG	NON-RADICAL HYSTERECTOMY AGE >69 AND/OR C.C.	1.1108	9.6	20
355	13	SURG	NON-RADICAL HYSTERECTOMY AGE <70 W/O C.C.	1.0156	8.8	17
356	13	SURG	FEMALE REPRODUCTIVE SYSTEM RECONSTRUCTIVE PROCEDURES	.8460	8.1	18
357	13	SURG	UTERUS + ADNEXA PROCEDURES, FOR MALIGNANCY	1.9188	13.9	34
358	13	SURG	UTERUS + ADNEXA PROC FOR NON-MALIGNANCY EXCEPT TUBAL INTERRUPT	1.0890	8.8	28
359	13	SURG	* TUBAL INTERRUPTION FOR NON-MALIGNANCY	.4279	2.3	7
360	13	SURG	VAGINA, CERVIX + VULVA PROCEDURES	.5985	4.2	19

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TABLE 5 Page 9 of 11

LIST OF DIAGNOSIS RELATED GROUPS (DRGS), RELATIVE WEIGHTING FACTORS, GEOMETRIC MEAN LENGTH OF STAY, AND LENGTH OF STAY OUTLIER CUTOFF POINTS USED IN THE PROSPECTIVE PAYMENT SYSTEM

DRG	MDC		TITLE	RELATIVE WEIGHTS	GEOMETRIC MEAN LOS	OUTLIER CUTOFFS
361	13	SURG	* LAPAROSCOPY & ENDOSCOPY (FEMALE) EXCEPT TUBAL INTERRUPTION	.4864	2.6	10
362	13	SURG	* LAPAROSCOPIC TUBAL INTERRUPTION	.3126	1.4	3
363	13	SURG	D&C,CONIZATION & RADIO-IMPLANT, FOR MALIGNANCY	.6516	4.3	18
364	13	SURG	D&C,CONIZATION EXCEPT FOR MALIGNANCY	.4028	2.6	9
365	13	SURG	OTHER FEMALE REPRODUCTIVE SYSTEM O.R. PROCEDURES	1.7965	12.7	33
366	13	MED	MALIGNANCY, FEMALE REPRODUCTIVE SYSTEM AGE >69 AND/OR C.C.	.8444	5.2	25
367	13	MED	MALIGNANCY, FEMALE REPRODUCTIVE SYSTEM AGE <70 W/C C.C.	.5786	3.5	24
368	13	MED	INFECTIONS, FEMALE REPRODUCTIVE SYSTEM	.7944	6.7	27
369	13	MED	MENSTRUAL & OTHER FEMALE REPRODUCTIVE SYSTEM DISORDERS	.6959	5.1	25
370	14	SURG	* CESAREAN SECTION WITH C.C.	.9912	7.6	15
371	14	SURG	* CESAREAN SECTION W/O C.C.	.7535	6.1	10
372	14	MED	* VAGINAL DELIVERY WITH COMPLICATING DIAGNOSES	.5534	3.8	9
373	14	MED	VAGINAL DELIVERY W/O COMPLICATING DIAGNOSES	.4063	3.2	9
374	14	SURG	* VAGINAL DELIVERY WITH STERILIZATION AND/OR D&C	.5492	3.6	7
375	14	SURG	* VAGINAL DELIVERY WITH O.R. PROC EXCEPT STERIL AND/OR D&C	.6889	4.4	15
376	14	MED	* POSTPARTUM DIAGNOSES W/O O.R. PROCEDURE	.4158	2.9	10
377	14	SURG	* POSTPARTUM DIAGNOSES WITH O.R. PROCEDURE	.4761	2.2	8
378	14	MED	* ECTOPIC PREGNANCY	.8094	5.5	11
379	14	MED	* THREATENED ABORTION	.3169	2.2	8
380	14	MED	* ABORTION W/O D&C	.2705	1.5	4
381	14	MED	* ABORTION WITH D&C	.3602	1.4	4
382	14	MED	* FALSE LABOR	.1842	1.2	2
383	14	MED	* OTHER ANTEPARTUM DIAGNOSES WITH MEDICAL COMPLICATIONS	.4317	3.4	14
384	14	MED	* OTHER ANTEPARTUM DIAGNOSES W/O MEDICAL COMPLICATIONS	.3245	2.2	9
385	15		* NEONATES, DIED OR TRANSFERRED	.6883	1.8	14
386	15		* EXTREME IMMATURITY, NEONATE	3.6863	17.9	38
387	15		** PREMATURITY WITH MAJOR PROBLEMS	1.8459	13.3	33
388	15		** PREMATURITY W/O MAJOR PROBLEMS	1.1693	8.6	29
389	15		* FULL TERM NEONATE WITH MAJOR PROBLEMS	.5482	4.7	16
390	15		* NEONATES WITH OTHER SIGNIFICANT PROBLEMS	.3523	3.4	9
391	15		* NORMAL NEWBORNS	.2241	3.1	7
392	16	SURG	SPLENECTOMY AGE >17	2.7746	16.4	36
393	16	SURG	* SPLENECTOMY AGE 0-17	1.5366	9.1	29
394	16	SURG	OTHER O.R. PROCEDURES OF THE BLOOD & BLOOD FORMING ORGANS	1.1146	6.1	26
395	16	MED	RED BLOOD CELL DISORDERS AGE >17	.7839	6.1	26
396	16	MED	* RED BLOOD CELL DISORDERS AGE 0-17	.6295	4.1	18
397	16	MED	COAGULATION DISORDERS	.9863	6.7	27
398	16	MED	RETICULOENDOTHELIAL & IMMUNITY DISORDERS AGE >69 AND/OR C.C.	.8900	6.1	26
399	16	MED	RETICULOENDOTHELIAL & IMMUNITY DISORDERS AGE <70 W/O C.C.	.8459	5.6	26
400	17	SURG	LYMPHOMA OR LEUKEMIA WITH MAJOR O.R. PROCEDURE	2.8272	16.9	37
401	17	SURG	LYMPHOMA OR LEUKEMIA WITH MINOR O.R. PROC AGE >69 AND/OR C.C.	1.2409	8.9	29
402	17	SURG	* LYMPHOMA OR LEUKEMIA WITH MINOR O.R. PROCEDURE AGE <70 W/O C.C.	1.1316	7.1	27
403	17	MED	LYMPHOMA OR LEUKEMIA AGE >69 AND/OR C.C.	1.1715	7.1	27
404	17	MED	LYMPHOMA OR LEUKEMIA AGE 18-69 W/O C.C.	1.1787	6.4	26
405	17	MED	* LYMPHOMA OR LEUKEMIA AGE 0-17	1.0517	4.9	25

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** DRG CATEGORIES COMBINED (IN PAIRS) IN THE CALCULATION OF THE CASE MIX INDEX.
*** DRGS 469 AND 470 CONTAIN CASES WHICH COULD NOT BE ASSIGNED TO VALID DRGS.

TABLE 5 Page 10 of 11

TABLE 5 Page 10 of 11

LIST OF DIAGNOSIS RELATED GROUPS (DRGS), RELATIVE WEIGHTING FACTORS, GEOMETRIC MEAN LENGTH OF STAY, AND LENGTH OF STAY OUTLIER CUTOFF POINTS USED IN THE PROSPECTIVE PAYMENT SYSTEM

DRG	MDC		TITLE	RELATIVE WEIGHTS	GEOMETRIC MEAN LOS	OUTLIER CUTOFFS
406	17	SURG	MYELOPROLIF DISORD OR POORLY DIFF NEOPLASM W MAJ O.R.PROC W C.C.	2.2671	15.0	35
407	17	SURG	MYELOPROLIF DISORD OR POORLY DIFF NEOPL W MAJ O.R.PROC W/O C.C.	2.1366	13.3	33
408	17	SURG	MYELOPROLIF DISORD OR POORLY DIFF NEOPL WITH MINOR O.R.PROC	1.1389	7.1	27
409	17	MED	* RADIOTHERAPY	.8134	5.7	26
410	17	MED	CHEMOTHERAPY	.3527	2.6	12
411	17	MED	HISTORY OF MALIGNANCY W/O ENDOSCOPY	.7221	4.7	25
412	17	MED	HISTORY OF MALIGNANCY WITH ENDOSCOPY	.3400	2.0	8
413	17	MED	OTHR MYELOPROLIF DISORD OR POORLY DIFF NEOPL DX AGE>69 +/OR C.C	1.0975	7.3	27
414	17	MED	OTHR MYELOPROLIF DISORD OR POORLY DIFF NEOPL DX AGE<70 W/O C.C.	1.0359	6.4	26
415	18	SURG	O.R. PROCEDURE FOR INFECTIOUS + PARASITIC DISEASES	3.0027	15.1	35
416	18	MED	SEPTECEMIA AGE >17	1.5504	9.2	29
417	18	MED	* SEPTECEMIA AGE 0-17	.7152	5.2	20
418	18	MED	POSTOPERATIVE + POST-TRAUMATIC INFECTIONS	.9968	8.4	28
419	18	MED	FEVER OF UNKNOWN ORIGIN AGE >69 AND/OR C.C.	.8628	6.9	27
420	18	MED	FEVER OF UNKNOWN ORIGIN AGE 18-69 W/O C.C.	.8022	6.2	26
421	18	MED	VIRAL ILLNESS AGE >17	.6045	5.4	21
422	18	MED	* VIRAL ILLNESS + FEVER OF UNKNOWN ORIGIN AGE 0-17	.4360	3.2	10
423	18	MED	OTHER INFECTIOUS + PARASITIC DISEASES DIAGNOSES	1.2107	8.8	29
424	19	SURG	O.R. PROCEDURES WITH PRINCIPAL DIAGNOSIS OF MENTAL ILLNESS	2.1938	14.2	34
425	19	MED	ACUTE ADJUST REACT + DISTURBANCES OF PSYCHOSOCIAL DYSFUNCTION	.6812	5.8	26
426	19	MED	DEPRESSIVE NEUROSES	.9495	9.4	29
427	19	MED	NEUROSES EXCEPT DEPRESSIVE	.7678	6.9	27
428	19	MED	DISORDERS OF PERSONALITY + IMPULSE CONTROL	.9741	8.3	28
429	19	MED	ORGANIC DISTURBANCES + MENTAL RETARDATION	.9523	8.8	29
430	19	MED	PSYCHOSES	1.0934	10.8	31
431	19	MED	* CHILDHOOD MENTAL DISORDERS	2.2519	15.4	35
432	19	MED	* OTHER DIAGNOSES OF MENTAL DISORDERS	1.0525	7.2	27
433	20		** SUBSTANCE USE + SUBST INDUCED ORGANIC MENTAL DISORDERS, LEFT AMA	.4457	2.5	17
434	20		** DRUG DEPENDENCE	1.0404	9.1	29
435	20		** DRUG USE EXCEPT DEPENDENCE	1.0738	8.0	28
436	20		** ALCOHOL DEPENDENCE	.8853	8.1	28
437	20		** ALCOHOL USE EXCEPT DEPENDENCE	.6183	3.5	24
438	20		** ALCOHOL + SUBSTANCE INDUCED ORGANIC MENTAL SYNDROME	.8420	6.9	27
439	21	SURG	* SKIN GRAFTS FOR INJURIES	1.8219	8.9	29
440	21	SURG	* WOUND DEBRIDEMENTS FOR INJURIES	1.4807	7.2	27
441	21	SURG	* HAND PROCEDURES FOR INJURIES	.7180	3.0	16
442	21	SURG	OTHER O.R. PROCEDURES FOR INJURIES AGE >69 AND/OR C.C.	1.9026	9.1	29
443	21	SURG	OTHER O.R. PROCEDURES FOR INJURIES AGE <70 W/O C.C.	1.5211	6.6	27
444	21	MED	MULTIPLE TRAUMA AGE >69 AND/OR C.C.	.8830	6.7	27
445	21	MED	MULTIPLE TRAUMA AGE 18-69 W/O C.C.	.7530	5.2	25
446	21	MED	* MULTIPLE TRAUMA AGE 0-17	.4846	2.4	10
447	21	MED	ALLERGIC REACTIONS AGE >17	.4785	3.7	19
448	21	MED	* ALLERGIC REACTIONS AGE 0-17	.3505	2.9	*
449	21	MED	TOXIC EFFECTS OF DRUGS AGE >69 AND/OR C.C.	.7331	5.6	26
450	21	MED	TOXIC EFFECTS OF DRUGS AGE 18-69 W/O C.C.	.5957	3.9	23

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TABLE 5 Page 11 of 11

LIST OF DIAGNOSIS RELATED GROUPS (DRGS), RELATIVE WEIGHTING FACTORS, GEOMETRIC MEAN LENGTH OF STAY, AND LENGTH OF STAY OUTLIER CUTOFF POINTS USED IN THE PROSPECTIVE PAYMENT SYSTEM

DRG	MDC		TITLE	RELATIVE WEIGHTS	GEOMETRIC MEAN LOS	OUTLIER CUTOFFS
451	21	MED	* TOXIC EFFECTS OF DRUGS AGE 0-17	.2912	2.1	8
452	21	MED	COMPLICATIONS OF TREATMENT AGE >69 AND/OR C.C.	.8492	5.5	26
453	21	MED	COMPLICATIONS OF TREATMENT AGE <70 W/O C.C.	.9020	5.1	25
454	21	MED	OTHER INJURIES, POISONINGS & TOXIC EFF DIAG AGE >69 AND/OR C.C.	.8224	5.3	25
455	21	MED	* OTHER INJURIES, POISONINGS & TOXIC EFF DIAG AGE <70 W/O C.C.	.6185	3.5	22
456	22		** BURNS, TRANSFERRED TO ANOTHER ACUTE CARE FACILITY	2.0902	11.6	32
457	22		** EXTENSIVE BURNS	6.8631	12.6	33
458	22	SURG	** NON-EXTENSIVE BURNS WITH SKIN GRAFTS	2.8572	18.3	38
459	22	SURG	** NON-EXTENSIVE BURNS WITH WOUND DEBRIDEMENT & OTHER O.R. PROC	2.7568	12.7	33
460	22	MED	** NON-EXTENSIVE BURNS W/O O.R. PROCEDURE	1.4225	9.0	29
461	23	SURG	O.R. PROC WITH DIAGNOSES OF OTHER CONTACT WITH HEALTH SERVICES	1.6507	8.0	28
462	23	MED	* REHABILITATION	1.8268	13.5	34
463	23	MED	SIGNS & SYMPTOMS WITH C.C.	.7702	6.3	26
464	23	MED	SIGNS & SYMPTOMS W/O C.C.	.7322	6.0	26
465	23	MED	** AFTERCARE WITH HISTORY OF MALIGNANCY AS SECONDARY DX	.2071	1.5	4
466	23	MED	** AFTERCARE W/O HISTORY OF MALIGNANCY AS SECONDARY DX	.6377	3.7	24
467	23	MED	OTHER FACTORS INFLUENCING HEALTH STATUS	.9799	6.1	26
468			UNRELATED OR PROCEDURE	2.1037	11.2	31
469			***PDX INVALID AS DISCHARGE DIAGNOSIS	.0000	.0	0
470			***UNGROUPABLE	.0000	.0	0

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VIII. Technical Explanation of the Budget Neutrality Adjustment Methodology

A. *Overview*

Section 1886(e)(1) of the Act requires that, for Federal fiscal years 1984 and 1985, prospective payments be adjusted so that aggregate payments for the operating costs of inpatient hospital services are neither more nor less than we estimate would have been paid under prior legislation for the costs of the same services. To implement this provision, we are making actuarially determined adjustments to the average standardized amounts used to determine Federal national and regional payment rates and to the updating factors used to determine the hospital-specific per case amounts incorporated in the blended transition payment rates for fiscal years 1984 and 1985. Section 1886(d)(6) of the Act requires that the annual published notice of the methodology, data and rates include an explanation of any budget neutrality adjustments. This section is intended to fulfill that requirement.

In determining the amount of the budget neutrality adjustment factors, we have considered all hospital costs, including pass-through costs such as capital-related and direct medical education costs. However, it should be noted that the *aggregate payments* that will be adjusted to be budget neutral do not include payment for capital-related costs or direct medical education costs, payments for hospital and distinct part unit services excluded from the prospective payment system, payment of a return on equity capital, or payments on a reasonable cost basis to hospitals under the prospective payment system for outpatient services.

The budget neutrality adjustments required by the statute are determined by comparing an estimate of fiscal year 1984 reimbursement per discharge, under the law in effect prior to enactment of Pub. L. 98–21, with an estimate of DRG-related payments per discharge (Federal rates, outlier payments, and payments for the indirect costs of medical education, before budget neutral adjustment) and with an estimate of the hospital-specific payments per discharge (before budget neutral adjustment). Therefore, payment under each of the three systems (reasonable cost reimbursement, Federal rates, and hospital-specific rates) must be estimated separately.

Although, for methodological reasons, the budget neutrality adjustment is calculated on a per discharge basis, it should be emphasized that the ultimate comparison is between the aggregate payments to be made under the prospective payment system and the aggregate payments that would have been incurred under the prior legislation. Therefore, changes in hospital behavior from that which would have occurred in the absence of the prospective payment system are required to be taken into account in determining the budget neutrality adjustment if they affect aggregate payment. For example, any expectation of increased admissions beyond the level that would have occurred under prior law would have to be considered in the adjustment. To assist in making the budget neutrality adjustment for, and take account of, fiscal year 1985, HCFA will monitor for changes in hospital behavior attributable to the new system.

Based on the estimates of projected payments under all three systems, we must derive two budget neutrality adjustment factors for Federal fiscal year 1984. The first such factor will be applied in computing Federal regional rates for cost reporting periods beginning during Federal fiscal year 1984. The second budget neutrality adjustment factor will be applied in computing the updating factors used to determine the hospital-specific portion of transition payment rates for cost reporting periods beginning during that fiscal year.

B. *Assumptions and Data*

The Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) established a DRG-adjusted limit on the allowable amount of inpatient operating costs per case and a per case limit on the rate of increase of operating costs of inpatient hospital services. Due to these per case limits, the incentives that influence hospital admission patterns are similar under TEFRA and prospective payment. Accordingly, we have assumed that the number of admissions under both prior law and the prospective payment system will be the same. As a result, the budget neutrality factors can be calculated by comparing reimbursement per discharge for each of the systems, and there is no need to estimate an actual number of hospital admissions.

A hospital will begin receiving payment under the prospective payment system at the beginning of its first cost reporting period starting on or after October 1, 1983. Therefore, most hospitals will not be under the prospective payment system for the entire Federal fiscal year 1984. Hence, the payment per discharge under each of the systems should be estimated only for those portions of hospital cost reporting periods beginning October 1, 1983 or later that overlap Federal fiscal year 1984. To properly compute payment per discharge, total payment is divided by the number of discharges across all hospitals. We developed a distribution of discharges that occur between the start of a hospital's cost reporting period (that starts in Federal fiscal year 1984) and September 30, 1984. This distribution, which was developed from the March 1983 update of the 1982 discharge notice file, was applied to the number of discharges in the hospital's 1981 data. This procedure properly weights the relative sizes of hospitals and cost reporting period distributions for computing payments per discharge.

Since the prospective payment system is to be budget neutral for included hospitals, and since the prospective payment system will not change payments to hospitals that are excluded from that system, excluded hospitals were removed from the determinations (for example, long term care, psychiatric, and children's hospitals). Further, four States (Maryland, Massachusetts, New Jersey, and New York) currently operate alternative reimbursment systems under Medicare waivers. Since payment amounts in these States will not change because of the prospective payment system, hospitals in these States were removed from the determination of payment per discharge under each of the three systems for purposes of determining budget neutrality.

We also assumed that the means of affording exceptions or special treatment for sole community hospitals under different systems would provide comparable relief to those relatively few hospitals that qualify for such exceptions and treatment. Since the amounts of special payments to these hospitals are assumed to be the same under the different systems, the budget neutrality determination is not affected by these payments. Therefore, we did not make explicit allowance for additional payments to these hospitals in our estimates and comparisons.

Section 1881(e)(1) of the Act requires that total payments under the DRG system and under the HSP system be the same as total payments that would have been payable under provisions of the prior law (that is, for fiscal year 1984, the limits that would have been implemented under provisions of TEFRA). To achieve this we have equalized the amounts payable under the Federal rate and HSP systems with those that would have been payable on a periodic basis under TEFRA, not with

the total end-of-year cash amounts. As a result, changes of cash flow, timing of payments, and retroactive payments will not affect the budget neutrality determination.

Operating costs are defined differently under the different systems. We excluded malpractice costs and kidney acquisition costs from operating costs under the TEFRA limits. However, the Federal rate and HSP systems exclude the same kidney acquisition costs but include malpractice costs under operating costs. We must use a method of comparing costs that takes into account "the payment amounts which would have been payable for such services for those same hospitals", as required by law. If we were to compare only the operating costs of the different payment systems we would not fulfill the statutory requirement, since the actual amounts paid are comparable only if we include both operating and nonoperating costs. Hence, nonoperating costs (excluding payments to proprietary hospitals for a return on equity capital) must also be included in the calculation of the budget neutrality adjustment factors. By using total costs, including nonoperating costs, in the comparisons necessary to determine budget neutrality adjustments, we will ensure that the amounts considered under the Federal and hospital-specific rate systems are comparable to amounts payable under prior law.

These comparisons will yield adjustments reflecting differences between the systems in a way that prevents distortions by differing definitions of operating costs. The equations below illustrate that comparing total costs in determining budget neutrality adjustments produces results identical to those that would have been produced using only operating costs under the Federal rate system and comparable costs under the TEFRA system.

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Cost Components under Federal rate and TEFRA systems

Federal rate x budget neutral factor	=	TEFRA operating costs + Malpractice costs
Federal rate x budget neutral factor + (kidney acquisition costs + capital costs + direct medical education costs)	=	TEFRA operating costs + (Malpractice costs + capital costs + kidney acquisition costs + direct medical education costs)
Federal rate x budget neutral factor + Federal system nonoperating costs	=	TEFRA operating costs + TEFRA nonoperating costs

The analysis is identical for the hospital-specific rate system. Note that payments for a return on equity (which are not classified as operating costs) are excluded from the equations. Since the amounts for return on equity differ among the systems, adding in return on equity would unbalance the equations. (Under prior law, which must be reflected in the TEFRA estimates, the rate of return was set at 1.5 times the Hospital Insurance Trust Fund interest rates, whereas under Pub. L. 98–21 the rate of return applicable to the costs related to inpatient hospital services was reduced to 1.0 times that rate.)

C. *Estimated Payment Per Discharge Under Prior Law (TEFRA Limits)*

To estimate payment per discharge under prior law, the TEFRA limits that would have been published must first be determined. These limits are calculated in the same manner as the fiscal year 1983 limits, except that the most recent data available (that is, 1981 cost report and billing data) are used, and the fiscal year 1984 limit is set at 115 percent of the mean, instead of 120 percent of the mean, in accordance with section 1886(a)(1)(A)(ii) of the Act.

To estimate payment per discharge under the TEFRA limits, cost per discharge must be estimated for each hospital and compared to the costs allowable under the TEFRA limits, that is, DRG-adjusted cost per case limits on inpatient operating costs and the separate limit on the rate of increase of those costs. Since the rate of increase target rate percentage is less than the average rate of increase in hospital costs, comparison of the rate of increase target rate percentage to the average rate of increase in hospital costs would lead to the conclusion that all hospitals would be penalized by the rate of increase limit and that no hospital would receive a bonus. (Under section 1886(b)(1) of the Act, a hospital that has per case costs less than its target amount would be paid a bonus of 50 percent of the amount by which the target amount exceeds its cost, or five percent of its target amount, whichever is less. Alternatively, a hospital that has costs in excess of its target amount would, for cost reporting periods beginning in Federal fiscal years 1983 or 1984, be paid only 25 percent of its costs in excess of the target amount.) To overcome this erroneous conclusion, the rate of increase target must be compared to cost increases that vary by hospital.

Hospital cost per discharge data for cost report years 1978, 1979, 1980, and 1981 were analyzed for patterns in rates of increase in costs per discharge. Study found that the statistical distributions of rates of increase in cost per discharge closely fit the normal distribution. Since the second year of TEFRA uses a two-year rate of increase target over the hospital's base year, we analyzed two-year rates of increase and found that a normal distribution with a standard deviation of 12 percent closely approximated the distributions. To compute a hospital's cost per discharge for comparison to the hospital's TEFRA rate-of-increase target amount, the hospital's base year costs were increased by a randomly determined factor. This factor was computed by adding the estimated two-year average rate of increase in cost per case to a random number. This random number is generated from a statistical distribution that is normal with a mean of zero, and has a standard deviation of 12 percent. Further, the random numbers were restricted so that none were further than three standard deviations from the mean. This randomly determined cost per admission for a hospital was compared to the rate of increase limit target amount for determining the reimbursement per discharge under TEFRA. Because of the randomizing process, not all hospitals are shown to be penalized by the targets; hospitals with cost per case over the target amount are shown as receiving one quarter of their excess costs over that limit (in accordance with section 1886(b) of the Act), and some hospitals are shown to receive bonus payments. To measure the overall stability, the model was tested with ten different sets of random numbers and found to be stable.

The cost per discharge that is compared to the TEFRA limits was adjusted by 0.1326 percent before

comparison to the TEFRA limits to account for the shift of certain types of costs to Part A of Medicare because of the regulations on payment for physicians' services to patients and providers, published March 2, 1983. (These rules implement section 1887 of the Act, established by section 108 of TEFRA. (48 FR 8902; 42 CFR 405.480 through 405.482, and 405.550 through 405.556.)) Since this adjustment increases the costs of hospitals below the limits, it will have the effect of raising slightly the estimate on TEFRA payment per discharge.

D. *Estimated Payment on a Federal Rate (DRG) Basis*

The estimated payment per discharge based on DRG-related payments (that is, Federal rates plus outlier payments) was estimated by directly using the adjusted average standardized amounts, adjusted by the applicable wage index, cost of living adjustment (for hospitals in Alaska and Hawaii), and case mix for each hospital. Additional outlier payments were computed using each hospital's historical experience in the MEDPAR file. The payment amounts were further adjusted to include the indirect costs of medical education.

Before the ratio of estimated DRG-related payments to the estimated payments under prior law is computed, the estimated DRG-related payment was increased by 3.38 percent to reflect improvements and greater completeness in the coding of diagnoses and procedures on the bills. This adjustment is necessary because payment will depend on the diagnoses and procedures coded on the bill, and hospitals will have the incentive to be more complete than in the past in reporting diagnoses and procedures.

Hospitals reported diagnoses on the bills that are included in the 1981 MEDPAR data. For a variety of reasons, these diagnoses were not always completely or accurately coded, especially when payment did not depend on the diagnoses coded. Since payments under the prospective system depend on the diagnoses and procedures coded, hospitals will submit complete and accurate data. We studied the differences between bills coded for the MEDPAR and bills coded after medical review. The carefully and completely coded bills were provided from the PSRO Uniform Hospital Discharge Data Set (UHDDS) data base. The data base included about 9 million bills from all States except Nebraska and Texas. The study found that reimbursement under the prospective system using the PSRO data would be 3.38 percent higher than reimbursement using the MEDPAR Data. Since the prospective rates are set using the MEDPAR data, actual reimbursement under the prospective system will be higher than predicted from the MEDPAR data; hence, the factor (3.38 percent) for improvements in diagnostic coding must be used for the budget neutral calculation.

E. *Estimated Hospital-Specific (HSP) Payment Per Discharge*

To properly estimate the payments per discharge based on the hospital-specific rates to be used during the transition period, the hospital's base year cost per case must first be estimated, since actual base year data are not available. To estimate the base year, the 1981 cost report data were adjusted by the change in the nursing differential from 1981 to the base year. These data were updated to the base year and the resulting routine operating costs were compared with the appropriate routine cost limit applicable to base year cost reporting periods, as calculated from the September 30, 1981 **Federal Register** notice, to compute the savings resulting from application of the routine cost limits. Total costs were also reduced by the remainder of the amounts based on the Medicare nursing differential, since section 103 of TEFRA, by amending section 1861(v)(1)(J) of the Act, eliminated this differential effective with services furnished on or after October 1, 1982.

Operating costs were computed by carving out of total costs direct medical education, capital-related, and certain kidney acquisition costs. Operating costs were increased by 0.18 percent and 0.13 percent to adjust, respectively, for the extra estimated costs hospitals will report for their base year because of required coverage of their employees under FICA (as required by section 1886(b)(6) of the Act) and for the requirement that certain services are now required to be paid under Part A of Medicare which were formerly paid under Part B (as required by section 1886(b)(5)(D) of the Act). Operating costs were further increased by 0.1326 percent to account for the shift of certain types of costs to Part A of Medicare because of regulations on payment for physicians' services to patients and providers, published March 2, 1983. (Those rules implement section 1887 of the Act, established by section 108 of TEFRA (48 FR 8902; 42 CFR 405.480 through 405.482, and 405.550 through 405.556.)) The base year operating costs were increased by two years of the market basket index increased by one percentage point for each year. This result was further increased by 3.38 percent to allow for improvements and greater completeness in the coding of diagnoses and procedures. This adjustment, discussed above under the Federal rate system, is necessary because the hospital-specific portion will be adjusted by the DRG weighting factors.

F. Adjustment for Outlier Payments

Sections 1886(d)(2)(E) and (d)(3)(B) of the Act require that the average standardized amounts for the Federal rates be reduced so that, when combined with the outlier payments, the resulting payments will be the same as payments under a DRG-related system with no outlier payments but full standard DRG-adjusted rates.

For cost-reporting periods beginning during Federal fiscal year 1984, transition payment rates will be a blend of 25 percent of the applicable Federal rate and 75 percent of the applicable hospital-specific rate. However, as explained in section III.D. of the preamble to these interim rules, we have decided to pay the full outlier payment for outlier cases, rather than to pay only a percentage equal to the Federal portion percentage of the blended rate. As a result, both the Federal rates and the hospital-specific rates must also be adjusted so that when payments based on them are combined with the outlier payments, the resulting aggregate payments equal the payments from full Federal or hospital-specific rates with no outliers.

The determinations of the outlier payment criteria budget neutrality adjustments was done only with respect to hospitals that will be reimbursed under the prospective payment system, since outlier payments and standard payments under the prospective payment system will not be on behalf of exempt hospitals and hospitals in waiver States. Reimbursement to exempt hospitals and hospitals in waiver States is not changed by the provisions of the prospective payment system.

The outlier criteria were calibrated using experience in the 1981 MEDPAR file so that outlier payments would be 6 percent of standard payments. Since budget neutrality is determined based on total payments, the outlier payments should be compared to total payments (the sum of standard payments and outlier payments). Example: Suppose standard payments are $100 so that the desired outlier payments would be $6. Outlier payments as a percent of total payments would be $6 divided by ($100+$6)=5.7 percent.

The outlier adjustment ratio for Federal rates is calculated by dividing

the total estimated payments on the basis of Federal rates by the sum of the Federal rate payments and the outlier payments. The outlier adjustment ratio for hospital-specific rates is calculated by subtracting the outlier payments (as calculated from the DRG-adjusted Federal rates, as adjusted for outlier payments and budget neutrality) from the hospital-specific payments and dividing the result by the hospital-specific payments. The budget neutrality adjustments are applied to the outlier-adjusted Federal rates and the outlier-adjusted hospital-specific rates.

Example: Computation of outlier adjustment ratios of Federal rates and hospital-specific payments

Estimated Values

Federal rate payment per discharge (before outlier adjustment), $3,403.33
Federal rate outlier payment per discharge (before outlier adjustment)*, $207.44
Hospital-specific payment per discharge (before outlier adjustment), $3,348.96

Computation of Federal Rate Outlier Adjustment ($3,403.33 + $207.44) × Federal rate outlier adjustment = $3,403.33
Federal rate outlier adjustment = $3,403.33 ÷ $3,403.33 + $207.44
Federal rate outlier adjustment = .943
Outlier adjusted Federal rate payment per discharge = $3,403.33 × .943 = $3,209.34.

Computation of Adjusted Outlier Payment per Discharge

To compute the HSP outlier adjustment, we must first determine the outlier payment per discharge as adjusted to take into account outlier and budget neutrality adjustments to the Federal rates. The estimated outlier payment used above was derived from unadjusted Federal rates. Since the actual outlier payments are derived from Federal rates that have already been adjusted for outlier payments and to achieve budget neutrality, the outlier payments will also indirectly reflect those adjustments. To take this into account in computing estimated outlier payments, the outlier payment per discharge must be adjusted by the Federal rate outlier adjustment of .943 and the Federal rate budget neutrality adjustment factor of .969. Therefore, the adjusted outlier payment per discharge (as calculated from the adjusted Federal rate) = $207.44 × .943 × .969 = $189.56

Computation of HSP Outlier Adjustment

($3,348.96 × HSP outlier adjustment) + $189.56 = $3,348.96
HSP outlier adjustment = $3,348.96 − $189.56 ÷ $3,348.96
HSP outlier adjustment = .943
Outlier adjusted HSP standard payment per discharge = $3,348.96 × .943 = $3,158.07

G. *Calculation of Budget Neutrality Adjustment Factors*

As noted above, we must compute two budget neutrality adjustment factors—one for adjusting Federal rates and the other for adjusting the updating factors used to determine the hospital-specific rates.

For the Federal rate system, the following equation must be solved:

(Federal standard (outlier adjusted) payment per discharge + Outlier payment per discharge (computed from outlier adjusted Federal rates)) × Federal rate budget neutral factor (FRBN) + Federal rate system nonoperating cost per discharge = TEFRA operating reimbursement per discharge + TEFRA nonoperating cost per discharge.

Example: Computation of Federal Rate Budget Neutrality Adjustment Factor

Estimated Values

TEFRA operating reimbursement per discharge, $3,266.10
TEFRA nonoperating cost per discharge, $350.06
Federal rate standard payment (outlier adjusted) per discharge; $3,209.34
Federal rate outlier payment (based on above number) per discharge, $195.62
Federal nonoperating cost per discharge, $318.28
Solve:
($3,209.34 + $195.62) × FRBN + $318.28 = $3,266.10 + $350.06
$3,404.96 × FRBN + $318.28 = $3,616.16
FRBN = $3,616.16 − $318.28 ÷ $3,404.96
FRBN = .969

For the HSP system, the following must be solved:

(HSP payment per discharge × hospital-specific budget neutral factor (HSBN) + Outlier payment per discharge adjusted for Federal rate budget neutrality + HSP system nonoperating cost per discharge = TEFRA operating reimbursement per discharge + TEFRA nonoperating cost per discharge.

Example: Computation of Hospital-Specific Rate Budget Neutrality Adjustment Factor

Estimated Values

TEFRA operating reimbursement per discharge, $3,266.10
TEFRA nonoperating cost per discharge, $350.06
HSP payment per discharge (outlier adjusted), $3,158.07
HSP outlier payment per discharge (based on outlier adjusted Federal rates), $195.62
HSP nonoperating cost per discharge, $318.28
Federal rate budget neutral factor (FRBN), .969
Solve:
($3,158.07 × HSBN) + ($195.62 × .969) + $318.28 = $3,266.10 + $350.06
($3,158.07 × HSBN) + $507.84 = $3,616.16
HSBN = $3,616.16 − $507.84 ÷ $3,158.07
HSBN = .984

Note that the HSP budget neutral factor is not applied to the outlier payments. Outlier payments are paid in full based on applicable Federal rates, which already incorporate an adjustment for budget neutrality.

Note that payments per discharge were computed at 100 percent for purposes of the budget neutrality calculations. The calculated budget neutrality adjustment factors would be unchanged if computed from Federal rates at 25 percent compared with payments under prior law at 25 percent, and HSP rates at 75 percent compared with prior law payments at 75 percent.

H. SUMMARY—TABLE OF OUTLIER AND BUDGET NEUTRALITY ADJUSTMENT FACTORS—FEDERAL FISCAL YEAR 1984

Adjustment factors	Federal rates	Hospital-specific rates
Outlier	0.943	0.943
Budget neutrality	0.969	0.984

* This payment per discharge was calculated by applying the cost and length-of-stay outlier criteria to the MEDPAR experience and using all discharges, including discharges for which no outlier payments would be made.

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Part V

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

Surface Coal Mining and Reclamation Operations, Permanent Regulatory Program: Postmining Land Uses and Variances From Approximate Original Contour

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 701, 785, 816, 817, and 824

Surface Coal Mining and Reclamation Operations, Permanent Regulatory Program: Postmining Land Uses and Variances From Approximate Original Contour

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is adopting revised final rules on postmining land uses and on variances from the requirement to restore disturbed areas to their approximate original contour (AOC). These final rules simplify procedures for approval of alternative postmining land uses and broaden the situations under which variances may be obtained from the requirement to restore affected lands to their AOC. These changes will facilitate reclamation and allow operators to take advantage of unique land use development opportunities provided by surface coal mining and reclamation operations.

EFFECTIVE DATE: October 3, 1983.

FOR FURTHER INFORMATION CONTACT: Charles R. Meyers, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, DC 20240; 202–343–5587.

SUPPLEMENTARY INFORMATION:

I. Background.
II Discussion of Rules Adopted and Responses to Comments.
III Procedural Matters.

I. Background

On April 14, 1982 (47 FR 16152), OSM proposed to amend its permanent program rules regarding allowable postmining land uses and regarding the situations under which variances may be granted from the requirement to restore areas disturbed by surface mining and reclamation operations to AOC. After several extensions the comment period closed on September 10, 1982. These final rules finalize the April 14 proposal.

General Performance Standards

Section 515(b) of the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 *et seq* (the Act), contains a number of minimum general performance standards applicable to all surface coal mining and reclamation operations. Section 515(b)(2) of the Act, pertaining to postmining land conditions and uses, requires an operator to—"restore the land affected to a condition capable of supporting the uses which it was capable of supporting prior to any mining, or higher or better uses of which there is reasonable likelihood, so long as such use or uses do not present any actual or probable hazard to public health or safety or pose any actual or probable threat of water diminution or pollution, and the permit applicants' declared proposed land use following reclamation is not deemed to be impractical or unreasonable, inconsistent with applicable land use policies and plans, involves unreasonable delay in implementation, or is violative of Federal, State, or local law."

Section 515(b)(3) of the Act establishes the general AOC restoration standard and requires the operator to—"backfill, compact (where advisable to insure stability or to prevent leaching of toxic materials), and grade in order to restore the approximate original contour of the land with all highwalls, spoil piles, and depressions eliminated (unless small depressions are needed in order to retain moisture to assist revegetation or as otherwise authorized pursuant to this Act) * * *." [Provisos follow for thin and thick overburden situations.]

Section 516(b)(10) of the Act generally imposes the standards of Section 515 of the Act with regard to the surface effects of underground mining.

The postmining land use rules implementing the performance standards of Section 515(b)(2) of the Act were published originally on March 13, 1979 (44 FR 15312) as 30 CFR 816.133 and 817.133.

The AOC restoration (backfilling and grading) rules implementing Section 515(b)(3) of the Act were published originally on March 13, 1979 (44 FR 15312) as 30 CFR 816.101–816.105 and 817 101–817.103, and revised final rules were published on May 24, 1983 (48 FR 23356) as 30 CFR 816.102, 816.104, 816.105, 816.107, 817.102, and 817.107.

Mountaintop removal

Section 515(c) of the Act permits an exception to the AOC restoration requirement for mountaintop removal operations which, after reclamation, would be capable of supporting specified postmining uses. In such operations, "where an entire coal seam or seams running through the upper fraction of a mountain, ridge, or hill" is removed, the operator is permitted to remove all the overburden and to create "a level plateau or a gently rolling contour with no highwalls remaining," instead of restoring AOC. Such land has to be capable of supporting certain specified postmining uses which include "an industrial, commercial, agricultural, residential, or public facility (including recreational facilities) use." The regulatory authority may grant a permit of this nature if a number of additional specific conditions are also satisfied.

Variances from AOC restoration

Section 515(e) of the Act allows "a variance from the requirement to restore [lands] to approximate original contour * * * for surface mining of coal where the owner of the surface knowingly requests, in writing, as a part of the permit application that such a variance be granted so as to render the land, after reclamation, suitable for an industrial, commercial, residential, or public use (including recreational facilities)." Such variances are allowed "provided that the watershed control of the area is improved; and further provided that backfilling with spoil material * * * cover[s] completely the highwall which material will maintain stability following mining and reclamation."

Specific requirements for a variance under Section 515(e) of the Act are that—

(1) "After consultation with the appropriate land use planning agencies, if any, the potential use of the affected land is deemed to constitute an equal or better economic or public use;"

(2) The potential postmining use "is designed and certified by a qualified registered professional engineer in conformance with professional standards established to assure the stability, drainage, and configuration necessary for the intended use of the site;"

(3) "[A]fter approval of the appropriate state environmental agencies, the watershed of the affected land is deemed to be improved;" and

(4)"[O]nly such amount of spoil will be placed off the mine bench as is necessary to achieve the planned postmining land use, insure stability of the spoil retained on the bench," and all other requirements of the Act.

In *In re: Permanent Surface Mining Regulation Litigation*, Civil Action No. 79–1144 (D.D.C., February 26, 1980), pp. 69–70, U.S. District Court Judge Flannery ruled that the provisions of Section 515(e) of the Act apply only to steep slope mining. That is the position OSM took before the district court in that case. However, upon carefully examining the legislative history of Section 515(e), OSM has reconsidered its previous interpretation of that section and has concluded for the

reasons described in detail under "Discussion of Rules Adopted and Responses to Comments" in this preamble that the variance from AOC allowed under Section 515(e) of the Act is not limited to mining on steep slopes.

The two provisions of the Act allowing for exception to the AOC restoration requirement, Sections 515 (c) and (e), were implemented in the March 13, 1979, rules by 30 CFR 785.14 and Part 824 for mountaintop removal mining operations and by 30 CFR 785.16 and 826.15 for steep slope mining operations.

II. Discussion of Rules Adopted and Responses to Comments

After evaluating the comments received, OSM has adopted the rules substantially as proposed for the reasons discussed in the **Federal Register** preamble to the proposal. Section 701.5 contains a definition of the new term "higher or better uses" and revisions to the definition of the term "land use." Section 785.16 contains revisions to the permit requirements for variances from AOC restoration requirements. Sections 816.133 and 817.133 contain revisions to the postmining land use performance standards for surface and underground mining activities. Because these two sections are substantially the same, they are discussed together in the preamble. Final §§816.133(d) and 817.133(d) adopt proposed Alternative A for AOC variances. The following is a discussion of the final rules and the comments received in response to proposed revisions to Parts 701, 785, 816, 817, and 826 of 30 CFR Chapter VII.

Section 701.5 "Land use" definition

The definition of the term "land use" in the previous rule emphasized the use or management aspects of a land parcel, rather than the vegetation or cover of the land surface. In addition, 10 categories of use were defined. The discussion of the land use definition in the preamble to the previous rule (44 FR 14933) stated that "[i]n practice, land use categories will only be used to determine if the postmining use has changed from the premining use. A different or alternative use occurs when any change of use occurs." In the April 14, 1982, proposal, OSM proposed only a minor change in the definition that consisted of removing from the land use categories the repetitive language concerning support facilities that are integral with each use and including similar language in the first paragraph of the definition. The definition has been adopted as proposed.

In addition, the proposal contained a request for comments addressing whether the 10 categories are needed and if consolidation would further the purposes of the Act. Sixteen comments were received pertaining to the subject of land use categories and the specific postmining land uses required to qualify for a variance in Sections 515(c)(3) and 515(e)(2) of the Act. Several commenters recommended specific changes within land use categories or conveyed their support for consolidation of the existing categories.

Two commenters recommended that the categories be retained in detail to provide consistent explanation of each category of land use. This was thought to be necessary to avoid confusion and misunderstanding between the operator, landowner, and the regulatory authority. Another commenter recommended that the categories be consolidated into a general land use definition, thereby giving the regulatory authority proper discretion to make land use decisions.

Another commenter recommended that the categories be modified to clarify which land uses are suitable for a variance. Another commenter recommended deleting all of the land use categories and using only the proposed definition of the phrase "higher or better uses."

After consideration of these comments, OSM has decided to retain the 10 separate land use categories of the previous and proposed rules. These basic land use categories are needed to help identify proposed land use changes that will trigger the requirements of § 816.133(c), which sets criteria under which regulatory authorities may approve alternative postmining land uses that are higher or better uses. Consolidation of these categories into a general land use definition would fail to provide a means to ensure that § 816.133(c) will be applied uniformly and evenhandedly. It could also result in potential problems when applying the minimum revegetation success standards in § 1816.116 which are keyed to specific postmining land uses.

The land use categories identified in the land use definition are more detailed than those identified in Sections 515(c)(3) and 515(e)(2) of the Act because the land use definition is relevant generally and is not limited to variance situations. In Section 515(c)(3) a variance may be granted for mountaintop removal where the planned postmining land use is industrial, commercial, agricultural, residential, or public facility (including recreational facilities). In Section 515(e)(2), an AOC variance is permissible where the planned postmining land use is industrial, commercial, residential, or public (including recreational facilities). The final land use categories adopted in § 701.5 include cropland, pastureland or land occasionally cut for hay, grazingland, forestry, residential, industrial/commercial, recreation, fish and wildlife habitat, developed water resources, and undeveloped land or no current use or land management. Agricultural use is interpreted as including cropland, pastureland or land occasionally cut for hay, grazingland, and forestry.

"Public use" is another term used in the Act and in the rules for which there is no specific land use category. In this regard, two commenters recommended adding a definition of the term "public use." A specific public use definition is unnecessary in the rules and could be confusing because public use overlaps more than one of the existing land use categories. A use is a public use if it involves benefit, utility, or advantage to the public generally or any part of the public, as distinguished from benefitting an individual or a few specific individuals. This interpretation is consistent with the definition provided in "The Language of Cities: A Glossary of Terms," (Charles Abrams, 1971, Viking Press, New York, p. 251). States may add such a definition or other land use definitions if deemed necessary to a State's regulatory program.

Several comments pertaining to specific changes within categories and to editorial changes were also received. One commenter recommended that the definition specify only the use and not the management aspects of the land. Other commenters recommended emphasizing management and omitting the term "specific uses" in the introductory text of the definition. Still other commenters suggested that the definition of fish and wildlife habitat be revised to emphasize management.

OSM agrees that the management activities practiced on the land normally are an accurate reflection of the land's use. In general, as the intensity of the management increases, the land use becomes more well defined. However, in some instances, a specific use can be identified without active management. For this reason, OSM has not altered the definition of the term "fish and wildlife habitat" as suggested by the commenters.

Two commenters voiced agreement with OSM's view stated in the preamble language in the proposal that the categories are not hierarchical.

Another commenter identified a typographical error that has been corrected.

Section 701.5 "Higher or better uses" definition

As described in the preamble to the proposed rule (47 FR 16154), the proposed definition of the term "higher or better uses" was intended to clarify the requirement in §§ 816.133(a) and 817.133(a) relating to restoration of disturbed areas to conditions capable of supporting (1) the premining uses or (2) higher or better uses. OSM received 12 comments on the proposed definition of "higher or better uses." The definition is adopted as proposed, with one change. Under the final rule, "higher or better uses" means those postmining land uses that have a higher economic value or nonmonetary benefit to the landowner or community than the premining land use.

Three commenters supported the definition as proposed and specifically the improvement made by the clarification in the preamble to the proposal of the inclusion of nonmonetary benefits. One of those commenters recommended that further clarification could be made by inserting the word "nonmonetary" in the definition. OSM has accepted this suggested change because it reduces the chance of confusion or misinterpretation of the word "other" in the proposed definition.

Another commenter supported the proposed definition, if used as a guide in evaluating postmining land use. Such usage is OSM's intention. Two commenters criticized the proposed definition and raised questions about specific terms used. One raised the question of who will determine economic value or benefit. It is the regulatory authorities who will determine increased value or benefit of local land use changes. Land use decisions are traditionally made by State and local authorities. OSM anticipates that the regulatory authorities, working with other State agencies and local governments, will develop specific postmining land use criteria that meet their specific geographic conditions.

The other commenter questioned the meaning of the proposed word "community." The word is used in a general manner to indicate postmining land use benefits accruing to a group rather than to an individual such as the landowner. OSM, in its definition of higher or better uses, has provided only the basic limits—both monetary and nonmonetary benefits must be considered, and these benefits can accrue to either the landowner or the community. Further refinement of this definition, if needed, is left to the regulatory authorities.

Three commenters misinterpreted the use of the proposed definition of higher or better uses to be applicable also to proposed §§ 816.133(d)(4) and 817.133(d)(4), which contain the phrase "equal or better economic or public use".

The definition of higher or better uses applies only to that specific term as it is used in §§ 816.133 (a) and (c) and §§ 817.133 (a) and (c) of the final rules. These sections of the rules set criteria under Section 515(b)(2) of the Act for the return to conditions capable of supporting premining uses or higher or better postmining land uses. Sections 515 (c) and (e) of the Act, which are implemented by §§ 816.133(d) and 817.133(d) and Part 824 and which require the potential use to constitute an "equal or better economic or public use," apply only to a variance from AOC or to mountaintop removal.

Two commenters suggested that the proposed definition of higher or better uses be changed to allow economic and other benefits to be measured against the community and not to allow landowner benefits to be considered. The commenters based this recommendation on emphasis of the term "economic or public use" in Sections 515(c)(3)(A) and 515(e)(3)(A) of the Act. OSM has rejected the commenters' recommendation for two reasons. First, the criteria in Section 515 (c) and (e) of the Act are not applicable to situations where reclamation to an alternative postmining land use does not require a variance. Second, benefits to the landowner are clearly relevant in determining whether the proposed use of an area after mining is higher or better than before mining. In some situations, a regulatory authority may have to weigh the benefits to the landowner against benefits to the community in making that determination.

Although the phrase "equal or better economic or public use" is applicable only to an AOC variance or to mountaintop removal, in such situations the criteria of §§ 816.133 (a) and (c) or 817.133 (a) and (c) are also applicable. Thus, the applicability of the phrase "equal or better economic or public use" will often be tied to the phrase "higher or better uses."

Section 785.14 Mountaintop removal mining

Section 785.14 contains the permit requirements for mountaintop removal mining. OSM proposed (47 FR 16152) to revise the mountaintop removal permit requirements of § 785.14(c)(1)(ii) in order to clarify that the performance standards applicable to mountaintop removal would include the general alternative postmining land use criteria of proposed § 816.133(c), but not those of proposed § 816.133(d).

One comment was received on this proposed change. The commenter recommended that the former language be restored because the reference to § 816.133(c) is insufficient, since the method for determining premining use in § 816.133(b) is equally applicable to mountaintop removal operations. OSM agrees with the commenter. A mountaintop removal operation must include reclamation to a condition capable of supporting a higher or better postmining land use in accordance with the requirements of Paragraphs (a), (b), and (c) of § 816.133. However, because § 816.133(d) pertains only to AOC variances, a requirement for mountaintop removal operations to meet all of the § 816.133 performance standards is inappropriate. Thus, the final rule references §§ 816.133(a)—(c).

In addition, the references to the backfilling and grading requirements of §§ 816.101–816.105 in previous §§ 785.14(c) and (c)(2) have been changed to agree with the final backfilling and grading rules (48 FR 23356, May 24, 1983).

Section 785.16 Permits incorporating variances from AOC

General.—Section 785.16 contains the requirements for permits that incorporate AOC variances for nonmountaintop removed mining and, together with §§ 816.133(d) and 817.133(d), is intended to implement Section 515(e) of the Act.

Under Section 515(e) of the Act, State regulatory authorities may, but are not required to, allow for AOC variances. However, if AOC variances are allowed by a State, they must conform to the requirements of Section 515(e) of the Act. Those State that wish to allow for these variances must include provisions which, at a minimum, meet the requirements of § 785.16. The requirements of § 785.16 are derived from the specific conditions in Section 515(e) of the Act.

Previous § 785.16 set out the permit requirements for obtaining an AOC variance for steep slope mining. Final § 785.16 is expanded to include mining on both steep slope and nonsteep slope terrain. This will be explained in more detail in the discussion of final §§ 816.133(d) and 817.133(d).

Several commenters expressed their support of the expansion of § 785.16 to include nonsteep slope terrain. One

commenter raised objection to this expansion. Although these comments were directed to § 785.16, they were more applicable to §§ 816.133(d) and 817.133(d). Therefore, responses to them are included in the discussion of those two sections.

To eliminate redundancy, OSM has removed previous §§ 785.16(a) and (b), which specified the applicability and purpose of § 785.16. The substance of these paragraphs continues to be contained in the remainder of the section, particularly final § 785.16(a).

Section 785.16(a)

Final § 785.16(a), which was proposed as § 785.16(c), provides that the regulatory authority may issue a permit for nonmountaintop removal surface coal mining and reclamation operations which includes a variance from the requirements for restoration of the disturbed areas to their AOC under §§ 816.102, 816.104, 816.105, and 816.107 or 817.102 and 817.107. These references have been updated from proposed § 785.16(a) to conform to the final backfilling and grading rules. The permit may contain an AOC variance only if the regulatory authority finds, in writing, that the applicant has demonstrated on the basis of a complete application that all of the requirements of the § 785.16(a) are met. These requirements are discussed below.

In response to a commenter's suggested change to proposed § 785.16(c), the phrase "that the applicant has demonstrated" has been inserted before the phrase "on the basis of a complete application." As a result, the phrase "the applicant has demonstrated that" in proposed §§ 785.16(c)(1)—(c)(4) has been removed in final §§ 785.16(a)(1)—(a)(4). This change simplifies the wording of the rules without changing the substance.

Section 785.16(a)(1)

Final § 785.16(a)(1), which was proposed as § 785.16(c)(1), requires that, after reclamation, the lands to be affected by the variance must be suitable for an industrial, commercial, residential or public land use (including recreational facilities). Final § 785.16(a)(1) is derived from Section 515(e)(2) of the Act.

OSM received seven comments concerning the land use restrictions of proposed §§ 785.16(b)(2) and (c)(1) that are contained in final § 785.16(a)(1). Seven commenters recommended the addition of agricultural land use to the list of acceptable uses under this variance. These commenters described the need for flat agricultural land in areas where surface mining reclamation could provide a bench suitable for agricultural uses. In addition, the commenters pointed out that the mountaintop removal variance does contain the provision to allow agricultural uses and this provision should also be extended to the AOC variance.

OSM has rejected these comments and has adopted in final § 785.16(a)(1) the acceptable postmining land uses that were enumerated in the proposal, because Section 515(e)(2) of the Act is specific as to postmining uses allowed. The variance must facilitate the development of these specific land uses. It was not the intent of Congress to extend an AOC variance for reclamation to conditions suitable for agricultural uses. Other comments expressed a similar recommendation that OSM consider other land uses in place of, or in addition to, the ones listed in proposed § 785.16(b)(2). One suggestion was to allow any land use defined under § 701.5; another suggested omitting the specific uses and allowing "higher or better uses." OSM has also rejected these comments for the same reason stated above. The Act does not provide OSM authority to add or delete categories of uses.

Section 785.16(a)(2)

Final § 785.16(a)(2), which combines proposed § 785.16(c)(2) and (c)(5), requires a demonstration that the requirements of §§ 816.133 or 817.133 will be met. By cross-referencing §§ 816.133 and 817.133 in § 785.16, two duplicative requirements of previous § 785.16 have been eliminated: There is no need to repeat the general alternative postmining land use requirements of §§ 816.133(a)-(c) and 817.133(a)-(c) or the specific criteria for an AOC variance of § 816.133(d) and 817.133(d).

One commenter suggested that previous § 785.16(c)(2) be retained because it is mandated by Section 515(e)(3)(A) of the Act. This commenter also suggested retaining previous § 785.16(c)(7) because this section "reflects the limited nature of the AOC configuration variance." OSM has rejected these suggestions because the specific requirements of those sections are included in final §§ 816.133(d)(4) and (d)(3), respectively. Under final § 785.16(b)(1), all requirements of § 816.133(d) or § 817.133(d) will be a specific condition of a permit containing an AOC variance.

Section 785.16(a)(3)

Final § 785.16(a)(3), which was proposed as § 785.16(c)(3), requires a demonstration that the watershed of lands within the proposed permit and adjacent areas will be improved by the operations. It is derived from Section 515(e)(1) of the Act. In clarification of the proposed rule, the final rule specifies that the improvement may be determined either on the basis of the condition of the watershed before mining or its condition if AOC were to be restored. Final §§ 785.16(a)(3)(i)-(a)(3)(iii) contain the criteria for measuring such improvement. They were proposed in § 785.16(c)(3) and were previously set forth in § 785.16(c)(4).

Two commenters suggested that in proposed § 785.16(c)(3) the term "permit area and adjacent areas" be changed to "affected area." These commenters asserted that Section 515(e)(3)(C) of the Act specifically requires the watershed of the "affected land" to be improved. OSM has rejected these comments and has adopted the phrase "permit and adjacent areas" in final § 785.16(a)(3) because the terms "permit area" and "adjacent area" have been redefined (48 FR 14814, April 5, 1983) in a manner that is consistent with Section 515(e) of the Act. The adjacent area encompasses resources, such as a watershed, that are or may reasonably expected to be impacted by the proposed mining operations. (48 FR 14821, April 5, 1983)

Several commenters provided suggestions on proposed § 785.16(c)(3) dealing with watershed improvement. One commenter recommended that the watershed improvement should be compared with conditions equal to those which would exist if AOC were to be restored. The basis for this suggested change is that the regulatory authority's decision in granting a variance pertains to whether the final configuration of the land is to be returned to AOC upon the issuance of a permit, and not to whether mining will be allowed at all. Another commenter suggested that the provisions of this section be streamlined by omitting the specific means by which an applicant must demonstrate watershed improvement. Another commenter suggested that the operator be required to demonstrate that the permit and adjacent areas will be "equivalent to the natural premining conditions" and that proposed § 785.16(c)(3)(i) be deleted. This commenter asserted that there should be no concern with granting a variance as long as the watershed control is not degraded but is maintained in its premining condition. Another commenter suggested that OSM provide examples of improved watershed control in the preamble to the final rule. Another commenter suggested substituting the words "the affected areas" for the words "lands within the

proposed permit area and adjacent areas" in proposed § 785.16(c)(3); substituting "no increase" for "a reduction" and "affected" for "permit" in proposed § 785.16(c)(3)(i); and substituting "estimated postmining runoff" for "the total volume of flows" and "affected" for "permit," and omitting "during every season of the year" in proposed § 785.16(c)(3)(ii).

OSM has considered these comments pertaining to the watershed improvement and has made only one change to the language of the proposed requirements in final § 785.16(a)(3). This change allows comparison either to premining watershed conditions or to conditions if AOC were to be restored. The other suggestions are rejected. OSM, in establishing a basis for the comparison, considered three alternatives. First, allow watershed improvement to be based upon comparison with the premining conditions (as in the previous and proposed rules). Second, allow the improvement to be based upon comparison with conditions if AOC were to be restored (as suggested by a commenter). Third, allow a comparision with premining conditions that requires only equivalent watershed control (as suggested by a commenter).

The first two alternatives meet the requirements of the Act. The third alternative is contrary to the requirements of Section 515(e)(3)(C) of the Act, which allows a variance only where "the watershed of the affected land is deemed to be improved."

OSM is adopting a combination of the first and second alternatives. Given that the land will likely be mined whether or not the variance is allowed, it is logical to compare the probable postmining conditions to determine if there will be an improvement of watershed conditions. Comparing two hypothetical postmining conditions, which differ only in slope, is more logical than comparing the postmining condition to the premining condition which could differ in erodibility, permeability, vegetative cover, etc. Final § 785.16(c)(3) will allow comparison with either premining conditions or the condition of the watershed if it were returned to AOC. In the Kentucky State program, OSM determined that language similar to this final rule was no less effective than the previous rule.

OSM has rejected the comments that suggested omission of the specific means of measuring improvement. The Act is clear that improvement must occur, and the two specific situations in which watersheds would be deemed improved are also founded in the requirements of the Act (43 FR 41714). The suggestion to alter the areal extent of the watershed considered is also rejected because it was not the congressional intent to examine improvement of the permit area alone. Where the term "watershed improvement" is used in the legislative history, the discussion is in the context of an areal unit larger than the permit area.

Three commenters suggested changes to proposed § 785.16(c)(3)(iii). Two questioned the meaning of an "appropriate State environmental agency." The other suggested adding the words "if required."

OSM has rejected the comment suggesting the addition of "if required" because Section 515(e)(3)(C) of the Act requires "approval of the appropriate State environmental agencies." It is not possible on a national basis to specify precisely which environmental agencies must approve the planned improvement of the watershed. Within particular States, the regulatory authorities should have little difficulty in discerning the particular agencies with expertise and/or responsibility for the watershed.

Section 785.16(a)(4)

Final § 785.16(a)(4), which was proposed as § 785.16(c)(4) and was contained in previous § 785.16(c)(5), sets the requirement that the surface owner of the lands within the permit area must knowingly request that a variance be granted. This paragraph is derived from Section 515(e)(2) of the Act. The surface owner's request must be separate from the general consent given under 30 CFR 778.16 or 782.15 for the operations to be conducted.

One commenter asserted that in proposed §785.16(c)(4), the requirement "that the owner of the surface of the lands within the permit area has knowingly requested, in writing . . . that a variance be granted" should also provide for written request from a surface managing agency for public lands.

OSM has considered this suggestion and has not made any change to the proposed requirement. The word "owner" in final § 785.16(a)(4) means any owner, whether public or private. Thus, the requirement applies to a managing agency of public lands as well as to a private landowner.

Section 785.16(b)

Final § 785.16(b), which was proposed as § 785.16(d), requires that a permit containing an AOC variance must include the variance criteria of § 816.133(d) or 817.133(d) as a specific permit condition and must be specifically marked as containing an AOC variance.

Section 785.16 (c) and (d)

Final § 785.16(c), which was proposed as § 785.16(e), provides that a permit incorporating an AOC variance must be reviewed by the regulatory authority at least every 30 months following the issuance of the permit to evaluate the progress and development of the surface coal mining and reclamation operations to establish that the operator is proceeding in accordance with the terms of the variance.

Proposed § 785.16(e)(1)–(e)(3), which would have required that the permit review occur within the 6-month period preceding the third year from the date of issuance, before each permit renewal, and not later than the middle of each permit term, have been simplified by the single requirement in final § 785.16(c) that review must occur at least every 30 months. This change is consistent with the suggestion of a commenter and will require a review by the midpoint of the permit term.

Final § 785.16(d), which was proposed as § 785.16(f), is a companion to final § 785.16(c). It provides that the review required by § 785.16(c) need not be held upon a demonstration that the operations have been, and continue to be, conducted in compliance with the terms and conditions of the permit, the requirements of the Act, and applicable regulations.

The requirement for regulatory authority review is found in Section 515(e)(6) of the Act. This requirement states that "[a]ll exceptions granted under the provisions of this subsection shall be reviewed not more than three years from the date of issuance of the permit, unless the permittee affirmatively demonstrates that the proposed development is proceeding in accordance with the terms of the reclamation plan." Final §§ 785.16 (c) and (d) implement these requirements.

Section 785.16(e),

Final § 785.16(e), which was proposed as § 785.16(g), was previously contained in § 785.16(g). It provides that the terms and conditions of a permit incorporating an AOC variance may be modified at any time if more stringent measures are necessary to ensure compliance with the Act and applicable rules.

Section 785.16(f)

Final § 785.16(f), which was proposed as § 785.16(h) and is unchanged from previous § 785.16(h), implements the requirement under Section 515(e)(1) of the Act that AOC variances may be

issued only if specific procedures are included in the applicable regulatory program. It provides that such variance may be granted by a regulatory authority if specific rules are promulgated to govern such actions. Any such rules must be consistent with §785.16 and any necessary additional, more stringent requirements.

Sections 816.133 and 817.133 Postmining land use

Sections 816.133 and 817.133 set forth criteria and procedures for determining premining use of the disturbed area and approving postmining land uses which are different from premining uses. In most respects, final §§ 816.133 and 817.133 have been adopted as proposed. The preamble to the proposed rules explains the reasons for a number of changes from the previous rules.

Each section is divided into four lettered paragraphs. Paragraph (a) sets forth the general requirement that the disturbed areas must be restored to conditions capable of supporting premining uses or higher or better uses. Paragraph (b) sets forth criteria for determining premining uses. Paragraph (c) sets forth the criteria for approval of alternative postmining uses, and Paragraph (d) sets forth criteria for AOC variances.

Sections 816.133(a) and 817.133(a) General performance standards

Proposed §§ 816.133(a) and 817.133(a) set forth the general requirement that the disturbed area must be restored to conditions capable of supporting the premining use or an alternative higher or better use. The principal change in the proposed rules was that the previous rules required that all "affected" areas be restored and the proposed rules required that all "disturbed" areas be restored. In addition, the preamble to the proposed section (47 FR 16153) clarified that operators are not required to develop or construct a higher or better use; rather, in accordance with Section 515(b)(2) of the Act, operators are required to return the disturbed area to a condition that is capable of supporting the uses that it was capable of supporting prior to mining or to a condition capable of supporting a higher or better use. Final §§ 816.133(a) and 817.133(a) are the same as proposed, except for removal of the proposed phrase "achievable under criteria and procedures of this section" in Paragraph (a)(2). That a higher or better use must be achievable under this section is understood from §§ 816.133(c) and 817.133(c).

OSM received 11 comments on the proposed change to §§ 816.133(a) and 817.133(a). Two commenters supported the proposed change because the language provides a clarification and better alinement of the rules with the Act. Another commenter supported the proposed substitution of the term "disturbed area" for "affected area" but raised a question about the language in the preamble stating that the operator is no longer responsible for developing or constructing a higher or better use. This commenter suggested that specific language be inserted in the rule to clarify this point.

The proposed wording is clear, and OSM has not made a change in the final rule. The language in the preamble to the proposal (47 FR 16153) was included for two reasons. First, previous §§ 816.133(c) and 817.133(c) included all the mountaintop removal requirements and additional detail beyond that called for in Section 515(b)(2) of the Act as general criteria for alternative postmining land use reclamation. Therefore, in the past, considerable confusion existed over who was responsible for developing the postmining land use. Second, the district court in *In re: Permanent Surface Mining Regulation Litigation*, Civ. No. 79–1144, (D.D.C., May 16, 1980) at pp. 55–56, overturned a portion of the previous rule that did not allow previously mined land to be restored to its capability before any mining. Thus the final rule emphasizes the lands' capability, both with regard to premining uses and higher or better uses, in this implementation of Section 515(b)(2) of the Act. This requirement is distinct from the revegetation or prime farmland rules, which under some circumstances may require actual production on the reclaimed land as a measure of successful reclamation.

Another commenter said that reference to "disturbed areas" rather than "affected areas" impermissibly restricts the scope of the provision beyond that intended in Section 515(b)(2) of the Act, so the previous language containing the word "affected" should be retained. OSM has rejected this commenter's suggestion because the term "disturbed" is consistent with the Act. Section 515(b)(2) of the Act applies to the land disturbed during the surface coal mining operations that must be restored. Under OSM's recently revised definition (48 FR 14821, April 5, 1983), the term "affected area" includes areas, such as those overlying underground workings, which may have no surface disturbance and thus would not have to be reclaimed. Thus, final §§ 816.133(a) and 817.133(a) focus on the areas actually subject to surface disturbance, the "disturbed areas."

Several commenters raised the question of using "equal or better" in place of "higher or better" to be consistent with Section 515(e)(3)(A) of the Act. OSM rejects this suggestion. Final §§ 816.133(a) and 817.133(a) directly implement Section 515(b)(2) of the Act, which uses the term "higher or better" in reference to postmining land use. Sections 515(c)(3)(A) and 515(e)(3)(A) of the Act, which include specific criteria for variances, use the term "equal or better." These terms are not generally interchangeable. Therefore, OSM has retained the "higher or better uses" requirement in final §§ 816.133(a) and 817.133(a).

Another commenter expressed concern with OSM's intent stated in the preamble to the proposed rules that operators would not be responsible for developing postmining land uses. This commenter agreed with OSM that the operator is not responsible for developing the higher or better uses, but expressed concern that the OSM rules will not contain the specific criteria prescribing the operator's responsibilities. This comment has been rejected. The final language is consistent with the Act.

Final §§ 816.133(a) and 817.133(a) do not remove the responsibility of the operator who seeks approval of an alternative postmining land use to show, prior to the issuance of a permit, how the criteria for higher or better uses, under §§ 816.133(c) and 817.133(c), are to be met. The operator's reclamation plan must describe in detail how the operator intends to reclaim the land to a capability of attaining the proposed postmining land use; moreover, the operator's performance bond cannot be totally released until reclamation is achieved.

Sections 816.133(b) and 817.133(b) Determining premining uses of land

Final §§ 816.133(b) and 817.133(b) contain the standards for determining the premining uses of the land to which postmining land use is to be compared. OSM proposed (47 FR 16153) that §§ 816.133(b) and 817.133(b) would continue the previous requirement that the premining uses of land to which the postmining land use is compared must be those uses which the land previously supported, if the land has not been previously mined and has been properly managed. If the land has been previously mined and cannot be reclaimed to the land use that existed prior to any mining, the postmining land use must be judged on the basis of the highest and best use that can be achieved which is compatible with

surrounding areas and does not require the disturbance of areas previously unaffected by mining. OSM received eight comments on proposed §§ 816.133(b) and 817.133(b). After evaluating these comments, OSM has decided to adopt the language of proposed §§ 816.133(b) and 817.133(b) in the final rule.

Four commenters supported the change as proposed. One commenter suggested that the first sentence be deleted because it creates confusion. Another commenter pointed out that for previously mined areas the premining use is that use which has existed since the previous mining operation, *not* that which existed before *any* mining. OSM disagrees with these latter two comments. The first sentence of final §§ 816.133(b) and 817.133(b) is the basis of the premining determination. In addition, Section 515(b)(2) of the Act is clear in this requirement to "restore the land affected to a condition capable of supporting the uses which it was capable of supporting prior to *any* mining" [emphasis added].

One commenter stated that the proposed revision of § 816.133(b) unduly limits the restoration requirements for previously mined lands, in light of recent litigation. This commenter makes the point that the proper standards, where the land is previously mined and not reclaimed, should not be the use that existed prior to mining, but instead the restoration to a condition capable of supporting the use the land was capable of supporting prior to mining. OSM does not disagree with this comment that restoration is to be to a condition capable of supporting premining uses and not the actual redevelopment or construction of the premining use. However, if the land following reclamation is not capable of supporting the premining use, § 816.133(b) establishes the standard to be attained.

One commenter suggested an editorial change. In the proposed rule, the word "used" should have been "use." This typographical error is corrected in the final rule.

Sections 816.133(c) and 817.133(c) Criteria for alternative postmining uses

Sections 816.133(c) and 817.133(c) contain the criteria for approval by the regulatory authority of higher or better postmining land uses. The previous rules included the detailed requirements of Sections 515 (c) and (e) of the Act that are specific requirements for mountaintop removal and an AOC variance. OSM originally included these requirements in the general alternative postmining land use requirements stating "that a composite of these concepts is a reasonable approach to setting forth the regulatory requirements for approval of proposed postmining land uses" (44 FR 15243). As stated in the preamble to the proposed rules (47 FR 16154), OSM now disagrees with its earlier conclusion.

Final §§ 16.133(c) and 817.133(c) impose the standards of Section 515(b)(2) of the Act as the general criteria for allowing higher or better uses as alternative postmining land uses. The rule provides that higher or better uses may be approved by the regulatory authority as alternative postmining land uses after consultation with the landowner or the land managment agency having jurisdiction over the lands, if the proposed uses meet the following criteria:

1. There is a reasonable likehood for achievement of the use.

2. The use does not present any actual or probable hazard to public health or safety or threat of water diminution or pollution.

3. The use will not (i) be impractical or unreasonable; (ii) be inconsistent with applicable land use policies or plans; (iii) involve unreasonable delay in implementation; or (iv) cause or contribute to violation of Federal, State, or local law.

OSM received and considered 17 comments pertaining to proposed §§ 816.133(c) and 817.133(c). With a few changes, OSM has adopted the proposed language.

Two commenters suggested that in the introductory paragraph of §§ 816.133(c) and 817.133(c) the requirement for "consultation" with the landowner be changed to "written consent" of the landowner. In analyzing these comments, OSM recognizes the potential problem of approving a postmining land use which is in conflict with the landowner's goals; however, Section 515(b)(2) of the Act does not specify that the owner must give written consent for a higher or better postmining land use. Section 508(a)(3) of the Act does require that the reclamation plan (for both reclamation to premining condition or an alternative higher or better use) contain a statement of the proposed use and comments of any surface owner. Section 508(a)(8) of the Act requires a statement of the consideration that has been given to making the surface mining and reclamation operation consistent with surface owner plans. The regulatory authority has the responsibility for making the determination whether an alternative postmining land use should be allowed and must use all the available information and comments.

Five commenters supported the proposed change because it provides more flexibility and replaces the unworkable and complex previous procedure with a practical one which gives the regulatory authority the necessary guidelines to approve an alternative postmining land use. One commenter also added that it was hoped the regulatory authority would be responsible in its data collection requirements.

Three commenters recommended that OSM retain the language of previous §§ 816.133(c) and 817.133(c). One suggested retaining the language of the previous rule because, without specific criteria, operators will dramatically increase the creation of postmining land use configurations that lack the useful purpose Congress intended. Another stated that previous §§ 816.133(c) and 817.133(c) properly implemented the congressional intent and that all the requirements are mandated by general provisions of the Act. This commenter also recommended information and plan requirements that should be included in the permit application. OSM has analyzed these suggestions and has rejected the recommendation to retain previous §§ 816.133(c) and 817.133(c). OSM does not disagree with the commenters' point that Section 508 of the Act does contain specific postmining land use requirements that must be included in the reclamation plan. However, these specific reclamation plan requirements do not justify inclusion of the detailed requirements set forth in previous §§ 816.133(c) and 817.133(c). Final §§ 816.133(c) and 817.133(c) are intended to include as performance standards the postmining land use requirements authorized in Section 515 of the Act. The provisions of Section 508 of the Act are implemented in the permitting sections of the rules. They need not be repeated in §§ 816.133 and 817.133 and do not serve as a justification for performance standards that the Act does not require. Furthermore, OSM does not agree that a "composite," using standards established under Sections 515(c) and 515(e) for special circumstances, is justified in establishing general alternative postmining land use standards. This is supported by the legislative history of the Act. In describing a predecessor to the Act, one Senate report stated that "there are three provisions in the bill which permit variance to the mining reclamation standards of the bill. The first permits mountaintop mining by granting a variance to the requirement for restorat on to approximate original contour and

the prohibition of placing spoil on the downslope. *Rigid criteria are specified for the granting of such a variance."* [Emphasis added.] Senate Report No. 94–28; 94th Congress, 1st sess., 178 (1975). Thus, Congress intended additional, more specific requirements to be used only when variances were permitted. This is reflected in the distinctly different criteria found in Sections 515 (b)(2) and 515(c) or (e) of the Act. OSM has followed this congressional intent in these rules by separately incorporating the postmining land use criteria of Section 515(b)(2) of the Act and those of Sections 515 (b), (c), and (e) of the Act in corresponding sections of the rules. This provides a framework for States to add more specific requirements that are compatible with their geographic conditions and land use plans.

A number of commenters suggested that the word "equal" be substituted for the word "higher" in the phrase "higher or better uses" in §§ 816.133(c) and 817.133(c). These commenters thought this change should be made to be consistent with the term "equal" used in Section 515(e)(3)(A) of the Act. OSM has rejected these comments for the reasons described earlier regarding similar changes to other provisions.

One commenter suggested adding the following fourth requirement to the proposed §§ 816.133(c) and 817.133(c) criteria:

"The proposed postmining action should include a reasonable attempt to restore any threatened or endangered species habitat destroyed during mining operations and minimize impact on endangered species or critical habitat that may be near or adjacent to the mined site."

OSM has rejected this suggestion because the requirements concerning endangered species and their critical habitats are addressed in §§816.97 and 817.97 and need not be repeated. Those sections will not allow surface or underground mining activities which will jeopardize the continued existence of endangered or threatened species or will result in the destruction or adverse modification of designated critical habitats. Furthermore, it should be noted that the criteria in §§ 816.133(c)(3) and 817.133(c)(3) include the requirement that the proposed postmining land use will not cause or contribute to violation of Federal, State, or local laws. The protection of endangered species and critical habitats provided under the Endangered and Threatened Species Act, 16 U.S.C. 1531 *et seq.*, is included under this provision.

Commenters requested that previous §816.133(c)(8), requiring approval of appropriate State and Federal fish and wildlife agencies, be retained to protect fish and wildlife. OSM disagrees. Adequate protection of fish and wildlife will be provided through the consultation process provided in §§816.97 and 817.97 and the coordination procedures with interested government agencies under the permitting rules of Subchapter G of 30 CFR Chapter VII. Consent of fish and wildlife management agencies is thus unnecessary.

Sections 816.133(d) and 817.133(d) Approximate original contour: Criteria for variance

Because of commenters' assertions that OSM's interpretation of Section 515(e) of the Act is not correct, particularly in light of Judge Flannery's earlier referenced ruling, it is appropriate to explain OSM's rationale in detail in this preamble. Much of this discussion was contained in the preamble to the proposed rule.

Legislative History of Section 515(e) of the Act

On May 20, 1977, Senator Wendell Ford introduced the original AOC variance provision as an amendment to Senate Bill S. 7, the Senate predecessor to the Act (123 Cong. Rec. S8097, daily ed., May 20, 1977), to allow variances from the AOC restoration requirement for certain postmining land uses. It was aimed chiefly at Appalachia, but did not apply only to steep slope mining. The provision, Section 415(d) of S. 7, would have allowed variances from the general AOC restoration requirement of Section 415(b)(3) of Bill S. 7 and the additional steep slope AOC restoration requirement, Section 415(c)(2) of Bill S. 7. These sections were the Senate predecessors to Sections 515(b)(3) and 515(d)(2) of the Act, respectively.

Senator Ford's original amendment would have allowed retention of highwalls when variances were granted. The highwall retention aspect generated considerable controversy and a modification to the amendment was introduced on the same day which would have allowed retention of highwalls in variance situations only when sound engineering technology indicated that the highwalls could not be completely eliminated. The modified Ford amendment, referring both to Sections 415(b)(3) and 415(c)(2), ultimately became part of the Senate bill that went to the House-Senate conference.

Also on May 20, 1977, Senator Jennings Randolph stated that because the managers of Bill S. 7 accepted the modified Ford amendment, he would not offer his own AOC variance provision. Senator Randolph asked that his amendment be printed in the Congressional Record, together with accompanying remarks. These appear at 123 Congressional Record at S8102–8103 (daily ed., May 20, 1977). The scope of the Randolph amendment, that is a variance from the requirement to restore the approximate original contour set forth in subsection 415(b)(3) or 415(c)(2), would have been the same as the Ford amendment, except that the Randolph amendment would have required complete elimination of the highwalls. In his printed remarks, Senator Randolph stated that his proposal was generally designed for use in non-steep slope regions.

The bill passed by the House of Representatives, H.R. 2, which the House-Senate conference was considering, had no AOC variance provision (other than for mountaintop removal). Conference Staff Recommendation No. 3 (at p. 48), in presenting the issue before the conference, described S. 7 as containing "a *general* variance provision, not requiring complete backfilling of highwalls." [Emphasis added.]

In the conference there was strong objection to any provision that would allow retention of highwalls. To resolve the issue, the conferees were presented with a new subsection as an amendment to Section 515 (the renumbered Section 415). The new subsection was the Randolph amendment, which required complete elimination of highwalls, that had been printed in the Congressional Record. The only difference between the conference version of the Randolph amendment and the version printed in the May 20, 1977, Congressional Record was the deletion of the reference to Section 515(b)(3), the general AOC restoration requirement.

The deletion in Section 515(e)(2) of the reference to Section 515(b)(3) left the plain meaning of the language unclear. For example, a variance from the provisions of Section 515(b)(3) of the Act is necessary to apply the variance even on steep slopes because the provisions of Section 515(d) of the Act complement the provisions of Section 515(b) but do not replace them. Therefore, a variance from Section 515(b)(3) must be read into Section 515(e) to give it *any* meaning.

In the preamble to the proposed rule, OSM asserted that apparently the deletion of the reference was not intentional. OSM reasoned that because both of the previous amendments on the subject, Senators Randolph's and Ford's in S. 7, contained a reference to the general AOC restoration requirement,

deletion of the reference would have been noted if it was intentional, particularly in light of Senator Randolph's earlier remarks that the variance was intended for non-steep slope regions. Although OSM now acknowledges that the deletion may have been made intentionally by the Conference Committee staff, it was neither noted nor discussed in the conference itself. In conference, the discussion of the Randolph amendment focused on the highwall provision and Senator Ford's insistence that in some situations the retention of highwalls be allowed. While there was an implicit assumption that the variance provision was needed mainly in Appalachia, there was no explicit statement that it was limited to steep slopes. On the contrary, at one point when the chairman of the conference was discussing the width of benches that would remain after covering the highwalls, he acknowledged that it would depend upon the terrain. (OSM agrees with this latter assertion. In steep slope areas, after the highwall is backfilled in a stable manner, the benches are not likely to be wide enough for many uses. For Section 515(e) of the Act to have practical utility, it should apply to non-steep slope areas.)

The conference adopted the Randolph amendment with one further change relating to the disposal of spoil. The conference report, House Report 95–493 (95th Cong., 1st sess. 108 (1977)), focused exclusively on the highwall retention issue and the opportunity for a broad range of postmining land uses on very wide benches. Specifically, it states that the variance "gives an opportunity for a broad range of postmining land uses on those operations which would result in a very wide bench accommodating both the stable and complete backfilling of the highwall as well as additional areas for planned land uses."

On July 21, 1977, the chairman of the Conference Committee, Congressman Udall, described to the House of Representatives a summary of the major changes made during the conference, along with related legislative history. This description included the following discussion related to the variance from approximate original contour:

"Both the House and Senate bills provided for [returning] to approximate original contour including the complete backfilling of the highwall.

"The Senate bill however provided a variance to the approximate original contour and backfilling highwalls completely for a wide range of post mining land uses. In addition, if sound engineering technology indicated that the highwall cannot be completely backfilled, then the operator would have been required to reduce the highwall to the maximum extent consistent with sound engineering technology and develop a revegetation plan that is reasonably calculated to screen the remaining highwall within 5 years.

"The conference report includes a modified variance to the approximate original contour standard which, requires however that in every instance all highwalls are to be completely backfilled. This amounts to a variance from the configuration aspects of the approximate original contour regarding standard. This gives an opportunity for a potential range of postmining land uses from those operations which would result in a very wide bench accommodating both the stable and complete backfilling of the highwall as well as additional areas for the planned land uses. This variance however is only for developed land uses such as industrial, residential or commercial sites. Agricultural, open space and similar types of land uses do not qualify. This variance procedure in section 515(e) contemplates only one variance procedure for the entire subsection *which is conditioned by the constraints discussed above* including the complete backfilling of all highwalls." [Emphasis added.] 123 Cong. Rec. H7584, daily ed., July 21, 1977.

In his discussion of the variance and its associated constraints, Chairman Udall made no reference to limiting its applicability to steep slope mining operations.

OSM's interpretation is further buttressed by remarks of Representative Seiberling, a member of the House-Senate Conference on the Act. The following colloquy occurred during an OSM oversight hearing in March 1979. Although not official legislative history, the remarks shed some light on one Conference member's view of the applicability of Section 515(e) of the Act.

"Mr. SEIBERLING. Thank you. One other question. Governor Carroll said that your regulations say that section 515 (e) of the act are applicable only to steep slopes. Section 515 (e) (1) is the provision that says that you may have variances from the original contour requirements provided that the watershed control of the area is improved, and you cover the highwall. *I do not interpret that section as applying only to steep slopes.* Is that the interpretation that your regulation proposes? [Emphasis added.]

"Mr. HEINE. As you know, Mr. Seiberling, that particular provision was drafted on the floor of the Senate, I believe, and—

"Mr. SEIBERLING. And, subsequently, fought over very hard in the conference.

"Mr. HEINE. That is correct, and it probably lacks perfection in writing, and it is one of those where, if you got a room full of lawyers, you would get a room full of different answers. We are reexamining that issue to see if it really makes more sense to change our policy on it.

"Mr. SEIBERLING. I strongly disagree with Governor Carroll's feeling that this is an impractical provision, that they should leave the highwalls, and that would improve the drainage. I suggest that the word improve, does not mean that you have to improve only the drainage. But if you are not going to restore the original contour, it ought to be a little bit better result overall. The idea behind this section was that you could have a kind of terracing effect provided that the highwall was covered up. That was a very hard-fought provision, and the Senator from Kentucky himself was one of the leading proponents of relaxation, and we worked out this compromise. *My personal view is that it does not just apply to steep slopes, and I would hope you would take another look at it.*" [Emphasis added.] Implementation of the Surface Mining Control and Reclamation Act of 1977, Oversight Hearings Before the Subcommittee on Energy and the Environment of the Committee on Interior and Insular Affairs. H. Rep. Serial No. 96–4, 96th Cong., 1st sess., 47, March 5, 1979.

Judge Flannery held that Section 515 (e) provides for only one variance and that the variance applies to steep slopes. However, Judge Flannery was not informed in the briefs filed prior to his February 26, 1980, decision that both earlier versions of Section 515 (e) would have allowed variances from the general AOC restoration requirement. No attempt was made in the briefs to explain the removal of the reference to Section 515 (b)(3) of the Act by the Conference Committee.

OSM agrees that Section 515 (e) of the Act provides for only one variance, but for the reasons described above concludes that the section allowing for AOC variances is not limited to steep slope operations.

Description of final §§ 816.133 (d) and 817.133 (d)

Final §§ 816.133 (d) and 817.133 (d) establish the minimum standards for a surface coal mining operation under an AOC variance. The standards set out in §§ 816.133 (d) and 817.133 (d) are required in Section 515 (e) of the Act. OSM proposed two alternative

standards for an AOC variance (47 FR 16156). Alternative A has been adopted since it directly implements OSM's interpretation of Section 515 (e) of the Act. This interpretation allows for a variance from the requirement to restore disturbed areas to AOC, regardless of the terrain, if the following conditions are satisfied:

(1) The regulatory authority grants the variance under a permit issued in accordance with § 785.16.

(2) The alternative postmining land use requirements of § 816.133 (c) and 817.133 (c) are met.

(3) All applicable requirements of the Act and the regulatory program, other than the requirement to restore affected areas to their approximate original contour, are met.

(4) After consultation with the appropriate land use planning agencies, if any, the potential use is shown to constitute an equal or better economic or public use.

(5) The proposed use is designed and certified by a qualified registered professional engineer in conformance with professional standards established to assure the stability, drainage, and configuration necessary for the intended use of the site.

(6) After approval, where required, of the appropriate State environmental agencies, the watershed of the permit and adjacent areas is shown to be improved. The phrase "permit and adjacent areas" has been substituted for the proposed term "affected land" for the reasons described in the discussion of final § 785.16(a)(3).

(7) The highwall is completely backfilled with spoil material, in a manner which results in a static factor of safety of at least 1.3, using standard geotechnical analysis.

(8) Only the amount of spoil as is necessary to achieve the postmining land use, ensure the stability of spoil retained on the bench, and meet all other requirements of the Act and this chapter can be placed off the mine bench. All spoil not retained on the bench must be placed in accordance with §§ 816.71–816.74 or 817.71–817.74.

(9) The surface landowner of the permit area has knowingly requested, in writing, that a variance be granted, so as to render the land, after reclamation, suitable for an industrial, commercial, residential, or public use (including recreational facilities). The word "knowingly" has been inserted to parallel § 785.16(a)(4) and the Act.

(10) Federal, State, and local government agencies with an interest in the proposed land use have an adequate period in which to review and comment on the proposed use. Although OSM proposed a maximum 60-day period, in the final rule the regulatory authority may use its discretion to determine how much time is adequate. Depending on the situation, 60 days may be too little or too much time.

Discussion of comments on §§ 816.133(d) and 817.133(d)

OSM received 48 comments pertaining to the alternatives of §§ 816.133(d) and 817.133(d). Twenty-five comments supported Alternative A; 2 comments supported Alternative B; 5 comments supported the previous rules with no change; and 14 comments recommended specific change without support to either alternative. OSM has reviewed and evaluated these comments and adopted the language of Alternative A for §§ 816.133(d) and 817.133(d).

OSM received 25 comments that supported Alternative A. The commenters recommended adoption of this alternative because it would provide practical benefits to both the operators and communities, regardless of landform. In addition, several of these commenters voiced support for OSM's interpretation of the legislative history and provided documents supporting this interpretation.

Two commenters supported Alternative B. These commenters suggested that there is no need for an AOC variance in rolling terrain because flat land is abundant and enough flexibility exists in the definition of AOC to allow the needed minor alteration to the terrain to accommodate alternative postmining land uses. Another of these commenters said Alternative B would allow for operations in areas steeper than 20 degrees and would allow the regulatory authority latitude in determining the regions where AOC variance could be applied. OSM has rejected these comments for the following reasons. Landowners and communities located in some steep slope terrain can clearly benefit from a mining operation that reclaims to conditions capable of supporting an alternative postmining land use. However, substantial benefits can also accrue to landowners or communities in non-steep slope terrain due to the site-improvement opportunities reclamation offers in preparing the land for an alternative postmining land use. The intent of Congress was not to regulate land use or guide development patterns, but to encourage the best postmining land use for the reclaimed land.

There may have been confusion regarding Alternative B providing a variance for areas steeper than 20 degrees. Either of the two alternatives would be equally applicable to terrain with slopes of more than 20 degrees.

Five commenters suggested that OSM retain the previous § 828.12 instead of either proposed alternative. Two of these commenters said OSM should retain the previous language and thought the proposed rule was illegal. Two of these commenters suggested that the AOC variance is limited to steep slope surface mining conditions as defined in Section 515(d) of the Act and provided elaboration on legislative history and subsequent actions to support what Congress said in the text of Section 515(e) as the best evidence of its intent. Another commenter thought the proposed rules granting a variance in nonsteep slope areas were a direct violation of both the statute and a Federal district court opinion. As described above, the final rule does not violate the Act. Although the final rule is not in accord with Judge Flannery's 1980 interpretation of the Act, he did not rule on the validity of the present rule and thus OSM is not in violation of the district court order.

Commenters recommended specific changes to the proposed §§ 816.133(d) and 817.133(d) performance standards. One commenter suggested deletion of the reference to the backfilling and grading rules because all spoil not retained on the bench must be placed in accordance with the excess spoil disposal rules (according to Section 515(e)(4) of the Act.) OSM has accepted this comment and has deleted the reference to "§§ 816.101 through 816.106" and "817.101 through 817.106" in §§ 816.133(d)(8) and 817.133(d)(8). Final §§ 816.102(k) and 817.102(k) exempt from the AOC restoration requirements operations that have a variance under § 785.16. (See 48 FR 23369 and 23370, May 24, 1983.)

OSM received one comment suggesting that proposed §§ 816.133(d)(10) and 817.133(d)(10) be deleted because any agency with an interest in the proposed postmining land use has already had an opportunity to comment under the public participation provisions of the permit process. Another commenter questioned whether OSM intended to have a "minimum or maximum" 60-day review period in proposed §§ 816.133(d)(10) and 817.133(d)(10). OSM has considered these two comments pertaining to the government agency review and has modified the provision as described above.

Another commenter suggested that proposed §§ 816.133 (d)(7) and (d)(8) and 817.133 (d)(7) and (d)(8) include a better definition of "static factor of safety" and

"mine bench." OSM has considered the suggestion of adding these definitions, but has rejected the suggestion. Both of these terms are commonly used in the surface coal mining industry, and OSM finds no confusion or ambiguity in their meaning.

One commenter suggested that agricultural land use be added to the list of acceptable postmining land uses in §§ 816.133(d)(9) and 817.133(d)(9). OSM has rejected this comment because the Act authorizes specific postmining land uses that are allowable as a variance and does not include agriculture as a qualifying use.

One commenter suggested changing §§ 816.133(d)(6) and 817.133(d)(6) by deleting the word "improved" and substituting the words "equivalent to the natural, premining condition." Another commenter suggested that the words "equal or" be added in §§ 816.133(d)(6) and 817.133(d)(6) so that the watershed of the affected lands could be shown to be equal or improved. This change would make the watershed improvement requirement consistent with the equal or better land use requirement. These suggested changes are rejected for the reasons discussed under § 785.16(a)(3). Both the Act and legislative history are specific in the requirement of watershed improvement.

One commenter suggested that in proposed §§ 816.133(d)(9) and 817.133(d)(9) OSM "provide for a written request from a surface managing agency for public lands." This identical comment was also made for proposed § 785.16(c)(4). OSM has rejected this comment for the reason described earlier in the discussion of final § 785.16(a)(4). This requirement is not limited to a private owner but also applies to a land management agency with jurisdiction over the surface.

Two commenters suggested that in prime farmland areas, no AOC variance should be granted that allows postmining slopes of higher grade than the original average contour. In addition, it was recommended that land be reclaimed to its former or higher land use in order to maintain its agricultural viability. OSM has made no special provision in §§ 816.133(d) and 817.133(d) for prime farmland. However, for lands whose premining use is prime farmland, it is not anticipated that an alternative postmining land use will be approved, except as specifically identified in 30 CFR Part 823.

One commenter suggested the OSM not add Paragraph (d) to §§ 816.133 and 817.133. This commenter thought that proposed Paragraphs (d)(5)–(d)(10) belong in the Part 785 permit requirements, that proposed Paragraph (d)(1) is unnecessary, and that proposed Paragraph (d)(2) is misleading because a change in use is not necessary to obtain approval for an alternative postmining land use. The commenter uses the example that an existing recreation use may be enhanced to a higher or better recreation use. OSM has reviewed the suggestions contained in this comment and has rejected the suggested changes. The criteria required in Paragraphs (d)(1)–(d)(10) are specific performance standards required in Section 515(e) of the Act. These performance standards are the basic measures that the operation will be judged against for allowing a variance and, thus, serve a different purpose from the information that the operator provides in a permit application.

OSM received several comments pertaining to the §§ 816.133(d)(7) and 817.133(d)(7) requirement to completely cover the highwalls. Two commenters suggested that highwalls could be beneficial and that provision should be made to allow the regulatory authority to approve the retention of highwalls on a case-by-case basis. On commenter suggested that §§ 816.133(d)(7) and 817.133(d)(7) contradict one of the original reasons for introducing the AOC variance. This commenter also suggested that highwalls be allowed on a case-by-case basis. OSM has rejected the recommendation that some highwalls be allowed because Section 515(e)(1) specifically requires that "complete backfilling with spoil material shall be required to cover completely the highwall." Other comments pertained to highwalls that were integral with a postmining land use. These commenters specifically questioned the applicability of this requirement to completely cover the highwall under the waterline of a final-cut lake. OSM considered these suggested changes and has not made any change in this rule. Requirements for final-cut lakes are included in a separate rulemaking on impoundments.

Another commenter said that proposed §§ 816.133(d)(4) and (d)(6) present a "pass the buck attitude that results in duplication of review." OSM disagrees with the commenter because the Act requires this review by other appropriate agencies.

Section 824.11(a)(4) Special permanent program performance standards—mountaintop removal

Part 824 contains the conditions under which an operator engaged in mountaintop removal surface mining activities could be exempted from the requirement to restore affected areas to AOC. Previous § 824.11(a)(4) specified that all the requirements of § 816.133 were to be met.

In the proposed rule (47 FR 16160), OSM changed § 824.11(a)(4) to clarify that the performance standards applicable to mountaintop removal mining would include the general alternative postmining land use criteria of § 816.133(c) but not the criteria for variance from AOC of § 816.133(d).

OSM received no comment on this proposed revision and has thus adopted this proposed language in the final rule, except that the final reference is to Paragraphs (a)–(c) of § 816.133, not just Paragraph (c).

Removal of Section 826.15 Special permanent program performance standards—operations on steep slopes (steep slopes: limited variances)

Previous § 826.15 contained the performance standards for the AOC variance applicable only to steep slope mining. This section was duplicative of either alternative proposed for § 816.133(d). Because OSM has adopted the necessary provisions of previous § 826.15 in §§ 816.133(d) and 817.133(d), § 826.15 is no longer needed. It has already been removed as part of the backfilling and grading rules (48 FR 23356, May 24, 1983). No comments were received on this proposed revision.

III. Procedural Matters

Federal Paperwork Reduction Act

The information collection requirements for Parts 785, 816, and 817 were approved by the Office of Management and Budget (OMB) under 44 U.S.C. 3507 and assigned approval numbers 785–1029–0040, 816–1029–0047, and 817–1029–0048, respectively. These approvals have been codified under final §§ 785.10, 816.10, and 817.10. The information required by Parts 785, 816, and 817 will be used by the regulatory authority in granting permits and in monitoring and inspecting surface and underground mining activities to ensure that they are conducted in a manner which preserves and enhances environmental and other values of the Act. This information required by Parts 785, 816, and 817 is mandatory.

Executive Order 12291 and the Regulatory Flexibility Act

The Department of the Interior (DOI) has determined that these rules are not major rules requiring a regulatory impact analysis under Executive Order 12291. Also, DOI certifies that these rules will not have a significant economic effect on a substantial number of small entities and therefore do not require a regulatory flexibility analysis

under Public Law 96–354. The rules will allow small coal operators increased flexibility in meeting performance standards and should especially ease the regulatory burden on small coal operators in Appalachia.

Agency Approval

Section 516(a) of the Act requires the written concurrence of the head of the department that administers the Federal Mine Safety and Health Act of 1977, the successor to the Federal Coal Mine Health and Safety Act of 1969, in rules concerning the surface effects of underground mining. OSM has obtained the written concurrence of the Assistant Secretary for Mine Safety and Health, U.S. Department of Labor.

National Environmental Policy Act

OSM has analyzed the impacts of these final rules in the "Final Environmental Impact Statement OSM–EIS–1: Supplement" (FEIS) according to Section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4332 (2)(C)). The FEIS is available in OSM's Administrative Record in Room 5315, 1100 L Street, NW., Washington, D.C., or by mail request to Mark Boster, Chief, branch of Environmental Analysis, Room 134, Interior South Building, U.S. Department of the Interior, Washington, D.C. 20240. This preamble serves as a record of decision under NEPA. The final rules differ from the preferred alternative in Volume III of the EIS in that: (1) The definition of "fish and wildlife habitat" is unchanged from the existing rules and thus has no environmental effect. (2) The permitting rules for mountaintop removal operations do not revise variance review procedures in § 785.14(d) and thus are encompassed by Alternative B in the FEIS. (3) Proposed § 785.16(a) and (b) have been removed to eliminate redundancy, but with no environmental or other substantive effect. (4) The maximum 60-day review period for other agency review of AOC variances has been changed to assure adequate time for review. This will have no environmental effect. (5) The review of permits incorporating an AOC variance must occur at least every 30 months following the issuance of the permit and is not specifically tied to the middle of the permit term. The environmental effect of this change is negligible and is no different from the FEIS preferred alternative. (6) Sections 816.133(c)(3)(iv) and 817.133(c)(3)(iv) use the words "cause or contribute." This is more environmentally protective than the preferred alternative. (7) The use of the word "disturbed" in §§ 816.133(d) and 817.133(d) will have no effect. (8) The FEIS preferred alternative included a definition for the phrase "equal or better economic or public use" that had not been proposed. Not adopting that definition has no environmental effect. (9) A number of other editorial changes have no effect.

List of Subjects

30 CFR Part 701

Coal mining, Law enforcement, Surface mining, Underground mining.

30 CFR Part 785

Coal mining, Reporting requirements, Surface mining, Underground mining.

30 CFR Part 816

Coal mining, Environmental protection, Reporting and recordkeeping requirements, Surface mining.

30 CFR Part 817

Coal mining, Environmental protection, Reporting and recordkeeping requirements, Underground mining.

30 CFR Part 824

Coal mining, Environmental protection, Surface mining.

Accordingly, 30 CFR Parts 701, 785, 816, 817, and 824 are amended as set forth herein.

Dated: August 25, 1983.

William P. Pendley,

Deputy Assistant Secretary, Energy and Minerals.

PART 701—PERMANENT REGULATORY PROGRAM

1. Section 701.5 is amended by adding the definition of "higher or better uses" in alphabetical order and by revising the definition of "land use" to read as follows:

§ 701.5 Definitions.

* * * * *

Higher or better uses means postmining land uses that have a higher economic value or nonmonetary benefit to the landowner or the community than the premining land uses.

* * * * *

Land use means specific uses or management-related activities, rather than the vegetation or cover of the land. Land uses may be identified in combination when joint or seasonal uses occur and may include land used for support facilities that are an integral part of the use. Changes of land use from one of the following categories to another shall be considered as a change to an alternative land use which is subject to approval by the regulatory authority.

(a) *Cropland.* Land used for the production of adapted crops for harvest, alone or in rotation with grasses and legumes, that include raw crops, small grain crops, hay crops, nursery crops, orchard crops, and other similar crops.

(b) *Pastureland or land occasionally cut for hay.* Land used primarily for the long-term production of adapted, domesticated forage plants to be grazed by livestock or occasionally cut and cured for livestock feed.

(c) *Grazingland.* Land used for grasslands and forest lands where the indigenous vegetation is actively managed for grazing, browsing, or occasional hay production.

(d) *Forestry.* Land used or managed for the long-term production of wood, wood fiber, or wood-derived products.

(e) *Residential.* Land used for single- and multiple-family housing, mobile home parks, or other residential lodgings.

(f) *Industrial/Commercial.* Land used for—

(1) Extraction or transformation of materials for fabrication of products, wholesaling of products, or long-term storage of products. This includes all heavy and light manufacturing facilities.

(2) Retail or trade of goods or services, including hotels, motels, stores, restaurants, and other commercial establishments.

(g) *Recreation.* Land used for public or private leisure-time activities, including developed recreation facilities such as parks, camps, and amusement areas, as well as areas for less intensive uses such as hiking, canoeing, and other undeveloped recreational uses.

(h) *Fish and wildlife habitat.* Land dedicated wholly or partially to the production, protection, or management of species of fish or wildlife.

(i) *Developed water resources.* Land used for storing water for beneficial uses, such as stockponds, irrigation, fire protection, flood control, and water supply.

(j) *Undeveloped land or no current use or land management.* Land that is undeveloped or, if previously developed, land that has been allowed to return naturally to an undeveloped state or has been allowed to return to forest through natural succession.

* * * * *

PART 785—REQUIREMENTS FOR PERMITS FOR SPECIAL CATEGORIES OF MINING

2. In § 785.14, the introductory language in paragraph (c) is revised and

paragraphs (c)(1)(ii) and (c)(2) are revised to read as follows:

§ 785.14 Mountaintop removal mining.

* * * * *

(c) The regulatory authority may issue a permit for mountaintop removal mining, without regard to the requirements of §§ 816.102, 816.104, 816.105, and 816.107 of this chapter to restore the lands disturbed by such mining to their approximate original contour, if it first finds, in writing, on the basis of a complete application, that the following requirements are met:

(1) * * *

(ii) The applicant demonstrates compliance with the requirements for acceptable alternative postmining land uses of paragraphs (a)–(c) of § 816.133 of this chapter;

* * * * *

(2) The applicant demonstrates that in place of restoration of the land to be affected to the approximate original contour under §§ 816.102, 816.104, 816.105, and 816.107 of this chapter, the operation will be conducted in compliance with the requirements of Part 824 of this chapter.

* * * * *

3. Section 785.16 is revised to read as follows:

§ 785.16 Permits incorporating variances from approximate original contour restoration requirements.

(a) The regulatory authority may issue a permit for nonmountaintop removal mining which includes a variance from the requirements of §§ 816.102, 816.104, 816.104, 816.105, and 816.107 or 817.102 and 817.107 of this chapter to restore the disturbed areas to their approximate original contour. The permit may contain such a variance only if the regulatory authority finds, in writing, that the applicant has demonstrated, on the basis of a complete application, that the following requirments are met:

(1) After reclamation, the lands to be affected by the variance within the permit area will be suitable for an industrial, commercial, residential, or public postmining land use (including recreational facilities).

(2) The requirements of § 816.133 or 817.133 of this chapter will be met.

(3) The watershed of lands within the proposed permit and adjacent areas will be improved by the operations when compared with the condition of the watershed before mining or with its condition if the approximate original contour were to be restored. The watershed will be deemed improved only if—

(i) The amount of total suspended solids or other pollutants discharged to ground or surface water from the permit area will be reduced, so as to improve the public or private uses or the ecology of such water, or flood hazards within the watershed containing the permit area will be reduced by reduction of the peak flow discharge from precipitation events or thaws;

(ii) The total volume of flow from the proposed permit area, during every season of the year, will not vary in a way that adversely affects the ecology of any surface water or any existing or planned use of surface or ground water; and

(iii) The appropriate State environmental agency approves the plan.

(4) The owner of the surface of the lands within the permit area has knowingly requested, in writing, as part of the application, that a variance be granted. The request shall be made separately from any surface owner consent given for the operations under § 778.15 or 782.15 of this chapter and shall show an understanding that the variance could not be granted without the surface owner's request.

(b) If a variance is granted under this section——

(1) The requirements of § 816.133(d) or 817.133(d) of this chapter shall be included as a specific condition of the permit; and

(2) The permit shall be specifically marked as containing a variance from approximate original contour.

(c) A permit incorporating a variance under this section shall be reviewed by the regulatory authority at least every 30 months following the issuance of the permit to evaluate the progress and development of the surface coal mining and reclamation operations to establish that the operator is proceeding in accordance with the terms of the variance.

(d) If the permittee demonstrates to the regulatory authority that the operations have been, and continue to be, conducted in compliance with the terms and conditions of the permit, the requirements of the Act, this chapter, and the regulatory program, the review specified in Paragraph (c) of this section need not be held.

(e) The terms and conditions of a permit incorporating a variance under this section may be modified at any time by the regulatory authority, if it determines that more stringent measures are necessary to ensure that the operations involved are conducted in compliance with the requirements of the Act, this chapter, and the regulatory program.

(f) The regulatory authority may grant variances in accordance with this section only if it has promulgated specific rules to govern the granting of variances in accordance with the provisions of this section and any necessary, more stringent requirements.

PART 816—PERMANENT PROGRAM PERFORMANCE STANDARDS—SURFACE MINING ACTIVITIES

4. Section 816.133 is revised to read as follows:

§ 816.133 Postmining land use.

(a) *General.* All disturbed areas shall be restored in a timely manner to conditions that are capable of supporting—

(1) The uses they were capable of supporting before any mining; or

(2) Higher or better uses.

(b) *Determining premining uses of land.* The premining uses of land to which the postmining land use is compared shall be those uses which the land previously supported, if the land has not been previously mined and has been properly managed. The postmining land use for land that has been previously mined and not reclaimed shall be judged on the basis of the land use that existed prior to any mining: *Provided that,* if the land cannot be reclaimed to the land use that existed prior to any mining because of the previously mined condition, the postmining land use shall be judged on the basis of the highest and best use that can be achieved which is compatible with surrounding areas and does not require the disturbance of areas previously unaffected by mining.

(c) *Criteria for alternative postmining land uses.* Higher or better uses may be approved by the regulatory authority as alternative postmining land uses after consultation with the landowner or the land management agency having jurisdiction over the lands, if the proposed uses meet the following criteria:

(1) There is a reasonable likelihood for achievement of the use.

(2) The use does not present any actual or probable hazard to public health or safety, or threat of water diminution or pollution.

(3) The use will not—

(i) Be impractical or unreasonable;

(ii) Be inconsistent with applicable land use policies or plans;

(iii) Involve unreasonable delay in implementation; or

(iv) Cause or contribute to violation of Federal, State, or local law.

(d) *Approximate original contour: Criteria for variance.* Surface coal mining operations that meet the requirements of this paragraph may be

conducted under a variance from the requirement to restore disturbed areas to their approximate original contour, if the following requirements are satisfied:

(1) The regulatory authority grants the variance under a permit issued in accordance with § 785.16 of this chapter.

(2) The alternative postmining land use requirements of paragraph (c) of this section are met.

(3) All applicable requirements of the Act and the regulatory program, other than the requirement to restore disturbed areas to their approximate original contour, are met.

(4) After consultation with the appropriate land use planning agencies, if any, the potential use is shown to constitute an equal or better economic or public use.

(5) The proposed use is designed and certified by a qualified registered professional engineer in conformance with professional standards established to assure the stability, drainage, and configuration necessary for the intended use of the site.

(6) After approval, where required, of the appropriate State environmental agencies, the watershed of the permit and adjacent areas is shown to be improved.

(7) The highwall is completely backfilled with spoil material, in a manner which results in a static factor of safety of at least 1.3, using standard geotechnical analysis.

(8) Only the amount of spoil as is necessary to achieve the postmining land use, ensure the stability of spoil retained on the bench, and meet all other requirements of the Act and this chapter is placed off the mine bench. All spoil not retained on the bench shall be placed in accordance with §§ 816.71–816.74 of this chapter.

(9) The surface landowner of the permit area has knowingly requested, in writing, that a variance be granted, so as to render the land, after reclamation, suitable for an industrial, commercial, residential, or public use (including recreational facilities).

(10) Federal, State, and local government agencies with an interest in the proposed land use have an adequate period in which to review and comment on the proposed use.

PART 817—PERMANENT PROGRAM PERFORMANCE STANDARDS—UNDERGROUND MINING ACTIVITIES

5. Section 817.133 is revised to read as follows:

§ 817.133 Postmining land use.

(a) *General.* All disturbed areas shall be restored in a timely manner to conditions that are capable of supporting—

(1) The uses they were capable of supporting before any mining; or

(2) Higher or better uses.

(b) *Determining premining uses of land.* The premining uses of land to which the postmining land use is compared shall be those uses which the land previously supported, if the land has not been previously mined and has been properly managed. The postmining land use for land that has been previously mined and not reclaimed shall be judged on the basis of the land use that existed prior to any mining: *Provided that,* if the land cannot be reclaimed to the land use that existed prior to any mining because of the previously mined condition, the postmining land use shall be judged on the basis of the highest and best use that can be achieved which is compatible with surrounding areas and does not require the disturbance of areas previously unaffected by mining.

(c) *Criteria for alternative postmining land uses.* Higher or better uses may be approved by the regulatory authority as alternative postmining land uses after consultation with the landowner or the land management agency having jurisdiction over the lands, if the proposed uses meet the following criteria:

(1) There is a reasonable likelihood for achievement of the use.

(2) The use does not present any actual or probable hazard to public health and safety, or threat of water diminution or pollution.

(3) The use will not—

(i) Be impractical or unreasonable;

(ii) Be inconsistent with applicable land use policies or plans;

(iii) Involve unreasonable delay in implementation; or

(iv) Cause or contribute to violation of Federal, State, or local law.

(d) *Approximate original contour: Criteria for variance.* Surface coal mining operations that meet the requirements of this paragraph may be conducted under a variance from the requirement to restore disturbed areas to their approximate original contour, if the following requirements are satisfied:

(1) The regulatory authority grants the variance under a permit issued in accordance with § 785.16 of this chapter.

(2) The alternative postmining land use requirements of paragraph (c) of this section are met.

(3) All applicable requirements of the Act and the regulatory program, other than the requirement to restore disturbed areas to their approximate original contour, are met.

(4) After consultation with the appropriate land use planning agencies, if any, the potential use is shown to constitute an equal or better economic or public use.

(5) The proposed use is designed and certified by a qualified registered professional engineer in conformance with professional standards established to assure the stability, drainage, and configuration necessary for the intended use of the site.

(6) After approval, where required, of the appropriate State environmental agencies, the watershed of the permit and adjacent areas is shown to be improved.

(7) The highwall is completely backfilled with spoil material, in a manner which results in a static factor of safety of at least 1.3, using standard geotechnical analysis.

(8) Only the amount of spoil as is necessary to achieve the postmining land use, ensure the stability of spoil retained on the bench, and meet all other requirements of the Act and this chapter is placed off the mine bench. All spoil not retained on the bench shall be placed in accordance with §§ 817.71–817.74 of this chapter.

(9) The surface landowner of the permit area has knowingly requested, in writing, that a variance be granted, so as to render the land, after reclamation, suitable for an industrial, commercial, residential, or public use (including recreational facilities).

(10) Federal, State, and local government agencies with an interest in the proposed land use have an adequate period in which to review and comment on the proposed use.

PART 824—SPECIAL PERMANENT PROGRAM PERFORMANCE STANDARDS—MOUNTAINTOP REMOVAL

6. Section 824.11(a)(4) is revised to read as follows:

§ 824.11 Mountaintop removal: Performance standards.

(a) * * *

(4) The alternative land use requirements of § 816.133(a)–(c) of this chapter are met;

* * * * * *

(Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*)

[FR Doc. 83–23978 Filed 8–31–83; 8:45 am]

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VOL
48
ISS
1
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Thursday
September 1, 1983

Part VI

Department of Transportation

National Highway Traffic Safety Administration

Federal Motor Vehicle Safety Standards; Occupant Crash Protection; Automatic Occupant Restraint Requirement; Suspension of Rule and Request for Comments

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 74-14; Notice 31]

Federal Motor Vehicle Safety Standards Occupant Crash Protection; Automatic Occupant Restraint Requirement

AGENCY: Department of Transportation.

ACTION: Suspension of rule and request for comments.

SUMMARY: This notice suspends the automatic occupant restraint requirements of Safety Standard No. 208, Occupant Crash Protection. This action permits the agency time for the further review contemplated by the recent Supreme Court decision that found NHTSA's rescission of the requirement to be arbitrary and capricious. This suspension is issued without a prior opportunity for notice and comment; the rule might otherwise be deemed effective on September 1, 1983. However, public comment on the suspension is requested and the suspension will be revised or revoked, if appropriate, in response to the comments received.

DATES: *Suspension*—The mandatory automatic restraint requirement of Standard No. 208 is suspended until September 1, 1984. This suspension is effective on September 1, 1983.

Public Comments—Comments on this notice must be received on or before October 3, 1983.

ADDRESSES: Comments should refer to the docket and notice numbers set forth above and be submitted to: Docket Section, Room 5109, 400 Seventh Street, S.W., Washington, D.C. 20590. Docket hours are 8:00 am to 4:00 p.m. (e.d.t.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Kennerly Digges, Acting Associate Administator for Rulemaking, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-1810).

SUPPLEMENTARY INFORMATION: On October 29, 1981 (49 FR 53419), the Department of Transportation's National Highway Traffic Safety Administration (NHTSA) published a notice rescinding the automatic restraint requirements of Safety Standard No. 208, Occupant Crash Protection. (The language of Standard 208 as it was codified prior to the rescission is contained in Appendix A to this notice.) On June 1, 1982, the U.S. Court of Appeals for the D.C. Circuit found the agency's action to be arbitrary and capricious and overturned the agency's action. (*State Farm Mutual Automobile Insurance Co.* v. *Department of Transportation*, 680 F. 2d 206.) On August 4, 1982, the Court of Appeals issued an order staying the effective date of the requirement until September 1, 1983.

In June 1983, the United States Supreme Court rejected the scope of review used by the lower court, but also found the rescission to be arbitrary and capricious. The Supreme Court vacated the judgment of the Court of Appeals and remanded the case to that Court with directions to remand it to NHTSA for further consideration consistent with the Supreme Court's opinion. (*Motor Vehicle Manufacturers Association* v. *State Farm Mutual Automobile Insurance Co.* (No. 82-354; June 24, 1983)).

Because the Supreme Court vacated the judgment of the Court of Appeals, it could be argued that the rescission of the automatic restraint requirement technically continues in effect pending the further agency review contemplated by the Supreme Court. However, if that were not the case, compliance with the rule could be considered to be required by September 1, 1983. In order to clarify this situation, the Department has determined that it is appropriate to issue this notice suspending the effect date of the requirement.

The Suprement Court stated that the agency has sufficient justification to suspend Standard 208 pending any further consideration in accordance with the Court's decision. The Department believes that further consideration is necessary and, as part of our review efforts, it is our intention to issue a notice of proposed rulemaking (NPRM) by October 15, 1983. We intended to expedite this rulemaking and reach a final decision as quickly as possible and well before the end of the one-year suspension. At that time, we will establish an appropriate effective date either for the rule that was rescinded, if we decide to retain it, or for any other action that we take, including re-rescission of the rule.

We believe that it would be inappropriate to require compliance with the rule during this short review period. Neither consumers nor manufacturers should be required to incur additional expenses to comply with a requirement that is being actively reviewed.

Moreover, there is substantial evidence showing that a September 1, 1983, effective date is not practicable. After the D.C. Circuit entered its of August 4, 1982, resinstating the automatic restrain requirement on September 1, 1983, NHTSA obtained current information from vehicle and automatic restraint equipment manufacturers concerning their ability to comply with a September 1, 1983, effective date. After reviewing and analyzing the letters and affidavits submitted by the manufacturers, NHTSA concluded, in an October 1, 1982, submission to the D.C. Circuit Court, that a September 1, 1983, effective date was not achievable at that time and that a significantly longer time period would be needed before practicable compliance with the automatic restraint requirements could be achieved. Based on that data, the Department has concluded that it would not be practicable for vehicle manufacturers to comply with the September 1, 1983, requirement because there is not sufficient leadtime for them to make all the necessary design, development, testing, and production preparations by that date.

Because it is not practicable for the manufacturers to comply by September 1, 1983, the Department also has determined that notice and public procedure on this notice of suspension are impracticable, unnecessary, and contrary to the public interest. The recency of the Supreme Court decision and the imminence of the deadline for compliance with the rule justify this determination. We wish to stress, however, that we are providing an opportunity for public comment on this suspension immediately subsequent to its issuance. After reviewing the public comment that is received, the Department will determine whether this suspension should be revised or revoked and we will issue a document stating our final decision.

This suspension may be made effective immediately upon publication in the **Federal Register** because it relieves a restriction.

This suspension is a major action within the meaning of Executive Order 12291 and a significant action under the Department's Regulatory Policies and Procedures. The benefits and costs of the automatic restraint requirements have been carefully reviewed in the prior final regulatory impact analysis dated October 1981, which has been placed in the docket for the automatic restraint rulemaking. That analysis also provides an assessment of the impact of this suspension. The prior regulatory impact analysis also discusses the impact of the rescission of the automatic restraint requirements on small businesses and governmental entities. Based on that

prior analysis, I hereby certify that this suspension will not have a significant economic impact on a substantial number of small entities. The Department has also evaluated this suspension in accordance with the National Environmental Policy Act and has determined that this action is not a major Federal action significantly affecting the quality of the human environment.

Interested persons are invited to submit comments on the notice of suspension. It is requested but not required that 10 copies be submitted.

All comments must be limited not to exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions with regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly condifential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulations.

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, we may proceed with further action at any time after that date, and comments after the closing date and too late for consideration in regard to the action will be treated as suggestions for future action. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, tha it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407)

Issued in Washington D.C. on August 30, 1983.

James H. Burnley, IV,
Acting Secretary of Transportation.

Appendix A

The text of S4.1.3 of Standard No. 208, *Occupant Crash Protection*, (49 CFR Part 571.208) that was rescinded on October 29, 1981 (46 FR 53419) reads as follows:

S4.1.3 *Passenger cars manufactured on or after September 1, 1983.* Each passenger car manufactured on or after September 1, 1983 shall—

(a) At each front designated seating position meet the frontal crash protection requirements of S5.1 by means that require no action by vehicle occupants;

(b) At each rear designated seating position have a Type 1 or Type 2 seat belt assembly that conforms to Standard No. 209 and S7.1 and S7.2; and

(c) Either—

(1) Meet the lateral crash protection requirement of S5.2 and the roll-over crash protection requirements of S5.3 by means that require no action by vehicle occupants; or

(2) At each front designated seating postion have a Type 1 or Type 2 seat belt assembly that conforms to Standard No. 209 and S7 through 7.3, and meet the requirements of S5.1 with front test dummies as required by S5.1, restrained by the Type 1 or Type 2 seat belt assembly (or the pelvic portion of any Type 2 seat belt assembly which has a detachable upper torso belt) in addition to the means that require no action by the vehicle occupant.

[FR Doc. 83-24219 Filed 8-31-83; 10:00 am]
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VOL
48
ISS
1
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1
1983
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Reader Aids

Federal Register
Vol. 48, No. 171
Thursday, September 1, 1983

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations	
CFR Unit	202-523-3419 523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419
Federal Register	
Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Privacy Act	523-4534
Public Inspection Desk	523-5215
Scheduling of documents	523-3187
Laws	
Indexes	523-5282
Law numbers and dates	523-5282 523-5266
Slip law orders (GPO)	275-3030
Presidential Documents	
Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235
United States Government Manual	523-5230

SERVICES

Agency services	523-5237
Automation	523-3408
Library	523-4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public Inspection Desk	523-5215
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, SEPTEMBER

39595-39910.....1

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing August 31, 1983

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Dates of FR publication	15 days after publication	30 days after publication	45 days after publication	60 days after publication	90 days after publication
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September 2	September 19	October 3	October 17	November 1	December 1
September 6	September 21	October 6	October 21	November 7	December 5
September 7	September 22	October 7	October 24	November 7	December 6
September 8	September 23	October 11	October 24	November 7	December 7
September 9	September 26	October 11	October 24	November 8	December 8
September 12	September 27	October 12	October 27	November 14	December 12
September 13	September 28	October 13	October 28	November 14	December 12
September 14	September 29	October 14	October 31	November 14	December 13
September 15	September 30	October 17	October 31	November 14	December 14
September 16	October 3	October 17	October 31	November 15	December 15
September 19	October 4	October 19	November 3	November 18	December 19
September 20	October 5	October 20	November 4	November 21	December 19
September 21	October 6	October 21	November 7	November 21	December 20
September 22	October 7	October 24	November 7	November 21	December 21
September 23	October 11	October 24	November 7	November 22	December 22
September 26	October 11	October 26	November 10	November 25	December 27
September 27	October 12	October 27	November 14	November 28	December 27
September 28	October 13	October 28	November 14	November 28	December 27
September 29	October 14	October 31	November 14	November 28	December 28
September 30	October 17	October 31	November 14	November 29	December 29

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500–799	5.00
1700–end	6.00
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26 Parts:	
1 (§§ 1.0–1.169)	8.00
1 (§§ 1.301–1.400)	6.00
1 (§§ 1.401–1.500)	7.00
1 (§§ 1.501–1.640)	6.50
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Title	Price
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Title	Price
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1–199	7.00
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46 Parts:	
1–29	6.00
30–40	5.50
41–69	7.50
70–89	6.00
90–109	6.50
110–139	5.00
140–155	7.00
156–165	7.50
166–199	7.00
200–399	8.50
400–end	7.00
47 Parts:	
0–19	8.50
20–69	9.00
70–79	8.00
80–end	9.00
49 Parts:	
1–99	6.50
100–177	9.00
178–199	8.00
200–399	7.50
400–999	8.00
1000–1199 (rev. 11–1–82)	7.50
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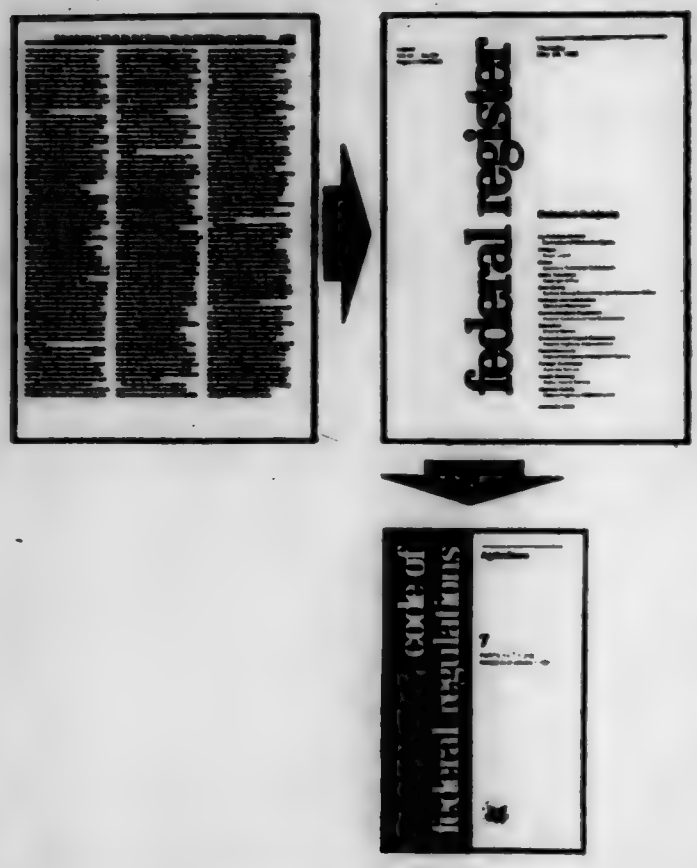

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48
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Vol. 48 No. 172

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Pages 39911-40186

federal register

Friday
September 2, 1983

Selected Subjects

Airspace
Federal Aviation Administration

Coal Mining
Surface Mining Reclamation and Enforcement Office

Crop Insurance
Federal Crop Insurance Corporation

Employment
Employment and Training Administration

Endangered and Threatened Wildlife
Fish and Wildlife Service

Equal Access to Justice
Environmental Protection Agency

Federal Home Loan Banks
Federal Home Loan Bank Board

Food Grades and Standards
Food and Drug Administration

Income Taxes
Internal Revenue Service

Marketing Agreements
Agricultural Marketing Service

Medicaid
Health Care Financing Administration

Mine Safety and Health
Mine Safety and Health Administration

CONTINUED INSIDE

Selected Subjects

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Motor Vehicle Safety
National Highway Traffic Safety Administration
Navigation (Air)
Federal Aviation Administration
Navigation (Water)
Saint Lawrence Seaway Development Corporation
Privacy
Defense Department
Railroad Safety
Federal Railroad Administration
Savings and Loan Associations
Federal Home Loan Bank Board
Trade Practices
Federal Trade Commission
Traffic Regulations
Army Department
Water Supply
Environmental Protection Agency

Contents

Federal Register
Vol. 48, No. 172
Friday, September 2, 1983

Agency for International Development
NOTICES
Authority delegations:
40005 Doucette, Robert A.
40007 Egypt, Mission Director
40005 Gibson, Robert; revoked
40005 Gold, Gerald P.
40005 Hawley, Wesley L.
40006 Howley, Peter J.
40007 Indonesia, Mission Director
40006 Nevin, Stanley R.
40006 Obey, Fred E.
40006 Philippines, Mission Director
40006 Potocki, Raymond J.
40007 Stuart, John
Meetings:
40004 International Food and Agricultural Development Board
40004 International Private Enterprise President's Task Force

Agricultural Marketing Service
RULES
39912 Lemons grown in Ariz. and Calif.

Agriculture Department
See Agricultural Marketing Service; Cooperative State Research Service; Federal Crop Insurance Corporation; Forest Service; Soil Conservation Service.

Air Force Department
NOTICES
Meetings:
39976 Scientific Advisory Board
Senior Executive Service:
39976 Performance Review Board; membership

Army Department
RULES
Law enforcement:
39919 Motor vehicle traffic supervision; drunk drivers on U.S. Army installations
NOTICES
Meetings:
39976 Military personal property symposium
39976 Science Board

Arts and Humanities, National Foundation
NOTICES
Meetings:
40034, 40035 Music Advisory Panel (2 documents)

Blind and Other Severely Handicapped, Committee for Purchase From
NOTICES
39975 Procurement list, 1983; additions and deletions (2 documents)

Civil Aeronautics Board
NOTICES
39972 Agency information collection activities under OMB review
39971 Certificates of public convenience and necessity and foreign air carrier permits; weekly applications
Hearings, etc.:
39972 Air Micronesia, Inc., et al.

Commerce Department
See International Trade Administration; National Oceanic and Atmospheric Administration; National Technical Information Service; National Telecommunications and Information Administration.

Cooperative State Research Service
NOTICES
Meetings:
39969 Committee of Nine

Customs Service
NOTICES
Trade name recordation applications:
40055 Players & Spectators, Inc.

Defense Department
See also Air Force Department; Army Department; Navy Department.
RULES
39917 Audiovisual Agency; Privacy Act implementation

Employment and Training Administration
RULES
40168 Alien temporary agricultural employment in U.S.; labor certification process, adverse effect wage rate methodology
NOTICES
Adjustment assistance:
40019 Bessemer & Lake Erie Railroad Co. et al.
40018 Brunswick Manufacturing Co.
40019 Island Creek Coal Co.
40020 Playland Industries
40020 Putnam Manufacturing Co.
40020 Renola Sportswear, Inc., et al.
Emergency jobs appropriation act:
40021 Civil jurisdictions classified as high unemployment areas; additions to list
Job Training Partnership Act:
40022 Performance standards; annual status report; reporting and recordkeeping requirements
40021 Labor surplus area classifications; annual list; additions

Employment Standards Administration
NOTICES
40060 Minimum wages for Federal and federally assisted construction; general wage determinations decisions, modifications, and supersedeas decisions (Ala., Conn., Fla., Hawaii, Ill., Ind., Kans., Maine, Mass., Nebr., N.J., N.Y., Oreg., Pa., Utah, Wash., and Wis.)

Energy Department
See Federal Energy Regulatory Commission.

Environmental Protection Agency
RULES
39934 Equal Access to Justice Act; implementation
PROPOSED RULES
Water pollution control:
40096 Underground injection control program; approval and promulgation
NOTICES
Air programs; fuel and fuel additives:
39978 American Methyl Corp.; waiver; extension of time
Environmental statements; availability, etc.:
39982 Agency statements; weekly receipts
Toxic and hazardous substances control:
39979 Interagency Testing Committee; responses, etc.; antimony metal, trioxide, and sulfide
39978 Premanufacture notification requirements; test marketing exemption applications
Water pollution; discharge of pollutants (NPDES):
39982 Kentucky

Federal Aviation Administration
RULES
39913 Standard instrument approach procedures
39913 VOR Federal airways

Federal Crop Insurance Corporation
RULES
Crop insurance; various commodities:
39911 Cotton

Federal Deposit Insurance Corporation
NOTICES
40056 Meetings; Sunshine Act

Federal Energy Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
39977 Tennessee Gas Pipeline Co.

Federal Highway Administration
PROPOSED RULES
39953 Federal-aid highway programs; acceleration of projects; advance notice; correction
NOTICES
Environmental statements; availability, etc.:
40053 Missoula County, Mont.; intent to prepare

Federal Home Loan Bank Board
RULES
Federal home loan bank system:
39912 Advances; maximum maturity extended to twenty years
PROPOSED RULES
Federal Savings and Loan Insurance Corporation:
39944 Operations; financial reporting requirements

Federal Railroad Administration
PROPOSED RULES
39965 Track safety standards; commuter service
NOTICES
Exemption petitions, etc.:
40054 South Branch Valley Railroad et al.

Federal Reserve System
NOTICES
Applications, etc.:
39993 Grand Bancshares, Inc.
39993 Sherman County Management, Inc.
39993 United Bancorp Inc. et al.
Bank holding companies; proposed de novo nonbank activities:
39992 Citicorp et al.
39994 Manufacturers Hanover Corp. et al.
Federal Open Market Committee:
39991 Domestic policy directives

Federal Trade Commission
PROPOSED RULES
Prohibited trade practices:
39950 Estee Corp.
NOTICES
39995 Premerger notification waiting periods; early terminations
Senior Executive Service:
39995 Performance Review Board, membership

Fish and Wildlife Service
RULES
Endangered and threatened species:
40178 Ash Meadows speckled dace and Amargosa pupfish
39941 Blue pike and longjaw cisco

Food and Drug Administration
RULES
Food for human consumption:
39916 Pineapple, canned; identity standard
NOTICES
Medical devices; premarket approval:
39996 Precision-Cosmet Co., Inc.
Meetings:
39997 Advisory committees, panels, etc.

Forest Service
NOTICES
Environmental statements; availability, etc.:
39969 Boise National Forest, Idaho
39970 Humboldt National Forest, Nev.
39970 Payette National Forest, Idaho

Health And Human Services Department
See also Food and Drug Administration; Health Care Financing Administration.
NOTICES
39995 Agency information collection activities under OMB review
Meetings:
39996 Physical Fitness and Sports, President's Council

Health Care Financing Administration
PROPOSED RULES
Medicaid:
39959 Eligibility; incurred medical expenses deduction (spend down)
NOTICES
Medicare:
39998 Hospital per diem inpatient general routine operating costs; schedule of limits; invalidation of wage index
39999 Peer review organization (PRO) area designations; utilization and quality control; scope of work; correction

Interior Department
See Fish and Wildlife Service; Land Management Bureau; Minerals Management Service; National Park Service; Reclamation Bureau; Surface Mining Reclamation and Enforcement Office.

Internal Revenue Service
PROPOSED RULES
Income taxes:
39953 Debt obligations, registration requirements
39953 Debt obligations, registration requirements; hearing

International Development Cooperation Agency
See Agency for International Development.

International Trade Administration
NOTICES
Scientific articles; duty free entry:
39972 Louisiana State University et al.

Interstate Commerce Commission
NOTICES
Motor carriers:
40009 Compensated intercorporate hauling operations; intent to engage in
Rail carriers:
40011 Tank car mileage allowance system; investigation; postponement
Railroad services abandonment:
40010 Burlington Northern Railroad Co. (2 documents)
40010 Missouri Pacific Railroad Co. (2 documents)

Justice Department
NOTICES
40011-40015 Privacy Act; systems of records (4 documents)

Labor Department
See also Employment and Training Administration; Employment Standards Administration; Mine Safety and Health Administration; Pension and Welfare Benefit Programs Office.
NOTICES
Unemployment compensation, State laws; hearings:
40016 Connecticut et al.

Land Management Bureau
RULES
Public land orders:
39939 Washington
NOTICES
Classification of public lands:
39999 Colorado
Coal leases, exploration licenses, etc.:
39999 Montana
Committees; establishment, renewals, terminations, etc.:
40000 Yuma District Advisory Council; call for nomination
Exchange of public lands for private land:
40000 Montana
Meetings:
40000 Roseburg District Advisory Council
40000 Yuma District Advisory Council
Survey plat filings:
40001 Utah (2 documents)
39999 Wyoming; correction
40001 Colorado
Withdrawal and reservation of lands, proposed, etc.:
40002 Nevada

Mine Safety and Health Administration
PROPOSED RULES
Coal mine health and safety:
40165 Underground coal mines; roof, face, and rib support; preproposal draft and public conference

Minerals Management Service
NOTICES
Outer Continental Shelf; oil, gas, and sulphur operations; development and production plans:
40003 Chevron U.S.A. Inc.
40003 Exxon Co., U.S.A.

Mint Bureau
NOTICES
40054 Metal tokens use; proposed policy change; inquiry

National Credit Union Administration
NOTICES
40034 Agency information collection activities under OMB review
40056 Meetings; Sunshine Act (2 documents)

National Highway Traffic Safety Administration
RULES
Motor vehicle safety standards:
39939 Hydraulic brake systems

National Oceanic and Atmospheric Administration
PROPOSED RULES
Fishery conservation and management:
39967 Atlantic mackerel, squid, and butterfish fishery management plan; hearing
NOTICES
Fishery conservation and management:
39974 Mid-Atlantic Fishery Management Council; foreign fishing applications; inquiry
Meetings:
39973 Emergency striped bass research study
39974 Mid-Atlantic Fishery Management Council
39973 Pacific Fishery Management Council

National Park Service
NOTICES
Boundary establishment, descriptions, etc.:
40003 Lower Saint Croix National Scienic Riverway, Wis.
Meetings:
40003 Cuyahoga Valley National Recreation Area Advisory Commission
40004 Golden Gate National Recreation Area Advisory Commission

National Technical Information Service
NOTICES
39974 Inventions, Government-owned; availability for licensing

National Telecommunications and Information Administration
NOTICES
Meetings:
39975 Frequency Management Advisory Council

Navy Department
NOTICES
Meetings:
39977 Chief of Naval Operations Executive Panel Advisory Committee

Nuclear Regulatory Commission
NOTICES
Applications, etc.:
40035 Battelle Columbus Laboratories
40035 Boston Edison Co.
40037 Carolina Power & Light Co.
40039, 40040 Commonwealth Edison Co. (2 documents)
40042 Tennessee Valley Authority
40043 University of California Regents
Meetings:
40043 Reactor Safeguards Advisory Committee

Pension and Welfare Benefit Programs Office
NOTICES
Employee benefit plans; prohibited transaction exemptions:
40028 Landauer Fund I (the Fund)
40032 Moles, Stanley S., M.D., et al.

Reclamation Bureau
NOTICES
Environmental statements; availability, etc.:
40002 Boysen and Yellowtail Reservoirs, Mont. and Wyo.

Saint Lawrence Seaway Development Corporation
RULES
39934 Seaway regulations; navigation closing procedures

Science and Technology Policy Office
NOTICES
Meetings:
40044 White House Science Council

Securities and Exchange Commission
NOTICES
Hearings, etc.:
40044 Banque Indosuez et al.
40046 Colonial Penn Series Trust
Self-regulatory organizations; proposed rule changes:
40046 Chicago Board Options Exchange, Inc.
40049, 40051 National Securities Clearing Corp. (2 documents)

Selective Service System
NOTICES
40052 Registration Information and Management System Manual; availability for purchase

Small Business Administration
NOTICES
Applications, etc.:
40052 Lippo Finance & Investment, Inc.

Soil Conservation Service
PROPOSED RULES
Support activities:
39944 Farmland protection policy; extension of time
NOTICES
Environmental statements; availability, etc.:
39971 Twilight Road Critical Area Treatment RC&D Measure, Okla.

State Department
NOTICES
Meetings:
40053 Shipping Coordinating Committee

Surface Mining Reclamation and Enforcement Office
RULES
Permanent and interim regulatory programs:
40140 Revegetation requirement

Tennessee Valley Authority
NOTICES
40056 Meetings; Sunshine Act

Textile Agreements Implementation Committee
NOTICES
Cotton, wool, or man-made textiles:
39975 Hong Kong

Trade Representative, Office of United States
NOTICES
Import quotas and exclusions, etc.:
40044 Coffee

Transportation Department
See Federal Aviation Administration; Federal Highway Administration; Federal Railroad Administration; National Highway Traffic Safety Administration; Saint Lawrence Seaway Development Corporation.

Treasury Department
See Customs Service; Internal Revenue Service; Mint Bureau.

Veterans Administration
NOTICES
Meetings:
40055 Educational Allowances Station Committee

Separate Parts in This Issue

Part II
40060 Department of Labor, Employment Standards Administration, Wage and Hour Division

Part III
40098 Environmental Protection Agency

Part IV
40140 Department of the Interior, Office of Surface Mining Reclamation and Enforcement

Part V
40165 Department of Labor, Mine Safety and Health Administration

Part VI
40168 Department of Labor, Employment and Training Administration

Part VII
40178 Department of the Interior, Fish and Wildlife Service

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
421.....39911
910.....39912
Proposed Rules:
658.....39944

12 CFR
525.....39912
531.....39912
Proposed Rules:
563.....39944

14 CFR
71.....39913
97.....39913

16 CFR
Proposed Rules:
13.....39950

20 CFR
655.....40168

21 CFR
145.....39916

23 CFR
Proposed Rules:
Ch. I.....39953

26 CFR
Proposed Rules:
1 (2 documents).....39953
5f.....39953

30 CFR
701.....40140
816.....40140
817.....40140
Proposed Rules:
75.....40165

32 CFR
286g.....39917
634.....39919

33 CFR
401.....39934

40 CFR
17.....39934
Proposed Rules:
124.....40098
144.....40098
146.....40098
147.....40098

42 CFR
Proposed Rules:
435.....39959
436.....39959

43 CFR
Public Land Orders
6457.....39939

49 CFR
571.....39939
Proposed Rules:
213.....39965

50 CFR
17 (2 documents).....39941, 40178
Proposed Rules:
655.....39967

Rules and Regulations

Federal Register
Vol. 48, No. 172
Friday, September 2, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 421

[Amdt. No. 1]

Cotton Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Interim rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) herewith amends the Cotton Crop Insurance Regulations, effective for the 1983 crop year, to extend the cancellation dates contained in these regulations to provide additional time for policyholders to consider changes in the insurance program. This action is promulgated under the authority of the Federal Crop Insurance Act, as amended.

DATES:

Effective date: September 2, 1983.

Comment date: Written comments, data, and opinions on this interim rule must be submitted not later than November 1, 1983, to be sure of consideration.

ADDRESS: Written comments on this interim rule should be sent to the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447–3325.

The Impact Statement describing the options considered in developing this rule and the impact of implementing each option is available upon request from Peter F. Cole.

SUPPLEMENTARY INFORMATION: The Cotton Crop Insurance Regulations, published in the **Federal Register** at 47 FR 56813, on December 21, 1982, contain a cancellation date of September 30 for the following south Texas Counties: Bee, Dimmitt, Goliad, Jackson, LaSalle, live Oak, McMullen, Victoria, and all Texas Counties lying south thereof.

In accordance with the cotton crop insurance regulations, any amendments must be placed on file in the service office for the county 15 days prior to the cancellation date to be effective for the crop year. The earliest cancellation date for the cotton crop insurance program occurs in the south Texas counties referred to above on September 30. FCIC is contemplating changes in the cotton crop insurance program for the 1984 crop year, including changing the cancellation and termination for indebtedness dates to conform with the sales closing date established as February 15. There would not be sufficient time for notice and public participation comment prior to the implementation of this rule and still comply with the regulations with respect to placing this rule on file by September 15 to be effective for the 1983 crop year.

FCIC is soliciting public comment on this rule for 60 days after publication in the **Federal Register**, and this rule will be scheduled for review so that any amendments made necessary by the comments received may be published as soon as possible thereafter.

Pursuant to the administrative provisions of 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this rule prior to implementation are impracticable and contrary to the public interest; however, comments are solicited for 60 days after publication of this rule and such comments made pursuant to this rule will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., during regular business hours, Monday through Friday.

Merritt W. Sprague, Manager, FCIC, has determined that (1) this action is not a major rule as defined in Executive Order No. 12291 (February 17, 1981), (2) this action will not increase the Federal paperwork burden for individuals, small businesses, or other persons, and (3) this action conforms to the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and other applicable law.

The title and number of the Federal Assistance Program to which this rule applies are: Title—Crop Insurance; Number 10.450.

This action will not have a significant impact specifically upon area and community development; therefore, review as determined by Executive Order No. 12372 (July 14, 1982), was not used to assure that units of local government are advised of this action.

It is been determined that this action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Impact Statement was prepared.

It has been determined that this action does not constitute a review as to the need, currency, clarity, and effectiveness of these regulations under the provisions of Secretary's Memorandum No. 1512–1 (June 11, 1981). The sunset review date established for these regulations is October 1, 1987.

The information collection requirements of the regulations to which this action applies (7 CFR Part 421) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Nos. 0563–0003 and 0563–0007. These control numbers will be included, for the purposes of codification, in the changes being proposed by FCIC and referred to herein.

List of Subjects in 7 CFR Part 421

Crop insurance, Cotton.

Interim Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby amends the Cotton Crop Insurance Regulations (7 CFR Part 421), effective for the 1983 and succeeding crop years, as follows:

PART 421—[AMENDED]

1. The authority citation for 7 CFR Part 421 is:

Authority: Sections 506, 516, Pub. L. 75–430, 52 Stat. 73, as amended, 77, as amended (7 U.S.C. 1506, 1516)

2. Section 15(d) of the Cotton Crop Insurance Policy, found in 7 CFR 421.7(d) (**Federal Register** of December 21, 1982, at 47 FR 56819), is revised to read as follows:

§ 421.7 The application and policy.

* * * * *

Cotton—Crop Insurance Policy

* * * * *

15. * * *

d. The cancellation and termination dates are:

State and county	Cancellation date	Termination date for indebtedness
Bee, Dimmitt, Goliad, Jackson, LaSalle, Live Oak, McMullen, Victoria, Counties, Texas, and all Texas counties lying south thereof..	February 15.....	January 31.
All other Texas counties and states.	December 31.....	March 31.

* * * * *

Done in Washington, D.C., on August 24, 1983.

Approved by Merritt W. Sprague,
Dated: August 24, 1983.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

[FR Doc. 83-24089 Filed 9-1-83; 8:45 am]
BILLING CODE 3410-08-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 427]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 225,000 cartons during the period September 4–10, 1983. Such action is needed to provide for orderly marketing of fresh lemons for the period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: September 4, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona lemon crop for the benefit of producers, and will not substantially affect costs for the directly regulated handlers.

This final rule is issued under Marketing Order No. 910, as amended (7 CFR part 910) regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy currently in effect. The committee met publicly on August 30, 1983, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is good on larger sizes and weaker on smaller sizes.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the Act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of subjects in 7 CFR Part 910.

Agricultural Marketing Service, Marketing Agreements and Orders, California, Arizona, Lemons.

Section 910.727 is added as follows:

§ 910.727 Lemon regulation 427.

The quantity of lemons grown in California and Arizona which may be handled during the period September 4, 1983, through September 10, 1983, is established at 225,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: September 1, 1983.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83-24365 Filed 9-1-83; 12:46 pm]
BILLING CODE 3410-02-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 525 and 531

[No. 83-473]

Federal Home Loan Banks; Advances

Dated: August 29, 1983

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Federal Home Loan Bank Board ("Board") is revising its regulation and statement of policy regarding Federal Home Loan Banks' ("Banks") advances to members by extending the maximum maturity for which Banks may make advances to their members. The current regulation and policy statement limit the maximum maturity to 10 years; the final rule extends the maximum maturity to 20 years.

EFFECTIVE DATE: September 7, 1983.

FOR FURTHER INFORMATION CONTACT: Susan C. Evans, (202–377–6658), Senior Financial Analyst, Office of District Banks; or Anne K. Scully (202–377–6460), Attorney, Policy and Projects Division, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: In recent years, as member institutions have sought to practice more effective asset/liability management, the Banks have increasingly made available longer-term funds to assist members in their efforts to more closely match the maturities of their assets and liabilities.

Deregulation of rates on savings deposits has increased thrift institutions' ability to compete effectively for funds, and has correspondingly de-emphasized the role of the Banks in making short-term funds available to meet the liquidity and savings withdrawal needs of such institutions. The Banks thus are able to provide longer-term advances without unduly restricting the amount of short-term money sought by members for such purposes. Furthermore, the Banks' ability to engage in cash, futures, and options hedging permits the Banks to offer longer-term advances and to issue consolidated obligations in the marketplace to fund such advances without incurring undue interest-rate risk.

Section 525.10 of the Board's Bank System Regulations (12 CFR 525.10) authorizes the Banks to make advances with maturities of up to 10 years. The Board's codified policy statement regarding Bank advances to members, 12 CFR 531.1, generally directs the Banks to offer a range of advances with maturities of up to 10 years.

Today, the Board is amending 12 CFR 525.10 and 531.1 to authorize the Banks to extend the permissible maturity of advances to 20 years. The Board believes that this authorization will afford greater flexibility to the Banks in offering additional services to their member institutions, particularly in their role of home-financing. The Board believes that providing the availability of advances greater than 10 and up to 20 years will give thrift members an additional tool with which to manage their liabilities and assets. This regulation is being implemented on a permissive basis to allow the Banks to develop credit programs that best meet their members' needs.

The Board finds that observance of the notice and comment procedures prescribed by 5 U.S.C. 553(d) and 12 CFR 508.12, 508.13, and delay of the effective date pursuant to 5 U.S.C. 553(d) and 12 CFR 508.14, is not necessary because the changes concern a matter relating to internal agency management, loans and benefits and interpretive rules and statements of policy, and result in a relieving of a prior restriction.

List of Subjects in 12 CFR Parts 525 and 531

Federal Home Loan Banks.

Accordingly, the Federal Home Loan Bank Board hereby amends Parts 525 and 531, Subchapter B, Chapter V of Title 12 of the Code of Federal Regulations, as set forth below.

SUBCHAPTER B—REGULATIONS FOR THE FEDERAL HOME LOAN BANK SYSTEM

PART 525—ADVANCES

1. Revise § 525.10 as follows:

§ 525.10 Terms of advances.

Banks may, under section 10 of the Act, make advances to members for periods of up to 20 years secured by home mortgages or obligations of the United States.

PART 531—STATEMENTS OF POLICY

2. Revise paragraph (b) of § 531.1 as follows:

§ 531.1 Policy on advances to members.

* * * * *

(b) *Terms and conditions.* The Banks generally shall offer a range of advances with maturities of up to 10 years and may offer advances with maturities of up to 20 years. Advances shall be offered within a range of rates established by the Board that is above the current replacement cost of Federal Home Loan Bank obligations of comparable maturities. Prepayment and commitment fees which protect the Banks from undue interest-rate risk generally shall be required.

* * * * *

(Sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1437); Sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); Secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended (12 U.S.C. 1725, 1726, 1730); reorg. plan no. 3 of 1947, 12 FR 4981, 3 CFR 1943–48 comp., p. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83-24077 Filed 9-1-83; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 83-AWA-19]

Alteration of VOR Federal Airways, Minneapolis, MN, Area; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: An error was noted in the description of V–246 as published in the **Federal Register** on July 28, 1983 (48 FR 34249). The airway alignment included La Crosse, WI, VOR, when the intent of the airway description is to by-pass La Crosse and proceed direct to Nodine, MN. This action amends the description of V–246.

EFFECTIVE DATE: September 29, 1983.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Air Traffic Rules Branch (AAT–230), Airspace-Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8783.

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 83–20407 was published in the **Federal Register** on July 28, 1983 (48 FR 34249), that amended the description of V–246 by extending the airway to Dubuque, IA. The description included La Crosse, WI, which was an error. This eliminates La Crosse VOR from the description.

List of Subjects in 14 CFR Part 71

VOR Federal airways, Aviation safety.

Adoption of the Correction

Accordingly, pursuant to the authority delegated to me, **Federal Register** Document 83–20407, as published in the **Federal Register** on July 28, 1983 (48 FR 34249) is corrected as follows:

V–246 [Amended]

By removing the words "From Nodine, MN" and substituting the words "From Dubuque, IA, via Waukon, IA; Nodine, MN;"

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on August 26, 1983.

B. Keith Potts,

Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 83-24074 Filed 9-1-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 97

[Docket No. 23740; Amdt. No. 1250]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal AviationAdministration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the

commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATE: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA-430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures and Airspace Branch (AFO-730), Aircraft Programs Division, Office of Flight Operations Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and §97.20 of the Federal Aviation Regulations (FARs) The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4 and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the Federal Register expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

List of Subjects in 14 CFR Part 97

Navigation (air), Weather, aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 g.m.t. on the dates specified, as follows:

1. By amending § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN SIAPS identified as follows:

* * * *Effective November 24, 1983*

Augusta, KS—Augusta Muni, VOR-A, Amdt. 3, Cancelled
Augusta, KS—Augusta Muni, VOR-A, Amdt. Orig.
Benton, KS—Benton, VOR-E, Amdt. Orig., Cancelled
Benton, KS—Benton, VOR-E, Amdt. Orig.
Hutchinson, KS—Hutchinson Muni, VOR RWY 3, Amdt. 17
Hutchinson, KS—Hutchinson Muni, VOR/DME RWY 21, Amdt. 4
Newton, KS—Newton-City-County, VOR/DME RWY 35, Amdt. 8, Cancelled
Newton, KS—Newton-City-County, VOR/DME-A, Amdt. Orig.
Wichita, KS—Beech North, VOR-D, Amdt. 1, Cancelled
Wichita, KS—Beech North, VOR-D, Amdt. Orig.
Wichita, KS—Colonel James Jabara, VOR-A, Amdt. 1, Cancelled
Wichita, KS—Colonel James Jabara, VOR-A, Amdt. Orig.
Winfield-Arkansas City, KS—Strother Field, VOR RWY 35, Amdt. 2

* * * *Effective October 13, 1983*

Tallassee, AL—Tallassee Muni, VOR RWY 9, Amdt. 2
Tallassee, AL—Tallassee Muni, VOR RWY 27, Amdt. 1, Cancelled
Tallassee, AL—Tallassee Muni, VOR/DME RWY 27, Amdt. Orig.
Marysville, CA—Yuba County, VOR RWY 14, Amdt. 7
Marysville, CA—Yuba County, VOR RWY 32, Amdt. 8
Santa Rosa, CA—Sonoma County, VOR RWY 32, Amdt. 16
Groton (New London), CT—Groton-New London, VOR RWY 5, Amdt. 3
Groton (New London), CT—Groton-New London, VOR RWY 23, Amdt. 5
West Union, IA—George L Scott Muni, VOR/DME-A, Amdt. 1
Chanute, KS—Chanute Martin Johnson, VOR-A, Amdt. 7
Madisonville, KY—Madisonville Muni, VOR RWY 23, Amdt. 8
Chadron, NE—Chadron Muni, VOR RWY 20, Amdt. 4
Wildwood, NJ—Cape May County, VOR RWY 23, Amdt. 8
Jamestown, NY—Chautauqua County, VOR/DME RWY 7, Amdt. 2
New Philadelphia, OH—Harry Clever Field, VOR/DME-A, Amdt. 3
Norwalk, OH—Norwalk-Huron County, VOR-A, Amdt. 2
Beaver Falls, PA—Beaver County, VOR RWY 28, Amdt. 7
Toughkenamon, PA—New Garden Flying Field, VOR RWY 24, Amdt. 4
El Paso, TX—El Paso Intl, VOR RWY 26L, Amdt. 28
Spearman, TX— Spearman Muni, VOR/DME RWY 2, Amdt. Orig.
Portage, WI—Portage Muni, VOR/DME-A, Amdt. 2

** * * Effective September 29, 1983*

Sioux City, IA—Sioux City Muni, VOR/DME or TACAN RWY 13, Amdt. 17
Sioux City, IA—Sioux City Muni, VOR or TACAN RWY 31, Amdt. 25
Goodland, KS—Renner Fld (Goodland Muni), VOR RWY 30, Amdt. 5
Goodland, KS—Renner Fld (Goodland Muni), VOR/DME RWY 30, Amdt. 3
Battle Creek, MI—W. K. Kellogg Regional, VOR RWY 5 (TAC), Amdt. 16
Battle Creek, MI—W. K. Kellogg Regional, VOR RWY 23 (TAC), Amdt. 14
Battle Creek, MI—W. K. Kellogg Regional, VOR RWY 31 (TAC), Amdt. 11
Columbus, NE—Columbus Muni, VOR RWY 14, Amdt. 11
Columbus, NE—Columbus Muni, VOR RWY 32, Amdt. 11
Columbus, NE—Columbus Muni, VOR/DME RWY 32, Amdt. Orig.
Elizabeth City, NC—Elizabeth City CG Air Station/Muni, VOR RWY 1, Amdt. 7
Elizabeth City, NC—Elizabeth City CG Air Station/Muni, VOR RWY 19, Amdt. 6

** * * Effective August 17, 1983*

Reidsville, NC—Rockingham County NC Shiloh, VOR/DME–A, Amdt. 4

2. By amending § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, and SDF/DME SIAPS identified as follows:

** * * Effective November 24, 1983*

San Diego, CA—San Diego-Intl-Lindbergh Field, LOC RWY 27, Amdt. Orig.
Hutchinson, KS—Hutchinson Muni, LOC BC RWY 31, Amdt. 11

** * * Effective October 13, 1983*

Gainesville, GA—Lee Gilmer Memorial, LOC RWY 4, Amdt. 1
St. Louis, MO—Lambert-St. Louis Intl, LOC BC RWY 6, Amdt. Orig.
Greenville, NC—Pitt-Greenville, SDF RWY 19, Amdt. 4
Beaver Falls, PA—Beaver County, LOC RWY 10, Amdt. 2
El Paso, TX—El Paso Intl, LOC BC RWY 4, Amdt. 4

** * * Effective September 29, 1983*

Goodland, KS—Renner Fld (Goodland Muni), LOC RWY 30, Amdt. 3, Cancelled
Battle Creek, MI—W. K. Kellogg Regional, LOC BC RWY 5, Amdt. 13
Columbus, NE—Columbus Muni, LOC RWY 14, Amdt. 3
Akron, OH—Akron Fulton Intl, LOC RWY 25, Admt. 11

3. By amending § 97.27 NDB and NDB/DME SIAPS identified as follows:

** * * Effective November 24, 1983*

San Diego, CA—San Diego Intl-Lindbergh Field, NDB–B, Amdt. 3, Cancelled
San Diego, CA—San Diego Intl-Lindbergh Field, NDB, RWY 27, Amdt. Orig.
El Dorado, KS—El Dorado Muni, NDB RWY 4, Amdt. 1
Herington, KS—Herington Muni, NDB RWY 17, Amdt. 1
Herington, KS—Herington Muni, NDB RWY 35, Amdt. 1
Hutchinson, KS—Hutchinson Muni, NDB RWY 13 Amdt. 13
McPherson, KS—McPherson, NDB–A, Amdt. 3
Newton, KS—Newton-City-County, NDB RWY 17, Amdt. 3
Newton, KS—Newton-City-County, NDB RWY 35, Amdt. 2
Salina, KS—Salina Muna, NDB RWY 35, Amdt. 13
Wellington, KS—Wellington Muni, NDB RWY 17, Amdt. 1
Winfield-Arkansas City, KS—Strother Field, NDB RWY 35, Amdt. 1

** * * Effective October 13, 1983*

Marysville, CA—Yuba County, NDB RWY 14, Amdt. 1
Visalia, CA—Visalia Muni, NDB RWY 30, Amdt. 2
Crestview, FL—Bob Sikes, NDB RWY 17, Amdt. Orig.
Naples, FL—Naples Muni, NDB RWY 22, Amdt. 4
Gainesville, GA—Lee Gilmer Memorial, NDB RWY 4, Amdt. 1
West Union, IA—George L Scott Muni, NDB RWY 35, Amdt. 1
Boyne Falls, MI—Boyne Mountain, NDB–A, Amdt. 3
Greenville, NC—Pitt-Greenville, NDB RWY 19, Amdt. 10
Carrollton, OH—Carroll County-Tolson, NDB RWY 25, Amdt. 2
Defiance, OH—Defiance Meml, NDB RWY 12, Amdt. 7
Winchester, TN—Winchester Muni, NDB RWY 18, Amdt. 2
El Paso, TX—El Paso Intl, NDB RWY 22, Amdt. 27

** * * Effective September 29, 1983*

Sioux City, IA—Sioux City Muni, NDB RWY 13, Amdt. 15
Sioux City, IA—Sioux City Muni, NDB RWY 31, Amdt. 23
Goodland, KS—Renner Fld (Goodland Muni), NDB RWY 30, Amdt. 4
Battle Creek, MI—W. K. Kellogg Regional, NDB RWY 23, Amdt. 14
Columbus, NE—Columbus Muni, NDB RWY 14, Amdt. 10
Elizabeth City, NC—Elizabeth City CG Air Station/Muni, NDB–A, Amdt. 7
Akron, OH—Akron Fulton Intl, NDB RWY 25, Amdt. 11
Knoxville, TN—McGhee Tyson, NDB RWY 5L, Amdt. 4
Knoxville, TN—McGhee Tyson, NDB RWY 5R, Amdt. 4

The FAA published an Amendment in Docket No. 23700, Amdt. No. 1247 to Part 97 of the Federal Aviation Regulations (Vol 48 FR No. 141 Page 33249; dated July 21, 1983) under Section 97.27 effective September 29, 1983, which is hereby amended as follows:

Dallas-Fort Worth, TX—Dallas-Fort Worth Regional, NDB RWY 36L, Amdt. Orig. is rescinded

4. By amending § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME and MLS/RNAV SIAPS identified as follows:

** * * Effective November 24, 1983*

Hutchinson, KS—Hutchinson Muni, ILS RWY 13, Amdt. 13
Newton, KS—Newton-City-County, ILS RWY 17, Amdt. 2
Salina, KS—Salina Muni, ILS RWY 35, Amdt. 16
Winfield-Arkansas City, KS—Strother Field, ILS RWY 35, Amdt. 1

** * * Effective October 13, 1983*

Marysville, CA—Yuba County, ILS RWY 14, Amdt. 2
Santa Rosa, CA—Sonoma County, ILS RWY 32, Amdt. 11
Visalia, CA—Visalia Muni, ILS RWY 30, Amdt. 3
Flint, MI—Bishop, ILS RWY 9, Amdt. 17
Winston Salem, NC—Smith Reynolds, ILS RWY 33, Amdt. 20
El Paso, TX—El Paso Intl, ILS RWY 22, Amdt. 29
Houston, TX—Houston Intercontinental, ILS RWY 32R, Amdt. 6
Provo, UT—Provo Muni, ILS RWY 13, Amdt. 1
Norfolk,VA—Norfolk Intl, ILS RWY 5, Amdt. 20
Richmond, VA—Richard Evelyn Byrd Intl, ILS RWY 33, Amdt. 9

** * * Effective September 29, 1983*

La Verne, CA—Brackett Field, ILS RWY 26L, Amdt. Orig.
Sioux City, IA—Sioux City Muni, ILS RWY 13, Amdt. 1
Sioux City, IA—Sioux City Muni, ILS RWY 31, Amdt. 23
Goodland, KS—Renner Fld (Goodland Muni), ILS RWY 30, Amdt. Orig.
Battle Creek, MI—W. K. Kellogg Regional, ILS RWY 23, Amdt. 14
Knoxville, TN—McGhee Tyson, ILS RWY 5L, Amdt. 7

5. By amending § 97.31 RADAR SIAPS identified as follows:

** * * Effective October 13, 1983*

St Louis, MO—Lambert-St Louis Intl, RADAR–1, Amdt. 29, Cancelled
El Paso, TX—El Paso Intl, RADAR–1, Amdt. 12

6. By amending § 97.33 RNAV SIAPS identified as follows:

** * * Effective November 24, 1983*

Newton, KS—Newton-City-County, RNAV RWY 17, Amdt. 3, Cancelled
Newton, KS—Newton-City-County, RNAV RWY 17, Amdt. Orig.
Newton, KS—Newton-City-County, RNAV RWY 35, Amdt. 2, Cancelled
Newton, KS—Newton-City-County, RNAV RWY 35, Amdt. Orig.
Winfield-Arkansas City, KS—Strother Field, RNAV RWY 35, Amdt. 2

** * * Effective October 13, 1983*

Alton, IL—Civic Memorial, RNAV RWY 29, Amdt. 4, Cancelled
East St Louis, IL—Bi-State Parks, RNAV RWY 30, Amdt. 6, Cancelled
Springfield, IL—Capital, RNAV RWY 4, Amdt. 4, Cancelled
Springfield, IL—Capital, RNAV RWY 22, Amdt. 4, Cancelled
Boyne Falls, MI—Boyne Mountain, RNAV–B, Amdt. Orig.
St Louis, MO—Lambert-St Louis Intl, RNAV RWY 12R, Amdt. Orig.

St Louis, MO—Lambert-St Louis Intl, RNAV RWY 24, Amdt. Orig.
St Louis, MO—Lambert-St Louis Intl, RNAV RWY 30R, Amdt. Orig.
Wildwood, NJ—Cape May County, RNAV RWY 19, Amdt. 3
East Hampton, NY—East Hampton, RNAV RWY 10, Amdt. 1
Greenville, NC—Pitt-Greenville, RNAV RWY 25, Amdt. 2
Cleveland, OH—Cuyahoga County, RNAV RWY 23, Amdt. 6, Cancelled
Dayton, OH—James M. Cox-Dayton Intl, RNAV RWY 24L, Amdt. 3, Cancelled
Lorain/Elyria, OH—Lorain County Regional, RNAV RWY 7, Amdt. 5, Cancelled
Portage, WI—Portage Muni, RNAV RWY 17, Amdt. 1

* * * *Effective September 29, 1983*

Sioux City, IA—Sioux City Muni, RNAV RWY 17, Amdt. 3
Sioux City, IA—Sioux City Muni, RNAV RWY 35, Amdt. 6

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, and 1510); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.49(b)(3))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Note.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

Issued in Washington, D.C. on September 2, 1983.

Kenneth S. Hunt,

Director of Flight Operations.

[FR Doc. 83-24075 Filed 9-1-83; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 145

[Docket No. 78P-0429]

Canned Pineapple; Amendment of Standard of Identity

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the definition of the style "chunks" in the standard of identity for canned pineapple to exclude the style "large cubes." This action will promote honesty and fair dealing in the interest of consumers.

DATES: Effective July 1, 1985, for all affected products initially introduced or initially delivered for introduction into interstate commerce on or after this date. Voluntary compliance may begin November 1, 1983. Objections by October 3, 1983.

ADDRESS: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF-214), Food and Drug Administration, 200 C Street, SW., Washington, DC 20204, 202-245-1164.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of December 10, 1982 (47 FR 55496), FDA published a proposal to amend the U.S. standard of identity for canned pineapple (21 CFR 145.180(a)) to make the style designated as "large cubes" mutually exclusive of the style designated as "chunks" by revising the definition for chunks in § 145.180(a)(2)(vii) to state that the "chunks" style does not include "large cubes." Interested persons were given until February 8, 1983, to comment on the proposal. No comments were received in response to the proposal. Therefore, the agency is issuing the proposed rule as a final rule with no changes.

List of Subjects in 21 CFR Part 145

Canned fruits, Food standards, Fruits.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 145 is amended in § 145.180 by revising paragraph (a)(2)(vii), to read as follows:

PART 145—CANNED FRUITS

§ 145.180 Canned pineapple.

(a) * * *

(2) * * *

(vii) *Chunks*—consisting of short, thick pieces cut from thick slices and/or from peeled cored pineapple and predominantly more than 13 millimeters (0.51 inch) in both thickness and width, and less than 38 millimeters (1.5 inches) in length and does not include large cubes.

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before October 3, 1983, submit to the Dockets Management Branch (address above) written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. Except as to any provisions that may be stayed by the filing of proper objections, compliance with this final regulation, including any required labeling changes, may begin November 1, 1983, and all affected products initially introduced or initially delivered for introduction into interstate commerce on or after July 1, 1985, shall fully comply. Notice of the filing of objections or lack thereof will be published in the **Federal Register.**

(Secs. 401, 701(e), 52 Stat. 1046, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e)))

Dated: August 29, 1983.

William R. Clark,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-24105 Filed 9-1-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 286g

[DAVA Manual 5400.11]

Defense Audiovisual Agency Implementation of the Privacy Act of 1974

AGENCY: Defense Audiovisual Agency (DAVA), DoD.

ACTION: Final rule.

SUMMARY: The Defense Audiovisual Agency has been chartered as a Component of the Department of Defense with a primary mission of providing centrally managed production, acquisition, distribution and depository support and services for selected audiovisual products for all Department of Defense Components. This rule implements Part 286a of Title 32, CFR (DoD Directive 5400.11) "The Defense Privacy Program." Previously DAVA operated under the Privacy Act rules for the Office of the Secretary of Defense, Part 286b of Title 32, CFR (OSD Administrative Instruction 81).

DATE: Effective September 2, 1983.

ADDRESSES: Submit any comments or recommendations to the Director, Defense Audiovisual Agency, HQ DAVA–D, Norton AFB, CA 92409.

FOR FURTHER INFORMATION CONTACT: Mr. Randy Gulley, Administrative Services Division (HQ DAVA–RAP), Directorate for Administration, HQ Defense Audiovisual Agency, Norton AFB, CA 92409. Telephone: 714/382–2096.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 286g

Privacy Act.

Accordingly, a new Part 286g is added to Title 32, CFR, to read as follows:

PART 286g—DEFENSE AUDIOVISUAL AGENCY IMPLEMENTATION OF THE PRIVACY ACT OF 1974

Sec.

286g.1 Authority.
286g.2 Purpose.
286g.3 Definitions.
286g.4 Information and procedures for requesting information.
286g.5 Requirements of identification.
286g.6 Access by subject individuals.
286g.7 Fees.
286g.8 Request for correction or amendment.
286g.9 DAVA review of request for amendment.
286g.10 Appeal of intitial amendment decision.
286g.11 Disclosures of DAVA records to other than the subject.
286g.12 Penalties.
286g.13 Referral of records.
286g.14 General exemptions.

Authority: 5 U.S.C. 552a.

§ 286g.1 Authority.

Pursuant to the requirements of the Privacy Act of 1974 (5 U.S.C. 552a), the following rules of procedures are established with respect to access and amendment of records maintained by the Defense Audiovisual Agency (DAVA) by the individual subjects of the records. These procedures do not apply to current or former DAVA employees who request access to records pertaining to themselves through normal DAVA channels or by writing the Director, Defense Audiovisual Agency, HQ DAVA–D, Norton AFB, CA 92409.

§ 286g.2 Purpose.

(a) To promulgate rules providing procedures by which individuals may exercise their rights granted by the Act to: (1) Determine whether a DAVA system of records contains a record pertaining to themselves; (2) be granted access to all or portions thereof; (3) request administrative correction or amendment of such records; (4) request an accounting of disclosures from such records; (5) appeal any adverse determination for access or correction/amendment of records.

(b) To identify records subject to the provisions of these rules.

(c) To specify these systems of records for which the Director, Defense Audiovisual Agency, HQ DAVA–D, claims an exemption.

§ 286g.3 Definitions.

(a) All terms used in this part which are defined in 5 U.S.C. 552a shall have the same meaning herein.

(b) As used in this part, the term "agency" means the Defense Audiovisual Agency.

§ 286g.4 Information and procedures for requesting information.

(a) The following is a list of all systems of records maintained by DAVA.

Number	Title
102–01	DAVA Office General Personnel Files.
102–03	DAVA Office Personnel Locator Files.
102–10	DAVA Temporary Duty Travel Files.
205–03	DAVA Organizational History Files.
209–01	DAVA Privacy Act Case Files, FOIA Requests and Mandatory Declassification Review Files.
402–03	DAVA High-Level Inquiries Correspondence Files.
403–09	DAVA Biography Files.
501–03	DAVA Security Files.
609–03	DAVA Expert and Consultant Data Files.
613–02	DAVA Appeal and Grievance Files.

(b) Individuals should submit inquiries regarding all DAVA files by mail to: Headquarters Defense Audiovisual Agency, HQ DAVA–RAH, Norton AFB, CA 92409, or to the Activity Chief of the DAVA Activity (see list below) thought to maintain the record in question. Inquiries in person may be made Monday through Friday from 9:00 a.m. to 3:00 p.m. at the Headquarters or the DAVA Activities. All personal visits will require proper identification.

(c) DAVA Activities Address List:

(1) Defense Audiovisual Agency—Norton Activity, Norton AFB, CA 92409

(2) Defense Audiovisual Agency—Tobyhanna Activity, Tobyhanna, PA 18466

(3) Defense Audiovisual Agency—Washington, Activity, Bldg. 219, Washington Navy Yard, Washington, D.C. 20374

§ 286g.5 Requirements of identification.

Only upon proper identification will any individual be granted access to records which pertain to him/her. Identification is required both for accurate record identification and to avoid disclosing records to unauthorized individuals. Requesters must provide their full name; maiden name or alias, if appropriate; date and place of birth; and Social Security Number. Where requests are made by mail, the requester's signature must be notarized. Inclusion of telephone number for the requester is recommended to expedite certain matters. Requesters applying in person must provide an identification with photograph such as a driver's license, military identification card, building pass, etc.

§ 286g.6 Access by subject individuals.

(a) No individual will be allowed access to any information compiled or maintained in reasonable anticipation of civil or criminal actions or proceedings, or otherwise exempt under § 286g.14 below. Requests for pending investigations will be held in abeyance until completion of the investigation and all completion of the subsequent civil or criminal proceedings or actions.

(b) Any individual may authorize DAVA to provide a copy of his/her records to a third party. This authorization must be in writing and should be provided DAVA with the initial request.

§ 286g.7 Fees.

Requesters will be charged only for the reproduction of requested documents and postal charges, if applicable. Normally there will be no

charge for the first copy of a record provided to any individual. Thereafter, fees will be computed as set forth in appropriate DoD directives and regulations.

§ 286g.8 Request for correction or amendment.

(a) Requests to correct or amend a file shall be addressed to the system manager of the file. The request must reasonably describe the record to be amended, the items to be changed as specifically as possible, the type of amendment (e.g., deletion, correction, amendment), and the reason for amendment. Reasons should address at least one of the following categories: Accuracy, relevance, timeliness, completeness, fairness. The request should also include appropriate evidence which provides a basis for evaluating the request. Normally, all documents submitted, to include court orders, should be certified.

(b) Requirements of identification as outlined in section 5 apply to requests to correct or amend a file.

(c) Incomplete requests will not be honored, but the requester will be contacted for the additional information needed to process the request.

(d) The alteration of evidence presented to courts, boards, and other official proceedings is not permitted by this section.

§ 286g.9 DAVA review of request for amendment.

(a) A written acknowledgment of the receipt of a request for amendment of a record will be provided to the requester within 10 working days, unless final action regarding approval or denial will constitute acknowledgment.

(b) Where there is a determination to grant all or a portion of a request to amend a record, the record shall be promptly amended and the requesting individual notified. Individuals, agencies, or components shown by accounting records to have received copies of the record, or to whom disclosure has been made, will be notified of the amendment by the responsible DAVA official. Where a DoD recipient of an investigative record cannot be located, the notification will be sent to the personnel security element of the component to which the file was furnished.

(c) Where there is a determination to deny all or a portion of a request to amend a record, DAVA will promptly advise the requesting individual of the specifics of the refusal and the reasons and inform the individual the he/she may request a review of the denial(s) from the Director, DAVA, within 45 days of the denial.

§ 286g.10 Appeal of initial amendment decision.

(a) All appeals of an initial amendment decision should be addressed to the Director, Defense Audiovisual Agency, HQ DAVA–D, Norton AFB, CA 92409. The appeal should be concise and should specify the reasons the requester feels that the initial amendment action by DAVA was not satisfactory. Upon receipt of the appeal, the Director, DAVA, will review the request and make a determination to approve or deny the appeal.

(b) If the Director, DAVA, decides to amend the record, the requester, and all previous recipients of the disputed information, will be notified of the amendment. If the appeal is denied, DAVA will notify the requester of the reason for the denial, of the requester's right to file a statement of dispute disagreeing with the denial, that such statement of dispute will be retained in the file, that the statement will be provided to all future users of the file, and that the requester may file suit in a Federal District Court to contest the decision not to amend the record.

(c) The DAVA will respond to all appeals within 30 working days or will notify the requester of an estimated date of completion, if the 30-day limit cannot be met.

§ 286g.11 Disclosures of DAVA records to other than the subject.

(a) No record containing personally indentifiable information within a DAVA system of records shall be disclosed by any means to any person or agency outside the Department of Defense, except with the written consent of the individual subject of the record or as provided for in the Act and DoD Directive 5400.11.

(b) Disclosures that may be made without the request or consent of the individual are enumerated at 5 U.S.C. 552a(b) and in DoD Directive 5400.11.

§ 286g.12 Penalties.

(a) An individual may bring a civil action against the DAVA to correct or amend the record, where there is a refusal to comply with an individual request or failure to maintain any record with accuracy, relevance, timeliness, and completeness, so as to guarantee fairness, or where there is failure to comply with any other provison of the Privacy Act. The court may order correction or amendment of records. The court may enjoin the DAVA from withholding the records and order the distribution of the record.

(b) Where it is determined that the action was willful or intentional with respect to 5 U.S.C. 552a(g)(1) (C) or (D), the United States shall be liable for the actual damages sustained, but in no case less than the sum of $1,000 and the costs of the action with attorney fees.

(c) Criminal penalties may be imposed against an officer or employee of the DAVA who discloses material, who knows it is prohibited from disclosure or who willfully maintains a system of records without compliance with the notice requirements.

(d) Criminal penalties may be imposed against any person who knowingly and willfully requests or obtains any records concerning another individual from an agency under false pretenses.

(e) All of these offenses are misdemeanors with a fine not to exceed $5,000.

§ 286g.13 Referral of records.

A DAVA system of records may contain records which originated with other DoD Components or Federal Agencies who may have claimed exemptions for them under the Privacy Act of 1974. When any action is initiated on a portion of records which may be exempt, consultation with the originating agency or component will be effected and, where appropriate, such records will be referred to that component or agency for action.

§ 286g.14 General exemptions.

All systems of records maintained by the DAVA shall be exempt from the requirements of 5 U.S.C. 552a(d) pursuant to 5 U.S.C. 552a(k)(1) to the extent that such systems contain any information properly classified under Executive Order 11652, 3 CFR Part 339, and which is required by the said Executive Order to be kept secret in the interest of national defense or foreign policy. This exemption, which may be applicable to parts of all systems of records, is necessary because certain record systems not otherwise specifically designated for exemptions herein may contain isolated items of information which have been properly classified.

August 30, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83–24179 Filed 9–1–83; 8:45 am]

BILLING CODE 3810–01–M

Department of the Army

32 CFR Part 634

Motor Vehicles Traffic Supervision; Drunk Drivers and Driving

AGENCY: Deputy Chief of Staff for Personnel, Department of the Army, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Army proposes to revise its regulation for dealing with all drunk drivers on US Army installations, and active duty Army personnel charged with drunk driving either on or off Army installations. The change is necessary to provide guidance to commanders in implementing the revised policy. Drunk driving is incompatible with the maintenance to high standards of performance, military discipline, and readiness, and is a serious threat to the health and welfare of the Army community. Army commanders are required to ensure that all intoxicated drivers are removed from the roads of Army installations as quickly as possible, that active duty Army personnel are also discouraged from driving under the influence of alcohol or other drugs on public roads, and that appropriate sanctions against drunk drivers are expeditiously applied. These revised regulations are intended to effectively reduce the incidence of drunk driving on Army installations, and among active duty Army military personnel wherever they drive.

DATE: September 2, 1983.

ADDRESS: Send written comments to HQDA (DAPE-HRE), Washington, DC 20310.

FOR FURTHER INFORMATION CONTACT: Sergeant Major Ronald A. Tate, (202) 756-1896.

SUPPLEMENTARY INFORMATION: On June 21, 1983, the Department of the Army (DA) issued for public comment proposals to revise its regulation for dealing with all drunk drivers on U.S. Army installations, and active duty Army personnel charged with drunk driving either on or off Army installations.

Four public comments concerning the proposed rule were received. The proposed rule is being adopted in substantially the same form as proposed, with modifications reflecting the public comments that do not conflict with the intent of the rule, which is to: (1) Expeditiously remove intoxicated drivers from the roads of Army installations; (2) discourage active duty Army personnel from driving on public roads while under the influence of alcohol or other drugs; and (3) expeditiously apply appropriate sanctions against drunk drivers.

This final revision incorporates amendments that: (1) Make provisions for limited driving privileges for DA civilian employees, who work on post, who would be constructively removed from employment by a total suspension or revocation of installation driving privileges; (2) provides that notices of installation driving privilege suspension for DA civilian employees will include notice of the right to have a personnel representative present at the administrative hearing in accordance with applicable laws and regulations; and (3) reminds Army installation commanders that, under provisions of 32 CFR 210, Enforcement of State Traffic Laws on DoD Installations (December 1, 1981), all non-criminal state traffic laws are expressly adopted and make applicable to those military installations having exclusive or concurrent Federal legislative jurisdiction.

This regulation is not significant under requirements of Executive Order 12291, and a regulatory analysis is not required. The Department of the Army has also determined as required by the Regulatory Flexibility Act (Pub. L. 96-354) that the proposed rule poses no burden upon small entities.

List of Subjects in 32 CFR Part 634

Transportation, Traffic regulations, Motor vehicles, Alcohol and alcoholic beverages.

John O. Roach, II,

DA Liaison Officer with the Federal Register.

Part 634 is added to 32 CFR to read as follows:

PART 634—MOTOR VEHICLE TRAFFIC SUPERVISION

Sec.

634.1 General.
634.2 Driving privileges.
634.3 Motor vehicle registration and driver records.
634.4 Police traffic supervision.
634.5 Off-installation traffic activities.
634.6 Traffic point system.
Appendix A—Explanation of Terms as They Pertain to This Joint Service Regulation.
Appendix B—Chemical Testing Policies and Procedures.
Appendix C—State Chemical Breath Testing Training Programs
Appendix D—Chemical Breath Testing, Training, and Certification Requirements

Authority: 10 U.S.C. 3012(g); 5 U.S.C. 2951; Pub. L. 89-564; 89-670; 91-605; 93-87.

§ 634.1 General.

(a) *Purpose.* This regulation establishes policy, responsibilities, and procedures for motor vehicle traffic supervision, which includes but is not limited to the following: granting, suspending, or revoking the privilege to operate a privately owned motor vehicle on a military installation or in oversea areas where traffic operations are under military supervision; registration of motor vehicles with a military installation or department; administration of vehicle registration and driver performance records, to include driver improvement, police traffic supervision and off-installation traffic activities.

(b) *Applicability.* (1) The provisions of this regulation are applicable to individuals serving in, or employed by, the military services and the Defense Logistics Agency, and all other individuals subject to the motor vehicle registration and driver records requirements set forth in § 634.3 of this part.

(2) The terms "installation" and "installation commander," used throughout this regulation apply equally to overseas "commands" and "major oversea commanders" responsible for command motor vehicle traffic supervision programs. Commanders in oversea areas are authorized to modify policies and procedures when dictated by host-nation relationships, treaties or agreements.

(c) *General policy.* (1) The principal objective in supervising motor vehicle traffic is to assure safe and efficient movement of vehicles, material, and personnel to destinations over streets and highways. Programs and procedures will be based on National Highway Safety Program Standards (NHSPS) promulgated under the National Highway Safety Act of 1966, as amended. Subjects addressed by NHSPS and considered applicable to the military services and Defense logistics agency motor vehicle traffic supervision programs include periodic motor vehicle inspections, motorcycle and pedestrian safety, driver education, traffic codes, alcohol in relation to highway safety identification and surveillance of accident locations, traffic engineering services, police traffic services and records, and accident investigation and reporting.

(2) The goal of motor vehicle traffic supervision is to reduce traffic accidents and deaths, injuries, and property damage resulting therefrom. Traffic accidents are caused and, as such, are preventable. Motor vehicle accidents, as caused occurrences, will be examined through an assessment of the roadway and environment, the operator, the vehicle, and supervision and control

measures employed. To be fully effective, motor vehicle traffic supervision programs require total coordination and integration of installation education, engineering, and enforcement capabilities and resources.

(d) Intoxicated driving is incompatible with the maintenance of high standards of performance, military discipline, and readiness, and is a serious threat to the health and welfare of the Army community. Army commanders will insure that intoxicated drivers are removed from the roads as quickly as possible and that appropriate sanctions are expeditiously applied.

(e) *Responsibilities, Departmental.* The Deputy Chief of Staff for Personnel, DA and designated officers of the Departments of Navy and Air Force, the Marine Corps, and the Defense Supply Agency, exercise staff supervision over policy programs for motor vehicle traffic supervision applicable to their respective services or agencies and will:

(i) Develop standardized policies and procedures.

(ii) Coordinate and maintain liaison with interested staff agencies and other military departments in matters pertaining to motor vehicle traffic supervision including the establishment of working groups and committees.

(iii) Coordinate and maintain liaison with appropriate departmental safety personnel in matters pertaining to motor vehicle traffic safety and accident reporting systems.

(iv) Coordinate with national, regional, and State traffic officials and agencies, including active participation in conferences and workshops sponsored by government or private groups at the national level.

(v) Assist in the organization and monitoring of police traffic supervision training within their respective Departments.

(vi) Coordinate and maintain liaison with the Department of Transportation and other Federal departments and agencies regarding Federal Traffic Safety standards and programs which are applicable to the military services' traffic supervision programs.

(2) *Major commanders.* Major commanders of the Army, Navy, Air Force, and Marine Corps will:

(i) Manage motor vehicle traffic supervision within their commands to insure maximum compliance with the objectives of this regulation to improve the service-wide traffic safety performance of vehicle operators.

(ii) Cooperate with and support programs of State and regional highway traffic safety organizations.

(iii) Coordinate regional motor vehicle traffic supervision activities with other major military commanders within assigned geographic areas of responsibility.

(iv) Encourage establishment of agreements between installation and host-states for reciprocal reporting of moving violations and suspension and revocation of driving privileges.

(3) *Installation or activity commanders.* Installation or activity commanders will:

(i) Establish an effective motor vehicle traffic supervision program in accordance with this regulation.

(ii) Cooperate with civil police agencies and other local governmental agencies or civil traffic organizations concerned with motor vehicle traffic supervision.

(iii) Insure that all matters pertaining to motor vehicle traffic supervision are properly related to the overall installation traffic safety program.

(iv) Where possible, actively support and participate in Alcohol Safety Action Projects (ASAP) in neighboring civil communities.

(4) *Law enforcement officer.* The installation or activity law enforcement officer, while sharing the responsibility for a balanced traffic program with other staff agencies, is the officer charged with overall staff responsibility for motor vehicle traffic supervision.

(5) *Safety officer.* Within the mission, scope, and responsibility for the installation safety program, safety personnel will participate in all activities relating to the prevention of motor vehicle traffic accidents.

(6) *Facilities engineer or engineer officer (Public Works Officer at Navy installations).* The facilities engineer or engineer officer is responsible for performing that phase of engineering which is concerned with the planning, construction, and maintenance of streets, highways, and abutting lands. Additionally, he is responsibile for the procurement, construction, installation and maintenance of permanent traffic control devices for control of traffic flow and parking in coordination with the law enforcement officer. Traffic signs, signals, and pavement markings will conform to the standards established in the current Manual on Uniform Traffic Control Devices for Streets and Highways. Planning, design, construction and maintenance of streets and highways should conform to the NHSPS standards on highway design, construction, and maintenance, wherever practicable.

(7) *Traffic engineer.* The traffic engineer is responsible for conducting formal traffic engineering studies and applying traffic engineering measures and techniques, including the use of traffic control devices, to reduce the number and severity of traffic accidents. When an installation traffic engineer is not available, traffic engineering services may be requested through appropriate channels from the Commander, MTMC (§ 634.4(3)).

(8) *Alcohol and drug control officer.* The alcohol and drug control officer for Army installations, and comparable officers of other services, are responsible for providing appropriate alcohol education/treatment and/or rehabilitation services to personnel identified as having alcohol and/or drug abuse problems.

§ 634.2 Driving privileges.

(a) *Policy.* The operation of a privately owned motor vehicle on a military installation constitutes a conditional privilege extended by the installation commander. Individuals desiring the privilege will meet the following sustaining conditions:

(1) Comply with laws and regulations governing motor vehicle operation on the installation.

(2) Comply with the requirements for installation registration (§ 634.3).

(3) Possess while operating a motor vehicle and produce on demand of enforcement personnel:

(i) Proof of vehicle ownership or State registration.

(ii) A valid State driver's license.

(iii) A valid record of motor vehicle safety inspection, if required.

(4) Military personnel agree to attend remedial driver training or participate in alcohol/drug treatment or rehabilitation programs as determined by the installation commander. Civilian personnel and dependents may participate in such programs on a voluntary basis.

(5) Any person granted the privilege of operating a motor vehicle on a military installation shall be deemed to have given his or her consent to a chemical test of his or her blood, breath or urine for the purpose of determining the alcoholic content of his or her blood if lawfully stopped, apprehended, or cited for any offense allegedly committed while driving or in actual physical control of a motor vehicle on the installation under the influence of intoxicating liquor. The test shall be incidental to a lawful traffic stop, apprehension, or citation and administered at the direction of the installation law enforcement official having reasonable cause to believe such person was driving or in actual physical control of a motor vehicle upon the installation while under the influence of intoxicating liquor. Any person who is

dead, unconscious, or otherwise in a condition rendering him or her incapable of refusal shall be deemed not to have withdrawn consent and such tests may be administered whether or not such person is told that failure to submit to or complete the test will result in the suspension of the privilege to operate a motor vehicle. (See procedures for invoking implied consent in § 634.4(3)(iii) of this part.

(b) *Suspension and revocation.* The privilege of driving privately owned motor vehicles on military installations is subject to either administrative suspension or revocation for cause by an installation commander or his designated representative. Suspension and revocation actions based on commission of serious moving traffic violations and/or point assessment for other moving violations are covered in § 634.6 of this part. The termination of installation registration is inherent to revocation actions and individuals must make application for re-registration in accordance with § 634.3 of this part after the expiration of the specified period.

(1) *Suspension.* (i) The suspension of the driving privilege for a period not to exceed six months normally is applied to individuals when other measures such as counselling, remedial driver training or rehabilitation programs have failed to produce the desired driver performance. Driving privileges also may be suspended whenever an individual subject to this regulation consistently (as determined by the installation commander) violates installation traffic regulations.

(ii) Immediate suspension pending resolution of drunk driving charges is authorized for Army personnel and their dependents, DA civilian employees, and others with installation driving privileges, regardless of the geographic location of a drunk driving incident. Suspension is authorized for other civilian persons only with respect to incidents occurring on the installation or in areas subject to military traffic supervision. After a review of available evidence § 634.2(b)(4)(i) personnel will immediately have their installation driving privileges suspended pending resolution of drunk driving charges brought in the following circumstances (in such cases, personnel may request a hearing per § 634.2(b)(4) this regulation; however, driving privileges will remain suspended pending a determination at the hearing):

(A) Lawful apprehension for drunk driving.

(B) Refusal to take or complete a lawfully requested chemical test for blood alcohol content.

(C) Driving or being in physical control of a motor vehicle on post when blood alcohol content is 0.10 percent or higher, irrespective of other charges; or off post when blood alcohol content exceeds the applicable state standard, irrespective of other charges.

(2) Revocation.

(i) The revocation of installation driving privileges is a severe administrative measure to be exercised for serious moving violations or when other available corrective actions fail to produce the desired driver improvement. Revocation of the driving privilege will be for a specific period, but never less than six months.

(ii) Driving privileges are subject to revocation when an individual fails to comply with any of the conditions requisite to the granting of the privilege (see § 634.2(a) of this section).

(iii) Driving privileges will be revoked for a mandatory period of one year in the following circumstances:

(A) When the installation commander or designee has determined that the person lawfully apprehended for driving while intoxicated/drunk driving refused to submit to or complete a test to measure blood alcohol content required by the law of the jurisdiction, this regulation, or installation traffic code.

(B) When there has been a conviction, nonjudicial punishment, or an administrative determination in civilian channels (for example, suspension or revocation of driver's license) for drunk driving. Appropriate official documentation of such conviction, etc., is required as the basis for revocation.

(iv) When temporary suspensions under § 634.2(b)(1)(ii) of this section are followed by revocations, the period of revocation is computed beginning from the date the original suspension was imposed, exclusive of any period during which full driving privileges may have been restored pending resolution of charges. (Example: Privileges were initially suspended on 1 January 1983 for a charge of drunk driving with a blood alcohol content of 0.14 percent. A hearing was held, extreme family hardship was substantiated, and privileges were restored on 1 February pending resolution of the charge. On 1 March there was a conviction for drunk driving. The mandatory one-year revocation period will consist of January 1983 plus March 1983 through January 1984, for a total of twelve months with no installation driving privileges.)

(v) Administrative revocation for a period of no less than five years will be imposed against persons apprehended while driving on the installation while a suspension or revocation of their driving privileges and/or drivers license is in effect. In addition to this administrative action, separate action may also be initiated on the basis of any traffic offense committed.

(vi) For each subsequent determination within a five-year period that revocation is authorized under § 634.2(b)(2)(iii), the offender will be prohibited from obtaining or using a US Government Motor Vehicle Operator's identification Card (SF 46) for a minimum of six months. This does not preclude a commander from imposing such prohibition for a first offense, or for a longer period of time for a first or subsequent offense, or for such other reasons as may be appropriate.

(3) *Restricted privileges.* (i) Requests for restricted driving privileges subsequent to suspension or revocation of installation driving privileges will be referred to one of the following officials for determination:

(A) General Court-Martial Convening Authority will act upon all requests for restricted driving privileges subsequent to suspension or revocation of installation driving privileges for apprehension or conviction for drunk driving/driving while intoxicated.

(B) Installation commanders will act upon other cases.

(ii) The appropriate authority may consider and grant requests for restricted driving privileges or probation to preclude adverse military mission impact, severe family hardship, or detrimental effect on ongoing or contemplated alcohol or drug treatment and rehabilitation programs involving the affected individual. Probation or restricted driving privileges will not be given to any person whose drivers license is under suspension or revocation by a state, Federal, or host country civil court or administrative agency.

(iii) The limitations of the restricted driving privilege (for example, authorization to drive to and from place of employment of duty, and/or selected installation facilities such as hospital, commissary, etc., within specified time periods) and conditions of the probation will be specified in writing and provided the individual concerned. Persons detected in violation of the restricted privilege or probation are subject to revocation action as prescribed in § 634.2(b)(2)(v) of this section. The appropriate authority may reinstate the original period of suspension or revocation for cause (for example, driver at fault in a traffic accident, or driver cited for a moving traffic violation).

(4) *Administrative due process.* Individual Services may promulgate separate regulations establishing administrative due process procedures. The following procedures apply to actions under this paragraph taken by Army commanders with respect to Army personnel and family members, and civilian personnel operating motor vehicles on Army installations.

(i) Prior to suspension actions under § 634.2(b)(1)(iii) of this section, the best evidence readily available will be presented promptly to an individual designated by the installation commander for review and authorization for immediate suspension of installation driving privileges. The reviewer should be an officer outside the installation law enforcement agency. Best readily available evidence includes material such as sworn witness statements, military or civilian police report of apprehension, chemical test results if completed, refusal to consent to chemical testing, video tapes, statements by the apprehended individual, field sobriety or preliminary breath test results, and/or other pertinent evidence. Reviews normally will be accomplished within twelve hours after assembly of evidence. When detailed and reliable evidence is not available, immediate suspension should not be authorized. For example, suspensions for off-post offenses should not be based on published lists of arrested persons, statements by parties not witnessing the apprehension, telephone conversations, or other information not supported by documented and reliable evidence. Installation commanders may authorize the Provost Marshal to conduct reviews and authorize suspension in cases where the designated reviewer is not reasonably available and, in the judgment of the Provost Marshal, such immediate action is warranted. Review by the designated officer will follow as soon as practicable in such cases. When a suspension notice is based on the Provost Marshal's review, there is no requirement for confirmation notice following subsequent review by the designated officer.

(A) For active duty military personnel, written notice of suspension will be provided without delay to the individual's unit chain of command for immediate presentation to the individual.

(B) For civilian personnel, written notice of suspension will normally be provided without delay via registered mail. If the person is employed on the installation, such notice may be forwarded through the military or civilian supervisor. When the notice of suspension is forwarded through the supervisor, the person whose privileges are suspended should be required to provide written acknowledgement of receipt of the suspension notice.

(ii) Notices of suspension will include the following:

(A) The fact that the suspension can be made a revocation under § 634.2(b)(2)(iii) of this section.

(B) The right to request, in writing, a hearing before the installation commander or designee to determine if post driving privileges will be restored pending resolution of the charge; and that such request must be made within five working days of the notice of suspension.

(C) The right of DA civilian employees to have a personal representative present at the administrative hearing in accordance with applicable laws and regulations.

(iii) If a hearing is requested, it must take place within ten working days of receipt of the request. The suspension will remain in effect until a decision has been made by the installation commander or designee, but will not exceed seven working days after the hearing while awaiting the decision. If there is no decision by that time, full driving privileges will be restored until such time as the accused is notified of a decision to continue the suspension.

(iv) Hearing on suspension actions under § 634.2(b) of this section pending resolution of charges will only cover the pertinent issue(s) of whether—

(A) The law enforcement official had reasonable grounds to believe the person was driving or in actual physical control of a motor vehicle while under the influence of intoxicating liquor;

(B) The apprehension was lawful;

(C) The person was lawfully requested to submit to a blood alcohol content test, and had been informed of the consequences of refusal of such test (unless incapable of refusing, as described in § 634.2(a)(5)).

(D) The person refused to submit to the blood alcohol content test, or failed to complete the test, or submitted to the test and the result was 0.10 percent or higher blood alcohol content for an on-post apprehension, or in violation of state laws for an off-post apprehension;

(E) The testing method used was valid and reliable, and the results accurately evaluated;

(v) For offenses other than those described in §§ 634.2(b)(1)(ii) and 634.2(b)(1)(iii) of this section suspension or revocation of the installation driving privilege will not become effective until the installation commander or designee notifies the affected person and offers the person an administrative hearing. Suspension or revocation will take place seven days after this written notice is received unless an application for a hearing is made by the affected person within this period. Such application will stay the pending suspension or revocation for a period of seven days. If, due to action by the Government, a hearing is not held within seven days, the suspension shall not take place until such time as the person is granted a hearing and is notified of the action of the installation commander or designee. However, if the affected person requests that the hearing be continued to a date beyond the seven-day period, the suspension or revocation shall become effective immediately on receipt of notice that request for continuance has been granted.

(A) If it is determined as the result of a hearing to suspend or revoke the affected person's driving privilege, the suspension or revocation will become effective immediately upon receipt of the written notification of such action. An individual whose driving privilege is suspended or revoked will have the right to appeal or request consideration per (B) below.

(B) If the revocation or suspension is imposed after such hearing, the person whose driving privilege has been suspended or revoked will have the right to appeal or request reconsideration. Such requests must be forwarded through channels to the installation commander within ten working days from the date the individual is notified of the suspension or revocation action or the result of the administrative hearing. The suspension or revocation will remain in effect pending a final ruling on the request. Requests for restricted privileges will be approved per § 634.2(b)(3) of this section.

(vi) For revocation actions under § 634.2(b)(2)(iii) of this section, the revocation is mandatory upon conviction or other finding that confirms the charge. Such revocations are effective upon receipt of written notice by the individual concerned, and cancel any full or restricted driving privileges that may have been restored pending resolution of charges. Requests for restoration of full driving privileges are not authorized. Requests for restricted driving privileges or probation will be expeditiously acted upon. Approval authority is the General Court-Martial Convening Authority (§ 634.2(b)(3) of this section).

(5) Restoration of Driving Privileges Upon Acquittal. The suspension or revocation of driving privileges will be vacated upon acquittal of drunk driving charges (or other determination which sets aside a finding of "guilty"), or a determination by appropriate officials not to prosecute the charge. In such cases, the affected person must make application for re-registration per § 634.2(a) and 634.3. Acquittal of drunk driving charges will not result in vacation of any suspension or revocation of driving privileges when such action was based on either:

(i) The persons refusal to submit to or complete a lawfully requested test to measure blood alcohol content, after being informed of the consequences of refusal of such test (unless incapable of refusing, as described in § 634.2(b)(5) of this section; or,

(ii) The person driving or being in physical control of a motor vehicle while a suspension or revocation was in effect under §§ 634.2(b)(1)(ii) or 634.2(b)(2)(iii) of this section.

(c) *Reciprocal States—military action.* The military services recognize the primacy of the States in matters pertaining to privately owned motor vehicle administration and driver licensing. In support of these activities and the National Highway Safety Program Standards, the following procedures will be followed at installation/command level:

(1) If statutory authority exists within the host-State for reciprocal suspension and revocation of driving privileges, installation and oversea commanders are authorized and encouraged to enter into agreements with State driver licensing authorities for reciprocal reporting of all moving violations and infractions of motor vehicle laws and regulations for which the driver has been penalized. On receipt of written notification, the receiving party may assess traffic points against individual driving records, and/or suspend or revoke driving privileges to the extent such actions could have been taken if the violation or incident had occurred within the receiving party's respective jurisdiction. (See § 634.6(c)(4) of this section for assessment of traffic points or suspension and revocation of driving privileges by State driver licensing authorities.)

(2) If statutory authority does not exist within the host-State for formal State-military reciprocity:

(i) Commanders will take appropriate action on reports of moving traffic violations, suspensions, or revocations received from State authorities. When State authority suspends or revokes an individual's drivers license, the installation or command driving privilege is automatically terminated. Administrative actions (suspension, revocation and point assessments) for moving traffic violations committed off the installation should not be less than that required for similar offenses if committed on the installation. The installation or oversea commander, when notified of State action, may also suspend or revoke the individual's U.S. Government Motor Vehicle Operator's Identification Card (SF 46). In all cases, however, authorization to drive a Government vehicle will be restricted to the limits of the installation.

(ii) When an individual's installation or command driving privilege is revoked through action initiated by military authority, commanders will transmit such information to the appropriate State licensing authority for their information and action in accordance with the laws applicable to that jurisdiction. Actions reported will include withdrawals of driving privileges because of physical or mental disqualifications, as recommended by a physician. Information furnished to the State will include a complete basis for action. Reporting action may be deferred on those persons who voluntarily submit to approved medical treatment programs for drug abuse or problem drinking, provided close supervision of the individual's activities, including safe operation of a motor vehicle, is prudently exercised.

(d) *Remedial driver training.* (Air Force activities will comply with AFR 50–24; Navy with OPNAVINST 5100.12 series; Marine Corps activities with Marine Corps Order 5100.19A.)

(1) Installation commanders will establish a remedial driver training program to instruct and correct military personnel who have been identified as problem drivers. The selection of personnel to attend remedial driver's training should be based on the information entered on the individual driver's record. The course curriculum should provide, as a minimum, 10 hours of instruction designed to improve driver performance and compliance with traffic laws. Attendance at the remedial training course may be waived in cases of drivers referred to alcohol education classes at installation alcohol and drug centers.

(2) Installation commanders may hold periodic courses of instruction when the establishment of a remedial driving school on a continuing basis is impractical. In localities where civil authorities conduct remedial driver training courses, local arrangements may be made for installation personnel to attend these courses in lieu of courses conducted on military installations.

(3) Civilian personnel employed on the installation, contractor employees, and military dependents may voluntarily attend remedial driver training or similar courses. Driving privileges which have been suspended or revoked may be withheld beyond expiration of the sanction, pending completion of an approved remedial driver training course or alcohol/drug counseling programs.

TABLE 2–1—GUIDE TO ACTIONS ON DRUNK DRIVING-RELATED OFFENSES [1]

	Drunk driving	Refuse BAC test	BAC 0.10 or more [2] irrespective of other charges/convictions
A. Actions Upon Apprehension			
1. Review evidence; suspend driving privileges.	Yes	Yes	Yes, if charged with drunk driving.
		Paragraphs 2–2a(2) and 2–2d(1) and (2).	
2. May request hearing for privileges after suspension [3] (installation commander is approval authority; if privileges are denied, General Court Martial Convening Authority is approval authority for restricted privileges.).	Yes	Yes	Yes.
		Paragraphs 2–2d(3) and 2–2d(4).	
3. Refer to ADAPCP (evaluation, appropriate track) [4].	Yes	Yes	Yes, regardless of charges.
		Paragraphs 4–5f.	
4. Review service record for bar to reenlistment, administrative reduction/discharge.	Yes	Yes	Yes, regardless of charges.
		Paragraphs 4–5h(2).	
B. Actions Upon Conviction/Confirmation			
1. Mandatory 1-year revocation of driving privileges.	Yes	Yes	No.
		Paragraphs 2–2b(3).	
2. May request restricted privileges (General Court-Martial Convening Authority is approval authority).	Yes	Yes	N/A.
		Paragraphs 2–2c(1)(a).	
3. General officer letter of reprimand [4]	Yes	Yes	Yes.
		Paragraphs 4–5h(1).	

NOTES:
[1] Army personnel: offenses on or off installation. Family members/civilians; on installation.
[2] BAC 0.10 or higher, or intoxication level established by other overriding standard.
[3] Hearing must be within 7 working days of receipt of request; decision must be made within 7 working days of hearing or full privileges restored.
[4] Active duty Army only.

§ 634.3 Motor vehicle registration and driver records.

(a) *General.* This chapter prescribes general policies for motor vehicle registration and maintenance of driver records which are uniform among all military departments and the Defense Supply Agency. Specific policies and procedures for registration inspection and marking of privately owned vehicles are contained in applicable separate service directives.

(b) *Policy.* (1) Motor vehicles which are owned by a person who resides, performs duty, is employed on, or frequently uses the facilities of a military installation will be registered in accordance with this regulation as modified by separate service policies.

(2) Vehicles designed exclusively for construction and material handling, vehicles used solely off the traffic way, and bicyles with fractional housepower engines will not be registered.

(3) Commanders are authorized to grant temporary registration for a period not to exceed 30 days pending permanent registration or in other circumstances when deemed appropriate.

(4) Unless security requirements dictate otherwise, valid vehicle registration and decalcomania from other installations/activities of the same service or other services and DSA will be honored at all installations/activities.

(5) Motor vehicles driven by visitors may be issued appropriate locally produced identification media.

(c) *Registration requirements.* Systems for registration of privately owned motor vehicles on military installations will include the following requirements:

(1) Evidence of vehicle ownership and certificate of State registration as may be required by the State in which the vehicle is registered.

(2) Possession of a valid State driver's license.

(3) Certification to the continuing possession of motor vehicle liability insurance in an amount not lower than the minimum limits prescribed by the financial responsibility, or the compulsory law of the State in which the installation is located.

(4) Evidence of satisfactory completion of a safety and mechanical vehicle inspection by State or jurisdiction in which the vehicle is licensed or located. If neither State nor local jurisdiction requires a periodic safety inspection, the establishment of an installation vehicle safety inspection program will be in accordance with separate service policy.

(5) Issue of decalcomania or license plates (oversea areas only) as a means of identifying registered vehicles.

(d) *Termination of registration. (1)* Installation/activity or oversea commanders, or their designated representatives, may terminate the registration or deny initial registration whenever:

(i) The owner fails to comply with the registration requirements or conditions (§ 634.3(c) of this section).

(ii) The owner sells or otherwise disposes of the vehicle, is released from active duty, is separated from the service, is transferred to a new duty station, or terminates civilian employment with a military department.

(iii) The owner is other than active military or civilian employee and discontinues regular operation of the vehicle on the installation.

(iv) The owner's State driver's license has been suspended or revoked and/or the installation driving privilege has been revoked. Termination of installation registration in connection with the suspension or revocation of the owner's State driver's license or installation driving privileges are prerogatives of the installation/activity or oversea commanders concerned. The option of continuing registration, if the effect of termination would cause undue hardships on dependents, may be exercised provided that such action does not conflict with the laws of the State in which the installation is located.

(2) Decalcomania used for the identification of registered motor vehicles will be removed when installation registration is terminated.

(3) Installation registration may be continued in those instances where the service member (sponsor) is transferred to an oversea area and the spouse or other dependents continue to reside in the geographic area contiguous to the installation.

(e) *Driver records.* (1) Applicable service forms will be used to record chargeable motor vehicle traffic accidents, moving violations, suspension or revocation actions, and/or point assessments involving military and civilian personnel and their dependents and other personnel privileged to operate motor vehicles on a military installation.

(2) Driver records will be used as an aid in identification of drivers in need of driver improvement such as counseling and remedial driver training. Records will be forwarded to the next duty station when the service member is transferred.

§ 634.4 Police traffic supervision.

(a) *General.* The safe and efficient movement of traffic on an installation is largely dependent on the effectiveness of police traffic supervision. Principal functions of a police traffic supervision program include planning, supervision and control of motor vehicle traffic, promulgation and enforcement of traffic laws and regulations, and investigation of motor vehicle accidents.

(b) *Traffic planning.* (1) Installation commanders are responsible for the development of traffic circulation plans which provide for the maximum safe and efficient use of roadways and support systems. Circulation plans should be a major consideration in all long-range master planning at installations. Traffic circulation plans are normally developed by the installation law enforcement officer in conjunction with the installation engineer and other appropriate installation and staff agencies. Coordination also must be made with highway engineering representatives of adjacent civil communities to insure that installation traffic circulation plans are compatible with the existing or future circulation plans of the civil community. Plans developed should incorporate as a minimum the following provisions:

(i) Normal and peak load routing based on traffic control studies.

(ii) Effective control over traffic by planned and coordinated traffic direction including contingency measures for special events and adverse road or weather conditions.

(iii) Point control at congested locations by qualified law enforcement personnel and designated traffic directors or traffic wardens, including volunteer trained adults as school crossing or bus guards.

(iv) Judicious use of uniform traffic control signs and devices.

(v) Maximum efficient use of available parking facilities.

(vi) Maximum efficient use of available mass transportation facilities.

(2) The acquisition of factual data pertaining to existing roadways, traffic density and flow patterns, and points of congestion are requisite to the development of sound traffic circulation plans. Data is normally obtained through various traffic control studies conducted by the installation law enforcement officer. This data when properly collected and evaluated can materially assist in determining major and minor routes, location of traffic control devices, and conditions requiring engineering and/or enforcement services.

(3) Traffic engineering services are also available through the Military Traffic Management Command Transportation Engineering Agency (MTMCTEA) to assist installation commanders in the solution of complex on-installation highway traffic engineering problems. These services include reconnaissance traffic engineering studies of limited areas and situations and complete traffic engineering studies of traffic operations of entire installations including long-range planning for future development of installation roads, public highways, and related facilities. Request for traffic engineering services should be submitted per paragraph 5–4, AR55–80/OPNAVINST 11210.1B/AFR 75–88/MCO 11210.2C/DLAR 4500.19 (Highways for National Defense).

(c) *Traffic codes.* (1) Installation or activity commanders will establish a vehicle code applicable to the operation of motor vehicles on the installation. The code will contain a rules of the road section and will, where possible, conform to the code of the state in which the installation is located.

In addition, the development and publication of installation traffic codes will be based on:

(i) Highway Safety Program Standards outlined in AR 385–55 (see 23 CFR 1230).

(ii) Applicable portions of the "Uniform Vehicle Code" (UVC) and "Model Traffic Ordinance" (MTO) (see 23 CFR 1204) published by the National Committee on Uniform Traffic Laws and Ordinances, 555 Clark St., P.O. Box 1401, Evanston, IL 60204.

(2) In addition to provisions contained in the Highway Safety Program Standards, and the UVC and MTO, installation traffic codes will contain provisions requiring:

(i) Motorcycles to be operated on roadways with headlights on at all times.

(ii) Operators and passengers of motorcycles to wear approved protective helmets and eye protection devices.

(iii) The wearing of restraint systems by operators and passengers of US Government vehicles, when such equipment is required by law or regulation.

(iv) The wearing of restraint systems by all Army personnel (military or civilian) driving or riding in a POV on Army installations, when such equipment is required by law or regulation (this provision only applies to vehicles manufactured after model year 1966).

(3) In states where traffic law violations are state criminal offenses, such laws are made applicable, under the provisions of 18 U.S.C. 13, to military installations having concurrent or exclusive Federal legislative jurisdiction.

(4) In those states where traffic law offenses cannot be assimilated on the installation under 18 U.S.C. 13 because such traffic law violations are not criminal offenses, such state vehicular and predestrian traffic laws are expressly adopted and made applicable to the military installation under the provisions of DOD Directive 5525.4, 2 November 1981, subject: Enforcement of State Traffic Laws on DOD Installations (32 CFR Part 210). Persons found guilty of violating the vehicular and pedestrian traffic laws made applicable on the installation under provisions of that Directive are subject to a fine of not more than $50.00 or imprisonment for not more than 30 days, or both, for each violation (40 U.S.C. 318c). In those states where state traffic laws cannot be assimilated, an extract copy of this paragraph and a copy of DOD Directive 5525.4 (32 CFR Part 210) should be posted in appropriate places on the installation concerned.

(d) *Traffic law enforcement.* (1) A primary function of traffic law enforcement is to motivate drivers to operate vehicles safely within the framework of traffic laws and regulations. Effective enforcement emphasizes voluntary compliance by drivers and is achieved, in part, by the following actions:

(i) Publishing realistic regulations which can be enforced and which are made known to all affected personnel.

(ii) Utilizing capable and qualified traffic law enforcement personnel.

(iii) Adopting standard signs, markings, and signals that conform to the Manual on Uniform Traffic Control Devices for Streets and Highways.

(iv) Insuring that enforcement personnel establish courteous personal contract with drivers.

(v) Having enforcement personnel act promptly when defects in driving behavior or the equipment of road users are detected.

(vi) Employing speed measuring devices in traffic control studies and enforcement programs, where appropriate.

(vii) Maintaining an aggressive program to detect and apprehend individuals who drive while privileges are suspended or revoked.

(2) Selective and preventive enforcement practices will be employed whenever practicable. Preventive enforcement, the presence or suggested presence of law enforcement personnel at locations where violations, congestion, or accidents frequently occur, is designed to deter traffic violations and reduce accidents. Selective enforcement defines the traffic problem in terms of high frequency violation and accident locations and areas of congestion during selected time periods and applies appropriate enforcement measures to accident-causative violations and conditions. As an enforcement practice, selective enforcement permits maximum effective utilization of law enforcement resources and is therefore endorsed by the military services.

(3) *Traffic violations.* (i) Installation commanders will establish administrative procedures for processing traffic violations. Individuals committing traffic violations on military installations will be issued either an Armed Forces Traffic Ticket (DD Form 1408) or Violation Notice (DD Form 1805) as appropriate.

(A) One copy of the traffic ticket will be forwarded through command channels to the violator's commander, to the commander of the dependent's sponsor, or to a civilian supervisor or employer. Evidence of previous traffic violations committed by the offender, including points previously assessed, will be indicated.

(B) A copy of all violation reports on military personnel and civilian employees of the Government apprehended for driving under the influence of alcohol or drugs will be provided the installation alcohol and drug center.

(C) For those violations requiring a report of action taken, the traffic ticket will be returned to the office of record through such reviewing authority as may be established by the installation commander.

(D) When the report of action taken is received by the office of record, an appropriate entry will be made on the individual's driver record.

(ii) Installation commanders will determine procedures to be used in the disposition of cases involving traffic violations through administrative or judicial action consistent with the provisions of the UCMJ and Federal law. The DD Form 1805 will be used to refer violations of state traffic laws made applicable to the military reservation (Assimilative Crimes, 18 U.S.C. 13) and other violations of Federal law to the US Magistrate in accordance with separate departmental policies.

(e) *Alcohol and drug countermeasures* (1) *Program.* Installation commanders will establish an overall program patterned after the Department of Transportation Alcohol Safety Action Projects (ASAP) to minimize the

contribution of alcohol and drugs as causative factors in traffic accidents. The program should emphasize the development and coordination of appropriate countermeasures involving public information and education, enforcement, administration of justice, and rehabilitation and treatment. The program should be evaluated periodically to determine the effectiveness of each element of the overall program.

(2) *Enforcement countermeasures.* These will include as a minimum—(i) Measures for detection, apprehension and testing of personnel who are suspected of driving while under the influence of alcohol or drugs, to include employment of special patrols during periods when driving while under-the-influence violations most frequently occur.

(ii) Training of law enforcement personnel in special enforcement techniques.

(iii) Establishment of blood-alcohol concentration standards.

(iv) Denial of installation driving privileges to personnel whose use of alcohol or other drugs demonstrably jeopardizes their capacity to operate a motor vehicle safely.

(3) *Detection, apprehension and testing.* (i) Law enforcement personnel normally detect drunk driving violators by observing unusual, abnormal, or illegal driver behavior. Drivers exhibiting such behavior will be stopped immediately to determine the cause of the behavior and/or to take appropriate enforcement action. Drivers involved in traffic accidents also should be observed for evidence of sensory impairment.

(ii) When a law enforcement officer reasonably concludes that the individual driving or in control of the vehicle might be impaired, field sobriety tests should be made of that individual. The Alcoholic Influence Report, DD Form 1920, will be utilized by law enforcement agencies in examining, interpreting and recording results of such tests. Installations with existing capabilities are encouraged to use photographs, motion pictures, or video tapes to document the demonstrated condition of individuals apprehended for driving under the influence of intoxicants. If motion picture or video tape recording procedures include voice recording capability, the provisions of paragraph 3–24, AR 190–30, must be complied with.

(iii) Voluntary breath and bodily fluid testing based on implied consent.

(A) Implied consent. Under the implied consent policy set out in § 634.2(a)(e) of this Part, any individual who has been stopped, apprehended or cited on a military installation for any offense or incident related to driving a motor vehicle while under the influence of intoxicants is deemed to have given consent to chemical tests, as described in Appendix B, of his or her blood, breath, or urine for the purpose of determining its alcoholic content.

(B) *Procedures.* The law enforcement official relying on implied consent will warn the individual that failure to voluntarily submit to or complete a requested chemical test of his or her breath or bodily fluids may result in the revocation of the privilege to operate a motor vehicle on the installation. Such persons do not have the right to have an attorney present before stating whether he or she will submit to a testing, nor during the administration of the test. Installation commanders will prescribe the type or types of chemical tests which will be administered. Testing will be conducted in accordance with policies and procedures contained in Appendix B. The results of chemical tests administered under the implied consent provisions of this regulation may be used as evidence in courts-martial, nonjudicial proceedings under the UCMJ, administrative actions and civilian courts.

(C) *Refusal.* If an individual suspected of driving while intoxicated refuses the request of an individual law enforcement official to submit to a chemical test, none will be given unless the individual was involved in an accident and the procedures set forth in § 634.4(e)(3)(iv) of this section, are followed.

(iv) Involuntary bodily fluid extraction based upon a valid search and seizure authorization.

(A) Authorization requirement and procedure. An individual who does not consent to chemical testing, as described above, may nonetheless be subjected to an involuntary blood (or other bodily fluid) extraction for such testing, only in the following circumstances and only in accordance with the following procedures:

(*1*) Any individual subject to the Uniform Code of Military Justice who was driving a motor vehicle involved in an accident resulting in *death, personal injury, or property damage,* may be subjected to a nonconsensual blood (or bodily fluid) extraction to test for the presence of intoxicants only when there is a probable cause to believe that such an individual was driving or in control of a vehicle while under the influence of an intoxicant. A search authorization by an appropriate commander or a military judge obtained pursuant to Rule 315, Military Rules of Evidence (Manual for Courts-Martial, Chapter XXVII), is required prior to such nonconsensual extraction, unless there is a clear indication that evidence of intoxication will be found, and there is good reason to believe the delay which would result if an authorization were sought could result in the destruction of such evidence. Because such "warrantless" intrusions are subject to close scrutiny by the courts obtaining an authorization is highly preferable, and a "warrantless" intrusion should be conducted generally only after attempts to obtain authorization from an appropriate official prove unsuccessful due to the unavailability of a commander or judge empowered to authorize the extraction.

(*2*) The commander of a medical facility, or his or her delegate, is empowered by Rule 315(d), Military Rules of Evidence, to authorize such extraction from an individual situated in that facility at the time the authorization is sought. In most circumstances, the medical facility commander or his or her delegate authorizing the extraction under Rule 315(d) will not be on duty as the attending physician at the facility where the extraction is to be performed; however, in such cases, the actual extraction should be accomplished by other qualified medical personnel. The authorizing official may consider his or her own observations of the individual in determining probable cause. Authorization should not, however, be sought from the commander of the medical facility, or his or her delegate, unless efforts to obtain authorization from a military judge or other appropriate commander prove unsuccessful due to the unavailability of such officials.

(B) *Role of medical personnel.* Authorization for the nonconsensual extraction of blood samples for evidentiary purposes by qualified medical personnel is independent of, and not limited by, provisions defining medical care, such as the provision for nonconsensual medical care pursuant to section IV, Medical Care, Army Regulation 600–20. Extraction of blood will be accomplished by qualified medical personnel (see Mil.R.Evid. 312(g)). In performing this duty, medical personnel are expected to use only that amount of force necessary to administer the extraction. Any force necessary to overcome an individual's resistance to the extraction normally will be provided by law enforcement personnel or by personnel acting under orders from the member's unit commander. All law enforcement and medical personnel will keep in mind the possibility that the individual may require medical

attention for possible disease or injury. Nonconsensual extractions of blood will be carried out in a manner that will not interfere with or delay proper medical attention. Medical personnel will determine the priority to be given involuntary blood extractions when other medical treatment is required.

(C) The procedures outlined herein pertain only to traffic incidents. Extractions of body fluids in furtherance of other kinds of investigations are governed by Rule 312(d) of the Military Rules of Evidence and regulatory rules concerning requesting and granting authorizations for searches.

(v) Testing at the request of the apprehended person. Any person lawfully apprehended for an offense allegedly committed while he or she was driving a motor vehicle under the influence of intoxicants may request a chemical test made of his or her blood, breath, or urine for the purposes of determining the alcoholic content of his or her blood, and, if so requested, the apprehending law enforcement officer will make arrangements for the test. A person may, at his or her own expense, have a physician, or qualified technician, chemist, registered nurse, or other qualified person of his or her own choosing, administer a state approved chemical test or tests, in addition to any administered at the direction of an installation law enforcement official. The failure or inability to obtain this additional test shall not preclude the use of the results of the test or tests taken at the direction of a law enforcement official to support actions taken under the provisions of Army regulations or the UCMJ.

(vi) Initiation of revocation procedures. Regardless of whether a nonconsensual test, as authorized in § 634.4(e)(3)(iv) to this section, is authorized and conducted, when a person suspected of driving while intoxicated refuses the request to voluntarily submit to or fails to voluntarily complete a breath or bodily fluid test, the apprehending law enforcement officer will complete a sworn statement describing the events relating to the suspected offense including the refusal to submit to chemical testing (Figure 4–1). The installation commander or his or her designee, upon receipt of the apprehending law enforcement officer's sworn statement, will take action in accordance with the procedures outlined in § 634.2(b)(4) of this Part, to revoke the individual's installation driving privileges (see Table 6–1). Mandatory revocation of the installation driving privilege for refusal to voluntarily submit to or complete a chemical test shall not be a bar to initiating judicial, nonjudicial or administrative action against an individual based on other competent evidence.

(4) *Training.* (i) As a minimum, installation law enforcement personnel will be trained to:

(A) Recognize manifestations of alcohol and drug impairment in connection with motor vehicle operation.

(B) Properly execute the DD Form 1920, Alcoholic Influence Report including the performance and evaluation of appropriate behavioral tests.

(C) Be alert to the possibility that although a person may appear to be intoxicated, he may in fact be physically or mentally ill and in need of prompt medical attention.

(D) Understand the principles of operation of as well as the techniques of using chemical breath screening devices (if employed by installations).

(ii) Each installation employing chemical breath testing devices will insure that personnel selected as operators of chemical breath testing devices possess integrity, maturity and sound judgment and meet certification requirements prescribed in the highway safety program of the state in which the installation is located. Appendix C lists those states which have formal chemical breath testing training programs and have indicated that military personnel are eligible for participation in their programs. Specific information on course dates, costs, and prerequisites for attendance may be obtained by contacting the state agency responsible for the training. Installations located in states where no formal training program exists should consider training personnel at courses offered by selected civilian institutions or by commercial manufacturers of chemical breath testing equipment. Appendix D prescribes minimum course requirements for the training and certification of chemical breath testing operators for CONUS installations and oversea commands located in States/countries not having formal chemical breath training and certification programs who elect not to participate in civilian institution and manufacturers training programs.

(5) *Blood alcohol concentration standards.* (i) As a uniform basis for administrative revocation of driving privileges and/or taking enforcement action against a driver suspected of driving or being in actual physical control of a motor vehicle while under the influence of intoxicating liquor, the amount of alcohol in that person's blood at the time alleged as shown by chemical analysis of his blood, urine, breath or other bodily substance shall give rise to the following presumptions:

(A) If there was at that time 0.05 percent or less by weight of alcohol in the person's blood, it shall be presumed that the person was not under the influence of intoxicating liquor.

(B) If there was at that time in excess of 0.05 percent but less than 0.10 percent by weight of alcohol in the person's blood, such fact shall not give rise to any presumption that the person was or was not under the influence of intoxicating liquor, but such fact may be considered with other competent evidence in determining whether the person was under the influence of intoxicating liquor.

(C) If there was at that time 0.10 percent or more by weight of alcohol in the person's blood, it shall be presumed that the person was under the influence of intoxicating liquor.

(ii) Percent of weight by volume of alcohol in the blood shall be based on grams of alcohol per 100 milliliters of blood.

(iii) The above standards may be modified to coincide with blood-alcohol concentration standards established by the host-State.

(iv) The adoption of these standards does not preclude the use of other competent evidence bearing on the question whether the person was under the influence of intoxicating liquor. However, use of these standards is required except for those cases in which they specifically conflict with host-country agreements or arrangements. These standards in no way change the rules of evidence in judicial or nonjudicial proceedings under the UCMJ.

(6) Alcoholics, "problem drinkers," and drug abusers. Installation medical authorities will maintain appropriate records to identify persons who are diagnosed by competent medical personnel as alcoholics, "problem drinkers," and drug abusers. Individuals who have exhibited behavior patterns indicative of the use of alcohol or drugs, to the extent which renders them incapable of safely driving a motor vehicle, will be reported to the installation commander or designated representative for appropriate action under this regulation. Active duty Army personnel apprehended for drunk driving, on or off the installation, will be referred to the local Alcohol and Drug Abuse Prevention and Control Program (ADAPCP) for evaluation within seven working days to determine if the individual is dependent on alcohol or other drugs, and for enrollment in Track

I or other appropriate track. Results of the evaluation will be made available to the commander having jurisdiction over the case prior to adjudication. For problem drinking and alcoholism among Federal civilian employees, 42 USC 4561 authorizes Federal agencies to establish preventive treatment and rehabilitation programs. Supervisors of those civilian employees apprehended for drunk driving will advise employees of ADAPCP services available. Employees apprehended for drunk driving while on duty will be referred to the ADAPCP for evaluation in accordance with AR 600–85. Commanders will ensure that sponsors encourage family members apprehended for drunk driving to seek ADAPCP evaluation and assistance. Installation driving privileges of any person who refuses to submit to chemical testing for blood-alcohol content when apprehended for drunk driving, or convicted for other offenses described in § 632.2(b)(1)(ii) of this part, will not be reinstated unless the person successfully completes either an alcohol education and treatment program sponsored by the installation, state, county, municipality, etc., or private program evaluated as accepted by the installation ADAPCP. The person must also be evaluated by installation alcohol treatment/rehabilitation authorities as sufficiently rehabilitated to no longer pose a high safety risk on the highways. Driving privileges will not be reinstated before the expiration of a mandatory revocation period except as determined by the General Court-Martial Convening Authority.

(7) *Evaluation.* A formal evaluation will be conducted of the enforcement countermeasures program at least annually. All elements of the program will be examined; however, particular attention will be given to determining effectiveness of selective enforcement measures, suspension and revocation actions and chemical breath testing programs in reducing traffic accidents and fatalities.

(8) *Actions against drunk drivers.* Army commanders will take appropriate action against drunk drivers. These actions will include:

(i) A general officer letter of reprimand, administrative in nature, will be given active duty Army personnel in the following cases. Subsequent filing of the letter will be in accordance with the provisions of AR 600–37.

(A) Conviction of driving while intoxicated/drunk driving either on or off the installation.

(B) Refusal of a lawfully requested test to measure blood alcohol content, either on or off the installation, when there is substantial evidence of drunk driving.

(C) Driving or being in physical control of a motor vehicle on post when blood alcohol content is 0.10 percent or higher, irrespective of other charges; or off post when blood alcohol content is in violation of state laws, irrespective of other charges.

(ii) Review by commanders of the service records of active duty Army personnel apprehended for offenses described in (1) above to determine if the individuals warrant:

(A) Administrative reduction per AR 600–200;

(B) Bar to reenlistment per AR 601–280;

(C) Administrative discharge per AR 635–100 or AR 635–200, Chapter 14.

(f) *Traffic accident investigation.* (1) All traffic accidents occurring on a military installation should be investigated provided adequate trained resources are available. However, installation law enforcement personnel will perform detailed on-the-scene and follow-up investigations of the following accidents:

(i) All motor vehicle accidents involving Government vehicles or property on the installation. Whenever practicable, investigations of off-installation motor vehicle accidents involving Government vehicles will be conducted in coordination with the civil police agency having primary jurisdiction.

(ii) Fatal or nonfatal personal injury or disabling property damage accidents involving privately owned vehicles on the installation.

(2) Drivers and/or owners of motor vehicles involved in accidents described in preceding paragraph will immediately notify the installation law enforcement office. Operators of Government vehicles involved in traffic accidents off installations will also notify the police of the jurisdiction in which the accident occurred.

(3) Traffic accident investigation results will be recorded on appropriate departmental forms. Release of information from these reports will be in accordance with separate departmental policies.

(4) In privately owned vehicle accidents occurring on the installation and involving only property damage, not involving Government property and where the vehicle can be normally and safely driven away from the scene, the drivers or owners of the vehicles involved may be required to submit a written report to the installation law enforcement office within 72 hours of the accident. Information contained in these reports may not be used in any criminal proceedings against individuals submitting these reports. (See chapter 10, UVC and applicable State laws concerning duties and responsibilities for reporting of traffic accidents.) Information contained in these reports may not be used in any criminal proceedings against individuals submitting these reports. Each report so submitted will include, as a minimum, the following information relating to the accident:

(i) Location.

(ii) Time.

(iii) Identification of driver(s).

(iv) Identification of pedestrian(s), passenger(s), or pedalcyclist(s).

(v) Identification of the vehicle.

(vi) Direction of travel of each unit.

(vii) Other property involved.

(viii) Environmental conditions existing at the time of the accident, i.e., weather, visibilitiy, etc.

[ix) A narrative description of the events and circumstances leading up to the time of impact and immediately after impact.

(5) Data derived from traffic accident investigation reports should be analyzed for the purpose of determining probable causes of accidents, injuries, and deaths. High accident frequency locations should be examined in terms of type of collisions occurring (collision diagram) and physical conditions at the location (condition diagram).

(6) When warranted by accident experience, installation commanders should consider establishing traffic accident review boards comprised of law enforcement, engineer, safety, and medical (behavior and social scientists) representatives to review accidents to determine principal contributing factors to motor vehicle accidents and to recommend appropriate measures to reduce the frequency and/or severity of accidents occurring both on and off the installation.

(7) Traffic accident investigation data in addition to being used to formulate selective enforcement programs should be furnished to installation safety, legal (claims), engineer and transportation offices (if government vehicle is involved) for use in information, education, and traffic engineering activities.

(g) *Parking.* (1) As a basic principle, maximum efficient use of existing on- and off-street parking facilities should be stressed on a nonreserved (first come, first served) basis. Whenever certain reserved or assigned parking requirements are objectively justified, installation commanders are encouraged to use the following priorities as guidelines:

(i) Government motor vehicles used in direct support of installation/ departmental missions.

(ii) Government motor vehicles used in general support missions, e.g., couriers, postal, cargo delivery.

(iii) Privately owned vehicles of disabled/handicapped personnel.

(iv) Privately owned vehicles of patrons (including out-patients) and visitors.

(v) Privately owned vehicles of assigned personnel and employees not otherwise accommodated, with preference given to car pools as determined by weights applied to significant factors, e.g. commuting time distances, availability of public transportation and support fringe parking, number of pool members or riders, and years of Federal service of each participant. Rank or grade may influence qualification for parking by relative weight, but should not be an absolute criterion for determining eligibility.

(2) Reserved parking facilities should be designated as "parking by permit" or numerically by category of eligible parkers. Designation of parking spaces by name, grade, rank, or title will be avoided.

(3) Illegal parking significantly contributes to congestion and impedes traffic flow on an installation. Aggressive enforcement of parking restrictions results in more efficient utilization of available parking facilities and eliminates conditions which contribute to traffic accidents. (See also abandoned property procedures in DOD Directive 4160.21 and separate service regulations or manuals.)

§ 634.5 Off-installation traffic activities.

(a) *Policy.* In areas not under military control the responsibility for maintaining law and order rests with civil authority. The enforcement of traffic laws falls within the purview of this principle. Off-duty or off-installation driving performance, however, is indicative of driving ability and safety consciousness. Accordingly, a system of coordination which facilitates the exchange of information between military and civil authorities will be established. Within the framework of Armed Forces Disciplinary Control Boards (see AR 190–24/MCO 1620.2B/ AFR 125–11/COMDINST 1620.1C), major commanders should consider establishment of a central clearing house to process reports of serious traffic violations and accident reports involving persons subject to this regulation which may be received from civil law enforcement agencies.

(b) *Compliance with State laws.* (1) Installation commanders will impress on service members and civilian employees the importance of complying with State and local traffic laws when operating motor vehicles within these jurisdictions. When military necessity requires movement on public roads and highways of Government vehicles that exceed legal limitations or regulations, or that subject highway users to unusual hazards, prior coordination will be effected with the appropriate civil law enforcement agency prior to movement. Procedures for such a movement, which will require special permits to move on public roads and highways, are contained in joint service regulation AR 55–162/OPNAVIST 4600.11D/AFR 75–24/MCO 4643.5C/DLAR 4540.8.

(2) Installation commanders will conduct continuing liasion with civil enforcement agencies to encourage—

(i) Release of an official driver to military authorities, unless his offense is of such a nature as to warrant detention or his condition is such that further operation of a motor vehicle could result in injury to himself or others.

(ii) Prompt notification of military authority in all instances when military personnel or drivers of official military vehicles have been involved in traffic accidents and/or have violated civil traffic laws.

(C) *Civil-military cooperative programs.* (1) *State-Armed Forces Traffic Workshop Program.* This program represents an organized effort to coordinate military and civil traffic safety activities throughout a state or area. Installation commanders will cooperate with state and local officials in this program by providing appropriate support and participation.

(2) *Community-Installation Traffic Workshop Program.* Sound and practical traffic planning depends on the development of a balanced program of traffic enforcement, engineering, and education. Installation commanders should foster a local workshop program as a medium for coordinating the installation traffic efforts with those of local communities. Civilian and military legal and enforcement officers, traffic engineers, safety officials and information officers would normally be expected to participate in such a program.

§ 634.6 Traffic point system.

(a) *Purpose.* The traffic point system provides the military services with an impartial and uniform administrative device for evaluating driving performances of personnel under their jurisdiction. The use of this system is not to be construed as a disciplinary measure or substitute for punitive action. It is not intended to interfere in any way with the reasonable exercise of an installation commander's prerogative to issue, suspend, revoke, or deny installation driving privileges for cause without regard to point assessments made under this chapter.

(b) *Application.* The use of the point system and procedures prescribed is mandatory for the military services and the Defense Logistics Agency. This system is not subject to modification or alteration. The point system applies to military and civilian personnel operating Government vehicles on or off the installation; to military personnel operating privately owned vehicles on or off the installation; and to dependents, civilian employees and all other individuals subject to this regulation operating privately owned vehicles on the installation. Points will be assessed in instances where the individual has been found to have committed a violation by either the unit commander, the civilian supervisor, or a military or civilian court (including a U.S. Magistrate), or upon payment of fine or forfeiture. THE POINT SYSTEM WILL NOT BE USED FOR NONMOVING VIOLATIONS.

(c) *Procedures.* Subject to the foregoing provisions, reports of moving traffic violations will be processed and return endorsements required from commanders or supervisors. Normally, administrative processing and disposition of violations will be accomplished within a 21-day period, inclusive of the date on which the Armed Forces Traffic Ticket (DD Form 1408) was issued by law enforcement personnel.

(2) On receipt of a traffic ticket or other report of a moving traffic violation, the unit commander (or person otherwise designated by the installation commander) will conduct an inquiry and take appropriate disciplinary and/or administrative action. For those cases involving judicial or non-judicial actions, the report of action taken will not be forwarded until final adjudication.

(3) On receipt of the report of action taken, the installation law enforcement officer will enter the number of points assessed or indicate suspension or revocation of the driving privilege to the individual's driver record as prescribed in table 6–1. Points will not be assessed nor the driving privilege suspended or revoked if the report of action taken indicates that neither disciplinary action and/or administrative action is appropriate, and this finding is approved by the installation commander. In

appropriate cases, the commander should consult the installation Staff Judge Advocate before taking such action.

(4) When notified of a conviction or payment of a fine or forfeiture of bond for a traffic violation adjudicated by a state or Federal court, the installation law enforcement officer will assess the appropriate number of points to the individual's driver record and initiate suspension or revocation action when warranted. Points assessed by state driver licensing authorities will be reviewed to insure consistency with the assessement of traffic points in table 6–1 and to preclude duplication of traffic point assessment on the military record for the same violation. The individual concerned will be notified of point assessments by the law enforcement officer through normal channels.

(5) To maximize the effective use of driver improvement actions, installation commanders will require as a minimum the following measures:

(i) Advisory letter sent to the individual on accumulation of six traffic points within a 6-month period.

(ii) Commander counseling or driver improvement interview of the individual on accumulation of more than six but less than 12 traffic points within a 6-month period. Counseling or interview should result in recommendations designed to improve driver performance.

(iii) Referral for medical evaluation when an individual driver, based on reasonable belief, has mental or physical limitations which have had or may have an adverse effect on his driving performance.

(iv) Attendance at remedial driver training following the identification of the individual as a problem driver, or whenever a commander concludes that such treatment may improve the subject's driving performance.

(v) Referral to an alcohol/drug treatment/rehabilitation facility for appropriate counseling services when deemed appropriate. (On Army installations referral will be made in all cases involving driving while intoxicated.)

(6) Individuals whose driving privilege is suspended or revoked (including the accumulation of 12 traffic points within 12 consecutive months, or 18 traffic points within 24 consecutive months) will be notified in writing through official channels of the specific driving privilege withdrawal action as prescribed by § 634.2(b)(4). Except for the mandatory minimum or maximum suspension or revocation periods prescribed by this regulation, the determination of periods of suspension or revocation is the prerogative of the installation commander. The revocation of driving privilege based upon accumulation of traffic points shall be for a period of not less than 6 months. Ordinarily, a longer period of loss of driving privilege should be imposed on the basis of an individual's overall driving record to include frequency, flagrancy, and severity of moving violations and response to previous driver improvement measures. In any case, the individual shall be required to successfully complete a prescribed course in remedial driver training before the privilege is reinstated.

(7) Points assessed against an individual will remain in effect for point accumulation purposes for a consecutive 24-month period, or until separation from the service (not applicable in cases of immediate reenlistment, change of officer component, military retirement and continuation of vehicle registration as retiree or reemployment as a civilian), or final termination of employment, whichever is sooner. The review of driver records in connection with deletion of traffic points should be accomplished routinely as records are required to be handled, i.e., to update data, to record new offenses, to forward to new duty stations, etc. The termination of a revocation period will, of itself, warrant the mandatory removal from the driver record of all points assessed prior to the driving privilege withdrawal action.

(8) Removal of points does not, however, constitute authority to remove driver record entries for moving violations, chargeable accidents, suspensions, or revocations of driving privileges. Driver record entries will remain posted on individual driver records for periods as specified below:

(i) Chargeable nonfatal traffic accidents/moving violations—3 years.

(ii) Nonmandatory suspensions or revocations—5 years.

(iii) Mandatory revocations—7 years.

(9) Procedures will be established to assure prompt notification of the installation law enforcement officer that an individual assigned to or employed on the installation is being transferred to another installation, released from military service, or terminates employment. Where an individual being transferred to a new installation has accumulated point assessments or has other valid entries on his driver record, the driver record will be forwarded to the law enforcement officer of the gaining installation in accordance with appropriate service policies. (Does not apply for personnel being assigned to transfer points/stations immediately prior to discharge or release from active military service, in which case driver records will be destroyed.) Dependent driver records containing traffic point assessments or other entries will also be forwarded to the sponsor's gaining installation. On receipt thereof, records will be analyzed and made available temporarily to the gaining unit commander or supervisor for review. Applicable state driver licensing authorities will be notified concerning the continuation of revocation of driving privileges or restoration of driving privileges by the gaining installation. Points accumulated or entries on the driver record regarding suspensions, revocations, moving violations, or chargeable accidents will not be deleted from individual driver record except as provided in § 634.6(c)(5)(iv) (7) and (8) of this section.

Table 6–1—Suspension/Revocation of Driving Privileges/Point Assessment for Moving Traffic Violations

Part I

Violation	
Driving while drivers license or installation driving privileges are under suspension or revocation.	5 year revocation is mandatory on determination of facts by installation Cdr.
Refusal to submit to chemical tests (implied consent).	1 year revocation is mandatory on determination of facts by installation Cdr.
Manslaughter (or negligent homicide by vehicle) resulting from the operation of a motor vehicle.	1 year revocation is mandatory on conviction.
Driving or being in actual physical control of a motor vehicle while under the influence of intoxicating liquor (0.10% or greater on DOD installations; violation of civil jurisdiction law off post).	
Driving a motor vehicle while an habitual user or under the influence of any narcotic or while under the influence of any other drug to a degree rendering person incapable of safe operation thereof.	
Any felony in the commission of which a motor vehicle is used.	
Fleeing the scene—death, or personal injury (Hit and Run).	
Perjury or making false affidavit or statement under oath to responsible officials or under law or regulations relating to the ownership or operation of motor vehicles.	
Unauthorized use of a motor vehicle belonging to another which act does not amount to a felony.	
Commission of an offense for which mandatory revocation is required on conviction.	
Is incompetent to drive a motor vehicle, such as mental or physical impairment (not including alcohol or other drug use).	Suspension for a period of 6 months or less or revocation for period not to exceed 1 year is discretionary.
Has committed an offense in another state which if committed on the installation would be grounds for suspension or revocation.	
Has permitted an unlawful or fraudulent use of an official driver license.	
Has been convicted of fleeing or attempting to elude a police officer.	
Has been convicted of racing on the highway.	

Second 1-year suspension or revocation of driving privileges within 5 years.	Loss of SF 46 for minimum of 6 months is discretionary.

Violations [2]	Points assessed
Reckless driving (willful and wanton disregard for the safety of persons or property (11-901-UVC))	6
Owner knowingly and willfully permitting another to operate his motor vehicle when physically impaired	6
Fleeing the scene (Hit & Run)—property damage	6
Driving vehicle impaired (consumption of alcohol-more than .05% and less than .10%)	6
Speed contests	6
Exceeded stated speed limit or speed too fast for conditions:	
1 to 10 miles per hour over posted speed limit	3
11 to 15 miles per hour over posted speed limit	4
Over 15 but not more than 20 miles per hour above posted speed limit	5
Over 20 miles per hour above posted speed limit	6
Speed too slow for traffic conditions	3
Following too close	4
Failure to yield right of way to emergency vehicles	4
Failure to stop for school bus or school crossing signals	4
Failure to obey traffic signals, traffic instructions of an enforcement officer or traffic warden, or any official regulatory traffic sign or device requiring a mandatory stop, yield right of way, denial of entry, or required direction of traffic	4
Improper passing	4
Failure to yield (no official sign involved)	4
Improper turning movements (no official sign involved)	3
Improper overtaking	3
Other moving violations (involving driver behavior only)	3
Operating an unsafe vehicle	2
Driver involved in accident is deemed responsible (used only as additive to points assessed for specific offense)	1

[1] No points assessable in lieu of revocation. Revocation must be based on convictions (Judicial, Nonjudicial).
[2] When two or more violations are committed on a single occasion, assessment of points will be for the one offense having the greater value.

Appendix A—Explanation of Terms as They Pertain to This Joint Service Regulation

Alcohol Safety Action Program (ASAP)—A state sponsored program in cooperation with the National Highway Traffic Safety Administration designed to reduce highway deaths, injuries and property damage resulting from motor vehicle traffic accidents in which alcohol is a major contributing factor.

Chemical Breath Testing Device—An instrument which uses photoelectric or other sophisticated physical or chemical methods to quantitatively determine blood-alcohol concentrations. Instruments in this category include but are not limited to the following devices: Alco-Analyzer Gas Chromatograph, Alco-tector, Breathalyzer, Gas Chromatograph Intoximeter, and the Photo Electric Intoximeter.

Collision Diagram—A plan of an intersection or section of roadway on which reported accidents are diagramed by means of arrows showing manner of collision. The date, time of day, and road conditions are entered on one of the arrows representing each collision.

Condition Diagram—A scaled drawing of an intersection or section of roadway showing all objects and physical conditions having a bearing on traffic movement and safety at that location.

Countermeasure—An action undertaken to reduce the incidence of motor vehicle traffic accidents.

Conviction—A final conviction, but also includes an unvacated forfeiture of bail, or collateral deposited to secure a defendant's appearance in court, a plea of nolo contendere accepted by a court, a payment of a fine, a plea of guilty or finding of guilty on a traffic violation charge, regardless of whether the penalty is rebated, suspended or probated. Includes judicial and nonjudicial actions taken under Uniform Code of Military Justice.

Disposable screening device—A device used to conduct a one-time qualitative test of blood-alcohol concentration. The device consists of a small glass tube containing either a column or multiple bands of an alcohol-sensitive reagent and a breath-volume measuring device (balloon, plastic bag or air pump).

Driver—Every person who drives or is in actual physical control of a motor vehicle. A person is considered to be in actual physical control when he is in position to control the motor vehicle, whether to regulate or restrain its operation or movement, for example, sitting in a parked car, keeping it in restraint or in position to control its movement. The term "driver" is used interchangeably with the word "operator."

Driver's license—A license to operate a motor vehicle issued under the laws of a state.

Driving privilege—The privilege extended by an installation commander to an individual permitting the operation of a privately owned motor vehicle within the limits of the installation. This privilege, once extended, is subject to administrative suspension or revocation for cause as determined by the installation commander within the standards set forth in this regulation.

High accident frequency location—A location, intersection or length of roadway not more than one-half mile in length where an excessive number of accidents have occurred.

Law enforcement personnel (officials)—Persons authorized by competent authority to direct, regulate, or control traffic or to make apprehension or arrests for violations of traffic regulations. Personnel so designated normally are identified as military police, security police, or civilian guards or police, and operate under the supervision of the installation law enforcement officer.

Motorcycle—Every motor vehicle having a seat or saddle for use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a tractor.

Motor vehicle—Any vehicle driven or drawn by mechanical power manufacture primarily for use on public streets, roads and highways, except any vehicle operated exclusively on a rail or rails.

Motor vehicle traffic accident (crash)—An unintended event resulting in injury or damage, involving one or more motor vehicles on a highway that is publicly maintained and open to the public for vehicular travel.

Motor vehicle traffic accident classification—The classification of traffic accidents according to severity in terms of degree of injuries or property damage sustained. Major classifications include:

a. Severity according to injury.

(1) *Fatal accident*—A motor vehicle accident that results in fatal injuries (an injury that results in death within 12 months of the motor vehicle traffic accident) to one or more persons.

(2) *Incapacitating injury*—An injury, other than fatal, which prevents the injured person from walking, driving, or normally continuing the activities which he was capable of performing prior to the motor vehicle traffic accident.

Examples. Severe lacerations, broken or distorted limbs, skull fracture, crushed chest, internal injuries, unconscious when taken from the accident scene; unable to leave accident scene without assistance.

(3) *Nonincapacitating evident injury*—An injury, other than fatal and incapacitating, which is evident to any person other than the injured at the scene of the accident.

Examples. Lump on head, abrasions, minor lacerations.

(4) *Possible injury*—An injury reported or claimed which is not a fatal, incapacitating, or nonincapacitating evident injury.

Examples. Momentary unconsciousness; claim of injuries not evident; limping, complaint of pain, nausea, hysteria.

b. Severity according to damage.

(1) Disabling damage is any damage to a motor vehicle such that it cannot be driven or, in the case of trailers, towed from the scene of the accident in the usual manner by daylight after simple repairs, without further damage or hazard to itself, other traffic elements, or the roadway.

(2) Functional damage is any nondisabling damage to a motor vehicle which affects operation of the motor vehicle or its parts. Examples: Doors, windows, hood, and trunk lids which will not operate properly. Broken glass which obscures vision. Any damage which would prevent the motor vehicle from passing an official motor vehicle inspection.

(3) Other motor vehicle damage is any damage to a motor vehicle which is neither disabling nor functional damage. Such damage usually affects only the load on the motor vehicle or the appearance of the motor vehicle.

Examples. Damage to hubcaps, trim, grill, glass cracks which do not interfere with vision. Dents, scratches, body punctures. Damage to load on motor vehicle.

Motor vehicle registration—The procedures which culminate in the issuance of a registration certificate and registration plates for a motor vehicle under the laws of a State (State registration). The term also applies to the registration form and identification media issued under the provisions of this regulation for a motor vehicle authorized to operate on a military installation.

Moving violation—A violation of any traffic law, ordinance, or regulation which was promulgated primarily with the object of making use of traffic-ways safe. Moving

violations typically involve unsafe acts and/or unsafe conditions. Illegal parking is not a moving violation.

(1) *Unsafe act.* An act or omission in traffic which is hazardous.

(2) *Unsafe condition.* Causing or permitting an illegal and possibly hazardous condition of streets or highways used by traffic, vehicles used in traffic, or a pedestrian or driver in traffic.

Pedacycle—A vehicle operated solely by pedals, and propelled by human power.

Pedestrian—Any person not in or on a motor vehicle or other road vehicle.

Reciprocity—Reciprocal action between state and military authority to suspend or revoke an individual's US Government Motor Vehicle Operator's Identification Card installation driving privilege, or state driver's license based on action initiated by either jurisdiction.

Revocation of driver's license—The termination by formal action of state authority of a person's license or privilege to operate a motor vehicle on the public highways, which termination shall not be subject to renewal or restoration except that application may be presented and acted on by the state after the expiration of the applicable period of time prescribed by state law. Such action disqualifies the individual from operating a privately owned motor vehicle on a military installation since he is no longer "licensed" to drive.

Revocation of driver's privilege—Action taken by an installation commander to terminate an individual's privilege to operate a motor vehicle on a military installation. This action precludes renewal or restoration except by application and after the expiration of a specified period of time but not less than 6 months.

State—A constituent unit of the US having a definite territory and governmental organization and includes the District of Columbia, the Commonwealth of Puerto Rico and territories and possessions of the United States as defined in section 101, title 10, United States Code. The term "State" as used herein also refers to a foreign country or to an appropriate political subdivision of a foreign country.

Suspension of driver's license—The temporary withdrawal by formal action (of State authority) of a person's license or privilege to operate a motor vehicle on the public highways, which temporary withdrawal shall be for a period specifically designated. Such action disqualifies the individual from operating a privately owned motor vehicle on a military installation since he is no longer "licensed" to drive.

Suspension of driving privilege—The temporary withdrawal by an installation commander of an individual's privilege to operate a motor vehicle on a military installation for an indefinite period to a maximum of 6 months. Privileges are normally automatically restored on the day following the date the suspension is terminated.

Traffic—Pedestrians, ridden or herded animals, vehicles, streetcars and other conveyances either singly or together while using any highway for the purposes of travel.

Traffic control devices—Signs, signals, markings, lights, and devices placed or erected by an official having jurisdiction for the purposes of regulating, warning, or guiding traffic.

Traffic engineering—That phase of engineering that deals with the planning and geometric design of streets, highways, and abutting lands, and with traffic operations thereon, as their use is related to the safe, convenient, and economic transportation of persons and goods.

Traffic laws—All laws, ordinances, and regulations concerning highway traffic including regulations concerning weight, size, and type of vehicles and vehicle cargo.

US Government Motor Vehicle Operator's Identification Card (SF 46)—An authorization to operate Government-owned vehicles issued under appropriate departmental regulations.

Appendix B—Chemical Testing Policies and Procedures

B–1. General. *a.* Chemical analyses are valid under provisions of this regulation when:

(1) Tests of blood, urine or other bodily substances are performed according to methods prescribed or approved by the departmental Surgeons General or by the designated authority of the state in which the installation is located (for tests conducted outside military jurisdiction).

(2) Breath tests are performed by qualified personnel (see § 634.4(d)(4)(ii) of this part and Appendix D) using a quantitative chemical breath testing device approved by designated authorities of the state in which the installation is located in accordance with procedures established by such authority or as prescribed in paragraph B–2 below.

b. Test results of disposable breath screening devices are not considered sufficiently accurate for use as a basis for administrative or punitive action under this regulation. These devices may, however, be used as a breath screening test to determine if additional quantitative testing is required.

B–2. Chemical breath testing procedures. In the absence of specific state operating procedures for the use of chemical breath testing devices, the following procedures will apply.

a. Quantitative chemical breath testing devices.

(1) Observe person to be tested for at least 20 minutes prior to collection of the breath specimen, during which period the person must not have ingested alcoholic beverages or other fluids, regurgitated, vomited, eaten or smoked.

(2) Verify calibration and proper operation of the instrument by use of a control sample immediately prior to the test.

(3) Comply with operational procedures set forth in the current instructional manual of the manufacturer for the instrument in use.

(4) Perform preventive maintenance in accordance with procedures recommended in the manufacturers current instructional manual.

b. Disposable screening devices will be utilized in accordance with operating instructions issued by the manufacturer.

B–3. Chemical tests of personnel involved in fatal accidents. *a.* Installation medical authorities will immediately notify the installation law enforcement officer of the death of any person as a result of an accident involving a motor vehicle and the circumstances surrounding such accident.

b. In the case of drivers killed in motor vehicle accidents and the death of pedestrians subject to military jurisdiction, or other pedestrians 16 years or older when consent of the sponsor is obtained, medical authorities will, within 8 hours after such death, examine the body and make such tests as are necessary to determine the presence and percentage concentration of alcohol, and drugs, if feasible, in the blood or other fluids of the victim. This information shall be included in each report submitted pursuant to *a* above.

c. To the extent provided by law, and medical conditions permitting, a blood or breath sample will be obtained from any surviving operator whose motor vehicle is involved in a fatal accident.

B–4. Medical considerations. *a.* Persons afflicted with hemophilia or a heart condition requiring an anticoagulant shall not be administered a blood test to determine blood-alcohol concentration for purposes of this regulation.

b. In the event that a quantitative chemical breath test of a subject indicates a blood-alcohol concentration of .35 percent or above, a second test should be administered after a waiting period of 20 minutes. If the second test indicates a continuing rise, the subject will be immediately referred to the installation medical facility.

c. If a quantitative chemical breath test of a subject indicates blood-alcohol concentration of .05 percent or less and there is evidence of strong physical impairment, the individual should be referred for medical evaluation and treatment as appropriate.

d. If a subject is taken to the installation medical facility because of either a high or low blood-alcohol concentration (quantitative testing devices only), the results of chemical breath tests will be provided the attending physician for diagnostic purposes.

B–5. Technical assistance to civil authorities. Widespread adoption of "implied consent" chemical testing, and the establishment of Alcohol Safety Action Projects, nationwide, under the Highway Traffic Safety Program, may necessitate in the interest of public safety, technical assistance and cooperation from installation law enforcement officers to civil law enforcement agencies in certain type situations. Whenever a member of the military, an operator of a government vehicle, or resident of the military installation, is a suspect drunken driver in an off-base incident and subsequently returns or is evacuated to military control or property jurisdiction, the following action will be taken:

a. Civilian authorities will be given immediate access to the suspect drunken driver and be given the opportunity to invoke "implied consent" and conduct appropriate testing authorized under state law if medical condition of the driver permits such. If the state conducts a test military authorities will request results of such testing for

identification purposes as specified in § 634.4(e).

b. Should civilian authorities fail to request access to the suspect driver for testing purposes, military authorities should conduct testing and report the results to the installation commander or the commander's designee under the provisions of § 634.4(e)(6). Incidental to such testing, the results of such testing or a portion of the blood or urine sample may be furnished to civilian authorities upon their request. Prior to conducting tests under this subparagraph, the suspect driver will be informed that the primary purpose of this testing is to identify potential problem drivers but that the results of such testing or a portion of a sample taken may be furnished to civilian authorities on their request.

Appendix C—State Chemical Breath Testing Training Programs

The following states are reported to have formal chemical breath testing training programs and currently authorize military personnel to attend their courses of instruction.[1] Information concerning course dates, costs, prerequisites and scope of instruction may be obtained by contacting the appropriate state agency as indicated below:

State	Principal device(s) used	Contact
Alaska	Breathalyzer	Commissioner Pouch N—State Capitol Juneau, Alaska 99801
Alabama	Photo-Electric Intoximeter.	Director, Dept of Public Safety State of Alabama 500 Dexter Ave Montgomery, AL 36102
Arizona	Breathalyzer, Photo-Electric Intoximeter.	Arizona State Dept of Health 1634 W Adams Phoenix, AZ 85005
Arkansas	Breathalyzer, Intoximeter, Gas Chromatograph.	State Law Enforcement Training Academy Little Rock, AR 72203
Florida	Breathalyzer	Florida State Dept of Education Industrial Education Section Tallahassee, FL 32304
Georgia	Photo-Electric Intoximeter.	Associate Director Department of Public Health State of Georgia Atlanta, GA 30301
Hawaii	Breathalyzer	Training Division Police Department City & County of Honolulu Honolulu, Hawaii 96814
Illinois	Breathalyzer, Intoxilyer.	Director Information & Education Section Illinois State Police Armory Bldg Springfield, IL 62706
Iowa	Gas Chromatograph.	Iowa Highway Patrol Lucas Bldg Des Moines, IA 50319
Kentucky	Breathalyzer	Director Traffic Safety Institute Eastern Kentucky University Richmond, KY 40475
Maryland	Breathalyzer	Chemical Test Section Maryland State Police Pikesville, MD 21208
Massachusetts	Breathalyzer, Alco-Tector.	Department of Public Safety Massachusetts State Police Traffic Section 1010 Commonwealth Ave Boston, MA 02215
Michigan	Breathalyzer	Commanding Officer Safety and Traffic Division Dept of State Police 714 S Harrison Rd East Lansing, MI 48823
Minnesota	Breathalyzer	Project Dir of Chemical Testing Program Toxicologist, Dept of Public Safety, Bureau of Criminal Apprehension Laboratory 1246 University Ave St Paul, MN 55104
Missouri	Breathalyzer	Missouri State Highway Patrol Dir of Personnel & Training PO Box 568 Jefferson City, MO 65101
Montana	Gas Chromatograph.	Montana Law Enforcement Academy of State Univ Bozeman, MT 59715
New Jersey.	Breathalyzer	Commanding Officer Dept of Law & Public Safety ATTN: Breath Test Unit PO Box 68 West Trenton, NJ 08625
New York	Breathalyzer	Superintendent of State Police State Campus Albany, NY 12226
North Carolina.	Breathalyzer, Intoximeter.	Director, North Carolina Dept of Community Colleges ATTN: Law Enforcement Trng Raleigh, NC 27611
North Dakota.	Breathalyzer	State Toxicologist North Dakota State Univ Fargo, ND 58102
Pennsylvania.	Breathalyzer	Director, Bureau of Trng and Education Pennsylvania State Police Harrisburg, PA 17123
Rhode Island.	Breathalyzer	Rhode Island Dept of Health Providence, RI 02903
South Carolina.	Breathalyzer	Director, SC Law Enforcement Div South Carolina Highway Patrol Columbia, SC 29203
South Dakota.	Breathalyzer, Gas Chromatograph.	Coordinator for Law Enforcement/Driver Control Programs Box 141 Huron, SD 57350
Tennessee	Gas Chromatograph.	Commanding Officer Tennessee Highway Patrol Nashville, TN 37209
Utah	Breathalyzer	Superintendent Utah Highway Patrol 317 State Office Bldg Salt Lake City, UT 84114
Vermont	Gas Chromatograph.	Commissioner, Dept of Public Safety Montpelier, VT 05602
Washington.	Breathalyzer	State Training Academy Washington State Patrol Olympia, WA 98504
Wisconsin	Breathalyzer	Wisconsin State Patrol Academy Camp McCoy, WI 54656
Wyoming	Breathalyzer, Alco-Analyzer.	Dept of Public Health Laboratory Service Section Cheyenne, WY 82001

[1] Based on DAPM survey of state chemical breath testing programs, 28 Mar 72.

Appendix D—Chemical Breath Testing, Training, and Certification Requirements

D–1. General. This appendix establishes minimum training and certification requirements for personnel selected as chemical breath testing operators to meet standards established by National Highway Traffic Safety Administration, U.S. Department of Transportation. The requirements are applicable to training programs established at CONUS installations and overseas commands located in States/countries not having a formal chemical breath testing and certification program and when training requirements can not be satisfied at courses conducted at civilian institutions or by manufacturers of chemical breath testing equipment. The requirements established herein apply to operators of quantitative chemical breath testing devices.

D–2. Training course. *a. Objectives.*

(1) Develop skill in the operation of a precision breath testing instrument and an understanding of the operational principles and design/functional features.

(2) Provide an understanding of the technical, historical and legal background surrounding chemical testing.

(3) Provide an understanding of the procedures for processing the suspect, gathering and recording of evidence, and maintaining the chain of evidence.

(4) Develop basic skills in testifying in court regarding observations of and tests performed on the suspect.

b. Course content. The course will consist of a minimum of 44 hours of classroom and laboratory training including review stations and examinations. Subjects and the number of hours allotted for each subject are as follows:

	Time (hrs.)
Group I Course Background, Suspect Processing and Court Testimony:	
1. Course overview	1
2. The drinking driver problem and related countermeasures	1
3. Basics of chemical testing	1
4. Units of measurement	1
5. Alcohol properties and production	1
6. Physiology of alcohol	1
7. Pharmacology of alcohol	1
8. Suspect processing procedures	3
9. Drinking driving statutes and related regulations	3
10. Preparation and presentation of courtroom evidence	3
Group II 11. Equipment theory and operation:	
Part I	2
Part II	3
12. Laboratory—testing known samples	2
13. Laboratory—testing unknown samples	2
14. Laboratory—testing drinking subjects (two 4-hour sessions)	8
Group III 15. Review (including quiz and review sessions and a final review session—a minimum of five 1-hour sessions)	5
16. Final written examination	2
17. Final practical examination	2

D–3. Course materials. *a.* The above course is based on the "Basic Training Program for Breath Examiner Specialists" prepared for the National Highway Traffic Safety Administration by Dunlap and Associates, Inc.

b. The basic working documents produced as a part of the course are a *Course Guide*, developed to aid in the organization and conduct of the training, the *Instructor's Lesson Plans*, prepared to assist the instructor in conducting each lesson, and the *Student Study Guide*, designed to serve as a basic reference source for the trainee. The course is designed to cover any one of the following five principal breath testing devices used by law enforcement agencies:

(1) Alco-Analyzer Gas Chromatograph (Luckey Laboratories, Inc).
(2) Alco-Tector (Decatur Electronics, Inc).
(3) Breathalyzer (Stephenson Corporation).
(4) Gas Chromatograph Intoximeter (Intoximeter, Inc).
(5) Photo-Electric Intoximeter (Intoximeter, Inc).

c. Course materials are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402:

Publication	Stock No.	Cost
Course Guide	5003-0046	$0.60
Student Study Guide	5003-0045	1.00
Instructor's Lesson Plans [1]	5003-0044	3.00

[1] When ordering Instructor Lesson Plans, requestors should indicate the type equipment being used by the installation/command.

D-4. Recertification. Refresher training consisting of classroom instruction and laboratory practical work is required every 18 months to assure that operators maintain skills and are brought up to date on the newest information relative to alcohol and chemical testing. Satisfactory completion of a written and practical examination administered as a part of the refresher training are required for recertification.

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DEPARTMENT OF TRANSPORTATION

Saint Lawrence Seaway Development Corporation

33 CFR Part 401

Seaway Regulations, Navigation Closing Procedures

AGENCY: Saint Lawrence Seaway Development Corporation, DOT.

ACTION: Final rule.

SUMMARY: The Saint Lawrence Seaway Development Corporation and its counterpart agency, the St. Lawrence Seaway Authority of Canada, publish joint Seaway Regulations. As a result of discussions with the St. Lawrence Seaway Authority and St. Lawrence Seaway users concerning navigation closing procedures, it was determined that paragraph (b)(2) of § 401.97 needed to be revised in order to allow the flexibility in imposing operational surcharges as provided for by the St. Lawrence Seaway Tariff of Tolls. The Tariff of Tolls provides that operational surcharges may be imposed while § 401.97(b)(2) as previously written, without consideration of operation conditions, mandated the imposition of surcharges. Therefore, the Seaway Corporation has amended 33 CFR Part 401—Subpart A.

EFFECTIVE DATE: September 2, 1983.

FOR FURTHER INFORMATION CONTACT: Frederick A. Bush, General Counsel, (315) 764-3245.

SUPPLEMENTARY INFORMATION:

Background

On July 5, 1983, the Seaway Corporation published in the **Federal Register** (48 FR 30685) a proposed amendment to § 401.97(b)(2) of the Seaway Regulations. This amendment had been developed jointly with the St. Lawrence Seaway Authority.

No comments were submitted in response to the notice of proposed rulemaking.

List of Subjects in 33 CFR Part 401

Hazardous materials transportation, Navigation (water), Penalties, Radio, Reporting and recordkeeping requirements, Vessels, Waterways.

As a result of a number of discussions with the users of the Seaway, it became readily apparent that favorable operating conditions might eliminate the need for the imposition of operational surcharges and that such imposition would have a negative impact on the level of traffic, which in turn would reduce the amount of revenues accruing to both the St. Lawrence Seaway Authority of Canada and the Corporation. Therefore, in order to encourage the use of the St. Lawrence Seaway, paragraph (b)(2) of § 401.97 has been revised in order to allow the needed flexibility in determining the imposition of operational surcharges. This has been done by requiring, as a part of the closing procedures, that a vessel must comply with the provisions of the St. Lawrence Seaway Tariff of Tolls, which provides that the imposition of the operational surcharges is permissive as opposed to the mandatory imposition required by the aforementioned paragraph (b)(2) of § 401.97 of the Seaway Regulations.

This final rule involves a foreign affairs function of the United States; therefore Executive Order 12291 does not apply to this rulemaking. The Saint Lawrence Seaway Development Corporation certifies that, for the purposes of the Regulatory Flexibility Act (Pub. L. 96-354), this final rule will not have a significant impact on a substantial number of small entities. The Seaway Regulations relate to the activities of commercial users of the Seaway, the vast majority of whom are foreign vessel operators, and therefore any resulting costs will be borne primarily by foreign vessels. On the other hand, the economic benefits derived from a safe and efficiently operated St. Lawrence Seaway are considerable. Finally, the Corporation has determined that this rulemaking is not a major Federal action affecting the quality of the human environment under the National Environmental Policy Act, and therefore an environmental impact statement is not required.

PART 401—[AMENDED]

For the stated reasons, the Seaway Regulations have been amended as follows:

1. In § 401.97, paragraph (b)(2) has been revised to read as follows:

§ 401.97 Closing procedures.

* * * * *

(b) * * *

(2) It reports at the applicable calling in point referred to in paragraph (c) of this section within a period of 96 hours after the clearance date in that navigation season, it complies with the provisions of the agreement between Canada and the United States, known as the St. Lawrence Seaway Tariff of Tolls and the transit is authorized by the Corporation and the Authority.

* * * * *

(68 Stat. 93-96, 33 U.S.C. 981-990, as amended and sections 4, 5, 6, 7, 8, 12 and 13 of Sec. 2 of Pub. L. 95-474, 92 Stat. 1471)

Issued at Massena, New York on August 23, 1983.

Saint Lawrence Seaway Development Corporation.

William H. Kennedy,

Associate Administrator.

[FR Doc. 83-24102 Filed 9-1-83; 8:45 am]
BILLING CODE 4910-61-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 17

[OLCE-FRL 2330-7]

Implementation of Equal Access to Justice Act in Environmental Protection Agency Administrative Proceedings

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is issuing its final rules governing the implementation of the Equal Access to Justice Act in EPA proceedings. These rules establish procedures for the submission and consideration of applications for awards of attorneys' fees and other expenses in adversary adjudications conducted by EPA under Section 5 of the Administrative Procedure Act.

DATE: This order is effective on October 3, 1983. The interim regulations will remain in effect until the effective date of this order.

FOR FURTHER INFORMATION CONTACT: James Clark, Environmental Protection Agency, Office of General Counsel (LE-132A), 401 M Street, SW., Washington, D.C. 20460, telephone (202) 382-7633.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2000-0430.

EPA received one comment from the National Audubon Society in response to the April 20, 1982 publication of its interim rules, 47 FR 16780. The Audubon Society made several suggestions, which are discussed below.

Prevailing Parties

First, the Audubon Society was concerned because the interim rule limited recovery of attorneys' fees to "prevailing parties" only, without defining the term. The comment correctly observed that other statutes have been interpreted to allow awards to parties that have not prevailed, citing *Sierra Club* v. *Gorsuch*, 672 F.2d 33 (D.C. Cir. 1982) and *Environmental Defense Fund* v. *EPA*, 672 F.2d 42 (D.C. Cir. 1982). These two cases, however, arise from statutes that do not limit recovery of attorneys' fees to prevailing parties. The *Sierra Club* case, *supra*, awarded attorneys' fees to a nonprevailing party under Section 307(f) of the Clean Air Act, which authorizes a court to award fees "whenever it determines that such an award is appropriate." 42 U.S.C. 7606(f). Similarly, the *EDF* case, *supra*, permitted recovery of attorneys' fees by a nonprevailing party under Section 19(d) of the Toxic Substances Control Act, which authorizes award of fees "if the court determines such an award is appropriate." 15 U.S.C. 2618(d).

Section 504(a)(1) of the Equal Access to Justice Act, 5 U.S.C. 504(a)(1), on the other hand, explicitly directs agencies to award fees only to a "prevailing party." When Congress limits attorneys' fee awards to prevailing parties, as it did under the Act, courts have carried out that policy. See, *e.g.*, the cases arising under the Civil Rights Attorneys' Fees Awards Act of 1976, 42 U.S.C. 1988, such as *Hanrahan* v. *Hampton*, (1980), 100 S. Ct. 1987, 446 U.S. 754, 64 L. Ed. 2d 670, rehearing denied 101 S. Ct. 33, 448 U.S. 913, 65 L. Ed. 1176, 1177 on remand 499 F. Supp. 640.

Neither these regulations nor the Act further defines "prevailing party." EPA decided not to attempt to rigorously define "prevailing party" in the rule so that the presiding officers, who are most familiar with the facts of the cases, can define the phrase on a case-by-case basis.

Substantial Justification

Second, the Audubon Society asked that these rules define "not substantially justified" and criticized the interim rule for creating "a nonparallel situation" by stating that just because EPA did not prevail does not demonstrate that the Agency's position was not substantially justified.

The rules do give some guidance about the meaning of "substantial justification," stating that no presumption arises that the agency's position was not substantially justified because the agency did not prevail. This phrase was suggested by the legislative history. The House Judiciary Committee report stated:

> The standard, however, should not be read to raise a presumption that the government position was not substantially justified, simply because it lost the case. (Report of the Committee on the Judiciary on S. 265, 96th Cong., 2nd Sess. 11 (1980) H.R. Rep. No. 1418 at 11.)

This statement does not, as the Audubon Society maintains, create a "nonparallel" situation or a "double standard." It simply calls for a two-step test, eliminating any presumption that just because a party prevails over EPA, the Agency's position was not substantially justified. To take the position that any prevailing party is automatically entitled to fees would render the statutory language requiring a finding that the Agency's position was not substantially justified mere surplusage.

EPA has decided not to define further what constitutes "substantial justification" so that the presiding officers, who are most familiar with the facts of the cases, can define it on a case-by-case basis.

The Fee Ceiling

Third, the Audubon Society commented that the $75 an hour attorney's fees limitation would be inadequate in light of prevailing rates. The Act, however, explicitly places that ceiling on hourly fees charged, 5 U.S.C. 504(b)(1)(A). EPA has received no information demonstrating that small entities cannot obtain competent representation at the $75 per hour ceiling set by Congress.

Interim Awards

Fourth, the Audubon Society urged that EPA should make awards under the Act after the final administrative determination, even when judicial review is sought of the underlying EPA determination. Such interim awards would be inappropriate for two reasons. First, the term "prevailing party" would seem to mean the party who, at the conclusion of the case, wins on the main issues. Accordingly, before the time for appeal has run, the case has not concluded and attorneys' fees should not be paid. Second, under 5 U.S.C. 504(c)(1), if a court reviews the underlying decision under 28 U.S.C. 2412(d)(3), the *court* must make the award of fees and expenses incurred in pursuing the administrative adjudication as well as the expenses incurred on the appeal. Because the final fee determination of the Agency could be reversed on appeal, EPA would be ill-advised to pay an award before the applicant has exhausted its appeals. Otherwise, if the Court reversed the EPA fee determination, the Agency could not be forced to attempt to recover awards already paid out.

Allowable Fees and Expenses

Finally, the Audubon Society suggested that EPA broaden the kinds of fees and expenses that could be recovered under the rule. Specifically, the comment urged: (1) That EPA should pay interest to a prevailing party for the period between the agency determination to award fees and completion of judicial review and (2) that EPA should pay fees and expenses incurred in pursuing the attorneys' fee claim, *i.e.*, for the time spent making the application and any time spent litigating before the agency or the courts over whether the Agency should pay fees.

Under 5 U.S.C. 504(c)(1), if a court reviews the underlying decision, the *court* is directed to make an award of fees pursuant to 28 U.S.C. 2412(d)(3) for both the adjudication on appeal and the agency proceeding. Therefore, it is up to the court and not to EPA whether to add interest to any EPA award. Similarly, the extent of any award for expenses and fees incurred while appealing the fee decision of the agency to a court would be determined by the court and not by EPA.

Finally, because nothing in the Act directs agencies to pay awards for applicants' fees and expenses incurred in applying for fees in administrative cases, these rules make no provision for awarding such fees.

Technical Changes

Because "proceeding" is defined in § 17.2(d) as an adversary adjudication, actions on applications for awards should be described so as to avoid the implication that the processing of an application is itself an independent Section 554 adjudication. Accordingly,

where "proceeding" was used in the interim rules to describe actions on the application, it has been deleted in the final rule.

Miscellaneous

This announcement does not constitute a "major" rule, as defined by Executive Order 12291, because it will not result in: (a) An effect on the economy of $100 million or more, (b) a major increase in any cost or prices, (c) adverse effects on competition, employment, investment, productivity, or innovation among American enterprises.

This regulation has been submitted to the Office of Management and Budget for review under Executive Order 12291.

Information collection requirements contained in §§ 17.11 through 17.13 of this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980, 48 U.S.C. 3501 *et seq.*, and have been assigned OMB control number 2000–0430.

This regulation is specifically designed to help small entities by allowing them to recover attorneys' fees and expenses in certain circumstances when they prevail over EPA in administrative litigation. However, this rule will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* or as defined in EPA's guidelines. Accordingly, EPA has not prepared a Regulatory Flexibility Analysis.

List of Subjects in 40 CFR Part 17

Equal access to justice, Claims, Lawyers.

The Environmental Protection Agency amends Title 40 of the Code of Federal Regulations by adopting as final Part 17, which was published as an interim rule at 47 FR 16780, April 20, 1982, and is to read as set forth below.

Dated: August 4, 1983.

William D. Ruckelshaus,

Administrator.

PART 17—IMPLEMENTATION OF THE EQUAL ACCESS TO JUSTICE ACT IN EPA ADMINISTRATIVE PROCEEDINGS

Subpart A—General Provisions

Sec.
17.1 Purpose of these rules.
17.2 Definitions.
17.3 Proceedings covered.
17.4 Applicability to EPA proceedings.
17.5 Eligibility of applicants.
17.6 Standards for awards.
17.7 Allowable fees and other expenses.
17.8 Delegation of authority.

Subpart B—Information Required From Applicants

Sec.
17.11 Contents of application.
17.12 Net worth exhibit.
17.13 Documentation of fees and expenses.
17.14 Time for submission of application.

Subpart C—Procedures for Considering Applications

17.21 Filing and service of documents.
17.22 Answer to application.
17.23 Comments by other parties.
17.24 Settlement.
17.25 Extensions of time and further proceedings.
17.26 Decision on application.
17.27 Agency review.
17.28 Judicial review.
17.29 Payment of award.

Authority: Section 504, Title 5, U.S.C., as amended by sec. 203(a)(1), Equal Access to Justice Act (Title 2 of Pub. L. 96–481, 94 Stat. 2323).

Subpart A—General Provisions

§ 17.1 Purpose of these rules.

These rules are adopted by EPA pursuant to section 504 of title 5 United States Code, as added by section 203(a)(1) of the Equal Access to Justice Act, Pub. L. No. 96–481. Under the Act, an eligible party may receive an award for attorney's fees and other expenses when it prevails over EPA in an adversary adjudication before EPA unless EPA's position as a party to the proceeding was substantially justified or special circumstances make an award unjust. The purpose of these rules is to establish procedures for the submission and consideration of applications for awards against EPA when the underlying decision is not reviewed by a court.

§ 17.2 Definitions.

As used in this part:

(a) "The Act" means section 504 of title 5, United States Code, as amended by section 203(a)(1) of the Equal Access to Justice Act, Pub. L. No. 96–481.

(b) "Administrator" means the Administrator of the Environmental Protection Agency.

(c) "Adversary adjudication" means an adjudication required by statute to be held pursuant to 5 U.S.C. 554 in which the position of the United States is represented by counsel or otherwise, but excludes an adjudication for the purpose of granting or renewing a license.

(d) "EPA" means the Environmental Protection Agency, an Agency of the United States.

(e) "Presiding officer" means the official, without regard to whether he is designated as an administrative law judge or a hearing officer or examiner, who presides at the adversary adjudication.

(f) "Proceeding" means an adversary adjudication as defined in § 17.2(b).

§ 17.3 Proceedings covered.

(a) These rules apply to adversary adjudications required by statute to be conducted by EPA under 5 U.S.C. 554. To the extent that they are adversary adjudications, the proceedings conducted by EPA to which these rules apply include:

(1) A hearing to consider the assessment of a noncompliance penalty under section 120 of the Clean Air Act as amended (42 U.S.C. 7420);

(2) A hearing to consider the termination of an individual National Pollution Discharge Elimination System permit under Section 402 of the Clean Water Act as amended (33 U.S.C. 1342);

(3) A hearing to consider the assessment of any civil penalty under section 16(a) of the Toxic Substances Control Act (15 U.S.C. 2615(a));

(4) A hearing to consider ordering a manufacturer of hazardous chemical substances or mixtures to take actions under section 6(b) of the Toxic Substances Control Act (15 U.S.C. 2605(b)), to decrease the unreasonable risk posed by a chemical substance or mixture;

(5) A hearing to consider the assessment of any civil penalty under section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act as amended (7 U.S.C. 1361);

(6) A hearing to consider suspension of a registrant for failure to take appropriate steps in the development of registration data under Section 3(c)(2)(B) of the Federal Insecticide, Fungicide and Rodenticide Act as amended (7 U.S.C. 136a);

(7) A hearing to consider the suspension or cancellation of a registration under Section 6 of the Federal Insecticide, Fungicide, and Rodenticide Act as amended (7 U.S.C. 136d);

(8) A hearing to consider the assessment of any civil penalty or the revocation or suspension of any permit under section 105(a) or 105(f) of the Marine Protection, Research, and Sanctuaries Act as amended (33 U.S.C. 1415(a), 33 U.S.C. 1415(f));

(9) A hearing to consider the issuance of a compliance order or the assessment of any civil penalty conducted under Section 3008 of the Resource Conservation and Recovery Act as amended (42 U.S.C. 6928);

(10) A hearing to consider the issuance of a compliance order under Section 11(d) of the Noise Control Act as amended (42 U.S.C. 4910(d)).

(b) If a proceeding includes both matters covered by the Act and matters specifically excluded from coverage, any award made will include only fees and expenses related to covered issues.

§ 17.4 Applicability to EPA proceedings.

The Act applies to an adversary adjudication pending before EPA at any time between October 1, 1981 and September 30, 1984. This includes proceedings begun before October 1, 1981 if final EPA action has not been taken before that date, and proceedings pending on September 30, 1984.

§ 17.5 Eligibility of applicants.

(a) To be eligible for an award of attorney's fees and other expenses under the Act, the applicant must be a prevailing party in the adversary adjudication for which it seeks an award. The term "party" is defined in 5 U.S.C. 551(3). The applicant must show that it meets all conditions of eligibility set out in this subpart and in Subpart B.

(b) The types of eligible applicants are as follows:

(1) An individual with a net worth of not more than $1 million;

(2) The sole owner of an unincorporated business which has a net worth of not more than $5 million and not more than 500 employees;

(3) A charitable or other tax-exempt organization described in section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3)) with not more than 500 employees;

(4) a cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 114j(a)) with not more than 500 employees; and

(5) Any other partnership, corporation, association, or public or private organization with a net worth of not more than $5 million and not more than 500 employees.

(c) For the purpose of eligibility, the net worth and number of employees of an applicant shall be determined as of the date of adversary adjudication was initiated.

(d) An applicant who owns an unincorporated business will be considered as an "individual" rather than a "sole owner of an unincorporated business" if the issues on which the applicant prevails are related primarily to personal interests rather than to business interest.

(e) The employees of an applicant include all persons who regularly perform services for remuneration for the applicant under the applicant's direction and control. Part-time employees shall be included.

(f) The net worth and number of employees of the applicant and all of its affiliates shall be aggregated to determine eligibility. An individual or group of individuals, corporation, or other entity that directly or indirectly controls or owns a majority of the voting shares of another business board of directors, trustees, or other persons exercising similar functions, shall be considered an affiliate of that business for purposes of this Part. In addition, the Presiding Officer may determine that financial relationships of the applicant other than those described in this paragraph constitute special circumstances that would make an award unjust.

(g) An applicant is not eligible if it has participated in the proceeding on behalf of other persons or entities that are ineligible.

§ 17.6 Standards for awards.

(a) A prevailing applicant may receive an award for fees and expenses incurred in connection with a proceeding unless the position of the EPA as a party to the proceeding was substantially justified or unless special circumstances make the award sought unjust. No presumption arises that the agency's position was not substantially justified simply because the agency did not prevail.

(b) An award shall be reduced or denied if the applicant has unduly or unreasonably protracted the proceeding.

§ 17.7 Allowable fees and other expenses.

(a) The following fees and other expenses are allowable under the Act:

(1) Reasonable expenses of expert witnesses;

(2) The reasonable cost of any study, analysis, engineering report, test, or project which EPA finds necessary for the preparation of the party's case;

(3) Reasonable attorney or agent fees;

(b) The amount of fees awarded will be based upon the prevailing market rates for the kind and quality of services furnished, except that:

(1) Compensation for an expert witness will not exceed $24.09 per hour; and

(2) Attorney or agent fees will not be in excess of $75 per hour.

(c) In determining the reasonableness of the fee sought, the Presiding Officer shall consider the following:

(1) The prevailing rate for similar services in the community in which the attorney, agent, or witness ordinarily performs services;

(2) The time actually spent in the representation of the applicant;

(3) The difficulty or complexity of the issues raised by the application;

(4) Any necessary and reasonable expenses incurred;

(5) Such other factors as may bear on the value of the services performed.

§ 17.8 Delegation of authority.

The Administrator delegates to his Judicial Officer authority to take final action relating to the Equal Access to Justice Act. Nothing in this delegation shall preclude the Judicial Officer from referring any matter related to the Equal Access to Justice Act to the Administrator when the Judicial Officer determines the referral to be appropriate.

Subpart B—Information Required From Applicants

§ 17.11 Contents of application.

(a) An application for award of fees and expenses under the Act shall identify the applicant and the proceeding for which an award is sought. The application shall show that the applicant has prevailed and identify the position of EPA in the proceeding that the applicant alleges was not substantially justified.

(b) The application shall include a statement that the applicant's net worth as of the time the proceeding was initiated did not exceed $1 million if the applicant is an individual (other than a sole owner of an unincorporated business seeking an award in that capacity) or $5 million in the case of all other applicants. An applicant may omit this statement if:

(1) It attaches a copy of a ruling by the Internal Revenue Service that it qualifies as an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)(3)) and is exempt from taxation under section 501(a) of the Code or, in the case of such an organization not required to obtain a ruling from the Internal Revenue Service on its exempt status, a statement that describes the basis for the applicant's belief that it qualifies under section 501(c)(3) of the Code; or

(2) It states that it is a cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 114j(a)).

(c) If the applicant is a partnership, corporation, association, or organization, or a sole owner of an unincorporated business, the application shall state that the applicant did not have more than 500 employees at the time the proceeding was initiated, giving the number of its employees and describing briefly the type and purpose of its organization or business.

(d) The application shall itemize the amount of fees and expenses sought.

(e) The application may include any other matters that the applicant believes should be considered in determining whether and in what amount an award should be made.

(f) The application shall be signed by the applicant with respect to the eligibility of the applicant and by the attorney of the applicant with respect to fees and expenses sought. The application shall contain or be accompanied by a written verification under oath or affirmation or under penalty of perjury that the information provided in the application and all accompanying material is true and complete to the best of the signer's information and belief.

(OMB Control Number 2000-0403)

§ 17.12 Net worth exhibit.

(a) Each applicant except a qualified tax exempt organization or a qualified cooperative must submit with its application a detailed exhibit showing its net worth at the time the proceeding was initiated. If any individual, corporation, or other entity directly or indirectly controls or owns a majority of the voting shares or other interest of the applicant, or if the applicant directly or indirectly owns or controls a majority of the voting shares or other interest of any corporation or other entity, the exhibit must include a showing of the net worth of all such affiliates or of the applicant including the affiliates. The exhibit may be in any form that provides full disclosure of assets and liabilities of the applicant and any affiliates and is sufficient to determine whether the applicant qualifies under the standards of 5 U.S.C. 504(b)(1)(B)(i). The Presiding Officer may require an applicant to file additional information to determine the applicant's eligibility for an award.

(b) The net worth exhibit shall describe any transfers of assets from, or obligations incurred by, the applicant or any affiliate occurring in the one-year period prior to the date on which the proceeding was initiated that reduced the net worth of the applicant and its affiliates below the applicable net worth ceiling. If there were no such transactions, the applicant shall so state.

(c) The net worth exhibit shall be included in the public record of the proceeding.

(OMB Control Number 2000-0430)

§ 17.13 Documentation of fees and expenses.

(a) The application shall be accompanied by full documentation of fees and expenses, including the cost of any study, engineering report, test, or project, for which an award is sought.

(b) The documentation shall include an affidavit from any attorney, agent, or expert witness representing or appearing in behalf of the party stating the actual time expended and the rate at which fees and other expenses were computed and describing the specific services performed.

(1) The affidavit shall itemize in detail the services performed by the date, number of hours per date, and the services performed during those hours. In order to establish the hourly rate, the affidavit shall state the hourly rate which is billed and paid by the majority of clients during the relevant time periods.

(2) If no hourly rate is paid by the majority of clients because, for instance, the attorney or agent represents most clients on a contingency basis, the attorney or agent shall provide affidavits from two attorneys or agents with similar experience, who perform similar work, stating the hourly rate which they bill and are paid by the majority of their clients during a comparable time period.

(c) The documentation shall also include a description of any expenses for which reimbursement is sought and a statement of the amounts paid and payable by the applicant or by any other person or entity for the services provided.

(d) The Presiding Officer may require the applicant to provide vouchers, receipts, or other substantiation for any expenses claimed.

(OMB Control Number 2000-0430)

§ 17.14 Time for submission of application.

(a) An application must be filed no later than 30 days after final disposition of the proceeding. If agency review or reconsideration is sought or taken of a decision in which an applicant believes it has prevailed, action on the award of fees shall be stayed pending final agency disposition of the underlying controversy.

(b) Final disposition means the later of: (1) The date on which the agency decision becomes final, either through disposition by the Administrator or Judicial Officer of a pending appeal or through an initial decision becoming final due to lack of an appeal or (2) the date of final resolution of the proceeding, such as settlement or voluntary dismissal, which is not subject to a petition for rehearing or reconsideration.

(c) If judicial review is sought or taken of the final agency disposition of the underlying controversy, then agency proceedings for the award of fees will be stayed pending completion of judicial review. If, upon completion of review, the court decides what fees to award, if any, then EPA shall have no authority to award fees.

Subpart C—Procedures for Considering Applications.

§ 17.21 Filing and service of documents

An application for an award and any other pleading or document related to the application shall be filed and served on all parties to the proceeding in the same manner as other pleadings in the proceeding.

§ 17.22 Answer to application.

(a) Within 30 calendar days after service of the application, EPA counsel shall file an answer.

(b) If EPA counsel and the applicant believe that they can reach a settlement concerning the award, EPA counsel may file a statement of intent to negotiate. The filing of such a statement shall extend the time for filing an answer an additional 30 days.

(c) The answer shall explain in detail any objections to the award requested and identify the facts relied on to support the objection. If the answer is based on any alleged facts not already reflected in the record of the proceeding, EPA counsel shall include with the answer either a supporting affidavit or affidavits or request for further proceedings under § 17.25.

§ 17.23 Comments by other parties.

Any party to a proceeding other than the applicant and EPA counsel may file comments on an application within 30 calendar days after it is served or on an answer within 15 calendar days after it is served.

§ 17.24 Settlement.

A prevailing party and EPA counsel may agree on a proposed settlement of an award before final action on the application, either in connection with a settlement of the underlying proceeding or after the underlying proceeding has been concluded. If the party and EPA counsel agree on a proposed settlement of an award before an application has been filed, the application shall be filed with the proposed settlement.

§ 17.25 Extensions of time and further proceedings.

(a) The Presiding Officer may, on motion and for good cause shown, grant extensions of time, other than for filing an application for fees and expenses,

after final disposition in the adversary adjudication.

(b) Ordinarily, the determination of an award will be made on the basis of the written record of the underlying proceeding and the filings required or permitted by the foregoing sections of these rules. However, the adjudicative officer may *sua sponte* or on motion of any party to the proceedings require or permit further filings or other action, such as an informal conference, oral argument, additional written submissions, or an evidentiary hearing. Such further action shall be allowed only when necessary for full and fair resolution of the issues arising from the application and shall take place as promptly as possible. A motion for further filings or other action shall specifically identify the information sought on the disputed issues and shall explain why the further filings or other action is necessary to resolve the issues.

(c) In the event that an evidentiary hearing is required or permitted by the adjudicative officer, such hearing and any related filings or other action required or permitted shall be conducted pursuant to the procedural rules governing the underlying adversary adjudication.

§ 17.26 Decision on application.

The Presiding Officer shall issue a recommended decision on the application which shall include proposed written findings and conclusions on such of the following as are relevant to the decision: (a) The applicant's status as a prevailing party; (b) the applicant's qualification as a "party" under 5 U.S.C. 504(b)(1)(B); (c) whether EPA's position as a party to the proceeding was substantially justified; (d) whether the special cirumstances make an award unjust; (e) whether the applicant during the course of the proceedings engaged in conduct that unduly and unreasonably protracted the final resolution of the matter in controversy; and (f) the amounts, if any, awarded for fees and other expenses, explaining any difference between the amount requested and the amount awarded.

§ 17.27 Agency review.

The recommended decision of the Presiding Officer will be reviewed by EPA in accordance with EPA's procedures for the type of substantive proceeding involved.

§ 17.28 Judicial review.

Judicial review of final EPA decisions on awards may be sought as provided in 5 U.S.C. 504(c)(2).

§ 17.29 Payment of award.

An applicant seeking payment of an award shall submit a copy of the final decision granting the award to the Office of Financial Management for Processing. A statement that review of the underlying decision is not being sought in the United States courts or that the process for seeking review of the award has been completed must also be included.

[FR Doc. 83-23462 Filed 9-1-83; 8:45 am]
BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6457

[OR 1294 (Wash)]

Washington; Withdrawal of Lands for the Billy Goat Recreation Area

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws, for 20 years, 5.8 acres of land within the Okanogan National Forest for protection of the Billy Goat Recreation Area. The land will be closed to mining, but remain open to surface entry and mineral leasing.

EFFECTIVE DATE: September 2, 1983.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503–231–6905.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Subject to valid existing rights, the following described national forest land, which is under the jurisdiction of the Secretary of Agriculture, is hereby withdrawn from location and entry under the mining laws, (30 U.S.C. Ch. 2), and reserved for the Billy Goat Recreation Area:

Willamette Meridian

Okanogan National Forest

Billy Goat Recreation Area

T. 38 N., R. 20 E., unsurveyed,
Sec. 23, two tracts of land within said sec. 23 which are more particularly described as follows:

Parcel No. 1

Beginning at land monument identified as "U.S. Forest Service, Department of Agriculture, LM 1980"; thence N. 57°20'30" E., 392.20 feet; thence N. 33°34'40" E., 496.98 feet, to Corner No. 1 of Parcel No. 1 which is the true point of beginning; thence S. 32°22'41" E., 748.22 feet to Corner No. 2; thence N. 89°03'13" W., 202.28 feet to Corner No. 3; thence N. 64°57'07" W., 522.43 feet to Corner No. 4; thence N. 33°34'40" E., 496.98 feet to Corner No.1, containing approximately 4.4 acres.

Parcel No.2

Beginning at land monument identified as "U.S. Forest Service, Department of Agriculture, LM 1980"; thence S. 62°06'51" E., 2223.40 feet, to Corner No. 1 of Parcel No. 2 which is the true point of beginning; thence S. 51°56'13" E., 425.37 feet to Corner No. 2; thence N. 03°09'47" E., 347.61 feet to Corner No. 3; thence S. 76°27'54" W., 364.17 feet to Corner No. 1, containing approximately 1.4 acres

The areas described aggregate approximately 5.8 acres in Okanogan County.

2. The withdrawal made by this order does not alter the applicability of the public land laws governing the use of the national forest lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal shall remain in effect for a period of 20 years from the effective date of this order.

Inquiries concerning the land should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

August 24, 1983.

Garrey E. Carruthers,
Assistant Secretary of the Interior.

[FR Doc. 83-24100 Filed 9-1-83; 8:45 am]
BILLING CODE 4310-84-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 70–27, Notice 28]

Hydraulic Brake Systems

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: This notice amends Standard No. 105, *Hydraulic Brake Systems*, to provide an optional test procedure for trucks, buses other than school buses, and multipurpose passenger vehicles (MPV's) with a gross vehicle weight rating (GVWR) of greater than 10,000 pounds. The standard becomes applicable to these vehicles on September 1, 1983. The amendment permits manufacturers to meet the partial failure requirements after conducting the standard's full test

sequence preceding the partial failure test instead of the abbreviated test sequence generally specified for these vehicles. Under this option, manufacturers continue to be required to meet only the requirements of those tests in the abbreviated test sequence.

DATES: Any petitions for reconsideration of this amendment must be received on or before October 3, 1983. The effective date for this amendment is September 1, 1983.

ADDRESSES: Any petitions for reconsideration should refer to the docket number and notice number of this notice and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20509. The docket is open on weekdays from 8 a.m. to 4 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Duane Perrin, Crash Avoidance Division, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590 (202–426–2800).

SUPPLEMENTARY INFORMATION: Standard No. 105, *Hydraulic Brake Systems*, provides that vehicles must meet a variety of performance requirements when tested according to a lengthy list of test procedures and in the sequence in which the procedures are listed by the standard. Currently, the standard is only applicable to passenger cars and school buses. However, effective September 1, 1983, the standard becomes applicable, in whole or in part, to trucks, all types of buses, and multipurpose passenger vehicles. (Final rule published in the **Federal Register** (46 FR 55) on January 2, 1981; response to petitions for reconsideration published December 21, 1981 (46 FR 61887).)

While Standard No. 105 was extended on a general basis (with some modifications) to vehicles with a gross vehicle weight rating (GVWR) of 10,000 pounds or less, only limited requirements were made applicable to vehicles with a GVWR greater than 10,000 pounds. (The standard's full requirements already applied to all school buses, including those with a GVWR greater than 10,000 pounds.) The abbreviated test sequence applicable to heavy vehicles other than school buses is similar to the full test sequence, except that many of the tests are eliminated.

On July 14, 1983, in response to concerns raised by General Motors (GM) about an apparent anomaly in the test procedure, NHTSA published a notice of proposed rulemaking (NPRM) in the **Federal Register** (48 FR 32202) to provide an optional test procedure for heavy vehicles other than school buses. As explained in that notice, the agency was informed by GM that some of its heavy vehicles were having difficulties in meeting Standard No. 105's partial failure requirements under the limited test sequence. (The partial failure test ensures that a vehicle's brakes are capable of bringing the vehicle to a controlled stop in a reasonable distance if a part of the service brake system should fail.) Under the full test sequence, the partial failure test is conducted well into the test sequence, following three effectiveness tests, burnish and reburnish (i.e., break-in or conditioning) procedures, and the parking brake test. Of these various steps, only one, the burnish procedure, is included in the limited test sequence.

GM informed NHTSA that it discovered, late in its compliance testing, that certain of its heavy vehicles, as designed, were unable to meet the partial failure requirements under the limited test sequence. However, the same vehicles would meet the partial failure requirements if tested under the full test sequence.

According to GM, redesign of some of its heavy vehicle braking systems would be required to meet the partial failure requirements under the limited test sequence. That company stated that in the short run the minimum cost resulting from such redesign would be in excess of $100 per vehicle, without improving user safety. Annual production of approximately 20,000 vehicles would be affected. Given the economic consequences of this apparent anomaly related to the test procedure, GM requested that the standard be amended to correct it.

After analyzing the issues raised by GM, NHTSA agreed that the standard should be amended. The NPRM explained that the elimination of the other procedures from the limited test sequence could have the effect of increasing the stringency of the later partial failure test. The reason for this is that some brakes tend to become more effective as they are tested, because temperature conditioning improves the friction of the brake pads.

The NPRM also explained that the increased stringency of the partial failure test under the limited test sequence was neither intended nor foreseen by the agency. Indeed, the stopping distances for the partial failure test were based on the assumption that the full test sequence would be conducted. The same stopping distances are applicable to heavy school buses, but they are tested under the full test sequence.

NHTSA proposed that manufacturers be given the option of subjecting their heavy vehicles to the full test sequence preceding the partial failure test instead of the limited test sequence. The NPRM explained that manufacturers would not be required to meet performance requirements associated with the additional tests under this proposed option. However, manufacturers would be required to conduct the additional tests in accordance with the standard's specified test procedures.

Three comments were received by the agency, all of which supported adoption of the proposed amendment. GM commented that the NPRM properly described the situation as an unexpected and unintended increase in test stringency arising solely from the elimination of several test sequence steps in the interest of test efficiency and that the difficulty is only one of procedure and not one that in any way affects motor vehicle safety. That company emphasized that the brake system in question is very similar to that on its school buses of equivalent GVWR and when tested to the full sequence schedule, as is the school bus system, meets all applicable requirements.

GM also stated that proposed solution is the most logical approach to elimination of this unintended increase in stringency. That company noted that giving the manufacturer the option to choose whether its vehicles are tested to the full or abbreviated test sequence enables systems which have been developed to meet the full school bus requirements to also comply when used on trucks, without additional complication, while also allowing a manufacturer which has developed a system to comply with the abbreviated test sequence to use that system without additional testing.

Ford commented that it agrees with the agency's analysis that the elimination of certain procedures from the test sequence applicable to vehicles other than the subject heavy vehicles could the have effect of increasing the stringency of the partial failure test in the abbreviated test sequence, and that it supports the proposed amendment. Chrysler submitted a comment which stated that it concurs with the proposed amendment.

After reviewing the comments, NHTSA has determined that the amendment should be adopted as proposed. An effective date of September 1, 1983, is provided. The agency has determined that an effective date of such short notice is in the public interest given the imminence of the September 1, 1983, effective date for

Standard No. 105's applicability to these vehicles, and the optional nature of the amendment.

The agency has considered the costs and other impacts of this amendment and has determined that it is not major within the meaning of Executive Order 12291 or significant within the meaning of the Department of Transportation's regulatory procedures. Further, the agency concludes that the economic and other consequences of the amendment are so minimal as not to require preparation of a full regulatory evaluation. Due to the optional nature of the amendment, no new costs are imposed on manufacturers or consumers. The amendment will result in some cost savings to manufacturers and consumers since it eliminates the need for redesign of some brake systems. In the short run, these savings could be relatively high on a per vehicle basis. As noted above, GM indicated that short-run redesign costs would have been in excess of $100 per vehicle, had the standard remained unchanged. In the longer run, however, NHTSA believes that these savings would probably be low, since, with a long leadtime, manufacturers could likely redesign their brakes at a much lower cost to comply with the requirements under the abbreviated test sequence.

The agency has considered the effects of this proposal in relation to the Regulatory Flexibility Act. I certify that this amendment will not have a significant economic impact on a substantial number of small entities. Small businesses will be affected by the amendment only to the extent that they are sellers or purchasers of affected vehicles. Small organizations and small government jurisdictions will only be affected to the extent that they are purchasers of affected vehicles. The amendment will result in some lower vehicle prices, thereby benefitting both sellers and purchasers. However, such savings are sufficiently small relative to the purchase price of heavy vehicles, even in the short run when they are expected to be at their highest, that they are unlikely to significantly affect purchasing decisions.

Finally, the agency has analyzed this amendment for purposes of the National Environmental Policy Act. The agency has determined that implementation of this action will not have a significant effect on the human environment.

List of Subjects in 49 CFR 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

PART 571—[AMENDED]

In consideration of the foregoing, 49 CFR 571.105 is amended as set forth below.

§ 571.105 [Amended]

Section S7 is amended by revising the parenthetical after the first sentence of the paragraph to read as follows:

(For vehicles only having to meet the requirements of S5.1.2 and S5.1.3 in section S5.1, the applicable test procedures and sequence are S7.1, S7.2, S7.4, S7.9, S7.10 and S7.18. However, at the option of the manufacturer, the following test procedures and sequence may be conducted: S7.1, S7.2, S7.3, S7.4, S7.5, S7.6, S7.7, S7.8, S7.9, S7.10 and S7.18. The choice of this option shall not be construed as adding to the requirements specified in S5.1.2 and S5.1.3.)

(Secs. 103, 119, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on August 30, 1983.

Diane K. Steed,

Deputy Administrator.

[FR Doc. 83-24153 Filed 8-30-83; 2:14 pm]

BILLING CODE 4910-59-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Deregulation of the Longjaw Cisco and the Blue Pike

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service is removing the blue pike *(Stizostedion vitreum glaucum)* and the longjaw cisco *(Coregonus alpenae)* from the U.S. List of Endangered and Threatened Wildlife. This action is based on a review of all available data that indicates these species are extinct. Blue pike populations declined in the late 1950's and never recovered, with the last confirmed specimens taken in the 1960's. Historically, this subspecies was found in Lakes Erie and Ontario, and the Niagara River. Intensive surveys by the Fish and Wildlife Service and States where the species occurred have failed to yield any additional specimens. In a 1977 survey, the Blue Pike Recovery Team contacted all Fish and Game agencies in the U.S. in an effort to determine if blue pike existed in their waters. After all responded negatively, the Blue Pike Recovery Team concluded that the blue pike was extinct and recommended removing it from the U.S. List of Endangered and Threatened Wildlife.

The longjaw cisco was one of several closely related species of ciscos that occur in the Great Lakes. It was known to occur in Lakes Michigan, Huron, and Erie. Despite the considerable effort of the Service's Great Lakes Fishery Laboratory and States around the Great Lakes, there has been no reported collection of this species in U.S. waters since 1967. Recent research has indicated that some species of ciscos in the Great Lakes may constitute hybrid populations. The Fish and Wildlife Service concludes that *Coregonus alpenae* is extinct.

DATE: This rule becomes effective on October 3, 1983.

ADDRESSES: Questions concerning this action may be addressed to the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111. Comments and materials relating to this rule will be available for public inspection by appointment during normal business hours by contacting the Fish and Wildlife Service, Endangered Species staff, at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. James M. Engel, Office of Endangered Species, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111 (612/725–3276), or Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703–235–2771).

SUPPLEMENTARY INFORMATION:

Background

Blue pike were abundant in the commercial fishery of the late 1800's but by 1915 landings began to fluctuate extensively. Production peaks in excess of 10,000 metric tons occurred in 1915, 1936, 1944, and 1949, and lows under 2,500 metric tons occurred in 1917–19, 1929, 1941, and 1946–47 before the fishery collapsed in 1958. During the past 10 years, the blue pike has been reported to be extinct by several fishery biologists.

Fishery biologist have evidence that an over–intensive fishery, which disrupted self–stabilizing mechanisms within the population, led to the extreme fluctuations and ultimate crash of the fishery. Since young–of–the–year blue pike inhabited the same areas as older members of the populations, they were vulnerable to cannibalism. It has been postulated that overfishing for adults

caused unusual numbers of young-of-the-year to escape predation. This would lead to a short population explosion followed by several years of poor recruitment due to over-predation by abundant older fish on the young. An intensive fishery would cause increased amplitude in the fluctuations because the fish would be taken even when they were scarce. In addition, competition with and predation by the newly arrived rainbow smelt, which occupied the same habitat for part of the year, were likely detrimental to this species.

The last successful year-class occurred in 1954 and there was virtually no recruitment to the fishery after that year. Production continued at high levels for another 3 years and then collapsed. As growth rates in this period increased enormously, immature fish were readily exploited which further reduced spawning potential.

The reasons for the collapse of the fishery in 1958 have not been well defined. Summer oxygen deficiencies in the hypolimnion of the central basin probably forced the blue pike into the deeper waters of the eastern basin of Lake Erie where they were more vulnerable to an extensive fishing effort. It has also been suggested that introgressive hybridization with walleye may have been responsible for the final disappearance of the remnant stock.

The longjaw cisco, originally described in 1924, was indigenous to the Great Lakes basin and occurred in Lakes Michigan, Huron, and Erie. The longjaw cisco was one of several species of deepwater ciscos utilized by the smoked fish trade and was a very important species in the fishery of the Great Lakes. It was also an important prey species for lake trout and turbot before these fishes were decimated by the sea lamprey. The longjaw cisco has not been seen in Lakes Erie and Huron since the late 1950's. The most recent collection of this species in Lake Michigan was in 1967.

The ciscos, including the longjaw cisco, supported a substantial fishery until about 1950. These fishes were caught exclusively by gillnets set in deep (100-300 feet) water. As the deep water ciscos became scarce, the smaller shallow water species entered the fishery. The cisco or chub fishery of the Great Lakes ceased to exist before 1960 and presently only one cisco, the bloater (*Coregonus hoyi*), is important in the commercial fishery.

The decline of the longjaw cisco and the cisco fishery in general is usually attributed to fishery and environmental problems. The history of the cisco fishery in the Great Lakes is one of increasing exploitation and decreasing stocks. As the ciscos decreased in abundance, there was an increase in the fishery effort along with a decrease in net mesh size. This resulted in further depletion of cisco stocks. In addition to the increased fishing pressure, predation by the sea lamprey and degradation of the habitat further reduced cisco populations. In recent years, problems resulting from hybridization between some species of cisco has contributed to this decline.

Section 4 of the Endangered Species Act of 1973, as amended, directs the Secretary of the Interior to conduct, at least once every 5 years, a review of all species included in the list of Endangered and Threatened species to determine if any such species should be removed from the list or be changed in status from Endangered to Threatened or Threatened to Endangered. The longjaw cisco was listed in 1967 and the blue pike in 1970 and an official review of their status was initiated in 1979. The lack of recent collections indicates that these species have apparently become extinct. Based on this information, the Service proposed to deregulate the longjaw cisco and blue pike.

Summary of Comments and Recommendations

In the May 25, 1982, **Federal Register**, the proposed rule to deregulate the blue pike and longjaw cisco asked all interested parties to submit their comments. All comments relating to the existence of the longjaw cisco and the blue pike were considered in the present status determination. A total of twelve comments were received that dealt specifically with the delisting proposal.

Three of the 12 comments came from concerned citizens, one of whom supported the proposal, while the other two felt that they had recently captured blue pike. One of these individuals reported catching blue pike in Kinzua Reservoir near Salamanca, New York. Personnel at the New York Department of Environmental Conservation indicated that they have checked out many reports of this type and no specimens have ever proven to be blue pike.

The Ontario Ministry of Natural Resources submitted a comment and reported that there was no evidence of blue pike in Ontario waters of Lake Erie and Lake Nipissing. Based on this report and previous reports from Canadian biologists, the blue pike is presumed extinct in Canada.

The National Wildlife Federation supported the action for blue pike but did not comment on the longjaw cisco. The Michigan United Conservation Clubs supported the action for the longjaw cisco. The Great Lakes Fishery Lab, the Michigan Department of Natural Resources (two letters), and the New York Department of Environmental Conservation supported the proposal for both species. The Illinois Department of Conservation and the Wisconsin Department of Natural Resources supported the proposal for the longjaw cisco, but did not comment on the blue pike since there are no records of this species in either state. Finally, the Ohio Department of Natural Resources supported the proposal for the blue pike, but did not comment on the longjaw cisco; there are no Ohio records for this species.

Summary of Status Findings

After a careful review and examination of all available data, the Secretary has determined that the longjaw cisco and the blue pike are extinct and no longer require protection pursuant to the Endangered Species Act of 1973, as amended. A sufficient amount of time has passed since each of these species was last captured to insure that they are extinct. If evidence to the contrary is presented at a later date, the action is reversible.

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR Part 424; under revision to accommodate 1982 amendents) set forth the procedures for adding species to the Federal list. The Secretary of the Interior shall determine whether any species is an Endangered species or a Threatened species due to one or more of the five factors described in Section 4(a)(1) of the Act. Regulations implementing this section, 50 CFR 424.11(d), state that the factors for removing a species from the list are those in paragraph (b) of this section. The data to support such removal must be the best scientific and commercial data available to substantiate that the species is neither Endangered nor Threatened because of extinction, recovery of the species, or the original data for classification were in error. The factors in paragraph (b) of 50 CFR 424.11 and their application to the longjaw cisco and the blue pike are as follows:

Blue Pike

A. *The present or threatened destruction, modification or curtailment of its habitat or range.* Pollution and oxygen depletion may have contributed to the decline of this species.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Selective fishing by

commercial interests may have been a factor in the disappearance of the blue pike.

C. *Disease or predation.* Predation on adults by the sea lamprey may have contributed to the decline of the species.

D. *The inadequacy of existing regulatory mechanisms.* The absence of regulations sufficient to protect the fishery may have contributed to the decline of the blue pike.

E. *Other natural or manmade factors affecting its continued existence.* Competition with rainbow smelt (*Osmerus mordax*) may have been one of the factors contributing to the decline of this species.

Although the exact cause of the disappearance of the blue pike are not known, it appears that the factors reported above are responsible for the extinction of the blue pike.

Longjaw Cisco

A. *The present or threatened destruction, modification or curtailment of its habitat or range.* The longjaw cisco was historically recorded from Lakes Michigan, Huron, and Erie. There have been no known adverse effects on the cisco from water quality degradation or habitat elimination in Lakes Huron and Michigan. Extensive industrial and municipal wastes that contributed to an overall deterioration of water quality in Lake Erie may have led to the decline in the cisco population there.

B. *Overutilization for commercial, recreational, scientific or educational purposes.* An intensive commercial fishery for large ciscos in Lakes Michigan and Huron may have contributed to the decline of the longjaw cisco in these lakes.

C. *Disease or predation.* Sea lamprey predation in Lakes Michigan and Huron may account for a portion of the longjaw cisco's decline.

D. *The inadequacy of existing regulatory mechanisms.* The absence of regulations sufficient to maintain the fishery may have contributed to the decline of this species.

E. *Other natural or manmade factors affecting its continued existence.* Competition with smaller ciscos, as well as with alewife (*Alosa pseudoharengus*) and rainbow smelt (*Osmerus mordax*), was a suspected contributory factor in the decline of the longjaw cisco. Hybridization with other cisco species may also have been a contributing factor in the species' disappearance.

The data presented here are considered the best scientific data that are available. The Service has determined that a sufficient amount of time passed since these species were last found (1967 for the longjaw cisco and the late 1960's for the blue pike) to make a determination that the species are in fact extinct and remove them from the protective measures provided by the Endangered Species Act.

Effects of the Rule

The rule removes the longjaw cisco and the blue pike from the List of Endangered and Threatened Wildlife and discontinues all protections accorded the fishes and their habitats under provisions of the Endangered Species Act of 1973, as amended.

National Environmental Policy Act

An Environmental Assessment was prepared in conjunction with this rule. It is on file in the Service's Twin Cities Regional Office, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111, and may be examined by appointment during regular business hours. This assessment is the basis for a decision that this is not a major Federal action that would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969 (implemented at 40 CFR Parts 1500–1508).

Primary Authors

The primary authors of this rule are Robert F. Johnson, Jr., and John G. Sidle, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111 (612/725–3563).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

PART 17—[AMENDED]

Accordingly Part 17, Subchapter B of Chapter I, Title 50 of the U.S. Code of Federal Regulations, is hereby amended as set forth below:

1. The authority citation is as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531, *et seq.*).

§ 17.11 [Amended]

2. Section 17.11(h) is amended by removing the longjaw cisco (*Coregonus alpenae*) and the blue pike (*Stizostedion vitreum glaucum*), under "Fishes," from the List of Endangered and Threatened Wildlife.

Dated: August 2, 1983

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83-24190 Filed 9-1-83; 8:45 am]
BILLING CODE 4310-55-M

Proposed Rules

Federal Register
Vol. 48, No. 172
Friday, September 2, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

7 CFR Part 658

Farmland Protection Policy

AGENCY: Soil Conservation Service, Agriculture (USDA).

ACTION: Proposed rule; extention of public comment period.

SUMMARY: In the **Federal Register** of July 12, 1983 [48 FR 31863], USDA proposed a rule for implementation of the Farmland Protection Policy Act, Subtitle I of Title XV of the Agriculture and Food Act of 1981, Pub. L. 97–98. USDA asked that written comments be submitted by September 12, 1983. USDA has determined that additional time should be allowed.

DATES: The deadline for submitting written public comments is hereby extended to October 1, 1983.

ADDRESS: Howard C. Tankersley, Executive Secretary, USDA Land Use Issues Working Group, Soil Conservation Service, P.O. Box 2890, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Howard C. Tankersley, telephone 202–382–1855.

John B. Crowell, Jr.,
Assistant Secretary for Natural Resources and Environment.

August 29, 1983.

[FR Doc. 83–24140 Filed 9–1–83; 8:45 am]
BILLING CODE 3410–16–M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 563

[No. 83–474]

Financial Reporting Requirements

Dated: August 29, 1983.

AGENCY: Federal Home Loan Bank Board.

ACTION: Notice of proposed change in reporting requirements.

SUMMARY: The Board is proposing to modify its reporting requirements for institutions whose accounts are insured by the Federal Savings and Loan Insurance Corporation, in order to collect the data needed for risk assessment, industry monitoring and supervision in a deregulated and rapidly changing environment, while minimizing the burden on the industry of providing this information.

DATES: Comment period: Public comments to the Board are due by September 29, 1983.

ADDRESS: Send comments to Director, Information Services Section, Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Richard Pickering, Deputy Director, Office of Policy and Economic Research, (202–377–6770), James Smith, Financial Analyst, Office of Examinations and Supervison (202–377–6391), or George W. Hubler, System Industry Condition Report Coordinator, Information Systems Division, Administration Office, (202–377–6135), Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552

SUPPLEMENTARY INFORMATION: The current financial reporting requirements for institutions whose accounts are insured by the Federal Savings and Loan Insurance Corporation ("insured institutions") consist of a semiannual report and a monthly report required from all such institutions and a thrice-monthly report required from a smaller number of institutions. The semiannual report has the following component parts:

(A) Statements of condition, operations, scheduled items and supplementary items reported on a fiscal half-year basis (Sections A–G);

(B) A schedule of deposit balances and deposit offering rates reported as of March and September (Section K); and

(C) Schedules reporting detailed security holdings, deposits by branch office and tax information reported as of September (Sections J, L and I), and a schedule reported as of December on deposit balances by account size (Section H).

In addition to the regular monthly report required from all insured institutions, a sample of about 400 institutions provide a supplemental monthly report containing additional information on mortgage activity.

The information system was developed during a period of relatively stable interest rates, substantial statutory limitations on the investment authority of the thrift industry and comprehensive Board regulation of federally insured thrift institutions. Over the past several years, however, a variety of developments have drastically altered the nature of the thrift industry and the environment in which it operates. Among these are a broad statutory expansion in the discretionary investment authority of the thrift industry, substantially completed deregulation of deposit rates and a sharp reduction in the regulatory restrictions regarding the characteristics of mortgage loans that can be made by thrifts. Even more important, there has been a sharp increase in the magnitude of the variation in market interest rates over short periods of time, which has magnified the interest-rate risk assumed by the thrift industry operating by its traditional method of funding long-term assets with short-term liabilities.

These changes have created a need to amend the Board's reporting system in order to collect information essential for the effective performance of the Board's function of industry monitoring and supervision. Specific areas of inadequate reporting included the measurement of (a) interest-rate sensitivity (b) futures and options market participation (c) cost and characteristics of deposit flows, and (d) use of new investment powers. Moreover, the current procedure of reporting semiannually on a fiscal-year basis distorts comparison of institutions with differing fiscal years during periods of rapidly changing financial conditions.

The Board believes that in today's economic environment it is incumbent upon institutions to track carefully in their own operations the kind of information needed by the Board in its reviewing function, and that corporate management would be well-served by having available industry-wide aggregates of this information. For all of these reasons, the Board is therefore proposing to amend the reporting requirements as described below.

The most obvious method of providing the Board with the additional

information would be to add the new elements to the current semiannual/monthly reporting system. This would, however, substantially increase the reporting burden on insured institutions, even with the elimination of certain report elements no longer required in the current regulatory and financial environment. In addition, much of the information, both new and old, is needed more frequently than semiannually in a rapidly changing environment, but is not necessary on a monthly basis and would be difficult for the industry to provide in an accurate manner with such frequency. Consequently, the Board proposes to change to a system in which most insured institutions would report no more frequently than quarterly. Monthly reports would be required only from a stratified random sample of institutions designed to provide industry-wide information in order to allow the Board to monitor developments between quarterly reporting dates.

The universal reporting component of the proposed system would consist of the following information, to be reported on a uniform calendar-quarter basis by all insured institutions:

(1) Statements of condition and operations, and a supplemental schedule covering lending activity, delinquency trends and futures/options data (Sections A–F of Attachment A). These sections would provide information on the use of new investment powers, while eliminating unnecessary information currently collected in the similar schedules.

(2) A schedule of deposit activity that would modernize and expand information currently collected on the character and cost of deposit acquired (Section G of Attachment A).

(3) A schedule reporting balance and yield/cost information on assets and liabilities classified by economic risk categories and maturity. This will permit analysis of the interest-rate risk assumed by individual institutions and the industry (Section H, Parts I and II, of Attachment A).

In addition, all institutions would file three annual supplements to provide information not needed quarterly. One (Section I of Attachment A) would be filed as of December 31 of each year and provide information on the number of mortgage loans and foreclosures and certain miscellaneous data. A second (Section K of Attachment A) contains data as of the end of an institution's fiscal year, provides data on slow loans and other scheduled items and would be filed with the Quarterly Report covering the period in which the fiscal year closes. The third annual supplement would be Schedule L of the current semiannual report, which provides data on deposit balances by branch offices, in its present form, except that it would be filed as of June 30 rather than September 30. These reporting requirements would become effective for the first quarter of 1984.

The new sample reporting procedures would provide adequate information for monitoring industry developments between quarterly reports. The sample component of the proposed new reporting system would consist of three sections to be filed by a stratified random sample of about 375 institutions. These sections are:

(1) A monthly report on balances in specific categories of deposits and on the rates being offered on such deposits (See Attachment B). This report would supplement the information reported quarterly and, in part, replace the current thrice-monthly reporting by large institutions. This requirement would become effective in the fourth quarter of 1983.

(2) A monthly report providing a condensed balance sheet and information on mortgage lending and deposit activity and interest expense (See Attachment C). This would replace the current universal monthly report as of July 1984. The current monthly report would continue to be required of all institutions through June 1984 in order to ensure the availability of information during the start-up of the new quarterly reporting system.

(3) A quarterly report to be provided by institutions in the monthly report sample detailing the composition of security investments. (See Attachment D). This would replace the similar report currently filed once a year by all insured institutions.

Unaffected by this proposal are the reports and data collection required under the Home Mortgage Disclosure Act (P.L. 94–200), the Board's nondiscrimination regulations (12 CFR Parts 528 and 531), the annual financial report of wholly-owned service corporations, and the monthly report filed by a sample of about 900 associations providing information on interest rates and other characteristics of conventional home mortgage loans. In addition, Federal Home Loan Banks would be permitted to collect monthly information from insured institutions to determine regional cost of funds, where a Bank has concluded that availability of such data is necessary for institutions in its area to meet contractual obligations to make changes in adjustable-rate mortgages. Finally, the Board would continue to require special monthly reporting by institutions needing supervisory surveillance.

The Board recognizes that the implementation of any new reporting system involves a significant burden. This will be particularly the case for the new information being proposed on maturity and cost of institution assets and liabilities. It is of the opinion, however, that the long-run burden of the proposed reporting system, including the change from monthly to quarterly reporting, will be less than that of the current system. The Board is particularly sensitive to the cost impact on small institutions, and has therefore proposed an alternative which would pare information collection to the essentials needed for supervisory purposes and for all institutions' proper monitoring of their own operations.

The specific information contained in required reporting forms is not codified in the Board's regulations. *See* 12 CFR 563.18(a). Because of the magnitude of the reporting changes being considered, however, the Board is taking the opportunity to publish this proposal in order to secure the benefits of public review and comment. The public is further advised that the Board has submitted the proposal to the Office of Management and Budget for approval pursuant to 5 CFR 1320.12, pertaining to clearance of information collection requests; requests for information, including copies of the proposed information collection request and supporting documentation, are obtainable from the Board, and comments on the proposal should be directed to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for the Federal Home Loan Bank Board. Of course, the Board is also desirous of receiving the public's comments with regard to the paperwork-burden aspects of the proposal, which are the particular concern of the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1980, and all other facets of the proposal. Because of the substantial time necessary to implement any major change in reporting requirements and the benefits that would be derived from the proposed implementation schedule, it is requested that comments submitted to the Board be filed by September 29, 1983, directed to: Director, Information Services Section, Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552.

List of Subjects in 12 CFR Part 563

Reporting and recordkeeping requirements, Savings and loan association, Securities.

(Secs. 401–7, 48 Stat. 1255–62, as amended (12 U.S.C. 1724–30); Reorg. Plan No. 3 of 1947; 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

ATTACHMENT A.—LISTING OF FIELD HEADINGS AND FIELD NUMBERS FOR NEW 1984 QUARTERLY REPORT

[Dollars to be reported in thousands]

Field Heading	Field No.
Section A—Assets	
Mortgage loans and contracts:	
FHA/VA and Other Federally Insured or Guaranteed Loans	010
Conventional:	
1–4 Dwelling Units	020
5 or more Dwelling Units	030
Other Improved Real Estate	040
Developed Building Lots, Acquisition and Development of Land, and Unimproved Land Loans	050
Nonconforming Loans and Contracts to Facilitate Sale of Real Estate Owned	060
Mortgage-Backed Securities:	
Insured or Guaranteed by an Agency or Instrument of the United States	070
Conventional	080
Accrued Interest Receivable	090
Advances for Borrowers' Taxes and Insurance	100
Contra-assets to mortgage loans:	
Loans in Process	110
Unearned Discounts	120
Deferred Loan Fees	130
Specific Reserves and Valuation Allowances	140
Net mortgage loans and contracts	150
Nonmortgage loans:	
Commercial Loans:	
Secured (Other than Mortgage)	160
Unsecured	170
Loans on Savings Accounts	180
Home Improvement Loans	190
Education Loans	200
Consumer Auto Loans	210
Other Closed-End Consumer Loans	220
Credit Cards, and Other Open-End Credit Extended to Consumers	230
Mobile Home Loans—Retail	240
Financing Leases:	
Consumer	250
Nonconsumer	260
Accrued Interest Receivable	270
Contra-assets to nonmortgage loans:	
Loans in Process	280
Unearned Discounts	290
Deferred Loan Fees	300
Specific Reserves and Valuation Allowances	310
Net nonmortgage loans and contracts	320
Repossessed assets:	
Foreclosed Real Estate and Real Estate in Judgment (Net)	330
Other Repossessed Assets (Net)	340
Valuation Allowance	350
Real Estate Investments:	
Held for Development/Investment/Resale (Net)	360
Valuation Allowance	370
Cash, deposits and investment securities:	
Cash and Demand Deposits	380
U.S. Government and Agency Securities	390
Other Investments	400
Accrued Interest Receivable	410
Valuation Allowance	420
Fixed assets:	
Office Building (Land and Improvements)	430
Leasehold Improvements	440
Appraisal Increment	450
Furniture, Fixtures, and Equipment	460
Depreciation Allowance	470
Valuation Allowance	480
Other assets:	
Stock in FHLBank	490
Financial Future/Options:	
Initial Margin	500
Maintenance Margin	510
Financial Options Fees Paid	520
Prepaid Expenses	530
Service Corporations/Subsidiaries:	
Equity Investment	540
Appraisal Increment	550
Deferred Net Gains/Losses on Futures/Options Hedging Assets	560
Deferred Losses on:	
Loans Sold	570
Other Assets Sold	580
Deferred Gains on:	
Loans Sold	583
Other Assets Sold	586
Goodwill and Other Intangible Assets	590
Leased Property (Net):	
Consumer	600
Nonconsumer	610
Accounts Receivable Secured by Pledged Savings	620
Other Assets	630
Valuation Allowance	640
Total assets	800
Memo:	
Loans Secured Only by Junior Liens Included at Lines 010 thru 060	900
Amount Eligible for Regulatory Liquidity Included at Lines 070 and 380 thru 410	910
Number of Wholly-Owned Service Corporations	920
Assets Acquired For Stock:	
Real Estate (Net)	930
Other	940
Construction Loans Included at Lines 010 thru 050	950
Section B—Liabilities	
Deposits and savings accounts	[1] 010
Borrowings:	
FHLBank Advances	020
Other Borrowed Money:	
Commercial Bank Loans	030
Reverse Repurchase Agreements	040
Consumer Retail Repurchase Agreements	050
Overdrafts in Demand Deposits	060
Commercial Paper Issued	070
Mortgages on Association Assets	080
Subordinated Debentures Not Qualifying for Net Worth	090
Mortgage-Backed Bonds Issued	100
Other Borrowings	110
Accrued Interest Payable	120
Other liabilities:	
Dividends/Interest Accrued or Declared on Savings Accounts	130
Dividends Payable on Permanent, Reserve, or Guaranty Stock	140
Accrued Taxes	150
Accounts Payable	160
Advance Payments by Borrowers for Taxes/Insurance	170
Financial Options Fees Received	180
Miscellaneous Other Liabilities	190
Deferred Net Gains/Losses on Futures/Options Hedging Liabilities	200
Deferred Federal and Other Income Taxes	230
Total liabilities	800
Memo:	
Pledged Deposits and Savings included at line 010	900
Section C—Regulatory Net Worth	
Preferred Stock	010
Permanent, Reserve, or Guaranty Stock	020
Paid-In Surplus	030
Qualifying Mutual Capital Certificates	040
Qualifying Subordinated Debentures	050
Appraised Equity Capital	060
Net Worth Certificates	070
Accrued Net Worth Certificates	080
Income Capital Certificates	090
Reserves	100
Undivided Profits (Retained Earnings)	110
Net Undistributed Income	120
Total regulatory net worth	800
Total liabilities and regulatory net worth	810
Memo:	
Cash Dividends on:	
Preferred Stock	900
Permanent Stock	910
Other Capital Instruments	920
Check if you are including in your balance sheet for the first time assets, etc., acquired as a result of merger or similar type acquisition	930
Was purchase accounting used	940
Annual Closing Date (Show month and day numerically, e.g., December 31 should be shown as 1231)	950
Section D—Income	
Operating income:	
Interest on Mortgage Loans and Contracts	010
Interest on Mortgages, Participations, or Mortgage-Backed Securities Reported at Lines 070 and 080 of Section A	020
Discounts on Mortgage Loans Purchased	030
Interest on:	
Commercial Loans (Nonmortgage)	040
Consumer Loans (Open and Closed End)	050
Interest/Dividends on Investments and Deposits	060
Income from Lease Financing	070
Mortgage Loan Fees	080
Loan Servicing Fees	090
Other Loan Fees and Charges	100
Service Charges and Fee Income from Transaction Accounts	110
Amortized Deferred Gains on:	
Futures/Options Hedging Assets	120
Futures/Options Hedging Liabilities	130
Net Income or Loss from Office Building Operations	160
Net Income or Loss from Real Estate Held for Investment	170
Net Income or Loss from REO Operations	180
Net Income or Loss from Service Corporations/Subsidiaries	190
Net Income or Loss from Leasing Operations	200
Miscellaneous Operating Income	210
Nonoperating income:	
Profit on Sale of:	
Foreclosed Real Estate (REO)	220
Other Repossessed Property	230
Real Estate Held	240
Investment Securities	250
Loans	260
Other Assets	270
Amortized Deferred Gains on:	
Loans Sold	273
Other Assets Sold	276
Miscellaneous Nonoperating Income	280
Total income	800
Memo:	
Profit on Sale of Loans and Other Assets Acquired via Pushdown/Purchase Accounting	900
Discounts on Assets Acquired via Pushdown/Purchase Accounting	910
Net Income or Loss from Assets Acquired for Stock	920
Section E—Expense	
Operating Expenses:	
Directors Fees	010
Officers and Employees Compensation	020
Legal Expense	030
Directors, Officers and Employees Expense	040
Office Occupancy Expense	050
Furniture, Fixtures, Equipment and Automobile Expense	060
Advertising	070
Commissions Paid for Savings Accounts	080
Independent Audit Expense, Tax and Accounting Services	090
Supervisory Examinations	100
Consultant and Management Fees	110
Loan Servicing Fees	120
Amortization of Goodwill	130
Amortized Deferred Losses on:	
Futures/Options Hedging Assets	140
Futures/Options Hedging Liabilities	150
Other Operating Expense	160
Dividend/interest charges:	
Savings and Deposits	190
Penalties and Early Withdrawals	200

ATTACHMENT A.—LISTING OF FIELD HEADINGS AND FIELD NUMBERS FOR NEW 1984 QUARTERLY REPORT—Continued

[Dollars to be reported in thousands]

Field Heading	Field No.
Advance Payments by Borrowers for Taxes and Insurance	210
Advances from FHLBank	220
Subordinated Debentures	230
Mortgage-Backed Bonds	240
Other Borrowed Money	250
Capitalized Interest	260
Nonoperating expense:	
Provision for Losses and Losses on Sale of:	
Foreclosed Real Estate (REO)	270
Other Repossessed Property	280
Real Estate Held	290
Investment Securities	300
Loans	310
Other Assets	320
Amortized Deferred Losses on:	
Loans Sold	323
Other Assets Sold	326
Other Nonoperating Expenses	330
Income taxes:	
Federal	340
State, Local and Other	350
Total expense	800
Adjustments to Prior Period Income or Expense	810
Net income/loss	820
Section F—Supplemental Data	
Activity During Quarter	
Mortgage loans:	
Mortgage Loans Closed:	
Construction Loans:	
1 to 4 Family	010
5 or more Dwelling Unit Structures	020
Non-Residential	030
Permanent Loans Closed:	
1 to 4 Family	040
5 or more Dwelling Unit Structures	050
Non-Residential	060
Land Loans	070
All Other	080
Loans and Participations Purchased	090
Loans and Participations Sold	100

ATTACHMENT A.—LISTING OF FIELD HEADINGS AND FIELD NUMBERS FOR NEW 1984 QUARTERLY REPORT—Continued

[Dollars to be reported in thousands]

Field Heading	Field No.
Cash Repayment of Principal	110
Debits, Less Credits Other Than Repayment of Principal	120
Nonmortgage loans:	
Nonmortgage Loans Closed or Purchased:	
Commercial	130
Consumer	140
Delinquency and REO activity:	
Loans Becoming 60 Days Delinquent During the Quarter	150
Loan Balance Delinquent 60–89 Days:	
Mortgage	160
Nonmortgage	170
Loan Balance Delinquent 90–119 Days:	
Mortgage	180
Nonmortgage	190
Loan Balance Delinquent 120 Days or more:	
Mortgage	200
Nonmortgage	210
Mortgage Foreclosures During the Quarter:	
Residential	220
Non-Residential	230
Real Estate in Judgment Becoming REO (not included in lines 220 and 230)	240
Loans Returning to Performing to Performing Status During the Quarter	250
Other:	
Futures Contracts Offset during Period (Face Amount)	260
Refinancing Loans Reported at Lines 040 thru 060	270
Cash Mortgage Loan Repayments Reported at Line 110 Resulting From the Sale of Previously Occupied 1 to 4 Family Homes	275
Assets Acquired for Stock During Quarter	280
Balances at Close of Period	
Futures positions outstanding:	
Contracts to Sell: Short Term (e.g. T-bill contracts)	290
Long Term (e.g. t-bond contracts)	300

ATTACHMENT A.—LISTING OF FIELD HEADINGS AND FIELD NUMBERS FOR NEW 1984 QUARTERLY REPORT—Continued

[Dollars to be reported in thousands]

Field Heading	Field No.
Contracts to Buy:	
Short Term (e.g. T-bill contracts)	310
Long Term (e.g. T-bond contracts)	320
Net Unrecognized Gain/Loss	330
Options Positions Outstanding:	
Amount of:	
Long Put Options	340
Long Call Options	350
Short Put Options	360
Short Call Options	370
Net Unrecognized Gain/Loss:	
Short Options	380
Long Options	390
Commitments outstanding:	
To Originate Loans	400
To Purchase Loans	410
To Sell Loans	420
To Purchase Securities	430
To Sell Securities	440
Other:	
Mortgage Loans Serviced for Others	450
Mortgage Loans Serviced by Others	460
Amount of Contingency to Repurchase Loans	470
Approximate Value of Trust Assets Administered	480
Broker Originated Savings	490
Conforming Loans to Service Corporations/Subsidiaries (including Joint Ventures)	500
Loans from Third Parties to Service Corporations/Subsidiaries Guaranteed by Parent	510
IRA/KEOGH Account Balances	520
Total Deposits with Balances of $100,000 or Less:	
Number	530
Amount	540
Total Deposits with Balances Greater Than $100,000:	
Number	550
Amounts:	
Negotiable Certificates with Original Maturities of 3 Months or Less	560
All Other	570
Letters of Credit Issued and Outstanding	580

[1] Detail listing of deposits and savings accounts is found in Section G.

SECTION G.—DEPOSIT ACTIVITY REPORT

[Dollars in thousands]

	New deposits received (during quarter)	Withdrawals (during quarter)	Interest credited (during quarter)	Average rate on new deposits (during quarter)	Quarter-end balances
	A	B	C	D	E
Accounts without fixed maturity:					
Transaction Accounts	110	120	130	140	150
Other	210	220	230	240	250
Accounts with fixed maturity:					
Fixed Rate:					
Original Maturity of Six Months or Less	310	320	330	340	350
Original Maturity More than Six Months through One Year	410	420	430	440	450
Original Maturity More than One Year through Three Years	510	520	530	540	550
Original Maturity More than Three Years	610	620	630	640	650
Variable Rate (All Maturities)	710	720	730	740	750
Memo:					
Quarter-End Balance in Money Market Deposit Accounts (included in 250 above)					900

SECTION H (PART I).—MATURITY AND YIELD/COST INFORMATION REMAINING TIME BEFORE THE ASSET CAN BE REPRICED OR MATURES AND RATE SENSITIVITY

[Dollars in thousands (weighted average contract interest rate)]

	6 months or less		>6 months–1 year		>1–3 years		>3–5 years		>5–10 years		>10–20 years		>20 years		Total (dollars)
	Dollars	Percent	Dollars	Percent	Dollars	Percent	Dollars	Percent	Dollars	Percent	Dollars	Percent	Dollars	Percent	
Assets															
Mortgage loans and mortgage-backed securities:															
Balloon & Adjustable Rate First Mortgage Loans	021	022	023	024	025	026	027	028	029	030	031	032	033	034	040
Other first mortgages and contracts:															
Federally Insured or Guaranteed	061	062	063	064	065	066	067	068	069	070	071	072	073	074	080
Conventional Residential	101	102	103	104	105	106	107	108	109	110	111	112	113	114	120
Conventional Non-Residential	141	142	143	144	145	146	147	148	149	150	151	152	153	154	160
Second Mortgages	181	182	183	184	185	186	187	188	189	190	191	192	193	194	200
Nonmortgage loans:															
Consumer	221	222	223	224	225	226	227	228	229	230	231	232	233	234	240
Commercial	261	262	263	264	265	266	267	268	269	270	271	272	273	274	280
Investment securities:															
U.S. Government and Agency Securities	301	302	303	304	305	306	307	308	309	310	311	312	313	314	320
Other Investments	341	342	343	344	345	346	347	348	349	350	351	352	353	354	360
Total financial assets	381		383		385		387		389		391		393		400
Impact of hedging activities	421		423		425		427		429		431		433		440

SECTION H (PART II).—MATURITY AND YIELD/COST INFORMATION REMAINING TIME BEFORE THE LIABILITY CAN BE REPRICED OR MATURES AND RATE SENSITIVITY

[Dollars thousands (weighted average contract interest rate)]

	6 months or less		>6 months–1 year		>1–3 years		>3–5 years		>5–10 years		>10 years		Total (dollars)
	Dollars	Percent	Dollars	Percent	Dollars	Percent	Dollars	Percent	Dollars	Percent	Dollars	Percent	
LIABILITIES													
Deposits, Advances, and Borrowings													
Deposits with Balances Greater than $100,000	461	462	463	464	465	466	467	468	469	470	471	472	480
Deposits with Balances of $100,000 or Less:													
Passbook, MMDA and NOW Deposits	501	502											520
Other Deposits	541	542	543	544	545	546	547	548	549	550	551	552	560
FHLB Advances	581	582	583	584	585	586	587	588	589	590	591	592	600
Other Borrowings:													
Secured	621	622	623	624	625	626	627	628	629	630	631	632	640
Unsecured	661	662	663	664	665	666	667	668	669	670	671	672	680
Total financial liabilities	701		703		705		707		709		711		720
Impact of hedging activities	741		743		745		747		749		751		760

SECTION I—ANNUAL SUPPLEMENT [1]

[Dollars to be reported in thousands]

Number of Mortgage Loans Held:	
FHA/VA and Other Federally Insured and Guaranteed Loans	010
Conventional	020
Number of Mortgages Foreclosed	030
Balances in Loans in Process on Residential Property	040
Balances in Mortgages, Participations and Mortgage-Backed Securities Secured by Residential Property	050

[1] To be filed with the December Quarterly Report only.

SECTION K.—SLOW LOANS AND OTHER SCHEDULED ITEMS

[Complete this schedule only if your annual closing occurred during this quarter. Amounts should reflect data as of your closing date. This schedule will be used to compute your compliance with I.R. 563.13(b)(4).]

	Net amount [1]
Slow mortgage loans and contracts:	
Total—FHA/VA and Other Federally Insured and Guaranteed Loans	010
Total—Conventional	020
Slow nonmortgage loans:	
Total—Insured	030
Total—Commercial (Except Insured)	040
Total—Consumer (Except Insured)	050
Total—Financing Leases (Except Insured)	060
Other scheduled items:	
Nonconforming Loans and Contracts	070
Real Estate Foreclosed and Real Estate in Judgment	080

SECTION K.—SLOW LOANS AND OTHER SCHEDULED ITEMS—Continued

[Complete this schedule only if your annual closing occurred during this quarter. Amounts should reflect data as of your closing date. This schedule will be used to compute your compliance with I.R. 563.13(b)(4).]

	Net amount [1]
Other Repossessed Assets	090
Investment Securities Past Due and Deposits in Closed Banks	100
Leased Property	110
Total slow loans and other scheduled items	800
Memo:	
Interest-Bearing Liquid Assets Maturing within One Year	900
One-Half of Total Adjustable Rate Mortgage Loans	910
Fixed Rate Liability Sources of Funds with Remaining Term to Maturity Exceeding Five Years	920

[1] Dollars in thousands. Amounts as of closing date.

BILLING CODE 6720-01-M

Attachment B

MONTHLY SURVEY OF SELECTED DEPOSITS AND OTHER ACCOUNTS

As of close of business on the last day of the month of _____.

Enter in column A the dollar balance in the specified account category as of the close of business of the month specified.
Enter in column B the most common interest rate paid on the largest dollar volume of deposits and retail RPs issued during 7 days ending on the survey date. For lines 4b-4f also check F if account has a fixed rate and V if it has a variable rate.
Enter in column C the appropriate code for the frequency of interest compounding:

1 = Continuously or daily
2 = Monthly
3 = Quarterly
4 = Semiannually
5 = Annually
6 = Not compounded; simple interest paid at maturity
7 = Other (specify)

If code 6 is specified, also enter in column C the maturity of the account (in months).

Please read instructions carefully before completing this report.

ACCOUNT CATEGORIES:	A. Amount outstanding bil.	A. mil.	A. thou.	Interest Rate B. Most common interest rate percent	C. Frequency of interest compounding code	C. months	
Amounts reported in the following categories should include balances held in IRA and Keogh Plans:							
1. "Super NOW" accounts.....							1.
2. Money market deposit accounts (MMDAs)							2.
3. Retail RPs with balances of less than $100,000							3.
4. All interest-bearing fixed-term certificates with balances of less than $100,000 and with original maturities of:							
a. 7 through 31 days				F V			4.a
b. 32 through 91 days				F V			4.b
c. 92 through 182 days				F V			4.c
d. 183 days through 1 year				F V			4.d
e. over 1 yr but less than 2-1/2 yrs.				F V			4.e
f. 2-1/2 years and over				F V			4.f
All IRA and Keogh Plan accounts, including amounts reported in items 1 through 4 above							

Name of reporting institution

Person to be contacted concerning this report

District/Docket Number

Address

(Area code)telephone number and extension

FHLBB Form 1312A

BILLING CODE 6720-01-C

ATTACHMENT C.—MONTHLY REPORT

[To be completed by industry sample]

Assets

Mortgage loans (including non-conforming loans and junior liens, but excluding contra-assets):	
Construction:	
1–4 family homes	010
Other residential property	015
Non-residential property (including land)	020
Other (permanent):	
1–4 family homes	030
Other residential property	035
Non-residential property except land and farm	040
Land except farm	045
Farm	050
Mortgage-backed securities etc. (both federally insured and conventional, but excluding contra-assets):	055
Non-mortgage loans (including finance leasing, but excluding contra-assets):	
Loans on deposits	060
Other consumer	065
Commercial (including finance leasing)	070
Cash, deposits and investment securities	075
Other assets	080
Total assets	085

Liabilities

Deposits:	
Without fixed terms:	
Transactions	110
Other	115
With fixed terms	120
Borrowed money:	
FHLB advances	130
Retail repurchase agreements	135
Other	140
Other liabilities	150
Regulatory net worth	160
Memorandum: Negotiable certificates with original maturity of 3 months or less in denominations greater than $100,000 included above	190

Mortgage Lending

Loans closed:	210
Construction of:	
1–4 family homes	220
Other residential property	225
Non-residential property	230
Other (including non-cash refinancing and combination construction/purchase loans where construction was completed during month) secured by:	
1–4 family homes	240
Other residential property	245
Non-residential property except land	250
Land	255
Loans and participations sold secured by:	
1–4 family homes	260
Other residential property	265
Non-residential property	270
Loans and participations purchased secured by:	
1–4 family homes	280
Other residential property	285
Non-residential property	290
Cash repayments of loan principal	295

Forward Commitments

Made during month:	
To originate mortgages secured by:	
1–4 family homes	310
Other residential property	315
Non-residential property	320
To purchase mortgages from other lenders	325
Commitments and loans in process outstanding at end of month:	
To originate mortgages on:	
1–4 family homes	330
Other residential property	335
Non-residential property	340
To purchase mortgages	350
To sell mortgages	360
To purchase or originate non-mortgage loans and to purchase securities	370

Deposit Activity

New deposits received less deposits withdrawn	410
Interest credited to accounts	420

Interest Charges

Interest/dividends on deposits	510
Interest on advances and other borrowed money	520

ATTACHMENT C.—MONTHLY REPORT—Continued

[To be completed by industry sample]

Memo Item

Check if you are including in your balance sheet for the first time assets, etc., acquired as a result of merger or similar type acquisition	610

ATTACHMENT D.—SECTION J—CASH, DEPOSIT AND INVESTMENT SECURITIES BY TYPE AND MISCELLANEOUS ITEMS

[Cash, deposits and investment securities]

All Securities and Deposits Held Subject to Repurchase Agreements	010
Other Securities Held and Not Subject to Repurchase Agreements:	
U.S. Government Obligations	020
Federal Agency Obligations	030
State and Local Government Obligations	040
Bankers' Acceptances	050
Commercial Paper	060
Corporate Debt Securities (Except bankers' acceptance and commercial paper)	070
Shares in Open-End Management Investment Companies	080
Other Investment Securities	090
Cash on Hand	100
Demand and Time Deposits in a Federal Home Loan Bank	110
Deposits at Federal Reserve Banks	120
Demand Deposits in FDIC-Insured Commercial Banks	130
Demand Deposits in All Other Institutions (Except a Federal Home Loan Bank, a Federal Reserve Bank or FDIC-Insured Commercial Bank)	140
Time and Savings Deposits in FDIC-Insured Commercial Banks	150
Time and Savings Deposits in All Other Institutions (Except a Federal Home Loan Bank, a Federal Reserve Bank or FDIC-Insured Commercial Bank	160
Loans of Unsecured Day(s) (Federal) Funds	170
Other Cash Items and Accrued Interest Receivable on Securities and Deposits	180
Total—cash, deposits and investment securities (Sum of items 010 through 180)	900
Memo:	
Deposits in the Illinois Bank for Savings and Loan Associations (Include in items 140 and 160)	900
U.S. Government and Federal Agency Obligations Maturing Within One Year (Included in items 020 and 030)	970

[FR Doc. 83-24078 Filed 9-1-83; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[File No. 802 3165]

Estee Corp.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require a Parsippany, N.J. manufacturer and marketer of health-related food products, among other things, to cease representing that any of its products have been accepted or recommended for use by a diabetic or hypoglycemic unless it discloses the identity of the endorser and the material qualifications or limitations placed on the endorsement. If the company promotes a food as being appropriate for diabetics, it would be required to disclose that it is "not a reduced calorie food" in advertising and on package labels as required by the Food and Drug Administration regulations. Representations that a food will or will not affect blood sugar levels or that it has any health-related property or quality for diabetics of hypoglycemics would have to be substantiated as required by the terms of the order. Further, the firm would be barred from misrepresenting the existence or truthfulness of endorsements; the identity of any sweetner; that food containing fructose contains no sugar; or that a food is reduced in calories and is appropriate for weight control. The order would additionally require that the company provide to the American Diabetes Association, Inc. or to the Juvenile Diabetes Foundation the sum of $25,000 within 24 months from the effective date of the order, and to maintain files substantiating its advertising claims for a period of three years.

DATE: Comments must be received on or before November 1, 1983.

ADDRESS: Comments should be directed to: FTC/S, Office of the Secretary, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: FTC/PA, Robert C. Cheek, Washington, D.C. 20580. (202) 724–0727.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commision, had been placed on the public record for period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

List of Subjects in 16 CFR Part 13

Trade practices.

In the Matter of Estee Corporation; File No. 8023165; Agreement Containing Consent Order to Cease and Desist.

The Federal Trade Commission having initiated an investigation of

certain acts and practices of Estee Corporation, a corporation, and it now appearing that Estee Corporation, a corporation, hereinafter sometimes referred to as proposed respondent, is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed by and between Estee Corporation, by its duly authorized officer, and its attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent Estee Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey, with its office and principal place of business located at 169 Lackawanna Avenue, Parsippany, New Jersey 07054.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it together with the draft of compliant contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same maner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

For the purposes of this order, the term "food" shall mean and include any article used for food or drink for humans, chewing gum, and any article used for a component of any such article.

Any provision of this order shall not cover labels if labeling is such provision is inconsistent with regulations of the Food and Drug Administration or with the statutes it enforces.

The provisions of this order shall not apply to any label or labeling printed by respondent before the date of service of this order and shipped by respondent to distributors or retailers prior to January 1, 1984 or the date of service of this order, whichever is later.

I

It is ordered that respondent Estee Corporation, a corporation, its successors and assigns, and respondent's officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of any food in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Representing, directly or by implication, that any food is accepted or recommended by an individual or organization other than the advertiser for use by a diabetic or hypoglycemic, unless in immediate conjunction with such representation the following is disclosed with equal prominence:

1. The identity of the individual or organization, and

2. All material qualifications or material limitations, if any, placed on the acceptance or recommendation by the individual or organization.

B. Failing to clearly and prominently disclose in a nonlabel advertisement: "This food is not a reduced calorie food," when:

1. Respondent makes a representation, directly or by implication, in the advertisement that any food is an appropriate part of a diabetic's diet, and

2. A disclosure is required on the label that the food is not a reduced calorie food pursuant to regulations promulgated by the Food and Drug Administration.

Provided that, where more than one food is promoted by a single advertisement, and a label disclosure is required pursuant to regulations promulgated by the Food and Drug Administration for one or more of the advertised foods, this section shall be satisfied if the following statement is clearly and prominently disclosed in the advertising: "Some of these foods are not reduced calorie foods."

C. Making any representation, directly or by implication, about the health-related comparability of one sweetener to another sweetener, unless at the time of dissemination of each such representation respondent possesses and relies on a reasonable basis which substantiates each such representation, consisting of competent and reliable scientific evidence of the type and quantum appropriate for the representation made.

D. Representing, directly or by implication, that a food:

1. Will or will not affect blood sugar levels in any manner, or

2. Has any health-related property or quality for diabetics or hypoglycemics, unless at the time of dissemination of each such representation respondent possesses and relies on a reasonable basis which substantiates each such representation, consisting of competent and reliable scientific evidence of the type and quantum appropriate for the representation made.

E. Misrepresenting, directly or by implication:

1. The existence or truthfulness of any endorsement or recommendation,

2. The indentity of any sweetener,

3. That any food which contains fructose or high fructose corn syrup does not contain any sugar, *provided that,* this provision shall not prohibit respondent from truthfully representing that a food does not contain "sucrose" or "table sugar."

4. That a food is reduced in calories compared to other foods or is appropriate for weight control.

II

It is further ordered that respondent shall, within twenty-four (24) months after the date of service of this order, provide the aggregate sum of $25,000 to the American Diabetes Association, Inc. or the Juvenile Diabetes Foundation. Said funds shall be designated as "for the purposes of research into dietary management of diabetes," *provided that,* if any of such funds are not used by the recipient organization(s) for said purposes, such funds shall revert to the general research funds of the organization(s).

III

It is further ordered that respondent shall forthwith distribute a copy of this order to each of its operating divisions.

IV

It is further ordered that respondent notify the Commission at least thirty (30) days prior to any proposed change in its corporate structure such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

V

It is further ordered that respondent shall maintain files and records of all substantiation for claims made under Parts IC and ID of this order for a period of three (3) years after the dissemination of any advertisement containing such claim. Additionally, such material shall be made available to the Federal Trade Commission or its staff within fifteen (15) days of a written demand for such material.

VI

It is further ordered that respondent shall, within sixty (60) days after the date of service of this order, file with the Commission a report, in writing, setting forth in detail the manner and form of its compliance with this order.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Estee Corporation.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The Commission's complaint in this matter changes Estee with disseminating advertisements containing false, misleading and unsubstantiated representations about its health-related "special foods." These foods are sweetened not with ordinary table sugar (sucrose), but with the alternative sweeteners fructose, sorbitol or high fructose corn syrup (HFCS). Estee's foods are frequently advertised and sold to diabetics.

The complaint alleges that Estee made the following false claims about its food and sweeteners:

a. That the Food and Drug Administration and the American Diabetes Association have concluded that Estee's sweeteners are useful without significant qualification in diabetic when, in fact, neither has so concluded;

b. That Estee's foods are significantly reduced in calories compared with comparable foods and are useful or appropriate for weight control when, in fact, many of the foods are not;

c. That the sweetener in all of Estee's "fructose"—sweetened foods is fructose, when, in fact, in certain foods it is actually HFCS; and

d. That Estee's foods do not contain any sugar when, in fact, many of the foods contain fructose or HFCS, which are sugars.

The complaint further alleges that Estee represented its fructose—and sorbitol-sweetened foods as useful or appropriate for diabetics' diets. According to the complaints, this representation is unsubstantiated because (a) fructose-and sorbitol-sweetened foods should not be eaten in more than limited amounts by any diabetics; (b) these foods are not useful or appropriate for weight loss or weight control diets and many diabetics are on such diets; and (c) these foods are not appropriate for untreated or out-of-control diabetics.

The complaint also charges that Estee made the following additional representations for which it lacked a reasonable basis:

a. That the sweetener in Estee's cookies and other HFCS—sweetened foods has the same characteristics as fructose, including its effects on diabetics' blood sugar levels; and

b. That Estee's HFCS—sweetened foods are useful or appropriate for diabetics' diets and will not cause undersirable blood sugar elevations.

The consent order contains provisions prohibiting future, misrepresentations and unsubstantiated claims and requiring certain disclosures in future advertisements. Additionally, Estee is required to pay consumer redress in the form of money for diabetes research.

The order applies to package labels as well as media advertisements, except to the extent that Food and Drug Administration statutes or regulations conflict. Also, the order does not cover Estee's existing labels for a short period of time (until January 1, 1984 or the effective date of the order whichever is later). This provision is intended to allow Estee to use up some it its existing inventory of package labels.

Part IA of the order requires Estee to make certain disclosures whenever it advertises that any food is accepted or recommended for use by diabetics or hypoglycemics. The disclosures include the identity of the endorser and all of its material qualifications or limitations on the endorsement.

Part IB of the order requires Estee to disclose in advertisements that a food "is not a reduced calorie food" whenever it advertises that the food is appropriate for diabetics and such a disclosure is required on the package label under Food and Drug Administration regulations. The FDA requires this disclosure if the food is promoted as appropriate for diabetics, and is less than one-third reduced in calories compared to comparable foods.

Part IC requires Estee to have a reasonable basis for any claims about the health-related comparability of one sweetener to another. The reasonable basis must consist of competent and reliable scientific evidence of the type and quantum appropriate for the claim made.

Part ID provides that Estee must have a reasonable basis for any claims about the effect of any food on blood sugar levels or about the health-related properties of any food for diabetics or hypoglycemics. The reasonable basis required is the same as that for Part IC.

Part IE prohibits the following misrepresentations:

a. Of the existence or truthfulness of an endorsement;

b. Of the identity of a sweetener;

c. That HFCS or fructose are not sugars; and

d. That a food is reduced in calories or is appropriate for weight control.

Part II of the Order requires Estee to pay within two years $25,000 in consumer redress, in the form of a grant(s) to the American Diabetes Association or the Juvenile Diabetes Foundation. The purpose of the grant(s) is to fund research in the area of dietary management of diabetes. In this case, the Commission determined that providing refunds directly to injured consumers would not be a practical form of consumer redress, because of the difficulty in locating purchasers of Estee foods and because the individual redress amounts would have been very small. This provision is designed to facilitate diabetes research which will inure to the benefit of all diabetics.

Parts III–VI of the order require Estee to distribute copies of the order to its operating divisions, notify the Commission prior to any change in its corporate structure, maintain certain records for three years, and file a compliance report.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Michael A. Baggage,

Acting Secretary.

[FR Doc. 83-24163 Filed 9-1-83; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Ch. I

[FHWA Docket No. 83-7]

Acceleration of Projects; Consolidated Rulemaking

Correction

In FR Doc. 83-23503, beginning on page 38854, in the issue of Friday, August 26, 1983, on page 38855, in the first column, in the "DATE" paragraph, in the second line "September 25, 1983." should read "October 25, 1983.".

BILLING CODE 1505-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

Registration Required Obligations Public Hearing on Proposed Regulations

AGENCY: Internal revenue service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to the amendment of the Income Tax Regulations under sections 163, 165, and 1232 of the Internal Revenue Code.

DATES: The public hearing will be held on Thursday, November 10, 1983, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by Thursday, October 27, 1983.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, D.C. The requests to speak and outlines of oral comments should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR-151-83), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Lou Ann Craner of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202-566-3935, not a toll-free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under sections 163, 165, and 1232 of the Internal Revenue Code of 1954. The proposed regulations appear in this issue of the **Federal Register** (See FR Doc. 83-24071).

The rules of § 601.601 (a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who submit written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit, not later that Thursday, October 27, 1983, an outline of the oral comments to be presented at the hearing and the time they wish to devote to each subject.

Each speaker will be limited to 10 minutes for an oral presentation exclusive of the time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

James J. McGovern,

Acting Director, Legislation and Regulations Division.

[FR Doc. 83-24072 Filed 9-1-83; 8:45 am]

BILLING CODE 4830-01-M

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26 CFR Parts 1 and 5f

Sanctions on Issuers and Holders of Registration-Required Obligations Not in Registered Form

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document revises the proposed regulations issued on November 15, 1982 (47 FR 51414) relating to the definition of the term "registration-required obligation" with respect to obligations issued to certain foreign persons and the imposition of sanctions on issuers issuing registration-required obligations in bearer form. This document contains proposed regulations relating to the imposition of sanctions on persons holding registration-required obligations in bearer form. This document proposes to remove § 5f.163-1(c) of the temporary regulations. Changes to the applicable law were made by the Tax Equity and Fiscal Responsibility Act of 1982. The proposed regulations would affect issuers and holders of obligations and would provide them with guidance needed to comply with the law. A notice of a public hearing concerning these proposed regulations appears elsewhere in this issue of the **Federal Register**.

DATES: Written comments must be delivered or mailed by November 1, 1983. The regulations under section 163 and the removal of § 5f. 163-1(c) are proposed to be effective with respect to obligations originally issued more than 30 days after the publication of final regulations in the **Federal Register**. The regulations under section 165 and 1232 are proposed to be effective after December 31, 1982.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Carol T. Doran of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202–566–3289).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 163, 165, and 1232 of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to changes made to the Internal Revenue Code of 1954 by section 310 of the Tax Equity and Fiscal Responsibility Act of 1982 (the Act) (Pub. L. 97–248, 96 Stat. 595) and are to be issued under the authority contained in section 165 of the Code (96 Stat. 598; 26 U.S.C. 165) and section 7805 of the Code (68A Stat. 917; 26 U.S.C. 7805).

On November 15, 1982, the **Federal Register** published temporary regulations (47 FR 51361) under section 163 of the Internal Revenue Code of 1954. The proposed regulations, upon becoming final, would remove § 5f.163–1(c) of the temporary regulations. Until final regulations are effective the temporary regulations remain in effect.

Section 310 of the Act added new sections 163(f), 165(j), and 1232(c) to the Code. Section 163(f) disallows an interest deduction otherwise allowable under 163(a), or any other provision of the Code, if the interest is attributable to a registration-required obligation issued in bearer form. Section 165(j) disallows a deduction for any loss sustained on a registration-required obligation that is held in bearer form. Section 1232(c) provides that, if a registration-required obligation is held in bearer form, any gain on the sale or other disposition of such obligation shall be treated as ordinary income.

Explanation of Provisions

The proposed regulations contained in this document provide rules for determining whether an issuer may claim an interest deduction for interest paid on an obligation in bearer form, which is otherwise a registration-required obligation, because the issuer satisfies the conditions set forth in section 163(f)(2)(B). Under section 163(f)(2)(B) an obligation is not a registration-required obligation if it meets the following conditions: it is sold under arrangements reasonably designed to ensure that it is not sold to United States persons; interest on the obligation is payable only outside the United States and its possessions; and on the face of the obligation there is a statement that any person who holds the obligation will be subject to limitations under U.S. income tax laws.

Proposed regulations will be issued under section 4701 relating to the imposition of an excise tax on issuers issuing registration-required obligations in bearer form. Those regulations are anticipated to provide rules parallel to those set forth in this document, concerning the exemption from registration provided in section 163(f)(2)(B).

The proposed regulations provide rules for determining what arrangements are reasonably designed to ensure that an obligation will not be sold to United States persons. An issuer will satisfy the requirement that arrangements be reasonably designed to ensure sale to non-U.S. persons by complying with any one of the following alternatives.

First, an issuer will satisfy this requirement if the obligation need not be registered under the Securities Act of 1933 because it is intended for distribution to persons who are not United States persons. For this purpose, the term "United States person" is defined in accordance with the Securities Act of 1933.

Second, if a bearer obligation is registered under the Securities Act of 1933 or is exempt from registration under section 3 or 4 of such Act, the issuer will satisfy this requirement if it does not offer the obligation in bearer form to U.S. persons, it obtains covenants from members of the selling group that they will not sell the obligation to U.S. persons and that they will send a confirmation to the purchaser of the obligation representing that the purchaser is not a United States person, and the person entitled to delivery of the obligation presents to the issuer or member of the selling group a certificate which represents that no beneficial owner of the obligation is a United States person.

Third, an obligation issued outside the United States by a foreign person or by certain foreign branches of domestic corporations will satisfy the requirement that there be arrangements reasonably designed to ensure sale to non-United States persons if the issuer does not engage significantly in interstate commerce with respect to the issuance of the obligation. It is intended that an obligation generally will be considered to come within this third alternative if the obligation would not be required to be registered with the Securities Exchange Commission regardless of whether section 3 or 4 of the Securities Act of 1933 applies. If the issuer satisfies this third alternative with respect to an obligation, the obligation need not contain a legend concerning limitations under U.S. tax law. The regulations provide that an issuer will not satisfy the requirement that arrangements be reasonably designed to ensure sale to non-United States persons by satisfying the third alternative if 10 percent or more of the stock of the issuer is owned or considered as owned by a United States shareholder and the U.S. shareholder guarantees or otherwise assures payment of the obligation.

The proposed regulations provide definitions of the terms "interstate commerce" (§ 1.163–5(c)(2)(iii)) and "possessions" (§ 1.63–5(c)(2)(iv)).

Section 1.163–5(c)(v) of the proposed regulations provides rules for determining whether interest is paid outside of the United States and its possessions. The regulations provide that interest is payable only outside the United States and its possessions if demand for payment may only be made outside the United States and its possessions. The proposed regulations state that payment is considered to be made outside the United States and its possessions even though the payment is debited or credited to an account maintained in the United States. The proposed regulations provide that an issuer may name a United States paying agent to pay interest in the event that United States dollars become commercially unavailable outside the United States. Paragraph(c)(2)(v) also provides a rule for determining the amount of any original issue discount when an obligation is neither registered under the Securities Act of 1933 nor issued pursuant to a private placement exemption. This definition is applicable for purposes of determining whether the original issue discount, if any, is payable outside of the United States.

Section 1.163–5(c)(2)(vi) of the proposed regulations provides rules under which an obligation in registered form may be converted into bearer form. A registered obligation may only be converted into bearer form if the following conditions are satisfied: the obligation was originally issued pursuant to an offering comprised in whole or in part of obligations which satisfied the requirement that they be issued pursuant to arrangements reasonably designed to ensure sale to non-United States persons; at all times when the obligation is in bearer form it also satisfies the requirements that interest be payable outside the United States and that the obligation contain the required legend; and the issuer or transfer agent obtains a certificate from the person entitled to delivery of the

bearer obligation to the effect that no beneficial owner of the obligation is a United States person.

Section 165(j) provides that no deduction for any loss sustained on any registration-required obligation shall be allowed unless the obligation is in registered form or the issuance of the obligation was subject to tax under section 4701. Section 1232(c) provides that any gain on the sale or other disposition of a registration-required obligation that is not in registered form shall be treated as ordinary income unless the issuance of such obligation was subject to tax under section 4701. For purposes of both section 165(j) and section 1232(c), the term "registration-required obligation" has the same meaning as in section 163(f)(2) except that an obligation is not exempt from registration even though it may have been sold under arrangements reasonably designed to ensure sale to non-United States persons, interest thereon is payable only outside the United States and its possessions, and it contains a legend with respect to potential adverse tax consequences to U.S. holders. Thus, although an issuer of an obligation which satisfied these requirements would not be required to register the obligation and would not be subject to the issuer sanctions for issuing the obligation in bearer form, a person subject to U.S. tax holding such an obligation would not be permitted to take a deduction for any loss sustained on the obligation and would be required to treat any gain on the sale or other disposition of such obligation as ordinary income.

Sections 1.165–12(b) and 1.1232–5(b) of the proposed regulations provide exceptions to the rules that any loss sustained on a registration-required obligation held in bearer form is not deductible and that any gain on the disposition of such obligation is ordinary income. The following persons will be exempt from these penalties even though a registration-required obligation is held in bearer form: persons who hold such obligations for sale in the course of their trade or business and comply with certain requirements concerning the prevention of sale to United States person; financial institutions (defined in § 1.165–12(b)(2)(ii)) that comply with certain reporting requirements with respect to obligations held for their own account or for the account of their customers and which hold such obligations through an entity which is engaged in the business of holding obligations for member organizations and transferring obligations among such members by credit or debit to the account of a member; and any other person that surrenders the obligation for conversion into registered form within thirty days of the date when the transferor of the bearer obligation is able to make such obligation available to such person.

Regulatory Flexibility Act and Executive Order 12291

The Secretary of the Treasury has certified that the regulations proposed herein will not have a significant economic impact on a substantial number of small entities. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6), and a regulatory Impact Analysis is therefore not required. The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291 and therefore a regulatory impact analysis is not required.

Comments and Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably seven copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held on a date announced in the notice of public hearing appearing elsewhere in this issue of the **Federal Register**.

The collection of information requirements contained in this notice of proposed rulemaking have been submitted ot the office of Management and of Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act. Comments on these requirements should be sent to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for Internal Revenue Service, New Executive Office Building, Washington, D.C. 20503. The Internal Revenue Service requests that persons submitting comments on these requirements to OMB also send copies of those comments to the Service.

Drafting Information

The principal author of these proposed regulations is Carol T. Doran of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects

28 CFR 1.61–1 through 1.281–4

Income taxes, taxable income, Deductions, Exemptions

26 CFR 1.1201 through 1.1252–2

Income taxes, Capital gains and losses, Recapture.

Proposed amendments to the regulations

The proposed amendments to 26 CFR Parts 1 and 5f are as follows:

Income Tax Regulations

PART 1—[AMENDED]

Paragraph 1. Paragraph (c) of the notice of proposed rulemaking under § 1.163–5, published on November 15, 1982 (47 FR 51414) is revised to read as follows:

§ 1.163–5 Denial of interest deduction on certain obligations issued after December 31, 1982, unless issued in registered form.

* * * * *

(c) *Obligations issued to foreign persons after [Date which is 30 days after publication of final regulations in the* **Federal Register***—*(1) *In general.* An obligation issued after [Date which is 30 days after publication of final regulations in the **Federal Register**] is described in this paragraph if—

(i) There are arrangements reasonably designed to ensure that such obligation will be sold (or resold in connection with its original issuance) only to a person who is not a United States' person or who is a person permitted to hold obligations in bearer form under section 165(j)(3) (A), (B), or (C) and the regulations thereunder, and

(ii) In the case of an obligation which is not in registered form—

(A) Interest on such obligation is payable only outside the United States and its possessions, and

(B) Unless the obligation is described in subparagraph (2)(i)(C) of this paragraph or is a temporary global security, the following statement appears in English on the face of the obligation and on any interest coupons which may be detached therefrom: "Any United States person who holds this obligation will be subject to limitations under the United States income tax laws, including the limitations provided in sections 165(j) and 1232(c) of the Internal Revenue Code." For purposes of this paragraph, the term "temporary global security" means a security in bearer form which is held for the benefit of the purchasers of the obligations of the issuers and interests in which are exchangeable for securities in definitive registered or bearer form prior to its

stated maturity. A determination of whether an obligation satisfies each of the requirements of this paragraph (c)(1) shall be made on an obligation-by-obligation basis..

(2) *Rules for the application of this paragraph*—(i) *Arrangements reasonably designed to ensure sale to non-United States persons.* An obligation will be considered to satisfy paragraph (c)(1)(i) of this section if the conditions of (A), (B), or (C) of this subdivision (i) are met.

(A) The obligation is offered for sale outside the United States and, in connection with its original issuance, the obligation need not be registered under the Securities Act of 1933 because it is intended for distribution to persons who are not United States persons. In addition, the terms of the obligation provide that, if the obligation is either issued in or converted into registered form, it may only be converted into bearer form pursuant to the rules set forth in paragraph (c)(2)(vi) of this section. An obligation will not be considered to be required to be registered under the Securities Act of 1933 if the issuer, in reliance on the advice of independent counsel received prior to the issuance thereof, determines in good faith that the obligation need not be registered under the Securities Act of 1933 for the reason that it is intended for distribution to persons who are not United States persons. Solely for purposes of this subdivision (i)(A), the term "United States person" hs the same meaning as it has for purposes of determining whether an obligation is intended for distribution to persons that are not United States persons under the Securities Act of 1933.

(B) The obligation is registered under the Securities Act of 1933 or the obligation is exempt from registration by reason of section 3 or section 4 of such Act, and all of the following conditions are met with respect to such obligation:

(*1*) The terms of the obligation provide that, in connection with its original issuance, it may not be offered for sale in bearer form to United States persons;

(*2*) The terms of the obligation provide that if the obligation is either issued In or converted into registered form, it may only be converted into bearer form pursuant to the rules set forth in paragrph (c)(2)(vi) of this section;

(*3*) Each underwriter and each member of the selling group, if any, covenants that it will not sell the obligation in bearer form to United States persons;

(*4*) Each underwriter and each member of the selling group, if any, sends confirmations to purchasers of bearer obligations to the effect that each such purchaser represents that it is not a United States person and, if such person is a dealer, that it will send similar confirmations to purchasers from it;

(*5*) The obligation is released in definitive form to the person entitled to delivery thereof only upon presentation of a certificate signed by such person to the issuer, underwriter, or member of the selling group, which certificate states that the obligation if not being acquired by or on behalf of a United States person or, if a beneficial interest in the obligation is being acquired by a United States person, that such person is described in section 165(j)(3) (A), (B), or (C) and the regulations thereunder.

(*6*) The issuer, underwriter, or member of the selling group does not have actual knowledge that the certificate described in paragraph (c)(2)(i)(B)(5) of this section is false.

(C) The obligation is issued outside the United States by an issuer that does not significantly engage in interstate commerce with respect to the issuance of such oligation. In the case of an issuer which is a United States person, such issuer may only satisfy the test set forth in this paragraph (c)(2)(i)(C) if it issues the obligation through a foreign branch through which such United States person is engaged in the active conduct of a trade or business outside the United States.

(ii) *Special rules.* An obligation shall not be considered to be described in paragraph (c)(2)(i)(C) of this section if it is—

(A) Guaranteed by a United States shareholder of the issuer;

(B) Convertible into a debt or equity interest in a United States shareholder of the issuer; or

(C) Substantially identical to an obligation issued by a United States shareholder of the issuer.

For purposes of this paragraph (c)(2)(ii), the term United States shareholder is defined as it is defined in section 951(b) and the regulations thereunder. For purposes of paragraph (c)(2)(ii)(C), obligations are substantially identical if the face amounts, interest rates, due dates for payment, and maturity dates are substantially identical.

(iii) *Interstate commerce.* For purposes of this paragraph, the term "interstate commerce" means trade or commerce in obligations or any transportation or communication relating thereto between any foreign country and the United States or its possessions.

(iv) *Possessions.* For purposes of this section, the term "possessions" includes Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, Wake Island, and the Northern Mariana Islands.

(v) *Interest payable outside of the United States.* Interest will be considered to be payable only outside the United States and its possessions if payment of such interest can be made only upon presentation of a coupon, or upon making of any other demand for payment, outside of the United States and its possessions to the issuer or a paying agent. The fact that payment is made by a draft drawn on a United States bank account, by a wire or other electronic transfer from a United States account, or by a direct transfer of funds into an account maintained by the payee in the United States does not affect this result. However, interest is considered to be paid within the United States and its possessions if a coupon is presented, or a demand for payment is otherwise made, to the issuer or a paying agent (whether a United States or foreign person) in the United States and its possessions even if the funds paid are credited to an account maintained by the payee outside the United States and is possessions. Interest will be considered payable only outside the United States and its possessions notwithstanding that such interest may become payable at the office of the issuer or its United States paying agent under the following conditions: the issuer has appointed paying agents located outside the United States and its posessions with the reasonable expectation that such paying agents will be able to pay the United States dollars; and the full amount of such payment at the offices of all such paying agents is illegal or effectively precluded because of the imposititon of exchange controls or other similar restrictions on the full payment or receipt of interest in United States dollars. A lawsuit brought by the holder of an obligation against the issuer in the United States or its possessions for payment of the obligation after default by foreign paying agents shall not be considered to be a demand for payment. For purposes of this subdivision (v), interest includes original issues discount as defined in section 1232(b). For purposes of determining the amount of original issue discount on an obligation described in paragraph (c)(2)(i) which is part of an issue that neither is registered with the Security Exchange Commission nor is part of a privately placed issue, section 1232(b) shall apply as if the obligation were registered with the Securities Exchange Commission

(vi) *Obligations in registered from: conditions under which such obligations may be converted into bearer form.* For

purposes of this paragraph (c), the term "registered form" has the meaning given that term in section 103(j)(3) and the regulations thereunder. However, an obligation which is otherwise in registered form but which by its terms is convertible into bearer form will be considered to be in registered form for purposes of this section, but only if all of the following conditions are met.

(A) The obligation was originally issued pursuant to an offering comprised in whole or in part of obligations described in paragraph (c)(2)(i) (A) or (B) of this section.

(B) At all times during which such obligation is in bearer form, it satisfies the requirements of paragraph (c)(l)(ii) (A) and (B) of this section.

(C) The obligation, by its terms, may be converted into bearer form by the issuer or its transfer agent only upon receipt by the issuer or the transfer agent of a certificate signed by the person entitled to delivery of the obligation, which certificate states that the obligation is not held by or on behalf of a United States person, or if a United States person has a beneficial interest in such obligation, that such person is described in section 165(j)(3) (A), (B), or (C) and the regulations thereunder. If the issuer or transfer agent has actual knowledge that the information contained in a certificate is false, then the issuer will be denied a deduction for interest paid on such obligation.

(vii) *Rules relating to obligations issued before [Date which is 30 days after publication of final regulations in the* **Federal Register***].* Whether an obligation originally issued before [Date which is 30 days after publication of final regulations in the **Federal Register**], is described in section 163(f)(2)(B) shall be determined under the rules provided in § 5f.163–1(c) as in effect prior to its removal. Notwithstanding the preceding sentence, if an issuer has substantially complied with the rules contained in § 1.163–5(c) with respect to an obligation issued before [Date which is 30 days after publication of final regulations in **Federal Register**], then whether such obligation is described in section 163(f)(2)(B) shall be determined under the rules provided in § 1.163–5(c).

Par. 2. A new § 1.165–12 is added immediately after § 1.165–11 to read as follows:

§ 1.165–12 Denial of deduction for losses on registration-required obligations not in registered form.

(a) *In general.* Except as provided in paragraph (b) of this section, nothing in section 165(a) and the regulations thereunder, or in any other provision of law, shall be construed to provide a deduction for any loss sustained on any registration-required obligation held after December 31, 1982, unless the obligation is in registered form or the issuance of the obligation was subject to tax under section 4701. The term "registration-required obligation" has the meaning given to that term in section 163(f)(2), except that clause (iv) of subparagraph (A) thereof shall not apply. Therefore, although an obligation that is not in registered form is described in § 1.163–5(c)(1), the holder of such an obligation shall not be allowed a deduction for any loss sustained on such obligation unless paragraph (b) of this section applies. The term "registered form" has the meaning given that term in section 103(j)(3) and the regulations thereunder. However, an obligation which is otherwise in registered form but which by its terms is convertible into bearer form will be considered to be in registered form for purposes of this section, provided it is convertible into bearer form only upon satisfaction of the conditions prescribed in § 1.163–5(c)(2)(vi).

(b) *Registration-required obligations not in registered form which are not subject to section 165(j)(1).* Nothwithstanding the fact that an obligation is a registration-required obligation that is not in registered form, the holder will not be subject to section 165(j)(1) if the holder meets the conditions of any one of the following subparagraphs (1), (2), (3), or (4) of this paragraph (b).

(1) The holder is an underwriter, broker, dealer, or other person that holds such obligation in connection with its trade or business conducted outside the United States, or the holder is a broker-dealer (registered under Federal or State law or expressly exempted from registration by the provisions of such law) that holds such obligation in the ordinary course of its trade or business for sale to customers, and the holder does not deliver such obligation to any other person in bearer form except upon receipt of a certificate signed by such person, which states that the obligation is not being acquired by or on behalf of a United States person or, if a United States person has a beneficial interest in such obligation, that such person is described in subparagraphs (1), (2), or (3) of this paragraph (b). If a holder has actual knowledge that the information contained in a certificate is false, then the holder will be subject to section 165(j)(1).

(2)(i) The holder is a financial institution (defined in subdivision (ii) of this paragraph (b)(2)) which holds a registration-required obligation through an entity which is engaged in the business of holding such obligations for member organizations and transferring obligations among such members by credit or debit to the account of a member without the necessity of physical delivery of the obligations, and the holder—

(A) Reports on its Federal income tax return for the taxable year any interest payments received (including original issue discount includable in gross income for such taxable year) with respect to such obligation and gain or loss on the sale or other disposition of such obligation;

(B) Attaches to its Federal income tax return for the taxable year a statement that identifies the interest, gain or loss described in subdivision (i)(A) of this paragraph (b)(2) as being attributable to a registration-required obligation held in bearer form for its own account; and

(C) Does not deliver such obligation in bearer form to any other person except upon receipt of a certificate signed by such person which states that the obligation is not being acquired by or on behalf of a United States person or, if a United States person is acquiring a beneficial interest in such obligation, that such person is described in subparagraph (1), (2), or (3) of this paragraph (b).

If a financial institution has actual knowledge that the information contained in certificate is false, then it will be subject to section 165(j)(1).

(ii) The term "financial institution" means a person which itself is, or more than 50 percent of the total combined voting power of whose stock entitled to vote is owned by a person which is—

(A) Engaged in the conduct of a banking, financing, or similar business within the meaning of section 954(c)(3)(B) and the regulations thereunder;

(B) Engaged in business as a broker or dealer in securities;

(C) An insurance company;

(D) A person that provides pensions or other similar benefits to retired employees;

(E) Primarily engaged in the business of rendering investment advice;

(F) A regulated investment company or other mutual fund; or

(G) A finance corporation a substantial part of the business of which consists of making loans (including the acquisition of obligations under a lease which is entered into primarily as a financing transaction), acquiring accounts receivable, notes or installment obligations arising out of the sale of tangible personal property or the

performing of services, or servicing debt obligations.

(3) The holder is any person that holds a registration-required obligation through a financial institution (as defined in paragraph (b)(2)(ii) of this section), and such institution meets the conditions set forth in subdivisions (i), (ii), (iii), and (iv) of this paragraph (b)(3).

(i) The financial institution holds the registration-required obligation on behalf of the holder in an account maintained with an entity which is engaged in the business of holding obligations for member organizations and transferring obligations among such members by credit or debit to the account of a member without the necessity of physical delivery of the obligation.

(ii) The financial institution makes a return of information to the Internal Revenue Service with respect to any interest payments received, including original issue discount includable in the holder's gross income for the taxable year, on any obligation so held. Such return shall be made on a Form 1099 for the calendar year. It shall indicate the aggregate amount of the payments received, the name, address, and taxpayer identification number of the holder, and such other information as is required by the form. No return of information is required under this subdivision if the financial institution reports payment under section 6049.

(iii) The financial institution makes a return of information on Form 1099B with respect to any disposition by the holder of such obligation. The return shall show the name, address, and taxpayer identification number of the holder of the obligation, Committee on Uniform Security Information Procedures (CUSIP), gross proceeds, sale date, and such other information as may be required by the form. No return of information is required under this subdivision if such financial institution reports with respect to the disposition under section 6045.

(iv) The financial institution covenants with the holder that the financial institution will not deliver such obligation to any other person except upon recieipt of a certificate signed by such person, which states that the obligation is not being acquired by or on behalf of a United States person or, if a United States person is acquiring a beneficial interest in such obligation, that such person is described in paragraph (b) (1), (2), or (3) of this section. If a financial instituion has actual knowledge that the information contained in a certificate is false, then the holder will be subject to section 165(j)(1).

(4) The holder is not a person described in paragraph (b) (1), (2), or (3) of this section and within thirty days of the date when the seller or other transferor is reasonably able to make the bearer obligation available to the holder the holder surrenders the obligation to a transfer agent or the issuer for conversion of the obligation into registered form.

Par. 3. A new § 1.1232–5 is added immediately after § 1.1232–4 to read as follows:

§ 1.1232–5 Denial of capital gains treatment for gains on registration-required obligations not in registered form.

(a) *In general.* Except as provided in paragraph (b) of this section, any gain on the sale or other disposition of a registration-required obligation held after December 31, 1982, that is not in registered form shall be treated as ordinary income unless the issuance of the obligation was subject to tax under section 4701. The term "registration-required obligation" has the meaning given to that term in section 163 (f) (2), except that clause (iv) of subparagraph (A) thereof shall not apply. Therefore although an obligation that is not in registered form is described in § 1.163–5(c)(1), the holder of such an obligation shall be required to treat the gain on the sale or other disposition of such obligation as ordinary income. The term "registered form" has the meaning given that term in section 103(j)(3) and the regulations thereunder. However, an obligation which is otherwise in registered form but which by its terms is convertible into bearer form will be considered to be in registered form for purposes of this section, provided its is convertible into bearer form only upon satisfaction of the conditions prescribed in § 1.163–5(c)(2)(vi).

(b) *Registration-required obligations not in registered form which are not subject to section 1232(c).* Notwithstanding the fact that an obligation is a registration-required obligation that is not in registered form, the holder will not be subject to section 1232(c) if the holder meets the conditions of subparagraphs (1), (2), (3), or (4) of this paragraph (b).

(1) The holder is an underwriter, broker, dealer, or other person that holds such obligation in connection with its trade or busines conducted outside the United States, or the holder is a broker-dealer (registered under Federal or State law or expressly exempted from registration by the provisions of such low) that holds such obligation in the ordinary course of its trade or business for sale to customers, and the holder does not deliver such obligation to any other person in bearer from except upon receipt of a certificate signed by such person to the holder of the obligation, which states that the obligation is not being acquired by or on behalf of a United States person or, if a United States person has a beneficial interest in such obligation, that such person is described in subparagraphs (1), (2), or (3) of this paragraph (b). If a holder has actual knowledge that the information contained in a certificate is false, then the holder will be subject to section 1232(c).

(2)(i) The holder is a financial institution (defined in subdivision (ii) of this paragraph (b)(2)) which holds a registration-required obligation through an entity which is engaged in the business of holding such obligations for member organizations and transferring obligations among such members by credit or debit to the account of a member without the necessity of physical delivery of the obligations, and the holder—

(A) Reports on its Federal income tax return for the taxable year any interest payments received (including original issue discount includable in gross income for such taxable year) with respect to such obligation and any gain or loss on the sale or other disposition of such obligation;

(B) Attaches to its Federal income tax return for the taxable year a statement that identifies the interest, gain, or loss described in subdivision (i)(A) of this paragraph (b)(2) as being attributable to a registration-required obligation held in bearer form for its own account; and

(C) Does not deliver such obligation in bearer form to any other person except upon receipt of a certificate signed by such person, which states that the obligation is not being acquired by or on behalf of a United States person or, if a United States person is acquiring a beneficial interest in such obligation, that such person is described in subparagraphs (1), (2), or (3) of this paragraph (b).

If a financial institution has actual knowledge that the information contained in a certificate is false, then it will be subject to section 1232(c).

(ii) The term "financial institution" means a person which itself is, or more than 50 percent of the total combined voting power of all classes of whose stock entitled to vote is owned by a person which is—

(A) Engaged in the conduct of a banking, financing, or similar business within the meaning of section 954(c)(3)(B) and the regulations thereunder;

(B) Engaged in business as a broker or dealer in securities;

(C) An insurance company;

(D) A person that provides pensions or other similar benefits to retired employees;

(E) Primarily engaged in the business of rendering investment advice;

(F) A regulated investment company or other mutual fund; or

(G) A finance corporation a substantial part of the business of which consists of making loans (including the acquisition of obligations under a lease which is entered into primarily as a financing transaction), acquiring accounts receivable, notes or installment obligations arising out of the sale of tangible personal property or the performing of services, or servicing debt obligations.

(3) The holder is any person that holds a registration-required obligation through a financial institution (as defined in paragraph (b)(2)(ii) of this section), and such institution meets the conditions set forth in subdivisions (i), (ii), (iii), and (iv) of this paragraph (b)(3).

(i) The financial institution holds the registration-required obligation on behalf of the holder in an account maintained with an entity which is engaged in the business of holding obligations for member organizations and transferring obligations among such members by credit or debit to the account of a member without the necessity of physical delivery of the obligation.

(ii) The financial institution makes a return of information to the Internal Revenue Service with respect to any interest payments received, including original issue discount includable in the holder's gross income for the taxable year, on any obligation so held. Such return shall be made on a Form 1099 for the calendar year. It shall indicate the aggregate amount of the payments received, the name, address, and taxpayer identification number of the holder, and such other information as is required by the form. No return of information is required under this subdivision if the financial institution reports the payment under section 6049.

(iii) The financial institution makes a return of information on Form 1099B with respect to any disposition by the holder of such obligation. The return shall show the name, address, and taxpayer identification number of the holder of the obligation, Committee on Uniform Security Information Procedures (CUSIP) number of the obligation disposed of (if known), gross proceeds, sale date, and such other information as may be required by the form. No return of information is required under this subdivision if such financial institution reports with respect to the disposition under section 6045.

(iv) The financial institution covenants with the holder that the financial institution will not deliver such obligation to any other person except upon receipt of a certificate signed by such person, which states that the obligation is not being acquired by or on behalf of a United States person or, if a United States person has a beneficial interest in such obligation, that such person is described in paragraph (b), (1), (2), or (3) of this section. If a financial institution has actual knowledge that the information contained in a certificate is false, then the holder will be subject to section 1232(c).

(4) The holder is not a person described in paragraph (b) (1), (2), or (3) of this section, and within thirty days of the date when the seller or other transferor is reasonably able to make the bearer obligation available to the holder, the holder surrenders the obligation to a transfer agent or the issuer for conversion of the obligation into registered form.

Temporary Income Tax Regulations Under the Tax Equity and Fiscal Responsibility Act of 1982

PART 5f—[AMENDED]

§ 5f.163–1 [Amended]

Par. 4. Section 5f.163–1 is amended by removing paragraph (c).

(26 U.S.C. 165 and 7805)

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 83–24071 Filed 9–1–83; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 435 and 436

Medicaid Program; Deduction of Incurred Medical Expenses (Spend Down)

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rule.

SUMMARY: These proposed rules would permit States to revise the process by which medical expenses are considered in determining Medicaid eligibility. This process is commonly referred to as "spend down." Spend down applies when an individual's income level during a budget period would ordinarily preclude eligibility, except that incurred medical expenses reduce income to the eligibility level.

These proposed revisions would permit States, as allowed by law, to: (1) Consider projected institutional expenses at the Medicaid reimbursement rate as incurred medical expenses, and deduct those expenses from income in determining eligibility; (2) Combine the retroactive and prospective medically needy budget periods; (3) Except for current payments on older bills not previously deducted in any budget period, exclude from incurred medical expenses those bills for services provided more than 3 months prior to the month of application; (4) Deduct incurred medical expenses from income in the order in which the services were provided or in the order each bill is submitted to the agency; and (5) Except for health insurance premiums, deductibles and coinsurance charges, limit deductible medical expenses to services covered under the State plan.

These proposed rules are part of the Department's regulatory reform efforts designed to simplify and clarify regulations, delete requirements that are unnecessary or burdensome, and provide maximum flexibility to States while promoting patient health and safety.

DATE: To assure consideration, comments should be mailed by November 1, 1983.

ADDRESS: Address comments in writing to: Administrator, Department of Health and Human Services, Health Care Financing Administration, P.O. Box 26676, Baltimore, Maryland 21207.

If you prefer, you may deliver your comments to Room 309–G Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, D.C., or to Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

In commenting, please refer to BPP–515–P.

Comments will be available for public inspection, as they are received, beginning approximately three weeks after today, in Room 309–G of the Department's office at 200 Independence Ave., S.W., Washington, D.C., on Monday through Friday of each week from 8:30 to 5:00 p.m. (202–245–7890).

FOR FURTHER INFORMATION, CONTACT: Marinos Svolos, (301) 594–9051.

SUPPLEMENTARY INFORMATION:

I. Background

The Medicaid program provides medical assistance to groups and categories of people who are eligible to

receive cash payments under one of the existing welfare programs established under the Social Security Act (the Act). In addition, States may provide Medicaid to the medically needy, that is, to those individuals who have sufficient income to meet basic living expenses and are ineligible for a cash assistance program, but who have insufficient income to pay for medical expenses. Sections 1902(a)(17) and 1903(f)(2) of the Act provide that, for individuals applying as medically needy, certain incurred medical expenses must be deducted from income, if income exceeds the standard set by the State. The process is commonly referred to as "spend down."

In the medically needy program, the spend down process currently operates as follows. The State selects a medically needy budget period between 1 and 6 months, and a medically needy income level, against which countable income is measured. If countable income, after certain deductions are taken, is equal to or less than the income standard (medically needy income level), the individual is eligible for Medicaid. If the income is higher than this standard, the individual may still be eligible for Medicaid if, by deducting incurred medical expenses, the individual's income equals or falls below the standard.

Section 1902(f) of the Act contains a similar provision for deduction of incurred medical expenses for aged, blind and disabled individuals in States using more restrictive eligibility criteria than those of the Supplemental Security Income (SSI) Program. In those States, section 1902(f) of the Act requires that, in determining countable income, the Medicaid agency must deduct from income: (1) Any SSI benefit received; and (2) Any additional State supplement. If, after these deductions are taken, income is equal to or less than the State set income standard, the individual is eligible for Medicaid. If income is higher than the standard, the agency must deduct incurred medical expenses from the individual's remaining countable income.

All States are currently required by section 1902(a)(34) of the Act to provide Medicaid benefits 3 months prior to the month in which an application is filed. This provision applies if the individual received covered services under the State plan at any time during that 3 month period, and would have been eligible for Medicaid at the time services were received if he or she had applied.

II. Legal Authority

We propose revisions to the medically needy spend down process under the authority of section 1902(a)(17) of the Act, 42 U.S.C. 1396a(a)(17), which authorizes the Secretary to prescribe the extent to which costs of medical care may be deducted from income. We propose to make changes to the regulations that would increase State flexibility by permitting States to use alternative methods in the spend down process. We propose to make similar changes in the 1902(f) spend down process. The legal basis for these changes is section 1902(a)(17), itself, 1902(f), and the Secretary's authority under section 1102 of the Act to publish rules and regulations not inconsistent with the Act and necessary for the efficient administration of the Medicaid program.

III. Provisions of the Regulations—Discussion

A. Consideration of Projected Institutional Expenses at the Medicaid Rate as Incurred Medical Expenses

Current policy provides that in the case of an institutionalized applicant whose income exceeds the standard (either the medically needy income level or the standard set by a 1902(f) State), the agency must deduct, in the spend down process, incurred institutional expenses at the institution's private patient payment rate. It is currently permissible for States to project anticipated institutional expenses at the private rate, and deduct those expenses from an individual's income in determining his or her Medicaid eligibility. We do not permit States to project noninstitutional expenses because they are more likely to change, while institutional expenses tend to be long term, constant, and predictable. (This policy has been upheld by the U.S. Court of Appeals in *William v. St. Clair*, 610 F. 2nd 1224 (5th Cir., 1980).) Once excess income is reduced to the standard, the individual is eligible for Medicaid. Thereafter, Medicaid reimburses the institution at the Medicaid rate. States have complained that this procedure is administratively complex and costly.

Therefore, we propose to revise regulations at 42 CFR 435.732, 435.831 and 436.831 to provide that States may count projected institutional-expenses (not subject to payment by a third party) at the Medicaid reimbursement rate instead of the private patient payment rate in calculating spend down. We believe that only recurring and predictable medical expenses may be projected under this provision. Institutional expenses that are not ongoing, such as those incurred in acute care facilities, would not be included. Therefore, under this proposal, institutional medical expenses in acute care facilities may not be projected in calculating spend down. This change would alleviate the prior administrative complexities and thus conserve Medicaid resources. We would also require that States that elect to use this method authorize Medicaid eligibility on the first day of institutionalization in any budget period if projected institutional expenses at the Medicaid rate reduce the individual's income to the income standard for that budget period. Noninstitutional expenses would be payable as of the date eligibility is established.

For example, an individual has $3,600 of countable income which is projected over a 6-month period (based on the State's hypothetical use of a 6-month budget period). The $3,600 income is measured against a State income standard of $1,200.

$3,600—income
—$1,200—standard
$2,400—excess income

The projected cost of institutional care at the Medicaid reimbursement rate over a 6 month period is $7,000. Because the projected institutional cost at the Medicaid rate exceeds the individual's excess income (both projected over the same 6 month budget period), the individual is eligible for Medicaid. (States that use a shorter budget period, such as 3 months, would base the projections on the shorter period.) If the individual in this example is admitted to a skilled nursing facility on March 1, and the date of Medicaid entitlement is March 1 (because this is the date that projected institutional costs reduce his or her income below the income standard), the State would determine the amount of income to be applied to the cost of institutional care in accordance with regulations that specify post eligibility treatment of income at 42 CFR 435.733, 435.832, and 436.832.

B. Medically Needy Budget Period

Current regulations at 42 CFR 435.831 and 436.831 specify that States having a medically needy program may set a prospective budget period of between 1 and 6 months, during which an applicant's countable income is measured. Incurred medical expenses in this period are then deducted, and when the individual's income reaches the standard, he or she becomes eligible. In addition to the prospective period, section 1902(a)(34) of the Act and regulations at 42 CFR 435.914 provide that Medicaid must be made available up to 3 months prior to the month in

which an application is filed if the individual received services covered under the State plan at any time during that period, and would have been Medicaid eligible at the time services were received if he or she had applied. However, there is no statutory requirement that the budget periods used to compute income to determine retroactive and prospective eligibility be separate, as Medicaid policy now requires them to be. States have pointed out the administrative difficulties involved in separating the budget periods and have suggested that they be permitted to combine them. States have also noted that individuals can avoid the application of budget periods of more than one month by applying monthly for retroactive eligibility.

Therefore, in the interest of allowing States to impose more flexible budget periods, we are proposing to revise regulations at 42 CFR 435.831 and 436.831 to provide that States may use a medically needy budget period of no more than 6 months that may include all or part of the 3 month retroactive period noted above.

Because current regulations governing 1902(f) States do not specify the use of a set budget period, this proposed change would not apply to medically needy individuals in groups for whom States apply criteria more restrictive than applied nationally under SSI. (For those groups, criteria under 435.732(c) apply.) Therefore. 1902(f) States may use any budget period that is not more restrictive than that used on January 1, 1972.

C. Exclude From Incurred Medical Expenses Those Bills for Services Rendered More Than Three Months Prior to a Medicaid Application

Current regulations provide that any medical bills incurred during a current eligibility period may be applied to the spend down period regardless of whether the bills have been paid or not. However, any bills incurred prior to the period for which eligibility is determined, may be applied to the spend down period only if they are unpaid, and remain a current obligation of the individual.

This procedure causes administrative difficulties for States for the following reasons: (1) States must ensure that bills are applied only once; (2) It is the State's responsibility to ascertain whether an individual remains liable for a medical bill; and (3) An incentive is created for individuals not to pay bills (because bills incurred prior to the eligibility period may be deducted from income only if they are unpaid).

We would revise regulations at 42 CFR 435.831 and 436.831 to provide that, except for current payments on older bills not previously applied to spend down, States may exclude from incurred medical expenses, those bills for services provided more than 3-months prior to the month of application or redetermination. We recognize that there may be individuals who will have incurred an excess of bills over the amount needed in one budget period to qualify for Medicaid. Some of these bills may be for services that the State has chosen not to cover under the State plan, but has chosen to permit as a deduction from income in the spend down process (as explained in item E). These bills cannot be paid by the State even if the individual is eligible for Medicaid. Therefore, we would propose that bills not deducted in one budget period must be carried over and deducted in the immediately subsequent budget period. In applying this provision, a budget period will be considered as immediately subsequent to another period only if there is no break in time between periods.

To clarify this proposed procedure, we offer the following example. An individual applies for Medicaid on February 1. On February 10, he or she is certified eligible for Medicaid for the period February 10 through July 31 (that is, by February 10, the individual has incurred enough bills to meet the spend down liability). Subsequently, the individual incurs noncovered medical expenses in March and April. The budget period immediately following is established as August through January. If the State has elected to count noncovered medical expenses toward spend down, those expenses incurred in March and April must be carried over and deducted from income in the August through January budget period.

D. Application of Incurred Medical Expenses to the Spend Down Period in Chronological Order

For States that choose to cover the medically needy, current regulations at 42 CFR 435.831(c) and 436.831(c) require that States deduct incurred medical expenses from an individual's countable income in the following order:

(i) Expenses for health insurance premiums, deductibles or coinsurance charges;

(ii) Expenses for services *not* covered in the State plan; and

(iii) Expenses for services covered in the State plan.

Many States believe this requirement is difficult to administer because States must apply incurred bills out of sequence. It also results in higher Medicaid costs because expenses for services covered in the State plan are applied last to spend down. If there are more than enough medical expenses to apply to spend down, when eligibility is authorized, the State pays all remaining covered medical expenses during the budget period.

To give States increased flexibility in this area, we propose to revise regulations to provide that, in addition to the above specified order, States may deduct incurred medical expenses from income in chronological order in either one of two ways: (1) The order in which the services are furnished; or (2) The order in which the bills are presented to the agency. This process is easier administratively and, by permitting covered services to be applied to the spend down process equally with other medical expenses instead of last in order of priority, will reduce Medicaid costs.

Because current regulations governing 1902(f) States do not require that States deduct incurred medical expenses in a specific order, this proposed change would not apply to medically needy individuals in groups for whom criteria more restrictive than that used in the SSI program apply. (For those groups, criteria under § 435.732(c) apply.)

E. Limit Deductible Medical Expenses to Services Covered Under the State Plan

As noted under item D above, current regulations governing income eligibility for States choosing the medically needy option at 42 CFR 435.831 and 436.831 require that, if an individual's countable income exceeds the income level, a State deduct from that income expenses for reasonable medical care, including services not covered under the State plan.

Many States argue that forcing them to deduct from an individual's income, bills for items and services that the State has chosen not to cover under the State plan is an indirect subsidy for those services. States point out that using this method results in earlier eligibility and higher Medicaid costs. The Department is interested in receiving comments on this provision, limiting medical expenses to services covered under the State plan.

The State's argument is convincing that, they should be allowed to limit spend down deductions to medical expenses covered under the State plan. However, it is to the States', as well as the beneficiaries', advantage to have medical insurance coverage. Therefore, while we recognize the need for States to limit spend down deductions to

medical expenses covered under the State plan, we also believe that to exclude such noncovered expenses as health insurance premiums, coinsurance payments or deductibles would serve as a disincentive for individuals to continue those payments. If individuals drop their insurance coverage, the result could be an increase in Medicaid expenditures because Medicaid pays only after all other third party payers.

Therefore, we would propose to permit States to exclude deductions for noncovered medical expenses from spend down, with the exception of health insurance premiums, deductibles and coinsurance charges.

We also recognize that some States provide limits to the amount, duration or scope of services. For example, a State might set a limit of 20 days on hospital coverge. We would, however, continue the current requirement that States include deductions for expenses that are included in the State plan, but outside the amount, duration and scope limits chosen by the State. For example, in the State that sets a limit of 20 days on hospital coverage, all hospital expenses, including those expenses incurred beyond the 20 days are deductible from income in spend down.

We would revise regulations at 42 CFR 435.831 and 436.831 to allow States to exclude services not covered in the State plan from incurred medical expenses with the exception of Medicare and other health insurance premiums, deductibles, coinsurance charges; and Medicaid deductibles, copayments or similar cost sharing charges. Under this proposal, States may deduct none, some, or all of the incurred medical expenses that are recognized under State law but not covered in the State plan. These revisions would apply only to medically needy States using eligibility criteria of the Federal SSI program. States using more restrictive criteria than SSI would not have this option because section 1902(f) of the Act provides that all "incurred expenses for medical care as recognized under State law" must be deducted from income.

IV. Impact Analysis

Executive Order 12291

Executive Order 12291 requires us to prepare and publish a regulatory impact analysis for any regulation that will have an annual effect on the economy of $100 million or more; cause a major increase in costs or prices for consumers, individual industries, government agencies, or geographic regions; or meet other thresholds specified in section 1(b) of the Order.

Our actuaries have determined that each of the following provisions will not result in an annual economic impact of $100 million or meet other threshold criteria of section 1(b) of the Order. For the reasons indicated under each provision, we have determined that a regulatory impact analysis is not required for any of these provisions.

A. Consideration of Projected Institutional Expenses at the Medicaid Rate as Incurred Medical Expenses

This proposed change would permit States to make institutionalized medically needy individuals eligible for Medicaid as of the first day of institutionalization in any period in which their medical expenses are projected to be sufficiently high to make them eligible, instead of the day that their medical expenses actually exceed the necessary amount.

Since Medicaid rates for institutional care are generally lower than private rates, earlier Medicaid eligibility would permit medically needy individuals to purchase a greater volume of services before exhausting their resources and qualifying for Medicaid. In turn, this would mean that State Medicaid programs would pay for fewer services. Based on information on which States are likely to change their method of determining eligibility for institutionalized medically needy individuals, our actuaries estimate that this proposed regulation would reduce Federal and State Medicaid expenditues by $18 million in fiscal year 1984. As this estimate is less than the $100 million threshold, a regulatory impact analysis is not required.

Additionally, the effect of increased flexibility available under the other provision of these regulations, which could either increase or decrease the effect of this provision, creates a range of variables beyond our capacity to measure. Nevertheless, we are confident that this regulation would result in combined State and Federal savings of less than $100 million in fiscal year 1983. Thus, a regulatory impact analysis is not required.

B. Medically Needy Budget Period

We estimate that few States will implement this provision and that savings from individual cases would be negligible. Our actuaries estimate that the cumulative effect of this provision would be significantly below the $100 million threshold.

C. Exclude From Incurred Medical Expenses Those Bills for Services Provided More Than Three Months Prior to a Medicaid Application.

Our actuaries have determined that there is no administratively feasible way to determine the amount of incurred medical expenses for services provided more than 3 months prior to the month of application, the delay in establishing eligibility attributable to the proposed change, or the quantity or type or services which would ordinarily be provided during the delay. Therefore, our actuaries cannot project an exact estimate for this provision. However, it should fall far short of $100 million.

By allowing States to exclude these medical expenses, administrative difficulties will be reduced thus creating better administration of the Medicaid program.

D. Application of Incurred Medical Expenses to the Spend Down Period in Chronological Order

Our actuaries estimate that this will reduce administrative difficulties faced by States, but that the resultant effect will be significantly below the $100 million threshold.

E. Limit Deductible Medical Expenses to Services Covered Under the State Plan

States are currently permitted (in 42 CFR 435.831(c)(2) to set reasonable limits on amounts of incurred noncovered medical expenses to be deducted from income. Because few States have chosen to place limits on noncovered medical expenses, our actuaries believe that the impact of this provision will be minor. Therefore, a regulatory impact analysis is not required.

Regulatory Flexibility Act

The Secretary certifies, under 5 U.S.C. 605(b), enacted by the Regulatory Flexibility Act of 1980 (Pub. L. 96–354), that these regulations will not have a significant impact on a substantial number of small entities.

A. Projection of Institutional Expenses at the Medicaid Rate

There are 1944 SNFs and ICFs currently participating in the Medicaid program in States which are likely to change to the proposed method of determining eligibility for institutionalized medically needy individuals. We have no indication that the impact of any potential savings would fall disproportionately on any of these particular SNFs or ICFs. Thus, we assume that the impact will fall evenly

on all SNFs and ICFs in these States. Our actuaries estimate savings for fiscal 1984 of $18 million. This would result in an estimated reduction of income of $9,300 per facility. To the extent that the total savings would be reduced, the impact on each facility would be reduced. We believe that the estimated impact is not a significant one. Accordingly, a regulatory flexibility analysis is not required.

B. Provisions B Through E

Since these provisions would affect only States and individuals, and as these parties are not defined as "small entities" under the provisions of the Act, a regulatory flexibility analysis is not required.

Response to Comments

Because of the large number of comments we receive, we cannot acknowledge or respond to them individually. However, in preparing the final rule, we will consider all comments and respond to them in the preamble to that rule.

List of Subjects

42 CFR Part 435

Aid to Families with Dependent Children Aliens, Categorically needy, Contracts (Agreements—State Plan), Eligibility, Grant-in-Aid program—health, Health facilities, Medicaid, Medically needy, Reporting and recordkeeping requirements, Spend-down, Supplemental security income (SSI).

42 CFR Part 436

Aid to Families with Dependent Children, Aliens, Categorically needy, (Agreements), Eligibility, Grant-in-Aid program—health, Guam, Health facilities, Medicaid, Puerto Rico, Supplemental security income (SSI), Virgin Islands.

42 CFR Parts 435 and 436 are proposed to be amended as follows:

PART 435—ELIGIBILITY IN THE STATES, DISTRICT OF COLUMBIA AND THE NORTHERN MARIANA ISLANDS

The authority citation for Part 435 reads as follows:

Authority: Sec. 1102 of the Social Security Act, (42 U.S.C. 1302), unless otherwise noted.

A. 42 CFR Part 435, Subpart H, is amended as set forth below:

Subpart H—Financial Requirements for the Categorically Needy

Financial Eligibility for the Aged, Blind, and Disabled in States Using More Restrictive Requirements Than SSI

1. Section 435.732 is amended by revising paragraphs (c) and (d) to read as follows:

§ 435.732 Procedures for determining income eligibility.

* * * * *

(c) *Deduction of incurred medical expenses.* (1) If countable income exceeds the income standard, the agency must deduct from income expenses incurred by the individual or financially responsible relatives for necessary medical and remedial services that are recognized under State law and are not subject to payment by a third party, including Medicare and other health insurance premiums, deductibles or coinsurance charges, and copayments or deductibles imposed under § 447.51 or § 447.53 of this subchapter.

(2) The agency may set reasonable limits on the amounts of incurred medical expenses to be deducted from income.

(3) The agency may deduct from income, projected medical institutional expenses (except for expenses in acute care facilities) not subject to payment by a third party, at the Medicaid reimbursement rate.

(d) *Eligibility based on incurred medical expenses.* (1) If, after incurred medical expenses are deducted, remaining income is equal to or less than the income standard, the individual is eligible for Medicaid.

(2) If the agency uses the method for deduction of institutional expenses under paragraph (c)(3) of this section, in any budget period in which projected institutional expenses at the Medicaid reimbursement rate reduce income to the income standard, Medicaid eligibility begins on the first day of institutionalization.

(2) Section 435.831 is amended by redesignating paragraphs (a) through (d) as paragraphs (b) through (e), designating the second sentence of the introductory paragraph as (a) and revising it, and revising redesignated paragraphs (d) and (e). The section as amended is set forth below:

Medically Needy Income Eligibility

§ 435.831 Income eligibility.

The agency must determine income eligibility of medically needy individuals in accordance with this section. (a)

(a) *Budget periods.* The agency must use a budget period of not more than 6 months to compute income.

The agency may include in the budget period in which income is computed, all or part of the 3 month retroactive period specified in § 435.914. This provision applies to all medically needy individuals except in groups for whom criteria more restrictive than that used in the SSI program apply. (For those groups, criteria under §435.732(c) apply.)

(b) *Determining countable income.* The agency must deduct the following amounts from income to determine the indiviudal's countable income.

(1) For individuals under age 21 and caretaker relatives, the agency must deduct amounts that would be deducted in determining eligibility under the State's AFDC plan.

(2) For aged, blind, or disabled individuals in States covering all SSI recipients, the agency must deduct amounts that would be deducted in determing eligibility under SSI. However, the agency must also deduct the highest amounts from income that would be deducted in determining eligibility for optional State supplements if these supplements are paid to all individuals who are receiving SSI or would be eligible for SSI except for their income.

(3) For aged, blind, or disabled individuals in States using income requirements more restrictive than SSI, the agency must deduct amounts that are no more restrictive than those used under the Medicaid plan on January 1, 1972 and no more liberal than those deducted in determining elgibility under SSI or an optional State supplement. However, the amounts must be at least the same as those that would be deducted in determining eligibility, under § 435.121, of the categorically needy.

(c) *Eligibility based on countable income.* If countable income determined under paragraph (b) of this section is equal to or less than the applicable income standard under § 435.814, the individual or family is eligible for Medicaid.

(d) *Deduction of incurred medical expenses.* These provisions apply to all medically needy individuals except in groups for whom criteria more restrictive than that used in the SSI program apply. (For those groups, criteria under § 435.732(c) apply.)

(1) If countable income exceeds the income standard, the agency must deduct from income incurred medical expenses that are not subject to payment by a third party either:

(i) In chronological order by the date each service is furnished; or

(ii) In the following order:

(A) Medicare and other health insurance premiums, deductibles, or coinsurance charges, incurred by the individual or family or financially responsible relatives, including enrollment fees, copayments, or deductibles imposed under § 447.51 or § 447.53 of this subchapter.

(B) Expenses incurred by the individual or family or financially responsible relatives for necessary medical and remedial services that are recognized under State law but not included in the plan.

(C) Expenses incurred by the individual or family or by financially responsible relatives for necessary medical and remedial services that are included in the plan; or

(iii) In chronological order by the date each bill is submitted to the agency by the individual. If more than one bill is submitted at one time, the agency must deduct the bills from income in the order prescribed in either paragraph (d)(1) (i) or (ii) of this section.

(2) With the exception of Medicare and other health insurance premiums, deductibles, coinsurance charges, and other charges listed under (d)(1)(ii)(A) of this section, in deducting expenses from income, the agency may exclude medical expenses not included in the State plan.

(3) The agency may set reasonable limits on the amounts of incurred medical expenses to be deducted from income under paragraphs (d)(1)(ii) (A) and (B) of this section.

(4) The agency may deduct from income projected medical institutional expenses (except for expenses in acute care facilities) not subject to payment by a third party, at the Medicaid reimbursement rate.

(5) Except for current payments on older bills not previously deducted in any budget period, the agency may exclude from incurred expenses those bills for medical and remedial services furnished more than 3 months before the date of application.

(6) In every budget period, bills for services described in paragraph (d)(1)(ii) (A) and (B) of this section furnished during any part of the immediately preceding budget period, but not deducted from income during that period, must be deducted. This provision does not apply to noncovered services which are excluded under paragraph (d)(2).

(e) *Eligibility based on incurred medical expenses.* (1) Once deduction of incurred medical expenses reduces income to the income standard, the individual is eligible for Medicaid.

(2) If the agency uses the method for deduction of institutional expenses under paragraph (d)(4) of this section, in any budget period in which projected institutional expenses at the Medicaid reimbursement rate would reduce income to the income standard, Medicaid eligibility begins on the first day of institutionalization.

PART 436—ELIGIBILITY IN GUAM, PUERTO RICO, AND THE VIRGIN ISLANDS

The authority citation for Part 436 reads as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302), unless otherwise noted.

B. Section 436.831 is amended by redesignating paragraphs (a) through (d) as paragraphs (b) through (e), designating the second sentence of the introductory paragraph as (a) and revising it, and revising redesignated paragraphs (d) and (e). The section as amended is set forth below:

Medically Needy Income Eligibility and Liability for Payment of Medical Expenses

§ 436.831 Income eligibility.

The agency must determine income eligibility of medically needy individuals in accordance with this section. (a)

(a) *Budget periods.* The agency must use a budget period of not more than 6 months to compute income.

The agency may include in the budget period in which income is computed all or part of the 3 month retroactive period specified in § 435.914.

(b) *Determining countable income.* The agency must, to determine countable income, deduct amounts that would be deducted in determining eligibility under the State's approved plan for OAA, AFDC, AB, APTD, or AABD.

(c) *Eligibility based on countable income.* If countable income determined under paragraph (b) of this section is equal to or less than the applicable income standard under § 436.814, the individual is eligible for Medicaid.

(d) *Deduction of incurred medical expenses.* Order of deduction. (1) If countable income exceeds the income standard, the agency must deduct from income incurred medical expenses that are not subject to payment by a third party either:

(i) In chronological order by the date each service is furnished; or

(ii) In the following order:

(A) Medicare and other health insurance premiums, deductibles, or coinsurance charges incurred by the individual or family or financially responsible relatives, including enrollment fees, copayments, or deductibles imposed under § 447.51 or § 447.53 of this subchapter.

(B) Expenses incurred by the individual or family or financially responsible relatives for necessary medical and remedial services that are recognized under State law but not included in the plan.

(C) Expenses incurred by the individual or family or by financially responsible relatives for necessary medical and remedial services that are included in the plan; or

(iii) In chronological order by the date each bill is submitted to the agency by the individual. If more than one bill is submitted at one time, the agency must deduct the bills from income in the order prescribed in either paragraph (d)(1) (i) or (ii) of this section.

(2) With the exception of Medicare and other health insurance premiums, deductibles, coinsurance charges and other charges listed under (d)(1)(ii)(A) of this section, in deducting expenses from income, the agency may exclude medical expenses not included in the State plan.

(3) The agency may set reasonable limits on the amounts of incurred medical expenses to be deducted from income under paragraphs (d)(1)(ii) (A) and (B) of this section.

(4) The agency may deduct from income projected medical institutional expenses (except for expenses in acute care facilities) not subject to payment by a third party, at the Medicaid reimbursement rate.

(5) Except for current payments on older bills not previously deducted in any budget period. The agency may exclude from incurred expenses those bills for medical and remedial services furnished more than 3 months before the date of application.

(6) In every budget period, bills for services described in (d)(1)(ii) (A) and (B) of this section furnished during any part of the immediately preceding budget period, but not deducted from income during that period, must be deducted. This provision does not apply to noncovered services which are excluded under paragraph (d)(2).

(e) *Eligibility based on incurred medical expenses.*—(1) Once deduction of incurred medical expenses reduces income to the income standard, the individual is eligible for Medicaid.

(2) If the agency uses the method for deduction of institutional expenses under paragraph (d)(4) of this section, in any budget period in which projected institutional expenses at the Medicaid reimbursement rate reduce income to the income standard, Medicaid

eligibility begins on the first day of institutionalization.

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program)

Dated: March 23, 1983.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: August 5, 1983.

Margaret M. Heckler,

Secretary.

[FR Doc. 83-23601 Filed 9-1-83; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 213

[Docket No. RST-3, Notice No. 6]

Track Safety Standards; Commuter Service Amendment

AGENCY: Federal Railroad Administration (FRA), Transportation.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: FRA is proposing to amend the Track Safety Standards to make them applicable to all track that is used to provide commuter or short-haul passenger service in a metropolitan or suburban area. This action is taken in response to a requirement of the Federal Railroad Safety Authorization Act of 1982 (Pub. L. 97-468, 96 Stat. 2579), which became effective on January 14, 1983.

DATES: (1) Written comments must be received not later than October 7, 1983. Comments received after that date will be considered to the extent possible without incurring additional delay or expense.

(2) FRA will hold a public hearing on this proposal at 10 a.m. on October 4, 1983. Any person who desire to make an oral statement at the hearing should notify the Docket Clerk before September 30, 1983, by phone or mail.

ADDRESSES: (1) Written comments should be submitted to the Docket Clerk, Office of Chief Counsel, FRA, 400 Seventh Street, SW., Washington, D.C. 20590. Persons desiring to be notified that their written comments have been received should submit a stamped, self-addressed postcard with their comments. The Docket Clerk will indicate on the postcard the date on which the comments were received and will return the postcard to the addressee. Written comments will be available for examination, during regular business hours in Room 5423 of the Nassif Building at the above address.

(2) The public hearing will be held in Room 4234 of the Nassif Building, 400 Seventh Street SW., Washington, D.C. Persons desiring to make oral statements at the hearing should notify the Docket Clerk by telephone (202-426-8285) or by writing to the Docket Clerk at the above address.

FOR FURTHER INFORMATION CONTACT: Philip Olekszyk, Deputy Associate Administrator for Safety, FRA, Washington, D.C. 20590. Telephone 202-426-0897.

SUPPLEMENTARY INFORMATION: A recent amendment to the Federal Railroad Safety Act of 1970 (Safety Act) (45 U.S.C. 431 *et seq.*) requires that, by January 14, 1984, FRA issue regulations to apply appropriate safety principles to track used for commuter service (Pub. L. 97-468, 96 Stat. 2579).

FRA's current track safety standards (49 CFR Part 213) apply to all standard gage track in the general railroad system of transportation, but exempt track used exclusively for commuter or other short-haul passenger service in a metropolitan or suburban area (49 CFR 213.3). These standards, adopted in 1971, establish minimum requirements for the condition of various components of the track, the relevant geometry parameters for these components, inspection procedures, and mandatory remedial actions. The standards incorporate all appropriate safety and engineering concepts that had been developed within the rail industry and this agency at the time of their promulgation and, with some minor adjustments, appear to have stood the test of time as effective regulations.

FRA has reviewed its track standards to determine whether they contain safety principles appropriate for track used exclusively for commuter service. After review of the available technical data, FRA has determined that (i) track used exclusively for commuter service poses no unique safety hazards that are not addressed by the existing regulations, and (ii) none of the provisions contained in the existing regulations is unnecessary for such track. FRA has concluded, therefore, that the existing standards provide all of the appropriate safety principles for track used exclusively for commuter service. In reaching this conclusion, FRA noted that the legislative history of the amendment does not suggest that Congress believes the existing standards are either technically deficient or technically excessive with regard to track used for commuter service.

The scope of this NPRM is limited, therefore, to assuring that the current standards are made applicable to all track used for commuter or other short-haul passenger service in a metropolitan or suburban area. FRA's task is simplified by the fact that the existing standards already apply to the vast majority of track used for commuter service.

As noted, § 213.3(b)(2) of the track standards exempts track used exclusively for rapid transit, commuter, or other short-haul passenger service in a metropolitan or suburban area. In response to the statutory mandate, FRA is proposing in this NPRM simply to eliminate that exclusion insofar as it applies to commuter or short-haul passenger service, but to retain the exclusion for track that is used solely for rapid transit service. Retention of the rapid transit exclusion is based on (i) the specific language of the amendment (section 202(i) of the Safety Act), (ii) the legislative history of the 1982 Authorization Act, which excludes from FRA's safety jurisdiction rail rapid transit systems that do not operate over the general system of rail transportation, and (iii) a court ruling that FRA does not have safety jurisdiction over rapid transit systems (*Chicago Transit Authority* v. *Flohr*, 570 F.2d 1305 (7th Cir. 1977)).

Based on a recent survey, it appears that this proposal would result in the application of the existing track standards to approximately 384 miles of track, in the vicinity of eight major cities, over which only commuter service is provided. Approximately 150 miles of this track are located in station areas, coach yards, and repair shop areas, with the remainder serving as main line trackage.

Specifically, the covered track would include: six miles of track in the Boston metropolitan area owned by the Massachusetts Bay Transportation Authority and operated by the Boston and Maine Railroad; 82 miles of track in the New York metropolitan area comprised of 21 miles owned and operated by the Long Island Railroad, two miles owned by the trustees of the Penn Central Company and operated by the Metro-North Commuter Railroad, 23 miles owned and operated by New Jersey Transit Rail Operating Authority, and 36 miles owned and operated by the Port Authority Trans Hudson Corporation; 83 miles of track in the Philadelphia metropolitan area comprised of 77 miles owned and operated by the Southeastern Pennsylvania Transportation Authority and six miles owned by the National

Railroad Passenger Corporation and operated by the Southeastern Pennsylvania Transportation Authority; two miles in the Washington metropolitan area owned and operated by the Baltimore and Ohio Railroad; 208 miles of track in the Chicago metropolitan area comprised of 31 miles owned and operated by the Burlington Northern, 18 miles owned by the Chicago, Milwaukee, St. Paul and Pacific Railroad and operated by the Northeastern Illinois Railroad Corporation, 44 miles owned and operated by the Chicago and Northwestern Transportation Company, one mile owned and operated by the Chicago, South Shore and South Bend Railroad, 92 miles owned and operated by the Illinois Central Gulf Railroad, and 23 miles owned and operated by the Northeastern Illinois Railroad Corporation; and three miles of track in the San Francisco metropolitan area owned and operated by the Southern Pacific Transportation Company.

The proposed extension of FRA's track standards to approximately 384 additional miles of track would have a relatively limited impact. First, approximately 4,800 miles of track used for commuter service and 300,000 miles of track used for freight or passenger service are already subject to these standards.

Second, as noted, the existing FRA standards establish minimum requirements for the condition of various components of the track structure. These standards already reflect the consensus opinion of the railroad industry regarding the minimum safety requirements for track structures; as such, they are generally adhered to by prudent operators.

Moreover, to the extent that those operating commuter service over unregulated track currently adhere, on a voluntary basis, to the safety principles contained in the standards, this proposal would not entail the imposition of any new burdens. FRA field observations to date indicate that virtually all of the commuter service operators voluntarily use either the FRA standards or their own more stringent rules for track maintenance. In view of the limited amount of track involved in the proposal and the current maintenance practices of the owners of that track, it does not appear that any significant new or additional costs would be imposed by adoption of this proposal.

At the same time, given the very limited nature of the proposal, it is difficult to establish a clear estimate of the associated safety benefits. FRA obtains data on all train accidents or incidents that exceed the reporting thresholds established in 49 CFR Part 225, without regard to whether an accident or incident occurred on track used exclusively for commuter or short-haul passenger service. Nevertheless, FRA has not been able to identify any accident or incident attributable to track conditions that could have been prevented by adherence to these standards. In the absence of such data FRA has been unable to establish a monetary benefit associated with adoption of this proposal.

Regulatory Impact

This NPRM has been evaluated in accordance with existing regulatory policies. It is neither a "major rule" as defined in Executive Order 12291 nor a significant rule under DOT regulatory policies and procedures. The proposed rule contains only a single technical revision to the existing standards and would have an impact only on those entities that operate commuter service over track used exclusively for that purpose.

In general, the proposed rule would not serve to increase the economic burdens of the existing regulation. It is of limited scope and applies track standards generally adhered to already by commuter service operators. FRA believes that this provision would result, at most, in only a minor increase in recordkeeping burdens and their associated costs in isolated instances. Since the NPRM contains only a limited, technically oriented proposal, which is expected to have a minimal impact, FRA has determined that further evaluation is not necessary.

The proposed rule would have a direct impact only on the railroads or commuter agencies that own the 384 miles of track used exclusively for commuter or other short-haul passenger service. It would not place any requirements or burdens on the public. Nor would it increase the budgeted expenditures for track maintenance for the track owners, because they already allocate funding for track maintenance sufficient to meet or exceed these standards. The proposed rule would not have any significant impact on any small entity, since no such entity operates over track used exclusively for commuter or other short-haul passenger service. Based on the facts set forth in this NPRM, it is certified that the rule would not have a significant economic impact on a substantial number of small entities under the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Paperwork Reduction Act

The proposed rule indirectly contains provisions concerning the collection of information that are subject to the Paper Work Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*, Pub. L. 96-511). These provisions involve the need to record and maintain information concerning inspection activities under the requirements of § 213.7 and § 213.241. These information collection requirements have been submitted to the Office of Management and Budget (OMB). Such requirements apply to all track owners currently subject to the regulation. The expansion of these information collection requirements for the track covered in the proposal would not become effective until approved by OMB. FRA specifically solicits comments on the potential paperwork burden imposed by this NPRM.

Such comments should be submitted both to FRA, in the manner provided for elsewhere in this notice, and to OMB. Communications to OMB should be submitted to Mr. Gary Waxman, Office of Management and Budget, Room 30001, New Executive Office Building, Washington, D.C. 20503.

Public Participation

Interested persons are invited to participate in this proceeding by submitting written data, views, or comments. Communications should identify the regulatory docket number and notice number and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Persons desiring that receipt of their communications be acknowledged should attach a stamped, pre-addressed postcard to the first page of their communication. Communications received before October 7, 1983, will be considered before final action is taken on the proposed rule. All comments received will be available for examination by interested persons at any time during regular business hours in Room 5423, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

In addition, FRA will hold a public hearing on this proposal in Room 4234 in the Nassif Building, located at 400 Seventh Street, SW., Washington, D.C. beginning at 10:00 on October 4, 1983. Any persons who desire to make an oral statement at the hearing should notify the Docket Clerk by telephone or by mail before September 30, 1983.

List of Subjects in 49 CFR Part 213

Railroad safety.

In consideration of the foregoing, FRA proposes to amend Part 213, Title 49, Code of Federal Regulations, as set forth below:

The Proposed Rule

PART 213—[AMENDED]

1. 49 CFR Part 213 is amended by revising § 213.3 to read as follows:

§ 213.3 Application.

(a) Except as provided in paragraph (b) of this section, this part applies to all standard gage track in the general railroad system of transportation.

(b) This part does not apply to track—

(1) Located inside an installation which is not part of the general railroad system of transportation; or

(2) Used exclusively for rapid transit service in a metropolitan or suburban area.

Authority: Section 202, 84 Stat. 971 (45 U.S.C. 431); sec. 1.49(m) of the Regulations of the Secretary of Transportation (49 CFR 1.49(m)).

Issued in Washington, D.C. on August 30, 1983.

Thomas A. Till,

Deputy Administrator.

[FR Doc. 83-24139 Filed 9-1-83; 8:45 am]

BILLING CODE 4910-06-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 655

Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan; Public Hearing

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public hearing.

SUMMARY: The Mid-Atlantic Fishery Management Council will hold a public hearing to allow for input on Amendment 1 to the Fishery Management Plan for the Atlantic Mackerel, Squid, and Butterfish Fisheries.

DATE: The public hearing will be held September 14, 1983, at 3:00 p.m. Written comments will be accepted until September 14, 1983.

ADDRESS: Hearing to be held at Best Western Airport Inn, Philadelphia International Airport, Route 291, Philadelphia, Pennsylvania 19153 (215-365-7000).

Send comments to John C. Bryson, Executive Director of the Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, Delaware 19901.

FOR FURTHER INFORMATION CONTACT: John C. Bryson, 302-674-2331.

SUPPLEMENTARY INFORMATION: Amendment 1 changes the squid management regime to allow the Director of the Northeast Region (RD), National Marine Fisheries Service (NMFS), in consultation with the Mid-Altantic Fishery Management Council (Council), to adjust optimum yield (OY) at the beginning of the fishing year and throughout the year on the base of specified guidance. The mackerel regime is changed to reflect the changed mackerel natural mortality rate (from 0.3 to 0.2).

The rigidity of past OYs and their components has prevented timely management responsiveness necessary to address a situation such as the squid fishery. An OY with the proposed flexibility is preferable to the current system. Experience has shown that established limits must be capable of being changed rapidly to meet unforeseen circumstances.

Demand for domestic processed and joint venture amounts of squid has increased significantly during this fishing year. This increased demand requires NMFS to have greater flexibility for proper management, and for distributing available amounts of squid among the various components of the fishery, both domestic and foreign. The proposed OY mechanism meets this need. It allows for adjustments to be made due to changes in seasonal availability of squid; changes in fishing patterns or practices of U.S. fishermen fishing for more economically valuable species of fish; increases in TALFF to foreign nations providing markets for U.S. exporters; joint venture operations and changes to approved joint ventures; or for other benefits. This mechanism fosters the "fish and chips" policy, the Magnuson Fishery Conservation and Management Act (Magnuson Act), and establishes a mechanism to achieve maximum utilization of the OY for squid. The mechanism would work as follows:

Loligo Squid

The maximum OY for *Loligo* is 44,000 mt. The RD, in consultation with the Council, will determine annual specifications relating to initial optimum yield (IOY), domestic annual harvest (DAH), domestic annual processing (DAP), joint venture processing (JVP), and total allowable level of foreign fishing (TALFF). The RD will review yearly the most recent biological data pertaining to the stock. If the RD determines that the stock cannot support a level of harvest equal to the maximum OY, he shall establish a lower allowable biological catch (ABC) for the fishing year. This level represents essentially the modification of the maximum sustainable yield (MSY) to reflect changed biological circumstances. If the stock is able to support a harvest level equivalent to the maximum OY, the ABC shall be set at that level.

From the ABC, the RD, in consultation with the Council, will determine the IOY for the fishing year. The IOY represents a modification of ABC, based on economic factors. It is intended to provide the greatest overall benefit to the nation by incorporating all relevant factors. The IOY is composed of an initial DAH and initial TALFF. The RD will project the DAH by reviewing the data concerning past domestic landings, projected amounts of *Loligo* necessary for domestic processing and for joint ventures during the fishing year, and other data pertinent for such a projection. The JVP component of DAH shall be the portion of DAH which domestic processors either cannot or will not use. In assessing the level of IOY, the RD shall provide for a TALFF of at least a minimum bycatch of *Loligo* squid that would be harvested incidentally in other directed fisheries. This bycatch level shall be 1 percent of the allocated portion of the *Illex*, mackerel (if a directed fishery is allowed), silver hake, and red hake TALFFs. In addition, this specification of IOY will based on the application of the following factors:

(1) Total world export potential by squid-producing countries;

(2) Total world import demand by squid-consuming countries;

(3) U.S. export potential based on expected U.S. harvests, expected U.S. consumption, relative prices, exchange rates, and foreign trade barriers;

(4) Increased/decreased revenues to the United States from foreign fees;

(5) Increased/decreased revenues to U.S. harvesters (with/without joint ventures);

(6) Increased/decreased revenues to U.S. processors and exporters;

(7) Increases/decreases in U.S. harvesting productivity due to decreases/increases in foreign harvest;

(8) Increases/decreases in U.S. processing productivity; and

(9) Potential impact of increased/decreased TALFF on foreign purchases of U.S. products and services and U.S. caught fish, changes in trade barriers, technology transfer, and other considerations.

Proposed annual specifications of the ABC and IOY and its component amounts shall be published in the **Federal Register** and provide for a public comment period. At the close of the public comment period, a notice of final annual specifications with the reasons, therefore, shall be published in the **Federal Register**.

Any subsequent adjustments to the IOY shall be published in the **Federal Register** and may provide for a public comment period.

The IOY may be adjusted by the RD, in consultation with the Council, upward to the ABC at any time during the fishing year. An adjustment may be made to IOY to accommodate DAH needs, including when the application of the above factors warrants an adjustment in TALFF.

Illex Squid

The maximum OY for *Illex* is 30,000 mt. The RD, in consultation with the Council, will determine annual specifications relating to IOY, DAH, DAP, JVP, and TALFF. The RD will review yearly the most recent biological data pertaining to the stock. If the RD determines that the stock cannot support a level of harvest equal to the maximum OY, he shall establish a lower ABC for the fishing year. If the stock is able to support a harvest level equivalent to the maximum OY, the ABC shall be set at that level.

From the ABC, the RD, in consultation with the Council, will determine the IOY for the fishing year. The IOY represents a modification of ABC, based on economic factors. It is intended to provide the greatest overall benefit to the nation by incorporating all relevant factors. The IOY is composed of an initial DAH and initial TALFF. The RD will detemine the IOY and any adjustments by the same procedures and factors set out above for *Loligo*, except that it shall provide for a minimum bycatch of *Illex* squid that would be harvested incidentally in other directed fisheries. This bycatch level shall be 10 percent of the allocated portion of the *Loligo* TALFF and 1 percent of the allocated portions of the mackerel (if a directed fishery is allowed), silver hake, and red hake TALFFs.

Atlantic Mackerel

Based on the best scientific information available, the Amendment changes the spawning stock size which a directed foreign fishery will be allowed. The specification of mackerel OY, DAH, DAP, and TALFF is based upon the following:

C = estimated mackerel catch in Canadian waters for the upcoming fishing year.
U.S. = estimated U.S. mackerel catch for the upcoming fishing year.
S = mackerel spawning stock biomass in the year after the upcoming fishing year.
Bycatch = 2 percent of allocated portion of the silver hake TALFF and 1 percent of the allocated portions of the *Loligo*, *Illex*, and red hake TALFFs.
AC = acceptable catch in U.S. waters for the upcoming fishing year

If S − U.S. − C is less than or equal to 400,000 mt; use Case 1. If S − U.S. − C is greater than 400,000 mt; use Case 2.

Case 1:

OY is less than or equal to 30,000 mt.
AC is less than or equal to 30,000 mt.
DAH is less than or equal to 30,000 mt − By catch.
DAP is less than or equal to 30,000 mt − Bycatch.
TALFF = Bycatch.

Case 2:

AC = S − C − 400,000 mt and is less than or equal to FO.1. [A reference point on the yield curve.]
OY is less than or equal to AC.
DAH is between 30,000 mt and AC − Bycatch.
DAP is between 30,000 mt and AC − Bycatch.
TALFF is AC − DAH, but may be no less than Bycatch.
If AC − DAH is equal to or greater than 10,000 mt, one-half is initially allocated to TALFF and one-half is initially allocated to Reserve.

The 30,000 mt minimum DAH and DAP in Case 2 may only be reduced to the extent necessary to assure that AC is not exceeded and the foreign fishery receives the bycatch requirements. OY and TALFF must be adjusted to account for the minimum U.S. allocation. It must be recognized that while such an adjustment at the beginning of a fishing year may result in an initial OY less than that which is biologically acceptable (i.e., less than AC), if U.S. landings during the year, including amounts authorized for joint ventures, increase above the initial estimates, DAH and OY may be increased by similar amounts up to the point where OY = AC. TALFF would not change from its value at the beginning of a year as a result of these adjustments to DAH and OY

Alternatives to the Proposed Amendment

The alternatives to the proposed Amendment are:

1. *Take no action at this time.* This would mean that the Plan continue in effect until March 31, 1986, unless otherwise amended. The limited squid adjustment mechanism would remain intact. Atlantic mackerel specifications would continue to be based upon a natural mortality rate of 0.30, instead of the most recent scientifically determined rate of 0.20. This would not allow determination of OY on as current a basis as possible for squid and would violate National Standard 2 in the case of mackerel.

2. *Prepare a Secretarial Amendment to Amend the Council Plan.* This would amend the Plan by adopting the more flexible squid adjustment mechanism contemplated by the Council. It would provide further for the best scientific information forming the basis of the Atlantic mackerel specifications. It would grant the RD, in consultation with the Council, the authority to adjust squid OYs based upon certain biological and economic information. It would allow the annual markerel specifications to be based upon the most recent scientific assessment of natural mortality rate of 0.2. This alternative was considered because, if NMFS prepared the Secretarial Amendment, the Council staff would be able to work on other plans. However, the alternative was rejected because of timing considerations.

The hearing will be tape recorded with the tapes filed as the official document of the hearing.

(16 U.S.C. 1801 *et seq.*)

Dated: August 30, 1983.

Joe P. Clem,

Chief, Fees, Permits and Regulations Division, National Marine Fisheries Service.

[FR Doc. 83-24195 Filed 9-1-83; 8:45 am]
BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 48, No. 172
Friday, September 2, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Cooperative State Research Service

Committee of Nine; Meeting

In accordance with the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776), the Cooperative State Research Service announces the following meeting:

Name: Committee of Nine.
Date: September 21, 1983.
Time: 8:00 a.m.–4:00 p.m.
Place: Dean's Conference Room, University of New Hampshire, Durham, New Hampshire.
Type of meeting: Open to the public. Persons may participate in the meeting as time and space permit.
Comments: The public may file written comments before or after the meeting with the contact person listed below.
Purpose: To evaluate and recommend proposals for cooperative research on problems that concern agriculture in two or more States, and to make recommendations for allocation of regional research funds appropriated by Congress under the Hatch Act for research at the State agricultural experiment stations.
Contact person for agenda and more information: Dr. Esteal H. Cobb, Recording Secretary, U.S. Department of Agriculture, Cooperative State Research Service, Washington, D.C. 20250; telephone: 202/447-4329.

Done at Washington, D.C., this 18th day of August, 1983.

R. L. Lovvorn,
Acting Administrator, Cooperative State Research Service.
August 18, 1983.

[FR Doc. 83-24147 Filed 9-1-83; 8:45 am]
BILLING CODE 3410-22-M

Forest Service

Land and Resource Management Plan; Boise National Forest, Ada, Boise, Elmore, Gem, Valley, and Washington Counties, Idaho; Revised Intent To Prepare an Environmental Impact Statement

This Notice revises a previously issued Notice of Intent published in the Federal Register dated June 12, 1983, page 39877.

This Notice is being issued because 36 CFR 219.17 is being revised to allow the reevaluation of roadless areas during the Forest planning process. Public participation in the reevaluation permits data collection and analysis activities to proceed pending release of the final regulations.

The results of the reevaluation of roadless areas will be included in the Environmental Impact Statement and Boise National Forest Land and Resource Management Plan.

The first steps involving initial public participation, inventory, and analysis of the management situation have been completed. The scoping for the roadless area reevaluation portion of the land management planning process will be initiated by explaining the roadless area reevaluation to all individuals interested and wanting to become involved in the planning process for the Forest. Comments are invited and will be received until November 7, 1983. Significant issues relating to reevaluation will be identified and included with those issues already identified for the Forest.

Detailed information on the roadless area and the reevaluation process will be available to individuals and organizations requesting the information.

In addition, there will be public open houses to further explain, discuss, and gather information about the roadless areas and reevaluation process. They are scheduled as follows:

Monday, October 24, McCall, Idaho. Time: 2 to 8 p.m. Joint open house with Payette National Forest
Tuesday, October 25, Forest Supervisor's Office, 1750 Front Street, Boise, Idaho. Time: 2 to 8 p.m. Joint open house with Payette National Forest
Wednesday, October 26, Caldwell Public Library, 1010 Dearborn, Caldwell, Idaho. Time: 2 to 8 p.m. Joint open house with Payette National Forest
Thursday, October 27, Mountain Home Range District Office, 2180 American Legion Boulevard, Mountain Home, Idaho. Time: 2 to 8 p.m.

The Boise National Forest Plan will select from a range of alternatives which will include at least:

(1) The "no action" alternative, which represents continuation of present levels of activity.

(2) One or more alternatives which represent levels of activity that will result in elimination of all backlogs of needed treatment for restoration or renewable resources and ensure that a major portion of planning intensive multiple-use and sustained-yield management procedures are operating on an environmentally sound basis.

(3) One or more alternatives formulated to resolve the identified major public issues and management concerns, including roadless areas.

The Draft Environmental Impact Statement and proposed Land and Resource Management plan for the Boise National Forest are scheduled for filing with the Environmental Protection Agency by February 1985. The final documents are scheduled for filing in October 1985.

During the reevaluation process, current management and protection policies and activities in the roadless areas will be continued. Wilderness values will be protected in the areas recommended in RARE II for Wilderness, and management for other uses will continue in areas recommended for non-Wilderness.

J. S. Tixier, Regional Forester, Intermountain Region, USDA Forest Service, is the responsible official for the Forest Management Plan and Environmental Impact Statement. John J. Lavin, Forest Supervisor, is responsible for preparation of the Forest Plan and Environmental Impact Statement.

Written comments, suggestions, and/or requests for information during this process should be sent to John J. Lavin, Forest Supervisor, ATTN: Charles G. Nelson, Forest Planner, Boise National Forest, 1750 Front Street, Boise, Idaho 83702, phone (208) 334-1840.

Dated: August 25, 1983.
Richard K. Griswold,
Director, Planning and Budget.
[FR Doc. 83-24120 Filed 9-1-83; 8:45 am]
BILLING CODE 3410-11-M

Land and Resource Management Plan; Humboldt National Forest, Lincoln, Nye, White Pine, Humboldt, Elko, Counties, Nevada; Revised Notice of Intent To Prepare an Environmental Impact Statement

This Notice revises a previously issued Notice of Intent published in the **Federal Register** dated June 20, 1980, Volume 45, No. 121, pages 41684 and 41685.

This Notice is being issued because 36 CFR 219.17 is being revised to allow the reevaluation of roadless areas during the Forest planning process. Public participation in the reevaluation permits data collection and analysis activities to proceed pending release of the final regulations.

The results of the reevaluation of roadless areas will be included in the Environmental Impact Statement and Humboldt National Forest Land and Resource Management Plan.

The first steps involving initial public participation, inventory, and analysis of the management situation have been completed. The scoping for the roadless area reevaluation portion of the land management planning process will be initiated by explaining the roadless area reevaluation to all individuals interested and wanting to become involved in the planning process for the Forest. Comments are invited and will be received until October 30, 1983. Significant issues relating to reevaluation will be identified and included with those issues already identified for the Forest.

Detailed information on the roadless areas and reevaluation processes will be available for individuals and organizations requesting the information. In addition, there will be open houses held at Elko, Ely, Wells, Mountain City, Winnemucca, and Jarbidge, Nevada, to further explain, discuss, and gather information about the roadless areas and reevaluation process.

The Humboldt National Forest Plan will select from a range of alternatives which will include at least:

1. The "no-action" alternative, which represents continuation of present levels of activity.

2. One or more alternatives which represent levels of activity that will result in elimination of all backlogs of needed treatment for restoration of renewable resources and ensure that a major portion of planning intensive multiple-use and sustained-yield management procedures are operating on an environmentally sound basis.

3. One or more alternatives formulated to resolve the identified major public issues and management concerns, including roadless areas.

The Draft Environmental Impact Statement and proposed Land and Resource Management Plan for the Humboldt National Forest are scheduled for filing with the Environmental Protection Agency by February 1985. The final documents are scheduled for filing in September 1985.

During the reevaluation process, current management and protection policies and activities in the roadless areas will be continued. Wildness values will be protected in the areas recommended in RARE II for Wilderness, and management for other uses will continue in areas recommended for non-Wilderness.

J. S. Tixier, Regional Forester, Intermountain Region, USDA Forest Service, is the responsible official for the Forest Management Plan and Environmental Impact Statement. B. J. Graves, Forest Supervisor, is responsible for preparation of the Forest Plan and Environmental Impact Statement.

Written comments, suggestions, and/or requests for information during this process should be sent to Terrence Cox, Forest Planner; Humboldt National Forest, 976 Mountain City Highway; Elko, Nevada 89801; phone (702) 738-5171.

Dated: August 25, 1983.
Richard K. Griswold,
Director, Planning and Budget.
[FR Doc. 83-24118 Filed 9-1-83; 8:45 am]
BILLING CODE 3410-11-M

Land and Resource Management Plan; Payette National Forest, Valley, Idaho, Adams, and Washington, Counties, Idaho; Revised Intent To Prepare an Environmental Impact Statement

This Notice revises a previously issued Notice of Intent published in the Federal Register dated June 13, 1980, pages 40196 and 40197.

This Notice is being issued because 36 CFR 219.17 is being revised to allow the reevaluation of roadless areas during the Forest planning process. Public participation in the reevaluation permits data collection and analysis activities to proceed pending release of the final regulations.

The results of the reevaluation of roadless areas will be included in the Environmental Impact Statement and Payette National Forest Land and Resource Management Plan.

The first steps involving initial public participation and inventory have been completed. The scoping for the roadless area reevaluation portion of the land management planning process will be initiated by explaining the roadless area reevaluation to all individuals interested and wanting to become involved in the planning process for the Forest. Comments are invited and will be received until November 7, 1983. Significant issues relating to reevaluation will be identified and included with those issues already identified for the Forest.

Detailed information on the roadless areas and reevaluation processes will be available for individuals and organizations requesting the information. In addition, the following open houses will be conducted to further explain, discuss, and gather information about the roadless areas and reevaluation process.

Date	City	Place
Oct. 24	McCall	Payette National Forest, Supervisor's Office, 106 W. Park St.
Oct. 25	Boise	Boise National Forest Supervisor's Office, 1750 Front St.
Oct. 26	Caldwell	Caldwell Public Library, 1010 Dearborn St.
Oct. 27	Council	Council High School Library.

All open houses will be held from 2:00 p.m. to 8:00 p.m. The first three listed will be conducted jointly by the Boise and Payette National Forests.

The Payette National Forest Plan will select from a range of alternatives which will include at least:

(1) The "no-action" alternative, which represents continuation of present levels of activity.

(2) One or more alternatives which represent levels of activity that will result in elimination of all backlogs of needed treatment for restoration of renewable resources and ensure that a major portion of planning intensive multiple-use and sustained-yield management procedures are operating on an environmentally sound basis.

(3) One or more alternatives formulated to resolve the identified major public issues and management

concerns, including roadless areas.

The Draft Environmental Impact Statement and proposed Land and Resource Management Plan for the Payette National Forest are scheduled for a draft review by February 1985. The final documents are scheduled for filing with the Environmental Protection Agency in October 1985.

During the reevaluation process, current management and protection policies and activities in the roadless areas will be continued. Wilderness values will be protected in the areas recommended in RARE II for Wilderness, and management for other uses will continue in areas recommended for non-Wilderness.

J. S. Tixier, Regional Forester, Intermountain Region, USDA Forest Service, is the responsible offical for the Forest Management Plan and Environmental Impact Statement. Kenneth D. Weyers, Payette Forest Supervisor, is responsible for preparation of the Forest Plan and Environmental Impact Statement.

Written comments, suggestions, and/or requests for information during this process should be sent to Kenneth D. Weyers, Forest Supervisor, Attention John Skinner, Forest Planner, Payette National Forest, Box 1026, McCall, Idaho, 83638, phone 208–634–2255.

Dated: August 25, 1983.

Richard K. Griswold,

Director, Planning and Budget.

[FR Doc. 83–24119 Filed 9–1–83; 8:45 am]

BILLING CODE 3410–11–M

Soil Conservation Service

Twilight Road Critical Area Treatment RC&D Measure, Oklahoma; Environmental Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Twilight Road Critical Area Treatment RC&D Measure, LeFlore County, Oklahoma.

FOR FURTHER INFORMATION CONTACT: Roland R. Willis, State Conservationist, Soil Conservation Service, USDA Agricultural Center Building, Stillwater, Oklahoma 74074, telephone (405) 624–4360.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Roland R. Willis, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns reducing erosion, stabilizing the right-of-way, reducing sediment flow into streams, and improving the appearance and safety of the county road and right-of-way. The planned works of improvement include shaping, filling, and topsoiling. Structural measures consist of concrete channel liners, a pipe drop, and waterways. Vegetative measures will be bermudagrass sod mulching including fertilizing.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Roland R. Willis.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: August 24, 1983.

Donald R. Vandersypen,

Assistant State Conservationist (WR).

[FR Doc. 83–24107 Filed 9–1–83; 8:45 am]

BILLING CODE 3410–16–M

CIVIL AERONAUTICS BOARD

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits

Permits filed under Subpart Q of the Board's Procedural Regulations; (See, 14 CFR 302.1701 et seq.) week ended August 26, 1983.

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the Board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Date filed	Docket No.	Description
Sept. 26, 1983	41664	Air National Aircraft Sales and Service, Inc., c/o James M. Burger, Shaw, Pittman, Potts & Trowbridge, 1800 M Street, NW., Washington, D.C. 20036. Application of Air National Aircraft Sales and Services, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations, requests authority to provide scheduled foreign air transportation of persons, property and mail as follows: From New York, New York, on the one hand, and Amsterdam, Netherlands, Brussels, Belgium, and Athens, Greece, on the other hand. Conforming Applications, Motions to Modify Scope and Answers may be filed by September 23, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83–24197 Filed 9–1–83; 8:45 am]

BILLING CODE 6320–01–M

Announcement of Proposed Collection of Information Under the Provisions of the Paperwork Reduction Act (44 U.S.C. 35)

Agency clearance officer from whom a copy of the collection of information and supporting documents is available: Robin A. Caldwell (202) 673-5822

New

Title of the Collection of Information: Information Directives Concerning Computer Reservation Systems
Agency Form Number: None
How often the Collection of Information must be filed: One-time
Who is asked or required to report: United, American, Trans World, Delta and Eastern Air Lines
Estimate of number of annual responses: 5
Estimate of number of annual hours needed to complete the collection of information: 600

Dated: August 26, 1983.

Jack Calloway,
Chief, Data Requirements Section, Information Management Division, Office of Comptroller.

[FR Doc. 83-24136 Filed 9-1-83; 8:45 am]
BILLING CODE 6320-01-M

[Docket No. 41626; Order 83-8-62]

Joint Complaint of Air Micronesia, Inc. and Continental Air Lines, Inc. Against the Government of Japan and Japan Air Lines Co., Ltd.; Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 12th day of August, 1983.

On August 3, 1983, Air Micronesia, Inc. and Continental Air Lines, Inc. jointly filed a complaint against the Government of Japan and Japan Air Lines, Co., Ltd. The complainants allege that by failing to authorize Continental/Air Micronesia to provide nonstop Guam-Tokyo service, the Government of Japan has engaged in unreasonable, discriminatory and anticompetitive practices against Air Micronesia, and that it has imposed unjustifiable and unreasonable restrictions on the access of Air Micronesia to Japanese markets.

In support of their complaint, Continental and Air Micronesia state that the U.S.-Japan Air Transport Agreement authorizes service by U.S. carriers between Guam and Tokyo; that Air Micronesia has been designated by the U.S. Government to provide that service; that Japan has refused, in violation of the Agreement, to allow Air Micronesia to operate that service; and that this refusal has caused Air Micronesia serious financial hardship and has prevented the development, by Air Micronesia, of air service vital to the economic well-being of Guam and the Micronesian area. The complainants further assert that Japan's actions run counter to section 402(f) of the Federal Aviation Act and section 2 of the International Air Transportation Fair Competitive Practices Act (IATFCPA), as well as Part 213 of the Board's Economic Regulations. Continental and Air Micronesia request that we take appropriate action against the operating rights and permit of JAL.

The International Air Transportation Competition Act of 1979 (IATCA) substantially expanded our ability to deal with allegations of unfairly restrictive and discriminatory practices by foreign governments and foreign airlines. We now possess power to respond quickly to such practices through amendments to section 402 of the Federal Aviation Act and section 2 of IATFCPA which permit us to deny, alter, amend, modify, suspend, cancel, limit or condition any foreign air carrier permit or tariff if we find such action to be in the public interest. They also enable us to act without any hearing or to dispense with oral evidentiary hearings and base our decision on written evidence and arguments submitted by interested parties in appropriate circumstances. Furthermore, to ensure that complaints filed under this legislation receive prompt attention, section 2 of the IATFCPA provides that we shall approve, deny, dismiss or set a complaint for hearing, or institute other proceedings proposing remedial action, within 60 days after receipt of the complaint. We may extend the period for taking action in increments of 30 days up to 180 days, if we conclude that it is likely that the complaint can be satisfactorily resolved through negotiations.

With these considerations in mind, we have decided to invite all interested persons to answer the complaint of Air Micronesia and Continental in this docket. Answers shall include all data, evidence, and argument upon which persons rely to support their position, and shall cover all substantive and procedural issues they wish the Board to consider. We will also provide an opportunity to reply to these answers.

Answers shall be filed no later than 20 days from the service date of this order, and replies no later than 10 days from that answer date.[1]

After receipt and consideration of these pleadings and any evidence submitted, we will issue a further order in this proceeding. As indicated above, we may either provide for further procedures, defer action for 30 days, or grant, dismiss, or deny the complaint in whole or in part.

Accordingly,

1. We invite any interested person to file and serve upon persons named in paragraph 3, below, no later than September 6, 1983, answers to the joint complaint of Air Micronesia and Continental in Docket 41626. If comments are filed, replies may be filed, and must be served as above, but no later than September 16, 1983.

2. If timely and properly supported requests are filed, we will give consideration to the matters and issues raised by the requests before we take further action, provided that we may order further procedures within the statutorily determined time period; and

3. We are serving this order upon Air Micronesia, Inc., Continental Air Lines, Inc., Japan Air Lines Co., Ltd., the Ambassador of Japan in Washington, D.C., the representative of the United States Commonwealth of the Northern Mariana Islands in Washington, D.C., the Micronesian Liaison Office of the Federated States of Micronesia in Washington, D.C., the President of the Marshall Islands, the Speaker of the Palau Legislature, the Governors of Guam, Kusai, Ponape, Truk, and Yap, and the Departments of Interior, State and Transportation.

We shall publish this order in the Federal Register.

All Members concurred.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 83-24136 Filed 9-1-83; 8:45 am]
BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments

The following are notices of the receipt of applications for duty-free entry of scientific instruments published pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897) and the regulations issued pursuant thereto (15

[1] We delegate to the Director, Bureau of International Aviation, the authority to dispose of all procedural questions arising in this proceeding, except for requests for oral evidentiary hearings, until further Board order.

CFR Part 301 as amended by 47 FR 32517).

Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the instrument is intended to be used is being manufactured in the United States.

Comments must be filed in accordance with Subsections 301.5(a) (3) and (4) of the regulations. They are to be filed in triplicate with the Director, Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the **Federal Register**.

A copy of each application is on file in the Department of Commerce, and may be examined between 8:30 a.m. and 5:00 p.m., Monday through Friday, Room 1523, 14th and Constitution Avenue, N.w., Washington, D.C. 20230.

Docket No.: 83–282. Applicant: Louisiana State University, College of Basic Sciences, Baton Rouge, LA 70803. Instrument: MS80 Gas Chromatograph Mass Spectrometer System and Accessories. Manufacturer: Katos, United Kingdom. Intended use of instrument: The instrument is intended to be used for mass spectrometric structure analysis of high molecular weight compounds ranging from 2000 to 5000d using soft ionization methods, such that the maximum acceleration voltage and maximum sensitivity can be utilized at a mass of 2400. Collision-induced activation will be utilized to investigate the substructure of the oligomers. The objectives of these investigations will be precise structural determination of such biologically important functional compounds as oligosaccharides from glycoproteins and glycolipids, sequencing of peptides, as well as structural on organically synthesized high molecular weight oligomers such as bypyridyl condensation products. The instrument will also be used in the course Computerized Mass Spectrometry in Biochemistry to provide state of the art training in high technology chemical analysis. Application received by Commissioner of Customs: August 15, 1983.

Docket No.: 83–283. Applicant: Scripps Clinic and Reseach Foundation, 10666 North Torrey Pines Road, La Jolla, CA 92037. Instrument: Electron Microscope, Model H–600–1 and Accessories. Manufacturer: Hitachi Scientific Instruments, Japan. Intended use of instrument: The instrument is intended to be used for studies of macromolecules, cultured cells, and tissues with the goals of understanding the structural basis of complement system, coagulation process, and the structural alterations caused by viral infection and immunological dysfunction. Application received by Commissioner of Customs: August 15, 1983.

Docket No.: 83–284. Applicant: Bryn Mawr College, Department of Physics, Bryn Mawr, PA 19010. Instrument: Pulsed Nuclear Magnetic Resonance Spectrometer, CPS–2 with Accessories. Manufacturer: Spin-Lock Ltd., Canada. Intended use of instrument: The instrument is intended to be used for studies of molecular solids in order to identify the different kinds of intramolecular reorientation that are occurring. Once the reorientations have been identified, the aim is to learn over what temperature range the reorientations occur. In addition, the instrument will be used in Physics courses to teach students (at different levels for the different courses) the fundamentals of NMR and to give them valuable experience in using an NMR spectrometer. Application received by Commissioner of Customs: August 15, 1983.

Docket No.: 83–285. Applicant: Bryn Mawr College, Department of Physics, Bryn Mawr, PA 19010. Instrument: Nuclear Magnetic Resonance Continuous Wave Spectrometer, MO–100 with Accessories. Manufacturer: Spin-Lock Ltd., Canada. Intended use of instrument: The instrument is intended to be used for studies of molecular solids in order to identify the different kinds of intramolecular reorientation that are occurring. Once the reorientations have been identified, the aim is to learn over what temperature range the reorientations occur. In addition, the instrument will be used in Physics courses to teach students (at different levels for the different courses) the fundamentals of NMR and to give them valuable experience in using an NMR spectrometer. Application received by Commissioner of Customs: August 15, 1983.

Docket No.: 83–286. Applicant: University of Oklahoma, Purchasing Office, 660 Parrington Oval, Rm. 321, Norman, OK 73019. Instrument: 10 (SSD) Solid State (Micro Strip) Detectors and Accessories. Manufacturer: Micron Semiconductor, Ltd., United Kingdom. Intended use of instrument: The instrument is intended to be used in carrying out experiments on the following: (1) Lifetimes of charmed and bottomed hadron states; (2) Photoproduced charm factory; and (3) Analysis of data from the CLEO experiment. Application received by Commissioner of Customs: August 15, 1983.

Docket No.: 83–287. Applicant: Vanderbilt University Medical Center, Medical Center North, Rm. T–1206 Station 17 P.O., Nashville, TN 37232. Instrument: Bone Implant System for Jaws. Manufacturer: Bofors, Sweden. Intended use of instrument: The instrument is intended to be used for placement of implants in the jaw of patients with severely atrophic jaws. Application received by Commissioner of Customs: August 15, 1983.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 83–24121 Filed 9–1–83; 8:45 am]

BILLING CODE 3510–25–M

National Oceanic and Atmospheric Administration

Emergency Striped Bass Research Study; Public Meeting

AGENCY: National Marine Fisheries Service, Commerce.

SUMMARY: The National Marine Fisheries Service and the U.S. Fish and Wildlife Service will hold a joint meeting to discuss progress on the Emergency Striped Bass Research Study as authorized by the amended Anadromous Fish Conservation Act (Pub. L. 96–118).

DATE: The meeting will convene on Thursday, September 22, 1983, at 8:00 a.m., and will adjourn at approximately noon. The meeting is open to the public; space, however, is limited.

ADDRESS: National Marine Fisheries Service, Room B–100, Page Building No. 1, 2001 Wisconsin Avenue, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Austin R. Magill, Office of Fisheries Management, National Marine Fisheries Service, Washington, D.C. 20235, telephone: (202) 634–7454.

Dated: August 30, 1983.

Joe P. Clem,

Chief, Fees, Permits, and Regulations Division, National Marine Fisheries Service.

[FR Doc. 83–24105 Filed 9–1–83; 8:45 am]

BILLING CODE 3510–22–M

Pacific Fishery Management Council; Public Meeting

AGENCY: Pacific Fishery Management Council, National Oceanic and

Atmospheric Administration, Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council, established by Section 302 of the Magnuson fishery Conservation and Management Act (Pub. L. 94–265, as amended), has established a Groundfish Task Force which will meet to discuss current groundfish management matters. Members of the public will be permitted to submit oral and written statements regarding these matters.

DATES: September 21, 1983 at 10 a.m.

ADDRESS: The meeting will be held in the Conference Room of the Oregon Department of Fish and Wildlife, 506 S.W. Mill St., Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph C. Greenley, Executive Director, Pacific Fishery Management Council, 526 SW Mill Street, Portland, Oregon 97201, (503–221–6352).

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to review preliminary estimates of groundfish ABCs and OYs, and to consider possible strategies for managing the fisheries in 1984. Time is scheduled for public comment at 3 p.m.

(16 U.S.C. 1801 et seq.)

Dated: August 29, 1983

Ann D. Terbush,

Acting Chief, Operations Coordination Group, National Marine Fisheries Service.

[FR Doc. 83–24206 Filed 9–1–83; 8:45 am]

BILLING CODE 3510–22–M

Mid-Atlantic Fishery Management Council; Public Comments on Foreign Fishing Applications

AGENCY: National Marine Fisheries Service, Commerce.

ACTION: Opportunity for Public Comments on Foreign Fishing Applications Received by the Mid-Atlantic Fishery Management Council.

SUMMARY: The Mid-Atlantic Fishery Management Council was established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265, as amended). As required by the Act, Section 204(b)(5), the Council announces that the public may comment on any and all foreign fishing applications received by the Council by October 4, 1983. Council staff will be available between 9 a.m. and noon on October 4, to receive comments. Comments may be made in person at the Council's Headquarters Office, Room 2115, Federal Building, 300 South New Street, Dover, Delaware, between the above-stated hours. Written Comments may be mailed to be received and reviewed by October 4, 1983.

FOR FURTHER INFORMATION CONTACT: Mid-Atlantic Fishery Management Council, Room 2115—Federal Building, 300 South New Street, Dover, Delaware 19901, Telephone: (302) 674–2331.

Dated: August 30, 1983.

Ann D. Terbush,

Acting Chief, Operations Coordination Group, National Marine Fisheries Service.

[FR Doc. 83–24204 Filed 9–1–83; 8:45 am]

BILLING CODE 3510–22–M

Mid-Atlantic Fishery Management Council's Scientific and Statistical Committee; Public Meeting

AGENCY: National Marine Fisheries Service, Commerce.

SUMMARY: The Mid-Atlantic Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265, as amended), has established a Scientific and Statistical Committee which will meet to discuss data needs for fishery management plans (FMPs); discuss the Surf Clam/Ocean Quahog FMP, as well as other fishery management Matters.

DATES: The public meeting will convene on Wednesday, October 5, 1983, at approximately 10 a.m., and will adjourn at approximately 4 p.m. The meeting agenda may be rearranged or changed depending upon progress on the agenda.

ADDRESS: The meeting will take place at the Best Western Airport Inn, Philadelphia International Airport, Philadelphia, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mid-Atlantic Fishery Management Council, Federal Building–Room 2115, 300 South New Street, Dover, Delaware 19901, Telephone: (302) 674–2331.

Dated: August 30, 1983.

Ann D. Terbush,

Acting Chief, Operations Coordination Group, National Marine Fisheries Service.

[FR Doc 83–24205 Filed 9–1–83; 8:45 am]

BILLING CODE 3510–22–M

National Technical Information Service

Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

Technical and licensing information on specific inventions may be obtained by writing to: Office of Government Inventions and Patents, U.S. Department of Commerce, P.O. Box 1423, Springfield, Virginia 22151.

Please cite the number and title of inventions of interest.

Douglas J. Campion,

Program Coordinator, Office of Government Inventions and Patents, National Technical Information Service, U.S. Department of Commerce.

Department of the Army

SN 4–578,938 (4, 354,192) Radio Ranging
SN 4–624,666 (4,360,812) FM–CW Fuze
SN 5–953,292 (4,369,811) Null Balancing for Fluidic Sensors and Amplifiers
SN 6–074,634 (4,357,713) Method and Apparatus for Reduction of Modal Noise in Fiber Optic Systems
SN 6–111,738 (4,373,553) Broad Band Flueric Amplifier
SN 6–133,735 (4,335,655) Method and Apparatus for Detonating Explosive in Response to Detonation of Remote Explosive
SN 6–142,548 (4,362,106) Flow Deflector for Air Driven Power Supply
SN 6–153,461 (4,350,315) Device to De-Spin Objects with Very High Spin
SN 6–158,556 (4,345,460) Multi-Caliber Projectile Soft Recovery System
SN 6–169,004 (4,341,158) Apparatus for Eliminating Power Source Rise Time Effects in a Time Fuze System
SN 6–175,543 (4,367,474) Frequency-Agile, Polarization Diverse Microstrip Antennas and Frequency Scanned Arrays
SN 6–178,319 (4,348,649) Microwave Power Pulse Generator
SN 6–198,673 (4,379,296) Selectable-Mode Microstrip Antenna and Selectable-Mode Microstrip Antenna Arrays
SN 6–218,232 (4,375,082) High Speed Rectangle Function Generator
SN 6–217,861 (4,361,002) Fluidic-Controlled Oxygen Intermittent Demand Flow Device
SN 6–230,177 (4,380,896) Write Mode Circuitry for Photovoltaic Ferroelectric Memory Cell
SN 6–278,283 (4,382,678) Measuring of Feature for Photo Interpretation
SN 6–290,138 (4,392,348) Device for Bleeding Motor Gases thru Motor Pole Piece
SN 6–311,388 (4,385,055) 2-Acetyl-and 2-Propionylpyridine Thiosemicarbazones as Antimalarials
SN 6–316,574 (4,393,048)Protective Gel Composition for Wounds
SN 6–316,575 (4,391,799) Protective Gel Composition for Treating White Phosphorus Burn Wounds
SN 6–348,538 (4,391,993) Thermolysis of Tetraalkylammonium Borohydrides to Bis (Tetraalkylammonium) Decahydrodecaboranes
SN 6–385,999 Wide Range Doppler Demodulator in FM Radar
SN 6–393,223 Method for Detecting the Presence of a Gas in an Atmosphere

SN 6-411,074 Power Supply Conditioner for Fluidic Systems
SN 6-437,607 Phase Scanned Microstrip Array Antenna
SN 6-504,117 Spin Sample Reader
SN 6-514,113 Solid Fuel Ramjet Tubular Projectile for Direct Fire Cannon

Department of Health and Human Services

SN 6-500,833 Repair of Tissue in Animals

[FR Doc. 83-24170 Filed 9-1-83; 8:45 am]
BILLING CODE 3510-04-M

National Telecommunications and Information Administration

Frequency Management Advisory Council; Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), notice is hereby given that the Frequency Management Advisory Council (FMAC) will meet from 9:30 a.m. to 3:30 p.m. on September 21, 1983, in Room 4099A at the United States Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. (Public entrance to the building is on 14th Street, between Pennsylvania Avenue and Constitution Avenue.)

The Council was established on July 19, 1965. The objective of the Council is to advise the Secretary of Commerce on radio frequency spectrum allocation matters and means by which the effectiveness of Federal Government frequency management may be enhanced. The Council consists of 15 members whose knowledge of telecommunications is balanced in the functional areas of manufacturing, analysis and planning, operations, research, academia and international negotiations.

The principal agenda items for the meeting will be:

(1) Principles that should be Embodied in the Constitution and Convention of the International Telecommunication Union (ITU).

(2) High-Definition Television.

(3) Coordination between Government and Industry Relative to Incidential and Restricted Radiation Devices.

The meeting will be open to public observation; and a period will be set aside for oral comments or questions by the public which do not exceed 10 minutes each per member of the public. More extensive questions or comments should be submitted in writing before September 20, 1983. Other public statements regarding Council affairs may be submitted at any time before or after the meeting. Approximately 10 seats will be available for the public on a first-come first-served basis.

Copies of the minutes will be available on request 30 days after the meeting.

Inquires may be addressed to the Executive Secretary, FMAC, Mr. Charles L. Hutchison, National Telecommunications and Information Administration, Room 4701, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone 202-377-0805.

Dated: August 30, 1983.

Charles L. Hutchison,

Executive Secretary, FMAC, National Telecommunications and Information Administration.

[FR Doc. 83-24177 Filed 9-1-83; 8:45 am]
BILLING CODE 3510-60-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing New Limits on Certain Man-Made Fiber Textile Products from Hong Kong

August 30, 1983.

On August 3, 1983, a notice was published in the **Federal Register** (48 FR 35158) announcing that the Government of the United States had requested consultations with the Government of Hong Kong concerning man-made fiber gloves and mittens in Category 631 under the terms of the Bilateral Agreement of June 23, 1982, as amended.

The purpose of this notice is to announce that consultations on this category were held on August 25, 1983 and a limit of 424,000 dozen pairs was established for 1983 under the terms of the bilateral agreement.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-24203 Filed 9-1-83; 8:45 am]
BILLING CODE 3510-25-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1983; Proposed Additions

AGENCY: Committee for Purchase From the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to Procurement List 1983 services to be provided by workshops for the blind and other severely handicapped.

Comments must be received on or before: October 5, 1983.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following services to Procurement List 1983, November 18, 1982 (47 FR 52101):

SIC 0782

Grounds Maintenance, U.S. Naval Security Activity, Skaggs Island, Sonoma, California
Grounds Maintenance, DOT/FAA AFSFO, 55 Midway Avenue, Daytona Beach, Florida

C. W. Fletcher,

Executive Director.

[FR Doc. 83-24175 Filed 9-1-83; 8:45 am]
BILLING CODE 6820-33-M

Procurement List 1983; Additions and Deletions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additional to and Deletions from Procurement List.

SUMMARY: This action adds to and deletes from Procurement List 1983 commodities to be produced by and a service to be provided by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: September 2, 1983.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: On April 29, May 27, and July 8, 1983, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (48 FR 19456, 48 FR 23880, and 48 FR 31446) of proposed

additions to and deletions from Procurement List 1983, November 18, 1982 (47 FR 52101).

Additions

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered were:

a. The actions will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The actions will not have a serious economic impact on any contractors for the commodities listed.

c. The actions will result in authorizing small entities to produce commodities procured by the Government.

Accordingly, the following commodities are hereby added to Procurement List 1983:

Class 6530

Bag, Urine Collection
6530–00–057–0953

Class 8440

Belt, Trousers
8440–00–964–3978
8440–00–261–4965
8440–00–261–4966
8440–00–270–0535
8440–00–412–2309
8440–00–573–1666
8440–00–270–0536
8440–00–412–2312
8440–00–573–1765
8440–00–270–0537
8440–00–412–2314
8440–00–573–3727
8440–00–290–0567
8440–01–052–9738
8440–00–290–0568
8440–01–052–9739
8440–00–269–5311
8440–01–052–9740
8440–00–634–5632
8440–00–753–6363
8440–00–577–4177
8440–00–753–6364
8440–00–577–4178
8440–00–753–6365
8440–00–270–0541
8440–00–412–2326
8440–00–270–0542
8440–00–412–2341
8440–00–270–0543
8440–00–412–2342
8440–01–009–9290
8440–01–009–9292
8440–01–009–9293

Deletions

It is proposed to delete the following commodities and service from Procurement List 1983, November 18, 1982 (47 FR 52101):

Class 7105

Mirror, Glass
7105–00–260–1390

Class 8415

Gloves, Cloth, Cotton, White
8415–00–268–8354
8415–00–268–8353

Sic 7349

Janitorial Service
U.S. Federal Building and Courthouse
436 Dwight Street
Springfield, Massachusetts

C. W. Fletcher,
Executive Director.

[FR Doc. 83–24178 Filed 9–1–83; 8:45 am]
BILLING CODE 6820–33–M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

August 23, 1983.

The USAF Scientific Advisory Board Sciences Panel will hold meetings on 11 October 1983, through 13 October 1983, at Kirtland Air Force Base, New Mexico.

The Group will be briefed on and review on-going projects in the field of EMP Technology.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202-697-4811.

Winnibel F. Holmes,
Air Force Federal Register Liaison Officer.

[FR Doc. 83–24085 Filed 9–1–83; 8:45 am]
BILLING CODE 3910–01–M

Senior Executive Service; Performance Review Boards; List of Members

Below is a listing of Additional individuals who are eligible to serve on the Performance Review Boards for the Department of the Air Force in accordance with the Air Force Senior Executive Appraisal and Award System.

Others

Brigadier General Milford E. Davis.
Brigadier General Edward N. Giddings.

Winnibel F. Holmes,
Air Force Federal Register Liaison Officer.

[FR Doc. 83–24086 Filed 9–1–83; 8:45 am]
BILLING CODE 3910–01–M

Department of the Army

Military Traffic Management Command; Military Personal Property Symposium; Open Meeting

Announcement is made of a meeting of the Military Personal Property Symposium. This meeting will be held on 22 September 1983 at the Bolling Air Force Base Officers' Club, Washington, D.C., and will convene at 0900 hours and adjourn at approximately 1500 hours.

Proposed Agenda: The purpose of the Symposium is to provide an open discussion and free exchange of ideas with the public on procedural changes to the Personal Property Traffic Management Regulation (DOD 4500.34–R), and the handling of other matters of mutual interest relating to claims actions concerning the Department of Defense Personal Property Movement and Storage Progam.

All interested persons desiring to submit topics to be discussed should contact the Commander, Military Traffic Management Command, ATTN: MT–PPM, at telephone number 756–1600, between 0800–1600 hours. Topics to be discussed should be received on or before 1 September 1983.

Dated: August 30, 1983.

Nathan R. Berkley,
Colonel, GS, Director of Personal Property.

[FR Doc. 83–24082 Filed 9–1–83; 8:45 am]
BILLING CODE 3710–08–M

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: Tuesday and Wednesday, 20 and 21 September 1983.

Times: 0830–1700 hours, both days (Closed).

Place: The Pentagon, Washington, D.C.

Agenda: The Army Science Board Ad Hoc Subgroup on Army Utilization of Space Assets will meet for classified briefings and discussions on the capabilities of currently

available and future space assets to enhance the Army's ability to carry out its mission. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The Army Science Board Administrative Officer, Sally A. Warner, may be contacted for further information at (202) 695–3039 or 697–9703.

Sally A. Warner,

Administrative Officer.

[FR Doc. 83-24278 Filed 9-1-83; 8:45 am]

BILLING CODE 3710-08-M

Department of the Navy

Chief of Naval Operations, Executive Panel Advisory Committee, Task Force on Cost Technology; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee Task Force on Cost Technology will meet on September 20, 1983, from 9:00 a.m. to 5 p.m. at Northrop Corporation in Los Angeles, California. All sessions will be closed to the public.

The entire agenda for the meeting will consist of discussions of key issues related to the cost growth and cost technology of naval strategic and tactical systems and platforms and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact Commander R. Robinson Harris, Executive Secretary of the CNO Executive Panel Advisory Committee, 2000 North Beauregard Street, Room 392, Alexandria, Virginia 22311. Phone (202) 694–8422.

Dated: August 31, 1983.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy.

[FR Doc. 83-24216 Filed 9-1-83; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP81-296-003]

Tennessee Gas Pipeline Co., a Division of Tenneco, Inc.; Intent To Adopt Portions of Tennessee/Boundary Looping Project: Final Environmental Impact Statement and Finding of No Significant Change of Environmental Impact

August 30, 1983.

Notice is hereby given that the staff of the Federal Energy Regulatory Commission (FERC) intends to adopt the portions of the *Tennessee/Boundary Looping Project: Final Environmental Impact Statement* (FEIS), issued February 7, 1983, pertaining to the facilities proposed by Tennessee Gas Pipeline Company (Tennessee) to transport gas imported to provide firm initial service (initial service) for Boundary Gas, Inc. (Boundary).

The FEIS analyzed construction and operation of 256.75 miles of 10- through 42-inch diameter pipeline loop, 36,465 horsepower of compression, including two new compressor stations, and appurtenant metering and regulating facilities. Because of its partnership in the pipeline proposed by Niagara Interstate Pipeline System (NIPS) and the reduced volumes of gas authorized for import by the Canadian National Energy Board, Tennessee has amended its facility requirements, proposing now to construct a total of 104.5 miles of 10- through 30-inch diameter pipeline loop, 16,300 horsepower of permanent compression, and appurtenant metering and regulating facilities. Since most of the applications associated with the Canadian imports proposed by Tennessee, Boundary, NIPS, and others have been consolidated under FERC Docket No. CP81–107, *et al.*, Tennessee and Boundary have, as an interim measure, proposed the initial service to provide gas to 4 of the 14 Boundary repurchasers. To transport the 40,000 Mcfd of firm initial service gas for Boundary, Tennessee has proposed to construct and operate 41.4 miles of 30-inch diameter pipeline, two temporary compressor stations of 1,000 and 3,500 horsepower, and appurtenant metering facilities.

All or portions of originally proposed loops 2, 3, 4, 5, 6, and 7 would be constructed to transport the initial service gas. Compressor Station 233, previously analyzed as a 9,000-hp. station, would now be a 3,500-hp. temporary station. Compressor Station 230, the second temporry station near East Aurora, Erie County, New York, would have one 1,000-hp. compressor unit. The White Plains and West Milford Meter and Regulator Stations, also required, would be modified to accommodate the decreased volume of gas. The two temporary compressor stations would be abandoned if the NIPS project (Docket CP83–170–001) and related facilities, as well as the remainder of Tennessee's proposed facilities, were completed. Then, NIPS could transport the total volume of gas authorized for export to Tennessee, Boundary, and the other companies.

After preparing an environmental assessment, the FERC staff has determined that construction and operation of the initial service facilities would cause no significant change in the environmental impact identified in the FEIS. Except for the site-specific effect of a 1,000-hp. temporary compressor station, the environmental impact of the facilities has been adequately described in the FEIS. Although the location of one compressor station was changed, the basic recommendations concerning compressor facilities identified in the FEIS remain the same. The staff has also determined that because of recent information submitted by Tennessee, including the results of onsite surveys in the Manor Heights and Vly Creek Reservior areas, it no longer supports Alternatives 2B or 5A. The staff finds the proposed route through Manor Heights acceptable, provided Tennessee implements specific construction and mitigation measures, and its supports Tennessee's modified Alternative 5A circumventing the water supply reservior. With those exceptions and some minor changes adapting the recommendations to the initial service facilities, and basic findings of the FEIS are still valid.

National Fuel Supply Corporation (National Fuel) and Consolidated Gas Supply Corporation (Consolidated), Texas Eastern Transmission Corporation (Texas Eastern), and Algonquin Gas Transmission Company (Algonquin) have identified alternatives which would reduce the facility requirements for the firm initial service.

National Fuel has indicated that it could provide gas to Tennessee from its domestic supply or transport the Canadian gas through an exchange arrangement with Tennessee. Either alternative would eliminate the need for the two proposed temporary compressor stations.

Consolidated, Texas Eastern, and Algonquin have jointly proposed the CONTEAL Alternative. Consolidated would provide the gas from its domestic

supply, and Texas Eastern and Algonquin would transport and deliver the gas to the four Boundary repurchasers. Texas Eastern would be required to construct four 30-inch diameter loops totalling 8.25 miles, while Algonquin would install one 30-inch diameter loop 3.5 miles long. Although at least one meter and regulator station would require modification, no additional compression would be necessary for the CONTEAL Alternative. The staff has developed a minor route deviation for Algonquin's 3.5-mile loop to avoid some 28 residences.

Other technical FERC staff have also identified three potential alternatives, one of which would use domestic gas. One of these alternatives would combine National Fuel's transport-exchange of Canadian gas with the CONTEAL Alternative facilities. Any of the staff alternatives would eliminate the two temporary compressor stations proposed by Tennessee, thus avoiding any environmental impact associated with them.

The environmental assessment concludes that the Tennessee proposal would be environmentally acceptable. Of the alternatives, the staff believes that, if technically feasible, the CONTEAL Alternative transporting either domestic or Canadian gas would be environmentally superior and would therefore be preferable. As proposed, the CONTEAL Alternative would require a total of 11.75 miles of 30-inch diameter loop instead of Tennessee's proposed 41.4 mile of 30-inch diameter loop and 4,500 horsepower of compression. Therefore, the environmental staff recommends that the CONTEAL Alternative be used to transport gas for the firm initial service.

This environmental assessment, along with applicable portions of the FEIS, will be presented for cross-examination during the environmental phase of the hearings for this docket. Anyone wishing to present evidence on environmental matters must file with the Commission a petition to intervene pursuant to Rule 214 of the Commission's Rules and Practice and procedure (18 CFR 385.214). Any direct testimony concerning environmental matters must be filed in accordance with 18 CFR 385.507–508 (Commission's Rules 507 and 508) and 18 CFR 2.82 (NEPA regulations).

Copies of the environmental assessment have been sent to all parties that received the FEIS. Any person who wishes to do so may file comments on the environmental assessment. Comments should be sent to the Office of the Secretary, FERC, 825 North Capitol Street, NW., Washington, D.C. 20426.

Additional information about this project may be obtained from Mr. James P. Daniel, Environmental Evaluation Branch, Office of Pipeline and Producer Regulation, FERC, Room 7102, 825 North Capitol Street, NW., Washington, D.C. 20426, or by telephone at (202) 357–9042.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-24137 Filed 9-1-83; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS–59134; TSH–FRL 2427–6]

Certain Chemicals, Premanufacture Exemption Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5(a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's revised statement of interim policy published in the **Federal Register** of November 7, 1980 (45 FR 74378). This notice, issued under section 5(h)(6) of TSCA, announces receipt of two applications for exemptions, provides a summary, and requests comments on the appropriateness of granting each of the exemptions.

DATE: Written comments by September 19, 1983.

ADDRESS: Written comments, identified by the document control number "[OPTS–59134]" and the specific TME number should be sent to: Document Control Officer (TS–793), Management Support Division, Office of Toxic Substances, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Margaret Stasikowski, Acting Chief, Notice Review Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–216, 401 M Street, SW, Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the TME received by EPA. The complete non-confidential document is available in the Public Reading Room E–107.

TME 83–77

Close of Review Period. October 5, 1983.

Manufacturer. Confidential.

Chemical. (G) Substituted benzocyazoleydine ethylidine.

Use/Production. (G) Industrial coating. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal, a total of 8 workers.

Environmental Release/Disposal. No release.

TME 83–78

Close of Review Period. October 10, 1983.

Manufacturer. Confidential.

Chemical. (G) Substituted Heterocycle.

Use/Production. Confidential. Prod. range: 500 kgs—3 months period.

Toxicity Data. Micronucleus test; Negative; Ames Test: Negative without activation; positive with activation in strain.

Exposure. Dermal and inhalation, a total of 6 workers, up to 8 hrs/da, 3 shifts/da.

Environmental Release/Disposal. No release. Disposal by incineration.

Dated: August 29, 1983.

V. Paul Fuschini,

Acting Director, Management Support Division.

[FR Doc. 83-24008 Filed 9-1-83; 8:45 am]

BILLING CODE 6560-50-M

[AMS–FRL 2428–3]

Fuels and Fuel Additives; Extension of Comment Period for Waiver Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice extends, by 21 days, the time during which comments will be accepted concerning an application for a fuel waiver submitted by the American Methyl Corporation.

DATE: Comments should be submitted on or before September 12, 1983.

ADDRESS: Copies of the non-confidential information relative to this application are available for inspection in public

docket EN–83–03 at the Central Docket Section (LE–131) of the EPA, Gallery I–West Tower, 401 M Street SW., Washington, D.C. 20460, (202) 382–7548, between the hours of 8:00 a.m. to 4:00 p.m. Any comments from interested parties should be addressed to this docket with a copy forwarded to Richard G. Kozlowski, Director, Field Operations and Support Division (EN–397), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: James W. Caldwell, Chief, Fuels Section, Field Operations and Support Division (EN–397), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (202) 382–2635.

SUPPLEMENTARY INFORMATION: On May 17, 1983 the American Methyl Corporation (American Methyl) submitted an application for a waiver of the section 211(f) prohibition on certain fuels and and fuel additives set forth in the Clean Air Act (Act) for a fuel additive known as METHYL–10. See 48 FR 31063 (July 6, 1983). The public comment period established with respect to this application is scheduled to close on August 22, 1983.

The EPA has received a request from the Atlantic Richfield Company (ARCO) for an extension of the comment period in order to allow time to test and comment upon the additive. In order to provide the maximum amount of information upon which to base a decision the comment period has been extended to September 12, 1983.

The Administration's decision on this waiver application is due on or before November 14, 1983.

Dated: August 26, 1983.

Richard D. Wilson,

Acting Assistant Administrator for Air, Noise and Radiation.

[FR Doc. 83–24164 Filed 9–1–83; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–42021A; TSH–FRL 2400–1]

Antimony Metal, Antimony Trioxide, and Antimony Sulfide; Decision To Accept Negotiated Testing Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In a proposed Negotiated Testing Agreement published in the **Federal Register** of January 6, 1983 (48 FR 717) the Agency announced a preliminary decision not to initiate rulemaking to require chemical fate, environmental or health effects testing of antimony metal, antimony trioxide, and antimony sulfide based on the Agency's analysis of the existing data and its preliminary acceptance of a program submitted by the Antimony Oxide Industry Association (AOIA). The Agency has concluded that the testing program sponsored by the AOIA will expeditiously provide more information than initiating rulemaking and finds no reason to modify its preliminary decision. Therefore, EPA will not issue a TSCA section 4(a) rule at this time to require health, environmental effects and chemical fate testing of Sb metal, Sb_2O_3 and Sb_2S_3.

FOR FURTHER INFORMATION CONTACT: Jack P. McCarthy, Director, TSCA Assistance Office (TS–799), Environmental Protection Agency, Room E–543, 401 M Street, SW., Washington, D.C. 20460, Toll Free: (800–424–9065), in Washington, D.C. (554–1404), outside the USA (operator–202–554–1404).

SUPPLEMENTARY INFORMATION: .

I. Background

In the Fourth Report of the Interagency Testing Committee (ITC), published in the June 1, 1979, **Federal Register** (44 FR 31866), the ITC designated antimony metal (Sb metal), antimony trioxide (Sb_2O_3) and antimony sulfide (Sb_2S_3) for priority testing consideration and recommended that these antimony substances be considered for chemical fate as well as environmental and health effects testing. The ITC's designation of these antimony substances was based on: (1) Large production volume; (2) Anticipated occupational and consumer exposure; (3) Expected environmental release; (4) Physical and chemical characteristics; (5) Existing human and animal data on health effects; and (6) Existing chemical fate and environmental effects data. The ITC recommended that Sb metal, Sb_2O_3 and Sb_2S_3 be considered for health effects testing (carcinogenicity, mutagenicity, teratogenicity and other chronic effects, including reproductive effects), for environmental effects testing, for chemical fate testing, and for epidemiology studies.

In a **Federal Register** notice published on January 6, 1983 (48 FR 717), the Agency responded to the ITC, as required under section 4(e) of TSCA, by describing a Negotiated Testing Agreement developed by the EPA and AOIA and announcing EPA's preliminary decision not to initiate rulemaking under section 4(a) of TSCA to require health, environmental effects and chemical fate testing for the antimony substances. This decision was based on the Agency's analysis of the existing data and its preliminary acceptance of the program submitted by the AOIA which, in the Agency's view, appeared likely to provide adequate test data more expeditiously than a test rule and which would, in addition, provide for interim control of exposure to antimony substances while testing was being performed. The AOIA program was included in the public record (docket number OPTS–42021). The January 6, 1983, notice requested comment on the AOIA program and the Agency's rationale for not proposing to require testing by rule.

II. EPA's Response to Public Comments

The Agency received comments from the Natural Resources Defense Council (NRDC), the AOIA, and Dr. William Watt, author of one of the oncogenicity studies cited in the January 6, 1983, notice. These public comments and EPA's response to them are summarized below.

1. *NRDC's comments.* NRDC criticized EPA's policy of accepting negotiated testing agreements in lieu of rulemaking to require testing under section 4(a) of TSCA, and argued that the "plain language" of TSCA mandated that testing of section 4(e) chemicals must be accomplished by rule. In addition, NRDC contended that negotiated testing had many procedural and legal deficiencies; in its comments NRDC particularly cited the lack of enforceability of negotiated testing agreements and their failure to trigger other statutory provisions which would be triggered by a TSCA section 4(a) rule. NRDC made no chemical-specific comments about the Agency's testing rationale or the proposed AOIA testing and control program.

EPA has previously addressed NRDC's general concern about negotiated testing in a **Federal Register** notice published on January 5, 1982 (47 FR 335), which described the negotiated testing program for alkyl phthalates. A more detailed analysis of NRDC's arguments was prepared for inclusion in the public record of that action (docket number OPTS–42005). As was indicated in that notice, EPA believes that neither TSCA nor its legislative history support NRDC's contention that Congress established rules as the exclusive means for accomplishing testing. EPA believes that negotiated testing is consistent with the statutory purpose that adequate data on chemicals be developed expeditiously by the involved companies.

EPA agrees that negotiated testing is not legally enforceable, but as the

Agency has previously indicated in its January 5, 1982, **Federal Register** notice (47 FR 335), there are practical reasons why it expects that the involved companies will abide by their agreements in the vast majority of cases. For the agreement negotiated with the AOIA, these reasons include a commitment to schedule AOIA/EPA consultations regarding the testing programs, and a commitment to inspection of laboratory facilities in accordance with the authority and procedures outlined in section 11 of TSCA by duly designated representatives of the EPA. Furthermore, the Agency disagrees with NRDC's contention that if EPA is forced to develop a rule because of a failure of a negotiated program, the entire program will take substantially longer than if EPA had initially pursued rulemaking. Rather, EPA believes that it could conduct an expedited rulemaking which should not substantially lengthen the rulemaking peocess.

NRDC is correct in asserting that acceptance of a negotiated testing program will not trigger certain other statutory provisions that would be initiated if the Agency proposed, and then promulgated, a test rule for these substances. However, EPA believes that NRDC has considerably exaggerated the practical impact of this difference. Although a negotiated testing program does not trigger the obligation of a manufacturer of a new substance subject to a section 4 rule to submit test data under section 5(b)(1) and to delay manufacturing, that particular requirement only relates to EPA actions under section 4 concerning categories of chemical substances which include chemicals for which TSCA section 5 notices would be required. It would not be applicable to Sb metal, Sb_2O_3 or Sb_2S_3, which were designated by the ITC as individual chemical substances.

In addition, contrary to NRDC's claim, EPA has the same authority to disclose health and safety data generated from negotiated testing as it would if the testing were conducted under a rule. Section 14(b)(1)(A)(i) concerns data from any health and safety study on a chemical in "commercial distribution" (which should include virtually all chemicals designated by the ITC) and makes no distinction based upon how the Agency receives the data.

EPA's position that negotiated testing is a legally sufficient alternative to section 4 rulemaking was examined by the General Accounting Office (GAO) during 1982. The GAO concluded that "neither section 4(a) nor 4(e) compels the promulgation of a test rule proceeding where adequate test data may be developed pursuant to voluntary testing agreements. GAO further concludes that since voluntary agreements are consistent with significant purposes of section 4, implied authority exists for EPA to negotiate such agreements". (GAO. 1982. EPA Implementation of Selected Aspects of the Toxic Substances Control Act. General Accounting Office. December 7, 1982. GAO//RCED-83-62 pp. 15).

Based on the above, EPA continues to believe that, where appropriate testing is proposed, negotiated testing agreements are an appropriate alternative to expensive, time-consuming rulemaking under section 4 of TSCA.

2. *AOIA's comments.* In its comments, the AOIA urged final acceptance of the AOIA program by the EPA and clarified certain important issues addressed in the January 6, 1983, **Federal Register** notice (48 FR 717). The Agency has reviewed these comments and its response is provided below.

a. *Advantage of the AOIA negotiated program.* The AOIA reiterated the advantages of the negotiated program. The AOIA stated that the negotiated program will provide a "substantial" margin of safety to exposed workers pending the completion of proposed studies. The Agency believes that a determination of whether that safety margin is "substantial", as stated by the AOIA, must await the results of the testing proposed as part of the negotiated program. However, the Agency believes that the AOIA control program will increase worker protection while testing is being performed.

The AOIA suggests that it is "unclear whether EPA could mandate testing of antimony substances under section 4." The Agency believes that the existing health effects and chemical fate data indicate that exposure to antimony substances may present an unreasonable risk which could have supported rulemaking under TSCA section 4(a)(1)(A)(i) to require testing of antimony substances, and that this issue is not as "unclear" as implied by the AOIA. However, the Agency believes that the testing and control program offered by the AOIA is a more reasonable alternative than rulemaking for the antimony substances.

b. *Worker exposure to antimony substances.* The AOIA commented that "there is virtually no significant exposure to antimony metal and antimony sulfide." The Agency believes it would be difficult to quantify worker exposure as either "significant" or "non-significant" because of the difficulty in chemically distinguishing Sb metal or Sb_2S_3 from other forms of inorganic antimony in environmental and biological media. Based on production and use data, less worker exposure is likely to Sb and Sb_2S_3 than to Sb_2O_3. Furthermore, if the AOIA was using the term "significant exposure" in the context of TSCA section 4(a)(1)(B)(i), EPA finds that question to be irrelevant since EPA believes that health effects testing could be required on the basis that antimony substances "may present an unreasonable risk" as provided by section 4(a)(1)(A). The AOIA was also concerned that language in the January 6, 1983, **Federal Register** notice (48 FR 717) gave "the impression that substantial number of workers are exposed to antimony substances near the 0.1 mg/m^3 level." The Agency believes that the language in that notice provides an accurate estimate of the "maximum" number of users that would be exposed to antimony substances near those levels, because of existing data on number of users and "worst case" exposure levels for those users.

c. *No sound evidence that antimony poses an unreasonable risk.* "The AOIA does not believe that the available toxicological evidence provides a basis to conclude that, at the low levels of exposure that exist under present conditions of production and use, antimony substances present an unreasonable risk for the health of workers." The Agency did not find the antimony substances present an unreasonable risk. Rather, the Agency believes that the antimony substances "may" present an unreasonable risk of health effects, and that existing data are inadequate to reasonably determine or predict the extent of this risk. The bases for these beliefs are presented in the January 6, 1983, notice.

The AOIA reported that the ITC's concern for possible adverse health effects of antimony substances was triggered by an inhalation study in rats, the Watt study, which is discussed in the January 6, 1983, notice. However, the Watt study was submitted to the Agency after the designation of the antimony substances to the priority list by the ITC and was therefore not used to trigger the ITC's concern.

The AOIA reported that "experts who have examined the conditions under which the Watt study was conducted have expressed the opinion that the actual exposure levels experienced in the study were far in excess of the reported levels and were therefore substantially above current industrial levels." The AOIA also stated that the

MRI study, which was cited in the January 6, 1983, notice, provided "additional evidence of this deficiency." The Agency is unaware of any expert opinions related to actual levels in the Watt study being far in excess of the reported exposure levels. The reported exposure levels which induced non-neoplastic and neoplastic lesions in female rates were 1.6 ± 1.5 mg/m³ and 4.2 ± 3.2 mg/m³, respectively. The Agency recently received a copy of William Watt's doctoral dissertation which describes in detail the experimental methods that were used to quantify the exposure levels (Watt, W. D. April 1983. Chronic inhalation toxicity of antimony trioxide: validation of the threshold limit value. Doctoral Dissertation, Wayne State University, Detroit, Michigan. 136p.) The Agency has reviewed this dissertation, discussed it with the author, and finds no data to support the AOIA opinion that actual exposure levels were far in excess of the reported levels. Further, the Agency believes a determination of whether the reported levels in the Watt study are "substantially" above current industrial levels, must await the results of the workplace exposure monitoring study. Finally, the Agency believes that the major deficiency in the Watt study was the use of only one sex of rat per exposure level, not whether reported exposure levels exceeded actual exposure levels.

Because the Agency does not believe there is a deficiency between reported and actual exposure levels in the Watt study, the Agency does not believe that the MRI study provides "additional evidence of this deficiency." The Agency does believe that there were problems controlling the exposure levels during the first few weeks of the MRI study, but after these problems were resolved the exposure levels were adequately controlled. However, it should be noted that in the MRI study, with a mean Sb_2O_3 exposure level of 50 mg/m³, the "time to tumor" was 10 months compared to 17 months in the Watt study with a mean Sb_2O_3 exposure level, that induced neoplasia, of 4.2 mg/m³, indicating the biological differences between these exposure levels.

3. *Dr. Watt's comments.* Dr. William Watt supported the NTA for antimony substances, but disagreed with the statement in the January 6, 1983, notice that in his study there was a "lack of adequate control of exposure levels." The Agency provided this statement in reference to the overlap of the exposure levels in the Watt study and on the basis of information it had received prior to the receipt of Dr. Watt's dissertation; if one standard deviation is used to generate the range of exposures, then the range for the low exposure level would be 0.1–3.1 mg/m³, whereas the range for the high exposure level would be 1–7.4 mg/m³. The Agency is unable to reasonably determine the significance between these exposure levels, except that only the high exposure level induced neoplasia, suggesting that there were some toxicological differences between exposure levels.

In his comments, Dr. Watt also discussed a mutagenicity study for antimony acetate. The Agency examined this study, as well as several others, and does not believe that these data were relevant to assessing the mutagenicity of Sb metal, Sb_2O_3 and Sb_2S_3 because of differences in physical and chemical properties (including significant differences in water solubility) of organic antimony compounds and the antimony substances recommended for testing by the ITC.

Finally, Dr. Watt commented that exposure to Sb_2O_3 may arise during battery charging, during the addition of Sb_2O_3 to plastics and other materials, and during the cutting and sewing of upholstery and carpet containing Sb_2O_3. In conjunction with this comment, Dr. Watt implied that the AOIA epidemiology studies would include only male workers and suggested that epidemiology studies should include work forces outside the AOIA, with substantial number of potentially exposed females, such as the "soft trim" industry (carpet and upholstery cutting and sewing), since it appears as though Sb_2O_3 is neoplastic to female, but not male, rats.

The Agency has no data on estimated or measured levels of antimony substances that might be generated in the "soft trim" industry and to which female workers might be exposed. The Agency is concerned with the potential development of neoplasia in any worker population tht may be exposed to antimony substances. However, the Agency is also concerned with the potential development of non-neoplastic lesions and other chronic effects in any worker population that may be exposed to antimony substances. These non-neoplastic lesions have been detected at lower mean exposure levels of antimony substances in male and female rats than have neoplastic lesions. Furthermore, the Agency believes that controlling exposure to antimony substances at levels that would decrease the potential for development of non-neoplastic lesions and other chronic effects in both sexes would decrease the potential for development of neoplastic lesions in workers of either sex exposed to antimony substances. The Agency believes that the program it developed with the AOIA will provide reasonable interim control of worker exposure to antimony substances until additional toxicology data are developed, as a result of the AOIA testing program, to demonstrate a more precise relationship between antimony substances' exposure levels and development of neoplastic and non-neoplastic lesions in male and female rats and any potential adverse health effects in workers exposed to antimony substances. The Agency believes that these data, in conjunction with the AOIA-endorsed ongoing epidemiology studies and the proposed AOIA medical surveillance program, may be used to estimate the probability that antimony substances may produce adverse health effects in human worker populations.

III. AOIA Program

1. *Scheduled tests.* In a notice published in the January 6, 1983, **Federal Register** (48 FR 717), the Agency described the AOIA's proposed program. The final study plans for this program are in the public record (docket number OPTS–42021A) and include:

a. A 90-day subchronic inhalation study of Sb_2O_3, to be initiated in late 1983 and for which a final report will be submitted in late 1984 to early 1985.

b. Chronic/oncogenic inhalation study of Sb_2O_3, to be initiated in mid 1985 and for which a final report will be submitted in late 1987 to early 1988.

c. Aerobic and anaerobic biodegradation studies of Sb_2O_3, to be initiated in late 1983 and for which a final report will be submitted in late 1984.

d. Sediment sorption stuides of Sb_2O_3, to be initiated in mid to late 1983 and for which a final report will be submitted in late 1984.

In addition to submitting study plans and associated reports, the AOIA will submit to the Agency periodic staus reports on: (1) Voluntary programs to monitor and control occupational exposure to antimony substances; (2) Voluntary programs to monitor and control atmospheric release of antimony substances; and (3) A medical surveillance program and a continuation of ongoing epidemiological studies.

2. *Review and conclusions.* EPA has reviewed the study plans and has concluded that:

a. The subchronic study will provide sufficient data to: (1) Establish plumonary clearance rates of Sb_2O_3 in

rats, (2) Assess the histopathological changes that occur in the rat respiratory system and as a result of subchronic Sb_2O_3 exposure, (3) Correlate rat urinary levels of Sb_2O_3 with exposure levels, (4) Assess any hematological and clinical chemistry anomalies in the rat associated with Sb_2O_3 exposure, and (5) Establish exposure levels for the chronic/oncogenic study.

b. The chronic/oncogenic study will provide sufficient data to assess the pathogenesis and dose/response characteristics of neoplastic and non-neoplastic lesions in the rat respiratory system resulting from Sb_2O_3 exposure.

c. The biodegradation and sorption studies will provide sufficient data to determine the fate of Sb_2O_3 in sediments.

d. The voluntary programs to monitor and control occupational exposure and atmospheric release of antimony substances will provide significantly increased protection of workers and the general population in the vicinity of facilities which manufacture and process antimony substances, while the testing program is being completed.

e. The medical surveillance program and a continuation of ongoing epidemiological studies will provide relevant information to assess the occupational exposure to antimony substances and the possible adverse health effects caused by such exposures.

IV. Public Records

EPA has established a public record for this decision not to pursue testing under section 4 (docket number OPTS-42021). This record includes:

(1) **Federal Register** notice designating Sb metal, Sb_2O_3 and Sb_2S_3 to the priority list and comments received thereon.

(2) Communications with industry related to the AOIA program, consisting of letters, contact reports of telephone conversations, and meeting summaries.

(3) AOIA program.

(4) Study plans.

(5) Published and unpublished data.

(6) **Federal Register** notice of the NTA proposal requesting comments on the negotiated program and comments received in response thereto.

The record, containing the information considered by the Agency in developing this decision, is available for inspection from 8:00 a.m. to 4:00 p.m. Monday through Friday except legal holidays in the OPTS Reading Room, E-107, 401 M Street, SW., Washington, D.C. 20460. The Agency will supplement this record periodically with additional relevant information.

(Sec. 4, 90 Stat. 2003; (15 U.S.C. 2601)).

Dated: August 26, 1983.

William D. Ruckelshaus,

Administrator.

[FR Doc. 83-3410 Filed 9-1-83; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-2428-2]

Availability of Environmental Impact Statements Filed August 22 Through August 26, 1983 Pursuant to 40 CFR Part 1506-9

RESPONSIBLE AGENCY: Office of Federal Activities, General Information (202) 382-5075 or (202) 382-5076.

Department of the Interior:

EIS No. 830467, Draft, BLM, CA, Red Mountain WSA, Preliminary Wilderness Recommendation, Mendocino Co. Due: *Dec. 1, 1983

EIS No. 830466, Final, BLM, CA, Yokayo Grazing Management Program, Due: Oct. 3, 1983

Department of Transportation:

EIS No. 830461, Final FHW, WI, US 53 Upgrading, Rice Lake to Trego, Barron and Washburn Counties, Due: Oct. 3, 1983

EIS No. 830462, Final FHW, IL, Springfield Railroad Relocation Demonstration Project, Sangamon Co., Due: Oct. 3, 1983

EIS No. 830463, Final, FHW, NC, Fayetteville CBD Loop, Hay Street to US 301, Cumberland County, Due: Oct. 3, 1983

EIS No. 830464, Final, FHW, MI, US 12/ Michigan Avenue Improvement, Nowlin St. to Elm St., Wayne Co., Due: Oct. 3, 1983

EIS No. 830442, Final, FHW, NH, I-393 and Approach Completion, NH-106 to NH-9/ US 4, Merrimack County, Due: Oct. 3, 1983

Department of Agriculture:

EIS No. 830460, Final, AFS, SEV, SD, WY, Black Hills National Forest Land and Resource Management Plan, Due: Oct. 3, 1983

Interstate Commerce Commission:

EIS No. 830466, Draft, ICC, REG, Nationwide Coal Rate Guidelines, Due: Oct. 17, 1983

U.S. Postal Service:

EIS No. 830465, DSuppl, UPS, CT, Stamford Post Office General Mail/Vehicle Maintenance Facilities, Due: Oct. 17, 1983

Amended Notice:

EIS No. 724206, Final, SCS, NB, Winters Creek Watershed Project, Sioux, Scotts and Bluff Counties Officially withdrawn

Dated: August 30, 1983.

Pasquale A. Alberico,

Acting Director, Office of Federal Activities.

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Draft General NPDES Permit for Coal Mining Activities in the Commonwealth of Kentucky

AGENCY: Environmental Protection Agency.

ACTION: Notice of draft general NPDES permit.

SUMMARY: The U.S. Environmental Protection Agency (EPA) and the Kentucky Natural Resouces and Environmental Protection Cabinet (NREPC) are today giving joint notice of a draft general National Pollutant Discharge Elimination System (NPDES) permit for certain coal mining activities in Kentucky. The Governor of Kentucky has requested that NREPC be given approval by EPA to administer the NPDES program in Kentucky. If the Administrator of EPA grants approval before this general permit is issued, NREPC will be the permit issuing authority. The activities proposed for coverage by this general permit include active mining areas, post-mining areas, coal refuse disposal piles, and coal preparation plant associated areas. The proposed permit will not authorize discharge from facilities meeting the definition of coal preparation plant in 40 CFR 434.11(e) and "new sources" (see 40 CFR 434.11(j) and the Effluent Guidelines Settlement Agreement for coal mines; 40 CFR 122.2 for coal preparation plant associated areas). EPA will continue to issue individual NPDES permits to these categories of dischargers.

The draft general permit establishes effluent limitations, prohibitions, and other conditions based on technology and water quality considerations applicable to the types of wastewater generated by the coal mining activities. The activities involve similar types of operations, discharge the same types of wastes, and require the same effluent limitations and monitoring. For these reasons, Region IV believes that discharges from these activities are more appropriately controlled under a general permit than under individual permits.

To obtain approval to discharge under this general permit, Region IV is requiring the following application requirements:

1. For currently expired NPDES permits, the discharger is required to submit a notice of intent to be covered by the general permit to the Permit Issuing Authority.

2. Dischargers having valid NPDES permits that will expire during the five year term of the general permit are

required to submit a notice of intent to be covered within thirty (30) days of the expiration of their current permit(s).

3. Dischargers who have not previously obtained a NPDES Permit will be required to submit Form SMP-01 of the Kentucky Bureau of Surface Mining Reclamation and Enforcement to the Permit Issuing Authority in lieu of standard EPA forms. Such submittals shall be accompanied by a request to be covered by the general permit and sufficient information about the discharge(s) to allow a new source determination to be made. The applications determined to be "new dischargers" (as opposed to new sources) are not subject to the National Environmental Policy Act (NEPA) and will be considered for coverage under the general permit. If appropriate, applications that are determined to be "new sources" will be issued individual permits after completion of the environmental review and public participation requirements. Dischargers submitting new applications for NPDES permits should do so at least one-hundred and eighty (180) days before the date the discharge is to commence.

All dischargers requesting coverage under this general permit must have obtained a valid Surface Disturbance Mining Permit (Pub. L. 95-87) as described in Part III.B. of the fact sheet. The coal mining operations that are granted coverage under the general permit will be authorized to discharge upon receipt of written notification by the Permit Issuing Authority.

DATES: Comments must be received on or before October 3, 1983.

The Public Hearing for the General Permit for Coal Mining activities in the Commonwealth of Kentucky will be held October 6, 1983, at Prestonsburg Community College, Bert Combs Drive, Prestonsburg, Kentucky 41653, beginning at 7:00 p.m.

Hearing Procedures

The Hearing Panel will include representatives of EPA, Region IV and the Kentucky NREPC.

The following are policies and procedures which shall be observed at the public hearing:

1. The Presiding Officer shall conduct the hearing in a manner that permits open and full discussion of any issues involved;

2. Any person may submit written statements or documents for the record;

3. The Presiding Officer may, in his discretion, exclude oral testimony if such testimony is overly repetitious of pevious testimony or is not relevant to the decision to issue the general permit;

4. Members of the Hearing Panel may ask questions of witnesses and respond to questions and statements of witnesses;

5. The transcript taken at the hearing, together with copies of all submitted statements and documents, shall become a part of the record; and

6. The hearing record shall be left open until the deadline for receipt of comments specified at the beginning of this notice to permit any person to submit additional written statements or to present views or evidence tending to rebut testimony presented at the public hearing.

Hearing statements may be oral or written. Written copies of oral statements are urged for accuracy of the record and for use of the hearing panel and other interested persons. Statements should summarize any extensive written materials.

After consideration of all written comments and of the requirements and policies in the Act and appropriate regulations, the Permit Issuing Authority will make determinations regarding the permit issuance. If the determinations are substantially unchanged from those announced by this notice, the Permit Issuing Authority will so notify all persons submitting written comments. If the determinations are substantially changed, the Permit Issuing Authority will issue a public notice indicating the revised determinations.

Address: Public comments should be sent to: Ms. Earline Hanson, Water Management Division, U. S. Environmental Protection Agency, 345 Courtland Street, Atlanta, Georgia 30365.

For further information and copies of the draft permit and fact sheet, contact: David Peacock, Region IV at the address above or by telephone at 404-881-2156 or FTS 257-2156, or Karen Armstrong-Cummings, Kentucky DEP, Fort Boone Plaza, 18 Reilly Rd., Frankfort, Kentucky 40601, 502/564-3410.

Fact Sheet in Support of the Draft General NPDES Permit for the Coal Mining Point Source Category in Kentucky

NPDES General Permit No.: KYG040001

I. Background

A. General Permits

Section 301(a) of the Clean Water Act (the Act) provides that the discharge of pollutants is unlawful except in accordance with a National Pollutant Discharge elimination System (NPDES) permit. Although such permits to date have generally been issued to individual dischargers, EPA's regulations authorize the issuance of "general permits" to categories of similar discharges. (See 40 CFR 122.28, 48 FR 14184, April 1, 1983.) EPA may issue a single, general permit to a category of point sources located within the same geographic area whose discharges warrant similar pollutant control measures.

The Director of an NPDES permit program is authorized to issue a general permit if there are a number of point sources operating in a geographic area that:

1. Involve the same or substantially similar types of operations;

2. Discharge the same types of wastes;

3. Require the same effluent limitations or operating conditions;

4. Require the same or similar monitoring; and

5. In the opinion of the Director, are more appropriately controlled under a general permit than under individual permits.

Violation of a condition of a general permit constitutes a violation of the Clean Water act and subjects the discharger to the penalties specified in Section 309 of the Act.

Any owner or operator authorized by a general permit may be excluded from coverage of a general permit by applying for an individual permit. This request may be made by submitting an NPDES permit application, together with reasons supporting the request, no later than 180 days before the date on which the discharge is to commence, unless permission for a later date is granted by the Director. The Director may require any person authorized by a general permit to apply for and obtain an individual permit. Any interested person may petition the Director to take this action. However, individual permits will not be issued for coal mining operations covered by this general permit unless it can be clearly demonstrated that inclusion under the general permit is inappropriate. The Director may consider the issuance of individual permits when:

1. The discharge(s) is a significant contributor of pollution as determined by the factors set forth in 40 CFR 122.28(c)(2);

2. The discharge(s) is not in compliance with the terms and conditions of the general permit;

3. A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the point source;

4. New or revised effluent limitation guidelines are promulgated for point sources covered by the general NPDES permit;

5. A Water Quality Management Plan containing requirements applicable to such point sources is approved; or

6. The requirements listed in 40 CFR 122.28(a) are not met by the discharger.

B. Coal Mining Activities

The Commonwealth of Kentucky has two important coal producing regions known as the Eastern and Western Kentucky Coal Fields. The western region comprises approximately 5,000 square miles in 20 counties and is situated in the southeastern tip of the physiographic province known as the Illinois Basin, where approximately 80 coal beds have been identified. The geology and physiography combine to make this area conducive to coal mining. Projections for future markets indicate an increase in coal consumption for both foreign and domestic markets. Coal production in the Western Kentucky Coal Field reached it highest level in 1975. Since then, coal mining activity has decreased because the high sulfur content of the coal has made it less competitive with low sulfur coals. Coal production for the most recently available five-year period (1975–1979) indicated that production has fallen from 55.7 million tons in 1975 to 43.2 million tons in 1979, a production decrease of approximately 22.5%. Counter to the overall coal production trends in western Kentucky, several counties have shown a general increase in 1975–1979. These production increases have been attributed to the increased mining of number 6 coal which has a lower sulfur content than most other coals found in the region. Approximately 98% of all coal production in the Western Coal Field was sold to electric utilities in 1979.

The Eastern Kentucky Coal Field comprises 38 counties and includes approximately one-fourth of the total land area of the Commonwealth. The region is located within the physiographic provinces known as the Valley and Ridge Province and the Appalachian Plateau Province. The topography of the region is primarily mountainous with elevations up to 4150 feet above sea level. Coal mines are active in 31 of the 38 counties with a 1978 reported production of 97.0 million tons. The number of coal mines in the Eastern Coal Field decreased between 1975 and 1977 with the most marked drop occurring in the number of mines producing less than 10,000 tons per year. The number of larger mines producing in excess of one-half million tons per year has increased. Coal was produced from 58 seams in eastern Kentucky during 1977 although underground mines were active in only 34 of those seams. Eastern Kentucky coal is classified as high-volatile A bituminous or high-volatile B bituminous with generally low ash and sulfur content. Approximately 59% of the coal produced in the region is consumed by electric utilities and 18% by metallurgical coking operations.

II. Description of Wastewater Sources and Effluent Characteristics

A. Wastewater Sources

Water usage in the coal mining industry is different than in other major industries for a number of reasons. First, water is not used in the mining of coal and is a hindrance to the operation of strip and underground mining machinery. Second, water usage is generally limited to dust suppression and equipment cooling. Third, coal mines often occupy hundreds of acres of land subject to a high amount of precipitation. Therefore, pollution abatement must be approached differently, with reliance on source controls as well as end-of-pipe treatment technologies.

The major sources of wastewater in the coal mining industry are:

(1) Surface runoff and groundwater discharged from the active mining area;

(2) Wastewater generated by the removal of impurities from raw coal in preparation plants;

(3) Precipitation induced runoff in preparation plant associated areas; and

(4) Runoff generated from reclamation areas and discharges from underground mines after mining ceases.

Coal mine wastewater flows are highly variable and can not be related to actual coal production. Rather, there are a number of variables which preclude such a relationship, including climatology, location of aquifers, amount of disturbed acreage, characteristics of individual watersheds, and rate of coal extraction. Data collected by EPA to support promulgation of effluent guidelines (40 CFR 434) indicate that eighty percent of flow volumes fall between 7,000 gallons per day and 4.5 million gallons per day with the median flow (50%) being 250,000 gallons per day and the mean flow approaching 1 million gallons per day.

B. Effluent Characteristics

The principal pollutants in surface water from coal mining activities include suspended and dissolved solids, pH and certain metal species. Suspended solids result from erosion of scarified areas where vegetation has been removed. The level of sediment concentration in runoff is a function of the geology and hydrology of the area being mined and may vary widely from one mine to another. Dissolved solids can result from the infiltration of precipitation that leaches through spoil and coal piles. Acid leaching of soil and coal, and ion exchange reactions of runoff and soil, also cause the formation of this pollutant. Calcium, magnesium, and sodium are the principal dissolved materials in surface runoff.

Mine drainage from coal mining operations may generally be classified as acid or alkaline. Iron sulfide, or pyrite, is a common substance formed from mineral sulfur and it is this sulfur containing compound that is a precursor to the formation of acid mine drainage. As water drains across or percolates through pyritic material in the presence of oxygen, the pyrite is oxidized to ferrous iron and sulfuric acid. As the pH of the pyritic system decreases below five, several species of bacteria become active and further oxidize the ferrous iron to the ferric state. The presence of these bacteria is generally an indication of rapid pyrite oxidation and is accompanied by waters low in pH and high in iron, manganese, and dissolved solids. The sulfuric acid formed from these reactions is an effective extraction agent causing trace elements to be leached and dissolved into solution.

Acid mine drainage resulting from strip mining operations is generally associated with the Western Kentucky Coal Field. Wastewater from coal mining activities in eastern Kentucky is normally classified as alkaline. However, acid drainage can be readily formed by rain falling on either a coal storage or refuse pile. Also, acid waters can be formed in underground mines and aquifers if sufficient oxygen is present to permit oxidation of pyritic materials in either the coal seam or adjacent strata.

After active mining has ceased and reclamation has been initiated, the wastewater resulting from post-mining discharges will also vary with the hydrogeology of the area, the type of mining (i.e. surface or underground), and the reclamation practices being employed. Runoff from surface reclamation areas directly following active mining can exhibit substantial suspended solids loadings until vegetation is well established. On the other hand, discharges from underground workings at underground mines may be similar to the wastewater encountered during active mining.

III. Scope of the General Permit

A. Covered Coal Mining Activities

The proposed general permit authorizes discharges from certain type

of facilities that engage in the mining of coal within the Commonwealth of Kentucky for a period of five (5) years beginning with the day that the final permit is published in the Federal Register. The following categories of coal mining activities are included:

1. Active mining areas: The areas, on and beneath land, used or disturbed in activity related to the extraction, removal, or recovery of coal from its natural deposits;

2. Post-mining areas: Reclamation areas or the underground workings of an underground coal mine after the extraction, removal, or recovery of coal from its natural deposit has ceased and prior to bond release. The term reclamation area means the surface area of a coal mine which has been returned to required contour and for which the Phase I reclamation bond release has been obtained from the State; and

3. Coal preparation plant associated areas: The coal preparation plant yards, immediate access roads, coal refuse piles, coal storage piles, and coal handling facilities (tipples). Discharges from facilities meeting this definition of coal preparation plant associated areas are included in the scope of the draft permit. Wastewater generated by such facilities is not generally the result of coal washing or cleansing but rather runoff induced by rainfall from coal storage and loading facilities. Such discharges are similar to those occurring from active mining areas and are controlled by the same technology. EPA's intention in including associated areas within the scope of this permit is to include facilities which are primarily engaged in the storage and loading of coal where no washing or cleansing is involved.

4. Coal refuse disposal pile: Any coal refuse deposited on the earth and intended as permanent disposal or long-term storage (greater than 180 days) of such material, but does not include coal refuse deposited within the active mining area or coal refuse never removed from the active mining area.

B. Coverage Requirements

The coverage of the general permit is further limited to the categories of operators listed below which file notices of intent with the Permit Issuing Authority. Application requirements for each category are also given.

1. Operators with expired NPDES permits. The coverage of the general permit includes discharges from mining areas described in the original NPDES permit application. Extension of active mining into contiguous areas is also covered by the general permit, provided such extensions do not qualify as new sources under 40 CFR 434.11(j)(ii). EPA is also requiring that operators obtain a valid Surface Disturbance Mining Permit (Interim Program Permit) as a necessary condition for coverage under the general permit.

In the case of renewals of expired new source NPDES permits, EPA is not required to subject such applications to environmental reviews under the National Environmental Policy Act (NEPA) if the mining operation has not been altered significantly to qualify as a major alteration. Therefore, renewal of expired new source coal mine permits are included within the scope of the general permit subject to the exclusion noted in paragraph II(c)(3) below.

Application Requirements. The discharger is required to submit a written notice of intent to be covered by the general permit which must contain the following information:

(1) Name and address of the operation;

(2) Applicable NPDES number(s);

(3) Identification of any new discharge locations not included in the expired NPDES permit; and

(4) Evidence that the operation has obtained a valid Interim Program Permit from the Kentucky Department of Surface Mining, Reclamation and Enforcement (DSMRE).

To encourage a rapid transition to the general permit approach during fiscal year 1984, it is recommended that all holders of expired NPDES permits file a notice of intent within 90 days of publication of the final general permit in the Federal Register. Submission of a notice after that time will not result in disqualification for coverage. Operators having several individual permits are also encouraged to consolidate requests for coverage into one notice of intent for all individual permits.

Previous submission of a renewal application for an individual permit does not relieve permittees desiring coverage under the general permit of the requirement to file a notice of intent.

Effective Date. Coverage under the general permit is effective upon receipt of a written notification from the Permit Issuing Authority.

2. Operators with current NPDES permits. Coverage under the general permit may include the contiguous areas as described in paragraph (1) above, and renewal of expiring new source permits subject to the exclusion noted in paragraph II(c)(3). The operator is also required to obtain a valid Surface Disturbance Mining Permit (Interim Program Permit).

Application Requirements. Dischargers having valid NPDES permits that will expire during the five year term of the general permit are required to file a notice of intent to be covered within at least thirty (30) days of the expiration of their permit(s). The request should contain the same information submitted by operators with expired permits.

It is recommended that all holders of NPDES permits file a notice of intent within 90 days of publication of the final general permit in the Federal Register. Submission of a notice after that time will not result in disqualification for coverage. Operators having several individual permits are also encouraged to consolidate requests for coverage into one notice of intent for all individual permits.

Effective Date. Coverage under the general permit is effective upon receipt of a written notification from the Permit Issuing Authority.

3. Operators who have not previously obtained a NPDES permit.

Application Requirements. Dischargers who have not previously obtained a valid NPDES permit are required to submit application Form SMP-01 of the Kentucky Bureau of Surface Mining Reclamation and Enforcement to the Permit Issuing Authority in lieu of standard EPA forms. The submission should be made at least one hundred and eighty (180) days before the date the discharge is to commence. Such submittals shall be accompanied by a notice of intent to be covered by the general permit and sufficient information about the discharge(s) to allow a new source determination to be made. EPA must continue to require application submittals on this category of discharger in order to comply with the environmental review requirements of NEPA. The applications determined to be new discharges (as opposed to new sources) are not subject to NEPA and will be considered for coverage under the general permit, generally within forty-five (45) days of receipt of the completed application. If appropriate, applications determined to be new sources will be issued individual permits after completion of the environmental review and public participation requirements.

The draft general permit has been developed with the recognition that the Commonwealth of Kentucky has formally applied for delegation of NPDES program responsibilities. The issuance of a NPDES permit by a State with an approved NPDES program does not constitute a major Federal action under NEPA and, therefore, the environmental review procedures specified therein are not applicable to State actions after delegation. In the

specific case of applications for new source coal mine permits which are submitted to the Commonwealth after delegation of the NPDES program, the Commonwealth will be required to issue individual permits for all such discharges. The Commonwealth does have the option of developing a separate general permit to cover the first issuance of new source permits.

Effective Date. Coverage under the general permit is effective upon the issuance of a fully effective Surface Disturbance Mining Permit (Permanent Program Permit) and receipt of a written notification by the Permit Issuing Authority.

C. Exclusions

The general permit will not authorize discharge from the following types of coal mining activities:

1. Coal preparation plants, as defined in 40 CFR 434.11(e). EPA will continue to regulate these facilities with individual NPDES permits and will require the submittal of NPDES applications for such discharges as specified in 40 CFR 122.21. Coal preparation plants are regulated more appropriately by individual permits because a large proportion of these facilities are classified as major dischargers.

2. Preparation plant associated areas, as defined in Part III.A. above, that comingle with discharges from local preparation plant water circuits, as defined in 40 CFR 434.11(g). Such discharges are more appropriately regulated via the individual permit for the preparation plant.

3. New Sources

a. Applicants for new NPDES permits which are determined by the Permit Issuing Authority to be "new sources" (see 40 CFR 434.11(j) for coal mines, 40 CFR 122.2 for coal preparation plant associated areas, and the Coal Mining Effluent Guidelines Settlement Agreement dated August 1, 1983).

EPA issuance of a NPDES permit to a discharged classified as a new source may be a major Federal action significantly affecting the quality of the human enviroment within the meaning of NEPA. Therefore, the issuance of such new source NPDES permits are subject to the environmental review provisions of NEPA as set forth in 40 CFR Part 6, Subpart F. Since the environmental review may alter the permit conditions or result in the outright denial of new source permits, Region IV believes it is inappropriate to include new source discharges within the scope of the general permit. Accordingly, EPA will continue to conduct environmental reviews and fulfill public participation requirements on all applications for new source NPDES permits.

b. Holders of current or expired NEPA permits with special conditions imposed as a result of previous new source environmental reviews under NPDES, unless the Permit Issuing Authority determines that these conidtions have been fully satisfied.

4. Discharges into water quality limited streams. The Permit Issuing Authority will screen each request for coverage under the general permit to determine if the discharge is located in a water quality limited stream segment. Although Kentucky has adopted stream use classifications and related water quality criteria, a comprehensive listing of all water quality limited stream segments is not presently available. The Commonwealth is investigating the use attainability of 22 streams which may aid in the identification of water quality limited segments. However, the principle mechanism for collecting sufficient data to accurately identify water quality limited segments. However, the principle mechanism for collecting sufficient data to accurately identify water quality limited segments is contained in the requirement for a Permanent Program Permit. Applicants for such permits are required to collect baseline water quality data for the receiving stream(s) to characterize water quality. As this data is made available, the Permit Issuing Authority can identify water quality limited segments and deny coverage under the general permit where appropriate. Dischargers denied coverage because the receiving waters are classified as water quality limited will be issued individual permits.

5. A coal operation is excluded from coverate under this general permit if it discharges to receiving waters that are classified as "Outstanding Resource Waters" in 401 KAR 5:031, Section 8.

IV Permit Conditions

A. Technology Based Effluent Limitations

EPA published effluent limitation guidelines for the coal mining point source category on October 13, 1982, which established effluent limitations for Best Practicable Control Technology (BPT), Best Available Technology (BAT) and New Source Performance Standards (NSPS) for direct discharges. The general permit is intended to be applied to those discharges located in effluent limited stream segments where the limitations described in 40 CFR 434 will allow maintenance of the designated stream use.

While EPA has not yet proposed or pormulgated a revised BCT methodology in response to the *American Paper Institute* v. *EPA* decision, EPA is proposing BCT limitations for this category. These limits would be identical to those for BPT. EPA is not proposing any more stringent limitations since we have identified no technology option which would remove significant additional amounts of conventional pollutants. As BPT is the minimal level of control required by law, no possible application of the BCT cost tests could result in BCT limitations lower than existing BPT limitations.

On August 1, 1983, the Environmental Protection Agency entered into a settlement with the Commonwealth of Pennsylvania, the National Coal Association and the West Virginia Mountain Stream Monitors which stay the effectiveness of certain provisions of the effluent limitations guidelines and standards promulgated for the coal mining point source category. The parties also agreed that preamble provisions and amendments contained in the settlement agreement would be applied to all draft NPDES permits for which public notice had not been issued prior to the date of the agreement. Provisions of the agreement covering new sources generally do not affect the draft general permit as it does not authorize discharges from new sources.

The following provisions of the draft incorporate provisions of the settlement agreement. Foremost, the alternative effluent limitations during precipitation events in Part IV.A.4 of the fact sheet and Part I.B.2 of the permit now include new limitations establishing a daily maximum for settleable solids, discharges from steep slope areas and mountain top removal operations, acid and ferruginous mine drainage from coal refuse disposal piles, and acid and ferruginous mine drainage from other types of operations. Second the settlement agreement deletes § 434.11(j)(ii) (E) and (F), acquisition of additional land or mineral rights and significant capital investment in additional equipment or additional facilities, from the criteria for major alterations in determining new sources. This change affects the determinations of new sources described in Part III.C.3 of the fact sheet. Finally, new definitions for coal refuse disposal piles, controlled surface mine discharges, and abandoned mines have been added to Part I.E. of the permit.

1. *Effluent Limitations for Active Mining Areas, Coal Refuse Disposal Piles, and Coal Preparation Plant*

Associated Areas—Existing Sources and New Dischargers.

Pollutant or pollutant property	Daily average (mg/l)	Daily maximum (mg/l)
Total suspended solids (TSS)	35	70
Iron (total)	3.5	7.0
Manganese (total)	2.0	4.0

Note.—pH must be within the range of 6 to 9 at all times. Acidity must be less than alkalinity at all times. Alkalinity must be greater than acidity at all times.

The effluent limitations for conventional pollutants (TSS and pH) represent the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT). However, the limitations for nonconventional pollutants (iron and manganese) represent the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT) which are equivalent to those promulgated under BPT. Further, in accordance with Subpart D, the limits for manganese do not apply if mine drainage is alkaline (pH equal to or more than 6 and total iron concentration less than 10 mg/l). The limitations specified above are applicable until the Phase I reclamation bond release is obtained, and for underground mines these requirements shall continue to apply to discharges from underground workings until final bond release.

The acidity/alkalinity measures were incorporated into the effluent limitations because the pH limit does not guarantee acid control in the treated effluent due to the presence of Lewis acids of metal ions commonly found in acid drainage. The pH parameter measures hydronium 100 acidity only (H_3O+). Therefore, in accordance with our best professional judgment (BPJ), EPA Region IV has included the acidity/alkalinity relationship as an additional limit in the permit to ensure an environmentally acceptable total acid content in the effluent.

2. *New Source Performance Standards for Active Mining Areas, Coal Refuse Disposal Piles, Underground Mine Drainage from Post Mining Areas, and Coal Preparation Plant Associated Areas—Renewal of Expired New Source Permits.*

Pollutant or pollutant property	Daily average (mg/l)	Daily Maximum (mg/l)
Total suspended solids (TSS)	35	70
Iron (total)	3.0	6.0
Manganese (total)	2.0	4.0

Note.—pH must be within the range of 6 to 9 at all times. Acidity must be less than alkalinity at all times. Alkalinity must be greater than acidity at all times.

The limitations for manganese do not apply if the mine drainage is alkaline (pH equal to or more than 6 and total iron concentration less than 10 mg/l). The acidity/alkalinity requirement is a BPJ determination of Region IV and is derived as previously described above.

3. *Effluent Limitation for Post-Mining Areas.* a. Reclamation areas.

Pollutant or pollutant property	Effluent limitations
Settleable solids (ml/l maximum for any 1 day	0.5 ml/l maximum for any one day.

Note.—pH must be within the range of 6 to 9 at all times. Acidity must be less than alkalinity at all times. Alkalinity must be greater than acidity at all times.

The effluent limitation for pH represents BPT while the settleable solids limitation represents BAT. The acidity/alkalinity requirement is a BPJ determination of Region IV and is derived as described previously. These limitations are applicable to all discharges from reclamation areas until the final bond release is obtained.

b. Underground mine drainage for existing sources and new discharges.

Pollutant or pollutant property	Daily average (mg/l)	Daily maximum (mg/l)
Total suspended solids (TSS)	35	70
Iron (total)	3.5	7.0
Manganese (total)	2.0	4.0

Note.—pH must be within the range of 6 to 9 at all times. Acidity must be less than alkalinity at all times. Alkalinity must be greater than acidity at all times.

The effluent limitations for the conventional pollutants (TSS and pH) represent the degree of effluent reduction attainable by the application of BPT. However, the limitations for iron and manganese represent BAT, but the limitation for manganese does not apply if the waste is classified as alkaline. These limitations are applicable to discharges from underground workings at underground mines until final bond release.

4. *Alternate Effluent Limitations During Precipitation Events.* Where waste streams from any facility covered by this General Permit are combined for treatment or discharge with waste streams from another facility, the concentration of each pollutant in the combined discharge may not exceed the most stringent limitations for that pollutant applicable to any component waste stream of the discharge.

Alternate Effluent Limitations during Precipitation Events (See Table 1 for a summary of requirements under this paragraph.)

(a)(1) The alternate limitations specified in paragraph (a)(2) of this section apply with respect to:

(i) All discharges of alkaline mine drainage except discharges from underground workings of underground mines that are not commingled with other discharges eligible for these alternate limitations;

(ii) All discharges from steep slope areas, (as defined in Section 515(d)(4) of the Surface Mining Control and Reclamation Act of 1977, as amended (SMCRA)), and from mountaintop removal operations (conducted pursuant to Section 515(c) of SMCRA); and

(iii) Discharges from preparation plant associated areas (excluding acid mine drainage from coal refuse disposal piles).

(2) Any discharge or increase in the volume of a discharge caused by precipitation within any 24 hour period less than or equal to the 10-year, 24-hour precipitation event (or snowmelt of equivalent volume) may comply with the following limitations instead of the otherwise applicable limitations:

EFFLUENT LIMITATIONS DURING PRECIPITATION

Pollutant or pollutant property	Effluent limitations.
Settleable solids	0.5 ml/l maximum for any one day.
pH	6.0 to 9.0 at all times.

(b) The following alternate limitations apply with respect to acid or ferruginous discharges from coal refuse disposal piles:

Any discharge or increase in the volume of a discharge caused by precipitation within any 24 hour period greater than the 1-year, 24-hour precipitation event, but less than or equal to the 10-year, 24-hour precipitation event (or snowmelt of equivalent volume) may comply with the following limitations instead of the otherwise applicable limitations:

EFFLUENT LIMITATIONS DURING PRECIPITATION

Pollutant or pollutant property	Effluent limitations.
Settleable solids	0.5 ml/l maximum for any one day.
pH	6.0 to 9.0 at all times.

(c) The following alternate limitations apply with respect to acid or ferruginous mine drainage, except for discharges addressed above in paragaph (a) (mountaintop removal and steep slope areas), and discharges addressed below in paragaph (d) (controlled surface mine discharges) and paragraph (f) (discharges from underground workings of underground mines):

(1) Any discharge or increase in the volume of a discharge caused by precipitation within any 24 hour period

less than or equal to the 2-year, 24-hour precipitation event (or snowmelt or equivalent volume) may comply with the following limitations intead of the otherwise applicable limitations:

EFFLUENT LIMITATIONS DURING PRECIPITATION

Pollutant or pollutant property	Effluent limitations.
Iron (total)	7.0 mg/1 maximum for any 1 day.
Settleable solids	0.5 ml/l maximum for any one day.
pH	6.0 to 9.0 at all times.

(2) Any discharge or increase in the volume of a discharge caused by precipitation within any 24 hour period greater than the 2-year, 24-hour precipitation event, but less than or equal to the 10-year, 24-hour precipitation event (or snowmelt of equivalent volume) may comply with the following limitations instead of the otherwise applicable limitations:

EFFLUENT LIMITATIONS DURING PRECIPITATION

Pollutant or pollutant property	Effluent limitations.
Settleable solids	0.5 ml/l maximum for any one day.
pH	6.0 to 9.0 at all times.

(d)(1) The alternate limitations specified in paragraph (d)(2) of this section apply with respect to all discharges described in paragraphs (a), (b) and (c) of this section *and* to:

(i) Discharges of acid mine drainage from underground workings of underground mines which is commingled with other discharges eligible for these alternate limitations;

(ii) Controlled acid surface mine discharges; and

(iii) Reclamation areas.

(2) Any discharge for increase in the volume of a discharge caused by precipitation within any 24 hour period greater than the 10-year, 24-hour precipitation event (or snowmelt of equivalent volume) may comply with the following limitations:

EFFLUENT LIMITATIONS DURING PRECIPITATION

Pollutant or pollutant property	Effluent limitations.
pH	6.0 to 9.0 at all times.

(e) The operator shall have the burden of proof that the discharge or increase in discharge was caused by the applicable precipitation event described in subsections a, b, c and d. This could be in the form of precipitation data, weir flow measurements, dated photographs, or equivalent proof of record. This information shall be submitted with the Discharge Monitoring Report at the end of the quarterly monitoring period.

(f) Discharges of mine drainage from underground workings of underground mines which are not commingled with discharges eligible for alternate limitations set forth in this section shall in no event be eligible for the alternate limitations set forth in this section.

BILLING CODE 6560-50-M

TABLE 1
ALTERNATE STORM LIMITATIONS for Pages I-1, I-2 and I-3

	Dry Weather (a)	Precipitation Event (b): 1-yr, 24-hr	2-yr, 24-hr	10-yr, 24-hr
ACID MINE DRAINAGE				
1. Discharges from underground workings of underground mines - not commingled	Manganese TSS,pH, Iron	(NO ALTERNATE LIMITATIONS)		
2. Discharges from underground workings of underground mines - commingled		TSS, pH, Iron, Manganese		pH
3. Controlled surface mine drainage (except steep slope and mountaintop removal)		TSS, pH, Iron, Manganese		pH
4. Non-controlled surface mine drainage (except steep slope and mountaintop removal)	Manganese TSS, pH, Iron	SS, pH, Iron (c)	SS,pH	pH
5. Discharges from coal refuse disposal piles		TSS, pH, Iron, Manganese	SS,pH	pH
6. Discharges from steep slope and mountaintop removal areas	Manganese TSS,pH, Iron	SS, pH		pH
7. Discharges from preparation plant associated areas (excluding coal refuse piles)	Manganese TSS, pH, Iron	SS, pH		pH
ALKALINE MINE DRAINAGE (d)	TSS, pH, Iron	SS, pH		pH
RECLAMATION AREAS		SS, pH		pH

(a) Discharge caused by precipitation
(b) Acidity/alkalinity limitation not applicable during precipitation events
(c) SS = Settleable Solids
(d) Alternate limitations not applicable to underground workings of underground mines (not commingled)

5. Alternate Effluent Limitations for pH. Where application of neutralization and sedimentation treatment technology results in an inability to comply with the otherwise applicable manganese limitations, the permittee may request that alternate pH limitations be approved by the Permit Issuing Authority. Such requests shall be documented in writing to the Permit Issuing Authority and shall include sufficient effluent data for pH and manganese to demonstrate the actual pH required to insure compliance with the manganese limitation.

B. State Water Quality Standards

In addition to the effluent limitations reflective of BAT and NSPS contained in the draft general permit, several other provisions have been included to ensure compliance with Kentucky Water Quality Standards (401 KAR 5:031). The specific water criteria addressed by the permit include pH, total suspended solids, iron, and the alkalinity/acidity relationship of the receiving waters.

1. pH: A provision has been included to require that the pH of all effluent discharges not be less than 6.0 standard units nor greater than 9.0 standard units and that such discharges shall not cause the receiving waters to fluctuate more than one (1) unit over a period of twenty-four (24) hours (401 KAR 5.031, Section 5(1)(b)).

2. Total Suspended Solids: The application of the general permit to a given coal mining operation is predicated on the operator having initiated action to obtain a valid Surface Disturbance Mining Permit (Permanent Program Permit). An integral part of such permit is the approved Mining and Reclamation Plan which establishes performance standards for protecting the hydrologic balance and minimizing the sediment released from mining operations. The BAT and NSPS limitations contained in the draft permit for control of suspended and settleable solids and the requirements of the Mining and Reclamation Plan are expected to satisfy the criterion that the indigenous aquatic community not be adversely affected (401 KAR 5.031, Section 5(1)(f)(2)).

3. Total Iron: A provision has been included in the general permit which requires that the permittee shall not cause the maximum allowable in-stream iron concentration of 1.0 mg/l to be violated. Consistent with 401 KAR 5.031, Section 5(1)(h), the in-stream daily average total iron concentration will be limited to 3.5 mg/l on flow streams when it can be demonstrated by the permittee that there will be no damage to the aquatic community. Further, when it can be demonstrated that the background levels of total iron exceed the applicable criteria, the permittee shall not increase the in-stream total iron concentration above background concentrations; and, as a minimum must be in compliance with the numerical effluent limitations contained in Part I (A) (1) and (2) as appropriate.

4. Alkalinity: EPA has elected to include a provision in the permit to require the available alkalinity as $CaCO_3$ to exceed the acidity at all times. This provision is anticipated to meet the criteria concerning reduction of alkalinity in receiving waters (401 KAR 5.031, Section 5(1)(a)).

C. Monitoring and Reporting Requirements

The following monitoring and reporting requirements are imposed as conditions in the general permit for coal mining activities:

1. Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge. All samples shall be taken at the monitoring points specified in this permit. Monitoring points shall not be changed without notification to and the approval of the Permit Issuing Authority.

2. Samples taken in compliance with the monitoring requirements specified in Part I shall be taken at the following location(s): At the farthest or last silt control structure or dam utilized for water pollution control treatment prior to discharge or mixing with the receiving waters.

3. Normal sampling shall for pages I–1 and I–2 be performed on the same two working days each month. These two sampling days shall be the second and fourth Wednesday of each month unless other days are approved by the Permit Issuing Authority subsequent to a specific written request by the discharger. However, the first time each month a precipitation event or pumpage causes a significant discharge on a workday before either of the scheduled sampling days, the sampling must be conducted within twelve (12) hours following that event and prior to cessation of discharge. Data from the precipitation event shall be submitted in lieu of the data from the next scheduled sampling day of that month. A total of two samples shall be collected each month on either the two scheduled sampling days or on the first precipitation event of the month and the subsequent scheduled sampling day. (For permittees electing to utilize the alternate limitations for precipitation events, see additional monitoring requirements in paragraph 5 below).

4. For reclamation areas, normal sampling shall be on the fourth Wednesday of each month unless another day is approved by the Permit Issuing Authority subsequent to a specific written request by the discharger. However, the first time each month a precipitation event or pumpage causes a significant discharge on a workday before the scheduled sampling day, the sampling must be conducted within twelve (12) hours following that event and prior to cessation of discharge. Data from the precipitation event shall be submitted in lieu of the data from the scheduled sampling day of that month.

5. The first time each month the precipitation exemption in Part I, B.2. is utilized, one sample must be taken for each pollutant parameter identified in Table 1 within twelve (12) hours following the precipitation event and prior to cessation of discharge. However, one additional sampling 24 to 36 hours following that precipitation event will be required for the effluent parameters identified in Part I, A.1. or A.2., as appropriate. If the sampling day occurs on a weekend or holiday (non-working day), the sampling may be delayed until the next significant rainfall event. Sampling required by this subsection shall be in addition to the sampling frequency specified in Part I, A.1. or A.2.

6. Monitoring results obtained during the previous three (3) months shall be summarized for each discharge for each month and reported on a Discharge Monitoring Report Form (EPA No. 3320–1), postmarked no later than the 28th day of the month following the completed reporting period. Signed forms as well as all other reports required herein shall be submitted to the Permit Issuing Authority or its designee with duplicate copies submitted to the Commissioner of the Department for Surface Mining, Reclamation, and Enforcement at the following addresses:

Environmental Protection Agency,
Water Management Division,
Industrial Operations Section,
345 Courtland Street, NE.,
Atlanta, Georgia 30365, and
Kentucky Department for Surface Mining, Reclamation and Enforcement,
Division of Permits,
Capital Plaza Tower,
Frankfort, Kentucky 40601.

D. Certification by the Corps of Engineers

Pursuant to 40 CFR 124.59, copies of all requests for coverage under the general permit shall be forwarded by the Permit Issuing Authority to the Corps of Engineers. The Corps will be given 30 days notice to review and coment upon requests for coverage before the Permit Issuing Authority takes final action regarding the applicability of the general permit to a given discharge. Upon written notification by the Corps, the following special condition may be imposed on certain mining activities were deemed appropriate by the Corps:

The permittee shall undertake erosion control practices which utilize proper sedimentation control measures in order to minimize resultant sedimentation in navigable waters which occur as a result of discharges from both point and non-point sources connected with the overall operations. The practices will apply to existing and future facilities and activities, and will, at a minimum, provide for the control of erosion and runoff from access and haul roads, coal handling structures, utility right-of-way easements and excavations. The permittee will also provide adequate ditching, culverts, sediment traps and ponds, and any other structures or procedures necessary to minimize sedimentation in the navigable waterway. The permit issuing authority shall have the right to inspect the sediment control measures being undertaken by the permittee and , in consultation with the U.S. Army Corps of Engineers, direct any additional measures which are necessary to comply with the requirements of this condition. Should this discharge result in sufficient deposition of solids material to create a hazard to anchorage or navigation on any navigable water, such deposits will be removed by the permittee without expense to the United States Government. Further, the time and manner of such removal, as well as the location and manner of its disposal, must receive the prior written approval by the District Engineer of the Corps of Engineers.

The Permit Issuing Authority shall notify permittees of the applicability of this condition in the written notification that coverage has been granted under the general permit.

V. *State Certification*

Section 301(b)(1)(C) of the Act requires that NPDES permits contain conditions which ensure compliance with applicable State water quality standards or limitations. Section 401 requires that States certify that Federally issued permits are in compliance with State law.

This permit is for operations within waters of the State of Kentucky. EPA is requesting State officials to review and provide appropriate certification of this draft general permit pursuant to 40 CFR 124.53.

VI. Other Legal Requirements

A. Economic Impact

EPA has reviewed the effect of Executive Order 12291 on this draft general permit and has determined that it is not a major rule under that order. This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection at the U.S. Environmental Protection Agency, Facilities Performance Branch, Water Management Division, 345 Courtland Street, Atlanta, Georgia, 30365.

B. Paperwork Reduction Act

EPA has reviewed the requirements imposed on regulated facilities in this draft general NPDES permit under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq*. The information collection requirements of the permit have already been approved by the Office of Management and Budget under submissions made for the NPDES permit program pursuant to the Clean Water Act.

C. The Regulatory Flexibility Act

After review of the facts presented in the notice of intent printed above, I hereby certify, pursuant to the provision of 5 U.S.C. 605(b), that this general permit will not have a significant impact on a substantial number of small entities. Moreover, it will reduce a significant administrative burden on regulated sources.

John A. Little,

Acting Regional Administrator.

[FR Doc. 83-24156 Filed 9-1-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL RESERVE SYSTEM

Federal Open Market Committee; Domestic Policy Directive of July 12-13, 1983

In accordance with § 217.5 of its rules regarding availability of information, there is set forth below the Committee's Domestic Policy Directive issued at its meeting held on July 12-13, 1983.[1]

The rapid growth in real GNP in the second quarter and other information reviewed at this meeting suggest that the economic recovery is proceeding at a strengthened pace. Expenditures on consumption and housing expanded substantially in the second quarter and businesses apparently began to add to inventories after a period of sharp liquidation. Nonfarm payroll employment rose considerably in May and June and the civilian unemployment rate declined to 10.0 percent in June. Industrial production continued to rise markedly in May and partial data suggest a sizable gain in June. Data on new orders and shipments continued to indicate improvement in the demand for business equipment. In May housing starts increased substantially following small declines earlier and retail sales rose appreciably further. Average prices and the index of average hourly earnings have risen at a reduced pace in the first five months of 1983.

The weighted average value of the dollar against major foreign currencies rose substantially in late May and the first half of June and subsequently has fluctuated in a narrow range. Reflecting the strength of the U.S. economy and the persistent high level of the dollar, the U.S. foreign trade deficit increased sharply in April–May from its reduced first-quarter rate; exports declined and both oil and nonoil imports rose.

Strong growth in the broader aggregates in May and June raised M2 to a level somewhat above the midpoint of the Committee's range for 1983 and M3 to around the upper limit of its range. M1 grew very rapidly over both months and was well above its range for the year. Growth in debt of domestic nonfinancial sectors appears to have picked up in the second quarter. Interest rates have risen appreciably since early May.

The Federal Open Market Committee seeks to foster monetary and financial conditions that will help to reduce inflation further, promote growth in output on a sustainable basis, and contribute to a sustainable pattern of international transactions. At its meeting in February the Committee established growth ranges for monetary and credit aggregates for 1983 in furtherance of these objectives. The Committee recognized that the relationships between such ranges and

[1] The Record of Policy Actions of the Committee for the meeting of July 12-13, 1983, is filed as part of the original document. Copies are available upon request to The Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

ultimate economic goals have been less predictable over the past year; that the impact of new deposit accounts on growth ranges of monetary aggregates cannot be determined with a high degree of confidence; and that the availability of interest on large portions of transaction accounts, declining inflation, and lower market rates of interest may be reflected in some changes in the historical trends in velocity.

In establishing growth ranges last February for the aggregates for 1983 against this background, the Committee felt that growth in M2 might be more appropriately measured after the period of highly aggressive marketing of money market deposit accounts had subsided. The Committee also felt that a somewhat wider range was appropriate for monitoring M1. With these understandings, the Committee established the following growth ranges: For the period from February–March of 1983 to the fourth quarter of 1983, 7 to 10 percent at an annual rate for M2, taking into account the probability of some residual shifting into that aggregate from non-M2 sources; and for the period from the fourth quarter of 1982 to the fourth quarter of 1983, 6½ to 9½ percent for M3, which appeared to be less distorted by the new accounts. For the same period a tentative range of 4 to 8 percent was established for M1 assuming that Super NOW accounts would draw only modest amounts of funds from sources outside M1 and assuming that the authority to pay interest on transaction balances was not extended beyond presently eligible accounts. An associated range of growth for total domestic nonfinancial debt was estimated at 8½ to 11½ percent. These ranges were reviewed at the May meeting and left unchanged, pending further review in July.

At this meeting, the Committee reaffirmed the longer-run ranges established earlier for growth in M2 and M3 for 1983. The Committee also agreed on tentative growth ranges for the period from the fourth quarter of 1983 to the fourth quarter of 1984 of 6½ to 9½ percent for M2 and 6 to 9 percent for M3. The Committee considered that growth in M1 in a range of 5 to 9 percent from the second quarter of 1983 to the fourth quarter of 1983, and in a range of 4 to 8 percent from the fourth quarter of 1983 to the fourth quarter of 1984 would be consistent with the ranges for the broader aggregates. The associated range for total domestic nonfinancial debt was reaffirmed at 8½ to 11½ percent for 1983 and tentatively set at 8 to 11 percent for 1984.

In implementing monetary policy, the Committee agreed that substantial weight would continue to be placed on the behavior of the broader monetary aggregates. The behavior of M1 and total domestic nonfinancial debt will be monitored, with the degree of weight placed on M1 over time dependent on evidence that velocity characteristics are resuming more predictable patterns. The Committee understood that policy implementation would involve continuing appraisal of the relationship between the various measures of money and credit and nominal GNP, including evaluation of conditions in domestic credit and foreign exchange markets.

The Committee seeks in the short run to increase slightly further the existing degree of reserve restraint. The action is expected to be associated with growth of M2 and M3 at annual rates of about 8½ and 8 percent respectively from June to September, consistent with the targets established for these aggregates for the year. Depending on evidence about the strength of economic recovery and other factors bearing on the business and inflation outlook, lesser restraint would be acceptable in the context of a significant shortfall in growth of the aggregates from current expectations, while somewhat greater restraint would be acceptable should the aggregates expand more rapidly. The Committee anticipates that a deceleration in M1 growth to an annual rate of around 7 percent from June to September will be consistent with its third-quarter objectives for the broader aggregates, and that expansion in total domestic nonfinancial debt would remain within the range established for the year. The Chairman may call for Committee consultation if it appears to the Manager for Domestic Operations that pursuit of the monetary objectives and related reserve paths during the period before the next meeting is likely to be associated with a federal funds rate persistently outside a range of 6 to 10 percent.

By order of the Federal Open Market Committee, August 29, 1983.

Stephen H. Axilrod,

Secretary.

[FR Doc. 83-24135 Filed 9-1-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities; Citicorp et al.

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. Federal Reserve Bank of New York (A. Marshall Puckett, Vice President), 33 Liberty Street, New York, New York 10045:

1. *Citicorp,* New York, New York (finance company and credit-related insurance activities; Louisiana, Mississippi, Arkansas): To expand the activities and service area of an existing office of Citicorp Acceptance Company, Inc. in Baton Rouge, Louisiana. The new activity in which the office proposes to engage *de novo* is: The making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes. The proposed service area will comprise the entire states of Louisiana, Mississippi and Arkansas for the aforementioned proposed activity and a portion of the previously approved activities of Citicorp Acceptance Company, Inc., specifically: The extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes; the purchasing and servicing for its own account of sales finance contracts; the sale of credit related life and accident and health insurance by licensed agents or brokers, as required;

and the servicing, for any person, of loans and other extensions of credit. Comments on this application must be received not later than September 28, 1983.

2. *Citicorp*, New York, New York (finance company and credit-related insurance activities; Alabama, Florida, Louisiana, Mississippi): To expand the activities of an existing office of Citicorp Acceptance Company, Inc., located in Montgomery, Alabama. The new activities in which the office proposes to engage de novo are: The making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the sale of credit related life and accident and health insurance by licensed agents or brokers, as required; and the servicing, for any person, of loans and other extensions of credit. In addition, the office proposes to broaden its previously approved activities of the extension of loans to mobile home dealers for the financing of inventory (floor planning) and working capital purposes and the purchasing and servicing for its own account of sales finance contracts relating to mobile homes, to engage in such activities with regard to all types of dealers and all types of consumer installment paper. The proposed service area for the aforementioned activities will comprise the entire states of Alabama, Florida, Louisiana and Mississippi. Comments on this application must be received not later than September 28, 1983.

B. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President), 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *First Ohio Bancshares, Inc.*, Toledo, Ohio (investment advisory services; Ohio): To engage through its subsidiary First Ohio Investment Services, Inc., in providing portfolio investment advice to individual, institutional, and charitable clients. These activities would be conducted primarily in the state of Ohio. Comments on this application must be received not later than September 14, 1983.

C. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President), 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Chicago Corporation*, Chicago, Illinois (trust activities; the United States): To engage, through its *de novo* subsidiary, First Chicago Investment Advisors, National Association, in performing or carrying on any one or more of the functions or activities that may be performed or carried on by a trust company (including activities of a fiduciary, agency or custodial nature). These activities will be performed from offices in Chicago, Illinois, which will serve the entire United States. Comments on this application must be received not later than September 21, 1983.

Board of Governors of the Federal Reserve System, August 29, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-24126 Filed 9-1-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Shares by a Bank Holding Company; Grand Bancshares, Inc.

The company listed in this notice has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President), 400 South Akard Street, Dallas, Texas 75222:

1. *Grand Bancshares, Inc.*, Dallas, Texas; to acquire 100 percent of the voting shares of Grand Bank Airport Freeway at Highway 157, National Association, Bedford, Texas. Comments on this application must be received not later than September 28, 1983.

Board of Governors of the Federal Reserve System, August 29, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-24131 Filed 9-1-83; 8:45 am]

BILLING CODE 6210-01-M

Sherman County Management, Inc.; Proposed Retention of Skotchdopole Agency, Inc.

Sherman County Management, Inc., Loup City, Nebraska, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to retain the assets of one office of Skotchdopole Agency, Inc., Ravenna, Nebraska.

Applicant states that the proposed subsidiary engages in the activities of a general insurance agent in a community that has a population not exceeding 5,000 persons. These activities would be performed from offices of Applicant's subsidiary in Loup City, Nebraska, and the geographic area to be served is Loup City, Nebraska, and the surrounding rural area. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than September 27, 1983.

Board of Governors of the Federal Reserve System, August 29, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-24132 Filed 9-1-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies; United Bancorp, Inc., et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications

are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President), 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *United Bancorp Inc.*, Martins Ferry, Ohio; to become a bank holding company by acquiring 100 percent of the voting shares of The Citizens Savings Bank, Martins Ferry, Ohio. Comments on this application must be received not later than September 27, 1983.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President), 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Hub Bancshares, Inc.*, Lafayette, Louisiana; to become a bank holding company by acquiring at least 51 percent of the voting shares of Hub City Bank and Trust Company, Lafayette, Louisiana. Comments on this application must be received not later than September 29, 1983.

C. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President), 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First State Bancorp of Monticello*, Monticello, Illinois; to become a bank holding company by acquiring 80 percent of the voting shares of First State Bank of Monticello, Monticello, Illinois. Comments on this application must be received not later than September 29, 1983.

2. *Guaranty Bankshares, Ltd.*, Cedar Rapids, Iowa; to become a bank holding company by acquiring 80 percent or more of the voting shares of Guaranty Bank and Trust Company, Cedar Rapids, Iowa. Comments on this application must be received not later than September 21, 1983.

3. *Logansport Bancorp, Inc.*, Logansport, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of The Farmers & Merchants State Bank, Logansport, Indiana. Comments on this application must be received not later than September 26, 1983.

D. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President), 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Webb Bancshares, Inc.*, Highland, Kansas; to become bank holding company by acquiring 100 percent of the voting shares of The Farmers State Bank of Highland, Highland, Kansas. Comments on this application must be received not later than September 21, 1983.

E. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary), Washington, D.C. 20551:

1. *Amoskeag Bank Shares, Inc.*, Manchester, New Hampshire; to become a bank holding company by acquiring 100 percent of the voting shares of Amoskeag Savings Bank, Manchester, New Hampshire and 42.2 percent of the voting shares of Amoskeag National Bank and Trust Co., Manchester, New Hampshire. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Boston. Comments on this application must be received not later than September 29, 1983.

Board of Governors of the Federal Reserve System, August 29, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-24133 Filed 9-1-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities; Manufacturers Hanover Corp. et. al.

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 184(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Manufacturers Hanover Corporation*, New York, New York (consumer finance, sales finance, commercial finance, marine finance and credit insurance activities; Maryland): To engage through a *de novo* office of Manufacturers Hanover Financial Services of Maryland, Inc., in the activities of consumer finance, sales finances, marine finance, commercial finance; servicing such loans and other extensions of credit; and acting as agent or broker for the sale of single and joint credit life insurance and decreasing or level term (in the case of single payment loans) credit life insurance, and credit accident and health insurance directly related to extensions of credit made or acquired by Manufacturers Hanover Financial Services of Maryland, Inc. These activities will be conducted from an office in Annapolis, Maryland, which will serve the entire United States and Puerto Rico with respect to marine finance, and will serve the State of Maryland for all other activities. Comments on this application must be received not later than September 29, 1983.

B. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Norwest Corporation*, Minneapolis, Minnesota (finance, insurance and travelers checks activities; South Carolina): To continue to engage through its subsidiary, Norwest Financial South Carolina, Inc., in the activities of consumer finance and sales finance, the sale of credit life, credit accident and health and property and credit-related casualty insurance related to extensions of credit by that company (such sale of credit-related insurance being a permissible activity under Subparagraph D of Title VI of the Garn-St Germain Depository Institutions Act of 1982) and the offering for sale and selling of travelers checks at a relocated office; and, to engage *de novo* in commercial

finance activities from said office as relocated. These activities would be conducted from an office in North Charleston, South Carolina serving North Charleston, South Carolina; Charleston, South Carolina; and other nearby suburbs of Charleston, South Carolina. Comments on this application must be received not later than September 26, 1983.

Board of Governors of the Federal Reserve System August 29, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-24134 Filed 9-1-83; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules; Boeing Co. et al.

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period:

Transaction	Waiting period terminated effective
(1) 83-0596—The Boeing Company's proposed acquisition of voting securities of Peabody Holding Company, Incorporated.	Aug. 11, 1983.
(2) 83-0605—Wallace Forman's proposed acquisition of assets of Gibraltar Industries, Incorporated, (Pope, Evans and Robbins, Incorporated, UPE).	Do.
(3) 83-0606—Aurthur Forman's proposed acquisition of assets of Gibraltar Industries, Incorporated, (Pope, Evans and Robbins, Inc, UPE).	Do.
(4) 83-0608—A. Alfred Taubman's proposed acquisition of voting securities of Sotheby Parke Bernet Group p.l.c..	Do.
(5) 83-0610—Philip F. Anschutz' proposed acquisition of voting securities of Ideal Basic Industries, Incorporated.	Do.
(6) 83-0611—Philip F. Anschutz' proposed acquisition of voting securities of Ideal Basic Industries, Incorporate.	Do.
(7) 83-0607—Chrysler Corporation's proposed acquisition of assets of the Sterling Heights Plant, (Volkswagenwerk A G, UPE).	Aug. 18, 1983.
(8) 83-0622—Aguay Incorporated's proposed acquisition of assets of Jack Setter Revocable, Trust, (Jack Setter, UPE).	Do.
(9) 83-0633—Super Valu Stores Incorporated's proposed acquisition of assets of Pantry Pride, Incorporated.	Do.
(10) 83-0634—Thomas G. Wyman's proposed acquisition of voting securities and assets of L. G. Balfour Company, (Bank of New England, N. A., UPE).	Do.
(11) 83-0617—A. Alfred Taubman's proposed acquisition of voting securities of Sotheby Parke Bernet Group p.l.c..	Aug. 11, 1983.
(12) 83-0642—Reliance Group Holding, Incorporated's (Saul P. Steinberg, UPE) proposed acquisition of assets of Los Angeles Hilton Joint Venture.	Aug. 18, 1983.
(13) 83-0571—The Edward W. Scripps Trust's proposed acquisition of voting securities of Southmedia Company, (Charles H. Smithgall, Jr., UPE).	Aug. 15, 1983.
(14) 83-0578—Proposed formation of a joint venture corporation between Montedison S.p.A. and Hercules, Incorporated.	Aug. 10, 1983.
(15) 83-0579—Proposed formation of a joint venture corporation between Hercules, Incorporated and Montedison S. p. A..	Do.
(16) 83-0625—American Petroleum Production, N. V.'s proposed acquisition of assets of I C I Delaware, Incorporated (Imperial Chemical Industries, PLC, UPE).	Aug. 19, 1983.
(17) 83-0598—Natural Resource Management Corporation's proposed acquisition of assets of Texas International Petroleum Corporation and Phoenix Resources Company, (Texas International Company, UPE).	Aug. 22, 1983.
(18) 83-0649—United Newspapers, Incorporated's proposed acquisition of voting securities of of Gralla Publications, Incorporated, (Lawrence Gralla, UPE).	Do.
(19) 83-0650—United Newspapers, Incorporated's proposed acquisition of voting securities of of Gralla Publications, Incorporated (Milton Gralla, UPE).	Do.
(20) Transaction Number 83-0587—Butterfield Equities' proposed acquisition of United Realty Investors, Inc..	Aug. 12, 1983.

FOR FURTHER INFORMATION CONTACT: Patricia A. Foster, Compliance Specialist, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, D.C. 20580, (202) 523-3894.

By direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 83-24087 Filed 9-1-83; 8:45 am]

BILLING CODE 6750-01-M

Senior Executive Service; Announcement of Membership of Performance Review Boards

The Federal Trade Commission has two Performance Review Boards. The members of the first Board are: Wallace S. Snyder, Richard Higgins, Winston S. Moore, and Mary L. Azcuenaga.

The members of the second Board are: James Williams, Amanda Pedersen, Ronald Bond, and Barbara Clark.

For further information, please call Stephen C. Benowitz, Director of Personnel, Federal Trade Commission, (202) 523-3966.

Stephen C. Benowitz,

Director of Personnel.

[FR Doc. 83-24091 Filed 9-1-83; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on August 26.

PUBLIC HEALTH SERVICE

Food and Drug Administration

Subject: Interim Procedures for Implementation of Orphan Drug Act—NEW

Respondents: Drug manufacturers and clinical research organizations OMB Desk Officer: Richard Eisinger

Health Resources and Services Administration

Subject: Health Resources and Services Administration Non-Competing Training Grant Application and Supplements (0915-0061)—REVISION

Respondents: Educational institutions which provide training in one or more health professions

Subject: Health Resources and Services Administration Competing Training Grant Application and Supplements (0915-0060)—REVISION

Respondents: Educational institutions which provide training in one or more health professions

OMB Desk Officer: Fay S. Iudicello

Health Care Financing Administration

Subject: State Medicaid Quality Control Sample Selection Lists (HCFA-319) EXTENSION/NO CHANGE

Respondents: State Medicaid agencies

Subject: Professional Standards Review Organizations Delegated Provider Admissions Summary (HCFA-20)—EXTENSION/NO CHANGE
Respondents: Providers with delegation to perform professional reviews
Subject: Report on Provider Participation in the Medicaid Program (HCFA-350)—EXTENSION/NO CHANGE
Respondents: State Medicaid agencies
Subject: Hospice Care-Medicare Program (HCFA-R-30)—PRELIMINARY PLAN
Respondents: Hospices participating in the Medicare program
OMB Desk Officer: Fay S. Iudicello

Office of the Secretary

Subject: Implementation of the Equal Access to Justice Act in Agency Proceeding-Subpart B—NEW
Respondents: Certain individuals, small businesses and small organizations
OMB Desk Officer: Milo Sunderhauf

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202-245-6511.

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503. Attn: (Name of OMB Desk Officer).

Dated: Aug 25, 1983.

Robert F. Sarmier,

Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 83-23693 Filed 9-1-83; 8:45 am]

BILLING CODE 4150-04-M

President's Council on Physical Fitness and Sports; Meeting

AGENCY: Office of the Assistant Secretary for Heath, HHS.

AGENCY: Notice of Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the President's Council on Physical Fitness and Sports. This notice also describes the functions of the Council. Notice of this meeting is required under the National Advisory Committee Act.

DATE: September 19, 1983, 9:00 a.m. to 1:30 p.m.

ADDRESS: 101 West Washington Street, Indianapolis, IN 46204.

FOR FURTHER INFORMATION CONTACT: Mr. C. Carson Conrad, Executive Director, President's Council on Physical Fitness and Sports, 450 5th St., N.W., Suite 7103, Washington, D.C. 20001

SUPPLEMENTARY INFORMATION: The President's Council on Physical Fitness and Sports operates under Executive Order No. 12399 dated December 31, 1982. The functions of the Council are: 1. To advise the President and the Secretary concerning progress made in carrying out the provisions of the Executive Order and recommending to the President and the Secretary, as necessary, actions to accelerate progress; 2. Advise the Secretary on matters pertaining to the ways and means of enhancing opportunities for participation in physical fitness and sports activities; 3. Advise the Secretary on State, local, and private actions to extend and improve physical activity programs and services.

The Council will hold this meeting to apprise the new Council members of the 10-point national program of physical fitness and sports; to report on on-going Council programs; and to plan for future directions.

Dated: August 29, 1983.

C. Carson Conrad,

Executive Director, President's Council on Physical Fitness and Sports.

[FR Doc. 83-24160 Filed 9-1-83; 8:45 am]

BILLING CODE 4160-17-M

Food and Drug Administration

[Docket No. 83M-0278]

Precision-Cosmet Co., Inc.; Premarket Approval of OPUS-III™ (Pentasilcon P) Contact Lenses

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application for premarket approval under the Medical Device Amendments of 1976 of the OPUS-III™ (pentasilcon P) Contact Lenses, sponsored by Precision-Cosmet Co., Inc., Minnetonka, MN. After reviewing the recommendation of the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by October 3, 1983.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles H. Kyper, National Center for Devices and Radiological Health (HFK-402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7445.

SUPPLEMENTARY INFORMATION: On October 7, 1982, Precision-Cosmet Co., Inc., Minnetonka, MN, submitted to FDA an application*on for premarket approval of the OPUS-III*™ (pentasilcon P) Contact Lenses. These lenses range in power from −0.25 diopter to −13.00 diopters and are indicated for daily wear by not-aphakic persons with nondiseased eyes who are nearsighted (myopic) and who have astigmatism not exceeding 2.00 diopters. The application was reviewed by the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, an FDA advisory committee, which recommended approval of the application. On July 26, 1983, FDA approved the application by letter to the sponsor from the Associate Director for Device Evaluation of the Office of Medical Devices.

Before enactment of the Medical Device Amendments of 1976 (the amendments) (Pub. L. 94-295, 90 Stat. 539-583), soft contact lenses were regulated as new drugs. Because the amendments broadened the definition of the term "device" in section 201(h) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(h)), soft contact lenses are now regulated as class III devices (premarket approval). As FDA explained in a notice published in the Federal Register of December 16, 1977 (42 FR 63472), the amendments provide transitional provisions to ensure continuation of premarket approval requirements for class III devices formerly regulated as new drugs. Furthermore, FDA requires, as a condition to approval, that sponsors of applications for premarket approval of soft contact lenses comply with the records and reports provisions of Subpart D of Part 310 (21 CFR Part 310), until these provisions are replaced by similar requirements under the amendments.

A summary of the safety and effectiveness data on which FDA's approval is based is on file with the Dockets Management Branch address above) and is available upon request from that office. A copy of all approved draft labeling is available for public inspection at the Office of Medical Devices—contact Charles H. Kyper

(HFK–402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

The approved labeling for the OPUS-III™ (pentasilcon P) Contact Lenses states that only the recommended chemical lens care system is to be used and that the lenses are to be disinfected using a chemical disinfection method only. The restrictive labeling informs new users that they must avoid using certain products, such as solutions intended for use with hard contact lenses only. However, the restrictive labeling needs to be updated periodically to refer to new lens solutions that FDA approves for use with approved contact lenses. A sponsor who fails to update the restrictive labeling may violate the misbranding provisions of section 502 of the act (21 U.S.C. 352) as well as the Federal Trade Commission Act (15 U.S.C. 41–58), as amended by the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act (Pub. L. 93–637). Furthermore, failure to update restrictive labeling to refer to new solutions that may be used with an approved lens may be grounds for withdrawing approval of the application for the lens under section 515(e)(1)(F) of the act (21 U.S.C. 360e(e)(1)(F)). Accordingly, whenever FDA publishes a notice in the **Federal Register** of the agency's approval of a new solution for use with an approved lens, the sponsor of the lens shall correct its labeling to refer to the new solution at the next printing or at any other time FDA prescribed by letter to the sponsor.

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA's action under § 10.33(b) (21 CFR 10.33 (b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issues to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before October 3, 1983, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 26, 1983.

A. J. Beebe Jr.,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 83–24103 Filed 9–1–83; 8:45 am]

BILLING CODE 4160–01–M

Advisory Committee; Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meeting is announced:

Immunology Device Section of the Immunology and Microbiology Devices Panel

Date, time and place. September 16, 1:30 p.m., Conference Rm. C, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. This meeting will be held by a conference telephone call. A speaker phone will be provided in the conference room to allow public participation during the meeting. Open public hearing, 2:00 p.m. to 2:30 p.m.; open committee discussion, 2:30 p.m. to 5 p.m.; S. K. Vadlamudi, National Center for Devices and Radiological Health (HFK–440), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7550.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before September 1, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss requested changes in classification of Rheumatoid Factor, and Immunoglobulins A, G, M, D, and E Immunological Test Systems.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wished to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at

the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

Dated: August 29, 1983.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-24794 Filed 9-1-83; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

Medicare Program; Invalidation of the Wage Index in the Schedule of Limits on Hospital Per Diem Inpatient General Routine Operating Costs for Cost Reporting Periods Beginning on or After July 1, 1981 and Ending With Cost Reporting Periods Beginning on or Before September 30, 1982

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice.

SUMMARY: This notice announces the April 29, 1983 decision of the United States District Court for the District of Columbia in the case of *District of Columbia Hospital Association, et al.* v. *Heckler, et al.* (No. 82–2520 D.D.C.). In its decision, the court ordered us to publish a notice in the **Federal Register** stating that the 1981 schedule of limits on hospital per diem inpatient general routine operating costs has been declared invalid with regard to the wage index for cost reporting periods beginning on or after July 1, 1981 and ending with cost reporting periods beginning on or before September 30, 1982. The District Court held that the decision to exclude Federal government hospital wage data from the computation of the wage index used in the 1981 Medicare hospital cost limits, without providing prior notice and an opportunity for comment, was in violation of the rulemaking requirements of the Administrative Procedure Act.

The decision of the District Court does not apply to cost reporting periods beginning on or after October 1, 1982. The cost limits for periods beginning on or after October 1, 1982 are contained in the interim final notice with comment period published in the **Federal Register** on September 30, 1982 (47 FR 43296).

EFFECTIVE DATE: The cost limits specified in the District Court decision were effective July 1, 1981 and may be affected by the issuance of a proposed notice for the 1981 period.

FOR FURTHER INFORMATION CONTACT: Marilyn Koch, 301–594–9343.

SUPPLEMENTARY INFORMATION:

I. Background

Section 1861(v)(1) of the Social Security Act (42 U.S.C. 1395x(v)(1)) as amended by section 223 (Limitation on Coverage of Costs) of Pub. L. 92–603 (the Social Security Amendments of 1972) authorizes the Secretary to set prospective limits on the costs that are reimbursed under Medicare. These limits may be applied to direct or indirect overall costs or to costs incurred for specific items or services furnished by a Medicare provider of health care services, and may be based on estimates of the cost necessary in the efficient delivery of needed health services. This provision of the statute is implemented under regulations at 42 CFR 405.460.

Under this authority, we have published limits on hospital costs annually beginning with 1974. On June 30, 1981, we published in the **Federal Register** (46 FR 33638) a final notice of the hospital cost limits for cost reporting periods beginning on or after July 1, 1981. The preamble to this 1981 notice stated that "in developing the revised limits, we followed the same methodology we used to develop the current limits," except for "minor technical changes in the types of data we used to calculate the wage index and the market basket values." The preamble went on to state that data from Federal Government hospitals were excluded to improve the accuracy of the wage index adjustment because Federal hospitals typically use national pay scales that do not necessarily reflect area wage levels (46 FR 33699). At that time, we determined that while this wage adjustment would negatively affect hospitals in only a relatively few standard metropolitan statistical areas (SMSAs), it would prevent an unwarranted distribution of public funds to certain hospitals. Thus, we determined that waiver of the prior notice and comment requirements of the Administrative Procedure Act (APA) was in the public interest, and that under the good cause exception of 5 U.S.C. 553(b)(B) of the APA, there appeared to be adequate justification to waive these requirements.

Subsequent to the issuance of the June 30, 1981 notice (46 FR 33638), we issued a revised schedule of limits on September 30, 1981 (46 FR 48010) to reflect changes made by the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 96–499). In this revised schedule, we again published the wage index using the same methodology as was used in the June 30, 1981 notice (46 FR 33638).

On September 9, 1982, a Civil Action (No. 82–2520) was filed in the District Court for the District of Columbia by three hospitals located in the District of Columbia and the District of Columbia Hospital Association, which represents the interests of fifteen similar hospitals in the District of Columbia (the plaintiffs). This action was brought to enjoin the Secretary of HHS and the Administrator of HCFA (the defendants) from applying the 1981 schedule of Medicare hospital cost limits. The plaintiffs requested the court to enjoin the Secretary from reimbursing them under a cost limit based upon a wage index or wage index methodology different from that used in setting the 1980 cost limits, until the defendants complied with APA notice and comment procedures, that plaintiffs claimed were applicable. Plaintiffs' cost limit under the 1981 schedule was lower than it would have been if Federal hospital wage data had not been excluded from the computation of the wage index. The plaintiffs also requested the court to enjoin the Secretary from applying to plaintiff hospitals on a retroactive basis any new wage index methodology effected by defendants through subsequent notices published in the **Federal Register**.

In our response, we contended, consistent with the APA, that the June 30, 1981 **Federal Register** notice validly waived notice and comment procedures before effecting the change in the wage index computation.

On April 29, 1983, the Court: (1) Granted the plaintiffs' motion for summary judgment; (2) declared the exclusion of Federal hospital wage data without prior notice and comment to be in violation of the APA; (3) declared invalid the 1981 hospital cost limit schedule insofar as it incorporated or was formulated by using a hospital wage index that excluded Federal Government hospital data; and (4) ordered the defendants to publish a notice in the **Federal Register** stating that the 1981 schedule has been declared invalid with regard to the wage index. The Court delined, however, on the basis that it lacked subject matter jurisdiction, to enjoin the application of the limits, or to enjoin the Secretary

from retroactively applying any new schedule of limits that excludes Federal wage data.

Although the wage index appearing in the June 30, 1981 notice has been declared partially invalid by the Court, all other aspects of the cost limit methodology published in the notice remain in effect. The invalidation of the wage index is effective only for cost reporting periods beginning on or after July 1, 1981 and before October 1, 1982. It has no effect on the schedule of limits effective for cost reporting periods beginning on or after October 1, 1982 that was published in the September 30, 1982 **Federal Register** (47 FR 43296).

The Department is in the process of determining whether to issue a new notice for the 1981 period.

II. Impact Analyses

We have determined, and the Secretary certifies, that this notice does not meet any of the threshold criteria of Executive Order 12291 or the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)).

III. Paperwork Burden

This notice is being published to comply with the April 29, 1983 Court Order of the United States District Court for the District of Columbia. It contains no information collection requirements, and therefore, is not subject to review by the Office of Management and Budget under the Paperwork Reduction Act of 1980. (44 U.S.C. 3507).

Authority: Sections 1102, 1861(v)(1) and 1871 of the Social Security Act (42 U.S.C. 1302, 1395x(v)(1) and 1395hh).

(Catalog of Federal Domestic Assistance Program No. 13.773; Medicare-Hospital Insurance)

Dated: August 24, 1983.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

[FR Doc. 83-24080 Filed 8-31-83; 8:45 am]

BILLING CODE 4120-03-M

Utilization and Quality Control Peer Review Program; Solicitation of Comments on Proposed PRO Program Scope of Work

Correction

In FR Doc. 83-23522 beginning on page 39160 in the issue of Monday, August 29, 1983 please make the following correction:

Under **COMMENT DATE:**, line three, "October 11, 1983" should read "October 13, 1983".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Wyoming; Filing of Plats of Survey

Correction

In FR Doc. 83-22720, beginning on page 37534 in the issue of Thursday, August 18, 1983, make the following corrections.

On page 37535, first column:

1. In the third line "T. 15 N." should have read "T. 25 N.".

2. In the eleventh line "T. 15 N." should have read "T. 25 N.".

BILLING CODE 1505-01-M

[C-8483]

Colorado; Partial Termination of Classification

1. Recreation and Public Purposes Classification dated September 2, 1969, that classified the SE¼NE¼ of section 7, T. 1 N., R. 76 W., 6th P.M., Colorado as suitable for lease or sale to qualified state and local governments and nonprofit organizations, pursuant to the Recreation and Public Purposes Act of June 14, 1926 (44 Stat. 741, 43 U.S.C. 869), as amended, is hereby terminated, effective the date of this order, insofar as it affects the following described land:

Sixth Principal Meridian

T. 1 N., R. 76 W.,

Sec. 7, lot 5. (a portion of former SE¼NE¼)

The area described aggregates 33.79 acres in Grand County, Colorado.

2. The classification segregated the above land from all forms of appropriations under the public land laws, including location under the mining laws, except as to applications under the mineral leasing laws and application under the Recreation and Public Purposes Act.

3. The land, and mineral interests except oil and gas, are proposed to be approved for transfer to the State of Colorado under the provisions of Revised Statutes 2275, 2276 (43 U.S.C. 851, 852) (1976) and are hereby made available for that purpose. Therefore, the land will not be open to operation of the public land laws, except for selection by the State of Colorado, and the land will not be opended to the United States Mining laws.

The land has been and continues to be open to applications and offers for oil and gas leasing under the mineral leasing laws, subject to valid existing rights.

Inquiries concerning the land should be addressed to the Chief, Lands and General Mining Law Section, Branch of Lands and Minerals Operations, Bureau of Land Management, 1037 20th Street, Denver, Colorado 80202

Dated: August 22, 1983

Cecil Roberts,

Acting State Director

[FR Doc. 83-24115 Filed 9-1-83; 8:45 am]

BILLING CODE 4310-84-M

[M 59171]

Montana; Invitation Coal Exploration License Application

Members of the public are hereby invited to participate with Western Energy Company in a program for the exploration of coal deposits owned by the United States of America in the following described lands located in Rosebud County, Montana:

T. 1 N., R. 39 E., P.M.M.,
Sec. 2: S½NW¼, S½
T. 1 N., R. 40 E., P.M.M.,
Sec. 6: Lots 1, 2, 3, 4, S½N½, S½;
Sec. 8: E½, N½NW¼
T. 2 N., R. 40 E., P.M.M.
Sec. 32: All.
2,121.00 acres.

Any party electing to participate in this exploration program shall notify, *in writing* both the State Director, Bureau of Land Management, P.O. Box 36800, Billings, Montana 59107; and Western Energy Company, P.O. Box 1899, Billings, Montana 59103. Such written notice must refer to serial number M 59171 and be received no later that 30 calendar days after the last publication of this Notice in the **Federal Register** or 10 calendar days after the last publication of this Notice in the Forsyth Independent, whichever is later. This Notice will be published for 2 consecutive weeks.

This proposed exploration program is fully described and will be conducted pursuant to an exploration plan to be approved by the District Mining Supervisor, Bureau of Land Management, 2525 4th Avenue North, Billings, Montana, and the Bureau of Land Management, Montana State Office, Granite Tower Building, 222 North 32nd Street, Billings, Montana. The exploration plan is available for public inspection at either of these offices at the addresses given.

Dated: August 26, 1983.

Robert T. Webb,

Chief, Branch of Solid Minerals.

[FR Doc. 83-24116 Filed 9-1-83; 8:45 am]

BILLING CODE 4310-84-M

[M-59047]

Montana; Realty Action; Exchange of Public and Private Lands

AGENCY: Bureau of Land Management, Lewistown District Office, Interior.

ACTION: Notice of Realty Action M-59047, Exchange of public and private lands in Phillips County, Montana.

SUMMARY: The following described lands have been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management act of 1976, 43 U.S.C. 1716:

Principal Meridian, Montana

T. 34 N., R. 29 E.,
Sec. 2: SE¼;
Sec. 14: NE¼.
Containing 320 acres.

In exchange for these lands, the United States Government will acquire the surface estate in the following described lands:

Principal Meridian, Montana

T. 33 N., R. 28 E.,
Sec. 5: Lots 1, 2, 3, and 4 and S½N½.
Containing 313.72 acres.

DATES: For a period of 45 days from the dates of first publication of this notice, interested parties may submit comments to the District Manager, Bureau of Land Management, Airport Road, Lewistown, Montana 59457. Any adverse comments will be evaluated by the State Director who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of this department.

FOR FURTHER INFORMATION CONTACT: Information related to this exchange including the environmental assessment and land report, is available for review at the Lewistown District Office, Airport Road, Lewistown, Montana 59457.

SUPPLEMENTARY INFORMATION: The purpose of this exchange is to acquire a parcel of privately-owned land within a retention area. This land will be acquired to support a multiple use Federal program and the economy. The multiple use values include, but are not limited to recreation, wildlife habitat and livestock forage and efficiency of management.

The exchange is consistent with the Bureau's planning for the lands involved and has been discussed with State and local officials. The public interest will be well served by making the exchange. The publication of this notice segregates the public lands described above from appropriation under the public land laws, including the mining laws, but not from exchange pursuant to Section 206 of the Federal Land Policy and Management Act of 1976.

The exchange will be made subject to:

1. A reservation to the United States of a right-of-way for ditches or canals constructed by the authority of the United States in accordance with 43 U.S.C. 945, for lands being transferred out of Federal ownership.

2. The reservation to the United States of oil and gas in the lands being transferred out of Federal ownership.

3. All valid existing rights (e.g. rights-of-way, easements, and leases of record).

4. Value equalization by cash payment or acreage adjustment.

5. The exchange must meet the requirements of 43 CFR 4110.4-2(b).

Dated: August 25, 1983.

Roy H. Oliver,

Acting District Manager.

[FR Doc. 83-24113 Filed 9-1-83; 8:45 am]

BILLING CODE 4310-84-M

Roseburg District Advisory Council; Meeting

Notice is hereby given that in accordance with Section 309 of the Federal Land Policy and Management Act (as amended), the Roseburg District Advisory Council will meet on October 7, 1983. The meeting will convene at 9:30 a.m. in the conference room at the Roseburg District Office, 777 N.W. Garden Valley Blvd., Roseburg, OR. Agenda items will include (1) discussion of the Record of Decision pertaining to the district's 10-year timber management plan, (2) review of the land sales scheduled for the first quarter of Fiscal Year 1984, (3) review of BLM's timber sale contract relief plan, and (4) brief discussion of FY '84 program goals.

All Council meetings are open to the public. Interested persons or organizations may make oral statements to the Council at 11:15 a.m., or they may file written statements for the Council's consideration. Anyone wishing to make an oral statement must notify the District Manager by September 30, 1983. Depending on the number of persons wishing to speak, a per person time limit may be established by the District Manager.

Summary minutes of each Council meeting will be maintained in the Roseburg District Office and will be available for public inspection and photocopying during regular business hours within 30 days following the meeting.

For additional information, contact Gary Majors, Public Information Officer, telephone (503) 672-4491.

Dated: August 25, 1983.

Melvin D. Berg,

Associate District Manager.

[FR Doc. 83-24114 Filed 9-1-83; 8:45 am]

BILLING CODE 4310-84-M

Yuma District Advisory Council; Meeting

Notice is hereby given in accordance with Section 309 of the Federal Land Policy and Management Act of 1976 that the Yuma District Advisory Council will meet October 13, 1983, at 9:00 AM in the Parker City Council Chambers, 1314 11th, Parker, Arizona.

Agenda for the meeting will include:

1. District Manager's update.
2. Boundary designations for Wilderness Area Recommendations.
3. Long-term Visitor Fee policy.
4. Resource Management Plan update.
5. Long-term effects of high river flows on BLM.
6. Plans for future meetings.
7. Statements from the public.

The meeting is open to the public. Anyone wishing to make an oral statement must notify the District Manager at the Yuma District Office, 2450 S. Fourth Avenue, P.O. Box 5680, Yuma, Arizona 85364 by October 6, 1983. Written comments will also be accepted for consideration by the Council.

Summary minutes will be maintained in the District Office and will be available for public inspection and reproduction during regular business hours 30 days following the meeting.

Dated: August 25, 1983.

J. Darwin Snell,

District Manager.

[FR Doc. 83-24117 Filed 9-1-83; 8:45 am]

BILLING CODE 4310-84-M

Yuma District Advisory Council; Call for Nomination

Notice is hereby given in accordance with Section 309 of the Federal Land Policy and Management Act of 1976, that an opening on the Yuma District Advisory Council has occurred because of a member's inability to complete his term. The vacant position must be filled for the remainder of the term which ends December 31, 1984.

The Advisory Council is comprised of ten members who are balanced in terms of categories of interest represented. Nominees for this opening should be qualified to fill the "Non-renewable Resources" category.

DATE: Nominations should be received by the District Manager, Bureau of Land Management, P.O. Box 5680, Yuma Arizona 85364, by October 14, 1983.

DATED: August 29, 1983.

J. Darwin Snell,

District Manager.

[FR Doc. 83-24172 Filed 9-1-83; 8:45 am]

BILLING CODE 4310-84-M

Utah; Filing of Plat of Survey

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: These plats of survey of the following described land will be filed in the Utah State Office, Salt Lake City, Utah, immediately:

Salt Lake Meridian, Utah

T. 5 S., R. 3 E.
T. 5 S., R. 4 E.
T 6 S., R. 4 E.

These plats, in three (3) sheets, representing: (1) the dependent resurvey of a portion of the subdivisional lines and a portion of sections 37, 38, and 39, and the survey of the subdivision of certain sections and tract 40, T. 5 S., R. 3 E., Salt Lake Meridian, Utah; (2) the dependent resurvey of a portion of the First Standard Parallel South, a portion of the west boundary and a portion of the subdivision lines, and the survey of certain sections and parcels of T. 5 S., R. 4 E., Salt Lake Meridian, Utah; (3) the dependent resurvey of a portion of the subdivisional lines, and survey of certain sections and tracts of T. 6 S., R. 4 E., Salt Lake Meridian, Utah for Group 513, were accepted August 15, 1983.

These plats will immediately become the basic record for describing the land for all authorized purposes. These plats have been placed in the open files and are available to the public for information only.

This survey was executed to meet certain administrative needs of this Bureau.

All inquiries relating to this land should be sent to the Utah State Office, Bureau of Land Management, 136 East South Temple, Salt Lake City, Utah 84111.

Dated: August 26, 1983.

Darrell Barnes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-24111 Filed 9-1-83; 8:45 am]

BILLING CODE 4310-84-M

Utah; Filing of Plat of Survey

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: These plats of survey of the following described land will be filed in the Utah State Office, Salt Lake City, Utah, immediately:

Salt Lake Meridian, Utah

T. 40 S., R. 21 E.
T. 40 S., R. 22 E.
T. 40 S., R. 23 E.

These plats, in three (3) sheets, representing: (1) The dependent resurvey of a portion of the Eighth Standard Parallel South, the east and north boundaries, and a portion of the subdivisional lines, and a partial subdivision of sections 25, 33, and 34, and a survey of the meander lines of the right bank of the San Juan River of T. 40 S., R. 21 E., Salt Lake Meridian, Utah; (2) the dependent resurvey of the north boundary, and a portion of the east boundary, and a portion of the subdivisional lines, and the survey of a portion of the subdivision of sections 28, 29, 30, and the meanders of the right bank of the San Juan River of T. 40 S., R. 22 E., Salt Lake Meridian, Utah; (3) the dependent resurvey of a portion of the west boundary of the Navajo Indian Reservation, and a portion of the north and east boundaries, and a portion of the subdivisional lines, and the survey of the subdivision of sections 4, 9, 10, and 11, and a portion of the meander lines of the San Juan River of T. 40 S., R. 23 E., Salt Lake Meridian, Utah for Group 592, were accepted August 15, 1983.

These pates will immediately become the basic record for describing the land for all authorized purposes. These plats have been placed in the open files and are available to the public for information only.

This survey was executed to meet certain administrative needs of this Bureau.

All inquiries relating to this land should be sent to the Utah State Office, Bureau of Land Management, 136 East South Temple, Salt Lake City, Utah 84111.

Dated: August 26, 1983.

Darrell Barnes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-24112 Filed 9-1-83; 8:45 am]

BILLING CODE 4310-84-M

Colorado; Filing of Plats of Survey and Protraction Diagrams

August 23, 1983.

The plats of survey of the following described lands were officially filed in the Colorado State Office, Bureau of Land Management, Denver, Colorado, effective 10:00 a.m., August 23, 1983.

New Mexico Principal Meridian

T. 39 N., R. 9 W.

The plat representing the dependent resurvey of a portion of the First Guide Meridian West (east boundary), a portion of the west boundary and subdivisional lines and certain mineral survey claims, and the survey of the subdivision of certain sections, T. 39 N., R. 9 W., New Mexico Principal Meridian, Colorado, Group 661, was accepted August 11, 1983.

This survey was executed to meet certain administrative needs of the U.S. Forest Service.

Sixth Principal Meridian

T. 1 S., R. 84 W.

The plat representing the dependent resurvey of a portion of the Base Line through Range 84 West, portions of the south, east, and west boundaries and subdivisional lines, and the survey of the subdivision of certain sections, T. 1 S., R. 84 W., Sixth Principal Meridian, Colorado, Group 692, was accepted August 1, 1983.

New Mexico Principal Meridian

T. 49 N., R. 10 E.

The supplemental plat showing a subdivision of original Lot 9, and creating lots 13 through 16, in section 7, and showing a subdivision of original lot 13 in section 8, T. 49 N., R. 10 E., New Mexico Principal Meridian, Colorado, was accepted August 1, 1983.

This survey was executed, and the supplemental plat prepared, to meet certain administrative needs of this Bureau.

Sixth Principal Meridian

T. 9 S., R. 103 W.

The plat representing the dependent resurvey of a portion of the south, east, west, and north boundaries, and a portion of the subdivisional lines, T. 9 S., R. 103 W., Sixth Principal Meridian, Colorado, Group 741, was accepted August 11, 1983.

T. 9 S., R. 104 W.

The plat representing the dependent resurvey of a portion of the subdivisional lines, T. 9 S., R. 104 W., Sixth Principal Meridian, Colorado, Group 741, was accepted August 11, 1983.

Ute Meridian

T. 2 N., R. 3 W.

The plat representing the dependent resurvey of a portion of the west and north boundaries, subdivisional lines, and subdivision of sections 6 and 7, T. 2 N., R. 3 W., Ute Meridian, Colorado, Group 741, was accepted August 11, 1983.

These surveys were executed to meet certain administrative needs of the Bureau of Reclamation.

Protraction diagrams of the following described lands approved August 1, 1983, will be officially filed in the Colorado State Office, Bureau of Land Management, Denver, Colorado, effective October 12, 1983.

Sixth Principal Meridian

T. 1 S., R. 90 W.

Protraction Diagram No. 39, prepared to delineate the remaining unsurveyed public lands in T. 1 S., R. 90 W., Sixth Principal Meridian, Colorado, was approved August 1, 1983.

New Mexico Principal Meridian

T. 38 N., R. 3 E.

Protraction Diagram No. 40, prepared to delineate the remaining unsurveyed public lands in T. 38 N., R. 3 E., New Mexico Principal Meridian, Colorado, was approved August 1, 1983.

These diagrams were prepared to meet certain administrative needs of this Bureau.

All inquiries about these lands should be sent to the Colorado State Office, Bureau of Land Management, 1037 20th Street, Denver, Colorado 80202.

Kenneth D. Witt,

Chief Cadastral Surveyor for Colorado.

[FR Doc. 83-24107 Filed 9-1-83; 8:45 am]

BILLING CODE 4310-84-M

[N-219]

Nevada; Notice to Partially Deny Proposed Withdrawal; Desert National Wildlife Range

Notice of the Fish and Wildlife Service application to withdraw the Desert National Wildlife Range (1,583,000 initial acres) from entry under the mining laws but not the mineral leasing laws, and to withdraw 59,621 acres from operation of the general public land laws, including the mining laws, but not the mineral leasing laws, to expand the range, was published in the **Federal Register**, FR Doc. 74-4474 on February 26, 1974, FR Doc. 74-7022 on March 27, 1974, as amended by FR Doc. 74-18501 on August 13, 1974; FR Doc. 80-10355 on April 7, 1980; FR Doc. 80-39045 on December 17, 1980. The expansion area is essential for future use as a utility transmission corridor. Therefore, the withdrawal application is denied as to the expansion area described below.

Mount Diablo Meridian, Nevada

T. 8 S., R. 61 E. (partially unsurveyed),
- Secs. 8 and 9;
- Sec. 10, W½, W½E½;
- Sec. 14, W½SW¼SW¼;
- Sec. 15, NW¼NE¼NE¼, S½NE¼NE¼, S½NE¼, NW¼NE¼, NE¼, S½;
- Secs. 16 to 22, inclusive;
- Sec. 23, W½NW¼, S½SE¼NW¼, NW¼, SE¼NW¼, SW¼;
- Sec. 25, SW¼NW¼, NW¼SW¼, S½SW¼;
- Secs. 26 to 35, inclusive;
- Sec. 36, NW¼NE¼, S½NE¼, NW¼, S½.

T. 8 S., R. 62 E.,
- Sec. 21, lots 3, 4, SE¼SW¼.

T. 9 S., R. 62 E.,
- Secs. 10, 14, 15, 22, 23, 26, 27, 34, and 35, those portions lying between the east boundary of the existing Desert National Wildlife Range (D.N.W.R.) to 1,200 feet west of the westerly line of the right-of-way of U.S. Highway 93.

T. 10 S., R. 62 E.,
- Secs. 2, 11, and 13, those portions lying between the east boundary of the existing D.N.W.R. to 1,200 feet west of the westerly line of the right-of-way of U.S. Highway 93;
- Sec. 14, NE¼, that portion lying between the east boundary of the existing D.N.W.R. to 1,200 feet west of the westerly line of the right-of-way of U.S. Highway 93, NE¼NW¼, SW¼SE¼;
- Sec. 23, SE¼NE¼, W½NE¼, E½SE¼;
- Sec. 25, SW¼SW¼;
- Sec. 36, N½, that portion lying between the east boundary of the existing D.N.W.R. to 1,200 feet west of the westerly line of the right-of-way of U.S. Highway 93.
- Sec. 36, S½, that portion lying between the east boundary of the existing D.N.W.R. and the westerly line of the right-of-way of U.S. Highway 93.

T. 11 S., R. 62 E.,
- Sec. 1, that portion lying between the east boundary of the existing D.N.W.R. and the westerly line of the right-of-way of U.S. Highway 93.

T. 11 S., R. 63 E.,
- Secs. 18, 19, 30, and 31, those portions lying between the east boundary of the D.N.W.R. and the westerly line of the right-of-way of U.S. Highway 93.

T. 12 S., R. 63 E.,
- Secs. 6, 7, 18, 19, 29, 30, and 32, those portions lying between the east boundary of the D.N.W.R. and the westerly line of the right-of-way of U.S. Highway 93;
- Sec. 31.

T. 13 S., R. 63 E.,
- Secs. 5, 6, 17, 20, 28, 29, and 33, those portions lying between the east boundary of the D.N.W.R. and the westerly line of the right-of-way of U.S. Highway 93;
- Secs. 6, 7, 18, 19, 30, 31, and 32.

T. 13½ S., R. 63 E. (unsurveyed),
- Secs. 31 and 32.

T. 14 S., R. 63 E. (unsurveyed),
- Secs. 4, 9, 16, 21, 28, and 33, those portions lying between the east boundary of the D.N.W.R. and the westerly line of the right-of-way of U.S. Highway 93;
- Secs. 5 to 8, inclusive, 17 to 20, inclusive, 29 to 32 inclusive;

T. 15 S., R. 63 E.,
- Secs. 4, 10, 15, 22, 27, and 34, those portions lying between the east boundary of the D.N.W.R. and the westerly line of the right-of-way of U.S. Highway 93;
- Secs. 5 to 9, inclusive, 16 to 21, inclusive, and 28 to 33 inclusive.

T. 16 S., R. 63 E.,
- Secs. 4, 9, 16, 20, 29, and 32, those portions lying between the east boundary of the D.N.W.R. and the westerly line of the right-of-way of U.S. Highway 93;
- Secs. 5 to 8, inclusive, 17, 18, 19, 30, and 31;

The areas described above aggregate 59,621 acres in Clark County, Nevada.

Therefore, pursuant to regulations contained in 43 CFR 2310.2-1, at 10 a.m. on September 30, 1983, the above described lands will be relieved of the segregative effect of the above-mentioned application, as amended.

The lands have been and will remain open to the mineral leasing laws.

Inquiries concerning this action should be addressed to District Manager, Bureau of Land Management, 4765 Vegas Drive, P.O. Box 5400, Las Vegas, Nevada 89108.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

August 25, 1983.

[FR Doc. 83-24152 Filed 9-1-83; 8:45 am]

BILLING CODE 4310-84-M

Bureau of Reclamation

[INT-FES 83-44]

Industrial Water Service-Yellowtail-Boysen Reservoirs; Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, the Department of the Interior has prepared a final environmental statement on sale of water from Boysen and Yellowtail Reservoirs. The Bureau proposed to make water service contracts for up to 300,000 acre-feet available through the year 2000 for coal-related industrial use in northeastern Wyoming and southeastern Montana.

Copies are avilable for inspection at the following locations:

Director, Office of Environmental Affairs,

Room 7622,
Bureau of Reclamation,
Washington, DC 20240,
Telephone: (202) 343-4991
Division of Management Support,
General Services, Library Section, Code 950,
Engineering and Research Center,
Denver Federal Center,
Denver, CO 80225,
Telephone: (303) 234-3019
Regional Director,
Bureau of Reclamation,
Federal Building,
316 North 26th,
Billings, MT 59103,
Telephone: (406) 657-6214

Single copies of the statement may be obtained on request to the Director, Office of Environmental Affairs, Bureau of Reclamation, or the Regional Director at the above addresses. Copies will also be available for inspection in libraries within the water marketing areas.

Dated: August 26, 1983.

Jed O. Christensen,

Acting Commissioner of Reclamation.

[FR Doc. 83-24151 Filed 9-1-83; 8:45 am]

BILLING CODE 4310-09-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Chevron U.S.A. Inc.

AGENCY: Minerals Management Service, U.S. Department of the Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Chevron U.S.A. Inc. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS-G 1240, Block 51, South Timbalier Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 838-0519.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code Federal of Regulations.

Dated: August 21, 1983.

John L. Rankin,

Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-24150 Filed 9-1-83; 8:45 am]

BILLING CODE 4310-MR-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Exxon Co., U.S.A.

AGENCY: Minerals Management Service, U.S. Department of the Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Exxon, U.S.A. has submitted a Development and Production Plan describing the activities it proposes to conduct on Leases OCS-G 1619 and 1620, Blocks 93 and 94, South Pass Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendment of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 838-0519.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code Federal Regulations.

Dated: August 25, 1983.

John L. Rankin,

Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-24149 Filed 9-1-83; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Revised Boundary Map; Lower Saint Croix National Scenic Riverway

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of revised boundary map; Lower Saint Croix National Scenic Riverway.

The boundary of the Saint Croix National Scenic Riverway has been revised to exclude many parcels of land not visible from the Lower Saint Croix River. Several parcels of land were added to the boundary primarily by the acquisition of uneconomical remnants. This boundary revision is authorized by 16 U.S.C. 4601-9(c).

The net acreage changed as a result of the deletions, and additions to the boundary will be an overall increase of 82 acres of land.

Copies of the revised map (Map Number DSC 643-80,001) are on file and available for inspection at the following addresses:

Director, National Park Service, Department of the Interior, Washington, D.C. 20240
Regional Director, Midwest Region, National Park Service, 1709 Jackson Street, Omaha, Nebraska 68102
Superintendent, Saint Croix National Scenic Riverway and Lower Saint Croix River, P.O. Box 708, St. Croix Falls, Wisconsin 54024

Dated: June 30, 1983.

Randall R. Pope,

Acting Regional Director, Midwest Region.

[FR Doc. 83-24078 Filed 9-1-83; 8:45 am]

BILLING CODE 4310-70-M

Cuyahoga Valley National Recreation Area Advisory Commission; Meeting

Notice is hereby given, in accordance with the Federal Advisory Committee Act, 86 Stat. 770, 5 U.S.C. App. 1, as amended by the Act of September 13, 1976, 90 Stat. 1247, that a meeting of the Cuyahoga Valley National Recreation Area Advisory Commission will be held beginning 8:30 a.m. (EST), on Thursday, September 22, 1983, at the Happy Days Visitor Center located on West Streetsboro Road, 1 mile west of Route 8 in Peninsula, Ohio.

The Commission was established by the Act of December 27, 1974, 88 Stat. 1788, 16 U.S.C. 460ff–4, to meet and consult with the Secretary of the Interior on matters relating to the administration and development of the Cuyahoga Valley National Recreation Area.

The members of the Commission are as follows:

Mrs. Tommie Patty (Chairperson)
Mr. John Craig
Mr. Norman A. Godwin
Mrs. William Hutchison
Mr. James S. Jackson
Mrs. George Klein
Mr. Stanley Mottershead
Mr. C. W. Eliot Paine
Mr. Melvin J. Rebholz
Mr. F. Eugene Smith
Ms. R. Robbie Stillman
Mr. Barry K. Sugden
Dr. Robert W. Teater

Matters to be discussed at this meeting include:

1. Update on Land Protection Plan
2. Draft Trail Plan

The meeting will be open to the public. It is expected that about 100 persons, in addition to members of the Commission, will be able to attend this meeting. Interested persons may submit written statements. Such statements should be submitted to the official listed below prior to the meeting.

Further information concerning this meeting may be obtained from Lewis S. Albert, Superintendent, Cuyahoga Valley National Recreation Area, 15610 Vaughn Road, Brecksville, Ohio, 44141, telephone (216) 526–5256. Minutes of the meeting will be available for public inspection 3 weeks after the meeting, at the office of Cuyahoga Valley National Recreation Area, located at 15610 Vaughn Road, Brecksville, Ohio 44141.

Dated: August 25, 1983.

Randall R. Pope,

Acting Regional Director, Midwest Region.

[FR Doc. 83-24161 Filed 9-1-83; 8:45 am]

BILLING CODE 4310-70-M

Golden Gate National Recreation Area Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Golden Gate National Recreation Area Advisory Commission will be held at 7:30 p.m. (PDT) on Wednesday, September 14, 1983, at the Command Conference Center, Canby Street and Keyes Avenue, Presidio of San Francisco.

The Advisory Commission was established by Pub. L. 92–589 to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on problems pertinent to the National Park Service systems in Marin and San Francisco Counties.

Members of the Commission are as follows:

Mr. Frank Boerger, Chairman
Ms. Amy Meyer, Vice Chair
Mr. Ernest Ayala
Mr. Richard Bartke
Mr. Fred Blumberg
Ms. Margot Patterson Doss
Mr. Jerry Friedman
Ms. Daphne Greene
Mr. Peter Haas, Sr.
Mr. Burr Heneman
Mr. John Jacobs
Ms. Gimmy Park Li
Mr. John Mitchell
Mr. Merritt Robinson
Mr. John J. Spring
Dr. Edgar Wayburn
Mr. Joseph Williams

The major agenda item for this meeting will be discussion of Presidio construction plans for Fiscal Year 84.

The meetings are open to the public. Any member of the public may file with the Commission a written statement concerning the matters to be discussed.

Persons wishing to receive further information on this meeting or who wish to submit written statements may contact John H. Davis, General Superintendent of the Golden Gate National Recreation Area, Fort Mason, San Francisco, California 94123; telephone (415) 556–2920.

Minutes of this meeting will be available for public information by October 15, 1983 in the Office of the Superintendent, Golden Gate National Recreation Area, Fort Mason, San Francisco, California 94123.

Dated: August 30, 1983.

Jean C. Henderer,

Chief, Cooperative Activities Division.

[FR Doc. 83-24162 Filed 9-1-83; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Board for International Food and Agricultural Development; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given of the fifty-seventh meeting of the Board for International Food and Agricultural Development (BIFAD) on September 29, 1983.

The purpose of the meeting is to hear a report on the activities of the Joint Committee on Agricultural Research and Development (JCARD); discuss a report on ground rules for university graduation from Strengthening Grants and participation in Memoranda of Understanding, and a critique of regional strategic plans; and consider applications by University of Georgia and Prairie View A&M for Strengthening Grants, and applications by Western Illinois University and University of Michigan for Title XII roster status. The Board will also receive a presentation on a Farming Systems project in Swaziland, and a status report on the Joint Career Corps.

The meeting will begin at 9:00 a.m. and adjourn at 3:15 p.m., and will be held in Room 150, National Academy of Sciences Building, Washington, D.C. Enter building from C Street (between 21st and 22nd Streets, N.W.) opposite the State Department building. The meeting is open to the pubic. Any interested person may attend, may file written statements with the Board before or after the meeting, or may present oral statements in accordance with procedures established by the Board, and to the extent the time available for the meeting permits.

Dr. Erven J. Long, Coordinator, Research and University Relations, Bureau for Science and Technology, Agency for International Development, is designated as A.I.D. Advisory Committee Representative at this meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, International Development Cooperation Agency, Washington, D.C. 20523, or telephone him at (703) 235–8929.

Dated: August 29, 1983.

Erven J. Long,

A.I.D. Advisory Committee Representative, Board for International Food and Agricultural Development.

[FR Doc. 83-24194 Filed 9-1-83; 8:45 am]

BILLING CODE 6116-01-M

President's Task Force on International Private Enterprise; Meeting

Pursuant to the Federal Advisory Committee Act, notice is hereby given of a meeting sponsored by the President's Task Force on International Private Enterprise which will be held September 19–20, 1983 at the U.S. State Department.

This will be the fourth meeting of the Task Force.

The meeting will be open to the public. The agenda includes an update on Task Force activities and a discussion of key issues. Outside

experts will make presentations on subjects of interest to the Task Force. Any interested person may attend, request to appear before, or file statements with the Task Force in accordance with procedures established by the Task Force. Written statements should be filed prior to the meeting and should be available in twenty-five copies.

There will be an AID representative at the meeting. It is suggested that those desiring further information contact Birge Watkins, Assistant Director, on (202) 632–3372 or by mail c/o The President's Task Force on International Private Enterprise, Agency for International Development, Room 5883, Washington, D.C. 20523.

Dated: August 26, 1983.

Edgar C. Harrell,

Acting Assistant Administrator, Bureau for Private Enterprise.

[FR Doc. 83-24109 Filed 9-1-83; 8:45 am]

BILLING CODE 6116-01-M

[Redelegation of Authority No. 99.1.130]

Redelegation of Authority Regarding Contracting Functions; Robert A. Doucette

Pursuant to the authority delegated to me as Director, Office of Contract Management, under Redelegation of Authority No. 99.1, from the Assistant to the Administrator for Management, dated May 1, 1973 (38 FR 12836), I hereby redelegate to Robert A. Doucette, the authority to sign the following documents up to an amount of Five Million Dollars ($5,000,000) (or local currency equivalent) per transaction:

(1) U.S. Government contracts, grants (other than grants to foreign governments or agencies thereof), cooperative agreements, interagency service agreements (IASAs) between A.I.D. and other U.S. Government agencies, and amendments thereto.

(2) To make findings and determinations with respect to advance payments to nonprofit organizations that collect no fee for services including those financed by Federal Reserve letters of credit, and to approve the contract, cooperative agreement, and grant provisions relating to such advance payments.

(3) To approve advances under non-personal services contracts with individuals.

The authorities delegated herein are to be exercised in accordance with regulations, procedures, and policies promulgated within A.I.D. and in effect at the time this authority is exercised and is not in derogation of the authority of the Director, Office of Contract Management, to exercise any of the functions herein redelegated.

This redelegation of authority shall be effective immediately.

Dated: August 5, 1983.

Hugh L. Dwelley,

Director, Office of Contract Management.

[FR Doc. 83-24080 Filed 9-1-83; 8:45 am]

BILLING CODE 6116-01-M

[Redelegation of Authority No. 99.1.97, Amendment No. 3]

Redelegation of Authority Administrator for Management; Robert Gibson

Pursuant to the authority delegated to me by Redelegation of Authority No. 99.1 from the Assistant to the Administrator for Management, dated May 1, 1973 (38 FR 12836), as amended, I hereby revoke Redelegation of Authority No. 99.1.97 to Robert Gibson.

This revocation is effective on the date of signature.

Dated: May 24, 1983.

Hugh L. Dwelley,

Director, Office of Contract Management.

[FR Doc. 83-24087 Filed 9-1-83; 8:45 am]

BILLING CODE 6116-01-M

[Redelegation of Authority No. 99.1.125, Amendment No. 1]

Delegation of Contracting Officer Authority to Gerald P. Gold

Pursuant to the authority delegated to me under Redelegation of Authority No. 99.1 (38 FR 12836), as amended, from the Assistant to the Administrator for Management, Agency for International Development, I hereby amend Redelegation of Authority No. 99.1.125, dated August 14, 1981, (46 FR 42938 and 42939), as follows:

Delete subheads (1) through (5) in the first paragraph and substitute the following subheads (1) through (3):

(1) U.S. Government contracts, grants (other than grants to foreign governments or agencies thereof), interagency service agreements (IASAs) between A.I.D. and other U.S. Government agencies, cooperative agreements, and amendments thereto.

(2) To make findings and determinations with respect to advance payments to nonprofit organizations that collect no fee for services including those financed by Federal Reserve letters of credit, and to approve the contract, cooperative agreement, and grant provisions relating to such advance payments.

(3) To approve advances under nonpersonal services contracts with individuals.

Except as provided herein, this Redelegation of Authority remains unchanged and continues in full force and effect.

This amendment is effective on the date of signature.

Dated: May 25, 1983.

Hugh L. Dwelley,

Director, Office of Contract Management.

[FR Doc. 83-24086 Filed 9-1-83; 8:45 am]

BILLING CODE 6116-01-M

Redelegation of Authority No. 99.1.126

Redelegation of Authority Regarding Contracting Functions; Wesley L. Hawley

Pursuant to the authority delegated to me as Director, Office of Contract Management, under Redelegation of Authority No. 99.1, from the Assistant to the Administrator for Management, dated May 1, 1973 (38 FR 12836), I hereby redelegate to Wesley L. Hawley, th authority to sign the following documents up to an amount of Five Million Dollars ($5,000,000) (or local currency equivalent) per transaction:

(1) U.S. Government contracts, grants (other than grants to foreign governments or agencies thereof), cooperative agreements, interagency service agreements (IASAs) between A.I.D. and other U.S. Government agencies, and amendments thereto.

(2) To make findings and determinations with respect to advance payments to nonprofit organizations that collect no fee for services including those financed by Federal Reserve letters of credit, and to approve the contract, cooperative agreement, and grant provisions relating to such advance payments.

(3) To approve advances under nonpersonal services contracts with individuals.

The authorities delegated herein are to be exercised in accordance with regulations, procedures, and policies promulgated within A.I.D. and in effect at the time this authority is exercised and is not in derogation of the authority of the Director, Office of the authority of the Director, Office of Contract Management, to exercise any of the functions redelegated.

Ths redelegation of authority shall be effective immediately.

Dated: May 23, 1983.

Hugh L. Dwelley,

Director, Office of Contract Management.

[FR Doc. 83-24100 Filed 9-1-83; 8:45 am]

BILLING CODE 6116-01-M

[Redelegation of Authority No. 99.1.131]

Redelegation of Authority Regarding Contracting Functions; Peter J. Howley

Pursuant to the authority delegated to me as Director, Office of Contract Management, under Redelegation of Authority No. 99.1, from the Assistant to the Administrator for Management, dated May 1, 1973 (38 FR 12836), I hereby redelegate to Peter J. Howley, the authority to sign the following documents up to an amount of Five Million Dollars ($5,000,000) (or local currency equivalent) per transaction:

(1) U.S. Government contracts, grants (other than grants to foreign governments or agencies thereof), cooperative agreements, interagency service agreements (IASAs) between A.I.D. and other U.S. Government agencies, and amendments thereto.

(2) To make findings and determinations with respect to advance payments to nonprofit organizations that collect no fee for services including those financed by Federal Reserve letters of credit, and to approve the contract, cooperative agreement, and grant provisions relating to such advance payments.

(3) To approve advances under nonpersonal services contracts with individuals.

The authorities delegated herein are to be exercised in accordance with regulations, procedures, and policies promulgated within A.I.D. and in effect at the time this authority is exercised and is not in derogation of the authority of the Director, Office of Contract Management, to exercise any of the functions herein redelegated.

This redelegation of authority shall be effective immediately.

Dated: August 5, 1983.

Hugh L. Dwelley,

Director, Office of Contract Management.

[FR Doc. 83-24098 Filed 9-1-83; 8:45 am]

BILLING CODE 6116-01-M

[Redelegation of Authority No. 99.1.89]

Redelegation of Authority Regarding Contracting Functions; Stanley R. Nevin

Pursuant to the authority delegated to me as Director, Office of Contract Management, under Redelegation of Authority No. 99.1, from the Assistant to the Administrator for Management, dated May 1, 1973 (38 FR 12836), I hereby redelegate to Stanley R. Nevin the authority to sign the following documents up to an amount of Five Million Dollars ($5,000,000) (or local currency equivalent) per transaction:

(1) U.S. Government contracts, grants (other than grants to foreign governments or agencies thereof), cooperative agreements, interagency service agreements (IASAs) between A.I.D. and other U.S. Government agencies, and amendments thereto.

(2) To make findings and determinations with respect to advance payments to nonprofit organizations that collect no fee for services including those financed by Federal Reserve letters of credit, and to approve the contract, cooperative agreement, and grant provisions relating to such advance payments.

(3) To approve advances under nonpersonal services contracts with individuals.

The authorities delegated herein are to be exercised in accordance with regulations, procedures, and policies promulgated within A.I.D. and in effect at the time this authority is exercised, and is not in derogation of the authority of the Director, office of Contract Management, to exercise any of the functions herein redelegated.

Redelegation of Authority No. 99.1.89 (42 FR 40803) dated August 11, 1977, as amended, is hereby revoked.

This redelegation of authority shall be effective on the date of signature.

Dated: May 12, 1983.

Hugh L. Dwelley,

Director, Office of Contract Management.

[FR Doc. 83-24099 Filed 9-1-83; 8:45 am]

BILLING CODE 6116-01-M

[Redelegation of Authority No. 99.1.127]

Redelegation of Authority Regarding Contracting Functions; Fred E. Obey

Pursuant to the authority delegated to me as Director, Office of Contract Management, under Redelegation of Authority No. 99.1, from the Assistant to the Administrator for Management, dated May 1, 1973 (38 FR 12836), I hereby redelegate to Fred E. Obey, the authority to sign the following documents up to an amount of Five Million Dollars ($5,000,000) (or local currenty equivalent) per transaction:

(1) U.S. Government contracts, grants (other than grants to foreign governments or agencies thereof), cooperative agreements, interagency service agreements (IASAs) between A.I.D. and other U.S. Government agencies, and amendments thereto.

(2) To make findings and determinations with respect to advance payments to nonprofit organizations that collect no fee for services including those financed by Federal Reserve letters of credit, and to approve the contract, cooperative agreement, and grant provisions relating to such advance payments.

(3) To approve advances under nonpersonal services contracts with individuals.

The authorities delegated herein are to be exercised in accordance with regulations, procedures, and policies promulgated within A.I.D. and in effect at the time this authority is exercised and is not in derogation of the authority of the Director, Office of Contract Management, to exercise any of the functions herein redelegated.

This redelegation of authority shall be effective immediately.

Dated: June 8, 1983.

Hugh L. Dwelley,

Director, Office of Contract Management.

[FR Doc. 83-24093 Filed 9-1-83; 8:45 am]

BILLING CODE 6116-01-M

[Redelegation of Authority No. 99.1.87, Amendment No. 4]

Delegation of Contracting Officer Authority to Raymond J. Potocki

Pursuant to the Authority delegated to me under Redelegation of Authority No. 99.1 (38 FR 12836), as amended, from the Assistant to the Administrator for Management, Agency for International Development, I hereby amend Redelegation of Authority No. 99.1.87, dated August 3, 1977, (42 FR 39286), as follows:

Delete subheads (1) through (5) in the first paragraph and substitute the following subheads (1) through (3):

(1) U.S. Government contracts, grants (other than grants to foreign governments or agencies thereof), interagency service agreements (IASAs) between A.I.D. and other U.S. Government agencies, cooperative agreements, and amendments thereto.

(2) To make findings and determinations with respect to advance payments to nonprofit organizations that collect no fee for services including those financed by Federal Reserve letters of credit, and to approve the contract, cooperative agreement, and grant provisions relating to such advance payments.

(3) To approve advances under nonpersonal services contracts with individuals.

Except as provided herein, the Redelegation of Authority, as previously amended, remains unchanged and continues in full force and effect.

This amendment is effective on the date of signature.

Dated: May 25, 1983.

Hugh L. Dwelley,

Director, Office of Contract Management.

[FR Doc. 83-24096 Filed 9-1-83; 8:45 am]

BILLING CODE 6116-01-M

[Redelegation of Authority No. 99.1.114, Amendment No. 2]

Delegation of Contracting Officer Authority to John Stuart

Pursuant to the Authority delegated to me under Redelegation of Authority N. 99.1 (38 FR 12836), as amended, from the Assistant to the Administrator for Managment, Agency for International Development, I hereby amend Redelegation of Authority No. 99.1.114, dated August 8, 1980, (45 FR 57604), as follows:

Delete subheads (1) through (5) in the first paragraph and substitute the following subheads (1) through (3):

(1) U.S. Government contracts, grants (other than grants to foreign government or agencies thereof), interagency service agreements (IASAs) between A.I.D. and other U.S. Government agencies, cooperative agreements, and amendments thereto.

(2) To make findings and determinations with respect to advance payments to nonprofit organizations that collect no fee for services including those financed by Federal Reserve letters of credit, and to approve the contract, cooperative agreement, and grant provisions relating to such advance payments.

(3) To approve advances under nonpersonal services contracts with individuals.

Except as provided herein, the Redelegation of Authority, as previously amended, remains unchanged and continues in full force and effect.

This amendment is effective on the date of signature.

Dated: May 24, 1983.

Hugh L. Dwelley,

Director, Office of Contract Management.

[FR Doc. 83-24098 Filed 9-1-83; 8:45 am]

BILLING CODE 6116-01-M

[Redelegation of Authority No. 99.1.206]

Redelegation of Authority Regarding Contracting Functions; Mission Director, USAID/Egypt

Pursuant to the authority delegated to me as Director, Office of Contract Management, under Redelegation of Authority No. 99.1, from the Assistant to the Administrator for Management, dated May 1, 1973 (38 FR 12836), as amended, I hereby redelegate to the Mission Director, USAID, Egypt, the authority to sign the following instruments:

(1) U.S. Government contracts, grants (other than grants to foreign governments or agencies thereof), interagency service agreements (IASAs) between A.I.D. and other U.S. Government agencies, and cooperative agreements, and amendments thereto, up to an amount of Five Million Dollars (or local currency equivalent) per transaction.

(2) To make findings and determinations with respect to advance payments to nonprofit organizations that collect no fee for services including those financed by Federal Reserve letters of credit, and to approve the contract, cooperative agreement, and grant provisions relating to such advance payments.

(3) To approve advances under nonpersonal services contracts with individuals.

The authorities herein delegated in (1) and (2) above may be redelegated in writing, in whole or in part, by said Mission Director as follows:

(a) Basic contracting authority up to $100,000 and authority up to $300,000 for personal services contracts may be redelegated at the Mission Director's discretion.

(b) Basic contracting authority over $100,000 and over $300,000 for personal services contracts, may be redelegated with the prior concurrence of the Director, Office of Contract Management (except that such prior concurrence is not required in the case of a redelegation to the Mission Director's principal deputy).

The authority herein delegated in (3) above is redelegable only with prior concurrence from the Office of Contract Management.

Such redelegation shall remain in effect until revoked by the Mission Director, or upon advice from the Director, Office of Contract Management, that his concurrence in a redelegation is withdrawn, whichever shall first occur. The authority so delegated by the Mission Director may not be further redelegated.

The authorities delegated herein are to be exercised in accordance with regulations, procedures, and policies promulgated within A.I.D. and in effect at the time this authority is exercised and is not in derogation of the authority of the Director, Office of Contract Management, to exercise any of the functions herein redelegated.

The authorities herein delegated to the Mission Director may be exercised by duly authorized persons who are performing the functions of the Mission Director in an acting capacity.

Redelegation of Authority No. 99.1.83 (42 FR 8037), dated January 26, 1977, as amended, and Redelegation of Authority No. 99.1.95 (43 FR 24927 and 24928), dated may 26, 1978, as amended, are hereby revoked.

Any official actions taken prior to the effective date hereof by officers duly authorized pursuant to delegations revoked hereunder are hereby continued in effect, according to their terms, until modified, revoked, or susperseded by action of the officer to whom I have delegated relevant authority in this delegation.

This redelegation of authority shall be effective on the date of signature.

Dated: June 13, 1983.

Hugh L. Dwelley,

Director, Office of Contract Management.

[FR Doc. 83-24092 Filed 9-1-83; 8:45 am]

BILLING CODE 6116-01-M

[Redelegation of Authority No. 99.1.205]

Redelegation of Authority Regarding Contracting Functions; Mission Director, USAID/Indonesia

Pursuant to the authority delegated to me as Director, Office of Contract Management, under Redelegation of Authority No. 99.1, from the Assistant to the Administrator for Management, dated May 1, 1973 (38 FR 12836), as amended, I hereby redelegate to the Mission Director, USAID, Indonesia, the authority to sign the following instruments:

(1) U.S. Government contracts, grants (other than grants to foreign governments or agencies thereof), interagency service agreements (IASAs) between A.I.D. and other U.S. Government agencies, and cooperative agreements, and amendments thereto, up to an amount of Five Million Dollars (or local currency equivalent) per transaction.

(2) To make findings and determinations with respect to advance payments to nonprofit organizations that collect no fee for services including

those financed by Federal Reserve letters of credit, and to approve the contract, cooperative agreement, and grant provisions relating to such advance payments.

(3) To approve advances under nonpersonal services contracts with individuals.

The authorities herein delegated in (1) and (2) above may be redelegated in writing, in whole or in part, by said Mission Director as follows:

(a) Basic contracting authority up to $100,000 and authority up to $300,000 for personal services contracts may be redelegated at the Mission Director's discretion.

(b) Basic contracting authority over $100,000 and authority over $300,000 for personal services contracts, may be redelegated with the prior concurrence of the Director, Office of Contract Management (except that such prior concurrence is not required in the case of a redelegation to the Mission Director's principal deputy).

The authority herein delegated in (3) above is redelegable only with prior concurrence from the Office of Contract Management.

Such redelegations shall remain in effect until revoked by the Mission Director, or upon advice from the Director, Office of Contract Management, that his concurrence in a redelegation is withdrawn, whichever shall first occur. The authority so delegated by the Mission Director may not be further redelegated.

The authorities delegated herein are to be exercised in accordance with regulations, procedures, and policies promulgated within A.I.D. and in effect at the time this authority is exercised and is not in derogation of the authority of the Director, Office of Contract Management, to exercise any of the functions herein redelegated.

The authorities herein delegated to the Mission Director may be exercised by duly authorized persons who are performing the functions of the Mission Director in an acting capacity.

Redelegation of Authority No. 99.1.105 (44 FR 2051), dated December 18, 1978, as amended, and Redelegation of Authority No. 99.1.95 (43 FR 24927 and 24928), dated May 26, 1978, as amended, are hereby revoked.

Any official actions taken prior to the effective date hereof by officers duly authorized pursuant to delegations revoked hereunder are hereby continued in effect, according to their terms, until modified, revoked, or superseded by action of the officer to whom I have delegated relevant authority in this delegation.

This redelegation of authority shall be effective on the date of signature.

Dated: July 27, 1983.

Hugh L. Dwelley,

Director, Office of Contract Management.

[FR Doc. 83-24091 Filed 9-1-83; 8:45 am]

BILLING CODE 6116-01-M

[Redelegation of Authority No. 99.1.204]

Redelegation of Authority Regarding Contracting Functions; Mission Director, USAID/Philippines

Pursuant to the authority delegated to me as Director, Office of Contract Management, under Redelegation of Authority No. 99.1, from the Assistant to the Administrator for Management, dated May 1, 1973 (38 FR 12836), as amended, I hereby redelegate to the Mission Director, USAID, Philippines, the authority to sign the following instruments:

(1) U.S. Government contracts, grants (other than grants to foreign governments or agencies thereof), interagency service agreements (IASAs) between A.I.D. and other U.S. Government agencies, and cooperative agreements, and amendments thereto, provided that the aggregate amount of each individual contract, grant, or cooperative agreement does not exceed $300,000 or local currency equivalent.

(2) To make findings and determinations with respect to advance payments to nonprofit organizations that collect no fee for services including those financed by Federal Reserve letters of credit, and to approve the contract, cooperative agreement, and grant provisions relating to such advance payments.

(3) To approve advances under non-personal services contracts with individuals.

(4) To sign Operational Program Grants (OPGs) to U.S. private voluntary organizations (PVOs), as defined in Appendix 4B, Chapter 4, AID Handbook 3, *Project Assistance,* and in accordance with the procedures of Chapter 4, AID Handbook 13, *Grants,* on the following basis:

(a) Such OPG's shall not exceed $1,000,000 for the life of project; and

(b) Each OPG shall constitute assistance; and

(c) The post must be advised by AID/W, prior to signing the OPG that Congress has been notified and funds have been allotted.

The authorities herein delegated in (1) and (2) above may be redelegated in writing, in whole or in part, by said Mission Director as follows:

(a) Basic contracting authority up to $100,000 and authority up to $300,000 for personal services contracts may be redelegated at the Mission Director's discretion.

(b) Basic contracting authority over $100,000 may be redelegated with the prior concurrence of the Director, Office of Contract Management (except that such prior concurrence is not required in the case of a redelegation to the Mission Director's principal deputy).

The authorities herein delegated in (3) and (4) above are not redelegable.

Such redelegations shall remain in effect until revoked by the Mission Director, or upon advice from the Director, Office of Contract Management, that his concurrence in a redelegation is withdrawn, whichever shall first occur. The authority so delegated by the Mission Director may not be further redelegated.

The authorities delegated herein are to be exercised in accordance with regluations, procedures, and policies promulgated within A.I.D. and in effect at the time this authority is exercised and is not in derogation of the authority of the Director, Office of Contract Management, to exercise any of the functions herein redelegated.

The authorities herein delegated to the Mission Director may be exercised by duly authorized persons who are performing the functions of the Mission Director in an acting capacity.

Redelegation of Authority No. 99.1.74 (43 FR 1927 and 1928), dated January 13, 1975, as amended, and Redelegation of Authority No. 99.1.95 (43 FR 24927 and 24928), dated May 26, 1978, as amended, are hereby revoked.

Any official actions taken prior to the effective date hereof by officers duly authorized pursuant to delegations revoked hereunder are hereby continued in effect, according to their terms, until modified, revoked, or superseded by action of the officer to whom I have delegated relevant authority in this delegation.

This redelegation of authority shall be effective on the date of signature.

Dated: May 31, 1983.

Hugh L. Dwelley,

Director, Office of Contract Management.

[FR Doc. 83-24094 Filed 9-1-83; 8:45 am]

BILLING CODE 6116-01-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Abbey Medical Inc. et al.; Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: American Hospital Supply Corporation, One American Plaza, Evanston, Illinois 60201.

2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporations:

Name of subsidiary	Jurisdiction in which incorporated
(i) Abbey Medical Inc	Delaware.
(ii) Abbey Medical/Abbey Rents, Inc	Do.
(iii) Abbey Endicott, Inc	Do.
(iv) AHS/International, Inc	Do.
(v) Airlife, Inc	California.
(vi) American Hospital Supply Corporation de Puerto Rico, S.A.	Puerto Rico.
(vii) Amo del Caribe, Inc	Delaware.
(viii) Amer-Stone del Caribe, Inc	Do.
(ix) Amer-Stone, Inc	Do.
(x) Bentley Puerto Rico, Inc	Do.
(xi) Dade Diagnostics, Inc	Do.
(xii) Edwards Laboratories, Inc	California.
(xiii) Heyer-Schulte del Caribe, Inc	Delaware.
(xiv) McGaw Laboratories, Inc	Do.
(xv) Pharmaseal Corporation	Ohio.
(xvi) Pharmaseal, Inc	Delaware.
(xvii) Pharmaseal Laboratories, Inc	Do.
(xviii) V. Mueller del Caribe, Inc	Illinois.
(xix) American Kay, Inc	Delaware.
(xx) American Pharmaseal Laboratories	California.
(xxi) American Micro-Scan, Inc	New Jersey.
(xxii) American Bentley, Inc	Delaware.
(xxiii) American Hospital Supply International Sales Corporation.	California.
(xxiv) Bio-Science Enterprises	Do.
(xxv) CLMG, Inc	Do.
(xxvi) Pathology Associates, Inc	Delaware.
(xxvii) Cirmex de Chihuahua, S.A. de C.V.	Mexico.
(xxviii) Convertors de Mexico, S.A. de C.V.	Do.
(xxix) I-M, Inc	Kentucky.
(xxx) Instranetics, Inc	California.
(xxxi) McGaw Supply Ltd	Canada.
(xxxii) Kopp Laboratories Limited	Do.
(xxxiii) Pharmaseal de Mexico, S.A. de C.V.	Mexico.
(xxxiv) American Plastics Corporation	Colorado.
(xxxv) Productos Urologos de Mexico, S.A.	Mexico.
(xxxvi) Medi-Vac Corporation	Texas.
(xxxvii) Taylor Surgical Supply, Inc	Do.
(xxxviii) Taylor Home Health, Inc	Do.
(xxxix) Westco Leasing, Inc	Do.
(xxxx) Taylor Surgical Supply of Houston, Inc.	Do.
(xxxxi) Taylor Surgical Supply of Beaumont, Inc.	Do.
(xxxxii) Scientific Manufacturing Industries, Inc.	Delaware.

(1) Parent corporation and address of principle office: Continental Grain Company, 277 Park Avenue, New York, N.Y. 10172.

(2) Wholly owned subsidiaries which will participate in the operations, and state of incorporation:

(i) Oroweat Foods Co., 777 W. Putnam Avenue, Greenwich, CT 06830, a Delaware corporation.

(ii) BHL Transport, Inc., 777 W. Putnam Avenue, Greenwich, CT 06830, a Delaware corporation.

(iii) Continental Milling Corp., 277 Park Avenue, New York, N.Y. 10172, a Delaware corporation.

(iv) Baronet Corporation, 375 County Avenue, Secaucus, N.J. 07904, a New Jersey corporation.

(1) Parent corporation: Cross Eastern, Inc. 1060 N.W. 70th St., Ft. Lauderdale, FL 33309.

(2) Wholly owned subsidiaries: Cross Eastern Contracts, Inc.—Florida; Cross Eastern Remodeling, Inc.—Florida; Thermowood, Inc.—Florida; Thermowood West, Inc.—Florida.

1. Parent corporation and address of principal office: Etherington Industries, Inc., River and Lloyd Streets, P.O. Drawer 708, New Haven, CT 06503.

2. Wholly-owned subsidiaries which will participate in the operations, and state(s) of incorporation:

(i) The Accurate Threaded Products Company—Connecticut
(ii) The Bigelow Company—Connecticut
(iii) The Edward John Company—Connecticut
(iv) Fasteners from America, Inc.—Connecticut
(v) Harold International, Inc.—New York
(vi) I. S. Spencer, Inc.—Connecticut
(vii) Marine Fashion, Inc.—Connecticut
(viii) Northern Contractors & Industrial Supply—Connecticut
(ix) National Pipe Bending, Inc.—Connecticut
(x) Saybrook Marine Service, Inc.—Connecticut
(xi) Specialty Plastics Corporation—Connecticut
(xii) The Stanley P. Rockwell Company—Connecticut
(xiii) U.S. Prolam, Inc.—Connecticut

1. Parent corporation and address of principal office: HLB Companies Inc., 10520 Plano Road, Suite 110, Dallas, Texas 75238.

2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation:

(i) CAM Audio, Inc., incorporated in the State of Texas. CAM Audio, Inc., also does business under the following assumed names, which have been registered pursuant to the Texas Assumed Business or Professional Name Act, Tex. Bus. & Comm. Code Ann. § 36.11 (Vernon Supp. 1983): Audio Video Designs and The Label Company.

(ii) Hay Van Company, incorporated in the State of Delaware.

(iii) Norman Laboratories Inc., incorporated in the State of Texas.

(iv) SJB Distributors, Inc., incorporated in the State of Texas. SJB Distributors, Inc., also does business under the following assumed names, which have been registered pursuant to the Texas Assumed Business or Professional Name Act, Tex. Bus. & Comm. Code Ann. § 36.11 (Vernon Supp. 1983): Electro Systems Engineering, Professional Computer Services, and Casual Computers.

(1) Parent corporation and address of principal office: RPM, INC., 2628 Pearl Road, P.O. Box 777, Medina, Ohio 44258.

(2) Wholly-owned subsidiaries which will participate in the operations together with states of incorporation:

I. Republic Powdered Metals, Inc.—Ohio
II. Bondex International, Inc.—Ohio
III. Tropical Industrial Coatings, Inc.—Ohio
IV. Proko Industries, Inc.—Texas
V. Mameco International, Inc.—Ohio
VI. The Dean & Barry Company, Inc.—Ohio
VII. Gates Engineering Company, Inc.—Delaware

I. Parent Corporation and Address of Principal Office: Springs Industries, Inc., 205 North White Street, Fort Mill, South Carolina 29715.

II. Wholly owned subsidiaries which will participate:

(i) Graber Industries, Inc., a Delaware Corporation.

(ii) Springs Transport, Inc., a South Carolina Corporation.

1. The parent corporation is White Cap Pine Oil Company, with its principal office located at 411 Powhatan Avenue, Lester, Pennsylvania 19113.

2. E.B. Evans Corporation, having its principal place of business located at 240 West Lippincott Street, Philadelphia, Pennsylvania 19133, is the wholly-owned subsidiary which will participate in the operations in Pennsylvania, its state of incorporation.

A. Name and address of parent corporation or organization: Worthington Industries, Inc., 1205 Dearborn Drive, Columbus, Ohio 43085.

B. Wholly-owned subsidiaries:

1. The Worthington Steel Company (a Maryland corporation)
2. The Worthington Steel Company (an Illinois corporation)
3. The Worthington Steel Company (a North Carolina corporation)
4. Worthington Cylinder Corporation.
5. Worthington Acquisition Corp. a. Subsidiary of Worthington Acquisition Corp. i. U-Brand Corporation

6. Worthington Industries of Puerto Rico, Inc. (Delaware) a. Subsidiary of Worthington Industries of Puerto Rico, Inc. i. U–Brand Corporation of Puerto Rico (Puerto Rico)
7. MowSafe Products, Inc.
8. I. H. Schlezinger & Sons, Inc.
9. Buckeye International, Inc. a. Subsidiaries of Buckeye International, Inc. i. Warren Molded Plastics, Inc. ii. B–I Sales, Inc. (Michigan) iii. Buckeye Energy Company, Inc. iv. Buckeye International Development, Inc. v. Bethandale Corporation
10. Advanced Coating Technology, Inc.

Notes.—All corporations are Ohio corporations unless otherwise noted.

Unincorporated divisions are not separately identified.

Except as follows, all subsidiaries are 100% owned. Worthington Industries owns 99.9% of Advanced Coating Technology, Inc. and has the right to acquire the remaining 0.1%.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–24144 Filed 9–1–83; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–6 (Sub-No. 159)]

Rail Carriers; Burlington Northern Railroad Co.; Abandonment in Jefferson County, AL; Findings

The Commission has issued a certificate authorizing the Burlington Northern Railroad Company to abandon its 10.88-mile line of railroad between milepost 729.28 near Pratt City and milepost 740.16 near Bessemer in Jefferson County, AL. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person offered financial assistance (through subsidy purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from the publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Railroad Section, AB-OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–24145 Filed 9–1–83; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–6 (Sub-No. 156)]

Rail Carriers; Burlington Northern Railroad Co.; Abandonment in Lancaster and Seward Counties, NE; Findings

The Commission has issued a certificate authorizing the Burlington Northern Railroad Company to abandon its 18.90-mile rail line between milepost 6.00 near Woodlawn and milepost 24.90 near Seward, in Lancaster and Seward Counties, NE. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB–OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–24146 Filed 9–1–83; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–3 (Sub-No. 35)]

Rail Carriers; Missouri Pacific Railroad Company; Abandonment in Cape Girardeau County, MO; Findings

The Commission has found that the public convenience and necessity permit Missouri Pacific Railroad Company to abandon its 18.4-mile rail line between Delta (milepost 149.5) and Jackson (milepost 163.5) in Cape Girardeau County, MO. A certificate will be issued authorizing this abandonment unless within 15 days after this publication the Commission also finds that: (1) A financially responsible person has offererd financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB–OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–24147 Filed 9–1–83; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–3 (Sub-No. 37)]

Rail Carriers; Missouri Pacific Railroad Co.; Abandonment in Washington County KS; Notice of Findings

The Commission has issued a certificate authorizing the Missouri Pacific Railroad Company to abandon its 6.9-mile line of railroad between milepost 443.9 near Greenleaf and milepost 450.8 at Washington in Washington County, KS. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower lefthand corner of the envelope containing the offer "Rail Section, AB-OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–24148 Filed 9–1–83; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. 328]

Rail Carriers; Investigation of Tank Car Allowance System

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Postponement of Tank Car Allowance Update.

SUMMARY: Under authority of 49 U.S.C. 10324(b) and 5 U.S.C. 553, the Interstate Commerce Commission postpones from September 1, 1983 until December 1, 1983, the last date when any tariff resulting from the 1983 annual update of the rail tank car allowance may become effective.

DATE: This action is effective August 31, 1983.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. Infosystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (D.C. Metropolitan area) or toll free (800) 424–5403.

Decided: August 29, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-24149 Filed 9-1-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

[AAG/A Order No. 13–83]

Privacy Act of 1974; Modification of System of Records

Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), the Civil Rights Division, Department of Justice hereby publishes notice of changes to a system of records most recently published on November 17, 1980 in **Federal Register** Volume 45, page 75911, and identified as the Civil Rights Division Employee Travel Reporting system, JUSTICE/CRT–009.

The system notice is reprinted below to change the name of the system to "Civil Rights Division Travel Reports, JUSTICE/CRT–009" so that it more accurately describes the records therein. The categories of individuals covered by the system now include all persons who have filed official travel authorization forms or travel voucher forms with the Division. In addition to Division employees, these people include Department employees who are temporarily detailed to the Civil Rights Division, prospective prefiling experts, prospective applicants for senior Division positions, and other personnel authorized to charge travel to the Division budget. The word "employees" in the "Categories of individuals covered by the system" section of the previous notice has been replaced by the word "persons" in the same section of the notice reprinted below to reflect the expanded coverage of this system. Related changes have been made to the "Categories of records in the system," "Record source categories," and "Retrievability" sections of the notice.

In addition, the notice has been revised to reflect minor clarifying changes or factual corrections to the sections of the notice entitled "Routine uses of records * * *," "Authority for maintenance of the system," "Safeguards," "Retention and disposal," and "Record access procedures."

These system modifications have been reported to the Office of Management and Budget and the Congress.

Dated: August 10, 1983.

Kevin D. Rooney,

Assistant Attorney General for Administration.

JUSTICE/CRT–009

SYSTEM NAME:

Civil Rights Division Travel Reports.

SYSTEM LOCATION:

United States Department of Justice, 10th and Constitution Avenue, NW., Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All persons who have filed travel authorization forms or travel voucher forms for official travel on behalf of the Civil Rights Divisions.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains information concerning travel expenditures which were recorded on travel authorization forms (Form OBD–1) and travel voucher forms (Forms OBD–157 and SF–1012) by Division employees or other persons authorized to travel for the Division and submitted to the Budget and Finance Branch of the Civil Rights Division from Fiscal Year 1972 to the present.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The records in this system of records are kept under the authority of 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The records in this system are used to make monthly reports to the Executive Office. Civil Rights Division, and to the Budget and Finance Branch, Civil Rights Division, for use in controlling and reviewing Division expenditures. Copies of individual's reports may be disclosed to the individual when appropriate forms are not submitted following a return from travel status.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in the system are stored on magnetic tape and on computer punch cards, and on monthly reports printed on computer. Individual vouchers and travel authorization forms are stored in file jackets.

RETRIEVABILITY:

Records in this system are retrieved by the names of those individuals identified under the caption "Categories of individuals covered by the system."

SAFEGUARDS:

Information in the system is unclassified. However, the records are protected in accordance with applicable Department security regulations for systems of records. Records are stored

in locked cabinets and access to the computer is limited to those personnel who have a need for access to perform their official duties.

RETENTION AND DISPOSAL:

Records are maintained on the system while current and required for official Government use. When not longer needed on an active basis, the records are transferred to computer tape and stored in accordance with Departmental security regulations for systems of records. Final disposition will be in accordance with records retirement or destruction as scheduled by NARS.

SYSTEM MANAGER(S) AND ADDRESS:

Executive Officer, Civil Rights Division, United States Department of Justice, Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Same as the above.

RECORD ACCESS PROCEDURES:

Requests by former employees for access to records in this system may be made in writing with the envelope and letter clearly marked "Privacy Act Request". The request should clearly state the dates on which official travel was taken. The requestor should also provide the full name of the individual involved, his or her current address, date and place of birth, notarized signature (28 CFR 16.41(b)), any other known information which may be of assistance in locating the record, and a return address for transmitting the information. Access requests will be directed to the System Manager. Present employees may request access by contacting the System Manager directly.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reason for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Sources of information are the Civil Rights Division employees and other authorized persons who file travel authorization and travel voucher forms.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 83-24122 Filed 9-1-83; 8:45 am]
BILLING CODE 4410-01-M

[AAG/A Order No. 14-83]

Privacy Act of 1974; Modification of System of Records

Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), the Civil Rights Division (CRT), Department of Justice hereby publishes notice of modifications to the Central Civil Rights Division Index File and Associated Records system, JUSTICE/CFR-001, most recently published on November 17, 1980, in **Federal Register** Volume 45, page 75909.

Modifications to the system notice include (a) revision of the "Storage," "Retrievability," and "Safeguards" sections to reflect that JUSTICE/CRT-001 records have been automated; (b) revision of the section entitled "Categories of individuals covered by the system" to provide more specificity as to the categories of individuals covered and, in particular, to add the names of CRT employees who handle complaints and case litigation; (c) revision of the section entitled "Categories of records in the system" to provide more specificity by identifying the categories of records maintained by the respective sections of CRT; (d) minor clarifying changes and factual corrections to the sections entitled "System location," "Authority for maintenance of the system," "Routine uses of records * * *," "Retention and disposal," "System manager(s) and address," and "Record access procedures."

These system modifications have been reported to the Office of Management and Budget and the Congress.

Dated: August 10, 1983.

Kevin D. Rooney,

Assistant Attorney General for Administration.

JUSTICE/CRT-001

SYSTEM NAME

Central Civil Rights Division Index File and Associated Records.

SYSTEM LOCATION:

United States Department of Justice, Civil Rights Division (CRT), 10th and Constitution Avenue, NW., Washington, D.C. 20530; HOLC Building, 320 First Street, NW., Washington, D.C. 20534; and Federal Records Center, Suitland Maryland 20409.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

These persons may include: Subjects of investigation, victims, potential witnesses, correspondents on subjects directed or referred to CRT or other persons or organizations referred to in potential or actual cases and matters of concern to CRT, and CRT employees who handle complaints, cases or matters of concern to CRT.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of alphabetical indices hearing the names of those individuals identified above and the associated records to which the indices relate containing the general and particular records of all CRT correspondence, cases, matters, and memoranda, including but not limited to investigative reports, correspondence to and from the Division, memoranda, legal papers, evidence, and exhibits. The names of some individuals, e.g., witnesses, may not yet be on the central indices. Records relating to such individuals may be obtained by direct access to the file jackets. Such file jackets are located within the respective sections of CRT according to the legal subject matter assigned to each CRT section. The delegated legal duties and responsibilities of each section are described as follows:

The records related to the duties of the Criminal Section of CRT include cases or matters arising under 18 U.S.C. 241 and 242 which prohibit persons acting under color of law or in conspiracy with others to interfere with or deny the exercise of Federal constitutional rights, cases involving criminal violations of the Voting Rights Act of 1965 (42 U.S.C. 1971 through 1974), cases or matters involving criminal interference with housing rights as is prohibited by 42 U.S.C. 3631 and criminal interference with other federally protected rights as is prohibited by 18 U.S.C. 245. Other Criminal Section records include cases or matters involving 18 U.S.C. 1581 through 1588 which prohibit involuntary servitude, some cases involving maritime law, and such other matters as may be required to fulfill the duties mandated by Congress.

The records related to the duties of the Federal Enforcement Section of CRT include cases or matters arising under Title VI of the Civil Rights Act of 1964 and the nondiscrimination provisions of the Revenue Sharing Act, the Crime Control Act of 1973, the Comprehensive Employment Training Act of 1973, the Housing and Community Development Act of 1974, and the coordination of Title VI and Title IX implementation by the Federal grant agencies. In addition, records related to Federal Enforcement Section cases include matters arising under Title VII of the Civil Rights Act of 1964 and Executive Order No. 11246

involving equal opportunity laws against public employers, Federal contractors and contractors involved in federally financed projects, and such other matters as may be required to fulfill the duties mandated by Congress.

The records related to the duties of the General Litigation Section of CRT include cases or matters arising under Federal laws requiring nondiscrimination in public education. Other General Litigation Section records include cases or matters involving the fair housing laws, Title VIII of the Fair Housing Act of 1968 (42 U.S.C. 3601 through 3618), the Equal Credit Opportunity Act (15 U.S.C 1691 through 1691(f)) as well as its implementing regulations, Regulation B (12 CFR Part 202) which prohibits discrimination in credit transactions, and such other matters as may be required to fulfill the duties mandated by Congress.

The records related to the duties of the Special Litigation Section of CRT include cases or matters arising under Title III of the Civil Rights Act of 1964 which prohibits discrimination in public facilities, and cases or matters arising under 18 U.S.C. 245(b)(2)(f) which prohibits the interference, for racial reasons, with access to a place of public accommodation. Other Special Litigation Section records include cases or matters arising under the Civil Rights of Institutionalized Persons Act of 1980 (42 U.S.C. 1997), matters involving the constitutional rights of children and the constitutional rights of mentally and physically handicapped persons of all ages including cases arising under Section 504 of the Rehabilitation Act of 1973, as amended, and such other matters as may be required to fulfill the duties mandated by Congress.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The records in this system of records are kept under the authority of 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES

A. Information in the system may be used by employees and officials of the Department to make decisions in the course of investigations and legal proceedings; to assist in preparing responses to correspondence from persons outside the Department to prepare budget requests, and various reports on the work product of the Civil Rights Division; and to carry out other authorized intermal functions of the Department.

B. A record maintained in this system of records may be disseminated as a routine use of such record as follows: (1) A record relating to a possible or potential violation of law, whether civil, criminal, or regulatory in nature may be disseminated to the appropriate federal, state or local agency charged with the responsibility of enforcing or implementing such law; (2) in the course of investigation or litigation of a case or matter, a record may be disseminated to a federal, state or local agency, or to an individual or organization, if there is reason to believe the such agency, individual or organization possesses information relating to the investigation, trial or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a prospective witness or informant: (3) a record relating to a case or matter may be disseminated to an appropriate court, grand jury or administrative or regulatory proceeding in accordance with applicable law or practice; (4) a record relating to a case or matter may be disseminated to an actual or potential party to litigation or his attorney (a) for the purpose of negotiation or discussion on such matters as settlement of the case or matter, plea bargaining or (b) in formal or informal discovery proceedings; (5) a record relating to a case or matter that has been referred for investigation may be disseminated to the referring agency to notify such agency of the status of the case or matter or of any determination that has been made; (6) a record relating to a person held in custody or probation during a criminal proceeding or after conviction, may be disseminated to any agency or individual having responsibility for the maintenance, supervision or release of such person; (7) a record may be disseminated to the United States Commission on Civil Rights in response to its request and pursuant to 42 U.S.C. 1975d.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552 may be made avalilable to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information in this system is stored on index cards, in file jackets, and on computer disks or tape.

RETRIEVABILITY:

Information is retrieved through either use of an index card system or logical queries to the computer-based system. Entries are arranged alphabetically by the names of individuals or organizations that have been involved in possible civil rights violations either as the subject of investigations by the Department or as victims or complainants, or by the name of the Division personnel handling the complaint. (Complaints received from individuals which have not been investigated by the Department have not been systematically indexed and information pertaining to such individuals may or may not be retrievable.) Information on such individuals may be retrievable from the file jackets by a number assigned and appearing on the index cards.

SAFEGUARDS:

Information in manual and computer form is safeguarded and protected in accordance with applicable Departmental security regulations for systems of records. Only a limited number of staff members who are assigned a specific identification code will be able to use the computer or to access the stored information.

RETENTION AND DISPOSAL:

Records are maintained on the system while current and required for official Government use. When no longer needed on an active basis, the records are transferred to computer tape and stored in accordance with Departmental security regulations for systems of records. Final disposition is in accordance with records retirement or destruction as scheduled by NARS.

SYSTEM MANAGER(S) AND ADDRESS:

Executive Officer, Civil Rights Division, United States Department of Justice, Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Part of this system is exempted from this requirement under 5 U.S.C. 552a(j)(2) and (k)(2). Address inquiries to the System Manager listed above.

RECORD ACCESS PROCEDURES:

Part of this system is exempted from this requirement under 5 U.S.C. 552a(j)(2), and (k)(2). To the extent that this system of records is not subject to exemption, it is subject to access and contest. A determination as to exemption shall be made at the time a request for access is received. A request for access to a record retrievable in this system shall be made in writing, with the envelope and letter clearly marked "Privacy Access Request." Include in the request the full name of the individual, his or her current address, date and place of birth, notarized signature (28 CFR 16.41(b)), the subject of the case or matter as described under "Categories of records in the system," and any other information which is known and may be of assistance in locating the record, such as the name of the civil rights related case or matter involved. Where and when it occurred and the name of the judicial district involved. The requester will also provide a return address for transmitting the information. Access requests should be directed to the System Manager listed above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend non-exempt information retrievable in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Sources of information contained in this system may be any agency or person who has or offers information related to the law enforcement responsibilities of the Division.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted parts of this system from subsections (c)(3), (d), and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2) and (k)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b)(c) and (e) and have been published in the Federal Register.

[FR Doc. 83-24123 Filed 9-1-83; 8:45 am]
BILLING CODE 4410-01-M

[AAG/A Order No. 15-83]

Privacy Act of 1974; Modification of System of Records

Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), the Civil Rights Division, Department of Justice hereby publishes notice of changes to the system of records entitled "Files on Employment Civil Rights Matters Referred by the Equal Employment Opportunity Commission, JUSTICE/CRT-007." This system was most recently published on December 9, 1981 in Federal Register Volume 46, page 60302.

The Civil Rights Division has automated those records in the system which relate to allegations of employment discrimination by public employers (filed by individual complainants) and referred by the Equal Employment Opportunity Commission (EEOC) to the Department of Justice pursuant to 42 U.S.C. 2000e-5(f)(1) or (5)(f)(2). In 60 days from the publication date of this notice, the Division proposes to further automate the system to include records relating to allegations of a pattern or practice of violations of the Equal Employment Opportunity Act by a public employer which have been referred by EEOC to the Department pursuant to 42 U.S.C. 2000e-6. The "Storage" and "Retrievability," and "Safeguards" sections of the notice have been revised to reflect this modification. Further, for the public's clarification, a distinction between these two types of allegations (or charges) has been made under the section of the notice entitled "Categories of records in the system." In addition, minor editorial changes or factual corrections have been made to the sections of the notice entitled "Routine uses of records * * *," "Retention and disposal," "Record access procedures," and "Contesting record procedures."

The required report has been provided to the Office of Management and Budget and the Congress.

Dated: August 10, 1983.

Kevin D. Rooney,

Assistant Attorney General for Administration.

JUSTICE/CRT-007

SYSTEM NAME:

Files on Employment Civil Rights Matters Referred by the Equal Employment Opportunity Commission.

SYSTEM LOCATION:

U.S. Department of Justice: Civil Rights Division, 10th and Constitution Avenue NW.; Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons seeking employment or employed by a state or a political subdivision of a state who have filed charges alleging discrimination in employment with the Equal Employment Opportunity Commission (hereinafter EEOC) which have resulted in a determination by EEOC that there is probable cause to believe that such discrimination has occurred, and attempts by EEOC at conciliation have failed.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system may contain copies of charges filed with EEOC; copies of EEOC's "determination" letters, letters of transmittal from and to EEOC, analyses or evaluations summarizing the charge and other materials in the EEOC file, internal memoranda, attorney notes, and copies of "right to sue" letters issued by the Civil Rights Division. Charges relate to allegations of employment discrimination by public employers filed by individual complainants which have been referred to the Department of Justice by EEOC pursuant to 42 U.S.C. 2000e-5(f)(1) or 5(f)(2), or to allegations of a pattern or practice of violations of the Equal Employment Opportunity Act by a public employer which have been referred to the Department of Justice by EEOC pursuant to 42 U.S.C. 2000e-6.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The records in this system of records are kept under authority of 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The system is used by employees and officials of the Department to make decisions regarding prosecution of alleged instances of employment discrimination, to issue right to sue letters on behalf of individuals; to make policy and planning determinations; to prepare annual budget requests and justifications; to prepare statistical reports on the work product of the Federal Enforcement and General Litigation Sections and to carry out other authorized internal functions of the Department. If the Department has determined to initiate an investigation or litigate a matter referred by EEOC the records pertaining to that matter are not contained in this system. Such records and their routine uses are described under the notice for the system named: Central Civil Rights Division Index File and Associated Records.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information in the system is stored on index cards, in file jackets, and in computer disks which are maintained by the Federal Enforcement Section, Civil Rights Division. If the charge relates to a public educational agency or institution and was filed before September 1977, such information may be maintained by the General Litigation Section, Civil Rights Division.

RETRIEVABILITY:

Information is retrieved primarily by using the appropriate Department of Justice file number, or the name of the charging party, or the state in which the alleged discrimination occurred or through other logical queries to the computer based system.

SAFEGUARDS:

Information in manual and computer form is safeguarded and protected in accordance with applicable Departmental security regulations for systems of records. Only a limited number of staff members who are assigned a specific identification code will be able to use the computer or to access the stored information.

RETENTION AND DISPOSAL:

If the Department determines not to prosecute a matter referred by the EEOC, the records transmitted with the referral are returned to the EEOC. Other records in the system are kept for routine use by the Department and when no longer needed are sent to the Federal Records Center or are destroyed in accordance with records retention and disposal schedules as established by the National Archives and Records Service.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Attorney General, Civil Rights Division, U.S. Department of Justice, Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Same as the above

RECORD ACCESS PROCEDURE:

A request for access to a record from this system shall be made in writing with the envelope and letter clearly marked "Privacy Access Request." The request should indicate the state where the alleged employment discrimination took place and the employer to which the charge was related. The requester should also provide the full name of the individual involved, his or her current address, date and place of birth, notarized signature (28 CFR 16.41(b)), any other known information which may be of assistance in locating the record, and a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought. Disclosure of part of the materials in this system may be prohibited by *42 U.S.C. 2000e-5(b)*, 42 U.S.C2000e–8(e) and 44 U.S.C. 3510(b). Part of this system is exempted from access and contest under 5 U.S.C. 552a(k)(2).

RECORD SOURCE CATEGORIES:

Sources of information in this system are charging parties, information compiled and maintained by EEOC,and employees and officials of the Department of Justice responsible for the disposition of the referral request.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted the system from subsection (d) of the Privacy Act pursuant to 5 U.S.C. 552(k)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the **Federal Register.**

[FR Doc. 83-24124 Filed 9-1-83; 8:45 am]

BILLING CODE 4410-01-M

[AAG/A Order No. 16-83]

Privacy Act of 1974; New System

Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), notice is hereby given that the Department of Justice Civil Rights Division is adding a new system of records entitled "Civil Rights Case Load Evaluation System—Time Reporting System, JUSTICE/CRT–003."

The Civil Rights Case Load Evaluation System—Time Reporting System, JUSTICE/CRT–003, is a new system of records for which no public notice consistent with the provisions of 5 U.S.C. 552a(e)(4) has been published in the **Federal Register.**

5 U.S.C. 552a(e)(4) and (11) provide that the public be given a 30-day period in which to comment on the routine uses of the system; the Office of Management and Budget (OMB), which has oversight responsibility under the Act, requires 60 days to review the system. While the system has been put in place, "routine uses," as defined by the Privacy Act, have not been implemented; i.e., no external dissemination has been made of any personnally identifiable information. Further, no such information will be disseminated for at least 60 days from the date of publication of this notice.

The public, OMB, and the Congress are invited to submit written comments on this system. Comments should be addressed to Vincent A. Lobisco, Assistant Director, Administrative Services Staff, Justice Management Division, Room 6314, Department of Justice, 10th and Constitution Avenue, NW., Washington, D.C. 20530. If no comments are received from either the public, OMB, or the Congress within 60 days of publication of this notice, the system will be fully implememted without further notice in the **Federal Register.**

A report on this system has been provided to OMB and the Congress.

Dated: August 10, 1983.

Kevin D. Rooney,

Assistant Attorney General for Administration.

JUSTICE/CRT-003

SYSTEM NAME:

Civil Rights Case Load Evaluation System—Time Reporting System

SYSTEM LOCATION:

United States Department of Justice, 10th and Constitution Avenue, NW., Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Attorneys and paralegals of the Civil Rights Division of the United States Department of Justice.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains the names of Division attorneys and paralegals and their assignments and allocation of work time.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The records in this system are kept under the authority of 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Civil Rights Division personnel use this system of records to keep track of resources, i.e., to determine Civil Rights Division allocations of resources and professional time to individual assignments of cases and broad categories of cases (e.g., voting, criminal, enforcement), and to assist in preparing budget requests and other reports which may be submitted to the Attorney General or the Congress.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a member of Congress or staff acting upon the member's behalf when the member of staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service. A record from the system of records may be disclosed to the National Archives and Records Service for records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on computer disks.

RETRIEVABILITY:

Information is retrieved by the names of attorneys or paralegals.

SAFEGUARDS:

Information contained in the system is unclassified. It is safeguarded and protected in accordance with Departmental security regulations for systems of records. Access to the records is limited to those employees whose official duties require such access.

RETENTION AND DISPOSAL:

Information contained in the record system remains on the computer disks indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Executive Officer, Civil Rights Division, United States Department of Justice, 10th and Constitution Avenue, NW., Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Address inquiries to the system manager listed above.

RECORDS ACCESS PROCEDURES:

A request for access to a record retrievable in this system shall be made in writing, with the envelope and letter clearly marked "Privacy Access Request." Include in the request the full name of the individual involved, his or her current address, date and place of birth, and notarized signature (28 CFR 16.41(b)), and any other information which is known and may be of assistance in locating the record. The requester should also provide a return address for transmitting the information. Access to requests should be directed to the system manager listed above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend their records should direct their request to the system manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Information on time allocation is provided by Civil Rights Division attorneys and paralegals.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 83-24125 Filed 9-1-83; 9:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Office of the Secretary

Hearing

In the matter of State of Connecticut Labor Department, State of Illinois Department of Labor, State of Kentucky Department for Social Insurance, State of Massachusetts Division of Employment Security, State of Michigan Employment Security Commission, State of Ohio Bureau of Employment Services, State of Oklahoma Employment Security Commission, State of Pennsylvania Department of Labor and Industry, and State of Wyoming Employment Secruity Commission.

This notice announces an opportunity for a hearing for the unemployment compensation agencies of the States of Connecticut, Illinois, Kentucky, Massachusetts, Michigan, Ohio, Oklahoma, Pennsylvania, and Wyoming (the "nine States"), pursuant to the last sentence of Section 3304(c) of the Internal Revenue Code of 1954, 26 U.S.C. 3304(c), and 20 CFR 601.5, to be held at 9:30 o'clock in the morning on September 14, 1983, in Courtroom A, Vanguard Building, 1111 20th Street, NW., Washington, D.C. Each State shall have the opportunity to make a record.

The hearing will be on the following issues:

Issues: Whether, with respect to the certification of the States of October 31, 1983, under Section 3304(c) of the Internal Revenue Code of 1954, 26 U.S.C. 3304(c), the unemployment compensation laws of the nine States have been amended with respect to weeks of unemployment beginning after September 3, 1982,

(1) So as to extend the provisions of clause (ii) of Section 3304(a)(6)(A) of such Code to employees performing specified services for institutions of higher education on the same basis as to employees performing such services for educational institutions other than institutions of higher education, as provided by subclause (I) of such clause (ii); and

(2) So as to provide that, if any individual performing such services in an institution of higher education in a particular academic year or term is not offered the opportunity to perform such services for the educational institution in the following academic year or term,

such individual shall be entitled to retroactive payment of unemployment compensation, as provided by subclause (II) of such clause (ii); or

(3) So as to repeal the provisions corresponding to such clause (ii), prior to its amendment.

Basis of Issues: Section 3304(a)(6)(A) of the Code provides that unemployment compensation shall be payable under a State law on the basis of service to which Section 3309(a)(1) applies, that is, service in the employ of a governmental entity or nonprofit organization described in paragraphs (7) and (8) of Section 3306(c) of the Code, 26 U.S.C. 3306(c), in the same amount, on the same terms, and subject to the same conditions as unemployment compensation is payable on the basis of other service subject to the State law. Clause (ii) of Section 3304(a)(6)(A), an exception to this "equal treatment" requirement, permitted States, at their option, to deny unemployment compensation between academic years or terms to "nonprofessional" employees of educational institutions other than institutions of higher education. Section 193 of Pub. L. 97–248 amended clause (ii), effective for weeks of unemployment beginning after September 3, 1982, to provide:

(ii) With respect to services in any other capacity for an educational institution to which section 3309(a)(1) applies—

(I) Compensation payable on the basis of such services may be denied to any individual for any week which commences during a period between two successive academic years or terms if such individual performs such services in the first of such academic years or terms and there is a reasonable assurance that such individual will perform such services in the second of such academic years or terms, except that

(II) If compensation is denied to such individual for any week under subclause (I) and such individual was not offered an opportunity to perform such services for the educational institution for the second of such academic years or terms, such individual shall be entitled to a retroactive payment of the compensation for each week for which the individual filed a timely claim for compensation and for which compensation was denied solely by reason of subclause (I).

Section 193(b) of Pub. L. 97–248 provides that the provisions of subclause (II) are applicable to employees of institutions of higher education for weeks of unemployment beginning after September 3, 1982. After that date, a provision of State law denying unemployment compensation between academic years and terms must apply to nonprofessional services performed for all educational institutions or to none. If applied to all such services, the State law must also provide for the retroactive payment of unemployment compensation (after September 3, 1982, in the case of employees of institutions of higher education) in accordance with the provisions of subclause (II) quoted above.

The respective State unemployment compensation laws of the nine States appear not to be in conformity with the provisions of Section 3304(a)(6)(A)(ii) of the Code, as amended by Section 193 of Pub. L. 97–248. The last sentence of Section 3304(c) of the Code is therefore applicable to conformity proceedings on this issue.

Following the hearing a decision will be made as to each State. Such decision will have a bearing on whether each State is certifiable on October 31, 1983, with respect to normal and additional tax credits allowable to the State's employers pursuant to subsections (a) and (b) of 26 U.S.C. 3302 for the taxable year 1983, and will also have a bearing on other benefits to the State under the Federal-State unemployment compensation program.

The proceedings in this matter shall be in accordance with the Rules of Procedure as set out below.

For purposes of this hearing, all motions, briefs, and other papers shall be filed, pursuant to the above referenced Rules of Procedure, with the presiding Administrative Law Judge, U.S. Department of Labor, Suite 700, Vanguard Building, 1111 20th Street, N.W., Washington, D.C. 20036, who will be designated in accordance with the Rules of Procedure.

Counsel for each State unemployment compensation agency shall enter an appearance with the presiding Administrative Law Judge no later than September 9, 1983; a copy shall be provided to William H. DuRoss III, Associate Solicitor for Employment and Training, 200 Constitution Ave., N.W., Washington, D.C. 20210, as expeditiously as possible.

Counsel for the U.S. Department of Labor shall enter an appearance with the presiding Administrative Law Judge no later than September 7, 1983; a copy shall be provided to each State agency as expeditiously as possible.

Signed at Washington, D.C., on August 31, 1983.

Raymond J. Donovan,
Secretary of Labor.

Rules of Procedure

1. An Administrative Law Judge will be designated by the Chief Administrative Law Judge, United States Department of Labor, to preside over the hearing and perform the functions required by these Rules.

2. The parties of record shall be the State agency (or State agencies as defined in 26 U.S.C. 3306(e)) named in the Notice of Hearing and the U.S. Department of Labor.

3. Any non-party State agency, individual worker, employer, or organization, association of workers or employers, or member of the public, asserting an interest in the proceedings, may be permitted by the presiding Administrative Law Judge, upon motion granted, to participate in the hearing as amicus curiae only. Participation by any such amicus curiae shall be limited to the submittal of such briefs as may be directed by the presiding Administrative Law Judge. A motion of an amicus curiae to participate in the oral argument will be granted only for extraordinary reasons. All motions contemplated by this Rule shall be filed with the presiding Administrative Law Judge no later than two (2) days prior to the scheduled hearing, and shall be served upon and received by each party prior to the hearing. The presiding Administrative Law Judge shall rule on all such motions and inform the applicants and the parties of the rulings prior to the hearing or at the beginning of the hearing.

4. The presiding Administrative Law Judge may issue an appropriate prehearing order governing all issues to be raised in the proceedings, discovery, and designation of evidence to be offered at the hearing.

5. (a) The hearing will be conducted in an informal but orderly and expeditious manner. The presiding Administrative Law Judge will regulate all matters pertaining to the course and conduct of the proceedings, and, subject to the limitation expressed in Rule 5(b) below, may grant extensions of time regarding the submission of briefs and other papers, and may reschedule the hearing for another time or date for good cause shown.

(b) The annual October 31 certification date under the Federal Unemployment Tax Act imposes time constraints for the issuance of the Administrative Law Judge's recommended decision, and requires

that the granting of extensions of time, inclusive of continuances, be limited to the extent necessary to insure that the recommended decision is forwarded to the Secretary of Labor no later than 15 days prior to the October 21 certification date.

6. Upon the commencement of the hearing, the U.S. Department of Labor will be offered an opportunity to make an opening statement as to the nature of the hearing and the matter(s) in issue. Each other party to the proceedings shall then be offered a similar opportunity to make an opening statement.

7. The order of the presentation of evidence will be as follows:

(a) The U.S. Department of Labor will proceed first by presenting any evidence it may wish to offer which is relevant to the issue(s) specified in the Notice of Hearing.

(b) Each other party will proceed next to present any evidence it may wish to offer which is relevant to the issue(s) referred to in Rule 7(a) above, followed by any evidence relevant to any additional issue, except that evidence regarding any issue other than the issue(s) referred to in the Notice of Hearing may be admitted only if the party offering such evidence has provided notice of such issue and a summary of such evidence, including a copy of any document to be offered, to each other party of record, prior to the hearing.

(c) The U.S. Department of Labor may next present relevant evidence in rebuttal to any issue, and the trial record shall thereafter be closed, except as provided for by Rule 9 below.

8. Technical rules of evidence shall not apply to the hearing. The presiding Administrative Law Judge will rule upon offers of proof and the admissibility of evidence, and may exclude irrelevant, immaterial, or unduly repetitious evidence or any other evidence excludable under these Rules, and may examine witnesses. All writings, charts, tabulations, and similar data offered in evidence at the hearing shall, upon a statisfactory showing of their authenticity, relevancy, materiality, and admissibility under these Rules, be received in evidence.

9. During the hearing, the presiding Administrative Law Judge may require the production and introduction of further evidence upon any relevant matter, and may provide for the later receipt of such evidence or any other evidence for the record.

10. The proceedings at the hearing shall be recorded verbatim. The original and one copy of the transcript of the record of the hearing shall be furnished to the presiding Administrative Law Judge. The parties of record and any amicus curiae shall be entitled to secure a copy of the transcript from the reporter upon such terms as the party or amicus may arrange.

11. When any document is offered in evidence, one additional copy thereof shall be furnished to the presiding Administrative Law Judge and, unless previously provided, a copy shall be furnished to each party or record.

12(a) At the conclusion of the receipt of evidence, the presiding Administrative Law Judge shall hear oral arguments presented by the parties of record and any amicus curiae authorized to present oral argument.

(b) Oral arguments shall be in the following order: Opening argument for the U.S. Department of Labor, unless waived; opening argument for every other party unless waived; argument of any amicus curiae authorized to present oral argument; closing argument of each of the State agency parties, unless waived; and closing argument for the U.S. Department of Labor, unless waived.

13(a) As soon as possible, but in no event later than 15 days prior to the October 31 certification date, the presiding Administrative Law Judge shall: (1) Prepare a recommended decision on the basis of the record containing his recommended findings of fact and conclusions of law; (2) certify to the Secretary of Labor such recommended decision and the entire record of the proceedings; and (3) forward a copy of the recommended decision to each party of record and amicus curiae.

(b) In the event that evidence is admitted which is relevant to any issue cognizable under these Rules, findings of fact with respect to such evidence shall be made. No conclusions of law regarding either the constitutionality of any Federal statute or the constitutionality of interpretation thereof shall be made.

14. Any party of record may file with the Secretary of Labor a Statement of Exceptions, with proof of service on the other parties of record, setting forth any exceptions they may have to the recommended decision, within seven (7) days after the date of the recommended decision.

15(a) Any brief intended to be filed of record with the presiding Administrative Law Judge in the proceedings shall be mailed or otherwise delivered to the Office of the Presiding Administrative Law Judge. Unless otherwise ordered, any brief shall be deemed to be filed on the date it is post-marked if transmitted by the United States Postal Service, and shall be deemed to be filed on the date received in the Office of the Chief Administrative Law Judge if transmitted by any other means.

(b) An original and one copy of any brief shall be filed with the presiding Administrative Law Judge and shall be accepted subject to timely filing with proof of sufficient service upon the parties.

(c) If the last day of a time limit prescribed by these Rules or established by the presiding Administrative Law Judge falls on a Saturday, Sunday, or a federal holiday, the time limit shall be extended to the next official business day.

16. Following the certification in accordance with Rule 13(a)(2) above, and consideration of any Statement of Exceptions filed and served in accordance with Rule 14, the Secretary of Labor shall render a decision in the matter, in writing, and shall forward the decision together with the record to the Chief Administrative Law Judge, and shall forward a copy of his decision to each party of record and to any amicus curiae authorized to participate in the proceedings.

[FR Doc. 83-24294 Filed 9-1-83; 8:45 am]
BILLING CODE 4510-30-M

Employment and Training Administration

[TA-W-14,482]

Adjustment Assistance; Brunswick Manufacturing Co., Brunswick, Georgia; Amended Certification Regarding Eligibility

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on August 17, 1983 applicable to all workers of Brunswick Manufacturing Company, Brunswick, Georgia.

The intent of the certification is to cover all workers at Brunswick Manufacturing Company, Brunswick, Georgia who were adversely affected by increases in imports during 1982. The certification for workers at Brunswick Manufacturing Company, Brunswick, Georgia, conforms with the investigation and is amended by changing the October 1, 1982 impact date to February 18, 1982 with a termination date of November 30, 1982.

The certification applicable to TA-W-14,482 is hereby amended and issued as follows:

"All workers of Brunswick Manufacturing Company, Brunswick,

Georgia, who became totally or partially separated from employment on or after February 18, 1982 and before November 30, 1982 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

Signed at Washington, D.C. this 25th day of August 1983.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 83-24186 Filed 9-1-83; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-14,554]

Adjustment Assistance; Island Creek Coal Co., #10 Elk Creek Mine, Emmett, West Virginia; Negative Determination Regarding Application for Reconsideration

By an application dated August 12, 1983, the United Mine Workers of America requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of former workers at #10 Elk Creek Mine of the Island Creek Coal Company, Emmett, West Virginia. The determination was published in the Federal Register on July 19, 1983 (48 FR 32889).

Pursuant to CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The union claims that the Department uses a double standard in that it certified workers for adjustment assistance at the Wheeling Pittsburgh Coal Company (WPCC) and denied adjustment assistance for workers at the Island Creek Coal Company. The union alleges that steel is directly competitive with coal for certification purposes.

The Department's review showed that the Island Creek Coal Company and its parent firm, Lexington Minerals, were independent coal producing companies not affiliated with any steel producing firms. The review further showed that U.S. imports of coal and coke, which may be considered in determining import injury to workers mining coal, declined absolutely and relative to domestic production in 1981 compared to 1980 and in 1982 compared to 1981. U.S. imports of coal and coke are negligible. Neither Island Creek nor Lexington Minerals imported coal.

The union's claim that a double standard was used by the Department in certifying workers at WPCC, a subsidiary of Wheeling Pittsburgh Steel while denying workers at the Island Creek Coal Company which is not affiliated with any steel producing firm cannot be substantiated within the context of the Trade Act of 1974. The certification of workers at WPCC on July 1, 1983 (TA-W-14,195) rests on the integrated production of its coal production for Wheeling Pittsburgh Steel whose workers met the group certification requirements of the Act—a relationship that workers at Island Creek cannot share in since Island Creek was an independent company which produced coal.

Further, the union's allegation that steel is directly competitive with coal for purposes of certification under the Trade Act is not supported by the Trade Act nor case law. Although, coal is used in the steelmaking process increased imports of steel and steel products would not be a basis for certification. Section 222(3) of the Act which prescribes the group eligibility requirements states that there must be increased imports of the articles like or directly competitive with those produced by the workers' firm or appropriate subdivision. Since only metallurgical coal was produced at Island Creek—an independent firm not controlled or substantially beneficially owned by a steel producing firm whose workers independently met the Act's group eligibility criteria—there is no basis to certify workers based on increased imports of steel.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the publication is denied.

Signed at Washington, D.C. this 26th day of August 1983.

Harold A. Bratt,

Deputy Director, Office of Program Management, UIS.

[FR Doc. 83-24188 Filed 9-1-83; 8:45 am]

BILLING CODE 4510-30-M

Adjustment Assistance; Bessemer & Lake Erie Railroad Co., et al.; Investigations Regarding Certifications of Eligibility

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 12, 1983.

Interested person are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 12, 1983.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213.

Signed at Washington, D.C. this 29th day of August 1983.

Glenn M. Zech,

Acting Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Bessemer & Lake Erie Railroad Co. (BRAC)	Monroeville, PA	8/22/83	8/19/83	TA-W-14,942	Office workers.
Chafin Coal Co. (workers)	Logan, WV	8/23/83	8/19/83	TA-W-14,943	Preparation Plant and selling of coal.
Elgin, Joliet & Eastern Railway Co. (BRAC)	Joliet, IL	8/22/83	8/19/83	TA-W-14,944	Office workers.
H.H. Brown Shoe Co., Inc. (ACTWU Footwear Div.)	Worcester, MA	8/22/83	8/15/83	TA-W-14,945	Work boots and shoes.
Jo-Je Manufacturing Co., Inc. (ILGWU)	Summit Hill, PA	8/30/83	8/21/83	TA-W-14,946	Jr's blouses.
Kanawha Coal Co., Madison Mine (UMWA)	Ashford, WV	7/28/83	7/22/83	TA-W-14,947	Metallurgical coal mining.
Lee Ann Coal Co. (Workers)	Madison, WV	8/22/83	8/17/83	TA-W-14,948	Metallurgical coal mining.
Outlooster's of Battle Creek MI. (workers)	Coldwater, MI	8/19/83	8/15/83	TA-W-14,949	Retail shoe store.
Sewell Coal Co., Sewell # 4 Mine (workers)	Nettie, WV	8/22/83	8/16/83	TA-W-14,950	Metallurgical coal mining.
U-Brand Corp., Distribution Center (IAM)	Shelby, OH	8/22/83	8/20/83	TA-W-14,951	Distributes malleable and cast iron pipe fittings to customers.
U-Brand Corp. (IAM)	Ashland, OH	8/22/83	8/20/83	TA-W-14,952	Malleable and cast iron pipe fittings.
Air Products & Chemicals, Inc. (USWA)	Sparrows Point, MD	8/19/83	8/18/83	TA-W-14,953	Oxygen gases.
Amherst Coal Co., Paragon Mine #1 (workers)	Rum Creek, WV	8/25/83	8/18/83	TA-W-14,954	Metallurgical coal mining.
David Peyser Sportswear, Inc. (company)	Bay Shore, NY	8/24/83	8/5/83	TA-W-14,955	Ski jackets, warm-up jackets, unlined jackets.
Easton Corp., Transmission Div. (AW)	Kalamazoo, MI	8/19/83	8/15/83	TA-W-14,956	Transmissions for heavy duty trucks.
General Electric Co., Bellevue Lamp Plant (IAMAW)	Bellevue, OH	8/19/83	8/10/83	TA-W-14,957	Specialty lighting items.
Litton Industrial Products, Inc., Lucas Machine Div. (UAW)	Cleveland, OH	8/25/83	8/23/83	TA-W-14,958	Horizontal milling, drilling and boring machines.
The Timkin Company (workers)	Columbus, OH	8/24/83	8/19/83	TA-W-14,959	Tapered roller bearings.

[FR Doc. 83-24190 Filed 9-1-83; 8:45 am]
BILLING CODE 4510-30-M

[TA-W-14,387]

Adjustment Assistance; Playland Industries, New York, New York; Amended Certification Regarding Eligibility

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on August 17, 1983 applicable to all workers of Playland Industries, New York, New York.

The intent of the certification is to cover all workers at Playland Industries, New York, New York who were adversely affected by increases in imports during 1982. The certification for workers at Playland Industries, New York, New York, conforms with the investigation and is therefore amended by changing the October 1, 1982 impact date to January 15, 1982 with a termination date of June 30, 1983.

The certification applicable to TA-W-14,387 is hereby amended and issued as follows:

All workers of Playland Industries, New York, New York who became totally or partially separated from employment on or after January 15, 1982 and before June 30, 1983 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 25th day of August 1983.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services, UIS

[FR Doc. 83-24187 Filed 9-1-83; 8:45 am]
BILLING CODE 4510-30-M

[TA-W-13,904]

Adjustment Assistance; Putnam Manufacturing Co.; North Grosvenordale, Connecticut; Amended Certification Regarding Eligibility

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor issued a Certifcation of Eligibility to Apply for Worker Adjustment Assistance on August 17, 1983 applicable to all workers of Putnam Manufacturing Company, North Grosvenordale, Connecticut.

The intent of the certification is to cover all workers at Putnam Manufacturing Company, North Grosvenordale, Connecticut who were adversely affected by increases in imports during 1982. The certification for workers at Putnam Manufacturing Company, North Grosvenordale, Connecticut conforms with the investigation and is therefore, amended by changing the October 1, 1982 impact date to January 1, 1982 with a termination date of November 30, 1982.

The certification applicable to TA-W-13,904 is hereby amended and issued as follows:

All workes of Putnam Manufacturing Company, North Grosvenordale, Connecticut who became totally or partially separated from employment on or after January 1, 1982 and before November 30, 1982 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 25th day of August 1983.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 83-24188 Filed 9-1-83; 8:45 am]
BILLING CODE 4510-30-M

Adjustment Assistance; Renola Sportswear, Inc.; Determinations Regarding Eligibility

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period August 22, 1983–August 26, 1983.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm of appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-14,166; Renola Sportswear, Inc., New York, NY

TA-W-14,193; Lewiston Lustre, Inc., Lewiston, MI

TA–W–14,465; U.S. Steel Mining Co., Inc., Jefferson City, TN

TA–W–14,494; Maidel Fashions, Inc., North Babylon, Long Island, NY

In the following cases the investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to workers separations at the firm.

TA–W–13,980; Republic Steel Corp., General Offices, Cleveland, OH

TA–W–14,398; Republic Steel Corp., Research Center, Independence, OH

TA–W–14,423; Republic Steel Corp., District Sales Office, Pittsburgh, PA

In the following case the investigation revealed that criterion (3) has not been met for the reasons specified.

TA–W–14,214; North American Refractories Co., Bonne Terre, MO

Aggregate U.S. imports of dolomite are negligible.

Affirmative Determinations

TA–W–14,440; Kaiser Aluminum & Chemical Corp., Chalmette, LA

A certification was issued covering all workers separated on or after July 1, 1982.

TA–W–13,916; Melville Footwear Manufacturing, Blue Ridge Shoe Co., Robersonville, NC

A certification was issued covering all workers separated on or after October 22, 1982.

TA–W–14,206; T & W Manufacturing Co., Santa Rosa, CA

A certification was issued covering all workers separated on or after November 21, 1981

TA–W–14,418; Just Sew, Inc., Rockaway, NJ

A certification was issued covering all workers separated on or after January 21, 1982 and before November 30, 1982.

TA–W–14,473; Buffalo China, Inc., Buffalo, NY

A certification was issued covering all workers separated on or after January 1, 1983.

TA–W–14,473A; Buffalo China, Inc., Clarendon, PA

A certification was issued covering all workers separated on or after January 1, 1983.

TA–W–14,618; U.S. Steel Mining Co., Inc., Mt Braddock Mine, Fayette County, PA

A certification was issued covering all workers separated on or after April 20, 1982.

TA–W–14,619; U.S. Steel Mining Co., Inc., Dilworth Mine, Green County, PA

A certification was issued covering all workers separated on or after April 20, 1982.

TA–W–14,620; U.S. Steel Mining Co., Inc., Robena Mine & Preparation Plant, Green County, PA

A certification was issued covering all workers separated on or after April 20, 1982.

I hereby certify that the aforementioned determinations were issued during the period August 22, 1983–August 26, 1983. Copies of these determinations are available for inspection in Room 9120, U.S. Department of Labor, 601 D Street, N.W., Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: August 30, 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 83–24191 Filed 9–1–83; 8:45 am]

BILLING CODE 4510–30–M

High Unemployment Area Classifications Under Pub. L. 98–8; Additions to List of High Unemployment Areas

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

DATE: The additions to the list are effective on September 1, 1983.

SUMMARY: The purpose of this notice is to announce the addition of 2 civil jurisdictions to the list of high unemployment areas.

FOR FURTHER INFORMATION CONTACT: James W. Higgins, U.S. Employment Service (Attention: TEEPA), 601 D Street, NW., Washington, D.C. 20213 Telephone: 202–376–6700.

SUPPLEMENTARY INFORMATION: Section 101(a)(3) of Pub. L. 98–8 Stat. 13 (March 24, 1983) (the "Act") requires the Assistant Secretary for Employment and Training, U.S. Department of Labor, to classify civil jurisdictions as having high unemployment and to publish a list of these jurisdictions together with descriptions thereof no later than 30 days after enactment of the Act. That list was published on April 22, 1983 (48 FR 17456).

The Act also requires that the list of high unemployment areas be updated on a monthly basis thereafter, by adding civil jurisdictions that the Assistant Secretary deems to meet the criteria necessary for classification. The areas described below have been classified by the Assistant Secretary as high unemployment areas and added to the list of high unemployment areas, effective September 1, 1983.

Signed at Washington, D.C. on August 23, 1983.

Albert Angrisani,

Assistant Secretary of Labor.

ADDITIONS TO THE LIST OF HIGH UNEMPLOYMENT AREAS

[September 1, 1983]

High unemployment area	Civil jurisdiction included
Pennsylvania: Bensalem Township.	Bensalem Township in Bucks County.
West Virginia: Charleston City.	Charleston City in Kanawha County.

[FR Doc. 83–24192 Filed 9–1–83; 8:45 am]

BILLING CODE 4510–30–M

Labor Surplus Area Classifications Under Executive Orders 12073 and 10582; Additions to Annual List of Labor Surplus Areas

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

DATE: The additions to the annual list are effective on September 1, 1983.

SUMMARY: The purpose of this notice is to announce changes to the annual list of labor surplus areas.

FOR FURTHER INFORMATION CONTACT: James W. Higgins, United States Employment Service (Attention: TEEPA) 601 D Street, NW., Washington, D.C. 20213. Telephone: 202–376–6700.

SUPPLEMENTARY INFORMATION: Executive Order 12073 requires executive agencies to emphasize procurement set-asides in labor surplus areas. The Secretary of Labor is responsible under that Order for classifying and designating areas as labor surplus areas.

Under Executive Order 10582 executive agencies may reject bids or offers of foreign materials in favor of the lowest offer by a domestic supplier, provided that the domestic supplier undertakes to produce substantially all of the materials in areas of substantial unemployment as defined by the Secretary of Labor. The preference given to domestic suppliers under Executive Order 10582 has been modified by Executive Order 12260. Federal Procurement Regulations Temporary Regulation 57 (41 CFR Chapter 1, Appendix), issued by the General Services Administration on January 15, 1981 (46 FR 3519), implements Executive Order 12260. Executive agencies should refer to Temporary Regulation 57 in procurements involving foreign

businesses or products in order to assess its impact on the particular procurements.

The Department of Labor's regulations implementing Executive Orders 12073 and 10582 are set forth at 20 CFR Part 654, Subparts A and B. Subpart A requires the Assistant Secretary of Labor to classify jurisdictions as labor surplus areas pursuant to the criteria specified in the regulations and to publish annually a list of labor surplus areas. Pursuant to those regulations the Assistant Secretary of Labor published the annual list of labor surplus areas on June 4, 1982 (47 FR 24474).

Subpart B of Part 654 states that an area of substantial unemployment for purposes of Executive Order 10582 is any area classified as a labor surplus area under Subpart A. Thus, labor surplus areas under Executive Order 12073 are also areas of substantial unemployment under Executive Order 10582.

The areas described below have been classified by the Assistant Secretary of Labor as labor surplus areas pursuant to 20 CFR 654.5(b) (48 FR 15615, April 12, 1983) and are added to the annual list of labor surplus areas, effective September 1, 1983. The following additions to the annual list of labor surplus areas are published for the use of all Federal agencies in directing procurement activities and locating new plants or facilities.

Signed at Washington, D.C. on August 23, 1983.

Albert Angrisani,

Assistant Secretary of Labor.

ADDITIONS TO THE ANNUAL LIST OF LABOR SURPLUS AREAS

[September 1, 1983]

Labor surplus area	Civil jurisdiction included
Georgia: Elbert County	Elbert County.
Pennsylvania:	
Bensalem Township	Bensalem Township in Bucks County.
Centre County	Centre County.
Indiana County	Indiana County.
Balance of Lehigh County.	Balance of Lehigh County (County less Allentown City and Bethlehem City).
McKean County	McKean County.
Penn Hills Township	Penn Hills Township in Allegheny County.
Scranton City	Scranton City in Lackawanna County.
Warren County	Warren County.
West Virginia:	
Boone County	Boone County.
Charleston City	Charleston City in Kanawha County.
Balance of Kanawha County.	Balance of Kanawha County (County less Charleston City).
Monroe County	Monroe County.

[FR Doc. 83-24193 Filed 9-1-83; 8:45 am]

BILLING CODE 4510-30-M

Secretary's Reporting Requirements

SUMMARY: Section 106 of the Job Training Partnership Act (JTPA) requires the Secretary of Labor to prescribe performance standards for Title II–A and Title III programs. Section 165 of JTPA authorizes the Secretary to require each recipient to maintain records and submit reports regarding the performance of the programs. The Secretary's instructions for implementing the reporting provisions developed in response to Section 165 of JTPA are set forth below. This information was submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1980. Changes to the original JTPA Annual Status Report (JASR) are based on comments received from the public notice of April 26, 1983 (48 FR 18924), on the "Proposed Secretary's Performance Standards and Reporting Requirements" and discussions within the Executive Branch pursuant to the Paperwork Reduction Act of 1980.

The Department will issue national standards and associated parameters for Program Year 1984 (July 1, 1984–June 30, 1985) administratively prior to January 31, 1984. The adjustment methodology described in the April 26 public notice will be made available to the Governors for Program Year 1984 for use at their discretion. The use of this methodology will be optional. Governors will be allowed to use the nationally developed adjustment methodology or they may develop their own methodology to adjust the performance standards to take into consideration local conditions and circumstances; when an alternative approach is adopted, the Governor will describe this alternative in the State Coordination and Special Services Plan, pursuant to Section 121(b) of the Act.

FOR FURTHER INFORMATION CONTACT: Ms. Kay Albright, Telephone (202) 376–6620.

SUPPLEMENTARY INFORMATION:

A. Summary of Changes

The following will summarize the changes made on the JASR as a result of the Department's discussions with OMB. A copy of the approved JASR format and instructions are included at the appendix.

Section I—Participation and Termination Summary

1. Total Terminations.

a. "Age 14–15 Completed Program Objective" will be reflected in the overall Youth Employability Enhancement Termination total.

b. In response to numerous comments received, the definition for "Completed Major Level of Education" was revised to give credit to participants who were not in school, at time of entry in the program, and who completed a major level of education.

Section II—Terminees Performance Measures Information

1. Characteristics.

a. A few reporting categories were combined.

b. Two reporting categories were deleted.

2. Wage and Welfare Data.

a. This section was deleted, with the exception of one reporting category, in response to the comments received.

Section IV—Followup Information

This section was deleted in its entirety in response to the comments received.

B. Effective Date of JTPA Annual Status Report (JASR)

In addition to the previously approved Quarterly Status Report, the Department will require an annual status report to be submitted to the national office no later than 45 days after the end of each program year. Each reporting period begins on the start date of each JTPA program year, as stated in Section 161 of the Act. The first JASR will cover the period October 1, 1983—June 30, 1984.

A single JASR for Title III programs (Column D) only will be submitted to the national office by the Governor on a Statewide basis. Also, the Governor will submit to the national office a separate JASR for Title II–A programs (Columns A–C) only for *each* designated Service Delivery Area (SDA). No Statewide summary of these SDA data should be submitted by the Governor.

Signed this 29th day of August 1983.

Albert Angrisani,

Assistant Secretary of Labor.

Appendix on the JTPA Annual Status Report Format and Instructions.

JTPA Annual Status Report (JASR)

1. *Purpose.* The JASR Annual Status Report (JTPA) displays cumulative data on participation , termination, performance measures and the socio-economic characteristics of all terminees on an annual basis. The information will be used to determine levels of program service and performance measures. Selected information will be aggregated to provide quantitative program accomplishments on a local, State, and national basis.

2. *General Instructions.* A single JASR for Title III (Column D) programs only will be submitted by the Governor on a Statewide basis. Also, the Governor will submit a separate JASR for Title II–A (Colums A–C) programs only for *each* designated Service Delivery Area (SDA). (No Statewide summary of these SDA data should be submitted by the Governor.)

Note.—*Exclude* information for Title II–B, Summer Youth Employment and Training Program (SYETP), from the JASR. Also, exclude participants in Title I, Sections 123 and 124 from the JASR.

Each reporting period begins on the start date of each JTPA program year, as stated in Section 161 of the act. Reports are due in the national office no later than 45 days after the end of each program year. Three copies of the JASR are to be provided to: Employment and Training Administration, U.S. Department of Labor, Attn: TSVR, 601 D. Street, NW., Washington, D.C. 20213.

An additional copy of the JASR is to be provided to the appropriate Regional Administrator for Employment and Training in the DOL regional office that includes the State in which the JTPA recipient is located.

3. *Facsimile of Form.* See the following page.

BILLING CODE 4510-30-M

OMB Approval No. 1205-0211

U.S. DEPARTMENT OF LABOR Employment and Training Administration JTPA ANNUAL STATUS REPORT	a. STATE/SDA NAME AND ADDRESS	b. REPORT PERIOD From To

I. PARTICIPATION AND TERMINATION SUMMARY	TOTAL ADULTS	ADULTS (WELFARE)	YOUTH	DISLOCATED WORKERS
	(A)	(B)	(C)	(D)
A. TOTAL PARTICIPANTS				
B. TOTAL TERMINATIONS				
1. Entered Unsubsidized Employment				
a. Entered Registered Apprenticeship Program				
b. Entered Armed Forces				
2. Youth Employability Enhancement Terminations				
a. Entered Non-Title II Training				
b. Returned to Full-Time School				
c. Completed Major Level of Education				
3. All Other Terminations				

LINE NO.	II. TERMINEES PERFORMANCE MEASURES INFORMATION		TOTAL ADULTS	ADULTS (WELFARE)	YOUTH	DISLOCATED WORKERS
			(A)	(B)	(C)	(D)
1	SEX	Male				
2		Female				
3	AGE	14 - 15				
4		16 - 21				
5		22 - 54				
6		55 and Over				
7	EDUCATION STATUS	School Dropout				
8		Student *(High School or Less)*				
9		High School Graduate, or Equivalent, and Above				

c. SIGNATURE AND TITLE	d. DATE SIGNED	e. TELE. NO.

ETA 8580 (Aug. 1983)

a. STATE/SDA NAME AND ADDRESS	b. REPORT PERIOD From	To

LINE NO.	II. TERMINEES PERFORMANCE MEASURES INFORMATION – *Continued*		TOTAL ADULTS (A)	ADULTS (WELFARE) (B)	YOUTH (C)	DISLOCATED WORKERS (D)
10	FAM. STAT.	Single Head of Household with Dependent Children				
11	RACE/ETHNIC GROUP	White *(Not Hispanic)*				
12		Black *(Not Hispanic)*				
13		Hispanic				
14		American Indian or Alaskan Native				
15		Asian or Pacific Islander				
16	OTHER BARRIERS TO EMPLOY.	Limited English Language Proficiency				
17		Handicapped				
18	U.C. STAT.	Unemployment Compensation Claimant				
19	LAB. FORCE STAT.	Unemployed				
20	Youth Welfare Recipient					
21	Average Weeks Participated					
22	Average Hourly Wage at Termination					
23	Total Program Costs *(Federal Funds)*					

REMARKS

ETA 9580 (Aug. 1983)

BILLING CODE 4510-30-C

4. *Instructions for Completing the JTPA Annual Status Report (JASR).*

a. *State/SDA Name and Address.* Inter the name and address of the state agency which will administer the grant recipient's program (Title III reports). Enter the name and address of the designated SDA subrecipient, as appropriate, (Title II–A reports).

b. *Reporting Period.* Enter in "From" the beginning date of the designated JTPA program year and enter in "To" the ending date of that program year.

c. *Signature and Title* (at bottom of the page). The authorized official signs here and enters his or her title.

d. *Date Signed.* Enter the date the report was signed by the authorized official.

e. *Telephone Number.* Enter the area code and telephone number of the authorized official.

5. *General Information.* The column breakouts are based strictly on age rather than on program strategy. For purposes of the JASR, the adult and adult welfare columns will include terminees age 22 years and older. The youth column will include terminees who were age 14–21 at the time of eligibility determination. The dislocated workers column may include adults and youth, as applicable.

Data reported should be based on information collected at the time of intake except for outcomes at termination, and Lines 21, 22 and 23.

Characteristics Information Obtained on an Individual at the Time of Eligibility Determination for the Recipient's JTPA Program Should *Not* Be Updated When the Individual Terminates From the JTPA Program

Column Headings

Column A *Total Adults.* This column will contain an entry for each appropriate item for *all* adult participants in Title II–A only.

Column B *Adults (Welfare).* This column will contain an entry for each appropriate item for adult participants in Title II–A who were welfare recipients or whose family received cash payment under AFDC (SSA Title IV), General Assistance (State or local government), or the Refugee Assistance Act of 1980 (PL 96–212) at the time of JTPA eligibility determination. For performance standards purposes, *exclude* recipients of SSI (SSA Title XVI) from entries in Column B.

Note.—Column B is a sub-breakout of Column A; therefore, Column B should be less than or equal to Column A.

Column C *Youth.* This column will contain an entry for each appropriate item for *all* youth participants in Title II–A only.

Column D *Dislocated Workers.* This column will contain an entry for each appropriate item for *all* participants in Title III who were determined to be eligible dislocated workers.

Note.—Columns A, B, and C apply to Title II–A only. Column D applies to Title III only. All information regarding a given participant must be entered in the same column, e.g., Column C for a youth in Title II–A.

The sum of the entries in Columns A and C, Item I.A., of the JASR should equal the entry in Column A. Item II.A, of the JQSR, for the same recipient, for the final quarter of the same program year. The entry in Column D, Item I.A of the JASR should equal the entry in Column C, Item II.A of the JQSR for the same recipient, for the final quarter of the same program year.

Section I—Participation and Termination Summary

Section I displays the program's accomplishments in terms of the total cumulative number of actual participants in the program and the number and types of terminations from the program, as of the end of the reporting period.

Entries for I.A. and I.B are cumulative from the beginning of the program year through the end of the reporting period.

Item I.A. *Total Participants.* Enter the total number of participants who are or were in the program through the end of the reporting period, including both those on board at the beginning of the designated program year and those who have entered during the program year.

"Participant" means any individual who has: (1) Been determined eligible for participation upon intake; and (2) Started receiving subsidized employment, training, or services (except post-termination services) funded under the Act, following intake, except for an individual who receives only outreach and-or intaleka nd assessment services.

Item I.B. *Total Terminations.* Enter the total number of participants terminated from the program for any reason from the beginning of the program year through the end of the reporting period. This item is the sum of Items I.B.1 through I.B.3.

"Termination" means the separation of a participant from a given title of the Act who is no longer receiving employment, training or services (except post-termination services) funded under that title. NOTE: Individuals may continue to be considered as participants for a period of 90 days after last receipt of employment or training funded under a given title.

Item I.B.1. *Entered Unsubidized Employment.* Enter the cumulative number of all terminees who entered (through the efforts of the subrecipient or otherwise) full- or part-time unsubsidized employment through the end of the reporting period. Unsubsidized employment means employment not financed from funds provided under the Act. (For JTPA reporting purposes, this term includes entry into the Armed Forces, entry into employment in a registered apprenticeship program, and terminees who became self-employed.)

Item I.B.1.a *Entered Registered Apprenticeship Program.* Enter the cumulative number of youth terminees only who entered registered apprenticeship programs following termination from the program. This item is a sub-breakout of Item I.B.1.

Item I.B.1.b *Entered Armed Forces.* Enter the cumulative number of youth terminees only who enterd the Armed Forces following termination from the program. This item is a sub-breakout of Item I.B.1.

Item I.B.2. *Youth Employability Enhancement Terminations.* Enter the cumulative number of youth participants who were terminated under one of the Youth Employability Enhancements through the end of the report period. "Youth Employability Enhancement" means an outcome for youth, other than entered unsubsidized employment, which is recognized as enhncing long-term employability and contributing to the potential for a long-term increase in earnings and employment. Outcomes which meet this requirement shall be restricted to the following: (1) Entered Non-Title II Training; (2) Returned to Full-Time School; (3) Age 14–15 Completed Program Objectives; or (4) Completed Major Level of Education. NOTE: For reporting purposes, a youth shall *not* be counted in this item, if he/she entered unsubsidized employment, and shall be counted in only *one* of these categories, even though more than one may have been achieved. Even though included in Item I.B.2., no separate sub-breakout is required, below, for outcome (3) Age 14–15 Completed Program Objectives.

Item I.B.2.a. *Entered Non-Title II Training.* Enter the cumulative number of youth trainees who entered an employment/training program not funded under Title II of the JTPA. This item is a sub-breakout of Item I.B.2.

Item I.B.2.b *Returned to Full-Time School.* Enter the cumulative number of terminees who retunred to full-time school if, at the time of eligibility determination, the participant was *not*

attending school and had *not* obtained a high school diploma or equivalent. This item is a sub-breakout of Item I.B.2.

Item I.B.2.c. *Completed Major Level of Education.* Enter the cumulative number of terminees who completed, during enrollment, a level of eudcational achievement which had not been reached at the time of entry. Levels of educational attainment are elementary, secondary, and post-secondary. This item is a sub-breakout of Item I.B.2.

Note.—The sum of Items I.B.2.a. through I.B.2.c. in Column C should be equal to or less than Item I.B.2., Youth Employability Enhancement Terminations, in that column.

Item I.B.3. *All Other Terminations.* Enter the cumulative number of participants who were terminated for reasons other than those in Item I.B.1. and I.B.2.—both successful and negative—through the end of the reporting period.

Section II—Terminees Performance Measures Information

Section II displays performance measures/parameters information. As indicated previously, characteristics information for terminated participants is as of the time of eligibility determination for the recipient's JTPA program. Other information is as specified.

References to items in the Participant Record are to the individual recordkeeping document provided by DOL in a Technical Assistance Guide (TAG). Governors have the option of using the record, as outlined in the TAG, or may develop any other record which meets the requirements of Section 629.35(c) and (d) of the JTPA Regulations.

Line Item Definitions and Instructions

Sex

Line 1 Male
Line 2 Female

Distribute the terminees according to Sex. (Item A.20. of the Participant Record). The sum of Lines 1 and 2 in each column should be equal Item I.B. in that column.

Line 3 14–15
Line 4 16–21
Line 5 22–54
Line 6 55 and over

Distribute the terminees according to Age. (Item A.6. of the Participant Record). The sum of Lines 3 through 6 in each column should equal Item I.B. in that column.

Education Status

Line 7 School Dropout
Line 8 Student (High School or Less)
Line 9 High School Grad., or Equiv., and Above

Distribute the terminees according to Education Status. (Item A.21. of the Participant Record). The sum of Lines 7 through 9 in each column should equal Item I.B. in that column.

Family Status

Line 10 Single Head of Household with Dependent Children

Enter the terminees, by column, if the above Family Status classification applies.

Race/Ethnic Group

Line 11 White (Not Hispanic)
Line 12 Black (Not Hispanic)
Line 13 Hispanic
Line 14 American Indian or Alaskan Native
Line 15 Asian or Pacific Islander

Distribute the terminees according to the Race/Ethnic Groups listed above. For purposes of this report, Hawaiian Natives are to be recorded as "Asian or Pacific Islander" (Item A.22. of the Participant Record). The sum of Lines 11 through 15 in each column should equal Item I.B. in that column.

Other Barriers to Employment

Line 16 Limited English-Language Proficiency
Line 17 Handicapped

Enter the terminees, by column, for as many of the above Barriers to Employment in Lines 16 through 17 as apply (Item A.23. of the Participant Record).

Unemployment Compensation Status

Line 18 Unemployment Compensation Claimant

Enter the terminees, by column, if the above Unemployment Compensation status classification applies (Item A.16. of the Participant Record).

Labor Force Status

Line 19 Unemployed

Enter the terminees, by column, if the above Labor Force Status classification applies.

Line 20 Youth Welfare Recipient.

Enter the number of youth terminees who were welfare recipients or whose family received cash payments under AFDC (SSA Title IV), General Assistance (State or local government), or the Refugee Assistance Act of 1980 (Pub. L. 96–212) at the time of JTPA eligibility determination. For performance standards purposes, *exclude* recipients of SSI (SSA Title XVI) from entries for Line 20.

Line 21 Average Weeks Participated

Enter the average number of weeks of participation in the program for all terminees.

To calculate this entry: Count the number of days participated for each terminee, including weekends, from his/her date of entry into the program until his/her termination date. Divide this result by 7. This will give the number of weeks participated for that terminee. Sum all the terminees' weeks of participation and divide the result by the number of terminees, as entered (by column) in Item I.B.

Line 22 Average Hourly Wage at Termination

Enter the average hourly wage at termination for the total number of terminees in Item I.B.1, in Section I, above (by column).

To calculate this entry: Sum the hourly wage at termination for all the terminees shown in Item I.B.1 above (by column). Divide the result by the number of terminees shown in Item I.B.1 above (by column).

Line 23 Total Program Costs (Federal Funds)

Enter the total accrued expenditures, through the end of the reporting period, of the funds allocated to SDA's under Section 202(a) of the Act or otherwise distributed by the Governor to SDA's under Section 202(b)(3)—performance incentives—for the Title II–A program in Columns A and C, as appropriate, for *all* participants served. Enter the total accrued expenditures, through the end of the reporting period, of Title III funds received by the Governor under Section 301 of the Act in Column D only, for *all* participants served. Include expenditures of formula and discretionary Federal funds only.

Note.—Entries will be made to the nearest dollar. The JASR program cost data will be compiled on an accrual basis. If the recipient's accounting records are not normally maintained on an accrual basis, the accrual information should be developed through an analysis of the records on hand or on the basis of best estimates.

Definitions of Terms Necessary for Completion of Reports

Education Status

School dropout—An individual who is not attending any school and has not received a high school diploma or a GED Certificate.

Student (high school or less)—An individual who is enrolled in an elementary or secondary school (including elementary, junior and senior high school or equivalent) or is between school terms and intends to return to school.

High school graduate, or equivalent, and above—An individual who has received a high school diploma or GED Certificate, or who has attended any post-secondary, vocational, technical, or academic school.

Handicapped individual—Refer to Sec. 4(10) of the Act. Any individual who has a physical or mental disability which for such individual constitutes or results in a substantial handicap to employ.

Note.—This definition will be used for performance standards purposes, but not for program eligibility determination (Sec. 4(8)(E)).

Unemployed—An individual who did not work during the 7 consecutive days prior to application to a JTPA program, who made specific efforts to find a job within the past 4 weeks prior to application, and who was available for work during the 7 consecutive days prior to application (except for temporary illness). Source: DOL/BLS

Limited English language proficiency—Inability of an applicant, whose native language is not English, to communicate in English, resulting in a job handicap.

Race ethnic group

White (not hispanic)—A person having origins in any of the original people of Europe, North Africa, or the Middle East.

Black (not hispanic)—A person having origins in any of the black racial groups of Africa.

Hispanic—A person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin (including Spain), regardless of race.

Note.—Among persons from Central and South American countries, only those who are of Spanish origin, descent, or culture should be included in the Hispanic category. Persons from Brazil, Guiana, and Trinidad, for example, would be classified according to their race, and would not necessarily be included in the Hispanic category. Also, the Portuguese should be excluded from the Hispanic category and should be classified according to their race.

American Indian or Alaskan Native—A person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliation or community recognition.

Asian or Pacific Islander—A person having origins in any of the original people of the Far East, Southeast Asia, the Indian Subcontinent (e.g., India, Pakistan, Bangladesh, Sri Lanka, Nepal, Sikkim, and Bhutan), or the Pacific Islands. This area includes, for example, China, Japan, Korea, the Philippine Islands, and Samoa. Hawaiian natives are to be recorded as Asian or Pacific Islanders.

Single head of household—A single, abandoned, separated, divorced or widowed individual who has responsibility for one or more dependent children under age 18.

UC claimant—Any individual who has filed a claim and has been determined monetarily eligible for benefit payments under one or more State or Federal unemployment compensation programs, and who has not exhausted benefit rights or whose benefit year has not ended.

[FR Doc. 83-24185 Filed 9-1-83; 8:45 am]
BILLING CODE 4510-30-M

Office of Pension and Welfare Benefit Programs

[Application No. D-4271]

Proposed Exemptions; Landauer Fund I (the Fund), New York, N.Y.

AGENCY: Pension and Welfare Benefit Programs, Department of Labor.

ACTION: Notice of Proposed Exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Landauer Fund I (the Fund) Located in New York, New York

[Application No. D-4271]

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975).

Section I. Exemption for Certain Transactions Involving the Fund

(a) Effective upon the date of publication in the **Federal Register** of the grant of this exemption (hereinafter, the Effective Date), the restrictions of sections 406(a), 406(b)(2) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply to the transactions described below if the applicable conditions set forth in Section II are met.

(1) *Acquisitions, Sales or Holdings of Employer Real Property.*

(A) Except as provided in subsection (B) of this section (1), and acquisition, sale or holding of employer real property by the Fund if no commission is paid to Landauer Advisors, Inc. (LAI), or to the employer or to any affiliate of LAI or the employer in connection with the acquisition, sale or lease of employer real property; and

(i) Each parcel of employer real property and the improvements thereon held by the Fund are suitable (or adaptable without excessive cost) for use by different tenants, and

(ii) The property of the Fund that is leased or held for lease to others, in the aggregate, is dispersed geographically.

(B) In the case of an employee benefit plan which has subscribed to interests in the Fund (Unitholders) that is not an eligible individual account plan (as defined in section 407(d)(3) of the Act), the exemption provided in subsection (A) of this section (1) shall be available only if, immediately after the acquisition of the real property, the aggregate fair market value of employer real property held by the Fund does not exceed 10 percent of the fair market value of the Unitholder's interest in the Fund.

(C) For purposes of the exemption contained in subsection (A) of this section (1), the term "employer real property" shall include real property leased to a person who is a party-in-interest with respect to a Unitholder by reason of a relationship to the employer described in section 3(14) (E), (G), (H) or (I) of the Act.

(b) Effective upon the Effective Date, the restrictions of section 406(a)(1) (A) through (D) and section 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the transactions described below, if the conditions of Section II are met.

(1) *Transactions with Persons Who Are Parties in Interest With Respect to a Unitholder Solely by Virtue of Being Certain Service Providers or Certain Affiliates of Service Providers.*

Any transaction between the Fund and a person who is a party-in-interest with respect to a Unitholder if—

(A) The person is a party-in-interest (including a fiduciary) solely by reason of providing services to the Unitholder, or solely by reason of a relationship to a service provider described in section 3(14) (F), (G), (H) or (I) of the Act, or both, and the person neither exercised nor has any discretionary authority, control, responsibility or influence with respect to the investment of the Unitholder's assets in, or held by, the Fund, and

(B) The person is not an affiliate of LAI.

(2) *Certain Leases and Goods.*

The furnishing of goods to the Fund by a party-in-interest with respect to a Unitholder or the leasing of real property owned by the Fund to such party-in-interest and the incidental furnishing of goods to such party-in-interest by the Fund, if—

(A) In the case of goods, they are furnished to or by the Fund in connection with real property owned by the Fund;

(B) The party-in-interest is not LAI or any affiliate of LAI; and

(C) The amount involved in the furnishing of goods or leasing of real property in any calendar year (including the amount under any other lease or arrangement for the furnishing of goods in connection with the real property investments of the Fund with the same party-in-interest, or any affiliate thereof) does not exceed the greater of $25,000 or 0.5 percent of the fair market value of the assets of the Fund on the most recent valuation date of the Fund prior to the transaction.

(3) *Management of Real Property.*

Any services provided to the Fund by LAI or by an affiliate of LAI in connection with the management of the real property owned by the Fund, if the compensation paid to LAI or its affiliate does not exceed the cost of the services to LAI or its affiliate.

(4) *Transactions Involving Places of Public Accommodation.*

The furnishing of services, facilities and any goods incidental to such services and facilities by a place of public accommodation owned by the Fund to a party-in-interest with respect to a Unitholder, if the services, facilities and incidental goods are furnished on a comparable basis to the general public.

Section II—General Conditions

(a) At the time the transaction is entered into, and at the time of any subsequent renewal thereof that requires the consent of LAI or its affiliate, the terms of the transaction are not less favorable to the Fund than the terms generally available in arm's-length transactions between unrelated parties.

(b) LAI or its affiliates maintain for a period of six years from the date of the transaction the records necessary to enable the persons described in paragraph (c) of this Section II to determine whether the conditions of this exemption have been met, except that: (1) A prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of LAI or its affiliates the records are lost or destroyed prior to the end to the six-year period, and (2) no party in interest shall be subject to the civil penalty that may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975 (a) and (b) of the Code, if the records are not maintained, or are not available for examination as required by paragraph (c) below.

(c)(1) Except as provided in section 2 of this paragraph (c) and notwithstanding any provisions of subsections (a)(2) and (b) of section of 504 of the Act, the records referred to in paragraph (b) of this Section II are unconditionally available at their customary location for examination during normal business hours by: (A) Any duly authorized employee or representative of the Department or the Internal Revenue Service,

(B) Any fiduciary of the Unitholder who has authority to acquire or dispose of the interests in the Fund of the Unitholder or any duly authorized employee or representative of such fiduciary,

(C) Any contributing employer to any Unitholder or any duly authorized employee or representative of such employer, and

(D) Any participant or beneficiary of any Unitholder or any duly authorized employee or representative of such participant or beneficiary.

(2) None of the persons described in subparagraphs (B) through (D) of this paragraph (c) shall be authorized to examine the trade secrets of LAI or any of its affiliates, or commercial or financial information which is privileged or confidential.

Section III—Definitions and General Rules

For the purposes of this exemption,

(a) An "affiliate" of a person includes—

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person,

(2) Any officer, director, employee, relative of, or partner in any such person, and

(3) Any corporation or partnership of which such person is an officer, director, partner or employee.

(b) The term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(c) The term "relative" means a "relative" as that term is defined in section 3(15) of the Act (or a "member of the family" as that term is defined in section 4975(e)(6) of the Code), or a

brother, a sister, or a spouse of a brother or sister.

(d) The time as of which any transaction, acquisition or holding occurs is the date upon which the transaction is entered into, the acquisition is made or the holding commences. In addition, in the case of a transaction that is continuing, the transaction shall be deemed to occur until it is terminated. If any transaction is entered into, or an acquisition is made, on or after the effective date of this exemption, or a renewal that requires the consent of the Fund occurs on or after the effective date of this exemption, and the requirements of this exemption are satisfied at the time the transaction is entered into or renewed, respectively, or at the time the acquisition is made, the requirements will continue to be satisfied thereafter with respect to the transaction or acquisition and the exemption shall apply thereafter to the continued holding of the property so acquired. Nothing in this paragraph (d) shall be construed as exempting a transaction entered into by the Fund which becomes a transaction described in section 406 of the Act or section 4975 of the Code while the transaction is continuing, unless the conditions of the exemption were met either at the time the transaction was entered into or at the time the transaction would have become prohibited but for this exemption.

(e) Each Unitholder shall be considered to own the same proportionate undivided interest in each asset of the Fund as its proportionate interest in the total assets of the Fund as calculated on the most recent preceding valuation date of the Fund.

Preamble

On July 25, 1980, the Department published a class exemption, Prohibited Transaction Exemption 80–51 (PTE 80–51, 45 FR 49709), which permits collective investment funds that are maintained by banks and in which employee benefit plans particulate to engage in certain transactions provided that specified conditions are met. The transactions for which the applicants have requested relief are those which, in part, are the subject of PTE 80–51.

The Department stated in PTE 80–51 that a comment had been received to the proposed class exemption requesting that it be amended to apply to collective investment funds that are not maintained by banks. Relief was granted for bank collective investment funds because, among other reasons, such funds are regulated by other governmental agencies and constitute a well-defined class of funds. In the case of collective investment funds that are not maintained by banks, the Department found that the record was insufficient to determine the nature of the funds and the entities managing the funds that would comprise the class covered by such broad relief. As a result, the Department stated that it could not make the required statutory findings for such relief, and that relief for non-bank maintained collective investment funds should be dealt with on an individual rather than a class basis.

On December 21, 1982 (47 FR 56945), the Department proposed a class exemption for plan asset transactions managed by independent qualified professional asset managers (QPAMs). The proposed class exemption would permit, among other things, various parties who are related to employee benefit plans to engage in transactions involving plan assets if such assets are managed by QPAMs. The class exemption states, at 47 FR 56947, that exemptive relief will be available for, among other entities, collective trust funds and pooled separate accounts maintained for a number of plans who may not qualify for relief under, respectively, PTE 80–51 or Prohibited Transaction Exemption 78–19, (43 FR 59915, December 22, 1978). Part V of the proposed class exemption provides that QPAMs must meet certain financial and net worth requirements. The applicant represents herein that LAI does not qualify as a QPAM as defined in Part V of the proposed class exemption, and therefore requests individual exemptive relief for the subject transactions.

Summary of Facts and Representations

1. The Fund is a qualified group trust for investment by qualified pension and profit sharing plans. The Fund forms a part of the qualified plans pursuant to Revenue Ruling 81–100, 1981–1 C.B. 326. The Internal Revenue Service has ruled that the Fund is qualified under section 401(a) of the Code and is exempt from Federal income tax under section 501(a) of the Code.

2. As of January 1, 1983, interests in the Fund had been subscribed to a total of $35,000,000. These interests are divided among the four Unitholders as follows: $10,000,000 to General Motors Co. Pension Plans; $10,000,000 to Honeywell Co. Master Trust Fund; $8,000,000 to Monsanto Company Master Trust; and $7,000,000 to the General Tire and Rubber Co. Pension Plans. The trustees of the Fund, Messrs. John R. White, Patrick J. Callan, John B. Bailey and James L. Mooney (the Trustees), each of whom (except Mr. Mooney) serves as officers and directors of Landauer Associates, Inc. (Landauer), have determined that no additional investors will participate in the Fund.

3. The Fund will have a term until December 31, 1992, unless extended by Unitholders holding not less than 60% the outstanding interests in the Fund for a two year extension, or unless terminated by a vote of the holders of interests in the Fund holding not less than 60% of the Fund's outstanding interests. Unitholders desiring to liquidate on December 31, 1992, regardless of the extension, may do so at 100% of the value of their interest in the Fund as of that date. If a Unitholder's interest is either voluntarily or involuntarily liquidated, the Unitholder will receive as soon as practicable 80% of the net asset value of such interest. The remaining 20% of such net asset value will be paid into a special account which will be paid to the liquidated or disqualified Unitholder on December 31, 1992, to the extent provided in the Fund's trust agreement. The interests in the Fund will not be registered under the Securities Act of 1933 or state securities laws, and must therefore be acquired for investment and not with a view for resale.

4. Pursuant to a management agreement (the Agreement) between the Fund and LAI, LAI serves as the investment manager of the Fund. Pursuant to the Agreement, the Trustees have delegated to LAI full discretion to manage and invest the assets of the Fund, and monitor and dispose of its investments. LAI is a 100% owned subsidiary of Landauer, and is a registered investment adviser under the Investment Advisers Act of 1940.

5. Landauer has been responsible for the investment on behalf of domestic and foreign pension funds, institutions, and substantial investors, for real estate properties totalling in excess of $500 million. Landauer also represents several major pension funds on a separate account basis, acting as an acquisition manager in the purchase of properties, and supervisory manager in the ongoing management of the acquired real estate portfolio.

6. As mentioned, LAI will maintain full discretion over the management of the Fund, and will identify and analyze suitable properties for investment. Specifically, it will locate properties through contacts with property owners and real estate brokers, surveys of local real estate markets, and the placement of advertisements. LAI will conduct an investment analysis of each property offering which warrants detailed analysis, including review of the leases, current and likely future expenses, the

local real estate market, and the quality of and potential for increasing the property's revenue. LAI will be responsible for the overall management of the properties in which the Fund has invested. Its duties in this regard will include establishing leasing policies and engaging and supervising local property managers. Local property managers will be required to submit to LAI monthly reports and an annual budget for the properties which they manage. In addition, LAI will be responsible for the preparation and filing of all necessary tax returns for the Fund and its wholly-owned subsidiary corporations holding title to the properties acquired by or for the Fund.

LAI will receive a management fee as part of the subscription price paid by investors purchasing interests in the Fund. Thereafter, LAI will receive from the Fund a management fee at a specified rate pr annum based upon the aggregate price of interests purchased, payable monthly. LAI will pay all expenses in connection with the offering and the organization of the Fund. Except for the receipt of the management fee neither Landauer nor LAI nor any of their affiliates, employees, officers or directors will receive compensation in connection with the business of the Fund (except as officers, directors or employees of Landauer or LAI), including without limitation, sales or leasing commissions, termination fees or mortgage fees.

8. Pursuant to the Fund's operating documents, the Fund will not enter into any transaction of any kind with any Trustee or with LAI, Landauer or any subsidiaries thereof, or any officers, directors, or employees of any such entities, provided that LAI may contract to provide management services at cost to the Fund.

9. Interests have been offered in the Fund pursuant to a complete investment package which includes a detailed private placement memorandum describing the Fund, copies of the Agreement, the Fund's trust agreements, and an adoption agreement. The adoption agreement causes the governing instrument of each Unitholder to be amended to incorporate the Fund's trust agreement. Neither the sponsor-employers of such Unitholders, nor any of the trustees, administrators, officers or investment advisers of such sponsor-employer or its Plans have any right or power to control or in any way participate in the operation or management of the Fund.

10. The fiduciaries of each Unitholder, who are independent of the Fund, will maintain complete discretion with respect to the investment in or redemption of their interests in the Fund. The applicant represents that each Unitholder is a large plan with sophisticated, experienced fiduciaries.

11. Because each Unitholder will incorporate as part of such Plan the terms, provisions, and conditions of the Fund's trust agreement, the Fund will occupy a position equivalent to the trust created by such Unitholder. Accordingly, pursuant to Rev. Rul. 81–100, a "party in interest" or "disqualified person" as defined in the Act [1] with respect to a Unitholder may be viewed as a party in interest with respect to the Fund. Accordingly, a transaction between such party and the Fund may be viewed as a prohibited transaction as described in section 406 of the Act, section 4975(c) of the Code, or both. The applicants represent that if the Fund is unable to enter into transactions with certain persons because such persons are parties in interest with respect to Unitholders, the Fund's ability to prudently make its investments and conduct its operations solely for the benefit of the Unitholders will be unduly restricted. The applicants represent that such transactions, because of the nature of the Fund, are difficult to identify and control, but if entered into would be in the interests of the Fund, the Unitholders and their participants and beneficiaries.

12. The applicants request prospective exemptive relief for transactions between the Fund and parties in interest who maintain no formal authority over the management and investments of the Fund, when such transactions are necessary for the Fund to prudently make its investments and conduct its operations. The applicants request prospective exemptive relief for certain classes of transactions between the Fund and certain parties in interest which were afforded exemptive relief in PTE 80–51. The applicants propose that such classes of transactions be subject to the identical conditions, limitations, and restrictions as those delineated with respect to the transactions afforded exemptive relief in PTE 80–51.

13. The applicants represent that because the Fund is a closed-end fund fully invested in which no Unitholder has less than 5 percent of the total assets in the Fund, the exemptive relief provided general transactions between parties in interest and the Fund as contained in Section I(a)(1) of PTE 80–51 is not applicable. Additionally, because no Unitholder is a multiemployer plan, the exemptive relief provided such plans in Section I(a)(2) of PTE 80–51 is not necessary. The applicant is not requesting, and the Department is not proposing exemptive relief for these above-described transactions.

14. The Fund supplies holders of Interests with quarterly reports and annual audited reports which will include financial statements of the Fund, and a schedule and description of investments held by the Fund. Specifically, within 120 days after the end of each calendar year of the Fund, and within 60 days after the end of each quarter (except the last quarter), the Trustees will cause to be prepared and distributed to each Unitholder a report containing the Fund's balance sheet as of the end of the period, a profit and loss statement for such calendar year, and a statement of changes in the Fund's financial position for such calendar year audited and reported upon by independent certified public accountants. In addition, the report will include a statement of all fees paid to LAI. Within 60 days after the end of each quarter the Trustees will also cause to be prepared a schedule and description of all real property acquired or sold by the Fund during such quarter. The Trustees will also supply other information which is reasonably requested by a Unitholder.

15. Price Waterhouse & Co. (Price) serves as the independent auditor of the Fund. Its duties include, but are not limited to, testing for the existence of party in interest transactions, the inspection of purchase agreements, warranty deeds, mortgage notes and other legal documents pertaining to properties acquired by the Fund, testing in order to calculate LAI's management fees, reviews and confirmation of leases, reviews of payments of property taxes and adequacy of insurance coverage, and reviews of internal accounting controls. All examinations by Price will be made in accordance with generally accepted audited standards.

16. In summary, the applicants represent that the proposed exemption for certain transactions between the Fund and certain parties in interest satisfies the criteria of section 408(a) of the Act because: (a) The proposed exemption would allow the Fund to enter into transactions which, although prohibited, are necessary for the Fund to prudently make its investments and conduct its operations solely for the benefit of its Unitholders and their participants and beneficiaries; (b) the proposed exemption would only apply to certain classes of prohibited transactions which were afforded relief in PTE 80–51 and would be subject to

[1] For purposes of this exemption the term "party in interest" shall include a disqualified person as defined in section 4975(e)(2) of the Code.

the identical conditions, limitations, and restrictions as those delineated with respect to those transactions afforded exemptive relief in PTE 80–51; (c) independent fiduciaries, unrelated to the Fund, the Trustees, LAI, or any other related party maintain complete discretion with respect to investment in or redemption of Unitholders' assets from the Fund; and (d) such fiduciaries are knowledgeable and experienced investors acting on behalf of large Plans and are provided with detailed information on the Fund.

For Further Information Contact: Mr. David Stander of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 30th day of August, 1983.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 83–24199 Filed 9–1–83; 8:45 am]
BILLING CODE 4510–29–M

[Prohibited Transaction Exemption 83–126; Exemption Application No. D–3597 et al.]

Grant of Individual Exemptions; Stanley S. Moles, M.D., P.A. Profit Sharing Plan; Largo Fla. et al.

AGENCY: Pension and Welfare Benefit Programs, Department of Labor.

ACTION: Grant of Individual Exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Stanley S. Moles, M.D., P.A., Profit Sharing Plan (the Plan), Located in Largo, Florida

[Exemption Application No. D–3597, Prohibited Transaction Exemption 83–126]

Exemption

The restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the loan of $460,000 by the Plan to Med Bay West (the Partnership), a partnership comprised of stockholders of Stanley S. Moles, M.D., P.A. (the Plan Sponsor) for a period of five years, and the guarantee of the repayment of the loan by the Partnership and the Plan Sponsor, provided that the terms of the loan are not less favorable to the Plan than those obtainable in an arm's length transaction with an unrelated party on the date of the consummation of the transaction.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on June 21, 1983 at 48 FR 28366.

FOR FURTHER INFORMATION CONTACT: Ms. Linda M. Hamilton of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Employees Retirement Plan of Strachan, Shipping Company (the Plan) Located in Savannah, Georgia

[Exemption Application No. D–3752; Prohibited Transaction Exemption 83–127]

Exemption

The restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the loan of $1,800,000 by the Plan to Strachan

Shipping Company, provided that the terms of the loan are not less favorable to the Plan than those obtainable in an arm's length transaction with an unrelated party on the date of the consummation of the transaction.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on July 1, 1983 at 48 FR 30477.

For Further Information Contact: Ms. Linda M. Hamilton of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Pickering Industries, Inc. Profit Sharing Plan and Trust (the Plan) Located in Tacoma, Washington

[Exemption Application No. D–3828; Prohibited Transaction Exemption 83–128]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale of certain real property (the Real Property) by the Plan to Pickering Industries, Inc. (Industries) for $163,500 in cash, provided the amount paid for the Real Property is not less than its fair market value at the time the sale is consummated.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on July 1, 1983 at 48 FR 30479.

For Further Information Contact: Ms. Jan D. Broady of the Department, telephone (202) 523–8971. (This is not a toll-free number.)

Aladdin Industries, Incorporated Retirement, Plan for Salaried Employees (the Plan) Located in Nashville, Tennessee

[Exemption Application No. D–3952; Prohibited Transaction Exemption 83–129]

Exemption

The restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale to the Plan of land and a ground lease with respect to the land by Metro Center Properties, provided that the terms and conditions of sale were at least as favorable to the Plan as those obtainable in an arm's length transaction with an unrelated party at the time of consummation of the transaction.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on July 1, 1983 at 48 FR 30480.

Effective Date: The exemption will be effective April 29, 1983.

For Further Information Contact: Alan H. Levitas of the Department, telephone (202) 523–8971. (This is not a toll-free number.)

Polar Employee Stock Ownership Trust (the Plan) Located in Billings, Montana

[Exemption Application No. D–3962; Prohibited Transaction Exemption 83–130]

Exemption

The restrictions of section 406(a), 406(b) (1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to: (1) The transfer by the Plan to Polar Industries, Inc. (the Employer), the Plan sponsor, of 70,523 shares of Centura Energy Corporation (Centura), the former parent of the Employer; and (2) the receipt by the Plan from the Employer in consideration of such transfer of 74,857 shares of Employer stock, provided that the fair market value of the Employer stock received by the Plan is at least equal to the fair market value of its Centura stock.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on June 14, 1983 at 48 FR 27320.

For Further Information Contact: Mr. Robert Sandler of the Department, telephone (202) 523–8195. (This is not a toll-free number.)

Stanford Sanoff, A Law Corporation, Profit Sharing Plan (the Plan) Located in Encino, California

[Exemption Application No. D–4034; Prohibited Transaction Exemption 83–131]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale by the Plan of a certain parcel of real estate, located at 18530 E. Mayall Street, Northridge, California, to Stanford Sanoff (Mr. Sanoff), a party in interest with respect to the Plan, and the concurrent extension of credit by the Plan to Mr. Sanoff, provided the terms of the transaction are no less favorable to the Plan than those obtainable in an arm's length transaction with an unrelated third party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on July 5, 1983 at 48 FR 30796.

For Further Information Contact: Horace C. Green of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Fenix & Scisson, Inc. Employees' Profit Sharing Plan (the Plan) Located in Tulsa, Oklahoma

[Exemption Application No. D–4122; Prohibited Transaction Exemption 83–132]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed cash purchase by the Plan of 16.35 acres of improved real property (the Property) from Fenix & Scisson, Inc., the sponsor of the Plan, for $140,000 provided that this amount does not exceed the fair market value of the Property on the date of purchase.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on July 1, 1983 at 48 FR 30481.

For Further Information Contact: Mr. David Stander of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Sandy Valley Professionals, Inc., Money Purchase Pension Plan (the Plan) Located in East Sparta, Ohio

[Exemption Application No. D–4161; Prohibited Transaction Exemption 83–133]

Exemption

The restrictions of section 406 (a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the cash sale for $180,000, of certain real property (the Real Property) by the Plan to Francesco Nicoletti, M.D. (Dr. Nicoletti), provided the amount paid for the Real Property is not less than its fair market value at the time the transaction is consummated.

For a more complete statement of the facts and representations supporting the

Department's decision to grant this exemption refer to the notice of proposed exemption published on June 21, 1983 at 48 FR 28368.

For further information contact: Ms. Jan D. Broady of the Department, telephone (202) 523–8971. (This is not a toll-free number.)

The Ohio Convenient Food Mart Employees, Defined Benefit Pension Plan (the Plan) Located in Painesville, Ohio

[Exemption Application No. D–4165; Prohibited Transaction Exemption 83–134]

Exemption

The restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to: (1) The proposed purchase by the Plan of two parcels of property (the Properties) from Lockie-Lee Builders, a party in interest with respect to the Plan; and (2) the proposed leasing of the Properties as franchised retail stores of the Ohio Convenient Food Mart, Inc., the sponsor of the Plan, provided that the terms and conditions of the transactions are at least as favorable to the Plan as those which the Plan could receive in similar transactions with an unrelated Party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on July 5, 1983 at 48 FR 30798.

For Further Information Contact: Richard Small of the Department, telephone (202) 523–7222. (This is not a toll-free number.)

The Eleanor Z. Rabin & Associates, Inc., Employees' Pension Trust (the Plan) Located in Miami, Florida

[Exemption Application No. D–4270; Prohibited Transaction Exemption 83–135]

Exemption

The sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the sale of an office condominium located at 9012 SW 152nd Street, Miami, Fla. (the Property) by the Plan to Mrs. Eleanor Z. Rabin (Mrs. Rabin) for $192,000 in cash, provided such amount is not less than the fair market value of the Property at the time of the sale.[1]

[1] Since Mrs. Rabin is the only participant in the Plan and the sole stockholder of EZR Properties, Inc., the employer maintaining the Plan, there is no jurisdiction under Title I of the Act pursuant to 29 CFR 2501.3–3(b). However, there is jurisidiction under Title II of the Act pursuant to section 4975 of the Code.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on July 19, 1983 at 48 FR 32898.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 30th day of August, 1983.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 83–24200 Filed 9–1–83; 8:45 am]

BILLING CODE 4510–29–M

NATIONAL CREDIT UNION ADMINISTRATION

Agency Forms Submitted to the Office of Management and Budget for Clearance

The following are those packages submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Subject: Semiannual Financial and Statistical Report, NCUA 5300.

Respondents: Federally Insured Credit Unions.

Subject: 701.13 Financial and Statistical and Other Reports—The regulation requires each Federal credit union to submit a completed Financial and Statistical Report, NCUA 5300, twice each year, as of June 30 and December 31, to the Administration.

Respondents: Federally Insured Credit Unions.

OMB Desk Officer: Judith McIntosh.

Copies of the above information collection clearance packages can be obtained by calling the National Credit Union Administration, Special Projects Officer, on 202–357–1080.

Written comments and recommendations for the listed information collections should be sent directly to the OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503, Attn: Judith McIntosh.

Dated: August 29, 1983.

Rosemary Brady,

Secretary of the NCUA Board.

[FR Doc. 83–24201 Filed 9–1–83; 8:45 am]

BILLING CODE 7535–01–M

NATIONAL ENDOWMENT ON THE ARTS AND THE HUMANITIES

Music Advisory Panel (Chamber Music Section), Meeting

Pursuant to section 10 (a) (2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Chamber Music Section) to the National Council on the Arts will be held on September 19–22, 1983, from 9:00 a.m.–6:00 p.m. in Room 714 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, N.W., Washington, D.C.

A portion of this meeting will be open to the public on September 22 from 10:00 a.m.–1:00 p.m. to discuss Guidelines Review and Policy.

The remaining sessions of this meeting on September 19–21 from 9:00 a.m.–6:00 p.m. and on September 22 from 9:00 a.m.–10:00 a.m. and 1:00 p.m.–6:00 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9 (b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682–5433.

Dated: August 26, 1983.

John H. Clark,

Director, Office of Council and Panel Operations National Endowment for the Arts.

[FR Doc. 83–24173 Filed 9–1–83; 8:45 am]

BILLING CODE 7537–01–M

Music Advisory Panel (Joint New Music Performance/Chamber Music Section); Meeting

Pursuant to Section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Joint New Music Performance/Chamber Music Section) to the National Council on the Arts will be held on September 23, 1983, from 9:00 a.m.—5:30 p.m. in Room 714 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, N.W., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9 (b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682–5433.

Dated: August 26, 1983.

John H. Clark,

Director, Office of Council and Panel Operations National Endowment for the Arts.

[FR Doc. 83–24174 Filed 9–1–83; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 70–8]

Battelle Columbus Laboratories; Receipt and Availability of Application for Amendment to Special Nuclear Material License No. SNM–7

The U.S. Nuclear Regulatory Commission (The Commission) has received a request dated August 15, 1983 for issuance of an amendment to Special Nuclear Material License No. SNM–7 for Battelle Columbus Laboratories' research and development activities involving special nuclear material, byproduct material and source material at Columbus and West Jefferson, Ohio.

If granted, the amendment would authorize Battelle to use licensed materials to conduct a five-year program to demonstrate the safety, technical effectiveness and cost effectiveness of incineration as a method for low-level radioactive waste management. The incinerator facility would be installed at Battelle's West Jefferson site and would process a diversity of low-level wastes from medical facilities, industries and nuclear power plants.

In consideration of the request for license amendment, the Commission intends to perform a safety evaluation and an environmental assessment of the proposed activity. Prior to issuance of any amendment, the Commission will have to determine that the application meets the requirements of the Atomic Energy Act of 1954, as amended and of the Commission's regulations.

The application is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Dated at Silver Spring, Maryland this 25th day of August, 1983.

For the Nuclear Regulatory Commission.

Leland C. Rouse,

Chief, Advanced Fuel and Spent Fuel Licensing Branch, Division of Fuel Cycle and Material Safety, NMSS.

[FR Doc. 83–24213 Filed 9–1–83; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–293]

Boston Edison Co. (Pilgrim Nuclear Power Station); IGSCC Inspection Order Confirming Shutdown

I

The Boston Edison Company (the licensee), is the holder of Facility Operating License No. DPR–35, which authorizes the licensee to operate the Pilgrim Nuclear Power Station (the facility), at power levels not in excess of 1998 megawatts thermal. The facility is a boiling water reactor located at the licensee's site in Plymouth County, Massachusetts.

II

As a result of inspections conducted at 18 operating Boiling Water Reactors (BWRs) in conformance to recent IE Bulletins (IE Bulletin No. 82–03, Revision 1, "Stress Corrosion Cracking in Thick-Wall, Large-Diameter, Stainless Steel, Recirculation System Piping at BWR Plants," and IE Bulletin No. 83–02, "Stress Corrosion Cracking in Large-Diameter Stainless Steel Recirculation System Piping at BWR Plants"), a potential safety concern regarding intergranular stress corrosion cracking (IGSCC) in primary system piping was identified. These bulletins requested selected licensees to perform a number of actions regarding inspection and testing of pipe welds.

Results of these and other inspections pursuant to IE Bulletins 82–03 and 83–02 have revealed extensive cracking in large-diameter recirculation and residual heat removal system piping. In almost every case, where inspections were performed, IGSCC was discovered and, in many cases, repairs, analysis, and additional surveillance conditions were required. In view of the foregoing and the fact that the facility is similar in design to plants where IGSCC has occurred, there is a significant potential for IGSCC to exist in this facility and this facility may not fully satisfy all applicable 10 CFR Part 50 General Design Criteria. Therefore inspection is required to determine the extent of IGSCC and to ascertain, if necessary, the degree of remedial action.

By letter dated July 21, 1983, the staff, pursuant to 10 CFR 50.54(f), requested the licensee to provide a justification for continued operation of the facility prior to completing the inspections of IE Bulletin 83–02. The licensee responded by letters dated August 4, 10, and 22, 1983. The licensee also attended a public meeting held in Bethesda, Maryland on August 8, 1983. In the correspondence and meetings, the following issues were

discussed with the licensee: (1) costs and impacts of accelerating the inspection schedule; (2) an augmented leakage monitoring program; (3) visual inspection for leakage during shutdown; and (4) informing the reactor operators of the concern about pipe cracks and the greater potential need to implement LOCA emergency procedures and leak detection procedures.

The following information was provided by the licensee. Ultrasonic examinations of selected pipe welds in the Recirculation and Residual Heat Removal (RHR) systems were conducted during the refueling outages which commenced in 1980 and 1981 and, according to BECo, satisfied the sensitivity requirements of IE Bulletin 83–02.

The inspection firm that conducted the examinations during both refueling outages has subsequently validated three examination teams in accordance with IE Bulletin 83–02, and one team in accordance with IE Bulletin 82–03.

The procedures used during the 1981 outage were discussed with the NRC staff prior to utilization.

It should also be noted that of the personnel who had been validated to either IE Bulletin 83–02 or IE Bulletin 82–03, six took part in the 1980 and 1981 examinations.

As of this time, 23 recirculation system piping welds have been examined during two outages, using the modified equipment, technique and procedure criteria.

It is therefore BECo's position that inspections capable of detecting IGSCC have been performed since 1980 and that the scope of these inspections was comparable to that required by IE Bulletin 83–02. The 1980 and 1981 examination results revealed no unacceptable indications.

In April 1982, BECo conducted the ten year hydrostatic pressure test of the Class I piping systems in Pilgrim Station. The hydrostatic pressure tests were conducted in accordance with the requirements of ASME Section XI, 1977 edition, winter 1978 addenda. No unacceptable leakage was observed during the hydrostatic pressure test of the Class I systems.

In June 1983, Pilgrim Station was twice voluntarily removed from service to investigate the source of drywell leakage. During these investigations, BECo personnel visually examined the recirculation system for any evidence of leakage. Both investigations determined the source of the leakage to be from mechanical joints. An inspection of this type was also conducted in late July 1983. In attempting to be responsive to concerns regarding IGSCC, BECo changed their procedures to instruct operating personnel to be in a shutdown condition within 24 hours of an increase in unidentified leakage in excess of 2 gallons per minute occurs within a period of 24 hours or less. This procedure augments the Technical Specification that unidentified leakage shall not exceed 5 gallons per minute. Regarding performing some of the IEB 83–02 inspections during an unscheduled outage of undefined length, BECo considered inspecting some welds between now and their scheduled refueling outage using Ultrasonic Test (UT) techniques of detection and discrimination if they incur an outage that is predicted from the beginnning to be 10 days or more in cold shutdown. The number of welds to be inspected would be established so that inspection activities would not be on the critical path for the shutdown.

In response to concerns regarding leak rate measurement capability, BECo proposed a more restrictive administrative limit. The present Technical Specifications permit power operation for seven days after the sump sampling system is made or found inoperable. The new limit would require that the sump sampling system be returned to operable status within three days, or a shutdown shall be initiated and the reactor shall be in cold shutdown within 24 hours.

In view of the previously observed cracking at other similar operating facilities, the public health, safety and interest requires that: (1) The licensee's earliest practicable date for conducting UT inspections be confirmed, (2) the proposed compensatory measures be modified as provided in Section III, and (3) prior to startup the scope of the inspections be expanded as provided in Section III of this Order and appropriate remedial actions be taken.

Accordingly, I have determined that the public health, safety and interest require that these actions should be implemented by an immediately effective Order, and that the required compensatory measures required provide reasonable assurance that the facility can operate safely prior to conducting the inspections.

III

Accordingly, pursuant to sections 103, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered effective immediately that:

A. Notwithstanding the current Technical Specifications for the facility and during the interim period prior to the conduct of the inspection discussed in III.C below, the following compensatory measures shall be implemented:

1. The reactor coolant system leakage shall be limited to a 2 gpm increase in unidentified leakage within any 24 hour period (leakage shall be monitored and recorded once every 4 hours). Should this leakage limit be exceeded, the unit shall immediately start an orderly shutdown. The unit shall be placed in at least hot shutdown within the next 12 hours and in cold shutdown within the following 24 hours.

2. The primary containment sump collection and flow monitoring system shall be operable. With the primary containment sump collection and flow monitoring system inoperable, restore the inoperable system to operable status within 24 hours or immediately initiate an orderly shutdown and be in at least hot shutdown within the next 12 hours and in cold shutdown within the following 24 hours.

3. A visual examination for leakage of the reactor coolant piping shall be performed during each plant outage anticipated to be 48 hours or more. The examination shall be performed consistent with the requirements of IWA–5241 and IWA–5242 of the 1980 Edition of Section XI of the ASME Boiler and Pressure Vessel Code. The system boundary subject to the examination shall be in accordance with IWA–5221.

4. All systems/subsystems of the ECCS shall be operable as defined in the plant Technical Specifications. With any one system/subsystem of the ECCS inoperable, restore the inoperable system/subsystem to operable status within 72 hours or immediately initiate an orderly shutdown. The unit shall be placed in at least hot shutdown within the next 12 hours and in cold shutdown within the following 24 hours.

5. Within 24 hours of receipt of this Order, the licensee shall initiate refresher training on leak monitoring and LOCA mitigation to all licensed personnel who would be expected to manipulate reactor controls or supervise control room activities.

B. The licensee shall shutdown the facility to conduct UT examinations of reactor coolant system piping as soon as practicable but no later than December 10, 1983.

C. The facility shall remain in cold shutdown until the Director, Office of Nuclear Reactor Regulation, finds that the licensee has satisfactorily completed the following actions or has provided adequate justification for not completing a given action.

1. To the extent practicable, the licensee shall conduct an ultrasonic

examination of 100%, but in no case less than the number specified in Attachment A to the July 21, 1983 50.54(f) letters, of the welds involving 304 stainless steel piping of greater than or equal to 4" in the following systems or portions thereof:

a. Recirculation System
b. ASME Code Class 1 Portion of the Residual Heat Removal System
c. ASME Code Class 1 Portion of the Core Spray System external to the Reactor Vessel
d. ASME Code Class 1 Portion of the Reactor Cleanup System

2. Within 10 days of the date of this Order or prior to the commencement of the inspections required by this Order, whichever is later, the licensee shall provide to the Director, Office of Nuclear Reactor Regulation, a list of the welds specified above that it does not intend to inspect during this current outage together with a suitable technical justification for not conducting such inspections at this time. This list should identify each weld not being inspected by system, location and size.

3. All UT personnel conducting these inspections shall have received appropriate training in IGSCC inspection using cracked thick-wall pipe specimens. All Level II and III UT operators shall have successfully completed the performance demonstration tests described in IEB 83–02. The footnote on page 4 of IEB 83–02, which allowed qualification under IEB 82–03, Revision 1, is no longer applicable.

4. Based on the results of the inspections, the licensee shall take appropriate corrective actions.

5. The licensee shall provide a report of the results of the inspection and the corrective actions taken. This report should also include the susceptibility matrix for welds examined (e.g., stress rule index and carbon content). The written report shall be submitted to the Director, Office of Nuclear Reactor Regulation, Washington, D.C. 20555, under oath or affirmation, under provisions of Section 182a, Atomic Energy Act of 1954, as amended, with copies to the appropriate Regional Administrator and the Director, Office of Inspection and Enforcement. Other reports generated, such as may be required by Technical Specifications, shall also be provided.

D. The Director, Office of Nuclear Reactor Regulation, may relax or rescind any of the above conditions in writing for good cause shown by the licensee.

IV

The licensee may request a hearing on this Order within 20 days of the date of publication of this Order in the **Federal Register**. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy shall also be sent to the Executive Legal Director at the same address. A request for hearing shall not stay the immediate effectiveness of this order.

If a hearing is to be held, the Commission will issue an Order designating the time and place of any such hearing.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether, on the basis of the matters set forth in Section II of the Order, the licensee shoud comply with the requirements set forth in Section III of this Order. This Order is effective upon issuance.

Dated at Bethesda, Maryland this 26th day of August, 1983.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 83-24206 Filed 9-1-83; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-324]

Carolina Power and Light Co. (Brunswick Station, Unit 2); IGSCC Inspection Order Confirming Shutdown

I

The Carolina Power and Light Company, (the licensee), is the holder of Facility Operating License No. DPR–62, which authorizes the licensee to operate the Brunswick Station, Unit 2 (the facility), at power levels not in excess of 2436 megawatts thermal. The facility is a boiling water reactor located at the licensee's site in Brunswick County, North Carolina.

II

As a result of inspections conducted at 18 operating Boiling Water Reactors (BWRs) in conformance to recent IE Bulletins (IE Bulletin No. 82–03, Revision 1, "Stress Corrosion Cracking in Thick-Wall, Large-Diameter, Stainless Steel, Recirculation System Piping at BWR Planta," and IE Bulletin No. 83–02, "Stress Corrosion Cracking in Large-Diameter Stainless Steel Recirculation System Piping at BWR Plants"), a potential safety concern regarding intergranular stress corrosion cracking (IGSCC) in primary system piping was identified. These bulletins requested selected licensees to perform a number of actions regarding inspection and testing of pipe welds.

Results of these and other inspections pursuant to IE Bulletins 82–03 and 83–02 have revealed extensive cracking in large-diameter recirculation and residual heat removal system piping. In almost every case, where inspections were performed, IGSCC was discovered and, in many cases, repairs, analysis, and additional surveillance conditions were required. In view of the foregoing and the fact that the facility is similar in design to plants where IGSCC has occurred, there is a significant potential for IGSCC to exist in this facility and this facility may not fully satisfy all applicable General Design Criteria. Therefore inspection is required to determine the extent of IGSCC and to ascertain, if necessary, the degree of remedial action.

By letter dated July 21, 1983, the staff, pursuant to 10 CFR 50.54(f), requested the licensee to provide a justification for continued operation of the facility prior to completing the inspections of IE Bulletin 83–02. The licensee responded by letters dated July 28 and August 12, 1983. The licensee also attended a public meeting held in Bethesda, Maryland on August 8, 1983. In the correspondence and meetings, the following issues were discussed with the licensee: (1) costs and impacts of accelerating the inspection schedule; (2) augmented leakage monitoring program; (3) a visual inspection for leakage during shutdown; and (4) informing the reactor operators of the concern about pipe cracks and the greater potential need to implement LOCA emergency procedures and leak detection procedures.

The following information was provided by the licensee. The ultrasonic testing inspection and a system leak test performed on Brunswick-2 in February 1983 and the relatively minor findings on Brunswick-1 indicate that there is no immediate concern on Brunswick-2 which justifies an immediate shutdown. Therefore, CP&L believes that the continued operation of Brunswick-2 until the November 1983 maintenance outage is justified.

CP&L has upgraded their current surveillance measures for monitoring drywell leakage to exceed their existing Technical Specification requirements. The drywell sumps are monitored every 4 hours, and the unit will be shut down if an increse in unidentified leakage exceeds 2 gallons per minute (gpm) for a 24 hour period. The On-Site Nuclear Safety group will review the drywell leakage data on a daily bais until the

inspections required by IEB 83-02 are complete. A channel check of the primary containment atmospheric particulate activity monitoring system is performed every shift (8 hours) to verify operability; the frequency given in the Technical Specifications is once per 12 hours. Should the system become inoperable, grab samples of the containment atmosphere will be obtained at least once per 8 hours.

CP&L has committed to instituting an administrative limit of three days for the Sump Flow Integrating System to be inoperable, after which the unit will be placed in at least hot shutdown within 12 hours and in cold shutdown within the following 24 hours. The current operability requirement is that any one leak detection system may be inoperable for up to 31 days. This limit will apply only until the inspections required by IEB 83-02 are complete.

CP&L committed to the following action plan to perform inspections of large diameter recirculation pipe welds during unscheduled outages on Brunswick Unit No. 2. Should an unscheduled outage occur, the duration will be estimated based on the cause of the shutdown; if this duration is ten days or longer, three recirculation welds will be ultrasonically inspected. If the initial outage duration is estimated to be less than ten days, but is subsequently extended, the inspections will be performed if at any time the estimated remaining duration is ten days or longer. If any of the joints inspected requires repair by the criteria as stated in CP&L's August 12, 1983 letter, an additional three large diameter (> 12") weld joints will be inspected. If any joints in the second group require repair, an additional three joints will be inspected.

In view of the previously observed cracking at other operating facilities and the results of the licensee's testing to date, the public health, safety and interest requires that: (1) The licensee's schedule for conducting UT inspections be confirmed, (2) the proposed compensatory measures be modified as provided in Section III, and (3) prior to startup the scope of the inspections be expanded as provided in Section III and appropriate remedial actions be taken.

Accordingly, I have determined that the public health, safety and interest require that these actions should be implemented by an immediately effective Order, and that the compensatory measures required provide reasonable assurance that the facility can operate safely prior to conducting the inspections.

III

Accordingly, pursuant to sections 103, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered effective immediately that:

A. Notwithstanding the current Technical Specifications for the facility and during the interim period prior to the conduct of the inspection discussed in III.C below, the following compensatory measures shall be implemented:

1. The reactor coolant system leakage shall be limited to a 2 gpm increase in unidentified leakage within any 24 hour period (leakage shall be monitored and recorded once every 4 hours). Should this leakage limit be exceeded, the unit shall immediately start an orderly shutdown. The unit shall be placed in at least hot shutdown within the next 12 hours and in cold shutdown within the following 24 hours.

2. At least one primary containment sump collection and flow monitoring system shall be operable. With the primary containment sump collection and flow monitoring system inoperable, restore the inoperable system to operable status within 24 hours or immediately initiate an orderly shutdown and be in at least hot shutdown within the next 12 hours and in cold shutdown within the following 24 hours.

3. A visual examination for leakage of the reactor coolant piping shall be performed during each plant outage anticipated to be 48 hours or more. The examination shall be performed consistent with the requirements of IWA-5241 and IWA-5242 of the 1980 Edition of Section XI of the ASME Boiler and Pressure Vessel Code. The system boundary subject to the examination shall be in accordance with IWA-5221.

4. All systems/subsystems of the ECCS shall be operable as defined in the plant Technical Specifications. With any one system/subsystem of the ECCS inoperable, restore the inoperable system/subsystem to operable status within 72 hours or immediately initiate an orderly shutdown. The unit shall be placed in at least hot shutdown within the next 12 hours and in cold shutdown within the following 24 hours.

5. Within 24 hours of receipt of this Order, the licensee shall initiate refresher training on leak monitoring and LOCA mitigation to all licensed personnel who would be expected to manipulate reactor controls or supervise control room activities.

B. The licensee shall shutdown the facility to conduct UT examinations of reactor coolant system piping as soon as practicable but no later than November 1, 1983.

C. The facility shall remain in cold shutdown until the Director, Office of Nuclear Reactor Regulation, finds that the licensee has satisfactorily completed the following actions or has provided adequate justification for not completing a given action.

1. To the extent practicable, the licensee shall conduct an ultrasonic examination of 100%, but in no cases less than the number specified in Attachment A to the July 21, 1983 50.54(f) letters, of the welds involving 304 stainless steel piping of greater than or equal to 4" in the following systems or portions thereof:

a. Recirculation System
b. ASME Code Class 1 Portion of the Residual Heat Removal System
c. ASME Code Class 1 Portion of the Core Spray System external to the Reactor Vessel
d. ASME Code Class 1 Portion of the Reactor Cleanup System

2. Within 10 days of the date of this Order or prior to the commencement of the inspections required by this Order, whichever is later, the licensee shall provide to the Director, Office of Nuclear Reactor Regulation, a list of the welds specified above that it does not intend to inspect during this current outage together with a suitable technical justification for not conducting such inspections at this time. This list should identify each weld not being inspected by system, location and size.

3. All UT personnel conducting these inspections shall have received appropriate training in IGSCC inspection using cracked thick-wall pipe specimens. All Level II and III UT operators shall have successfully completed the performance demonstration tests described in IEB 83-02. The footnote on page 4 of IEB 83-02, which allowed qualification under IEB 82-03, Revision 1, is no longer applicable.

4. Based on the results of the inspections, the licensee shall take appropriate corrective actions.

5. The licensee shall provide a report of the results of the inspection and the corrective actions taken. This report should also include the susceptibility matrix for welds selected and examined (e.g., stress rule index, carbon content, high stressed welds examined for the RHR system). The written report shall be submitted to the Director, Office of Nuclear Reactor Regulation, Washington, D.C. 20555, under oath or affirmation, under provisions of Section

182a, Atomic Energy Act of 1954, as amended, with copies to the appropriate Regional Administrator and the Director, Office of Inspection and Enforcement. Other reports generated, such as may be required by Technical Specifications, shall also be provided.

D. The Director, Office of Nuclear Reactor Regulation, may relax or rescind any of the above conditions in writing for good cause shown by the licensee.

IV

The licensee may request a hearing on this Order within 20 days of the date of publication of this Order in the **Federal Register**. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy shall also be sent to the Executive Legal Director at the same address. A request for hearing shall not stay the immediate effectiveness of this order.

If a hearing is to be held, the Commission will issue an Order designating the time and place of any such hearing.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether, on the basis of the matters set forth in Section II of the Order, the licensee should comply with the requirements set forth in Section III of this Order. This Order is effective upon issuance.

Dated at Bethesda, Maryland this 26th day of August, 1983.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 83-24209 Filed 9-1-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-249]

Commonwealth Edison Co. (Dresden Nuclear Power Station, Unit No. 3); IGSCC Inspection Order Confirming Shutdown

I

The Commonwealth Edison Company, (the licensee), is the holder of Facility Operating License No. DPR-25, which authorizes the licensee to operate the Dresden Nuclear Power Station, Unit 3, (the facility), at power levels not in excess of 2527 megawatts thermal. The facility is a boiling water reactor located at the licensee's site in Grundy County, Illinois.

II

As a result of inspections conducted at 18 operating Boiling Water Reactors (BWRs) in conformance to recent IE Bulletins (IE Bulletin No. 82-03, Revision 1, "Stress Corrosion Cracking in Thick-Wall, Large-Diameter, Stainless Steel, Recirculation System Piping at BWR Plants," and IE Bulletin No. 83-02, "Stress Corrosion Cracking in Large-Diameter Stainless Steel Recirculation System Piping at BWR Plants"), a potential safety concern regarding intergranular stress corrosion cracking (IGSCC) in primary system piping was identified. These bulletins requested selected licensees to perform a number of actions regarding inspection and testing of pipe welds. Results of these and other inspections pursuant to IE Bulletins 82-03 and 83-02 have revealed extensive cracking in large-diameter recirculation and residual heat removal system piping. In almost every case, where inspections were performed, IGSCC was discovered and, in many cases, repairs, analysis, and additional surveillance conditions were required. In view of the foregoing and the fact that the facility is similar in design to plants where IGSCC has occurred, there is a significant potential for IGSCC to exist in this facility and this facility may not fully satisfy all applicable 10 CFR Part 50 General Design Criteria. Therefore inspection is required to determine the extent of IGSCC and to ascertain, if necessary, the degree of remedial action.

By letter dated July 21, 1983, the staff, pursuant to 10 CFR 50.54(f), requested the licensee to provide a justification for continued operation of the facility prior to completing the inspections of IE Bulletin 83-02. The licensee responded by letter dated August 1, 1983. The licensee also attended a public meeting held in Bethesda, Maryland on August 9, 1983. In the correspondence and meetings, the following issues were discussed with the licensee: (1) Costs and impacts of accelerating the inspection schedule; (2) an augmented leakage monitoring program; (3) visual inspection for leakage during shutdown; and (4) informing the reactor operators of the concern about pipe cracks and the greater potential need to implement LOCA emergency procedures and leak detection procedures.

By letters dated July 21, August 1 and August 13, 1983, the licensee committed to: (1) Accelerate the schedule for conduct of the inspections, (2) adopt tighter leak monitoring requirements, (3) reduce permissible outage time for leak detection systems, (4) perform visual leak inspection, (5) defer planned maintenance outages on ECCS, and (6) implement refresher training to all licensed operating personnel.

The staff also considers it significant that the inspections conducted on Dresden 2, a unit similar in design, construction and operation to Dresden 3, revealed that the occurrence of IGSCC was not as extensive as that found at several other plants. In addition Dresden 3 is operating at a reduced power level as the unit approaches the end of cycle.

As a result of meetings and review of information provided by the licensee, the schedule for conduct of these inspections has been accelerated to the maximum extent practicable. In view of the previously observed cracking at other operating facilities and the results of the licensee's testing to date, the public health, safety and interest requires that: (1) The licensee's schedule for conducting UT inspections be confirmed, (2) the proposed compensatory measures be modified as provided in Section III of this Order, and (3) prior to startup the scope of the inspections be expanded as provided in Section III and appropriate remedial actions be taken.

Accordingly, I have determined that the public health, safety and interest require that these actions should be implemented by an immediately effective Order, and that the compensatory measures required provide reasonable assurance that the facility can operate safely prior to conducting the inspections.

III

Accordingly, pursuant to sections 103, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered effective immediately that:

A. Notwithstanding the current Technical Specifications for the facility and during the interim period prior to the conduct of the inspection discussed in III.C below, the following compensatory measures shall be implemented:

1. The reactor coolant system leakage shall be limited to a 2 gpm increase in unidentified leakage within any 24 hour period (leakage shall be monitored and recorded once every 4 hours). Should this leakage limit be exceeded, the unit shall immediately start an orderly shutdown. The unit shall be placed in at least hot shutdown within the next 12 hours and in cold shutdown within the following 24 hours.

2. At least one primary containment sump collection and flow monitoring system shall be operable. With the

primary containment sump collection and flow monitoring system inoperable, restore the inoperable system to operable status within 24 hours or immediately initiate an orderly shutdown and be in at least hot shutdown within the next 12 hours and in cold shutdown within the following 24 hours.

3. A visual examination for leakage of the reactor coolant piping shall be performed during each plant outage anticipated to be 48 hours or more. The examination shall be performed consistent with the requirements of IWA–5241 and IWA–5242 of the 1980 Edition of Section XI of the ASME Boiler and Pressure Vessel Code. The system boundary subject to this examination shall be in accordance with IWA–5221.

4. All systems/subsystems of the Emergency Core Cooling System (ECCS) shall be operable as defined in the plant Technical Specifications. With any one system/subsystem of the ECCS inoperable, restore the inoperable system/subsystem to operable status within 72 hours or immediately initiate an orderly shutdown. The unit shall be placed in at least hot shutdown within the next 12 hours and in cold shutdown within the following 24 hours.

5. Within 24 hours of receipt of this Order, the licensee shall initiate refresher training on leak monitoring and LOCA mitigation to all licensed personnel who would be expected to manipulate reactor controls or supervise control room activities.

B. The licensee shall shutdown the facility to conduct UT examinations of reactor coolant system piping as soon as practicable but no later than September 30, 1983.

C. The facility shall remain in cold shutdown until the Director, Office of Nuclear Reactor Regulation, finds that the licensee has satisfactorily completed the following actions or has provided adequate justification for not completing a given action.

1. To the extent practicable, the licensee shall conduct an ultrasonic examination of 100%, but in no case less than the number specified in Attachment A to the July 21, 1983 50.54(f) letters, of the welds involving 304 stainless steel piping of greater than or equal to 4" in the following systems or portions thereof:

a. Recirculation System
b. ASME Code Class 1 Portion of the Residual Heat Removal System
c. ASME Code Class 1 Portion of the Core Spray System external to the Reactor Vessel
d. ASME Code Class 1 Portion of the Reactor Cleanup System

2. Within 10 days of the date of this Order or prior to the commencement of the inspections required by this Order, whichever is later, the licensee shall provide to the Director, Office of Nuclear Reactor Regulation, a list of the welds specified above that it does not intend to inspect during this current outage together with a suitable technical justification for not conducting such inspections at this time. This list should identify each weld not being inspected by system, location and size.

3. All UT personnel conducting these inspections shall have received appropriate training in IGSCC inspection using cracked thick-wall pipe specimens. All Level II and III UT operators shall have successfully completed the performance demonstration tests described in IEB 83–02. The footnote on page 4 of IEB 83–02, which allowed qualification under IEB 82–03, Revision 1, is no longer applicable.

4. Based on the results of the inspections, the licensee shall take appropriate corrective actions.

5. The licensee shall provide a report of the results of the inspection and the corrective actions taken. This report should also include the susceptability matrix for the welds examined (e.g., stress rule index and carbon content). The written report shall be submitted to the Director, Office of Nuclear Reactor Regulation, Washington, D.C. 20555, under oath or affirmation, under provisions of Section 182a, Atomic Energy Act of 1954, as amended, with copies to the appropriate Regional Administrator and the Director, Office of Inspection and Enforcement. Other reports generated, such as may be required by Technical Specifications, shall also be provided.

D. The Director, Office of Nuclear Reactor Regulation, may relax or rescind any of the above conditions in writing for good cause shown by the licensee.

IV

The licensee may request a hearing on this Order within 20 days of the date of publication of this Order in the **Federal Register**. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy shall also be sent to the Executive Legal Director at the same address. A request for hearing shall not stay the immediate effectiveness of this order.

If a hearing is to be held, the Commission will issue an Order designating the time and place of any such hearing.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether, on the basis of the matters set forth in Section II of the Order, the licensee should comply with the requirements set forth in Section III of this Order. This Order is effective upon issuance.

Dated at Bethesda, Maryland this 26 day of August, 1983.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 83–24210 Filed 9–1–83; 8:45 am]
BILLING CODE 7590–01–M

[Docket No. 50–265]

Commonwealth Edison Company (Quad Cities Nuclear Power Station, Unit No. 2); IGSCC Inspection Order Confirming Shutdown

I

The Commonwealth Edison Company, (the licensee), is the holder of Facility Operating License No. DPR–30, which authorizes the licensee to operate the Quad Cities Nuclear Power Station, Unit 2, (the facility), at power levels not in excess of 2511 megawatts thermal (rated power). The facility is a boiling water reactor located at the licensee's site in Rock Island County, Illinois.

II

As a result of inspections conducted at 18 operating Boiling Water Reactors (BWRs) in conformance to recent IE Bulletins (IE Bulletin No. 82–03, Revision 1, "Stress Corrosion Cracking in Thick-Wall, Large-Diameter, Stainless Steel, Recirculation System Piping at BWR Plants," and IE Bulletin No. 83–02, "Stress Corrosion Cracking in Large-Diameter Stainless Steel Recirculation System Piping at BWR Plants"), a potential safety concern regarding intergranular stress corrosion cracking (IGSCC) in primary system piping was identified. These bulletins requested selected licensees to perform a number of actions regarding inspection and testing of pipe welds.

Results of these and other inspections pursuant to IE Bulletins 82–03 and 83–02 have revealed extensive cracking in large-diameter recirculation and residual heat removal system piping. In almost every case, where inspections were performed, IGSCC was discovered and, in many cases, repairs, analysis, and additional surveillance conditions were required. In view of the foregoing and the fact that the facility is similar in design to plants where IGSCC has

occurred, there is a significant potential for IGSCC to exist in this facility and this facility may not fully satisfy all applicable 10 CFR Part 50 General Design Criteria. Therefore inspection is required to determine the extent of IGSCC and to ascertain, if necessary, the degree of remedial action.

By letter dated July 21, 1983, the staff, pursuant to 10 CFR 50.54(f), requested the licensee to provide a justification for continued operation of the facility prior to completing the inspections of IE Bulletin 83-02. The licensee responded by letter dated August 1, 1983. The licensee also attended a public meeting held in Bethesda, Maryland on August 9, 1983. In the correspondence and meetings, the following issues were discussed with the licensee: (1) Costs and impacts of accelerating the inspection schedule; (2) an augmented leakage monitoring program; (3) visual inspection for leakage during shutdown; and (4) informing the reactor operators of the concern about pipe cracks and the greater potential need to implement LOCA emergency procedures and leak detection procedures.

By letters dated July 21, August 1 and August 15, 1983, the licensee committed to: (1) Adopt tighter leak monitoring requirements, (2) reduce permissible outage time for leak detection systems, (3) perform visual leak inspection, (4) defer planned maintenance outages on ECCS, and (5) implement refresher training to all licensed operating personnel.

The staff also considers it significant that the inspections conducted according to IEB 82-03 at Quad Cities 1, a unit similar in design, construction and operation to Quad Cities 2, did not detect any IGSCC. In addition, Quad Cities 2 will be operating at a reduced power level as the unit approaches the end of cycle.

As a result of meetings and review of information provided by the licensee, the schedule for conduct of these inspections has been accelerated to the maximum extent practicable. In view of the previously observed cracking at other operating facilities, the public health, safety and interest requires that the licensee's schedule for conducting these inspections and the compensatory measures proposed by the licensee be confirmed and that prior to startup the scope of the inspections be expanded as provided in Section III of this Order and appropriate remedial actions be taken.

In view of the foregoing, I have determined that the public health, safety and interest require that these actions should be implemented by an immediately effective Order, and that the compensatory measures required provide reasonable assurance that the facility can operate safely prior to conducting the inspections.

III

Accordingly, pursuant to sections 103, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered effective immediately that:

A. Notwithstanding the current Technical Specifications for the facility and during the interim period prior to the conduct of the inspection discussed in III.C below, the following compensatory measures shall be implemented:

1. The reactor coolant system leakage shall be limited to a 2 gpm increase in unidentified leakage within any 24 hour period or a total of 4 gpm (leakage shall be monitored once every 4 hours when the reactor is at operating pressure). If unidentified floor drain leakage increases by 1 gpm during any 4 hour period, or equals 3 gpm total, action will be taken to identify the source of the leakage. Should these leakage limits be exceeded, and if leakage is identified as coming from a cracked pipe, shut down the plant for further investigation and repair.

2. In the event of an unplanned outage where the unit is expected to be in cold shutdown greater than 72 hours, perform a visual inspection of the recirculation system without insulation being removed.

3. Reduce to three days the unidentified sump monitoring system outage time from the existing limit of seven days.

4. Defer all planned maintenance outages on the emergency core cooling systems which would make the equipment inoperable.

5. Improve operator awareness by implementing some refresher training to all licensed personnel who would be expected to manipulate reactor controls or supervise control room activities.

B. The licensee shall shutdown the facility to conduct UT examinations of the reactor coolant system piping as soon as practicable but no later than September 4, 1983.

C. The facility shall remain in cold shutdown until the Director, Office of Nuclear Reactor Regulation, finds that the licensee has satisfactorily completed the following actions or has provided adequate justification for not completing a given action.

1. To the extent practicable, the licensee shall conduct an ultrasonic examination of 100%, but in no case less than the number specified in Attachment A to the July 21, 1983 50.54(f) letters, of the welds involving 304 stainless steel piping of greater than or equal to 4" in the following systems or portions thereof:

a. Recirculation System
b. ASME Code Class 1 Portion of the Residual Heat Removal System
c. ASME Class 1 Portion of the Core Spray System external to the reactor vessel
d. ASME Code Class 1 Portion of the Reactor Water Cleanup System

2. Within 10 days of the date of this Order or prior to the commencement of the inspections required by this Order, whichever is later, the licensee shall provided to the Director, Office of Nuclear Reactor Regulation, a list of the welds specified above that it does not intend to inspect during this current outage together with a suitable technical justification for not conducting such inspections at this time. This list should identify each weld not being inspected by system, location and size.

3. All UT personnel conducting these inspections shall have received appropriate training in IGSCC inspection using cracked thick-wall pipe specimens. All Level II and III UT operators shall have successfully completed the performance demonstration tests described in IEB 83-02. The footnote on page 4 of IEB 83-02, which allowed qualification under IEB 82-03, Revision 1, is no longer applicable.

4. Based on the results of the inspections, the licensee shall take appropriate corrective actions.

5. The licensee shall provide a report of the results of the inspection and the corrective actions taken. This report should also include the susceptibility matrix for the welds examined (e.g., stress rule index and carbon content). The written report shall be submitted to the Director, Office of Nuclear Reactor Regulation, Washington, D.C. 20555, under oath or affirmation, under provisions of Section 182a, Atomic Energy Act of 1954, as amended, with copies to the appropriate Regional Administator and the Director, Office of Inspection and Enforcement. Other reports generated, such as may be required by Technical Specifications, shall also be provided.

D. The Director, Office of Nuclear Reactor Regulation, may relax or rescind any of the above conditions in writing for good cause shown by the licensee.

IV

The licensee may request a hearing on this Order within 20 days of the date of

publication of this Order in the Federal Register. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy shall also be sent to the Executive Legal Director at the same address. A request for hearing shall not stay the immediate effectiveness of this order.

If a hearing is to be held, the Commission will issue an Order designating the time and place of any such hearing.

If a haring is held concerning this Order, the issue to be considered at the hearing shall be whether, on the basis of the matters set forth in Section II of the Order, the licensee should comply with the requirements set forth in Section III of this Order. This Order is effective upon issuance.

Dated at Bethesda, Maryland this 26th day of August, 1983.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR. Doc. 83-24211 Filed 9-1-83; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-296

Tennessee Valley Authority (Browns Ferry Nuclear Plant, Unit 3); IGSCC Inspection Order Confirming Shutdown

I

The Tennessee Valley Authority, (the licensee), is the holder of Facility Operating License No. DPR-68, which authorizes the licensee to operate the Browns Ferry Nuclear Plant, Unit 3, (the facility), at power levels not in excess of 3293 megawatts thermal (rated power). The facility is a boiling water reactor located at the licensee's site in Limestone Country, Alabama.

II

As a result of inpsections conducted at 18 operating Boiling Water Reactors (BWRs) in conformance to recent IE Bulletins (IE Bulletin No. 82-03, Revision 1, "Stress Corrosion Cracking in Thick-Wall, Large/Diameter Stainless Steel Recirculation System Piping at BWR Plants"), and IE Bulletin No. 83-02, "Stress Corrosin Cracking in Large-Diameter Stainless Steel Recirculation System Piping at BWR Plants",) a potential safety concern regarding intergranular stress corrosion cracking (IGSCC) in primary system piping was identified. These bulletin requested selected licensees to perform a number of actions regarding inspection and testing of pipe welds.

Results of these and other inspections pursuant to IE Bulletin 82-03 and 83-02 have revealed extensive cracking in large-Diameter recirculation and residual heat removal system piping. In almost every case, where inspections were performed, IGSCC was discovered and, in many cases, repairs, analysis, and additional surveillance conditions were required. In view of the foregoing and the fact that the facility is similar in design to plants where IGSCC has occurred, there is a significant potential for IGSCC to exist in this facility and this facility may not fully satisfy all applicable General Design Criteria. Therefore inspection is required to determine the extent of IGSCC and to ascertain, if necessary, the degree of remedial action.

By letter dated July 21, 1983, the staff, pursuant to 10 CFR 50.54(f), requested the licensee to provide a justification for continued operation of the facility prior to completing the inspections of IE Bulletin 83-02. The licensee responded by letter dated August 4, 1983. The licensee also attended a public meeting held in Bethesda, Maryland on August 9, 1983. In the correspondence and meeting, the following issues were discussed with the licensee: (1) Costs and impacts of accelerating the inspection scheulde; (2) augmented leakage monitoring program; (3) a visual inspection for leakage during shutdown; and (4) informing the reactor operators of the concern about pipe cracks and the greater potential need to implement LOCA emergency procedures and leak detection procedures.

Several areas of substantial concern exist regarding IGSCC at Browns Ferry 3. The licensee stated that they had conducted inspections for 11 welds and found no IGSCC; however, in their letter of August 4, 1983 the licensee reported that, "No previously inspected welds appear to meet the sensitivity for detection criteria specified in IEBs 83-02 or 82-03". When Browns Ferry 3 is compared to Browns Ferry 1, which has been inspected and found to have a significant IGSCC problem, major concern develops regarding the severity of IGSCC at Browns Ferry 3. (Of note, for Browns Ferry 1, all stainless steel and bimetallic welds were inspected for the primary system. In total, approximately 50 cracks were found to date, of which about 36 are being repaired by weld overlay). This issue was discussed with the licensee and they expected that extensive IGSCC would be found in Unit 3. The piping found in all three Browns Ferry Units was supplied by the same pipe fabricator.

The licensee responded to issues raised at the meeting of August 9, 1983, in their letter dated August 12, 1983. In their August 19, 1983 letter, the licensee documented their voluntary decision to commence "an orderly shutdown of Unit 3 no later than September 6, 1983 for the purpose of inspecting piping for possible cracking as a result of Intergranular Stress Corrosion Cracking (IGSCC)".

As a result of meetings and review of information provided by the licensee, and their voluntary commitment to an early shutdown date of September 6, 1983, the schedule for conduct of these inspections has been accelerated to the maximum extent practicable. In view of the previously observed cracking at other operating facilities, the public health, safety and interest requires that the licensee's schedule for conducting these inspections and the compensatory measures proposed by the licensee by confirmed and that prior to startup the scope of the inspections be expanded as provided in Section III and appropriate remedial actions be taken.

in view of the foregoing, I have determined that the public health, safety and interest require that these actions should be implemented by an immediately effective Order, and that the compensatory measures required provide reasonable assurance that the facility can operate safely prior to conducting the inspections.

III

Accordingly, pursuant to sections 103, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered effective immediately that:

A. Notwithstanding the current Technical Specifications for the facility and during the interim period prior to conduct of the inspection discussed in III.C below, the following compensatory measures shall be implemented:

1. The reactor coolant system leakage shall be limited to a 2 gpm increase in unidentified leakage into the drywell in any 24 hour period (leakage shall be monitored once every 8 hours). Should this leakage limit be exceeded, the unit shall immediately start an orderly shutdown. The unit shall be in cold shutdown within 24 hours. This requirement is only in effect in the run mode and is exempted during the first 24 hours in the run mode following a startup.

2. Reduce to three days the sump pump monitoring system out of service

time from the present Technical Specification 3.6.0.2 limit of seven days.

3. In the event of a planned outage of greater than 72 hours duration, perform a visual sample inspection of IGSCC-susceptible piping (without insulation removal).

4. Defer all planned maintenance activities on ECCS equipment which will make that equipment inoperable except as required by Technical Specifications. For unplanned maintenance activities which will make ECCS equipment inoperable, limit the inoperable time by performing the required maintenance on a 24 hour basis. In addition, reduce the LCOs for ECCS equipment from seven days to three days for the following Technical Specifications: 3.5.A.2; 3.5.B.3; 3.5.B.6; 3.5.C.2; 3.5.E.2; and 3.5.F.2.

5. To improve operator awareness and response to IGSCC LOCA events, provide, as soon as possible, refresher training to all of the operators on the IGSCC phenomenon, expected system reponse, and required operator actions.

B. The licensee shall shutdown the facility to conduct UT examinations of the reactor coolant system piping as soon as practicable but no later than September 6, 1983.

C. The facility shall remain in cold shutdown until the Director, office of Nuclear Regulation, finds that the licensee has satisfactorily completed the following actions or has provided adequate justification for not completing a given action.

1. To the extent practicable, the licensee shall conduct an ultrasonic examination of 100%, but in no case less than the number specified in Attachment A to the July 21, 1983 50.54(f) letters, of the welds involving 304 stainless steel piping of greater than or equal to 4" in the following systems or portions thereof:

a. Recirculation System
b. ASME Code Class 1 Portion of the Residual Heat Removal System
c. ASME Code Class 1 Portion of the Core Spray System external to the reactor vessel
d. ASME Code Class 1 Portion of the Reactor Cleanup System

2. Within 10 days of the date of this Order or prior to the commencement of the inspections required by this Order, whichever is later, the licensee shall provide to the Director, Office of Nuclear Reactor Regulation, a list of the welds specified above that it does not intend to inspect during this current outage together with a suitable technical justification for not conducting such inspections at this time. This list should identify each weld not being inspected by system, location and size.

3. All UT personnel conducting these inspections shall have received appropriate training in IGSCC inspection using cracked thick-wall pipe specimens. All Level II and III UT operators shall have successfully completed the performance demonstration tests described in IEB 83-02. The footnote on page 4 of IEB 83-02, which allowed qualification under IEB 82-03, Revision 1, is no longer applicable.

4. Based on the results of the inspections, the licensee shall take appropriate corrective actions.

5. The licensee shall provide a report of the results of the inspection and the corrective actions taken. This report should also include the susceptibility matrix for the welds examined (e.g., stress rule index, and carbon content). The written report shall be submitted to the Director, Office of Nuclear Reactor Regulation, Washington, D.C. 20555, under oath or affirmation, under provisions of Section 182a, Atomic Energy Act of 1954, as amended, with copies to the appropriate Regional Administrator and the Director of the Office of Inspection and Enforcement. Other reports generated, such as may be required by Technical Specifications, shall also be provided.

D. The Director, Office of Nuclear Reactor Regulation, may relax or rescind any of the above conditions in writing for good cause shown by the licensee.

IV

The licensee may request a hearing on this Order within 20 days of the date of publication of this order in the **Federal Register**. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy shall also be sent to the Executive Legal Director at the same address. A request for hearing shall not stay the immediate effectiveness of this order.

If a hearing is to be held, the Commission will issue an Order designating the time and place of any such hearing.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether, on the basis of the matters set forth in Section II of the Order, the licensee should comply with the requirements set forth in section III of this Order. This Order is effective upon issuance.

Dated at Bethesda, Maryland this 26th day of August, 1983.

For the Nuclear regulatory Commission.

Harold R. Denton,

Director, Office of nuclear Regulation.

[FR Doc. 83-24212 Filed 9-1-83; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-142 OL; ASLBP 30-444-05-LA]

The Regents of the University of California (UCLA Research Reactor); Resumption of Evidentiary Hearing on Proposed Renewal of Facility License

August 19, 1983.

Before the Administrative Judges: John H. Frye, III, Chairman, Glen O. Bright, Kenneth A. Luebke.

Please take notice that the evidentiary hearing in the above captioned matter will resume on Tuesday, October 11, 1983, at 1:30 p.m. local time at the Los Angeles Hilton, Mission Room, 930 Wilshire Boulevard, Los Angeles, California 90017, and continue at the same location through Saturday, October 15, 1983. On Wednesday through Saturday the hearing will commence at 9:30 a.m.

Bethesda, Maryland, August 29, 1983.

For the Atomic Safety and Licensing Board.

John H. Frye, III,

Chairman, Administrative Judge.

[FR Doc. 83-24214 Filed 9-1-83; 8:45 am]
BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Systematic Evaluation Program; Meeting

The ACRS Subcommittee on the Systematic Evaluation Program will hold a meeting on September 20 and 21, 1983, at the Park Place Hotel, 300 East State Street, Traverse City, MI.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1982 (47 FR 43474), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Tuesday, September 20, 1983—8:30 a.m. until 12 Noon
Wednesday, September 21, 1983—8:30 a.m. until 1:00 p.m.

The Subcommittee will discuss the results of the Systematic Evaluation Program and other outstanding regulatory issues pertinent to Big Rock Point with representatives of Consumers Power Company and the NRC Staff.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Subcommittee Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Herman Alderman, or Mr. Charles A. McClain, Staff Engineer (telephone 202/634–1414) between 8:15 a.m. and 5:00 p.m., EDT.

Dated: August 19, 1983.

Samuel J. Chilk,

Secretary to the Commission.

[FR Doc. 83-24207 Filed 9-1-83; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

White House Science Council (WHSC); Meeting

The White House Science Council, the purpose of which is to advise the Director, Office of Science and Technology Policy (OSTP), will meet on September 15 and 16, 1983, in Room 5026, New Executive Office Building, Washington, D.C. The meeting will begin at 6:00 p.m. on September 15, recess and reconvene at September 16. Following is the proposed agenda for the meeting:

(1) Briefing of the Council, by the Assistant Director of OSTP, on the current activities of OSTP.
(2) Briefing of the Council by OSTP personnel and personnel of other agencies on proposed, ongoing, and completed panel studies.
(3) Discussion of Composition of panels to conduct studies.

The September 15 session and a portion of the September 16 session will be closed the public.

The briefing on some of the current activities of OSTP necessarily will involve discussion of material that is formally classified in the interest of national defense or for foreign policy reasons. This is also true for a portion of the briefing on panel studies. As well, a portion of both of these briefings will require discussion of internal personnel procedures of the Executive Office of the President and information which, if prematurely disclosed, would significantly frustrate the implementation of decisions made requiring agency action. These portions of the meeting will be closed to the public pursuant to 5 U.S.C. 552 b (c) (1), (2), and 9 (B).

A portion of the discussion of panel composition will necessitate the disclosure of information of a personal nature, the disclosure of which would constitute a clearly unwarrented invasion of personal privacy. Accordaingly, this portion of the meeting will also be closed to the public, pursuant to 5 U.S.C. 552 b (c) (6).

The portion of the meeting open to the public will begin at 10:00 a.m. Because of the security in the New Executive Office Building, persons wishing to attend the open portion of the meeting should contact Annie L. Boyd, Secretary, White House Science Council at (202) 456–7740, prior to 3:00 p.m. on September 14. Ms. Boyd is also available to provide further information regarding this meeting.

Dated: August 30, 1983.

Jerry D. Jennings,

Executive Director, Office of Science and Technology Policy.

[FR Doc. 83-24319 Filed 9-1-83; 10:22 am]

BILLING CODE 3170-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Quota for U.S. Imports of Coffee From Nonmembers of the International Coffee Agreement

The International Coffee Organization (ICO) has advised that the U.S. non-member import quota on coffee imported into the United States from non-ICO members for the period October 1, 1983, to September 30, 1984, is 109,150 bags of 60 kilos each. The Commissioner of Customs has been directed to implement the U.S. non-member import limitation as provided for in section 2 of the International Coffee Agreement Act of 1980 (19 U.S.C. 1356k) and Executive Order 12297 of March 12, 1981.

William E. Brock,

United States Trade Representative.

[FR Doc. 83-24322 Filed 9-1-83; 8:45 am]

BILLING CODE 3190-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 13468; 812-5601]

Banque Indosuez, et al.; Filing of Application

August 26, 1983.

Notice is hereby given that Banque Indosuez ("Indosuez"), a French commercial bank, and Indosuez North America, Inc. ("IndoNA"), c/o Robert J. Levine, Esq., Davis Polk & Wardwell, 1 Chase Manhattan Plaza, New York, New York 10005, its wholly-owned subsidiary and a Delaware corporation (collectively "Applicants"), filed an application on July 14, 1983, for an order of the Commission pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"), exempting Applicants from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the text of the Act for the various provisions thereof, including Section 6(c), pertinent to a consideration of the application.

The application states that Indosuez is the 4th largest commercial bank in France and the 66th largest commercial bank in the world. It is represented that at December 31, 1982, its consolidated assets were approximately 183 billion French francs, and shareholders equity was approximately 3.3 billion French francs. Since February 17, 1982, all of the stock of Indosuez's parent company, Compagnie Financiere de Suez, has been owned by the French government. It is further represented that the business of Indosuez, and thus its asset and liability structure, is generally similar to that of the largest United States banks, and that its principal business consists of making loans and receiving deposits. Loans, advances and deposits at other banks represent approximately 89% of assets and 103% of deposits and provide more than 92% of revenues. Indosuez represents that deposits, which include demand, savings and time deposits, represent 86% of total liabilities. Indosuez is also engaged in underwriting and selling securities outside the United States, which activities provide less than 2.8% of Indosuez's revenues. The application

states that Indosuez is subject to regulation by French banking authorities under a structure which is generally comparable to that applicable to United States banks.

IndoNA was organized under the laws of Delaware on June 22, 1983, and all of its outstanding shares of capital stock will be owned by Indosuez. It is asserted that, under the International Banking Act of 1978, Indosuez, as a foreign bank having U.S. branches, is subject to most of the provisions of the Bank Holding Company Act of 1956. Indosuez and IndoNA are also required to furnish the Federal Reserve Board with certain information which the Federal Reserve Board may request.

According to the application, IndoNA proposes to issue and sell prime quality commercial paper notes ("notes"), unconditionally guaranteed by Indosuez, in minimum denominations of $100,000 through United States commercial paper dealers. Applicants represent that they will secure an undertaking from each such dealer that the notes will be sold to institutional investors and other entities and individuals who ordinarily purchase commercial paper notes. The application states that the proceeds of the sale of the notes generally would be placed on short-term deposit with, or loaned to, Indosuez and thus made available to it for current transactions.

Applicants state that they plan to sell the notes without registration under the Securities Act of 1933 (the "1933 Act"), in reliance upon an opinion of their special counsel in the United States that the offering will qualify for an exemption from the registration requirements of the 1933 Act provided for certain short-term commercial paper by Section 3(a)(3) thereof. Applicants do not request Commission review or approval of such opinion letter, and the Commission expresses no opinion as to the availability of any such exemption. Applicants further represent that the presently proposed issue of notes and any future issue of debt securities issued by IndoNA or issued or guaranteed by Indosuez in the United States (other than deposit taking or other ordinary commercial banking activities of Indosuez's branches in the United States) shall have received, prior to issuance, one of the three highest investment grade ratings from a least one of the nationally recognized investment rating organizations, and that their special United States counsel shall have received certificates that such rating has been received; provided, however, that no such rating shall be required to be obtained, if, in the opinion of special United States counsel for Applicants, such counsel having taken into account for the purposes thereof the doctrine of "integration" referred to in various releases and no-action letters made public by the Commission, an exemption from registration is available with respect to such issue under Section 4(2) of the 1933 Act. Applicants represent that the guaranty of Indosuez will rank *pari passu* with all other unsecured unsubordinated indebtedness of Indosuez, including its deposit liabilities, and superior to rights of shareholders.

Applicants undertake to insure that each commercial paper dealer through whom the notes are sold will provide each offeree of the notes with a memorandum d escribing the businesses of Applicants and containing the most recently available audited financial statements of Indosuez, audited in accordance with French auditing practices. Applicants state that the offering memorandum will include a paragraph highlighting the material differences between French accounting standards applicable to French banks and generally accepted accounting principles employed by United States banks. Applicants represent that such memoranda will be at least as comprehensive as those customarily used in offering commercial paper in the United States and will be updated periodically to reflect material changes in the businesses or financial status of Applicants.

The application states that either Indosuez or IndoNA may, from time to time in the future, offer and sell debt securities other than the short-term notes which, in the case of any such securities issued by IndoNA, will be unconditionally guaranteed by Indosuez by means of a guaranty, keep-well arrangement, back-to-back loan or otherwise. No such securities shall be offered or sold unless (a) they are registered under the 1933 Act or (b) in the opinion of special United States counsel for the Applicants an exemption from registration is available with respect to such offer and sale or (c) the staff of the Commission states that they would not recommend that the Commission take any action under the 1933 Act if such securities are not registered. Applicants repesent that any such future offerings of their debt securities in the United States will be done on the basis of disclosure documents which contain the financial statements of Indosuez and which are at least as comprehensive in their description of such Applicant and its business, and in the case of any securities issued by IndoNA, in their description of Indosuez and its business, as those customarily used in United States offerings of such securities. Applicants undertake to ensure that such a disclosure document will be provided to each offeree who has indicated an interest in such debt securities in the United States. Applicants consent to having any order granting the relief requested under Section 6(c) of the Act expressly conditioned upon Applicants' compliance with the foregoing undertakings concerning disclosure documents.

Applicants represent that they will appoint a bank or trust company, or a corporation with an office in New York City engaged in providing corporate services for lawyers as agent, to accept service of process in any suit, action, or proceeding brought on the notes or the guaranty or with respect to the offer and sale of the notes by means of the offering memorandum and instituted in any state or federal court by the holder of any of the notes. The application represents that Applicants will expressly submit to the jurisdiction of state or federal courts in the City and State of New York in respect of any such suit, action or proceeding. Applicants will also be subject to suit in any other court in the United States which would have jurisdiction because of the manner of the offering of the notes or otherwise. The application further represents that such appointments of an agent to accept service of process and such consents to jurisdiction shall be irrevocable until all amounts due and to become due in respect of the notes have been paid. The application also states that Applicants will similarly consent to jurisdiction and appoint an agent for service of process in any such suit, action or proceeding arising from any future offerings of debt securites that they may make in the United States.

In support of the exemptive relief requested, Applicants assert, among other things, that Indosuez carries on the business of a commercial bank and that IndoNA will carry on the business of a financing subsidiary of a foreign commercial bank whose only significant assets will be deposits with, or loans to Indosuez of the proceeds of the sale of commercial paper and, in the future, other debt and its paid-in capital. Accordingly, Applicants contend that they should not be treated as "investment companies" within the meaning of the Act. Because of the uncertainty that has been expressed as to whether foreign commercial banks and, by logical extension, their financing subsidiaries organized in the United

States are "investment companies" under the Act, however, Applicants seek an exemptive order pursuant to Section 6(c) of the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than September 19, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-24127 Filed 9-1-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13467; 812-5521]

Colonial Penn Series Trust; Filing of Application

August 26, 1983.

Notice is hereby given that Colonial Penn Series Trust ("Applicant"), 5 Penn Center Plaza, Philadelphia, PA 19181, a business trust organized under the laws of the Commonwealth of Massachusetts and registered as an open-end, diversified, management investment company under the Investment Company Act of 1940 ("Act"), filed an application on April 14, 1983, with an amendment thereto on July 28, 1983, requesting an order of the Commission pursuant to Section 6(c) of the Act exempting Applicant from the provisions of Section 17(f) of the Act to the extent necessary to permit Applicant to maintain in book entry form the investments in time deposits of its CP Money Market Portfolio ("Money Market Portfolio") and of the Liquidity Division of its CP Equity Generator Portfolio ("Liquidity Division"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and rules thereunder for the text of the applicable provisions.

Applicant states that it currently comprises five separate portfolios, including CP Money Market Portfolio and CP Equity Generator Portfolio, which is composed of a liquidity Division and an Equity Division. Colonial Penn Investment Advisors Corp. ("Adviser"), a wholly-owned subsidiary of Colonial Penn Group, Inc., serves as investment adviser for all of Applicant's separate portfolios. Investors Fiduciary Trust Company of Kansas City, Missouri ("Custodian") acts as custodian of Applicant's assets, and as Applicant's transfer agent and divided disbursing agent.

Applicant's Money Market Portfolio and Liquidity Division will be investing in, *inter alia*, certificates of deposit of United States regulated banks. Applicants state that on September 9, 1982, the Federal Reserve Board amended its Regulation Q to permit such certificates of deposit to be issued in book entry format. Applicant contends that safekeeping of the certificates of deposit does not depend upon a certificate being issued to the Money Market Portfolio and would, in fact, result in unnecessary expenses. Applicant requests an exemption from the provisions of Section 17(f) of the Act, and in connection therewith has consented to the following conditions to any order granting that exemption:

1. The Money Market Portfolio and the Liquidity Division will adopt a system that is reasonable designed to prevent unauthorized officer's instructions and which will provide, at a minimum, for the form, content, and means of giving, recording, and reviewing the instructions. The definition of "officer's instructions" will be the same as for Rule 17f-4(c)(1) of the Act.

2. The instruments to be held in book entry form will only be bought from banks eligible to be a trustee or custodian pursuant to Section 26(a)(1) of the Act.

3. The financial institution will send confirmations, receipts or notices to either the Custodian or the Applicant and simultaneously a copy of the confirmation, receipt or notice to the other.

4. A representative of the Adviser will negotiate a purchase of a certificate of deposit from a financial institution. This will be done over the telephone. The representative will request that the financial institution send a confirmation or notice of the purchase to the Custodian. This confirmation or notice will be: (i) Physically delivered to the Custodian; (ii) transmitted via the Federal Funds Wire System; or (iii) transmitted by a telex. The representative of the Adviser will also inform the Custodian of the details of the transaction and that a request will be coming in. These oral instructions to the Custodian will be confirmed in writing with the Custodian through an over-the-phone lines service or otherwise. The Custodian will not transfer funds until it receives the transaction request from the financial institution. When it does receive the request, and if the request is in accord with the instructions it has received from the Adviser, it will then transfer funds via the Federal Wire System.

5. The transaction will be recorded in a book entry form in the name of the Custodian for Applicant. The financial institution, upon maturity of the instrument, will pay the Custodian for the Applicant.

6. Applicant by resolution of its board of trustees has approved the procedures discussed herein, and the board of trustees will review and approve the procedures at least annually.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than September 21, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-24126 Filed 9-1-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20125; File Nos. SR-CBOE-83-16, SR-CBOE-83-28]

Chicago Board Options Exchange, Inc.; Filing of Proposed Rule Change and Amendment to Proposed Rule Change; Order Granting Accelerated Approval of Proposed Rule Changes

I. Introduction

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15

U.S.C. 78s(b)(1), (the "Act"), LaSalle and Jackson, Chicago, Illinois 60604, and Rule 19b–4 thereunder, the Chicago Board Options Exchange, Incorporated ("CBOE"), on June 9, 1983, filed with Commission a proposed rule change to permit CBOE to list and trade standardized options on the Oil (Integrated International) Industry Index (File No. SR–CBOE–83–16) a "narrow-based" or "industry" index.[1] On June 30 and July 14, 1983, CBOE submitted amendments to this filing.[2] On August 24, 1983, CBOE submitted Amendment No. 3 to this filing containing a description of the composition and economic uses of options on narrow-based indices, and the contract specifications for the Oil (Integrated International) Industry Index. Notice of Amendment No. 3 is being given by publication of this release. On August 24, 1983, CBOE filed with the Commission a proposed rule change (File No. SR–CBOE–83–28) that would add to CBOE's rules margin, position and exercise limits and trading halt provisions relating specifically to options on industry indices, including the option on the Oil (Integrated International) Industry Index. Notice of this proposed rule change is also being given by publication of this release. The discussion below describes in detail these proposed rule changes and amendments.

The proposed rule changes relating to narrow-based stock index option were filed with the Commission after its approval of CBOE's general rules relating to options on indices.[3]

[1] On the same date, CBOE submitted separate proposed rule changes relating to four other proposed narrow-based indices, File Nos. SR–CBOE–83–15, 17, 18 and 19. Because CBOE does not seek to trade options on these other four indices the other four proposed rule changes are not subjects of this release.

[2] Notice of the proposed rule change, as revised by Amendment Nos. 1 and 2, was given in Securities Exchange Act Release No. 20006, July 20, 1983, 48 FR 35221.

[3] *See* Securities Exchange Act Release No. 19284 (November 22, 1982), 47 FR 53981 (November 30, 1982) in which the Commission approved the general rules proposed by CBOE, as well as similar rules proposed by the American Stock Exchange, Inc. ("Amex") and the New York Stock Exchange, Inc. ("NYSE") to trade options on stock indices and, in addition, approved specific indices with respect to which the exchanges could commence index options trading. *See also* File Nos. SR–CBOE–82–11, SR–Amex–82–8 and SR–NYSE–82–2. Subsequently CBOE commenced trading in two "broad-based" market indices: Standard & Poor's 100 (S&P 100), composed of the common stocks of 100 diverse listed companies that underlie options traded on the CBOE (originally designated the "CBOE 100"), on March 11, 1983; and the S&P 500 (composed of the common stock of 500 diverse companies), on July 1, 1983.

II. Description of the CBOE Proposed Narrow-Based Index Options

A. Description of the Index

The Oil (Integrated International) Industry Index is a market weighted [4] index containing six stocks.[5] Each of the component stocks is actively traded and currently is the subject of individual options trading.[6] Given Exxon's leading position in the international oil industry, Exxon is also the dominant stock in the index, comprising 34.7% of the total weighting of the index. That dominance, however, is counterbalanced in part by the fact that the total number of stocks in the index is small and the share of the remaining weighting of the index is fairly evenly divided among the five other companies in the index.[7]

The index is a Standard and Poor's (S&P) industry index.[8] Construction of the S&P 500 Stock Price Index proceeds from individual stocks to industry groups to sector groups to the whole. Thus, each of the stocks in S&P's various industry indices, such as the Oil (Integrated International) Industry Index, is included among the component stocks in the S&P 500 Stock Price Index. According to the CBOE, S&P has established standards for selecting stocks to be included in each industry index. Under these standards each underlying stock must represent a viable enterprise and must be representative of the industry index to which it is assigned. In addition, market price movements of index stocks must in general be responsive to changes in industry affairs. The aggregate market value of the stock and its trading activity are also important considerations in S&P's selection process. Judgments as to the investment appeal of the stocks do not enter into S&P's selection process. S&P has a committee that is responsible for all decisions affecting its indices, and establishes the guidelines for adding and deleting a company from an index. At this time, CBOE does not have any independent standards for making adjustments to the index; nor does it commit itself to adhering to whatever changes S&P might make. CBOE Rule 24.2, however, affectively requires that each change to the index be submitted to the Commission pursuant to Rule 19b–4 under the Act for the Commission's approval. In addition CBOE states in its filing (SR–CBOE–83–16, Amendment No. 3) that it intends shortly to submit such standards to the Commission pursuant to Rule 19b–4 under the Act.[9]

B. Contract Specifications

CBOE proposes the following contract specifications for the index options: an index multiplier of $100.00; an expiration cycle of March–June–September–December; and exercise price intervals of five points for securities trading under 100 and 10 points for securities trading above 100.

C. Margin

CBOE proposes that its narrow-based index options be subject to the same margin requirements currently applicable to options of individual stocks.[10] Thus, no margin would be allowed in the purchase on an index option and the minimum margin on any index option, put or call, sold or "carried short" would be 30 percent of the product of the current industry index value times the index multiplier.[11]

[4] A market weighted index is calculated by (1) multiplying the price of one share of stock by the number of shares outstanding for each issuer in the index; (2) adding these values; and (3) multiplying that sum by a pre-established divisor, which reflects the value of the index at a fixed historical point in time.

[5] As of March 31, 1983 the total index capitalization for this index was $76.6 billion.

[6] Options exchanges provide that only stocks meeting certain standards, including a liquidity test, may be the subject of options trading. For example, the underlying security must have a public float of 6,000,000 shares owned by a minimum 10,000 public shareholders, and the trading volume for each of the two previous calendar years must be at least 2,000,000 shares. *See e.g.*, Amex Rule 9.5 and CBOE Rule 5.3. While all the stocks comprising the index underlying the options contract approved today are options stocks, CBOE has not submitted as part of its rule proposals any standards for adding or deleting stocks to and from industry indices. *See* discussion below.

[7] Following Exxon, the other companies and their share of the total capitalization of the index are: Standard Oil of California (17.1%); Mobil Oil (15.4%); Royal Dutch Petroleum (14.2%); Texaco, Inc. (11.2%) and Gulf Oil (7.3%). These figures are as of March 31, 1983.

[8] The index will be licensed from the Standard and Poor's Corporation to CBOE for securities options trading.

[9] In seeking to trade options on narrow-based indices, Amex has included in its rules several critieria pertaining to the inclusion of stocks in indices that underlie Amex options contracts. Amex Rule 901C, for example, specifies that an underlying index must be comprised of 10 or more stocks, and provides that if an index consists of less than 25 stocks each of these stocks must meet Amex standards for trading options in individual securities.

[10] Amex also applies individual stock option margin requirements to its recently approved narrow-based index options. *See* Securities Exchange Act Release No. 20075, August 12, 1975 (the Amex Release).

[11] CBOE Proposed Rule 24.11(b)(ii). Thus, if the current level of the index were 100, each contract would have a value of $10,000 (100 times the $100 index multiplier) and the minimum margin for writing an option would be $3,000.00.

Further, like margin on stock options, the margin on short positions on index options is (i) for index calls, increased by any unrealized loss or reduced

D. Position and Exercise Limits

CBOE proposes to establish position and exercise limits with respect to narrow-based index options that reflect the unique characteristics of each index option.[12] The proposed rule change would establish a three-tiered position limit structure of 4,000, 6,000 and 8,000 contracts. The lowest limit, 4,000 contracts, would be applicable to options on any index that may be dominated by a single component stock and the highest limit, 8,000 contracts, is applicable to options in indices that are the least affected by any particular stock or group of stocks.[13] Under these standards, persons holding positions in options on the Oil (Integrated International) Industry Index would be subject to the 4,000 contract limit. These limits would compare to the recently approved position and exercise limits of 4,000 contracts for the higher tier (more active) individual stock options.[14]

E. Trading Halts

Proposed amendments to CBOE Rule 24.7 provide that trading in the index option will be halted if trading has been halted in tahe primary market for any combination of underlying stocks accounting for 10 percent or more of the current index value.[15] Thus, based on the current composition of the Oil (Integrated International) Industry Index, trading generally must be halted in the options contract if any one of the stocks in the index (except Gulf Oil) has been halted.

F. Economic Uses of Narrow-Based Index Options

In its initial filing with respect to index options, CBOE asserted that such options serve a number of important exonomic functions.[16] It noted that index options, like individual stock options, enable an investor to achieve leverage, limit risk or hedge a securities position. In particular, it noted that index options (at least broad-based index options) can be used to manage market (or "systematic") risk. Index options can be used to hedge the systematic risk of a broad portfolio of securities, to make short term adjustments to a portfolio without incurring the transaction costs involved in actively trading the securities in the portfolio, and to hedge (or filter out) the market risk component of an investment in a single stock. CBOE and the other exchanges proposing to trade index options indicated that such options could be used by investors or investment advisors holding or managing stock portfolios. In addition, underwriters and other persons sensitive to changes in stock prices, particularly short-term changes, could benefit from the use of stock index options.

In the instant submission, CBOE indicates that it believes options on narrow-based indices will enable investors to separate the total risk associated with an investment in individual securities into three components: market risk, industry risk and firm specific risk. CBOE stated, for example, that an investor could hedge against the industry component of risk of an international oil stock by buying put option on that industry group. In addition, CBOE stated that options on narrow based indices give investors the opportunity to profit from expectations of price movements of industry indices or the stock market as a whole. Finally, CBOE asserted in its submission that under generally accepted schemes of classification in the securities industry, oil companies are divided into international and domestic groups; that brokers' research reports and recommendations generally follow this classification; and that, accordingly, CBOE believes that options on an international oil company index will be useful to investors.

III. Solicitation of Comments

As indicated above, the proposed rule change contained in SR–CBOE–83–28 and Amendment No. 3 to File No. SR–CBOE–83–16 have not previously been published for comment. Interested persons are invited to submit written data, views and arguments concerning the contents of Amendment No. 3 to SR–CBOE–83–16 and concerning SR–CBOE–83–28 within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. Reference should be made to File Nos. SR–CBOE–83–16 and SR–CBOE–83–28.

IV. Comments Received

The Amex sent the only comment letter received regarding the proposed rule change.[17] In its comment letter, the Amex suggested that the CBOE proposal was deficient in that it failed to contain any standards for the selection of stocks to be included in an index or for adjustments to the index composition through time. In particular, the Amex suggested that in the absence of standards an index might be or become dominated by one particular stock; might include an over-the-counter stock for which there is no official closing price; or might contain so few stocks that the index would be susceptible to being used as a surrogate for the options on the individual stocks making up the index. In addition, Amex questioned whether there is any economic use for options on two separate oil industry indexes, as originally proposed by CBOE. Finally, Amex suggested that the Commission limit each exchange proposing to trade stock index options to two such options for a pilot period.[18]

V. Discussion

On August 24, 1983, the Commission approved options on two narrow-based or industry indices proposed by Amex.[19] The two indices for which options trading was approved differ from the Oil

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by any excess of the aggregate exercise price of the option over the product of the current index value times the index multiplier or (ii) for index puts, increased by the amount that the product of the current index value times the index multiplier is less than the aggregated exercise price of the option. In addition, margin on any industry option, like a stock option cannot be reduced below an absolute minimum of $250.00.

[12] As with CBOE's proposed margin rules, its proposed position and exercise limit rules are identical to Amex's position and exercise limits for its narrow-based index options. *See* the Amex Release.

[13] Proposed CBOE Rule 24.4(b). Specifically an index option contract is subject to a 4,000 contract limit if any single stock accounts, on an average of a thirty-day period fixed by the rule, for 30 percent or more of the value of the index. A 6,000 contract limit is applicable when any single stock accounts for 20 percent or more of the index, or any five stocks account for 50 percent of the index, but no single stock accounts for more than 30 percent of the index value. A limit of 8,000 contracts applies to all narrow-based index options not subject to the two lesser tiers.

[14] CBOE rules will not require aggregation of positions in industry index options with positions in options on the individual stocks comprising the indices. The Commission believes, however, that the fact that the proposed index option is settled in cash, combined with the substantial trading activity in the stocks in the index that dominate the indices, makes the potential of successful joint manipulations of this index option and individual options extremely low. The Commission intends to monitor the experience in this area, however, to determine if aggregation would be appropriate.

[15] This portion of CBOE's proposals is also identical to Amex's rules regarding its narrow-based index options.

[16] *See* File No. SR–CBOE–82–11.

[17] See letter dated July 8, 1983, from Robert J. Birnbaum, President, Amex, to George A. Fitzsimmons, Secretary, SEC.

[18] With respect to Amex's suggestion of a pilot program in stock index options, the Commission notes that it has published for comment a proposal that, if adopted, would implement a pilot program similar but not identical to that proposed by Amex. *See* Securities Exchange Act Release No. 20078, August 12, 1983.

[19] *See* The Amex Release.

(Integrated International) Industry Index proposed by CBOE principally in that the total number of stocks included in the CBOE index is smaller [20] and in that the CBOE index is not so clearly dominated by any one stock, as is the Amex's Computer Technology Index.[21]

The Commission does not believe that these differences in the two indices raise any new regulatory concerns that were not discussed and decided in the Amex release. For example, in the Amex release the Commission noted the potential for options on indices comprised of a smaller number of stocks to act as surrogate investments for individual stocks, or options on those stocks, and noted its concern that the trading of such derivative index instruments not undermine the system of regulation for individual stocks and options. It is possible that the smaller size of the CBOE idex could make it somewhat more susceptible to use as a surrogate for trading in the individual stocks underlying the index, or in options on such stocks. CBOE, however, like Amex, proposes to apply the same regulatory framwork (such as margin requirements and position and exercise limits) to is industry index options that it applies to individual stock options. As a result, the Commission does not believe that the existence of the CBOE narow-based index options contract will undermine Commission regulation of the stocks included in the index, or options on those stocks, or that there will be substantial utilization of the index options contract as a surrogate investment. In this regard, the fact that the CBOE index is not clearly dominated by one stock further reduces the likelihood that option will act as a surrogate for trading in a particular stock or stock option. In addition, the Commission does not believe there are any manipulation, surveillance or related issues raised by the CBOE filing not previously addressed in connection with the Amex narrow-based index option proposals.[22]

In sum, the Commission finds nothing in the option on the index as proposed that distinguishes it significantly in terms of the regulatory concerns it raises from the two Amex narrow-based index options the Commission has previously approved. The commission does note with concern, however, the failure of CBOE to propose its own standards for making adjustments to the index. While the Commission feels that its review of each change to the index, as will be required by CBOE's own rules, will serve as an position of the index, the Commission also feels that standards controlling adjustments to the index must soon be put in place by CBOE. As indicated above, CBOE states in its filing that it shortly will submit such standards.

VI. *Findings and Conclusion*

Under Section 19(b)(2 of the Act, the Commission must approve the foregoing rule change if it determines that the proposed rule change is consistent with the requirements of the Act and the rules thereunder applicable to national securities exchanges. The Commission has reviewed carefully the rules proposed by CBOE to accommodate the listing and trading of options on industry stock indices and the specific characteristics of the CBOE Oil (Intergrated international) Industry Index. For the reasons set forth above, the Commission has concluded that the rules provide for adequate and proper regulation of the proposed options. Accordingly, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

As it did in the Amex release, the Commission is conditioning its approval order on agreement by CBOE to delay the start-up of trading of either of its index options by at least two-weeks following its announcement of the date for start-up of trading. During this period, the Commission expects that CBOE will take the necessary steps to educate member firms about the indices. As noted above, prior to the commencement of trading CBOE also is required to submit a satisfactory surveillance agreement to the Commission.

The Commission finds good cause for approving both the proposed rule changes, as amended, prior to the thirtieth day after the date of publication of notice of filing thereof in that the basic CBOE proposal to trade options on narrow-based indices, including the Oil (Intergrated international) industry index, was published for comment 21 days ago; comments on that basic proposal have been received and considered by the Commission; the portions of the proposal noticed today are either technical in nature or are identical to Amex rule changes previously approved by the Commission which were the subject of an extensive notice and comment process; and the entire proposal raises no significant issues that were not previously addressed by the Commission in either its November 22, 1982 release on the intial Amex, CBOE and NYSE index options filing or the August 12, 1983 Amex release.

It is therefore oredered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule changes, as amended, be, and hereby is, approved, effective August 12, 1983

For the Commission by the Division of Market Regulation pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-24130 Filed 9-1-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20123; File No. SR-NSCC-80-35]

National Securities Clearing Corporation ("NSCC"); Order Approving Proposed Rule Change

August 26, 1983.

I. Description of Proposed Rule Change

On December 19, 1980, NSCC filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act"), and Rule 19b-4 thereunder, a proposed rule change which, as amended, revises NSCC's hearing procedures and modifies certain other rules. Notice of the proposed rule change, together with its terms of substance was given by publication of Securities Exchange Act Release No. 17492 (January 28, 1981), 46 FR 10889 (February 4, 1981).[1] NSCC subsequently

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[20] The two indices approved for options trading in the Amex Release were the Computer Technology Index, consisting of 30 stocks, and the Oil and Gas Index, consisting also of 30 stocks. As described above, the CBOE Oil (integrated International) Industry Index consists of six stocks.

[21] As of April 20, 1983, International Business Machine comprised 54 percent of Amex's Computer Technology Index, and the next four largest companies reflected only an additional 20.5 percent of the index capitalization. As described above, the largest stock in CBOE's proposed index comprises 34.7 percent of the total index capitalization and the remaining capitalization of the index is fairly evently divided among the five other companies in the index.

[22] The Commission notes, however, that concerns were raised in connection with the Amex filing with respect to the need to develop surveillance systems to monitor the trading of index options. In this regard, while the Commmission indicated its belief that Amex was developing an appropriate surveillance program, the Commission nevertheless conditioned its approval order on the submission by Amex of a satisfactory surveillance program. The Commission is similarly conditioning the start-up of trading in the proposed CBOE index options contract.

[1] The proposal, as amended, included financial responsibility and operational capability requirements for broker-dealer and bank

filed two technical amendments to the proposal.[3]

The proposed rule change, as amended, codifies reasons for which NSCC may make an issue of securities ineligible for clearance services [3] and reorganizes and clarifies portions of NSCC's rules. In addition, the proposed rule change would make significant changes to NSCC's rules governing hearing procedures.

NSCC's current hearing rules, in general, provide that a Settling Member or an applicant to become a Settling Member (collectively, the "Interested Person")[4] may appeal to a committee of NSCC's board of directors, certain actions or proposed actions that adversely affect, or would adversely affect, the Interested Person.[5] After reviewing these rules, the Commission staff expressed to NSCC a concern that certain portions of NSCC's hearing procedures might be inconsistent with the requirements of the Act.[6] For example, NSCC's current rules do not provide a participant with a hearing opportunity before NSCC may impose a fine, nor do the rules require that all fines may be appealed within NSCC.[7]

The proposal grants an Interested Person the right to a hearing before NSCC may impose any sanction; limit access to services; deny, suspend, or revoke participation; or take any similar action with respect to that person.[8] The proposal, however, would permit NSCC summarily to suspend a Settling Member or summarily to prohibit or limit a Settling Member's access to services provided that the Settling Member subsequently may obtain a hearing reviewing that action.

The proposal provides that hearings would be held before a panel of participant directors [9] drawn from the membership committee of NSCC's board of directors.[10] The number of panel members would be determined by the nature of the action or proposed action at issue. In no event, however, could any panel member have been responsible at NSCC for recommending or implementing the action or proposed action to which the Interested Person objects. Interested Persons would have the right "to be heard", *i.e.*, to present evidence, and to be represented by counsel.[11]

The panel would be required to render a decision within ten business days after the hearing. If the panel decided adversely to the Interested Person, the panel would be required to provide a written statement explaining the basis for its decision.[12] This decision would be final under NSCC's rules, although NSCC's board of directors would have the discretion to reduce a sanction or modify the decision.[13]

In addition, the proposal includes, among other procedural details, various provisions specifying how and when Interested Persons may request hearings and how and when NSCC will notify Interested Persons and other participants of proposed actions.

II. Discussion

The Commission has reviewed the proposed rule change and believes that it is consistent with the requirements of the Act. The Commission believes that the expanded list of reasons for which NSCC may cease clearing an issue of securities is consistent with the Act and, in particular, with Section 17A(b)(3)(F) of the Act which provides that the rules of the clearing agency, among other things, must assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible. The Commission further finds that the clarifying and non-substantive amendments to NSCC's rules are consistent with the requirements of the Act.

The Commission also has reviewed NSCC's proposed amendments to its hearing procedures and has determined that they are consistent with the requirements of the Act and, in particular, with section 17A(b)(3)(H), (b)(4)(B), and (b)(5) of the Act. Together, these sections require that Interested Persons receive a fair hearing at an appropriate juncture before the clearing agency may take final action adversely affecting that person. The proposal insures that an Interested Person will be afforded such a hearing before NSCC finally may deny admission, limit access to services, or expel or sanction the interested person. The proposal, however, permits NSCC summarily to suspend and close-out participants whenever the clearing agency must act expeditiously to protect itself, its participants, other creditors, or investors. In such a case, the suspended participant, nonetheless, is entitled to a hearing subsequently to contest the suspension, pursuant to Section 17A(b)(5)(C) of the Act.

The Commission believes that the proposal would insure that the panels adjudicating disputes between NSCC and its participants would be impartial. As noted, proposed NSCC actions (other than summary actions) are reviewed by the panel before they are implemented; the panels would be drawn exclusively from participant members of NSCC's board of directors; and all panel members must be free from responsibility for the disciplinary recommendations or proposed sanction. Accordingly, the Commission believes that panels will be composed of disinterested participant directors who will hear cases on a timely basis and under circumstances that encourage

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participants. NSCC requested withdrawal of these portions of the proposal and refiled them as separate proposed rule changes. The Commission approved these proposals in Securities Exchange Act Release No. 18744 (May 17, 1982), 47 FR 22285 (May 21, 1982) (broker-dealer standards) and Securities Exchange Act Release No. 19191 (October 29, 1982), 47 FR 50597 (November 8, 1982) bank standards).

[3] In a letter to the staff dated March 4, 1983, NSCC amended the proposal to conform it with other proposed rule changes previously approved by the Commission. In a letter to the staff dated July 26, 1983, NSCC amended the proposal to provide that only participant directors may serve on hearing panels and to modify portions of the proposal relating to summary suspension of bank participants.

[3] For example, the proposal would make explicit NSCC's authority to cease clearing an issue of securities if any other self-regulatory organization properly suspends trading in that security. NSCC Proposed Rule 3 § 1(a).

[4] A Settling Member is defined in NSCC Rule 1 as a Member or a Non-Clearing member of NSCC.

[5] NSCC Proposed Rule 37 § 2.

[6] Section 17A(b)(1) of the Act requires all clearing agencies to be registered with the Commission. Section 17A(b)(3)(H) of the Act provides that a clearing agency may not be registered unless, among other things, its rules provide a fair procedure with respect to the disciplining of participants, the denial of participation to any person seeking participation therein, and the prohibition or limitation by the clearing agency of any person with respect to access to services offered by the clearing agency. *See also* Sections 17A(b)(3)(G), (b)(4), and (b)(5) of the Act and Securities Exchange Act Release No. 16900 (June 17, 1980), 45 FR 41920 (June 23, 1980) (Division of Market Regulation's Standards for the Registration of Clearing Agencies).

[7] NSCC Proposed Rule 37 § 1.

[8] NSCC Proposed Rule 46 §§ 1 and 2, (disciplinary proceedings). NSCC Proposed Rule 2 § 4 (applicant for membership); NSCC Proposed Rule 3 § 3 (applicant for non-clearing membership); NSCC Proposed Rule 46 § 2 (suspension, prohibition, or limitation on access of Settling Member); NSCC Proposed Rule 45 § 5 (notice and hearing requirements).

[9] NSCC amended the proposal to provide that only participant directors, and not shareholder directors or the management director, could serve on hearing panels.

[10] If the Interested Person has requested the hearing because he objects to the action or proposed action of the membership committee, the hearing panel would be drawn from participant directors serving on the board's executive committee. NSCC Proposed Rule 37 § 2.

[11] NSCC Proposed Rule 37 § 2.

[12] *Id.* at § 5.

[13] *Id.* At §§ 5, 6. Section 19(d) of the Act provides, among other things, that the appropriate regulatory agency for the Interested Person may review a decision by any clearing agency imposing any final disciplinary sanction on any participant, denying participation to any applicant, or prohibiting or limiting that Interested Person's access to services.

objective and impartial adjudication.[14] Therefore, the Commission believes that the proposal satisfies the requirements of the Act, and in particular, of Section 17A of the Act.

It is therefore ordered, pursuant to Section 19(b) of the Act, that the proposed rule change (SR–OCC–80–35) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83–24128 Filed 9–1–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 20124; File No. SR–NSCC–83–3]

National Securities Clearing Corporation ("NSCC"); Order Approving Proposed Rule Change

August 26, 1983.

On March 24, 1983, NSCC filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act"), and Rule 19b–4 thereunder, a proposed rule change that: (i) Grants certain hearing rights to participants adversely affected by specified actions taken by NSCC; (ii) requires NSCC to provide specified financial reports to participants; (iii) requires NSCC to notify other clearing agencies when it files proposed rule changes with the Commission; and (iv) authorizes NSCC's board of directors to interpret NSCC's rules. Notice of the proposed rule change, together with the terms of substance of the proposed rule change, was given by publication of Securities Exchange Act Release No. 19649 (April 4, 1983), 48 FR 15358 (April 8, 1983). No letters of comment were received.

I. Background

Section 17A(b)(1) of the Act requires all clearing agencies to be registered with the Commission. The Act further provides that the Commission shall not grant registration to a clearing agency unless the Commission determines that the clearing agency satisfies the requirements specified in Sections 17A(b)(3)(A)–(I) of the Act. To assist the Commission in making these determinations, the Commission has published Standards to be used by the Division of Market Regulation in connection with the Registration of Clearing Agencies (the "Standards").[1]

In 1976, NSCC applied for temporary registration, pursuant to Rule 17Ab2–1(c)(1) (17 CFR § 240.17Ab2–1(c)(1)), by filing Form CA–1 (17 CFR § 249b.200) with the Commission. After reviewing NSCC's application for registration, the Commission granted NSCC temporary registration.[2] On June 24, 1980, NSCC filed with the Commission its amended Form CA–1.

During the past several years, NSCC and the Commission staff have reviewed NSCC's rules and procedures and determined that certain of them needed amendments to comply fully with the requirements of the Act and with the Standards. Accordingly, over time, NSCC has filed, and the Commission has approved, several proposed rule changes that cured many of these deficiencies and that improved generally NSCC's rules.[3] This proposal concerns certain residual items needed to comply with the Act and the Standards including: (i) Amendments to NSCC's rules incorporated in NSCC's Form CA–1 but not previously submitted to the Commission, pursuant to Rule 19b–4; and (ii) several technical amendments.

II. Description of the Proposed Rule Change

As noted above, the proposal would amend several different portions of NSCC's rules:

1. Due Process Requirements—the proposal would amend two portions of NSCC's rules to require that NSCC hold hearings in certain proceedings before limiting a participant's access to services.

First, NSCC's current Rule 29 provides that each NSCC participant must also be a participant in a Qualified Securities Depository ("QSD") and that NSCC *shall* cease to act for a participant who is no longer a participant in a QSD.[4] The proposal would amend Rule 29 to provide that NSCC *may* cease to act for a participant who is no longer a participant in a QSD. The proposal would require NSCC to hold a hearing before ceasing to act for such a participant, unless NSCC had independent grounds summarily to suspend that participant, pursuant to Rule 46. Because the participant would be unable to settle his securities obligations through the QSD, the proposal would require the participant to settle securities obligations by delivery of physical securities or, in NSCC's discretion, through an NSCC-sponsored account at DTC.

Second, NSCC proposes to amend NSCC Rule 43 provide that a participant may not be denied access to the Dividend Settlement Service until the participant has received a hearing, pursuant to NSCC Rule 46.

NSCC believes that these proposed amendments are consistent with the Act and, in particular, with section 17A(b)(3)(H) of the Act, which requires that the rules of the clearing agency provide a fair procedure when, among other things, prohibiting or limiting access by any person to services offered by the clearing agency.

2. Financial Reports—The proposal would amend NSCC Rule 35 to require NSCC to provide its participants, within sixty days after the close of the year, with an annual financial statement audited and covered by a report prepared by NSCC's independent public accountants. The proposal would further amend NSCC Rule 35 to require NSCC to make available to its participants an unaudited financial statement within thirty day after the close of each fiscal quarter. This amendment addresses a requirement included in the Standards.

3. Proposed Rule Changes—The proposal would amend NSCC Rule 36 to require NSCC to provide copies or summaries to all other registered clearing agencies of any proposed rule change filed with the Commission. This amendment adresses a requirement included in the Standards.

4. Authority of NSCC's Board of Directors to Interpret NSCC's Rules—The proposal contains new NSCC Rule 47, which will provide that NSCC's board of directors, or an appropriate board committee, has the authority to interpret NSCC's rules. This proposal expressly states the implicit authority of the board of directors.

III. Discussion

The proposed amendments to Rule 29 (Membership in a QSD) and Rule 43 (Divided Settlement Service) would provide NSCC participants with an opportunity for a hearing before NSCC may limit access to certain of NSCC's services. These amendments relate to an earlier filing, SR–NSCC–35,[5] approved

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[14] *See also in re Charles H. Ross, Inc.*, Securities Exchange Act Release No. 16230 (October 1, 1979), 18 SEC Docket 557 (October 16, 1979) and Securities Exchange Act Release No. 18771 (May 28, 1982), 47 FR 24677 (June 7, 1982) approving File No. SR–OCC–80–5 (amending the Options Clearing Corporation's hearing procedures).

[1] Securities Exchange Act Release No. 16900 (June 17, 1980), 45 FR 41920 (June 23, 1980).

[2] Securities Exchange Act Release No. 13163 (January 13, 1977), 42 FR 3016 (January 21, 1977). *See also* Securities Exchange Act Release No. 19705 (April 26, 1983), 48 FR 20169 (May 4, 1983) for a discussion of the history of NSCC's registration.

[3] *See, e.g.*, SR–NSCC–80–35, approved in Securities Exchange Act Release No. 20123 (August 26, 1983) published elsewhere in this issue.

[4] Currently, the only QSD is the Depository Trust Company ("DTC"). *See also* NSCC Procedures VIII at B (sponsored accounts).

[5] *See* note 3 *supra*.

by the Commission which set forth comprehensive amendments to, among other things, NSCC's rules for disciplining, expelling, or limiting access to services to participants. The instant filing extends the hearing opportunity to participants in two additional circumstances. Because the Commission has recently reviewed NSCC's hearing procedures in considerable detail and has determined that they are consistent with the Act, the Commission believes that this further refinement affords affected participants with a fair procedure that is consistent with the requirements of the Act, and in particular, with Section 17A(b)(3)(H) of the Act.

The remainder of NSCC's proposal would (i) amend Rules 35 and 36 to incorporate certain requirements specified in the Standards;[6] and (ii) add new Rule 47, which codifies NSCC's necessary existing policy by stating that the board of directors, or one of its committees, is authorized to interpret NSCC's rules. The Commission believes that these amendments are consistent with, and in furtherance of the Act and, in particular, with Section 17A of the Act.[7]

It is therefore oredered, pursuant to Section 19(b) of the Act, that the proposed rule change be, and hereby is, approved.

By the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-24129 Filed 9-1-83; 9:45 am]

BILLING CODE 8010-01-M

SELECTIVE SERVICE SYSTEM

Registration Information and Management System Manual

AGENCY: Selective Service System.

ACTION: Announcement of Availability of Manual for Purchase.

Announcement is made of the publication and availability for purchase of all but three chapters of *Registration Information and Management System (RIMS) Manual*. The RIMS Manual is the directive guidance for the processing of registrants including registration, examination and induction; the processing of claims for postponement and reclassification; the administration of area offices, local and appeal boards, and the administration of the Alternative Service Program.

Chapter 8—Registration Processing in Foreign Countries, Chapter 15—Alternative Service, and Chapter 17—Health Care Personnel are being developed and, after they are completed, will be published and made available for purchase.

Chapters that have been published may be purchased for $8.33, chapter dividers for $2.25 and a distinctive three-ring binder for $5.38.

Orders accompanied by a check or money order in the appropriate amount payable to the Selective Service System should be sent to Selective Service System, ATTN: Records Manager, Washington, D.C. 20435.

FOR FURTHER INFORMATION CONTACT: Clarence E. Boston, Records Manager, Selective Service System, Washington, D.C. 20435. Telephone (202) 724-0628.

Thomas K. Turnage,

Director of Selective Service.

August 30, 1983.

[FR Doc. 83-24154 File 9-1-83; 8:45 am]

BILLING CODE 8015-01-M

SMALL BUSINESS ADMINISTRATION

[License Application No. 03/03-5168]

Lippo Finance and Investment, Inc.; Application for a License to Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1983)), under the name of Lippo Finance and Investment, Inc., Suite 500, 1101 Connecticut Avenue, NW., Washington, D.C 20036, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act) (15 U.S.C. 661 *et seq.*), and the Rules and Regulations promulgated thereunder.

The proposed officers, directors and shareholders of the Applicant are as follows:

George H. Davis, #7 Sunset Drive, Little Rock, AR 72207, Chairman of the Board, Director

A. Vernon Weaver, Jr., Apt. 1103 N. Watergate East, 2519 Virginia Avenue NW., Washington, D.C. 20037, President, CEO, Treasurer, Director

Thomas V. Beard III, 9915 Old Spring Rd., Kensington, MD 20895, Vice President, General Manager

Mochtar Riady, Jalan Madiun 15, Jakarta–Indonesia, Director

Stephens Finance Ltd. (1), Fu House 1st Floor, 7 Ice House Street, Honkkong, 50 percent

Lippo Holding Ltd. (2), Fu House 1st Floor, 7 Ice House Street, Hongkong, 50 percent

(1) Stephens Finance Ltd. is owned 50 percent each by Lippo Holding Ltd. and Stephens, Inc. (Little Rock, AR). Stephens, Inc. is owned 50 percent each by W. R. Stephens and Jackson T. Stephens.

(2) Lippo Holding Ltd. is owned as follows:

Mochtar Riady, 30 percent
Lydia Suryawati, 10 percent
Andrew T. Riady, 20 percent
James T. Riady, 20 percent
Stephen T. Riady, 20 percent

Lippo Finance and Investment, Inc. (Applicant), a California corporation, will begin operations with $3,010,000 of private capital derived from the sale of one million shares of common stock, all of the common stock authorized. There are also four million shares of preferred stock authorized.

Applicant intends to provide assistance to qualified socially or economically disadvantaged concerns.

As a small business investment company under Section 301(d) of the Act, the Applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Act, as amended from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the Applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the Applicant under this management, including adequate profitability and financial soundness, in accordance with the Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this notice, submit to SBA written comments on the proposed Applicant. Any such communication should be addressed to the Deputy Associate Adminstrator for

[6] Standards at 45 FR 41926–7 (financial reports) and 45 FR 41923–4 (notice of proposed rule changes to other clearing agencies).

[7] Of course interpretations made pursuant to exercise of NSCC's authority under new Rule 47 may constitute rule changes that must be filed with the Commission. As in the past, NSCC will need to review interpretive decisions in light of the filing requirements of Section 19(b) of the Act and Rule 19b–4 thereunder.

Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Washington, D.C.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: August 25, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-24215 Filed 9-1-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice CM-8/660]

Shipping Coordinating Committee, Working Group on Ship Design and Equipment, Subcommittee on Safety of Life at Sea; Two Meetings

The U.S. Safety of Life at Sea (SOLAS) Subcommittee Working Group on Ship Design and Equipment will conduct an open meeting on September 20, 1983 at 9:30 a.m., in Room 1303 at Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593.

The purpose of this meeting will be to discuss the results of the Twenty-Sixth Session of the Ship Design and Equipment Subcommittee meeting of the International Maritime Organization (IMP) which was held from February 28 to March 4, 1983. In addition, assistance in preparing the U.S. positions for the Twenty-Seventh Session of the Subcommittee will be solicited.

The agenda for this meeting includes the following discussion items:

a. Requirements for machinery and electrical installations;

b. Safety measures for special purpose ships;

c. Maneuverability of ships;

d. Safety measures for diving systems;

e. Helicpoter facilities for all types of ships; and

f. Revised standards for Mobile Offshore Drilling Units.

Members of the public may attend up to the seating capacity of the room.

For further information contact Captain A. E. Henn, U.S. Coast Guard (G-MTH/12), Washington, D.C. 20593, Telephone: (202) 426-2167.

Working Group on Safety of Navigation

The U.S. Safety of Life at Sea (SOLAS) Subcommittee Working Group on Safety of Navigation will conduct an open meeting on September 29, 1983 at 9:30 a.m., in Room 6319 at Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593.

The purpose of the meeting will be to prepare the U.S. position relating to the below listed agenda items to be considered at the 28th Session of the Subcommittee on Safety of Navigation of the International Maritime Organization to be held in London October 17-21, 1983.

—Routing of Ships
—1972 Collision Regulations
—Search and Rescue
—Ship reporting systems
—Navigational aids and related equipment
—Navigational bridge visibility

Members of the public may attend up to the seating capacity of the room.

For further information contact Mr. T. J. Falvey, U.S. Coast Guard (G-WWM), Washington, D.C. 20593, Telephone: (202) 426-4956.

Dated: August 31, 1983.

Samuel V. Smith,

Executive Secretary, Shipping Coordinating Committee.

[FR Doc. 83-24307 Filed 9-1-83; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Missoula County, Montana

AGENCY: Federal Highway Administration (FHWA), DOT.

SUMMARY: The FHWA is issuing this notice to advise that an environmental impact statement will be prepared for a proposed highway project in Missoula County, Montana.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald L. Eller, Project Development Engineer, Federal Highway Administration, Federal Office Building, 301 S. Park, Drawer 10056, Helena, Montana 59626, Telephone (406) 449-5310; or Mr. Steve Kologi, Chief, Preconstruction Section, Montana Department of Highways, 2701 Prospect Street, Helena, Montana 59620, Telephone (406) 449-2495.

SUPPLEMENTARY INFORMATION: The FHWA in cooperation with the Montana Department of Highways will prepare an environmental impact statement (EIS) for proposed improvements to Reserve Street from U.S. 93 to South Third Street in Missoula, Montana. These studies will be conducted by a private engineering firm that has been retained by the MDOH for this project.

Reseve Street is a major north-south arterial located on the west side of Missoula which extends from Thirty-Ninth Street at the south end to Interstate 90 at the north end. The portion of Reserve Street that will be addressed in this project is from U.S. 93 to South Third Street.

The Reserve Streeet project originally covered the length of Reserve Street from U.S. 93 to Mullan Road and was later extended northward to Interstate 90. In 1968, the two-mile section from Mullan Road to I-90 was completed with a two-lane roadway. This section includes a railroad grade separation and an interchange at Broadway, and an interchange at I-90. Right-of-way for a future four-lane for this section of Reserve Street was purchased at that time.

The section of Reserve Street from South Third to Mullan Road was improved to a two-lane roadway in several sections between 1975 and 1978. This section included a bridge over the main Clark Fork River, a bridge over an overflow channel of the river, and a railroad grade separation. Right-of-way for a future four-lane for this section was also purchased at that time.

The remaining section of Reserve Street, which this project covers, extends from U.S. 93 to South Third, a distance of about two miles. This section has been in design status for a number of years and the road plans and right-of-way plans for an 88-foot roadway are essentially complete, although no right-of-way has been purchased. Controversy surrounding this project has increased in the last few years, especially in regard to the need for the wide section, noise impacts, air quality, etc. An EIS will be prepared to arrive at an informed decision regarding these questions.

The first step in conducting these studies is to hold a scoping meeting near the project location to discuss significant issues. This meeting will be advertised and held in the near future. In addition, meetings will be held on the alternatives to be considered. These meetings will be held approximately two months after the scoping meeting.

Issued on August 26, 1983.

Charles R. Duncan,

Structural and Research Engineer, Helena, Montana.

[FR Doc. 83-24110 Filed 9-1-83; 8:45 am]

BILLING CODE 4910-22-M

Federal Railroad Administration

FRA Waiver Petition Docket Numbers HS-83-8 and HS-83-10 Through HS-83-16]

Petitions for Exemption From the Hours of Service Act

In accordance with 49 CFR 211.41 and 211.9, notice is hereby given that eight railroads have petitioned the Federal Railroad Administration (FRA) for an exemption from the Hours of Service Act (83 Stat. 464, Pub. L. 91–169, 45 U.S.C. 64a(e)). Each petition requests that the individual railroad be granted authority to permit certain employees to remain on duty for in excess of twelve hours.

The Hours of Service Act currently makes it unlawful for a railroad to require or permit specified employees to remain on duty for a period in excess of twelve hours. However, the Hours of Service Act contains a provision that permits a railroad, which employs no more than fifteen employees who are subject to the statute, to seek an exemption from this twelve hour limitation.

Each railroad seeks this exemption so that it can permit certain employees to remain on duty not more that sixteen hours in any twenty four hour period. Each petitioner indicates that granting this exemption is in the public interest and will not adversely affect safety. Additionally, each petitioner asserts that it employs no more than fifteen employees and has demonstrated good cause for granting this exemption. The railroads seeking this exemption are as follows:

South Branch Valley Railroad, Docket Number HS–83–8
Eastern Shore Railroad, Inc., Docket Number HS–83–10
Pioneer Valley Railroad Company, Inc., Docket Number HS–83–11
St. Maries River Railroad Company, Docket Number HS–83–12
Arkansas & Louisiana Railway Company, Docket Number HS–83–13
Bay Colony Railroad Corporation, Docket Number HS–83–14
Green Mountain Railroad Corporation, Docket Number HS–83–15
Natchez Trace Railroad, Docket Number HS–83–16

Interested persons are invited to participate in these proceedings by submitting written views and comments. FRA has not scheduled an opportunity for oral comment since the facts do not appear to warrant it. Communications concerning these proceedings should identify the appropriate Docket Number (e.g., Docket Number HS–83–8) and must be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

Communications received before October 3, 1983, will be considered by FRA before final action is taken. Comments received after that will be considered as far as practicable. All comments received will be available for examination both before and after the closing date for comments, during regular business hours in Room 7330, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

(Sec. 5 of the Hours of Service Act of 1969 (45 U.S.C. 64(a), 1.49(d) of the regulations of the Office of the Secretary, 49 CFR 1.49(d))

Issued in Washington, D.C. on August 29, 1983.

Joseph W. Walsh,

Associate Administrator for Safety.

[FR Doc. 83–24138 Filed 9–1–83; 8:45 am]

BILLING CODE 4910–06–M

DEPARTMENT OF THE TREASURY

Bureau of the Mint

Use of Metal Tokens; Policy Change

AGENCY: Bureau of the Mint, Treasury.

ACTION: *General Notice on Proposed Change in Treasury Policy Regarding the Use of Metal Tokens.*

SUMMARY: The Bureau of the Mint, U.S. Department of the Treasury, proposes a change to its current policy regarding the use of metal tokens. The Mint, with certain exceptions has been generally opposed to the production and use of metal tokens. The exceptions have included the use of metal tokens by gambling casinos and have developed on a cases by case basis.

In order to insure that a uniform policy exists in this area, the Mint proposes to no longer oppose the production and use of metal tokens subject to the criteria listed below.

DATE: Interested members of the public are invited to furnish written comments on the proposed policy. Comments must be received on or before October 3, 1983.

ADDRESS: Send comments to Kenneth B. Gubin, Legal Counsel, Bureau of the Mint, Room 1032 Warner Building, 501 E Street, NW., Washington, D.C. 20220.

FOR FURTHER INFORMATION CONTACT: Kenneth B. Gubin (address above) (202) 376–0564.

SUPPLEMENTARY INFORMATION: Generally, the Department has been opposed to the production and use of metal tokens because of its concern that widespread use of the tokens would lead to their circulation in the community as coinage in violation of certain provisions of the criminal code. These provisions, sections 486, 489, and 491 of title 18, United States Code, provide essentially that the manufacture, use or passing of tokens as current money is prohibited. Nonetheless, the Department has recently, on a case by case basis, not opposed individual requests by gambling casinos to use tokens for gaming purposes. In light of the considerable demand for the use of such tokens, and in order to maintain a uniform policy in this area, the Department has decided that it will not oppose the manufacture and use of tokens which meet the criteria set forth below.

The ultimate responsibility for the enforcement of the above statute rests with the Department of Justice. While each situation must of necessity be evaluated in light of the particular facts presented, the Department is of the view that compliance with the restrictions noted below will minimize the possibility of a violation.

1. Tokens must be clearly identified with the name and location of the establishment from which they originate on at least one side.

2. Tokens must contain language which limits their redemption to the issuing establishment.

3. Tokens must meet the following specifications:

(a) Weight—Tokens shall weight no less than two grams.

(b) Diameter—Tokens must be outside the following ranges in diameter (inches):

0.680–0.775
0.810–0.880
0.930–0.980
1.018–1.068
1.180–1.230
1.475–1.525

(c) Thickness—No token shall be less than 0.050 inch thick.

(d) Reeded edges—Reeded or serrated edges are not allowed for tokens which are less than 1.475 inches in diameter. Tokens which are equal to or greater than 1.475 inches in diameter may have reeded edges. Such tokens shall have fewer than 90 or more than 200 reeds.

(e) Token shall not be manufactured from a three layered material consisting of a copper-nickel alloy clad on both sides of a pure copper core, nor from a copper based alloy except if the total zinc, nickel, aluminum, magnesium and other alloying metals exceeds twenty-five percent of the token's weight.

4. Establishments using these tokens shall prominently and conspicuously post signs on their premises notifying patrons that federal law prohibits the

use of such tokens outside the premises for any monetary purpose whatever.

5. The issuing establishment shall not accept tokens as payment for any goods or services offered by such establishment with the exception of the specific use for which the tokens were designed.

6. The design on the token shall not resemble any current or past foreign or U.S. coinage.

The Department of the Treasury anticipates that the publication of the foregoing restrictions will obviate the necessity of examining individual tokens for compliance. Should a novel question be presented with regard to a token's design or specifications, the Department will be willing to review the matter.

Roy G. Hale,

Treasurer of the United States (Acting).

[FR Doc. 83-24082 Filed 9-1-83; 8:45 am]

BILLING CODE 4810-37-M

Customs Service

[T.D. 83-179]

Recordation of Trade Name; "Players & Spectators a Drinking and Gaming Establishment"

AGENCY: U.S. Customs Service, Treasury.

ACTION: Notice of recordation.

SUMMARY: On May 17, 1983, a notice of application for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124, of the trade name "PLAYERS & SPECTATORS A DRINKING AND GAMING ESTABLISHMENT," was published in the **Federal Register** (48 FR 22252). The notice advised that before final action on the application, consideration would be given to relevant data, views, or arguments submitted in opposition to the recordation and received not later than July 18, 1983. No responses were received in opposition to the application.

Accordingly, as provided in § 133.14, Customs Regulations (19 CFR 133.14), the trade name "PLAYERS & SPECTATORS A DRINKING AND GAMING ESTABLISHMENT" is recorded as the trade name used by Players & Spectators, Inc., a corporation organized under the laws of the State of Washington, located at East 27 Augusta, Spokane, Washington 99207. The trade name is used in connection with a combined restaurant, tavern and amusement game services and franchise business.

DATE: September 2, 1983.

FOR FURTHER INFORMATION CONTACT: Harriet Lane, Entry, Licensing and Restricted Merchandise Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5765).

Dated: August 25, 1983.

Donald W. Lewis,

Director, Entry Procedures and Penalties Division.

[FR Doc. 83-24155 Filed 9-1-83; 8:45 am]

BILLING CODE 4820-02-M

VETERANS ADMINISTRATION

Station Committee on Educational Allowances; Notice of Meeting

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on Thursday, September 22, 1983 at 10:00 a.m., the Phoenix, Arizona Regional Office Station Committee on Educational Allowances shall at Room 005, 3225 N. Central Avenue, Phoenix, Arizona, conduct a hearing to determine whether the Veterans Administration benefits to all eligible persons enrolled in Venture Aviation, Chandler, Arizona should be discontinued, as provided in 38 C.F.R. 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the committee at that time and place.

Dated: August 23, 1983.

Roger W. Brickey,

Director, VA Regional Office.

[FR Doc. 83-24171 Filed 9-1-83; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 172
Friday, September 2, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Federal Deposit Insurance Corporation	1
National Credit Union Administration	2, 3
Tennessee Valley Authority	4

1

FEDERAL DEPOSIT INSURANCE CORPORATION

Change in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2 p.m. on Tuesday, August 30, 1983, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matter:

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:
Case No. 45,764-L: Pan American National Bank, Union City, New Jersey

By the same majority vote, the Board further determined that no earlier notice of this change in the subject matter of the meeting was practicable.

Dated: August 30, 1983.

Federal Deposit Insurance Corporation.

Noyle L. Robinson,

Executive Secretary.

[S-1245-83 Filed 8-31-83; 11:56 am]

BILLING CODE 6714-01-M

2

NATIONAL CREDIT UNION ADMINISTRATION

TIME AND DATE: 9:30 a.m., Wednesday, September 7, 1983.

PLACE: Board Room, Seventh floor, 1776 G Street NW., Washington, D.C. 20456.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Open Meeting.
2. Review of Central Liquidity Facility Lending Rate.
3. Semi-annual Agenda of Regulations.
4. Request for comments on Part 701.12 of NCUA Rules and Regulations regarding supervisory committee and annual audits of Federal credit unions.
5. Request for comments on proposed deletion of Parts 706, conversion from Federal to State credit union and 707, conversion from State to Federal credit union, from NCUA Rules and Regulations.
6. Request for comments on Part 704, Corporate Central Federal Credit Unions.
7. Interpretive Ruling and Policy Statement, Federal credit union services for retired persons.
8. Proposed amendment to Part 703 of NCUA's Rules and Regulations, Investments and Deposits.
9. Proposed Regional Realignment.
10. Appeal of charter amendment request disapproved by regional director under delegated authority: Fort Eustis Federal Credit Union No. 7448.
11. Proposed expansion of field of membership: Hope-Coronado Federal Credit Union No. 19520.

RECESS; 10:30 a.m.

TIME AND DATE: 10:45 a.m., Wednesday, September 7, 1983.

PLACE: Board Room, Seventh floor, 1776 G Street NW., Washington, D.C. 20456.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Open Meeting.
2. Requests from Federally insured credit unions for special assistance under Section 208(a)(1) of the Federal Credit Union Act. Closed pursuant to exemptions (8) and (9)(A)(ii).
3. Proposed Merger under Section 204(a) of the Federal Credit Union Act. Closed pursuant to exemptions (8) and (9)(A)(ii).
4. Personnel Actions. Closed pursuant to exemptions (2) and (6).
5. Agency Budget for FY 1984. Closed pursuant to exemptions (2) and (9)(B).

FOR MORE INFORMATION CONTACT: Rosemary Brady, Secretary of the Board, telephone (202) 357-1100.

[S-1243-83 Filed 8-30-83; 5:01 pm]

BILLING CODE 7535-01-M

3

NATIONAL CREDIT UNION ADMINISTRATION

Changes in Time and Subject of Meeting

The previously announced closed meeting of the National Credit Union Administration scheduled for 3 p.m., Tuesday, July 26, 1983 was changed to 2:20 p.m.

The National Credit Union Administration Board also determined that its business required that the previously announced closed meeting on Tuesday, July 26, 1983 include the following additional items, which were closed to public observation:

Payment of fees. Closed pursuant to exemption (9)(B).
Issuance of subpoena. Closed pursuant to exemption (10).

The Board voted unanimously to add these items to the closed agenda.

The previously announced items were:

1. Approval of Minutes of Previous Closed Meetings.
2. Budget Authorization for fiscal year 1984. Closed pursuant to exemptions (2) and (9)(B).
3. Personnel Actions. Closed pursuant to exemptions (2) and (6).

The meeting was held at 2:20 p.m., National Credit Union Administration, Regional Office, Region IV (Chicago), 230 South Dearborn, Suite 3346, Chicago, Illinois 60604.

For More Information Contact: Rosemary Brady, Secretary of the Board, telephone (202) 357-1100.

[S-1244-83 Filed 8-30-83; 5:01 pm]

BILLING CODE 7535-01-M

4

TENNESSEE VALLEY AUTHORITY

[Meeting No. 1317]

TIME AND DATE: 10:15 a.m. (e.d.t.), Wednesday, September 7, 1983.

PLACE: TVA West Tower Auditorium, 400 West Summit Hill Drive, Knoxville, Tennessee.

STATUS: Open.

AGENDA ITEM: Approval of minutes of meetings held on August 24 and August 29, 1983.

B—Purchase Awards
B1. Proposal 33-038930—Feedwater heaters for Cumberland Fossil Plant.
*B2. Requisition 99-041889—Lease of 260-ton depressed-center flat car APWX 1004

for use in movement of 500-kV power transformer from Cordova, Tennessee, to Muncie, Indiana.

B3. Certificates of Insurance Under Contract 79P86-164512 with American Nuclear Insurers and Mutual Atomic Energy Liability Underwriters for secondary financial protection level of nuclear liability insurance for Watts Bar Nuclear Plant; and ratification of previous action with respect to certificate of insurance for secondary financial protection for Browns Ferry and Sequoyah Nuclear Plants.

C—Power Items

C1. Contract No. TV—2313A with the State of Alabama for cooperation in the development and implementation of radiological emergency plans as required by the Nuclear Regulatory Commission and the Federal Emergency Management Agency.

C2. Contract No. TV—2311A with Tennessee Emergency Management Agency for cooperation in the development and implementation of radiological emergency plans as required by the Nuclear Regulatory Commission and the Federal Emergency Management Agency.

D—Personnel Actions

D1. Amendment to personal services contract with CDI Corporation, Philadelphia, Pennsylvania, for engineering support services, requested by the Office of Engineering Design and Construction.

D2. Amendment to personal services contract with Consultants & Designers Incorporated, New York, New York, for engineering support services, requested by the Office of Engineering Design and Construction.

D3. Renewal of personal services contracts with various contractors for architectural, engineering, and design services. (Burns and Roe, Incorporated., Oradell, New Jersey; Gibbs & Hill, Incorporated, New York, New York; Gilbert Associates, Incorporated, Reading, Pennsylvania; Sargent & Lundy, Chicago, Illinois; and United Engineers & Constructors, Incorporated., Philadelphia, Pennsylvania).

F—Unclassified

F1. Contract No. TV—2000A among the Mississippi Industrial Development Board, the Tombigbee River Valley Water Management District, the Yellow Creek State Inland Port Authority, and TVA for cooperation in the planning and development of an inland port and attendant industrial properties.

F2. Supplement to Contract No. TV—5148A with Town of Jonesboro, Tennessee, for additional activities in the development and implementation of a flood control project.

*F3. Supplement to Contract No. TV—0001A between TVA and the Agency for International Development (AID) providing for AID funding for TVA assistance in medium-sized cities in underdeveloped countries committed to conserving energy and natural resources.

F4. Interagency agreement with the Environmental Protection Agency providing for TVA's assistance in studying the water quality of streams in the Southern Blue Ridge Province.

F5. Payment from net power proceeds for fiscal year 1983 to the Treasury of the United States.

*Items approved by individual Board members. This would give formal ratification to the Board's Action.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632-8000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245-0101.

Dated: August 31, 1983.

[S-1246-83 Filed 8-31-83; 1:15 pm]

BILLING CODE 8120-01-M

VOL
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federal register

Friday
September 2, 1983

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Supersedeas Decision to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decision being superseded.

Alabama:	
AL82–1047	Sept. 17, 1982.
AL83–1001	Jan. 21, 1983.
AL83–1007	Feb. 18, 1983.
Connecticut: CT83–3021	June 3, 1983.
Florida: FL83–1029	Apr. 22, 1983.
Hawaii: HI83–5104	Mar. 18, 1983.
Illinois: IL83–2053	Aug. 5, 1983.
Kansas: KS83–4009; KS83–4013; KS83–4014; KS83–4015.	Feb. 4, 1983.
Massachusetts: MA81–3054	Sept. 4, 1981.
New Jersey: NJ83–3016	June 17, 1983.
New York:	
NY80–3054	Sept. 5, 1980.
NY81–3062	Sept. 11, 1981.
NY83–3027	July 22, 1983.
NY83–3032	July 29, 1983.
Oregon: OR83–5100	Feb. 18, 1983.
Pennsylvania:	
PA82–3017	Mar. 26, 1982.
PA83–3001	Aug. 19, 1983.
Utah: UT83–5106	Mar. 25, 1983.
Washington: WA83–5110	June 3, 1983.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Indiana:	
IN83–2033 (IN83–2067)	Apr. 29, 1983.
IN83–2026 (IN83–2069)	Mar. 25, 1983.
IN83–2030 (IN83–2070)	May 6, 1983.
IN83–2032 (IN83–2072)	May 13, 1983.
Kansas:	
KS83–4013 (KS83–4063)	Feb. 4, 1983.
KS83–4014 (KS83–4064)	Do.
KS83–4009 (KS83–4065)	Do.
Maine: ME81–3057 (ME83–3041)	Aug. 28, 1981.
Nebraska: NE83–4023 (NE83–4062)	Mar. 18, 1983.
Wisconsin: WI82–2023 (WI83–2066)	Apr. 9, 1982.

Signed at Washington, D.C., this 26th day of August 1983.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

MODIFICATION P. 1

DECISION NO. AL82-1047 - MOD. # 3 (September 17, 1982 - 47 FR 41249)	Basic Hourly Rates	Fringe Benefits
LAWRENCE, LIMESTONE, & MORGAN COUNTIES, ALABAMA BUILDING CONSTRUCTION		
CHANGE:		
CARPENTERS:		
Carpenters	$ 10.55	1.59
Millwrights	11.20	1.59
ELECTRICIANS	14.15	2.25+ 4%
PLUMBERS & PIPEFITTERS	14.99	2.46

DECISION NO. AL83-1001 - MOD. # 2 (January 21, 1983 - 47 FR 2929)	Basic Hourly Rates	Fringe Benefits
COLBERT & LAUDERDALE COUNTIES, ALABAMA BUILDING CONSTRUCTION		
CHANGE:		
ASBESTOS WORKERS	$ 15.66	2.26
BRICKLAYERS:		
Bricklayers, Blocklayers, & Stonemasons	13.92	
Saw Operators	14.17	
ELECTRICIANS:		
Electricians	14.15	2.25+ 4%
Cable Splicers	14.40	2.25+ 4%
LABORERS:		
Unskilled, etc.	8.16	1.00
Air Tool Operators & Pipelayers	8.36	1.00
PAINTERS:		
Commercial	11.80	.75
Industrial	12.50	.75
ROOFERS	11.45	.60

DECISION NO. AL83-1007 - MOD. # 1 (February 18, 1983 - 47 FR 7367)	Basic Hourly Rates	Fringe Benefits
MADISON COUNTY, ALABAMA BUILDING CONSTRUCTION		
CHANGE:		
ASBESTOS WORKERS	$15.66	2.26
CARPENTERS	10.55	1.59
ELECTRICIANS	14.15	2.25+ 4%
LABORERS	7.22	1.00
MILLWRIGHTS	11.20	1.59

DECISION NO. CT83-3021 - MOD. #4 (48 FR 25090 - June 3, 1983) STATEWIDE	Basic Hourly Rates	Fringe Benefits
CHANGE:		
IRONWORKERS	18.00	5.18+a
CARPENTERS		
HEAVY & HIGHWAY CONSTRUCTION		
AREAS 1&2	14.45	1.65+d
AREA 3	14.95	1.80+c +d
AREA 4	14.90	1.90+d
AREA 5	14.45	2.40+d
AREA 6	15.20	1.58+d

MODIFICATION P. 4

DECISION NO. FL83-1029 - MOD. # 3 (April 22, 1983 - 48 FR 17500)	Basic Hourly Rates	Fringe Benefits
VOLUSIA (except Cape Kennedy Space Center & Cape Canaveral Air Force Station) COUNTY, FLORIDA BUILDING CONSTRUCTION		
CHANGE:		
ELECTRICIANS:		
a. Base Zone --		
Electricians	$ 12.33	3%+ 1.55
Cable Splicers	12.58	3% + 1.55
b. Zone I --		
Electricians	14.60	3% + 1.55
Cable Splicers	14.85	3% + 1.55
MARBLE SETTERS	9.10	.93
MILLWRIGHTS	14.55	2.72
TILE & TERRAZZO WORKERS	9.10	.93

Decision No. IL83-2053 Mod. # 1 (48 FR 35826 - August 5, 1983) Alexander, Champaign,..., Williamson Cos., Illinois	Basic Hourly Rates	Fringe Benefits
CLASSIFICATION DEFINITIONS		
LABORERS		
AREAS 2,3,4,6,7,8, & 9		
Group 1		
OMIT - Rod & Chainmen		

DECISION NO. HI83-5104 - Mod. #3 (48 FR 11610 - March 18, 1983) Statewide, Hawaii	Basic Hourly Rates	Fringe Benefits
Change:		
Carpenters:		
Carpenters; Hardwood Floorlayers; Patent Scaffold Erectors; Pneumatic Nailer; Shinglers	$15.40	85.55
Drywall	16.65	5.49
Lathers	16.40	5.45
Millwrights	16.65	5.55
Power Saw Operator (2 HP and over)	16.55	5.55
Electricians:		
Electricians; Linemen	15.50	4.07+ 26.6%
Technicians	15.97	4.07+ 26.6%
Cable Splicers	17.05	4.07+ 26.6%
Line Construction:		
Electricians; Linemen	15.50	4.07+ 26.6%
Technicians	15.97	4.07+ 26.6%
Heavy Equipment Operators	13.95	4.07+ 26.6%
Groundman	11.63	4.07+ 26.6%
Cable Splicers	17.08	4.07+ 26.6%
Plumbers; Steamfitters	16.00	6.27
Sheet Metal Workers	15.50	7.77
Soft Floor Layers	15.95	5.55

DECISION NO. UT83-5108 - Mod. #9
(48 FR 12651 - March 25, 1983)
Statewide, Utah

Omit:
Area and Zone Descriptions for:
Carpenters and Cement Masons - Heavy and Highway Construction as originally issued

Add:
Carpenters and Cement Masons to same Zone Descriptions as Operating Engineers, Laborers, and Truck Drivers - Heavy and Highway Construction

MODIFICATION P. 3

DECISION #KS83-4009-Mod. #5 (48 FR 5438-February 4, 1983) Leavenworth Co., Kansas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Electricians Zone 2 (Remainder of County)	$15.55	3-1/2% +.65
Sprinkler Fitters	16.47	$3.23

DECISION #KS83-4013-Mod. #5 (48 FR 5446-February 4, 1983) Shawnee County, Kansas		
CHANGE:		
Electricians (Building)	$15.55	3-1/2% +.65
Cable Splicers (Building)	17.11	3-1/2% +.65
Sprinkler Fitters	16.47	3.23

DECISION #KS83-4014-Mod. #5 (48 FR 5441-February 4, 1983 Sedgwick County, Kansas		
CHANGE:		
Sprinkler Fitters	$16.47	$3.23

DECISION #KS83-4015-Mod.#4 (48 FR 5443-February 4, 1983) Douglas, Jefferson, Shawnee, Miami, and Leavenworth Cos., KS		
CHANGE:		
Laborers:		
ZONE 1 (Jefferson Co.)		
Group 1	$7.65	$2.30
Group 2	7.80	2.30
Group 3	7.90	2.30
Group 4	8.05	2.30
Laborers		
ZONE 2 (Douglas and Shawnee Cos.)		
Group 1	$8.45	$2.30
Group 2	8.60	2.30
Group 3	8.70	2.30
Group 4	8.85	2.30
Truck Drivers		
ZONE 1 (Leavenworth and Miami Cos.)		
Group 1	12.76	3.75
Group 2	12.96	3.75
Group 3	13.27	3.75
Group 4	13.42	3.75
Group 5	12.54	3.75
ZONE 2 (Douglas, Shawnee and Jefferson Cos.)		
Group 1	9.40	1.75
Group 2	9.50	1.75
Group 3	9.65	1.75

DECISION NO. OR83-5100 - Mod #8 (48 FR 7379 - Feb. 18, 1983) Statewide Oregon	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ELECTRICIANS:		
Area 2:		
Electricians	$20.87	4.80+3%
Cable Splicers	21.91	4.80+4%
PLUMBERS:		
Area 4	20.48	3.70
SHEET METAL WORKERS:		
Area 1	18.39	3.54
SPRINKLER FITTERS	17.92	3.23

MODIFICATION P. 4

DECISION NO. NY80-3054 -
MOD. #5
(45 FR 59104 - Sept. 5, 1980)
Jefferson County, New York

CHANGE:	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION		
Electrical Overhead & Underground Distribution Work & Signal Work For RR And For R.E.A. Where No Other Trade Is Or Has Been Involved		
Journeyman Lineman & Technician	14.20	5%+3.95 +a
Cable Splicer	18.92	5%+3.95 +a
Groundman Digging Machine Operator, Groundman Dynamite Man	12.78	5%+3.95 +a
Groundman Mobile Equipment Operator, Mechanic First Class, Ground Truck Driver	11.36	5%+3.95 +a
Groundman Truck Driver (Tractor Trailer)	12.07	5%+3.95 +a
Driver Mechanic, Groundman - Experienced	10.65	5%+3.95 +a
All Overhead Transmission Line Work and Lighting for Athletic Fields		
Journeyman Lineman & Technician	16.32	5%+3.95 +a
Groundman Digging Machine Operator, Groundman Dynamite Man	14.688	5%+3.95 +a
Groundman Mobile Equipment Operator, Mechanic First Class Groundman Truck Driver	13.056	5%+3.95 +a
Groundman Truck Driver (Tractor Trailer Unit)	13.872	5%+3.95 +a
Driver Mechanic Groundman	12.24	5%+3.95 +a
Sub-Station, Switching Structures (when not part of the line), Electrical, Telephone or CATV Commercial Work, Street Lighting & Signal Systems Where Other Trades Involved		
Journeyman Lineman & Technician	17.20	5%+3.95 +a
Cable Splicer	18.92	5%+3.95 +a
Groundman Digging Machine Operator, Groundman Dynamite Man	15.48	5%+3.95 +a
Groundman Mobile Equipment Operator, Mechanic First Class, Groundman Truck Driver	13.76	5%+3.95 +a
Groundman Truck Driver (Tractor Trailer Unit)	14.62	5%+3.95 +a
Driver Mechanic, Groundman	12.90	5%+3.95 +a
All Pipe type Cable Installations Maintenance Jobs or Projects		
Journeyman Lineman	17.20	5%+3.95 +a
Certified Lineman Welder	18.06	5%+3.95 +a
Cable Splicer	18.92	5%+3.95 +a
Groundman Equipment Operator	17.20	5%+3.95 +a
Groundman Truck Driver (Tractor Trailer Unit)	14.62	5%+3.95 +a
Groundman Truck Drivers	13.76	5%+3.95 +a
Groundman	12.90	5%+3.95 +a

FOOTNOTE:
a. Paid holidays: New Year's Day, Washington's Birthday, Good Friday, Decoration Day, Independence day, Labor Day, Thanksgiving Day, Christmas Day, and Election Day for the President of the United States and Election Day for the Governor of New York State, provided the employee works the day before or the day after a holiday.

MODIFICATION P. 5

DECISION NO. WY83-3032 -

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ELECTRICIANS:		
Area 1:		
Electricians	$19.75	3.75+3%
Cable Splicers	20.79	3.75+4%
Area 2:		
Electricians	19.75	3.75+3%
Cable Splicers	20.79	3.75+4%
Area 3:		
Electricians	19.75	3.75+3%
Cable Splicers	20.79	3.75+4%
Area 4:		
Electricians	19.75	3.75+3%
Cable Splicers	20.79	3.75+4%
Area

DECISION NO. NY83-3032 - MOD. #2 (48 FR 34629 - July 29, 1983) Brox, Kings, New York, Queens, Richmond Counties, New York	Basic Hourly Rates	Fringe Benefits
OMIT:		
Lathers, Metallic	10.79	4.09+g
Terrazzo Workers Helpers	9.84	2.71
ADD:		
Metallic Lathers & Reinfrocing Iron Workers	19.83	4.87+g
Terrazzo & Mosaic Finishers	15.48	2.71
CHANGE:		
MARBLE SETTERS		
Cutters & Setters	13.93	4.19+h
Carvers	14.48	4.19+h
Polishers	14.89	2.19+h
Crane Operators; Derrickmen	12.91	4.34+h
Marble Finishers (Helper)	12.91	2.19+h
TILE SETTERS	15.28	4.335
TILE FINISHERS	13.84	3.17
OMIT:		
Flagmen Classification from Laborers Heavy & Highway		

DECISION NO. NJ83-3016 - MOD. #6 (48 FR 28003 - June 17, 1983) Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Monmouth, Ocean, and Salem Counties, New Jersey	Basic Hourly Rates	Fringe Benefits
Change:		
Mod. #1 dated 7-8-83, 48FR 31535; Mod. #2 dated 7-15-83, 48 FR 32449; Mod. #3 dated 7-22-83, 48 FR 33618 Mod. #4 dated 7-29-83 48FR 34596; and Mod. #5 dated 8-12-83 48 FR 36773, to include the counties of Cape May and Monmouth counties New Jersey.		

DECISION NO. NY83-3027 - MOD. #1 (48 FR 33622 - July 22, 1983) Nassau, Suffolk Counties, New York	Basic Hourly Rates	Fringe Benefits
ADD:		
Metallic Lathers & Reinforcing Iron Workers	19.53	4.87
CHANGE:		
MARBLE SETTERS:		
Cutters & Setters	13.93	4.19+e
Carvers	14.48	4.19+e
Polishers	14.89	2.90+e
Crane Operators; Derrickmen	12.91	4.34+e
Marble Finishers (Helpers)	12.91	2.90+e
TERRAZZO WORKERS	17.93	3.12
TERRAZZO & MOSAIC FINISHERS	15.48	2.71
TILE SETTERS	15.28	4.335
TILE FINISHERS	13.84	3.17

DECISION NO. NY81-3062 - MOD. #7 (46 FR 45530 - Sept. 11, 1981) Westchester County, New York	Basic Hourly Rates	Fringe Benefits
ADD:		
Metallic Lathers & Reinforcing Iron Workers	19.53	4.87
CHANGE:		
MARBLE SETTERS:		
Cutters & Setters	13.93	4.19+e
Carvers	14.48	4.19+e
Polishers	14.89	2.90+e
Crane Operators; Derrickmen	12.91	4.34+e
Marble Finishers (Helpers)	12.91	2.90+e
TERRAZZO WORKERS	17.93	3.12
TERRAZZO & MOSAIC FINISHERS	15.48	2.71
TILE SETTERS	15.28	4.335
TILE FINISHERS	13.84	3.17

DECISION NO. PA83-3001- Mod. # 1 (48 FR 37805-August 19, 1983) Adams, Berks, Bradford, Carbon, Columbia, Cumberland, Dauphin, Juniata, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Lycoming, Monroe, Montour, Northampton, Northumberland, Perry, Pike, Schuylkill, Snyder, Sullivan, Susquehanna, Tioga, Union, Wayne, Wyoming, and York Counties, Pennsylvania	Basic Hourly Rates	Fringe Benefits
CHANGE:		
IRONWORKERS: Structural, Ornamental, & Reinforcing: Adams, Cumberland, Dauphin, Lancaster, Lebanon, Lycoming Montour, Northumberlahd, Juniata, Perry, Snyder, Union & York Counties	$17.265	3.745

DECISION NO. MA81-3054 MOD. #17 (46 FR 44631 - Sept. 4, 1981) BARNSTABLE, BRISTOL, DUKES, ESSEX, MIDDLESEX, NANTUCKET, NORFOLK, PLYMOUTH AND SUFFOLK COUNTIES, MASS.	Basic Hourly Rates	Fringe Benefits
CHANGE:		
PLUMBERS & PIPEFITTERS: PLYMOUTH (Remainder of Co.); BRISTOL (Remainder of Co.); NORFOLK (Avon, Holbrook, Randolph, Stoughton)	17.96	2.79

DECISION NO. PA82-3017 MOD. NO. 5 (47 FR 13108 - March 26, 1982) Lackawanna, Susquehanna, Wayne & Wyoming Counties, Pennsylvania	Basic Hourly Rates	Fringe Benefits
CHANGE:		
POWER EQUIPMENT OPERATORS:		
Group 1	$16.24	22.6% + a
Group 2	15.93	"
Group 3	15.07	"
Group 4	14.30	"
Group 5	13.82	"
Group 6	12.90	"
Group 7	16.45	"
Group 7-A	16.74	"
Group 7-B	16.99	"

DECISION NO. WA83-3110 - Mod #4 (48 FR 25108 - June 3, 1983) Statewide Washington	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BRICKLAYERS; MARBLE SETTERS:		
Area 4	$18.25	$3.18
LATHERS:		
Area 1	17.77	3.05
PAINTERS:		
Area 3:		
General Painters	16.74	2.32
Drywall Tapers	17.78	2.32
Industrial Painters	17.14	2.32
ROOFERS:		
Area 4:		
Roofers; Waterproofers	16.50	3.04
Slate and Tile Roofers	16.75	3.04
SPRINKLER FITTERS:		
Area 1	20.14	6.24
Area 2	17.92	3.23
TILE, MARBLE, AND TERRAZZO FINISHERS:		
Area 1	14.77	2.22

SUPERSEDEAS DECISION

STATE: INDIANA
DECISION NUMBER: IN83-2067
COUNTIES: *See Below
DATE: Date of Publication
Supersedes Decision No. IN83-2033 dated April 29, 1983 in 48 FR 19564
DESCRIPTION OF WORK: Building Construction Projects (does not include single family homes and apartments up to and including 4 stories)

*BROWN, CLARK, CRAWFORD, DEARBORN, DECATUR, FAYETTE, FLOYD, FRANKLIN, HARRISON, HENRY, JACKSON, JEFFERSON, JENNINGS, LAWRENCE, OHIO, ORANGE, RANDOLPH, RIPLEY, RUSH, SCOTT, SWITZERLAND, UNION, WASHINGTON & WAYNE COUNTIES

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS:		
Area 1	17.75	2.07
Area 2	18.76	2.48
Area 3	18.32	4.06
Area 4	17.19	2.45
BOILERMAKERS:		
Area 1	18.05	3.115
Area 2	16.35	4.815
Area 3	18.655	3.58
BRICKLAYERS, CAULKERS, Pointer, Cleaners & Stonemasons:		
Area 1	14.85	2.56
Area 2	16.68	2.58
Area 3	13.84	1.51
Area 4	14.80	1.77
CARPENTERS:		
Area 1:		
Carpenter & Soft Floor Layers	14.97	2.00
Piledrivermen	15.22	2.00
Millwrights	17.79	2.10
Area 2:		
Carpenter & Soft Floor Layers	15.20	2.36
Millwrights	15.80	2.36
Piledrivermen	15.60	2.36
Area 3:		
Carpenter, Soft Floor Layers & Lathers	13.35	1.88
Millwright	14.85	2.60
Piledrivermen	13.60	1.88
Area 4:		
Carpenter & Soft Floor Layer	13.63	2.47
Millwrights	13.93	2.47
Piledrivermen	13.83	2.47
Area 5:		
Carpenter & Soft Floor Layers	13.86	2.00
Millwrights	14.61	2.00
Piledrivermen	14.36	2.00
CEMENT MASONS:		
Area 1	14.85	2.10
Area 2	13.14	3.02
Area 3	13.70	1.85
Area 4	12.45	1.80
Area 5	14.16	2.58
Area 6	14.70	

	Basic Hourly Rates	Fringe Benefits
ELECTRICIANS:		
Area 1	17.30	1.86 +3%
Area 2	18.355	.85+ 9.5%
Area 3:		
to 10 miles from Hamilton Co. Ohio Courthouse	17.75	2.55 +3%
10-21 miles	18.05	2.55 +3%
21-25 Miles	18.15	2.55 +3%
Over 25 miles	18.30	2.55 +3%
Area 4	17.50	16.5%
Area 5	16.30	2.20 +3.2%
Area 6	16.14	1.25+ 13.5%
ELEVATOR CONSTRUCTORS:		
Area 1	17.265	2.69+ a&b
Area 2	15.65	2.33+ a&b
Area 3	16.585	2.69+ a&b
ELEVATOR CONSTRUCTORS HELPERS		
Area 1	70%JR	2.69 +a&b
Area 2	70%JR	2.33 a&b
Area 3	70%JR	2.69+ a&b
ELEVATOR CONSTRUCTION HELPERS (PROB.):		
Areas 1-2-3	50%JR	
GLAZIERS:		
Area 1	19.45	
Area 2	16.36	1.51
Area 3	13.44	2.00
Area 4	14.735	2.41
IRONWORKERS:		
Area 1	17.05	3.60 +1%
Area 2	14.25	4.72

DECISION NUMBER IN83-2067

	Basic Hourly Rates	Fringe Benefits
IRONWORKERS (CONT'D)		
Area 3:		
Structural & Ornamental Reinforcing	16.28	3.18
Area 4	16.58	3.62
Area 5	17.01	2.95
Area 6	15.25	4.60
MARBLE SETTERS, TILE SETTERS & TERRAZZO WORKERS:	15.00	6.11
Area 1:		
Tile Setters	14.60	2.56
Area 2	15.80	2.20
Area 3	14.80	1.77
MARBLE, TILE & TERRAZZO FINISHERS:		
Area 1	15.98	
Area 2	11.25	
Area 3:		
Marble & Tile Finishers	14.86	
Terrazzo Finishers	12.60	
PAINTERS:		
Area 1:		
Brush	8.90	.30
Structural Steel	9.65	.30
Spray	9.90	.30
Area 2:		
Brush, Drywall Tapers & Finishers, Roller	15.30	1.40
Spray & Sandblasting	16.30	1.40
Area 3:		
Brush, Drywall Tapers & Finishers, Roller	15.80	
Spray & Sandblast	16.80	
Area 4:		
Brush, Drywall Tapers & Finishers, Roller	16.00	
Spray	17.00	
Sandblast	16.50	
Area 5:		
Brush	11.65	1.75
Spray & Sandblasting	12.65	1.75
Area 6:		
New Construction:		
Brush, Roller, Drywall Taping	11.07c	1.18
Spray	11.52c	1.18
Sandblast	11.42c	1.18
Repaint:		
Brush, Roller, Drywall Taping	10.32c	1.18
Spray	10.77c	1.18
Sandblast	10.67c	1.18

	Basic Hourly Rates	Fringe Benefits
PLASTERERS:		
Area 1	15.60	.77
Area 2	13.40	.86
Area 3	13.48	2.50
Area 4	13.65	1.33
Area 5	14.70	
PLUMBERS & STEAMFITTERS:		
Area 1	18.11	2.05
Area 2:		
Plumbers	16.32	3.42
Steamfitters	17.51	3.86
Area 3	17.95	2.65
Area 4	19.92	2.20
ROOFERS:		
Area 1	17.52	1.53
Area 2:		
Composition	15.32	2.00
Slate & Tile	15.57	2.00
Area 3	13.10	1.35
Area 4:		
Composition	15.08	2.40
Slate, Tile Gypsum, Plank & Concrete Slab	15.83	2.40
Area 5:		
Roofers	12.00	1.75
Slate, Tile & Precast Slab	12.45	1.75
SHEET METAL WORKERS:		
Area 1	18.29	38+ 2.75
Area 2	16.84	38+ 3.07
Area 3	17.22	3.68
Area 4	17.61	38+ 2.62
SPRINKLER FITTERS	16.67	3.23
LABORERS:		
Area 1:		
Group 1	11.23	1.94
Group 2	11.43	1.94
Group 3	11.53	1.94
Group 4	12.23	1.94
Area 2:		
Group 1	11.58	1.94
Group 2	11.78	1.94
Group 3	11.88	1.94
Group 4	12.58	1.94
POWER EQUIPMENT OPERATORS:		
Area 1:		
Group 1	16.76	2.20
Group 2	15.80	2.20
Group 3	12.80	2.20
Group 4	11.30	2.20
Area 2:		
Group 1	15.68	2.20
Group 2	14.39	2.20
Group 3	13.55	2.20

DECISION NO. IN83-2067

DECISION NO. IN83-2067

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits	Basic Hourly Rates	Fringe Benefits
Area 1:				
Group 1	13.255	1.10+e		
Group 2	13.375	1.10+e		
Group 3	13.485	1.10+e		
Group 4	13.565	1.10+e		
Group 5	13.60	1.10+e		
Group 6	13.31	1.10+e		
Group 7	13.435	1.10+e		
Group 8	13.075	1.10+e		
Area 2:				
Group 1	12.95	d		
Group 2	13.00	d		
Group 3	13.10	d		
Group 4	13.15	d		
Group 5	13.20	d		
Group 6	13.30	d		
Group 7	13.40	d		
Group 8	13.45	d		
Group 9	13.60	d		
Group 10	13.05	d		

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:
a. Seven paid holidays: A Thru F and day after Thanksgiving
b. Employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 yrs.; Employer contributes 6% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years
c. All work outside a 35 mile radius of Jefferson Co., Kentucky Courthouse - Add $.35 per hour to Basic Hourly Rate for all classifications
d. 76.50 per week, per employee; 1 year service - 1 week paid vacation, 3 years - 2 weeks, 10 years - 3 weeks
e. $55.00 per week, per employee

AREA DESCRIPTIONS

ASBESTOS WORKERS:

Area 1 - Brown, Decatur, Henry, & Rush Counties
Area 2 - Randolph & Wayne Counties
Area 3 - Dearborn, Fayette, Franklin, Ohio, Ripley, Switzerland, and Union Counties
Area 4 - Remainder of Counties

BOILERMAKERS

Area 1 - Clark, Floyd, Harrison, Jefferson, Scott, & Washington Counties
Area 2 - Dearborn & Switzerland Counties
Area 3 - Remainder of Counties

BRICKLAYERS; Caulkers, Pointers, Cleaners & Stonemasons

Area 1 - Fayette, Franklin, Henry, Randolph, Rush, Union & Wayne Cos.
Area 2 - Crawford County
Area 3 - Clark, Floyd, and Harrison Counties
Area 4 - Remainder of Counties

CARPENTERS

Area 1 - Crawford County
Area 2 - Lawrence & Orange Counites
Area 3 - Clark, Floyd, Harrison & Washington Counties
Area 4 - Fayette, Henry, Randolph, Rush (Carthage & N. thereof), Union & Wayne Counties
Area 5 - Remainder of Counties

DECISION NO. IN83-2067

CEMENT MASONS

Area 1 - Crawford County
Area 2 - Clark, Floyd & Harrison Counties
Area 3 - Randolph County
Area 4 - Decatur, Fayette, Franklin (N½ Brookville & E. thereof) Rush, Union & Wayne Counties
Area 5 - Henry County
Area 6 - Remainder of Counties

ELECTRICIANS

Area 1 - Brown County
Area 2 - Crawford, Lawrence & Orange Counties
Area 3 - Dearborn, Ohio & Switzerland Counties
Area 4 - Decatur, Jennings, Ripley & Rush Counties
Area 5 - Fayette, Franklin, Henry, Randolph, Union & Wayne Counties
Area 6 - Clark, Floyd, Harrison, Jackson, Jefferson, Scott & Washington Counties

ELEVATOR CONSTRUCTORS

Area 1 - Brown, Decatur, Henry & Rush Counties
Area 2 - Dearborn, Fayette, Franklin, Randolph, Ripley, Ohio, Switzerland, Union & Wayne Counties
Area 3 - Remainder of Counties

GLAZIERS

Area 1 - Brown, Decatur (NW 3/4), Fayette (NW 3/4), Henry, Jackson (N ½), Jennings (NW Corner), Randolph (W 2/3), Rush, Union (NW Corner), Wayne (W 2/3), & Lawrence (NE Corner)
Area 2 - Dearborn, Ripley, Ohio, Switzerland &Franklin Cos.
Area 3 - Clark, Crawford (E½), Floyd, Harrison, Jackson (S½), Jefferson, Jennings (SW Corner) Lawrence (Rem. of Co.), Orange (NE 2/3), Washington & Scott Cos.
Area 4 - Crawford (Rem. of Co.), Orange (Rem. of Co.)

IRONWORKERS

Area 1 - Brown, Decatur (W 3/4), Fayette (W½), Franklin (NW TIP), Henry, Jackson (N Part including Freetown), Jennings (NW Tip), Lawrence (NE Corner excluding Oolitic), Randolph (S.W. Tip) & Rush Counties
Area 2 - Clark, Crawford, Floyd, Harrison, Jackson (Remainder of Co.), Jefferson (W 3/4), Jennings (S 2/3) Lawrence (S 2/3), Orange, Scott, Switzerland (SW Tip), Washington, & Ripley (SW Tip) Cos.
Area 3 - Dearborn, Decatur (Remainder of Co.), Fayette (SE Corner), Franklin (S 3/4), Jefferson (Remainder of Co.), Ohio, Ripley (Remainder of Co.), Switzerland (Remainder of Co.) Jennings (NE Tip)
Area 4 - Fayette (Remainder of Co.), Randolph (S. Part of Co. excluding Winchester but including Union City), Union, Franklin (NE Tip), Wayne Co.
Area 5 - Lawrence (NW ¼)
Area 6 - Randolph (Remainder of Co.)

DECISION NO. IN83-2067

AREA DESCRIPTION (CONT'D)

MARBLE SETTERS, TILE SETTERS & TERRAZZO WORKERS

Area 1 - Fayette, Franklin, Henry, Randolph, Rush, Union & Wayne Counties
Area 2 - Crawford County
Area 3 - Brown, Dearborn, Decatur, Jackson, Jefferson, Jennings, Lawrence, Ohio, Orange, Ripley, Scott, Switzerland, & Washington Counties

MARBLE, TILE & TERRAZZO FINISHERS

Area 1 - Dearborn County
Area 2 - Clark, Floyd & Harrison Counties
Area 3 - Remainder of Counties (Crawford Cos. - Terrazzo Finishers only)

PAINTERS

Area 1 - Brown County
Area 2 - Lawrence & Orange Counties
Area 3 - Decatur, Jackson & Jennings Counties
Area 4 - Dearborn, Ripley, Ohio & Switzerland Counties
Area 5 - Fayette, Franklin, Henry, Randolph, Rush, Union & Wayne Counties
Area 6 - Clark, Crawford, Floyd, Harrison, Jefferson, Scott & Washington Counties

PLASTERERS

Area 1 - Clark, Floyd & Harrison Counties
Area 2 - Randolph County
Area 3 - Henry county
Area 4 - Decatur, Fayette, Franklin (N ¼ including Brookville), Rush, Union & Wayne Cos.
Area 5 - Remainder of Counties

PLUMBERS AND STEAMFITTERS

Area 1 - Decatur & Jennings Counties
Area 2 - Dearborn, Ohio & Ripley Counties
Area 3 - Fayette, Franklin, Henry, Randolph, Rush, Union & Wayne Cos.
Area 4 - Remainder of Counties

ROOFERS

Area 1 - Dearborn, Ohio & Ripley Counties
Area 2 - Brown, Decatur, Fayette, Franklin, Jackson, Jennings, Lawrence, Rush, Union & Wayne Counties
Area 3 - Henry & Randolph Counties
Area 4 - Crawford & Orange Counties
Area 5 - Remainder of Counties

40068 Federal Register / Vol. 48, No. 172 / Friday, September 2, 1983 / Notices

DECISION NO. IN83-2067

AREA DESCRIPTIONS (CONT'D)

SHEET METAL WORKERS

Area 1 - Dearborn & Ohio Counties
Area 2 - Randolph & Wayne Counties
Area 3 - Clark, Crawford, Floyd, Harrison, Jefferson, Scott & Switzerland Counties
Area 4 - Remainder of Counties

LABORERS

Area 1 - Fayette, Henry, Randolph, Rush, Union & Wayne Counties
Area 2 - Remainder of Counties

POWER EQUIPMENT OPERATORS

Area 1 - Fayette, Henry, Randolph, Rush, Union & Wayne Counties
Area 2 - Remainder of Counties

TRUCK DRIVERS

Area 1 - Crawford County
Area 2 - Remainder of Counties

CLASSIFICATION DEFINITIONS

LABORERS

Group 1 - Building and Construction Laborers; Scaffold Builders (other than for Masons or Plasterers); Ironworker Tenders; Mechanic Tenders; Window Washers and Cleaners; Water Boys and Tool Housemen; Roofers Tenders; Railroad Workers; Masonry Wall Washers; Cement Finishers Tenders; Carpenter Tenders; Portable Water Pumps with discharge up to 3 inches

Group 2 - Waterproofing; Handling of creosote lumber or like treated material (ex railroad material); Asphalt Rakers & Lutemen; Kettlemen; Air Tool Operator; Pneumatic Tool Operator; Air & Electric Vibrators and Chipping Hammer Operator; Earth Compactors; Jackmen and Sheetmen in Ditches more than 6 feet deep; Laborers in Ditches 6' deep or deeper; Assembly at unicrete pump; Tile Layers (sewer or field); Sewer Pipe Layers; Motor Driven Wheelbarrows and Concrete Buggies; Hyster Op.; Pump Crete Assemblers; Core Drill Operator; Cement, Lime or Silica Clay Handlers; Handling of Toxic Materials Damaging to Clothing; Pneumatic Spikers; Deck Engine & Winch Operator; Water Paime & Cable Bushing; Screed Man or Screw Operator on Asphalt Paver; Chain Saw & Demolition Saw Operator; Concrete Conveyor Assembler

Group 3 - Plaster Tenders; Mason Tenders; Motor Pipers; Welders; Cutting Torch or Burner; Cement Nozzle Laborers, Cement Gun Operators; Scaffold Builders for Plasterers; Scaffold Builders for Masons; Water Blast Machine Operator.

DECISION NO. IN83-2067

CLASSIFICATION DEFINITIONS (CONT'D)

LABORERS (CONT'D)

Group 4 - Dynamite Men; Drillers-Air Track or Wagon Drilling for Explosives

POWER EQUIPMENT OPERATORS

AREA 1

Group 1 - Air Compressor (pressurizing shafts, tunnels & divers); Air Tugger; Auto Patrol; Back Filler; Back Hoe; Boom Cat; Boring Machine; Bull Dozer; Caisson Drilling Machine; Cherry Picker; Compactor (with dozer blade); Concrete Mixer (dual drum); Concrete Plant; Concrete Pump; Crane with all attachments; Crane - Electric Overhead; Derrick; Ditching Machine (18" and over) Dredge; Elevators (when hoisting material or tools); Fork Lift (Machinery); Formless Paver; Generator (power for welders or compressors); Gradall; Helicopter; Helicpter Winch Operator; High Lift - Front End Loader; Hoist - Material and/or personnel over 3 floors; Locomtive; Mechanic on Job Site; Mucking Machine; Panel Board Concrete Plant; Pile Driver; Push Cat; Scoop & Tractor; Scraper - Rubber Tired; Spreader - Tractor Mounted; Straddle Carrier - Ross Type; Sub Base Finish Machine (C.M.I. or similar); Tower Crane; Tractor with Backhoe (over ½ yd.); Welder (Craft)

Group 2 - A-Frame Truck; Batcher Plant (automatic dry batch); Bending Machine - Power Driven; Bituminous Mixer; Bituminous Paver; Bituminous Plant Engineer; Boatman; Bull Float; Compactor or Tamper - Self Propelled; Concrete Mixer (21 cu. ft. or over); Concrete Spreader - Power Driven; Dinkey Engine; Ditching Machine (less than 18"); Drilling Machine; Finish Machine & Bull Float; Finishing Machine; Fireman - Pile Driving and Boilers; Fork Lift - Masonry & Material; Gunite Machine; Head Greaser; Hoist-Material and/or personnel 3 floors and under; Mechanic in Shop; Mesh Depresser - Mesh Placer; P.C.C. Concrete Belt Placer; Roller - Asphalt, Stone & Sub Base; Sheepsfoot Roller - Self Propelled; Shop Mule; Spreader or Base Paver - Self Propelled; Sub Grader; Throttle Valve with Air Compressor or Boiler; Tractor with Backhoe (¾ yd. & under); Tractor - High Lift - Farm Type; Tractor-Industrial Type; Tractor with Winch; Well Points; Winch Truck

Group 3 - Air Compressor (210 cu. ft. & over); Bituminous Distributer; Chair Cart; Concrete Curing Machine; Concrete Saw; Dope Pot - Power Agitated; Flex Plane; Form Grader; Hydrohammer; Jacks-Hydraulic Power Driven; Minor Equipment Ops. 3,4, or 5; Paving Joint Machine; Post Hole Digger; Roller - Earth; Throttle Valve; Track Jack - Power Driven; Tractor - Farm Type; Truck Crane Driver

Group 4 - Air Compressor (less than 210 cu. ft.); Concrete Mixer (under 21 cu. ft.); Conveyor; Generator; Mechanical Heater; Oiler; Operator - 2 pieces of minor equipment; Power Broom; Pump; Welding Machine

DECISION NO. IN83-2067

CLASSIFICATION DEFINITIONS (CONT'D)

POWER EQUIPMENT OPERATORS AREA 2

GROUP 1 - A-Frame Winch Truck, Air Compressors over 600 cu. ft., Air Tugger, Autograde (CMI), Auto Patrol, Backhoe, Ballast Regulator (RR), Batcher Plant (electricial control concrete), Bending Machine (pipe), Bituminous Plant (engineer), Bituminous Plant, Bituminous Mixer Travel Plant, Bituminous Paver, Bituminous Roller, Buck Hoist, Bull Dozer, Cable Way, Chicago Boom, Clamshell, Concrete Mixer (21 cu. ft. or over), Concrete Paver, Concrete Pump (crete), Crane, Craneman, Crusher Plant, Derrick, Derrick Boat, Dinkey, Dope Pots (pipeline), Dragline, Dredge Operator, Dredge Engineer, Drill Operator, Elevating Grader, Elevator, Ford Hoe (or similar type equipment), Forklift, Formless Paver, Gantry Crane, Gradall, Grademan, Grout Pump, Helicopter Crew, Hetherington Paver, High-Lift, Hoist, Hopto, Hough Loader (or similar type), Hydro Crane, Hydro Hammer, Locomotive Crane, Locomotive, Mechanic, Mobile Mixer, Motor Crane, Mucking Machine, Multiple Tamping Machine (RR), Overhead Crane, Pile Driver, Pulls, Push Dozer, Push Boats, Roller (sheep foot), Ross Carrier, Scoop, Shovel, Side Boom, Swing Crane, Tail Boom, Tar Machine (pipeline), Throttle Valve, Tower Crane, Trench Machine, Welder (heavy duty), Truck Mounted Concrete Pump, Truck-Mounted Drill, Well Point, Whirleys

Group 2 - Air Compressor (up to 600 cu. ft.), Brakeman, Bull Float, Concrete Mixer (over 10S and under 21S), Concrete Spreader or Puddler, Deck Engine, Drill Helper, Electic Vibrator Kompactor (earth or rock), Finishing Machine, Fireman, Greaser (on grease facilities servicing heavy equipment), Material Pump, Motor Boats, Motor Crane Oiler, Portable Loader, Post Hole Digger, Power Broom, Rock Roller, Roller-Wobble Wheel (earth and rock), Spike Machine (RR) Seaman Tiller, Spreader Rock, Sub Grader, Tamping Machine, Truck Mounted Drill Oiler, Welding Machine, Widener (Apsco or similar type)

Group 3 - Air Compressor (under 200 cu. ft. per min), Bituminous Distributor, Cement Gun, Concrete Saw, Conveyor, Deck Hand Oiler, Earth Roller, Form Grader, Generator, Guardrail Driver, Heater, Oiler, Paving Joint Machine, Power Traffic Signals, Steam Jenny, Vibrator, Water Pump, "JLG" Lifts and "Scissor" Lift or similar machine

DECISION NO. IN83-2067

CLASSIFICATIONS DEFINITIONS (CONT'D)

TRUCK DRIVERS

AREA 1

Group 1 - Single Axle Straight Trucks; Batch Trucks, Wet or Dry- 3 (34E) Batches or less

Group 2 - Tandem Trucks or Dog Legs; Trucks over 15 ton payload; Single Axle Semi-Trucks (3 axle Unit); Low Boys, Single Axle (3 Axle Unit); Winch Trucks or A-Frames when transporting material; Batch Trucks, Wet or Dry- over 3 (34E) Batches

Group 3 - Tandem Axle Semi - Trucks (4 Axle unit); Equipment not Self-Loaded or Pusher Loaded, such as Koehring or Similar Dumpsters, Track Trucks, Euclid Bottom Dump & Hug Bottom Dump, TournaTrailers, TournaRockers or Similar Equip. 12 cu. yds. & under, Low-Boys, Tandem Axle (4-Axle unit), Pavement Breakers

Group 4 - Tandem - Tandem Semi- Trucks (5 axle Unit); Lowboys, Tandem - Tandem or (5 Axle Unit)

Group 5 - Equipment not Self Loaded or Pusher Loader, such as Koehring or Similar Dumpster, Track Trucks, Euclid Bottom Dump & Hug Bottom Dump, Tournatrailers, Tournarockers or similar equip. over 12 cu. yds.; Truck Mechanic; Mixer Truck, All Types

Group 6 - Bituminous Distributors Two-Man

Group 7 - Bituminous Distributors One-Man

Group 8 - Pickup Trucks (except used by a Superintendent or a Foreman for own Transportation or the use by Mechanic for trans. of self or tools)

AREA 2

Group 1 - Single Axle Trucks, Low Boy Helper, Air Compressor & Welding Machines including those pulled by Cars, Pick-up Trucks, Tractors, Fork Lifts, Hi- Lo's, Multi-Purpose Fork Lifts, Dumpsters & Val Truck when used for the Specific Purpose of Transporting Materials on the Job-Site; All Pick-up Trucks (Except used to Transport Superintendent, Foremen or Mechanics' Transportation or to Haul Mechanics' Tools or Repair Parts)

Group 2 - Mixer Truck 2 Yards

Group 3 - Batch Trucks, Wet or Dry- 3 Batches or under

Group 4 - Tandem Axle Trucks (Including Dog-Legs), Oil Distributors, Mixer Trucks-3 yards, Winch Trucks (used for Transportation of Materials)

46983 Federal Register / Vol. 48, No. 172 / Friday, September 2, 1983 / Notices

DECISION NO. IN83-2067

SUPERSEDEAS DECISION

DECISION NO. IN83-2067

CLASSIFICATION DEFINITIONS (CONT'D)

TRUCK DRIVERS AREA 2 (CONT'D)

Group 5 - Single Axle Semi - Trucks, Batch Trucks, Wet or Dry over 3 Batches, Pavement Breakers

Group 6 - Tandem Axle Trucks, Trac-O-Trucks, Euclids, Tourna-Pull when Pulling other than Self-Loading Equip. Up to & Incl. 10 yards, Mixer Trucks-4 yds., Mechanics.

Group 7 - Low Boy, Tandem - Tandem Axle Semi-Trucks

Group 8 - Trac-o-Trucks, Euclids, Tourn-a-pull when pulling other than Self-Loading Equip. 11 yds to and inclu. 16 yds., Mixer Trucks Above 4 yds.

Group 9 - Trac-o-Trucks, Euclids, Tourn-a-pull when pulling other than Self-Loading Equip. over 16 yds., Working Foreman

Group 10 - Mechanics Helpers & Greasers

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

SUPERSEDEAS DECISION

STATE: Indiana

COUNTIES: Clay, Daviess, Gibson, Greene, Knox, Martin, Owen, Parke, Pike, Posey, Putnam, Sullivan, Vanderburgh, Vermillion, Vigo, and Warrick

DECISION NUMBER: IN83-2069

DATE: Date of Publication

Supersedes Decision No. IN83-2026 dated March 25, 1983 in 48 FR 12642

DESCRIPTION OF WORK: Building Construction Projects (does not include single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS:		
Area 1	$17.75	$2.70
Area 2	17.45	2.42
BOILERMAKERS	18.655	3.58
BRICKLAYERS; CAULKERS; POINTERS; CLEANERS and STONEMASONS:		
Area 1	16.68	2.58
Area 2	14.80	1.77
Area 3	16.53	2.55
CARPENTERS:		
Area 1:		
Carpenters and Soft Floor Layers	15.35	2.16
Piledrivermen	15.85	2.16
Area 2:		
Carpenters and Soft Floor Layers	15.20	2.36
Piledrivermen	15.60	2.36
Area 3:		
Carpenters and Soft Floor Layers	15.75	2.34
Piledrivermen	16.00	2.34
Area 4:		
Carpenters	15.78	3.25
Area 5:		
Carpenters	14.97	2.00
Piledrivermen	15.22	2.00
Area 6:		
Carpenters	13.90	2.15
Piledrivermen	14.15	2.15
CEMENT MASONS:		
Area 1	13.05	1.05
Area 2	13.77	2.08
Area 3	15.93	2.55
Area 4	14.85	2.10
Area 5	13.50	
ELECTRICIANS:		
Area 1	17.30	1.86+ 3%
Area 2	18.35%	0.85+ 9.5%
Area 3	17.80	16.5%
Area 4	17.37	1.35+ 3-1/4%
ELEVATOR CONSTRUCTORS:		
Mechanics:		
Area 1	$17.265	$2.69+ a&b
Area 2	17.81	2.69+ a&b
Helpers:		
Area 1	70%JR	2.69+ a&b
Area 2	70%JR	2.69+ a&b
Probationary Helpers	50%JR	
GLAZIERS:		
Area 1	19.45	
Area 2	13.44	2.00
Area 3	14.735	2.41
IRONWORKERS:		
Area 1	17.85	2.21
Area 2	17.05	3.60+ 1%
Area 3	14.79	4.22
Area 4	14.25	4.72
Area 5	15.25	4.60
MARBLE SETTERS; TILE SETTERS and TERRAZZO WORKERS:		
Area 1	13.80	2.20
Area 2	14.80	1.77
Area 3	16.13	2.55
MARBLE, TILE and TERRAZZO FINISHERS:		
Area 1:		
Tile and Terrazzo Finishers	15.30	
Marble Finishers	15.70	
Area 2:		
Marble and Tile Finishers	14.86	
Terrazzo Finishers	12.60	
MILLWRIGHTS:		
Area 1	15.78	3.25
Area 2	16.50	2.34
Area 3	15.80	2.36
Area 4	17.78	2.10

	Basic Hourly Rates	Fringe Benefits
PAINTERS:		
Area 1:		
Brush, Roller, Drywall Tapers and Finishers	$15.30	$1.40
Spray and Sandblasting	16.30	1.40
Area 2:		
Brush, Roller, Drywall (without tools)	13.75	2.02
Spray	14.75	2.02
Sandblast	15.75	2.02
Area 3:		
Brush, Paperhangers, Rollers and Drywall	11.67	
Spray and Sandblast	12.67	
Structural Steel	12.42	
Area 4:		
Brush and Roller	14.30	1.90
Spray; Sandblast	15.30	1.90
Drywall Tapers	14.55	1.90
PLASTERERS:		
Area 1	13.77	2.08
Area 2	16.53	2.55
Area 3	16.38	
Area 4	13.95	1.20
PLUMBERS and STEAMFITTERS:		
Area 1	18.40	2.60
Area 2	17.95	2.16
Area 3	19.92	2.20
ROOFERS:		
Area 1	15.00	1.50
Area 2:		
Composition	15.57	2.00
Slate and Tile	15.82	2.00
Area 3:		
Composition	15.08	2.40
Slate, Tile, Concrete Slab and Gypsum Plank	15.83	2.40
SHEET METAL WORKERS:		
Area 1	17.68	2.75
Area 2	17.25	2.65+ 3%
SPRINKLER FITTERS	16.67	2.83
LABORERS:		
Area 1:		
Group 1	11.63	1.94
Group 2	11.83	1.94
Group 3	11.93	1.94
Group 4	12.63	1.94

	Basic Hourly Rates	Fringe Benefits
LABORERS: (Cont'd)		
Area 2:		
Group 1	$11.58	$1.94
Group 2	11.78	1.94
Group 3	11.88	1.94
Group 4	12.58	1.94
Area 3:		
Group 1	12.65	1.94
Group 2	12.85	1.94
Group 3	12.95	1.94
Group 4	13.65	1.94
POWER EQUIPMENT OPERATORS:		
Area 1:		
Group 1	15.68	2.20
Group 2	14.39	2.20
Group 3	13.55	2.20
Area 2:		
Group 1	13.60	1.58
Group 2	13.40	1.58
Group 3	8.85	1.58
TRUCK DRIVERS:		
Area 1:		
Group 1	12.95	c
Group 2	13.00	c
Group 3	13.10	c
Group 4	13.15	c
Group 5	13.20	c
Group 6	13.30	c
Group 7	13.40	c
Group 8	13.45	c
Group 9	13.60	c
Group 10	13.05	c
Area 2:		
Group 1	13.255	d+1.10
Group 2	13.375	d+1.10
Group 3	13.485	d+1.10
Group 4	13.565	d+1.10
Group 5	13.60	d+1.10
Group 6	13.31	d+1.10
Group 7	13.435	d+1.10
Group 8	13.075	d+1.10

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:
a. 7 Paid Holidays: A through F and Day after Thanksgiving
b. Employer contrubutes 8% of Regular Hourly Rate to Vacation Pay Credit for employee who has worked in business more than 5 years. 6% for employee who has worked in business less than 5 years
c. $76.50 per week, per employee. 1 year service - 1 week paid vacation; 3 years - 2 weeks; 10 years - 3 weeks
d. $55.00 per week, per employee

AREA DESCRIPTIONS

ASBESTOS WORKERS:
Area 1: Clay, Greene, Owen, Parke, Putnam, Vermillion and Vigo Counties
Area 2: Remainder of Counties

BRICKLAYERS; CAULKERS; POINTERS; CLEANERS; and STONEMASONS:
Area 1: Posey, Vanderburgh, and Warrick Counties
Area 2: Owen County
Area 3: Remainder of Counties

CARPENTERS:
Area 1: Clay (North of Highway 246 including Brazil), Owen (North of Spencer), Parke (except East of Townships of Jessup, Carbondale, Rosedale, and Portland), Vermillion (South of Summit Grove) and Vigo Counties
Area 2: Clay (Remainder of County), Daviess, Gibson, Greene (excluding Townships of Beech, Center and Jackson), Knox, Martin, Owen (LaFayette, Jefferson and Franklin Townships), Pike (Jefferson and Washington Townships), and Sullivan Counties
Area 3: Greene (Remainder of County), Owen (Remainder of County)
Area 4: Parke (Remainder of County), Vermillion (Remainder of County), and Putnam County
Area 5: Pike (Remainder of County), Warrick County
Area 6: Posey and Vanderburgh Counties

CEMENT MASONS:
Area 1: Clay, Owen (West of line running North and South from West County Line dividing Clay and Owen Counties), Parke, Putnam, Vermillion and Vigo Counties
Area 2: Daviess, Gibson, Knox, Martin and Pike Counties
Area 3: Greene and Sullivan Counties
Area 4: Posey, Vanderburgh, and Warrick Counties
Area 5: Owen (Remainder of County)

AREA DESCRIPTIONS (Cont'd)

ELECTRICIANS:
Area 1: Clay, Greene, Knox, Owen, Parke, Sullivan, and Vigo Counties
Area 2: Daviess, Gibson, Martin, Pike, Posey, Vanderbrugh, and Warrick Counties
Area 3: Putnam County
Area 4: Vermillion County

ELEVATOR CONSTRUCTORS:
Area 1: Clay, Greene, Owen, Parke, Putnam, and Vermillion Counties
Area 2: Remainder of Counties

GLAZIERS:
Area 1: Clay, Greene (Northern half), Owen, Parke, Putnam, Sullivan (Northeastern third), Vermillion and Vigo Counties
Area 2: Daviess (Northeastern tip), Greene (Southwestern fourth (1/4)), Martin (Northern half) Counties
Area 3: Remainder of Counties

IRONWORKERS:
Area 1: Daviess (Southern half), Gibson, Knox (Southern half), Martin (Northwestern fourth (1/4)), Pike, Posey, Vanderburgh and Warrick Counties
Area 2: Putnam (Northeastern third (1/3)), Owen (Northeastern tip) Counties
Area 3: Parke County (Northeastern tip)
Area 4: Martin County (Southwestern corner)
Area 5: Remainder of Counties

MARBLE SETTERS; TILE SETTERS and TERRAZZO WORKERS:
Area 1: Posey, Vanderburgh and Warrick Counties
Area 2: Owen County
Area 3: Remainder of Counties

MARBLE, TILE and TERRAZZO FINISHERS:
Area 1: Gibson, Pike, Posey, Vanderburgh, and Warrick Counties
Area 2: Remainder of Counties

MILLWRIGHTS:
Area 1: Clay (North of Route 246), Owen (excluding Clay, Washington, LaFayette, Franklin and Jefferson Townships), Parke, Putnam, Vermillion and Vigo Counties
Area 2: Owen (Clay and Washington Townships), Greene (Jackson, Center and Beech Townships) Counties
Area 3: Clay (Remainder of County), Daviess, Gibson, Greene (Remainder of County), Knox, Martin, Owen (Remainder of County), and Sullivan Counties
Area 4: Pike, Posey, Vanderburgh and Warrick Counties

PAINTERS:
Area 1: Clay, Martin, Putnam Counties
Area 2: Greene, Parke, Sullivan, Vigo, and Vermillion Counties
Area 3: Owen County
Area 4: Remainder of Counties

AREA DESCRIPTIONS (Cont'd)

PLASTERERS:
Area 1: Daviess, Gibson, Knox, and Martin Counties
Area 2: Greene and Sullivan Counties
Area 3: Pike, Posey, Vanderburgh, and Warrick Counties
Area 4: Clay, Owen (extreme western part), Parke, Putnam, Vigo, and Vermillion Counties

PLUMBERS:
Area 1: Clay, Greene, Knox (North of Highway 50), Parke, Putnam, (Western half), Sullivan, Vermillion and Vigo Counties
Area 2: Putnam County (East of Road 43 except Territory on a east mile radius from the Court House)
Area 3: Remainder of Counties

ROOFERS:
Area 1: Clay, Greene, Owen, Parke, Sullivan, Vermillion and Vigo Counties
Area 2: Putnam Counties
Area 3: Remainder of Counties

SHEET METAL WORKERS:
Area 1: Clay, Greene, Owen, Parke, Putnam, Sullivan, Vermillion and Vigo Counties
Area 2: Remainder of Counties

LABORERS:
Area 1: Clay, Greene, Owen, Parke, Putnam, Sullivan, Vermillion and Vigo Counties
Area 2: Martin County
Area 3: Remainder of Counties

POWER EQUIPMENT OPERATORS:
Area 1: Gibson, Martin, Pike, Posey, Vanderburgh, and Warrick Counties
Area 2: Remainder of Counties

TRUCK DRIVERS:
Area 1: Martin and Owen Counties
Area 2: Gibson, Pike, Posey, Vanderburgh and Warrick Counties

LABORERS CLASSIFICATIONS

AREAS 1 and 2

Group 1: Building and Construction Laborers; Scaffold Builders (other than for Masons or Plasterers); Ironworker Tenders; Mechanic Tenders; Window Washers and Cleaners; Water Boys and Tool Housemen; Roofers Tenders; Railroad Workers; Masonry Wall Washers; Cement Finishers Tenders; Carpenter Tenders; Portable Water Pumps with discharge up to 3 inches

LABORERS CLASSIFICATIONS (Cont'd)

AREAS 1 and 2 (Cont'd)

Group 2: Waterproofing; Hauling of Creosote Lumber or like treated material (excluding railroad material); Asphalt Rakers and Lutemen; Kettlemen; Air Tool Operator; Pneumatic Tool Operator; Air and Electric Vibrators and Chipping Hammer Operator; Earth Compactors; Jackman and Sheetmen in Ditches more than 6' deep; Laborers in ditches 6' deep or deeper; Assembly of Unicrete Pump; Tile Layers (sewer or field); Sewer Pipe Layers; Motor Driven Wheelbarrows and Concrete Buggies; Hyster Operator; Pump Crete Assemblers; Core Drill Operator; Cement; Lime or Silica Clay Handlers; Handling of Toxic Materials Damaging to Clothing; Pneumatic Spikers; Deck Engine and Winch Operator; Water Main and Cable Ducking; Screed Man or Screw Operator, on Asphalt Paver; Chain Saw and Demolition Saw Operator; Concrete Conveyor Assembler

Group 3: Plaster Tenders; Mason Tenders; Mortar Mixers; Welders; Cutting Torch or Burner; Cement Nozzle Laborers; Cement Gun Operators; Scaffold Builders for Plasterers; Scaffold Builders for Mason; Water Blast Machine Operator

Group 4: Dynamite Men; Drillers - Air Track or Wagon Drilling for explosives

AREA 3

Group 1: Building and Construction Laborers; Scaffold Builders (other than for Mason or Plasterers); Ironworker Tenders; Mechanic Tenders; Window Washers and Cleaners; Waterboys and Toolhousemen; Roofers Tenders; Railroad Workers; Masonry Wall Washers (interior and exterior); Cement Finisher Tenders; Carpenter Tenders; All Portable Water Pumps with discharge up to three (3) inches

Group 2: Waterproofing; Handling of Creosote Lumber or like treated material (excluding railroad material); Asphalt Rakers and Lutemen; Kettlemen; Air Tool Operators and all Pneumatic Tool Operators, Air and Electric Vibrators and Chipping Hammer Operators; Earth Compactors; Jackmen and Sheetmen working Ditches deeper than six (6) ft. in depth; Laborers working in ditches (6) ft. in depth or deeper; Assembly of Unicrete Pump; Tile Layers (sewer or field) and Sewer Pipe Layers (metallic or non-metallic); Motordriven Wheelbarrows and Concrete Buggies; Hyster Operators; Pump Crete Assemblers; Core Drill Operators; Cement Lime or Silica Clay Handlers (bulk or bag) Handling of Toxic Materials damaging to Clothing; Pneumatic Spikers; Deck Engine and Winches Operators; Water Main and Cable Ducking (metallic and non-metallic) Chain Saw Operators

LABORERS CLASSIFICATIONS (Cont'd)

AREA 3 (Cont'd)

Group 3: Plaster Tender; Mason Tender; Mortar Mixers; Welders (Acetylene or electric); Cutting Torch or Burner; Cement Nozzle Laborers; Cement Gun Operators; Scaffold Builders when working for Plasterers; Scaffold Builders when working for Masons

Group 4: Dynamite Men

POWER EQUIPMENT OPERATORS

AREA 1

Group 1: A-Frame Winch Truck; Air Compressors over 600 cu. ft.; Air Tugger; Autograde (CMI); Auto Patrol; Backhoe; Ballast Regulator (RR); Batcher Plant (electrical control concrete); Bending Machine (pipe); Bituminous Plant (Engineer); Bituminous Mixer Travel Plant; Bituminous Paver; Bituminous Roller; Buck Hoist; Bull Dozer; Cable way; Chicago Boom; Clamshell; Concrete Mixer (21 cu. ft. or over); Concrete Paver; Concrete Pump (Crete); Crane; Craneman; Crusher Plant; Derrick; Derrick Boat; Dinkey; Dope Pots (Pipeline); Dragline; Dredge Operator; Dredge Operator; Dredge Engineer; Drill Operator; Elevating Grader; Elevator; Fork Hoe (or similar type equipment); Forklift; Formless Paver; Gantry Crane; Gradeall; Grademan; Grout Pump; Helicopter Crew; Hetherington Paver; High-lift; Hoist; Hopto; Hough Loader (or similar type); Hydro Crane; Hydro Hammer; Locomotive Crane; Locomotive; Mechanic; Mobile; Mixer; Motor Crane; Mucking Machine; Multiple Tamping Machine (RR); Overhead Crane; Pile Driver; Pulls; Push Dozer; Push Boats; Roller (Sheep Foot); Ross Carrier; Scoop; Shovel; Side Boom; Swing Crane; Tail Boom; Tar Machine (pipeline); Throttle Valve; Tower Crane; Trench Machine; Welder (heavy duty); Truck mounted Concrete Pump; Truck-mounted Drill; Well Point; Whirleys

Group 2: Compressor (up to 600 cu. ft.); Brakeman; Bull Float; Concrete Mixer (over 10S and under 21S); Concrete Spreader, or Puddler; Deck Engine; Drill Helper; Electric Vibrator Kompactor (earth or rock); Finishing Machine; Fireman; Greaser (on grease facilities servicing heavy equipment); Material Pump; Motor Boats; Motor Crane Oiler; Portable Loader; Post Hole Digger; Power Broom; Rock Roller; Roller-Wobble Wheel (earth and rock); Spike Machine (RR); Seaman Tiller; Spreader Rock; Sub Grader; Tamping Machine; Truck mounted Drill Oiler; Welding Machine; Widener (Apsco or similar type)

Group 3: Air Compressor (under 200 cu. ft. per minute); Bituminous Distributor; Cement Gun; Concrete Saw; Conveyor; Deck Hand Oiler; Earth Roller; Form Grader; Guardrail Driver; Heater; Oiler; Paving Joint Machine; Power Traffic Signals; Steam Jenny; Vibrator; Water Pump "JLG" Lifts and "Scissor" Lift or similar Machine

POWER EQUIPMENT OPERATORS (Cont'd)

40672 Federal Register / Vol. 48, No. 172 / Friday, September 2, 1983 / Notices

POWER EQUIPMENT OPERATORS (Cont'd)

AREA 2

Group 1: Utility Operator

Group 2: Power Cranes; Draglines; Derricks; Electric Overhead Cranes; Shovels; Gradall; Mechanics; Repair and Maintenance of all Equipment; Tractor Highlift; Fork Lifts; Tournadozer; Mixer over 14S capacity; Tournamixer; Two Drum Machine or Two Cage Hoists; Cableways; Tower Machines; Motor Patrol; Boom Tractor; Boom or Winch Truck; Truck Crane; Tournapull; Tractor Operating Scoops; Bulldozer; Push Tractor; Finishing Machine on Asphalt Large Rollers and Rollers on Asphalt, Gravel, Macadam and Brick Surface; Ross Carrier or similar Machine; Gravel Processing Machine; Asphalt Plant Engineer or Pug Mill; Two Air Compressor; Hetherington Paver Operator; Farm Tractor with half yard Bucket and or Back Hoe Attachment; Trench Machines cutting over 24"; Dredging Equipment; Central Mix Plant Engineer; CMI or similar type Machine; Concrete Spreader; Cherry Picker; Standard or Dinkey Locomotives; Scoopmobiles; Euclid Loader; Soil Cement Machines; Back Filler; Elevating Machine; Power Blade; Asphalt Plant Engineer; Well Drilling Machines; Paint Machines; Pipe Cleaning Machine; Pipe Wrapping Machine; Pipe Bending Machine; Apeco Paver; Boring Machine; Tractors without Winch; Head Equipment Greasers; Barber Green Loaders; Formless Paver; Well Point System; Hydra Ax; Resco Concrete Saw; Marine; Scoops; Brush; Mulcher; Brush Burner; Mesh Placer; Tree Mover; Helicopter Crew (3); Pile Driver Skid or Crawler; Stump Remover; Root Rake; Tug Boat Operator; Refrigerating Machine; Freezing Operator; Chair Cart - self-propelled; Hydra Seeder; Straw Blower; Concrete Mixers with Skip; All one Drum Hoists with Tower or Boom; Dredge Engineer; Dredge Engineer; Dredge Operator; Rock Spreader; Truck or Skid mounted Tower Crane; Engine or Rock Crusher Plant; Boiler Operator; Concrete Plant Engineer; Loader; Hydra Crane; Caissons; Shaft or any similar type Drilling Machine; Concrete Curb Machine - Self-propelled Winch Hydraulic Boom truck

Group 3: Mixers 14S capacity or less; Trench Machine cutting 24" and under; Farm Tractor with less than half yard Bucket and other attachments except Back Hoe; Truck Crane Oiler; Power Subgrader; Bull Float; Form Grader; Finishing Machine; Pavement Breaker; Rock Crushers; One Drum Machine; One Air Compressor; Concrete Pump; Gunite Machine; Air Tugger; Truck Crane Drivers; House Elevator when used for hoisting Material; Two to four Generators or Welding Machine; Mechanized Heaters irrespective of Motor power when used for temporary heat; Small Rollers on earth; Engine Tenders; Fireman; Wagon Drill; Flex-plane; Conveyor; Two or four Water Pumps; Siphon and Pulsometer; Switchman; Fireman on Paint Pots; Fireman on Asphalt Plants; Distributor Operator on Trucks; Tampers; Power Broom; Post Hole Diggers; Self-propelled Concrete Saw; Striping Machine (motor driven); Form Tamper; Seaman Tiller; Bulk Cement Plant Equipment Greaser; Track Jack; Mude Jack; Operators to do Winter Repair work in shop between November 1st and March 1st; Concrete Buggies Motor Driven Oilers; Barrel type Mixer; One Welding Machine or One Water Pump; Air Valves or Steam Valves from Plant; Concrete Mixers without Skip; Curing Machine Concrete and Blacktop Curb Machine; Deck Hands

TRUCK DRIVERS

AREA 1

Group 1: Single Axle Trucks; Low Boy Helper; Air Compressor and Welding Machines including those pulled by Cars, Pick-up Trucks; Tractors, Fork Lifts, Hi-Lo's; Multi-purpose Fork Lifts; Dumpsters and Val-truck when used for the specific purpose of transporting materials on the job-site; All Pick-up Trucks (except used to transport Superintendent, Foremen or Mechanics' transportation or to haul Mechanics' tools or repair parts)

Group 2: Mixer Trucks, 2 yards

Group 3: Batch Trucks wet or dry, 3 batches or under

Group 4: Tandem Axle Trucks (including Dog-legs); Oil Distributors; Mixer Trucks, 3 yards; Winch Trucks (used for transportation of materials)

Group 5: Single Axle Semi-Trucks; Batch Trucks wet or dry over 3 batches; Pavement Breakers

Group 6: Tandem Axle Semi Trucks; Trac-O-Trucks; Euclids; Tourn-A Pull when pulling other than self-loading equipment up to and including 10 yards; Mixer Trucks, 4 yards; Mechanics

Group 7: Low Boy; Tandem - Tandem Axle Semi-Trucks

Group 8: Trac-O-Trucks; Euclids; Tourn-A-Pull when pulling other than self-loading equipment, 11 yards to and including 16 yards; Mixer Trucks above 4 yards

Group 9: Trac-O-Trucks; Euclid; Tourn-A-Pull when pulling other than self-loading equipment over 16 yard; Working Foreman

Group 10: Mechanics Helpers and Greasers

TRUCK DRIVERS (Cont'd)

AREA 2

Group 1: Single Axle Straight Trucks; Batch Trucks, wet or dry 3(34E) Batches or less

Group 2: Tandem Trucks or Dog Legs; Trucks over 15 ton payload; Single Axle Semi-trucks (3-axle unit); Low Boys, single axle (3-axle unit); Winch Trucks or A-Frame when transporting Material; Batch Trucks, wet or dry, over 3(34E) Batches

Group 3: Tandem Axle Semi-trucks (4-axle unit); Equipment not self-loaded or Pusher loaded, such as Koehring or similar Dumpsters; Track Trucks; Euclid Bottom Dump and Hug Bottom Dump; Tournatrailers; Tournarockers or similar equipment, 12 cu. yds. and under; Low-boys, Tandem Axle (4-axle unit); Pavement Breakers

Group 4: Tandem-Tandem Semi-trucks (5-axle unit; Low-boys, Tandem-Tandem (5-axle unit)

Group 5: Equipment not self-loaded or Pusher Loader, such as Koehring or similar Dumpsters; Track Trucks; Euclid Bottom Dump and Hug Bottom Dump; Tournatrailers; Tournarockers or similar equipment over 12 cu. yds.; Truck Mechanic; Mixer Trucks, all types

Group 6: Bituminous Distributor, two-man

Group 7: Bituminous Distributors, one-man

Group 8: Pickup Trucks (except used by a Superintendent or a Foreman for own transportation or the use a Mechanic for transportation of self or tools)

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5(a)(1)(ii))

SUPERSEDEAS DECISION

STATE: Indiana COUNTIES: *See Below
DECISION NO. IN83-2070 DATE: Date of Publication
Supersedes Decision No. IN83-2030 dated May 6, 1983 in 48 FR 20606
DESCRIPTION OF WORK: Building Construction Projects (does not include single family homes and apartments up to & including 4 stories)

*Elkhart, Jasper, Kosciusko, LaGrange, Marshall, Newton, Pulaski, & Starke

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS:		
Area 1	17.20	2.32
Area 2	18.00	3.28
Area 3	17.46	2.88
BOILERMAKERS	18.655	3.58
BRICKLAYERS, STONEMASONS, CAULKERS, POINTERS & CLEANERS:		
Area 1	15.47	3.62
Area 2	15.97	1.68
Area 3	17.05	3.35
CARPENTERS:		
Area 1:		
Carpenters & Soft Floor Layers	14.30	2.48
Millwrights & Piledrivermen	14.55	2.48
Area 2:		
Carpenters & Soft Floor Layers	13.40	2.52
Millwrights & Piledrivermen	13.80	2.52
Area 3:		
Carpenters, Piledrivermen & Soft Floor Layers	17.10	3.57
Millwrights	17.20	3.57
Area 4:		
Carpenters & Soft Floor Layers	14.68	2.02
Millwrights	15.43	2.02
Piledrivermen	14.88	2.02
CEMENT MASONS:		
Area 1	15.12	1.58
Area 2	14.73	3.54
Area 3	18.00	2.16
Area 4	17.37	3.13
Area 5	17.36	2.93
ELECTRICIANS:		
Area 1	17.70	1.83 +3%
Area 2	17.40	14.3%
Area 3	18.46	12.5%
Area 4	17.55	17.18%%
ELEVATOR CONSTRUCTORS:		
Area 1	16.95	2.69 +a&b
Area 2	18.81	2.69 +a&b
Area 3	16.32	2.69 +a&b
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	2.69 +a&b
ELEVATOR CONSTRUCTORS' HELPERS (Prob.)	50%JR	
GLAZIERS:		
Area 1	16.55	1.65
Area 2	15.44	1.14¢
Area 3	13.97	.01+ 16%
IRONWORKERS:		
Area 1	14.90	5.06
Area 2	17.80	3.87
Area 3	14.79	4.22
Area 4	15.00	6.11
MARBLE SETTERS, TILE SETTERS & TERRAZZO WORKERS:		
Area 1	13.00	3.57
Area 2:		
Tile & Terrazzo Workers	13.15	3.08
Area 3:		
Marble Setters & Terrazzo Workers	17.05	3.35
Tile Setters	16.95	3.35
MARBLE SETTERS' FINISHERS, TILE SETTERS' FINISHERS & TERRAZZO WORKERS FINISHERS:		
Area 1	11.00	
Area 2:		
Marble Tile Finishers	14.05	c&d
Terrazzo Finishers	14.18	c&d
PAINTERS:		
Area 1:		
Brush, Roller, Taper & Paperhanger	12.75	2.17
Spray & Sandblasting	13.75	2.17
Area 2:		
Painter, Drywall Tapers & Finishers	12.56	2.03
Area 3:		
Brush	14.85	2.37
Drywall Tapers	15.05	2.37
Paperhangers	15.10	2.37
Spray & Sandblast	15.80	2.37
Area 4:		
Brush & Tapers	14.70	2.49

40074 Federal Register / Vol. 48, No. 172 / Friday, September 2, 1983 / Notices

DECISION NO. IN83-2070

DECISION NO. IN83-2070

	Basic Hourly Rates	Fringe Benefits
PLASTERERS:		
Area 1	14.59	3.08
Area 2	14.59	3.54
Area 3	18.00	2.16
Area 4	15.35	2.93
Area 5	15.26	2.93
PLUMBERS & STEAMFITTERS:		
Area 1	17.68	2.87
Area 2	16.18	2.45
Area 3	16.15	3.35
Area 4	16.73	3.81
ROOFERS:		
Area 1	15.00	.50
Area 2	16.91	2.65
Area 3:		
Composition	14.60	2.55
Slate & Tile	15.10	2.55
SHEET METAL WORKERS:		
Area 1	17.66	2.46 +3%
Area 2	16.46	2.16
Area 3	17.15	3.44
SPRINKLER FITTERS	16.67	3.23
LABORERS:		
Area 1:		
Group 1	13.23	1.89
Group 2	13.43	1.89
Group 3	13.53	1.89
Group 4	14.23	1.89
Area 2:		
Group 1	12.98	1.89
Group 2	13.18	1.89
Group 3	13.28	1.89
Group 4	13.98	1.89
Area 3:		
Group 1	11.48	1.94
Group 2	11.68	1.94
Group 3	11.78	1.94
Group 4	12.48	1.94
Area 4:		
Group 1	11.68	1.94
Group 2	11.88	1.94
Group 3	11.98	1.94
Group 4	12.68	1.94
POWER EQUIPMENT OPERATORS:		
Area 1:		
Group 1	17.65	3.70
Group 2	17.15	3.70
Group 3	15.20	3.70
Group 4	14.00	3.70
Area 2:		
Group 1	16.20	4.15
Group 2	15.30	4.15
Group 3	14.85	4.15
Group 4	14.05	4.15
Group 5	13.25	4.15

	Basic Hourly Rates	Fringe Benefits
TRUCK DRIVERS:		
Area 1:		
Group 1	11.16	e
Group 2	11.26	e
Group 3	11.46	e
Group 4	11.31	e
Group 5	11.01	e
Group 6	11.11	e
Group 7	11.46	e
Area 2:		
Group 1	11.50	f
Group 2	11.71	f
Group 3	11.82	f
Group 4	11.87	f
Group 5	11.92	f

DECISION NO. IN83-2070

PAID HOLDIAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; Thanksgiving Day; F-Christmas Day

FOOTNOTES:
a. 7 paid holidays: A through F, and Day after Thanksgiving Day
b. Employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years; 6% for employee who has worked in business less than 5 years
c. 6 paid holidays: A through F
d. Health Insurance: Single Plan - $.92; Family Plan-$1.12
e. $81.00 per week, per employee; Paid Vacation - 1 year - 1 week, 3 yrs. - 2 weeks, 10 years - 3 weeks (must have 1000 hours during previous 12 mos. to qualify)
f. $65.50 per week, per employee; Paid Vacation - 1 year service - 1 week, 10 years - 2 weeks; 15 years - 3 weeks (1350 hours per calendar year qualify)

AREA DESCRIPTION

ASBESTOS WORKERS

Area 1 - LaGrange County
Area 2 - Newton County
Area 3 - Remaining Counties

BRICKLAYERS

Area 1 - Marshall, Pulaski Counties
Area 2 - Elkhart, LaGrange & Kosciusko Counties
Area 3 - Jasper, Newton, & Starke Counties

CARPENTERS

Area 1 - Elkhart County
Area 2 - LaGrange County
Area 3 - Jasper, Newton & Starke Counties
Area 4 - Kosciusko, Marshall & Pulaski Counties

CEMENT MASONS

Area 1 - Elkhart, LaGrange & Kosciusko Counties
Area 2 - Marshall, & Pulaski (S 4) Counties
Area 3 - Jasper (E 1/3 - W to but not including Wheatfield) and Starke Counties
Area 4 - Newton County
Area 5 - Jasper (Remainder of Co.)

ELECTRICIANS

Area 1 - LaGrange Counties
Area 2 - Elkhart, Kosciusko & Marshall Counties
Area 3 - Jasper, Pulaski & Starke Counties
Area 4 - Newton County

DECISION NO. IN83-2070

AREA DESCRIPTION (CONT'D)

ELEVATOR CONSTRUCTORS

Area 1 - LaGrange County
Area 2 - Newton County
Area 3 - Remainder of Counties

GLAZIERS

Area 1 - Jasper, Newton (E 2/3), Pulaski (W 1/3), Starke (S. W. Corner)

Area 2 - Kosciusko (S.E. ¼), LaGrange (S. E. ¼)
Area 3 - Remainder of Counties

IRONWORKERS

Area 1 - Elkhart, Kosciusko (NW ¼ excl. Warsaw), LaGrange (W ¼ excl. city of LaGrange), Marshall, Pulaski (N. E. 2/3) & Starke(Excl. W. Tip) Counties
Area 2 - Jasper (N ¼), Newton (N ¼) Starke (W. Tip), Pulaski N. W. Tip)
Area 3 - Jasper (S¼), Newton (S ¼), Pulaski (Rem. of Co.)
Area 4 - Remainder of Counties

MARBLE SETTERS, TILE SETTERS & TERRAZZO WORKERS

Area 1 - Marshall & Pulaski Cos.
Area 2 - Elkhart, LaGrange & Kosciusko Counties
Area 3 - Jasper, Newton, & Starke Counties

MARBLE SETTERS FINISHERS, TILE SETTERS FINSIHERS & TERRAZZO WORKERS FINISHERS

Area 1 - Kosciusko & LaGrange Counties
Area 2 - Remaining Counties

PAINTERS

Area 1 - LaGrange County
Area 2 - Elkhart, Kosciusko & Marshall Counties
Area 3 - Pulaski & Starke Counties
Area 4 - Jasper & Newton Counties

PLASTERERS

Area 1 - Elkhart, Kosciusko & LaGrange Counties
Area 2 - Marshall Co. & S. ¼ of Pulaski County
Area 3 - Jasper (E 1/3, W to but not incl. Wheatfield), Pulaski (N ¼) and Starke Counties
Area 4 - Remainder of Jasper Counties
Area 5 - Newton (N¼)

DECISION NO. IN83-2070

AREA DEFINITIONS (CONT'D)

PLUMBERS

Area 1 - Elkhart, Kosciusko & LaGrange Counties
Area 2 - Jasper (S. of the N. Side of the City of Rensselear), Marshall, Pulaski, & Starke Counties
Area 3 - Newton county
Area 4 - Jasper (Rem. of County)

ROOFERS

Area 1 - LaGrange County
Area 2 - Jasper & Newton Counties
Area 3 - Remainder of Counties

SHEET METAL WORKERS

Area 1 - LaGrange County
Area 2 - Elkhart, Kosciusko & Marshall Counties
Area 3 - Remainder of Counties

LABORERS

Area 1 - Jasper & Newton Counties
Area 2 - Starke County
Area 3 - Pulaski County
Area 4 - Remainder of Counties

POWER EQUIPMENT OPERATORS

Area 1 - Jasper, Newton, Pulaski & Starke Counties
Area 2 - Remainder of Counties

TRUCK DRIVERS

Area 1 - Jasper & Newton Cos.
Area 2 - Elkhart, Kosciusko, LaGrange & Marshall Counties

40570 Federal Register / Vol. 48, No. 172 / Friday, September 2, 1983 / Notices

DECISION NO. IN83-2070

VOL 48 ISS 172 SEP 2 1983 UMI

DECISION NO. IN83-2070

CLASSIFICATION DEFINITIONS

LABORERS

AREAS 1 - 2 - 3

Group 1 - Building and Construction Laborers; Scaffold Builders (other than for Masons or Plasterers); Ironworker Tenders; Mechanic Tenders; Window Washers and Cleaners; Water Boys and Tool Housemen; Roofers Tenders; Railroad Workers; Masonry Wall Washers; Cement Finishers Tenders; Carpenter Tenders; Mason Tenders in Area 1 and 2; Portable Water Pumps with Discharge up to 3 inches

Group 2 - Waterproofing; Hauling of Creosote Lumber or like treated material (ex railroad material); Asphalt Rakers and Lutemen; Kettlemen; Air Tool Op.; Pneumatic Tool Op.; Air & Electric Vibrators and Chipping Hammer Op.; Earth Compactors; Jackman & Sheetmen in Ditches more than 6 feet Deep; Laborers in ditches 6' deep or deeper; Assembly of Unicrete Pump; Tile Layer (sewer or field); Sewer Pipe Layers; Motor Driven Wheelbarrows and Concrete Buggies; Hyster Op.; Pump crete Assemblers; Core Drills Op.; Cement, Lime or Silica Clay Handlers; Handling of Toxic Materials Damaging to Clothing; Pneumatic Spikers; Deck Engine & Winch Op.; Water Main & Cable Ducking; Screed Man or Screw Op. on Asphalt Paver; Chain Saw & Demolition Saw Op.; Concrete Conveyor Assembler

Group 3 - Plaster Tenders; Mason Tenders ex in Area 1 and 2; Motor Mixers; Welders; Cutting Torch or Burner; Cement Nozzle Laborer; Cement Gun Operators; Scaffold Builders for Plasterers; Scaffold Builders for Mason ex area 1 and 2 Water Blast Mach. Op.

Group 4 - Dynamite Men; Drillers - Air Track or Wagon Drilling for Explosives

AREA 4

Group 1 - Building & Construction Laborers; Scaffold Builders (other than for Plasterers); Ironworker Tenders; Mechanic Tenders; Window Washers & Cleaners; Waterboys & Toolhousemen; Roofer's Tenders; Railroad Workers; Masonry Wall Washers (interior & exterior); cement Finisher Tenders; Carpenter Tenders; All Portable Water Pumps with discharge up to three (3) inches; Plaster Tenders

DECISION NO. IN83-2070

CLASSIFICATION DEFINITIONS (CONT'D)

LABORERS - AREA 4 (CONT'D)

Group 2 - Waterproofing; Hauling of Creosote Lumber of like treated material; (excluding railroad material); Asphalt Rakers & Lutemen; Kettlemen; Air Tool Operators and all Pneumatic Tool Operators, Air and Electric Vibrators and Chipping Hammer Operators; Earth Compactors; Jackmen & Sheetmen working Ditches deeper than six (6) feet in depth; Laborers working in ditches (6) feet in depth or deeper; Assembly of Unicrete Pump; Tile Layers (sewer or field) & Sewer Pipe Layer (metallic or non-metallic); Motor Driven Wheelbarrows and Concrete Buggies; Hyster Operators; Pump Crete Assemblers; Core Drill Operators; Cement, Lime or Silica Clay Handlers (bulk or bag) Handling of Toxic Materials Damaging to Clothing; Pneumatic Spikers; Deck Engine & Winches Operators; Water Maine & Cable Ducking (metallic and non-metallic); Screed Man on Screw Operator on Asphalt Paver; Chain and Demolition Saw Operators; Concrete Conveyor Assemblers

Group 3 - Water Blast Machine Operator; Mortar Mixers; Welders (acetylene or electric); Cutting Torch or Burner; Cement Nozzle Laborers; Cement Gun Operators; Scaffold Builders when working for Plasterers

Group 4 - Dynamite Men; Drillers-Air Track or Wagon Drilling for explosives

POWER EQUIPMENT OPERATORS

AREA 1

Group 1 - Mechanic, Asphalt Plant, Autograde, Batch Plant, Benoto (Requires 2 Engineers), Boiler and Throttle Valve, Boring Machine (Mining Machine), Caisson Rigs, Central Redi-Mix Plant, Combination Backhoe (Endloader with Backhoe Bucket over ½ cu. yd.), Combination Tugger Hoist & Air Tugger, Compressor and Throttle, Concrete Breaker (Truck Mounted), Concrete Conveyor, Concrete Paver over 27E cu. ft., Concrete Paver 27E cu. ft. & under, Concrete Pump with boom (Truck Mounted), Concrete Tower, Cranes-All, Cranes-Hammerhead Tower, Crater Crane, Derricks-All, Derricks-Traveling, Forklift-Lull Type, Fork Lift-10 ton & over, Hoists-1,2, & 3 Drum, Hoist-2 Tugger one Floor, Hydraulic Boom Truck, Locomotive-All, Motor Patrol, Mucking Machines, Pile Driving & Skid Rig, Pit Machines, Pre-Stress Machines, Pump Cretes & Similar Types, Rock Drill (Self-Propelled), Rock Drill (Truck Mounted), Slip Form Paver, Straddle Buggies, Tractor with Boom & Side Boom, Trenching Machine, Winch Tractors

DECISION NO. IN83-2070

CLASSIFICATION DEFINITIONS (CONT'D)

POWER EQUIPMENT OPERATORS - AREA 1 (CONT'D)

Group 2 - Asphalt Spreader, Boilers, Bulldozers, Combination Backhoe (Endloader with Backhoe bucket ½ cu. yd. & under), Engineer acting as Conductor in charge of crew, Grader-Elevating, Greaser Engineer, Grouting Machines, Highlift Shovels or Front Endloader, Hoists-Automatic, Corboy Drilling Machines, Hoists-All Elevators, Hoists-Tugger Single Drum, Post Hole Digger, Roller-All, Scoops-Tractor Drawn, Stone Crushers, Tournapull, Winch Trucks

Group 3 - Concrete Mixer (two bag & over), Conveyor-Portable, Steam Generators, Tractors-Farm & Similar Type, Air Compressor-small 150 and under (1 to 5 not to exceed a total of 300 feet), Air Compressor - large over 150, Combination - Small Equipment Operator, Forklift - under 10 ton, Generator, Pumps (1 to 3 not to exceed a total of 300 feet), Pump-Well Points, Welding Machines (2 thru 5), Winches-4, Electric Drill Winches

Group 4 - Heaters-Mechanical (1 to 5), Oiler Switchmen

AREA 2

Group 1 - Mechanic, Asphalt Plant, Asphalt Spreader, Autograde, Batch Plant, Benoto (requires two Engineers), Boiler and Throttle Valve), Boring Machine (Road), Caisson Rigs, Central Redi-Mix Plant, Concrete Conveyor Systems, Concrete Power over 27E cu. ft., Concrete Paver 27E cu. ft. and under, Concrete Placer, Concrete Pumps (truck mounted), Concrete Tower, Cranes-All, Cranes-Hammerhead, Creter Cranes, Derrick-All, Forklift capable of hoisting and mechanically moving forks horizontally, Grader-Elevating, Highlit Shovels or Front End Loader, Hoists-Two or more drums, Locomotives-All, Motor Patrol, Pile Drivers and Skid Rig, Pre-stress Machine, Rock Drill (Self-propelled), Rock Drill (truck mounted) Scoops - Tractor drawn, Slip-Form Paver, Torunapull, Tractor with Boom and Side Boom, Trenching Machines 12 or more inches in width

Group 2 - Combination Backhoe Front End Loader Machine with Backhoe Bucket or with attachments

Group 3 - Air Compressor 600 cu. ft. and over, Bobcat (over 3/4 cu. yd.), Boilers, Broom-All Powered Propelled, Bull Dozers, Compressor and Throttle Valve, Concrete Breaker (truck mounted), Concrete Mixer of more than 21 cu. ft. capacity, Forklift with a fixed or tilt mast Greaser Engineer, Hoists-One Drum, Hydraulic Boom Truck, Post-Hole Digger (vehicle mounted), Pump Cretes- (Squeeze Crete Type Pumps, Gypsum Bulker and Pump), Roller-All, Steam Generators, Stone Crushers, Straddle Buggies, Tractors, Winch Truck with "A" frame

DECISION NO. IN83-2070

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS - AREA 2 (CONT'D)

Group 4 - Buck Hoists, Combination - Small Equipment Operator, Conveyor-Portable, Grouting Machines, Hoist Elevators Mat'l & Personnel, Hydraulic Power Units Grouting and Pile Driving, Stud Welder, Trenching Machine less than 12 inches in width, Welding Machines 8 through 15

Group 5 - Bobcat (up to and including 3/4 cu. yd.), Compressor over 210 cu. ft. and less than 600 cu. ft., Generators - over 50 KW, Heaters-Mechanical, Hoists-All Elevator (perm. installation), Hoist-Automatic, Hoist Tugger Single Drum, Oilers, Pumps-Well Points and Electric Submersibles, Small Rubber Tired End Loaders ¼ cu. yd. and under, Tractors-Farm Type, Welding Machines (2 through 8)

TRUCK DRIVERS

AREA 1

Group 1 - Single Axle, & Straight Trucks
Group 2 - Tandem Axle & Dogleg Straight Trucks
Group 3 - Tri-Axle & Semi Trucks
Group 4 - Bituminous Distributors
Group 5 - Pick-up Trucks
Group 6 - Helper, Greasers & Tiremen
Group 7 - Mechanic

AREA 2

Group 1 - Pick-up Truck
Group 2 - Single Axle Trucks
Group 3 - Tandem or Fuel Trucks
Group 4 - Tri-Axle Trucks
Group 5 - Semi-Trailer

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

40078 Federal Register / Vol. 48, No. 172 / Friday, September 2, 1983 / Notices

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SUPERSEDEAS DECISION

DECISION NO. IN83-2072

Page 2

SUPERSEDEAS DECISION

STATE: Indiana

COUNTIES: Lake, LaPorte, Porter, and St. Joseph

DECISION NUMBER: IN83-2072

DATE: Date of Publication

Supersedes Decision No. IN83-2032 dated May 13, 1983, in 48 FR 21776

DESCRIPTION OF WORK: Building Construction Projects (does not include single family homes and apartments up to and including 4 stories), Heavy and Highway Construction

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS:		
Area 1	$18.00	$3.28
Area 2	17.46	2.88
BOILERMAKERS	18.655	3.58
BRICKLAYERS; STONEMASONS, CAULKERS, POINTERS, and CLEANERS:		
Area 1	17.05	3.35
Area 2	15.47	3.62
CARPENTERS:		
Building Construction:		
Area 1:		
Carpenters and Piledrivermen	17.10	3.77
Millwrights	17.20	3.57
Area 2:		
Carpenters, Millwrights, and Piledrivermen	15.65	2.93
Heavy and Highway Construction:		
Area 1	14.76	2.65
CEMENT MASONS:		
Building Construction:		
Area 1	17.36	2.93
Area 2	17.37	3.13
Area 3	14.73	3.54
Area 4	18.00	2.16
Heavy and Highway Construction:		
Area 1	17.00	2.93
Area 2	17.00	2.93
Area 3	14.21	3.54
Area 4	17.06	2.56
ELECTRICIANS:		
Area 1	17.55	17.18[illegible]
Area 2	18.46	12-1/2[illegible]
Area 3	17.40	14.3[illegible]
ELEVATOR CONSTRUCTORS:		
Mechanics:		
Area 1	18.81	2.69+ a
Area 2	16.32	2.69+ a

	Basic Hourly Rates	Fringe Benefits
ELEVATOR CONSTRUCTORS: (Cont'd)		
Mechanic Helpers:		
Area 1	70%JR	$2.69+ a
Area 2	70%JR	2.69+ a
Probationary Helpers	50%JR	
GLAZIERS:		
Area 1	16.55	1.65
Area 2	13.97	.01+ 16%
IRONWORKERS:		
Area 1	17.80	3.87
Area 2	14.90	5.06
MARBLE SETTERS; TILE SETTERS and TERRAZZO WORKERS:		
Area 1:		
Marble Setters and Terrazzo Workers	17.05	3.35
Tile Setters	16.95	3.35
Area 2	13.00	3.57
MARBLE SETTERS'; TILE SETTERS'; and TERRAZZO WORKERS' FINISHERS:		
Marble and Tile Finishers	14.05	b
Terrazzo Finishers	14.18	b
PAINTERS:		
Area 1:		
Brush	14.70	2.49
Spray and Sandblast	15.45	2.49
Drywall Taper	15.75	2.49
Area 2:		
Brush	14.85	2.37
Drywall Tapers	15.05	2.37
Paperhangers	15.10	2.37
Spray and Sandblast	15.80	2.37
Area 3:		
Brush	13.00	
Spray	14.00	
Area 4	12.56	2.03

	Basic Hourly Rates	Fringe Benefits
PLASTERERS:		
Area 1	$15.26	$2.93
Area 2	14.59	3.54
Area 3	18.00	2.16
Area 4	15.35	2.93
PLUMBERS; PIPEFITTERS:		
Area 1	16.15	3.35
Area 2	16.73	3.81
Area 3	16.18	2.45
ROOFERS:		
Area 1	16.91	2.65
Area 2:		
Composition	14.60	2.55
Slate and Tile	15.10	2.55
SHEET METAL WORKERS:		
Area 1	17.15	3.44
Area 2	16.46	2.16
SPRINKLER FITTERS	16.67	3.23
LINE CONSTRUCTION:		
Area 1:		
Linemen, Groundman, Equipment Operator, Crawler type Equipment larger than D-4	18.74	.65+ 8.5%
Groundman Truck Driver (w/Winch and Crawler type Equipment, D-4 and smaller)	15.73	.65+ 8.5%
Groundman Truck Driver without Winch	14.93	.65+ 8.5%
Groundman	14.33	.65+ 8.5%
Area 2:		
Linemen, Equipment Operator, Crawler type Equipment larger than D-4	17.28	.65+ 8.5%
Groundman Truck Driver (w/Winch and Crawler type Equipment, D-4 and smaller)	14.21	.65+ 8.5%
Groundman Truck Driver without Winch	13.38	.65+ 8.5%
Groundman	12.78	.65+ 8.5%

	Basic Hourly Rates	Fringe Benefits
LABORERS:		
Building Construction:		
Area 1:		
Group 1	$13.23	$1.89
Group 2	13.43	1.89
Group 3	13.53	1.89
Group 4	14.23	1.89
Area 2:		
Group 1	12.98	1.89
Group 2	13.18	1.89
Group 3	13.28	1.89
Group 4	13.98	1.89
Area 3:		
Group 1	11.68	1.94
Group 2	11.88	1.94
Group 3	11.98	1.94
Group 4	12.68	1.94
Heavy and Highway Construction:		
Area 1:		
Group 1	12.40	1.94
Group 2	12.55	1.94
Group 3	12.60	1.94
Group 4	12.70	1.94
Group 5	13.25	1.94
Area 2:		
Group 1	10.98	1.94
Group 2	11.13	1.94
Group 3	11.18	1.94
Group 4	11.28	1.94
Group 5	11.83	1.94
POWER EQUIPMENT OPERATORS:		
Building Construction:		
Area 1:		
Group 1	17.65	3.70
Group 2	17.15	3.70
Group 3	15.20	3.70
Group 4	14.00	3.70
Area 2:		
Group 1	16.20	4.15
Group 2	15.30	4.15
Group 3	14.85	4.15
Group 4	14.05	4.15
Group 5	13.25	4.15

DECISION NO. IN83-2072 Page 3

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS: (Cont'd)		
Heavy and Highway Construction:		-
Areas 1 and 2:		
Group 1	$16.85	$3.85
Group 2	16.40	3.85
Group 3	15.95	3.85
Group 4	14.75	3.85
Group 5	13.70	3.85
Underground, Sewer and Water Construction:		
Area 1:		
Group 1	17.65	3.85
Group 2	17.15	3.85
Group 3	15.20	3.85
Group 4	14.00	3.85
TRUCK DRIVERS:		
Building Construction:		
Area 1:		
Group 1	11.305	$5.50 +c&e
Group 2	11.715	$5.50 +c&e
Group 3	11.825	$5.50 +c&e
Group 4	11.875	$5.50 +c&e
Group 5	11.925	$5.50 +c&e

DECISION NO. IN83-2072 Page 3

	Basic Hourly Rates	Fringe Benefits
TRUCK DRIVERS: (Cont'd)		
Heavy and Highway Construction:		
Area 1:		
Group 1	$12.81	$96.50 +c
Group 2	12.76	96.50 +c
Group 3	12.71	96.50 +c
Group 4	12.66	96.50 +c
Group 5	12.61	96.50 +c
Group 6	12.56	96.50 +c
Group 7	12.51	96.50 +c
Group 8	12.46	96.50 +c
Group 9	12.41	96.50 +c
Group 10	12.36	96.50 +c
Group 11	12.31	96.50 +c
Group 12	12.21	96.50 +c
Building, Heavy and Highway Construction:		
Area 2:		
Group 1	12.35	2.35
Group 2	12.55	2.35
Group 3	12.75	2.35
Group 4	12.95	2.35
Group 5	12.95 +d	2.35

DECISION NO. IN83-2072 Page 4

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:
a. Seven Paid Holidays: A through F plus Day after Thanksgiving; Employer contributes 8% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years; Employer contributes 6% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years
b. Six Paid Holidays: A through F; Health Insurance: Single Plan $0.92 per hour; Family Plan $1.12 per hour
c. Per Week, Per Employee
d. Plus $0.20 per axle for each axle over six (6)
e. Paid Vacation: for 1 year service - 1 week Vacation; 10 years - 2 weeks; 15 years - 3 weeks (1350 hours per calander year to qualify)

AREA DESCRIPTIONS

ASBESTOS WORKERS:
Area 1: Lake and Porter Counties
Area 2: LaPorte and St. Joseph Counties

BRICKLAYERS; STONEMASONS; CAULKERS; POINTERS and CLEANERS:
Building Construction:
Area 1: Lake, LaPorte, and Porter Counties
Area 2: St. Joseph County
Heavy and Highway Construction:
Area 1: St. Joseph County

CARPENTERS:
Area 1: Lake, LaPorte, and Porter Counties
Area 2: St. Joseph County

CEMENT MASONS:
Area 1: Lake County (Gary Area) and Porter County (Western 2/3 including Valparaiso)
Area 2: Remainder of Lake County
Area 3: St. Joseph County
Area 4: LaPorte County and Remainder of Porter County

ELECTRICIANS:
Area 1: Lake County
Area 2: LaPorte and Porter Counties
Area 3: St. Joseph County

ELEVATOR CONSTRUCTORS:
Area 1: Lake and Porter Counties
Area 2: LaPorte and St. Joseph Counties

DECISION NO. IN83-2072 Page 5

DECISION NO. IN83-2072 Page 6

AREA DESCRIPTIONS (Cont'd)

GLAZIERS:
Area 1: Lake (Eastern 3/4), LaPorte (Western 1/4), and Porter Counties
Area 2: LaPorte (Remainder of County), and St. Joseph County

IRONWORKERS:
Area 1: Lake, Porter, and LaPorte (West of a line 3 miles East of Route 421 parallel to Route 421) Counties
Area 2: St. Joseph and LaPorte (Remainder of County) Counties

MARBLE SETTERS, TILE SETTERS and TERRAZZO WORKERS:
Area 1: Lake, LaPorte and Porter Counties
Area 2: St. Joseph County

PAINTERS:
Area 1: Western half of Lake County
Area 2: Eastern half of Lake County, LaPorte County (West of Highway 39 excluding Michigan City), Porter County (Southern part to Route 6 including City of Chesterfield)
Area 3: LaPorte County (Michigan City only), Remainder of Porter County
Area 4: St. Joseph County and LaPorte County (East of Highway 39)

PLASTERERS:
Area 1: Lake County (except Northeastern section, North of Crown Point and East of Griffith)
Area 2: St. Joseph County
Area 3: LaPorte County, Porter County (Eastern portion, West to but not including Chesterton and including Kouts)
Area 4: Remainders of Lake and Porter Counties

PLUMBERS; PIPEFITTERS:
Area 1: Lake County (North, St. Johns, Hanover, West Creek and Cedar Creek Townships and City of Hammond)
Area 2: Lake (Remainder of County), LaPorte (excluding City of LaPorte) and Porter Counties
Area 3: LaPorte County (City of LaPorte) and St. Joseph County

ROOFERS:
Area 1: Lake and Porter Counties
Area 2: LaPorte and St. Joseph Counties

SHEET METAL WORKERS:
Area 1: Lake, LaPorte, and Porter Counties
Area 2: St. Joseph County

LINE CONSTRUCTION:
Area 1: Lake County
Area 2: LaPorte, Porter and St. Joseph Counties

AREA DESCRIPTIONS (Cont'd)

LABORERS:
Building Construction:
Area 1: Lake County, Porter County (North of U.S. Highway 20)
Area 2: LaPorte County, Porter County (South of U.S. Highway 20)
Area 3: St. Joseph County
Heavy and Highway Construction:
Area 1: Lake County
Area 2: LaPorte, Porter and St. Joseph Counties

POWER EQUIPMENT OPERATORS:
Building, Heavy and Highway Construction:
Area 1: Lake, LaPorte and Porter Counties
Area 2: St. Joseph County
Underground Sewer and Water Construction:
Area 1: Lake, LaPorte and Porter Counties

TRUCK DRIVERS:
Building, Heavy and Highway Construction:
Area 1: St. Joseph County
Area 2: Lake and Porter Counties

LABORERS
BUILDING CONSTRUCTION

AREAS 1 and 2

Group 1: Building and Construction Laborers; Scaffold Builders (other than for Masons or Plasterers); Ironworker Tenders; Mechanic Tenders; Window Washers and Cleaners; Water Boys and Tool Housemen; Roofers Tenders; Railroad Workers; Masonry Wall Washers; Cement Finishers Tenders; Carpenter Tenders; Mason Tenders; Portable Water Pumps with discharge up to 3 inches

Group 2: Waterproofing; Hauling of Creosote Lumber or like treated material (excluding railroad material); Asphalt Rakers and Lutemen; Kettlemen; Air Tool Operator; Pneumatic Tool Operator; Air and Electric Vibrators and Chipping Hammer Operator; Earth Compactors; Jackman and Sheetmen in Ditches more than 6 ft. deep; Laborers in ditches 6' deep or deeper; Assembly of Unicrete Pump; Tile Layers (sewer or field); Sewer Pipe Layers; Motor driven Wheelbarrows and Concrete Buggies; Hyster Operator; Pump Crete Assemblers; Core Drill Operator; Cement, Lime or Silica Clay Handlers; Handling of Toxic Materials damaging to clothing; Pneumatic Spikers; Deck Engine and Winch Operator; Water Main and Cable Ducking; Screed Man or Screw Operator, on Asphalt Paver; Chain Saw and Demolition Saw Operator; Concrete Conveyor Assembler

Group 3: Plaster Tenders; Mortar Mixers; Welders; Cutting Torch or Burner; Cement Nozzle Laborers; Cement Gun Operators; Scaffold Builders for Plasterers; Water Blast Machine Operator

Group 4: Dynamite Men; Drillers, Air Track or Wagon Drilling for explosives

LABORERS (Cont'd)
BUILDING CONSTRUCTION (Cont'd)

AREA 3

Group 1: Building and Construction Laborers; Scaffold Builders (other than for Plasterers); Ironworker Tenders; Mechanic Tenders; Window Washers and Cleaners; Waterboys and Toolhousemen; Roofers Tenders; Railroad Workers; Masonry Wall Washers (interior and exterior); Cement Finisher Tenders; Carpenter Tenders; All Portable Water Pumps with discharge up to (3) inches; Plaster Tenders; Mason Tenders

Group 2: Waterproofing; Handling of Creosote Lumber or like treated material (excluding railroad material); Asphalt Rakers and Lutemen; Kettlemen; Air Tool Operators and all Pneumatic Tool Operators; Air and Electric Vibrators and Chipping Hammer Operators; Earth Compactors; Jackmen and Sheetmen working Ditches deeper than (6) ft. in depth; Laborers working in ditches (6) ft. in depth or deeper; Assembly of Unicrete Pump; Tile Layers (sewer or field) and Sewer Pipe Layer (metallic or non-metallic); Motor driven Wheelbarrows and Concrete Buggies; Hyster Operators; Pump Crete Assemblers; Core Drill Operators; Cement, Lime or Silica Clay Handlers (bulk or bag); Handling of Toxic Materials damaging to clothing; Pneumatic Spikers; Deck Engine and Winch Operators; Water Main and Cable Ducking (metallic and non-metallic); Screed Man or Screw Operator on Asphalt Paver; Chain and Demolition Saw Operators; Concrete Conveyor Assemblers

Group 3: Water Blast Machine Operator; Mortar Mixers; Welders (Acetylene or electric); Cutting Torch or Burner; Cement Nozzle Laborers; Cement Gun Operators; Scaffold Builders when working for Plasterers

Group 4: Dynamite Men; Drillers - Air Track or Wagon Drilling for explosives

HEAVY And HIGHWAY CONSTRUCTION

Group 1: Construction Laborer; Carpenter Tender; Fence Erector; Grade Checker; Guard Rail Erector; Continuous Steel Rod or Mat Installer; Wire Mesh Layer; Joint Man (Mortar, Mastic, and all other types); Lighting Installer (permanent or temporary); Lineman for Automatic Grade Maker on Paving Machines; Mortar Man; Multi-plant Erector; Riprap Installer (all products and materials); Road Marking and Delineation Laborer; Setting and Placing of all Precast Concrete Products; Sign Installation including supporting structure; Spraying of all Epoxy, Curing Compound, or like material

Group 2: Air Tool, Power Tool, and Power Equipment Operator; Asphalt Lute Man; Asphalt Raker Man; Batch Truck Dumper; Bridge Hand Rail Erector; Handler (bulk or bag cement); Chain Saw Man; Concrete Puddler; Concrete Rubber; Concrete Saw Operator; Core Drill Operator, eye level; Hand Blade Operator; Hydro Seeder Man; Motor driven Georgia Buggy Operator; Power driven Compactor or Tamper Operator; Power Saw Operator; Pumpcrete Assembly Man; Screed Man or Screw Man on Asphalt Paver; Rebar Installer; Sandblaster Man; Sealer Applicator for Asphalt (toxic); Setting and Placing Prestressed on Precast Concrete Structural Members; Side Rail Setters (for sidewalks, side ditches, Radii, and pavement); Spreader Box Tender (manual or power driven); Straw Blower Man; Subsurface Drain and Culvert Pipe Layer; Transverse and Longitudinal Hand Bull Float Man; Concrete Conveyor Assembly Man

LABORERS (Cont'd)
HEAVY And HIGHWAY CONSTRUCTION (Cont'd)
AREA 3 (Cont'd)

Group 3: Horizontal Boring and Jacking Man; Jackman and Sheetman; Pipe Grade Man; Winch and Windlass Operator

Group 4: Conduit Installer; Cutting Torch Burner; Laser Beam; Aligner; Manhole Erector; Sewer Pipe Layer; Water Line Installer, temporary or permanent; Welders (electric or Oxy-Acetylene)

Group 5: Air Track and Wagon Drillman; Concrete Finisher; Dynamite and Powder Man

POWER EQUIPMENT OPERATORS
BUILDING CONSTRUCTION

AREA 1

Group 1: Mechanic; Asphalt Plant; Autograde; Batch Plant; Benoto (requires 2 Engineers); Boiler and Throttle Valve; Boring Machine (Mining Machine); Caisson Rigs; Central Redi-mix Plant; Combination Backhoe-Endloader with Backhoe Bucket over 1/2 cu. yd.; Combination Tugger Hoist and Air Compressor; Compressor and Throttle; Concrete Breaker (truck mounted); Concrete Conveyor; Concrete Paver over 27E cu. ft.; Concrete Paver 27E cu. ft. and under; Concrete Pump with Boom (truck mounted); Concrete Tower; Cranes, all; Cranes, Hammerhead Tower; Crete Crane; Derricks, all; Derricks, traveling; Forklift, Lull type; Forklift, 10 ton and over; Hoists, 1,2, and 3 drum; Hoist, 2 Tugger-one floor; Hydraulic Boom Truck; Locomotives, all; Motor Patrol; Mucking Machine; Pile Driving and Skid Rig; Pit Machines; Pre-stress Machines; Pump Cretes and similar types; Rock Drill (self-propelled); Rock Drill (truck mounted); Slip Form Paver; Straddle Buggies; Tractor with Boom and Side Boom; Trenching Machine; Winch Tractors

Group 2: Asphalt Spreader; Boilers; Bulldozers; Combination Backhoe-Endloader with Backhoe bucket 1/2 cu. yd. and under; Engineer acting as Conductor in charge of crew; Grader -Elevating; Greaser Engineer; Grouting Machines; Highlift Shovels or Front Endloader; Hoists, automatic; Corboy Drilling Machines; Hoists, all Elevators; Hoists, Tugger, single drum; Post Hole Digger; Rollers, all; Scoops, tractor drawn; Stone Crushers; Tournapull; Winch Trucks

Group 3: Concrete Mixer (2 bag and over); Conveyor, portable; Steam Generators; Tractors, farm and similar type; Air Compressor, small 150 and under - 1 to 5 not to exceed a total of 300 ft.; Air Compressor, large over 150; Combination, Small Equipment Operator; Forklift, under 10 ton; Generator; Pumps, 1 to 3 not to exceed a total of 300 ft.; Pumps, Well Points; Welding Machines, 2 through 5; Winches, 4 Electric Drill Winches

Group 4: Heaters, Mechanical (1 to 5); Oiler; Switchman

40062 Federal Register / Vol. 48, No. 172 / Friday, September 2, 1983 / Notices

POWER EQUIPMENT OPERATORS (Cont'd)
BUILDING CONSTRUCTION (Con'td)

AREA 2

Group 1: Mechanic; Asphalt Plant; Asphalt Spreader; Autograde; Batch Plant; Benoto (requires two Engineers); Boiler and Throttle Valve; Boring Machine (road); Caisson Rigs; Central Redi-mix Plant Concrete Conveyor Systems; Concrete Power over 27E cu. ft.; Concrete Paver 27E cu. ft. and under; Concrete Placer; Concrete Pumps (truck mounted); Concrete Tower; Cranes, all; Cranes, Hammerhead; Creter Cranes; Derricks, all; Forklift capable of hoisting and mechanically moving Forks horizontally; Grader, Elevating; Highlift Shovels or Front End Loader; Hoists, two or more drums; Locomotives, all; Motor Patrol; Pile Drivers and Skid Rig; Pre-stress Machine; Rock Drill (self-propelled); Rock Drill (truck mounted) Scoops, tractor drawn; Slip-form Paver; Tournapull; Tractor with Boom and Side Boom; Trenching Machines 12 or more inches in width

Group 2: Combination Backhoe Front End Loader Machine with Backhoe bucket or with attachments

Group 3: Air Compressor 600 cu. ft. and over; Bobcat (over 3/4 cu. yd.); Boilers; Broom, all powered propelled; Bull Dozers; Compressor and Throttle Valve; Concrete Breaker (truck mounted); Concrete Mixer of more than 21 cu. ft. capacity; Forklift with a fixed or tilt Mast; Greaser Engineer; Hoists, one drum; Hydraulic Boom Truck; Post Hole Digger (vehicle mounted); Pump Cretes (Squeeze Crete type Pumps, Gypsum Bulker and Pump); Rollers, all; Steam Generators; Stone Crushers; Straddle Buggies; Tractors; Winch Truck with "A" Frame

Group 4: Buck Hoists; Combination - small equipment Operator; Conveyor-portable; Grouting Machines; Hoist Elevators Material and personnel; Hydraulic Power Units Grouting and Pile Driving; Stud Welder; Trenching Machines less than 12 inches in width; Welding Machines 8 through 15

Group 5: Bobcat (up to and including 3/4 cu. yd.); Compressor over 210 cu. ft. and less than 600 cu. ft.; Generators, over 50 KW; Heaters, Mechanical; Hoists, all Elevator (permanent installation); Hoist, Automatic; Hoist, Tugger single Dsum; Oilers; Pumps, Well Points and electric Submersibles; Small Rubber Tired End Loaders, 1/4 cu. yd. and under; Tractors, Farm type; Welding Machines, 2 through 8

POWER EQUIPMENT OPERATORS (Cont'd)
HEAVY and HIGHWAY CONSTRUCTION
AREAS 1 and 2

Group 1: Auto Patrol, Maintainer; Automatic Dry Batch Plant; Automated Concrete Placer; Automated Sub-grader; Automated Slip form Paver; Automated Finish Machine; Combination Backhoe; Front End-loader Machine (1/2 cu. yd. Backhoe bucket or over or with attachment); Combination Backhoe (1 cu. yd. Backhoe bucket or over or with attachments); Ballast Regulator (RR); Belt Loader, stationary; Boring Machine (road); Bulldozer; Concrete Mixer, 27 cu. ft. or over; Concrete Pump; Concrete Pump, truck mounted; Concrete Breaker, truck mounted; Concrete Breaker, self-propelled; Core Drilling Machines; Cranes and Backhoes, all attachments; Cranes, Hammerhead; Creter Crane; Derricks; Derricks, traveling; Dredge Engineer; Dredge Operator; Formless Curb and Gutter Machine, 36 inches and over; Formless Curb and Gutter Machine under 36 inches; Gradall and Machines of a like nature; Guard Rail Post Driver, truck mounted; Lead Greaser; Helicopter; Highlift Shovel, 3 yds. and over; Hoist, 1 drum; Hoist 2 and 3 drum; Hydraulic Power Units (Grouting, Pile Driving and Extracting); Locomotive Operator; Mechanic, Welder; Mucking Machine; Panelboard Concrete Plant (Central Mix type); Paver, Hetherington; Pile Driver, Skid or Crawler; Road Paving Mixer; Rock Drill Crawler or Skid Rig; Rock Drill, truck mounted; Ross Carrier; Roto Mill Grinder 36" and over; Roto Mill Grinder, less than 36"; Throttle Valve and Compressor or Clever Brooks type Combination; Throttle Valve and Fireman Combination or Horizontal or Upright Boiler; Tournapull or similar type equipment; Tractor, Boom; Tractor drawn Belt Loader; Tractor drawn Belt Loader with attached Pusher (requires two Engineers); Trench Machine; Tug Boat Operator; Wheel Excavator; Winch Truck with "A" Frame; Scoops; Tournapulls or similar types Machine used in Tandem (add $1.00 to Class 1 hourly rate for each Machine attached thereto)

Group 2: Combination Backhoe Front End Loader Machine with less than 1/2 cu. yd. Backhoe bucket or with attachment; Bituminous Mixer; Bituminous Paver; Bituminous Plant Engineer; Bridge Deck Finisher; Concrete Mixer, less than 27 cu. ft.; Greaser; Highlift Shovel, under 3 cu. yds.; Jersey Spreader or Base Paver; Pavement Bump Grinder (self-propelled); Roller (Asphalt, Waterbound, Macadam, Bituminous Macadam, Brick Surface); Sheepfoot Roller (self-propelled with blade); Surface Heater and Planer; Tamper (Multiple Vibrating, Asphalt Waterbound Macadam, Bituminous Macadam, Brick Surface); Tractor, Push; Tractor with Scoop; Widener, Apsco or similar type

Group 3: Assistant Plant Engineer; Back Filler; Bituminous Distributor; Broom and Belt Machine; Bull Float; Concrete Finishing Maching; Concrete Spreader, power driven; Digger, Post Hole (power driven); Finishing Machine and Bull Float; Forklift; Form Grader; Form Tamper (motor driven); Multiple Tamping Machine; Paving Breaker; Roller (earth and subbase material); Roller Sheepfoot (self-propelled); Sub-Grader; Tamper, Multiple Vibrating, earth and subbase material; Tractaire; Tractaire with Drill; Tractor (with all drawn attachments except Backhoe and including Highlift; Endloader of 1 cu. yd. capacity and less

POWER EQUIPMENT OPERATORS (Cont'd)
HEAVY and HIGHWAY CONSTRUCTION (Cont'd)
AREAS 1 and 2 (Cont'd)

Group 4: Air Compressor; Conveyor, all; Fireman on Boiler; Generator; Assistant Mechanic; Power Curing Spraying Machine, self-propelled; Broom, self-propelled; Seaman Tiller; Spike Machine (RR); Striping Machine (paint, self-propelled); Throttle Valve; Welding Machine; Well Points Systems

Group 5: Assistant Greaser; Deck Hand; Hetherington Driver; Mechanical Heater (1 to 5); Outboard or Inboard Motor Boat; Oiler; Power Saw, Concrete, power driven; Truck Crane Oiler, Driver; Water Pump; Helper on C.M.I. and similar type equipment; Grasscutter

UNDERGROUND, SEWER and WATER CONSTRUCTION

AREA 1

Group 1: Mechanic; Asphalt Plant; Autograde; Batch Plant; Benoto (requires 2 Engineers); Boiler and Throttle Valve; Boring Machine (Mining Machine); Caisson Rigs; Central Redi-mix Plant; Combination Backhoe-Endloader with Backhoe Bucket over 1/2 cu. yd.; Combination Tugger Hoist and Air Compressor; Compresor and Throttle; Concrete Breaker (truck mounted); Concrete Conveyor; Concrete Paver over 27E cu. ft.; Concrete Paver 27E cu. ft. and under; Concrete Pump with Boom (truck mounted); Concrete Tower; Cranes and Backhoes, all attachments; Cranes, Hammerhead Tower; Creter Cranes; Derricks, all; Derrick, traveling; Forklift, Lull type; Forklift, 10 tons and over; Hoists, 1, 2, and 3 drum; Hoist, 2 Tugger-one floor; Hydraulic Boom Truck; Locomotives, all; Motor Patrol; Mucking Machine; Pile Driving and Skid Rig; Pit Machines; Pre-stress Machines; Pump Cretes and similar types; Rock Drill (self propelled); Rock Drill (truck mounted); Slip-form Paver; Straddle Buggies; Tractor with Boom and Side Boom; Trenching Machine; Winch Tractors

Group 2: Asphalt Spreader; Boilers; Bulldozer; Combination Backhoe, Endloader with Backhoe Bucket 1/2 cu. yd. and under; Engineer acting as Conductor in charge of crew; Grader, Elevating; Greaser Engineer; Grouting Machines; Highlift Shovels or Front Endloader; Hoists, automatic; Corboy Drilling Machines; Hoists, all Elevators; Hoists, Tugger single drum; Post Hole Digger; Roller, all; Scoops, tractor drawn; Stone Crushers; Tournapull; Winch Trucks

Group 3: Concrete Mixer (2 bag or over); Conveyor, portable; Steam Generators; Tractor, farm and similar type; Air Compressor, small 150 and under, 1 to 5 not to exceed a total of 300 ft.; Air Compressor, large over 150; Combination, small equipment Operator; Forklift, under 10 ton; Generator; Pumps, 1 to 3 not to exceed a total of 325 ft.; Pumps, Well Points; Welding Machines (2 through 5); Winches, 4 Electric Drill Winches

Group 4: Heaters, Mechanical (1 to 5); Oilers; Switchmen

TRUCK DRIVERS
BUILDING CONSTRUCTION
AREA 1

Group 1: Pickup Trucks

Group 2: Single Axle Trucks

Group 3: Tandem or Fuel Trucks

Group 4: Triaxle Trucks

Group 5: Semi Trailer Trucks

HEAVY and HIGHWAY CONSTRUCTION

Group 1: Acetylene Wagons over 3 buckets

Group 2: Acetylene Wagons to and including 3 buckets

Group 3: Tandem-Tandem Semi-Trucks; Trucks Mechanics and Welders; Heavy Equipment type Water Wagon over 5,000 gallons; Tri-axle Trucks pulling Tilt-top Trailers; Low Boys; Tandem-Tandem Axle

Group 4: Tri-axle Trucks; Tandem Axle Trucks; Equipment not self loaded or Pusher loaded such as Koehring or similar Dumpster; Track Truck; Euclid Bottom Dump and Hug Bottom Dump; Tournatrailers; Tournarockers; Athey Wagons, or similar equipment over 12 cu. yds.; Tandem Axle Trucks pulling Tilt-top Trailers; Low Boys; Tandem Axle; Tri-Axle Batch

Group 5: Tandem "Dog-Legs"; Semi-Water Trucks; Sprinkler Trucks; Heavy Equipment type Water Wagons 5,000 gallons and under

Group 6: Truck mounted Pavement Breakers; Tandem Trucks over 15 ton payload; Single Axle Semi-trucks; Farm Tractors hauling material; Equipment not self loaded or Pusher loaded such as Koehring or similar Dumpster; Track Truck; Euclid Bottom Dump and Hug Bottom Dump; Tournatrailers; Tournarockers; Athey Wagons or similar equipment 12 cu. yds. and under; Mixer Trucks, all types; Single Axle Trucks pulling Tilt-top Trailer; Lowboys, single axle

Group 7: Tandem Axle Fuel Trucks; Tandem Axle Water Trucks; Bituminous Distributor (one Man)

Group 8: Single Axle Dog-Legs; Tandem Trucks or Dog Legs; Winch Trucks or A Frames used for transportation; Batch Trucks wet or dry over 3(34E) Batches; Grease and Maintenance Truck Servicing Tandem Axle Trucks

Group 9: Single Axle Fuel Trucks; Single Axle Water Trucks; Bituminous Distributors (two Man)

SUPERSEDEAS DECISION

48004 Federal Register / Vol. 48, No. 172 / Friday, September 2, 1983 / Notices

VOL 48 ISS 172 SEP 2 1983 UMI

TRUCK DRIVERS (Cont'd)
HEAVY and HIGHWAY CONSTRUCTION (Cont'd)

AREA 1. (Cont'd)

Group 10: Single Axle Straight Trucks; Wet or Dry 3 (34E) Batches or less; Grease and Maintenance Trucks Servicing Single Axle Trucks

Group 11: Tenders; Greasers; Tire Men; Batch Board Tenders

Group 12: Pick-up Trucks

BUILDING, HEAVY, And HIGHWAY CONSTRUCTION

AREA 2

Group 1: 2 and 3 Axle

Group 2: 4 Axle

Group 3: 5 Axle

Group 4: 6 Axle

Group 5: Over 6 Axles

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5(a)(1)(ii))

SUPERSEDEAS DECISION

STATE: Kansas COUNTY: Shawnee
DECISION NO.: KS83- 4063 DATE: Date of Publication
Supersedes Decision No. KS83-4013, dated February 4, 1983 in 48 FR 5446
DESCRIPTION OF WORK: Building Construction Projects (including Residential)

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$17.29	4.26
BOILERMAKERS	17.345	3.00
BRICKLAYERS, STONEMASONS	15.79	.95
CARPENTERS (Building):		
Carpenters, Lathers	12.45	1.80
Millwrights	13.45	1.80
Piledrivermen	12.825	1.80
Carpenters - Residential	8.715	1.80
CEMENT MASONS	12.60	1.05
ELECTRICIANS (Building):		
Electricians	15.55	3%+2.13
Cable Splicers	17.11	3%+2.13
Electricians - Residential	11.55	3%+1.35
ELEVATOR CONSTRUCTORS	12.21	a+2.33
GLAZIERS (Building)	12.83	5.54
IRONWORKERS	16.25	4.25
LABORERS (Building & Residential):		
Group 1		
General Laborers	9.30	2.30
Group 2		
Power Tool Operators, Compactors, Concrete Breakers, Chipping Tools, Drilling Tools, Concrete Saws, mechanically operated Georgia Buggy	9.30	2.30
Group 3		
Mason Tenders, Plaster Tenders, Mortar Mixers for Masons & Cement Finishers, All stocking Scaffold, clean up for Masons (building & Wrecking)	9.60	2.30
Group 4		
Sand & Concrete Gun, Nozzleman & Powderman	9.70	2.30
LABORERS (Site Preparation & Grading: (Building & Residential):		
Group 1	8.48	2.30
Group 2	8.60	2.30
Group 3	8.70	2.30
Group 4	8.85	2.30
LATHERS (Building)	12.50	1.50
LINE CONSTRUCTION:		
Lineman	$15.97	3-1/2%+.65
Cable Splicers	16.77	3-1/2%+.65
Groundman	9.67	3-1/2%+.65
Powderman	13.19	3-1/2%+.65
Line Truck & Equipment Operators	13.19	3-1/2%+.65
PAINTERS (Building):		
Brush, drywall, tapers	13.25	.98
Spray & Sandblast	13.75	.98
PAINTERS (Residential)	10.00	.98
PLASTERERS	15.70	.01
PIPEFITTERS; PLUMBERS	15.83	2.34
ROOFERS:		
Roofers	14.66	b+.60
Pitch	15.76	b+.60
SHEET METAL WORKERS	13.68	3%+3.93
SOFT FLOOR LAYERS	11.00	10%+1.76
SPRINKLER FITTERS	16.47	2.83
TILE, TERRAZZO & MARBLE SETTERS	15.00	
POWER EQUIPMENT OPERATORS		
BUILDING CONSTRUCTION:		
Cranes with lifting ring	14.75	3.77
Cranes and Shovels 100 ft. of boom or over including jib or 30 tons or over or 2 yd. capacity, three (3) drum hoist	14.00	3.77
Cranes & Shovels booms 200 ft. & over four (4) Drum Hoist, Frankie-Type Pile Driving Machines, & Tower Cranes & Derricks	14.25	3.77
Group I	13.75	3.77
Group II	13.35	3.77
Group III:		
Class A	11.55	3.77
Class B	11.80	3.77

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS BUILDING CONSTRUCTION (Cont'd):		
Group IV:		
Class A	$11.00	3.77
Class B	11.25	3.77
POWER EQUIPMENT OPERATORS Site Preparation & Grading (Building & Residential Construction		
Group 1	12.87	2.70
Group 2	12.62	2.70
Group 3	12.37	2.70
Group 4	12.02	2.70
Group 4A	12.12	2.70
TRUCK DRIVERS - BUILDING & RESIDENTIAL CONSTRUCTION:		
TRUCK DRIVERS: Class 1 - Light Station Wagons, Pickups	11.32	1.20
TRUCK DRIVERS: Class 2 - Medium Flatbeds and Dump Five ton or less, Warehousemen & Partsmen	11.42	1.20
TRUCK DRIVERS: Class 3 - Heavy, Over 5 ton, Semi-Trailers, Fork Lifts, Industrial Tractors as used in Teamsters jurisdiction, Straddle Trucks, A-frame & Winch Trucks when used as such	11.67	1.20
Class 4 Mechanics & Dispatchers	11.82	1.20
TRUCK DRIVERS (Site Preparation & Grading) Building & Residential Construction:		
Group 1	9.40	1.20
Group 2	9.50	1.20
Group 3	9.65	1.20

	Basic Hourly Rates	Fringe Benefits

CLASSIFICATION DEFINITIONS

LABORERS (Site Preparation & Grading) Building & Residential:
Group 1 - Board mat weavers and cable tiers; Georgia Buggy (manually operated); mixerman - no skip; lift; nailers, salamander tenders; track men; tractor swamper; truck dumper, wire mesh setter, water pump up to 4 inches; all other general laborer
Group 2 - Air tool operators, cement handlers (bulk), chain saw, georgia buggy (mechanically, operated); grade man, hot mastic kettlemen, crusher feeder, joint man, jute man; mason tenders; material batch hopper and scale man, mixer man; pier hole man working 10 ft. deep; pipelayer-drainage (concrete and/or corrugated metal); signal man (crane); truck dumper-dry batch; vibrator operator; wagon and churn drill operator
Group 3 - Asphalt raker, barco tamper; concrete saw; creosote material-handling and applying; nozzle burner (cutting torch and burning bar)
Group 4 - Conduit pipe; tile and duct line setter; form setter and liner on concrete paving; powderman; sandblasting and gunite nozzleman; sanitary sewer pipe layer; steel plate structure erectors; water and gas distribution
POWER EQUIPMENT OPERATORS - Building Construction:
Group 1 - Boiler (2), boom cat, boring machine, ditching machine, concrete ready-mix plant, crane, truck crane, clamshell dragline, dozer scrapper, all types, patrol, fireman (when operating steam or air valve), gradall, hi-loaders (over one yard), hoist, two drum, mechanic or welder, mixer-mobile, paver, or any other machine with power swing, piledriver operator, power shovel, pump, concrete or other material, locomotive
Group 2 - A-frame truck, bob cat/hi-loaders (1yard or under), barber-greene loader or similar type, boiler (1), ditching machine - small - elevator operator, fireman, forklift, hoist, or active drum, hydra hammer jeep ditcher, mixer, other than paver, power broom, pump 4" or larger, small machine engineer, welding machine (1), greaser equipment
Group 3 - Class A - Farm tractor (without attachments)
Class B - Farm tractor (with attachments)
Group 4 - Class A - Oiler
Class B - Motor crane oiler
POWER EQUIPMENT OPERATORS Site Preparation & Grading - Building & Residential Construction:
Group 1 - Asphalt paver and spreader, backhoe; boring machine, blades, all types; clamshell; concrete mixer paver operator; concrete central plant operator (automatic); crane, truck crane, pitman crane, hydro crane, or any machine with power swing; derrick or derrick trucks; dragline operator; dredge operator; dozer; ditching machine; euclid loader; hoist - 2 active drums; loader, all types, mechanic or welder; mixer-mobile; track; scoop operator, all types; side boom cat-cherry picker; skimmer scoop operator; pushcat operator

40063 Federal Register / Vol. 48, No. 172 / Friday, September 2, 1983 / Notices

SUPERSEDEAS DECISION

POWER EQUIPMENT OPERATORS Site Preparation & Grading - Building & Residential Construction: (Cont'd)
Group 2 - Asphalt plant operator; elevating grader operator
Group 3 - A-frame truck; asphalt roller operator; asphalt plant boiler fireman; backfiller operator; barber greene loader; boiler other than asphalt; bull float operator; churn drill operator; compressor operator (1); concrete central plant operator; concrete mixer operator skip; concrete pump operator; crusher operator; distributor operator; finish machine operator- concrete; fireman other than asphalt; flex plane operator, fork lift; form grader operator; greaser; hoist 1 drum; jeep ditching machine; pavement breakers, self-propelled (of the hydra hammer or similar type); pump operator, 4" or over, two; pump operator, other than dredge; screening and wash plant operator; small machine operator; spreader box operator, self-propelled; tractor operator over 50 h.p.; self-propelled roller operator, other than asphalt; siphon and jets; subgrading machine operator; tank car heater operator, combination booster and boiler; towboat operators; vibrating machine operator, not hand
Group 4 - Concrete gang saw, self-propelled (con-cut); conveyor operator; Harrow, disc seeder; oiler; tractor operator, 50 h.p. or less without attachments
Group 4A - Oiler, motor crane
TRUCK DRIVERS (Site Preparation & Grading) Building & Residential Construction:
Group 1 - Pickups; panel trucks; station wagons; flat beds; dumps and batch trucks (single axle)
Group 2 - Tandem trucks, warehousemen or partsmen; mechanic helpers and servicemen
Group 3 - Lowboys; semi-trailers, all transit mixer trucks (single or tandem axle); A-frame and winch trucks when used as such; euclid, end and bottom dump; tournarockers; atheys; dumptors; and similar off-road equipment and mechanics on such equipment

FOOTNOTES:
a. Employer contributes 8% of basic hourly rate for over 5 years of service and 6% of basic hourly rate for 6 months to 5 years service as Vacation Pay Credit. Also 7 paid holidays.
b. After 6 months of employment $.26; after 5 years $.52

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Kansas - COUNTY: Sedgwick
DECISION NO.: KS83-4064 DATE: Date of Publication
Supersedes Decision NO. KS83-4014, dated February 4, 1983, in 48 FR 5541.
DESCRIPTION OF WORK: Building Construction Projects (excluding single family homes and apartments up to and including four stories).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$17.28	2.10
BOILERMAKERS	17.345	3.00
BRICKLAYERS,STONEMASONS	13.33	1.78
CARPENTERS:		
Carpenters	12.50	1.08
Millwrights,Piledrivermen	12.80	1.08
CEMENT MASONS	11.10	
ELECTRICIANS	15.00	4%+
Cable Splicer	15.25	1.85 4%+ 1.85
ELEVATOR CONSTRUCTORS	14.11	a+2.69
ELEVATOR CONSTRUCTOR HELPERS	9.88	a+2.69
GLAZIERS	12.90	4.53
IRONWORKERS	14.29	2.14
LABORERS (BUILDING CONSTRUCTION):		
Group 1 - Common laborers	9.10	1.55
Group 2 - Power Tool Operator,Compactors, Concrete Breaker Chipping Tools,Drilling Tools,Concrete Saws,Mechanically Operated Georgia Buggy,Mason Tenders, Plaster Tenders,Mortar Mixers for Plasterers, Mason & Cement Finishers,all Stocking Scaffold,Clean up for Masons (building & wrecking),Sand & Concrete Gun Nozzleman, Powderman	9.30	1.55
LABORERS (SITE PREPARATION AND GRADING):		
Group 1	6.05	2.30
Group 2	6.20	2.30
Group 3	6.30	2.30
Group 4	6.45	2.30

	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION:		
Linemen	$15.97	3-1/2% +.65
Cable Splicers	16.77	3-1/2% +.65
Groundman	9.67	3-1/2% +.65
Powderman	13.19	3-1/2% +.65
Line Truck & Equipment Operator	13.19	3-1/2% +.65
PAINTERS:		
Brush &	12.14	.70
Spray	12.84	.70
PLASTERERS	11.00	
PIPEFITTERS,PLUMBERS	15.30	2.48
POWER EQUIPMENT OPERATORS (BUILDING CONSTRUCTION):		
Cranes with lifting ring	14.55	3.57
Cranes with shovels-100 ft. of boom or over including jib or 30 tons or over or 2 yard capacity,three (3) drum hoist	13.80	3.57
Cranes & shovels - boom 200 ft. & over four (4) drum hoist, frankie-type pile driving machines, & tower cranes & derricks	14.05	3.57
GROUP 1	13.55	3.57
GROUP 2	13.15	3.57
GROUP 3:		
Class A	11.50	3.57
Class B	11.75	3.57
GROUP 4:		
Class A	10.95	3.57
Class B	11.20	3.57

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS (Site Preparation & Grading)		
GROUP 1	$12.87	2.70
GROUP 2	12.62	2.70
GROUP 3	12.37	2.70
GROUP 4	12.02	2.70
GROUP 4A	12.12	2.70
ROOFERS	11.35	1.27
KETTLEMEN	11.50	1.27
SHEET METAL WORKERS	14.51	30+ 2.66
SPRINKLER FITTERS	16.47	3.23
TILE, MARBLE & TERRAZZO SETTERS	12.75	
TRUCK DRIVERS (BUILDING CONSTRUCTION):		
Group 1 - Pickups, station wagons, flat beds 12,000 & under GVW license capacity	8.90	.85
Group 2 - Flat beds - 16,000 GVW license capacity	8.975	.85
Group 3 - Flat beds - 20,000 over GVW license capacity, dump, batch & water truck, single axle	9.05	.85
Group 4 - Lowboys, semitrailers dumpators, A-frame tandems winch truck when used as such & transit mix	9.15	.85
TRUCK DRIVERS (SITE PREPARATION & GRADING):		
Group 1	9.40	1.20
Group 2	9.50	1.20
Group 3	9.65	1.20

Basic Hourly Rates	Fringe Benefits

CLASSIFICATION DEFINITIONS - LABORERS (SITE PREPARATION & GRADING)

Group 1 - Board mat weavers & cable tiers, georgia buggy (manually operated) mixerman-no skip, lift, salamander tenders, track men, tractor swamper, truck dumper, wire mesh setter, water pump up to 4 inches, & all other general laborers.

Group 2 - Air tool operators, cement handlers (bulk), chain saw, georgia buggy (mechanically operated), grade man, hot mastic kettlemen, crusher feeder, joint man, jute man, mason tenders, material batch hopper & scale man, mixer man, pier hole man working 10 ft. deep, pipelayer-drainage (concrete and/or corrugated metal), signal man (crane), truck dumper-dry batch, vibrator operator, wagon and churn drill operator.

Group 3 - Asphalt raker, barco tamper, concrete saw, creosote material--handling & applying, nozzle burner (cutting torch and burning bar).

Group 4 - Conduit pipe, tile & duct line setter, form setter & liner on concrete paving, powderman, sand-blasting & gunnite nozzleman, sanitary sewer layer, steel plate structure erectors, water and gas distribution lines.

POWER EQUIPMENT OPERATORS (BUILDING CONSTRUCTION)

Group 1 - Boiler (2), boom cat, boring machine, ditching machine, concrete ready mix plant, crane, truck crane, clamshell dragline, dozer, scraper, all types, patrol, firemen (when operating steam or air valve), gradall, hi-loaders (over 1 yard), hoist two drum, mechanic or welder, mixermobile, paver, or any other machine with power swing, piledriver operator, power shovel, pump, concerte or other material, locomotive.

Group 2 -A-frame truck, bob cat/hi-loaders (1 yard or under), barber-greene loader or similar type, boiler (1), ditching machine - small, elevator operator, fireman, forklift, hoist, one active drum, hydra hammer jeep ditcher, mixer, other than paver, power broom, pump 4" or larger, small machine engineer, welding machine (1), greaser equipment.

Group 3:
CLASS A - Farm tractor (without attachments).
CLASS B - Farm tractor (with attachments).

Group 4:
CLASS A - Oiler
CLASS B - Motor crane oiler.

SUPERSEDEAS DECISION

CLASSIFICATION DEFINITIONS - POWER EQUIPMENT OPERATORS (SITE PREPARATION & GRADING)

Group 1 - Asphalt paver and spreader; backhoe, boring machine; blades, all types; clamshell; concrete mixer paver operator; concrete central plant operator (automatic); crane, truck crane, pitman crane, hydro crane, or any machine with power swing; derrick or derrick trucks; dragline operator; dredge operator; dozer; ditching machine; euclid loader; hoist - 2 active drums; loader; all types; mechanic or welder; mixer-mobile; multi-unit scrapper; pile driver operator; power shovel operator scoop operator, all types; side boom-cherry picker; skimmer scoop operator; pushcat operator; quad track.

Group 2 - Asphalt plant operator; elevating grader operator.

Group 3 - A-frame truck, asphalt roller operator; asphalt plant boiler fireman; backfiller operator; barber-greene loader; boiler other than asphalt bull float operator; churn drill operator; compressor operator (1); concrete central plant operator; concrete mixer operator skip; concrete pump operator; crusher operator, distributor operator; finish machine operator - concrete; fireman other than asphalt; flex plane operator, fork lift; form grader operator; greaser; hoist-1 drum; jeep ditching machine; pavement breakers, self-propelled (of the hydra hammer or similar type); pump operator, 4" or over, two; pump operator, other than dredege; screening and gas plant operator; small machine operator; spreader box operator, self-propelled; tractor operator over 50 h.p.; self-propelled roller operator, other than asphalt; siphons and jets; subgrading machine operator; tank car heater operator, combination booster and boiler; towboat operator; vibrator machine operator, not hand.

Group 4 - Concrete gang saw, self-propelled (con-cut); conveyor operator; harrow, disc, seeder; oiler; tractor operator, 50 h.p. or less without attachments.

Group 4A - Oiler, motor crane

TRUCK DRIVER (SITE PREPARATION & GRADING)

Group 1 - Pickups; panel trucks; station wagons; flat beds; dump and batch trucks (single axle)

Group 2 - Tandem trucks, warehousemen or partsmen; mechanic helpers and servicemen.

Group 3 - Lowboys; semi-trailers, all transit mixer trucks (single or tandem axle); A-frame and winch trucks when used as such; euclid, end and bottom dump; tournarockers; athey; dumptors and similar off-road equipment and mechanics on such equipment.

SUPERSEDEAS DECISION

STATE: Kansas COUNTY: Leavenworth
DECISION NO.: KS83-4065 DATE: Date of Publication
Supersedes Decision No. KS83-4009 dated February 4, 1983, in 48 FR 5438.
DESCRIPTION OF WORK: Building Construction Projects (does not include single family homes and apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$17.29	4.26
BOILERMAKERS	17.345	3.00
BRICKLAYERS,STONEMASONS	15.94	2.45
CARPENTERS:		
Carpenters	16.05	2.67
Piledrivermen & Millwrights	16.05	2.67
CEMENT MASONS	15.075	1.95
ELECTRICIANS:		
Zone 1:		
Delaware, Kickapoo, High Prairie & Leavenworth Townships	16.18	10%+ 2.51
Zone 2:		
Remainder of County	15.55	3%+ 2.13
ELEVATOR CONSTRUCTORS	16.53	a+ 2.465
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	a+ 2.465
GLAZIERS	14.72	17.14% +2.44
IRONWORKERS	16.25	4.25
LATHERS	16.05	2.67
LINE CONSTRUCTION:		
Zone 1:		
Southwest 2/3 of Leavenworth County:		
Linemen	15.97	3-1/2% +.65
Cable Splicers	16.77	3-1/2% +.65
Groundmen	9.67	3-1/2% +.65
Powdermen	13.19	3-1/2% +.65
Line Truck & Equipment Operators	13.19	3-1/2% +.65
LINE CONSTRUCTION (Cont'd):		
Zone 2:		
Remainder of Leavenworth County:		
Linemen	$18.28	3-1/2% +1.06
Linemen Operators	17.02	3-1/2% +1.06
Groundman Powderman	12.68	3-1/2% +1.06
Groundmen	12.05	3-1/2% +1.06
MARBLE & TILE SETTERS	16.35	10%
PAINTERS:		
Brush,Roller,Tapers	16.49	1.55
Spray	17.49	1.55
PLASTERERS	17.25	
PIPEFITTERS	17.56	3.32
PLUMBERS	17.96	2.70
ROOFERS	15.68	2.71
SHEET METAL WORKERS	16.65	2.67
SOFT FLOOR LAYERS	11.26	10%+ 2.60
SPRINKLER FITTERS	16.47	3.23
TERRAZZO WORKERS	15.31	10%

WELDERS: Receive rate prescribed for craft performing operation to which the welding is incidental.

FOOTNOTE:
a-Employer contributes 8% of basic hourly rate for over 5 years' service and 6% basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit. Also 7 paid holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, the day after Thanksgiving Day, & Christmas Day.

	Basic Hourly Rates	Fringe Benefits
LABORERS (Building Construction):		
General Laborers	$ 9.50	2.05
Power Tool Operators; Compactors; Concrete Breakers; Chipping Tools; Drilling Tools; Concrete Saws; Mechanically Operated Georgia Buggy	9.70	2.05
Mason Tenders; Plaster Tenders; Mortar Mixers for Plasterers, Masons & Cement Finishers; All Stocking Scaffold; Clean up for Masons (Building & Wrecking)	9.80	2.05
Sand and Concrete Gun Nozzlemen Powdermen	9.90	2.05
LABORERS (Site Preparation and Grading):		
Group 1	8.85	2.25
Group 2	9.00	2.25
Group 3	9.10	2.25
Group 4	9.25	2.25
POWER EQUIPMENT OPERATORS (Building Construction):		
Group 1	15.46	3.90
Group 2	15.11	3.90
Group 3		
a	12.71	3.90
b	13.21	3.90
c	13.21	3.90
d	13.46	3.90
Group 4	15.71	3.90
Group 5	15.36	3.90
Group 6	15.96	3.90
Group 7		
a	15.21	3.90
b	14.96	3.90
c	12.96	3.90
Group 8	16.46	3.90
Group 9	15.96	3.90
Site Preparation & Grading:		
Group 1	14.00	3.57
Group 2	13.75	3.57
Group 3	13.05	3.57
Group 4		
a	9.03	3.57
b	12.05	3.57

	Basic Hourly Rates	Fringe Benefits
TRUCK DRIVERS:		
BUILDING CONSTRUCTION		
Group 1	$14.085	2.75
Group 2	14.135	2.75
Group 3	14.21	2.75
Group 4	14.335	2.75
Group 5	14.235	2.75
Group 6	14.435	2.75
Group 7	14.285	2.75
Group 8	14.185	2.75
Site Preparation & Grading:		
Group 1	12.76	3.75
Group 2	12.96	3.75
Group 3	13.27	3.75
Group 4	13.42	3.75
Group 5	12.54	3.75

DECISION NO. KS83-4065

LABORERS (Site Preparation & Grading) - Classifications:

Group 1: Board Mat Weavers and Cable Tiers; Georgia Buggy, Manually Operated; Mixermen - No Skip Lift; Salamander Tenders; Track Men; Tractor Swampers; Truck Dumpers; Wire Mesh Setters; Water Pump up to 4 inches; and all other General Laborers.

Group 2: Air Tool Operators; Cement Handlers (Bulk); Chain Saw; Georgia Buggy (Mechanically Operated); Grade Men; Hot Mastic Kettlemen; Crusher Feeders; Joint Men; Jute Men; Mason Tenders; Material Batch Hopper and Scale Men; Mixer Men; Pier Hole Men Working 10 ft. deep; Pipelayer - Drainage (Concrete and/or Corrugated Metal); Signal Men (Crane); Truck Dumper--Dry Batch; Vibrator Operator; Wagon & Churn Drill Operator.

Group 3: Asphalt Raker; Barco Tamper; Concrete Saw, Creosote Material--Handling and Applying; Nozzle Burner (Cutting Torch and Burning Bar).

Group 4: Conduit Pipe; Tile and Duct Line Setter; Form Setter and Liner on Concrete Paving; Powderman; Sandblasting and Gunnite Nozzleman; Sanitary Sewer Pipe Layer; Steel Plate Structure Erectors; Water and Gas Distribution Lines.

POWER EQUIPMENT OPERATORS - BUILDING CONSTRUCTION

Group 1: Asphalt paver and spreader; asphalt plant mixer operator; asphalt plant operator; back fillers; backhoe; barber-greene loader; blade-power; boats-power; boilers (2); boring machines; cableways; cherry pickers; chip spreader; concrete ready-mixed plant, portable (job site); concrete mixer paver; crane-overhead; crusher, rock; derricks and derrick cars (power operated); ditching machines; dozers; dredges - any type power; grade-all - similar type; hoist, endless chain-power operated with power travel; loaders; mechanic and welder; mucking machine; orange peels; pumps - material; push cats; scoops; self-propelled rotary drill; shovel, power; side boom; skimmer scoop; testhole machine; throttle man

Group 2: Boilers (1); Brooms - power operated; chip spreader (front man); clef plane operator; compressors (1) 125' or over; concrete saws, self-propelled; crab - power operated; curb finishing machine; firemen on rigs; flex plane; floating machine, form grader; greaser; hoist, endless chain - power operated; hopper - power operated; hydra hammer; lad-a-vator - similar type; rollers; siphons, jets, and jennies, sub-grader; tractors over 50 h.p.; compressors (2) 125" ft. or over not more than 20' apart; compressors-tandem; compressors sigle, truck mounted; elevator; finishing machine

40080 Federal Register / Vol. 48, No. 172 / Friday, September 2, 1983 / Notices

POWER EQUIPMENT OPERATORS - BUILDING CONSTRUCTION (Cont'd)

Group 3
(a) Oilers
(b) Fork lift masonry
(c) Oiler driver
(d) A-frame trucks; fork lift-all types (except masonry); mixers (w/side loaders); pumps (w/well points) dewatering systems, test or pressure pumps; tractors (except when hauling material) less than 50 h.p.

Group 4
Clamshells, 80 ft. of boom or over (incl. jib); crane or rigs, 80 ft. of boom or over (incl. jib); draglines, 80 ft. of boom or over (incl. jib); pile drivers, 80 ft., of boom or over (incl. jib)

Group 5
Hoists-each additional drum over 1 drum

Group 6
Crane or rigs, over 200 ft. of boom

Group 7
Ready Mixed Concrete Plants;
(a) Crane operator
(b) Loader operator & plant man
(c) Conveyor Operator

Group 8
Master Mechanic

Group 9
Crane-tower or climbing

POWER EQUIPMENT OPERATORS - SITE PREPARATION & GRADING

Group 1 - Asphalt paver and spreader; asphalt plant console operator; auto grader; backhoe; blade operator, all types; boilers - 2; booster pump on dredge; boring machine (truck or crane mounted); bulldozer operator; clamshell operator; compressor maintenance operator - 2; concrete plant operator, central mix; concrete mixer paver; crane operator; derrick or derrick trucks; ditching machine; dragline operator; dredge engineman; dredge operator; drillcat with compressor mounted on cat; drilling or boring machine, rotary, self-propelled; high loader - fork lift; hoistline engine - 2 active drums; locomotive operator, standard gauge; mechanics and welders; maintenance operator; mucking machine; pile driver operator; pitman crane operator; pump - 2; push cat op.; quad-track; scoop operator - all types; scoops in tandem; self-propelled rotary drill (leroy or equal - not air trac); shovel operator; side discharge spreader; sideboom cats; skimmer scoop operator; slip - form paver (CMI, REX, or equal); throttle man; truck crane; welding machine maintenance operator - 2

Group 2 - A-frame truck, asphalt hot mix silo; asphalt plant fireman, drum or boiler; asphalt plant mixer operator; asphalt plant man; asphalt roller operator; back filler operator;

POWER EQUIPMENT OPERATORS - SITE PREPARATION & GRADING (Cont'd)

Group 2 (Cont'd)

chip spreader; concrete batch plant, dry-power operated; concrete mixer operator, skip loader; concrete pump operator; chusher operator; elevating grader; greaser; hoisting engine - 1 drum; latourneau rooter; multiple compactor; pavement breaker, self-propelled, of the hydrahammer or similar type; power shield; pug mill operator; stump cutting machine; towboat operator tractor operator over 50 h.p.

Group 3 - Boilers - 1; chip spreader (front man); churn drill operator; compressor maintenance operator - 1; concrete saws, self-propelled; conveyor operator; disbributor operator; finishing machine operator; fireman, rig; float operator; form grader operator; pump; pump maintenance operator, other than dredge; roller operator, other than high type asphalt; screening and washing plant operator; self-propelled street broom or sweeper; siphons and jets; sub-grading machine operator; tank car heater operator - combination boiler and booster; tractor, 50 h.p. or less, without attachments; vibrating machine operator, not hand; welding machine maintenance operator - 1

Group 4 -
(a) Oilers
(b) Oiler driver, all types

TRUCK DRIVERS - BUILDING CONSTRUCTION

Group 1 - Warehousemen and stock man

Group 2 - Flat beds; pick-ups; drum trucks, under 10 yds.

Group 3 - Dump trucks, 10 yds. and over; steel trucks; semi truck drivers

Group 4 -Straddle trucks, steel tractors (when used for towing); hydro lift trucks, hydraulically operated serial lifts; heavy hauling, a-frame winch and fork lifts; heavy excavating (dumpter, euclid, etc.); double bottom units (20 tons capacity and over)

Group 5 - Distributor truck drivers and operators; oilers, greasers and mechanics' helpers

Group 6 - Mechanics

Group 7 - Transit mix, 5 yds. and over

Group 8 - Transit mix, under 5 yds.

TRUCK DRIVERS - Site Preparation & Grading

Group 1 - One Team; Station Wagons; Pickup Trucks; Material trucks, single axle, Tank Wagon Drivers, single axle

Group 2 - Material trucks, tandem; Two teams; Semi-trailer; Winch Truck, Fork Trucks; Distributor Drivers and Operators; Agitator and Transit Mix; Tank Wagon Drivers; single axle; Tank Wagon Drivers, Tandem or Semi-Trailers; Insley Wagon; Dump Trucks; excavating, 5 cu. yds. and over, Dumpster, Half-trucks, Speedace, Euclids and other similar excavating equipment

DECISION NO ME83-4065 Page 6

TRUCK DRIVERS - Site Preparation & Grading (Cont'd)
Group 3 - A-Frame, Low Boy, and Boom Truck Drivers
Group 4 - Mechanics and Welders
Group 5 - Oilers and Greasers

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses, (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Maine COUNTIES: Statewide
DECISION NUMBER: ME83-3041 DATE: Date of Publication
Supersedes Decision No. ME81-3057 dated August 28, 1981, in 46 FR 43620
DESCRIPTION OF WORK: Highway Construction Projects excluding major bridges (for example, bascule, suspension and spandrel arch bridges; those bridging waters presently navigable or to be made navigable; and those involving marine construction in any degree); tunnels, building structures in rest area projects and railroad construction

ANDROSCOGGIN COUNTY	Basic Hourly Rates	Fringe Benefits
CARPENTERS	$6.11	
CEMENT MASONS	6.44	
ELECTRICIANS	7.58	
IRONWORKERS:		
Reinforcing	5.43	
Structural	7.71	
LABORERS:		
Laborers	4.75	
Asphalt Raker/Wheelman	6.39	
Chain Saw Operator	6.00	
Drillers, Wagon Drill	6.50	
Landscape Worker	6.00	
Pipelayers	5.59	
POWER EQUIPMENT OPERATORS:		
Asphalt Paver	6.30	
Backhoe	7.90	
Bulldozer	7.45	
Crane/Dragline	7.81	
Crusher Screening Plant Operator	7.05	
Front End Loader	7.40	
Gradall	7.90	
Grader	8.38	
Hydro Seeder	6.25	
Mechanic	6.16	
roller, embankment	5.84	
Roller, pavement	6.00	
Special Earth Moving Equipment	7.15	
TRUCK DRIVERS:		
2 axle	4.50	
3 axle	5.67	

AROOSTOOK COUNTY	Basic Hourly Rates	Fringe Benefits
CARPENTERS	$6.06	
CEMENT MASONS	6.84	
CEMENT FINISHERS	6.50	
ELECTRICIANS	8.35	
IRONWORKERS:		
Reinforcing	5.80	
Structural; Ornamental	5.93	
LABORERS:		
Laborers	4.74	
Asphalt Raker/Wheelman	6.26	
Driller, Wagon Drill	6.38	
POWER EQUIPMENT OPERATORS:		
Asphalt Paver	7.07	
Backhoe	7.00	
Bulldozer	7.00	
Crane/Dragline	7.83	
Crusher Screening Plant Operator	6.74	
Front End Loader	6.36	
Gradall	7.96	
Grader	8.49	
Hydro Seeder	6.25	
Mechanic	7.75	
Mulcher	5.25	
Post Driving Machine Operator	5.33	
Roller, embankment	5.97	
Roller, pavement	6.81	
Scraper	6.76	
Special Earth Moving Equipment	6.11	
TRUCK DRIVERS:		
2 axle	5.20	
3 axle	5.37	
Trailer Driver	5.50	

	Basic Hourly Rates	Fringe Benefits
TRUCK DRIVERS - Site Preparation & Grading (Cont'd)		
Group 1 - A-Frame, Low Boy, and Boom Truck Drivers		
Group 4 - Mechanics and Welders		
Group 5 - Oilers and Greasers		

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses, (29 CFR, 5.5(a)(1)(ii)).

	Basic Hourly Rates	Fringe Benefits
KENNEBEC COUNTY		
CARPENTERS	$6.06	
CEMENT MASONS	6.84	
CEMENT FINISHERS	6.50	
ELECTRICIANS	8.35	
IRONWORKERS:		
Reinforcing	5.80	
Structural; Ornamental	5.93	
LABORERS:		
Laborers	4.74	
Asphalt Raker/Wheelman	6.26	
Driller, Wagon Drill	6.38	
POWER EQUIPMENT OPERATORS:		
Asphalt Paver	7.07	
Backhoe	7.00	
Bulldozer	7.00	
Crane/Dragline	7.83	
Crusher Screening Plant Operator	6.74	
Front End Loader	6.36	
Gradall	7.96	
Grader	8.49	
Hydro Seeder	6.25	
Mechanic	7.75	
Mulcher	5.25	
Post Driving Machine Operator	5.33	
Roller, embankment	5.97	
Roller, pavement	6.81	
Scraper	6.76	
Special Earth Moving Equipment	6.11	
TRUCK DRIVERS:		
2 axle	5.20	
3 axle	5.37	
Trailer Driver	5.50	

DECISION NO. ME83-3041

	Basic Hourly Rates	Fringe Benefits
CUMBERLAND COUNTY		
CARPENTERS	$6.00	
CEMENT MASONS	6.66	
ELECTRICIANS	7.58	
IRONWORKERS:		
Reinforcing	6.03	
Structural; Ornamental	7.02	
LABORERS:		
Laborers	5.00	
Asphalt Raker/Wheelman	6.79	
POWER EQUIPMENT OPERATORS:		
Asphalt Paver	6.73	
Backhoe	7.05	
Bulldozer	7.80	
Crane/Dragline	7.39	
Front End Loader	7.37	
Gradall	7.96	
Grader	8.45	
Roller, embankment	5.55	
Roller, pavement	6.28	
TRUCK DRIVERS:		
2 axle	5.47	
3 axle	5.78	
FRANKLIN COUNTY		
CARPENTERS	5.71	
CEMENT MASONS	6.38	
ELECTRICIANS	7.58	
IRONWORKERS:		
Reinforcing	5.43	
Structural; Ornamental	7.71	
PAINTERS	5.75	
LABORERS:		
Laborers	4.82	
Asphalt Raker/Wheelman	6.24	
Chain Saw Operator	5.57	
Drillers, Wagon Drill	6.06	
Landscape Workers	6.00	
Pipelayers	5.59	
POWER EQUIPMENT OPERATORS:		
Asphalt Paver	6.39	
Asphalt Plant Operator	7.00	
Backhoe	7.68	
Bulldozer	7.72	

	Basic Hourly Rates	Fringe Benefits
FRANKLIN COUNTY (Cont'd)		
POWER EQUIPMENT OPERATORS (Cont'd):		
Crane/Dragline	$7.51	
Crusher Screening Plant Operator	7.79	
Front End Loader	6.99	
Gradall	7.96	
Grader	8.43	
Hydro Seeder	6.25	
Mechanic	7.49	
Mulcher	5.38	
Post Hole Auger Operator	5.00	
Roller, embankment	5.98	
Roller, pavement	6.51	
Special Earth Moving Equipment	7.18	
TRUCK DRIVERS:		
2 axle	4.50	
3 axle	5.25	
HANCOCK COUNTY		
CARPENTERS	6.58	
CEMENT MASONS	5.94	
LABORERS:		
Laborers	4.67	
Asphalt Raker/Wheelman	5.91	
Chain Saw Operator	5.54	
Drillers, Wagon Drill	5.86	
POWER EQUIPMENT OPERATORS:		
Asphalt Paver	7.29	
Backhoe	7.80	
Bulldozer	7.81	
Crane/Dragline	7.27	
Crusher Screening Plant Operator	6.54	
Front End Loader	7.61	
Gradall	7.54	
Grader	8.85	
Mechanic	7.48	
Post Driving Machine Operator	5.75	
Roller, embankment	5.54	
Roller, pavement	6.81	
Special Earth Moving Equipment	6.25	

DECISION NO. ME83-3041

	Basic Hourly Rates	Fringe Benefits
HANCOCK COUNTY (Cont'd)		
TRUCK DRIVERS:		
2 axle	$5.20	
3 axle	5.69	
KENNEBEC COUNTY		
CARPENTERS	5.95	
CEMENT MASONS	6.35	
ELECTRICIANS	7.58	
IRONWORKERS:		
Reinforcing	5.75	
Structural; Ornamental	6.48	
PAINTERS	5.75	
LABORERS:		
Laborers	4.90	
Asphalt Raker/Wheelman	5.71	
POWER EQUIPMENT OPERATORS:		
Asphalt Pavers	6.00	
Asphalt Plant	7.00	
Crane/Dragline	8.00	
Crusher Screening Plant	6.54	
Front End Loader	6.02	
Gradall	8.(0	
Grader	8.11	
Hydro Seeder	6.25	
Mechanic	7.25	
Mulcher	5.38	
Roller, embankment	5.46	
Roller, pavement	6.00	
Special Earth Moving Equipment	7.18	
TRUCK DRIVERS:		
2 axle	8.(8	
3 axle	5.16	
KNOX COUNTY		
CARPENTERS	6.65	
ELECTRICIANS	7.63	

	Basic Hourly Rates	Fringe Benefits
KNOX COUNTY (Cont'd)		
LABORERS:		
Laborers	$4.53	
Asphalt Raker/Wheelman	5.57	
Chain Saw Operator	4.83	
Driller, Wagon Drill	5.50	
POWER EQUIPMENT OPERATORS:		
Asphalt Paver	6.06	
Backhoe	7.42	
Bulldozer	6.48	
Crane/Dragline	7.56	
Front End Loader	5.25	
Roller, pavement	6.00	
TRUCK DRIVERS:		
2 axle	4.67	
3 axle	5.00	
Trailer Driver	5.50	
LINCOLN COUNTY		
CARPENTERS	6.65	
ELECTRICIANS	7.63	
LABORERS:		
Laborers	4.53	
Asphalt Raker/Wheelman	5.57	
Chain Saw Operator	4.83	
Driller, Wagon Drill	5.50	
POWER EQUIPMENT OPERATORS:		
Asphalt Paver	6.06	
Backhoe	7.42	
Bulldozer	6.48	
Crane/Dragline	7.56	
Front End Loader	5.25	
Roller, pavement	6.00	
TRUCK DRIVERS:		
2 axle	4.68	
3 axle	5.00	
Trailer Driver	5.50	

DECISION NO. ME83-3041

Page 4

	Basic Hourly Rates	Fringe Benefits
OXFORD COUNTY		
CARPENTERS	$6.00	
ELECTRICIANS	7.79	
LABORERS:		
Laborers	4.67	
Chain Saw Operator	5.50	
Drillers, Wagon Drill	5.92	
POWER EQUIPMENT OPERATORS:		
Asphalt Paver	7.50	
Backhoe	7.68	
Bulldozer	6.91	
Crane/Dragline	7.83	
Front End Loader	7.38	
Gradall	7.58	
Grader	7.85	
Hydro Seeder	5.50	
Mechanic	7.20	
Roller, embankment	6.13	
Roller, pavement	7.10	
TRUCK DRIVERS:		
2 axle	5.21	
3 axle	6.80	
PENOBSCOT COUNTY		
CARPENTERS	6.58	
CEMENT MASONS	5.94	
LABORERS:		
Laborers	4.10	
Asphalt Raker/Wheelman	5.50	
Chain Saw Operator	5.93	
Drillers, Wagon Drill	5.86	
POWER EQUIPMENT OPERATORS:		
Asphalt Paver	7.07	
Backhoe	7.68	
Bulldozer	6.97	
Crane/Dragline	7.45	
Crusher Screening Plant Operator	6.54	
Front End Loader	6.40	
Gradall	6.74	
Grader	8.45	
Hydro Seeder	5.23	
Mechanic	6.84	
Mulcher	9.00	
Roller, embankment	6.30	
Roller, pavement	7.39	

	Basic Hourly Rates	Fringe Benefits
PENOBSCOT COUNTY (Cont'd)		
TRUCK DRIVERS:		
2 axle	$5.06	
3 axle	5.38	
PISCATAQUIS COUNTY		
CARPENTERS	6.22	
CEMENT MASONS	5.94	
CEMENT FINISHERS	6.50	
ELECTRICIANS	8.35	
IRONWORKERS:		
Structural; Ornamental	5.64	
Reinforcing	5.00	
PAINTERS	5.75	
LABORERS:		
Laborers	4.57	
Power Tool Operator	5.06	
Chain Saw Operator	5.50	
POWER EQUIPMENT OPERATORS:		
Asphalt Paver	7.07	
Asphalt Plant	7.00	
Backhoe	7.25	
Bulldozer	7.17	
Crane/Dragline	7.99	
Crusher Screening Plant	7.78	
Front End Loader	6.62	
Gradall	7.68	
Grader	8.55	
Hydro Seeder	6.57	
Mechanic	7.72	
Mulcher	6.05	
Post Driving Machine	5.25	
Roller, embankment	5.97	
Roller, pavement	6.81	
Scraper	6.76	
Special Earth Moving Equipment	7.00	
TRUCK DRIVERS:		
2 axle	5.31	
3 axle	5.37	
SAGADAHOC COUNTY		
CARPENTERS	6.06	
CEMENT MASONS	6.60	
ELECTRICIANS	7.58	

DECISION NO. ME83-3041

Page 5

	Basic Hourly Rates	Fringe Benefits
SAGADAHOC COUNTY (Cont'd)		
IRONWORKERS:		
Reinforcing	$5.95	
Structural; Ornamental	7.86	
LABORERS:		
Laborers	4.86	
Asphalt Raker/Wheelman	6.32	
Chain Saw Operator	5.41	
Driller, Wagon Drill	6.03	
Landscape Worker	5.43	
Pipelayers	5.59	
POWER EQUIPMENT OPERATORS:		
Asphalt Paver	6.47	
Asphalt Plant	7.00	
Backhoe	7.55	
Bulldozer	7.67	
Crane/Dragline	7.66	
Crusher Screening Plant Operator	6.54	
Front End Loader	6.94	
Gradall	7.96	
Grader	8.26	
Hydro Seeder	5.38	
Mechanic	7.50	
Mulcher	5.25	
Post Driving Machine Operator	5.19	
Roller, embankment	5.99	
Roller, pavement	6.43	
Special Earth Moving Equipment	7.15	
TRUCK DRIVERS:		
2 axle	4.88	
3 axle	5.35	
Trailer Driver	5.50	
SOMERSET COUNTY		
CARPENTERS	6.17	
CEMENT MASONS	6.35	
CEMENT FINISHERS	6.86	
ELECTRICIANS	7.58	
IRONWORKERS:		
Reinforcing	5.18	
Structural; Ornamental	6.24	
PAINTERS	5.75	

	Basic Hourly Rates	Fringe Benefits
SOMERSET COUNTY (Cont'd)		
LABORERS:		
Laborers	$4.76	
Power Tool Operator	5.08	
Asphalt Raker/Wheelman	5.83	
Chain Saw Operator	5.43	
Driller, Wagon Drill	5.91	
Landscape Worker	6.50	
POWER EQUIPMENT OPERATORS:		
Asphalt Paver	7.32	
Asphalt Plant Operator	7.00	
Backhoe	7.40	
Bulldozer	7.30	
Crane/Dragline	7.83	
Crusher Screening Plant Operator	7.59	
Front End Loader	6.58	
Gradall	7.68	
Grader	8.39	
Hydro Seeder	6.89	
Mechanic	7.57	
Mulcher	5.96	
Roller, embankment	5.70	
Roller, pavement	6.00	
Scraper	6.76	
Special Earth Moving Equipment	6.15	
TRUCK DRIVERS:		
2 axle	5.20	
3 axle	5.37	
Trailer Driver	5.50	
WALDO COUNTY		
CARPENTERS	5.90	
CEMENT MASONS	6.25	
ELECTRICIANS	7.67	
IRONWORKERS:		
Reinforcing	5.46	
Structural; Ornamental	6.58	
PAINTERS	5.75	
LABORERS:		
Laborers	4.74	
Power Tool Operator	4.84	
Asphalt Raker/Wheelman	5.70	
Chain Saw Operator	5.54	
Drillers, Wagon Drill	6.07	
Landscape Worker	5.70	

DECISION NO. ME83-3041

Page 6

	Basic Hourly Rates	Fringe Benefits
WALDO COUNTY (Cont'd)		
POWER EQUIPMENT OPERATORS:		
Asphalt Paver	$7.32	
Asphalt Plant Operator	7.00	
Backhoe	7.40	
Bulldozer	7.30	
Crane/Dragline	7.83	
Crusher Screening Plant Operator	7.59	
Front End Loader	6.58	
Gradall	7.68	
Grader	8.39	
Hydro Seeder	6.89	
Mechanic	7.57	
Mulcher	5.96	
Roller, embankment	5.70	
Roller, pavement	6.00	
Scraper	6.76	
Special Earth Moving Equipment	6.15	
TRUCK DRIVERS:		
2 axle	5.20	
3 axle	5.37	
Trailer Driver	5.50	
WASHINGTON COUNTY		
CARPENTERS	6.17	
CEMENT MASONS	6.35	
CEMENT FINISHERS	6.86	
ELECTRICIANS	7.58	
IRONWORKERS:		
Reinforcing	5.18	
Structural; Ornamental	6.24	
PAINTERS	5.75	
LABORERS:		
Laborers	4.86	
Asphalt Raker/Wheelman	6.32	
Chain Saw Operator	5.41	
Driller, Wagon Drill	6.03	
Landscape Worker	5.43	
Pipelayers	5.59	
POWER EQUIPMENT OPERATORS:		
Asphalt Paver	6.47	
Asphalt Plant	7.00	
Backhoe	7.55	
Bulldozer	7.67	
Crane/Dragline	7.66	
Crusher Screening Plant Operator	6.54	
Front End Loader	6.94	
Gradall	7.96	
Grader	8.26	
Hydro Seeder	5.38	
Mechanic	7.50	
Mulcher	5.25	
Post Driving Machine Operator	5.19	
Roller, embankment	5.99	
Roller, pavement	6.43	
Special Earth Moving Equipment	7.15	
TRUCK DRIVERS:		
2 axle	4.88	
3 axle	5.35	
Trailer Driver	5.50	

SUPERSEDEAS DECISION

STATE: Nebraska

COUNTIES: Cass, Douglas, Sarpy, Washington

DECISION NO. NE83-3041

	Basic Hourly Rates	Fringe Benefits
NALDO COUNTY (Cont'd)		
POWER EQUIPMENT OPERATORS:		
Asphalt Paver	$6.63	
Asphalt Plant	7.00	
Backhoe	7.01	
Bulldozer	7.60	
Crane/Dragline	7.41	
Crusher Screening Plant	7.75	
Front End Loader	6.89	
Gradall	6.74	
Grader	8.67	
Hydro Seeder	5.22	
Mechanic	7.02	
Post Driving Machine	5.52	
Roller, embankment	5.39	
Roller, pavement	6.49	
TRUCK DRIVERS:		
2 axle	4.79	
3 axle	5.27	
Trailer Driver	5.50	
WASHINGTON COUNTY		
LABORERS:		
Laborers	4.45	
Asphalt Raker/Wheelman	5.64	
Power Tool Operator	5.91	
Chain Saw Operator	4.85	
POWER EQUIPMENT OPERATORS:		
Asphalt Paver	7.07	
Backhoe	7.02	
Bulldozer	6.46	
Crane/Dragline	6.90	
Crusher Screening Plant	7.05	
Front End Loader	6.59	
Gradall	7.00	
Grader	8.45	
Mechanic	7.60	
Roller, embankment	5.97	
Roller, pavement	6.81	
Special Earth Moving Equipment	6.75	
TRUCK DRIVERS:		
2 Axle	5.20	
3 axle	5.24	

	Basic Hourly Rates	Fringe Benefits
YORK COUNTY		
CARPENTERS	$6.50	
CEMENT MASONS	6.50	
CEMENT FINISHERS	6.50	
ELECTRICIANS	7.58	
IRONWORKERS:		
Reinforcing	5.29	
Structural; Ornamental	7.73	
LABORERS:		
Laborers	5.27	
Asphalt Raker/Wheelman	6.67	
Chain Saw Operator	5.50	
POWER EQUIPMENT OPERATORS:		
Asphalt Paver	6.80	
Backhoe	8.44	
Bulldozer	9.00	
Crane/Dragline	8.15	
Crusher Screening Plant	7.05	
Front End Loader	7.37	
Gradall	7.96	
Grader	8.64	
Hydro Seeder	6.25	
Mechanic	8.48	
Mulcher	5.25	
Roller, embankment	5.16	
Roller, pavement	6.34	
TRUCK DRIVERS:		
2 axle	5.61	
3 axle	5.54	
WELDER: Rate for craft for which the welding is incidental		

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii))

SUPERSEDEAS DECISION

STATE: Nebraska

COUNTIES: Cass, Douglas, Sarpy, Washington, and that portion of Saunders Co. East of Highway #109

DECISION NO.: NE83-4062

DATE: Date of Publication

Supersedes Decision NO. NE83-4023, dated March 18, 1983 in 48 FR 11627.

DESCRIPTION OF WORK: Heavy in all (excluding Washington County) and Highway Construction (excluding bridges across navigable waterways).

	Basic Hourly Rates	Fringe Benefits
CARPENTERS:		
Carpenters	$14.33	2.10
Sawmen & Piledriver	14.455	2.10
Creosote	14.58	2.10
CEMENT MASONS:		
Douglas & Sarpy Cos. (only)	12.17	2.45
IRONWORKERS:		
Reinforcing & Structural	14.10	2.90
LABORERS:		
Class 1 -General Laborers	10.19	1.90
Class 2 -Towboats & Dredge Deckhands	10.31	1.90
Class 3 -Rakers & Screedman on Asphalt;Mortar Mixers;Chain Saw Operators	10.54	1.90
Class 4 -Pipelayers;Concrete Saw Operator	10.48	1.90
Class 5 -Form Setters & Precast Manhole Setter, Inlet Builders & Manhole Setters	10.92	1.90
LINE CONSTRUCTION:		
Linemen	15.37	3-1/2% +.65
Cable Splicers	16.51	3-1/2% +.65
Equipment Operator	13.83	3-1/2% +.65
Truck Driver	11.10	3-1/2% +.65
Groundman	10.03	3-1/2% +.65
TRUCK DRIVERS:		
Douglas & Sarpy Cos. (only):		
Single Axle,Jack & Spreader,Tandem Axle Euclid Trucks,Power Lift Form Trucks & Jack & Spreader Trucks, Lowboys, Tractor Trailer Water Pulls, Tandem Dump w/auxiliary End, Dump Trailer	10.37	1.75
Water Pulls	10.62	1.75
Lumber Carrier	10.82	1.75

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS:		
Group 1:		
Oilers, Greasers	$ 8.31	2.00
Group 2:		
Oiler, Driver	8.40	2.00
Group 3:		
Tractors under 35 h.p., Air Compressors,Pumps, Welding Machine,Spray Machine,Form Trenchers, Belt Machine	10.69	1.40
Group 4:		
Concrete Mixer,Forklift Operator,Hydro-hammer	11.13	1.40
Group 5:		
Spreader Oiler	12.17	1.40
Group 6:		
Concrete Spreader,Concrete Finishing Machine,Concrete Pump Operator,Bulldozer, Roller,Traxcavator, 1 Drum Hoist,Oiler Distributor,Asphalt Roller,1 Drum Winch Truck	12.42	1.40
Group 7:		
Blade (Patrol),Scraper	12.82	1.35
Group 8:		
Hoist,2 Drums;Trenching Machine; Paving Mixer;Piledriver;Heavy Duty Mechanic & Welder;Shovel;Dragline; Clamshell;Orange Peel;Backhoe; Derrick;Crane;Locomotive;Fireman on Boiler;Laydown Machine;Two Drum Winch Truck;Side Boom Cat;Pug Mill Operator on Asphalt Plant;Leverman on Dredge;Engineer on Dredge;Tugboat Operator;Gradall Operator;Rotary Well Drilling Operator;Hydrocrane; Cleveland Type Backfiller;Self-Propelled Spreader Vibrator;Slip Form Paver.	13.01	1.35

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: WISCONSIN COUNTIES: SEE BELOW
DECISION NO: WI83-2068 DATE: DATE of PUBLICATION
Supercedes Decision No. WI82-2023 dated April 9, 1982 in 47 FR 15510
DESCRIPTION OF WORK: Building Construction (Including Residential Construction)

*Milwaukee, Ozaukee, Waukesha, and Washington Counties, Wisconsin.

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$17.10	2.93
BOILERMAKERS	16.12	2.825
BRICKLAYERS	15.18	3.95
CARPENTERS	14.65	4.03
Millwrights	16.79	4.29
Piledrivermen	15.82	4.16
CEMENT MASONS	13.82	3.86
ELECTRICIANS	15.02	2.04+ 14%
ELEVATOR MECHANIC	17.09	2.69
Helpers	11.96	2.69
Prob. Helpers	8.545	
GLAZIERS	14.73	2.98
IRONWORKERS:		
Structural, Ornamental & Reinforcing	14.81	5.55
LATHERS		
LINE CONSTRUCTION:		
Lineman	15.47	.65+ 10-4%
Heavy Equipment Operator	13.92	.65+ 10-4%
Light Equipment Operator	12.38	.65+ 10-4%
Heavy Groundman, Truck Driver	10.83	.65+ 10-4%
Light Groundman, Truck Driver	10.06	.65+ 10-4%
Groundman	8.51	.65+ 10-4%
PAINTERS:		
Brush	13.10	3.76
Structural Steel	13.45	3.76
Spray	13.60	3.76
Plasterers	14.00	4.03
Plumbers	16.06	4.14
Steamfitters	16.40	3.35
Roofers	14.00	3.44
Sheet Metal Workers	15.18	4.66
Sprinkler Fitters	17.12	2.79
Terrazzo Mechanic	14.60	3.88
Tile Setters	13.55	3.30

	Basic Hourly Rates	Fringe Benefits
Truck Drivers:		
Building Material 2 axle	$11.92	98.50 per wk
Building Material 3 axle	11.97	98.50 per wk
POWER EQUIPMENT OPERATORS		
Group I	15.67	3.20
Group II	15.40	3.20
Group III	14.65	3.20
Group IV	14.52	3.20
Group V	13.61	3.20
Group VI	13.19	3.20
LABORERS:		
Group 1. General Laborers	12.17	3.49
Group 2. Air & Electric Equipment & Power Buggies, Mortar Mixers, Fork Lift Operator, Scaffold Builder etc.	12.28	3.49
Group 3. Barco Tamper, Jackhammer Operator Gunite Machinemen	12.39	3.49
Group 4. Caisson Worker Topman	12.48	3.49
Group 5. Nozzleman	12.68	3.49
Group 6. Scaffold Builder & Erector between 75' & 100	12.78	3.49
Group 7. Caisson Work	12.83	3.49
Group 8. Scaffold Builder & Erector on Swing Stages over 100'	13.03	3.49

GROUP I - Cranes, Shovels, Draglines, Backhoes, Clamshells, Derricks, Caisson Rigs, Pile Driver, Skid Rigs, Dredge Operator and Traveling Cranes (Bridge Type), Concrete Paver (over 27E), Concrete Spreader and Distributor
GROUP II - Material Hoists, Tractor or Truck Mounted Hydraulic Backhoe, Tractor or Truck Mounted Hydraulic Crane (5 tons or under). Manhoist, Tractor (over 40 H.P.), Bulldozer, Endloader (over 40 H.P.), Forklift (25' and over), Motor Patrol, Scraper Operator, Sideboom, Straddle Carrier, Mechanic and Welder, Bituminous Plant and Paver Operator, Roller (over 5 tons), Rotary Drill Operator and Blaster, Trencher (wheel type or chain type having over 8-inch bucket), Elevator
GROUP III - Concrete and Grout Pumps, Backfiller, Concrete Auto Breaker (large), Concrete finishing (Road Type), Roller (Rubber Tire), Concrete Batch Hopper, Concrete Conveyor Systems, Concrete Mixers (14S or over), Screw Type Pumps, and Gypsum Pumps, Tractor, Bulldozer, Endloader (under 40 H.P.), Pumps (well points), Trencher (chain type having bucket 8-inch and under), Industrial Locomotives, Roller (under 5 tons) and Firemen (pile drivers and derricks)
GROUP IV - Hoists (automatic), Forklift (12' to 25'); Tampers Compactors riding type), Assistant Engineer, "A" Frame and Winch Trucks, Concrete-Auto Breaker, Hydro-Hammer (small), Booms and Sweeper, Hoists (tuggers) Stump Chipper (large), Boats, Safety, Work, Barges and Launches)
GROUP V - Shouldering Machine Operator, Screed Operator, Farm or Industrial Tractor Mounted Equipment, Post Hole Diggers, Stone Crushers and Screening Plants, Firemen (Asphalt) Plants), Air Compressor (300 CFM or over)
GROUP VI - Generators over 150 KW, Pumps over 3", Augers (vertical and horizontal), Combination Small Equipment Operator; Air Electric Hydraulic Jacks (Slip Form), Compressor(under 300 CFM); Generators (under 150 KWO, Pumps (3" and under); Winches (small electric), Oiler and Greaser, Boiler Operators (Temporary Heat), Rotary Drill Helpers, Conveyors, Forklift (12' and under)

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federal register

Friday
September 2, 1983

Part III

Environmental Protection Agency

Underground Injection Control Program: Federally Administered Programs; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 124, 144 146 and 147

[OW-FRL 2391-1]

Underground Injection Control Program: Federally Administered Programs

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Safe Drinking Water Act (SDWA) requires the Environmental Protection Agency (EPA) to prescribe an Underground Injection Control (UIC) Program for a State if the State has not submitted an application or if the State program either has been disapproved or no longer meets the requirements of the Act. The UIC Programs are designed to prevent underground injections through wells which endanger drinking water sources. In some cases EPA must promulgate a full program for the State; in others, where a State program has been approved in part covering only some classes of wells, the federal program will cover only the remaining classes. Accordingly, the Agency is proposing regulations to establish UIC Programs in each of the 23 jurisdictions listed in alphabetical order, in Table 1 (See "Supplementary Information").

Today's proposal consists of two parts: (1) Amendments to Part 144, which specify supplemental requirements for all federally prescribed programs; and (2) the establishment of a new Part 147, which for each EPA-administered State program incorporates Parts 124, 144, and 146 and proposes certain State-specific requirements. Part 147 also codifies EPA's approval of certain State-administered UIC programs.

In today's notice, EPA also proposes several options for implementing programs on Indian lands in States with approved State-administered programs. EPA also gives notice that the original proposals for regulating certain Class IV wells are still under active consideration at the Agency. Finally, this notice describes certain technical amendments to the existing UIC regulations in Part 144 that EPA intends to make when it promulgates the federally-implemented programs proposed today.

DATE: EPA will accept public comment on the proposed regulations until November 1, 1983, either in writing or at the informal public hearings to be held at the time and place listed in Table 2 in "Supplementary Information." However, EPA intends to forego any hearing in which sufficient public interest is not expressed.

ADDRESS: Written public comments regarding this proposal should be sent either to the Comment Clerk in the appropriate EPA Regional Office listed in Table 2 in "Supplementary Information," or to the Comment Clerk, Ground Water Protection Branch, Office of Drinking Water (WH-550), U.S. Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Gerald F. Kotas, Ground Water Protection Branch, Environmental Protection Agency (202)-382-7595.

SUPPLEMENTARY INFORMATION:

Table 1—Jurisdictions in Which EPA Proposes To Administer the UIC Program

(The proposed program covers all classes of wells unless otherwise noted).

Alaska
Arizona
Arkansas (Class II (oil and gas) wells only)
California (Class I, III, IV and V wells only)
Colorado
District of Columbia
Idaho
Indiana
Iowa
Kentucky
Michigan
Minnesota
Missouri (Class I, III, IV and V wells only)
Montana
Nebraska (Class I, III, IV and V wells only)
Nevada
New York
Pennsylvania
Tennessee
Virginia
American Samoa
Northern Mariana Islands
Trust Territory of the Pacific Islands

TABLE 2

States/Territories	Comments and questions should be directed to	Location of proposed public hearing [1]	Date of public hearing
National Hearing	Gerald F. Kotas, U.S. EPA (WH-550), 401 M Street, SW., Washington, DC 20460.	EPA Headquarters, Rm. S535, 401 M Street, SW., Washington, DC 20460.	Oct. 13, 1983: 9 p.m.-5 p.m.
Region II: New York	Walter Andrews, Chief, WSB, US EPA, Region II, 26 Federal Plaza, New York City, NY 10278.	Jacob F. Javitz, Federal Bldg. Rm. 236, 26 Federal Plaza, New York City, NY 10278.	Oct. 26, 1983: 1 p.m.-4 p.m.; 7 p.m.-10 p.m. These hearings include all Indian lands in the State of New York.
Region III:			
District of Columbia	Robert Blanco, Chief, WSB (3WM42) EPA, Region III, 6th & Walnut Streets, Philadelphia, PA 19106.	EPA headquarters, Rm. S353, 401 M Street, SW., Washington, DC 20460.	Oct. 13, 1983: 2 p.m.-5 p.m.
Pennsylvania	....do	Old Chapel, Clarion U., Wood Street, Clarion, Pa 16214	Oct. 5, 1983: 3 p.m.-5 p.m.; 6:30 p.m.-9 p.m.
	....do	Strawberry Square, 4th & Walnut Sts., Rm. 625, Harrisburg, PA 17127..	Oct. 6, 1983: 2 p.m.-5 p.m.
Virginia	....do	Brd. Sprvsrs. Mtg. Rm., Parham and Hungary, Springs Road, Richmond, VA 27032.	Oct. 14, 1983: 7 p.m.-9 p.m.
Region IV:			
Kentucky	Don Guinyard, Chief, WSB (4WM-WS) EPA, Region IV, 345 Courtland St., NE, Atlanta, GA 30365.	Executive Inn, 1 Executive Boulevard, Owensburg, KY	Oct 18, 1983: 10 a.m. and 7:30 p.m.
	....do	Sheraton South, 5523 Athens One, Boonesboro Road, Lexington, Ky.	Oct 20, 1983: 10 a.m. and 7:30 p.m.
Tennessee	....do	Sheraton Nashville, 920 Broad Way, Nashville, TN 37203	Oct. 11, 1983: 7:30 p.m.; Oct. 12, 1983: 1 p.m.
	....do	Quality Inn, 401 Summit Hill Dr., Knoxville, TN	Oct. 13, 1983: 1 p.m. and 7:30 p.m.
Region V:			
Indiana	Robert Hilton, Chief, GWS (SWD-12) US EPA, 230 S. Dearborn Street, Chicago IL 60604.	Holiday Inn Downtown, 500 W. Washington St., Indianapolis, IN 46204.	Oct. 25, 1983: 9 a.m.
Michigan	....do	Delta Township Admin., Building, 7710 W. Saginew Hwy., Lansing, MI 48917.	Oct. 27, 1983: 9 a.m.
Minnesota	....do	Bloomington Marriott Hotel, 1919 E. 78th Street, Bloomington, MN 55420.	Sept. 28, 1983: 9 a.m.
Wisconsin (Indian Lands only).	....do	Wausau Howard Johnsons, 2001 N. Mountain Rd., Wausau, WI 54401.	Sept. 22, 1983: 9 a.m.
Region VI:			
Arkansas	Adelle V. Mitchell, Chief, WSB, US EPA, 1201 Elm Street, Dallas, TX 75270.	Kings Inn Motel, Convention Center, 1920 Junction City Rd., El Dorado, AR.	Oct. 27, 1983: 10 a.m.

TABLE 2—Continued

States/Territories	Comments and questions should be directed to	Location of proposed public hearing [1]	Date of public hearing
Louisiana (Indian Lands only)	...do	Louisiana Office of Conservation, Hearing Rm., 625 N. 4th Street, Baton Rouge, LA.	Oct. 6, 1983: 10 a.m.
New Mexico (Indian Lands only).	...do	Morgan Hall, State Land Office Building, 310 Old Santa Fe Trail, Santa Fe, NM.	Oct. 25,1983: 10 a.m.
Oklahoma (Indian Lands only).	...do	Sequoyah Auditorium, State Capitol Complex, Oklahoma City, OK.	Oct. 14, 1983: 10 a.m.
Region VII:			
Iowa	Harold Owens, DWB, US EPA, 324 E. 11th Street, Kansas City, MO 64106.	Federal Bldg. Rm. 113, 210 Walnut Street, Des Moines, IA 50309.	Oct. 12, 1983: 1 p.m.
Kansas (Indian Lands only)	...do	Kickapoo Reservation, Tribal Council Bldg., Horton, KS 66439.	Oct. 19, 1983: 10 a.m.
Missouri	...do	Hearing Rm. 4th Flr. 324 E. 11th Street, Kansas City, MO	Oct. 11, 1983: 1 p.m.
Nebraska	...do	Federal Bldg. Rm. 225, 100 Centennial, Mall North, Lincoln, NB 68508.	Oct. 20, 1983: 10 a.m.
Region VIII:			
Colorado	Max Dodson, Director, WMD, EPA, Region VIII, 1860 Lincoln Street, Denver, CO 80295.	Federal Office Bldg., 1961 Stout St., Rm 239, Denver, CO	Oct. 17, 1983: 10 a.m.
Montana	...do	Billings Sheraton Motel, 27 N. 27th Street, Billings, MT 59101.	Oct. 12, 1983: 10 a.m.
North Dakota (Indian Lands only).	...do	Four Bears Motor Lodge, New Town, ND 58763	Oct. 14, 1983.
Utah (Indian Lands only)	...do	Green Well Motel and Restaurant, 665 East Main Street, Price, UT 84501.	Oct. 19, 1983: 10 a.m.
Wyoming (Indian Lands only)	...do	Riverton Holiday Inn, N. Federal at Sunset, Riverton, WY 82002.	Oct. 21, 1983: 10 a.m.
Region IX:			
Arizona	William Thurston, Chief, Water Supply Section (W-2), US EPA, Region IX, 215 Fremont Street, San Francisco, CA 94105.	Phoenix Hilton, Navaho B Rm., Central & Adams, Phoenix, AZ.	Oct. 11, 1983: 2 sessions, 1:30 p.m. and 7:30 p.m.
California	...do	Hearing Room, 6th flr., 215 Fremont Street, San Francisco, CA 94105.	Oct. 17, 1983: 9 a.m.
Nevada	...do	Washoe Cty. Dist. Hlth. Office, S. Auditorium, 1001 E. 9th Street, Reno, NV.	Oct. 14, 1983: 9:30 a.m.
American Samoa	...do	Hearing Rm., 6th flr., 215 Fremont Street, San Francisco, CA 94105.	Oct. 18, 1983: 9:30 a.m.
Commonwealth of the Northern Mariana Islands.	...do	...do	Oct. 18, 1983: 9:30 a.m.
Trust Territory of the Pacific Islands.	...do	...do	Oct. 18, 1983: 9:30 a.m.
Region X:			
Alaska	William A. Mullen, Chief, Drinking Water Programs Branch, US EPA, Region X, 1200 Sixth Avenue, Seattle, WA 98101.	Old Federal Bldg., Court Rm. No. 2, 605 W. 4th Avenue, Anchorage, AK 99501.	Oct. 20, 1983: 7 p.m.
Idaho	...do	East & West Conf. Rm., 1st Floor Hall of Mirrors, 700 W. State Street, Boise, ID 83720.	Oct. 25, 1983: 7 p.m.

[1] Unless otherwise noted, hearing covers both non-Indian and Indian lands.

I. Background

These regulations are being proposed under the authority of Part C of the Safe Drinking Water Act (SDWA) (42 U.S.C. 300f to 300j–9) and, to the extent that they deal with hazardous waste, the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6901 et seq.). The SDWA is designed to protect the quality of drinking water in the United States, and Part C of the SDWA specifically mandates regulation of underground injection of fluids through wells. A summary of the relevant sections of Part C follows:

A. Section 1421: Minimum Requirements for State Programs

Section 1421 requires EPA to propose and promulgate regulations specifying "minimum requirements" for State programs to prevent underground injections through wells which endanger drinking water sources. EPA promulgated these regulations in 40 CFR Part 144 (formerly Part 122, permitting and general program requirements); Part 145 (formerly Part 123, requirements for State program applications); Part 146 (technical criteria and standards); and Part 124 (public participation and procedural requirements).

B. Section 1422(a): List of States

Section 1422(a) requires EPA to list in the **Federal Register** each State for which an underground injection control program "may be necessary" to ensure that underground injections will not endanger drinking water sources. EPA has listed all 50 States, the District of Columbia, and the Territories and Possessions of the United States (43 FR 43420 (Sept.25, 1978); 44 FR 35288 (June 19, 1979); 45 FR 17632 (March 19, 1980)).

C. Section 1422(b)–(d): Development of Underground Injection Control Programs

Section 1422 provides also for each State to apply to EPA for primary enforcement responsibility to administer the UIC program in that State. EPA will approve a State's program that is adopted after reasonable notice and public hearings, and meets the minimum requirements promulgated under Section 1421. If a State fails to adopt and submit a UIC program in a timely fashion, or if EPA finds that a State's UIC program fails in whole or in part to meet the minimum requirements, EPA is required to prescribe by regulation a UIC program for that State.

Under this statutory scheme, the UIC regulations promulgated by EPA pursuant to Section 1421 serve only as minimum requirements for effective State programs. They do not currently impose requirements directly on owners and operators. In the case of a State-administered program, these UIC requirements become applicable to owners and operators in the form of State laws, regulations, and other program elements that have been determined by EPA to meet the minimum requirements and have therefore been approved as the UIC program for that State. In the case of EPA-administered programs, UIC requirements become binding on owners and operators in a State when EPA promulgates a regulatory program that specifically applies requirements to that State. Today's action proposes such a regulatory program for each of 23 jurisdictions.

II. Overview of Direct Implementation

A. Contents of Federally-Administered programs

When implementing UIC programs, EPA will rely, to the maximum extent possible, on the existing minimum requirements contained in 40 CFR Parts 124, and 146. The Agency believes that the minimum requirements provide the flexibility necessary to strike the appropriate balance between the mandate of the Act to take into consideration the varying historical, geological, and hydrologic conditions in each State, and yet protect underground sources of drinking water.

The UIC minimum requirements achieve this flexibility by specifying certain requirements as performance standards and affording the Director of a program (the Regional Administrator in the case of federally-prescribed UIC programs) considerable discretion in determining how a particular requirement is to be met. In the case of permitted facilities, the permit can be used to enumerate the specific requirements applicable to an owner or operator. For wells authorized by rule, however, the rule itself must establish the requirements applicable to a class of injection activities. In approved State-administered programs, State laws and regulations serve to provide this specificity. For federally-implemented programs, EPA must propose and promulgate such requirements. Much of today's proposed rulemaking is intended to supplement or clarify requirements to make authorizations by rule workable in EPA-administered programs.

EPA-determined that the requirements needed to implement a program are best handled in either of two distinct ways. Some of the requirements (both more specific and supplemental) should be uniform for all the EPA-implemented programs. For example, since EPA does not now have extensive files on individual injection wells, all EPA-administered programs need to have the authority to gather additional inventory and other information. On the other hand, requirements such as maximum operating pressures should reflect differences in local geology, and thus are best established on a State-by-State basis. Accordingly, the Agency has adopted the following scheme to propose federally-prescribed State programs:

(1) Requirements necessary to supplement or clarify all EPA-administered programs are proposed as amendments to Part 144.

(2) Each State program is entirely contained in a distinct subpart of new Part 147.

(3) Each subpart of Part 147, for each EPA-administered State program:

(a) incorporates by reference and makes applicable the UIC minimum requirements, 40 CFR Parts 124, 144, and 146; and

(b) proposes additional State-specific requirements.

B. Jurisdictions Covered

(1) *States.* EPA is proposing a federally-implemented UIC program for each State that has indicated to EPA that it has no interest in assuming primary enforcement authority. The Agency is also proposing programs for certain other States, even though they may have made some efforts toward assuming primary enforcement authority, where the Agency has determined that serious impediments to program approval exist, such as inadequate statutory authority. However, if a State determines in the future that it is, in fact, interested in assuming primary enforcement authority, or if existing impediments to approval of a State-administered program are remedied, the State is encouraged to submit an application. EPA will approve such an application that meets the statutory and regulatory requirements, and transfer primary authority to the State, even where EPA has already proposed or implemented an EPA-administered program.

For certain other States, which have not yet received primary enforcement authority, EPA is not proposing federally-administered programs at this time. In light of the intent of the SDWA that States be encouraged to administer programs wherever possible, EPA has not proposed programs for States that appear to be making substantial progress toward achieving program approval. If, however, it becomes evident that these program applications cannot be approved, EPA will move to implement federally-administered programs as expeditiously as possible.

2. *Indian Lands.* In order to deal with certain jurisdictional questions that arise with respect to the UIC program on Indian lands in States whose programs have been approved, and in the interest of being sensitive to Indian concerns regarding implementation of the UIC program on Indian lands, EPA is taking the following approach to proposing programs on Indian lands.

Indian Lands in EPA-Administered States. Some of the twenty-three States in which EPA is proposing to implement federally-administered UIC programs contain Indian lands within their boundaries. EPA intends that the proposed program in a given State apply to Indian lands in that State as well as to non-Indian lands. In requesting comment on the proposal to implement these programs, EPA especially invites Indians on affected Indian lands to submit comments on the appropriateness of the proposed programs for those lands. In addition, EPA will make a special effort to contact all affected tribal and other Indian organizations to solicit their comments. Although EPA would prefer to maintain consistency in the federally implemented program throughout a given State, the Agency is willing to consider variations to the program as it applies to Indian lands if necessary to accommodate Indian concerns.

Indian Lands in States With Approved Programs. Where a State has demonstrated jurisdictional authority over Indian lands within its boundaries, the approved UIC program in that State applies to those Indian lands. In many cases, however, States cannot make such a demonstration. EPA therefore has the obligation to prescribe a UIC program for all Indian lands in approved States over which the States have not demonstrated authority. Various considerations affect the type of program EPA prescribes for these Indian lands.

One of these is the interest in national uniformity of all programs administered by EPA. As explained above, the programs for the twenty-three States that will be implemented by EPA consist in great part of the same body of regulations, with small variations among programs. This encourages efficient administration by EPA, facilitates understanding by members of the regulated community who conduct injection operations in more than one federally-implemented jurisdiction, and provides EPA enforcement personnel with essentially a single set of regulations to enforce when necessary.

A second consideration, however, is the interest in consistency between programs of neighboring jurisdictions. State programs approved by EPA must meet EPA's minimum requirements, but they frequently do not contain requirements identical to, or organized in the same fashion as, the federal regulations. Differences between approved State and federal programs may be particularly significant in Class II (oil and gas) programs, since under SDWA Section 1425 State programs need not meet the specific minimum requirements of EPA regulations, but only the general statutory standards of the SDWA. For Indian lands in States with programs approved pursuant to Section 1425 of the SDWA, the interest in consistency may advise tailoring the

federal program to match the approved program within that State. Such an approach would provide a uniform set of requirements throughout the State, rather than requiring an operator to comply with differing sets of requirements for operations depending on whether the operation was on Indian or non-Indian lands.

A third key consideration is the interest in adhering to the wishes of the tribal governments responsible for the affected Indian lands. It is important to respect the interest of tribal governments in maintaining control over activities affecting the health and welfare of their people, and therefore to give their concerns considerable weight when designing a regulatory program to be implemented on those lands. With respect to the UIC program, tribal governments may, of course, prefer one of the first two approaches outlined above. In addition, they may present arguments, based on conditions or circumstances peculiar to the particular Indian lands, in support of requirements different from or in addition to those contained in either of the first two approaches.

EPA's authority to take any of these considerations into account in designing a program for Indian lands is substantial. Although EPA has taken the position that federally-implemented programs should meet the UIC minimum requirements (40 CFR Parts 124, 144, and 146), such programs need not be *identical* to the existing minimum requirements regulations, just as a State-administered program need not be identical. With respect to Class II (oil and gas) Indian lands programs, EPA also has the authority to adopt federal programs that depart from the minimum requirements of the federal regulations. EPA implemented this flexibility by regulation, 40 CFR 144.2, that allows departure from the minimum regulatory requirements for Class II programs as long as EPA considers Indian concerns, consistency with adjoining programs, and such other factors as appropriate to carry out the SDWA. Of course, compliance with all general *statutory* standards of the SDWA must always be maintained.

Proposal. In light of the foregoing considerations, EPA proposes and requests comment on the following options for implementing programs on all Indian lands not under State jurisdiction in States where a State-administered UIC program has been approved by EPA.

(1) EPA would implement a program consisting of the current UIC minimum requirements (40 CFR Parts 124, 144, and 146), with perhaps a few requirements tailored to the specific jurisdiction. This is the same approach taken in the twenty-tree federally-implemented State programs EPA is also proposing today.

(2) EPA would implement a program essentially consisting of the requirements currently in place in the State-administered program approved by EPA for the State in which the Indian lands are located (as long as such requirements do not conflict with or go beyond EPA authority under the SDWA or other Federal law). Commentors should contact the EPA regional offices for information as to precisely what requirements are contained in the approved State programs.

(3) EPA would implement a program consisting of a combination of requirements from the federal UIC regulations and requirements of the approved program of the State in which the Indian lands are located.

(4) EPA would implement a program, different in some respects from both the federal UIC regulations and the approved State program, containing requirements that respond to concerns and wishes of the affected tribal government. In such case, if the program to be implemented on Indian lands is substantially different from both the approved State program and the federal regulations, a supplemental proposal will be published.

This proposal does not cover Indian lands in States that currently are seeking primary enforcement authority but whose programs have not yet been approved by EPA. No final determinations as to State jurisdiction over Indian lands have been made in these States, so that it is uncertain on what Indian lands EPA will be required to implement a program. In addition, one of the proposed options described above would pattern the federally-administered Indian lands program after the approved program in the rest of the State, and cannot adequately be considered if the State program in not yet approved. When such a State program is approved the Agency will propose a program for the Indian lands in that State as necessary.

EPA specifically requests tribal governments and Indian organizations to submit comments regarding which of the proposed four options in most appropriate for a given area. In addition to this **Federal Register** notice, EPA will make a particular effort to consult with affected tribal governments and Indian groups. It should be noted that EPA has already done considerable work in cooperation with the Osage Tribal Council, on the Class II program for Osage County, Oklahoma, pursuant to option 4 above. A separate proposal for a Class II program for Osage County is forthcoming in the near future.

One Indian lands situation on which EPA particularly requests comment is where a single reservation crosses the boundaries of two or more States. A notable example of this situation is the Navajo reservation in the Southwestern United States, which falls within the State boundaries of Arizona, New Mexico, and Utah. EPA recognizes that in such a situation it may be desirable to implement a uniform program throughout the reservation, rather than to have differing sets of requirements according to the States in which each portion of the reservation is located. EPA would like to make clear that the options proposed above include the possibility of such a uniform program. The Agency therefore, requests comment on whether such a uniform program is preferable is such situations, and, if so, what set of requirements such a program should include.

See Table 2 for the location, date and time of public hearings for the proposed UIC programs on Indian lands in primacy States.

C. Regulation of Class IV Wells

EPA's minimum requirements for State UIC programs require Class IV wells injecting into underground sources of drinking water to be prohibited, but reserve requirements for all other Class IV wells. Several alternative proposals for regulating these remaining Class IV wells are presented in detail in the preambles to the UIC permitting requirements promulgated on May 19, 1980 (45 FR 33331–33) and the technical requirements promulgated on June 24, 1980 (45 FR 42486–87). EPA is still considering these options.

One such alternative is to ban all of these Class IV injections. Since the initial proposal of this option, the great majority of States applying for primary enforcement authority of the UIC program have chosen to go beyond current EPA requirements and ban *all* Class IV injections. In addition, EPA's most recent inventory information indicates that there are fewer than one hundred such wells nationally, far fewer than original estimates. Therefore, it is EPA's intention to promulgate a ban on Class IV wells. The other options present various regulatory mechanisms for allowing some Class IV injections to occur. While it is our intent to promulgate a ban, EPA considers the proposal of all these alternatives to be still pending, and solicits further comment on them. Based on the information accumulated since the proposal, and any further comments

received as a result of today's solicitation, EPA may promulgate final regulations applicable to these Class IV wells. This renewed notice of the proposal of Class IV requirements for minimum requirements for State programs should also be considered a proposal of such requirements to apply in each EPA-administered jurisdiction. Any such regulations would apply in each EPA-administered program by reference, in each respective subpart of Part 147, to Parts 144 and 146.

D. Scope of Comment

EPA is soliciting comments, on the proposed amendments to 40 CFR Part 144 and the proposed State-specific standards to be established in 40 CFR Part 147.

The Agency is not, however, taking further comments on the portions of these programs that consist of the current minimum requirements in 40 CFR Parts 124, 144, and 146. These minimum requirements have been proposed and extensively commented on; they have been promulgated as final regulations; they have been litigated and subsequently amended; and in the promulgation of both 40 CFR 144 (promulgated as 122) and 40 CFR 146, the preambles clearly stated that these requirements would apply in federally-implemented programs.

E. Coordination With RCRA

Owners and operators of wells which inject hazardous waste should be aware that, until authorized by a permit or rule under an approved UIC program they are subject to requirements specified in 40 CFR Part 265 and § 122.26 of the same part. These requirements may be administered either by the State (if they are approved for phase I implementation) or by EPA, in the event the injection well is in a state which has not received authorization pursuant to Section 3006 of RCRA. Owners and operators should determine whether the program is administered by EPA or the State, since the requirements may vary in some State programs.

III. Amendments of Part 144: Common Elements and Technical Amendments

This section discusses proposed amendments and related issues that apply to all federally-administered programs. EPA has drafted these proposed amendments to apply *only* to federally-administered programs, except where the amendments are merely technical, clarifying current language. This is accomplished by including in each amendment the phrase "for EPA-administered programs only," a form that is already used in various parts of the promulgated Part 144 requirements.

Limiting these amendments to federally-administered programs is appropriate because, for the most part, the amendments simply provide specification or a particular mode of implementation within the scope of the more general standards of the existing minimum requirements of Part 144. While EPA is proposing particular methods or procedures to implement federally-administered programs, the Agency generally believes it to be appropriate not to impose such particular methods and procedures in the States, but to maintain the current flexibility for States to satisfy the current minimum requirements by whatever particular mechanisms a State deems appropriate. In addition, the promulgation of new minimum requirements applicable to State programs would disrupt the process for approval of State programs requiring approved States to revise their approved programs and other States to revise their program applications.

In considering the program elements appropriate for implementing federal programs, EPA determined that in a few instances the existing regulations already include the appropriate requirements, but that they need clarification or reorganization. Therefore, among the proposed amendments published today are a few changes that EPA will make as technical amendments to the existing regulations. Since these changes are merely technical, and are therefore simply restatements of requirements already included in the existing regulations, these changes will apply to *all* programs, whether administered by EPA or the States. EPA is not under an obligation to propose technical changes for public comment. In order to keep the direct implementation rulemaking intact, however, EPA is delaying the effective date of these technical amendments until final promulgation of the new amendments being proposed today. These technical changes are specifically identified in the discussion below.

Applicability of the UIC Regulations (§ 144.1). EPA is proposing to amend § 144.1, "Purpose and Scope of Part 144," it include a description of the status of Part 144 and its relationship to the other components of the UIC regulations. As amended, the section explains that Part 144 is part of the minimum requirements for all UIC programs, and also applies directly to owners and operators when incorporated into a federally-implemented State program in Part 147.

Reference to Requirements for Wells Authorized by Rule (§§ 144.21 and 144.22). As described below in the discussion or "Requirements for Class I, II, and III Wells Authorized by Rule," EPA will reorganize the requirements that apply to Class I, II, and III wells authorized by rule to place them in a single section, § 144.28. Consequently, the Agency by technical amendment must change the references in § 144.21 and § 144.22 to reflect this reorganization.

Duration of Authorization by Rule (§ 144.21(a)(3)(i)(B)). EPA is proposing to amend § 144.21 to specify the duration of the authorization by rule of existing Class I and III wells in EPA-administered programs as one year. This change would require owners or operators of these wells to submit permit applications within the first year of the program. The original UIC regulations allowed these authorizations by rule to extend up to five years from program approval or promulgation in order to afford States with a large number of these wells sufficient time to bring all wells under permit. The time period necessary for these few States was appropriate as a national regulation, but the clear intent of the UIC program is that these wells be brought under permit as soon as is practicable in a given State. EPA has determined that for each of the twenty-three States proposed today it is practicable to authorize by permit all these wells within the first year of the program. The agency is therefore proposing to specify this time period by regulation, to put the regulated community on notice as to how quickly EPA intends to implement the permitting program for these existing wells.

Plugging and Abandonment Requirements for Class IV Wells (§ 144.23). Current regulations provide that Class IV wells injecting directly into underground sources of drinking water are prohibited six months after promulgation of the UIC program in a State, and reserve requirements for other Class IV wells until a future rulemaking. Therefore, the regulations currently include no technical requirements applicable to Class IV wells. However, EPA believes that in order to administer effective programs, it is appropriate to impose certain requirements for one aspect of injection operations, regarding plugging and abandonment, or other appropriate closure, of Class IV wells.

When the prohibition of Class IV wells injecting into USDWs goes into effect, any existing wells in this category will be forced to shut down. In addition,

owners and operators of other Class IV wells, even though these wells are not subject to construction or operation requirements under the UIC program, may be required by the Regional Administrator to shut down a well if it is violating the standard against endangerment of drinking water in § 144.12, or may choose to shut down a well for other reasons. In either of these situations, it is important to ensure that the well is closed in a way that contains the injected material as much as possible and prevents its movement into underground sources of drinking water.

Therefore, EPA is proposing to adopt requirements for plugging and abandonment of Class IV wells, analogous to the requirements that already apply to plugging and abandonment of other wells. The amendment first would establish the basic requirement that all wells must be plugged or otherwise properly closed prior to abandonment in a manner acceptable to the Regional Administrator. To help assure that this will be done properly, the proposed amendment would also require the owner or operator of each well to submit a plan for plugging and abandonment, or other appropriate closure, within sixty days after promulgation of the program. Although this time limit is shorter than that provided for other wells authorized by rule, it is justified for Class IV wells because of the greater risk posed by wells injecting hazardous waste, and because one category of these wells *must* be closed within six months after promulgation. Finally, the amendment would require notice to the Regional Administrator at least thirty days prior to abandonment, to allow EPA to consult with the owner or operator and plan to witness the plugging or other closure operations if appropriate.

Requiring a Well Authorized by Rule To Obtain a Permit (§ 144.25). The UIC regulations in Part 144 currently provide that the Director may require the owner or operator of a well authorized by rule to apply for a permit. The amendments to § 144.25 will clarify two issues, regarding when a permit may be required and the effect on the authorization by rule that results from requiring a permit.

The current UIC regulations provide for authorization by rule of existing Class I, II (except enhanced recovery and hydrocarbon storage) and III wells only until authorized by permit, and require in § 144.31(c) that all wells apply for permits "as expeditiously as practicable but no later than 4 years from the approval or promulgation of the UIC program." The four-year time period was provided chiefly for the administrative convenience of the State or EPA Region administering the program, because of the difficulty of considering and issuing permits for all existing wells immediately upon promulgation of the UIC program. Consequently, inherent in this scheme is the principle that the program Director may establish a schedule for authorizing by permit all these wells within the four years, and may require any such well owner or operator to submit a permit application at any time during that period according to such a schedule.

EPA is clarifying this authority by adding paragraph (4) to § 144.25(a), articulating this as another case where permits may be required of wells authorized by rule. As described below, EPA is also planning to amend § 144.31, the section setting forth when owners or operators must submit applications, to refer to such schedules for permitting existing wells.

For federally-administered programs, the schedules for permitting will be established by the appropriate EPA regional office. These schedules will be included in EPA's program description for each federally-administered program, an informal document prepared by EPA for administrative purposes and available to the public upon request. EPA's policy will be to require all Class I, II (except enhanced recovery or hydrocarbon storage) and III wells to be authorized by permit as soon after program promulgation as administratively feasible. Among these classes of wells, permitting of Class I hazardous waste wells will be given the highest priority.

The logical consequence of requiring a well authorized by rule to obtain a permit is that a permit is necessary and the authorization by rule no longer appropriate. EPA, by technical amendment, is clarifying the effect of requiring a permit by explicitly stating in § 144.25(b) that the authorization by rule expires if the owner or operator fails to submit a permit application in a timely manner when required by the Regional Administrator.

Inventory Requirements (§ 144.26). EPA regulations currently require owners or operators of all wells authorized by rule to submit inventory information, including name, location, legal contact, ownership, type of well, and operating status. For most types of wells this information is sufficient, because most are required eventually to obtain permits and will submit more detailed information with permit applications. However, for Class II enhanced recovery wells, which are authorized by rule for life, and for Class IV and V wells, for which EPA has reserved requirements, the inventory is EPA's principal source of information regarding these wells. In considering the necessary elements of a federally-implemented program, EPA determined that in most cases more information is necessary and appropriate to assess the current status of these wells and to ensure that none of them will threaten underground sources of drinking water as prohibited in § 144.12.

Therefore, in § 144.26(b) EPA is proposing to require owners or operators of Class II enhanced recovery wells, and certain Class V wells, to submit additional information with the required inventory. The specific types of Class V wells for which this additional information is required are those that appear to have the greatest potential for endangering underground sources of drinking water.

With respect to wells that will be authorized by permit, EPA recognizes that inventory information would only be duplicative if a permit application has been submitted. Therefore, EPA is also proposing, in § 144.26(d), to eliminate the inventory requirement for those wells for which complete permit applications are submitted within the first year of this program.

EPA is also proposing to shorten the time within which the owner or operator of a Class IV well must submit inventory information, from the one year applicable to other wells to 60 days in light of the greater threat to underground sources of drinking water posed by these hazardous waste wells. An additional justification is that one category of these wells—those injecting directly into a USDW—must be closed within six months of program promulgation, so that if the inventory information is to be of any use of EPA in identifying and monitoring the activities of these wells, it must be submitted before that time.

Requiring Other Information (§ 144.27). EPA is proposing to create a new section for federally-implemented programs, § 144.27, that would allow the Regional Administrator to require the owner or operator of any well authorized by rule to submit information regarding the well. This provision would be applicable in addition to the inventory requirements that apply to all wells, where EPA needs more information to determine whether a well is in compliance with § 144.12 (the general provision that no well may endanger underground sources of drinking water). Additional information would be required under § 144.27 only

on a selective, well-by-well basis, and only upon written notice to the owner or operator.

Although the mechanism established under this section may be used for any well authorized by rule, it is especially appropriate for Class IV and V wells. These classes of wells are subject to no specific technical requirements until EPA determines what regulatory treatment is appropriate and promulgates further regulations. However, although no technical requirements have yet been established for these wells, EPA remains under the statutory obligation to ensure that no injection endangers any underground source of drinking water, and owners and operators are prohibited from allowing such endangerment by § 144.12. In order to fulfill these requirements of the SDWA and ensure compliance with § 144.12, EPA may in some cases need more information than would routinely be supplied by owners or operators of wells authorized by rule.

For Class I, II, and III wells, current regulations impose monitoring and reporting requirements requiring submittal of such information, and impose technical requirements designed to prevent endangerment of drinking water. For most of these wells, therefore, EPA will have sufficient information to ensure that statutory and regulatory requirements are met, although further information may be necessary in unusual circumstances. For Class IV and V wells, however, the inventory is EPA's sole source of information under the current regulations. While the inventory generally identifies and describes the injection activity, it may be insufficient in particular cases to determine precisely whether a threat to drinking water sources exists. To fulfill the requirements of the SDWA, therefore, EPA needs the mechanism established in § 144.27 for requiring additional information.

Requests for information under § 144.27 may be potentially quite broad in scope. In some cases such requests might include, for example, the requirement that the owner or operator perform groundwater monitoring and submit periodic results to EPA. In other cases, the necessary information might be quite minimal and readily available. When requesting information under this section, EPA will attempt to require the least burdensome type of information that will yield sufficiently informative data regarding the aspect of the operation in question.

EPA recognizes that under a scheme for authorization by rule, requirements ordinarily are imposed by a definite regulatory requirement of standard applicable to all activities subject to the rule. With respect to this category of additional information necessary to ensure statutory and regulatory compliance, however, EPA has chosen the case-by-case mechanism of § 144.27 as a much less burdensome alternative to imposing such requirements uniformly on all such wells or requiring all wells to obtain permits. EPA can use this mechanism to obtain specific information on suspected problems at individual wells, or to obtain specific information on wells of a particular type where EPA currently lacks any information, without requiring such information from all wells authorized by rule. Among wells for which EPA does request information, EPA may vary the nature or extent of the request from well to well, rather than impose a dull range of information requirements on all wells.

The proposal of § 144.27 is not intended to constitute a determination as to the appropriate regulatory treatment of either Class IV or Class V wells. The proposal is intended solely to address EPA's need for information to ensure compliance with an existing general regulatory standard (§ 144.12). If the requested information indicates non-compliance, EPA's formal remedy would be to institute enforcement proceedings. EPA continues to reserve requirements for Class V wells and some Class IV wells (those not injecting directly into a USDW) until a future rulemaking. Requirements for the Class IV wells have already been proposed and are still being considered, as discussed above.

Reorganization of Requirements for Wells Authorized by Rule (§ 144.28) (technical amendment). Sections 144.21 and 144.22 of the current regulations apply certain requirements to Class I, II, and III wells authorized by rule, by referencing other regulatory provisions in Parts 144 and 146. EPA has found this method of presentation somewhat awkward for a variety of reasons.

First, the referenced provisions are scattered throughout the UIC regulations, which requires a reader constantly to flip back and forth through the regulations to determine the applicable requirements. Second, the referenced requirements use language and concepts designed as standards directed at wells to be authorized by permit rather than by rule, sometimes referring to the discretion of the Director in writing a permit. As a result of this permit-oriented language, some referenced requirements are either ambiguous or irrelevant for wells authorized by rule. Finally, this manner of presentation would make it awkward to add amendments particularly applicable to wells authorized by rule in federally-implemented programs.

Consequently, EPA plans to reorganize the presentation of these requirements by creating a new § 144.28 by technical amendment, which will apply to both State- and federally-implemented programs. Rather than referencing other sections of the regulations, § 144.28 will restate all applicable requirements in a single section, adjusting language to refer directly to wells authorized by rule and eliminating aspects of the originally referenced requirements that could only apply to wells under permit. Sections 144.21 and 144.22 will reference only § 144.28, which will contain all applicable requirements common to all these wells. This organization will result in no change whatsoever in the substantive requirements of the current regulations. Any additions or amendments to these requirements that are common to all federally-implemented programs are being proposed as amendments to the new § 144.28.

Submission of Plugging and Abandonment Plans (§ 144.28(c)). EPA regulations regulations require owners or operators of all Class I, II and III wells, whether authorized by permit or by rule, to prepare plans indicating how plugging and abandonment will be conducted. For wells authorized by permit, these plans must be submitted with the permit application (§ 144.52(a)(6)). For wells authorized by rule, regulations currently require each owner or operator to prepare and maintain a plan acceptable to the Director, but do not specify a time for the plan to be submitted to or reviewed by the Director. In considering how federally-implemented programs should be administered, EPA has determined that these plans should be submitted to the Regional Administrator, and is therefore proposing to amend the regulations to require such submittal within one year of promulgation of the program. The amendment would also require any proposed revision to the plan to be submitted no later than 45 days prior to actual plugging and abandonment. This proposed amendment will impose little, if any, additional burden, since the existing regulations already require preparation of such a plan and require that the plan must be acceptable to the Director.

EPA is also proposing in § 144.28(c)(2)(ii) to clarify for EPA-administered programs that for wells authorized by rule the plugging and abandonment plan must include an

estimate of the cost of plugging the well. Under the existing regulations this information obviously is necessary, to determine whether the required demonstration of financial responsibility is adequate. It seems appropriate that such cost information be included in the plan that describes the proposed procedures for plugging. EPA did not consider it necessary to specify this requirement for wells authorized by permit, since there is more likely to be an ongoing dialogue between the applicant and the permitting authority than there would be in the case of wells authorized by rule. In addition, since there is no authorization until the permit is issued (unlike wells authorized by rule), the permitting authority can ensure that the necessary cost information is included in the application before the injection activity is authorized.

Finally, EPA is proposing to amend the regulations to provide some interpretation on when, in EPA-administerd programs, a well is to be considered abandoned, and hence when an owner or operator would be required to plug the well in accordance with the plan. Existing EPA regulations provide that "temporary intermittent cessation of injection operations is not abandonment" (§§ 144.28(c)(1) and 144.52(a)(6)). EPA's proposal would provide that any cessation of operations for longer than two years would not be considered temporary or intermittent, unless the owner or operator demonstrates to the Regional Administrator that the well will indeed be used at some time in the future. The proposal would apply both to wells authorized by rule (§ 144.28(c)(2)(iii)) and wells authorized by permit (§144.52(a)(6)).

This general interpretation is designed to prevent owners or operators from avoiding plugging requirements by unfounded claims that operations are only temporarily suspended, while recognizing that in some cases operations may be suspended for long periods with legitimate expectations of resuming operation. In the latter instance, while the Regional Administrator may accept a demonstration that this is the case, the owner or operator should also demonstrate that all necessary precautions are being taken during the suspension of operations to prevent any migration of fluids into underground sources of drinking water.

Financial Responsibility (§§ 144.28(d) and 144.52(f)). EPA regulations currently require that each owner or operator of Class I, II, or III wells, whether authorized by permit or by rule, maintain the financial resources to close, plug, and abandon the well and submit evidence of such financial responsibility to the Director. For EPA-administered programs EPA is proposing to add a few more specific requirements necessary for implementing these financial responsibility requirements.

For wells to be authorized by permit, EPA regulations already require the evidence of financial responsibility to be submitted as a part of the permit application, since the particular financial responsibility elements become conditions of the permit. For wells authorized by rule, it is unclear when such evidence is to be submitted. For federally-implemented programs EPA is proposing in § 144.28(d)(2)(i) to require that owners or operators submit such evidence within one year of promulgation of the program.

In considering the long-term implementation of the federally-administered program, EPA is concerned that for wells authorized for long periods of time the original estimate of the costs of plugging a well may after time not accurately reflect current costs because of inflation. Therefore, to ensure that financial responsibility remains adequate, EPA is proposing to authorize the Regional Administrator to require owners or operators to submit a revised estimate of the resources necessary to plug and abandon the well if he believes the original estimate may no longer be accurate. If the estimate significantly exceeds the demonstration of financial responsibility previously made, the owner or operator would be required to revise the demonstration. This proposed amendment would apply to wells authorized by rule and to wells authorized by lifetime permits (§ 144.52(f)).

In developing this proposal, the Agency also considered what criteria the Agency should use to determine whether financial responsibility is adequate. Current regulations simply provide that the demonstration of financial responsibility must be acceptable to the program Director, and that it may be demonstrated in a variety of ways, such as by a surety bond, or financial statements.

Submission of a performance bond, sufficient to cover the estimated cost of plugging, would appear to be the most simple and readily approvable type of demonstration. EPA would therefore like to encourage owners or operators to employ this means of demonstration whenever possible. At the same time, EPA recognizes that for some companies other types of demonstrations may be feasible or appropriate, and intends to retain the flexibility to consider such alternative demonstrations.

This raises the question, however, of what criteria to employ when judging the adequacy of such alternative demonstrations. EPA has already addressed this issue with respect to the Hazardous Waste Management program under RCRA, and has promulgated regulations concerning financial responsibility under that program. The function to be served by financial responsibility criteria under the UIC program, at least for Class I hazardous waste wells, appears sufficiently similar to that served by the promulgated RCRA regulations that it may be appropriate to adopt these or similar requirements for EPA-administered UIC programs. Class II or III wells may present a somewhat different situation, but existing RCRA standards may still serve as an appropriate point of departure for developing appropriate standards. The Agency therefore proposes for comment at this time adopting the RCRA financial responsibility criteria, at 40 CFR Part 264 (G) and (H), for EPA-administered UIC programs.

Operating Requirements—Annulus Fluid and Pressure for Class I Wells (§ 144.28(f)(2)). EPA regulations for Class I wells authorized by rule currently require that "the annulus between tubing and the long string of casings shall be filled with a fluid approved by the Director, and a pressure, also approved by the Director, shall be maintained on the annulus." In order to implement this requirement for these wells authorized by rule, it is necessary to exercise the discretion granted by this section, by specifying the types of fluids and pressures that will be considered adequate for EPA-administered programs. EPA therefore proposes that the fluid shall be a non-corrosive fluid, and that the pressure be a positive pressure. It should be remembered that all Class I wells authorized by rule must eventually obtain permits, and that EPA is proposing for EPA-administered programs that applications must be submitted for these wells within the first year. These requirements would therefore apply only in those few instances where EPA receives applications but does not make the final permit decision until after the first year of the program. In light of this, even though the fluid and pressure requirements proposed here are still fairly general, EPA believes that they will provide sufficient protection for the short period of time they would apply.

Monitoring Requirements—Analytical Methods (§§ 144.28(g) and 144.52(a)(5)).

EPA regulations currently impose requirements for monitoring the nature of injected fluids. To ensure that such monitoring is done in accordance with approved techniques, and for consistency with analogous requirements throughout EPA regulations, EPA believes it important for the program to specify what types of techniques will be considered adequate. Where EPA is administering the program, therefore, the Agency is proposing to require that where appropriate such monitoring be done is accordance with analytical methods approved by EPA and referenced in certain tables and appendices of the Code of Federal Regulations.

Monitoring Requirements—Frequency of Monitoring of Injected Fluids (§ 144.28(g)(1), (2), and (3)). Current regulations require owners or operators of Class I, II, and III wells authorized by rule to monitor the nature of injected fluids with sufficient frequency to yield representative data on its characteristics. This requirement parallels the requirements in Part 146 for wells to be authorized by permit, for which specific monitoring frequencies will be established as permit conditions. For wells authorized by rule, however, some frequency should be specified in the implementing program.

For Class I and II wells, the proposal would clarify that "sufficient frequency" would require monitoring at least once within the first year of authorization, and thereafter when changes are made to the injected fluids.

For Class III wells authorized by rule, EPA will clarify the general type of analysis to be performed when monitoring, and the general circumstances that would trigger the requirement § 144.28(g)(3)(i) to monitor with sufficient frequency to yield representative data on its characteristics. EPA has drawn this requirement from current regulations, in §§ 146.33(b)(1) and 146.34(a)(7)(iii). Although EPA believes these standards to be applicable to all Class III wells whether authorized by permit or by rule, the applicability to wells authorized by rule is not clearly presented in the current regulations, and will be clarified by the amendment. These standards require that monitoring be performed in a manner that yields qualitative analysis and ranges in concentration of the constituents of the injected fluids, and that this monitoring and analysis be performed whenever the injection fluid is modified so that the previous analysis becomes inaccurate or incomplete.

It should be noted that EPA is proposing to require all Class I and III wells in EPA-administered programs to submit permit applications within the first year of the program, as discussed above. EPA expects that these applications will be processed and permits issued within the first year or as soon thereafter as possible. The requirements just discussed for monitoring of injected fluids of Class I and III wells, therefore, will apply only to those few wells, if any, for which EPA is not able to process permit applications within the first year, and only until a permit decision is made.

Monitoring Requirements—Mechanical Intergrity Testing (§§ 144.28(g)(2)(iv) and 144.51(p)). EPA plans to clarify that the Regional Administrator may specify a schedule for performing these mechanical integrity tests. Current regulations at §§ 144.13(b)(3), 146.23(b)(3), and 146.33(b)(3) for wells authorized by permit, and at § 144.22(a)(9) (which will become § 144.28(g)(2)(iv)(A)) for enhanced recovery and hydrocarbon storage wells authorized by rule require the owner or operator of a well to demonstrate its mechanical integrity (as defined in § 146.8) at least once every five years. Under § 144.28(g)(2)(iv)(B) owners or operators of enhanced recovery or hydrocarbon storage wells, if contacted in writing by the Regional Administrator, will be required to perform mechanical integrity tests in accordance with a schedule specified by him. Similarly, § 144.51(p) would require inclusion in each permit of a standard condition allowing the Regional Administrator, as necessary after permit issuance, to specify in writing a schedule for conducting mechanical integrity tests with which owners or operators of wells authorized by permit must comply.

The Agency is specifying this requirement for several reasons. First, enabling the Regional Administrator to specify a schedule allows the Agency to require the most critical types of wells—for example, older wells, wells handling hazardous wastes, or wells close to water supplies—to be tested earliest. Second, scheduling mechanical integrity testing will permit the Agency to witness tests in a more efficient manner. Finally, this requirement imposes no additional burden on operators, who must in any case conduct the test within the time frames specified in 40 CFR Part 146.

Typically, a schedule specified by EPA will require the testing for a particular well to be performed by a particular date, while the precise date of the test would in most cases be chosen by the owner or operator. In order to enable the Agency to witness selected mechanical integrity tests under this type of arrangement, EPA is also proposing § 144.28(g)(2)(iv)(C) to require the owner or operator to notify the Regional Administrator at least thirty days in advance of the test. The Regional Administrator may allow a shorter time period as long as the period is sufficient to allow EPA to witness the testing if it chooses.

It should be noted that the demonstration of mechanical integrity is a well-by-well demonstration. Thus, when applying the requirements of § 146.8(b)(3) for monitoring of flow rate and injection pressure, the Agency intends at this time to require wells to be metered individually. Available evidence indicates that the sensitivity of a manifold system, while adequate for routine operational monitoring, is not sufficiently sensitive to provide the level of information required in § 146.8. As a practical matter, even when operators are operating off a manifold, the operators will have to have the capability of testing the individual wells to comply with the requirements of § 146.8. An observed change in the flow vs. pressure rate in a group of wells even if monitored off a manifold would have to be further examined on a well by well basis to isolate the well or wells causing the change.

Notice of Plugging and Abandonment (§ 144.28(j)(2)). In § 144.28(j)(2) the Agency is proposing a clarification for EPA-implemented programs that requires owners or operators to notify the Regional Administrator at least 45 days before conversion or abandonment of a well. This change merely specifies a time period which for State programs is left to the discretion of the State. EPA believes that in order for this requirement to be effectively implemented, and in order to provide the regulated community with a clear statement of how EPA intended to administer this requirement, it is necessary to specify the time period.

Plugging and Abandonment Report (§§ 144.28(k) and 144.51(o)). The Agency is proposing that for EPA-administered programs owners or operators who abandon and plug a well submit a report to the Regional Administrator. The section lists specific information to be provided, including materials used to plug, the location of plugs, volumes of mud and cement used, records of tests made, and certification that the plugging was performed as described.

Verfication that the well was abandoned consistent with the plan submitted under § 144.28(c) is a logical extension of requiring the plan in the first place. Observation of all plugging activities in obviously not feasible for

this Agency. The requirements specified in § 144.28(k) represent a reasonable approach to assuring proper abandonment, without imposing undue burden on either operator or the Agency.

Notice of Change of Ownership (§144.28(1)). Section 144.28(1) proposes to require owners or operators of wells authorized by rule to inform the Regional Administrator within 30 days of transfer of ownership. Under § 144.38 such notification is required of owners or operators of wells authorized by permit; however, there is no such requirement for rule-authorized wells. In view of the fact that some wells may be authorized by rule for the life of the well and others for up to 5 years, the Agency believed this requirement to be necessary to effectively administer the program.

Notice to Surrounding Landowners (§ 144.31(e)(9)). Under existing regulations, the administration authority (the State or EPA) must provide notice to the local public when a draft permit has been prepared and a permit decision is being considered. For many of the State programs that will be administered by EPA, wells are located primarily in very sparsely populated areas, which may not regularly be served by a single newspaper appropriate for publishing notice. For EPA-administered programs, therefore, the Agency is proposing § 144.31(e)(9) to improve the effectiveness of notice for such situations. This section would require, in addition to existing notice requirements, that the applicant for a permit give notice of intent to apply for a permit to all landowners and tenants within ¼ mile of the well, and to submit their names and addresses to EPA with the permit application. In addition to providing preliminary notice to these parties, this will provide EPA with a list of people to whom to send notice of the draft permit.

Section 144.31(e)(9) provides the Regional Administrator with an additional method of notice, e.g. separate notice to each landowner and tenant within ¼ mile of the well(s) where the owner or operator intends to file for a permit. Of course, the Agency is aware that imposing this requirement on an owner or operator in a urban area could be burdensome. Where a well is located in a populous area, therefore, the Regional Administrator has the authority to waive this requirement.

Retention of Records (§ 144.28(i) and 144.51(j)(2)(ii)). EPA regulations currently require that owners or operators retain records of the nature and composition on injected fluids for at least three years after plugging and abandoning the well, and provide that the Director may require the owner or operator to deliver the records to him at the end of that time. In considering how this issue should be administered in programs implemented by EPA, the Agency has determined that it may be preferable to ensure that EPA have the opportunity to screen information when the three-year retention period expires, to ensure that useful records will not be lost. Because records of injected fluids are critical to determining the source of fluids that migrate into underground sources of drinking water, and since many years may pass before any such migration is detected, EPA may want the records retained for much longer than the three-year period. Therefore, EPA has proposed to require that if the owner or operator does not choose to retain the records after the three-year period, he must notify the Regional Administrator, who can then decide whether the records should be delivered to EPA or can be discarded. This does not increase the recordkeeping burden on the regulated community; it only serves to ensure that potentially important records will not be discarded without approval by EPA. EPA is proposing to apply this requirement to both wells authorized by rule (§ 144.28(i)) and wells authorized by permit (§ 144.51(j)(2)(ii)).

Emergency Permits (§ 144.34(a)) (technical amendment.) The emergency permit provision in § 144.34 was designed for emergency situations where it may be appropriate to allow noncompliance with certain requirements of a rule or permit, or to allow an injection not otherwise authorized, as long as migration of fluids into an underground source of drinking water will not result. Section 144.34(a) of the existing regulations, however, includes language that could be interpreted to indicate that emergency permits may be available only for wells not otherwise authorized by rule or permit. This interpretation would be inconsistent with other EPA regulation, and was not EPA's intent when the Agency promulgated the regulation.

Both § 144.28(a) (formerly §§ 144.21(c)(1) and 144.22(a)(1)) with respect to wells authorized by rule, and § 144.51(a) for wells authorized by permit, provide that the owner or operation need not comply with the provisions of the rule permit to the extent the noncompliance is authorized by an emergency permit. These section expressly assume, therefore, that emergency permits may be granted to wells authorized by rule or permit, which was EPA's intent.

Nevertheless, to eliminate any possible confusion, therefore, EPA will make a technical amendment to §144.34(a) to eliminate this language, making clear that an emergency permit may be granted to a well even if that well is otherwise authorized by rule or by permit.

IV. State Specific Requirements

Introduction

Part 147, being proposed today, contains requirements which supplement or specify those found in 40 CFR Parts 124, 144, and 146. These are requirements which—due to geologic, historical or hydrologic conditions—differ from State-to-State and region to region. In addition, this part states more specifically requirements that in the minimum standards are only general and afford a broad range of discretion to the Director.

Often, the technical basis for the program being proposed today requires the application of different numerical standards and the use of different approaches to satisfying certain requirements. The SDWA provides for such variations in Section 1422(c), which requires that the Agency consider the varying hydrologic, geologic, and historical conditions in a State and not disrupt existing State programs unnecessarily. Indeed, it is for this reason that the Agency originally built flexibility into the UIC program. Thus, while the minimum standards reflect the goals of the Act, it is necessary to supplement and specify the regulations in certain instances. For these reasons, the Agency is proposing specific regulations that implement existing requirements.

A discussion of permitting schedules, mechanical integrity testing schedules, and other administrative considerations can be found in the program description for each of the State programs proposed today. Program descriptions are available at the appropriate Regional Office and at EPA Headquarters.

Exempted Aquifer

An exempted aquifer is an aquifer or portion of an aquifer which would otherwise meet the standard for a USDW, but which has been designated as "exempted" by the Director, consistent with requirements in § 146.4. The exemption of an aquifer may allow owners or operators of a Class or Classes of wells to inject into what would otherwise be a USDW. The absence of nearby USDWs may also result in lesser requirements being applied to the owner or operator. Section 144.7 allows the Director to exempt aquifers or portions of aquifers if they do not now serve as a source of

drinking water, and will not in the future serve as a USDW because they are:

(1) mineral, hydrocarbon, or geothermal energy producing; or are expected to bear the above in producible quantities;

(2) Situated at a depth or location that would make recovery of water for drinking water economically or technically impractical;

(3) So contaminated that it would be economically or technologically impractical to render them fit for human consumption; or

(4) Located over a Class III mining area subject to subsidence or catastrophic collapse.

In addition, aquifers or their portions that contain between 3,000 and 10,000 mg/l TDS and that do not now serve as a source of drinking water may be exempted if they are not reasonably expected to serve as a supply to a public water system.

The way in which aquifer exemptions are proposed in the various State proposals, depends on a number of State-specific factors including the well population and EPA's knowledge of injection activity into aquifers of less than 10,000 mg/l TDS. It should be noted that injections into aquifers which qualify as USDWs are illegal. EPA-administered programs approach aquifer exemptions in one of the following four ways:

(1) Where the Agency has complete and accurate data on where injections are occurring in aquifers that meet the definition of an USDW, the programs propose to exempt specific portions of the aquifers provided they qualify under § 146.4.

(2) When the Agency only has information on a well-by-well basis that may not include all injections, it is proposing to exempt known sections where appropriate and is seeking information from the regulated community on whether they wish to seek additional exemptions. These may be granted, if the requests are consistent with § 146.4.

(3) Where the Agency lacks information of any injection activity which would require an exemption, but where the data are not complete, the Agency is asking any operator who is injecting into an aquifer that meets the definition of an USDW, to immediately request an exemption if he believes the aquifer qualifies for one, as such an operation would be illegal at the time of the program promulgation without one; and

(4) Where the Agency believes there are no wells in a State that would require an exemption, and the data are considered reliable, it is proposing no exemptions.

In addition to the aquifers that are being proposed for exemption in this proposal, EPA recognizes that in some cases additional aquifer exemptions may become appropriate after program promulgation. The nature of this approval process is circumscribed by various existing regulatory and statutory requirements, within which the Agency has a certain degree of administrative discretion. Consequently, EPA is not proposing any more specific procedures for the aquifer exemption process in these regulations.

For State-administered programs, the existing regulations in § 144.7 contemplate that, generally, aquifer exemptions made after a State program is approved are program revisions. For revisions that are "substantial", the program revision process described in § 145.32, involves the rulemaking procedures of public notice, opportunity for comment and publication in the **Federal Register**. For "non-substantial" revisions, a less formal process is sufficient; however, in the case of requests for aquifer exemptions, the State must provide public notice and opportunity for a hearing before submitting the request to EPA for approval. EPA's preliminary experience with State-administered programs indicates that some aquifer exemptions are properly considered "substantial", while others may be "non-substantial." Although the program revision concept in § 144.7 does not apply directly to federally-administered programs, EPA believes that a similar approach should be taken in the latter case as well. This is also consistent with the SDWA, which requires in Section 1422 that EPA make any revisions to a federally-administered program "by regulation." While EPA does not believe that Congress intended that every minor revision to a program be done by regulation, this provision clearly requires major or substantial revisions to follow rulemaking procedures.

For procedural purposes, to reflect the distinctions between substantial and non-substantial revisions described above, EPA therefore will distinguish between "major" and "minor" exemptions. Major exemptions will be made by rulemaking procedures. Minor exemptions would ordinarily be made by EPA without publication in the **Federal Register**, although public notice and opportunity for a hearing will be provided in all cases. Where the effect of a proposed exemption that ordinarily would be considered minor appears particularly significant and far-reaching, EPA may choose to use the same rulemaking procedures normally reserved for "major" exemptions. A complete list of all aquifer exemptions will be maintained in the appropriate Regional office.

Currently, EPA's plans for defining major and minor exemptions are as follows. Major exemptions would be defined as any exemption of an aquifer containing less than 3,000 mg/l total dissolved solids that is (a) Related to any Class I or IV well; or (b) not related to action on a permit.

All exemptions not defined as major would be considered minor. Minor exemptions would therefore include all exemptions considered as part of a single permitting action. When considered as part of a single permitting action, the permitting process will provide public notice and opportunity for comment and for a hearing, the exemption will be limited to a defined area around the well or facility, and the effect of the exemption will be limited to the activities authorized under the permit. Also considered minor exemptions will be those approved because the aquifer contains more than 3,000 mg/l total dissolved solids and "is not reasonably expected to supply a public water system." See § 146.4(c). This is consistent with the procedures for EPA approval of these exemptions under approved State-administered programs, where § 144.7 places a 45-day time limit on EPA approval or disapproval of the exemption. If any exemptions proposed under this criterion are not associated with a particular permit application, EPA will still provide notice in the affected area and an opportunity for comment and a hearing, just as normally provided in the permitting process.

Pressure Limitation

The current UIC minimum requirements obligate the Director to establish limits on injection pressure. For wells authorized by permit the Director may determine an appropriate pressure on a case-by-case basis. For wells authorized by rule, a general standard must be proposed. The limits, as outlined in 146 specify that for Class I and III wells, such limits should assure that operations do not initiate or propagate fractures in the injection zone (except during stimulation) and the confining zones. For Class II wells, however,the limits should be adequate to prevent fracturing in the confining zones.

Both theoretical and empirical studies indicate that fracture gradients vary geographically, since they are dependent on lithology and other locally

influenced factors. Accordingly, in establishing programs, the Agency is attempting to allow for these variations by proposing appropriate standards in the State-specific regulations.

Although these standards may vary between programs, the Agency is proposing to apply a common technique to all State programs that uses a relatively simple formula that will allow pressures to be monitored at the well-head, and considers the additional pressure from a standing column of fluid (a function of the density of the fluid and the depth of the injection well). The formula is: Pm = (× − .433 Sg) d. Briefly, the formula starts from an assumed fracture gradient (x) (measured in psi/ft), which has been theoretically or empirically established for a particular State or area.

The additional pressure caused by the fluid in the tubing, which is 0.433 times the specific gravity of the fluid, Sg, is subtracted from the assumed fracture gradient and this value is multiplied by the depth, d, in feet. The resulting figure, Pm, read at the wellhead, is the maximum allowable operating pressure. The calculated value of Pm tends to be a conservative value because the friction loss (from injected fluid against tubing) is not included in the calculation and therefore provides a safety factor. Where appropriate, the State-specific preambles contain a discussion of why specific fracture gradient values were selected.

In specifying maximum operating pressures for wells authorized by rule, the Agency has proposed conservative values. Owners or operators who believe the specified pressure to be too low have the option of applying for a permit which may specify a higher operating pressure. It should be noted, however, that the specified injection pressures will be used as guidance for those requesting a permit. Operators who wish to receive authorization to inject at higher pressures will bear the burden of proving that the pressures are consistent with requirements in §§ 146.13, 146.23 and 146.33.

Commenting and Casing Requirements

The current regulations specify cementing and casing requirements for the various classes of wells that are essentially performance requirements: "cemented and cased to prevent the movement of fluids into or between strata . . . ." The determination of what constitutes an adequate cementing requirement is subject to local conditions, such as the geology, historical construction practices, hydrology and the geochemistry of the area. Accordingly, the Agency is proposing State-specific casing and cementing requirements where appropriate. Among the factors being specified are methods of placing cement, appropriate volumes and compositions of cement, placement of packers and similar construction requirements. The rationale for selecting these requirements is detailed in the State-specific sections of the preamble. In defining appropriate volumes of cement, the regulations use terms such as "calculated volume". This value can be arrived at through existing industry guidelines, or by calculating the volume of a column equal in height and radius to the section to be cemented (allowing of course for any volume filled by casing).

Mechanical Integrity

Section 146.8 defines mechanical integrity and specifies tests which verify well integrity. The section also allows the use of alternative tests to demonstrate well integrity after approval by the Administrator. There are two aspects to mechanical integrity. First, a well must be free of significant leaks in the tubing, casing, and packer(s), and cement, and second, it must not allow significant movement of fluids in the well bore.

In several instances, existing well construction, prevailing operating practices, and other factors make if difficult to apply the specified tests, or make other demonstrations more practical. For these cases, the Agency is seeking comment on alternative tests.

Area of Review

The minimum requirements in § 146.6 specified two methods for determining an area of review, within which the operator must identify wells which penetrate the injection formation and perform corrective action where appropriate. The Director of a program has the option of requesting a fixed radius, or a radius calculated by an appropriate formula.

In promulgating this rule, the agency recognized that both the appropriate fixed radius and the appropriate formula or formulae are subject to local conditions. Indeed, the regulations specified criteria to be considered in applying this requirement in order to assist Directors in establishing an appropriate standard.

Several of the programs being proposed today allow only the use of a fixed radius for defining the Area of Review. The Agency is proposing this approach for several reasons. First, the mathematical models that reliably illustrate particular hydrogeologic conditions may not be established for particular areas. Second, use of a model could slow implementation of the program by requiring evaluation of many equations for specific hydrogeologic formations. Finally, in some cases the use of a fixed radius reflects existing State practice.

Plugging and Abandonment

As with cementing and casing requirements, the minimum standards specify a performance standard for plugging and abandonment. Section 146.10 lists appropriate methods of plugging. Several programs being proposed today supplement this section by specifying amounts of cement, grade of cement, and placement of plugs relative to the injection zone and to USDWs.

The most detailed plugging requirements are contained in the program being proposed for Arkansas. Based on historical experience these requirements have been shown to be effective in protecting USDWs. The Agency is considering promulgating requirements similar to those being proposed for Arkansas in § 147.206(a) in all Federally prescribed programs. Accordingly we are soliciting comment on the appropriateness of those requirements for the various State programs being proposed.

V. Discussion of Requirements Applied to Specific States

Subpart C—Alaska

Subpart C proposes to require all owners and operators to comply with the UIC regulations at 40 CFR Parts 124, 144, and 146. In addition, this subpart contains regulations that supplement the UIC regulations where discretion is allowed in order to make the Alaska UIC program appropriate and amenable to the combination of historic practices and geology unique to Alaska.

Exempted Aquifers

The Kenai Peninsula contains portions of aquifers being considered for exemption under § 144.7 and §146.4, for Class II injection activities for the following reasons:

(1) The portions of aquifers do not currently serve as sources of drinking water; and

(2) The total dissolved solids levels are more than 3,000 mg/1 but less than 10,000 mg/1 and are not reasonably expected to serve as a public water supply.

The portions of aquifers beneath the Cook Inlet (Granite Point Field, McArthur River Field, Middle Ground Shoal Field and Trading Bay Field) are

proposed for exemption for the following reasons:

(1) The portions of aquifers below Cook Inlet do not currently serve as sources of drinking water; and

(2) These portions of aquifers cannot now and will not in the future serve as sources of drinking water because they are situated below the bottom of Cook Inlet which makes the recovery of water for drinking water purposes economically impractical.

Maximum Injection Pressure

EPA is proposing for all Federally implemented programs, the use of a simple formula that will prescribe an injection pressure to be measured at the well head. The formula is discussed in detail in the introduction to the State-specific preambles. The 0.733 psi/ft fracture gradient proposed for Alaska was determined from Warner and Lehr (1977, EPA–600/2–77–240, page 117) which proposed a range of values from 0.5 to 1.0 psi per foot of depth.

The Agency is proposing a fracture gradient falling in the middle of this range because it is seeking a value that adequately protects USDWs but is not overly restrictive. Comment on the appropriateness of this limit for owners or operators of wells authorized by rule is solicited and will be considered in final rulemaking.

It should be noted that this pressure limitation applies to wells authorized under rule. Operators may request permission to inject at higher pressures by applying for a permit and demonstrating in the application that such operations will not violate § 144.28(f)(3).

Casing and Cementing

The Agency is proposing cementing requirements for existing enhanced recovery and hydrocarbon storage wells which may not be in compliance with §§ 144.28(e) and 146.22. These sections require existing wells to be cased and cemented to prevent the movement of fluids into or between underground sources of drinking water which may cause a significant risk to the health of persons.

The requirements proposed today in § 147.104(b) recognize that it is at best difficult to bring existing wells into compliance with a new set of construction requirements. In the June 24, 1980, promulgation of 40 CFR Part 146, the Agency outlined requirements in § 146.22 (c), (d), and (e) which made it possible to relieve operators of wells in existing fields from the requirements specified in § 146.22(b), provided that the operator will not allow movement of fluids.

The Agency believes that the proposed requirements are appropriate for wells in Alaska when a workover is necessary to bring an existing well into compliance with the requirements of 40 CFR 144.28(e) and § 146.22. The requirements proposed here dictate that the Regional Administrator make a determination that well or wells may not be in compliance. If such a determination is made he may impose requirements consistent with § 147.104(b) or require the owner or operator to apply for a permit. In general, these requirements identify the placement of cement relative to the USDWs and the injection zone, as well as the quantity and quality of cement to be used. The purpose of the requirements is to insure that USDWs are effectively cemented off, that injection fluids are isolated in the injection zone, and that the cement used in these activities is of sufficient quantity and quality to accomplish these goals in the environment in which it is used.

Other Alternatives Being Considered

The Agency is considering applying plugging and abandonment requirements similar to those being proposed for Arkansas in § 147.206 for all EPA-administered programs and is soliciting comment on such an approach for all classes of wells in Alaska. In addition, the Agency is considering promulgating requirements for maximum operating pressures that are similar to the approach used for Arkansas in § 147.204. A more detailed discussion of both of these requirements can be found in the preamble to the Arkansas program.

Subpart D—Arizona

Subpart D proposes to require all owners and operators to comply with the UIC regulations at 40 CFR Parts 124, 144 and 146. In addition, this subpart contains regulations that supplement the UIC regulations where discretion is allowed in order to make the Arizona UIC program appropriate and amenable to the combination of historic practices and geology unique to Arizona.

Exempted Aquifers

Upon the effective date of this program facilities which are injecting into an underground source of drinking water cannot legally operate unless that aquifer or a portion is exempted. However, EPA is not aware of any injections into a USDW and, therefore, is not proposing to exempt any aquifers at this time. Owners or operators should determine whether their facilities are injecting into a USDW as defined in § 146.3. Should an owner or operator find that he is injecting into a USDW, he may request an exemption consistent with criteria and procedures in 40 CFR 144.7 and § 146.4.

Other Alternatives Being Considered

The Agency is considering applying plugging and abandonment requirements similar to those being proposed for Arkansas in § 147.206 for all EPA-administered programs and is soliciting comment on such an approach for Arizona. A more detailed discussion of these plugging and abandonment requirements can be found in the preamble to the Arkansas program.

Subpart E—Arkansas

Subpart E proposes to require all owners and operators of Class II wells to comply with the UIC regulations at 40 CFR Parts 124, 144, and 146. In addition, this subpart contains regulations that supplement the UIC regulations where discretion is allowed in order to make the Arkansas UIC program appropriate and amenable to the combination of historic practices and geology unique to Arkansas.

The UIC program for Class I, III, IV, and V wells submitted by the Arkansas Department of Pollution Control and Ecology was approved on July 6, 1982. EPA's proposed program for Arkansas is limited to Class II wells.

Aquifer Exemptions

In accordance with the provisions of 40 CFR 144.7 and 146.4, EPA proposes to exempt those portions of aquifers which are currently producing hydrocarbons. The exempted area would be limited to the hydrocarbon-producing portions of the formations as described in the Arkansas program description. This exemption would allow continuance of enhanced recovery operations in fresh water production zones. Such an exemption would allow Class II injection only. EPA is aware of no current or projected use of the proposed exempted areas for drinking water.

Maximum Injection Pressure

The proposed maximum injection pressure (§§ 147.203 and 147.204) for wells authorized by rule is set to ensure that the pressure during injection does not initiate new fractures or propagate existing fractures in the confining zones. There are numerous articles on and methods for determining fracture gradients in technical petroleum journals (e.g., "Fracture Gradient Prediction and its Application in Oil Field Operations" by B. A. Eaton; "Mechanics of Hydraulic Fracturing" by

M. K. Hubbert and D. G. Willis; "How to predict Formation Pressure and Fracture Gradients" by W. R. Matthews and J. Kelly; "Prediction of Fracture Gradients from Log-Derived Elasti Moduli" by L. A. MacPherson and L. N. Berry). The fracture gradient in Arkansas can range from as low as 0.465 psi/ft of depth (in pressure-depleted reservoirs) to about 1.0 psi/ft of depth. (These pressures represent the pressures at the injection zone depth.) The Agency is proposing to vary the value of the fracture gradient used to calculate the maximum allowable injection pressure at the wellhead with the depth of the well. Such an approach is appropriate for Arkansas for several reasons. First, this requirement is consistent with the Arkansas Oil and Gas Commission injection pressure requirements. Second, variation is appropriate in Arkansas because Class II injection wells in the State may vary in depth from less than 1,000 feet to more than 6,000 feet. More generally, such an approach is justified since, as stated in the preamble to 40 CFR Part 146, 45 FR 42483, the Agency's primary concern is that, "between a USDW to be protected and the injection zone, there be a relatively impermeable barrier." Obviously the deeper the well, the more likely that such a barrier will not be breached by a given injection pressure. Finally, geology/lithology varies with depth. Limiting the injection pressure sufficiently to prevent fracturing in shallow formations would prohibit injection into deeper formations, thus impeding oil production. Likewise, a maximum allowable pressure that would allow injection into deeper zones would cause fracturing of shallow formations. Both situations are unacceptable. Therefore, a maximum allowable injection pressure is directly related to well depth. (Note: tubing friction loss is not included in the calculation because of the variations due to pipe size and rate of injections. This will be considered a safety factor.)

It should be noted that this pressure limitation applies to wells authorized under rule. Operators may request permission to inject at higher pressures by applying for a permit and demonstrating in the application that such operations will not violate § 144.28(f)(3).

Casing and Cementing

The Agency is proposing cementing requirements for existing enhanced recovery and hydrocarbon storage wells which may not be in compliance with §§ 144.28(e) and 146.22. These sections require existing wells to be cased and cemented to prevent the movement of fluids into or between underground sources of drinking water which may cause a significant risk to the health of persons.

The requirements proposed today in § 147.204(b) recognize that it is at best difficult to bring existing wells into compliance with a new set of construction requirements. In the June 24, 1980, promulgation of Part 146, the Agency outlined requirements in § 146.22 (c), (d), (e) which make it possible to relieve operators of wells in existing fields from the requirements specified in § 146.22(b) provided that the operator will not allow movement of fluids.

The Agency believes that the proposed requirements are appropriate for wells in Arkansas when a workover is necessary to bring an existing well into compliance with requirements of 40 CFR 144.28(e) and 146.22. The requirements proposed here dictate that the Regional Administrator make a determination that the wells may not be in compliance with the above requirements. If such a determination is made he may impose requirements consistent with those proposed here, or he may require the owner or operator to apply for a permit. In general, these requirements identify the placement of cement relative to the USDWs and the injection zone, as well as the quantity and quality of cement to be used. The purpose of the requirements is to insure that USDWs are effectively cemented off, that injection fluids are isolated in the injection zone, and that the cement used in these activities is of sufficient quantity and quality to accomplish these goals in the environment in which it is used.

Cement is placed behind the casing immediately above the injection zone to ensure that injected fluids do not migrate from the injection zone along the well bore into geologic strata other than the permitted injection zone. Only a few tens of feet of completely cemented interval are usually sufficient to prevent fluid movement. However, cementing operations may leave channels in the cement behind the casing where cement has bypassed drilling mud, where casing is not centered in the hole, or where cement is not bonded to the formation or casing. Also, corrosive injected fluids can affect cement integrity immediately above the injection zone. Because of these uncertainties, a significant factor of safety is needed. The Arkansas Oil and Gas Commission adopted a requirement in 1972 that the operator place a minimum of 250 feet of cement immediately above the injection zone. The State has found that this sufficiently prevents fluid movement from the injection zone. Therefore, § 147.204 incorporates this requirement.

Plugging and abandonment

Section 146.10(a) requires that all wells be plugged, upon abandonment, to prevent fluid movement into or between underground sources of drinking water. We are proposing in § 147.206(a) standards which EPA considers appropriate in Arkansas to accomplish this goal. The Regional Administrator may approve an alternative plugging method on a case-by-case basis (§ 147.206(a)(7)) if such an alternative method will provide the same degree of protection to USDWs. Following is a discussion of the plugging requirements being proposed, together with the rationale for selecting the approach. Two 100-foot cement plugs are required: one at the surface casing shoe and another immediately above the injection zone. The plug placed above the injection zone ensures that injected fluids are permanently confined to the injection zone. The plug at the surface casing shoe is needed to prevent fluid movement into or between USDWs. Historically, 100-foot cement plugs have been found to adequately protect USDWs by both the oil and gas industry. For wells which are cased and cemented from below the lowermost USDW to the surface, the Agency is proposing to require that the 100-foot cement plug be centered at the surface casing shoe.

If the well to be plugged is not cased and cemented consistent with § 147.204(b)(1)(i), a plug must extend from 50 feet below the lowest USDW to 50 feet above the surface casing shoe or where other casing is cemented to protect USDWs. Cement through this interval is necessary to ensure that fluid does not move into USDWs.

A 10-foot plug must be placed at the top of the surface casing to prevent surface contaminants from entering the abandoned well.

Where a cement plug is placed inside uncemented casing, the casing must be perforated, ripped, or otherwise opened to allow cement to be placed behind the casing. This is done to prevent fluid movement through the well bore around the plug.

Drilling mud must be left between plugs to stabilize the hole and prevent significant fluid movement along the well bore. Mud weight 9.5 pounds per gallon generally provides sufficient pressure to contain fluids in normally pressured aquifers.

The requirement that all plugs be tagged is included so EPA can be sure that plugs are properly placed. Many

times plugs may slide down hole during emplacement. Tagging locates the plug top and demonstrates that the plug is secure in the hole.

Mechanical Integrity Tests

Section 146.8 allows mechanical integrity tests other than those listed. The Agency is proposing to allow the use of radioactive tracer surveys and cement bond logs, pursuant to §147.206(b), to demonstrate mechanical integrity of Class II wells in Arkansas, because some of these wells are not amenable to pressure testing or annulus monitoring. The radioactive tracer survey has been proven to be useful for identifying where injected fluid is leaving the well. It can be used to locate leaks in casing, tubing, or packer and evaluate which geologic formation receives the injected fluid. If fluid is entering the permitted zone, the radioactive tracer survey can be used to determine whether fluids are confined to that zone or are migrating up hole behind the casing. The cement bond log can be used to evaluate the cement condition behind the casing. This log indicates areas where cement is absent or where channels exist. Any channels represent a potential route for fluid movement.

Construction Requirements for New Wells

EPA is proposing that all newly constructed Class II injection wells in Arkansas be equipped with tubing and packer (§ 147.205(c)). Historically, tubing and packer have proved effective in preventing corrosion of the well casing (which could allow contamination of a USDW). Such construction also facilitates mechanical integrity testing of the well, by allowing the tubing-casing annulus to be monitored. Furthermore, wells constructed with tubing and packer can be brought into compliance more easily and less expensively than many other constructions. EPA recognizes that requiring tubing and packer for existing injection wells may not be possible in all cases due to past well construction practices. Therefore, EPA does not propose to require tubing and packer for all existing wells.

Area of Review

EPA is proposing to limit the method of determining the area of review to the option listed in § 146.6(b), use of a fixed radius of ¼ mile. Currently, the State requires information on a considerably larger fixed radius, and therefore EPA does not believe the ¼ mile radius is burdensome.

Subpart F—California

Subpart F proposes to require all owners and operators to comply with the UIC regulations at 40 CFR Parts 124, 144, and 146. In addition, this subpart contains requlations that supplement the UIC regulations where discretion is allowed in order to make the California UIC program appropriate and amenable to the combination of historic practices and geology unique to California.

A Class II program administered by the California Division of Oil and Gas has already been approved. Therefore, EPA is not proposing a Class II program.

Exempted Aquifers

Upon the effective date of this program, facilities which are injecting into an underground source of drinking water cannot legally operate unless that aquifer or a portion is exempted. However, EPA is not aware of any injections into a USDW and, therefore, is not proposing to exempt any aquifers at this time. Owners or operators should determine whether their facilities are injecting into a USDW as defined in 40 CFR Part 146.3. Should an owner or operator find that he is injecting into a USDW, he may request an exemption consistent with criteria and procedures in 40 CFR Part 144.7 and 146.4.

Maximum Injection Pressure

For the State of California, the value of the fracture gradient to be used in the maximum injection pressure equation is proposed to be 0.60. EPA is proposing this value after reviewing published materials and consulting with the State of California Division of Oil and Gas, and the California State Water Resources Control Board. These investigations established that while fracture pressures may vary from one formation to the next and one depth to the next, the maximum pressure calculated using this gradient will provide adequate protection against formation fracturing and resulting migration of fluids into or between USDWs. EPA requests comments from the regulated community on the proposed value, as well as comments on the appropriatenes of a variable rate which recognizes the geologic differences between various regions of the State.

Subpart G—Colorado

Subpart G proposes to require all owners and operators to comply with the UIC regulations at 40 CFR Parts 124, 144 and 146. In addition, this subpart contains regulations that supplement the UIC regulations where disretion is allowed in order to make the Colorado UIC program appropriate and amenable to the combination of historic practices and geology unique to the State of Colorado.

Aquifer Exemption

EPA regulations allow the Administrator of EPA to exempt specific aquifers if the aquifer meets the criteria established in § 146.4.

EPA proposes to exempt those portions of aquifers into which listed Class II wells are injecting as discussed in § 147.302. A complete listing of the proposed aquifer exemptions and their location is available for review at the EPA Regional Office in Denver. The exemptions will apply to the injection formation only and well be applicable for a specific Class of well only. These limited portions of aquifers meet the criteria established in §146.4.

The aquifers associated with Class II wells cannot now and will not in the forseeable future serve as a source of drinking water because they are hydrocarbon producing. The portions of aquifers proposed for exemption do not serve as sources of drinking water.

Commentors should note that EPA is proposing to exempt that portion of the aquifer into which wells or projects are currently injecting. If well owners or operators wish to have EPA exempt additional portions of the aquifers that meet the exemption criteria, they should prepare a justification for such an exemption and submit it to EPA. Upon the effective date of this porgram such facilities cannot legally operate unless that aquifer or a portion is exempted.

Maximum Injection Pressure

EPA is proposing for all Federally implemented programs the use of a simple formula that will prescribe an injection pressure to be measured at the well head. The formula is discussed in detail in the introduction to the State-specific preambles. The 0.733 psi/ft fracture gradient proposed for Colorado was determined from the publications listed below. It should be noted that this pressure limitation applies to wells authorized under rule. Operators may request permission to inject at higher pressures by applying for a permit and demonstrating in the application that such operations will not violate §144.28(f)(3).

The chocie of 0.733 as an appropriate fracture gradient was developed after reviewing industry fracturing literature ("Stimulation Fluid Friction Pressure Handbook" by the Western Company of North America and "Fracturing Fluids: Engineering Data" by the Dowell Division of Dow Chemical, journal

articles including "Step-Rate Tests Determine Safe Injection Pressures in Floods" By Martin Felsethal, published October 28, 1974, in the "The Oil and Gas Journal", "Determining Fracture Pressure Gradients from Well Logs," by Anderson, Ingram and Zanier, November 1973, and "Interpretation of Fracturing Pressures" by Kenneth G. Nolte and Michael B. Smith, September 1981, published in the "Journal of Petroleum Technology.")

Casing and Cementing

The Agency is proposing cementing requirements for existing enhanced recovery and hydrocarbon storage wells which may not be in compliance with §144.28(e) and §146.22. These sections require existing wells to be cased and cemented to prevent the movement of fluids into or between underground sources of drinking water.

The requirements proposed today in §147.304(b) recongnize that it is at best difficult to bring existing wells into compliance with a new set of construction requirements. In the June 24, 1980, promulgation of 40 CFR Part 146, the Agency outlined requirements in §146.22(c), (d), and (e) which made it possible to relieve operators of wells in existing fields from the requirements specified in §146.22(b), provided that the operator will not allow movement of fluids which could pose a significant risk to the health of persons.

The Agency believes that the proposed requirements are appropriate for wells in Colorado when a workover is necessary to bring an existing well into compliance with the requirements of 40 CFR 144.28(e) and § 146.22. The requirements proposed here dictate that the Regional Administrator make a determination that the wells may not be in compliance with the above requirments. If such a determination is made, he may impose requirements consistent with those proposed here, or he may require the owner or operator to apply for a permit. In general, these requirements identify the placement of cement relative to the USDWs and the injection zone, as well as the quantity and quality of cement to be used. The purpose of the requirements is to insure that USDWs are effectively cemented off, that injection fluids are isolated in the injection zone, and that the cement used in these activities is of sufficient quantity and quality to accomplish these goals in the environment in which it is used.

In order to provide more specific requirements for casing and cementing of newly constructed or converted wells, a literature review was conducted to establish effective practices for casing and cementing. The literature included "Cementing" by Dwight K. Smith, Cementing Coordinator, Halliburton Services, Society of Petroleum Engineers of AIME, 1971; "Cementing Handbook Including Casing Handling Procedures" by George O. Suman, Jr. and Richard C. Ellis, World Oil, 1977; "Technical Position Paper #WM 8102", Uranium Recovery Licensing Branch, U.S. Nuclear Regulatory Commission, December 1981; "An Introduction to the Technology of Subsurface Wastewater Injection" EPA 600/2–77–240, December 1977; and "Injection Well Construction Practices and Technology," prepared by Geraghty and Miller Inc., Booze, Allen and Hamilton, Inc., October 1982.

Area of Review

EPA is proposing that the area of review be established at a fixed radius of one-quarter mile from the well head. The Theis equation and other formulas are not presented as alternatives.

Equations are valid only in those cases where a series of assumptions can be validated. It is the opinion of EPA that in the State of Colorado, where formations are frequently fractured, folded or othewise not continuous, the validation of the assumptions would present an unnecessary burden on the applicant and on EPA.

Other Alternatives Being Considered

The Agency is considering applying plugging and abandonment requirements similar to those being proposed for Arkansas in § 147.206 for all EPA-administered programs and is soliciting comment on such an approach for Colorado. In addition, the Agency is considering promulgating requirements for maximum operating pressures that are similar to the approach used for Arkansas in § 147.204. A more detailed discussion of these requirements can be found in the preamble to the Arkansas program.

Subpart J—District of Columbia

Subpart DDD—American Samoa

Subpart EEE—Commonwealth of the Northern Mariana Islands

Subpart FFF—Trust Territory of the Pacific Islands

These jurisdictions have not submitted a UIC program for any class of wells in the State or Territory. Therefore, EPA must propose a program for all classes of wells. Because EPA is not aware of any existing Class I, II, III, or IV wells in these States or Territories, it is not proposing any specific provisions for existing wells authorized by rule. Class V wells will be inventoried, but no permitting or other regulatory action beyond the requirements of 40 CFR Parts 144 and 146 are proposed at this time. EPA has determined that the minimum program requirements set forth in 40 CFR Parts 124, 144, and 146 are appropriate for these jurisdictions and proposes to require all owners and operators to comply with these UIC regulations.

Applicants who seek a Federal UIC permit in these jurisdictions should be aware that these jurisdictions may prohibit construction and operation of injection wells. As provided in section 1423(c) of the SDWA, the Federal UIC program does not supersede any State or local prohibitions against underground injections.

Subpart N—Idaho

Subpart N proposes to require all owners or operators to comply with the UIC regulations at 40 CFR Parts 124, 144 and 146.

Because EPA is not aware of any existing Class I, II, III, or IV wells in Idaho, it is not proposing any further specific provisions for existing wells authorized by rule. Class V wells will be inventoried but no permitting or other regulatory action is proposed at this time.

All new Class I, II, and III wells in Idaho are required to apply for permits prior to initiation of construction.

The State of Idaho has submitted a complete application for primary enforcement responsibility over all classes of wells. If this program is approved, the Federally administered program will be rescinded.

Subpart P—Indiana

Subpart P proposes to require all owners and operators to comply with the UIC regulations at 40 CFR Parts 124, 144 and 146. In addition, this subpart contains regulations that supplement the UIC regulations where discretion is allowed in order to make the Indiana UIC program appropriate and amenable to the combination of historic practices and geology unique to Indiana.

Exempted Aquifers

Upon the effective date of this program facilities which are injecting into an underground source or drinking water cannot legally operate unless that aquifer or a portion is exempted. However, EPA is not aware of any injections into a USDW and, therefore, is not proposing to exempt any aquifers at this time. Owners or operators should determine whether their facilities are injecting into a USDW, as defined in § 146.3. Should an owner or operator find that he is injecting into a USDW, he

may request an exemption consistent with criteria and procedures in 40 CFR 144.7 and § 146.4.

Maximum Injection Pressure

EPA is proposing, for all Federally implemented programs, the use of a simple formula that will enable injection pressures to be measured at the well head. The formula is discussed in detail in the Introduction to the State-specific section of the preamble.

The 0.8 psi/ft fracture gradient in the formula for Indiana was determined after reviewing Warner and Lehr (1977, EPA–600/277–240). This report suggests a value between 0.5 and 1.0 psi/ft of depth and suggest that regional experience be used as a criterion in establishing a limit.

Agency inquiry indicated that fracture gradients in Indiana range from 0.8 to 1.2 psi/ft. EPA is proposing a conservative fracture gradient of 0.8 psi/ft. Owners or operators may apply for and receive permission to operate at pressures greater than the pressure being proposed here for rule-authorized operators, by applying for a permit and demonstrating that the pressure described is consistent with requirements in 40 CFR part 146.

Casing and Cementing

The Agency is proposing cementing requirements for existing enhanced recovery and hydrocarbon storage wells which may not be in compliance with §§ 144.28(e) and 146.22. These sections require existing wells to be cased and cemented to prevent the movement of fluids into or between underground sources of drinking water.

The requirements proposed today in § 147.754(b) recognize that it is at best difficult to bring existing wells into compliance with a new set of contruction requirements. In the June 24, 1980, promulgation of 40 CFR Part 146, the Agency outlined requirements in § 146.22(c), (d), and (e) which made it possible to relieve operators of wells in existing fields from the requirements specified in § 146.22(b) provided that the operation will not allow movement of fluids which could pose a significant risk to the health of persons.

The Agency believes that the proposed requirements are appropriate for wells in Indiana when workover is necessary to bring an existing well into compliance with the requirements of 40 CFR 144.28(e) and 146.22. The requirements proposed here dictate that the Regional Administrator make a determination that the wells may not be in compliance with the above requirements. If such a determination is made he may impose requirements consistent with those proposed here, or he may require the owner or operator to apply for a permit. In general, these requirements identify the placement of cement relative to the USDWs and the injection zone as well as the quantity and quality of cement to be used. The purpose of the requirements is to ensure that USDWs are effectively cemented off, that injection fluids are isolated in the injection zone, and that the cement used in these activities is of a sufficient quantity and quality to accomplish these goals in the environment in which it is used.

The Agency is proposing the injection of salt water into a well must be done through tubing and packer. Experience in this Region has shown that salt water has the ability to corrode casings in a very short period of time, and the most effective way to protect casings from corrosion is to use tubing set on a packer. Use of tubing and packer will also give the operator and EPA the ability to monitor pressures in the tubing-casing annulus to detect any leaks. Owners or operators have one year from the effective date of this program to comply with this requirement. Since tubing and packer are already required by the States of Michigan, Illinois, and Ohio and the Agency believes they are generally used in Indiana, this requirement is not considered burdensome to well operators in Indiana.

Area of Review

The Agency is proposing to limit the options for establishing the Area of Review for Class II wells to a fixed radius as described in § 146.6(b). The Agency is proposing this approach due in part to the potentially large number of wells involved, and the considerable delay in program implementation caused by processing requests based on many formulae.

Other Alternatives Being Considered

The Agency is considering applying plugging and abandonment requirements similar to those being proposed for Arkansas in § 147.206 for all Federally implemented programs and is seeking comment for such an approach from interested parties in the State of Indiana. In addition, the Agency is considering promulgating requirements for maximum operating pressures that are similar to the approach specified for Arkansas in § 147.204. A more complete discussion of these requirements can be found in the Arkansas preamble.

Subpart Q—Iowa

Subpart Q proposes to require all owners and operators to comply with the UIC regulations at 40 CFR Parts 124, 144, and 146. In addition, this subpart contains regulations that supplement the UIC regulations where discretion is allowed, in order to make the Iowa UIC program appropriate and amenable to the combination of historic practices and geology unique to Iowa.

Because EPA is not aware of any existing Class I, II, III or IV wells in Iowa, it is not proposing any specific provisions for existing wells authorized by rule. Class V wells will be inventoried, but no permitting or other regulatory action is proposed at this time.

All new Class I, Class II and Class III wells in Iowa are required to apply for permits prior to initiation of construction. However, applicants who seek a Federal UIC permit in Iowa should be aware that the State prohibits the disposal of any pollutant other than heat into wells. As provided in § 1423(c) of the SDWA, the Federal UIC program does not supersede any State or local prohibitions against underground injection.

Subpart S—Kentucky

Subpart S proposes to require all owners and operators to comply with the UIC regulations at 40 CFR Parts 124, 144, and 146. In addition, this subpart contains regulations specific to Kentucky, where discretion is allowed, in order to make the Kentucky UIC program appropriate and amenable to the combination of historic practices and geology unique to the Commonwealth.

Aquifer Exemptions

Upon the effective date of this program, facilities which are injecting into an underground source of drinking water cannot legally operate unless that aquifer or portion, thereof, is exempted. However, EPA is not aware of any injections into a USDW and, therefore, is not proposing to exempt any aquifers at this time. Owners or operators should determine whether their facilities are injecting into a USDW as defined in § 146.3. Should an owner or operator find that he is injecting into a USDW, he may request an exemption consistent with criteria and procedures in CFR 146.4.

Maximum Injection Pressure

EPA is proposing for all Federally implemented programs, the use of a simple formula that will prescribe an injection pressure to be measured at the wellhead. The formula is discussed in detail in the introduction to the State-specific preambles. The 0.733 psi/ft

fracture gradient proposed for Kentucky was determined from Warner and Lehr (1977, EPA–600–2–77–240, page 117) which proposed a range of values from 0.5 to 1.0 psi per of depth.

The Agency is proposing a fracture gradient falling in the middle of this range because it is seeking a value that adequately protects USDWs but is not overly restrictive. Comment on the appropriateness of this limit for owners or operators of wells authorized by rule is solicited and will be considered in final rulemaking.

It should be noted that this pressure limitation applies to wells authorized under rule. Operators may request permission to inject at higher pressures by applying for a permit and demonstrating in the application that such operation will not violate § 144.28(f)(3).

Casing and Cementing

The Agency is proposing cementing requirements for existing enhanced recovery and hydrocarbon storage wells which may not be in compliance with §§ 144.28(e) and 146.22. These sections require existing wells to be cased and cemented to prevent the movement of fluids into or between underground sources of drinking water.

The requirements proposed today in § 147.904(b) recognize that it is at best difficult to bring existing wells into compliance with a new set of construction requirements. In the June 24, 1980, promulgation of Part 146, the Agency outlined requirements in § 146.22 (c), (d), and (e) which were intended to relieve operators of wells in existing fields from the requirements specified in § 146.22(b) provided, that the operation will not allow movement of fluids which could pose a significant risk to the health of persons.

The Agency believes that the proposed requirements are appropriate for wells in Kentucky when a workover is necessary to bring an existing well into compliance with the requirements of 40 CFR 144.28(a) and § 146.22. The requirements proposed here dictate that the Regional Administrator make a determination that the wells may not be in compliance with the above requirements. If such a determination is made he may impose requirements consistent with those proposed here, or he may require the owner or operator to apply for a permit. In general, these requirements identify the placement of cement relative to the USDWs and the injection zone as well as the quantity and quality of cement to be used. The purpose of the requirements is to ensure that USDWs are effectively cemented off, that injection fluids are isolated in the injection zone, and that the cement used in these activities is of a sufficient quantity and quality to accomplish these goals in the environment in which it is used.

Area of Review

The Agency is proposing to limit the options for establishing the Area of Review for Class II wells to fixed radius as described in § 146.6(b). The Agency is proposing this approach due in part to the potentially large number of wells involved, and the considerable delay in program implementation caused by processing requests based on many formulae.

Other Alternatives Being Considered

The Agency is considering applying plugging and abandonment requirements similar to those being proposed for Arkansas in § 147.206 for all EPA-Administered programs and is soliciting comments on such an approach for Kentucky. In addition, the Agency is considering promulgating requirements for maximum operating pressures that are similar to the approach specified for Arkansas in § 147.204. A more detailed discussion of these requirements can be found in the preamble for the Arkansas program.

Subpart X—Michigan

Subpart X proposes to require all owners and operators to comply with the UIC regulations at 40 CFR Parts 124, 144, and 146. In addition, this subpart contains regulations that supplement the UIC regulations where discretion is allowed in order to make the Michigan UIC program appropriate and amenable to the combination of historic practices and geology unique to Michigan.

Aquifer Exemptions

Upon the effective date of this program, facilities which are injecting into an underground source of drinking water cannot legally operate unless that aquifer portion is exempted. However, EPA is not aware of any such facilities and, therefore, is not proposing to exempt any aquifer at this time, as this is the most environmentally protective course to take. Owners or operators should determine whether their facilities are injecting into a USDW as defined in § 146.3. Should an owner or operator find that he is injecting into a USDW, he may request an exemption consistent with criteria and procedures in 40 CFR 144.7 and § 146.4.

Maximum Injection Pressure

EPA is proposing for all federally implemented programs, the use of a simple formula that will enable injection pressures to be measured at the wellhead. The formula is discussed in detail in the introduction to the State-specific section of the preamble.

An appropriate fracture gradient for Michigan is 0.8 psi/ft according to the Michigan Department of Natural Resources. This number is also in accordance with the range suggested by Warner and Lehr, and is therefore, being proposed for use in Michigan. EPA recognizes that this may be a conservative figure for some areas, but since operators may receive permission to operate at pressures greater than the pressure being proposed here by applying for a permit, the Agency believes the figure is consistent with the Safe Drinking Water Act, without being unduly restrictive to operators.

Casing and Cementing

The agency is proposing cementing requirements for existing enhanced recovery and hydrocarbon storage wells which may not be in compliance with §§ 144.28 (e) and 146.22. These sections require existing wells to be cased and cemented to prevent the movement of fluids into or between underground sources of drinking water.

The requirements proposed today in §147.1154(b) recognize that it is at best difficult to bring existing wells into compliance with a new set of construction requirements. In the June 24, 1980 promulgation of Part 146, the Agency outlined requirements in § 146.22 (c), (d), and (e) which were intended to relieve operators of wells in existing fields from the requirements specified in §146.22(b) provided that the operation will not allow movement of fluids which could cause a significant risk to the health of persons.

The Agency believes that the proposed requirements are appropriate for wells in Michigan when a workover is necessary to bring an existing well into compliance with the requirements of 40 CFR 144.28(e) and §146.22. The requirements proposed here dictate that the Regional Administrator make a determination that the wells may not be in compliance with the above requirements. If such a determination is made he may impose requirements consistent with those proposed here, or he may require the owner or operator to apply for a permit. In general, these requirements indentify the placement of cement relative to the USDWs and the injection zone as well as the quantity and quality of cement to be used. The purpose of the requirements is to ensure that USDWs are effectively cemented off, that injection fluids are isolated in the injection zone, and that the cement

used in these activities is of a sufficient quantity and quality to accomplish these goals in the environment in which it is used.

The Agency is proposing that injection of salt water in a well be done through tubing and packer. Experience within the region has shown that salt water has the ability to corrode most casings in a very short period of time and the most effective way to protect casings from corrosion is to use tubing set on a packer. Use of tubing and packer will also give the operator and EPA the ability to monitor pressures in the tubing-casing annulus to detect any leaks. Owners or operators have one year from the effective date of this program to comply with this requirement. Since tubing and packer are already required by Michigan, as well as Ohio and Illinois, the proposed requirement is not considered burdensome to the regulated community in Michigan.

Area or Review

The Agency is proposing to limit the options for establishing the Area of Review for Class II wells to a fixed radius as described in §146.6 (b). The Agency is proposing this approach due in part to the potentially large number of wells involved, and the considerable delay in program implementation caused my processing requests based on many formulae.

Other Alternatives Being Considered

The Agency is considering applying plugging and abandonment requirements similar to those being proposed for Arkansas in §147.206 for all EPA-administered programs and is soliciting comment for such an approach for the State of Michigan. In addition, the Agency is considering promulgating requirements for maximum operating pressures that are similar to the approach specified in Arkansas in 40 CFR 147.204. A more detailed discussion of these requirements can be found in the preamble to the Arkansas program.

Subpart Y—Minnesota

Subpart Y proposes to require all owners and operators to comply with the UIC regulations at 40 CFR Parts 124, 144, and 146. In addition, this subpart contains regulations that supplement the UIC regulations where discretion is allowed, in order to make the Minnesota UIC program appropriate and amenable to the combination of historic practices and geology unique to Minnesota.

Because EPA is not aware of any existing Class I, II, III or IV wells in Minnesota, it is not proposing any specific provisions for existing wells authorized by rule. Class V wells will be inventoried, but no permitting or other regulatory action is proposed at this time.

All new Class I, Class II, and Class III wells in Minnesota are required to apply for permits prior to initiation of construction.

Subpart AA—Missouri

Subpart AA proposes to require all owners and operators to comply with the UIC regulations at 40 CFR Parts 124, 144, and 146. In addition, this subpart contains regulations that supplement the UIC regulations where discretion is allowed, in order to make the Missouri UIC program appropriate and amenable to the combination of historic practices and geology unique to Missouri.

These rules apply to Classes I, III IV, and V wells in Missouri. Missouri has submitted a program for Class II wells which is currently under review. Therefore, the Agency is not proposing a Class II program at this time. Because EPA is not aware of any existing Class I, III, or IV wells in Missouri, it is not proposing any specific provisions for existing wells authorized by rule. Class V wells will be inventoried, but no permitting or other regulatory action is proposed at this time.

Subpart BB—Montana

Subpart BB proposes to require all owners and operators to comply with the UIC regulations at 40 CFR Parts 124, 144, and 146. In addition, this subpart contains regulations that supplement the UIC regulations where discretion is allowed, in order to make the Montana UIC program appropriate and amenable to the combination of historic practices and geology unique to Montana.

Exempted Aquifers

EPA regulations allow the Administrator of EPA to exempt specific aquifers if the aquifer meets the criteria established in § 146.4.

The Montana Board of Oil and Gas Conservation requires that all salt water disposal wells inject either back into the producing formation or into some other salt water bearing strata.

From aquifer maps and well appropriation inventories provided by the Montana Bureau of Mines and Geology, EPA has found that many of the strata contain water with a total dissolved solids content between 4,000 and 7,000 mg/1 TDS. None has been found to be less than 3,000 mg/1 and none is currently being used as a source of drinking water.

EPA is proposing to exempt those portions of aquifers (within one-quarter mile of the well) into which all existing Class II wells are injecting. Commentors should note that EPA is proposing to exempt that portion of the aquifer into which wells are currently injecting. If a well owner wishes to exempt an entire field, he or she should submit a justification for such an exemption and submit the information to EPA within 45 days of publication of this proposal.

A complete listing of the proposed aquifer exemptions and their location is available for review at the EPA Regional Office in Denver as well as in the EPA office in Helena, Montana. The exemptions will apply to the injection formation only and will be applicable for Class II purposes only (all known wells are Class II wells). These limited portions of aquifers meet the criteria established in § 146.4. The vast majority of the aquifers in Montana are at a great depth (average depth of approximately 5,000 feet) and are not used now, and are not expected to be used in the future or are in a location which would economically or technologically preclude their use as a source of drinking water.

Maximum Injection Pressure

EPA is proposing for all Federally implemented programs, the use of a simple formula that will prescribe an injection pressure to be measured at the wellhead. The formula is discussed in detail in the introduction to the State-specific preambles. The 0.733 psi/ft fracture gradient proposed for Montana was from the publications listed below.

EPA is proposing this standard after reviewing industry fracturing literature ("Stimulation Fluid Friction Pressure Handbook" by the Western Company of North America, and "Fracturing Fluids: Engineering Data" by the Dowell Division of Dow Chemical), journal articles including "Step-Rate Tests Determine Safe Injection Pressures in Floods" by Martin Falsenthal, published October 28, 1974, in "The Oil and Gas Journal", "Determining Fracture Pressure Gradients from Well Logs," November 1973 by Anderson, Ingram and Zanier, and "Interpretation of Fracturing Pressures" by Kenneth G. Nolte and Michael B. Smith, September 1981, published in the "Journal of Petroleum Technology.")

It should be noted that this pressure limitation applies to wells authorized by rule. Operators may request permission to inject at higher pressures by applying for a permit and demonstrating in the application that such operations will not violate § 144.28(f)(3).

Casing and Cementing

The Agency is proposing cementing requirements for existing enhanced recovery and hydrocarbon storage wells which may not be in compliance with §§ 144.28(e) and 146.22. These sections require existing wells to be cased and cemented to prevent the movement of fluids into or between underground sources of drinking water.

The requirements proposed today in § 147.1354(b) recognize that it is at best difficult to bring existing wells into compliance with a new set of construction requirements. In the June 24, 1980, promulgation of 40 CFR Part 146, the Agency outlined requirements in § 146.22(d), (c), and (e) which were intended to relieve operators of wells in existing fields from the requirements specified in § 146.22(b), provided that the operator will not allow movement of fluids which could cause a significant risk to the health of persons.

The Agency believes that the proposed requirements are appropriate for wells in Montana when a workover is necessary to bring an existing well into compliance with the requirements of 40 CFR 144.28(e) and § 146.22. The requirements proposed here dictate that the Regional Administrator make a determination that the wells may be in compliance with the above requirements. If such a determination is made he may impose requirements consistent with those proposed here, or he may require the owner or operator to apply for a permit. In general, these requirements identify the placement of cement relative to the USDWs and the injection zone, as well as the quantity and quality of cement to be used. The purpose of the requirements is to insure that USDWs are effectively cemented off, that injection fluids are isolated in the injection zone, and that the cement used in these activities is of sufficient quantity and quality to accomplish these goals in the environment in which it is used.

The rules recognize the geologic differences between the eastern and western regions of the State. The eastern region is generally uniform geologically. The proposed regulations would require an operator to run surface casing to the nearest major shale formation and circulate cement to the surface of seal off the overlying USDWs. If the surface casing failed to reach the underlying major shale formation, the owner or operator would be required to cement the long string of casing from the surface to the major shale formation. For instance, in the Miles City area, the geologic sections listed in order of increasing depth are as follows:

(a) Ft. Union Formation—interbedded clays, sandstones, coals (a major USDW with TDS ranges from 500 to 5,000 mg/liter).

(b) Hell Creek Formation—sandstones, shaley mudstones, coal (a USDW with TDS ranges from 500 to 1,100 mg/l).

(c) Fox Hills Sandstone—shaley sandstone (a major USDW considered as part of the Hell Creek).

(d) Bearpaw Shale—thick shale and bentonite beds; does not contain significant amounts of water.

(e) Judith River Formation—interbedded sandstones, siltstones and sandy shales with some lignite—a USDW near recharge areas but TDS can range up to 27,000 mg/l.

(f) Claggett Formation—thick shale with localized sandstone lenses and thick bentonite at the base.

(g) Eagle Sandstone—sandstones and shaley sandstones with some lignite (a USDW with TDS generally less than 1,500 mg/l).

(h) Other underlying formations.

Wells located in the Miles City area shall be cased and cemented from the surface at least 50 feet into the Bearpaw Shale, which is a thick section of clay and shale underlying several major underground sources of drinking water.

For a well located in the Glasgow area, north of Miles City, the owner or operator would be required to case and/or cement from the surface at least 50 feet into the Claggett formation, which is the first major shale formation below the Judith River formation which is the uppermost USDW in that area.

The western portion of the State is extremely complex geologically. The western portion has some intense faulting and overthrusting as well as some major folds. In addition, there are several intermountain basins, which are structures produced by faulting which have been filled in with unconsolidated and semi-consolidated material which are apparently saturated.

For the western portion of the State, EPA is proposing that cement be set from the surface through the lowermost USDW used for drinking water, or to a depth of 1,000 feet, whichever is greater. The Regional Administrator may authorize an owner or operator to cement to a point other than the lowermost USDW in use, if an owner or operator can demonstrate that the use of such construction will not adversely allow the injection activities to affect the USDW.

Area of Review

EPA is proposing to limit the method of determining the area of review to the option listed in subsection § 146.6(b), use of a fixed radius of ¼ mile. The Theis equation and other formulas are not presented as alternatives.

Equations are valid only in those cases where a series of assumptions can be validated. It is the opinion of EPA that in a State such as Montana, where formations are frequently fractured, folded or otherwise not continuous the validation of such assumptions would present an enormous burden on the applicant and EPA.

Other Alternatives Being Considered

The Agency is considering applying plugging and abandonment requirements similar to those being proposed for Arkansas in 147.206 for all EPA-administered programs and is soliciting comment on such an approach for the State of Montana. In addition, the Agency is considering promulgating requirements for maximum operating pressures that are similar to those specified for Arkansas in § 147.04. A more detailed discussion of these requirements can be found in the preamble to the Arkansas program.

Subpart CC—Nebraska

Subpart CC proposes to require all owners and operators to comply with the UIC regulations at 40 CFR Parts 124, 144, and 146. In addition, this subpart contains regulations that supplement the UIC regulations where discretion is allowed, in order to make the Nebraska UIC program appropriate and amenable to the combination of historic practices and geology unique to Nebraska.

A Class II program administered by the Nebraska Oil and Gas Commission has already been approved. Therefore, EPA is not proposing a Class II program.

Because EPA is not aware of any existing Class I, III, or IV wells in Nebraska, it is not proposing any specific provisions for existing wells authorized by rule. Class V wells will be inventoried withing one year of promulgation of the program, but no permitting or other regulatory action beyond those in 40 CFR Parts 124, 144, and 146 is proposed at this time.

Subpart DD—Nevada

Subpart DD proposes to reguire all owners and operators to comply with the UIC regulations at 40 CFR Parts 124, 144, and 146. In addition, this subpart contains regulations that supplement the UIC regulations where discretion is allowed in order to make the Nevada UIC program appropriate and amenable to the combination of historic practices and geology unique to Nevada.

Exempted Aquifers

EPA is proposing to exempt portions of the Railroad Valley aquifer. Exemption is proposed under 40 CFR 146.4 because: (1) The aquifer does not currently serve as a source of drinking water; and (2) it cannot now and will not in the future serve as a source of drinking water because it is hydrocarbon energy producing. The program description, available from EPA Region IX in San Francisco, contains a more complete delineation of the proposed exemptions.

Maximum Injection Pressure

The maximum allowable operating pressure for any injection well in Nevada is determined by a formula common to all of the EPA-administered programs. The formula is discussed in the introduction to the State-specific preambles. The 0.733 psi/foot fracture pressure gradient proposed for Nevada was determined from Warner and Lehr (1977, EPA–600/2–77–240, page 117), which proposed a range of values from 0.5 to 1.0 psi/foot of depth.

The Agency is proposing a fracture gradient falling in the middle of this range, because it is seeking a value that adequately protects USDWs but is not overly restrictive. Comment on the appropriateness of this limit for owners or operators of wells authorized by rule is solicited and will be considered in final rulemaking.

It should be noted that this pressure limitation applies to wells authorized under rule. Operators my request permission to inject at higher pressures by applying for a permit and demonstrating in the application that such operations will not violate § 144.28(f)(3).

Other Alternatives Being Considered

The Agency is considering applying plugging and abandonment requirements similar to those being proposed for Arkansas in § 147.206 for all EPA-administered programs and is soliciting comment on such an approach for the State of Nevada. In addition, the Agency is considering promulgating requirements for maximum operating pressures that are similar to those specified for Arkansas in 40 CFR 147.204. A more detailed discussion of these requirements can be found in the preamble to the Arkansas program.

Subpart HH—New York

Suppart HH proposes to require all owners and operators to comply with the UIC regulations at 40 CFR Parts 124, 144, and 146. In addition, this subpart contains regulations that supplement the UIC regulations, where discretion is allowed, in order to make the New York UIC program appropriate and amenable to the combination of historic practices and geology unique to New York.

Aquifer Exemptions

Section 147.1652 provides a listing of aquifers with total dissolved solids (TDS) levels of less than 10,000 mg/l that EPA proposes to exempt in accordance with §146.4. These aquifers do not serve as sources of drinking water, according to current EPA records. They cannot now and will not in the future serve as drinking water sources because they are hydrocarbon producing. At this time the list of exempted aquifers consists of those oil-bearing formations which, due to many years of Class II enhanced recovery water flooding with fresh water, have experienced TDS content reductions from in excess of 10,000 mg/l to less than 10,000 mg/l, thereby qualifying them as USDWs. This proposed exemption will apply only to Class II enhanced recovery wells because EPA does not want to compromise the hydrocarbon producibility or these oil-bearing aquifers by making this exemption applicable to all classes of wells. EPA is currently conducting a detailed analysis of New York's oil bearing aquifers. Detailed documentations of TDS levels, commercial producibility and locations, in support of these exemptions are available for inspection in the UIC program docket, maintained at EPA Region II offices in New York City, New York.

Maximum Injection Pressure

The maximum allowable operating pressure for any injection well in New York is determined by a formula common to all of the EPA-administered programs. This formula, which is discussed in more detail in the introduction to the State-specific preambles, applies a common approach, but still allows fracture gradients unique to particular States to be considered. The 0.733 psi/foot fracture pressure gradient proposed for New York was determined from Warner and Lehr (1977, EPA–600/2–77–240, page 117) which proposed a range of values from 0.5 to 1.0 psi/foot of depth. Reported values of a limited sampling of wells in New York varied between 0.56 and 1.2 psi/foot, thus approximately confirming the Warner and Lehr range of values. In the absence of more comprehensive field data, the value of 0.733 is being proposed. EPA solicits comments on the applicability of this fracture gradient for New York.

It should be noted that this pressure limitation applies to wells authorized under rule. Operators may request permission to inject at higher pressures by applying for a permit and demonstrating in the application that such operations will not violate § 144.28(f)(3).

Casing and Cementing

For any type of Class I well, the requirements in § 147.1655(a) reflect criteria designed to give the fullest level of protection to USDWs. An effective way to protect USDWs is to provide cemented surface casing from the surface to a point at least 50 feet below the base of the lowest USDW. The Agency is proposing that Class I wells have long string casing over the total depth of the wall, because the generally toxic nature of the wastes and their caustic characteristics warrant such requirements.

Long string casing is required to be cemented from the injection zone back at least 50 feet above the base of the surface casing or any intermediate strings of casing, where used. Any such intermediate strings of casing must be similarly cemented back 50 feet into the next largest casing. These provisions constitute a most important protective measure in that such arrangements provide a continuous cement barrier which will protect the casing from external corrosion and will prevent fluid movement outside the casing. These requirements also represent a more cost-effective approach than cementing all of the annular space back to the surface, while maintaining the appropriate environmental safeguards.

The Agency is proposing cementing requirements for existing enhanced recovery and hydrocarbon storage wells which may not be in compliance with §§ 144.28(e) and 146.22. These sections require existing wells to be cased and cemented to prevent the movement of fluids into or between underground sources of drinking water.

The requirements proposed today in § 147.1654(b) recognize that it is at best difficult to bring existing wells into compliance with a new set of construction requirements. In the June 24, 1980, promulgation of 40 CFR Part 146, the Agency outlined requirements in § 146.22(c), (d), and (e) which were intended to relieve operators of wells in existing fields from the requirements specified in § 146.22(b), provided that the operation will not allow movement of fluids which could pose a significant threat to the health of persons.

The Agency believes that the roposed requirements are appropriate for wells

in New York when workover is necessary to bring an existing well into compliance with the requirements of 40 CFR 144.28(e) and 146.22. The requirements proposed here dictate that the Regional administrator make a determination that the wells may not be in compliance with the above requirements. If such a determination is made he may impose requiements consistent with those proposed here, or he may require the owner or operator to apply for a permit. In general, these requirements identify the placement of cement relative to the USDWs and the injection zone as well as the quantity and quality of cement to be used. The purpose of the requirements is to insure that USDWs are effectively cemented off, that injection fluids are isolated in the injection zone, and that the cement used in these activities is of a sufficient quantity and quality to accomplish these goals in the environment in which it is used.

For new Class II wells authorized by permit, the requirements in § 147.1655(b)(4) reflect a level of design necessary to provide sufficient protection to USDWs is to provide surface casing all the way from the surface to a point well below the base of the lowest USDW. The option of placing cement equal to a minimum of 120% of the calculated annualar volume in lieu of recirculation to the surface, (as required for Class I wells) is allowed due to the nature of the injected fluid and is considered adequate to protect USDWs.

For enhanced recovery wells a choice of tubing or long string casing is provided. Long string casing is preferable and is consistent with existing industry practices over much of the rest of the country. The option of injection tubing without long string casing is provided because of the highly competent nature of the rock which compromises the confining strata in the oil and gas producing areas of the State.

The Agency is also proposing casing requirements for newly constructed Class II disposal wells which the Agency believes necessary and appropriate to protect USDWs. This more stringent requirement is long string casing and tubing is appropriate due to the nature of the injected fluid.

For all of the aforementioned well types, EPA has prescribed a basic level of protection for USDWs by setting the casing and cementing requirements specified above. Section 147.1655(c) does, however, provide relief for any owner or operator who cannot comply with the prescribed cementing and casing requirements for a particular well type. In such instances, the Regional Administrator may approve alternative casing and cementing provisions on a case-by-case basis in a permit, providing that similar levels of protection are afforded to the USDW.

Other Alternatives Being Considered

The Agency is considering applying plugging and abandonment requirements similar to those being proposed for Arkansas in § 147.206 for all EPA-administered programs and is soliciting comment on such an approach for New York. A more detailed discussion of these plugging and abandonment requirements can be found in the preamble to the Arkansas program.

Mechanical Integrity Testing

EPA is considering several alternate tests for possible approval under §146.8(d) for Class II wells only. The Agency is considering alternatives for the following reasons.

(1) The historic and on-going industry-wide use of two inch injection tubing has severely limited the availability of cost-effective down-hole instruments for either the emplacement of temporary plugs for pressure testing or well logging.

(2) The historic and on-going industry-wide technique of completing wells without long string casting due to the competent nature of the rock into which these wells are completed has precluded the use of annulus pressure monitoring since there is no cased annulus.

(3) Monitoring records which would establish a historical baseline of the pressure-flow rate relationship are rarely existent.

(4) Cementing records are generally uanavailable.

On February 3, 1983, EPA promulgated amendments to § 146.8 at § 146.8(b)(3), to allow an alternate demonstration to the mechanical integrity tests specified in § 146.8. This alternative demonstration was developed, in part, in response to assertions from industry that the existing tests were inappropriate for wells constructed with two inch tubing as described above. The alternative required that the owner or operator provide records of monitoring showing the absence of significant changes in the relationship between pressure and flow rates, inspect the annulus, and conduct ground water monitoring to confirm the absence of significant fluid movement into a USDW. EPA believes this alternative to be appropriate. However, it has come to the attention of the Agency that, for many operators in New York, establishing ground water monitoring systems adequate to confirm the absence of fluid movement may be costly. Moreover, industry contends that there are alternatives which would be as environmentally protective, but which would impose less burden on owners or operators. EPA is currently examining these alternatives, as well as others, for wells constructed as described in § 146.8(b)(3)(ii). Public comment is requested on the applicability of existing and any alternative tests for such wells.

Subpart NN—Pennsylvania

Subpart NN proposes to require all owners and operators to comply with the UIC regulations at 40 CFR Parts 124, 144, and 146. In addition, this subpart contains regulations that supplement the UIC regulations where discretion is allowed in order to make the Pennsylvania UIC program appropriate and amenable to the combination of historic practices and geology unique to Pennsylvania.

Aquifer Exemptions

Section 147.1952 provides a listing of aquifers with total dissolved solids (TDS) levels of less than 10,000 mg/l that EPA proposes to exempt in accordance with § 146.4. These aquifers do not serve as sources of drinking water according to current EPA records. They cannot now and will not in the future serve as drinking water sources because they are hydrocarbon producing. At this time the list of exempted aquifers consists of those oil-bearing formations which, due to many years of Class II enhanced recovery water flooding with fresh water, have experienced TDS content reductions from in excess of 10,000 mg/l to less than 10,000 mg/l thereby qualifying them as USDWs. This proposed exemption will apply only to Class II enhanced recovery wells because EPA does not want to compromise the hydrocarbon producibility of these oil-bearing aquifers by making this exemption applicable to all classes of wells. EPA is currently conducting a detailed analysis of Pennsylvania's oil-bearing aquifers. Detailed documentation of TDS levels, commercial producibility and maps in support of these exemptions are available for inspection in the UIC program docket for Pennsylvania, maintained at EPA's Region III office in Philadelphia. Any owner or operator who believes that he is injecting into a USDW should determine whether the injection formation is being exempted, and if not, request an exemption if the portion of the aquifer meets the exemption criteria, before the effective date of this program.

Maximum Injection Pressure

The maximum allowable operating pressure for any injection well in Pennsylvania is determined by a formula common to all of the EPA-administered programs. This formula, which is discussed in more detail in the introduction to the State-specific preambles, applies a common approach but still allows fracture gradients unique to particular States to be considered. The 0.733 psi/foot fracture pressure gradient proposed for Pennsylvania was determined from Warner and Lehr (1977, EPA–600/2–77–240, page 117) which proposed a similarly cemented back 50 feet into the next largest casing. These provisions constitute a most important protective measure in that such arrangements provide a continuous cement barrier and will protect the casing from external corrosion because of the presence of cement. These requirements also represent a more cost-effective approach than cementing all of the annular space back to the surface, while maintaining the appropriate environmental safeguards.

The Agency is also proposing cementing requirements for existing enhanced recovery and hydrocarbon storage wells authorized by rule which may not be in compliance with §§ 144.28(e) and 146.22. These sections require existing wells to be cased and cemented to prevent the movement of fluids into or between underground sources of drinking water. The requirements proposed today in § 147.1954(b) recognize that it is at best difficult to bring existing wells into compliance with a new set of construction requirements. In the June 24, 1980, promulgation of 40 CFR Part 146, the Agency outlined requirements in § 146.22 (c), (d), and (e), which were intended to relieve operators of Class II wells in existing fields from the requirements specified in § 146.22(b) provided that the operation will not allow movement of fluids which could pose a significant risk to the health of persons.

The Agency believes that these proposed requirements are appropriate for wells in Pennsylvania, when workover is necessary to bring an existing well into compliance with the requirements of 40 CFR Parts 144.28(e) and 146.22. The requirements proposed here require that the Regional Administrator make a determination that the wells may not be in compliance with the above requirements. If such a determination is made, he may impose requirements consistent with those proposed here, or he may require the owner or operator to apply for permit. In general, these requirements identify the placement of cement relative to the USDWs and the injection zone as well as the quantity and quality of cement to be used. The purpose of the requirements is to ensure that USDWs are effectively cemented off, that injection fluids are isolated in the injection zone, and that the cement used in these activities is of a sufficient quantity and quality to accomplish these goals in the environment in which it is used.

For new Class II wells authorized by permit, the requirements in § 147.1955(b) reflect a level of design necessary to provide sufficient protection to USDWs from injected fluids. An effective way to protect USDWs is to provide cemented surface casing all the way from the surface to a point well below the base of the lowest USDW. The option of placing cement equal to a minimum of 120% of the calculated annular volume in lieu of recirculation to the surface, (as required for Class I wells) is allowed due to the nature of the injected fluid and is considered adequate to protect USDWs.

For enhanced recovery wells a choice of tubing or long string casing is provided. Long string casing is preferable and is consistent with existing industry practice over much of the rest of the country. The option of injection tubing without longstring casing is provided because of the highly competent nature of the rock which compromises the confining strata in the oil and gas producing areas of the State.

The Agency is also proposing casing requirements for newly constructed Class II wells which are necessary and appropriate to protect USDWs. The newly proposed requirements are consistent with existing industry practice over much of the rest of the country.

For all the aforementioned well types, EPA has prescribed a basic level of protection for USDWs by setting the casing and cementing requirements specified above. Section 147.1955(c) does, however, provide relief for any owner or operator who cannot comply with the prescribed casing and cementing requirements for a particular well type. In such instances, the Regional Administrator may approve alternate casing and cementing provisions on a case-by-case basis in a permit, provided that similar levels of protection are afforded the USDW.

Other Alternatives Being Considered

In addition, the Agency is considering applying plugging and abandonment requirements similar to those being proposed for Arkansas in § 147.206 for all EPA-administered programs and is soliciting comment on such an approach for Pennsylvania. A more detailed discussion of these plugging and abandonment requirements can be found in the introduction to the preamble to the Arkansas program.

Mechanical Integrity Testing

EPA is considering several alternate tests for possible approval under § 146.8(d) for Class II wells only. The Agency is considering alternatives for the following reasons.

(1) The historic and on-going industry-wide use of two-inch injection tubing has severely limited the availability of cost-effective down-hole instruments for either the emplacement of temporary plugs for pressure testing or well logging.

(2) The historic and on-going industry-wide technique of completing wells without long string casting due to the competent nature of the rock into which these wells are completed has precluded the use of annulus pressure monitoring since there is no cased annulus.

(3) Monitoring records, which would establish a historic baseline of the pressure-flow rate relationship, are rarely existent.

(4) Cementing records are generally unavailable.

On February 3, 1983, EPA promulgated amendments to §146.8 at §146.8 (b)(3) to allow an alternate demonstration to the mechanical integrity tests specified in §146.8 This alternative demonstration was developed, in part, in response to assertions from industry that the existing tests were inappropritae for wells constructed with two-inch tubing as described above. The alternative required that the owner or operator provide records of monitoring showing the absence of significant changes in the relationship between pressure and flow rates, inspect the annulus, and conduct ground water monitoring to confirm the absence of significant fluid movement into a USDW. EPA believes this alternative to be appropriate. However, it has come to the attention of the agency that for many operators in Pennsylvania, establishing ground water monitoring systems adequate to confirm the absence of fluid movement may be costly. Moreover, industry contends that there are alternatives which would be as environmentally protective, but which would impose less burden on owners or operators. EPA is currently examining these alternatives, as well as others, for wells constructed as described in §146.8 (b) (3) (ii). Public comment is requested on the applicability of existing and alternative tests for such wells.

Subpart RR—State of Tennessee

Subpart RR proposes to require all owners and operators to comply with the UIC regulations at 40 CFR Parts 124, 144, and 146. In addition, this subpart contains regulations specific to Tennessee where discretion is allowed, in order to make the Tennessee UIC program appropriate and amenable to the combination of historic practices and geology unique to Tennessee.

Aquifer Exemptions

Upon the effective date of this program, facilities which are injecting into an underground source of drinking water cannot legally operate unless that aquifer or portion, thereof, is exempted. However, EPA is not aware of any injections into a USDW and, therefore, is not proposing to exempt any aquifers at this time. Owners or operators should determine whether their facilities are injecting into a USDW as defined in §146.3. Should an owner or operator find that he is injecting into a USDW, he may request an exemption consistent with criteria and procedures in 40 CFR 146.4.

Maximum Injection Pressure

For the State of Tennessee, the value of the fracture gradient to be used in the maximum injection pressure equation is proposed to be 0.60. EPA is proposing this value after reviewing articles, published EPA manuals and consultation with the State of Tennessee Departmentof Public Health.These investigations established that while fracture pressures may vary from one formation to the next and one depth to the next, the maximum pressure calculated using this gradient will provide adequate protection against formation fracturing and resulting migration of fluids into or between USDWs. EPA requests comments from the regulated community on the proposed value, as well as comments on the apropriateness of a variable rate which recognizes the geologic differences between various regions of the State and individual fields.

Casing and Cementing

The Agency is proposing cementing requirements for existing enhanced recovery and hydrocarbon storage wells which may not be in compliance with §§ 144.28(e) and 146.22. These sections require existing wells to be cased and cemented to prevent the movement of fluids into or between underground sources of drinking water.

The requirements proposed today in § 147.2154(b) recognize that it is at best difficult to bring existing wells into compliance with a new set of construction requirements. In the June 24, 1980, promulgation of 40 CFR Part 146, the Agency outlined requirements in § 146.22 (c), (d) and (e) which made it possible to relieve operators of wells in existing fields from the requirements specified in § 146.22(b) provided that the operation will not allow movement of fluids which could pose a significant risk to the health of persons.

The Agency believes that the proposed requirements are appropriate for wells in Tennessee when workover is necessary to bring an existing well into compliance with the requirements of 40 CFR 144.28(e) and 146.22. The requirements proposed here dictate that the Regional Administrator make a determination that the wells may not be in compliance with the above requirements. If such a determination is made he may impose requirements consistent with those proposed here, or he may require the owner or operator to apply for a permit. In general, these requirements identify the placement of cement relative to the USDWs and the injection zone as well as the quantity and quality of cement to be used. The purpose of the requirements is to insure that USDWs are effectively cemented off, that injection fluids are isolated in the injection zone, and that the cement used in these activities is of a sufficient quantity and quality to accomplish these goals in the environment in which it is used.

Other Alternatives Being Considered

The Agency is considering applying plugging and abandonment requirements similar to those being proposed for Arkansas in § 147.206 for all EPA-administered programs and is soliciting comment on such an approach for the State of Tennessee. A more detailed discussion of these plugging and abandonment requirements can be found in the preamble to the Arkansas program.

Subpart VV—Virginia

Subpart VV proposes to require all owners and operators to comply with the UIC regulations at 40 CFR Parts 124, 144, and 146. In addition, this subpart contains regulations that supplement the UIC regulations where discretion is allowed in order to make the Virginia UIC program appropriate and amenable to the combination of historic practices and geology unique to Virginia.

Because EPA is not aware of any existing Class I, II, III, or IV wells in Virginia, it is not proposing any specific provisions for existing wells authorized by rule. Class V wells will be inventoried but no permitting or other regulatory action is proposed at this time.

All new Classes I, II, and III wells in Virginia are required to apply for permits prior to initiation of construction. However, applicants who seek a Federal UIC permit in Virginia should be aware that the State has a prohibition against underground injection and that section 1423(c) of the Safe Drinking Water Act provides that "nothing in this title shall diminish any authority of a State or political subdivision to adopt or enforce any law or regulation respecting underground injection."

VI. Executive Order 12291

Under Executive Order 12291, EPA must judge whether the Amendments to the regulations are major and therefore subject to the requirement of a regulatory impact analysis. A separate study of costs and burden associated with these regulations has been carried out by the Agency. The conclusion is that this regulation is not major, since it will not result in an annual effect on the economy or increase in costs or prices to industry of $100 million or more. There will be no adverse impact on the ability of the U.S. based enterprises to compete with foreign-based enterprises in domestic or export markets. The major effect of these regulations will simply make effective in particular States the UIC regulations promulgated as 40 CFR 122, 123, and 146.

VII. Paperwork Burden

The proposed regulations will result in additional paperwork burden on owners and operators by increasing the inventory and information requirements. Althought the amout of time needed to prepare and submit the information is uncertain, previous economic studies provide some data on the amount of time needed to prepare similar types of reports. Based on these studies, EPA used a unit time factor of 0.25 burden hours per injection well to prepare and submit this information. Since 13,200 injection wells will be affected in direct implementation States, owners and operators may have an additional 3,300 hours of paperwork burden. The reporting or information provisions in this proposed rule were submitted for approval to the Office of Management and Budget (OMB) under Section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) Comments should be sent to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for EPA. Any final rule will explain how its reporting or information collection

provisions respond to any OMB or public comments.

VIII. Regulatory Flexibility Act

Today's proposal included some amendments to previous regulations. However, the Agency's analysis indicates that they will not have a significant economic impact on a substantial number of small entities. All of the programs proposed today were contemplated in the original economic analysis of the UIC program, and there has been no major change in the estimates of the burden of the program.

List of Subjects

40 CFR Part 124

Administrative practice and procedure, Air pollution control, Hazardous materials, Waste treatment and disposal, Water pollution control, Water supply, Indians—lands.

40 CFR Part 144

Administrative practice and procedure, Reporting and recordkeeping requirements, Confidential business information, Water supply.

40 CFR Part 146

Hazardous materials, Reporting and recordkeeping requirements, Waste treatment and disposal, Water supply.

40 CFR Part 147

Admininistrative practice and procedure, Reporting and recordkeeping requirements, Intergovernmental relations, Penalties, Confidential business information, Water supply.

Authority: Safe Drinking Water Act, 42 U.S.C. 300h.

Dated: Aug 23, 1983.

William D. Ruckelshaus,

Administrator.

It is proposed to amend 40 CFR as follows:

1. 40 CFR is amended by adding a new Part 147 to read as follows:

PART 147—APPROVAL AND PROMULGATION OF UNDERGROUND INJECTION CONTROL PROGRAM

Subpart A—General Provisions

Sec.
147.1 Purpose and scope.
147.2 Severability of provisions.

Subpart B—Alabama

147.50 State administered program.

Subpart C—Alaska

147.100 State administered programs [Reserved]
147.101 General requirements.
147.102 Aquifer exemptions.
147.103 Existing Class I, II (except enhanced recovery and hydrocarbon storage) and III wells authorized by rule.
147.104 Existing Class II enhanced recovery and hydrocarbon storage wells authorized by rule.

Subpart D—Arizona

147.150 State administered programs [Reserved]
147.151 General Requirements.
147.152 Aquifer exemptions [Reserved]

Subpart E—Arkansas

147.200 State administered program.
147.201 General requirements.
147.202 Aquifer exemptions.
147.203 Existing Class II (except enhanced recovery and hydrocarbon storage) and wells authorized by rule.
147.204 Existing Class II enhanced recovery and hydrocarbon storage wells authorized by rule.
147.205 Requirements for class II wells authorized by permit.

Subpart F—California

147.250 State administered program.
147.251 General Requirements.
147.252 Aquifer exemptions [Reserved]
147.253 Requirements for wells authorized by rule.

Subpart G—Colorado

147.300 State administered program [Reserved]
147.301 General requirements.
147.302 Aquifer exemptions.
147.303 Existing Class I, II (except enhanced recovery and hydrocarbon storage) and III wells authorized by rule.
147.304 Existing Class II enhanced recovery and hydrocarbon storage wells authorized by rule.
147.305 Requirements for wells authorized by permit.
147.306 Requirements for all wells.

Subpart H—Connecticut

147.350–147.359 [Reserved]

Subpart I—Delaware

147.400–147.449 [Reserved]

Subpart J—District of Columbia

147.450 State administered program [Reserved]
147.451 General requirements.
147.452 Aquifer exemptions [Reserved]

Subpart K—Florida

147.500 State administered program.

Subpart L—Georgia

147.550–147.559 [Reserved]

Subpart M—Hawaii

147.600–147.649 [Reserved]

Subpart N—Idaho

147.650 State administered program [Reserved]
147.651 General requirements.
147.652 Aquifer exemptions [Reserved]

Subpart O—Illinois

147.700–147.749 [Reserved]

Subpart P—Indiana

Sec.
147.750 State administered programs [Reserved]
147.751 General requirements.
147.752 Aquifer exemptions [Reserved]
147.753 Existing Class I, II (except enhanced recovery and hydrocarbon storage) and III wells authorized by rule.
147.754 Existing Class II enhanced recovery and hydrocarbon storage wells authorized by rule.
147.755 Requirements for all wells.

Subpart Q—Iowa

147.800 State administered program [Reserved]
147.801 General Requirements.
147.802 Aquifer exemptions [Reserved]

Subpart R—Kansas

147.850–147.859 [Reserved]

Subpart S—Kentucky

147.900 State administered program [Reserved]
147.901 General Requirements.
147.902 Aquifer exemptions [Reserved]
147.903 Existing Class I, II (except enhanced recovery and hydrocarbon storage) and III wells authorized by rule.
147.904 Existing Class II enhanced recovery and hydrocarbon storage wells authorized by rule.
147.905 Requirements for all wells.

Subpart T—Louisiana

147.950 State administered program.

Subpart U—Maine

147.1000–147.1049 [Reserved]

Subpart V—Maryland

147.1050–147.1099 [Reserved]

Subpart W—Massachusetts

147.1100 State administered program.

Subpart X—Michigan

147.1150 State administered program [Reserved]
147.1151 General Requirements.
147.1152 Aquifer exemptions [Reserved]
147.1153 Existing Class I, II (except enhanced recovery and hydrocarbon storage) and III wells authorized by rule.
147.1154 Existing Class II enhanced recovery and hydrocarbon storage wells authorized by rule.
147.1155 Requirements for all wells.

Subpart Y—Minnesota

147.1200 State administered program [Reserved]
147.1201 General Requirements.
147.1202 Aquifer exemption [Reserved]

Subpart Z—Mississippi

147.1250–147.1259 [Reserved]

Subpart AA—Missouri

147.1300 State administered program [Reserved]
147.1301 General Requirements.
147.1302 Aquifer exemption [Reserved]

Subpart BB—Montana

Sec.
147.1350 State administered program [Reserved]
147.1351 General requirements.
147.1352 Aquifer exemptions.
147.1353 Existing Class I, II (except enhanced recovery and hydrocarbon storage) and III wells authorized by rule.
147.1354 Existing Class II enhanced recovery and hydrocarbon storage wells authorized by rule.
147.1355 Requirements for all wells.

Subpart CC—Nebraska

147.1400 State administered program.
147.1401 General requirements.
147.1402 Aquifer exemptions [Reserved]

Subpart DD—Nevada

147.1450 State administered program [Reserved]
147.1451 General requirements.
147.1452 Aquifer exemptions.
147.1453 Requirements for all wells authorized by rule.

Subpart EE—New Hampshire

147.1500 State administered program.

Subpart FF—New Jersey

147.1550–147.1599 [Reserved]

Subpart GG—New Mexico

147.1600 State administered program.

Subpart HH—New York

147.1650 State administered program [Reserved]
147.1651 General requirements.
147.1652 Aquifer exemptions.
147.1653 Existing Class I, II (except enhanced recovery and hydrocarbon storage) and III wells authorized by rule.
147.1654 Existing Class II enhanced recovery and hydrocarbon storage wells authorized by rule.
147.1655 Requirements for wells authorized by permit.

Subpart II—North Carolina

147.1700–147.1749 [Reserved]

Subpart JJ—North Dakota

147.1750–147.1799 [Reserved]

Subpart KK—Ohio

147.1800–147.1849 [Reserved]

Subpart LL—Oklahoma

147.1850 State administered program.

Subpart MM—Oregon

147.1900–147.1949 [Reserved]

Subpart NN—Pennsylvania

147.1950 State administered program [Reserved]
147.1951 General requirements.
147.1952 Aquifer exemptions.
147.1953 Existing Class I, II (except enhanced recovery and hydrocarbon storage) and III wells authorized by rule.
147.1954 Existing Class II enhanced recovery and hydrocarbon storage wells authorized by rule.
147.1955 Requirements for wells authorized by permit.

Subpart OO—Rhode Island

Sec.
147.2000–147.2049 [Reserved]

Subpart PP—South Carolina

147.2050–147.2099 [Reserved]

Subpart QQ—South Dakota

147.2100–147.2149 [Reserved]

Subpart RR—Tennessee

147.2150 State administered program [Reserved]
147.2151 General requirements.
147.2152 Aquifer exemptions [Reserved]
147.2153 Existing Class I, II (except enhanced recovery and liquid hydrocarbon storage) and III wells authorized by rule.
147.2154 Existing Class II enhanced recovery and hydrocarbon storage wells authorized by rule.

Subpart SS—Texas

147.2200 State administered program

Subpart TT—Utah

147.2250 State administered program.

Subpart UU—Vermont

147.2300–147.2349 [Reserved]

Subpart VV—Virginia

147.2350 State administered program [Reserved]
147.2351 General requirements.
147.2352 Aquifer exemptions [Reserved]

Subpart WW—Washington

147.2400–147.2449 [Reserved]

Subpart XX—West Virginia

147.2450–147.2499 [Reserved]

Subpart YY—Wisconsin

147.2500–147.2549 [Reserved]

Subpart ZZ—Wyoming

147.2550 State administered program.

Subpart AAA—Guam

147.2600 State administered program.

Subpart BBB—Puerto Rico

147.2650–147.2699 [Reserved]

Subpart CCC—Virgin Islands

147.2700–147.2749 [Reserved]

Subpart DDD—American Samoa

147.2750 State administered program [Reserved]
147.2751 General requirements.
147.2752 Aquifer exemptions [Reserved]

Subpart EEE—Commonwealth of the Northern Mariana Islands

147.2800 State administered program [Reserved]
147.2801 General requirements.
147.2802 Aquifer exemptions [Reserved]

Subpart FFF—Trust Territory of the Pacific Islands

147.2850 State administered program [Reserved]
147.2851 General Requirements.
147.2852 Aquifer exemptions [Reserved]

Authority: Safe Drinking Act, 42 USC 300h.

Subpart A—General Provisions

§ 147.1 Purpose and scope.

(a) This part sets forth the Administrator's approval of State underground injection control programs and the Administrator's promulgation of such programs where the State has made no submissions or the program submitted by the State has not been approved. Approval of a State program is based upon a determination by the Administrator that the program meets the requirements of section 1422 or section 1425 of the Safe Drinking Water Act and the applicable provisions of Parts 124, 144 and 146 of this chapter.

(b) The approved State program or the promulgated program constitutes the applicable program for purposes of the SDWA.

(c) All approved regulatory provisions of each program are incorporated in this part. Regulatory provisions of a program approved or promulgated by the Administrator, and all permit conditions or permit denials issued pursuant to approved or promulgated regulations are enforceable by the administrator pursuant to Section 1423 of the SDWA.

(d) Each State program is covered in a separate subpart. Where a State program has been approved, it is identified by reference to State statutes, regulations, Memorandum of Agreement and Program Description. Where the State program has been promulgated by EPA, the provisions of Parts 124, 144 and 146 are incorporated in each State program and additional requirements pertinent to the State are provided.

(e) Substantial revisions to State programs will be included in this part when approved or promulgated by the Administrator.

§ 147.2 Severability of provisions.

The provisions in this part and the various applications thereof are distinct and severable. If any provision of this part or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or application of such provision to other persons or circumstances which can be given effect without the invalid provision or application.

Subpart B—Alabama

§ 147.50 State administered program.

The UIC program for Class II wells in the State of Alabama is the State administered program approved by EPA, pursuant to SDWA Section 1425, on August 2, 1982 (47 FR 33268). This program consists of the following

elements, as submitted to EPA in the State's program application:

(a) Code of Alabama 1975, § 9–17–1 *et seq.*, as amended

(b) State Oil and Gas Board's General Order Prescribing Rules and Regulations Governing the Conservation of Oil and Gas in Alabama (Order No. 76–100)

(c) The Memorandum of Agreement between EPA Region IV and the Alabama Oil and Gas Board, signed by the EPA Regional Administrator on June 15, 1982.

(d) The Program Description and any other materials submitted as part of the application or as supplements thereto.

Subpart C—Alaska

§ 147.100 State administered program. [Reserved.]

§ 147.101 General requirements.

This subpart sets forth the requirements of the UIC program for the State of Alaska.

(a) *Incorporation statement.* The requirements set forth in Parts 124, 144, and 146 of this Chapter are hereby incorporated and made a part of the UIC program for Alaska.

(b) *Effective date.* The effective date of the UIC program for Alaska is: (30 days after publication of final rule).

§ 147.102 Aquifer exemptions.

The following aquifers in the Kenai Peninsula and Cook Inlet, Alaska, are exempted in accordance with the provisions of § 144.7(b) and § 146.4 of this chapter for Class II injection activities only:

(a) The portions of aquifers in the Kenai Peninsula more than 1700 feet below the ground surface and described by an area ¼ mile beyond and lying directly below the following oil and gas producing fields:

(1) Swanson River Field; and

(2) Beaver Creek Field.

(b) The portion of aquifers described by a ¼ mile area beyond and underlying the Granite Point, McArthur River, Middle Ground Shoal and Trading Bay Fields beneath the Cook Inlet.

Note:—This section contains any aquifers exempted at the time of program promulgation. An updated list of exemptions will be maintained in the Regional Office.

§ 147.103 Existing Class I, II (except enhanced recovery and hydrocarbon storage) and III wells authorized by rule.

Maximum injection pressure. To meet the operating requirements of §144.28(f)(3)(i) and (ii) of this chapter, the owner or operator shall use an injection pressure at the wellhead no greater than the pressure calculated by using the following formula:

Pm = (0.733–0.433 Sg) d

where:

Pm = injection pressure at the wellhead in pounds per square inch

Sg = specific gravity of injected fluid (unitless)

d = injection depth in feet.

§ 147.104 Existing Class II enhanced recovery and hydrocarbon storage wells authorized by rule.

(a) *Maximum injection pressure.* To meet the operating requirements of §144.28(f)(e)(ii) of this chapter the owner or operator shall use an injection pressure at the wellhead on greater than the pressure calculated by using the following formula:

Pm = (0.733–0.433 Sg) d

where:

Pm = injection pressure at the wellhead in pounds per square inch

Sg = specific gravity of injected fluid (unitless)

d = injection depth in feet.

(b) *Casing and Cementing.* Where the Regional Administrator determines that the owner or operator of an existing enhanced recovery or hydrocarbon storage well may not be in compliance with the requirements of §§ 144.28(e) and 146.22, the owner or operator shall comply with paragraphs (b)(1) through (4) of this section, when required by the Regional Administrator:

(1) Protect USDWs by:

(i) Cementing surface casing by recirculating the cement to the surface from a point 50 feet below the lowermost USDW; or

(ii) Isolating all USDWs by placing cement between the outermost casing and the well bore; and

(2) Isolate any injection zones by placing sufficient cement to fill the calculated space between the casing and the well bore to a point 250 feet above the injection zone; and

(3) Use cement:

(i) Of sufficient quantity and quality to withstand the maximum operating pressure;

(ii) Which is resistant to deterioration from formation and injection fluids; and

(iii) In a quantity no less than 120% of the calculated volume necessary to cement off a zone

(4) The Regional Administrator may impose other requirements as necessary to protect USDWs.

Subpart D—Arizona

§ 147.150 State administered programs. [Reserved.]

§ 147.151 General requirements.

This subpart sets forth the requirements of the UIC program for the State of Arizona.

(a) *Incorporation statement.* The requirements set forth in Parts 124, 144, 146 of this chapter are hereby incorporated and made a part of the UIC program for Arizona.

(b) *Effective date.* The effective date of the UIC program for Arizona is: (30 days after publication of final rule).

§ 147.152 Aquifer exemptions. [Reserved.]

Subpart E—Arkansas

§ 147.200 State administered program.

The UIC program for Class I, III, IV, V wells in the State of Arkansas is the State administered program approved by EPA, pursuant to SDWA Section 1422, on July 6, 1982 (47 FR 29236). This program consists of the following elements, as submitted to EPA in the State's program application:

(a) Arkansas Water and Air Pollution Control Act (Act 472 of 1949, as amended; *Arkansas Stat. Ann.* Section 82–1901 *et seq.*)

(b) Arkansas Underground Injection Control Code

(c) The Memorandum of Agreement between EPA Region VI and the Arkansas Department of Pollution Control and Ecology, signed by the EPA Regional Administrator on May 25, 1982.

(d) The Program Description and any other materials submitted as part of the application or as supplements thereto.

§ 147.201 General requirements.

This subpart set forth the requirements of the Federally administered UIC program for Class II wells in the State of Arkansas.

(a) *Incorporation statement.* The requirements set forth in Parts 124, 144, and 146 of this chapter are hereby incorporated and made a part of the UIC program for Class II wells in Arkansas.

(b) *Effective date.* The effective date of the Class II UIC program for Arkansas is: (30 days after publication of final rule).

§ 147.202 Aquifer exemptions.

Hydrocarbon producing portions of the Trinity, Tokio, Nacatoch, and Carrizo-Wilcox aquifers in Nevada, Ouachita, Calhoun, Bradley, Miller, Lafayette, Columbia, and Union counties are exempted within ¼ mile of the fields in accordance with the provisions of

§§ 144.7(b) and 146.4 of this chapter for Class II purposes only.

Note.—This section contains any aquifers exempted at the time of program promulgation. An updated list of exemptions will be maintained in the Regional Office.

§ 147.203 Existing Class II (except enhanced recovery and hydrocarbon storage) wells authorized by rule.

Maximum injection pressure. To meet the operating requirements of § 144.28(f)(3) (i) and (ii) of this chapter the owner or operator shall use an injection the pressure at the wellhead no greater than pressure calculated using the following formula:

$Pm = (X - 0.433\ Sg)\ d$

where:

Pm = injection pressure at the wellhead in pounds per square inch
Sg = specific gravity of injected fluid (unitless)
d - injection depth in feet
X = pressure gradient (in psi per ft) determined from the following table:

X	Depth to the top of the injection zone (feet)
0.465	Less than 1,000.
0.565	1,000 to 2,999.
0.665	3,000 to 5,999.
0.765	6,000 to 9,999.
0.865	10,000 or greater.

§ 147.204 Existing Class II enhanced recovery and hydrocarbon storage wells authorized by rule.

(a) *Maximum injection pressure.* To meet the requirements established in § 144.28(f)(3)(ii) of this chapter, the owner or operator shall use an injection pressure at the wellhead no greater than maximum injection pressure calculated in accordance with the requirements of § 147.203.

(b) *Casing and cementing.* Where the Regional Administrator determines that the owner or operator of an existing enhanced recovery or hydrocarbon storage well may not be in compliance with the requirements of §§144.28(e) and 146.22, the owner or operator shall comply with paragraphs (b) (1) through (4) of this section, when required by the Regional Administrator:

(1) Protect USDWs by:

(i) Cementing surface casing by recirculating the cement to the surface from a point 50 feet below the lowermost USDW; or

(ii) Isolating all USDWs by placing cement between the outermost casing and the well bore: and

(2) Isolate any injection zones by placing sufficient cement to fill the calculated space between the casing and the well bore to a point 250 feet above the injection zone; and

(3) Use cement:

(i) Of sufficient quantity and quality to withstand the maximum operating pressure;

(ii) Which is resistant to deterioration from formation and injection fluids; and

(iii) In a quantity no less than 120% of the calculated volume necessary to cement off a zone.

(4) The Regional Administrator may impose other requirements as necessary to protect USDWs.

§147.205 Requirements for Class II wells authorized by permit.

(a) To meet the requirements in § 144.28(g)(3) of this chapter the casing and cementing requirements of § 147.204(b)(1)–(3) apply to wells authorized by permit.

(b) The Regional Administrator may approve alternate casing and cementing practices provided that the owner or operator demonstrates that such practices will adequately protect USDWs.

(c) *Tubing and packer.* All new injection wells shall inject fluid through tubing and packer. Packers shall be run on the tubing and set inside the casing within 100-ft. of the top of the injection interval.

§ 147.206 Requirements for all Class II wells.

(a) *Plugging requirements.* The owner or operator of a Class II injection well shall:

(1) Isolate the injection zone by placing a 100-ft. cement plug immediately above the injection zone.

(2) Isolate USDWs by:

(i) Centering a 100-ft. cement plug on the surface casing shoe when the well is constructed with surface casing extending below the lowermost USDW and cemented to the surface; or

(ii) For wells that are not constructed as described in paragraph (a)(2)(i) of this section, placing a plug extending from 50 feet below the base of the lowermost USDW to:

(A) 50 feet into a zone where casing is cemented to the surface, or

(B) The surface.

(3) Place a 10-ft. cement plug at the top of the surface casing.

(4) If any plug is placed in an uncemented interval of casing the owner or operator shall also squeeze the cement behind the casing through the plugged interval to prevent the movement of fluid.

(5) The owner or operator shall use drill string to tag the locations of all plugs.

(6) The owner or operator shall fill any interval between plugs with at least 9.5 pounds per gallon drilling mud.

(7) The Regional Administrator may approve an alternative plugging method provided that such method will prevent the movement of fluids into or between USDWs.

(b) *Mechanical integrity.* The Regional Administrator may allow the use of radioactive tracer surveys and cement bond logs for alternative demonstrations of mechanical integrity.

(c) *Area of review.* Notwithstanding the alternatives presented in § 146.6 of this chapter, the area of review shall be a fixed radius as described in § 146.6(b) of this chapter.

Subpart F—California

§ 147.250 State administered program.

The UIC program for Class II wells in the State of California is the State administered program approved by EPA, pursuant to SDWA Section 1425, on February 11, 1983 (48 FR 6336). This program consists of the following elements, as submitted to EPA in the State's program application:

(a) Division 3 of the California Public Resources Code.

(b) Chapter 4 of Division 2 of Title 14 of the California Administrative Code.

(c) The Memorandum of Agreement between EPA Region IX and the California Division of Oil and Gas, signed by the EPA Regional Administrator on September 29, 1982.

(d) The Program Description and any other materials submitted as part of the application or as supplements thereto.

§ 147.251 General requirements.

This subpart sets forth the requirements of the UIC program for the State of California.

(a) *Incorporation statement.* The requirements set forth in Parts 124, 144 and 146 of this chapter are hereby incorporated and made part of the applicable UIC program for Califorina.

(b) *Effective date.* The effective date of the UIC program for California is: (30 days after publication of final rule).

§ 147.252 Aquifer exemptions. [Reserved]

§ 147.253 Requirements for wells authorized by rule.

(a) *Maximum injection pressure.* To meet the operating requirements of § 144.28(f)(3)(i) of this chapter, the owner or operator shall use an injection pressure at the wellhead no greater than the pressure calculated using the following formula:

$Pm = (0.6–0.433\ Sg)\ d$

where:

Pm = injection pressure at the wellhead in pounds per square inch

Sg = specific gravity of injected fluid (unitless)
d = injection depth in feet

Subpart G—Colorado

§ 147.300 State administered program. [Reserved.]

§ 147.301 General requirements.

This subpart sets forth the requirements of the UIC program for the State of Colorado.

(a) *Incorporation statement.* The requirements set forth in Parts 124, 144 and 146 of this Chapter are hereby incorporated and made a part of the UIC program for Colorado.

(b) *Effective date.* The effective date of the UIC program for Colorado is: (30 days after publication of final rule).

§ 147.302 Aquifer exemptions.

The Agency is exempting those portions of aquifers within ¼ mile of existing Class II wells for the purpose of Class II injection activities only.

Note.—A complete listing of the proposed exempted portions of aquifers and their locations is available for review in the EPA Regional Office, 1860 Lincoln Street, Denver, Colorado. An updated list of exemptions will be maintained in the Regional Office.

§ 147.303 Existing class I, II (except enhanced recovery and hydrocarbon storage) and III wells authorized by rule.

Maximum injection pressure. To meet the operating requirements of § 144.28(f)(3) (i) and (ii) of this chapter the owner or operator shall use an injection pressure at the wellhead no greater than the pressure calculated by using the following formula:

$$Pm = (0.733 - 0.433\ Sg)\ d$$

where:

Pm = injection pressure at the wellhead in pounds per square inch
Sg = specific gravity of injected fluid (unitless)
d = injection depth in feet.

§ 147.304 Existing Class II enhanced recovery and hydrocarbon storage wells authorized by rule.

(a) *Maximum injection pressure.* To meet the operating requirements established in § 144.28(f)(3)(ii), the owner or operator shall use an injection pressure at the wellhead no greater than the pressure calculated using the following formula:

$$Pm = (0.733 - 0.433\ Sg)\ d$$

where:

Pm = injection pressure at the wellhead in pounds per square inch
Sg = specific gravity of injected fluid (unitless)
d = injection depth in feet.

(b) *Casing and cementing.* Where the Regional Administrator determines that the owner or operator of an existing enhanced recovery or hydrocarbon storage well may not be in compliance with the requirements of §§ 144.28(e) and 146.22, the owner or operator shall comply with paragraphs (b)(1) through (4) of this section, when required by the Regional Administrator:

(1) Protect USDWs by:

(i) Cementing surface casing by recirculating the cement to the surface from a point 50 feet below the lowermost USDW; or

(ii) Isolating all USDWs by placing cement between the outermost casing and the well bore; and

(2) Isolate any injection zones by placing sufficient cement to fill the calculated space between the casing and the well bore to a point 250 feet above the injection zone; and

(3) Use cement:

(i) Of sufficient quantity and quality to withstand the maximum operating pressure;

(ii) Which is resistant to deterioration form formation and injection fluids; and

(iii) In a quantity no less than 120% of the calculated volume necessary to cement off a zone.

(4) The Regional Administrator may impose other requirements as necessary to protect USDWs.

§ 147.305 Requirements for wells authorized by permit.

(a) The owner or operator converting an existing well to an injection well shall check the condition of the casing with one of the following logging tools:

(1) A Pipe analysis log; or

(2) A Caliper log.

(b) The owner or operator of a new injection well cased with plastic (PVC, ABS, and others) casings shall:

(1) Not construct a well deeper than 500 feet;

(2) Use cement and additives compatible with such casing material;

(3) Cement the annular space above the injection interval from the bottom of the blank casing to the surface.

(c) The owner of operator of a newly drilled well shall install centralizers as directed by the Regional Administrator.

(d) The owner or operator shall as required by the Regional Administrator:

(1) Protect USDWs by:

(i) Setting surface casing 50 feet below the base of the lowermost USDW;

(ii) Cementing surface casing by recirculating the cement to the surface from a point 50 feet below the lowermost USDW; or

(iii) Isolating all USDWs by placing cement between the outermost casing and the well bore; and

(2) Isolate any injection zones by placing sufficient cement to fill the calculated space between the casing and the well bore to a point 250 feet above the injection zone; and

(3) Use cement:

(i) Of sufficient quantity and quality to withstand the maximum operating pressure;

(ii) Which is resistant to deterioration from formation and injection fluids; and

(iii) In a quantity no less than 120% of the calculated volume necessary to cement off a zone.

(4) The Regional Administrator may approve alternate casing and cementing practices provided that the owner of operator demonstrates that such practices will adequately protect USDWs.

§ 147.306 Requirements for all wells

Area of Review. Notwithstanding the alternatives presented in § 146.6 of this chapter, the area of review shall be a fixed radius as described in § 146.6(b) of this chapter.

Subpart H—Connecticut

§§ 147.350-147.359 [Reserved]

Subpart I—Delaware

§§ 147.400-147.449 [Reserved]

Subpart J—District of Columbia

§ 147.450 State administered program. [Reserved.]

§ 147.451 General requirements.

This subpart sets forth the requirements of the UIC program for the District of Columbia.

(a) *Incorporation statement.* The requirements set forth in Parts 124, 144, and 146 of this chapter are hereby incorporated and made a part of the applicable UIC program for the District of Columbia.

(b) *Effective date.* The effective date of the UIC program for the District of Columbia is: (30 days after publication of final rule).

§ 147.452 Aquifer exemptions. [Reserved.]

Subpart K—Florida

§ 147.500 State administered program.

The UIC program for Class I, III, IV, V wells in the State of Florida is the State administered program approved by EPA, pursuant to SDWA Section 1422, on February 7, 1983 (48 FR 5556). This program consists of the following elements, as submitted to EPA in the State's program application:

(a) Florida Air and Water Pollution Control Act, 67–436, Laws of Florida (1967).

(b) Chapter 17–18, Florida Administrative Code Rules, Underground Injection Control.

(c) The Memorandum of Agreement between EPA Region IV and the Florida Department of Environmental Regulation, signed by the EPA Regional Administrator on March 31, 1983.

(d) The Program Description and any other materials submitted as part of the application or as supplements thereto.

Subpart L—Georgia

§§ 147.550–147.559 [Reserved]

Subpart M—Hawaii

§§ 147.600–147.649 [Reserved]

Subpart N—Idaho

§ 147.650 State administered program. [Reserved.]

§ 147.651 General requirements.

This subpart sets forth the requirements of the UIC program for the State of Idaho.

(a) *Incorporation statement.* The requirements set forth in Parts 124, 144, and 146 of this chapter are hereby incorporated and made a part of the applicable UIC program for Idaho.

(b) *Effective date.* The effective date of the UIC program for Idaho is: (30 days after publication of final rule).

§ 147.652 Aquifer exemptions. [Reserved.]

Subpart O—Illinois

§§ 147.700–147.749 [Reserved]

Subpart P—Indiana

§ 147.750 State administered program. [Reserved.]

§ 147.751 General requirements.

This subpart sets forth the requirements of the UIC program for the State of Indiana.

(a) *Incorporation statement.* The requirements set forth in Parts 124, 144, and 146 of this Chapter are hereby incorporated and made a part of the UIC program for Indiana.

(b) *Effective date.* The effective date of the UIC program for Indiana is: (30 days after publication of final rule).

§ 147.752 Aquifer exemptions. [Reserved.]

§ 147.753 Existing Class I, II (except enhanced recovery and hydrocarbon storage) and III wells authorized by rule.

Maximum injection pressure. To meet the operating requirements of § 144.28(f)(3) (i) and (ii) of this chapter, the owner or operator shall use an injection pressure at the wellhead no greater than the pressure calculated using the following formula:

$$Pm = (0.600 - 0.433\ Sg)\ d$$

where:

Pm = injection pressure at the wellhead in pounds per square inch
Sg = specific gravity of injected fluid (unitless)
d = injection depth in feet.

§ 147.754 Existing Class II enhanced recovery and hydrocarbon storage wells authorized by rule.

(a) *Maximum injection pressure.* To meet the operating requirements of § 144.28(f)(3)(ii) of this chapter, the owner or operator shall use an injection pressure at the wellhead no greater than the pressure calculated by using the following formula:

$$Pm = (0.800 - 0.433\ Sg)\ d$$

where:

Pm = injection pressure at the wellhead in pounds per square inch
Sg = specific gravity of injected fluid (unitless)
d = injection depth in feet.

(b) *Casing and cementing.* Where the Regional Administrator determines that the owner or operator of an existing enhanced recovery or hydrocarbon storage well may not be in compliance with the requirements of §§ 144.28(e) and 146.22, the owner or operator shall comply with paragraphs (b)(1) through (4) of this section, when required by the Regional Administrator:

(1) Protect USDWs by:

(i) Cementing surface casing by recirculating the cement to the surface from a point 50 feet below the lowermost USDW; or

(ii) Isolate all USDWs by placing cement between the outermost casing and the well bore; and

(2) Isolate any injection zones by placing sufficient cement to fill the calculated space between the casing and the well bore to a point 250 feet above the injection zone; and

(3) Use cement:

(i) Of sufficient quantity and quality to withstand the maximum operating pressure;

(ii) Which is resistant to deterioration from formation and injection fluids; and

(iii) In a quantity no less than 120% of the calculated volume necessary to cement off a zone.

(4) The Regional Administrator may impose other requirements as needed to protect USDWs.

§ 147.755 Requirements for all wells.

(a) *Area of review.* Notwithstanding the alternatives presented in § 146.6 of this chapter, the area of review for Class II wells shall be a fixed radius as described in § 146.6(b) of this chapter.

(b) *Tubing and packer.* The owner or operator of an injection well injecting salt water shall inject through tubing and packer. The owner or operator of an existing well must comply with this requirement within one year of the effective date of this program.

Subpart Q—Iowa

§ 147.800 State administered program. [Reserved.]

§ 147.801 General requirements.

This subpart sets forth the requirements of the UIC program for the State of Iowa.

(a) *Incorporation statement.* The requirements set forth in Parts 124, 144, and 146 of this chapter are hereby incorporated and made a part of the UIC program for Iowa.

(b) *Effective date.* The effective date of the UIC program for Iowa is: (30 days after publication of final rule).

§ 147.802 Aquifer exemptions [Reserved.]

Subpart R—Kansas

§§ 147.850—147.859 [Reserved]

Subpart S—Kentucky

§ 147.900 State administered program. [Reserved.]

§ 147.901 General requirements.

This subpart sets forth the requirements of the UIC program for the Commonwealth of Kentucky.

(a) *Incorporation statement.* The requirements set forth in Parts 124, 144 and 146 of this Chapter are hereby incorporated and made a part of the UIC program for Kentucky.

(b) *Effective date.* The effective date of the UIC program for Kentucky is: (30 days after publication of final rule.)

§ 147.902 Aquifer exemptions. [Reserved.]

§ 147.903 Existing Class I, II (except enhanced recovery and hydrocarbon storage) and III wells authorized by rule.

Maximum injection pressure. To meet the operating requirements of § 144.28(f)(3) (i) and (ii) of this chapter, the owner or operator shall use an injection pressure at the wellhead no greater than the pressure calculated by using the following formula:

$$Pm = (0.733 - 0.433\ Sg)\ d$$

where:

Pm = injection pressure at the wellhead in pounds per square inch
Sg = specific gravity of injected fluid (unitless)

d=injection depth in feet.

§ 147.904 Existing Class II enhanced recovery and hydrocarbon storage wells authorized by rule.

(a) *Maximum injection pressure.* To meet the operating requirements of § 144.28(f)(3)(ii) of this chapter, the owner or operator shall use an injection pressure at the wellhead no greater than the pressure calculated by using the following formula:

$$Pm = (0.733 - 0.433\ Sg)\ d$$

where:

Pm=injection pressure at the wellhead in pounds per square inch
Sg=specific gravity of injected fluid (unitless)
d=injection depth in feet.

(b) *Casing and cementing.* Where the Regional Administrator determines that the owner or operator of an existing enhanced recovery or hydrocarbon storage well may not be in compliance with the requirements of §§ 144.28(e) and 146.22, the owner or operator shall comply with paragraphs (b)(1) through (4) of this section, when required by the Regional Administrator:

(1) Protect USDWs by:

(i) Cementing surface casing by recirculating the cement to the surface from a point 50 feet below the lowermost USDW; or

(ii) Isolating all USDWs by placing cement between the outermost casing and the well bore; and

(2) Isolate any injection zones by placing sufficient cement to fill the calculated space between the casing and the well bore to a point 250 feet above the injection zone; and

(3) Use cement:

(i) Of sufficient quantity and quality to withstand the maximum operating pressure;

(ii) Which is resistant to deterioration from formation and injection fluids; and

(iii) In a quantity no less than 120% of the calculated volume necessary to cement off a zone.

(4) The Regional Administrator may impose other requirements as necessary to protect USDWs.

§ 147.905 Requirements for all wells.

Area of review. Notwithstanding the alternatives presented in § 146.6 of this chapter, the area of review shall be a fixed radius as described in § 146.6(b) of this chapter.

Subpart T—Louisiana

§ 149.950 State administered program.

The UIC program for Class I, II, III, IV, V wells in the State of Louisiana is the State administered program approved by EPA pursuant to SDWA Section 1422 and 1425 on April 23, 1982 (47 FR 17487). This program consists of the following elements, as submitted to EPA in the State's program application:

(a) Title 30 of the Louisiana Revised Statutes of 1950, Sections 30:1 D, 4C(16), and 4.1.

(b) Statewide Order No. 29–N–1–La. R.S. 30:1131 *et seq.*, Chapter 11, Part VII, Hazardous Waste Control Law of the Environmental Affairs Act, Louisiana Drinking Water Regulations, Louisiana Radiation Regulations, Statewide Order No. 29–B.

(c) The Memorandum of Agreement between EPA Region VI and the Louisiana Department of Natural Resources, signed by the EPA Regional Administrator on March 17, 1982.

(d) The Program Description and any other materials submitted as part of the application or a supplements thereto.

Subpart U—Maine

§§ 147.1000–147.1049 [Reserved]

Subpart V—Maryland–R36–

§§ 147.1050–147.1099 [Reserved]

Subpart W—Massachusetts

§ 147.1100 State administered program.

The UIC program for Class I, II, III, IV, V wells in the State of Massachusetts is the State administered program approved by EPA, pursuant to SDWA Section 1422, on November 23, 1982 (47 FR 52705). This program consists of the following elements, as submitted to EPA in the State's program application:

(a) Massachusetts General Law Chapter III, Section 159 and Chapter 21, Section 27.

(b) Underground Water Source Protection (Groundwater Protection Regulation. 310 CMR 27.00)

(c) The Memorandum of Agreement between EPA Region I and the Massachusetts Department of Environmental Quality Engineering, signed by the EPA Regional Administrator on August 18, 1982.

(d) The Program Description and any other materials submitted as part of the application or as supplements thereto.

Subpart X—Michigan

§ 147.1150 State administered program. [Reserved.]

§ 147.1151 General requirements.

This subpart sets forth the requirements of the UIC program for the State of Michigan.

(a) *Incorporation statement.* The requirements set forth in Parts 124, 144, and 146 of this Chapter are hereby incorporated and made a part of the UIC program for Michigan.

(b) *Effective date.* The effective date of the UIC program for Michigan is: (30 days after publication of final rule).

§ 147.1152 Aquifer exemptions. [Reserved.]

§ 147.1153 Existing Class I, II (except enhanced recovery and hydrocarbon storage) and III wells authorized by rule.

Maximum injection pressure. To meet the operating requirements of §144.28(f)(3) (i) and (ii) of this chapter, the owner or operator shall use an injection pressure at the wellhead no greater than the pressure calculated using the following formula:

$$Pm = (0.800 - 0.433\ Sg)\ d$$

where:

Pm=injection pressure at the wellhead in pounds per square inch
Sg=specific gravity of injected fluid (unitless)
d=injection depth in feet.

§ 147.1154 Existing Class II enhanced recovery and hydrocarbon storage wells authorized by rule.

(a) *Maximum injection pressure.* To meet the operating requirements of §144.28(f)(3) (ii) of this chapter, the owner or operator shall use an injection pressure at the wellhead no greater than the pressure calculated by using the following formula:

$$Pm = (0.800 - 0.433\ Sg)\ d$$

where:

Pm=injection pressure at the wellhead in pounds per square inch
Sg=specific gravity of injected fluid (unitless)
d=injection depth in feet.

(b) *Casing and cementing.* Where the Regional Administrator determines that the owner or operator of an existing enhanced recovery or hydrocarbon storage well may not be in compliance with the requirements of §§ 144.28(e) and 146.22, the owner or operator shall comply with paragraphs (b) (1) through (4) of this section, when required by the Regional Administrator:

(1) Protect USDWs by:

(i) Cementing surface casing by recirculating the cement to the surface from a point 50 feet below the lowermost USDW; or

(ii) Isolating all USDWs by placing cement between the outermost casing and the well bore; and

(2) Isolate any injection zones by placing sufficient cement to fill the calculated space between the casing and the well bore to a point 250 feet above the injection zone; and

(3) Use cement:

(i) Of sufficient quantity and quality to withstand the maximum operating pressure;

(ii) Which is resistant to deterioration from formation and injection fluids; and

(iii) In a quantity no less than 120% of the calculated volume necessary to cement off a zone.

(4) The Regional Administrator may impose other requirements as necessary to protect USDWs.

§ 147.1155 Requirements for all wells.

(a) *Area of review.* Notwithstanding the alternatives presented in § 146.6 of this chapter, the area of review for Class II wells shall be a fixed radius as described in §146.6(b) of this chapter.

(b) *Tubing and packer.* The owner or operator of an injection well injecting salt water shall inject through tubing and packer. The owner or operator of an existing well must comply with this requirement within one year of the effective date of this program.

Subpart Y—Minnesota

§ 147.1200 State administered program [Reserved.]

§ 147.1201 General requirements.

This subpart sets forth the requirements of the UIC program for the State of Minnesota.

(a) *Incorporation statement.* The requirements set forth in Parts 124, 144, and 146 of this Chapter are hereby incorporated and made a part of the UIC program for Minnesota.

(b) *Effective date.* The effective date of the UIC program for Minnesota: (30 days after promulgation of final rule).

§ 147.1202 Aquifer exemptions. [Reserved.]

Subpart Z—Mississippi

§§ 147.1250–147.1259 [Reserved]

Subpart AA—Missouri

§ 147.1300 State administered program. [Reserved.]

§ 147.1301 General requirements.

This subpart sets forth the requirements of the UIC program for Class I, III, IV and V wells for the State of Missouri.

(a) *Incorporation statement.* The requirements set forth in Parts 124, 144, and 146 of this Chapter for Class I, III, IV and V wells are hereby incorporated and made a part of the UIC program for Missouri.

(b) *Effective date.* The effective date of the UIC program for Missouri is: (30 days after publication of final rule).

§ 147.1302 Aquifer exemptions. [Reserved].

Subpart BB—Montana

§ 147.1350 State administered program. [Reserved.]

§ 147.1351 General requirements.

This subpart sets forth the requirements of the UIC program for the State of Montana.

(a) *Incorporation statement.* The requirements set forth in Parts 124, 144, and 146 of this Chapter are hereby incorporated and made a part of the UIC program for Montana.

(b) *Effective date.* The effective date of the UIC program for Montana is: (30 days after publication of final rule).

§ 147.1352 Aquifer exemptions.

Those portions of aquifers within one-quarter mile of existing Class II wells are exempted for the purpose of Class II injection activities only.

Note.—A complete listing of the exemptions and their location is available for review in the EPA Regional Office, 1860 Lincoln Street, Denver, Colorado. An updated list of exemptions will be maintained in the Regional Office.

§ 147.1353 Existing Class I, II (except enhanced recovery and hydrocarbon storage) and III wells authorized by rule.

(a) *Maximum injection pressure.* To meet the operating requirements of § 144.28(f)(3) (i) and (ii) of this chapter, the owner or operator shall use an injection pressure at the wellhead no greater than the pressure calculated by using the following formula:

$$Pm = (0.733 - 0.433\ Sg)\ d$$

where:

Pm = injection pressure at the wellhead in pounds per square inch

Sg = specific gravity of injected fluid (unitless)

d = injection depth in feet.

§ 147.1354 Existing Class II enhanced recovery and hydrocarbon storage wells authorized by rule.

(a) *Maximum injection pressure.* To meet the operating requirements of § 144.28(f)(3)(ii) of this chapter, the owner or operator shall use an injection pressure at the wellhead no greater than the pressure calculated using the following formula:

$$Pm = (0.733 - 0.433\ Sg)\ d$$

where:

Pm = injection pressure at the wellhead in pounds per square inch

Sg = specific gravity of injected fluid (unitless)

d = injection depth in feet.

(b) *Casing and cementing.* Where the Regional Administrator determines that the owner or operator of an existing enhanced recovery or hydrocarbon storage well may not be in compliance with the requirements of §§ 144.28(e) and 146.22, the owner or operator shall when required by the Regional Administrator:

(1) Isolate all USDWs by placing cement between the outermost casing and the well bore;

(i) If the injection well is east of the 108th meridian, cement the outermost casing from a point 50 feet into a major shale formation underlying the uppermost USDW to the surface;

Note.—For the purpose of § 147.1354(b)(4), major shale formations are defined as the Bearpaw, Clagget, and Colorado formations.

(ii) If the injection well is west of the 108th meridian, cement the outermost casing to a depth of 1,000 feet, or to the base of the lowermost USDW in use as a source of drinking water whichever is deeper. The Regional Administrator may allow an owner or operator to cement to a lesser depth if he can demonstrate to the satisfaction of the Regional Administrator that no USDW will be affected by the injection activities.

(2) Isolate any injection zones by placing sufficient cement to fill the calculated space between the casing and the well bore to a point 250 feet above the injection zone; and

(3) Use cement:

(i) Of sufficient quantity and quality to withstand the maximum operating pressure;

(ii) Which is resistant to deterioration from formation and injection fluids; and

(iii) In a quantity no less than 120% of the calculated volume necessary to cement off a zone.

§ 147.1355 Requirements for all wells.

Area of Review. Notwithstanding the alternatives presented in § 146.6 of this chapter, the area of review shall be a fixed radius as described in § 146.06(b) of this chapter.

Subpart CC—Nebraska

§ 147.1400 State administered program.

The UIC program for Class II wells in the State of Nebraska is the State administered program approved by EPA, pursuant to SDWA Section 1425, on February 3, 1983 (48 FR 4777). This program consists of the following elements, as submitted to EPA in the State's program application:

(a) Nebraska Revised Statutes, Sections 77–27, 149, 81–1505, 81–1506, and 81–1508.

(b) UICR, Nebraska Department of Environmental Control Ground Water Protection Standards.

(c) The Memorandum of Agreement between EPA Region VII and the Nebraska Oil and Gas Conservation Commission, signed by the EPA Regional Administrator on July 12, 1982.

(d) The Program Description and any other materials submitted as part of the application or as supplements thereto.

§ 147.1401 General requirements.

This subpart sets forth the requirements of the UIC program for Class I, III, IV, and V wells for the State of Nebraska.

(a) *Incorporation statement.* The requirements set forth for Class I, III, IV, and V wells in Parts 124, 144, and 146 of this Chapter are hereby incorporated and made a part of the UIC program for Nebraska.

(b) *Effective date.* The effective date of the UIC program for Nebraska is: (30 days after publication of final rules.)

§ 147.1402 Aquifer exemptions. [Reserved.]

Subpart DD—Nevada

§ 147.1451 State administered program. [Reserved.]

§ 147.1451 General requirements.

This subpart sets forth the requirements of the UIC program for the State of Nevada.

(a) *Incorporation statement.* The requirements set forth in Parts 124, 144 and 146 of this Chapter are hereby incorporated and made a part of the UIC program for Nevada.

(b) *Effective date.* The effective date of the UIC program for Nevada is: (30 days after publication of final rule).

§ 147.1452 Aquifer exemptions.

The following portions of the Railroad Valley aquifer in Nye County, Nevada are exempted in accordance with the provisions of §§ 144.7(b) and 146.4 of this chapter, for Class II injection activities only.

(a) One-quarter mile radius around the following wells in the Eagle Springs Field.

(1) John Lyddon #1, S35, T9N, R57E.

(2) Draycutt Corporation #45, S36, T9N, R57#.

(b) One-quarter mile radius around the following wells in the Trap Spring Field.

(1) Northwest Exploration Co., Trap Spring #13, S26, T9N, R56E.

(2) Northwest Exploration Co., Trap Spring #20X, S22, T9N, R56E.

(3) Chadco Munson Ranch, #24–1, S24, T9N, R56E.

Note.—This section contains any aquifers exempted at the time of program promulgation. An updated list of exemptions will be maintained in the Regional Office.

§ 147.1453 Requirements for wells authorized by rule.

(a) *Maximum injection pressure.* To meet the operating requirements of § 144.28 of this chapter, the owner or operator shall use an injection pressure at the wellhead no greater than the pressure calculated using the following formula:

$$Pm = (0.733 - 0.433\ Sg)\ d$$

where:

Pm = injection pressure at the wellhead in pounds per square inch

Sg = specific gravity of injected fluid (unitless)

d = injection depth in feet.

Subpart EE—New Hampshire

§ 147.1500 State administered program.

The UIC program for Class I, II, III, IV, V wells in the State of New Hampshire is the State administered program approved by EPA, pursuant to SDWA Section 1422, on September 21, 1982 (47 FR 41561). This program consists of the following elements, as submitted to EPA in the State's program application:

(a) New Hampshire RSA 149:8, III (a)

(b) Ground Water Permit Regulations WS 410.1 through WS 410.16.

(c) The Memorandum of Agreement between EPA Region I and the New Hampshire Water Supply and Pollution Control Commission, signed by the EPA Regional Administrator on August 23, 1982.

(d) The Program Description and any other materials submitted as part of the application or as supplements thereto.

Subpart FF—New Jersey

§§ 147.1550–147.1599 [Reserved]

Subpart GG—New Mexico

§147.1600 State administered program.

The UIC Program for Class II wells in the State of New Mexico is the State administered program approved by EPA, pursuant to SDWA Section 1425, on February 5, 1982 (47 FR 5412). This program consists of the following elements, as submitted to EPA in the State's program application:

(a) Oil and Gas Act, Section 70–2–1–36, NMSA, 1978.

(b) Oil Conservation Division Rules and Regulations.

(c) The Memorandum of Agreement between EPA Regional VI and the New Mexico Oil Conservation Division, signed by the EPA Regional Administrator on December 10, 1981.

(d) The Program Description and any other materials submitted as part of the application or as supplements thereto.

Subpart HH—New York

§ 147.1650 State administered program. [Reserved]

§ 147.1651 General requirements.

This subpart sets forth the requirements of the UIC program for the State of New York.

(a) *Incorporation statement.* The requirements set forth in Parts 124, 144, and 146 of this Chapter are hereby incorporated and made a part of the UIC program for New York.

(b) *Effective date.* The effective date of the UIC program for New York is: (30 days after publication of final rule).

§ 147.1652 Aquifer exemptions.

The following portions of aquifers are exempted, in accordance with the provisions of §§ 144.7(b) and 146.4 of this chapter, for Class II enhanced recovery injection activities only.

(a) The Bradford First, Second, and Third Sand Members and the Kane Sand Member in the Bradford Field in Cattaraugus County.

(b) The Glade, Chipmunk, Harrisburg Run and Humphrey Oil Fields in Cattaraugus County.

(c) The Scio, Penny, Richburg, and Waugh and Porter Oil Fields in Allegany County.

(d) The Penny, Fulmer Valley, and Waugh and Porter Oil Fields in Steuben County.

Note.—This section contains any aquifers exempted at the time of program promulgation. An updated list of exemptions will be maintained in the Regional Office.

§ 147.1653 Existing Class I, II (except enhanced recovery and hydrocarbon storage) and III wells authorized by rule.

Maximum injection pressure. To meet the operating requirements of § 144.28(f)(3)(i) and (ii) of this chapter, the owner or operator shall use an injection pressure at the wellhead no greater than the pressure calculated by using the following formula:

$$Pm = (0.733 - 0.433\ Sg)\ d$$

where:

Pm = injection pressure at the wellhead in pounds per square inch

Sg = specific gravity of injected fluid (unitless)

d = injection depth in feet.

§ 147.1654 Existing Class II enhanced recovery and hydrocarbon storage wells authorized by rule.

(a) *Maximum injection pressure.* To meet the operating requirements of § 144.28(f)(3)(ii) of this chapter, the owner or operator shall use an injection pressure at the wellhead no greater than

the pressure calculated by using the folowing formula:

$$Pm = (0.733 - 0.433\ Sg)\ d$$

where:

Pm = injection pressure at the wellhead in pounds per square inch
Sg = specific gravity of injected fluid (unitless)
d = injection depth in feet.

(b) *Casing and cementing.* Where the Regional Administrator determines that the owner or operator of an existing enhanced recovery or hydrocarbon storage well may not be in compliance with the requirements of §§ 144.28(e) and 146.22, the owner or operator shall comply with paragraphs (b) (1) through (4) of this section, when required by the Regional Administrator:

(1) Protect USDWs by:

(i) Cementing surface casing by recirculating the cement to the surface from a point 50 feet below the lowermost USDW; or

(ii) Isolating all USDWs by placing cement between the outermost casing and the well bore; or

(iii) For wells as described in §146.08(b)(3)(ii), installing a smaller diameter pipe inside the existing injection tubing and setting it on an appropriate packer; and

(2) Isolate any injection zones by placing sufficient cement to fill the calculated volume between the casing or tubing and the well bore to a point 50 feet above the injection zone; and

(3) Use cement:

(i) Of sufficient quantity and quality to withstand the maximum operating pressure;

(ii) Which is resistant to deterioration from formation and injection fluids; and

(iii) In a quantity to fill no less than 120% of the calculated volume necessary to cement off a zone.

(4) The Regional Administrator may impose other requirements as needed to protect USDWs.

§ 147.1655 Requirements for wells authorized by permit.

(a) The owner or operator of a Class I well authorized by permit shall install or shall ensure that the well has:

(1) Surface casing present

(i) Extending from the surface to a depth at least 50 feet below the base of the lowermost USDW; and

(ii) Cemented back to the surface by recirculating the cement; and

(2) Long string casing and tubing;

(i) Extending to the injection zone; and

(ii) Cemented back to 50 feet above the base of the next largest casing string.

(b) The owner or operator of a new Class II well authorized by permit shall:

(1) Install surface casing from the surface to at least 50 feet below the base of the lowermost USDW.

(2) Cement the casing by recirculating to the surface or by using no less than 120% of the calculated annular volume.

(3) For new enhanced recovery wells, install tubing or long string casing extending to the injection zone.

(4) For new salt water disposal wells, install long string casing and tubing extending to the injection zone.

(5) Isolate any injection zone by placing sufficient cement to fill the calculated volume to a point 50 feet above the injection zone.

(c) The Regional Administrator may specify casing and cementing requirements other than those listed in (a) and (b) of this section on a case by case basis as conditions of the permit.

Subpart II—North Carolina

§§ 147.1700–147.1749 [Reserved]

Subpart JJ—North Dakota

§§ 147.1750–147.1799 [Reserved]

Subpart KK—Ohio

§§ 147.1800–147.1849 [Reserved]

Subpart LL—Oklahoma

§ 147.1850 State administered program.

(a) *Requirements for Class I, III, IV and V wells.* The UIC program for Class I, III, IV, and V wells in the State of Oklahoma is the State administered program approved by EPA, pursuant to SDWA Section 1422, on June 24, 1982 (47 FR 27273). This program consists of the following elements, as submitted to EPA in the State's program application:

(i) Oklahoma Public Health code (Title 63) and Mining Lands Reclamation Act.

(ii) Rules and Regulations for Industrial Waste Management, Rules and Regulations for Industrial Waste Management as amended.

(iii) The Memorandum of Agreement between EPA Region VI and the Oklahoma State Department of Health, signed by the EPA Regional Administrator on April 13, 1982.

(iv) The Program Description and any other materials submitted as part of the application or a supplements thereto.

(b) *Requirements for Class II wells.* The UIC program for Class II wells in the State of Oklahoma is the State administered program approved by EPA, pursuant to SDWA Section 1425, on December 2, 1981 (46 FR 58488). This program consists of the following elements, as submitted to EPA in the State's program application:

(i) Oklahoma Statutes 1971, Title 52, Sections 139–153, Oklahoma Statutes Supplement 1980, Title 29, Section 7–401.

(ii) OCC–OGR Rules No. 1–101–3–303,

(iii) The Memorandum of Agreement between EPA Region VI and the Oklahoma Corporation Commission, signed by the EPA Regional Administrator on April 13, 1981.

(iv) The Program Description and any other materials submitted as part of the application or as supplements thereto.

Subpart MM—Oregon

§§ 147.1900–147.1949 [Reserved]

Subpart NN—Pennsylvania

§ 147.1950 State administered program. [Reserved.]

§ 147.1951 General requirements.

This subpart sets forth the requirements of the UIC program for the State of Pennsylvania.

(a) *Incorporation statement.* The requirements set forth in Parts 124, 144, and 146 of this chapter are hereby incorporated and made a part of the UIC program for Pennsylvania.

(b) *Effective date.* The effective date of the UIC program for Pennsylvania is: (30 days after publication of final rule).

§ 147.1952 Aquifer exemptions.

Those portions of the following oil bearing aquifers which would otherwise meet the definition of a USDW, are exempted in accordance with the provisions of §§ 144.7(b) and 146.4 of this chapter, for Class II enhanced recovery injection activities only.

(a) The Elk and Kane oil producing sands of the Sackett Field in Elk County and the Kane Field in McKean County.

(b) The Bradford Third and Haskell oil producing sands in the Guffey Field in McKean County.

(c) The Bradford First, Second and Third sand series, and the associated Chipmunk, Watsonville, Glade, Dewdrop, Silverdale, Harrisburg Run, Cooper, Cooper Stray, Lewis Run and Haskell oil producing sands in the Bradford Field in McKean County.

(d) The Bradford series of oil producing sands in the Shinglehouse Field in McKean and Potter Counties.

(e) The Venango group of oil producing sands in the Foster-Reno Field, Seneca Pool, in Venango County.

(f) The Big Injun, Squaw, One-Hundred Foot, Gordon, Fourth and Fifth oil producing sands in the Washington-Taylorstown Field in Washington County.

(g) The Glade and Cherry Grove oil producing sands in the Youngsville Field in Warren County.

(h) The Glade and Clarendon oil producing sands in the Warren Field, Still Run Pool, in Warren County.

Note.—This section contains any aquifers exempted at the time of program promulgation. An updated list of exemptions will be maintained in the Regional Office.

§ 147.1953 Existing Class I, II (except enhanced recovery and hydrocarbon storage), and III wells authorized by rule.

Maximum injection pressure. To meet the operating requirements of §§ 144.28(f)(3) (i) and (ii) of this chapter, the owner or operator shall use an injection pressure at the wellhead no greater than the pressure calculated by using the following formula:

$Pm = (0.733 - 0.433\ Sg)\ d$

where:

Pm = injection pressure at the wellhead in pounds per square inch
Sg = specific gravity of injected fluid (unitless)
d = injection depth in feet.

§ 147.1954 Existing Class II enhanced recovery and hydrocarbon storage wells authorized by rule.

(a) *Maximum injection pressure.* To meet the operating requirements of § 144.28(f)(3(ii) of this chapter, the owner or operator shall use an injection pressure at the wellhead no greater than the pressure calculated by using the following formula:

$Pm = (0.733 - 0.433\ Sq)\ d$

where:

Pm = injection pressure at the wellhead in pounds per square inch
Sg = specific gravity of injected fluid (unitless)
d = injection depth in feet

(b) *Casing and Cementing.* Where the Regional Administrator determines that the owner or operator of an existing enhanced recovery or hydrocarbon storage well may not be in compliance with the requirements of §§ 144.28(e) and 146.22, the owner or operator shall comply with paragraphs (b)(1) through (4) of this section, when required by the Regional Administrator.

(1) Protect USDWs by:

(i) Cementing surface casing by recirculating the cement to the surface from a point 50 feet below the lowermost USDW; or

(ii) Isolating all USDWs by placing cement between the outermost casing and the well bore; or

(iii) For wells as described in § 146.8(b)(3)(ii), installing a smaller diameter pipe inside the existing injection tubing and setting it on an appropriate packer; and

(2) Isolate any injection zones by placing sufficient cement to fill the calculated volume between the casing or tubing and the well bore to a point 50 feet above the injection zone; and

(3) Use cement:

(i) Of sufficient quantity and quality to withstand the maximum operating pressure; or

(ii) Which is resistant to deterioration from formation and injection fluids; and

(iii) In a quantity to fill no less than 120% of the calculated volume necessary to cement off a zone.

(4) The Regional Administrator may impose other requirements as needed to protect USDWs.

§ 147.1955 Requirements for wells authorized by permit.

(a) The owner or operator of a Class I well authorized by permit shall install or ensure that the well has:

(1) Surface casing present

(i) Extending from the surface to a depth at least 50 feet below the base of the lowermost USDW; and

(ii) Cemented back to the surface by recirculating the cement.

(2) Long string casing and tubing;

(i) Extending to the injection zone; and

(ii) For long string casing it shall be cemented back to 50 feet above the base of the next largest casing string.

(b) The owner or operator of a new Class II well authorized by permit shall:

(1) Install surface casing from the surface to at least 50 feet below the base of the lowermost USDW.

(2) Cement the casing by recirculating to the surface or by using no less than 120% of the calculated annual volume.

(3) For new enhanced recovery wells, install tubing or long string casing extending to the injection zone.

(4) For new salt water disposal wells, install long string casing and tubing extending to the injection zone.

(5) Isolate any injection zone by placing sufficient cement to fill the calculated volume to a point 50 feet above the injection zone.

(c) The Regional Administrator may specify casing and cementing requirements other than those listed in (a) and (b) of this section on a case by case basis as conditions of the permit.

Subpart OO—Rhode Island

§§ 147.2000–147.2049 [Reserved]

Subpart PP—South Carolina

§§ 147.2050–147.2099 [Reserved]

Subpart QQ—South Dakota

§§ 147.2100–147.2149 [Reserved]

Subpart RR—Tennessee

§§ 147.2150 State administered program. [Reserved]

§§ 147.2151 General requirements.

This Subpart sets forth the requirements of the UIC Program for the State of Tennessee.

(a) *Incorporation statement.* The requirements set forth in Parts 124, 144 and 146 of this chapter are hereby incorporated and made a part of the UIC program for Tennessee.

(b) *Effective date.* The effective date of the UIC program for Tennessee is: (30 days after publication of final rule).

§ 147.2152 Aquifer exemptions. [Reserved.]

§ 147.2153 Existing Class I, II (except enhanced recovery and liquid hydrocarbon storage) and III wells authorized by rule.

Maximum injection pressure. To meet the operating requirements of § 144.28(f)(3)(ii) of this chapter, the owner or operator shall use an injection pressure at the wellhead no greater than the pressure calculated by using the following formula:

$Pm = (0.600 - 0.433\ Sg)\ d$

where:

Pm = injection pressure at the wellhead in pounds per square inch
Sg = specific gravity of injected fluid (unitless)
d = injection depth in feet.

§ 147.2154 Existing Class II enhanced recovery and hydrocarbon storage wells authorized by rule.

(a) *Maximum injection pressure.* To meet the operating requirements of § 144.28(f)(3)(ii) of this chapter, the owner or operator shall use an injection pressure at the wellhead no greater than the pressure calculated by using the following formula:

$Pm = (0.600 - 0.433\ Sg)\ d$

where:

Pm = injection pressure at the wellhead in pounds per square inch
Sg = specific gravity of injected fluid (unitless)
d = injection depth in feet.

(b) Casing and cementing. Where the Regional Administrator determines that

the owner or operator of an existing enhanced recovery or hydrocarbon storage well may not be in compliance with the requirements of §§ 144.28(e) and 146.22, the owner or operator shall comply with paragraphs (b)(1) through (4) of this section, when required by the Regional Administrator:

(1) Protect USDWs by:

(i) Cementing surface casing by recirculating the cement to the surface from a point 50 feet below the lowermost USDW; or

(ii) Isolating all USDWs by placing cement between the outermost casing and the well bore; and

(2) Isolate any injection zones by placing sufficient cement to fill the calculated space between the casing and the well bore to a point 250 feet above the injection zone; and

(3) Use cement:

(i) Of sufficient quantity and quality to withstand the maximum operating pressure;

(ii) Which is resistant to deterioration from formation and injection fluids; and

(iii) In a quantity no less than 120% of the calculated volume necessary to cement off a zone.

(4) The Regional Administrator may impose other requirements as needed to protect USDWs.

Subpart SS—Texas

§ 147.2200 State administered program.

(a) *Requirements for Class I, III, IV, and V wells.* The UIC program for Class I, III, IV, and V wells in the State of Texas is the State administered program approved by EPA, pursuant to SDWA Section 1422, on January 6, 1982 (47 FR 618). This program consists of the following elements, as submitted to EPA in the State's program application:

(i) Texas Water Code Sections 5.131, 5.262, 27.019, 27.003, Injection Well Act.

(ii) Rules of Texas Department of Water Resources, Chapter 27, Rules of Texas Water Development Board, Chapter 22.

(III) The Memorandum of Agreement between EPA Region VI and the Texas Department of Water Resources, signed by the EPA Regional Administrator on October 11, 1981.

(iv) The Program Description and any other materials submitted as part of the application or as supplements thereto.

(b) *Requirements for Class II wells.* The UIC program for Class II wells in the State of Texas is the State administered program approved by EPA, pursuant to SDWA Section 1425, on April 23, 1982 (47 FR 17488). This program consists of the following elements, as submitted to EPA in the State's program application:

(i) Section 27.031 of the Injection Well Act, Chapter 27 of the Texas Water Code, Title 3 of the Natural Resources Code, and Texas Revised Civil Statutes.

(ii) General Rules of Practice and Procedure, Subchapters A–J, November 1975, Railroad Commission of Texas Rules 1–80, Revised 12/22/81.

(iii) The Memorandum of Agreement between EPA Region VI and the Texas Railroad Commission, signed by the EPA Regional Administrator on March 24, 1982.

(iv) The Program Description and any other materials submitted as part of the application or as supplements thereto.

Subpart TT—Utah

§ 147.2250 State administered program.

(a) *Requirements for Class I, III, IV, and V wells.* The UIC program for Class I, III, IV, and V wells in the State of Utah is the State administered program approved by EPA, pursuant to SDWA Section 1422, on January 9, 1983 (48 FR 2321). This program consists of the following elements, as submitted to EPA in the State's program application:

(i) Utah Code, Parts 26–11–1 through 26–11–20; Utah Water Pollution Control Act.

(ii) Part VII, Utah Wastewater Disposal Regulations

(iii) The Memorandum of Agreement between EPA Region VIII and the Utah Department of Health, Division of Environmental Health, signed by the EPA Regional Administrator on August 16, 1982.

(iv) The Program Description and any other materials submitted as part of the application or as supplements thereto.

(b) *Requirements for Class II wells:* The UIC program for Class II wells in the State of Utah is the State administered program approved by EPA, pursuant to SDWA Section 1425, on October 8, 1982 (47 FR 44561). This program consists of the following elements, as submitted to EPA in the State's program application:

(i) Oil and Gas Conservation Act, Title 40–6, 1953

(ii) Section 40–6–4 Utah Code Annotated 1953; Underground Injection Control Class II Wells, Case No. 190–4

(iii) The Memorandum of Agreement between EPA Region VIII and the Utah Division of Oil, Gas, and Mining, signed by the EPA Regional Administrator on July 19, 1983.

(iv) The Program Description and any other materials submitted as part of the application or as supplements thereto.

Subpart UU—Vermont

§§ 147.2300–147.2349 [Reserved]

Subpart VV—Virginia

§ 147.2350 State administered program. [Reserved.]

§ 1347.2351 General requirements.

This subpart sets forth the requirements of the UIC program for the Commonwealth of Virginia.

(a) *Incorporation statement.* The requirements set forth in Parts 124, 144, and 146 of this Chapter are hereby incorporated and made a part of the UIC program for Virginia.

(b) *Effective date.* The effective date of the UIC program for Virginia is: (30 days after publication of final rule).

Subpart XX—West Virginia

§§ 147.2450–147.2499 [Reserved]

Subpart YY—Wisconsin

§§ 147.2500–147.2549 [Reserved]

§ 147.2352 Aquifer exemptions. [Reserved.]

Subpart WW—Washington

§§ 147.2400–147.2449 [Reserved]

Subpart ZZ—Wyoming

§ 147.2550 State administered program.

The UIC program for Class II wells in the State of Wyoming is the State administered program approved by EPA, pursuant to SDWA Section 1425, on November 23, 1982 (47 FR 52434). This program consists of the following elements, as submitted to EPA in the State's program application:

(a) Wyoming Statutes Annotated.

(b) Wyoming Oil and Gas Commission Rules and Regulations, revised January 15, 1982.

(c) The Memorandum of Agreement between EPA Region VIII and the Wyoming Oil and Conservation Commission, signed by the EPA Regional Administrator on December 22, 1982.

(d) The Program Description and any other materials submitted as part of the application or as supplements thereto.

Subpart AAA—Guam

§ 147.2600 State administered program.

The UIC program for Class I, II, III, IV, V wells in the territory of Guam is the State administered program approved by EPA, pursuant to SDWA Section 1422, on May 2, 1983 (48 FR 19717). This program consists of the following

elements, as submitted to EPA in the State's program application:

(a)(i) Administration Adjudication Law, Chapters I–III, Title XXV, Government Code of Guam.

(ii) Guam Environmental Protection Agency Act, Public Law 11–911, Chapter I, Title LXI, Government Code of Guam.

(iii) Safe Drinking Water Act, Public Law 14–70, Chapter XII, Title LXI, Government Code of Guam.

(iv) Solid Waste Management and Litter Control Act, Public Law 14–37, Chapter VIII, Title LXI, Government Code of Guam.

(b)(i) Underground Injection Control Regulations for the Territory of Guam, Chapters I–IX.

(ii) Guam Environmental Protection Agency, Water Quality Standards, Sections I–IV, November 16, 1981.

(c) The Memorandum of Agreement between EPA Region IX, and the Guam Environmental Protection Agency, signed by the EPA Regional Administrator on January 14, 1983.

(d) The Statement of Legal Authority signed by the Guam Attorney General on May 12, 1982.

(e) The Program Description and any other materials submitted as part of the application or as supplements thereto.

Subpart BBB—Puerto Rico

§§ 147.2650–147.2699 [Reserved]

Subpart CCC—Virgin Islands

§§ 147.2700–147.2749 [Reserved]

Subpart DDD—American Samoa

§ 147.2750 State administered program. [Reserved.]

§ 147.2751 General requirements.

This subpart sets forth the requirements of the UIC program for American Samoa.

(a) *Incorporation statement.* The requirements set forth in Parts 124, 144, and 146 of this Chapter are hereby incorporated and made a part of the UIC program for American Samoa.

(b) *Effective date.* The effective date of the UIC program for American Samoa is: (30 days after publication of final rule).

§ 147.2752 Aquifer exemptions. [Reserved].

Subpart EEE—Commonwealth of the Northern Mariana Islands

§ 147.2800 State administered program. [Reserved.]

§ 147.2801 General requirements.

This subpart sets forth the requirements of the UIC program for the Commonwealth of the Northern Mariana Islands.

(a) *Incorporation statement.* The requirements set forth in Parts 124, 144, and 146 of this Chapter are hereby incorporated and made a part of the UIC program for the Commonwealth of the Northern Mariana Islands.

(b) *Effective date.* The effective date of the UIC program for the Commonwealth of the Northern Mariana Islands is: (30 days after publication of final rule).

§ 147.2802 Aquifer exemptions. [Reserved.]

Subpart FFF—Trust Territory of the Pacific Islands

§ 147.2850 State administered program. [Reserved.]

§ 147.2851 General requirements.

This subpart sets forth the requirements of the UIC program for the Trust Territory of the Pacific Islands.

(a) *Incorporation statement.* The requirements set forth in Parts 124, 144, and 146 of this Chapter are hereby incorporated and made a part of the UIC program for the Trust Territory of the Pacific Islands.

(b) *Effective date.* The effective date of the UIC program for the Trust Territory of the Pacific Islands is: (30 days after publication of final rule).

§ 147.2852 Aquifer exemptions. [Reserved.]

40 CFR Part 144 is amended as follows:

PART 144—UNDERGROUND INJECTION CONTROL PROGRAM

Subpart A—General Provisions

1. In § 144.1 paragraph (a) is revised, paragraphs (b) through (e) are redesignated as (c) through (f), and a new paragraph (b) is added to read as follows:

§ 144.1 Purpose and scope of Part 144.

(a) *Contents of Part 144.* The regulations in this Part set forth requirements for the Underground Injection Control (UIC) Program promulgated under Part C of the Safe Drinking Water Act (SDWA) (Pub. L. 95–523, as amended by Pub. L. 96–502, 42 U.S.C. 300f et seq.) and, to the extent that they deal with hazardous waste, the Resource Conservation and Recovery Act (RCRA) (Pub. L. 94–580 as amended by Pub. L. 95–609, Pub. L. 96–510, 42 U.S.C. 6901 et seq.).

(b) *Applicability.*

(1) The regulations in this part establish minimum requirements for UIC programs. To the extent set forth in Part 145, each State must meet these requirements in order to obtain primary enforcement authority for the UIC program in that State.

(2) In addition to serving as minimum requirements for UIC programs, the regulations in this Part constitute a part of the UIC program for States listed in Part 147 to be administered directly by EPA.

* * * * *

Subpart C—Authorization of Underground Injection by Rule

2. In §144.21 paragraph (a) (3) and paragraph (c) are revised to read as follows:

§ 144.21 Existing Class I, II (except enhanced recovery and hydrocarbon storage) and III wells.

* * * * *

(a) * * *

(3)(i) For Class I and III wells.

(A) In approved State programs, five years after approval or promulgation of the UIC program unless a complete permit application is pending; or

(B) In EPA administered programs, one year after promulgation of the UIC program unless a complete permit application is pending.

(ii) For Class II wells except enhanced recovery and hydrocabron storage, five years after approval or promulgation of the UIC program unless a complete permit application is pending.

* * * * *

(c) *Requirements.* The owner or operator of a well authorized under this section shall comply with the applicable requirements of §144.28 and Part 147 of this chapter no later than one year after authorization.

4. Section 144.22 is revised to read as follows:

§ 144.22 Existing Class II enhanced recovery and hydrocarbon storage wells.

(a) Injection into existing Class II enhanced recovery and hydrocarbon storage wells is authorized for the life or the well or project.

(b) *Requirements.* The owner or operator of a well authorized under this section shall comply with the applicable requirements of § 144.28 and Part of this chapter. Such owner or operator shall comply with the construction requirements no later than 3 years and other requirements no later than 1 year after authorization.

5. In § 144.23 a new paragraph (c) is added to read as follows:

§ 144.23 Class IV Wells.

* * * * *

(c) *Closure.* For EPA administered programs only,

(1) Prior to abandoning any Class IV well, the owner or operator shall plug or otherwise close the well in a manner acceptable to the Regional Administrator.

(2) Within 60 days after promulgation of the UIC program in the State, any owner or operator of a Class IV well shall submit to the Regional Administrator for approval a plan for plugging or otherwise closing and abandoning the well.

(3) Any owner or operator of a Class IV well must notify the Regional Administrator of intent to abandon the well at least thirty days prior to abandonment.

6. In § 144.25 a new paragraph (a)(4) is added and paragraph (b) is revised to read as follows:

§ 144.25 Requiring a permit.

(a) * * *

(4) When the injection well is a Class I, II (except enhanced recovery and hydrocarbon storage) or III well, in accordance with a schedule established by the Director pursuant to § 144.31(c).

(b) For EPA administered programs, the Regional Administrator may require an owner or operator authorized by a rule to apply for an individual or area UIC permit under this paragraph only if the owner or operator has been notified in writing that a permit application is required. The injection activities are no longer authorized by rule upon the effective date of a permit or a permit denial, or upon failure by the owner or operator to submit an application in a timely manner as specified in the notice. The notice shall include: a brief statement of the reasons for requiring a permit; an application form; a statement setting a time for the owner or operator to file the application; and a statement of the consequences of denial or issuance of the permit, or failure to submit an application, as described in this paragraph.

* * * * *

7. In § 144.26 paragraphs (b) and (c) are redesignated as paragraphs (c) and (d), a new paragraph (b) is added, and newly redesignated paragraph (d) is revised to read as follows:

§ 144.26 Inventory requirements.

* * * * *

(b) *Additional contents.* For EPA administered programs only the owner or operator of a well listed in paragraph (b)(1) of this section shall provide the information listed in paragraph (b)(2) of this section.

(1) This section applies to owners or operators of the following wells:

(i) Class II enhanced recovery wells;

(ii) Class IV wells;

(iii) The following Class V wells:

(A) Sand or other backfill wells [§ 146.5(e)(8)];

(B) Radioactive waste disposal wells [§ 146.5(e)(11)];

(C) Geothermal energy recovery wells [§ 146.5(e)(12)];

(D) Brine return flow wells [§ 146.5(e)(14)];

(E) Wells used in experimental technologies [§ 146.5(e)(15)];

(F) Municipal and industrial disposal wells other than Class I;

(G) Other Class V wells at the discretion of the Regional Administrator.

(2) The owners or operators of wells listed in paragraph (b)(1) shall provide a listing of all wells owned or operated setting forth the following information for each well. A single description of wells at a single facility with substantially the same characteristics is acceptable.

(i) For Class II only, the field name(s),

(ii) Location of each well or project given by Township, Range, Section, and Quarter-Section, or by latitude and longitude to the nearest second, according to the conventional practice in the State;

(iii) Date of completion of each well;

(iv) Identification and depth of the formation(s) into which each well is injecting;

(v) Total depth of each well;

(vi) Casing and cementing record, tubing size, and depth of packer;

(vii) Nature of the injected fluids;

(viii) Average and maximum injection pressure at the wellhead;

(ix) Average and maximum injection rate; and

(x) Date of the last mechanical integrity test, if any.

(d) *Deadlines.*

(1) Owners or operators of injection wells must submit inventory information no later than one year after the authorization by rule. The Director need not require inventory information from any facility with interim status under RCRA.

(2) For EPA administered programs, the information need not be submitted if a complete permit application is submitted within one year of the effective date of the UIC program. Owners or operators of Class IV wells must submit inventory information no later than 60 days after the authorization by rule.

8. A new § 144.27 is added to read as follows:

§ 144.27 Requiring other information.

(a) For EPA administered programs only, in addition to the inventory requirements of § 144.26, the Regional Administrator may require the owner or operator of any well authorized by rule under this subpart to submit information as deemed necessary by the Regional Administrator to determine whether a well may be endangering an underground source of drinking water in violation of § 144.12 of this Part.

(b) Such information requirements may include, but are not limited to:

(1) Performance of ground-water monitoring and the periodic submission of reports of such monitoring;

(2) An analysis of injected fluids, including periodic submission of such analyses; and

(3) A description of the geologic strata through and into which injection is taking place.

(c) Any request for information under this section shall be made in writing, and include a brief statement of the reasons for requiring the information. An owner or operator shall submit the information within the time period(s) provided in the notice.

(d) Any authorization by rule under this subpart automatically terminates for any owner or operator who fails to comply with a request for information under this section.

9. A new § 144.28 is added to read as follows:

§ 144.28 Requirements for Class I, II, and III wells authorized by rule.

The following requirements apply to Class I, II, and III wells authorized by rule, as provided by §§ 144.21(c) and 144.22(b).

(a) The owner or operator must comply with all applicable requirements of this Subpart and Subpart B of this part. Any noncompliance with these requirements constitutes a violation of the Safe Drinking Water Act and is grounds for enforcement action, except that the owner or operator need not comply with these requirements to the extent and for the duration such noncompliance is authorized by an emergency permit under § 144.34.

(b) *Twenty-four hour reporting.* The owner or operator shall report any noncompliance which may endanger health or the environment, including:

(1) Any monitoring or other information which indicates that any contaminant may cause an endangerment to a USDW; or

(2) Any noncompliance or malfunction of the injection system which may cause fluid migration into or between USDWs.

Any information shall be provided orally within 24 hours from the time the owner or operator becomes aware of the circumstances. A written submission shall also be provided within five days of the time the owner or operator becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause, the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

(c) *Plugging and abandonment plan.*

(1) The owner or operator must prepare, maintain, and comply with a plan for plugging and abandonment of the well or project that meets the requirements of § 146.10 of this chapter and is acceptable to the Director. For purposes of this paragraph, temporary intermittent cessation of injection operations is not abandonment.

(2) For EPA administered programs:

(i) The owner or operator shall submit the plan to the Regional Administrator no later than one year after promulgation of the UIC program in the State, and must submit any proposed revision to the plan no later than 45 days prior to plugging the abandonment.

(ii) The plan shall include an estimate of the cost of plugging the well or wells.

(iii) Any cessation of operations for a period longer than two years shall be considered not to be temporary or intermittent, and the owner or operator shall plug the well in accordance with the plan, unless the owner or operator demonstrates to the satisfaction of the Regional Administrator that the well will be used in the future and that appropriate steps have been taken to prevent endangerment of USDWs.

(d) *Financial responsibility.*

(1) The owner or operator is required to maintain financial responsibility and resources to close, plug, and abandon the underground injection operation in a manner prescribed by the Director. The owner or operator must show evidence of financial responsibility to the Director by the submission of a surety bond, or other adequate assurance, such as a financial statement.

(2) For EPA administered programs the owner or operator shall submit such evidence no later than one year after the effective date of the UIC program in the State.

(3) For EPA administered programs the Regional Administrator may periodically require the owner or operator to revise the estimate of the resources needed to plug and abandon the well to reflect inflation of such costs, and to submit a demonstration of financial responsibility revised accordingly.

(e) *Casing and cementing requirements.* For enhanced recovery and hydrocarbon storage wells:

(1) All wells shall be cased and cemented to prevent movement of fluids into or between underground sources of drinking water. In determining and specifying casing and cementing requirements, the following factors shall be considered.

(i) Depth to the injection zone;

(ii) Depth to the bottom of all USDWs; and

(iii) Estimated maximum and average injection pressures.

(2) In addition, in determining and specifying casing and cementing requirements the Director may consider information on:

(i) Nature of formation fluids;

(ii) Lithology of injection and confining zones;

(iii) External pressure, internal pressure, and axial Loading;

(iv) Hole size;

(v) Size and grade of all casing strings; and

(vi) Class of cement.

(3) The requirements in paragraphs (e)(1) and (2) of this section need not apply if:

(i) Regulatory controls for casing and cementing existed at the time of drilling of the well and the well is in compliance with those controls; and

(ii) Well injection will not result in the movement of fluids into an underground source of drinking water so as to create a significant risk to the health of persons.

(4) When a State did not have regulatory controls for casing and cementing prior to the time of the submission of the State program to the Administrator, the Director need not apply the casing and cementing requirements in paragraph (e)(1) of this section if he submits as a part of his application for primacy, an appropriate plan for casing and cementing of existing, newly converted, and newly drilled wells in existing fields, and the Administrator approves the plan.

(f) *Operating requirements.*

(1) Injection between the outermost casing protecting underground sources of drinking water and the well bore is prohibited.

(2) For Class I wells, unless an alternative to a packer has been approved under § 146.12(c) of this chapter the annulus between the tubing and the long string of casings shall be filled with a fluid approved by the Director, and a pressure, also approved by the Director, shall be maintained on the annulus. For EPA administered programs, the fluid shall be a noncorrosive fluid, and the pressure on the annulus shall be a positive pressure.

(3) Injection pressure.

(i) For Class I and III wells:

(A) Except during stimulation, injection pressure at the wellhead shall not exceed a maximum which shall be calculated so as to assure that the pressure during injection does not initiate new fractures or propagate existing fractures in the injection zone; and

(B) In no case shall injection pressure initiate fractures in the confining zone or cause the movement of injection of formation fluids into an underground source of drinking water.

(ii) For Class II wells:

(A) Injection pressure at the wellhead shall not exceed a maximum which shall be calculated so as to assure that the pressure during injection does not initiate new fractures or propagate existing fractures in the confining zone adjacent to the USDWs; and

(B) In no case shall injection pressure cause the movement of injection or formation fluids into an underground source of drinking water.

(g) *Monitoring requirements.* The owner or operator shall perform the monitoring as described in this paragraph. For EPA administered programs, monitoring of the nature of the injected fluids shall comply with applicable analytical methods cited and described in Table I of 40 CFR 136.3 or in Appendix III of 40 CFR Part 261 or in certain circumstances by other methods that have been approved by the Regional Administrator.

(1) For Class I wells:

(i) Analyze the nature of the injected fluids with sufficient frequency to yield data representative of their characteristics. For EPA administered programs, this frequency shall be at least once within the first year of authorization and thereafter when changes are made to the fluid.

(ii) Install and use continuous recording devices to monitor injection pressure, flow rate and volume, and the pressure on the annulus between the tubing and the long string of casing;

(iii) Install and use monitoring wells within the area of review, to monitor any migration of fluids into and pressure in the underground sources of drinking water. The type, number and location of the wells, the parameters to be measured, and the frequency of monitoring must be approved by the Director.

(2) For Class II wells:

(i) Monitor the nature of the injected fluids with sufficient frequency to yield data representative of their characteristics. For EPA administered programs, at least once within the first year of the authorization and thereafter when changes are made to the fluid.

(ii) Observe the injection pressure, flow rate, and cumulative volume at least with the following frequencies:

(A) Weekly for produced fluid disposal operations;

(B) Monthly for enhanced recovery operations;

(C) Daily during the injection of liquid hydrocarbons and injection for withdrawal of stored hydrocarbons; and

(D) Daily during the injection phase of cyclic steam operations;

(iii) Record one observation of injection pressure, flow rate and cumulative volume at reasonable intervals no greater than thirty days.

(iv) For enhanced recovery and hydrocarbon storage wells:

(A) Demonstrate mechanical integrity pursuant to § 146.8 of this chapter at least once every five years during the life of the injection well.

(B) For EPA administered programs, the Regional Administrator by written notice may require the owner or operator to comply with a schedule describing when such demonstrations shall be made.

(c) For EPA administered programs, the owner or operator of any well required to be tested for mechanical integrity shall notify the Regional Administrator at least 30 days prior to any required mechanical integrity test. The Regional Administrator may allow a shorter time period if it would be sufficient to enable EPA to witness the mechanical integrity testing if it chose. Notification may be in the form of a yearly or quarterly schedule of planned mechanical integrity tests, or it may be on an individual basis.

(v) Hydrocarbon storage and enhanced recovery wells may be monitored on a field or project basis rather than on an individual well basis by manifold monitoring. Manifold monitoring may be used in cases of facilities consisting of more than one injection well, operating with a common manifold. Separate monitoring systems for each well are not required provided the owner or operator demonstrates to the Director the manifold monitoring is comparable to individual well monitoring.

(3) For Class III wells:

(i) Provide a qualitative analysis and ranges in concentrations of all constituents of injected fluids at least once within the first year of authorization and thereafter whenever the injection fluid is modified to the extent that the initial data are incorrect or incomplete. The owner or operator may request Federal confidentiality as specified in 40 CFR Part 2. If the information is proprietary the owner or operator may in lieu of the ranges in concentrations choose to submit maximum concentrations which shall not be exceeded. In such a case the owner or operator shall retain records of the undisclosed concentrations and provide them upon request to the Regional Administrator as part of any enforcement investigation;

(ii) Monitor injection pressure and either flow rate or volume semi-monthly, or meter and record daily injected and produced fluid volumes as appropriate;

(iii) Monitor the fluid level in the injection zone semi-monthly, where appropriate;

(iv) All Class III wells may be monitored on a field or project basis rather than an individual well basis by manifold monitoring. Manifold monitoring may be used in cases of facilities consisting of more than one injection well, operating with a common manifold. Separate monitoring systems for each well are not required provided the owner or operator demonstrates to the Director that manifold monitoring is comparable to individual well monitoring.

(h) *Reporting requirements.* The owner or operator shall submit reports to the Director as follows:

(1) For Class I wells, quarterly reports on:

(i) The Physical, Chemical, and other relevant characteristics of the injection fluids;

(ii) Monthly average, maximum, and minimum values for injection pressure, flow rate and volume, and angular pressure;

(iii) The results from ground-water monitoring wells prescribed in paragraph (g)(1)(iii) of this section;

(iv) The results of any test of the injection well conducted by the owner of operator during the reported quarter if required by the Director; and

(v) Any well work over performed during the reported quarter.

(2) For Class II wells:

(i) An annual report to the Director summarizing the results of all monitoring, as required in paragraph (g)(2) of this section. Such summary shall include monthly records of injected fluids, and any major changes in characteristics or sources of injected fluids. Previously submitted information may be included by reference.

(ii) Owners or operators of hydrocarbon storage and enhanced recovery projects may report on a field or project basis rather than on an individual well basis where manifold monitoring is used.

(3) For Class III wells:

(i) Quarterly reporting on all monitoring, as required in paragraph (g)(3) of this section;

(ii) Quarterly reporting of the results of any periodic tests required by the Director that are performed during the reported quarter;

(iii) Monitoring may be reported on a project or field basis rather than an individual well basis where manifold monitoring is used.

(i) *Retention of records.* The owner or operator shall retain records of all monitoring information, including the following:

(1) Calibration and maintenance records and all orignial strip chart recordings for continuous monitoring instrumentation, and copies of all reports required by this section, for a period of at least three years from the date of the sample, measurement, or report. This period may be extended by request of the Director at any time; and

(2) The nature and composition of all injected fluids until three years after the completion of any plugging and abandonment procedures specified under § 144.52(1)(6). The Director may require the owner or operator to deliver the records to the Director at the conclusion of the retention period. For EPA administered programs, the owner or operator shall continue to retain the records after the three year retention period unless he delivers the records to the Regional Administrator or obtains written approval from the Regional Administrator to discard the records.

(j) *Notice of abandonment.*

(1) The owner or operator shall notify the Director, according to a time period required by the Director, before conversion or abandonment of the well.

(2) For EPA administered programs, this time period shall be at least 45 days before plugging and abandonment. The Regional Administrator may allow a shorter notice period if it would be sufficient to enable EPA to witness the plugging if it chose.

(k) *Plugging and abandonment report.* For EPA administered programs, after plugging a well, the owner or operator shall within fifteen days submit to the Regional Administrator a report of plugging and abandonment. The report shall describe how the plugging and abandonment plan required by § 144.28(c) was carried out, including:

(1) The nature and quantity of materials used in plugging;

(2) The location and extent (by depth) of the plugs;

(3) Records of any tests or measures made;
(4) The amount, size, and location (by depth) of casing left in the well;
(5) The volume of mud used;
(6) If an attempt was made to part any casing, a complete report of the method used and the results obtained; and
(7) A certification from the person who has performed the plugging operation verifying the accuracy of the report.

(l) *Change of ownership.* For EPA administered programs, the owner or operator must notify the Regional Administrator of a transfer of ownership of the well within 30 days of such transfer.

(m) *Requirements for Class I Hazardous Waste Wells.* The owner or operator of any Class I well injecting hazardous waste shall comply with § 144.14(c).

Subpart D—Authorization by Permit

11. In § 144.31 paragraph (c)(1) is revised and new paragraph (e)(9) is added to read as follows:

§ 144.31 Application for a permit.

* * * * *

(c) *Time to apply* * * *

(1) For existing wells, as expeditiously as practicable and in accordance with the schedule in any program description under § 145.23(f) and (for EPA administered programs) on a schedule established by the Regional Administrator, but no later than 4 years from the approval or promulation of the UIC program, or as required under § 144.14(b) for wells injecting hazardous waste. For EPA administered programs owners or operators of Class I and III wells must submit a complete permit application no later than 1 year after the effective date of the program.

* * * * *

(e) *Information requirements* * * *

(9) For EPA administered programs, the applicant must give separate notice of intent to apply for a permit to each owner or tenant of the land within one-quarter mile of the site. The addresses of those to whom notice are given, and a description of how notice was given, shall be submitted with the permit application. The notice shall include:

(i) Name and address of applicant;

(ii) A brief description of the planned injection activities, including well location, name and depth of the injection zone, maximum injection pressure and volume, and fluid to be injected;

(iii) EPA contact person; and

(iv) A statement that opportunity to comment will be announced after EPA prepares a draft permit.

This requirement may be waived by the Regional Administrator where the site is located in a populous area and individual notice to all land owners and tenants would be impracticable.

12. In § 144.34 the introductory text of paragraph (a) is revised to read:

§ 144.34 Emergency permits.

(a) *Coverage.* Notwithstanding any other provision of this Part or Part 124, the Director may temporarily permit a specific underground injection if:

*

13. In § 144.51 paragraph (j)(2)(ii) is revised and new paragraphs o and p are added to read as follows:

§ 144.51 Conditions applicable to all permits.

* * * * *

(j) *Monitoring and records*

* * * * *

(2) * * *

(ii) The nature and composition of all injected fluids until three years after the completion of any plugging and abandonment procedures specified under § 144.52(a)(6). The Director may require the owner or operator to deliver the records to the Director at the conclusion of the retention period. For EPA administered programs, the owner or operator shall continue to retain the records after the three-year retention period unless he delivers the records to the Regional Administrator or obtains written approval from the Regional Administrator to discard the records.

* * * * *

(o) *Plugging and abandonment report.* For EPA administered programs, after plugging a well, the permitted shall within fifteen days submit to the Director a report of plugging and abandonment. The report shall describe how the plugging and abandonment plan required by § 144.52(6) was carried out including:

(1) The nature and quantity of materials used in plugging;

(2) The location and extent (by depth) of the plugs;

(3) Records of any tests or measures made;

(4) The amount, size, and location (by depth) of casing left in the well;

(5) The volume of mud used;

(6) If an attempt was made to part any casing, a complete report of the method used and the results obtained; and

(7) A certification from the person who has performed the plugging operation verifying the accuracy of the report.

(p) *Mechanical integrity demonstrations.* For EPA administered programs, the Regional Administrator by written notice may require the owner or operator to comply with a schedule describing when such demonstrations shall be made.

14. In § 144.52 paragraphs (a)(5), (a)(6) and (a)(7) are revised to read as follows:

§ 144.52 Establishing permit conditions.

(a) * * *

(5) Monitoring and reporting requirements as set forth in 40 CFR Part 146. The permittee shall be required to identify types of tests and methods used to generate the monitoring data. For EPA administered programs, monitoring of the nature of injected fluids shall comply with applicable analytical methods cited and described in Table I of 40 CFR 136.3 or in Appendix III of 40 CFR Part 261 or in certain circumstances by other methods that have been approved by the Regional Administrator.

(6) Any cessation of operations for a period longer than two years shall be considered not to be temporary or intermittent, and the owner or operator shall plug the well in accordance with the plan, unless the owner or operator demonstrates to the satisfaction of the Regional Administrator that the well will be used in the future and that appropriate steps have been taken to prevent endangerment of USDWs.

(7) *Financial responsibility.* The permittee is required to maintain financial responsibility and resources to close, plug, and abandon the underground injection operation in a manner prescribed by the Director. The permittee must show evidence of financial responsibility to the Director by the submission of a surety bond, or other adequate assurance, such as financial statements or other materials acceptable to the Director. For EPA administered programs the Regional Administrator may on a periodic basis require the holder of a lifetime permit to submit an estimate of the resources needed to plug and abandon the well revised to reflect inflation of such costs, and a revised demonstration of financial responsibility if necessary.

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Part IV

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

Revegetation of Regraded Areas and Other Lands Disturbed By Surface Coal Mining Operations; Final Rule

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 701, 816, and 817

Surface Coal Mining and Reclamation Operations, Permanent Regulatory Program; Revegetation

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is adopting final rules for the revegetation of regraded areas and all other lands disturbed by surface coal mining operations. These final rules are needed to clarify existing rules, minimize duplication, and provide internal consistency. The rules revise requirements for reestablished plant species, planting times, mulching, and revegetation success standards. These changes will facilitate the successful revegetation of mined lands.

EFFECTIVE DATE: October 3, 1983.

FOR FURTHER INFORMATION CONTACT: Arlo Dalrymple, Biological Scientist, Division of Engineering Analysis, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, D.C. 20240; 202–343–3198.

SUPPLEMENTARY INFORMATION:

I. Background.
II. Discussion of rules adopted and responses to comments.
III. Procedural matters.

I. Background

On March 23, 1982 (47 FR 12596), OSM published a notice of proposed rulemaking to amend 30 CFR Parts 816 and 817 relating to revegetation of surface coal mining and reclamation operations. Public hearings were scheduled for April 16, 1982, in Washington, D.C.; Pittsburgh, Pa.; and Denver, Colo. The Pittsburgh public hearing date was changed to April 20, 1982 (47 FR 13535). No one requested to testify at these hearings. The comment period closed on April 22, 1982. On May 13, 1982, the comment period was reopened for an indefinite period (47 FR 20631), and was closed on August 25, 1982 (47 FR 30286). The comment period was again reopened, on September 7, 1982, and extended through September 10, 1982 (47 FR 30286). During these periods, OSM received written comments from more than 45 commenters representing Federal and State agencies, coal companies, trade associations, environmental groups, and interested citizens.

The provisions of the Surface Mining Control and Reclamation Act of 1977 (the Act), 30 U.S.C. 1201 *et seq.*, which are especially relevant to the rules adopted in this rulemaking are found in Sections 515(b)(2), 515(b)(19), 515(b)(20), and 516(b)(6). Section 515(b)(2) requires the operator, as a minimum, to restore the land affected to a condition capable of supporting the uses which it was capable of supporting prior to any mining, or higher or better uses of which there is a reasonable likelihood.

Section 515(b)(19) of the Act requires the operator to establish, on all affected lands, a "diverse, effective, and permanent vegetative cover of the same seasonal variety native to the area of land to be affected and capable of self-regeneration and plant succession at least equal in extent of cover to the natural vegetation of the area." Section 516(b)(6) imposes a similar requirement for the surface effects of underground mining. Section 515(b)(19) also permits the use of introduced species where desirable and necessary to achieve the approved postmining land use. Section 515(b)(20) of the Act requires the operator to assume responsibility for successful revegetation for either 5 or 10 full years after the last year of augmented seeding, fertilizing, irrigation, or other work to assure compliance with Section 515(b)(19). The 5-year period of responsibility is applicable to areas or regions receiving an annual average precipitation greater than 26 inches, and the 10-year period is applicable to areas or regions where the annual average precipitation is 26 inches or less. An additional pertinent provision, in Section 515(b)(4), requires mine operators to "stabilize and protect all surface areas including spoil piles affected by the surface coal mining and reclamation to effectively control erosion and attendent air and water pollution."

The rules adopted today govern revegetation to reclaim areas disturbed by surface mining activities, §§ 816.111–816.116, and to reclaim areas disturbed by underground mining activities, §§ 817.111–817.116. The final revegetation rules are identical for surface and underground mining activities. Accordingly, in this preamble Part 816 will be discussed with the understanding that the discussion also applies to Part 817. Specific comments on Part 817 will be addressed separately from those of Part 816. In preparing the final rules and the responses to commenters, OSM has relied upon the Act, the legislative history of the Act, judicial rulings, technical litefature, and regulatory operating experience gained under the initial regulatory program.

II. Discussion of Rules Adopted and Responses to Comments

A. General Comments

The comments received on the proposed rules represented a diversity of viewpoints and experiences. Many commenters supported the Department of the Interior's effort to remove what were perceived to be burdensome and redundant rules. These commenters generally thought that the proposed amendments would provide the flexibility necessary to allow result-oriented, cost-effective revegetation, and they supported proposed rules emphasizing performance rather than design criteria. In this regard, a State believed that there are circumstances under which specific design criteria developed at the State level may be beneficial for operators and regulators.

Other commenters expressed concern that the proposed rule changes were a substantial weakening of the previous rules and would undermine the revegetation requirements of the Act and increase the likelihood of revegetation failures. Some of these commenters stated that the proposed rules would leave individual States without guidance when determining minimum acceptable standards for revegetation success.

A commenter said the problems with the proposed rules fell into two categories—a weakening of rules that ensure revegetation success and a weakening of rules that require operator responsibility for success. The commenter added that the environmental risks of the proposed rules far exceeded any minor cost benefits that might result from the proposed changes. Another commenter thought it a mistake to relax the standards for revegetation prior to any long—term demonstration of whether the previous performance standards are adequate. OSM was urged to withdraw the proposed rule.

This rulemaking reaffirms OSM's position that the primary responsibility for regulating surface mining and reclamation operations should rest with the States. Federal rules must be capable of nationwide application. The absence of detail in the Federal rules is not a weakening of revegetation requirements but reflects that the rules are dessigned to account for regional diversity in terrain, climate, soils, and other conditions under which mining occurs. Additional response to these general comments is found in the

discussion of the specific comments which follow. Further discussion of the general approach to making the rules more flexible and of replacing design criteria with performance standards is contained in OSM's "Final Environmental Impact Statement OSM EIS–1: Supplement," (FEIS) Volume I, Chapters II and IV.

B. Specific Comments

Section 816.111 Revegetation: General requirements

The general requirements for revegetation and the use of introduced species were set forth in previous §§ 816.111 and 816.112. OSM is amending these sections by combining the requirements under § 816.111 and deleting § 816.112. The purpose of this restructuring is to emphasize the statutory criteria contained in Section 515(b)(19) of the Act and to clarify rules that were perceived to be awkward and confusing.

Proposed § 816.111 established general requirements for vegetative cover and the use of plant species in mined-land reclamation. It also granted exceptions to these general requirements where the species were necessary to achieve quick-growing, temporary, stabilizing cover, and where cropland was an approved postmining land use. The proposed rule differed from previous §§ 816.111 and 816.112 in that it did not explicitly require the use of field trials to demonstrate that introduced species are desirable and necessary to achieve the approved postmining land use. It also did not explicitly require the vegetative cover to be capable of stabilizing the soil surface from erosion. The reasons for these proposed changes and other changes of lesser significance were given in the preamble to the proposed rules (47 FR 12596, March 23, 1982).

Final § 816.111 is essentially the same as proposed § 816.111, with the exception that provisions relating to surface soil erosion and poisonous or noxious species have been added. An explanation of these changes and a section-by-section discussion of all the comments received follows.

Section 816.111(a)

Proposed § 816.111(a) required the operator to establish on all affected land, in accordance with the approved permit and reclamation plan, a vegetative cover that is diverse, effective, permanent, and comprised of species native to the area, or of introduced species where approved by the regulatory authority. The proposed rule also required that reestablished vegetation must be at least equal in extent of cover to the natural vegetation of the area and capable of achieving a productivity level compatible with the approved postmining land use.

One commenter contended that it is inappropriate to mix the procedural aspects of approval of a reclamation plan and the basic performance standards of the Act in one rule. This commenter recommended that the phrase "in accordance with the approved permit and reclamation plan" be deleted from § 816.111(a) and that new language be added to the rule which would require all revegetation to be in compliance with the approved reclamation plan and the revegetation performance standards. The new language was believed to be needed to make it clear that if the regulatory authority approves a reclamation plan that violates the Act or rules, the operator is not absolved of the responsibility for complying with the revegetation performance standards.

The intent of the phrase in question is to require the operator to follow the revegetation procedures in the permit and reclamation plan that has been previously approved by the State regulatory authority. Generally, an operator's compliance with the permit and reclamation plan would indicate compliance with the Act and the regulatory program. However, if the regulatory authority errs and approves a permit and reclamation plan that violates the Act or rules, the operator is still legally required to comply with the Act and rules. Since § 816.111(a) is consistent with the result that the commenter seeks, no change has been made in the final rule.

A second commenter asserted that the proposed term "affected land" was not appropriate because it could be concluded that operators would be required to seed temporary topsoil stockpiles, road embankments, and other similarly affected lands. The commenter suggested that the revegetation rules should apply only to the revegetation of areas that have been prepared for *permanent* revegetation pursuant to previous §§ 816.24 and 816.25 requiring the redistribution of topsoil.

OSM agrees and has substituted the phrase "on regraded areas and on all other disturbed areas" for the phrase "all affected land," to more closely parallel Section 515(b)(19) of the Act, which requires the establishment of vegetation "on the regraded areas, and all other lands affected * * *." However, OSM has adopted the term "disturbed areas" in the final rule, rather than "lands affected." The term "disturbed area" is defined in 30 CFR 701.5 as an area from which vegetation, topsoil or overburden is removed or upon which topsoil, spoil, or waste of various types is placed and is consistent with the term "lands affected" in Section 515(b)(19) of the Act. This new language and that in § 816.113, which requires planting of disturbed areas after replacement of the plant-growth medium, should be sufficient indication that a permanent vegetative cover need not be established until a disturbed area has been graded and topsoil or topsoil substitutes redistributed under final § 816.22.

However, operators will often find it necessary to establish a temporary cover of annual and perennial species when there is an extended period between the initial soil-surface disturbance and final grading and replacement of the plant-growth medium. For example, sedimentation ponds and roads may be constructed and used for several years before removal and final reclamation. During this period, sedimentation pond outslopes and road embankments must be protected and stabilized to control erosion effectively as required in § 816.95(a). The establishment of a temporary vegetative cover is one means of achieving the necessary stabilization of the soil surface.

One commenter stated that the proposed rules were appropriately based upon the Act, which calls for "diverse, effective, and permanent vegetative cover." He added that the explanation of the term "diversity" in the premable should be expanded to explain that "diversity" does not necessarily mean that every species and variety of premining grass, shrub, or tree be reestablished or that they be reestablished in identical numbers and ratios after mining.

OSM agrees with the commenter's statement, which is consistent with the definition and explanation of "diversity" contained in the preamble to the proposed rules (47 FR 12597, March 23, 1982).

Furthermore, opportunities may exist for improving plant communities by changing the species composition as, for example, establishment of species that change a range site from fair to good condition or that change a noncommercial forest to one that has market potential. In both examples, the new plant community may not contain all the species represented in the original plant community. However, the new plant community is expected to contain species not found, or not found in identical numbers, on the site prior to

mining. This interpretation of diversity is consistent with the statutory objective of restoring affected lands to higher and better postmining land uses.

Proposed § 816.111(a)(2) required the established vegetative cover to be comprised of species native to the area or of introduced species where approved by the regulatory authority. One commenter contended that it was unnecessary to require approval by the regulatory authority since this was implied by the need to establish vegetative cover in accordance with the approved permit and reclamation plan as required by § 816.111(a) and in compliance with the species provisions in § 816.111(b).

The use of introduced species in surface mine reclamation presents special problems and risks. The requirement for regulatory authority approval may overlap the provisions identified by the commenter; however, it is retained in the final rules to emphasize the critical evaluation which regulatory authorities will need to make before approving an introduced species that has not been previously field tested for use in mined-land reclamation. A phrase has been added to § 816.111(a)(2) to make it clear that the regulatory authority may approve the use of the introduced species only where it is desirable and necessary to achieve the postmining land use. This is consistent with Section 515(b)(19) of the Act.

A second commenter believed that Stae regulatory authorities should be required to consult with wildlife agencies when approving the use of introduced species, to ensure that the species are compatible with resident wildlife populations. The commenter suggested adding language to proposed § 816.111(a)(2) that would require field-trial demonstrations to document suitability for the porposed postmining land use where there was not sufficient past experience with the species under similar growing conditions.

It is not necessary to require State regulatory authorities to consult with wildlife agencies when approving the use of introduced species. State regulatory authorities may find such consultation beneficial, but it should be left to the discretion of the regulatory authority to determine whether consultation is actually needed. The need for field trials should also be determined by the regulatory authority rather than be required under a Federal rule. Further discussion of introduced species and the use of field trials is found under § 816.111(b).

Final § 816.111(a)(3) requires a vegetative cover at least equal in extent to the natural vegetation of the area. A commenter was concerned that the proposed rules were not responsive to situations where forestry is the postmining land use because cover requirements in proposed § 816.11(a)(3) could be deleterious to maximizing forest growth. The commenter added that if § 816.111(a)(3) were interpreted in the context of proposed § 816.111(a)(4), which would have required the achievement of productivity levels compatible with the postmining land use, his concerns would be adequately addressed.

OSM recognizes that extensive ground cover may be incompatible with maximum tree survival and growth since trees and herbaceous plants compete for moisture, nutrients, and light. In situations where the long-term vegtative cover is forest, a light herbaceous cover would be acceptable if it was adequate to protect the soil surface from erosion.

Productivity: Proposed § 816.111(a)(4) would have required that the reestablished vegetative cover be capable of achieving productivity levels compatible with the approved postmining land use. Two commenters asserted that this provision should be deleted because they could not find any statutory requirement or other justification for the rule. Two state regulatory authorities also commented on proposed § 816.111(a)(4). Both desired the retention of a productivity provision, but they felt that the phrase "capable of achieving productivity levels" resulted in an ambiguous, imprecise, and poorly demarcated goal which is difficult to measure in the field. One of these commenters maintained that in order for OSM to fully implement the intent of Section 515 (b)(2) and (b)(19) of the Act, the final rules must focus on premining productivity levels (measured in the field by some actual means) as a primary reclamation standard.

Support for including a productivity requirement in the rules is found in the use of the word "effective" in Section 515(b)(19) of the Act. As Congress stated, effective means "both the productivity of the planted species concerning its utility to the intended postmining land use (e.g., nutritional value for livestock) as well as its capability of stabilizing the soil surface with respect to reducing siltation to normal premining background levels." (H. Rept. No. 95–218, 95th Cong., 1st Sess., p. 106, (1977).)

However, OSM agrees with the commenters in their conclusion that proposed § 816.111(a)(4) was ambiguous and provided an uncertain standard that may be misleading or redundant of other requirements. For this reason, proposed § 816.111(a)(4), which was a standard for success, has not been included in the final rule. Final § 816.116 requires the success of revegetation to be judged on the effectiveness of the vegetation for the approved postmining land use. Whether productivity is included as a measure to ensure that the requirements of §§ 816.116 and 816.111(a)(1) are met depends upon the postmining land use and particular success standard established.

OSM rejects the suggestion that the rule focus on premining productivity levels. OSM agrees that Congress intended that mined land be reclaimed to an equal or better condition than existed prior to mining. In establishing the standards for success of that reclamation, the Act specifically focuses on the extent of the cover of the natural vegetation in the general area and not on premining productivity levels of the specific mined areas. It is anticipated, however, that if the general standards for revegetation are met, the land affected will be returned to a form and productivity at least equal to that of its premining condition.

Erosion control: Proposed § 816.111 would have deleted the provision of previous § 816.111(b)(2), which required the vegetative cover to be capable of stabilizing the soil surface from erosion. OSM proposed this deletion because Section 515(b) (19) and (20) of the Act did not explicitly address erosion. Furthermore, rules governing redistribution of topsoil and erosion control appeared to satisfy Section 515(b)(4) of the Act, which requires operators to "stabilize and protect all surface areas including spoil piles affected by the surface coal mining and reclamation operation to effectively control erosion." OSM also pointed out that proposed § 816.111(a)(3) would require the operator to achieve a ground cover that is equal to or greater than the ground cover that existed prior to mining and that this requirement would in effect provide the reclaimed soils with protection from erosion equal to the protection provided prior to disturbance of the site.

Deletion of the erosion-control requirement was supported by one commenter who said that erosion control was adequately addressed in other sections of the rules, such as previous § 816.24(b)(3), regarding topsoil redistribution, and previous § 816.23(b), regarding topsoil storage. Other commenters disagreed and provided comments seeking to retain erosion control provisions in the revegetation rules.

A commenter argued that, in the Southwest, ground-cover standards could be achieved by the establishment of coarse grasses or other plants which do not have erosion-control characteristics equal to the original ground cover. This difference was said to be crucial because most rainfall occurs in violent summer thunderstorms. A commenter noted that there are situations in arid and semiarid areas where the approved postmining land use has slopes steeper than the original slopes and that the restoration of the original extent of plant cover may result in a landscape that is more susceptible to erosion. A third commenter disagreed with OSM's contention that Section 515 (b)(19) and (b)(20) of the Act did not specifically reference erosion control. The commenter noted that these sections require a "diverse, effective, and permanent vegetative cover" and that the word "effective" is defined in House Report 95–218 (95th Cong., 1st Sess., p. 106 (1977)) to mean "both the productivity of the planted species * * * as well as its capability of stabilizing the soil surface with respect to reducing siltation to normal background levels." In the commenter's opinion, this appeared to be a clear directive from Congress that revegetation should at least control erosion to the extent that siltation of surface-water supplies is minimized.

A commenter disagreed with OSM's rationale for deletion of § 816.111(b)(2) as presented in the preamble to the proposed rules (47 FR 12597). No reason for disagreement was provided. The commenter recommended that OSM adopt a new subsection (§ 816.111(b)(5)) that would require vegetative cover capable of significantly minimizing erosion from the soil surface.

The arguments presented by the commenters who sought to retain a provision requiring the vegetative cover to be capable of controlling erosion have merit. OSM acknowledges that an important function of vegetative cover is erosion control and that Section 515(b)(4) of the Act requires operators to stabilize the surface of the soil so as to effectively control erosion. In response to the comments, OSM has adopted a provision in § 816.111(a)(4) which will require the establishment of a vegetative cover that is capable of stabilizing the soil surface from erosion. Furthermore, a related provision in § 816.95 (Stabilization of Surface Areas) has also been adopted to address rills and gullies and air and water pollution attendant to erosion (48 FR 1163, January 10, 1983). These rules adequately provide the environmental protection from erosion called for by the Act.

Section 816.111(b)

Proposed § 816.111(b) would have required operators to use introduced or native plant species that are desirable and necessary to achieve the approved postmining land use, have the same seasonal characteristics of growth as the original vegetation, and are capable of self-regeneration and plant succession. Also, the reestablished plant species had to be compatible with the plant and animal species of the area and meet applicable State and Federal statutes regulating seed and introduced species. The final rule is essentially the same as proposed, except for the additional requirement that reestablished species must meet statutes regulating noxious and poisonous plants, and that the plant species must be compatible with the approved postmining land use rather than being desirable and necessary to achieve the postmining land use, since some land uses may not depend upon the revegetative cover.

Use of introduced species: Final § 816.111(b) contains the essential criteria for regulatory authorities to determine whether a species of plant is suitable for surface mine reclamation. These criteria are applicable to both native and introduced species. Regulatory authorities should decide when field trials or other types of documentation are needed to determine if a species meets the requirements of § 816.111(b). Under this reorganization of the rule, previous § 816.112 (Revegetation: Use of introduced species) is no longer necessary and has been deleted.

Previous § 816.112 provided for regulatory authority approval of introduced species when field trials demonstrated that they were desirable and necessary to achieve the postmining land use or that they were needed to achieve a quick-growing, temporary, stabilizing cover and measures to establish permanent vegetation were in an approved reclamation plan. It required that introduced species be compatible with animal and plant species of the area and meet the requirements of applicable State and Federal seed laws and not be poisonous or noxious.

Several commenters were against the adoption of proposed § 816.111(b) and the related deletion of previous § 816.112. One commenter believed the restructuring of the wording to give introduced species the same emphasis as species native to the area may result in less effective regeneration. The commenter further explained that the proposed rule change would result in less cover diversity than under the previous rule and a significant shift from forest to open-land uses. He surmised that there would probably be more grasses sown and fewer trees and shrubs planted. This, the commenter argued, would result in less effective reclamation because a combination of woody plants and ground cover was thought necessary to assure long-term erosion control and the stability of steep slopes common to Appalachia. The commenter also believed that herbaceous cover by itself would deteriorate without supplemental fertilization and reseeding.

OSM appreciates the commenter's concerns. However, the commenter has erred in assuming that regulatory authorities will approve the use of introduced species in a manner that would lead to the conditions which he described. Section 816.111(a)(1) requires the establishment of a diverse and permanent cover. Diversity could be achieved by planting a mixture of grasses and legumes. Under final § 816.111(a)(2), introduced species may be approved only where desirable and necessary to achieve the approved postmining land use. The species comprising the vegetative cover, whether native or introduced, will have to be capable of self-regeneration and plant succession. Thus, if the performance standards are met, the objective of Section 515(b)(19) of the Act will be achieved.

Another commenter felt that it was a serious mistake to mix revegetation standards for native species with those for introduced species and recommended retaining § 816.112 in its entirety. The commenter reasoned that the use of introduced species requires more intensive long-term management than native species and as a consequence special care must be used in determining whether to allow the use of introduced species in mined-land reclamation. OSM agrees with the commenter that introduced species must be carefully evaluated before being used in reclamation. Section 816.111(a)(2) specifically requires approval by the regulatory authority of all introduced species that are used in reclamation. Such usage must be consistent with the attainment of the requirements in §§ 816.111(b)–816.111(d).

One commenter said that the proposed rules, while maintaining restrictions on the use of introduced species as required by the Act, eliminated the native-species preference implied by the Act by placing both native and introduced species on the

same footing. The commenter added that introduced species were selected in the past for use in reclamation if they were desirable in achieving the postmining land use, and that necessity, though often considered, was not a prerequisite for native species. The revised rules retain the "implied preference" for native species by requiring specific regulatory authority approval of introduced species in § 816.111(a)(2) to be based upon such species being desirable and necessary to achieve the approved postmining land use.

A commenter contended that deletion of previous § 816.112 in its entirety could substantially alter the results which reclamation achieves for wildlife. It was argued that, through evolutionary processes, assurance is provided that native plant species are compatible with resident wildlife populations. The compatibility of introduced species was thought to be impossible to document. This commenter strongly recommended retention of § 816.112 (b), (c), and (d) of the previous rules which set conditions under which State regulatory authorities could approve the use of introduced species.

Regulatory authorities should be aware of the plant species that have been documented as being suitable for wildlife habitat and will have access to technical groups capable of supplying such information. The regulatory authority may, if necessary, consult State and Federal fish and wildlife services, State universities, and the U.S. Department of Agriculture, Soil Conservation Service Plant Materials Centers to determine whether a species is compatible with resident wildlife. Furthermore, the basic requirements of previous § 816.112 (b), (c), and (d) are found in § 816.111 (b)(4) and (b)(5) and (c).

Another commenter felt that the elimination of previous § 816.112 could lead to the planting of nuisance exotics which tend to squeeze out native species. Multiflora rose was cited as an example of an introduced species that is detrimental. As noted earlier § 816.111(a)(2) specifically requires regulatory approval of the use of all introduced species included in a mining and reclamation plan. Additionally, § 816.111 (b)(4) and (b)(5) require that the reestablished plant species be compatible with the plant and animal species of the area and that State and Federal statutes governing the use of poisonous and noxious plants be met. These requirements provide an adequate safeguard against the planting of nuisance exotics.

In a similar vein, several commenters opposed deletion of the field-trial requirements of previous § 816.112(a). Without giving any justification, one commenter said States should have no discretion to dispense with the requirement of field tests for introduced species. Another commenter contended that the deletion of previous § 816.112(a) subverts the intent of Section 515(b)(19) of the Act and that the proposed rule was an open invitation for abuse of native-species requirements by coal operators and State regulatory authorities. The commenter stated that actual field trials over a long period of time are necessary before introduced species can be adopted for general use in establishing permanent cover. The commenter asserted that introduced species have several drawbacks: A generally low level of plant diversity in areas where they are planted, potential for early stand stagnation, and possible poor long-term adaptation to fluctuations in climate, such as sustained periods of drought.

Conversely, other commenters argued that State regulatory authorities are certainly able to approve the use of introduced species without field trials when revegetation success has already been successfully demonstrated and the species are desirable and necessary to achieve the postmining land use. One commenter noted that unnecessary compliance burdens would be avoided under the new language.

A commenter pointed out that many introduced species have become naturalized and that regulatory authorities are in a position to approve the use of desirable and proven species without the necessity of field trials, but thought that field trials should still be required on unproven species. Another commenter recommended that introduced species be field tested under the experimental practice provisions in 30 CFR 785.13.

Field trails are generally appropriate before unproven species can be used for surface mine reclamation. Other species that have been previously demonstrated, under similar biotic conditions, to be successful in achieving the specified postmining use generally do not require additional tests. Publications by Vogel (1981) and Thornburg (1982) are examples of documents that can be used by regulatory authorities to identify native and introduced species that have been successfully used to revegetate mined lands. In addition, unproven species could be tested for suitability under the experimental practice rules if the requirements of § 785.13 are satisfied.

A commenter suggested deletion of the reference to native species in proposed § 816.111(b). The commenter believed OSM was trying to impose the same restrictions on native and introduced plant species and that it was not necessary to justify the use of native species.

As previously stated, paragraph (b) is equally applicable to native and introduced species. Some native species, as well as introduced species, may be unsuitable for reclamation because they take excessively long periods of time to establish and are not compatible with certain postmining land uses. In final § 816.111(b), the proposed phrase "whether introduced or native" has not been adopted since the provision applies to all reestablished plant species unless specifically limited.

Water areas and road surfaces: The proposed rules did not include an exemption of revegetation requirements for water areas and road surfaces approved as part of the postmining land use. This exemption was found in previous § 816.111(b)(1) and has been retained in the final rule as part of the introductory language in revised § 816.111(a).

One commenter said that the proposal to delete the water area and road-surface exemption indicated OSM's appreciation of unneeded and overly restrictive requirements. Another commenter opposed the deletion because he believed that compacted dirt and gravel haul roads would not be adequately reclaimed and the areas affected would become permanently useless for any productive purpose.

The commenter may have misunderstood the exemption and its proposed deletion. The exemption applies only to water areas and road surfaces that are approved as part of the postmining land use. Temporary roads and water areas that are reclaimed must be regraded, covered with topsoil or topsoil substitutes, and planted to an approved vegetative cover which meets the requirements of §§ 816.111–816.116. As the preamble to the proposed rules pointed out, this change would merely have deleted language perceived to be unnecessary (47 FR 12597). In light of the commenters' confusion concerning the proposed deletion, OSM has decided to retain the specific language to clarify that the exemption continues. The final rule language will not change operator responsibility with respect to areas covered by water and road surfaces.

Desirable and necessary: Proposed § 816.111(b)(1) required the reestablished plant species to be desirable and necessary to achieve the

approved postmining land use. Final § 816.111(b)(1) requires that all species used to reestablish vegetation be compatible with the postmining land use.

One commenter suggested changing the wording of the proposed requirement to "desirable or necessary" instead of "desirable and necessary." The commenter explained that there is a strong possibility introduced species may be highly desirable but not absolutely necessary for the approved postmining land use.

Section 515(b)(19) of the Act requires introduced species to be both desirable *and* necessary to achieve the approved postmining land use plan. OSM has retained this statutory language. Proposed § 816.111(b)(1) would have extended application of the "desirable and necessary" standard to native species. The requirement that all species used be desirable and necessary for the postmining land use has not been adopted, since some land uses may not depend upon the vegetative cover. The requirement that introduced species be "desirable and necessary" for the approved postmining land use has been retained and included in final § 816.0111(a)(2). OSM interprets "desirable and necessary" in this context to mean that revegetation is a necessary component of the postmining land use and that the use of the proposed introduced species is desirable and necessary in achieving that end use. The introduced species need not, however, be the only species capable of achieving the postmining land use.

Seasonal characteristics of growth: Proposed § 816.111(b)(2) required the reestablished plant species to have the same seasonal characteristics of growth as the original vegetation. One commenter said that the proposed rule conflicted with proposed § 816.111(b)(1), which required the reestablished plant species to be desirable and necessary to achieve the approved postmining land use. It was argued that when the postmining land use is cropland or forage, the species chosen to achieve those uses should not be limited to those with the same characteristics as the original vegetation, which could have been, for instance, sagebrush and blue grama grass. The commenter recommended that the term "seasonal utility" be substituted for "seasonal characteristics of growth."

Final § 816.111(d) provides the desired exception sought by the commenter when the postmining land use is cropland. Where range and grazing land are the postmining land use, situations will exist where the range condition can be improved by changing the proportion of cool- and warm-season grasses as well as the proportion of forbs and shrubs. Thus, seasonal characteristics overall could be essentially the same as those in the premining plant community, but the proportion of total cover represented by each species may change. For these reasons, OSM has adopted the rule as it was proposed.

One commenter contended that previous § 816.111 (b)(3) and (b)(4) should be retained. Previous § 816.111(b)(3) defined seasonal variety and previous § 816.111(b)(4) exempted cropland from the requirement to establish a permanent cover when operators planetd crops normally grown. Previous § 816.111(b)(4) was thought to be needed to prove productivity and a return to premining capability.

Seasonal characteristics of growth are more appropriate to describe species requirements than seasonal variety, for the reasons given in the preamble to the proposed rules (47 FR 12597). Furthermore, final § 816.111(d) exempts cropland from permanent-cover requirements, and final § 816.111 (a)(1) and (b)(1) require an effective cover that is compatible with the approved postmining land use. These rules result in essentially the same outcome as the previous rules which the commenter sought to retain. As for the need to return to premining capability, the success standard for cropland is treated under § 816.116(b).

Self-regeneration and plant succession: Final § 816.111(b)(3) requires reestablished plant species to be capable of self-regeneration and plant succession. One commenter contended that under intensive forest management the "self-regeneration" requirement of proposed § 816.111(b)(3) becomes a moot issue when select varieties of proven plant species are reestablished with each regeneration sequence.

OSM recognizes that in commercial forestry the clearcutting and planting method of stand regeneration is a common silvicultural practice. Such land use becomes similar to cropland with the exception that the production cycle is much longer. The determination of the extent to which self-regeneration must be considered will rest upon such factors as whether there is a forest-management plan for the permit area that provides for replanting, and the surface owner's commitment to long-term wood fiber production.

Another commenter felt the reference to self-regeneration and plant succession was a good addition to the rules, but not entirely applicable to introduced species because many such species are not capable of self-regeneration and must be cultivated to maintain their productivity. This commenter advised retaining previous § 816.111(b) and adding a requirement that the reestablished species be capable of self-regeneration and plant succession.

The legislative history of the Act supports OSM's conclusion that both species native to the area and introduced species used in revegetation should be capable of self-regeneration. (H. Rept. No. 95–218, 95th Cong., 1st Sess., 1977.) Hence, OSM has retained the requirement that the reestablished vegetation must be capable of self-regeneration and plant succession. This can be accomplished through the use of perennials capable of self-regeneration from roots, crowns, or seeds.

Compatibility: Final § 816.111(b)(4) requires the reestablished plant species to be compatible with the plant and animal species of the area. One commenter suggested deletion of proposed § 816.111(b)(4) in its entirety because it was believed to be in conflict with § 816.111(a)(2), which permits the use of introduced species upon approval of the regulatory authority.

Any species approved for use in reclamation must be compatible with the plant and animal species of the area. Hence, § 816.111(b)(4) is one of the criteria that the regulatory authority will use in determining whether to approve or disapprove any plant species proposed for planting in disturbed areas.

Poisonous and noxious plants: Proposed § 816.111(b)(5) required reestablished plant species to meet applicable State and Federal statutes regulating seed and introduced species. The proposed rule was essentially the same as previous § 816.112(d); however, the phrase "and are not poisonous or noxious" was proposed to be deleted. OSM asserted that compliance with applicable State and Federal statutes and the provision in § 816.111(b)(1) which required all species to be "desirable and necessary" would effectively prohibit the use of species that were poisonous and noxious.

Several commenters opposed the proposed deletion. One commenter said that there is a substantial difference between an absolute prohibition as required by previous § 816.112(d) and a "limitation of the use" as implied in the March 23, 1982, preamble (47 FR 12598). The commenter added that the political realities are such that discretion afforded to State regulatory authorities to allow operators to use noxious weeds would result in their use more often than is desirable. Another commenter asked what purpose is served by the deletions and whether it was really

counterproductive, burdensome, and duplicative to prohibit poisonous and noxious plants from use in reclamation. Without explanation, other commenters also opposed the change.

As indicated by the comments, there was much confusion resulting from the proposed deletion. In order to clarify the intent of the rule, OSM has added language that will require reestablished plant species to meet the requirements of State and Federal statutes regulating poisonous and noxious plants. The final rule deviates from the previous rule in that the prohibited plant species must be restricted by State or Federal laws or regulations. Many species, such as oak, hemlock, chokecherry, and millet, can be poisonous to livestock and humans under certain conditions. Normally these species are not a problem, and they possess traits that are desirable for achieving specific land uses. Therefore, OSM has limited the restriction on the use of poisonous and noxious plants to those plants that have been identified as poisonous or noxious under State or Federal laws or regulations.

One commenter maintained that the permittee should not be responsible for the natural invasion of undesirable, nonnoxious plant species on mined areas. A change in the language of § 816.111(b) was proposed to limit operator liability.

The permittee is responsible for the establishment of vegetation that supports the postmining land use. In the event a "natural invasion" of undersirable plant species does occur, the operator is expected to use normal husbandry practices to eliminate the undesirable species while retaining or reestablishing, when necessary, the species that will achieve the approved postmining vegetative community.

Section 816.111(c)

Proposed § 816.111(c) provided an exception to § 816.111 (b)(2) and (b)(3) when the species were necessary to achieve a quick-growing, temporary, stabilizing cover, and measures to establish permanent vegetation are included in the approved permit and reclamation plan. The final rule is adopted as proposed. One commenter approved the proposed language because it would allow the use of temporary cover species. This was considered to be both practical and beneficial to the environment since soil erosion would be prevented by the early stabilization of disturbed areas.

Section 816.111(d)

Proposed § 816.111(d) provided an exemption to cover and species requirements found in Paragraphs (a)(1), (a)(3), (b)(2), and (b)(3) of the general requirements where the postmining land use was cropland. It also identified 30 CFR Part 823 as applying to areas designated as prime farmlands. The rule is adopted as proposed.

One commenter supported proposed § 816.111(d) because it provided an exception to certain requirements that would be inappropriate and impractical for cropland. Another commenter was in basic agreement with the rule, but thought that a proviso should be added that would require a conservation plan for indicating how the operator planned to limit erosion to tolerable limits.

Part of the information the commenter is seeking in the conservation plan would already be required as part of the reclamation plan. Furthermore, operators will be required by § 816.111(a)(4) to stabilize the soil surface from erosion. Cropland is not exempt from erosion-control standards. Erosion on cropland should be held to levels that would normally occur on similar unmined croplands.

One commenter suggested deleting the last sentence in the proposed rule which states that Part 823 applies to areas designated as prime farmland. OSM has included this informational note in the final rule to avoid any possible misunderstanding with respect to the requirements applicable to prime farmlands.

Section 816.113 Revegetation: Timing

Final § 816.113 requires the planting of disturbed areas to be conducted during the first normal period for favorable planting conditions after replacement of the plant-growth medium. The normal period for planting is defined as the planting time generally accepted locally for the type of plant materials selected. This is similar to the proposal.

Proposed § 816.113 contained a provision that allowed the seeding and planting of temporary cover or the use of other measures to control erosion until a permanent vegetative cover was adequately established. In the final rule, the provision concerning the use of temporary cover has not been adopted because it is redundant of § 816.111(c), which allows the use of a quick-growing, temporary, stabilizing cover, and § 816.114, which requires the use of soil-stabilizing practices.

One commenter contended that the term "disturbed area" had too broad a meaning and its use in the rule could be interpreted as requiring operators to establish permanent vegetation on areas that have not been prepared for permanent vegetation. The words "subject to § 816.24 and § 816.25" were suggested as an addition to the rule in order to prevent any misinterpretation. By requiring planting to occur after replacement of the plant-growth medium, it is clear under the final rule that the operator is required to establish permanent vegetation only on disturbed areas where topsoil or topsoil substitutes have been redistributed. Hence, no changes have been made as a result of this comment.

A commenter stated that the proposed words "seeded and planted" were redundant. OSM agrees and has used only the word "planted" in the final rule. Several commenters approved OSM's substitution of the proposed phrase "after replacement of the plant growth medium" for the phrase "after final preparation" which was contained in the previous rule. Other changes in the structure of the first sentence of the rule were adopted for clarity and will not affect the timing of revegetation.

A State regulatory authority argued that the last sentence of proposed § 816.113, allowing temporary cover, was permissive rather than mandatory and thus was of no value. The commenter believed that topsoil must be protected from time of placement until permanent vegetation is established. Other rules, such as the proposed topsoil rules, were thought to be inadequate in providing for the needed protection. New language was suggested that would make the provision mandatory. This same commenter also recommended that the rule require temporary plant cover to be seeded as contemporaneously as practical with backfilling and grading. Other commenters sought to have the word "may" in the rule changed to "shall", thus making the planting of temporary cover mandatory.

Different opinions were expressed by two other commenters. One said that the control of erosion is adequately provided for in previous § 816.24(b)(3) and § 816.23(b), which pertain to topsoil storage and redistribution. The other felt the term "effectively control erosion" was too vague, ambiguous, and open to differing interpretations which could result in an impossible burden for operators. New language was suggested which would retain the permissive character of the rule but remove the reference to erosion control.

After considering these comments, OSM has decided not to adopt the last sentence of proposed § 816.113, which would have allowed for the use of temporary vegetative cover and other measures to control erosion until a permanent cover was adequately established. This action is taken because the required protection is

effectively provided in the following rules. In addition to the relevant portions of §§ 816.111 and 816.114, § 816.22(d)(1)(iii) requires that topsoil and all other segregated materials be redistributed in a manner that protects the material from wind and water erosion before and after it is seeded and planted; § 816.95 requires stabilization of surface areas; and final § 816.100 requires that reclamation efforts, including revegetation, occur as contemporaneously as practical with mining operations. Also, under § 816.100, the regulatory authority may establish schedules that define contemporaneous reclamation. These are broad, all-encompassing requirements that should effectively achieve the purpose of the language in the proposed rule. OSM anticipates that most operators will find that the planting of quick-growing annuals will be the easiest and most economical means for achieving compliance.

Section 816.114 Revegetation: Mulching and Other Soil Stabilizing Practices

Proposed § 816.114 would have allowed the regulatory authority to require the application of suitable mulch or use of other soil stabilizing practices where deemed necessary. In the previous rule, the use of mulch and other soil stabilizing practices was mandatory on all regraded and topsoiled areas except where the permittee could demonstrate that alternative reclamation procedures would achieve successful revegetation and not cause or contribute to air or water pollution. Suspension of the requirement was possible only on a case-by-case basis.

The final rule, which is derived from previous § 816.114(a), requires the use of suitable mulch and other soil stabilizing practices on all areas that have been regraded and topsoiled or covered by topsoil substitutes. Compliance may be achieved through the application of crop residues, hay, nontoxic industrial wastes, processed wood fibers, and chemical soil binders or through the planting of annual grains, grasses, or other covers which serve as living mulches. The regulatory authority may waive this requirement when seasonal, soil, or slope factors result in a condition where such practices, as determined by the regulatory authority, are not necessary to control erosion and to promptly establish an effective vegetative cover.

In adopting this final rule, OSM intends to impose the requirement to use mulch and other soil stabilization practices when and where they are needed. Congress recognized, when it passed the Act, that "the use of mulch, fertilizer, and soil stabilizers will probably be common, if not universal, in revegetation activities." (H. Rept. No. 95–218, 95th Cong., 1st Sess., 108 (1977)). In a similar fashion, the final rule also recognizes that mulching and other soil stabilization practices should be a standard practice in surface mine reclamation. However, such practices may not be needed during brief periods in the spring when seed germination and plant-growth conditions are optimum, where regrading results in gradual slopes, and where soils, because of their physical properties, are not easily eroded. In recognition of these and other situations where the use of mulch and soil stabilization practices may not be necessary, OSM has provided an opportunity for regulatory authorities to waive the requirement for their use.

The previous rule allowed for a suspension of the requirement by the regulatory authority on a case-by-case basis after the operator demonstrated that alternative procedures would achieve the requirements of § 816.116 and would not cause or contribute to air and water pollution. In the final rule, waiver of the requirement may be handled on an individual basis or may be incorporated as part of the regulatory program and apply to all or parts of operations that meet the conditions of the waiver. Any waiver must be based upon the regulatory authority's past experience and any technical documentation that is available. In certain instances, a programmatic waiver could provide the necessary environmental protection while relieving operators of burdens entailed in case-by-case demonstrations.

Two States urged OSM to retain the previous rule. One contended that loss of topsoil by erosion was one of the more serious long-term effects of surface mining. The previous rule was thought to result in more protection of this valuable resource than the proposed rule. One of these States also argued that the burden of demonstrating that mulch is not needed should be placed with the permittee rather than requiring the regulatory authority to determine when mulch is necessary. This viewpoint was supported by similar comments from a third State and one additional commenter. In contrast, another State supported the proposed rule as being especially reasonable and desirable.

One commenter suggested that Sections 515(b)(2), 515(b)(4), and 515(b)(16) were sufficient statutory justification to retain the previous rule. This commenter felt that mulch, in one form or another, was almost always beneficial in controlling erosion and promoting a rapid and effective vegetative cover even on level terrain, as evidenced by the reclamation literature and field observations. A similar position was taken by another commenter who believed that failure to use mulch in any region would significantly increase the likelihood of erosion before establishment of vegetation and that such erosion would reduce the productive potential of the soil. The preamble to the previous rule and literature in the administrative record were cited as ample reason for a mulching requirement. A commenter who supported the proposed rule noted that mulching played a different role in the Midwest than it did in Appalachia. A soil conservation organization from the same State argued that the proposed rule would contribute to increased erosion.

OSM finds that mulching is an accepted reclamation practice in most, but not all, cases. Two recent handbooks summarize current thinking on the use of mulch in surface mine reclamation. In his guide for revegetation of coal minesoils in the Eastern United States, Vogel (1981) states:

> Mulches aid revegetation by reducing surface or sheet erosion, conserving soil moisture, and protecting seeds and seedlings during the initial establishment of vegetative cover, and modify extremes in the soil's surface temperature. Mulches aid vegetation establishment, especially under conditions of environmental stress and on minesoils that have physical and chemical characteristics that hinder establishment and growth of plants.

Thornburg (1982) reports the following conclusion in his handbook on the use of plant materials on surface-mined lands in arid and semiarid regions:

> Mulches are often necessary and are generally beneficial in the arid and semiarid areas, especially on south and west facing slopes or alkaline areas.

One commenter opposed the optional nature of the proposed rule because he believed the coal industry would almost always be able to push a State into the least stringent regulatory posture. Minimal standards were believed necessary to prevent this from happening. Similarly, another commenter felt that the proposed rule would probably result in State regulatory programs that do not require mulching or soil stabilization in any form. It also was argued that the proposed rule allowed too much discretion on the part of the regulatory authority and that the word "may" in the proposed rule should be changed to

"shall." Another commenter, who objected to the proposed rule, felt that it was contradictory because the regulatory authority might not require mulch where deemed necessary. This commenter believed that, if mulch was deemed necessary by the regulatory authority, then it should be required, not optional. Sensitive environmental conditions were cited by still another commenter as reason for having mandatory mulching requirements.

There was disagreement on the economic implications of the proposed rule. One commenter said that the elimination of the mandatory mulching requirement would be of economic and practical benefit to operators in those areas which would not require mulching for stabilization or growth enhancement, while another commenter argued that the adverse impacts of not using mulch could far outweigh any cost savings.

The reasons OSM is adopting the final rule are described in the preceding paragraphs. OSM recognizes that in these situations where the regulatory authority concludes that mulching is not necessary, operators may obtain an accompanying economic benefit. However, any waiver of the requirements of § 816.114 must be based on the finding set forth in that section.

Finally two commenters suggested language changes in the proposed rule. One recommended adding the phrase "for erosion control and plant establishment" to the end of the rule in order to identify the objectives of using mulch and soil stabilization practices. The other commenter noted that the provisions of the section applied to both mulch and other soil stabilization practices and, to be consistent, that the title of the section should refer to both. OSM agrees with the latter comment and has changed the section title in response to the commenter's suggestion.

Section 816.115 Revegetation: Grazing

Previous § 816.115 required livestock grazing for the last two years of the responsibility period when the approved postmining land use is range or pasture land. This requirement was intended to assure that the vegetation would support about the same number of livestock that would be supported had the area not been mined. OSM suspended previous § 816.115 on August 4, 1980 (45 FR 51549), in response to a U.S. District Court ruling that section 515(b)(19) of the Act does not require lands with a postmining use of pasture or grazing to be actually subjected to grazing activities. *In re: Permanent Surface Mining Regulation Litigation*, No. 79–1144 (D.D.C., February 26, 1980.) The final rule, which removes the special success standard of previous § 816.115, does not require or restrict livestock grazing on mined lands. The success standard for grazing lands in these revised rules is contained in final § 816.116(b)(1).

Five commenters discussed the proposed removal of § 816.115. One commenter believed the proposed action by OSM was reasonable and desirable, while the other four sought to retain the grazing requirements of the previous rule.

One commenter alleged that OSM had side-stepped the issue of requiring grazing of reclaimed land, and that Judge Flannery had erred in his conclusion that restoration of premining productivity could be determined by making a soil survey. The commenter felt that § 816.115 should be reinstated because new technical support for the grazing requirement, which was not available to the court, had been developed. The commenter cited a National Academy of Science report (National Research Council, 1981) as evidence that a soil survey is not adequate to measure the productive potential of reclaimed soils and that productivity on lands reclaimed for grazing must be based on the results of actual grazing.

OSM recognizes that the National Academy of Science study did conclude that a soil survey alone is insufficient to measure the productive potential of reclaimed soils and that grazing is one means of showing that productivity had been restored. However, in light of the court's decision, there is still an insufficient basis for OSM to promulgate a rule requiring grazing on all reclaimed pasture and grazing lands. Use of a reference area or other appropriate standard is also possible. OSM's adoption of this position is not meant to preclude States from either allowing or requiring grazing of reclaimed pasture and range land.

Other commenters also thought that the grazing requirements of previous § 816.115 should be retained, especially for determining the success of revegetation on western range lands. One organization asserted that the only way to determine whether or not the carrying capacity of reclaimed mine soil was equal to that which existed prior to mining would be to graze livestock on it using the same management techniques that were used prior to mining.

The determination of range land productivity should consider the pounds of beef (or equivalent) that may be produced per unit of area. This is dependent upon the quality as well as the quantity of forage available. Hence, equal quantities of forage are not always a true reflection of range or grazing land productivity, and measures of revegetation success should take into account the nutritional value of the forage when determining whether productivity has been restored. However, OSM is not requiring that actual grazing must occur in each instance.

Section 816.116 Revegetation: Standards of Success

Final § 816.116 is divided into three paragraphs. Paragraph (a) describes, in a general manner, how the success of revegetation shall be determined; Paragraph (b) identifies minimum conditions that must be satisfied for specific land uses; and Paragraph (c) sets provisions relating to the period of operator responsibility for revegetation success.

The final rules differ in several important respects from those which were proposed. Language has been added in § 816.116(a)(2) to set a benchmark which all revegetation success standards used by regulatory authorities must equal or exceed. This should not encumber a regulatory authority's ability to develop standards that reflect the capability of local soils and climatic conditions. Furthermore, the 90 percent equivalency provision contained in the previous rule, but not included in the proposal, has been retained. Also, the use of cultural practices during the period of responsibility is more restricted than was proposed. The following portion of the preamble discusses these and other changes and the comments that were received.

A few commenters offered remarks about their general impression of the proposed rule changes for § 816.116. One said that the overall effect of the proposed rule changes was a weakening of the previous rules that would result in a failure to restore the land affected to a condition capable of supporting the uses which it was capable of supporting prior to any mining. Another commenter believed that, under the proposed rules, regulatory authorities could arbitrarily set success standards which might be less stringent than those required by the Act and recommended that more specific guidelines be established by OSM.

OSM has, in selected sections, added more specific requirements. However, specific and detailed rules or criteria would remove flexibility that is needed by the regulatory authorities to develop rules which reflect differences in climate, soil, topography, and other conditions. This effort by OSM to

provide greater flexibility in achieving revegetation success standards should not be construed as a weakening of those standards or a lesser commitment to the environmental protection provisions of the Act. OSM's rules provide a framework for individual regulatory programs. These standards are expected to be supplemented, where necessary, by regulatory authorities.

Section 816.116(a)

Proposed § 816.116(a) identified general criteria on which the success of revegetation should be judged. These included the effectiveness of the vegetation for the approved postmining land use, the extent of cover compared to the cover occurring in natural vegetation of the area, and the general requirements of § 816.111. The final rule is the same as the proposed rule, with some minor changes in wording for clarity.

One commenter recommended that in addition to extent of cover, species diversity should be specified as one of the general criteria for judging the success of revegetation. The commenter said that this was needed to minimize the potential for the establishment of monocultures or "species-poor" habitats detrimental to the premining natural diversity of wildlife populations. Another commenter asked the significance of the language "and other general requirements of § 816.111" and whether it meant that a diversity success standard would be applied.

The purpose of § 816.116(a) is to set a general basis for determining revegetation success. This statement includes the effectiveness of the vegetation for the approved postmining land use, extent of cover, and other requirements of § 816.111. Diversity of vegetative cover is therefore a success standard since it is required by § 816.111(a)(1).

One commenter thought that productivity and diversity should be given equal weight to cover as a parameter for determining the success of revegetation. This was believed to be necessary in order to fully implement Section 515(b)(19) of the Act. OSM disagrees that a general premise can be established assigning weights to the factors to be considered in judging vegetation success. Section 515(b)(19) prescribes ground cover as a parameter for determining success of revegetation. The vegetative cover must be diverse, effective and permanent. As previously indicated, productivity may be included as a measure of the *effectiveness* of the permanent cover.

Another commenter noted that the word "judged" had been substituted in the proposed rule for the word "measured" in previous § 816.116(a). The commenter thought that this substitution implied that OSM would use qualitative rather than quantitative analysis for determining successful revegetation. The commenter added that techniques and standards for quantitative measurement should be maintained.

OSM has retained the proposed wording because the proposed rule and the previous rule used these words in a different context. Final § 816.116(a) describes the substantive areas that will be ued to evaluate success; final § 816.116(a)(1) discusses measurement. Previous § 816.116(a) was concerned with techniques for measuring success. Also, some requirements such as same seasonal characteristics of growth and capability of self-revegetation may not require a numerical evaluation.

One commenter suggested deleting the phrase "the extent of cover compared to the cover occurring in natural vegetation" from proposed § 816.116(a) in order to clarify and improve the rule. As justification for the deletion, the commenter explained that this concept was repeated in proposed § 816.116(b) and that its presence in § 816.116(a) might limit regulatory authorities to using only reference areas for determining revegetation success.

The commenter may have confused the general requirement of achieving cover equal to the cover of the natural vegetation of the area in proposed § 816.116(a) with approaches or methods of demonstrating that cover requirements have been satisfied. Reference areas are one of several possible means of demonstrating that an operator is in compliance with § 816.116(a). Retention of the question wording does not limit the regulatory authority to using reference areas.

Section 816.116(a)(1)

Proposed § 816.116(a)(1) would have required success standards and sampling techniques for measuring success to be selected by the regulatory authority after consultation with appropriate State and Federal agencies. These standards were to be specified in an approved regulatory program. The final rule adopts the proposal with one change. It does not require consultation with other agencies.

Two commenters recommended deleting proposed § 816.116 (a)(1) and (a)(2) and substituting new language for § 816.116(a). The new language suggested by the commenters would require success to be measured by techniques approved by the regulatory authority utilizing recognized and practical evaluation techniques appropriate for the various subregions of the United States and accepted by recognized scientific and professional groups. As justification for the recommended changes, the commenters argued that there is no statutory language which supports reference areas or technical guidance procedures as the only methods to compare premining and postmining vegetation. OSM was said to have failed to demonstrate and substantiate the statistical validity of the reference area method that it required for testing revegetation success. Furthermore, the commenters argued that proposed § 816.116 (a)(1) and (a)(2) should be deleted because they were not applicable throughout the country.

OSM has not adopted the suggested changes. Neither the Act nor the proposed rules mandate the use of reference areas for evaluating revegetation success in every situation. However, reference areas may be required when deemed appropriate by the regulatory authority. The rules also allow other standards for success, such as fixed standards (number of trees and shrubs per acre) and variable standards (average county yield by soil type), to be developed and applied by regulatory authorities when these standards are appropriate and approved as part of the regulatory program.

The final rules allowing the use of reference areas have ample technical support. The National Academy of Sciences (National Research Council, 1981) suggests two basic approaches that may be used for measuring revegetation success. The first is to specify levels of biomass production—amount of ground cover and kind of plant species to be established—based on the capacity of soils to support vegetation or to grow crops. The second approach to evaluating reclaimed land is to set aside an undisturbed reference area near the reclaimed site, with a pattern of soils similar to that of the premining soils. The productivity, cover, diversity, or other applicable measurement of the reclaimed area can be compared with the reference area when determining the success of revegetation.

One commenter asked three questions concerning the provisions of proposed § 816.116(a)(1).

1. What is meant by the term "standards for success"?

2. Will sampling techniques acceptable to the regulatory authority be spelled out in regulations, rather than guideline form?

3. Are current approved regulatory programs to be revised accordingly?

Standards for success are approved models or measures by which the properties of vegetation on reclaimed areas are compared for the purpose of determining the degree of success. The applicable properties to be tested will depend upon the postmining land use and the method of evaluation. Inherent in this concept is a statement of the minimum level or value that is acceptable for ending the period of operator responsibility and release of performance bonds.

Sampling techniques acceptable to the regulatory authority must be included in all regulatory programs. They may appear as a rule or may be in a guideline form that is incorporated into the regulatory program. These sampling techniques are subject to review and public comment. The literature cited in this preamble may be used by States as technical references on vegetation sampling. Previously approved regulatory programs need not be revised if they include success standards or sampling techniques for measuring success which are consistent with these final rules.

One commenter suggested that the statistical expertise require to enforce the proposed rules will be greater than that of the typical inspector and many regulatory authority staffs. OSM does not agree. State regulatory authorities usually have a group of experienced inspectors to perform bond release inspections. Many of these States had elaborate sampling and statistical testing requirements prior to the Act. Other have increased their staff capabilities with the development of permanent regulatory programs for their States. Statistical expertise required under these final rules is not that different from that required under the previous rules. In any case, guidelines developed to supplement the requirements of the rules could simplify inspector responsibilities and minimize the burden on the regulatory staff.

One commenter sought to substitute the words "ecologically sound" or "scientifically acceptable" for the words "statistically valid" which describe the techniques for measuring revegetation success in final § 816.116(a)(1). The commenter expressed concern that unless the language was changed it would be difficult to obtain statistically valid sampling in some sparsely vegetated communites on Western lands.

A second commenter also concerned with the application of statistics contended that sampling methods generally used to obtain vegetative cover data do not seem to have adequate repeatability to support their use. The commenter recommended that OSM reconsider the proposed rule in light of what is statistically achievable and the burden such rules place upon operators.

OSM has reviewed the requirements of the proposed rule and decided to retain them in the final rule. Under this rule, the method of sampling vegetation could vary depending upon the precise standard for success included in the State program. In this manner, both an "ecologically sound" and "scientifically acceptable" technique for measuring the success of revegetation can be developed. On sparsely vegetated lands, sampling may be limited to gathering data for estimates of total vegetative ground cover. There also may be circumstances where, with the approval of the regulatory authority, historical data collected for the same cover type within the region can be used, rather than reference-area data. In the East, 100 randomly located point-frequency observations will usually provide an acceptable sample size for the estimation of vegetative ground cover. Small sample sizes are associated with large statistical error which can make a test for revegetation success meaningless. OSM has not stated a level of sampling precision in the final rules but will instead evaluate on a case-by-case basis the adequacy of predetermined sample sizes or methods of sample size selection proposed for use in State programs.

Four commenters suggested changes to the proposed language which would have required the regulatory authority to consult with appropriate State and Federal agencies when selecting standards for success and sampling techniques for measuring success. Two commenters wanted language that would require consultation with Federal agencies only when Federal land is involved. A third commenter suggested substituting the words "organizations and individuals" for "State and Federal agencies" because the Act does not specifically require coordination with government agencies. Another commenter wanted to modify the proposed language by stating that Federal agencies include the U.S. Department of Agriculture (USDA). The USDA was cited as having recognized expertise in revegetation.

OSM has reviewed these comments and decided to delete the consultation requirement. State regulatory authorities are capable of determining which organization or individuals can provide them with the best technical assistance in developing success standards or whether such assistance is needed. This deletion will not preclude OSM from using the expertise of other agencies when evaluating success standards proposed by the States.

In support of proposed § 816.116(a)(1), one commenter wrote that the setting of standards for measuring success is properly left up to the State regulatory authorities because of the diverse environmental conditions throughout the U.S. The commenter added that States should not have to refer to technical guidance procedures published by the USDA or U.S. Department of the Interior (USDI) as was required by the previous rule.

OSM agrees and has adopted this aspect of the proposed rule because the Act does not limit success standards to those published by USDA or USDI. Also, universities, professional societies, State agencies, and conservation organizations often have the necessary expertise to develop valid standards, and OSM does not want to limit or exclude the use of such outside assistance.

Section 816.116(a)(2)

Proposed § 816.116(a)(2) required standards for success to include criteria to evaluate ground cover, production, or stocking. These parameters were considered to be equal to the approved success standard when they were "equivalent" with 90-percent statistical confidence. Instead of an absolute equivalence, the final rule contains the provision found in previous § 816.116(b)(3), which allows 90 percent of a standard to be considered equal to the standard for the purpose of determining revegetation success.

Sample estimates are subject to variation. How much they vary depends primarily on the inherent variability of the population and on the size of the sample and population. The statistical way of indicating reliability of a true population parameter is to establish a confidence interval. A confidence interval can be defined as the range within which a sample estimate can vary and not be significantly different than the population parameter at a given level of statistical confidence. The final rule clarifies that the proposed phrase "90-percent statistical confidence" was intended to require a 90-percent statistical confidence interval to be used when measuring revegetation success. The desired level of statistical confidence associated with an interval is usually referred to as the "alpha" error. A 90-percent confidence interval has a 0.10 alpha error.

Two commenters proposed changing the 90-percent statistical confidence interval that was specified in the proposed rules. One suggested using a 95-percent confidence interval because that level of confidence is comparable to that used in most agricultural experiments. Another commenter desired to retain the 80-percent statistical confidence interval for shrublands which was specified in previous § 816.116(b)(3). As justification, the commenter stated that unless confidence intervals are tailored to different community types, it may discourage operators from establishing diverse plant communities since diversity increases the statistical variability of the measured parameters.

OSM has retained the 90-percent statistical confidence interval in the final rule. Adoption of a 95-percent confidence interval as suggested by the commenter would increase the probability of a "Type II" error. An error of this nature occurs when the permit area lacks sufficient vegetative growth to meet the designated standard but would be declared to have been successfully revegetated on the basis of evidence derived from sample data. The Wider 95-percent confidence interval would allow a greater acceptance of samples from the lower end of the predicted range of revegetation sample values than would the 90-percent confidence interval. In light of the environmental consequences of arriving at an incorrect conclusion (i.e., release of a performance bond when revegetation is inadequate), a 90-percent confidence interval is more appropriate for regulatory purposes than a 95-percent confidence interval.

An 80-percent confidence interval for shrublands would be a more stringent test of revegetation success than would be used for other vegetative cover types. This is because an 80-percent confidence interval (*i.e.*, the range of acceptable sample values) is narrower than a 90-percent confidence interval. Thus, it would be statistically more difficult to establish revegetation success on shrublands because there is a smaller range of acceptable values. The 90-percent confidence interval is adequate to assume that operators who establish shrubland plant communities will attain revegetation success.

Four commenter noted that the proposed rule omitted the equivalency provision found in the previous rule. This provision stated that ground cover, productivity, and stocking will be considered equal to the success standard when they are equal to 90 percent of the standard. Two commenters said that the omission would "tighten" the rule. Another commenter argued that the provision should be retained for the reason given in the preamble to the previous rule (44 FR 15237, March 13, 1979). In that preamble, OSM stated that the use of 90 percent was justified to allow for climatic variations that may affect productivity during the two consecutive growing seasons that production is measured to determine revegetation success.

The same preamble also stated (44 FR 15238) that "the 90-percent requirement for ground cover and production is an equivalent measure of success since there has to be a basic assumption that productivity will continue to improve with time when the land has been restored to the original productive capacity." The last commenter also advocated keeping the 90-percent equivalency provision and explained that the extreme annual and spatial variablility of vegetation cover and production, particularly in the western United States, justified its retention. OSM agrees with the commenters' reasoning and has included the 90-percent equivalency provision in the final rule.

A commenter believed that proposed § 816.116(a)(2) did not comply with the statutory requirements of Section 102 of the Act. The commenter stated that the proposed language contained no clear threshold below which a standard could be considered unacceptable by OSM. The following language was suggested: "In no event shall the chosen standard be lower than ground cover, productivity, or tree stocking standards that would be normal for the premine soils in the area being reclaimed. Where available, the standards should be based on the county average yield, per soil type in the areas being reclaimed under equivalent levels of management." The commenter added that the proposed language should prevent disparity from developing between the use of revegetation standards and reference areas and should provide a necessary minimum criterion by which acceptability of a proposed standard can be judged.

OSM agrees that there should be a certain degree of uniformity among the vegetation success standards developed by the States. Such a standard is provided generally in §§ 816.111(a) and 816.116(a). These requirements are in accord with Section 515(b)(19) of the Act. As previously indicated, Paragraphs (a)(1) and (a)(2) provide standards for the measure of success and do not include a success threshold. However, in response to the comment, final § 816.116(a)(2) clarifies that the criteria selected for the success standard must be representative of unmined lands in the area being reclaimed. This should prevent potential disparity between the use of reference areas and the use of other standards as the measure of success. The commenter's suggestion requiring use of county average yield as the standard when available is rejected because it would unnecessarily have limited the type of success standards that could be used by regulatory authorities.

One commenter believed that OSM had misread Section 515(b)(19) of the Act when drafting proposed § 816.116 (a)(2) and (b). It was pointed out that this section requires that vegetative cover be "*capable* of self-regeneration and plant succession at least equal in cover to the natural vegetation of the area—*not* that the former level of cover actually be present."

OSM disagrees. The use of the term "capable" in Section 515(b)(19) establishes the requirements for "self-regeneration" and "plant succession," not the requirement pertaining to ground cover. Thus, the extent of postmining cover must equal the cover of the natural vegetation of the area and not merely be capable of doing so. As stated earlier, under final § 816.116(a)(2), "equal" means 90 percent of the premining cover with 90-percent statistical confidence.

One commenter suggested changing the language of proposed § 816.116(a)(2) by including both shrubs and trees to describe the type of stocking to be evaluated. OSM has not adopted the proposed word "tree" in the final rule to avoid the implication that stocking applies only to trees.

One commenter suggested specifying "species diversity" as one of the vegetation parameters in § 816.116(a)(2). This was proposed to minimize the potential for the establishment of monocultures or species-poor habitats detrimental to wildlife. OSM has not accepted the commenter's suggestion because § 816.116(a)(2) applies to only those parameters that will require testing. The evaluation of species diversity, regenerative capacity, and seasonal characteristics of growth required under § 816.116(a) by the reference to § 816.111 may not involve sampling and statistical testing. The regulatory authority will select appropriate methods to evaluate these parameters.

One commenter suggested changing the second sentence in proposed § 816.116(a)(2) to indicate that statistical

tests are to be used to demonstrate that reclaimed areas are in less than the desired condition. As justification, the commenter noted that statistical tests are designed to prove that population parameters of data are unequal, never that they are equal. OSM has adopted the suggested change in wording of the rule because it more accurately identifies the manner in which statistical tests will be used. In statistical tests, the null hypothesis usually states that there is no difference between the true value of the population parameter and that which is being hypothesized. The null hypothesis is a proposition which is considered valid unless evidence throws doubt on it. This means it is assumed that the mine operator has achieved the required degree of revegetation success unless evidence as provided by the sample data indicates that the standard has not been attained.

One commenter suggested the following language as the first sentence in § 816.116(a)(2): "Standards for success of revegetation are to include criteria to evaluate those vegetation parameters appropriate for the approved postmining land use." The commenter reasoned that, aside from the specific requirement for cover, the Act does not require anything more than the achievement of the approved postmining use.

This commenter failed to recognize that Section 515(b)(19) of the Act requires that the reestablished vegetation be diverse, self-regenerating, effective, and of the same seasonal variety.

Section 816.116(b)

Final § 816.116(b) provides for the application of success standards in accordance with the approved postmining land use and sets minimum conditions for specific land uses. These conditions identify certain vegetation parameters that must be evaluated when determining the success of revegetation for grazing land or pasture land, cropland, fish and wildlife habitat, recreation areas, forest, industrial, commercial or residential land uses, and previously mined areas. The final rule differs from the proposed rule in that it does not require concurrence from the Federal land management agency on minimum stocking levels and planting arrangement when Federal lands are involved, since the responsibilities of the Federal land management agency are covered by 30 CFR 740.4 in the Federal lands program (48 FR 6936, February 16, 1983). Also, the provisions of previous § 816.116(b)(3)(ii), regarding land to be used for industrial, commercial, or residential use, has been retained; ground cover for areas previously disturbed by mining must be adequate to stabilize the soil surface from erosion as was specified in previous § 816.116(b)(3)(i), but there is no description of the soil to be used.

Commenters suggested deleting all of proposed § 816.116(b). One reasoned that this section provided too much of a "cookbook" approach. Another commenter said that the revegetation standards were general in nature and would be difficult to address across all mining regions of the United States.

The provisions of § 816.116(b) are general to allow regulatory authorities the flexibility to develop success standards that are tailored to conditions that exist within their States. OSM does not consider this a "cookbook" approach. The rule does set criteria that must be examined to determine success, but it is the States' obligation to identify the particular procedures which will be followed.

One commenter suggested substituting the word "approved" for the word "selected" in § 816.116 (b)(1) and (b)(2). The commenter reasoned that the mine operator clearly has responsibility for selecting reference areas where required and that success standards may be selected or required by State or other agencies to be consistent with local conditions and rules. In these instances, the word "approved" more appropriately describes the regulatory authority role.

OSM agrees and has changed "selected" to "approved" in the final rule. It is the responsibility of the mine operator to select reference areas to be approved by the regulatory authority when this method of measuring success is contained in the regulatory program as a means of determining the success of revegetation.

Cropland: Final § 816.116(b)(2) requires that for areas developed for use as cropland, crop production on the mined land must be at least equal to that of a reference area or other success standard approved by the regulatory authority.

One commenter wanted to require that all crops which are part of a normal production cycle be grown to demonstrate success of revegetation on cropland. The commenter explained that each crop responds differently on reclaimed land and cited as evidence soybean and corn yields on a demonstration mine in Iowa.

Although OSM agrees with the commenter's contention that each crop will respond differently to postmining soil conditions, it is not necessary to require all crops in the rotation be grown to demonstrate revegetation success. The proposed rule was written in a broad manner to allow States the flexibility to determine which crop or group of crops needs to be grown to satisfy the productivity requirement. Furthermore, States should recognize that crops in a rotation may respond differently on reclaimed sites and therefore should develop their standards to accommodate such conditions.

Forest, wildlife habitat, and recreation areas: For areas to be developed for fish and wildlife habitat, recreation, shelter belts, or forest products, final § 816.116(b)(3) requires vegetation success to be determined on the basis of tree and shrub stocking and vegetative ground cover. Final § 816.116(b)(3)(i) requires minimum stocking and planting arrangements to be specified by the regulatory authority on the basis of local and regional conditions and after consultation with the State agencies responsible for the administration of forestry and wildlife programs. Final § 816.116(b)(3)(ii) requires that trees and shrubs used in determining the success of stocking and the adequacy of plant arrangement must have utility for the approved postmining land use. Such trees and shrubs must be healthy at the time of bond release and must be in place for at least two growing seasons to be counted in determining stocking adequacy. An additional requirement that 80 percent of the trees and shrubs used in determining revegetation success must be in place for at least 3 or 8 growing seasons is described below.

One commenter objected to what was believed to be the lack of a minimum success standard for ground cover. The commenter thought it to be foolhardy to relax the standards for revegetation prior to any long-term demonstration of whether the previous performance standards were adequate.

Final § 816.116(b)(3)(iii) requires the vegetative ground cover not to be less than required to achieve the postmining land use. This, in effect, is a minimum standard for ground cover where the postmining land use is forest, wildlife habitat, shelter belts, and recreation. The rule must be written in a general form because of the variation in natural ground cover conditions throughout the States. Thus, a specific percentage of ground cover is not required. Each State will find it necessary either to require the use of reference areas, to specify minimum levels of ground cover as a percentage of surface area, or to adopt some other acceptable standard.

One commenter suggested adding herbaceous production as an additional

parameter for determining revegetation success for wildlife habitat, recreation, and shelter belts. No reason was given by the commenter for suggesting this change.

Herbaceous production is not a primary measure of revegetation success where the postmining land use is recreation or shelter belts. It is important where the postmining land use is wildlife habitat for grazing animals. In such situations, the regulatory authority may find it desirable to use the productivity of herbaceous cover as a determinant of revegetation success.

Two commenters sought to have OSM reinstate minimum tree and shrub stocking requirements. The first commenter argued that a Federal standard was needed to avoid environmental "bargaining" and varying interpretation that made the Act necessary. The second commenter proposed a new subparagraph (b)(3)(iv) that required a minimum stocking of 450 trees or shrubs per acre with no less than 75 percent being of commercial value. This proposal tracks the requirements of the previous rule. As justification for the proposal, the commenter cited the preamble to the previous rule (44 FR 15241).

OSM disagrees with these commenters and believes that a minimum stocking level need not be established in the Federal rules. However, States may find it appropriate to set minimum stocking levels in their programs. Such minimum levels must be determined on the basis of local and regional conditions and in no event be lower than would be expected or is commonly found on similar unmined lands in the area. Furthermore, it is not necessary to make a distinction in the Federal rules between commercial and noncommercial forest land; however, some States may find such a classification advantageous when setting tree stocking success standards.

One commenter advocated requiring regulatory authorities not only to consult with State forestry and wildlife agencies but to receive the approval of these agencies when determining minimum stocking levels and planting arrangements. The commenter explained that these agencies were most competent to judge the adequacy of standards for shrub and tree stocking and planting arrangement.

Approval by such agencies is not needed. OSM acknowledges that these State agencies are authoritative sources of forestry and wildlife management information and that State regulatory agencies should strongly consider their recommendations when setting minimum tree and shrub stocking levels in State regulatory programs. However, the responsibility under the Act rests with the regulatory authority.

Two commenters felt that the reference to Federal lands should be deleted from proposed § 816.116(b)(3)(i), which required State regulatory authorities to obtain concurrence from Federal land management agencies when setting minimum stocking levels and planting arrangements for Federal lands. The commenter suggested that references to Federal lands should be limited to the Federal lands program in 30 CFR Chapter VII, Subchapter D, and to Federal-State cooperative agreements.

OSM agrees with the commenters and has not adopted the requirement in the final rule. Final 30 CFR 740.13(c)(5) requires the regulatory authority to consult with the Federal land management agency and include any comments in the record of the permit decision (48 FR 6937, February 16, 1983). This requirement in the Federal lands rules is believed to be adequate to allow Federal land management agencies a voice in determining stocking levels and planting arrangement on Federal lands.

One commenter wanted to know how the utility of trees and shrubs for the postmining land use would be determined and who would do it. It was noted by the commenter that some species, such as European black alder and autumn olive, are nitrogen-fixing and therefore contribute to the growth of the permanent timber stand but may not have utility for the postmining land use.

The utility of trees and shrubs for the postmining land use will be determined by the regulatory authority. Section 816.116(b)(3)(ii) should be interpreted as a general requirement. For example, if the postmining land use is commercial forestry, then an adequate number of the trees that are planted must be species with commercial value. If the postmining land use is wildlife habitat, the species planted and counted for meeting the stocking requirement should be recognized for their value in providing food, cover, or other needs of wildlife. Similarly, regulatory authorities can develop standards that reflect more than one intended use, such as a combination of forestry and wildlife habitat.

Commenters objected to the proposed provision that would allow trees and shrubs to count toward the success standard if they had been in place a minimum of two growing seasons. One charged that the "two growing seasons" standard may seriously compromise the general revegetation requirement of achieving a permanent vegetative cover that is capable of self-regeneration. The commenter added that the planting of woody species as few as 2 years prior to bond release exceeds the reasonable limits of non-augmentative practices that can be expected to continue as part of the postmining land use. Also, the period of extended responsibility for husbandry practices used on trees and shrubs should be equivalent to, and be triggered by the same standards applied to herbaceous components of the plant community.

Another commenter believed that the proposed rule could result in the failure to recognize the impact of deeper rooting zones which, after 2 years of growth, may cause the trees to become stunted and die. Another commenter proposed additional language to make allowance for selective replanting of trees to ensure full stocking, but retained the basic requirement that reforestation success be based on survival of the majority of the trees in the initial planting.

These arguments have merit and OSM has adopted new language similar to that suggested by the third commenter. This new language calls for at least 80 percent of the trees and shrubs to have been in place three or more growing seasons in areas where the period of responsibility is 5 years. In areas where the period of responsibility is 10 years, at least 80 percent of the trees and shrubs must be in place eight or more growing seasons. Furthermore, no tree or shrub shall be counted when determining success if it has not been in place for at least two growing seasons. This is believed to be a reasonable compromise that will allow normal replanting if approved as a husbandry practice under final § 816.116(c)(4) (described below) and still demonstrate successful revegetation.

One commenter wanted to know if herbicides could be used to control herbaceous cover around tree seedlings and whether such cover with spots or bands of dead grasses would be acceptable. The commenter also wanted to know what value ground cover would have where the postmining land use is forest.

The use of herbicides to control herbaceous vegetation is an effective method for assisting in the establishment of trees and shrubs. Either spot or band application is acceptable so long as the area affected is not larger than necessary to allow the trees and shrubs to become established and the soil is protected from excessive erosion. Erosion control is the main value of ground cover where the postmining land use is forest. The

grasses and legumes stabilize the land until tree-crown and root closure occurs.

Industrial, commercial, and residential use: Final § 816.116(b)(4) sets minimum conditions for the reclamation of areas to be developed for industrial, commercial, and residential use. The proposed rule required sufficient ground cover to control erosion. Under the proposal, in the event the approved postmining land use was not achieved within 5 years, the general success standards of Paragraph (a) of § 816.116 would have applied.

A commenter felt the proposed language was reasonable but could be improved by adding additional language that would make it clear that the period of responsibility will begin anew when failure to achieve industrial, commercial, and residential uses results in augmented seedings, fertilization, or other work to meet revegetation success standards. Another commenter urged deletion of § 816.116(b)(4). The commenter contended that the section conflicted with previous 30 CFR 805.13(f), which stated that the permittee is obliged to complete the reclamation plan in such a manner that the land will be capable of supporting the approved postmining land use. The commenter also believed that the permittee cannot be held responsible for the action of third parties.

OSM has reconsidered the proposed rule in light of the second commenter's objections. Although OSM cannot require third parties to develop the reclaimed land for an industrial, commercial, or residential use, the operator is responsible for the success of reclamation, including the possible achievement of different revegetation standards under a permit revision based on a postmining land use different from the one originally approved. For this reason, OSM has decided not to adopt the proposed language and to retain the language of previous § 816.116(b)(3)(ii). Thus, in the final rule, OSM has retained the standard which provides that, for areas to be developed as industrial, commercial, or residential use less than 2 years after regrading is completed, the vegetative ground cover shall not be less than that required to control erosion.

Remined areas: Proposed § 816.116(b)(5) required that remined areas not initially reclaimed to the permanent program performance standards (816 or 817) must have, as a minimum, vegetative ground cover not less than can be supported by the best available soil material in the redisturbed area and not less than the ground cover that existed before redisturbance. The final rule contains the added requirement that the vegetative ground cover must be sufficient to stabilize the soil surface from erosion but does not adopt the requirement that ground cover be measured on the basis of what could be supported by the best available soil material.

One commenter felt that the changes that OSM had proposed in § 816.116(b)(5) were minor changes which were acceptable. Other commenters wanted to retain in the final rule a provision of previous § 816.116(b)(3)(i), which required the vegetative cover on remined areas to be adequate to control erosion. One State argued that the vegetative ground cover existing prior to redisturbance is often very sparse and inadequate to control offsite damages. The commenter felt the proposed rule would perpetuate this condition unless language were added that would require the cover to be adequate to control erosion. A second commenter also urged the adoption of an erosion control requirement by explaining that operators would not be able to meet effluent and water quality standards required for bond release on the basis of physical manipulation alone. The establishment of a vegetative cover that is adequate to control erosion was thought necessary to improve the operator's probability of meeting the bond release requirements of Section 519(c) of the Act. Another commenter believed Section 515 (b)(2), (b)(4), and (b)(16) of the Act clearly indicated statutory support for an erosion control requirment. A final commenter thought an erosion control requirement was necessary but was unclear in his statement of the reason why.

OSM has reconsidered its proposal and agrees that the arguments presented by these commenters are valid. The cover of some mined areas is sparse or even completely absent. These areas may continue to erode and cause offsite damage. The proposed rule could have allowed such conditions to continue to occur after remining even though the operator used the best soil materials available and reestablished the same degree of cover that existed on the disturbed site. An extra step, such as the use of sewage sludge, paper mill sludge, fly ash, or other soil amendments, may be necessary to establish sufficient vegetative cover to control erosion and effectively stabilize the site. The final rule requires the vegetative ground cover to be adequate to control erosion.

One State regulatory authority contended that the provision in the proposed rule which required the ground cover not to be less than the cover that can be supported by the best available topsoil or other suitable material in the redisturbed area was not an objective, measurable standard that could be applied by a regulatory authority. The State pointed out that it is difficult to determine the degree of ground cover that the best soil material can support. As an alternative, the State suggested language that would require the ground cover to be adequate to prevent the formation of rills and gullies caused by erosion.

OSM agrees that it would be difficult to actually apply such a provision without greenhouse tests or experimental field plots, which would place an unnecessary burden on the operator and the regulatory authority. For this reason, and the fact that the final rule contains other more easily enforceable cover requirements, OSM has not adopted that portion of the provision. In any event, operators must salvage and redistribute the best available soil material for the plant growth medium as required by § 816.22. The suggested alternative, to require cover sufficient to prevent the formation of rills and gullies, was not accepted because § 816.95(b) adequately addresses the problem of rills and gullies.

Another State supported the proposed rule by expressing its belief that, for remined areas not previously reclaimed properly, the vegetative cover should be at least equal to that which existed before mining. It was also suggested that reclamation plans should include measures by which the most desirable strata for use as a growth medium must be recovered. The topsoil rules in § 816.22 address operators' responsibilities concerning soil materials to be redistributed after remining. The operator must submit as part of the general reclamation plan his or her plans to remove, store, and redistribute topsoil, subsoil, and other material as required by § 780.18(b)(4). The revegetation rules need not repeat these requirements.

Another State contended that the proposed rule limited itself to only those areas that are remined and did not adequately address redisturbances resulting from the construction of haul roads, sedimentation ponds, and other miscellaneous uses associated with coal mining. This State felt that the remining rules should cover redisturbance of any kind since there are no other revegetation performance standards that address these situations. Language was suggested which would correct this perceived omission. OSM has adopted language to clarify that § 816.116(b)(5) applies to a redisturbance of a previously mined area resulting from any surface coal mining operation,

including roads and other uses. This was intended by the proposal.

Section 816.116(c)

Final § 816.116(c) describes the period of extended responsibility for successful revegetation under Section 515(b)(20) of the Act to which performance bond release is tied under Section 519(c) of the Act and under 30 CFR Part 800. This provision also implements the requirement imposed by the U.S. District Court in *In re: Permanent Surface Mining Regulatory Litigation, supra,* slip op., p. 61, which had been implemented in part by the suspension of a portion of previous § 816.116(b) on August 4, 1980 (45 FR 51549). A new Paragraph (c)(4) is added describing the husbandry practices that may occur during the period of extended responsibility. The new paragrap is derived from previous § 805.13(b)(3).

Section 816.116(c)(1)

Proposed § 816.116(c)(1) would have required the period of responsibility for revegetation success to begin after the last year of augmented seeding, fertilizing, irrigation, or other work, excluding tree and shrub planting, maintenance work, and husbandry practices that could be expected to continue as part of the postmining land use. The final rule is the same as the proposed rule with the exception that tree and shrub planting and maintenance work are not generally permitted during the responsibility period without starting the period anew. As described below, allowable husbandry practices are tied to a specific requirement that they can be expected to continue as part of the postmining land use.

A commenter stated that excluding tree and shrub planting and maintenance work from augmentative practices and allowing interseeding and supplemental fertilization during the first 5 years of the responsibility period in the West, and supplemental irrigation during the first 2 years of the responsibility period, all have significant potential for abuse and increase the likelihood that there will be vegetation failures after the bond is released. Similar concerns were expressed by a second commenter who thought the proposed rules were inconsistent with Section 515 (b)(19) and (b)(20) of the Act by effectively reducing the responsibility period for bonding by one-half for western mined lands. Another commenter was concerned that the responsibility period was shortened for success of revegetation and expressed the view that bond should not be released until a suitable time has elapsed to be sure the revegetation will be successful.

Other commenters supported the proposed rules. One individual urged the adoption of proposed § 816.116(c) and was pleased that revegetation management and husbandry practices were finally recognized by OSM and would not act as a penalty for operators who used them. A State regulatory authority was specifically pleased with proposed § 816.116(c)(1). Another commenter thought that the use of cultural practices, including irrigation, has merit, especially since it would not involve a restarting of the responsibility period.

The final rules do not reduce the responsibility period. While the use of certain cultural practices, such as interseeding and tree and shrub planting, could be beneficial in establishing diverse plant communities if allowed during the period of responsibility, the Act is clear that any practice that consititutes augmented seeding, fertilizing, or irrigation must be completed prior to the extended period of responsibility. The final rule has been modified accordingly. These changes and a more complete discussion of the comments received are presented below.

Start of responsibility period: A commenter supported the proposed changes in § 816.116(c) regarding the start of the responsibility period for reclaimed areas. In contrast, a second commenter felt that the starting of the responsibility period for bond release after the last year of augmented seeding and fertilization rather than at the time vegetation had met the standards for success was unacceptable, especially in the arid West.

In the February 26, 1980, district court decision, cited *supra,* it was noted that Congress stated that, for areas where precipitation is less than 26 inches per year, "the length of time necessary to reestablish vegetation on mining spoil varies considerably * * * [and] ranges from ten years upward. Thus, the ten year standard of the bill represents a minimum time under the most favorable conditions." (H. Rept. No. 95–218, 95th Cong., 1st Sess. 109, 1977). In the court's opinion, the Act focused not on attaching a 5- or 10-year liability period after successful revegetation occurs, but directed a 5- or 10-year period to enable the coal operator to achieve successful revegetation. The court, therefore, remanded these rules and suggested that the 5- or 10-year liability period begin "after the last year of augmented seeding, fertilizing, [and] irrigation."

In response, OSM suspended the provisions of §§ 816.116(b) and 817.116(b) that started the period of responsibility at the point when the operator met the vegetation success standard (45 FR 51548, August 4, 1980). States were advised that they could permit the period of liability to begin from the point at which the operator completes seeding and fertilizing and that the period of liability would begin again whenever augmented seeding, fertilizing, irrigation, or other work was required or conducted on the site prior to bond release. The final rule is in agreement with the court's decision.

A commenter suggested adding language to proposed § 816.116(c)(1) in order to clarify that the responsibility period is not restarted by supplemental fertilization and interseeding in areas of less than 26.0 inches average annual precipitation. Proposed § 816.116(c)(3) would have allowed these practices during the first 5 years of the responsibility period without starting the period anew. As stated elsewhere in this preamble, Section 515(b)(20) of the Act limits OSM in this regard. Thus, the final rule does not allow such practices during the period of responsibility.

Third party responsibility: A commenter suggested adding language to proposed § 816.116(c)(1) to allow responsibility during the 5- or 10-year responsibility period to be transferred to any party, such as the landowner, so long as the bonding requirements of Subchapter J are met. This commenter reasoned that some operator-landowner leases entered into before the enactment of the Act or establishment of OSM rules lack provisions establishing a time frame when landowners are to take over their property following mining and reclamation. In these cases, operators have no legal mechanism for preventing the landowner from reentering his or her property for farming or grazing prior to achievement of the revegetation standards. OSM was urged to consider a modification which would shift the burden of taking action against the landowner from the operator to the regulatory authority in situations where the landowner may use the land in a manner that jeopardizes bond release.

The Act and rules include provisions for the transfer, sale, and assignment of responsibilities under a permit. These provisions may be used to transfer responsibility if certain conditions are met and the transfer is approved by the regulatory authority. Without such an approved transfer, the operator remains responsible for revegetation success and other reclamation requirements.

Section 816.116(c)(2)

Proposed § 816.116(c)(2) required the period of responsibility to continue 5 full years where the average annual precipitation is more than 26.0 inches. Vegetation parameters were to equal the approved success standard during the growing season of the last year or, if required by the regulatory authority, during the growing seasons of the last 2 years of the responsibility period. The final rule is the same as the proposed rule except for some minor changes in wording for clarity.

Two State regulatory authorities proposed that additional wording be included in § 816.116 (c)(2) and (c)(3) to indicate that the period of responsibility must be "not less than" the appropriate 5 or 10 years. One of these States also recommended that the words "or exceed" be added to allow the permittee to be in compliance not only when the success standard is equalled, but also when it is exceeded. OSM has adopted these suggestions in the final rules because they appropriately convey the intent of the Act and remove possible differences in interpretation.

One- or two-year test of success: A commenter felt that proposed § 816.116(c)(2) should be changed to allow the regulatory authority to accept yield and productivity documentation on either the fourth year or the fifth year in areas of more than 26 inches average annual precipitation since adverse climatic conditions, such as areawide drought, may prevent the operators from meeting success standards during the fifth year.

Section 515(b)(20) of the Act requires operators to assume responsibility for successful revegetation for a period of 5 years. Acceptance of data for proof of reclamation success solely from the fourth year would in effect shorten the responsibility period and be inconsistent with the Act. Furthermore, data from the fourth year is more apt to reflect a carryover effect from fertilization and other practices used to initially establish the vegetative cover. Hence, the rule has been adopted as proposed.

A commenter argued that there is no statutory basis for allowing the regulatory authority the option of requiring that vegetation equal or exceed the success standard for the last 2 years of the responsibility period. The commenter alleged that the statutory obligation has been met if the operator meets the standard in the last year of the period. Another commenter thought the proposal allowing 1 year, unless the regulatory authority requires 2 years, was more practical and less burdensome than the previous rule both for regulators and operators. Two additional commenters asserted that 2 years should always be required for proof of revegetation success. One of these commenters stated that under normal circumstances there should not be any serious difficulty in attaining a vegetation standard by the fourth year and maintaining it through the fifth. The other commenter asserted that 2 years is necessary, especially where lime is used. Lime was believed to have a superficial neutralizing effect that could result in the recurrence of acid soil.

Ample justification exists for requiring 2 consecutive years of proof of revegetation success in States with pronounced year-to-year variability in climatic conditions and where success is based on crop yields or other parameters that are highly sensitive to such conditions. The decision to require 1 or 2 year's proof of performance should rest with the regulatory authorities in those States where the annual average precipitation exceeds 26 inches. The 2-year provision may be applied selectively according to postmining land use or particular area within a State. In all instances, the last year of responsibility should be part of the 1- or 2-year test period.

A commenter was concerned that failure to meet the required standard during the last year of the responsibility period would be reason to start the responsibility period anew or for forfeiture of bond. Regulatory authorities should understand that the responsibility period continues on a year-to-year basis until the standards are satisfied. Additional language in the rule is not needed to make this clear. However, it should be pointed out that in the event augmented seeding, fertilizing, irrigation, or other work is required to obtain success, the responsibility period will start anew.

A State regulatory authority wanted additional language inserted in § 816.116(c)(2) which would require the operator to supply the regulatory authority with documentation of revegetation success. The State felt this addition would relieve the regulatory authority from measuring every plot and allow the regulatory authority to concentrate on verifying the techniques used by the operator and the operator's results. Regulatory authorities already have the power to require operators to submit documentation of revegetation success in an application for bond release. There is no need to repeat this in the Federal revegetation rules.

Section 816.116(c)(3)

Proposed § 816.116(c)(3) required the period of responsibility to continue for 10 full years where the average annual precipitation is equal to or less than 26 inches. Interseeding and supplemental fertilizing would have been allowed during the first 5 years of the responsibility period, and supplemental irrigation would have been allowed during the first 2 years of the responsibility period when needed to establish a diverse, effective, and permanent vegetative cover. Also, vegetation parameters had to equal the approved success standard for at least the last 2 consecutive years of the responsibility period.

A commenter alleged that the Act clearly states that any reseeding or refertilizing automatically restarts the liability period. The commenter pointed out that the proposed rules could result in seeding and fertilization taking place throughout the performance period, with subsequent failure of the vegetation after bond is released.

In proposing to allow tree and shrub planting during the initial portion of the responsibility period, OSM felt it important to provide operators ample time to obtain and plant the desired species and to utilize the best technology available without extending the responsibility period. However, OSM is constrained by Section 515(b)(20) of the Act to require the responsibility period to restart if augmented planting occurs. Thus in the final rule, the use of augmented seeding, fertilizing, or irrigation is not allowed during the responsibility period.

§ 816.116(c)(4)

Rather than interspersing in § 816.116 (c)(2) and (c)(3) activities that an operator may engage in during the responsibility period, as was proposed, a new § 816.116(c)(4) allows the use of certain husbandry practices during the responsibility period if approved by the regulatory authority. The purpose of this provision is to help assure revegetation success within the constraints prescribed by the Act. In essence, this is a retention of previous § 805.13(b)(3), with a few modifications. Previous § 805.13(b)(3) required a demonstration that discontinuance of the husbandry practices after the responsibility period expired would not reduce the probability of permanent revegetation success. Under the final rule, husbandry practices may also be approved if such practices can be expected to continue as part of the postmining land use. Such practices cannot include augmented seeding, fertilization, or irrigation without extending the period of revegetation success and bond liability.

The approved measures must be normal conservation practices within the region for unmined lands having land uses similar to the approved postmining land use of the disturbed area. This requirement is taken directly from previous § 805.13(b)(3). The final rule also enumerates examples of practices that may be approved. These include disease, pest, and vermin control; and pruning, reseeding and/or transplanting specifically necessitated by such actions. Disease control was not included in previous § 805.13(b)(3), but is included in the final rule since such actions are commonly associated with normal husbandry. The final rule deletes the reference to rills and gullies from previous § 805.13(b)(3) since this reference could be misleading. Revised § 816.95 (48 FR 1160, January 10, 1983) provides that rills and gullies that would either: (1) Disrupt the approved postmining land use or reestablishment of the vegetative cover, or (2) cause or contribute to a violation of water quality standards for receiving streams, must be filled, regraded or otherwise stabilized; topsoil replaced; and the areas reseeded or replanted. Such rills and gullies may be indicative of a failure in the revegetation, depending on local and site-specific conditions; and may require augmented seeding to ensure revegetation success. For this reason, specific reference to regrading of rills and gullies has been deleted as an example of normal conservation practices under final Paragraph (c)(4). Under the final rule, the regulatory authority could allow repair of rills and gullies as a husbandry practice without restarting the liability period only if the general standards of this section are met after consideration of normal conservation practices within the region.

A number of comments were received on the related provisions in proposed § 816.116(c) that would have allowed particular activities during the responsibility period. These comments are discussed below.

Tree and shrub planting and maintenance work: Several commenters expressed the belief that tree and shrub planting and maintenance work should be restricted to the beginning of the responsibility period or identified as activities that would restart the period of responsibility. A State pointed out that the proposed rules required trees and shrubs to be in place only two growing seasons at the time of bond release. This allowed 8 years to complete the planting of trees and shrubs in arid areas and 3 years in areas of heavy rainfall. The commenter thought such periods to be excessive and stated that 2 years was sufficient time to obtain planting stock and to plant it during the proper season. Another commenter, who also felt the time period provided for tree and shrub planting was excessive, argued that 2 years was inadequate to determine the effect of unfavorable soil conditions which might be present. Older trees with more extensive root systems might come in contact with toxic materials at lower depths and become stunted or die after the release of operator responsibility. The commenter concluded that the Act clearly requires the responsibility period to start over when additional trees are planted and that OSM's rules must not conflict with the Act.

A State regulatory authority felt the replanting of trees and shrubs is not a normal practice where the postmining land use is unmanaged forest, nor is filling and seeding of rills and gullies. It was contended that these practices are augmentative and such work should cause the period of responsibility to begin anew. In contrast, another commenter favored allowing normal husbandry practices for trees and shrubs on reclaimed sites. It was argued that normal husbandry or management practices, including control of competing vegetation, are acceptable in unmined areas and should be available to the reclamation specialist.

To the extent operators are provided the opportunity to do limited replanting without starting the responsibility period anew under § 816.116(c)(4), § 816.116(b)(3)(ii) requires 80 percent of the planting stock to be in place for 3 or 8 years depending on the average annual precipitation and the remaining stock used in determining success to be in place for at least two growing seasons. Thus, this rule will, in effect, limit replanting to a maximum of 20 percent to the required stocking before restarting the responsibility period. Revegetation success will therefore be based on trees and shrubs that are in place an adequate time.

OSM also received several comments concerning the allowance for maintenance work during the responsibility period as provided for in the proposed rules. One commenter said that this had tremendous potential for abuse and should be deleted from § 816.116(c)(1) unless very strict limits were set on the area over which such work could be done. As safeguards, the commenter suggested requiring operators to keep careful records of these practices and limiting the cumulative area treated to 5 percent or less of the total permit area. Where the treated area exceed 5 percent, the responsibility period should start again for the whole area or the problem area should start again for the whole area or the problem area should be separated from the rest of the permit area for bonding purposes. A State suggested limiting the filling of rills and gullies and reseeding of small spots where vegetation has failed to the first 5 years of the 10-year period of responsibility. This would allow adequate time for the permittee to stabilize and revegetate the area and leave 5 years for the vegetation to develop.

OSM agrees that allowing unlimited areas to be reseeded following the repair of rills and gullies without restarting the period of responsibility could lead to abuse of the revegetation success standards because any failure of revegetation could be accompanied by the creation of rills and gullies requiring repair. To limit the potential abuse, under final § 816.116(c)(4), the repair of rills and gullies including reseeding or transplanting, can occur without extending the period of responsibility for revegetation success only if it is a normal conservation practice in the region, and such actions can be expected to continue as part of the postmining land use or if discontinuance will not reduce the probability of permanent revegetation success. OSM has not adopted the 5 percent standard since any nationwide numerical standard would be unrelated to the normal conservation practices in the different regions of the country.

A commenter asserted that allowing maintenance work throughout the responsibility period defeats the intent of the responsibility period. The provision allowing maintenance work contained in the proposed rule has not been included in the final rule. The proposed term "maintenance work" was too broad in meaning and its use in the rules could have resulted in conflicting interpretations, some of which could be prohibited by the Act. By allowing husbandry practices that can be expected to continue as part of the postmining land use, operators will have sufficient latitude to assure vegetation success.

A State regulatory authority suggested adding language to § 816.116(c)(1) to allow the regulatory authority to determine which husbandry practices are normally practiced in the region for the postmining land use. Under the final rule, the regulatory authority must decide which husbandry practices are acceptable. The rule provides the basis upon which such decision must be made. In the event the husbandry practice cannot be reasonably expected

to continue after bond release or if its discontinuance following bond release will reduce the probability of permanent revegetation success, the regulatory authority must deny approval or restart the period of responsibility for the operator.

A commenter said good husbandry practices would be acceptable if reseeding, refertilizing, and irrigation were clearly excluded. The final rules exclude augmented refertilizing and irrigation, and reseeding is allowed only under limited circumstances.

Previous Section 816.116(c)

OSM has removed previous §816.116(c), which required operators to maintain necessary fences, use proper management practices, and conduct periodic measurements of vegetation, soils, and water as prescribed or approved by the regulatory authority for identifying conditions during the period of responsibility.

A commenter felt that the requirements of previous § 816.116(c) should be maintained. Similarly, other commenters contended that requiring the maintenance of fences and the use of proper management practices is appropriate and necessary for ensuring the success of revegetation and that the requirement to monitor vegetation, soils, and water is necessary to make sure that adequate progress is made toward meeting success standards.

Another commenter argued that fence maintenance and proper management practices are needed to ensure that standards generated from reference areas are valid. This commenter viewed the monitoring provisions of previous § 816.116(c)(2) as absolutely essential. This commenter also contended that, since reclamation is more of an art than a science, monitoring is usually the only means of verifying and refining the reclamation plan.

As previously stated in the preamble to the proposed rules (47 FR 12599), these provisions are not specifically required by the Act and can be provided for by the regulatory authority, if appropriate, according to the local conditions. Operators must take the actions necessary to achieve successful reclamation, including the possible maintenance of fences and performance of management practices. That is, if fencing is necessary to avoid destructive grazing or indiscriminate use of recreation vehicles on the revegetated area, then the operator is expected to construct and maintain a fence. If a regulatory authority approves the use of reference areas, then it should include provisions in its rules that address fencing and the use of proper management practices necessary to assure that reference-area data are valid and appropriate for determining the success of revegetation.

Similarly, regulatory authorities are not precluded from requiring the monitoring of revegetation efforts to assure that the reclamation plan is being followed and that the revegetation effort is progressing in a satisfactory manner. Likewise, operators may do so on their own.

Previous Sections 816.116(b)(2) and 816.116(d)

Previous § 816.116(b)(2) listed data sources and specific procedures for determining average annual precipitation. OSM proposed the removal of this section because it was primarily a listing of information sources and not deemed necessary to understanding the regulatory requirement. No specific comments were received on this proposed deletion. Therefore, OSM has omitted these provisions from the final rules.

Previous § 816.116(d) provided an alternative fixed standard for determining the success of revegetation when permit areas are 40 acres or less in size and in locations with an average annual precipitation of more than 26 inches. OSM proposed deleting this section because it believed the flexibility generally provided to regulatory authorities by proposed § 816.116(a) obviated the need for a specific fixed standard for small permit areas. No comments were received on the basic proposal for removing the section; however, one commenter noted the deletion would also remove previous § 816.116(d)(3), which contained the only definition in the rules for ground cover. Ground cover was defined as the area of ground covered by the combined aerial parts of vegetation and litter that is produced naturally onsite, expressed as a percentage of the total area of measurement. This definition is retained in the final rules, but is moved to 30 CFR 701.5, Definitions.

Previous Section 816.117 Revegetation: Tree and Shrub Stocking for Forest Land

OSM proposed to remove § 816.117, which established requirements for tree and shrub stocking on forest land. OSM stated that a separate section with revegetation success standards for forest postmining land uses was unnecessary and that the essential requirements of previous § 816.117 could be incorporated into § 816.116, Revegetation: Standards of success. This was proposed in §816.116(b)(3). No comments were received that either supported or opposed this reorganization of the rules. Therefore, the final rule removes § 816.117 and transfers the essential requirements for tree and shrub stocking to § 816.116(b)(3). Comments received on the proposed language were previously discussed under the heading "Forest, Wildlife Habitat, and Recreation areas."

Sections 817.111–817.116 Revegetation Performance Standards—Underground Mining

Proposed §§ 817.111–817.116 establishing revegetation performance standards for underground mining activities. With the exception of § 817.111, these sections were identical to the corresponding sections proposed in Part 816. Proposed §817.111 reflected differences in the statutory language of Section 515(b)(19) of the Act for surface mining activities and Section 516(b)(6) is essentially the same as Section 515(b)(19). However, Section 516(b)(6) does not use the term "effective" in describing the vegetative cover requirements. Also, there is no statutory language restricting the use of introduced species and requiring vegetation of the same seasonal variety.

A State regulatory authority pointed out that proposed § 817.111(a)(1) did not contain the term "effective" and said the word should not be eliminated from the performance standards for underground mining activities. This proposed deletion was also noted by a second commenter who appeared to seek its inclusion in the final rule. Specific reasons were not given for the position taken by the commenters.

A State regulatory authority also noted that the proposed changes to §§ 817.111 (a) and (b) would eliminate the emphasis given in previous § 817.111(b)(1) to native plants of the same seasonal variety. The commenter contended that the use of native, locally adapted plant species was vital to successful revegetation, particularly under arid and semiarid conditions. Accordingly, the commenter believed that this requirement should not be eliminated from the rules.

In considering these comments, OSM has reviewed the Act and its legislative history to determine if the differences in Sections 515(b)(19) and 516(b)(6) were intended to reflect actual or perceived differences in surface and underground mining activities. OSM has not identified any differences that support adopting revegetation rules for surface mining activities that differ from rules adopted for underground mining activities. Therefore, in the final rules

the revegetation performance standards in Part 816 and Part 817 are identical.

C. References

Technical literature used to develop these final rules was cited in the March 23, 1982, issue of the **Federal Register** (47 FR 12601). The following technical literature, not previously cited, was also used in the preparation of these final rules. All of the reports are on file in OSM's Administrative Record.

Bonham, C. D., Larson, L. L., and Morrison, A., 1980, A survey of techniques for measurement of herbaceous and shrub production, cover, and diversity in the West: Unpublished, report prepared for the Office of Surface Mining, 79 pp.

Farmer, R. E., Jr., Rennie, J. C., Scanlon, D. H., III, and Zarger, T. G., 1981, Technical guides on use of reference areas and technical standards for evaluating surface mine vegetation in OSM Regions I and II. Prepared by the Tennessee Valley Authority for the Office of Surface Mining. Contract J5701442, 82 pp.

Gilley, J. E., Gee, G. W., Bauer, A., Willis, W. O., and Young, R. A., 1977, Runoff and erosion characteristics of surface mined sites in western North Dakota: Trans., ASAE 20(4): 697–700, 704.

Larson, L. L., 1980, A statistical evaluation of revegetation success on coal lands in the West: Unpublished, report prepared for the Office of Surface Mining, 19 pp.

National Research Council, 1981, Surface mining: Soil, coal, and society: National Academy Press, Washington, D.C.

Oleson, A. L., 1981, Methods for measuring percent ground cover: U.S. Department of Agriculture, Soil Conservation Service, Northeast Technical Service Center, Technical Note, Agronomy No. 17, 4 pp.

Raelson, J. V., and McKee, G. W., 1982, Measurement of plant cover to evaluate revegetation success: The Pennsylvania State University, Dept. of Agronomy, Agronomy Series 67, 45 pp.

Slick, B. M., N. D., (in press), A guide for the use of organic materials as mulches in reclamation of coal minesoils in the Eastern United States: U.S. Department of Agriculture, Forest Service, General Technical Report, 351 pp.

Thornburg, A. A., 1982, Plant materials for use on surface mined lands in arid and semiarid regions: U.S. Department of Agriculture, Soil Conservation Service, SCS–TP–157.

U.S. Department of Agriculture, 1963, Sixteen plants poisonous to livestock in the Western States: Farmers' Bulletin 2106.

U.S. Department of Agriculture, 1959, Techniques and methods of measuring understory vegetation: Proceedings of a symposium at Tifton, Georgia, October 1958, 174 pp.

U.S. Forest Service, 1937, Range plant handbook: U.S. Department of Agriculture.

Vogel, W. G., 1981, A guide for revegetating coal minesoils in the Eastern United States. U.S. Department of Agriculture, Forest Service, General Technical Report NE–68.

III. Procedural Matters

Executive Order 12291 and the Regulatory Flexibility Act

The Department of the Interior (DOI) has determined that this rule is not a major rule requiring a regulatory impact analysis under Executive Order 12291. Also, DOI certifies that this rule will not have a significant economic effect on a substantial number of small entities and, therefore, does not require a regulatory flexibility analysis under Pub. L. 95–354. These rules, by emphasizing performance standards instead of design criteria, will allow small coal operators increased flexibility and should especially ease the regulatory burden on small coal operators in Appalachia.

Paperwork Reduction Act

OSM has received approval from the Office of Management and Budget under 44 U.S.C. 3507 for the information collection requirements in Parts, 816 and 817 and have been assigned clearances Nos. 1029–0047 and 1029–0048. These approvals have been codified under §§ 816.10 and 817.10. However, there are no information collection requirements in the revegetation rules, §§ 816.111–816.116 and 817.111–817.116.

National Environmental Policy Act

OSM has analyzed the impacts of these final rules in its "Final Environmental Impact Statement OSM–EIS–1: Supplement" (FEIS) according to Section 102(2)(c) of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4332(2)(C)). The FEIS is available in OSM's Administrative Record, Room 5315, 1100 L Street, NW., Washington, D.C., or by mail request to Mark Boster, Chief, Branch of Environmental Analysis, Office of Surface Mining, Department of the Interior, Room 134, Interior South Building, U.S., 1951 Constitution Ave., NW., Washington, D.C. 20240. This preamble serves as the record of decision under NEPA. The final rules are different from those contained in Volume III of the FEIS in the following respects:

1. Final §§ 816.111(a) and 817.111(a) apply to "disturbed areas" rather than "affected lands." For the reasons described earlier in this preample, this change does not affect the FEIS analysis.

2. Final §§ 816.116(c) and 817.117(c) do not allow tree and shrub planting during the first 2 years of the period of responsibility in areas of more than 26 inches average annual precipitation and do not allow interseeding, tree and shrub planting, fertilizing, or irrigation during the first 2 years of the period of responsibility in areas of 26 inches or less average annual precipitation. In this respect, the final rules are consistent with the no action/minimum action Alternative B in the FEIS.

3. The final rules add a provision allowing regulatory approval of certain husbandry practices. These would have been allowed under draft final § 816.116(c)(1) and thus are considered within the FEIS analysis.

Agency Approval

Section 516(a) of the Act requires that, with regard to rules directed toward the surface effects of underground mining, OSM must obtain written concurrence from the head of the department which administers the Federal Mine Safety and Health Act of 1977, the successor to the Federal Coal Mine Health and Safety Act of 1969. OSM has obtained the written concurrence of the Assistant Secretary for Mine Safety and Health, U.S. Department of Labor.

List of Subjects

30 CFR Part 701

Coal mining, Law enforcement, Surface mining, Underground mining.

30 CFR Part 816

Coal mining, Environmental protection, Reporting and recordkeeping requirements, Surface mining.

30 CFR Part 817

Coal mining, Environmental protection, Reporting and recordkeeping requirements, Underground mining.

Accordingly, 30 CFR Parts 701, 816, and 817 are amended as set forth herein.

Dated: August 29, 1983.

William P. Pendley,

Deputy Assistant Secretary, Energy and Minerals.

PART 701—PERMANENT REGULATORY PROGRAM

1. Section 701.5 is amended by adding a definition of "ground cover" in alphabetical order to read as follows:

§ 701.5 Definitions.

* * * * *

Ground cover means the area of ground covered by the combined aerial parts of vegetation and the litter that is produced naturally onsite, expressed as a percentage of the total area of measurement.

* * * * *

PART 816—PERMANENT PROGRAM PERFORMANCE STANDARDS—SURFACE MINING ACTIVITIES

2. Section 816.111 is revised to read as follows:

§ 816.111 Revegetation: General requirements.

(a) The permittee shall establish on regraded areas and on all other disturbed areas except water areas and surface areas of roads that are approved as part of the postmining land use, a vegetative cover that is in accordance with the approved permit and reclamation plan and that is—

(1) Diverse, effective, and permanent;

(2) Comprised of species native to the area, or of introduced species where desirable and necessary to achieve the approved postmining land use and approved by the regulatory authority;

(3) At least equal in extent of cover to the natural vegetation of the area; and

(4) Capable of stabilizing the soil surface from erosion.

(b) The reestablished plant species shall—

(1) Be compatible with the approved postmining land use;

(2) Have the same seasonal characteristics of growth as the original vegetation;

(3) Be capable of self-regeneration and plant succession;

(4) Be compatible with the plant and animal species of the area; and

(5) Meet the requirements of applicable State and Federal seed, poisonous and noxious plant, and introduced species laws or regulations.

(c) The regulatory authority may grant exception to the requirements of Paragraphs (b)(2) and (b)(3) of this section when the species are necessary to achieve a quick-growing, temporary, stabilizing cover, and measures to establish permanent vegetation are included in the approved permit and reclamation plan.

(d) When the regulatory authority approves a cropland postmining land use, the regulatory authority may grant exception to the requirements of Paragraphs (a)(1), (a)(3), (b)(2), and (b)(3) of this section. The requirements of Part 823 of this chapter apply to areas identified as prime farmland.

§ 816.112 [Removed]

3. Section 816.112 is removed.

4. Section 816.113 is revised to read as follows:

§ 816.113 Revegetation: Timing

Disturbed areas shall be planted during the first normal period for favorable planting conditions after replacement of the plant-growth medium. The normal period for favorable planting is that planting time generally accepted locally for the type of plant materials selected.

5. Section 816.114 is revised to read as follows:

§ 816.114 Revegetation: Mulching and other soil stabilizing practices.

Suitable mulch and other soil stabilizing practices shall be used on all areas that have been regraded and covered by topsoil or topsoil substitutes. The regulatory authority may waive this requirement if seasonal, soil, or slope factors result in a condition where mulch and other soil stabilizing practices are not necessary to control erosion and to promptly establish an effective vegetative cover.

§ 816.115 [Removed]

6. Section 816.115 is removed.

7. Section 816.116 is revised to read as follows:

§ 816.116 Revegetation: Standards for success.

(a) Success of revegetation shall be judged on the effectiveness of the vegetation for the approved postmining land use, the exent of cover compared to the cover occurring in natural vegetation of the area, and the general requirements of § 816.111.

(1) Standards for success and statistically valid sampling techniques for measuring success shall be selected by the regulatory authority and included in an approved regulatory program.

(2) Standards for success shall include criteria representative of unmined lands in the area being reclaimed to evaluate the appropriate vegetation parameters or ground cover, production, or stocking. Ground cover, production, or stocking shall be considered equal to the approved success standard when they are not less than 90 percent of the success standard. The sampling techniques for measuring success shall use a 90-percent statistical confidence interval (i.e., one-sided test with a 0.10 alpha error).

(b) Standards for success shall be applied in accordance with the approved postmining land use and, at a minimum, the following conditions:

(1) For areas developed for use as grazing land or pasture land, the ground cover and production of living plants on the revegetated area shall be least equal to that of a reference area or such other success standards approved by the regulatory authority.

(2) For areas developed for use as cropland, crop production on the revegetated area shall be at least equal to that of a reference area or such other success standards approved by the regulatory authority.

(3) For areas to be developed for fish and wildlife habitat, recreation, shelter belts, or forest products, success of vegetation shall be determined on the basis of tree and shrub stocking and vegetative ground cover. Such parameters are described as follows:

(i) Minimum stocking and planting arrangements shall be specified by the regulatory authority on the basis of local and regional conditions and after consultation with the State agencies responsible for the administration of forestry and wildlife programs.

(ii) Trees and shrubs that will be used in determining the success of stocking and the adequacy of plant arrangement shall have utility for the approved postmining land use. At the time of bond release, such trees and shrubs shall be healthy, and at leat 80 percent shall have been in place for a least three growing seasons in areas with a 5-year period of responsibility and at least eight growing seasons in areas with a 10-year period of responsibility. No trees and shrubs in place for less than two growing seasons shall be counted in determining stocking adequacy.

(iii) Vegetative ground cover shall not be less than that required to achieve the approved postmining land use.

(4) For areas to be developed for industrial, commercial, or residential use less than 2 years after regrading is completed, the vegetative ground cover shall not be less than that required to control erosion.

(5) For areas previously disturbed by mining that were not reclaimed to the requirements of this subchapter and that are remined or otherwise redisturbed by surface coal mining operations, as a minimum, the vegetative ground cover shall be not less than the ground cover existing before redisturbance and shall be adequate to control erosion.

(c)(1) The period of extended responsibility for successful revegetation shall begin after the last year of augmented seeding, fertilizing, irrigation, or other work, excluding husbandry practices that are approved by the regulatory authority in accordance with paragraph (c)(4) of this section.

(2) In areas of more than 26.0 inches average annual precipitation, the period of responsibility shall continue for a period of not less than 5 full years. Vegetation parameters identified in paragraph (b) of this section shall equal or exceed the approved success standard during the growing season of the last year of the responsibility period

or, if required by the regulatory authority, during the growing seasons of the last 2 years of the responsibility period.

(3) In areas of 26.0 inches or less average annual precipitation, the period of responsibility shall continue for a period of not less than 10 full years. Vegetation parameters identified in paragraph (b) of this section shall equal or exceed the approved success standard for at least the last 2 consecutive years of the responsibility period.

(4) The regulatory authority may approve selective husbandry practices, excluding augmented seeding, fertilization, or irrigation, without extending the period of responsibility for revegetation success and bond liability, if such practices can be expected to continue as part of the postmining land use or if discontinuance of the practices after the liability period expires will not reduce the probability of permanent revegetation success. Approved practices shall be normal conservation practices within the region for unmined lands having land uses similar to the approved postmining land use of the disturbed area, including such practices as disease, pest, and vermin control; and any pruning, reseeding and/or transplanting specifically necessitated by such actions.

§ 816.117 [Removed]

8. Section 816.117 is removed.

PART 817—PERMANENT PROGRAM PERFORMANCE STANDARDS—UNDERGROUND MINING ACTIVITIES

9. Section 817.111 is revised to read as follows:

§ 817.111 Revegetation: General requirements.

(a) The permittee shall establish on regraded areas and on all other disturbed areas except water areas and surface areas of roads that are approved as part of the postmining land use, as vegetative cover that is in accordance with the approved permit and reclamation plan and that is—

(1) Diverse, effective, and permanent;

(2) Comprised of species native to the area, or of introduced species where desirable and necessary to achieve the approved postmining land use and approved by the regulatory authority;

(3) At least equal in extent of cover to the natural vegetation of the area; and

(4) Capable of stabilizing the soil surface from erosion.

(b) The reestablished plant species shall—

(1) Be compatible with the approved postmining land use;

(2) Have the same seasonal characteristics of growth as the original vegetation;

(3) Be capable of self-regeneration and plant succession;

(4) Be compatible with the plant and animal species of the area; and

(5) Meet the requirements of applicable State and Federal seed, poisonous and noxious plant, and introduced species laws or regulations.

(c) The regulatory authority may grant exception to the requirements of paragraphs (b)(2) and (b)(3) of this section when the species are necessary to achieve a quick-growing, temporary, stabilizing cover, and measures to establish permanent vegetation are included in the approved permit and reclamation plan.

(d) When the regulatory authority approves a cropland postmining land use, the regulatory authority may grant exceptions to the requirements of paragraphs (a)(1), (a)(3), (b)(2), and (b)(3) of this section. The requirements of Part 823 of this chapter apply to areas identified as prime farmland.

§ 817.112 [Removed]

10. Section 817.112 is removed.

11. Section 817.113 is revised to read as follows:

§ 817.113 Revegetation: Timing.

Disturbed areas shall be planted during the first normal period for favorable planting conditions after replacement of the plant-growth medium The normal period for favorable planting is that planting time generally accepted locally for the type of plant materials selected.

12. Section 817.114 is revised to read as follows:

§ 817.114 Revegetation: Mulching and other soil stabilizing practices.

Suitable mulch and other soil stabilizing practices shall be used on all areas that have been regraded and covered by topsoil or topsoil substitutes. The regulatory authority may waive this requirement if seasonal, soil, or slope factors result in a condition where mulch and other soil stabilizing practices are not necessary to control erosion and to promptly establish an effective vegetative cover.

§ 817.115 [Removed]

13. Section 817.115 is removed.

14. Section 817.116 is revised to read as follows:

§ 817.116 Revegetation: Standards for success.

(a) Success of revegetation shall be judged on the effectiveness of the vegetation for the approved postmining land use, the extent of cover compared to the cover occurring in natural vegetation of the area, and the general requirements of § 817.111.

(1) Standards for success and statistically valid sampling techniques for measuring success shall be selected by the regulatory authority and included in an approved regulatory program.

(2) Standards for success shall include criteria representative of unmined lands in the area being reclaimed to evaluate the appropriate vegetation parameters of ground cover, production, or stocking. Ground cover, production, or stocking shall be considered equal to the approved success standard when they are not less than 90 percent of the success standard. The sampling techniques for measuring success shall use a 90-percent statistical confidence interval (i.e., a one-sided test with a 0.10 alpha error).

(b) Standards for success shall be applied in accordance with the approved postmining land use and, at a minimum, the following conditions:

(1) For areas developed for use as grazing land or pasture land, the ground cover and production of living plants on the revegetated area shall be at least equal to that of a reference area or such other success standards approved by the regulatory authority.

(2) For areas developed for use as cropland, crop production on the revegetated area shall be at least equal to that of a reference areas or such other success standards approved by the regulatory authority.

(3) For areas to be developed for fish and wildlife habitat, recreation, shelter belts, or forest products, success of vegetation, shall be determined on the basis of tree and shrub stocking and vegetative ground cover. Such parameters are described as follows:

(i) Minimum stocking and planting arrangements shall be specified by the regulatory authority on the basis of local and regional conditions and after consultation with the State agencies responsible for the administration of forestry and wildlife programs.

(ii) Trees and shrubs that will be used in determining the success of stocking and the adequacy of plant arrangement shall have utility for the approved postmining land use. At the time of bond release, such trees and shrubs shall be healthy, and at least 80 percent shall have been in place for at least three growing seasons in areas with a 5-year period of responsibility and at least eight growing seasons in areas with a 10-year period of responsibility. No trees and shrubs in place for less than two

growing seasons shall be counted in determining stocking adequacy.

(iii) Vegetative ground cover shall not be less than that required to achieve the approved postmining land use.

(4) For areas to be developed for industrial, commercial, or residential use less than 2 years after regrading is completed, the vegetative ground cover shall not be less than that required to control erosion.

(5) For areas previously disturbed by mining that were not reclaimed to the requirements of this subchapter and that are remined or otherwise redisturbed by surface coal mining operations, as a minimum, the vegetative ground cover shall be not less than the ground cover existing before redisturbance and shall be adequate to control erosion.

(c)(1) The period of extended responsibility for successful revegetation shall begin after the last year of augmented seeding, fertilizing, irrigation, or other work, excluding husbandry practices that are approved by the regulatory authority in accordance with paragraph (c)(4) of this section.

(2) In areas of more than 26.0 inches average annual precipitation, the period of responsibility shall continue for a period of not less than 5 full years. Vegetation parameters identified in paragraph (b) of this section shall equal or exceed the approved success standard during the growing season of the last year of the responsibility period or, if required by the regulatory authority, during the growing seasons of the last 2 years of the responsibility period.

(3) In areas of 26.0 inches or less average annual precipitation, the period of responsibility shall continue for a period of not less than 10 full years. Vegetation parameters identified in paragraph (b) of this section shall equal or exceed the approved success standard for at least the last 2 consecutive years of the responsibility period.

(4) The regulatory authority may approve selective husbandry practices, excluding augmented seeding, fertilization, or irrigation, without extending the period of responsibility for revegetation success and bond liability, if such practices can be expected to continue as part of the postmining land use or if discontinuance of the practices after the liability period expires will not reduce the probability of permanent revegetation success. Approved practices shall be normal conservation practices within the region for unmined lands having land uses similar to the approved postmining land use of the disturbed area, including such practices as disease, pest, and vermin control; and any pruning, reseeding and/or transplanting specifically necessitated by such actions.

§ 817.117 [Removed]

15. Section 817.117 is removed.

(Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*)

[FR Doc. 83–24079 Filed 9–1–83; 8:45 am]

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Friday
September 2, 1983

Part V

Department of Labor

Mine Safety and Health Administration

Safety Standards for Underground Coal Mines; Roof, Face and Rib Support; Availability of Preproposal Draft and Schedule of Public Conferences

VOL
48
ISS
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DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 75

Safety Standards for Underground Coal Mines; Roof, Face and Rib Support

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice of Availability of Preproposal Draft and Schedule of Public Conferences.

SUMMARY: The Mine Safety and Health Administration (MSHA) has developed a preproposal draft of revisions to existing standards for roof, face and rib support at underground coal mines. MSHA seeks written comments on this preproposal draft from all interested parties. In addition, MSHA will conduct public conferences in Salt Lake City, Utah, and Charleston, West Virginia, to discuss the preproposal draft. The Agency is reviewing the standards to eliminate unnecessary reporting and recordkeeping requirements, minimize conflicting provisions, delete irrelevant standards, simplify and consolidate existing standards, update standards to conform to state-of-the-art technology, and clarify and reorganize standards, where necessary.

DATES: *Comments:* Written comments on the preproposal draft must be received on or before November 18, 1983.

Conferences: The conferences will be held at the following locations on the dates indicated, beginning at 9:00 a.m.:

October 25, 1983: Salt Lake City, Utah
October 27, 1983: Charleston, West Virginia

ADDRESSES: *Comments:* Send written comments on the preproposal draft to the Office of Standards, Regulations, and Variances; MSHA; Room 631, Ballston Tower #3, 4015 Wilson Boulevard, Arlington, Virginia 22203.

Conferences: The conferences will be held at the following locations on the dates indicated, beginning at 9:00 a.m.:

October 25, 1983: Salt Palace Center, Room 220, 100 South West Temple, Salt Lake City, Utah, Utah 84101
October 27, 1983: The University of Charleston, Geary Student Union Building, Maroon and Gold Room, Second Floor, 2300 MacCorkle Avenue, S.E., Charleston, West Virginia 25304

Persons planning to speak at a public conference should notify the Office of Standards, Regulations and Variances at least five days prior to the conference date.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, MSHA (703) 235–1910.

SUPPLEMENTARY INFORMATION:

Preproposal Draft

On July 9, 1982, MSHA published an Advanced Notice of Proposed Rulemaking (ANPRM) in the **Federal Register** (47 FR 30025) announcing a comprehensive review of the underground coal mining standards in 30 CFR Part 75. The Agency is reviewing the standards to eliminate unnecessary reporting and recordkeeping requirements, minimize conflicting provisions, delete irrelevant standards, simplify and consolidate existing standards, update standards to conform to state-of-the-art technology, and clarify and reorganize standards, where necessary.

This review is consistent with the goals of Executive Order 12291, the Regulatory Flexibility Act, the Paperwork Reduction Act, and Department of Labor's initiatives with respect to improving regulations. MSHA considers early public participation in this standards review process to be particularly important.

MSHA has now completed development of preproposal draft safety standards for roof, face and rib support. The Agency requests comments on the substance of the preproposal standards, as well as on the reorganization of the standards. In addition, the Agency is interested in economic data and other regulatory impact information.

Copies of the preproposal draft have been mailed to persons and organizations known to be interested. All other interested persons and organizations may obtain a copy of the draft by submitting a request to the address provided above. The document contains the Agency's intended revisions, a comparison with existing provisions, and brief explanations of the draft changes.

Public Conferences

The purpose of the public conferences is to provide a forum for the free and open exchange of ideas in an informal setting. Each conference will begin at 9:00 a.m. All persons making timely, written requests to speak will have time allotted to them for their presentations. The request should identify the person and organization, the amount of time requested for the presentation and the location where the presentation will be made. Although written statements are not required, participants are encouraged to submit written materials in support of their views.

Other persons wishing to speak should register prior to each conference at the beginning of the public session. If time is limited, priority will be given to those who have requested time in advance. Interested persons may request that speakers clarify their comments or provide additional information during the conferences.

A formal transcript of these conferences will not be made. Following the conferences, MSHA welcomes additional written comments relevant to issues concerning the preproposal drafts. Following the public conferences, MSHA will develop revised standards which will be published as proposed rules in the **Federal Register**. The proposals will be followed by a comment period and public hearings. In issuing its final rules, MSHA will make every effort to be responsive to the concerns of the underground coal mining community and to advance the goals of regulatory relief and improving miner safety and health.

List of Subjects in 30 CFR Part 75

Communications equipment, Electric power, Emergency medical services, Explosives, Fire prevention, Mine safety, and health, Reporting and recordkeeping requirements.

Dated: August 30, 1983.

Thomas J. Shepich,

Deputy Assistant Secretary for Mine Safety and Health.

[FR Doc. 83-24183 Filed 9-1-83; 8:45 am]
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VOL
48
ISS
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federal register

Friday
September 2, 1983

Part VI

Department of Labor

Employment and Training Administration

Labor Certification Process for the Temporary Employment of Aliens in Agriculture; Adverse Effect Wage Rate Methodology; Final Rule

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 655

Labor Certification Process for the Temporary Employment of Aliens in Agriculture: Adverse Effect Wage Rate Methodology

AGENCY: Employment and Training Administration, Labor.

ACTION: Final rule.

SUMMARY: The Department of Labor (DOL) is amending its regulations for the certification of nonimmigrant aliens for temporary employment in agriculture and logging in the United States. The rule amends the regulations to establish a methodology for setting 1983 agricultural adverse effect wage rates (AEWRs), that is, the minimum wage rates which DOL has determined must be offered and paid by the employers proposing to employ nonimmigrant alien agricultural workers temporarily in the United States. The rule also revises the regulation dealing with adjustments to agricultural piece rates.

EFFECTIVE DATE: September 2, 1983. The ground for making the rule effective upon publication in the **Federal Register** are set forth in the "**SUPPLEMENTARY INFORMATION**" section below.

FOR FURTHER INFORMATION CONTACT: Mr. Charles I. Carter. Telephone: 202–376–6292.

SUPPLEMENTARY INFORMATION:

I. Introduction

In the **Federal Register** of July 22, 1983 (48 FR 33684), the Department of Labor (DOL) published a notice of proposed rulemaking to revise the Employment and Training Administration (ETA) regulations at 20 CFR 655.207 (b) and (c) regarding adverse effect wage rates and piece rates for the temporary alien agricultural certification program. Interested persons were requested to submit written comments, to be received on or before August 5, 1983. That comment period later was extended through August 22, 1983. 48 FR 35667 (August 5, 1983).

The Order of the United States District Court for the District of Columbia, in *NAACP, Jefferson County Branch* v. *Donovan*, Civil Action No. 82–2315 (D.D.C. June 28, 1983), required DOL to establish a methodology for setting hourly agricultural adverse effect wage rates (AEWRs) for the 1983 harvest season. The rulemaking herein is published in compliance with that Order.

DOL also is revising the regulation to reinstitute its earlier interpretation dealing with the appropriate adjustment of agricultural piece rates. The U.S. District Court for the District of Columbia, in two of its Orders in *NAACP, Jefferson County Branch* v. *Donovan*, found that DOL's interpretation of DOL's existing regulation on piece rates was incorrect. *NAACP, Jefferson County Branch* v. *Donovan, supra*, and 558 F. Supp. 218 (D.D.C. 1982). The rule revises the regulation to reinstate and to reflect accurately the agency's original intent in promulgating it, and the actual application since it was established. The United States District Court for the Western District of Virginia has ordered DOL to promulgate in final form no later than September 1, 1983, DOL's "clarifying interpretation of the piece rate adjustment requirements * * *." *Kent Barley, Inc.*, v. *Donovan*, Civil Action No. 83–0079 (W.D. Va. Order, August 18, 1983).

II. Temporary Alien Labor Certification Process and Adverse Effect Wage Rates

1. Background

Whether to grant or deny an employer's petition to import a nonimmigrant alien to the United States for the purpose of temporary employment is solely the decision of the Attorney General and his designee, the Immigration and Naturalization Service (INS). 8 U.S.C. 1101(a)(15)(H)(ii) and 1184 (a) and (c). Pursuant to the requirement that the Attorney General consult with appropriate agencies of the government concerning the importation of nonimmigrant (so-called "H–2") workers, INS has determined that prior to granting or denying such petitions it first will request DOL to advise INS on the availability of qualified U.S. workers for the jobs offered to the H–2 aliens, and whether the wages and working conditions attached to such job offers will adversely affect similarly employed United States workers. 8 U.S.C. 1184(c); 8 CFR 214.2(h)(3)(i).

Pursuant to the INS regulations, ETA has published regulations at 20 CFR Part 655, Subpart C, for the certification of nonimmigrant aliens for temporary employment in agriculture and logging in the United States. DOL has determined that similarly employed United States workers had been adversely affected by the importation and employment of nonimmigrant aliens in agricultural employment. It has been determined further that employment of those aliens in a number of States at wages below specially computed adverse effect wage rates (AEWRs) would adversely affect the wages of similarly employed United States workers. 20 CFR 655.202(b)(9) and 655.207.

Since 1968, these special AEWRs had been computed by adjusting the previous year's AEWR for a State by the same percentage as the change in annual average wage rates for field and livestock workers, as surveyed by the United States Department of Agriculture (USDA). See 41 FR 25018 (June 22, 1976). The USDA farm survey covered cash wages paid during one week in each calendar quarter. However, in 1981 USDA substantially reduced its number of surveys and ceased compiling annual average wage rates. Consequently, the methodology established in 1968 for computing AEWRs was no longer adequate. AEWRs for 1981 were able to be published under the then-existing methodology, but, due to the diminished USDA data, for 1982 it was determined by DOL to be necessary to extend the 1981 AEWRs for another year. This action was reported by DOL in the **Federal Register**. 47 FR 37980 (August 27, 1982).

Farmworkers in three States objected to the extension of 1981 AEWRs into 1982, and brought suit in the U.S. District Court for the District of Columbia. The Order in *Bragg* v. *Donovan*, Civil Action No. 82–2361 (D.D.C. August 24, 1982), required DOL to establish a methodology and set 1982 AEWRs for those States. After a notice and comment period, DOL established by regulation new AEWRs for those three States (Florida sugar cane, Vermont, and Maine), and for West Virgina, the State whose farmworkers were the original plaintiffs in *NAACP, Jefferson County Branch* v. *Donovan, supra*. See 20 CFR 655.207(b) (1983); 48 FR 235 (January 4, 1983). The methodology set the AEWRs beginning in 1982 by comparing the historic relationship between the more limited USDA data and the available data USDA had collected before 1981.

Pursuant to the District of Columbia federal court's various Orders referenced above, these AEWRs were to be paid retroactively for work performed in the 1982 harvest season. Had the 1982 AEWR in West Virginia been increased using the same data series as was used for the three States in the *Bragg* case, covered employers in that State would have had to pay retroactively a 17.2% increase in wages for that season. Therefore, in the rule published on January 4, 1983, DOL determined to spread West Virginia's AEWR increase over two years. The 1982 AEWR increase would have been 10%, to prevent economic harm to the

small agricultural employers in that State who utilize nonimmigrant alien workers. See 48 FR 235 (January 4, 1983). The AEWR for West Virginia in 1983 was to rise another 7.2% over the 1981 AEWR. The June 28, 1983, *NAACP, Jefferson County Branch* v. *Donovan* Order overturned DOL's determination, and required the agency to increase the AEWR for West Virginia a full 17.2% over the 1981 rate—to $4.24 per hour—and to require that it be paid retroactively for work in the 1982 harvest.

2. Proposed Rule and Comments

On July 22, 1983, DOL published in the **Federal Register** at 48 FR 33684, a proposed rule to amend 20 CFR 655.207 (b) and (c), to revise the AEWR methodology for 1983 as required by the court, to reinstitute DOL's procedure for determining the adequacy of piece rates, to add Florida to the list of States for which AEWRs are computed (the separate rate for Florida sugar cane work would continue), and to grant the Director, U.S. Employment Service, discretion in choosing the dates for annually announcing AEWRs.

The majority of the comments received on the proposed rule dealt with the AEWR methodology. While all of the comments are carefully considered DOL, many of the comments were duplicative. For that reason, this document will not address each commenter separately. However, the discussion below responds to each significant issue raised by the comments. Those comments outside the scope of the rulemaking, such as DOL's general authority to set AEWRs, are not discussed. *See Florida Sugar Cane League* v. *Usery*, 531 F. 2d 305 (5th Cir. 1976).

a. *AEWR Methodolgy (§ 655.207(b)(1))*

Rather than depending on data supplied by USDA to determine wage movements, the proposed rule stated that DOL would rely on data received by DOL's Bureau of Labor Statistics (BLS) through the Employment and Wages Program (the "ES–202 Program").

The ES–202 Program is a cooperative activity of BLS and the State employment security (unemployment compensation and job service) agencies. Annual changes in the AEWR for each State would be directly proportional to the changes in average weekly wages for similarly employed workers covered by unemployment insurance (UI) in the State. The AEWR would not be set at the level of average weekly wages in the ES–202 data, but would follow the movement of average weekly wages in that data series.

Since 1978, agricultural labor has been covered broadly under all the States' UI laws. See 26 U.S.C. 3306(a)(2) and (c)(1); and §§ 111 and 114 of Pub. L. 94–566. At minimum, employees of agricultural firms employing at least 10 workers in 20 weeks or having a $20,000 quarterly payroll are covered by UI. Some State UI laws have broader coverage of agricultural labor.

As part of their UI programs, the State employment security agencies receive from each UI-covered employer quarterly reports showing: the number of workers on the payroll, total wages, taxable wages, and UI contributions (State UI taxes). The State agencies, in turn, report this information to BLS showing the number of UI-covered establishments, employment during the mid-week of each month, and total wages paid during the quarter. Wages are reported by Standard Industrial Classification (SIC) code, including various categories of agricultural crop producers. The proposed rule announced that DOL planned to use ES–202 data on agricultural wage movements in SIC Code Nos. 013, 016, 017, 019, 071, and 072, since these categories include the employers using the bulk of the imported nonimmigrant alien agricultural labor.

Using these data, it is possible to prepare estimates of average weekly wages by year, using the best available information, from the ES–202, on wage trends in agricultural and other industries. Using the data in the ES–202 report, the AEWR would be adjusted annually by the year-to-year change in the total weekly wages for agriculture (in the above-referenced SIC codes) in the State.

Previously, when AEWR wage movements were keyed to USDA-surveyed wage movements, the AEWRs in the six New England States moved as a unit (*i.e.*, by the same percentages), although the AEWRs in each State differed, due to the variations in the base. The proposed rule recommended continuing that unitary movement. However, the final rule recognizes that New England has a relatively small universe of reporting units, and it is believed that a wider regionwide movement would more accurately reflect actual wage movements in the region. The agricultural activity utilizing nonimmigrant alien farmworkers in New York adjoins and closely parallels similar activity in adjoining New England agricultural areas. Therefore, the final rule includes ES–202 movements in New England and New York as a single unit. Similarly, the proposed rule, and the final rule herein, treats Maryland, Virginia, and West Virginia as a unit for wage movements, although their AEWRs would differ due to variations in the AEWR base.

The coverage, continuity, and currency of the ES–202 program make its data one of the most useful data bases for determining wage movements in all United States industries. Some other uses being made of the data series are described below:

(i) The series is used by the Department of Commerce as part of the wage and salary component, to determine gross national product and personal income.

(ii) The Social Security Administration uses ES–202 data in updating economic assumptions and forecasting trends in the taxable wage base.

(iii) These data in the reports have been used by BLS to develop a series for the Department of Health and Human Services to adjust Medicare payments to hospitals to reflect changes in labor costs.

(iv) ETA has used ES–202 wage data to determine allowable wage supplementation for public service employees in the Countercyclical Public Service Employment Program under Title VI of the Comprehensive Employment and Training Act (CETA). Congress endorsed the use of such wage data. See section 609(2) of CETA; 29 U.S.C. 969(2) (1978).

(v) State and federal UI agencies use the data for a myriad of purposes in administering the cooperative system of federal and State UI laws. The data show the extent of UI coverage, records revenues and disbursements, measures unemployment, allows actuarial studies, and determines maximum UI benefit levels, experience ratings, and areas needing federal assistance. The data also help ensure the solvency of the UI Funds.

(vi) Public and private research organizations use the ES–202 report as one of their sources of detailed employment and wage statistics.

The ES–202 reporting system is carefully reviewed by State and Federal labor statisticians. The data are recognized by competent statistical authorities as being valid and form a basis for the BLS *Employment and Wages* series. The data can be used in a methodology for the AEWR determination that is fair, reasonable, and cost effective.

The ES–202 Program, including its coverage and uses, is described more fully in Chapter 5, "Employment and Wages Covered by Unemployment Insurance," of the *BLS Handbook of Methods*, Vol. 1, BLS Bulletin No. 2134–1

(December 1982). A reproduction of Chapter 5 was published with the proposed rule as an appendix.

Use of the ES–202 report has the additional advantage that the wage survey does not include the wages of nonimmigrant alien workers, who are excluded by statute from unemployment compensation coverage. 26 U.S.C. 3306(c)(1)(B). Further, although UI coverage of agricultural labor is not universal, there is significant coverage in States where the temporary alien agricultural labor certification program operates.

Under the proposed rule, and the rule adopted herein, the 1983 AEWRs, in general, would be determined using the 1981 AEWRs as the base. The 1981 AEWRs were the last set using the historically used USDA data series and were the most reliable of the wage rates set thus far in the 1981–83 period. In the final rule, unless the 1982 AEWR were higher, the 1983 AEWR would be the State's 1981 AEWR changed by the same percentage as the two-year change in total weekly wages for agricultural crop activities (SIC Code Nos. 013, 016, 017, 019, 071, and 072) for the applicable ES–202 reporting area. In the final rule set forth herein, the two-year reference period would be 1980–82. The proposed rule would have used the two-year reference period of 1979–81, but in response to comments discussed later in this document, that reference period was determined to be inappropriate.

The proposed methodology stated that after 1983 the one-year wage movement from the beginning of the third year previous to the end of the second year previous would be used to set the movement from the prior year's AEWR to the current year's AEWR. For example, under the proposed rule, the 1984 AEWR would be set by applying to the 1983 AEWR the percentage change in the applicable ES–202 data for 1981–82.

The final rule would retain this one-year movement, but would use the one-year wage movement from the beginning of the second year previous to the end of the first year previous to set the movement from the prior year's AEWR to the current year's AEWR. For example, under the final rule, the 1984 AEWR would be set by applying to the 1983 AEWR the percentage change in the applicable ES–202 data for 1982–83.

Absent a future change in the AEWR methodology, the AEWR thereafter would be adjusted annually only by the year-to-year change in the applicable ES–202 average weekly agricultural wages. In those States in which the 1981 or 1982 AEWRs, set by interim methodology or Order of the court was higher than that computed by the applicable percentage increase in ES–202 data, the highest of the AEWRs would apply, until such time (if any) as the AEWR computed using the ES–202 data exceeds the prior AEWR.

Under the methodology set forth in the rule, the 1983 AEWRs are set forth in the list below.

In West Virginia, the 1982 AEWR was $4.24, as ordered by the court in *NAACP, Jefferson County Branch* v. *Donovan*, and therefore that prior year's rate of $4.24 will be continued in 1983. The final rule published on January 4, 1983, had announced that the 1983 AEWR for West Virginia would continue to be $4.24. 48 FR 235.

The best available ES–202 data for 1982 now available for Colorado include estimates for that State. DOL has determined that there are not yet available data sufficient to set an AEWR for that State. When such data are available, the Director, U.S. Employment Service will announce that 1983 Colorado in the **Federal Register**. It should be noted, however, that there currently is no agricultural activity in Colorado for which nonimmigrant alien employment pursuant to an AEWR needs to be certified. Any certifications granted for such agricultural employment in Colorado prior to the publication of an 1983 AEWR for Colorado will be conditioned on the employer's assurance that it will pay that AEWR for all work performed in the season.

State	1983 AEWR
Arizona	$4.22
Colorado	(1)
Connecticut	4.05
Florida (sugar cane only)	5.37
Florida (except sugar cane)	4.34
Maine	4.15
Maryland	4.38
Massachusetts	4.05
New Hampshire	4.34
New York	4.20
Rhode Island	4.05
Texas	4.16
Vermont	4.28
Virginia	4.39
West Virginia	4.24

[1] Not yet available.

b. *Comments and Responses on Proposed AEWR Methodology*

(1) Commenters representing United States farmworkers generally approved of the proposed rule on AEWRs. Those commenters stated that the ES–202 data base provides the most realistic measure of general farm wage trends. One such worker-commenter accepted the proposed rule, but also stated a preference for an alternative system, resulting in higher AEWRs than the proposal, whereby AEWRs would be determined on a crop activity basis in each area of employment. In part, the wage would have to equal the highest wage offered for the crop activity in that area and wage rates would be increased in proportion to the penetration of the market by nonimmigrant alien workers. DOL has considered alternatives similar to this in the past. However, the escalation of AEWRs caused by such an approach would result in "attractive" wage rates. Under the Immigration and Nationality Act and the Immigration Regulations, DOL is asked for advice to protect U.S. workers' wages from adverse effect, not to require wages high enough to attract U.S. workers to the aliens' jobs. *Williams* v. *Usery*, 531 F. 2d 305 (5th Cir. 1976); see 20 CFR 655.0(e).

(2) Employer commenters objected to the use of ES–202 data series in determining changes in AEWRs. They commented that it is inappropriate to adjust AEWRs, which are minimum hourly wage rates, by changes in the ES–202 data, which are average weekly earnings. However, adjustment of AEWRs by changes in average earnings is the historical practice of this program. The quarterly USDA samples formerly used determined the cash wages earned by both hourly and piece-rate-paid field and livestock workers. The USDA data represented hourly earnings. As some employer-commenters acknowledged, studies of weekly and hourly earnings show that hourly earnings increase and decrease annually and the magnitude of their year-to-year changes is erratic. Average hourly earnings cited by some employers in fact increased by greater percentage than average weekly earnings. Using their suggestion of adjusting hourly AEWRs by the same percentage as changes in average hourly earnings would result in greater increases in AEWRs. The growers also cite factors other than wage rate changes which can affect earnings from year-to-year. However, it is anticipated that these factors would cancel each other out, that poor crop years would be followed by better crop years, and that over time productivity and earnings would change at a steady rate.

(3) The agricultural employers' comments also question the use of ES–202 data on agricultural earnings by other agencies. While the agricultural portion of the ES–202 data series has not yet attained as wide currency as other portions of the data series, this is, in part, due to the relatively recent unemployment compensation coverage of agricultural workers. As cited by the commenters, various portions of the ES–202 data series are used for differing programmatic purposes in a number of

federal programs. This demonstrates the versatility of the data series. When unemployment compensation coverage of agricultural workers will be in place for more years, it is expected that the use of ES–202 data on their earnings will achieve greater utilization for governmental and private statistical purposes.

(4) Employer commenters suggest that the universe of agricultural workers covered by unemployment compensation comprise a "biased sample." The ES–202 data on agricultural workers, however, represents, under BLS estimates, 40 percent of workers in agriculture. At the time such workers first were covered by unemployment compensation, in 1978, the ES–202 data reported an aggregate payroll of reporting units coded agricultural which, according to a comenter, was 58 percent of the agricultural payroll reported by the U.S. Census of Agriculture. Data on earnings paid to such a large portion of workers on agricultural payrolls is not insignificant. DOL has determined that it represents the best data available at this time on wage movements in agriculture.

(5) As noted by a number of employer-commenters, the ES–202 data is listed by the SIC code of the employer. As such, the data includes the agricultural employer's production workers, as well as some nonproduction workers, such as supervisors, office workers, and drivers. The commenters state that these workers are not "similarly employed" to U.S. agricultural workers (see 8 CFR 214.2(h)(3)(i)), and that their cash wages should not be used to adjust AEWRs for agricultural workers. DOL acknowledges that there are some nonproduction workers included in the ES–202 agricultural data series. However, the actual earnings of workers included in the ES–202 program are not being used as the AEWRs. Instead, the AEWRs will be adjusted, upward or downward, by the same percentage as the appropriate portion of the ES–202 data series. DOL has not been persuaded that the wages of nonproduction workers in agriculture rise or fall at any significantly different rate than the wages of production workers in agriculture. Similarly, DOL has not been persuaded that the wages of workers covered by unemployment compensation (and the ES–202 program) rise or fall at any significantly different rate than the wages of workers not covered.

(6) The employer-commenters also alleged there to be a lack of "statistical quality control" of the ES–202 program. The commenters state that the data often are delinquent, and that the SIC classification of some employers is not current. Any delay in the collection and dissemination of the data has been considered in the rule. The rule uses the best available year-to-year changes in the ES–202 data. With respect to SIC classification, there is no reason to believe that the classification of agricultural employers is less than current, given the relatively recent inclusion of those employers in the unemployment compensation and ES–202 programs.

(7) The ES–202 program studies employment in only one week in each month. Employer-commenters stated that year-to-year changes in agricultural activity, due to climatic or other changes can affect this survey. This point is more applicable to USDA's abolished quarterly survey and annual survey, formerly used for adjusting AEWRs. Those surveys measured agricultural employment for one week in each calendar quarter, or for one week in July. Climatic or other shifts in harvest activity could result in a complete lack of data for a particular agricultural activity under those surveys. Under the monthly ES–202 survey, it is likely that two or more survey weeks will occur during even the shortest activity. For example, a comment from an employer organization included an employment profile of an apple grower in Pennsylvania. The apple grower employed seasonal workers with picking employment only for eleven weeks in 1980. Nevertheless, even with a shift of the season by one or more weeks, there would be at least two ES–202 reference weeks. Unlike the USDA data, a moderately shortened season would be surveyed.

(8) Employer-commenters observed that not all the data that should have been included was included in the tabulations for the AEWRs set forth in the proposed rule. BLS' ES–202 data tabulations showed average weekly earnings for each 3-digit SIC code for each State covered by the proposed rule. Due to BLS' disclosure rules, the tabulations contained some empty (nondisclosable) data cells. The commenters suggested that DOL recompute the SEWRs, using aggregate data tabulations covering all six SIC codes. This comment suggests a reasonable method for including the nondisclosable data cells, and therefore DOL is adopting the comment in the final rule.

(9) The proposed rule would have computed the 1983 AEWRs by adjusting the 1981 AEWRs by the same percentage as the change in the appropriate ES–202 data during 1979–81. Since the AEWRs for two years have been kept at 1981 levels in most covered States, it was determined that a two-year yardstick with 1981 as the base be used to adjust the rates for 1983. Some employer-commenters objected to this computation, since the 1981 AEWRs had been determined using the changes in the USDA data for 1979–80. They suggested that this resulted in "double-counting" wage inflation for 1979–80.

This comment is valid, and DOL therefore has modified the language in the final rule to use changes in the best available ES–202 data for 1980–82 as the reference to determine the 1983 AEWRs. This avoids the "double-counting" of wage inflation existent in the proposed rule. The AEWRs under the final rule are set forth in the table above. In the future, only the 12-month change for a one year period would be used.

(10) Both employer and worker commenters objected to the inclusion and exclusion of various SIC codes in the ES–202 data used for the methodology. The employers objected to the inclusion of SIC Codes Nos. 071—"Soil Preparation Services," and 072—"Crop Services," in the average weekly earnings statistic used to adjust the AEWRs. Use of the six three-digit SIC code groups set forth in the rule represents groups including workers for which temporary alien agricultural labor certifications have been granted in the past. It does not include the entire universe of farmworkers covered by unemployment compensation. For the purposes of the Job Service Regulations, including the rule herein, agricultural workers include most workers in SIC Codes 01–07 (except 027, 074, 0752, and 078). Nevertheless, as stated above, DOL has not been persuaded that the inclusion of nonproduction agricultural workers in these data series significantly affects the outcome of the methodology.

Employer and worker comments questioned the exclusion of SIC Code No. 0761 from the list of ES–202 groups. SIC Code No. 0761 includes employment with farm labor contractors and crew leaders. As correctly pointed out by all such commenters, these employers make their unemployment compensation wage reports in their labor supply base States, not necessarily in the State in which the agricultural activity occurred. Since it thereby could distort the earnings changes in the labor supply and labor user States, DOL has determined to exlude this SIC code from the list of SIC code groups used in the AEWRs methodology.

(11) USDA submitted comments on the proposed rule, suggesting an alternative methodology by which AEWRs would be adjusted proportionately to changes in a USDA wage survey planned to begin in 1984. While the new USDA the survey data would be available in 1985, the USDA survey would consist of estimates of wage information. The USDA proposal does not contain a proposal for measuring year-to-year in 1985 and future years. Since 1984 would be the first survey year, no data on changes in wages and/or earnings actually would be available until 1986.

For 1983 and 1984, USDA suggested use of their one week per year wage survey. A number of employer-commenters submitted similar comments.

As stated above, the USDA annual survey of agricultural wages in one week per year provides a less adequate basis to gauge movements and trends in wages. Most of the crop activities for which temporary labor certification is granted do not occur during the annual USDA July survey. As pointed out by many commenters, a shift in an agricultural season, due to other than wage-related factors, can result in erratic movements in the collected data. The ES–202 data, for one week in each month, are much less likely to be affected by such shifts than data collected one week per year or even one week per calendar quarter, as was previously done by USDA. USDA itself has pointed out to DOL the flaws in using data from the UDSA's one week per year farm labor survey as a basis for measuring trends in agricultural wages.

With respect to 1985 and future years, DOL expects to work closely with USDA to determine the appropriateness of the farm labor survey USDA proposes to begin in 1984. If the survey produces a more accurate indication of movements in farm wages, and would better achieve the purposes of the Immigration and Nationality Act and the regulations adopted thereunder, DOL may choose to utilize that survey in determining AEWRs. However, since DOL has been directed by court Order to produce a methodology for determining the 1983 AEWR, it is outside the scope of this rulemaking to determine what methodology may be adopted for 1985 and future years. At this time, the results of the proposed 1984 USDA survey are speculative.

(12) Some employer-commenters suggested alternative methodologies for determining AEWRs considered in this rulemaking and in other recent DOL rulemakings on AEWRs.

Setting a single nationwide AEWR at the Fair Labor Standards Act (FLSA) (29 U.S.C. 206(a)(1)) minimum wage of $3.35/hour, or some multiple thereof, has been considered in this and previous rulemakings. 48 FR 232 (1983); 47 FR 52198, 542199 (1982); 45 FR 15014 (1980); 44 FR 59890 (1979); 43 FR 10312 (1978); 42 FR 4670 (1977). However, use of the FLSA minimum wage rate could make nonimmigrant alien labor more economically attractive to employers than U.S. workers. Based upon currently available data, use of the FLSA minimum wage plus a percentage thereof, or other methodologies such as those comparing the wages of agricultural sector workers with manufacturing sector workers are speculative in their protection against adverse effect, and not fully reflective of wage trends, to the extent that they might not meet the adverse effect protection standards required by the immigration law and regulations.

The proposed rule and the rule adopted herein also are preferred because they are the most readily understandable, reasonable, and consistent with the AEWR adjustment methodology used since 1968. Only the data series by which the AEWR will be adjusted has been changed, due to the unavailability of the previously used USDA data series.

(13) A comment was received from a State employment security agency in a temporary agricultural worker "user State." The agency objected to the combination of Maryland, Virginia, and West Virginia into one unit for gauging changes in the applicable ES–202 data series. The agency believed that the data for each of the three States would be considered equally, with a one-third weight to each. That approach was not suggested in the proposed rule and is not being taken in the final rule. The three-State area will be treated as one unit for gauging wage movements, and therefore the number of workers covered under the ES–202 program in each State will be considered proportionately. If, for example, 60 percent of the covered workforce is in one State, that State will have a 60 percent weight in the computation.

The State agency also questioned the use of a survey including both field and tree crops, stating that the workers are not "similarly employed." That issue has been discussed in slightly different form above. In addition, DOL has determined over the years that in the low-skilled and unskilled crop activities involved in this program, workers can move from crop to crop with a minimal amount of experience and training. Further, as stated above, the earnings set forth in the ES–202 data are not going to be the AEWRs. Rather, the movement of the ES–202 data, upward or downward from year-to year, will be used to determine increases or decreases in the AEWR. DOL has not been persuaded that, over time, earnings of production and nonproducton workers in agriculture, or crop or field workers, rise or fall generally at significantly different rates.

c. *Piece Rates Rule (§ 655.207(c))*

Historically, DOL has determined that workers should not be required to increase their level of productivity in order to earn, at minimum, the hourly AEWR. Conversely, if the employer's piece rate for a particular crop activity allowed the average worker to receive earnings at or above the AEWR, that piece rate has been acceptable. Thus, if average hourly earnings for the average worker in the preceding year equalled or exceeded the applicable AEWR, the piece rate for that crop activity did not need to be raised. See 20 CFR 655.207(c). This interpretation of DOL's regulation on piece rates was reflected in its issuances to ETA regional offices and to State job service agencies. See § A.6.a(3) of Attachment 1 to ETA General Administration Letter (GAL) No. 46-81.

In the two *NAACP, Jefferson County Branch* v. *Donovan* Orders described above, the court held that DOL's interpretation of its own regulation is invalid and ordered that the piece rates be increased each time the AEWRs increase, based upon the productivity in that crop activity in 1977. The 1977 productivity rate is determined by dividing the 1977 AEWR by the piece rate for that crop activity. Under the court's Orders, the current piece rate would be equal to the current AEWR divided by the 1977 productivity rate.

The result of the court's interpretation would have been to guarantee workers earnings at levels above that determined by DOL as the adverse effect level. Employers who paid a higher than average piece rate in 1977, and whose workers received, at that time, earnings far above the adverse effect level, would have been bound to maintain their workers at levels of earnings above the hourly AEWR required by 20 CFR 655.207(b).

While the rule set forth in this document would restore DOL's interpretation of its regulation, as set forth in GAL No. 46–81, described above, the goals of DOL and the plaintiffs in *NAACP, Jefferson County Branch* v. *Donovan* are much the same. Workers should not be required to increase productivity to earn the

applicable AEWR. However, the AEWR is meant to be a minimum, not an escalator to maintain earnings (or to set "attractive" wages) above the adverse effect level.

d. *Comments and Responses on Proposed Piece Rate Rule*

(1) Those employer-commenters which discussed the proposed piece rate rule uniformly preferred the proposed rule over the current court-imposed interpretation of the existing rule. One New York apple grower stated that the court-ordered interpretation of the current rule, based upon 1977 productivity, would result in required hourly earnings of $7.00–$9.00 per worker in its orchard, considerably above the New York AEWR. That grower did suggest the elimination of a piece rate adjustment regulation entirely, allowing growers to take into account the type of picking available due to climatic and other non-wage factors. As stated above in the explanation of the proposed rule, DOL has considered such an alternative, but has determined that the piece rate rule is necessary to avoid requiring workers to increase productivity when there is an increase in the AEWR.

(2) Commenters representing workers, including the plaintiffs in *NAACP, Jefferson County Branch* v. *Donovan*, opposed the proposed amendment of § 655.207(c). They suggested that the judicial interpretation of the current rule be retained, resulting in maintenance of earnings at a level above the AEWR.

As discussed above, the purpose of the AEWR and the piece rate adjustment is to protect U.S. workers' wages from the adverse effect of temporary employment of nonimmigrant aliens. That protection is effected by establishing an adverse effect floor. Employers are free to pay more and workers are free to seek more wages, but the labor certification program is not the appropriate means to escalate agricultural earnings above the adverse effect level or to set an "attractive" wage.

Although the court in the above-referenced matter expressed its interpretation of 20 CFR 655.207(c), that interpretation is not the policy historically and uniformly held by DOL. While the commenters submitted copies of internal DOL policy statements supporting their position, DOL has issued other policy statements, such as the GAL No. 46–81 cited above, which express the policy set forth in the proposed rule. Applying the best light to the comments, DOL's policy on adjustments to piece rates has been unclear. The purpose of this rulemaking is to clearly define that policy.

In 1976, the U.S. Court of Appeals for the Fifth Circuit had before it the question of whether it is proper for piece rates to be permitted at a level that earns the applicable AEWR. The court considered and approved of DOL's piece rate adjustments, which maintain the AEWR as a floor rather than an earnings escalator, noting that "(n)owhere is there a requirement that piece rates be in *excess* of the adverse effect minimum wage." *Williams* v. *Usery, supra*, 531 F. 2d at 308; see 20 CFR 655.0(e) (1983); and 20 CFR 602.10b(a)(2) (1976).

As historical justification, the commenters also referred to DOL's rulemaking, terminated in 1981, which would have made the commenters' suggestion the Department's policy. See 45 FR 15914, 15918 (March 11, 1980); 46 FR 4568, 4573, and 4578–79 (January 16, 1981). Upon further consideration of the issues, that rule was withdrawn before its effective date. 46 FR 32437 (June 23, 1981). The commenters suggest that the withdrawn rule expressed DOL's historical policy on piece rate adjustments. The fact that the rule was withdrawn at least equally indicates DOL's ultimate rejection of such an earnings escalation approach as the agency's piece rate policy. In any event, as the court noted in *NAACP, Jefferson County Branch* v. *Donovan*, there are "potential dangers of relying for authority upon the morals of legislation and regulations that have *not* been passed." 558 F. Supp. 218, n. 6 (D.D.C. 1982).

(3) Worker-commenters questioned the use of the term "average worker" in the piece rate regulation. They stated that since the statute is designed to protect the wages and working conditions of U.S. workers, average worker productivity should be limited to average U.S. workers. This was the intent of DOL in the proposed rule. Nevertheless, for clarification purposes the final rule adds "U.S." before the word "average" where it appears in § 655.207(c).

(4) Worker-commenters question the use of average worker productivity, stating that U.S. workers may be terminated from the employment for failing to achieve this average. DOL has also considered these comments separately, and as balanced against the comments submitted by employer-commenters in previous rulemakings on piece rates, in which the employers state that the average worker concept causes piece rates to rise. DOL has determined that the piece rates must be adjusted as necessary to avoid requiring workers to increase productivity to earn, at minimum, the AEWR. Any other forces which might apply to increase productivity are outside the scope of this rulemaking. DOL is not persuaded that U.S. workers are any less capable agricultural workers than imported aliens. Further, any productivity or termination standard which applies to U.S. workers must be applied equally to their employers alien workers. 20 CFR 655.202(a) (1983).

e. *Publication of a Separate AEWR for Other than Sugar Cane Work in Florida (§ 655.207(b)(2))*

The rule would establish an AEWR for agricultural employment in Florida. A separate AEWR would continue to be set for Florida sugar cane work. Nonimmigrant aliens were admitted in 1982 for lettuce picking in Florida. To avoid the adverse effect which employment of such aliens would have on the wages of similarly employed United States workers, it has been DOL's practice in the past to establish computed AEWRs when there has been employment of such aliens in a State. An unpublished AEWR for Florida (other than sugar cane) has been computed, using USDA data, for many years. The 1981 AEWR computed by that earlier methodology would be the base for Florida, and the 1983 AEWR would be set according to the same ES–202-based methodology set forth in the rule below.

No comments were received with respect to this proposed rule and has been adopted in the final rule.

f. *Technical Amendments*

Other technical amendments, such as establishing the date by which AEWRs annually must be announced and published, are necessitated by the second Order in *NAACP, Jefferson County Branch* v. *Donovan*, and are set forth in the rule below. No comments were received with respect to these technical amendments and they are being adopted in the final rule.

3. AEWR Methodologies in the Future

This rulemaking meets the critical need, created by the recent Orders in *NAACP, Jefferson County Branch* v. *Donovan*, and the impending 1983 harvest season, to set AEWRs for 1983 and does not foreclose a determination by DOL to institute in later years other changes in the AEWR regulations.

III. Discretion in Setting AEWRs

Section 214(c) of the Immigration and Nationality Act gives the Attorney

General (and his designee INS) broad discretion in the admission of nonimmigrant aliens to the United States. 8 U.S.C. 1184(c). With respect to determinations under the immigration laws on the availability of United States workers for jobs offered to nonimmigrant alien workers, and the adverse effect those aliens' employment may have on the wages and working conditions of similarly employed United States workers, the Secretary of Labor and DOL have been given broad discretion. See, *e.g.*, 8 CFR 214.2(h)(3)(i). This broad discretion, particularly with respect to methodologies for setting AEWRs under the immigration laws, has been recognized in the federal appellate and district courts. *Rowland* v. *Marshall*, 650 F. 2d 28 (4th Cir. 1981); *Williams* v. *Usery*, 531 F. 2d 305 (5th Cir. 1976), *cert. denied*, 429 U.S. 1000; *Florida Sugar Cane League* v. *Usery* 531 F. 2d 299 (5th Cir. 1976); and *Limoneira C.* v. *Wirtz*, 327 F. 2d 499 (9th Cir. 1964), *aff'g* 225 F. Supp. 961 (S.D. Cal. 1963); *see also Elton Orchards, Inc.* v. *Brennan*, 508 F. 2d 493 (1st Cir. 1974); and *Flecha* v. *Quiros*, 567 F. 2d 1154 (1st Cir. 1974). These decisions acknowledge DOL's discretion in the area of AEWRs and form the basis for construction of DOL's temporary alien labor certification regulations. *See* 20 CFR 655.0(e).

Since this is an area in which DOL has great "discretion to reach a number of different results rather than an area of pure statutory interpretation as to which there is in theory only a single answer", DOL is adopting the rule below. *See Building & Construction Trades' Department, AFL–CIO* v. *Donovan*, No. 83–1118, —— F. 2d —— (D. C. Cir. July 5, 1983), Slip Op. at 15.

While the rule would change the data series by which wage movements are charted and applied to AEWRs, it is within DOL's discretion to make such a change. Similarly, the revision of the piece rate regulation to reflect the original intent of DOL, and to protect U.S. workers' wages, at minimum, at an adverse effect level, is well within DOL's statutory and regulatory discretion. As the D.C. Circuit stated in *Building & Construction Trades' Department, AFL–CIO* v. *Donovan, supra*, "prior administrative practice carries much less weight when reviewing an action taken in the area of discretion, when little more than a clear statement is needed, than when reviewing an action in the field of interpretation, where it is thought that the agency's contemporaneous and consistent interpretation of one of its enabling statutes is reliable evidence of what Congress intended." Slip Op. at 15–16.

IV. Effective Date

Both the revision of § 655.207(b) and the revision of § 655.207(c) are effective on the date they are published in the **Federal Register**. After full consideration of all the relevant factors, and for good cause found, DOL has determined that it would be impracticable, unnecessary, and contrary to the public interest to delay the effective date of either revision. See 5 U.S.C. 553(d)(3).

With respect to § 655.207(b), on June 28, 1983, DOL was enjoined by the United States District Court for the District of Columbia from granting temporary alien labor certifications for 1983 agricultural employment to any employer which did not agree to pay the 1983 AEWR for all work performed in the 1983 harvest season. All employers whose certifications have been granted after that date have agreed to pay that AEWR, whenever set, for all 1983 work. Since the AEWR would be both retroactive and prospective, the actual date when the revision of the AEWR regulation (§ 655.207(b)) occurs is procedurally immaterial. Practically, however, the great bulk of the 1983 harvest activity is fast approaching. To avoid, to the greatest extent possible, retroactive application of wage rates, it is in the public interest to make the rule effective upon publication.

Retroactive application of wage rates can have adverse impacts on both employers and workers. Employers must go through the time and expense of recomputing back pay, and of locating workers who have left the employment (a more troubling issue if wages are set after the season). Workers who have left the employment may lose wages if they cannot be located by the employer, and all covered workers lose the use of the wages for the back pay period.

With respect to the regulation governing piece rates, 20 CFR 655.207(c), DOL also has found there to be good cause to make the revised regulations effective upon publication in the **Federal Register**. The United States District Court for the Western District of Virginia has ordered DOL to "immediately, but in no event later than September 1, 1983, promulgate in final form in the **Federal Register**, its clarifying interpretation of the piece rate adjustment requirements * * * proposed in the **Federal Register** on June (*sic*) 22, 1983 and identified therein as proposed section 20 CFR 655.207(c)." Given the explicit language of that Order, DOL finds it impracticable, unnecessary, and contrary to the public interest as expressed by the court to delay the effect of the proposed revision.

Further, the great majority of the 1983 harvest activities are fast approaching. To avoid, to the greatest extent possible, changes in piece rates paid to workers, it is necessary that the revised rule be in place immediately. To do otherwise would permit discriminatory treatment of agricultural employers. With a delayed effective date, those growers whose harvest seasons occur early would be required at first to pay piece rates under a different methodology than that required of growers whose seasons occur later. Balancing the economic interests of the growers and the workers, as required by law, DOL has determined that the most practicable course is to make the revised regulation effective upon publication. See *Rogers* v. *Larsen*, 563 F. 2d 617, 628 (3rd Cir. 1977); *Flecha* v. *Quiros*, 567 F. 2d 1154, 1156–57 (1st Cir. 1977).

Development of Final Rule

This final rule was developed under the direction and control of Mr. Richard C. Gilliland, Director, United States Employment Service, Room 8000—Patrick Henry Building, 601 D Street, NW., Washington, D.C. 20213.

Regulatory Impact

The rule affects only those employers using nonimmigrant alien workers in temporary agricultural jobs in fourteen States. It does not have the financial or other impact to make it a major rule, and, therefore, the preparation of a regulatory impact analysis is not necessary. See Executive Order No. 12291 (February 17, 1981).

At the time the proposed rule was published, the Department of Labor notified the Chief Counsel for Advocacy, Small Business Administration, and made the certification pursuant to 5 U.S.C. 605(b), that the rule will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act. It will not necessitate increased labor costs for employers whose workers now earn above the 1983 AEWR due to their productivity. Further, it applies only to the small number of employers who employ nonimmigrant aliens in agricultural jobs in the fourteen States.

Catalogue of Federal Domestic Assistance Number

This program is listed in the *Catalogue of Federal Domestic Assistance* at Number 17.202, "Certification of Foreign Workers for Agricultural and Logging Employment".

List of Subjects in 20 CFR Part 655

Administrative practice and procedure, Agriculture, Aliens, Employment, Forests and forest products, Guam, Labor, Migrant labor, Wages.

Promulgation of Final Rule

PART 655—[AMENDED]

Accordingly, Part 655 of Chapter V of Title 20, Code of Federal Regulations, is amended by revising paragraphs (b) and (c) of § 655.207 thereof, to read as follows:

§ 655.207 Adverse effect rates.

* * * * *

(b)(1) For agricultural employment (except sheepherding) in the States listed in paragraph (b)(2) of this section, and for Florida sugar cane work, the adverse effect rate for each year shall be computed by adjusting the prior year's adverse effect rate by the percentage change (from the second year previous to the year previous) in the ES–202 report's aggregate average weekly wage rates for the appropriate group of agricultural workers. The appropriate group of workers shall be those U.S. agricultural workers employed by establishments in Standard Industrial Classification (SIC) Code Nos. 013, 016, 017, 019, 071, and 072 within that State (except that for purposes of wage movement, but not actual adverse effect rates, New York, Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont shall be considered as one State, and Maryland, Virginia, and West Virginia shall be considered as one State). The Administrator shall publish, in each calendar year, on a date he shall determine, adverse effect rates calculated pursuant to this paragraph (b) as a notice in the **Federal Register.**

(2) *List of States.* Arizona, Colorado, Connecticut, Florida (other than sugar cane work), Maine, Maryland, Massachusetts, New Hamsphire, New York, Rhode Island, Texas, Vermont, Virginia, and West Virginia. Other States may be added as appropriate.

(3) *Transition.* Notwithstanding paragraph (b) (1) and (2) of this section, the 1983 adverse effect rate shall be computed by adjusting the 1981 adverse effect rate by the percentage change in appropriate ES–202 average weekly wages from 1980 to 1982. The adverse effect rate for a State, set by this paragraph (b), shall be the highest of the rate computed by this methodology in paragraph (b) or the rate applied in the State in 1981 or 1982. Pursuant to the Order in *NAACP, Jefferson County Branch* v. *Donovan,* Civil Action No. 82–2315 (D.D.C. June 28, 1983), the 1982 adverse effect rate for West Virginia was $4.24.

(c) *Piece rate adjustments.* In any year in which the applicable adverse effect rate increases to the point where the employer's previous year's piece rate in a crop activity will not enable the average U.S. worker's hourly earnings to equal or exceed the new applicable adverse effect rate without requiring the average U.S. worker to increase productivity over the previous year, the employer shall increase the piece rate to a level at which the average U.S. worker would earn at least the adverse effect rate. If, at the employer's previous year's piece rate for that crop activity, the average U.S. worker's hourly earnings equalled or exceeded the adverse effect rate, no adjustment to that piece rate would be required. The Regional Administrator shall determine the average U.S. worker's hourly earnings by obtaining from employers in the area of intended employment information as to the piece rates, earnings, hours worked, and productivity of U.S. workers, in a manner to be determined by the Administrator.

* * * * *

Authority: Secs. 101(a)(15)(H)(ii) and 214(c) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii) and 1184(c)); 8 CFR 214.2(h)(3)(i).

Signed at Washington, D.C., this 31st day of August 1983.

Raymond J. Donovan,

Secretary of Labor.

[FR Doc. 83–24258 Filed 9–1–83; 8:45 am]

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September 2, 1983

Part VII

Department of the Interior

Fish and Wildlife Service

Determination of Endangered Status and Critical Habitats for Two Fish Species; Ash Meadows, Nevada; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination of Endangered Status and Critical Habitats for Two Fish Species in Ash Meadows, Nevada

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines the Ash Meadows speckled dace and the Ash Meadows Amargosa pupfish to be Endangered species and designates their Critical Habitats. This action is being taken because these species are restricted to the Ash Meadows region and ground water basin in Nye County, Nevada, where they are facing intensifying threats. Imminent land development for housing subdivisions, clearing of land for road construction and agricultural purposes, pumping of ground water, and diversion of surface flows threaten the integrity of the species' habitat and therefore their survival. This action will result in the permanent placement of protective measures imposed by the January 5, 1982, emergency listing of these species as Endangered.

DATES: This action is effective on September 2, 1982. This early effective date is necessary because the emergency rule expires on September 2, 1983.

ADDRESSES: Questions concerning this action may be addressed to the Regional Director, U.S. Fish and Wildlife Service, Lloyd 500 Building, Suite 1692, 500 NE. Multnomah Street, Portland, Oregon 97232.

FOR FURTHER INFORMATION CONTACT: Mr. Sanford R. Wilbur, U.S. Fish and Wildlife Service, Lloyd 500 Building, Suite 1692, 500 NE. Multnomah Street, Portland, Oregon 97232 (503/231–6131) or Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–2771).

SUPPLEMENTARY INFORMATION:

Background

The Ash Meadows Amargosa pupfish *(Cyprinodon nevadensis mionectes)* and the Ash Meadows speckled dace *(Rhinichthys osculus nevadensis)* are found only in the Ash Meadows basin and require the integrity of its physical environment and maintenance of spring, surface, and subsurface flows for their survival. The Ash Meadows speckled dace was described as a full species *(Rhinichthys nevadensis)* by Gilbert (1983) based on material collected in 1891 (La Rivers, 1962). It was later designated a subspecies of *Rhinichthys osculus* by Hubbs and Miller (1948). *Cyprinodon nevadensis mionectes* was described by Miller (1948) based on specimens collected in 1937 and 1942.

An emergency rule published in the **Federal Register** (47 FR 19995) on May 10, 1982, listed these fishes as Endangered for a period lasting 240 days, expiring on January 5, 1983. A second emergency listing and a proposal of Endangered status and Critical Habitats for these two fish species under normal listing procedures were published concurrently on January 5, 1983 (48 FR 608). Development of the proposal was delayed as a result of uncertainties concerning changes in listing procedures specified by the 1982 Amendments to the Endangered Species Act.

Public hearings on the proposal to list and to designate Critical Habitats for the Ash Meadows Amargosa pupfish and the Ash Meadows speckled dace were held in Las Vegas, Nevada, on February 11, 1983, and in Amargosa, Nevada, on May 26, 1983. The testimony recorded at those hearings and all written comments received by June 2, 1983, are part of the public record and have been carefully considered in the drafting of this final rule.

The Ash Meadows region is a unique and diverse desert wetland located east of the Amargosa River. These wetlands are maintained by flow from several dozen springs and seeps that are fed by an extensive ground water system extending more than 167 km (104 miles) northeast of Ash Meadows. Hundreds of plant and animal species, many of them endemic, are associated with these wetlands and depend upon them for survival.

The Ash Meadows Amargosa pupfish and Ash Meadows speckled dace are restricted to the large warmwater springs and related outflows of Ash Meadows. The pupfish inhabits the pools and outflows of Fairbanks, Rogers, Longstreet, Jack Rabbit, Big, and Point of Rocks Springs; Crystal Pool; three unnamed springs just southeast of Longstreet Spring; and the two westernmost springs of the Bradford Springs group. These springs are at elevations ranging from 655 to 700 m (2149 to 2297 feet) and are generally oriented along an imaginary line running 16 km (10 miles) from Fairbanks Spring to Big Spring. Water temperatures of the springs are consistently 24° to 30°C (75° to 86°F). Flowing water of spring outflows is preferred by the speckled dace. Although formerly inhabiting much of the interconnected surface drainage in Ash Meadows, dace populations have been severely reduced and are now restricted to springs and outflows of Jack Rabbit Spring, Big Spring, and the two westernmost springs of the Bradford Springs group. A number of exotic species, such as mosquitofish and black mollies, have been introduced to these springs and compete with the native fishes.

Many other plant and animal species that are candidates for listing as Endangered or Threatened are endemic to Ash Meadows. The Service proposed the Ash Meadows turban snail (*Fluminicola erythropoma*) as Threatened on April 28, 1976 (41 FR 17742). That proposal was withdrawn on December 10, 1979 (44 FR 70796), as a result of the 1978 amendments to the Endangered Species Act. Current evidence indicates that this species, as proposed, actually comprised more than one species. The springs and streams in Ash Meadows have an extraordinarily diverse freshwater mollusk fauna, which is currently being studied by Dr. Dwight Taylor of Tiburon, Californa. Of special interest is the presence of two species flocks or complexes of snails that are found within a 5-mile radius in Ash Meadows and give Ash Meadows the highest concentration of endemic species in the United States. Most of the mollusk species have not been scientifically described and named.

Two endemic Ash Meadows fishes, the Devil's Hole pupfish (*Cyprinodon diabolis*) and the Warm Springs pupfish (*Cyprinodon nevadensis pectoralis*), are already listed as Endangered. The Devil's Hole pupfish's natural distribution is restricted to Devil's Hole, a disjunct portion of Death Valley National Monument. The Warm Springs pupfish occurs only in small nearby springs at an elevation of about 710 m (2330 feet).

The Point of Rocks Springs naucorid (*Ambrysus amargosus*) is an insect that has been recorded living only in Point of Rocks Springs.

A general notice of review on candidate plants in the December 15, 1980, **Federal Register** (45 FR 82479) included seven plant taxa that are restricted to Ash Meadows. These taxa and their edaphic associations are as follows: The spring-loving centaury (*Centaurium namophilum* var. *namophilum*) and Ash Meadows vesia (*Ivesia eremica*) are restricted to wet clay soils of spring areas ivesia and stream banks; the Amargosa niterwort (*Nitrophila mohavensis*) is found only on undisturbed, salt-encrusted, heavy

alkaline mud flats in the Carson Slough area in Inyo County, California; the Ash Meadows gum plant (*Grindelia fraxinopratensis*) occurs in small populations in relatively undistributed moist to wet clay soils of spring areas and stream banks, and is often associated with the spring-loving centaury; the Ash Meadows blazing star (*Mentzelia leucophylla*) is associated with desert washes in coarse-grained, water-sorted, alkaline soils; the Ash Meadows milk-vetch (*Astragalus phoenix*) occurs in washes and on flats and low knolls in fine-grained, clay-like soils; and corrugated sunray (*Enceliopsis nudicaulis* var. *corrugatum*) occupies strongly alkaline and often poorly drained soils in several localities. An additional species in that review, the tecopa birds-beak (*Cordylanthus tecopensis*), has a wider but still restricted distribution that includes Ash Meadows.

Early homesteaders attempted to farm Ash Meadows using the free-flowing water from the springs for irrigation. These efforts failed because the salty, clay soils were not suitable for crops.

Agricultural practices in the late 1960's and early 1970's resulted in large tracts of land being plowed and the installation of ground water pumps and diversion ditches to support a cattle-feed operation. These practices resulted in the destruction of many populations of plants and animals and their wetland habitats by alteration of the land surface and lowering of the water table. In 1976, the Supreme Court limited the amount of ground water pumping in Ash Meadows to ensure sufficient water levels in the only known habitat of the Endangered Devil's Hole pupfish. The agricultural interests in Ash Meadows sold approximately 36 square km (14 square miles) of land to a real estate developer, Preferred Equities Corporation (PEC), in 1977.

While the Bureau of Land Management (BLM) is the principal landowner in Ash Meadows, PEC owns most of the surface water rights, which are currently designated for municipal use. Ground water pumping would be required to develop and support municipal and agricultural activities.

The initial phase of construction, when completed, would result in the destruction of Crystal Pool, Point of Rocks and Jack Rabbit Springs, and would possibly lower the level of other springs by ground water pumping. PEC's activities have already substantially altered surface flows and spring hole morphometry at these sites. The amount of land that would be altered for housing is unknown. PEC has recently constructed a multi-land road connecting Ash Meadows at Point of Rocks Spring with Pahrump Valley, a connecting section of road (2 miles long and 80 feet wide) north of Jack Rabbit Spring, and a new road (1.5 miles long and 30 feet wide) east of Crystal Pool. In addition, approximately 1,000 acres of cotton have been planted west of Point of Rocks Spring.

Summary of Comments and Recommendations

Comments received through June 2, 1983, on the proposed listing of these 2 fishes are summarized below. Comments were received from 50 parties, including individuals, organizations, and government agencies. Twelve of these parties presented comments for the record at the first public hearing, and 13 parties submitted comments at the second public hearing. Comments by 8 individuals on the first emergency listing that also addressed final listing are included in this summary of comments.

The Nevada Legislature Federal Regulation Review Committee expressed concern about private property rights in Ash Meadows and that the proposed listings would create a *de facto* wildlife refuge and preclude development of adjacent private lands. The Service responds that Critical Habitat designation does not establish a *de facto* wildlife refuge or mandate wilderness-like management restrictions. Many activities can take place within Critical Habitat areas without being consistent with the conservation of Endangered species. Moreover, Critical Habitat designations are required, in most cases, to accompany the listing of species under the Act and serve as official notification to Federal agencies that their responsibilities under Section 7 of the Act are applicable in a certain area.

The Nevada Department of Wildlife supported the proposed rule on the two fishes and submitted status reports based on their recent field surveys of these species. These reports verify the distributional data and general assessment of threats and population decline presented in the proposed rule on these species. The reports also recommend that these species' status as "protected" under State law be changed to "endangered." The report on the Ash Meadows speckled dace includes populations outside Ash Meadows in the subspecies *Rhynichthys osculus nevadensis*. The Service, however, follows the treatment of this species published in the scientific literature which recognizes only those populations within Ash Meadows as belonging to that subspecies. The reports also emphasize the potential of Ash Meadows as habitat for migratory waterfowl and upland game.

The Nye County Department of Planning presented extensive comments on the proposed rule that will be addressed individually. First, the Department commented that PEC's lands are privately owned and that they are not under Federal jurisdiction. The Service reponds that the Endangered Species Act of 1973, as amended, only precludes Federal agencies from authorizing, funding, or carrying out activities that are likely to jeopardize the continued existence of a listed species or adversely modify its Critical Habitat. Unless a proposed private action requires such Federal approval or funding, it would not be precluded by Section 7 of the Act. The taking prohibitions in Section 9, however, are not so limited as to require a Federal nexus, and could apply to purely private actions that result in the taking of an Endangered species.

The Nye County Department of Planning and one individual cited the abundance of pupfish in some springs and questioned the designation as Endangered of a species existing in such numbers. Section 3 of the Act defines "Endangered species" as "any species which is in danger of extinction throughout all or a significant portion of its range." The Ash Meadows Amargosa pupfish is in danger of extinction throughout a significant portion of its range, which is very small. Its overall population numbers are small as well.

The Nye County Department of Planning and Mr. Jack Soules, President of PEC, commented that the Service had not completed an economic analysis of the proposed listing and Critical Habitat designation for the two fishes. Mr. R. Trent McAuliffe of American Borate Company requested that a study of the economic impacts of the listings be made. The Service replies that the 1982 amendments to the Act require that determinations to list species as Threatened or Endangered be based solely on the best available scientific and commercial information on the species. Economic impacts are not allowed to be considered in making a listing determination. The Act specifies, however, that the economic impact of designating a particular area as Critical Habitat must be considered. The Service accordingly has prepared an economic analysis of the areas determined in this rule to be Critical Habitat.

The Nye County Department of Planning also questioned whether some engineering solution might provide sufficient water for fish habitat and, at

the same time, provide sufficient water flow for PEC's development. The Service recognizes that in many cases engineering modifications can reduce the impact of construction projects on wild plant and animal populations. The Service, however, believes that the water demand that would be created by PEC's proposed development would place far greater stress on native fish populations than could be alleviated by engineering procedures.

The Nye County Department of Planning commented that the Service had not substantiated the threat of PEC's planned development to the two fishes. In a related comment, Mr. Jack Soules stated that in no instance do PEC's water permits exceed free spring flows. The Service responds that its evaluation of these threats is based on modifications of springs and outflows observed by Service personnel. The Service's assessment of future threats if development were to proceed is based on PEC's published brochures and the projected water demands of a development of the magnitude indicated by PEC's plans.

The Nye County Department of Planning further commented that past human practices have increased fish habitat in some areas in Ash Meadows as well as reduced it. The Service responds that the *net* severe loss of habitat for the two fishes has been well documented by Service, State, and university biologists.

The Nye County Department of Planning questioned the Service's statement in the proposed rule that Ash Meadows' terrestrial habitats were as fragile as its aquatic habitats. The Service responds that this statement was included in background information on other species in Ash Meadows that are candidates for listing and did not necessarily refer to the fishes then proposed as Endangered. The Service notes that desert habitats in general are fragile and that all the candidate plants in Ash Meadows are dependent on ground water flows that would be disrupted a development of the magnitude proposed by PEC.

The Nye County Department of Planning commented that the Service was incorrect in its assertion that PEC's plans call for direct modification of spring habitat because in most cases these springs are scheduled for inclusion in park or open areas. The Service responds that these springs and outflows would still be modified, and that it cannot be assured that inclusion of these modified springs in park areas would be adequate to ensure that these areas persist as appropriate habitat for the two fishes.

The Nye County Department of Planning also questioned the Service's statements on the nature of the Ash Meadows ground water system and the effect of pumping on ground water levels. The Service has based its evaluation of these matters on Geological Professional Paper 927: "Effect of Groundwater Pumping on Desert Pupfish Habitats in Ash Meadow, Nye County, Nevada" (Dudley and Larson, 1976).

In addition, the Nye County Department of Planning and Mr. Jack Soules questioned the Service's statement that a portion of PEC's planned development is already precluded by the extent of PEC's water ownership. The Service responds that this statement is based on a comparison of projections of water needed by PEC's planned development with the amount of water rights currently held by PEC.

The Nye County Department of Planning commented that the Service's stated intention to use, if necessary, the protective provisions of Section 9 of the Act to protect these fishes constituted a lack of responsiveness on the part of the Service to a mediated solution. The Service replies that the stated applicability of Section 9 was necessary to inform the public about potential liability under the Endangered Species Act that may result from ongoing activities modifying spring and stream habitat. The Service is required by law to enforce the provisions of the Act and that statement in the proposed rule merely reflected that obligation.

The Nye County Department of Planning commented that the Service has not coordinated to a significant extent with other Federal agencies and local and private interests. The Service replies that it has solicited input from other Federal agencies, State and local governments, and private interests through the holding of two public hearings and associated comment periods on the proposed rule. Moreover, the Service has had extensive discussions with the Bureau of Land Management regarding conservation alternatives for the two fish.

The Nye County Department of Planning and several other parties commented on a possible land exchange as a means of bringing Ash Meadows under public ownership and protection. The Service notes that such an exchange is an issue separate from the determination of Endangered status and Critical Habitats for the two fishes. Designation of Endangered or Threatened species must be based on the best available information concerning the threats to their existence. To date, extensive efforts to reach agreement on an exchange have failed, so the Service is warranted in considering the significant threats to the habitat of these two fishes.

The Nye County Board of Commissioners requested the Service to lift its "240-day moratorium in place at Ash Meadows." The Service assumes that the Commissioners refer to the 240 days duration of the emergency rule that listed the two fishes and designated their Critical Habitats. That rule does not constitute a moratorium on all development in Ash Meadows. Many actions that would not result in the taking of these species could take place without violation of the Act.

Mr. Jack Soules of PEC commented that the Nevada Water Resources Division ordered flumes installed at the springs on which PEC held water permits. He further stated that the construction required to install these devices did not appear to harm pupfish populations. The Service notes that these disturbing activities harm native fish populations by making the habitat more suitable for their exotic competitors and by forming barriers to recruitment of individuals from downstream habitats into the spring pools. The Service also observes that the extent of habitat damage to the spring pools was greater than that required to install the measuring devices.

Mr. Soules commented that PEC had sustained monetary loss and loss of use of its property as a result from the emergency listings of the fishes. While acknowledging that some economic loss may occur, the Service responds that these listings prohibit only those activities that would result in the taking of any of the two fishes. The Service offered PEC some alternatives that would have allowed initial phases of construction to proceed without causing further taking of any of the two fishes. These alternatives included boundary zones of specified dimensions around spring and stream habitat and stipulations that water not be removed from springs or streams to an extent that would detrimentally affect the two fishes. Mr. Soules further commented that economic effect should be a serious consideration in these listings. The Service responds that the 1982 amendments to the Act clearly state that listings should be based solely on the best available scientific and commercial information and that economic considerations should not affect listing decisions. Economic impacts, however, must be considered when Critical Habitat is designated. The Service has prepared an economic analysis of the

designation of the two fishes' Critical Habitats, as mentioned earlier in this summary of comments.

Mr. Soules stated that he opposed the listing as proposed and that the listing of Endangered species in Ash Meadows should be limited to populations on public land. The Service responds that the provisions of the Act apply to private as well as public lands and that, in the case of the two fishes covered by this rule, the vast majority of their habitat is located on private lands. Protecting only those populations on public land would not be sufficient to ensure the survival of these species and thus would not be consistent with the requirements of the Act.

Comments in support of the listing of the two fishes were submitted by 15 organizations. These organizations are the Desert Fishes Council, the American Society of Ichthyologists and Herpetologists, Friends of Wildlife, the Toiyabe Chapter of the Sierra Club, the Las Vegas Group of the Sierra Club, Nevada Endangered and Threatened Plant Workshop, Elsa Wild Animal Appeal, Defenders of Wildlife, Northern Nevada Native Plant Society, Ecology Center of Southern California, Western Division of the American Fisheries Society, Nevada Wildlife Federation, National Wildlife Federation, and Citizen Alert. The comment from the Elsa Wild Animal Appeal indicated that the organization had collected over 500 signatures in support of the listing. The comments from the Desert Fishes Council noted that its members had witnessed the continuing decline of Ash Meadows' native fishes.

Thirty-two comments in favor of the listing were submitted by individuals. One of these comments included the names of 46 additional individuals who were reported to support the listing.

Several organizations and individuals commented that the proposed Critical Habitats were not large enough to conserve the fishes. These comments were mainly based on the influence that ground water withdrawal in the aquifer may have on the fishes. The Service recognizes the need for stable ground water levels in the aquifer, but finds that a large area cannot be designated as Critical Habitat within the qualifications set by the Act. The Service notes, however, that the protective provisions provided by the Act also apply to activities taking place outside of the Critical Habitat if those activities result in the taking of a listed fish, or, in the case of Section 7, if Federal activities may affect a listed fish.

Several comments pointed out the existence and need for protection of other unique species and habitats in Ash Meadows besides the two fishes. The Service is aware of these endemic plant, insect, and mollusk species and is currently preparing documents to propose Endangered or Threatened status for them.

The Defenders of Wildlife urged the Service to require the Bureau of Land Management to consult with the Service with regard to a land exchange with PEC. The Service responds that it cannot force consultation on a Federal agency if the agency does not request it. Moreover, it would be premature to initiate consultation at this time since there is not a concrete proposal that has developed regarding a land exchange that could be the focus of consultation.

One individual commented that careful management will be required to save the two fishes and that PEC's development will, if completed, cause the fishes' extinction. That individual also noted that these fishes are of exceptional value to technology because of their abilities to exist in extreme conditions of temperature and salinity.

One individual commented that the observed effect of ground water pumping on Devil's Hole in the past demonstrates the effect that renewed pumping will have on the spring habitat of the two fishes.

Two individuals commented that water supplies would not be adequate to ensure the future of the two fishes if PEC's planned development were built.

One individual commented that one Ash Meadows native fish, the Ash Meadows killifish, is already extinct and that the two fishes that are subjects of this rule have declined greatly in distribution and abundance. This individual also commented that the Ash Meadows speckled dace is difficult to census because of its nocturnal habits and therefore local extinctions might occur before conservation measures can be taken.

Two individuals commented that they had witnessed private development in Ash Meadows and the resulting destruction of habitat and decline in native fish populations.

Mr. Trent McAuliffe of American Borate Company requested that there be a 30- to 60-day extension of the public comment period on the proposal and that a public workshop be held on the proposal. Two additional individuals commented that the public was allowed little opportunity for input on the proposal, and one of these individuals requested an extension of the comment period. The Service responds that a public hearing, if requested within 45 days of the date of the proposal, and a 60-day comment period on a listing proposal are required by the Act. In the case of the proposal on the two fishes, the Service has exceeded these requirements by holding two public hearings and accepting public comments for periods exceeding 145 days.

Mr. McAuliffe also requested that areas outside of the Critical Habitats that will require management considerations be described. The Service responds that only those activities that result in the taking of any of the two fishes would be prohibited under Section 9 of the Act. Such proscribed activities could include the physical destruction of the fishes' spring habitats and their associated riparian vegetation as well as pumping of ground water to an extent that spring levels are drawn down or their flows reduced, and such reduction results in the death or actual injury of a listed species.

Two individuals questioned why the two fishes, which are recognized as subspecies, should be protected when the ranges of the biological species of which they are members are large. The Service responds that the Act requires Federal agencies to seek to conserve Endangered and Threatened species, and that the Act's definition of "species" includes subspecies and vertebrate populations.

One individual commented at the second public hearing that some interested persons could not attend the hearing. The Service notes that written comments were accepted at the public hearing and that the proposal and hearing notice identified the comment periods and the office to which written comments could be submitted.

One individual suggested that listings be based on a vote by local residents. The Service responds that the Act requires that listings be based on the best available scientific and commercial information and that responsibility for listing determinations on freshwater fishes has been assigned to the Service.

One individual suggested that the Department of the Interior use the power of eminent domain to condemn and purchase PEC's holdings in Ash Meadows. The Service responds that it prefers not to employ these powers while alternative means exist for preserving these fishes and their habitat.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act of 1973, as amended, provides for a review of the five factors below when listing (or reclassifying or delisting) a species:

A. The present or threatened destruction, modification, or curtailment of its habitat or range;

B. Overutilization for commercial, recreational, scientific, or educational purposes;

C. Disease or predation;

D. Inadequacy of existing regulatory mechanisms; and

E. Other natural or manmade factors affecting its continued existence.

On January 5, 1983 (48 FR 617–625), the Fish and Wildlife Service proposed that the Ash Meadows Amargosa pupfish and the Ash Meadows speckled dace be listed as Endangered species. The proposal included a summary of the factors thought to be contributing to the likelihood that these species are Endangered, specified the prohibitions that would be applicable if such a determination were made, and solicited comments, suggestions, objections, and factual information from any interested person. Based upon careful analysis of all public comments, testimony at the public hearings, and all other available pertinent information, the Service believes that summary remains valid, as reprinted below:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The Ash Meadows Amargosa pupfish and the Ash Meadows speckled dace are endemic to the Ash Meadows basin and depend upon the integrity of this fragile ecosystem for their survival. These species require undisturbed flows from the extensive Ash Meadows basin aquifer. The imminent threat to their existence is the proposed development of Ash Meadows by PEC into a residential, recreational, industrial, and agricultural community. Construction activities would clear essential habitat, directly extirpate populations of these fishes, and alter surface drainage patterns. Human habitation would require great quantities of potable water. Utilization of surface outflows from springs and pumping of the aquifer would reduce or eliminate surface flows, lower the water table, and interfere with ground water recharge, which would destroy down-gradient wetlands.

Diversion of spring outflows and pumping of spring holes and ground water to provide water for the proposed development would destroy essential habitat of the Ash Meadows speckled dace and Ash Meadows Amargosa pupfish. Since all springs in this aquifer are intricately connected, drawdown at one location would affect levels of many other springs. In addition, such alteration of surface flows would prevent migration to other suitable habitats and therefore prevent natural expansion of range or recolonization by these species. To date, the outflow channels of Crystal Pool and King Pool (Point of Rocks Spring) have been modified to increase flows, resulting in the lowering of pool levels 1–1.5 feet and consequently decreasing riparian habitat. A significant area of land has already been altered by road construction in the vicinity of Crystal Pool and Point of Rocks and Jack Rabbit Springs.

Initial construction activities in late spring and summer of 1981 severely altered the watercourses of two springs (Point of Rocks and Bradford) and related spring hole morphometry; these activities severely reduced the populations of the Ash Meadows speckled dace and Ash Meadows Amargosa pupfish in Bradford Springs. Recent excavation of Fairbanks Spring by heavy equipment has apparently eliminated all but one pupfish.

Recent construction activities in Ash Meadows have continued the destruction of fish habitat that began with early agricultural activities. The Ash Meadows Amargosa pupfish has been extirpated in Bole, Deep, and Forest Springs. The Ash Meadows speckled dace has been extirpated from Forest, Fairbanks, Rogers, Longstreet, Tubbs, and Point of Rocks Springs, the easternmost spring of the Bradford Springs group, and Crystal Pool. The ranges of both the pupfish and the dace have been reduced from 1 mile to about 200 yards in the Bradford Springs outflow and from 3 miles to .5 mile in the Big Springs outflow. The range of the pupfish has been reduced from 6 miles to .5 mile of the Point of Rocks Springs outflow and from 2,000 acres to about .5 acre in the area of Fairbanks, Rogers, and Longstreet Springs. Dace and pupfish populations were temporarily extirpated from Jack Rabbit Spring when the spring pool was pumped dry. Both the dace and pupfish populations are much reduced in most of the limited habitat that they still occupy. Both the pupfish and the dace have been eliminated from Carson Slough where draining, plowing, and mining have eliminated the fish habitat.

PEC's long-term development plans call for direct alteration of many of these springs with construction to progress in three phases in the following areas: Phase I—Crystal Pool; Phase II—Point of Rocks Spring; Phase III—Fairbanks Spring complex. The Nye County Commission has already approved Phases I and II, and work has begun. Further, PEC, as principal owner of water rights, has made application to the State of Nevada to divert water from many of the other Ash Meadows springs, which will destroy more riparian habitat. Ground water pumping may seriously deplete water levels (directly and indirectly) upon which the fish species depend. In the past, pumping of ground water from nearby wells for agriculture has lowered the water level in Devil's Hole in Ash Meadows, which caused a severe decline in the population of the Endangered Devil's Hole pupfish; continued pumping could have caused the extinction of the species. In 1976, the U.S. Supreme Court ruled (*United States vs. Cappaert et al.*) that a minimum water level must be maintained to protect the Devil's Hole pupfish. Devil's Hole is the most sensitive spring in Ash Meadows, but all of the springs appear to be interconnected. The impact of ground water pumping from wells south of Devil's Hole appears to be greater than from those located in the north. Because agricultural and municipal activities require large volumes of water, and pumping of ground water from the northern areas may be necessary to supplement flows from the south, it is expected that the proposed development by PEC will create a demand for water throughout Ash Meadows.

Introduction of exotic fishes and other aquatic species that compete with or prey upon native species have caused the extinction of the Ash Meadows killifish (*Empetrichthys merriami*) and reduced or extirpated other native fish populations. Continued modification of habitat by construction activity can only exacerbate this problem.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Not applicable to these species.

C. *Disease or predation.* Numerous exotic organisms have been introduced into springs in Ash Meadows. Some of these exotics, including largemouth bass (*Micropterus salmoides*), crayfish (*Procambarus clarki*), and bullfrogs (*Rana catesbeiana*) prey on the Ash Meadows Amargosa pupfish and the Ash Meadows speckled dace. Largemouth bass have been introduced into Crystal Reservoir and have subsequently gained access to Crystal Pool and its outflow. Crayfish and bullfrogs are common inhabitants in many springs and have significantly contributed to the decline of the Ash Meadows pupfish (La Rivers, 1962; Miller, 1948).

D. *The inadequacy of existing regulatory mechanisms.* No permanent regulations exist to protect the two species of fish included in this rule. The existing emergency regulations would have expired on September 2, 1983, if the present action had not been taken. The present status of the species under

Nevada State law is not felt to be adequate to counter the threats set out above to the species and their habitats.

E. *Other natural or manmade factors affecting its continued existence.* The extremely small range and specialized habitats of these species make them especially vulnerable to all of the factors that adversely affect them. Vandalism has been reported at a number of springs. Future acts of vandalism could cause the extinction of local populations of the fishes.

The Mexican mollie (*Poecilia mexicana*) and the mosquito fish (*Gambusia affinis*) have been introduced into several Ash Meadows spring systems including Point of Rocks, Jack Rabbit, Big, Bradford Springs, and Crystal Pool. These exotic fishes have replaced the pupfish and dace as the dominant species in the affected springs (Deacon *et al.*, 1964). Exotic snails have also become established in several springs, where they compete with native fishes for food.

Critical Habitat

50 CFR Part 424 defines "Critical Habitat" to include areas within the geographical area occupied by the species at the time the species is listed which are essential to the conservation of the species and which may require special management considerations or protection and specific areas outside the geographic area occupied by the species, upon a determination by the Secretary that such areas are essential for the conservation of the species.

Critical Habitat for the Ash Meadows speckled dace is as follows:

Nevada, Nye County: Each of the following springs and outflows plus surrounding land areas for a distance of 50 meters (164 feet) from the springs and outflows:

Bradford Springs in Section 11, T18S, R50E, and their outflows for a distance of 300 meters (984 feet) from the springs.

Jack Rabbit Spring and its outflows flowing southwest to the boundary between Section 24 in T18S, R50E and Section 19, T18S, R51E.

Big Spring and its outflow to the boundary between Section 19, T18S, R51E and Section 24, T18S, R50E.

Critical Habitat for the Ash Meadows Amargosa pupfish is as follows:

Nevada, Nye County: Each of the following springs and outflows plus surrounding land areas for a distance of 50 meters (164 feet) from these springs and outflows:

Fairbanks Spring and its outflow to the boundary between Sections 9 and 10, T17S, R50E.

Rogers Spring and its outflow to the boundary between Sections 15 and 16, T17S, R50E.

Longstreet Spring and its outflow to the boundary between Sections 15 and 22, T17S, R50E.

Three unnamed springs in the northwest corner of Section 23, T17S, R50E and each of their outflows for a distance of 75 meters (246 feet) from the springs.

Crystal Pool and its outflow for a distance of 400 meters (1,312 feet) from the pool.

Bradford Springs in Section 11, T18S, R50E, and their outflows for a distance of 300 meters (984 feet) from the springs.

Jack Rabbit Spring and its outflow flowing southwest to the boundary between Section 24, T18S, R50E and Section 19, T18S, R51E.

Big Spring and its outflow to the boundary between Section 19, T18S, R51E and Section 24, T18S, R50E.

Point of Rocks Springs and their entire outflows within Section 7, T18S, R51E.

These Critical Habitats include the springs and associated outflows that are the sole remaining habitat for these fishes. The Critical Habitats also include land areas immediately surrounding these aquatic areas. These land areas are essential to the conservation of the fishes because they provide vegetative cover that contributes to providing the uniform water conditions preferred by the pupfish and dace and provide habitat for insects and other invertebrates that constitute a substantial portion of their diet.

Activities that may adversely affect Critical Habitat include the activities carried out and planned by PEC that would modify the springs and their outflows, disturb the land areas immediately surrounding these habitats, or draw down the water table to the extent that spring flows are reduced and the fishes are harmed.

Listing these species as Endangered and designating their Critical Habitat does not specifically preclude in their entirety housing, commercial, intensive agricultural, or industrial development in Ash Meadows. Full protection of the two fish species may, however, preclude a portion of the proposed PEC development, and may result in the modification of PEC's construction activities. The Service notes that much of PEC's proposed development may already be precluded by the water requirements of two previously listed Endangered species, the Devil's Hole pupfish and the Warm Springs pupfish. The exact extent of possible water conflict is presently unknown.

The designated Critical Habitats include a total area of approximately 200 acres. Based on the best scientific and commercial data available, designation of smaller Critical Habitats might result in the extinction of the species. The Bureau of Land Management (BLM) has jurisdiction over two springs (Big and Jack Rabbit) that are included in these Critical Habitats. Present BLM activities are consistent with the conservation of these fishes and therefore will not be affected by this action.

Available Conservation Measures

Endangered species regulations already published in Title 50, Section 17.21 of the U.S. Code of Federal Regulations set forth a series of general prohibitions and exceptions that apply to all Endangered species. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the U.S. to take, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale these species in interestate or foreign commerce. It is also illegal to possess, sell, deliver, carry, transport, or ship any such wildlife which was illegally taken. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving Endangered species under certain circumstances. Regulations governing permits are at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, for enhancement of the propagation or survival of the species, or, in certain circumstances, for incidental taking of Endangered species. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship that would be suffered if such relief were not available.

This rule, by extending the protection provided by the emergency listing, could subject the construction activities of PEC to enforcement actions undertaken pursuant to Section 9 of the Endangered Species Act or a civil injunction should such development result in the taking of any of the fishes.

This rule requires Federal agencies not only to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of the Ash Meadows Amargosa pupfish and the Ash Meadows speckled dace, but also requires them to ensure that their actions do not result in the destruction or adverse modification of Critical Habitats. Provisions for Interagency Cooperation are codified at 50 CFR Part 402.

National Environmental Policy Act

An Environmental Assessment has been prepared in conjunction with this final rule. Based on this Environmental Assessment, a determination has been made that this is not a major Federal action that would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969 implemented at 40 CFR Parts 1500–1508.

Author

The primary author of this rule is Steven M. Chambers, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1975).

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List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulations Promulgation

PART 17—[AMENDED]

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below.

1. The authority citation for Part 17 reads as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; and Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531, *et seq.*).

2. Section 17.11(h), Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended by adding the following two entries alphabetically to the table under the heading "Fishes" as set forth below.

§ 17.11 [Amended]

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rule
Common name	Scientific name						
FISHES							
Dace, Ash Meadows speckled	*Rhinichthys osculus nevadensis*	U.S.A. (NV)	Entire	E		17.95(e)	NA
Pupfish, Ash Meadows Amargosa	*Cyprinodon nevadensis mionectes*	U.S.A. (NV)	Entire	E		17.95(e)	NA

3. It is further determined that § 17.95(e), Fishes, be amended by adding Critical Habitat of the Ash Meadows speckled dace after that of the spotfin chub as follows:

§ 17.95 [Amended]

* * * * *

Ash Meadows speckled dace

(*Rhinichthys osculus nevadensis*)

Nevada, Nye County: Each of the following springs and outflows plus surrounding land areas for a distance of 50 meters (164 feet) from these springs and outflows:

Bradford Springs in Section 11, T18S, R50E, and their outflows for a distance of 300 meters (984 feet) from the springs.

Jack Rabbit Spring and its outflow flowing southwest to the boundary between Section 24 in T18S, R50E and Section 19, T18S, R51E.

Big Spring and its outflow to the boundary between Section 19, T18S, R51E and Section 24, T18S, R50E.

ASH MEADOWS SPECKLED DACE

Nye County, NEVADA

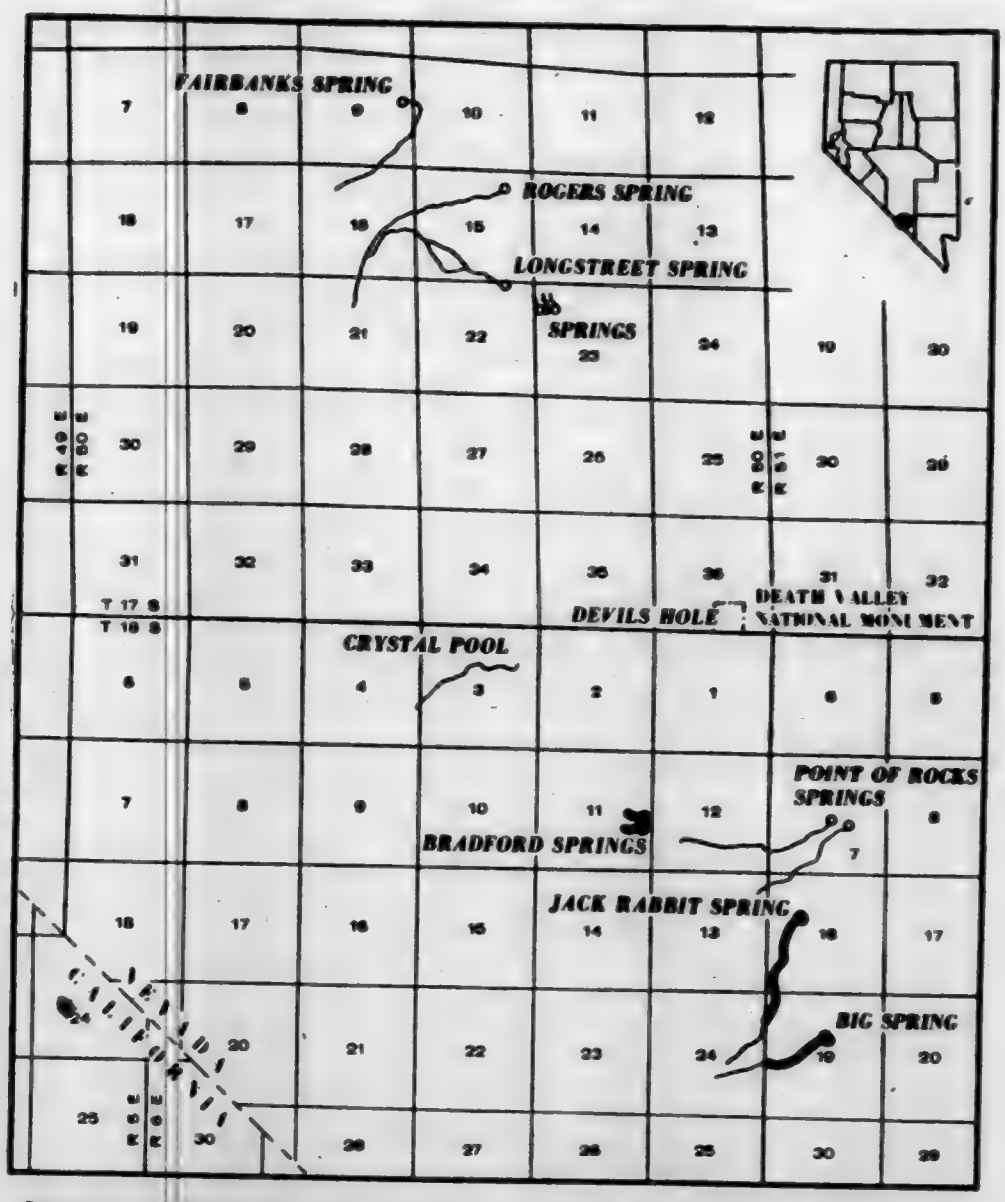

Known constituent elements include warm-water springs and their outflows and surrounding land areas that provide vegetation for cover and habitat for insects and other invertebrates on which the species feeds.

* * * * *

4. It is further determined that § 17.95(e), Fishes, be amended by adding Critical Habitat of the Ash Meadows Amargosa pupfish after that of the leopard darter as follows:

* * * * *

Ash Meadows Amargosa pupfish (*Cyprinodon nevadensis mionectes*)

Nevada, Nye County: Each of the following springs and outflows plus surrounding land areas for a distance of 50 meters (164 feet) from these springs and ouflows:

Fairbanks Spring and its outflow to the boundary between Sections 9 and 10, T17S, R50E.

Rogers Spring and its outflows to the boundary between Sections 15 and 16, T17S, R50E.

Longstreet Spring and its outflow to the boundary between Sections 15 and 22, T17S, R50E.

Three unnamed springs in the northwest corner of Section 23, T17S, R50E, and each of their outflows for a distance of 75 meters (246 feet) from the spring.

Crystal Pool and its outflow for a distance of 400 meters (1,312 feet) from the pool.

Bradford Springs in Section 11, T18S, R50E, and their outflows for a distance of 300 meters (984 feet) from the springs.

Jack Rabbit Spring and its outflow

flowing southwest to the boundary between Section 24, T18S, R50E and Section 19, T18S, R51E.

Big Spring and its outflow to the boundary between Section 19, T18S, R51E and Section 24, T18S, R50E.

Point of Rocks Springs and their entire outflows within Section 7, T18S, R51E.

ASH MEADOWS AMARGOSA PUPFISH

Nye County, NEVADA

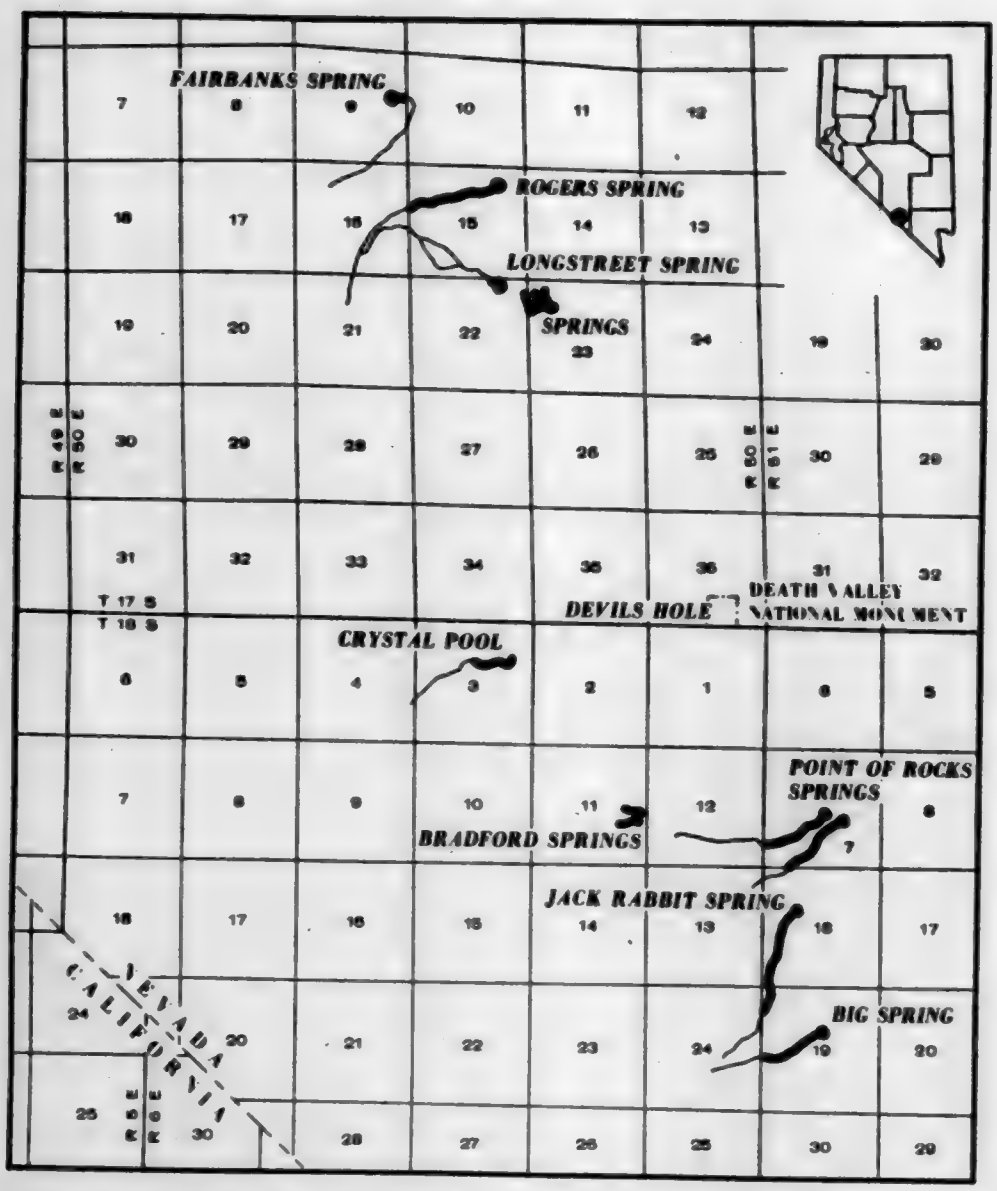

Known constituent elements include warm-water springs and their outflows and surrounding land areas that provide vegetation for cover and habitat for insects and other invertebrates on which this species feeds.

* * * * *

Dated: August 29, 1983.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83-24273 Filed 8-31-83; 3:21 pm]

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Reader Aids

Federal Register

Vol. 48, No. 172

Friday, September 2, 1983

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419
	523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Privacy Act	523-4534
Public Inspection Desk	523-5215
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282
	523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235

United States Government Manual 523-5230

SERVICES

Agency services	523-5237
Automation	523-3408
Library	523-4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public Inspection Desk	523-5215
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, SEPTEMBER

39595-39910.....1
39911-40186.....2

CFR PARTS AFFECTED DURING SEPTEMBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
5085.....39595

4 CFR

Proposed Rules:
83.....39632

7 CFR

301.....39597
421.....39911
910.....39912
908.....39602
1076.....39603

Proposed Rules:
658.....39944
1126.....39643

12 CFR

217.....39604
525.....39912
531.....39912

Proposed Rules:
563.....39944

14 CFR

71.....39913
97.....39913

16 CFR

Proposed Rules:
13.....39950

17 CFR

240.....39604
249.....39604

20 CFR

655.....40168

21 CFR

145.....39916
524.....39607

23 CFR

Proposed Rules:
Ch. I.....39953

24 CFR

203.....39608
213.....39608
234.....39608

26 CFR

Proposed Rules:
1.....39953
5f.....39953

30 CFR

701.....39892, 40140
785.....39892
816.....39892, 40140
817.....39892, 40140
824.....39892

Proposed Rules:
75.....40165
935.....39645
938.....39645

32 CFR

266g.....39917
634.....39919

33 CFR

100.....39609
165.....39609, 39610
401.....39934

Proposed Rules:
117.....39646

34 CFR

Proposed Rules:
366.....39647

39 CFR

10.....39610

Proposed Rules:
111.....39647, 39648

40 CFR

17.....39934
122.....39611
123.....39611
124.....39611
144.....39611
145.....39611
233.....39611
270.....39611
271.....39611, 39623
410.....39624

Proposed Rules:
52.....39653
61.....39655
124.....40098
144.....40098
146.....40098
147.....40098
799.....39656

42 CFR

405.....39740, 39752
409.....39752
435.....39624
436.....39624
489.....39752

Proposed Rules:
435.....39959
436.....39959

43 CFR

Public Land Orders:
6457.....39939

46 CFR

153.....39629
154.....39629

47 CFR

Proposed Rules:
68.....39656

49 CFR

179.....39630
571.....39908, 39939
1042.....39630
1160.....39630
1161.....39630
1162.....39630
1165.....39630
1168.....39630
1181.....39630

Proposed Rules:
213.....39965
821.....39657

50 CFR

17.....39941, 40178

Proposed Rules:
26.....39661
655.....39967
681.....39665

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing August 31, 1983

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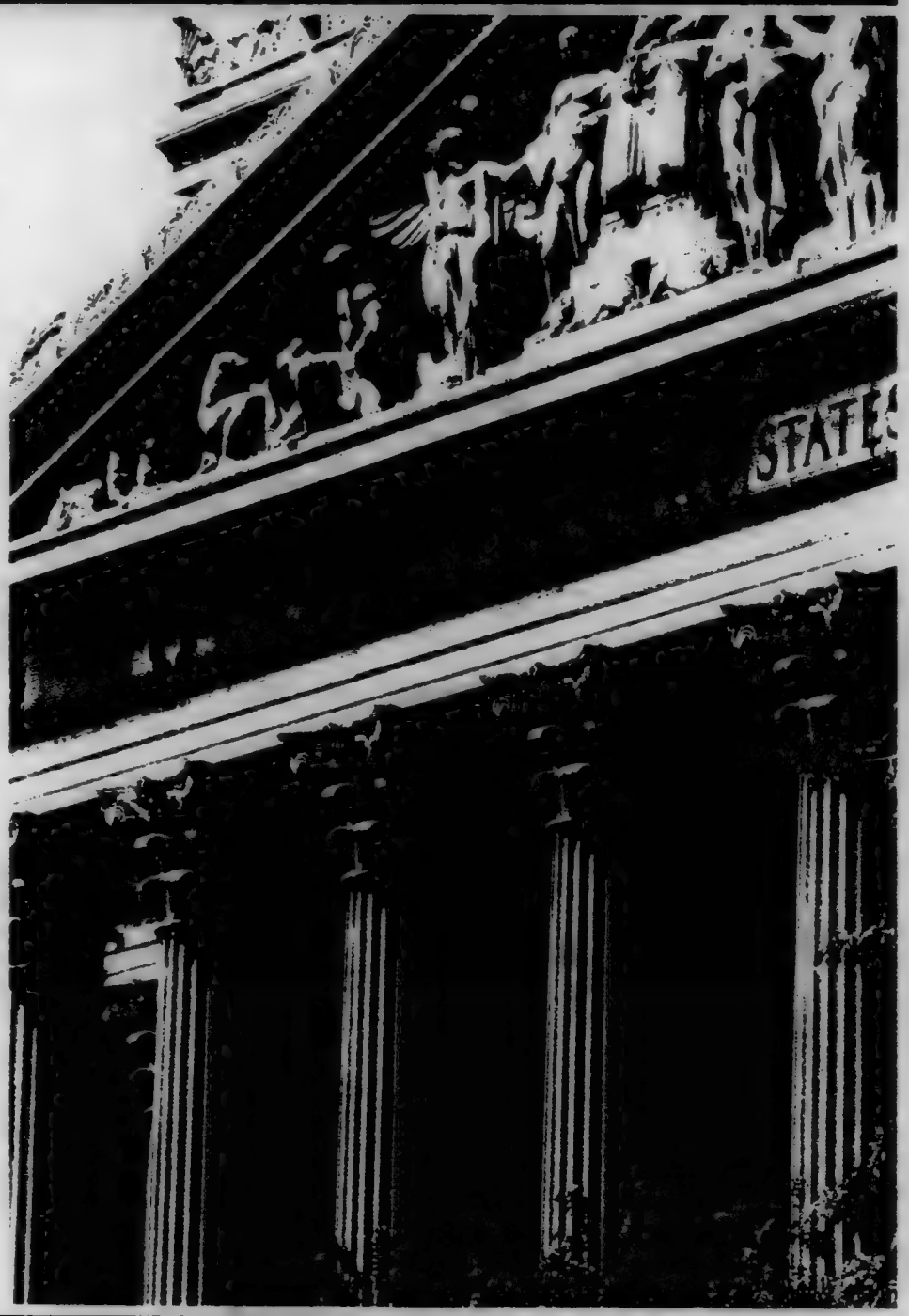

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Vol. 48 No. 173

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Pages 40187-40364

federal register

Tuesday
September 6, 1983

Selected Subjects

Administrative Practice and Procedure
Navy Department

Air Pollution Control
Environmental Protection Agency

Airspace
Federal Aviation Administration

Aviation Safety
Federal Aviation Adminstration

Education
Veterans Administration

Endangered and Threatened Wildlife
Fish and Wildlife Service
National Oceanic and Atmospheric Administration

Excise Taxes
Internal Revenue Service

Food Stamps
Food and Nutrition Service

Income Taxes
Internal Revenue Service

Labor-Management Relations
Federal Labor Relations Authority

Loan Programs—Agriculture
Farmers Home Administration

Loan Programs—Housing and Community Development
Veterans Administration

CONTINUED INSIDE

Selected Subjects

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Medical Devices
Food and Drug Administration

Motor Vehicle Safety
National Highway Traffic Safety Administration

Plant Diseases and Pests
Animal and Plant Health Inspection Service

Postal Service
Postal Service

Railroads
Interstate Commerce Commission

Satellites
Federal Communications Commission

School Breakfast and Lunch Programs
Food and Nutrition Service

Surface Mining
Surface Mining Reclamation and Enforcement Office

Contents

Federal Register
Vol. 48, No. 173
Tuesday, September 6, 1983

The President
PROCLAMATIONS
40187 Korean Airlines flight, death of American citizens (Proc. 5086)

Executive Agencies

Agriculture Department
See Animal and Plant Health Inspection Service; Farmers Home Administration; Food and Nutrition Service.

Animal and Plant Health Inspection Service
RULES
Plant quarantine, domestic:
40198 Imported fire ant; regulated areas; interim
NOTICES
40356 Stockyards; brucellosis prevention; specific approval; list

Army Department
NOTICES
Meetings:
40308 Science Board
40291 Privacy Act; systems of records

Arts and Humanities, National Foundation
NOTICES
Meetings:
40329 Humanities and Media Arts Advisory Panels

Commerce Department
See Foreign-Trade Zones Board; International Trade Administration; National Oceanic and Atmospheric Administration.

Consumer Product Safety Commission
NOTICES
40291 Agency information collection activities under OMB review
40344 Meetings; Sunshine Act

Defense Department
See Army Department; Navy Department.

Education Department
NOTICES
Authority delegations:
40308 Secretary; express approval in writing under General Education Provisions Act to hold an office in, or act in any capacity for, etc.

Energy Department
See also Energy Information Administration; Federal Energy Regulatory Commission.
PROPOSED RULES
40265 Nuclear information, unclassified controlled; identification and protection; extension of time and hearing
NOTICES
40309 Privacy Act; systems of records

Energy Information Administration
NOTICES
40310 Reporting and recordkeeping requirements

Environmental Protection Agency
PROPOSED RULES
Air quality implementation plans; delayed compliance orders:
40278 Louisiana
Toxic substances:
40282 1,2-Benzenediamine, 4-ethoxy, sulfate; significant new uses; correction
NOTICES
Meetings:
40318 Science Advisory Board

Farm Credit Administration
NOTICES
40319 Puget Sound Production Credit Association, Mt. Vernon, Wash.; special supervisory procedures; correction
40319 Southern Oregon Production Credit Association, Medford, Oreg.; special supervisory procedures; correction

Farmers Home Administration
RULES
Account servicing:
40202 Borrowers; analyzing credit needs and graduation

Federal Aviation Administration
RULES
Airworthiness directives:
40210 British Aerospace
40211 DeHavilland
40212 McDonnell Douglas
40213 Control zones
40214 Jet routes and reporting points
PROPOSED RULES
Airworthiness directives:
40266 Boeing
40267 Control zones and transition areas
40270 Transition areas

Federal Communications Commission
RULES
Common carrier services:
40233 Domestic fixed-satellite service; space stations licensing
40256 Domestic fixed-satellite service; space stations licensing; domestic satellite application processing procedures

Federal Energy Regulatory Commission
NOTICES
Hearings, etc.:
40312 Abrams, Robert, et al.; extension of time
40312 Iowa-Illinois Gas & Electric Co.
40313 Montana Power Co.
40316 Public Service Co. of Oklahoma et al.

40313 Resources Recovery (Dade County) Construction Corp. et al.
40313 Virginia Electric & Power Co.
Natural Gas Policy Act:
40346, 40349 Jurisdictional agency determinations (2 documents)

Federal Labor Relations Authority
RULES
40189 General Counsel; case processing requirements

Federal Maritime Commission
NOTICES
40319 Agency information collection activities under OMB review
40319 Agreements filed, etc.; correction
Energy and environmental statements; availability, etc.:
40319 North Europe-North Atlantic et al.
Freight forwarder licenses:
40320 Amstutz International Co.
40320 Intercontinental Export Ltd.
40320 ITC, Inc., et al.
40320 Linnehan, James R.
40321 Ven-Air Service, Inc.

Federal Reserve System
NOTICES
Applications, etc.:
40321 Horizon Bancorp et al.
40321 Union Bancorp of Evansville, Inc., et al.
Bank holding companies; proposed de novo nonbank activities:
40321 Old Stone Corp. et al.

Fish and Wildlife Service
PROPOSED RULES
40288 Endangered and threatened species; interagency cooperation with National Oceanic and Atmospheric Administration; consultation requirements, etc.; extension of time

Food and Drug Administration
PROPOSED RULES
Medical devices:
40273 Implanted cerebellar stimulator; premarket approval
40272 Premarket approval of preamendment devices; intent to initiate proceedings
NOTICES
Human drugs:
40322 Cough, cold, or allergy prescription drugs; tussornade spansules and liquid; drug efficacy study implementation; exemption revoked, etc.

Food and Nutrition Service
RULES
Child nutrition programs:
40197 Cost as reimbursement factor to centers, elimination; correction
40194 School lunch and breakfast programs; food service financial accountability requirements; final
PROPOSED RULES
Food stamp program:
40263 Food retailers and wholesalers and financial institutions; bonding of authorized firms

Foreign-Trade Zones Board
NOTICES
Applications, etc.:
40289 North Dakota
40289 Oklahoma

Health and Human Services Department
See Food and Drug Administration.

Immigration and Naturalization Service
RULES
40209 Immigration, arrival-departure manifests and lists; supporting documents; correction
Transportation line contracts:
40210 Wadair Canada (1975) Ltd.; correction

Inter-American Foundation
NOTICES
40344 Meetings; Sunshine Act

Interior Department
See Fish and Wildlife Service; Land Management Bureau; National Park Service; Surface Mining Reclamation and Enforcement Office.

Internal Revenue Service
RULES
Excise taxes:
40217 Petroleum products
Income taxes:
40214 Life-nonlife consolidated returns

International Trade Administration
NOTICES
Antidumping:
40290 Tool steel from West Germany

Interstate Commerce Commission
PROPOSED RULES
Rail carriers:
40287 Commuter rail service continuation subsidies; determining standards dominant user definition
NOTICES
Rail carriers:
40327 Cost recovery percentage; proposed standards and decision; extension of time
40328 Waybill sample data; availability
40328 Western Division and Southern Territory; grain and grain products rate structures; proposed cancellation

Justice Department
See Immigration and Naturalization Service.

Land Management Bureau
RULES
Public land orders:
40232 Alaska

National Highway Traffic Safety Administration
RULES
Motor vehicle safety standards:
40260 Rearview mirrors; school bus non-uniform radius of curvature, view area immediately in front of bus
PROPOSED RULES
Motor vehicle safety standards:
40282 Motorcycle controls and displays; manual fuel control shut off valve

40286 Motorcycle controls and displays; symbols as option to words

NOTICES

Meetings:

40339 Crash test repeatability program; inquiry

Motor vehicle safety standards; exemption petitions, etc.:

40342 Uniroyal Tire Co.

National Oceanic and Atmospheric Administration

PROPOSED RULES

40288 Endangered and threatened species; interagency cooperation with Fish and Wildlife Service; consultation requirements, etc.; extension of time

National Park Service

NOTICES

Historic Places National Register; pending nominations:

40325 Alabama et al.

Navy Department

RULES

Personnel:

40224 Administrative discharges and related matters concerning separations from Naval Service

Nuclear Regulatory Commission

NOTICES

40344 Meetings; Sunshine Act

Postal Service

RULES

Procurement of property and services:

40232 Postal Contracting Manual; amendments

Securities and Exchange Commission

NOTICES

40329, 40330 Agency information collection activities under OMB review (3 documents)

Hearings, etc.:

40336 Fiduciary Variable Annuity Fund, Inc.

40330 General Public Utilities Corp. et al.

40336 Travelers Insurance Co. et al.

Self-regulatory organizations; proposed rule changes:

40337 Cincinnati Stock Exchange, Inc.

40333, 40334 Municipal Securities Rulemaking Board (2 documents)

40335 Pacific Clearing Corp.

40331 Pacific Securities Depository Trust Co.

Self-regulatory organizations; unlisted trading privileges:

40332 Cincinnati Stock Exchange

40332 Midwest Stock Exchange, Inc.

40333 Philadelphia Stock Exchange, Inc.

Small Business Administration

NOTICES

Applications, etc.:

40337 First Indiana Equity Group, Inc.

Disaster loan areas:

40337 Texas

State Department

NOTICES

Fishing permits, applications:

40337 East Germany

Meetings:

40338 Central America National Bipartisan Commission

Surface Mining Reclamation and Enforcement Office

RULES

Permanent program submission; various States:

40223 Pennsylvania

NOTICES

Environmental statements; availability, etc.:

40327 Absaloka Mine, Bighorn County, Mont.

Tennessee Valley Authority

NOTICES

40338 Agency information collection activities under OMB review

Textile Agreements Implementation Committee

NOTICES

Cotton, wool, or man-made textiles:

40290 Romania

Transportation Department

See Federal Aviation Administration; National Highway Traffic Safety Administration.

Treasury Department

See Internal Revenue Service.

United States Information Agency

NOTICES

Art objects, importation for exhibitions:

40343 Fifty Years of Babar

40343 Gainsborough Drawings

40343 Henry Moore: A New Dimension

40343 Juan Gris

Veterans Administration

RULES

Loan guaranty:

40226 Manufactured home unit together with purchase of lot; refinancing

Vocational rehabilitation and education:

40224 Mitigating circumstances, submission; time limit

Separate Parts in This Issue

Part II

40346 Department of Energy, Federal Energy Regulatory Commission

Part III

40356 Department of Agriculture, Animal and Plant Health Inspection Service

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Executive Orders:
8654 (Amended by PLO 6458)..... 40232
Proclamations:
5086..... 40187

5 CFR
2422..... 40189
2426..... 40189
2429..... 40189

7 CFR
210..... 40194
220..... 40194
226..... 40197
301..... 40196
1865..... 40202
1944..... 40202
1945..... 40202
1951..... 40202
Proposed Rules:
278..... 40263
279..... 40263

8 CFR
109..... 40209
231..... 40209
238..... 40210

10 CFR
Proposed Rules:
1017..... 40265

14 CFR
39 (3 documents)..... 40210–40212
71..... 40213
75..... 40214
Proposed Rules:
39..... 40266
71 (2 documents)..... 40267, 40270

21 CFR
Proposed Rules:
Subch. H..... 40272
882..... 40273

26 CFR
1..... 40214
48..... 40217

30 CFR
938..... 40223

32 CFR
730..... 40224

38 CFR
21..... 40224
36..... 40226

39 CFR
601..... 40232

40 CFR
Proposed Rules:
65..... 40278
721..... 40282

43 CFR
Public Land Orders:
1707 (Amended by PLO 6458)..... 40232
6458..... 40232

47 CFR
25 (2 documents)..... 40233, 40256

49 CFR
571..... 40260
Proposed Rules:
571 (2 documents)..... 40262, 40286
1157..... 40287

50 CFR
Proposed Rules:
17..... 40288

Federal Register
Vol. 48, No. 173
Tuesday, September 6, 1983

Presidential Documents

Title 3—

The President

Proclamation 5086 of September 1, 1983

Death of American Citizens on Board Korean Airlines Flight

By the President of the United States of America

A Proclamation

As a mark of respect for the American citizens and all those who died violently on board the Korean Airlines flight which was ruthlessly shot down by Soviet fighters between Sakhalin and Monoron Islands on September 1, 1983, I hereby order, by virtue of the authority vested in me as President of the United States of America, that the flag of the United States shall be flown at half-staff upon all public buildings and grounds, at all military posts and naval stations, and on all naval vessels of the Federal Government in the District of Columbia and throughout the United States and its Territories and possessions through Sunday, September 4, 1983. I also direct that the flag shall be flown at half-staff for the same length of time at all United States embassies, legations, consular offices, and other facilities abroad, including all military facilities and naval vessels and stations.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of September, in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and eighth.

Ronald Reagan

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Rules and Regulations

Federal Register
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Tuesday, September 6, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

FEDERAL LABOR RELATIONS AUTHORITY AND GENERAL COUNSEL OF THE FEDERAL LABOR RELATIONS AUTHORITY

5 CFR Parts 2422, 2426, and 2429

Processing of Cases; General Requirements

AGENCY: Federal Labor Relations Authority and General Counsel of the Federal Labor Relations Authority.

ACTION: Amendment of rules and regulations.

SUMMARY: These amendments implement the amendment to the memorandum describing the authority and assigned responsibilities of the General Counsel of the Federal Labor Relations Authority which delegates to the Regional Directors the authority to render final decisions in representation matters.

EFFECTIVE DATE: October 1, 1983.

FOR FURTHER INFORMATION CONTACT: James J. Shepard, Executive Director, Federal Labor Relations Authority, (202) 382–0711 or David L. Feder, Assistant General Counsel, Office of the General Counsel, (202) 382–0834.

SUPPLEMENTARY INFORMATION: On June 16, 1983, the Federal Labor Relations Authority, pursuant to 5 U.S.C. 7105(e)(1), delegated to its Regional Directors, who are directed and supervised by the General Counsel of the Federal Labor Relations Authority, its authority to determine whether a group of employees is an appropriate unit, to conduct investigations and to provide for hearings, to determine whether a question of representation exists and to direct an election, and to supervise or conduct secret ballot elections and certify the results thereof.

The amendment to the memorandum, published at 48 FR 28814, is effective on October 1, 1983, the date on which the amendments published herein are effective. Thus, the amendment to the memorandum and the amendments to the regulations published herein apply to any referenced petition filed pursuant to sections 7111, 7112(d), 7113, 7115 and 7117(d) of the Statute on or after October 1, 1983.

The parts of the final rules and regulations affected by the amendments are: Parts 2422 and 2426, which, respectively, govern the processing of representation and consultation rights cases by the Authority and the Regional Directors; and Part 2429, which establishes the miscellaneous and general procedural requirements for parties in cases before the Authority.

The amendments implement the delegation to the Regional Directors and provide for a review procedure by the Authority of Decisions and Orders of Regional Directors in representation cases as required by 5 U.S.C. 7105(f).

Analysis of Comments and Changes

On June 23, 1983, the Authority and the General Counsel published the proposed amendments to the Regulations at 48 FR 28814–28820. Parties were afforded an opportunity to submit written comments by July 29, 1983. Two agencies and one labor organization submitted written comments on the proposed regulations. All parties commenting supported the proposed amendments and the delegation to the Regional Directors.

One agency which fully supported the proposed amendments made no recommendation for change. The other agency's only recommendation was that the regulations should provide for an automatic stay during the prescribed sixty (60) day period for filing an application for review with the Authority of a Regional Director's Decision and Order and the prescribed sixty (60) day period during which the Authority will consider whether to undertake to grant review of such a timely application for review. The labor organization commenting opposed any automatic stay of a Regional Director's Decision and Order.

Section 7105(f) of the Statute provides, in part, that the Authority's decision to review a Regional Director's Decision and Order "shall not, unless specifically ordered by the Authority, operate as a stay of action." This statutory mandate is reiterated in §§ 2422.16(b) and 2422.17(g) which, respectively, provide that the filing of an application for review and the granting of an application for review shall not, unless specifically ordered by the Authority, operate as a stay of the Regional Director's Decision and Order. In view of the statutory mandate that stays must be specifically ordered by the Authority, the commenting agency's recommendation must be rejected. Thus, absent a stay ordered by the Authority upon the filing or granting of review of an application for review of a Regional Director's Decision and Order directing an election, Regional Directors will begin preparation for the holding of the election. However, in order to preclude the unnecessary expenditure of funds should the Authority determine to grant review of the Regional Director's Decision and Order directing an election, it is the intent of the Authority and the General Counsel that Regional Directors will not supervise or conduct an election until the Authority has had the opportunity to decide, within the statutory time frame, whether to undertake review based upon the timely filing of an application for review.

The labor organization which submitted written comments recommended that the time period to file briefs with the Authority set forth in § 2422.17(g), if the Authority grants an application for review, should be extended beyond the seven (7) days proposed. It was decided to extend the period to ten (10) days, which is the same time period parties have had to file an opposition to a request for review under the existing regulations. In this regard, past experience has indicated that this ten (10) day time period is adequate and thus should be retained in § 2422.17(d) with respect to filing an opposition with the Authority to an application for review. In view of the limited statutory time frames established in section 7105(f) of the Statute, it is intended that the limited time frames in which to file an opposition to an application for review and briefs with the Authority, should review be granted, will allow the Authority to rule expeditiously on applications for review.

As to the labor organization's comment recommending a procedure for reconsideration of a Regional Director's Decision and Order, it was decided that

such procedure is unnecessary in that upon the filing of an application for review (which must be served on the Regional Director under § 2422.17(a)), the Regional Director on his/her own initiative, may treat the application for review as a request for reconsideration and request the Authority to remand the case for further appropriate action. With respect to the labor organization's comment regarding the bar contained in § 2422.17(e) with respect to relitigating representation issues in any related subsequent unfair labor practice proceeding, it is the intent of the amendment that an issue which was, or could have been, raised in an application for review in a representation proceeding is precluded from being litigated by a party as an affirmative defense in any related subsequent unfair labor practice proceeding. As to the labor oranization's comment that Administrative Law Judges, rather than Hearing Officers, should conduct hearings on objections and challenges as well as in national consultation rights and consultation rights cases, the Statute in section 7105(e)(1), and the Authority's delegation pursuant thereto, 48 FR 28814, provide only for delegation to the Regional Directors in representation cases. Hence, the labor organization's recommendation must be rejected.

List of Subjects in 5 CFR Parts 2422, 2426, and 2429

Administrative practice and procedure, Government employees, labor-management relations.

Accordingly, the final rules and regulations of the Authority and the General Counsel of the Authority are amended as follows:

PART 2422—[AMENDED]

1. Section 2422.2 is amended by revising paragraphs (f), (g), and (h)(6) and (h)(7)(iii) to read as follows:

§ 2422.2 Contents of petition; procedures for consolidation of existing exclusively recognized units; filing and service of petition; challenges to petition.

* * * * *

(f) *Adequacy and validity of showing of interest or showing of membership.* (1) The Regional Director shall determine the adequacy of the showing of interest or the showing of membership administratively, and such determination shall not be subject to collateral attack at a unit or representation hearing. A Regional Director's Decision and Order dismissing a petition or denying intervention shall be final: *Provided, however,* That an application for review of the Regional Director's Decision and Order may be filed with the Authority in accordance with the procedure set forth in § 2422.17.

(2) Any party challenging the validity of any showing of interest or showing of membership of a petitioner, or of a cross-petitioner filing pursuant to § 2422.5(b), or of a labor organization seeking to intervene pursuant to § 2422.5, must file its challenge with the Regional Director, with respect to the petitioner or a cross-petitioner, within ten (10) days after the initial date of posting of the notice of petition as provided in § 2422.4(a), and with respect to any labor organization seeking to intervene, within ten (10) days of service of copy of the request for intervention on the challenging party. The challenge shall be supported with evidence including signed statements of employees and any other written evidence. The Regional Director shall investigate the challenge and thereafter shall take such action as the Regional Director deems appropriate which shall be final and not subject to the filing of an application for review with the Authority unless the Regional Director issues a Decision and Order dismissing a petition or denying intervention on the basis of the challenge. Such a Regional Director Decision and Order shall be final: *Provided, however,* That an application for review of the Regional Director's Decision and Order may be filed with the Authority in accordance with the procedure set forth in § 2422.17.

(g) Challenge to status of a labor organization. Any party challenging the status of a labor organization under chapter 71 of title 5 of the United States Code must file its challenge with the Regional Director and support the challenge with evidence. With respect to the petitioner or a cross-petitioner filing pursuant to § 2422.5(b), such a challenge must be filed within ten (10) days after the initial date of posting of the notice of petition as provided in § 2422.4(a), and with respect to a labor organization seeking to intervene pursuant to § 2422.5, within ten (10) days after service of a copy of the request for intervention on the challenging party. The Regional Director shall investigate the challenge and thereafter shall take such action as the Regional Director deems appropriate. A Regional Director's Decision and Order on such challenge shall be final: *Provided, however,* That an application for review of the Regional Director's Decision and Order may be filed with the Authority in accordance with the procedure set forth in § 2422.17.

(h) Petition and procedures for consolidation of existing exclusively recognized units. * * *

(6) The Regional Director shall make such investigation as the Regional Director deems necessary and thereafter shall issue and serve on the labor organization(s) and activity(ies) or agency involved a Decision and Order with respect to the petition to consolidate existing exclusively recognized units. The Regional Director's Decision and Order shall be final: *Provided, however,* That an application for review of the Regional Director's Decision and Order may be filed with the Authority in accordance with the procedure set forth in § 2422.17. If no application for review is filed, or if one is filed and denied, or if the Authority does not undertake to grant review of the action within sixty (60) days after the filing of an application for review, the Regional Director shall take such action as may be appropriate, which may include issuance of a certification on consolidation of units: *Provided, however,* That where the Regional Director approves a withdrawal request, or determines to supervise or conduct an election, or to issue a notice of hearing, no such Decision and Order shall be issued and such action shall not be subject to the filing of an application for review with the Authority. The Regional Director, if appropriate, may cause a notice of hearing to be issued where substantial factual issues exist warranting a hearing. Hearings shall be conducted by Hearing Officers in accordance with §§ 2422.9 through 2422.15 and after the close of the hearing a Decision and Order shall be issued by the Regional Director in accordance with § 2422.16.

(7) Agreement for Unit Consolidation Election: * * *

(iii) If the Regional Director approves the agreement, the election by secret ballot shall be conducted by the activity(ies) or agency, as appropriate, under the supervision of the Regional Director, in accordance with §§ 2422.18 (a), (b), (c), and (f), 2422.19, 2422.20, and 2422.21. There shall be no runoff elections.

* * * * *

2. Section 2422.4 is amended by revising paragraphs (f), (g) and (h) to read as follows:

§ 2422.4 Investigation of petition and posting of notice of petition; action by Regional Director.

* * * *

(f) The Regional Director shall make such investigation as the Regional Director deems necessary and thereafter

shall take action which may consist of the following, as appropriate:

(1) Approve an agreement for consent election in an agreed-upon appropriate unit as provided under § 2422.7;

(2) Approve a withdrawal request;

(3) Issue a Decision and Order dismissing the petition;

(4) Issue a notice of hearing; or

(5) Issue a Decision and Order where the Regional Director determines, based upon a stipulation by the parties, that no material issue of fact exists.

(g) In processing a petition for clarification of unit or for amendment of recognition or certification, or dues allotment, where appropriate, the Regional Director shall issue and serve a Decision and Order upon all parties to the proceedings which shall be final: *Provided, however,* That an application for review of the Regional Director's Decision and Order may be filed with the Authority in accordance with the procedure set forth in § 2422.17. If no application for review is filed, or if one is filed and denied, or if the Authority does not undertake to grant review of the action within sixty (60) days after the filing of an application for review, the Regional Director shall take such action as may be appropriate, which may include issuing a clarification of unit, an amendment of recognition or certification, or a determination of eligibility for dues allotment.

(h) a determination by the Regional Director to issue a notice of hearing shall not be subject to the filing of an application for review with the Authority.

3. Section 2422.6 is revised to read as follows:

§ 2422.6 Withdrawal, dismissal or deferral of petitions; consolidation of cases; denial of intervention.

(a) If the Regional Director determines, after such investigation as the Regional Director deems necessary, that the petition has not been timely filed, or the claimed unit is not appropriate, or the petitioner has not made a sufficient showing of interest, or the petition is not otherwise actionable, or an intervention is not appropriate, the Regional Director may request the petitioner or intervenor to withdraw the petition or the request for intervention. In the absence of such withdrawal within a reasonable period of time, the Regional Director may issue a Decision and Order dismissing the petition or denying the request for intervention.

(b) If the Regional Director determines, after investigation, that a valid issue has been raised by a challenge under § 2422.2 (f) or (g), the Regional Director may take action which may consist of the following, as appropriate:

(1) Request the petitioner or intervenor to withdraw the petition or the request for intervention;

(2) Issue a Decision and Order dismissing the petition and/or denying the request for intervention if a withdrawal request is not submitted within a reasonable period of time;

(3) Defer action on the petition or request for intervention until such time as issues raised by the challenges have been resolved pursuant to this part; or

(4) Consolidate such issues with the representation matter for resolution of all issues.

(c) If the Regional Director issues a Decision and Order dismissing the petition and/or denying the request for intervention, such Decision and Order shall be served on the petitioner, the party requesting intervention, the activity and other intervenors, as appropriate. Such a Regional Director's Decision and Order shall be final: *Provided, however,* That an application for review of the Regional Director's Decision and Order may be filed with the Authority in accordance with the procedure set forth in § 2422.17.

4. Section 2422.7 is amended by revising paragraphs (d) and (e) and by adding paragraph (g) to read as follows:

§ 2422.7 Agreement for consent election.

* * * * *

(d) In the event that the parties cannot agree on the matters contained in paragraph (c) of this section, the Regional Director, acting on behalf of the Authority, shall decide these matters without prejudice to the right of a party to file objections to the procedural conduct of the election under § 2422.21(b).

(e) If the Regional Director approves the agreement, the election shall be conducted by the activity or agency, as appropriate, under the supervision of the Regional Director, in accordance with § 2422.18.

* * * * *

(g) As part of the consent election agreement, the parties may waive their right to file an application for review of a Regional Director's Decision and Order which may issue on objections and/or determinative challenged ballots.

5. Section 2422.10 is amended by revising paragraphs (b)(2) and (c) and by adding paragraph (b)(3) to read as follows:

§ 24422.10 Motions.

* * * * *

(b) *Filing of motions.* * * *

(2) After the close of the hearing, except as otherwise provided, motions and responses thereto shall be filed with the Regional Directors, *Provided,* That following the close of a hearing, motions to correct the transcript should be filed with the Hearing Officer within ten (10) days after the transcript is received in the regional office.

(3) If an application for review is filed with the Authority, all subsequent motions and responses thereto shall be filed with the Authority.

(c) *Rulings on motions.* (1) Regional Directors may rule on all motions filed with them, or they may refer them to the Hearing Officer. A Regional Director's Decision and Order granting a motion to dismiss a petition is final: *Provided, however,* That an application for review of the Regional Director's Decision and Order my be filed with the Authority in accordance with the procedure set forth in § 2422.17.

(2) Hearing Officers shall rule, either orally on the record or in writing, on all motions made at the hearing or referred to them, except that a motion to dismiss a petition shall be refered for appropriate action at such time as the record is considered by the Regional Director. Rulings by a Hearing Officer reduced to writing shall be served on the parties.

(3) The Regional Director shall consider the rulings by the Hearing Officer when the case is before the Regional Director for decision.

6. Section 2422.14 is revised to read as follows:

§ 2422.14 Filing of briefs.

A party desiring to file a brief with the Regional Director shall file the original and one (1) copy within thirty (30) days from the close of the hearing. Copies thereof shall be served on all other other parties to the proceeding. Requests for extensions of time pursuant to § 2429.23(a) to file briefs shall be submitted to the Regional Director, in writing, and copies thereof shall be served on the other parties and a statement of such service shall be filed with the Regional Director. Requests for extensions of time shall be in writing and received by the Regional Director not later than five (5) days before the date such briefs are due. No reply brief may be filed in any proceeding except by special permission of the Regional Director.

7. Section 2422.15 is revised to read as follows:

§ 2422.15 Contents of record.

The record of the proceeding shall include the petition, notice of hearing, service sheet, motions, rulings, orders, official transcript of the hearing with any corrections thereto, stipulations, objections, depositions, interrogatories, exhibits, documentary evidence, and any briefs or other documents submitted by the parties.

8. Section 2422.16 is revised to read as follows:

§ 2422.16 Decision and Order of the Regional Director.

(a) Upon the close of the hearing, or based upon a stipulation by the parties where the Regional Director has determined that no material issue of fact exists, the Regional Director shall issue a Decision and Order determining the appropriate unit, directing an election or dismissing the petition, or making other disposition of the matters before the Regional Director. The Regional Director's Decision and Order shall be final: *Provided, however,* That an application for review of the Regional Director's Decision and Order may be filed with the Authority in accordance with the procedure set forth in § 2422.17.

(b) The filing of an application for review shall not, unless specifically ordered by the Authority, operate as a stay of the election or any other action taken by the Regional Director.

9. A new section 2422.17 is added to read as follows:

§ 2422.17 Application for review of a Decision and Order of the Regional Director.

(a) A Regional Director's Decision and Order shall be final: *Provided, however,* That a party may file an application for review of the Regional Director's Decision and Order with the Authority within sixty (60) days of the date of such action. Copies of the application for review shall be served on the Regional Director and all other parties, and a statement of service shall be filed with the application for review. The sixty (60) day time limit provided for in 5 U.S.C. 7105(f) for the filing of an application for review may not be extended or waived.

(b) Any application for review must be a self-contained document enabling the Authority to rule on the basis of its contents without the necessity of recourse to the record; however, the Authority may, in its discretion, examine the record in evaluating the application. An application must contain a summary of all evidence or rulings relating to the issue(s) raised together with page citations from the transcript, if applicable, and supporting argument. An application may not raise any issue or allege any facts not timely presented to the Regional Director.

(c) The Authority may grant an application for review only where it appears that compelling reasons exist therefor. Accordingly, an application for review may be granted only upon one or more of the following grounds:

(1) That a substantial question of law or policy is raised because of (i) the absence of, or (ii) a departure from, Authority precedent;

(2) That there are extraordinary circumstances warranting reconsideration of an Authority policy;

(3) That the conduct of the hearing held or any ruling made in connection with the proceeding has resulted in prejudicial error; or

(4) That the Regional Director's decision on a substantial factual issue is clearly erroneous and such error prejudicially affects the rights of a party.

(d) Any party may file an opposition to an application for review with the Authority within ten (10) days after service of the application for review. Copies of the opposition to the application for review shall be served on the Regional Director and the other parties, and a statement of service shall be filed with the opposition to the application for review. The Authority may deny the application for review without awaiting a statement in opposition thereto.

(e) The parties may, at any time, waive the right to file an application for review. Failure to file an application for review shall preclude such parties from relitigating, in any related subsequent unfair labor practice proceeding, any issue which was, or could have been, raised in the representation proceeding. The denial of an application for review by the Authority, the failure of the Authority to undertake to grant review of a Regional Director's Decision and Order within sixty (60) days after the date of the filing of the application, or the granting of review and affirming by the Authority of the Regional Director's Decision and Order shall preclude relitigating any such issue in any related subsequent unfair labor practice proceeding.

(f) A Decision and Order of a Regional Director becomes the action of the Authority when:

(1) No application for review is filed within sixty (60) days after the date of the Regional Director's Decision and Order; or

(2) A timely application for review is filed with the Authority and the Authority does not undertake to grant review of the Regional Director's Decision and Order within sixty (60) days after the date of the filing of the application; or

(3) The Authority denies an application for review of the Regional Director's Decision and Order.

(g) The Authority may rule upon the issue(s) in its order granting the application for review. The granting of an application for review shall not stay the Regional Director's Decision and Order unless otherwise ordered by the Authority. Except where the Authority rules upon the issue(s) in the order granting review, the parties may, within ten (10) days after issuance of an order granting review, file briefs with the Authority. Such briefs may be reproductions of those previously filed with the Regional Director and/or other briefs shall be limited to the issue(s) raised in the application for review. Where review has been granted, the Authority will consider the entire record in the light of the grounds relied upon for review. Any application for review may be withdrawn with the permission of the Authority at any time prior to the issuance of the decision of the Authority thereon. Upon granting review of a timely application, the Authority may issue a decision or ruling affirming, modifying or reversing any action reviewed.

§ 2422.17 [Redesignated as § 2422.18]

10. Section 2422.17 is redesignated as § 2422.18 and is amended by revising paragraph (g) to read as follows:

§ 2422.18 Election procedure; request for authorized representation election observers.

* * * * *

(g) A party's request to the Regional Director for named observers shall be in writing and filed with the Regional Director not less than fifteen (15) days prior to an election to be supervised or conducted pursuant to this part. The request shall name and identify the authorized representation election observers sought, and state the reasons therefor. Copies thereof shall be served on the other parties and a written statement of such service shall be filed with the Regional Director. Within five (5) days after service of a copy of the request, a party may file objections to the request with the Regional Director and state the reasons therefor. Copies thereof shall be served on the other parties and a written statement of such service shall be filed with the Regional Director. The Regional Director shall rule upon the request not later than five (5) days prior to the date of the election. However, for good cause shown by a party, or on the Regional Director's own

motion, the Regional Director may vary the time limits prescribed in this paragraph. The Regional Director's ruling is not subject to the filing of an application for review with the Authority.

§ 2422.18 [Redesignated as § 2422.19]

11. Section 2422.18 is redesignated as § 2422.19.

§ 2422.19 [Redesignated as § 2422.20]

12. Section 2422.19 is redesignated as § 2422.20.

§ 2422.20 [Redesignated as § 2422.21]

13. Section 2422.20 is redesignated as § 2422.21 and is amended by revising paragraphs (d), (e), (f), (g) and (i) read as follows:

§ 2422.21 Certification; objections to election; determination on objections and challenged ballots.

* * * * *

(d) When the Regional Director determines that no relevant question of fact exists, the Regional Director:

(1) Shall find whether improper conduct occurred of such a nature as to warrant the setting aside of the election, and/or

(2) Shall rule on determinative challenged ballots, if any. The Regional Director shall issue a Decision and Order on objections and/or determinative challenged ballots which shall be served upon all parties to the proceeding. Such Decision and Order shall contain therein any additional matter such as an Order to rerun the election or count ballots at a specified date, time, and place, and if appropriate, that the Regional Director will cause to be issued a revised tally of ballots.

(e) The Regional Director's Decision and Order shall be final: *Provided however,* That an application for review of the Regional Director's Decision and Order may be filed with the Authority in accordance with the procedure set forth in § 2422.17. *Provided, however,* That a determination by a Regional Director to issue a notice of hearing shall not be subject to the filing of an application for review.

(f) Any party filing an application for review of the Regional Director's Decision and Order when no hearing is conducted may support its submission to the Authority by appending thereto copies of documentary evidence, including copies of any affidavits, it had timely submitted to the Regional Director. Documentary evidence so appended shall thereupon become part of the record in the proceeding. Failure to timely submit such documentary evidence to the Regional Director, or to append that evidence to its submission to the Authority in the representation proceedings as provided above, shall preclude a party from relying on such evidence in any subsequent unfair labor practice proceeding.

(g) Where it appears to the Regional Director that the objections or determinative challenged ballots raise any relevant question of fact which may have affected the results of the election, the Regional Director shall cause to be issued a notice of hearing. Hearings shall be conducted by a Hearing Officer in accordance with §§ 2422.9 through 2422.15 and after the close of the hearing a Decision and Order shall be issued by the Regional Director in accordance with § 2422.16. *Provided, however,* That in any proceeding wherein a representation case has been consolidated with an unfair labor practice case for purposes of hearing, such a consolidated hearing shall be conducted and decisions issued by Administrative Law Judges and exceptions and related submissions shall be filed with the Authority in accordance with §§ 2423.14 through 2423.28 of this subchapter. *Provided, however,* That with regard to the representation case:

(1) Sections 2423.18 and 2423.19(j) will not be applicable;

(2) The Administrative Law Judge may not recommend remedial action to be taken or notices to be posted, as provided under § 2423.26(a); and

(3) Reference to "charge, complaint" in § 2423.26(b) shall be omitted.

* * * * *

(i) Upon the close of a hearing conducted by an Administrative Law Judge pursuant to paragraph (g) of this section, the Authority shall issue a decision adopting, modifying or reversing the Administrative Law Judge's decision.

§ 2422.21 [Redesignated as § 2422.22]

14. Section 2422.21 is redesignated as § 2422.22.

§ 2422.22 [Redesignated as § 2422.23]

15. Section 2422.22 is redesignated as § 2422.23.

PART 2426—NATIONAL CONSULTATION RIGHTS AND CONSULTATION RIGHTS ON GOVERNMENT-WIDE RULES OR REGULATIONS

16. Section 2426.2 is amended by revising paragraph (b)(3)(vii) to read as follows:

§ 2426.2 Requests; petition and procedures for determination of eligibility for national consultation rights.

* * * * *

(b) * * *

(3) * * *

(vii) The Regional Director shall make such investigations as the Regional Director deems necessary and thereafter shall issue and serve on the parties a Decision and Order with respect to the eligibility for national consultation rights which shall be final: *Provided, however,* That an application for review of the Regional Director's Decision and Order may be filed with the Authority in accordance with the procedure set forth in § 2422.17 of this subchapter. A determination by the Regional Director to issue a notice of hearing shall not be subject to the filing of an application for review. The Regional Director, if appropriate, may cause a notice of hearing to be issued to all interested parties where substantial factual issues exist warranting a hearing. Hearings shall be conducted by a Hearing Officer in accordance with §§ 2422.9 through 2422.15 of this subchapter and after the close of the hearing a Decision and Order shall be issued by the Regional Director in accordnce with § 2422.16 of this subchapter.

17. Section 2426.12 is amended by revising paragraph (b)(3)(vii) to read as follows:

§ 2426.12 Requests; petition and procedures for determination of eligibility for consultation rights on Government-wide rules or regulations.

* * * * *

(b) * * *

(3) * * *

(vii) The Regional Director shall make such investigation as the Regional Director deems necessary and thereafter shall issue and serve on the parties a Decision and Order with respect to the eligibility for consultation rights which shall be final: *Provided, however,* That an application for review of the Regional Director's Decision and Order may be filed with the Authority in accordance with the procedure set forth in § 2422.17 of this subchapter. A determination by the Regional Director to issue a notice of hearing shall not be subject to the filing of an application for review. The Regional Director, if appropriate, may cause a notice of hearing to be issued where substantial factual issues exist warranting a hearing. Hearings shall be conducted by a Hearing Officer in accordance with §§ 2422.9 through 2422.15 of this chapter and after the close of the hearing a Decision and Order shall be issued by

the Regional Director in accordance with § 2422.16 of this subchapter.

PART 2429—MISCELLANEOUS AND GENERAL REQUIREMENTS

18. Section 2429.1 is revised to read as follows:

§ 2429.1 Transfer of cases to the Authority.

(a) In any unfair labor practice case under Part 2423 of this subchapter in which, after the issuance of a complaint, the Regional Director determines, based upon a stipulation by the parties, that no material issue of fact exists, the Regional Director may upon agreement of all parties transfer the case to the Authority, and the Authority may decide the case on the basis of the formal documents alone. Briefs in the case must be filed with the Authority within thirty (30) days from the date of the Regional Director's order transferring the case to the Authority. The Authority may also remand any such case to the Regional Director for further processing. Orders of transfer and remand shall be served on all parties.

(b) In any case under Part 2423 of this subchapter in which it appears to the Regional Director that the proceedings raise questions which should be decided by the Authority, the Regional Director may, at any time, issue an order transferring the case to the Authority for decision or other appropriate action. Such an order shall be served on the parties.

19. Section 2429.12 is amended by revising paragraph (a) to read as follows:

§ 2429.12 Service of process and papers by the Authority.

(a) *Methods of service.* Notices of hearings, Decisions and Orders of Regional Directors, decisions of Administrative Law Judges, complaints, written rulings on motions, decisions and orders, and all other papers required by this subchapter to be issued by the Authority, the General Counsel, Regional Directors, Hearing Officers and Administrative Law Judges, shall be served personally or be certified mail or by telegraph.

* * * * *

20. Section 2429.22 is revised to read as follows:

§ 2429.22 Additional time after service by mail.

Except as to the filing of an application for review to a Regional Director's Decision and Order under § 2422.17 of this subchapter, whenever a party has the right or is required to do some act pursuant to this subchapter within a prescribed period after service of a notice or other paper upon such party, and the notice or paper is served on such party by mail, five (5) days shall be added to the prescribed period: Provided, however, That five (5) days shall not be added in any instance where an extension of time has been granted.

21. Section 2429.23 is amended by revising paragraph (d) to read as follows:

§ 2429.23 Extension; waiver.

* * * * *

(d) Time limits established in 5 U.S.C. *7105(f)*, 7117(c)(2) and 7122(b) may not be extended or waived under this section.

(5 U.S.C. 7134)

Note.—In accordance with section 605(b) of the Regulatory Flexibility Act of 1980, the Federal Labor Relations Authority and the General Counsel of the Federal Labor Relations Authority have determined that this document does not require preparation of a Regulatory Flexibility Analysis.

Dated: August 31, 1983.

Federal Labor Relations Authority.

Barbara J. Mahone,

Chairman.

Ronald W. Haughton,

Member.

Henry B. Frazier III,

Member.

John C. Miller,

General Counsel.

[FR Doc. 83-24306 Filed 9-3-83; 8:45 am]

BILLING CODE 6727-01-M

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 210 and 220

Revision of School Food Service Accountability Requirements

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: The Food and Nutrition Service (FNS) is amending the regulations for the National School Lunch Program (NSLP) and School Breakfast Program (SBP) to permanently restructure the financial accountability requirements for these programs. This rule finalizes interim regulations which were published on July 20, 1982 at 47 FR 31371. Under this rule, the determination of nonprofit status, as a condition for program participation, is made by determining the financial status of the school food service as a whole rather than the financial status of each Federal program and nongrant activity separately. This rule sets forth definitions for nonprofit school food service and for revenue to such food service and requires School Food Authorities (SFAs) to maintain appropriate revenue and expenditure records in order to substantiate the nonprofit status of their school food service. State agencies (SAs) are responsible for establishing financial management systems for SFAs to use and for monitoring nonprofit school food service net cash resources. SAs are also responsible for establishing systems for determining and monitoring SBP costs for the purpose of establishing eligibility for and determining the amount of severe need SBP payments.

This rule simplifies Federal program requirements, reduces federally required reporting and recordkeeping burdens and, by removing most program specific restrictions on Federal reimbursement, provides added flexibility to SFAs in financing school food service operations. The rule also provides SAs with additional flexibility in administering the National School Lunch and School Breakfast Programs.

EFFECTIVE DATE: October 6, 1983 except for the reporting and recordkeeping requirements in § 210.14(a–1) and § 210.14(g)(3) which are not effective until OMB approval has been obtained.

FOR FURTHER INFORMATION CONTACT: Stanley C. Garnett, Branch Chief, Policy and Program Development Branch, School Programs Division, FNS, USDA, Alexandria, Virginia, 22302 (703)756–3620.

SUPPLEMENTARY INFORMATION:

Classification

This final rule has been reviewed under Executive Order 12291 and has been classified as not major because it does not meet any of the three criteria identified under the Executive Order. It does not have an annual effect on the economy of $100 million or more, nor does it result in major increases in costs or prices for consumers; individual industries; Federal, State or local government agencies; or geographic regions. Furthermore, it does not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S. based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rule has also been reviewed with regard to the requirements of Pub. L. 96–354, the Regulatory Flexibility Act. Robert E. Leard, Administrator of the

Food and Nutrition Service, has certified that this rule does not have a significant adverse economic impact on a substantial number of small entities. In accordance with the Paperwork Reduction Act of 1980 44 U.S.C. 3507), the reporting and/or recordkeeping requirements that are included in § 210.14(a–1) and § 210.14(g)(3) of this final rule have been submitted to the Office of Management and Budget (OMB) for approval. The recordkeeping requirements included in § 220.13(i) have been approved by OMB for use through September, 1985 (OMB No. 0584–0310).

Background

On April 9, 1982, the Department published a proposed rule in the **Federal Register** (47 FR 15342) to restructure the financial accountability requirements for the NSLP and SBP. The proposal was designed to implement Section 819 of Pub. L. 97–35 which removed most references to cost from the provisions of the National School Lunch and Child Nutrition Acts dealing with the use of Federal funds in these programs. Under Section 819, Federal NSLP and non-severe need SBP funds are no longer restricted by law to the financing of certain specific costs. Rather, NSLP and non-severe need SBP funds may now be used to assist SFAs in providing program benefits within an overall nonprofit school food service environment.

In response to the April 9 proposal, the Department received 29 comments which were generally supportive of the Department's approach. These comments were taken into consideration in formulating an interim rule which was published on July 20, 1982 (47 FR 31371) and became effective on October 1, 1982.

Under the interim regulations, SAs could allow SFAs to use Federal lunch and non-severe need breakfast payments to support their overall nonprofit school food service. Federal funds could be used to support non-program food service, such as a la carte service, in addition to NSLP and SBP food service. However, this would be rare since SFAs have traditionally utilized profits from a la carte sales to subsidize their NSLP and SBP operations.

In addition to providing SFAs with added flexibility in financing their nonprofit school food service operations, the interim regulation decreased the amount of recordkeeping and reporting at the SFA level since separate costs for the NSLP, SBP and other nonprofit school food service were not required. However, SFAs were required to maintain revenue and expenditure records sufficient to establish the nonprofit status of their food service operations.

The interim revision in Federal program accountability requirements did not alter existing Federal financial management standards. The requirement that SAs establish and maintain financial management systems conforming to the standards enumerated in Departmental regulations (7 CFR Part 3015, Subpart H) remained in effect. In so doing, State agencies had the option of continuing their established cost-based accounting systems if they wished or of establishing new or revised financial management systems to monitor and support revised Federal program accountability requirements. This was in keeping with the Department's long established policy of allowing SAs to impose additional requirements for participation in the NSLP and SBP which may be more stringent than the Department's regulations but are not inconsistent with them. The Department recognizes however, that reductions in accounting and recordkeeping at the local level were dependent upon the extent to which SAs have altered their existing cost-based accounting systems.

In response to the interim rule the Department received nine comments—four from State agencies and five from FNS Regional Offices. Again, the commentors were generally supportive of the Department's rule but had specific concerns and recommendations. The Department has made every effort to incorporate into this final rule all commentor suggestions which clarify or improve the overall approach to revised program accountability requirements as set forth in the proposed and interim rules.

The remainder of this preamble will discuss the specific changes in program financial requirements that are being made under the final rule. For ease of reference the changes are presented under the same headings as in the preamble of the interim rule.

1. *Reimbursement payments*—In the interim rule, § 210.11(a) stated in part that "* * * General cash-for-food assistance payments shall be made to assist schools in obtaining food for the program. Special cash assistance payments shall be made to assist schools in providing free and reduced price lunches to children eligible for such lunches * * *" One commentor felt that this language appeared to be restrictive and, as such, seemed to contradict the objective of eliminating program specific cost accounting as a Federal requirement. The Department agrees and has revised the paragraph to reflect the concept that Federal program payments can be used to finance overall nonprofit school food service operations. However, in keeping with the intent of authorizing program legislation, this paragraph also states that the primary purpose of NSLP payments is to obtain food for the program and to provide free and reduced price lunches to eligible children.

The Department has also taken the opportunity in this final rule to revise §§ 210.11(b) and 210.11(c) to: (1) Indicate that payment rates are assigned and payments made to School Food Authorities not schools, and (2) remove obsolete and duplicative provisions.

2. *Nonprofit school food service*—One commentor pointed out that the interim definition of "nonprofit" in Parts 210 and 220 omitted the specific reference to Section 510(c)(3) of the Internal Revenue Code of 1954. Since this specific reference is cited in both the National School Lunch and Child Nutrition Acts, the Department agrees that it should appear in program regulations and has so revised these final rules.

Two commentors also pointed out that § 220.12(a) did not allow for profit from competitive food sales to accrue to the benefit of the school in certain instances whereas § 210.15b(a) did allow for such accrual. This was an oversight by the Department and § 220.12(a) has been revised in this final rule to conform to § 210.15b(a).

3. *Allowable expenditures*—Under the interim rule, nonprofit school food service revenues could be used for the operation or improvement of school food service but not to purchase land or buildings or to construct buildings. The preamble to the interim rule explained that, under this concept, expenditures could be made to alter or improve existing school food service facilities. One commentor expressed concern that, in the absence of specific guidance, the general wording of the interim rule was open to broad interpretation. It was felt that local school boards might see this as an opportunity to use school food service funds for purposes beyond that intended. The Department is sensitive to this concern but believes that safeguards do exist to protect the integrity of nonprofit school food service revenues. The Federal financial management standards contained in OMB Circulars A–87, A–102 and A–110 and in the Department's regulations at 7 CFR Part 3015 apply to the NSLP and SBP. If these programs are not accounted for separately but are operated as part of an overall nonprofit

school food service, the Federal standards would apply to that food service. For example, the cost principles of OMB Circular A–87 and 7 CFR Part 3015, Subpart T, would be applied to local School Food Authorities through the financial management system established by the State agency. That system should prescribe categories of costs for which expenditure of nonprofit school food service revenues could be made both with or without State agency approval. For expenditures requiring State agency approval, the system should establish procedures for obtaining approval. One category of costs which requires approval by the awarding (State) agency is capital expenditures. Thus, a School Food Authority that desires to expend nonprofit school food service revenues for the capital improvement of existing school food service facilities would have to obtain prior approval from the State agency. The Department would look to the State agency to insure that the Federal cost principles are properly applied and that nonprofit school food service revenues are used only for the operation or improvement of school food service.

This final rule contains language which clarifies the State agency's responsibility in establishing a financial management system and requires that expenditures of nonprofit school food service revenues be made in accordance with that system.

4. *Net cash resources*—This final rule removes the requirement that the State agency's financial management system include criteria for approval of net cash resources *of less than* three months average expenditures. Since any such levels would be within the regulatory limitation for net cash resources and since State agencies have the authority to impose additional requirements for program participation that are not inconsistent with program regulations, the Department believes this requirement was superfluous. However, criteria for approval of net cash resource levels in excess of three months average expenditures would still be required as part of the State agency's financial management system. This area is of particular concern to FNS and State criteria and net cash resources will be closely monitored by FNS in the future.

5. *Severe need reimbursement rates for the SBP*—Three commentors addressed this area. One commentor felt that severe need rates should be eliminated; another stated that the interim rule offered little recordkeeping relief for many of the schools receiving severe need rates; and two commentors felt that the maximum allowable reduced price charge should be subtracted from the cost of severe need breakfasts when determining the school's maximum payment amount for severe need breakfasts rather than the actual payments received for reduced price breakfasts. With respect to the first two issues, a legislative change would be needed in order to revise the interim rule. With respect to the third issue, the net cost to the School Food Authority of providing severe need breakfasts is most accurately determined if actual reduced price children's payments are deducted from gross costs. Therefore, the Department believes that the provisions of the interim rule properly implement the current severe need SBP payment requirements of the Child Nutrition Act and has adopted those provisions without change in this final rule.

List of Subjects

7 CFR Part 210

Food assistance programs, National school lunch program, Grant programs—Social programs, Nutrition, Children, Reporting and recordkeeping requirements, Surplus agricultural commodities.

7 CFR Part 220

Food assistance programs, School breakfast program, Grant programs—Social programs, Nutrition, Children, Reporting and recordkeeping requirements.

Accordingly, Parts 210 and 220 are amended by adopting the interim rule which was published on July 20, 1982 (47 FR 31371) with and including the following revisions:

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

1. In § 210.2, paragraph (k) is revised to read as follows:

§ 210.2 Definitions.

* * * * *

(k) "Nonprofit" when applied to schools or institutions eligible for the Program means exempt from income tax under Section 501(c)(3) of the Internal Revenue Code of 1954, as amended; or in the Commonwealth of Puerto Rico, certified as nonprofit by the Governor.

* * * * *

2. In § 210.7, paragraph (b) is amended by adding a sentence to the end of the paragraph to read as follows:

§ 210.7 Use of funds.

* * * * *

(b) * * * Expenditures of nonprofit school food service revenues shall be in accordance with the financial management system established by the State agency, or FNS where applicable under § 210.14(a–1) of this part.

* * * * * *

3. In § 210.11, the third sentence of paragraph (c) is removed. The first, second and third sentence of paragraph (a), the first and second sentences of paragraph (b), and the first and second sentences of paragraph (c) are revised to read as follows:

§ 210.11 Reimbursement payments.

(a) State agencies, or FNS where applicable shall make reimbursement payments to School Food Authorities only in connection with lunches meeting the requirements of § 210.10 of this part and reported in accordance with § 210.13(b) of this part. General cash-for-food assistance payments and special cash assistance payments shall be made to assist School Food Authorities in financing nonprofit school food service operations. The primary purpose of these payments shall be to obtain food for the Program and to provide free and reduced price lunches to eligible children. * * *

(b) Maximum general cash-for-food assistance and special cash assistance rates of reimbursement which may be paid to School Food Authorities by State agencies, or FNS where applicable, shall be prescribed by the Secretary by July 1 of each year. At the beginning of the school year, State agencies, or FNSROs where applicable, shall, within these maximums, initially assign rates of reimbursement for each School Food Authority. * * *

(c) Based on the principles set forth in this section, State agencies, and FNSROs where applicable, shall have maximum flexibility in assigning rates of reimbursement from general cash-for-food assistance and special cash assistance funds among School Food Authorities: *Except that*, for any School Food Authority, the same rate of reimbursement from general cash-for-food assistance funds shall be assigned for the lunches served to children at the full price and for lunches served to children free or at a reduced price. * * *

* * * * *

4. In 210.14, paragraph (a–1) is revised to read as follows:

§ 210.14 Special responsibilities of State agencies.

* * * * *

(a–1) Each State agency, or FNS where applicable, shall establish a financial management system under which School Food Authorities shall account for all revenues and

expenditures of their nonprofit school food service. The system shall prescribe the allowability of nonprofit school food service expenditures in accordance with this part and, as applicable, the cost principles contained in OMB Circular A–87 and 7 CFR Part 3015. The system shall permit determination of school food service net cash resources, and shall include any criteria for approval of net cash resources in excess of three months average expenditures. In addition, School Food Authorities shall be required to account separately for other food services which are operated by the School Food Authority.

* * * * *

PART 220—SCHOOL BREAKFAST PROGRAM

1. In § 220.2, paragraph (p) is revised to read as follows:

§ 220.2 Definitions.

* * * * *

(p) "Nonprofit" when applied to schools or institutions eligible for the Program means exempt from income tax under Section 501(c)(3) of the Internal Revenue Code of 1954, as amended; or in the Commonwealth of Puerto Rico, certified by the Governor.

* * * * *

2. In § 220.7, paragraph (e)(1)(ii) is revised to read as follows:

§ 220.7 Requirements for participation.

* * * * *

(e) * * *

(1) * * *

(ii) In accordance with the financial management system established under § 220.13(i) of this part, use all revenues received by such food service only for the operation or improvement of that food service except that such revenues shall not be used to purchase land or buildings or to construct buildings.

* * * * *

§ 220.9 [Amended]

3. In § 220.9, the first sentence of paragraph (a) is amended by removing the period and adding the words "and reported in accordance with § 220.11(b) of this part."

§ 220.12 [Amended]

4. In § 220.12, the second sentence of paragraph (a) is amended by inserting the words "or to the school" immediately before the words "or to student organizations approved by the school."

5. In § 220.13, paragraph (i) is revised to read as follows:

§ 220.13 Special responsibilities of State agencies.

* * * * *

(i) Each State agency, or FNS where applicable, shall establish a financial management system under which School Food Authorities shall account for all revenues and expenditures of their nonprofit school food service. The system shall prescribe the allowability of nonprofit school food service expenditures in accordance with this part and, as applicable, the cost principles contained in OMB Circular A–87 and 7 CFR Part 3015. The system shall permit determination of school food service net cash resources, and shall include any criteria for approval of net cash resources in excess of three months average expenditures. In addition, School Food Authorities shall be required to account separately for other food services which are operated by the School Food Authority.

* * * * *

(Catalog of Federal Domestic Assistance Nos. 10.553 and 10.555) (Sec. 819, Pub. L. 97–35, 95 Stat. 533, 42 U.S.C. 1759a, 1773 and 1757)

Dated: August 29, 1983.

Robert E. Leard,

Administrator, Food and Nutrition Services.

[FR Doc. 83–24296 Filed 9–2–83; 8:45 am]

BILLING CODE 3410–30–M

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7 CFR Part 226

Child Care Food Program; Correction and Amendment

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule, correction and amendment.

SUMMARY: This docket corrects several passages and updates the address of two Regional Offices contained in the final Child Care Food Program rulemaking published on August 20, 1982, at 47 FR 36524–36551, and corrects an error in the Elimination of Cost as a Factor for Reimbursement to Child Care Centers, an amendment to the final rule which was published on May 13, 1983, at 48 FR 21527–21530.

EFFECTIVE DATE: September 6, 1983.

FOR FURTHER INFORMATION CONTACT: Ms. Beverly Walstrom or Ms. Mary Lou Wheeler, Child Care and Summer Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 416, Alexandria, Virginia 22302, or by telephone at (703) 756–3888.

Accordingly, the Food and Nutrition Service is correcting and amending 7 CFR Part 226 as follows:

PART 226—CHILD CARE FOOD PROGRAM

1. On page 36542, correcting § 226.20(b)(3)(ii) by changing the word "or" to "and" to read as follows:

§ 226.20 Requirements for meals.

* * * * *

(b) * * *

(3) * * *

(ii) Lunch or supper—6–8 fluid ounces of infant formula, or 6–8 fluid ounces whole fluid milk and 0–3 fluid ounces of full-strength fruit juice; * * *

* * * * *

2. Section 226.26 (b) and (c) are revised to read as follows:

§ 226.26 Program information.

* * * * *

(b) In the States of Delaware, District of Columbia, Maryland, New Jersey, Pennsylvania, Puerto Rico, Virginia, Virgin Islands, and West Virginia: Mid-Atlantic Regional Office, FNS, U.S. Department of Agriculture, Mercer Corporate Park, Corporate Boulevard, CN 02150, Trenton, NJ 08650.

(c) In the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee: Southeast Regional Office, FNS, U.S. Department of Agriculture, 1100 Spring Street, N.W., Atlanta, GA 30367.

* * * * *

3. Section 226.26(e) is corrected by changing the zip code of the Mountain Plains Regional Office to read as follows:

§ 226.26 Program information.

* * * * *

(e) * * * 2420 West 26th Avenue, Room 430, Denver, CO 80211.

* * * * *

4. On page 21529 in the amendment to the final rule, correcting the List of Subjects in 7 CFR Part 226 to read as follows:

List of Subjects in 7 CFR Part 226

Day Care, Food assistance programs, Grant programs-health, infants and children, Reporting and recordkeeping requirements, Surplus agricultural commodities.

* * * * *

(Secs. 810, 819, and 820, Pub. L. 97–35; Section 2, Pub. L. 95–627, 92 Stat. 3603 (42 U.S.C. 1766); Sec. 10, Pub. L. 89–642, 80 Stat. 889 (42 U.S.C. 1779)

Dated: August 23, 1983.

Robert E. Leard,

Administrator, Food and Nutrition Service.

[FR Doc. 83-23201 Filed 9-2-83; 8:45 am]

BILLING CODE 3410-30-M

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 83-336]

Imported Fire Ant Regulated Areas; Interim Rule

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document amends the list of regulated areas under the imported fire ant quarantine and regulations by (1) designating previously nonregulated areas in Alabama, Georgia, and Mississippi as generally infested areas; (2) expanding previously designated generally infested areas in Alabama, Mississippi, and South Carolina; and (3) deleting a previously designated generally infested area in Alabama. The quarantine and regulations, among other things, impose restrictions on the interstate movement of regulated articles from generally infested areas. This action is necessary as an emergency measure to prevent the artificial spread of the imported fire ant and to delete unnecessary restrictions on the interstate movement of regulated articles.

DATES: Effective date of the interim rule: September 6, 1983. Written comments concerning this interim rule must be received on or before November 7, 1983.

ADDRESSES: Written comments should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 728 Federal Building, Hyattsville, MD 20782. Written comments received may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Edward J. Stubbs, Senior Staff Officer, Field Operations Support Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 663 Federal Building, Hyattsville, MD 20782, 301-436-8295.

SUPPLEMENTARY INFORMATION:

Executive Order 12291 and Emergency Action

This interim rule is issued in conformance with Executive Order 12291 and Secretary's Memorandum No. 1512-1, and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that this interim rule will have an estimated annual effect on the economy of less than $1,000; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and will not cause significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Harvey L. Ford, Deputy Administrator of the Animal and Plant Health Inspection Service for Plant Protection and Quarantine, has determined that an emergency situation exists which warrants publication without opportunity for a public comment period on this interim rule. Because of the possibility that the imported fire ant could be spread artificially to noninfested areas of the United States, a situation exists requiring immediate action to better control the spread of this pest.

Further, pursuant to the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this interim rule are impracticable and contrary to the public interest; and good cause is found for making this interim rule effective less than 30 days after publication of this document in the **Federal Register**. Comments are being solicited for 60 days after publication of this document, and a final document discussing comments received and any amendments required will be published in the **Federal Register** as soon as possible.

For this rulemaking action, the Office of Management and Budget has waived the review process required by Executive Order 12291. Also, the Assistant Secretary for Marketing and Inspection Services has waived the requirements of Secretary's Memorandum 1512-1.

Certification Under the Regulatory Flexibility Act

Mr. Bert W. Hawkins, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action affects the interstate movement of regulated articles from specified areas in the States of Alabama, Georgia, Mississippi, and South Carolina. There are thousands of small entities that move such articles interstate from those States and many more thousands of small entities that move such articles interstate from other States. However, based on information compiled by the Department, it has been determined that approximately 138 small entities move such articles interstate from the specified areas in those States. Further, the overall economic impact from this action is estimated to be less than $1,000.

Background

The imported fire ant (*Solenopsis* spp.) is an insect that interferes with farming operations, can cause damage to certain crops, and is a pest of livestock and pets, as well as of people, in rural and urban areas.

The imported fire ant quarantine and regulations (7 CFR 301.81 through 301.81-10) quarantine the States of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Texas because of the imported fire ant; and restrict the interstate movement of regulated articles from regulated areas in these States in order to prevent the artificial spread of the imported fire ant.

Under the quarantine and regulations an area may be designated as a regulated area if it is an area in which the imported fire ant has been found, or in which there is reason to believe that the imported fire ant is present, or which it is deemed necessary to regulate because of its proximity to infestation or its inseparability for quarantine enforcement purposes from infested localities. Regulated areas are divided into suppressive areas and generally infested areas. Suppressive areas are regulated areas in which eradication of the imported fire ant is undertaken as an objective. Generally infested areas are regulated areas not designated as suppressive areas. Restrictions are imposed on the interstate movement of regulated articles from both generally infested areas and suppressive areas in order to prevent the artificial movement of the imported fire ant into noninfested areas, and to prevent the reinfestation of suppressive areas after the imported fire ant has been eradicated.

Designation of Areas as Generally Infested Areas

As an emergency measure, portions of DeKalb and Madison Counties in Alabama; Hall, Lincoln, and Wilkes Counties in Georgia; and Benton and Panola Counties in Mississippi are designated as imported fire ant generally infested areas. These areas were previously nonregulated areas.

Also, as an emergency measure, certain designated imported fire ant generally infested areas in Alabama, Mississippi, and South Carolina are expanded as set forth below.

The imported fire ant generally infested area in Lawrence County, Alabama, previously described as "T. 4, 5, 6, 7, and 8 S., E. ½ R. 7 W., T. 4, 5, 6, 7, and 8 S., R. 6 W.; S ½, T. 7 S., R. 7, 8, and 9 W.; T. 8 S., R. 7, 8, and 9 W.", is expanded and redescribed as "That portion of the county lying south of the north line of T. 6 S.; E. ½ T. 3, 4, and 5 S., R. 7 W.; T. 3, 4, and 5 S., R. 6 W."

The imported fire ant generally infested area in Marshall County, Alabama, previously described as "T. 7 S., R. 1 E; T. 8 S., R. 1, 2, and 3 E. T. 9 S., R. 2, 3, and 4 E.; T. 10 S., R. 2, 3, 4, and 5 E.; T. 11 S., R. 3 E.", is expanded and redescribed as "That portion of the county lying south of the north line of T. 8 S., T. 7 S., R. 1, 2, and 3 E.; and T. 6 S., R. 2 E."

The imported fire ant generally infested area in Alcorn County, Mississippi, previously described as "That portion of T. 2, 3, and 4 S., R. 9 E. lying in the county; that portion of T. 4 S., R. 8 E. lying in the county; and T. 2 and 3 S., R. 8 E.", is expanded and redescribed as "The entire county."

The imported fire ant generally infested area in Sunflower County, Mississippi, previously described as "That portion of the county lying south of the north line of T. 18 N.; sections 31–36, T. 19 N., R. 4 W.; and T. 19 and 20 N., R. 5 W.", is expanded and redescribed as "That portion of the county lying south of the north line of T. 19 N., and T. 20 N., R. 5 W."

The imported fire ant generally infested area in Tishomingo County, Mississippi, previously described as "That portion of the county lying south of the north line of T. 5 S.", is expanded and redescribed as "The entire county."

The imported fire ant generally infested area in Aiken County, South Carolina, previously described as "The entire county excluding the area of the U.S. Department of Energy's Savannah River Plant.", is expanded and redescribed as "The entire county."

The imported fire ant generally infested area in Allendale County, South Carolina, previously described as "The entire county excluding the area of the U.S. Department of Energy's Savannah River Plant.", expanded and redescribed as "The entire county."

The imported fire ant generally infested area in Barnwell County, South Carolina, previously described as "The entire county excluding the area of the U.S. Department of Energy's Savannah River Plant.", is expanded and redescribed as "The entire county."

The imported fire ant generally infested area in Marlboro County, South Carolina, previously described as "That portion of the county bounded by a line beginning at the junction of State Secondary Highway 611 and the Great Pee Dee River, thence east along said highway to its junction with State Secondary Highway 57, thence north along said highway to its junction with State Secondary Highway 29, thence northeast and east along said highway to its intersection with State Primary Highway 381, thence northeast along said highway to its junction with State Primary Highway 9, thence southeast along said highway to its intersection with the Marlboro-Dillon County line, thence southwest along said county line to its junction with the Great Pee Dee River, thence northwesterly along said river to the point of beginning.", is expanded and redescribed as "That portion of the county bounded by a line beginning at the intersection of U.S. Highway 15 and 401 with the South Carolina-North Carolina State line, then southeast along said State line to its junction with the Marlboro-Dillon County line, then southwest along said county line to its junction with the Great Pee Dee River, then northwesterly along said river to a point due west from the junction of State Secondary Highway 209 and State Primary Highway 912, then due east along an imaginary line from said point to said junction, then northeast from said junction along State Primary Highway 912, to its junction with Secondary Highway 33, then east along said highway to its intersection with State Primary Highway 9, then southeast along said highway to its intersection with the corporate limits of the city of Bennettsville, then southerly, westerly, and easterly along said city limits to its intersection with State Primary Highway 9, then southeast along said highway to its intersection with U.S. Highway 15 and 401, then northeasterly along said highway to the point of beginning, excluding the cities of Bennettsville, McColl, and Tatum."

The imported fire ant generally infested area in Newberry County, South Carolina, previously described as "That portion of the county bounded by a line beginning at a point where U.S. Highway 76 intersects the Newberry-Laurens County line, thence northeasterly, easterly, and southerly along the Newberry County line to its intersection with U.S. Highway 76, thence northeast along said highway to the point of beginning.", is expanded and redescribed as "That portion of the county bounded by a line beginning at a point where U.S. Highway 76 intersects the Newberry-Laurens County line, then northeasterly, easterly, southerly, and westerly along the Newberry County line to its intersection with State Primary Highway 395, then northerly along said highway to its junction with State Secondary Highway 41, then northeasterly along said highway to its junction with U.S. Highway 76, then northwesterly along said highway to the point of beginning."

Based on recent surveys, inspectors have determined with respect to all of the areas added to the list of imported fire ant generally infested areas, that the imported fire ant has spread, or is likely to spread, to such areas. Therefore, as an emergency measure, it is necessary to designate such areas as imported fire ant generally infested areas and impose restrictions on the interstate movement of regulated articles from these areas in order to prevent the artificial spread of the imported fire ant.

Deletion of an Area From List of Regulated Areas

A portion of an area in Limestone County, Alabama, described as "S ½ T. 3 S. R. 4 and 5 W., T. 4. S. R. 4 W., and E ½ T. 4 S. R. 5 W." is deleted from the list of imported fire ant regulated areas. Based on treatments, with insecticides and subsequent negative surveys, it has been determined that the imported fire ant no longer occurs in this area. Accordingly, there is no basis to continue listing such area as a regulated area for the purpose of preventing the artificial spread of the imported fire ant. Therefore, as an emergency, it is necessary to delete this area from the list of regulated areas in order to delete unnecessary restrictions on the movement of imported fire ant regulated articles.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases, Plant pests, Plants (agriculture), Quarantines, Transportation, Imported fire ant.

PART 301—[AMENDED]

Accordingly, § 301.81–2a of the imported fire ant quarantine and regulations (7 CFR 301.81–2a) revises the

list of regulated areas in the States of Alabama, Georgia, Mississippi, and South Carolina to read as follows:

§ 301.81-2a Regulated areas; suppressive and generally infested areas.

* * * * *

Alabama

(1) *Generally infested areas.*

Autauga County. The entire county.
Baldwin County. The entire county.
Barbour County. The entire county.
Bibb County. The entire county.
Blount County. The entire county.
Bullock County. The entire county.
Butler County. The entire county.
Calhoun County. The entire county.
Chambers County. The entire county.
Cherokee County. That portion of the county lying south of the north line of T. 9 S.
Chilton County. The entire county.
Choctaw County. The entire county.
Clarke County. The entire county.
Clay County. The entire county.
Cleburne County. The entire county.
Coffee County. The entire county.
Colbert County. That portion of the county lying south of the north line of T. 4 S.; and T. 3 S., R. 13, 14, and 15 W.
Conecuh County. The entire county.
Coosa County. The entire county.
Covington County. The entire county.
Crenshaw County. The entire county.
Cullman County. The entire county.
Dale County. The entire county.
Dallas County. The entire county.
DeKalb County. T. 8 and 9 S., R. 5 E.; W. ½ T. 8 and 9 S., R. 6 E.; Secs 21, 22, 23, 24, 25, 26, 27, 28, 33, 34, 35 and 36, T. 9 S., R. 6 E., T. 8 and 9 S., R. 7 E.; T. 8 and 9 S., R. 8 E.; Secs. 26 and 35, T. 7 S., R. 7 E.; Secs 9, 10, 15 and 16, T. 7 S.; R. 8 E.
Elmore County. The entire county.
Escambia County. The entire county.
Etowah County. The entire county.
Fayette County. The entire county.
Franklin County. The entire county.
Geneva County. The entire county.
Greene County. The entire county.
Hale County. The entire county.
Henry County. The entire county.
Houston County. The entire county.
Jefferson County. The entire county.
Lamar County. The entire county.
Lauderdale County. The entire county.
Lawrence County. That portion of the county lying south of the north line of T. 6 S.; E. ½ T. 3, 4 and 5 S., R. 7 W., T. 3, 4 and 5 S., R. 8 W.
Lee County. The entire county.
Limestone County. S. ½, T. 3 S., R. 6 W.; W. ½ T. 4 S., R. 5 W.; T. 4 S., R. 6 W.; T. 5 S., R. 4 W.
Lowndes County. The entire county.
Macon County. The entire county.
Madison County. T. 6 S., R. 2 and 3 E.; T. 5 S., R. 3 E.
Marengo County. The entire county.
Marion County. The entire county.
Marshall County. That portion of the county lying south of the north line of T. 8 S.; T. 7 S., R. 1, 2 and 3 E.; and T. 6 S., R. 2 E.
Mobile County. The entire county.
Monroe County. The entire county.
Montgomery County. The entire county.
Morgan County. T. 4 S., R. 5 W.; T. 5 S., R. 4 and 5 W.; T. 6 S., R. 4 and 5 W.; and that portion of the county lying south of the north line of T. 7 S.
Perry County. The entire county.
Pickens County. The entire county.
Pike County. The entire county.
Randolph County. The entire county.
Russell County. The entire county.
St. Clair County. The entire county.
Shelby County. The entire county.
Sumter County. The entire county.
Talladega County. The entire county.
Tallapoosa County. The entire county.
Tuscaloosa County. The entire county.
Walker County. The entire county.
Washington County. The entire county.
Wilcox County. The entire county.
Winston County. The entire county.

(2) *Suppressive areas.* None.

* * * * *

Georgia

(1) *Generally infested areas.*

Appling County. The entire county.
Atkinson County. The entire county.
Bacon County. The entire county.
Baker County. The entire county.
Baldwin County. The entire county.
Barrow County. That portion of the county in Georgia Militia District 316 south of U.S. Highway 29, excluding the corporate city limits of Auburn and Carl.
Ben Hill County. The entire county.
Berrien County. The entire county.
Bibb County. The entire county.
Bleckley County. The entire county.
Brantley County. The entire county.
Brooks County. The entire county.
Bryan County. The entire county.
Bulloch County. The entire county.
Burke County. The entire county.
Butts County. The entire county.
Calhoun County. The entire county.
Camden County. The entire county.
Candler County. The entire county.
Carroll County. The entire county.
Charlton County. The entire county.
Chatham County. The entire county.
Chattachoochee County. The entire county.
Cherokee County. That portion of the county lying within Georgia Militia District 817.
Clarke County. That portion of the county in Georgia Militia District 1467 outside the corporate limits of Athens.
Clay County. The entire county.
Clayton County. The entire county.
Clinch County. The entire county.
Cobb County. The entire county.
Coffee County. The entire county.
Colquitt County. The entire county.
Columbia County. The entire county.
Cook County. The entire county.
Coweta County. The entire county.
Crawford County. The entire county.
Crisp County. The entire county.
Decatur County. The entire county.
De Kalb County. The entire county.
Dodge County. The entire county.
Dooly County. The entire county.
Dougherty County. The entire county.
Douglas County. The entire county.
Early County. The entire county.
Echols County. The entire county.
Effingham County. The entire county.
Emanuel County. The entire county.
Evans County. The entire county.
Fayette County. The entire county.
Floyd County. That portion of the county lying within Georgia Militia Districts 829, 855, 1059, and 1453.
Forsyth County. That portion of the county lying within Georgia Militia Districts 879, 1276, and 795.
Fulton County. The entire county.
Glascock County. The entire county.
Glynn County. The entire county.
Grady County. The entire county.
Greene County. That portion of the county lying within Georgia Militia Districts 142, 143, 145, 160, 161, 162, and 163.
Gwinnett County. The entire county.
Hall County. That portion of the county lying within Georgia Militia Districts 413, 1270, and 1419.
Hancock County. The entire county.
Haralson County. The entire county.
Harris County. The entire county.
Heard County. The entire county.
Henry County. The entire county.
Houston County. The entire county.
Irwin County. The entire county.
Jasper County. The entire county.
Jeff Davis County. The entire county.
Jefferson County. The entire county.
Jenkins County. The entire county.
Johnson County. The entire county.
Jones County. The entire county.
Lamar County. The entire county.
Lanier County. The entire county.
Laurens County. The entire county.
Lee County. The entire county.
Liberty County. The entire county.
Lincoln County. That portion of the county lying within Georgia Militia District 184.
Long County. The entire county.
Lowndes County. The entire county.
Macon County. The entire county.
Marion County. The entire county.
McDuffie County. The entire county.
McIntosh County. The entire county.
Meriwether County. The entire county.
Miller County. The entire county.
Mitchell County. The entire county.
Monroe County. The entire county.
Montgomery County. The entire county.
Morgan County. The entire county.
Muscogee County. The entire county.
Newton County. The entire county.
Oconee County. The entire county.
Paulding County. That portion of the county lying within Georgia Militia Districts 942, 951, 839, and 1553.
Peach County. The entire county.
Pierce County. The entire county.
Pike County. The entire county.
Polk County. That portion of the county lying within Georgia Militia Districts 1075, 1079, 1223, 1469, and 1570.
Pulaski County. The entire county.
Putnam County. The entire county.
Quitman County. The entire county.
Randolph County. The entire county.
Richmond County. The entire county.
Rockdale County. The entire county.
Schley County. The entire county.
Screven County. The entire county.
Seminole County. The entire county.
Spalding County. The entire county.

Stewart County. The entire county.
Sumter County. The entire county.
Talbot County. The entire county.
Taliaferro County. The entire county.
Tattnall County. The entire county.
Taylor County. The entire county.
Telfair County. The entire county.
Terrell County. The entire county.
Thomas County. The entire county.
Tift County. The entire county.
Toombs County. The entire county.
Treutlen County. The entire county.
Troup County. The entire county.
Turner County. The entire county.
Twiggs County. The entire county.
Upson County. The entire county.
Walton County. The entire county.
Ware County. The entire county.
Warren County. The entire county.
Washington County. The entire county.
Wayne County. The entire county.
Webster County. The entire county.
Wheeler County. The entire county.
Wilcox County. The entire county.
Wilkes County. That portion of the county lying within Georgia Militia Districts 174, 176, and 177.
Wilkinson County. The entire county.
Worth County. The entire county.
(2) *Suppressive areas.* None.

* * * * *

Mississippi

(1) *Generally infested areas.*
Adams County. The entire county.
Alcorn County. The entire county.
Amite County. The entire county.
Attala County. The entire county.
Benton County. That portion of the county lying south of the north line of T. 4 S.
Bolivar County. T. 20 N., R. 6, 7, and 8 W.; T. 21 N., R. 5, 6, and 7 W., and S. ½ T. 22 N., R. 6 W.
Carroll County. The entire county.
Calhoun County. The entire county.
Chickasaw County. The entire county.
Choctaw County. The entire county.
Claiborne County. The entire county.
Clarke County. The entire county.
Clay County. The entire county.
Copiah County. The entire county.
Covington County. The entire county.
Forrest County. The entire county.
Franklin County. The entire county.
George County. The entire county.
Greene County. The entire county.
Grenada County. The entire county.
Hancock County. The entire county.
Harrison County. The entire county.
Hinds County. The entire county.
Holmes County. The entire county.
Humphreys County. The entire county.
Issaquena County. The entire county.
Itawamba County. The entire county.
Jackson County. The entire county.
Jasper County. The entire county.
Jefferson County. The entire county.
Jefferson Davis County. The entire county.
Jones County. The entire county.
Kemper County. The entire county.
Lafayette County. That portion of the county lying south of the north line of T. 10 S., T. 9 S., R. 1, 2, and 3 W.; T. 8 S., R. 1 W.; T. 7 S., R. 1 W., and S.E. ¼, T. 6 S., R. 3 W.
Lamar County. The entire county.
Lauderdale County. The entire county.
Lawrence County. The entire county.
Leake County. The entire county.
Lee County. The entire county.
Leflore County. That portion of the county lying south of the north line of T. 19 N.; S. ½ of T. 20 N., R. 1 E.; and that portion of T. 20 and 21 N., R. 2 E. lying in the county.
Lincoln County. The entire county.
Lowndes County. The entire county.
Madison County. The entire county.
Marion County. The entire county.
Monroe County. The entire county.
Montgomery County. The entire county.
Neshoba County. The entire county.
Newton County. The entire county.
Noxubee County. The entire county.
Oktibbeha County. The entire county.
Panola County. That portion of T. 10 S., R. 5 W. lying in the county and T. 10 S., R. 6 W.
Pearl River County. The entire county.
Perry County. The entire county.
Pike County. The entire county.
Pontotoc County. The entire county.
Prentiss County. The entire county.
Rankin County. The entire county.
Scott County. The entire county.
Sharkey County. The entire county.
Simpson County. The entire county.
Smith County. The entire county.
Stone County. The entire county.
Sunflower County. That portion of the county lying south of the north line of T. 19 N. and T. 20 N., R. 5 W.
Tippah County. That portion of the county lying south of the north line of T. 3 S.
Tishomingo County. The entire county.
Union County. The entire county.
Walthall County. The entire county.
Warren County. The entire county.
Washington County. The entire county.
Wayne County. The entire county.
Webster County. The entire county.
Wilkinson County. The entire county.
Winston County. The entire county.
Yalobusha County. The entire county.
Yazoo County. The entire county.
(2) *Suppressive areas.* None.

* * * * *

South Carolina

(1) *Generally infested areas.*
Aiken County. The entire county.
Allendale County. The entire county.
Bamberg County. The entire county.
Barnwell County. The entire county.
Beaufort County. The entire county.
Berkeley County. The entire county.
Calhoun County. The entire county.
Charleston County. The entire county.
Clarendon County. The entire county.
Colleton County. The entire county.
Darlington County. The entire county.
Dillon County. The entire county.
Dorchester County. The entire county.
Edgefield County. That portion of the county bounded by a line beginning at a point where State Primary Highway 23 intersects the Edgefield-McCormick County line, thence east along said highway to its intersection with State Secondary Highway 10, thence southeast along said highway to its junction with U.S. Highway 25, thence southeast along said highway to its junction with State Primary Highway 19, thence southeast along said highway to its intersection with Edgefield-Aiken County line, thence southwest along said county line to its junction with the Savannah River, thence northwest along said river to its junction with the Edgefield-McCormick County line, thence north along said county line to the point of beginning.
Fairfield County. The entire county.
Florence County. The entire county.
Georgetown County. The entire county.
Hampton County. The entire county.
Horry County. The entire county.
Jasper County. The entire county.
Kershaw County. The entire county.
Lee County. The entire county.
Lexington County. The entire county.
Marion County. The entire county.
Marlboro County. That portion of the county bounded by a line beginning at the intersection of U.S. Highway 15 and 401 with the South Carolina-North Carolina State line, then southeast along said State line to its junction with the Marlboro-Dillon County line, then southwest along said county line to its junction with the Great Pee Dee River, then northwesterly along said river to a point due west from the junction of State Secondary Highway 209 and State Primary Highway 912, then due east along an imaginary line from said point to said junction, then northeast from said junction along State Primary Highway 912 to its junction with State Secondary Highway 33, then east along said highway to its intersection with State Primary Highway 9, then southeast along said highway to its intersection with the corporate limits of the city of Bennettsville, then southerly, westerly, and easterly along said city limits to its intersection with State Primary Highway 9, then southeast along said highway to its intersection with U.S. Highway 15 and 401, then northeasterly along said highway to the point of beginning, excluding the cities of Bennettsville, McColl, and Tatum.
McCormick County. That portion of the county bounded by a line beginning at the junction of State Secondary Highway 179 and the Clark Hill Reservoir, thence northeast along said highway to its junction with State Primary Highway 283 at Plum Branch, thence east along said highway to its intersection with the McCormick-Edgefield County line, thence southerly along said county line to its junction with the Savannah River, thence northwesterly along said river and Clark Hill Reservoir to the point of beginning.
Newberry County. That portion of the county bounded by a line beginning at a point where U.S. Highway 76 intersects the Newberry-Laurens County line, then northeasterly, easterly, southerly, and westerly along the Newberry County line to its intersection with State Primary Highway 395, then northerly along said highway to its junction with State Secondary Highway 41, then northeasterly along said highway to its junction with U.S. Highway 76, then northwesterly along said highway to the point of beginning.
Orangeburg County. The entire county.
Richland County. The entire county.
Sumter County. The entire county.
Williamsburg County. The entire county.
(2) *Suppressive areas.* None.

* * * * *

(Secs. 8, 9, 37 Stat. 318, as amended, sec. 106, 71 Stat. 33 (7 U.S.C. 161, 162, 150ee); 37 FR 28464, 28477 as amended; 38 FR 19141; 7 CFR 301.81–2, 39 FR 21117)

Done at Washington, D.C., this 31st day of August 1983.

William F. Helms,

Acting Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 83-24500 Filed 9-2-83; 8:45 am]

BILLING CODE 3410-34-M

Farmers Home Administration

7 CFR Parts 1865, 1944, 1945, and 1951

Analyzing Credit Needs and Graduation of Borrowers

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) revises and redesignates its regulations pertaining to the analysis of credit needs and graduation of borrowers. The purpose of this revision is to define the District Director's responsibilities for analyzing the credit needs and graduation of Community Program and Multiple Housing borrowers. Also this revision reorganizes and renumbers the regulations to comply with an overall restructuring of FmHA regulations. The intended effect of this action is to meet the requirements for review of existing regulations and to reflect FmHA's field office reorganization.

EFFECTIVE DATE: September 6, 1983.

FOR FURTHER INFORMATION CONTACT: John H. Madding, Deputy Director, Community Facility Division, Room 6312, South Agriculture Building, Washington, DC 20250, telephone 202–382–1490.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated "non-major" because this revision would not increase the costs to borrowers since graduation was part of their agreement when loans were made. It is the Agency's intent to provide assistance to rural populations only until they are eligible for credit elsewhere.

All loan servicing actions described in this regulation will be conducted without regard to race, color, sex, marital status, national origin, age, physical or mental handicap. FmHA revises and redesignates its regulations on analyzing credit needs and graduation of borrowers from Part 1865 to Subpart F of Part 1951, Chapter XVIII, Title 7, Code of Federal Regulations.

This document has been reviewed in accordance with 7 CFR Part 1901, Subpart G, "Environmental Impact Statement." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

These regulations enable FmHA loans to be analyzed to determine credit needs and to be reviewed for graduation to other sources of credit. They prescribe the authorities, policies, and routines for analyzing and reviewing FmHA borrowers for graduation in addition to those referenced in other FmHA regulations.

This change will affect all of the listed Catalog of Federal Domestic Assistance FmHA programs.

Sec.
10.404 Emergency Loans.
10.405 Farm Labor Housing Loans and Grants.
10.406 Farm Operating Loans.
10.407 Farm Ownership Loans
10.408 Grazing Association Loans.
10.409 Irrigation, Drainage, and Other Soil and Water Conservation Loans.
10.410 Low to Moderate Income Housing Loans.
10.413 Recreation Facility Loans.
10.415 Rural Rental Housing Loans.
10.416 Soil and Water Loans.
10.417 Very Low-Income Housing Repair Loans and Grants.
10.418 Water and Waste Disposal Systems for Rural Communities.
10.421 Indian Tribes and Tribal Corporation Loans.
10.423 Community Facilities Loans.
10.428 Economic Emergency Loans.

Major Alternatives Considered

Leaving the regulations as they are presently written was considered. This was not done since it would not clearly define the responsibilities of FmHA personnel and did not address the requirements of graduation for all borrowers. Continuing with the existing regulations would not comply with the overall reorganization of FmHA's field offices. Also, a review is required by Executive Order 12291 and the regulations need to be renumbered to conform with present numbering system.

The proposed alternative was used since it enables FmHA to review loans in a more efficient, effective and uniform manner to analyze credit and graduation of borrowers. It also enables FmHA to comply with Executive Order 12291 requiring review of existing regulations.

Cost Impact

The administrative changes will require FmHA to more efficiently and effectively review its active loans for graduation to other credit sources. These actions will increase the cost to FmHA by requiring more time of FmHA personnel. However, the future costs to the Government, and ultimately, the public should decrease as account servicing costs are eliminated when borrowers graduate.

Discussion of Final Rule

A proposed rule was published in the **Federal Register** (47 FR 33) on January 4, 1982. That proposal provided for a 60-day comment period. The comment period ended March 5, 1982. In response to the notice of proposed rulemaking, comments were received from ten (10) individuals or groups. Three of the comments were received following the March 5, 1982, deadline. All comments were considered in the final rule.

The proposed rule has been rewritten and restructured to clarify and simplify the graduation process. The final rule contains no major policy shifts to the proposed rule.

The following is a discussion of the revisions made, comments received, and the FmHA's responses:

Section 1951.252 retitled *Definitions.* Definitions have been added to provide a uniform meaning.

Section 1951.253 renamed *Objectives.* This section has been revised to incorporate FmHA's position with respect to competition with private lenders.

Section 1951.254 previously reserved, now titled *Responsibility.* This section has been expanded to include the responsibilities of the County Committee in the graduation process.

Section 1951.255 previously reserved, now titled *Nondiscrimination.* The nondiscrimination statement was originally numbered § 1951.252(c).

Section 1951.261(a), *Reaching an understanding with applicants and borrowers,* has been expanded to ensure that the servicing official provides more complete information concerning graduation policies.

Section 1951.261(b), retitled *The graduation review period.* This section has been changed to: (1) Reflect a new date (October 1) for the National Finance Office to provide a graduation review list to county offices and (2) Reflect a decrease from 10 to 6 the number of years a Community Program

borrower will be indebted before being included on the graduation review list.

Section 1951.261(c), *Survey of the lender criteria and policies*, section 1951.261(d), *The initial screening*, and section 1951.261(e), *The thorough review*, have been added to clarify the steps to be taken by the servicing official in the selection of candidates for graduation.

Section 1951.261(f), *Trial referral*, has been added to provide for the optional use of a borrower's prospectus to reduce the impact of this subpart on borrowers, lenders, and servicing officials caused by referral for graduation in the absence of lender interest.

Section 1951.261(g), *Requesting the borrower to graduate*, has been revised to reflect the period of time a borrower has to produce evidence of ability or inability to graduate: 30 days for Farmer Program and Rural Housing borrowers and 90 days for group type borrowers.

Section 1951.262 retitled *Action when borrower fails to cooperate, respond and/or graduate*. This section has been revised to clarify the responsibilities of the borrower, the servicing official and the State Director with respect to graduation enforcement.

Section 1951.263 retitled *Application for subsequent loan, subordination, or consent to additional indebtedness from a borrower who has been requested to graduate*. This section has been rewritten to provide the servicing official a greater degree of control over requests of this nature.

Section 1951.264 previously reserved, now titled *Special requirements for Multiple Housing borrowers*. This section was previously numbered § 1951.263

Section 1951.265 previously reserved, now titled *Documents for Office of General Counsel (OGC) review*. This section has been added to provide the servicing official and the State Director a list of those documents needed by OGC for graduation review.

Section 1951.266 previously reserved, now titled *State supplements and guides*. This section has been added to allow the State Director to supplement this subpart to meet State and local laws, regulations, and practices.

Exhibit A, "Suggested Outline for Seeking Information from Lenders on Credit Criteria for Graduation of Agricultural Loans," and Exhibit B, "Suggested Outline for Seeking Information from Lenders on Credit Criteria for Graduation of Rural Housing Loans," have been added.

FmHA Guide Letters 1951–1, 1951–2, 1951–5, 1951–6, and 1951–7 have been added as guide letters for the servicing official's use in contacting borrowers who may be eligible for graduation and followup as appropriate.

FmHA Guide Letters 1951–3 and 1951–4 have been added as guide letters for the servicing official's use in providing borrower prospectus information to lenders.

One comment suggested that the word "reasonable" be changed to "prevailing". The law specifies the term reasonable be used to describe the rates, terms and conditions in the area. However, the word commercial has been incorporated into the definition of reasonable rates and terms to clarify the meaning.

One comment suggested clarifying the review of borrowers with RH loans only. The final rule contains language to this effect in § 1951.254 (c) and (d).

A general comment was made with regard to a more direct requirement for refinancing after a certain number of years. This approach would place a hardship on some borrowers and would not be in line with the overall mission of the Agency as a lender of supervised credit. If a good job is done at loan closing and on other supervisory opportunities, the present language will be sufficient.

A more direct letter was suggested in the place of FmHA Guide Letter 451–1. Although this guide letter has been revised and renumbered to 1951–5, this suggestion was not adopted because it lacks the compassion that is necessary by a lender of last resort.

For FmHA borrowers who have improved their financial positions, graduation to conventional credit when it becomes reasonably available is an integral part of all FmHA lending. After a borrower is requested to graduate, and the borrower finds other credit is not available at reasonable rates and terms, FmHA will continue with the borrowers until the next review period.

Our past experience, including a recent survey, indicates many bond buyers and commercial lenders like the graduation feature in FmHA lending. In joint funding situations, where the borrower can handle conventional credit terms and the commercial lender has had a good experience with the borrower, the lender has been willing to refinance the FmHA loan balance.

One comment received highlighted some problems that may be expected in connection with graduation of Community Program borrowers. However, the graduation provisions contained in the standard loan agreement is a statutory requirement of the Consolidated Farm and Rural Development Act, not an administrative requirement. Therefore, we must proceed toward graduation of those borrowers who are truly able to graduate.

List of Subjects on 7 CFR Part 1951

Loan programs—agriculture, Rural areas.

Therefore, FmHA amends Chapter XVIII, Title 7, Code of Federal Regulations as follows:

PART 1865—[REMOVED AND RESERVED]

1. Part 1865 is removed and reserved.

PART 1944—HOUSING

§ 1944.44 [Amended]

2. Section 1944.44 is amended by changing the reference from "Part 1865 of this chapter (FmHA Instruction 456.1)" to "Subpart F of Part 1951 of this chapter."

§ 1944.200 [Amended]

3. Section 1944.200(a) is amended by changing the reference from "Part 1865 of this chapter (FmHA Instruction 451.6)" to "Subpart F of Part 1951 of this chapter."

PART 1945—EMERGENCY

§ 1945.136 [Amended]

4. Section 1945.136 is amended by changing the reference from "Part 1865 of this chapter (FmHA Instruction 451.6)" to "Subpart F of Part 1951 of this chapter."

§ 1945.168 [Amended]

5. Section 1945.168(d) is amended by changing the reference from "Part 1865 of this chapter (FmHA Instruction 451.6, a copy of which is available in any FmHA County Office)" to "Subpart F of Part 1951 of this chapter."

PART 1951—SERVICING AND COLLECTIONS

§ 1951.25 [Amended]

6. Section 1951.25(b)(3) is amended by changing the reference from "Part 1865 of this chapter (FmHA Instruction 451.6)" to "Subpart F of Part 1951 of this chapter."

7. Subpart F is added and reads as follows:

Subpart F—Analyzing Credit Needs and Graduation of Borrowers

Sec.

1951.251 Purpose.
1951.252 Definitions.
1951.253 Objectives.
1951.254 Responsibility.
1951.255 Nondiscrimination.
1951.256–1951.260 [Reserved]

Sec.
1951.261 Graduation of FmHA borrowers to other sources of credit.
1951.262 Action when borrower fails to cooperate, respond and/or graduate.
1951.263 Application for subsequent loan, subordination, or consent to additional indebtedness from a borrower who has been requested to graduate.
1951.264 Special requirements for Multiple Housing borrowers.
1951.265 Documents for Office of General Counsel (OGC) review.
1951.266 State supplements and guides.
1951.267–1951.299 [Reserved]
1951.300 OMB control number.
Exibit A—Suggested outline for seeking information from lenders on credit criteria for graduation of agricultural loans
Exhibit B—Suggested outline for seeking information from lenders on credit criteria for graduation of single family housing loans

Subpart F—Analyzing Credit Needs and Graduation of Borrowers

§ 1951.251 Purpose.

This subpart prescribes the policies to be followed when analyzing a borrower's needs for continued Farmers Home Administration (FmHA) supervision, further credit and graduation. All borrowers' loan account(s) will be reviewed for graduation in accordance with this Subpart, except Guaranteed, Watershed, and Resource Conservation and Development loans.

§ 1951.252 Definitions.

(a) *Graduation.* The payment in full of an FmHA loan before maturity by refinancing through other credit sources. This definition does not include those borrrowers indebted for only the current year's operating expenses or who sell out voluntarily or involuntarily and pay their loan(s) in full.

(b) *Reasonable rates and terms.* Those commercial rates and terms which borrowers are expected to meet when borrowing for similar purposes and similar periods of time. The "similar periods of time" of available commercial loans will be measured against, but need not be the same as, the remaining or original term of the FmHA loan.

(c) *Servicing official.* The District or County Office official responsible for the immediate servicing functions of the borrower.

(d) *Trial referral.* A program whereby lenders voluntarily participate in reviewing selected financial information supplied by servicing officials on FmHA borrowers who have been selected for graduation.

§ 1951.253 Objectives.

(a) The FmHA credit programs will be administered in a manner that will assure they do not supplant or compete with credit available to rural families and groups from other reliable credit sources.

(b) Borrowers should graduate to other credit on reasonable rates and terms when they are able to do so.

(c) If FmHA cannot accomplish graduation voluntarily, liquidation will be enforced when the following conditions exist:

(1) The borrower has both the legal capacity and financial ability to accept other credit.

(2) Other credit appears to be available from a cooperative or private credit source at reasonable rates and terms. In the case of Labor Housing (LH), Rural Rental Housing (RRH), and Rural Cooperative Housing (RCH) Programs, reasonable rates and terms must also permit the borrowers to continue providing housing for low and moderate income persons at rental rates tenants can afford considering the loss of any subsidy which will be cancelled when the FmHA loan is paid in full. The District Director will do a comparative analysis of rents and incomes of tenants living the FmHA project(s) eligible for graduation and conventionally financed projects of the local area.

(d) The FmHA has the legal ability to require borrowers to graduate. It must be recognized most, but not all, FmHA notes, security instruments and/or loan agreements contain clauses requiring a borrower to graduate when other credit can be obtained. The clause may say "upon reasonable terms and conditions," "on terms prevailing in the area for loans for similar periods of time and purpose," or "at reasonable rates and terms for loans for similar purposes and periods of time." These three provisions are all construed to mean the borrower agrees to and can be forced, through legal action if necessary, to graduate if it appears to FmHA that other credit can be obtained from another source at reasonable rates and terms.

§ 1951.254 Responsibility.

(a) The State Director is responsible for:

(1) Monitoring the orderly and timely review of the graduation process and to assure the provisions of this subpart are complied with in each State under his or her jurisdiction.

(2) Meeting with investment bankers, insurance and mortgage companies, District President of the Federal Intermediate Credit Bank, leaders of banks and organizations such as banking and savings and loan associations serving areas within the State to discuss the FmHA graduation policy. State Directors should also look for opportunities at State or area banking or savings and loan association meetings to convey the same messages.

(b) The District Director is responsible for:

(1) Monitoring the County Office graduation process for effectiveness and conformance to this Subpart.

(2) Graduation review and follow-up on all Community Program and Multiple Housing borrowers.

(3) Follow-up to ensure that County Supervisors meet with conventional lenders in the area.

(c) The County Supervisor is responsible for:

(1) Graduation review and follow-up action on all Farmer Program and rural Housing borrowers.

(2) Meeting with leaders from insurance and mortgage companies, banks, savings and loan associations, Federal Land Banks and Production Credit Associations as often as necessary to keep abreast of current lending activities and to discuss the FmHA graduation policy.

(d) The County Committee is responsible for assisting the County Supervisor in the review of only Farmer Program borrowers. However, an exception will occur when a borrower has both a farm loan and another type FmHA loan. In this case the County Committee will assist the County Supervisor in the simultaneous review of all FmHA loans for which the borrower is indebted.

§ 1951.255 Nondiscrimination.

All loan servicing actions described in this subpart will be conducted without regard to race, color, sex, marital status, national origin, age, or physical or mental handicap (borrower must possess the capacity to enter into a legal contract for services).

§ 1951.256–1951.260 [Reserved]

§ 1951.261 Graduation of FmHA borrowers to other sources of credit.

(a) *Reaching an understanding with applicants and borrowers.* (1) Prior to loan closing, the servicing official will thoroughly discuss the graduation requirements with the applicant and document the discussion in the runing case record or other form provided for this purpose. During the discussion, the applicant will be informed that:

(i) FmHA loans are a temporary source of credit; and that borrowers will be requested to refinance their loans with other lenders when such credit is available at reasonable rates and terms.

(ii) FmHA will expect them to comply with the FmHA graduation requirement,

as evidenced by the legally enforceable graduation clause contained in the FmHA note, security instrument and/or loan agreement.

(iii) The loan will be reviewed on a regular basis for graduation even though the loan has not matured.

(iv) A meeting may be requested by FmHA to discuss the graduation requirement; and that they will be required to provide specific types of financial information upon request.

(v) In certain cases, there are prepayment restrictions and/or other limiting conditions which must be considered in the graduation process.

(vi) Requests for an additional loan, subordination, or consent to additional indebtedness will not normally be approved until the graduation request is resolved. (See § 1951.263 of this Subpart).

(2) Periodically the servicing official will reemphasize the graduation requirement with borrowers during routine field visits and office contacts.

(3) The servicing official will review in detail the possibility of graduation during account servicing contacts.

(b) *The graduation review period.* (1) Graduation review lists will be prepared as follows:

(i) By October 1 of each year the Finance Office will furnish the County Office a list of active borrowers who are to be considered for graduation.

(A) The list will contain borrowers who have been indebted for at least 3 years for Emergency (EM) and Economic Emergency (EE) loans; 4 years for Operating Loans (OL); 6 years for Farm Ownership (FO); Soil and Water (SW), and Rural Housing (RH) loans.

(B) The County Supervisor will, upon receipt of the list:

(*1*) Identify RH borrowers that will, in accordance with § 1951.254(d), not require County Committee review action.

(*2*) Divide those RH borrowers identified in § 1951.261(b)(l)(i)(B)(*1*) of this section into four groups in such a manner that approximately one-fourth will be reviewed each quarter.

(ii) For Community Programs, the District Director, using Management System Cards and/or the Rural Community Facilities Tracking System (RCFTS) will prepare a list by June 1 of each year, indicating borrowers who have been indebted for at least 6 years.

(iii) By March 1 of each year the State Office will furnish each District Office a list of Multiple Family Housing (MFH) Program borrowers and MFH Program transferees who have assumed loans on new terms and who have been indebted for 15 years in the case of an unsubsidized project and 20 years in the case of a subsidized project. The State Office will compile the list using the Multi-Family Housing Information Status Tracking and Retrieval System (MISTR).

(iv) By October 1 of each year, the County Supervisor, using Management System Cards, will prepare a graduation review list indicating borrowers who have been indebted for at least 6 years under the Grazing, Irrigation and Drainage, Recreation (RL), and Indian Land Acquisition Loan Programs.

(2) The graduation review lists will be compiled on the basis of the year in which the initial loan or the transfer was closed. The graduation review lists compiled in odd numbered years will include the names of all borrowers whose loans were closed during odd numbered calendar years. The same procedure will apply to borrowers whose loans closed during even numbered calendar years. Once a borrower has appeared on the graduation review list, the borrower will automatically reappear on the list every 2 years. However, if the servicing official or County Committee has knowledge of any other borrower whose financial circumstances have changed sufficiently to warrant consideration, that borrower will also be included in the graduation review.

(3) The servicing official will manage the graduation of borrowers throughout the year to accomplish graduation prior to receiving a new graduation list. The State Director through the issuance of a State Supplement will establish program timetables. The National Office will establish reporting requirements to monitor the administration of this Subpart.

(c) *Survey of the lender criteria and policies.* In order for the graduation program to work effectively, both the servicing official and lender(s) must be briefed on each other's programs, lending criteria and policies. Periodically during the year, the servicing official will briefly explain the graduation process and solicit lender assistance in refinancing FmHA borrowers. Information gathered from these contacts will be summarized in narrative form for each FmHA program and placed with the graduation review list in the District or County Office operational file on other credit. (The servicing official, in lieu of writing a narrative for all programs, may use Exhibit A for Farmer Program loans and Exhibit B for Rural Housing loans.) For Community Program borrowers, the servicing official will request the assistance of the State Director pursuant to § 1942.2(a)(2)(i) of Supbart A of Part 1942. At a minimum, the narrative for each loan program will contain the following:

(1) Lenders' interest in refinancing FmHA borrowers.

(2) Lenders' rates, terms, fees, loan conditions and policies.

(3) The amount of estimated credit available to FmHA borrowers.

(4) Lenders' interest in screening borrowers under the trial referral provisions of § 1951.261(f) of this Subpart.

(d) *The initial screening.* Upon receipt of the graduation review list, the servicing official will screen the list for those borrowers who are clearly unable to graduate. This initial screening will focus upon information immediately available in the borrower's case file and in the operational file on other credit.

(1) The servicing official will eliminate those borrowers from the list who are:

(i) Under an approved liquidation plan,

(ii) In bankruptcy,

(iii) Currently under a moratorium (deferment),

(iv) Rural Housing borrowers on interest credit,

(v) Limited resources, or

(vi) Unable to meet the established minimum lending criteria and/or policies set forth pursuant to paragraph (c) of this section.

(2) It will not be necessary to review borrowers with a specified interest rate refinancing ceiling clause in their loan instruments, as long as credit at the specific interest rate is not available from other sources. It will also not be necessary to review borrowers who have notes, security instruments, or loan agreements which do not contain a graduation clause. However, the servicing official will encourage either type of borrower to graduate voluntarily.

(3) A borrower's ability to accept other credit may be limited by factors over which the borrower has little or no control, such as a referendum required by a public body borrower. However, the existence of such factors will not preclude FmHA from requesting a borrower to graduate nor the borrower from making a diligent effort to seek other credit should such a request be made. The prepayment restriction contained in Section 502(c)(1) of Title V of the Housing Act of 1949, as amended, for RRH, RCH, and LH loans and transfers approved on new terms after December 21, 1979, is a factor which must be considered. These prepayment restrictions are found in § 1944.176(c)(2) of Subpart D of Part 1944 for LH loans and § 1944.236(b)(4) of Subpart E of Part 1944 for RRH and RCH loans.

(4) The decision reached by the servicing official during the screening process will be briefly documented next to each borrower's name on the graduation review list. If the borrower is eliminated from further review due to an inability to meet the minimum lending criteria and/or established policies (see paragraph (d)(1)(vi) of this section), an explanation will be included in the borrower's case file.

(e) *The thorough review.* For those borrowers who are not eliminated from the graduation review list by the initial screening, the servicing official will conduct a thorough review of financial information already in the borrower's case file or request additional information. Borrowers, upon request by FmHA, are required to supply such financial information as is necessary to determine whether they are to graduate to other credit.

(1) For borrowers who are required to submit annual financial statements and for which a copy of the most recent fiscal year's statements are in the borrower's case file, the servicing official will review these statements in accordance with paragraph (e)(4) of this section.

(2) In cases where copies of the most recent fiscal year's financial statements are not in the borrower's case file, FmHA Guide Letter No. 1951–1, or a letter of similar format, will be used by the servicing official to request the borrower to provide such financial statements within 60 days for group type loans and 30 days for individual type loans. At a minimum, the financial statements requested from the borrower will be a balance sheet and a statement of income and expense. Otherwise, the financial statements will be those normally required of a particular borrower at the end of that borrower's fiscal year. For borrowers who are not required to furnish audited financial statements, the balance sheet and statement of income and expense may be of the borrower's own format if the borrower's financial situation is accurately reflected. The following FmHA forms may also be used:

(i) Farmer Program and Rural Housing: Form FmHA 431–2, "Farm and Home Plan;" Form FmHA 431–3, "Household Financial Statement and Budget;" and Form FmHA 431–4, "Business Analysis-Nonagricultural Enterprise," as appropriate.

(ii) Community Programs; Grazing, Irrigation and Drainage: Form FmHA 442–2, "Statement of Budget Income and Equity;" and Form FmHA 442–3, "Balance Sheet."

(iii) Multiple Family Housing: Form FmHA 1930–7, "Statement of Budget, Income and Expense (excluding depreciation);" and Form FmHA 1930–8, "Year End Report and Analysis for Fiscal Year Ending ——."

(3) FmHA Guide Letter No. 1951–2, or letter of similar format, will be used if the borrower fails to respond to the first request.

(4) The servicing official, with the assistance of the County Committee, when applicable, will conduct a thorough review of the borrower's financial and repayment position. The thorough review will eliminate those borrowers on the graduation review list who are unable to meet the established minimum lending criteria and/or policies. Additional factors to be considered during the thorough review will include:

(i) The borrower's present and potential income to meet the rates, terms, loan fees and conditions of other credit (i.e., dept repayment ability).

(ii) The borrower's liquid and nonessential assets.

(iii) The borrower's equity in real property (including consideration of any subsidy recapture) and personal property.

(iv) The borrower's repayment history.

(v) The impact graduation would have on typical user costs. User costs, rental rates, lease fees, or other charges, when borrowers rely on collection from these sources for debt repayment, should be reasonable for the area served.

(vi) The Federal, State or local statutory constraints, which may limit the borrower's ability to refinance, such as a referendum required of the public body.

(5) Those borrowers who will not be requested to graduate, as a result of the thorough reviews, will be so noted on the graduation review list and handled in the same manner as those borrowers eliminated during the initial screening process. (See paragraph (d)(4) of this section).

(6) When a borrower has been requested to provide financial information in accordance with FmHA Guide Letter No. 1951–1, or letter of similar format, and the subsequent review process (including the trial referrals) determines the borrower will not be requested to graduate, the borrower will be informed in writing that no further action will be considered this year. FmHA Guide Letter No. 1951–7 may be used for this purpose.

(7) The servicing official, following the thorough review, will prepare Form FmHA 1951–24, "Results of Borrower Graduation Review," listing only borrowers who will be requested to graduate. Separate Forms FmHA 1951–24 will be prepared by program area as follows:

(i) For Community Program and Multiple Family Housing borrowers, the servicing official will obtain the advice and written concurrence of the State Director prior to making the request for a borrower to graduate and prior to execution of the last page of Form FmHA 1951–24.

(ii) For all other programs, the servicing official, and when applicable, the County Committee, will execute the last page of Form FmHA 1951–24.

(f) *Trial referral.* The servicing official, prior to actually requesting a borrower to graduate as described in paragraph (g) of this section, may make a trial referral. This trial referral can be either verbal or written with individual lenders or by group method and could include all or part of those borrowers selected for graduation in accordance with paragraph (e)(7) of this section. Prospectus information will be obtained from the borrower's file and will be submitted to the lender using FmHA Guide Letter No. 1951–3 for Farm Program borrowers, FmHA Guide Letter No. 1951–4 for Rural Housing borrowers, or letters of similar format. Other data may be added if requested by lenders. The prospectus, however, will not include the borrower's name, social security number, exact address, place of employment, or other information that could be used by others to link a specific borrower to the information being provided. For those borrowers selected for a trial referral, a prospectus will be prepared and provided to each lender who chooses to participate, whose lending area would include the borrower's location and whose criteria the borrower appears to meet. Lenders, following receipt and review of a prospectus, will be encouraged to indicate their willingness to accept the borrower's application for further consideration. If one or more lenders does express interest in a particular borrower, the borrower will be provided the names of such lenders as possible sources of other credit when the servicing official requests the borrower to graduate. If the lenders participating in the trial referral represent the most likely sources of other credit in a given lending area, and if these lenders fail to show interest in a particular borrower, this is evidence that there is no credit available for that particular borrower and no further effort needs to be made to effect graduation at this time. This information will be noted next to the borrower's name on the graduation review list and the name will be

removed from Form FmHA 1951–24 by the servicing official.

(1) The lender's participation in the trial referral provision of this paragraph will be optional. Normally, the lender's interest will be determined at the time of the servicing official's survey of lender criteria and policies (see paragraph (c) of this section). If one or more lenders indicate a willingness to participate, the servicing official should use the trial referral provision if one or more of the following factors exists:

(i) When the servicing official is not sure that local lenders would be interested in a particular borrower due to such factors as low unpaid balance, location of the security within the lending area or other factors not made clear at the time of the servicing official's contact with the local lender.

(ii) When there is a substantial cost imposed by the lender on the FmHA borrower for filing a loan application.

(iii) When the servicing official has reason to believe borrowers will not actively seek, on a voluntary basis, refinancing credit from those lenders believed to be most willing to consider such credit.

(iv) When failure to employ this system would make it difficult or time consuming for the servicing official to identify potential willing lenders in the event the borrower refuses to voluntarily contact lenders.

(2) For identification purposes, each borrower's prospectus will be coded by the servicing official. The borrower's name and identification code will be maintained in the operational file by the name of the lender to which trial referrals were made.

(g) *Requesting the borrower to graduate.* Borrowers who are to be requested to graduate will be listed on Form FmHA 1951–24. In selecting borrowers who will be required to graduate, the servicing official will give full consideration to the financial strength, income capability, and debtor characteristics which appear to meet lender criteria.

(1) FmHA Guide Letter No. 1951–5, or a letter of similar format, will be used to request the borrower to graduate. The approximate date by which the borrower will provide evidence of the borrower's ability or inability to graduate will be shown on the management system card for appropriate follow-up action. That date, determined by the number of days following the date on which the FmHA Guide Letter No. 1951–5, or letter of similar format, is mailed to the borrower, will be as follows:

(i) 30 days for Farmer Program and Rural Housing borrowers.

(ii) 90 days for group type borrowers.

(iii) Additional time may be allowed, for example, when a borrower expects to receive income in the near future for the payment of FmHA account(s) which would substantially reduce the amount required for refinancing, or when a borrower is a public body and must issue bonds to accomplish graduation.

(2) In applying for other credit, FmHA Guide Letter No. 1951–5, or a letter of similar format, will inform the borrower to seek a loan only in the amount necessary to repay the unpaid balance of the FmHA debt.

(3) If a borrower is unable to graduate the loan in full, written evidence must be furnished to FmHA by the borrower, showing:

(i) The name(s) of other lender(s) contacted,

(ii) The amount of loan requested by the borrower and the amount, if any, offered by the lender(s),

(iii) The rates and terms offered by the lender(s) or the *specific reason(s)* why other credit is not available, and

(iv) The purpose of the loan request.

(4) The District Director with the advice of the State Director, or the County Supervisor in consultation with the County Committee, when applicable, will consider new information submitted by the borrower or obtained from other reliable sources following a graduation request. The servicing official must verify all information submitted by the borrower or obtained from other sources to determine the information's reliability and reevaluate the borrower's financial circumstances. If the information submitted is not adequate and/or reliable, the servicing official will contact other sources of credit in the area and document the findings in the borrower's case file. The difference in interest rates between FmHA and other lenders will not be sufficient reason for failure to graduate if that other credit is available at rates and terms which the borrower can reasonably be expected to pay. An exception is made where there is an interest rate ceiling imposed by Federal law or contained in the note or mortgage.

(5) Under certain circumstances, an appearance of a Farmer Program borrower before the FmHA County Committee may be advisable. For all other types of loans, the servicing official may offer to meet with the borrower.

(i) If additional information confirms the borrower will be unable to graduate, the servicing official will notify the borrower in writing that the request to graduate has been withdrawn. The specific reasons for withdrawing the request will be recorded on Form FmHA 1951–24, in the borrower's case file and noted briefly on the graduation review list.

(ii) If the additional information confirms the borrower can graduate, the servicing official will inform the borrower using FmHA Guide Letter No. 1951–6, or letter of similar format, that legal action will be recommended if positive steps to graduate are not taken in 15 days for individual loans and 60 days for group loans. However, a longer period may be granted by the servicing official if conditions warrant such action.

§ 1951.262 Action when borrower fails to cooperate, respond and/or graduate.

(a) When a borrower fails to:

(1) Provide information following receipt of both FmHA Guide Letters No. 1951–1 and 1951–2, or letters of similar format, such borrowers will not be asked to graduate. They are, at that point, in default of their security instruments, which require the borrower to comply with all future FmHA regulations not inconsistent with the security instruments. The servicing official will, based on the borrower's failure to supply information in accordance with § 1951.261(e) of this subpart, prepare the required documents recommending legal action and submit them together with the borrower's case file to the State Director with a written report outlining credit sources contacted by FmHA and the borrower, the reasons given by the borrower for failure to graduate, action taken by FmHA to verify the availability of credit, and the borrower's available financial resources along with any other data pertinent to the case. The State Director may, with the concurrence of the Regional Attorney, accelerate the account based on the borrower's failure to perform as required by this Subpart and the loan and security instruments.

(2) Apply for or accept other credit following receipt of both FmHA Guide Letters No. 1951–5 and 1951–6, or letters of similar format, such borrowers will not be given further notice to graduate but at that point are in default under the graduation requirement of their security instruments. The servicing official will prepare the required documents to recommend legal action and submit them to the State Director as outlined in paragraph (a)(1) of this section.

(b) The State Director will review those cases submitted to his or her office and determine what action must be taken on the basis of the FmHA notes, security instruments, and/or loan agreements signed by the borrower and

the facts and recommendations provided by the servicing official.

(1) If the State Director determines the borrower is unable to graduate, the graduation request may be withdrawn. The State Director will request the servicing official to notify the borrower and withdraw the graduation request in accordance wih §1951.261(g)(5)(i) of this subpart.

(2) If the State Director determines the borrower is able to graduate, the State Director will accelerate the borrower's account(s) in accordance with § 1955.15(d)(2)(ii) of Subpart A of Part 1955 of this chapter. If the borrower's account(s) are accelerated, the borrower will be given the right to appeal the decision in accordance with Subpart B of Part 1900 of this chapter. The advice of the Regional Attorney is required before accelerating the account.

§ 1951.263 Application for subsequent loan, subordination, or consent to additional indebtedness from a borrower who has been requested to graduate.

(a) Borrowers who have been requested to graduate in accordance with § 1951.261(g) of this subpart will not normally be considered for a subsequent loan, subordination, or consent to additional indebtedness until the graduation issue is resolved. An exception may be made where the proposed action is needed to alleviate an emergency situation, such as meeting applicable health and/or sanitary standards which require immediate attention.

(b) In situations where the borrower has been requested to graduate and has also been denied a request for a subsequent loan, subordination, or consent to additional indebtedness, appeal rights should be given simultaneously for both issues.

(c) When FmHA's graduation request has been upheld through the appeals process, any request for additional assistance under this section may be denied without further appeal rights.

§ 1951.264 Special requirements for Multiple Housing borrowers.

Upon graduation and acceptance of the full payment from a Multiple Housing borrower, the State Director will provide the National Office with a report as described in § 1965.90(d) of Subpart B of Part 1965 of this chapter.

§ 1951.265 Documents for Office of General Counsel (OGC) review.

When the State Director requests advice pertaining to a graduation request, the borrower's case file will be sent to the Regional Attorney and will include:

(a) Organizational documents;

(b) Debt instruments;

(c) Security instruments, including loan agreements and/or resolutions;

(d) Recent financial data;

(e) The servicing official's survey of lender criteria and policies;

(f) The servicing official's narrative outlining factors considered and specific reasons for making graduation request of the borrower;

(g) Copies of the letter requesting borrower to graduate and all subsequent correspondence between servicing official and borrower relative to the graduation request;

(h) Any other pertinent information, including copies of any Federal, State, or local statutory constraints which may impact on the borrower's ability to refinance.

§ 1951.266 State Supplements and guides.

State Directors may supplement this Subpart to meet State and local laws, regulations, and practices in accordance with FmHA Instruction 2006–B (available in any FmHA office).

§§ 1951.267–1951.299 [Reserved]

§ 1951.300 OMB control number.

Collections of information requirements contained in this Subpart have been approved by the Office of Management and Budget and have been assigned OMB control number 0575–0093.

Exhibit A—Suggested Outline for Seeking Information From Lenders on Credit Criteria for Graduation of Agricultural Loans

Agricultural Loans

Date: _____
Name of Lender: _____
Title: _____
Address: _____
Name of County Supervisor: _____
Service Area: _____

1. Is the lender interested in making additional agricultural loans to new borrowers in your FmHA service area for:

- Annual Operating Purposes—Yes: ——; No: ——.
- Intermediate term loans—(i.e. Machinery or Breeding Livestock)—Yes: ——; No: ——.
- Long Term—(i.e. Real Estate)—Yes: ——; No: ——.
- Is there any limitation on the amount of new Agriculture credit or number of new customers the lender will consider? Yes: ——; No: ——; Explain: _____

2. What are the current interest rates, loan terms, loan fees, and approximate processing time for:

	Rates [1]	Terms	Loan fees	Processing time
a. Short term loans, (i.e. Operating Loans).				
b. Intermediate loans (i.e. Machinery & Livestock).				
c. Long term loans, (i.e. R.E. Gen. Farms).				
d. Long term loans, (i.e. R. E. Specialized farms).				

[1] Please indicate if rates are fixed (F) or Variable (V). If variable, how figured _____.

3. Is there a risk differential in establishing interest rate charges for new customers? Yes: ——; No: ——.
If yes, explain: _____

4. Is there a minimum or maximum loan size policy? Yes: ——; No: ——.
If yes, explain: _____

5. Is there any geographical restrictions or types of enterprises for which the lender will not make an operating or real estate loan? Yes: ——; No: ——.
If yes, explain: _____

6. Is there a minimum gross or net income to qualify as a farm or farm operator? Yes:—— No:——.
If yes explain: _____

7. What type and how many years records does the lender require on new and/or highly leveraged operators (i.e., balance sheets, P&L statements, tax returns, etc.)?_____

8. Will the lender make a low percentage "security" loan if cash flow is weak.
Yes: ——; No: ——.

9. What debt to equity ratio must be maintained before additional collateral or debt reduction is required?_____

10. Will the lender make a loan that has a negative first year cash flow but shows positive cash flow by the second or third year when realistic "normal" prices are used or because of declining term debts? Yes: ——; No: ——.
Explain: _____

11. Will the lender make a "Full Budget" operating loan? Yes: ——; No: ——. Would the lender require all crop and/or livestock sales to be turned into the bank? Yes: ——; No: ——.
Explain: _____

12. What is the normal loan to market value of security (by type of collateral or enterprise)?
Cattle _____
General Farms _____
Machinery _____
Specialized Farms _____

13. What is the financial criteria and/or ratios the lender uses for a typical Agriculture borrower?

	Desired	Minimum
a Liquidity Measurement: Current assets/current liabilities		
b Financial Leverage:		
Total debt/total assets		
Total debt/net worth		
Minimum new worth		
Maximum debt/asset		

	Desired	Minimum
c Profitability Measurement:		
Net income/gross income		
Net income/net worth		
Total debt/gross sales		
Minimum cash flow margin		

14. For the purpose of reducing the number of inappropriate referrals, would the lender like the opportunity to review specific borrower financial information prior to the borrower being asked to file a formal application? Yes: —— No: ——. If the answer is yes, *only* those borrowers who are listed on Form FmHA 1951–24 will be referred to the lender, The lenders should be advised, however, the information supplied to them will not include the borrowers name, social security number, exact address, or place of employment that could be used to link specific borrowers to the information being provided by FmHA.

Exhibit B—Suggested Outline for Seeking Information From Lenders on Credit Criteria for Graduation of Rural Housing Loans

Date: ——————
Name of Lender: ——————
Title: ——————
Address: ——————
Name of County Supervisor: ——————
Service Area: ——————

1. Is the lender interested in making loans to refinance rural housing borrowers?
Yes:——; No:——.
If later, when? ——————

How much credit does the lender expect to have available in the next three to four months for making such loans? $——————
In the next twelve (12) months?
$——————

2. What are the loan terms? ——————

3. What is the current interest rate?
—————— ☐ Variable Rate. ☐ Fixed rate.
If variable, how is it determined?
——————

4. Is a risk differential used in establishing interest rates charged for new customers?
Yes: ——; No: ——.
If yes, explain: ——————

5. What can a typical loan applicant be expected to pay for:

	Dollars	Or percent
a. Filing an application		
b. Real estate appraisal		
c. Credit report		
d. Loan orgination fee		
e. Loan closing costs		

6. Is mortgage guarantee insurance required? Yes: ——; No: ——. If yes, how many years? ——. Cost? ——————.

7. Is there a minimum or maximum loan size policy? Yes: ——; No: ——.
If yes, explain: ——————

8. Is there a minimum and maximum home value the lender will loan on? Yes: ——; No: ——. If yes, minimum: $——————;
maximum: $——————.

9. Does the lender use a loan to market value ratio? ——————

10. Is there a minimum net and gross income criteria? Yes: ——; No: ——. If yes, net: $——————; gross: $——————.

11. Does the lender use a minimum loan or home value to income ratio? Yes: ——; No: ——. If yes, loan to income ratio: —————— Value to income ratio: ——————

12. Is there a percentage of gross income a typical applicant should have available to pay housing costs? ——————

a. To pay for principal, interest, taxes and insurance (PITI)? ——%.

b. To pay for the total housing costs and other credit obligations? ——%.

13. Are there any age of home, housing type, site size, and/or geographic restriction policies? Yes: ——; No: ——.
If yes, List: ——————

14. Other Comments: ——————

15. For the purpose of reducing the number of inappropriate referrals, would the lender like the opportunity to review specific borrower financial information prior to the borrower being asked to file a formal application? Yes: ——; No: ——. If the answer is yes, *only* those borrowers who are listed on Form FmHA 1951–24 will be referred to the bank. The lenders should be advised, however, the information supplied to them will include the borrower's name, social security number, exact address, or place of employment that could be used to link a specific borrower to the information being provided by FmHA.

§ 1951.307 [Amended]

8. Section 1951.307(a)(4) is amended by changing the reference from "Part 1865 of this chapter (FmHA Instruction 451.6)" to "Subpart F of Part 1951 of this chapter."

(7 U.S.C. 1989; 42 U.S.C. 1480; Title II of Pub. L. 95–334; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70)

Dated: June 21, 1983.

Charles W. Shuman,

Administrator, Farmers Home Administration.

[FR Doc. 83-24301 Filed 9-2-83; 8:45 am]

BILLING CODE 3410-07-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 109 and 231

Employment Authorization; Arrival-Departure Manifests; Corrections

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule; correction.

SUMMARY: This document makes editorial corrections to 8 CFR sections 109.1(c) and 231.1(a) without changing the substance of the affected paragraphs relating to the employment authorization in regulations.

EFFECTIVE DATE: September 6, 1983.

FOR FURTHER INFORMATION CONTACT: Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C. 20536, Telephone: (202) 633–3048.

SUPPLEMENTARY INFORMATION: On November 13, 1981 at 46 FR 55920, the Service published a final rule clarifying the employment authorization in regulations. This document corrects a typographical error that occurred in § 109.1(c).

In the title of paragraph (a) of § 231.1, the preposition "of" is removed and the word "for" is substituted in its place to correct a final rule published on August 9, 1983 at 48 FR 36093 concerning certain manifest requirements for carriers transporting aliens.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because the corrections in this order are merely editorial in nature.

This order is not a rule within the meaning of 5 U.S.C. 601(2) since it is merely a technical correction and the Regulatory Flexibility Act does not apply.

This rule is not a rule within the meaning of section 1(b) of EO 12291.

List of Subjects

8 CFR Part 109

Aliens, Employment.

8 CFR Part 231

Air carriers, Aliens, Crewmen, Inspections, Maritime carriers, Passenger vessels.

Accordingly, Chapter 1 of Title 8 of Code of Federal Regulations is corrected as follows:

PART 109—EMPLOYMENT AUTHORIZATION

§ 109.1 [Corrected]

1. Paragraph (c) is corrected by changing the word "basis" to read "basic" in the first sentence.

PART 231—ARRIVAL-DEPARTURE MANIFESTS AND LISTS; SUPPORTING DOCUMENTS

§ 231.1 [Corrected]

2. The title of paragraph (a) is corrected by removing the word "of" and substituting "for" in its place.

* * * * *

(Secs. 103, 212, 231 and 245, Immigration and Nationality Act, as amended (8 U.S.C. 1103, 1182, 1221 and 1255))

Dated: August 30, 1983.

Andrew J. Carmichael, Jr.,

Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 83-34277 Filed 9-2-83; 8:45 am]

BILLING CODE 4410-01-M

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8 CFR Part 238

Contracts With Transportation Lines; Wardair Canada (1975) Ltd.; Correction

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule; correction.

SUMMARY: This rule corrects the listing of carriers which have entered into agreements with the Service to guarantee the passage through the United States in immediate and continuous transit of aliens destined to foreign countries by changing the name of Wardair Canada, Ltd. to Wardair Canada (1975) Ltd.

EFFECTIVE DATE: September 6, 1983.

FOR FURTHER INFORMATION CONTACT: Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 I Street NW., Washington, D.C. 20536, Telephone: (202) 633-3048.

SUPPLEMENTARY INFORMATION: On April 28, 1983 (48 FR 19157), 8 CFR 238.3(b) was amended by adding Wardair Canada Ltd. to the list of carriers which have entered into agreements with the Service to guarantee passage through the United States in immediate and continuous transit of aliens destined to foreign countries.

The carrier's name was erroneously listed as Wardair Canada Ltd. instead of the correct name of Wardair Canada (1975) Ltd.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because the amendment merely makes an editorial correction to the listing of transportational lines.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that the rule will not have a significant impact on a substantial number of small entities.

This order constitutes a notice to the public under 5 U.S.C. 552 and is not a rule within the definition of section 1(a) of E.O. 12291.

List of Subjects in 8 CFR Part 238

Airlines, Aliens, Government contracts, Travel, Travel restriction.

Accordingly, 8 CFR Part 238 is corrected as follows:

PART 238—CONTRACTS WITH TRANSPORTATION LINES

§ 238.3 [Corrected]

In § 238.3 Aliens in immediate and continuous transit, the listing of transportation lines in paragraph (b) *Signatory lines* is corrected by:

1. Changing the name of "Wardair Canada, Ltd." to "Wardair Canada (1975) Ltd".

(Sec. 103, 66 Stat. 173 (8 U.S.C. 1103); 238, 66 Stat. 202 (8 U.S.C. 1228))

Dated: August 30, 1983.

Andrew J. Carmichael, Jr.,

Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 83-34275 Filed 9-2-83; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 83-NM-60-AD; Amdt. 39-4713]

British Aerospace BAC 1-11 200 and 400 Series Airplanes; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This document amends an existing airworthiness directive (AD) applicable to BAC 1-11 airplanes which requires overhaul of the flap secondary drive shafts by extending the compliance time. The time extension is prompted by the lack of an adequate supply of replacement parts. In the interim, repetitive inspections will provide for an equivalent level of safe operation.

EFFECTIVE DATE: September 6, 1983.

ADDRESSES: The service bulletin specified in this airworthiness directive may be obtained upon request to British Aerospace, Librarian, Box 17414, Dulles International Airport, Washington, D.C. 20041 or may be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Sulmo Mariano, Foreign Aircraft Certification Branch, ANM-150S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 767-2530. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: After the FAA issued amendment 39-4616 to AD 77-17-10 (48 FR 15447; April 11, 1983) the British Aerospace Corporation informed an operator of BAC 1-11 200 series airplanes that it could not deliver the replacement parts required to accomplish the overhaul of the flap secondary drive shafts in accordance with the schedule specified in the amendment.

The manufacturer has proposed to the FAA that, pending the capability to deliver replacement parts in a timely manner, flap secondary drive shafts with time in service between 35,000 and 48,000 hours should be allowed to remain in service if inspected every 1000 hours before 38,000 hours total time in service, and every 600 hours thereafter. Upon consideration, the FAA has determined that these inspection intervals are sufficiently frequent to provide an equivalent level of safety until the required parts can be installed.

This airplane model is manufactured in the United Kingdom and type certificated in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable airworthiness bilateral agreement.

For the foregoing reasons, the FAA has determined that it is necessary to revise amendment 39-4616 by extending the time before overhaul of the flap secondary drive shafts to a maximum of 48,000 hours total time in service, provided certain inspections are conducted at the repetitive intervals.

This amendment sets forth an alternate means of compliance, which provides operators of the affected aircraft with a means to avoid possible grounding of their aircraft due to a temporary shortage of replacement parts. Under these circumstances, notice and public procedure are unnecessary, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending Airworthiness Directive (AD) 77-17-10 Amendment 39-3021 as amended by Amendment 39-4616, as follows:

A. Revise subparagraph (b)(2) to read as follows:

"For flap secondary drive shafts with 24,000 hours but less than 30,000 hours time in

service, at intervals not to exceed 2,400 hours time in service from the last inspection."

B. Revise paragraph (f) to read as follows:

"The overhaul of the flap secondary drive shafts and inspection of the adjacent shaft support bearings, required by paragraph (e) of this amendment, may be accomplished upon the accumulation of 48,000 hours total time in service if the inspection required by paragraph (a) of this amendment is accomplished as follows:

(1) For shafts that accumulated between 30,000 and 38,000 hours time in service, every 1,000 hours time in service from the last inspection.

(2) For shafts that accumulated between 38,000 and 48,000 hours time in service, every 600 hours time in service from the last inspection."

This amendment becomes effective September 6, 1983.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—For the reasons discussed in the preamble, the FAA has determined that this document involves an amendment that provides an alternate means of compliance and does not impose any additional burden on any person. Therefore, (1) it is not major under Executive Order 12291 (46 FR 13193; February 19, 1981); and (2) it is not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 25, 1979). Because its anticipated impact is so minimal, it does not warrant preparation of a regulatory evaluation. I further certify that it will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act since it involves few, if any, small entities.

Issued in Seattle, Washington on August 17, 1983.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 83-24284 Filed 9-2-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 83-CE-67-AD; Amendment 39-4719]

Airworthiness Directives; DeHavilland DHC-6 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to DeHavilland DHC-6 (all series) airplanes which supersedes AD 71-01-01R2. It requires repetitive visual and dye penetrant inspections of all elevator tail plane outboard hinge assemblies for cracking, galling or enlargement of the hinge assembly bolt holes and correction of any unsatisfactory conditions found.

Since the issuance of AD 71-01-01R2, service reports of cracks and elongated bolt holes in the elevator outboard hinge assemblies have been received. This action will detect and assure correction of service deterioration of these hinge assemblies before failures occur which may result in loss of elevator control.

DATES: Effective date: September 9, 1983.

Compliance: As prescribed in the body of the AD.

ADDRESSES: DeHavilland Service Bulletin (S/B) No. 6/421 dated February 4, 1983, and (S/B) No. 6/228, Revision "B", dated December 11, 1981, applicable to this AD may be obtained from DeHavilland Aircraft of Canada Ltd., Donsview, Ontario, Canada M3K 1Y5. A copy of this information is also contained in the Rules Docket, FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Lester Lipsius, New York Aircraft Certification Office, ANE-172, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581, Telephone No. (516) 791-6220; or Mr. Larry Werth, ACE-109, Foreign FAR 23 Section, FAA, Aircraft Certification Division, 601 East 12th Street, Kansas City, Missouri 64106, Telephone No. (816) 374-6932.

SUPPLEMENTARY INFORMATION: As a result of finding a single failure of a lug on a horizontal tailplane outboard hinge fitting found during a routine inspection of an airplane with more than 4000 hours in service, DeHavilland issued Service Bulletin (S/B) No. 6/228, dated December 9, 1969, requiring a special one-time inspection on all aircraft inservice at that time. The FAA found that the condition addressed by this Service Bulletin was an unairworthy condition likely to exist on airplanes certificated for operation in the United States and issued AD 71-01-01 which required compliance with the DeHavilland (S/B) No. 6/228.

Subsequently the AD was amended by Revision 1 (R1), Amendment 39-4285 (46 FR 56158, 56159) to limit effectivity to airplanes with serial number (S/N) 1 through 285, which were the airplanes in the field at the time of issue of DeHavilland (S/B) No. 6/228, Revision A, dated April 30, 1971, and because DeHavilland more thoroughly inspected the aircraft subsequent to S/N 285 on the production line as a substitute for the one-time special inspection in the (S/B). Subsequently, the 200 hour inservice repetitive inspection requirement was deleted by Revision 2 (R2) of AD 71-01-01, because there were no reports of service difficulties with the affected parts for 5 years previous to November 1981, the effective date of Revision 2, and because all DHC-6 airplanes are subject to part reinspection per DeHavilland DHC-6 Inspection Requirements Manual PSM 1-6-7, Chapter 55. Since November 1981, there have been several reports of service difficulties with the tailplane-elevator outboard hinge assemblies involving elongated bolt holes in the hinge fitting, a cracked lug on a hinge plate, and a cracked hinge arm. As a result DeHavilland Aircraft of Canada, Ltd., has issued Service Bulletin (S/B) No. 6/421 dated February 4, 1983, which institutes Modification No. 6/1799 affecting airplane S/N 611 and subsequent, prior to delivery, and authorizes this redesign hinge arm assembly as a replacement of unserviceable parts, together with 1200 hours inservice repetitive inspections. Transport Canada, who has responsibility and authority to maintain the continuing airworthiness of these airplanes in Canada, has issued AD CF-83-11 dated May 6, 1983, which makes certain inspections and modifications recommended in DeHavilland Service Bulletins 6/421 and 6/228 mandatory on airplanes operated in Canada to assure the continued airworthiness of the affected airplanes. On airplanes operated under Canadian registration, this action has the same effect as an AD on airplanes certified for operation in the United States. The FAA relies upon the certification of Transport Canada combined with FAA review of pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness and conformity of products of this design certificated for operation in the United States.

The FAA has examined the available information related to the issuance of DeHavilland S/B No. 6/228, Revision "B", dated December 11, 1981, and S/B No. 6/421, dated February 4, 1983, and the mandatory classification of these Service Bulletins by Transport Canada in Canadian AD CF-83-11 dated May 16, 1983. Based on the foregoing, the FAA has determined that the condition addressed by DeHavilland and Transport Canada is an unsafe condition that may exist on other products of the same type design certificated for operation in the United States. Therefore, an AD superseding AD 71-01-01R2 is being issued which requires repetitive inspection of the tailplane-elevator outboard hinge

assemblies, and provides for replacement of unserviceable parts with redesigned hinge arm assemblies on DeHavilland DHC–6 Series airplanes.

Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD.

DeHavilland DHC–6 Series: Applies to Model DeHavilland Aircraft of Canada, DHC–6 airplanes all series certificated in any category.

Compliance: Required as indicated.

To prevent hazards in flight associated with horizontal tail damage, accomplish the following:

(a) Within the next 50 hours time-in-service after the effective date of this AD, unless already accomplished within the last 1150 hours time-in-service, and at intervals thereafter not to exceed 1200 hours time-in-service, perform the inspection procedure under "Accomplishment Instructions" in DeHavilland Service Bulletin (S/B) No. 6/421 dated February 4, 1983, or later approved revision or equivalent inspection, either of which must be approved by the Manager, New York Aircraft Certification Office, FAA, New England Region.

(b) Replace damaged parts before further flight, in accordance with S/B No. 6/421, with unused parts of the same part number or with equivalent parts approved by the Manager, New York Aircraft Certification Office, FAA, New England Region.

This AD supersedes AD 71–01–01, Amendment 39–1135, Amendment 39–1223, and Amendment 39–4265.

This amendment becomes effective on September 9, 1983.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); § 11.89 of the Federal Aviation Regulations (14 CFR 11.89))

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket under the caption "**ADDRESSES**" at the location identified.

Issued in Kansas City, Missouri, on August 24, 1983.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 83–24206 Filed 9–3–83; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 82–NM–84–AD; Amdt. 39–4714]

McDonnell Douglas Model DC–8–70 Series Airplanes; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: On September 9, 1982, the FAA issued telegraphic airworthiness directive (AD) T82–19–51, effective upon receipt, to all known operators of CFM–56 powered McDonnell Douglas Model DC–8–70 series airplanes. This AD required a revision to the limitations section of the FAA approved Airplane Flight Manual (AFM) to preclude the inability to stow thrust reversers following in-flight inboard reverser deployment. This action was prompted by testing which revealed the potential for the DC–8–70 series thrust reverser emergency stow system to become inoperative if an incorrect procedure is used. This amendment publishes the telegraphic AD in the **Federal Register** to make it effective to all persons and also provides a modification which will allow removal of the above mentioned limitations.

DATE: Effective September 6, 1983. This AD was effective earlier to all recipients of telegraphic AD 82–19–51, dated September 9, 1982. Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1–750 (54–60). This information also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington or at the Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Stephen Kolb, Aerospace Engineer, Propulsion Branch, ANM–140L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 548–2835.

SUPPLEMENTARY INFORMATION: On September 9, 1982, the FAA issued telegraphic AD T82–19–51 applicable to CFM–56 powered McDonnell Douglas Model DC–8–70 series airplanes requiring a revision to the limitations section of the FAA approved Airplane Flight Manual (AFM). This action was prompted by tests conducted by McDonnell Douglas which demonstrated that with a loss of main aircraft hydraulic supply to the thrust reverser and bleed down of the thrust reverser accumulator pressure, stowing of the thrust reversers after inflight deployment is ineffective if the thrust reverser lever(s) are placed in the forward idle position prior to activating the emergency stow switch. If the emergency system is activated with the thrust reverser lever in the forward idle position, subsequent placement of the handle into reverse will not make the emergency stow system effective. Additional testing confirmed that if the thrust reverser levers are left in the reverse range prior to activating the emergency stow system, the emergency system will function as intended and will stow the thrust reversers regardless of the main system supply pressure. Since existing procedures allow deployment of the inboard engine thrust reversers for normal or emergency descent, the problem described above presents the possibility that the crew could deploy the reversers inflight and then be unable to stow them. For this reason the limitations prescribed in this AD prohibit in-flight use of reverse thrust in the event of complete or partial hydraulic system failure. A procedure for stowing thrust reversers, if a hydraulic system failure should occur during in-flight thrust reverser operation, also is defined.

This AD differs from the telegraphic AD by changing the applicability to those airplanes with unmodified hydraulic control units (HCUs) installed in the inboard engine thrust reverser positions. This AD also indentifies a service bulletin defining the modification for affected HCUs by addition of new paragraph C.

Since this condition is likely to exist or develop on other airplanes of the

same type design, this AD requires a revision to the limitations section of the FAA approved AFM on those airplanes equipped with P/N C24466000 HCUs on the inboard thrust reversers.

Since a situation existed, and still exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

McDonnell Douglas: Applies to CFM–56 powered McDonnell Douglas Model DC–8–70 series airplanes with P/N C24466000 Thrust Reverser Hydraulic Control Units (HCUs) installed on inboard thrust reversers, certificated in all categories.

Compliance required as indicated unless previously accomplished:

A. Within seven (7) days after the effective date of this AD, revise the limitations section of the FAA approved Airplane Flight Manual (AFM) to specify the following:

1. For a complete or partial hydraulic system failure, in-flight use of reverse thrust in prohibited and inoperative reversers altitude limitations must be observed.

2. For a complete or partial hydraulic system failure during in-flight thrust reverser operation, the emergency stow system must be used to stow the reversers prior to positioning the reverse levers to the forward thrust position.

3. If the thrust reversers fail to stow normally in-flight, the affected reverser lever(s) must be returned to the reverse idle position prior to activating the emergency stow system.

4. Place the reverse levers in the forward thrust position after the thrust reversers have been stowed using the emergency stow system.

B. A copy of the AD inserted in the FAA approved Airplane Flight Manual is as an acceptable means of compliance with the required AFM revisions.

C. The limitations required under paragraph A., above, may be removed after replacement of the P/N C24466000 HCU on both inboard (#2 & #3) engine thrust reversers with P/N C24466000–/–2, P/N C24466001–2 or other units approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region, has been completed on all aircraft in each operator's fleet.

Note.—P/N C24466000 HCU's can be modified to P/N C24466080–/–2 in accordance with CFMI Service Bulletin (CFM–56–2) 78–057 dated March 30, 1982, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

D. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Los Angles Aircraft Certification Office, FAA, Northwest Mountain Region.

E. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

All persons affected by the directive who have not already received these documents from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1–750 (54–60). The documents also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington or the Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California.

This Amendment becomes effective September 6, 1983, and was effective earlier to those recipients of telegraphic AD T82–19–51, dated September 9, 1982.

(Sections 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, or appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Seattle, Washington on August 17, 1983.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 83–24263 Filed 9–2–83; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 83–ASW–27]

Alteration of Transition Area and Designation of Control Zone; Camden, AR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will alter the transition area and designate a control zone at Camden, AR. The intended effort of the amendment is to provide controlled airspace for aircraft executing standard instrument approach procedures (SIAPs) to Harrell Field. This action is necessary since Sunbelt Airlines will be taking weather observations and providing two-way radio communications to the surface for all aircraft operating from the airport, and the airport will meet the requirement for the establishment of controlled airspace to the surface. In addition, a review of the 700-foot transition area revealed the extensions to the north and south need realignment.

EFFECTIVE DATE: November 24, 1983.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch (ASW–535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, telephone (817) 877–2630.

SUPPLEMENTARY INFORMATION:

History

On July 5, 1983, a notice of proposed rulemaking was published in the Federal Register (48 FR 30867) stating that the Federal Aviation Administration proposed to alter the Camden, AR, transition area and designate a control zone. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Comments were received without objections. Except for editorial changes, this amendment is that proposed in the notice.

List of Subjects in 14 CFR Part 71

Control zones, Transition areas, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, by the Administrator, Subpart G of Part 71, § 71.181, and Subpart F of Part 71, § 71.171, of the Federal Aviation Regulations (14 CFR Part 71) as republished in Advisory

Circular AC 70-3A dated January 3, 1983, are amended, effective 0901 GMT, November 24, 1983, as follows:

§ 71.171 [Amended]

Camden, AR New

Within a 5-mile radius of Harrell Field (latitude 33°37'15" N., longitude 92°45'45" W.); and within 2 miles each side of a 011° bearing from the airport extending from the 5-mile radius area to 8.5 miles north. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and time will thereafter be continuously published in the Airport/Facility Directory.

§ 71.181 [Amended]

Camden, AR Revised

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Harrell Field (latitude 33°37'15" N., longitude 92°45'45" W.); and within 3.5 miles each side of the El Dorado VORTAC 353° radial, extending from the 6.5-mile radius area to 13 miles north of the VORTAC; and within 3 miles each side of the 011° bearing from the airport extending from the 6.5-mile radius area to 8.5 miles north of Harrell Field.

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.61(c))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Fort Worth, TX, on August 26, 1983.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 83-24286 Filed 9-2-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 75

[Airspace Docket No. 83-AWA-9]

Alteration of Jet Route J-30, Minneapolis, MN, Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: This action corrects **Federal Register** Document 83-20409 that was published in the **Federal Register** on July 28, 1983 (48 FR 34250). An error was noted in the description of J-30. The jet route includes Nodine, MN, which was inadvertently deleted.

EFFECTIVE DATE: September 29, 1983.

FOR FURTHER INFORMATION CONTACT: Boyd V. Archer, Airspace and Air Traffic Rules Branch (AAT-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 83-20409 was published in the **Federal Register** on July 28, 1983 (48 FR 34250), that amended the description of J-30 by deleting the jet route from Farmington, MN, via Nodine, MN; to Joliet, IL, which was in error. This action adds Nodine, MN, to the description.

List of Subjects in 14 CFR Part 75

Jet routes, Aviation safety.

Adoption of the Correction

PART 75—[AMENDED]

Accordingly, pursuant to the authority delegated to me, **Federal Register** Document 83-20409, as published in the **Federal Register** on July 28, 1983 (48 FR 34250) is corrected as follows:

J-30 [Amended]

By deleting the words "Farmington, MN, via Nodine, MN; Joliet, IL," and substituting for them the words "Nodine, MN, via Joliet, IL;"

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on August 29, 1983.

B. Keith Potts,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 83-24287 Filed 9-2-83; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 7912]

Income Tax; Taxable Years Beginning After December 31, 1953; Permission To Discontinue Filing Consolidated Returns for Certain Affiliated Groups

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to an affiliated group that is composed of at least one life or mutual insurance company and one or more different companies. It primarily clarifies the time and manner for exercising and the effect of exercising an election to discontinue the filing of consolidated returns by such a group and also makes one other minor clarification.

DATES: The regulations are effective for the first taxable year for which the due date (without extensions) for filing returns is after March 14, 1983.

FOR FURTHER INFORMATION CONTACT: Keith E. Stanley of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3458; not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Section 1504(c)(2) of the Internal Revenue Code permits an affiliated group of corporations that is composed of one or more life or mutual insurance companies and one or more other companies to elect to make a consolidated return. Final regulations relating to section 1504(c)(2) were issued under the authority of sections 1502 and 7805 of the Internal Revenue Code and were published as T.D. 7877 in the **Federal Register** for March 18, 1983 (48 FR 11436). T.D. 7877 was filed on March 14, 1983 (see the **Federal Register** for March 25, 1983, 48 FR 12521) and is effective for taxable years for which the due date (without extensions) for filing returns is after March 14, 1983.

Explanation of Provisions

T.D. 7877 amended the Income Tax Regulations (26 CFR Part 1) under section 1502 of the Internal Revenue Code by adding a new § 1.1502–47. Section 1.1502–47(e)(4) permits a group that had elected to file consolidated returns under section 1504(c)(2) to elect to discontinue filing under section 1504(c)(2) for its first taxable year for which § 1.1502–47 is effective. The final regulations set forth in this document amend § 1.1502–47(e)(4) to clarify the time and manner for exercising and the effect of exercising the election to discontinue. These final regulations also make one other minor clarification by changing one sentence at § 1.1502–47(d)(12)(v)(A). Because these regulations merely clarify T.D. 7877, their effective date is the same as the effective date for T.D. 7877.

Time and Manner of Making an Election to Discontinue

Section 1.1502–47(e)(4), as set forth in T.D. 7877, indirectly provides guidance relating to the time and manner for making an election to discontinue the filing of consolidated returns filed pursuant to section 1504(c)(2). This guidance in effect is provided under § 1.1502–75(c)(3) which provides that an election to discontinue the filing of consolidated returns (made pursuant to § 1.1502–75(c)(2)(ii)) is made by the common parent filing a separate return on or before the due date (including extensions) for the filing of the consolidated return.

The general rule set forth in this document makes it clear that a common parent makes the election to discontinue by filing an appropriate separate or consolidated return. The time for making the election to discontinue is not changed in the general rule. Accordingly, the common parent must file an appropriate return on or before the due date (including extensions) for the filing of the consolidated return under section 1504(c)(2).

Once the common parent has properly made the election to discontinue, each of the other members of the group is required to file on or before the due date (with extensions) for that member's taxable year an appropriate separate or consolidated return.

Effect on Restoration Rules

The "restoration rules" are the rules under §§ 1.1502–13(f), 1.1502–14, 1.1502–18, and 1.1502–19 which provide that certain items of income, gain, or loss on transactions between members are taken into account when a group ceases to file a consolidated return or terminates or when a member leaves the group. This document clarifies the manner in which these restoration rules are applied in a situation in which the reason for their application is an election to discontinue.

Additional Rules

Additional rules are set forth in this document for two situations. For the first, an election under section 1504(c)(2) may be discontinued and, for the second, an election may be withdrawn. These two situations can arise only if a group under section 1504(c)(2) has filed before March 16, 1983, a return pursuant to section 1504(c)(2) for a taxable year ending in the month of December, 1982, and no extension of time was granted for filing that return.

For the first situation, the election under section 1504(c)(2) was made for a taxable year ending prior to December 1, 1982. Regulations prescribed in this document permit the common parent of such a group to elect to discontinue the section 1504(c)(2) election by filing an appropriate return before September 16, 1983. Other members of the group must then file the appropriate return or returns before September 16, 1983.

For the second situation, the election under section 1504(c)(2) was first made for the taxable year ending in the month of December, 1982. Regulations prescribed in this document permit that election to be withdrawn. The common parent elects this withdrawal by filing before September 16, 1983, any return that it could have filed had the section 1504(c)(2) election never been made. Other members of the group must then also file any return or returns that they could have filed had the section 1504(c)(2) election never been made. The making of the section 1504(c)(2) election, followed by its withdrawal, does not change the taxable year of any member from what it would have been had the section 1504(c)(2) election never been made.

Special treatment is accorded these two situations to prevent possible hardship arising from the fact that T.D. 7877 was filed at the **Federal Register** on March 14, 1983, and is effective for taxable years for which the due date (without extensions) for filing is after that date.

Executive Order 12291, Regulatory Flexibility Act, and Paperwork Reduction Act

The Commissioner of Internal Revenue has determined that this final rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. Pursuant to 5 U.S.C. 605(b), the Secretary of the Treasury has certified that the requirements of the Regulatory Flexibility Act do not apply to this Treasury decision as it will not have a significant economic impact on a substantial number of small entities. Accordingly, a Regulatory Flexibility Analysis is not required. The collection of information requirements contained in this regulation has been submitted to the Office of Management and Budget (OMB) in accordance with the requirements of the Paperwork Reduction Act of 1980. These requirements have been approved by OMB.

Drafting Information

The principal author of this final regulation is Keith E. Stanley of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

List of Subjects in 26 CFR 1.1501–1 Through 1.1564–1

Income taxes, Controlled group of corporations, Consolidated returns.

Amendments to the regulations

Accordingly, the following amendment is made to Part 1 of Title 26.

Section 1.1502–47 is amended as follows:

1. Paragraph (d)(12)(v)(A) is amended by removing the third sentence and adding instead the sentence set forth below.

2. Paragraph (e)(4) is revised to read as set forth below.

§ 1.1502–47 Consolidated returns by life-nonlife groups.

* * * * *

(d) *Definitions.* * * *

(12) *Eligible corporations—* * * *

(v) *Tacking rule.* * * *

(A) * * * Assets acquired in the ordinary course of business will be excluded from total assets only if they were acquired after the new corporation became a member of the group (determined without section 1504(b)(2)).

* * * * *

(e) *Election—* * * *

(4) *Permission to discontinue—*(i) *General rule.* A "section 1504(c)(2) group" with a common parent that has made the election to file a consolidated return under section 1504(c)(2) in a previous taxable year is granted permission to elect (under § 1.1502–75(c)(2)(ii)) to discontinue filing such a

consolidated return for that group's first taxable year for which the regulations under this section are effective. This election to discontinue shall be exercised in the time and manner prescribed in § 1.1502–75(c)(3), except that the group's common parent shall exercise this election to discontinue (and the other members of the section 1504(c)(2) group must comply with this election) by filing appropriate returns. For purposes of this paragraph (e)(4), an appropriate return is either a separate return or a consolidated return that is filed by newly exercising the privilege under § 1.1502–75(a)(1).

(ii) *Types of groups.* (A) A "section 1504(c)(2) group" is an affiliated group which files or filed a consolidated return pursuant to an election under section 1504(c)(2).

(B) A "limited group" is an affiliated group (determined without section 1504(c)(2)) having at least one member which was a member of a section 1504(c)(2) group on the date that the section 1504(c)(2) group elected to discontinue under paragraph (e)(4)(i) of this section.

(iii) *Effect on restoration rules.* If a group ceases to file a consolidated return or terminates or if a member leaves the group, certain items of income, gain, or loss on transactions between members are taken into account under §§ 1.1502–13(f), 1.1502–14, 1.1502.18, and 1.1502–19 ("restoration rules"). For purposes of applying these restoration rules solely by reason of an election under paragraph (e)(4)(i) or (e)(4)(v)(A) of this section to discontinue filing consolidated returns as a section 1504(c)(2) group, the following rules apply:

(A) The section 1504(c)(2) group shall not be considered to terminate and no member of that group shall be treated as ceasing to be a member.

(B) Members of that section 1504(c)(2) group that are included in the consolidated return of a limited group for the first taxable year for which the discontinuance is effective shall be considered to be filing a consolidated return as a continuation of the section 1504(c)(2) group. However, a corporation that is not a member of a particular limited group for that taxable year is considered to have a separate return year (and, for purposes of § 1.1502–19(b)(2)(vi), not to be a member of a group filing a consolidated return) with respect to that limited group's members.

(C) Section 1.1502–13 shall be applied without regard to paragraph (f)(1)(vii).

(iv) *Illustrations.* The following examples illustrate paragraph (e)(4)(i)–(iii) of this section. In these examples, L indicates a life company and another letter indicates a nonlife company. All corporations use the calendar year as the taxable year. For all taxable years involved, P owns all the stock of L_1 and of S, L_2 owns all the stock of L_3, L_3 owns all the stock of L_4, and S owns all the stock of L_5. For 1981, P makes the life-nonlife election of section 1504(c)(2) and L_1 is an eligible corporation. For 1982, P makes the election to discontinue filing consolidated returns under section 1504(c)(2) in accordance with the permission granted in this paragraph (e)(4).

Example (1). L_1, L_2, and L_3 were eligible members. For 1982, P and S may either file separate returns or may file, as a limited group, a consolidated return. Similarly, L_1, L_2, and L_3 may either file separate returns or may file a consolidated return as a limited group under section 1504(c)(1). L_4 must file a separate return.

Example (2). For 1981, L_4 was an ineligible member and L_1, L_2, and L_3 filed a consolidated return under section 1504(c)(1). For 1982, L_1, L_2, and L_3 must continue filing a consolidated return under Section 1504(c)(1).

Example (3). For 1981, L_1 was an eligible member and L_2 and L_3 were ineligible members. For 1982, L_1, L_2, and L_3 either must each file a separate return or must file a consolidated return as a limited group under section 1504(c)(1) having L_1 as a common parent.

Example (4). The facts are the same as in example (3). Assume further that for 1981, L_2 and L_3 file a consolidated return. During 1981, deferred intercompany transactions (see § 1.1502–13(a)(2)) occur in the life-nonlife group between P and L_1, between P and S, and between S and L_1 and occur in the ineligible life subgroup between L_2 and L_3. For 1982, the restoration rules of § 1.1502–13(f)(1)(iv), as modified by paragraph (e)(4)(iii)(B) of this section, will be applicable as indicated in the following table:

Deferred intercompany transactions between	§ 1.1502–13(f)(1)(iv)
P and L_2	Yes.
P and S, if they file:	
Separate returns	Yes.
A consolidated return	No.
S and L_2	Yes.
L_2 and L_3, if L_1, L_2, and L_3 file:	
Separate returns	Yes.
A consolidated return	No.

(v) *Additional rules.* (A) If a group with a taxable year ending in the month of December, 1982, had made the election under section 1504(c)(2) for a taxable year ending prior to December 1, 1982, and if that group meets the conditions of subdivision (vi) of this paragraph (e)(4), then the common parent may elect to discontinue filing a consolidated return for its taxable year ending in the month of December, 1982 (and other members of the section 1504(c)(2) group must comply with this election) by filing appropriate returns (see paragraph (e)(4)(i) of this section) before September 16, 1983.

(B) If a group made the election under section 1504(c)(2) for its taxable year ending in the month of December, 1982, and if that group meets the conditions of subdivision (vi) of this paragraph (e)(4), then the common parent may elect to withdraw the section 1504(c)(2) election (and all other members of the group determined without section 1504(b)(2) comply with the election) by filing before September 16, 1983, any returns for the appropriate taxable years that would have been filed had the section 1504(c)(2) election never been made.

(vi) A group referred to at subdivision (v) (A) or (B) of this paragraph (e)(4) meets the conditions of this subdivision (vi) if it—

(A) Filed before March 16, 1983, a return for its taxable year ending in the month of December, 1982, and

(B) Had not been granted an extension of time beyond March 15, 1983, for the filing of that return.

(vii) *Interest.* For purposes of section 6601(a), interest runs from the original due date (without extensions) for the filing of such returns as are filed pursuant to an election (to discontinue or withdraw as the case may be) under this paragraph (e)(4).

* * * * *

This Treasury decision merely makes clear that certain taxpayers are permitted to elect to discontinue filing consolidated returns and clarified the manner of making the election and the effect of the election. For this reason, it is found unnecessary to issue this Treasury decision with notice and public procedure under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

This Treasury decision is issued under the authority contained in sections 1502 and 7805 of the Internal Revenue Code of 1954 (68A Stat. 367, 917; 26 U.S.C. 1502, 7805). Approved by the Office of Management and Budget under control number 1545–0123.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: August 30, 1983.

John E. Chapoton,

Assistant Secretary of the Treasury.

[FR Doc. 83–24426 Filed 9–1–83; 4:59 pm]

BILLING CODE 4830–01–M

26 CFR Part 48

[T.D. 7908]

Manufacturers Excise Taxes on Petroleum Products

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations which revise and update manufacturers excise taxes on petroleum products under sections 4081 through 4102 of the Internal Revenue Code of 1954. Changes to the applicable law made by the Highway Revenue Act of 1982 are reflected in this document. These regulations provide necessary guidance to the public for compliance with the law.

DATES: Except as otherwise provided in this document, the regulations are effective for sales of gasoline after December 31, 1954 and for sales of lubricating oil after December 31, 1965 and before January 7, 1983.

FOR FURTHER INFORMATION CONTACT: Ada S. Rousso of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T: 202–566–4336, not a toll free call).

SUPPLEMENTARY INFORMATION:

Background

On January 5, 1983, the **Federal Register** published proposed amendments to the Manufacturers and Retailers Excise Tax Regulations (26 CFR Part 48) under sections 4081 through 4102 of the Internal Revenue Code of 1954 (48 FR 437). Subsequent to the publication of the proposed amendments, changes to the applicable law were made by the Highway Revenue Act of 1982 (96 Stat. 2181). Section 515 of the Highway Revenue Act repealed the tax on lubricating oil. These final regulations have been revised to reflect that change to the law. No public hearing was held because no one requested one. However, one comment was received which suggested two changes.

Summary of Comments

ASTM Octane Ceiling

Under the final regulations § 48.4082–1(b)(1) defines "gasoline" to include all products commonly or commercially known or sold as gasoline that are suitable for use as a motor fuel. Not included is any product sold as a product other than gasoline and that has American Society for Testing Materials ("A.S.T.M") octane number of less than 75 as determined by the "motor method". The proposed regulations reflect an increase in the ASTM rating from 70 to 75. It was suggested by the commentator that the ASTM ceiling should be raised to 80 from 75. According to the American Society for Testing Materials, in the highest altitudes a product sold as gasoline with an ASTM rating of less than 80 may be used for motor fuel. Thus, to ensure that no product used as gasoline for motor fuel will be sold tax free, the final regulations do not reflect the suggested revision.

Certification Requirement for Pipeline Common Carriers

Section 48.4083–1(a) of the proposed regulations provides that pipeline common carriers may purchase gasoline tax free as producers if the gasoline is used exclusively to indemnify shippers for in transit losses of tax-free gasoline. The carrier must certify to the seller that the gasoline purchased tax free will be used as described in the preceding sentence.

The commentator suggested that this certification requirement is a burdensome one. However, since the certification is only required to be made once every three years and the Internal Revenue Service would not be able to police the tax-free sale without the certificates, no change has been made in the final regulations.

Summary of Issues Resolved in the Regulations

Nonlubricating Uses

The Code has never contained a provision expressly authorizing tax-free sales of oil for nonlubricating use although the regulations have provided for the tax-free sale of oil for nonlubricating use almost continuously since the excise tax on lubricating oil was first imposed by the Revenue Act of 1932. Section 48.4091–4 of the final regulations provides that the Commissioner may issue determinations that oil suitable for use as a lubricant is seldom used as a lubricant and thus may be sold tax free by its manufacturer.

Overpayments

Section 6416 lists specific instances in which payment of the manufacturers excise taxes will be considered an overpayment. In four situations not described in section 6416, a manufacturer who would not have been required to pay the tax had the purchaser given the manufacturer an exemption certificate before the due date of the manufacturer's return, may claim a credit or refund of the tax under section 6402, a general relief provision authorizing the Commissioner to credit or refund overpayments of any Internal Revenue tax. Although the credit or refund is allowed under section 6402 rather than section 6416, the regulations provide that the manufacturer must comply with the requirement of section 6416(a) which states that no credit or refund of any overpayment of the manufacturers excise tax will be allowed unless the manufacturer establishes that it has not passed the tax on to its purchaser. Nothing in section 6416(a) limits this requirement to overpayments of manufacturers excise tax described in section 6416. The four situations not described in section 6416 are dealt with in the following sections of the regulations: §§ 48.4083–1(c), 48.4091–3(a)(4), 48.4091–4(b)(3) and 48.4093–1(b).

Special Analyses

The Commissioner of Internal Revenue has determined that this final rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. Although a notice of proposed rulemaking which solicited public comments was issued, the Internal Revenue Service concluded when the notice was issued that the regulations are interpretative and that the notice and public procedure requirement of 5 U.S.C. 553 did not apply. Accordingly, the final regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6). The Office of Management and Budget (OMB) has assigned No. 1545–0725 to this regulation pursuant to the Paperwork Reduction Act of 1980.

Drafting Information

The principal author of this regulation is Ada S. Rousso of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matter of substance and style.

List of Subjects in 26 CFR Part 48

Agriculture, Arms and munitions, Coal, Excise taxes, Gasohol, Gasoline, Motor vehicles, Petroleum, Sporting goods, Tires.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Part 48 is amended as follows:

PART 48—[AMENDED]

Paragraph 1. Sections 48.4081–1, 48.4082–1, 48.4083–1, 48.4083–2, 48.4084–1, 48.4091, 48.4091–1, 48.4091–2, 48.4091–3, 48.4091–4, 48.4091–5, 48.4091–6, 48.4092–1, 48.4093–1, 48.4101–1, and 48.4102–1, of the Manufacturers and Retailers Excise Tax Regulations are removed.

Par. 2. The following new § 48.4081–1 is added immediately after § 48.4973–4 to the Manufacturers and Retailers Excise Tax Regulations:

Gasoline

§ 48.4081–1 Imposition and rates of tax.

(a) *In general.* Section 4081 imposes a tax on the sale of gasoline by its producer or importer, or by any producer of gasoline, whether or not the gasoline was produced by it. For the requirement that producers and importers of gasoline be registered, see section 4101 and § 48.4101–1. See section 4082(c) and paragraph (c) of § 48.4082–1 for certain uses of gasoline that are considered to be sales of gasoline.

(b) *Rate of tax.* Tax is imposed on the sale of gasoline at the rate applicable on the date on which the gasoline is sold. See section 4081 for the rate of tax.

(c) *Liability for tax.* The tax imposed by section 4081 is payable by the producer or importer making the sale of the gasoline.

Par. 3. The following new §§ 48.4082–1, 48.4083–1, 48.4083–2, 48.4084–1, 48.4091–0, 48.4091–1, 48.4091–2, 48.4091–3, 48.4091–4, 48.4091–5, 48.4092–1, 48.4093–1, 48.4101–1, and 48.4102–1 are added immediately after § 48.4081–2:

§ 48.4082–1 Definitions.

For purposes of the regulations in this subpart, unless otherwise expressly indicated:

(a) *Producer.* For purposes of the tax imposed by section 4081, the term "producer" includes an actual producer, a refiner, compounder, or blender, and a dealer selling gasoline exclusively to producers of gasoline. The term also includes a person who is a "wholesale distributor" as defined in paragraph (d) of this section. The term also includes a common carrier by pipeline subject to the Interstate Commerce Act that is engaged in transportation for hire of gasoline, but only with respect to gasoline acquired tax free by the carrier for use exclusively in indemnifying in kind (normally the shipper) for tax-free gasoline lost in transit through evaporation, leakage, spillage, theft, or casualty. Any other person to whom gasoline is sold tax free under this subpart is considered to be a "producer", but only with respect to gasoline acquired tax free. The mere blending or mixing by any person of gasoline to adapt it for seasonal use or to meet the requirements of particular vendees, or mere blending which is not a substantial part of the blender's regular year-round business, does not cause the person to be a producer.

(b) *Gasoline.* (1) The term "gasoline" includes all products commonly or commercially known or sold as gasoline that are suitable for use as a motor fuel. The term does not include any product that (i) is sold as a product other than gasoline, and (ii) has an American Society for Testing Materials ("A.S.T.M.") octane number of less than 75 as determined by the "motor method".

(c) *Use defined as sale*—(1) *In general.* When an importer or producer of gasoline uses gasoline purchased by it tax free, or gasoline it imported or produced (otherwise than in the production of gasoline or of special fuels referred to in section 4041), the use constitutes a sale of the gasoline by the producer or importer. The phrase "otherwise than in the production of gasoline or of special fuels referred to in section 4041" includes any use of gasoline by its producer or importer other than as component material in the manufacture or production of gasoline or special fuels. For circumstances under which gasoline may be used tax free as a material in the manufacture of any other article, see section 4218(a) and § 48.4218–1(b)(4).

(2) *Indemnification for gasoline lost in transit.* An indemnification in kind for gasoline lost in transit, made by a pipeline common carrier that is a producer for purposes described in paragraph (a)(1) of this section, is not considered to be a sale or use of gasoline for purposes of the tax imposed by section 4081.

(d) *Wholesale distributor*—(1) *In general.* The term "wholesale distributor" includes any person who—

(i) Holds one's self out to the public as being engaged in the trade or business of selling gasoline to producers of gasoline (including other wholesale distributors), to retailers of gasoline, or to users of gasoline who purchase in bulk quantities for delivery into bulk storage tanks;

(ii) Actually makes more than casual sales of gasoline to the producers, retailers, or users described in subdivision (i) of this subparagraph (1); and

(iii) Has elected to be treated as a producer of gasoline as provided in paragraph (d)(2) of this section.

(2) *Election.* The election to be treated as a producer is made by registering as a producer of gasoline in accordance with the provisions of section 4101 and the regulations thereunder. A wholesale distributor will be considered a producer of gasoline only with respect to gasoline sold by the distributor on and after the date on which the distributor is issued a Certificate of Registry (Form 637) as a producer of gasoline.

(3) *Persons otherwise qualifying as producers.* The term "wholesale distributor" does not include any person who is a producer or importer of gasoline without regard to paragraph (d)(1).

(4) *Gasoline on hand.* Since a wholesale distributor is considered a producer with respect to all gasoline sold by it on and after the date on which it qualifies as a producer of gasoline, the distributor may incur tax liability under section 4081 on the sale of gasoline which it has on hand at the time it so qualifies and on which tax under section 4081 has already been paid. Such a wholesale distributor is assumed to sell the gasoline which it has on hand before selling any gasoline which it purchases after qualifying as a producer of gasoline. However, the distributor may take a credit against the tax imposed under section 4081 on the sale of any such gasoline on hand in an amount equal to any tax which had been previously paid pursuant to section 4081 with respect to the sale of the gasoline.

(e) *Effective date.* In general, the regulations in this section are effective with respect to gasoline sold on or after December 31, 1954. However, the first sentence of paragraph (b)(1) of this section is effective only with respect to gasoline sold on or after July 1, 1965. In addition, the regulations in this section dealing with wholesale distributors are effective with respect to gasoline sold on or after January 1, 1960.

§ 48.4083–1 Exemptions; sales to producers of gasoline.

(a) *In general.* Gasoline may be sold tax free by a producer or importer of gasoline to other producers of gasoline, but only if:

(1) Both the seller and the purchaser are registered in accordance with the provisions of section 4101,

(2) The purchaser has notified the seller in writing which district director the purchaser is registered with and the certificate registry number, and

(3) In the case of sales to a pipeline common carrier—

(i) The carrier also certifies to the seller that the gasoline purchased tax free will be used exclusively to indemnify in kind losses of tax-free

gasoline by the common carrier in transit through evaporation, leakage, spillage, theft, or casualty, and

(ii) The carrier maintains for inspection by an Internal Revenue Service officer the records required under paragraph (b) of this section.

A single notification containing the information described in subparagraph (2) or (3) of this paragraph (a) may cover all sales by the seller to the purchaser made during a designated period not to exceed 12 successive calendar quarters.

(b) *Pipeline common carrier records.* Pipeline common carriers who qualify as producers of gasoline under the conditions described in paragraph (a) of § 48.4082–1 must, in addition to any other records required under section 6001 and the regulations thereunder, maintain for inspection the following information:

(1) *Records of purchases.* The records of each purchase shall include:

(i) Name and address of the seller,

(ii) Date of purchase and place of delivery of each lot purchased, and

(iii) Quantity and grade of each lot purchased.

(2) *Records of indemnifications.* The records of indemnifications shall include:

(i) Name and address of the person indemnified,

(ii) Date and place of indemnification with respect to each shipment,

(iii) Quantity and grade of each shipment,

(iv) Quantity and grade of gasoline lost through evaporation, leakage, spillage, theft, or casualty from each shipment that is indemnified in kind upon termination of the shipment,

(v) An explanation of the nature or type of the loss, and

(vi) The percent that the loss from each shipment represents to the total quantity of the shipment.

(c) *Seller not notified prior to filing of excise tax return.* If the written information required under paragraph (a) (2) and (3) of this section is not furnished to the seller before the seller files a return covering taxes due for the period during which the sale was made, the seller must include the tax on the sale in its return for that period. However, if the information is later obtained, a claim for refund or a credit of the tax under section 6402 may be filed. The seller filing the claim must comply with the provisions of section 6416(a) and § 48.6416(a)–1.

(d) *Seller relieved of liability.* See section 4221(c) and § 48.4221–1(b) for provisions under which the seller is relieved of liability for tax in respect of gasoline sold tax free under section 4083 when it accepts in good faith the evidence required of the purchaser in support of the tax-free sale. If, however, the seller has knowledge at the time of its sale that the purchaser is not registered pursuant to section 4101, the seller is not relieved, under the provisions of section 4083, from liability for the tax. For provisions under which the purchaser is considered to be producer of gasoline purchased tax free, see section 4082(a).

§ 48.4083–2 Other tax-free sales.

For provisions relating to other tax-free sales of gasoline, see—

(a) Section 4221, relating to certain tax-free sales;

(b) Section 4222, relating to registration; and

(c) Section 4223, relating to special rules relating to further manufacture; and the regulations thereunder contained in Subpart H of this part.

§ 48.4084–1 Cross references; payments to ultimate purchasers of gasoline.

For provisions relating to payments that may be made to the ultimate purchaser of gasoline—

(a) Used on a farm for farming purposes, see section 6420 and § 48.6420(a)–1; or

(b) Used for certain nonhighway purpose, by local transit systems, or by certain taxicabs, see section 6421 and §§ 48.6421(a)–1 and 48.6421(b)–1 and section 6427(e).

Lubricating Oil

§ 48.4091–0 Internal Revenue Code references.

All references to sections of the Internal Revenue Code in §§ 48.4091–1 through 48.4102–1 are to the Code prior to revision by the Highway Revenue Act of 1982.

§ 48.4091–1 Tax on lubricating oil.

(a) *Imposition of tax.* Section 4091 imposes a tax on lubricating oil (other than cutting oil) sold in the United States by the manufacturer or producer of the oil. For definition of the term "cutting oil", see paragraph (b) of § 48.4092–1.

(b) *Rate of tax.* Tax is imposed upon lubricating oil sold on or after January 1, 1966, and before January 7, 1983, at the rate prescribed in section 4091. In the case of nonfluid lubricating oil sold by weight, 8 pounds to the gallon must be used as the basis for computing the tax.

(c) *Effective date.* The regulations in this section and in §§ 48.4091–2 through 48.4093–1 are effective with respect to lubricating oil sold on or after January 1, 1966, and before January 7, 1983.

§ 48.4091–2 Definitions.

(a) *Lubricating oil.* The term "lubricating oil" includes all oil regardless of origin, which:

(1) Is suitable for use as a lubricant, or

(2) Is sold for use as a lubricant.

The term does not include synthetic materials which possess lubricating properties and does not ordinarily include products of the type commonly known as grease. Oleaginous substances which are classed as grease and which contain oil are not subject to the tax when of a worked consistency of less than 390 penetration units or an unworked consistency of less than 360 penetration units by the method of test of the American Society for Testing and Materials D–217–68.

(b) *Manufacturer.* (1) For purposes of the tax imposed under section 4091, the term "manufacturer" includes:

(i) Any person who produces lubricating oil by any process of manufacturing, refining, or compounding, or any manipulation involving substantially more than mere mixing of taxable oils, and

(ii) Any person who produces lubricating oil by mixing taxable oils with other substances.

(2) For purposes of the tax imposed under section 4091, the term "manufacturer" does not include:

(i) Any person who merely blends or mixes two or more taxable oils,

(ii) Any person who merely cleans, renovates, or refines used or waste lubricating oil, or

(iii) Any person who merely blends or mixes one or more taxable oils with used or waste lubricating oil that has been cleaned, renovate, or refined.

Neither does the term "manufacturer" include an importer of lubricating oil, since section 4091 does not impose a tax on lubricating oil sold by the importer of the lubricating oil.

§ 48.4091–3 Sales of cutting oil.

(a) *Exemption certificates.* (1) Lubricating oil may be sold tax free by the manufacturer or producer for use, or for resale for use, in cutting and machining operations on metals if the manufacturer obtains a properly executed cutting oil certificate from its purchaser. The following form of certificiate is acceptable and must be adhered to in substance:

Cutting Oil Certificate

(For use by purchaser of lubricating oil, otherwise subject to tax under section 4091 of the Internal Revenue Code of 1954, as amended, for use by it in cutting and machining operations on metals or for resale for such use.)

(Date) ————————, 19——

The undersigned certifies that he/she or the (Name of purchaser if other than undersigned) ———— of which he/she is (Title) ————, is in the business of (State business and, except in case of a purchase for resale, article or articles manufactured) ———— and that the oil covered by the accompanying order or contract for purchase from (Name and address of vendor) ———— of oil produced by (Name and address of producer if other than vendor) ———— is purchased for the following—

Check one:

——— use as a lubricant in cutting and machining operations on metals: ————

——— resale for use as a lubricant in cutting and machining operations on metals.

The purchaser understands that it must be prepared to establish by satisfactory evidence the actual use or disposition made of such oil, and that upon its use of the oil for a lubricating purpose other than in cutting and machining operations on metals, or upon its sale or other disposition of the oil, prior to use in cutting and machining operations on metal, it is required to notify the manufacturer. The purchaser further understands that if any of the oil purchased tax free by use of this certificate is resold by it for use as a lubricant in cutting and machining operations on metals or for resale for such use, it must obtain a similar certificate from its vendee. In addition, the purchaser also understands that the above listed oils which are purchased tax free by use of this certificate do not qualify for the tax credit or payment under sections 39(a)(3) and 6424 of the Code.

The undersigned understands that he/she and all other parties who make fraudulent use of this certificate for the purpose of purchasing oil tax free instead of at the tax rate of 6 cents a gallon are subject to a fine of not more than $10,000, or imprisonment for not more than 5 years, or both, together with the costs of prosecution.

(Signature) ————

(Address) ————

(2) A manufacturer making a tax-free sale under a cutting oil certificate must use reasonable diligence to satisfy itself that the use of the certificate is warranted under this paragraph (a). If the manufacturer has knowledge at the time of its sale that the oil is not intended for use as specified in the certificate, the manufacturer is liable for the tax on the sale at the rate of 6 cents per gallon. If the manufacturer receives information establishing that oil sold tax free for use in cutting machining operations on metals has not been and will not be so used by the purchaser, or that oil sold to a purchaser tax free for resale for use in cutting and machining operations on metals has been resold for use otherwise, or has not been and will not be used by the ultimate purchaser in cutting and machining operations on metals, tax at the rate of 6 cents per gallon with respect to the sale by the manufacturer must be included in the manufacturer's return for the return period in which the information is received.

(3) Where only occasional sales of cutting oil are made to a purchaser, a separate cutting oil certificate must be furnished for each order. However, where sales of cutting oil are regularly or frequently made to a purchaser a certificate covering all orders for a specified period not to exceed 12 calendar quarters is acceptable. Such certificates and proper records of invoices, orders, etc., relative to cutting oil sales must be kept for inspection by the district director as provided in section 6001 of the Code.

(4) If the cutting oil certificate in respect of any sale to which this paragraph (2) applies is not obtained before the time the manufacturer files its return for the period during which the sale was made, the manufacturer must include tax on that sale in its return. If a certificate is later obtained, a claim for refund may be filed or a credit claimed under section 6402 for excess tax paid. The manufacturer filing the claim must comply with the requirements of section 6416(a) and § 48.6416(a)–1.

(b) *Containers of 5 gallons or less.* Lubricating oil may be sold tax free by the manufacturer or producer as cutting oil without the necessity of obtaining exemption certificates where—

(1) The manufacturer or producer packages the oil in containers of 5 gallons or less furnished by it and labeled by it to indicate use of the oil only in cutting and machining operations on metals;

(2) Any advertising of the oil so packaged and labeled indicates that the oil is for use only in cutting and machining operations on metals; and

(3) The oil so packaged and labeled is sold by the manufacturer or producer to a purchaser for such use by it or for resale by it for such use.

(c) *Oil unsuitable for lubricating use except in cutting and machining operations on metals.* No exemption certificate is required where the Commissioner has determined certain oil to be suitable for use as a lubricant only in cutting and machining operations on metals. Oils as to which the Commissioner has made such a determination may be sold tax free, whether in bulk or otherwise, unless the manufacturer has knowledge, before or at the time of the sale of such oil, that the oil is not being purchased for use, or for resale for use, in cutting and machining operations on metals. However, the Commissioner may require that the oil be specifically represented to the purchaser, whether by labeling or otherwise, as being suitable for use only in cutting and machining operations on metals.

§ 48.4091–4 Sale after December 31, 1965, and before January 7, 1983, of oil seldom used as a lubricant.

(a) *General rule.* The Commissioner may issue determinations that any oil that is suitable for use as a lubricant is seldom used as a lubricant. This determination is based on the specific use of the oil rather than on its physical characteristics. If the Commissioner makes such a determination, the sale by the manufacturer of the oil directly to a purchaser for the specific nonlubricating use under a name identifying it for such use, or for resale by it for the specific nonlubricating use under a name identifying it for such use, may be made tax free. Except as provided in paragraph (c) of this section, the manufacturer, in order to establish the right to sell lubricating oil tax free under this section, must obtain from the purchaser and retain in its possession a properly executed exemption certificate.

(b) *Exemption certificates*—(1) *Form of certificate.* The following form of certificate is acceptable and must be adhered to in substance:

Exemption Certificate

(For use by purchaser of lubricating oil, otherwise subject to tax under section 4091 of the Internal Revenue Code of 1954, as amended, which the Commission of Internal Revenue has determined to be seldom used as a lubricant, for use by the purchaser for nonlubricating purposes, or for resale for nonlubricating use.)

(Date) ————, 19——

The undersigned certifies that he/she, or the (Name of purchaser if other than undersigned) ———— of which he/she is (Title) ————, is in the business of (State business and, except in case of a purchase for resale, article or articles manufactured) ———— and that the oil covered by the accompanying order or contract for purchase from (Name and address of vendor) ———— of oil produced by (Name and address of producer if other than vendor) ———— is (Type or types of oil which the Commissioner has determined to be seldom used as a lubricant) ———— and is purchased for—

Check One:

——— The following nonlubricating purposes: ————

——— Resale for nonlubricating use (specify use or uses if known): ————

The purchaser understands that if any of the oil purchased tax free by use of this certificate is resold by it for nonlubricating use or for further resale for such use, it must obtain a similar certificate from its vendee. The purchaser further understands that it must be prepared to establish by satisfactory

evidence the actual use or disposition made of such oil, and that upon use of the oil for a lubricating purpose, or sale for a lubricating purpose, it is required to notify the vendor named above. The purchaser also understands that if its vendee notifies it that the oil covered by this certificate has been used for a lubricating purpose or sold for a lubricating purpose, it is required to so notify the vendor from whom it purchased the oil covered by this certificate. In addition, the purchaser understands that the above listed oils which are purchased tax free by use of this certificate do not qualify for the tax credit or refund under sections 39(a)(3) and 6424 of the Code.

The undersigned understands that he/she and all other parties who make fraudulent use of this certificate for the purpose of purchasing oil tax free are subject to a fine of not more than $10,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.

(Signature) ———————— ————

(Address) ———————— ————

(2) *Period covered.* Where only occasional sales of an oil which the Commissioner has determined to be seldom used as a lubricant are made to a purchaser for nonlubricating use, a separate exemption certificate must be furnished for each order. However, where sales of such oil for nonlubricating use are regularly or frequently made to a purchaser, a certificate covering all orders for a specified period, not to exceed 12 calendar quarters, is acceptable. The certificates and proper records of invoices, orders, etc., relative to sales of lubricating oil under this section must be kept for inspection by the district director as provided in section 6001 of the Code.

(3) *Certificate not obtained prior to filing of manufacturer's excise tax return.* Except as provided in paragraph (c) of this section, if an exemption certificate in respect of any sale to which this section applies is not obtained before the manufacturer files a return covering taxes due for the period during which the sale was made, the manufacturer must include the tax on the sale in its return for that period. If a certificate is later obtained the manufacturer will be entitled to file a claim for credit or refund of tax under section 6402. However, the manufacturer must comply with the requirements of section 6416(a) and § 48.6416(a)–1.

(4) *Duty of manufacturer to ascertain validity of certificate.* A manufacturer making a tax-free sale under a certificate for oil seldom used as a lubricant must use reasonable diligence to satisfy itself that the use of the certificate is warranted under paragraph (a) of this section. If the manufacturer has knowledge at the time of its sale that the oil is not intended for nonlubricating use, the manufacturer is liable for the tax on the sale at the rate imposed by section 4091 on each gallon. If the manufacturer receives information establishing that oil sold tax free for nonlubricating use has not been and will not be so used by the purchaser, or that oil sold to a purchaser tax free for resale for nonlubricating use has been resold for use otherwise, or has not been and will not be used by the ultimate purchaser in a nonlubricating use, tax at the rate imposed by section 4091 on each gallon with respect to the sale by the manufacturer must be included in the manufacturer's return for the period in which the information is received.

(c) *Oils determined before July 1, 1966, to be "seldom used a a lubricant".* The requirement of an exemption certificate is waived in respect of sales by the manufacturer of oils which, before July 1, 1966, the Commissioner determined to be seldom used as a lubricant but used almost exclusively for nonlubricating purposes.

(d) *Tax-paid oil used for nontaxable purpose.* If oil, with respect to which the manufacturer has paid tax under section 4091, is subsequently used in a qualified business use or in a qualified bus, the ultimate purchaser of the oil may file a claim for refund under section 6424, or for credit under section 39(a)(3), as applicable.

§ 48.4091–5 Other tax-free sales.

For provisions relating to tax-free sales of lubricating oils (including cutting oil), see:

(a) Section 4093, relating to exemption of sales to producers;

(b) Section 4221, relating to certain tax-free sales;

(c) Section 4222, relating to registration; and

(d) Section 4223, relating to special rules with respect to sales for further manufacturer, and the regulations thereunder.

§ 48.4092–1 Definitions.

(a) *Certain vendees considered as manufacturers.* Any person who purchases lubricating oil free of tax under section 4093(a) (see § 48.4093–1) is considered to be the manufacturer of the lubricating oil so purchased.

(b) *Definition of cutting oil.* The term "cutting oil" includes all lubricating oil which is sold for use in cutting and machining operations on metals. The term does not include any oil which is sold for use in cutting and machining operations on plastics or any other substance which is not a metal. The term "cutting and machining operations" includes, but is not limited to, forging, drawing, rolling, shearing, punching, and stamping.

§ 48.4093–1 Tax-free sales to manufacturers for resale.

(a) *In general.* No tax attaches to the sale of lubricating oil by the manufacturer direct to another manufacturer of lubricating oil for resale by it, if:

(1) Both the purchasing manufacturer and the selling manufacturer are registered as manufacturers of lubricating oil in accordance with the provisions of § 48.4101–1, and

(2) The purchasing manufacturer notifies the selling manufacturer in writing that:

(i) The lubricating oil to be purchased by it in the period beginning ————, and ending ———— (such period not to exceed 12 calendar quarters) is purchased for resale by it, unless otherwise indicated, and it is registered with the District Director at ———— under Certificate of Registry No. ————.

It is immaterial for purposes of this section whether the lubricating oil is to be resold for general lubricating use, for lubricating use in cutting and machining operations on metals, or for nonlubricating use. See § 48.4092–1 for liability of the purchasing manufacturer.

(b) *Selling manufacturer not notified prior to filing of excise tax return.* If the written information required under paragraph (a)(2) of this section is not furnished to the selling manufacturer before the manufacturer files a return covering taxes due for the period during which the sale was made, the manufacturer must include the tax on the sale in its return for that period. However, if the information is later obtained, a claim for refund of the tax paid on the sale may be filed, or a credit may be claimed, under section 6402. The manufacturer filing the claim must comply with the provisions of section 6416(a) and § 48.6416(a)–1.

(c) *Selling manufacturer relieved of liability.* See section 4221(c) and § 48.4221–1(b) for provisions under which the selling manufacturer is relieved of liability for the tax in respect of oil sold tax free under section 4093 where it accepts in good faith the evidence required of the purchasing manufacturer in support of the tax-free sale. If, however, the selling manufacturer has knowledge at the time of its sale that the lubricating oil sold by it is not intended for resale as indicated by the purchaser, or that the purchaser is not a registered manufacturer of lubricating oil, the selling manufacturer is not relieved under the provisions of section 4093 of liability for the tax. For provisions under which the purchasing manufacturer is considered to be the

manufacturer of lubricating oil purchased tax free for resale by it, see § 48.4092–1.

Special Provisions Applicable to Petroleum Products

§ 48.4101–1 Registration.

(a) *Requirement*—(1) *In general.* Except to the extent otherwise provided in paragraph (a)(2) of this section, every producer or importer of gasoline (see section 4082 and the regulations thereunder) and every manufacturer of lubricating oil (see § 48.4091–2(b)) must, before incurring any liability for tax with respect to such articles under section 4081 or 4091, as the case may be, make application for registry in accordance with the provisions of paragraph (b) of this section. Upon approval of the application, the applicant will be furnished a Certificate of Registry bearing its registration number. Such certificate may not be transferred from one person to another. For the civil penalty imposed for failure to register, see section 7272. For provisions relating to the criminal penalties imposed for failure to register as required by section 4101, for false representation as a person so registered, or for willfully making any false statement in an application for registry under such section, see section 7232.

(2) *Exception for prior registration or applicatons.* In any case in which a producer or importer of gasoline, or a manufacturer of lubricating oil, has made application for registry under corresponding provisions of prior regulations, or holds a Certificate of Registry in effect under the prior regulations, the person is not required to make application for registry under this section, unless the district director furnishes the person with written notification that an application is required. In that event, the application of registry must be made at the time, in the form, and in the manner prescribed in written notification.

(b) *Application for registry.* The application for registry required under paragraph (a) of this section must be prepared on Form 637 in accordance with the instructions and applicable regulations. The application shall include a statement as to whether the applicant is a refiner, compounder, blender, actual producer, or pipeline common carrier of gasoline; whether it is a dealer selling exclusively to producers of gasoline; whether it is a wholesale distributor of gasoline; and whether it is a manufacturer of lubricating oil. In addition, the application shall include a statement setting forth in detail:

(1) A description of the equipment and facilities, if any, maintained for the production of gasoline or lubricating oil, as the case may be,

(2) A description of the equipment and methods actually employed in such production,

(3) The ingredients or materials utilized,

(4) In the case of a refiner, compounder, blender, or actual producer of gasoline, the percentage which its sales, if any, of gasoline produced by it is expected to bear to its total sales of gasoline,

(5) In the case of a wholesale distributor of gasoline, a description of the storage facilities maintained by the distributor and the percentage which its bulk sales of gasoline is expected to bear to its total sale of gasoline,

(6) In the case of a pipeline common carrier of gasoline for the purposes described in § 48.4082–1(a), a description of the pipeline equipment, terminal points, and storage facilities, and

(7) In the case of a manufacturer of lubricating oil, the percentage which its sales of lubricating oil produced by it is expected to bear to its total sales of lubricating oil.

The application for registry on Form 637 required under paragraph (a) of this section must be signed by the individual if the applicant is an individual; the president, vice president, or other principal officer, if the applicant is a corporation; a responsible and duly authorized member or officer having knowledge of its affairs, if the applicant is a partnership or other unincorporated organization; or the fiduciary, if the applicant is a trust or estate. The application on Form 637 shall be filed with the district director for the district in which the applicant has his or her principal office or place of business. Copies of Form 637 may be obtained from any district director.

(c) *Effective date.* The regulations in this section are effective with respect to gasoline sold on or after July 1, 1965, and with respect to lubricating oil sold on or after July 1, 1965 and before January 7, 1983.

§ 48.4102–1 Inspection of records by State or local tax officers.

(a) *Inspection of records maintained by taxpayer* The records which a producer or importer of gasoline or a manufacturer of lubricating oil is required to keep pursuant to section 6001 and the regulations thereunder must be open to inspection by any officer of any State or political subdivision thereof, or of the District of Columbia, who is charged with the enforcement or collection of any tax on gasoline or lubricating oil.

(b) *Inspection of records maintained by Internal Revenue Service*—(1) *In general.* The records maintained by the Internal Revenue Service with respect to the taxes imposed by sections 4081 and 4091 on the sale or use of gasoline or lubricating oil, respectively, shall, upon the request of an officer (described in paragraph (b)(2) of this section) of a State or political subdivision thereof, or of the District of Columbia, be open to inspection by the officer for purposes of collection or enforcement.

(2) *Requests for inspection.* Requests for inspection under this paragraph shall be made in writing, signed by any officer of a State, political subdivision, or the District of Columbia, who is charged with the enforcement or collection of any tax on gasoline or lubricating oil imposed by the State, political subdivision, or the District of Columbia, and shall be addressed to the director of the Internal Revenue Service Center having custody of the records which it is desired to inspect. Each such request shall state (i) the kind of records (whether pertaining to gasoline or lubricating oil) it is desired to inspect, (ii) the period or periods covered by the records involved, (iii) the name of the officer by whom the inspection is to be made, (iv) the name of the representative of the officer who has been designated to make the inspection, (v) by specific reference, the law of the State, political subdivision, or the District of Columbia imposing the tax which the officer is charged with collecting or enforcing, and the law under which the officer is so charged, and (vi) the purpose for which the inspection is to be made. The service center director will notify the person making the request upon approval or disapproval of the request.

(3) *Time and place for inspection.* In any case where a request for inspection under this paragraph (b) is approved, the inspection shall be made in the office of the service center director having custody of the records which it is desired to inspect, but only in the presence of an internal revenue officer or employee and during the regular hours of business of the office.

Par. 4. There is added after § 48.6675–1 the following new section.

§ 48.9000–0 Paperwork Reduction Act.

The regulations in this part (to the extent required) have been submitted to the Office of Management and Budget (OMB) under the Paperwork Reduction Act (44 U.S.C. 3507). Regulations §§ 48.4081–1, 48.4082–1, 48.4083–1 and

–2, 48.4084–1, 48.9091–0 through –5, 48.4092–1, 48.4093–1, 48.4101–1 and 48.4102–1 were assigned by OMB the Control number 1545–0725.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917, 26 U.S.C. 7805).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: August 15, 1983.

Ronald A. Pearlman,

Acting Assistant Secretary of the Treasury.

[FR Doc. 83-24318 Filed 9-2-83; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 938

Pennsylvania Permanent Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: This document imposes a new condition on the Secretary of the Interior's approval of the Pennsylvania Permanent Regulatory Program (hereinafter referred to as the Pennsylvania program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The new condition relates to the hearings provision for bond release in the Pennsylvania program.

Following notification to the State that a State program amendment was required to meet the requirements of SMCRA and the Federal regulations, receipt of the State's agreement to submit an amendment, and review of the public comments in response to the proposed condition, the Secretary is imposing a new condition on his approval of the Pennsylvania program.

EFFECTIVE DATE: September 6, 1983.

FOR FURTHER INFORMATION CONTACT: Robert Biggi, Director, Harrisburg Field Office, Office of Surface Mining Reclamation and Enforcement, 101 South 2nd Street, Suite L–4, Harrisburg, Pennsylvania 17101; Telephone: (717) 782–4036.

SUPPLEMENTARY INFORMATION: On January 25, 1982, Pennsylvania resubmitted its proposed regulatory program to OSM. On July 30, 1982, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary approved the program subject to the correction of ten minor deficiencies. The approval was effective upon publication of the notice of conditional approval in the July 30, 1982 **Federal Register** (47 FR 33050–33080).

Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Pennsylvania program can be found in the July 30, 1982 Federal Register notice (47 FR 33050–33080).

Background

Section 509(a) of SMCRA provides that the permittee file a performance bond with the regulatory authority before a surface coal mining and reclamation permit is issued. The permittee may file a request for release of all or part of the performance bond as specified in section 519 of SMCRA. Section 519(f) further provides that a hearing, if requested, be held within 30 days of the request for the hearing.

Similarly, the Federal regulations published July 19, 1983, at 30 CFR 800.40(f) require the regulatory authority to hold the informal conference or hearing within 30 days of the receipt of the request for review and that the hearing decision be made within 30 days of the hearing or informal conference pursuant to 30 CFR 800.40(b)(2).

The United States District Court for the Middle District of Pennsylvania in *Pennsylvania Coal Mining Assoc.* v. *Watt*, Civil No. 82–1129, April 20, 1983, remanded to the Secretary the corresponding provision in the Pennsylvania program concerning the timing of the bond release hearing and the decision. The District Court decided that Pennsylvania's program concerning the timing of the bond release provisions was not consistent with SMCRA and the Federal regulations in that the Pennsylvania program does not provide when or how soon the hearing must be held after it is requested and does not require a decision to be announced until 60 days after the hearing. The District Court remanded this provision to the Secretary with instructions to rectify this matter.

Pursuant to 30 CFR 732.17(e), the Secretary notified Pennsylvania by a letter dated June 7, 1983, that a State program amendment was required because conditions or events indicated that the approved State program no longer met the requirements of SMCRA and the Federal regulations. The letter notified Pennsylvania, pursuant to 30 CFR 732.17(f)(1), that it must submit to the Secretary within 60 days of receipt of notification, either a proposed written amendment or a description of an amendment to be proposed that meets the requirements of SMCRA and the Federal regulations, and a timetable for enactment which is consistent with established administrative or legislative procedures. OSM also noted that the Secretary would propose adding a new condition to the Pennsylvania program requiring the State to amend its program by a specified date to incorporate requirements no less effective than 30 CFR 807.11(e)(2), (f)(2) and (h)(ii). Since that time, OMS's bonding rules have been amended. No substantive change was made to these segments but these provisions are now contained in 30 CFR 800.40(b)(2) and (f) as published in the **Federal Register** dated July 19, 1983. The proposed rule announcing intent to impose a new condition and requesting public comment was published June 13, 1983 (48 FR 27102).

On July 27, 1983, Pennsylvania responded to OSM's June 7, 1983, letter. The State's letter indicated that it would propose to amend the Pennsylvania program by revising PA 86.171 to require that the informal conference for bond release be held within thirty (30) days of the date of receipt of such request.

PA 86.171(f)(3) requires the decision to be rendered within 30 days after such an informal conference. The proposed amendment, coupled with the existing regulation, provides a timely bond release process and addresses the District Court's concern that the informal conference be held and the decision rendered within a total of 60 days consistent with Federal standards.

Public Comment

The Pennsylvania Coal Mining Association commented that the State should (1) implement bond release procedures consistent with SMCRA by a policy directive no later than September 1, 1983; and 2) promulgate regulations that include bond release procedures no less effective than 30 CFR 807.11(e)(2), (f)(2) and (h)(ii) no later than December 31, 1983.

In its letter dated July 27, 1983, Pennsylvania indicated it would resolve the issue remanded by the District Court to Secretary Watt by (1) promulgating adequate regulations by August 1, 1984; and (2) conducting an evaluation to determine by December 1, 1983, if a policy statement could be used in the interim to implement adequate bond release procedures.

The State explained that because of the Regulatory Review Act which took effect on March 1, 1983, proposed regulations must be submitted to both houses of the Pennsylvania General

Assembly and an Independent Regulatory Review Commission prior to adoption. Proposed regulations can be disapproved by either the General Assembly or the Commission. Since the bond release provisions require a regulatory change, it would be highly unlikely that the State would be able to meet a deadline before August 1, 1984.

In the interim, the State has agreed to conduct bond release hearings or informal conferences and render the associated decisions in a manner consistent with the District Court's decision and Federal standards.

Additionally, Pennsylvania will examine the feasibility of implementing such bond release procedures by a policy statement and if it determines a policy statement can be used to implement such bond release provisions, the policy statement will be submitted to OSM for formal review.

Secretary's Decision

Accordingly, the Secretary has determined to impose a new condition, (k), on his approval of the Pennsylvania program. The Secretary will take appropriate steps under 30 CFR Part 733 to terminate the approval of the Pennsylvania program if provision correcting the deficiency are not made by the date specified in 30 CFR 938.11(k).

Additional Determinations

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 938

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: August 30, 1983.

William P. Pendley,

Deputy Assistant Secretary for Energy and Minerals.

PART 938—PENNSYLVANIA

30 CFR 938.11 is amended to add a new paragraph (k) as follows:

§ 938.11 Conditions of State regulatory program approval.

* * * * *

(k) Termination of the approval found in Section 938.10 will be initiated on August 1, 1984, unless Pennsylvania submits to the Secretary by that date a copy of promulgated regulations or otherwise amends its program to contain provisions no less effective than 30 CFR 800.40(b)(2) and (f) to require the State to hold a bond release hearing or informal conference within 30 days after it is requested and that a decision be rendered within 30 days after the hearing or informal conference has been held. In the interim, the State will conduct bond release hearings and informal conferences and render the associated decision in a manner no less effective than 30 CFR 800.40(b)(2) and (f) and in accordance with section 519(f) of SMCRA.

(Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*))

[FR Doc. 83–24304 Filed 9–2–83; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 730

Administrative Discharges and Related Matters; Separations From the Naval Service

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending 32 CFR Part 730 by removal of Subparts A and C thereof, whose publication is not required. These subparts relate to internal management and personnel rules and practices and do not affect the public. Removal of these subparts will not cancel the underlying source directives upon which they are derived.

EFFECTIVE DATE: September 6, 1983.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Frederick N. Ottie, JAGC, U.S. Navy 325–9860.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 730

Administrative practice and procedure, Conscientious objectors, Military personnel.

PART 730—[REMOVED]

1. 32 CFR Part 730 is amended by removing Subpart A (§§ 730.1–730.18) and Subpart C (§§ 730.301–730.305). Part 730 is thereby vacated.

(Secs. 280, 1162, 1163, 6291–6296, 70A Stat. 14, 89, 391–393, as amended 76 Stat. 508, 517, sec. 301, 80 Stat. 379; 5 U.S.C. 301; 10 U.S.C. 133, 280 1162, 1163, 1168, 6291–6296, unless otherwise noted)

Dated: August 31, 1983.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 83–24218 Filed 9–2–83; 8:45 am]

BILLING CODE 3810–AE–M

VETERANS ADMINISTRATION

38 CFR Part 21

Veterans Education; Submission of Mitigating Circumstances

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: These regulations concern two groups of people. The first of these are veterans who are receiving educational assistance under chapter 34, title 38, United States Code. These regulations lengthen the time period these veterans have to report any mitigating circumstances that may be connected with withdrawals or receipt of a grade which is not computed in the veteran's graduation requirements.

The second group are recipients of educational assistance under chapter 35, title 38, United States Code. These regulations set a limit on the amount of time these eligible persons have to report mitigating circumstances.

Unless mitigating circumstances exist, the law prohibits the VA (Veterans Administration) from paying for a course from which a veteran or eligible person withdraws or for which he or she receives a grade which is not computed in determining graduation requirements.

EFFECTIVE DATE: August 16, 1983.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program

Administration, Education Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420. (202-389-2092)

SUPPLEMENTARY INFORMATION: On pages 15491 and 15492 of the **Federal Register** of April 11, 1983 there was published a notice of intent to amend part 21 to state time limits for reporting mitigating circumstances.

Interested people were given 30 days in which to submit comments, suggestions or objections regarding the proposal. The VA received two letters containing comments and suggestions. One letter was from a U.S. Senator. The other was from the Governor of a State.

The Senator questioned whether a shorter period to submit mitigating circumstances would not give the individual ample opportunity to report the circumstances and by allowing the VA to identify overpayments more quickly, enhance the recovery of them. He suggested giving veterans and eligible persons 90 or 120 days from the day they are notified that they must submit mitigating circumstances.

After careful consideration the VA has decided not to accept this suggestion. The agency thinks that a veteran or eligible person should have sufficient time to submit mitigating circumstances.

However, the VA is also concerned about the overpayment problem. Section 1.911a, Title 38, Code of Federal Regulations, addresses collection of debts owed by reason of participation in a benefits program. When that regulation is read together with §§ 21.4136 and 21.4137, it results in the following procedure.

When the VA notifies the veteran or eligible person of the need to report mitigating circumstances, it will also notify him or her that although he or she has 1 year to submit acceptable mitigating circumstances, if they are not reported within 30 days, an overpayment will be created. The VA tries to recover all overpayments. If the veteran or eligible person reports acceptable mitigating circumstances after 30 days, but before the expiration of 1 year, payment for the course or courses in question will be restored. This will cancel the overpayment.

Hence, requiring mitigating circumstances to be submitted within 90 to 120 days will not enable the VA to identify overpayments more quickly; it will not enhance the recovery of overpayments; and will not give the individual as much time to submit mitigating circumstances as these regulations do.

The Governor wrote that his State supported the change to § 21.4136. He wanted to make sure that an eligible person would have the same amount of time as a veteran to report mitigating circumstances.

Since § 21.4137 is now worded the same as § 21.4136, except that "eligible person" is substituted for "veteran", the VA will treat eligible persons the same as veterans with regard to the reporting of mitigating circumstances. Accordingly, the VA is adopting these regulations without change.

The VA has determined that these regulations do not contain a major rule as that term is defined by Executive Order 12291, Federal Regulation. The annual effect on the economy will be less than $100 million. The regulations will not result in any major increases in costs or prices for anyone. They will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Administrator of Veterans' Affairs hereby certifies that these regulations will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b), these regulations, therefore, are exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

This certification can be made because these changes regulate only individual benefit recipients. They will have no significant impact on small entities, i.e., small businesses, small private and nonprofit organizations and small governmental jurisdictions.

The Catalog of Federal Domestic Assistance numbers for the programs affected by these regulations are 64.111 and 64.117.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs—education, Loan programs—education, Reporting requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: August 16, 1983.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

38 CFR Part 21 is amended as follows:

1. In § 21.4136, paragraph (k)(1)(ii) is revised to read as follows. The text of the introductory paragraph of (k)(1) is set out for the convenience of the reader.

§ 21.4136 Rates; educational assistance allowance; 38 U.S.C. chapter 34.

(k) *Mitigating circumstances.* (1) The Veterans Administration will not pay benefits to any veteran for a course from which the veteran withdraws or receives a nonpunitive grade which is not used in computing the requirements for graduation unless—

* * * * *

(ii) The veteran submits the circumstances in writing to the Veterans Administration within 1 year from the date the Veterans Administration notifies the veteran that he or she must submit the mitigating circumstances.

(38 U.S.C. 1780(a))

* * * * *

2. In § 21.4137, paragraph (h) is revised as follows:

§ 21.4137 Rates; educational assistance allowance; 38 U.S.C. chapter 35.

* * * * *

(h) *Mitigating circumstances.* (1) The Veterans Administration will not pay benefits to any eligible person for a course from which the eligible person withdraws or receives a nonpunitive grade which is not used in computing the requirements for graduation unless—

(i) There are mitigating circumstances, and

(ii) The eligible person submits the circumstances in writing to the Veterans Administration within 1 year from the date the Veterans Administration notifies the eligible person that he or she must submit the mitigating circumstances.

(2) The following circumstances are representative of those which the Veterans Administration considers to be mitigating provided they prevent the eligible person from pursuing the program of education continuously. This list is not all inclusive.

(i) An illness of the eligible person,

(ii) An illness or death in the eligible person's family,

(iii) An unavoidable geographical transfer resulting from the eligible person's employment,

(iv) An unavoidable change in the eligible person's conditions of employment,

(v) Immediate family or financial obligations beyond the control of the eligible person which require him or her to suspend pursuit of the program of education to obtain employment,

(vi) Discontinuance of a course by a school,

(vii) Unanticipated active duty military service including active duty for training.

(3) If the eligible child fails to complete satisfactorily a course of special restorative training or if the eligible person fails to complete satisfactorily a course under section 1733, title 38, United States Code, without fault, the Veterans Administration will consider the circumstances which caused the failure to be mitigating. This will be the case even if the circumstances were not so severe as to preclude continuous pursuit of a program of education.

(38 U.S.C. 1780(a))

[FR Doc. 83-24280 Filed 9-2-83; 8:45 am]
BILLING CODE 8320-01-M

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38 CFR Part 36

Loan Guaranty; Refinancing of Existing Loan on a Manufactured Home Unit Together With the Purchase of a Lot

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The VA (Veterans Administration), is amending its regulations to implement a loan guaranty provision of the Veterans' Compensation, Education, and Employment Amendments of 1982. These amendments allow the VA guaranty of a loan for the purpose of refinancing an existing loan that was made for the purchase of, and is secured by, a manufactured home and simultaneously purchasing a lot on which the manufactured home is or will be located.

EFFECTIVE DATE: October 14, 1982.

FOR FURTHER INFORMATION CONTACT: George D. Moerman, Assistant Director for Loan Policy (264), Loan Guaranty Service, Veterans Administration, 810 Vermont Avenue, NW, Washington, D.C. 20420 (202) 389-3042.

SUPPLEMENTARY INFORMATION: These amendments implement the provisions of section 406 of the Veterans' Compensation, Education, and Employment Amendments of 1982 (Pub. L. 97-306, 96 Stat. 1429). The statute provides that a veteran owner of a manufactured home on which there is an outstanding loan may obtain a VA-guaranteed loan to refinance the existing purchase money loan and to purchase a lot on which the manufactured home is or will be located. The refinancing loan must be secured by the lot being acquired and by the same manufactured home as the loan being refinanced. The manufactured home must be owned and occupied by the veteran as his or her home.

The new law gives veterans an option to acquire lots on which to place their previously acquired manufactured home units. It is difficult to obtain a loan for the purchase of a vacant lot. This new type of loan will allow veterans owning a manufactured home which is subject to a purchase money lien to refinance the unit in order to buy their own lots. Some rental home parks are converting to condominium type ownership or to planned unit developments. These conversions require the lot lessee to either acquire an ownership interest in the property or to move the unit. Lenders are unwilling to finance rental park conversion lot purchases without security in the lot and the unit. The new loan purpose allows a veteran to refinance an existing VA, FHA, or conventional unit loan and remain on the currently occupied lot while acquiring a home site at the lowest possible interest rate.

Veteran unit owners may also utilize this refinancing loan procedure to buy a developed or undeveloped manufactured home lot at some other location if they so desire, provided the manufactured home will be moved to the lot to complete the home site.

The amount of the loan may not exceed the sum of: the purchase price, not to exceed the reasonable value, of the lot; the amount, if any, to be determined by the Administrator as appropriate to cover the cost of necessary preparation of the lot; the balance of the loan being refinanced; and closing costs, including a reasonable discount on that portion of the loan used to refinance the existing loan on the manufactured home. Site preparations to an undeveloped lot may include the costs of installing utility connections, sanitary facilities, paving and construction of a suitable pad.

The fees and charges which a veteran may pay with a combination unit refinancing and a lot acquisition loan will be the same as those contained presently in the regulations for acquiring a manufactured home and a lot.

When the loan being refinanced was guaranteed originally or insured by the VA, the veteran's guaranty entitlement of up to $20,000 was charged as the basis for the VA guaranty. Generally, a veteran would not have entitlement to a new GI loan for that portion of his or her eligibility used to secure the original unit loan. However, under this new purpose, the portion of the loan made for refinancing the existing VA loan may be guaranteed without regard to the amount of any outstanding guaranty entitlement still available to the veteran. In computing the total amount of guaranty entitlement available to the veteran, the entitlement used for refinancing the original VA loan will be combined with any additional entitlement available to the veteran for manufactured home purposes and applied to the total amount of the refinancing loan up to a maximum of fifty (50) percent of the loan amount, or $20,000, whichever is less.

Technical amendments have also been made to the appropriate sections of the regulations to change the term "mobile home" to "manufactured home." These changes are made so that the terminology of the regulations will be in conformity with the language of Pub. L. 97-306, 96 Stat. 1429, enacted October 14, 1982. Four editorial amendments have been made to §§ 36.4202(s), 36.4204(d)(7), 36.4222 and 36.4223.

These amendments conform the existing regulations to the requirements of Pub. L. 97-306. Since these changes have no effect independent of the statute and provide an additional benefit for veteran owners of manufactured homes, the VA is not seeking public participation in promulgating these regulations. Because a proposed notice is not necessary and will not be published, these changes do not come within the definition of the term "rule" (5 U.S.C. 601(2)) under the Regulatory Flexibility Act, and are not subject to the requirements of that Act.

The regulations have been reviewed under Executive Order 12291, entitled Federal Regulation, and are not considered major as defined in the Executive Order. They are designed to insure that the VA field offices comply with the new statutory provisions for the refinancing of used manufactured housing units along with the purchase of a suitable lot on which the unit will be located. They will have no substantive effect independent of the statute. They will not impact on the public or private sectors as a major rule. They will not have an annual effect on the economy of $100 million or more, cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

(Catalog of Federal Domestic Assistance Program number is 64.119)

These amendments are adopted under authority granted to the Administrator by sections 210(c), and 1819(g), of Title 38, United States Code, and the enabling legislation.

List of Subjects in 38 CFR Part 36

Condominium, Handicapped, Housing, Loan programs—housing and community development, Loan programs—business, Manufactured homes, Veterans, Veterans Administration.

Approved: August 17, 1983.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

PART 36—LOAN GUARANTY

The Veterans Administration is amending 38 CFR Part 36 as set forth below.

1. In § 36.4202, paragraph (s) is revised as follows:

§ 36.4202 Definitions.

* * * * *

(s) *Used manufactured home.* A manufactured home which has been previously occupied or which was manufactured more than 1 year prior to date of loan application.

2. In § 36.4203, the section heading, paragraph (b) and the introductory text of paragraphs (a) and (c) are revised as follows:

§ 36.4203 Eligibility of the veteran for the manufactured home loan benefit under 38 U.S.C. 1819.

(a) To be eligible for the manufactured home loan benefit a veteran must have loan guaranty entitlement for manufactured home purposes available for use. Notwithstanding the provisions of § 36.4205(e), the Administrator may exclude the amount of guaranty entitlement used for any guaranteed manufactured home loan provided:

* * * * *

(b) A veteran may use his or her remaining home loan guaranty entitlement for any purpose authorized by 38 U.S.C. 1810, 1811, or 1819 except that a veteran who has purchased a manufactured home unit may not purchase a second manufactured home unit until the unit which secured the first loan has been disposed of by the veteran or has been destroyed by fire or other natural hazard.

(c) The available entitlement of a veteran will be determined by the Administrator as of the date of receipt of an application for guaranty of a manufactured home loan or loan report. Such date of receipt shall be the date the application or loan report is date stamped into the Veterans Administration. Eligibility derived from the most recent period of service (1) shall cancel any unused entitlement derived from any earlier period of service, and (2) shall be reduced by the amount by which entitlement from service during any earlier period has been used to obtain a direct, guaranteed, or insured loan—

* * * * *

3. Section 36.4204 is revised as follows:

§ 36.4204 Loan purposes, maximum loan amounts and terms.

(a) A manufactured home loan may be guaranteed if the loan is for one of the following purposes:

(1) To purchase a lot on which to place a manufactured home already owned by the veteran;

(2) To purchase a single-wide manufactured home;

(3) To purchase a single-wide manufactured home and a lot on which to place such home;

(4) To purchase a double-wide manufactured home;

(5) To purchase a double-wide manufactured home and lot on which to place such home;

(6) To refinance an existing loan, including a previously refinanced purchase money loan, that was made for the purchase of and is secured by a manufactured home and to purchase a lot on which the manufactured home is or will be placed; or

(7) To refinance in accordance with § 36.4223 an existing manufactured home loan guaranteed, insured or made under paragraphs (1) through (6) of this paragraph. (38 U.S.C. 1819(a)(1))

(b) A loan for any of the purposes described in paragraph (a) (1) through (6) of this section may include an amount determined by the Administrator to be appropriate to cover the cost of necessary preparation of a lot already owned or to be acquired by the veteran, including the costs of installing utility connections and sanitary facilities, of paving, and of constructing a suitable pad for the manufactured home.

(c) the maximum permissible loan terms shall not exceed;

(1) 20 years and 32 days in the case of a loan to purchase a single-wide manufactured home or a single-wide manufactured home and lot;

(2) 15 years and 32 days in the case of a loan to purchase a lot on which to place a manufactured home already owned by the veteran;

(3) 23 years and 32 days in the case of a loan to purchase a double-wide manufactured home, or 25 years and 32 days in the case of a loan to purchase a double-wide manufactured home and lot; or

(4) In the case of a used manufactured home the maximum term set forth in paragraph (c) (1) or (3) of this section or the remaining physical life expectancy of the unit as established by the Administrator, whichever is less. (38 U.S.C. 1819(a) (1) and (2), (d)(1), (e)(4)(B))

(d) The loan amount in an individual case shall not exceed the following:

(1) In the case of a loan to purchase a new manufactured home unit only, the loan amount shall not exceed the sum of the following:

(i) 120 percent of the figure produced by the following computation:

Subtract from the manufacturer's invoice cost the manufactuer's invoice cost of any components (furnishings, accessories, equipment) removed from the unit by the dealer. To the remainder add the dealer's cost for any components added by such dealer. The sum so obtained shall be the figure to be multiplied by the specified percentage.

(ii) 100 percent of the actual amount of fees and charge permitted in § 36.4232.

(2) In the case of a loan to purchase a new manufactured home unit plus the cost of necessary site preparation where the veteran owns the lot, the loan amount shall be limited to the amount determined in paragraph (d)(1) of this section plus such costs of necessary site preparation as are approved by the Administrator.

(3) In the case of a loan to purchase a new manufactured home unit plus the purchase of an undeveloped lot on which to place such home plus the cost of necessary site preparation, the loan amount shall be limited to the amount determined in paragraph (d)(1) of this section plus the reasonable value of the undeveloped lot as determined by the Administrator plus such costs of necessary site preparation as are approved by the Administrator.

(4) In the case of a loan to purchase a new manufactured home unit plus the cost of a suitably developed lot on which to place such home, the loan amount shall be limited to the amount determined in paragraph (d)(1) of this section plus the reasonable value of the developed lot as determined by the Administrator.

(5) In the case of a loan to purchase a lot upon which will be placed a manufactured home owned by the veteran the loan is limited to the reasonable value of a developed lot or the reasonable value plus such amount as is determined by the Administrator to be appropriate to cover the cost of

necessary site preparation for an undeveloped lot.

(6) In the case of a used manufactured home the maximum loan may not exceed the reasonable value as established by the Administrator, plus:

(i) Actual fees or charges for required recordation of documents;

(ii) The amount of any documentary stamp taxes levied on the transaction;

(iii) The amount of State and local taxes levied on the transaction; and

(iv) The premium for customary physical damage insurance and vendor's single interest coverage on the manufactured home for an initial policy term of not to exceed 5 years.

(7) In the case of an interest rate reduction refinancing loan (38 U.S.C. 1819(a)(1)(F)) the maximum loan may not exceed:

(i) The balance of the Veterans Administration loan being refinanced;

(ii) Closing costs as authorized by § 36.4232 or § 36.4254, as appropriate; and

(iii) Allowable discounts provided:

(A) The loan application is submitted to the Administrator for prior approval;

(B) The amount of discount is disclosed to the Administrator and the veteran prior to the issuance of the certificate of commitment by the Administrator. Said certificate of commitment shall specify the discount to be paid by the veteran, and this discount may not be increased once the commitment has been issued without the approval of the Administrator;

(C) The discount has been determined by the Administrator to be reasonable in amount; and

(D) All powers of the Administrator under this paragraph (7) of this paragraph, except the authority to revise the discount after the commitment is issued, are hereby delegated to those officials designated by § 36.4221(b). The power of the Administrator to approve an increase in the discount after the commitment is issued is delegated to those officials designated by § 36.4220(a). (38 U.S.C. 1819 (a)(4) and (g))

(8) In the case of a loan to refinance a purchase money lien on a manufactured home and to buy a lot (38 U.S.C. 1819(a)(1)(G)) on which the manufactured home is or will be placed:

(i) The loan must be secured by the same manufactured home which must be owned and occupied by the veteran as the veteran's home; and

(ii) The amount of the loan may not exceed an amount equal to the sum of:

(A) The purchase price, not to exceed the reasonable value of the lot, as authorized by § 36.4252,

(B) The amount determined by the Administrator to be appropriate to cover the cost of necessary preparation of the lot,

(C) The balance of the loan being refinanced, and

(D) Closing costs, as authorized by § 36.4232 or § 36.4254, as appropriate, and a reasonable discount with respect to that portion of the loan used to refinance the existing purchase money lien.

(iii) Allowable discounts may be charged to the veteran on the portion of the loan used to refinance the existing purchase money lien provided:

(A) The loan application is submitted to the Administrator for prior approval;

(B) The amount of discount to be paid on the unit portion of the loan is disclosed to the Administrator and the veteran prior to the issuance of the certificate of commitment by the Administrator. The certificate of commitment shall specify the discount to be paid by the veteran on the unit portion of the loan, and this discount may not be increased once the commitment has been issued without the approval of the Administrator;

(C) The discount on the unit portion of the loan has been determined by the Administrator to be reasonable in amount; and

(D) All powers of the Administrator under subparagraph (8) of this paragraph, except the authority to revise the discount after the commitment is issued, are hereby delegated to those officials designated by § 36.4221(b). The power of the Administrator to approve an increase in the discount on the unit portion of the loan after the commitment is issued is delegated to those officials designated by § 36.4220(a). (38 U.S.C. 1819 (a)(1)(G), (a) (5) and (g))

(e) The cost of the transaction which will not be paid from the proceeds of the loan must be paid by the veteran in cash from the veteran's own resources. Except for interest rate reduction refinancing loans pursuant to paragraph (a)(7) of this section or loans to refinance a manufactured home and to buy a lot pursuant to paragraph (a)(8) of this section, closing costs and prepaid items incident to the real estate portion of any manufactured home loan must be paid in cash and may not be included in the loan amount. (38 U.S.C. 1819 (a)(4), (a)(5), (g))

4. In § 36.4205, paragraphs (a), (b) (1), (2) and (3), (c) and (e) are revised as follows:

§ 36.4205 Computation of guaranty.

(a) The amount of guaranty in respect to a loan guaranteed under 38 U.S.C. 1819 shall be fifty (50) percent of the original principal amount of the loan or $20,000, whichever is less. With respect to a loan guaranteed under 38 U.S.C. 1819(a)(1)(F), the dollar amount of guaranty may not exceed the original dollar amount of guaranty on the loan being refinanced. With respect to a loan guaranteed under 38 U.S.C. 1819(a)(1)(G), the dollar amount of guaranty previously used to obtain a manufactured unit loan may be transferred pursuant to § 36.4224(b) for use in refinancing the unit when simultaneously acquiring a lot.

(b) * * *

(1) If a veteran previously secured a nonrealty (business) loan, the amount of nonrealty entitlement used is doubled and subtracted from $27,500. The sum remaining is the amount of available entitlement for use not to exceed $20,000 for manufactured home purposes.

(2) If a veteran previously secured a realty (home) loan, the amount of realty (home) loan entitlement used is subtracted from $27,500. The sum remaining is the amount of available entitlement for use not to exceed $20,000 for manufactured home purposes.

(3) If a veteran previously secured a manufactured home loan, the amount of entitlement used for manufactured home purposes is subtracted from $27,500. The sum remaining is the amount of available entitlement for use for home loan purposes only. To determine the amount of additional entitlement available for manufactured home purposes, the amount of entitlement previously used for manufactured home purposes is subtracted from $20,000. Except for manufactured home loans to be obtained pursuant to 38 U.S.C. 1819(a)(1) (F) or (G), the sum remaining is the amount of available entitlement for use for manufactured home purposes.

(c) For the purpose of computing the remaining guaranty benefit to which a veteran is entitled, manufactured home and manufactured home lot loans guaranteed prior to October 1, 1978, shall be taken into consideration as if made subsequent thereto, and the veteran's entitlement will be reduced by the amount of the Administrator's guaranty issued in the particular loan transaction.

* * * * *

(e) The amount of any guaranty for a manufactured home or manufactured home lot loan shall be charged against the original or remainder of the borrower's guaranty benefit available for manufactured home purposes. Complete or partial liquidation, by payment or otherwise, of the veteran's guaranteed indebtedness does not

increase the remainder of the guaranty benefit, if any, otherwise available to the veteran. When the maximum guaranty available legally to a veteran for manufactured home purposes shall have been granted, no further guaranty for manufactured home purposes shall be available to the veteran.

* * * * *

5. Section 36.4222 is revised as follows:

§ 36.4222 Hazard insurance.

The holder shall require insurance policies to be procured and maintained in an amount sufficient to protect the security against the risks or hazards to which it may be subjected to the extent customary in the locality. Flood insurance will be required, including coverage of the contents to the extent such contents are security for the loan, in respect to any loan closed on and after March 2, 1974, if the security is located in an area identified by the Federal Emergency Management Agency as having special flood hazards and in which the sale of flood insurance is available under the national flood insurance program. The amount of flood insurance required will be equal to the outstanding balance of the loan or the maximum limit of coverage available for the particular type of property under the national flood insurance program, whichever is less. All moneys received under such policies covering payment of insured losses shall be applied to restoration of the security or to the loan balance.

6. In § 36.4223, paragraphs (a) (1), (2) and (4) and (b) are revised as follows:

§ 36.4223 Interest rate reduction refinancing loan.

(a) * * *

(1) The loan application must be submitted to the Administrator for prior approval;

(2) The loan must be secured by the same real and/or personal property as the loan being refinanced and the manufactured home (or a manufactured home on a lot) must be owned and occupied by the veteran as such veteran's home;

* * * * *

(4) The dollar amount of the guaranty of the 38 U.S.C. 1819(a)(1)(F) loan may not exceed the original dollar amount of guaranty applicable to the loan being refinanced, less any dollar amount of guaranty paid previously as a claim on the loan being refinanced; and

* * * * *

(b) Notwithstanding any other regulatory provision, the interest rate reduction refinancing loan may be guaranteed without regard to the amount of guaranty entitlement for manufactured home purposes available for use by the veteran, and the amount of the veteran's remaining guaranty entitlement for manufactured home purposes shall not be charged for an interest rate reduction refinancing loan. The interest rate reduction refinancing loan will be guaranteed with the entitlement used by the veteran to obtain the loan being refinanced. The veteran's loan guaranty entitlement used originally for a purpose as enumerated in 38 U.S.C. 1819(a)(1) (A) through (E) or (G) and subsequently transferred for use on an interest rate reduction refinancing loan (38 U.S.C. 1819(a)(1)(F)) shall be eligible for restoration when the interest rate reduction refinancing loan or subsequent interest rate reduction refinancing loan on the same property meets the requirements of § 36.4203(a).

* * * * *

7. Section 36.4224 is added as follows:

§ 36.4224 Refinancing existing manufactured home loan including purchase of lot.

(a) A veteran may refinance (38 U.S.C. 1819(a)(1)(G)) an existing purchase money lien on a manufactured home owned and occupied by the veteran as his or her home in conjunction with a loan to acquire a suitable lot on which that manufactured home is or will be located provided the following requirements are met.

(1) The loan application must be submitted to the Administrator for prior approval;

(2) The loan must be secured by the same manufactured home which is being refinanced and the real property on which the manufactured home is or will be located.

(3) The amount of the loan may not exceed an amount equal to the sum of the balance of the loan being refinanced; the purchase price, not to exceed the reasonable value of the lot, as authorized in § 36.4252; the costs of necessary site preparation of the lot as determined by the Administrator; a reasonable discount as authorized in § 36.4204(d)(8) with respect to that portion of the loan used to refinance the existing purchase money lien on the manufactured home, and closing costs as authorized in § 36.4232 or § 36.4254, as appropriate.

(b) If the loan being refinanced was guaranteed by the Veterans Administration, the portion of the loan made for the purpose of refinancing an existing purchase money manufactured home loan may be guaranteed without regard to the outstanding guaranty entitlement available for use by the veteran, and the veteran's guaranty entitlement shall not be charged as a result of any guaranty provided for the refinancing portion of the loan. For the purposes enumerated in 38 U.S.C. 1802(b) the refinancing portion of the loan shall be considered to have been obtained with the guaranty entitlement used to obtain the VA-guaranteed loan being refinanced. Guaranty for the refinancing loan shall be computed by first applying to the loan a combined total of the guaranty entitlement used to obtain the VA-guaranteed loan being refinanced and second any additional guaranty entitlement available to the veteran for manufactured home purposes, up to a maximum of $20,000 or fifty (50) percent of the original principal amount of the loan, whichever is less. (38 U.S.C. 1819(a) (1)(G) and (5))

8. The center heading preceding § 36.4231 is changed to read "Financing manufactured home units".

9. Section 36.4231 is revised as follows:

§ 36.4231 Warranty requirements.

(a) When a new manufactured home purchased with financing guaranteed under 38 U.S.C. 1819 is delivered to the veteran-borrower he or she will be supplied a written warranty by the manufacturer in the form and content prescribed by the Administrator. Such warranty shall be in addition to, and not in derogation of, all other rights and privileges which such purchaser or owner may have under any other law or instrument, and the warranty instrument will so provide. No evidence of guaranty shall be issued by the Administrator unless a copy of such warranty duly receipted by the purchaser is submitted with the loan papers.

(b) The Administrator may from time to time conduct inspections of the manufacturing process of manufactured homes constructed for sale to veterans and onsite inspections of manufactured homes purchased with the assistance of loans guaranteed under 38 U.S.C. 1819.

(c) When a used manufactured home is purchased from a manufactured home dealer with financing guaranteed under 38 U.S.C. 1819 the veteran-borrower must be supplied with a written warranty by the manufactured home dealer in the form and content prescribed by the Administrator. Such warranty shall be in addition to, and not in derogation of, all other rights and privileges which such purchaser or owner may have under any other law or instrument, and the warranty instrument will so provide. No evidence of guaranty shall be issued by the Administrator unless a copy of such warranty duly

receipted by the purchaser is submitted with the loan papers.

10. In § 36.4232, section heading, paragraphs (a) (introductory text) (4) and (5), (c), (d) and (e)(1) are revised as follows:

§ 36.4232 Allowable fees and charges; manufactured home unit.

(a) Incident to the origination of a guaranteed loan for the purchase or refinancing of a manufactured home unit only, no charge shall be made against, or paid by, the veteran-borrower without the express prior approval of the Administrator except as provided in paragraph (e) of this section and as follows:

* * * * *

(4) The premium for customary physical damage insurance and vendor's single interest coverage on the manufactured home for an initial policy term of not to exceed five (5) years, and

(5) For the purposes of obtaining a refinancing loan for interest rate reduction or a refinancing loan to simultaneously refinance a unit and acquire a lot, the cost of a credit report and an appraisal. (38 U.S.C. 1819 (a)(1)(b), (a)(4)(A) and (g)).

* * * * *

(c)(1) Costs of a credit report (except for 38 U.S.C. 1819(a)(1) (F) or (G) refinancing loans) such additional insurance as the veteran may desire, and any other expenses normally charged to a manufactured home purchaser under local customs may be paid by the borrower other than from the loan proceeds.

(2) For the purchase of a used manufactured home unit, the fee of a Veterans Administration appraiser and of compliance inspectors designated by the Veterans Administration, except appraisal fees incurred for the predetermination of reasonable value requested by others than veteran or lender, may be paid by the borrower from other than the loan proceeds. (38 U.S.C. 1819 (e)(4) and (g))

(d) Subject to the limitations set forth in this section, the following may be included in the loan made for the purchase of a new (not used) manufactured home unit and paid out of the proceeds of the loan:

(1) The actual cost of transportation or freight not to exceed $400 for a single-wide manufactured home or $600 for a double-wide manufactured home;

(2) Setup charges for installing the manufactured home on site not to exceed $400 for a single-wide manufactured home or $800 for a double-wide manufactured home. (38 U.S.C. 1819(g))

If the actual costs exceed the limitations in this section, the veteran must certify that any excess cost has been paid in cash from the veteran's own resources without borrowing.

(e)(1) Subject to the limitations set out in paragraph (e) (2) and (3) of this section, a fee of one-half of 1 percent of the total loan amount must be paid to the Administrator before a manufactured home unit loan will be eligible for guaranty. All or part of the fee may be paid in cash at loan closing or all or part of the fee may be included in the loan without regard to the reasonable value of the property or the computed maximum loan amount, as appropriate. In computing the fee, the lender will disregard any amount included in the loan to enable the borrower to pay such fee. (38 U.S.C. 1829(a))

* * * * *

11. The center heading preceding § 36.4251 is changed to read "Combination and Manufactured Home Lot Loans".

12. In § 36.4251, the section heading, paragraphs (a) (introductory text) and (a)(3) and (b) are revised as follows:

§ 36.4251 Loans to finance the purchase of manufactured homes and the cost of necessary site preparation.

(a) A loan to finance the purchase of a manufactured home may include funds (or be augmented by a separate loan) to pay all or a part of the cost of the necessary site preparation of a lot on which to place the manufactured home and the loan shall be eligible for guaranty: Provided, that—

* * * * *

(3) The lot is determined by the Administrator to be an acceptable manufactured homesite pursuant to § 36.4208,

* * * * *

(b) Notwithstanding that the veteran-borrower's obligation for such site preparation be evidenced and secured separately from the obligation for purchase of the manufactured home, the obligations together shall constitute one loan for the purposes of the § 36.4200 series, including computation of the Administrator's guaranty liability.

* * * * *

13. In § 36.4252, the section heading, paragraph (a) (introductory text) and (a)(3), (b) and (d) are revised and paragraph (e) is added so that the added and revised material reads as follows:

§ 36.4252 Loans for purchase or refinancing of a manufactured home.

(a) A loan to purchase a manufactured home may include funds (or be augmented by a separate loan) to finance all or part of the cost of acquisition by the veteran of a lot on which to place the manufactured home and the loan shall be eligible for guaranty: Provided, That—

* * * * *

(3) The lot is determined by the Administrator to be an acceptable manufactured homesite pursuant to § 36.4208,

* * * * *

(b) Notwithstanding that the veteran-borrower's obligation for acquisition of the lot be evidenced and secured separately from the obligation for purchase of the manufactured home, the obligations together (including, where appropriate, that for site preparation) shall constitute one loan for the purposes of the § 36.4200 series, including computation of the Administrator's guaranty liability.

* * * * *

(d) For the purpose of this section acquisition of a manufactured home lot includes

(1) The refinancing of the balance owed by the veteran as purchaser under an existing real estate installment contract, and

(2) The refinancing of existing mortgage loans or other liens which are secured of record on a manufactured home lot owned by the veteran.

(e) A loan to acquire a lot on which to site a manufactured home may include funds to refinance an existing loan made for the purchase of and secured by a manufactured home on which lot the manufactured home is located or will be placed, provided that:

(1) The veteran will acquire or retain title to such manufactured home and lot that conforms to the requirements of §§ 36.4234 and 36.4253,

(2) The loan is secured as required by § 36.4253(g),

(3) The lot is determined by the Administrator to be an acceptable manufactured homesite pursuant to § 36.4208,

(4) The portion of the loan allocated to the acquisition and preparation of the lot does not exceed the reasonable value of the developed lot as determined by the Administrator,

(5) The cost of necessary site preparation is determined by the Administrator to be reasonable.

(6) The portion of the loan allocated to the refinancing of the manufactured home does not exceed an amount equal to the sum of the balance of the loan being refinanced; a reasonable discount as authorized in § 36.4204(d)(8) with respect to that portion of the loan used to refinance the existing purchase

money lien on the manufactured loan, and closing costs as authorized in § 36.4232 or § 36.4254, as appropriate.

(7) The loan conforms otherwise to the requirements of the § 36.4200 series.

(8) The veteran-borrower's obligation for acquisition of the lot and for refinancing the existing loan on the manufactured home (including site preparation, where appropriate), shall constitute one loan for the purposes of the § 36.4209 series, including computation of the Administrator's guaranty liability. (38 U.S.C. 1819(a) (1) (G) or (5)).

14. In § 36.4253, paragraph (a) (introductory text), (c) (6), (d), (e) and (f) are revised and paragraph (g) is added so that the added and revised material reads as follows:

§ 36.4253 Title and lien requirements.

(a) The interest in the realty constituting a manufactured home lot acquired by the veteran wholly or in part with the proceeds of a guaranteed loan, or in the realty constituting a manufactured home lot improved wholly or in part with the proceeds of a guaranteed loan, shall not be less than:

* * * * *

(c) * * *

(6) *Variations of lot lines.* Variations between the length of the subject property lines as shown on the plot plan or other exhibits submitted to the Veterans Administration and as shown by the record or possession lines, provided such variations do not interfere with the current use of any of the improvements on the subject property including the manufactured home and do not involve a deficiency of more than 2 percent with respect to the length of the front line or more than 5 percent with respect to the length of any other line.

(d) In a combination loan (loan to finance the purchase of a manufactured home and to finance the purchase of a lot and/or necessary site preparation) the total indebtedness of the veteran arising from such combination loan transaction must be secured by a first lien or the equivalent thereof on the estate of the veteran in the manufactured home lot, which real estate security interest shall be in addition to the manufactured home security interest required by §36.4234.

(e) Tax liens special assessment liens, and ground rents shall be disregarded with respect to any requirement that loans shall be secured by a lien of specified dignity. With the prior approval of the Administrator, Chief Benefits Director, or Director, Loan Guaranty Service, liens retained by nongovernmental entities to secure assessments or charges for municipal type services and facilities clearly within the public purpose doctrine may be disregarded. In determining whether a loan for the purchase or improvement of a manufactured home lot is secured by a first lien the Administrator may also disregard a superior lien created by a duly recorded covenant running with the realty in favor of a private entity to secure an obligation to such entity for the homeowner's share of the costs of the management, operation, or maintenance of property, services or programs within and for the benefit of the development or community in which the veteran's realty is located, if the Administrator determines that the interests of the veteran-borrower and of the Government will not be prejudiced by the operation of such covenant. In respect to any such superior lien created after June 6, 1969, the Administrator's determination must have been made prior to the recordation of the covenant.

(f) In the case of a combination loan or a loan to purchase a lot upon which a manufactured home owned by the veteran will be placed it shall be the responsibility of the lender that the veteran initially obtains or has an estate in the land constituting the manufactured home lot meeting the requirements of paragraph (a) of this section and to obtain and retain a security interest thereon meeting the requirements of paragraph (d) of this section.

(g) In the case of a combination loan to purchase a manufactured home lot and to refinance an existing purchase money loan on a manufactured home unit which is or will be located on the lot to be purchased, it shall be the responsibility of the lender to assure that the veteran obtains or retains an estate in the manufactured home and in the land meeting the requirements of paragraph (a) of this section and § 36.4234. The lender must also obtain and retain a first lien or the equivalent thereof on the estate of the veteran in both the manufactured home and in the lot on which the manufactured home is located. (38 U.S.C. 1819 (a)(1)(G), (e)(3) and (g)).

15. In § 36.4254, paragraph (a) (introductory text), (b), (c) and (d)(1) are revised as follows:

§ 36.4254 Fees and charges.

(a) Except as provided in § 36.4232 fees and charges incident to origination of a combination loan or a loan to purchase a lot upon which a manufactured home owned by the veteran will be placed which may be paid by the veteran shall be limited, with respect to the real estate portion of the loan, to reasonable and customary amounts for any of the following:

* * * * *

(b) A lender may charge and the veteran may pay a flat charge not exceeding one (1) percent of the amount of the loan less the portion thereof allocated to the manufactured home: *Provided,* That such flat charge shall be in lieu of all other charges relating to costs of origination not expressly specified and allowed in this schedule.

(c) Except for a refinancing loan pursuant to 38 U.S.C. 1819(a)(1) (F) or (G) fees and charges specified in this section may not be included in the loan.

(d)(1) Notwithstanding the provisions of paragraph (c) of this section and subject to the limitations set out in subparagraphs (2) and (3) of this paragraph, a fee of one-half of 1 percent of the total loan amount must be paid to the Administrator before a combination manufactured home and lot loan (or a loan to purchase a lot upon which a manufactured home owned by the veteran will be placed) will be eligible for guaranty. All or part of such fee may be paid in cash at loan closing or all or part of the fee may be included in the loan without regard to the reasonable value of the property or the computed maximum loan amount, as appropriate. In computing the fee, the lender will disregard any amount included in the loan to enable the borrower to pay such fee. (38 U.S.C. 1829(a)).

* * * * *

16. In § 36.4255, paragraphs (a) (introductory text) and (a)(3) and (c) (introductory text) and (c)(2) are revised as follows:

§ 36.4255 Loans for the acquisition of a lot.

(a) A loan to finance all or part of the cost of acquisition by the veteran of a lot on which to place a manufactured home owned by the veteran shall be eligible for guaranty, *Provided,* That:

* * * * *

(3) The lot is determined by the Administrator to be an acceptable manufactured homesite pursuant to § 36.4208.

* * * * *

(c) For the purpose of this section, acquisition of a manufactured home lot includes:

* * * * *

(2) The refinancing of existing mortgage loans or other liens which are secured of record on a manufactured

home lot owned by the veteran. (38 U.S.C. 210(c), and 1819(g)).

[FR Doc. 83-24201 Filed 9-2-83; 8:45 am]
BILLING CODE 8320-01-M

POSTAL SERVICE

39 CFR Part 601

Procurement of Property and Services; Amendments to Postal Contracting Manual

AGENCY: Postal Service.

ACTION: Amendments to the Postal Contracting Manual.

SUMMARY: The Postal Service announces that it is revising the Postal Contracting Manual to (1) revise and simplify the gratuities clause, (2) add a definition for code "X", (3) make certain changes consistent with an earlier increase of the informal purchasing limit, and (4) make a change consistent with an earlier increase in the dollar threshold above which requests for proposals on negotiated contracts require Regional Counsel or Law Department coordination.

EFFECTIVE DATE: August 30, 1983.

FOR FURTHER INFORMATION CONTACT: Eugene A. Keller, (202) 245-4818.

SUPPLEMENTARY INFORMATION: The Postal Contracting Manual, which is incorporated by reference in the **Federal Register** (see 39 CFR 601.100), has been amended by the issue of PCM Circular 83-6, dated August 30, 1983.

In accordance with 39 CFR 601.105, notice of these changes in hereby published in the **Federal Register** and the text of the changes is filed with the Director, Office of the Federal Register. Subcribers to the basic manual will receive these amendments from the Postal Service. (For other availability of the Postal Contracting Manual, see 39 CFR 601.104)

List of Subjects in 39 CFR Part 601

Government procurement, Postal Service, Incorporation by reference.

Explanation of these amendments to the Postal Contracting Manual follows:

Explanation of Changes

1. The gratuities clause in 7-104.11 has been revised and simplified.

2. Section 20-202.1(c) is revised to add a definition for code "X", for recording purchases of $1,000 or less where competition is not solicited because an acceptable price is available from a single source.

3. PCM Circular 83-1 (1-13-83) directed changes to increase the informal purchasing limit to $25,000. Some sections and paragraphs were omitted from that circular and are revised here.

4. PCM Circular 82-1 (9-13-82) raised the dollar threshold above which requests for proposals on negotiated contracts require Regional Counsel or Law Department coordination (from $50,000 to $100,000). This circular changes the requirement in 3-306.1(d) for legal review of determinations and findings so that it agrees with the new threshold.

(5 U.S.C. 552(a), 39 U.S.C. 401, 404, 410, 411)

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 83-24270 Filed 9-2-83; 8:45 am]
BILLING CODE 7710-12-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6458

[AA-51018, AA-51034, AA-51035, AA-26417, AA-26418]

Alaska; Transfer of Jurisdiction; Description of Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order will accomplish the following: (1) Describe 1.84 acres, most of which was previously conveyed to the Veterans' Administration (VA) by the Sitka National Cemetery Act of 1983, (2) describe a strip of land not affected by the Cemetery Act and transfer it from the National Oceanic and Atmospheric Administration (NOAA) to the VA, (3) describe 0.57 acre remaining in a Forest Service administrative site, and (4) transfer jurisdiction of 117.13 acres from NOAA to the U.S. Geological Survey. The 117.13 acres will remain closed to surface entry and mining, but not mineral leasing, for 20 years from the effective date of this order.

EFFECTIVE DATE: September 6, 1983.

FOR FURTHER INFORMATION CONTACT:

John J. Rumps, Washington, D.C., 202-343-6486; or

Terry R. Hassett, Alaska State Office, 907-271-3240.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, and the Sitka National Cemetery Transfer Act of 1983, Public Law 98-63, dated July 30, 1983, it is ordered as follows:

1. The actual description of the lands transferred to and administered by the Veterans' Administration as an addition to the Sitka National Cemetery by Public Law 98-63 and Paragraph No. 2 of this order is as follows:

Sitka, Alaska

Lots 1 and 2, U.S. Survey No. 2545.

The areas described contain 1.84 acres.

2. A strip of land withdrawn by Executive Order No. 8854 of August 16, 1941, which lies between the areas withdrawn by Presidential Proclamation No. 2965 of February 25, 1952, and Public Land Order No. 1707 of August 6, 1958, and now described as part of Lot 1, is hereby deleted from Executive Order No. 8854 and made a part of the lands described in paragraph 1 of this order. Jurisdiction over this portion of Lot 1 is hereby transferred from the National Oceanic and Atmospheric Administration (formerly the United States Coast and Geodetic Survey) to the Veterans' Administration.

3. Subject to valid existing rights, the following described land remains withdrawn by Public Land Order No. 1707 of August 6, 1958, for the United States Forest Service, Department of Agriculture, for use as an administrative site:

Sitka, Alaska

Lot 3, U.S. Survey No. 2545.

The area described contains 0.57 acre.

4. Subject to valid existing rights, jurisdiction over the following described lands withdrawn by Executive Order No. 8854 of August 16, 1941, as amended, for use by the United States Coast and Geodetic Survey (now the National Oceanic and Atmospheric Administration), Department of Commerce, is hereby transferred to the United States Geological Survey, Department of the Interior, and reserved for use as a magnetic and seismological observatory site:

Sitka, Alaska

Lot 4, U.S. Survey No. 2545.

The area described contains 117.13 acres.

5. The withdrawal described in paragraph 4 shall remain in effect for a period of 20 years from the effective date of this order.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

Dated: August 25, 1983.
James G. Watt,
Secretary of the Interior.
[FR Doc. 83-24230 Filed 9-2-83; 8:45 am]
BILLING CODE 4310-84-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 25

[CC Docket No. 81-704; FCC 83-184]

Licensing of Space Stations in the Domestic Fixed-Satellite Service and Related Revisions

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this proceeding the Commission evaluates the feasibility of its proposals to reduce orbital separations to 2° between domestic satellites operating in the 4/6 GHz and 12/14 GHz bands. Reductions in orbital spacing are necessary if an increasing number of satellites are going to be authorized to meet growing user demand. The Commission determined that its proposals were technically feasible and adopted 2° orbital spacing criteria for both pairs of bands. However, the 2° spacing criteria would be uniformly applied only in the 12/14 GHz bands at this time. At 4/6 GHz, the 2° spacing criteria would be applied as a long-term objective and to all new satellite designs. As a transition over the next few years, this order establishes a variable orbital spacing between 2° and 3°, averaging 2.5°, in the 4/6 GHz bands and 2° in the 12/14 GHz band for domestic fixed satellites. Revisions are also adopted to Part 25 of the Rules, including more stringent requirements for earth stations antenna performance, to implement this new orbital spacing criteria. Reaffirmation of competitive and open-entry Commission policies is also provided.

DATE: October 6, 1983.

FOR FURTHER INFORMATION CONTACT: Ronald J. Lepkowski, Common Carrier Bureau, (202) 634-1624.

List of Subjects in 47 CFR Part 25

Satellite radio communication, Satellites.

Report and Order

(Proceeding Terminated)

In the Matter of Licensing of Space Stations in the Domestic Fixed-Satellite Service and Related Revisions of Part 25 of the Rules and Regulations; CC Docket No. 81-704.

Adopted: April 27, 1983.
Released: August 16, 1983.

By the Commission. Commissioners Fogarty and Rivera dissenting in part and issuing statements; Commissioner Jones absent.

Table of Contents

I. Summary
II. Introduction
III. Orbital Spacings at 4/6 GHz
  A. Technical Analysis
  B. Discussion
IV. Orbital Spacings at 12/14 GHz
V. International Considerations
VI. Licensing Policies and Procedures
  A. Application Requirements
  B. Applicant Qualifications
  C. Technical Standards
  D. Processing Procedures
  E. Hybrid Satellites
  F. Orbital Assignment Policies
  G. Common Carrier Offerings
  H. Launch Services Procurement
  I. Reporting Requirements
VII. Antenna Performance Standard and Other Part 25 Revisions
VIII. Future Proceedings
  A. Application Processing
  B. Advisory Committee
  C. Technological Advances
IX. Conclusion

I. Summary

1. Demand for voice, data and video services delivered by domestic fixed satellites is expected to grow steadily through at least the end of this century. it is clear that additional domestic satellites must be licensed to meet this demand. But the usable orbital arc in which these satellites can be operated is limited. The search for new ways to maximize use of the orbital spectrum must necessarily be of a continuing nature. Moreover, our licensing procedures must be efficient. They should not encumber the ability of licensees to respond to changing user needs nor delay new services. The most promising avenue towards the achievement of these objectives has been the placement of more satellites closer together in orbit. We therefore began this proceeding to evaluate that approach as well as other options to increase capacity. Based on the record before us, reduced orbital spacings afford the best opportunities now for both existing operators and new entrants to satisfy growing user requirements with a minimum of administrative costs and delay.

2. In our *Notice of Inquiry and Proposed Rulemaking (Notice)*[1], we proposed 2° orbital separations between domestic satellites in both the 4/6 GHz and 12/14 GHz bands. These reductions from the present 4° at 4/6 GHz and 3° at 12/14 GHz would significantly increase the number of satellites that could be licensed. To achieve these reductions, we proposed a 3 dB improvement in earth station antenna sidelobe performance and a 10 dB cross-polarization isolation standard. We also proposed to review our policies and procedures governing the disposition of pending and future requests for additional domestic satellites. Detailed technical analyses of the feasibility of reduced orbital spacings were solicited in the *Notice*. We also requested carriers, equipment suppliers and users to submit information on the impacts and costs of our proposals. Finally, specific revisions and additions to Part 25 of the rules and regulations were proposed.

3. Over 35 parties filed comments or reply comments in this proceeding.[2] Support for immediate reductions to 3° in orbital separations at 4/6 GHz is almost unanimous, and spacing between 2.5° and 3° appear acceptable at this time to most parties. Most parties also acknowledge the ultimate feasibility of 2° satellite spacings at 4/6 GHz. However, virtually all parties contend that an immediate implementation of 2° orbital separations in these bands would cause serious difficulties and significant costs to both carriers and users. With respect to the 12/14 GHz bands, uniform 2° orbital separations are apparently now acceptable to all of the applicants for domestic satellites in these bands.

4. Based on these views, as well as our own technical analyses of the record, we conclude that 2° orbital separations between United States domestic satellites in the 12/14 GHz band are technically feasible. Moreover, such separations can be implemented immediately at little cost to users. We will therefore immediately implement uniform 2° orbital spacings for newly launched satellites at 12/14 GHz in our *1983 Orbit Assignment Order*.[3]

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[1] *Domestic Fixed-Satellite Service*, 86 FCC 2d 318 (1981), 46 FR 57067 (November 20, 1981).

[2] Appendix A lists these parties and briefly summarizes their positions. We grant the request of Dow Jones to accept its comments filed 15 days after the due date. On December 10, 1982, Ford Aerospace Satellite Services Corporation requested leave to file comments in this proceeding. This request, over 7 months past the deadline for reply comments, is opposed by United States Satellite Systems, Inc. (USSSI). Ford's motion is granted to the extent of treating its submission as informal comments with respect to its general views regarding hybrid satellites. However, we agree with USSSI that the lateness of this filing precludes detailed consideration of Ford's technical analyses by us or other parties to this proceeding.

[3] *Memorandum Opinion and Order*, FCC 83-189 adopted today.

However, at 4/6 GHz, we believe the costs and difficulties of immediately implementing 2° spacings to be sufficiently high at this time to warrant a more cautious approach. While we adopt 2° as the basic, long-term orbital spacing criterion at 4/6 GHz, today's *1983 Orbit Assignment Order* provides a combination of 3°, 2.5° and 2° orbital spacings. This average orbital spacing of 2.5° at 4/6 GHz provides a transitional arrangement to uniform 2° separations in the future. Moreover, it should also allow several years for the amortization and the upgrading or replacement of existing facilities before actual operations begin with 2° orbital spacings between satellites at 4/6 GHz.

5. We also clarify our space station application processing and licensing procedures. Under our reduced orbital spacing criteria, enough orbital locations are available to grant all of the space station applications covered by our *1982 Processing Order*.[4] Thus, the open entry policies we have successfully applied in the past continue to guide our actions today. However, circumstances warrant the imposition of certain performance conditions on permittees and licensees to insure prompt and effective utilization of assigned orbital locations. If such conditions are not satisfied, the authorization automatically becomes null and void. As in the past, we continue to apply flexible licensing proceedings and decline to conduct evidentiary hearings on qualifications or traffic demand issues. Such hearings would not assist us in achieving our domestic satellite licensing objectives in a prompt and efficient manner, but would impose significant costs and delays on the applicants and the Commission that appear unnecessary at this time.

6. We are also issuing our *1983 Processing Order* to establish a new processing group including all space station applications filed after May 18, 1982.[5] Once this new group is defined, we will be able to determine what, if any, adjustments will be needed to our current administrative procedures and licensing policies to efficiently process those applications. Some further reductions in orbital spacings may be sufficient to grant all such applications promptly. On the other hand, other alternatives may have to be considered. These include the possibility of comparative hearings or a rulemaking proceeding to define stricter eligibility or qualifications standards. In fashioning any such future procedures, the experience gained with the authorizations and satellite spacing criteria adopted today will be valuable.[6] We also task the Chief, Common Carrier Bureau with conducting informal consultations with affected parties to identify the detailed technical tasks needed to efficiently implement our reduced orbital spacing criteria and the new orbit deployment plan. He will then present his recommendations concerning either the formation of the Industry/Government Advisory Committee urged by various parties or the adoption of other means to effectively address these matters.

II. Introduction

7. Almost a decade ago, the Commission authorized the first domestic satellites.[7] Replacements for that initial generation of satellites were licensed in 1980, together with a modest expansion of in-orbit capacity.[8] Because we envisioned the further expansion of authorized systems, as well as new entry into the market by companies proposing to build their own satellites for the first time, we began this docket. The resulting re-assessment of our orbital spacing criteria, as well as our licensing policies and procedures, appears vital to such growth. Our purpose is to maintain entrepreneurial opportunities for expansion and new entry through the end of the decade.

8. We adopted our initial and experimental satellite policies and procedures in Docket No. 16495.[9] Those proceedings established open entry by qualified companies as the best means of satisfying our statutory mandate [10] and our domestic satellite licensing objectives.[11] The Commission also determined that the breadth and diversity of the benefits flowing to the public from satellite technology were most likely to be maximized by competition among multiple entities and by the Commission's flexible responses to concrete domestic satellite facility proposals.

9. The result of these open-entry policies was the prompt development of domestic satellite services without the constraints of time consuming and costly administrative hearings. Our *1980 Orbit Assignment Order* displayed the flexibility that has allowed our policies and decisions to be formulated in a way that directly responds to particular, yet changing, market conditions and technological advances.[12] The fact that domestic satellite licensees generally operate unencumbered from undue regulatory intrusions appears to be a contributing factor to the technical, service and market innovation that currently exemplifies this industry. Competition between and among all of the participants in this market has allowed economical and innovative services to develop in a prompt and efficient manner.

10. The changes in the domestic satellite industry over the past decade have been dramatic. Our initial policy decisions and flexible regulatory mechanisms, formulated for a speculative and experimental industry, have generally proven resilient enough to accommodate today's healthy and

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[4] *Domestic Fixed-Satellite Service*, 90 FCC 2d 1 (1982). In that order, we decided that all applications filed by May 18, 1982 would be processed as a group. By separate action, we are denying a request for reconsideration of that order. *See Memorandum Opinion and Order*, FCC 83-183 adopted today.

[5] *Memorandum Opinion and Order*, FCC 83-185 adopted today. As of April 26, 1983, these pending applications propose the construction of 22 new satellites and the launch of 18 additional satellites. A reasonable period of time is also being allowed for others to file applications to be included in this group.

[6] We expect to take final action on this next group of applications during 1984. A limited period of time will be provided after today's processing order for the filing, initial review and acceptance of applications, as well as the opportunity for filing comments in the course of the normal application pleading cycle. If many applications are filed, a rulemaking proceeding and/or expedited hearings may also be needed. If not, action may be taken at an earlier date. This schedule should accommodate launches of newly constructed satellites that may be planned by applicants in the 1987–1988 time frame. Launch of previously constructed ground spares to expand operational satellite systems may be possible at even earlier dates after these application proceedings are completed.

[7] *Western Union Telegraph Company*, 38 FCC 2d 1197 (1973); *COMSAT General Corporation*, 42 FCC 2d 677 (1973), 45 FCC 2d 444 (1974); and *National Satellite Services*, 43 FCC 2d 1141 (1973. System authorizations were later granted to other companies in *RCA Global Communications*, 56 FCC 2d 660 (1975) and *Satellite Business Systems*, 62 FCC 2d 997 (1977).

[8] Replacement satellites and expansions of existing systems were authorized in *COMSAT General Corporation*, 84 FCC 2d 547 (1981), *RCA American Communications, Inc.*, 84 FCC 2d 633 (1981), *Western Union Telegraph Company*, 86 FCC 2d 196 (1981) and *Satellite Business Systems*, 86 FCC 2d 180 (1981). Initial satellites for new system entrants were approved in *Hughes Communications, Inc.*, 84 FCC 2d 578 (1981), *Southern Pacific Communications Company*, 84 FCC 2d 650 (1981) and *GTE Satellite Corporation*, 84 FCC 2d 562 (1981).

[9] Domestic Communications Satellite Facilities, 22 FCC 2d 86 (1970), 35 FCC 2d 844 (1972), *recon. in part*, 38 FCC 2d 665 (1972) (hereinafter referred to respectively as *Domsat I, II,* and *III*).

[10] *See* 47 U.S.C. 151 and 301 *et seq.*

[11] *Domsat II*, *supra* note 9 at 840–47.

[12] *Domestic Fixed-Satellite Service—Orbit Deployment Plan*, 84 FCC 2d 584 (1981). Additional examples of our flexible responses to industry changes are our decisions in *American Broadcasting Companies*, 62 FCC 2d 901 (1977), and its progeny listed in our *Notice* at Appendix A, Table 16; and *Domestic Fixed Satellite Transponder Sales*, 90 FCC 2d 1238 (1982) *Transponder Sales Order*).

growing one.[10] Our *Notice* affirmed the success of these policies and procedures that were first applied on an experimental basis. Commitment to our initial licensing objectives was also reaffirmed for the current phase of this regulatory program. However, we recognized that the continued efficacy of our policies and procedures must be evaluated periodically in light of market and technological developments. Thus, adjustments may become necessary as the industry continues to develop.

11. In particular, we recognized the critical relationship between our orbital spacing criteria in the 4/6 and 12/14 GHz bands and our ability to achieve our domestic satellite licensing objectives in a timely and efficient manner. Only a limited portion of the geostationary orbit is usable to serve the United States,[14] and the number of domestic satellites that can be licensed is directly related to our orbital spacing criteria. Reduced spacings allow more satellites to be licensed. However, as discussed in the *Notice*, a reduction in orbital spacings generally requires more costly equipment, and may cause operational penalties in order to control interference.

12. Our current orbital spacing criteria of 4° at 4/6 GHz and 3° at 12/14 GHz were adopted in 1974 [15] and 1977 [16], respectively. These spacings provided a balance in the past between the number of satellites proposed for service and reasonably economical ground facilities.[17] Moreover, such orbital separations were sufficiently large to eliminate interference concerns for most, if not all, interactions between adjacent satellites.[18] The result has been broad operational flexibility.

13. The operational flexibility afforded by these wider orbital spacings may have been another factor contributing to the success of the experimental phase of our domestic satellite regulatory program. This success is measured by both the growth in the number of facilities and the diversity of services, licensees, users and other participants in the market. However, demand has grown rapidly in the past few years and is expected to grow steadily through the end of the century.[19] This growth for domestic satellite services is reflected in the increased number of orbital locations requested by applicants. The resulting conflicts among applicant requests are becoming more difficult to resolve, even under the commission's flexible licensing procedures.

14. In our *Notice*, we recognized that the costs of reduced orbital spacings to meet growing traffic requirements and still maintain opportunities for new market entry might be quite high for some carriers and users. Thus, we solicited information on the technical, economic and operational feasibility of several alternatives to 2° orbital spacings in the 4/6 and 12/14 GHz bands. Our *Notice* identified such specific approaches as the use of higher capacity satellite designs, higher frequency bands and more efficient transmission techniques to increase available in-orbit capacity. Few parties submitted concrete information in response to this specific line of inquiry beyond describing some of the more efficient transmission techniques they are currently evaluating.[20] It is generally accepted that these other alternatives to reduced spacings are technically feasible. However, it also appears that the necessary changes in basic satellite designs will not be economically practical for widespread use during the next few years.

15. Increasingly efficient transmission techniques appear to offer great promise in allowing carriers and users to make more effective and economical use of space segment facilities once they are in use in operational networks. However, the additional capacity provided through such improvements does not appear sufficient to satisfy the overall growth in satellite demand, particularly for new users. Additional satellites are necessary to accommodate such new user networks, as well as for long-term expansion of existing networks and new market entrants. Thus, reduced orbital spacings in the 4/6 and 12/14 GHz bands are required. Additional orbital locations must be identified to insure that the basic growth in user requirements and new services are met and to permit continuation of the benefits of our open entry policies. As recognized by the parties, reduced orbital spacings will indubitably entail adjustments to the current regulatory and operational environment. However, with the full cooperation of satellite operators, carriers, equipment manufacturers and users, the expansion of this industry can be achieved with a minimum amount of disruption to current plans and operations. A measure of our success in this passage to a more mature industry and regulatory environment will be the avoidance of traditional regulatory impediments and delays to innovation and service expansion.

III. Orbital Spacings at 4/6 GHz

16. Our proposal for 2° orbital spacings at 4/6 GHz generated by far the most controversy, and the majority of parties addressed the impact on them of this reduction. There are several reasons for this focus. Propagation conditions have been considered to be more favorable in this portion of the spectrum than at 12/14 GHz. Domestic satellite services were first provided in these bands and are now firmly established. At present, most satellite services are offered in these bands, and ground facilities are readily available to users at reasonable costs. Thus, the vast majority of presently operating earth stations are designed to operate in the 4/6 GHz bands. Orbital congestion at 4/6 GHz therefore results from this high demand for service and current 4° orbital spacings. Moreover, it is more difficult and costly to achieve 2° separations at 4/6 GHz than at 12/14 GHz because earth stations antennas are less directive at lower frequencies.

17. The acceptability of the current 4° orbital separations at 4/6 GHz is undisputed by any party. Moreover, with only a few exceptions, a 3° orbital spacing criterion has been accepted by

[10] We have previously noted these characteristics of the industry in our *Notice* at 320–323; *1980 Orbit Assignment Order*, *supra* note 12 at 603.

[14] *See, e.g. 1980 Orbit Assignment Order*, *supra* note 12 at 597–600.

[15] *Western Union Telegraph Company*, 47 FCC 2d 274, 275 (1974).

[16] *Satellite Business Systems*, *supra* note 7 at 1060–1061.

[17] *See American Broadcast Companies*, *supra* note 12, for a general discussion of these factors.

[18] With the current spacing criteria, problem interactions generally are limited to the selection of specific r.f. carrier frequencies for small antenna transmissions to avoid adjacent satellite interference. *See, e.g., American Satellite Corporation*, 72 FCC 2d 750 (1979).

[19] Although all parties assume a steadily growing demand in their comments, only USSSI and Future Systems, Inc. (FSI) submitted demand forecasts in this docket. For example, USSSI asserts a steadily growing demand through the year 2000 for voice and data services over domestic satellites, combined with sharply increasing use of satellites for television distribution and video teleconferencing. At least 65 satellites would be needed to satisfy the resulting requirements for 1550 equivalent 36 MHz transponders in 1995. We also take note that other demand estimates have been presented in the applications under consideration today, and a total of 980 equivalent 36 MHz transponders were either authorized or proposed in the current group of applications at the time of our *1982 Processing Order*. All of these factors compel reduced orbital separations. However, we are reluctant to rely solely, or even primarily, on the specific level of estimated transponder demand predicted in these studies to justify the validity of our orbital spacing criteria. The uncertainties surrounding the largely oracular data underlying such long-term predictions appear large at this stage of the industry. Rather, maximization of available orbital locations, within reasonable bounds, appears to provide greater confidence that our license policies will permit demand to be satisfied.

[20] Further details are provided in paragraphs 109–115, *infra*. Several parties also suggested frequency allocation approaches to increased capacity, but these proposals are outside the scope of this proceeding. *See* notes 86, 105 and 110, *infra*.

the parties in this proceeding as technically and economically feasible.[21] Little adverse impact to current users has been identified by any party, and both our analyses and those submitted in this docket support the feasibility of 3° orbital spacings at 4/6 GHz.[22] It is generally accepted by the parties that additional orbital locations are needed, and that an immediate reduction in spacings down to at least 3° at 4/6 GHz is the most practical way to meet current orbital requirements.[23] We therefore adopt 3° as the maximum orbital separation to be afforded between any pair of domestic satellites in these bands.[24]

18. However, uniform 3° orbital spacings at 4/6 GHz will not be sufficient. Many, if not most, of the parties admit the need for orbital spacings smaller than 3° to permit even more satellites to be launched to satisfy growth requirements. Despite the increased costs, many parties prefer reductions in spacing below 3° to the costs and delays of comparative hearings and the unavailability of additional transponder capacity. We therefore address the more difficult questions concerning 4/6 GHz orbital spacings between 2° as proposed in our *Notice* and the maximum value of 3° adopted above.

A. *Technical Analysis*

19. Appendix A to our *Notice* presented two technical analyses of the feasibility of reduced orbital spacings. One analysis addressed 54 baseline r.f. carriers representing typical services on authorized domestic satellites. Interference levels were computed for each of the 2916 potential interference interactions where each of the 54 r.f. carriers interfered with each of the 54 r.f. carriers. For various conditions of reduced satellite spacings and earth station antenna performance, percentages were calculated of the 2916 interference interactions which satisfied the assumed permissible interference objectives. They were then compared to the corresponding percentages of interference interactions satisfying these objectives under the conditions of the present 4° satellite spacings and the current earth station antenna performance standard.[25] At 3° spacings and with a 3dB improvement in earth station antenna sidelobe performance, the resulting percentages would be reduced by no more than 2 percentage points. A further reduction in satellite spacing to 2° and a further improvement in antenna performance to increase cross-polarization isolation to a uniform 10 dB value did not reduce the percentages from current conditions if a standardized transponder frequency and polarization plan were also employed. These conclusions have not changed as a result of updating this analysis in Appendix B to include newly proposed baseline facilities and services.[26]

20. We recognize, as pointed out by various parties, that the calculated percentages are not equal to the percentages of actual traffic being affected because traffic loading statistics are not being factored into this analysis. However, this was and is not our intent. Rather, this analytic approach was developed to demonstrate, in general terms, the degree of difficulty that different orbital spacings would present and the degree of effectiveness of various technical standards. No party claimed that the current 4° orbital separations at 4/6 GHz were unacceptable or unworkable. Thus, one measure of the feasibility of reduced spacing criteria is to compare the number of coordination difficulties resulting from a reduced spacing proposal to the number occurring with the current spacing.

21. We also examined the aggregate impact of an array of interfering satellites uniformly spaced 2° apart on ten of the typical r.f. carriers in current service. In that second analysis, a detailed interference model using 2° spacing between satellites was constructed, and the interference effects calculated for each of these r.f. carriers. In most cases, the interference objectives were either satisfied or within 2 dB of being satisfied, or any loss of capacity of individual transponders was more than offset by the doubling of available transponders. Similarly, in Appendix B we also examine the results of the detailed technical analyses submitted by the parties in this proceeding. We will now summarize the general impact of reduced orbital spacings on baseline facilities and services of direct interest to them.[27]

22. *Message Services.* Domestic satellites are used effectively for long distance voice and data services on medium to high density routes. They are also employed for high quality, customized services, such as high speed data transmissions, desired by customers. Such services use an entire or at least a significant proportion of a domestic satellite transponder. However, the number of earth station facilities providing these services is small compared to the number of earth stations involved in the program distribution services discussed below.

23. The magnitude of the impact of 2° spacings on satellite message services varies significantly with each study and is highly dependent on assumptions and methodology. As presently configured, most services apparently would fail to meet their performance specifications by small values. Usually these negative margins are less than 4 dB even under conservative assumptions, although negative margins as great as −7.2 dB were identified in a few instances. However, most services can be reconfigured to meet their single entry interference criteria at 2° spacings with some adjustment of uplink powers, careful control of the transmission parameters of adjacent satellites, and upgraded earth station antennas. In

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[21] We had previously adopted in 1972 (but never implemented) a 3° criterion to accommodate the then planned 4/6 GHz domestic satellites. *See Domsat II, supra* note 9 at 860, adopting the conclusion in *Domestic Communications Satellite Facilities*, 34 FCC 2d 9, 29 (1972), that 3° orbital spacing was feasible at 4/6 GHz. *See also, American Broadcasting Companies, supra* note 12, for additional background.

[22] This conclusion holds even if an improved antenna standard is not adopted, albeit on a marginal basis. *See, e.g.*, studies cited in Appendix A to our *Notice* and Appendix B to this *Report and Order*.

[23] The proposed dB improvement in earth station sidelobe performance essentially compensates for the reduction in angular discrimination between 4° and 3° satellite separations. Apart from antennas not meeting this standard, the other objection to reduced spacing appears to be the one raised by parties such as PSI that the introduction at 4/6 GHz of multiple frequency re-use, spot beam satellites could be precluded. However, such proposals are not before us today.

[24] Further technical analyses of the feasibility of 3° spacings at 4/6 GHz apear in Appendix B to support this conclusion.

[25] *Notice, supra* note 1, Appendix A at 4. Several percentages were actually calculated for each condition to provide a more complete assessment. Actual interference levels do not necessarily exceed permissible levels in the small percentage of interactions for which the interference objectives are not satisfied in this analysis. In many such interactions, other factors will in practice reduce the actual interference below the calculated value.

[26] In order to keep the computations within manageable proportions, some combination of similar baseline r.f. carriers proposed by different parties has been necessary. However, every proposed type of baseline r.f. carrier is reflected by at least one of the r.f. carriers in the analysis even if not explicitly associated with the party proposing it.

[27] Wold correctly observes that our suggestions of increased interference allowances and less conservative computational assumptions and techniques have no effect upon the physical environment in which the satellites and earth stations operate. However, Wold misses the point in dismissing these suggestions as "mere 'bookkeeping' factors" when they are used to analyze the impact of reduced orbital spacings. These refined techniques are significant to our computational efforts to predict the interference effects of reduced orbital spacings more precisely, and thus increase confidence that actual interference levels will not exceed acceptable levels.

particular, improved antennas should provide a 3 dB improvement in earth station antenna sidelobe performance and 10 dB of cross-polarization isolation. Coordination of actual r.f. carrier frequencies also appears desirable in many cases involving multiple access message carriers. Upgraded modems and other types of signal processing techniques are also useful in reducing the effects of interference to acceptable levels. It is also noted that even without improved earth station facilities, several identified message services are acceptable with 2° orbital spacings. Generally these services involve transmissions between 10 meter and larger earth station antennas for broadcast quality video, high speed (60 Mbps) data, and 1.544 Mbps data if upgraded modems are installed.

24. Thus, it appears that most message services can be provided under conditions of 2° spacings with the introduction of several factors, the most important of which are an actual 3 dB improvement in earth station sidelobe discrimination, 10 dB cross-polarization isolation, standardized transponder frequency and polarization plans with adjacent satellites cross-polarized, standard power levels, and some coordination.

25. *Narrowband Services.* A different situation is presented by narrowband services between small antennas. Such services appear to be growing rapidly, particularly for thin-route and customer premises service, as well as digital and analog program distribution services. We have consistently recognized that operations of narrowband services to such small antennas are generally not compatible with each other and certain other types of transmissions. Careful frequency planning is necessary even at 4° spacings to avoid both cochannel operations with other narrowband services and those portions of the transponders where interfering signals have their peak power densities.[28]

26. The general effect of 2° spacings will generally be to reduce the amount of bandwidth available for such services when the adjacent satellites carry wideband transmissions. In some cases, this only means a loss of flexibility in operations, rather than an actual increase in interference or overall transponder capacity. Such loss of flexibility may be significant in those cases where terrestrial frequency coordination also imposes operational constraints on the placement of narrowband r.f. carriers within the transponder. In other cases, however, there is some potential loss in transponder capacity absent traffic coordination with adjacent satellites. However, even in the worst cases, any loss in transponder capacity of an individual transponder is usually more than offset by the increase in the total number of available transponders resulting from 2° spacings.

27. *Video program distribution.* A 3° spacing criterion at 4/6 GHz appears compatible with current facilities and the desired signal quality for video reception by the 4.5 meter and larger antennas currently being licensed. Thus, there will be little impact on these small antenna services if 3° orbital separations are provided. However, it appears that interference levels at 2° orbital spacings will fall 1 to 2 dB below the objectives considered in *American Broadcasting Companies, supra.* The impact of this result is the subject of some controversy among the parties commenting on this matter.

28. A number of parties, *e.g.* the National Cable Television Association and Westinghouse (Group W), oppose 2° spacings at 4/6 GHz. They express a need for the 18 dB carrier-to-interference ratio (C/I) criterion for small receive-only earth stations used in *American Broadcasting Companies, supra.*[29] NCTA estimates that there are some 6000 receive-only antennas serving the cable television industry. The great majority of these antennas are believed to be 4.5 or 5 meters in diameter. Although NCTA supports a reduction in orbital spacings to 3° at 4/6 GHz (and 2° at 12/14 GHz), it believes closer spacings should not be authorized unless this 18 dB C/I interference criterion can be maintained. However, NCTA does not believe this criterion can be satisfied because of the technical differences between currently authorized domestic satellites. Other parties, such as Southern Pacific, urge an even higher quality based on CCIR documentation.

29. On the other hand, the Society for Private and Commercial Earth Stations submitted measured data using a 3 meter antenna to show that 2° spacings are acceptable even though an 18 dB C/I is not always provided. Achieving that specific objective under 2° orbital separations will require higher performance antennas than currently required for 3° spacing and careful engineering of satellite facilities. However, it is not clear that the perceived quality of signal will be unacceptable to most viewers if the 18 dB C/I criterion is not strictly achieved. A variety of reports have been submitted to document the C/I criteria desired by users. Desired quality ranges from impairment-free, high quality (broadcast) observed by expert viewers to just-objectionable, low quality observed by average viewers. This range of subjective effects is wide with large standard deviations. We do not find any particular C/I standard to be supported by an overwhelming preponderance of the evidence. Moreover, flexibility exists in selecting receiving equipment to achieve the desired grade of service, although the cost necessarily increases as the quality of received signal improves.

30. In summary, it appear that 2° orbital separations will result in some but not excessive degradation in the quality of television signals received by currently licensed antennas. Such antennas will have to be upgraded, and more likely replaced, if the current quality of signal is to be maintained when orbital spacings are in fact reduced to 2° in the 4/6 GHz bands. However, given the increased diversity of programming services that can be made available by the additional satellites, we believe the costs of providing these new program services are not out of line. Moreover, we are providing a transition period to allow for fuller amortization of existing receive facilities to mitigate the financial impacts of upgraded or replaced equipment.[30] Thus, we conclude that video service to small antennas would be feasible at 2° separations under these conditions, although marginal according to some of the studies submitted in this proceeding.[31]

31. *Transportable earth stations.* Wold believes that 2° spacings would make transportable earth station operations impractical at 4/6 GHz. Such

[28] *See, e.g. American Satellite Corporation, supra* note 16; *National Public Radio*, 70 FCC 2d 1853 (1979).

[29] We do not view our technical analyses in that decision as establishing an 18 dB C/I as a rigid technical standard. The question before us then was whether 4.5 meter antennas were compatible with the then existing 4° orbital spacings at 4/6 GHz. Using an 18 dB C/I criterion proposed by advocates of such facilities, we found this to be the case. In considering the desirability of reduced spacings, we are not precluded from considering lower values of C/I or other measures of signal quality. Our assessment of the impact of reduced spacings must be balanced against the benefits of an increased supply of satellite services. Higher quality service, such as that described in CCIR documentation, requires large diameter antennas even with current orbital spacings.

[30] As discussed in paragraphs 41–43 below our transition plans allow for wider spacings up to 3° between satellites providing the vast majority of current program distribution services to these small receiving antennas.

[31] We summarily reject any claim that we should take into account unlicensed receive-only earth stations in our evaluation of reduced orbital separations. *See Deregulation of Receive-Only Earth Stations*, 74 FCC 2d 205 (1979).

spacings would, in its view, require antennas larger than the 4.5 meter antennas currently used for such service. Coupled with the extensive use of such small antennas for other services, Wold believes the costs of 2° spacings far outweigh the advantages. However, such transportable stations are authorized only on a developmental basis subject to the condition that no harmful interference is caused.[32] We have not given any higher status or recognition to these transportable operations. However, they will be able to continue to provide service on the same basis under reduced spacings if appropriate coordination is achieved among operators.

B. *Discussion*

32. If traffic requirements grow to the extent predicted in the space station construction and launch applications presently before us, reductions in orbital separations below 3° at 4/6 GHz will become essential within the next few years. Otherwise, meaningful opportunities for continued expansion and new entry at 4/6 GHz may cease to exist.

33. According to the parties, the following conditions are necessary for 2° orbital separations at 4/6 GHz.:

(a) That earth station antennas in fact satisfy the proposed technical standards in the *Notice* (3 dB actual sidelobe improvement and 10 dB actual cross-polarization isolation);

(b) That adjacent satellites are in fact cross-polarized and the polarization vector alignment is accurately maintained throughout the service area;

(c) That there are no significant variations from nominal values of satellite equivalent isotropically radiated power (EIRP) and uplink sensitivity throughout the service area, frequency band and operating lifetime; and

(d) That some traffic coordination is done by satellite operators to avoid co-channel, worst-case interfering carrier pairs.

It appears that each of these conditions can be satisfied to a sufficient degree to make 2° spacings feasible at 4/6 GHz. The first, dealing with improved earth station antenna performance, is discussed in paragraphs 93–101, *infra*, and will be addressed by the revisions we are adopting to Section 25.209 of the rules.

34. The second and third of these conditions involve the technical concept of inhomogeneity. As various parties point out, the technical analyses of the impact of reduced spacings are overly optimistic to the extent that differences in technical parameters between actual satellites are ignored. We recognize the commonly accepted view that it is the differences between satellite technical parameters, rather than the actual parameter values, which tend to determine required orbital spacings. Satellite separations are theoretically minimized when all satellites are identical, i.e. if they are homogeneous. Because real satellites differ in many respects, the technical concept of inhomogeneity has been developed to encompass any differences in satellite parameter values that enter into the determination of orbital spacings. As a general principle, reducing inhomogeneity between satellites will facilitate reduced orbital separations. However, inhomogeneity in certain transmission parameters is intrinsic to the diversity of facilities and services that characterize the domestic satellite market. Thus, a balance is needed between this desire for diversity by users, and the reduction in the differences in satellite design parameters that facilitate reduced spacings and increase the total number of domestic satellites.

35. It is not disputed that actual satellites will exhibit some degree of inhomogeneity or differences with respect to another satellite in terms of antenna gain within the domestic coverage area,[33] or differences in transponder characteristics across the allocated frequency band and over the lifetime of the satellite. The parties raising this point do not quantify the actual levels of inhomogeneity they believe exist. However, some analyses are provided showing the effects of different levels of inhomogeneity. For example, the analysis provided by RCA Americom indicates that most adjacent satellite interference objectives at 4/6 GHz are still met at 2° spacings with inhomogeneities of 2 dB.[34] Little analysis is provided of the impact of such inhomogeneities on the overall performance of the communications link.

36. However, we believe that inhomogeneities can be maintained within reasonable limits with advance planning and careful coordination, and we will require this to be done.[35] In addition, the magnitude of the inhomogeneities between satellites *per se* does not make a 2° orbital spacing criteria infeasible in the 4/6 GHz bands since careful transmission planning and coordination can also mitigate the effects of inhomogeneities in satellite designs. Similarly, the lack of EIRP homogeneity between newer and older satellites is not necessarily determinative of the feasibility of reduced spacings in the future because all newer satellites are beginning to use 8 to 10 watt solid state amplifiers.[36] Rather, a baseline set of parameters could be established within which design and operational parameters are to be maintained. Flexibility can still be provided to carriers and users to select the most cost effective means of satisfying their needs within these broad limits. In particular, coordination procedures can be designed to allow such flexibility to accommodate new or different service requirements.

37. With respect to the final condition for 2° spacings at 4/6 GHz, system operators will also have to more carefully plan their operations. The increasing need for closer coordination between satellite operators is likely to require them to hire additional engineering staff. Prior coordination agreements may also reduce their flexibility to promptly respond to new service requirements. It is asserted by some parties that the operational and design discipline needed to achieve 2° orbital spacings would significantly reduce flexibility, and could require prescribed transponder loading plans. Because of closer interactions between satellites, such planning would have to consider actual traffic on adjacent satellites. Thus, it is argued that no technical information on a given system's design and operation could be kept confidential if unacceptable

[32] *See e.g. Western Tele-Communications, Inc.* Mimeo 3640, released September 30, 1981 *recons in part* mimeo 5974 released August 27 1982. The 14 GHz band is also available for transportable operations, and may be more suitable for such services in the long-run because of the greater antenna directivity and the general absence of terrestrial facilities in this band

[33] We recognize that reduced spacings may result in higher interference levels to transborder satellite services than those calculated for domestic services within the United States. This results from the difficulty in controlling satellite antenna gain contours outside of the primary service area. However, we do not believe our spacing criteria should be based on interference levels outside the domestic coverage area. Thus, transmission parameters for transborder satellite services will have to be selected for satisfactory operations within the actual interference environment resulting from today's orbital spacing and satellite authorization decisions.

[34] We have taken RCA Americom's analysis as representative because of the completeness of the potential transmissions considered. Few, if any parties dispute the validity of this analysis.

[35] *See* paragraphs 70 and 92, *infra*.

[36] In particular, one class of satellite design or user requirement should not dictate our orbital spacing criteria in general, especially in light of the flexibility we are providing to account for less than ideal conditions at 4/6 GHz over the next few years in today's *1983 Orbit Assignment Order*

interference is to be avoided. Moreover, little flexibility would be possible because a modification to one system is likely to affect all others. The resulting lack of diversity is claimed to be contrary to the Commission's domestic satellite policies. Where modifications are feasible, it is feared that regulatory delay would be encountered before they could be implemented.

38. However, none of the parties raising these points substantiate their claims with quantitative or objective examples. While a loss of flexibility is expected as an abstract matter, no proof has been offered that the actual results will be detrimental to the public or to the industry. Moreover, frequency coordination has generally proven to be an effective means of achieving effective non-interfering spectrum use, and appears to be a reasonable price to pay for the resulting increase in available in-orbit capacity.

39. In addition to the costs incurred by space segment operators, users are also likely to have to incur additional costs to satisfy these conditions for 2° orbital spacing. Existing antennas will have to be upgraded or replaced at costs ranging from a few thousand dollars to upgrade an existing 4.5 meter antenna, up to several hundred thousand dollars to replace a 10 meter antenna. Improved signal processing equipment or other transmission parameter adjustments may also be required. However, for most users, the costs of 2° spacings are likely to be in the lower portion of this cost range, particularly with the transition period we are providing for the equipment amortization. Moreover, the additional costs entailed by 2° spacings should be much lower for new earth station facilities and satellite systems that are designed to operate with 2° spacings from the outset.

40. Thus, the conditions identified by parties for 2° orbital separations at 4/6 GHz can be satisfied as a result of the steps we are taking today with respect to satellite and earth station facilities. Moreover, the costs appear acceptable to users in light of the benefits of increased satellite capacity that will become available. Additional engineering efforts may also permit uniform 2° separations between all existing and new 4/6 GHz satellites. We therefore adopt 2° orbital separations as our basic, long-term orbital spacing criterion in the 4/6 GHz bands. This criterion will be the basis for all future space station and earth station licensing decisions.

41. However, we have also been convinced of the need to provide a sufficient period of time to amortize and to upgrade or replace existing earth station facilities. Although many services can be provided under conditions of 2° orbital spacings, the impact could be large on certain services if spacings were reduced below 3° at this time. In particular, thousands of licensed, small antennas used for video reception may not meet the improved antenna performance criteria we are adopting today. Some of this earth station equipment may have only been recently installed and thus will not be fully amortized for the next few years. We do not believe that present circumstances or traffic demands require immediate or drastic operational and economic dislocations. A transitional approach to uniform 2° orbital spacings at 4/6 GHz can provide somewhat larger orbital spacings, at least in some portions of the orbital arc. Many existing services could operate compatibly with orbital spacings between 2° and 3° with little if any additional costs. Moreover, an average orbital spacing on the order of 2.5° appears sufficient at this time to accommodate current proposals without the costs and delays of comparative hearings or other administrative selection proceedings. Most parties appear willing to accept orbital separations between 2° and 3° to avoid such results if sufficient time were provided for the transition to 2° spacings and for the fuller amortization of current earth station investment.

42. On the other hand, there is no need to significantly delay imposition of 2° orbital separations for all newly constructed satellite networks. As discussed below, equipment compatible with 2° spacings at 4/6 GHz is feasible and will be available within the next few years. Since many new installations are likely to be required in any event to operate with the satellites newly authorized today, it appears advisable to begin now to insure a ground segment with the capability of operating with satellites spaced 2° apart when demand requires it. Little purpose would be served by the installation of significant amounts of new equipment that is incompatible with the 2° spacings that will eventually be required.[37] In this regard, we note that, for newly purchased equipment, compatibility with 2° spacings appears obtainable at little or no increase in cost.

43. In summary, we are adopting various standards today that will make 2° orbital spacings practical at 4/6 GHz. Until uniform 2° orbital separations are actually required by traffic demands, orbital separations as great as 3° and as small as 2° between individual satellites will be provided to achieve an average 2.5° spacing in these bands. All new earth station and satellite facilities will have to be designed to operate with 2° orbital separations at 4/6 GHz.[38] We recognize that this spacing criteria will eventually have significant impacts on carriers and users, and expect new problems to arise as new facilities and services are introduced in the course of implementing these reduced orbital spacings. However, we do not believe it necessary for us, either as a legal or practical matter, to definitively resolve every potential interference conflict in this *Report and Order*. Actual solutions to these problems will be achieved through the future proceedings described below. We believe they will be better suited to individualized interference conflict resolutions than this formal rulemaking proceeding.[39] Moreover, we are making various provisions throughout this *Report and Order*, as well as in our *1983 Orbit Assignment Order*, to minimize the costs of reduced orbital spacings and to delay their occurrence as long as possible. We emphasize, however, our finding that the benefits to be derived from the timely availability of additional in-orbit transponder capacity outweigh the costs of the reduced orbital separations we are adopting today.

IV. Orbital Spacings at 12/14 GHz

44. Appendix B to our *Notice* contained an initial analysis of the feasibility of 2° orbital separations in

[37] Since our receiving antenna performance standard in § 25.209 only defines the assumed level of interference protection, parties installing new receive-only earth stations have the option to decide for themselves whether to purchase earth station equipment now, later, or at all, that is strictly compatible with 2° orbital spacings. Some users may find it preferrable to accept any increases in interference levels than pay for new or upgraded antennas. *See* paragraph 98, *infra*.

[38] In addition to the new earth station antenna performance standard discussed in paragraphs 93–101, *infra*, the engineering analyses required by *American Broadcasting Companies*, *supra* note 12, for new applications of small antennas will now have to be based on 2° orbital separations. Similarly, new space station applications will have to conform to the requirements set forth in paragraph 70, *infra*, to facilitate 2° orbital separations.

[39] Informal procedures have been successfully established to resolve numerous potential interference conflicts without formal hearings. *See, e.g., Specialized Common Carrier Services*, 29 FCC 2d 870 (1970); *Earth Stations and Terrestrial Stations*, 40 FCC 2d 395 (1973); *Land Mobile Channels*, 77 FCC 2d 201 (1980), *aff'd sub nom. Telocator v. FCC*, D.C. Cir. No. 78–2218, October 5, 1982. We expect that such procedures will be defined in the context of the further proceedings described below.

the 12/14 GHz bands. Generally, we believed that such a result could be achieved with only a 3 dB improvement in earth station antenna sidelobe performance. Standard transponder frequency and polarization plans were not proposed at 12/14 GHz because of the wide variations in the current transmission plans of these satellites.

45. Relatively few parties supplied comments on our proposal to reduce orbital spacings to 2° in the 12/14 GHz bands. Only USSSI submitted a timely technical analysis of the impact of such reduced spacings in this docket. Various domestic satellite system applicants also commented on the feasibility of reduced orbital spacings at 12/14 GHz in their applications for new satellites in these bands. We therefore also rely on the material in those application proceedings in reaching a decision in this docket. Appendix C to this order contains revised technical analyses of the feasibility of 2° spacings at 12/14 GHz. The methodology is generally the same as that used in Appendix B to this order for 4/6 GHz spacings.

46. In evaluating the formal comments submitted in response to the *Notice*, we recognize that the number of orbital locations then being requested could easily be accommodated with 3° spacings. Thus, most of the parties filing comments did not actively support 2° spacings at 12/14 GHz at that time. Applicants for new domestic satellites do indicate that they are generally willing to accept 2° spacings if it becomes necessary to accommodate their proposals without comparative hearings. However, they are reluctant to strongly endorse such an orbital spacing criterion. Existing licensees and applicants, as well as others, view 2° orbital spacings as restricting their flexibiity to develop new and innovative services in these bands. In particular, services are contemplated which involve the use of much smaller antennas than are possible in the 4/6 GHz bands. However, none of the parties made a persuasive showing that 2° orbital separations at 12/14 GHz are impractical or infeasible to achieve.

47. The situation has changed significantly since the initial comments were filed in this docket. In order to accommodate all of the requests in the current group of applications at 3° spacings, the entire usable arc between about 60° and 130° West Longitude would have to be completely assigned.[40] Orbital locations at the extremes of this arc are usable to provide an adequate quality of service. However, most parties have expressed a preference for the assignment of locations closer to the center of this arc for their initial satellites. This preference appears to be based on the better propagation conditions for coverage of the continental 48 states from these locations.[41] However, additional locations would have to be identified closer to the center of this arc, necessitating reduced spacings. On balance, it appears that the alternative of reduced spacings is the most desirable approach since additional orbital locations closer to the center of this arc segment become available.[42] Moreover, reduced orbital spacings, which increase the total number of available orbital locations within the overall arc, will also enable us to continue our open entry policies for future growth requirements.

48. The actual interference analyses summarized in Appendix C to this order demonstrate the general feasibility of 2° orbital separations at 12/14 GHz. The calculated carrier-to-interference ratios provide high levels of isolation for moderate size antennas conforming to the new antenna sidelobe standard. While some of the smallest antennas contemplated may not conform to the new standard, the isolation requirements are also lower in practice for these services because of the overall lower transmission link performance expected by the user. Moreover, additional margins are available for inter-satellite interference at 12/14 GHz because of the absence of terrestrial interference, the potential presence of some cross-polarization isolation, and the potential advantages that can be obtained with frequency off-sets through coordination with adjacent satellite operators. Moreover, apart from Satellite Business Systems (SBS), for which a transition period is provided in today's *1983 Orbit Assignment Order*, over a year is generally provided for the planning and installation of the earth station facilities operating at 12/14 GHz with satellites spaced 2° apart in these bands. Thus, the technical and economic impact of 2° orital separations in the 12/14 GHz bands appears to be small and acceptable. In addition, as indicated in Appendix C, satellite spacings of less than 2° may be feasible in the 12/14 GHz bands, We, therefore, expect to consider further reductions in orbital separations as needed to accommodate future domestic satellite proposals in these bands.

49. In summary, it appears that 2° orbital separations at 12/14 GHz are feasible now and can be implemented immedately at little or no costs to users. Although only 3 domestic satellites are operating today at 12/14 GHz, another 18 are being authorized for launch by 1987, includng hybrids. Reductions in orbital separations are therefore desirable to accommodate these and additional domestic satellites in the future. Thus, we adopt 2° as the orbital spacing criterion for the 12/14 GHz bands. This criterion will insure that planned domestic satellites are accommodated efficiently and promptly in orbit.

V. International Considerations

50. Our *Notice* declared that reduced orbital spacings between United States domestic satellites will not prevent other Region 2 Administrations from implementing their own domestic satellite systems. We also re-affirmed our commitment to fully cooperate with other countries through the frequency coordination procedures of the international Radio Regulations. That commitment requires that the treaty mandated information referred to in Section 25.202(c) of the proposed rules is supplied, and the necessary international procedures are completed by the Commission within the established time constraints. Various parties acknowledge the significant international implications and consequences that flow from this domestic rulemaking docket. In particular, Comsat provides a comprehensive overview of these considerations which provides a foundation for the following discussion. Consultations with other countries in the Western Hemisphere who have begun the international coordination procedures will have to be successfully concluded if the domestic satellites of these countries and the United States

[40] This is the first time we have addressed the extent of the usable arc at 12/14 GHz. *See also* our *1983 Orbit Assignment Order, supra* note 3. As in the case at 4/6 GHz, this arc is not precisely defined, and thus does not have a rigid regulatory meaning. *See 1980 Orbital Assignment Order, supra* note 12, for a further discussion.

[41] Additional rain margins may be required for service to certain parts of the country as the edges of this arc are approached. This does not mean that such orbital locations provide inadequate service, however.

[42] In contrast, USSSI suggests the use of orbital locations in the orbital arc segments of 119° to 143° and of 50° to 106° West Longitude. All pending applications could be accommodated in these arc segments with orbital spacings larger than the 2° we proposed. However, as pointed out by several parties, greater propagation difficulties would be encountered in serving portions of the country from the more extreme locations. Nevertheless, service is still feasible to the contiguous states throughout this larger arc. Moreover, if only spot beam (e.g. one quarter to one half country) coverage is desired, more than adequate service can be provided from locations farther to the east or west of the orbital arc we are considering today.

are to be efficiently accommodated in orbit.[44]

51. Of particular concern are the plans of Canada and Mexico with whom the United States has common borders. The necessary co-coverage geometry of their planned satellites with United States networks require direct negotiations among the three Administrations. Such discussions have in fact been held and successfully concluded. An agreement among the three Administrations resulted in the following orbital positions for the domestic satellites of each country:

Orbital positions (West longitude)	Administration	Frequency band(s) (GHz)
120°	United States	12/14.
119.5°	United States	4/6.
117.5°	Canada	12/14.
116.5°	Mexico	4/6 GHz and 12/14.
113.5°	Mexico	4/6 GHz and 12/14.
112.5°	Canada	12/14.
111.5°	Canada	4/6.
110°	Canada	12/14.
108°	Canada	4/6.
107.5°	Canada	12/14.
105°	United States	12/14.
104.5°	Canada	4/6.
101°	United States	4/6.

It should be noted that this agreement provides for orbital separations as small as 1° in some cases, and 3.5° is the largest separation. These orbital spacings are significantly smaller that the 3.5° separations at 12/14 GHz and the 5° separations at 4/6 GHz that have been afforded in the past.[45] Also, Canadian and Mexican satellites are placed within 1° of each other at 12/14 GHz by taking advantage of the geographical separation between Canadian and Mexican service areas. This orbital arrangement imposes some constraints and difficulties in the assignment of orbital locations to certain satellities in today's *1983 Orbit Assignment Order.*[46] Additional detailed technical coordination will also be required. However, an additional 4/6 GHz domestic satellite can be accommodated for the United States at 101° West Longitude as a result of this agreement. On balance, we believe these overall results are acceptable. Moreover, this agreement demonstrates in practice our commitment to accommodate the actual requirements of other countries for orbital locations through the international frequency coordination procedures.[46]

52. Questions with regard to satellite compatibility also must be resolved for situations where there is a significant amount of geographic separation between service areas. This includes many South American countries. In these cases, a sufficient amount of satellite antenna discrimination appears to be available to permit colocation of satellites with little or no interference between such satellites. In this regard, SBS asserts that there is total geographic separation between the Northern and Southern Hemispheres of Region 2. Thus, according to SBS, any deployment plan adopted by the United States will essentially affect only Canada and Mexico. With respect to South American countries, however, Comsat expresses a somewhat more conservative view. It is somewhat skeptical that United States satellites could be operated independently of satellites serving as least some South American countries even with 1° orbital separations. AT&T concurs, and believes that at least 25 dB of satellite antenna isolation is desirable before satellites are interleaved in the same portion of the orbit. Comsat does recognize, however, that such small orbital separations are practical with frequency coordination between the satellite networks.

53. In our *1980 Orbit Assignment Order,* we recognized the feasibility of colocated satellites. We also believed it desirable to provide some minimal separations, such as the 1° separation between a United States and a Colombian satellite, to facilitate coordination. We are currently in the process of coordinating these assignments. Similarly, we have begun consultations with the Administration of Brazil with respect to their planned domestic satellite system.[47] We must also undertake coordination of our domestic satellite networks with INTELSAT pursuant to Article XIV of the INTELSAT Agreement. We fully expect these coordination efforts to be successfully concluded.

54. Finally, substantial flexibility exists to accommodate the needs of the remaining Region 2 Administrations, generally comprised of Central American and Caribbean countries. Such countries can be served from orbital locations generally between 100° and 120° West Longitude, or east of 53° West Longitude, or at any other location at which the required technical coordination can be successfully accomplished. Virtually any orbital location would remain available to countries in the Southern Hemisphere, using any level of technology agreed among the Southern Hemispheric countries involved. Subject to coordination agreements, the entire range of orbital locations can be accessed by any South American country. Thus, our actions today are in harmony with the establishment of satellite networks to serve each of these countries in the future as their requirements develop.[48]

55. Also, some concern is expressed by parties that our actions today might be misconstrued by other countries. In particular, our *1983 Orbit Assignment Order* might be viewed by at least some countries as acceptance of *a priori* planning in the context of the 1985 Space WARC. This is not the case. Our *1983 Orbit Assignment Order,* together with the set of orbital locations agreed upon by the United States, Canada and Mexico, is an example of the need for flexible approaches to apply technological advances in cooperatively satisfying current orbital requirements. We have necessarily identified today a specific set of orbital location assignments for planning purposes during the next few years. However, flexibility is needed for adjustments to meet changing circumstances in the future, just as flexibility was needed for the changes that occurred since our *1980 Orbit Assignment Order.* Moreover, the adoption of reduced orbital spacings between United States domestic satellites facilitates the accommodation of satellite networks of other Region 2 countries.

[44] We also note the need to coordinate certain domestic satellites with planned INTELSAT satellites located at 53° West Longitude. The affected United States domestic satellites are those at the eastern edge of the orbital arc usable to serve the contiguous states.

[45] *See, e.g., Domsat II, supra* note 9 at 850.

[46] For example, to satisfy the desire of Mexico for orbital separations of not less than 3° at 4/6 GHz, its satellite at 116.5° West Longitude requires the adjacent U.S. satellite at 4/6 GHz to be located at 119.5° West Longitude. This is turn would require the SATCOM III–R satellite to be relocated from its 131° West Longitude location to 131.5° West Longitude if uniform 3° orbital separations are to be provided between U.S domestic satellites in this portion of the orbital arc. The alternative selected in today's *1983 Orbit Assignment Order,* however, is to retain the 131° West Longitude assignment to SATCOM III–F and forego uniform 3° orbital separations

[47] Mexico recently advance published plans for third and fourth satellites at more westerly locations.

[48] Brazil plans to locate its 4/6 GHz satellites at 70°, 65° and 60° West Longitude.

[48] Comsat also points out the technical difficulties that could arise from use of domestic satellites to provide service to the Caribbean and Central American area. Our authorization of any such transborder satellite services will not be allowed to affect satellite orbital spacing decisions, and such services shall have to be designed to be compatible with the assigned orbital locations. Thus, we see no need at this time to set an arbitrary limit on how much service or which satellites can provide such transborder services.

56. Thus, we tend to agree with a number of points advanced by Comsat in this regard. For example, we are achieving our objective of increased domestic satellite capacity by adopting small satellite orbital separations, together with the technological advances, as well as the design and operating constraints, that are required. These steps support our contention that *a priori* or any other form of inflexible "reservation" planning is not necessary to accommodate reasonably expected requirements of other countries. Moreover, our actions demonstrate in practice how cooperation and application of technical advances can allow successful accommodation of the orbital requirements of all Region 2 Administrations. Thus, our domestic licensing decisions are not inconsistent with our goal of satisfying the real requirements of all Region 2 Administrations within our preparatory efforts for the 1985 Space WARC.[49] We continue to acknowledge our obligations under the international Radio Regulations, and we intend to fulfill our commitment to accommodate the actual orbital requirements of other countries through the international frequency coordination procedures. Our actions today demonstrate the practical implementation of orbit conservation techniques in a flexible fashion. Thus, these actions support the positions we have taken in the past and expect to promote at the 1985 Space WARC and other international proceedings.

VI. Licensing Policies and Procedures

57. Our *Notice* restated the benefits that flowed from our ability to accommodate new domestic satellite proposals without extended administrative delays, and we proposed the continued application of the licensing policies and procedures explicated in our *1980 Orbital Assignment Order*. Support for our domestic satellite licensing objectives appears universal. Parties are also generally satisfied with the efficacy of our procedures, and few deemed any major changes in procedures to be presently necessary. Suggested refinements and improvements are discussed below. We also incorporate issues raised in the petitions to deny and comments regarding the pending space station applications filed prior to our *1982 Processing Order*.[50]

A. *Application Requirements*

58. We have always required applicants for domestic fixed satellite space station facilities to file complete and comprehensive proposals for their systems and services, and to demonstrate their ability to proceed promptly with the construction and launch of the proposed satellites.[51] They must also submit information on customer service requirements for additonal satellite capacity if more than two orbital locations are requested.[52] Failure to submit the required information results in the application being returned as unacceptable for filing.[53]

59. In the future, it will be even more important for proposals to contain complete information at the outset, particularly in the technical area, if processing is to proceed promptly and efficiently. Analyses of technical compatibility under 2° orbital separations and the efficiency of orbital and spectrum utilization will be critical in our evaluation of future applications. Evaluation of the feasibility of other technological approaches to providing additional domestic satellite capacity will also be important. Moreover, without well-defined technical proposals and complete and current information concerning the applicant and the services proposed, we can not make the findings required under the Communications Act to achieve our domestic satellite licensing objectives. Thus, we are taking this opportunity to restate the minimum information required in a domestic satellite space station application. The specific items of information to be initially supplied are listed in our companion *1983 Processing Order*.[54] As explained in that companion order, these requirements will be strictly applied during our initial review of the next group of applications, and applications which do not contain this information will be returned to the applicant. Moreover, additional information may be requested in the course of processing applications, and applicants are responsible for insuring the continuing accuracy and completeness of the information submitted.

B. *Applicant Qualifications*

60. Apart from questions relating to the potential economic impact of domestic satellite operations on the provision of message telephone services by the applicant[55], we have generally not had to scrutinize closely the financial or technical qualifications of domestic satellite system applicants in the past. When potential conflicts with our domestic satellite or other telecommunications policy objectives were presented by an applicant, these conflicts were resolved by placing conditions on the facility authorization.[56] Moreover, the corporate resources supporting past applicants have generally made it self-evident that the applicants were fully capable of promptly constructing and launching their proposed domestic satellite system. Several of the pending applicants do not have such substantial resources. It is clear that they presently do not have sufficient financial resources actually committed to build and operate a domestic satellite system. Rather, their planning involves receipt of a construction permit which will then provide the basis for arranging financing for their proposed satellite system. There is no factual dispute on this matter among the parties. Instead, the controversy surrounds the action we should take given these facts.

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[49] *See, e.g., Second Notice of Inquiry* in Gen. Docket No. 80-741, FCC 82-214, released June 1, 1982.

[50] The authority requested in the applications before us includes requests for construction permits pursuant to Section 319 of the Communications Act, 47 U.S.C. § 319. A recent amendment to the Act exempts common carrier stations from the construction permit requirement unless the Commission finds that the public interest would be served by such a requirement. *See Communications Amendments Act of 1982*, Public Law No. 97-259, Section 119. However, the Commission has decided to retain the present licensing procedure, including the construction permit requirement, until it can initiate a rulemaking proceeding to implement this amendment. *See Public Notice*, No. 740 (released November 10, 1982), and *Notice of Proposed Rulemaking*, FCC 83-140, adopted April 7, 1983, at note 1. In addition, we have also decided to codify the essence of our licensing policies and procedures discussed herein in the previously reserved Section 25.202(d) of our rules. *See* Appendix D.

[51] *See e.g., Domsat I, supra* note 9 at 98-103 and 135-139; *Domestic Fixed Satellite Service*, 77 FCC 2d 956 (1980) *(1980 Processing Order)*. Processing procedures were also specified in *Domestic Satellite System Applications*, 38 FCC 3d 40 (1972). The current group of applicants were also requested to update their applications to insure a consistent level of basic information. *See* letter to applicants, dated October 8, 1982.

[52] *See e.g., Western Union Telegraph Company*, FCC 79-444, released July 24, 1979; *RCA American Communications, Inc.*, 74 FCC 2d 531 (1979); *1980 Orbit Assignment Order, supra* note 12 at 603-604.

[53] *See, e.g., Universal Satellite Company*, Mimeo 3290, released April 9, 1982; *Direct Broadcasting Satellite Systems*, 86 FCC 2d 100 (1981), *recons. denied*, 89 FCC 2d 177 (1982). Applications may also be dismissed for lack of prosecution, e.g. if a timely response is not made to a Commission request for additional information.

[54] *Memorandum Opinion and Order, supra* note 5 at Appendix B.

[55] *See, e.g., GTE Satellite Corporation*, 43 FCC 2d 1141 (1973); *RCA American Communications, Inc.*, 74 FCC 2d 435 (1979), *recons. denied (78 FCC 2d 359 (1980)*.

[56] *See, e.g., American Telephone and Telegraph Company*, 42 FCC 2d 654 (1973); *Communications Satellite Corporation*, 42 FCC 2d 677 (1973); *RCA Global Communications*, 56 FCC 2d 680 (1975); *Satellite Business Systems*, 62 FCC 2d 997 (1977), *aff. sub nom., United States v. FCC*, 652 F.2d 72 (D.C. Cir. 1980).

61. American Satellite Company (ASC) and SBS believe that each applicant should demonstrate firm financial capabilities before an orbit position is assigned. They argue that a financial institution should stand ready irrevocably to commit adequate funding to build the satellite system. They believe that if orbital assignments are made without firm financial commitments, individuals of groups will seek reservations or orbital positions with only the most speculative intent.

62. We have previously stated that our aim is "to afford qualified applicants a reasonable opportunity to demonstrate the public advantages" of satellite technology.[57] Therefore, we have not required applicants to demonstrate that their system is in fact financially viable over the long-run before authorizing initial facilities to a new entrant. However, several of the current applicants [58] admit that they can not now demonstrate conventional qualifications standards to initially construct and operate the proposed satellites.[59] They argue in their defense that enforcement of conventional qualifications standards would result in the exclusion of new entrants. These applicants therefore are willing to accept grant of the construction permits subject to the condition that they obtain the necessary financing to actually build and launch their proposed satellite system within a stated period of time. The authorization would lapse if they failed to do this. They find this approach preferable to an evidentiary hearing.

63. We are not opposed to trying this scheme for the current group of applications. The claim that financing will be obtained once a construction permit is granted does not appear to be readily or quickly amendable to proof in the context of an evidentiary hearing. If, within the time allocated, the company succeeds in obtaining its financing once the construction permit is issued, then our statutory and administrative licensing objectives will have been satisfied. Under these current circumstances, conditioned grants of system authorizations result in additional facilities being constructed promptly and avoid the costs of hearings for both the applicants and the Commission. Such an approach also allows an additional opportunity for entities that do not currently have large capital resources to enter the domestic satellite market.

64. On the other hand, if the permittee fails to satisfy the condition by the required date, the authorization becomes null and void, and any orbital location assigned to the company immediately will become available for assignment to another applicant. In fact, the time being allotted for obtaining the necessary financing is less than or equivalent to the amount of time that appears needed to conduct at full evidentiary hearing on the qualifications of the applicant. Thus, we are inclined to believe this matter to be "the kind of issue where a month of experience will be worth a year of hearings." [60]

65. Consequently, we are conditioning the authorizations of those companies who have not demonstrated conventional qualifications to initially construct and operate a domestic satellite system. The authorizations will automatically become null and void if any of these conditions are not satisfied. Such conditions will require these companies to arrange their financing and to execute spacecraft construction and launch services contracts by December 31, 1983. By that date, they must certify that such contracts have been executed and must submit to us the schedule of payments to which they are contractually committed. Moreover, they must submit written evidence from their financial sources indicating that sufficient funds are irrevocably committed to satisfy the payment schedule.[61] We currently believe that these executed spacecraft manufacturing contracts and executed launch vehicle and services contracts, as well as timely progress payments, are valid indicia of financial capability and diligence in constructing and launching the authorized system. Thus, the authorizations granted today will become null and void if either of these criteria contracts is terminated including default by the permittee in satisfying the payment schedule. We wish to emphasize that we do not intend to grant any extensions of time to fulfill these conditions.[62]

66. We will therefore view failure to demonstrate qualifications by satisfying these conditions as evidence that the applicant, contrary to its representations, is not qualified to be a domestic satellite licensee. Consequently, under these circumstances, it would appear that the public interest would require that another applicant, with firm qualifications, be provided the opportunity to proceed. Due to the long lead-time involved in satellite construction and launch, concrete evidence of substantial progress must be established at an early point in the satellite system construction program. If the grantee can not demonstate that it has acquired financing, it will not be able to construct its system and initiate its authorized service in the manner represented to the Commission. We believe that timely fulfillment of these conditions will be the best indication of a licensee's intent actually to construct the satellite facility and *prima facie* evidence of the ability of the applicant to build and operate the proposed satellite system. Thus, failure to meet this condition will result in the authorization being null and void. In such an event, the previously assigned orbital locations will be reassigned to a qualified applicant in the next processing group who can then proceed promptly with its domestic satellite program.[63]

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[57] *Domsat II, supra* note 9, at 850. The speculative aspects of the initial domestic satellite proposals were generally in the area of the long-term viability, *i.e.* profitability, of the endeavor, rather than the financial qualifications of the applicant to initially construct and launch the satellites.

[58] As identified in other orders adopted today, the applicants in question are Advanced Business Communications, Rainbow Satellite, and United States Satellite Systems.

[59] *See, e.g. Ultravision Broadcasting*, 1 FCC 2d 544 (1965), which we believe is indicative of the level of showing needed to demonstrate full qualifications. Although Section 310 of the Communications Act, 47 U.S.C. 310, places certain limitations on eligibility to hold licenses, we have much greater flexibility under the statute to establish thresholds for demonstrating other qualifications to hold licenses. *See* Section 308(b), which provides that "[a]ll applications for station licenses, or modifications or renewals thereof, shall set forth such facts as the Commission by regulation may prescribe as to the citizenship, character and financial, technical and other qualifications of the applicant to operate the station." 47 U.S.C. 307(b).

[60] *American Airlines v. CAB*, 359 F.2d 624, 633, *cert. denied*, 385 U.S. 843 (1966).

[61] We will also require a progress report to be submitted by September 30, 1983 so that it will be available at approximately the same time as the Commission will begin its evaluation of the next group of space station applications. In this report the permittee will be required to describe the concrete steps it has taken to select spacecraft and launch services vendors and to negotiate contracts with them. We will also require details of the number of parties the permittee approached to obtain financing, the commitments received to date and their plan to complete financing by the end of the year. The Commission will therefore have an indication at that time of whether the new entrants are likely to succeed in their financing arrangements by the progress they have made. They will still have the opportunity to justify their orbital assignments at the end of the year.

[62] Failure to obtain financing by the specified date will not be considered to be circumstances beyond the control of the licensee. Each of these applicants have had over a year since they filed their applications to solicit financial support. For unforeseen circumstances deemed to be beyond the permittee's control, *see Nora Blatch Educational Communications Foundations, Inc.*, FCC 81-441, released October 7, 1981; *Harold A. Jahnke*, 74 FCC 2d 276 (1978); *Leon County Communications, Corp.*, 29 FCC 2d 58 (1971); *Integrated Communications Systems*, 25 FCC 2d 909 (1970).

[63] If the permitee has not complied with any condition contained in its authorization, the basis for the grant will have eroded. At that point, the

C. *Technical Standards*

67. In addition to the specific revisions proposed to Part 25, we also extended the opportunity for parties to "* * * propose in their initial comments additional rules or standards to govern the design and/or operation of domestic satellite space stations for consideration in this rulemaking proceeding." [64] Parties commenting in these matters generally supported our approach of minimal technical standards, although various parties indicated a need for minimum standards of orbit use efficiency.[65]

68. For example, USSSI urges the Commission not to adopt restrictive technical standards which might retard technological advances or licensee flexibility. However, it does propose that the Commission grant licenses only to higher power satellites capable of frequency re-use. It believes that, to the extent we establish minimum technical criteria which emphasize spectral efficiency in such a general sense, we will be better able to support United States orbit and spectrum interests in international forums. Hughes Communications also believes that the Commission should provide itself flexibility to respond to any particular service and location proposals. According to SBS, the Commission should conserve orbital positions for new and innovative services. Several parties suggest that the Commission establish a "figure of merit" for orbit efficiency. GTE Satellite Corporation (GSAT) devises a specific formula for determining efficiency which factors transponder EIRP, number of transponders and number of frequency bands used. It further believes that minimum standards could be established as a condition of licensing. Hughes and ASC endorse efforts to encourage more efficient spacecraft but objects to GSAT's specific proposal.

69. In the past, we have generally not imposed technical or operating standards beyond those required by the international Radio Regulations. Such standards have not been necessary because there was a sufficient number of orbit positions available to perspective new domestic satellite operators. We have previously expressed concern over the use of low capacity satellites in light of the increasing demands for orbital locations.[66] Less efficient satellites will only serve to inhibit the availability of domestic satellite services. Because of the technological advances that are continuously being incorporated into satellite designs, it appears premature to adopt codified technical design standards in Part 25 of the rules beyond those generally specified in the international Radio Regulations. However, the orbital arc congestion at 4/6 GHz and 12/14 GHz for domestic satellite services to the United States has become acute, and future applications for new domestic space stations must satisfy at least present state-of-the-art standards if they are to be acceptable for filing. It has therefore become necessary to establish minimum standards that all satellites will be required to satisfy in the future in order to insure efficient use of the geostationary orbit. Full frequency re-use appears to be the minimum level of orbit use efficiency readily achievable in current satellite designs. We would therefore dismiss any application for new satellite systems in the next group which did not meet such minimum standards of efficient orbit and spectrum utilization. [67]

70. In addition, new applicants must demonstrate that their proposed domestic satellites will be operated consistent with a 2° orbital spacing criterion. Such a showing and supporting engineering analysis will be required in any application for a new system. Initially, such an analysis should be submitted for currently authorized satellites including those approved today in the proposed operating bands. Such analyses will have to be supplemented at a later date to include new applicants. As noted above, achieving uniform 2° orbital spacing means that frequency plans, polarization vector orientation, gain variations, etc. will have to be coordinated with the satellites to be located in adjacent orbital locations. Thus, it will be essential that we also require all permittees to make detailed information in this area available to the Commission and other applicants and grantees at the earliest possible dates.[68] Because of the feasibility of 2° spacings at 4/6 GHz and at 12/14 GHz, and because of the increasing demand for orbital locations in these bands, we do not believe the public interest would be served by our accepting and processing applications for additional space stations which can not operate with such spacings.

D. *Processing Procedures*

71. The Commission's processing procedures for domestic satellite applications have been the subject of some controversy, both in this proceeding and with respect to the pending applications. The parties primarily focus on perceived disparities between our open entry policies and apparent mutually exclusive situations. Most of the parties support the Commission's effort to prolong open entry. USSSI urges the Commission to continue its policy of seeking to grant domestic satellite applications as quickly as possible by adjusting orbital locations but believes that the Commission must do so consistent with applicants' *Ashbacker* hearing rights.[69] Likewise, Southern Pacific believes that all qualified applications should be granted where there are enough orbital positions to meet all currently pending requests. When excess demand for positions seems imminent, however, Southern Pacific believes that the Commission should utilize the notice and cutoff procedures which have been used in the past for other Commission

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radio station authorization will become null and void. *See MG–TV Broadcasting Company v. FCC*, 408 F.2d 1257 (1968), *Mass Communications, Inc. v. FCC*, 286 F.2d 681 (1959), *Channel 16 of Rhode Island, Inc. v. FCC*, 440 F.2d 286 (1971). *See also, Gator Broadcasting Corp.* FCC, 80–553, released October 15, 1980, *Pan American Broadcasting Corp.*, 65 FCC 2d 684 (1977).

[64] *Notice, supra* note 1 at 336.

[65] Various detailed suggestions were offered with respect to the implementation of 2° spacing which we believe are best deferred to future proceedings. *See* paragraphs 105–109, *infra*.

[66] *See, e.g., Western Union Telegraph Company*, and *Southern Pacific Communications Corporation, supra* note 8.

[67] Specifically, we will require full frequency re-use in each band. We will also require station-keeping tolerances of ±0.1° or better as minimum criteria of acceptability for filing in the future. By full frequency re-use, we mean satellite designs that are capable of providing at least the same transmission capacity between equivalent earth stations at a 4/6 GHz satellite with 24 transponders with 36 MHz bandswidths and 8 watt solid state amplifiers. At 12/14 GHz, equivalent characteristics would be 20 transponders with 48 MHz bandwidth and 20 watt amplifiers. Generally, all the satellites we are approving today appear to meet these standards except for the ASC and Southern Pacific hybrid satellites, and the SBS satellites originally proposed in 1975. Because the nature of satellite manufacturing contracts may make it economically impractical for these companies to change satellite designs during the lifetime of the space segment manufacturing contract, they may be able to support a waiver of this standard if they demonstrate the impracticality of conforming or improving their existing satellite designs to these standards. However, each applicant must recognize that orbital and spectrum efficiency will be a significant factor in our evaluation of future space station applications and that deficiencies in satellite designs will not be compensated by wider orbital spacings. If comparative evaluation becomes necessary, orbit and spectrum efficiency is likely to become the critical criteria in any administrative selection among competing applications. Thus, applicants will not be permitted to argue that our grants today preclude strict application of such efficiency criteria to them in the future on the basis of equitable or other grounds.

[68] *See* paragraphs 92, *infra*, concerning such information reporting requirements.

[69] *Ashbacker* v. *FCC*, 326 U.S. 327 (1945).

regulated services. In situations where the number of applicants exceeds the number of orbital positions, both Southern Pacific and USSSI believe that the Commission should use paper hearing procedures to make its selection. These parties believe that this is the best way for the applicants to demonstrate why their applications serve the public interest. USSSI, however, urges the Commission to encourage carrier resolution of mutually exclusive applications. Southern Pacific thinks that the Commission should issue a *Notice of Proposed Rulemaking* to establish hearing criteria. It, however, flatly opposes lotteries as a means of administrative selection between competing space station applications.

72. Several of the parties offer preferences for the Commission to consider if it is forced to select among applicants. For instance, as noted above, several parties recommend that the Commission in its licensing policies prefer those who propose greater efficiency over those who propose less. Generally, existing operators opposed the Commission's proposals to favor new entrants in the assignment of positions, while new or potential applicants supported it. For instance, SBS contends that if the industry is to develop in a healthy and vigorous manner there must be a reasonable expectation that carriers will grow and expand if their services are to be well received in a competitive marketplace. RCA Americom believes that existing carriers have the same efficiency incentives as new carriers and therefore no preference should be provided. Western Union argues that it should be given a preference because it took the early risks in the domestic satellite market. It further believes that both existing systems and new entrants have incentives to make small specialized offerings. On the other hand, ASC and Advanced Business Communications argue that, because the number of orbital locations is limited and the number of applicants desiring to serve the public is so large, that it would be inequitable and anticompetitive to assign existing carriers, such as RCA Americom, an inordinate number of orbital positions. Satellite Syndicated Systems goes further and urges the Commission to impose a limitation on the number of satellites or transponders any one entity may own or lease.

73. Our *1982 Processing Order* established the current group of space station applications being acted upon today. For the most part, we have applied the same general processing procedures to this group of applications that are described in our *1980 Orbital Assignment Order, supra* note 51. We have required all applicants to submit certain minimum information in support of their applications. We have examined each application and concluded that grant of each would serve the public interest provided that all of the representations of the applicant are fulfilled. We have resolved all the issues raised by petitions to deny and comments filed by other parties. Orbital locations are assigned in our *1983 Orbit Assignment Order*, taking into account the planned service requirements and technical designs of each satellite. Finally, the form of authorization and reporting conditions are essentially those described in the *1980 Orbit Assignment Order.*

74. Our *1980 Orbit Assignment Order* did not give any preferences to either system expansion or new entrants. Nor did we desire to provide such a preference *per se* in our *Notice.* Rather, we advanced a proposed preference only in the event a situation of mutual exclusivity did in fact arise and, then, only to minimize the potential for further administrative delays. Such a condition has not in fact arisen with respect to the applications we are granting today. Under the reduced spacing proposals adopted today we can accommodate all the applications that were on file prior to our *1982 Processing Order.*[70] Thus, we do not have to decide whether a preference need be given to either system expansion or to new entry. Moreover, our experience with today's authorizations will be valuable if we have to revisit the question of preferences in the future.

75. However, application of our flexible and open entry licensing procedures may prove more difficult in the future. While there will remain additional orbital positions in both the 4/6 and 12/14 GHz frequency bands for future satellites, the Commission has received applications for additional satellites since May 18, 1982. Extensive analysis will be required in order to accommodate all of them in orbit. This differs from the situation existing at the time of our *1982 Processing Order,* where it appeared that our proposals in this proceeding to reduce spacings would be sufficient to easily accommodate all of the then pending applications without extensive administrative delay. We will similarly endeavor to grant every new application that meets the standards we are adopting today. But our confidence in doing so is less. Thus we plan to consider these satellite applications on a group basis as we have done in the past. Our licensing objectives are to prolong open-entry, avoid the administrative costs and delays associated with comparative hearings, assign orbit positions in an efficient manner that maximizes domestic satellite services to users, and implement a new plan of orbital assignments in a way that minimizes service disruptions to users.

76. However, we can no longer warrant that we will be able to grant every orbital assignment that may be requested by qualified applicants in the next group of applications.[71] Under these conditions, comparative hearings or other administration selection procedures may be necessary to determine which of these requests will be granted. Consequently, we plan to give interested parties 60 days notice of the formation of the next processing group.[72] Prior to the end of this time period, any interested party must submit an application that satisfies the requisite information and technical requirements if they are to be considered in the next processing group.

E. Hybrid Satellites

77. We have previously identified some of the orbital efficiency difficulties occasioned by hybrid satellites. For example, AT&T believes that hybrids should be viewed as two separate satellites with the merit of the hybrid compared with the merit of two separate satellites at the same orbit location. COMSAT General argues that the assignment of orbital positions for hybrids should not reduce the amount of 4/6 GHz and 12/14 GHz orbital positions available as a result of new 4/6 GHz spacings. SBS believes that the Commission should continue its policy of assigning hybrid positions only at those positions which coincide with the spacing scheme for both 4/6 and 12/14 GHz. Southern Pacific contends that concerns of the Commission regarding

[70] Since we are able to accommodate all applications in the current group that were filed before our *1982 Processing Order*, it will not be necessary to resolve any contentions as to whether applications covered by our *1980 Processing Order* are to receive any form of priority consideration vis-a-vis others in the group. *See Notice, supra* note 1 at 329–330. Thus, the only pending applications are those filed after May 18, 1982. The processing of these pending applications will be governed by today's companion processing order.

[71] The previous processing orders were designed to define the applications to be considered in a particular group. Because orbital positions remained beyond those needed to accommodate the applicants in each group, these orders were not considered to be "cut-off orders." *See Memorandum Opinion and Order, supra* note 4, denying GSAT's petition for reconsideration of our *1982 Processing Order.*

[72] *Memorandum Opinion and Order, supra* note 5. *See also* paragraphs 103–104, *infra.*

hybrids is totally unwarranted, and that the advantages gained from employing their use in a satellite design far outweighs any alleged inflexibilities in orbital location assignment. Hughes Communications argues that hybrids are not likely to lead to the most efficient use of either band, particularly since many hybrids use less than the full capacity of both bands.

78. The comments of the parties and the current applications continue to highlight the potential conflicts between orbit use inefficiencies of less than full frequency re-use satellites and economic advantages to individual operators that are presented by current hybrid satellite designs. Little new information has been added to the record to assist our consideration of this issue since we addressed it in our *1980 Orbit Assignment Order.*[73] However, we have been able to identify a sufficient number of hybrid orbital locations to accommodate all that have been proposed in the current application group. Thus, it is not necessary to disqualify any applicant proposing a hybrid satellite at this time.

79. However, growing demends for orbital locations will be increasingly difficult to accommodate unless full use is made of each orbital location. Thus, we are setting certain minimum technical standards in paragraphs 69–70, *supra.* Hybrid satellites will be required to satisfy these standards in each pair of bands if they are to be licensed in the future. Applicants proposing hybrids must therefore demonstrate orbit and frequency use efficiency comparable to the then current state-of-the-art for two single band satellites. Moreover, to conserve the orbital spectrum, additional hybrids will be located only at orbital positions which are available for assignment in both pairs of bands, such as in those portions of the orbit where 2° spacings are provided at both 4/6 and 12/14 GHz.

F. *Orbital Assignment Policies*

80. Our *1980 Orbit Assignment Order* described our orbital assignment policies. Parties generally support the continuation of these policies. Some differences emerge over possible preferences to be afforded new entrants vis-a-vis expansion of existing systems. In an attempt to promote efficiency, AT&T believes that the Commission should provide the more desirable orbital positions to the more efficient satellites. It is also suggested that licenses should not be granted for the expansion of existing domestic satellite systems or to applicants who do not make a sufficient demonstration of need. However, as long as basic procedural rights are maintained, parties accept the Commission's flexible orbital assignment policies as the best regulatory approach available.[74] Thus, for the most part, we re-affirm those policies. They have worked well in the past and they have allowed us to develop the *1983 Orbit Assignment Order.*

81. In our *1980 Orbit Assignment Order,* we stated that two orbital locations are initially assigned to a newly authorized system. We determined that two orbital locations were reasonable under the circumstances and more than sufficient to establish a reasonably competitive market presence when the satellite operator had little or no firmly demonstrated traffic commitments. This continues to be the case for the current new entrants. However, we further stated that "[a]dditional locations are assigned to a carrier only upon a showing that in-orbit satellites are essentially filled and that an additional orbit location is needed to satisfy firm customer growth requirements, including reasonable protection requirements."[75] At the time, we believed that these specific criteria fulfilled the general domestic satellite requirement that "each applicant must make a sufficient showing of potential public benefit to justify the assignment of orbital locations and frequencies."[76] However, we now believe certain clarifications and adjustments are warranted to make them more effective and efficient under current circumstances.

82. In principle, our approach to the number of orbital assignments to an individual company is similar to that taken in other radio services. However, the long lead-time to construct a new satellite must also be taken into account in evaluating requests for additional orbital locations beyond the initial two assignments. As in the case of financial qualifications discussed in paragraphs 60–66 above, evidentiary hearings seem unlikely to demonstrate the factual basis of an applicant's expectations for traffic fill several years in advance of launch. Thus, as we have done in the past, we will condition the orbital assignment to require that the construction of the space station begin by a specified date, be completed by a specified date, and be launched and placed into operation by a certain date.[77] Delays in commencement and completion of construction and launch activities beyond the specified dates will render the orbital assignment null and void.[78] This will tend to discourage warehousing of orbital assignments since construction and launch costs would have to be actually incurred to maintain them.

83. Pursuing this approach does not alter our objective; it remains the timely and innovative application of satellite technology to satisfy the telecommunications needs of this country. Easing administrative barriers to new entrants requesting satellite construction permits may be a practical means of attaining this goal. However, satellite construction entails long lead-times. If the public is to benefit from the timely availability of additional domestic satellite capacity at the end of such a lengthy period, diligence in construction must be evidenced concretely at an early date. Otherwise, our licensing process may be abused by dilatory tactics for private benefit without a timely increase in the supply of domestic satellite capacity.

84. We will also require that in-orbit satellites maintain reasonable fill as represented in the applications. We have previously indicated that the availability of in-orbit spare capacity will be limited to reasonable amounts. Under current circumstances, the upper limit on in-orbit spare capacity for any

[73] However, we note the recent applications of Ford Aerospace Satellite Services which propose a hybrid satellite design with substantially larger transponder capacity than those before us today. However, hybrid satellites also raise orbit use difficulties when there are different orbital spacing criteria for the different frequency bands involved.

[74] Generally, the parties urge avoidance of comparative hearings and oppose use of lotteries to assign orbital locations. Comparative hearings involve significant administrative costs and delays, often with little or no significant differentiations between proposals resulting from such scrutiny. Lotteries are opposed because random selections are incompatible with the degree of engineering and operational control needed to reduce spacing and economically satisfy user demand. Random selections may also impose unnecessary service disruptions to users that are otherwise avoidable with careful planning.

[75] *1980 Orbit Assignment Order, supra* note 12 at 603 (footnote omitted).

[76] *Domsat II, supra* note 9 at 851.

[77] *See* 47 U.S.C. 319(b). The dates to be specified are generally those proposed by the applicant. Where launch authorizations are being granted, we specify the date by which the satellite must be launched and initially positioned at its assigned orbital location. Within 60 days of positioning the satellite at its assigned location, the licensee will be required to certify to the Commission that the space station has been placed into commercial operations in accordance with the technical parameters and the terms and conditions of its authorization, together with a submission of the results of the initial in-orbit measurements of the parameters listed in paragraph 92, *infra.*

[78] We do not envision issuing any extension of time to comply with these dates because we will not consider the grantee's failure to develop sufficient traffic fill to constitute circumstances beyond its control. *See* note 62 *supra.*

space station licensee will be set at the equivalent of one spare satellite used for occasional or preemptible services within the system. If an operator fails at any time to demonstrate that its representations in its launch application(s) regarding traffic fill has been in fact achieved, we will consider the unfilled satellite as an excess spare. This will result in the termination of the orbital assignment. If the unfilled satellite has in fact been launched, relocation will be required if necessary to accommodate another satellite.[79]

85. Another question has also arisen concerning requests of certain applicants for contiguous orbital position assignmets. They view such a set of orbital assignments as a means to increase orbital efficiency. This could allow system operators to take whatever measures are necessary to ensure satisfactory performance of their entire system under reduced orbital spacings without affecting the operations of other carriers. ASC believes, however, that this will result in a few operators receiving the more desirable orbital positions.

86. Generally, we decline to assign new contiguous orbital locations to a single operator in the more desirable portions of the orbital arc for services to the contiguous 48 states. No convincing showing has been made that such contiguous orbital assignments are necessary to achieve 2° spacings. While we will generally not disturb at this time such assignments that have been made in the past on orbital location for an initial satellite which provides high elevation angles throughout the contiguous states to minimize depolarization losses at these higher frequencies. This can not be achieved if additional contiguous orbit locations are assigned to system operators in the central portion of the arc at 12/14 GHz.

G. *Common carrier Offerings*

87. Although our initial *Domsat I* decision did not require domestic satellites to be operated solely on a common carrier basis, the first generation of domestic satellites provided services to end users only on a common carrier basis. Such initial offerings of domestic satellite services on a non-discriminatory basis have contributed to the wide availability of the benefits of satellite technology to a multitude of users. However, the industry is no longer in its infancy, and both users and licensees have a far more sophisticated approach to the application of this technology and the acquisition of the increased supply of transponder capacity. This includes all aspects of commercial endeavors, including engineering, operating, financial and marketing aspects. As a result, new and specialized facilities and services, specifically tailored to satisfy a customer's particular needs, are becoming increasingly common.

88. Thus, as the domestic satellite market has matured, we have attempted to respond to the changing needs of domestic satellite users and licensees. In 1981, several licensees proposed to sell, as opposed to leasing pursuant to tariff, transponders on their authorized satellites. In *Transponder Sales Order, supra* note 12, which approved those proposals, we found that under then existing conditions that transponder sales could "encourage additional entry, additional facility investment, more efficient use of the orbital and frequency spectrum and allow for technical and marketing innovation in the provision of domsat services."[80] At the same time, we recognized the fluid nature of the domestic satellite market and indicated that any additional sales, beyond those considered in that order, would be scrutinized on a case-by-case basis. In this manner, the Commission can insure that such future transactions do not artificially restrict the availability of domestic satellite communications services to the public.

89. In the *Transponder Sales Order*, we deferred requests by certain applicants to sell transponders on satellites not yet authorized. At the time, we indicated that we would consider those deferred sales requests when the underlying satellite facility applications were considered. Consequently, we are now prepared to act on the request of Hughes Communications to sell all 24 transponders on GALAXY III, the Southern Pacific request to sell ten transponders (or 18 equivalent 36 MHz transponders) on SPACENET III [81], and the Western Union request to sell ten transponders on WESTAR VI. We are also considering the recent request of RCA Americom to sell three additional transponders on SATCOM IV. Rainbow Satellite and USSSI have also indicated interest in engaging in transponder sales but did not provide all the information required in paragraph 55 of the *Transponder Sales Order*. Consequently, we can not now make the requisite determinations with regard to the transactions proposed in their applications. These applicants must therefore plan and be prepared to provide service on a common carrier basis until supplemental information is filed and proper authorization is received.

90. Hughes Communications, Southern Pacific, RCA Americom and Western Union, however, have provided enough information for us to conclude that their noncommon carrier offerings are consistent with the policies and procedures adopted in the *Transponder Sales Order*. The sale of 55 additional transponders would result in a total of 137 potential noncommon carrier transponder sales. Consequently, only 14.4% of the 960 planned equivalent 36 MHz transponders in that order will be available on a noncommon carrier basis as a result of these sales proposals. This is a lower percentage than the 21.7% of the 480 then authorized transponders that we considered in the *Transponder Sales Order*, illustrating that the wholesale move to allocation by sales that many had feared has not materialized. We believe that the same public policy reasons for approving the earlier transponder sales exist for us to approve the sales now under consideration. In addition, we believe that these proposed transactions are noncommon carrier in nature.[82] Like the previously approved sale proposals, these applicants plan to enter into stable, long-term contractual relationships with individual customers to provide technically and operationally distinct portions of the satellite. Thus, we will provide authority to sell transponders to Hughes Communications for GALAXY III, Western Union to sell ten transponders on WESTAR VI, RCA Americom to sell three additional transponders on SATCOM IV and Southern Pacific to sell ten transponders on SPACENET III in the companion space station authorizations adopted today.

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[79] *See, e.g., Satellite Business Systems*, FCC 82-469, released November 10, 1982, at 3. In determining the level of excess spare capacity, operators will have to demonstrate that transponders assigned to full-time services are being fully loaded under the current state-of-the-art. Transponders assigned to occasional services will be considered spare unless it could be shown that the level of usage can reasonably be considered operationally equivalent to a transponder in full-time service. In addition, we may decide that a lower level of spare capacity should be the standard in future proceedings to accommodate more satellites.

[80] *Transponder Sales Order supra* note 12 at 1255. There we considered the following proposed transponder sales: Hughes Communications (48), RCA Americom (5), Southern Pacific (10 [18 equivalent 36 MHz transponders]) and Western Union (11).

[81] This includes up to eight 72 MHz wideband transponders. *See Southern Pacific Satellite Company* FCC 82-512 released November 20, 1982.

[82] *See Transponder Sales Order, supra* note 12 at 1255-1257.

H. *Launch Services Procurement*

91. There was general consensus in the comments supporting the elimination of the requirement for Commission approval prior to the procurement of launch services.[83] Such procurement generally involves refundable progress payments over an extended period of time. There seems little likelihood that these expeditures would in any way influence the Commission's consideration of the underlying satellite application since unrecoverable expenditures tend to be a small percentage of the total cost and generally occur just prior to launch. Therefore, we are relieving domestic satellite applicants of the responsibility to obtain Commission approval prior to procuring launch services. This approach is also consistent with our overall goal to minimize the regulatory constraints imposed on the domestic satellite industry. Moreover, it conserves administrative resources by eliminating procedures that do not contribute to the fulfillment of our statutory responsibilities.

I. *Reporting Requirements.*

92. Our recent space station authorizations contain a condition which requires the operator to file semi-annual reports on the progress of construction and current satellite status and loading.[84] They have proven valuable in the past and will become essential in our ongoing licensing activities. Thus, we will continue to require the regular submission of these reports. Moreover, as orbital spacings are reduced, more detailed information will be required to minimize interference levels. We therefor believe these reports should be expanded to provide certain critical additional information. In particular, we will require, as part of this reporting requirement, the licensees to submit measured spacecraft antenna gain patterns and polarization vector directions (transmit and receive) obtained during construction, and measured changes to space station EIRP and sensitivity during its lifetime in orbit. We also expect transponder-to-transponder variations to be identified. In particular, measured data will be required with respect to those parameters entering into the earlier discussion on inhomogeneity and the capabilities of satellites to operate at 2° orbital separations. Finally, a current r.f. carrier frequency plan for each satellite, providing the basic r.f. characteristics of each carrier should be maintained on file with the Commission.[85] Additional information and measurements may be required from licensees as the implementation of reduced orbital spacings proceed.

VII. Antenna Performance Standards and Other Part 25 Revisions

93. We proposed several specific additions and revisions to Part 25 of the Rules and Regulations in Appendix C of the *Notice*. Comments generally focused on the proposed changes to the antenna performance standards of Section 25.209. The differences between our proposal and the standards being adopted today are discussed below. The other rule proposals received little comment. Generally, these non-controversial proposals simply conform Part 25 to the current provisions of Part 2 of the rules and the international Radio Regulations. We decline to make changes suggested by several parties which are premature in light of pending proceedings to implement the Final Acts of the 1979 World Administrative Radio Conference.[86] We have, however, adopted several suggestions with respect to the notes to the list of available frequencies in Section 25.202(a). These changes simply reflect the current allocated usage of these bands within the United States. We have also adopted the suggested inclusion of an additional provision as Section 25.251(d)(4) and have expanded the text of Section 25.209(a) to maintain the current antenna reference pattern adopted in Docket No. 19495[87] for the purpose of effecting frequency coordination between earth stations and terrestrial stations.[88] The revised provisions of Part 25 that we are adopting today are presented in Appendix D.

94. In the *Notice*, we proposed to revise the antenna performance standards of Section 25.209 because of the reductions in orbital spacings made possible with the proposed improvements. Reductions in orbital separations are now necessary, and parties generally agree that better earth station antenna performance is needed to achieve this result. Except for the smallest antennas in service, no party disputes the technical feasibility of the proposed standards. However, many parties predict high potential costs for these improvements, particularly for the upgrading or replacement of existing antennas. Nevertheless, we remain convinced that improved antenna performance standards are the most effective means of achieving reduced orbital spacings at this time. As a general criteria, they can be objectively applied to all users. Moreover, changes in services or transmission parameters will not dilute the beneficial effects of the new standards in achieving reduced spacings now or in the future. We have, however, decided to adopt some of the suggestions of the commenters to reduce the costs of improved antenna performance. We have also identified waiver criteria for transmitting antennas to further mitigate unnecessary adverse impacts on users.

95. A convincing argument has been made by various parties that each of the near-in sidelobes must in fact be reduced by 3 dB below the previous reference envelope to achieve reductions down to 2° in orbital spacings. Such a real sidelobe improvement appears to be achievable for most sizes and types of antennas currently used for transmission. This requirement is also readily achievable by certain types of new antenna designs, such as those employing offset feeds, which are not yet in common use.

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[83] *See Western Union Telegraph Company*, FCC 72-686 released July 28, 1972. The requirement for a construction permit still applies with respect to the procurement of the satellites themselves.

[84] *1980 Orbit Assignment Order*, *supra* note 12 at 611-612. To some extent, this information parallels that required by § 63.07(e) of the rules, 47 CFR 63.07(e), or submitted when specific r.f. carrier assignments are identified. *See e.g., Western Union Telegraph Company*, Mimeo 08532 released April 8, 1981. To the extent feasible, we encourage the consolidation of such submissions to reduce the costs to the licensees and the Commission to prepare and maintain such reports.

[85] Such parameters should include those specified in Table B-2 in Appendix B to this order. We recognize that difficulties in maintaining such information may arise when transponders are leased or sold by the satellite licensee to unaffiliated users. This matter may therefore be appropriate for further consideration and resolution in the course of the further proceedings we envision to implement today's orbital spacing decisions in practice.

[86] For example, a number of parties made proposals to change Section 25.202 which involve domestic frequency allocation matters currently being addressed in our *Notice of Proposed Rulemaking* in Gen. Docket No. 80-739, FCC 82-508, released December 30, 1982. *See also*, note 110, *infra*. However, now that the Final Acts have been ratified, we will adopt definitions in Section 25.201 which conform to the current international Radio Regulations since that was our stated intent in the *Notice*. We recognize that further proceedings may be necessary to revise Part 25 as implementation of the Final Acts proceeds, but believe it premature to pursue matters beyond conforming definitions in this *Report and Order*. *See also*, note 50 *supra*.

[87] *Earth and Terrestrial Stations*, *supra* note 39.

[88] We also decline to adopt AT&T's suggestion to reduce maximum permissible power flux densities below the values proposed in Section 25.208 or required by the International Radio Regulations. AT&T has not provided a sufficiently persuasive engineering analysis to support its proposal. Moreover, even if a case could be made in the future to support a power flux density reduction, its implementation would not be effected by satellite or earth station design changes, but by increased energy dispersal applied to the transmitted signal at the uplink earth station.

However, some parties suggest that the cost of antennas built with these newer design concepts will cost substantially more than more conventionally designed antennas. Nevertheless, this required improvement in antenna sidelobe performance appears to be the most effective means of achieving 2° orbital spacings at either 4/6 or 13/14 GHz. Thus, the final rule will include the originally proposed exception that routinely permitted individual sidelopes to exceed the reference envelope by up to 3 dB for small off-axis angles.

96. We decline to modify the rule provision to exclude its applicability to very small antennas with main beams greater than 1° or high first sidelobes closer then 2° to the main axis. In these situations, the gain may significantly exceed the formula in the rule for small off-axis angles. Control of antenna gain levels is also needed even in the 1° to 2° off-axis sector to control levels of interference caused to satellites of other countries. Because such satellites may be interleaved between United States domestic satellites spaced 2° apart, frequency coordination will be facilitated with a rule standard specifying maximum values of sidelobe gain levels for off-axis angles of 1° or more.[89] However, it is unlikely that the polarization vectors in the coverage patterns of other countries' satellites can be controlled sufficiently over the United States to take cross-polarization isolation into account in the course of international frequency coordination. Thus, we believe it appropriate to exclude off-axis angles less than 2° from this cross-polarization isolation standard. Some parties also suggest that there is a potential for very small transmitting antennas to be proposed which can not comply with the rule standard, but which nevertheless could operate successfully with 2° orbital spacings. In such an event, a waiver of this rule standard can be requested at the time the engineering showing is made in the earth station license application to demonstrate compatibility with 2° spacing.[90]

97. On the other hand, we also agree with parties that the more stringent standards should apply only in the plane of the geostationary orbit as it appears at the particular earth station site. For all other directions not affecting satellite spacings, the current sidelobe standards will apply.[91] In addition, the cross-polarized discrimination standard will be specified in the rules as an absolute gain level that is 10 dB lower than the co-polarized sidelobe gain reference envelope. It will not be specified relative to the actual co-polarized pattern as proposed in the *Notice*. As pointed out by several parties, the proposed relative standard would tend to penalize those antennas which have actual co-polarized sidelobe discrimination better than the rule standard. By tieing the cross-polarization standard to actual co-polarized performance, rather than the co-polarized required reference envelope, improvements in actual co-polarized performance would also require further actual cross-polarized performance improvements. It is sufficient, however, to require cross-polarization isolation that is only 10 dB better than the co-polarized envelope specified in the rules.[92] Since cross-polarization isolation is not required to achieve 2° spacings in the 13/14 GHz bands, we do not believe it necessary to specify such cross polarization standard in the rules at this time.

98. With respect to the receiving antenna standard of Section 25.209(c), parties argue that this envelope should only be a reference pattern. Because receiving antennas do not cause interference, the parties contend that it is unnecessary to require receiving antennas to be designed with sidelobe levels that are actually below the formula in the rules. However, when the actual sidelobe level exceeds that specified in the rules, the operator must accept any interference in excess of the level that would have resulted had the antenna in fact complied with the formula in the rules. According to these parties, receiving antennas should not be required to actually conform with the performance standards to be eligible for licensing. We agree with this view. Thus, Section 25.209 of the rules will be specified only as a reference envelope assumed for a receiving antenna. Facilities with performance worse than the reference must, of course, accept correspondingly higher interference levels.[93]

99. Most parties commenting on the implementation dates for the revised antenna standards [94] argue that our proposed effective dates are impractical. We agree that some additional time appears warranted, but not necessarily as much as some parties requested. In particular, we note that several antenna manufacturers currently are marketing antennas which they claim meet or exceed the more stringent antenna performance standards we proposed for 2° orbital spacings. Antenna facilities meeting the new standards could therefore be readily available within the next year or so. No one has provided a convincing argument for more than a year to adjust existing antenna designs and fabrication methods to bring new antennas into compliance with the revised standards and to exhaust the existing inventory of antennas. Furthermore, we believe it imperative that new transmit antennas comply with the revised standards at the earliest practical date. This will maximize the opportunities to accommodate more

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[89] In today's *1983 Orbit Assignment Order*, we are proposing to place our domestic satellites as close as 1° away from satellites operated by other countries.

[90] By its terms, Section 25.200 applies to all earth station facilities licensed under Part 25 of the rules, including earth stations operating in the INTELSAT global satellite system. Comsat recognizes improved earth station antenna performance as a desirable objective, and is not opposed to the adoption of improved antenna performance standards for international facilities as well. Comsat Comments at 16. We agree. The vast majority of stations licensed under Part 25 operate with domestic satellites. Most other stations licensed under Part 25 operate in the same frequency bands as domestic satellites. Thus, we believe it preferable to maintain a general rule standard for sidelobe gain performance of all transmitting antennas licensed under Part 25. However, we will apply the cross-polarized isolation standard only to those antennas operating with domestic satellites where such cross-polarization isolation is needed to achieve 2° orbital spacings. Moreover, we will permit waivers of the rule for nondomestic satellite facilities where the improved antenna performance standards we are adopting today are not necessary for orbit conservation purposes, and the costs of compliance with the revised Section 25.209 are not warranted by orbit congestion or adjacent satellite interference considerations. Where such antennas operate in frequency bands shared with terrestrial facilities, they will, of course, have to comply with the current performance standard used in the frequency coordination process.

[91] We recognize that further clarification may be needed to resolve operational difficulties or measurement problems that may arise in demonstrating compliance with the standards of Section 25.209. However, we believe they are best addressed in the further proceedings we expect to conduct. *See* paragraphs 105–108, *infra*.

[92] Indeed, some parties urged further improvements in sidelobe performance as being more practical and effective than improvements in off-axis cross-polarization isolation.

[93] We are not condoning antennas with poor sidelobe performance. The utility and public interest in issuing a license for a receive-only earth station would be called into question if the facilities were of such a low quality as to substantially undermine the concept of interference protection to soundly engineered facilities. *Cf. Deregulation of Receive-Only Earth Stations, supra* note 31; *American Broadcasting Companies, supra* note 12. Our intent is simply to give more discretion to the operators of receiving earth stations. This will allow users to perform tradeoffs between the cost of the antenna and the quality of signal received. It will also allow flexibility with respect to the timing of facility replacement or upgrading as necessary for full compatibility with 2° orbital spacings.

[94] It is also our intent that the 2° spacing criteria be used immediately upon adoption of this order for new small antenna analyses submitted for approval pursuant to *American Broadcasting Companies, supra* note 12. Many existing small antenna operations have already been considered in our analyses of reduced spacings in Appendices B and C, and we expect to issue an order reviewing our previous findings in light of reduced spacings in the near future.

satellites in orbit if additional 2° orbital separations beyond those in today's *1983 Orbit Assignment Order* can be implemented at an early date. We will therefore adopt July 1, 1984 as the applicable date of the standards of Section 25.209 of the rules for newly installed transmit antennas. On the other hand, it is also our intent to delay any necessary modifications or replacements of existing antennas needed to comply with the new standards until actually necessary. Since uniform 2° orbital separations between 4/6 GHz satellites are not likely in any event before 1978 under current launch schedules, we find January 1, 1987 to be an appropriate date for upgrading or replacing existing transmit antennas.[95]

100. Finally, several parties propose that we specify sidelobe performance for transmitting antennas in terms of power densities rather than antenna gains. Such an approach affords some users the flexibility to perform tradeoffs between transmit power levels and antenna sidelobe performance. However, we have not been persuaded that any of the proposed numerical power density standards will in fact insure that our 2° orbital spacing criteria will be achieved. The difficulty is that a single power density figure does not appear sufficient to adequately cover the entire gamut of transmission parameters, transponder loadings and earth station facilities operated in all of our domestic satellite systems. However, power density standards, when tied to a particular type of modulation, earth station and transmission plan, may prove to be a flexible means to permit routine licensing of small antenna services.[96] Thus, we decline at this time to adopt a single power density standard to govern all types of antennas and transmissions. We may, of course, revisit this proposal at a later date after more experience is gained with reduced orbital spacings, particularly in the context of the further proceedings described below.

101. The changes we are making to our original proposals for Section 25.209 are intended to reduce the costs of compliance to the minimum needed to facilitate 2° orbital spacings. In the case of receive-only stations, we are affording operators the flexibility to delay or defer the costs of upgrading or replacing antennas if they find acceptable the signal quality received under actual conditions of reduced satellite separations. What costs remain appear warranted by the benefits afforded by the resulting capability for additional in-orbit satellites. As discussed above, improved antenna performance is critical to reduced orbital separations. Thus, any waivers of these standards must not inhibit either the achievement of our 2° orbital spacing criteria in the 4/6 GHz and 12/14 GHz bands or the successful conclusion of international frequency coordination procedures. For newly installed transmit antennas after July 1, 1984, any request for waiver of Section 25.209 must contain detailed engineering analyses which demonstrate that no unacceptable levels of interference would result under conditions of uniform 2° orbital separations.[97] Requests may also be made for extensions of time beyond January 1, 1978 to bring existing transmit antennas into compliance with the new standards. Any such waiver granting an extension of time will not extend beyond the date that actual operations are expected to begin with 2° orbital separations. Such requests for extensions of time must also contain a detailed engineering analyses, but may be made for the particular orbital spacing (e.g. 3° or 2.5°) at which operations are to be conducted during the period of the temporary waiver. All waivers will be conditioned on no unacceptable levels of interference being caused by transmissions from that station. Moreover, any waiver of Section 25.209 may not delay the implementation of additional 2° orbital separations that may become necessary in the future to accommodate more satellites in orbit beyond those authorized today.

VIII. Future Proceedings

102. We are taking final action today to authorize the construction of 19 new domestic satellites. We have also assigned 22 orbital locations at 4/6 GHz and 21 at 12/14 GHz. These actions have been made possible by the reduced orbital spacing criteria adopted in this proceeding. Although we are terminating this particular docket, additional efforts will be required to implement fully today's policy decisions and authorizations. Moreover, we are also adopting today a companion order which begins the process of licensing the next series of domestic satellites to be launched in the late 1980's. These future activities are outlined below.

A. *Application Processing*

103. In separate orders, we complete action on all of the pending space station applications covered by our *1982 Processing Order*. Where orbital locations are assigned to those satellites in today's *1983 Orbit Assignment Order*, the companies are authorized to construct, launch and operate the domestic satellite [98]. The other satellites authorized today are designated as ground spares. If a company wishes to make a spare operational, a new application will be required for launch authorization and assignment of orbital location in accordance with today's *1983 Processing Order*.[99] It has been our experience that design changes are often made to satellites during construction to optimize ultimate performance in orbit. Thus, such applications for modification of the space station authorizations granted today will be accepted and processed separately from the new group of applications we are establishing today, provided that the changes are consistent with today's *1983 Orbit Assignment Order* and do not change the allocated frequency bands in which the satellite has been authorized to operate.[100]

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[95] We expect that a number of 14 GHz transmit antennas will be installed before July 1, 1984 which may not be in compliance with the new antenna performance standard. Although they will not have to be brought into compliance until 1987, neither can we allow them to inhibit the implementation of today's *1983 Orbital Assignment Order* which envisions 2° orbital separations in the 12/14 GHz bands well before 1987.

[96] We have in fact employed specific off-axis power densities to provide some measure of user flexibility in approving certain types of transportable or small antenna earth station services. *See, e.g., Western Tele-Communications, supra* note 32; *American Satellite Company*, Mimeo 001120, released May 28, 1981.

[97] The analytical methodology to be used in making the necessary detailed engineering analyses should be comparable to that employed in Appendix B or C to this *Report and Order*, or *American Broadcasting Companies, supra* note 12.

[98] In our *1980 Orbit Assignment Order, supra* note 12 at 809–813, we decided to combine a multistage space station licensing procedure into a single processing step. *Cf. Western Union Telegraph Company*, 36 FCC 2d 1197, 1198 (1973). That simplification of our administrative process has proven effective and efficient, and is continued in the course of today's authorization.

[99] An application for the launch of a ground spare as an immediate replacement for a launch failure or a catastrophic in-orbit failure would not be considered as part of the new processing group, but will be processed separately as an emergency replacement for the previous authorized satellite. However, a different orbital location may be assigned, and, if approved, the launch of an emergency replacement statellite will not extend the term of the space station authorization beyond the orginal license term of the satellite being replaced.

[100] Public Notice of applications may be given to allow comment on potential interference impact or the effect of other proposed changes from the original application. Such notice does not imply that the applications are to be considered part of the new 1983 processing group. However, it is incumbent upon the applicant to demonstrate that the proposed modification is consistent with the *1983 Orbit Assignment Order* and our other decisions today. If such a showing is not made, the application will be dismissed, and construction and operation will have to proceed in accordance with the parameters and the terms and conditions of the radio station authorization.

Applications may also be filed to offer transponders on a noncommon carrier basis in accordance with our *Transponder Sales Order, supra* note 12. Applications pursuant to Section 310 for assignment of license or transfer of control will be viewed *inter alia* in light of their impact on the achievement of our domestic satellite policies and objectives as described in today's decisions. We do not believe that permitting such changes, which would be expected in the normal course of satellite construction, will prejudice the rights of applicants in the next processing group. Thus, today's authorizations are final and the grantee may proceed with construction, launch and operation under the terms and conditions of the authorization. However, as discussed above, applications for extensions of time to begin or complete construction, or to launch and bring the satellite into operation, will generally not be entertained. The only exception we anticipate is a short delay in the availability of a scheduled launch due to circumstances completely beyond the control of the permittee.

104. Processing of applications for construction, launch and/or operation of additional domestic satellites will be conducted in accordance with today's *1983 Processing Order.*[101] We will examine each such application to insure compliance with the information requirements outlined above before initially designating the applications to be included in the next group and providing the opportunity for comment on them. We also expect that parties will comment on the most effective and efficient procedures to promptly act on that group of applications. We recognize that our processing flexibility may be more circumscribed than in the past. However, until the group is finally assembled, we will not be able to assess the challenges facing us and the space station applicants and licensees in accommodating future requirements. Moreover, we will not know until late 1983 whether some of today's grantees will in fact succeed in obtaining the financing needed to implement their proposals. At that time, we will try to devise regulatory procedures and/or further reductions in orbital spacings to allow continued market entry and system expansion with a minimum of administrative burdens and delays so that processing will proceed promptly.

B. *Advisory Committee*

105. Various techniques have been identified by parties to help resolve any potential interference conflicts occasioned by reduced orbital spacings between the statellites we are authorizing today. We have already decided to require a 3 dB improvement in the sidelobe performace of all domestic satellite earth station antennas, and 10 dB cross-polarization isolation in the 4/6 GHz bands. Additional steps that might also be considered to facilitate operation of satellites with reduced orbital separations include the following:

- Acceptance of interference in excess of the levels indicated CCIR Recommendations 466–3. 483–1 and 523–1;
- More accurate measurement and control of earth station and satellite powers and antenna gains;
- More accurate measurement and control of earth station and satellite polarization vector alignment and cross-polarization isolation;
- Methods of inter-satellite traffic coordination, including consideration of the possible segregation of transmission types within the total available bandwidth to avoid worst case interference cases[102];
- Digitization of TV transmissions requiring very high reception quality, perhaps with error correction coding;
- Companding of high density FM–FDM multi-channel telephony carrriers;
- More precise satellite station-keeping;
- Reduction in carrier capacities by requiring rms modulation indices above 0.8 where companding is undersirable; and/or
- Reduction of the average talker level from −15 dBm to −20 or −21 dBm.

However, further evaluation of these items is desirable before any final decisions are made concerning the implementation of any or all of these techniques.[103] The experience, to be gained by the licensees, carriers, users and equipment vendors with today's decisions will also be valuable in this regard. Moreover, new or improved analytical techniques and assumptions will be useful in the course of introducing new domestic satellite facilities and services in the future.

106. Evaluation of all of these factors is likely to require more extensive technical analyses and more intensive exchanges of information among the interested parties than is practical in a formal rulemaking proceeding. Thus, a number of parties urge the formation of a joint industry/government advisory committee to assist in the implementation of the results of this docket. We note that such committees have been successful and productive in the past. They can provide a meaningful forum for the exchange of detailed technical information not amenable to written submissions. Moreover, any consensus that can be reached by the parties concerning detailed resolution of any technical or operating difficulties which result from reduced spacings can simplify, and perhaps even eliminate the need for, any further rulemaking proceedings to fully implement today's decisions.

107. However, we are reluctant to establish such a committee at the present moment. To maximize the effectiveness of such an undertaking, a well defined work plan must be part of the Charter of the Advisory Committee.[104] Such a work plan should be defined in the context of specific implementation issues flowing from our decisions today. We also believe that interested parties should be considered by such a committee. Finally, we note that it will be several years until the more difficult techniques necessary to achieve 2° spacings will become necessary. Thus, sufficient time is available to carefully plan the work that could be usefully accomplished by any Advisory Committee.

108. Accordingly, we task the Chief, Common Carrier Bureau with the responsibility of soliciting suggestions from interested parties by appropriate informal means, and of preparing a recommendation on the need and desirability of such a committee for consideration by the Commission. We encourage interested parties, including space station and earth station

[101] *Memorandum Opinion and Order, supra* note 5. *See also* note 6 and the discussion at paragraphs 75–76, *supra.*

[102] From its analysis of the most severe interference cases identified in Appendix A to the *Notice*, Comsat observes a need to avoid cochannel assignments between high density, *e.g.* FM–TV or high capacity FM–FDM, and low capacity, *e.g.* SCPC, transmissions. For example, Comsat also suggests that a few transponders be reserved for very non-homogeneous services (particularly those involving transmissions from small earth station antennas) on every other satellite in a 2° spacing environment. This would allow an effective 4° spacing for such services. Apparently co-frequency transponders on intervening transponders would be unused except for emergency restoral purposes. Similarly a requirement to use high sensitivity transponders for wideband data services from small antennas would place the interference burden on such operators. However, any rigid segregation of transmission types could result in arbitrary traffic restrictions preventing satisfaction of user requirements generated in competitive market that a more flexible approach could avoid.

[103] We do not preclude other techniques to reduce interference or resolve potential interference conflicts that might be identified in future proceedings.

[104] *Federal Advisory Committee Act*, 5 U.S.C. Appendix (1976).

licensees, to make their views known on this matter, a well as suggestions on the possible work plan of any Advisory Committee. We emphasize, however, that any such committee will be limited to those technical and operational matters needed to implement today's orbital spacing decisions. Furthermore, it will be expected to present its report to the Commission within a specific time period. Parties will be precluded in such a forum from discussing matters that are subject to *ex parte* rules, and matters directly involved with international frequency coordination activities or preparations for international conferences, such as the 1985 Space WARC.

C. *Technological Advances*

109. Our *Notice* inquired into several alternatives to reduced orbital spacings to satisfy growing user demand for domestic satellite services. These included the use of higher capacity satellite designs, higher frequency bands and more efficient transmission techniques. Little concrete information was submitted beyond a description of plans for more efficient transmission techniques to increase transponder capacity. However, it does not appear that such transmission improvements will be sufficient by themselves to accommodate growing user demand. The other design techniques that lead to greater satellite capacity do not appear to be economically practical for sufficiently widespread use during the new few years. Thus, none of these approaches appear to constitute viable alternatives to reduced orbital spacings.[106]

110. We recognize that some of the satellites authorized today incorporate significant technological improvements over many of those approved just two years ago. However, consideration also has to be given to the more impressive advances in satellite design capacity that might be used in future applications. As orbital congestion increases, and as these technological advances develop, their economical and operational feasibility will become better established. Such advances could therefore become a major factor in our future domestic satellite licensing policies and procedures to insure that sufficient capacity is available to users.

111. *High Capacity Satellite Designs.* A number of approaches which would lead to higher capacity satellites have been identified. The most common approach mentioned by the parties is greater frequency re-use.[107] We are requiring full frequency re-use of the allocated 500 MHz at 4/6 GHz and at 12/14 GHz in all new domestic satellite designs. This standard will insure that the usable communications bandwidth on domestic satellites approaches 1000 MHz. Additional frequency re-use technology is available through multiple spot-beam coverage systems, such as INTELSAT V.[108] However, the weight and size requirements of such designs exceed the capabilities of current Delta class launch vehicles. Specialized satellite configurations, such as the inclusion of more but narrower transponders for television distribution on a satellite,[109] the use of higher power transponders to increase satellite design capacity, and the implementation of two television signals per transponder have also been identified as future approaches to increase satellite capacity.[110] The variety of these techniques to further increase the capacity of the orbit indicates the desirability of affording satellite operators the continued flexibility to make the complex tradeoffs between technical, economic, operational and marketing factors that enter into their investment decisions.

112. *Higher Frequency Bands.*[111] An allocation of 2500 MHz in each direction currently exists at 18/30 GHz.[112] This is 5 times the allocated 500 MHz bandwidth of either the 4/6 GHz or the 12/14 GHz bands. Thus, the capacity of 18/30 GHz domestic satellites can be much higher than the capacity of satellites operating in the lower frequency bands. The wide bandwidth of this allocation, together with the ease with which spot beams can be formed at these higher frequencies with smaller spacecraft antenna, also makes the 18/30 GHz bands better suited than the lower bands for very high capacity multiple spot beam coverage satellites. Although no U.S. domestic satellites are presently proposed in these bands, research and developmental work, in part funded by NASA, is underway.[113]

113. Experience with other radio services gives us confidence that the satellite hardware will become available and transmission and other technical problems will be resolved at these higher frequencies. These include

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[106] Several parties propose to interleave satellites at 2° separations between the satellites currently spaced at 4° intervals by reversing the direction of transmission of the 4/6 GHz bands. Under such a bidirectional use of allocated frequency bands, one set of satellites spaced 4° apart would continue to use 4 GHz for downlinks and 6 GHz for uplinks. A second set of satellites would then be interleaved mid-way between these satellites using these bands for transmission in the opposite directions, i.e. 6 GHz for downlinks and 4 GHz for uplinks. Technical studies performed in the CCIR, *e.g.*, Report 557, confirm that the orbital separation required between two satellites using reversed frequencies can be very small. Thus, introduction of reverse frequency operations could result in much more intensive utilization of the orbit. However, frequency coordination between earth stations will become necessary for the first time when earth stations transmit and others receive on the same frequency. Such frequency coordination is not currently required between earth stations because earth stations transmit only in the 6 GHz band and receive only in the 4 GHz band. In addition to these new interference problems within the satellite service, bidirectional use also introduces serious new sharing difficulties between the space and the terrestrial services. Such bidirectional frequency use also appears to require changes to the international table of frequency allocations. Allocations to space radio communications services usually specify the direction of transmission as either "earth-to-space", i.e. uplink, or "space-to-earth", i.e. downlink. Thus, consideration of this proposal is premature here, and would be better advanced in another proceeding such as our preparations for the 1985 Space WARC in Gen. Docket No. 80-741. *See also*, note 49 *supra*.

[107] *See also Notice* at 335-336; *1980 Orbit Assignment Order*, *supra* note 23, at 593-596. Hybrid (*i.e.* milti-band satellites) which provide increased capacity using several allocated frequency bands are addressed in paragraphs 77-79, above.

[108] We note a recently filed proposal from Ford Aerospace which incorporates a limited amount of additional frequency re-use by means of the spatial separation between east and west coast spot beams at 12/14 GHz. However, that satellite requires a much larger launch vehicle than a Delta-class one.

[109] For example, AT&T suggests that a 27 MHz transponder bandwidth would be optimum for television transmission and would allow 32 television channels per satellite. While such a design may be desirable at 12/14 GHz, the standard polarization and frequency plans needed to achieve 2° spacings at 4/6 GHz may make dual video carriers in a 36 MHz transponder preferable.

[110] New marketing concepts may be needed as the complexity in a satellite communications network is "inverted" from current complex earth stations into future complex satellites. For example, the concept of selling or leasing a discrete transponder may not have any concrete meaning in very complex satellite designs where significant amounts of signal processing and/or switching is performed on board the satellite rather than at the earth stations or other ground locations.

[111] Several parties suggest that the 3400-3700 MHz, 5850-5925 MHz and 6425-7075 MHz bands be made available to the domestic fixed-Satellite Service for capacity expansion. The allocation status of these bands is specified in the Final Acts of the 1979 WARC. Implementation of the results of that conference is currently being addressed in another proceeding. *See Notice of Proposed Rulemaking* in Gen Docket No. 80-739, *supra* note 80. However, because of the current utilization of these bands, the Commission is not proposing that they be made available for use by domestic satellites.

[112] The specific frequency bands are 17.7-20.2 GHz (downlink) and 27.5-30 GHz (uplink).

[113] Experimental communications satellites have been operated in these bands by Japan. Also, the COMSTAR domestic satellites operated beacon transmitters in these bands for propagation studies However, a number of parties (e.g. SBS) believe this data to be relatively sparse. We also take note of NASA's plans for an experimental 18/30 GHz satellite. *See, e.g.*, Telecommunications Reports, Vol. 49, No. 12, March 28, 1983 at 40-41. However, even under the most optimistic scheduling, it would not be launched before 1987. SBS notes that research in the use of these higher frequencies has been sharply curtailed due to NASA budget cuts.

the high link margins required to overcome propagation difficulties, the more critical accuracy of antenna pointing needed as beamwidths even for very small earth station antennas are reduced, the increasing numbers of switch interconnections and higher power requirements as more beams are added, and the greater reliability problems associated with the increasing number and complexity of the electronic components. Nevertheless, we are confident that the technical and economic risks will be resolved, and that the necessary resources will be invested in planning 18/30 GHz commercial satellite communications systems to satisfy future communications requirements.

114. *Efficient Transmission Techniques.* Various parties described several techniques to increase transponder capacity. For example, although it is common to utilize a full 36 MHz transponder for a television signal, a lesser bandwidth would still provide adequate quality. Thus, parties point to the possibility of reducing the bandwidth of FM–TV transmissions down to 18 MHz from 27 MHz. In some cases, as in RCA Americom's "Optimized Video Transmission" service, the remaining bandwidth of a 36 MHz transponder can be used for other services of a narrowband nature. Other techniques, such as "STRAP", can be used to derive two TV channels from one transmission path.[113] Predictive coding techniques for voice and television can also be used to increase transponder capacity. RCA Americom and AT&T point to their planned use of compandored single sideband transmissions to increase transponder capacity up to 7800 one-way voice channels.[114] In addition, AT&T points to 8 phase PSK modulation to increase the bit rate of digital transmissions to 90 Mbps. This transmission would support 7600 one-way voice channels if 5 to 1 voice compression techniques were also employed. Spread spectrum is also mentioned as an efficient means of providing service with very small earth terminals. Moreover, these transmission efficiencies may be further enhanced with on-board signal processing on future satellites.

115. These developments demonstrate that improvements in transmission efficiency will continue to be a basic characteristic of domestic satellite technology. However, such advances appear to be best suited to accommodate traffic growth within a network of earth stations after it is established by a carrier or user. Increases in transponder transmission capacity will, of course, delay to some extent the need to place additional transponders in orbit. However, more efficient transmission techniques have not yet proven sufficient by themselves to satisfy the rapid overall growth in demand for domestic satellite services, particularly as additional users and carriers place new networks into operation.

IX. Conclusion

116. In this decision, we have adopted reduced orbital spacing criteria for the 4/6 GHz and the 12/14 GHz bands. These criteria allow us to authorize without further delay each of the domestic satellites proposed in the current group of applications. This next group of satellites will provide an increasing amount of in-orbit transmission capacity into the late 1980's to satisfy growing user demands. We also want a simple regulatory framework to govern these authorizations. Thus, the revisions being adopted to Part 25 of our Rules are the minimum needed at this time to achieve these results. We are also directing the Chief, Common Carrier Bureau to solicit informal comments from interested parties on the need for an Industry/Government Advisory Committee, as well as suggestions on potential terms of reference for such a committee, to recommend more detailed technical and operational means to better implement today's decisions.

117. The far greater challenge, however, will be to retain the flexibility and creativity required to process the next group of space station applications effectively and efficiently. Additional satellites can and will be licensed in the future as user requirements grow. We remain committed to minimize administrative delays in the timely availability of newly proposed satellite facilities. The particular elements of the Commission's future policies and procedures will necessarily reflect the opportunites presented by the technological advances and evolving market conditions we accept as inevitable in the coming years. We can not at this moment, however, presage the exact contours of these changes. However, the initial experience we gain with the policies and procedures adopted today will guide any further adjustments that will be needed to succeed in the challenges still before us.

118. As stated above, and in our initial analysis pursuant to the Regulatory Flexibility Act,[115] reduced orbital spacings are needed to provide the additional orbital locations required to accommodate the expansion of existing systems as well as the entry of new systems into the domestic satellite communications market. Through adoption of reduced spacings, the public will benefit from a more competitive domestic satellite communications industry with the resulting provision of innovative and economical communications services. A reduction in the spacing between satellites greatly increases the number of satellites that can be accommodated in the geostationary orbit. This appears to be the only practicable method that both satisfies the growing demand for satellite communications services and continues the Commission's policy of open entry in this area. Proposed alternatives to increase in-orbit satellite capacity, such as higher frequency bands and higher capacity satellite designs, appear to be technically infeasible and/or more costly, and thus less desirable at this time. Not to adopt reduced spacings, thereby not increasing the number of available satellites, would result in delay or unavailability of service to the public.

119. No comments were received from the public in response to our initial analysis pursuant to the Regulatory Flexibility Act. Because only three satellites currently are in operation in the 12/14 GHz band, we believe immediate implementation of 2° spacings can be accomplished at little cost to users. However, in the 4/6 GHz band the costs and difficulties of immediately implementing 2° spacings lead us to adopt a more cautious approach. Adopting a combination of 3°, 2.5° and 2° spacing in the 4/6 GHz band will allow for amortization of existing earth station equipment and will thus lessen the impact of reduced spacing on earth station licensees, particularly smaller companies. Additionally, any costs associated with improving existing facilities, as required by our decision, will be offset by increased business opportunities in a more competitive market.

120. Accordingly, pursuant to Sections 4(i) and 303(r) of the Communications Act of 1934, 47 U.S.C. 154(i) and 303(r), it is ordered that Part 25 of Chapter I of Title 47 of the Code of Federal Regulations is amended as set forth in Appendix D effective thirty days after publication in the **Federal Register.**

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[113] Even more exotic transmission techniques are under study to increase video transmission efficiency *See, e.g.*, AT&T Comments at 28–29.

[114] Present transponder capacity for a single FM–FDM r.f. carrier is typically 1200–1800 one-way voice channels, which can be increased to 2892 channels with compandoring.

[115] *Notice, supra* note 1 at Appendix D.

121. It is Further Ordered that the policies and procedures set forth in this *Report and Order* are adopted effective thirty days after publication in the **Federal Register.**

122. It is further ordered that the proceedings in CC Docket No. 81-704 are terminated.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendices—4

(Appendixes A, B and C may be viewed in the official docket file at the Commission's offices in Washington, D.C.)

Separate Statement of Commissioner Joseph R. Fogarty; Dissenting in Part

In Re: Licensing of Space Stations in the Domestic Fixed-Satellite Service, CC Docket No. 81-704, Report and Order

Having dissented from the Commission's decision to permit noncommon carrier satellite transponder sales,* I dissent from the application of that decision here.

Statement of Commissioner Henry M. Rivera; Dissenting in Part

Re: Licensing of Space Stations in the Domestic Fixed-Satellite Service (CC Docket No. 81-704)

I dissent to this *Report and Order* only to the extent it facilitates the grant of Amsat's construction permit applications. *See Applications of American Satellite Co. for Authority to Construct and Launch Space Stations in the Domestic Fixed Satellite Service,* adopted April 27, 1983 (Rivera, Comm'r, dissenting).

Appendix D

PART 25—[AMENDED]

Part 25 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

§ 25.201 [Amended]

1. In § 25.201, the following definitions are removed:

Communication-satellite earth station
Communication-satellite service
Communication-satellite space station
Space service
Stationary satellite
Terrestrial service

2. In § 25.201, the following definitions are revised to read as follows:

Earth Station. A station located either on the Earth's surface or within the major portion of the Earth's atmosphere intended for communication:

(a) With one or more space stations; or

(b) With one or more stations of the same kind by means of one or more reflecting satellites or other objects in space.

Space Station. A station located on an object which is beyond, is intended to go beyond, or has been beyond, the major portion of the Earth's atmosphere.

Terrestrial Station. A station effecting terrestrial radiocommunication.

3. In § 25.201, new definitions are added in alphabetical order as follows:

Fixed-Satellite Service. A radiocommunication service between Earth stations at specified fixed points when one or more satellites are used; in some cases this service includes satellite-to-satellite links, which may also be effected in the inter-satellite service; the fixed-satellite service may also include feeder links for other space radiocommunication services.

Geostationary Satellite. A geosynchronous satellite whose circular and direct orbit lies in the plane of the Earth's equator and which thus remains fixed relative to the Earth; by extension, a satellite which remains approximately fixed relative to the Earth.

Inter-Satellite Service. A radiocommunication service providing links between artificial earth satellites.

Satellite System. A space system using one or more artificial earth satellites.

Spacecraft. A man-made vehicle which is intended to go beyond the major portion of the Earth's atmosphere.

Space Operation Service. A radiocommunication service concerned exclusively with the operation of spacecraft, in particular space tracking, space telemetry and space telecommand. These functions will normally be provided within the service in which the space station is operating.

Space Radiocommunication. Any radiocommunication involving the use of one or more space stations or the use of one or more reflecting satellites or other objects in space.

Space System. Any group of cooperating earth stations and/or space stations employing space radiocommunication for specific purposes.

Terrestrial Radiocommunication. Any radiocommunication other than space radiocommunication or radio astronomy.

4. In § 25.202, paragraphs (a) through (d) are revised to read as follows:

§ 25.202 Frequencies, frequency tolerance and emission limitations.

(a) *Frequency bands.* The following frequencies are available for use by the fixed-satellite service. Precise frequencies and bandwidths of emission will be assigned on a case-by-case basis.

Space-to-Earth	Earth-to-space
3700–4200 MHz[1], 10.95–11.2 GHz[2], 11.45–11.7 GHz[2], 11.7–12.2 GHz 17.7–19.7 GHz[3] 19.7–20.0 GHz	5925–6425 MHz.[1], 14.0–14.5 GHz.[3], 27.5–29.5 GHz.[1], 29.5–30.0 GHz.

[1] This band is shared coequally with terrestrial radiocommunication services.

[2] Use of this band by the fixed-satellite service is limited to international systems, i.e. other than domestic systems. These bands are also shared on a co-equal basis with terrestrial radiocommunication services.

[3] The band 14.0–14.3 GHz is shared coequally with the radionavigation service, and the band 14.4–14.5 GHz is shared with Government terrestrial radiocommunication services in accordance with the provisions of footnote US234 in the Table of Frequency Allocations.

(b) Other frequencies and associated bandwidths of emission may be assigned on a case-by-case basis to space systems under this part in conformance with § 2.106 of this chapter and the Commission's rules and policies.

(c) Applicants, permittees and licensees of radio stations governed by this part shall provide the Commission with all information it requires for the Advance Publication, coordination and notification of frequency assignments pursuant to the international Radio Regulations and Article XIV of the INTELSAT Agreement. This information includes, but is not limited to, that specified in Appendixes 3 and 4 of the Radio Regulations (Geneva 1979). No protection from interference caused by radio stations authorized by other Administrations is guaranteed unless coordination procedures are timely completed or, with respect to individual administrations, by successfully completing coordination agreements. Any radio station authorization for which coordination has not been completed may be subject to additional terms and conditions as required to effect coordination of the frequency assignments with other Administrations.

(d) Orbital locations assigned to space stations licensed under this Part by the Commission are subject to change by summary order of the Commission on 30 days notice. An authorization to construct and/or to launch a space station becomes null and void if the construction is not begun or is not completed, or if the space station is not launched and positioned at its assigned orbital location, by the respective date(s) specified in the authorization.

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* *Domestic Fixed-Satellite Transponder Sales,* Dissenting Statement of Commissioner Joseph R. Fogarty, 90 FCC 2d 1266–1279 (1982).

Frequencies and orbital location assignments to domestic fixed-satellites are subject to the policies and procedures set forth in the *Report and Order*, FCC 83-184, adopted April 27, 1983 in CC Docket No. 81-704, and the licensees of such space stations shall comply with the requirements set forth in that decision. Radio station applications for new domestic fixed-satellites shall comply with the requirements established pursuant to the *Report and Order* in CC Docket No. 81-704. Applications will be unacceptable for filing and will be returned to the applicant if (1) the application is defective with respect to completeness of information, execution, or other matters of a formal character; or (2) the application does not substantially comply with the Commission's rules, regulations, specific requests for information, or other requirements, such as those specified in the *Report and Order* in CC Docket No. 81-704.

* * * * *

5. Section 25.204 is revised to read as follows:

§ 25.204 Power limits.

(a) In bands shared coequally with terrestrial radio communication services, the equivalent isotropically radiated power transmitted in any direction towards the horizon by an earth station operating in frequency bands between 1 and 15 GHz, shall not exceed the following limits except as provided for in paragraph (c) of this section:

$+40$ dBW in any 4 KHz band for $\theta < 0°$
$+40+3\,\theta$ dBW in any 4 KHz band for $\theta < 0° < 05°$

where θ is the angle of elevation of the horizon viewed from the center of radiation of the antenna of the earth station and measured in degrees as positive above the horizontal plane and negative below it.

(b) In bands shared coequally with terrestrial radio-communication services, the equivalent isotropically radiated power transmitted in any direction towards the horizon by an earth station operating in frequency bands above 15 GHz shall not exceed the following limits except as provided for in paragraph (c) below:

$+64$ dBW in any 1 MHz band for $\theta < 0°$
$+64+3\,\theta$ dBW in any 1 MHz band for $0° < \theta < 5°$

where θ is as defined in paragraph (a) of this section.

(c) For angles of elevation of the horizon greater than 5° there shall be no restriction as to the equivalent isotropically radiated power transmitted by an earth station towards the horizon.

6. Sections 25.205 and 25.206 are revised to read as follows:

§ 25.205 Minimum angle of antenna elevation.

Earth station antennas shall not normally be authorized for transmission at angles less than 5° measured from the horizontal plane to the direction of maximum radiation. However, upon a showing that the transmission path will be seaward and away from land masses or upon special showing of need for lower angles by the applicant, the Commission will consider authorizing transmissions at angles between 3° and 5° in the pertinent directions. In certain instances, it may be necessary to specify minimum angles greater than 5° because of interference considerations.

§ 25.206 Station identification.

The requirement for transmission of station identification is waived for all radio stations licensed under this part.

7. Sections 25.208 and 25.209 are revised to read as follows:

§ 25.208 Power flux density limits.

(a) In the band 3700-4200 MHz, the power flux density at the Earth's surface produced by emissions from a space station for all conditions and for all methods of modulation shall not exceed the following values:

- -152 dB(W/m²) in any 4 kHz band for angles of arrival between 0 and 5 degrees above the horizontal plane;
- $-152+(\delta-5)/2$ dB(W/m²) in any 4 kHz band for angles of arrival δ (in degrees) between 5 and 25 degrees above the horizontal plane; and
- -142 dB(W/m²) in any 4 kHz band for angles of arrival between 25 and 90 degrees above the horizontal plane

These limits relate to the power flux density which would be obtained under assumed free-space propagation conditions.

(b) In the bands 10.95-11.2 and 11.45-11.7 GHz, the power flux density at the Earth's surface produced by emissions from a space station for all conditions and for all methods of modulation shall not exceed the following values:

- -150 dB(W/m²) in any 4 kHz band for angles of arrival between 0 and 5 degrees above the horizontal plane;
- $-150+(\delta-5)/2$ dB(W/m²) in any 4 kHz band for angles of arrival δ (in degrees) between 5 and 25 degrees above the horizontal plane; and
- -140 dB(W/m²) in any 4 kHz band for angles of arrival between 25 and 90 degrees above the horizontal plane

These limits relate to the power flux density which would be obtained under assumed free-space propagation conditions.

(c) In the band 17.7-19.7 GHz, the power flux density at the Earth's surface produce by emissions from a space station for all conditions and for all methods of modulation shall not exceed the following values:

- -115 dB(W/m²) in any 1 MHz band for angles of arrival between 0 and 5 degrees above the horizontal plane;
- $-115+(\delta\times5)/2$ dB(W/m²) in any 1 MHz band for angles of arrival δ (in degrees) between 5 and 25 degrees above the horizontal plane; and
- -105 dB(W/m²) in any 1 MHz for angles of arrival between 25 and 90 degrees above the horizontal plane.

These limits relate to the power flux density which would be obtained under assumed free-space propagation conditions.

§ 25.209 Antenna performance standards.

(a) The gain of any antenna to be employed in transmission from an earth station in the fixed-satellite service shall lie below the envelope defined below:

(i) In the plane of the geostationary satellite orbit as it appears at the particular earth station location:

$29-25\log_{10}\Theta$ dBi	$1°\le\Theta\le7°$
$+8$ dBi	$7°<\Theta\le9.2°$
$32-25\log_{10}\Theta$ dBi	$9.2°<\Theta\le48°$
-10 dBi	$48°<\Theta\le180°$

where Θ is the angle in degrees from the axis of the main lobe, and dBi refers to dB relative to an isotropic radiator. For the purposes of this section, the peak gain of an individual sidelobe may not exceed the evelope defined above for Θ between 1° and 7°. For Θ greater than 7°, the envelope may be exceeded by 10% of the sidelobes, but no individual sidelobe may exceed the envelope by more than 3 dB.

(ii) In all other directions:

Outside the main beam, the gain of the antenna shall lie below the envelope defined by:

$32-25\log_{10}\Theta$ dBi	$1°\le\Theta\le48°$
-10 dBi	$48°<\Theta\le180°$

where Θ is the angle in degrees from the axis of the main lobe, and dBi refers to dB relative to an isotropic radiator. For the purposes of this section, the peak gain of an individual sidelobe may be reduced by averaging its peak level with the peaks of the nearest sidelobes on either side, or with the peaks of two nearest sidelobes on either side, provided that the level of no individual sidelobe exceeds the gain envelope given above by more than 6 dB.

(b) The off-axis cross-polarization isolation of any antenna to be employed in transmission at frequencies between

5925 and 6425 MHz from an earth station to a space station in the domestic fixed-satellite service shall be defined by:

$19 - 25 \log_{10} \Theta$ dBi	$1.5° < \Theta \leq 7°$
-2 dBi	$7° < \Theta \leq 9.2°$

(c) Any antenna licensed for reception of radio transmission from a space station in the fixed-satellite service shall be protected from radio interference caused by other space stations only to the degree to which harmful interference would not be expected to be caused to an earth station employing an antenna conforming to the standards defined in paragraphs (a) and (b) of this section.

(d) The standards specified in paragraphs (a) and (b) of this section shall apply to all new antennas installed after July 1, 1984 and to all antennas after January 1, 1987.

(e) The operations of any earth station with an antenna not conforming to the standards of paragraphs (a) and (b) of this section shall impose no limitations upon the operation, location, and design of any terrestrial station, any other earth station, or any space station.

8. Section 25.251(d)(4) is revised to read as follows:

§ 25.251 Special requirements for coordination.

* * * * *

(d)(4) that for coordination, the earth station antenna sidelobe gain level is defined by the following formula:

$32 - 25 \log_{10} \Theta$ dBi	$1° \leq \Theta \leq 48°$
-10 dBi	$48° < \Theta \leq 180°$

where Θ is the off-axis angle to the direction of the terrestrial station in question. If the actual antenna gain performance is better than that defined by this formula, the actual gain may be used to effect coordination.

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BILLING CODE 6712-01-M

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47 CFR Part 25

[FCC 83-185]

Processing Procedures for Space Station Applications in the Domestic Fixed-Satellite Service

AGENCY: Federal Communications Commission.

ACTION: Notice of domestic satellite application processing procedures.

SUMMARY: This *Memorandum Opinion and Order* formally establishes the procedures that will be followed by the Commission in processing additional applications in the domestic Fixed-Satellite Service. In its *Report and Order* in CC Docket No. 81-704, the Commission adopted reduced orbital spacing criteria between domestic satellites in the 4/6 GHz and 12/14 GHz bands so that more satellites could be accommodated in the future. The requirements for applications for such facilities to be acceptable for filing are specified in this order.

DATE: Applications must be filed with the Secretary of the Federal Communications Commission no later than November 7, 1983, in order to be considered in this group of applications.

ADDRESS: Submit applications to Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Robert Mazer or Cecily Holiday, Common Carrier Bureau, (202) 634-1624.

Memorandum Opinion and Order

In the matter of Filing of Applications for New Space Stations in the Domestic Fixed-Satellite Service.

Adopted: April 27, 1983.

Released: August 12, 1983.

By the Commission: Commissioner Jones absent.

1. The Commission presently has on file a number of applications requesting authority to construct and/or launch new space stations in the domestic Fixed-Satellite Service. These applications, listed in Appendix A, were filed subsequent to the adoption of our *1982 Processing Order*.[1] They propose construction of 22 new satellites and launch of 18 additional satellites. If all are granted, new entrants will be able to establish initial domestic satellite systems and existing licensees will be able to expand authorized systems to meet growth requirements. Excessive administrative delays are likely to interfere with the timely availability of the proposed satellite facilities as well as frustrate the business plans of current applicants. We therefore believe it important to begin processing these applications as soon as possible. Due to the unique characteristics of the satellite industry, it has been our practice to process space station applications in groups.[2] Today we are adopting a procedure that will allow us to define the next group. Thus, interested parties wishing to file satellite applications are on notice that any application for a new domestic satellite space station authorization must be submitted no later than 60 days from the publication of our *Report and Order* in CC Docket No. 81-704, FCC 83-184, in the **Federal Register** if it is to be considered with the applications presently on file.[3]

2. We are giving notice to interested parties because of the changes that have occurred in the domestic satellite industry.[4] After today's grants, it is not certain that we will be able to accommodate all qualified applicants in the 4/6 and 12/14 GHz frequency bands in the timeframe and the manner they desire. Because there could be excess demand for orbital locations in this next processing group, it will be necessary to preserve the substantive rights of the parties. Therefore, we are establishing a cut-off procedure similar to those used for other regulated services.[5] This procedure will preserve the hearing rights [6] of all existing and potential applicants if further proceedings are unable to find means of reasonably accommodating all the then pending concrete orbital location requests by qualified applicants. Until the next group of applications is defined for concurrent processing, it does not appear possible for us to determine what administrative and regulatory approach will maximize the likelihood of promptly authorizing the additional satellites to be built to satisfy growing user demand.[7] Thus, to be considered

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[1] Domestic Fixed-Satellite Service, 90 FCC 2d 1 (1982), *recon. denied, Memorandum Opinion and Order*, FCC 83-183, adopted today. In our *1982 Processing Order*, we stated that space station applications on file with the Commission by May 18, 1982 would be processed as a group. Action was taken on them in separate actions today. We are also dismissing as premature a petition for expedited treatment of its applications filed by Ford Aerospace Satellite Service Corporation. Notwithstanding any potential merits of its proposed satellite system vis-a-vis the group of applications granted today, we believe the public interest lies in considering the applications of Ford Aerospace in the light of contemporaneously filed proposals.

[2] *See Domestic Fixed Satellite Service*, 77 FCC 2d 956 (1980); *Domestic Communications Satellite Facilities*, 22 FCC 2d 86 (1970); *Report and Order* in CC Docket No. 81-704, FCC 83-184, adopted today.

[3] If for some reason this order is published after the publication of the *Report and Order*, the required date for filing will be 60 days after publication of this order.

[4] *See generally, Report and Order* in CC Docket No. 81-704, *supra* note 2.

[5] *See e.g., Ranger v. FCC*, 294 F.2d 240 (D.C. Cir. 1961).

[6] *See e.g., Ashbacker v. FCC*, 326 U.S. 327 (1945).

[7] If, after the group is defined, it appears that there are more qualified applicants than there are orbital locations available in the usable arc, we intend to examine methods for prompt and efficient disposition of those applications, including the opportunity for public comment on the methods to be employed. We plan, for example, to examine the feasibility of further orbital spacing reductions and/or the feasibility of strict criteria to determine licensing eligibility and/or exclusion of speculative proposals. If there are still an insufficient number of orbital positions available to accommodate all pending applications, we may also specify procedures to conduct expedited evidentiary and/or comparative hearings or structure some other administrative selection. It is possible, however, that sufficient orbital locations will exist if, for instance, those applicants that are granted authorizations today do not meet the construction and launch milestones specified in their authorizations, and speculative proposals are

for a new space station authorization in this next group, an applicant must have an application that is acceptable for filing actually on file with the Commission on the date specified above.

3. The basic information that must be submitted in a space station application was specified in our Docket No. 16495 proceeding. *Domestic Communications Satellite Facilities*, 22 FCC 2d 86, 92 (1970). *See also, Report and Order* in CC Docket No. 81–704. These requirements were elaborated on in our *1980 Processing Order, Domestic Fixed Satellite Service*, 77 FCC 2d 956, at 962–963 (1980), and our *Orbit Deployment Plan*, 84 FCC 2d 584 (1981). They are not meant to be all inclusive, but to insure a consistent level of basic information. Nor does the submission of this information in itself demonstrate the qualifications of the applicant or that the public interest would be served by grant of the application(s). Rather, these information requirements simply comprise the minimum amount of data necessary to enable the staff to begin to process space station applications. Because these information requirements have evolved over the years, they have been published in different decisions. For the convenience of potential and existing applicants, these requirements have been consolidated and are attached to this order as Appendix B.

4. We require each applicant to file a concrete, comprehensive proposal for its proposed system and services, describing in detail all pertinent technical and operational aspects of the proposed system. Applicants with applications already on file with the Commission should review the information requirement listed in Appendix B to ensure that their applications are acceptable for filing. [8] An applicant must demonstrate its financial, technical and legal qualifications, as well as an ability to proceed promptly with construction and launch of the proposed satellites. [9] If more than two orbital locations are requested, applicants shall demonstrate firm customer requirements.[10] We recognize the increasing difficulties that will arise in the course of achieving our objective to increase the supply of domestic satellite capacity as needed to satisfy growing user demand. We also recognize that a possibility exists that a mutually exclusive situation could arise if there are more fully qualified applicants with firm requirements than can be accommodated in orbit under the current state-of-the-art in satellite design. Thus, we are placing applicants on notice that all domestic satellite applications will be thoroughly scrutinized to insure that they strictly adhere to the informational requirements specified in Appendix B in a manner that demonstrates a real and independent business plan to provide domestic satellite service to the public. Failure to comport with these requirements, or to respond promptly to Commission requests for additional information, will result in dismissal of an applicant's application.

5. Therefore, applicants should note that if their applications are not acceptable for filing as of the cut-off date they will be returned. Furthermore, they will not be reinstated *nunc pro tunc;* thus they will not be entitled to any further consideration by the Commission. This includes any comparative evaluation that may become necessary. In this way, we intend to avoid, to the extent possible, speculative applications. To be acceptable for filing, applicants must meaningfully and concretely address each and every one of the information requirements listed in Appendix B. If, for some reason, an applicant is unable to respond to a specific requirement, the application should be accompanied by a request that sets forth the reasons that support a waiver of (or an exception to), in whole or in part, the particular requirement. If, upon prescreening, an application is found to be defective, it will be returned to the applicant. In order for it to receive comparative consideration with other, timely-filed, non-defective applications, amendments must be filed before the cut-off date. Additionally if a defect is overlooked at prescreening and discovered during normal processing, the application will be returned as unacceptable for filing. The burden is therefore on the applicant to insure that meaningful responses to the information requirements of Appendix B are contained in the application. To do otherwise could result in serious processing disruptions.

6. Accordingly, it is ordered that the policies and procedures specified herein are adopted pursuant to Sections 4(i) and 4(j) of the Communications Act of 1934, 47 U.S.C. 154 (i) and (j), and that the applications whose file numbers are listed in Appendix A to this order, as well as those domestic space station applications that may be filed by the time specified above, shall be considered as a group with respect to further processing by the Commission.

7. It is further ordered that the Motion for Expedited Consideration filed by Ford Aerospace Satellite Service Corporation is dismissed.

8. It is further ordered that the Secretary of the Federal Communications Commission shall cause this order to be published in the **Federal Register** at the earliest practical date.

Federal Communications Commission.

William J. Tricarico,

Secretary

Appendix A.—Pending Domestic Space Station Applications*

Cablesat General Corporation
- 2798–DSS–P/LA–82
- 2799–DSS–P/LA–82
- 2800–DSS–P–82

Ford Aerospace Satellite Service Corporation
- 528–DSS–P/LA–83
- 529–DSS–P/LA–83
- 530–DSS–P–83

GTE Satellite Corporation
- 2084–DSS–LA–82
- 2085–DSS–P–82

Hughes Galaxy, Inc.
- 1820–DSS–P/LA–83
- 1821–DSS–P/LA–83
- 1822–DSS–P/LA–83
- 1823–DSS–P/LA–83

National Exchange, Inc.
- 1824–DSS–P/LA–83
- 1825–DSS–P/LA–83
- 1826–DSS–P/LA–83
- 1827–DSS–P/LA–83
- 1828–DSS–P–83

* Received in Secretary's Office by April 26, 1983.

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eliminated from consideration at an early stage of processing the next group of applications. In such an event, we will employ our past open entry policies that have allowed the industry to develop free from unnecessary regulatory requirements.

[8] The fact that these applications have already been listed on public notices of applications filed is not to be construed as a finding that they are acceptable for filing or meet the requirements of Appendix B. The Commission will dismiss any of these applications as unacceptable for filing if, upon later review, it is determined that they do not meet the requirements of Appendix B or our *Report and Order, supra*.

[9] *See e.g. Domestic Fixed Satellite Service, supra* note 2 at 960. To be acceptable for filing, the applicant must submit a concrete business plan to achieve this result. If the applicant can not prove it has sufficient funds committed to finance the construction and launch of the proposed satellite and the initial year of operation, it should indicate what steps have been taken to obtain financing and when it anticipates the necessary funds will be available. We intend to assess our experience with today's conditioned grants to applicants who have not firmly demonstrated their qualifications to determine if our domestic satellite policy objectives have been furthered by such an administrative approach. Thus, applicants should note that a financial qualification issue may be included in any evidentiary hearing that may be needed.

[10] *See Orbit Deployment Plan, supra*, and *Report and Order* in CC Docket No. 81–704, *supra* note 2. Such information and forecasted requirements should be related as specifically as possible to the applicant's experience rather than to general industry forecasts.

Satellite Business Systems
1-DSS-P-83
Western Union Telegraph Company
1831-DSS-P/LA-82
1832-DSS-P/LA-82
2795-DSS-P/LA-82
2796-DSS-P/LA-82
2797-DSS-P/LA-82

Appendix B.—Information Required for Domestic Satellite Space Station Applications

I. General Requirements

A. The original and nine (9) copies of any application to be considered at the same time with the pending applications for domestic Fixed Satellite systems shall be submitted for filing at the Commission's Main Office in Washington, D.C.

Mr. William J. Tricarico, Secretary, Federal Communications Commission, 1919 M Street N.W., Washington, D.C. 20554.

Attention: Satellite Radio Branch, Brown Building—Room 307

B. the comprehensive proposal for the entire system may be submitted in narrative form with attached exhibits.

C. A separate and distinguishable application should be submitted for each proposed space or ground station. Information that is duplicated in the system proposal may be incorporated in these applications by reference.

D. The original of the system proposal and each of the individual applications must be signed in accordance with the requirements of Section 1.743 of the rules, 47 CFR § 1.743, and contain the formal waiver required by Section 304 of the Communications Act, 47 U.S.C. § 304.

II. System Proposal/Description

A. Name and post office address of the applicant.

B. Name, address and telephone number of the person(s), including counsel, to whom inquiries or correspondence should be directed.

C. General decription of overall system facilities, operations and services, including the arrangements for access to the system between the premises of the users and the earth stations.

D. General Technical Information.

Techincal standards for domestic fixed-satellites are set forth in the international Radio Regulations, Part 25 of the Commission's Rules and Regulations, and the *Report and Order* in CC Docket No. 81-704. Applicants are required to design and operate their satellites to the most current state-of-the-art in satellite design. New space station designs must be compatible with two degree orbital separations in the 4/6 GHz and/or 12/14 GHz bands, as appropriate. Additional constraints or adjustments to the technical parameters of the system may be required as a condition of any station authorization or to effect frequency coordination with other countries.

1. Radio frequency plan—including frequencies, bandwidth, polarizations, emission designators, power into antenna(s) and satellite antenna gain contours.

2. Calculations of power flux density levels within each coverage area and of the energy dispersal, if any, needed for compliance with Section 25.208 of the rules, 47 CFR § 25.208.

3. Number of satellites:
(a) In-orbit.
(b) On-the-ground spares.

4. Estimated number and geographic distribution of earth stations:
(a) Transmit and receive.
(b) Receive-only.
(c) Transmit-only.

5. Physical characteristics of the space station:

(a) Weight and dimensions of spacecraft, including drawings (when available), detailed mass (on ground and in orbit) and power (beginning and end of life) budgets.

(b) Estimated operational lifetime of the space station and the basis for that estimate.

E. A description of the types of services to be provided, the estimated demand for such services, and the areas and entities to be served, including a description of the transmission characteristics and performance objectives for each type of proposed service, details of the link noise budget, typical or baseline earth station parameters, modulation parameters and overall link performance analysis (including an analysis of the effects of each contribution noise source). An estimate of transponder capacity under each of the proposed operating conditions should also be supplied.

F. An applicant should provide interference analyses to demonstrate the compatibility of its proposed system 2° from any authorized space station. In order to allow such analyses to be completed by the Commission and other applicants in the course of future consideration of these applications, applicants should also provide details of their proposed r.f. carriers which they believe should be taken into account in such analyses. At a minimum, such details should include, for each type of r.f. carrier, the link noise budget, modulation parameters, and overall link performance analysis. (*See e.g.*, Appendices B and C to *Report and Order* in CC Docket No. 81-704).

9. Systems reliability, redundancy and link availability:
(a) In satellite.
(b) In earth stations.
(c) Solar noise outages.
(d) Eclipse conditions.
(e) Other.

10. Launch vehicle and arrangements for procuring launch services.

11. Arrangements for tracking, telemetry, and control, including proposed operating frequencies, polarization, bandwidth, power into the antenna(s), antenna beam(s), and earth stations.

G. Preferred range of locations of satellites and reasons therefor.

Applicant shall consider and submit details regarding the selection of the orbital longitude(s) for its proposed system. In such showing, applicant shall discuss and where appropriate , determine the probability of interference between its proposed satellite system and other satellite systems which are either established or proposed systems. The effect of the applicant's proposed system on the overall utilization and management of the available orbital space should be considered and discussed. Satellites shall be capable of reasonable shifts in orbital longitude since the Commission reserves the right to reassign orbital locations. *See Western Union Telegraph Company*, 47 FCC 2d 274 (1974).

1. For each proposed in-orbit satellite, a detailed explanation of all factors that would limit the orbital arc over which the satellite could adequately serve its expected users. Applicants should also include a detailed explanation of the impact on them and their customers if such orbital locations are not in fact assigned to them.

2. A detailed description of the capabilities, if any, of each proposed satellite to provide service to Alaska, Hawaii, and/or Puerto Rico/Virgin Islands. For each of the proposed satellites, identify which transponders and antenna beams (including the associated receiving system noise temperatures and transponder output powers) are connected or are switchable to provide service to each of these offshore areas, and describe any differences in services and/or earth station facilities in these offshore areas from the baseline services and facilities available in the contiguous states.

3. If more than two orbital locations are being requested, detailed information on the historical use of the system transponder-by-transponder and on a year-by-year basis, together with a

projection of the types and amount of services, including restoral or protection requirements, for each additional satellite on a year-by-year and transponder-by-transponder basis over the estimated lifetime of the satellite(s).

H. A detailed schedule specifying specific dates by which any significant milestones are planned to be achieved. At a minimum, the following milestones should be included in this schedule:

1. Negotiations completed and contracts executed:
   a. Spacecraft RFP issued.
   b. Spacecraft contractor selected.
   c. Spacecraft contract executed.
   d. Launch services contract executed.
   e. Financing completed (See Item J.2).
2. For each spacecraft:
   a. Spacecraft construction begun.
   b. Spacecraft construction completed.
   c. Spacecraft launched.
   d. Spacecraft in service.

I. A detailed schedule of the estimated investment costs and operating costs for the proposed system by year, including annual depreciation, maintenance and operating costs, and the basis on which such costs are calculated. Estimated annual revenue requirements should be provided in detail on a year-by-year basis over the estimated design lifetime of the satellites, including any pre-operational periods. Costs and revenue requirements should be broken down into at least the following components:

1. Pre-operating expenses.
2. Research and development.
3. Satellite construction.
4. Satellite launch services.
5. Satellite incentive assuming successful launch.
6. Insurance premiums (launch failure, business interruption, etc.)
7. Earth station investment (transmit/receive, receive-only, transportable, and tracking, telemetry, and control) (Estimated cost totals for each type of earth station may be calculated on the basis of the estimated average cost of a station of that type. The estimated average cost should be subdivided into components such as equipment, building, land power, etc. Specific construction cost estimates for each earth station should be submitted with the application for the particular facility.)
8. Earth station operations.
9. Other investment (please identify).
10. Other operating (please identify).

J. Detailed information on the financial qualifications of the applicant to construct and launch the proposed satellites including the following items:

1. The source and amounts of funds firmly committed to the satellite program on a year-by-year basis (e.g. current assets, scheduled debt financing or stock issues, established lines of credit, or other forms of internal financing).
2. The source and amounts of funds that are potentially available to the satellite program on a year-by-year basis (including the identity of the financers and the degree of commitment to provide financing).
3. The source and amounts of estimated revenues or income from the proposed satellite operations on a year-by-year basis.
4. Detailed financial statement of the applicant (and parent companies if relied on for financial qualification showings), including current balance sheet and current operating statement.

K. Legal qualifications of applicant (FCC Form 430—if FCC Form 430 is already on file, please indicate date and radio service of most recent filing).

L. A clear and detailed statement of whether the space station is to be operated on a common carrier basis, or whether noncommon carrier transactions are proposed. Where common carrier services are proposed and the applicant has not yet been certified pursuant to Section 214 of the Act, the information listed in Section 63.01 of the rules should be supplied. *See Domestic Satellite System Applications*, 38 FCC 2d 40 (1972), *Orbital Deployment Plan*, 84 FCC 2d 584 (1980), and *Competitive Carrier Rulemaking*, 85 FCC 2d 1 (1980), for futher details. Where noncommon carrier transactions are proposed, the information specified in *Domestic Fixed-Satellite Transponder Sales*, 90 FCC 2d 1238 (1982), must be supplied. *See also Domestic Communications Satellite Facilities*, 22 FCC 2d 86, 101–102 (1972).

M. Public interest considerations in support of a grant.

III. Individual Applications

A separate application should be filed for each satellite to be constructed. Launch and operating authority should be requested for each in-orbit satellite, including any previously constructed as a ground spare. Only construction authority is needed for an on-ground spare satellite, and some of the information requested below would not be relevant. Each application must constitute a concrete proposal for Commission evaluation, although the applicant may propose alternatives that increase flexibility in accommodating the satellite in orbit. Each application must be signed by the person specified in Section 1.743 of the rules, 47 CFR § 1.743 and contain the formal waiver required by Section 304 of the Communications Act, 47 U.S.C. § 304.

The technical information for a proposed domestic satellite radio system need not be filed on any prescribed form but should be complete in all pertinent details. Applications should be captioned in a manner that clearly distinguishes individual satellite within the applicant's system. The format of the application should conform to the specifications of Section 1.49 of the rules, 47 CFR § 1.49. The following information should be contained in the separate applications.

A. Name and post office address of the applicant.

B. Name, address and telephone number of the person(s), including counsel, to whom inquiries or correspondence should be directed.

C. Radio frequency and polarization plan (including beacon, telemetry and telecommand functions), center frequency and polarization of transponder or TT&C function (both receiving and transmitting frequencies), emission designator or allocated bandwidth of emission, final amplifier output power (identify any net losses between output of final amplifier and input of antenna), identification of which antenna beams are connected or switchable to each transponder and TT&C function, receiving system noise temperature, and the gain of each transponder channel (between output of receiving antenna and input of transmitting antenna) including any adjustable gain step capabilities. Receiver and transmitter channel filter response characteristics are also requested when available.

D. Orbital location, or locations if alternatives are proposed, requested for the satellite, the factors which support such an orbital assignment, the range of orbital locations from which adequate service can be provided and the basis for determining that range of orbital locations.

E. Predicted space station coverage contour(s) for each antenna beam and nominal orbital location requested, displaying the following space station technical parameters:

1. Receiving antenna gain.
2. Transmitting antenna gain.
3. Receiving system sensitivity (G/T ratio).
4. Saturation power flux density.
5. Effective isotropically radiated power.
6. Identification of transponders with antenna beam(s), including a functional block diagram of the satellite communication system and switching capabilities.

It is desirable that these contour(s) be plotted on an area map at 2 dB intervals

down to 10 dB below the peak value of the parameter and at 4 dB intervals between 10 dB and 20 dB below the peak values. If the contours change as a function of transponder frequency or polarization, separate contours or a description of any significant changes should be provided. (One or more of these parameters may be plotted on the same figure if the shape of the parameter contours are identical and the numerical value of the parameter associated with each contour is clearly identified.)

F. Physical Characteristics of Space Station.

1. Accuracy with which orbital parameters will be maintained:

(a) Orbital inclination.

(b) Antenna axis attitude.

(c) Longitudinal drift.

2. Accuracy of spacecraft antenna pointing toward the earth.

3. Estimated lifetime of satellite in-orbit and the basis for that determination.

4. Description of spacecraft attitude stabilization and station-keeping systems.

5. Electrical energy system description, including provision, if any, for operation during eclipse conditions.

G. Emission limitations. The degree to which spurious emissions are attenuated below the mean power output of the transponder under actual electrical condition of proposed operation.

1. On any frequency removed from the assigned frequency by more than 50 percent up to and including 100 percent of the authorized bandwidth.

2. On any frequency removed from the assigned frequency by more than 100 including 250 percent of the authorized bandwidth.

3. On any frequency removed from the assigned frequency by more than 250 percent of the authorized bandwidth.

H. Dates by which construction will be commenced and completed, launch date, and estimated date of placement into service.

IV. Earth Stations

Concrete applications need not be filed initially for communications or TT&C earth stations unless specific sites have been already selected or existing facilities are being modified. If such applications are being filed, the frequency coordination between earth stations and terrestrial radio relay stations specified in Part 25 of the Rules and Regulations must be completed. For other application requirements, *See Processing Procedures for Domestic Satellite Earth Station Applications,* FCC 75-932, Public Notice released August 8, 1975.

[FR Doc. 83-23088 Filed 9-2-83; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 81-21; Notice 2]

Federal Motor Vehicle Safety Standards, Rearview Mirrors

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule.

SUMMARY: This rule amends Federal Motor Vehicle Safety Standard (FMVSS) 111 to permit the use of non-uniform radius of curvature school bus mirrors to view the area immediately in front of the bus. Previously, only uniform radius mirrors could be used for this purpose. This action is taken in response to a petition from the North Carolina State Board of Education, and is intended to permit the use as original equipment of mirrors which provide a wider field of view of the area in front and along the side of the bus. The improved view will aid in detecting the presence of children in those areas.

EFFECTIVE DATE: September 6, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Kevin Cavey, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590 (202-426-2153).

SUPPLEMENTARY INFORMATION: FMVSS 111 establishes requirements for mirror systems used on a variety of motor vehicles, including school buses. One requirement of that standard with regard to school buses is that those vehicles must have a crossview mirror permitting the bus driver to view the area in front of the bus. These mirrors are intended to aid bus drivers in determining, prior to moving from a stopped position (typically after loading or unloading children at a bus stop), whether any children are located in the area immediately in front of the bus. Being able to check those areas is important since, on average, approximately 40 pedestrians each year are involved in school bus related accidents.

Prior to the amendments made by this notice, the standard provided that crossview mirrors must be convex and have at least 40 square inches of reflective surface. Such mirrors must have a single radius of curvature which is at least 12 inches but no more than 25 inches. These specifications were intended to assure not only that the image viewed in the mirror would not be unduly distorted and would be large enough to be clearly seen, but also that the field of view of the mirror would be great enough to permit a view of the entire area in front of the bus.

North Carolina Board of Education petitioned the agency to permit the use of one specific type of mirror manufactured by Mirror-Lite Co. The radius of curvature of this mirror varies from 3.5 inches near the outer edge of the mirror to approximately 4.5 inches in the central area. These small radii of curvature provide a much wider field of view than the crossview mirrors previously specified in FMVSS 111, permitting a view of not just the area in front of the bus but also along the side of the bus. Although this wider field of view is gained at the expense of a smaller image size and greater optical distortion, the agency considers the quality of the image to be adequate for its intended purpose. Further, the wider field of view could improve safety by enabling school bus drivers to see children that they could not see with current mirrors.

Therefore, the agency proposed to amend FMVSS 111 to permit the use of mirrors of this type. See 46 FR 60481, December 10, 1981. This proposal would have deleted minimum and maximum radius of curvature requirements and would have permitted the use of any non-uniform mirror surface.

The agency received approximately fifty comments on its proposal, mainly from State boards of education and school bus operators. Most of these commenters supported the use of nonuniform radius mirrors like the Mirror-Lite design, pointing out that the wider field of view provided by such mirrors should promote safety. Several other commenters suggested modifications to the agency's proposal. Based on these comments and the agency's further consideration of the relevant issues, the agency is amending FMVSS 111 to permit the use of mirrors like the Mirror-Lite design, although it is not limited to that design.

The agency received a number of comments regarding radius of curvature requirements. As noted above, FMVSS 111 has provided that cross-view mirrors must have a single radius of curvature which must be at least 12 inches but not more than 25 inches. The maximum radius requirement was imposed to

assure that the mirror provides an adequate field of view. An overly large radius would provide an inadequate view since field of view decreases as radius of curvature increases. The minimum radius requirement was imposed to assure adequate image size and quality; as radius of curvature decreases, image size also decreases, and image distortion increases. Thus, the radius of curvature specifications reflect a trade-off between field of view on one hand and image size and accuracy on the other hand. The agency's proposal, in seeking to permit the use of mirrors with radii in the 3.5 inches to 4.5 inches range, deleted all radius of curvature requirements.

Donnelly Mirrors, Inc., pointed out that permitting unlimited variation in a mirror's radius of curvature would permit unacceptable levels of optical distortion. It was not the agency's intention to completely remove restrictions on radius of curvature for crossview mirrors. Rather, it was the agency's desire to permit the use of an additional type of mirror which had been shown to be highly effective. Therefore, this final rule retains the current maximum radius of curvature requirement and establishes a minimum radius requirement consistent with the Mirror-Lite design. Requirements were also established in response to this comment to assure that the mirror surface does not have major, abrupt changes in radius of curvature or other surface discontinuities which could cause excessive optical distortion.

The Grote Manufacturing Company (a mirror producer) and the Truck Safety Equipment Institute argued that the image produced by a mirror with a radius of curvature below 12 inches is too small to be readily identifiable. The agency disagrees. Based on NHTSA's own evaluation of the Mirror Lite design in actual school bus service, the image provided by the mirror is adequate to tell the bus driver whether a child is in front of the bus or along the side of the bus. The agency was also impressed by the numerous comments received from bus operators who had experience with after-market non-uniform radius mirrors, and found them to be superior in actual service to the uniform radius mirror. While it is true that the image provided by the Mirror Lite mirror is smaller and more distorted than that of a uniform 12 inch radius mirror, the agency believes that the image size and quality for these mirrors is adequate for its intended purpose and that these disadvantages are fully offset by the wider field of view provided by the former. It should be pointed out that this mirror is to be used for a very limited purpose, i.e., to determine whether a child is in close proximity to the front of the school bus or along the side, especially where the child exits from the bus. While a small radius mirror might be inadequate to judge distance and velocity as would be required in an automotive rearview mirror, the agency finds them adequate for their intended purpose, and even superior in terms of providing an additional view of the side of the bus, another potentially dangerous area.

Several commenters suggested imposing performance requirements for the field of view of the crossview mirror, rather than specifying the radius of curvature. While the agency believes this to be a desirable goal, it is beyond the scope of this rulemaking. Specifying the field of view is a complicated task, which the agency is still evaluating in the context of its major rulemaking on rearview mirrors. See 43 FR 51657, November 6, 1978.

Grote also recommended clarifying the requirement that crossview mirrors must have 40 square inches of reflective surface. They suggested that this area requirement should be expressed in terms of the effective projected area of the reflective surface measured on a plane at right angles to the axis of the mirror. Without such clarification, the requirement could be interpreted to refer to surface area, which would vary for a mirror of given diameter, depending on the radius of curvature. The agency agrees and is adopting Grote's suggestion for the newly authorized mirrors.

Several commenters suggested that FMVSS 111 should require the use of two convex crossview mirrors, one mounted on each side of the bus. The current requirement is for only one mirror mounted on either side of the bus, but many school buses employ additional crossview mirrors. The agency believes that the use of additional crossview mirrors on each side of the bus would provide both a better view of the front of the bus and a view of each side of the bus. The side area can be a major concern particularly on the passenger exit side, since children standing in that area can be hit as the bus pulls away from a stop and makes a turn. However, requiring additional mirrors is a matter beyond the scope of the proposal issued in this rulemaking. The agency will consider requiring more additional mirrors in subsequent rulemaking. In the meantime, school districts are strongly encouraged to use additional mirrors as necessary to permit the driver to view the areas along the front and both sides of the bus.

The agency has considered the economic and other effects of this action and has determined that the rule is not a major rule within the meaning of Executive Order No. 12291. The agency has further determined that the action is not significant within the meaning of the Department of Transportation's regulatory procedures. The basis for these determinations is that the rule relaxes a design restriction in the current standard. It does not require school buses to be equipped with new mirrors; it merely gives manufacturers the flexibility to use a differnet type of mirror, whose performance is at least as effective as current mirrors. Accordingly, the agency has not prepared a full regulatory evaluation.

The agency has also considered the effect of this action in relation to the Regulatory Flexibility Act and I certify that it would not have a significant economic effect on a substantial number of small entities. The effect of the amendment on small businesses is to give manufacturers the option of using new types of mirrors. It does not require any manufacturer to change its current practice.

The action will not have a significant effect on a substantial number of small government jurisdictions and small organizations. Those entities are affected because they are purchasers of school buses. It is unknown how many of them will exercise the voluntary choice of using new types of mirrors, but the cost impact, if any, should be minimal. Accordingly, no regulatory flexibility analysis has been prepared.

Finally, the agency has analyzed this action for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this action would not have any significant effect on the human environment.

This action is being made effective on publication, to permit the immediate use of crossview mirrors which are at least equivalent to current mirrors in safety performance, and may be superior to current mirrors. Since this action "relieves a restriction," the immediate effective date is authorized under 5 U.S.C. 553(d). Since the immediate effective date may well promote safety and the amendment is merely an alternative method of compliance which does not necessarily impose additional costs or other burdens, the immediate effective date is in "the public interest" within the meaning of section 103(e) of the National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1392(e).

List of Subjects in 49 CFR Part 571

Imports, motor vehicle safety, motor vehicles, rubber and rubber products, tires.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

In consideration of the foregoing, section 9.2 of 49 CFR 571.111 is revised to read as follows:

§ 571.111 Standard No. 111; Rearview mirrors.

S9.2 *Outside cross view mirror.* Each school bus, except one which is a forward control vehicle, shall have a convex mirror which complies with the requirements in paragraphs (a) and (b) of this section.

(a) The convex mirror shall have a radius of curvature not less than 3.5 inches and not more than 25 inches. A convex mirror whose radius of curvature at its periphery is not less than 12 inches and not more than 25 inches shall have a surface area which is not less than 40 square inches. A convex mirror whose radius of curvature at any point on the mirror is less than 12 inches shall have a projected area of not less than 40 square inches, measured on a plane at a right angle to the mirror's axis. A convex mirror with a non-uniform radius shall comply with the following criteria:

(1) The radius at the periphery of the mirror shall be not less than 75 percent of the radius at the center of the mirror.

(2) Along the intersection of any plane containing the axis of symmetry of the mirror and the surface of the mirror, the length of the radius, as measured by a spherometer, shall be monotonically non-increasing when moving from the axis of symmetry to the periphery along the intersection.

(3) Along the intersection described in paragraph (a)(2) of this section there shall be no discontinuities in the slope of the surface of the mirror.

(b) The mirror shall be installed with a stable support, and mounted so as to provide the driver a view of the front bumper and the area in front of the bus.

* * * * *

(Secs. 103, 119, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50)

Issued on August 30, 1983.

Diane K. Steed,

Deputy Administrator.

[FR Doc. 83-24280 Filed 9-2-83; 8:45 am]

BILLING CODE 4910-59-M

Proposed Rules

Federal Register
Vol. 48, No. 173
Tuesday, September 6, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 278 and 279

[Amdt. No. 258]

Food Stamp Program; Bonding of Authorized Firms

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule..

SUMMARY: This rule would amend the Food Stamp Program's regulations to implement Section 176 of Pub. L. 97–253, the "Omnibus Budget Reconciliation Act of 1982." It would permit the Secretary to require as a condition of authorization to accept and redeem food coupons that an authorized firm which has been disqualified or subjected to a civil money penalty furnish a performance bond to cover the value of food coupons which the authorized firm may in the future accept and redeem in violation of the Food Stamp Act of 1977, as amended. A performance bond is a financial guarantee which protects against loss due to the inability or refusal of a party to perform under a valid contract or agreement. In this instance, the bond would guarantee that the Department would be able to collect fiscal claims resulting from violations by authorized firms. This regulatory amendment prescribes the conditions under which a performance bond would be required, the method of calculating the value of the bond, the minimum and maximum bond amounts, and the length of time for which a performance bond would be required. Public comment is encouraged.

DATE: Comments on this proposed rule must be received by November 7, 1983.

ADDRESS: Comments should be submitted to Daniel Woodhead, Supervisor, Issuance and Benefit Delivery Section, Program Design and Rulemaking Branch, Program Planning, Development and Support Division, Family Nutrition Programs, Food and Nutrition Service, USDA, Alexandria, Virginia 22302. All written comments will be open for public inspection at the office of the Food and Nutrition Service during regular business hours (8:30 a.m. to 5:00 p.m., Monday through Friday), at 3101 Park Center Drive, Room 706, Alexandria, Virginia 22302.

FOR FURTHER INFORMATION CONTACT: Daniel Woodhead, Supervisor, Issuance and Benefit Delivery Section, Program Design and Rulemaking Branch, Program Planning, Development and Support Division, Family Nutrition Programs, Food and Nutritioni Service, USDA, Alexandria, Virginia 22302, (703) 756–3461.

SUPPLEMENTARY INFORMATION:

Classification

Executive Order 12291. The Department has reviewed this rule under Executive Order 12291 and Secretary's Memorandum No. 1512–1. The rule will affect the economy by less than $100 million a year. The rule will not significantly raise costs or prices for consumers, industries, government agencies or geographic regions. There will not be significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore, the department has classified the rule as "not major".

Regulatory Flexibility Act. This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act, Pub. L. 96–354. Robert E. Leard, Administrator of the Food and Nutrition Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

Recordkeeping Requirements. This rule does not contain reporting or recordkeeping requirements subject to approval by the Office of Management and Budget (OMB).

Background

Each year the Department of Agriculture investigates approximately 5,000 firms which are authorized to participate in the Food Stamp Program (FSP). In the majority of those investigations in which serious violations are discovered, claims are established against the firms to recoup direct losses of $100 or more to the Federal Government. Such losses may be the result of a firm's sale of ineligible items for food coupons, buying coupons (trafficking), acceptance of food coupons in payment of cash loans, and/or the acceptance and redemption of illegally acquired food coupons.

To ensure that legal proceedings by the Department of Justice and administrative action by USDA are not delayed, fiscal claims for compensatory damages are not activated until these proceedings have been completed. However, in some instances, after a firm has been sanctioned (e.g. disqualified from program participation by USDA for a specified period), there is little incentive for the firm to pay a fiscal claim until the disqualification period has ended and the firm again wants to participate. In the case of permanently disqualified firms, there will be virtually no incentive to pay a claim.

Section 176 of the Omnibus Budget Reconciliation Act of 1982 (Pub. L. 97–253) amended Section 12 of the Food Stamp Act and allows the Department to require a firm which has been disqualified or subjected to a civil money penalty to furnish a bond to cover the value of coupons the firm may in the future accept and redeem in violation of the Act. It directs the Department to prescribe by regulations the amount (or the method of computation thereof), terms, and conditions of the bond, and states that the firm shall forfeit a part of the bond equal to the value of any coupons the Department finds the firm has accepted and redeemed in violation of the Act.

On October 29, 1982, the Food and Nutrition Service (FNS) published in the **Federal Register**, at 47 FR 49027, a Notice of Intent to Publish a Rule concerning the bonding of retail food firms. FNS wanted to gain as much information as possible before publishing a proposed rule. FNS received four comments on the Notice of Intent. One commenter was concerned that the costs of required bonds would be passed through to the food stamp recipient. Another suggested that FNS stipulate a period of time within which the firm that has received a civil money penalty must produce the required bond or be subject to involuntary withdrawal from program participation. The remaining two respondents stated that in addition to the partial or complete

forfeiture of a bond, any firm which has accepted food coupons during a disqualification, or which has violated program regulations after being re-authorized, should be required to furnish a bond of twice the required amount as a condition for any subsequent re-authorization. We received no comments from commercial bonding companies.

This proposed rule would require firms which have received a sanction (disqualification, or involuntary withdrawal of authorization as a result of violations) to furnish a bond as a condition of reauthorization to accept and redeem food coupons. A performance bond is a financial guarantee which protects against loss due to the inability or refusal of a party to perform under a valid contract or agreement. In this instance, the bond would guarantee that the Department would be able to collect fiscal claims resulting from violations by authorized firms. If the firm has been given a civil money penalty, the firm would be required to funish a bond in order to retain its authorization. The bond would specifically cover the value of food coupons which the firm may in the future accept and redeem in violation of the Act. The bond would have to be a performance bond issued by a reputable bonding agent recognized under the law of the State in which the applicant is conducting business. If FNS determines that an authorized firm which has been required to furnish a bond has in fact accepted and redeemed food coupons in violation of the Act after posting the bond, the authorized firm will be disqualified or assessed a civil money penalty, and in addition would forfeit to FNS an amount, up to the face value, of the performance bond which is equal to the total value of the coupons accepted and redeemed in violation of the Act. As a condition for approval of future participation in the Food Stamp Program, the firm would be required to furnish a bond which has been restored to the original amount.

FNS proposes that the required bond must be maintained for as long as the firm is participating in the program. In addition, FNS proposes that the face value of the required bond would be $1,000, which is the standard minimum bond issued by commercial bonding firms, or an amount equal to ten percent of the average monthly food coupon redemption volume of the firm prior to the disqualification or imposition of the civil money penalty, whichever is greater The face value would not exceed the largest claim collected by FNS at that time.

If a firm at any time after its posting of a bond is investigated and found to be violating the FSP regulations, the firm would forfeit that portion of its bond equal to the dollar amount of the Government's loss detailed in a compensatory fiscal claim. Whenever the face value of a furnished bond is reduced by the settlement of a fiscal claim, the firm would be required to present another bond in the original amount to FNS within fifteen (15) calendar days, if the firm has been issued a civil money penalty sanction and is currently authorized. If the firm is disqualified it would be required to present a bond before reauthorization will be considered. The replacement bond would have to be furnished as a condition for reauthorization, regardless of whether or not a sanction was levied against the firm. The imposition or payment of a civil money penalty neither cancels nor reduces the requirement for a bond.

The forfeiture of all or part of a bond would be subject to administrative and judicial review pursuant to Section 14 of the Food Stamp Act and 7 CFR 278.8. Pending the resolution of an administrative review, a firm which seeks reauthorization and which fails to post a bond would not be eligible to participate, and a firm whose bond was forfeited in whole or in part, would not receive reimbursement.

That part of Section 279.7(a) which proposes that only denials of claims brought by firms against FNS are subject to administrative review is contained in another amendment which will be published shortly.

Implementation

FNS proposes to implement the provisions of this proposed amendment 30 days after final publication. All authorized firms which are disqualified, or which are assessed a civil money penalty after the effective date, are subject to these provisions.

List of Subjects

7 CFR Part 278

Administrative practice and procedure, Banks, banking, Claims, Food stamps, Groceries-retail, Groceries, General line-wholesaler, Penalties.

7 CFR Part 279

Administrative practice and procedure, Food stamps, Groceries—retail, Groceries, General line-wholesaler.

7 CFR Parts 278 and 279 are proposed to be amended as follows:

PART 278—PARTICIPATION OF RETAIL FOOD STORES, WHOLESALE FOOD CONCERNS AND FINANCIAL INSTITUTIONS

1. In § 278.1, paragraph (b)(4) is redesignated as (b)(5) and a new paragraph (b)(4) is added to read as follows:

§ 278.1 Approval of retail food stores and wholesale food concerns

* * * * *

(b) * * *

(4) *Bonding for firms with previous sanctions.* (i) If the applicant firm has been sanctioned for the first time for violations of this part, by withdrawal or disqualification from program participation, or by a civil money penalty, the FNS officer in charge shall as a condition of further participation require the applicant to present a performance bond which:

(A) Is issued by a reputable bonding agent recognized under the law of the State in which the applicant is conducting business;

(B) Has a face value of $1,000 or an amount equal to ten perecent of the average monthly coupon redemption volume of the applicant for the immediate twelve months prior to the effective date of the most recent sanction which necessitated the bond, whichever amount is greater. The face value will not exceed the largest claim collected by FNS at that time; and

(C) Is valid at all times during which the firm shall participate in the program.

(ii) An applicant which has previously been sanctioned and has been required to post a bond, or has been found to have been violating this part during the effective period of a previous sanction, or has forfeited to FNS any portion of a bond previously required by FNS, shall as a condition of further participation again be required to furnish a bond as described in paragraph (b)(4)(i) above.

(iii) The requirement that a firm furnish a bond as a condition of program participation is to ensure payment of any fiscal claim asserted by FNS against the firm after the bond is furnished. Furnishing a bond shall not eliminate or reduce a firm's obligation to pay infull any civil money penalty or any fiscal claim which may have been asserted against the firm by FNS prior to the time the bond was furnished by the firm. A firm which has been assessed a civil money penalty shall pay to FNS as required, any fiscal claim asserted by FNS. If a firm which is assessed a civil money penalty fails to pay a claim asserted against the firm by FNS, FNS shall collect the claim by offset as specified in § 278.7(a). In such cases a

bond may be furnished to FNS prior to complete payment of the fiscal claim.

* * * * *

2. In § 278.6, introductory paragraph (h), and paragraphs (h)(1) and (h)(2) are revised and a new (h)(3) is added. The changes read as follows:

§ 278.6 Disqualification of retail food stores and wholesale food concerns, and imposition of civil money penalties in lieu of disqualification.

* * * * *

(h) *Notifying the firm of civil money penalty.* A firm has 15 days from the date the FNS regional office notifies the firm in writing in which to pay the civil money penalty, or to notify the regional office in writing of its intent to pay in installments as specified by the regional office. The firm must present to FNS a performance bond as specified in § 278.1(b)(4), within the same 15-day period. The civil money penalty must be paid in full by the end of the period for which the firm would have been disqualified. FNS shall disqualify the firm for:

(1) The period determined to be appropriate under paragraph (e) of this section if the firm refuses to pay any portion of the civil money penalty;

(2) A period corresponding to the unpaid part of the civil money penalty if the firm does not pay the civil penalty in full or in installments as specified by the FNS regional office; or

(3) A period corresponding to the unpaid part of the civil money penalty if the firm does not present to FNS a bond within the required 15 days.

* * * * *

3. Part 278 is amended by adding a new § 278.9 to read as follows:

§ 278.9 Implementation of amendments relating to the participation of retail food stores, wholesale food concerns and insured financial institutions.

Amendment No. 258. The revisions to Part 278 required by Amendment 258 shall be effective 30 days after publication of the amendment as a final rule in the **Federal Register.**

PART 279—ADMINISTRATION AND JUDICIAL REVIEW—FOOD RETAILERS AND FOOD WHOLESALERS

1. In § 279.3, paragraphs (a)(2) and (a)(3) are revised and a new (a)(4) is added. The changes read as follows:

§ 279.3 Authority and jurisdiction.

(a) * * *

(2) Disqualification from participation in the program or imposition of a civil money penalty under § 278.6;

(3) Denial of all or any part of any claim under § 278.7; or

(4) Forfeiture of part or all of a performance bond under § 278.1.

* * * * *

2. In § 279.7, the fourth sentence in paragraph (a) is revised to read as follows:

§ 279.7 Action upon receipt of a request for review.

(a) *Holding action.* * * * If the administrative action in question involves a denial of approval of an application to participate in the program, a denial of a claim brought by a firm against FNS, or the forfeiture of a performance bond, the review officer shall direct that the firm not be approved for participation, not be paid any part of the disputed claim, or not be reimbursed for any bond forfeiture, until the review officer has made a determination. * * *

* * * * *

3. Part 279 is amended by adding a new Subpart D consisting of § 279.11 to read as follows:

Subpart D—Implementation

§ 279.11 Implementation of amendments relating to administrative and judicial review.

Amendment No. 258. The revisions to Part 279 required by Amendment 258 shall be effective 30 days following publication of the amendment as a final rule in the **Federal Register.**

(91 Stat. 958 (7 U.S.C. 2011–2029)

(Catalog of Federal Domestic Assistance Programs, No. 10.551, Food Stamps)

Dated: August 29, 1983.

Robert E. Leard,

Administrator, Food and Nutrition Service.

[FR Doc. 83-24276 Filed 9-2-83; 8:45 am]

BILLING CODE 3410-30-M

DEPARTMENT OF ENERGY

10 CFR Part 1017

Identification and Protection of Unclassified Controlled Nuclear Information

AGENCY: Department of Energy.

ACTION: Notice of additional hearing date and extension of the comment period on proposed rule entitled "Identification and Protection of Unclassified Controlled Nuclear Information."

SUMMARY: The Department of Energy (DOE), in response to requirements set forth in Section 148 of the Atomic Energy Act of 1954, as amended, (42 U.S.C. § 2168), issued proposed regulations to prohibit the unauthorized dissemination of certain unclassified but sensitive information—Unclassified Controlled Nuclear Information (UCNI)—with respect to atomic energy defense programs. The proposed rulemaking was published on April 1, 1983 (48 FR 13988), and the public comment period was extended for an additional thirty days beginning May 4, 1983 (48 FR 20091). In response to a number of requests for public hearings and to ensure that a broad range of public viewpoints is provided, the DOE issued a Notice of Hearing (48 FR 32834) announcing its intention to hold public hearings on the proposed rulemaking. Since that time, the DOE has had additional requests to add yet a third hearing. In response to this request, the DOE has scheduled another hearing and has extended the comment period until October 7, 1983. Comments in connection with the proposed rule must be received on or before this date. Listed below are the date, location, and points of contact for the hearing.

DATES: The date for the hearing: September 26, 1983, 9:00 a.m.-12:00 noon.

The comment date is extended until October 7, 1983.

ADDRESSES: Location of the hearing: Conrad Hilton, Beverly Room, 720 South Michigan Avenue, Chicago, Illinois 60605.

Addresses for sending comments:

Mr. George Pierman, Office of Communications, Chicago Operations Office, U.S. Department of Energy, 9800 South Cass Avenue, Argonne, Illinois 60439

Mr. Marshall Combs, Office of Policy Planning and Coordination, Office of the Assistant Secretary for Defense Programs, Room 4B-014, U.S. Department of Energy, Washington, D.C. 20585

FOR FURTHER INFORMATION CONTACT: Mr. George Pierman (312) 972-2420, Mr. Marshall Combs (202) 252-1870.

SUPPLEMENTARY INFORMATION:

Procedures for Participation

Any person or representative of a group may make a written or oral request for an opportunity to make an oral presentation at the public hearing. Such requests must be received no later than September 16, 1983. Requests should be directed to Mr. George Pierman at the address given above and should be in accordance with the procedures set forth below. Written

requests should be labeled "Identification and Protection of UCNI" both on the document and on the envelop. No oral requests for presentation will be scheduled until after all written requests are scheduled.

Those who register in advance will be heard first or at times reserved for them. Those present at the hearing who would like to speak but who have not preregistered will be accommodated if time permits.

It would be helpful if the person making the request would describe briefly the interest concerned, if applicable, indicate why she or he is a proper representative of the group having such an interest and provide a phone number where she or he may be contacted during working hours.

Persons scheduled to appear at the hearings will be notified by DOE before 4:30 p.m. on September 20, 1983. You should submit 10 copies of your statement to Mr. George Pierman at the above noted **ADDRESS** for requests to speak before 4:30 p.m. on September 23, 1983. While an attempt will be made to accommodate all who wish to be heard, it may not be practical to do so, and DOE reserves the right to select the persons to be heard at these hearings, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearings. Time allotted to each presentation may be limited based on the number of persons requesting to be heard.

A presiding officer will de designated to conduct the hearings. These hearings will not be judicial or evidentiary-type hearings. Questions may be asked only by those conducting the hearings. As a rule, oral presentations shall be limited to 10 minutes. Any additional testimony may be submitted in writing. Any furthur procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

Verbatim transcripts of the hearings will be made and the entire record of the hearing, including the transcript, will be retained by DOE and made available for inspection at the DOE Reading Room, 1E–190, Forrestal Building, Independence Avenue, SW., Washington, D.C. 20585, between the hours of 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcript from the reporter.

Issued in Washington, D.C., on August 30, 1983.

Herman E. Roser,

Assistant Secretary for Defense Programs.

[FR Doc 83-24229 Filed 9-2-83; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 83–NM–65–AD]

Boeing Model 747 and McDonnell Douglas Model DC–9 and DC–10 Series Airplanes; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes an Airworthiness Directive (AD) applicable to Boeing Model 747 series and McDonnell Douglas Model DC–9 series and DC–10 series airplanes which would require a one time inspection and subsequent removal of certain nonconforming landing gear components manufactured by Precision Tube Draw and Machine, Inc., 401 East Alondra Blvd., Gardena, California 90427. This AD is prompted by reports of three landing gear components that were to have been scrapped during manufacture, but were traced to repair stations where one component was checked and confirmed to be out of drawing tolerance. Additional landing gear components are unaccounted for and assumed to have entered the market place through unauthorized channels. Use of these parts could lead to landing gear failure.

DATE: Comments must be received on or before October 24, 1983.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 83–NM–65–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

FOR FURTHER INFORMATION CONTACT: Mr. Owen Schrader, Airframe Branch, ANM–120S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 767–2516. Mailing Address: Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the rules docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the rules docket.

Availability of NPRMS

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 83–NM–65–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

Discussion

Based upon an investigation it has been determined that a number of nonconforming landing gear components, that were to be scrapped during manufacture, have been placed into the market place by Precision Tube Draw and Machine, Inc. (PTM, Inc.). These sales are suspected to have occurred over a period of several years. PTM, Inc., manufactured these parts for use on the Boeing 747, and on the McDonnell Douglas DC–9 and DC–10 series airplanes.

Because of the lack of accountability for these components, and the fact that some are known to have been placed into spares status, it is probable that some of these components have been placed into service.

Since the installation of these nonconforming components is likely to have already occurred and their design conformity is unknown, an airworthiness directive is being proposed which requires a one time inspection and subsequent removal and destruction of certain landing gear components listed in the body of the AD unless conformity can be shown to exist. Failure to replace the nonconforming parts could lead to failure of the landing gear.

It is estimated that 800 airplanes of U.S. registry will be affected by this AD, that it will take approximately 8 manhours per airplane to accomplish the required actions, and that the average

labor cost will be $35 per manhour. Based on these figures, the total cost impact of the AD is estimated to be $250,000. Replacement cost is not considered. For these reasons the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291. Few if any, small entities within the meaning of the Regulatory Flexibility Act would be affected.

List of Subjects 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

Boeing Model 747, and McDonnell Douglas Model DC–9 and DC–10 series airplanes certificated in all categories:

Compliance is required as indicated. To prevent failure of the landing gear due to the possible installation of discrepant landing gear components accomplish the following:

A. Within 180 days from the effective date of this AD, unless already accomplished, determine if any components listed by serial number in Table I below are installed on or in the landing gear assembly.

B. If any listed components are found, replace them with approved components before further flight. If conformity cannot be shown render the part unserviceable.

C. Future use of any components listed by serial number in Table I is prohibited, unless it is determined by the manufacturer that the component is serviceable.

D. Upon request of the operator, and subject to prior approval by the Manager, Seattle Aircraft Certification Office, for Boeing Model 747, or the Manager, Los Angeles Aircraft Certification Office, for the McDonnell Douglas Model DC–9 and DC–10, FAA, Northwest Mountain Region, an FAA Principal Maintenance Inspector may adjust the compliance times if the request contains substantiating data to justify the change.

E. Alternate means of compliance with the AD which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, for the Boeing Model 747, or the Manager, Los Angeles Aircraft Certification Office, for the McDonnell Douglas as Model DC–9 and DC–10, FAA, Northwest Mountain Region.

F. Aircraft may be ferried to a base for maintenance in accordance with Sections 21.197 and 21.199 of the Federal Aviation Regulations.

TABLE I

Aircraft	Part nomenclature	Aircraft manufacturers part No.	Cleveland pneumatic part No.	Serial No.
Boeing 747–100/200	Brace Assembly Side Body Landing Gear.	65B05280	1805–74	1163, 1257.
Boeing 747/100/200	Axle Wing & Body Gear	65B05133	1803–85G–10	2474, 2714, 2826, 2836, 2836, 2839, 2866, 2908, 2958, 2961, 2962, 2991, 3048, 3056, 3063, 3090, 3091, 3101, 3149, 3691, and 3733.
Boeing 747–SP	Axle Wing & Body Gear	65B19917	1921A–85A–10	3398.
McDonnell Douglas DC–9–80.	Nose Cylinder	5920602–5 or 5920602–501	1992–2	CPT 1134 PTM, CPT 1160 PTM, CPT 1201 PTM, CPT 1207 PTM, CPT 1210 PTM, and CPT 1129 PTM.
DC–9–80	Nose Piston	5920603–501 or 5920603–5	1992–4	CPT 1395 PTM, CPT 1387 PTM, CPT 1357 PTM, CPT 1310 PTM, CPT 1308 PTM, CPT 1417 PTM, CPT 1422 PTM, CPT 1440 PTM, CPT 1301 PTM, CPT 1306 PTM, CPT 1160 PTM, CPT 1161 PTM, CPT 1178 PTM, CPT 1208 PTM, CPT 1209 PTM, CPT 1246 PTM.
DC–10	Main Gear Link Assy. Lower Down Lock.	ARG7009–501 or ARG7009–7	1853–75	CPT 402 PTM, CPT 421 PTM.
DC–10	Axle MLG	ARG7313–3 or ARG7313–1	1855–85	CPT 4361 PTM.
DC–10	Link	ARG7107–5 or ARG7107–1	1853–120	CPT 0866 PTM.
DC–10	Bolt—Torque Link-Upper MLG	ARG7323–1	1855–67	M 495.
DC–10	Arm—Downlock MLG	ARG7147–1 or ARG7147–3	1853–1428	1328.
DC–10	Link Assembly Forward Brake MLG.	ARG7019–1 or ARG7019–5	1853–76	019–941.
DC–10	Link Assembly Forward Brake MLG.	ARG7378–1 or ARG7378–3	1855–76	672–758.
DC–10	Bolt—Torque Link—Lower MLG	ARG7337–1	1855–58	063, 030, 073, 040, and 041.

(Sections 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.85)

Note.—For the reasons discussed earlier in the preamble: the FAA has determined that this document: (1) involves a proposed regulation which is not major under Executive Order 12291, (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), and (3) it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. A regulatory evaluation has been prepared and has been placed in the public docket.

Issued in Seattle, Washington, on August 24, 1983.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 83–24289 Filed 9–2–83; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 83–ASW–35]

Proposed Alteration of Transition Area and Control Zone; Harlingen, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Aviation Administration proposes to alter the transition area and control zone at Harlingen, TX. The intended effect of the proposed action is to provide adequate controlled airspace for aircraft executing a new standard instrument approach procedure (SIAP) to the Rio Grande Valley International Airport. This action is necessary since the new SIAP requires an additional 700-foot transition area and a review of the designated airspace revealed a realignment is necessary to provide protection of aircraft executing SIAPs to the airport. The control zone extension to the northwest can be reduced in size and still provide adequate protection of aircraft executing an SIAP to Runway 13.

DATE: Comments must be received by October 6, 1983.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8 a.m. and 4:30 p.m. The FAA Rules Docket is located in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch, ASW-535, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101; telephone: (817) 877-2630.

SUPPLEMENTARY INFORMATION:

History

Federal Aviation Regulation Part 71, Subpart G, 71.181, and Subpart F, 71.171 as republished in Advisory Circular AC 70-3A dated January 3, 1983, contains the description of transition areas and control zones designated to provide controlled airspace for the benefit of aircraft conducting instrument flight rules (IFR) activity. Alteration of the transition area and control zone at Harlingen, TX, will necessitate an amendment to these subparts. This amendment will be required at Harlingen, TX, since there is a proposed change in IFR procedures to the Rio Grande Valley International Airport.

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. (Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposals.) Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 83-ASW-35." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing data for comments will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed ruemaking (NPRM) by submitting a request to the Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, or by calling (817) 877-2630. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should contact the office listed above.

List of Subjects in 14 CFR Part 71

Control zones, Transition areas, Aviation safety.

The Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend §§ 71.181 and 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

§ 71.171 [Amended]

Harlingen, TX Revised

Within a 5-mile radius of Harlingen Rio Grande Valley International Airport (latitude 26°13'41" N., longitude 97°39'13" W.), and within 2 miles each side the Harlingen VOR 117° radial, extending from the 5-mile radius area to 6 miles northwest. This control zone is effective during the specific dates and times established in advance by a Notice of Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

§ 71.181 [Amended]

Harlingen, TX Revised

That airspace extending upwards from 700 feet above the surface within an 8.5-mile radius of the Harlingen Rio Grande Valley International Airport (latitude 26°13'41" N., longitude 97°39'13" W.), and within 5 miles each side of the ILS north course extending from the 8.5-mile radius area to 20 miles north of the airport and within 2 miles each side of the 320° radial of the Brownsville VORTAC extending from the 8.5-mile radius area to 15 miles southeast of the airport.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.61(c))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Forth Worth, TX, on August 26, 1983.

F. E. Whitfield,

Acting Director, Southwest Region.

BILLING CODE 4910-13-M

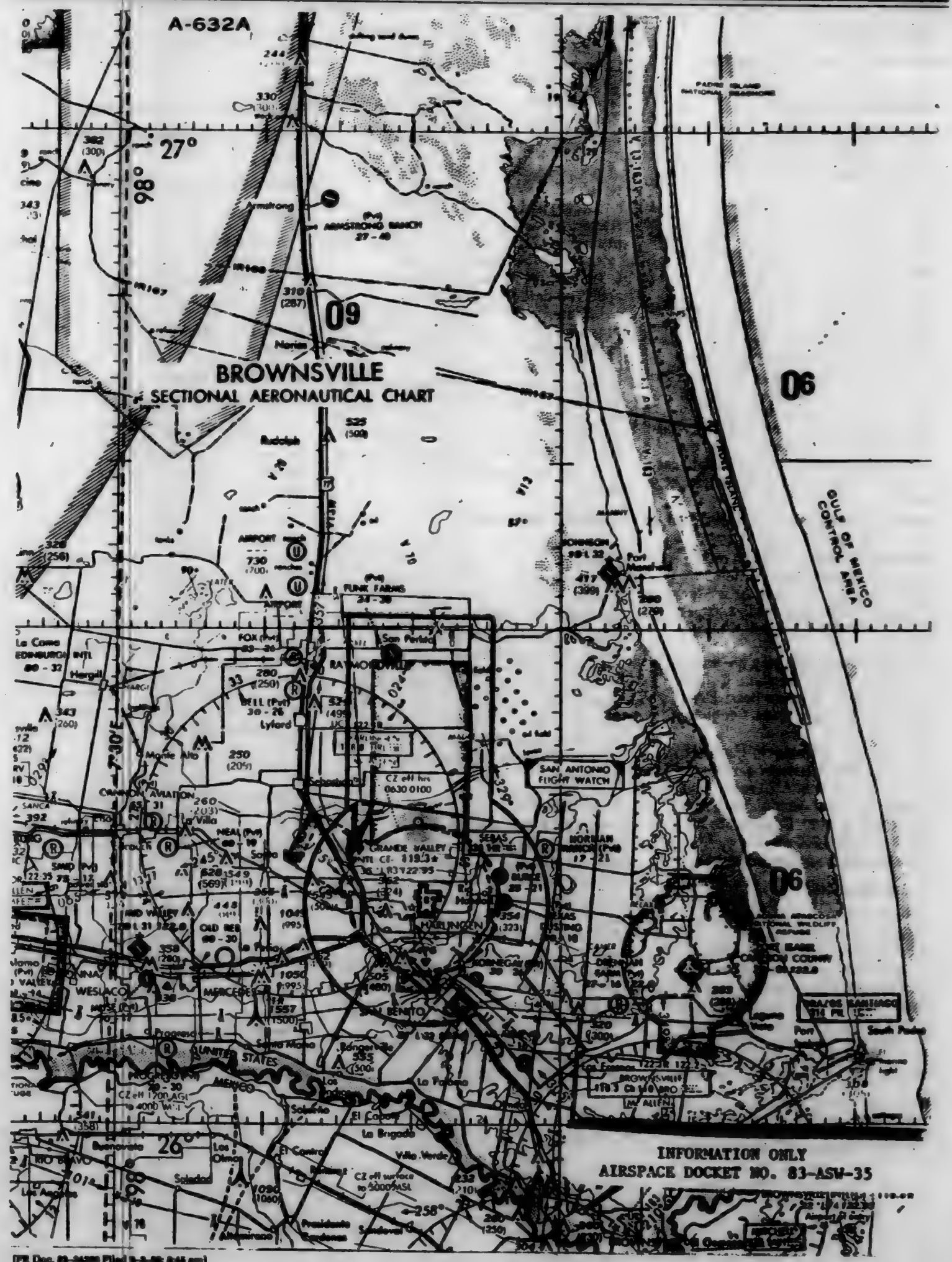

[FR Doc. 83-24280 Filed 9-2-83; 8:45 am]

14 CFR Part 71

[Airspace Docket No. 83-ASO-33]

Alteration of Transition Area, Tallahassee, Florida

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to increase the size of the Tallahassee, Florida, transition area to accommodate instrument flight rules (IFR) at Quincy Municipal Airport. This action will lower the base of the additional controlled airspace from 1,200 to 700 feet above the surface in the vicinity of the airport. An instrument approach procedure based on the Tallahassee VORTAC facility is being developed to serve the airport and the additional controlled airspace is required for protection of IFR aeronautical activities. This amendment will also revise the geographical coordinates of Tallahassee Municipal Airport which are improperly listed.

DATE: Comments must be received on or before: October 15, 1983.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn: Manager, Airspace and Procedures Branch, ASO-30, P.O. Box 20636, Atlanta, Georgia 30320

The official docket may be examined in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763-7646.

FOR FURTHER INFORMATION CONTACT: Walter H. Wulff, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. ——." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace and Procedures Branch (ASO-530), Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Tallahassee, Florida, transition area. This action will provide additional controlled airspace for aircraft executing a new instrument approach procedure to Quincy Municipal Airport. This amendment will also revise the geographical coordinates of Tallahassee Municipal Airport which are improperly listed. If the proposed alteration of the transition area is found acceptable, the operating status of the airport will be changed from VFR to IFR. Seciton 71.181 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3A dated January 3, 1983.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Transition area.

The Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend the Tallahassee, Florida, transition area under § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

§71.181 [Amended]

Tallahassee, FL-[Revised]

The airspace extending upward from 700 feet above the surface within a 10-mile radius of Tallahassee Municipal Airport (lat. 30°23'45" N., long. 84°21'02" W.); within three miles each side of the ILS localizer south course, extending from the 10-mile radius area to 9 miles south of the OM; within a 6.5-mile radius of Tallahassee Commercial Airport (lat. 30°33'02" N., long. 84°22'31" W.); within a 6.5-mile radius of Quincy municipal Airport (lat. 30°35'45" N., long. 84°33'30" W.).

((Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983))

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in East Point, Georgia, on August 25, 1983.

George R. LaCaille,

Acting Director, Southern Region.

BILLING CODE 4910-13-M

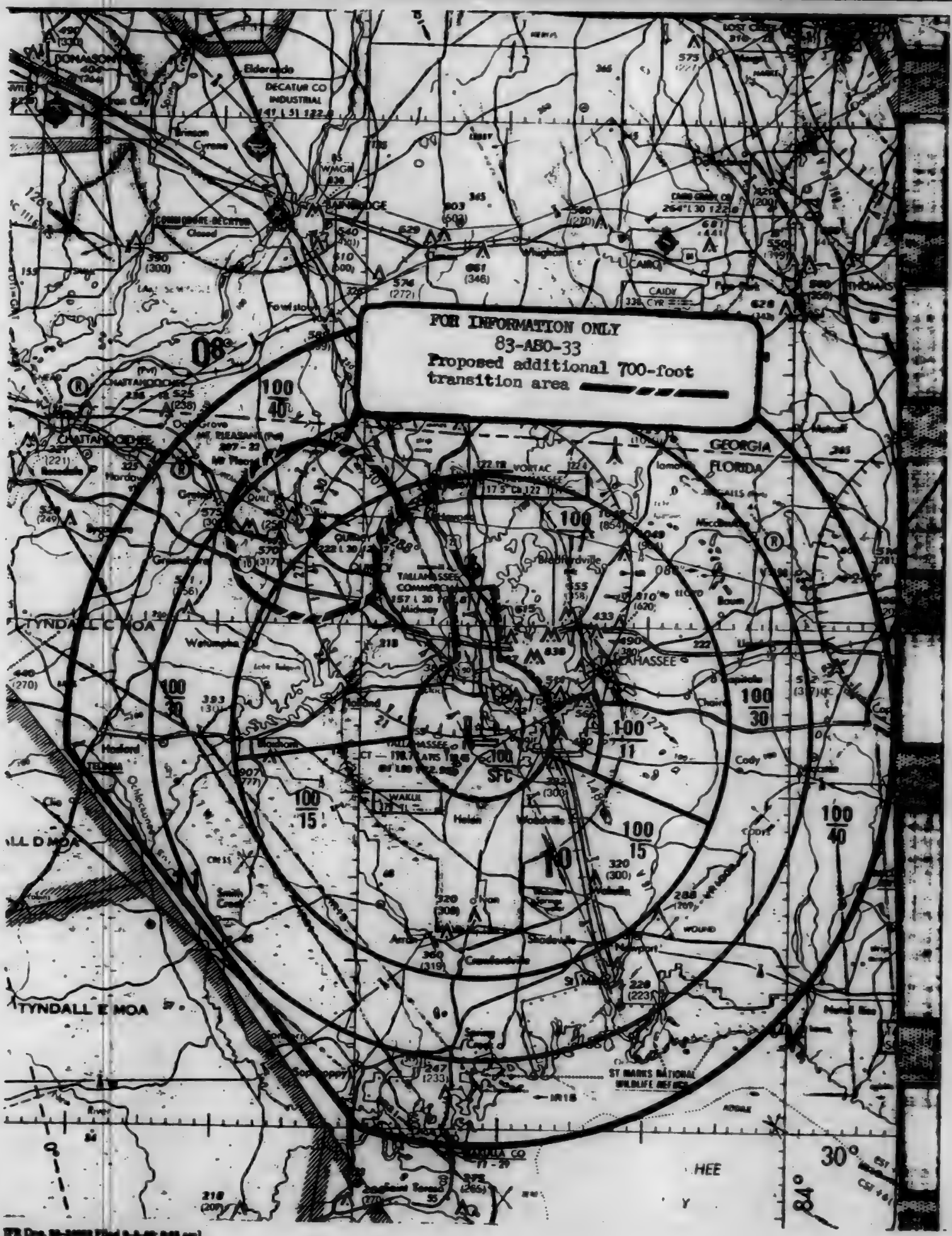

[FR Doc. 83-24888 Filed 9-2-83; 8:45 am]
BILLING CODE 4910-13-C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Subchapter H

[Docket No. 83N-0240]

Medical Devices; Notice of Intent To Initiate Proceedings To Require Premarket Approval of Preamendments Devices

AGENCY: Food and Drug Administration.

ACTION: Notice of intent.

SUMMARY: The Food and Drug Administration (FDA) is announcing its intent to initiate proceedings to require premarket approval of class III devices that were distributed commercially before May 28, 1976, and devices that were not distributed commercially before then but that are substantially equivalent to such class III devices (preamendments class III devices.) The Medical Device Amendments of 1976 direct FDA to apply premarket approval requirements to all preamendments class III devices and also authorize the agency to establish priorities in doing so. This notice identifies the first 13 preamendments class III devices assigned a high priority by FDA for the application of premarket approval requirements. Elsewhere in this issue of the **Federal Register**, the agency is publishing a proposed rule to require premarket approval of one such device, the implanted cerebellar stimulator.

DATE: Comments may be submitted at any time. FDA will consider any comments received in the future implementation of the premarket approval requirements of the Medical Device Amendments of 1976 with respect to preamendments class III devices.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles H. Kyper, National Center for Devices and Radiological Health (HFK-402), 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7445.

SUPPLEMENTARY INFORMATION: On May 28, 1976, the Medical Device Amendments of 1976 (the amendments) (Pub. L. 94-295), amending the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 301 et seq.), became law. One provision of the amendments, section 513 of the act (21 U.S.C. 360c), establishes three classes of devices. Classification of a device is determined by the level of regulatory control needed to provide reasonable assurance of the device's safety and effectiveness. A class I device is a device for which the general controls authorized by or under various sections of the act are sufficient to provide reasonable assurance of the safety and effectiveness of the device. A class II device is a device for which general controls by themselves are insufficient to provide reasonable assurance of the safety and effectiveness of the device, for which there is sufficient information to establish a performance standard to provide such assurance, and for which it is therefore necessary to establish a performance standard under section section 514 of the act (21 U.S.C. 360d) to provide reasonable assurance of the device's safety and effectiveness. A class III device is a device that cannot be classified into class I or class II and that is purported or represented to be for a use in supporting or sustaining human life or for a use which is of substantial importance in preventing impairment of human health, or that presents a potential unreasonable risk of illness or injury. For a device in class III, premarket approval is or will be required in accordance with section 515 of the act (21 U.S.C. 360e) to provide reasonable assurance of the safety and effectiveness of the device.

This notice refers to both devices that were marketed before May 28, 1976, and devices that were not marketed before then, but that are substantially equivalent to devices marketed before then, as preamendments devices. A preamendments device that has been classified into class III requires premarket approval only after FDA requires such approval under a final regulation promulgated under section 515(b) of the act.

Section 515(b)(1) of the act provides that FDA shall, by regulation promulgated in accordance with section 515(b), require that a preamendments class III device have an approved premarket approval application (PMA) or product development protocol (PDP) that has been declared completed. Section 515(b)(2)(A) of the act provides that a proceeding for the promulgation of a regulation to require premarket approval shall be initiated by publication of a notice of proposed rulemaking. Section 515(b)(2)(B) of the act provides that if FDA receives a request for reclassification within 15 days of the publication of the proposed regulation, FDA shall, within 60 days of the publication of the proposal, consult with the appropriate classification panel and publish a notice either denying the request or announcing its intent to initiate reclassification under section 513(e) of the act. If no reclassification is initiated, section 515(b)(3) of the act provides that FDA shall, after the close of the comment period on the proposed regulation and consideration of any comments received, promulgate a final regulation to require premarket approval, or publish a notice terminating the proceeding. If the proceeding is terminated, FDA is required to initiate reclassification of the device under section 513(e) of the act, unless the reason for termination is that the device is a banned device under section 516 of the act (21 U.S.C. 360f).

A regulation under section 515(b) of the act may be issued at any time, but section 501(f)(2)(B) of the act (21 U.S.C. 351(f)(2)(B)) provides that the regulation may not require the filing of a PMA or a notice of completion of a PDP earlier than 30 months after classification of the device into class III. Within 90 days after the promulgation of such a regulation or 30 months after classification, whichever is later, section 501(f)(1)(A) of the act requires that any person who commercially distributes the device file a PMA or a notice of completion of a PDP, or cease commercial distribution of the device. As an alternative, however, the person may obtain an investigational device exemption (IDE) under section 520(g) of the act (21 U.S.C. 360j(g)) and Parts 812 of FDA's regulations (21 CFR Part 812) and continue distribution for the limited purpose of obtaining safety and effectiveness data from clinical trials. If the person fails to file a PMA or a notice of completion of a PDP, and no IDE is in effect, the device is adulterated within the meaning of section 501(f)(1)(A) of the act and subject to seizure and condemnation under section 304 of the act (21 U.S.C. 334). Interstate commerce in an adulterated device is prohibited by section 301 of the act (21 U.S.C. 331). Violations of section 301 of the act may be enjoined under section 302 of the act (21 U.S.C. 332), and persons responsible for such violations are subject to prosecution under section 303 of the act (21 U.S.C. 333).

Priorities for Requiring Premarket Approval of Class III Devices

FDA has classified 71 preamendments devices into class III under section 513(d) of the act, and FDA has proposed that an additional 78 preamendments devices be classified into class III in the future. The issuance of regulations under section 515(b) of the act for all these devices will take many years, given the existing agency resources available for this activity. Recognizing that FDA could not issue regulations under section

515(b) for all preamendments class III devices simultaneously, Congress, in section 513(d)(3) of the act, expressly authorized FDA to establish priorities which, in its discretion, are to be used in applying section 515 of the act to such devices. Futhermore, in section 513(c)(2)(A) of the act, Congress directed that where a classification panel has recommended classification of a device into class III, the panel shall, to the extent practicable, recommend the assignment of a priority for applying the requirements of section 515 of the act to the device. The panels recommended that a high priority be assigned to 63 of the 149 devices classified or proposed to be classified into class III.

In exercising its statutory authority to establish priorities for the issuance of regulations under section 515(b), FDA takes into account the following factors:

1. The recommendations on priority of the agency's classification panels.
2. The present and projected use of the device.
3. The significance of the device to the public health.
4. The demonstrated, potential, or foreseeable risks of illness or injury associated with use of the device.
5. The seriousness of questions concerning the effectiveness of the device.
6. The extent to which valid scientific evidence developed since classification of the device and submitted to or otherwise brought to the agency's attention tends to support or undermine the basis for the classification.
7. The existence of a petition for reclassification of the device provided the agency tentatively concludes that the device should be reclassified.

Final classification regulations for preamendments class III devices in five medical specialties have been in effect for at least 30 months, the minimum period of time before FDA may require for such devices the filing of a PMA or a notice of completion of a PDP. Using the factors set out above, FDA has reviewed the preamendments class III devices in each of the five specialties to determine which of those devices warrant immediate consideration for development of proposed regulations under section 515(b) of the act to require premarket approval. The devices that FDA has determined have a high priority for such regulations are listed below under the medical specialty in which they are classfied.

A. *Hematology and pathology devices.*

1. Automated differential cell counter (21 CFR 864.5220).
2. Automated heparin analyzer (21 CFR 864.5680).
3. Automated blood cell separator (21 CFR 864.9245).

B. *Cardiovascular devices.*

1. Implantable pacemaker pulse generator (21 CFR 870.361).
2. Pacemaker programmers (21 CFR 870.3700).
3. Replacement heart valve (21 CFR 870.3925).

C. *General hospital and personal use devices.*

1. Infant radiant warmer (21 CFR 880.5130).

D. *Neurological devices.*

1. Implanted cerebellar stimulator (21 CFR 882.5820).
2. Implanted diaphragmatic/phrenic nerve stimulator (21 CFR 882.5830).
3. Implanted intracerebral/subcortical stimulator for pain relief (21 CFR 882.5840).

E. *Obstetrical and gynecological devices.*

1. Transabdominal amnioscope (fetoscope) and accessories (21 CFR 884.1600).
2. Contraceptive intrauterine device (IUD) and introducer (21 CFR 884.5360).
3. Contraceptive tubal occlusion device (TOD) and introducer (21 CFR 884.5380).

FDA intends to issue proposed regulations under section 515(b) of the act for each of these devices and will develop a similar list of high priority devices for the remaining 11 medical specialties. FDA has examined the economic impacts of these proposed regulations. The analysis has been placed on file in the Dockets Management Branch under the docket number for this notice and is available for public review between 9 a.m. and 4 p.m. Monday through Friday. Elsewhere in this issue of the **Federal Register**, FDA is publishing a proposed regulation under section 515(b) of the act to require premarket approval of the implanted cerebellar stimulator.

Ramifications For Manufacturers and Importers

The act does not include a provision for an extension of the 90-day period after promulgation of a final regulation under section 515(d) within which a PMA or a notice of completion of a PDP is required to be filed. The House report on the amendments stated that "the thirty month 'grace period' afforded after classification of a device into class III * * * is sufficient time for manufacturers and importers to develop the data and conduct the investigations necessary to support an application for premarket approval." H.R. Rep. No. 94–853, 94th Cong., 2d Sess. 42 (1976). Thus, "[i]f manufacturers and importers of class III devices initiate investigations only upon promulgation of the regulation requiring premarket approval, they risk having inadequate time to submit an approvable application of PDP. In such cases, their devices would be required to be removed from the market." *Id.* In addition, section 515(d)(1)(B)(i) of the act provides that FDA may not enter into an agreement to extend the 180-day period in which to take action with respect to a PMA submitted for a device subject to a final regulation under section 515(b) unless the agency finds that "the continued availability of the device is necessary for the public health."

Interested persons may, at any time, submit written comments regarding this notice to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 16, 1983.

Arthur Hull Hayes, Jr.,
Commissioner of Food and Drugs.

[FR Doc. 83-24230 Filed 9-5-83; 8:45 am]
BILLING CODE 4160-01-M

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21 CFR Part 882

[Docket No. 83N-0241]

Neurological Devices; Proposed Rule; Premarket Approval of the Implanted Cerebellar Stimulator

AGENCY: Food and Drug Administration.

ACTION: Proposed rule; opportunity to request change in classification.

SUMMARY: The Food and Drug Administration (FDA) is proposing a rule to require the filing of a premarket approval application (PMA) or a notice of completion of a product development protocol (PDP) for the implanted cerebellar stimulator, a medical device. This document summarizes the agency's proposed findings on the degree of risk of illness or injury designed to be eliminated or reduced by requiring the device to meet the statute's approval requirements, and on the benefits to the public from use of the device. This document also announces an opportunity for interested persons to request FDA to change the classification of the device based on new information.

DATES: Comments by November 7, 1983; requests for a change in classification by September 21, 1983.

ADDRESS: Written comments or requests for a change in classification to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Robert F. Munzner, National Center for Devices and Radiological Health (HFK–430), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: Section 513 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360c) provides for the classification of medical devices into one of three regulatory classes: class I, general controls; class II, performance standards; and class III, premarket approval. As a general rule, devices that were on the market before May 28, 1976, the date of enactment of the Medical Device Amendments of 1976 (the amendments) (Pub. L. 94–295), and devices marketed on or after that date that are substantially equivalent to such devices, have been, or are being, classified by FDA. For convenience, this proposal refers to both the devices that were on the market before May 28, 1976, and the substantially equivalent devices that were marketed on or after that date as "preamendments devices".

Sections 501(f), 513, and 515(b) of the act (21 U.S.C. 351(f), 360c, and 360e(b)), taken together, establish as a general requirement that a preamendment device that FDA has classified into class III is subject, in accordance with section 515, to premarket approval. (Section 515(f) of the act, 21 U.S.C. 360e(f), prescribes, as an alternative procedure for premarket approval, development of a PDP, the last stage of which is for FDA to declare that a PDP has been completed.) A preamendments class III device may remain on the market without an approved PMA or declared completed PDP until 90 days after FDA's promulgation of a regulation requiring premarket approval for the device. Such a device is also exempt from the investigational device exemption (IDE) regulations (21 CFR Part 812) until the date stipulated by FDA in the regulation requiring premarket approval for that device.

Section 515(b)(2)(A) of the act provides that a proceeding for the promulgation of a regulation to require premarket approval shall be initiated by publication of a notice of proposed rulemaking containing: (1) The proposed regulation, (2) proposed findings with respect to the degree of risk of illness or injury designed to be eliminated or reduced by requiring the device to have an approved application for premarket approval and the benefit to the public from use of the device, (3) an opportunity for the submission of comments on the proposed regulation and the proposed findings, and (4) an opportunity to request a change in the classification of the device based on new information relevant to the classification of the device.

Section 515(b)(2)(B) of the act provides that if FDA receives a request for a change in the classification of the device within 15 days of the publication of the notice, FDA shall, within 60 days of the publication of the notice, consult with the appropriate classification panel and publish a notice either denying the request or announcing its intent to initiate reclassification under section 513(e) of the act. If no reclassification is initiated, section 515(b)(3) of the act provides that FDA shall, after the close of the comment period on the proposed regulation and consideration of any comments received, promulgate a final regulation to require premarket approval, or publish a notice terminating the proceeding. If the proceeding is terminated, FDA is required to initiate reclassification of the device under section 513(e) of the act, unless the reason for termination is that the device is a banned device under section 516 of the act (21 U.S.C. 360f).

If a regulation requiring premarket approval for a device is made final, section 501(f) of the act requires that a PMA or notice of completion of a PDP for the device be filed within 90 days of the date of promulgation of the final regulation, or 30 months after final classfication of the device, whichever is later. If a PMA or notice of completion of a PDP is not filed by the later of the two dates, commercial distribution of the device is required to cease. The device may, however, be distributed for investigational use if the manufacturer or importer of the device complies with the IDE regulations. If no PMA or notice of completion of a PDP has been filed, and no IDE is in effect, the device is deemed to be adulterated within the meaning of section 501(f)(1)(A) of the act, and subject to seizure and condemnation under section 304 of the act (21 U.S.C. 334). Shipment of the device in interstate commerce will be subject to injunction under section 302 (21 U.S.C. 332), and the individuals responsible for such shipment will be subject to prosecution under section 303 of the act (21 U.S.C. 333). The statute does not include a provision for an extension of the 90-day period after promulgation of a final regulation within which an application or notice is required to be filed. The House report on the amendments states that "the thirty month 'grace period' afforded after classification of a device into class III * * * is sufficient time for manufacturers and importers to develop the data and conduct the investigations necessary to support an application for premarket approval." H. R. Rep. No. 94–853, 94th Cong., 2d Sess. 42 (1976).

I. Classification of Implanted Cerebellar Stimulator

In the **Federal Register** of September 4, 1979 (44 FR 51770), FDA issued a final regulation (21 CFR 882.5820) classifying the implanted cerebellar stimulator into class III. The preamble to the proposed classification regulation (43 FR 55718; November 28, 1978) included the recommendations of the Neurological Device Section of the Respiratory and Nervous System Devices Panel (the Panel), an FDA advisory committee, regarding the classification of the implanted cerebellar stimulator. The Panel's recommendation included a summary of the reasons why the device should be subject to premarket approval and identified certain risks to health presented by the device. The Panel also recommended under section 513(c)(2)(A) of the act that a high priority for the application of section 515 of the act be assigned to the implanted cerebellar stimulator. The preamble to the final regulation classifying the device stated that a PMA for the device shall "be submitted to FDA on or before May 28, 1982, or 90 days after promulgation of a separate regulation requiring premarket approval of the device, whichever occurs later."

Elsewhere in this issue of the **Federal Register**, FDA is publishing a notice of intent to initiate proceedings to require premarket approval of 12 devices in addition to the implanted cerebellar stimulator. Among other things, the notice describes the factors FDA takes into account in establishing priorities for initiating proceedings under section 515(b) of the act for promulgating regulations requiring that preamendments class III devices have approved PMA's or declared completed PDP's. Using these factors, FDA has determined that the implanted cerebellar stimulator, identified in § 882.5820(a), has a high priority for initiating a proceeding to require premarket approval. Therefore, FDA is commencing a proceeding under section 515(b) of the act to require that the implanted cerebellar stimulator have an approved PMA or a PDP that has been declared completed.

II. Dates New Requirements Apply

In accordance with section 515(b) of the act, FDA is now proposing to require that a PMA or a notice of completion of a PDP be filed with the agency for the implanted cerebellar stimulator within 90 days after promulgation of any final regulation based on this proposal. An applicant will be permitted to continue marketing the implanted cerebellar stimulator during FDA's review of the PMA or notice of completion of the PDP. FDA intends to review each PMA within 180 days, and each notice of completion of a PDP within 90 days, of the date of filing. FDA cautions that under section 515(d)(1)(B)(i) of the act, FDA may not enter into an agreement to extend the review period for a PMA unless the agency finds that "the continued availability of the device is necessary for the public health."

FDA intends that, under § 812.2(d) (21 CFR 812.2(d)), the preamble to any final regulation based on this proposal will stipulate that as of the date on which a PMA or a notice of completion of a PDP is required to be filed, the exemptions in § 812.2(c) (1) and (2) from the requirements of the IDE regulations for preamendments class III devices will cease to apply to the implanted cerebellar stimular. If a PMA or a notice of completion of a PDP for this device is not filed with FDA within 90 days after the date of promulgation of any final regulation requiring premarket approval for the implanted cerebellar stimulator, commercial distribution of the device will be required to cease. The device may be distributed for investigational use only if the requirements of the IDE regulations regarding significant risk devices are met. The requirements for significant risk devices include submitting an IDE application to FDA for its review and approval. An approved IDE is required to be in effect before an investigation of the device may be initiated or continued. FDA, therefore, cautions that IDE applications should be submitted to FDA at least 30 days before the end of the 90-day period to avoid interrupting investigations.

III. Description of Device

The implanted cerebellar stimulator is a device used to stimulate electrically a patient's cerebellar cortex for the treatment of intractable epilepsy, spasticity, and some movement disorders. The stimulator consists of an implanted receiver with electrodes that are placed on the patient's cerebellum and an external transmitter for transmitting the stimulating pulses across the patient's skin to the implanted receiver. The passive radio frequency receiver is implanted in a convenient location in the patient's upper torso. The leads and electrodes are tunneled subcutaneously from the receiver to the back of the patient's head and through a hole in the skull where the electrodes pass through the dura and rest on the surface of the cerebellum. The external transmitter generates radio frequency pulses that are coupled to the implanted receiver through an antenna over the receiver site. The transmitter is compact and may be carried on the patient's belt.

This proposed regulation to require premarket approval of implanted cerebellar stimulators applies only to the radio frequency coupled cerebellar stimulators that were being commercially distributed before May 28, 1976, the enactment date of the amendments, or to devices introduced into commercial distribution since that date that have been found to be substantially equivalent to such cerebellar stimulators. In recent years, totally implanted cerebellar stimulators that do not require an external transmitter have been investigated for cerebellar stimulation. Premarket approval is automatically required for totally implanted cerebellar stimulators because they are not substantially equivalent to any preamendments cerebellar stimulator.

IV. Proposed Findings With Respect to Risks and Benefits

As required by section 515(b) of the act, FDA is publishing its proposed findings regarding the degree of risk of illness or injury designed to be eliminated or reduced by requiring the implanted cerebellar stimulator to have an approved PMA or declared completed PDP and is identifying the benefits to the public from use of the device:

A. Degree of Risk

1. *Surgical procedures.* Implantation of cerebellar electrodes requires that the patient's skull be opened under anesthesia. As with any surgical procedure, complications may occur because of the surgery. Davis (Ref. 10) reported that in 318 patients who underwent implantation of cerebellar stimulators, 14 patients (4.4 percent) developed infections around the implanted stimulator system. Either all or part of the implanted cerebellar stimulating system had to be removed to eliminate the infection. Davis noted that the infection rate experienced by his patients is comparable to infection rates reported for other implantable devices such as ventricular shunts for hydrocephalus. Cooper (Ref. 5) reported that in his first 200 patients who had cerebellar stimulators implanted, there were 2 deaths, both due to postoperative hemorrhage. In addition, four patients suffered infections, and three patients underwent reoperations because of suspected postoperative hematoma, which was confirmed in two of the three cases. In general, the reported complications due to the surgery necessary to implant cerebellar stimulators are not unusual for surgical procedures involving craniotomy.

2. *Injury to neural tissue.* The electrical current used for stimulation and the pressure that the electrodes exert on the brain tissue may cause injury to the brain. Several investigators have reported that excessive stimulation levels cause injury to the neural tissue underlying the electrodes that are placed on the cerebellum. Mortimer (Ref. 18) studied the effects of electrical stimulation on the blood-brain barrier of cats and concluded that the upper limit for safe stimulation was 0.05 watt per square inch when biphasic electrical pulses are used. Pudenz (Ref. 22) also investigated the degree of neural damage caused by electrically stimulating the cerebral cortex in cats. Pudenz found that some amount of neural damage is consistently produced if the charge per phase of the electrical stimulus pulse is 0.45 microcoulomb (μC) or greater. Recently, Yuen (Ref. 28) found that neural damage in the cat cerebral cortex increased proportionately as the charge density per phase increased over the range of 40 to 400 microcoulombs per square centimeter per phase ($\mu C/cm^2/ph$). Gilman and his associates (Refs. 6, 12, 13, and 24) studied the effects of electrical stimulation on the cerebellar hemispheres of monkeys and found significantly greater damage beneath electrodes that are electrically stimulated than under those that are not stimulated. Gilman concluded that cerebellar stimulation may damage cerebellar tissue and that the mere presence of the electrodes without stimulation may cause some reaction. Brown (Ref. 2) found that the degree of cerebellar damage in the monkey is related to the charge density per phase of the stimulating pulse. In particular, Brown found that a charge density of 7.4 $\mu C/cm^2/ph$ caused no cerebellar damage although the higher charge densities tested caused progressively greater damage. Brown suggested that charge densities greater than 10 $\mu Ccm^2/ph$ not be used chronically to stimulate the human cerebellar cortex. However, Larson (Ref. 15) also studied the effects of electrical stimulation on the monkey

cerebellum and concluded that histological damage to the cerebellum is not due to the electrical current applied.

3. *Cerebrospinal fluid leakage.* The cerebrospinal fluid that surrounds the brain may leak out where the electrode wires pass through the dura and the skull (Refs. 5, 9, 14, and 23). If leakage occurs, reoperation is required to correct the condition.

4. *Tissue toxicity.* The surface of the implanted device, lead wires, or electrodes may contain material that is not biocompatible. The implanted cerebellar stimulator is made of materials that are generally recognized to be biocompatible. There have been no reports of patients injuries due to improper materials used in the device. It is possible, however, that contaminants may be introduced during manufacture of the device, or that some of the materials may have unknown constituents that may cause subtle changes that have not been recognized in the reported studies.

B. Benefits of the Device

The implanted cerebellar stimulator has been reported by some researchers to be beneficial in the treatment of intractable epilepsy and some movement disorders. Other studies have failed to show that the device produces a significant benefit to patients suffering from these disorders. Most of the patients in the studies reported in the literature had cerebral palsy or epilepsy, but a small number of patients had torticollis, brain trauma, and other rare neurological conditions (Ref. 9).

Cooper (Ref. 4) first reported that the implanted cerebellar stimulator could be used to reduce the frequency of seizures in epileptic patients who do not benefit from drug therapy. Cooper found that 18 of 32 patients who were treated with the implanted cerebellar stimulator had reduced frequency of seizures (Ref. 5). In a later study, Van Buren (Ref. 25) reported that no significant reduction in frequency of seizures was obtained in a small double-blind study involving five patients with chronic intractable epilepsy.

Most implanted cerebellar stimulators have been implanted to control spasticity due to cerebral palsy. Cooper (Refs. 3 and 5), Miyasaka (Ref. 17), Larson (Ref. 16), Davis (Refs. 7, 8, and 9), and Wong (Ref. 27) have reported that cerebral palsy patients benefit significantly from cerebellar stimulation. According to these reports, a patient's spasticity is reduced, walking and balance are improved, self-care tasks (dressing, eating, grooming, etc.) are performed more readily, athetoid movements and drooling are reduced, and speech is improved. Although some of these studies involved large numbers of patients, they were not well-controlled studies. Other investigators have attempted to confirm the reported benefits of cerebellar stimulation. Penn (Ref. 20), Whittaker (Ref. 26), and Gahm (Ref. 11) reported that their double-blind studies on small groups of cerebral palsy patients failed to confirm that cerebellar stimulation provided significant improvement in the conditions of the patients. Ivan (Ref. 14) and Reynolds (Ref. 23) also reported no significant improvements in their studies, each of which involved a small number of cerebral palsy patients. Penn (Ref. 21) noted that improvements in the patients' conditions are modest and may be hidden by the few patients in these studies. Penn suggested that larger well-controlled double-blind studies be conducted and assessment techniques be refined to permit modest improvements to be better defined.

C. Discussion of Risks and Benefits

FDA classified the implanted cerebellar stimulator into class III because insufficient information existed to determine that general controls would provide reasonable assurance of the safety and effectiveness of the device or to establish a performance standard to provide such assurance. FDA has weighed the probable risks and probable benefits to the public from use of the device and believes that the studies discussed above present evidence of significant risks associated with the use of the device and raise questions about its effectiveness.

The consensus of the studies of the effects of electrical stimulation on the brain is that damage to neural tissue is possible but can be avoided by carefully selecting the electrical stimulus to be used. Babb (Ref. 1) has shown that it is possible to evoke cerebellar activity in monkeys with an electrical stimulus that has parameters well below those that cause neural damage. Davis (Refs. 8 and 9) contends, therefore, that the electrical stimulus values that have often been used are too high and may be causing neural damage beneath the electrodes resulting in the stimulus eventually becoming ineffective. Davis advocates using stimulus parameters between 0.7 and 1.6 $\mu C/cm^2/ph$.

FDA believes that the question of proper electrical stimulus parameters for cerebellar stimulators has not been resolved. FDA believes, however, that there is ample evidence that electrical stimulation can damage the cerebellum if improper electrical parameters are used. FDA also believes that it is possible to choose electrical parameters that will provide reasonably safe stimulation to the cerebellum.

FDA believes that the effectiveness of cerebellar stimulation for reducing frequency of epileptic seizures or the severity of spasticity or other movement disorders has not been established. Investigators who have studied the effectiveness of cerebellar stimulation have reported varying, often contradictory, results.

FDA believes, therefore, that implanted cerebellar stimulators should undergo premarket approval to determine whether the risks of using the device are balanced by the benefits to the patients.

V. Opportunity to Request a Change in Classification

Before requiring the filing of a PMA or a notice of completion of a PDP for a device, FDA is required by section 515(b)(2)(A)(iv) of the act and 21 CFR 860.132 to announce an opportunity for interested persons to request a change in the classification of the device based on new information relevant to its classification. The legal standard governing reclassification under section 513(e) of the act and § 860.123 (21 CFR 860.123) is discussed in detail in FDA's proposals to reclassify daily wear spherical contact lenses consisting of rigid gas permeable plastic materials and daily wear optically spherical (soft) contact lenses from class III into class I (47 FR 53402, 53411; November 26, 1982). A request for a change in the classification of the implanted cerebellar stimulator is to be in the form of a reclassification petition containing the information required by § 860.123 including new information relevant to the classification of the device, and shall, under section 515(b)(2)(B) of the act, be submitted by September 21, 1983. The agency advises that to assure timely filing of any such petition, any request should be submitted to the Dockets Management Branch (address above) and not to the address provided in § 860.123(b)(1). If a timely request for a change in classification of the implanted cerebellar stimulator is submitted, the agency will by November 7, 1983, after consultation with the appropriate FDA advisory committee and by order published in the **Federal Register**, either deny the request or give notice of its intent to initiate a change in the classification of the device in accordance with section 513(e) of the act and § 860.130 of the regulations (21 CFR 860.130).

VI. References

The following information has been placed in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Babb, T. L., et al., "Electrophysiological Studies of Long-Term Electrical Stimulation of the Cerebellum in Monkeys," *Journal of Neurosurgery*, 47:353–365, 1977.

2. Brown, W. J., et al., "Tissue Reaction to Long-Term Electrical Stimulation of the Cerebellum in Monkeys," *Journal of Neurosurgery*, 47:366–379, 1977.

3. Cooper, I. S., et al., "Chronic Cerebellar Stimulation in Cerebral Palsy," *Neurology*, 26:744–753, 1976.

4. Cooper, I. S., et al., "Chronic Cerebellar Stimulation in Epilepsy," *Archives Neurology*, 33:559–570, 1976.

5. Cooper, I. S., et al., "Safety and Efficacy of Chronic Cerebellar Stimulation," *Applied Neurophysiology*, 40:124–134, 1977/78.

6. Dauth, G. W., et al., "Long-Term Surface Stimulation of the Cerebellum in the Monkey. I. Light Microscopic, Electrophysiologic, and Clinical Observations," *Surgical Neurology*, 7:377–384, 1977.

7. Davis, R., et al., "Control of Spasticity and Involuntary Movements—Cerebellar Stimulation," *Applied Neurophysiology*, 40:135–140, 1977/78.

8. Davis, R., and E. F. Gray, "Technical Problems and Advances in the Cerebellar-Stimulating Systems Used for Reduction of Spasticity and Seizures," *Applied Neurophysiology*, 43:230–243, 1980.

9. Davis, R., et al., "Chronic Cerebellar Stimulation for Cerebral Palsy—Five-Year Study," *Acta Neurochirurgica*, Supplement 30:318–331, 1980.

10. Davis R., et al., "Management of Infected Cerebellar Stimulation Systems," *Neurosurgery*, 10:340–343, 1982.

11. Gahm, N. H., et al., "Chronic Cerebellar Stimulation for Cerebral Palsy: A Double-Blind Study," *Neurology*, 31:87–90, 1981.

12. Gilman, S., et al., "Chronic Cerebellar Stimulation in the Monkey: Preliminary Observations," *Archives of Neurology*, 32:474–477, 1955.

13. Gilman, S., et al., "Morphological and Biochemical Effects of Chronic Cerebellar Stimulation in Monkey," *Transactions of the American Neurological Association*, 100:9–14, 1975.

14. Ivan, L. P., et al., "Chronic Cerebellar Stimulation for Cerebral Palsy," *Surgical Neurology*, 15:81–84, 1980.

15. Larson, S. J., et al., "Cerebellar Implant Studies," *IEEE Transactions on Biomedical Engineering*, BME–23:319–328, 1976.

16. Larson, S. J., et al., "Physiological and Histological Effects of Cerebellar Stimulation," *Applied Neurophysiology*, 40:160–174, 1977/78.

17. Miyasaka, K., et al., "The Influence of Chronic Cerebellar Stimulation on Respiratory Muscle Co-ordination in a Patient with Cerebral Palsy," *Neurosurgery*, 2:283–285, 1978.

18. Mortimer, J. T., et al., "Experimental Nondestructive Electrical Stimulations of the Brain and Spinal Cord," *Journal of Neurosurgery*, 32:553–559, 1970.

19. Penn, R. D. et al., "Cerebellar Stimulation in Man: Quantitative Changes in Spasticity," *Journal of Neurosurgery*, 48:779–786, 1978.

20. Penn, R. D., et al., "Chronic Cerebellar Stimulation for Cerebal Palsy: Prospective and Double-Blind Studies," *Journal of Neurosurgery*, 53:160–165, 1980.

21. Penn, R. D., "Chronic Cerebellar Stimulation for Cerebral Palsy: A Review," *Neurosurgery*, 10:116–121, 1982.

22. Pudenz, R. H. et al., "Electrical Stimulation of the Brain. II. Effects on the Blood-Brain Barrier," *Surgical Neurology*, 4:265–270, 1975.

23. Reynolds, A. F., and T. L. Hardy, "Cerebellar Stimulation in Four Patients with Cerebral Palsy," *Applied Neurophysiology*, 43:114–117, 1980.

24. Tennyson, V. M., et al., "Long-Term Surface Stimulation of the Cerebellum in the Monkey. II. Electron Microscopic and Bio-Chemical Observations," *Surgical Neurology*, 8:17–29, 1977.

25. Van Buren, J. M., et al., "Preliminary Evaluation of Cerebellar Stimulation by Double-Blind Stimulation and Biological Criteria in the Treatment of Epilepsy," *Journal of Neurosurgery*, 48:407–416, 1978.

26. Whittaker, C. K., "Cerebellar Stimulation for Cerebral Palsy," *Journal of Neurosurgery*, 52:848–853, 1980.

27. Wong, P. K. H., et al., "Cerebellar Stimulation in the Management of Cerebral Palsy: Clinical and Physiological Studies," *Neurosurgery*, 5:217–224, 1979.

28. Yuen, T. G. H., et al., "Histological Evaluation of Neural Damage from Electrical Stimulation: Considerations for the Selection of Parameters for Clinical Application," *Neurosurgery*, 9:292–299, 1981.

VII. Environmental Impact

The agency has determined pursuant to 21 CFR 25.24(b)(12) (proposed December 11, 1979; 44 FR 71742) that this proposed action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VIII. Economic Impact

FDA has examined the economic consequences of this proposed regulation in accordance with the criteria in section 1(b) of Executive Order 12291 and found that the proposal would not be a major rule as specified in the Order. The agency believes that only two or three small firms will be affected by this proposed regulation. Therefore, the agency certifies under the Regulatory Flexibility Act (Pub. L. 96–354) that the proposed regulation would not have a significant economic impact on a substantial number of small entities. An assessment of the economic impact of any final regulation based on this proposal has been placed on file in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 882

Medical devices, Neurological devices.

PART 882—NEUROLOGICAL DEVICES

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 501, 513, 515, 520(g), 701(a), 52 Stat. 1049–1050 as amended, 1055, 90 Stat. 540–546, 552–559, 569–571 (21 U.S.C. 351, 360c, 360e, 360j(g), 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), it is proposed that Part 882 be amended in § 882.5820 by adding new paragraph (c), to read as follows:

§ 882.5820 Implanted cerebellar stimulator.

* * * * *

(c) *Date premarket approval application (PMA) or notice of completion of a product development protocol (PDP) is required.* A PMA or notice of completion of a PDP is required to be filed with FDA on or before (date to be 90 days after date of promulgation of final regulation).

Interested persons may, on or before (*insert date 60 days after date of publication in the* Federal Register), submit written comments regarding this proposal to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Interested persons may, on or before (*insert date 15 days after date of publication in the* Federal Register), submit to the Dockets Management Branch written requests to change the classification of the implanted cerebellar stimulator. Two copies of any requests are to be submitted, except that individuals may submit one copy. Comments or requests are to be identified with the docket number found in brackets in the heading of this document. Received comments and requests may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 16, 1983.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

[FR Doc. 83-24231 Filed 9-2-83; 8:45 am]

BILLING CODE 4160-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 65

[A-6-FRL 2426-8]

Administrative Orders Permitting a Delay in Compliance With Louisiana Implementation Plan Requirements

AGENCY: Environmental Protection Agency.

ACTION: Proposed approval.

SUMMARY: The Environmental Protection Agency (EPA) proposes to approve administrative orders issued on May 16, 1983, but the Office of Environmental Affairs of the Louisiana Department of Natural Resources to Conoco Incorporated, Lake Charles Refinery; to Vulcan Materials Company, Geismar Chemical Plant; and to Formosa Plastics Corporation, Baton Rouge. The orders require the companies to bring air emissions from their facilities into compliance with certain regulations contained in the federally approved Louisiana State Implementation Plan (SIP) later than December 31, 1982. Because the orders have been issued to major stationary sources and permit delays in compliance with provisions of the SIP, they must be approved by EPA before they become effective as delayed compliance orders under the Clean Air Act. If approved by EPA, the orders will constitute additions to the SIP. In addition, a source in compliance with an approved order may not be sued under the federal enforcement or citizen suit provisions of the Act for the violations of the SIP regulations covered by an order. The purpose of this notice is to invite public comment on EPA's proposed approval of the orders as delayed compliance orders.

DATE: Written comments must be received on or before October 6, 1983.

ADDRESSES: Comments should be submitted to Chief, Air Branch, Air & Waste Management Division, Attention Docket No. R6-83-DCO-1, Environmental Protection Agency, Region 6, 1201 Elm Street, Dallas, Texas 75270. The State orders, supporting material, evaluation reports and public comments received in response to this notice may be inspected and copied (for appropriate charges) during normal business hours at the Region 6 office, at EPA, Public Information Reference Unit, Library Systems Branch, 401 M Street, SW., Washington, D.C. 20460, and at the Air Quality Division, Louisiana Department of Natural Resources, Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, Louisiana.

FOR FURTHER INFORMATION CONTACT: Willie Kelley, Air Enforcement Section (6AW-AE), Air and Waste Management Division, U.S. EPA Region 6, Dallas, Texas 75270, Telephone: (214) 767-9877, FTS 729-9877.

SUPPLEMENTARY INFORMATION: The Assistant Secretary, Office of Environmental Affairs, in Louisiana's Department of Natural Resources issued delayed compliance orders to three sources for control of volatile organic compounds on May 16, 1983. These sources failed to comply by December 31, 1982, with the requirements for control of volatile organic compound emissions which EPA had approved in the State Implementation Plan (SIP). Because these orders were issued to major stationary sources of volatile organic compounds and allow delays in compliance with the applicable regulations, they must be approved by EPA before they can become effective as delayed compliance orders under Section 113(d) of the Clean Air Act (the Act). The State transmitted these orders to EPA on May 20, 1983. EPA reviewed the orders and found that they satisfy the requirements of Section 113(d), including public notice and hearing, before the State issued them.

If these orders, or any of them, are approved by EPA, compliance with their terms would preclude federal enforcement action under Section 113 of the Act against the sources for violations covered by the order during the period the orders are in effect. Enforcement against the sources under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the orders would also constitute additions to the Louisiana State Implementation Plan. However, compliance with the orders will not preclude assessment of any noncompliance penalties under Section 120 of the Act, unless the sources are otherwise entitled to an exemption under Section 120(a)(2) (B) or (C).

Conoco Incorporated

Conoco Incorporated operates a petroleum refinery at Lake Charles, Louisiana. The order under consideration addresses emissions from the volatile organic compound (VOC) storage tanks at the plant, which are subject to Louisiana Air Quality Regulation 22.3. The regulation limits the VOC emissions, and is part of the federally approved Louisiana State Implementation Plan. Specifically, ten VOC storage tanks, each with a capacity of greater than 40,000 gallons, do not have secondary seals installed as required by Regulation 22.3. The State found that the company was not able to comply with these requirements by the required date, December 31, 1982, except by closing the plant. The order requires final compliance with the regulations by December 31, 1983, by installing secondary seals. EPA's analysis of the order has been incorporated into a document entitled Evaluation of the Louisiana State Delayed Compliance Order for Conoco Incorporated, Lake Charles, Louisiana, dated May 1983, which is available for inspection at the locations indicated above.

Formosa Plastics Corporation

Formosa Plastics Corporation operates a chemical manufacturing facility at Baton Rouge, Louisiana. The order under consideration addresses emissions from the ethylene dichloride manufacturing processes at the plant, which are subject to Louisiana Air Quality Regulations 22.3 and 22.8. The regulations limit the emissions of volatile organic compounds (VOC), and are part of the federally approved Louisiana State Implementation Plan. Specifically, one ethylene dichloride storage tank of 750,000 gallon capacity (Point Source No. 134—State emission inventory number) and the oxychlorination vent (Point Source No. 154) from the ethylene dichloride process are not controlled by the methods required by Regulations 22.3 and 22.8, respectively. The State found that the company was not able to comply with these requirements by the required date, December 31, 1982, except by closing the plant. The order requires final compliance with the regulations by December 31, 1983, by venting emissions from both sources to a new thermal incinerator. EPA's analysis has been incorporated into a document entitled Evaluation of the Louisiana State Delayed Compliance Order for Formosa Plastics Corporation, Baton Rouge, Louisiana, dated May 1983, which is available for inspection at the locations indicated above.

Vulcan Materials Company

Vulcan Materials Company operates a synthetic organic chemical manufacturing facility at Geismar, Louisiana, called Vulcan Chemicals Company. The order under consideration addresses volatile organic compound (VOC) emissions from the ethylene dichloride manufacturing processes at the plant, which are subject to Louisiana Air Quality Regulation 22.8. The regulation limits the VOC emissions, and is part of the federally approved Louisiana State Implementation Plan. Specifically, the oxychlorination vent (Point Source No.

6—State emission inventory number) from the ethylene dichloride process is not controlled by the methods required by Regulation 22.6. The State found that the company was not able to comply with these requirements by the required date, December 31, 1982, except by closing the plant. Initially, Vulcan planned to change the process to have a pure oxygen feed which would allow the emissions to be condensed and recycled. Because of the high operating cost of this system, Vulcan is considering incineration as an alternative. For whichever system is selected, Vulcan must comply with the regulation by December 31, 1984. EPA's analysis has been incorporated into a document entitled Evaluation of the Louisiana State Delayed Compliance Order for Vulcan Chemicals Company, Geismar, Louisiana, dated May 1983, which is available for inspection at the locations indicated above.

All interested persons are invited to submit written comments on the proposed approval actions. Written comments received by the date specified above will be considered in determining whether EPA will approve the orders or any of them. After the public comment period, the Administrator of EPA will publish in the Federal Register the Agency's final action on the orders in 40 CFR Part 65.

Each of these delayed compliance orders affects only one entity and involves an "order", rather than a "rule", and therefore this action is not subject to the requirements of the Regulatory Flexibility Act or to Executive Order 12291.

(42 U.S.C. 7413, 7601)

List of Subjects in 40 CFR Part 65

Air pollution control.

Myron O. Knudson,

Acting Regional Administrator, Region 6.

The text of the delayed compliance orders are set forth below. Final Agency action on the orders will be published in Subpart T of Title 40 of the Code of Federal Regulations.

State of Louisiana—Office of Environmental Affairs

In the matter of Formosa Plastics Corporation, Post Office Box 271, Baton Rouge, Louisiana 70821; Proceedings Under the Louisiana Environmental Affairs Act, La. R.S. 30:1051 et seq.; Compliance Order.

The following Compliance Order is issued to Formosa Plastics Corporation by the Assistant Secretary, Office of Environmental Affairs, Louisiana Department of Natural Resources, under the authority granted by the Louisiana Environmental Affairs Act (hereinafter referred to as "the Act"), La. R.S. 30:1051 et seq. and particularly Section 1073C(3) of the Act.

Findings of Fact

I

Formosa Plastics Corporation (hereinafter referred to as "Respondent") operates a synthetic manufacturing facility at Baton Rouge, East Baton Rouge Parish, Louisiana.

II

The Louisiana State Implementation Plan for the Abatement of Ozone and Section 22 of the Louisiana Air Quality Regulations (hereinafter referred to as "the Regulations") are applicable for the control of hydrocarbon (volatile organic compound) emissions.

III

In their hydrocarbon compliance report and correspondence dated June 30, 1981; October 29, 1982; and March 4, 1983; Respondent described its failure to comply with Section 22.3 of the Regulations for one (1) EDC storage tank (Point Source No. 134, 75.0 TPY) and with Section 22.8 of the Regulations for the oxychlorination vent (Point Source No. 154, 1349 TPY) and notified the Air Quality Division that both sources would be controlled by means of a new thermal incinerator. Compliance will be achieved by December 31, 1983, thereby ending the non-compliance.

IV

The EDC storage tank and the oxychlorination vent listed in Paragraph III above are sources of volatile organic compounds and are subject to Section 22 of the Regulations.

V

Sections 22.3 and 22.8 of the Regulations require that the sources listed in Paragraph III above be in compliance with their provisions no later than December 31, 1982.

VI

Respondent failed to provide controls on the EDC storage tank and oxychlorination vent at its Baton Rouge facility by December 31, 1982, as required by Sections 22.3 and 22.8 of the Regulations in violation of 1087 of the Act.

VII

Respondent was unable to comply with § 22.3 and 22.8 of the Regulations by December 31, 1982, except by shutting down the sources listed in Paragraph III above, which would adversly affect the operation of the entire facility.

VIII

There are no reasonable and practical measures by which the Respondent could achieve reduction in emissions prior to achievement of final compliance.

IX

Considering all relevant evidence received, including public comment, the following compliance schedule would provide for final compliance with the requirements of Section 22 of the Regulations as expeditiously as practicable:

	Milestone dates	
	EDC storage tank	Oxychlorination vent
Complete design	4/30/83	12/28/82
Order equipment	5/31/83	2/28/83
Commence construction	7/31/83	9/30/83
Complete construction	11/30/83	11/30/83
Final compliance	12/31/83	12/31/83

Order

Based on the foregoing Findings of Fact, Respondent is hereby Ordered:

I

To take all actions necessary to achieve compliance with §§ 22.3 and 22.8 of the Regulations in accordance with the following Compliance Schedule:

	Milestone dates	
	EDC storage tank	Oxychlorination vent
Complete design	4/30/83	12/28/82
Order equipment	5/31/83	2/28/83
Commence construction	7/31/83	9/30/83
Complete construction	11/30/83	11/30/83
Final compliance	12/31/83	12/31/83

II

To achieve final compliance with Sections 22.3 and 22.8 of the Regulations no later than December 31, 1983.

III

During the entire period in which this Order is in effect:

A. Respondent shall comply with the Regulations during any period insofar as it is able to do so.

B. Respondent shall comply with all additional directives issued by the Office of Environmental Affairs, Environmental Protection Agency, or any public health authority which the relevant agency determines are necessary to avoid an imminent and substantial endangerment to the health of persons or the environment.

IV

To submit written reports to the Air Quality Division no later than fifteen (15) days after each date listed as a milestone in the Compliance Schedule set forth in Paragraph I above. These reports must include:

A. Engineering information relative to the progress toward compliance with the pertinent milestone including any delays or other problems which could prevent compliance with this order;

B. Measures taken to minimize emissions during the reporting period.

V

To be hereby notified that pursuant to the provisions of Section 113(d)(1)(E) of the Federal Clean Air Act [42 U.S.C. 7413(d)(1)(E)], unless exempted under Section 120(a)(2) (B) or (C) of the Federal Clean Air Act, the U.S. Environmental Protection Agency may require Respondent to pay a

noncompliance penalty effective January 1, 1983. This does not constitute a "notice of noncompliance" as that term is used in Section 120(b)(3) of the Federal Clean Air Act [42 U.S.C. 7420(b)(3)] and 40 CFR 66.11.

VI

To be hereby notified that this Order does not preclude the Office of Environmental Affairs or the Louisiana Environmental Control Commission from assessing civil penalties against Respondent under Section 1073 E of the Act for the violations cited in this Order.

VII

After completion of construction, but no later than December 31, 1983, Respondent shall:

A. Check for leaks and gaps and, if any are found, take necessary corrective action.

B. Conduct all necessary tests as approved by the Air Quality Division to calculate the new level of emissions.

C. Report the emissions calculated in Paragraph VII. B above in writing to the Air Quality Division within thirty (30) days of achieving compliance.

D. Submit subsequent reports in accordance with Section 8.5.1 and 17.12 of the Regulations.

VIII

Compliance determinations which Respondent makes as a result of the foregoing requirements will be conducted in accordance with a test method and procedure approved by the Louisiana Department of Natural Resources. The Air Qualify Division shall be notified at least fifteen (15) days prior to the performance test with details of the test and procedures.

IX

To be hereby notified that the failure or refusal of Respondent to comply with this Order and the provisions herein will subject it to possible enforcement procedures under Section 1073 of the Act which could result in the assessment of civil penalties in an amount not to exceed $50,000 for each day of continued noncompliance.

X

This Order is effective upon receipt.

Done at Baton Rouge, Louisiana, this 16th day of May, 1983.

B. Jim Porter,

Assistant Secretary, Office of Environmental Affairs

State of Louisiana—Office of Environmental Affairs

In the matter of Conoco, Incorporated, Lake Charles Refinery, Post Office Box 37, Westlake, Louisiana 70669; Proceedings under the Louisiana Environmental Affairs Act, LA. R.S. 30:1051 et seq.; Compliance Order.

The following Compliance Order is issued to Conoco, Incorporated by the Assistant Secretary, Office of Environmental Affairs, Louisiana Department of Natural Resources, under the authority granted by the Louisiana Environmental Affairs Act (hereinafter referred to as "the Act"), La. R.S. 30:1051 et seq. and particularly Section 1073C(3) of the Act.

Findings of Fact

I

Conoco, Incorporated (hereinafter referred to as "Respondent") operates a petroleum refinery near Westlake, Calcasieu Parish, Louisiana.

II

The Louisiana State Implementation Plan for the Abatement of Ozone and Section 22 of the Louisiana Air Quality Regulations (hereinafter referred to as "the Regulations") are applicable for the control of hydrocarbon (volatile organic compound) emissions.

III

In their hydrocarbon compliance report and correspondence dated September 2, 1981; April 13, 1982; and November 22, 1983; Respondent described its failure to comply with Section 22.3 of the Regulations for eleven (11) storage tanks and notified the Air Quality Division that due to safety reasons it could not install secondary seals on these tanks by December 31, 1982 and is requesting an extension to December 31, 1983 under Section 22.3.1.2.6 of the Regulations.

IV

The eleven (11) storage tanks listed in Paragraph IX herein are sources of volatile organic compounds and are subject to Section 22 of the Regulations.

V

Section 22.3 of the Regulations require that sources listed in Paragraph IX herein be in compliance with its provisions no later than December 31, 1982.

VI

Respondent failed to provide secondary controls on eleven (11) storage tanks at its Westlake facility by December 31, 1982, as required by Section 22.3 of the Regulations in violation of 1087 of the Act.

VII

Respondent was unable to comply with Section 22.3 of the Regulations by December 31, 1982, except by shutting down the sources listed in Paragraph IX herein, which would adversely affect the operation of the entire facility.

VIII

There are no reasonable and practical measures by which the Respondent could achieve reduction in emissions prior to achievement of final compliance.

IX

Considering all relevant evidence received, including public comment, the following compliance schedule would provide for final compliance with the requirements of Section 22 of the Regulations as expeditiously as practicable:

FR tank No.	Start draining	Seals completed (final compliance)
346	Completed	Completed
347	4/11/83	5/9/83
30	3/14/83	5/30/83
25	Completed	5/30/83
98	8/1/83	10/24/83
59	4/18/83	7/18/83
88	10/3/83	12/26/83
85	7/4/83	9/26/83
99	5/2/83	7/25/83
78	9/5/83	11/28/83

Order

Based on the foregoing findings of fact, Respondent is hereby ordered:

I

To take all actions necessary to achieve compliance with Section 22.3 of the Regulations in accordance with the following Compliance Schedule:

FR tank No.	Start draining	Seals completed (final compliance)
346	Completed	Completed
347	4/11/83	5/9/83
30	3/14/83	5/30/83
25	Completed	5/30/83
98	8/1/83	10/24/83
59	4/18/83	7/18/83
88	10/3/83	12/26/83
85	7/4/83	9/26/83
99	5/2/83	7/25/83
78	9/5/83	11/28/83

II

To achieve final compliance with Section 22.3 of the Regulations no later than December 31, 1983.

III

During the entire period in which this ORDER is in effect:

A. Respondent shall comply with the Regulations during any period insofar as it is able to do so.

B. Respondent shall comply with all additional directives issued by the Office of Environmental Affairs, Environmental Protection Agency, or any public health authority which the relevant agency determines are necessary to avoid an imminent and substantial endangerment to the health of persons or the environment.

IV

To submit written reports to the Air Quality Division no later than fifteen (15) days after each date listed as a milestone in the Compliance Schedule set forth in Paragraph I above. These reports must include:

A. Engineering information relative to the progress toward compliance with the pertinent milestone including any delays or other problems which could prevent compliance with this ORDER;

B. Measures taken to minimize emissions during the reporting period.

V

To be hereby notified that pursuant to the provisions of Section 113(d)(1)(E) of the Federal Clean Air Act [42 U.S.C. 7413(d)(1)(E)], unless exempted under Section 120(a)(2) (B) or (C) of the Federal Clean Air Act, the U.S. Environmental Protection Agency may require Respondent to pay a noncompliance penalty effective January 1, 1983. This does not constitute a "notice of noncompliance" as that term is used in Section 120(b)(3) of the Federal Clean Air Act [42 U.S.C. 7420(b)(3)] and 40 CFR 66.11.

VI

To be hereby notified that this ORDER does not preclude the Office of Environmental Affairs or the Louisiana Environmental Control Commission from assessing civil penalties against Respondent under Section 1073 E of the Act for the Violations cited in this ORDER.

VII

After completion of construction, but no later than December 31, 1983, Respondent shall:

A. Check for leaks and gaps and, if any are found, take necessary corrective actions.

B. Conduct all necessary tests as approved by the Air Quality Division to calculate the new level of emissions.

C. Report the emissions calculated in Paragraph VII. B above in writing to the Air Quality Division within thirty (30) days of achieving compliance.

D. Submit subsequent reports in accordance with Section 8.5.1 and 17.12 of the Regulations.

VIII

Compliance determinations which Respondent makes as a result of the foregoing requirements will be conducted in accordance with a test method and procedure approved by the Louisiana Department of Natural Resources. The Air Quality Division shall be notified at least fifteen (15) days prior to the performance test with details of the test and procedures.

IX

To be hereby notified that the failure or refusal of Respondent to comply with this ORDER and the provisions herein will subject it to possible enforcement procedures under Section 1073 of the Act which could result in the assessment of civil penalties in an amount not to exceed $50,000 for each day of continued noncompliance.

IV

This order is effective upon receipt.

Done at Baton Rouge, Louisiana, this 16th day of May, 1983.

B. Jim Porter,

Assistant Secretary, Office of Environmental Affairs.

State of Louisiana, Office of Environmental Affairs

In the matter of Vulcan Materials Comany, Vulcan Chemicals, Post Office box 227, Geismar, Louisiana 70734; Proceedings Under the Louisiana Environmental Affairs Act, LA. R.S. 30:1051 ET SEQ. Compliance Order.

The following COMPLIANCE ORDER is issued to Vulcan Chemicals by the Assistant Secretary, Office of Environmental Affairs, Louisiana Department of Natural Resources, under the authority granted by the Louisiana Environmental Affairs Act (hereinafter referred to as "the Act"), La. R.S. 30:1051 et seq. and particularly Section 1073 C(3) of the Act.

Findings of Fact

I

Vulcan Chemicals (hereinafter referred to as "Respondent") operates a chemical manufacturing plant near Geismar, Ascension Parish, Louisiana.

II

The Louisiana State Implementation Plan for the Abatement of Ozone and Section 22 of the Louisiana Air Quality Regulations (hereinafter referred to as "the Regulations") are applicable for the control of hydrocarbon (volatile organic compound) emissions.

III

In their hydrocarbon compliance report and correspondence dated October 29, 1981; May 26, 1982; August 2, 1982; November 15, 1982; and February 8, 1983; Respondent described its failure to comply with Section 22.8 of the Regulations for the oxychlorination vent (Point Source No. 6) and notified the Air Quality Division that a process change from air feed to pure oxygen feed will significantly reduce the emissions for this source. Compliance will be achieved by December 31, 1984, thereby ending the non-compliance.

IV

The oxycholorination vent listed in Paragraph III above is a source of volatile organic compounds and are subject to Section 22 of the Regulations.

V

Section 22.8 of the Regulations requires that the source listed in Paragraph III above be in compliance with its provisions no later than December 31, 1982.

VI

Respondent failed to provide controls on the exychlorination vent at its Giesmar facility by December 31, 1982, as required by Section 22.8 of the Regulations in violation of 1087 of the Act.

VII

Respondent was unable to comply with Section 22.8 of the Regulations by December 31, 1982, except by shutting down the source listed in Paragraph III above, which would adversly affect the operation of the entire facility.

VIII

There are no reasonable and practical measures by which the Respondent could achieve reduction in emissions prior to achievement of final compliance.

IX

Considering all relevant evidence received, including public comment, the following compliance schedule would provide for final compliance with the requirements of Section 22 of the Regulations as expeditiously as practicable:

	Milestone dates
Complete design	1/1/83
Order equipment	9/1/83
Commence construction	3/1/84
Complete construction	9/1/84
Final Compliance	12/31/84

Order

Based on the foregoing findings of fact, Respondent is hereby ordered:

I

To take all actions necessary to achieve compliance with Section 22.8 of the Regulations in accordance with the following Compliance Schedule:

	Milestone dates
Complete design	1/1/83
Order equipment	9/1/83
Commence construction	3/1/84
Complete construction	9/1/84
Final Compliance	12/31/84

II

To achieve final compliance with Section 22.8 of the Regulations no later than December 31, 1984.

III

During the entire period in which this order is in effect:

A. Respondent shall comply with the Regulations during any period insofar as it is able to do so.

B. Respondent shall comply with all additional directives issued by the Office of Environmental Affairs, Environmental Protection Agency, or any public health authority which the relevant agency determines are necessary to avoid an imminent and substantial endangerment to the health of persons or the environment.

IV

To submit written reports to the Air Quality Division no later than fifteen (15) days after each date listed as a milestone in the Compliance Schedule set forth in Paragraph I above. These reports must include:

A. Engineering information relative to the progress toward compliance with the pertinent milestone including any delays or other problems which could prevent compliance with this order;

B. Measures taken to minimize emissions during the reporting period.

V

To be hereby notified that pursuant to the provisions of Section 113(d)(1)(e) of the Federal Clean Air Act (42 U.S.C. 7413(d)(1)(E)), unless exempted under Section 120(a)(2)(B) or (C) of the Federal Clean Air Act, the U.S. Environmental Protection Agency may require Respondent to pay a noncompliance penalty effective January 1,

1983. This does not constitute a "notice of noncompliance" as that term is used in Section 120(b)(3) of the Federal Clean Air Act (42 U.S.C. 7420(b)(3)) and 40 CFR 60.11.

VI

To be hereby notified that this order does not preclude the Office of Environmental Affairs or the Louisiana Environmental Control Commission from assessing civil penalties against Respondent under Section 1073 E of the Act for the violations cited in this order.

VII

After completion of construction, but no later than December 31, 1984, Respondent shall:

A. Inspect and check the system and take necessary corrective actions to insure compliance with Section 22.8 of the Regulations and other applicable state and federal laws and regulations.

B. Conduct all necessary emission testing and calculate new level of emissions for this source after confirmation of compliance.

C. Report the emissions testing and new level of emissions as calculated in Paragraph B above in writing to the Air Quality Division within thirty (30) days of achieving compliance.

D. Comply with monitoring, report and record keeping requirements of all applicable state and federal laws and regulations, including National Emission Standards for Hazardous Air Pollutants (NESHAP).

VIII

Compliance determinations which Respondent makes as a result of the foregoing requirements will be conducted in accordance with a test method and procedure approved by the Louisiana Department of Natural Resources. The Air Quality Division shall be notified at least fifteen (15) days prior to the performance test with details of the test and procedures.

IX

To be hereby notified that the failure or refusal of Respondent to comply with this order and the provisions herein will subject it to possible enforcement procedures under Section 1073 of the Act which could result in the assessment of civil penalties in an amount not to exceed $50,000 for each day of continued noncompliance.

X

This order is effective upon receipt.

Done at Baton Rouge, Louisiana, this 16th day of May.

B. Jim Porter,

Assistant Secretary, Office of Environmental Affairs.

[FR Doc. 83-24372 Filed 9-2-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 721

[OPTS-50504; BH-FRL 2387-7]

Toxic Substances; 1,2-Benzenediamine, 4-Ethoxy, Sulfate; Proposed Determination of Significant New Uses

Correction

In FR Doc. 83-23753 beginning on page 39245 in the issue of Tuesday, August 30, 1983, make the following correction:

On page 39251, first column, the caption now reading "PART 172—[AMENDED]" should have read "PART 721—[AMENDED]".

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 83-14; Notice 1]

Motorcycle Controls and Displays

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking; response to petition for rulemaking.

SUMMARY: Standard No. 123, *Motorcycle Controls and Displays*, specifies requirements for the location, operation, identification and illumination of controls and displays in two- and three-wheeled motor vehicles. This notice proposed to update Standard No. 123 by adding symbols as an option to the words which are presently required to identify motorcycle controls and displays. This proposal brings the standard into harmony with latest documents promulgated by the International Standards Organization. The changes would reduce compliance costs by promoting international harmonization and may result in safety benefits. This action results in part from a petition for rulemaking submitted by BMW of North America. This notice grants BMW's petition.

DATE: Comments must be submitted by October 21, 1983. The proposed effective date for voluntary use of the new symbols is the date of publication of a final rule in the Federal Register.

ADDRESS: Comments should refer to the docket and notice numbers and be submitted to: Docket Section, Room 5109, Nassif Building, 400 Seventh Street, SE., Washingrton, D.C. 20590. Docket hours are 8 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Nelson Erickson, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590 (202-426-2720).

SUPPLEMENTARY INFORMATION: Standard No. 23, *Motorcycle Controls and Displays*, specifies requirements for the location, operation, identification and illumination of controls and displays in motorcycles. The purpose of the standard is to ensure the accessibility and visibility of controls and displays and to facilitate their quick and proper identification an selection by a driver in order to reduce the safety hazards caused by the diversion of the driver's attention from the driving task, and by mistakes in selecting controls.

Among its requirements, Standard No. 123 specifies the use of certain words for the identification of several controls and displays. The standard is silent as to the use of symbols in addition to or in place of, words. BMW of North America has petitioned for rulemaking to amend the standard so that symbols may be used. Its petition was granted on August 30, 1983.

The symbols proposed are those developed by the International Standards Organization (ISO). Symbols are adopted by the ISO only after extensive international testing as to their recognizability and suitability. Certain ISO symbols have also been adopted by the United Nations Economic Commission for Europe (ECE) and the European Economic Community (EEC). Symbols can convey information more quickly and with less chance of human error than words. This is particularly true with respect to the large foreign, language speaking population of this country.

In addition to the safety benefits resulting from the use of additional symbols, this action may reduce costs by facilitating international harmonization. Manufacturers which produce vehicles for sale in both this nation and abroad would not have to produce separate dashboards or controls and displays to meet conflicting identification requirements.

Under the proposal, Table 3 would be amended by adding a new column containing ISO symbols for supplemental engine stop, manual choke, electric starter, headlamp upper-lower beam control, horn, turn signals, neutral indicator, upper beam indicator, and fuel tank shut off valve. These symbols could be used in addition to, or in lieu of, the words presently required. A footnote is added to clarify that the framed area of certain symbols may be filled in.

There are issues associated with the use of symbols for which NHTSA is especially interested in soliciting comments.

The first of these issues is the number and type of symbols that can be used to greatest effect. The ISO is a non-regulatory body. The European regulatory body (ECE) has additional, and in some instances different, symbols. There are potential safety and cost savings advantages to reaching consensus on the most effective symbols. In NHTSA's opinion, symbols should identify only the most important controls and displays. This proposal lists 13 symbols covering only controls and displays included in Table 3; the ISO standard for motorcycles (ISO 6727) has 22. NHTSA solicits comments on the number of those symbols that should be required or permitted, with attention to the question whether a proliferation of symbols contributes to confusion rather than providing clarification.

Another issue is whether, if the required words are used, a manufacturer should be allowed to supplement those words with symbols which he has developed on his own. Some of the ISO-approved symbols may have an unclear relationship to the function concerned, and in these instances manufacturers may have developed a more relevant symbol.

A further issue is the permissibility of deviation from exact replication of a symbol, such as use of a light symbol with four rays rather than the five depicted. The agency has proposed that the symbols specified shall be "substantially in the form" shown in the new table to cover minor errors that have an inconsequential relationship to motor vehicle safety. NHTSA is interested in comments on this issue as well. A final issue is whether all symbols, including those in Standard No. 101, should be placed in a separate regulation that is not a Federal motor vehicle safety standard.

The agency has assessed the economic and other impacts of these proposed amendments and determined that the proposed amendment is neither a major rule within the meaning of Executive Order 12291 nor a significant rule under the Department of Transportation's regulatory policies and procedures. Further, the agency concludes that the economic and other consequences of these proposed amendments are so minimal as not to require preparation of a full regulatory evaluation. The impact is minimal because the cost difference between using words and symbols is negligible and because use of symbols instead of words is optional.

The agency has analyzed these proposed amendments for purposes of the Regulatory Flexibility Act. Since they would not impose any significant new requirements or result in significant cost impacts, I certify that the proposed amendments would not have a significant economic impact on a substantial number of small entities. Motorcycle manufacturers, those affected by the proposal, are generally not small businesses within the meaning of that Act. Small organizations and small governmental jurisdictions would be only affected by the amendment to the extent that they purchase vehicles which must comply with the standard. Since the amendments would not impose any significant new requirements or result in significant cost impacts for manufacturers, the agency concludes that the amendments will not significantly affect small organizations or small governmental jurisdictions.

Similarly, the agency has analyzed these proposed amendments for the purposes of the National Environmental Policy Act. The agency has concluded that the amendment will not have a significant effect on the human environment.

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must be limited not to exceed 15 pages in length. (49 CFR 553.21) Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation (49 CFR Part 512).

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Neither the granting of a petition nor the issuance of a notice of proposed rulemaking means that a rule will necessarily be issued. The determination of whether to issue a rule is made in the course of the rulemaking proceeding, in accordance with statutory criteria.

The engineer and attorney primarily responsible for this rulemaking action are Nelson Erickson and Taylor Vinson, respectively.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

In consideration of the foregoing, it is proposed that the following amendments be made in § 571.123 and Chapter V of Title 49, Code of Federal Regulations:

Section 571.123 would be amended as follows.

1. Section S5.2.3 would be revised to read:

§ 571.123 Standard No. 123; motorcycle controls and displays.

* * * * *

S5.2.3. *Control and display identification.* If an item of equipment in

Table 3, Column 1, is provided, the control for such item shall be identified by the word or words shown in Column 2, and/or by a symbol substantially in the form shown in Column 3. Any corresponding word shown in Column 4 shall be placed on or adjacent to the control. Control positions shall be identified as specified in Column 4, to signify the function performed at that setting. The abbreviations used in Columns 2 and 4 are minimum requirements and appropriate words may be spelled in full. Identification shall appear to the operator in an upright position. Functional identification need not be provided for equipment items with no entry in Column 4.

* * * * *

2. Table 3 would be revised to read:

BILLING CODE 4910-59-M

Table 3

Motorcycle Control and Display Identification Requirements

No.	Column 1 Equipment	Column 2 Control and Display Identification Word	Column 3 Control and Display Identification Symbol	Column 4 Identification at Appropriate Position of Control or Display
1	Ignition	Ignition		Off
2	Supplemental Engine Stop (Off, Run)	Engine Stop	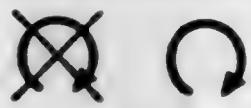	Off, Run
3	Manual Choke	Choke		
4	Electric Starter			Start[1]
5	Headlamp Upper-Lower Beam Control	Lights	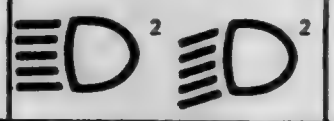	Hi, Lo
6	Horn	Horn		
7	Turn Signal	Turn	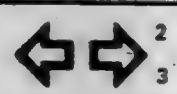	L, R
8	Speedometer	M.P.H.		M.P.H.[4]
9	Neutral Indicator	Neutral	N	
10	Upper Beam Indicator	High Beam		
11	Tachometer	R.P.M.		
12	Fuel Tank Shutoff Valve (Off, On, Res.)	Fuel	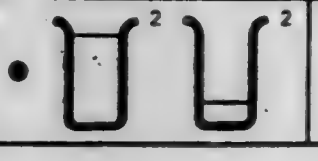	Off, On, Res.

[1] Required only if electric starter is separate from ignition switch.
[2] Framed areas may be filled.
[3] The pair of arrows is a single symbol. When the indicators for left and right turn operate independently however, the two arrows will be considered separate symbols and may be spaced accordingly.
[4] M.P.H. increase in a clockwise direction. Major graduations and numerals appear at 10 mph intervals, minor graduations at the 5 mph intervals. (37 F.R. 17474—August 29, 1972. Effective: 9/1/74)

BILLING CODE 4910-59-C

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on August 30, 1983.

Kennerly H. Digges,

Acting Associate Administrator for Rulemaking.

[FR Doc. 83-24281 Filed 9-1-83; 8:45 am]

BILLING CODE 4910-59-M

49 CFR Part 571

[Docket No. 83-13; Notice 1]

Federal Motor Vehicle Safety Standards; Motorcycle Controls and Displays

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The purpose of this notice is to announce that NHTSA is proposing an amendment to Safety Standard No. 123, *Motorcycle Controls and Displays*, that would allow greater flexibility in mounting the manual fuel control shut off valve. This action is taken pursuant to a grant of a petition for rulemaking. Its primary benefit is that it will relieve a current design restriction which is deemed no longer necessary for motor vehicle safety.

DATES: Comment closing date: October 21, 1983. Proposed effective date: 30 days after publication of the final rule in the Federal Register.

ADDRESSES: Comments should refer to the docket number and notice number and be submitted to: Docket Section, Room 5109, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590 (Docket hours 8 a.m. to 4 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Nelson Erickson, Office of Vehicle Safety Standards, NHTSA, Washington, D.C. 20590 (202-426-2720).

SUPPLEMENTARY INFORMATION: Table I of Standard No. 123 specifies that the manual fuel shut off control have the following modes of operation: "Off", with the control forward, "on", with the control downward, and "reverse (if provided)", with the control upward. No requirements are specified for the location of the control. However, Standard No. 123 has generally been interpreted as requiring control rotation around a transverse axis.

In March 1981 Bajaj Auto Ltd. asked NHTSA for an "exemption" from this requirement in order to mount its fuel shut off control so that it could be rotated around a longitudinal axis. In establishing the original operational modes, NHTSA had justified them by stating that in the event of a crash there was a greater likelihood that the control would be carried forward by inertia to the "off" position, thereby shutting off the fuel. In Bajaj's opinion, this effect would be unlikely except in the most severe collisions because of the low weight of the operating control lever, and the tightness of the control valve necessary to guard against inadvertent closure of the control in normal operation. After deliberation, and its own informal investigation, the agency concurred with Bajaj's reasoning and decided to treat Bajaj's request as a petition for rulemaking. Bajaj was informed of this decision in 1982.

The agency has tentatively decided that motor vehicle safety through standardization of controls is best served in this instance by retaining the relationships of the control positions to each other while allowing the manufacturer to place the control so that it may operate in its required positions around either a longitudinal or transverse axis. It is proposed that when the control is rotated around a longitudinal axis, the "off" position shall be "horizontal" with the other positions downward for "on" and upward for "reserve on". In the horizontal position, the control can be pointing either to the right or left.

NHTSA has considered this proposal and has determined that it is not major within the meaning of Executive Order 12291 "Federal Regulation" or significant under Department of Transportation regulatory policies and procedures, and that neither a regulatory impact analysis nor a full regulatory evaluation is required. The proposal would impose no additional requirements but would permit manufacturers greater flexibility in location the control concerned.

NHTSA has analyzed this proposal for the purposes of the National Environmental Policy Act. The proposal would have no effect on the human environment since the weight and quantity of materials used in the manufacture of motorcycles would not be changed. No impact on safety is anticipated.

The agency has also considered the impacts of this proposal in relation to the Regulatory Flexibility Act. I certify that this proposal would not have a significant economic impact on a substantial number of small entities, and no initial regulatory flexibility analysis has been prepared. Manufacturers of motorcycles, those affected by the proposal, are generally not small businesses within the meaning of the Regulatory Flexibility Act. Finally, small organizations and governmental jurisdictions would not be significantly affected since the price of new motorcycles will be minimally impacted.

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must be limited not to exceed 15 pages in length. (49 CFR 553.21) Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information ha been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation (49 CFR Part 512).

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

The engineer and lawyer primarily responsible for the development of this proposal are Nelson Erickson and Taylor Vinson, respectively.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

§ 571.123 [Amended]

In consideration of the foregoing, it is proposed that the operation requirements for the manual fuel shutoff control (item 7) in Column 3 of Table 1 of 49 CFR 571.123, Motor Vehicle Safety Standard No. 123 be revised to read as follows:

"On"—Control downward.

"Off"—Control forward (if control rotates around a transverse axis) or Horizontal—Left or Right (if control rotates around a longitudinal axis).

"Reserve On"—(if provided) Control upward.

(Secs. 103, 119, Pub. L. 87–563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on August 30, 1983.

Kennerly H. Digges,

Acting Associate Administrator for Rulemaking.

[FR Doc. 83-24279 Filed 9-2-83; 8:45 am]

BILLING CODE 4910-59-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1157

[Ex Parte 293 (Sub-8)]

Standards for Determining Commuter Rail Service Continuation Subsidies

AGENCY: Rail Services Planning Office, Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking

SUMMARY: On May 29, 1981 the Rail Services Planning Office (RSPO) reopened Ex Parte No. 293 (Sub-No. 8) *Standards for Determining Commuter Rail Service Continuation Subsidies* (Standards). At that time the RSPO requested comments on ways to amend the Standards to comply with an Appeals Court decision in which the Court ruled that RSPO erred in holding to an irrebuttable presumption that the owner of a rail property is the dominant user. The proposed amendment will alter the Standards to comply with the Court's decision and will permit the owner of rail property the opportunity to petition RSPO and present information rebutting the presumption of dominance.

DATE: Comments may be filed on or before September 23, 1983.

ADDRESS: An original and six copies of any comments should be mailed to: Interstate Commerce Commission, Section of Rail Services Planning, Room 4414, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Stephen Grimm, (202) 275–0839
or
Elaine Kaiser, (202) 275–0907

SUPPLEMENTARY INFORMATION: On August 15, 1978, RSPO issued Interpretation No. 9 to the Standards [43 FR 37693, August 24, 1978]. In the Interpretation RSPO held that the owner of a rail property was presumed to be the dominant user. The Standards were subsequently amended to incorporate this presumption [45 FR 43 January 2, 1980, and 45 FR 20106 March 27, 1980.]

The Southeastern Pennsylvania Transportation Authority took exception to the RSPO interpretation and filed a complaint with the United States Court of Appeals for the Third Circuit. On March 12, 1981 the Court ruled that RSPO erred in holding to the "irrebuttable presumption that the owner of a rail property is the dominent user." The Court found that RSPO's assumption "may not reflect the relative use of the line by the type of service provided." As a consequence of the Court ruling, RSPO reopened the Standards (46 FR 305156, June 5, 1981) and requested comments on grounds for rebutting the presumption that the owner is the dominant user.

RSPO has carefully reviewed both the comments and a recent relevant Interstate Commerce Commission (ICC) decision, Ex Parte No. 417, *Costing Methodology for the Northeast Corridor: Commuter Service served March 3, 1983.*[1] Based on this information RSPO has developed a proposed amendment to the Standards. The proposed amendment will permit the owner of a rail property to petition RSPO and present information rebutting the presumption of dominance. A successful rebuttal will result in RSPO designating another user as the dominant user. Additionally, since the use of rail property is not a static condition and may change over time, the proposed amendment can also be used by an RSPO designated dominant user to rebut the determination.

Basis for Determining a Dominant User

The parties submitted a number of specific criteria which could be used for determining the dominant user. One suggestion was that a "purpose" test be used as the criteria. In this test the "purpose" for which a particular structure or facility was built and maintained would be used to determine dominance. Another suggestion was that a "management control" test be the deciding factor. In a "management control" test items including operating control, cost control, and control over the configuration of the facilities would be the determining factors.

Several parties also indicated that volume or statistical measures should not be used to determine dominance. These parties believe that individual statistical measures such as car-miles, train-miles or ton-miles cannot reflect the operating differences between the various services and are inherently biased. For example, the use of gross ton mile statistics would tend to favor passenger service over freight service since freight trains are normally much heavier than passenger trains.

We believe that the parties' reasoned arguments point up the difficulty of selecting a criterion for determining dominant usage. However, we note that the Commission was faced with a similar question in Ex Parte No. 417. In this proceeding the Commission established a costing methodology for Amtrak's Northeast Corridor (NEC) and determined that Amtrak was the NEC's dominant user. This determination was based on an overall evaluation of the NEC and encompassed the use of numerous criteria. The criteria used included such items as: Congressional mandates; continuity of use; ownership of properties; purpose of the facility; operational priorities of the users; investment in the facilities; and statistical usage measurements. In essence, the Commission developed a set of criteria tailored to the specific situation existing on the NEC.

It appears to us that the flexible approach employed by the Commission could also be used in the Standards. This approach would permit the use of many factors and could include all of those previously mentioned. The list of factors could also be expanded or contracted as needed to fit a particular situation. This approach permits us to incorporate the suggestions of the parties and responds to their objections.

Discussion of the Proposed Amendment

The proposed amendment provides that the designated dominant user may petition the RSPO for a review of the designation. The petition will include; (1) an accurate description of all areas, structures or property for which the review is sought; (2) description of the current operating situation including a list of all current users; and (3) a detailed statement presenting the evidence which indicates that another user should be designated as the dominant user. The evidence cited may include statistical, financial, operational, historical or other appropriate data.

The petition will be served concurrently upon RSPO and any other directly affected user(s). The other user(s) or interested parties will then be

[1] This decision also embraces Ex Parte No. 417 (Sub-No. 1) *Costing Methodologies for the Northeast Corridor: Conrail Freight Service.*

afforded an opportunity to comment on the petition. RSPO will review the petition together with any comments and then render a determination as to which user is dominant.

This action will not significantly affect the quality of the human environment or the conservation of energy resources. Comments, however, are invited.

This action will not have a significant economic impact on a substantial number of small entities since the entities that are directly affected by this action are larger than the definitions established for small entities in the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601, *et seq.*) Therefore, we certify that a regulatory flexibility analysis is not required. The proposed rules are published under authority of 49 U.S.C. 10362(b)(5).

Dated: August 26, 1983.

By the Commission.

Agatha L. Mergenovich,

Secretary.

List of Subjects in 49 CFR Part 1157

Railroads, Reporting and recordkeeping requirements, Uniform system of accounts.

Part 1157 of Title 49 of the CFR is proposed to be amended as follows:

PART 1157—STANDARDS FOR DETERMINING COMMUTER RAIL SERVICE CONTINUATION SUBSIDIES

1. In § 1157.1, the definition for "Dominant user" would be revised to read as follows:

§ 1157.1 Definitions.

* * * * *

"Dominant user" means the person, railroad, States or local or regional transportation authority who either (1) is the owner of a rail property and/or facility or (20 is so designated by RSPO in accordance with Section 1157.11.

* * * * *

2. A new § 1157.11 would be added to read as follows:

§ 1157.11 Petition for change in dominant user designation.

(a) A person, railroad, State, or local or regional transportation authority subject to section 304 (e)(1), as amended, of the 3R Act may petition RSPO to review the designation of a rail user as the dominant user. The petition shall include a full and complete description of the facilities, structures or other properties for which the review is requested, a list of all current users, and shall specify the reasons that a review is being sought. The reasons cited shall include data sufficient to make a judgment on the validity of the petition. The data may include such items as statistical, financial, operational or any other relevant information the petitioner believes is appropriate.

(b) The petition shall be served by certified mail on all current users, the subsidizer, the governor, the designated state agency, and the Rail Services Planning Office.

(c) An interested party will have thirty (30) days to respond to the petition. The response shall include any supporting data.

(d) Based on the petition and any response, RSPO will issue a decision within sixty (60) days from the date the petition is filed. In the decision RSPO will designate a dominant user for the facilities, structures or other properties in question.

[FR Doc. 83-24254 Filed 9-2-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 17

[Docket No. 30831-176]

Endangered and Threatened Wildlife and Plants; Interagency Cooperation; Extension of Comment Period

AGENCIES: Fish and Wildlife Service, Interior; National Marine Fisheries Service, Commerce.

ACTION: Extension of Comment Period.

SUMMARY: In its notice of a proposed rule concerning Interagency Cooperation (48 FR 29990, June 29, 1983), the Services invited comments for a 30-day period ending August 29, 1983.

In response to several requests, and in recognition of the complexity of the subject matter, the Services hereby extend the comment period to September 30, 1983.

DATE: Comments must be received by September 30, 1983.

ADDRESSES: Submit comments to Director, U.S. Fish and Wildlife Service, Office of Endangered Species (OES), Department of the Interior, Washington, D.C. 20240. Comments and materials received will be available for public inspection during normal business hours (7:45 a.m. to 4:15 p.m.) at the Service's Office of Endangered Species, Suite 500, 1000 N. Glebe Road, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240 (703-235-2771), or Richard B. Roe, Acting Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235 (202-634-7461).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Dated: August 29, 1983.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

Dated: August 31, 1983

William G. Gordon,

Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration.

[FR Doc. 83-24306 Filed 9-2-83; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 48, No. 173
Tuesday, September 6, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 32–83]

Proposed Foreign-Trade Zone—Grand Forks, North Dakota; Application and Public Hearing

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Grand Forks Development Foundation, a North Dakota non-profit development corporation, requesting authority to establish a general-purpose foreign-trade zone in Grand Forks, North Dakota, adjacent to the Grand Forks Station of the Pembina Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on August 29, 1983. The applicant is authorized to make this proposal under Senate Bill 2254 of the Forty-eighth Legislative Assembly of the State of North Dakota (signed March 7, 1983).

The proposed foreign-trade zone will involve two separate sites totalling 48 acres in Grand Forks. Site 1 will cover 6 acres at 5118 Gateway Drive (U.S. Highway 2), where 80,000 square feet of warehouse space is available. Site 2 will cover 42 acres adjoining a planned industrial park on South 48th Street, ¼ mile south of Demers Avenue. This site has a 15,000 square foot building for warehousing activity and open space for firms requiring separate facilities. The sites are within 75 miles of the U.S./Canadian border crossing at Pembina and will be operated by their owners under agreement with the zone grantee.

The application contains evidence of the need for zone services in the Grand Forks area. Several firms have indicated an interest in using zone procedures for warehousing/distribution of products such as agricultural equipment, chemicals, and electronic products. Specific manufacturing approvals are not being sought at this time. Requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: John J. Da Ponte, Jr. (Chairman), Director, Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, D.C. 20230; Robert W. Nordness, District Director, U.S. Customs Service, North Central Region, 209 Federal Building, Duluth, MN 55802; and Colonel Edward G. Rapp, District Engineer, U.S. Army Engineer District St. Paul, 1135 USPO and Custom House, St. Paul, MN 55101.

As part of its investigation, the examiners committee will hold a public hearing on September 27, 1983, beginning at 9:00 a.m., in the Grand Forks Civic Auditorium, 615 First Avenue North, Grand Forks.

Interested parties are invited to present their views at the hearing. Persons wishing to testify should notify the Board's Executive Secretary in writing at the address below or by phone (202/377–2862) by September 20. Instead of an oral presentation, written statements may be submitted in accordance with the Board's regulations to the examiners committee, care of the Executive Secretary, at any time from the date of this notice through October 27, 1983.

A copy of the application and accompanying exhibits will be available during this time for public inspection at each of the following locations:

Grand Forks Development Foundation Offices, Chamber of Commerce Building, 202 North 3rd Street, Grand Forks, ND 58206.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1872, 14th and Pennsylvania Ave., NW., Washington, D.C. 20230.

Dated: August 30, 1983.

John J. Da Ponte, Jr.,
Executive Secretary.

[FR Doc. 83–24290 Filed 9–2–83; 8:45 am]
BILLING CODE 3510–25–M

[Docket No. 33–83]

Proposed Foreign-Trade Zone—Oklahoma City, Oklahoma; Application and Public Hearing

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Oklahoma City Port Authority, an Oklahoma public corporation, requesting authority to establish a general-purpose foreign-trade zone in Oklahoma City, Oklahoma, within the Oklahoma City Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on August 29, 1983. The applicant is authorized to make this proposal under Section 1106(g), 82 Oklahoma Statutes, 1971.

The proposed zone will cover 640 acres within the 6700-acre Will Rogers World Airport complex at Portland Avenue and S.W. 59th Street. The Airport Authority will construct a 60,000 square foot multi-purpose warehouse and select a zone operator. Space will also be made available for firms needing separate facilities.

The application contains evidence of the need for zone services in the Oklahoma City area. Several firms have indicated an interest in using the zone for warehousing/distribution of products such as electronic components and equipment, and seat belts. Specific manufacturing approvals are not being sought at this time. Requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: John J. Da Ponte, Jr. (Chairman), Director, Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, D.C. 20230; Donald Gough, Deputy Assistant Regional Commissioner, U.S. Customs Service, Southwest Region, 5850 San Felipe Street, Houston, TX 77057; and Colonel Franklin T. Tilton, District Engineer, U.S. Army Engineer District Tulsa, P.O. Box 61, Tulsa, OK 74121.

As part of its investigation, the examiners committee will hold a public hearing on September 28, 1983,

beginning at 2:00 p.m., in the Administrative Offices of the Will Rogers World Airport, Oklahoma City.

Interested parties are invited to present their views at the hearing. Persons wishing to testify should notify the Board's Executive Secretary in writing at the address below or by phone (202/377–2862) by September 20. Instead of an oral presentation, written statements may be submitted in accordance with the Board's regulations to the examiners committee, care of the Executive Secretary, at any time from the date of this notice through October 28, 1983.

A copy of the application and accompanying exhibits will be available during this time for public inspection at each of the following locations:

Port Director's Office, U.S. Customs Service, Room 120, 215 Dean A. McGee Avenue, Oklahoma City, OK 73102.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1872, 14th and Pennsylvania, NW., Washington, D.C. 20230.

Dated: August 30, 1983.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 83-24289 Filed 9-2-83; 8:45 am]

BILLING CODE 3510-25-M

International Trade Administration

[A-428-005]

Tool Steel From the Federal Republic of Germany; Allowance of Security in Lieu of Estimated Duty Pending Early Determination of Antidumping Duty

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice of Allowance of Security in Lieu of Estimated Duty Pending Early Determination of Antidumping Duty.

SUMMARY: The Department of Commerce has determined that it has sufficient information from ARBED Saarstahl GmbH to conduct an expedited review of the antidumping duty order on tool steel from the Federal Republic of Germany with respect to such merchandise manufactured by ARBED Saarstahl GmbH. The Department will determine the appropriate foreign market values and United States prices by October 24, 1983. We will permit ARBED Saarstahl GmbH to post bonds or other security in lieu of the cash deposit of estimated antidumping duties for tool steel entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and on or before October 23, 1983.

EFFECTIVE DATE: September 6, 1983.

FOR FURTHER INFORMATION CONTACT: Joseph A. Fargo or Robert J. Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377–5255.

SUPPLEMENTARY INFORMATION:

Background

On July 25, 1983, the Department of Commerce ("the Department") published in the **Federal Register** an antidumping duty order on tool steel from the Federal Republic of Germany (48 FR 33730). The Department announced that, in addition to deposits of estimated normal customs duties, Customs officers were to require a cash deposit of estimated antidumping duties on all merchandise entered, or withdrawn from warehouse, for consumption on or after July 25, 1983.

On July 22, 1983, ARBED Saarstahl GmbH requested that the Department waive the requirement for cash deposit of estimated antidumping duties and conduct an expedited review pursuant to section 736(c) of the Tariff Act of 1930 ("the Tariff Act").

Before granting a waiver of cash deposits of estimated antidumping duties we must be satisfied that we will be able to determine the appropriate foreign market values and United States prices within 90 days after the date of publication of the order. The Department is satisfied that it will be able to do so.

Accordingly, the Department is instructing the Customs Service to waive cash deposits of estimated antidumping duties and accept bonds or other security for tool steel manufactured by Saarstahl entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and on or before October 23, 1983.

Interested parties may submit written comments within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days after the date of publication. The Department will determine the results of this expedited review by October 24, 1983, including the results of its analysis of any such comments or hearing.

This Notice of Allowance of Security in Lieu of Estimated Duty Pending Early Determination of Antidumping Duty is published in accordance with section 736(c)(2)(A) of the Tariff Act (19 U.S.C. 1673e(c)).

Dated: August 29, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-24291 Filed 9-2-83; 8:45 am]

BILLING CODE 3510-25-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Controlling Imports of Certain Man-Made Fiber Textile Products from the Socialist Republic of Romania

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Controlling imports of other man-made fiber yarn, wholly of non-continuous filament in Category 604, produced or manufactured in Romania and exported during the twelve-month period which began on January 1, 1983 and extends through December 31, 1983, at a level of 2,446,418 pounds.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175) and May 3, 1983 (48 FR 19924).

SUMMARY: On April 15, 1983 a notice was published in the **Federal Register** (48 FR 16312) announcing that, on February 24, 1983, under the terms of paragraph 8 of the agreement between the United States of America and the Socialist Republic of Romania relating to trade in wool and man-made fiber textiles and textile products of November 3, 1980, as amended, the Government of the United States has requested consultations with the Government of Romania with respect to man-made fiber textile products in Category 604. The notice stated that if no solution were agreed on in consultations between the two governments, the Committee for the Implementation of Textile Agreements could establish a limit of 2,446,418 pounds for the period which began on January 1, 1983 and extends through December 31, 1983. The United States Government has decided, until such time as a mutually satisfactory solution can be reached, to control imports of these products at the twelve-month level of 2,446,418 pounds. The United States remains committed to finding a solution concerning this category. Should such a solution be reached, further notice will be published in the **Federal Register**.

EFFECTIVE DATE: September 8, 1983.

FOR FURTHER INFORMATION CONTACT: Diana Bass, International Trade

Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

August 31, 1983.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Wool and Man-Made Fiber Textile Agreement of September 3, 1980, as amended, between the Governments of the United States and the Socialist Republic of Romania; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on September 6, 1983 and the twelve-month period which began on January 1, 1983 and extends through December 31, 1983, entry into the United States for consumption and withdrawal from warehouse for consumption of textile products in Category 604, produced or manufactured in Romania, and exported during the twelve-month period beginning on January 1, 1983, in excess of 2,446,418 pounds.[1]

Textile products in Category 604 which have been exported to the United States prior to January 1, 1983 shall not be subject to this directive.

Textile products in Category 604 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive, shall not be denied entry under this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175) and May 3, 1983 (48 FR 19924).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The action taken with respect to the Government of Romania and with respect to imports of man-made fiber textile products from Romania has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 533. This letter will be published in the **Federal Register.**

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-24286 Filed 9-2-83; 8:45 am]

BILLING CODE 3510-25-M

[1] The level or restraint has not been adjusted to reflect any imports after December 31, 1982. Imports during the January 1.–April 27, 1983 period have amounted to 202,429 pounds and should be charged.

CONSUMER PRODUCT SAFETY COMMISSION

Notification of Request for Approval of Collection of Information

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1981 (44 U.S.C. 3501 *et seq.*), with Consumer Product Safety Commission has submitted to the Office of Management and Budget a request for approval of a current collection of information requirement contained in the Safety Standard for Walk-Behind Power Lawn Mowers, 16 CFR Part 1205. The collection of information requirement requires manufacturers (including importers) of mowers subject to the standard to keep records of tests they perform to ensure that their mowers comply with the requirements of the standard (§ 1205.34) and to provide certain information on a label, concerning the production of the mower (§ 1205.35).

The purposes of the requirement to keep records of the tests are to assure compliance with the standard and to reduce the need for inspections and sample collections to determine the industry's compliance with the standard. The purposes of the labeling requirement are to comply with 15 U.S.C. 2063 and to facilitate corrective actions with regard to defective products.

Information about the Collection of Information:

Agency address: Consumer Product Safety Commission, 1111 18th Street, N.W., Washington, D.C. 20207.

Title of information collection: Safety Standard for Walk-Behind Lawn Mowers, 16 CFR Part 1205.

Type of request: Approval of current requirement.

Frequency of collection: (1) Records of tests—no frequency specified, but records must show that the certificate of compliance is based on a test of each mower or on a reasonable testing program. (2) Label—one time for each mower produced.

General description of respondents: Manufacturers and importers of walk-behind lawn mowers.

Estimated number of recordkeepers: 40.

Estimated averge number of hours per recordkeeper: 390 per year.

Comments: Comments on this proposed collection of information should be addressed to Gwen Pla, Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503; telephone (202) 395–7313. Copies of the proposed collection of information requirement are available from Francine Shacter, Office of Budget and Program Implementation, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 492–6529.

Dated: August 31, 1983.

Sheldon D. Butts,

Acting Secretary, Consumer Product Safety Commission.

[FR Doc. 83-24271 Filed 9-2-83; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; Amendments to Systems of Records

AGENCY: Department of the Army, DoD.

ACTION: Deletion of and amendments to notices for systems of records.

SUMMARY: The Department of the Army proposes to delete 1 and amend 21 system notices for systems of records subject to the Privacy Act of 1974. Following indentification of changes, the amended notices are set forth in their entirety.

DATES: Action shall be effective October 6, 1983 unless public comments are received which result in a contrary determination.

ADDRESSES: Comments may be submitted to Headquarters, Department of the Army, ATTN: DAAG–AMR–S, Room 1146, Hoffman Building 1, 2461 Eisenhower Avenue, Alexandria, VA 22331.

FOR FURTHER INFORMATION CONTACT: Mrs. Dorothy Karkanen, Office of The Adjutant General, Department of the Army, at the above address; telephone: 703/325–6163.

SUPPLEMENTARY INFORMATION: System notice AO917.03aDAPE, Alcohol and Drug Abuse Rehabilitation Files, is reprinted herein as it was amended and published at 47 FR 44379 on October 7, 1982. The notice printed at 48 FR 25717 on June 6, 1983 is an earlier version, inaccurate, and should be disregarded.

Other systems of records notices being amended herein result from amendment to 5 U.S.C. 552a(b) by Pub. L. 97–265 which added new condition of disclosure (b)(12) to the Privacy Act. These amendments do not require a report of an altered system notice pursuant to 5 U.S.C. 552a(o).

M. S.M Healy,

OSD Federal Register Liaison Officer, Department of Defense.

August 30, 1983.

DELETION

AO402.05aDAPE

System name:

Employment and Financial Interest Statement Files (48 FR 25582), June 6, 1983.

Reason:

These records are covered by OPM/GOVT–8 system of records entitled "Confidential Statements of Employment and Financial Interests". Notice is published at 47 FR 16501, April 16, 1982 and amended at 48 FR 37126, August 16, 1983.

AMENDMENTS

AAFES0002.04a

System name:

Litigation Initiated by AAFES (48 FR 25521), June 6, 1983.

Changes:

In routine uses of records maintained in the system, including categories of users and the purposes of such uses, add the following paragraph:

"Disclosures pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to 'consumer reporting agencies' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3))."

AAFES0702.1

System name:

Paid Disbursement Files (48 FR 25523), June 6, 1983.

Changes:

In routine uses of records maintained in the system, including categories of users and the purposes of such uses, add the following paragraph:

"Disclosures pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to 'consumer reporting agencies' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3))."

AAFES0702.23

System name:

Check Cashing Privilege Files (48 FR 25524), June 6, 1983.

Changes:

In *Routine uses of records maintained in the system, including categories of users and the purposes of such uses,* add the following paragraph:

"Disclosures pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to 'consumer reporting agencies' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3))."

AAFES0702.23b

System name:

Dishonored Check Files (48 FR 25525), June 6, 1983.

Changes:

In *Routine uses of records maintained in the system, including categories of users and the purposes of such uses,* add the following paragraph:

"Disclosures pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to 'consumer reporting agencies' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3))."

AAFES0703.07

System name:

Payroll Register Files (48 FR 25529), June 6, 1983.

Changes:

In *Routine uses of records maintained in the system, including categories of users and the purposes of such uses,* add the following paragraph:

"Disclosures pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to 'consumer reporting agencies' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3))."

AAFES1609.02

System name:

AAFES Customer Service (48 FR 25547), June 6, 1983.

Changes:

In *Routine uses of records maintained in the system, including categories of users and the purposes of such uses,* add the following paragraph:

"Disclosures pursuant 5 U.S.C. 552a(b)(12) may be made from this system to 'consumer reporting agencies' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3))."

A0305.05aDACA

System name:

Travel Payment System (48 FR 25564), June 6, 1983.

Changes:

In *Routine uses of records maintained in the system, including categories of users and the purposes of such uses,* add the following paragraph:

"Disclosures pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to 'consumer reporting agencies' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3))."

A0305.06aDACA

System name:

Military Pay System-Active Army (Manual) (48 FR 25565), June 6, 1983.

Changes:

In *Routine uses of records maintained in the system, including categories of users and the purposes of such uses,* add the following paragraph:

"Disclosures pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to 'consumer reporting agencies' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3))."

A0305.10aDACA

System name:

Joint Uniform Military Pay System-Active Army (JUMPS–AA)(48 FR 25566), June 6, 1983.

Changes:

In *Routine uses of records maintained in the system, including categories of users and the purposes of such uses,* add the following paragraph:

"Disclosures pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to 'consumer reporting agencies' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal

Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).'

A0305.10bDACA

System name:

Joint Uniform Military Pay System-Reserve Components-Army (48 FR 25567), June 6, 1983.

Changes:

In *Routine uses of records maintained in the system, including categories of users and the purposes of such uses,* add the following paragraph:

"Disclosures pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to 'consumer reporting agencies' as defined in the Fair Credit Reporting Act (15 U.S.C 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

A0305.10cDACA

System name:

Joint Uniform Military Pay System-Army-Retired Pay (48 FR 25567), June 6, 1983.

Changes:

In *Routine uses of records maintained in the system, including categories of users and the purposes of such uses,* add the following paragraph:

"Disclosures pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to 'consumer reporting agencies' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3))."

A0305.11DAPE

System name:

USMA Cadet Pay and Accounts System (48 FR 25569), June 6, 1983.

Changes:

In *Routine uses of records maintained in the system, including categories of users and the purposes of such uses,* add the following paragraph:

"Disclosures pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to 'consumer reporting agencies' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3))."

A0306.01aDACA

System name:

Civilian Employee Pay System (48 FR 25570), June 6, 1983.

Changes:

In *Routine uses of records maintained in the system, including categories of users and the purposes of such uses,* add the following paragraph:

"Disclosures pursuant to 5 U.S.C. 522a(b)(12) may be made from this system to 'consumer reporting agencies' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C 3701(a)(3))."

A0308.02aDACA

System name:

Nonappropriated Fund Employee Pay System (48 FR 25571), June 6, 1983.

Changes:

In *Routine uses of records maintained in the system, including categories of users and the purposes of such uses,* add the following paragraph:

"Disclosures pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to 'consumer reporting agencies' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3))."

A0314.06DACA

System name:

Check Cashing Privilege Files (48 FR 25573), June 6, 1983.

Changes:

In *Routine uses of records maintained in the system, including categories of users and the purposes of such uses,* add the following paragraph:

"Disclosures pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to 'consumer reporting agencies' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3))."

A0314.09aDACA

System name:

Nonappropriated Fund Accounts Receivable System (48 FR 25573), June 6, 1983.

Changes:

In *Routine uses of records maintained in the system, including categories of users and the purposes of such uses,* add the following paragraph:

"Disclosures pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to 'consumer reporting agencies' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3))."

A0314.24DAAG

System name:

Nonappropriated Fund Employee Insurance and Retirement Files (48 FR 25574), June 6, 1983.

Changes:

In *Routine uses of records maintained in the system, including categories of users and the purposes of such uses,* add the following paragraph:

"Disclosures pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to 'consumer reporting agencies' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3))."

A0319.07DACA

System name:

FHA Mortgage Payment Insurance Files (48 FR 25576), June 6, 1983.

Changes:

In *Routine uses of records maintained in the system, including categories of users and the purposes of such uses,* add the following paragraph:

"Disclosures pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to 'consumer reporting agencies' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3))."

A0319.13DACA

System name:

Bankruptcy Processing Files (48 FR 25577), June 6, 1983.

Changes:

In *Routine uses of records maintained in the system, including categories of users and the purposes of such uses,* add the following paragraph:

"Disclosures pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to 'consumer reporting agencies' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3))."

A0725.06aDAAG

System name:

Army Emergency Relief Transaction Files (48 FR 25694), June 6, 1983.

Changes:

In *Routine uses of records maintained in the system, including categories of users and the purposes of such uses,* add the following paragraph:

"Disclosures pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to 'consumer reporting agencies' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3))."

A1004.06aTRADOC

System name:

ROTC Financial Assistance (Scholarship) Application File (48 FR 25725), June 6, 1983.

Changes:

In *Routine uses of records maintained in the system, including categories of users and the purposes of such uses,* add the following paragraph:

"Disclosures pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to 'consumer reporting agencies' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3))."

AAFES0602.04a

SYSTEM NAME:

Litigation Initiated by AAFES.

SYSTEM LOCATION:

Office of the General Counsel, Headquarters, Army and Air Force Exchange Service (AAFES), AAFES–Europe, AAFES–Pacific.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals against whom AAFES has filed a complaint or similar pleading in a court or administrative body.

CATEGORIES OF RECORDS IN THE SYSTEM:

Pleadings and documents filed by parties to the action and documentation, correspondence, and memoranda pertaining thereto.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C., 3012 and 8012.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

By the Army and Air Force Exchange Service to process and respond, as necessary, to all complaints and other pleadings filed.

Information may be released to civil or criminal law enforcement agencies for law enforcement purposes and to officials and employees of the Department of Defense and the Department of Justice who have need therefor in the performance of their official duties.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosure pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to 'consumer reporting agencies' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

By surname of defendant in the proceeding.

SAFEGUARDS:

Records are maintained in buildings having security guards and are restricted to authorized personnel who are properly screened, cleared, and trained in Privacy Act matters.

RETENTION AND DISPOSAL:

Records are permanent. They are retained until judicial proceedings have been resolved, after which they are retired to the servicing AAFES warehouse or servicing General Services Administration records Holding Center.

SYSTEM MANAGER(S) AND ADDRESS:

General Counsel, Headquarters, Army and Air Force Exchange Service, Dallas, TX 75222.

NOTIFICATION PROCEDURE:

Information may be obtained from the General Counsel at the AAFES HQ concerned.

RECORD ACCESS PROCEDURES:

Individuals desiring access to records in this system pertaining to them should write to the appropriate General Counsel, providing their full name, current address and telephone number, and latest correspondence from AAFES, if available.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From any individual who can provide information concernig the proceedings; from relevant, available documentation.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

AAFESO702.01

SYSTEM NAME:

Paid Disbursement Files

SYSTEM LOCATION:

Headquarters Army and Air Force Exchange Service (AAFES), Dallas, TX 75222; HQ AAFES-Alaska; HQ-AAFES-Pacific; HQ AAFES-Europe.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of the Army and Air Force Exchange Service who are required to travel

CATEGORIES OF RECORDS IN THE SYSTEM:

Employee's name, Social Security Number, payroll number, and payments made to or on behalf of employee for travel-transfer expenses.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C., 3012.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

By the Army and Air Force Exchange Service to control payments and furnish information to employee.

Information is disclosed to Internal Revenue Service for income tax purposes.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures Pursuant to 5 U.S.C. 552a(b)(12): Disclosure pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to 'consumer reporting agencies' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31) U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Documents are in file folders in metal containers.

RETRIEVABILITY:

By employee's name, SSN/payroll or check number.

SAFEGUARDS:

Records are retained in guard-secured buildings and are accessed only by authorized personnel having official need therefor.

RETENTION AND DISPOSAL:

Records are retained for 6 years, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

HQ Army and Air Force Exchange Service, Dallas, TX 75222.

NOTIFICATION PROCEDURE:

Information may be obtained from the Comptroller, HQ AAFES, Dallas, TX 75222; telephone: 214/330–2631.

RECORD ACCESS PROCEDURES:

Individuals desiring access to records in this system pertaining to them should write to the HQ Army and Air Force Exchange Service, ATTN: Chief, Comptroller Division, Dallas, TX 75222. Individual must furnish full name, SSN/payroll number and period and location of employment.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

Travel orders, vouchers, records of expenses incurred, and copy of reimbursement checks.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

AAFESO702.23

SYSTEM NAME:

Check-Cashing Privilege Files

SYSTEM LOCATION:

Headquarters, Army and Air Force Exchange Service, Dallas, TX 75222; AAFES regions, areas and installations within the US; HQ AAFES-Alaska; HQ AAFES-Europe; HQ AAFES-Pacific.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military members (active, reserve, retired), their dependents, and AAFES employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, SSN indebtedness, collection efforts, and relevant documentation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C., 3012 and 8012.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

By HQ AAFES to collect checks not paid by the banking facility.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosure pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in metal filing cabinets.

RETRIEVABILITY:

By customer name and SSN.

SAFEGUARDS:

Records are maintained in guard-secured buildings. Access is restricted to employees having official need for the information.

RETENTION AND DISPOSAL:

Records are retained for 3 years following the date case is closed, after which they are destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

HQ Army and Air Force Exchange Service, Dallas, TX 75222.

NOTIFICATION PROCEDURE:

Information may be obtained from the Comptroller, HQ Army and Air Force Exchange Service, Dallas, TX 75222; telephone: 214/330–2631.

RECORD ACCESS PROCEDURES:

Individuals desiring access to records in this system pertaining to them should write to the HQ Army and Air Force Exchange Service, ATTN: Chief, Comptroller Division, Dallas, TX 75222, furnishing their full name and address.

RECORD SOURCE CATEGORIES:

From the individual, his/her check, and financial institutions.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

AAFESO702.23b

SYSTEM NAME:

Dishonored Check Files

SYSTEM LOCATION:

Headquarters Army and Air Force Exchange Service, Dallas, TX 75222; AAFES-Europe; AAFES-Pacific.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have negotiated dishonored checks at AAFES facilities and whose check cashing privilege is under review by the General Counsel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, SSN, indebtedness, collection efforts, and relevant documentation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C., 3012 and 8012.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

By the Army and Air Foce Exchange Service to collect dishonored check indebtedness.

Information may be disclosed to civil or criminal law enforcement agencies for law enforcement purposes and to officials and employees of the Department of Defense and the Department of Justice who have need therefor in the performance of official duties.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosure pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

By surname of individual responsible for dishonored check.

SAFEGUARDS:

Records are maintained in buildings having security guard and are accessed only by personnel having official need therefor who are properly screened, cleared and trained.

RETENTION AND DISPOSAL:

Records are retained by the General Counsel until indebtedness has been satisfied, determined to be uncollectible, or additional administrative action is required. Upon completion, records are transferred to the Comptroller Division and maintained with appropriate check cashing privilege records.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters Army and Air Force Exchange Service, Dallas, TX 75222.

NOTIFICATION PROCEDURE:

Information may be obtained from the General Counsel, HQ AAFES, Dallas, TX; AAFES-Europe, or AAFES-Pacific.

RECORD ACCESS PROCEDURES:

Individuals may request access to records in this system pertaining to them by writing to the General Counsel at the AAFES HQ where the records are believed to exist. Individual must furnish full name, current address and telephone number, and the latest correspondence from AAFES if available.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From the individual, his/her employer, law enforcement investigative agencies, banking facilities, consumer reporting agencies, and sources that furnish information regarding individual's credit.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

AAFES0703.07

SYSTEM NAME:

Payroll Register Files.

SYSTEM LOCATION:

Headquarters Army and Air Force Exchange Service (AAFES), Dallas, TX 75222; AAFES regional, area, post and base Exchanges in the US; HQ AAFES-Europe, HQ AAFES-Pacific, HQ AAFES-Alaska.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of the Army and Air Force Exchange Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employee's name, SSN, payroll number, earnings, deductions, leave balances, and related information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C., 3012 and 8012.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

By the Army and Air Force Exchange Service to compute pay entitlements, to record history of pay transactions, to record leave accrued and taken, bonds due and issued, taxes paid, to answer inquiries and process claims.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosure pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer tapes and printouts; microfiche.

RETRIEVABILITY:

By employee's name, SSN, or payroll number.

SAFEGUARDS:

Records are maintained in secured buildings. Access is restricted to designated individuals having official need therefor in the performance of assigned duties. Strict controls preclude inadvertent or unauthorized misuse of personal data.

RETENTION AND DISPOSAL:

Information on magnetic tape is retained 1 year; computer printouts are permanent documents which are held for 3 years in the local payroll office before being retired to the National Personnel Records Center.

SYSTEM MANAGER(S) AND ADDRESS:

HQ Army and Air Force Exchange Service, Dallas, TX 75222.

NOTIFICATION PROCEDURE:

Information may be obtained from the Comptroller, HQ Army and Air Force Exchange Service, Dallas, TX 75222; telephone: 214/330–3870.

RECORD ACCESS PROCEDURES:

Individuals may request access to records in this system pertaining to them by writing to the Payroll Branch, Office of the Comptroller, HQ Army and Air Force Exchange Service, Dallas, TX 75222. Individuals must furnish full name, SSN, current address and telephone number; if separated, date and place of separation are required.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access to records and for contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From the individual, official personnel actions, time and attendance records, similar relevant documents.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

AAFES1609.02

SYSTEM NAME:

AAFES Customer Service

SYSTEM LOCATION:

Headquarters, Army and Air Forece Exchange Service (AAFES), Dallas, TX 75222; HQ AAFES-Pacific; HQ AAFES-Europe; regional, area, post and base Exchanges in the United States.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

AAFES customers who purchase merchandise on a time payment, layaway, or special order basis, or who need purchase adjustments or refunds.

CATEGORIES OF RECORDS IN THE SYSTEM:

Copies of layaway tickets, requests for refunds, special order forms/procurement request/logs, cash receipt/repair vouchers, and similar documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C., 3012 and 8012.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

By the Army and Air Force Exchange Service to record customer transactions/payments for layaways and special orders; to determine payment status before finalizing transactions; to identify layaway account delinquencies and prepare customers reminder notices; to prepare and mail refunds on cancelled layaways or special orders; and to process purchase refunds and repair orders.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12).

Disclosure pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to 'consumer reporting agencies' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file boxes and cabinets.

RETRIEVABILITY:

By customer's surname, document control number, and/or due date

SAFEGUARDS:

Records are maintained in secured areas, accessible only to authorized

personnel having need for the information.

RETENTION AND DISPOSAL:

Cancelled or completed layaway tickets are held for 6 months after cancellation or delivery of merchandise, then destroyed. Purchase orders are retained for 2 years, then destroyed. Refund vouchers are retained for 6 years, then destroyed. Returned merchandise slips are retained for 6 years, then destroyed. Cash receipt vouchers are retained for 3 years, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

HA Army and Air Force Exchange Service, Dallas, TX 75222.

NOTIFICATION PROCEDURE:

Information may be obtained from the Merchandising Division, HQ AAFES, Dallas, TX 75222; telephone: 214/330–2853.

RECORD ACCESS PROCEDURES:

Individuals desiring access to records pertaining to them in this system may write to HQ AAFES, Dallas, TX 75222. Requests must contain customer's full name, current address and telephone number, AAFES activity at which transaction was initiated, date of transaction, and control number of document involved.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From the individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

AO305.05aDACA

SYSTEM NAME:

Travel Payment System.

SYSTEM LOCATION:

Decentralized to Army Finance and Accounting Offices world-wide.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military and civilian personnel of the Department of Defense, US Army, US Navy, and US Air Force and other individuals who perform invitational travel for Army.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual travel vouchers and documents used to effect travel allowance payments to military civilian personnel, records of travel payments, and comparable forms.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Department of Defense Annual Appropriations Act; 5 U.S.C., sections 5701–5742; 10 U.S.C., sections 828, 832, 946, 3012; 28 U.S.C., section 1821; 37 U.S.C., sections 404–427.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

By Finance and Accounting Offices to provide basis for reimbursing military and civilian personnel for expenses incident to travel for official Government business and to account for such payments.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosure pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders, cards, magnetic tape, disc, cassettes, printouts, and microfiche.

RETRIEVABILITY:

By individual's surname and/or SSN.

SAFEGUARDS:

Records are maintained in Finance and Accounting Offices accessible only to authorized persons who are properly screened, cleared and trained. Buildings employ security guards and/or military police patrols. Users of automated files are categorized as input, access, and output personnel; access is controlled by assigned passwords.

RETENTION AND DISPOSAL:

Individual vouchers and documents used for payment are retained at the installation making payment until end of month, following which they are sent to US Army Finance and Accounting Center, ATTN: FINCR, Indianapolis, IN 46249.

Signature cards used for approval of certain vouchers are retained at installation where payments are made until 3 years after date of revocation of authority, following which they are destroyed.

Records of travel payments are retained at installation making current payments. Military member's record is transferred to new servicing finance office upon permanent change of station or to the US Army Finance and Accounting Center upon death or separation from active duty. Civilian employee's record is transferred to new servicing finance office upon reassignment and destroyed upon termination of service. Records for individual's performing invitational travel are destroyed 1 year from date of final payment.

SYSTEM MANAGER(S) AND ADDRESS:

Comptroller of the Army, Headquarters, Department of the Army, The Pentagon, Washington, DC 20310.

NOTIFICATION PROCEDURE:

Requests for information: For periods of current assignment, request should be made to Finance and Accounting Officer who currently pays the individual. For periods of Army service prior to current assignment, request should be addressed to the Commander, US Army Finance and Accounting Center, ATTN: FINCR, Indianapolis, IN 46249. Individual must provide full name and Social Security Number as well as current address.

RECORD ACCESS PROCEDURES:

Individual's desiring access to records pertaining to them should write either to the appropriate Finance and Accounting Officer where record is believed to exist or to the Commander, US Army Finance and Accounting Center, ATTN: FINCR, Indianapolis, IN 46249 and furnish the information listed in "Notification procedure".

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From the individual, Department of Defense staff agencies and field commands/installations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

AO305.06aDACA

SYSTEM NAME:

Military Pay System-Active Army (Manual)

SYSTEM LOCATION:

Decentralized to Army Finance and Accounting Offices world-wide.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Reserve Enlisted Program 63 Reservist and National Guard, active duty military personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual military pay records, casual payment receipts, substantiating documents, temporary pay records, transmittal letters, locator files, financial data record folders, miscellaneous military pay files and personal financial records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

37 U.S.C., 101 et seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

By the Army to provide a basis for establishing computation of each active members' military pay entitlement, to provide a history of pay transactions, and to answer inquiries or claims pertaining to such entitlements.

Disclosed to Treasury Department to record check and bond issue data and taxable earnings and taxes withheld from military personnel.

Disclosed to Social Security Administration to record earned wages by member under the Federal Insurance Contributions Act.

Disclosed to Veterans Administration to record collection of premiums for National Service Life Insurance.

Disclosed to those states and cities which have an agreement with the Department of the Army to verify tax liability against members' state and city income tax returns.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosure pursuant to 5 U.S.C. 552a(b)(12): Disclosure pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and in bulk storage, card files.

RETRIEVABILITY:

By SSN, name, substantiating document number.

SAFEGUARDS:

Records are maintained in Finance and Accounting Offices accessible only to authorized personnel who are properly screened, cleared and trained.

RETENTION AND DISPOSAL:

Retention periods vary according to category of record but total retention periods do not exceed 56 years. Disposition is as required by Army Regulations 37–104–3, 625–10 and 640–10.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, US Army Finance and Accounting Center, Indianapolis, IN 46249.

NOTIFICATION PROCEDURE:

Information may be obtained by writing to the System Manager, ATTN: FINCP, and furnishing full name, SSN, military status, and home address.

RECORD ACCESS PROCEDURES:

Individuals desiring access to records in this system pertaining to them should write to either the appropriate Finance and Accounting Office or the Commander, US Army Finance and Accounting Center, Indianapolis, IN 46249, and provide the information listed in "Notification procedure".

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From Department of Defense staff and field installations and the Treasury Department.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

AO305.10aDACA

SYSTEM NAME:

Joint Uniform Military Pay System-Active Army (JUMPS–AA).

SYSTEM LOCATION:

Centralized at US Army Finance and Accounting Center, Indianapolis, IN 46249. Decentralized segments exist at Army Finance and Accounting Offices world-wide.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All active duty military personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual military pay records, casual payment receipts, substantiating documents, temporary pay records, transmittal letters, locator files, financial data record folders, miscellaneous pay files, and personal financial records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

37 U.S.C., section 101 et seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

By the US Army Finance and Accounting Center to provide basis for computing each active member's pay entitlements, to provide a history of pay transactions, and to answer inquiries and claims pertaining to such entitlements.

Information from this system may be disclosed to:

Treasury Department: To record check and bond issue data and taxable earnings and taxes withheld from military personnel.

Social Security Administration: To record earned wages by member under the Federal Insurance Contributions Act.

Veterans Administration: To record the collection of premiums for National Service Life Insurance and to transfer contributions to Post-Vietnam Era Veterans Education Account.

Cities and States which have an agreement with the Department of the Army: To verify tax liability against members' state and city income tax returns.

American Red Cross: To assist military personnel and their dependents in determining the status of monthly pay, dependents' allotments, loans, and related financial transactions.

Department of Health and Human Services: The name, rank and SSN of each member of the Armed Services on active duty to the Inspector General of only for comparison with appropriate rolls reflecting recipients of Aid to Families with Dependent Children.

City of New York: Department of Income Maintenance: Name and address of allottees whose ZIP Codes are in New York City and dollar amount of allotments for the purpose of detecting and curtailing fraud and abuse in Federal Assistance Programs, specifically Aid to Families with Dependent Children, and Food Stamps.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosure pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and bulk storage, card files, computer magnetic tapes and paper printouts, and microfiche.

RETRIEVABILITY:

By SSN, name, and substantiating document number.

SAFEGUARDS:

The US Army Finance and Accounting Center employs security guards. An employee badge and visitor registration system is in use. Records are maintained in areas accessible only to authorized personnel who are properly screened, cleared and trained. Access to computer magnetic tape files is restricted to the member's servicing finance and accounting officer. Computer equipment and files are located in a separate secure area. Within finance and accounting offices Army-wide, access is limited to designated personnel having official need for the information in the performance of their duties.

RETENTION AND DISPOSAL:

Individual military pay records are converted to microfiche which are retained for 56 years. Other records are retained for varying periods but total retention does not exceed 56 years; disposition is to Federal Records Centers; destruction thereafter is by burning or shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, US Army Finance and Accounting Center, Indianapolis, IN 46249.

NOTIFICATION PROCEDURE:

Information may be obtained from either the appropriate finance and accounting office or the Commander, US Army Finance and Accounting Center, Indianapolis, IN 46249. Individual should furnish full name, SSN, military status, and home address.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the Commander, US Army Finance and Accounting Center, ATTN: FINCP, Indianapolis, IN 46249 or the appropriate Finance and Accounting Officer, and should contain the information indicated in "Notification procedure". In addition, information may be obtained by calling 317/542–2891.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From Department of Defense staff and field installations, the Social Security Administration, financial institutions, the Treasury Department, and automated systems interface.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

AO305.10bDACA

SYSTEM NAME:

Joint Uniform Military Pay System—Reserve Components—Army.

SYSTEM LOCATION:

Centralized at US Army Finance and Accounting Center, Indianapolis, IN 46249. Decentralized segments exist at Army Finance and Accounting Offices world-wide.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All members of the US Army National Guard and US Army Reserve who are drawing inactive duty training pay.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual military pay records, substantiating documents, transmitting letters, index cards, financial data record folders, miscellaneous military pay vouchers, personal financial history records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

37 U.S.C., Section 101 et seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

By the US Army Finance and Accounting Center to maintain a record of member's drill attendance, his entitlements and deductions in order to compute and disburse his pay while keeping a record of taxes and disbursements other than those to the member.

Information from this system may be disclosed to:

Treasurey Department: To record check issue data, taxable earnings and taxes withheld.

Individual States of the US: To furnish wages earned for the calendar year; these data are furnished to the state of home record.

Army National Guard Bureau: To furnish budget data to account for every expenditure within categories established.

Individual National Guard States Associations: To furnish a report and an associated check regarding state sponsored life insurance premium withheld.

American Red Cross: To assist military personnel and their dependents in determining the status of monthly pay, dependents' allotments, loans, and related financial transactions.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclusure pursuant to 552a(b)(12) may be made from this system to 'consumer reporting agencies' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and bulk storage; card, computer magnetic tape and paper printouts, microfiche.

RETRIEVABILITY:

By SSN, name of the member and document number.

SAFEGAURDS:

The US Army Finance and Accounting Center employs security guards. An employee badge and visitor registration system is in use. Records are maintained in areas acessible only to authorized personnel who are properly screened, cleared and trained. Access to computer magnetic tape files is restricted to the members' servicing finance and accounting officer. Computer equipment and files are located in a separate secure area. Within Finance and Accounting Offices, Army-wide, access is limited to designated personnel having official need for the information in the performance of their duties.

RETENTION AND DISPOSAL:

Individual military pay records are converted to microfiche which are retained for 56 years. Other records are retained for varying periods but total retention does not exceed 56 years; disposition is to Federal Records Centers; destruction thereafter is by burning or shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, US Army Finance and Accounting Center, Indianapolis, IN 46249.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager. They may also contact US Property and Fiscal Officer, Army National Guard of each state plus Washington, DC, Puerto Rico and the Virgin Islands. Individuals may also contact the Finance and Accounting Officer at Ft Indiantown Gap, PA; Ft McPherson, GA; Ft Riley, KS; Presidio of San Francisco, CA. These Finance and Accounting Officers are responsible for US Army Reserve pay accounts only. Individuals must provide full name, SSN, and military status.

RECORD ACCESS PROCEDURES:

Requests from individuals should be sent to the Commander, US Army Finance and Accounting Center, ATTN: FINCP, Indianapolis, IN 46249 or may be telephoned to 317/542–2891, and should contain the information indicated in "Notification procedure".

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

The source of all data to establish and maintain JUMPS–RC–Army originates at unit level, i.e., all units of US Army National Guard and US Army Reserve which perform inactive duty training and whose members receive drill pay as a result of this training furnish the data to support the system.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

A0305.10cDACA

SYSTEM NAME:

Joint Uniform Military Pay System-Army-Retired Pay.

SYSTEM LOCATION:

US Army Finance and Accounting Center, Indianapolis, IN 46249.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Retired Army members, beneficiaries of deceased retired Army members.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual retired military pay records, correspondence with individuals concerning their retired pay accounts, all documents substantiating entitlement to retired pay.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 1401.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

By the US Army Finance and Accounting Center to establish and compute pay of retirees and their beneficiaries; to produce permanent record of transactions; to prepare financial, budgetary, and actuarial reports; to report Federal withholding tax information to Internal Revenue Service; to report check issue and bond sales information to Department of Treasury.

Information in this system may be disclosed also to:

Veterans Administration: To record the collection of premiums for National Service Life Insurance.

States and Cities: To verify tax liability against retiree's state and city income tax returns.

American Red Cross: To assist military personnel and their dependents in determining status of monthly pay, dependents' allotments, loans, and related financial transactions.

DISCLOSURE TO CONSUMER REPORTING AGENCY:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosure pursuant to U.S.C. 552a(b)(12) may be made from this system to 'consumer reporting agencies' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders, computer magnetic tape, and microfiche.

RETRIEVABILITY:

By SSN and name.

SAFEGUARDS:

The US Army Finance and Accounting Center employs security guards. An employee badge and visitor registration system is in use. Records are maintained in areas accessible only to authorized personnel who are properly screened, cleared and trained. Access to computer magnetic tape files is restricted to Director, Retired Pay Operations. Computer equipment and files are in separate secured area.

RETENTION AND DISPOSAL:

Individual retired military pay records are converted to microfiche and retained for 56 years: destruction is by shredding. The retention periods for other records vary according to category of record but total retention periods do not exceed 6 years after termination of the account. (Account is terminated by either death of retiree, or if the retiree has designated annuitants under Retired Servicemen's Family Protection Plan or the Survivor Benefit Plan, the subsequent death or ineligibility of the annuitant.) Records are destroyed at the end of the 6 year retention period.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, US Army Finance and Accounting Center, Indianapolis, IN 46249.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager or by calling 317/542–3911.

RECORD ACCESS PROCEDURES:

Individuals may request access to records in this system pertaining to them by writing to the Commander, US Army Finance and Accounting Center, ATTN: Department 90, Indianapolis, IN 46249. Individual should provide full name, SSN of retiree, and signature. Visits are limited to the Inquiries Office, US Army Finance and Accounting Center, Room 122G, Building 1, Indianapolis, IN.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From Department of Defense agencies, the Veterans Administration, Social Security Administration, Department of the Treasury, financial institutions and insurance companies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

AO305.11aDAPE

SYSTEM NAME:

USMA Cadet Pay and Accounts System.

SYSTEM LOCATION:

US Military Academy, West Point, New York 10996.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members of the U.S. Corps of Cadets.

CATEGORIES OF RECORDS IN THE SYSTEM:

Monthly payroll listings of Corps of Cadets members showing entitlements and deductions; bank identification data for deposit of pay; individual account activity pertaining to funds held in trust by the USMA Treasurer.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 205, 4340 and 4350; Title 6 General Accounting Office Policy and Procedures Manual for Guidance of Federal Agencies.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

By the U.S. Military Academy for computing pay entitlements and deductions for Federal tax; Social Security; Servicemen's Group Life Insurance; Combined Federal Campaign; barber, laundry and dry cleaning charges; advance pay; and funds deposited with Treasurer, USMA for holding in trust to pay for required uniforms, books, and equipment.

Information from this system may be disclosed to:

Internal Revenue Service for tax and Social Security reports.

Cities and States: To provide taxable earnings information of cadets to those states and cities which have entered into an agreement with the Department of the Army and the Treasury Department.

Social Security Administration: To verify SSN and Social Security deduction from pay.

Financial insititutions are furnished listings of their depositors and accounts to be credited to individual depositor accounts.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosure pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to "consumer reporting agencies"; as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tape and computer printouts; paper records in file folders.

RETRIEVABILITY:

By Cadet number.

SAFEGUARDS:

All records are maintained in buildings which are secure and patrolled and are accessible only to personnel who have need therefor in the performance of official duties All automated master data and back-up files are further protected by assignment of passwords.

RETENTION AND DISPOSAL:

Original payrolls are submitted monthly to the U.S. General Accounting Office Field Office at the Army Finance and Accounting Center, Indianapolis, IN. Duplicate payrolls are retained locally for 3 years and then destroyed by shredding. Information in ADP media is retained for varying periods— generally
1–3 months after which it is erased, except that annual tax tapes are retained for 1 year before being erased.

SYSTEM MANAGER(S) AND ADDRESS:

Superintendent, U.S. Military Academy, West Point, N.Y., 10996.

NOTIFICATION PROCEDURE:

Request from individuals may be submitted to the U.S. Military Academy, Finance and Accounting Officer, West Point, NY; telephone: 914/938–2607. Individual should provide full name, SSN, graduating class year, current address and telephone number, and signature.

RECORD ACCESS PROCEDURES:

Individuals may request access by writing to the System Manager, furnishing information indicated in "Notification procedure". Personal visits may be made to the Finance and Accounting Officer, USMA; individual must provide acceptable identification such as valid driver's license and information that can be verified with his payroll.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From the individual, Department of Army, Department of the Treasury, financial institutions and insurance companies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

AO306.01aDACA

SYSTEM NAME:

Civilian Employee Pay System

SYSTEM LOCATION:

Army Finance and Accounting Offices world-wide and U.S. Property and Fiscal Offices in the U.S., Puerto Rico, the Virgin Islands, and the District of Columbia having civilian payroll responsibilities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Civilian employees and contract teachers employed by Department of the Army, Office, Secretary of Defense, and specified elements of the Navy and Air Force.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employee's pay, leave, and retirement records; individual withholding/deduction authorization for dependents, allotments, health benefits, savings bonds, etc.; tax exemption certificates; personal exception and indebtedness papers; subsistence and quarters records, statements of charges, claims, repatriated payment files; roster of authorized timekeepers and signature cards; payroll and retirement control and working paper files; unemployment compensation data requests; reports of retirement fund deductions; management narrative and statistical reports relating to pay, leave, and retirement.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 6 General Accounting Office Policy and Procedures Manual for Guidance of Federal Agencies.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

By the Department of the Army to provide basis for computing civilian pay entitlements; to record history of pay transactions; to record leave accrued and taken, bonds due and issued; taxes paid; to answer inquiries and process claims.

Information from this system may be disclosed to:

Office of Personnel Management: To record monies paid into Federal Retirement Fund and to provide information pertaining to health benefits.

Treasury Department: To record checks and bonds issued.

Social Security Administration: To report earned wages by employees under the Federal Insurance Contributions Act.

Internal Revenue Service: To record taxable earnings and taxes withheld.

States and cities: To provide taxable earnings of employees to those states and cities which have entered into an agreement with the Department of the Army and the Treasury Department.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosure pursuant to 5 U.S.C. 552a(b)(12) may be made from

this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and bulk storage; card files, computer magnetic tapes, discs and printouts, and microfilm.

RETRIEVABILITY:

Automated records are retrieved by SSN within payroll block; manual records are retrieved by surname within payroll block.

RETENTION AND DISPOSAL:

Individual pay record files are permanent; they are forwarded to National Personnel Records Center after 3 years.

Individual retirement records files are permanent; they are retained at installation while member is actively employed. They are forwarded to new installation when member is transferred to another Army activity. When employee transfers to another agency under the Department of Defense NOT serviced by Army or separates from Federal Service, record is forwarded to the Office of Personnel Management. Microfilm of manually maintained individuals retirement records is sent to the National Personnel Records Center after 3 years.

Personnel exceptions and indebtedness files are permanent. These documents are filed in individual's Official Personnel Folder (OPF). Upon separation or transfer, if OPF is not on file locally, are forwarded to National Personnel Records Center, General Services Administration, St. Louis, MO 63118.

Repatriated personnel payment files are permanent; forwarded to National Personnel Records Center after 3 years.

Subsistence and quarters rate deviation files are permanent; they are retired on discontinuance of the installation.

Retention periods vary for other records according to category of record. The minimum retention period is 2 years and the maximum period is 12 years, after which records are destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Comptroller of the Army, Headquarters, Department of the Army, The Pentagon, Washington, DC 20310.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager, US Army Finance and Accounting Offices, or, if National Guard technician, from the National Guard Bureau, ATTN: NGB–ARC–M, Columbia Building, 5600 Columbia Pike, Falls Church, VA 22041, or from US Property and Fiscal Offices.

RECORD ACCESS PROCEDURES:

Requests for access should be addressed as indicated in "Notification procedure", and should include individual's full name, SSN, current address, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From the individual, former employers, DOD Staff agencies and field commands, Social Security Administration, Treasury Department, financial organizations, and automated systems interface.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

AO306.02aDACA

SYSTEM NAME:

Nonappropriated Fund Employee Pay System

SYSTEM LOCATION:

Decentralized segments at installations/activities world-wide having nonappropriated fund entities; maintained by Central Accounting Offices or by independent installation systems.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All civilian employees of the Department of the Army who are paid from nonappropriated funds and who are under exclusive control of the Secretary of the Army of his designees but not paid from appropriated funds or not otherwise excluded.

Authorized, voluntary off-duty enlisted or officer personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual records of appointment or assignment; officially authenticated time and attendance records, supported by substantiating documents; individual leave records, payroll control files, individual withholding authorization files, withholding tax exemption certificate files, withholding tax files, savings bond schedule files, other deduction type files, payroll journal and check register, earnings statement, earnings records, tips received, pay check stub or envelopes, subsistence and quarters files, unemployment compensation data request files, health, hospitalization, and life insurance files, income tax withheld, employer and employee Federal Insurance Contributions Act files, Federal Unemployment Insurance tax files, Employer Quarterly Federal Tax Return, state tax files, city tax files, Fair Labor Standards Act files and total employer liability for accured leave at separation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 2105, 5531, 5533; Pub. L. 92–293; Fair Labor Standard Act.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by Central Accounting Offices and Payroll Offices to calculate the net pay due each employee; to provide a history of pay transactions, entitlements and deductions; to maintain a record of leave accrued and taken; to keep a schedule of bonds due and issued; to record taxes paid; to provide answers to inquiries or claims pertaining to payroll data; to provide necessary data to the Treasury Department, the Social Security Administration, Internal Revenue Service; to provide information to states and cities which have an agreement with the Department of the Army to receive taxable earnings information; to provide reports required by law such as Income tax withheld, Employer and Employee Social Security taxes, Federal Unemployment Insurance taxes, Employer Quarterly Federal Tax Returns (Forms 941), Federal Unemployment Insurance Tax; to provide information pertaining to health benefits and Fair Labor Standards Act; to provide salary and wage statistics, including number of employees, average hours worked, average hourly earnings, etc.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosure pursuant to 5 U.S.C. 552a(b)(12): Disclosure pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and bulk storage, card files, magnetic tapes, discs, and computer printouts.

RETRIEVABILITY:

By individual's surname and SSN within each nonappropriated fund activity payroll.

SAFEGUARDS:

Files are maintained in areas accessible only to designated personnel who have need therefor in the performance of official duties.

RETENTION AND DISPOSAL:

Individual pay records are permanent; they are forwarded to the National Personnel Records Center after 3 years. They are retained at installation while member is actively employed; forwarded to new installation when member is transferred. Upon separation or termination of employment, files are placed in an inactive status and retained 18 months after close of pay year.

Leave records are retained 10 years and then destroyed.

Individual insurance and retirement records are destroyed 6 years after termination of involvement with nonappropriated fund activity.

Other management and accounting information reports are retained from 1 to 3 years before destruction.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, US Army Finance and Accounting Center, Indianapolis, IN 46249.

NOTIFICATION PROCEDURE:

Information may be obtained from the System manager, ATTN: FINCD. Individual should furnish full name, SSN, period and location of employment, and signature.

RECORD ACCESS PROCEDURES:

Requests from individuals should be sent to the System Manager furnishing details required by "Notification procedure".

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From the individual, Time and Attendance Reports, former employers, Social Security Administration, Treasury Department, DOD staff agencies and field installations, Government benefit programs, servicing civilian personnel offices.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

A0314.08ACA

SYSTEM NAME:

Check Cashing Privilege Files

SYSTEM LOCATION:

At all Army installations/activities with facilities to cash checks.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons whose checks, written at Army facilities, have been dishonored and/or whose check cashing privileges have been suspended or revoked.

CATEGORIES OF RECRODS IN THE SYSTEM:

Documents related to advancing, revoking, or suspending, restoring and general supervision of check cashing privileges. Included are letters to individuals about bad checks, warnings that a recurrence in issuing a bad check may result in withdrawing check cashing privileges, notices from banks that the bank was in error, notices to activities that check cashing privileges have been suspended or restored for certain individuals, returned checks, lists of persons whose privileges have been suspended or withdrawn, and related papers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C., section 3012.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

By the Army to determine which individuals will be denied check cashing privileges at installation check cashing facilities.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosure pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual card file, paper records in file folders, and computer tape.

RETRIEVABILITY:

By individual's name or SSN.

SAFEGUARDS:

Files are maintained in areas accessible only to authorized persons having an official need therefor in the performance of their duties.

RETENTION AND DISPOSAL:

Destroyed 3 years after individual has made restitution for dishonored check.

SYSTEM MANAGER(S) AND ADDRESS:

Comptroller of the Army, US Army Finance and Accounting Center, Ft Benjamin Harrison, IN 46249.

NOTIFICATION PROCEDURE:

Information may be obtained from the installation commander where check was cashed.

RECORD ACCESS PROCEDURES:

Individuals desiring access to records pertining to them should write to the installation commander, furnishing full name, SSN, detils relevant to the indicent, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From the dishonored check, the individual, banking facilities.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

A0314.09aDACA

SYSTEM NAME:

Nonappropriated Fund Accounts Receivable System

SYSTEM LOCATION:

Nonappropriated fund activities at Army installations world-wide.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All current and past members of Officer or Noncommissioned Officer Club facilities whose accounts show balances other than zero; persons using Post billeting facilities on a fee paid basis (bachelor officer quarters, visitor officer quarters and guesthouse facilities) and persons no longer using such facilities whose accounts have other than zero balances; any individual having a statement of account for the billing period, individuals occupying government housing at any military

installation; individual class B telephone subscribers; members, customers or civilians having 30 day credit terms for 'charge' sales and/or dues obligations to NAF activities; all persons whose accounts have been charged with dollar accounts of checks that have been dishonored by banking institutions and returned to NAF activities; individuals who have cash loans charged to their accounts.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, SSN, rank, amount of charges, billings of items or services furnished, subsidiary ledgers containing detail of services billed and paid by individual; work order forms, invoice listings, monthly receipt vouchers, date and method of payment, file of billings associated with returned dishonored checks, and relevant similar documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 66; 10 U.S.C. 2481 and 3012; 5 U.S.C. 5101; Pub. L. 216, section 401; Pub. L. 784, section 113.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

By the Army to maintain current rosters as subsidiary records for accounts receivable and cash accountability control; to provide monthly statements to customers; to provide ledger balances for activity financial statements; to prepare aged listing of accounts receivable, 30, 60, and 90 days; to answer inquiries of members on account status and specific transactions.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosure pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to 'consumer reporting agencies' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Magnetic tapes and/or discs by account in numerical and alphabetical order; computer hard copy printouts filed in binders; copies of statements filed in folders.

RETRIEVABILITY:

By customer name and SSN.

SAFEGUARDS:

records are maintained in lock-type cabinets within storage areas accessible only to authorized personnel.

RETENTION AND DISPOSAL:

Hard copy records destroyed after 3 years following audit with no exceptions or irregularities disclosed. Punched cards destroyed upon conversion to tape or disc files. Magnetic tapes and discs erased 3 yers following clear audit.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, US Army Finance and Accounting Center, Indianapolis, IN 46249

NOTIFICATION PROCEDURE:

Individuals may submit written request to the custodian of nonappropriated funds activities at the installation where record is belived to exist.

RECORD ACCESS PROCEDURES:

Individuals desiring access to records pertaining to them in this system should write to the appropriate NAF activity custodian, furnishing full name, SSN, and account number.

CONTESTING RECORD PROCEDURES:

The Army's rules for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From daily transaction registers/ journals received from billeting officer, signal officer, and/or club officers.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

A0314.24DAAG

SYSTEM NAME:

Nonappropriated Fund Employee Insurance and Retirement Files

SYSTEM LOCATION:

The Adjutant General's Office, Headquarters, Department of the Army, Club and Community Activities, 2461 Eisenhower Avenue, Alexandria, VA 22331.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Army nonappropriated fund employees who participate in the NAF Group Insurance and Retirement Plan.

CATEGORIES OF RECORDS IN THE SYSTEM:

Monthly and cumulative insurance and retirement deductions for each employee; name and SSN.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pub. L. 95–595; 26 U.S.C. 401a.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

By the Department of the Army to substantiate intitial enrollment and subsequent changes in the NAF Group Insurance and Retirement Plan; to verify monthly deductions and to compute annuities, refunds, and death benefits.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosure pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tapes/discs, microfiche, paper records.

RETRIEVABILITY:

By individual's surname within each NAF activity.

SAFEGUARDS:

Records are located in controlled areas within building having security guards; information is accessed only by individuals who are properly cleared and trained and have need therefore in the performance of official duties.

RETENTION AND DISPOSAL:

Records are permanent; retained in active file until individual terminates employment, retires or is deceased; held 1 additional year in inactive file and subsequently retired to the Washington National Records Center, Suitland, MD.

SYSTEM MANAGER(S) AND ADDRESS:

The Adjutant General, Headquarters, Department of the Army, 2461 Eisenhower Avenue, Alexandria, VA 22331.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager, ATTN: DAAG–NFI–B 2461 Eisenhower Avenue, Alexandria, VA 22331.

RECORD ACCESS PROCEDURE:

Individuals should address their request as specified in "Notification procedure" and furnish their full name, SSN, NAF activity in which employed, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From the individual: NAF personnel officers.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

A0319.07DACA

SYSTEM NAME:

FHA Mortgage Payment Insurance Files

SYSTEM LOCATION:

US Army Finance and Accounting Center, Indianapolis, IN 46249.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any Army military member with over 2 years of active duty service who applies for an FHA loan.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's application, certificate of eligibility, record of payments, notices of termination of eligibility, and correspondence with FHA and other Government offices.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C., 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

By the Army to determine the amount of insurance payments and to control authorized payments.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Disclosure pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

By surname of Army member.

SAFEGUARDS:

Building employs security guards. Records are maintained in areas accessible only to authorized personnel having official need for the records in the performance of their duties.

RETENTION AND DISPOSAL:

Records are destroyed 10 years after final separation of the individual from the Army.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, US Army Finance and Accounting Center, Indianapolis, IN 46249.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager, ATTN: Chief, Field Services Office, Indianapolis, IN 46249; telephone: 317/542–3127.

RECORD ACCESS PROCEDURE:

Requests should be addressed to the System Manager, ATTN: Chief, Field Service Office, Indianapolis, IN 46249. Individual should provide full name, SSN, FAHA Number, current address, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32CFR Part 505).

RECORD SOURCE CATEGORIES:

From the applicant, FHA, member's commanding officer, and other government records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

A0319.13DACA

SYSTEM NAME:

Bankruptcy Processing Files.

SYSTEM LOCATION:

US Army Finance and Accounting Center, Indianapolis, IN 46249.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any Army military member or Department of Army civilian or former military member for whom bankruptcy notice has been received.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's Court notices; financial statements; certificates for deductions; agreements; military pay vouchers; and correspondence between the Judge Advocate General, U.S. Attorney, U.S. District Courts, and other government agencies relevant to the proceeding.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3401.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

By the U.S. Army Finance and Accounting Center to obtain data for submitting claims of the Army to the Department of Justice for filing with the bankruptcy court and controlling financial transactions on pay accounts.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosure pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

By individual's surname.

SAFEGUARDS:

Building employs security guards. Records are maintained in areas accessible only to designated persons having official need therefor in the performance of their duties.

RETENTION AND DISPOSAL:

Records are destroyed 5 years after conclusion of related bankruptcy proceedings.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, U.S. Army Finance and Accounting Center, Indianapolis, IN 46249.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager, ATTN: Chief, Field Service Office, Indianapolis, IN 46249; telephone 317/542–3127.

RECORD ACCESS PROCEDURE:

Individuals may submit written request to the Chief, Field Service Office, U.S. Army Finance and Accounting Center, Indianapolis, IN 46249, furnishing full name, SSN, current address, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From courts, government records, and similar documents and sources relevant to the proceeding.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

AO725.06aDAAG

SYSTEM NAME:

Army Emergency Relief Transaction File

SYSTEM LOCATION:

Army Emergency Relief offices at Army installations. Official addresses are in the Appendix to the Army inventory of system notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any of the following who receive Army Emergency Relief financial assistance: Active duty Army personnel and their dependents; members of all Army components retired after completing 20 or more years of active duty and their dependents or retired by reason of physical disability in line of duty and their dependents; dependents of Army personnel missing in action; and eligible widows and orphans of extended active duty Reserve component personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documents accumulated by Army Emergency Relief branches and sections, including financial and loan reports, applications for financial assistance, acknowledgments of remittance and assistance received, collection and indebtedness documents, cash bonds, loan ledgers, control ledgers, cancelled checks, prenumbered receipts, and similar documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3012.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

By Army Emergency Relief Offices to record and control loans and repayment actions.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosure pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and card files.

RETRIEVABILITY:

By applicant's surname.

SAFEGUARDS:

Information in these records is accessible only by Army Emergency Relief officer and staff.

RETENTION AND DISPOSAL:

Records are active until loan is paid or determined uncollectable and for 2 years thereafter in the Army Emergency Relief Office; transferred to the records holding area for 1 additional year, following which they are destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

The Adjutant General, Headquarters, Department of the Army, Washington, D.C. 20310.

NOTIFICATION PROCEDURE:

Information may be obtained from Army Emergency Relief Officers at installations. Individual should provide full name, rank, SSN, military status, date and place where last Army Emergency loan was obtained, current military or dependent ID card, and signature.

RECORD ACCESS PROCEDURE:

Access to information in this system may be obtained upon written request to the Army Emergency Office which is believed to have pertinent information. Individual must furnish information required by "Notification procedure".

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From the individual, records of Army Emergency Relief Offices.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

AO917.09aDAPE

SYSTEM NAME:

Alcohol and Drug Abuse Rehabilitation Files

SYSTEM LOCATION:

Primary: Alcohol and Drug Abuse Prevention and Control Program (ADACP) rehabilitation/counseling facilities (e.g., Community Counseling Centers/ADAPCP Counseling Facilities) at Army installations and activities

Secondary: US Army Patient Administration Systems and Biostatistics Activity, Ft Sam Houston, TX 78234.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any individual (military, civilian, family member) who is eligible for care and enrolls in the ADAPCP for rehabilitation, pursuant to Army Regulation 600–85.

CATEGORIES OF RECORDS IN THE SYSTEM:

Primary: Copies of client intake records, progress reports, psychosocial histories, counselor observations and impressions of client's behavior and rehabilitation progress, copies of medical consultation and laboratory procedures performed, results of biochemical urinalysis for alcohol/drug abuse, and similar or related documents.

Secondary: Copies of client intake records, progress reports, and demographic composites thereof.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Act of September 28, 1971, Pub. L. 92–129, Title V, Section 501, 85 Stat. 381 (reprinted in 10 U.S.C. 1071 note (1976)); Section 413, Pub. L. 92–255.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Primary: To treat, counsel, and rehabilitate individuals who participate in the Army's Alcohol and Drug Abuse Prevention and Control Program.

Secondary: Client intake and progress reports are used to provide essential management information concerning the ADAPCP to measure the magnitude of alcohol and other drug abuse within the Army, to measure progress in the Army prevention program, to measure progress in the rehabilitative medical treatment aspects of the program, to provide statistical trends of support policy and procedural changes, to support and justify funding and manpower requirements for the program, and to provide statistical information in response to the public media, members of Congress, or other government agencies.

Information for this system of records is exempt from the blanket "routine uses of general applicability" identified at 46 FR 6460. Information is disclosable only to the following perons/agencies:

a. To health care components of the Veterans Administration.

b. To qualified personnel conducting scientific research, or audits or program evaluations: *Provided,* That a patient may not be identified in such reports, or his or her identity further disclosed by such personnel.

c. In response to a court order based on the showing of good cause in which the need for disclosure and the public's interest is shown to which the need for disclosure and the public's interest is shown to exceed the potential harm that would be incurred by the patient, the physician-patient relationship, and the Army's treatment program.

Note: Records of identity, diagnosis, prognosis, or treatment of any client/patient, irrespective of whether or when he/she ceases to be a client/patient, maintained in connection with the performance of any alcohol or drug abuse prevention and treatment function conducted, regulated, or directly or indirectly assisted by any department or agency of the United States, shall, except as provided therein, be confidential and be disclosed only for the purposes and under the circumstances expressly authorized in 21 U.S.C. 1175, as amended by 88 Stat. 137, and 42 U.S.C. 4582, as amended by 88 Stat. 131. These statutes are controlling and supersede the Privacy Act of 1974 to the extent that disclosure is more limited. However, access to the record by the individual to whom the record pertains is governed by the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Primary: Paper records maintained in file folders at Alcohol and Drug Abuse Prevention and Control Program facilities for 1 year following termination of treatment. Selected forms are transferred to individual's health record.

Secondary: Paper records (client intake and progress reports) are stored in locked file cabinets. Computer data are stored in random access on magnetic disc and tape.

RETRIEVABILITY:

Primary: Alphabetically by individual's surname.

Secondary: By client's SSN or ID code, date and installation where individual was in the Alcohol and Drug Abuse Prevention and Control Program.

SAFEGUARDS:

Primary: Records are maintained in central storage areas in locked file cabinets where access is restricted to authorized persons having an official need-to-know;

Secondary: Manual records are stored in locked file cabinets. Automated records are maintained in random access mode in controlled access areas. Primary records on magnetic disc are stored with the computer in a secure vault separated from the primary computer. Data are processed in batch mode and are subjected to standard executive and system control programs plus the audit/edit and data base management system designed by the U.S. Army Patient Administration Systems and Biostatistics Activity.

RETENTION AND DISPOSAL:

Primary: Records are destroyed 1 year after termination of the patient's treatment, unless the Army Medical Department Activity/Facility commander authorizes retention for an additional 6 months.

Secondary: Manual records are retained up to 18 months or until information taken therefrom and entered into computer records is transferred to the "history" file, whichever is sooner. Disposal of manual records is by burning or shredding. Computer records are retained permanently for historical and/or research purposes.

SYSTEM MANAGER(S) AND ADDRESS:

The Deputy Chief of Staff for Personnel, Headquarters, Department of the Army (DAPE–HRA), The Pentagon, Washington, D.C. 20310.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system contains information about them should contact either the commander of the medical center/medical department activity where treatment for alcohol/drug abuse was obtained, or The Surgeon General, Headquarters, Department of the Army (DASH–PSC), The Pentagon, Washington, D.C. 20310. Individuals should furnish their full name, date of birth, social security number, current address and telephone number, and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to their records should contact the appropriate official as specified in the "Notification procedure" section, furnishing the information required by that section.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505). Denial to amend records in this system of records can only be made by The Deputy Chief of Staff for Personnel, in coordination with The Surgeon General.

RECORD SOURCE CATEGORIES:

From the individual by interviews and history statements; abstracts or copies of pertinent medical records; abstracts from personnel records; results of tests; physicians' notes, observations of client's behavior; related notes, papers, and forms from counselor, clinical director, and/or commander.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

A1004.06aTRADOC

SYSTEM NAME:

ROTC Financial Assistance (Scholarship) Application File

SYSTEM LOCATION:

Primary: US Army Training and Doctrine Command (TRADOC).

Secondary: US Army Reserve Officers' Training Corps (ROTC) Regions, ROTC elements of civilian educational institutions.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applications from students and service members who desire to participate in the Army ROTC Financial Assistance (Scholarship) Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's application for membership, academic transcripts, college board scores and test results, references, photograph, interview board results, acceptance/declination, selection board action including applicant's scores in areas evaluated, notice of selection/nonselection, notice of applicant's medical status including reports of medical examination, evaluation of applicant by Professor of Military Science/commanding officer, letters of recommendation, inquiries regarding applicant's selection/nonselection, reports of ROTC Advanced, Ranger, or Basic Camp performance of applicant, information of applicant's choice of institution.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 2101–2111.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

By TRADOC: To select 4-year financial assistance recipients, 2-year financial assistance enlisted active duty scholarship recipients, and 1-year finacial assistance recipients; to determine applicant's medical status, enrollment of individuals in the ROTC, to compile statistics and develop

policies and procedures for administering the financial assistance program.

By US ROTC Regions: To make preliminary selection of financial assistance recipients, to enroll selectees, to monitor distribution of those selected, to develop policies and procedures for administering designated portions of the financial assistance program.

By ROTC elements of civilian educational institutions: To make preliminary selection of 3- and 2-year financial assistance recipients, to enroll selectees, to monitor individual's academic and ROTC performance, to provide name, address, and academic purpose of assisting applicants/recipients in obtaining enrollment at a host educational institution.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosure pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folder; selected data automated for management on tapes, discs, cards, data printouts; microfilm/fiche.

RETRIEVABILITY:

By individual's name, SSN, ADP parameter of characteristics of qualification or identity.

SAFEGUARDS:

Records maintained in areas accessible only to authorized personnel who are trained and cleared and who require the information in the performance of official business.

RETENTION AND DISPOSAL:

Destroyed 1 year after individual graduates or is disenrolled.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, US Army Training and Doctrine Command, Ft Monroe, VA 23651.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager, Commander of the appropriate ROTC Region, Professor of Military Science of the civilian educational institution in which individual was enrolled.

RECORD ACCESS PROCEDURES:

Individuals may address a written inquiry to the Commander, ROTC Region in which financial assistance was sought, furnishing full name, current address and telephone number, and definitive description of information sought.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From the individual, medical records, academic institutions, Army Staff agencies and commands.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 83-24181 Filed 9-2-83; 8:45 am]
BILLING CODE 3710-08-M

Army Science Board; Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Date of Meeting: Thursday & Friday, 29 & 30 September 1983.

Time: 0830–1700 hours (Open).

Place: The Pentagon, Washington, D.C.

Agenda: The ASB Ad Hoc Subgroup on Army Leadership will hold its first meeting to begin its study addressing the following objectives: (1) What are the quantitative measures between leadership performance and unit performance in the Army (existing, but not used in the Army)?; (2) How can the Army best determine early in one's career, which officers have the cognitive capability for integrative thought and appropriate levels of mental abstraction for long term strategic time spans?; (3) Given the obvious impact of futuristics (economic, social, technological, and geopolitical) on requirements for Army leader development at all levels, explore the mechanisms and processes necessary to firmly link our leader development programs to the future; (4) Explore new ways of developing individual systems thinking skills with particular focus on the development of simulations which cut across all Service roles and functions; and, (5) Are there cost-effective leadership assessment techniques that the Army has not, but should explore? This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee.

In order to be able to accommodate prospective attendees, Sally A. Warner, the ASB Administrative Officer, must be notified no later than 23 September 1983. For further information, call (202) 695–3039 or 697–9703.

Sally A. Warner,

Administrative Officer.

[FR Doc. 83-24287 Filed 9-2-83; 8:45 am]
BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

Delegation of Authority; Secretary of Education

AGENCY: Department of Education.

ACTION: Notice of Presidential delegation of authority under sec. 407(c) of the General Education Provisions Act (GEPA).

SUMMARY: The Secretary announces that the President has delegated to the Secretary the functions and authority vested in the President by Sec. 407(c) of the General Education Provisions Act, 20 U.S.C. § 1221e–2(c).

FOR FURTHER INFORMATION CONTACT: Mr. Richard S. Werksman, Ethics Counselor, U.S. Department of Education, 400 Maryland Ave. SW., Room 4129, Washington, D.C. 20202, 202–755–1106.

SUPPLEMENTARY INFORMATION: On June 10, 1983, the President delegated to the Secretary the authority to provide the express approval in writing under Sec. 407(c) of GEPA that would enable an education officer of the United States, as defined in Sec. 407(a), to hold an office in, or act in any capacity for or have any financial interest in, any organization, agency or institution to which an agency in the Department makes a grant, contract or any other financial arrangement.

Dated: August 23, 1983.

T. H. Bell

Secretary of Education.

Approval of Leave of Absence for Dr. Manuel J. Justiz Pursuant to Sec. 407(c), of GEPA

Purusnt to the authority vested in me by delegation from the President dated June 10, 1983, to make determinations under Sec. 407(c), GEPA, I hereby approve the leave of absence of Dr. Manuel J. Justiz from the University of New Mexico during the period he serves as Director of the National Institute of Education.

T. H. Bell,

Secretary of Education.

August 23, 1983.

[FR Doc. 83-24235 Filed 9-2-83; 8:45 am]
BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Privacy Act of 1974; Proposed Establishment of a New System of Records

AGENCY: Department of Energy.

ACTION: Proposed establishment of a new system of records subject to the Privacy Act of 1974, Pub. L. No. 93–579, 5 U.S.C. 552a.

SUMMARY: The Department of Energy (DOE), Project Management Corporation, and the Tennessee Valley Authority (TVA) collectively are Applicants for a license from the Nuclear Regulatory Commission (NRC or Commission) to construct and operate a demonstration liquid metal fast breeder reactor, the Clinch River Breeder Reactor Plant (CRBRP). DOE proposes to establish a system of records entitled "DOE–79, Clinch River Breeder Reactor Plant Work Force Survey," to maintain information from a survey of the work force at CRBRP. The survey will collect information to ascertain socio-economic effects resulting from the construction of the reactor. The CRBRP license Applicants are required to conduct the survey by the NRC Atomic Safety and Licensing Board (ASLB) considering Applicants' licensing request. The ASLB made the survey a condition of the Limited work Authorization it granted to the Applicants. Public comment is sought on the proposed system of records, and, in particular, on the routine uses of the records, as required by subsection(e)(11) of the Privacy Act of 1974, 5 U.S.C. 552a(e)(11).

DATE: Written comments must be received on on before October 6, 1983.

ADDRESSES: Comments and requests for further information should be directed to any of the following:

Peter J. Gross, Assistant Director for Public Safety, Clinch River Breeder Reactor Plant Project Office, P.O. Box U, Oak Ridge, TN 37830

Joseph Harris, Chief, Freedom of Information and Privacy Acts Branch, U.S. Department of Energy, 1000 Independence Avenue, SW., Mail Stop MA–232.1, Washington, D.C. 20585, (202) 252–5955

Abel Lopez, Office of General Counsel, U.S. Department of Energy, 1000 Independence Avenue, SW.. Mail Stop GC–41, Washington, D.C. 20585, (202) 252–8618.

SUPPLEMENTARY INFORMATION: The Department of Energy (DOE), Project Management Corporation, and the Tennessee Valley Authority (TVA) collectively are Applicants for a license from the Nuclear Regulatory Commission (NRC or Commission) to construct and operate a demonstration liquid metal fast breeder reactor, the Clinch River Breeder Reactor Plant (CRBRP). DOE proposes to establish a system of records to maintain information from a survey of the work force at CRBRP, to be entitled "DOE–79, Clinch River Breeder Reactor Plant Work Force Survey." The NRC Atomic Safety and Licensing Board considering Applicants' licensing request, as a condition of the Limited work Authorization granted to the Applicants, required that applicants conduct a survey to monitor the work force at CRBRP to determine the socioeconomic effects resulting from the construction of the reactor. The information obtained should assist the State of Tennessee, the City of Oak Ridge, other local government bodies, and planning agencies in the project area, in planning for, and responding to, impacts resulting from project-related population changes.

The overall survey effort will involve an initial questionnaire and follow-up surveys for all construction and management employees in Oak Ridge during the period of construction and the first three years of operation. The initial questionnaire includes questions concerning name and present address in project areas; length of residence at current address; address of residence prior to employment on project; type of residence, such as boarding house, motel, apartment, mobile home, house, or other; household composition and number of those living at residence; and number of children residing with participant and, if in school, type of school attended. DOE will conduct follow-up surveys of persons responding to the initial survey and of employees hired subsequent to the initial survey. Survey forms will be distributed and collected by DOE through the CRBP Project Office.

DOE has submitted both the initial and follow-up questionnaires to the Office of Management and Budget (OMB) for clearance pursuant to the Paperwork Reduction Act and OMB implementing regulations.

The records generated by the survey effort will be maintained by DOE and will be available to the license Applicants, as follows: (1) to DOE's CRBRP System Manager and to any DOE office, upon request, which determines that the information relates to its functions, (2) to TVA for the purpose of coding, processing, and analyzing and for preparing a report on the socio-economic effects resulting from construction of the reactor (TVA will not otherwise use or disclose the information provided on the survey forms. Upon providing the report to DOE, all forms and computer tapes containing information which could be used as a means of individually identifying the participants will be returned to DOE), and (3) to Project Management Corporation. The report prepared by TVA, consisting of aggregated data, will be provided to DOE, which will make it available to the NRC, the State of Tennessee, the City of Oak Ridge, local government bodies and appropriate planning agencies.

The system of records will be established and maintained pursuant to the decision of the NRC Atomic Safety and Licensing Board in United States Department of Energy *et al.* (Clinch River Breeder Reactor Plant), Partial Initial Decision (Limited Work Authorization), Docket No. 50–537, 17 NRC ——— (February 28, 1983), Conclusion of Law Number 2 (at 200–201); Section 202(1) of the Energy Reorganization Act of 1974, Pub. L. 93–382, 42 U.S.C. 5842(1); 5 U.S.C. 301; the Department of Energy Organization Act, Pub. L. 95–91, 42 U.S.C. 7101 *et seq.*, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009.

DOE does not believe that the maintenance of this system of records will have any substantial effect on the privacy and other rights of participants. Although the CRBRP will directly contact individuals to collect the referenced information, participation in the survey is voluntary. Access to the system will be limited to the System Manager and to personnel (including routine users) who have a need for the data in the performance of their official duties. The records will be kept in locked cabinets when unattended. Any records utilized by other entities will be secured in such a way as to effectively safeguard them. The data will be used for the referenced statistical purposes only. No names, addresses or other identifying information will ever be published.

DOE is submitting the Report required by OMB Circular A–108 concurrently with the publication of this notice. The text of the system is set forth below.

Issued in Washington, D.C. this 31st day of August 1983.

William S. Heffelfinger,

Director of Administration.

DOE–79

SYSTEM NAME:

Clinch River Breeder Reactor Plant Work Force Survey.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy, Clinch River Breeder Reactor Plant Project Office, Division of Public Safety, Oak Ridge, TN 37830.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Clinch River Breeder Reactor Plant (CRBRP) construction and management employees in Oak Ridge during the period of construction and the first three years of operation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name; present address in project area; length of residence at present address; address of residence prior to employment on project; type of residence, such as boarding house, motel, apartment, mobile home, or house; household composition and number of persons in residence; number of children residing with participant, and, if in school, type of school attended.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Conclusion of Law Number 2, United States Department of Energy *et al.* (Clinch River Breeder Reactor Plant), Partial Initial Decision (Limited Work Authorization), Docket No. 50–537, 17 NRC ; Section 202(1) of the Energy Reorganization Act of 1974, Pub. L. No. 93–382, 42 U.S.C. 5842(1); 5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USES AND THE PURPOSES OF SUCH USES:

Information in this system will be provided to the Tennessee Valley Authority, a co-applicant with DOE for the license to construct and operate CRBRP, for coding, processing, and analyzing, and preparation of a report on the socio-economic effects resulting from construction of the Clinch River Breeder Reactor Plant. This report, consisting of aggregated data, will then be provided to DOE, which will make it available to the Nuclear Regulatory Commission, State of Tennessee, City of Oak Ridge, other local government bodies, and appropriate planning agencies.

Information in this system may also be disclosed as appropriate, to the Project Management Corporation, also a co-applicant for the license to construct and operate CRBRP.

Information in the system may also be disclosed, upon request, to any DOE office which determines the information relates to its functions. Additional routine uses 8 and 9 listed in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and computer tape.

RETRIEVABILITY:

By name and social security number.

SAFEGUARDS:

Access to records will be limited to the DOE system manager and those whose official duties require access. The records will be kept by DOE in locked cabinets when unattended. Any records utilized by others will be secured in such a way as to effectively safeguard them.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in DOE 1324.2, "Records Disposition." Records within the DOE are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

SYSTEM MANAGER AND ADDRESS:

U.S. Department of Energy, Clinch River Breeder Reactor Plant Project Office, Assistant Director for Public Safety, P.O. Box U, Oak Ridge, TN 37830.

NOTIFICATION PROCEDURES:

a. Requests by an individual to determine if a system of records contains information about the individual should be directed to the Privacy Act Officer, U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box E, Oak Ridge, TN 37830, in accordance with DOE's Privacy Act Regulations (10 CFR Part 1008 (45 FR 61576, September 16, 1980)).

b. Required identifying information: Complete name, social security number, and time period.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

The information in this system is solicited from the individuals to whom the records pertain.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 83–24286 Filed 9–3–83; 8:45 am]

BILLING CODE 6450–01

Energy Information Administration

Changes to DOE Reporting and Recordkeeping Requirements

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of changes to the inventory of Department of Energy reporting and recordkeeping requirements.

SUMMARY: The Energy Information Administration (EIA) of the Department of Energy (DOE) hereby gives notice to respondents and other interested parties of changes to the inventory of current energy information collections as defined in the Paperwork Reduction Act of 1980 (Pub. L. 96–511).

The listing that follows this notice indicated changes made during the quarter from April 1, 1983, to June 30, 1983, to the inventory of current DOE information collections published in the **Federal Register**, 47 FR 55410 (December 9, 1982). Changes made during the quarter from October 2, 1982 to January 1, 1983 were published in the **Federal Register**, 48 FR 8851 (March 2, 1983). Changes made during the quarter January 1, 1983 to March 31, 1983, were published in the **Federal Register**, 48 FR 24429 (June 1, 1983). The listing includes new information collections approved by the Office of Management and Budget (OMB), collections reinstated, collections extended, collections discontinued or allowed to expire, and changes to continuing information collections. For each new requirement, requirement extended, and requirement reinstated, the current DOE control of form number, the title, and OMB control number and expiration date are listed by DOE sponsoring office. For the list of discontinued requirements, the discontinued date is shown instead of the expiration date. If applicable, the appropriate Code of Federal Regulations citation is also listed. Also, information collections not utilizing structured forms are designed by an asterisk (*) placed to the right of the control or form number.

FOR FURTHER INFORMATION CONTACT: Carolyn Sinclair, EI–73, Energy Information Administration, Mail Stop 1H–023, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 252–2313.

Single, blank information copies of those collections utilizing structured forms may be obtained by contacting Delores McCadney, National Energy Information Center, EI–22, Forrestal Building, U.S. Department of Energy, Washington, D.C. 20585 (202) 252–8800.

Issued in Washington, D.C., August 29, 1983.

J. Erich Evered,

Administrator, Energy Information Administration.

DOE No.	Title	OMB control No.	Expiration date	CFR citation
New DOE Information Collections Approved by OMB				
Conservation and Renewable Energy				
CE–434	Weatherization Assistance Progress Report	19040027	Mar. 31 1986	10 CFR 440.12, 23, 22, 420.4.
CE–795R–A *	Commercial and Apartment Conservation Service Program—Plan Submittal	19040045	Apr. 30, 1986	10 CFR 456.101–510.
CE–795R–B *	Commercial and Apartment Conservation Service Reporting and Recordkeeping Requirements—Annual Reports.	19040045	do	10 CFR 456.101–510.
General Counsel				
GC–793 *	Contractor Reporting of Royalty Requirement	19010261	Dec. 31, 1983	N/A.
Management and Administration				
MA–843	DOE Management and Procurement Assistance Reporting and Recordkeeping Requirements	19010261	do	N/A.
Nuclear Waste Policy Act Project				
NWPA–830R *	Standard Contract for Disposal of Spent Nuclear Fuel and/or High Level Radioactive Waste—Contract.	19010260	April. 30, 1986	10 CFR 901.
NWPA–830R–A–F *	Standard Contract for Disposal of Spent Nuclear Fuel and/or High Level Radioactive Waste—Annual Report.	19010260	do	10 CFR 901.
NWPA–830R–G	Standard Contract for Disposal of Spent Nuclear Fuel and/or High Level Radioactive Waste—Quarterly Report—Standard Remittance Advice.	19010260	do	10 CFR 901.
Reinstated Information Collections				
Federal Energy Regulatory Commission				
FERC–519	Electric Rates—Corporate Applications	19020082	Apr. 30, 1986	18 CFR 33.
FERC–533	Gas Producer Rate: Special Relief Petition	19020056	Mar. 31, 1986	18 CFR 2.75–2.77.
FPC–12	Power System Statement	19020127	Sep. 30, 1983	18 CFR 141.51.
DOE Information Collections Extended				
Defense Programs				
DP–1	Personnel Security Questionnaire	19010017	June 30, 1986	10 CFR Part 710.
Energy Information Administration				
EIA–7A	Coal Production Report	19050004	Oct. 31, 1986	N/A.
EIA–191	Underground Natural Gas Storage Report	19050026	Sept. 30, 1983	N/A.
EIA–213	Annual Retail Bills For Electric Utilities	19050045	Dec. 31, 1983	N/A.
EIA–254	Quarterly Progress Report on Status of Reactor Construction	19010010	Oct. 31, 1983	N/A.
Energy Research				
EV–391	Isotope And Technical Service Order Form	19010006	Sept. 30, 1983	N/A.
IR–616	Nuclear Engineering Enrollment and Dregree Survey	19010015	do	N/A.
IR–617	Radiation Protection Enrollment and Degree Survey	19010015	do	N/A.
Federal Energy Regulatory Commission				
FERC–521 *	Electric License—Headwater Benefits	19020087	July 30, 1983	18 CFR 11.26, 31, 13 1.
FERC–525 *	Financial Audit	19020082	Mar. 31, 1986	18 CFR .41, 101, 104, 116, 141, 125, 158, 201, 204, 216, 225, 260, 351, 352, 256, 357.
FERC–531 *	Gas Producer Certificate: New Service	19020052	Apr. 30, 1986	18 CFR 157.23–.29, 2.75.
FERC–542 *	Gas Pipeline Rate	19020070	Aug. 31, 1983	18 CFR 154.61–.65, .91.
Management and Administration				
AD–R0177	National Survey of Compensation Paid Scientists and Engineers Engaged in Research and Development.	19010016	Sept. 30, 1983	N/A.
PR–437	Request for Priority Rating for Energy Programs	19010110	do	10 CFR 216.

DOE No.	Title	OMB Control No.	Discontinued date	CFR citation
DOE Information Collections Discontinued or Allowed To Expire				
Bonneville Power Administration				
BPA–705A	Solar Water Heating Pilot Program—Customer Monitoring Card	19010222	Apr. 30, 1983	N/A.
BPA–705B	Solar Water Heating Pilot Program—System Inspection and Acceptance Report	19010223	do	N/A.
BPA–705C	Solar Water Heating Pilot Program—Workshop Evaluation	19010223	do	N/A.
BPA–705D	Solar Water Heating Pilot Program—Monthly Financial Summary Statement	19010224	do	N/A.
Conservation and Renewable Energy				
CS–199	Grant Management Activities Report	19040007	June 30, 1983	10 CFR 450,455.4.

DOE No.	Title	OMB Control No.	Discontinued date	CFR citation
CS-434	Weatherization Assistance Progress Report	19040027	June 17, 1983	10 CFR 440.12, .23, .22,420.4.
Defense Programs				
AEC-378	Application For Access Permit To Restricted Data	19010004	May 31, 1983	10 CFR 275.
Energy Information Administration				
EIA-457A	Residential Energy Consumption Survey—Housing Unit Record Sheet	19050093	do	N/A.
EIA-457B	Residential Energy Consumption Survey—Household Questionnaire	19050093	do	N/A.
EIA-457C	Residential Energy Consumption Survey—Rental Agents	19050095	do	N/A.
EIA-457D	Residential Energy Consumption Survey—Quarterly Survey of Fuel Oil Households	19050094	do	N/A.
Environmental Protection, Safety				
EP-737R*	Emergency Interconnection of Electric Facilities and Transfer of Electricity	19030068	do	18 CFR 32.20, .23, .60, .82.

CHANGES IN CONTINUING DOE INFORMATION COLLECTIONS

DOE numbers as previously listed	Change
CS-434	Designation changed to CE-434.
EIA-14	Form revised.
EIA-142	Do.
FERC-518*	CFR revised.
FERC-534*	Do.
FERC-537*	Do.
FERC-555*	Do.

[FR Doc. 83-24178 Filed 9-2-83; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. RP83-102-000]

Robert Abrams, as Attorney General of the State of New York v. Texas Eastern Transmission Corp.; Extension of Time

August 30, 1983.

On August 29, 1983, Robert Abrams, Attorney General of the State of New York (Attorney General), filed a motion for an extension of time to file an answer to Texas Eastern Transmission Corporation's (Texas Eastern) Motion for Summary Disposition of Complaint filed August 12, 1983, in the above-docketed proceeding. The extension motion states that additional time is required because of the intervening vacation schedule of the Attorney General and because the Attorney General only recently became aware of the filing date of Texas Eastern's motion.

Upon consideration, notice is hereby given that an extension of time for the filing of an answer is granted to and including September 1, 1983.

Kenneth F. Plumb,

Secretary

[FR Doc. 83-24225 Filed 9-2-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-693-000]

Iowa-Illinois Gas & Electric Co.; Filing

August 30, 1983.

The filing Company submits the following:

Take notice that on August 22, 1983, Iowa-Illinois Gas & Electric Company (Iowa-Illinois) tendered for filing an Interchange Agreement (Agreement) with City of Tipton, Iowa (City) dated June 13, 1983

The Agreement contains schedules reflecting facilities and points of connection; metering; conditions of service and charges associated with emergency energy, short term firm power, and economic dispatch replacement energy (proposed effective on the date of commercial operation of Louisa Generating Station, in which each party has an interest, and to which this schedule relates); and transmission service schedules (including, as an addendum thereto, Transmission Service Schedule No. 1, dated june 13, 1983, proposed effective July 1, 1983).

Iowa-Illinois states, except as so indicated, the Agreement (with its other schedules) is proposed effective as of its execution date, and therefore requests waiver of the Commission's notice requirements.

Iowa-Illinois states a complete copy of the filing has been mailed to City, the Iowa State Commerce Commission, and the Illinois Commerce Commission.

It is stated that the various schedules, including those in respect of the exchange or furnishing of power and energy, were negotiated by the parties based upon cost reflective and comparable rates or rate methodologies, or reflective of the City's requirements for replacement energy from, or of transmission capacity related to, Louisa Generating Station; that the parties have incorporated into the Agreement, and affected rate schedules, reference to Iowa-Illinois' effective Offer of Settlement rates from Docket No. ER80-592, *et al.*, consolidated *sub nom.* Allegheny Power System, et al.; and that the rate schedules in respect of exchanges of power and energy include, if applicable, reimbursement for wheeling charges assessed by third parties, since Iowa-Illinois notes City contemplates arrangements with others for further delivery of power and energy to its load center.

It is further stated that Transmission Service Schedules No. 1 provides for utilization by City, in respect to its share of Louisa Generating Station capacity, of Iowa-Illinois' 345 kv facilities from Substation 92 to Substation 56, and incorporates transmission and transformation rates, charges and loss responsibility factors designed to compensate Iowa-Illinois for reflected costs of facilities provided, as the scheduling path, and associated operation and maintenance, and, for transmission and transformation losses for which compensation in kind is provided. Iowa-Illinois notes that a related, but independent, filing will be made in respect of the operation of Luisa Generating Station outlet transmission facilities of which Substation 92 is a part.

Any person desiring to be heard or protest said application should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR Sections 385.211, 385.214). All such motions or protests should be filed on or before September 12, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-24222 Filed 9-2-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-690-000]

Montana Power Co.; Compliance

August 30, 1983.

The filing Company submits the following:

Take notice that on August 19, 1983, The Montana Power Company ("Montana") tendered for filing in accordance with Section 35 of the Commission's Regulations, a Letter Agreement dated March 25, 1983 between Montana and Western Area Power Administration (WAPA) providing for transmission service for nonfirm transfers of energy from Bonneville Power Administration to WAPA.

Montana states that under the terms of this Letter Agreement, Montana will provide transmission service, and that the terms of the Letter Agreement have been agreed to by the parties.

Montana further states that the rate for the transmission service for nonfirm transfers of energy under this Letter Agreement shall be 9.5 mills per kilowatt hour delivered to WAPA plus losses.

Montana requests an effective date of April 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR Sections 385.211, 385.214). All such motions or protests should be filed on or before September 13, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-24223 Filed 9-2-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EC83-20-000]

Resources Recovery (Dade County) Construction Corp. and Resources Recovery (Dade County) Inc.; Compliance Filing

August 29, 1983.

Take notice that on August 15, 1983, Resources Recovery (Dade County) Construction Corp. ("RRDC") and Resources Recovery (Dade County) Inc. ("RRD"), tendered for filing a joint application pursuant to Section 203 of the Federal Power Act for authorization for RRDC to dispose, and RRD to acquire title to an Electric Generation Facility located in Dade County, Florida.

The Electrical Generation Facility which is the subject of the joint application includes transmission facilities valued in excess of $50,000, thereby requiring Commission authorization under Section 203. The Electrical Generation Facility, presently owned by RRDC and operated by RRD, is one component of an integrated solid waste resource recovery plant operated by RRD. That plant is a qualifying small power production facility within the meaning of Section 201 and 210 of the Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 796 and 824a-3, and the Commission's implementing regulations. The application has been submitted in accordance with the Commission's previous order waiving Part 33 of its regulations with regard to Section 203 applications concerning the RRD qualifying small power production facility. *See* Resources Recovery (Dade County) Inc. (Docket No. ER82-225-003), 20 FERC ¶ 61,138 (August 3, 1982).

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such petitions or protests should be filed on or before September 9, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-24224 Filed 9-2-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER83-618-000 and ER83-430-000]

Virginia Electric & Power Co.; Filing and Suspending Proposed Rates, Denying Motions for Rejection or Summary Disposition, Granting Waivers in Part, Noting Interventions, Consolidating Dockets, and Establishing Procedures

August 30, 1983.

On July 1, 1983, Virginia Electric & Power Company ("VEPCO") tendered for filing a proposed increase in rates for firm power service to ten municipal customers, eighteen cooperative customers, and the North Carolina Eastern Municipal Power Agency ("NCEMPA").[1] The proposed rates, filed pursuant to § 35.26(c)(3) of the Commission's regulations, reflect the inclusion in rate base of 50 percent of average construction work in progress ("CWIP") other than pollution control and fuel conversion facilities.[2] The rates would increase annual revenues by approximately $25.8 million (11.60%), as compared to VEPCO's currently effective rates.[3] VEPCO requests that the currently proposed rates be permitted to become effective on October 31, 1983, in lieu of the rates that would otherwise take effect on that date in Docket No. ER83-430-000. In order to accomplish this result, VEPCO has requested alternative effective dates of: (1) August 30, 1983, with a two month suspension until October 31, 1983, or (2) May 30, 1983, with a five month suspension (and waiver of the notice requirements).[4] VEPCO also requests waiver of § 35.17(b) of the regulations to permit the filing of the instant rate increase within the suspension period of the rates submitted in Docket No. ER83-430-000, as well as waiver of the filing fee provisions of § 36.2 and other

[1] *See* Attachment for customers and rate schedule designations.

[2] *See* Order No. 298, Docket No. RM81-36 (May 16, 1983), 48 FR 24323 (June 1, 1983); *see also* "Order Granting Rehearing for Purposes of Further Consideration and Denying Petitions for Stay of Final Rule," 24 FERC ¶ 61,071 (July 15, 1983).

[3] The present rates are to be superseded by increased rates filed by VEPCO in Docket No. ER83-430-000, as modified by summary disposition and suspended by the Commission until October 31, 1983.

[4] VEPCO previously included CWIP-based rates as a third phase in its filing in Docket No. ER83-430-000; they were rejected as premature on the grounds that Order 298, *supra*, had not yet become effective. 23 FERC ¶ 61,289 (May 27, 1983); *modified*, 24 FERC ¶ 61,085 (July 20, 1983). However, rejection of the Phase-three rates was without prejudice to VEPCO's right to file revised rates after the effective date of the new rules, together with any requests for waivers which VEPCO might seek. 23 FERC at p. 61,604.

requirements of the regulations not satisfied by the filing.

Notice of VEPCO's filing was published in the Federal Register with comments due on or before August 1, 1983. Bear Island Paper Company ("Bear Island") filed a timely motion to intervene. Bear Island states that it is a high load factor industrial customer which purchases power furnished by VEPCO to the Rappahannock Electric Cooperative. As the only present customer under VEPCO's Schedule RC-Interruptible rate, Bear Island contends that its interests will not be adequately represented by other parties to the proceeding. While Bear Island raises no specific cost of service issues, it requests that VEPCO's proposed rates be suspended for five months and set for hearing.

Old Dominion Electric Cooperative and Northern Virginia Electric Cooperative ("Virginia Cooperatives") also filed a timely motion to intervene. The Virginia Cooperatives request rejection of the filing on the grounds that it does not comply with section 35.17(b) of the regulations in that VEPCO has not shown good cause why the submittal should be allowed during an existing suspension period. If the filing is not rejected, the Virginia Cooperatives request a five month suspension. They contend that a price squeeze may exist and request that price squeeze be considered in an initial phase of this proceeding. In addition, the Virginia Cooperatives ask that the Commission not consolidate the present docket with the pending proceedings in Docket No. ER83-430-000. The Virginia Cooperatives assert that the subject matter of the two dockets differs, that the CWIP issue arises under a new rule currently subject to rehearing in Docket No. RM81-38, and that due to the impact of CWIP on the electric utility industry, any decision by the Commission will almost surely be appealed to the Federal courts.

Another timely motion to intervene was filed by the North Carolina Electric Membership Corporation and Albermarle Electric Membership Corporation ("North Carolina Cooperatives"). The North Carolina Cooperatives also request rejection of the filing on the grounds that it does not comply with § 35.17(b). In addition, the North Carolina Cooperatives urge rejection because Order No. 298 remains subject to rehearing, because Court appeals are likely to follow, and because it is purportedly unfair for the Commission to permit CWIP to be collected from wholesale customers while the legality of the Commission's action is still in question. The North Carolina Cooperatives state that it is likewise unfair to permit VEPCO to include CWIP in its rate base given existing or anticipated arrangements for VEPCO to sell portions of generating plants under construction (specifically, the Bath County Pumped Storage Project and the North Anna nuclear plant) and given the cooperatives' own construction commitments. Absent rejection, the North Carolina Cooperatives request a five month suspension and ask that the CWIP rates be stayed until completion of hearings and Commission review. In addition, the North Carolina Cooperatives allege price squeeze and oppose consolidation of the instant docket with Docket No. ER83-430-000.

ElectriCities of North Carolina and NCEMPA ("ElectriCities") jointly filed two motions on August 1, 1983. Like the other intervenors, ElectriCities cite § 35.17(b) of the regulations as grounds for rejection of the entire filing. In addition, ElectriCities move to reject the filing of a new Schedule RS-A which is a CWIP-based rate applicable only to NCEMPA. In support of this request, ElectriCities allege that the bulk of CWIP included in rate base (68%) relates to VEPCO's investment in the Bath County Project, but that NCEMPA will never receive service from that facility.[5] ElectriCities contend that their request for rejection is consistent with the Commission's decision in *Public Service Company of New Mexico*, Opinion No. 164, 23 FERC ¶ 61,218 (May 12, 1983). With respect to the remaining 32% of VEPCO's CWIP request, ElectriCities allege that there is nothing in VEPCO's filing which indicates that any of the facilities on which VEPCO seeks a return will be operating before NCEMPA ceases firm power purchases.

ElectriCities also urge the Commission to summarily reject VEPCO's CWIP related to the Bath County Project on the grounds that VEPCO should first revise its Project Construction and Purchase Agreement ("Agreement") with Allegheny Power System ("APS"). Specifically, ElectriCities argue that the Agreement, as it is now written, allows APS on a given date to make a payment which will entitle it to an ownership share equal to that payment taken as a ratio of the total costs of construction of the project (as determined in accordance with the FERC Uniform System of Accounts). Therefore, ElectriCities contend that the Agreement contemplates that, as construction costs increase due to AFUDC accruals, APS' payment would be purchasing continuously decreasing amounts of the Project over time; on the other hand, if VEPCO is permitted to place CWIP associated with the Project in rate base, the total Project costs due to AFUDC accruals will cease and subsequent payments by APS will result in its receiving a much higher percentage ownership share of the Project than it should have under the Agreement. In any event, ElectriCities request that the Commission summarily reject at least that portion of the Bath County CWIP which APS has an option to purchase. At present APS is contractually committed to purchase 20 % of the capacity of the Project for 10 years and has the option until December 31, 1984, to increase its purchase by an additional 10%. ElectriCities contend that the 10% on which APS has an option should be summarily removed from rate base because it cannot be presumed that the associated capacity will benefit VEPCO customers.

ElectriCities also take issue with VEPCO's suggested effective date of May 30, 1983, as being inconsistent with the Commission's regulations concerning CWIP in rate base. ElectriCities further contend that VEPCO's proposed increase should, at a minimum, be suspended for five months, citing (1) an allegedly excessive return on common equity, (2) VEPCO's failure to reflect the capital gain on the sale of a 20% interest in the Bath County Project to APS in the proposed rates, and (3) VEPCO's failure to reflect the sale of a 12.5% interest in North Anna Units 1 and 2 in its cost of service.

By separate motion, ElectriCities moved for consolidation of the instant docket with Docket Nos. ER83-430-000 and EL83-11-000.[6] In support of that motion, ElectriCities state that the issues in the three dockets are closely interrelated. Alternatively, if VEPCO's instant filing is rejected, ElectriCities

[5] The Bath County Project has six units with projected in-service dates of 1985 and 1986. VEPCO is currently furnishing partial requirements service to NCEMPA during a Transition Period from December 30, 1981, through December 30, 1983, after which NCEMPA contemplates providing full requirements service to its affected members and receiving only transmission service, and perhaps emergency service, from VEPCO. Although the Transition Period may be extended for one additional year through December 30, 1984, ElectriCities' pleading states that NCEMPA does not anticipate such an extension and that a suspension of VEPCO's rates beyond December 30, 1983, would be "tantamount to rejection of the increase."

[6] Docket No. EL83-11-000 involves an appeal by VEPCO of a February 10, 1983 letter from the Commission's Chief Accountant which rejected certain journal entries proposed by VEPCO in regard to its gain from the sale to APS of an undivided interest in the Bath County Project. The Commission has not yet taken final action on that accounting question.

assert that consolidation of the remaining two dockets would be appropriate because of the similarity of the legal issues involved.

On August 12, 1983, VEPCO filed an answer to the intervenors' motions. VEPCO states that it made its filing in Docket No. ER82–430–000 on March 31, 1983, because delay beyond that point would have resulted in its Period I cost of service data (based on calendar year 1981) becoming stale and also would have resulted in a large revenue loss. VEPCO also states that it could not have anticipated that implementation of the Commission's new CWIP policy would be delayed until July 1, 1983. Therefore, VEPCO asserts that waiver of section 35.17(b) is warranted. VEPCO also states that: (1) The North Carolina Cooperatives' arguments for rejection should be disregarded because comments relating to the general propriety of including CWIP in rate base should be restricted to the rulemaking proceeding and comments relating to limited future use of VEPCO facilities are incorrect due to the fact that these cooperatives will continue as VEPCO customers into the foreseeable future; (2) VEPCO has not included in CWIP the portion of the Bath County Project already sold or committed to APS, although it has included the 10% additional portion on which APS holds an option because the Maryland Public Service Commission must approve the acquisition before APS can exercise its option; (3) NCEMPA is not entitled to special rate treatment; (4) the Virginia Cooperatives' request for departure from the Commission's existing practice of phasing price squeeze determinations should be disregarded; and (5) the instance docket should be consolidated with Docket No. ER83–430–000.

Discussion

Under Rule 214(c)(1) of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the timely motions to intervene serve to make Bear Island, the Virginia Cooperatives, the North Carolina Cooperatives, and ElectriCities parties to this proceeding.

Despite the intervenors' claims, we are not persuaded that VEPCO's filing should be rejected. But for the restrictions of section 35.17 of the regulations, the submittal substantially complies with the Commission's filing requirements.[1] Furthermore, we find good cause to grant special permission to file as provided for in section 35.17. We find some merit to VEPCO's argument that it was unable to calculate when the Commission's CWIP rule would become effective. Under these circumstances, it could not precisely time its rate filing to coincide with the effectiveness of the CWIP rule and the economic consequences of delay were allegedly substantial. While we do not believe that this argument justifies waiver of our notice requirements or departing from our normal suspension criteria (as discussed below), we do think it provides justification, under these circumstances, for special permission to file CWIP rates during the suspension of non-CWIP rates.

The grounds stated by the North Carolina Cooperatives with respect to the proceedings in Docket No. RM81–38 do not present sufficient grounds for rejection. While challenges to Order No. 298 may remain, the Commission expressly declined to stay that order; its terms are therefore effective. The affected customers will have the opportunity for a hearing as well as refund protection. As the Commission has previously stated, 24 FERC ¶ 61,071, slip op. at p. 4, a CWIP-related rate change is subject to the same ratemaking proceedings and scrutiny as any other element of the cost of service. Therefore, we shall deny the North Carolina Cooperatives' motion for rejection.

As noted, ElectriCities have sought rejection of VEPCO's CWIP-based rates insofar as they apply to NCEMPA; however, they further state that this request would effectively be mooted if the rates are suspended beyond December 30, 1983. (*See* footnote 5, *supra*). Given the position expressed by ElectriCities as well as the decisions discussed below to deny VEPCO's request for waiver of notice and to impose a maximum suspension, we perceive no need to consider the motion to reject as to NCEMPA.

We shall deny ElectriCities' request for summary disposition with respect to VEPCO's inclusion of the entire Bath County Project as CWIP in rate base absent revision of VEPCO's Agreement with APS. There is not sufficient information presently in the record on which to base a decision. Additional evidence should be developed during the hearing which we shall order below. With respect to APS' option to purchase an additional 10% of the Bath County Project, we believe that this contingency is too speculative at this point to justify summary action, particularly in view of VEPCO's characterization of the required state commission approval and the absence of any concrete evidence that the option will be exercised.

Our preliminary review of VEPCO's rates and the intervenors' pleadings indicates that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept VEPCO's CWIP-based rates for filing, and we shall suspend them as ordered below.

In *West Texas Utilities Company*, Docket No. ER82–23–000, 18 FERC ¶ 61,189 (1982), we noted that rate filings would ordinarily be suspended for five months where preliminary review indicates that the proposed increase may be unjust or unreasonable and may generate substantially excessive revenues, as defined in *West Texas*. Since our preliminary review indicates that VEPCO's rates may yield substantially excessive revenues, we shall suspend VEPCO's proposed CWIP-based rates for five months. We do not believe that good cause has been shown to waive the notice requirements as requested by VEPCO. To do so would effectively undermine our objective in Docket No. ER83–430–000, to assure compliance with the provisions of Order No. 298. Further, it would give VEPCO an advantage over those utilities which have properly complied. Consequently, the CWIP-based rates will be suspended for five months from sixty days after filing to become effective, subject to refund, on January 31, 1984.

Given the fact that VEPCO has supported the instant filing by reference to the same Period II cost data as those supplied in Docket No. ER83–430–000, we find that good cause exists to permit the company to use the same Period I data as well. The use of VEPCO's calendar year 1981 data for purposes of comparison with Period II should prejudice the intervenors in no way. Thus, we shall grant waiver of § 35.13(d)(3)(i) of the regulations. Furthermore, inasmuch as the filing fee submitted by VEPCO in Docket No. ER83–430–000 was predicated on the entirety of the proposed increase (including the CWIP increment), an additional fee in this docket would be duplicative. We shall therefore waive § 36.2 to the extent that it would be applicable.

We shall grant ElectriCities' motion for consolidation of the instant docket with Docket No. ER83–430–000. The large number of issues common to the two dockets and administrative efficiency warrant consolidation of the two dockets, notwithstanding arguments

[1] *See Municipal Light Boards of Reading and Wakefield, Mass.* v. *FPC*, 450 F.2d 1341 (D.C. Cir 1971); *cert. denied*, 405 U.S. 989 (1972).

to the contrary by the Virginia and North Carolina Cooperatives. Inasmuch as the Commission has not yet acted on the VEPCO appeal pending in Docket No. EL83–11–000 (*see* footnote 6, *supra*), we shall deny the request for consolidation with that docket as premature.

In accordance with the Commission's policy and practice established in *Arkansas Power and Light Company*, Docket No. ER79–339, 8 FERC ¶ 61,131 (1979), we shall phase the price squeeze issue raised by the intervenors.[8]

The Commission orders: (A) The motions to reject VEPCO's filing in its entirety are hereby denied.

(B) ElectriCities' request for rejection of the proposed rates as they apply to NCEMPA is hereby dismissed for the reason stated in the body of this order.

(C) ElectriCities' request for summary disposition with respect to VEPCO's inclusion of the entire Bath County Project as CWIP in rate base and with respect to VEPCO's inclusion of that portion subject to a purchase option, is hereby denied.

(D) VEPCO's request for waiver of notice is hereby denied.

(E) Waiver of §§ 35.17(b), 36.2, and 35.13(d)(3)(i) of the Commission's regulations is hereby granted.

(F) VEPCO's proposed rates are hereby accepted for filing and are suspended for five months, to become effective on January 31, 1984, subject to refund.

(G) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of VEPCO's rates.

(H) Docket Nos. ER83–618–000 and ER83–430–000 are hereby consolidated for purposes of hearing and decision. The motion to consolidate with Docket No. EL83–11–000 is denied as premature.

(I) The Commission staff shall serve top sheets in this proceeding within ten (10) days of the date of this order.

(J) The administrative law judge designated to preside in Docket No. ER83–430–000 shall convene a conference within approximately fifteen (15) days after service of top sheets to establish a procedural schedule best suited for resolution of this consolidated proceeding.

(K) The Commission hereby orders initiation of price squeeze procedures and further orders that this proceeding be phased so that the price squeeze procedures begin after issuance of a Commission opinion establishing the rate which, but for consideration of price squeeze, would be just and reasonable. The presiding judge may modify this schedule for good cause shown. The price squeeze portion of this case shall be governed by the procedures set forth in § 2.17 of the Commission's regulations as they may be modified prior to the initiation of the price squeeze phase of this proceeding.

(L) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[8] Based on the information available thus far, we perceive no basis on which to depart from our existing phasing practice as requested by the Virginia Cooperatives. However, we note that, under that practice, the presiding judge has discretion to modify the procedural schedule where good cause is found to do so. (*See* Ordering Paragraph (K), *infra*).

Virginia Electric and Power Company

Docket No. ER83–618–000

Rate Schedule Designations

Designations: Thirteenth Revised Sheet Nos. 4 through 9 and Fourteenth Revised Sheet No. 10 to FPC Electric Tariff, First Revised Volume No. 1 (supersedes Twelfth Revised Sheet Nos. 4 through 9 and Thirteenth Revised Sheet No. 10)

Tariff Customers: Town of Blackstone, Town of Culpepper, Town of Elkton, Town of Enfield, Town of Franklin, City of Harrisonburg, Town of Iron Gate, City of Manassas, Town of Wakefield, Town of Windsor.

Designations: Supplement No. 6 to Supplement No. 3 to Rate Schedule FERC No. 102 (supersedes Supplement No. 5 to Supplement No. 3)

Description: Schedule RS–A, Interim Electric Service to North Carolina Eastern Municipal Power Agency.

Customer	Rate schedule	Schedule RC[1]		Schedule RC-Inter[2]	
		Supp. No.	Supersedes	Supp. No.	Supersedes
B–A–R–C EC	76	53	48	54	50
Community EC	77	65	60	66	62
Craig-Botetourt EC	78	50	45	51	47
Mecklenburg EC	79	76	71	77	73
Northern Neck	80	57	52	58	54
Prince George EC	82	58	53	59	55
Prince William EC	83	79	74	80	76
Shenandoah Valley EC	84	77	72	78	74
Southside EC	85	81	76	82	78
Tri-County EC	86	56	51	57	53
Albemarle EMC	88	56	51	57	53
Cape Hatteras EMC	89	41	36	42	38
Edgecombe-Martin County EMC	90	57	52	58	54
Halifax EMC	91	49	44	50	46
Roanoke EMC	92	61	56	62	58
Tideland EME	93	46	41	47	43
Central Virginia EC	94	67	62	68	64
Rappahannock EC	101	57	52	58	54

[1] Firm Resale Service Schedule RC.
[2] Interruptible Service Schedule RC-Interruptible.

[FR Doc. 83–24286 Filed 9–2–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER83–610–000 et al.]

Public Service Co. of Oklahoma; Hearings

August 30, 1983.

On July 1, 1983, Public Service Company of Oklahoma (PSO) and Southwestern Electric Power Company (SWEPCO) tendered for filing in Docket No. ER83–610–000 a proposed transmission tariff for service over their individual alternating current (AC) transmission facilities and over certain direct current (DC) facilities to be constructed. Upon completion, the DC facilities will establish interconnections between the Southwest Power Pool (SWPP) load control area and the Electric Reliability Council of Texas (ERCOT) load control area. Concurrently, Central Power and Light

In the matter of Public Service Company of Oklahoma, Southwestern Electric Power Company, Docket Nos. ER83–610–000, and ER82–545–000; Central Power and Light Company, West Texas Utilities Company, Docket Nos. ER83–611–000, and ER82–546–000; Order Accepting for Filing and Suspending Tariffs, Noting Interventions, Summarily Disposing of Certain Issues, Consolidating Dockets, and Establishing Procedures.

Company (CP&L) and West Texas Utilities Company (WTU) tendered for filing in Docket No. ER83-611-000 a proposed transmission tariff providing for transmission service over the same DC transmission facilities between the SWPP and ERCOT load centers.[1] The cost justification for both tariffs was developed by combining the AC facilities of each of the two sets of utilities and a portion of the DC facilities. The four filing utilities (collectively referred to as "Companies") are wholly-owned subsidiaries of Central and South West Corporation (CSW). Because there are no currently proposed purchases of transmission service under either tariff, and the commercial operation of the facilities is not expected before July 1, 1984, no executed service agreements have been filed. The Companies request that their submittals become effective 60 days after filing.

The instant filings were made pursuant to the Commission's order in *Central Power and Light Company, et al.*, Docket Nos. EL79-8 and E-9558, 17 FERC ¶ 61,978 (October 28, 1981), as modified on rehearing, 18 FERC ¶ 61,100 (January 29, 1982). In that earlier proceeding the Commission, among other things, accepted a settlement agreement and ordered the construction of two interconnections between ERCOT and SWPP. The Commission also incorporated by reference the terms of the parties' settlement agreements, including a proposed order [2] which provided for the Companies to file the transmission tariffs at issue in the instant dockets, to become effective subject to refund if the Commission so ordered. The incorporated provisions provided, *inter alia*, that Companies would (1) file separate tariffs for transmission service *within* ERCOT and *within* SWPP, and (2) at least one year before the DC lines go into service, the Companies would file a tariff for transmission services *between* ERCOT and SWPP. The former filings have been made and are currently pending before the Commission in Docket Nos. ER82-545-000 and ER82-546-000.[3] The present filings are intended to satisfy the second requirement.

Notice of the filings was issued on July 12, 1983, with comments, protests or interventions due on or before July 28, 1983. Upon application of the Texas Cooperatives [4] and the Municipal Electric Systems of Oklahoma (MESO), the comment date was extended to August 4, 1983.

On July 28, 1983, motions to intervene in Docket No. ER83-610-000 were filed by Houston Lighting and Power Company (HL&P), the City of Brownsville, Texas (Brownsville), Medina Electric Cooperative, Inc., the City of Lafayette, Louisiana (Lafayette), and South Texas Electric Cooperative, Inc., (STEC). On August 1, 1983, Tex-La Electric Cooperative, Inc. (Tex-La) [5] and Northeast Texas Electric Cooperative, Inc. (NTEC) [6] filed motions to intervene. On August 4, the Texas Cooperatives, MESO, and the Oklahoma Municipal Power Authority (collectively referred to as "joint intervenors") filed a motion to intervene. With the exceptions of Tex-La and NTEC, the same entities moved to intervene in Docket No. ER83-611-000. Lafayette, HL&P, NTEC, Tex-La, and the joint intervenors request intervenor status, but have raised no specific issues and have not requested that the filings be set for hearing. STEC, Medina (supporting STEC), and Brownsville raised a number of potential ratemaking issues and requested that the proposed transmission tariffs be suspended for one day and set for hearing. STEC by separate motion, also requested that the proceedings in Docket Nos. ER83-610-000 and ER83-611-000 be consolidated with Docket Nos. ER82-545-000 and ER82-546-000, stating that these filings involve similar transmission service and common issues.

Brownsville requests consolidation of Docket No. ER82-610-000 with Docket No. ER83-611-000, Docket No. EL79-8, and any other proceedings which the Commission deems to be "closely related" because they arise from the Commission's orders in Docket No. EL79-8. Brownsville submits that consolidation is justified because transmission services between CP&L and WTU and other utilities within the ERCOT system are regulated by the Texas Public Utilities Commission, whose jurisdiction overlaps this Commission's insofar as the transmission networks of the ERCOT system members operate on an instantaneous dynamic basis. For this reason, and to assure compatibility of different aspects of a single wheeling transaction, Brownsville suggests consolidation of these proceedings, and that the Texas Public Utility Commission should be invited to participate in the consolidated proceedings or to hold a joint hearing with this Commission. Lafayette supports Brownsville's motion to consolidate.

On August 12, 1983, the CSW Companies submitted an answer to the motions to intervene which commented upon the various ratemaking objections by STEC, Medina, and Brownsville, and supported the requests for intervenor status and the motions to consolidate this proceeding with Docket Nos. ER82-545-000 and ER82-546-000. The CSW Companies, however, objected to consolidation with proceedings involving similar transmission service schedules of TU and HL&P because the parties and the issues arising in the latter proceedings could be different, and CSW's participation in TU and HL&P proceedings would be a substantial burden. CSW states that it would not object to this Commission's consideration of use of the Texas PUC's methodology for structuring transmission rates "in order to avoid unnecessary confusion."

Discussion

Pursuant to Rule 214(c)(1) of the Commission's Rules of Practice and Procedure (18 CFR § 385.214), the unopposed motions to intervene serve to make each intervenor identified above a party to this proceeding.

PSO, SWEPCO, CP&L, and WTU have included accumulated deferred investment tax credits (ADITC) as a separate component in their stated capital structures. This treatment is contrary to well-established Commission precedent.[7] Similarly, PSO,

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[1] *See* Attachment for rate schedule designations.

[2] The proposed order was submitted in Docket Nos. EL79-8 and E-9558 by Central and South West Corporation and Houston Lighting and Power Company

[3] *See Public Service Company of Oklahoma, et al.*, 20 FERC ¶ 61,082 (1982) (Suspension Order).

[4] The Texas Cooperatives include: Mid-Tex Generation & Transmission Electric Cooperative, Inc.; Coleman County Electric Cooperative, Inc.; Concho Valley Electric Cooperative, Inc.; Dickens Electric Cooperative, Inc.; Gate City Electric Cooperative, Inc.; Greenbelt Electric Cooperative, Inc.; Lighthouse Electric Cooperative, Inc.; McCulloch Electric Cooperative, Inc.; Midwest Electric Cooperative, Inc.; Rio Grande Electric Cooperative, Inc.; Southwest Texas Electric Cooperative, Inc.; Stamford Electric Cooperative, Inc.; Taylor Electric Cooperative, Inc.; Kimble Electric Cooperative, Inc.; and Magic Valley Electric Cooperative, Inc.

[5] Tex-La member cooperatives include: Cherokee County Electric Cooperative Association; Deep East Texas Electric Cooperative, Inc.; Houston County Electric Cooperative, Inc.; Jasper-Newton Electric Cooperative, Inc.; Rusk County Electric Cooperative, Inc.; Sam Houston Electric Cooperative, Inc.; Wood County Electric Cooperative, Inc.

[6] NTEC member cooperatives include: Bowie-Cass Electric Cooperative, Inc.; Deep East Texas Electric Cooperative, Inc.; Panola-Harrison Electric Cooperative, Inc.; Rusk County Electric Cooperative, Inc.; Upshur Rural Electric Cooperative, Inc.; Wood County Electric Cooperative, Inc.

[7] *E.g., Virginia Electric and Power Co.*, Opinion No. 118, 15 FERC ¶ 61,052 (1981); *Carolina Power and Light Co.*, Opinion No. 19, 4 FERC ¶ 61,107 (1979); *Public Service Company of New Mexico*, 14

SWEPCO, and CP&L failed to synchonize interest expense for tax purposes. Commission precedent requires that utilities compute the long-term debt component of the interest-expense tax deduction as the product of the allocated rate base and the weighted cost of long-term debt.[8] Accordingly, summary disposition will be ordered as to these issues. However, because of the minimal cost of service impact of these items, and the fact that there is no present service under the proposed tariffs, we shall not require the Companies to refile at this time.

We find that common questions of law and fact may be presented in Docket Nos. ER82–545–000, ER82–546–000, ER83–610–000, and ER83–611–000. Therefore, we shall consolidate these dockets for purposes of hearing and decision. We shall, however, deny the requests to consolidate these proceedings with Docket No. EL79–8. With respect to Brownsville's request that the present filings be consolidated with prospective filings of HL&P and TU, we find it premature to address this question now. Upon renewal of Brownsville's request, this question will be addressed in the relevant proceedings.[9]

Our preliminary review of the filings submitted and the pleadings indicates that the proposed rates, terms, and conditions have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatroy or preferential, or otherwise unlawful. Accordingly, we shall accept the proposed tariffs for filing and suspend them as ordered below.

In *West Texas Utilities Company*, Docket No. ER82–23–000, 18 FERC ¶ 61,189 (1982), we stated that where our preliminary review indicates that proposed rates may be unjust and unreasonable, but may not be substantially excessive as described in *West Texas*, we will ordinarily suspend the rates for a nominal period. Because our preliminary review indicates that the transmission tariffs submitted by PSO, SWEPCO, CP&L and WTU may not yield substantially excessive revenues, and in view of the fact that no service is contemplated before July 1, 1984, we shall suspend the proposed tariffs to become effective, subject to refund, upon initiation of service.[10]

The Commission orders:

(A) Summary disposition is hereby ordered, as noted in the body of this order, with respect to the inclusion by PSO, SWEPCO, CP&L and WTU of ADITC as a separate component in their capital structures and with respect to PSO's, SWEPCO's, and CP&L's failure to synchronize interest for purposes of calculating income tax expense. These decisions shall be reflected in any compliance cost of service and rates at the conclusion of this proceeding.

(B) The transmission tariffs submitted by PSO, SWEPCO, CP&L, and WTU are hereby accepted for filing and suspended to become effective, subject to refund, upon initiation of service.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of the transmission tariffs filed by PSO, SWEPCO, CP&L, and WTU.

(D) Docket Nos. ER83–610–000 and ER83–611–000 are hereby consolidated with the ongoing proceedings in Docket Nos. ER82–545–000 and ER82–546–000 for purposes of hearing and decision. Brownsville's request to consolidate with other dockets is hereby denied.

(E) The administrative law judge designated to preside in Docket Nos. ER82–545–000 and ER82–546–000 shall convene a conference within approximately fifteen (15) days from the date fo this order, to determine the procedures best suited for resolution of this consolidated proceeding.

(F) The Secretary shall promptly publish this order in the **Federal Register**.

By the Commission.

Kenneth F. Plumb,

Secretary.

ATTACHMENT—RATE SCHEDULE DESIGNATIONS

Designation	Docket numbers
Public Service Company of Oklahoma:	
(1) FERC Electric Tariff, Original Volume No. 2 (Original Sheet Nos. 1–21).	Docket No. ER83–610–000.
Southwestern Electric Power Company:	
(2) FERC Electric Tariff, Original Volume No. 2 (Original Sheet Nos. 1–21).	Docket No. ER83–610–000.
Central Power & Light Company:	
(3) FERC Electric Tariff, Original Volume No. 3 (Original Sheet Nos. 1–23).	Docket No. ER83–611–000.
West Texas Utilities Company:	
(4) FERC Electric Tariff, Original Volume No. 3 (Original Sheet Nos. 1–23).	Docket No. ER83–611–000.

[FR Doc. 83–24284 Filed 9–2–83; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[SA–FRL–2429–7]

Science Advisory Board, ad hoc Committee to Review the National Acid Precipitation Assessment Program; September 9, 1983—Open Meeting

Under Pub. L. 92–463, notice is hereby given of a one day meeting on September 9, 1983 of the Science Advisory Board's Ad Hoc Committee to Review the National Acid Precipitation Assessment Program. The meeting will begin at 9:30 a.m. and will be held in Room 10103 New Executive Office Building, 17th Street and Pennsylvania Avenue, N.W., Washington, D.C.

The principal purpose of the meeting is to enable the Committee to begin its review of the performance to date of the federal government's acid precipitation research program, to examine the current focus and evaluate the strengths and weaknesses of the program, and to assess the ability of the program to answer the scientific questions most pertinent to policy development.

The meeting of the Committee is determined to be an emergency meeting due to the need to conduct an expedited review of the acid precipitation research program. The advice provided by the Ad Hoc Committee will be used to enhance the future planning of the research program.

The meeting is open to the public. Any member of the public wishing to obtain

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FERC ¶ 61,194 (1981); *Public Service Company of Oklahoma*, 5 FERC ¶ 61,032 (1978); *Virginia Electric and Power Co.*, 4 FERC ¶ 61,258 (1978).

[8] *E.g., Gulf States Utilities Company*, 20 FERC ¶ 61,039 (1982); *Public Service Company of New Mexico*, Opinion No. 113, 17 FERC ¶ 61,123 (1981).

[9] With respect to Brownsville's request that the Texas Commission be invited to participate in the pending proceedings, we presume that that Commission is aware of the filings and is taking whatever actions it deems appropriate under the circumstances.

[10] While the Companies request an effective date 60 days after filing, we see no need to make the rates effective prior to the time that service actually begins.

information, or provide comments to the Committee should contact Dr. Terry F. Yosie, Director, Science Advisory Board (2) 382–4126 by close of business September 8, 1983.

The security system in operation at the New Executive Office Building requires prior notification of all attendees in order to obtain entrance to the meeting. Individuals planning to attend the meeting should contact Ms. Carolyn Osborne, Science Advisory Board staff (202) 382–4126 by close of business September 8, 1983.

Terry F. Yosie,

Director, Science Advisory Board.

September 1, 1983.

[FR Doc. 83-24301 Filed 9-2-83; 8:45 am]

BILLING CODE 6560-50-M

FARM CREDIT ADMINISTRATION

[Farm Credit Administration Order No. 644]

Puget Sound Production Credit Association; Order Establishing Procedures

Correction

In FR Doc. 83–23737, beginning on page 39288 in the issue of Tuesday, August 30, 1983, the Farm Credit Administration was incorrectly shown to be a subagency of the Department of Agriculture. It is an independent agency, therefore the heading should have read as set forth above.

BILLING CODE 1505-01-M

[Farm Credit Administration Order No. 645]

Southern Oregon Production Credit Association; Order Establishing Procedures

Correction

In FR Doc. 83–23736, beginning on page 39290 in the issue of Tuesday, August 30, 1983, replace the comma following "Farm Credit Administration" in the "AGENCY" line with a period and remove "450A" from the next line.

BILLING CODE 1505-01-M

FEDERAL MARITIME COMMISSION

Item Submitted for OMB Review

The Federal Maritime Commission hereby gives notice that the following item has been submitted to OMB for review pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, et seq.). Requests for information, including copies of the collection of information and supporting documentation, may be obtained from Ronald D. Murphy, Agency Clearance Officer, Federal Maritime Commission, 1100 L Street, NW., Room 9305, Washington, D.C. 20573, telephone number (202) 523–5900. Comments may be submitted to the Office of Information and Regulatory Affairs of the Office of Management and Budget, Attention: Desk Officer for the Federal Maritime Commission, within 15 days after the date of the Federal Register in which this notice appears.

Summary of Item Submitted for OMB Review

46 CFR Part 523—Admission, Withdrawal and Expulsion Provisions of Steamship Conference Agreements (General Order 9)

General Order 9 is the Commission's regulation to implement section 15 of the Shipping Act, 1916, as amended, which requires that conference agreements provide reasonable and equal terms and conditions for admission and readmission to conference membership by qualified carriers in the trade. Additionally, the agreement must provide that any member can withdraw from membership without penalty, upon reasonable notice.

The Commission estimates the annual respondents and annual manhours at 76 and 73, respectively. Total estimated annual cost to the Government is $1,666.05; annual cost to the public is estimated at $2,054.65.

Francis C. Hurney,

Secretary.

[FR Doc. 83-24233 Filed 9-2-83; 8:45 am]

BILLING CODE 6730-01-M

Agreement; Correction

The publication notice for Federal Maritime Commission Agreement No. 10374–5, an amendment to the Hapag-Lloyd/ICT/French Line Service Agreement, which was published on August 17, 1983 (48 FR 37302) should have read:

"Agreement No. 10374–5 would modify the agreement to: (1) extend approval for five years beyond its scheduled expiration date of December 31, 1983; (2) permit an individual party to terminate its participation in the Agreement on one year's notice; (3) specify more clearly that the scope of the Agreement excludes the Mediterranean; (4) clarify that the parties may not unilaterally terminate selected portions of the Agreement; and (5) delete Article 12, concerning casting of conference votes by the parties, from the Agreement."

Interested parties may submit protests or comments on the agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the Federal Register in which it appears.

Dated: August 31, 1983.

Francis C. Hurney,

Secretary.

[FR Doc. 83-24293 Filed 9-2-83; 8:45 am]

BILLING CODE 6730-01-M

[Agreement Nos. 8210–47, 9214–31, 7770–24, 7670–23, 9982–18, 5850–39, 7100–27, 10482 and T–4132]

Availability of Finding of No Significant Impact

Upon completion of an environmental assessment, the Federal Maritime Commission's Office of Energy and Environmental Impact has determined that the Commission's decision on Agreements Nos. 8210–47, 9214–31, 7770–24, 7670–23, 9982–18, 5850–39, 7100–27, 10482 and T–4132 will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, and that preparation of an environmental impact statement is not required.

The proposed amendments to Agreement Nos. 8210–47, 9214–31, 7770–24, 7670–23, 9982–18, 5850–39, and 7100–27 would grant the parties, among other things, U.S. intermodal authority and authorize a right of independent action upon 30 days' notice. Agreement No. 8210–47 covers cargo moving from North European continental ports to U.S. North Atlantic ports. Agreement No. 9214–31 covers cargo moving from U.S. North Atlantic ports to North European continental ports. Agreement No. 7770–24 covers cargo moving from U.S. North Atlantic ports to French Atlantic ports and points in France. Agreement No. 7670–23 covers cargo moving from U.S. North Atlantic ports to Scandinavian and Baltic ports. Agreement No. 9982–18 covers cargo moving from Scandinavian and Baltic ports to U.S. North Atlantic ports. Agreement No. 5850–39 covers cargo moving from ports in the United Kingdom (UK) and Republic of Ireland (Ireland) to U.S. North and South Atlantic ports. Agreement No. 7100–27 covers cargo moving from U.S. North Atlantic ports to points in the UK and Ireland.

Agreement No. 10482 is a joint service arrangement between Italian Line and d'Amico Line to provide service either by water or by minibridge between ports on the United States Pacific Coast, including the Hawaiian Islands, and ports on the Mediterranean and Black Seas and the Atlantic Coast of Spain, Morocco and Portugal, and to the from

all inland points origin and destination. Agreement No. T-4132, between the Port of Palm Beach District (Port) and Eagle Cement Corporation (Eagle), provides for the reassignment of a prior lease between the Port and Ideal Cement Company (now known as Ideal Basic Industries, Inc.). The leased premises, located in Rivera Beach, Palm Beach County, Florida, will be used by Eagle primarily for packing and distributing cement and lime products. Other uses may include transshipment and distribution of sand, clay, rock, ore and minerals other than coal.

This Finding of No Significant Impact (FONSI) will become final within 20 days of publication of this notice in the **Federal Register** unless a petition for review is filed pursuant to 46 CFR 547.6(b).

The FONSIS and related environmental assessments are available for inspection on request from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, D.C. 20573, telephone (202) 523-5725.

Francis C. Hurney,

Secretary.

[FR Doc. 83-24309 Filed 9-2-83; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 2414-R]

Amstutz International Co.; Order of Revocation

On August 11, 1983, Amstutz International Co., 530 E. North Belt, Houston, TX 77060 requested the Commission to revoke its Independent Ocean Freight Forwarder License No. 2414-R effective August 26, 1983.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), section 10.01(e) dated November 12, 1981;

It is ordered, that Independent Ocean Freight Forwarder License No. 2414-R issued to Amstutz International Co., be revoked effective August 26, 1983, without prejudice to reapplication for a license in the future.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Amstutz International Co.

Robert M. Skall,

Deputy Director, Bureau of Certification and Licensing.

[FR Doc. 83-24310 Filed 9-2-83; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 2040]

Intercontinental Export Ltd.; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.15(d) of Federal Maritime Commission General Order 4 further provides that a license shall be automatically revoked for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Intercontinental Export Ltd., 7956 Twist Lane, Springfield, VA 22150 was cancelled effective August 14, 1983.

By letter dated July 19, 1983, Intercontinental Export Ltd. was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 2040 would be automatically revoked unless a valid surety bond was filed with the Commission.

Intercontinental Export Ltd. has failed to furnish a valid bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), section 10.01(f) dated November 12, 1981;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 2040 be and is hereby revoked effective August 14, 1983.

It is ordered, that Independent Ocean Freight Forwarder License No. 2040 issued to Intercontinental Export Ltd. be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Intercontinental Export Ltd.

Albert J. Klingel, Jr.,

Director, Bureau of Certification and Licensing.

[FR Doc. 83-24311 Filed 9-2-83; 8:45 am]

BILLING CODE 6730-01-M

Independent Ocean Freight Forwarder License; Applicants

Notice is hereby given that following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(c)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

International Transportation Concepts, Inc., d.b.a. ITC, Inc. One Cargo Road, Cincinnati Airport, Special Dispatch Bldg., Cincinnati, OH 45275
Officers: Thomas G. Voss, President/Director; Linda J. Deaton, vice President/Director; Charles R. Parris, Secretary/Treasurer/Director; United Midwest Corp., John S. Hodge, President/Director

Gunter Wegner d.b.a. Wegner International Forwarding Company, 5333 Tally Green Drive, Marietta, GA 30067

Paul S. Cohen, 366 Coral Circle, El Segundo, CA 90245

James W. O'Connor d.b.a. J. O. C. International Ltd., 3704 Remuda Way, Pinole, CA 94564

By the Federal Maritime Commission.

Dated: August 31, 1983.

Francis C. Hurney,

Secretary.

[FR Doc. 83-24314 Filed 9-2-83; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 2082]

James R. Linnehan; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.15(d) of Federal Maritime Commission General Order 4 further provides that a license shall be automatically revoked for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of James R. Linnehan, 9830 Bellanca Avenue, Los Angeles, CA 90045 was cancelled effective August 14, 1983.

By letter dated July 19, 1983, James R. Linnehan was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 2082 would be automatically revoked unless a valid surety bond was filed with the Commission.

James R. Linnehan has failed to furnish a valid bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 10.01(f) dated November 12, 1981;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 2082 be and is hereby revoked effective August 14, 1983.

It is ordered, that Independent Ocean Freight Forwarder License No. 2082 issued to James R. Linnehan be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon James R. Linnehan.

Albert J. Klingel, Jr.,

Director, Bureau of Certification & Licensing.

[FR Doc. 83-24312 Filed 9-2-83; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 1181-R]

Ven-Air Service, Inc.; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.15(d) of Federal Maritime Commission General Order 4 further provides that a license shall be automatically revoked for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Ven-Air Service, Inc., 6515 N.W. 19 Street, Bldg. 2141 S-8, Miami, FL 33152 was cancelled effective August 21, 1983.

By letter dated July 26, 1983, Ven-Air Service, Inc. was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 1181-R would be automatically revoked unless a valid surety bond was filed with the Commission.

Ven-Air Service, Inc. has failed to furnish a valid bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 10.01(f) dated November 12, 1981;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 1181-R be and is hereby revoked effective August 21, 1983.

It is ordered, that Independent Ocean Freight Forwarder License No. 1181-R issued to Ven-Air Service, Inc. be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Ven-Air Service, Inc.

Albert J. Klingel, Jr.,

Director, Bureau of Certification & Licensing.

[FR Doc. 83-24313 Filed 9-2-83; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by Bank Holding Companies; Horizon Corp. and Bank of Boston Corp.

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Horizon Bancorp,* Morristown, New Jersey; to retain 100 percent of the voting shares of Horizon Trust Company, National Association, Morristown, New Jersey, a limited-purpose trust company, after it commences offering full banking services. Comments on this application must be received not later than September 28, 1983.

B. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Bank of Boston Corporation,* Boston, Massachusetts; to acquire 100 percent of the voting shares or assets of Casco-Northern Corporation, Portland, Maine. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Boston. Comments on this application must be received not later than September 30, 1983.

Board of Governors of the Federal Reserve System, August 30, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-24226 Filed 9-2-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies; Union Bancorp of Evansville, Inc., and Mineola Bancshares, Inc.

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President), 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Union Bancorp of Evansville, Inc.,* Evansville, Wisconsin; to become a bank holding company by acquiring 80 percent of the voting shares of Union Bank and Trust Company, Evansville, Wisconsin. Comments on this application must be received not later than September 30, 1983.

B. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President), 400 South Akard Street, Dallas, Texas 75222:

1. *Mineola Bancshares, Inc.,* Mineola, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger to Mineola State Bank, Mineola, Texas. Comments on this application must be received not later than September 28, 1983.

Board of Governors of the Federal Reserve System, August 30, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-24227 Filed 9-2-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities; Old Stone Corp., et al.

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company

Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de nova* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President), 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Old Stone Corporation,* Providence, Rhode Island (mortgage banking and insurance agency activities; Minnesota): To engage *de novo* through its indirect subsidiaries, UniMortgage Corporation of Minnesota, Bloomington, Minnesota and The American Standard Insurance Agency in the origination, sale and servicing of second mortgage loans; the sale of credit life and credit accident and health insurance, which, pursuant to concurrent approval shall be underwritten by an affiliated bank holding company subsidiary, Motor Life Insurance Company, Jacksonville, Florida. These activities would be conducted from an office in Bloomington, Minnesota serving the greater metropolitan area of the cities of Bloomington, St. Paul and Minneapolis, Minnesota and Hennepin County, Minnesota. Comments on this application must be received not later than September 26, 1983.

2. *Old Stone Corporation,* Providence, Rhode Island (insurance underwriting; Minnesota): To engage, through its indirect subsidiary, The Motor Life Insurance Company (Motor Life), in the underwriting, through reinsurance, of credit life and credit accident and health insurance directly related to extensions of credit. This activity would be conducted from Motor Life's existing office in Jacksonville, Florida and the service areas for this activity would be the State of Minnesota. Comments on this application must be received not later than September 28, 1983.

3. *Fleet Financial Group, Inc.,* Providence, Rhode Island (mortgage banking; New York): To engage *de novo* through its direct subsidiary, Fleet Mortgage Corp., Milwaukee, Wisconsin, in the origination and sale of residential and commercial mortgage loans and loans secured by junior liens on residential real estate and the servicing of residential and commerical mortgage loans and loans secured by junior liens on residential real estate. The activities would be conducted from a new office to be located in Tonawanda, New York serving Erie, Genesee, Monroe, Niagara, Orleans and Wyoming counties in New York. Comments on this application must be received not later than September 28, 1983.

B. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President), 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *PNC Finanical Corp,* Pittsburgh, Pennsylania (finance activities; Pennsylvania): To engage, through its wholly-owned subsidiary, The Kissell company, in making or acquiring and servicing for its own account, and for the accounts of others, loans and other extensions of credit. These activities will be conducted at an office located in State College, Pennsylvania and will serve Blair, Cambria, Cameron, Centre, Clearfield, Huntingdon, McKean, Mifflin and Potter, Pennsylvania. Comments on this application must be received not later than September 30, 1983.

C. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President), 101 Market Street, San Francisco, California 94105:

1. *First Interstate Bancorp,* Los Angeles, California (mortgage banking, real estate appraisal, and insurance activities; Texas): To engage, through its subsidiary, First Interstate Real Estate Services Company, Inc., in mortgage company activities to the extent of making or acquiring real estate or construction loans for its own account of for the account of others; selling or servicing real estate or construction loans for its own account or for the account of others; performing appraisals of real estate; conducting such related activities as are incidental to the mortgage banking business; and acting as insurance agent or broker, as permitted by subsection (A) of Section 601 of the Garn-St Germain Depository Institutions Act of 1982, with respect to credit life and credit accident and health insurance, and mortgage disability and mortgage redemption insurance directly related to extensions of credit or the provision of other financial services by First Interstate Bancorp or its subsidiaries. These activities would be conducted from an office in San Antonio, Texas, serving San Antonio and the State of Texas. Comments on this application must be received not later than September 30, 1983.

2. *Wells Fargo & Company,* San Francisco, California (finance and servicing activities; California): Proposes to engage through its subsidiary, Wells Fargo Mortgage Company, in making or acquiring, for its own account or for the account of others, loans and other extensions of credit; servicing loans and other extensions of credit for other persons. These activities would be conducted from an office in Woodland Hills, California and Walnut Creek, California serving Los Angeles and Ventura and surrounding counties and Northern California, respectively. Comments on this application must be received not later than September 30, 1983.

Board of Governors of the Federal Reserve System, August 30, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-24229 Filed 9-3-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 83N-0118; DESI No. 6514]

Drug Efficacy Study Implementation; Revocation of Exemption for Certain Oral Prescription Drugs Offered for Cough, Cold, or Allergy ("Paragraph XIV/Category 15"); Followup Notice and Opportunity for Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) revokes the temporary exemption for Tuss-Ornade Spansules and Liquid, two drug produc s offered for relief of symptoms of cough cold, or allergy. The exemption has

permitted the products to remain on the market beyond the time limit scheduled for implementation of the Drug Efficacy Study. FDA offers an opportunity for a hearing on its proposals: (1) To withdraw approval of the original formulations of Tuss-Ornade Spansules and Liquid, and (2) to refuse approval of supplemental reformulations of the same products.

DATES: Revocation of exemption effective September 6, 1983. Hearing requests due on or before October 6, 1983; data in support of hearing requests due on or before November 7, 1983.

ADDRESSES: Communications in response to this notice should be identified with Docket No. 83N–0118, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MC 20857

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFN–310), National Center for Drugs and Biologics.

Requests for the report of the National Academy of Sciences-National Research Council: Public Records and Document Center (HFI–35), Rm. 12A–12.

Requests for hearing, supporting data, and other comments: Dockets Management Branch (HFA–305), Rm. 4–62.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFN–501), National Center for Drugs and Biologics.

FOR FURTHER INFORMATION CONTACT: David T. Read, National Center for Drugs and Biologics (HFN–8), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3650.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of February 9, 1973 (38 FR 4006, formerly Docket No. FDC–D–537), FDA classified the drug products described below as less than effective for their labeled indications

1. NDA 12–903; Tuss-Ornade Spansules containing caramiphen edisylate 20 milligrams (mg), chlorpheniramine maleate 8 mg, phenylpropanolamine hydrochloride 50 mg, and isopropamide iodide 2.5 mg; Smith Kline and French Laboratories, 1500 Spring Garden St., P.O. Box 7929, Philadelphia, PA 19101 (DESI 6514).

2. NDA 13–068; Tuss-Ornade Liquid containing caramiphen edisylate 5 mg, chlorpheniramine maleate 2 mg, phenylpropanolamine hydrochloride 15 mg, and isopropamide iodide 0.75 mg; Smith Kline and French Laboratories (DESI 6514).

Thereafter, in a notice published in the **Federal Register** of December 14, 1973 (38 FR 34481), FDA granted a temporary exemption from the time limits established for completing certain phases of the drug efficacy study (DESI) program, for certain oral prescription drugs offered for relief of cough, cold, allergy, and related symptoms, including the aforementioned products. The exemption was granted because of the close relationship between drugs sold over the counter (OTC)—and thus subject to the ongoing OTC drug review (21 CFR Part 330)—and prescription drugs offered for relief of cough, cold, allergies, and related symptoms. Postponement of final evaluations on the DESI prescription products enabled the agency to consider the recommendations of the OTC drug review panel in addition to any evidence submitted by new drug application (NDA) holders in response to various DESI notices covering relevant products. Those recommendations and a proposed monograph for over-the-counter cold, cough, allergy, bronchodilator, and antiasthmatic (CCABA) drugs were published in the **Federal Register** of September 9, 1976 (41 FR 38312).

According to FDA records, the exemption for cough, cold, or allergy products (category 15 of paragraph XIV) originally applied to 78 products that were subjects of approved or effective NDA's. Since publication of the proposed CCABA monograph, FDA has revoked the exemption of 74 products. FDA herby revokes the exemption of Tuss-Ornade Spansules and Liquid, two of the four remaining products, because no clinical studies were submitted in support of the products. The products are classified as lacking substantial evidence of effectiveness. (The two remaining exempt products, Dimetapp Extentabs and Elixir, will be the subject of another **Federal Register** notice.)

Smith Kline and French has recently submitted supplements to the applications proposing to reformulate the products listed above to the following:

1. NDA 12–903; caramiphen edisylate 40 mg and phenylpropanolamine hydrochloride 25 mg.

2. NDA 13–068; caramiphen edisylate 6.7 mg and phenylpropanolamine hydrochloride 12.5 mg.

Although the OTC drug review panel for CCABA drugs concluded that combinations containing a nasal decongestant and an antitussive (as purported in reformulated Tuss-Ornade Spansules and Liquid) are safe and effective if each active ingedient is safe and effective in the recommended dosage (41 FR 38328), caramiphen edisylate lacks substantial evidence of effectiveness. The OTC drug review panel for CCABA drugs concluded that there are no well-controlled, objective, clinical studies documenting the effectiveness of caramiphen edisylate as an antitussive. The conclusions of the OTC review penal for CCABA drugs, at 41 FR 38345, are incorporated herein by reference.

According to FDA records, the only submissions by Smith Kline and French Laboratories to establish the effectiveness of caramiphen were to Docket No. 76N–0052 (the CCABA proposed monograph). These include data from one clinical study (PM–252). The Director of the National Center for Drugs and Biologics concurs in the following evaluation of study PM–252 sent to Smith Kline and French Laboratories by the Director of the Division of OTC Drug Evaluation on October 15, 1981:

Study PM–252 was a multidose, triple-crossover, double-blinded study designed to demonstrate the effectiveness of caramiphen edisylate as an OTC antitussive drug prodcut. Thirteen patients with chronic cough served as subjects for the study: two patients were not included in the final analysis. Each patient received a full dosage schedule treatment with 20 mg caramiphen, 10 mg caramiphen, and a placebo with at least a 2-day washout period between each treatment. An objective method utilizing microphones and tape recorders was used in the study to count coughs. In addition, subjective global evaluations of each patient's response to the treatment as excellent, good, fair, or poor were recorded by the investigator. On the first day of the testing period, each patient received a clinical examination, and a subjective evaluation was recorded at 9 a.m. A 1-hour cough-count baseline was taped between 9 and 10 a.m. On the second day of the testing period, a subjective evaluation (9 a.m.) was recorded, and a 1-hour cough-count baseline (9 to 10 a.m.) was taped. At the end of the 1-hour baseline period (10 a.m.), a dose of 20 mg caramiphen, 10 mg caramiphen, or the placebo was given to each patient, and a 4-hour cough count (10 a.m. to 2 p.m.) was taped. At the end of the 4-hour cough-counting period (2 p.m.), another subjective evaluation was recorded. Two hours later (4 p.m.), a second dose of drug or placebo was administered, and 6 hours after the second dose (10 p.m.) a third dose of drug or placebo was administered. At 6 a.m. on the third day of the testing period, a fourth dose of drug or placebo was administered. Three hours later (9 a.m.), another subjective evaluation was recorded, and a 1-hour (9 to 10 a.m.), cough-counting period was taped. A fifth dose of drug or placebo was administered at 10 a.m. followed by the taping of a 4-hour (10 a.m. to 2 p.m.) cough-counting period. Statistical analysis of the data by Smith Kline & French

produced a p-value <0.001 for the 20-mg dose when compared to the placebo and a p-value <0.02 for the 10-mg dose. A statistical analysis comparing drug cough counts to baseline cough counts was not included in the submission.

The Bureau of Drugs performed a statistical analysis of the raw data submitted using the same statistical methods used in the submission. The p-value found by the Bureau did not agree with those submitted by Smith Kline & French. The Bureau's analysis produced a p-value >0.20 for the 20-mg dose of caramiphen when compared with the placebo and a p-value >0.10 for the 10-mg dose of caramiphen when compared with the placebo, indicating that there was not a significant decrease in cough counts in favor of the 20-mg or the 10-mg dose. In addition, the statistical analysis submitted by Smith Kline & French ignored a comparison of the drug cough counts with the baseline cough counts which would tend to bias the results in favor of the active drug. When the baseline cough counts were used for comparison with the drug cough counts, the Bureau's analysis of the treatments produced no significant differences among the three treatments (p >0.15). Thus, there is no statistical evidence that caramiphen is superior to placebo in reducing cough counts.

In addition, an examination of the cough counts for each patient revealed that no drug effect was noted in 7 of the 11 patients. An effect of the 20-mg dose, but not the 10-dose, appeared to be present in two patients. However, the effect of the 20-mg dose was seen only on the third day of the study period in one of these patients, and in the other patient the placebo was more effective in reducing cough count than the 10-mg dose. Both doses may have been effective in the two other patients; however, in one patient the low dose was effective only on the third day of the study period, and in the other patient the apparent drug effect may have been due in large part to the fact that an enormous increase in coughing occurred on the second placebo day, a level of coughing not seen in the control days when no drug or placebo was given. The Bureau concludes that the submited data do not provide evidence that caramiphen edisylate is superior to placebo in reducing cough counts.

Notice of opportunity for hearing. On the basis of all the data and information available to him, the Director of the National Center for Drugs and Biologics is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, that meets the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 335) and 21 CFR 314.111(a)(5) and 300.50, and demonstrates the effectiveness of Tuss-Ornade Spansules and Liquid in any of the formulations described above for any of their labeled indications.

Notice is given to the holder of the two new drug applications, and to all other interested persons, that the Director of the National Center for Drugs and Biologics proposes to issue an order under sections 505 (d) and (e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355 (d) and (e)), refusing to approve the supplements to NDA's 12-903 and 13-068 for the reformulations described above, and withdrawing approval of these new drug applications and all amendments and supplements thereto. The basis for the proposal is that new information before the Director with respect to the drug products, evaluated together with the evidence available to his as part of the approved applications and the recent supplements for reformulation, shows there is a lack of substantial evidence that the drug products as previously formulated or as proposed for reformulation will have all the effects they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

This notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6), e.g., any contention that any such product is not new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act under the exemption for products marketed before June 25, 1938, in section 201(p) of the act, or under section 107(c) of the Drug Amendments of 1962, or for any other reason.

In accordance with section 505 of the act (21 U.S.C. 355) and the regulations promulgated under it (21 CFR Parts 310 and 314), the applicant and all other persons who manufacture or distribute a drug product that is identical, related, or similar to a drug product named above (21 CFR 310.6) and not the subject of a new drug application, are hereby given an opportunity for a hearing to show why approval of the new drug applications should not be withdrawn or why approval of the supplemental applications should not be refused, and an opportunity to raise, for administrative determination, all issues relating to the legal status of the relevant drug product named above and of all identical, related, or similar drug products not the subject of a new drug application.

The applicant or any other person subject to this notice under 21 CFR 310.6 who decides to seek a hearing, shall file: (1) On or before October 6, 1983, a written notice of appearance and request for hearing, and (2) on or before November 7, 1983, the data, information, and analyses relied on to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this proposal to withdraw and to refuse approval. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a granting or denial of a hearing, are contained in 21 CFR 314.200.

The failure of the applicant or any other person subject to this notice under 21 CFR 310.6 to file a timely written notice of appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by the person not to make use of the opportunity for a hearing concerning the action proposed, and a waiver of any contentions concerning the legal status of the relevant drug product. Any such drug product labeled for the indications referred to in this notice as lacking substantial evidence of effectiveness may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such a drug product from the market. Any new drug product marketed without an approved new drug application is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must present specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the applications or the refusal to approve the supplemental applications, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, and denying a hearing.

All submissions pursuant to this notice are to be filed in four copies. Except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, the submissions may be seem in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 502, 505, 52 Stat. 1050-1053 as amended (21 U.S.C. 352, 355)), and under the authority delegated to the Director of the National

Center for Drugs and Biologics (21 CFR 5.70 and 5.82).

Dated: August 19, 1983.

Harry M. Meyer, Jr.,

Director, National Center for Drugs and Biologics.

[FR Doc. 83-24233 Filed 9-2-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before August 26, 1983. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by September 21, 1983.

Carol D. Shull,

Chief of Registration, National Register.

ALABAMA

Greene County

Eutaw, *Wills, William B., House*, 108 Ashby Dr.

CALIFORNIA

Kern County

Bakersfield, *Jastro Building (Standard Oil Building)*, 1800 19th St.

Orange County

Fullerton, *Chapman Building*, 110 E. Wilshire Ave.
Santa Ana, *Pacific Electric Sub-Station #14*, 802 E. 5th St.
Villa Park, *Smith and Clark Brothers Ranch and Grounds*, 18922 Santiago Blvd.

COLORADO

Denver County

Denver, *Curtis-Champa Streets Historic District (Boundary Increase)*, Roughly 30th, Stout, Downin, and Arapahoe Sts.

Jefferson County

Golden, *Twelfth Street Historic Residential District*, Roughly bounded by 11th, 13th, Elm, and Arapahoe Sts.

DISTRICT OF COLUMBIA

Washington, *Bowen, Anthony, Y.M.C.A.*, 1816 12th St., NW

INDIANA

Miami County

Chili vicinity, *Paw Paw Creek Bridge #52*, Paw Paw Pike

LOUISIANA

Beauregard parish

DeRidder, *Beauregard Parish Courthouse*, 1st St.

Caddo Parish

Shreveport, *Sprague Street Houses*, 1100–1118 Sprague St.

Calcasieu Parish

DeQuincy, *Kansas City Southern Depot*, Lake Charles Ave.

Rapides Parish

Alexandria, *Hemenway Furniture Co. Building*, 3rd and Jackson Sts.

Tangipahoa Parish

Loranger vicinity, *Zemurray Gardens Lodge Complex*, LA 40

Vernon Parish

Leesville, *Vernon Parish Courthouse*, 201 S. 3rd St.

MASSACHUSETTS

Suffolk County

Boston, *Lawrence Model Lodging Houses*, 79, 89, 99 and 109 E. Canton St.

Worcester County

Uxbridge, *Adams, Benjamin, House (Uxbridge MRA)*, 81 N. Main St.
Uxbridge, *Albee, E., House (Uxbridge MRA)*, Highland St.
Uxbridge, *Aldrich, Daniel, Cottage and Sawmill (Uxbridge MRA)*, Aldrich St.
Uxbridge, *Aldrich, J., House (Uxbridge MRA)*, Aldrich St.
Uxbridge, *Aldrich, S., House (Uxbridge MRA)*, Aldrich St.
Uxbridge, *Aldrich, W., House (Uxbridge MRA)*, Henry St.
Uxbridge, *Bank Building (Uxbridge MRA)*, 40–44 S. Main St.
Uxbridge, *Brown, E., House (Uxbridge MRA)*, 3 Sutton St.
Uxbridge, *Butler Block (Uxbridge MRA)*, 210 Linwood St.
Uxbridge, *Capron, Charles, House, (Uxbridge MRA)* 2 Capron St.
Uxbridge, *Carpenter, George, House (Uxbridge MRA)*, 67 S. Main St.
Uxbridge, *Central Woolen Mills District (Uxbridge MRA)*, Mendon and Cross Sts.
Uxbridge, *Chapin, A., House (Uxbridge MRA)*, 28 Pleasant St.
Uxbridge, *Cook, A. E., House (Uxbridge MRA)*, Aldrich St.
Uxbridge, *Deane, Francis, Cottage (Uxbridge MRA)*, 58 N. Main St.
Uxbridge, *Farnum Block (Uxbridge MRA)*, 2–6 N. Main St.
Uxbridge, *Farnum, Moses House (Uxbridge MRA)*, MA 146.
Uxbridge, *Farnum, R., House (Uxbridge MRA)*, 20 Oak St.
Uxbridge, *Farnum, William and Mary, House (Uxbridge MRA)*, Albee Rd.
Uxbridge, *Granite Store (Uxbridge MRA)*, 112–116 Hecla St.
Uxbridge, *Hall, S. A., House (Uxbridge MRA)*, 133 N. Main St.
Uxbridge, *Hayward, William, House, (Uxbridge MRA)* 77 N. Main St.
Uxbridge, *Holbrook, Sylvanus, House (Uxbridge MRA)*, Albee Rd.
Uxbridge, *Ironside Mill Housing and Cellar Hole (Uxbridge MRA)*, Ironstone St.
Uxbridge, *Judson-Taft House (Uxbridge MRA)*, 30 Pleasant St.
Uxbridge, *Kensley, J., House (Uxbridge MRA)*, Chestnut St.
Uxbridge, *North Uxbridge School (Uxbridge MRA)*, 87 E. Hartford Ave.
Uxbridge, *Richardson, Dexter, House (Uxbridge MRA)*, South St.
Uxbridge, *Richardson, Joseph, House (Uxbridge MRA)*, Chockalog St.
Uxbridge, *Rivulet Mill Complex (Uxbridge MRA)*, 60 Rivulet St.
Uxbridge, *Sayles, Richard, House (Uxbridge MRA)*, 80 Mendon St.
Uxbridge, *Southwick, Elisha, House (Uxbridge MRA)*, Chockalog St.
Uxbridge, *Southwick, Israel, House (Uxbridge MRA)*, 70 Mendon St.
Uxbridge, *Taft Brothers Block (Uxbridge MRA)*, 2–8 S. Main St.
Uxbridge, *Taft, Aaron, House (Uxbridge MRA)*, Hazel St.
Uxbridge, *Taft, Bazaleel, Jr., House and Law Office (Uxbridge MRA)*, 147 S. Main St.
Uxbridge, *Taft, Gerorge, House (Uxbridge MRA)*, Richardson St.
Uxbridge, *Taft, Hon. Bazaleel, House (Uxbridge MRA)*, S. Main St.
Uxbridge, *Taft, Moses, House (Uxbridge MRA)*, 66 S. Main St.
Uxbridge, *Taft, Samuel, House (Uxbridge MRA)*, Sutton St.
Uxbridge, *Taft, Zadock, House (Uxbridge MRA)*, 112 S. Main St.
Uxbridge, *Thomson, C. R., House and Barn (Uxbridge MRA)*, Chockalog St.
Uxbridge, *Uxbridge Common District (Uxbridge MRA)*, Main, Court and Douglas Sts.
Uxbridge, *Uxbridge Passenger Depot (Uxbridge MRA)*, 28 S. Main St.
Uxbridge, *Uxbridge Town Hall (Uxbridge MRA)*, 45 S. Main St.
Uxbridge, *Waucantuck Mill Complex (Uxbridge MRA)*, Mendon and Patrick Henry Sts.
Uxbridge, *Wheelockville District (Uxbridge MRA)*, Mendon and Henry Sts.
Uxbridge, *Whipple, A., House (Uxbridge MRA)*, Sutton St.
Uxbridge, *Williams, N., House (Uxbridge MRA)*, Rawson St.

NEW JERSEY

Essex County

Newark, *James Street Commons Historic District Addendum*, 18 Washington Pl.

NEW YORK

Bronx/New York Counties

New York, *Washington Bridge*, Between Amsterdam and Undercliff Aves.

Chemung County

Elmira, *Near Westside Historic District*, Roughly bounded by Chemung River, College Ave., 2nd and Hoffman Sts.

Columbia County

Clermont, *Bouwerie (Clermont MRA)*, Buckwheat Bridge Rd.

Clermont, *Brodhead, Thomas, House (Clermont MRA)*, US 9.
Clermont, *Clarkson Chapel (Clermont MRA)*, NY 9G.
Clermont, *Clermont Academy (Clermont MRA)*, US 9.
Clermont, *Coons House (Clermont MRA)*, NY 9G.
Clermont, *Hickory Hill (Clermont MRA)*, Buckwheat Bridge Rd.
Clermont, *Old Parsonage (Clermont MRA)*, Buckwheat Bridge Rd.
Clermont, *St. Luke's Church (Clermont MRA)*, US 9.

Erie County

Williamsville, *Williamsville Water Mill Complex*, 56 and 60 Spring St.

Jefferson County

Carthage, *State Street Historic District*, 249–401 State St., 246–274 State St., and 106–106 Mechanic St.

Kings County

New York, *Greenpoint Historic District*, Roughly bounded by Kent, Calyer, Noble, and Franklin Sts., Clifford Pl., and Manhattan Ave.

Madison County

Leonardsville, *Wheeler House Complex*, NY 8

New York County

New York, *Croton Aqueduct Gate House*, 135th St. and Convent Ave.
New York, *Odd Fellows Hall*, 165–171 Grand St.

Queens County

New York, *68th Avenue—64th Place Historic District (Ridgewood MRA)*, Roughly 64th Pl. from Catalpa Ave. to 68th Ave. from 64th St. to 65th St.
New York, *75th Avenue—61st Street Historic District (Ridgewood MRA)*, Roughly bounded by St. Felix Ave., 60th Lane, 60th and 62nd Sts.
New York, *Allen-Beville House*, 29 Center Dr.
New York, *Central Avenue Historic District (Ridgewood MRA)*, Roughly bounded by Myrtle and 70th Ave., and 65th and 66th Sts.
New York, *Central Ridgewood Historic District (Ridgewood MRA)*, Roughly bounded by Fresh Pond Rd., Putnam, 68th, Forest, Catalpa, Onderdonk, and 71st Aves.
New York, *Cooper Avenue Row Historic District (Ridgewood MRA)*, 6434–6446 Cooper Ave.
New York, *Cornelia-Putnam Historic District (Ridgewood MRA)*, Roughly bounded by Jefferson St., Putnam, Wyckoff, and Myrtle Aves.
New York, *Cypress Avenue East Historic District (Ridgewood MRA)*, Roughly bounded by Linden and Cornelia Sts., Seneca and St. Nicholas Aves.
New York, *Cypress Avenue West Historic District (Ridgewood MRA)*, Roughly bounded by St. Nicholas and Seneca Aves., Linden and Stockholm Sts.
New York, *Forest-Norman Historic District (Ridgewood MRA)*, Forest Ave. from Summerfield to Stephen St. and Norman St to Myrtle Ave.
New York, *Fresh Pond-Traffic Historic District (Ridgewood MRA)*, Roughly bounded by Fresh Pond Rd., Traffic Ave., Woodbine and Linden Sts.
New York, *Grove-Linden St. John's Historic District (Ridgewood MRA)*, Fairview Ave., St. John's Rd., Linden and Grove Sts.
New York, *Madison-Putnam—60th Place Historic District (Ridgewood MRA)*, Roughly bounded by Woodbine St., 60th Pl., 67th and Forest Aves.
New York, *Seneca Avenue East Historic District (Ridgewood MRA)*, Roughly Seneca Ave. E. between Hancock and Summerfield Sts.
New York, *Seneca-Onderdonk-Woodward Historic District (Ridgewood MRA)*, Roughly bounded by Woodward, Seneca, and Catalpa Aves., and Woodbine St.
New York, *Stockholm-DeKalb-Hart Historic District (Ridgewood MRA)*, DeKalb and Woodward Aves., Stockholm and Hart Sts.
New York, *Summerfield Street Row Historic District (Ridgewood MRA)*, 5912–5948 Summerfield St.
New York, *Willoughby-Suydam Historic District (Ridgewood MRA)*, Suydam St., Willoughby, St. Nicholas, and Wyckoff Aves.
New York, *Woodbine-Palmetto-Gates Historic District (Ridgewood MRA)*, Roughly bounded by Forest and Fairview Aves., Woodbine and Linden Sts.

Steuben County

Bath, *Campbell-Rumsey House (Bath Village MRA)*, 225 E. Steuben St.
Bath, *Cobbleston House (Bath Village MRA)*, 120 W. Washington St.
Bath, *Davenport Library (Bath Village MRA)*, W. Morris St.
Bath, *Gansevoort/East Steuben Streets Historic District (Bath Village MRA)*, E. Steuben and Gansevoort Sts.
Bath, *Haverling Farm House (Bath Village MRA)*, 313 Haverling St.
Bath, *Liberty Street Historic District (Bath Village MRA)*, Roughly Liberty St. from E. Morris St. to Haverling St.
Bath, *McMaster House (Bath Village MRA)*, 207 E. Washington St.
Bath, *Perine, H.W., House (Bath Village MRA)*, 1 Haverling St.
Bath, *Potter-Van Camp House (Bath Village MRA)*, 4 W. Washington St.
Bath, *Robie, Reuben, House (Bath Village MRA)*, 16 W. Washington St.
Bath, *Sedgwick House (Bath Village MRA)*, 101 Haverling St.
Bath, *Shepherd, William, House (Bath Village MRA)*, 110 W. Washington St.

Suffolk County

West Sayville, *MODESTY (sloop) (Oystering Industry TR)*, Suffolk Marine Museum Boat Basin, Montauk Hwy.
West Sayville, *PRISCILLA (schooner) (Oystering Industry TR)*, Montauk Hwy., Suffolk Marine Museum Boat Basin
West Sayville, *Penney, Frank F., Bootshop (Oystering Industry TR)*, Montauk Hwy., Suffolk Marine Museum
West Sayville, *Rudolph Oyster Cull House (Oystering Industry TR)*, Suffolk Marine Museum, Montauk Hwy.

Ulster County

Highland, *Yelverton, Anthony, House*, 39 Maple Ave.

OKLAHOMA

Alfalfa County

Cherokee, *Farmer's Federation Elevator (Clay Tile Grain Elevators in Northwestern Oklahoma TR)*, Ohio Ave. and 4th St.
Goltry, *Farmer's Exchange Elevator (Clay Tile Grain Elevators in Northwestern Oklahoma TR)*, OK 45
Ingersoll, *Ingersoll Tile Elevator (Clay Tile Grain Elevators in Northwestern Oklahoma TR)*, Off US 64

Beckham County

Elk City, *Hedlund Motor Company Building*, 206 S. Main
Elk City, *Storm House*, 721 W. Broadway

Blaine County

Watonga vicinity, *Cronkhite Ranch House*, N of Watonga off OK 51a

Canadian County

Union City, *Richardson Building*, NE of Main and Division

Ellis County

Arnett, *Farmers and Merchants Bank (Banking Facilities in Ellis County TR)*, 103 S. Washington St.
Fargo, *Stock Exchange Bank (Banking Facilities in Ellis County TR)*, Main St.
Gage, *Bank of Gage (Banking Facilities in Ellis County TR)*, 18 Main St.
Gage, *Farmers State Bank Building-First State Bank (Banking Facilities in Ellis County TR)*, 18 N. Main St.
Shattuck, *Bank of Shattuck (Banking Facilities in Ellis County TR)*, 100 S. Main St.
Shattuck, *First State Bank (Banking Facilities in Ellis County TR)*, 239 S. Main St.
Shattuck, *Shattuck National Bank Building (Banking Facilities in Ellis County TR)*, 100 S. Main St.

Harper County

Buffalo, *Farmers' Co-op Elevator (Clay Tile Grain Elevators in Northwestern Oklahoma TR)*, Off US 64
Buffalo, *Feuquay Elevator (Clay Tile Grain Elevators in Northwestern Oklahoma TR)*, Off US 64

Mayes County

Chouteau, *Territorial Commercial District*, Main St.

Muskogee County

Muskogee, *Fite, F.B., House and Servant's Quarters*, 443 N. 16th St.
Muskogee, *Pre-Statehood Commercial District*, Main, Broadway, Okmulgee, and Seconds Sts.

Stephens County

Marlow, *Montgomery-Liman House*, 301 N. 5th St.

Texas County

Texhoma vicinity, *CCC Ranch Headquarters*, W of Texhoma

Woodward County

Woodward, *Boyle Building (Woodward MRA)*, 1114–1122 9th St.
Woodward, *Stein, L.L., House (Woodward MRA)*, 1001 10th St.
Woodward, *Woodward Downtown Historical District (Woodward MRA)*, 800 and 900 Blks of Main St.

TEXAS

Bexar County

San Antonio, *Thomas Jefferson High School*, 723 Donaldson Ave.

Brazos County

Bryan, *Temple Freda*, 205 Parker St.

Brown County

Brownwood, *Brown County Jail*, 401 W. Broadway

Travis County

Austin, *Jernigon, A.J., House*, 602 Harthan

WISCONSIN

Dane County

Madison, *Hyer's Hotel*, 854 Jenifer St.

Door County

Sturgeon Bay, *Louisiana Street/Seventh Avenue Historic District*, Roughly bounded by Louisiana and Kentucky Sts., N. 5th, N. 7th, and N. 8th Aves.
Sturgeon Bay, *Third Avenue/Downtown Historic District*, Roughly bounded by Kentucky St., N. 2nd, N. 3rd, and S. 3rd Aves.

Douglas County

Superior, *New Jersey Building*, 1422–1432 Tower Ave. and 1705–1723 Belknap Ave.

[FR Doc. 83-24332 Filed 9-2-83; 8:45 am]
BILLING CODE 4310-70-M

Office of Surface Mining Reclamation and Enforcement

Intent to Prepare a Draft Environmental Impact Statement for the Proposed Expansion of the Absaloka Mine, Bighorn County, Montana

[Indian Coal lease NO. 14–20–0252–4068]

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of intent to prepare a draft environmental impact statement.

SUMMARY: Notice is hereby given that the Office of Surface Mining (OSM), Western Technical Center, and the Montana Department of State Lands (DLS) intend to prepare an environmental impact statement (EIS) on the permit application and mining plan submitted by Westmoreland Resources, Inc. to OSM and the State of Montana for the proposed expansion of the Absaloka mine. The EIS will evaluate the alternative actions of approval or disapproval and other alternatives that may be developed after all comments from the scoping process have been evaluated. The EIS will assist the Department of Interior and the Department of State Lands in making a decision on the Westmoreland Resources, Inc. application for surface mining of coal northwest of the City of Hardin, Montana.

DATE: A public scoping brochure has been distributed by the Montana Department of State Lands to obtain public input concerning the proposed mine and aid in determining the scope of the EIS. Any additional written comments or statements on the scope of the EIS must be received not later than 5 p.m. MDT, September 23, 1983, at either of the addresses given below.

ADDRESSES: Written comments or statements must be mailed or hand delivered to Allen D. Klein, Administrator, Attn: Charles Albrecht, Office of Surface Mining, Western Technical Center, Second Floor, Brooks Towers, 1020 Fifteenth Street; Denver, CO 80202, *or* to Mr. Kit Walther, Montana Department of State Lands, Environmental Analysis Bureau, 1539 11th Street, Helena, MT 59620.

Copies of the mine plan are available for review at the OSM office above as well as at Montana Department of State Lands, 1525 Eleventh Avenue, Helena, Montana; and the Bureau of Indian Affairs, Crow Agency, Montana and the Office of Surface Mining, Casper Field Office, Fredon Building, 935 Pendell Blvd., Mills, Wyoming.

FOR FURTHER INFORMATION CONTACT: Allen D. Klein, Attn: Charles Albrecht (telephone (303) 837–5421) at the Denver, Colorado, location given under "ADDRESSES."

SUPPLEMENTARY INFORMATION: The mine is an existing surface mine located about 20 miles northwest of Hardin, Montana in the area known as the Crow Ceded Strip, north of the Crow Reservation. The expanded minesite would cover approximately 573 acres of private surface, of which approximately 540 acres would be disturbed. The EIS will cover a 20 year life-of-mine operation with a maximum annual production of 10.0 million tons of coal. The Absaloka mine began construction of mine facilities in late 1972 and coal production began in 1974.

OSM and the Montana DSL will jointly analyze the impacts of the proposal and its alternative with assistance from the Bureau of Indian Affairs.

Dated: August 31, 1983.

J. R. Harris,
Director, Office of Surface Mining

[FR Doc. 83-24333 Filed 9-2-83; 8:45 am]
BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 399]

Rail Carriers; Cost Recovery Percentage

AGENCY: Interstate Commerce Commission.

ACTION: Grant of an extension of time to file comments and adoption of threshold for Commission rate jurisdiction over market dominant rail traffic for the period beginning October 1, 1983.

SUMMARY: The period allowed for comments in this proceeding is extended to September 30, 1983. A threshold for Commission jurisdiction over rates of market dominant rail traffic of 175 percent is adopted for the period beginning October 1, 1983.

DATE: Comments are due September 30, 1983.

FOR FURTHER INFORMATION CONTACT:
William T. Bono, (202) 275–7354
Robert C. Hasek, (202) 275–0938

SUPPLEMENTARY INFORMATION: This order extends the comment period in this proceeding to September 30, 1983. (Prior notice published at 48 FR 36687, August 12, 1983.) Until the Commission computes a new Cost Recovery Percentage (CRP) the current CRP will control. That CRP was computed to be 183.5 percent. (See 47 FR 56055, December 3, 1982)

Pursuant to 49 U.S.C. 10709 (d)(2)(D)[1] the threshold for Commission jurisdiction over rail rates of market dominant traffic will be 175 percent for the one-year period beginning October 1, 1983 because the Commission derived CRP (183.5 percent) exceeds 175 percent. Doing so should not create a hardship for the parties because all our preliminary CRP calculations are in excess of 175 percent.

An extension in the comment period to September 30, 1983 was requested by the National Industrial Transportation

[1] Section 10709(d)(2)(D) requires the Commission to find that a rail carrier does not have market dominance over the transportation to which a challenged rate applies if the rail carrier proves that the rate charged results in a revenue—variable cost percentage for such transportation that is less than "* * * 175 percent or the cost recovery percentage, whichever is less (to a low of 170 percent) during the period beginning October 1, 1983, and ending September 30, 1984. * * *"

League, American Paper Institute, Carolina Power and Light Company, Duke Power Company, South Carolina Electric and Gas Company, Virginia Electric and Power Company and Western Coal Traffic League. These parties argue that the proposed CRP (407.5 percent) is far higher than prior cost recovery percentages and that the issues are extremely complex and require informed and detailed economic analysis. They believe that detailed analysis of the CRP cannot be accomplished in 20 days. Parties also argue that the timing of a twenty-day comment period during a peak summer vacation period makes both key personnel and expert consultants unavailable because of professional commitments and long scheduled vacations.

We argee with the parties that the issues in this proceeding are extremely complex and that informed and detailed economic analysis would aid in the provision of meaningful comments. An extension in the comment period to September 30, 1983 is granted. We plan to issue a recomputed CRP by December 1, 1983.

Dated: August 29, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-24251 Filed 9-2-83; 8:45 am]

BILLING CODE 7035-01-M

[No. 17000 (Sub-7) and No. 17000 (Sub-7a)]

Rail Carrier; Rail Structure Investigation—Grain and Grain Products To, From, and Within Southern Territory

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed cancellation.

SUMMARY: The Commission is considering the cancellation of the prescribed rate structures on grain and grain products in the Western Division and Southern Territory.

DATE: Comments are due October 6, 1983.

ADDRESSES: Send an original and 10 copies of No. 17000 (Sub-Nos. 7 and 7a) to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245
or
Gerald Proger, (202) 275-5957

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, D.C. 20423, or call 389-4357 (D.C. Metropolitan area) or toll free (800) 424-5403.

Decided: August 29, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-24253 Filed 9-2-83; 8:45 am]

BILLING CODE 7035-01-M

Rail Carriers; Release of Waybill Sample Data

The ICC requires all railroads terminating 4,500 or more carloads per year to submit to the ICC a sample of all terminated shipments (49 CFR Part 1244 and Ex Parte 385). The sample is used as input to many ICC projects and studies. The sample is also used by the States as a major source of information for developing State transportation plans. Other Government agencies (Department of Transportation; United States Department of Agriculture, etc.) use the waybill sample a part of their information base. In addition to the Government (State and Federal), over 50 other groups have been using the waybill sample each year. These non-Government users of the data fall into the following six categories:

1. Transportation Consulting Firms.
2. Railroads.
3. Universities.
4. Shipper Associations.
5. Freight Car Builders.
6. Association of American Railroads.

The waybill sample has been used in a variety of different ways. The following are some of the ways the data have been used.

1. Study the Impact of Mergers and Deregulation.
2. Marketing Studies.
3. Study Rail Traffic Flows and Patterns.
4. Planning Freight Car Manufacturing.
5. Commission Cases (ex parte and docket).
6. Develop and Update State Rail Plan.
7. Academic Research Projects.
8. Study Movements of Hazardous Materials, Coal, etc.

The Commission has released, after reviewing each individual request, the waybill data in the past to a number of users with the following restrictions:

1. The data can only be used for the purposes for which they were requested.

2. Every precaution must be taken to avoid disclosure of confidential carrier or shipper information. Data must not be released to the public unless they are aggregated so that they contain at least three shippers and at least three railroads.

To continue to assure that confidential carrier or shipper information is not disclosed, to permit the widest possible use of the data, and to remove unnecessary paperwork in the process of requesting, reviewing, and releassing waybill data, the Commission will permit the release of the following files without prior written permission.

1. Each railroad [1] may have any waybill record covering traffic that originated, terminated, or was bridged by the requesting railroad. A railroad may not have access to waybill data of other railroads. The railroad will be required to treat the data as if they had collected and processed the data themselves, and to meet all ICC and legal requirements concerning release of shipper information.

2. Each State may have any waybill record covering traffic that originated, terminated, or was interchanged within the requesting State. A State receiving waybill data becomes responsible for avoiding disclosure of confidential shipper information.[2] No data may be released to the public unless aggregated to include at least three shippers. Since there is no shipper identification in the file, the States may take three freight stations as identified by the Freight Station Accounting Code (FSAC), present in the sample as evidence that there are three shippers present. In using the three FSAC rule, there must be three FSAC's in every number reported. This is a conservative rule and the States may use other rules when they can show that their rule always produces data aggregated to at least three shippers. This three shipper rule is not a limit on internal reports used by the States but is a limit on what the State may release or publish. States are requested *not to release* data on a single railroad.

3. A Public Use File has been established and may be used by railroads and States to supplement data covered in items (1) and (2) above. The Public Use File will be available to

[1] Railroad means a reporting entity. Any railroad group reporting as a consolidated entity should be counted as one railroad. Railroads that are controlled by a single holding company or parent company but that report as individual railroads should be counted as an individual railroad.

[2] Shipper information covers what is received (carloads, tons, commodity, transportation charges, types of rail equipment used, etc.) and what is shipped (carloads, tons, commodity, transportation charges, types of rail equipment used, etc.).

anyone requesting waybill data. Data from the Public Use File or reports produced from the Public Use File may be used, published, or released without prior ICC approval. The Public Use File will contain the following items:

Items—Public Use Waybill Master File

1. Waybill Date (quarter, year).
2. Number of Carloads.
3. ARR Mech. Designation.
4. TOFC Plan.
5. Number of TOFC's.
6. Commodity Code (only those STCC used on ICC Form QCS (1982)).
7. Billed Weight.
8. Total Freight LH Revenues.
9. Interstate/Intrastate Code.
10. Transit Code.
11. All Rail/Intermodal Code.
12. Shortline Miles.
13. Stratum Identification.
14. Subsample Code Number
15. Origin State.
16. Number of Interchanges.
17. State of Interchanges (first through ninth).
18. State of Termination.
19. Origin Territory.
20. Termination Territory.
21. Expansion Factor.

The Waybill Master File will be used by the ICC, DOT and other Federal agencies. The ICC may permit transportation consulting firms to use data from the Waybill Master File in preparing verified statements to be submitted in ICC hearings. The use of the data for this purpose will be limited to ICC hearings. Requests from non-Government users for data from the Waybill Master File that are not in the Public Use File will, in general, not be granted. We recognize that there may be instances in which access to the Waybill Master File may be essential to meet a particular need. Each request will be considered on its own merit and railroads affected by the request will be informed of the request for access to waybill data.

The Office of Transportation Analysis is responsible for controlling the release of the waybill data, and will maintain a list of those who receive copies of the waybill file.

Inquiries related to the waybill data (i.e. further information, request for copies of the files, or technical (statistical) questions related to the waybill data) should be addressed to Director, Office of Transportation Analysis, Interstate Commerce Commission, Washington, D.C. 20423.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-24252 Filed 9-1-83; 8:45 am]

BILLING CODE 7035-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Arts and Humanities Meeting

AGENCY: National Endowment for the Humanities and National Endowment for the Arts.

ACTION: Notice of Meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that the following joint meeting of the Media Arts Panel and Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, D.C. 20506:

Date: September 26, 1983.

Time: 8:30 a.m. to 5:00 p.m.

Room: M07

Program: This meeting will review materials submitted to the Media Program, Division of General Programs of NEH and the Media Arts Program of NEA relating to a special Children's Media initiative in Art History.

The proposed meeting is for the purpose of Panel review, discussion, evaluation and recommedation for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meeting will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and (3) information the disclosure of which would significantly frustrate implementation of proposed agency action; pursuant to authority granted us by Delegations of Authority to Close Advisory Committee Meetings, we have determined that this meeting will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information about this meeting can be obtained from Mr. John Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, (202) 682-5433 or from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506, (202) 786-0322.

John Clark,

Advisory Committee Management Officer, National Endowment for the Arts.

Stephen J. McCleary,

Advisory Committee Management Officer, National Endowment for the Humanities.

[FR Doc. 83-24302 Filed 9-2-83; 8:45 am]

BILLING CODE 7536-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rule 10f-3 [17 CFR 270.10f-3]; SEC File No. 270-236]

Reporting and Recordkeeping Requirements Submitted to OMB For Review; Extension

Upon written request, Copy available from: Securities and Exchange Commission, Office of Consumer Affairs and Information Services Washington, D.C. 20549.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for extension of approval rule 10f-3 under the Investment Company Act of 1940 which concerns the records required to be maintained and preserved by registered investment companies with respect to the purchase of securities otherwise prohibited by section 10(f) of the Act. The potential respondents are all investment companies registered under the Investment Company Act of 1940.

Submit comments to OMB Desk Officer: Robert Veeder, 202-395-4814.

Dated: August 30, 1983.

Shirley E. Hollis,

Assistant Secretary

[FR Doc. 83-24243 Filed 9-2-83; 8:45 am]

BILLING CODE 8010-01-M

[Reg. 14A; SEC File No. 270-56]

Agency Forms Under Review by Office of Management and Budget; Extension

Agency Clearance Officer: Kenneth A. Fogash, (202) 272-2142. Upon Written Request Copy Available From: Securities and Exchange Commission, Office of Consumer Affairs, Washington, D.C. 20549.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities

and Exchange Commission has submitted for extension of approval Regulation 14A, which specifies the information required to be disclosed to security holders to enable them to make informed voting decisions and to decide whether to authorize a proxy.

Submit comments to OMB Desk Officer: Mr. Robert Veeder, (202) 395–4814, Office of Information and Regulatory Affairs, Room 3235 NEOB, Washington, D.C. 20503.

Dated: August 29, 1983.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-24244 Filed 9-2-83; 8:45 am]

BILLING CODE 8010-01-M

[Rule 6c-6 [17 CFR 270.6c-6]; SEC File No. 270-160]

Reporting and Recordkeeping Requirements Submitted to OMB; Extension

Agency Clearance Officer: Kenneth Fogash, (202) 272–2142. Upon written request, copy available from: Securities and Exchange Commission, Office of Consumer Affairs and Information Services, Washington, D.C. 20549.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for extension of approval rule 6c–6 under the Investment Company Act of 1940 which concerns the records required to be maintained and preserved by investment companies that are registered separate accounts of insurance companies.

The potential respondents are all registered separate accounts of insurance companies under the Investment Company Act of 1940. Submit comments to OMB Desk Officer; Robert Veeder, 202–395–4814.

Dated: August 30, 1983.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-24242 Filed 9-3-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 23043; 70-6807]

General Public Utilities Corp. et al.; Proposal To Issue and Sell Notes, Issue and Pledge Bonds, and Guarantee Loans by Parent

General Public Utilities Corporation ("GPU"), 100 Interpace Parkway, Parsippany, New Jersey 07054, a registered holding company, and its electric utility subsidiaries, Jersey Central Power & Light Company, ("JCP&L") Madison Avenue at Punch Bowl Road, Morristown, New Jersey 07960, Metropolitan Edison Company ("Met-Ed"), 2800 Pottsville Pike, Muklenberg Township, Berks County, PA. 19065, and Pennsylvania Electric Company ("Penelec"), 1001 Broad St., Johnstown, PA. 15907, have filed a post-effective amendment to their application-declaration and amendments thereto with this Commission pursuant to Sections 6, 7, 9(a), 10, and 12 of the Public Utility Holding Company Act of 1935 ("Act") and Rules 44 and 50(a)(2) thereunder.

By order dated December 21, 1982 (HCAR No. 22790) GPU, JCP&L, Met-Ed, and Penelec ("GPU Companies") entered into an amendment to their revolving credit agreement previously authorized by order dated September 28, 1981 (HCAR No. 22207).

The GPU Companies propose to issue, sell, and renew to certain banks ("Banks"), from time to time commencing on the effective day of the authorization herein sought and ending on March 31, 1985, their respective promissory notes ("New Notes"), maturing not more than four months from the date of issue pursuant to a new revolving credit agreement ("New Credit Agreement"). Up to $125 million at any one time outstanding may be borrowed under the New Credit Agreement with sublimits for GPU, JCP&L, Met-Ed, and Penelec of $5, $50, $25, and $50 million respectively.

For Penelec the annual interest rate on borrowings under the New Credit Agreement would be ¼ of 1% above Citibank's Alternate Base Rate, as in effect from time to time, and for GPU, JCP&L, and Met-Ed ½ of 1% above Citibank's Alternate Base Rate, as in effect from time to time. In addition, the GPU Companies propose to pay to the Banks an annual commitment fee of ⅛ of 1% of the unused commitment, and an annual Agent's fee of $150,000. The new notes would be prepayable at any time without penalty and, under certain circumstances, subject to acceleration by the Banks.

GPU proposes unconditionally to guarantee the New Notes and the other obligations of JCP&L, Met-Ed, and Penelec under the New Credit Agreement. As security, GPU proposes to pledge all the common stock of JCP&L, Met-Ed, Penelec, GPU Service Corporation, and GPU Nuclear Corporation. In addition, GPU proposes to continue its unconditional guaranty of the loan to GPU Service Corporation, as previously authorized (HCAR No. 20276, November 29, 1977), which matures September 30, 1984, which guaranty would continue to be secured by the pledge of all of the common stock of JCP&L, Met-Ed, Penelec, and GPU Service Corporation.

Met-Ed proposes to pledge and grant to the Banks as additional collateral for its New Notes and its other obligations under the New Credit Agreement, first priority security interests in all Met-Ed's right, title, and interest in and to (a) Met-Ed's customer accounts receivable from the sale of electricity and (b) its coal inventories. Moreover, Met-Ed proposes to pledge to the Banks $40 million aggregate principal amount of First Mortgage Bonds ("New Met-Ed Pledged Bonds") as further collateral for its New Notes and other obligations under the New Credit Agreement.

Met-Ed proposes to issue and pledge to the Banks as collateral for Met-Ed's New Notes and other obligations under the Credit Agreement $40 million of Met-Ed first mortgage bonds, maturing March 31, 1985. Interest on the New Met-Ed Pledge Bonds, at 1% above the rate applicable to the New Notes, would be payable only upon a default by Met-Ed under the New Credit Agreement.

The GPU Companies also propose to issue and renew, to various banks, unsecured promissory notes through March 31, 1985. The total principal amount of such unsecured borrowings outstanding at any one time would not exceed $15 million in the case of each of JCP&L, Met-Ed, and Penelec, and $5 million in the case of GPU, provided that the aggregate amount of all such unsecured borrowings outstanding at any one time would not exceed $25 million. Each such unsecured promissory note will bear interest at a rate (after giving effect to any compensating balance requirements) not exceeding 107% of the lending bank's prime rate for commercial borrowing, at the date of issue of such note, will mature not more than nine months from the date of issue, and will be prepayable at any time without premium.

The net proceeds of the New Notes and the unsecured promissory notes would be used by the GPU Companies to repay maturing bank borrowings and to provide temporary working capital.

The amended application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by September 23, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants-declarants at the addresses specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be

filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued. After said date, the amended application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-24340 Filed 9-2-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20129 File No. SR-PSDTC-83-8]

Filing of Proposed Rule Change by the Pacific Securities Depository Trust Company

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on August 16, 1983, the Pacific Securities Depository Trust Company ("PSDTC") submitted to the Commission a proposed rule change that would amend PSDTC's rules regarding its participants fund. The proposed amendments would either update or conform PSDTC's participants fund rules to certain Division of Market Regulation Standards for the registration of Clearing Agencies that concern Sections 17A(b)(3)(A)–(I) of the Act.[1]

The proposed rule change would amend both PSDTC's authority regarding the participants fund and the participants fund's structure. First, PSDTC would maintain a participants fund separate from the participants fund of its affiliated registered clearing corporation, Pacific Clearing Corporation ("PCC"). PCC and PSDTC currently maintain a joint participants fund. Second, PSDTC would be authjorized to invest participants fund cash in United States Government Securities. Currently, the Pacific Stock Exchange, Inc. ("PSE"), PSDTC's parent corporation, has this investment authority. Third, PSDTC's authority to use participants fund assets would be narrowed. Under the proposal, PSDTC would use those assets to meet losses or liabilities incident to the operation of a securities depository which holds and transfers securities on behalf of members and on behalf of banks to whom securities have been pledged by members. PSDTC's current rules provide only that PSDTC can use participants fund assets to discharge any liability of a member. Fourth, members using PSDTC's soon-to-be-implemented Municipal Bearer Bond Service would be required to contribute to a new, separate participants fund (the "municipal fund contribution") related to that service.

The proposal also would change individual member and aggregate participants fund contribution levels. First, a member's minimum contribution would be increased to $5000; currently, that minimum contribution level is $3000. A member's minimum municipal fund contribution also would be $5000. Second, PSDTC's formula by which individual member's participants fund requirements are calculated (other than the minimum deposit requirement) would be changed substantially.[2] PSDTC would calculate a member's contribution requirement by: (a) Totalling all of the member's valued securities deliveries (both physical and book-entry deliveries) during each calendar quarter (or lesser period of time, as PSDTC determines in its discretion), (b) dividing that total by the number of business days in the quarter (or such lesser period) to arrive at the member's average daily valued deliveries, and (c) multiplying the member's average daily valued deliveries by one percent. Currently, the PSDTC-related portion of a member's required contribution to the PCC/PSDTC participants fund is calculated each quarter by (a) determining, on the last day of the quarter, the value of the member's total securities on deposit at PSDTC, and (b) multiplying that total by three-one-hundredths of one percent. Third, the ceiling for each member's participants fund contribution would be raised significantly. Under the proposal, the maximum contribution would be $100,000; currently, that maximum contribution is $25,000.

Finally, the proposal would change the types of collateral that members can use to secure their participants fund "open account indebtedness," *i.e.*, participants fund assets over and above the member's minimum cash deposit. First, the proposal would enable PSDTC members to secure their open account indebtedness with irrevocable letters of credit issued in favor of PSDTC by PSDTC-approved financial institutions. Currently, PSDTC's rules do not enable members to use letters of credit for participants fund purposes. The proposed rule change contemplates that PSDTC will control closely participant letter of credit usage through a number of safeguarding mechanisms, such as PSDTC's approval of financial institutions as letter of credit issuers and PSDTC's general authority to prevent or to deter an undue concentration of letters of credit from one or more approved letter of credit issuers. The proposal contains no specific concentration requirements other than the stated limitation that no single letter of credit issuer can issue letters of credit aggregating more than 25% of the total participants fund (or such other percentage as determined by PSDTC's board of directors). PSDTC intends to design, and file with the Commission, other specific concentration requirements shortly. Second, under the proposal, members no longer could secure their open account indebtedness with high-grade, bearer municipal bonds.

In its filing, PSDTC states that the proposal would increase substantially both the aggregate size of PSDTC's participants fund and the size of individual member's required participants fund contributions. To ease implementation of the larger participants fund requirements, PSDTC, by September 30, 1983, proposes to calculate and to advise each member of its new participants fund requirement based on its third calendar quarter activity. No payments, however, would be required at that time. At year end, PSDTC would recalculate each member's new participants fund requirement based on the member's fourth calendar quarter activity. At that time, the new requirements would become effective, and members would be required to meet the new, increased participants fund levels. PSDTC states that the proposed rule change is consistent with Section 17A of the Act, and, in particular, subsection (b)(3)(F) of that Section. PSDTC believes that the proposal assures the safeguarding of securities and funds in the custody or control of PSDTC or for which it is responsible.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments,

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[1] *See* Securities Exchange Act Release No. 16900 (June 17, 1980), 45 FR 41920 (June 23, 1980).

[2] PSDTC has not yet proposed a formula for calculating a member's municipal fund contribution. The proposal, however, stated that the formula will be based upon the member's use of the Municipal Bearer Bond Service and PSDTC's analysis of the Service's potential financial risks. The Commission expects that PSDTC will file that formula with the Commission in accordance with Section 19(b) of the Act.

all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be witheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Section. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-24245 Filed 9-2-83; 8:45 am]

BILLING CODE 8010-01-M

Cincinnati Stock Exchange; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

August 30, 1983.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

General Defense Corporation
Common Stock, $.10 Par Value (File No. 7-7032)
Damon Corporation
Common Stock, $.25 Par Value (File No. 7-7033)
Dana Corp.
Common Stock, $1 Par Value (File No. 7-7034)
Dreyfus Corp. (The)
Common Stock, $.33⅓ Par Value (File No. 7-7035)
First Mississippi Corporation
Common Stock, $1 Par Value (File No. 7-7036)
Golden Nugget, Inc.
Common Stock, $.02 Par Value (File No. 7-7037)
Harcourt Brace Jovanovich, Inc.
Common Stock, $1 Par Value (File No. 7-7038)
Lubrizol Corp. (The)
Common Stock, No Par Value (File No. 7-7039)
Madison Fund, Inc.
Common Stock, $1 Par Value (File No. 7-7040)
Mattel, Inc.
Warrants (File No. 7-7041)
Northwest Energy Company
Common Stock, $1 Par Value (File No. 7-7042)
Pengo Industries, Inc.
Common Stock, $.25 Par Value (File No. 7-7043)
Piedmont Aviation, Inc.
Common Stock, $1 Par Value (File No. 7-7044)
Pioneer Corporation
Common Stock, $.50 Par Value (File No. 7-7045)
Planning Research Corporation
Common Stock, $1 Par Value (File No. 7-7046)
Pulte Home Corporation
Common Stock, $1 Par Value (File No. 7-7047)
SCA Services, Inc.
Common Stock, $1 Par Value (File No. 7-7048)
Storer Communications Inc.
Common Stock, $1 Par Value (File No. 7-7049)
Sunshine Mining Company
Common Stock, $.50 Par Value (File No. 7-7050)
United Energy Resources, Inc.
Common Stock, $1 Par Value (File No. 7-7051)
Utah Power & Light Company
Common Stock, $6.40 Par Value (File No. 7-7052)
Veeco Instruments, Inc.
Common Stock, $1 Par Value (File No. 7-7053)
Wainoco Oil Corporation
Common Stock, No Par Value (File No. 7-7054)
Ahmanso (H.F.) & Company
Common Stock, No Par Value (File No. 7-7055)
Combined International Corporation
Common Stock, $1 Par Value (File No. 7-7056)
Echlin Inc.
Common Stock, $1 Par Value (File No. 7-7057)
Enterra Corporation
Common Stock, $1 Par Value (File No. 7-7058)
Lanier Business Products
Common Stock, $1 Par Value (File No. 7-7059)
Magic Chief, Inc.
Common Stock, $3 Par Value (File No. 7-7060)
Mellon National Corporation
Common Stock, $.50 Par Value (File No. 7-7061)
Patrick Petroleum Company
Common Stock, $.10 Par Value (File No. 7-7062)
PSA, Inc.
Common Stock, $1 Par Value (File No. 7-7063)
Robins (A.H.) Co., Inc.
Common Stock, $1 Par Value (File No. 7-7064)
Rohr Industries, Inc.
Common Stock, $1 Par Value (File No. 7-7065)
Rorer Group Inc.
Common Stock, No Par Value (File No. 7-7066)
San Juan Basin Royalty Trust
Units of Beneficial Interest (File No. 7-7067)
Savin Corporation
Common Stock, $.10 Par Value (File No. 7-7068)
Security Pacific Corp.
Common Stock, $10 Par Value (File No. 7-7069)
Sheller-Globe Corporation
Common Stock, No Par Value (File No. 7-7070)
Southeast Banking Corp.
Common Stock, $5 Par Value (File No. 7-7071)
Texas Commerce Bancshares, Inc.
Common Stock, $4 Par Value (File No. 7-7072)
Trane Company (The)
Common Stock, $2 Par Value (File No. 7-7073)
Wachovia Corporation (The)
Common Stock, $5 Par Value (File No. 7-7074)
Air Express International Corp.
Common Stock, $.01 Par Value (File No. 7-7075)
Bow Valley Industries Ltd.
Common Stock, No Par Value (File No. 7-7076)
Ryland Group, Inc. (The)
Common Stock, $1 Par Value (File No. 7-7077)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before September 21, 1983 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-24230 Filed 9-2-83; 8:45 am]

BILLING CODE 8010-01-M

Midwest Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

August 30, 1983.

The above named national securities exchange has filed applications with the

Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Institutional Investors Corporation
Common Stock, $.01 Par Value (File No. 7–7020)
A.G. Edwards, Inc.
Common Stock, $1 Par Value (File No. 7–7021)
United States Steel Corporation
$2.25 Comulative Convertible Exchangeable Preferred, No Par Value (File No. 7–7023)
Campbell Resources
Common Stock, No Par Value (File No. 7–7024)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before September 21, 1983 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-24247 Filed 9-2-83; 8:45 am]
BILLING CODE 8010-01-M

Philadelphia Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

August 30, 1983.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following stocks:

American Medical International, Inc.
Common Stock, $1 Par Value (File No. 7–7025)
Cooper Laboratories, Inc.
Common Stock, $.10 Par Value (File No. 7–7026)
Financial Corporation of America
Common Stock, $.50 Par Value (File No. 7–7027)
Key Pharmaceuticals, Inc.
Common Stock, $0.074 Par Value (File No. 7–7028)
Petro-Lewis Corporation
Common Stock, $1 Par Value (File No. 7–7029)
Petro-Lewis Corporation
Warrants (File No. 7–7030)
Pyro Energy Corporation
Common Stock, $.10 Par Value (File No. 7–7031)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before September 21, 1983 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-24249 Filed 9-2-83; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 20128; File No. SR–MSRB–83–11]

Filing of Proposed Rule Change by Municipal Securities Rulemaking Board

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on August 23, 1983, the Municipal Securities Rulemaking Board ("MSRB") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change would amend MSRB Rule G–15(a)(i) to allow customer confirmations sent through the automated confirmation facilities of a clearing agency registered with the Commission to omit the address and telephone number of the confirming broker, dealer, or municipal securities dealer. The Board states that automatic confirmation systems do not include on the confirmation the address and the telephone number of the municipal securities broker or municipal securities dealer transmitting the confirmation. The Board believes that investors whose transactions are cleared through automated confirmation systems know how to contact persons with whom they effect transactions and therefore, confirmations need not reflect the aforementioned information. The Board also states that depositories offering automated confirmation systems publish directories listing contact personnel and telephone numbers for system participants.

In order to assist the Commission in determining whether to approve the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved, interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR–MSRB–83–11.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the MSRB.

For the Commission, by the Division of Market Regulation pursuant to delegated authority, 17 CFR 200.30(a)(12).

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-24246 Filed 9-2-83; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 34-20127; File No. SR-MSRB-83-10]

Self-Regulatory Organizations; Proposed Rule Change by Municipal Securities Rulemaking Board Relating to Uniform Practice

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on August 23, 1983, the Municipal Securities Rulemaking Board filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self/regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

(a) The Municipal Securities Rulemaking Board ("Board") is filing herewith an amendment to rule G–12 on uniform practice. The text of the proposed rule change is as follows:

Rule G–12. Uniform Practice [1]

(a) through (d) No change.

(e) Delivery of Securities. The following provisions shall, unless otherwise agreed by the parties, govern the delivery of securities:

(i) through (vii) No change.

(viii) Coupon Securities.

(A) and (B) No change.

(C) If delivery of securities is due within 30 calendar days prior to an interest payment date, the seller may deliver to the purchaser a draft or bank check of the seller or its agent, payable *not later than the interest payment date* [on the date delivery is made], in an amount equal to the interest due in lieu of the coupon.

(ix) through (xiii) No change.

(xiv) Delivery of Registered Securities.

(A) through (F) No change.

(G) Payment of Interest. If a registered security is traded "and interest" and transfer of record ownership cannot be accomplished on or before the record date for the determination of registered holders for the payment of interest, delivery shall be accompanied by a draft or bank check of the seller or its agent, payable *not later than the interest payment date* [on the date delivery is made], for the amount of the interest.

(H) Registered Securities Traded "Flat". If a registered security is traded "flat" (i.e. is in default in the payment of interest) and transfer of record ownership cannot be accomplished on or before the record date for the determination of registered holders for the payment of interest, an interest payment date having been established on or after the trade date, delivery shall be accompanied by a draft or bank check of the seller or its agent, payable *not later than the interest payment date* [on the date delivery is made], for the amount of the payment to be made by the issuer, unless the security is traded "ex-interest."

(xv) and (xvi) No change.

(f) through (l) No change.

[1] Italics indicate new language [brackets] indicate deletions.

II. Self-Regulatory Organization's Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Change

A. Self-Regulatory Organization's Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Board rule G–12 sets forth certain requirements concerning inter-dealer deliveries of securities. Among other matters, the rule provides that, with respect to deliveries of securities made within a certain period of time prior to the interest payment date, the delivering dealer may attach a check in lieu of the next-payable coupon, in the case of a delivery of bearer securities, or, in the case of a delivery of registered securities, the delivering dealer must attach a check for the value of the next interest payment to be received on the securities. Under the current provisions of the rule, checks provided in lieu of the coupons or for the value of the next interest payment must be currently dated—that is, payable as of the date the delivery is presented—even if the coupons will not be redeemable or the interest payment made for several weeks after the delivery.

The Board has recently reconsidered these provisions, due, in part, to a comment letter received from an industry trade association and, in part, to the recent effectiveness of the registration requirements of the Tax Equity and Fiscal Responsibility Act. As a result of this reconsideration the Board has concluded that the rule should be amended to permit the use of post-dated or "due bill" checks—that is, checks dated as of the interest payment date—in lieu of coupons or for the value of the interest payment. Accordingly, the proposed rule change would amend rule G–12(e)(viii)(C), with respect to deliveries of bearer securities, and rules G–12(e)(xiv) (G) and (H), with respect to deliveries of registered securities, to provide that interest payment checks accompanying deliveries must be "payable not later than the interest payment date."

The Board believes that the proposed rule change is appropriate for the following reasons:

(1) With the transition to the use of registered securities the costs imposed by the existing requirement will significantly increase. The costs imposed by the existing requirement can be minimized, in the case of a delivery of bearer securities, by reattaching the next payable coupon to the securities prior to delivery, thereby eliminating the need for any interest payment check. The Board believes that municipal securities brokers and dealers have attempted to follow this procedure, where practical, in order to minimize the costs of the use of funds for the period from the delivery date to the interest payment date; other brokers and dealers have chosen to avoid incurring these costs by delaying the detachment of the next payable coupon until the last possible moment.

In the case of registered securities, however, no such means of eliminating the need for interest payment checks and the attendant costs exists. Consequently, the cost burden imposed by the requirement that such checks be currently dated will significantly increase, since all inter-dealer deliveries of registered securities during the period between the record and interest payment dates will have to have interest payment checks attached. The Board believes that this increase in costs will be substantial; the proposed rule change, by permitting the use of post-dated checks, would eliminate these costs.

(2) The benefit provided by the existing requirement—the elimination of the risk of loss resulting from a financial failure of the delivering dealer, with a resulting dishonoring of a post-dated check—does not appear commensurate with the increased costs. Upon reconsideration the Board does not believe that the risk of loss is significant enough to justify the existing requirement: the number of dealer failures is quite low, and, even in the event that a dealer's failure results in the dishonoring of interest payment checks, most interest payment checks are for relatively small amounts.

(3) The existing requirement conflicts with the practice followed in the corporate debt securities market with respect to the dating of interest payment checks. The Board understands that postdated checks are typically used on inter-dealer deliveries of corporate debt securities, and does not perceive any considerations that would justify the

imposition on the municipal securities market of a requirement in this area that is more stringent than that applicable in the corporate securities market.

(b) The proposed rule change has been adopted pursuant to section 15B(b)(2)(C) of the Securities Exchange Act of 1934, as amended, which authorizes and directs the Board to adopt rules which are designed . . . to foster cooperation and coordination with persons engaged in . . . clearing, settling, processing information with respect to, and facilitating transactions in municipal securities [and] to remove impediments to and perfect the mechanism of a free and open market in municipal securities.

The Board believes that the proposed rule change removes a cost burden on the clearance and settlement of transactions in municipal securities that no longer appear necessary or appropriate.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Board does not believes that the proposed rule change will impose any burden on competition, inasmuch as it applies generally to all municipal securities brokers and dealers.

C. Self-Regulatory Organization's Statement of Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Board neither solicited nor received comments on the proposed rule change from industry members or others. The Board's consideration of the proposed rule change was prompted by a letter from the Dividend Division of the Securities Industry Association suggesting that the Board's rules be amended to permit the use of post-dated interest payment checks.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section. Copies of such filing also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: August 29, 1983.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-24241 Filed 9-2-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20126; File No. SR-PCC-83-3]

Filing of Proposed Rule Change by Pacific Clearing Corp.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 [the "Act"], 15 U.S.C. 78s(b)(1), notice is hereby given that on July 14, 1983, the Pacific Clearing Corporation ("PCC") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. PCC submitted the proposed rule change to update significant portions of its rules and to conform them to the Division of Market Regulation's Standards for the Full Registration of Clearing Agencies concerning Sections 17A(b)(A)–(I) of the Act.[1]

Among other things, the proposal would modify existing rules or add new rules regarding: (a) The operation of PCC's continuous net settlement ("CNS") system; (b) members' payment of daily money settlement obligations; (c) "good delivery" requirements for physical securities deliveries into the CNS system; (d) calculation and collection of members mark-to-the-market requirements; (e) PCC's buy-in procedures; (f) PCC's reclamation procedures; (g) PCC's dividend and interest payment procedures; (h) PCC's liens on members' valued positions; (i) PCC's authority to levy and collect from members further assurances of financial responsibility and operational capacity; (j) PCC's rights to suspend summarily members in certain circumstances and to close out their securities positions; (k) PCC's insolvency procedures, including authority to reverse certain securities deliveries and to buy-in and sell-out the insolvent's securities positions; (l) PCC's rights to decline to act for financially solvent members; (m) PCC's authority to institute financial responsibility and operational capability standards for applicants and members; (n) PCC's rights to discipline members; (o) PCC's hearing and appeal rights and procedures for aggrieved applicants and members; (p) PCC's obligation to have an audit of its system of internal accounting controls by an independent public accountant and to furnish to members copies of the accountant's report; and (q) PCC's procedures for nominating and electing individuals to PCC's board of directors. The proposal also contains technical or non-substantive revisions to PCC's rules and by-laws.

In its filing, PCC states that the proposed rule change is consistent with Sections 17A(b)(3)(C), 17A(b)(3)(F), 17A(b)(3)(G), 17A(b)(3)(H) and 17A(b)(5) of the Act because PCC believes that the proposed revisions and additions: (i) assure the fair representation of members in the selection of its directors and administration of PCC's affairs; (ii) assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible; (iii) provide that members are appropriately disciplined for violations of PCC's rules; and (iv) provide a fair procedure with respect to the disciplining of members, the denial of membership to any person, and the prohibition or limitation by PCC of any person with respect to access to PCC's services.

In order to assist the Commission in determining whether to approve the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved, interested persons are invited to submit written data, views

[1] *See* Securities Exchange Act Release No. 16900 (June 17, 1980), 45 FR 41920 (June 23, 1980).

and arguments concerning the submission within 21 days after the date of publication in the **Federal Register.** Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR–PCC–83–3.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83–24248 Filed 9–3–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 13471; 811–1196]

Fiduciary Variable Annuity Fund, Inc., Proposal to Terminate Registration

August 30, 1983.

Notice is hereby given that the Commission proposes, pursuant to section 8(f) of the Investment Company Act of 1940 ("Act"), to declare by order on its own motion that Fiduciary Variable Annuity Fund, Inc. ("Fund") 816 West 5th Street; and 900 Wilshire Boulevard, Los Angeles, California 90017, has ceased to be an investment company, thereby causing the registration of the Fund to cease to be in effect.

Information contained in Commission files indicates that the Fund: was organized in the state of California on August 7, 1961; filed Form N–8A ("Notification of Registration") with the Commission on January 21, 1963, to register as an open-end diversified management investment company; and has not made any further filings required by the Act. By letter dated March 1, 1968, signed by the individual who appears to have been indicated on the Form N–8A as a Director, and President, of the Fund, the Commission was notified that the Fund "is no longer in existence."

Notice is further given that any interested person wishing to request a hearing on this matter may, not later than September 23, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact of law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon the Fund at the addresses stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the matter will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83–24206 Filed 9–2–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 13407; 812–5577]

The Travelers Insurance Company, et al.; Filing of an Application for an Order

August 30, 1983.

Notice is hereby given that the Travelers Insurance Company ("Travelers"), The Travelers Fund MM for Variable Annuities ("Account MM"), and The Travelers Fund U for Variable Annuities ("Account U") (collectively "Applicants"), One Tower Square, Hartford, Connecticut 06115, filed an application on June 15, 1983 and an amendment thereto on August 22, 1983, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"), for an order granting exemptions from the provisions of Sections 12(b), 26(a)(2)(C), and 27(c)(2) of the Act and Rule 12b–1 thereunder, to the extent necessary, in connection with Applicants proposed offering of certain variable annuity contracts. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and are referred to the Act and Rules thereunder for a statement of the relevant provisions.

Travelers is currently offering variable annuity contracts funded by Accounts MM and U ("Separate Accounts") to individuals and groups in tax-qualified retirement plans for which Applicants obtained an order of exemption from certain provisions of the Act (Investment Company Act Release No. 13241, May 13, 1983). Travelers now proposes to offer variable annuity contracts ("Contracts") funded by the separate accounts for purchase by the general public, and Applicants request the following relief:

1. Applicants request exemptions from Sections 26(a)(2)(C) and 27(c)(2) to the extent necessary: To deduct from contract values the amount of any premium taxes imposed thereon; to impose a $15 semi-annual contract administration charge to be deducted on June 30 and December 31 of each contract year, as prorated from the contract issue date or from the last prior date of assessment (this charge cannot be increased during the duration of the Contract and is designed to reimburse Travelers only for its actual expenses of administering the Contract); to deduct from each separate account an amount equal on an annual basis to 1.25% of the net asset value of the separate account to compensate Travelers for its assumption of certain mortality and expense risks; and to deduct a fee for investment management and advisory services to account MM equivalent to .3233% on an annual basis of the net asset value of the separate account. In support of their request, Applicants represent that the mortality and expense risk charge is reasonable in amount as determined by industry practice with respect to comparable annuity products, and that the basis for this representation is reflected in documents maintained on file with Travelers and available to the Commission. Travelers also represent that it has concluded that there is a reasonable likelihood that the proposed use of a portion of the mortality and expense risk charge to finance distribution, described below, will benefit each of the separate accounts and the contractowners. Account U represents that it presently invests in specified open-end diversified management investment companies each of which is governed by a Board of Trustees a majority of whom are "disinterested" within the meaning of the Act.

2. Account MM requests an exemption from the provisions of Section 12 of the Act and Rule 12b–1 thereunder insofar as distribution expenses in excess of the contingent deferred sales charge, assessed pursuant to Rule 6c–8 under

the Act, might be deemed to be financed, directly or indirectly, by the mortality and expense risk charge. Applicants do not anticipate that the contingent deferred sales charge will be sufficient to cover all costs of distributing the Contracts. Travelers intends to make up the difference through use of general account funds, which are attributable in part to the mortality and expense risk charges assessed under the Contracts. In this regard, Travelers represents that it has concluded that there is a reasonable likelihood that the proposed method of financing distribution expenses will benefit each of the separate accounts funding the Contracts and contractowners. The Travelers will maintain at its Home Office, available to the Commission, a memorandum setting forth the basis of this conclusion. Account MM represents that it will have a Board of Managers with a disinterested majority formulate and approve any plan under Rule 12b–1 to finance distribution expenses.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than September 23, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request shall be served personally or by mail on Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders the hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83–27297 Filed 9–2–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 20141; SR–CSE–83–3]

Cincinnati Stock Exchange, Inc.; Order Approving Proposed Rule Change

August 30, 1983.

The cincinnati Stock Exchange, Inc. ("CSE") 205 Dixie Terminal Building, Cincinnati, Ohio 45202, submitted on July 15, 1983, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to increase CSE's listing and annual service fees.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 19994, July 21, 1983) and by publication in the **Federal Register** (48 FR 34553, July 29, 1983). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83–24296 Filed 9–2–83; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Texas Declaration of Disaster Loan Area

As a result of the President's major disaster declaration. I find that the Counties of Galveston, Harris, Fort Bend, Chambers, Matagorda, and Brazoria, Texas, constitute a disaster loan area because of damage resulting from a Hurricane beginning on or about August 18, 1983. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on October 18, 1983, and for economic injury until May 19, 1984, at: U.S. Small Business Administration, 2525 Murworth, Suite 112, Houston, Texas 77054, or other locally announced locations.

Interest rates for applicants filing for assistance under this declaration are as follows:

	Percent
Homeowners with credit available elsewhere	11.625
Homeowners without credit available elsewhere	5.875
Businesses with credit available elsewhere	11.000
Businesses without credit available elsewhere	8.000
Businesses (EIDL) without credit available elsewere	8.000
Other (non-profit organizations including charitable and religious organizations)	11.375

It should be noted that assistance for agricultural enterprises is the primary responsibility of the Farmers Home Administration as specified in Pub. L. 96–302.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Date: August 22, 1983.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 83–24318 Filed 9–2–83; 8:45 am]

BILLING CODE 8025–01–M

[License No. 05/05–017]

First Indiana Equity Group, Inc.; Issuance of a Small Business Investment Company License

On September 29, 1982, a notice was published in the **Federal Register** (Vol. 47, No. 189, Pg. 42859) stating that an application had been filed by First Indiana Equity Group, Inc., with the Small Business Administration (SBA) pursuant to Section 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1983)) for a license as a small business investment company.

Interested parties were given until close of business October 14, 1982, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 05/05–0171 on August 19, 1983, to First Indiana Equity Group, Inc. to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 50.011, Small Business Investment Companies)

Dated: August 30, 1983.

[FR Doc. 83–24315 Filed 9–2–83; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF STATE

[Public Notice 880]

Magnuson Fishery Conservation and Management Act; Applications for Permits to Fish in the United States Fishery Conservation Zone

The Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et*

seq.) requires all foreign vessels fishing in the U.S. Exclusive Economic Zone to have a permit. Section 204 of the Magnuson Act requires the Secretary of State to publish a summary of applications received.

Individual vessel applications for fishing in 1983 have been received from the Government of the German Democratic Republic.

If additional information regarding any application is desired, it may be obtained from: Fees, Permits, and Regulations Division (F/M12), National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, (Telephone: (202) 634–7432).

Dated: August 24, 1983

Larry L. Snead,

Acting Director, Office of Fisheries Affairs.

Fishery Codes and Designation of Regional Councils which review applications for individual fisheries are as follows:

Code and fishery	Regional council
ABS Atlantic Billfishes and Sharks	New England, Mid-Atlantic, South Atlantic, Gulf of Mexico, Caribbean.
BSA Bering Sea and Aleutian Islands Trawl, Longline and Hearing Gillnet.	North Pacific.
CRB Crab (Bering Sea)	Do.
GOA Gulf of Alaska	Do.
NWA Northwest Atlantic	New England, Mid-Atlantic.
SMT Seamount Groundfish (Pacific Ocean).	Western Pacific.
SNA Snails (Bering Sea)	North Pacific.
WOC Washington, Oregon, California Trawl.	Pacific.
PBS Pacific Billfish and Sharks	Western Pacific

Activity codes specify categories of fishing operations applied for are as follows:

Activity Code and Fishing Operations

1 Catching, processing, and other support.
2 Processing and other support only.
3 Other support only.

Nation/vessel name/vessel type	Application No.	Fishery	Activity
German Democratic Republic:			
Junge Garde, non-fishing mother ship	GC–83–0025	NWA	2
Hanno Gunther, stern trawler	GC–83–0049	NWA	1
Hertha Lindner, stern trawler	GC–83–0015	NWA	1
Carlo Schonhaar, stern trawler	GC–83–0037	NWA	1
Grete Walter, stern trawler	GC–83–0017	NWA	1
Heinz Priese, stern trawler	GC–83–0029	NWA	1
Eugen Schonhaar, stern trawler	GC–83–0019	NWA	1
Erich Steinfurth, stern trawler	GC–83–0036	NWA	1
Magnus Poser, stern trawler	GC–83–0050	NWA	1
Rudolf Leonhard, stern trawler/factory ship	GC–83–0046	NWA	1, 2
Stubnitz, factory ship	GC–83–0047	NWA	2
Granitz, factory ship	GC–83–0051	NWA	2
Breitling, transport ship	GC–83–0012	NWA	3

Joint venture: VEB Fischlang Rostock of the German Democratic Republic and Joint Trawlers (North America) Ltd., P.O. Box 1209, Gloucester, Massachusetts, 01930, have applied to engage in a joint venture fishery aimed at harvesting 4,600 metric tons of Atlantic Mackerel during the current fishing year 1983 to March 31st 1984.

[FR Doc. 83–24274 Filed 9–3–83; 8:45 am]
BILLING CODE 4710–09–M

[Public Notice CM–8/661]

National Bipartisan Commission on Central America; Closed Meetings

The National Bipartisan Commission on Central America will meet in closed sessions on Sept. 7–8, 12–13, 21–22, 28–30, Oct. 21–22, Nov. 2–3, and Dec. 2–3, 9–10, 16–17, 1983. All meetings will commence at 10 a.m. and will be held in Room 1105, Department of State, Washington, D.C.

These sessions will be closed to the public pursuant to section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. 552b (c)(1) and (c)(9). The disclosure of classified material and revelation of considerations contributing to policy development could adversely affect U.S. foreign relations and would substantially undermine the conduct of U.S. foreign policy and the ability of the Commission to provide advice to the President, the Secretary of State and the Congress. The purpose of these meetings will be to discuss the various social, economic, political and security issues involving Central America that impact on United States foreign policy, and to draft the Commission's findings and recommendations.

In light of the requirement that the Commission report to the President in the near future, and the consequent need for the Commission to continue its deliberations without delay, it has been impossible to provide earlier notice of the meetings scheduled for Sept. 7–8 and 12–13, or to reschedule them to a later date.

Requests for further information should be directed to Sharon Mussomeli, Room 1004, Department of State. She may be reached by telephone on (202) 632–7804.

Dated: September 1, 1983.

Harry W. Shlaudeman,

Executive Director.

[FR Doc. 83–24483 Filed 9–2–83; 11:51 am]
BILLING CODE 4710–29–M

TENNESSEE VALLEY AUTHORITY

Paperwork Reduction Act of 1980; Forms Under Review by the Office of Management and Budget

AGENCY: Tennessee Valley Authority.

ACTION: Forms Under Review by the Office of Management and Budget.

SUMMARY: The Tennessee Valley Authority (TVA) has sent to OMB the following proposals for the collection of information under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

Requests for information, including copies of the forms proposed and supporting documentation, should be directed to the Agency Clearance Officer whose name, address, and telephone number appear below. Questions or comments should be directed to the Agency Clearance Officer and also to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, Attention: Desk Officer for Tennessee Valley Authority, 395–7313.

Agency Clearance Officer: John O. Catron, Tennessee Valley Authority, 100 Lupton Building, Chattanooga, TN 37401; (615) 751–2523, FTS 858–2523.

Type of Request: Reinstatement of a previously approved collection for which approval has expired.

Title of Information Collection: 1984 Interim Residential Survey: Customers of Municipal and Cooperative Distributors of TVA Power.

Frequency of Use: On occasion.

Type of Affected Public: Individuals or households.

Small Businesses or Organizations Affected: None.

Federal Budget Functional Category Code: 271.

Estimated Number of Annual Responses: 2,850.

Estimated Total Annual Burden Hours: 950.

Estimated Annual Cost from Federal Government Appropriated Funds: –0–.

Need For and Uses of Information: The proposed 1984 Interim Residential Survey will provide information about the 2.5 million residential customers served by the municipal and cooperative distributors of TVA power. This information is required for loan forecasting and program planning by numerous branches within TVA.

Date: August 25, 1983.

John W. Thompson,

Assistant General Manager, Senior Agency Official.

[FR Doc. 83-24234 Filed 9-2-83; 8:45 am]

BILLING CODE 8110-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket 83-03; Notice 1]

Crash Test Repeatability Program

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of public meeting, announcement, of repeatability program crash test results, and request for comments.

SUMMARY: This notice announces a public meeting at which NHTSA will answer questions from the public and the automobile industry regarding the agency's rulemaking, research, and enforcement programs, and at which NHTSA's 35 mph frontal test repeatability program will be discussed. This notice also announces test results and initial analyses from the crash test program. The agency seeks both written and oral comments on the repeatability program. The format of this meeeting reflects the agency's intent to make the quarterly NHTSA public meetings more substantively oriented. The agency has chosen to combine the quarterly public meeting with a planned technical meeting on the crash test repeatability program to gain additional technical information on various issues relating to crash testing as well as to reduce the costs which would be incurred if separate meetings were held.

DATES: Questions for the meeting relating to the agency's rulemaking, research, and enforcement programs, and submissions relating to crash test results must be submitted in writing by September 21, 1983. If sufficient time is available, questions received after the September 21 date may be answered at the meeting. The individual, group or company submitting a question does not have to be present for the question to be answered. A consolidated list of the questions submitted by September 21 and the issues to be discussed will be mailed to interested persons on or before October 5, and will be available at the meeting. A transcript of the meeting will be taken, copies of which will be available from the Docket Section. Requests to make a formal presentation at the crash test repeatability program portion of the public meeting should be received on or before September 14, 1983. The public meeting will be held on October 11, 1983, beginning at 10:30 a.m.

ADDRESSES: Questions for the October 11 meeting relating to the agency's rulemaking, research, and enforcement programs should be submitted to Kennerly Digges, Acting Associate Administrator for Rulemaking, Room 5401, 400 Seventh Street, SW., Washington, D.C. 20590. The public meeeting will be held in the Conference Room of the Environmental Protection Agency's Laboratory Facility, 2565 Plymouth Road, Ann Arbor, Michigan.

Comments on the crash test data and analyses should refer to the docket number and be submitted to Docket Section, National Highway Traffic Safety Administraiton, Room 5108, Nassif Building, 400 Seventh Street, SW., Washington, D.C.20590. Requests for participation in the crash test portion of public meeting should be directed to the "Information Contact" specified below.

FOR FURTHER INFORMATION CONTACT: John M. Machey, Office of Market Incentives, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590 (202–426–1740).

SUPPLEMENTARY INFORMATION: On October 11, 1983, NHTSA will hold a meeting to answer questions from the public and industry regarding the agency's rulemaking, research, and enforcement programs. The meeting will begin at 10:30 a.m. and will be held at EPA's laboratory facility in Ann Arbor, Michigan. The purpose of the meeting is to focus on those phases of these NHTSA activities which are technical, interpretative or procedural in nature. Questions regarding the agency's fuel economy program will continue to be addressed at the EPA meetings on vehicle emissions.

At the close of the usual question and answer session at this meeting, a brief discussion of issues involving the agency's 35 mile per hour crash test repeatability program will be held. Immediately thereafter, (or on the following day, depending on available time), the agency will conduct a technical meeting at which presentations will be made regarding the crash test program. Severl agency officials involved in the program will make presentations, and industry representatives and other interested individuals are invited to make similar technical presentaitons. Depending on the number of participants desiring to make presentations, the meeting may be carried over to October 12. Presentations involving comment on the agency's initial test results and analyses and those describing work done under other crash test programs are especially encouraged.

Crash Test Repeatability Program

I. Background

Title II of the Motor Vehicle Information and Cost Savings Act (Pub. L. 92–513) requires the development and dissemination of comparative crashworthiness information on passenger motor vehicles. As a means of satisfying this mandate, NHTSA initated the New Car Assessment Program (NCAP) in May 1979. This experimental program was designed to measure safety performance differences among vehicles, and consisted of a single crash test of each make/model selected for testing. The results of the NCAP tests are reported in terms of head, chest, and femur (leg) injury criteria, with the greatest emphasis being placed on head injury measurements—one of the leading contributors to death or serious injury in motor vehicle accidents.

A continuing concern in the experimental NCAP has been the issue of the repeatability of crash data, since results were based on a single test. To ensure that the agency was not misleading the public, it was necessary to caveat NCAP data to alert consumers that differences in test results among vehicles could exist because of variations in the way vehicles are equipped and manufactured, or variations in test conditions. To help identify and qualify, to the extent possible, the sources of variation, the agency initiated a Repeatability Program.

II. Planning and Conducting the Repeatability Program Tests

A. Program Initiation

In a September 14, 1981 press release, NHTSA announced the creation of a repeatability testing program which would examine the crash data from a series of tests of identical vehicles to "distinguish between variations in results due to the test procedures and variations in the cars that are being tested." Further details on the Repeatability Program were discussed at the NHTSA/Industry meeting on September 23, 1981, where a preliminary test plan of crashing three identical cars at one test site was suggested. At the following NHTSA/Industry meeting, on December 9, 1981, NHTSA announced that the agency would undertake vehicle crash tests at a variety of test sites and a total of 12 cars would be crashed to assess the repeatability of 35 mph frontal crash tests. The final test design called for 4 vehicles to be crashed at each of three different sites. This design provided the potential to estimate within site variability (repeatability) and between—site variability (reproducibility). It was recognized in the test design that if the within site variation was large, it would hide any real variation which exists between sites. Further, the design recognized that it would not be possible to identify and quantify sources of the within site variability such as the dummy, instrumentation and environmental factors.

In February 1982, General Motors Corporation (GM) offered to conduct repeatability crash testing at their own expense on an additional four cars. At the June 30, 1982 NHTSA/Industry meeting, Deputy Administrator Diane Steed stated that the Repeatability Program would consist of 12 tests conducted by NHTSA contractors and 4 tests conducted by GM. She also stated that the vehicles to be crashed would be identical 1982 Chevrolet Citations.

In an effort to obtain vehicles that were as identical as possible, the 1982 Chevrolet Citations test vehicles were all assembled at the Tarrytown, New York, assembly plant during one work shift. The vehicles were equipped identically—four door sedans, 4-cylinder engines, standard transmissions, and no optional equipment. The vehicles were identical in color and interior and exterior trim.

B. Test Procedure

In conducting the crash test under the Repeatability Program, NHTSA required its contractors to folllow the *Laboratory Procedure for Vehicle Assessment*, IP–212–02, dated April 4, 1980. The test procedure sets forth the administrative and engineering responsibilities, the pretest requirements, test execution requirements, post-test requirements, and test data reporting requirements for crash tests. GM, in order to perform the tests in the manner utilized by NHTSA, requested a copy of IP 212–02. NHTSA provided a copy and encouraged GM to follow it.

However, analyses of the GM tests revealed that GM's interpretation of test procedure IP 212–02 differed from the agency's in several areas for the first four tests. The NHTSA procedure was followed in two additional tests, involving vehicles number 6 and 21. The differences in the test procedures followed by GM were as follows:

1. Shoulder belt load cells were taped to the necks of the driver and passenger dummies.
2. GM taped the shoulder belt to each dummy's chest.
3. GM introduced shoulder belt slack of approximately one inch in their first test.
4. The passenger's right foot in the GM test vehicles was placed on the right wheel well housing.
5. GM tethered the left hand of the driver dummy to the door.
6. NHTSA calibrated test dummies before and after each individual vehicle crash test, whereas GM calibrated only once, before the series of tests.

C. Test Results

The NHTSA conducted a total of 14 crash tests of the 1982 Chevrolet Citations, two of which were retests. The two retests were conducted to compensate for questionable electronic data during previous tests. GM conducted 4 tests initially and two additional tests to assess the significance of the differences between test procedure interpretations by NHTSA and GM.

The following is a summary of the results of GM's and NHTSA's Repeatability Programs.

SUMMARY.—REPEATABILITY PROGRAM PRELIMINARY TEST RESULTS

Lab/vehicle	Speed	HIC I D/P	Crush SYN/ STA.	Chest D/P	Femur loads		Belt [4] spoolout		Belt loads		
					Driver L/R	Pass. L/R	D/P	Lap	Driver	Passenger	
									Shoulder	Lap	Shoulder
General Motors repeatability program data:											
4	34.7	[3] 970/1180	30.1/25.0	54/50	726/508	524/1632	4.8/3.5	1408	1560	2000	1719
15	34.9	[3] 629/940	30.9/26.1	[3] 43/ 36	391/604	404/[3] 602	1.8/2.4	1510	1638	1731	1760
17	35.0	870/[3] 1060	32.2/26.1	42/[1] L	668/919	536/[3] 200	2.1/2.2	1279	1504	1121	[3] 1805
12	35.0	[3] 740/1380	31.8/25.7	48/[3] 43	524/613	625/598	2.0/1.9	1294	[3] 1580	[1] L	1488
6	34.9	570/950	32.2/25.9	46/36	636/357	506/696	1.8/2.0	1436	1569	1524	1783
21	35.2	900/[3] 970	32.0/24.8	46/35	294/564	1115/526	1.8/1.9	1506	1655	1702	1470
NHTSA repeatability program data Calspan:											
16	35.0	495/[1] L	30.5/23.4	44/31	420/1040	260/230	2.0/2.1	1060	1350	1550	1550
2	36.3	522/542	31.0/23.8	36/33	100/100	900/2500	2.1/2.0	1110	1550	1275	1680
19	35.0	583/676	31.2/23.2	38/35	275/1110	545/345	2.0/2.0	985	1500	1545	1650
13	35.1	851/767	31.0/22.7	40/36	690/1000	990/820	1.8/1.7	900	1650	1590	1160
20	34.9	530/685	32.0/23.6	42/36	468/424	470/500	1.8/1.5	870	1430	1000	1715
TRC:											
10	34.5	748/[1] L	30.5/23.8	41/[1] L	319/417	[1] L/[1] L	1.8/1.8	1171	1402	[1] L	1260
11	35.0	675/715	30.1/23.5	[1] L/31	455/902	477/514	2.0/2.1	836	1179	853	1387
18	34.8	954/[3] B	30.5/23.2	47/37	340/556	397/520	1.9/2.1	993	1508	1057	1488
1	35.0	589/793	31.5/25.4	44/34	468/530	518/318	2.0/2.1	1321	1273	1174	1318
7	35.1	567/644	29.5/23.2	37/37	570/528	315/320	1.8/2.0	905	1499	1201	1321
DSI:											
8	35.0	618/696	27.5/24.1	44/31	757/745	629/462	2.0/1.5	1112	1553	1761	1577
9	34.9	789/630	29.0/24.5	43/32	700/750	481/321	1.8/1.6	819	1489	1023	1541
14	34.9	618/770	29.5/23.5	42/33	436/723	844/670	2.0/2.0	959	1474	1015	1307
3	34.9	771/722	28.5/24.4	38/33	511/1021	971/277	2.0/2.1	927	1586	1133	1708

[1] Lost channel-intermittent electronic data.
[2] Broken neck.
[3] Questionable electronic data.
[4] Photographic analysis.

III. Analysis of Test Results

In accordance with the original plan for the Repeatability Program, the agency conducted a statistical analysis of the crash test results to determine, on the basis of these results, the extent of test variability within a laboratory as well as between laboratories. the test result parameters utilized in the analysis were the Head Injury Criterion (HIC), the chest acceleration in g-units, and the femur loads in pounds measured on the test dummies. The agency completed the statistical analysis of the test results, and placed in in Docket 83-03, Crash Test Repeatability Program. This analysis, entitled "Statistical Analysis of Crash Test Variability—Dummy Responses," is available from the agency's Docket Section.

The test variability at a given test site may be due to four basic factors: (1) Lack of specificity in the test procedure utilized, (2) environmental factors, (3) the vehicle and (4) the dummy. In an attempt to quantify the contribution of these factors, as well as develop a better comprehension of the specific causes of crash test variability, the agency plans to undertake the following additional tasks over the next two years.

1. Statistical Analyses of Vehicle Dummy Parameters:

Objective—To determine if a correlation exists between certain input parameters (vehicle geometry, dummy calibration, etc.) and dummy output parameters (HIC, chest g's, etc.)

Work Plan—Perform extensive analysis of data from all tests, including General Motors', to completely specify all parameters which would affect the dummy performance. A data matrix of over eighty-five vehicle characteristics and dummy injury levels has been developed. The matrix consists of various vehicle and dummy parameters, and static and dynamic vehicle and dummy performance measurements.

Conduct analyses to determine correlations between all input parameters developed above and dummy results.

Where correlations exist, determine engineering basis.

2. Review and Resolve Differences between Film Analysis and Electronic Data Analysis:

Objective—To determine if differences exist in crash parameters calculated utilizing electronic data as compared to those calculated by film data. If these differences exist, determine what causes them and what can be done to reduce the differences.

Work Plan—Calculate crash parameters utilizing electronic data, as well as film data. Parameters included would be dynamic crush of the vehicle, movement of the steering column, dummy kinematics, test speed and other variables.

Compare the calculated values utilizing both types of data.

Specify reasons why a disparity exists between the values calculated in the separate ways.

Develop techniques to reduce disparity, and recommend changes in the use of electronic or film data in the calculation of specific crash parameters.

3. Dummy Calibration Studies:

Objective—To determine if the allowable variation in Part 572 dummy calibration tests can result in significant variation in crash test results.

Work Plan—Obtain and review all data traces from the calibration test performed in the Repeatability Program. Determine if a correlation exists between the results of a specific dummy calibration test, and the actual crash test results with that dummy.

Perform calibration tests of test dummies at a common site to determine if test dummy calibration variation is substantial.

4. Quantification of Specific Crash Parameters:

Objective—To control vehicle and test procedure variability and quantify the basic variability of testing.

Work Plan—Develop a series of controlled tests which will eliminate the variability of the vehicle (utilizing sled tests) and reduce the variability of the dummy (utilizing a tighter calibration envelope).

Specify changes and improvements in the test procedure which will minimize variability in test results.

Design and conduct a series of sled tests to determine the variability which remains after after controlling for vehicle, dummy and test procedure variability.

5. Develop Refinements to Test Procedure:

Objective—To improve the procedure utilized to perform crash tests. These improvements will be based upon analysis of repeatability tests to date, as well as engineering judgment.

Work Plan—Review the test procedure utilized in the Repeatability Program and specify areas which can be improved. Examples are the dummy seating procedure, safety belt adjustments, accelerometer location and mountings, and instrumentation package weight and mounting location.

Develop specific changes to the test procedure which will address all those areas.

Conduct a series of crash tests with and without these procedures to determine what effect(s) they have, and quantify the effect(s).

Establish a new test procedure.

6. Evaluation of Data Acquisition System Errors:

Objective—To determine if variation in crash test results is due to the manner in which data are acquired, processed, and analyzed.

Work Plan—Develop a study whereby a standard crash test pulse will be entered into a test laboratory's data system, and HIC's will be calculated.

Use standard crash test pulse at a variety of test laboratories and determine the variation.

Specify the reasons for the variation and how changes can be made to the data acquisition requirements to reduce the variations, recognizing the need to control costs.

Implement appropriate changes.

7. Injury Criteria Analysis:

Objective—To consider different approaches to evaluate head injury, based upon dummy acceleration, which may have an improved relationship with human head injury.

Work Plan—Develop alternatives to HIC for predicting human head injury on the basis of dummy responses. For each alternative, define the enhanced biofideltiy expected.

Calculate the value of each alternative, i.e., Mean Strain Criterion, Modified HIC algorithym, etc.

Consider the relevance (in terms of propensity to produce head injury) of various crash test phenomenon that produce high HIC's (e.g., dummy head striking knee).

Specify an alternative which is more appropriate for the prediction of head injury.

8. Acquire and Analyze Repeatability Data from Other Sources:

Objective—To obtain the results of repeatability tests by manufacturers in order to enhance the data base of such information.

Work Plan—Meet with various manufacturers and associations to explain NHTSA's Repeatability Program and our interest in obtaining data on crash test repeatability utilizing other vehicles.

Obtain the results of repeatability testing conducted by other manufacturers, and analyze the data.

9. Monitor Progress of Above Tasks, and Determine Requirements for Additional Vehicle Test Series:

Objective—Based upon all these tasks, determine whether additional testing should be required. If so, develop the test program design and publish it to obtain comments.

IV. Computer Modeling

Computer modeling is used extensively in the safety community to assess vehicle, and occupant safety performance. The technique has also been considered for use in evaluating the comparative crash worthiness of motor vehicles. Characteristics such as acceleration-time histories, structural crush, and vehicle interior force deflection and geometric properties are utilizied as input data to these models. Based on these inputs, the models predict the response of simulated human occupants in a crash. These models have the advantage of perfect repeatability, that is, the results will always be identical for the same input. Unfortunately, a motor vehicle crash is an extremely complicated event and all of the necessary input data have not yet been defined. As a result, computer modeling does not improve the ability to control the variability of crash test results, and cannot, at this time, be used to assess repeatability. In the future, computer modeling may be used to assist in controlling the variability of crash test results and additional tasks to further develop this capability may be defined.

Issued on August 30, 1983.

Kennerly H. Digges,

Acting Associate Administrator for Rulemaking.

[FR Doc. 83-24283 Filed 9-2-83; 8:45 am]

BILLING CODE 4910-59-M

[Docket No. IP82-12; Notice 3]

Uniroyal Tire Co.; Denial of Petition for Determination of Inconsequential Noncompliance

Uniroyal Tire Company of Troy, Michigan, has appealed the denial of its petition to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for a non-compliance with 49 CFR 571.109, Motor Vehicle Safety Standard No. 109, *New Pneumatic Tires—Passenger Cars.* The basis of the original petition was that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of the petition was published on June 17, 1982, and an opportunity afforded for comment (47 FR 26273). Notice of the denial was published on June 23, 1983 (48 FR 23778).

Paragraphs S4.3 (b) and (c) of Standard No. 109 require that the sidewall of each passenger car tire be labeled with the maximum permissible inflation pressure and maximum load rating. Uniroyal manufactured a maximum of 660 L78–15 Snowplow tires with all information correctly stated on the serial side of the tire. On the opposite side, however, appears "Load Range B MAX LOAD 1970 lbs at MAX INFL 32 psi". The correct information is "Load Range C MAX LOAD 2100 lbs at MAX INFL 36 psi". The tires are Load Range C in construction and Uniroyal argued that the error was inconsequential "since the load range C load and inflation values totally embrace the load and inflation range of load range B, no misuse can occur in the field. * * *"

In denying Uniroyal's petition, NHTSA commented that the tires that are the subject of the petition with their higher than normal load carrying capacity were specifically designed for use on vehicles intended to carry heavier loads than ordinary passenger sedans. They have been used as original equipment on large station wagons, vans, and pickups trucks. If the tires were mounted with the incorrect information facing outward, it is likely that the tires would not be inflated beyond 32 psi. This could threaten the integrity of the tire because of the overload on it, as well as decreasing the stability of vehicles requiring more than 32 psi on the rear tire, by increasing the potential for oversteer: the rear tires may skid laterally before the front tires in a severe cornering maneuver, causing the car to spin. The agency therefore concluded that the noncompliance was not inconsequential.

Uniroyal has appealed the denial of its petition offering the following arguments in further support that the noncompliance is inconsequential as it relates to motor vehicle safety. The snow tires have been in the field for more than 18 months and the adjustment rate for tires manufactured in the same month as those covered by the petition is only 0.09%. In addition, all tires in the replacement market bear a paper label with the correct information on it. Uniroyal also argues that the primary source of information on inflation pressure is the placard in the vehicle itself, particularly true in this instance because manufacturers recommend different pressures for front and rear snow tire, generally not higher than 32 psi in the front, although the rear tires may require more pressure.

Assuming as NHTSA did that the tires could be mounted with improper inflation pressure, Uniroyal states that it retested tires under Standard No. 109's high speed and durability requirements using the load requirements for Load Range C and the inflation requirements for the Load Range B. Under these conditions one tire met the 34 hour test requirement while another met the 3.5 hour heat resistance test. Using the stepped-up requirements of the UTQGS heat resistance test, one tire was run up to 4.5 hours, thereby exceeding the requirement for a C rating. Finally,

"Another tire was tested beyond the minimum requirements of the FMVSS durability test (again using the load schedule for C load range tires and the inflation pressure requirements for the B load range), in which we effected a 10% load increase after 34 hours, and another 10% load increase after 42 hours. The tire was removed unfailed after 45 hours."

Interested persons are invited to submit written data, views and arguments on the petition of Uniroyal Tire Co. described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street, S.W., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered.

The application and supporting materials and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the **Federal Register** pursuant to the authority indicated below.

The engineer and attorney primarily responsible for this notice are P. L. Moore and Taylor Vinson, respectively.

Comment closing date: October 6, 1983.

(Sec. 102, Pub. L. 93–492, 88 Stat. 1470 (15 U.S.C. 1417); delegation of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on August 30, 1983.

Kennerly H. Digges,

Acting Associate Administrator for Rulemaking.

[FR Doc. 83-24282 Filed 9-2-83; 8:45 am]

BILLING CODE 4910-59-M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 F.R. 13359, March 29, 1978), and Delegation of Authority of December 17, 1982 (47 F.R. 57600, December 27, 1982), I hereby determine that the objects in the exhibit, "Juan Gris" (included in the list [1] filed as a part of this determination) imported from abroad for the temporary exhibition without profit from the United States are of cultural significance. These objects are imported pursuant to loan agreements between the foreign lenders and the National Gallery of Art, Washington, D.C. I also determine that the temporary exhibition or display of the listed exhibit objects at the National Gallery of Art, Washington, D.C., beginning on or about October 16, 1983, to on or about December 31, 1983; the University Art Museum, University of California, Berkeley, California, beginning on or about February 1, 1983, to on or about April 8, 1984; and the Solomon R. Guggenheim Museum, New York, New York, beginning on or about May 18, 1984, to on or about July 15, 1984, is in the national interest.

Public Notice of this determination is ordered to be published in the **Federal Register.**

Dated: August 31, 1983.

Joseph A. Blundon,

Acting General Counsel, United States Information Agency.

[FR Doc. 83-24235 Filed 9-2-83; 8:45 am]

BILLING CODE 8230-01-M

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation of Authority of December 17, 1982 (47 FR 57600, December 27, 1982), I hereby determine that the objects in the exhibit, "Gainsborough Drawings" (included in the list [1] filed as a part of this determination) imported from abroad for the temporary exhibition without profit within the United States are of cultural significance. These objects are imported pursuant to loan agreements between the International Exhibitions Foundation of Washington, D.C. and the foreign lenders. I also determine that the temporary exhibition or display of the listed exhibit objects at the National Gallery of Art, Washington, D.C., beginning on or about October 2, 1983, to on or about December 4, 1983; the Kimbell Art Museum, beginning on or about December 17, 1983, to on or about February 19, 1984; and the Yale Center for British Art, beginning on or about March 7, 1984, to on or about April 29, 1984, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register.**

Dated: August 31, 1983.

Joseph A. Blundon,

Acting General Counsel, United States Information Agency.

[FR Doc. 83-24236 Filed 9-2-83; 8:45 am]

BILLING CODE 8230-01-M

[1] An itemized list of objects included in the exhibit is filed as part of the original document.

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation of Authority of December 17, 1982 (47 FR 57600, December 27, 1982), I hereby determine that the objects in the exhibits, "Fifty Years of Babar" (included in the list [1] filed as a part of this determination) imported from abroad for the temporary exhibition without profit from the United States are of cultural significance. These objects are imported pursuant to loan agreements between the foreign lenders and the International Exhibitions Foundation of Washington, D.C. I also determine that the temporary exhibition or display of th listred exhibit objects at the Minneapolis Institute of Arts, Minneapolis, Minnesota, beginning on or about November 12, 1983, to on or about January 8, 1984; Meridian House International, Washington, D.C., beginning on or about January 29, 1984, to on or about March 11, 1984; San Diego Museum of Art, San Diego, California, beginning on or about March 24, 1984, to on or about May 6, 1984; San Jose Museum of Art, San Jose, California, beginning on or about June 3, 1984, to on or about July 15, 1984; Mary and Leigh Block Gallery, Evanston, Illinois, beginning on or about August 5, 1984, to on or about September 16, 1984; Children's Museum, Boston, Massachusetts, beginning on or about October 7, 1984 to on or about November 18, 1984; The Baltimore Museum of Art, Baltimore, Maryland, beginning on or about December 11, 1984, to on or about January 27, 1985; The Toledo Museum of Art, Toledo, Ohio, beginning on or about March 1, 1985, to on or about April 15, 1985, is in the national interest.

Public notice of this determine is ordered to be published in the **Federal Register.**

Dated: August 31, 1983.

Joseph A. Blundon,

Acting General Counsel, United States Information Agency.

[FR Doc. 83-24237 Filed 9-2-83; 8:45 am]

BILLING CODE 8230-01-M

[1] An itemized list of objects included in the exhibit is filed as part of the original document

Culturally Significant Objects Imported for Exhibition; Determination

Noticed is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Exectutive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation of Authority of December 17, 1982 (47 FR 57600, December 27, 1982), I hereby determine that the objects in the exhibit, "Henry Moore: A New Dimension" (included in the list [1] filed as a part of this determination) imported from abroad for the temporary exhibition without profit within the United States are of cultural significance. These objects are imported pursuant to loan agreements between the International Exhibitions Foundation of Washington, D.C. and the foreign lenders. I also determine that the temporary exhibition or display of the listed exhibit objects in the United States is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register.**

Dated: August 31, 1983.

Joseph A. Blundon,

Acting General Counsel, United States Information Agency.

[FR Doc. 83-24238 Filed 9-2-83; 8:45 am]

BILLING CODE 8230-01-M

[1] An itemized list of objects included in the exhibit is filed as part of the original document

Sunshine Act Meetings

Federal Register
Vol. 48, No. 173
Tuesday, September 6, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

CONTENTS

Items

Consumer Product Safety Commission 1
Inter-American Foundation 2
Nuclear Regulatory Commission 3

1

CONSUMER PRODUCT SAFETY COMMISSION

Commission Meeting

TIME AND DATE: 10 a.m., Wednesday, September 7, 1983.

LOCATION: Third Floor Hearing Room, 1111 18th Street, NW., Washington, D.C.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. *Smoke Detectors Project*
   The Commission will consider issues related to the Smoke Detectors Project for fiscal year 1983.
2. *Children's Chemical Hazards: DEHP (CHAP)*
   The staff will brief the Commission on the Risk Assessment on Di (2-Ethylhexyl) Phthalate (DEHP) in Children's Products and on the staff's recommendation that a Chronic Hazard Advisory Panel (CHAP) on DEHP be convened.

For a recorded message containing the latest agenda information call 301–492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md., 301–492–6800.

[S–1246–83 Filed 9–1–83; 3:13 pm]

BILLING CODE 6355–01–M

2

INTER-AMERICAN FOUNDATION

TIME AND DATE:

6–9 p.m., September 11, 1983, and 9 a.m.–12 p.m., September 12, 1983.

PLACE: Fifth Floor, 1515 Wilson Boulevard, Rosslyn, Virginia 22209.

STATUS: Open.

MATTERS TO BE CONSIDERED: *September 11, 1983:*

1. Chairman's Report.
2. President's Report.

September 12, 1983:

3. Minutes of the April 18–19, 1983 Meeting.
4. Report of the Audit Committee.
5. Budget for FY 1983.
6. The Foundation in Nicaragua.

CONTACT PERSON FOR MORE INFORMATION: Steve Abrams (703) 841–3812.

[S–1247–83 Filed 9–1–83; 10:40 am]

BILLING CODE 7025–01–M

3

NUCLEAR REGULATORY COMMISSION

DATE: Week of September 5, 1983.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE DISCUSSED: *Wednesday, September 7:*

10:00 a.m.:
Discussion of Regulatory Reform Task Force—Administrative Proposals—Revisions to Part 2 (Public Meeting)

Thursday, September 8:

3:30 p.m.:
Affirmation/Discussion and Vote (Public Meeting)
a. Final Rule on Temporary Operating Licensing Authority
b. Review of ALAB–734
c. Motion for Reconsideration of Indian Point Decision (*postponed* from September 1)
d. Draft Order ALAB–698 (*postponed* from September 1)
e. Final Rule—NRC Rulemaking to Amend 10 CFR 2.200 and 2.201 (*postponed* from September 1)

Friday, September 9:

10:00 a.m.:
Briefing by Executive Branch (Closed—Exemption 1)
2:00 p.m.:
Discussion of Management-Organization and Internal Personnel Matters (Closed—Exemption 2 and 6)

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

Dated: August 31, 1983.

Walter Magee,

Office of the Secretary.

[S–1249–83 Filed 9–1–83; 3:21 pm]

BILLING CODE 7590–01–M

federal register

Tuesday
September 6, 1983

Part II

Department of Energy

Federal Energy Regulatory Commission

Determinations by Jurisdictional Agencies Under the National Gas Policy Act of 1978

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Volume 961]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: August 30, 1983.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register**.

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Rd., Springfield, Va 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
- 102–2: New well (2.5 Mile rule)
- 102–3: New well (1000 Ft rule)
- 102–4: New onshore reservoir
- 102–5: New reservoir on old OCS lease

Section 107–DP:15,000 feet or deeper
- 107–GB: Geopressured brine
- 107–CS: Coal Seams
- 107–DS: Devonian Shale
- 107–PE: Production enhancement
- 107–TF: New tight formation
- 107–RT: Recompletion tight formation

Section 108: Stripper well
- 108–SA: Seasonally affected
- 108–ER: Enhanced recovery
- 108–PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS
ISSUED AUGUST 30, 1983

VOLUME 961

ISSUED AUGUST 30, 1983

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
KANSAS CORPORATION COMMISSION									
-ANADARKO PRODUCTION COMPANY			RECEIVED:	08/15/83		JA: KS			
8349893	K-79-0350	1517500000		108-ER		BOLES #1-15	HUGOTON	0.0	CIMARRON-QUINQUE
8349892	K-80-0457	1517500000		108-ER		BURR #1-27	HUGOTON	0.0	CIMARRON-QUINQUE
8349887	K-82-0628	1512920322		108-ER		LOW H-1	SANTA FE TRAIL	0.0	CIMARRON-QUINQUE
8349890	K-81-1008	1518920378		108-ER		MILLER M-1	GENTZLER	0.0	CIMARRON-QUINQUE
8349888	K-79-0333	1517500000		108-ER		PRINTZ A-1	HUGOTON	0.0	CIMARRON-QUINQUE
8349889	K-79-0336	1517500000		108-ER		PRINTZ B-1	HUGOTON	0.0	CIMARRON-QUINQUE
8349894	K-82-0392	1518920202		108-ER		SAVAGE A-1		0.0	PANHANDLE EASTERN
8349891	K-80-0460	1517500000		108-ER		WALDEN #1-15	HUGOTON	0.0	CIMARRON-QUINQUE
-BENSON MINERAL GROUP			RECEIVED:	08/15/83		JA: KS			
8349910	K 82-0471	1514500000		108-ER		L J UNRUH #1		0.0	
-CITIES SERVICE COMPANY			RECEIVED:	08/15/83		JA: KS			
8349914	K 82-1140	1509300000		108-ER		PARKER A #1		0.0	COLORADO INTERSTA
-F G HOLL			RECEIVED:	08/15/83		JA: KS			
8349896	K-81-0706	1504720161		108-PB		NEWSOM #1		0.0	KN ENERGY INC
-GETTY OIL COMPANY			RECEIVED:	08/15/83		JA: KS			
8349900	K-81-0472	1511910193		108-PB		E F HARRIS #1		0.0	PANHANDLE EASTERN
8349899	K-82-0718	1500730056		108-PB		SUTTON A #1	MCKINNEY	0.0	NORTHWEST CENTRAL
8349898	K-82-0718	1500730056		108-PB		SUTTON A #1	AETNA	0.0	NORTHWEST CENTRAL
-GRAHAM-MICHAELIS CORP			RECEIVED:	08/15/83		JA: KS			
8349909	K 81-0187	1511900000		108-ER		ADAMS D #2		0.0	COLORADO INTERSTA
-GULF OIL CORPORATION			RECEIVED:	08/15/83		JA: KS			
8349905	K-80-0191	1500701806		108-PB		INSLEE #1	N E RHODES	0.0	NORTHWEST CENTRAL
8349903	K-80-0342	1500701002		108-PB		INSLEE A #1	RHODES	0.0	NORTHWEST CENTRAL
8349901	K-80-0342	1500701002		108-PB		INSLEE A #1	N E RHODES	0.0	NORTHWEST CENTRAL
8349906	K-82-0981	1501920924		108-PB		KYGAR #2		0.0	NORTHWEST CENTRAL
8349907	K-82-0945	1517520377		108-SA		RICE DAVIES #2-1	ARKALON	0.0	ANADARKO PRODUCTI
8349904	K-80-0334	1500797003		108-PB		VERNON G COLEMAN #1	N E RHODES	0.0	NORTHWEST CENTRAL
8349902	K-80-0334	1500797003		108-PB		VERNON G COLEMAN #1	N E RHODES	0.0	NORTHWEST CENTRAL
-J M HUBER CORPORATION			RECEIVED:	08/15/83		JA: KS			
8349908	K 79-0879	1511900000		108-ER		MERKLE #1		0.0	NORTHERN NATURAL
-OLYMPIC PETROLEUM COMPANY			RECEIVED:	08/15/83		JA: KS			
8349897	K-82-0579	1503520852		108-ER		ROLAND L LEWIS #1-A		0.0	NORTHWEST CENTRAL
-SIERRA PETROLEUM CO INC			RECEIVED:	08/15/83		JA: KS			
8349911	K-81-0892	1517500000		108-ER		ORMISTON #1		0.0	PANHANDLE EASTERN
-SOUTHLAND ROYALTY CO			RECEIVED:	08/15/83		JA: KS			
8349886	K-82-0844	1511920378		108-PB		ADAMS 86-11 (TORONTO)	CIMMARON BEND	0.0	COLORADO INTERSTA
8349885	K-82-0844	1511920378		108-PB		ADAMS 86-11 (TORONTO)	CIMMARON BEND	0.0	COLORADO INTERSTA
-SUN EXPLORATION & PRODUCTION CO			RECEIVED:	08/15/83		JA: KS			
8349895	K-81-1241	1509500000		108-ER		W YOUNG #1	SPIVEY GRABS	0.0	KANSAS POWER & LI
-TEXACO INC			RECEIVED:	08/15/83		JA: KS			
8349913	K 83-0172	1505500000		108-PB		BERTHA PREISSER #1		0.0	NORTHERN NATURAL
-WALTER KUHN DRILLING COMPANY			RECEIVED:	08/15/83		JA: KS			
8349912	K-81-0341	1518700000		108-ER		PLUMMER #1		0.0	NORTHWEST CENTRAL
LOUISIANA OFFICE OF CONSERVATION									
-ADA OIL EXPLORATION CORP			RECEIVED:	08/15/83		JA: LA			

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8349916	83-198	1705721881		102-4		J B LEVERT LAND CO #2-D	NORTH THIBODAUX	600.0	TEXAS EASTERN TRA
-QUINTANA PETROLEUM CORP				RECEIVED:	08/15/83	JA: LA			
8349917	83-196	1705721523		102-4		DUSENBURY #2	BAYOU PER BLANC	100.0	
8349915	83-197	1705721823		102-4		DUSENBURY #3	BAYOU PER BLANC	2000.0	
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WEST VIRGINIA DEPARTMENT OF MINES									
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-ALLEGHENY LAND & MINERAL COMPANY				RECEIVED:	08/17/83	JA: WV			
8349937		4708505553		103		A-1164	UNION DISTRICT	0.0	COLUMBIA GAS TRAN
8349939		4709100240		103		A-1166	BOOTHS CREEK DISTRICT	0.0	CONSOLIDATED GAS
8349938		4708300687		103		A-1194	MIDDLE FORK DISTRICT	0.0	COLUMBIA GAS TRAN
8349936		4709702427		103		A-1198	WASHINGTON DISTRICT	0.0	COLUMBIA GAS TRAN
8349940		4704103163		103		A-957	FREEMANS CREEK DISTRI	0.0	CONSOLIDATED GAS
-BURDETTE OIL & GAS CO INC				RECEIVED:	08/17/83	JA: WV			
8349950		4703903817		103		JOHN FLEMING #1	POCATALICO	0.0	
8349949		4703903824		103		ORVILLE CARNEY #1	POCATALICO	0.0	
-CABOT OIL & GAS CORP				RECEIVED:	08/17/83	JA: WV			
8349932		4708501352		103		ALLAN-PRYOR A-2	SCOTT	7.0	TENNESSEE GAS PIP
8349931		4708100429		103		POCAHONTAS LAND CORP A-18	SLAB FORK	2.4	TENNESSEE GAS PIP
-CHESTERFIELD ENERGY CORP				RECEIVED:	08/17/83	JA: WV			
8349928		4708300669		103		ANDREWS WELL #1 - 47-083-0669	UNION	0.0	PARTNERSHIP PROPE
8349929		4700101759		103		CAMPBELL WELL #1 - 47-001-1759	UNION	0.0	PARTNERSHIP PROPE
8349924		4709702425		103		CHANNEL #1 47-097-2425	UNION	0.0	PARTNERSHIP PROPE
8349926		4709702408		103		HARRIS WELL #1 - 47-097-2408	UNION	0.0	PARTNERSHIP PROPE
8349925		4709702419		103		HARRIS WELL #2 47-097-2419	UNION	0.0	PARTNERSHIP PROPE
8349930		4700101758		103		KITTLE WELL #3 - 47-001-1758	UNION	0.0	PARTNERSHIP PROPE
8349927		4709702307		103		YOUNG WELL #1 - 47-097-2307	UNION	0.0	PARTNERSHIP PROPE
-EASTERN AMERICAN ENERGY CORPORATION				RECEIVED:	08/17/83	JA: WV			
8349942		4702103854		103		S A MAYS #9	GLENVILLE	78.0	
-HARBRO EXPLORATION CO LTD				RECEIVED:	08/17/83	JA: WV			
8349941		4702103914		103		DAVIDSON #3	GLENVILLE NORTH	58.0	
-INDUSTRIAL GAS ASSOCIATES				RECEIVED:	08/17/83	JA: WV			
8349955		4701302619		108		BASNETT #1 CAL-2619	LEE DISTRICT	0.0	CONSOLIDATED GAS
-L & M PETROLEUM INC				RECEIVED:	08/17/83	JA: WV			
8349945		4709520876		103		JACOB DILLON/COTRILL #1	CENTERVILLE	10.0	COLUMBIA GAS TRAN
8349944		4709520898		103		RALPH WESTFALL #2	CENTERVILLE	10.0	COLUMBIA GAS TRAN
8349943		4709520899		103		RALPH WESTFALL #3	CENTERVILLE	10.0	COLUMBIA GAS TRAN
-PETROLEUM DEVELOPMENT CORP				RECEIVED:	08/17/83	JA: WV			
8349951		4708505143		103		ALBERT KEHRER #2	WHITE OAK CREEK	81.0	CONSOLIDATED GAS
8349953		4703302434		103		NATHAN GOFF #27	LAMBERT RUN	170.0	CONSOLIDATED GAS
8349952		4703302435		103		NATHAN GOFF #28	LAMBERT RUN	175.0	CONSOLIDATED GAS
-STERLING DRILLING AND PROD CO INC				RECEIVED:	08/17/83	JA: WV			
8349946		4701502051		103		BRAGG #657	OTTER DISTRICT	21.7	BROOKLYN UNION GA
8349947		4701502048		103		SPINKS #652	OTTER DISTRICT	7.2	BROOKLYN UNION GA
8349948		4701502014		103		SPINKS 539	OTTER DISTRICT	10.1	
-STONESTREET LANDS CO				RECEIVED:	08/17/83	JA: WV			
8349935		4701334260		103		COEN #1-S-309	ELMIRA	8.0	COLUMBIA GAS TRAN
8349933		4701502154		103		COEN #2-S-310	ELMIRA	11.0	COLUMBIA GAS TRAN
8349934		4701502054		103		R L MAY #1-S-297	ELMIRA	16.0	COLUMBIA GAS TRAN
-STONEWALL GAS CO				RECEIVED:	08/17/83	JA: WV			
8349954		4703302956		103		WILLIAM BOOTH #1	UNION DISTRICT	1.1	CONSOLIDATED GAS
-UNITED PETRO LTD				RECEIVED:	08/17/83	JA: WV			
8349920		4701303419		103		A E HAVERTY #1	ORMA-MINNORA GAS FIEL	18.0	CONSOLIDATED GAS
8349921		4701303418		103		JENNINGS P ELLISON #1	MINNORA GAS FIELD	7.0	CONSOLIDATED GAS
8349923		4701303392		103		MAUDE BAILEY #3	MINNORA GAS FIELD	18.0	CONSOLIDATED GAS
8349922		4701303395		103		MAUDE BAILEY #5	MINNORA GAS FIELD	16.0	CONSOLIDATED GAS
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** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, ALBUQUERQUE,NM									
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-EL PASO NATURAL GAS COMPANY				RECEIVED:	08/15/83	JA: NM 4			
8349798	NM0537-83-PB	3004506608		108-PB		BOLACK B #4	BLANCO	0.0	EL PASO NATURAL G
8349825	NM0558-83-PB	3004520446		108-PB		BOLACK B #7	SOUTH BLANCO	0.0	EL PASO NATURAL G
8349800	NM0535-83-PB	3003920271		108-PB		CANYON LARGO UNIT #151	OTERO	0.0	EL PASO NATURAL G
8349859	NM0613-83-PB	3003920407		108-PB		CANYON LARGO UNIT #165	OTERO	0.0	EL PASO NATURAL G
8349861	NM0610-83-PB	3003920758		108-PB		CANYON LARGO UNIT #208	BALLARD	0.0	EL PASO NATURAL G
8349828	NM0596-83-PB	3003920952		108-PB		CANYON LARGO UNIT #268	BALLARD	0.0	EL PASO NATURAL G
8349803	NM0544-83-PB	3003905867		108-PB		CANYON LARGO UNIT #56	BALLARD	0.0	EL PASO NATURAL G
8349869	NM0634-83-PB	3003906187		108-PB		CANYON LARGO UNIT #65	BLANCO SOUTH	0.0	EL PASO NATURAL G
8349848	NM0606-83-PB	3003905441		108-PB		CANYON LARGO UNIT #89 GL & NP BK	DEVILS FORK & BASIN	0.0	EL PASO NATURAL G
8349813	NM0550-83-PB	3004520311		108-PB		CASE #10	AZTEC	0.0	EL PASO NATURAL G
8349796	NM0534-83-PB	3004512192		108-PB		DAY A #8	BLANCO	0.0	EL PASO NATURAL G
8349830	NM0592-83-PB	3004521111		108-PB		DRYDEN #7	SOUTH BLANCO	0.0	EL PASO NATURAL G
8349871	NM0629-83-PB	3004520670		108-PB		FEVILLE A #4	AZTEC	0.0	EL PASO NATURAL G
8349785	NM0391-83-PB	3004523689		108-PB		FIELDS #13	BLANCO	0.0	EL PASO NATURAL G
8349819	NM0572-83-PB	3004506791		108-PB		FILAN #2	SOUTH BLANCO	0.0	EL PASO NATURAL G
8349807	NM0555-83-PB	3004520462		108-PB		FLORANCE #8	BLANCO	0.0	EL PASO NATURAL G
8349808	NM0556-83-PB	3004520453		108-PB		FLORANCE C #13	SOUTH BLANCO	0.0	EL PASO NATURAL G
8349823	NM0561-83-PB	3004506543		108-PB		FLORANCE D #1	SOUTH BLANCO	0.0	EL PASO NATURAL G
8349815	NM0577-83-PB	3004520460		108-PB		GRAMBLING #6	BLANCO	0.0	EL PASO NATURAL G
8349817	NM0569-83-PB	3004520819		108-PB		GRAMBLING A #4	SOUTH BLANCO	0.0	EL PASO NATURAL G
8349812	NM0549-83-PB	3004513257		108-PB		HANCOCK B #3	AZTEC	0.0	EL PASO NATURAL G
8349854	NM0618-83-PB	3004521085		108-PB		HARDIE #8	BLANCO	0.0	EL PASO NATURAL G
8349804	NM0546-83-PB	3004520923		108-PB		HARDIE E #6	SOUTH BLANCO	0.0	EL PASO NATURAL G
8349836	NM0587-83-PB	3004510087		108-PB		HEATON COM A #13	AZTEC	0.0	EL PASO NATURAL G
8349826	NM0594-83-PB	3004506950		108-PB		HOWELL #3	BLANCO	0.0	EL PASO NATURAL G
8349810	NM0553-83-PB	3004520334		108-PB		HOWELL #6	SOUTH BLANCO	0.0	EL PASO NATURAL G
8349822	NM0560-83-PB	3004521522		108-PB		HOWELL F #2 CH & PC	LARGO & SOUTH BLANCO	0.0	EL PASO NATURAL G
8349802	NM0548-83-PB	3004506069		108-PB		HUERFANITO UNIT #12	BALLARD	0.0	EL PASO NATURAL G
8349850	NM0603-83-PB	3004511948		108-PB		HUERFANO UNIT #165	BASIN	0.0	EL PASO NATURAL G
8349839	NM0585-83-PB	3004520531		108-PB		HUERFANO UNIT #186	BASIN	0.0	EL PASO NATURAL G
8349824	NM0562-83-PB	3004520419		108-PB		HUERFANO UNIT #198	BASIN	0.0	EL PASO NATURAL G
8349805	NM0541-83-PB	3004520608		108-PB		HUERFANO UNIT #201	BASIN	0.0	EL PASO NATURAL G
8349872	NM0630-83-PB	3004520632		108-PB		HUERFANO UNIT #204	BASIN	0.0	EL PASO NATURAL G
8349841	NM0581-83-PB	3004520390		108-PB		HUERFANO UNIT #54	BASIN	0.0	EL PASO NATURAL G
8349811	NM0554-83-PB	3003921218		108-PB		JICARILLA C #12	SOUTH BLANCO	0.0	EL PASO NATURAL G
8349851	NM0597-83-PB	3003921164		108-PB		JICARILLA D #9	SOUTH BLANCO	0.0	EL PASO NATURAL G
8349809	NM0557-83-PB	3003906379		108-PB		JICARILLA F #1	SOUTH BLANCO	0.0	EL PASO NATURAL G
8349874	NM0627-83-PB	3003906501		108-PB		JICARILLA F #14	SOUTH BLANCO	0.0	EL PASO NATURAL G
8349877	NM0625-83-PB	3003906409		108-PB		JICARILLA F #8	SOUTH BLANCO	0.0	EL PASO NATURAL G
8349868	NM0633-83-PB	3003906397		108-PB		JICARILLA G #7	SOUTH BLANCO	0.0	EL PASO NATURAL G
8349873	NM0626-83-PB	3003906476		108-PB		JICARILLA J #12	SOUTH BLANCO	0.0	EL PASO NATURAL G
8349799	NM0538-83-PB	3003906416		108-PB		JICARILLA J #4	SOUTH BLANCO	0.0	EL PASO NATURAL G
8349789	NM0259-83-PB	3003922128		108-PB		JICARILLA 67 #19	SOUTH BLANCO	0.0	EL PASO NATURAL G
8349787	NM0496-83-PB	3003922120		108-PB		JICARILLA 67 #19	SOUTH BLANCO	0.0	EL PASO NATURAL G

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8349829	NM0591-83-PB	3004589752		108-PB		KELLY B #1	BLANCO	0.0	EL PASO NATURAL G
8349857	NM0616-83-PB	3004520861		108-PB		LACKEY A #6	AZTEC	0.0	EL PASO NATURAL G
8349840	NM0580-83-PB	3003920964		108-PB		LINDRITH UNIT #83	SOUTH BLANCO	0.0	EL PASO NATURAL G
8349816	NM0578-83-PB	3004507056		108-PB		MICHENER A #1	SOUTH BLANCO	0.0	EL PASO NATURAL G
8349865	NM-0637-83PB	3004507017		108-PB		MICHENER B #1	SOUTH BLANCO	0.0	EL PASO NATURAL G
8349855	NM0619-83-PB	3004521083		108-PB		MUDGE #37	BLANCO	0.0	EL PASO NATURAL G
8349856	NM0615-83-PB	3004521024		108-PB		MUDGE #39 PC	BLANCO	0.0	EL PASO NATURAL G
8349838	NM0584-83-PB	3004520463		108-PB		PIERCE #5	BLANCO	0.0	EL PASO NATURAL G
8349879	NM0622-83-PB	3004520848		108-PB		RIDDLE B #7	BLANCO	0.0	EL PASO NATURAL G
8349832	NM0588-83-PB	3003907946		108-PB		RINCON UNIT #105	BLANCO SOUTH	0.0	EL PASO NATURAL G
8349852	NM0598-83-PB	3003920699		108-PB		RINCON UNIT #142	SOUTH BLANCO	0.0	EL PASO NATURAL G
8349820	NM0586-83-PB	3003920497		108-PB		RINCON UNIT #192	BASIN	0.0	EL PASO NATURAL G
8349876	NM0624-83-PB	3003920713		108-PB		RINCON UNIT #195	SOUTH BLANCO	0.0	EL PASO NATURAL G
8349833	NM0589-83-PB	3003906728		108-PB		RINCON UNIT #2	SOUTH BLANCO	0.0	EL PASO NATURAL G
8349795	NM0526-83-PB	3003921392		108-PB		RINCON UNIT #220	LARGO	0.0	EL PASO NATURAL G
8349847	NM0605-83-PB	3003922223		108-PB		RINCON UNIT #232	OTERO	0.0	EL PASO NATURAL G
8349864	NM0636-83-PB	3003907061		108-PB		RINCON UNIT #87	SOUTH BLANCO	0.0	EL PASO NATURAL G
8349837	NM0583-83-PB	3003906822		108-PB		RINCON UNIT #9	SOUTH BLANCO	0.0	EL PASO NATURAL G
8349842	NM0582-83-PB	3004520281		108-PB		ROELOFS #4	BLANCO	0.0	EL PASO NATURAL G
8349867	NM0632-83-PB	3004508000		108-PB		SAN JUAN #21	AZTEC	0.0	EL PASO NATURAL G
8349849	NM0602-83-PB	3003920646		108-PB		SAN JUAN 27-5 UNIT #160	SOUTH BLANCO	0.0	EL PASO NATURAL G
8349797	NM0542-83-PB	3003907369		108-PB		SAN JUAN 28-5 UNIT #55	BLANCO	0.0	EL PASO NATURAL G
8349818	NM0579-83-PB	3003907465		108-PB		SAN JUAN 28-5 UNIT #7	BLANCO	0.0	EL PASO NATURAL G
8349858	NM0612-83-PB	3003920577		108-PB		SAN JUAN 28-6 UNIT #135	BASIN	0.0	EL PASO NATURAL G
8349827	NM0595-83-PB	3003920608		108-PB		SAN JUAN 28-6 UNIT #172	SOUTH BLANCO	0.0	EL PASO NATURAL G
8349845	NM0609-83-PB	3003920897		108-PB		SAN JUAN 28-6 UNIT #194	SOUTH BLANCO	0.0	EL PASO NATURAL G
8349831	NM0593-83-PB	3003907125		108-PB		SAN JUAN 28-6 UNIT #24	BLANCO	0.0	EL PASO NATURAL G
8349794	NM0536-83-PB	3003907067		108-PB		SAN JUAN 28-7 UNIT #116	SOUTH BLANCO	0.0	EL PASO NATURAL G
8349878	NM0621-83-PB	3003920406		108-PB		SAN JUAN 28-7 UNIT #160	LARGO	0.0	EL PASO NATURAL G
8349806	NM0559-83-PB	3003920961		108-PB		SAN JUAN 28-7 UNIT #201 CH&PC	LARGO & SOUTH BLANCO	0.0	EL PASO NATURAL G
8349853	NM0620-83-PB	3003921184		108-PB		SAN JUAN 28-7 UNIT #205	LARGO	0.0	EL PASO NATURAL G
8349821	NM0567-83-PB	3003920875		108-PB		SAN JUAN 28-7 UNIT #216	BASIN	0.0	EL PASO NATURAL G
8349862	NM0611-83-PB	3003921084		108-PB		SAN JUAN 28-7 UNIT #243	BASIN	0.0	EL PASO NATURAL G
8349860	NM0614-83-PB	3003921083		108-PB		SAN JUAN 28-7 UNIT #244	BASIN	0.0	EL PASO NATURAL G
8349801	NM0547-83-PB	3003907132		108-PB		SAN JUAN 28-7 UNIT #81 PC & MV	SOUTH BLANCO & BLANCO	0.0	EL PASO NATURAL G
8349834	NM0590-83-PB	3003906982		108-PB		SAN JUAN 28-7 UNIT #92	BLANCO SOUTH	0.0	EL PASO NATURAL G
8349835	NM0586-83-PB	3003960071		108-PB		SAN JUAN 28-7 UNIT WP #68	BLANCO	0.0	EL PASO NATURAL G
8349844	NM0608-83-PB	3003908118		108-PB		SAN JUAN 29-7 UNIT #100	BASIN	0.0	EL PASO NATURAL G
8349792	NM0276-82-PB	3004522916		108-PB		SAN JUAN 32-9 UNIT #28A	BLANCO	0.0	EL PASO NATURAL G
8349790	NM0160-83-PB	3004522916		108-PB		SAN JUAN 32-9 UNIT #28A	BLANCO	0.0	EL PASO NATURAL G
8349788	NM0269-83-PB	3004522916		108-PB		SAN JUAN 32-9 UNIT #28A	BLANCO	0.0	EL PASO NATURAL G
8349786	NM0483-83-PB	3004522916		108-PB		SAN JUAN 32-9 UNIT #28A	BLANCO	0.0	EL PASO NATURAL G
8349793	NM0956-83-PB	3004522916		108-PB		SAN JUAN 32-9 UNIT #28A	BLANCO	0.0	EL PASO NATURAL G
8349791	NM0188-83-PB	3004506756		108-PB		SCHWERDTFEGER A #12	BLANCO	0.0	EL PASO NATURAL G
8349846	NM0604-83-PB	3004511785		108-PB		SCHWERDTFEGER A #23	BLANCO	0.0	EL PASO NATURAL G
8349814	NM0576-83-PB	3004507183		108-PB		STOREY #1	SOUTH BLANCO	0.0	EL PASO NATURAL G
8349866	NM0638-83-PB	3004513231		108-PB		STOREY B #3	BLANCO	0.0	EL PASO NATURAL G
8349870	NM0628-83-PB	3004509720		108-PB		STOREY B #6	BLANCO	0.0	EL PASO NATURAL G
8349863	NM0635-83-PB	3004507018		108-PB		STOREY C #5	AZTEC	0.0	EL PASO NATURAL G
8349843	NM0607-83-PB	3004520853		108-PB		SUNRAY E #4	SOUTH BLANCO	0.0	EL PASO NATURAL G
8349875	NM0623-83-PB	3004521135		108-PB		SUNRAY H #3	BLANCO	0.0	EL PASO NATURAL G
-GETTY OIL COMPANY				RECEIVED:	08/15/83	JA: NM 4			
8349882	NM 0551-83PB	3003905897		108-PB		JICARILLA C #3	SOUTH BLANCO CLIFFS	0.0	EL PASO NATURAL G
8349880	NM0552-83-PB	3003905845		108-PB		JICARILLA C #8	SOUTH BLANCO PICTURED	0.0	EL PASO NATURAL G
-JEROME P MCHUGH				RECEIVED:	08/15/83	JA: NM 4			
8349884	NM 0129-83PB	3003920266		108-PB		APACHE #5	BASIN DAKOTA	0.0	NORTHWEST PIPELIN
8349883	NM 0128-83PB	3003920131		108-PB		JICARILLA #7	BASIN DAKOTA	0.0	NORTHWEST PIPELIN
-UNION TEXAS PETROLEUM				RECEIVED:	08/15/83	JA: NM 4			
8349881	NM 0389-83PB	3004511557		108-PB		NEWSOM B #10	BASIN DAKOTA	0.0	EL PASO NATURAL G

**** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, TULSA,OK ****

-BAROCH-POSTER CORP				RECEIVED:	08/16/83	JA: OK 6			
8369919	OK-A-0533-83	3511921709		102-4		HAWK HEIRS #1	SW SCHLEGEL	3.0	NORTHWEST CENTRAL
-JUMAS OIL PART CORP				RECEIVED:	08/16/83	JA: OK 6			
8369918	OK-A-0479-83	3510720340		108		PHAROAH #1	LYONS - QUINN	11.4	PHILLIPS PETROLEU

[FR Doc. 83-24220 Filed 9-2-83; 8:45 am]

BILLING CODE 6717-01-C

[Volume 960]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: August 30, 1983.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487-4808, 5285 Port Royal Rd, Springfield, Va 22161.

Categories within each NCPA section are indicated by the following codes:

Section 102-1: New OCS lease
102-2: New well (2.5 Mile rule)
102-3: New well (1000 Ft rule)
102-4: New onshore reservoir
102-5: New reservoir on old OCS lease

Section 107-DP: 15,000 feet or deeper
107-GB: Geopressured brine
107-CS: Coal Seams
107-DS: Devonian Shale
107-PE: Production enhancement
107-TF: New tight formation
107-RT: Recompletion tight formation

Section 108: Stripper well
108-SA: Seasonally affected
108-ER: Enhanced recovery
108-PB: Pressure buidlup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS VOLUME 960
ISSUED AUGUST 30, 1983

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
OKLAHOMA CORPORATION COMMISSION									
-AMERADA HESS CORPORATION				RECEIVED:	08/12/83	JA: OK			
8349703	23242	3510700724		108		LEM CASE #2	E DUTCHER	10.7	KERR MCGEE CORP
-AMERICAN BISON PETROLEUM CORP				RECEIVED:	08/12/83	JA: OK			
8349758	23206	3510700000		103		ANNIE LOWE #2	NE SW OF 28-10N-10E	65.0	TRANSOK PIPELINE
-AMERICAN ENERGY CORP				RECEIVED:	08/12/83	JA: OK		164.3	ARKANSAS LOUISIAN
8349729	21509	3512321437		102-2	103	K T S U #2-27			
-AMERICAN NAT GAS PROD CO				RECEIVED:	08/12/83	JA: OK			
8349651	19729	3500920487		102-2		THORNBROUGH 1-4	SWEETWATER	745.0	NATURAL GAS PIPE
-AMOCO PRODUCTION CO				RECEIVED:	08/12/83	JA: OK			
8349768	21755	3503920536		102-2		BARTEL UNIT #1	WILDCAT - (ATOKA)	365.0	SOUTHERN NATURAL
8349766	21753	3501521335		102-2		HAAS UNIT #1	WILDCAT (RED FORK)	639.0	SOUTHERN NATURAL
8349767	21754	3501521352		102-2		HAAS UNIT "A" #1	WILDCAT - (RED FORK)	730.0	SOUTHERN NATURAL
8349590	23132	3507322602		108		WROBBEL NO 31-1	S E ALPHA	15.2	WARREN PETROLEUM
-AMV OPERATING INC				RECEIVED:	08/12/83	JA: OK			
8349520	20337	3503700000		102-2	103	ALDRIDGE #1		559.2	PHILLIPS PETROLEU
-AN-SON CORPORATION				RECEIVED:	08/12/83	JA: OK			
8349567	24962	3514920320		107-DP		HINZ #1-22	S CLINTON	358.8	OKLAHOMA REFINING
8349710	7316	3507321525		108		NADINE A #1	SOONER TREND	6.5	TRANSOK PIPE LINE
8349653	21585	3503920827		102-2		STELLA #1-17	EAST CLINTON	543.0	PRODUCERS GAS CO
-ANADARKO PRODUCTION COMPANY				RECEIVED:	08/12/83	JA: OK			
8349737	23136	3500721910		108		FRANZ B #1	FLORIS	8.0	PANHANDLE EASTERN
8349736	23126	3513900000		108		HAAR C #2	POSTLE HOUGH	11.0	PANHANDLE EASTERN
8349559	23257	3500321038		103		NEFF A 2-24	LAMBERT SE	106.0	PIONEER GAS PRODU
8349607	23258	3500321026		103		NEWLIN A 2-12	LAMBERT SE	56.0	PIONEER GAS PRODU
-APACHE CORPORATION				RECEIVED:	08/12/83	JA: OK			
8349544	23521	3501720877		103		BESSIE KOHNER #1-32		0.0	PHILLIPS PETROLEU
8349502	23516	3501720769		103		GRELLNER #1		0.0	PHILLIPS PETROLEU
8349543	23518	3501720837		103		KOHNER #1-29		0.0	PHILLIPS PETROLEU
8349523	23517	3501720899		103		KOHNER #1-5		0.0	PHILLIPS PETROLEU
8349503	23515	3501720941		103		PHELPS #1-5		0.0	PHILLIPS PETROLEU
8349769	21772	3512920866		102-4		SPROWLS #2-34		310.0	EL PASO NATURAL G
-ARCO OIL AND GAS COMPANY				RECEIVED:	08/12/83	JA: OK			
8349717	23367	3500722451		103		NORTHWEST CAMRICK UNIT #15-4	CAMRICK	7.3	NATURAL GAS PIPEL
8349716	23368	3500722452		103		NORTHWEST CAMRICK UNIT #19-7	CAMRICK	7.3	NATURAL GAS PIPEL
-ARKOMA PRODUCTION CO				RECEIVED:	08/12/83	JA: OK			
8349522	24389	3512120155		107-TF		HARTSHORNE #1-6	WILBURTON	500.0	OKLAHOMA GAS & EL
-ARMSTRONG & MCLEOD CO				RECEIVED:	08/12/83	JA: OK			
8349551	22633	3511100000		108-SA		WATSON #1		3.6	PHILLIPS PETROLEU
-ARROW OIL & GAS INC				RECEIVED:	08/12/83	JA: OK			
8349754	23141	3508720841		103		WELLS #1	EAST PAYNE	200.0	WARREN PETROLEUM
-B R POLK INC				RECEIVED:	08/12/83	JA: OK			
8349662	24947	3504900000		107-TF		HAMILTON #1	GOLDEN TREND	10.0	PUBLIC SERVICE CO
-BARBOUR ENERGY CORP				RECEIVED:	08/12/83	JA: OK			
8349542	14963	3508121201		102-4		CONNELLY #1-22		0.0	EL PASO NATURAL G
8349773	23372	3502720452		103		GOLDMAN #1-1		0.0	SUN EXPLORATION &
8349698	14962	3508121055		102-4		JAMES #1		0.0	EL PASO NATURAL G

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8349697	14961	3508100000		102-4		LOWERY #1-35	UNKNOWN	0.0	EL PASO NATURAL G
8349632	14960	3508121192		102-4		PAYNE UNIT #1-27		0.0	EL PASO NATURAL G
8349759	14965	3508121237		102-4		WHITTAKER #1-22		0.0	EL PASO NATURAL G
-BARRETT OIL CO				RECEIVED:	08/12/83	JA: OK			
8349536	22872	3512321351		103		BARRETT-A #3	BYNG	0.0	ARKANSAS LOUISIAN
8349540	22879	3512322269		103		BETTY #1	BYNG	0.0	ARKANSAS LOUISIAN
-BARUCH-FOSTER CORP				RECEIVED:	08/12/83	JA: OK			
8349747	22282	3511721657		102-4		ELLIS #1	EAST MARAMEC	30.0	MID AMERICA GAS L
8349742	21438	3511721651		102-4		STATE OF OKLAHOMA M-1	EAST MARAMEC	30.0	MID AMERICA GAS L
-BEREN CORPORATION				RECEIVED:	08/12/83	JA: OK			
8349692	23524	3505921027		108		DELANE #1-29	NORTHWEST LOVEDALE	15.5	MICHIGAN WISCONSI
-BLAIK OIL COMPANY				RECEIVED:	08/12/83	JA: OK			
8349781	23483	3500300000		108		ASKEW #1	SOONER TREND	6.0	AMINOIL USA INC
8349778	23480	3500320197		108		FORD #1	SOONER TREND	12.0	UNION TEXAS PETRO
8349776	23478	3500320086		108		O'BANNON #1	SOONER TREND	2.0	AMINOIL USA INC
8349784	23471	3500320191		108		ORVILLE "A" #1	SOONER TREND	12.0	UNION TEXAS PETRO
8349777	23479	3509320208		108		OXLEY #1	SOONER TREND	3.0	PHILLIPS PETROLEU
8349780	23482	3500300000		108		UNRUH #1	SOONER TREND	2.0	UNION TEXAS PETRO
8349779	23481	3500320256		108		VANCE #1	SOONER TREND	2.0	MUSTANG FUEL CORP
-BOGERT OIL CO				RECEIVED:	08/12/83	JA: OK			
8349549	21915	3509322590		103		ETHELMAE #1-8	SOONER TREND	660.0	PHILLIPS PETROLEU
8349493	23184	3501121762		103		WHITE #1-5	SOONER TREND	160.0	PHILLIPS PETROLEU
-BOGIE CHARLES P				RECEIVED:	08/12/83	JA: OK			
8349674	23176	3511124206		103		BOUDINOT #1	HAMILTON SWITCH	21.9	PHILLIPS PET CO
8349721	23343	3511124285		103		BOUDINOT #2	HAMILTON SWITCH	11.0	PHILLIPS PETROLEU
-BRACKEN EXPLORATION CO				RECEIVED:	08/12/83	JA: OK			
8349606	23249	3501121778		103		ACRE #3-20		65.0	PHILLIPS PETROLEU
8349558	23251	3501121770		103		ACRE #4-20		110.0	PHILLIPS PETROLEU
-BROADWAY ENERGY CO INC				RECEIVED:	08/12/83	JA: OK			
8349645	23542	3503723928		103		ELIAS #3		80.0	GOLDEN ARROW GAS
8349638	23543	3503723929		103		ELIAS #4		65.0	GOLDEN ARROW GAS
8349635	23544	3503700000		103		ELIAS #5		100.0	GOLDEN ARROW GAS
8349636	23545	3503724245		103		ELIAS #8	ELIAS #8	0.0	GOLDEN ARROW GAS
-BURKHART PETROLEUM CORP				RECEIVED:	08/12/83	JA: OK			
8349572	23209	3508722425		103		BEDELL #1-15	S SLAPOUT	360.0	TRANSWESTERN PIPE
8349575	23181	3513921668		103		IRVIN #1-29	EAST RICE	43.0	PHILLIPS PETROLEU
-C W SMITH & ASSOCIATES INC				RECEIVED:	08/12/83	JA: OK			
8349661	23150	3508121940		103		HOPKINS/OLIVER #2	S E DAVENPORT	7.0	MERIDIAN ENERGY I
-CANADIAN EXPLORATION CORP				RECEIVED:	08/12/83	JA: OK			
8349491	23061	3501722381		103		CUNNINGHAM #19-1	RICHLAND	80.0	PHILLIPS PETROLEU
8349490	23060	3501722454		103		PAZOURECK #29-1	RICHLAND	120.0	PHILLIPS PETROLEU
-CHAMPLIN EXPLORATION INC				RECEIVED:	08/12/83	JA: OK			
8349581	21301	3504321583		102-4		MOORE #1-24	SOUTH TALOGA	200.0	MUSTANG FUEL CORP
-CHER OIL CO				RECEIVED:	08/12/83	JA: OK			
8349705	23301	3503723613		103		GREENWOOD #2	MANNFORD	547.5	COLORADO GAS COMP
8349704	23300	3503724454		103		MARTIN #1	MANNFORD	547.5	COLORADO GAS COMP
-CICADA PETROLEUM CORP				RECEIVED:	08/12/83	JA: OK			
8349512	16169	3510700000		102-4		IDA FAYE #1	EAST CROMWELL	21.9	WELLHEAD COMPRESS
-CITATION ENERGY CORP				RECEIVED:	08/12/83	JA: OK			
8349622	23103	3504722971		103		CHERMACK #2	SOONER TREND	274.0	UNION TEXAS PETRO
-CITIES SERVICE COMPANY				RECEIVED:	08/12/83	JA: OK			
8349701	21601	3513921458		102-3		CITIES SERVICE FEE A #1	SW UNITY	165.0	NORTHERN NATURAL
8349765	21741	3509120505		102-2		MCKEE B-1	SW TEXANNA	51.5	
-CLARK RESOURCES INC				RECEIVED:	08/12/83	JA: OK			
8349656	21498	3505320922		102-4	103	HAMILTON 6-2		98.0	NORTHWEST CENTRAL
-COBRA OIL AND GAS CORPORATION				RECEIVED:	08/12/83	JA: OK			
8349725	17334	3515321308		102-2	103	FERGUSON 8-B		100.0	NORTHERN NATURAL
-CONTINENTAL RESOURCES CORP				RECEIVED:	08/12/83	JA: OK			
8349764	21736	3503920725		102-2		FEDERAL #28-1		0.0	PRODUCERS GAS CO
8349654	23077	3504321648		103		REYNOLDS #12-1		0.0	HYDROCARBON SERVI
-CORE OIL & GAS CORP				RECEIVED:	08/12/83	JA: OK			
8349639	21429	3513321274		102-4		JUDY #1		0.0	SOUTHWEST PETROGA
8349642	21428	3513321423		102-4		JUDY #2		0.0	SOUTHWEST PETROGA
-CORE PETROLEUM LTD				RECEIVED:	08/12/83	JA: OK			
8349617	21430	3501521362		102-2		VAIL #1		0.0	
-COTTON PETROLEUM CORPORATION				RECEIVED:	08/12/83	JA: OK			
8349554	23332	3513921681		108		KILGORE #1-5	WEST DOMBY	0.0	KN ENERGY INC.
8349586	21022	3501121697		103		MOUDRY #1	W MATONGA	0.0	
-D & G EXPLORATION CO				RECEIVED:	08/12/83	JA: OK			
8349629	21615	3514322316		102-2		FISHER-JUSTUS #2		0.0	DIAMOND 'S' GAS S
8349604	21613	3514322352		102-2		JOHNSON #7		0.0	DIAMOND 'S' GAS S
8349605	21614	3514322354		102-2		JOHNSON #8		0.0	DIAMOND 'S' GAS S
-D & G OIL & GAS CO INC				RECEIVED:	08/12/83	JA: OK			
8349663	23213	3504723265		103		CASSIDY #1 (OTC #047-79256)	ELKHORN	36.0	EASON OIL CO
-DAHL ENERGY INC				RECEIVED:	08/12/83	JA: OK			
8349678	21355	3502720722		103		TAMARA LE #1-1		0.0	
-DAN DARLING OIL				RECEIVED:	08/12/83	JA: OK			
8349681	23279	3505321060		103		MUEGGE #33-82-2		20.4	FARMLAND INDUSTRI
-DARNELL JIM				RECEIVED:	08/12/83	JA: OK			
8349741	23210	3511121504		103		LAWSON #1	MORRIS	20.0	PHILLIPS PETROLEU
-DAVIS OIL COMPANY				RECEIVED:	08/12/83	JA: OK			
8349682	23296	3501722457		103		ELSIE BROOKS #2	FT RENO	0.0	PHILLIPS PETROLEU
8349568	24954	3501521337		107-DP		STEPHENS #1	FUTURA	452.0	
-DIAMOND SHAMROCK CORPORATION				RECEIVED:	08/12/83	JA: OK			
8349732	21538	3512920849		102-2		GWARTNEY #1-30	STRONG CITY	2044.0	
-DILLEY W P				RECEIVED:	08/12/83	JA: OK			
8349700	20503	3511921622		103		DILLEY #1	YALE-QUAY	18.0	PHILLIPS PETRO CO
8349699	20502	3511921632		103		DILLEY #2	YALE-QUAY	36.0	PHILLIPS PETRO CO
-DLB ENERGY CORP				RECEIVED:	08/12/83	JA: OK			
8349684	21638	3507323707		102-4		OAKES 13-4	SOONER TREND	365.0	PHILLIPS PETROLEU
-EAGLE MINERALS INC.				RECEIVED:	08/12/83	JA: OK			
8349526	20218	3503723564		102-2		ANDERSON #1		0.0	PARKS ENERGY INVE
-EARLSBORO OIL AND GAS CO INC				RECEIVED:	08/12/83	JA: OK			
8349753	23107	3515121369		103		ELLEN #1-36	OAKDALE	0.0	
8349587	23106	3509322638		103		INMAN #1-8	NORTH CHEYENNE VALLEY	0.0	
8349646	23375	3509322673		103		NELLIE #1-9	CHEYENNE VALLEY	0.0	
-ECC OIL CO				RECEIVED:	08/12/83	JA: OK			
8349527	23405	3510523921		108		KEITH #1 CW/2 SW NW S26-T28N-R15E	LENAPAH	12.0	OKAN GAS CO
8349529	23402	3510523919		108		TONGIER #1 C N/2 N/2 S23-T28N-R15E	LENAPAH	7.0	OKAN GAS CO
8349528	23403	3510523920		108		TONGIER #2	LENAPAH	8.0	OKAN GAS CO
-EL PASO NATURAL GAS COMPANY				RECEIVED:	08/12/83	JA: OK			
8349667	21536	3500935432		108		SUTTON #1	ERICK SOUTH (BROWN DO	39.2	EL PASO NATURAL G
-EXXON CORPORATION				RECEIVED:	08/12/83	JA: OK			
8349695	21845	3500700000		108		BOTKIN UNIT #1	MOCANE-LAVERNE	8.0	PANHANDLE EASTERN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8349690	23307	3513722860		103		S S SPEARS #4U	SHO-VEL-TUM (CANEY)	110.0	
-FIELDS PETROLEUM				RECEIVED:	08/12/83	JA: OK			
8349548	20446	3511123694		103		FAULKNER #4		36.5	PHILLIPS PETROLEU
-FRONTIER ENERGY CO				RECEIVED:	08/12/83	JA: OK			
8349620	23082	3508173326		103		PALMER #1	CARNEY	12.0	SUN EXPLORATION &
-GARY MATTHEWS OIL & GAS				RECEIVED:	08/12/83	JA: OK			
8349687	23331	3512322278		103		VAUGHN 1-A	NORTH ADA	1054.0	ARKANSAS LOUISIAN
-GEORGE RODMAN INC				RECEIVED:	08/12/83	JA: OK			
8349624	23254	3504922032		103		SIMPSON #1-29	GOLDEN TREND	0.0	WARREN PETROLEUM
-GETTY OIL COMPANY				RECEIVED:	08/12/83	JA: OK			
8349643	23276	3513700000		108		CROSBIE-MUDGE #1	SHO-VEL-TUM	15.0	OKLAHOMA NATURAL
8349680	23240	3501320089		103		FREDERICK #13-1	NORTH DURANT	100.0	
8349641	23267	3513700000		108		J J MCCLANAHAN #29	SHO-VEL-TUM	11.0	OKLAHOMA NATURAL
8349560	23995	3513900000		108-ER		PATRICK "A" #2	SOUTH GUYMON	18.0	NORTHWEST CENTRAL
8349679	23183	3513723330		103		SELBY #61 (SYCAMORE)	SHO-VEL-TUM	219.0	OKLAHOMA NATURAL
8349644	23268	3513700000		108		WIMANS "B" #1	SHO-VEL-TUM	11.0	OKLAHOMA NATURAL
-GORDON OIL CO				RECEIVED:	08/12/83	JA: OK			
8349745	21462	3510720967		102-4		GORDON #24-1	GREGORY	77.0	TRANSOK PIPELINE
8349746	21464	3510721151		102-4		GORDON #24-3	GREGORY	30.0	TRANSOK PIPELINE
8349743	21459	3510721152		102-4		GORDON #24-4	GREGORY	45.0	TRANSOK PIPELINE
-GRAHAM EXPLORATION LTD DRILLING PAR				RECEIVED:	08/12/83	JA: OK			
8349538	20373	3520295000		108		CURTIS-STARK #1		14.9	PANHANDLE EASTERN
-GRIFFIN HARRY				RECEIVED:	08/12/83	JA: OK			
8349748	22336	3511124038		103		ROOSEVELT 1-1		0.0	
-GRIFFIN OIL & GAS INC				RECEIVED:	08/12/83	JA: OK			
8349749	22337	3511124110		103		ROOSEVELT 3-1	NE1/4 OF SE1/4 OF NE1	0.0	
-GULF OIL CORPORATION				RECEIVED:	08/12/83	JA: OK			
8349519	20585	3503724220		102-2		CLARA MAY GREENWOOD #2-28	MANNFORD	35.0	
8349496	23238	3501121793		103		RICHARDSON #3-6	HITCHCOCK (MISSISSIPP	86.0	OKLAHOMA GAS PIPE
-HAMM PRODUCTION CO				RECEIVED:	08/12/83	JA: OK			
8349619	22056	3508320973		108		RAY #1	S COVINGTON	7.6	EASON OIL CO
-HARPER OIL COMPANY				RECEIVED:	08/12/83	JA: OK			
8349755	23148	3509321343		103		DAISY #1	RINGWOOD	2.0	PHILLIPS PETROLEU
8349494	23105	3508322213		103		DAVIS #1		146.0	BUCKEYE NATURAL G
8349555	23429	3507300000		108		MINNIE VADDER #1	S E LACEY	26.0	PHILLIPS PETROLEU
-HAWKINS ALLEN G				RECEIVED:	08/12/83	JA: OK			
8349508	21168	3500900000		102-4		BOWMAN-RAMSEY #1-A	MORAVIA	31.0	ARKANSAS LOUISIAN
-HAWKINS OIL & GAS INC				RECEIVED:	08/12/83	JA: OK			
8349649	21313	3501521021		102-4		PRATT #1-16	W ARNETT	720.0	PRODUCERS GAS CO
-HENSON & HENSOM OIL INC				RECEIVED:	08/12/83	JA: OK			
8349691	23305	3511124098		103		STORY #2	STORY	18.3	PHILLIPS PETROLEU
8349683	23304	3511124044		103		TIMBER #1	TIMBER	45.6	PHILLIPS PETROLEU
-HOLD OIL CORP				RECEIVED:	08/12/83	JA: OK			
8349618	23308	3506321671		103		HOLD OIL CORP BOYCE #4	SHADY GROVE	50.0	HILL TOP INVESTME
-HOLDEN ENERGY CORP				RECEIVED:	08/12/83	JA: OK			
8349658	21308	3508520626		102-4		HOBART #3-1	SE JOINER CITY	0.0	AMINOIL USA INC
-INCA OIL CO				RECEIVED:	08/12/83	JA: OK			
8349712	21590	3510300000		102-2		WHITE #1		0.0	ARCO OIL & GAS CO
8349711	21589	3510300000		102-2		ZEMP #1		0.0	ARCO OIL & GAS CO
8349696	21591	3510300000		102-2		ZEMP #2		0.0	ARCO OIL & GAS CO
-INEXCO OIL COMPANY				RECEIVED:	08/12/83	JA: OK			
8349659	21370	3503920806		102-2		HOLDER #1-10	M E HAMMON	127.0	TRANSWESTERN PIPE
-INTERNORTH INC				RECEIVED:	08/12/83	JA: OK			
8349618	21577	3503920764		102-2		LEE "A" 18 #1	HAMMON NE	0.0	NORTHERN NATURAL
8349660	23149	3512920706		103		WALTON 25 #1	SW LEEDEY	0.0	NORTHERN NATURAL
-IREX CORP				RECEIVED:	08/12/83	JA: OK			
8349762	21657	3505921122		102-4		MILES #1	S BUFFALO SECTION 25-	0.0	
-J M MCNEAL OIL OPERATIONS INC				RECEIVED:	08/12/83	JA: OK			
8349757	23198	3510321863		103		KENNETH EDGAR #1	GANSEL	0.0	ATLANTIC RICHFIEL
-J L THOMAS ENGINEERING INC				RECEIVED:	08/12/83	JA: OK			
8349752	23073	3502520547		103		RAYMOND SMALTS #1	NORTHEAST GRIGGS	450.0	PHILLIPS PETROLEU
-JEFFERSON-WILLIAMS ENERGY CORP				RECEIVED:	08/12/83	JA: OK			
8349515	23353	3503724897		103		JOHN BISHOP #1	SOUTHEAST POORFARM	54.0	GAS TRANSMITTING
-JICO EXPLORATION INC				RECEIVED:	08/12/83	JA: OK			
8349504	23504	3507323777		103		JICO-HAWORTH #1	SOONER TREND	0.0	PHILLIPS PETROLEU
-JOE D DAVIS				RECEIVED:	08/12/83	JA: OK			
8349751	22996	3512121024		103		HETTIE OTT #1		0.0	ARKANSAS LOUISIAN
8349750	22995	3512121010		103		PRUITT #1-32		0.0	ARKANSAS LOUISIAN
-JOHN A TAYLOR				RECEIVED:	08/12/83	JA: OK			
8349637	21562	3508720758		102-4		THOMPSON #1		0.0	WARREN PETROLEUM
-KAISER-FRANCIS OIL COMPANY				RECEIVED:	08/12/83	JA: OK			
8349664	23222	3504700000		108		COLLIER #1-24	E SPRING VALLEY	13.0	GRACE PETROLEUM C
8349571	23219	3504700000		108		RAGOSS #1	E SPRING VALLEY	19.0	GRACE PETROLEUM C
8349570	23221	3504700000		108		RAGOSS #2	S E SPRING VALLEY	19.0	GRACE PETROLEUM C
-KENNETH L TIPPS				RECEIVED:	08/12/83	JA: OK			
8349621	23083	3510321897		103		KUKUK #3-24	GANSEL	0.0	ARCO OIL & GAS CO
-KEY DRILLING CO				RECEIVED:	08/12/83	JA: OK			
8349516	23291	3511122483		108		LEWIS #4	HECTORVILLE	1.0	PHILLIPS PETROLEU
-KWB OIL PROPERTY MANAGEMENT INC				RECEIVED:	08/12/83	JA: OK			
8349593	23155	3510920309		103		OUR LADY #1-A	BRITTON	10.0	CHAMPLIN PETROLEU
8349577	23157	3510920309		103		OUR LADY #1-A	BRITTON	164.0	CHAMPLIN PETROLEU
-L E JONES PRODUCTION COMPANY				RECEIVED:	08/12/83	JA: OK			
8349521	20866	3501922551		102-3		VOR-MAC LANGILL #1	NORTH DILLARD	73.0	MOBIL OIL CORP
-L R FRENCH JR				RECEIVED:	08/12/83	JA: OK			
8349546	23581	3509322648		103		PARK 1-27	CHEYENNE VALLEY	245.0	DELHI GAS PIPELIN
-L W CARY				RECEIVED:	08/12/83	JA: OK			
8349626	23352	3501722429		103		CARY #3-4	OKLAHOMA CITY	110.0	MOBIL OIL CORP
-LACKEY RAYMOND R				RECEIVED:	08/12/83	JA: OK			
8349550	22014	3504900000		108		SCOTT MOORE #1	GOLDEN TREND	6.6	WARREN PETROLEUM
-LEAR PETROLEUM EXPLORATION INC				RECEIVED:	08/12/83	JA: OK			
8349731	21523	3501521201		102-2		HORN #2-18	WILDCAT	2.8	EL PASO NATURAL G
-LOCATORS OIL & GAS INC				RECEIVED:	08/12/83	JA: OK			
8349511	21367	3508321672		102-4		MOAD #1		0.0	BUCKEYE NATURAL G
-LOU DENNIS OIL CO				RECEIVED:	08/12/83	JA: OK			
8349535	22873	3512322249		103		BARRETT-C #1	BYNG	0.0	ARKANSAS LOUISIAN
8349534	22874	3512322250		103		BARRETT-C #2	BYNG	0.0	ARKANSAS LOUISIAN
8349533	22875	3512322251		103		BARRETT-C #3	BYNG	0.0	ARKANSAS LOUISIAN
8349532	22876	3512300000		103		BARRETT-DENNIS #1	BYNG	0.0	ARKANSAS LOUISIAN
8349531	22877	3512300000		103		BARRETT-DENNIS #2	BYNG	0.0	ARKANSAS LOUISIAN
8349541	22878	3512300000		103		BARRETT-DENNIS #3	BYNG	0.0	ARKANSAS LOUISIAN
-M & A PETROLEUM INC				RECEIVED:	08/12/83	JA: OK			
8349597	21553	3508300000		102-2		EBERLE #2		8.0	BUCKEYE NATURAL G
-MAGIC CIRCLE ENERGY CORP				RECEIVED:	08/12/83	JA: OK			
8349669	22824	3515121350		103		HULL-FEDERAL #1	WILDCAT	133.0	MAGIC CIRCLE GAS

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-MAJESTIC ENERGY CORP				RECEIVED:	08/12/83	JA: OK			
8349583	12227	3511122490		103		WOSLUM #1	BRYANT	146.0	PHILLIPS PETROLEU
8349584	12229	3511122542		103		WOSLUM #2	BRYANT	98.0	PHILLIPS PETROLEU
-MAPCO PRODUCTION COMPANY				RECEIVED:	08/12/83	JA: OK			
8349602	23180	3513921726		103		CARRIE KNOP #3	HUGOTON	42.5	NORTHERN NATURAL
8349601	22953	3513921726		103		J F CHRISPENS EST #2	HUGOTON FIELD	42.5	NORTHERN NATURAL
-MERIDIAN EXPLORATION INC				RECEIVED:	08/12/83	JA: OK			
8349499	23248	3505121048		103		MAHER #2	HARNESS	54.0	TRANSOK PIPE LINE
-MEWBOURNE OIL COMPANY				RECEIVED:	08/12/83	JA: OK			
8349720	23345	3504521108		103		HENDERSON "23" #1	S HIGGINS (MORROW LOW	0.0	
8349552	23095	3504520899		108		REDELSPERGER #2 OTC #045-65668	STUART RANCH (MORROW	28.0	MICHIGAN WISCONSI
-MGM PRODUCTION CO				RECEIVED:	08/12/83	JA: OK			
8349581	24940	3510700000		103		REPLOGLE #1 18-13N-8E		3.0	KERR - MCGEE CORP
8349582	24941	3510700000		103		REPLOGLE #5		2.0	KERR-MCGEE CORP
-MOBIL OIL CORP				RECEIVED:	08/12/83	JA: OK			
8349708	23344	3513700000		108		COUNTYLINE UNIT #6-1 MYRTLE GREEN#1	SHO VEL TUM	0.7	OKLAHOMA NATURAL
8349714	23383	3501900000		108		GR DEESE #14-5 WALKER-VORHEES #5	SHO VEL TUM	0.1	LONE STAR GAS CO
8349556	23387	3501900000		108		GR DEESE #42-2 L S DOLMAN #2	SHO VEL TUM	0.1	LONE STAR GAS CO
8349505	23389	3501900000		108		SM ALECHEM FLATTOP #19-9 DIXON 9B	SHO VEL TUM	0.0	OKLAHOMA NATURAL
8349557	23388	3501900000		108		S SHOLEM ALECHEM #2-2 CF ADAMS 2	SHO VEL TUM	0.0	LONE STAR GAS CO
8349713	23384	3513700000		108		WILDHORSE #19-12A KREBS A #12	SHO VEL TUM	0.0	OKLAHOMA NATURAL
8349693	23386	3513700000		108		WILDHORSE #40-10 J D INSCORE #10	SHO VEL TUM	0.0	OKLAHOMA NATURAL
-MORAN EXPLORATION INC				RECEIVED:	08/12/83	JA: OK			
8349498	23245	3503720675		103		SMITH #1	WEST NORMAN FIELD	0.0	SUN EXPLORATION &
-MORGAN & STEINERT INC				RECEIVED:	08/12/83	JA: OK			
8349591	23146	3504722619		108		VOSKUHL #1	SOONER TREND	90.0	EXXON CO USA
-NATOMAS NORTH AMERICA INC				RECEIVED:	08/12/83	JA: OK			
8349650	23154	3505121384		103		HANDKE #2-29	COGAR SOUTH	1630.0	OKLAHOMA NATURAL
-O I L ENERGY INC				RECEIVED:	08/12/83	JA: OK			
8349763	21711	3501722344		102-2		PATTERSON 2-29	UNION CITY	1.0	
-OAK HILL PETROLEUM CORP				RECEIVED:	08/12/83	JA: OK			
8349676	23379	3511922156		103		STATE 1-86	NORFOLK	20.0	ENTERPRISE DEVELO
-OIL LIFT INC				RECEIVED:	08/12/83	JA: OK			
8349707	23342	3510526098		108		BANTA #3 (API #105 26098)	SOUTH COFFEYVILLE	7.3	PELICAN PIPELINE
8349706	23341	3510525717		108		SMITH #1-27 (API #10525717)	SOUTH COFFEYVILLE	0.5	PELICAN PIPELINE
-OKLAHOMA SILURIAN PARTNERS				RECEIVED:	08/12/83	JA: OK			
8349719	23354	3508100000		103		GOODBARY #1	W MT VERNON	10.0	SUN EXPLORATION &
-P F BEELER				RECEIVED:	08/12/83	JA: OK			
8349609	23280	3500721134		108		P F BEELER PAT #2	MOCANE-LAVERNE	9.0	PANHANDLE EASTERN
-PELTO OIL CO				RECEIVED:	08/12/83	JA: OK			
8349537	21656	3510721341		102-2 103		SUTHERLAND #1	IRON POST FIELD	182.0	KERR MCGEE CORP
-PETRO-LEWIS CORPORATION				RECEIVED:	08/12/83	JA: OK			
8349497	23243	3500700000		103		BECHTOLD #1-27	BEAVER SOUTH	0.0	PHILLIPS PETROLEU
8349613	13805	3507321288		108-ER		RIVERSIDE #8-1	SOONER TREND	26.0	PARTNERSHIP PROPE
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	08/12/83	JA: OK			
8349625	23333	3513900000		108		CHI #1	OKLAHOMA HUGOTON - DO	0.0	PANHANDLE EASTERN
8349665	23247	3501521523		103		E BINGER UNIT #36-2	EAST BINGER	0.0	OKLAHOMA NATURAL
8349686	23590	3513900000		108		GAYLE #2	GUYMON HUGOTON	0.0	MICHIGAN WISCONSI
8349673	23118	3504721541		108		MCKNIGHT A #1-07	SOONER TREND	7.5	TRANSOK PIPELINE
8349783	23463	3501500000		108		MEDRANO UNIT #70	WEST CEMENT	8.6	
8349688	23319	3509321646		108		REHL A #1		4.0	PANHANDLE EASTERN
8349614	20530	3507323674		103		ROTT B #1		0.0	
8349588	23120	3504721571		103		SLOUP B #2	SOONER TREND	14.2	TRANSOK PIPELINE
8349715	23376	3501700000		108		TABOREK A #1		15.6	OKLAHOMA GAS & EL
-PIONEER PRODUCTION CORPORATION				RECEIVED:	08/12/83	JA: OK			
8349666	21432	3502500000		102-4		SMALTS #1-22	M E GRIGGS	0.0	TRANSWESTERN PIPE
-PSEC INC				RECEIVED:	08/12/83	JA: OK			
8349760	21564	3508121751		102-4		BOREN #1-34		0.0	EL PASO NATURAL G
8349772	22277	3508121789		102-4		HARPER-STINE #1-28		0.0	EL PASO NATURAL G
8349778	22275	3508121390		102-4		MATTHEWS #1A-4		0.0	EL PASO NATURAL G
8349771	22276	3508121815		102-4		WHITNAM #1-34		0.0	EL PASO NATURAL G
-QUINTIN LITTLE CO				RECEIVED:	08/12/83	JA: OK			
8349545	23522	3509520303		103		CARRIE LOU LITTLE 1-12	CUMBERLAND	25.0	LONE STAR GAS CO
-RAMBLER OIL CO				RECEIVED:	08/12/83	JA: OK			
8349685	20180	3504922000		102-4 103		HURST #1-21		0.0	WARREN PETROLEUM
-RED EAGLE OIL CO				RECEIVED:	08/12/83	JA: OK			
8349761	21637	3500320781		102-4		DIEL #2	EAST LODER	9.0	RAW ENERGY INC
8349612	23335	3509322627		103		PADEN #1	N W OKEENE	150.0	PIONEER GAS PRODU
8349723	23336	3509322612		103		ROY BROWN #1	N W OKEENE	175.0	PIONEER GAS PRODU
8349611	23334	3509322654		103		RUBEN #1	N W OKEENE	91.0	PIONEER GAS PRODU
8349722	23337	3501121794		103		STRADER #1	N W OKEENE	182.0	PIONEER GAS PRODU
-REX R MOORE JR				RECEIVED:	08/12/83	JA: OK			
8349623		3508322205		103		STAMPER #1	WELLSTON	0.0	SUN EXPLORATION &
8349495	23231	3508322203		103		STAMPER #2	WELLSTON	0.0	SUN EXPLORATION &
-RICK BUCK				RECEIVED:	08/12/83	JA: OK			
8349628	22870	3501722361		103		RALPH #1	SOONER TREND	0.0	PHILLIPS PETROLEU
8349627	22869	3501722354		103		TREY #1	SOONER TREND	0.0	PHILLIPS PETROLEU
-RICKS EXPLORATION CO				RECEIVED:	08/12/83	JA: OK			
8349598	21556	3505121186		102-2		WELLS RANCH #12-A	SOUTH ALEX	134.0	MOBIL OIL CORP
-ROBERT GORDON OIL CO				RECEIVED:	08/12/83	JA: OK			
8349726	21463	3510721316		103		GORDON #21-6	GREGORY	20.0	TRANSOK PIPELINE
8349744	21460	3510721148		102-4		GRODON #24-2	GREGORY	35.0	TRANSOK PIPELINE
8349756	21461	3510721328		102-4		PUCKETT #25-1	GREGORY	50.0	TRANSOK PIPELINE
-ROBERT P LAMMERTS				RECEIVED:	08/12/83	JA: OK			
8349689	23318	3507300000		108		HOLSTINE #1	SOONER TREND	0.0	PHILLIPS PETROLEU
-ROWE R W				RECEIVED:	08/12/83	JA: OK			
8349599	21783	3511123471		108		JOE LEWIS #17	POLLYANNA	0.0	PHILLIPS PETROLEU
-ROY LAWRENCE DRILLING CO INC				RECEIVED:	08/12/83	JA: OK			
8349492	23066	3511700000		103		RYAN-OSBORN #1	MARAMEC POOL	55.0	PHILLIPS PETROLEU
-ROYAL OIL & GAS CORPORATION				RECEIVED:	08/12/83	JA: OK			
8349740	23197	3508121852		103		KEITH LONG "B" #1	SOUTH AVERY	22.0	C & C ENERGY CO
-ROYE REALTY & DEVELOPMENT INC				RECEIVED:	08/12/83	JA: OK			
8349724	21628	3506100000		102-2 103		OLIVER #1		91.3	ARKANSAS LOUISIAN
-SAMEDAN OIL CORPORATION				RECEIVED:	08/12/83	JA: OK			
8349652	21504	3508520554		I02-2		WESTHEIMER #1	NO NAME	37.0	AMINOIL USA INC
-SAMSON RESOURCES COMPANY				RECEIVED:	08/12/83	JA: OK			
8349734	22292	3504320033		108		CLARK UNIT #1	PUTNAM	12.7	PANHANDLE EASTERN
8349733	22293	3504320088		108		CLARK UNIT #2	PUTNAM	12.7	PANHANDLE EASTERN
8349727	21481	3515320178		108		GENEVA BAKER #1	NORTH WOODWARD	8.8	NORTHERN NATURAL
8349728	21489	3515320188		108		GENEVA BAKER #2	NORTH WOODWARD	8.8	NORTHERN NATURAL
-SAND ROCK PETROLEUM INC				RECEIVED:	08/12/83	JA: OK			
8349782	23528	3510721360		103		GRAHAM MILLS #1	BLAKELY	105.8	SWAB CORP
-SANTA FE-ANDOVER OIL CO				RECEIVED:	08/12/83	JA: OK			
8349648	23322	3501121801		103		GRABOW #19-2		100.0	OKLAHOMA GAS PIPE

JD NO	DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8349633	23546	3501121807		103		OTT #24-2		188.0	OKLAHOMA GAS PIPE
-SENECA OIL CO				RECEIVED:	08/12/83	JA: OK			
8349566	20085	3501722204		102-4		SIMPSON #5-4		73.0	PHILLIPS PETROLEU
-SIGMA OIL & GAS INC				RECEIVED:	08/12/83	JA: OK			
8349517	22832	3510321857		103		BOWERS #1	WEST PERRY	58.0	ARCO OIL & GAS CO
-SOUTHEAST EXPLORATION				RECEIVED:	08/12/83	JA: OK			
8349596	21558	3503900000		102-2		SHEMMAKER #1-27	EAST HAMMON	630.7	DELMI GAS PIPELIN
8349595	21549	3503900000		102-2		TIPPENS #1-22	EAST HAMMON	0.0	DELMI GAS PIPELIN
-SOUTHLAND ROYALTY CO				RECEIVED:	08/12/83	JA: OK			
8349647	23371	3509322016		108		KEETON #1-32	ORION	0.0	PHILLIPS PETROLEU
8349547	23370	3505921096		103		TWILA 643-589 (A/K/A #1-32)	DOBY BUFFALO	74.0	NORTHERN NATURAL
-SPELLER OIL CORP				RECEIVED:	08/12/83	JA: OK			
8349603	23196	3507323066		103		SPELLER-FRANK 12-1A	SOONER TREND	73.0	CONOCO INC
-STEVE CROWDER OIL CO				RECEIVED:	08/12/83	JA: OK			
8349739	23192	3503722912		103		CHAPMAN #1	CUSHING	4.5	ARCO OIL & GAS CO
8349738	23191	3503722537		103		CHAPMAN #2	CUSHING	22.6	ARCO OIL & GAS CO
-STEVE JERNIGAN INC				RECEIVED:	08/12/83	JA: OK			
8349616	21359	3501722374		102-2		WHITLEY #2		0.0	PHILLIPS PETROLEU
-STONE RIVER ENERGY CORP				RECEIVED:	08/12/83	JA: OK			
8349592	23147	3504722154		108		POSPISIL #1	SOONER TREND	18.0	UNION TEXAS PETRO
-SULLIVAN AND CO				RECEIVED:	08/12/83	JA: OK			
8349514	20548	3505121358		102-4		NATURAL RESOURCES #1	N E AMBER	49.0	
8349513	19711	3505121320		102-4		ROYAL RESOURCES #1	N E AMBER	839.0	MOBIL OIL CORP
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	08/12/83	JA: OK			
8349561	24781	3505121341		107-DP		C T WAGENSTEEN UNIT #2	LAVERTY	471.0	OKLAHOMA NATURAL
8349585	17668	3505300000		108-ER		S W WAKITA UNIT #4-8		0.0	NORTHWEST CENTRAL
-TENNECO OIL COMPANY				RECEIVED:	08/12/83	JA: OK			
8349580	23164	3502900000		108		C W JOHNSTON #1-6	CENTRAHOMA	15.0	ARKANSAS-LOUISIAN
8349518	19856	3512120863		102-4		CABLE #1-18	S BREWER	844.0	TENNESSEE GAS PIP
8349775	23462	3513900000		108		I E HART #2	GUYMON-HUGOTON GAS AR	15.0	NORTHERN NATURAL
8349774	23461	3513900000		108		J W WEBB #1	GUYMON-HUGOTON GAS AR	14.0	NORTHERN NATURAL
8349579	23163	3501520874		108		LEUS #1-34	WATONGA-CHICKASHA TRE	8.0	MOBIL OIL CORP
8349738	21522	3512920865		102-2	103	MERRICK #1-10	S E STRONG CITY	325.0	DELMI GAS PIPELIN
8349677	21362	3512920827		102-2	103	MERRICK 1-4	EAST CHEYENNE	660.0	DELMI GAS PIPELIN
8349608	23259	3511922187		103		MEYER #1-6	SOUTH ORLANDO	1.0	
8349670	23112	3501722421		103		MULVEY #1-12	EDMOND WEST	1.0	
8349507	23412	3502900000		108		POPE #1-35	CENTRAHOMA	10.0	ARKANSAS-LOUISIAN
8349562	23161	3510321877		103		SO E LONE ELM CLEVELAND SAND #2-7	SOUTH LONE ELM	1.0	AMINOIL U S A INC
8349675	23162	3501922669		103		S GRAHAM DEESE SAND UNIT #21A-1A	SHO-VEL-TUM	1.0	MOBIL OIL CORP
8349657	23113	3501922672		103		SOUTH GRAHAM DEESE SAND UNIT #70-4	SHO-VEL-TUM	1.0	MOBIL OIL CORP
8349671	23115	3510321898		103		SOUTH LONE ELM CLEVELAND SAND #105	SOUTH LONE ELM	1.0	AMINOIL USA INC
8349565	23167	3510321878		103		SOUTH LONE ELM CLEVELAND SAND #110	SOUTH LONE ELM	3.0	AMINOIL U S A INC
8349655	23117	3510321899		103		SOUTH LONE ELM CLEVELAND SAND #120	SOUTH LONE ELM	1.0	AMINOIL USA INC
8349563	23165	3510321873		103		SOUTH LONE ELM CLEVELAND SAND #88	SOUTH LONE ELM	1.0	AMINOIL U S A INC
8349564	23166	3510321812		103		SOUTH LONE ELM CLEVELAND SAND #91	SOUTH LONE ELM	1.0	AMINOIL U S A INC
8349672	23116	3510321902		103		SOUTH LONE ELM CLEVELAND SAND #98	SOUTH LONE ELM	1.0	AMINOIL USA INC
8349578	23159	3509320564		108		WARKENTINE #1-3	FAIRVIEW (OKEENE MU)	11.0	PHILLIPS PETROLEU
8349508	23411	3502900218		108		Z L POLER #1-36	CENTRAHOMA	20.0	ARKANSAS-LOUISIAN
-TEXACO INC				RECEIVED:	08/12/83	JA: OK			
8349574	23188	3505320995		103		R W VICKERY #3	RICH VALLEY	14.6	FARMLAND INDUSTRI
-THE ANSCHUTZ CORPORATION				RECEIVED:	08/12/83	JA: OK			
8349569	23252	3501922413		103		JEANETTE ELLIS #15-18	PIKE	12.0	AMINOIL USA INC
-THE GHK COMPANY				RECEIVED:	08/12/83	JA: OK			
8349631	25113	3514920299		107-DP		TOELLE #2-7		524.1	SOUTHERN NATURAL
-THE WIL-MC OIL CORP				RECEIVED:	08/12/83	JA: OK			
8349539	20251	3508322000		102-2		KNIGHTLINGER #1		324.0	SUN GAS CO
-TOM F MARSH				RECEIVED:	08/12/83	JA: OK			
8349735	22444	3502500000		108		MINNS A-2	KEYES FIELD	14.0	COLORADO INTERSTA
-TRIAX OIL & GAS INC				RECEIVED:	08/12/83	JA: OK			
8349702	22762	3503723818		103		POWERS #2	UNDESIGNATED (PRUE SA	365.0	COLORADO GAS COMP
-TRION OIL CO INC				RECEIVED:	08/12/83	JA: OK			
8349600	22834	3510100000		103		TRION #2-1 (BD)		0.0	
-TXO PRODUCTION CORP				RECEIVED:	08/12/83	JA: OK			
8349615	21352	3509322533		102-4		CORWIN "A" #1	CHEYENNE VALLEY	164.0	DELMI GAS PIPELIN
-UNION TEXAS PETROLEUM				RECEIVED:	08/12/83	JA: OK			
8349668	22120	3500300000		108		DEWITT WALTON #1	CARMEN	56.0	PANHANDLE EASTERN
-UNIVERSAL RESOURCES CORPORATION				RECEIVED:	08/12/83	JA: OK			
8349594	21539	3500920432		102-2		O L 1A-25		810.0	EL PASO NATURAL G
-VALLEY OIL CO				RECEIVED:	08/12/83	JA: OK			
8349530	23378	3503120877		103		QUEEN #1	E LAWTON	100.0	ARKANSAS-LOUISIAN
-VENTURE OIL CO				RECEIVED:	08/12/83	JA: OK			
8349524	20202	3503723806		102-2	103	IRON POST #2		90.0	TRANSOK PIPELINE
-VERN C SHIMP				RECEIVED:	08/12/83	JA: OK			
8349709	23362	3507122275		103		PRESBURY #1 071-71594	NORTH VERNON	9.0	DAMAR ENERGY INC
8349718	23361	3507122276		103		PRESBURY #2 071-71594	NORTH VERNON	9.0	DAMAR ENERGY INC
-VERNON E FAULCONER INC				RECEIVED:	08/12/83	JA: OK			
8349553	23329	3505300000		108		LOGUE WILSON UNIT 1 #053-07386	WAKITA TREND	6.0	NORTHWEST CENTRAL
-VIERSEN & COCHRAN				RECEIVED:	08/12/83	JA: OK			
8349640	21561	3504721588		102-4		KREIE #3	SOONER TREND	150.0	UNION TEXAS PETRO
8349573	23189	3504321619		103		STATE OF OKLAHOMA #1-36		110.0	PHILLIPS PETROLEU
-W R HENDRICKSON				RECEIVED:	08/12/83	JA: OK			
8349506	22990	3511100000		108		HENDRICKSON #1	BEGGS DISTRICT	14.6	PHILLIPS PETROLEU
-WARREN DRILLING CO INC				RECEIVED:	08/12/83	JA: OK			
8349694	23039	3509322609		103		KUSCH #1	DANE	175.0	PHILLIPS PETROLEU
8349589	23127	3509322663		103		SUSAN MCCUE #1	DANE	1.5	PHILLIPS PETROLEU
-WESTERN OIL RESOURCES LTD				RECEIVED:	08/12/83	JA: OK			
8349509	11535	3510700000		108		ALTA "C" #2	LYONS-QUINN	2.0	PHILLIPS PETROLEU
-WILLIAM M PRICE CO				RECEIVED:	08/12/83	JA: OK			
8349510	12228	3511122866		102-4		CHOWINS #1	BRYANT	200.0	PHILLIPS PETROLEU
-WOODS PETROLEUM CORPORATION				RECEIVED:	08/12/83	JA: OK			
8349576	23186	3504921890		103		ALEXANDER #32-1	SW ELMORE	171.0	
8349525	23511	3510321890		103		GUERNSEY #G-4	E BILLING	10.0	ARCO OIL & GAS CO
-21ST CENTURY INVESTMENT CO.				RECEIVED:	08/12/83	JA: OK			
8349634	23547	3511124146		103		PINE #7	NORTH COALTON FIELD	100.0	21ST CENTURY INVE
-21ST CENTURY RESOURCES FUND				RECEIVED:	08/12/83	JA: OK			
8349630	23548	3511123492		103		RAINEY #1	OKMULGEE DISTRICT	100.0	21ST CENTURY INVE

[FR Doc. 83-24221 Filed 9-2-83; 8:45 am]

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VOL
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Part III

Department of Agriculture

Animal and Plant Health Inspection Service

Specific Approval of Stockyards; List

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

Specific Approval of Stockyards; List

The regulations in 9 CFR Part 78, as amended, contain restrictions on the interstate movement of cattle, other domestic animals and bison to prevent the spread of brucellosis. This document lists certain stockyards as specifically approved for purposes of the regulations, on the basis of a determination of their eligibility for such approval under § 78.25(b) of the regulations. Therefore, notice is hereby given that the following stockyards are specifically approved under said regulations as indicated below:

The stockyards preceded by an asterisk are specifically approved for the purposes of §§ 78.7, 78.8, 78.9, 78.12a, 78.15, and 78.16, Title 9, Code of Federal Regulations, concerning brucellosis reactor and exposed cattle, cattle from herds not known to be affected with brucellosis, brucellosis reactor and exposed bison, and cattle from quarantined areas. The stockyards not preceded by an asterisk are specifically approved for the purposed of § 78.9, Title 9, Code of Federal Regulations, concerning cattle only from herds not known to be affected with brucellosis, because these stockyards entered into a Memorandum of Understanding with the States in which such stockyards are located and Veterinary Services containing standards which prohibit the stockyard from handling brucellosis reactor and exposed cattle, brucellosis reactor and exposed bison, and cattle from quarantined areas. The approved stockyards not preceded by an asterisk are prohibited from handling brucellosis reactor and exposed cattle, brucellosis reactor and exposed bison, and cattle from quarantined areas because of a restriction imposed by the States in which the stockyards are located or because the approved stockyards do not have adequate facilities to assure that the various classes of cattle and bison can be kept adequately segregated to prevent the spread of burcellosis.

Alabama

*Alabama Livestock Auction, Inc., Uniontown
*Agricultural Marketing Association of Alabama, Inc., Louisville
*Arab Stockyards, Arab
*Atmore Trucker's Association, Inc., Atmore
*Barret Livestock Market, Inc., Wetumpka
*W. M. Brown Cattle Company, Atmore
*Capital Stockyard, Montgomery
*Casey's Stckyard, Inc., Mongomery
*C.B.S. Cattle Company, Inc., Montgomery
*C. L. Chambers & Son, Brundidge
*Chatom Livestock Auction Co-operative, Chatom.
*Cherokee County Stockyard, Inc., Centre
*Cleburne County Livestock Sales, Inc., Ranburne
*Conecuh Stock, Evergreen
*Cullman Stockyard, Cullman
*Dadeville Stockyards, Inc., Dadeville
*Dothan Livestock Company (Divn. of Chipley Livestock, Inc.), Dothan
*East Alabama Cattle Buying Station, Wedowee
*Enterprise Livestock Company, Enterprise
*Escambia County Cooperative, Inc., Brewton
*Farmers Cooperative Market, Inc., Frisco City
*Farmers Cooperative Market, Inc., Opp
*Farmers Livestock Co-op., Elba
*Fayette Stockyard, Inc., Fayette
*Florence Trading Post, Florence
*Fort Payne Stockyard, Inc., Fort Payne
*Geneva Stockyards, Inc., Geneva
*Gray & Sons Stockyard, Clanton
*Hamilton Stockyard, Inc., Hamilton
*Headland Livestock Auction, Headland
*Henry County Livestock Association, Inc., Abbeville
*Hooper Stockyard, Inc., Montgomery
*Jackson County Stockyard, Inc., Scottsboro
*Kennamer Livestock Commission Co., Gunterville
*Limestone County Stockyard, Inc., Athens
*Linden Stockyard, Linden
*Livingston Stockyard, Livingston
*Louisville Livestock Company, Louisville
*Madison County Livestock Company, Huntsville
*Marion Stockyard, Inc., Marion
*McLane-Garret Cattle Company, Inc., Montgomery
*W. G. Mercer Livestock Company, Chancellor
*Montgomery Cattle Company, Montgomery
*Moulton Stockyard, Inc., Moulton
*North Alabama Livestock, Anniston
*Northwest Alabama Livestock Association, Russellville
*Billy Parker Cattle Company, Samson
*Parkman Cattle Company, Inc., Hope Hull
*Pickens County Livestock Commission Company, Aliceville
*Roanoke Stockyard, Inc., Roanoke
*Robertsdale Livestock Auction, Inc., Robertsdale
*L. A. Roll & Son Cattle Company, Montgomery
*Sand Mountain Livestock Market, Inc., Crossville
*Southeastern Livestock Service & Auction, Inc., Phenix City
*Stokes & Brogden Stockyard, Inc., Andalusia
*Triple S. Stockyards, Inc., Montgomery
*Valley Stockyard Decatur.
*Wallace Liverstock Auction, Inc., Ashville
*Jerry Welsh Livestock, Montgomery
*West Alabama Stockyard, Eutaw
*White's Livestock Auction, Morris
*Winfield Livestock Commission Company, Winfield

Arizona

*Arizona Liverstock Action, Inc., Phoenix

Arkansas

*Ash Flat Liverstock Auction, Inc., Ash Flat
*Atkins Livestock Auction, Atkins
*Batesville Liverstock Auction, Batesville
*Beebe Auction Company, Beebe
*Bentonville Livestock Auction, Bentonville
*Boone County Livestock Auction, Harrison
*Carroll County Livestock Auction, Berryville
*Cattlemen's Liverstock Market, Glenwood
*Central Arkansas Livestock Auction, Inc., Morrilton
*Clark County Livestock Auction, Arkadelphia
*Cleburne County Livestock Auction, Heber Springs
*County Lines Sale Barn, Inc., Ratcliff
*Craighead County Auction, Inc., Jonesboro
*Decatur Livestock Auction, Decatur
*Drew County Auction Sale, Monticello
*Farmers Livestock Auction, Springdale
*Farmers and Ranchers Livestock Auction, Inc., Charlotte
*Farmers and Ranchers Livestock Auction, Mountain View
*Glover Livestock Commission Company, Pine Bluff
*Bob Gordon Livestock Auction, Mena
*Harrison Livestock Auction, Harrison
*Hope Liverstock Auction, Inc., Hope
*Lewis Livestock Auction, Conway
*Magnolia Livestock Auction, Magnolia
*Malvern Livestock Auction, Malvern
*Montgomery County Auction, Mount Ida
*Mountain Home Livestock Auction, Inc., Mountain Home
*North Arkansas Livestock Auction, Green Forest
*Ola Livestock Auction, Ola
*Paragould Stockyards, Inc., Paragould
*Pocahontas Livestock Auction, Inc., Pocahontas
*Rector Auction Barn, Inc., Rector
*Richardson Livestock Commission Company, Inc., Little Rock
*Salem Livestock Auction, Salem
*Saline-Ouachita Valley Commission Company, Warren
*Scott County Livestock Auction, Waldrop
*Searcy County Auction Company, Marshall
*Siloam Springs Sale Barn, Siloam Springs
*Van Buren County Auction, Clinton
*Washington County Sales Company, Fayetteville
*Rex White Livestock Auction, Russelville

California

Carl Johnson Livestock Auction, Eureka
*Producers Livestock Auction, Chino
Shasta Livestock Auction, Inc., Cottonwood

Colorado

*Alamosa Auction, Alamosa
*Brush Livestock of Colorado, Inc., Brush
*Calhan-Cash Auction Market, Calhan
*Centennial Livestock Auction Co., Fort Collins
*Cortez Livestock Auction, Inc., Cortez
*Delta Sales Yard, Delta
*Demmler Livestock Commission Company, Pueblo
*Fowler Auction Company, Fowler
*Greeley Producers Livestock Marketing Assn., Greeley
*Hi-Country Cattle Company, Fair Field Farms, Inc., Ignacio
*Hotchkiss Sale Yard, Hotchkiss
*La Junta Livestock Commission Company, La Junta

*Lamar Livestock Commission Company, Lamar
*Limon Livestock Exchange, Limon
*Livestock Exchange, Inc., Brush
*Monte Vista Livestock Auction Company, Monte Vista
*National Western Livestock Center, Denver
*Ranchers and Farmers Livestock Auction, Burlington
*Ranchland Livestock Commission Company, Inc., Wray
*Salida Livestock Sales, Salida
*Sterling Livestock Commission Company, Sterling
*Stratton Livestock Marketing Center, Stratton
*Tri-County Livestock Commission Company, Broomfield
*Valley Livestock Auction Company, Fruita
*Winter Livestock Commission Company, La Junta

Connecticut

*Middlesex Livestock Auction, Durham
*Southern New England Livestock Company, North Franklin

Delaware

*Carroll's Sales, Inc., Felton

Florida

*Arcadia State Livestock Market, Arcadia
Cattleman's Livestock Auction of Tampa, Inc., Tampa
*Chipley Livestock Company, Chipley
Columbia Livestock Market of Lake City, Inc., Lake City
*Cow Palace, Inc., Lakeland
*Gerald Darroh, Inc., Zolfo Springs
*Gainesville Livestock Market, Inc., Gainesville
*Hardee Livestock Market, Inc., Wauchula
*Interstate Livestock Auction Market, Inc., Seffner
*Jacksonville Livestock Auction, Inc., Whitehouse
*Jay Livestock Auction Market, Jay
*Kissimmee Livestock Market, Inc., Kissimmee
*Madison Livestock Auction Market, Inc., Madison
*Monticello Stockyard, Inc., Monticello
Monticello Livestock Market, Inc., Monticello
*North Florida Farmers Co-op, Inc., Ellisville
*Sumter County Farmers Market, Webster
*Suwannee Valley Livestock Market, Live Oak
*West Florida Livestock Market, Inc., Marianna

Georgia

*Bainbridge Auction Market, Inc., Bainbridge
*Carroll County Livestock Sales Barn, Carrollton
*Columbus-Muscogee Livestock Auction, Inc., Columbus
*Coosa Valley Livestock Company, Rome
*Franklin County Livestock Market, Carnesville
*Gainesville Livestock Market, Gainesville
*Georgia Farmers Livestock, Cumming
*Georgia Farm Products Sales Corp., Thomaston
*La Grange Stockyards, La Grange
*Moseley Livestock Company, Blakeley
*Peoples Livestock Market, Inc., Cartersville
*Pierce County Stock Yard, Inc., Blackshear
*Seaboard Stock Yard, Inc., Colquitt
*Seminole Livestock, Inc., Donalsonville
*Southeast Georgia Stockyard, Inc., Statesboro
*Southwest Georgia Livestock Company, Inc., Camilla
*Sumter County Livestock Association, Americus
*Thomas County Stockyards, Inc., Thomasville
Jerry Thomas Assembly Point, Chauncey
*Tri-County Livestock Auction Company, Social Circle
*Valdosta Livestock Company, Valdosta
*Wayne County Stockyard, Jesup
*Wheeler Brothers Livestock Market, Eastonolle

Idaho

*Blackfoot Livestock Commission Company, Blackfoot
*Boise Valley Livestock Commission Company, Caldwell
*Bonners Ferry Livestock, Inc., Bonners Ferry
*Burley Livestock Commission Yards, Inc., Burley
*Cache Valley Auction, Preston
*Coeur d'Alene Livestock, Inc., Coeur d'Alene
*Cottonwood Sales Yard, Cottonwood
Custer County Livestock Marketing Assn., Mackay
*Emmett Livestock Commission Company, Emmett
*Gooding Livestock Commission Company, Inc., Gooding
*Idaho Livestock Auction, Idaho Falls
*Jerome Producers Livestock, Jerome
*Nampa Livestock Market, Inc., Nampa
*Ranchers Auction Company, Inc., Twin Falls
*Rexburg Livestock Auction, Inc., Rexburg
*Salmon River Livestock Market, Salmon
*Shoshone Salesyard, Inc., Shoshone
*Spencer Livestock Commission Company, Lewiston
*Treasure Valley Livestock Auction, Inc., Caldwell
*Twin City Sales Yard, Inc., Lewiston
*Twin Falls Livestock Commission Co., Twin Falls
*Valley Livestock Commission Company, Rupert
*Weiser Livestock Commission Company, Weiser

Illinois

*Barnard Livestock Auction Market, Wayne City
*Barry Livestock Marketing Center, Pacatonia
*Bloomington Livestock Commission Co., Bloomington
*Breed's Livestock Sales, Elizabeth
*Chicago-Joliet Marketing Center, Inc., Joliet
*Carthage Livestock Auction, Carthage
*Dameron Livestock Auction, Inc., Vienna
*Danville Livestock Commission Company, Danville
*Decker's Livestock, Inc., Milford
*DeWane Livestock Exchange, Belvidere
*Farmers Choice Marketing Center, Inc., Winslow
*Greenville Livestock, Inc., Greenville
*Hammond Livestock Marketing Company, Salem
*Heinold Cattle Company, Brookport
*Illinois Auction Commission Company, Paris
*Interstate Producers Livestock Assn., Shelbyville
*Jennings Sale Company, Macomb
*Kankakee Livestock Company, Bourbonnais
*Kewanee Sale Barn, Kewanee
*Mercer County Livestock Auction, Viola
*Olney Livestock Commission Co., Olney
*Peoria Union Stockyards Company, Peoria
*Rock Island Auction Sales, Inc., Rock Island
*Harry Schrader Marketing Center, Dakota
*St. Louis National Stockyards Co., National Stockyards
*United Market Center, Inc., Goreville

Indiana

*Boswell Salebarn, Boswell
*Evansville Union Stockyards Company, Inc., Evansville
*Henry County Livestock Auction, New Castle
*Hilltop Auction, Hanover
*Indianapolis Livestock Market, Indianapolis
*Lowell Livestock Auction, Lowell
*Producers Livestock Association, Vincennes
*Producers Livestock Assn. of Ohio, Fort Wayne
*Producers Marketing Association, Inc., Centerville
*Producers Marketing Association, Columbia City
*Producers Marketing Association, W. Lafayette
*Producers Marketing Association, Terre Haute
*Reynolds Salebarn, Reynolds
*Rochester Sale Barn, Rochester
*Shipshewana Auction, Inc., Shipshewana
*Silver Lake Livestock Center, Inc., Silver Lake
*Star Sale Barn, Greensburg
*Stoney Pike Salebarn, Logansport
*Topeka Livestock Auction, Inc., Topeka
*White's Livestock Auction, Brookville

Iowa

Ackley Sale Pavilion, Ackley
Adams County Livestock Auction, Corning
Adel Sales Pavilion, Adel
Albia Sales Company, Inc., Albia
Algona Livestock Auction & Exchange, Algona
Ambrose Hess and Company, Worthington
Anamosa Livestock Auction, Anamosa
Anita Livestock Auction Company, Anita
Ankeny Sale Barn, Ankeny
Aplington Livestock Auction, Aplington
Audubon County Livestock Exchange, Audubon
Avoca Auction Company, Avoca
Baxter Sale Company, Baxter
Bedford Sales Company, Bedford
*Belle Plaine Livestock Auction, Inc., Belle Plaine
*Bingley Sale Company, Inc., Knoxville
Bleil & Chapman Livestock Auction, Moville
Bloomfield Livestock Market, Inc., Bloomfield
Bradley Livestock Auction, Red Oak
Carroll Livestock Sales, Carroll
Cascade Sale Barn, Cascade
Centerville Sales Company, Centerville
*Central Iowa Stockyards, Webster City
Clarinda Auction Company, Clarinda
Phil Clark & Sons Sales Company, Knoxville
Clear View Cattle Company, Inc., Blairsburg
Colfax Livestock Sales Company, Colfax

Coggon Livestock Sales Company, Coggon
Cresco Livestock Market, Cresco
Creston Livestock Auction, Creston
Decorah Sales Commission, Decorah
*Denison Livestock Auction, Denison
DeVries Auction, Buffalo Center
Darwin Dralle Livestock, Greene
*Dunlap Livestock Auction, Dunlap
Dyersville Sales Barn, Dyersville
Eastern Iowa Livestock Commission, Mechanicsville
Edgewood Livestock Auction, Inc., Edgewood
*Elkader Sales Barn, Elkader
Fairfield Livestock Commission, Fairfield
Farmers Auction Market, Eldora
Farmers Livestock Auction, Carroll
Forest City Cow Palace/Jennings Brothers, Inc., Forest City
Greenfield Community Partnership, Greenfield
Grinnell Livestock Exchange, Grinnell
*Guthrie Stock Pavilion Company, Inc., Guthrie Center
Hawkeye Livestock Auction, Fairfax
Highview Cattle Company, Cylinder
*Humeston Livestock Auction, Humeston
Independence Sales Company, Inc., Independence
Interstate Producers Livestock Assn., Waukon
K Four Feedlot, Inc., Orange City
Kalona Sales Barn, Inc., Kalona
Keoco Auction Company, Sigourney
*Keosauqua Sales Company, Inc., Keosauqua
Kimballton Auction Co., Kimballton
Krommendyk Dairy Cattle, Hull
*Lamoni Livestock Sales Company, Lamoni
James Lahr, Hopkinton
La Porte City Sale Barn, La Porte City
Le Mars Livestock Sales Company, Le Mars
Lenox Livestock Commission, Lenox
Leon Sales, Leon
Livestock Auction, Denison
Livestock Auction of Rock Valley, Rock Valley
Lizer Livestock Auction, Inc., Gowrie
Madison County Auction, Winterset
Manning Livestock Auction, Manning
Mapleton Livestock Sales Company, Mapleton
*Maquoketa Livestock Corp., Maquoketa
Massena Livestock Auction, Massena
Mid Iowa Feeder Pig Auction, Hampton
Millinkamp Cattle, Inc., Dyerville
Montezuma Sale Company, Inc., Montezuma
Monticello Sales Barn, Monticello
Moorhead Livestock Auction, Moorhead
Mount Ayr Livestock Market, Mount Ayr
Nesvik Livestock Market, Spirit Lake
*New Liberty Sale Barn, New Liberty
Northeast Iowa Sales Commission, Waukon
North Iowa Livestock Exchange, Garner
Northside Sales Company, Sibley
Oelwein Dairy Sales, Inc., Oelwein
Oelwein Livestock Exchange, Oelwein
Orient Sales Company, Inc., Orient
Osceola Sales Company Inc., Osceola
Oskaloosa Livestock, Inc., Oskaloosa
Perry Sales Pavilion, Perry
Peterson Sheep & Cattle Company, Inc., Spencer
Riceville Sales Pavilion, Riceville
Rubey Auction Company, Red Oak
Russell Sales Company, Inc., Russell
Sales Company of Hawarden, Hawarden
Sheldon Livestock Sales Company, Sheldon
Shenandoah Livestock Auction, Inc., Shenandoan
*Sioux City Stockyards, Sioux City
Spencer Livestock Sales, Inc., Spencer
Stanton Livestock Auction Market, Stanton
Storm Lake Auction Company, Storm Lake
Story City Auction Sales, Inc., Story City
Stuart Sales Company, Stuart
*Tama Livestock Auction, Inc., Tama
Traer Livestock Market, Traer
Tri-State Livestock, Ltd., Sioux Center
United Livestock Commission Company, Maquoketa
Van Kley Feeder Cattle, Inc., Sioux Center
Van's Calf Farm, Hospers
Waitt Cattle Company, Sioux City
Walker Sales Company, Walker
*Wapello Livestock Sales, Inc., Wapello
Waverly Sale Company, Waverly
Wayland Livetock Auction Market, Wayland
West Union Auction Exchange, West Union
Winneshiek Co-op Sales Commission, Decorah
Wood Brothers, Sioux City
Jake Zoet Livestock Company, Sheldon

Kansas

*Allen County Livestock Auction, Gas City
*Anderson County Sale Company, Garnett
*Anthony Livestock Company, Anthony
*Atchison County Auction Company, Inc., Atchison
*Atwood Sale Barn, Inc., Atwood
*Beloit Livestock Auction, Inc., Beloit
*Caldwell Community Sale, Caldwell
*Cedar Vale Sales Company, Cedar Vale
*Central Livestock Corporation, South Hutchinson
*Chandler Livestock Auction, Smith Center
*Chanute Livestock Auction, Chanute
*Circle "L" Livestock Sale, Liberal
*Clay Center Livestock Company, Inc., Clay Center
*Coffey County Livestock Market, Burlington
*Coffeyville Livestock Sales Co., Inc., Coffeyville
*Coffeyville Stockyards, Inc., Coffeyville
*Colby Livestock Auction, Inc., Colby
*Coldwater Livestock Sale Company, Inc., Coldwater
*Council Grove Livestock Commission Company, Council Grove
*Dighton Livestock Auction, Dighton
*Douglass Livestock Commission Co., Douglass
*El Dorado Livestock Auction, Inc., El Dorado
*Emmett Livestock Sales, Emmett
*Emporia Livestock Sales Company, Inc., Emporia
*Eureka Livestock, Eureka
*Farmers & Ranchers Commission Company, Salina
*Farmers Livestock Exchange, Inc., Wakarusa
*Fort Scott Sale Company, Inc., Fort Scott
*Franklin County Sale Company, Inc., Ottawa
*Fredonia Livestock Sales Company, Inc., Fredonia
*G–V Cattle Company, Elkhart
*Garden City Livestock Market, Inc., Garden City
*Glasco Livestock Exchange, Glasco
*Great Bend Livestock Commission, Inc., Great Bend
*Hansen Livestock Auction, Concordia
*Hays Livestock Market Center, Hays
*Herington Livestock Commission Company, Herington
*Hiawatha Auction Company, Hiawatha
*Hill City Sale Barn, Hill City
*Hoxie Livestock Sales Company, Hoxie
*Holton Community Sale, Holton
*Holton Livestock Exchange, Inc., Holton
*Hutchinson Livestock Commission Co., Hutchinson
*Kiowa Sales Company, Kiowa
*Iola Community Sale, Iola
*J & J Commission Company, Effingham
*Junction City Livestock Sales, Junction City
*Kingman Livestock & Sales Company, Kingman
*Kingman Community Sale, Kingman
*Larned Livestock Market Company, Larned
*Lawrence Livestock Sale Company, Inc., Lawrence
*Manhattan Commission Company, Inc., Manhattan
*Mankato Company, Inc., Mankato
*Marysville Livestock Commission Co., Marysville
*McKinley-Winter Livestock Commission Co., Inc., Dodge City
*Medicine Lodge Sale Company, Inc., Medicine Lodge
*Miami County Livestock Company, Inc., Paola
*Moline Auction Company, Inc., Moline
*Norton Livestock Auction, Inc., Norton
*Oakley Livestock Commission Co., Inc., Oakley
*Oberlin Livestock Commission, Co., Inc., Oberlin
*Onaga Livestock Commission Company, Onaga
*Osborne Livestock Commission Co., Inc., Osborne
*Overbrook Livestock Auction, Overbrook
*Parsons Livestock Auction, Inc., Parsons
*Phillipsburge Sales Co., Inc., Phillipsburg
*Plainville Livestock Commission Co., Inc., Plainville
*Pratt Livestock Commission Company, Pratt
*Quinter Livestock Commission Co., Quinter
*Reynolds Livestock Sales, Abilene
*Rezac Livestock Commission Company, St. Mary's
*Ruch County Livestock Sale, La Crosse
*Russell Livestock Commission, Inc., Russell
*Sabetha Livestock Auction, Sabetha
*St. Francis Livestock Sales Company, St. Francis
*Southwestern Livestock, Inc., Dodge City
*The Stockmans Livestock Exchange, Belleville
*Sylvan Sales Company, Inc., Sylvan Grove
*Syracuse Sale Company, Inc., Syracuse
*Turon Sale Company, Turon
*Wakeeny Livestock Commission Company, Wakeeny
*Wichita Union Stockyards, Wichita
*Winfield Livestock Auction, Co., Inc., Winfield

Kentucky

*Albany Stockyard, Inc., Albany
*R. B. Berry & Son Livestock Company, Inc., Clinton
*Blue Grass Stockyards Company, Inc., Lexington
*Bluegrass II Stockyard, Lexington

*Bowling Green Livestock Market, Inc., Bowling Green
*Bourbon Stockyards Company, Inc., Louisville
*Boyle County Stockyards, Danville
*Breckinridge County Livestock Center, Irvington
*Brown Livestock Company, Clinton
*Bullitt County Stockyard, Shepherdsville
*Catlettsburg Livestock Sales Company, Catlettsburg
*Central Kentucky Livestock Market, Stanford
*Christian County Livestock Market, Inc., Hopkinsville
*Clark County Stockyard, Winchester
*Cross-Walton Livestock Market Center, Walton
*Eastern Livestock Company, Providence
*Edmonton Livestock Market, Edmonton
*Elizabethtown NFO Reload, Elizabethtown
*Faire Stockyard, Bardwell
*Farmers Commission Company, Tomkinsville
*Farmers Livestock Market, London
*Farmers Livestock Market, Mayfield
*Farmers Livestock Market of Glasgow, Inc., Glasgow
*Farmers Stockyard, Inc., Flemingsburg
*Franklin-Simpson Livestock Company, Franklin
*Garfield Auction Market, Garfield
*Garrard County Stockyard, Lancaster
*Glasgow Livestock Auction, Inc., Glasgow
*Graves County Livestock, Inc., Mayfield
*Grayson County Stockyard Market, Inc., Leitchfield
*Green County Stockyards, Greensburg
*Green River Livestock Market, Inc., Munfordville
*Kentuckiana Livestock Market, Owensboro
*Kentucky-Tennessee Livestock Market, Inc., Guthrie
*King Livestock Company, Inc., Hopkinsville
*Laurel Sales Company, London
*Madison Sales Company, Richmond
*Mammoth Cave Marketing Corporation, Smiths Grove
*Mantle Stockyards, Bardwell
*Morganfield Stockyard, Morganfield
*Maysville Stockyards, Maysville
*NFO Freedom Collection Point, Mt. Herman
*New Farmers Stockyard, Inc., Mt. Sterling
*New Farmers Livestock Market, Somerset
*Owsley County Stockyard, Booneville
*Paducah Livestock Market, Ledbetter
*Paintsville Livestock Market, Paintsville
*Paris Stockyards, Inc., Paris
*Pennyrile Stockyards, Hopkinsville
*John M. Riley Livestock, Mayfield
*Russell County Stockyards, Russell Springs
*Russellville Livestock Market, Russellville
*Lee Schneider Sales Barn, Walton
*Somerset and Pulaski County Livestock Market, Inc., Somerset
*Taylor County Stockyards, Campbellsville
*Tri-County Stockyard, Smithfield
*W K 250 Livestock Market, Leitchfield
*Walton NFO Sales, New Walton Stockyard, Walton
*Washington County Livestock Center, Springfield
*Wayne County Livestock Market, Monticello
*Williamstown Stockyards, Inc., Williamstown

Louisiana

*Abbeville Commission Company, Abbeville
*Amite Livestock Company, Inc., Amite
*Bastrop Livestock Auction, Inc., Bastrop
*Clark Livestock Auction Company, Inc., Bossier City
*Delhi Livestock Auction, Inc., Delhi
*DeQuincy Livestock Commission Co., DeQuincy
*DeRidder Livestock Commission Co., DeRidder
*A. Dominiques's Cow Palace, Inc., Marksville
*Dominique's Stockyards, Inc., Baton Rouge
*Dominique's, Inc., Opelousas
*Eunice Stockyards, Inc., Eunice
*Fairchild Livestock Sales, Inc., d.b.a. North Tangipohoa Stockyard, Kentwood
*Farmer and Stockman Auction, Inc., Clarence
*Franklin Livestock Auction, Winnsboro
*Franklinton Stockyards, Inc., Franklinton
*Grand Cane Livestock Sales, Inc., Grand Cane
*Heck Livestock Sales Company, Baton Rouge
*W. H. Hodges & Company, Inc., Alexandria
*W. H. Hodges & Company, Inc., New Roads
*Homer Livestock Sales, Homer
*Kentwood Livestock Sales, Kentwood
*Livestock Producers, Inc., Bossier City
*Lum Brothers Stockyards, Inc., Vidalia
*Mansfield Livestock Auction, Mansfield
*Raceland Stockyards, Raceland
*Red River Livestock Auction Company, Coushatta
*Southwest Stockyard, Inc., Lake Charles
*Vermilion Livestock Company, Inc., Abbeville
*Voiron's Stockyard, Thibodaux
*West Monroe Livestock Auction, Inc., West Monroe

Maine

Massow's Livestock Sales, Corinna
Ben Tilton & Sons, Corinth

Maryland

*Aberdeen Sales Company, Inc., Aberdeen
*Baltimore Livestock Market, Inc., West Friendship
*Cumberland Stockyard, Inc., Cumberland
Farmers Market and Auction, Charlotte Hall
*Four States Livestock Auction, Inc., Hagerstown
*Frederick Livestock Auction, Inc., Frederick
*Friend's Stockyards, Inc., Accident
*Grantsville Community Auction, Inc., Grantsville
*Grantsville Livestock Auction, Inc., Grantsville
*Hunters Sales Barn, Inc., Rising Sun
*Harry Rudnick and Sons, Inc., Galena
*Western Maryland Stock Yards, Inc., Westminster
Woodsboro Livestock Sales, Woodsboro

Massachusetts

Farmers Live Animal Market Exchange, Inc. (FLAME), Littleton
New England Commission Auction, South Easton
Northampton Coop. Auction Association, Inc., Whately

Michigan

Andy Adams Sale Barn, Hillsdale
Coldwater Livestock Auction, Coldwater
Michigan Livestock Exchange, Manchester
Napoleon Livestock Auction, Napoleon
Ravenne Livestock Sales, Ravenna

Minnesota

Arends Sale Yard, Inc., Blue Earth
BLD Livestock, Inc., Ivanhoe
Benson Livestock Exchange., Benson
Canby Livestock Sales Company, Canby
East Central Livestock Auction, Inc., Mora
Edgerton Livestock Auction Market, Edgerton
Farmers Livestock Auction Market, Caledonia
Harmony Livestock Sales, Harmony
Kasson Sales Exchange, Kasson
Lanesboro Sales Commission, Inc., Lanesboro
Lee and John's Livestock Market, Harmony
Lewiston Livestock Market, Lewiston
Long Prairie Livestock Auction Market, Long Prairie
Luverne Livestock Auction Market, Luverne
*Pipestone Livestock Auction, Pipestone
Rush City Livestock Auction, Rush City
*St. Paul Union Stockyards, St. Paul
Schmidt Livestock Sales, Inc., Truman
Spring Grove Livestock Exchange, Inc., Spring Grove
Spring Valley Sales Company, Spring Valley
Top Livestock Auction, Edgerton
Zumbrota Livestock Auction Market, Inc., Zumbrota

Mississippi

*Alcorn County Stockyards, Corinth
*Batesville Livestock Commission, Inc., Batesville
*Billingsley Auction Sale, Inc., Senatobia
*Central Mississippi Livestock Commission Co., Carthage
*Chickasaw Livestock Auction, Inc., Houston
*Corinth Stockyard, Inc., Corinth
*Cow Palace, Inc., McComb
*Delta Stockyard, Inc., Greenville
*East Mississippi Farmer's Livestock Company, Philadelphia
*Fairchild Livestock Sales, Inc., Hazlehurst
*George County Stockyard, Inc., Lucedale
*Glynn Robinson Stockyard, Inc., West Point
*Grenada Livestock Exchange, Grenada
*Harrell Stockyard, Inc., Morton
*Kosciusko Stockyard, Kosciusko
*Lexington Sales Company, Inc., Lexington
*Lincoln County Livestock Commission, Inc., Brookhaven
*Lipscomb Commission Company, Como
*livestock Producers Association, Tylertown
*Lucedale Auction, Inc., Lucedale
*Lum Commission Company, Vicksburg
*Meridian Stockyards, Inc., Meridian
*Mississippi Livestock Producers Assn., Canton Branch, Canton
*Mississippi Livestock Producers Assn., (North Yard), Jackson
*M and W Cattle Company, Hattiesburg
*M and W Cattle Company, Starkville
*Natchez Stockyard Inc., Natchez
*New Albany Sales Company, New Albany
*Pontotoc Stockyards, Pontotoc
*Ramsey Stockyard, Inc., Summit
*Ranchers & Farmers Livestock Commission Co., Macon
*Ripley Sales Company, Guntown
*Smith Brothers Stockyard, Inc., Poplarville
*Southeast Mississippi Livestock Farmers Assn., Hattiesburg
*Southeast Stockyard, Port Gibson

*Starkville Livestock Auction, Starkville
*Stockyard Beef Sales, Inc., Tupelo
*Stockyard Dairy Sales, Inc., Tupelo
*Stringer Sale Barn, Columbia
*Tadlock Stockyard, Forest
*Tri-County Stockyards, Inc., Tupelo
*Walnut Sales Company, Walnut
*Wilbanks Stockyard, Carthage
*Winona Stockyard, Winona
*Winston County Community Sale, Louisvile

Missouri

Alton Sale Company, Alton
Benton County Producers Association, Warsaw
*Blansit Dairy & Stock Cattle Company, Inc., Ozark
Bollinger County Livestock Producers Assn., Marble Hill
*Brookfield Livestock Auction, Inc., Brookfield
*Brunswich Sale Company, Brunswick
Buffalo Livestock Center, Buffalo
Callao NFO Collection Point, Callao
*Callaway Stock Sales, Inc., Fulton
*W. R. Cantrell & Sons Sale Company, Archie
*Carrollton Livestock Auction, Carrollton
*Cassville Livestock Market, Inc., Cassville
*Central Livestock Auction Market, Poplar Bluff
*Central Missouri Livestock Auction, Inc., Mexico
*Central Missouri Sales Company, Sedalia
*Central Ozarks Livestock Market, Inc., West Plains
*Charleston Auction Company, Charleston
*Chillicothe Livestock Market, Chillicothe
Circle S Livestock Market, Stanberry
*City Scales, West Plains
*Clark County Sale Company, Kahoka
*Columbia Livestock Auction Market, Inc., Columbia
*Concordia Livestock Auction, Inc., Concordia
Dent County Livestock Improvement Assn., Salem
*Diamond Marketing Center, Inc., Diamond
*Douglas County Livestock Auction, Inc., Ava
*Downing Stockyards, Downing
*Eastern Missouri Livestock Market, Inc., Bowling Green
*Edina Auction Market, Inc., Edina
Edina NFO Collection Point, Edina
*El Dorado Sales Company, Inc., El Dorado Springs
Fair Play Livestock Auction, Fair Play
*Farmers Auction Company, Mountain View
Farmers & Traders Commission Co., Inc, Palmyra
*Farmers Livestock Auction, Inc., Boonville
*Farmington Livestock Market, Inc., Farmington
Five County Collection Center, Mountain Grove
4 Corners Collection Point (NFO), Hunnewell
Fortuna NFO Collection Point, Fortuna
Four Rivers Collection Point, Labadie
*Four Square Livestock Commission Co., Marshall
*Franklin County Livestock Association, Sullivan
*Fredericktown Auction Company, Inc., Fredericktown
*Fruitland Livestock, Inc., Jackson
*Gallatin Livestock Auction, Inc., Gallatin
Gasconade County Livestock Improvement Assn., Owensville
*Don Ghere Sales Company, Butler
*Grant City Livestock Market, Inc., Grant City
*Green City Livestock Market, Green City
*H.R.H. Auction Company, Hamilton
Howard County NFO Collection Point, Armstrong
*Interstate Livestock Market, Inc., Bethany
Interstate Producers Livestock Assn., Cuba
*Johnson County Livestock Market, Warrensburg
*Joplin Stockyards, Inc., Joplin
*Kahoka Sale Company, Inc., Kahoka
*Kansas City Stockyards Company, Kansas City
*Kennett Sales Company, Inc., Kennett
*Kingsville Livestock Auction, Kingsville
Kingsville NFO Collection Point, Kingsville
*Kirksville Community Sale, Inc., Kirksville
*Kirksville Livestock Market, Inc., Kirksville
Laclede County Livestock Producers Assn., Lebanon
*Lakeland Livestock, Inc., Lowry City
LaMonte NFO Livestock, LaMonte
*Lebanon Livestock Auction, Lebanon
* Lexington Livestock Auction, Lexington
* Licking Livestock Auction Company, Licking
* Lockwood Livestock Auction, Lockwood
* Lolli Sale Pavilion, Macon
* Mansfield Livestock Auction, Inc., Mansfield
Maries County Livestock Producers Assn., Vienna
* Marshall Livestock Auction, Marshall
* Mercer County Sale Company, Princeton
* Meta Collection Point, Inc., Meta
* MFA Cattlemen Auction Company, Humansville
* Mid-West Livestock Market, Inc., Nevada
* Milan Livestock Auction, Inc., Milan
* Mo Cow Company, Lancaster
* Montgomery County Livestock Auction Co., Montgomery City
Sydney Moore Livestock Company, Memphis
Morgan County-Intercounty Livestock Producers Assn., Versailles
* Mountain View Livestock Auction, Mountain View
* Nevada Livestock Auction Company, Inc., Nevada
* New Cambria Livestock Auction Market, New Cambria
* Nixa Livestock Auction, Nixa
* Odessa Community Sale, Odessa
* Olean Livestock Market, Inc., Eldon
Osage County Livestock Producers Assn., Linn
* Pasley Auction Company, Osceola
Patton Junction NFO Collection Point, Patton
Phelps County Livestock Improvement Assn., St. James
* Poplar Bluff Sales Company, Inc., Poplar Bluff
* Potosi Livestock Market, Potosi
Putnam County Livestock Marketing Assn., Unionville
Puxico Stockyards & Auction Co. Puxico
Charles Reed Livestock, Mountain Grove
Reynolds County Livestock Producers Assn., Ellington
* Rich Hill Sales Company, Rich Hill
Ripley County Livestock Producers Assn., Inc., Doniphan
Roberts Brothers Livestock Commission Co., Bolivar
Rock Port Sale, Rock Port
Rolla Livestock Auction, Rolla
* Saint Joseph Stockyards, St. Joseph
* Salem Auction, Salem
* St. Clair Livestock Auction, St. Clair
Savannah Sales Company, Savannah
* Scotland County Livestock Auction, Inc., Memphis
* Sedgewickville Auction Market, Inc., Sedgewickville
* Shelbina Auction Company, Shelbina
* Sho-Me Feeder Pigs, Inc., Thayer Division, Thayer
* South Central Livestock Market, Inc., Vienna
* Springfield Regional Stockyards Company, Springfield
* Stewart Sale Pavilion, Cameron
Ste. Genevieve Livestock Producers Assn. Ste. Genevieve
Ste. Genevieve Livestock Collection Point, Ste. Genevieve
* Summersville Livestock Auction, Inc., Summerville
Tina Livestock Auction, Tina
* Trenton Livestock Market, Inc., Trenton
* Unionville Sale Company, Unionville
* Versailles Auction Company, Versailles
* Warsaw Auction Company, Warsaw
Washington County Producers Assn., Potosi
Wayne County Livestock Producers Assn., Greenville
Wheaton Livestock Auction, Wheaton
* Windsor Livestock Auction Company, Inc., Windsor
* Wright County Livestock Auction, Inc., Mountain Grove

Montana

* Beaverhead Livestock Auction, Dillion
* Billings Livestock Commission Company, Inc., Billings
* Bitterroot Livestock Market, Hamilton
* Glendive Livestock Sales Company, Glendive
* Kalispell Livestock Auction, Kalispell
* Livestock Auction, Inc., Baker
* Miles City Livestock Center, Miles City
* Missoula Livestock Auction Company, Missoula
* Montana Livestock Auction, Inc., Butte
* Public Auction Yards, Billings
* Sidney Livestock Market Center, Sidney

Nebraska

* Ainsworth Livestock Market, Ainsworth
* Alma Livestock Commission Company, Alma
* Atkinson Livestock Market, Atkinson
* Bassett Livestock Auction, Bassett
* Beatrice 77 Livestock Sales Company, Beatrice
* Beatrice Sales Pavilion, Beatrice
* Blue Hill Livestock, Blue Hill
* Butte Livestock Market, Butte
* Chadron Sales Company, Inc., Chadron
* Chappell Livestock Auction, Chappell
* Cherry County Livestock Auction Co., Inc., Valentine
* Columbus Sales Pavilion, Inc., Columbus
* Crawford Livestock Auction Market, Crawford
* Crete Livestock Market, Crete
* Fairbury Livestock Company, Fairbury
* Falls City Auction Company, Inc, Falls City
* Farmers Livestock Sales, Benkelman

* Franklin Livestock Market, Franklin
* Gordon Livestock Auction Company, Gordon
* Grand Island Livestock Auction, Inc., Grand Island
* Hebron Livestock Commission Company, Hebron
* Humboldt Sale Barn, Humboldt
* Huss Platte Valley Auction, Inc., Kearney
* Imperial Auction Market, Imperial
* Kearney Livestock Commission Company, Inc., Kearney
* Kimball Livestock Auction Company, Kimball
* Laurel Livestock Sales Company, Laurel
* Lexington Livestock Market, Lexington
* Midwest Livestock Commission Company, Inc., McCook
* Nebraska City Salebarn, Inc., Nebraska City
* Norfolk Livestock Market, Norfolk
* Ogallala Livestock Auction Market, Ogallala
* Omaha Livestock Market, Inc., Omaha
* O'Neill Livestock, Inc., O'Neill
* Oxford Livestock Commission Company, Oxford
* Pawnee Livestock, Inc., Pawnee City
* Pender Livestock, Inc., Pender

Platte Valley Livestock Auction, Inc., Gering

* Red Cloud Livestock Commission Co., Inc., Red Cloud
* Sheridan Livestock Commission Company, Rushville
* Sioux County Livestock Auction, Harrison
* Southeast Nebraska Livestock Market, Palmyra
* Superior Livestock Commission Company, Inc., Superior
* Sutton Livestock Commission Company, Sutton
* Tecumseh Livestock Market, Inc., Tecumseh
* Tri-State Livestock Commission Company, McCook
* Verdigre Livestock Market, Verdigre
* Wahoo Livestock Market, Wahoo
* Western Livestock Auction Company, North Platte
* West Point Sales Company, West Point
* York Livestock Company, York

New Jersey

* Community Livestock Auction, Woodstown
* Jaeger's Livestock Auction Market, Sussex
* Livestock Cooperative Auction Market Assn. of North Jersey, Inc., Hackettstown

New Mexico

* Artesia Livestock Commission Company, Artesia
* Clovis Livestock Market, Clovis
* Five States Livestock Auction, Clayton

Las Vegas Livestock Commission Company, Inc., Las Vegas

* Lea County Livestock Market, Lovington

Portales Livestock Commission Company, Portales

* Ranchers and Farmers Livestock Auction, Clovis

Roswell Livestock Auction Company, Roswell

* Socorro Livestock Market, Inc., Lemitar

New York

Best Livestock Exchange, Watertown
Burton Livestock Exchange, Inc., Vernon
Cambridge Valley Livestock Market, Cambridge
Chatham Area Auction Coop., Chatham
Empire Livestock Market—Adams, Adams
Empire Livestock Market—Bath, Bath
Empire Livestock Market—Caledonia, Caledonia
Empire Livestock Market—Dryden, Dryden
Empire Livestock Market—Gouverneur, Gouverneur
Empire Livestock Market—Oneonta, Oneonta
Empire Livestock Market—Pavilion, Pavilion
Empire Livestock Exchange, Inc., Canandaigua
Gentner Commission Market, Springville
Hicks & Spingler Livestock, Inc., Sennett
Langless Brother Auction, Cherry Creek
Lazy S. Livestock, Norwich
Lewis County Livestock Market, Lowville
Luther's Livestock, Wassaic
Maplehurst Livestock Market, Hinsdale
Millers Livestock Market, Argyle
Millerton Livestock Market, Hillsdale
Mohawk Valley Commission Sales, Little Falls
Northern New York Farmers Marketing Coop., Inc., Lowville
Norvel Reed & Son's , Inc.—Kimball Stand Market, Gerry
Norvel Reed & Son's, Inc., Sherman
Seymour Commission Sale, DeKalb Junction
Owego Livestock Sales, Owego
Welch Livestock Market, West Edmonton

North Carolina

Ashe Stockyards, Jefferson
Benson Hog and Livestock Market, Benson
Brite-Tatum Livestock Company, Inc., Elizabeth City
Carolina Stockyard Company, Siler City
Carolina-Virginia Stockyard, Windsor
Cattlemen's Livestock Market, Canton
Dedmon's Livestock Market and Dedmon's Livestock Market Feeder Pig Sale, Shelby
East Carolina Stockyard, Kinston
Farmers Cooperative Livestock Market, Lexington
Farmers Livestock Barn, Harrisburg
Farmers Livestock Exchange, Marshville
FCX Livestock Market, Hillsborough
Hickory Livestock Market, Hickory
W. H. Horney Livestock, Dealer, Siler City
Iredell Livestock Company, Turnersburg
Lancaster Stockyard, Rocky Mount
Lumberton Auction Company, Lumberton
Mount Airy Livestock Market, Mount Airy
Mount Olive Livestock Market, Mount Olive
Mountain Livestock Auction, Murphy
New River Livestock Market, Boone
Norwood Stockyard, Norwood
Oxford Livestock Market, Inc., Oxford
Pates Stockyard, Inc., Pembroke
Pates Stockyard of Whiteville, Whitevile
Powell Livestock Company, Smithfield
Reaves Livestock, Inc., Rowland
Riley's Livestock Market, North Wilkesboro
Tommi Turner Livestock Market, Pink Hill
Union County Livestock Auction, Inc., Monroe
Wells Livestock Market, Inc., Wallace
Western Carolina Livestock Market and Feeder Pig Sale, Asheville

North Dakota

* Ashley Livestock Exchange, Ashley
* Carrington Livestock Sales, Inc., Carrington
* Edgeley Livestock, Inc., Edgeley
* Farmers Livestock Exchange of Bismarck, Inc., Bismarck
* Glick Livestock Auction, Minot
* Harvey Livestock Auction, Harvey
* Homebase Auction, Inc., Bowman
* Jamestown Livestock Sales, Jamestown
* Kist Livestock Auction Company, Mandan
* Lake Region Auction and Livestock Market, Inc., Devils Lake
* Linton Livestock Sales, Inc., Linton
* McQuade Livestock, Wahpeton
* Minot Livestock Auction Sales, Inc., Minot
* Napoleon Livestock Auction, Napoleon
* Park River Livestock Auction Market, Park River
* Rugby Livestock Auction Market, Inc., Rugby
* Stockmen's Livestock Exchange, Inc., Beulah
* Stockmen's Livestock Exchange, Inc., Dickinson
* Sitting Bull Auction Company, Williston
* Tri-state Auction Market, Inc., Hettinger
* Triple S Cattle Company, Inc., Valley City
* Turtle Lake Sales Pavilion, Inc., Turtle Lake

Uecker Livestock Yards, Inc., Hettinger

* Union Stockyards Company of Fargo, West Fargo
* Watford City Livestock Auction, Inc., Watford City
* Western Livestock Company, Dickinson
* Wishek Livestock Market, Inc., Wishek

Ohio

Barnesville Livestock, Barnesville
Glenn Bircher d.b.a. Carrollton Livestock, Carrollton
Earl R. and Diane E. Carpenter d.b.a. Bloomfield Livestock Auction, North Bloomfield
Creston Livestock Sales, Inc., Creston
DeGraff Livestock, DeGraff
William Espel Sons, Inc., Cincinnati
Farmers Livestock Auction Company, Inc., Marietta
Farmerstown Sale, Inc., Baltic
Geauga Livestock Commission, Inc., Middlefield
Granville Producers Livestock Sales, Inc., Granville
Heinold Hog Market, Eldorado
Rodney A. Howery, d.b.a. Athens Livestock Sales, Albany
Interstate Livestock, Inc., Oxford
Kidron Auction, Inc., Kidron
Lugbill Brothers, Inc., Archbold
Lugbill Brothers, Inc., Columbus Grove
Marietta Livestock Sale Company, Marietta
Middendorf, Inc., d.b.a. Western Ohio Livestock, Celina
Middendorf Stockyard Company, d.b.a. Kenton Farmers Market Company, Kenton
Mt. Hope Auction Company, Mt. Hope
Muskingum Livestock Sales Company, Zanesville
Ohio Livestock Company, Gallipolis
William W. Osborne, d.b.a. Sugarcreek Livestock Auction, Sugarcreek
Producers Livestock Association, Bucyrus
Producers Livestock Association, Coshocton
Producers Livestock Association, Delta
Producers Livestock Association, Eaton
Producers Livestock Association, Findlay
Producers Livestock Association, Hillsboro

Producers Livestock Association, Lancaster
Producers Livestock Association, Marysville
Producers Livestock Association, Mount Vernon
Producers Livestock Association, Springfield
Producers Livestock Association, Wapakoneta
Producers Livestock Association, Washington Court House
Producers Livestock Association, Wilmington
Scio Livestock Auction, Scio
Glenn Shreve and Larry C. Shreve, d.b.a. Damascus Livestock Auction, Damascus
Stockyards, Inc., d.b.a. Champaign Livestock Sales, Urbana
The Union Stockyards Company, Hillsboro
James H. Wilson & Thomas H. Wilson, d.b.a. Peoples Livestock Exchange, Greenville

Oklahoma

*Ada Livestock Auction, Inc., Ada
*Adair County Livestock Auction, Stilwell
*Antlers Livestock Commission, Antlers
*Apache Livestock Sales Company, Apache
*Ardmore Livestock Auction, Ardmore
*Atoka Livestock, Atoka
*Beaver Livestock Auction, Beaver
*Blackwell Livestock Auction, Blackwell
*Chandler Auction Company, Inc., Chandler
*Cherokee Sales Company, Cherokee
*Collinsville Livestock Exchange, Collinsville
*Covington Commission Sales Company, Covington
*Delaware County Livestock Auction, Inc., Grove
*Dewey Stockyards, Inc., Dewey
*Durant Livestock Market, Durant
*Enid Livestock Sales, Inc., Enid
*Fairfax Livestock Auction, Fairfax
*Fairview Sale Barn, Fairview
*Farmers and Ranchers Livestock Auction, Vinita
*Fort Smith Stockyards, West Fort Smith
*Freeman Livestock Auction, Sulphur
*Geary Livestock Auction, Geary
*Grandfield Livestock Auction, Grandfield
*Hennessey Sale, Hennessey
*Hobart Stockyards, Hobart
*Holdenville Livestock, Holdenville
*Hollis Livestock Commission Company, Hollis
*Hormel Packing Company, Miami
*Hugo Sales Commission, Inc., Hugo
*Idabel Livestock Auction, Idabel
*Lawton Stockyards, Lawton
*LeFlore County Livestock Auction, Wister
*Mangum Livestock Auction, Inc., Mangum
*Marietta Livestock Auction, Marietta
*Marlow Livestock Auction, Marlow
*McAlester Union Livestock, McAlester
*Meeker Livestock Market, Meeker
*Mid-America Stockyards, Bristow
*Muskogee Stockyards, Muskogee
*New Tulsa Stockyards, Tulsa
*Newkirk Sales Company, Newkirk
*Northeast Oklahoma Feeder Pig and Livestock Auction, Leach
*Oklahoma Auction Center, Chickasha
*Oklahoma Auction Yards, Hominy
*Oklahoma National Stockyards Company, Oklahoma City
*Okmulgee Stockyards, Inc., Okmulgee
*Panhandle Livestock Commission, Guymon
*Pauls Valley Livestock, Pauls Valley
*Pawnee Livestock Market Center, Inc., Pawnee
*Perkins Y Livestock Auction, Inc., Perkins
*Perry Livestock Center, Inc., Perry
*Poor Boy Livestock Auction, Wister
*Pryor Stockman's Auction, Pryor
*Purcell Livestock, Purcell
*Ringling Livestock Auction, Ringling
*Sallisaw Sale Barn, Sallisaw
*Sayre Livestock Auction, Sayre
*Seiling Sales Association, Inc., Seiling
*Snyder Stockyards, Snyder
*South Coffeyville Livestock Market, Inc., South Coffeyville
Stigler Sale Barn, Stigler
*Stockyards Industries, Inc., Comanche
*Tahlequah Sale Barn, Cahlequah
*Texhoma Livestock Commission Company, Texhoma
*Tillman County Stockyards, Inc., Frederick
*Triangle Livestock Company, Alva
*Watonga Livestock Sale, Watonga
*Waurika Livestock Market, Waurika
*Welch Livestock Auction, Welch
*Woodward Livestock Auction Market, Inc., Woodward

Oregon

*Enterprise Livestock Auction, Enterprise
*Klamath Livestock Auction, Klamath Falls
*LaGrande Livestock, LaGrande
*Madras Auction Yard, Inc., Madras
*Mid-Columbia Livestock Exchange, Inc., The Dalles
*Northwestern Livestock Commission Company, Hermiston
*Redmond Auction Yard, Inc., Redmond
*Rogue Valley Livestock Auction Company, Central Point

Pennsylvania

Belknap Livestock and Equipment Auction, Dayton
Belleville Livestock Market, Inc., Belleville
Carlisle Livestock Market, Inc., Carlisle
Chambersburg Livestock Sales, Inc., Chambersburg
Chesley's Sales, Inc., Northeast
Cowanesque Valley Livestock Auction, Knoxville
Wayne F. Craig & Sons, Shippensburg
Dewart Livestock Market, Dewart
Eighty-Four Auction Sales, Inc., Eighty-Four
G & M Livestock Market, Inc., Duncansville
Greencastle Livestock Market, Inc., Greencastle
Green Dragon Livestock Sales, Ephrata
Hickory Auction and Sales, Inc., Hickory
Indiana Livestock Market, Inc., Indiana
Jersey Shore Livestock, Inc., Jersey Shore
Kiester's Middleburg Auction Sales, Inc., Middleburg
Lancaster Stockyards, Inc., Lancaster
Lebanon Valley Livestock Market, Inc., Fredericksburg
Leesport Market & Auction, Inc., Leesport
Meadville Livestock Aucton, Saegertown
Mercer Livestock Auction, Mercer
C. Robert Miller, Watsontown
Morrison Cove Livestock Market, Martinsburg
New Holland Sales Stable, Inc., New Holland
New Wilmington Livestock Auction, Inc., New Wilmington
Nicholson Sales Company, Nicholson
Penns Valley Livestock Auction, Inc., Centre Hall
Pennsylvania Livestock Auction, Inc., Waynesburg
Perkiomenville Livestock and Sales, Inc., Perkiomenville
Quakertown Livestock Sale, Quakertown
Sechrist Sales Company, Fawn Grove
W. R. Sellers Livestock, Greencastle
Thomasville Livestock Market, Inc., York
Tri-County Livestock Auction, Inc., Brockway
Troy Sales Cooperative, Troy
Union City Livestock Auction, Union City
Valley Stock Yards, Inc., Athens
Vintage Sales Stables, Inc., Paradise
Wayne County Auction Barn, Inc., Honesdale
Weikert's Livestock, Fairfield
Wyalusing Livestock Market, Wyalusing

South Carolina

Central Carolina Livestock Market, Inc., Lugoff
Chesnee Livestock Company, Chesnee
Darlington Auction Market, Darlington
Farmers County Line Stockyard, Andrews
Farmers Livestock Market, Inc., Leesville
Farmers Market, Estill
Herndon Stockyards, Inc., Erhardt
Homewood Stockyard, Inc., Conway
Hutto Stockyards, Inc., Holly Hill
Neeses Stockyards, Neeses
Orangeburg Stockyards, Inc., Orangeburg
Piedmont Livestock Center, Laurens
Saluda County Stockyards, Inc, Saluda
Springfield Stockyards, Inc., Springfield
John C. Taylor Stockyards, Anderson
Walterboro Stockyards, Company, Inc., Walterboro
York County Stockyards Sales, Inc., York

South Dakota

Aberdeen Livestock Sales Company, Aberdeen
Bales Continental Commission Company, Huron
*Belle Fourche Livestock Exchange, Inc., Belle Fourche
Bowdle Livestock Sales, Bowdle
*Britton Livestock Auction, Inc., Britton
Brookings Livestock Auction Market, Brookings
*Burke Livestock Auction, Burke
*Canton Livestock Sales Company, Canton
Chamberlain Livestock Auction, Inc., Chamberlain
Corsica Livetock Sales Company, Corsica
*Edgemont Livestock Market, Edgemont
*Faith Livestock Commission Company, Inc., Faith
*Gregory Livestock Auction, Gregory
Herreid Livestock Market, Herreid
*Highmore Livestock Exchange, Inc., Highmore
Hub City Livestock Sales, Aberdeen
*Kimball Livestock Exchange, Kimball
*Lemmon Livestock, Inc., Lemmon
*Lokens Watertown Sales Pavilion, Watertown
Lynch's Foods, Inc., Brown's Valley, Minnesota
Madden's Livestock Market, Inc., St. Onge
Madison Livestock Auction Company, Madison
Magness Livestock Market, Huron
Magness-Faulkton Livestock Market, Faulkton
Magness-Huron Livestock Exchange, Inc., Huron
Martin Auction Company, Inc., Martin
McLaughlin Livestock Auction, McLaughlin

Miller Livestock Sales Company, Miller
*Mitchell Livestock Auction Company, Mitchell
Mobridge Livestock Auction Market, Inc., Mobridge
*Philip Livestock Auction Market, Inc., Philip
*Presho Livestock Auction Company, Presho
Redfield Livestock Sales, Redfield
Sioux Falls Stockyards Company, Sioux Falls
*Sisseton Livestock Auction, Inc., Sisseton
*South Dakota Livestock Sales Company, Watertown
*Stockman's Livestock Auction Company, Yankton
*Sturgis Livestock Exchange, Sturgis
Thompson Livestock, Whitewood
*Timber Lake Livestock Market, Inc., Timber Lake
*Wessington Springs Livestock, Wessington Springs
*Winner Livestock Auction Company, Winner
*Yankton Livestock Auction Market, Yankton

Tennessee

*Athens Livestock Auction, Athens
*Botts & Evans Livestock Company, Union City
*Chattanooga Union, Chattanooga
*C & M Livestock Market, Jamestown
*Coffee County Livestock Market, Manchester
*Collierville Livestock Auction Company, Collierville
*Collins Cattle Company, Obion
*Covington Sale Company, Covington
*Crockett Livestock Sales Co., Inc., Maury City
*Cumbertland and City Stockyard, Cumberland City
*De Kalb County Livestock Company, Alexandria
*Dickson Livestock Center, Dickson
*Dixie National Stockyards, Inc. d.b.a. Abraham Cattle Company, Memphis
*East Tennessee Livestock Center, Sweetwater
*Farmers Auction, Fayetteville
*Farmers Livestock Exchange, Union City
*Farmers Livestock Market, Inc., Greeneville
*Gamaliel Kentucky Livestock Auction, Inc., Gamaliel, Kentucky
*Greeneville Livestock Market, Inc., Greeneville
*Hardin County Stockyard, Savannah
*Hardin County Livestock Company, Savannah
*Jackson County Commission, Gainesboro
*Jonesboro Livestock Yard, Inc., Telford
*Kingsport Livestock Auction Corp., Kingsport
*Lawrence County Stockyard, Lawrenceburg
*Lexington Sales Company, Lexington
*Macon Livestock Market, Inc., Lafayette
*Maxwell Livestock Market, Lewisburg
*Middleton Sale Company, Middleton
*Mid-South Livestock Commission Company, Columbia
*Mid-State Producers, Inc., Woodbury
*Moody Livestock, Newbern
*Morristown Stockyard, Inc., Morristown
*Mullins Livestock Yard, Clinton
*Murfreesboro Livestock Center, Murfreesboro
*New Tazewell Livestock, New Tazewell
*North Central Livestock Center, Cross Plains
*Oliver Livestock Company, Union City
*Paris Livestock Company of Tennessee, Inc., Paris
*Peoples Livestock Market, Cookeville
*Peoples Stockyard, Fayetteville
*Plateau Livestock Exchange, Crossville
*Pulaski Stockyard, Pulaski
*Rogersville Livestock Market, Rogersville
*Scotts Hill Auction Company, Scotts Hill
*Shelbyville Livestock Market, Shelbyville
*Smith County Commission Company, Carthage
*Southern Livestock Auction Company, Columbia
*South Memphis Stock Yards Company, Memphis
*Southwestern Stockyards, Huntingdon
*Sparta Livestock Company, Sparta
*Tennessee Livestock Producers, Thompson Station
*Tennessee Producers, Fayetteville
*Thompson Livestock, Obion
*Trenton Sales Company, Trenton
*Tri-County Stockyards, McKenzie
*Trousdale County Livestock Market, Hartsville
*Unionville Livestock Auction Company, Unionville
*Union Stockyards, Inc., Knoxville
*Warren County Livestock Market, Inc., Morrison
*West Tennessee Auction Company, Inc., Martin
*Wilson County Livestock Market, Lebanon
*Wilson Livestock Market, Newport

Texas

*Abilene Auction, Abilene
*Amarillo Livestock Auction, Amarillo
*Athens Livestock Market, Athens
*Belton Livestock Auction, Belton
Bode's Livestock Auction, Milano
*Bonham Livestock Market, Bonham
*Bowie Livestock Commission, Inc., Bowie
*Breckinridge Stockyards, Breckinridge
*Brownwood Cattle Auction, Brownwood
*Canyon Livestock Commission, Canyon
*Cattleman's Livestock Commission Company, Dalhart
*Cattleman's, Palestine
*Cattleman's Livestock, Paris
*Center Auction Company, Inc., Center
*Coleman Livestock Auction, Coleman
*Clarksville Livestock Exchange, Inc., Clarksville
*O. L. Colley Livestock Market, Mt. Pleasant
*Decatur Auction Sale, Decatur
*El Paso Livestock Auction Company, Inc., El Paso
*Ennis Auction, Ennis
*Floyada Livestock Sales, Inc., Floyada
*Fort Worth Stockyards Corp., Fort Worth
*Franklin County Livestock Commission, Mt. Vernon
*Gainesville Livestock Market, Inc., Gainesville
*Graham Livestock Commission Company, Graham
*Greenville Livestock Commission Company, Greenville
*Haskell Livestock Auction, Haskell
*Huntsville Auction Barn, Huntsville
*Jacksonville Livestock Market, Inc., Jacksonville
*J & J Livestock Commission Company, Texarkana
*Johnson County Dairy Sale, Cleburne
*Jones Livestock and Dairy Auction, Inc., Sulphur Springs
*Junction Stockyard, Inc., Junction
*Kirbyville Auction Barn, Kirbyville
*Lampasas Auction, Inc., Lampasas
Livingston Livestock Exchange, Livingston
*Llano Livestock Auction, Llano
*Longview Livestock Commission Company, Longview
*Lubbock Livestock Commission Co., Lubbock
*Lufkin Livestock Exchange, Lufkin
*Mansfield Dairy Cattle Auction, Mansfield
*Marshall Livestock Commission Company, Marshall
*McDougal Livestock Auction Barn, Comanche
*Meridian Livestock Auction, Meridian
*Mineral Wells Stockyard Company, Mineral Wells
*McKinney Livestock Commission Company, Inc., McKinney
*Morris County Livestock Commission Company, Omaha
*Muenster Livestock Auction Commission Company, Muenster
*Muleshoe Livestock Auction, Inc., Muleshoe
*Nacogdoches County Livestock Arena, Inc., Nacogdoches
*Olney Livestock Auction, Olney
*Panola Livestock Commission Company, Carthage
*Paris Livestock Commission Company, Paris
*Patton Livestock, Inc., Nacogdoches
*Pilot Point Livestock Commission Co., Inc., Pilot Point
*Pittsburg Livestock Commission Co., Pittsburg
*Port City Stockyards Company, Sealy
*Producers Livestock Auction Company, San Angelo
*Rains County Livestock Market, Emory
*Southwestern Livestock Market, Midland
*Sulphur Springs Livestock Commission Company, Sulphur Springs
*Terrell Livestock Commission, Terrell
*Texarkana Livestock Commission Co., Texarkana
*Tulia Livestock Auction, Tulia
*Tyler Livestock Commission Company, Tyler
Vann-Roach Cattle Company, Inc., Fort Worth
*Vernon Stockyards Company, Vernon
*Waldrup Livestock Auction Company, Weatherford
*Waxahatchie Livestock Commission Co., Inc., Waxahatchie
*Wellington Livestock Auction, Wellington
*Wichita Livestock Auction, Wichita Falls
*Winnsboro Livestock Market, Winnsboro
*Winnie Livestock Exchange, Winnie
*Woodville Livestock Commission Company, Woodville

Utah

*Basin Livestock, Inc., Ballard
*Cedar City Livestock Auction Company, Cedar City
*Delta Livestock Auction Company, Delta
*Producers Livestock Marketing Assn., North Salt Lake
*Producers Salina Auction, Salina
*Richfield Auction Company, Monroe

*Smithfield Livestock Auction, Smithfield
*Spanish Fork Livestock Auction, Spanish Fork
*Weber Livestock Auction Company, Ogden

Vermont

Addison County Commission Sales, East Middlebury
E. S. Crosby, Inc. d.b.a. Vergennes Commission Sales, Vergennes
C. W. Gray & Sons, Inc. d.b.a. East Thetford Commission Sale, East Thetford
E. M. Hayes, Enosberg
*Morrisville Commission Sale, Inc., Morrisville
*Orleans Commission Sale, Orleans
*St. Albans Commission Sale, St. Albans

Virginia

*Abingdon Livestock Exchange, Inc., T/A Tri-State Livestock Market, Abingdon
*Abingdon Livestock Market, Abingdon
*Amherst County Livestock Market, Inc., Amherst
*Charlottesville Livestock Market, Charlottesville
*Christiansburg Livestock Market, Inc., Christiansburg
*Farmers Livestock Exchange, Winchester
*Farmers Livestock Market, Gate City
*Farmers Livestock Market, Inc., Tazewell
*Farmers Livestock Market, Rose Hill
*Fauquier Livestock Exchange, Inc., Marshall
*Fredericksburg Stockyards Company, Fredericksburg
*Front Royal Livestock Exchange, Inc., Front Royal
*Galax Livestock Market, Inc., Galax
*Lee Farmers Livestock Market, Jonesville
Leesburg Livestock Market, Inc., Leesburg
*Lynchburg Livestock Market, Inc., Lynchburg
*Madison Livestock Market, Inc., Madison Mills
*Monterey Livestock Sales, Inc., Monterey
*Narrows Livestock Auction Market, Inc., Narrows
*Nokesville Livestock Auction, Inc., Nokesville
*Orange Livestock Market, Orange
Pearce's Livestock Market, Suffolk
*Petersburg Livestock Market, Petersburg
*Phenix Livestock Market, Phenix
*Pulaski Livestock Market, Dublin
*Roanoke-Hollins Stockyard, Hollins
*Roanoke Livestock Market, Roanoke
*Rockingham Livestock Sales, Harrisonburg
*Saluda Livestock Buying Station, Glenns
*Shenandoah Valley Livestock Sales, Harrisonburg
*Shen-Valley Buying Station, Dillwyn
*Shen-Valley Buying Station, Madison Mills
*Smithfield Livestock, Inc., Smithfield
*South Boston Livestock Market, Inc., South Boston
*South Hill Stockyard, South Hill
*Southampton Stockyards, Inc., Courtland
*Southside Livestock Markets, Inc., Blackstone
*Southside Livestock Markets, Inc., Farmville
*Southside Livestock Market of Farmville, Blackstone
*Southside Stockyards, Inc., Petersburg
*Staunton Union Stockyards, Inc., Staunton
*Staunton Livestock Market, Staunton
Tappahannock Livestock Market, Inc., Tappahannock
*Victoria Stockyard, Victoria
*Virginia-Caroline Livestock and Agricultural Market, Inc., Danville
*Woodstock Livestock Market, Inc., Woodstock
*Wytheville Livestock Market, Inc., Wytheville

Washington

Chehalis Livestock Market, Chehalis
Davenport Livestock Exchange, Inc., Davenport
Enumclaw Sales Pavilion, Inc., Enumclaw
Farmers Auction, Everson
Marysville Livestock Auction, Inc., Marysville
Prosser Livestock Market, Prosser
Quincy Livestock Market, Quincy
Stockland Livestock Exchange, Spokane
Sunnyside Livestock Market, Sunnyside
Twin City Sale, Inc., Centralia
Walla Walla Livestock Auction, Inc., Walla Walla

West Virginia

*Bluegrass Market, Inc., North Caldwell
*Blueridge Livestock Sales, Inc., Charles Town
*Bridgeport Stockyards, Inc., Bridgeport
*Buckhannon Stockyards, Buckhannon
*Jackson County Livestock Market, Inc., Ripley
*Livestock Exchange, Inc. d.b.a., Alderson Livestock Market, Alderson
*Mannington Livestock Sales, Inc., Mannington
*Moundsville Livestock Auction Company, Moundsville
*New River Livestock Market, Inc., Beckley
*Ohio County Livestock Auction, Inc., Wheeling
*Pocahontas Producers Cooperative Association, Marlinton
*Randloph County Livestock Marketing Assn., Elkins
*South Branch Stockyards, Inc., Moorefield
*Spencer Livestock Exchange, Company, Spencer
*Terra Alta Livestock Market, Inc., Terra Alta
*United Livestock Sales, Parkersburg
*Weston Livestock Sales Company, Inc., Weston

Wisconsin

H-Bar Arean, Plum City
Barron Livestock Sales Barn, Barron
*Beetown Livestock Exchange, Beetown
*Belmont Livestock Market, Inc., Belmont
Benoit NFO Livestock Collection Point, Benoit
*Clear Lake NFO Collection Point, Clear Lake
Coon Valley Sale Barn, Coon Valley
*Ellsworth NFO Collection Point, Ellsworth
*Equity Cooperative Livestock Sales Assn., Altoona
*Equity Cooperative Livestock Sales Assn., Bonduel
*Equity Cooperative Livestock Sales Assn., Johnson Creek
*Equity Cooperative Livestock Sales Assn., Monroe
*Equity Cooperative Livestock Sales Assn., Richland Center
*Equity Cooperative Livestock Sales Assn., Ripon
*Equity Cooperative Livestock Sales Assn., Sparta
*Kuehne Livestock Auction Market, Seymour
Mattes Livestock Auction Market, Inc., Thorp
*Matthes Farms, Viola
*Midwest Livestock Producers Coop., Dodgeville
*Midwest Livestock Producers Coop., Ettrick
*Midwest Livestock Producers Coop., Fennimore
*Midwest Livestock Producers Coop., Lomira
*Midwest Livestock Producers Coop., Marion
Midwest Livestock Producers Coop., Monticello
*Midwest Livestock Producers Coop., Shullsburg
*Milwaukee Stockyards, Milwaukee
*Peshtigo Livestock Market, Peshtigo

Wyoming

*Douglas Livestock Exchange, Douglas
*Greybull Livestock Auction, Greybull
*Lusk Livestock Exchange Company, Lusk
*Powell Auction Market, Powell
*Riverton Livestock Auction, Riverton
*Sheridan Livestock Auction, Sheridan
*Stockgrowers Livestock Auction, Inc., Worland
*Stockman's Livestock Auction, Torrington
*Torrington Livestock Commission Company, Torrington

Effective Date: The foregoing notice shall become effective September 6, 1983.

Done at Washington, D.C., this 30th day of August 1983.

Dale F. Schwindaman,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 83-24290 Filed 9-2-83; 8:45 am]
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Reader Aids

Federal Register

Vol. 48, No. 173

Tuesday, September 6, 1983

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202–523–3419 523–3517
General information, index, and finding aids	523–5227
Incorporation by reference	523–4534
Printing schedules and pricing information	523–3419

Federal Register

Corrections	523–5237
Daily Issue Unit	523–5237
General information, index, and finding aids	523–5227
Privacy Act	523–4534
Public Inspection Desk	523–5215
Scheduling of documents	523–3187

Laws

Indexes	523–5282
Law numbers and dates	523–5282 523–5266
Slip law orders (GPO)	275–3030

Presidential Documents

Executive orders and proclamations	523–5233
Public Papers of the President	523–5235
Weekly Compilation of Presidential Documents	523–5235

United States Government Manual 523–5230

SERVICES

Agency services	523–5237
Automation	523–3408
Library	523–4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275–2867
Public Inspection Desk	523–5215
Special Projects	523–4534
Subscription orders (GPO)	783–3238
Subscription problems (GPO)	275–3054
TTY for the deaf	523–5229

FEDERAL REGISTER PAGES AND DATES, SEPTEMBER

39595–39910.....1
39911–40186.....2
40187–40364.....6

CFR PARTS AFFECTED DURING SEPTEMBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Executive Orders:
8854 (Amended by PLO 6458).....40232
Proclamations:
5085.....39595
5086.....40187

4 CFR

Proposed Rules:
83.....39632

5 CFR

2422.....40189
2426.....40189
2429.....40189

7 CFR

210.....40194
220.....40194
226.....40197
301.....39597, 40198
421.....39911
910.....39912
908.....39602
1076.....39603
1865.....40202
1944.....40202
1945.....40202
1951.....40202
Proposed Rules:
278.....40263
279.....40263
658.....39944
1126.....39643

8 CFR

109.....40209
231.....40209
238.....40210

10 CFR

Proposed Rules:
1017.....40265

12 CFR

217.....39604
525.....39912
531.....39912
Proposed Rules:
563.....39944

14 CFR

39.....40210–40212
71.....39913, 40213
75.....40214
97.....39913
Proposed Rules:
39.....40266
71.....40267, 40270

16 CFR

Proposed Rules:
13.....39950

17 CFR

240.....39604
249.....39604

20 CFR

655.....40168

21 CFR

145.....39916
524.....39607
Proposed Rules:
Subch. H.....40272
882.....40273

23 CFR

Proposed Rules:
Ch. I.....39953

24 CFR

203.....39608
213.....39608
234.....39608

26 CFR

1.....40214
48.....40217
Proposed Rules:
1.....39953
5f.....39953

30 CFR

701.....39892, 40140
785.....39892
816.....39892, 40140
817.....39892, 40140
824.....39892
938.....40223
Proposed Rules:
75.....40165
935.....39645
938.....39645

32 CFR

286g.....39917
634.....39919
730.....40224

33 CFR

100.....39609
165.....39609, 39610
401.....39934
Proposed Rules:
117.....39646

34 CFR

Proposed Rules:
366.....39647

38 CFR

21.....40224
36.....40226

39 CFR

10.....39610
601.....40232

Proposed Rules:

111.....39647, 39648

40 CFR

17.....39934
122.....39611
123.....39611
124.....39611
144.....39611
145.....39611
233.....39611
270.....39611
271.....39611, 39623
410.....39624

Proposed Rules:

52.....39653
65.....40278
81.....39655
124.....40098
144.....40098
146.....40098
147.....40098
721.....40282
799.....39656

42 CFR

405.....39740, 39752
409.....39752
435.....39624
436.....39624
489.....39752

Proposed Rules:

435.....39959
436.....39959

43 CFR

Public Land Orders:

1707 (Amended by PLO 6458).....40232
6457.....39939
6458.....40232

46 CFR

153.....39629
154.....39629

47 CFR

25.....40233, 40256

Proposed Rules:

68.....39656

49 CFR

179.....39630
571.....39908, 39939, 40260
1042.....39630
1160.....39630
1161.....39630
1162.....39630
1165.....39630
1168.....39630
1181.....39630

Proposed Rules:

213.....39965
571.....40282, 40286
821.....39657
1157.....40287

50 CFR

17.....39941, 40178

Proposed Rules:

17.....40288
26.....39661
655.....39967
681.....39665

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last Listing August 31, 1983

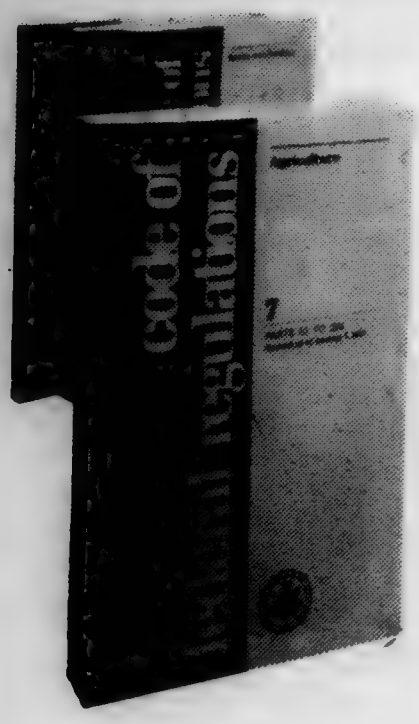

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Code of Federal Regulations

Revised as of April 1, 1983

Quantity	Volume	Price	Amount
	Title 26—Internal Revenue		
_____	(Part 1, §§ 1.301 to 1.400) (Stock No. 022-003-95171-7)	$6.00	$_____
_____	(Part 1, §§ 1.501 to 1.640) (Stock No. 022-003-95173-3)	$6.50	_____
_____	(Part 2 to 29) (Stock No. 022-003-95177-6)	$7.00	_____
		Total Order	$_____

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federal register

Wednesday
September 7, 1983

Selected Subjects

Air Rates and Fares
Civil Aeronautics Board

Animal feeds
Environmental Protection Agency

Boycotts
International Trade Administration

Buses
Interstate Commerce Commission

Coal Mining
Surface Mining Reclamation and Enforcement Office

Dairy Products
Agricultural Stabilization and Conservation Service

Endangered and Threatened Wildlife
Fish and Wildlife Service

Environmental Impact Statements
Forest Service

Gift Taxes
Internal Revenue Service

Income Taxes
Internal Revenue Service

Loan Programs—Housing and Community Development
Veterans Administration

Marine Safety
Coast Guard

CONTINUED INSIDE

Selected Subjects

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Marketing Agreements
Agricultural Marketing Service

Pensions
Internal Revenue Service

Pesticides and pests
Environmental Protection Agency

Procurement
Agency for International Development

Retirement
Railroad Retirement Board

Technical Assistance
Soil Conservation Service

Tobacco
Agricultural Marketing Service

Wildlife Refuges
Fish and Wildlife Service

Wine
Alcohol, Tobacco and Firearms Bureau

Contents

Federal Register
Vol. 48, No. 174
Wednesday, September 7, 1983

Agency for International Development
RULES
40385 Procurement

Agricultural Marketing Service
RULES
40367 Almonds grown in Calif.
Tobacco inspection:
40365 Burley; alternative packaging

Agricultural Stabilization and Conservation Service
RULES
40366 Dairy indemnity payment program extension

Agriculture Department
See also Agricultural Marketing Service; Agricultural Stabilization and Conservation Service; Forest Service, Rural Electrification Administration; Soil Conservation Service.
NOTICES
Import quotas and fees:
40414 Sugar; import quota system review

Air Force Department
NOTICES
Meetings:
40423 Scientific Advisory Board

Alcohol, Tobacco and Firearms Bureau
RULES
Alcohol; viticultural area designations:
40377 Ohio River Valley

Army Department
NOTICES
Meetings:
40423, 40424 Medical Research and Development Advisory Committee (2 documents)

Arts and Humanities, National Foundation
NOTICES
Meetings:
40465 Inter-Arts Advisory Panel

Civil Aeronautics Board
PROPOSED RULES
Tariffs:
40389 Fares or rate outside zones of flexibility; requirement for submission of supporting data by U.S. and foreign air carriers; extension of time
NOTICES
Hearings, etc.:
40417 Denham Aircraft Services Corp. II
40483 Meetings; Sunshine Act

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
40417 California
40417 Maine
40417 Texas
40483 Meetings; Sunshine Act

Coast Guard
RULES
Safety zones:
40380 New York, New Jersey, New York Harbor

Commerce Department
See also International Trade Administration; National Oceanic and Atmospheric Administration.
NOTICES
40417 National Technology Medal; award nomination procedures

Commodity Futures Trading Commission
NOTICES
40484 Meetings; Sunshine Act

Consumer Product Safety Commission
NOTICES
Complaints issued:
40421 Janex Corp.

Defense Department
See also Air Force Department; Army Department.
NOTICES
Meetings:
40423 DIA Advisory Committee

Delaware River Basin Commission
NOTICES
40424 Hearings and meetings

Economic Regulatory Administration
NOTICES
Natural gas; fuel oil displacement certificaiton applications:
40425 Deep River Dyeing Co., Inc., et al.
40425 St. Elizabeth Medical Center, Inc., et al.
Remedial orders:
40426 Intercoastal Operating Co. et al.
40426 Mapco International, Inc.

Education Department
RULES
Postsecondary education:
40380 Student assistance; Selective Service registration requirement; revision of schedule

Employment and Training Administration
NOTICES
Job Training Partnership Act:
40451 Native American programs; proposed allocation, allocation formula, and grantee planning estimates; 1984 FY

Energy Department
See also Economic Regulatory Administration; Federal Energy Regulatory Commission; Hearings and Appeals Office, Energy Department.

NOTICES
Meetings:
40425 National Petroleum Council

Environmental Protection Agency
RULES
Pesticides; tolerances in animal feeds:
40369 Thiodicarb
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.:
40384 Iprodione
NOTICES
Meetings:
40440 Science Advisory Board
Pesticide, food, and feed additive petitions:
40432 American Cyanamid Co. et al.
40432 Ciba-Geigy Corp. et al.
Pesticide registration, cancellation, etc.:
40434 Re-Zist Roach and Ant Killer, etc.
Pesticides; experimental use permit applications:
40437 California Agricultural Experimental Station at University of California et al.
Pesticides; temporary tolerances:
40438 Thiodicarb
Toxic and hazardous substances control:
40438, 40439 Premanufacture notification requirements; test marketing exemption approvals (2 documents)

Federal Communications Commission
NOTICES
40484, 40485 Meetings; Sunshine Act (2 documents)

Federal Deposit Insurance Corporation
NOTICES
40485–40487 Meetings; Sunshine Act (3 documents)

Federal Election Commission
NOTICES
40487 Meetings; Sunshine Act (2 documents)

Federal Energy Regulatory Commission
NOTICES
Hearings, etc.:
40426, 40427 Algonquin Gas Transmission Co. (2 documents)
40427 Bangor Hydro-Electric Co.
40427 Centel Corp.
40427 Mohave Gas Trust
40428 Montana-Dakota Utilities Co.
40428 National Fuel Gas Supply Corp.
40428, 40429 Natural Gas Pipeline Co. of America (2 documents)
40429 North Penn Gas Co.
40429 Pankratz Lumber Co.
40429, 40430 Texas Eastern Transmission Corp. (2 documents)
40430 Valley Gas Transmission, Inc., et al.
40431 Vermont Gas Systems, Inc.
Natural Gas Policy Act:
40490 Jurisdictional agency determinations

Federal Mine Safety and Health Review Commission
NOTICES
40487 Meetings; Sunshine Act

Federal Procurement Policy Office
NOTICES
40470 Federal procurement data system, reporting requirements compliance; proposed policy letter; inquiry

Federal Reserve System
NOTICES
Applications, etc.:
40440 Crocker National Corp. et al.
40487 Meetings; Sunshine Act

Fiscal Service
NOTICES
Surety companies acceptable on Federal bonds:
40481 American Automobile Insurance Co. et al.; correction
40481 Mission Insurance Co. et al.; correction

Fish and Wildlife Service
PROPOSED RULES
Endangered and threatened species:
40407 Gouania hillebrandii
40404 Hierro giant and Ibiza wall lizards
Hunting and sport fishing:
40411 Texas National Wildlife Refuge et al.

Food and Drug Administration
NOTICES
Medical devices:
40441 Burroughs Wellcome Co.; neuroleptic drugs radioreceptor assay test system; reclassification petition; correction
Meetings:
40441 Consumer information exchange

Forest Service
RULES
40381 National forest system land and resource management planning

General Services Administration
RULES
Procurement:
40385 ADP services; dollar threshold raised for blanket delegations of procurement authority; etc., temporary; correction
NOTICES
Authority delegations:
40440 Treasury Department Deputy Secretary
Meetings:
40440 Advisory Board

Health and Human Services Department
See Food and Drug Administration; Health Resources and Services Administration; Human Development Services Office; Social Security Administration.

Health Resources and Services Administration
NOTICES
Grants; availability, etc.:
40441 Family medicine, predoctoral training; correction

Hearings and Appeals Office, Energy Department
NOTICES
Remedial orders:
40432 Objections filed

Human Development Services Office
NOTICES
Meeting:
40441 Child Abuse and Neglect Advisory Board

Indian Affairs Bureau
NOTICES
40442 Financial assistance and social services program; near-reservation designations
Judgment funds; plan for use and distributions:
40442 Ottawa Tribe of Oklahoma
40443 Red Lake Band of Chippewa Indians

Interior Department
See Fish and Wildlife Service; Indian Affairs Bureau; Land Management Bureau; Minerals Management Service; Reclamation Bureau; Surface Mining Reclamation and Enforcement Office.

Internal Revenue Service
RULES
Estate and gift taxes:
40371 Time for filing gift tax returns
Income taxes:
40370 Meal Expenses while traveling; substantiation
Procedure and administration:
40376 Disclosures of return information to Labor Department and Pension Benefit Guaranty Corporation

International Development Cooperation Agency
See Agency for International Development.

International Trade Adminstration
RULES
Export licensing:
40368 Restrictive trade practices or boycotts; U.S. citizen as foreign resident, furnishing information
NOTICES
Antidumping:
40419 Hot-rolled carbon steel plate and hot-rolled carbon steel sheet from Brazil
Export privileges, actions affecting:
40418 Piher Semiconductores, S.A.
Meetings:
40418 Electronic Instrumentation Technical Advisory Committee

International Trade Commission
NOTICES
40488 Meetings: Sunshine Act

Interstate Commerce Commission
RULES
Motor carriers:
40387 Operating authority applications; consistency with public interest or effect on commuter services
NOTICES
Railroad operation, acquisition, construction, etc.:
40449 Seaboard System Railroad, Inc.
Railroad services abandonment:
40449 Burlington Northern Railroad Co.

Labor Department
See Employment and Training Administration; Occupational Safety and Health Administration.
NOTICES
Unemployment compensation, State laws; hearings:
40449 Montana

Land Management Bureau
NOTICES
Alaska native claims selection; applications, etc.:
40446 Cook Inlet Region, Inc.
Environmental statements; availability, etc.:
40447 Red Mountain wilderness study area, Mendocino, Calif.
40447 Yokayo grazing program, Ukiah District, Calif.
Meetings:
40443 Arizona Strip District Grazing Advisory Board
Phosphate leasing areas:
40443 Idaho
Sale of public lands:
40444, 40445 Oregon (2 documents)
Survey plat filings:
40444 New Mexico (2 documents)
Withdrawal and reservation of lands, proposed, etc.:
40446 Wyoming

Libraries and Information Science, National Commission
NOTICES
40488 Meetings; Sunshine Act

Management and Budget Office
See Federal Procurement Policy Office.

Minerals Management Service
RULES
Outer Continental Shelf; geological and geophysical explorations:
40380 Status reports, monthly submission; correction
NOTICES
Meetings:
40448 Outer Continental Shelf Advisory Board
Outer Continental Shelf; oil, gas, and sulphur operations:
40448 Oil and gas operations equipment standards; proposed amendment; inquiry; extension of time
Outer Continental Shelf; oil, gas, and sulphur operations; development and production plans:
40448 Texaco U.S.A.

National Aeronautics and Space Administration
NOTICES
Environmental statements; availability, etc.:
40465 Space Transportation System, Eastern Launch Site, Fla.

National Mediation Board
NOTICES
40488 Meetings; Sunshine Act

National Oceanic and Atmospheric Administration
NOTICES
Meetings:
40421 Gulf of Mexico Fishery Management Council

National Science Foundation
NOTICES
40466 Antarctic Conservation Act of 1978; permit applications, etc.

National Transportation Safety Board
NOTICES
40466 Accident reports, safety recommendations, and responses, etc.; availability

Nuclear Regulatory Commission
NOTICES
Applications, etc.:
40468 Arizona Public Service Co. et al.
40468 Energy Department et al.
40468 Long Island Lighting Co.
Meetings:
40469 Reactor Safeguards Advisory Committee (3 documents)
40469 Reactor Safeguards Advisory Committee; proposed additional session
Safety analysis and evaluation reports; availability, etc.:
40468 Philadelphia Electric Co.

Occupational Safety and Health Administration
NOTICES
State plans; standards approval, etc.:
40464 Maryland
Variance applications, etc.:
40463 Hammermill Papers Group

Railroad Retirement Board
PROPOSED RULES
40390 Retirement annuities computation; primary insurance amount determinations and supplemental annuities

Reclamation Bureau
NOTICES
Environmental statements; availability, etc.:
40448 Tahoe City, Calif.

Rural Electrification Administration
NOTICES
40415 Wolverine Power Supply Cooperative, Inc., Big Rapids, Mich.; stipulation and settlement agreement consent judgment

Securities and Exchange Commission
NOTICES
Hearings, etc.:
40475 IDS Life Insurance Co. et al.
40471 New England Power Co. et al.
40477 Related Housing Associates I et al.
40471 Societe Generale (Canada) Funding Inc.
40473, 40474 Standard Oil Co. (2 documents)
Self-regulatory organizations; proposed rule changes:
40478, 40479 Midwest Clearing Corp. (2 documents)

Social Security Administration
NOTICES
Organization, functions, and authority delegations:
40441 Social Security Commssioner

Soil Conservation Service
PROPOSED RULES
40389 Cooperative relationships and arrangements; removal from CFR

State Department
NOTICES
Meetings:
40479 Conservation of Atlantic Tunas International Commission, United States National Section Advisory Committee
40480 International Investment, Technology, and Development Advisory Committee
40480 Shipping Coordinating Committee

Surface Mining Reclamation and Enforcement Office
PROPOSED RULES
Permanent program submission; various States:
40396 Ohio

Trade Representative, Office of United States
NOTICES
Import quotas and exclusions, etc.:
40470 Sugar; allocation modification determination

Transportation Department
See Coast Guard.

Treasury Department
See also Alcohol, Tobacco and Firearms Bureau; Fiscal Service; Internal Revenue Service.
NOTICES
40480 Agency information collection activities under OMB review (2 documents)

United States Information Agency
NOTICES
40482 President's International Youth Exchange Initiative; selective assistance through limited grant support to not-for-profit organizations; correction

Veterans Administration
PROPOSED RULES
Loan guaranty:
40402 Manufactured housing loans guaranty claims computation

Separate Parts in This Issue

Part II
40490 Department of Energy, Federal Energy Regulatory Commission

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
29..... 40365
760..... 40366
981..... 40367
Proposed Rules:
660..... 40389

14 CFR
Proposed Rules:
22..... 40389

15 CFR
369..... 40368

20 CFR
Proposed Rules:
225..... 40390
226..... 40390
227..... 40390

21 CFR
561..... 40369

26 CFR
1 (2 documents)..... 40370, 40371
25..... 40371
301 (2 documents)..... 40371, 40376

27 CFR
9..... 40377

30 CFR
251..... 40380
Proposed Rules:
935..... 40396

33 CFR
165..... 40380

34 CFR
668..... 40380

36 CFR
219..... 40381

38 CFR
Proposed Rules:
36..... 40402

40 CFR
180..... 40384

41 CFR
Ch. 1..... 40385
Ch. 7..... 40385

49 CFR
1160..... 40387
1168..... 40387

50 CFR
Proposed Rules:
17 (2 documents)..... 40404, 40407
32..... 40411
33..... 40411

VOL
48
ISS
1
7
4
SE
7
1983
UMI

Rules and Regulations

Federal Register
Vol. 48, No. 174
Wednesday, September 7, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 29

Tobacco Inspection; Alternative Packaging for Burley Tobacco

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department issued a notice of proposed rulemaking in the **Federal Register** on May 25, 1983, allowing interested parties a 45-day comment period for views and comments on alternative packaging for burley tobacco. Based on comments received from a cross-section of the burley industry, the Department has determined that beginning with the 1983–84 marketing season official grading will be provided to U.S. Type 31 tobacco offered for sale at auction untied on burlap sheets, in addition to the present methods of hand-tied bundles or united in bales.

EFFECTIVE DATE: September 7, 1983.

FOR FURTHER INFORMATION CONTACT: Lioniel S. Edwards, Director, Tobacco Division, Agricultural Marketing Service, Room 502 Annex Building, United States Department of Agriculture, Washington, D.C., 20250, (202) 447–2567.

SUPPLEMENTARY INFORMATION: In the interest of improving the current burley marketing program and in the interest of promoting and maintaining orderly marketing conditions in the tobacco industry, the Agricultural Marketing Service (AMS) issued a notice of proposed rulemaking (48 FR 23437, May 25, 1983) allowing burley tobacco, U.S. Type 31, to be officially graded when marketed untied on burlap sheets, as well as tied in hands or untied in approximately 70-pound bales. In addition to the packaging proposal, the Department gave consideration to amending the regulations to alter the method of display of burley tobacco. That proposal required that bales be placed lengthwise on the pallets so that the midribs of the leaves were parallel to the aisle. However, further review of this proposal by the Department, and based on comments received in opposition, the Department has determined that no change be made in the manner of display of baled tobacco. Therefore, for the 1983–84 and succeeding marketing seasons, baled tobacco shall continue to have the stems turned towards the aisle. The authority for promulgating these regulations is contained in the Tobacco Inspection Act of 1935 (49 Stat. 731; 7 U.S.C. *et seq.*).

The notice of proposed rulemaking generated only 83 comments, contrasting the 7,000 comments received on a similar proposal a year ago.

Forty-seven commentors favored the continuance of bales in the burley marketing system; 34 commentors favored the sheeting process as proposed by the Department. One commentor voiced neutrality; one commentor did not, in effect, address the "sheeting" proposal but recommended against changing regulations on display of burely tobacco for sale at auction.

The comments received by the Department favoring untied sheeted sales included one from a congressman, one from a producer group, and several from warehouse and buying concerns.

The comments received by the Department in favor of untied, baled sales included four from producer groups, one from a large tobacco purchasing concern, and several from the warehouse sector.

The Department has focused a great deal of attention on alternative packaging of burley tobacco since 1974. The non-grading of untied, sheeted sales during the 1982–83 season triggered numerous lawsuits against the Department. In December 1982, the Department was ordered by the courts to officially grade untied, sheeted tobacco offered for sale at auction during the 1982–83 marketing season.

There is a strong division of sentiment in the burley region on which packaging concept is: (1) Most economical; (2) best suited to the cold climate of the region; and (3) most conducive to the maintenance of quality. The only point all segments of the industry agree on is that the time has come for a one-package marketing concept, however, there is strong disagreement on what that package should be. Providing grading for untied, sheeted tobacco will now allow all segments of the industry to operate with and evaluate the relative merits of all three types of packaging for burley tobacco. With the experience, it is possible that all segments of the industry may be able to decide on a single package for marketing burley tobacco.

A comment by a buying concern which consistently had been opposed to untied, sheeted sales stated that if untied, sheeted sales were allowed that the action be conditioned by (1) Compliance with the regulations regarding leaf orientation; (2) a 250-pound maximum weight per sheet; and (3) one sheet only should constitute a "lot." These conditions are well received. The Department, in an effort to provide improved services to the industry, shall closely monitor untied, sheeted sales across the burley belt to insure strict compliance with the aforestated conditions.

The timing of the Department's decision in 1982 caused the greatest dissatisfaction in the burley region. Therefore, it is anticipated that the early publication of this final rule will provide ample time for all segments of the industry to prepare for the alternative packaging concept of untied, sheeted tobacco. The method of packaging will be the choice of individual producers, and it is anticipated that all segments of the industry will cooperate with the Department in this endeavor.

This final rule has been reviewed under USDA procedures established to implement Executive Order 12291 and the Secretary's Memorandum 1512–1 and has been determined to be "nonmajor" because it does not meet any of the criteria established for major rules under the executive order. Initial review of the regulations contained in 7 CFR Part 29, for need currency, clarity, and effectiveness has been completed.

Additionally, in conformance with the provisions of Pub. L. 96–354, Regulatory Flexibility Act, full consideration has been given to the potential economic impact upon small business. Tobacco warehousemen and producers fall

within the confines of "small business" as defined in the Regulatory Flexibility Act. A number of firms which are affected by these adopted regulations do not meet the definition of small business either because of their individual size or because of their dominant position in one or more marketing areas. William T. Manley, Deputy Administrator, AMS, has certified that these actions will have no significant economic impact upon all entities, small or large and will, in no way, affect the normal competition in the market place.

List of Subjects in 7 CFR Part 29

Administrative practices and procedure, Tobacco.

Accordingly, the Regulations under the Tobacco Inspection Act contained in 7 CFR Part 29 are amended as follows:

PART 29—TOBACCO INSPECTION

1. Section 29.3036 is revised to read as follows:

§ 29.3036 Lot.

A pile, basket, bulk, bale or bales, sheet, case hogshead, tierce, package, or other definite package unit.

2. Section 29.3044 is revised to read as follows:

§ 29.3044 Oriented.

A term applied to untied tobacco which denotes the arrangement of leaves in a straight and orderly manner. Oriented includes:

(a) Any lot of baled tobacco in which the leaves are packed parallel to the length of the bale with the butts to the outside and the tips of the leaves overlapping sufficiently to make a level, solid and uniform package;

(b) Any lot of sheeted tobacco in which the leaves are arranged in a circular pattern with the butts to the outside.

Dated: August 31, 1983.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 83-24380 Filed 9-6-83; 8:45 am]

BILLING CODE 3410-02-M

Agricultural Stabilization and Conservation Service

7 CFR Part 760

Special Programs; Dairy Indemnity Payment Programs

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Interim Rule.

SUMMARY: The purpose of this interim rule is to amend the Dairy Indemnity Payment Program Regulations to extend the operation of the program through September 30, 1983. Further, it appears that funds available to the Agricultural Stabilization and Conservation Service (ASCS) will be insufficient to pay all fiscal year 1983 dairy indemnity claims which may be filed. Accordingly, this interim rule provides that beginning with fiscal year 1983 each claimant would be paid a pro rata share of their total claim for the fiscal year if there are insufficient funds to pay all claimants.

EFFECTIVE DATE: This regulation shall become effective September 7, 1983. Comments must be received on or before October 7, 1983.

ADDRESS: Send comments to Director, Emergency Operations and Livestock Programs Division, ASCS, USDA, South Building, Room 4095, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Clarence Domire, Agricultural Program Specialist, Emergency Operations and Livestock Programs Division, ASCS, USDA, South Building, Room 4095, Washington, D.C. 20013; (202) 447-7997.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary Memorandum 1512-1 and has been classified as "not major." This rule has been classified as "not major" since it will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal assistance program to which this rule applies are: Title—Dairy Indemnity Payments, Number—10.053, as found in the Catalog of Federal Domestic Assistance Programs.

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since ASCS is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

The Dairy Indemnity Payment Program was originally authorized by Section 331 of the Economic Opportunity Act of 1964 (75 Stat. 525). The legislation has been extended several times. The most recent extension, by the Agriculture and Food Act of 1981 (95 Stat. 1220), extended authority for the program through September 30, 1985. The objective of the program is to indemnify dairy farmers and manufacturers of dairy products, who, through no fault of their own, suffer income losses on milk, or milk products removed from commercial markets because such products contain certain harmful residues. In addition, dairy farmers can also be indemnified for income losses due to residues of toxic substances and contamination by nuclear radiation or fallout.

The Agriculture and Food Act of 1981 made no substantive changes with respect to the Dairy Indemnity Payment Program but merely extend time period for conducting the program. The main purpose of this interim rule is to authorize operation of the program through September 30, 1983.

The sum of $7.0 million has been appropriated to cover fiscal year 1982 and 1983 claims under the program. The claims for these two fiscal years will most likely exceed the $7.0 million. Accordingly, this interim rule provides that beginning with fiscal year 1983, each eligible claimant will receive a pro rata share of the remaining funds available to the Department to pay dairy indemnity claims if insufficient funds are available to the Department to pay all eligible claims. All such claims would be paid after the end of the 1983 fiscal year. While it is the present intention of the Department to pay dairy indemnity claims in this manner, consideration may also be given to other methods for paying such claims, such as, payment on the basis of the earliest filing date.

Since the paramount purpose of this interim rule is to extend the operation of the Dairy Indemnity Payment Program, it has been determined that in order to allow eligible claims to be filed and processed as soon as possible, this rule should be published without prior opportunity for public comment. Therefore, this regulation shall become effective upon publication in the **Federal Register**.

However, the public is invited to submit written comments regarding the method of payment rule to the Director, Emergency Operations and Livestock Programs Division, ASCS, USDA, Room 4095, South Building, Washington, D.C. 20013. Persons submitting comments should include their name and address and give reasons for the comments. Copies of all written comments received will be available for review by interested persons in Room 4095, South

Building, USDA, during regular business hours. Comments must be received by October 7, 1983 to be assured of consideration.

The comment period on this interim rule has been limited to 30 days to give interested persons time for comments and also to expedite payment of eligible fiscal year 1983 dairy indemnity claims.

A final rule will be published in the **Federal Register** as soon as possible discussing any comments received as well as making any applicable amendments to the regulation.

Information collection requirements contained in this regulation (7 CFR Part 760) have been approved by The Office of Management and Budget under provisions of 44 U.S.C. Chapter 35 and have been assigned OMB No. 0560–0045.

List of Subjects in 7 CFR Part 760

Bees, Dairy products, Honey, Indemnity payments, Pesticides and pests.

Interim Rule

PART 760—[AMENDED]

Accordingly, the regulations at 7 CFR Part 760 are amended as follows:

§ 760.2 [Amended]

1. In § 760.2, paragraphs (k) (1) and (2), (l), and (o) are amended by striking out "1982" and inserting in lieu thereof "1983".

§ 760.8 [Amended]

2. Section 760.8 is amended by striking out "1982" and inserting in lieu thereof "1983".

3. Section 760.33 is revised to read as follows:

§ 760.33 Availability of Funds.

Payment of indemnity claims will be contingent upon the availability of funds to the Department to pay such claims. With respect to claims filed after October 1, 1982, if the Department determines that the amount of claims to be filed under the program will exceed the funds available to the Department, to pay such claims payments will be made so that each eligible claimant will receive a pro rata share of the remaining funds available to the Department to pay dairy indemnity claims.

(Approved by Office of Management and Budget under control No. 0560–0045)

Secs. 1, 2, 3, Pub. L. 90–484, 82 Stat 750, as amended (7 U.S.C. 450 j, k, l)

Signed at Washington, D.C. on August 31, 1983.

Everett Rank,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 83–24388 Filed 9–6–83; 8:45 am]

BILLING CODE 3410–05–M

Agricultural Marketing Service

7 CFR Part 981

Handling of Almonds Grown in California; Extension of Disposition Date for 1982–83 Crop Year Reserve Almonds

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Emergency final rule.

SUMMARY: This action extends the time which handlers of California almonds have to sell their 1982–83 crop year reserve almonds from September 1, 1983, to November 1, 1983. Reserve almonds not sold by handlers to reserve outlets by November 1 will be disposed of by the Almond Board of California. This action is needed because of the lengthy startup time required by handlers to develop new markets for reserve almonds.

EFFECTIVE DATE: September 7, 1983.

FOR FURTHER INFORMATION CONTACT: Frank M. Grasberger, Acting Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250 (202) 447–5053.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classified a "non-major" rule under criteria contained therein.

The 1982–83 almond reserve was established through a final rule published in the **Federal Register**, September 30, 1982 (47 FR 42960). That final rule contained a statement that William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that [such] action will not have a significant economic impact on a substantial number of small entities because it will result in only minimal costs being incurred by the regulated 29 handlers.

It has been determined that an emergency situation exists which warrants publication of this final rule without prior authority for public comment. This action will relax a restriction on handlers by allowing them additional time to sell their 1982–83 crop year reserve almonds beyond the current September 1, 1983, deadline. Therefore, this action should take effect on or before September 1, 1983, and consequently, there is not sufficient time to issue a notice of proposed rulemaking soliciting comments from the public.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice of rulemaking and other public procedure with respect to this emergency action are impracticable and contrary to the public interest, and that good cause is found for making this emergency final action effective less than 30 days after publication of this document in the **Federal Register**.

This final rule adds § 981.466a to Subpart—Administrative Rules and Regulations (7 CFR 981.401–981.474; 48 FR 11249). This subpart is issued under the marketing agreement and Order No. 981 (7 CFR 981), both as amended, regulating the handling of almonds grown in California and hereinafter referred to collectively as the "order." Section 981.466a is added pursuant to § 981.66(e) of the order. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based on a recommendation of the Almond Board of California, hereinafter referred to as the "Board," which works with USDA in administering the order.

Section 981.66(e) provides that any reserve almonds remaining unsold to reserve outlets as of each September 1 subsequent to any crop year in which handlers are required to withhold such almonds from normal outlets shall be disposed of by the Board as soon as practicable through the most readily available reserve outlets. Section 981.66(e) also provides that the date of September 1 may be extended by the Secretary of Agriculture upon recommendation of the Board or the receipt of other information. This action extends the September 1 date to November 1 for the purpose of disposing of 1982–83 crop year reserve almonds.

A two percent reserve requirement was established for marketable California almonds received by handlers during the 1982–83 crop year for the purpose of developing new outlets for almonds noncompetitive with normal domestic and export outlets. The principal outlets targeted for reserve almonds under this program were almond butter and school lunch program markets. This program is new to the industry and has required considerable startup time for almond handlers to develop such markets. Therefore, the Board believes that handlers should be given additional time to dispose of their 1982–83 crop year reserve almonds.

List of Subjects in 7 CFR Part 981

Marketing agreements and orders, Almonds, and California.

After consideration of all relevant matter available, including the Board's recommendation, it is further found that to add § 981.466a will tend to effectuate the declared policy of the act.

PART 981—[AMENDED]

Therefore, § 981.466a is added to Subpart—Administrative Rules and Regulations (7 CFR 981.401–981.474; 48 FR 11249) as follows: (This section will not appear in the Code of Federal Regulations).

§ 981.466a Extension of disposition date for 1982–83 crop year reserve almonds.

Pursuant to § 981.66(e), the date of September 1 contained in § 981.66(e) shall be changed to November 1 with regard to the disposition of 1982–83 crop year reserve almonds.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: September 1, 1983.

Charles R. Brader,

Director, Fruit and Vegetable Division.

[FR Doc. 83-24415 Filed 9-6-83; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Part 369

[Docket No. 30901-179]

Restrictive Trade Practices or Boycotts

AGENCY: International Trade Administration, Commerce.

ACTION: Interpretation.

SUMMARY: The Department is clarifying the application of its antiboycott regulations (15 CFR Part 369) to situations which permit a U.S. person who qualifies as a bona fide resident of a foreign country to furnish information in response to legal requirements of the foreign country, notwithstanding the boycott nature of those requirements.

EFFECTIVE DATE: September 7, 1983.

FOR FURTHER INFORMATION CONTACT: Howard N. Fenton, Director, Compliance Policy Division, Office of Antiboycott Compliance, U.S. Department of Commerce (202/377–4550).

SUPPLEMENTARY INFORMATION: The antiboycott regulations include an exception to the prohibitions which permits a U.S. person who qualifies as a "bona fide resident" of a boycotting country to comply with the laws of that country to the extent the U.S. person's activities take place exclusively within the boycotting country [§ 369.3 (f–1)]. Among the activities which the exception specifically permits is the furnishing of otherwise prohibited information about business relationships in response to legal requirements of the boycotting country. OAC believes that it is appropriate at this time to clarify the nature of information that could be provided and the circumstances under which the information could be provided pursuant to this exception. This interpretation sets forth the Department's views with regard to these issues.

List of Subjects in 15 CFR Part 369

Boycotts, Foreign trade, Reporting and recordkeeping requirements, Restrictive trade practices, Trade practices.

Interpretation

The principal author of this interpretation is Howard N. Fenton, Director, Compliance Policy Division, Office of Antiboycott Compliance.

PART 369–[AMENDED]

The following appendix is added to Part 369 as Supplement 9.

Supplement No. 9

Appendix—Interpretation–Activities Exclusively Within a Boycotting Country—Furnishing Information

Section 369.3(f–1) of the regulations provides that a United States person who is a bona fide resident of a boycotting country may comply with the laws of that country with respect to his or her activities exclusively within the boycotting country. Among the types of conduct permitted by this exception is "furnishing information within the host country" § 369.3(f–1)(1)(v). For purposes of the discussion which follows, the Department is assuming that the person in question is a bona fide resident of the boycotting country as defined in § 369.3(f), and that the information to be provided is required by the laws or regulations of the boycotting country, as also defined at § 369.3(f). The only issue this interpretation addresses is under what circumstances the provision of information is "an activity exclusively within the boycotting country.

The activity of "furnishing information" consists of two parts, the acquisition of the information and its subsequent transmittal. Under the terms of this exception, the information may not be acquired outside the country for the purpose of responding to the requirement for information imposed by the boycotting country. Thus, if an American company which is a bona fide resident of a boycotting country is required to provide information about its dealings with other U.S. firms, the company may not ask its parent corporation in the United States for that information, or make any other inquiry outside the boundaries of the boycotting country. The information must be provided to the boycotting country authorities based on information or knowledge available to the company and its personnel located within the boycotting country at the time the inquiry is received [see § 369.3(f–1) examples (iii), (iv), (v)]. Much of the information in the company's possession (transaction and corporate records) may have actually originated outside the boycotting country, and much of the information known to the employees may have been acquired outside the boycotting country. This will not cause the information to fall outside the coverage of this exception, if the information was sent to the boycotting country or acquired by the individuals in normal commercial context prior to and unrelated to a boycott inquiry or purpose. It should be noted that if prohibited information (about business relations with a boycotted country, for example) has been forwarded to the affiliate in the boycotting country in anticipation of a possible boycott inquiry from the boycotting country government, the Department will not regard this as information within the knowledge of the bona fide resident under the terms of the exception. However, if the bona fide resident possesses the information prior to receipt of a boycott-related inquiry and obtained it in a normal commercial context, the information can be provided pursuant to this exception notwithstanding the fact that, at some point, the information came into the boycotting country from the outside.

The second part of the analysis of "furnishing information" deals with the limitation on the transmittal of the information. It can only be provided within the boundaries of the boycotting country. The bona fide resident may only provide the information to the party that the boycotting country law requires (directly or through an agent or representative within the country) so long as that party is located within the boycotting country. This application of the exception is somewhat easier, since it is relatively simple to determine if the information is to be given to somebody within the country.

Note that in discussing what constitutes furnishing information "exclusively within" the boycotting country, the Department does not address the nature of the transaction or activity that the information relates to. It is the Department's position that the nature of the transaction, including the inception or completion of the transaction, is not material in analyzing the availability of this exception.

For example, if a shipment of goods imported into a boycotting country is held up at the time of entry, and information from the bona fide resident within that country is legally required to free those goods, the fact that the information may relate to a transaction that began outside the boycotting country is not material. The availability of the exception will be judged based on the activity of the bona fide resident within the country. If the resident provides that information of his or her own knowledge, and provides it to appropriate parties located

exclusively within the country, the exception permits the information to be furnished.

Factual variations may raise questions about the application of this exception and the effect of this interpretation. In an effort to anticipate some of these, the Department has set forth below a number of questions and answers. They are incorporated as a part of this interpretation.

1. *Q:* Under this exception, can a company which is a U.S. person and a bona fide resident of the boycotting country provide information to the local boycott office?

A: Yes, if local law requires the company to provide this information to the boycott office and all the other requirements are met.

2. *Q:* If the company knows that the local boycott office will forward the information to the Central Boycott Office, may it still provide the information to the local boycott office?

A: Yes, if it is requred by local law to furnish the information to the local boycott office and all the other requirements are met. The company has no control over what happens to the information after it is provided to the proper authorities. (There is obvious potential for evasion here, and the Department will examine such occurrences closely.)

3. *Q:* Can a U.S. person who is a bona fide resident of Syria furnish information to the Central Boycott Office in Damascus?

A: No, unless the law in Syria specifically requires information to be provided to the Central Boycott Office the exception will not apply. Syria has a local boycott office responsible for enforcing the boycott in that country.

4. *Q:* If a company which is a U.S. person and a bona fide resident of the boycotting country has an import shipment held up in customs of the boycotting country, and is required to provide information about the shipment to get it out of customs, may the company do so?

A: Yes, assuming all other requirements are met. The act of furnishing the information is the activity taking place exclusively within the boycott country. The fact that the information is provided corollary to a transaction that originates or terminates outside the boycotting country is not material.

5. *Q:* If the U.S. person and bona fide resident to the boycotting country is shipping goods out of the boycotting country, and is required to certify to customs officials of the country at the time of export that the goods are not of Israeli origin, may he do so even though the certification relates to an export transaction?

A. Yes, assuming all other requirements are met. See number 4 above.

(Pub. L. 96–72, 93 Stat. 503; sec. 8(a), 50 U.S.C. App. 2407 (Supp. III, 1979))

Dated: August 31, 1983.

William V. Skidmore,

Director, Office of Antiboycott Compliance

[FR Doc. 83–24384 Filed 9–1–83; 12:19 pm]

BILLING CODE 3510–25–M

ENVIRONMENTAL PROTECTION AGENCY

21 CFR Part 561

[FAP 2H5325/R595; PH–FRL 2428–4]

Tolerances for Pesticides in Animal Feeds Administered by the Environmental Protection Agency; Thiodicarb

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes an interim feed additive regulation to permit the combined residues of the insecticide thiodicarb and its metabolite in or on the need commodities cottonseed and soybean hulls. This regulation to permit marketing of the commodities treaded with the insecticide in accordance with an experimental use permit was requested in a petition by Union Carbide Corporation.

EFFECTIVE DATE: Effective on September 7, 1983.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Jay Ellenberger, Product Manager (PM) 12, Registration Division (TS–767C), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. Office location and telephone number: Rm. 202, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–2386).

SUPPLEMENTARY INFORMATION: EPA issued a regulation published in the **Federal Register** of April 14, 1982 (47 FR 16011), which announced that Union Carbide Corporation, P.O. Box 12114, T.W. Alexander Drive, Research Triangle Park, NC 27709, had submitted feed additive petition 2H5325 to the Agency proposing to amend 21 CFR 561.386 by establishing an interim regulation permitting residues of the insecticide thiodicarb (dimethyl *N*',*N*'-[thiobis[(methylamino) carbonyloxy]] bis [ethanimidothioate], and its metabolite methomyl (*N*-[(methylcarbamoyl)oxy] thioacetimidate in or on the feed commodities cottonseed and soybean hulls at 0.8 part per million (ppm) and 0.4 ppm respectively.

The data submitted and other relevant material have been evaluated and discussed in the April 14, 1982 final rule document.

The petitioner, Union Carbide Corporation, has requested an extension of the interim regulation to permit continued testing and collection of additional data and marketing of the feed commodities. EPA has granted the extension until June 14, 1984.

A related document, [PP 2G2581/T427], establishing interim tolerances for the raw agricultural commodities cottonseed and soybeans, appears elsewhere in today's issue of the **Federal Register.**

The pesticide is considered useful for the purpose for which the regulation is sought. It is concluded that the pesticide may be safely used in the prescribed manner when such use is in accordance with the label and labeling registered pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, (86 Stat. 973, 89 Stat. 751, U.S.C. 136 *et seq)* and is established as set forth below.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new food and feed additive levels, or conditions for safe use of additives, or raising such food or feed additive levels do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24945).

List of Subjects in 21 CFR Part 561

Feed additives Pesticides and pests

Dated: August 17 1983.

Edwin L. Johnson,

Director, Office of Pesticide Programs

PART 561—[AMENDED]

Therefore, 21 CFR 561.386 is revised to read as follows:

§ 561.386 Thiodicarb.

(a) [Reserved]

(b) An interim regulation is established permitting the combined residues of the insecticide thiodicarb (dimethyl *N*' *N*'–[thiobis [(methylamino) carbonyloxy]] bis [ethanimidothioate], and its metabolite methomyl (*N*–[(methylcarbamoyl)oxy] thioacetimidate resulting from application of the pesticide to growing crops under an experimental program.

Feeds	Parts per million	Company	Expiration Date
Cottonseed, hulls	0.8	Union Carbide Corp.	June 14, 1984.
Soybean, hulls	0.4	do	Do.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 346(c)(1)))

[FR Doc. 83-24139 Filed 9-6-83; 8:45 am]
BILLING CODE 6560-50-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 7909]

Income tax; Substantiation of Meal Expenses While Traveling

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final Income Tax Regulations whch give the Commissioner authority to establish an optional method of computing meal expenses in connection with travel. Under the optional method a taxpayer is recieved of substantiating the actual amount of the meal expenses.

EFFECTIVE DATE: These regulations are effective for expenses paid or incurred after December 31, 1982.

FOR FURTHER INFORMATION CONTACT: David R. Haglund of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, D.C. 20224. (Attention: CC:LR:T) (202-566-3459).

SUPPLEMENTARY INFORMATION:

Background

On February 28, 1983, the Federal Register published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 274(d) of the Internal Revenue Code of 1954 (48 FR 8292). The amendments were proposed to give the Commissioner authority to establish an optional method of computing meal expenses while traveling. A number of comments on the proposed regulations were received. A public hearing was not held. After consideration of all the comments regarding the proposed amendments, those amendments are adopted by this Treasury decision without change.

Explanation of Provisions

Section 274(d) of the Internal Revenue Code of 1954 was added by section 4(a)(1) of Revenue Act of 1962 (76 Stat. 974) to require taxpayers to substantiate certain entertainment and travel expenses. The last sentence of section 274(d) gives the Secretary authority to waive by regulations some or all of the substantiation requirements of section 274(d). Paragraph (b)(2) of § 1.274-5 of the Income Tax Regulations (26 CFR Part 1) requires a taxpayer to substantiate the amount of each separate travel expense and the time, place and business purpose of the travel.

This document amends the regulations under § 1.274-5 to give the Commissioner authority to establish a method under which a taxpayer may elect to use a specified amount or amounts for meals while traveling in lieu of substantiating the actual cost of meals. The taxpayer is not relieved of substantiating the actual cost of other travel expenses as well as the time, place and business purpose of the travel.

An Internal Revenue Service news release (IR-83-31) announced that the standard meal allowances under the new method were anticipated to be $14 per day for travel requiring a stay of less than 30 days in one general locality, and $9 per day for travel that requires a stay of 30 days or more in one general locality. A number of comments indicated that the proposed amounts of $14 and $9 were too low and suggested higher figures. The Internal Revenue Service recognizes that actual meal expenses may vary widely. However, the purpose of the regulations is to reduce the recordkeeping burden on taxpayers where relatively small amounts are involved.

One comment expressed concern that the specified amounts may be used as a benchmark to test the reasonableness of the amount of substantiated meal expenses otherwise deductible. The specified amounts are not intended to be used for that purpose.

Non-Applicability of Executive Order 12291

The Treasury Department has determined that this regulations is not subject to review under Executive Order 12291 or the Treasury and OMB implementation of Order dated April 29, 1983.

Regulatory Flexibility Act

Pursuant to 5 U.S.C. 605(b), the Secretary of the Treasury has certified that the requirements of the Regulatory Flexibility Act do not apply to this final regulation as it will not have a significant economic impact on the substantial number of small entities. The regulations will tend to reduce the recordkeeping duties of taxpayers rather than increase them.

Drafting Information

The principal author of these regulations is David R. Haglund of the Legislation and Regulations Division of the Office of the Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations both on matters of substance and style.

List of Subjects in 26 CFR Parts 1.61-1 Through 1.281-4

Income taxes, Taxable income, Deductions, Exemptions.

Adoption of Amendments to the Regulations

Accordingly, the proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 274(d), as published in the Federal Register (48 FR 8292) on February 28, 1983, are hereby adopted as proposed.

This Treasury decision is issued under the authority contained in sections 274(d) and 7805 of the Internal Revenue Code of 1954 (76 Stat. 975, 26 U.S.C. 274(d); 68A Stat. 917, 26 U.S.C. 7805).

Roscoe L. Egger, Jr.,
Commissioner of Internal Revenue.

Approved: August 17, 1983.

Ronald A. Pearlman,
Acting Assistant Secretary of the Treasury.

Adoption of amendments to 26 CFR Part 1 are as follows:

PART 1—[AMENDED]

Section 1.274-5 is revised by adding a sentence to the end of paragraphs (f) and (g)(1), by revising paragraph (h) and by adding a new paragraph (i) immediately after paragraph (h), to read as follows:

§ 1.274-5 Substantiation requirements.

* * * * *

(f) Substantiation by reimbursement arrangements or per diem, mileage, and other traveling allowances * * * See

paragraph (h) of this section relating to the substantiation of meal expenses while traveling.

(g) Reporting and substantiation of certain reimbursements of persons other than employees—(1) In general. * * * See paragraph (h) of this section relating to the substantiation of meal expenses while traveling.

* * * * * *

(h) Authority for an optional method of computing meal expenses while traveling. The Commissioner may establish a method under which a taxpayer may elect to use a specified amount or amounts for meals while traveling in lieu of substantiating the actual cost of meals. The taxpayer would not be relieved of substantiating the actual cost of other travel expenses as well as the time, and business purpose of the travel. See paragraph (b)(2) and (c) of this section.

(i) Effective date—(1) In general. Section 274(d) and this section apply with respect to taxable years ending after December 31, 1962, but only with respect to period after that date.

(2) Certain meal expenses. Paragraph (h) of this section is effective for expenses paid or incurred after December 31, 1982.

[FR Doc. 83-24317 Filed 9-6-83; 8:45 am]
BILLING CODE 4830-01-M

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26 CFR Parts 1, 25, and 301

[T.D. 7910]

Time for Filing of Gift Tax Returns

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the time for filing gift tax returns and the payment of gift taxes. Changes in the applicable tax law were made by the Economic Recovery Tax Act of 1981. The regulations would provide the public with the guidance needed to comply with the Act and would affect all persons who are required to file gift tax returns and pay gift taxes.

DATES: The regulations are effective for gifts made after December 31, 1981.

FOR FURTHER INFORMATION CONTACT: Barry S. Landua of the Interpretative Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, attention: CC:LR:T (202) 566-3220, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

On February 11, 1983 (48 FR 6363), the **Federal Register** published proposed amendments to the Income Tax Regulations (26 CFR Part 1), Gift Tax Regulations (26 CFR Part 25), and the Regulations on Procedure and Administration (26 CFR Part 301) under sections 1015, 2501 through 2504, 2511, 2513, 2514, 2516, 2517, 2522, 2524, 6075 and 6212 of the Internal Revenue Code of 1954 (Code). These amendments were proposed to conform the regulations to section 442 of the Economic Recovery Tax Act of 1981 (Pub. L. 97-34, 95 Stat. 320).

No amendments have been made herein to the regulations under sections 2523 and 6019, which are being considered separately.

A public hearing has not been requested. Three written comments were received. One comment disagreed with proposed § 25.6075-2 to the extent that it would require the gift tax return to be filed under the general rule (April 15 following the close of the calendar year), when the donor's estate tax return is due after April 15. The comment stated that there is no authority in the statute or the legislative history for the proposed rule. We believe that the reason for the rule in section 6075(b)(3) that the due date of the gift tax return for the calendar year that includes the date of death of the donor shall be no later than the due date (including extensions) for filing the estate tax return is that it is necessary to know the amount of the gift tax paid in order to complete the estate tax return. Extending the due date of the gift tax return to the due date of the estate tax return is not necessary in order for the estate tax to be computed. Therefore, these regulations adopt the position taken in the notice that the due date of the gift tax return will not be automatically extended to a later due date for filing the estate tax return.

The same comment also suggested an explicit statement that the general rule for filing the gift tax return (April 15 following the close of the calendar year) applies where no estate tax return is required to be filed. We have adopted this suggestion in section 25.6075-1 of the regulations.

Another comment contained a suggestion relating to the interpretation of the estate tax, a matter outside the scope of these regulations. Additionally, the comments noted typographical errors, which have been corrected. The comments also offered suggestions for stylistic improvements, many of which have been adopted.

Annual Return

These regulations provide for the filing of gift tax returns and the payment of gift taxes on an annual basis. In addition, regulation § 25.6075-1 sets forth rules regarding the time for filing a gift tax return for a calendar year which includes the date of death of the donor.

Executive Order 12291 and Regulatory Flexibility Act

The Commissioner of Internal Revenue has determined that this final rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is, therefore, not required. Although a notice of proposed rulemaking which solicited public comment was issued, the Internal Revenue Service concluded when the notice was issued that the regulations are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 did not apply. Accordingly, the final regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Drafting Information

The principal author of these regulations is Barry S. Landau of the Interpretative Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

List of Subjects

26 CFR 1.1001-1—1.1102-3

Income taxes, Gain and loss, Basis, Nontaxable exchanges.

26 CFR 25

Gift taxes.

26 CFR 301

Administrative practice and procedure, Bankruptcy, Courts, Crime, Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Investigations, Law enforcement, Penalties, Pensions, Statistics, Disclosure of information, Filing requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Parts 1, 25, and 301 are amended as follows:

PART 1—[AMENDED]

Paragraph 1. Section 1.1015-5 is amended as follows:

(a) Paragraph (b)(1)(i) is revised to read as set forth below.

(b) The first sentence of paragraph (b)(1)(ii) is revised to read as set forth below.

(c) The second sentence of paragraph (b)(2) is revised to read as set forth below.

§ 1.1015–5 Increased basis for gift tax paid.

* * * * *

(b) *Amount of gift tax paid with respect to a gift of property.* (1)(i) If only one gift was made during a certain "calendar period" (as defined in § 25.2502–1(c)(1)), the entire amount of the gift tax paid under chapter 12 or the corresponding provisions of prior revenue laws for that calendar period is the amount of the gift tax paid with respect to the gift.

(ii) If more than one gift was made during a certain calendar period, the amount of the gift tax paid under chapter 12 or the corresponding provisions of prior revenue laws with respect to any specified gift made during that calendar period is an amount, A, which bears the same ratio to B (the total gift tax paid for that calendar period) as C (the "amount of the gift," computed as described in this paragraph (b)(1)(ii)) bears to D (the total taxable gifts for the calendar period computed without deduction for the gift tax specific exemption under section 2521 (as in effect prior to its repeal by the Tax Reform Act of 1976) or the corresponding provisions of prior revenue laws). * * *

* * * * *

(2) * * * Where more than one gift of a present interest in property is made to the same donee during a "calendar period" (as defined in § 25.2502–1(c)(1)), the annual exclusion shall apply to the earliest of such gifts in point of time.

* * * * *

PART 25—[AMENDED]

Par. 2. Section 25.0–1 is amended by revising paragraph (a)(1) to read as set forth below.

§ 25.0–1 Introduction.

(a) *In general.* (1) The regulations in this part are designated "Gift Tax Regulations." These regulations pertain to (i) the gift tax imposed by chapter 12 of subtitle B of the Internal Revenue Code on the transfer of property by gift by individuals in the calendar year 1955, in subsequent calendar years beginning before the calendar year 1971, in calendar quarters beginning with the first calendar quarter of calendar year 1971 through the last calendar quarter of the calendar year 1981, and in calendar years beginning with the calendar year 1982, and (ii) certain related administrative provisions of subtitle F of the Code. It should be noted that the application of some of the provisions of these regulations may be affected by the provisions of an applicable gift tax convention with a foreign country. Unless otherwise indicated, references in these regulations to the "Internal Revenue Code" or the "Code" are references to the Internal Revenue Code of 1954, as amended, and references to a section or other provision of law are references to a section or other provision of the Internal Revenue Code of 1954, as amended. The Gift Tax Regulations are applicable to the transfer of property by gift by individuals in calendar years 1955 through 1970, in calendar quarters beginning with the first calendar quarter of calendar year 1971 through the last calendar quarter of the calendar year 1981, and in calendar years beginning with the calendar year 1982, and supersede the regulations contained in Part 86, Subchapter B, Chapter 1, Title 26, Code of Federal Regulations (1939) (Regulations 108, Gift Tax (8 FR 10858)), as prescribed and made applicable to the Internal Revenue Code of 1954 by Treasury Decision 6091, signed August 16, 1954 (19 FR 5167, Aug. 17, 1954).

* * * * *

Par. 3. Section 25.2501–1 is amended as follows:

(a) Paragraph (a)(1) is revised to read as set forth below.

(b) Paragraph (a)(3)(ii) is amended by removing "calendar quarter" the first time it appears and inserting in lieu thereof " "calendar period" (as defined in § 25.2502–1(c)(1))", removing "calendar quarter" every other time it appears and inserting in lieu thereof "calendar period", and by removing "such quarter" and inserting in lieu thereof "such period".

(c) Paragraph (a)(3)(iii) is removed.

§ 25.2501–1 Imposition of tax.

(a) *In general.* (1) The tax applies to all transfers by gift of property, wherever situated, by an individual who is a citizen or resident of the United States, to the extent the value of the transfers exceeds the amount of the exclusions authorized by section 2503 and the deductions authorized by sections 2521 (as in effect prior to its repeal by the Tax Reform Act of 1976), 2522, and 2523. For each "calendar period" (as defined in § 25.2502–1(c)(1)), the tax described in this paragraph (a) is imposed on the transfer of property by gift during such calendar period.

* * * * *

Par. 4. Section 25.2502–1 is amended as follows:

(a) Paragraph (a) is revised to read as set forth below.

(b) Paragraph (b) is revised to read as set forth below.

(c) Paragraph (c) is revised to read as set forth below.

(d) Example (1) of paragraph (d) is revised to read as set forth below.

(e) Example (2) of paragraph (d) is amended by removing "in accordance with rate schedule in paragraph (b)" and inserting in lieu thereof "in accordance with the rate schedule in effect for the year 1955".

(f) Example (3) of paragraph (d) is amended by removing "using rate schedule in paragraph (b) of this section" each time it appears in Example (3) and inserting in lieu thereof "in accordance with the rate schedule in effect for the year 1955". Example (3)(i) is further amended by adding "provided under section 2521, which was in effect at the time," after "Only $25,000 of H's specific exemption".

(g) Example (4)(i) of paragraph (d) is amended by adding "provided under section 2521, which was in effect at the time," after "only $20,000 of her specific exemption".

(h) Example (5) of paragraph (d), is amended by removing "§ 25.2503–2(a)" and inserting in lieu thereof "§ 25.2503–2(b)", by removing "paragraph (a)(1)" and inserting in lieu thereof "paragraph (a)", by removing "preceding calendar years and calendar quarters" from the table and inserting in lieu thereof "preceding calendar periods", and by removing "in accordance with the rate schedule in paragraph (b)" from the table and inserting in lieu thereof "in accordance with the rate schedule in effect for the year 1971".

(i) Paragraph (d) is amended by adding a new example (6) immediately after example (5) to read as set forth below.

§ 25.2502–1 Rate of tax.

(a) *Computation of tax.* The rate of tax is determined by the total of all gifts made by the donor during the calendar period and all the preceding calendar periods since June 6, 1932. See § 25.2502–1(c)(1) for the definition of "calendar period" and § 25.2502–1(c)(2) for the definition of "preceding calendar periods." The following six steps are to be followed in computing the tax:

(1) *First step.* Ascertain the amount of the "taxable gifts" (as defined in

§ 25.2503–1) for the calendar period for which the return is being prepared.

(2) *Second step.* Ascertain "the aggregate sum of the taxable gifts for each of the preceding calendar periods" (as defined in § 25.2504–1), considering only those gifts made after June 6, 1932.

(3) *Third step.* Ascertain the total amount of the taxable gifts which is the sum of the amounts determined in the first and second steps.

(4) *Fourth step.* Compute the tentative tax on the total amount of taxable gifts (as determined in the third step) using the rate schedule in effect at the time the gift (for which the return is being filed) is made.

(5) Fifth step. Compute the tentative tax on the aggregate sum of the taxable gifts for each of the preceding calendar periods (as determined in the second step), using the same rate schedule set forth in the fourth step of this paragraph (a).

(6) *Sixth step.* Subtract the amount determined in the fifth step from the amount determined in the fourth step. The amount remaining is the gift tax for the calendar period for which the return is being prepared.

(b) *Rate of tax.* The tax is computed in accordance with the rate schedule in effect at the time the gift was made as set forth in section 2001(c) or corresponding provisions of prior law.

(c) *Definitions.* (1) The term "calendar period" means:

(i) Each calendar year for the calendar years 1932 (but only that portion of such year after June 6, 1932) through 1970;

(ii) Each calendar quarter for the first calendar quarter of the calendar year 1971 through the last calendar quarter of calendar year 1981; or

(iii) Each calendar year for the calendar year 1982 and each succeeding calendar year.

(2) The term "preceding calendar periods" means all calendar periods ending prior to the calendar period for which the tax is being computed.

(d) * * *

Example (1). Assume that in 1955 the donor made taxable gifts, as ascertained under the first step (paragraph (a)(2) of this section), of $62,500 and that there were no taxable gifts for prior years, with the result that the amount ascertainable under the third step is $62,500. Under the fourth step a tax is computed on this amount. Reference to the tax rate schedule in effect in the year 1955 discloses that the tax on this amount is $7,650.

* * * * *

Example (6). A makes gifts (other than gifts of future interests in property) during the calendar year 1982 of $160,000 to B and $100,000 to C. Two exclusions of $10,000 each are allowable, in accordance with the provisions of section 2503(b), which results in taxable gifts for 1982 of $240,000. In the first calendar quarter of 1976, A made taxable gifts totaling $100,000 on which gift tax was paid. For the calendar year 1969, A made taxable gifts totaling $50,000. The full amount of A's specific exemption provided under section 2521, which was in effect at the time, was claimed and allowed in 1969. The computation of the gift tax for the calendar period 1982 (following the steps set forth in paragraph (a) of this section) is shown below.

(1) Amount of taxable gifts for the calendar year 1982, $240,000.

(2) Total amount of taxable gifts for preceding calendar periods ($100,000 + $50,000), $150,000.

(3) Total taxable gifts, $390,000.

(4) Tax computed on item 3 (in accordance with the rate schedule in effect for the year 1982), $118,400.

(5) Tax computed on item 2 (using same rate schedule), $38,800.

(6) Tax for year 1982 (Item 4 minus item 5), $79,600.

Par. 5. The fifth sentence of § 25.2502–2 is revised to read as set forth below.

§ 25.2502–2 Donor primarily liable for tax.

* * * If a husband and wife effectively signify consent, under section 2513, to have gifts made to a third party during any "calendar period" (as defined in § 25.2502–1(c)(1)) considered as made one-half by each, the liability with respect to the gift tax of each spouse for that calendar period is joint and several (see § 25.2513–4). * * *

* * * * *

Par. 6. Section 25.2503–1 is revised to read as set forth below.

§ 25.2503–1 General definitions of "taxable gifts" and of "total amount of gifts."

The term "taxable gifts" means the "total amount of gifts" made by the donor during the "calendar period" (as defined in § 25.2502–1(c)(1)) less the deductions provided for in sections 2521 (as in effect before its repeal by the Tax Reform Act of 1976), 2522, and 2523 (specific exemption, charitable, etc., gifts and the marital deduction, respectively). The term "total amount of gifts" means the sum of the values of the gifts made during the calendar period less the amounts excludable under section 2503(b). See § 25.2503–2. The entire value of any gift of a future interest in property must be included in the total amount of gifts for the calendar period in which the gift is made. See § 25.2503–3.

Par. 7. Section 25.2503–2 is amended as follows:

(a) Paragraphs (a) and (b) are redesignated as (b) and (c) respectively, and a new paragraph (a) is added immediately prior to redesignated paragraphs (b) and (c) to read as set forth below.

(b) Paragraph (b), as redesignated in this document, is amended by inserting "and before January 1, 1982" after "December 31, 1970".

§ 25.2503–2 Exclusions from gifts.

(a) *Gifts made after December 31, 1981.* The first $10,000 of gifts made to any one donee during calendar year 1982 or any calendar year thereafter except gifts of future interests in property as defined in §§ 25.2503–3, and 25.2503–4, is excluded in determining the total amount of gifts for the calendar year. In the case of a gift in trust the beneficiary of the trust is the donee.

* * * * *

Par. 8. Section 25.2503–3 is amended as follows:

(a) The first sentence of paragraph (a) is amended by removing "calendar quarter (calendar year in the case of gifts made before January 1, 1971)" and inserting in lieu thereof " "calendar period" (as defined § 25.2502–1(c)(1))".

(b) The second sentence of paragraph (a) is removed.

Par. 9. Section 25.2504–1 is amended as follows:

(a) Paragraph (a) is revised to read as set forth below.

(b) Paragraph (b) is revised to read as set forth below.

(c) Paragraph (c) is revised to read as set forth below.

(d) The first sentence of paragraph (d) is revised to read as set forth below.

§ 25.2504–1 Taxable gifts for preceding calendar periods.

(a) In order to determine the correct gift tax liability for any calendar period it is necessary to ascertain the correct amount, if any, of the aggregate sum of the taxable gifts for each of the "preceding calendar periods" (as defined in § 25.2502–1(c)(2)). See paragraph (a) of § 25.2502–1. The term "aggregate sum of the taxable gifts for each of the preceding calendar periods" means the correct aggregate of such gifts, not necessarily that returned for those calendar periods and in respect of which tax was paid. All transfers that constituted gifts in prior calendar periods under the laws, including the provisions of law relating to exclusions from gifts, in effect at the time the transfers were made are included in determining the amount of taxable gifts for preceding calendar periods. The deductions other than for the specific exemption (see paragraph (b) of this section) allowed by the laws in effect at the time the transfers were made also

are taken into account in determining the aggregate sum of the taxable gifts for preceding calendar periods. (The allowable exclusion from a gift is $5,000 for years before 1939, $4,000 for the calendar years 1939 through 1942, $3,000 for the calendar years 1943 through 1981, and $10,000 thereafter.)

(b) In determining the aggregate sum of the taxable gifts for the "preceding calendar periods" (as defined in § 25.2502–1(c)(2)), the total of the amounts allowed as deductions for the specific exemption, under section 2521 (as in effect prior to its repeal by the Tax Reform Act of 1976) and the corresponding provisions of prior laws, shall not exceed $30,000. Thus, if the only prior gifts by a donor were made in 1940 and 1941 (at which time the specific exemption allowable was $40,000), and if in the donor's returns for those years the donor claimed deductions totaling $40,000 for the specific exemption and reported taxable gifts totaling $110,000, then in determining the aggregate sum of the taxable gifts for the preceding calendar periods: the deductions for the specific exemption cannot exceed $30,000, and the donor's taxable gifts for such periods will be $120,000 (instead of the $110,000 reported on the donor's returns). (The allowable deduction for the specific exemption was $50,000 for calendar years before 1936, $40,000 for calendar years 1936 through 1942, and $30,000 for 1943 through 1976.)

(c) If the donor and the donor's spouse consented to have gifts made to third parties considered as made one-half by each spouse, pursuant to the provisions of section 2513 or section 1000(f) of the Internal Revenue Code of 1939 (which corresponds to Section 2513), these provisions shall be taken into account in determining the aggregate sum of the taxable gifts for the preceding calendar periods (under paragraph (a) of this section).

(d) If interpretations of the gift tax law in preceding calendar periods resulted in the erroneous inclusion of property for gift tax purposes that should have been excluded, or the erroneous exclusion of property that should have been included, adjustments must be made in order to arrive at the correct aggregate of taxable gifts for the preceding calendar periods (under paragraph (a) of this section). * * *

Par. 10. Section 25.2504–2 is revised to read as set forth below.

§ 25.2504–2 Valuation of certain gifts for preceding calendar periods.

Section 2504(c) provides that if the valuation of a transfer for gift tax purposes with respect to a gift made in a "preceding calendar period," as defined in § 25.2502–1(c)(2), is at issue, and if the statutory period within which an assessment may be made with respect to the gift has expired and a tax has been actually assessed or paid for such prior calendar period, then the value of the gift, for purposes of arriving at the correct amount of the taxable gifts for the preceding calendar periods (under § 25.2504–1(a)), is the value that was used in computing the tax for the last preceding calendar period for which a tax was assessed or paid under chapter 12 of the Internal Revenue Code of 1954 or the corresponding provisions of prior laws. However, this rule will not prevent an adjustment in value where no tax was paid or assessed for the prior calendar period. Furthermore, this rule does not apply to adjustments involving issues other than valuation. See paragraph (d) of § 25.2504–1.

§ 25.2511–1 [Amended]

Par. 11. Section 25.2511–1 is amended as follows:

(a) The second sentence of paragraph (d) is amended by removing "calendar quarter (or calendar year)" and inserting in lieu thereof "'calendar period" (as defined in § 25.2502–1(c)(1))".

(b) The last sentence of paragraph (d) is removed.

§ 25.2511–2 [Amended]

Par. 12. Section 25.2511–2 is amended as follows:

(a) The third from last sentence of paragraph (f) is amended by removing "calendar quarter or calendar year" and inserting in lieu thereof "'calendar period" (as defined in § 25.2502–1(c)(1))".

(b) The next to last sentence of paragraph (f) is removed.

(c) The first sentence of paragraph (j) is amended by removing "calendar quarter or calendar year" and inserting in lieu thereof "'calendar period" (as defined in § 25.2502–1(c)(1))".

(d) The last sentence of paragraph (j) is removed.

Par. 13. Section 25.2513–1 is amended as follows:

(a) The second sentence of paragraph (a) is amended by removing "calendar quarter (calendar year with respect to gifts made before January 1, 1971)" and inserting in lieu thereof "'calendar period" (as defined in § 25.2502–1(c)(1))".

(b) The last sentence of paragraph (a) is removed.

(c) The first sentence of paragraph (b) is amended by removing "calendar quarter (calendar year with respect to gifts made before January 1, 1971)" and inserting in lieu thereof "'calendar period" (as defined in § 25.2502–1(c)(1))", and by removing "calendar quarter (or calendar year)" and inserting in lieu thereof "calendar period".

(d) The third sentence of paragraph (b) is amended by removing "calendar quarter (or calendar year)" and inserting in lieu thereof "calendar period" and by removing "calendar quarter or calendar year" and inserting in lieu thereof "calendar period".

(e) Paragraph (b)(1) is amended by removing "calendar quarter or calendar year" each time it appears and inserting in lieu thereof "calendar period".

(f) Paragraph (b)(2) is amended by removing "calendar quarter or calendar year" each time it appears and inserting in lieu thereof "calendar period".

(g) Paragraph (b)(5) is amended by removing "calendar quarter or calendar year" each time it appears and inserting in lieu thereof "calendar period".

(h) Paragraph (c) is revised to read as set forth below.

§ 25.2513–1 Gifts by husband or wife to third party considered as made one-half by each.

* * * * *

(c) If a husband and wife consent to have the gifts made to third party donees considered as made one-half by each spouse, and only one spouse makes gifts during the "calendar period" (as defined in § 25.2502–1(c)(1)), the other spouse is not required to file a gift tax return provided: (1) The total value of the gifts made to each third party donee since the beginning of the calendar year is not in excess of $20,000 ($6,000 for calendar years prior to 1982), and (2) no portion of the property transferred constitutes a gift of a future interest. If a transfer made by either spouse during the calendar period to a third-party represents a gift of a future interest in property and the spouses consent to have the gifts considered as made one-half by each, a gift tax return for such calendar period must be filed by each spouse regardless of the value of the transfer. (See § 25.2503–3 for the definition of a future interest.)

* * * * *

§ 25.2513–2 [Amended]

Par 14. Section 25.2513–2 is amended as follows:

(a) The first sentence of paragraph (a)(1) is amended by removing "calendar quarter (a calendar year with respect to gifts made before January 1, 1971)" and inserting in lieu thereof "'calendar period" (as defined in § 25.2502–1(c)(1))".

(b) The next to last sentence of paragraph (a)(1) is amended by removing "calendar quarter (or a calendar year)" and inserting in lieu thereof "calendar period".

(c) The last sentence of paragraph (a)(1) is amended by removing "§ 25.6075–1" and inserting in lieu thereof "§§ 25.6075–1 and 25.6075–2".

(d) The first sentence of paragraph (a)(2) is amended by inserting "For gifts made after December 31, 1970, and before January 1, 1982," prior to "Subject to the limitations", and by removing "Subject" and inserting "subject".

(e) Paragraph (b) is amended by redesignating paragraph (b)(1) as paragraph (b)(2) and paragraph (b)(2) as (b)(1) and by placing redesignated paragraph (b)(2) immediately following redesignated paragraph (b)(1).

(f) The first sentence of paragraph (b)(1), as redesignated by this document, is amended by removing "With respect to gifts made before January 1, 1971" and inserting in lieu thereof "With respect to gifts made after December 31, 1981, or before January 1, 1971".

(g) The first sentence of paragraph (b)(2), as redesignated by this document is amended by removing "With respect to gifts made after December 31, 1970" and inserting in lieu therefore "With respect to gifts made after December 31, 1970 and before January 1, 1982".

(h) Paragraph (d) is amended by removing "calender quarter (calendar year with respect to gifts made before January 1, 1971)" and inserting in lieu thereof " "calendar period" (as defined in § 25.2502–1(c)(1))".

§ 25.2513–3 [Amended]

Par. 15. Section 25.2513–3 is amended as follows:

(a) Paragraph (a) is amended by redesignating paragraph (a)(1) as paragraph (a)(2) and paragraph (a)(2) as (a)(1) and by placing redesignated paragraph (a)(2) immediately following redesignated paragraph (a)(1).

(b) The first sentence of paragraph (a)(1), as redesignated by this document, is amended by removing "With respect to gifts made before January 1, 1971" and inserting in lieu thereof "With respect to gifts made after December 31, 1981, or before January 1, 1971".

(c) The first sentence of paragraph (a)(2), as redesignated by this document, is amended by removing "With respect to gifts made after December 31, 1970" and inserting in lieu thereof "With respect to gifts made after December 31, 1970, as before January 1, 1982".

(d) The last sentence of paragraph (a)(2), as redesignated by this document, is removed.

§ 25.2513–4 [Amended]

Par. 16. Section 25.2513–4 is amended as follows:

(a) The first sentence is amended by removing "calendar quarter (calendar year with respect to gifts made before January 1, 1971)" and inserting in lieu thereof " "calendar period" " (as defined in § 25.2502–1(c)(1))".

(b) The last sentence is removed.

§ 25.2514–3 [Amended]

Par. 17. Section 25.2514–3 is amended as follows:

(a) The next to last sentence of paragraph (c)(2) is amended by removing "calendar year or calendar quarter" and inserting in lieu thereof " "calendar period" (as defined in § 25.2502–1(c)(1))".

(b) The last sentence of paragraph (c)(2) is removed.

§ 25.2516–1 [Amended]

Par. 18. Section 25–2516–1 is amended as follows:

(a) The first sentence of paragraph (b) is amended by removing "calendar quarter (calendar year with respect to gifts made before January 1, 1971)" and inserting in lieu thereof " "calendar period" (as defined in § 25.2502–1(c)(1))".

(b) The last sentence of paragraph (b) is removed.

§ 25.2517–1 [Amended]

Par. 19. Section 25.2517–1 is amended as follows:

(a) The next to last sentence of paragraph (a)(1) is amended by removing "calendar quarter (calendar year with respect to gifts made before January 1, 1971)" and inserting in lieu thereof " "calendar period" (as defined in § 25.2502–1(c)(1)".

(b) The last sentence of paragraph (a)(1) is removed.

§ 25.2522(a)–1 [Amended]

Par. 20. The first sentence of paragraph (a) of § 25.2522(a)–1 is amended by removing "in determining the amount of taxable gifts for the calendar quarter as defined in § 25.2502–1(c)(1) (calendar year with respect to gifts made before January 1, 1971)" and inserting in lieu thereof "In determining the amount of taxable gifts for the "calendar period" (as defined in § 25.2502–1(c)(1))", and by removing "calendar quarter or calendar year" and inserting in lieu thereof "calendar period".

§ 25.2524–1 [Amended]

Par. 21. Section 25.2524–1 is amended by removing "calendar quarter (with respect to gifts made after December 31, 1970) or calendar year (with respect to gifts made before January 1, 1971)" and inserting in lieu thereof "calendar period" (as defined in § 25.2502–1(c)(1))". Section 25.2524–1 is further amended by adding ",which was in effect at the time" following "section 2521" within the parenthesis, in the second sentence.

§ 25.6075–1 [Amended]

Par. 22. (a) Section 25.6075–1 is redesignated as § 25.6075–2 and a new § 25.6075–1 to read as set forth below is added immediately following § 25.6065–1.

(b) Section 25.6075–2, as redesignated by this document, is amended as follows:

(1) The heading of § 25.6075–2, as redesignated in this document, is amended by removing "after December 31, 1976" and inserting in lieu thereof "after December 31, 1976, and before January 1, 1982".

(2) Paragraph (a)(2)(ii) is amended by removing "For gifts made on or after January 1, 1979" and inserting in lieu thereof "For gifts made after December 31, 1978, and before January 1, 1982".

(3) Paragraph (b)(2)(ii) is amended by removing "For gifts made on or after January 1, 1979" and inserting in lieu thereof "For gifts made after December 31, 1978, and before January 1, 1982".

(4) Paragraph (e) is amended by removing "December 31, 1976" and inserting in lieu thereof "December 31, 1976, and before January 1, 1982".

§ 25.6075–1 Returns, time for filing gift tax returns for gifts made after December 31, 1981.

(a) *In general.* Except as provided in paragraphs (b) (1) and (2) of this section, a return required to be filed under section 6019 for gifts made after December 31, 1981, must be filed on or before the 15th day of April following the close of the calendar year in which the gift was made.

(b) *Special rules*—(1) *Extensions.* Except as provided in paragraph (b)(2) of this section, if a taxpayer files an income tax return on the calendar year basis and the taxpayer is granted an extension of time for filing the return of income tax imposed by Subtitle A of the Internal Revenue Code, then such taxpayer shall also be deemed to have been granted an extension of time for filing the gift tax return under section 6019 for such calendar year equal to the extension of time granted for filing the income tax return. See section 6081 and the regulations thereunder for rules relating to extension of time for filing returns.

(2) *Death of donor.* Where a gift is made during the calendar year in which the donor dies, the time for filing the return made under section 6019 shall not be later than the time (including extensions) for filing the return made under section 6018 (relating to estate tax returns) with respect to such donor. In addition, should the time for filing the estate tax return fall later than the 15th day of April following the close of the calendar year, the time for filing the gift tax return shall be on or before the 15th day of April following the close of the calendar year, unless an extension (not extending beyond the time for filing the estate tax return) was granted for filing the gift tax return. If no estate tax return is required to be filed, the time for filing the gift tax return shall be on or before the 15th day of April following the close of the calendar year, unless an extension was granted for filing the gift tax return.

(c) Paragraphs (a) and (b) may be illustrated by the following examples.

Example (1). Donor makes a taxable gift on April 1, 1982, for which a return must be made under section 6019. Donor files the income tax return on the calendar year basis. The donor was granted a 4-month extension from April 15, 1983 to August 15, 1983, in which to file the 1982 income tax return. Under these circumstances, the donor is not required to file the gift tax return prior to August 15, 1983. See paragraph (b)(1) of this section.

Example (2). Donor makes a taxable gift on April 1, 1982, for which a return must be made under section 6019. The donor dies on May 1, 1982. Under these circumstances, since the due date for filing the estate tax return, February 1, 1983 (assuming an estate tax return under 6018 was required to be filed), falls prior to the due date for the gift tax return (as specified in section 6075(b)(1)), the last day for filing the gift tax return is February 1, 1983. See paragraph (b)(2) of this section.

Example (3). The facts are the same as in example (2), except the donor dies on November 30, 1982. Although the estate tax return if due on or before August 30, 1983, the last day for filing the gift tax return is April 15, 1983. See paragraph (b) of this section.

Example (4). The facts are the same as in example (3), except that the executor receives a 4-month extension for filing the decedent's income tax return. Under these circumstances, the last day for filing the gift tax return is August 15, 1983. See paragraphs (b) (1) and (2) of this section.

Example (5) The facts are the same as in example (3), except that the donor-decedent receives an extension of 6 months for filing the gift tax return. See section 6081 and § 25.6081. Since section 6075(b)(3) and § 25.6075–2(b) provide that the time for filing the gift tax return made under section 6019 shall not be later than the time (including extensions) for filing the estate tax return made under section 6018, the last day for filing the gift tax return is August 30, 1983.

(d) See section 7503 and § 301.7503–1 concerning the timely filing of a return that falls due on a Saturday, Sunday of legal holiday. As to additions to the tax for failure to file the return within the prescribed time, see section 6651 and § 301.6651–1.

PART 301—[AMENDED]

Par. 23. Paragraph (c) of § 301.6212–1 is amended by removing "calendar quarter (calendar year with respect to gifts made before January 1, 1971)" and inserting in lieu thereof "calendar period" (as defined in § 25.2502–1(c)(1))".

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 [68A Stat. 917; 26 U.S.C. 7805].

Roscoe L. Egger, Jr.,
Commissioner of Internal Revenue.

Approved: August 19, 1983.

Ronald A. Pearlman,
Acting Assistant Secretary of the Treasury.

[FR Doc. 83–24436 Filed 9–6–83; 8:45 am]
BILLING CODE 4830–01–M

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26 CFR Part 301

[T.D. 7911]

Disclosures of Returns and Return Information to Officers and Employees of Department of Labor and Pension Benefit Guaranty Corporation

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to disclosures of returns and return information to officers and employees of the Department of Labor and the Pension Benefit Guaranty Corporation for purposes of administering titles I and IV of the Employee Retirement Income Security Act of 1974 ("ERISA"). These regulations affect disclosures of returns and return information under section 6103(l)(2) of the Internal Revenue Code of 1954 and provide Internal Revenue Service personnel with the guidance needed to comply with the law.

DATES: These amendments are to be effective with respect to disclosures of returns and return information made after September 7, 1983.

FOR FURTHER INFORMATION CONTACT: Mitchell H. Rapaport of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, attention: CC:LR:T (202–566–3288).

SUPPLEMENTARY INFORMATION:

Background

On August 3, 1982, the **Federal Register** published proposed amendments to the Regulations on Procedure and Administration (26 CFR Part 301) under section 6103 of the Internal Revenue Code of 1954 (47 FR 33519). These amendments were proposed to make revisions in the manner in which the Internal Revenue Service may disclose additional tax information to the Department of Labor and the Pension Benefit Guaranty Corporation which may be necessary to administer title I or IV of ERISA. No written comments responding to this notice were received, and no public hearing was requested or held. Those proposed amendments are adopted as revised by this Treasury decision.

Explanation of Provisions

ERISA, enacted in 1974, imposes upon three agencies, the Department of Labor, the Pension Benefit Guaranty Corporation, and the Internal Revenue Service, the responsibility for its administration. Because these statutory administrative responsibilities involve a high degree of coordinated effort and cooperation among these agencies, often involving exchanges of information, section 1022(h) of ERISA amended section 6103 of the Internal Revenue Code to authorize the Service to disclose tax information to the Department of Labor and the Pension Benefit Guaranty Corporation for purposes of administering titles I and IV of ERISA. When section 6103 was revised by the Tax Reform Act of 1976, this disclosure authority was provided in what is now section 6103(l)(2).

These regulations would permit the Service, in connection with the automatic disclosure of any item within 27 specifically described categories of returns and return information, to voluntarily disclose to the Department of Labor and the Pension Benefit Guaranty Corporation such additional tax information as the Service determines is or may be necessary in the administration of title I or IV of ERISA. This additional disclosure would be permitted only where the Commissioner has received an annual written request for such disclosure from the Secretary of Labor or his delegate or the Executive Director of the Pension Benefit Guaranty Corporation or his delegate. This additional disclosure authority would enhance the coordination of the various administration responsibilities imposed

by ERISA and the ability of the Department of Labor and the Pension Benefit Guaranty Corporation to carry out their statutory functions under titles I and IV. In addition, § 301.6103(l)(2)–3(a) has been amended to permit the written request required by that paragraph to be made together with the written request for additional disclosure under § 301.6103(l)(2)–3(b)(ii).

Non-Applicability of Executive Order 12291

The Treasury Department has determined that this Treasury decision is not subject to review under Executive Order 12291 or the Treasury and OMB implementation of the Order dated April 29, 1983.

Regulatory Flexibility Analysis

The Secretary of the Treasury has certified that this regulation will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required.

Drafting Information

The principal author of these regulations was Mitchell H. Rapaport of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects in 26 CFR 301

Administrative practice and procedure, Bankruptcy, Courts, Crime, Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Investigations, Law enforcement, Penalties, Pensions, Statistics, Taxes, Disclosure of information, Filing requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Part 301 is amended as follows:

The last sentence of paragraph (a) of § 301.6103(l)(2)–3, relating to disclosures following general requests, and paragraph (b) of § 301.6103(l)(2)–3, relating to additional returns and return information subject to disclosure to officers and employees of the Department of Labor and the Pension Benefit Guaranty Corporation, are revised to read as follows:

§ 301.6103(l)(2)–3 Disclosure to Department of Labor and Pension Benefit Guaranty Corporation of certain returns and return information.

(a) *Disclosures following general requests.* * * * Disclosure of returns or return information as provided by this paragraph will be made only following receipt by the Commissioner of Internal Revenue or his delegate of an annual written request for such disclosure by the Secretary of Labor or his delegate or the Executive Director of the Pension Benefit Guaranty Corporation or his delegate describing the categories of returns or return information to be disclosed by the Service and the particular purpose for which the returns or return information is needed in the administration of title I or IV of the Act, and designating by title the officers and employees of the Department of Labor or such corporation to whom such disclosure is authorized.

(b) *Additional returns and return information subject to disclosure*—(1) *Returns and return information relating to automatic notification.* (i) Subject to the requirements of subparagraph (3)(i) of this paragraph, officers or employees of the Service may disclose to officers and employees of the Department of Labor or the Pension Benefit Guaranty Corporation for purposes of, but only to the extent necessary in, the administration of title I or IV of the Act additional return and return information relating to any item described in paragraph (a) of this section.

(ii) Subject to the requirements of subparagraph (3)(ii) of this paragraph, in connection with the disclosure of any item as provided by paragraph (a) of this section, officers and employees of the Service may disclose to officers and employees of the Department of Labor or the Pension Benefit Guaranty Corporation such additional returns and return information relating to such item as the Service determines are or may be necessary in the administration of title I or IV of the Act.

(2) *Other returns and return information.* Subject to the requirements of subparagraph (3)(i) of this paragraph, officers or employees of the Service may disclose to officers and employees of the Department of Labor or the Pension Benefit Guaranty Corporation returns and return information (other than returns and return information disclosed as provided by paragraph (a) of this section or § 301.6103(l)(2)–1 or § 301.6103(l)(2)–2 for purposes of, but only to the extent necessary in, administration of title I or IV of the Act.

(3) *Procedures.* (i) Disclosure of returns or return information by officers or employees of the Service as provided by subparagraph (1)(i) or (2) of this paragraph will be made only following receipt by the Commissioner of Internal Revenue or his delegate of a written request for such disclosure by the Secretary of Labor or his delegate or the Executive Director of the Pension Benefit Guaranty Corporation or his delegate identifying the particular taxpayer by whom such return was made or to whom such return information relates, describing the particular returns or return information to be disclosed, stating the purpose for which the returns or return information is needed in the administration of title I or IV of the Act, and designating by title the officers and employees of such department or corporation to whom such disclosure is authorized.

(ii) Disclosure of returns or return information by officers or employees of the Service as provided by subparagraph (1)(ii) of this paragraph will be made only following receipt by the Commissioner of Internal Revenue or his delegate of an annual written request for such disclosure by the Secretary of Labor or his delegate or the Executive Director of the Pension Benefit Guaranty Corporation or his delegate stating the purpose for which the returns or return information is needed in the administration of title I or IV of the Act, and designating by title the officers and employees of such department or corporation to whom such disclosure is authorized

* * * * *

This Treasury decision is issued under the authority contained in sections 6103(q) and 7805 of the Internal Revenue Code of 1954 (90 Stat. 1685, 68A Stat. 917; 26 U.S.C. 6103(q) and 7805).

Roscoe L. Egger, Jr.,
Commissioner of Internal Revenue.

Approved: August 26, 1983.

John E. Chapoton,
Assistant Secretary of the Treasury.

[FR Doc. 83-24435 Filed 9-6-83; 8:45 am]
BILLING CODE 4830-01-M

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[T.D. ATF-144; Re: Notice No. 442]

Establishment of the Ohio River Valley Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury.

ACTION: Final rule, Treasury decision.

SUMMARY: This final rule establishes a viticultural area in Indiana, Ohio, West Virginia and Kentucky known as "Ohio River Valley." The establishment of viticultural areas and the subsequent use of viticultural area names in wine labeling and advertising will help consumers better identify wines they purchase. The use of this viticultural area as an appellation of origin will also help winemakers distinguish their products from wines made in other areas.

EFFECTIVE DATE: October 7, 1983.

FOR FURTHER INFORMATION CONTACT: John A. Linthicum, (202) 566–7602.

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF–53 (43 FR 37672, 54624) revising regulations in 27 CFR Part 4. These regulations allow the establishment of definitive viticultural areas. The regulations also allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements.

On October 2, 1979, ATF published Treasury Decision ATF–60 (44 FR 56692) which added a new Part 9 to 27 CFR, providing for the listing of approved American viticultural areas, the names of which may be used as appellations of origin.

Section 4.25a(e)(1), Title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features. Section 4.25a(e)(2) outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area.

Mr. John A. Garrett, proprietor of Villa Milan Vineyards located in Milan, Indiana, petitioned ATF for the establishment of a viticultural area in Indiana, Ohio, West Virginia and Kentucky to be known as "Ohio River Valley." In response to this petition, ATF published a notice of proposed rulemaking (Notice No. 442) in the **Federal Register** on December 14, 1982 (47 FR 55961) proposing the establishment of the Ohio River Valley viticultural area.

General Description

The area consists of approximately 26,000 square miles. There are 570 acres of grapevines growing in the proposed area. There are 463 grape growers and 18 wineries in the proposed area.

There are 42 counties which are wholly included in the proposed area and 55 counties which are partially included. However, the portions of Rowan County, Kentucky, and Hocking County, Ohio, included in the area are almost entirely public park lands.

The Ohio River Valley is rich in winemaking tradition. One of the leading American winemakers of the Nineteenth Century, Nicholas Longworth, producted one of the nation's first sparkling wines in the Ohio River Valley. His wines were praised in a poem, "Ode to Catawba Wine," written by the famous American poet Henry Wadsworth Longfellow. Ohio was the leading wine producing State in 1859, producing more than one-third of the national total. Black rot and powdery mildew destroyed nearly all of the Ohio River Valley vineyards around the time of the American Civil War.

Name. The Iroquois word "Ohyui," meaning "great river," was applied to the Ohio River by the earliest cartographers, Henricus Hondius (1631), and Johann Baptist Homann (c. 1718), who modernized the spelling to its current form "Ohio." In the Northwest Ordinance of 1787, Congress used the Ohio River in describing the southern boundaries of the territories which became the States of Illinois, Indiana, and Ohio, establishing the application of the name Ohio to the river from Pennsylvania to its confluence with the Mississippi River. There is voluminous additional evidence supporting application of the name Ohio to the river flowing from Pittsburgh, Pennsylvania to the Mississippi River at Cairo, Illinois.

Geographical Features. The proposed Ohio River Valley viticultural area, consisting of the Ohio River Minor Tributaries Hydrological Sub-Basin, excludes areas in western Kentucky and southern Illinois which are predominantly marshy, and areas north of 40 degrees north latitude parallel where the growing season is generally less than 175 days.

The area is characterized by a distinctive rainfall pattern, called "Ohio Type" by Robert DeCourcy Ward in *The Climates of the United States.* One characteristic of "Ohio Type" rainfall is accumulated rainfall in excess of 2.5 inches within a 24-hour period. This phenomenon occurs monthly except in October and could be expected to cause severe flood damage were it not for two other distinctive features of the proposed area. The moderate to slow permeability of the dominant soil group, Gray-Brown Podzolic, and the general topography of the valley permit rapid drainage of the excessive rains.

Gray-Brown Podzolic soils are not dominant in the surrounding area, making it another distinctive feature of the proposed area.

The area is also distinguished by a unique climate influenced by winds traveling up the river valley from the Mississippi River valley, orginating in the Gulf of Mexico. The climate within a few miles of the river is more moderate, with less dramatic temperature extremes during the growing season, than other areas of similar latitude.

Comments

In response to Notice No. 442, ATF received 23 comments, as follows: 10 from grape-growers, including 6 who are also winemakers, 4 from State government officials, 3 from winemaker associations, 2 from members of Congress, and 4 others. All of the commenters were in favor of establishment of the Ohio River Valley viticultural area, although some commenters suggested changes to the area as proposed. The following is a summary of some of the comments.

Stone Quarry Winery, located in Waterford, Ohio, stated that grapes purchased from southwest Ohio, southern Indiana, and Kentucky all have exactly the same unique characteristics which are quite different from the same grape varieties grown in northern Ohio or upstate New York. This comment supports the claim that there are geographical features affecting the viticultural features which distinguish the area from its surroundings.

In Notice No. 442, ATF specifically asked for comments on whether such a large area could be a meaningful appellation of origin for consumers. The petitioner's comment argues that large areas are more meaningful to consumers than small areas. He states that "French Burgundy" is more widely asked for by consumers than any of the myriad names of districts in Burgundy. The names of the subdivisions may be more meaningful to a connoisseur but the average consumer is more likely to use the name of a larger overall district. The Ohio River Valley viticultural area is large because the valley itself is large. The area meets the criteria by being geographically distinguished from its surroundings. It is a more meaningful appellation of origin than "American" or the names of the States involved.

Charles D. McIntosh, a winemaker located in Bethel, Ohio, proposed that the States of Kentucky and West Virginia be deleted from the Ohio River Valley viticultural area because they contribute very little to the wine industry. However, this is not one of the regulatory criteria used to establish a viticultural area. Mr. McIntosh also proposed that the word "River" be deleted from the name of the approved

area. ATF believes that the name "Ohio Valley" implies an area confined to one State. While it is natural for residents to drop the word "river" in naming their valley, consumers from other parts of the United States might be confused. Most consumers outside the immediate area might not associate the States of Indiana, Kentucky or West Virginia with the name "Ohio Valley." "Ohio River Valley" is a less confusing name since most consumers could associate the river with more than one State. Also, "Ohio Valley" could be more easily confused with an Ohio State appellation while "Ohio River Valley" would be less likely to be confused with a "State" appellation. Mr. McIntosh also proposed that the Ohio portion of the valley be named "Ohio Valley" and the Indiana portion of the valley be named "Lower Ohio Valley." ATF believes that the Ohio-Indiana State line is not a geographic feature which affects the viticultural characteristics of the Ohio River Valley. Moreover, the name Ohio River Valley applies equally to the valley in any State.

Boundary Adopted as Proposed

Based on the comments received, ATF is establishing the Ohio Valley viticultural area as proposed in Notice No. 442. ATF believes that the Ohio River Valley is distinguished from the surrounding area by its unique topography, climate and soil. These unifying geographic characteristics distinguish the valley from areas located a short distance inland from the river.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to a final regulatory flexibility analysis (5 U.S.C. 604) are not applicable to this final rule because it will not have a significant economic impact on a substantial number of small entities. The final rule will not impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. The final rule is not expected to have significant secondary of incidental effects on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of Section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this final rule will not have a significant economic impact on a substantial number of small entities.

Compliance With E.O. 12291

In compliance with Executive Order 12291 the Bureau has determined that this regulation is not a major rule since it will not result in:

(a) An annual effect on the economy of $100 million or more;

(b) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(c) Significant adverse effects on competition, employment, investment, productivity, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this final rule because no requirement to collect information is imposed.

List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Consumer protection, Viticultural areas, Wine.

Drafting Information

The principal author of this document is John A. Linthicum, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority

This regulation is issued under the authority in 27 U.S.C. 205. Accordingly, 27 CFR Part 9 is amended as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Par. 1. The table of sections in 27 CFR Part 9, Subpart C, is amended to add the heading of § 9.78. As amended, the table of sections reads as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.78 Ohio River Valley.

Par. 2. Subpart C is amended by adding § 9.78. As added, § 9.78 reads as follows:

§ 9.78 Ohio River Valley.

(a) *Name.* The name of the viticultural area described in this section is "Ohio River Valley."

(b) *Approved maps.* The approved maps for determining the boundary of the Ohio River Valley viticultural area are 12 U.S.G.S. topographic maps in the scale 1:250,000, as follows:

(1) Paducah NJ 16-7 (dated 1949, revised 1969);

(2) Belleville NJ 16-4 (dated 1958, revised 1977);

(3) Vincennes NJ 16-5 (dated 1956, revised 1969);

(4) Louisville NJ 16-6 (dated 1956, revised 1969);

(5) Cincinnati NJ 16-3 (dated 1953, revised 1974);

(6) Columbus NJ 17-1 (dated 1967);

(7) Clarksburg NJ 17-2 (dated 1956, limited revision 1965);

(8) Canton NJ 17-11 (dated 1957, revised 1969);

(9) Charleston NJ 17-5 (dated 1957, limited revision 1965);

(10) Huntington NJ 17-4 (dated 1957, revised 1977);

(11) Winchester NJ 16-9 (dated 1957, revised 1979); and

(12) Evansville NJ 16-8 (dated 1957, revised 1974);

(c) *Boundary.* The Ohio River Valley viticultural area is located in Indiana, Ohio, West Virginia and Kentucky. The boundary description in paragraphs (c)(1)-(c)(21) of this section includes, for each point, the name of the map sheet (in parentheses) on which the point can be found.

(1) The beginning point is the point at which the Kentucky, Illinois, and Indiana State lines converge at the confluence of the Wabash River and the Ohio River (Paducah map).

(2) The boundary follows the Illinois-Indiana State line northerly (across the Belleville map) to Interstate Route 64 (Paducah map).

(3) From the intersection of Interstate Route 64 and the Wabash River, the boundary proceeds in a straight line northeasterly to the town of Oatsville in Pike County, Indiana (Vincennes map).

(4) The boundary proceeds in a straight line southeasterly to the point in Spencer County, Indiana, at which State Route 162 diverges northerly from U.S. Route 460, which is knownlocally as State Route 62 (Vincennes map).

(5) The boundary proceeds in a straight line northeasterly to the point in Harrison County, Indiana, at which State Route 66 diverges northerly from State Route 64 (Vincennes map).

(6) The boundary proceeds in a straight line northeasterly (across the Louisville map) to the town of New Marion in Ripley County, Indiana (Cincinnati map).

(7) The boundary proceeds in a straight line northerly to the town of Clarksburg in Decatur County, Indiana (Cincinnati map).

(8) The boundary proceeds in a straight line easterly to the town of

Ridgeville in Warren County, Ohio (Cincinnati map).

(9) The boundary proceeds in a straight line southeasterly to the town of Chapman in Jackson County, Ohio (Columbus map).

(10) The boundary proceeds in a straight line northeasterly to the town identified on the map as Hesboro, also known as Ilesboro, in Hocking County, Ohio (Columbus map).

(11) The boundary proceeds in a straight line northeasterly to the town of Tacoma in Belmont County, Ohio (Clarksburg map).

(12) The boundary proceeds in a straight line easterly to the town of Valley Grove in Ohio County, West Virginia (Canton map).

(13) The boundary proceeds in a straight line southerly to the town of Jarvisville in Harrison County, West Virginia (Clarksburg map).

(14) The boundary proceeds in a straight line southwesterly to the town of Gandeeville in Roane County West Virginia (Charleston map).

(15) The boundary proceeds in a straight line southwesterly to the town of Atenville in Lincoln County West Virginia (Huntington map).

(16) The boundary proceeds in a straight line westerly to the town of Isonville in Elliott County, Kentucky (Huntington map).

(17) The boundary proceeds in a straight line northwesterly to the town of Berlin in Bracken County, Kentucky (Louisville map).

(18) The boundary proceeds in a straight line westerly to the town of Dry Ridge in Grant County, Kentucky (Louisville map).

(19) The boundary proceeds in a straight line southwesterly to the town of Crest in Hardin County, Kentucky (Winchester map).

(20) The boundary proceeds in a straight line westerly to the intersection of State Route 56 and U.S. Route 41 in the city of Sebree in Webster County, Kentucky (Evansville map).

(21) The boundary proceeds in a straight line northwesterly to the beginning point (Paducah map).

Signed: August 1, 1983.

Stephen E. Higgins,

Director.

Approved: August 16, 1983.

David Q. Bates,

Deputy Assistant Secretary (Operations).

[FR Doc. 83-24427 Filed 9-6-83; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 251

Geological and Geophysical Explorations on the Outer Continental Shelf

Correction

In FR Doc. 83-23008, beginning on page 37967 in the issue of Monday, August 22, 1983, make the following corrections:

1. On page 37968, third column, first line, "assigned" should have read "and assigned".

2. Same column, § 251.7-2, fourth line "The shall" should have read "This shall".

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR 165

[Third Coast Guard District Reg. CCGD3-83-49]

Safety Zone Regulations; New York, New Jersey, New York Harbor

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a safety zone in New York, New Jersey, New York Harbor. This zone is needed to protect vessels from the safety hazards associated with the fireworks display being held near Liberty Island. Entry into this zone is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATES: This regulation is effective at 7:30 PM E.D.S.T. 08 September 1983 and terminates at 8:30 PM E.D.S.T. 08 September 1983.

FOR FURTHER INFORMATION CONTACT: Commander M. W. Pierson, Captain of the Port, New York (212)-668-7917.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was not published for this regulation and it is being made effective in less than 30 days after **Federal Register** publication. Publishing an NPRM and delaying its effective date would be contrary to public interest since immediate action is needed to respond to any potential hazards.

Drafting information: The drafters of this regulation are Lieutenant G. W. Chappell, Project Officer for the Captain of the Port, and Lieutenant Commander J. J. D'Alessandro, Project Attorney, Third Coast Guard District Legal Office.

Discussion of regulation: The circumstances requiring this regulation result from the potential hazard to navigation associated with the fireworks display being held near Liberty Island.

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Security Measures, Vessels, Waterways.

Regulation

In consideration of the foregoing, part 165 of Title 33, Code of Federal Regulations, is amended by adding 165-T-03-369 to read as follows:

§ 165-T-03-369 Safety Zone: New York, New Jersey, New York Harbor.

(a) *Location.*—The following area is a Safety Zone: the waters within a boundary of Federal Anchorage 20 "C" around Liberty Island.

(b) *Regulations.*—(1) In accordance with the general regulations in 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port.

(33 U.S.C. 1225 and 1231; 49 CFR 1.46; 33 CFR 165.3)

Dated: August 30, 1983.

M. W. Pierson,

Commander, U.S. Coast Guard, Captain of the Port, New York.

[FR Doc. 83-24292 Filed 9-6-83; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF EDUCATION

Office of the Secretary

34 CFR Part 668

Student Assistance General Provisions; Registration With Selective Service

AGENCY: Department of Education.

ACTION: Final rule; notice of further revision of schedule.

SUMMARY: The Secretary of Education amends the notice announcing the schedule for implementation of the regulations on registration with Selective Service as a condition for receipt of student financial assistance. The purpose of this amendment is to afford institutions of higher education ample time to begin implementing the regulations.

EFFECTIVE DATE: June 24, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. William Moran, Office of Student Financial Assistance, U.S. Department

of Education, 400 Maryland Ave., SW., (Room 4100, Regional Office Building 3), Washington, D.C. 20202. Telephone: (202) 245-2247.

SUPPLEMENTARY INFORMATION: On July 6, 1983, the Secretary of Education published a notice announcing a schedule for initial implementation of the regulations for the Student Assistance General Provisions—Selective Service Registration Requirements (48 FR 31175). On July 22, 1983 the Secretary revised that schedule for initial implementation in order to allow additional time for institutions of higher education to begin implementation of these regulations (48 FR 33695).

PART 668—[CORRECTED]

In order to allow further time for institutions of higher education to begin implementing these regulations, the Secretary is revising the initial schedule as follows:

On page 31175, column 2, in numbered paragraph (1), line 10, the July 31, 1983 date is changed to read "September 30, 1983."

On page 31175, column 2, in the last full paragraph, line 1, the August 1, 1983 date is changed to read "October 1, 1983."

On page 31175, column 3, in the first and second lines, the July 31, 1983 date is changed to read "September 30, 1983."

On page 31175, column 3, in the sixth and seventh lines, the August 1, 1983 date is changed to read "October 1, 1983."

(20 U.S.C. 1091, 1094; 50 U.S.C. App. 462)

Dated: September 1, 1983.

(Catalog of Federal Domestic Assistance Numbers: Supplemental Educational Opportunity Grant Program, 84.007; Guaranteed Student Loan program, 84.032; PLUS program, 84.032; College Work-Study program, 84.033; National Direct Student Loan program, 84.038; Pell Grant program, 84.063; State Student Incentive Grant program, 84.069)

T. H. Bell,

Secretary of Education.

[FR Doc. 83-24378 Filed 9-6-83; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 219

National Forest System Land and Resource Management Planning

AGENCY: Forest Service, USDA.

ACTION: Final rule.

SUMMARY: This rule revises 36 CFR 219.17, Wilderness designation. The rule directs reevaluation through forest planning of those National Forest System roadless and undeveloped areas recommended in 1979 for wilderness designation or designated for nonwilderness uses. Reevaluation does not apply to those roadless areas which have been designated as wilderness or for nonwilderness uses, or released from further consideration for wilderness by law. The revised rule is necessary to respond to a recent court ruling that the environmental statement on which the 1979 roadless area decisions were based did not adequately meet the National Environmental Policy Act requirements.

EFFECTIVE DATE: October 7, 1983.

FOR FURTHER INFORMATION CONTACT: Comments or questions on this final rule may be addressed to Charles R. Hartgraves, Director, Land Management Planning, Forest Service, USDA, Room 4021-South Building, P.O. Box 2417, Washington, D.C. 20013, (202) 447-6697.

SUPPLEMENTARY INFORMATION:

Background

In January 1979 the Forest Service issued a national environmental impact statement documenting the results of a review of 62 million acres of roadless and undeveloped areas within the National Forest System (RARE II). On the basis of the environmental impact statement, the Department of Agriculture announced decisions to recommend that Congress designate 15.1 million acres as wilderness, to continue to study an additional 10.8 million acres, and to manage the remaining 36 million acres for multiple uses other than wilderness. Consistent with those decisions, the regulations governing National Forest Land and Resource Management Planning specify, at 36 CFR 219.17, that the 36 million acres are to be managed for nonwilderness uses and that no such area will be considered for wilderness designation until a forest plan is revised.

In 1979, the State of California filed a lawsuit challenging the adequacy of the RARE II Environmental Impact Statement as the basis for deciding to manage 47 roadless areas in California for uses other than wilderness. In October 1982, the U.S. Court of Appeals for the Ninth Circuit ruled that the RARE II Environmental Impact Statement did not adequately meet the requirements of the National Environmental Policy Act (NEPA) with regard to evaluation of environmental consequences of the actions proposed for these areas. *California, et al. v. Block, et al.*, Nos. 80-4101, 80-111, 80-4112, 80-4115, 80-4218 (Ninth Circuit, October 22, 1982). The Ninth Circuit ruling leaves the regulation at 36 CFR 219.17 vulnerable to future court challenge unless it is changed to direct further NEPA evaluation of these areas.

The recommendations that Congress designate other National Forest System roadless areas as wilderness also were left vulnerable to future court challenge by the Ninth Circuit ruling. These decisions relied on the same evaluation that was found inadequate under NEPA by the court. The court's decision also left unanswered the question of whether administrative decisions to recommend individual roadless areas for wilderness designation or to manage them for uses besides wilderness may be made outside the forest planning process required by the National Forest Management Act and described in 36 CFR Part 219.

For these reasons, this rule removes the prohibition against further consideration for potential wilderness designation of those roadless areas made available to nonwilderness uses as a result of RARE II. In order to minimize future risk of court challenge, the rule directs that all roadless areas reviewed in RARE II or identified in existing unit and forest plans, and any other areas that may be determined by the Forest Supervisor are subject to evaluation for their wilderness designation potential in current and future forest planning cycles. This direction applies if the roadless area remains essentially roadless and undeveloped, and if it has not been designated wilderness or released for nonwilderness uses by an Act of Congress. The rule is so written that this direction is subject to existing and future legislation by Congress. For example, in regard to National Forest roadless areas in Alaska, Colorado, Indiana, Missouri, New Mexico, and West Virgina, Congress has ratified the legal adequacy of the RARE II Environmental Impact Statement and study process and has prohibited further review of roadless areas for wilderness designation potential in each State except as provided in the respective statutes.

The Administration supports such legislative solutions, and is providing relevant information to Congress upon request to expedite resolution.

The final rule recognizes that considerable evaluation of roadless areas has already been completed in RARE II and existing plans. Nevertheless, draft forest plans which have been published and accompanying draft environmental impact statement

documents may be amended and supplemented accordingly (see 40 CFR 1502.9).

All evaluations will include consideration of the items currently listed in 36 CFR 219.17(b)(2), as well as address the concerns described in the *California v. Block* decision. Additional evaluation will fully utilize existing information and analysis available for roadless areas from RARE II and other sources, but will not be bound by past recommendations for or against wilderness designation for these areas. Under the rule, information and analysis in addition to that available from RARE II and other sources will be developed for each area that is subject to evaluation. For each area designated for evaluation, the determinaton of the significant resource issues will be developed with public participation.

Except as they may be modified through the legislative process, RARE II wilderness recommendations or management of areas for non-wilderness uses on individual National Forests will be determined through the forest planning process. Any such changes will be implemented only with adequate notice to Congress and the public.

Analysis of Public Comment

A notice of the proposed revision to the National Forest System Land and Resource Management Planning rules was published on April 18, 1983, (48 FR 16505) with a request for public comments to be received on or before June 17, 1983.

The proposed rule generated modest public interest. A total of 38 responses were received on the proposed rule as follows:

Type of respondent	Number of comments received	Percent of the total
Citizens	21	55
Environmental organizations	4	10
Resource development businesses	9	25
State and Federal agencies	4	10
Total	38	100

Ten of the respondents did not specifically address the proposed rule change but were concerned with protecting existing wilderness, and/or adding to the present wilderness system. Eight respondents had suggestions not germane to the rule or to the necessity for it. Those comments which specifically addressed the proposed rule can be placed into three categories: (1) Favored the proposed rule without modification, (2 respondents); (2) favored the proposed rule with some modification (12 respondents); and (3) opposed the proposed rule, (5 respondents). One letter was illegible.

All comments and suggestions were reviewed and considered in preparation of this final rule.

Responses are available for review at the office of Charles R. Hartgraves, Director, Land Management Planning Staff, Forest Service, USDA, Room 4021 South Building, 12th and Independence Avenue, SW., Washington, D.C.

The following discussion summarizes the comments and suggestions received which specifically addressed the proposed revisions of 36 CFR 219.17(a), followed by the Department's response to these comments:

1. *Comment:* The evaluation of the areas should follow all forest planning steps in order to assure a thorough review and analysis of the responses and environmental effects.

Response: Specific analysis procedures have been prepared for Forest use in reevaluating these areas and are consistent with the Forest planning process as directed by 36 CFR 219.12.

2. *Comment:* We object to including public lands adjacent to the Forest in the evaluation process.

Response: The final rule clarifies that it specifically applies to the National Forest System. A comprehensive evaluation must consider all effects, including the effects of recommended wilderness on adjacent lands and the effects of adjacent lands on the area being evaluated. This is consistent with both the NFMA and NEPA requirements. The Forest Service will coordinate its planning with the planning of other Federal, public land management agencies such as the Bureau of Land Management and National Park Service wilderness studies.

3. *Comment:* The inclusion of essentially roadless areas in the evaluation is inconsistent with the purpose of RARE II and the intent of the Wilderness Act.

Response: The term "essentially roadless" is consistent with criteria used to develop the RARE II inventory. It conveys the notion that while the absence of roads is a standard, past developments under some circumstances should not necessarily preclude consideration of an area for wilderness potential. Therefore, the term is retained in the current rule.

4. *Comment:* We recommend including reference to § 219.22 (Mineral Resources) in this section of the rule.

Response: The evaluation of roadless areas will be done within the framework of the Forest planning process, which includes consideration of all resources. Since mineral consideration is already expressed as a requirement in § 219.22, it need not be repeated in § 219.17.

5. *Comment:* Include in the body of the rule exclusion (release) of those States where Congress has ratified the legal adequacy of the RARE II EIS, and specifically prohibit further review of these areas.

Response: Wilderness legislation which includes release language already exists for some States and is being actively considered for several others. The rule does not specify each specific area or State excluded because amendments to the rule would be needed each time a new exclusion was brought about by legislation.

6. *Comment:* Include National Grasslands in the reevaluation.

Response: The NFMA planning process applies to the National Forest System (NFS), which includes the National Forests and National Grasslands. Therefore, National Grassland components are included in roadless area reevaluations.

7. *Comment:* The provisions of the Federal Land Policy and Management Act should be applied in Forest planning to designate utility corridors, thus removing such areas from further consideration for wilderness designation.

Response: NFMA Forest planning (36 CFR 219.27), following standards and guidelines in Regional Guides (36 CFR 219.9), will consider designating lands for transportation and utility corridor purposes along with other possible uses for these same areas, including wilderness use.

8. *Comment:* All roadless areas in the National Forest System should be included in the reevaluation, not just those included in RARE II.

Response: The final rule is written to permit evaluation of other essentially roadless areas in addition to those previously inventoried in RARE II, a unit plan or a Forest plan. The rule has been modified to make clear that the role of public participation is to help define the significant resource issues. This will assist the Forest Service in defining the scope and depth of analysis needed to resolve the issues.

9. *Comment:* Further study or reevaluation of our wilderness areas is not needed and would be an improper use of public funds.

Response: Many respondents misinterpreted the rule, believing that currently designated wilderness areas would also be subject to reevaluation. The rule does not apply to roadless areas which have been designated as wilderness by an Act of Congress.

10. *Comment:* With respect to my State, the RARE II Environmental Impact Statement is adequate. Additional expenditures for wilderness studies in this State are not warranted.

Response: RARE II decisions are vulnerable to legal challenge unless the deficiencies found by the Ninth Circuit Court are overcome. Two alternatives for doing so are reasonable: (1) Through restudy of the roadless areas in question through the NFMA Forest planning process, or (2) a legislative solution whereby Congress designates certain roadless areas as wilderness and releases other ones from further review for potential addition to the National Wilderness Preservation System. The legislative solution has been used in six States to date, and bills are pending in the House or Senate for several others.

11. *Comment:* Reevaluation of RARE II areas recommended for wilderness designation is inappropriate. The court found that the RARE II FEIS was legally insufficient to support nonwilderness decisions and specifically rejected allegations that RARE II recommendations for wilderness designations were insufficient.

Response: The court did not address whether wilderness designation recommendations were legally insufficient because no such claim was made by plaintiff in the original suit. Litigation was thus limited to the single issue of nonwilderness designation decisions failing to follow prescribed procedures. Notwithstanding the court's focus only on the nonwilderness component of the RARE II decision, the procedure used by the Forest Service to arrive at its wilderness designations was the same procedure used to arrive at nonwilderness recommendations. Since the court found the process legally insufficient for one, it can reasonably be assumed to be insufficient for the other, even though the court did not address this issue. Consequently, the Forest Service decided to subject its RARE II wilderness recommendations to reevaluation in NFMA Forest planning along with the nonwilderness decision.

12. *Comment:* The Forest Service should not be permitted to develop nonwilderness RARE II areas while simultaneously studying these same areas for their wilderness potential.

Response: The court's findings in *California v. Block* apply only to 47 RARE II areas in California. Unless successfully challenged elsewhere, the RARE II decision remains the basis Nation-wide for planning, scheduling, and implementing a variety of nonwilderness multiple use management activities. However, these activities may be dropped or modified as a consequence of the RARE II reevaluation in NFMA Forest planning.

Finding of No Significant Environmental Impact

This rule change is not a major Federal action significantly affecting the quality of the human environment and, therefore, does not require the preparation of an environmental impact statement. The change is procedural only and directs further evaluation of environmental consequences of actions as part of the land and resource management planning process. The regulation change, therefore, has no potential for significant effect on the physical and biological components of the human environment.

Regulatory Impact

The Assistant Secretary for Natural Resources and Environment has determined that the rule is "nonmajor" as defined in Executive Order 12291. Therefore, a regulatory impact analysis is not required for this rulemaking. The rule requires the Forest Service to further study roadless areas as part of a legally required planning process. Increases in costs of planning to the Forest Service are necessary to avoid even greater costs to the government from further delay and other disruption of planning and management activities due to legal challenges. The rule, therefore, would not cause a major increase in cost or prices to consumers, individual industries, Federal, State, or local government agencies, a geographic region. It would not have an annual effect on the economy of $100 million or more, or have significant adverse effect on competition, employment, investment, productivity, innovation, or ability of United States based enterprises to compete with foreign based enterprises.

The Assistant Secretary for Natural Resources and Environment has also determined that this rule will not have a significant economic impact on a substantial number of small entities. The proposed rule imposes no direct or indirect costs on small entities. It imposes no paperwork or recordkeeping requirement as defined in the Paperwork Reduction Act of 1980; it does not affect the competitive position of small entities in relation to large entities; it does not affect the ability of a small entity to stay in the market, and it does not require that small entities obtain professional assistance to meet regulatory requirements.

List of Subjects in 36 CFR Part 219

Environmental impact statements, National forests.

PART 219—PLANNING [AMENDED]

Therefore, for the reasons set forth in the preamble, 36 CFR Part 219, Subpart A, is amended as follows:

1. The authority citation for 36 CFR 219, Subpart A reads as follows:

Authority: Secs. 6 and 15, 90 Stat. 2949, 2952, 2958 (16 U.S.C.) 1604, 1613); and 5 U.S.C. 301.

2. Section 219.17 is amended by changing the title from "Wilderness Designation" to "Evaluation of Roadless Areas"; by removing paragraph (a); by renumbering paragraph (b) as (a); by revising the introductory text of redesignated paragraphs (a) and (a)(1), and by revising paragraphs (a)(1)(i), and the introductory text of (a)(2) to read as follows:

§ 219.17 Evaluation of roadless areas.

(a) Unless otherwise provided by law, roadless areas within the National Forest System shall be evaluated and considered for recommendation as potential wilderness areas during the forest planning process, as provided in paragraphs (a)(1) and (a)(2) of this section.

(1) During analysis of the management situation, the following areas shall be subject to evaluation:

(i) Roadless areas including those previously inventoried in the second roadless area review and evaluation (RARE II), in a unit plan, or in a forest plan, which remain essentially roadless and undeveloped, and which have not yet been designated as wilderness or for nowilderness uses by law. In addition, other essentially roadless areas may be subject to evaluation at the discretion of the Forest Supervisor.

* * * * *

(2) For each area subject to evaluation under paragraph (a)(1) of this section, the determination of the significant resource issues, which in turn affect the detail and scope of evaluation required by the Forest Service, shall be developed with public participation. As a minimum, the evaluation shall include consideration of:

* * * * *

Dated: August 22, 1983.

Douglas W. MacCleery,

Deputy Assistant Secretary for Natural Resources and Environment.

[FR Doc. 83-24362 Filed 9-6-83; 8:45 am]
BILLING CODE 3410-11-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 2F2728/R600; PH-FRL 2427-8]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Iprodione

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for the combined residues of the fungicide iprodione, its isomer, and its metabolites in or on certain raw agricultural commodities. This regulation to establish maximum permissible levels for residues of the pesticide was requested pursuant to a petition by Rhone-Poulenc, Inc.

EFFECTIVE DATE: Effective on September 7, 1983.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Henry Jacoby, Product Manager (PM) 21, Registration Division (TS–767C), Office of Pesticide Programs Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. Office location and telephone number: Rm. 229, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–1900).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of September 22, 1982 (47 FR 41854), which announced that Rhone-Poulenc, Inc., P.O. Box 125, Monmouth Junction, NJ 08852, had submitted pesticide petition 2F2728 to EPA proposing that 40 CFR 180.399 be amended by establishing tolerances as follows:

1. For residues of the fungicide iprodione 3-(3,5-dichlorophenyl)-*N*-(1-methylethyl)-2,4-dioxo-1-imidazolidinecarboxamide and its metabolites 3-(1-methylethyl)-*N*-(3,5-dichlorophenyl)-2,4-dioxo-1-imidazolidinecarboxamide and 3-(3,5-dichlorophenyl)-2,4-dioxo-1-imidazolidinecarboxamide in or on the raw agricultural commodities almond nutmeat at 0.05 ppm and almond hulls at 0.25 ppm.

2. For the combined residues of 3-(3,5-dichlorophenyl)-*N*-(1-methylethyl)-2,4-dioxo-1-imidazolidinecarboxamide and its nonhydroxylated metabolites, typically 3-(3,5-dichlorophenyl)-2,4-dioxo-1-imidazolidinecarboxamide, by converting the nonhydroxylated phenyl ring moiety to the *N*-heptaflurobutyrate derivative of 3-,5-dichloroaniline common moiety, as iprodione equivalents in or on the raw agricultural commodities meat and meat byproducts (meat, kidney, fat, and liver) of cattle, goats, hogs, horses, and sheep at 0.80 ppm.

3. For the combined residues of 3-(3,5-dichlorophenyl)-*N*-(1-methylethyl)-2,4-dioxo-1-imidazolidinecarboxamide, 3-(3,5-dichloro-4-hydroxyphenyl)-ureido carboxamide by converting, respectively, the hydroxylated and the nonhydroxylated moiety to the 4-methoxy-3,5-dichloroaniline and the 3,5-dichloroaniline heptaflurobutyrates, as iprodione equivalents in or on the commodity milk at 0.15 ppm.

EPA issued an amended notice in the **Federal Register** of April 6, 1983 (48 FR 15003) which announced that Rhone-Poulenc, Inc., had requested the petition be amended in 2. and 3. above as follows:

By decreasing the tolerance levels for meat and meat byproducts (meat, kidney, fat, liver) of cattle, goats, hogs, horses, and sheep from 0.80 ppm to 0.1 ppm.

By decreasing the tolerance level for milk from 0.15 ppm to 0.02 ppm.

EPA issued an amended notice published in the **Federal Register** of August 17, 1983 (48 FR 37283), which announced that Rhone-Poulenc, Inc., had requested that the petition be amended in 2. and 3. above as follows:

1. By changing the expression of residues to the combined residues of 3-(3,5-dichlorophenyl)-*N*-(1-methylethyl)-2,4-dioxo-1-imidazolidinecarboxamide and its nonhydroxylated metabolites (expressed as iprodione equivalents) in or on the raw agricultural commodities fat, meat, and meat byproducts of cattle, goats, hogs, horses, and sheep at 0.1 ppm.

2. By changing the expression of residues to the combined residues of 3-(3,5-dichlorophenyl)-*N*-(1-methylethyl)-2,4-dioxo-1-imidazolidinecarboxamide and its nonhydroxylated and hydroxylated metabolites (expresse as iprodione equivalents) in or on the raw agricultural commodity milk at 0.02 ppm.

There were no comments received in response to the notices of filing.

The data submitted in the petition and other relevant material have been evaluated. The toxicology data considered in support of the tolerances include a 2-year rat-feeding study with a no-observed-effect level (NOEL) of 1,000 ppm (50 milligrams per kilogram of body weight per day (mg/kg/day)); an 18-month mouse oncogenic study, negative for oncogenic potential at 1,250 ppm (187.5 mg/kg/day); a 3-generation rat reproduction study with a NOEL of 500 ppm (25 mg/kg/day); and a mutagenicity study in the mouse with no evidence of mutagenicity or adverse effect on fertility at 1,500 and 6,000 ppm.

Data currently lacking include a teratology study in a second species and mutagenicity studies including at least the following: (1) DNA repair; (2) gene mutation, mammalian, preferably in vitro; and (3) chromosomal aberration, mammalian preferably in vitro.

The acceptable daily intake (ADI) based on the 3-generation rat reproduction study (NOEL of 25 mg/kg/day) and using a 100-fold safety factor is calculated to be 0.2500 mg/kg/day. The maximum permissible intake (MPI) for a 6-kg human is calculated to be 15.00 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5-kg daily diet is calculated to be 1.0310 mg/day (for a 60-kg person), which represents 6.87 percent of the ADI. The current action will contribute 0.0248 mg/day to the TMRC and will result in a total ADI use of 7.04 percent.

The nature of the residues is adequately understood, and an analytical method, gas chromatography using an electron capture detector, is available for enforcement purposes. Any secondary residues in meat or milk resulting from the feeding of almond hulls to livestock will be adequately covered by this action. There are currently no actions pending against the continued registration of the chemical.

The pesticide is considered useful for the purpose for which the tolerances are sought. It is concluded that the tolerances would protect the public health and are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the

Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: August 24, 1983.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.399 is revised to read as follows:

§ 180.399 Iprodione; tolerances for residues.

(a) Tolerances are established for the combined residues of the fungicide iprodione [3-(3,5-dichlorophenyl)-*N*-(1-methylethyl)-2,4-dioxo-1-imidazolidinecarboxamide], its isomer 3-(1-methylethyl)-*N*-(3,5-dichlorophenyl)-2,4-dioxo-1-imidazolidinecarboxamide, and its metabolite 3-(3,5-dichlorophenyl)-2,4-dioxo-1-imidazolidine-carboxamide in or on the following raw agricultural commodities:

Commodities	Parts per million
Almonds, hulls	0.25
Almonds, meat	0.05
Apricots	20.0
Cherries (sour)	20.0
Cherries (sweet)	20.0
Kiwi fruit	10.0
Nectarines	20.0
Peaches	20.0
Plums	20.0
Prunes	20.0

(b) Tolerances are established for the combined residues of the fungicide iprodione [3-(3,5-dichlorophenyl)-*N*-(1-methylethyl)-2,4-dioxo-1-imidazolidinecarboxamide] and its nonhydroxylated metabolites (expressed as iprodione equivalents) in or on the following raw agricultural commodities:

Commodities	Parts per million
Cattle, fat	0.1
Cattle, meat	0.1
Cattle, mbyp	0.1
Goat, fat	0.1
Goat, meat	0.1
Goat, mbyp	0.1
Hog, fat	0.1
Hog, mbyp	0.1
Horses, fat	0.1
Horses, mbyp	0.1
Sheep, fat	0.1
Sheep, meat	0.1
Sheep, mbyp	0.1

(c) A tolerance of 0.02 part per million is established for the combined residues of the fungicide iprodione [3-(3,5-dichlorophenyl)-*N*-(1-methylethyl)-2,4-dioxo-1-imidazolidinecarboxamide] and its nonhydroxylated and hydroxylated metabolites (expressed as iprodione equivalents) in or on the raw agricultural commodity milk.

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a (d)(2)))

[FR Doc. 83-24143 Filed 9-6-83; 8:45 am]

BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Ch. 1

[FPR Temp. Reg. 71]

ADP Contracting; Correction

AGENCY: General Services Administration.

ACTION: Temporary regulation; correction.

SUMMARY: This document corrects a temporary regulation on ADP Contracting that appeared on page 37031 in the **Federal Register** of Tuesday, August 16, 1983 (48 FR 37031).

FOR FURTHER INFORMATION CONTACT: David R. Mullins or Phillip R. Patton, Policy Branch (KMPP), Office of Information Resources Management (202) 566-0194.

PART 1-4—[AMENDED]

Accordingly, the General Services Administration corrects FR Doc. 83-22165 as follows:

1. On page 37031, in the third colum, in paragraph 1.b., in the second line, "Administrator of" is corrected to read "Administrator for".

2. On page 37032, in the third column, § 1-4.1102-1(a)(7) is corrected by removing the reference at the end of paragraph (a)(7). Paragraph (a)(7) is corrected to read as follows:

§ 1-4.1102-1 Automatic data processing equipment.

* * * * *

(a) * * *

(7) Equipment used in office automation applications that is designed to be controlled by a general purpose data processing language primarily to be applied through the internal execution of series of instructions, not limited to specific key stroke functions, and designed to process a variety of applications.

* * * * * *

3. On page 37036, in the first column, paragraph b., in the fifteenth line, "Administrator for Information Resources" is corrected to read "Administrator for Information Resources Management".

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Frank J. Carr,

Assistant Administrator, Office of Information Resources Management.

Dated: August 25, 1983.

[FR Doc. 83-24170 Filed 9-6-83; 8:45 am]

BILLING CODE 6820-25-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

41 CFR Ch. 7

[AIDPR Notice 84-1]

Revision of Noncompetitive Procurement Coverage

AGENCY: Agency for International Development.

ACTION: Final rule.

SUMMARY: This AIDPR Notice implements FPR Amendment 230 on maximizing the use of competition and minimizing the number of noncompetitive procurements. The Agency's coverage of noncompetitive negotiation that conflicted with the new FPR coverage has been removed or revised; however, three circumstances that are unique to the Foreign Assistance Program have been retained to supplement the eight FPR circumstances permitting noncompetitive procurement. The three circumstances are: contracts for personal services aboard under Section 636(a)(3) of the Foreign Assistance Act of 1961, as amended; procurements of $100,000 or less by overseas procuring activities; and procurements where the Assistant Administrator responsible for the program determines that only one source should be solicited on the basis that procurement from any other source would impair foreign assistance objectives and would be inconsistent with fulfillment of the foreign assistance program.

EFFECTIVE DATE: This AIDPR Notice is effective on August 26, 1983.

FOR FURTHER INFORMATION CONTACT: Frank L. Calkins, M/SER/CM/SD/POL, Agency for International Development, Washington, D.C. 20523. Telephone (703) 235-9107.

SUPPLEMENTARY INFORMATION: This AIDPR Notice is a procurement regulation, and has been exempted from the requirements of Executive Order 12291 of February 17, 1981, pursuant to Section 8(b) of the Order, by the Director, OMB, in a letter dated April 8, 1981, as amended on October 4, 1982. The determination required by paragraph 4a of OFPP Policy Letter 80-5, and the certification required by the Regulatory Flexibility Act have been made and are included in the body of this AIDPR Notice.

List of Subjects in 41 CFR Part 7

Government procurement.

PART 7-3—PROCUREMENT BY NEGOTIATION

1. The subpart table of contents is revised as follows:

Subpart 7-3.1—Use of Negotiation

Sec.
7-3.102-50 Adaptability to overseas conditions.
7-3.103-50 Debriefing of unsuccessful offerors.
7-3.103-51 Lead time for preparation and submission of bids or proposals.
7-3.107 Justification of noncompetitive procurements.
7-3.107-50 Additional circumstances permitting noncompetitive procurements.
7-3.107-51 Authority to approve noncompetitive procurements.

Authority: Sec. 621, 75 Stat. 445, as amended (22 U.S.C. 2381).

§ 7-3.101-50 [Removed]

2. Section 7-3.101-50 Justification for noncompetitive negotiation is removed.

3. A new § 7-3.107 is added, as follows:

§ 7-3.107 Justification of noncompetitive procurements.

In addition to the eight circumstances permitting noncompetitive procurements in FPR 1-3.107(a), the Agency also has the three circumstances set forth in § 7-3.107-50. The three additional circumstances are based on the unique authorities of the Foreign Assistance Act of 1961, as amended, and are justified as being necessary to effectively carry out the Foreign Assistance Program.

4. A new § 7-3.107-50 is added as follows:

§ 7-3.107-50 Additional circumstances permitting noncompetitive procurements.

(a) There are three additional circumstances where noncompetitive negotiation may be permissible; these are set out in paragraphs (b), (c), and (d) of this section. In each of these cases, however, consideration of as many sources as is practicable, including informal solicitation to the maximum extent practicable, is required. In each case, the contract file will include appropriate explanation and support justifying the noncompetitive award.

(b) An award, under section 636(a)(3) of the Foreign Assistance Act of 1961, as amended, involving a personal services contractor serving abroad (see Appendix F of this Chapter).

(c) An award of $100,000 or less by any overseas procuring activity (i.e., a Mission as defined in AIDPR 7-1.258).

(d) An award for which the Assistant Administrator responsible for the program makes a formal written determination, with supporting findings, that procurement from any other source would impair foreign assistance objectives, and would be inconsistent with the fulfillment of the Foreign Assistance Program.

5. A new § 7-3.107-51 is added as follows:

§ 7-3.107-51 Authority to approve noncompetitive procurements.

(a) Authority to approve noncompetitive procurements is separate from and *in addition to* any delegation of contracting authority. While a contracting official may have been delegated unlimited contracting authority, his/her authority to approve noncompetitive procurements is limited by this section.

(b) Authority to approve noncompetitive procurements under FPR 1-4.910 and AIDPR 7-3.107-50(d) rests with the Assistant Administrator having the program responsibility.

(c) Authority to approve noncompetitive procurements under both FPR 1-3.107(a)(5) and (a)(6) rests with the head of the agency, as defined in AIDPR 7-1.206.

(d) Authority to approve noncompetitive procurements under FPR 1-3.107(a)(1), (2), (3), (4), (7), (8) and AIDPR 7-3.107-50(b), executed by AID/Washington, is based on the estimated cost of the procurement and is assigned as follows:

Dollar amount	Approving authority
(1) 0 to $10,000	The contracting officer.
(2) $10,000 to $100,000	Cognizant M/SER/CM Division Chief.
(3) $100,000 to $250,000	Director or Deputy Director, M/SER/CM.
(4) Over $250,000	The Noncompetitive Review Board.

(e) Authority to approve noncompetitive procurements under FPR 1-3.107 (a) (1), (2), (3), (4), (7), (8) and AIDPR 7-3-107-50(b) and -50(c), excuted by a Mission, is based on the estimated cost of the procurement and is assigned as follows:

Dollar amount	Approving authority
(1) 0 to $10,000	The Mission contracting officer, if other than the Mission Director.
(2) 0 to $100,000	The Mission Director.
(3) Over $100,000	The Mission Noncompetitive Review Board.

(f) The Mission Noncompetitive Review Board is appointed by the Mission Director, who serves as Chairman of the Review Board. As a minimum, Review Board membership must include in addition to the Chairman, the Mission or Regional Legal Advisor (or the Deputy Director if no Legal Advisor is available at the Mission), and a senior project officer not concerned with the procurement under consideration by the Review Board. The Mission Noncompetitive Review Board has jurisdiction over both Mission procurements and procurements being awarded by the Area Contracting Officer (ACO) serving the Mission. However, when a noncompetitive procurement exceeds either the Mission Director's or the ACO's contracting authority, as opposed to their authority to approve noncompetitive procurements (see paragraph (a) of this section), the Mission Director must first obtain and ad hoc redelegation of contracting authority for the noncompetitive procurement from M/SER/CM.

Determination

As required by paragraph 4a of OFPP Policy Letter 80-5, I hereby determine that this AIDPR Notice has been reviewed against the policies set forth in paragraphs (1) through (8) of Section 2 of the Office of Federal Procurement Policy Act (Pub. L. 93-400, as amended by Pub. L. 96-83, hereinafter referred to as the Act), and policy directives issued by OFPP under Section 6(h) of the Act.

Based on this review, I hereby determine that this AIDPR Notice is not inconsistent with the policies set forth in paragraphs (1) through (8) of Section 2 of the Act, and policy directives issued by OFPP under Section 6(h) of the Act.

Certification

Pursuant to the Regulatory Flexibility Act, I hereby certify as the Agency's Procurement Executive that this regulation will not have a significant economic impact on a substantial number of small entities. including small

businesses, small organizational units and small governmental jurisdictions.

Dated: August 26, 1983.

John F. Owens,

Associate Assistant to the Administrator for Management.

[FR Doc. 83-24331 Filed 9-6-83; 8:45 am]

BILLING CODE 6116-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1160 and 1168

[Ex Parte No. 55 (Sub-No. 56)]

Applications for Operating Authority Motor Passenger Carriers

AGENCY: Interstate Commerce Commission.

ACTION: Amendment of final rules.

SUMMARY: The Commission has reopened this proceeding on its own motion and amended its rules at 49 CFR Parts 1160 and 1168, to permit a protesting party in an application for motor passenger carrier authority under 49 U.S.C. 10922(c)(1)(A), (c)(2)(A), or (c)(2)(B), to reply to an applicant's evidentiary submission regarding the impact of the proposed transportation on the public interest or on commuter bus operations. We have concluded that existing procedure is not sufficient to satisfy the requirements of due process when a protestant puts into issue the question of consistency with the public interest, or the effect on commuter services. We now believe due process standards require that a protesting party be given an opportunity to respond to evidence submitted contrary to its interests. The Commission has also amended its rules to clarify the scope of the applicant's evidence on reply under §§ 1160.83(b) and 1168.3(b) to make the regulations consistent with the discussion in the text of the earlier decision adopting the rules.

EFFECTIVE DATE: September 7, 1983.

FOR FURTHER INFORMATION CONTACT: Andrew Lyon, 202–275–7805; or Howell I. Sporn, 202–275–7691.

SUPPLEMENTARY INFORMATION: Following the enactment of the Bus Regulatory Reform Act of 1982, Pub. L. 97–261, 96 Stat. 1102 (1982), the Commission promulgated rules governing the processing of applications for motor passenger carrier operating authority. 47 FR 53260 November 19, 1982; 132 M.C.C. 62 (Nov. 19, 1982). Under the statute and the Commission's regulations, an applicant for such authority bears the burden of presenting evidence that it is fit, willing, and able to perform the operations, and to comply with the statute and the Commission's regulations. *See* 49 U.S.C. 10922(c)(1)(A), (c)(2)(A), and (c)(2)(B). A protesting party bears the burden of presenting evidence that the proposed service is not consistent with the public interest, *see* 49 U.S.C. 10922(c)(1)(A) and (c)(2)(B), or that the proposed service will have have an adverse effect on directly competing commuter operations, *see* 49 U.S.C. 10922(c)(2)(A). *See generally Applications For Operating Authority—Motor Passenger Carriers*, 47 FR 53260, 53262, (November 19, 1982).

Under the rules previously adopted by the Commission, we followed the usual sequence of events in a licensing proceeding, *i.e.*, the filing of an application followed by the filing of protest statements, and a reply by the applicant. *See* 49 CFR 1660 and 1168. We have now concluded that this procedure is not sufficient to satisfy the requirements of due process when a protestant puts into issue the question of consistency with the public interest, or the effect on commuter services.

When a party opposes an application on "public interest" grounds, *see* 49 CFR 1160.71(b), or on the basis of the effect on existing commuter operations, *see* 49 CFR 1168.3(h), the burden of proof is on the protesting party. Thus, the first evidence regarding public interest or commuter operations is presented in the protest, and applicant's first evidence on those subjects is presented in its reply statement. We have previously observed, in *Applications For Operating Authority—Motor Passenger Carriers, supra*, 47 FR 53262, that when a protestant raises the "public interest" issue an applicant may address any factor involved in public interest on reply. However, our rules do not afford an opportunity for the protestant to rebut the applicant's submission.

We now believe due process standards require that a protesting party be given an opportunity to respond to evidence submitted contrary to its interests. *See, e.g.*, 5 U.S.C. 556(d) ("A party is entitled to * * * submit rebuttal evidence. . ."); *National Trailer Convoy, Inc.* v. *United States*, 293 F. Sup. 634, 636 (N.D. Okla. 1968), and cases cited therein. The rules are amended here to ensure that protestants to motor passenger carrier applications will receive their full due process rights.

We will also take this opportunity to clarify a portion of the rules regarding applicant's reply to a protest in a passenger carrier application under 49 U.S.C. 10922 (c)(1)(A) or (c)(2)(B). Section 1160.83 of the rules states that a reply statement "may not contain new evidence." However, as we explained in *Applications For Operating Authority—Motor Passenger Carriers, supra*, 47 FR 53262, when a protestant puts into issue the question of consistency with the public interest, an applicant may, in its reply statement, offer any evidence addressing the public interest question. To avoid any confusion, we are amending 49 CFR 1160.83(b) to reflect the discussion in the underlying decision that any evidence submitted by an applicant in reply to a protestant's challenge on the public interest question is not "new evidence." Similarly, we are amending 49 CFR 1168.3(h) to correct any uncertainty in the regulations for applications under 49 U.S.C. 10922(c)(2)(A). These amendments merely put into the regulations the substance of the decision, and contain no substantive change in the regulations.

The amendments to our rules of practice will become effective upon publication in the **Federal Register**. We do not believe that notice and comment is required. Under 5 U.S.C. 553(b)(A), "rules or agency organization, procedure, or practice" are exempt from the notice and comment requirements of the Administrative Procedure Act. The amendments adopted here simply add due process protections for the public and incorporate into the body of the rules a statement of their previously announced effect. Thus the amendments do not have a substantial impact on the public, and do not require notice and comment. See *Commonwealth of Pennsylvania* v. *United States*, 361 F. Supp. 208, 220–22 (M.D. Pa.). *aff'd*, 414 U.S. 1017 (1973).

List of Subjects in 49 CFR Parts 1160 and 1168

Administrative practice and procedure, Buses.

(49 U.S.C. 10321 and 10922, and 5 U.S.C. 553.)

It is ordered:

1. The proceeding is reopened on our own motion for reconsideration.

2. Title 49, Part 1160, is amended by adding § 1160.95a, and by amending paragraph 1160.83(b), as set forth in the appendix.

3. Title 49, Part 1168, is amended by adding paragraph § 1168.4(e), and by amending paragraph § 1168.3(h), as set forth in the appendix.

4. This decision shall be effective on the date of publication in the **Federal Register**.

Decided: August 30, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

Agatha L. Mergenovich,

Secretary.

Appendix A

Title 49 of the CFR is amended as follows:

PART 1160—HOW TO APPLY FOR OPERATING AUTHORITY

1. Part 1160 is amended by adding new § 1160.95a, as follows:

§ 1160.95a Rebuttal in public interest applications.

(a) When a protestant has protested an application on public interest grounds as provided under § 1160.95, and an applicant has replied to the public interest arguments under § 1160.83, the protestant may file a rebuttal statement within 70 days of the **Federal Register** publication.

(b) The rebuttal statement may not contain new evidence. It shall only rebut or further explain matters previously raised.

(c) The rebuttal statement need not be notarized or verified. Protestant understands that the oath in the protest applies to all evidence submitted in the application. Separate legal argument by counsel need not be notarized or verified.

2. Part 1160 is amended by adding the following sentence to the end of § 1160.83(b):

§ 1160.83 Filing a reply statement.

* * * * *

(b) * * * However, if a protestant has raised the "public interest issue" under § 1160.95, an applicant may submit any reply evidence to the "public interest issue."

* * * * *

PART 1168—RULES GOVERNING THE ISSUANCE OF A CERTIFICATE TO PROVIDE REGULAR-ROUTE TRANSPORTATION OF PASSENGERS ENTIRELY IN ONE UNDER 49 U.S.C. 10922(c)(2)(A)

3. Part 1168 is amended by adding the following sentence to the end of § 1168.3(h):

§ 1168.3 Filing of applications.

* * * * *

(h) * * * However, if a protestant has raised the question of the effect on commuter bus service operations under § 1168.4(d)(6), an applicant may submit any reply evidence in response to the commuter service issue.

4. Part 1168 is amended by adding new paragraph (e) to § 1168.4 as follows:

§ 1168.4 Processing of applications.

* * * * *

(e) Filing a reply statement. If the protestant has filed a protest under § 1168.4(d)(6), and applicant has replied to the commuter operations arguments under § 1168.3(h), protestant may file a rebuttal statement at the Commission within 35 days after publication of the notice of the application in the **Federal Register**. The rebuttal statement shall contain no new evidence, but shall only rebut or further explain matters previously raised concerning commuter operations. The rebuttal need not be verified.

[FR Doc. 83-24374 Filed 9-6-83; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 48, No. 174
Wednesday, September 7, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

7 CFR Part 660

Cooperative Relationships and Arrangements

AGENCY: Soil Conservation Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Soil Conservation Service published the schedule for review of 7 CFR Part 660, Cooperative Relationships and Arrangements, in the Federal Register on October 28, 1982, at 47 FR 48310. SCS completed the review and proposes to remove and reserve 7 CFR Part 660 as the material in this part is now covered in the USDA uniform Federal assistance regulations and other agency directives.

DATE: Comments are due November 7, 1983.

ADDRESS: Written comments on the proposed action should be addressed to: Deputy Chief for Administration, Soil Conservation Service, USDA, P.O. Box 2890, Washington, D.C. 20013, (202) 447–6297.

FOR FURTHER INFORMATION CONTACT: Wayne F. Maresch, Director, Administrative Services Division, Soil Conservation Service, USDA, P.O. Box 2890, Washington, D.C. 20013, or telephone (202) 447–5111.

SUPPLEMENTARY INFORMATION: Section 7 CFR 660.1 and 7 CFR 660.2 pertain to cooperative relationships and arrangements between SCS and nonfederal parties. This material was formulated in 1974 based on existing statutes, policies, authorities, and circumstances. At that time, cooperative agreements could be used to document a broad category of relationships involving mutual benefits. Since that time, the Federal Grant and Cooperative Agreement Act of 1977 (Pub. L. 95–224; 41 U.S.C. 501–509) has been enacted and implemented, and the U.S. Department of Agriculture (USDA) published the Uniform Federal Assistance Regulations (7 CFR 3015). These two related developments significantly impact the policy and procedures of §§ 660.1 and 660.2. The Act defines procurement and Federal assistance relationships and prescribes policies and procedures for those relationships that preempt any existing agency policy and procedures. The policy and procedures set forth in § 660.3 on cooperation with conservation districts are USDA in nature and scope. USDA policies and procedures are set forth in the USDA Directives System.

Section 660.4 largely pertains to administrative and internal personnel functions covered by other USDA directives and issuances.

List of Subjects in 7 CFR Part 660

Technical assistance, Water resources, Grant programs—natural resources.

David G. Unger,
Associate Chief.
August 31, 1983.

PART 660—[RESERVED]

Accordingly, Chapter VI of Title 7 would be amended by removing and reserving Part 660.

[FR Doc. 83–24413 Filed 9–6–83; 8:45 am]
BILLING CODE 3410–16–M

CIVIL AERONAUTICS BOARD

14 CFR Part 221

[EDR–460B; Economic Regulations Docket 41496]

Tariffs; Extension of Comment Period

August 31, 1983.

AGENCY: Civil Aeronautics Board.

ACTION: Extension of Comment Period.

SUMMARY: The CAB is extending the comment and reply comment periods for 3 weeks for its notice of proposed rulemaking on justification of fares or rates outside the zones of flexibility. This action is taken on the Board's initiative in order to allow all interested persons sufficient time to comment on the proposal.

DATES: Comments by September 23, 1983.

Reply comments by October 7, 1983.

Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

ADDRESSES: Twenty copies of comments should be sent to Docket 41496, civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Joanne Petrie, Office of the General Counsel, Civil Aeronautics Board 1825 Connecticut Avenue, NW., Washington, D.C., 20428; 202–673–5442.

SUPPLEMENTARY INFORMATION: In EDR–460, 48 FR 24916, June 3, 1983, the Board proposed to amend its tariff rules to require that U.S. and foreign air carriers justify fares or rates that are outside the zones of flexibility permitted by the Standard Foreign Rate Level. This amendment, if adopted, would also conform tariff-filing procedures to the changes made by the International Air Transportation Competition Act of 1979, which established zones of flexibility for foreign passenger fares, and a recent Board policy statement permitting zones of flexibility for cargo rates in foreign air transportation. The proposal was made at the Board's initiative in order to analyze more efficiently fares and rates submitted outside the zones. Comments on this rulemaking were originally due on August 2, 1983. The Board extended the comment period for 1 month and added a 2-week reply comment period by EDR–460A, 48 FR 34060, July 27, 1983, at the request of Pan Am and the Latin American Civil Aviation Conference.

The Board is aware of the widespread interest in this proposed rule. The staff has received some informal inquiries concerning the late filing of comments by carriers and foreign governments. The Board wants to ensure that all interested persons have an adequate opportunity to respond to both the proposal and the comments of others. In order to ensure the maximum amount of public discussion, the Board on its own initiative is extending both the comment period and the reply comment period for 3 weeks.

Accordingly, under authority delegated in 14 CFR 385.20(d), the comment period is hereby extended for

Docket 41496. Comments are now due September 23, 1983, and reply comments by October 7, 1983.

List of Subjects in Part 221

Air rates and fares, Credit, Explosives, Freight, and Handicapped.

(Secs. 102, 204, 401, 402, 403, 404, 411, 416, 1001, 1002, Pub. L. 85-726, as amended, 72 Stat. 740, 743, 754, 757, 758, 760, 769, 771, 788; 49 U.S.C. 1302, 1324, 1371, 1372, 1373, 1374, 1381, 1386, 1481, 1482)

By the Civil Aeronautics Board.

Richard B. Dyson,

Associate General Counsel Rules and Legislation.

[FR Doc. 83-24423 Filed 9-6-83; 8:45 am]

BILLING CODE 6320-01-M

RAILROAD RETIREMENT BOARD

20 CFR Parts 225, 226, and 227

Computation of Railroad Retirement Act Annuities

AGENCY: Railroad Retirement Board.

ACTION: Proposed rule.

SUMMARY: The Railroad Retirement Board is proposing regulations which explain the primary insurance amount (PIA) used to compute an employee, spouse, divorced spouse, or survivor annuity. Part 225 deals with the computation of primary insurance amounts used in the computation of the tier I components of railroad retirement annuities. Part 227 explains how to compute a supplemental annuity as provided under section 2(b)(1) of the Railroad Retirement Act of 1974.

DATE: Comments must be submitted on or before November 7, 1983.

ADDRESS: Secretary to the Board, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: Ms. Marilyn Berg, Planning and Procedures Section, Bureau of Retirement Claims, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, (312) 751-4818 (FTS 751-4818).

SUPPLEMENTARY INFORMATION: The Railroad Retirement Board (Board) proposes to redesignate the current Part 225, Computation of Annuity, as Part 226, to add a new Part 225, Primary Insurance Amount Determinations, and a new Part 227, Computing Supplemental Annuities. The proposed new Part 225 explains the primary insurance amounts used to compute an employee, spouse, or survivor annuity. The current Part 225, is proposed to be redesignated as Part 226, but no other changes would be made to this Part at this time. The proposed new Part 227 explains how to compute a supplemental annuity as provided under section 2(b)(1) of the Railroad Retirement Act of 1974.

The Board has determined that this is not a major rule for purposes of Executive Order 12291. Therefore, no Regulatory Impact Analysis is required. In addition, these parts do not impose any requirements for the collection of information within the meaning of the Paperwork Reduction Act of 1980.

List of Subjects

20 CFR Part 225

Retirement, Railroad retirement, Railroad employees, Pensions, Annuities.

20 CFR Part 226

Retirement, Railroad retirement, Railroad employees, Pensions, Annuities.

20 CFR Part 227

Retirement, Railroad retirement, Railroad employees, Pensions, Employee benefit plans, Annuities.

Title 20 CFR Chapter II, is proposed to be amended as follows:

1. The table of contents for Title 20, Chapter II, Railroad Retirement Board, Subchapter B, is proposed to be revised by redesignating the current Part 225, "Computation of annuity", as Part 226, adding a new Part 225 titled "Primary insurance amount", and adding a new Part 227 titled "Computing supplemental annuities".

PART 225—[REDESIGNATED AS PART 226]

2. Current 20 CFR Part 225 is proposed to be redesignated as Part 226 (and remains unchanged at this time).

3. A new 20 CFR Part 225 is proposed to be added as follows:

PART 225—PRIMARY INSURANCE AMOUNT DETERMINATIONS

Subpart A—General

Sec.
225.1 Introduction.
225.2 Definitions.
225.3 Use of compensation as social security earnings to compute PIA's.

Subpart B—PIA's Used to Compute Employee and Spouse Annuities

225.5 Tier I PIA.
225.6 SS earnings dual benefit PIA.
225.7 RR earnings dual benefit PIA.
225.8 Combined earnings dual benefit PIA.
225.9 100% O/M PIA.

Subpart C—PIA's Used to Compute Survivor Annuities and the Residual Lump Sum

225.20 Survivor tier I PIA.
225.21 Employee fictional RIB PIA.
225.22 Survivor combined earnings PIA.
225.23 Survivor SS earnings PIA.
225.24 Survivor RR earnings PIA.
225.25 RLS PIA.

Subpart D—Delayed Retirement Credits

225.30 Delayed retirement credit, defined.
225.31 Months for which delayed retirement credits are due.
225.32 When an employee is eligible for delayed retirement credits.
225.33 When a surviving spouse is eligible for delayed retirement credits.
225.34 When an annuity is increased for delayed retirement credits.
225.35 Amount of delayed retirement credit.

Subpart E—Cost-of-Living Increases in PIA's

225.40 Cost-of-living increase, defined.
225.41 What PIA's are subject to cost-of-living increases.
225.42 When a cost-of-living increase is payable.

Subpart F—Recomputing PIA's

225.45 Recomputation, defined.
225.46 What PIA's can be recomputed.
225.47 Why a primary insurance amount may be recomputed.
225.48 Effective date of recomputations.
225.49 Automatic recomputations.
225.50 How to request an immediate recomputation.
225.51 Waiver of recomputation.

Authority: 45 U.S.C. 231b, 45 U.S.C. 231c, 45 U.S.C. 231f, sec. 1119, Pub. L. 97-35, 95 Stat. 632-635 (45 U.S.C. 231c).

Subpart A—General

§ 225.1 Introduction.

This part explains the primary insurance amounts (PIA's) used to compute an employee, spouse, divorced spouse, or survivor annuity. Included is an explanation of when and how delayed retirement credits are added to a PIA and when and how a PIA is recomputed. A primary insurance amount or PIA is the basis for computing the amount of a social security benefit. The various social security PIA formulas used are decribed in section 215 of the Social Security Act and and in the regulations of the Social Security Administration (20 CFR 404, Subpart C). PIA is used in this part to refer to every type of PIA formula unless otherwise specified. Parts 226, 228, and 229 of this chapter explain how PIA's are used in the annuity computation.

§ 225.2 Definitions.

As used in this part:

Average indexed monthly earnings means the monthly average determined by dividing the total indexed earnings used in computing a PIA by the total months in the years for which the earnings are credited. Indexed earnings

are determined under section 215(b) of the Social Security Act.

Average monthly wage is the result of dividing the total earnings used in computing a PIA by the total months in the years for which the earnings are credited.

Benefit computation years means the years used in computing the average monthly wage or average indexed monthly earnings. The number of benefit computation years is based on the employee's age or when the employee becomes disabled or dies.

Period of disability is a period during which an employee is disabled for work in any substantial gainful activity. A period of disability is not usually counted in figuring a disabled employee's average monthly wage or average indexed monthly earnings. This is explained in Part 220 of this chapter.

Special Minimum PIA means a primary insurance amount computed under a special formula to provide a higher benefit for wage earners with consistently low earnings. Delayed retirement credits are not added to a special minimum PIA. The special minimum PIA is used to compute a social security or railroad retirement benefit only if it is higher than any other type of PIA plus any delayed retirement credits. Years of coverage are used instead of an average monthly wage or average indexed monthly earnings to compute a special minimum PIA.

§ 225.3 Use of compensation as social security earnings to compute PIA's.

Railroad compensation is added to social security earnings to obtain the total earnings used in computing the tier I PIA (see § 225.5), the combined earnings dual benefit PIA (see § 225.8), and the 100% O/M PIA (see § 225.9). The total combined earnings for each year used in computing the PIA's cannot be higher than the maximum social security earings creditable in that year under sections 209(a) and 211(b) of the Social Security Act. The compensation used in computing the RR earnings dual benefit PIA (see § 225.7) is also limited to the maximum creditable social security earnings.

Subpart B—PIA's Used to Compute Employee and Spouse Annuities

§ 225.5 Tier I PIA.

(a) *General.* The tier I PIA or special minimum PIA, whichever is higher, which is used to compute the employee, spouse, and divorced spouse tier I amounts, is determined under current rules in sections 215 and 223 of the Social Security Act using combined railroad and social security earnings after 1950 (or after 1936, if a higher PIA would result). This PIA is computed as if an employee age annuity were an old age insurance benefit and a disability annuity were a disability insurance benefit under sections 215 and 223 of the Social Security Act. The employee's railroad compensation is treated as social security earnings. The following rules also apply to the tier I PIA amount:

(1) The tier I PIA amount may be adjusted for additional earnings or a cost-of-living increase as shown in subparts E and F.

(2) Delayed retirement credits are added to the tier I PIA, as shown in subpart D.

(b) *Age annuity at age 60.* If the employee is entitled to an age annuity at age 60, as shown in § 216.5(a)(2) of this chapter, the following rules are used, in addition to those in paragraph (a) of this section, to determine the tier I PIA and special minimum PIA:

(1) The PIA formula used is the formula from section 215 of the Social Security Act that would apply if the employee were 62 years old and, therefore, eligible for a social security benefit based on age, on the date the annuity begins, if he or she is under 62 years old on that date.

(2) The benefit computation years used to compute the tier I PIA are determined as if the employee were 65 years old on the date the annuity begins, if he or she is under 65 years old on that date.

(c) *Disability annuity.* If an employee is entitled to a disability annuity under § 216.6 of this chapter, the tier I PIA and special minimum PIA are determined as if the employee were 62 years old on the earlier of the date the annuity begins or the date any period of disability begins, if the employee is under 62 years old on that date.

§ 225.6 SS earnings dual benefit PIA.

(a) *General.* The social security earnings dual benefit PIA (SS earnings dual benefit PIA) is used to compute the employee vested dual benefit. This PIA is determined under the rules in section 215 of the Social Security Act that applied on December 31, 1974 and is based on the earnings shown in paragraph (b) or (c) of this section. The higher of the PIA or special minimum PIA is used in determining the vested dual benefit amount.

(b) *Employee insured on own wage record on December 31, 1974.* If the employee is permanently insured under the Social Security Act, as shown in § 216.82 of this chapter, on December 31, 1974, the SS earnings dual benefit PIA is computed using social security earnings after 1950 (or after 1936, if a higher PIA would result) through December 31, 1974.

(c) *Employee insured on own wage record in last year of railroad service.* If the employee is permanently insured under the Social Security Act, as shown in § 216.82 of this chapter, on December 31 of the year before 1974 in which the employee last worked in railroad service, the SS earnings dual benefit PIA is computed using social security earnings after 1950 (or after 1936, if a higher PIA would result) through December 31 of the employee's last year of railroad service.

§ 225.7 RR earnings dual benefit PIA.

(a) *General.* The railroad earnings dual benefit PIA (RR earnings dual benefit PIA) is used to compute the employee vested dual benefit. This PIA is determined under the rules in section 215 of the Social Security Act that applied on December 31, 1974 and is based on the earnings shown in paragraph (b) or (c) of this section. The higher of the PIA or special minimum PIA is used.

(b) *Employee insured on own wage record on December 31, 1974.* If the employee is permanently insured under the Social Security Act, as shown in § 216.82 of this chapter, on December 31, 1974, the RR earnings dual benefit PIA is computed using compensation after 1950 (or after 1936, if a higher PIA would result) through December 31, 1974. The compensation is treated as social security earnings.

(c) *Employee insured on own wage record in last year of railroad service.* If the employee is permanently insured under the Social Security Act, as shown in § 216.82 of this chapter, on December 31 of the year before 1974 in which the employee last worked in railroad service, the RR earnings dual benefit PIA is computed using compensation after 1950 (or after 1936, if a higher PIA would result) through December 31 of the employee's last year of railroad service. The compensation is treated as social security earnings.

§ 225.8 Combined earnings dual benefit PIA.

(a) *General.* The combined earnings dual benefit PIA is used to compute the employee vested dual benefit. This PIA is determined under the rules in section 215 of the Social Security Act that applied on December 31, 1974 and is based on the earnings shown in paragraph (b) or (c) of this section. The higher of the PIA or special minimum PIA is used.

(b) *Employee insured on own wage record on December 31, 1974.* If the

employee is permanently insured under the Social Security Act, as shown in § 216.82 of this chapter, on December 31, 1974, the combined earnings dual benefit PIA is computed using combined railroad and social security earnings after 1950 (or after 1936, if a higher PIA would result) through December 31, 1974. The railroad compensation is treated as social security earnings.

(c) *Employee insured on own wage record in last year of railroad service.* If the employee is permanently insured under the Social Security Act, as shown in § 216.82 of this chapter, on December 31 of the year before 1974 in which the employee last worked in railroad service, the combined earnings dual benefit PIA is computed using combined railroad and social security earnings after 1950 (or after 1936, if a higher PIA would result) through December 31 of the employee's last year of railroad service. The railroad compensation is treated as social security earnings.

§ 225.9 100% O/M PIA.

The 100% overall minimum PIA (100% O/M PIA) or special minimum PIA is used in computing the 100% social security overall minimum amount (100% O/M), as explained in Part 229 of this chapter. The 100% O/M PIA is computed under current rules in sections 215 and 223 of the Social Security Act using combined railroad and social security earnings. The railroad compensation is treated as social security earnings. The following rules also apply to the 100% O/M PIA amount:

(a) The employee is entitled to a 100% O/M PIA amount only if he or she is eligible for an old age insurance benefit or a disability insurance benefit under sections 215 and 223 of the Social Security Act, based on combined railroad and social security earnings.

(b) The 100% O/M PIA amount may be adjusted for additional earnings or a cost-of-living increase as shown in subparts E and F.

(c) Delayed retirement credits are added to the 100% O/M PIA, as shown in Subpart D.

Subpart C—PIA's Used to Compute Survivor Annuities and the Residual Lump Sum

§ 225.20 Survivor tier 1 PIA.

The survivor tier I PIA or special minimum PIA, whichever is higher, is used to compute the tier I amount of a surviving spouse's, surviving divorced spouse's remarried widow or widower's, child's, or parent's annuity. This PIA is determined under current rules in section 215 of the Social Security Act using the employee's combined railroad and social security earnings after 1950 (or after 1936, if a higher PIA would result) through the date of the employee's death. This PIA is computed as if a survivor under the Railroad Retirement Act were entitled to a survivor benefit under section 202 of the Social Security Act. A surviving spouse or parent who is under 62 years old and is entitled to an annuity based on age is deemed to be age 62 and a surviving spouse or child who is entitled to an annuity based on disability is deemed to be entitled to a benefit based on disability under the Social Security Act. These deeming provisions do not apply in computing the tier I PIA of a surviving divorced spouse or remarried widow or widower. The employee's railroad compensation is treated as social security earnings. The survivor tier I PIA may be adjusted for additional earnings or a cost-of-living increase as shown in subparts E and F. Delayed retirement credits are added to a surviving spouse's, surviving divorced spouse's, or remarried widow or widower's tier I PIA as shown in Subpart D.

§ 225.21 Employee fictional RIB PIA.

The employee fictional retirement insurance benefit PIA (employee fictional RIB PIA) or special minimum PIA is used to compute the survivor employee fictional RIB amount, as described in Part 228 of this chapter. This PIA is computed under current rules in section 215 of the Social Security Act using the employee's combined railroad and social security earnings. The employee's railroad compensation is treated as social security earnings. The employee's railroad compensation is treated as social security earnings. The rules in § 225.20 for the survivor tier I PIA also apply to the employee fictional RIB PIA. This PIA will differ from the survivor tier I PIA only if the employee has earnings in the year of death. Earnings in the year of death are not used to compute the initial employee fictional RIB PIA amount but can be used to recompute the PIA beginning January 1 of the year after the employee's death.

§ 225.22 Survivor combined earnings PIA.

(a) *General.* The survivor combined earnings PIA or special minimum PIA is used to compute an employee tier II amount on which a survivor tier II amount is based and the restored amount in tier II of a surviving spouse's annuity. This PIA is determined under the rules in section 215 of the Social Security Act that applied on December 31, 1974. It is computed using the employee's combined railroad and social security earnings after 1950 (or after 1936, if a higher PIA would result) through December 31, 1974. Railroad compensation is treated as social security earnings. If a retirement annuity was not paid before the employee's death, the PIA is determined as if the employee were 65 years old in the month of his or her death.

(b) *Survivor combined earnings PIA based on earnings before 1937.* The average monthly compensation (see Part 226 of this chapter) for service before 1937 is used as an average monthly wage to determine the survivor combined earnings PIA used in computing the restored amount if—

(1) The deceased employee had no railroad or social security earnings after 1936; and

(2) The employee was entitled to an annuity that began before 1948; and

(3) The employee had 120 or more months of railroad service and a current connection with the railroad industry, as shown in Part 216 of this chapter, when his or her annuity began.

§ 225.23 Survivor SS earnings PIA.

The survivor social security earnings PIA (SS earnings PIA) or special minimum PIA, whichever is higher, is used to compute the employee tier II amount on which tier II of a survivor annuity is based. This PIA is usually the same as the SS earnings dual benefit PIA used to compute the employee vested dual benefit, as described in § 225.6. However, if a retirement annuity was not paid before the employee's death, the PIA is determined as if the employee were 65 years old in the month of his or her death.

§ 225.24 Survivors RR earnings PIA.

The survivor railroad earnings PIA (RR earnings PIA) or special minimum PIA, whichever is higher, is used to compute an employee tier II amount on which tier II of a survivor annuity is based. This PIA is usually the same as the RR earnings dual benefits PIA used to compute the employee vested dual benefit, as described in § 225.7. However, if a retirement annuity was not paid before the employee's death, the PIA is determined as if the employee were 65 years old in the month of his or her death.

§ 225.25 RLS PIA.

The residual lump-sum PIA (RLS PIA) or special minimum PIA is used to compute employee and spouse regular annuity amounts based only on railroad compensation, as shown in Part 234 of this chapter. These amounts are deducted from the gross residual amount

to determine the residual lump sum. The RLS PIA is determined under current rules in section 215 of the Social Security Act, using the employee's railroad compensation after 1950 (or after 1936, if a higher PIA would result) as if it were social security earnings. The RLS PIA is computed using the rules in § 225.5 that are used to determine the tier I PIA used in computing the employee annuity. The RLS PIA is different from the employee's tier I PIA only because social security earnings are not used to compute the RLS PIA.

Subpart D—Delayed Retirement Credits

§ 225.30 Delayed retirement credit, defined.

A delayed retirement credit is an amount which is added to a PIA for months in which an employee is 65 years old or older but under 72 years old and is either not entitled to an annuity or has permanent work deductions. Delayed retirement credits are added to the employee's tier I PIA and 100% O/M PIA, to the RLS PIA, and to the survivor tier I PIA and the employee fictional RIB PIA used to compute a surviving spouse, surviving divorced spouse, or remarried widow or widower annuity based on age or disability. Delayed retirement credits are not added to a special minimum PIA, as defined in § 225.2, and are not used to compute a spouse's, child's, or parent's annuity or an annuity for a surviving spouse, surviving divorced spouse, or remarried widow or widower who is caring for the employee's child.

§ 225.31 Months for which delayed retirement credits are due.

An eligible employee or surviving spouse, surviving divorced spouse, or remarried widow or widower, as shown in §§ 225.32 and 225.33, is entitled to a delayed retirement credit for any month after December 1970 in which the employee:

(a) Is 65 years old or older and under 72 years old; and

(b) Is fully insured under section 214(a) of the Social Security Act based on combined railroad and social security earnings; and either

(c) Is not entitled to a tier I benefit based on age or an increase under the social security overall minimum guarantee (see Part 229); or

(d) Is entitled to a tier I benefit based on age or an increase under the social security overall minimum guarantee but has the full amount of the social security overall minimum rate or the tier I and vested dual benefit work deduction components withheld for permanent work deductions. Work deductions are explained in Part 230 of this chapter. A delayed retirement credit can be added to the employee's tier I and 100% O/M PIA's for a month before January 1975 in which a full work deduction applies only if an employee filed an application in 1975 but has an annuity beginning date in 1974.

§ 225.32 When an employee is eligible for delayed retirement credits.

(a) *Before January 1, 1979.* An employee's tier I or 100% O/M PIA can be increased for delayed retirement credits before January 1, 1979 if the employee is entitled to an age annuity that begins in or after the month he or she becomes 65 years old. An employee's 100% O/M PIA can be increased for delayed retirement credits before January 1, 1979 if the annuity is paid under the social security overall minimum rate, as explained in Part 229 of this chapter, before the employee becomes 65 years old, but full work deductions apply in every month before the employee become 65 years old. In that case, the age reduction in the social security overall minimum rate would be removed when the employee became 65 years old.

(b) *January 1, 1979 or Later.* Beginning January 1, 1979, delayed retirement credits are added to the employee's tier I or 100% O/M PIA if the employee is entitled to an age annuity at any age. If the annuity began before the employee became 65 years old, delayed retirement credits earned for months before January 1979 can be added to the tier I or 100% O/M PIA amount on January 1, 1979.

§ 225.33 When a surving spouse, surviving divorced spouse, or remarried widow or widower is eligible for delayed retirement credits.

Beginning on June 1, 1978, a surviving spouse's, surviving divorced spouse's, or remarried widow or widower's tier I PIA or employee fictional RIB PIA can be increased for delayed retirement credits that the employee earned or would have earned during his or her lifetime. Only delayed retirement credits that were or would have been added to the employee's tier I PIA are included. Delayed retirement credits cannot be included in a surviving spouse, surviving divorced spouse, or remarried widow or widower annuity based on caring for a child. They cannot be included in a surviving spouse, surviving divorced spouse, or remarried widow or widower annuity based on age of disability if—

(a) The employee died before February 1973; or

(b) The employee was entitled to an age annuity beginning in a month before he or she became 65 years old, as shown in § 216.5 of this chapter, and the employee died before February 1979; or

(c) The employee was entitled to a full-age or disability annuity under the 1937 Act and the surviving spouse's annuity rate includes an RIB limitation, as shown in Part 228 of this chapter, because the employee received a social security benefit that was reduced for age.

§ 225.34 When an annuity is increased for delayed retirement credits.

(a) *Employee annuity.* Delayed retirement credits for years before the year the employee annuity begins are added to an employee's primary insurance amount on the date the annuity begins. Delayed retirement credits for months in the year the annuity begins are added to the tier I and 100% O/M PIA's on January 1 of the next year. Delayed retirement credits for years after the annuity begins, up to the year the employee becomes 72 years old, are added to the tier I and 100% O/M PIA's on January 1 of the year after they are earned. Any delayed retirement credits for the year the employee becomes 72 years old are added to the primary insurance amount on the first day of the month the employee becomes 72 years old. The earliest date a full-age or disability annuity can include delayed retirement credits is January 1, 1973. The earliest date an age annuity to which an employee is entitled before the month he or she becomes 65 years old can include delayed retirement credits is January 1, 1979.

(b) *Surviving spouse, surviving divorced spouse, or remarried widow or widower annuity.* Delayed retirement credits that were or would have been earned during the employee's lifetime are added to the surviving spouse's, surviving divorced spouse's, or remarried widow or widower's tier I original rate, when it is based on an employee fictional RIB PIA, beginning on the later of June 1, 1978 or the beginning date of the survivor tier I benefit. Delayed retirement credits cannot be added to a surviving spouse's, surviving divorced spouse's, or remarried widow or widower's tier I original rate, when it is based on a survivor tier I PIA, until January 1 of the year after the annuity begins. In computing an RIB limitation amount, delayed retirement credits are not included until January 1 of the year after they are earned or, if earlier, the month the employee became 72 years old, but not before February 1, 1979. Delayed

retirement credits for years before the employee died are included in the initial computation of the RIB limitation amount.

§ 225.35 Amount of delayed retirement credit.

(a) *Employee age 62 after December 1978.* If an employee becomes 62 years old after December 1978, the amount of a delayed retirement credit added to the tier I, 100% O/M, survivor tier I, employee fictional RIB, or RLS PIA is one-fourth of one percent of the PIA for each month shown in § 225.31.

Example: A is fully insured under the Social Security Act when he becomes 65 years old in January 1982, but does not file for and become entitled to an age annuity until March 1983. His tier I primary insurance amount is $226.30. Delayed retirement credits are due for the 14 months from the month he became 65 years old (January 1982) until the first month in which he is entitled to an annuity (March 1983). Therefore, his tier I PIA is increased by 3 percent (one quarter of 1 percent times 12 months, for the year before the annuity begins) to $233.08 (rounded down to the next lower $0.10 to equal $233.00) on March 1, 1983. It is increased by 3.5 percent (one quarter of one percent times 14 months, including the two months in the year the annuity begins) to $234.22 (rounded to $234.20) on January 1, 1984.

(b) *Employee age 62 before January 1979.* If the employee became 62 years old before January 1979, the amount of a delayed retirement credit is one-twelfth of one percent of the tier I, 100% O/M, survivor tier I, employee fictional RIB, or RLS PIA for each month shown in § 225.31.

Subpart E—Cost-of-Living Increases in PIA's

§ 225.40 Cost-of-Living increase, defined.

A cost-of-living increase is an automatic increase in a PIA provided under section 215(i) of the Social Security Act. The increase is payable when the average monthly consumer price index for the first quarter of one year exceeds the average consumer price index for the first quarter of a previous year (or the last quarter in which a general benefit increase was effective) by at least 3 percent. No increase is payable in the year after a general benefit increase is effective. The increase amount is determined by multiplying the PIA by the percentage increase in the consumer price index between the first quarter of the current year and the appropriate quarter of the previous year. The percentage amount of the cost-of-living increase is published in the **Federal Register** by the Secretary of Health and Human Services within 45 days after the close of the quarter for which it is due.

§ 225.41 What PIA's are subject to cost-of-living increases.

Only the tier I PIA, the 100% O/M PIA, the survivor tier I PIA, the fictional RIB PIA, and the RLS PIA adjusted for cost-of-living increases. The remaining PIA's are frozen at the amounts determined under the Social Security Act rules that applied on December 31, 1974.

§ 225.42 When a cost-of-living increase is payable.

A cost-of-living increase is payable beginning with June of the year for which the increase is due. Cost-of-living increases are applied to most types of PIA's as early as June 1, 1975. However, a cost-of-living increase can first apply to a special minimum PIA on June 1, 1979.

Subpart F—Recomputing PIA's

§ 225.45 Recomputation, defined.

The recomputation of a PIA is a change in the computation to include additional earnings or to use a different PIA formula, as shown in section 215(f) of the Social Security Act. The PIA is recomputed only if the recomputation increases the PIA by at least $1. Most recomputations are done automatically, without any action on the part of the annuitant.

§ 225.46 What PIA's can be recomputed.

Only the tier I PIA, the 100% O/M PIA, the survivor tier I PIA, the fictional RIB PIA, and the RLS PIA are recomputed. All other PIA's used in computing railroad retirement benefits can only include earnings used in the original PIA computation and are not affected by social security amendment changes after December 31, 1974.

§ 225.47 Why a primary insurance amount may be recomputed.

(a) *Earnings not included in earlier computation or recomputation.* The most common reason for recomputing a primary insurance amount is to include earnings that were not used in the first computation or in an earlier recomputation, as described in paragraphs (b) through (e) of this section. These earnings will result in a revised average monthly wage or revised average indexed monthly earnings.

(b) *Earnings in the year an employee becomes 62 years old, becomes entitled to an age annuity, or becomes disabled.* Earnings in the year an employee becomes 62 years old, becomes entitled to an age annuity, or becomes disabled are not used in the initial computation of the primary insurance amount. However, the Board can use those earnings in a recomputation of the primary insurance amount. The Board recomputes the primary insurance amount and begins paying the higher benefits at the time shown in § 225.48.

(c) *Earnings not reported in time to use them in the computation of the primary insurance amount.* Because of the way reports of earnings are made, the earnings an employee has in the year before he or she becomes age 62, becomes entitled to a benefit based on age, becomes disabled, or dies, might not be reported in time to use them in computing the primary insurance amount. The Board recomputes the primary insurance amount based on the new earnings information and begins paying the employee (or survivors) the higher benefits based on the additional earnings at the time shown in § 225.48.

(d) *Earnings after entitlement that are used in a recomputation.* An employee's earnings for a year after he or she becomes entitled to an age annuity will be used in a recomputation of a primary insurance amount if they are higher than the earnings for a year used in the previous computation. If the employee is receiving a disability annuity, earnings after the employee becomes 65 years old or, if earlier, is considered to be 65 years old (three years after the disability annuity or period of disability begins) will be included if they are higher than the earnings for a year used in the previous computation.

(e) *New computation method enacted.* If a new method of computing or recomputing primary insurance amounts is enacted into law, the Board will compute a primary insurance amount under the new method if the annuitant is eligible for the recomputation and it would increase the primary insurance amount.

(f) *Recomputation under different method.* In some cases, a primary insurance amount may be recomputed under a computation method different from the method used in the computation (or earlier recomputation) of the primary insurance amount. The employee must be eligible for a computation or recomputation under the different method.

§ 225.48 Effective date of recomputations.

(a) *Earnings recomputations.* The recomputed survivor tier I PIA is effective as of the month in which the employee dies. The recomputed RLS or fictional RIB PIA is effective in a survivor case in January of the year following the year of death. A

recomputed PIA is payable in a retirement case at the following times:

(1) January of the year following the year an employee receiving an age annuity becomes 62 years old or, if later, begins receiving the annuity; or

(2) January of the year following the year an employee becomes disabled; or

(3) January of the year following the year in which the employee has additional earnings.

Example: A, a railroad employee, becomes entitled to a full age annuity in June 1974, the month he becomes 65 years old. Although A has earnings of $13,200 in the first five months of 1974, those earnings cannot be used in the initial computation of the tier I PIA. However, beginning January 1, 1975, the tier I PIA is recomputed to include the earnings for 1974. The 1974 earnings are used instead of $4,200 in earnings for 1956, the lowest yearly earnings included in the previous computation. Because of this substitution, the total earnings used in computing the tier I PIA are increased from $110,400 to $119,400 ($110,400 minus $4,200 for 1956 plus $13,200 for 1974).

(b) *Change in computation method.* The tier I, RLS, or 100% O/M PIA can be recomputed under a new PIA formula in the month provided in the amendment which established the new method or the month the PIA under the new method is higher than the PIA used in the previous computation.

§ 225.49 Automatic recomputations.

Periodically, the Board examines the earnings record of every retired, disabled, and deceased employee to see if the employee's primary insurance amount may be recomputed under any of the methods described. When a recomputation is called for, the Board performs it automatically and begins paying the higher benefits based on the recomputed primary insurance amount for the earliest possible month that the recomputation can be effective. The employee does not have to request this service, although he or she may request a recomputation at an earlier date than one would otherwise be performed (see § 225.50). Doing so, however, does not allow the increased primary insurance amount to be effective any sooner than it would be under an automatic recomputation. An employee may also waive a recomputation if it would be to his or her disadvantage.

§ 225.50 How to request an immediate recomputation.

An employee may request that his or her primary insurance amount be recomputed sooner than it would be recomputed automatically. To do so, the employee must make the request in writing and provide acceptable evidence of the earnings not included in the first computation or earlier recomputation of the primary insurance amount. If a recomputation will increase the primary insurance amount, the Board will recompute it. However, the Board cannot begin paying higher benefits on the recomputed primary insurance amount any sooner than under an automatic recomputation, i.e., January of the year following the year in which the earnings were paid or acquired.

§ 225.51 Waiver of recomputation.

If an employee or his or her family would be disadvantaged in some way by a recomputation of a primary insurance amount, or the employee and every member of his or her family do not want the primary insurance amount to be recomputed for any other reason, the employee may waive (that is, give up the right to) a recomputation in writing. If an employee waives one recomputation, however, any recomputations for which he or she might be eligible in the future are still payable.

4. 20 CFR Part 227 is proposed to be added as follows:

PART 227—COMPUTING SUPPLEMENTAL ANNUITIES

Sec.

227.1 Introduction.
227.2 Initial supplemental annuity rate.
227.3 Reduction for railroad retirement family maximum.
227.4 Reduction for employer pension.
227.5 Employer tax credits.

Authority: 45 U.S.C. 231b and 45 U.S.C. 231f.

§ 227.1 Introduction.

This part explains how to compute a supplemental annuity. A supplemental annuity is payable to an employee who meets the requirements in § 216.12 of this chapter.

§ 227.2 Initial supplemental annuity rate.

The supplemental annuity rate, before reduction for the railroad retirement family maximum or any private pension, is $23 for an employee's first 25 years of service plus $4 for each added year of service up to 30 years. The highest supplemental annuity rate is $43 for an employee with 30 or more years of service.

§ 227.3 Reduction for railroad retirement family maximum.

If the railroad retirement family maximum applies, and the reduction amount is higher than the spouse tier II rate, as shown in Part 226 of this chapter, the initial supplemental annuity rate from § 227.2 is reduced by the smaller of:

(a) The difference between the total railroad retirement maximum reduction amount and the reduction in the spouse annuity; or

(b) The total supplemental annuity rate from § 227.2.

§ 227.4 Reduction for employer pension.

(a) *General.* The supplemental annuity for each month is reduced by the amount of any private pension the employee is receiving for that month based on the contributions of a railroad employer. This reduction is applied to the supplemental annuity amount after any reduction for railroad retirement family maximum. Private pension is explained in § 216.14 of this chapter.

(b) *Private pension reduced for supplemental annuity.* If the employer reduces the private pension for the employee's entitlement to the supplemental annuity, the reduced pension amount is subtracted from the supplemental annuity. However, the reduction in the supplemental annuity can be no greater than the difference between the supplemental annuity amount, after any reduction for railroad retirement family maximum, and the amount the private pension is reduced for the supplemental annuity. This guarantees that the sum of the reduced supplemental annuity and the reduced employer pension is not less than the amount of the full employer pension.

Example: The full employer pension is $80. This is reduced by $35 because of the employee's entitlement to a supplemental annuity. The initial supplemental annuity rate is $43.

Full employer pension	$80
Reduction for supplemental annuity	−35
Reduced pension amount	45
Supplemental annuity	43
Reduced pension amount	−45
	0
Guarantee amount:	
Supplemental annuity	43
Reduction in private pension	−35
	8
Supplemental annuity	43
Reduction for private pension	−8
Reduced supplemental annuity	35

The reduced supplemental annuity amount is $35. This amount plus the reduced employer pension of $45 equals $80, the full amount of the employer pension.

(c) *Part of private pension based on employee contributions.* If the employer pension is based on both employer and employee contributions, a special formula is used to determine the amount to be subtracted from the supplemental annuity. The Board first computes the pension amount the employee's contributions could have purchased

from a private insurance company. That amount is subtracted from the total employer pension. The result is the pension amount used to reduce the supplemental annuity.

§ 227.5 Employer tax credits.

Employers are entitled to tax credits if they pay non-negotiated pensions to former employees whose supplemental annuities are reduced because of the pensions. Non-negotiated pensions are paid under pension plans that are not established by collective bargaining agreements. The tax credits for each month equal the sum of the reductions for employer pensions in the supplemental annuities of all former employees for that month. The Board sends a report of total tax credits to each employer after the end of each calendar quarter. The credits are applied to the man-hour supplemental annuity tax the employer pays the Internal Revenue Service under section 3221 of the Railroad Retirement Tax Act.

Dated: August 4, 1983.

By Authority of the Board.

Beatrice Ezerski,

Secretary.

[FR Doc. 83-24166 Filed 9-6-83; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

Surface Coal Mining and Reclamation Operations on Federal Lands Under the Permanent Program; State-Federal Cooperative Agreements; Ohio

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is proposing to adopt a cooperative agreement between the Department of the Interior and the State of Ohio for the regulation of surface coal mining and reclamation operations on Federal lands in Ohio under the permanent regulatory program. Such cooperative agreement is provided for in the Surface Mining Control and Reclamation Act of 1977. This notice of proposed rulemaking provides additional information on the proposed terms of the cooperative agreement and other issues.

DATES: The public comment period on this proposed rule will extend until October 11, 1983. The public hearing, if held, will be at the location shown in "**ADDRESSES**," below, on September 29, 1983 beginning at 10 a.m. Any person interested in making an oral or written presentation at the hearing must contact OSM at the address and phone number listed under "**FOR FURTHER INFORMATION CONTACT**" by September 23, 1983.

ADDRESSES: Written comments must be mailed to: Administrative Record, Office of Surface Mining, Room 5315–L, 1951 Constitution Avenue, NW., Washington, D.C. 20240.

Written comments may be hand carried to: Office of Surface Mining Administrative Record, Room 5315, 1100 L Street, NW., Washington, D.C. 20005.

Copies of the proposed agreement and of the related information required under 30 CFR Part 745 are available for inspection Monday through Friday, 8:30 a.m. to 4 p.m., excluding holidays, at the following addresses:

State of Ohio, Department of Natural Resources, Division of Reclamation, Fountain Square, Columbus, Ohio

Office of Surface Mining, Room 5315–L, 1100 L Street, NW., Washington, D.C.

The public hearing, if held, will be at the Office of Surface Mining, Columbus Field Office, 2nd Floor, 2242 South Hamilton Road, Columbus, Ohio, beginning at 9 a.m. If no person has contacted OSM by September 23, 1983 to express an interest to participate in the hearing, the hearing will be cancelled. Persons interested in attending but not testifying at the hearing should contact OSM at the address and phone number listed under "**FOR FURTHER INFORMATION CONTACT**" prior to the scheduled hearing date to see if the hearing has been cancelled.

FOR FURTHER INFORMATION CONTACT: H. Leonard Richeson, Branch of Regulatory Programs, Office of Surface Mining, 1951 Constitution Avenue N.W., Washington, D.C. 20240, Telephone: (202) 343–5866.

SUPPLEMENTARY INFORMATION: The preamble to the proposed rulemaking is divided into four parts as follows:

I. Procedural Matters
II. The State of Ohio's Application
III. Summary of the Terms of the Proposed Cooperative Agreement
IV. Administrative Matters

I. Procedural Matters

A. Public Hearing

Individual testimony at the public hearing will be limited to 15 minutes. The hearings will be transcribed by a court reporter. Filing of a written statement at the time of giving oral testimony will be helpful and would facilitate the job of the court reporter. Submission of written statements in advance of the hearing would greatly assist OSM officials who will attend the hearing by providing an opportunity to consider appropriate questions which could be asked for clarification or to request more specific information from the person testifying.

B. Public Meetings

Representives of OSM will be available to meet during the comment period at the request of members of the public to receive their recommendations and comments concerning the proposed cooperative agreements. In order to schedule or attend such meetings, contact the individual listed under "**FOR FURTHER INFORMATION CONTACT.**" OSM representatives will be available for these meetings between 9 a.m. and 4 p.m. local time, Monday through Friday, excluding holidays. All such meetings will be open to the public. Notices of such meetings and where they will be held will be posted in advance in the Administrative Record Room, Room 5315, 1100 L Street, NW., Washington, D.C. 20005.

C. Contacts with State Representatives

The Department has previously announced (45 FR 58378, September 3, 1980) its intention to follow the "Guidelines for Contacts with Employees and Officials During Consideration of State Permanent Regulatory Programs" published at 44 FR 54444 (September 19, 1979), during the process of developing cooperative agreements with the States. As written, the guidelines apply only to the State program review and decision process. However, the Department believes that the guidelines should also be applied in the development of State-Federal permanent program cooperative agreements because of the close interrelationship between each cooperative agreement and the approved State program. The need to preserve the ability of the Department and the State to work together through the stages of the cooperative agreement and the right of the public to be informed and to have the opportunity to comment meaningfully on issues raised are principles applicable to permanent program cooperative agreement rulemakings.

This decision requires that minor changes in the guidelines be made to clarify their applicability to cooperative agreement rulemakings. Accordingly, revised guidelines for contacts with Departmental employees and officials

during permanent program cooperative agreement rulemakings are given below. See the notice of September 19, 1979, 44 FR 54444, for a full discussion of the guidelines and supporting principles. The September 19, 1979, guidelines remain fully applicable to the State program review process.

1. Upon request the Department will meet with any member of the public through the end of the public comment period. Notices of scheduled meetings will be posted in a public place. The meetings will be open.

2. The Department will meet with the State representatives or have telephone conversations with them, upon the initiative of either party, up to the point of the Secretary's decision to enter into a permanent program cooperative agreement with a State. These meetings will be open to the public unless the Department decides an executive session is appropriate. Advance notice of scheduled meetings will be posted in a public place. Notice of the executive sessions will be posted in a public place.

3. The Department will keep a summary record of all meetings and discussions, whether in person of by telephone, on a proposed cooperative agreement. This record will include a summary of the discussion and a list of all written information OSM receives. All such records along with all written communications relating to the cooperative agreement shall be made available to the public.

4. In those instances where the Department has conducted meetings or discussions with a State after the close of the public comment period, the Department will include summaries of the meetings in the record and, if necessary to assure an effective opportunity for public participation, provide an opportunity for the public to review the record of such meetings and discussions and to comment on them before a decision is made to enter into a permanent program cooperative agreement.

D. Public Comments

Written and oral comments should be as specific as possible. Although all comments are invited, those most likely to influence decisions on the cooperative agreement will be those which are supported by reasoning. OSM requests that five copies of written comments be submitted.

All written comments must be received by OSM by 5:00 p.m. local time on the date the comment period closes. Comments received after that date will not necessarily be considered or included in the administrative record of this rulemaking. OSM cannot ensure that written comments received after the close of the comment period or delivered during the comment period to locations other than those specified above will be considered and included in the administrative record. Notices of meetings, summaries of all meetings and telephone conversations, all public comments received, and a transcript of the public hearing will be made available for public review in the Office of Surface Mining at the address noted above.

II. The State of Ohio's Application

On May 2, 1983, Ohio submitted a proposed permanent program cooperative agreement between the Department of the Interior and the State of Ohio which would make Ohio the regulatory authority for the regulation of surface coal mining and reclamation operations on certain described Federal lands in that State. The purpose of this notice is to begin the rulemaking process for adopting such a cooperative agreement. Section 523(c) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act), 30 U.S.C. 1201 *et seq.*, and the implementing regulations at 30 CFR Part 745 allow for the State and the Secretary of the Interior to enter into a permanent program cooperative agreement if the State has an approved State program for the regulation of surface surface coal mining and reclamation operations on non-Federal and non-Indian lands.

Permanent program cooperative agreements are authorized by the first sentence of section 523(c), which provides that "[a]ny State *with an approved State program* may elect to enter into a cooperative agreement with the Secretary to provide for State regulation of surface coal mining and reclamation operations on Federal lands within the State, provided the Secretary determines in writing that such State has the necessary personnel and funding to fully implement such a cooperative agreement in accordance with the provision of this Act." 30 U.S.C. 1273(c) (emphasis added).

The requirements for States to elect to enter into permanent program cooperative agreements are found in 30 CFR Part 745. For recent amendments of these rules, see 48 FR 6912 (February 16, 1983). Sections 745.11 (b) and (f) of the regulations require that certain information relating to a State's ability to administer a cooperative agreement in accordance with the Act be submitted with a request for a permanent program cooperative agreement except to the extent that the information has previously been included in the approved State Program.

Ohio satisfied the requirements of 30 CFR 745.11(f)(1) when it obtained conditional approval of its State program on August 10, 1982 (47 FR 34688). The information required in 30 CFR 745.11 (b)(1) and (f)(2) was included in Ohio's request for approval of its State program and in subsequent request for administrative and enforcement funding under 30 CFR Part 735. The information relating to Ohio's authority to enter into the cooperative agreement was provided in a letter from the Assistant Attorney General dated August 5, 1983, in which the Assistant Attorney General stated that there exists no statutory, regulatory, or legal constraint within the State of Ohio which would preclude the Ohio regulatory authority from fully carrying out the provisions of the agreement.

III. Summary of the Terms of the Proposed Cooperative Agreement

A summary of the proposed cooperative agreement appears below. OSM emphasizes that the proposed permanent program cooperative agreement is subject to further change because of public comments and/or further discussion with the State of Ohio.

Article I: Introduction, Purpose, and Responsible Administrative Agency

Article I would set forth the legal authority for the cooperative agreement which is contained in section 523(c) of the Act. The purposes of the agreement and designation of the responsible administrative agency of the Department and of the State are also included in Article I. This article would also include a provision clarifying the separate role of the Forest Service in regulating mining operations since the only Federal lands covered by this agreement are those under the jurisdiction of the Forest Service. Any mining operations on Forest Service lands would be subject to regulation by that agency with respect to laws and regulations for which the Forest Service is responsible.

Article II: Effective Date

Article II provides that the cooperative agreement would be effective after it has been signed by the Secretary and the Governor, and upon publication as a final rule in the Federal Register. It would remain in effect until terminated as provided in Article X.

Article III: Definitions

Article III would provide that any terms and phrases used in the agreement be given the same meanings

as set forth in the Act, regulations promulgated pursuant to the Act under 30 CFR Parts 700, 701, and 740, and the approved State program. Defining terms and phrases in this manner would ensure consistency between applicable regulations and the agreement. Where there are conflicts in definitions, those included in the approved State program would apply, provided there are no conflicts with responsibilities of the Secretary that cannot be assumed by the State under the agreement.

Article IV: Applicability

Article IV would state that the laws, rules, terms, and conditions of Ohio's approved State program are applicable to surface coal mining and reclamation operations on Federal lands in Ohio except as otherwise stated in the cooperative agreement, the Act, 30 CFR 745.13, or other applicable laws or regulations. Thus, this provision is consistent with the Federal lands program which adopted the Ohio State program as substantive Federal law on all Federal lands in Ohio and made it enforceable by the State and the United States. The reference to the Ohio State Program is intended to encompass the conditional approval of that State program on August 10, 1982 (47 FR 34688) and any amendments thereto which are approved in accordance with 30 CFR 732.17. Because the State only wishes to assume responsibility for regulating surface coal mining and reclamation operations on Forest Service lands, this agreement applies only to such lands. Excluded from the scope of the agreement are the authorities and responsibilities reserved to the Secretary pursuant to the Act and 30 CFR 745.13.

Article V: General Requirements

Article V would mutually bind the Governor and the Secretary to the provisions of the cooperative agreement and the conditions and requirements contained in article V. Paragraph A of Article V would require that the Division of Reclamation of Ohio's Department of Natural Resources (the agency designated by the Governor to administer the agreement) continue to have authority under State law to carry out this cooperative agreement.

Paragraph B of Article V would provide that, upon application for funds, the State may be reimbursed pursuant to section 705(c) of the Act if the cooperative agreement has been implemented and if necessary funds have been appropriated to OSM by Congress. Section 705(c) of the Act provides that a State with a cooperative agreement may receive an increase in its annual grant for the development, administration and enforcement of a State program on Federal lands by an amount which the Secretary determines is approximately equal to the amount the Federal government would have expended to regulate surface coal mining and reclamation operations on the Federal lands within the State. See 30 U.S.C. 1295(c). The reference in section 705(c) to section 523(d) is obviously a typographical error. The correct reference is section 523(c). The regulations implementing section 705(c) appear at 30 CFR 735.16 through 735.26. If, when requested by the State, adequate funds have not been appropriated, OSM and the Division will meet to decide on appropriate measures to insure that mining operations are regulated in accordance with the approved State program. Any funds granted to the State pursauant to the cooperative agreement would be reduced by the amount of any fees collected by the State that are attributable to the Federal lands covered by the agreement in accordance with the Office of Management and Budget (OMB) Circular A–102 (Uniform Requirements for Assistance to State and Local Governments), Attachment E (Program Income).

Paragraph C of Article V would require the State to make annual reports to OSM with respect to compliance with this agreement. Paragraph C also provides for a general exchange of information developed under the agreement, unless such an exchange is prohibited by Federal law.

Paragraph D of Article V would require the Division to maintain the necessary personnel to fully implement this agreement.

Paragraph E of Article V would require that the Division avail itself of the facilities necessary to carry out the requirements of the agreement. This provision would ensure that the State has access to and would utilize any resources necessary to conduct inspections, investigations, studies, tests, and analyses required to fulfill the requirements of this agreement.

Article VI: Review of a Permit Application Package

Paragraphs A through G of Article VI would generally describe the procedures the State would follow in the review and analysis of permit application packages on Forest Service lands. The proposed cooperative agreement identifies the Division as having the primary responsibility for the analysis, review, and approval or disapproval of the permit application package on Federal lands administered by the Forest Service in Ohio containing non-Federal coal. In assuming primary responsibility for review, analysis, and approval or disapproval of permit applications, the Division would also be responsible for coordinating the review of a permit application package with the Forest Service and other Federal agencies affected by the proposed surface coal mining and reclamation operations to ensure compliance with Federal laws other than the Act and regulations other than those implementing SMCRA. If requested by the State, OSM would assist in identifying Federal agencies which may be affected by the proposed mining operation. Under Paragraph A, an operator on Federal lands would be required by the Division to submit a permit application package in an appropriate number of copies to the Division. The term "permit application package" as used in the cooperative agreement beginning in this article, is a new term adopted by OSM in revising the Federal lands program (48 FR 6912, February 16, 1983). It appropriately describes the material submitted by an applicant proposing to mine on Federal lands and includes materials submitted with applications for permit revisions and renewals.

OSM adopted the term because there are requirements for mining on Federal lands that are in addition to those required by a permit application under the approved State program for non-Federal lands. For example, operations on Federal lands may be subject to requirements of the Federal land management agency (under this agreement, the Forest Service) under Federal laws other than the Act. The package concept allows for such information to be included with the permit application required by the approved State program. See the definition of "permit application package" under 30 CFR 740.5.

At a minimum, the permit application package must include the information necessary for the Division to make a determination of compliance with the approved State program and for the Forest Service and OSM to make determinations of compliance with applicable requirements of other Federal laws and regulations for which they are responsible.

Paragraph B would require the Division to provide copies of the complete permit application package to the Forest Service and to other Federal agencies affected by the surface coal mining and reclamation operation. Providing copies of the permit application package to the Forest Service and other Federal agencies

affected by the mining proposal would allow those agencies an opportunity to review the permit application package for compliance with requirements of laws and regulations for which they are responsible. For example, the Forest Service must ensure that any mining operations occur in a manner that is consistent with competing uses of the forest and that reclamation is consistent with post-mining land uses. If requested by the State, OSM would assist in identifying other Federal agencies which may be affected by the mining proposal. Further, as required by OSM, copies of all or portions of the permit application package would be required to be submitted to OSM so that OSM, in consultation with the Forest Service, could determine whether the proposed operation is prohibited or limited because it would be in an area designated by Congress as unsuitable for mining.

Paragraph C would limit routine OSM contact with the applicant regarding the review of a permit application package. Any matters which may be of concern to OSM during the review process would normally be channelled to the operator through the State. OSM may, however, act independently of the State (including contact with the operator) to carry out non-delegable responsibilities under Federal laws other than the Act.

Under paragraph D the Division would be required to maintain a file of all original correspondence with an applicant and any other information received which may have a bearing on decisions regarding a mining proposal. When requested by OSM or the Forest Service, the Division would be required to provide to OSM or the Forest Service for their review, copies of this information. OSM must have access to this information in order to carry out an effective oversight program while the Forest Service will need the information to ensure compliance with Federal laws and regulations within its area of responsibility.

Paragraph E provides that the Division may approve a permit application or an application for permit revision or renewal and issue a permit after consultation with the Forest Service. Paragraph E further provides that the permit shall condition the initiation of surface coal mining and reclamation operations on compliance with the requirements of the approved State program and, as applicable, requirements of OSM or the Forest Service under Federal laws other than the Act and regulations other than approved State program. Paragraph E also requires the Division to send a notice of the action on the permit application package to OSM and the Forest Service.

Article VII: Inspections

Article VII would specify that the Division must conduct inspections on Forest Service lands covered by this agreement and prepare and file inspection reports in accordance with its approved program. Paragraph A would require that the report be filed with OSM within 15 days of the inspection.

Administrative provisions of paragraph B include designation of the Division as the primary point of contact with the operator. However, paragraphs B and C would preserve the right of OSM to conduct inspections of surface coal mining and reclamation operations on Federal lands without prior notice to the Division for the purpose of evaluating the manner in which the cooperative agreement is being carried out and insuring that performance and reclamation standards are being met.

The right of Federal and State agencies to conduct inspections for purposes outside the scope of the proposed cooperative agreement would not be affected. In particular, this article would preserve OSM's obligation and authority to conduct inspections pursuant to 30 CFR Part 842.

Paragragh D would provide that personnel of the State and OSM be mutually available to serve as witnesses in enforcement actions taken by either party.

Article VIII: Enforcement

Article VIII would set forth the enforcement obligations and authorities of OSM and the Division. Under paragraph A the Division would have primary enforcement authority on Federal lands in accordance with the requirements of the cooperative agreement and the approved State program.

Under paragraph B the Division would be required to notify the Forest Service of violations of applicable laws, regulations, orders, and approved permits for surface coal mining and reclamation operations on those Federal lands covered under this agreement.

Paragraph C would continue the Secretary's obligation to enforce violations of Federal law other than the Act and would preserve OSM's authority to take enforcement action to comply with Parts 843 and 845. Such action would be based upon the Act or the substantive provisions contained in the approved State program, but would use the Federal procedures and penalty system.

Article IX: Bonds

Under paragraph A the Division would require each operator on Federal lands covered by this agreement to submit a single performance bond to meet Federal and State requirements. The bond would be payable to the State and the United States. The Division would be required to obtain the concurrence of the Forest Service prior to releasing an operator from any obligations covered by the performance bond. If the cooperative agreement is terminated, paragraph A would require that the bond revert to being payable solely to the United States to the extent that Federal lands are involved in the permit area and that the Division deliver the bond to OSM if only Federal lands are covered by the bond.

Paragraph B would obligate the State of Ohio to use its Reclamation Forfeiture Special Account to complete reclamation of any surface coal mining and reclamation operation on Federal land in accordance with the approved State program and permit where there is a forfeiture of the performance bond and where the cost of reclamation exceeds the bond amount. This provision would be included because the approved State program requires only that an operator submit a minimum bond which in some cases, does not cover the full cost of reclamation. When a forfeiture occurs, the State supplements the operator's bond with funds from the State of Ohio Reclamation Forfeiture Special Account to complete reclamation. Thus, this provision would ensure that, similar to operations on non-Federal lands, the State regulatory authority would ensure that adequate funds are made available for reclamation activities on Federal lands covered by this agreement.

OSM invites comments on the adequacy of this provision to ensure that reclamation would occur on Federal lands covered by the cooperative agreement in the event of bond forfeiture.

Article X: Termination of Cooperative Agreement

Article X would specify that this cooperative agreement may be terminated as specified under 30 CFR 745.15.

Article XI: Reinstatement of Cooperative Agreement

Article XI would provide that, if terminated, the cooperative agreement may be reinstated under 30 CFR 745.16. That provision allows for reinstatement of the cooperative agreement upon application by the Division after remedying the defects for which the

agreement was terminated and the submission of evidence to the Secretary that the Division can and will comply with all of the provisions of the agreement.

Article XII: Amendment of Cooperative Agreement

Article XII would provide that the cooperative agreement may be amended by mutual agreement of the Governor and Secretary in accordance with 30 CFR 745.14.

Article XIII: Changes in State or Federal Standards

Paragraph A of Article XIII would recognize that the Secretary or the State may, from time to time, promulgate new or revised performance or reclamation requirements, or enforcement and administration procedures. OSM and the Division would immediately inform each other of these changes and of the effect such changes may have on the cooperative agreement. If it were determined to be necessary to keep the agreement in force, the State would request necessary legislative action and either the State or OSM would change or revise its regulations or promulgate new regulations, as applicable. Such changes would be made in accordance with 30 CFR Part 732 for changes to the approved State program and sections 501 and 523 of the Act for changes to the permanent regulatory program and to the Federal lands program.

Paragraph B would require the State and OSM to provide each other with copies of changes in their respective laws and regulations.

Article XIV: Changes in Personnel and Organization

Article XIV would require the State and the Department to advise each other of substantial changes in statutes, regulations, funding, staff, or other changes which could affect administration or enforcement of the cooperative agreement.

Article XV: Reservation of Rights

Article XV would recognize that the Act, 30 CFR 745.13, and other authorities prohibit the Secretary from delegating certain authorities to the State. Article XV would state that this agreement does not delegate nor shall it be construed to delegate any authority that the Secretary has under 30 CFR 745.13, laws other than the Act, or regulations promulgated thereto.

IV. Administrative Matters

1. E.O. 12291 and Regulatory Flexibility Act

In a "Determination of Significance" document prepared on December 31, 1979, and approved by the Assistant Secretary, Energy and Minerals, on January 7, 1980, the Department determined that the "promulgation of proposed or final rules for entering into a cooperative agreement with a State pursuant to 30 U.S.C. 1273 for State regulation of surface coal mining and reclamation operations on Federal lands was not a significant action and would not require a regulatory analysis." A copy of this determination was filed with the Department's Office of Policy Analysis and the Division of General Law in accordance with Departmental procedures.

The Department has reviewed this determination in light of Executive Order 12291, February 17, 1981; the Regulatory Flexibility Act (Pub. L. 96–354); and the Paperwork Reduction Act of 1980 (Pub. L. 96–511). Having conducted this review, the Department has determined that this document is not a major rule and does not require a regulatory impact analysis under Executive Order 12291. The document will not have a significant economic effect on a substantial number of small entities and therefore does not require a regulatory flexibility analysis under the Regulatory Flexibility Act, 5 U.S.C. 605(b). This determination was made by the Director, OSM and approved by the Assistant Secretary, Energy and Minerals. A copy is on file in the OSM Administrative Record Room, Room 5315, 1100 L Street, NW., Washington, D.C. 20005.

2. Recordkeeping and Reporting Requirements

There are recordkeeping and reporting requirements in the proposed rules which are the same as and required by the permanent program regulations. Those regulations required clearance from the Office of Management and Budget under 44 U.S.C. 3507 and were assigned the following clearance numbers:

Location of requirement	OMB clearance No.
Article VI.A. (Required by 30 CFR Part 786)	1029–0041
Article VII.A. (Required by 30 CFR Part 840)	1029–0051
Article IX.A. (Required by 30 CFR 800)	1029–0043

3. National Environmental Policy Act

Proceedings relating to adoption of a permanent program cooperative agreement are part of the Secretary's implementation of the Federal lands program pursuant to section 523 of the Act. Such proceedings are, therefore, exempt under section 702(d) of the Act from the requirements to prepare a detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

List of Subjects in 30 CFR Part 935

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

For the reasons set forth herein, it is proposed to amend 30 CFR Part 935.

Dated: August 30, 1983.

J. R. Harris,

Director, Office of Surface Mining.

(Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).)

1. Section 935.30 is added to read as follows:

§ 935.30 State-Federal Cooperative Agreement.

Cooperative Agreement

The Governor of the State of Ohio, acting through the Department of Natural Resources, Division of Reclamation (Division), and the Secretary of the Department of the Interior, acting through the Office of Surface Mining (OSM), enter into a Cooperative Agreement (Agreement) to read as follows:

Article I: Introduction, Purpose, and Responsible Administrative Agency

A. *Authority:* This Agreement is authorized by section 523(c) of the Surface Mining Control and Reclamation Act (Act), 30 U.S.C. 1273(c), which allows a State with a permanent regulatory program approved by the Secretary under 30 U.S.C. 1253, to elect to enter into an Agreement with the Secretary of the Department of the Interior for State regulation of surface coal mining and reclamation operations on Federal lands. This Agreement provides for State regulation of surface coal mining and reclamation operations on Federal lands in Ohio which are under the jurisdiction of the United States Department of Agriculture, Forest Service, except those lands containing leased Federal coal, consistent with State and Federal laws governing such activities in Ohio, the Federal lands program (30 CFR Parts 740–745) and the Ohio State program (approved State program).

B. *Purpose:* The purpose of this Agreement is to (a) foster Federal-State cooperation in the regulation of surface coal mining and reclamation operations; (b) eliminate intergovernmental overlap and duplication; and (c) provide uniform and effective application of the approved State program on all lands in Ohio, except those containing leased Federal coal, in accordance with the Act, the approved State program, and this Agreement.

C. *Responsible Administrative Agencies:* The Division shall be responsible for administering this Agreement on behalf of the Governor. The Assistant Secretary, Energy and Minerals, acting through OSM, shall administer this Agreement on behalf of the Secretary in accordance with the regulations in 30 CFR Chapter VII. The Federal lands in Ohio covered by this Agreement are only those under the jurisdiction of the United States Department of Agriculture, Forest Service (Forest Service) and include all or parts of the Wayne National Forest. It is understood by both parties that the Forest Service will continue to be involved in mining operations on its respective lands pursuant to its laws, regulations, agreements and restrictions. These requirements are in addition to the requirements discussed in this Agreement.

Article II: Effective Date

After it has been signed by the Secretary and the Governor, this Agreement shall be effective upon publication in the **Federal Register** as a final rule. This Agreement shall remain in effect until terminated as provided in Article X.

Article III: Definitions

Any terms and phrases used in this Agreement which are defined in the Act, 30 CFR Parts 700, 701, and 740, or the approved State program, shall be given the meanings set forth in said definitions. Where there is a conflict between the above referenced State and Federal definitions, the definitions used in the approved State program will apply, except in the case of a term which defines the Secretary's non-delegable responsibilities under the Act and other laws.

Article IV: Applicability

In accordance with the Federal lands program in 30 CFR Parts 740–745, the laws, regulations, terms and conditions of the approved State program (conditionally approved on August 10, 1982, 30 CFR Part 935, or as hereinafter amended in accordance with 30 CFR 732.17) are applicable to surface coal mining and reclamation operations on Federal lands in Ohio except as otherwise stated in this Agreement, the Act, 30 CFR 745.13, or other applicable laws or regulations.

This Agreement does not apply to surface coal mining and reclamation operations on lands containing leased Federal coal. This Agreement applies only to lands under the jurisdiction of the Forest Service.

Article V: General Requirements

The Governor and the Secretary affirm that they will comply with all the provisions of this Agreement and will continue to meet all the conditions and requirements specified in this Article.

A. *Authority of State Agency:* The Division has and shall continue to have the authority under State law to carry out this Agreement.

B. *Funds:* Upon application by the Division and subject to the availability of appropriations, the Department shall provide the State with the funds to defray the costs associated with carrying out responsibilities under this Agreement as provided in section 705(c) of the Act and 30 CFR 735.16. If the State requests funds and sufficient funds have not been appropriated to OSM, OSM and the Division shall meet promptly to decide on appropriate measures that will ensure that mining operations are regulated in accordance with the approved State program. If agreement cannot be reached, then either party may terminate the Agreement. Funds provided to the State under this Agreement shall be reduced in proportion to the amount of fees collected by the State that are attributable to the Federal lands covered by this Agreement.

C. *Reports and Records:* The Division shall make annual reports to OSM on the results of the Division's implementation and administration of this Agreement, pursuant to 30 CFR 745.12(d). The Division and OSM shall exchange, upon request, except where prohibited by Federal law, information developed under this Agreement. OSM shall provide the Division with a copy of any final evaluation report prepared concerning the Division's administration and enforcement of this Agreement.

D. *Personnel:* The Division shall have the necessary personnel to fully implement this Agreement in accordance with the provisions of the Act and the approved State program.

E. *Equipment and Laboratories:* The Division will assure itself access to facilities which are necessary to carry out the requirements of the Agreement.

Article VI: Review of a Permit Application Package

The Division shall assume the primary responsibility for the review of permit application packages for surface coal mining and reclamation operations on Forest Service lands covered by this Agreement. The Division shall coordinate the review of permit application packages with the Forest Service and other Federal agencies which may be affected by the proposed surface coal mining and reclamation operation to ensure compliance with Federal laws other than the Act and regulations other than the approved State program. When requested by the State, OSM shall assist the State in identifying Federal agencies other than the Forest Service which may be affected by the mining proposal.

A. *Submission of Permit Application Package:* The Division shall require an operator proposing to mine on Forest Service lands to submit a permit application package in an appropriate number of copies to the Division. The permit application package shall be in the format required by the Division and include any supplemental information (as specified by OSM or the Forest Service) needed to satisfy the requirements of Federal laws other than the Act and regulations other than the approved State program.

B. *Coordination With Affected Agencies.* Upon receipt, the Division shall transmit a copy of the complete permit application package to the Forest Service or to other Federal agencies affected by the proposed surface coal mining and reclamation operation with a request for review pursuant to 30 CFR 740.13(b)(4). OSM shall determine whether or not a proposed surface coal mining and reclamation operation is prohibited or limited by the requirements of section 522(e) of the Act (30 U.S.C. 1272(e)) and 30 CFR Parts 760–762 with respect to Federal areas designated by Congress as unsuitable for mining. The Division shall obtain, in a timely manner, the comments of the Forest Service and other Federal agencies affected by the mining proposal.

C. *Contact With the Applicant.* As a matter of practice, OSM will not independently initiate contacts with the applicant regarding permit application packages. However, OSM reserves the right to act independently of the Division to carry out any non-delegable responsibilities under the Act, or under other Federal laws and regulations, provided, however, that OSM shall inform the Division of the necessity of such action taken and send copies of all relevant correspondence to the Division.

D. *Files and Records.* The Division shall maintain a file of all original correspondence with the applicant and any information received which may have a bearing on decisions regarding surface coal mining and reclamation operations on Forest Service lands. Upon request, the Division shall provide, for OSM or Forest Service review, copies of any files and records for mines on Forest Service lands.

E. *Permit Application Decision and Permit Issuance.* After consultation with the Forest Service and after making a finding of compliance with the approved State program and this Agreement, the Division may approve a permit application or application for permit revision or renewal and issue a permit.

The permit issued by the Division shall condition the initiation of surface coal mining and reclamation operations on compliance with the requirements of the approved State program and, as applicable, requirements of OSM or the Forest Service pursuant to Federal laws other than the Act and regulations other than the approved State program. After the Division issues its decision on the permit application, it shall send a notice of the action to OSM and to the Forest Service.

Article VII: Inspections

The Division shall conduct inspections on Forest Service lands covered by this Agreement and prepare and file inspection reports in accordance with the approved State program.

A. *Inspection Reports:* The Division shall, within 15 days of conducting any inspection on Federal lands, file with OSM an inspection report describing (1) the general conditions of the lands under the permit; (2) whether the operator is complying with the applicable performance and reclamation requirements; and (3) the manner in which specific operations are being conducted.

B. *Division Authority:* The Division shall be the point of contact and primary inspection authority in dealing with the operator concerning operations and compliance with the requirements covered by this agreement, except as described in this Agreement and the Secretary's regulations. Nothing in this Agreement shall prevent inspections by authorized Federal or State agencies for

purposes other than those covered by this Agreement.

C. *OSM Authority:* For the purpose of evaluating the manner in which this Agreement is being carried out and to insure that performance and reclamation standards are being met, OSM may conduct inspections of surface coal mining and reclamation operations on Federal lands, without prior notice to the Division. In order to facilitate a joint Federal-State inspection, when OSM is responding to a citizen complaint of an imminent danger to the health or safety of the public or of a significant, imminent environmental harm pursuant to 30 CFR 842.11(b)(1)(i), it will contact the Division if circumstances and time permit, prior to the Federal inspection. OSM may conduct any inspections necessary to comply with 30 CFR Part 842. If an inspection is made without Division inspectors, OSM shall provide the Division with a copy of the inspection report within 10 days after inspection.

D. *Witness Availability:* Personnel of the State and OSM shall be mutually available to serve as witnesses in enforcement actions taken by either party.

Article VIII: Enforcement

A. *Division Enforcement:* The Division shall have primary enforcement authority in accordance with the approved State program and this Agreement. During any joint inspection by OSM and the Division, the Division shall take appropriate enforcement action, including issuance of orders of cessation and notices of violation.

B. *Notification:* The Division shall promtly notify the Forest Service of all violations of applicable laws, regulations, orders, and approved permits for surface coal mining and reclamation operations.

C. *Secretary's Authority:* (1) This Agreement does not affect or limit the Secretary's authority to enforce violations of laws other than the Act. (2) During an inspection made solely by OSM or any joint inspection where the Division and OSM fail to agree regarding the propriety of any particular enforcement action, OSM may take any enforcement action necessary to comply with 30 CFR Parts 843 and 845. Such enforcement action shall be based on the Act or the substantive provisions included in the regulations of the approved State program and shall be taken using the procedures and penalty system contained in 30 CFR Parts 843 and 845.

Article IX: Bonds

A. *Performance Bond:* The Division shall require all operators on Federal lands covered by this Agreement to submit a performance bond to cover the operator's responsibilities under the Federal Act and the approved State program, payable to both the United States and Ohio. The performance bond shall be of sufficient amount to comply with the requirements of the approved State program and any other conditions of the permit. Release of the performance bond shall be conditioned upon compliance with all applicable requirements. The Division shall obtain the concurrence of the Forest Service prior to releasing the operator from any obligation under the performance bond. If this Agreement is terminated, (1) the bond will revert to being payable only to the United States to the extent that Federal lands are involved, and (2) the bond will be delivered by the Division to OSM if only Federal lands are covered by the bond.

B. *Forfeiture:* In the event of forfeiture by an operator of the performance bond for surface coal mining and reclamation operations on Federal lands covered by this Agreement, the State shall use funds received from bond forfeiture and, where necessary, funds from the Ohio Reclamation Forfeiture Special Account (pursuant to Section 1513.18 of the Ohio Revised Code) to ensure that reclamation is accomplished in accordance with the approved State program and the approved permit.

Article X: Termination of Cooperative Agreement

This Agreement may be terminated by the Governor or the Secretary under the provisions of 30 CFR 745.15.

Article XI: Reinstatement of Cooperative Agreement

If this Agreement has been terminated in whole or in part it may be reinstated under the provisions of 30 CFR 745.16.

Article XII: Amendment of Cooperative Agreement

This Agreement may be amended by mutual agreement of the Governor and the Secretary in accordance with 30 CFR 745.14.

Article XIII: Changes in State or Federal Standards

A. *Time for Changes:* The Secretary or the State may from time to time promulgate new Federal or State regulations, including new or revised performance or reclamation requirements or enforcement or administration procedures. OSM and the Division shall immediately inform each other of any final changes and of any effect such changes may have on the cooperative agreement. If it is determined to be necessary to keep this Agreement in force, the Division shall request necessary State legislative action and each party shall change or revise its regulations or promulgate new regulations, as applicable. Such changes shall be made under the procedures of 30 CFR Part 732 for changes to the approved State program and sections 501 and 523 of the Federal Act for changes to the Federal lands program.

B. *Copies of Changes:* The State and OSM shall provide each other with copies of any changes to their respective laws, rules, regulations, and standards pertaining to the enforcement and administration of this Agreement.

Article XIV: Changes in Personnel and Organization

The Division and the Secretary shall, consistent with 30 CFR Part 745, advise each other of substantial changes in statutes, regulations, funding, staff, or other changes which could affect the administration and enforcement of this Agreement.

Article XV: Reservation of Rights

This Agreement does not delegate nor shall it be construed to delegate any of the authority that the Secretary has under 30 CFR 745.13 or under other laws or regulations.

Approved:

_____,

Governor of Ohio.

Date: _____

_____,

Secretary of the Interior.

Date: _____

[FR Doc. 83-24308 Filed 9-6-83; 8:45 am]

BILLING CODE 4310-10-M

VETERANS ADMINISTRATION

38 CFR Part 36

Loan Guaranty, Manufactured Housing Loans; Computation of Guaranty Claims

AGENCY: Veterans Administration.

ACTION: Proposed regulations.

SUMMARY: The VA (Veterans Administration) is amending its regulations concerning the amount of interest a holder may include in a claim under the guaranty on a defaulted manufactured home loan. The amendments are for the purpose of assuring the payments of a fair rate of interest on a holders loan guaranteed claim.

DATES: Comments must be received on or before October 7, 1983. It is proposed to make these amendments effective on the date of final approval.

ADDRESSES: Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420. All written comments received will be available for public inspection at the above address only between 8 a.m. and 4:30 p.m., Monday through Friday (except holidays) until October 17, 1983. Persons visiting Central Office for the purpose of inspecting comments will be received by the Central Office Veterans Service Unit in room 132. Visitors to VA field stations will be informed that the records are available for inspection only in Central Office and will be furnished the address and room number.

FOR FURTHER INFORMATION CONTACT: Mr. Raymond L. Brodie, Assistant Director for Loan Management (261), Loan Guaranty Service, Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420 (202) 389-3668.

SUPPLEMENTARY INFORMATION: When a VA-guaranteed manufactured home loan

goes into insoluble default the holder of the loan repossesses and sells the security and then submits a claim to the Administrator under the guaranty. Sections 36.4283(g)(1) and 36.4284(c) prescribe the amount of interest the holder may include in a claim to the Administrator. From the date of default up to the applicable cutoff date prescribed by § 36.4284(a), the holder's claim may include interest at the contract interest rate on the particular loan. The cutoff date for computation of interest at the contract rate is the date of the judgment or decree of foreclosure, or date of repossession if no foreclosure. However, if no security is available the cutoff date is the date of claim, but not more than 6 months after the first uncured default.

The claim may also include additional interest at the rate of 6 percent from the applicable cutoff date to the date of the holder's claim but not to exceed sixty days. The 6 percent interest figure was established at the inception of the manufactured home program in 1971, at which time it was set 4.75 percent below the then maximum contract interest rate of 10.75 percent. The established 4.75 percent differential corresponded to the elimination of the holder's 2.75 percent prevailing servicing fee, which the holder of the loan no longer pays because the loan is terminated, plus a further reduction of 2 percent, to provide the holder with an incentive for reselling the unit as soon as possible.

Since 1971, the maximum contract interest rate has been adjusted with changes in the cost of funds in the capital markets. However, corresponding changes were never made in post-cutoff date interest rate, which continued at the 6 percent maximum. With the recent experience of contract interest rates far above 10.75 percent, the 6 percent rate for computing post-cutoff date interest is an unreasonable burden upon holders. If in the future interest rates should fall substantially, the 6 percent rate would be unnecessarily high.

The solution we propose to this problem is to allow the post-cutoff date interest rate to float 4.75 percent below the maximum contract interest rate. In this way the original intent of the provision would be fulfilled.

It is also proposed to make a technical amendment to § 36.4253(b). On November 1, 1982, the VA published in the **Federal Register** (47 FR 49392) amendments to that section which under certain circumstances authorized loans on homes encumbered by State and local housing authority deed restrictions and on homes in communities which limit sale, lease or occupancy on the basis of age. The amendments were made at § 36.4253(b)(5)(iv). It is now proposed to redesignate those amended provisions as paragraphs (6) and (7) of § 36.4253(b), and to also redesignate present paragraphs (6), (7) and (8) as (8), (9) and (10) of § 36.4253(b). These proposed amendments are strictly editorial; no substantive changes are contemplated in present § 36.4253(b).

Technical amendments are also proposed for paragraphs (f) and (g) of § 36.4283 to change the term "Mobile Home" to "Manufactured Home" as required by Pub. L. 97–306, 96 Stat. 1429, enacted October 14, 1982.

The Administrator hereby certifies that these regulations, if adopted, will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. sections 601–612. The proposed amendments will affect only holders of VA guaranteed manufactured home loans. There are few such holders nationwide, as this is a highly specialized field of finance. Small government jurisdictions or other small organizations usually do not make such loans and thus will not be affected. There will be no change in compliance costs or reporting burdens. The effect of the proposed change will be minor and in fact beneficial to program participants which are small businesses. Since the inception of the manufactured home program in 1971, the interest rate on VA guaranteed manufactured home loans has remained within the 10¾–19½ percent range. Applying the new regulation to a defaulted manufactured home loan made at a rate of say 16¾ percent, the effect would be that the VA would pay the holder post cut-off date interest at a rate of 12 percent per annum instead of the present 6 percent per annum, for up to sixty days. Assuming that the calculation is based on a typical indebtedness of say $20,000.00, the claim payment to the holder would increase by a maximum of $200.00 over the sixty days. The effect is beneficial, but also minor, since equal or greater rates of return on capital are readily available in the financial markets. In fact, the reason for the proposed change is to bring our current procedure more closely in line with the realities of the marketplace. Since we do not foresee at this time a drop in interest rates to pre-1971 levels, we anticipate no adverse effects upon small entities as a result of the floating rate. If such a drop were to occur, the impact would be minor, as the interest rates on competitive financial investments would likewise fall. Pursuant to 5 U.S.C. section 605(b), these regulations are therefore exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

The proposed amendments have been reviewed pursuant to Executive Order 12291 and have been found to be nonmajor regulations. The proposed regulations will not impact on the public or private sectors as major rules. They will not have an annual effect on the economy of $100 million or more, and will not cause a major increase in costs or prices for consumers, individual industries, government agencies, or geographic regions; nor will they have other significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

(Catalog of Federal Domestic Assistance Program Number, 64.119)

List of Subjects in 38 CFR Part 36

Condominiums, Handicapped, Housing Loan programs—housing and community development, Manufactured homes, Veterans.

These amendments are proposed under authority granted to the Administrator by sections 210(c) and 1819(g) of title 38, United States Code.

Approved: August 16, 1983.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

August 16, 1983.

PART 36—LOAN GUARANTY

It is proposed to amend 38 CFR Part 36 as follows:

§ 36.4253 [Amended]

1. In § 36.4253, the introductory text of paragraph (b) is reprinted for the convenience of the reader, paragraph (b)(5)(iv) is removed, paragraphs (b) (6) through (8) are redesignated as paragraphs (b) (8) through (10), respectively and revised, and new paragraphs (b) (6) and (7), (formerly (b)(5)(iv) are added to read as follows:

* * * * *

(b) Any such property or estate will not fail to comply with the requirements of paragraph (a) of this section by reason of the following:

* * * * *

(5) * * *

* * * * *

(iv) [Reserved]

(6) State and local housing agency deed restrictions provided that the veteran obtained the property under a State or local political subdivision

program designed to assist low- or moderate-income purchasers, and as a condition the purchaser must agree to one or more of the following restrictions:

(i) If the property is resold within a time period as established by local law or ordinance, after the purchaser acquires title, the purchaser must first offer the property to the government housing agency, or a low- or moderate-income purchaser designated by such agency, provided the option to purchase is exercised within 90 days after notice by the purchaser to the agency of intention to sell;

(ii) If the property is resold within a time period as established by local law or ordinance, after the purchaser acquires title, a governmental agency may specify a maximum price for the property upon resale; or

(iii) Such other restriction approved by the Administrator designed to insure either that a property acquired under such program again be made available to low- or moderate-income purchasers, or to prevent a private purchaser from obtaining a windfall profit on the resale of such property, while assuring that the purchaser has a reasonable opportunity to dispose of the property without undue difficulty at a reasonable price.

The sale price of a property under any of the restrictions of paragraph (b)(6) of this section shall not be less than the lowest of the following: The price designated by the owner as the asking price; the appraised value of the property; or the original purchase price of the property, increased by a factor reflecting all or a reasonable portion of the increased costs of housing or the percentage increase in median income in the area between the date of original purchase and resale, plus the reasonable value or actual costs of any capital improvements made by the owner, plus a reasonable real estate commission less the cost of necessary repairs required to place the property in saleable condition; or other reasonable formula approved by the Administrator. The veteran must be fully informed and consent in writing to the deed restrictions. A copy of the veteran's consent statement must be forwarded with the application for manufactured home loan guaranty or the report of a manufactured home loan processed on the automatic basis; (38 U.S.C. 1819(g))

(7) A recorded restriction on title limits the sale, lease, or occupancy, of a dwelling to person based on age, including prohibitions against the permanent occupancy of the dwelling by children. The Administration may refuse to approve a property with such a restriction if its operation would work an undue hardship upon the owner in the case of sudden, unforeseen events or be likely to result in an increased risk of default. Examples of restrictions that could work an undue hardship include, but are not limited to, requirements for sale in lieu of leasing or renting of the property if the owner-occupant becomes the guardian or custodian of a minor child who must reside with the owner-occupant upon the death or incapacity of the child's parents and restrictions that do not permit persons younger than the specified age who inherit the property either to rent or lease such property to a qualified occupant. The enforcement of an age restriction which would authorize the eviction of owners who adopt or give birth to a child is not considered an undue hardship. The veteran is fully informed and consents in writing to the age restrictions. A copy of the veteran's consent statement must be forwarded with the application for manufactured home loan guaranty or the report of a manufactured home loan processed on the automatic basis; (38 U.S.C. 1819(g))

(8) Building and use restrictions whether or not enforceable by a reverter clause if there has been no breach of the conditions affording a right to an exercise of the reverter;

(9) Violation of a restriction based on race, color, creed, or national origin, whether or not such restriction provides for reversion or forfeiture of title or a lien for liquidated damages in the event of a breach;

(10) Any other covenant, condition, restriction, or limitation approved by the Administrator in the particular case. Such approval shall be a condition precedent to the guaranty of the loan;

* * * * *

2. In § 36.4283, paragraph (f)(3)(iv)(F) and (g)(1) are revised as follows: (The introductory text of paragraph (g) is reprinted for the convenience of the reader).

§ 36.4283 Foreclosure or repossession.

* * * * *

(f) * * *

(3) * * *

(iv) * * *

(F) The holder agrees to comply with VA manufactured home regulations as if the original loan had not been terminated. (38 U.S.C. 1819(g))

(g) If at the end of 6 months from the date of acquisition the holder has been unable to resell the property a claim may be submitted under the guaranty and the Administrator will pay to the holder upon submission of such claim:

(1) The difference between the appraised value of the property as determined by the Administrator and the indebtedness including those costs allowable under § 36.4276 and the costs of repossessing the manufactured home not to exceed $100, plus any accrued and unpaid interest to the applicable cutoff date as set forth in § 36.4284(a) at the maximum rate allowable plus accrued interest at a rate 4.75 percent below the contract rate from such cutoff date of the date of claim but not to exceed 60 days or,

* * * * *

In § 36.4284, paragraph (c) is revised as follows:

§ 36.4284 Computation of guaranty claims.

* * * * *

(c) Any allowable expenditures or costs, paid by the holder, and any accrued and unpaid interest to the applicable cutoff date as set forth in paragraph (a) of this section at the maximum rate allowable, plus accrued interest at a rate 4.75 percent below the contract rate from such cutoff date to the date of resale or other liquidation but not to exceed 60 days may be deducted from the proceeds of the sale of the property, or may be included in the accounting to the Administrator on such loan.

* * * * *

(38 U.S.C. 210(c) and 1819(g))

[FR Doc. 83-24259 Filed 9-6-83; 8:45 am]
BILLING CODE 8320-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Listing of Two Spanish Reptiles and the Delisting of the Indian Flap-Shelled Turtle

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to list the Hierro giant lizard (*Gallotia simonyi simonyi*) as an Endangered species and the Ibiza wall lizard (*Podarcis pityusensis*) as a Threatened species under provisions of the Endangered Species Act of 1973, as amended. The threats believed to affect these lizards revolve chiefly around habitat destruction, predation by domestic and feral animals, and overcollection. Both species live on islands under Spanish jurisdiction and there is no commercial trade in them into the United States. If made final, this rule would implement the Endangered Species Act of 1973, as

amended, with regard to these species. In addition, the Service proposes to delist the Indian flap-shelled turtle (*Lissemys punctata punctata*), presently listed as Endangered, from provisions of the Act. This turtle is neither Endangered nor Threatened; indeed, it may be one of the most abundant turtles in India and Sri Lanka..

DATES: Comments from the public and from the governments of the countries where these species occur must be received by November 7, 1983. Public hearing requests must be received by October 24, 1983.

ADDRESSES: Submit comments to Associate Director—Federal Assistance, OES, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments and materials relating to this proposed rule are available for public inspection, by appointment, during normal business hours at the Service's Office of Endangered Species, 1000 North Glebe Road Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240 (703/235–2771).

SUPPLEMENTARY INFORMATION:

Background On August 15, 1980 the Service published a notice of review in the **Federal Register** (45 FR 54685–54686) to the effect that a review of the status of 18 species of foreign reptiles would be conducted to determine whether enough information existed to list them as Endangered or Threatened species under provisions of the Endangered Species Act of 1973, as amended. The Hierro giant lizard was included on that notice, and based on information received that the lizard was extinct, the Service decided no further action was warranted. When the Service subsequently proposed 17 foreign reptiles to be added to the list of Endangered and Threatened species (January 20, 1983; 48 FR 2562–2566), comments were received concerning *Gallotia simonyi simonyi*.

On February 7, 1983, Dr. Brian Groombridge of the International Union for the Conservation of Nature (IUCN), Cambridge, England, noted that *Gallotia simonyi simonyi* was not considered extinct. Included was a copy of an article by Rica (1982). The Service believes that this species should now be proposed for listing as an Endangered species. The information presented below is based on that contained in Rica (1982); additional information may be found in Honegger (1978).

The Hierro giant lizard is a large species (up to 70 cm from snout to tip of tail) found only in the the Canary Islands. It is nearly black with gray patches on the sides of the adults, and is entirely herbivorous. Although believed extinct until 1975, the lizard survives on a steep rocky arid cliff. Reproduction is occurring on this refugium, as about half of the estimated total population of 200 lizards in 1975 were juveniles. Rica (1982) considers the lizard's status as "critical and the danger of extinction is strong." A stone-breaking plant has been proposed to be built on the cliff which would directly impact the lizard and adversely affect its plant food sources. In addition, goats which graze the area could be competing with the lizard for the young plant leaves on which it depends. Honegger (1978) cites two scientists (A. Salvador and J. Mellado) as stating that collection of specimens has contributed to the decline of this species. Much of the data contained in the above references was collected in the mid 1970's, and it is unlikely the status of the species has improved. In 1980, R. Honegger told personnel of the Service that he believed the lizard to be extinct although he did not include it in his worldwide list of extinct reptiles and amphibians (Honegger, 1980–81). Until such time as it can be proved otherwise, the lizard should be considered Endangered. Dr. Groombridge states: "You now quote a communication from R. Honneger (48 FR 2563) to the effect that the lizard is extinct. This appears to be incorrect." He continues: "Since the estimated population is around 200 individuals, and there is a threat of habitat distrubance, I would strongly suggest the taxon requires Endangered listing. It is considered a top priority for action and research by the Conservation Committee of the Societas Europaea Herpetologica. We are at present hoping to delay the construction of a planned road near the hillside where *G. s. simonyi* lives until an impact report can be prepared." Thus, concerns about the species' extinction appear to have been, fortunately, premature.

The Ibiza wall lizard (*Podarcis pityusensis*) is a small lizard found in the Balearic Islands, mainly around Ibiza and Formetera, and in some parts of Mallorca, in the Mediterranean Sea. Becuase of the large number of small islands, considerable evolutionary divergence has occurred, and there are 35 described subspecies. Rica and Costa (1982) estimate that only 12 would remain valid after a through taxonomic study.

Rica and Costa (1982) have assessed the status of the Ibiza wall lizard on some 70 small islands around Ibiza and Formentera. Lizards were found on 43, and only 10 sites had substantial populations. The vast majority of the lizard populations have been impacted due to one or a combination of the following reasons: predation by gulls (a minor problem), collection for scientific and commercial purposes, the human-mediated hybridization of various subspecies (lizards were transported by fishermen between islands and released), habitat alteration and destruction, and direct killing by poisoning. Rica and Costa (1982) provide a review of 32 of the subspecies and their status on their ofter small island habitats. These authors stress the need for adequate protective measures for the conservation of remaining populations.

Neither of the above two species is involved in commercial trade to the United States.

The Indian flap-shelled turtle, *Lissemys punctata punctata*, is one of the softshell turtles, males usually less than 6 inches and females less than 11 inches. It has a somewhat domed shell and is mostly a uniform brown color but may have scattered dark markings. Observations on the population of one particular drying lake in India are provided by Auffenberg (1981).

Following the taxonomic arrangement of Webb (1982), two subspecies are recognized in India: *L. p. punctata* from southern and central India and Sri Lanka and *L. p. andersoni* from northern India, Pakistan, Nepal, Bangladesh, and Burma. While *L. p. punctata* is listed under provisions of the Endangered Species Act of 1973, the range under "Known distribution" includes areas where this subspecies is not known to occur. It is unclear from reviewing the administrative record which subspecies (or both?) was included in the original listing; the taxonomic history provided by Webb (1982) provides background as to the complexities of previous arrangements.

The Indian flap-shelled turtle was listed as Endangered on June 14, 1976 (41 FR 24062–24067), and this document should be consulted for the circumstances surrounding the listing. The listing was apparently based on recommendations by Bangladesh that the species be included on Appendix I of the Convention of International Trade in Endangered Species of Wild Fauna and Flora (CITES).

As part of the Service's continual efforts to ensure that the biological status is reflected in the status of species protected by the Act, a literature review was conducted to determine if supporting evidence justified its present

Endangered status. No such supporting data could be found. The Service then contacted a number of scientists to determine what field data might support the listing. The unanimous consensus was that there is no justification for listing under either the Act of CITES. For instance, Dr. E. O. Moll, chairman of the IUCN Freshwater Turtle Specialist Group, who is presently conducting turtle studies in India, states: "The species is seemingly the most common and widespread turtle in India. As for the subspecies, it is frequently seen in the Calcutta markets suggesting that it is still easily attainable. How it ever made Appendix I is a big mystery."

Dr. Brian Groombridge of the IUCN states: "Certainly *Lissemys p. punctata* (correctly named *L. p. andersoni*) is generally considered the commonest aquatic turtle in India, and it should not be listed on CITES nor on the U.S. list."

After carefully considering the status of *L. p. punctata*, the Service concludes that this species is neither Endangered nor Threatened as defined by the Act, and that there is no justification for retaining it on the U.S. list of Endangered and Threatened wildlife.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR Part 424; under revision to accommodate 1982 amendments) state that the Secretary of the Interior shall determine whether any species is an Endangered species or a Threatened species due to one or more of the five factors described in Section 4(a)(1) of the Act. This authority has been delegated to the Assistant Secretary for Fish and Wildlife and Parks. These factors are as follows:

(A) The present or threatened destruction, modification, or curtailment of its habitat or range;

(B) Overutilization for commercial, recreational, scientific, or educational purposes;

(C) Disease or predation;

(D) The inadequacy of existing regulatory mechanisms; or

(E) Other natural or manmade factors affecting its continued existence.

The reptiles proposed for listing as Endangered and Threatened species relate to these factors as follows (letters refer to factors above):

Hierro giant lizard—(A) While the Hierro giant lizard is found on a rather steep cliff, there is a threat from a stone-breaking operation that could destroy or otherwise adversely modify the only known habitat of this species. In addition to direct habitat alteration, Rica (1982) believes that dust from such a stone working operation could adversely impact the plants on which this herbivorous lizard depends; (B) Several European scientists have indicated that overcollection has contributed to the precarious status of this species. Certainly, removal of any animals except for strict conservation purposes could adversely affect the species; (C) Gulls may prey on juvenile lizards, but the overall effect to its status remains unknown; (D) Royal Decree 3181/1980 protests nearly all Spanish reptiles and amphibians from hunting, capturing, trafficking, or exportation. The efficacy of this law has yet to be determined. In any case, there is no habitat protection, nor is the lizard covered under the appendices to the Convention on International Trade in Endangered Species of Wild Fauna and Flora; (E) Goats may be competing with the lizard for food, especially young shoots and leaves.

Ibiza wall lizard—(A) On numerous islands inhabited by this species, humans are altering the environment during the course of building and development for the tourist industry. Some islands have been modified by dynamiting to ease perceived navigation problems whereas others have served as targets for military bombardment. The threats of habitat alteration and destruction are serious, depending on the particular island, and have been documented by Rica and Costa (1982). The problems of habitat alteration are particularly apparent on Espalmador, Ratas, and Torretas; (B) This appears to have been a major factor in the status of this species. Collecting by local fisherman for scientists occurred as early as the 1950's when specimens from remote island brought premium prices (see below). In the 1960's Rica and Costa (1982) note that large numbers of lizards were removed for commercial pet shops, especially in Holland and Germany. They state that, "captures made for commercial purposes were very large, sometimes several hundred animals bing taken from one locality." As late as 1979, more than 100 *P. p. maluquerorum* were exported from Ibiza. Such trade is detrimental to the survival of the lizard; (C) Predation by gulls, rats, and feral cats may be affecting the survival of this species, depending on population involved; (D) Royal Decree 3181/1980 protects nearly all Spanish reptiles and amphibians from hunting, capturing, trafficking, or exportation. The efficacy of this law has yet to be determined. In any case, there is no habitat protection, nor is the lizard covered under the appendices to Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES); (E) Hybridization has been a threat to many individual subspecies of *Podarcis pityusensis*. For instance, Rica and Costa (1982) indicate that the subspecies *miguelensis, subformenterae, algae, sabinae,* and *grueni* may now be extinct due to hybridization. Various lizards were introduced onto islands where they did not naturally occur by fishermen who hoped to obtain money from collectors by producing lizards from remote areas; in some cases this resulted in the colonization of unihabited islands whereas in others, the new lizards hybridized with a resident population.

With regard to the Indian flap-shelled turtle, the same factors used to list a species are discussed in terms of the species' delisting. These factors:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range*—There is a large amount of available habitat for this species on the Indian subcontinent and Sri Lanka. There is no evidence of the destruction, modification or curtailment of this species' habitat or range such as to justify a listing of Endangered under provisions of the Act. Indeed, herpetologists familiar with the turtles of this region believe that *Lissemys punctata* may be the most abundant freshwater turtle in India.

B. *Overutilization for commercial, recreational, scientific, or educational purposes*—This species is widely used ad food in India and is still abundant in local markets. There is no evidence of overexploitation.

C. *Disease or predation*—Not known to be a problem with this species.

D. *The inadequacy of existing regulatory mechanisms*—This species is listed on Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora. The lack of regulations regarding this species is not a factor in its present status.

E. *Other natural or manmade factors affecting its continued existence*—Not applicable.

Effects of the Proposal if Published as Final Rule

Endangered species regulations already published in Title 50 of the Code of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all Endangered and Threatened species. These regulations are found at §§ 17.21 and 17.31 of Title 50, and are summarized below.

With respect to the Hierro gaint lizard and Ibiza wall lizard, all prohibitions of Section 9(A)(1) of the Act, as

implemented by 50 CFR 17.21 and 17.31, would apply. These prohibitions, in part, would make it illegal for any persons subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale these species in interstate or foreign commerce. It also would be illegal to possess, sell, deliver, carry, transport, or ship any such wildlife which was illegally taken. Certain exceptions would apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving Endangered and Threatened species under certain circumstances. Regulations governing permits are codified at 50 CFR 17.22, 17.23, and 17.32. Such permits are available for scientific purposes, the enhancement or propagation or survival of the species, and economic hardship.

With regard to the Indian flap-shelled turtle, all such prohibitions as described above, which are presently in effect for this species, would be terminated. This proposal does not affect its Appendix I listing under CITES however, and all restrictions regarding trade into and from the United States with reference to Appendix I species will remain in effect.

Literature cited

Auffenberg, W.A. 1981. Behavior of *Lissemys punctata* (Reptilia, Testudinata, Trionychidae) in a drying lake in Rajasthan, India. J. Bombay Nat. Hist. Soc. 78(3):487–493.

Honegger, R.E. 1978. Threatened amphibians and reptiles in Europe. Council of Europe Nature and Environmemt Series No. 15, 123 pp.

Honegger, R.E. 1980–81. List of amphibians and reptiles either know or thought to have become extinct since 1600. Biol. Conserv. 19:141–158.

Rica. J.P.M. 1982. Primeros datos sobre la poblacion de lagarto negro (*Gallotia simonyi* Steind.) de la Isla de Hierro. Amphibia-Reptilia 2:369–380.

Rica, J.P.M. and A.M.C. Costa. 1982. Notes on some endangered species of Spanish herpetofauna: I. *Podarcis pityusensis* Bosca. Biol. Conserv. 22:295–314.

Webb, R.G. 1962 Taxonomic notes concerning the trionychid turtle *Lissemys punctata* (Lacepede): Amphibia-Retilia 3:179–184.

Public Comments solicited

The Service intends that the rules finally adopted will be as accurate and effective as possible in the conservation of the Hierro giant lizard and Ibiza wall lizard and in the proposal to delist the Indian flapshelled turtle. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspect of these proposed rules are hereby solicited. Comments particularly are sought concerning:

1. Biological and other relevant data concerning any threat (or lack thereof) to these species, and

2. Additional information concerning the range and distribution of the species.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests should be made in writing to the Director, U.S. Fish and wildlife Service, Department of the Interior, Washington, D.C. 20240.

Final promulgation of the regulations on these reptiles will take into consideration the comments and any additional information received by the Service, and such communications may lead it to adopt a final rule that differs from this proposal.

National Environmental Policy Act

A draft Environmental Assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species, 1000 North Glebe Road, Arlington, Virginia, and may be examined by appointment during regular business hours (7:45–4:15pm). A determination will be made at the time of a final rule as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969 (implemented at 40 CFR Parts 1500–1508).

Author

The primary author of this proposed rule is Dr. C. Kenneth Dodd, Jr., Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1975).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulations Promulgation

PART 17—[AMENDED]

Accordingly, it is proposed that Part 17, Subchapter B of Chapter I, Title 50 of the U.S. Code of Federal Regulations be amended as follows:

1. The authority citation for Part 17 reads as follows:

Authority: Pub. L. 93–205, 87 Stat.884 Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; and Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*)

2. It is proposed to amend § 17.11(h) by adding, in alphabetical order, the following to the list of reptiles:

§ 17.11 Endangered and threatened wildlife.

* * * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Lizard, Hierro giant.	*Gallotia simonyi simonyi.*	Spain (Canary Islands).	Entire	E	NA	NA	NA.
Lizard, Ibiza wall	*Podarcis pityusensis.*	Spain (Balearic Islands).	Entire	T	NA	NA	NA.

3. It is further proposed to amend § 17.11(h) by removing the entry for the Indian flap-shelled turtle, under "Reptiles," from the List of Endangered and Threatened Wildlife.

Dated: July 27, 1983.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83–24393 Filed 9–6–83; 8:45 am]

BILLING CODE 4310–55–M

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status and Critical Habitat for Gouania hillebrandii

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The service proposes to list a plant, *Gouania hillebrandii*, as an

County of Maui, Hawaii. The populations of this species are vulnerable to any substantial habitat alternation and face threats of browsing and trampling by livestock in at least one of these areas. A determination that *Gouania hillebrandii* is an Endangered species and designation of its Critical Habitat would implement the protection provided by the Endangered Species Act of 1973, as amended. Comments and related material from the public are solicited. The Service also requests information on environmental impacts that would result from listing *Gouania hillebrandii* as an Endangered species.

DATES: Comments from the public and the Hawaiian State agencies must be received by November 7, 1983. Public hearing requests must be received by October 24, 1983.

ADDRESSES: Comments or other materials should be sent to the Pacific Islands Administrator, U.S. Fish and Wildlife Service, P.O. Box 50167, Honolulu, Hawaii 96850. Comments and materials relating to this proposal are available for public inspection by appointment during normal business hours at the Service's Office of Endangered Species, 300 Ala Moana Boulevard, Room 6307, Honolulu, Hawaii.

FOR FURTHER INFORMATION CONTACT: Mr. Ernest Kosaka, Project Leader for Environmental Services, U.S. Fish and Wildlife Service, P.O. Box 50167, Honolulu, Hawaii 96850 (808/546–7530), or Mr. John L. Spinks, Jr., Chief, Washington Office of Endangered Species, U.S. Fish and Wildlife Service, Washington D.C. 20240 (703/235–2771).

SUPPLEMENTARY INFORMATION:

Background

The type specimen of *Gouania hillebrandii* was collected by the German physician and botanist William Hillebrand in August 1870. Since 1870, the taxon has been collected only occasionally (1910, 1943, 1955, 1966, 1978 and 1980). All collections prior to 1979 were probably from the dry gulches and ridges behind Lahaina, West Maui (St. John, 1969). Although the type specimen is labelled "Maui! gulches of Kula and Lahaina," no collections from the Kula region (East Maui) have been verified as *Gouania hillebrandii*. In 1979, Robert Hobdy and Rene Sylva of Maui discovered additional small stands of *Gouania hillebrandii* behind Olawalu, some 2 to 3 miles from the Lahaina population. Today, it is known only from two general areas on the west-facing slopes of Pa'upa'u and Lihau in the district of Lahaina, county and island of Maui, Hawaii.

No Hawaiian name has been recorded for this taxon. However, archaeological sites in the vicinity of present day populations and the highly developed botanical knowledge of the Hawaiians before European contact indicate that a Hawaiian name probably did exist but has been lost.

The plant is a shrub ranging from a few inches to 6 feet tall, often a single or sparsely branched stem when below 2 feet, but becoming more branched and rounded with increased height. Branches are slender and covered with a rust of ash-colored fuzz. Leaves are oval and oblong, 1½ to 2½ inches by ¾ to 1 inch, with ½ to 1 inch leaf stems, broadly pointed, entire (without toothed or lobed edges), dark green, fuzzy and pale below, thin and somewhat papery. Flowers are quite small and nearly white, quite fragrant, and borne on short fuzzy branching flower stalks that arise from the junction of the leaves with the stem. Flower stalks are 1 to 1½ inches long, and bear 3 to 5 flowers each. The tiny brown seeds are in small, 3-winged capsules covered with soft white fuzz.

Livestock and exotic insects pose serious threats to this native shrub. Browsing and trampling by domestic cattle have decimated this taxon, especially at Pa'upa'u, and will probably extirpate that population if continued. The introduced insect *Pinnaspis strachani* (hibiscus snow scale) now infests at least half of all known plants. Many of the most heavily infested plants have died.

Section 12 of the Endangered Species Act of 1973 directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened or extinct. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975. On July 1, 1975, the Service published a notice in the **Federal Register** (40 FR 27823) of its acceptance of this report as a petition within the context of Subsection 4(c)(2) of the Act, and of its intention thereby to review the status of the plant taxa named within. On June 16, 1976, the Service published a proposed rule in the **Federal Register** (41 FR 24523) to determine approximately 1,700 vascular plant taxa, including *Gouania hillebrandii*, to be Endangered species. This list was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94–51 and the July 1, 1975, **Federal Register** publication. *Gouania hillebrandii* was included in the July 1, 1975, notice and the June 16, 1976, proposal. General comments on the 1976 proposal are summarized in an April 26, 1978, **Federal Register** publication (43 FR 17909).

The Endangered Species Act Amendments of 1978 (Pub. L. 95–632) required that all proposals over two years old be withdrawn. On December 10, 1979, the Service published a notice of the withdrawal of the June 16, 1976, proposal along with other proposals which had expired (44 FR 70796). At this time the Service is reproposing *Gouania hillebrandii*. Such reproposals were authorized by the 1982 Amendments to the Endangered Species Act. New information includes a detailed status report by a University of Hawaii botanist (Holt, 1982).

Summary of Factors Affecting the Species

Subsection 4(a)(1) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) states that the Secretary of the Interior shall determine whether any species is an Endangered species or a Threatened species due to one or more of the five factors described in that subsection.

These factors and their application to *Gouania hillebrandii* are as follows:

A. *The present of threatened destruction, modification or curtailment of its habitat or range.* Feral and domestic livestock (cattle and goats) have probably been the greatest threat historically to the habitat of *Gouania hillebrandii*. Their trampling removes vegetation and liter important to soil-water relations, compacts the soil and promotes erosion. Cutting of native trees and subsequent reforestation attempts have further altered the habitat at Pa'upa'u. Agricultural pressures have been relaxed at Lihau, but domestic cattle continue to graze and trample the Pa'upa'u habitat, promoting erosion, especially along ridge-top paths, and favoring the survival of the less palatable introduced plant species over native species.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Not applicable to this species.

C. *Disease or predation* (including grazing). Grazing has been a serious problem for the habitat of *Gouania hillebrandii*, as indicated under Factor A. above. Undiscovered populations have probably been eliminated before they could be found. Additionally, an insect herbivore, *Pinnaspis strachani* (hibiscus snow scale) has been present at Pa'upa'u at least since 1943, and is now present at Lihau. Many of the *Gouania hillebrandii* at Pa'upa'u have been killed by this insect. Finally, unknown chewing insects have caused

extensive leaf damage in populations monitored since about 1955.

D. *The inadequacy of existing regulatory mechanisms.* This species is not now the subject of any regulation.

E. *Other natural or man-made factors affecting its continued existence.* Exotic plant species, especially matted grasses and trees, may compete adversely with *Gouania hillebrandii.* Other factors of probable importance, such as pollinating organisms, need additional study before they can be identified.

Critical Habitat

The Act defines "Critical Habitat" as "(i) the specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the provisions of Section 4 of this Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and (ii) specific areas outside the geographic area occupied by the species at the time it is listed in accordance with the provisions of Section 4 of this Act, upon a determination by the Secretary that such areas are essential for the conservation of the species."

Proposed Critical Habitat for *Gouania hillebrandi* includes two zones of Lahaina District, island and County of Maui, Hawaii, as follows: (1) Pa'upa'u Zone—a quadrangular area of approximately 52 acres centered about one-half mile east of Lahainaluna School, on three ridges that form the south wall of Kanaha Stream valley; (2) Lihau Zone—approximately 60 acres of land divided among three circular areas of 0.1 mile radius (about 20 acres) each, lying between 800 ft and 1,700 ft of elevation on the west flank of Lihau Mountain above Olawalu cinder pits; one area centered at Pu'u Hipa Peak, and the two others centered about 0.7 miles southeast and south by southeast respectively from Pu'u Hipa Peak. Within the designated areas are irregular, smaller areas of primary habitat consisting of dry, exposed ridge crests and north-facing slopes down to about 160 ft below the crests, where strong prevailing winds exclude much of the competing exotic vegetation, allowing the wind-adapted *Gouania hillebrandii* to survive. In total, the Pa'upa'u Zone includes approximately 15 acres and the Lihau Zone approximately 20 acres of such primary habitat for this plant.

At this time, primary constituent elements of this habitat are considered to include: (a) Xeric climate, wind exposure and certain soil and drainage factors that discourage introduced plants or herbivorous insects, and (b) permanent freedom from unrestricted browsing and trampling by feral or domestic livestock. Other elements needing additional research, such as types of organisms important for pollination, may prove to be primary elements as well.

Subsection 4(b)(8) of the Act requires, to the maximum extent practicable, that any proposal to determine Critical Habitat be accompanied by a brief description and evaluation of those activities which, in the opinion of the Secretary, may adversely modify such habitat if undertaken, or may be affected by such a designation. Such activities are identified below for this species. It should be emphasized that Critical Habitat designation will not affect most of the activities mentioned below, as Critical Habitat designation only relates to programs or activities conducted by Federal agencies, through Section 7 of the Act.

Any activity that would significantly disturb the soil, topography or other physical and biological components of the area where *Gouania hillebrandii* occurs could adversely modify its Critical Habitat. Livestock grazing and other land uses in the immediate vicinity of the population and in its surroundings should be examined carefully to prevent such modifications. Any effective conservation program might require measures such as fencing to prevent livestock grazing within the primary habitat areas, although to the extent that no Federal agency involvement is connected with the State leasing program, any such modifications of existing patterns of land use would be voluntary on the part of the State. Any direct, unselective removal of vegetation or alteration of wind exposure or moisture regime would probably adversely modify this habitat.

Subsection 4(b)(2) of the Act requires the Service to consider economic and other impacts of specifying a particular area as Critical Habitat. The Service believes that economic and other impacts of this action are not significant in the foreseeable future.

The Service has contacted the Hawaii Division of Forestry and Wildlife, and the Maui District Department of Education, which has jurisdiction over the land under consideration in this proposed action. Interested Federal and State agencies as well as other interested persons or organizations are requested to submit information on economic or other impacts of the proposed action. The Service will prepare a final assessment prior to preparing a final rule.

Available Conservation Measures

Subsection 7(a) of the Act as amended, requires Federal agencies to evaluate their actions with respect to any species which is proposed or listed as Endangered or Threatened. This rule requires Federal agencies to satisfy their statutory obligations with respect to this proposed species, that is, under Section 7(a)(4) to informally confer with the Service on any action that is likely to jeopardize this species or result in destruction or adverse modification of its proposed Critical Habitat. If the species is listed, Section 7 requires Federal agencies to insure that activities they authorize, fund or carry out are not likely to jeopardize the continued existence of this species, and to insure that their actions are not likely to result in the destruction or adverse modification of its Critical Habitat which has been determined by the Secretary.

The Act and implementing regulations published in the June 24, 1977, **Federal Register** (42 FR 32373) set forth a series of general trade prohibitions and exceptions which apply to all Endangered plant species. The regulations pertaining to plants are found at 50 CFR 17.61 and are summarized below.

With respect to *Gouania hillebrandi* all trade prohibitions of Section 9(a)(2) of the Act, as implemented by 50 CFR 17.61, would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. Certain exceptions would apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving Endangered species under certain circumstances. No trade in this species is known. It is anticipated that few trade permits involving the species would never be requested.

If this plant is listed an an Endangered species and its Critical Habitat designated, certain conservation authorities would become available and protective measures may be undertaken for it. These could include increased management of the species and its habitat, the provision of three-fourths Federal (and one-fourth State) funds for the species should Hawaii qualify for a cooperative agreement under Subsection 6(c)(2) of the Act, and the development

of a recovery plan for the species as specified in Subsection 4(g).

If listed as Endangered under the Act, the Service will review this species to determine whether it should be considered for the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere for placement upon its Annex, and whether it should be considered for other appropriate international agreements.

National Environmental Policy Act

A draft Environmental Assessment has been prepared in conjunction with this proposal. It is on file in the Service's Pacific Islands Area Office, 300 Ala Moana Boulevard, Room 6307, Honolulu, Hawaii 96850, and may be examined by appointment during regular business hours. A determination will be made at the time of a final rule as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969 (implemented at 40 CFR Parts 1500–1508).

Public Comments Solicited

The Service intends that the rules finally adopted be as accurate and effective as possible in the conservation of Endangered species. Therefore any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspect of this proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) Biological or other relevant data concerning any threat (or the lack thereof) to the species included in this proposal;

(2) The location of any population of *Gouania hillebrandii* and the reasons why any habitat of this species should or should not be designated as Critical Habitat;

(3) Additional information concerning the range and distribution of this species;

(4) Current or planned activities in the subject area and the probable impact of such activities on the area designated as Criteria Habitat; and

(5) The foreseeable economic and other impacts of the Critical Habitat designation on federally funded and authorized activities.

Final promulgation of a rule on *Gouania hillebrandii* will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests should be made in writing and addressed to the Pacific Islands Administrator (see **ADDRESSES**).

Author

The primary author of this proposed rule is Dr. Derrall Herbst, U.S. Fish and Wildlife Service, P.O. Box 50167, Honolulu, Hawaii (808/546–5615). Status information and a preliminary listing package were provided by R. Alan Holt, Department of Bontany, University of Hawaii at Manoa, Honolulu, Hawaii. Drs. Paul A. Opler and George E. Drewry of the Service's Washington Office served as editors.

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St. John, H. 1969. Monograph of the Hawaiian species of *Gouania* (Rhamnaceae). Hawaiian plant studies 34. Pacific Sci. 23(4):507–543.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulations Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I Title 50 of the U.S. Code of Federal Regulations, as set forth below:

1. The authority citation for Part 17 reads as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531, *et seq.*).

§ 17.12 [Amended]

2. It is proposed to amend § 17.12(h) by adding, in alphabetical order by family and genus, the following to the list of Endangered and Threatened plants:

Species						
Scientific Name	Common Name	Historic range	Status	When listed	Critical Habitat	Special rules
Rhamnaceae—Buckthorn Family:						
Gouania hillebrandii	None	USA(HI)	E	NA	17.96(a)	NA.

3. It is proposed to amend § 17.96(a), plants, by adding the Critical Habitat of *Gouania hillebrandii* as follows:

§17.96 [Amended]

Critical Habitat of Gouania Hillebrandii

Gouania hillebrandii: Primary constituent habitat elements are considered to be climatic and edaphic factors that discourage introduced plant competitors and insect pests, and freedom from unrestricted browsing and trampling by domestic or feral livestock.

Hawaii, Maui Island, Maui County, Lahaina District, two zones located as follows:

(1) Pa'upa'u Zone, Ahupua'a of Kuia. The following Universal Transverse Mercator (UTM) designations form the corners of the quadrangular Pa'upa'u habitat area:

NW: 0744123121
NE: 0744723122
SW: 0744223118
SE: 0744723117

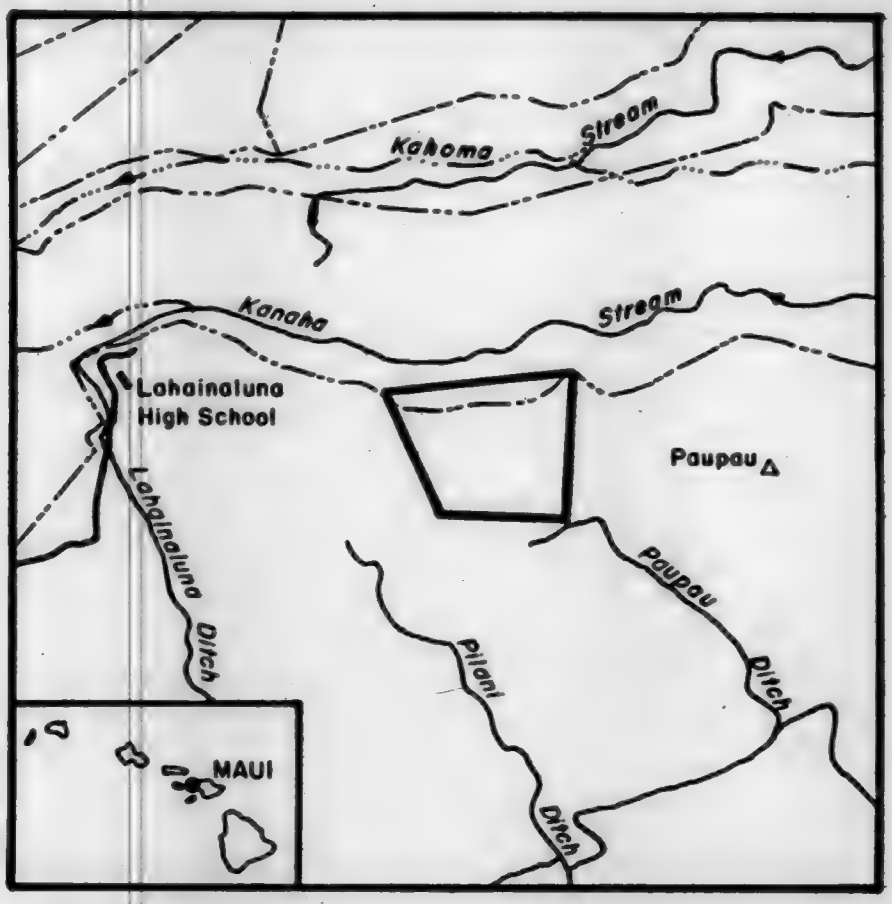

(2) Lihau Zone, Ahupua'a of Kuia. This zone consists of three circular areas having radii of 0.1 mile on the western slopes of Lihau Mountain, one centered at Pu'u Hipa (near UTM 0746823070), one at UTM 0747723063, and the third at UTM 0747223059.

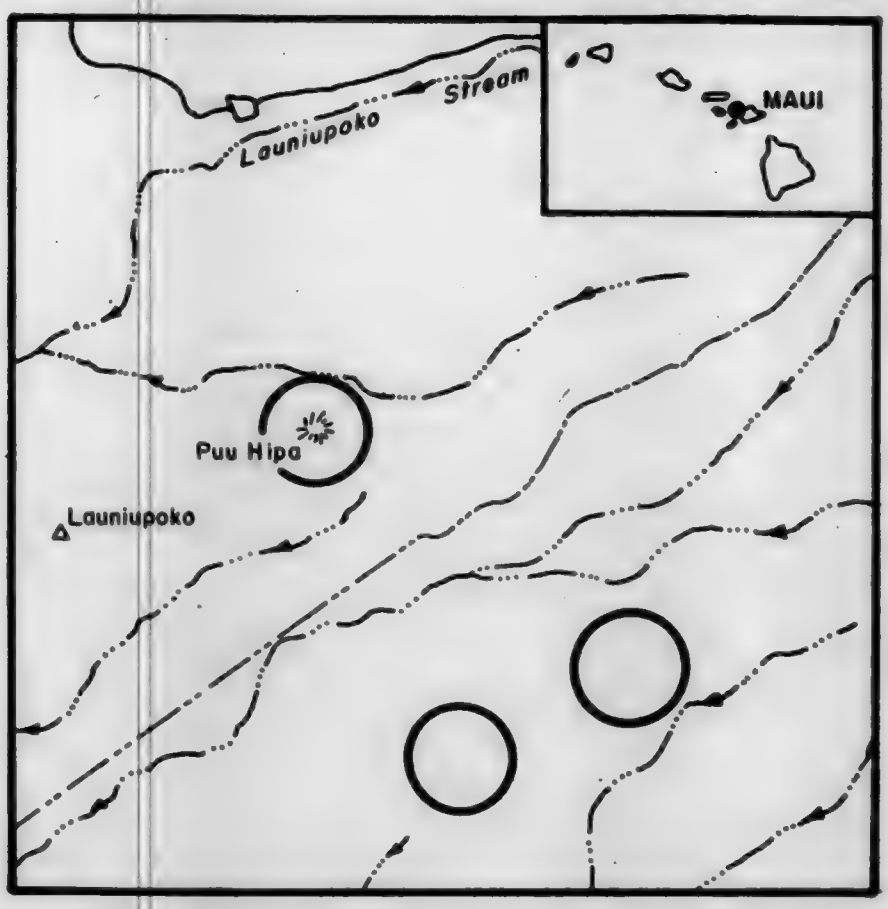

June 9, 1983.

J. Craig Potter,

Acting Secretary, Fish and Wildlife and Parks.

[FR Doc. 83-24386 Filed 9-6-83; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Parts 32 and 33

Proposed Addition of Thirteen National Wildlife Refuges to the Lists of Open Areas for Migratory Bird Hunting, Upland Game Hunting, Big Game Hunting, and/or Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Fish and Wildlife Service proposes to add thirteen refuges to the lists of open areas for migratory bird hunting, upland game hunting, big game hunting, and/or sport fishing. The Director has determined that this action would be in accordance with the provisions of all applicable laws, would be compatible with the principles of sound wildlife management, would otherwise be in the public interest, and that such uses would be compatible with the major purposes for which each refuge was established. The hunting of migratory birds, upland game and big game, and/or sport fishing will provide additional public recreational opportunities.

DATE: Comments must be received on or before October 7, 1983.

ADDRESSES: Comments may be addressed to the Director (FWS/RF), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: James Gillett, Division of Refuge Management, U.S. Fish and Wildlife Service, Washington, D.C. 20240; Telephone (202) 343–4311.

SUPPLEMENTARY INFORMATION: National Wildlife Refuges are closed to hunting and sport fishing until opened by rulemaking. The Director may open refuge areas to hunting and/or fishing upon a determination that such uses are compatible with the major purposes for which refuge areas were established, and that funds are available for development, operation, and maintenance of a hunting or fishing program. The action also must be in accordance with provisions of all laws applicable to the areas, must be compatible with the principles of sound wildlife management, and must

otherwise be in the public interest. The policy of the Department of the Interior is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. It is therefore the purpose of this proposed rulemaking to seek public input regarding opening the refuges cited below to the hunting of migratory birds, upland game or big game, and/or sport fishing. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposal. All relevant comments will be considered by the Department prior to issuance of a final rule.

Conformance With Statutory and Regulatory Authorities

The National Wildlife Refuge System Administration Act of 1966, as amended (16 U.S.C. 668dd) and the Refuge Recreation Act of 1962 (16 U.S.C. 470k) govern the administration and public use of National Wildlife Refuges. Specifically, section 4(d)(1)(A) of the Refuge System Administration Act authorizes the Secretary to permit the use of any area within the System for any purpose, including but not limited to hunting, fishing, public recreation and accommodations and access when he determines that such uses are compatible with the major purposes for which such areas were established, provided that the taking of migratory game birds will be permitted on no more than 40 percent of any area that has been designated as an inviolate sanctuary for migratory game birds. Of the refuges that would be open to the hunting of migratory birds by this rule, only Pee Dee National Wildlife Refuge (NWR) was originally established as an inviolate sanctuary for migratory birds. This proposed rule considers the opening of less than 40 percent of Pee Dee NWR to migratory game birds and therefore conforms to the 40 percent provision of this act.

The Refuge Recreation Act authorizes the Secretary of the Interior to administer refuge areas within the National Wildlife Refuge System for public recreation as an appropriate incidental or secondary use only to the extent that is is practicable and not inconsistent with the primary objectives for which the areas were established. In addition, the Refuge Recreation Act requires that the Secretary shall determine that funds be made available for the development, operation, and maintenance of these permitted forms of recreation, prior to initiating such uses of refuge areas.

The primary purpose for which Big Boggy, Chassahowitzka, Deer Flat, Eufaula, Nisqually, Pee Dee, San Francisco Bay, Tensas and Upper Souris National Wildlife Refuges were established is to protect and/or provide habitat for migratory waterfowl. The primary purpose for which great Dismal Swamp, Minnesota Valley and Muscatatuck National Wildlife Refuges were established is conservation and management of wildlife resources. Hunting and/or fishing plans have been developed for each refuge to assure the compatibility of these recreational uses with the purpose for which the refuges have been established. Antioch Dunes NWR was established to protect the critical habitat of three endangered species. The fishing plan developed for this refuge permits fishing along the San Joaquin River. Bank fishing along this river occurred prior to acquisition of the refuge by the Service. The fishing plan incorporates measures that protect the critical habitat of the endangered species and assures that fishing is compatible with refuge purposes.

Environmental assessments have been pepared for each of the proposed openings. Based on these assessments and consideration of, among other things, the final Environmental Statement on the operation of the National Wildlife Refuge System, it has been determined that implementation of proposed hunting and/or fishing programs on these refuges would be compatible with the above refuge purposes and primary objectives as required under the Refuge Administration and Recreation Acts. In addition, it has been determined that sufficient funding is available for the implementation of hunting and/or fishing programs as required under the Refuge Recreation Act. Funds have been allocated from the Interpretation and Recreation programs at each of the above refuges. The estimated annual costs for these programs range from approximately $600 at Nisqually NWR to $10,000 at San Francisco Bay NWR.

Economic Effect

Executive Order 12291, "Federal Regulation," of February 17, 1981, requires the preparation of regulatory impact analyses for major rules. A major rule is one likely to result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, government agencies or geographic regions; or significant adverse effects on the ability of United States-based enterprises to compete with foreign-based enterprises. The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) further requires the preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations or governmental jurisdictions.

It is estimated that the proposed openings of refuges to hunting and fishing will generate approximately 90,000 annual visits. Using data from the 1980 National Survey of Hunting, Fishing, and Wildlife-Associated Recreation, total annual receipts generated from purchases of food, transportation, hunting equipment, fishing gear, fees, licenses, etc., associated with these programs are expected to be approximately $2.3 million, or substantially less than $100 million. In addition, since these estimated receipts will be spread over 12 states, the implementation of this rule should not have a significant economic impact on the overall economy, or a particular region, industry or group of industries, or level of government.

With respect to small entities, this rule will have a positive aggregate economic effect on small businesses, organizations and governmental jurisdictions. The proposed opening will provide recreational opportunities and generate economic benefits that would not otherwise exist, and will impose no new costs on small entities. While the number of small entities likely to be affected is not known, the number is judged to be small. Moreover, the added cost to the Federal government of law enforcement, posting, etc., needed to implement activities under this rule would be less than the income generated from the implementation of these hunting and/or sport fishing programs.

Accordingly, the Department of the Interior has determined that this rule is not a "major rule" within the meaning of Executive Order 12291 and would not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval of the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Environmental Considerations

The "Final Environmental Statement for the Operation of the National Wildlife Refuge System" [FES 76–59] was filed with the Council on Environmental Quality on November 12, 1976; a notice of availability was published in the **Federal Register** on November 19, 1976 (41 FR 51131). Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(C)),

environmental assessments and Findings of No Significant Impact have been prepared for these proposed openings. Section 7 evaluations have been prepared where appropriate pursuant to the Endangered Species Act of 1973, as amended (16 U.S.C. 1531–1543). These documents are available for public inspection and copying in Room 2343, Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240, or by mail, addressing the Director at the address above.

Richard Frietsche, Division of Refuge Management, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (Telephone 202–343–3719) is the primary author of this proposed rulemaking document.

List of Subjects

50 CFR Part 32

Hunting, National Wildlife Refuge System, Wildlife refuges.

50 CFR Part 33

Fishing, National Wildlife Refuge System, Wildlife refuges.

PART 32—HUNTING

Accordingly, it is proposed to amend 50 CFR Part 32 by the addition of Big Boggy National Wildlife Refuge, Chassahowitzka National Wildlife Refuge, Deer Flat National Wildlife Refuge, Eufaula National Wildlife Refuge, Great Dismal Swamp National Wildlife Refuge, Muscatatuck National Wildlife Refuge, Pee Dee National Wildlife Refuge, Tensas National Wildlife Refuge and Upper Souris National Wildlife Refuge in § 32.11, 32.21, and 32.31 as follows:

§32.11 List of open areas; migratory game birds.

* * * * *

Louisiana

* * * * *

Tensas National Wildlife Refuge

* * * * *

North Carolina

* * * * *

Pee Dee National Wildlife Refuge

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Texas

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Big Boggy National Wildlife Refuge

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§ 32.21 List of open areas; upland game.

Alabama

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Eufaula National Wildlife Refuge

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Florida

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Chassahowitzka National Wildlife Refuge

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Georgia

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Eufaula National Wildlife Refuge

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Lousiana

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Tensas National Wildlife Refuge

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North Carolina

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Pee Dee National Wildlife Refuge

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North Dakota

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Upper Souris National Wildlife Refuge

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Oregon

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Deer Flat National Wildlife Refuge

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§ 32.31 List of open areas; big game.

Florida

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Chassahowitzka National Wildlife Refuge

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Indiana

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Muscatatuck National Wildlife Refuge

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Lousiana

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Tensas National Wildlife Refuge

* * * * *

North Carolina

* * * * *

Great Dismal Swamp National Wildlife Refuge

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Oregon

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Deer Flat National Wildlife Refuge

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PART 33—SPORT FISHING

Accordingly, it is proposed to amend 50 CFR Part 33 by the addition of Antioch Dunes National Wildlife Refuge, Deer Flat National Wildlife Refuge, Eufaula National Wildlife Refuge, Minnesota Valley National Wildlife Refuge, Nisqually National Wildlife Refuge and San Francisco Bay National Wildlife Refuge in § 33.4 as follows:

§ 33.4 List of open areas; sport fishing.

* * * * *

Alabama

* * * * *

Eufaula National Wildlife Refuge

* * * * *

California

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Antioch Dunes National Wildlife Refuge
San Francisco Bay National Wildlife Refuge

* * * * *

Georgia

* * * * *

Eufaula National Wildlife Refuge

* * * * *

Minnesota

* * * * *

Minnesota Valley National Wildlife Refuge

* * * * *

Oregon

* * * * *

Deer Flat National Wildlife Refuge

* * * * *

Washington

* * * * *

Nisqually National Wildlife Refuge

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(16 U.S.C. 460k, 668dd, 1531–1543; 42 U.S.C. 4332(C))

Dated: August 16, 1983.

G. Ray Arnett,
Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83-24401 Filed 9-6-83; 8:45 am]
BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 48, No. 174
Wednesday, September 7, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Review of the United States Sugar Import Quota System

AGENCY: Office of the Secretary, USDA.

ACTION: Notice.

SUMMARY: This notice reviews the U.S. sugar import quota system established by Presidential Proclamation 4941 of May 5, 1982. (47 FR 19661.)

SUPPLEMENTARY INFORMATION:

I. Introduction

In accordance with paragraph (f) of Headnote 3, subpart A, part 10, schedule 1 of the Tariff Schedules of the United States (TSUS), the Secretary of Agriculture has consulted with the U.S. Trade Representative, the Department of State, and other concerned agencies on the operation of the sugar import quota system established under the authority of Headnotes 2 and 3 of subpart A of part 10 of schedule 1 of the TSUS, the International Sugar Agreement, 1977, Implementation Act, and Section 201 of the Trade Expansion Act of 1962. After reviewing the operation of the sugar import quota system, the Secretary of Agriculture has determined that the system should be continued in effect in order to give due consideration to the interests in the United States sugar market of domestic producers and materially affected contracting parties to the General Agreement on Tariffs and Trade (GATT). The rationale for this decision is based on the following analysis.

A. Current World and U.S. Sugar Market Situation

A fundamental imbalance between world sugar supplies and demand is foreseen during 1982/83. World output of centrifugal sugar in 1982/83 is estimated at 99.7 million metric tons, while consumption is projected at around 93.0 million metric tons. U.S. centrifugal sugar production is estimated at 5.8 million short tons (5.3 million metric tons), and utilization is expected to be 9.05 million short tons (8.21 million metric tons).

During the period October 1, 1982, through August 26, 1983, 2.62 million short tons were charged against the quotas for the 37 countries which have allocations totalling 2.8 million short tons. The domestic price of raw sugar (c.i.f., duty and fee paid, No. 12 contract as published by the New York Coffee, Sugar and Cocoa Exchange) averaged 21.61 cents per pound for the first nine months of the quota year.

B. Outlook for World and U.S. Sugar Market

After two years of substantial world surpluses, world centrifugal sugar production and consumption levels in 1983/84 are likely to be in closer balance. Prospects for 1983/84 world centrifugal sugar production point to a downturn in output to around 94.9 million metric tons (5.75 million short tons in the United States), while global consumption of between 95–96 million metric tons is anticipated (8.75 million short tons in the United States).

However, while world production and consumption are likely to be in rough balance or in slight deficit, large world sugar stocks as well as the continued growth in some markets of alternative sweeteners to sugar should continue to have a dampening effect on prices. This analysis is reflected in world sugar futures prices which currently range between 10 cents per pound for contracts due in September 1983 and 13 cents per pound for contracts due to mature in September 1984.

Given these factors, we anticipate that world prices will remain at levels that make it impossible to achieve, even after accounting for duties and fees on imported sugar, market conditions that give due consideration to the interests of domestic producers in the U.S. sugar market.

II. Percentage Allocations

In order to give due consideration to the interests in the United States sugar market of materially affected contracting parties to the General Agreement on Tariffs and Trade, the President allocated the global restrictive quota on a country-by-country basis.

Under paragraph (c) of Headnote 3, the Secretary was authorized, after consultation with the U.S. Trade Representative, the Department of State, and the Department of the Treasury, to issue regulations modifying the allocation provisions governing the category "Other specified countries and areas" if he determined that such modifications were appropriate to provide such countries and areas reasonable access to the United States sugar market.

After consultations, the Secretary determined that modifications to the allocation provisions governing "Other specified countries and areas" were appropriate. Regulations governing allocations of sugar import quotas and "Other specified countries or areas" were published on August 11, 1982. Due to potential inequities caused by the first-come first-served basis for the "basket category", each country in the basket category was assigned a specific quota.

Each country with a pro-rata share greater than 0.5 percent received a quota allocation equal to that share. Countries with less than a 0.5 percent share were permitted to ship 16,500 short tons, the size of an economically feasible shipment of sugar to the United States from the distant exporting countries.

These provisions yielded twelve new individual country allocations (Barbados, Bolivia, Fiji, Haiti, India, Malagasy Republic, Malawi, Mexico, Paraguay, St. Christopher-Nevis, Trinidad-Tobago, and Zimbabwe). The Ivory Coast was also added under a separate action because of its membership in the International Sugar Organization.

III. Provision To Suspend Allocations Or Modify Quota Period

Paragraph (d) of Headnote 3 authorized the Secretary, after appropriate consultations, to establish quantitative limitations for periods of time other than calendar quarters as provided in paragraph (b) if he determined that such action was appropriate to give due consideration to the interests in the United States sugar market of domestic producers and materially affected contracting parties to the General Agreement on Tariffs and Trade.

On August 11, 1982, after appropriate consultations, the Secretary published regulations changing the sugar import quota period from a quarterly quota period to an annual quota period beginning October 1, 1982. It was felt that establishment of an annual quota would facilitate the access of U.S. trading partners to the U.S. sugar market, thereby providing greater flexibility in shipping schedules and the size of individual shipments. Correspondingly, exporters and users of foreign sugar would be able to develop purchasing and production plans with a greater degree of certainty.

IV. Modification of Individual Allocations

Paragraph (e) of Headnote 3 authorized the U.S. Trade Representative, after appropriate consultations, to modify the allocation provisions of paragraph (e) if he found that such actions were appropriate to carry out the obligations of the United States under the International Sugar Agreement and if due consideration were given to the interests in the U.S. sugar market of domestic producers and materially affected contracting parties to the GATT.

After appropriate consultations, two modifications were made in the quota regime for 1982/83.

—The Ivory Coast was allocated a quota of 16,500 short tons. Initially, the Ivory Coast was not given a quota because it had only exported sugar to the United States in one of the seven years used for the representative period. As an ISO member, the Ivory Coast could not be denied access to our market. Thus, the decision was made to allocate them a quota.

—Zimbabwe's quota was increased from 0.1 percent to 1.2 percent. Article XIII, paragraph 2(d) of the GATT requires that, when administering quotas, due consideration should be taken of special factors that affect trade in a product. Because U.N. sanctions were in place against Zimbabwe (Rhodesia) until December 1979, its export performance was limited to 1980 and 1981. Zimbabwe's quota was thus adjusted so that it would not be penalized for nonperformance during those years when it was barred from the U.S. market.

V. Conclusion

In accordance with paragraph (f) of Headnote 3, subpart A, part 10, schedule 1 of the TSUS, I have determined that the continued operation of paragraphs (b), (c), (d) and (e) of Headnote 3 gives due consideration to the interests in the U.S. sugar market of domestic producers and materially affected contracting parties to the GATT, and that paragraph (g) of that headnote, which would allow for entry of sugar into the United States not to exceed 6.90 million short tons, would not give due consideration to such interests.

Signed at Washington, D.C. on September 1, 1983.

Daniel G. Amstutz,

Secretary of Agriculture.

[FR Doc. 83-24421 Filed 9-1-83; 4:26 pm]

BILLING CODE 3410-10-M

Rural Electrification Administration

Wolverine Power Supply Cooperative, Inc., Big Rapids, Michigan; Stipulation and Settlement Agreement Consent Judgment

AGENCY: Rural Electrification Administration (REA), USDA.

ACTION: Notice of: Stipulation and Settlement Agreement Consent Judgment.

SUMMARY: Pursuant to Section 10 of the Settlement Agreement, REA is required to publish this notice within 30 days of the entry of the Consent Judgment, which was August 8, 1983. (Court orders are attached.)

Note.—Publish attached Court Order in entirety.

FOR FURTHER INFORMATION CONTACT: Mr. Martin G. Seipel, Director, Northeast Area—Electrical, Rural Electrification Administration, Washington, D.C. 20250, telephone (202) 382-1420.

Dated: August 31, 1983.

Harold V. Hunter,

Administrator.

United States District Court, Western District of Michigan, Southern Division

Rodney A. Bailey, et al., plaintiffs, v. Rural Electrification Administration, U.S. Department of Agriculture, et al., defendants. File No. G77-607CA7.

Consent Judgment

At a session of said Court held in the Federal Courthouse, Grand Rapids, Kent County, Michigan, on the ———— day of ————, 1983.

Present: Honorable Douglas W. Hillman, District Court Judge for the United States District Court.

The parties having stipulated that the above-entitled cause may be concluded by this Court by a Consent Judgment; and

The parties having entered into a Stipulation for settling this cause, the said Stipulation having been filed with this Court; and the Court having been advised in the premises;

Now, therefore, it is ordered and adjudged that the Stipulation, and the terms and provisions therein, attached hereto as Exhibit A, shall be and hereby is incorporated and made part of this Order of the Court.

It is further ordered and adjudged that the said Stipulation of the parties is approved.

It is further ordered and adjudged that in accordance with the Stipulation of the parties, no costs or fees are to be awarded to any party, except as provided in paragraph 11 of the Stipulation.

Dated August 8, 1983.

Honorable Douglas W. Hillman,

District Court Judge.

United States District Court, For the Western District of Michigan Southern Division

Rodney A. Bailey, Robert G. Asperger, and Bruce Sanderson, Plaintiffs, v. the U.S. Department of Agriculture, Rural Electrification Administration (REA); Joe S. Zoller, Director, Northeast Area—Electric, REA; David A. Hamil, as Administrator, REA; and Wolverine Power Supply Cooperative, Inc., a Michigan corporation, defendants. Filed No. G77-607-CA7.

Stipulation and Settlement

Now come the Plaintiffs, Rodney Bailey, Robert A. Asperger and Bruce Sanderson, by and through their attorney, James M. Olson, and the Defendants, United States Department of Agriculture, Rural Electrification Administration ("REA"), Joe S. Zoller, Director of Northeast Area—Electric, REA, and David A. Hamil, Administrator, REA, by and through their attorney, Thomas Gezon, Assistant United States Attorney for the Western District of Michigan, and Wolverine Power Supply Cooperative, Inc. (A corporation resulting from the December 31, 1983 merger of Northern Michigan Electric Cooperative and Wolverine Electric Cooperative), by and through its attorney, Richard A. Bandstra, of Warner, Norcross & Judd, and hereby stipulate and agree that the Court may enter a Consent Judgment in the above-entitled action, incorporating the terms and conditions of this stipulation as if fully stated therein. The terms and provisions of this Stipulation and Settlement are as follows:

1. Defendants United States Department of Agriculture, Rural Electrification Administration, Joe S. Zoller, Director, Northeast Area—Electric, REA, and David A. Hamil, Administrator, REA, are all hereinafter referred to as "USA Defendants." Defendant Wolverine Power Supply Cooperative, Inc. is hereinafter referred to as "WPSC", and the use of this term may also, as the context requires, refer to the actions, liabilities, etc. of the predecessors in interest of Wolverine Power Supply Cooperative, Inc., namely Northern Michigan Electric Cooperative and Wolverine Electric Cooperative. The Plaintiffs Rodney A. Bailey, Robert G. Asperger, and Bruce Sanderson are hereinafter referred to as "Plaintiffs".

2. Plaintiffs allege that the USDA Defendants' issuance of a final environmental impact statement ("EIS"), covering the WSPC's participation in the Detroit Edison Fermi Unit No. 2 Nuclear Power Plant, was not in accordance with the then applicable REA bulletin and the environmental impact

statement requirements of § 102(2)(c) of the National Environmental Policy Act of 1969, 42 U.S.C. § 4332(2)(c). Plaintiffs sought a judgment that the approval of the loan guarantees was contrary to the National Environmental Policy Act of 1969, and regulations applicable at the time of such approvals, and adopted by Defendant USA pursuant ot that Act. The USA Defendants deny Plaintiffs' allegation and contend that the judgment sought is not warranted. The USA Defendants' regulations and guidelines have been amended to expressly permit adoption of an environmental impact statement previously prepared by another federal agency. A substantial and significant portion of the funds provided to WPSC pursuant to the REA guarantees for the construction of Fermi II, pursuant to the participation agreement between WPSC and Detroit Edison for the construction of Enrico Fermi Nuclear Power Plant Unit No. 2, has been spent and used by Detroit Edison for said construction. And, in lieu of litigation, and pursuant to this Stipulation and the Consent Judgment, the USA Defendants, WPSC and Plaintiffs make no admission of liability or failure to prove the claim by this Stipulation.

3. Plaintiffs release, and waive, any claim they may have against the USA Defendants or WPSC arising out of the claims of the Complaint and amended Complaints, filed in this action. Specifically, but not by way of limitation, Plaintiffs expressly waive and release any claim they may have with respect to the validity of loan guarantees and financing arrangements between USA Defendants and WPSC on the alleged grounds that the USA Defendants and WPSC onthe alleged grounds that the USA Defendants did not comply with the National Environmental Policy Act of 1969, supra, or REA Bulletin 20–21, dated May 20, 1974, with respect to the preparation of environmental impact statements; further, Plaintiffs specifically agree that the terms and provisions of the Consent Judgment and this Stipulation constitute full and complete relief as prayed for in the Complaint and Amended Complaints, as filed herein.

4. Whether or not required by the National Environmental Policy Act of 1969, in conjunction with the next or any pending application for REA loans or loan guarantees by WPSC to finance WPSC's ownership interest in the Enrico Fermi Unit #2 Nuclear Power Plant (if any), WPSC agrees that it shall schedule and arrange, as hereinafter provided, and USA Defendants agree that they shall chair, one (1) public meeting to be held in Traverse City, Michigan, for the purpose of taking oral and/or written statements from any of the parties hereto or from any member of the general public. The scope of said meeting shall be to receive statements from the public concerning (1) the environmental impact of any past or pending or the next loan or loan guarantee application and proposed approval; (2) any unavoidable adverse environmental effects of such action or proposed action; (3) alternatives to such action or proposed action; (4) short term uses of man's environment versus maintenance and enhancement of long-term productivity with respect to such actions or proposed actions; and (5) irreversible and irretrievable commitments of resources involved in such actions or proposed actions. It is understood that any statement as to past loan or loan guarantees is for information purposes only and shall not in any way effect the validity of any loans or federal actions. No such meeting is required under this Stipulation unless an application for further loan guarantees is now pending or is in the future made by WPSC.

5. The said meeting shall be held at least forty (40) days prior to any USA Defendants' approval of such loan or loan guarantee application or pending loan guarantee application, if any, and WPSC shall cause to be published one (1) written notice of said hearing in newspapers of general circulation throughout WPSC's service area. The notice must be in advertisement form and at least one-eighth (⅛) page, in addition to publication in legal notice. This notice shall be published in said newspapers at least twenty (20) days before the date of the said hearing. Publication of notices in the local newspapers in the following cities (if such cities have local newspapers) shall constitute compliance with this provision: Traverse City, Petoskey, Cadillac, Manistee, Alpena, Charlevoix, Boyne City, Gaylord, Grayling and West Branch. If there is no paper in the cities listed, a notice need not be published there; however, a notice must be published in some other newspaper circulated in the county wherein the city is located.

6. The notice specified in the preceding paragraph shall state a time, place and date of said meeting; the name and address of the officials of REA who shall chair said meeting; further, the notice shall describe the purpose and scope of said meeting, to wit, to hear statements from the public concerning: the environmental impact of any past or pending or the next loan or loan guarantee application and proposed approval; any unavoidable adverse environmental effects of such action or proposed action; alternatives to such action or proposed action; short-term uses of man's environment versus maintenance and enhancement of long-term productivity with respect to such actions or proposed actions; irreversible or irretrievable commitments of resources involved in such actions or proposed actions; and the now applicable REA regulations and guidelines with respect to the National Environmental Policy Act, in relation to the next or pending application for a further REA loan guarantee to WPSC.

The said notice shall provide that any written statements may be mailed to the REA official in charge, at the address specified in the notice, prior to, at, or within thrity (30) days from the close of said meeting. The notice shall also state that anyone can make an oral statement at said meeting within the purposes and scope thereof.

7. The meeting shall be transcribed by a certified court reporter, at WPSC's expense, and the transcript, together with both written statements or exhibits, shall be made part of the official public record of the Rural Electrification Administration with respect to the next or pending application for a fruther REA loan guarantee to WPSC with respect to Fermi #2. Copies of said public record shall be available to the public upon reasonable request and at a reasonable expense as determined by the REA, USA Defendants' regulations and guidelines of the Federal Freedom of Information Act, 15 U.S.C. 552, as amended by 5 U.S.C. 552(b)(3). One copy of the public record, together with all exhibits and written statements, shall be provided free of charge by the REA to the Plaintiffs (as a group) and to the WPSC. Written or oral statements introduced into the public record may concern past actions of REA with respect to financing purchase by the Defendant Co-Ops of an ownership interest in the Enrico Fermi Unit #2 Nuclear Power Plant with the express understanding that such statements are for information purposes only and in no way affect the validity of any loans or federal actions.

8. At the beginning of said meeting, USA Defendants, REA, shall state the purpose of the meeting and summarize the past procedures and approvals regarding the loan guarantees and compliance with the National Environmental Policy Act of 1969 and REA bulletins and guidelines with respect to WPSC's participation in the Enrico Fermi Unit #2 Power Plant. Plaintiffs shall summarize the allegations in the previous lawsuit, their waiver of any and all relief requested therein, and the terms and provisions of this Stipulation and Consent Judgment. USA Defendants and WPSC may, if they so choose, as part of their statement at the beginning of said meeting, summarize and explain the Stipulation and Consent Judgment.

9. After publication of the notice described in paragraph 5 above, any party to this lawsuit, or any person, may request, in writing, the USA Defendants, REA, to comment or to respond in any manner relevant to the purpose of said meeting. REA may respond to said written questions at said meeting, or may respond in writing within sixty (6) days after said meeting. Under no circumstances shall USA Defendants, REA, respond or comment on said questions later than ninety (90) days from the date of said meeting without the mutual consent of the other parties hereto. Written questions by any party or persons shall be relevant to the scope and purposes of said meeting as set forth herein.

10. The Consent Judgment or Consent Decree entered pursuant to this Stipulation, and this Stipulaiton, shall be published in the **Federal Register** within thirty (30) days after the entry of the Consent Judgment.

11. WPSC shall pay costs and attorney fees to Plaintiffs in the aggregate amount of One Thousand Dollars ($1,000.00).

12. This Stipulation, and the Consent Judgment entered pursuant hereto, are in complete and full satisfaction of any and all claims of the Plaintiffs as set forth in their Complaint, or their Amended Complaints, and Plaintiffs hereby waive any and all claims of any nature arising out of their Complaint and Amended Complaints, or the subject matter covered by their Complaint and Amended Complaint and will not assist any other person in any legal action against any of the Defendants involving the subject matter of the Complaint and the Amended Complaint.

13. The written signatures of the attorneys of the parties to this Stipulation fully bind the parties to the terms and provisions hereof; and, upon the signing by all parties' attorneys of this Stipulation, the said Stipulation and Consent Judgment shall be filed with the Court for signature and entry.

Dated: July 26, 1983

James M. Olson,

Attorneys for Plaintiffs.

Dated: July 15, 1983.

Thomas Gezon,

United States Attorney's Office, Attorneys for USA Defendants.

Dated: July 27, 1983.

Richard A. Bandstra,

Attorney for Defendant WPSC.

[FR Doc. 83-24414 Filed 9-6-83; 8:45 am]

BILLING CODE 3410-15-M

CIVIL AERONAUTICS BOARD

[Docket 41441]

Denham Aircraft Services Corp. II Fitness Investigation; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on September 9, 1983, at 10:00 a.m. (local time) in Room 1027, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., before the undersigned administrative law judge.

Dated at Washington, D.C., August 31, 1983.

John M. Vittone,

Administrative Law Judge.

[FR Doc. 83-24442 Filed 9-6-83; 8:45 am]

BILLING CODE 6320-01-M

CIVIL RIGHTS COMMISSION

California Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the California Advisory Committee to the Commission will convene at 10:00 a.m. and will end at 1:00 p.m., on September 29, 1983, at the University of Southern California, Institute of Politics and Government, JEF–110 Room, University Park, Los Angeles, California. The purpose of the meeting is to discuss plans for a possible conference on civil rights issues in the communication industry.

Persons desiring additional information or planning a presentation to the Committee, should contact the Acting Chairperson, Ms. Helen H. Snoddy, 1598 Beloit Avenue, Claremont, California 91711, (714) 624–5542; or the Western Regional Office, 3660 Wilshire Boulevard, Suite 810, Los Angeles, California 90010, (213) 798–3437.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 31, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83-24376 Filed 9-6-83; 8:45 am]

BILLING CODE 6335-01-M

Maine Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Maine Advisory Committee to the Commission will convene at 6:00 p.m. and will end at 8:00 p.m., on September 28, 1983, at the Maine Teachers Association, Conference Room, 35 Community Drive, Augusta, Maine. The purposes of the meeting are to discuss the regional block grant project, implementation of the law requiring a survey of educational programs for refugees and the status of a Maine civil rights bill.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Ms. Lois G. Reckitt, 38 Myrtle Avenue, South Portland, Maine 04106, (207) 775–1451; or the New England Regional Office, 55 Summer Street, 8th Floor, Boston, Massachusetts 02110, (617) 223–4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 31, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83-24375 Filed 9-1-83; 8:45 am]

BILLING CODE 6335-01-M

Texas Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Texas Advisory committee to the Commission will convene at 10:00 a.m. and will end at 3:00 p.m., on September 29, 1983, at the Sheraton Crest Inn, Nueces Room, Congress and First Streets, Austin, Texas. The purpose of the meeting is to discuss program plans.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Dr. Denzer Burke, 1421 Pine Street, Texarkana, Texas 75501 (214) 794–9741; or the Southwestern Regional Office, Heritage Plaza, 416 South Main, San Antonio, Texas 78204 (512) 730–5570.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 31, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83-24377 Filed 9-6-83; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Office of the Secretary

Nomination Procedures To Award the National Technology Medal

AGENCY: Office of the Assistant Secretary for Productivity, Technology and Innovation.

ACTION: Nomination of candidates for the National Technology Medal.

SUMMARY: This notice describes the procedures and criteria for the nomination of candidates for the National Technology Medal. The medal, being authorized under the Stevenson-Wydler Technology Innovation Act of 1980 (Pub. L. 96–480, 15 U.S.C. 3711), will be presented by the President to individuals and/or companies for their outstanding contributions to the promotion of technology or technological manpower with results leading to the improvement of the well-being of the United States.

FOR FURTHER INFORMATION CONTACT: Dr. Philip Goodman, Senior Technical Adviser, Office of the Assistant Secretary for Productivity, Technology and Innovation, U.S. Department of Commerce, Room 4824, Washington, D.C. 20230, Telephone: (202) 377–0825.

SUPPLEMENTARY INFORMATION: Pursuant to the Stevenson-Wydler Technology Innovation Act of 1980 (Pub. L. 96–480, 15 U.S.C. 3711), the President is authorized to award medal(s) to recipient(s) deserving special recognition for outstanding contributions to the promotion of technology or technological manpower that improve the economic, environmental or social well-being of this nation.

Criteria

Impact of the contributions on the economy, environment, or social well-

being of the United States will be judged as follows:

(a) *Promotion of Technology.*

(1) Demonstrated and successful accomplishment. The contribution results in competitive advantage in domestic and/or foreign markets, provides economically feasible environmental protection, or improves health care of safety. Key considerations will be the breadth of influence on a number of industrial sectors and the extent to which a market need is filled.

(2) Technological merit. Technology is critical to the contribution. Such contribution to technology must be ingenious in the use of new or established technology.

(3) The role of the nominee. Considerations will include: risk-taking, vision, persistence, management skills, and entrepreneurial or organizational skills.

(b) *Promotion of Technological Manpower.*

(1) Improvements in the resulting quality of technological manpower;

(2) Alleviation of manpower shortages;

(3) Motivation and improved performance of available manpower.

Recipients and Eligibility

Any citizen of the United States or U.S.-owned company, or a combination of the two, are eligible recipients of the medal. Members of the Steering Committee, the Evaluation Committee, or other advisory bodies utilized by the Secretary of Commerce shall not be eligible for the award during the period of service or a period of five years (5) thereafter.

Processing Nominations

Nominations should be submitted to: Assistant Secretary of Commerce for Productivity, Technology and Innovation, U.S. Department of Commerce, room 4824, 14th and Constitution Avenue NW., Washington, D.C. 20230.

The envelope should be clearly market "Nomination for National Technology Medal."

For the year 1983, nominations will only be considered if received on or before November 30, 1983. To be considered in succeeding years, applications must be received between May 1 and July 31 of each year.

Submissions should provide the name of nominee, nature of affiliation with the submitter, employer, summary of achievement, and contain a separate discussion addressing the specified criteria.

The Secretary of Commerce has appointed a Steeing Committee chaired by the Assistant Secretary of Commerce for Productivity, Technolgy and innovation, with the Director of the National Bureau of Standards and the Commissioner of the Patent and Trademark Office making up the balance of the Commission. The Steering Committee will transmit all nominations to an Evaluation Committee, consisting of 6 to 12 members, which shall review nominations from all sources and recommend to the Steering Committee a priority listing of nominees deserving the medal. The Secretary of Commerce at his/her discretion may consult other bodies for advice on the merit and relative priority of nominations submitted by the Steering Committee. After consideration of the nominees, the Secretary of Commerce shall forward to the President a description of contributions and a listing in priority order of candidates who, in the Secretary's opinion, deserve special recognition as authorized in Section 12 of the Act. The President will thereafter make the ultimate determination(s).

An appropriate award ceremony will be held wherein the President will make the presentations.

Dated: August 31, 1983.

Robert G. Dederick,

Under Secretary for Economic Affairs.

[FR Doc. 83-24426 Filed 9-6-83; 8:45 am]

BILLING CODE 3510-18-M

International Trade Administration

[Case No. 626]

Piher Semiconductores, S.A.; Order Amending Temporary Denial of Export Privileges

In the matter of Piher Semiconductores, S.A., Avda. San Julian, s/n, Apartado Correos 177, Granallers (Barcelona), Spain.

By Orders of April 9, 1982, 47 FR 16819 (April 20, 1982), June 2, 1982, 47 FR 24765 (June 8, 1982), August 3, 1982, 47 FR 35808 (August 17, 1982), October 12, 1982, 47 FR 46558 (October 19, 1982), December 7, 1982, 47 FR 55989 (December 14, 1982), March 22, 1983, 48 FR 12762 (March 28, 1983), and May 19, 1983, 48 FR 23471 (May 25, 1983), the Order of February 25, 1982, 47 FR 9044 (March 3, 1982) Temporarily Denying Export Privileges was amended so as to authorize certain exports by Piher International Corp. The Order of May 19, 1983 further provided that Piher International Corp. could apply for an extension of such authorization to export if serious economic hardship would be caused by a failure of such extension coupled with a continuing consideration of a motion filed by Piher International Corp. that requested exception from the provisions of Paragraph III of the Order of February 25, 1982.

Consideration of this motion to except Piher International Corp. is still continuing, and it has now applied for an extension of its authorization to make certain exports, asserting that failure to obtain the extension will entail serious economic hardship.

Based on the representations made by Piher International Corp., I find that its application for an extension of its authorization to make certain exports is justified, and that granting this extension will not jeopardize the purpose of the Order of February 25, 1982.

Accordingly, it is hereby ordered that the Order of February 25, 1982 is further amended by excepting, from its denial of export privileges, Piher International Corp., with addresses at 565 W. Golf Road, Arlington Height, Illinois 60005 and at Post Office Box 91969, Chicago, Illinois 60680, insofar as Piher International Corp. exports variable resistors and potentiometers to its customers in Canada and Singapore in fulfillment of shipments scheduled through November 1983 in the shipment release documents filed by Piher International Corp. in support of its Application for this extension, provided all such exports are G–DEST under the Export Administration Regulations (15 CFR Part 368, *et seq.* (1982)). Piher International Corp. may apply for an extension of this Amendment to shipments scheduled after November 1983 should a continuing consideration of its aforesaid motion entail serious economic hardship if such an extension is not issued.

This Amendment of the Order is effective September 1, 1983.

Dated: August 26, 1983, 3:30 pm EDT.

Thomas W. Hoya,

Hearing Commissioner.

[FR Doc. 83-24338 Filed 9-6-83; 8:45 am]

BILLING CODE 3510-25-M

Electronic Instrumentation Technical Advisory Committee; Closed Meeting

SUMMARY: The Electronic Instrumentation Technical Advisory Committee was initially established on October 23, 1973, and rechartered on September 16, 1981, in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act.

Time and Place: September 22, 1983, at 9:30 a.m., Herbert C. Hoover Building, Room 3708, 14th Street and Constitution Ave., NW., Washington, D.C. The meeting will continue to its conclusion on September 23, in Room 3708, Herbert C. Hoover Building.

Agenda: The Committee will meet only in Executive Session to discuss matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM Control program and strategic criteria related thereto.

SUPPLEMENTARY INFORMATION: A Notice of Determination to close meetings of the Committee to the public on the basis of 5 U.S.C. 552b(c)(1) was approved on September 29, 1981, in accordance with the Federal Advisory Committee Act. A copy of the Notice is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Telephone: 202–377–4217.

FOR FURTHER INFORMATION CONTACT: Mrs. Margaret A. Cornejo, telephone: (202) 377–2583.

Dated: September 1, 1983.

Milton M. Baltas,

Director of Technical Programs, Office of Export Administration.

[FR Doc. 83-24394 Filed 9-6-83; 8:45 am]

BILLING CODE 3510-25-M

Preliminary Determinations of Sales at Less Than Fair Value; Hot-Rolled Carbon Steel Plate and Hot-Rolled Carbon Steel Sheet From Brazil

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Determinations of Sales at Less than Fair Value: Hot-rolled Carbon Steel Plate and Hot-rolled Carbon Steel Sheet from Brazil.

SUMMARY: We preliminarily determine that hot-rolled carbon steel plate and hot-rolled carbon steel sheet from Brazil are being sold, or are likely to be sold, in the United States at less than fair value. Therefore, we have notified the United States International Trade Commission (ITC) of our determinations, and we have directed the Customs Service to suspend liquidation of all entries of the subject merchandise. We have directed the U.S. Customs Service to require a cash deposit or the posting of a bond for each such entry in an amount equal to the estimated dumping margins as described in the "Suspension of Liquidation" section of this notice.

If these investigations proceed normally, we will make our final determinations by November 14, 1983.

EFFECTIVE DATE: September 7, 1983.

FOR FURTHER INFORMATION CONTACT: Kenneth K. Haldenstein, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377–4136.

SUPPLEMENTARY INFORMATION:

Preliminary Determinations

We preliminarily determine that there is a reasonable basis to believe or suspect that hot-rolled carbon steel plate and hot-rolled carbon steel sheet from Brazil are being sold, or are likely to be sold, in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (19 U.S.C. 1673b) (the Act).

We found that the foreign market value of hot-rolled carbon steel plate and hot-rolled carbon steel sheet from Brazil exceeded the United States price on virtually all sales of hot-rolled carbon steel plate and hot-rolled carbon steel sheet. These margins ranged from 9.46 percent to 113.45 percent for hot-rolled carbon steel plate and from 21.82 percent to 79.82 percent for hot-rolled carbon steel sheet. The overall weighted-average margin on all sales compared is 57.82 percent for hot-rolled carbon steel plate and 39.38 percent for hot-rolled carbon steel sheet.

The weighted-average margins are presented in the "Suspension of Liquidation" section of this notice.

Case History

On January 31, 1983, we received a petition from counsel for Bethlehem Steel Corporation on behalf of the domestic hot-rolled carbon steel plate and hot-rolled carbon steel sheet industry. In accordance with the filing requirements of section 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of hot-rolled carbon steel plate and hot-rolled carbon steel sheet from Brazil are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act and that these imports are materially injuring, or threatening to materially injure, a United States industry.

After reviewing the petition, we determined that it contained sufficient grounds to initiate antidumping investigations. We notified the ITC of our action and initiated the investigations on February 28, 1983 (48 FR 8320–8321). On March 17, 1983, we were informed by the ITC that there is a reasonable indication that imports of hot-rolled carbon steel plate and hot-rolled carbon steel sheet are materially injuring a United States industry.

Questionnaires were presented to Companhia Siderurgica Paulista (COSIPA), Companhia Siderurgica Nacional (CNS), and Usinas Siderurgicas de Minas Gerais S/A (USIMINAS), on March 21, 1983. The responses were received on May 24, 1983. On July 5, 1983, we received an allegation that sales of these products in Brazil were at prices which were below the cost of production and requested responses to cost questionnaries. The cost responses were received on August 8, 1983.

The preliminary determinations in these investigations were originally due by July 11, 1983. We subsequently determined that these investigations were "extraordinarily complicated" as defined in section 733(c)(1)(B) of the Act, and we extended the deadline for making our preliminary determinations to August 29, 1983 (48 FR 28660).

Scope of Investigation

The products covered by these investigations are hot-rolled carbon steel plate and hot-rolled carbon steel sheet. The term "hot-rolled carbon steel plate" covers hot-rolled carbon steel products, whether or not corrugated or crimped; not pickled; not cold-rolled; not in coils; not cut, not pressed, and not stamped to non-rectangular shape; 0.1875 inch or more in thickness and over 8 inches in width; as currently provided for in items 607.6615 and 607.9400 of the *Tariff Schedules of the United States Annotated* (TSUSA); and hot-rolled carbon steel plate which has been coated or plated with metal including any material which has been painted or otherwise covered after having been coated or plated with metal, as currently provided for in items 608.0710 and 608.1100 of the TSUSA. Semifinished products of solid rectangular cross sections with a width at least four times the thickness in the cast condition or processed only through primary mill hot rolling are not included.

Hot-rolled carbon steel plate is used in the construction of bridges, mining equipment, pressure vessels, railroad freight and pasenger cars, ships, line pipe, industrial machinery, machine parts, and a large variety of other products.

The term "hot-rolled carbon steel sheet" covers hot-rolled carbon steel products, whether or not corrugated or crimped and not pickled; not cold-rolled; not cut, not pressed, and not stamped to

non-rectangular shape; not coated or plated with metal and not clad; over 8 inches in width and over 0.1875 inch in thickness and in coils, as currently provided for in item 607.6610 of the TSUSA.

Hot-rolled carbon steel sheet is used in the construction of automobiles, industrial machinery and products, pipe, and a large variety of other products.

These investigations cover the period from August 1, 1982 to January 31, 1983. COSIPA, CSN, and USIMINAS are the only known Brazilian producers who export the subject merchandise to the United States. COSIPA and USIMINAS export hot-rolled carbon steel plate and COSIPA, CSN and USIMINAS export hot-rolled carbon steel sheet to the United States. We examined 100 percent of United States sales made during the period of investigation.

Fair Value Comparisons

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

As provided in section 772(b) of the Act, we used the purchase price of the subject merchandise to represent the United States price because the merchandise was sold to unrelated purchasers prior to its importation into United States. We calculated the purchase price based on the F.O.B. price to United States purchasers. We deducted brokerage charges, inland freight, handling charges, inland insurance and other expenses incurred in delivering the products to the port of exportation, where appropriate. We added taxes which were refunded or not collected because the products were being exported, where appropriate.

Foreign Market Value

In accordance with section 773(a)(1) of the Act, we used home market prices where there were sufficient home market sales at or above cost of production to determine foreign market value. Where there were no or insufficient sales in the home market at prices at or above cost, we used constructed value. The petitioner alleged that sales in the home market were at prices below the cost of producing hot-rolled carbon steel plate and hot-rolled carbon steel sheet. We examined production costs, including materials, labor and general expenses. In calculating foreign market value, we made currency conversions from Brazilian cruzieros to United States dollars in accordance with § 353.56(a)(1) of the Commerce regulations using the certified daily exchange rates.

We found sales of certain subgroups of hot-rolled carbon steel plate were made at less than cost over an extended period of time, in substantial quantities and at prices not permitting the recovery of all costs within a reasonable period of time in the ordinary course of trade. Consequently, we could not use sales in the home market to determine the foreign market value of the products under investigation which are in these subgroups. Therefore, we used constructed value. Sufficient sales of other subgroups of the products under investigation were made in the home market at or above cost. Therefore, we used home market prices to determine the foreign market value for these subgroups.

The home market prices were based on ex-factory or delivered prices to unrelated home market purchasers. From these prices, we deducted, where appropriate, inland freight, inland insurance, and discounts. We made an adjustment for invoicing errors with respect to sales by CSN. An adjustment was also made, where appropriate, for the differences between commissions on sales to the United States and indirect selling expenses in the home market used as an offset to U.S. commissions in accordance with 19 CFR 353.15(c).

The respondents claimed an adjustment for differences in credit costs. We did not have a proper basis for determining the proper adjustment for differences in credit costs under 19 CFR 353.15 for purposes of these preliminary determinations. Therefore, we did not make the claimed adjustment. We are seeking further information on this claim.

No claims were made for adjustments for differences in physical characteristics. Packing was not included in the price to either market.

In accordance with section 773 of the Act, we calculated constructed value, where appropriate, by adding the cost of materials and of fabrication, general expenses, and profit. For materials and fabrication, we used the appropriate producers' actual cost figures.

We used the actual general expenses since they exceeded the statutory minimum of ten percent of the sum of material and fabrication costs. Profit was calculated using the statutory minumum of eight percent of the sum of the general expenses and cost since the actual profit was less than the statutory minimum. We did not add packing costs since the merchandise sold to the United States was sold unpacked.

Verification

As provided in section 776(a) of the Act, all data used in reaching the final determinations will be verified.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the United States Customs Service to suspend liquidation of all entries of hot-rolled carbon steel plate and hot-rolled carbon steel from Brazil. This suspension of liquidation applies to all merchandise entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the Federal Register. The U.S. Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average margin amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price. The suspension of liquidation will remain in effect until further notice. The weighted-average margins are as follows:

Manufacturers/producers/exporters	Weighted-average margins (percent)
Hot-rolled carbon steel plate:	
COSIPA	75.90
USIMINAS	36.84
All other Manufacturers/Producers/Exporters	57.82
Hot-rolled carbon steel sheet:	
COSIPA	75.75
CSN	78.82
USIMINAS	30.59
All Other Manufacturers/Producers/Exporters	39.39

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determinations. In addition, we are making available to the ITC all non-privileged and non-confidential information relating to these investigations. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

The ITC will determine whether these imports are materially injuring or threatening to materially injure a U.S. industry, before the later of 120 days after the Department makes its preliminary affirmative determinations or 45 days after the Department makes final affirmative determinations.

Public Comment

In accordance with section 353.47 of the Commerce Department Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on these preliminary determinations at 10:00 a.m. on October 7, 1983, at the United States Department of Commerce, conference room 3708, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within 10 days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) The number of participants; (3) The reason for attending; and (4) A list of the issues to be discussed. In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by September 23, 1983. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, within 30 days of this notice's publication, at the above address and in at least 10 copies.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

August 31, 1983.

[FR Doc. 83-24432 Filed 9-6-83; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Gulf of Mexico Fishery Management Council's Special Mackerel Committee Members; Public Meeting

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

SUMMARY: The Gulf of Mexico Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (P.L. 94-265, as amended), will convene special mackerel committee members of the Scientific and Statistical Committee to review a new stock assessment of the king mackerel resource.

DATES: The public meeting will convene on Friday, September 16, 1983, at approximately 8:30 a.m., and will adjourn at approximately 3 p.m.

ADDRESS: The public meeting will take place at the Council's Headquarters Office, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Flordia.

FOR FURTHER INFORMATION CONTACT: Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609, Telephone: (813) 228-2815.

Dated: September 1, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 83-24433 Filed 9-6-83; 8:45 am]

BILLING CODE 3510-22-M

CONSUMER PRODUCT SAFETY COMMISSION

[CPS Docket No. 83-3]

Janex Corp.; Complaint

AGENCY: Consumer Product Safety Commission.

ACTION: Publication of a Complaint under the Federal Hazardous Substances Act.

SUMMARY: Under Provisions of its Rules of Practice for Adjudicative Proceedings (16 CFR Part 1025, 45 FR 29206), the Consumer Product Safety Commission must publish in the **Federal Register** Complaints which it issues. Printed below is a Complaint in the matter of Janex Corporation, a corporation.

SUPPLEMENTARY INFORMATION:

Complaint

Nature of the Proceedings

1. This is an adjudicative proceeding for public notice and remedial action for a banned hazardous substance pursuant to section 15 of the Federal Hazardous Substances Act (FHSA), 15 U.S.C. 1274 (1982). This proceeding is governed by the Rules of Practice for Adjudicative Proceedings before the Consumer Product Safety Commission, 16 CFR 1025 (1983).

Jurisdiction

2. This proceeding is instituted pursuant to the FHSA, 15 U.S.C. 1261 *et seq.*

Respondent

3. Respondent Janex Corporation (Janex or Respondent) is a corporation organized and existing under the laws of the State of New York with corporate offices at 19 Wardell Circle, Oceanport, New Jersey 07757.

4. Respondent imported, introduced into interstate commerce, and sold in commerce, within the meaning of 15 U.S.C. 1261(b) and 1274 and 16 CFR 1500.18(a)(9) (1982), approximately 52,000 toys known and labeled as the "Musical Rock-A-Bye Railroad," No. 2010, from on or about June, 1982 to on or about November, 1982.

5. Respondent is a manufacturer of the "Musical Rock-A-Bye Railroad," within the meaning of 15 U.S.C. 1274.

The Toy

6. The "Musical Rock-A-Bye Railroad," is a plastic locomotive or engine designed to be mounted on the rail of a crib or used as a pull toy. The toy weighs approximately 1.2 lbs. and measures 7½" long by 7½" high by 3¾" wide. The toy can be knocked off a crib rail by an upward force of 0.5 lbf. to 4.5 lbf. applied near the front wheels. The smokestack can be turned to wind up a music box within the toy. The wheels of the locomotive, the smokestack, and figures in the cab turn as the music plays.

7. The "Musical Rock-A-Bye Railroad," is labeled "For Infants and Older Children" and is intended for use by children under three years of age.

8. The "Musical Rock-A-Bye Railroad," is a toy within the meaning of 15 U.S.C. 1261(f)(1)(D) and 16 CFR 1501.2(a), a regulation pertaining to small parts on toys and other articles intended for use by children.

Banned Hazardous Substance

9. The "Musical Rock-A-Bye Railroad," is subject to the regulations prohibiting small parts in toys intended for children under three years of age. 16 CFR 1501 and 1500.18(a)(9).

10. Units of the "Musical Rock-A-Bye Railroad" fractured, broke, and/or separated in such manner as to produce parts small enough to fit within the test cylinder, or small parts, when tested according to the requirements of the regulations, 16 CFR 1501 and 1500.50, .51, and .52.

11. The "Musical Rock-A-Bye Railroad" fails to comply with the regulations prohibiting small parts in toys intended for children under three years of age.

12. The "Musical Rock-A-Bye Railroad" is, therefore, a "banned hazardous substance." 16 CFR 1500.18(a)(9).

13. The "Musical Rock-A-Bye Railroad," a banned hazardous substance, presents a "mechanical hazard" to young children as defined by the FHSA and the regulations thereunder. 16 CFR 1500.18(a)(9) and 1501 and 15 U.S.C. 1261(s).

14. "Musical Rock-A-Bye Railroad," a banned hazardous substance, presents an "unreasonable risk of personal injury or illness" to young children as defined by the FHSA and the regulations

thereunder. 16 CFR 1501.18(a)(9) and 1501 and 15 U.S.C. 1261(s).

15. The small parts regulations were promulgated to ensure that toys which can cause injury from choking, aspiration, and ingestion of small parts would not be sold in interstate commerce and thus that children would be protected from these hazards.

16. The importation and the introduction into commerce of the "Musical Rock-A-Bye Railroad," a banned hazardous substance, are prohibited by the regulations and in direct violation of them. 15 U.S.C. 1263(a) and 1261(b) and 16 CFR 1500.18(a)(9) and 1501.

17. The importation and sale in commerce of the "Musical Rock-A-Bye Railroad," a banned hazardous substance, expose children to the hazards from which the small parts regulations seek to protect them.

18. It is in the public interest to obtain for young children the protection from choking, aspiration, and ingestion hazards provided for by the small parts regulations.

19. It is in the public interest to protect young children from the choking, aspiration, and ingestion hazards presented by the "Musical Rock-A- Bye Railroad," an article which does not comply with the small parts regulations and is a banned hazardous substance.

20. It is in the public interest to obtain for young children the protection from the choking, aspiration, and ingestion hazards presented by the "Musical Rock-A-Bye Railroad," a banned hazardous substance, which they would have had if the article had complied with the small parts regulations.

21. Pieces of the "Musical Rock-A-Bye Railroad," broke off during the impact test (ten drops from a height of 4.5 ft.). 16 CFR 1500.51(a)(3).

22. Pieces of the toy broke off during the tension test (application of a force of 15 lbs. built up over 5 seconds and maintained for 10 seconds). 16 CFR 1500.52(f)(3).

23. The pieces that broke off during testing fit within the test cylinder, violated the small parts regulations, and were thus small enough to be hazardous to children under three years of age. 16 CFR 1501 and 1500.18(a)(9).

24. The failures of the "Musical Rock-A-Bye Railroad," in testing created the very risks which the small parts regulations seek to prevent.

25. Moreover, the toy will be dropped in excess of ten times over its lifetime when used by young children.

26. The toy will be pulled on for more than 10 seconds with a force of 15 lbs. built up for 5 seconds over its lifetime when used by young children.

27. The tests show that the toy will break and create small parts hazardous to young children over its lifetime.

28. Many of these toys are currently being used and will be used in the future.

29. For the reasons stated above, particularly in paragraphs 13 through 28, it is in the public interest for Respondent to provide repair, replacement, and/or refunds for the "Musical Rock-A-Bye Railroad."

30. It is also necessary for the adequate protection of the public, particularly young children, for Respondent to give public notice that the "Musical Rock-A-Bye Railroad," is a banned hazardous substance which presents choking, aspiration, and ingestion hazards

31. It is in the public interest that Respondent undertake these remedial measures—public notice and repair, replacement, and/or refund for the articles—as soon as possible.

Relief Sought

Wherefore, Compliant Counsel requests the Commission to:

A. Determine that the "Musical Rock-A-Bye Railroad," No. 2010, is a banned hazardous substance and that notification as provided for in 15 U.S.C 1274(a) is required to adequately protect the public and order Janex Corporation to:

1. Give public notice that the article is a banned substance by

(a) Issuing a press release jointly with the Commission and

(b) Providing posters to all retail customers and to wholesale customers for distribution to their retail customers with at least one poster for each retail outlet;

2. Mail notice to each person who is a manufacturer, distributor, or dealer of the article;

3. Mail notice to every person to whom Respondent knows the article was delivered or sold; and

4. Give all notice with the content specified in Exhibit 1 and after approval by the Commission staff.

B. Determine that the "Musical Rock-A-Bye Railroad," No. 2010, is a banned hazardous substance and that action under 15 U.S.C. 1274(b) is in the public interest and order Janex Corporation to

1. Elect either to replace the article with a like or equivalent article which is not a banned hazardous substance, or to refund the purchase price or the article, or to provide replacements and refunds as alternative remedies and

2. Submit a plan, satisfactory to the Commission, for taking the actions in paragraph B.1 above within 15 days of the issuance of an order mandating the election.

C. Specify that refunds must be made to consumers who own or have the article in their possession.

D. Prohibit Janex Corporation from manufacturing the "Musical Rock-A-Bye Railroad," No. 2010, and the same article under any other name or designation for sale, offering the articles for sale, distributing them in commerce, and importing them into the customs territory of the United States.

E. Order Respondent, as provided for by 15 U.S.C. 1274(c)(1), to make no charge to any person who avails himself of any remedy provided under Paragraphs B and C above, and order Respondent to reimburse each person entitled to any such remedy for any reasonable and foreseeable expenses incurred by him in availing himself of any such remedy.

F. Determine that reimbursement is in the public interest and order Janex Corporation to reimburse all distributors and dealers of the article for their expenses in connection with carrying out the order or orders of the Commission mandating the actions in Paragraphs A, B, and/or C above, including giving credit or refunds for returned inventory and paying transportation expenses.

G. Order Respondent to keep records of

1. The notice required to be given in paragraph A;

2. The amount and recipient of each refund made and the recipient and date of each replacement made under Paragraphs B and C;

3. The amount of each reimbursement for reasonable and necessary expenses and the recipient under Paragraph E; and

4. The amount of each reimbursement and the recipient under Paragraph F.

H. Order Respondent to provide copies of the records specified in Paragraph G and extracts from these records and copies of the notice ordered under Paragraph A to Commission staff for a period of three years after entry of each Commission order in this proceeding mandating any of these actions.

I. Order Janex Corporation to file reports with the Commission staff, in a format agreed upon with them, containing the information specified in Paragraphs G and H above at 30 day intervals until the actions required under Paragraphs A through H above are completed, and order Respondent to provide any other information that may be requested to determine compliance with any order issued in this proceeding.

J. Order Respondent to notify the Commission at least 30 days prior to any change in its business (such as incorporation, dissolution, assignment, sale, or declaration of bankruptcy) that results in the emergence of a successor corporation, the creation or dissolution of subsidiaries, the dissolution of the corporation, or any other change that might affect compliance obligations under any Commission order issued in this proceeding for a period of three years after issuance.

K. Grant such other and further relief as the Commission believes necessary to protect the public health and safety and to implement the FHSA.

Issued by order of the Consumer Product Safety Commission.

Dated: August 31, 1983.

David Schmeltzer,

Associate Executive Director for Compliance and Administrative Litigation.

List and Summary of Documentary Evidence

1. CPSC Test Report for Small Parts Testing, Musical Rock-A-Bye Railroad, No. 2010, Sample F–598–0157, October 1, 1982.

Test report showing failure of tension test and noncompliance with small parts regulations.

2. CPSC Test Report for Small Parts Testing, Musical Rock-A-Bye Railroad, No. 2010, Sample F–805–4998 (consisting of 12 subsamples tested in the Test Report and described in the Sample Collection Report but labeled F–805–4997) March 14, 1983.

Test report showing failures of impact and tension tests and noncompliance with small parts regulations.

3. *Engineering Test Manual: Requirements for Toys and Other Articles Intended for Use by Children Under 8 years of Age, U.S. Consumer Procuct Safety Commission* March, 1981.

Describes procedures for testing for small parts.

Exhibit 1

Janex Toy Train Engine Presents Hazards to Infants and Small Children

Washington, D.C.—The Consumer Product Safety Commission today announced that a musical action crib and pull toy, the Musical Rock-A-Bye Railroad, No. 2010, distributed by the Janex Corporation, 19 Wardell Circle, Oceanport, New Jersey, may present choking, aspiration and ingestion hazards because of small parts which can break off.

This toy is a plastic train engine which can be clamped on the rail of the crib or used as a pull toy outside the crib.

When the "smokestack" is wound up, the toy plays music and the rear wheels turn. The train engine is made of blue plastic with pink and white wheels, a red and white smokestack, and a yellow bell. Yellow decals with red printing on each side of the train engine say, "Muscial ROCK-A-BYE RAILROAD." The toy train engine is approximately 7½" high by 7½" long and 3¾" wide.

When the Commission tested this toy according to safety requirements for toys, several components including the bell broke off. This is a violation of the CPSC Small Parts Requirement which band small parts in toys intended for children under three years of age. These components are small enough to be choking, aspiration, and ingestion hazards to infants and young children. These particular toys have not been involved in any incidents known to CPSC.

The Janex Corporation distributed 50,000 of these toys form April through October 1982. The Rock-A-Bye Railroad sold for approximately $9.97.

Consumers should remove these toys from use immediately and contact the company to obtain a replacement or refund. Retailers and distributors should return all inventory to the company as soon as possible.

For Further information, call Janex Corporation at 201/229–8482 or the Commission's toll-free hotline at 800–638–CPSC. The teletypewriter number for the hearing impaired is 800–638–8270.

Dated: August 31, 1983.

Sheldon D. Butts,

Acting Secretary.

[FR Doc. 83–24346 Filed 9–6–83; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Defense Intelligence Agency Advisory Committee; Closed Meeting

Pursuant to the provisions of Subsection (d) of Section 10 of Pub. L. 92–463, as amended by Section 5 of Pub. L. 94–409, notice is hereby given that a closed meeting of a Panel of the DIA Advisory Committee has been scheduled as follows:

Monday, 17 October 1983, Plaza West, Rosslyn, VA.

The entire meeting, commencing at 0900 hours is devoted to the discussion of classified information as defined in Section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a special study on reconnaissance requirements.

Dated: September 1, 1983.

M. S. Healy,

OSD Federal Register Liason Officer, Department of Defense.

[FR Doc. 83–24362 Filed 9–6–83; 8:45 am]

BILLING CODE 3810–01–M

Department of the Air Force

USAF Scientific Advisory Board; Meeting

August 25, 1983.

The USAF Scientific Advisory Board Tactical Cross-Matrix Panel will meet at the Langley AFB, VA, on 12–13 October 1983. The purpose of the meeting will be to review airbase survivability and its effects on Tactical Air Force operations, tactics, and requirements. The meeting will convene at 9:00 am on both days and will adjourn at 4:30 pm on the 12th and 11:30 on the 13th.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 697–4648.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 83–24362 Filed 9–6–83; 8:45 am]

BILLING CODE 3910–01–M

Army Medical Research and Development Advisory Committee; Partially Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Subcommittee meeting:

Name of Committee: United States Army Medical Research and Development Advisory Committee, Subcommittee on Medical Entomology.

Date of Meeting: 3, 4 October 1983.

Time & Place: 0830 hrs, Conference Room, Bldg 1425, US Army Medical Research / Institute of Infectious Diseases, Fort Detrick, Frederick, MD.

Proposed Agenda: This meeting will be open to the public from 0830 to 0945 hrs for the administrative review and discussion of the scientific research program of the Medical Entomology Branch, Walter Reed Army Institute of Research. Attendance by the public at open sessions will be limited to space available.

In accordance with the provisions set forth in Section 552 (c)(6), US Code, Title 5 and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 1000 to 1630 hrs on 3 October and from 0900 to 1200 hrs on 4 October for the review, discussion and evaluation of individual programs and projects conducted by the US Army Medical

Research and Development Command, including consideration of personnel qualifications and performance the competence of individual investigators, medical files of individual research subjects, and similar items, the disclosure to which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Howard Noyes, Associate Director for Research Management, Walter Reed Army Institute of Research, Bldg 40, Room 1111, Walter Reed Army Medical Center, Washington, DC 20307 (202/576-2436) will furnish summary minutes, roster of Subcommittee members and substantive program information.

Harry G. Dangerfield,

Colonel, MC, Deputy Commander.

[FR Doc. 83-24042 Filed 9-6-83; 8:45 am]

BILLING CODE 3710-08-M

Medical Research and Development Advisory committee; Partially Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Subcommittee meeting:

Name of committee: United States Army Medical Research and Development Advisory Committee, Subcommittee on Viral and Rickettsial Diseases.

Date of Meeting: 6, 7 October 1983.

Time & Place: 0830 hrs, Room 3092, Walter Reed Army Institute of Research, Washington, DC.

Proposed Agenda: This meeting will be open to the public from 0830 to 0945 hrs for the administrative review and discussion of the scientific research program of the Viral and Rickettsial Diseases Branch, Walter Reed Army Institute of Research. Attendance by the public at open sessions will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), US Code, Title 5 and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 1000 to 1630 hrs on 6 October and from 0900 to 1200 hrs on 7 October for the review, discussion and evaluation of individual programs and projects conducted by the US Army Medical Research and Development command, including consideration of personnel qualifications and performance the competence of individual investigators, medical files of individual research subjects, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Howard Noyes, Associate Director for Research Management, Walter Reed Army Institute of Research, Bldg 40, Room 1111, Walter Reed Army Medical Center, Washington, DC 20307 (202/576-2436) will furnish summary minutes, roster of Subcommittee members and substantive program information.

Harry G. Dangerfield,

Colonel, MC, Deputy Commander.

[FR Doc. 83-24042 Filed 9-6-83; 8:45 am]

BILLING CODE 3710-08-M

DELAWARE RIVER BASIN COMMISSION

Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, September 14, 1983, beginning at 1:30 p.m. in the Parlor Room of Mohonk Mountain House, in New Paltz, New York. The hearing will be a part of the Commission's regular business meeting, which is open to the public.

An informal pre-meeting conference among the Commissioners and staff will be open for public observation beginning at 11:00 a.m. in the Sunset Room of Mohonk Mountain House, New Paltz, New York.

The subjects of the hearing will be as follows:

Applications for Approval of the Following Projects Pursuant to Article 10.3, Article 11, and/or Section 3.8 of the Compact:

1. *Camden County Municipal Utilities Authority (D-71-9 CP Revised) Supplement.* Modification of the regional wastewater management plan for the applicant's service area in Delaware Basin District Nos. 1 and 2, in Camden County, New Jersey. Modifications include: (1) Increasing design flows for the District No. 1 and No. 2 treatment plants from 60 to 75 million gallons per day (mgd) and from 14 to 17 mgd, respectively, and (2) optional phased construction of the regional treatment facilities. Phasing would entail construction to treat 38 mgd at the District No. 1 facility by 1985 and full capacity operation at both facilities by July, 1988.

2. *Hazleton City Authority (D-82-37 CP) Amendment No. 1.* A proposal to include the construction of wetland mitigation areas near Dreck Creek Reservoir. Two timber dams will be constructed upstream to create one acre of low water pools and the borrow areas will be regarded to provide 6.3 acres of diversified wetland habitat.

3. *Waterloo Gardens, Inc. (D-83-12).* A ground water withdrawal project to supply up to 0.20 mgd of water for heating, cooling and backup supply for irrigation at the applicant's commercial nursery and landscape facility in West Whiteland Township, Chester County, Pennsylvania. Proposed Well No. 2 will serve as a ground water heating and cooling return well, a supplemental supply source, and as a backup source to existing Well No. 1. The well is located in the Southeastern Pennsylvania Ground Water Protected Area.

4. *Mobil Oil Corporation (D-83-14).* A dredging project at the applicant's Paulsboro refining plant in Greenwich Township, Gloucester County, New Jersey. The proposed project will consist of lengthening one of the refinery's berthing facilities (Berth #1) by 228 feet and dredging to a depth of 40.0 feet below mean low water to allow access by larger tankers. Approximately 60,000 cubic yards of dredged material will be removed from the project site, on the Delaware River near Paulsboro, and transported by barge to an approved disposal area.

5. *Allen Products Company, Inc. (D-83-18).* Expansion of an industrial waste treatment facility at the applicant's pet food processing and canning plant in South Whitehall Township, Lehigh County, Pennsylvania. The facility will be expanded for continued removal of BOD_5, TSS, NH_3, oil and coliforms from a waste flow to be increased from 0.282 to 0.302 mgd. Non-contact cooling water (0.014 mgd) will continue to be discharged through a separate outfall. The treated effluent will discharge through the existing outfall to an unnamed tributary of Jordan Creek, a tributary to the Lehigh River.

6. *Borough of Kutztown (D-83-23 CP).* A ground water withdrawal project to supplement existing ground water supplies to the applicant's distribution system in Kutztown Borough and Maxatawny Township, Berks County, Pennsylvania. New Wells Nos. 3A in Maxatawny Township and 5 in Kutztown Borough will be used to reduce pump operating times at existing Wells Nos. 1, 2 and 4 and will serve as secondary supply sources during drought conditions. Maximum withdrawals from Wells Nos. 3A and 5 are expected to be 0.35 mgd and 0.25 mgd, respectively. Withdrawals from all wells are expected to average 1.5 mgd by the year 2000.

7. *Blue Ridge Real Estate (D-83-25).* Expansion of a waste water teatment facility to serve the Jack Frost Ski Area and proposed Snow Ridge time sharing units in Kidder Township, Carbon County, Pennsylvania. An existing 0.03 mgd treatment plant will continue to discharge treated effluent to Porter Run in Kidder Township. A new aeration-spray irrigation system will be added to increase the total treatment capacity to

0.1 mgd. Treated effluent from the new facility will be applied to a 19.64 acre spray area.

8. *Grows, Inc. (D–83–27).* Modifications to upgrade the industrial waste treatment plant at the applicant's solid waste disposal facility in Falls Township, Bucks County, Pennsylvania. Presently, Grows is permitted to discharge only during the winter months and is now seeking approval to discharge on a twelve month basis. The proposed additional facilities are designed to adequately treat a maximum flow of 100,000 gallons per day (gpd) prior to discharge into an inlet along the Delaware River. Review by the DRBC is limited to the wastewater discharge and does not include the landfill facilities.

Documents relating to these projects may be examined at the Commission's offices and are available in single copies upon request. Please contact David B. Everett. Persons wishing to testify at this hearing are requested to register with the Secretary prior to the hearing.

Susan M. Weisman,

Secretary.

August 30, 1983.

[FR Doc. 83–24320 Filed 9–6–83; 8:45 am]

BILLING CODE 6360–01–M

DEPARTMENT OF ENERGY

National Petroleum Council, Chemical Task Group of the Committee on Enhanced Oil Recovery; Meeting

Notice is hereby given that the Chemical Task Group of the Committee on Enhanced Oil Recovery will meet in September 1983. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Enhance Oil Recovery will investigate the technical and economic aspects of increasing the Nation's petroleum production through enhanced oil recovery. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location, and agenda of the Chemical Task Group meeting follows:

The Chemical Task Group will hold its twelfth meeting on Thursday and Friday, September 22 and 23, 1983, starting at 8:30 a.m. each day, in Room 112, Phillips Petroleum Company, Research Forum, Bartlesville, Oklahoma.

The tentative agenda for the Chemical Task Group Meeting follows:

1. Opening remarks by the Chairman and Government Cochairman.
2. Review progress of Task Group study assignments.
3. Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the Chemical Task Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Chemical Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform G. J. Parker, Office of Oil, Gas and Shale Technology, Fossil Energy, 301/353–3032, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E–190, DOE Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on August 31, 1983.

Donald L. Bauer,

Principal Deputy Assistant Secretary for Fossil Energy.

[FR Doc. 83–24384 Filed 9–6–83; 8:45 am]

BILLING CODE 6450–01–M

Economic Regulatory Administration

Deep River Dyeing Co., Inc., and Pfizer Chemicals Div.; Certification of Eligible Use of Natural Gas to Displace Fuel Oil

[ERA Docket No. 83–CERT–296 and 297]

The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) has received the following applications for certification of an eligible use of natural gas to displace fuel oil pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). Notice of these applications, along with pertinent information contained in the applications, were published in the **Federal Register** and an opportunity for public comment was provided for a period of ten calendar days from the date of publication. No comments were received. More detailed information is contained in each application on file and available for inspection at the ERA Fuels Conversion Division Docket Room, RG–42, Room GA–093, Forrestal building, 1000 Independence Avenue, SW., Washington, D.C. 20585, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

Applicant and facility	Date filed	Docket No.	"Federal Register" notice of application
Deep River Dyeing Co., Randleman Plant, Randleman, N.C.	Aug. 5, 1983	83–CERT–296	48 FR 37691, Aug. 19, 1983.
Pfizer Chemicals Div., Greensboro Plant, Greensboro, N.C.	Aug. 8, 1983	83–CERT–297	48 FR 37691, Aug. 19, 1983.

The ERA has carefully reviewed the above applications for certification in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that the application satisfy the criteria enumerated in 10 CFR Part 595 and, therefore, has granted the certifications and transmitted those certifications to the Federal Energy Regulatory Commission.

Issued in Washington, D.C., on August 31, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83–24386 Filed 9–6–83; 8:45 am]

BILLING CODE 6450–01–M

[ERA Docket No. 83–CERT–104, as amended, et al.]

St. Elizabeth Medical Center, Inc., et al.; Amended Certifications of Eligible Use of Natural Gas To Displace Fuel Oil

The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) has received the

following applications to amend existing certifications of the eligible use of natural gas to displace fuel oil pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). Notice of these applications, along with pertinent information contained in each amendment request, were published in the Federal Register and an opportunity for public comment was provided for a period of ten calendar days from the date of publication. No comments were received. More detailed information is contained in each application on file and available for inspection at the ERA Fuels Conversion Division Docket Room, RG–42, Room GA–093, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

Applicant and facility	Existing certification number and date issued	Date amendment filed	"Federal Register" notice of applicant's amendment
St. Elizabeth Medical Center, Inc., Covington, Ky., Edgewater, Ky..	83–CERT–104, July 1, 1983	May 23, 1983	48 FR 36877, August 15, 1983.
ITT Grinnell Corp., Columbia Plant, Columbia, Pa	83–CERT–110, July 1, 1983	July 20, 1983	48 FR 36876, August 15, 1983.
Vulcan Materials Co., Metals Div., Sparrows Point Plant, Sparrows Point, Md..	83–CERT–167, July 8, 1983	June 24, 1983	48 FR 36877, August 15, 1983.

The ERA has carefully reviewed the above applications to amend the existing certifications in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas To Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that each application satisfies the criteria enumerated in 10 CFR Part 595 and, therefore, has granted the amended certifications and transmitted those amended certifications to the Federal Energy Regulatory Commission.

Issued in Washington, D.C., on August 31, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83–24298 Filed 9–6–83; 8:45 am]

BILLING CODE 6450–01–M

Intercoastal Operating Company; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Intercoastal Operating Company, 2807 Buffalo Speedway, Houston, Texas 77027, I.O.C. Production, Inc., 2807 Buffalo Speedway, Houston, Texas 77027, John C. O'Leary, 19 River Hollow Lane, Houston, Texas 77027, W. R. Dean, 2 River Hollow Lane, Houston, Texas 77027, Joe N. Pratt, 1706–A North Navarro, Victoria, Texas 77901, Karen Sue Royce (Kuper), 2515 Locke Lane, Houston, Texas 77019, J. H. Gilley, Jr., 601–A Country Club Lane, Victoria, Texas, and L. E. Lewis, 3609 Parader, Dallas, Texas 75228. This Proposed Remedial Order alleges pricing violations in the amount of $1,055,285.76 plus interest in connection with the sale of crude oil at prices in excess of those permitted by 10 CFR Part 212, Subpart D during the time period September 1, 1973 through September 30, 1980. This Proposed Remedial Order supersedes a Proposed Remedial Order issued on July 22, 1983 and rescinded on August 9, 1983.

A copy of the Proposed Remedial Order with confidential information deleted, may be obtained from James A. Martin, Manager, Litigation Support Group, Economic Regulatory Administration, Department of Energy, 1341 West Mockingbird Lane, Suite 200–E, Dallas, Texas 75247, or by calling (214) 767–7407. Within fifteen (15) days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, Federal Building, Room 3304, 12th & Pennsylvania Ave., NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Dallas, Texas on the 18th day of August, 1983.

Ben L. Lemos,

Director, Dallas Office, Economic Regulatory Administration.

[FR Doc. 83–24308 Filed 9–6–83; 8:45 am]

BILLING CODE 6450–01–M

[6COX00270]

Mapco International, Inc.; Proposed Remedial Order

AGENCY: U.S. Department of Energy, Economic Regulatory Administration.

ACTION: Notice of Proposed Remedial Order to Mapco International, Inc.

SUMMARY: Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration of the Department of Energy hereby gives Notice of a Proposed Remedial Order which was issued to Mapco International, Inc. of Tulsa, Oklahoma. This Proposed Remedial Order alleges violations in the pricing of crude oil of 10 CFR 212.186 and 212.183. The total violation alleged during August 1978 through November 1980 is $3,185,873.64.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from: U.S. Department of Energy, Economic Regulatory Administration, Attn: John W. Sturges, Director, 440 S. Houston, Room 306, Tulsa, Oklahoma 74127.

Within 15 days of publication of this Notice any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, U.S. Department of Energy, 12th & Pennsylvania Avenue, NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Tulsa, Oklahoma on the 19th day of August 1983.

John W. Sturges,

Director, Tulsa Office, Economic Regulatory Administration.

[FR Doc. 83–24307 Filed 9–6–83; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. RP72–110–030]

Algonquin Gas Transmission Co.; Filing of Pipeline Refund Reports and Refund Plans

September 1, 1983.

Take notice that the pipelines listed in the Appendix here to have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with or mailed to the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before September 12, 1983. Copies of the respective filings are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

APPENDIX

Filing date	Company	Docket No.	Type filing
Aug. 3, 1983	Algonquin Gas Transmission Company	RP72-110-030	Report.
Aug. 3, 1983	Algonquin Gas Transmission Company	RP72-110-031	Report.
Aug. 3, 1983	National Fuel Gas Supply Corporation	RP80-135-029	Report.
Aug. 10, 1983	Southern Natural Gas Company	RP81-86-011	Report.
Aug. 17, 1983	National Fuel Gas Supply Corporation	RP80-135-030	Report.
Aug. 18, 1983	Northwest Pipeline Corporation	RP82-56-006	Report.
Aug. 22, 1983	East Tennessee Natural Gas Company	RP85-69-000, *et al*	Compliance Report.
Aug. 24, 1983	El Paso Natural Gas Company	RP82-33-006	Report.

[FR Doc. 83-24347 Filed 9-6-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TA83-2-20-003]

Algonquin Gas Transmission Co., Rate Filing and Revised Tariff Sheets Under Rate Schedule STB

September 1, 1983.

Take notice that Algonquin Gas Transmission Company ("Algonquin Gas") on August *19*, 1983 tendered for filing the following tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1.

Substitute First Revised Sheet No. 211
First Revised Sheet No. 403
First Revised Sheet No. 404
Substitute First Revised Sheet No. 405

Algonquin Gas states that Substitute First Revised Sheet No. 211 is being filed to reflect in Algonquin Gas' Rate Schedule STB decreases in Texas Eastern Transmission Corporation's ("Texas Eastern") underlying Rate Schedule SS–II. Texas Eastern's decreases are pursuant to Stipulation and Agreement in Docket No. RP83–35–000 *et al.* as approved by Commission order dated July 14, 1983.

Algonquin Gas further states that First Revised Sheet No. 403 and First Revised Sheet No. 404 are being filed to reflect a reduction of Texas Eastern's Rate Schedule SS–II shrinkage gas from 6% annually to 4% from November 16 through April 15 and 3% from April 16 through November 15. In addition Substitute First Revised Sheet No. 405 is being filed to remove Section 6.4 "Basic Withdrawal Quantity Adjustment" of Rate Schedule STB, to reflect the elimination of Texas Eastern's Rate Schedule SS–II Excess Withdrawal Charge.

Algonquin Gas requests that the Commission accept such tariff sheets proposed to be effective August 1, 1983 to coincide with the effectiveness of Algonquin Gas' Second Revised Volume No. 1, placed into effect as of August 1, 1983 by Motion under Algonquin Gas' Docket No. RP83–44–000.

Algonquin Gas requests permission to credit the subsequent months' bill following Commission acceptance to effectuate such rate change as of August 1, 1983, since it appears that Algonquin gas may not receive approval in time for the September 7, 1983 billing of August, 1983 sales. In addition, since Texas Eastern's proposed Rate Schedule SS–II rate change effective date is July 1, 1983, Algonquin Gas also proposes to provide a refund in the form of a credit for the July, 1983 Rate Schedule STB billing on such subsequent billing following Commission acceptance of this filing.

Algonquin Gas notes that a copy of this filing is being served upon each affected party and interested state commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protest should be filed on or before September 9, 1983. Protest will be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-24348 Filed 9-6-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ES83-61-000]

Bangor Hydro-Electric Co.; Application

August 31, 1983.

Take notice that on August 17, 1983, Bangor Hydro-Electric Company (Applicant) filed on application seeking an order authorization the issuance of up to $15,000,000 in short-term (not to exced 180 days) notes. The notes are to be issued pursuant to negotiated borrowings under a secondary credit facility.

Any person desiring to be heard or to make any protest with reference to said Application should, on or before September 8, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). The Application is on file and available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-24349 Filed 9-6-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ES83-62-000]

Centel Corp.; Application

September 1, 1983.

Take notice that on August 24, 1983, Centel Corporation (Centel) filed an Application, pursuant to Section 204 of the Federal Power Act, seeking authority to issue up to 300,000 shares of Common Stock, $2.50 per share, in exchange for up to $12,000,000 of certain outstanding debt securities.

Any person desiring to be heard or to make any protest with reference to said Application should, on or before September 14, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). The Application is on file and available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-24350 Filed 9-6-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP83-468-000]

Mohave Gas Trust; Application

September 1, 1983.

Take notice that on August 15, 1983, Mohave Gas Trust (Applicant), P.O. Box 15015, Las Vegas, Nevada 89114, filed in Docket No. CP83–468–000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of natural gas for resale to Southwest Gas Corporation (Southwest), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it is a trust created to facilitate the financing of

natural gas inventories proposed to be held in storage by Pataya Storage Company (Pataya) [1] on behalf of Southwest. Applicant explains that it would purchase from Southwest, at cost, all volumes of natural gas injected into storage by Pataya and that it would re-sell the stored volumes of natural gas to Southwest upon withdrawal.

Applicant states that it would finance the stored gas inventory, up to 4,400,000 Mcf at full capacity, through the sale of commerical paper, short-term debt instruments with maturities generally less than 270 days.

Applicant states that it would provide the proposed service under the terms and conditions of the proposed FERC Gas Tariff, Original Volume No. 1, Rate Schedule F–1. Under the terms of the proposed Rate Schedule F–1 Applicant indicates it would bill Southwest each month for Applicant's expected costs of financing the gas inventory, administration and management costs in the following month. Volumes withdrawn from storage would be resold to southwest by Applicant at the weighted average cost of volumes in storage, it is submitted.

Applicant further states that the gas to be sold to Southwest would include gas purchased by Southwest from El Paso as part of Southwest's contractual entitlement from El Paso for Southwest's southern Nevada and Arizona markets, gas purchased by Southwest from producers and special purchases.

Applicant states that its proposal would provide at cost effective means of financing the gas inventory proposed to be stored by Pataya for Southwest's account.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 22, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–24351 Filed 9–6–83; 8:45 am]

BILLING CODE 6717–01–M

[1] By order dated December 3, 1982, the Commission consolidated Pataya's application in Docket No. CP80–581, with the related application of El Paso Natural Gas Company (El Paso) in Docket No. CP81–306 and set both applications for formal evidentiary hearing. The current procedural schedule, pursuant to the Administrative Law Judge's order of June 30, 1983, calls for the hearing to begin November 1 1983.

[Docket No. ES83–60–000]

Montana-Dakota Utilities Co.; Application September 1, 1983.

Take notice that on August 15, 1983, Montana-Dakota Utilities Company (Applicant), filed an Application with the Commission, pursuant to Section 204 of the Federal Power Act, seeking authorization to issue and sell up to 500,000 shares of Common Stock, par value of $10, pursuant to Applicant's Tax Deferred Compensation Savings Plan.

Any person desiring to be heard or to make any protest with reference to said Application should, on or before September 9, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). The Application is on file and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–24352 Filed 9–6–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA83–2–16–002]

National Fuel Gas Supply Corp.; Proposed Tariff Change

September 1, 1983.

Take notice that on August 26, 1983, National Fuel Gas Supply Corporation (National Fuel) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Second Substitute Forty-third Revised Sheet No. 4, proposed to be effective August 1, 1983.

National Fuel states that the purpose of this revised tariff sheet is to comply with Commission Order dated August 11, 1983, requiring that National Fuel reflect any downward modification in its pipeline suppliers. National Fuel further states that Second Substitute Forty-third Revised Sheet No. 4 reflects a decrease in National Fuel's rate of 37.94¢ per Mcf.

It is stated that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before September 9, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–24353 Filed 9–6–83; 8:46 am]

BILLING CODE 6717–01–M

[Docket No. RP83–127–000]

Natural Gas Pipeline Company of America; Proposed Changes in FERC Gas Tariff

September 1, 1983.

Take notice that on August 25, 1983 Natural Gas Pipeline Company of America (Natural) submitted for filing, to be a part of its FERC Gas Tariff, Third Revised Volume No. 1, initial Rate Schedule AIC (Added Incentive Charge) consisting of Original Sheet No. 81.

Natural states the purpose of the filing is to institute the special added incentive charge tariff authorized under

Section 157.209(f) of the Commission's Regulations which became effective August 5, 1983 pursuant to Order No. 319 issued July 20, 1983 at Docket No. RM81–29–000.

A copy of this filing has been mailed to Natural's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the requirements of Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed on or before September 9, 1983. Protests will be considered by the Commission in determinig the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–24354 Filed 9–6–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA83–2–26–001]

Natural Gas Pipeline Company of America; Change in Rates

September 1, 1983.

Take notice that on August 23, 1983, Natural Gas Pipeline Company of America (Natural) submitted for filing Fifth Substitute Fiftieth Revised Sheet No. 5 to be part of its FERC Gas Tariff, Third Revised Volume No. 1.

Natural states the purpose of the filing is to implement a 3.02¢ per Mcf decrease in Natural's PGA unit adjustment effective September 1, 1983. The 3.02¢ per Mcf decrease reflects reduced projected gas purchased costs based on Natural's decision to implement the pre-Order 93 measurement basis in pricing its gas cost pursuant to the decision of the United States Court of Appeals in Docket No. 81–1690 to vacate Order Nos. 93 and 93–A. The effect of this PGA reduction over the next six-month deferred account recovery period is a revenue decrease of approximately $18.4 million. This filing modifies the PGA filed July 22, 1983.

Natural requests waiver of the Commission's regulations to the extent necessary to put the proposed tariff sheet into effect on September 1, 1983. Further, due to the nature of the proposed reduction and the benefits it will provide its customers Natural has requested that the notice period for motion or protest of this filing be shortened.

A copy of this filing has been mailed to Natural's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the requirements of Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed on or before September 9, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–24355 Filed 9–6–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP83–107–001]

North Penn Gas Co.; Request for Amendment of Letter Order Granting Waiver and Accepting Tariff Sheets

September 1, 1983.

Take notice that on August 23, 1983, North Penn Gas Company (North Penn) tendered for filing a request for amendment of the Commission's letter order of August 1, 1983. By that order the Commission granted waiver of its regulations and accepted effective June 21, 1983, the following tariff sheets which explicitly provide that costs incurred and paid under minimum commodity bill provisions of North Penn's pipeline suppliers' rate schedules are properly included as a cost of purchased gas in North Penn's PGA filings:

Fifth Revised Sheet No. 15D
  Superseding Fourth Revised Sheet No. 15D
Alternate Fifth Revised Sheet No. 15E
  Superseding Fourth Revised Sheet No. 15E

North Penn points out that in addition to the above-referenced tariff sheets it is necessary that Fifth Revised Sheet No. 15C superseding Substitute Fourth Revised Sheet No. 15C should also have been accepted for filing effective as of June 21, 1983. North Penn's letter of June 8, 1983, submitting the revised tariff sheets failed to make that clear.

North Penn, therefore, requests that the letter order be amended to include acceptance for filing effective as of June 21, 1983, Fifth Revised Sheet No. 15C superseding Substitute Fourth Revised Sheet No. 15C.

Copies of North Penn's request were served upon North Penn's jurisdictional customers as well as interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with the Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before September 9, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–24356 Filed 9–6–83; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 7187–000]

Pankratz Lumber Co.; Rescinding Prior Notice

September 1, 1983.

Take notice that the Notice of Application for Exemption from Licensing in the above docket was inadvertently issued on August 10, 1983, (48 FR 38073, August 22, 1983) and is therefore rescinded.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–24357 Filed 9–6–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP83–35–007]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

September 1, 1983.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on August 24, 1983 tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following sheet:

Second Substitute Original Sheet No. 122.

On August 2, 1983 Texas Eastern filed revised tariff sheets pursuant to the Stipulation and Agreement in Docket Nos. RP83–35–000, *et al.*, for the period February 14, 1982 through July 1, 1983. In

its filing Texas Eastern inadvertently omitted the Base Electric Power Cost Unit for Rate Schedule WS on Substitute Original Sheet No. 122. By Order of August 17, 1983, the Commission accepted the tariff sheet filed on August 2, 1983, conditioned upon Texas Eastern's filing of a correct tariff sheet to include the Base Electric Power Cost Unit for Rate Schedule WS. The sole purpose of this second substitute tariff sheet is to reflect the proper Base Electric Power Cost Unit of 4.03¢/dth as directed by the Commission.

The proposed effective date of the above tariff sheet is March 1, 1982, the date Texas Eastern's Electric Power Cost tracker was made effective by the Commission's order of February 26, 1982 in Docket Nos. RP82–37–000 and RP81–109–000.

In light of the August 17, 1983 Order, it does not appear that a waiver of the rules and regulations in order for the Commission to accept the above second substitute tariff sheet to become effective on March 1, 1982 or a Notice of Proposed Changes in necessary; however, in the event they are required, Texas Eastern respectfully requests waiver of any rules and regulations that the Commission may deem necessary to accept the above second substitute tariff sheet to be effective on March 1, 1982 in substitution for the corresponding sheet filed on August 2, 1983.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Rule 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before Sept. 9, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-24356 Filed 9-6-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TA83–2–17–002]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

September 1, 1983.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on August 24, 1983 tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1 and Original Volume No. 2, the following sheet:

(A) Fourth Revised Volume No. 1
- Substitute Sixty-sixth Revised Sheet No. 14
- Substitute Sixty-sixth Revised Sheet No. 14A
- Substitute Sixty-sixth Revised Sheet No. 14B
- Substitute Sixty-sixth Revised Sheet No. 14C
- Substitute Sixty-sixth Revised Sheet No. 14D

(B) Original Volume No. 2
- Revised Second Substitute Revised Thirteenth Revised Sheet No. 235
- Substitute Fifteenth Revised Sheet No. 322

The above tariff sheets are being issued in substitution for their corresponding sheets filed July 1, 1983 consisting of Texas Eastern's semiannual PGA tracking adjustment to be effective August 1, 1983. The above sheets are being filed in compliance with Ordering Paragraph (1) of the Commission's order isued July 29, 1983 in Docket No. TA83–2–17–001 (PGA83–2, IPR83–2, and DCA83–2) which requires Texas Eastern to revise its August 1, 1983 PGA filing to reflect the appropriate underlying rates and to reflect the proper pipeline supplier rates. The above tariff sheets reflect the underlying settlement rates filed by Texas Eastern on August 2, 1983 pursuant to the Settlement Agreement in Docket Nos. RP83–35–000, et al., and approved to be effective July 1, 1983 by Commission order issued August 17, 1983. In addition, the above tariff sheets reflect reductions from its pipeline suppliers, Texas Gas Transmission Corporation and United Gas Pipe Line Company, and its imported gas purchase from ProGas Limited.

In reflecting the approved settlement rates in Docket Nos. RP83–35–000, et al., as the appropriate underlying rates, it is necessary to file the tariff sheet designated as Revised Second Substitute Revised Thirteenth Revised Sheet No. 235 which was not included in the filing of July 1, 1983, and Substitute Fifteenth Revised Sheet No. 322 to incorporate the appropriate Electric Power Cost Tracker for Rate Schedules X–28 and X–43.

The proposed effective date of the above tariff sheets is August 1, 1983.

Copies of the filing were served on Texas Eastern's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 215 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before Sept. 9, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-24339 Filed 9-6-83; 8:45 am]
BILLING CODE 6717-01-M

Valley Gas Transmission, Inc., and Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Application

[Docket No. CP83–458–000]

September 1, 1983.

Take notice that on July 22, 1983, Valley Gas Transmission, Inc. (Valley), 3200 Entex Building, 1200 Milam Street, Houston, Texas 77002, and Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP83–458–000 a joint application pursuant to Section 7 of the Natural Gas Act for permission and approval to abandon certain sales and transportation of natural gas and for a certificate of public convenience and necessity authorizing the sale of natural gas to Tennessee by Valley, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants state that in Docket No. CP65–123 Valley was authorized to sell up to 35,000 Mcf of natural gas per day to National Fuel Gas Supply Corporation (NFG) and that in Docket No. CP65–93 Tennessee was authorized to transport NFG's gas. It is stated that Valley has not been able to acquire supplies of gas for delivery to Tennessee that would fulfill Valley's sales obligations to NFG and that, consequently, NFG has advised Valley that it no longer needs the small amount of gas available under the current arrangement. Therefore, Valley and Tennessee request permission to abandon the authorized sale and transportation of gas. In addition, Valley requests authorization to sell said gas, which was previously dedicated to NFG, to Tennessee.

Valley also proposes to abandon the service authorized in Docket No. CP 80–167 which permitted Valley to add new

delivery points in those areas in which Valley was attempting to acquire additional sources of natural gas to sell to NFG. Valley states that no new delivery points were added or deleted under the authorization granted in CP80–167.

Lastly, Valley requests authorization to sell to Tennessee additional gas after January 1, 1984, acquired by Valley from certain specified fields in Louisiana and Texas, not to exceed 15,000 Mcf per day.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 22, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–24360 Filed 9–6–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. CP65–141, CP65–142, CP69–132, CP72–38, CP76–100]

Vermont Gas Systems, Inc.; Petition To Amend

August 31, 1983.

Take notice that on August 24, 1982, Vermont Gas Systems, Inc. (Petitioner), Post Office Box 467, Burlington, Vermont 05402, filed in Docket Nos. CP65–142, CP69–132, CP72–38, and CP76–100 a petition to amend the orders issued on April 28, 1965, December 30, 1968, November 15, 1971, January 30, 1976, July 2, 1981, and March 1, 1982, pursuant to Section 3 of the Natural Gas Act so as to amend the authorization issued to Vermont Gas-Delaware to substitute Vermont Gas-Vermont in lieu of and as successor-in-interest to Vermont Gas-Delaware. Take further notice that in Docket No. CP65–141 Petitioner requests that the permit issued pursuant to Executive Order No. 10485 be amended to substitute Vermont Gas-Vermont as Permittee. The proposals are more fully set forth in the petition which is on file with the Commission and open to public inspection.

Petitioner requests amendment of its authorizations to import natural gas from Canada which gas it purchases from TransCanada PipeLines Limited (TransCanada) pursuant to an agreement dated February 16, 1966, as amended. Petitioner further states that it is currently authorized to import up to 22,400 Mcf of gas per day which would periodically increase to a maximum of 25,600 Mcf per day by November 1, 1986.

It is alleged that an order would be issued by the Vermont Public Service Board on or before, September 5, 1983, authorizing Vermont Gas-Vermont, *inter alia,* to acquire a controlling interest in Vermont Gas-Delaware by statutory merger and issuing a certificate of consent to the merger. Vermont Gas-Delaware would cease to exist and the Vermont corporation would be the surviving company, it is explained. Accordingly, Petitioner requests amendment of the subject import authorization and the related permit to reflect Vermont Gas-Vermont as the successor to the Vermont Gas-Delaware.

Any person desiring to be heard or to make any protest with reference to said petition should on or before September 16, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to proceeding or to participate a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–24361 Filed 9–6–83; 8:45 am]

BILLING CODE 6717–01–M

Office of Hearings and Appeals

Objection to Proposed Remedial Orders Filed; Week of August 8 Through August 12, 1983

During the week of August 8 through August 12, 1983, the notices of objection to proposed remedial orders listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial orders described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 within 20 days after publication of this Notice. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Dated: August 26, 1983.

George B. Breznay,

Director, Office of Hearings and Appeals.

Bi-Petro, Inc., Springfield, IL, HRO–0183, Crude Oil

On August 10, 1983, Bi-Petro, Inc., P.O. Box 3245, Springfield, Illinois, filed a Notice of Objection to a Proposed Remedial Order which the DOE Tulsa, Oklahoma Office of Enforcement issued to the firm on July 5, 1983. In the PRO, the Office of Enforcement found that during the period November 1973 through August 1980, Bi-Petro, Inc. sold crude oil at prices exceeding maximum lawful levels. According to the PRO, the Bi-Petro, Inc. violation resulted in $7,968,308.17 of overcharges.

International Petroleum Refining and Supply, Denver, Colorado, HRO-0184, Crude Oil

On August 12, 1983, International Petroleum Refining and Supply, (IPRS), 1600 Broadway, Denver, Colorado filed a Notice of Objection to a Proposed Remedial Order which the Economic Regulatory Administration (ERA) issued to the firm on May 20, 1983. In the PRO ERA alleged that during November 1974 through December 1980, IPRS, in pricing crude oil, violated 10 C.F.R. 212.186, 210.62(c), 212.93, 205.202 and 212.182. According to the PRO the IPRS violation resulted in $5,228,439.94 of overcharges.

[FR Doc. 83-24400 Filed 9-6-83; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[PF-341; PH-FRL 2428-6]

Pesticide, Food, and Feed, Additive Petitions; American Cyanamid Co., et al.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received pesticide, feed, and food additive petitions relating to the establishment and/or amendment of tolerances for residues of certain pesticide chemicals in or on certain commodities.

ADDRESSES: Written comments should be submitted to the Product Manager (PM) named in each petition at the following address:

By Mail: Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, deliver comments to the PM at the office location given in each petition at the following address: Registration Division, Environmental Protection Agency, 1921 Jefferson Davis Highway, CM#2, Arlington, VA 22202.

Written comments may be submitted while the petitions are pending before the Agency. The comments are to be identified by the document control number (PF-341) and the petition number. All written comments filed in response to the notice will be available for public inspection in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: The product manager cited in each petition at the telephone number provided.

SUPPLEMENTARY INFORMATION: EPA gives notice that the Agency has received the following pesticide, feed, and food additive petitions relating to the establishment and/or amendment of tolerances for residues of certain pesticide chemicals in or on certain commodities in accordance with the Federal Food, Drug, and Costmetic Act. The analytical method for determining residues, where required, is given in each petition.

I. Initial Filings

1. *PP 3F2937.* American Cyanamid Co., P.O. Box 400, Princeton, NJ 08540. Proposes amending 40 CFR 180.400 by establishing a tolerance for the residues of the insecticide flucythrinate [(±)-cyano (3-phenoxyphenyl)methyl (+)-4-(difluoromethoxy)-alpha/(methylethyl) benzeneacetate] in or on the commodity lettuce (head and leaf) at 2.0 parts per million (ppm). The proposed analytical method for determining residues is by gas chromatography. (Timothy A. Gardner, PM-17, Rm. 207, 703-557-2690.)

2. *PP 3F2936.* ICI Americas Inc., Agricultural Chemicals Division, Wilmington, DE 19897. Proposes amending 40 CFR Part 180 by establishing tolerance for the residues of the insecticide (±) alpha-cyano-(3-phenoxyphenyl) methyl (±) *cis, trans*-3-(2,2-dichoroethenyl)-2,2-dimethylcyclopropanecarboxylate (cypermethrin) in or on the commodity soybeans at 0.1 ppm. The proposed analytical method for determining residues is by gas chromatography. (Timothy A. Gardner, PM-17, Rm. 207, 703-557-2690.)

3. *FAP 3H5406.* ICI Americas Inc. Proposes amending 21 CFR Part 561 by establishing a regulation permitting residues of the insecticide cypermethrin in or on the commodity soybean hulls at 1.0 ppm and soybean oil and soapstock at 0.2 ppm. (Timothy A. Gardner, PM-17, Rm. 207, 703-557-2690).

4. *PP 3F2935.* Dow Chemical U.S.A., Agricultural Products Department, P.O. Box 1706, Midland, MI 48640. Proposes amending 40 CFR 180.350 by establishing tolerances for residues of the soil microbiocide nitrapyrin [2-chloro-6-(trichloromethyl) pyridine and its metabolite, 6-chloropicolinic acid in or on the commodities cereal grains at 0.2 ppm, cereal grains forage and fodder at 1 ppm, and cereal grains straw at 2 ppm. The proposed analytical method for determining residues is gas chromatography using electron capture detection. (Richard Mountfort, PM-23, Rm. 253, 703-557-1830).

II. Amended Petitions

1. *FAP 3H5391.* Uniroyal Chemical, 74 Amity Rd., Bethany, CT 06525. EPA issued a notice published in the **Federal Register** of April 27, 1983 (48 FR 19078) which announced that Uniroyal Chemical, had submitted food additive petition 3H5391 proposing to amend 21 CFR Part 193 by establishing a regulation permitting residues of the insecticide 5-(4-chlorophenyl)-2,3-diphenylthiophene in connection with an experimental use program resulting from application of the pesticide in the growing crop citrus with a tolerance limitation of 40.0 ppm in citrus oil.

Uniroyal amended the petition by increasing the tolerance limitation in citrus oil from 40.0 to 100.0 ppm. (Jay Ellenberger, PM-12, Rm. 205, 703-557-2386.)

2. *FAP 3H5391.* Uniroyal Chemical. EPA issued a notice published in the **Federal Register** of April 27, 1983 (48 FR 19078) which announced that Uniroyal Chemical, had submitted feed additive petition 3H5391 proposing to amend 21 CFR Part 561 by establishing a regulation permitting residues of the insecticide 5-(4-chlorophenyl)-2,3-diphenylthiophene in connection with an experimental use program resulting from application of the pesticide in the growing crop citrus with a tolerance limitation of 2.0 ppm in or on dried citrus pulp.

Uniroyal amended the petition by increasing the tolerance limitation in or on dried citrus pulp from 2.0 to 3.0 ppm. (Jay Ellenberger, PM-12, Rm. 205 703-557-2386.)

(Sec. 408(d)(1), 68 Stat. 512, (7 U.S.C. 136); 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348))

Dated: August 23, 1983.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Program.

[FR Doc. 83-24157 Filed 9-6-83; 8:45 am]

BILLING CODE 6560-50-M

[PF-338; PH-FRL 2427-2]

Pesticide Foods, and Feed Additive Petitions; Ciba-Geigy Corp. et al.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received pesticide and feed additive petitions relating to the establishment, withdrawal and/or amendment of tolerances for residues of certain pesticide chemicals in or on certain commodities.

ADDRESSES: Written comments to the product manager (PM) cited in each specific petition at the address below: Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Written comments may be submitted while the petitions are pending before

the Agency. The comments are to be identified by the document control number (PF–338) and the specific petition number. All written comments filed in response to this notice will be available for public inspection in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: The product manager cited in each petition at the telephone number provided.

SUPPLEMENTARY INFORMATION: EPA gives notice that the Agency has received the following pesticide and feed additive petitions relating to the establishment, withdrawal and/or amendment of tolerances for residues of certain pesticide chemicals in or on certain commodities in accordance with the Federal Food, Drug, and Cosmetic Act. The analytical method for determining residues, where required, is given in each petition.

I. Initial Filings

1. *PP 3F2918.* Ciba-Geigy Corp., P.O. Box 18300 Greensboro, NC 27419. Proposes amending 40 CFR 180.408 by establishing tolerances for the combined residues of the fungicide metalaxyl [*N*-(2,6-dimethylphenyl)-*N*- (methoxyacetyl) alanine methyl ester] and its metabolites containing the 2,6-dimethylalanine moiety, and *N*-(2-hydroxymethyl-6-methylphenyl)-*N*-(methyoxyacetyl)alanine methyl ester, each expressed as metalaxyl in or on the commodity, legume vegetable fodder at 3.0 parts per million (ppm), legume vegetable forage at 5.0 ppm, and legume vegetable seeds at 0.2 ppm. The proposed analytical method for determining residues is gas chromatography with alkali flame ionization detector. (Henry Jacoby, PM–21, 703–557–1900).

2. *FAP 3H5404.* Ciba-Geigy Corp. Proposes amending 21 CFR 561.273 by establishing a regulation permitting residues of the fungicide metalaxyl in or on the commodity legume vegetable cannery waste at 5.0 ppm. (Henry Jacoby, PM–21, 703–557–1900).

3. *PP 3F2919.* Ciba-Geigy Corp. Proposes amending 40 CFR 180.408 by establishing tolerances for the combined residues of the fungicide metalaxyl in or on the commodity peanut fodder at 20.0 ppm, peanut nuts at 0.2 ppm, and peanut shells at 2.0 ppm. The proposed analytical method for determining residues is capillary gas chromatography using a nitrogen/phosphorous detector (NPD) operating in the nitrogen-specific mode. (Henry Jacoby, PM–21, 703–557–1900.)

4. *FAP 3H5405.* Ciba-Geigy Corp. Proposes amending 21 CFR 561.273 by establishing a regulation permitting residues of the fungicide metalaxyl in or on the commodity peanut meal at 1.0 ppm and peanut soapstock at 2.0 ppm. (Henry Jacoby, PM–21, 703–557–1900).

5. *PP 3F2916.* Ciba-Geigy Corp. Proposes amending 40 CFR 180.368 by establishing tolerances for the combined residues of the herbicide metolachlor [2-chloro-*N*-(2-ethyl-6-methylphenyl)-*N*-(2-methoxy-1-methylethyl) acetamide] and its metabolites determined as 2-[(2-ethyl-6-methylphenyl)-amino]-1-propanol and 4-(2-ethyl-6-methylphenyl)-2-hydroxy-5-methyl-3-morpholinone, each expressed as parent metolachlor, in or on the commodities pod and seed vegetables; fodder and forage at 15.0 ppm. (Richard Mountfort, PM–23, 703–557–1830).

6. *FAP 3H5402.* FMC Corp., 2000, Market St., Philadelphia, PA 19103. Proposes amending 21 CFR Part 561 by establishing a regulation in connection with an experimental use permit permitting residues of the insecticide carbosulfan (2,3-dihydro-2,2-dimethyl-7-benzofuranyl [(dibutylamino)thio]-methylcarbamate) and 2,3-dihydro-2,2-dimethyl-benzofuranyl-*N*-methylcarbamate (carbofuran), its carbamate metabolites 2,3-dihydro-2,2-dimethyl-3-hydroxy-7-benzofuranyl-*N*-methylcarbamate, and 2,3-dihydro-2,2-dimethyl-3-keto-7-benzofuranyl-*N*-methylcarbamate; its phenolic metabolites 2,3-dihydro-2,2-dimethyl-7-benzofuranol, 2,3-dihydro-2,2-dimethyl-3-oxo-7-benzofuranol, 2,3-dihydro-2,2-dimethyl-3,7-benzofurandiol and its metabolite di-*n*-butylamine in or on the commodity apples pomace; dry at 51.0 ppm total, of which 25.0 ppm is carbosulfan *per se*; 11.0 ppm is carbamate metabolites, 2.0 ppm is phenols and 13.0 ppm is the dibutylamine metabolite; and wet at 15.5 ppm total, of which 7.0 ppm is carbosulfan *per se*, 2.5 ppm is carbamate metabolites, 1.0 ppm is phenolic metabolites and 5.0 ppm is the dibutylamine metabolite. (Jay Ellenberger, PM–12, 703–557–2386).

II. Amended Petitions

1. *PP 8E2047.* Chevron Chemical Co. EPA issued a notice published in the **Federal Register** of June 30, 1982 (47 FR 28453) which announced that Chevron Chemical Co., 940 Hensley St., Richmond, CA 94804, had submitted pesticide petition 8E2047 which amended 40 CFR 180.287 by increasing the proposed tolerance for residues of the fungicide captafol cis-*N*-[(1,1,2,2,-tetrachloroethyl)-thio]-4-cyclohexene-1,2-dicarboximide in or on the commodity green coffee beans from 0.2 ppm to 5.0 ppm.

Chevron amended the petition by decreasing the tolerance on green coffee beans from 5.0 ppm, to 1.0 ppm, and by changing the expression of residues to include the captafol metabolite, 4-cyclohexene-1,2-dicarboximide in or on the commodity green coffee beans from 5.0 ppm to 1.0 ppm. The proposed analytical method for determining residues is by electron capture gas chromatography. (Henry Jacoby, PM–21, 703–557–1900).

2. *PP 0F2423.* Dow Chemical Co. EPA issued a notice published in the **Federal Register** of October 23, 1980 (45 FR 70313) which announced that Dow Chemical Co., P.O. Box 1706 Midland, MI 48640, had submitted pesticide petition 0F2423 to the Agency proposing to amend 40 CFR 180.342 by establishing tolerances for the combined residues of the insecticide chlorpyrifos-methyl [*O,O*-diethyl *O*-(3,5,6-trichloro-2-pyridyl)] phosphorothioate and its metabolite 3,5,6-trichloro-2-pyridinol in or on certain commodities.

Dow Chemical Co. has amended the petition by increasing and/or decreasing the tolerance levels as follows:

[Parts per million]

Commodities	Proposed initial tolerance	Proposed revised tolerance
Eggs	0.05	0.1
Fat of cattle, goats, and sheep	0.2	0.5
Fat of hogs and horses	0.3	0.5
Fat, meat, and meat byproducts of poultry	0.05	0.5
Milk, fat	0.1	1.25
Milk, whole	0.02	0.05
Meat of cattle, goats, hogs, horses, and sheep	0.1	0.5
Meat byproducts of cattle, goats, and sheep	1.0	0.5

The proposed analytical method for determining residues is liquid chromatography. (Jay Ellenberger, PM–12, 703–557–2386).

3. *PP 2F2702.* Rhone-Poulenc Inc. EPA issued a notice published in the **Federal Register** of July 13, 1983 (48 FR 32076) which announces that Rhone-Poulenc Inc., PO Box 125, Monmouth Junction, NJ 08852, had submitted pesticide petition 2F2702 to the Agency proposing to amend 40 CFR Part 180 by proposing a tolerance for residues of the fungicide fosetyl-AL [aluminum tris (*O*-ethyl phosphonate)] in or on pineapples at 0.1 ppm.

Rhone-Poulenc has amended the petition by adding the commodity pineapple forage at 0.1 ppm. The proposed analytical method for determining residues is gas liquid chromatography and thin layer

chromatography. (Henry Jacoby, PM–21, 703–557–1900).

III. Withdrawal

1. *FAP 3H5397.* Rhone-Poulenc Inc. EPA issued a notice published in the **Federal Register** of July 13, 1983 (48 FR 32078) which announced that Rhone-Poulenc Inc., Agrochemical Division, P.O. Box 125, Monmouth Junction, NJ 08852, had submitted feed additive petition 3H5397 to the Agency proposing to amend 21 CFR Part 561 by establishing a regulation permitting residues of fungicide fosethyl-AL [aluminum tris (*O*-ethyl phosphonate)] in or on the commodity pineapple bran at 0.2 ppm.

Rhone-Poulenc Inc. has withdrawn the petition without prejudice to future filing in accordance with the regulations. (Henry Jacoby, PM–21, 703–557–1900).

(Sec. 408(d)(1), 68 Stat. 512, (7 U.S.C. 136); 409(b)(5), 72 Stat. 1786, (21 U.S.C. 348))

Dated: August 22, 1983.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83–24010 Filed 9–6–83; 8:45 am]

BILLING CODE 6560–50–M

[OPP–66101; PH–FRL 2428–1]

Pesticides; Intent To Cancel Registrations; Empire International, et al.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice lists the name of firms requesting voluntary cancellation of registration of their pesticide products in compliance with section 6(a)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended. Distribution or sale of these products after the effective date of cancellation will be considered a violation of the Act unless continued registration is requested.

EFFECTIVE DATE: October 7, 1983.

ADDRESSES: By mail, submit comments to: Program Support Division (TS–757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, bring comments to: Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA.

FOR FURTHER INFORMATION CONTACT:

By mail: Lela Sykes, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 718C, CM#2, 1921 Jefferson Davis Highway, Arlington, VA (703–557–2126).

SUPPLEMENTARY INFORMATION: EPA has been advised by the following firms of their intent to voluntarily cancel registration of their pesticide products.

Registration No.	Product name	Registrant	Date registered
5–28	Re-Zist Roach and Ant Killer	Empire International, P.O. Box 29605, Atlanta, GA 30359	Mar. 1, 1968.
39–34	Spray Kill	The Brenco Corp., 1470 South Vanderventer, St. Louis, Mo 63110	Sept. 28, 1972.
70–220	Warfarat with Prolin	Rigo Co., P.O. Box 89, Buckner, KY 40010	Apr. 11, 1963.
72–314	Parathion "8" E.C.	Miller Chemical and Fertilizer Corp., P.O. Box 333, Hanover, PA 17331	Oct. 26, 1959.
86–23	Swiss Farms Rose and Flower Spray Insecticide, Miticide, Fungicide	The Hyponex Co., Inc., P.O. Box 4300, Copiy, OH 44321	Nov. 29, 191968.
100–552	Preforan (c–6989) 3–EC Herbicide	Ciba-Geigy Corp., P.O. Box 11422, Greeneboro, NC 27489	Mar. 8, 1968.
100–556	Preforan (c–6989) 50 WP Herbicide	....do	May 28, 1974.
100–557	Preforan Technical	....do	Do.
148–931	De-Pester Insecticide Dust	Thompson-Hayward Chemical Co., P.O. Box 2383, Kansas City, KS 66110	Mar. 23, 1971.
148–1177	S–406 Solution	....do	Feb. 13, 1975.
148–1189	S–746 Solution	....do	Do.
226–167	Tobacco States Brand Termite Control	Tobacco States Chemical Co., Inc., P.O. Box 12046, Lexington, KY 40501	Jan. 17, 1964.
226–239	Tobacco States Brand 4 lb. Aldrin Emulsion	....do	Apr. 18, 1975.
239–361	Ortho Chlordane 8 Emulsive	Chevron Chemicals Co., Ortho Division, 940 Hensely St., Richmond, CA 94801.	June 15, 1949.
239–506	Ortho Nabam Liquid Spray	....do	May 2, 1951.
239–523	Ortho Zineb Wettable	....do	May 16, 1951.
239–1296	Ortho Zineb 5 Dust	....do	Apr. 6, 1959.
239–1600	Ortho Custom Blend No. 51	....do	Mar. 25, 1963.
239–1825	Ortho Rose & Flower Spray	....do	Oct. 17, 1957.
247–10	Vitro Sheen	Lincoln Research, Inc., 106 E. Church St., Swanton, OH 43558	Nov. 2, 1971.
247–11	BAC TEX Disinfectant Deodorizer Sanitizer	....do	Jan. 23, 1973.
279–2098	Niagara Lanstan 4.0 EC Soil Fungicide	FMC Corp., Agricultural Chemical Division, 2000 Market St., Philadelphia, PA 19103.	Mar. 3, 1964.
279–2181	Lanstan 20 Granular	....do	Do.
279–2267	Niagara Lanstan Technical Fungicide	....do	Sept. 13, 1965.
279–2607	Folpet 7.5 Sevin 5 Dust	....do	June 8, 1971.
279–2944	Acaralate 2 EC	....do	Jan. 28, 1974.
359–627	Weed Broom	Rhone-Poulenc, Inc., P.O. Box 125, Monmouth Junction, NJ 08852	Oct. 10, 1972.
390–11	Pettit Tropicop The Supreme Plastic Copper Paint 1342 Green	Pettit Paint Co. Inc., P.O. Box 378, Borough of Rockaway, NJ 07866	Feb. 12, 1965.
390–31	Pettit Marine Paint Unepoxy Anti-Fouling 1026 Clear Inland Formula	....do	Sept. 1, 1966.
390–38	Pettit Marine Paint Anti-Fouling 1330 Alumacide Green	....do	May 3, 1971.
390–42	Pettit Marine Paint Specialty 1806 Outdrive Anti-Fouling Black	....do	Sept. 11, 1972.
390–43	Pettit Marine Paint Specialty 131 Alumacide Anti-Fouling White	....do	May 14, 1973.
390–48	Pettit Marine Paint Anti-Fouling 1612 Coppercide Red	....do	Dec. 19, 1972.
390–53	Pettit Boat Builders Marine Paint Unepoxy Tropical Medium Blue 219	....do	Dec. 23, 1974.
390–67	418, Sea-Tin, Red Anti-Fouling Paint	....do	Feb. 5, 1963.
390–69	426 Tin-Clad, Red, Anti-Fouling Paint	....do	Do.
413–77	Pioneer Brand Dairy and Stock Spray	Bartels & Shores Chemical Co., 1400–02 St. Louis Ave., Kansas City, MO 64101.	June 12, 1972.
464–423	Vorton 2D Herbicide	Dow Chemical U.S.A., P.O. Box 1706, Midland, MI 48640	May 23, 1972.
476–163	Crown Wettable Sulphur	Stauffer Chemical Co., 1200 S. 47th Street, Richmond, CA 94804	June 4, 1948.
476–168	Magnetic "95" Wettable Sulfur	....do	June 5, 1948.
476–169	Owl Superfine Dusting Sulphur	....do	Feb. 27, 1957.
476–170	Electric Super Adhesive Dusting Sulphur	....do	Feb. 26, 1957.
476–172	Swan Brand Dusting Sulphur	....do	June 5, 1948.
476–173	Perfection Superfine Sulphur For Dusting	....do	Feb. 7, 1964.
476–251	Anchor Sublimed Velvet Flowers of Sulphur U.S.P.	....do	Aug. 10, 1949.
476–1125	Crown 90 Wettable Sulfur	....do	July 17, 1957.
476–1431	Stauffer Zineb 75–WP	....do	Mar. 30, 1960.
476–1554	Stauffer Thioden 50–WP	....do	Apr. 14, 1961.
476–1556	Stauffer Thioden 2–E	....do	Do.
476–1969	Dusting Sulfur 50%	....do	May 19, 1967.
476–1981	Captan-Thioden 5–2 Dust	....do	July 5, 1967.
476–2015	Stauffer Parathion-Thioden 1–2–E	....do	June 25, 1968.
476–2016	Trithion-Thioden 25–25–WP	....do	July 8, 1968.

Registration No.	Product name	Registrant	Date registered
476-2036	Wettable Sulfur (For Use in Water)	....do	Apr. 28, 1966.
476-2039	Dusting Sulfur 98%	....do	May 29, 1966.
476-2073	Electric Sulfur-Zinc Dust	....do	June 3, 1971.
476-2077	Captan-Thiodan 7.5-3 Dust	....do	Mar. 8, 1971.
527-69	Midland Di-o-cide E-3 Pressurized Residual Insecticide	Rochester Midland Corp., 333 Hollenbeck St., Rochester, NY 14621	Oct. 5, 1961.
550-3	Zinc Phosphide	Van Waters and Rogers Division of Univar, 2256 Junction Avenue, San Jose, CA 95131.	Jan. 5, 1948.
557-1684	Swift Wettable and Dusting Sulphur	Estech General Chemicals Corp., 30 North Lasile Street, Chicago, IL 60602.	May 22, 1978.
557-1696	Swift Micro-Grind Sulphur Wettable	....do	Jan. 30, 1975.
557-1942	Gro-tone Zineb Fungicide	....do	July 30, 1973.
595-177	Haviland Dichlone Dust No. 2	Haviland Agricultural, 1845 Sterling, NW., Grand Rapids, MI 49504	May 13, 1958.
595-179	Haviland Dichlone Dust No. 3	....do	Do.
595-242	Malathion Copper Sulfur Dust No. 5720	....do	Dec. 9, 1965.
602-211	Purina Cap-Zin Fungicide	Raleton Purina Co., Checkerboard Square, St. Louis, MO 63164	Oct. 20, 1971.
619-30	SPF Wood Preserver and Insecticide	James Huggins and Son, Inc., 323 Commercial Street, Malden, MA 02148	Feb. 17, 1956.
635-827	E-Z Flo Polyram 5 Boron Dust (with Borax)	Grower Service Corp., P.O. Box 16037, Lansing, MI 48901	Mar. 20, 1970.
704-34	IS-77 Insecticide	Chemical Systems, Inc., 1735 W. Fullerton Avenue, Chicago, IL 60614	Apr. 21, 1975.
769-366	Security 5% Polyram Peanut Dust	Woolfolk Chemical Works, Inc., East Main Street, Fort Valley, GA 31030	May 10, 1967.
829-193	SA-50 Brand 8% Maneb Dust	Southern Agricultural Insecticides, Inc., P.O. Box 218, Palmetto, FL 33561	Aug. 24, 1971.
869-121	Green Light Fruit and Nut Tree Spray	Green Light Co., P.O. Box 17985, San Antonio, TX 78217	Dec. 29, 1971.
961-271	Lebanon Rose Dust	Lebanon Chemical Corp., P.O. Box 180, Lebanon, PA 17042	June 15, 1972.
961-272	Lebanon Rose Spray	....do	June 14, 1972.
1066-4	Cre-o-Tox A-10 Wood Preserving Concentrates	Cre-o-Tox Chemical Products, Co., P.O. Box 12598, Memphis, TN 38112	Do.
1162-15	Power 40	Hubman Supply Co., P.O. Box 2605, Columbus, OH 43216	Feb. 8, 1973.
1191-306	Flight Brand BHC 3-5-0 Dust	Caroline Chemicals, Inc., P.O. Box 118, West Columbia, SC 29169	Mar. 12, 1973
1191-317	Flight Brand BHC Pine Tree Spray	....do	Mar. 19, 1973.
1202-249	Puregro Phosphamidon 6 Spray	Puregro Co., 1052 W 6th Street, Los Angeles, CA 90017	Nov. 23, 1971.
1258-602	Olin Sperlox-Z Instantly Dispersible Powder Foliar Fungicide	Olin Corp., P.O. Box 991, Little Rock, AR 72203	Nov. 3, 1967.
1258-912	Olin Sperlox-Z Instantly Dispersible Powder Lawn and Garden Foliar Fungicide.	....do	Nov. 8, 1971.
1269-56	Dewitt Diazinon Emulsifiable Concentrate	Dewitt Chemical Co., P.O. Box 343, Atlanta, GA 30301	Apr. 13, 1964.
1524-30	Kil-ZAL Brand Water Soluble Warfarin	National Labs, P.O. Box 663, Parsons, KS 67357	Mar. 28, 1966.
1553-70	Momar No Mow Weed and Grass Killer	Momar, Inc., 1830 Ellsworth Industrial Drive, NW., Atlanta, GA 30318	June 13, 1969.
1624-60	Pentamul HD Weed Killer	U.S. Borax & Chemical Corp., 412 Crescent Way, Anaheim, CA 92801	Apr. 6, 1966.
1624-62	Pentamul LHD Weed Killer	....do	Do.
1706-100	Nalco 247 Sucrose Utilizing Microorganism Control Chemical	Nalco Chemical Co., 2901 Butterfield Road, Oak Brook, IL 60521	Dec. 14, 1971.
1706-129	Nalco 7644 Deposit Control Chemical	....do	Sept. 13, 1973.
1757-25	Biocide 207	Drew Chemical Corp., One Drew Chemical Plaza, Boonton, NJ 07005	Aug. 13, 1965.
1757-30	Biocide 275	....do	Apr. 13, 1966.
1757-42	Drewaperse 780	....do	July 18, 1972.
1769-139	National Chemsearch Chloracil-B Non-Selective Weed Killer Soil Sterilant	National Chemsearch, Division of NCH Corp., 2727 Chemsearch Boulevard, Irving, TX 75062.	Apr. 6, 1966.
1990-431	Zineb Garden Fungicide	Farmland Industries, Inc., P.O. Box 7305, Kansas City, MO 64116	June 25, 1961.
1990-456	Zineb 75-W	....do	June 21, 1961.
1990-473	85% Zineb Dust Base	....do	June 25, 1961.
1990-474	75% Zineb Dust Base	....do	Do.
1990-475	80% Zineb Dust Base	....do	Do.
1990-506	Diazinon Seed Treater	....do	Do.
2124-54	Naco Copper-Sulphur 4-86 Dust (Peanut Special)	W. R. Grace & Co., P.O. Box 277, Memphis, TN 38101	Aug. 16, 1948.
2124-62	Sulphur Smoke Dusting Sulphur	....do	Oct. 14, 1949.
2124-65	Naco Parathion 1 Dust	....do	Apr. 19, 1950.
2124-274	Naco Peach Para-Sul	....do	Apr. 17, 1958.
2124-344	Naco Parathion Sevin 1-5 Dust	....do	June 25, 1963.
2124-364	Naco Sevin-Parathion 10-1 Dust	....do	July 6, 1964.
2124-367	Naco Parathion-Sulphur 2-50 Dust	....do	Aug. 31, 1964.
2124-377	Naco Copper-Sulphur Peanut 4-80 Dust	....do	June 15, 1965.
2124-393	Naco Malathion-Sulphur 5-50 Dust	....do	Oct. 6, 1965.
2124-466	Corona Micronized Wettable Sulfur	....do	Sept. 23, 1966.
2124-491	Naco Tabacco Dust 5-1	....do	Nov. 8, 1966.
2124-551	Naco 2 percent Parathion Dust	....do	May 2, 1967.
2124-634	Naco Copper-Sevin-Parathion 6-5-2 Dust	....do	May 10, 1968.
2124-642	Naco Peach Para-Sul-Nu-Z 2-6-3	....do	June 5, 1968.
2124-646	Naco Parathion Maneb 2-4.8 Dust	....do	June 25, 1968.
2124-651	Sulphur Smoke Wettable Sulphur	....do	July 24, 1968.
2124-659	Naco Parathion Sulphur 1-40 Dust	....do	Dec. 16, 1968.
2124-673	Naco Sulphur-Copper 65-4 Dust	....do	Apr. 7, 1969.
2124-769	Naco Dusting Sulfur	....do	Feb. 15, 1973.
2124-771	Naco Wettable Sulfur	....do	Mar. 28, 1973.
2169-87	Patterson's BHC Emulsion Concentrate	Patterson Green-Up 1331 Union Ave., Kansas City, MO 64101	May 11, 1959.
2169-200	Patterson's 12 percent BHC Wettable Powder	....do	Dec. 4, 1972.
2204-4	Nopcocide 110	Diamond Shamrock Corp., P.O. Box 2386R, Morristown, NJ 07960	Mar. 31, 1971.
2269-131	CPA/GR Go Gettum	Gold Kist, Inc., P.O. Box 2210 Atlanta, GA 30301	June 8, 1971.
2269-143	Big-G-E-M Guthion-Methyl Parathion Spray Conc	....do	May 24, 1972.
2269-150	Zineb Dust No. 10	....do	Sept. 21, 1972.
2269-153	One Shot Z-P Dust	....do	Jan. 30, 1973.
2269-155	GK 6-3 E.M.	....do	Jan. 10, 1973.
2269-171	Velsicol Barricade Emulsifiable Concentrate Insecticide No. 11	....do	Sept. 26, 1978.
2342-813	Tobacco Formula 19.5% Zineb	Kerr McGee Chemical Co., Kerr McGee Building, Oklahoma City, OK 73102.	Aug. 9, 1973.
2342-883	Polyram Seed Treater for Potatoes	....do	Feb. 12, 1968.
2342-886	Potato Seed Piece Fungicide Dust (Contains Dithane M-45)	....do	Aug. 9, 1973.
2342-922	3% Thiodan Dust	....do	Nov. 30, 1966.
2600-7	Humco Sulfur Dusting Wettable	Humco Laboratory, Inc., P.O. Drawer 2550, Texarkana, TX 75504	Mar. 20, 1950.
2600-10	Humco Dusting Sulfur	....do	Mar. 21, 1950.
2600-57	Humco Sublimed Sulfur N.F. (FLowers)	....do	Sept. 11, 1967.
2935-162	Red-Top Thiodan 2 Spray	Wilbur-Ellis Co., 191 West Shaw Avenue, Suite 107, Fresno, CA 93704-2878.	June 1, 1961.
2935-212	Red-Top Thiodan 4 Sulfur 50 Dust	....do	July 6, 1962.
2935-305	Thiodan 5 Sulfur 25 Dust	....do	July 15, 1965.
2935-306	Thiodan 5 Dust	....do	July 20, 1965.
2935-307	Thiodan 5 Sulfur 50 Dust	....do	Do.
2935-372	Red-Top Thiodan 2 C.O. Spray	....do	June 29, 1971.
2935-373	Red-Top Methyl Parathion 2 Thiodan 3 Spray	....do	Mar. 18, 1971.

Registration No.	Product name	Registrant	Date registered
2935-378	Red-Top Potato Fungicide "Manzate" D-S	....do	Aug. 4, 1971.
3134-22	Evsco Cerumite	Evsco Pharmaceutical Corp., P.O. Box 209, Buena, NJ 08310	Sept. 16, 1966
4185-277	Nutro Rose and Floral Spray	Smith-Douglas, Inc., P.O. Box 419, Norfolk, VA 23501	Nov. 2, 1965.
4185-332	Smith-Douglas Polyram 5% Dust	....do	May 23, 1967.
4185-336	Smith-Douglas Polyram 7% Dust	....do	May 31, 1967.
4185-400	Smith-Douglas Manzate 3% Dust	....do	July 24, 1968.
4185-415	Smith-Douglas Manzate 8% Dust	....do	Oct. 3, 1968.
4185-506	Maneb 4% Tobacco Plant Bed Dust	....do	Feb. 29, 1972.
4185-537	Maneb 1.4% Tobacco Plant Bed Dust	....do	Nov. 12, 1975.
4828-71	Massacre-SP Roach and Ant Bomb	Abco, Inc., 301 Entry Road, North Huntingdon, PA 15642	Jan. 21, 1972.
4828-114	Mustang	....do	Oct. 7, 1960.
5075-8	Jetco Ant and Roach Spray	Jewel Companies, Inc., 5725 N. East River Road, Chicago, IL 60631	Apr. 25, 1960.
5197-1	Kem Kill	Kem Mfg. Corp., Kem International Building, Tucker, GA 30084	Oct. 10, 1955.
57778-24	Gro Ethion 13% Emulsion	Gro Chemical Co., 3530 NW 31st Street, Miami, FL 33142	Apr. 10, 1968.
5801-3	X-Termite	Langen Oil Co., P.O. Box 68, Roxana, IL 62084	Nov. 13, 1979.
5967-59	Emthion 4:4	Moyer Chemical Co., P.O. Box 945, San Jose, CA 95108	July 21, 1974.
5967-63	Metaspray 25-W	....do	May 8, 1974.
5967-73	Emthion 6:3	....do	July 27, 1973.
6720-55	SMCP Granular Dye-Cil	Southern Mill Creek Products Co., Inc., P.O. Box 1098, Tampa, FL 33601	June 12, 1968.
6962-6	Permacide Residual Insecticide	Madison Bionics, P.O. Box 29805, Atlanta, GA 30359	May 15, 1964.
7173-15	Chemper Sulphur Dust	Lipha Chemicals, Inc., Chemper Products Division, 680 Madison Ave., New York, NY 10021.	Apr. 13, 1962.
7173-16	Chemper Wettable Sulphur	....do	Do.
7392-17	Four Seasons Ant and Roach Killer	Wonder Chemical Co., Inc., P.O. Box 16193, San Antonio, TX 78216	June 22, 1963.
7500-12	Black-Jack Multi-Purpose Herbicide Weed Killer	Gibson-Homans Co., 2366 Woodhill Road, Cleveland, OH 44106	Feb. 10, 1970.
7995-31	KL-990 Anti-Fouling Komposition Red	Rule Paint and Chemical Co., Inc., Cape Ann Industrial Park, Gloucester, MA 01930.	May 20, 1068.
7995-34	Polycop	....do	Do.
8120-1	Amercoat 130 Delux Anti-Fouling	Ameron, Protective Coatings Division, P.O. Box 1020, Brea, CA 92621	Jan. 14, 1964.
8120-4	Amercoat 1795 Anti-fouling Black	....do	June 15, 1970.
8210-5	Amercoat 1780 Anti-fouling	....do	Do.
8120-6	Amercoat 1795 Anti-fouling Green	....do	Nov. 9, 1972.
8120-7	Amercoat 1795 Anti-fouling White	....do	Do.
8120-8	Amercoat 1795 Anti-fouling Oxide Red	....do	Do.
8120-25	Colorama Paint Antifouling, Cold Plastic Shipbottom Navy Formula No. 105	....do	July 11, 1967.
8120-29	Amercoat 555 Antifouling White	....do	Sept. 15, 1960.
8120-30	Amercoat 555 Antifouling Oxide Red	....do	Do.
8169-1	Magic Mist Brand Flying Insect Killer	Sani-Fresh International, Inc., 4702 Goldfield, San Antonio, TX 72818	Oct. 16, 1963.
8169-9	Hunter's Magic Mist Air Sanitizer	....do	June 5, 1968.
8192-20	Preforan (c-6989) 15G Herbicide	Ciba-Geigy Corp. P.O. Box 11422, Greensboro, NC 27409	Sept. 24, 1970.
8203-11	AGROSOL S Seed Treatment	ICI Americas, Inc., Wilmington, DE 19899	Feb. 9, 1971.
8203-12	Granol P-C Peanut Seed Fungicide and Insecticide	....do	Dec. 11, 1970.
8203-27	Granox 30-30 HM Soybean Seed Treatment	....do	May 14, 1982.
8203-29	Granox 30-30 Soybean Seed Treatment	....do	Do.
8612-66	Ban-Bug Household Insect Spray	B and G Co., 10539 Maybank Drive, Dallas, TX 75220	Feb. 22, 1974.
8766-3	Beetle-Down Japanese Beetle Pressurized Spray Bomb Ready Rose Spray	Jackson and Perkins Co., 1 Rose Lane, Medford, OR 97501	Feb. 27, 1970.
8823-26	Habco 5 HB (Granular)	Habco, Inc., 1418 5th Street South, Hopkins, MN 55343	Oct. 23, 1968.
8823-32	Habco 5B SF Liquid Weed Killer	....do	Dec. 4, 1968.
8823-33	Habco 3B SF Liquid Weed Killer	....do	May 2, 1969.
9550-1	3-1 Brand Hi-Flavored Rat and Mouse Killer	Iowa-Indianola Industries, 1187 JG, Mt. Horeb, WI 53572	Feb. 6, 1967.
9779-37	Riverside (R) Sevin-Zineb Tomato Dust	Riverside Chemical Co., Unit of Terra Southern Corp., P.O. Box 171367, Memphis, TN 38117.	Sept. 5, 1967.
9962-1	New Improved Household Insect Spray Liquid	Speed Exterminating Co., 4141 Pearl Road, Cleveland, OH 44109	Mar. 1, 1968.
10130-3	Rose Formula 55 R Super House Spray	Rose Exterminator Co., 1130 Livernois Road, Troy, MI 48084	June 24, 1968.
10290-18	Professional BHC E-1	Professional Chemical Co., Inc., P.O. Box 94071, Houston, TX 77018	Apr. 21, 1975.
10378-1	Sanitrol Microbiocide	Hodag Chemical Corp., 7247 North Central Park Avenue, Skokie, IL 60076	Apr. 16, 1969.
10442-8	Pink Boll Worm Pheromone Technical	Biddle Sawyer Corp., 2 Penn Plaza, New York, NY 10021	Dec. 22, 1982.
11511-1	Shalco Complete Vegetation Killer	Shalco Chemical Corp., P.O. Box 3443, Toledo, OH 43607	May 10, 1972.
11511-6	Shalco AA Grade Fly Spray	....do	June 5, 1972.
11511-13	Shalco Weed and Vegetable Killer	....do	June 18, 1976.
11511-14	Shalco Amine Selective Weed Control	....do	July 30, 1975.
11511-27	Shalco Algaecide	....do	Oct. 15, 1976.
11556-6	Anthon Horse Wormer	Bayvet Division, Miles Laboratories, Inc., P.O. Box 390, Shawnee, KS 66201.	Dec. 29, 1971.
19713-160	Drexel EPN Technical	Drexel Chemical Co., P.O. Box 9306, Memphis, TN 38109	Dec. 10, 1982.
22555-1	That Flowable Sulfur	Stoller Chemical Co., Inc., 8582 Katy Freeway, Suite 200, Houston, TX 77024.	May 11, 1973.
31938-2	Bio-Serv Diazinon 4 lb	Bio-Serv Corp., 1130 Livernois, Troy, MI 48084	Nov. 20, 1973.
31938-3	Bio-Serv Diazinon 4 lb. Oil Solution	....do	Nov. 6, 1973.
33404-4	Sahara Granular Weed Killer	Stat Enterprises, Inc., 1865 New Highway, Farmingdale, NY 11735	Mar. 5, 1975.
33404-5	Bulls-Eye Liquid Weed Killer with Drift Control	....do	Do.
33404-6	Buccaneer Granular Weed Killer	....do	Oct. 24, 1975.
33576-34	Olin 7061	Olin Water Services, Olin Corp., 120 Long Ridge Road, Stamford, CT 06904.	Nov. 20, 1975.
35136-43	Combat Equine Fly Spray Concentrate	Winco Chemical Co., Inc., P.O. Box 10692, Jackson, MS 39209	July 19, 1982.
45115-19	IDA's Propazine Technical	IDA's Inc., P.O. Box 9483, Memphis, TN 38409	July 6, 1982.
45115-43	IDA's Diazinon Technical	....do	Sept. 17, 1982.
45115-45	IDA's Lindane Technical	....do	Oct. 25, 1982.

The Agency has agreed that such cancellation shall be effective October 30, 1983 unless within this time the registrant, or other interested person with the concurrence of the registrant, requests that the registration be continued in effect. The registrants were notified by certified mail of this action.

The Agency has determined that the sale and distribution of these productions produced on or before the effective date of cancellation may legally continue in commerce until the supply is exhausted, or for one-year after the effective date of cancellation, whichever is earlier; provided that the use of these products is consistent with the label and labeling registered with EPA. Furthermore, the sale and use of existing stocks have been determined to be consistent with the purposes of FIFRA as amended. Sale or distribution of any quantity or any of these products produced after the effective date of cancellation will be considered to be a violation of the Act.

Requests that the registration of these

products be continued may be submitted in triplicate to the Process Coordination Branch, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Comments may be filed regarding this notice. Written comments should bear a notation indicating the document control number "[OPP–66101]" and the specific registration number. Any comments filed regarding this notice will be available for public inspection in the Document Control Office, Room 236, CM#2, at the above address from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 6(a)(1) of FIFRA as amended 86 Stat. 973 89 Stat. (751, 7 U.S.C. 136))

Dated: August 23, 1983.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

[FR Doc. 83–24142 Filed 9–6–83; 8:45 am]

BILLING CODE 6560–50–M

[OPP–50600 PH–FRL 2426–8]

Pesticides; Issuance of Experimental Use Permit; University of California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted experimental use permits to the following applicants. These permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

FOR FURTHER INFORMATION CONTACT: By mail, the product manager cited in each experimental use permit at the address below: Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person or by telephone: Contact the product manager at the office location or telephone number cited in each experimental use permit.

SUPPLEMENTARY INFORMATION: EPA has issued the following experimental use permits:

46879–EUP–2. California Agricultural Experimental Station at the University of California, 386 Hutchinson Hall, Davis, CA 95616. This experimental use permit allows the use of 160 pounds of the insecticide 2,2-dichlorovinyl dimethyl phosphate on almonds to evaluate the control of Drosophila flies, navel orangeworms, and Nitidulid beetles. A total of 25 acres are involved; the program is authorized only in the State of California. The experimental use permit is effective from July 1, 1983 to September 30, 1983. Temporary tolerances for residues of the active ingredient in or on almong hulls, almond meats, and almond shells have been established. This permit is issued with the limitation that livestock are not allowed to feed or graze the cover crops from treated almond orchards. The product cannot be applied within 21 days of harvest. (George LaRocca, PM 15, Rm. 200, Cm#2, (703–557–2400))

100–EUP–79. Issuance. Ciba-Geigy Corporation, P.O. Box 18300, Greensboro, NC 27419. This experimental use permit allows the use of 250 pounds of the insecticide N-[4-(3-chloro-5-tri-fluoromethyl-2-pyridinyl-oxy)-3,5-dichloro-phenyl-aminocarbonyl]-2, 6-difluorobenzamide on cotton to evaluate the control of cotton bollworms and tobacco budworms. A total of 100 acres are involved; the program is authorized only in the State of Arkansas. The experimental use permit is effective from July 5, 1983 to July 5, 1985.This permit is issued with the limitation that all crops are destroyed or used for research purposes only. (Timothy Gardner, PM 17, Rm. 207, CM#2, (703–557–2690))

44544–EUP–1. Extension. DMB Packing Corporation, 4672 W. Jennifer, Fresno, CA 93711. This experimental use permit allows the use of 10,000 pounds of the growth regulator isobutyric acid on grapes to evaluate the increased yield per acre. A total of 1,000 acres are involved; the program is authorized only in the State of California. The experimental use permit is effective from June 6, 1983 to December 6, 1983. A temporary exemption from the requirement of a tolerance for residues of the active ingredient in or on grapes has been established. (Robert Taylor, PM 25, Rm. 251, CM#2, (703–557–1800))

1471–EUP–76. Issuance. Elanco Products Company, 740 South Alabama St., Indianapolis, IN 46285. This experimental use permit allows the use of 3,252 pounds of the herbicide oryzalin on alfalfa to evaluate the control of weeds. A total of 2,282 acreas are involved. (Robert Taylor, PM 25, Rm. 251, CM#2, (703–557–1800))

1471–EUP–77. Issuance. Elanco Products Company, 740 South Alabama St., Indianapolis, IN 46285. This experimental use permit allows the use of 1,088 pounds of the herbicide oryzalin on alfalfa to evaluate the control of weeds. A total of 815 acres are involved; this program and the one above are authorized in the States of Alabama, Arizona, Arkansas, California, Colorado, Delaware, Idaho, Illinois, Indiana, Kansas, Kentucky, Maryland, Michigan, Mississippi, Missouri, Nebraska, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, Washington, West Virginia, and Wisconsin. The experimental use permits are effective from June 27, 1983 to June 27, 1984. A temporary tolerance for residues of the active ingredient in or on alfalfa has been established. The permits will use the same active ingredient but different formulations. (Robert Taylor, PM 25, Rm. 251, CM#2, (703–557–1800))

8730–EUP–14. Issuance. Health-Chem Corporation, 1107 Broadway, New York, NY 10010. This experimental use permit allows the use of 264 pounds of the pheromones (Z,Z)-7,11-hexadecadien-1-ol acetate and (Z,E)-7,11-hexadecadien-1-ol acetate on cotton to evaluate the control of the pink bollworm. A total of 20,000 acres are involved. (Timothy Gardner, PM 17, Rm. 207, CM#2, (703–557–2690))

8730–EUP–15. Issuance. Health-Chem Corporation, 1107 Broadway, New York, NY 10010. This experimental use permit allows the use of 5.01 pounds of the pheromones (Z,Z)-7,11-hexadecadien-1-ol acetate and (Z,E)-7,11-hexadecadien-1-ol acetate on cotton to evaluate the control of the pink bollworm. A total of 380 acres are involved; this program and the one above are authorized only in the States of Arizona and California. The experimental use permits are effective from July 8, 1983 to July 8, 1984. The permits will use the same active ingredients but different formulations. (Timothy Gardner, PM 17, Rm. 207, CM#2, (703–557–2690))

Persons wishing to review these experimental use permits are referred to the designated product managers. Inquiries concerning these permits should be directed to the persons cited above. It is suggested that interested persons call before visiting the EPA Headquartes Office, so that the appropriate file may be made available for inspection purposes from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 92 Stat. 819, as amended, (7 U.S.C. 136))

Dated: August 12, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83–24011 Filed 9–6–83; 8:45 am]

BILLING CODE 6560–50–M

[PP 2G2581/T427] PH-FRL 2429-5]

Pesticides; Thiodicarb; Renewal of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has renewed temporary tolerance for the combined residues of the insecticide thiodicarb and its metabolite methomyl in or on the raw agricultural commodities cottonseed and soybeans.

DATE: These temporary tolerances expire June 14, 1984.

FOR FURTHER INFORMATION CONTACT: By mail: Jay Ellenberger, Product Manager (PM) 12, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 202, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-2386).

SUPPLEMENTARY INFORMATION: EPA issued a notice that published in the **Federal Register** of May 19, 1982 (47 FR 21616) stating that temporary tolerances had been established for the combined residues of the insecticide thiodicarb, dimethly *N, N'*-[thio] bis [(methylamino) carbonyloxy]] bis [ethanimidothioate], and its metabolite methomyl, *N*-[(methylcarbamoyl)oxy] thioacetimidate, in or on the raw agricultural commodities cottonseed at 0.4 part per million (ppm) and soybeans at 0.1 ppm. A related document extending a feed additive regulation permitting residues of thiodicarb in or on cottonseed hulls at 0.8 part per million (ppm) and soybean hulls at 0.4 ppm appears elsewhere in this issue of the **Federal Register.**

These tolerances were renewed in response to pesticide petition PP 2G2581, submitted by Union Carbide Corporation, P.O. Box 12114, Research Triangle Park, NC 27709.

The company has requested a one-year renewal of the temporary tolerances to permit the continued marketing of the above raw agricultural commodities when treated in accordance with the provisions of experimental use permit 264-EUP-61 which is being renewed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, (Pub. L. 95-396, 92 Stat. 819; 7 U.S.C. 136). The scientific data reported and other relevant material were evaluated, and it was determined that a renewal of the temporary tolerances will protect the public health. Therefore, the temporary tolerances have been renewed on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. Union Carbide Corp. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records or production, distribution, and performance, and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These tolerances expire June 14, 1984. Residues not in excess of this amount remaining in or on the above raw agricultural commodities after this expiration date will not be considered actionable in the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerances. These tolerances may be revoked if the experimental use permit is revoked or if any experience or scientific data with this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(j), 68 Stat. 516, (21 U.S.C. 346a(j)))

Dated: August 24, 1983.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83-24158 Filed 9-6-83; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59132 A; BH-FRL 2429-3]

Toxic and Hazardous Substance control; Test Marketing Exemption, Approvals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of TM-83-68, TM-83-69, TM-83-70 and TM-83-71-four applications for a test marketing exemption (TME) under section 5(h)(6) of the Toxic Substances Control Act (TSCA). The test marketing conditions are described below.

EFFECTIVE DATE: August 25, 1983.

FOR FURTHER INFORMATION CONTACT: Margaret J. Stasikowski, Deputy Director, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-345, 401 M St. SW., Washington, D.C. 20460 (202-382-3938).

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and to permit them to manufacture or import new Chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities.

EPA has determined that test marketing of the new chemical substances described below, under the conditions set out in the applications, and for the time periods specified below, will not present any unreasonable risk of injury to health or the environment. Production volume, number of workers exposed to the new chemical, and the levels and duration of exposure must not exceed that specified in the applications. All other conditions described in the applications must be met. The following additional restrictions apply:

1. The applicant must maintain records of the date(s) of shipment(s) to each customer and the quantities supplied in each shipment, and must make these records available to EPA upon request.

2. A bill of lading accompanying each shipment must state that use of the substance is restricted to that approved in the TME.

TME 83-68

Date of Receipt: July 18, 1983.

Notice of Receipt: July 29, 1983 (48 FR 34508).

Applicant: Confidential.

Chemical: (Generic) Alkyl metallic halide.

Use: (Generic) Industrial intermediate.

Production Volume: 3,300 lbs.

Number of Customers: 1.

Exposure Information: Confidential.

Test Marketing Exemption Period: 6 months..

Commencing on: (Insert signature date.)

Risk Assessment: The Test Market substance, TM–83–68, is a highly reactive chemical which has the capacity to be a severe skin irritant. However, due to its reactivity and volatility, dermal contact is unlikely. The physical/chemical properties of this class of chemicals are well understood, and the Company will employ stringent manufacturing procedures. Furthermore, the Company will require the use of protective clothing by workers to minimize the likelihood of exposure.

Public Comments: None.

TME 83–69, 83–70, 83–71

Date of Receipt: July 18, 1983.

Notice of Receipt: July 29 (48 FR 34508).

Applicant: Sun Alert.

Chemicals:

TM–83–69: methyl fluorene-9-carboxylate

TM–83–70: 9-methyl carboxylate-9-aminophenyl(4-dimethylamino)fluorene

TM–83–71: methyl 9-bromofluorene-9-carboxylate.

Use: Chemical intermediates.

Production Volume: <2 kg each.

Number of Customers: 200.

Exposure Information: Up to 3 workers may be exposed to the new substances for 8 hrs./day during the test marketing production period.

Test Marketing Period: 3 months.

Commencing on: (Insert signature date.)

Risk Assessment: The TME substances, TM–83–69, TM–83–70 and TM–83–71, are site-limited intermediates which will be used in the manufacture of 3'-(p-dimethylamino)phenyl Spiro-(fluorene-9,4'-oxazolidine)-2', 5'dione, and which was the subject of a TME (TM–83–58) granted July 15, 1983. Overall concern for human health effects is low and environmental release is expected to be insignificant.

Public Comments: None.

The Agency reserves the right to rescind approval of an exemption should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present an unreasonable risk to health or the environment.

Dated: August 25, 1983.

Marcia E. Williams,

Acting Director, Office of Toxic Substances.

[FR Doc. 83-24369 Filed 9-6-83; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59132B; BH-FRL 2429-2]

Toxic and Hazardous Substance Control; Test Marketing Exemption Approvals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of TM–83–72, TM–83–73, and TM–83–74, three applications for test marketing exemptions (TME) under section 5(h)(6) of the Toxic Substances Control Act (TSCA). The test marketing conditions are described below.

EFFECTIVE DATE: August 26, 1983.

FOR FURTHER INFORMATION CONTACT: Margaret J. Stasikowski, Deputy Director, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–345, 401 M St. SW., Washington, D.C. 20460, (202–382–3938).

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and to permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities.

EPA has determined that test marketing of the new chemical substances described below, under the conditions set out in the applications, and for the time period specified below, will not present any unreasonable risk of injury to health or the environment. Production volume, number of workers exposed to the new chemical, and the levels and duration of exposure must not exceed that specified in the applications. All other conditions described in the applications must be met. The following additional restrictions apply:

1. The applicant must maintain records of the date(s) of shipment(s) to each customer and the quantities supplied in each shipment, and must make these records available to EPA upon request.

2. A bill of lading accompanying each shipment must state that use of the substance is restricted to that approved in the TME.

TME 83–72

Date of Receipt: July 18, 1983.

Notice of Receipt: July 29, 1983 (48 FR 34508).

Applicant: Confidential.

Chemical: Polysiloxane resin (Generic).

Use: Confidential.

Import Volume: Confidential.

Exposure Information: Potential for dermal and inhalation exposure during processing/use of up to 100 workers for 1 month.

Test Marketing Period: 1 year.

Commencing on: (Insert signature date.)

Risk Assessment: The Agency identified no significant health or environmental concerns for the TME substance. Exposure during processing/use should be limited. No expsoure to consumers or from environmental release is expected.

Public Comments: None.

TME 83–73, TME 83–74

Date of Receipt: July 18, 1983.

Notice of Receipt: July 29, 1983 (48 FR 34508).

Applicant: Stauffer Chemical Company.

Chemical: Isocyanate-reactive prepolymer (Generic).

Use: Reaction injection molding products.

Import Volume: 25,000 lb. (each).

Exposure Information: Potential for dermal and ocular exposure to workers during manufacture, processing and use for each TME substance.

Test Marketing Period: 1 year.

Commencing on: (Insert signature date.)

Risk Assessment: Overall concern for health and environmental effects for the TME substances is low. The Agency identified no systemic or chronic health concerns. Absorption through the skin and gastro-intestinal tract is not anticipated. Although a potential for dermal and ocular expsoure exist during sampling and drumming operations, these operations will be performed by trained operators wearing appropriate protective equipment. A Material Safety Data Sheet (MSDS) that includes information on safe handling practices and precautions will be available to employees involved in manufacturing operations and furnished to customers of the test market substances. The customers are accustomed to handling similar materials. Any release to water is unlikely.

Public Comments: None.

Dated: August 26, 1983.

Marcia E. Williams,

Acting Director, Office of Toxic Substances.

[FR Doc. 83-24370 Filed 9-6-83; 8:45 am]

BILLING CODE 6560-50-M

[SA-FRL 2429-6]

Science Advisory Board, Clean Air Scientific Advisory Committee; Open Meeting—September 26–27, 1983

Under Pub. L. 92–463, notice is hereby given of a two day meeting of the Science Advisory Board's Clean Air Scientific Advisory Committee (CASAC). The meeting will be held on September 26–27 and will begin at 9:15 a.m. on both days in Rooms 3906–08 Mall, EPA Headquarters, 401 M Street, SW., Washington, D.C.

The principal purpose of the meeting is to enable the CASAC to provide its advice and comment to EPA on the scientific adequacy of two draft documents prepared for the assessment of scientific data related to the National Ambient Air Quality Standard (NAAQS) for Carbon Monoxide. The documents include an Office of Research and Development assessment entitled *Revised Evaluation of Health-Effects Associated With Carbon Monoxide Exposure: An Addendum to the 1979 EPA Air Quality Criteria Document for Carbon Monoxide.* Single copies of this document may be obtained by writing or calling Office of Research and Development Publications, CERI–FRN, U.S. EPA, 26 W. St. Clair Street, Cincinnati, Ohio, 45268 (513) 684–7562. The second document was prepared by EPA's Office of Air Quality Planning and Standards (OAQPS) and is entitled *Review of the NAAQS for Carbon Monoxide: 1983 Reassessment of Scientific and Technical Information.* Single copies of this document may be obtained by writing or calling Mr. Michael Jones, OAQPS (MD–12), EPA, Research Triangle Park, North Carolina 27711 (919) 541–5531.

Additional issues to be discussed at the meeting include a report of the review activities of the CASAC Risk Assessment Subcommittee, briefing on EPA's air quality modeling program activities, and other issues of member interest.

The meeting is open to the public. Any member of the public wishing to attend, obtain information or submit comments should contact Dr. Terry F. Yosie, Director, Science Advisory Board, at (202) 382–4126 before close of business September 19, 1983.

Terry F. Yosie,

Director, Science Advisory Board.

August 31, 1983.

[FR Doc. 83-24302 Filed 9-6-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL RESERVE SYSTEM

Crocker Bank, Midland Bank PLC, and Midland California Holdings Limited; Proposed Equity Financing Activities

Crocker National Corporation, San Francisco, California, Midland Bank PLC, London, England, and Midland California Holdings Limited, London, England, have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to engage in the activities of arranging equity financing for commercial or industrial income-producing real estate. These activities would be performed by Applicant's subsidiary, Crocker Mortgage Company, Los Angeles, California, through offices in Los Angeles, Irvine, and San Francisco, California, Chicago, Illinois and Dallas, Texas, and the geographic area to be served in the United States.

Although arranging equity financing has not been added to the list of activities specified by the Board in § 225.4(a) of Regulation Y, the Board has determined by order that this activity is closely related to banking. *E.g. Trust Company of Georgia,* 69 Federal Reserve Bulletin 225 (1983).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweight possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco.

Any views or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C., not later than September 20, 1983.

Board of Governors of the Federal Reserve System, August 31, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-24300 Filed 9-6-83; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

[H–83–1]

Delegation of Authority to the Deputy Secretary of the Treasury

1. *Purpose.* This delegation authorized the Deputy Secretary of the Treasury to sell 14,400,000 Stock Purchase Warrants Second 1980 Issue, each evidencing the right to purchase one share of the common stock of the Chrysler Corporation (the "Warrants").

2. *Effective date.* This delegation is effective August 24, 1983.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended (the "Act"), authority is hereby delegated to the Deputy Secretary of the Treasury to perform all functions in connection with the sale of the Warrants pursuant to Section 203 of the Act (40 U.S.C. 484).

b. The Deputy Secretary of the Treasury may redelegate this authority to the appropriate officers and employees of the Department of the Treasury.

c. The authority granted herein shall be exercised in accordance with the requirements and limitations of the Act and other applicable laws.

Date: August 24, 1983.

Gerald P. Carmen,

Administrator of General Services.

[FR Doc. 83-24339 Filed 9-6-83; 8:45 am]

BILLING CODE 6820-24-M

GENERAL SERVICE ADMINISTRATION

Office of the Administrator Advisory Board; Meeting

Notice is hereby given that the GSA Advisory Board will meet on September 20, 1983, from 10:00 a.m. to 4:00 p.m. in Room 6120, 18 and F Streets, NW., Washington, D.C. 20405. The meeting will be devoted to discussions of general matters related to the operations of the General Services Administration and specific activities under review by the Board's subcommittees.

For further information, contact Mr. Thomas J. Simon at (202) 523–1614.

Dated: September 1, 1983.

Roger C. Dierman,

Deputy Associate Administrator.

[FR Doc. 83-24480 Filed 9-6-83; 8:45 am]

BILLING CODE 4110-35-M

DEPARTMENT OF THE HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 82P-0263]

Burroughs Wellcome Co.; Neuroleptic Drugs Radioreceptor Assay Test System; Panel Recommendation on Petition for Reclassification

Correction

On FR Doc. 83-22312 beginning on page 37080 in the issue of Tuesday, August 16, 1983, make the following corrections:

1. On page 37083, Table 2, where the symbols "—" appears change it to "±" throughout the table (21 places).

2. Under "Lot 1", in the first entry, "8.6" should have read "8.5".

3. Under "Lot 3", in the fourth entry ".81" should have read "0.81".

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Consumer Participation; Open Meetings

AGENCY: Food and Drug Administration (FDA), HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following consumer exchange meetings: ORLANDO DISTRICT OFFICE, chaired by Adam J. Trujillo, District Director. Topics to be discussed: Food Safety; Health Fraud; and Patient Education.

DATE: Tuesday, September 13, 1983, 1:30 to 4 p.m.

ADDRESS: Alachua County Extension Office, 2800 N.E. 39th Ave., Gainesville, Florida 32601.

FOR FURTHER INFORMATION CONTACT: Lynne Isaacs, Consumer Affairs Officer, Food and Drug Administrator, P.O. Box 118, Orlando, FL 32802, 305-885-0900.

Los Angeles District Office, chaired by Abraham I. Kleks, District Director. Topics to be discussed: Food Safety Issues; Orphan Drugs; and Other Current Issues.

DATE: Wednesday, September 21, 1983, 9:30 a.m

ADDRESS: Pima County Medical Society, 5199 East Farness, Tucson, Arizona 85712.

FOR FURTHER INFORMATION CONTACT: Gordon L. Scott, Consumer Affairs Officer, Food and Drug Administration, 1521 West Pico Blvd., Los Angeles, CA 90015, 213-688-3771.

SUPPLEMENTARY INFORMATION: The purpose of these meetings is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's District Offices, and to contribute to agency's policymaking decisions on vital issues.

Dated August 30, 1983.

William R. Clark,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-24333 Filed 9-6-83; 8:45 am]

BILLING CODE 4160-01-M

Health Resources and Services Administration

Application Announcement for Grants for Predoctoral Training in Family Medicine

Correction

In FR Doc. 83-22279 beginning on page 36893 in the issue of Monday, August 15, 1983, make the following correction:

On page 36893, third column, last paragraph, remove the first 5 lines and insert the following text:

"Approximately $1.0 million is expected to be available in Fiscal Year 1984 for competitive grants. Application materials are being made available without final action on the related Fiscal Year 1984 budget, therefore, adjustments and other changes may be necessary at a later date.

"The deadline date for receipt of applications is October 31, 1983. Applications sent by . . .".

BILLING CODE 1505-01-M

Office of Human Development Services

Advisory Board on Child Abuse and Neglect; Meeting

Notice is hereby given, pursuant to Pub. L. 92-463, of the meeting of the Advisory Board on Child Abuse and Neglect on September 27, 1983, at the Sixth National Conference on Child Abuse and Neglect in the Baltimore Convention Center, Baltimore, Maryland.

The Advisory Board on Child Abuse and Neglect was established by the Department of Health and Human Services to assist the Secretary in coordinating programs and activities related to child abuse and neglect planned, administered, or assisted by the Federal agencies whose representatives are members of the Advisory Board. The Advisory Board shall also assist the Secretary in the development of Federal standards for child abuse and neglect prevention and treatment programs and projects.

After Board Members have participated in the Conference by attending workshops and other Conference activities, they will attend an informal evening meeting to get acquainted with new Administration on Children, Youth and Families officials who will work with the Board in Fiscal Year 1984.

Further information on the Advisory Board meeting may be obtained from Ms. Arlene Taylor, National Center on Child Abuse and Neglect, Room 2006E, Donohoe Building, P.O. Box 1182, Washington, D.C. 20013, or call on (202) 245-2840.

Advisory Board meetings are open for public observation.

Dated: August 31, 1983.

Mamie J. Welborne,

HDS Committee Management Officer.

[FR Doc. 83-24482 Filed 9-6-83; 8:45 am]

BILLING CODE 4130-01-M

Social Security Administration

Waiver of Aid to Families With Dependent Children, Quality Control Disallowances; Delegation of Authority

Notice is hereby given that on August 13, 1983, the Secretary of Health and Human Services delegated to the Commissioner of Social Security: (1) The authority to make determinations on requests for waivers of disallowances based on the AFDC quality control system pursuant to the 1979 Michel Amendments, Section 201 of the Labor-HEW Appropriations Bill for Fiscal Year 1980 (H.R. 4389) as referenced in the Continuing Resolution for Fiscal Year 1980 (Section 101(g) of Pub. L. 96-123), and (2) the authorities contained in Section 156 of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97-248) amending the Social Security Act, limiting Federal financial participation in erroneous expenditures.

The Secretary also ratified and affirmed any actions taken by the Commissioner prior to the effective date of the delegation by the Commissioner with respect to: (1) Determinations on

waivers of disallowances, and (2) Section 156.

The Commissioner may not redelegate these delegated authorities.

Dated: August 26, 1983.

John J. O'Shaughnessy,

Acting Assistant Secretary for Management and Budget.

[FR Doc. 83-24428 Filed 9-6-83; 8:45 am]
BILLING CODE 4100-11-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Near-Reservation Designations

August 3, 1983.

This notice is published in exercise of authority delegated to the Assistant Secretary—Indian Affairs by 209 DM 8.

In accordance with 25 CFR Part 20, Financial Assistance and Social Services Program, the Assistant Secretary—Indian Affairs is designating certain locales as "near-reservation" locations for purposes of extending Bureau of Indian Affairs financial assistance and/or social services.

The locales listed below are arranged alphabetically by Bureau of Indian Affairs agency/area office.

Agency: Cheyenne River
Tribe: Cheyenne River Sioux
Near-Reservation Location: The community of Faith, South Dakota (only that area falling within the city limits of Faith, South Dakota).

Agency: Phoenix Area Office
Tribe: Pascua Yaqui
Near-Reservation Location: The Pima County, Arizona communities of South Tucson, Old Pascua Village and Yoem Pueblo.

Agency: Puget Sound
Tribe: Muckleshoot
Near-Reservation Location: The counties of King and Pierce in the State of Washington.

Agency: Puget Sound
Tribe: Nisqually
Near-Reservation Location: Thurston County and Pierce County in the State of Washington.

Agency: Puget Sound
Tribe: Nooksack
Near-Reservation Location: Whatcom County and Skagit County in the State of Washington.

Agency: Puget Sound
Tribe: Suquamish
Near-Reservation Location: Counties of Mason, Kitsap, Thurston, Snohomish, King and Pierce in the State of Washington.

Agency: Puget Sound
Tribe: Swinomish
Near-Reservation Location: Skagit County in the State of Washington.

Agency: Rosebud
Tribe: Rosebud Sioux
Near-Reservation Location: The South Dakota counties of Gregory, Melette,Tripp, and Lyman (excluding that portion of Lyman County which falls within the boundaries of the Lower Brule Indian Reservation).

Agency: Sisseton
Tribe: Sisseton-Wahpeton Sioux
Near-Reservation Location: The communities of Waubay, South Dakota and Wilmot, South Dakota.

Agency: Turtle Mountan
Tribe: Turtle Mountain Band of Chippewa Indians
Near-Reservation Location: Rolette County, North Dakota.

Agency: Warm Springs
Tribe: Burns Paiute
Near-Reservation Location: The communities of Burns and Hines in the State of Oregon and those public domain allotments in Harney County, Oregon inhabited by members of the Burns Paiute Tribe.

Agency: Western Nevada
Tribes: Fallon Paiute Shoshone; Ft. McDermitt Paiute Shoshone; Lovelock Paiute; Moapa Band of Piatues; Pyramid Lake Paiute; Reno-Sparks Indian Colony; Summit Lake Paiute; Walker River Paiute; Washoe Tribe of Nevada and California; Winnemucca Indian Colony; Yerington Paiute; Yomba Shoshone; and Las Vegas Indian Colony.
Near-Reservation Location: The Nevada counties of Humboldt, Washoe, Story, Pershing, Churchill, Douglas, Mineral, Lyon, Esmeralda, Clark and Nye.

The regulations in 25 CFR Part 20, Financial Assistance and Social Services Program, have full force and effect when extending Bureau of Indian Affairs financial assistance and/or social services in the above designated "near-reservation" locations. Additional information concerning these "near-reservation" designations may be obtained from the Chief, Division of Social Services, Bureau of Indian Affairs, 1951 Constitution Avenue, NW., Washington, D.C. 20245, telephone number (202) 343-6434.

Kenneth Smith,

Assistant Secretary, Indian Affairs.

[FR Doc. 83-24322 Filed 9-6-83; 8:45 am]
BILLING CODE 4310-02-M

Ottawa Tribe of Oklahoma; Plan for the Use and Distribution of Ottawa Tribe of Oklahoma Judgment Funds in Dockets 133-A, 133-B and 302 Before the Indian Claims Commission and Dockets 133-C and 338 Before the United States Court of Claims

August 12, 1983.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 209 DM 8.

The Act of October 19, 1973 (Pub. L. 93-134, 87 Stat. 466), as amended, requires that a plan be prepared and submitted to Congress for the use or distribution of funds appropriated to pay a judgment of the Indian Claims Commission or Court of Claims to any Indian tribe. Funds were appropriated on September 13, 1978, January 19, 1979, and March 2, 1979, in satisfaction of the awards granted to the Ottawa Tribe of Oklahoma in Dockets 133-A, B, C, 302 and 338. The plan for the use and distribution of the funds was submitted to the Congress with a letter dated March 11, 1983, and was received (as recorded in the Congressional Record) by the House of Representatives on March 22, 1983, and by the Senate on March 23, 1983. The plan became effective on June 14, 1983, as provided by Section 5 of the amended 1973 Act, since a joint resolution disapproving it was not enacted.

The plan reads as follows:

The funds appropriated on September 13, 1978, January 19, 1979, and March 2, 1979, in satisfaction of judgments granted to the Ottawa Tribe in Dockets 133-A, 133-B and 302 by the Indian Claims Commission and in Dockets 133-C and 338 by the U.S. Court of Claims, less attorney fees and litigation expenses, including all interest and investment income accrued, shall be used and distributed as herein provided.

Per Capita Aspect

A roll shall be prepared, in accordance with procedures adopted by the Ottawa Business Committee and approved by the Secretary of the Interior (hereinafter 'Secretary') of all members of the Ottawa Tribe of Oklahoma who were born on or prior to and living on the date of this plan. Subsequent to the preparation of this roll, the Secretary shall make a per capita distribution of eighty (80) percent of the funds, in a sum as equal as possible, to all persons listed on this roll. Any amount remaining after the per capita payment shall revert to the Ottawa Business Committee for use in ongoing programs.

The per capita shares of competent adults shall be paid directly to them. Per capita shares of deceased individual beneficiaries shall be determined and distributed in accordance with 43 CFR, Part 4, Subpart D. Per capita shares of legal incompetents and

minors shall be handled as provided in the Act of October 19, 1973, 87 Stat. 466, as amended January 12, 1983, by Pub. L. 97–458.

Programing Aspect

Twenty (20) percent of the judgment funds shall be utilized, subject to the approval of the Secretary, as follows:

(a) Sixteen (16) percent for land purchase and improvements on, and/or to, such land.

(b) Eight (8) percent for educational purposes.

(c) Eight (8) percent for the upkeep, including maintenance, equipment and expansion of the Tribal Cemetery.

(d) Five (5) percent of office building improvement.

(e) Sixty-three (63) percent to be invested by the Secretary pursuant to the Act of June 24, 1938, 25 U.S.C. 162a. The interest and investment income accured shall be utilized for the Tribe's governmental operations.

General Provision

None of the funds distributed per capita or made available under this plan for programing shall be subject to Federal, State or local income taxes or be considered as income or resources in determining either eligibility for or the amount of assistance under the Social Security Act or any Federal or federally assisted programs.

John W. Fritz,

Acting Assistant Secretary, Indian Affairs.

[FR Doc. 83–24324 Filed 9–6–83; 8:45 am]

BILLING CODE 4310–02–M

Red Lake Band of Chippewa Indians; Plan for the Use and Distribution of Red Lake Band of Chippewa Indians' Judgment Funds in Docket 189–C Before the United States Court of Claims

August 12, 1983.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 209 DM 8.

The Act of October 19, 1973 (Pub. L. 93–134, 87 Stat. 466), as amended, requires that a plan be prepared and submitted to Congress for the use or distribution of funds appropriate to pay a judgment of the Indian Claims Commission or Court of Claims to any Indian tribe. Funds were appropriated on January 15, 1982, in satisfaction of the award granted to the Red Lake Band of Chippewa Indians in United States Court of Claims Docket 189–C. The plan for the use and distribution of the funds was submitted to the Congress with a letter dated October 8, 1982, and was received (as recorded in the Congressional Record) by the House of Representatives on November 29, 1982, and by the Senate on November 30, 1982. The plan became effective on March 14, 1983, as provided by Section 5 of the amended 1973 Act, since a joint resolution disapproving it was not enacted.

The plan reads as follows:

The funds appropriated on January 15, 1982, in satisfaction of an award granted to the Red Lake Band of Chippewa Indians of the Red Lake Reservation in Minnesota in Docket 189–C (Exception 8–1904 Act disposal claim) before the United States Court of Claims, inlcuding all interest and investment income accrued, less attorney fees and litigation expenses, shall be distributed as herein provided

A. *Per Capita Distribution.* Eighty per centum of the Red Lake Band of Chippewa Indians share of the funds in this award shall be distributed in the form of per capita payments (in sums as equal as possible) to all persons who were born on or prior to and living on the effective date of this Plan who are enrolled members of the Red Lake Band of Chippewa Indians.

The per capita shares of living competent adults shall be paid directly to them. The per capita shares of legal incompetents shall be handled pursuant to 25 CFR 115.5 The per capita shares of deceased individual beneficiaries shall be determined and distributed in accordance with 43 CFR, Part 4, subpart D. The per capita shares of minors shall be handled pursuant to 25 CFR 87.10(a) and (b)(1) and 115.4. (25 CFR 104 redesignated at 25 CFR 115 and 25 CFR 60 as 87 as published in 25 CFR of April 1, 1982).

B. *Programing.* Twenty (20) percent of these funds shall be utilized by the Tribal Council for reservation community services consisting of programs identified under the headings: Juvenile; Elderly; Incentive Awards-High School graduates; Health and Sanitation; Tribal Administration; Crime Victim Reparation; Credit Program; Fire Prevention and Safety; Industrial Development; and Burial Allowance, in accordance with the provisions of Tribal Council Resolution No. 8–82 adopted January 19, 1982, by the Red Lake Band of Chippewa Indians tribal council and subject to the approval of the Secretary of the Interior.

C. *General Provisions.* None of the funds distributed per capita or held in trust under the provisions of this plan shall be subject to Federal or State income taxes, and the per capital payments shall not be considered as income or resources when determining the extent of eligibility for assistance under the Social Security Act. Any amount remaining after the per capita payment shall revert to the programing portion of this award.

John W. Fritz,

Acting Assistant Secretary, Indian Affairs.

[FR Doc. 83–24323 Filed 9–6–83; 8:45 am]

BILLING CODE 4310–02–M

Bureau of Land Management

Known Leasing Area (Phosphate); Aspen Range, Idaho

Pursuant to authority contained in the Act of March 3, 1879 (43 U.S.C. 31), as supplemented by Reorganization Plan No. 3 of 1950 (43 U.S.C. 1451, note), 220 Department Manual 2, and Secretary Order No's 3071 and 3087, and BLM Instruction Memorandum No. 83–384, the following described lands are deleted from the Aspen Range Known Leasing Area (Phosphate), effective May 2, 1983:

Idaho

Aspen Range Known Leasing Area (Phosphate)

Boise Meridian, Idaho

T. 8 S., R. 43 E.,
Sec. 26, SE¼SW¼, SW¼SE¼;
Sec. 35, W½NE¼, E½NW¼, W½SE¼.
T. 9 S., R. 43 E.,
Sec. 2, lot 4.

The deleted area described contains 360.59 acres, more or less.

A diagram showing the boundaries of the area classified for leasing and the lands deleted from the Aspen Range Known Leasing Area (Phosphate) has been filed with the appropriate office of the Bureau of Land Management. Copies of the diagram may be obtained from the State Director, Bureau of Land Management, Idaho State Office, 3380 Americana Terrace, Boise, ID 83706.

Larry L. Woodard,

Associate State Director.

August 29, 1983.

[FR Doc. 83–24327 Filed 9–6–83; 8:45 am]

BILLING CODE 4310–84–M

Arizona Strip District Grazing Advisory Board Meeting and Field Tour

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: A meeting and field tour of the Arizona Strip District Grazing Advisory Board will be held on Tuesday and Wednesday, September 27–28, 1983. Board members will be given an aerial tour of wilderness areas on Tuesday. The following day the Board will observe and discuss range improvement projects.

FOR FURTHER INFORMATION CONTACT: G. William Lamb, District Manager, Arizona Strip District, 196 East Tabernacle, St. George, Utah 84770 (801/673–3545).

SUPPLEMENTARY INFORMATION: The on-the-ground tour is open to the public and will begin at 8 a.m. from the district office. Anyone wishing to go on the tour is asked to notify the district manager by September 20. Visitors must provide their own transportation. Public comment will be accepted at any time during the tour or written statements may be filed for the Board's consideration.

Dated: August 29, 1983.

[FR Doc. 83-24340 Filed 9-6-83; 8:45 am]
BILLING CODE 4310-84-M

New Mexico; Notice of Filing of Plat of Survey

August 22, 1983.

The plats of survey of the following lands were officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, effective at 10 a.m. on August 10, 1983.

New Mexico Principal Meridian

T. 2 S., R. 1 E.

The plats representing the survey of lots 33, 34 and 35 in section 19 and lots 38 and 39 in section 30 in T. 2 S., R. 1 E., NMPM, was accepted August 1, 1983, under Group 768, New Mexico.

T. 2 S., R. 1 W.

The plats representing the survey of lots 46 and 47 in section 1, lots 63, 64, 65 and 67 in section 2, lots 44, 45 and 46 in section 11, lot 42 in section 12, lots 22 and 23 in section 25 in T. 2 S., R. 1 W., NMPM, was accepted August 4, 1983, under Group 768, New Mexico.

T. 3 S., R. 1 E.

The plat representing the survey of lots 53 and 54 in section 31, T. 3 S., R. 1 E., NMPM, was accepted August 1, 1983, under Group 768, New Mexico.

These surveys were executed to meet certain administrative needs of the Las Cruces District.

T., 10 N., R. 19 W.

The plot representing the dependent resurvey of a portion of the south boundary, west boundary, subdivisional lines, subdivision of sections 27–33 in T. 10 N., R. 19 W., NMPM, was accepted August 4, 1983, under Group 729, New Mexico.

This survey was executed to meet certain administrative needs of the Bureau of Indian Affairs.

The plats will be placed in the open files of the New Mexico State Office, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501. Copies of the plat may be obtained from that office upon payment of $2.50 per sheet.

Leroy C. Montoya,

Deputy State Director, Operations.

[FR Doc. 83-24329 Filed 9-6-83; 8:45 am]
BILLING CODE 4310-84-M

[Group 780]

New Mexico; Notice of Filing of Plat of Survey

August 23, 1983.

The plat of survey described below was officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, effective at 10 a.m. on August 17, 1983.

New Mexico Principal Meridian

T. 9 N., R. 2 E.

A dependent resurvey of the east and a portion of the south boundaries of the Pajarito Grant, a portion of the east boundary of the town of Atrisco Grant, a portion of the 2nd Stan. Par. N. in Rs. 2 and 3 E., the east boundary, a portion of the subdivision lines and partial subdivision of certain section and the survey of lots, under Group 780 and was accepted August 10, 1983.

T. 9 N., R. 3 E.

A dependent resurvey of the north boundary, a portion of the subdivisional lines and the subdivision of section 7, under Group 780 and was accepted August 11, 1983.

This survey was executed to meet certain administrative needs of this Bureau.

The plats will be placed in the open files of the New Mexico State Office, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501. Copies of the plat may be obtained from that office upon payment of $2.50 per sheet.

Leroy C. Montoya,

Deputy State Director, Operations.

[FR Doc. 83-24328 Filed 9-6-83; 8:45 am]
BILLING CODE 4310-84-M

[OR 35897 and OR 35898]

Realty Action; Modified Competitive Sale of Public Land in Linn County, Oregon

The following described parcels of land have been examined and identified as suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713) at no less than the appraised fair market value:

Parcel	Legal description	Acreage
A. (OR 35897)	T. 14 S., R. 3 W., W.M., Oregon; Sec. 2: Lots 1, 2 and 3 Sec. 3: Lot 4	0.79
B. (OR 35898)	T. 14 S., R. 3 W., W.M., Oregon; Sec. 3: Lot 3	0.24

Bids are being solicited for each parcel offered for sale. Appraised values are not being published in this NORA. The value will be disclosed only at the conclusion of the sale and only for those parcels for which acceptable bids were received; i.e., appraised value or higher.

Parcels A and B will be offered for sale, using modified competitive procedures, on November 16, 1983, at 10:00 a.m. The sale will be held at the Bureau of Land Management Conference Room, 1255 Pearl Street, Eugene, Oregon.

The sale parcels adjoin each other and comprise a narrow strip of agricultural land completely surrounded by private land. The tracts have been identified as unneeded since they are difficult and uneconomical to manage as part of the public lands and are not suitable for management by another Federal department or agency. Parcel B and a portion of parcel A are Oregon and California (O&C) revested railroad lands, which have been determined to be not suitable for management and administration for permanent forest protection and other purposes as provided for in the Acts of August 28, 1937, and May 24, 1939. There is no legal public access to parcel B. The sale is consistent with Bureau land use planning and has undergone public review and discussion. The public values of the land have been identified and it has been determined that the public interest will be well served by offering this land for sale. The land will not be offered for sale for at least 60 days after the date of this notice.

Bidding for parcels A and B will be restricted to the adjoining landowners. The designated bidders for parcel A are William Enos, Betty I. Enos, G. R. Bushnell, Jean Sloan, Hazel McHargue, Ervin E. Smith, Ella Smith and Clifford W. Babcock, Jr. The designated bidders for parcel B are George Campora, Emily Campora, William Enos, Betty I. Enos, Ervin E. Smith, Ella Smith, and Clifford W. Babcock, Jr. Failure to submit bids for parcels A and B by any of the above-named designated bidders shall constitute a waiver of such right. Modified competitive bidding procedures are being used to recognize the needs of the adjoining landowners and to meet Linn County zoning goals for agricultural land. Such procedures are authorized under Section 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713; 43 CFR 2711.3–2).

The terms and conditions applicable to the sale are:

1. A right-of-way for ditches and canals will be reserved to the United States (43 U.S.C. 945).

2. All minerals in the land will be reserved to the United States (43 U.S.C. 1719).

3. The sale of both parcels A and B will be subject to the surface rights of the lessee for oil and gas lease OR 17456.

4. The land will be sold subject to valid existing rights of record on the date of conveyance.

5. Upon disqualification of the apparent high bidder, the next high bid will be honored.

6. Those parcels not sold pursuant to this Notice of Realty Action shall be reoffered for sale to the general public at a later date utilizing competitive bidding procedures.

7. Federal law requires that bidders be U.S. citizens or, in the case of a corporation, subject to the laws of any State of the United States.

The sale of parcels A and B will be conducted by sealed and oral bid. Bids may be made by a principal or by his/her agent. Sealed written bids may be mailed or delivered in person to the Eugene District Office, Bureau of Land Management, 1255 Pearl Street, P.O. Box 10226, Eugene, Oregon 97440. Such bids will be considered only if received by the Bureau of Land Management prior to 10:00 a.m., November 16, 1983. Each written sealed bid must be accompanied by a certified check, postal money order, bank draft of cashiers check made payable to Department of the Interior—BLM for not less than one-fifth (20 percent) of the amount of the bid. The sealed envelope must be marked in the lower left hand corner "Public Sale Bid Parcel No. ——, sale held November 16, 1983." Bids must include all of the land in the parcel.

The written sealed bids will be opened and publicly declared at the beginning of the sale. If the bidders tie as high bid, the successful bid shall be determined by drawing. The highest qualifying sealed bid on each parcel will determined the base of the oral bidding conducted the day of the sale.

Oral bidding will be entertained after public declaration of the apparent high sealed bidder and all oral bids must be made in increments of $20.00 or more. Immediately following the close of oral bidding, the sale supervisor will open and examine the appraisal. If the highest bid price, either sealed or oral, equals or exceeds the appraised fair market value, it will be declared the sale price. The apparent high oral bidder, if any, will then be required to submit payment by cash, personal check, bank draft, money order, or any combination thereof, of any additional amount necessary to bring the amount tendered with their sealed bid up to one-fifth of the amount of the oral bid. If the highest bid price is less than the appraised fair market value, the sale supervisor will so state, but not reveal the appraised value. Oral bidding will then be reopened utilizing the procedures described above.

The apparent high qualifying bidder shall submit the remainder of the full sale price within 30 days from the date of the sale. Failure to submit the full sale price within 30 days shall disqualify the apparent high bidder and the deposit shall be forfeited and disposed of as other receipts of sale.

All bids will be either returned, accepted, or rejected within 30 days of the sale date.

Detailed information concerning the sale, including the planning documents, land report and environmental assessment is available for review at the Eugene District Office, 1255 Pearl Street, Oregon 97401.

For a period of 45 days from the date of this Notice, interested parties may submit comments to the District Manager, Eugene District Office. Any adverse comments received as a result of this notice or notification to the congressional committees or delegations pursuant to Pub. L. 97–394 will be evaluated by the District Manager, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of the Interior. Interested parties should continue to check with the District Office to keep themselves advised of any changes.

Dated: August 26, 1983.

Dwight L. Patton,

District Manager.

[FR Doc. 83-24328 Filed 9-6-83; 8:45 am]

BILLING CODE 4310-84- M

[OR 35895 and or 35899]

Realty Action; Noncompetitive Sale of Public Land in Linn County, Oregon

The following described parcels of land have been examined and indentified as suitable for disposal by sale under Section 203 of the Federal Land Policy and Managment Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713) at no less than the appraised fair market value:

Parcel	Legal Description	Acreage
1. (OR 35895)	T. 15 S., R. 2 W., W.M., Oregon; Sec. 6: Lot 3	0.79
2. (OR 35899)	T. 15 S., R. 3 W., W.M., Oregon; Sec. 6: Lot 4,5	4.96

The parcels will be offered by direct sale at the appraised fair market value to Arnold Kampfer and/or Lynn Kampfer (Parcel No. 1) and the Estate of Alice M. Edwards and the Estate of Percy J. Edwards, Jr. (Parcel No. 2), the respective surrounding landowners on November 16, 1983. The tracts are difficult and uneconomical to manage as part of the public lands and are not suitable for management by another Federal department or agency. There is no legal access to either parcel and they are both completely surrounded and integrated into private ranching operations. The sales are consistent with Bureau land use planning and have undergone public review and discussion. The public values of the land have been identified and it has been determined that the public interest will be well served by offering this land for sale. The parcels will not be offered for sale for at least 60 days after the date of this notice. Upon notification of sale date, the purchasers will be given 30 days to pay the full appraised market value.

The parcels are being offered noncompetitively to avoid disruption of the surrounding ranching operations and to meet Linn County zoning goals for agricultural land.

The terms and conditions applicable to the sale are:

1. A right-of-way for ditches and canals will be reserved to the United States (43 U.S.C. 945).

2. All minerals in the land will be reserved to the United States (43 U.S.C. 1719).

3. The sale of parcel No. 2 will be subject to the surface rights of the lessee for oil and gas lease OR 17457.

4. The land will be sold subject to valid existing rights of record on the date of conveyance.

5. Those parcels not sold pursuant to this Notice of Realty Action shall be reoffered for sale to the general public at a later date utilizing competitive bidding procedures.

6. Federal law requires that bidders by U.S. citizens or, in the case of a corporation, subject to the laws of any State of the United States.

Refusal or failure of the designated bidders to submit the full purchase price for the parcels within the time limits specified in the letters offering the tracts for direct sale shall constitute a waiver of their preference rights.

All bids will be either returned, accepted, or rejected within 30 days of the sale date.

Detailed information concerning the sale, including the planning documents, land report, and environmental assessment is available for review at the Eugene District Office, 1255 Pearl Street, Eugene, Oregon 97401.

For a period 45 days from the date of this Notice, interested parties may submit comments to the District Manager, Eugene District Office. Any adverse comments received as a result of this notice or notification to the congressional committees or delegations pursuant to Pub. L. 97–394 will be evaluated by the District Manager, who may vacate or modify this realty action

and issue a final determination. In the absence of an action by the District Manager, this realty action will become the final determination of the Department of the Interior. Interested parties should continue to check with the District Office to keep themselves advised of any changes.

Dated: August 26, 1983.

Dwight L. Patton,

District Manager.

[FR Doc. 83-24325 Filed 9-6-83; 8:45 am]

BILLING CODE 4310-84-M

[W-34993]

Wyoming; Partial Termination of Proposed Withdrawal and Opening of Lands

August 29, 1983.

1. Notice of proposed withdrawal and reservation of lands, FR Doc. 72-8835 (37 FR 11735), as amended by FR Doc. 76-21981 (41 FR 31579), segregates 80 acres, described therein, from all forms of appropriation under the public land laws including the mining laws, but not the mineral leasing laws, for protection of the Castle Garden Recreation Area.

2. The following described lands are not needed to protect the recreation values and are hereby removed from the proposed withdrawal. The segregative effect of the proposal withdrawal is terminated as to the following described lands, and the lands opened to entry at 10:00 a.m. on September 26, 1983:

Sixth Principal Meridian, Wyoming

T. 47 N., R. 89 W.,
Sec. 15, W½NW¼SW¼NW¼, SW¼SW¼NW¼, and SW¼SE¼ SW¼NW¼.

The area described contains 17.50 acres in Washakie County, Wyoming.

Appropriation of lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Sec. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

The lands have been and will continue to be open to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Land Resources, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82003.

Nyles L. Humphrey,

Acting State Director.

[FR Doc. 83-24343 Filed 9-6-83; 8:45 am]

BILLING CODE 4310-84-M

[AA-44469]

Alaska Native Claims Selection; Cook Inlet Region, Inc.

The document entitled Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area was ratified by Public Law (Pub. L.) 94-204 (89 Stat. 1145, 1151) on January 2, 1976, and clarified on August 31, 1976. Section II of the Terms and Conditions authorized reconveyance by the United States to Cook Inlet Region, Inc., of lands conveyed by the State of Alaska to the United States. On November 15, 1977, Sec. 3(a) of Pub. L. 95-178 (91 Stat. 1369), authorized the Secretary of the Interior to identify and reserve within 2 years after initial conveyance of such lands to Cook Inlet Region, Inc., any easement he could have lawfully reserved prior to conveyance and to issue immediately thereafter a revised conveyance reflecting such reservation.

On September 11, 1981, Interim Conveyance No. 428 was issued to Cook Inlet Region, Inc., for 5,563.20 acres of the surface and subsurface estates of lands conveyed to the United States by the State of Alaska. The lands were conveyed pursuant to Secs. 14(e) and 22(j) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(e), 1621(j)) (ANCSA), and Sec. 12(c) of Pub. L. 94-204 (89 Stat. 1145, 1152), as amended by Sec. 3(a) of Pub. L. 95-178 (91 Stat. 1369), and are described as follows:

Interim Conveyance No. 428 of September 11, 1981

Seward Meridian, Alaska (Surveyed)

T. 22 N., R. 3 W.,
Those portions of the surveyed township more particularly described as (protracted):
Sec. 6, all.

Containing approximately 619.00 acres.

T. 23 N., R. 3 W.,
Those portions of the surveyed township more particularly described as (protracted):
Sec. 31, SW¼, S½SW¼SE¼, NW¼ SW¼SE¼.

Containing approximately 178.50 acres.

T. 24 N., R. 3 W.,
Those portions of the surveyed township more particularly described as (protracted):
Sec. 17, S½N½,S½
Sec. 18, S½.

Containing approximately 780.50 acres.

T. 25 N., R. 3 W.,
Those portions of the surveyed township more particularly described as (protracted):
Sec. 5, W½;
Sec. 6, all;
Sec. 7, all;
Sec. 8, W½.

Containing approximately 1,902.00 acres.

T. 26 N., R. 3 W.,
Those portions of the surveyed township more particularly described as (protracted):
Sec. 31, all.

Containing approximately 628.00 acres.

T. 24 N., R. 4 W.,
Those portions of Tract A more particularly described as (protracted):
Sec. 11, That portion of the E½E½NW¼ upland of the line of the ordinary high water mark of the left bank of unnamed creek and Montana Creek, excluding U.S. Survey No. 4863. According to Alaska State Land Survey No. 79-109 filed in the Talkeetna Recording District on March 13, 1980 as Plat No. 80-25;
That portion of the E½NE¼SW¼ upland of the line of the ordinary high water mark of the left bank of Montana Creek. According to Alaska State Land Survey No. 79-109 filed in the Talkeetna Recording District of March 13, 1980 as Plat No. 80-25;
S½SE¼, that portion northerly of Yoder Road right-of-way. According to Alaska State Land Survey No. 79-109 filed in the Talkeetna Recording District of March 13, 1980 as Plat No. 80-25.

Containing approximately 43.80 acres.

T. 25 N., R. 4 W.,
Those portions of Tract A more particularly described as (protracted):
Sec. 2, That portion of the SW¼SE¼SE¼ upland of the line of the ordinary high water mark of the right bank of Birch Creek. According to Alaska State Land Survey No. 79-109 filed in the Talkeetna Recording District on March 13, 1,980 as Plat No. 80-25;
Sec. 3, W½, excluding lake, SE¼,S½NE¼, NW¼NE¼;
Sec. 4, E½;
Fractional Sec. 23, According to Alaska State Land Survey No. 79-109 filed in the Talkeetna Recording District on March 13, 1980, as Plat No. 80-25;
Sec. 24, That portion of the N½SE¼NE¼, NE¼NE¼ and S½SE¼NW¼ upland of the line of the ordinary high water mark of the left bank of Answer Creek. According to Alaska State Land Survey No. 79-109 filed in the Talkeetna Recording District on March 13, 1980 as Plat No. 80.25;
Sec. 26, That portion of W½NE¼ and NW¼SW¼SW¼ upland of the line of the ordinary high water mark of the left bank of Answer Creek. According to Alaska State Land Survey No. 79-109 filed in the Talkeetna Recording District of March 13, 1980 as Plat No. 80-25;
Fractional Sec. 27, According to Alaska State Land Survey No. 79-109 filed in the

Talkeetna Recording District on March 13, 1980 as Plat No. 80–25;
Fractional Sec. 34, According to Alaska State Land Survey No. 79–109 filed in the Talkeetna Recording District on March 13, 1980 as Plat No. 80–25;
Sec. 35, N½NW¼NW¼NE¼ and N½NW¼ northerly of South Answer Creek Road right-of-way. According to Alaska State Land Survey No. 79–109 filed in the Talkeetna Recording District on March 13, 1980 as Plat No. 80–25.
Containing approximately 1,051.40 acres.
T. 26 N., R. 4 W.
Those portions of Tract A more particularly described as (Protracted):
Sec. 33, SE¼;
Sec. 34, NW¼NE¼, SW¼.
Containing approximately 360.00 acres.
Aggregating approximately 5,563.20 acres.
There are no easements to be reserved pursuant to Sec. 17(b) of ANCSA.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Anchorage Times.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E, as revised. However, pursuant to Pub. L. 96–487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of Conveyance Management (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of this decision by personal service or certified mail, return receipt requested, shall have thirty days from receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt and parties who received a copy of this decision by regular mail which is not certified, return receipt requested, shall have until October 7, 1983 to file an appeal.

Any party, known or unknown, who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of Conveyance Management.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the party to be served with a copy of the notice of appeal is:

Cook Inlet Region, Inc., P.O. Drawer 4–N, Anchorage, Alaska 99509.

Kamilah Rasheed,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 83–24404 Filed 9–6–83; 8:45 am]
BILLING CODE 4310–84–M

Availability of Final Environmental Impact Statement for the Yokayo Grazing Program, Ukiah District, California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of Land Management has prepared an abbreviated final environmental impact statement for the grazing program in the Yokayo area of the Ukiah District, California. Alternatives analyzed are (1) Continuation of the present program, (2) No grazing, (3) Active management of manageable leases with elimination of nonmanageable leases, and (4) Active management of manageable leases with retention of nonmanageable leases for low level management.

DATES: Comments on the final environmental impact statement are being solicited from public agencies and interested individuals and organizations. Written comments should be submitted by October 3, 1983, to the Ukiah District Manager, P.O. Box 940, Ukiah, California 95482 in order to be considered in the record of decision.

ADDRESSES: Copies of the statement are available for review at local libraries, and a limited number of copies can be obtained by contacting the Ukiah District Office or the California State Office, Bureau of Land Management, 2800 Cottage Way, Sacramento, California 95825, telephone (916) 484–4541.

FOR FURTHER INFORMATION CONTACT: Bruce Dawson, Range Conservationist, Bureau of Land Management, Ukiah District Office, P.O. Box 940, 555 Leslie Street, Ukiah, California 95482, telephone (707) 462–3873.

Dated: August 31, 1983.

Van W. Manning,

District Manager.

[FR Doc. 83–24402 Filed 9–6–83; 8:45 am]
BILLING CODE 4310–84–M

Availability of Draft Environmental Impact Statement for the Preliminary Wilderness Recommendations for the Red Mountain Wilderness Study Area, California; Notice of Public Hearing

AGENCY: Bureau of Land Management; Interior.

ACTION: Notice of availability and public hearing.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of Land Management has prepared a draft environmental impact statement on the preliminary wilderness recommendations for the Red Mountain Wilderness Study Area, Mendocino County, California. Alternatives analyzed in detail are (1) All wilderness, (2) Continuation of present management, and (3) Designation as a research natural area/area of critical environmental concern. The preliminary recommendation is to designate the area a research natural area/area of critical environmental concern, and to not designate any part of the area as wilderness.

DATES: Comments on the draft environmental impact statement are being solicited from public agencies and interested individuals and organizations. Written comments should be submitted by December 1, 1983 to the Ukiah District Manager, P.O. Box 940, Ukiah, California 95482 in order to be considered in the final environmental impact statement. A public hearing on the adequacy of the EIS and on the preliminary wilderness recommendations will be held on October 12, 1983 in the Redway School Auditorium, 344 Humboldt Avenue, Redway, California, from 6:00 p.m. to 10:00 p.m.

ADDRESSES: Copies of the statement are available for review at local libraries, and a limited number of copies can be obtained from the District Office in

Ukiah, the Arcata Area Office, 1585 J Street, Arcata, California, the California State Office, 2800 Cottage Way, Sacramento, California, and the Washington Office, 18th and C Streets, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Stan Whitmarsh, Wilderness Coordinator, Bureau of Land Management, Ukiah District Office, P.O. Box 940, 555 Leslie Street, Ukiah, California 95482, telephone (707) 462–3873.

Dated: August 31, 1983.

Van W. Manning,

District Manager.

[FR Doc. 83-24408 Filed 9-6-83; 8:45 am]

BILLING CODE 4310-84-M

Bureau of Reclamation

[INT-FES 83-45]

Transfer of the 64-Acre Tract, Tahoe City, California; Availability of Final Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final statement on the transfer of the 64 acres of Federal land at Tahoe City, California. The preferred alternative is the direct transfer from the Bureau of Reclamation to the Forest Service, Department of Agriculture, for recreational use, under the authority of the Federal Water Project Recreation Act (Pub. L. 89–72).

Copies are available for inspection at the following locations:

Director, Office of Environmental Affairs, Room 7622, Bureau of Relcamation, Washington, DC 20240, telephone: (202) 343–4991

Division of Management Support, General Services, Library Section, Code 950, Engineering and Research Center, Denver Federal Center, Denver, CO 80225, telephone: (303) 234–3019

Regional Environmental Quality Office, Bureau of Reclamation, Federal Building, 2800 Cottage Way, Room W–1102, Sacramento, CA 95825, telephone: (916) 484–4792

Lahontan Basin Projects Office, Bureau of Reclamation, Federal Building, 705 North Plaza Street, Carson City, NV 89701, telephone: (702) 882–3436

Single copies of the statement may be obtained on request to the above-listed offices. Copies will also be available for inspection in libraries in the project vicinity.

Dated: August 31, 1983.

Robert N. Broadbent,

Commissioner of Reclamation.

[FR Doc. 83-24403 Filed 9-6-83; 8:45 am]

BILLING CODE 4310-09-M

Minerals Management Service

Outer Continental Shelf; Oil and Gas and Sulphur Operations

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Texaco U.S.A. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 4785, Block 30, Vermilion Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 838–0519.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: August 29, 1983.

John L. Rankin,

Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-24345 Filed 9-6-83; 8:45 am]

BILLING CODE 4310-MR-M

Outer Continental Shelf Advisory Board, Mid-Atlantic Regional Technical Working Group; Meeting

Notice of this meeting is issued in accordance with the Federal Advisory Committee Act (Pub. L. No. 92–463).

Name: Mid-Atlantic Regional Technical Working Group.

Date: September 30, 1983.

Place: The Gateways Hotel, The Greenery Room, 48th Street, Ocean City, Maryland.

Time: 9:00 a.m. to 5:30 p.m.

Committee membership consists of representatives from Federal Agencies, the Coastal States of New York through North Carolina, the petroleum industry, and other private interests. The purpose of the meeting is to advise the Director, Minerals Management Service, on technical matters of Regional concern regarding prelease and postlease offering activities.

Agenda

Minerals Management Service (MMS) Organizational Update; Regional Technical Working Group cochairperson succession rules; Regional Mid-Atlantic Lease Offering (June 1985) Work Schedule; Shell deepwater drilling; MMS and State review/coordination of Exploration Plans and related documents; MMS Oilspill Trajectory Analysis Model; New Jersey Study—Migratory patterns of winter flounder and other fish; Status of coastal geologic studies by Delaware Geological Survey; and New York State pipeline siting study.

This meeting will be open to the public. Public attendance may be limited by the space available. Persons wishing to make oral presentations to the Committee regarding items on the agenda should contact Donald Truesdell of the Atlantic OCS Office (703) 285–2165 by September 23, 1983. Written statements should be submitted by October 7 to the Atlantic OCS Region, Minerals Management Service, 1951 Kidwell Drive, Suite 601, Vienna, Virginia 22180.

Minutes of the meeting will be available for public inspection and copying by November 30, 1983, at the above address.

Donald P. Truesdell,

Acting Regional Manager, Atlantic OCS Region.

[FR Doc. 83-24434 Filed 9-6-83; 8:45 am]

BILLING CODE 4310-MR-M

Outer Continental Shelf Oil and Gas Operations Equipment Standards

AGENCY: Minerals Management Service, Interior.

ACTION: Extension of comment period.

SUMMARY: On July 25, 1983 (48 FR 33757), the Minerals Management Service (MMS) published a **Federal Register** Notice requesting comments on proposed amendments to Outer Continental Shelf Order No. 5 for all Regions. The original comment period was scheduled to close on August 24, 1983. The comment period is hereby extended to October 7, 1983.

DATE: Written comments must be postmarked or hand delivered by October 7, 1983.

ADDRESSES: Comments should be sent to: Lloyd M. Tracey; Branch of Rules, Orders, and Standards; Offshore Rules and Operations Division; Mail Stop 646; Room 6A110; Minerals Management Service; U.S. Department of the Interior; 12203 Sunrise Valley Drive; Reston, Virginia 22091.

FOR FURTHER INFORMATION CONTACT: M. L. Courtois; Chief, Offshore Inspection and Enforcement Division; Mail Stop 647; Minerals Management Service; U.S. Department of the Interior; 12203 Sunrise Valley Drive; Reston, Virginia 22091; telephone (703) 860–7865.

(43 U.S.C. 1334)

Dated: August 29, 1983.

David C. Russell,

Acting Director.

[FR Doc. 83-24425 Filed 9-6-83; 8:45 am]

BILLING CODE 4310-MR-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30182]

Railroad Operation, Acquisition, Construction, etc.; Seaboard System Railroad, Inc.; Acquisition Exemption

August 31, 1983.

On May 2, 1983, Seaboard System Railroad, Inc. (SBD), filed a Notice of Exemption pursuant to 49 CFR 1180.2(d)(3) concerning its proposed acquisition of all the assets and property of its wholly owned subsidiary, Haysi Railroad Company (Haysi), SBD also will assume all liabilities and obligations of Haysi. Haysi, in turn, will be dissolved as a corporate entity and its outstanding stock cancelled. The Railway Labor Executives Association (RLEA) opposes the exemption. It seeks the imposition of labor protection conditions should the exemption be approved. It also requests oral hearing which shall be denied.

This transaction is within a corporate family and comes within that class of transactions considered exempt under 49 CFR 1180.2(d)(3). Haysi is currently operated as an integral part of SBD's Clinchfield Division and its dissolution as a corporate entity will not result in any adverse changes in service levels. Neither will it cause operational changes or changes in the competitive balance with carriers outside the corporate family.

As a condition to use of the exemption, as requested by the RLEA, any SBD or Haysi employees affected by the acquisition (petitioners state that no employees will be adversely affected) will be protected by the conditions set forth in *New York Dock Ry.—Control—Brooklyn Eastern Dist,* 360 I.C.C. 60 (1979). This will satisfy the statutory requirement of 49 U.S.C. 10505(g)(2).

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-24372 Filed 9-6-83; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-6 (Sub-No. 157)]

Railroad Services Abandonment; Burlington Northern Railroad Co.; Benton, Kanabec, and Mille Lacs Counties, MN

The Commission has issued a certificate authorizing the Burlington Northern Railroad Company to abandon its 45-mile rail line between milepost 2.00 near St. Cloud, and milepost 47.00 near Mora, in Benton, Kanabec, and Mille Lacs Counties, MN. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB–OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

Agatha L. Mergenovich

Secretary.

[FR Doc. 83-24373 Filed 9-6-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Office of the Secretary

State of Montana Department of Labor and Industry; Hearing

This notice announces an opportunity for a hearing for the Montana Department of Labor and Industry pursuant to the first sentence of Section 3304(c) and the last sentence of Section 3303(b)(3) of the Internal Revenue Code of 1954, 26 U.S.C. 3304(c) and 3303(b)(3), and 20 CFR 601.5, to be held at 9:30 o'clock in the morning on September 22, 1983, in Courtroom A, Vanguard Building, 1111 20th Street NW., Washington, D.C.

The hearing will be held on the following issues:

Issue 1

Whether, with respect to the certification of States on October 31, 1983, under Section 3304(c) of the Internal Revenue Code of 1954, 26 U.S.C. 3304(c), and certification of granted funds under Title III of the Social Security Act, 42 U.S.C. 501 *et seq.*, the unemployment compensation law of the State of Montana has been amended so that it no longer contains all of the provisions required by Section 3304(a)(3) of the Internal Revenue Code of 1954, 26 U.S.C. 3304(a)(3), and by Section 303(a)(4) of the Social Security Act, 42 U.S.C. 503(a)(4).

Basis of Issue

Section 3304(a)(3) of the Code and Section 303(a)(4) of the Social Security Act both require State unemployment compensation laws to provide that all money received in the State's unemployment fund shall, with exceptions not relevant to this issue, immediately upon such receipt be paid over to the Secretary of the Treasury to the credit of the Unemployment Trust Fund in the United States Treasury.

Section 1 of Montana Senate Bill 210, approved March 31, 1983, provides that, beginning with the third quarter of calendar year 1983, 0.1 percent of employer contributions received by the Department of Labor and Industry "must be deposited in the unemployment insurance administration account" in the State Treasury, rather than in the United States Treasury.

Issue 2

Whether, with respect to the certification of States on October 31, 1983, under Section 3304(c) of the Internal Revenue Code of 1954, 26 U.S.C. 3304(c), and certification of granted funds under Title III of the Social Security Act, 42 U.S.C. 501 *et seq.*, the unemployment compensation law of the State of Montana has been amended so that it no longer contains all of the provisions required by Section 3304(a)(4) of the Internal Revenue Code of 1954, 26 U.S.C. 3304(a)(4), and by Section 303(a)(5) of the Social Security Act, 42 U.S.C. 503(a)(5).

Basis of Issue

Section 3304(a)(4) of the Code and Section 303(a)(5) of the Social Security Act both require State unemployment compensation laws to provide that all money withdrawn from the State's unemployment fund shall be used solely in the payment of unemployment compensation "exclusive of expenses of administration."

Section 1 of Montana Senate Bill No. 210, approved March 31, 1983, provides that, beginning with the third quarter of calendar year 1983, .1 percent of employer contributions received by the Department of Labor and Industry "must be deposited in the State's unemployment insurance administration account" and that the money so deposited "may be used by the department for administrative purposes."

Issue 3

Whether, with respect to certification of State laws on October 31, 1983, under Section 3303(b)(1) of the Internal Revenue Code of 1954, 26 U.S.C. 3303(b)(1), the unemployment compensation law of the State of Montana has been amended so that, with respect to the 12-month period ending on such October 31, the State law no longer contains the provisions specified in Section 3303(a)(1) of the Internal Revenue Code of 1954, 26 U.S.C. 3303(a)(1), or the State has, with respect to such 12-month period, failed to comply substantially with any such provision.

Basis of Issue

Section 3303(a)(1) of the Code requires State laws to provide that no reduced rate of contributions to a pooled fund shall be permitted to an employer except on the basis of experience with respect to unemployment or other factors bearing a direct relation to unemployment risk.

Section 1 of Montana Senate Bill No. 210, approved March 31, 1983, provides:

> Beginning with the third quarter of 1983, .1 percent of employer contributions received by the department * * * may be used by the department for administrative purposes.

This provision has the effect of reducing the contribution rates of employers by .1 percent on a basis other than their experience with respect to unemployment or other factors bearing a direct relation to unemployment risk.

Following the hearing, a decision will be made which will have a bearing on whether the State is certifiable under Section 3304(c) of the Code and whether the State law is certifiable under Section 3303(b)(1) of the Code on October 31, 1983, and also whether grants are certifiable under Title III of the Social Security Act. The decision will also have a bearing on other benefits to the State under the Federal-State unemployment compensation program.

The proceedings in this matter shall be in accordance with the Rules of Procedure as set out below.

For purposes of this hearing, all motions, briefs, and other papers shall be filed, pursuant to the above referenced Rules of Procedure, with the presiding Administrative Law Judge, U.S. Department of Labor, Suite 700, Vanguard Building, 1111 20th Street, NW., Washington, D.C. 20036, who will be designated in accordance with the Rules of procedure.

Counsel for the Montana Department of Labor and Industry shall enter an appearance with the presiding Administrative Law Judge no later than September 9, 1983; a copy shall be provided to William H. DuRoss, III, Associate Solicitor for Employment and Training, 200 Constitution Ave., NW., Washington, D.C. 20210, as expeditiously as possible.

Counsel for the U.S. Department of Labor shall enter an appearnace with the presiding Administrative Law Judge no later than September 7, 1983, and provide a copy to the Montana Department of Labor and Industry as expeditiously as possible.

Signed at Washington, D.C., on September 1, 1983.

Raymond J. Donovan,

Secretary of Labor.

Rules of Procedure

1. An Administrative Law Judge will be designated by the Chief Administrative Law Judge, United States Department of Labor, to preside over the hearing and perform the functions required by these Rules.

2. The parties of record shall be the State agency (or State agencies (as defined in 26 U.S.C. 3306(e)) named in the Notice of Hearing and the U.S. Department of Labor.

3. Any non-party State agency, individual worker, employer, or organization, association of workers or employers, or member of the public, asserting an interest in the proceedings, may be permitted by the presiding Administrative Law Judge, upon motion granted, to participate in the hearing as amicus curiae only. Participation by any such amicus curiae shall be limited to the submittal of such briefs as may be directed by the presiding Administrative Law Judge. A motion of an amicus curiae to participate in the oral argument will be granted only for extraordinary reasons. All motions contemplated by this Rule shall be filed with the presiding Administrative Law Judge no later than two (2) days prior to the scheduled hearing, and shall be served upon and received by each party prior to the hearing. The presiding Administrative Law Judge shall rule on all such motions and inform the applicants and the parties of the rulings prior to the hearing or at the beginning of the hearing.

4. The presiding Administrative Law Judge may issue an appropriate prehearing order governing all issues to be raised in the proceedings, discovery, and designation of evidence to be offered at the hearing.

5. (a) The hearing will be conducted in an informal but orderly and expeditious manner. The presiding Administrative Jaw Judge will regulate all matters pertaining to the course and conduct of the proceedings, and, subject to the limitation expressed in Rule 5(b) below, may grant extensions of time regarding the submission of briefs and other papers, and may reschedule the hearing for another time or date for good cause shown.

(b) The annual October 31 certification date under the Federal Unemployment Tax Act imposes time constraints for the issuance of the Administrative Law Judge's recommended decision, and requires that the granting of exetensions of time, inclusive of continuances, be limited to the extent necessary to ensure that the recommended decision is forwarded to the Secretary of Labor no later than 15 days prior to the October 31 certification date.

6. Upon the commencement of the hearing, the U.S. Department of Labor will be offered an opportunity to make an opening statement as to the nature of the hearing and the matter(s) in issue. Each other party to the proceedings shall then be offered a similar opportunity to make an opening statement.

7. The order of the presentation of evidence will be as follows:

(a) The U.S. Department of Labor will proceed first by presenting any evidence it may wish to offer which is relevant to the issue(s) specified in the Notice of Hearing.

(b) Each other party will proceed next to present any evidence it may wish to offer which is relevant to the issue(s) referred to in Rule 7(a) above, followed by any evidence relevant to any additional issue, except that evidence regarding any issue other than the issue(s) referred to in the Notice of Hearing may be admitted only if the

party offering such evidence has provided notice of such issue and a summary of such evidence, including a copy of any document to be offered, to each other party of record, prior to the hearing.

(c) The U.S. Department of Labor may next present relevant evidence in rebuttal to any issue, and the trial record shall thereafter be closed, except as provided for by Rule 9 below.

8. Technical rules of evidence shall not apply to the hearing. The presiding Administrative Law Judge will rule upon offers of proof and the admissibility of evidence, and may exclude irrelevant, immaterial, or unduly repetitious evidence or any other evidence excludable under these Rules, and may examine witnesses. All writings, charts, tabulations, and similar data offered in evidence at the hearing shall, upon a satisfactory showing of their authenticity, relevancy, materiality, and admissibility under these Rules, be received in evidence.

9. During the hearing, the presiding Administrative Law Judge may require the production and introduction of further evidence upon any relevant matter, and may provide for the later receipt of such evidence or any other evidence for the record.

10. The proceedings at the hearing shall be recorded verbatim. The original and one copy of the transcript of the record of the hearing shall be furnished to the presiding Administrative Law Judge. The parties of record and any amicus curiae shall be entitled to secure a copy of the transcript from the reporter upon such terms as the party or amicus may arrange.

11. When any document is offered in evidence, one additional copy thereof shall be furnished to the presiding Administrative Law Judge and, unless previously provided, a copy shall be furnished to each party of record.

12. (a) At the conclusion of the receipt of evidence, the presiding Administrative Law Judge shall hear oral arguments presented by the parties of record and any amicus curiae authorized to present oral argument.

(b) Oral arguments shall be in the following order: Opening argument for the U.S. Department of Labor, unless waived; opening argument for every other party unless waived; argument of any amicus curiae authorized to present oral argument; closing argument of each of the State agency parties, unless waived; and closing argument for the U.S. Department of Labor, unless waived.

13. (a) As soon as possible, but in no event later than 15 days prior to the October 31 certification date, the presiding Administrative Law Judge shall: (1) Prepare a recommended decision on the basis of the record containing his recommended findings of fact and conclusions of law; (2) certify to the Secretary of Labor such recommended decision and the entire record of the proceedings; and (3) forward a copy of the recommended decision to each party of record and amicus curiae.

(b) In the event that evidence is admitted which is relevant to any issue cognizable under these Rules, findings of fact with respect to such evidence shall be made. No conclusions of law regarding either the constitutionality of any Federal statute or the constitutionality of interpretation thereof shall be made.

14. Any party of record may file with the Secretary of Labor a Statement of Exceptions, with proof of service on the other parties of record, setting forth any exceptions they may have to the recommended decision, within seven (7) days after the date of the recommended decision.

15. (a) Any brief intended to be filed of record with the presiding Administrative Law Judge in the proceedings shall be mailed or otherwise delivered to the Office of the Presiding Administrative Law Judge. Unless otherwise ordered, any brief shall be deemed to be filed on the date it is post-marked if transmitted by the United States Postal Service, and shall be deemed to be filed on the date received in the Office of the Chief Administrative Law Judge if transmitted by any other means.

(c) If the last day of a time limit prescribed by these Rules or established by the presiding Administrative Law Judge falls on a Saturday, Sunday, or a federal holiday, the time limit shall be extended to the next official business day.

(b) An original and one copy of any brief shall be filed with the presiding Administrative Law Judge and shall be accepted subject to timely filing with proof of sufficient service upon the parties.

16. Following the certification in accordance with Rule 13(a)(2) above, and consideration of any Statement of Exceptions filed and served in accordance with Rule 14, the Secretary of Labor shall render a decision in the matter, in writing, and shall forward the decision together with the record to the Chief Administrative Law Judge, and shall forward a copy of his decision to each party of record and to any amicus curiae authorized to participate in the proceedings.

[FR Doc. 83-24462 Filed 9-6-83; 8:45 am]
BILLING CODE 4510-30-M

Employment and Training Administration

Native American Programs; Fiscal Year 1984 Proposed Allocation, Allocation Formula, and Grantee Planning Estimates

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: This Notice publishes the proposed Native American allocation, distribution formula and rationale, and individual grantee planning estimates for Fiscal Year 1984 for programs funded under Title IV, Section 401 of the Job Training Partnership Act (JTPA), (Pub. L. 97-300) of October 13, 1982.

DATES: Comments on this proposal must be submitted on or before October 7, 1983.

FOR FURTHER INFORMATION CONTACT: Paul A. Mayrand, Acting Director, Office of Special Targeted Programs, 601 D Street, NW., Room 6122, Washington, D.C. 20213. Phone (202) 376-6225.

SUPPLEMENTARY INFORMATION: Pursuant to Section 162 of JTPA the planning estimates and distribution formula for Native American grantees to be funded under Title IV, Section 401 are published below for review and comment. The amount to be distributed is $62,243,000, subject to congressional action. Should a change occur, the new dollar level and planning estimates will be published in another Notice. The listing of grantees is partial, as of August 30, because some applicants for grants have problems and until they are solved their grantee designation will be held up. The formula provides that 25% of the funding will be based on the number of unemployed Native Americans in the grantee's area, and 75% will be based on the number of poverty level Native Americans in the grantee's area. Furthermore, for FY 1984 no grantee will receive more than 106% of the previous year's funding or less than 80% of the previous year's funding, unless its territory to be served were increased or decreased. The rationale for the formula is that unemployment and poverty in an area are good indications of the need for employment and training programs. Statistics on unemployed and poverty level Native Americans are derived from the Decennial Census of the Population, 1980. Subject to Congressional

appropriation actions, the Department proposes to use a similar methodology for a period of 3 years and thereafter allocate to each grantee the amount it would receive by a direct application of the 1980 Census data without a hold harmless provision.

Following are the proposed planning estimates for designated grantees.

Signed at Washington, D.C., this 30th day of August 1983.

Paul Mayrand,

Acting Director, Office of Special Targeted Programs.

BILLING CODE 4510-30-M

U.S. DEPARTMENT OF LABOR - EMPLOYMENT AND TRAINING ADMINISTRATION
OFFICE OF FINANCIAL CONTROL AND MANAGEMENT SYSTEMS
FY 1984 JTPA NATIVE AMERICAN INITIAL PLANNING ESTIMATES
8/30/83

MR. EDDIE LEON TILLIS
CHAIRMAN
CREEK NATION EAST OF MISS. INC.
ROUTE 3, BOX 243A
ATMORE, ALABAMA
36502

	TITLE IV-A
PROGRAM	147,822
COST POOL	36,956
TOTAL	184,778

MR. GREGG ENGLSFORD
EXECUTIVE DIRECTOR
ALEUTIAN/PRIBILOF ISLANDS ASSOC.
1689 C STREET
ANCHORAGE, ALASKA
99501

	TITLE IV-A
PROGRAM	89,122
COST POOL	22,281
TOTAL	111,403

MR. IVAN M. IVAN
PRESIDENT
ASSOC. OF VILLAGE COUNCIL PRESIDENTS
P.O. BOX 219
BETHEL, ALASKA
99559

	TITLE IV-A
PROGRAM	621,974
COST POOL	155,494
TOTAL	777,468

MRS. KAY E. LARSON
EXECUTIVE DIRECTOR
BRISTOL BAY NATIVE ASSOCIATION
P.O. BOX 189
DILLINGHAM, ALASKA
99576

	TITLE IV-A
PROGRAM	147,564
COST POOL	36,891
TOTAL	184,455

MR. MAXIM DEKCHIK
EXECUTIVE DIRECTOR
COOK INLET NATIVE ASSOCIATION
670 WEST FIREWEED LANE
ANCHORAGE, ALASKA
99503

	TITLE IV-A
PROGRAM	244,838
COST POOL	61,210
TOTAL	306,048

MR. ARNOLD BROWER, SR.
PRESIDENT, JOINT TRIBAL COUNCIL
INUPIAT COMMUNITY OF THE ARCTIC SLOPE
P.O. BOX 927
BARROW, ALASKA
99723

	TITLE IV-A
PROGRAM	107,545
COST POOL	26,886
TOTAL	134,431

THE AREA WHICH IN FY 1983 WAS ASSIGNED TO :

KAWERAK INCORPORATED
P.O. BOX 948
NOME, ALASKA
99762

	TITLE IV-A
PROGRAM	233,232
COST POOL	58,308
TOTAL	291,540

KENAITZE INDIAN TRIBE
P. O. BOX 988
KENAI, ALASKA
99611

	TITLE IV-A
PROGRAM	72,482
COST POOL	18,120
TOTAL	90,602

MS. DELORES L. PADILLA
PRESIDENT
KODIAK AREA NATIVE ASSOCIATION
DRAWER 1277
KODIAK, ALASKA
99615

	TITLE IV-A
PROGRAM	71,154
COST POOL	17,789
TOTAL	88,943

MS. MARGARET WOODS
EXECUTIVE DIRECTOR
MAINELIK MANPOWER
P.O. BOX 725
KOTZEBUE, ALASKA
99752

	TITLE IV-A
PROGRAM	146,848
COST POOL	36,212
TOTAL	181,060

MR. CASEY NELSON, SR.
MAYOR
METLAKATLA INDIAN COMMUNITY
P.O. BOX 8
METLAKATLA, ALASKA
99926

	TITLE IV-A
PROGRAM	99,268
COST POOL	24,817
TOTAL	124,085

MR. DEREMY TABIOS
EXECUTIVE DIRECTOR
NORTH PACIFIC RIM
903 W. NORTHERN LIGHTS BLVD., SUITE 201
ANCHORAGE, ALASKA
99503-2496

	TITLE IV-A
PROGRAM	87,646
COST POOL	21,911
TOTAL	109,557

MR. WILLIAM BRADY
PRESIDENT
SITKA COMMUNITY ASSOCIATION
P.O.BOX 4360
MT. EDGECUMBE, ALASKA
99835

	TITLE IV-A
PROGRAM	37,413
COST POOL	9,353
TOTAL	46,766

MR. WILLIAM C. WILLIAMS
PRESIDENT
TANANA CHIEFS CONFERENCE, INC.
201 FIRST AVENUE - DOYON BLDG.
FAIRBANKS, ALASKA
99701

	TITLE IV-A
PROGRAM	324,114
COST POOL	81,029
TOTAL	405,143

JOHN HOPE
PRESIDENT
TLINGIT AND HAIDA COUNCIL
ONE SEALASKA PLAZA, SUITE 200
JUNEAU, ALASKA
99801

	TITLE IV-A
PROGRAM	287,245
COST POOL	71,811
TOTAL	359,056

MS. PHYLLIS J. HIGFORD
PRESIDENT
AFFILIATION OF ARIZONA IND. CNTRS. INC.
2721 N. CENTRAL AVENUE, SUITE 910
PHOENIX, ARIZONA
85004

	TITLE IV-A
PROGRAM	442,647
COST POOL	110,662
TOTAL	553,309

MR. BERNARD DEASIE
CHAIRMAN
AMERICAN INDIAN ASSOC. OF TUCSON
92 WEST SIMPSON ST.
TUCSON, ARIZONA
85701

	TITLE IV-A
PROGRAM	264,066
COST POOL	66,017
TOTAL	330,083

MR. ANTHONY DRENNAN, SR.
CHAIRMAN
COLORADO RIVER INDIAN TRIBES
ROUTE 1, BOX 23-B
PARKER, ARIZONA
85344

	TITLE IV-A
PROGRAM	66,326
COST POOL	16,582
TOTAL	82,908

MR. DANA MORRIS, SR.
GOVERNOR
GILA RIVER INDIAN COMMUNITY
BOX 97
SACATON, ARIZONA
85247

	TITLE IV-A
PROGRAM	396,893
COST POOL	99,223
TOTAL	496,116

MR. IVAN L. SIDNEY
CHIEF EXECUTIVE OFFICER
HOPI TRIBAL COUNCIL
BOX 123
KYKOTSMOVI, ARIZONA
86039

	TITLE IV-A
PROGRAM	310,790
COST POOL	77,697
TOTAL	388,487

MS. GRACE MCCLLAN
EXECUTIVE DIRECTOR
INDIAN DEV. DIST. OF ARIZONA, INC.
1777 W. CAMELBACK ROAD, SUITE A-108
PHOENIX, ARIZONA
85015

	TITLE IV-A
PROGRAM	108,805
COST POOL	27,201
TOTAL	136,006

MR. PETERSON ZAH
CHAIRMAN
NAVAJO TRIBE OF INDIANS
P.O.BOX 1889
WINDOW ROCK,ARIZONA
86515

	TITLE IV-A
PROGRAM	5,507,605
COST POOL	1,376,901
TOTAL	6,884,506

MR. CHARLES SHALLOW
CHAIRPERSON
PHOENIX INDIAN CENTER, INC.
3302 N 7TH STREET
PHOENIX, ARIZONA
85014

	TITLE IV-A
PROGRAM	357,904
COST POOL	89,476
TOTAL	447,380

MR. MED ANDERSON
TRIBAL CHAIRMAN
SAN CARLOS APACHE TRIBE
P.O. BOX "O"
SAN CARLOS, ARIZONA
85550

	TITLE IV-A
PROGRAM	255,933
COST POOL	63,983
TOTAL	319,916

MR. JOHN HENDERSON
PRESIDENT OF THE BOARD
AM. INDIAN CENTER OF ARKANSAS, INC.
4318 WEST MARKHAM ST.
LITTLE ROCK, ARKANSAS
72205

	TITLE IV-A
PROGRAM	116,331
COST POOL	29,083
TOTAL	145,414

MR. ROBERT LOMADAFKI
BOARD CHAIRPERSON
NATIVE AMERICANS FOR COMMUNITY ACTION
15 NORTH SAN FRANCISCO STREET
P.O. BOX 572
FLAGSTAFF, ARIZONA 86002

	TITLE IV-A
PROGRAM	253,194
COST POOL	63,299
TOTAL	316,493

MR. MAX NORRIS
CHAIRMAN
THE PAPAGO TRIBE OF ARIZONA
P.O. BOX 837
SELLS, ARIZONA
85634

	TITLE IV-A
PROGRAM	345,673
COST POOL	86,418
TOTAL	432,091

MR. GERALD ANTON
PRESIDENT
SALT RIVER PIMA-MARICOPA IND. COMMN.
ROUTE 1, BOX 216
SCOTTSDALE, ARIZONA
85256

	TITLE IV-A
PROGRAM	92,031
COST POOL	23,008
TOTAL	115,039

MR. RONNIE LUPE
CHAIRMAN
WHITE MOUNTAIN APACHE TRIBE
P.O. BOX 700
WHITE RIVER, ARIZONA
85941

	TITLE IV-A
PROGRAM	334,016
COST POOL	83,504
TOTAL	417,520

MR. ANTHONY LARGO
CHAIRMAN, BOARD OF DIRECTORS
CALIFORNIA INDIAN MANPOWER CSRT.
4441 AUBURN BOULEVARD, SUITE J
SACRAMENTO, CALIFORNIA
95841

	TITLE IV-A
PROGRAM	2,090,187
COST POOL	522,547
TOTAL	2,612,734

MR. ROBERT P. MUSGROVE
CHAIRMAN OF THE BOARD
CANDALARIA AMERICAN INDIAN COUNCIL
522 NORTH A STREET
OXNARD, CALIFORNIA
93030

	TITLE IV-A
PROGRAM	215,447
COST POOL	53,862
TOTAL	269,309

MS. JEWELL WILLIAMS
CHAIRPERSON, BOARD OF DIRECTORS
FRESNO AMERICAN INDIAN COUNCIL
5150 N 6TH STREET SUITE 162-169
FRESNO, CALIFORNIA
93710

	TITLE IV-A
PROGRAM	227,068
COST POOL	56,767
TOTAL	283,835

MR. LYMAN F. PIERCE
EXECUTIVE DIRECTOR
INDIAN CENTERS, INC.
1111 W. WASHINGTON BLVD.
LOS ANGELES, CALIFORNIA
90015

	TITLE IV-A
PROGRAM	1,351,413
COST POOL	337,853
TOTAL	1,689,266

MR. JOHN LOGAN
CHAIRMAN
NORTHERN CALIF. IND. DEV. COUNCIL, INC.
241 F STREET
EUREKA, CALIFORNIA
95501

	TITLE IV-A
PROGRAM	262,690
COST POOL	65,673
TOTAL	328,363

MS. CRISPINA SIERRA
CHAIRWOMAN
TULE RIVER TRIBE
TULARE COUNTY DEPT. OF HEALTH, SAFETY & WELFARE
P.O. BOX 589
PARKVILLE, CALIFORNIA 93258

	TITLE IV-A
PROGRAM	88,855
COST POOL	22,214
TOTAL	111,069

MS. ALLENE C. GODARD
CHAIRPERSON
CSRT. OF UNITED INDIAN NATIONS
1404 FRANKLIN STREET, SUITE 420
OAKLAND, CALIFORNIA
94612

	TITLE IV-A
PROGRAM	519,319
COST POOL	129,830
TOTAL	649,149

MS. ELSIE NICKLEFS
CHAIRPERSON
HOOPA VALLEY BUSINESS COUNCIL
P.O. BOX 815
HOOPA, CALIFORNIA
95546

	TITLE IV-A
PROGRAM	63,637
COST POOL	15,909
TOTAL	79,546

MR. JIM GARDNER, SR.
CHAIRMAN OF THE BOARD
INDIAN CENTER OF SAN JOSE, INC.
3485 EAST HILLS DRIVE
SAN JOSE, CALIFORNIA
95127

	TITLE IV-A
PROGRAM	191,220
COST POOL	47,805
TOTAL	239,025

MR. CARL ACUTLERA
PROJECT DIRECTOR
ORANGE COUNTY INDIAN CENTER, INC.
13129 BROOKHURST STREET, SUITE #1
GARDEN GROVE, CALIFORNIA
92643

	TITLE IV-A
PROGRAM	199,415
COST POOL	49,854
TOTAL	249,269

MS. ANITA SILVA
CHAIRPERSON, BOARD OF DIR.
YA-KA-AMA INDIAN EDUC. AND DEV., INC.
6215 EASTSIDE ROAD
HEALDSBURG, CALIFORNIA
95448

	TITLE IV-A
PROGRAM	108,219
COST POOL	27,055
TOTAL	135,274

MS. LUCILLE A. ECHOHAWK
CHAIRPERSON, BOARD OF DIRECTORS
DENVER NATIVE AMERICANS UNITED

GREGORY W. FRAZIER
CHIEF EXECUTIVE
NATIONAL URBAN INDIAN COUNCIL, INC.

ALU LIKE, INC.
401 KAMAKEE ST., 3RD FLOOR

THE AREA WHICH IN FY 1983 WAS ASSIGNED TO:
HAWAII COUNCIL OF AM. INDIAN NATIONS

MS. LUCILLE A. ECHOHAWK
CHAIRPERSON, BOARD OF DIRECTORS
DENVER NATIVE AMERICANS UNITED
4407 MORRISON ROAD
DENVER, COLORADO
80219

	TITLE IV-A
PROGRAM	368,144
COST POOL	92,036
TOTAL	460,180

GREGORY W. FRAZIER
CHIEF EXECUTIVE
NATIONAL URBAN INDIAN COUNCIL, INC.
2258 SOUTH BROADWAY
DENVER, COLORADO
80210

	TITLE IV-A
PROGRAM	233,673
COST POOL	58,418
TOTAL	292,091

ALU LIKE, INC.
401 KAHAKEE ST. - 3RD FLOOR
HONOLULU, HAWAII
96814

	TITLE IV-A
PROGRAM	2,049,669
COST POOL	512,417
TOTAL	2,562,086

THE AREA WHICH IN FY 1983 WAS ASSIGNED TO:
HAWAII COUNCIL OF AM. INDIAN NATIONS
3260 UALENA STREET - 3RD FLOOR
HONOLULU, HAWAII
96814

	TITLE IV-A
PROGRAM	46,111
COST POOL	11,528
TOTAL	57,639

MR. LEONARD C. BURCH
TRIBAL CHAIRMAN
SOUTHERN UTE INDIAN TRIBE
P.O. BOX 737
IGNACIO, COLORADO
81137

	TITLE IV-A
PROGRAM	42,825
COST POOL	10,706
TOTAL	53,531

MR. TERRY KNIGHT
CHAIRMAN
UTE MOUNTAIN INDIAN TRIBE
P.O. BOX 30
TOWAOC, COLORADO
81334

	TITLE IV-A
PROGRAM	55,631
COST POOL	13,908
TOTAL	69,539

MR. LONNIE RACEHORSE
EXECUTIVE DIRECTOR
IDAHO INTER-TRIBAL POLICY BOARD
P.O. BOX 405
FORT HALL, IDAHO
83203

	TITLE IV-A
PROGRAM	144,506
COST POOL	36,126
TOTAL	180,632

MR. WILFRED A. SCOTT
CHAIRMAN
NEZ PERCE TRIBE
P.O. BOX 365
LAPWAI, IDAHO
83540-0305

	TITLE IV-A
PROGRAM	74,152
COST POOL	18,538
TOTAL	92,690

MS. PATRICIA BENEDICT
CHAIRPERSON
AMERICAN INDIANS FOR DEVELOPMENT, INC.
21 COOKE AVENUE
P.O. BOX 117
MERIDEN, CONNECTICUT 06450

	TITLE IV-A
PROGRAM	130,231
COST POOL	32,558
TOTAL	162,789

MR. DENNIS C. CAREY
SECRETARY OF LABOR
DEPARTMENT OF LABOR, STATE OF DELAWARE
OFFICE OF CETA PLANNING AND ADMIN.
701 SHIPLEY STREET
WILMINGTON, DELAWARE 19801

	TITLE IV-A
PROGRAM	29,039
COST POOL	7,260
TOTAL	36,299

MR. R. WILLIS DIXEY
ACTING TRIBAL CHAIRMAN
SHOSHONE-BANNOCK TRIBES
FORT HALL INDIAN RESERVATION
P.O. BOX 306
FORT HALL, IDAHO 83203

	TITLE IV-A
PROGRAM	110,601
COST POOL	27,650
TOTAL	138,251

MR. EDWARD A. MILLER
CHAIRMAN
AM. IND. BUS. ASSN. TRNG. AND EMPL. PROG.
1630 WEST WILSON AVE.
CHICAGO, ILLINOIS
60640

	TITLE IV-A
PROGRAM	630,914
COST POOL	157,729
TOTAL	788,643

MR. JOE A. QUETONE
EXECUTIVE DIRECTOR
FLA. GOVERNORS COUNCIL ON IND. AFFAIRS
521 E. COLLEGE AVENUE
TALLAHASSEE, FLORIDA
32301

	TITLE IV-A
PROGRAM	283,130
COST POOL	70,783
TOTAL	353,913

MR. BUFFALO TIGER
PRESIDENT
MICCOSUKEE CORPORATION
P.O. BOX 440021, TAMIAMI STATION
MIAMI, FLORIDA
33144

	TITLE IV-A
PROGRAM	59,226
COST POOL	14,807
TOTAL	74,033

MR. JOHN THOMAS
TRIBAL CHAIRMAN
KICKAPOO TRIBAL COUNCIL
ROUTE 1, BOX 157A
HORTON, KANSAS
66439

	TITLE IV-A
PROGRAM	46,626
COST POOL	11,656
TOTAL	58,282

MR. BILL JONES
EXECUTIVE DIRECTOR
MID AMERICA ALL INDIAN CENTER, INC.
660 N. SENECA
WICHITA, KANSAS
67203

	TITLE IV-A
PROGRAM	133,980
COST POOL	33,495
TOTAL	167,475

MR. JAMES E. BILLIE
CHAIRMAN
SEMINOLE TRIBE OF FLORIDA
CETA DEPARTMENT
6073 STERLING ROAD
HOLLYWOOD, FLORIDA 33024

	TITLE IV-A
PROGRAM	66,330
COST POOL	16,582
TOTAL	82,912

MR. MAX CLELAND
SECRETARY OF STATE
DEPARTMENT OF ARCHIVES AND HISTORY
OFFICE OF INDIAN HERITAGE
330 CAPITAL AVE., S.E.
ATLANTA, GEORGIA 30334

	TITLE IV-A
PROGRAM	108,257
COST POOL	27,064
TOTAL	135,321

MR. HOWARD SIMMONS
CHAIRMAN
UNITED TRIBES OF KANSAS AND S.E. NEB.
P.O. BOX 29
HORTON, KANSAS
66439

	TITLE IV-A
PROGRAM	393,845
COST POOL	98,461
TOTAL	492,306

MR. ERNEST SICKEY
CHAIRMAN, BOARD OF DIRECTORS
INTER-TRIBAL COUNCIL OF LOUISIANA, INC.
9141 INTERLINE DRIVE
SUITE 41D2
BATON ROUGE, LOUISIANA 70809

	TITLE IV-A
PROGRAM	309,340
COST POOL	77,335
TOTAL	386,675

MR. MELVIN L. VICAIRE
EXECUTIVE DIRECTOR
CENTRAL MAINE INDIAN ASSOCIATION, INC.
95 MAIN STREET
ORONO, MAINE
04473

	TITLE IV-A
PROGRAM	43,891
COST POOL	10,973
TOTAL	54,864

MR. JOHN STEVENS
PRESIDENT
TRIBAL GOVERNORS, INC.
93 MAIN STREET
ORONO, MAINE
04473

	TITLE IV-A
PROGRAM	82,158
COST POOL	20,539
TOTAL	102,697

MS. MARION W. FINES
DIRECTOR, MAYORS OFFICE OF MANPOWER RESOURCES
CITY OF BALTIMORE
701 ST. PAUL STREET
BALTIMORE, MARYLAND
21202

	TITLE IV-A
PROGRAM	217,756
COST POOL	54,439
TOTAL	272,195

MR. CLIFFORD G. SAUNDERS
EXECUTIVE DIRECTOR
BOSTON INDIAN COUNCIL, INC.
105 S. HUNTINGTON AVENUE
JAMAICA PLAIN, MASSACHUSETTS
02130

	TITLE IV-A
PROGRAM	196,810
COST POOL	49,203
TOTAL	246,013

MS. JOAN AVANT
PRESIDENT
MASHPEE-WAMPANOAG INDIAN TRIBAL COUNCIL
GREAT NECK ROAD
MASHPEE, MASSACHUSETTS
02649

	TITLE IV-A
PROGRAM	55,022
COST POOL	13,756
TOTAL	68,778

MR. GEORGE MARTIN
PRESIDENT
GRAND RAPIDS INTER-TRIBAL COUNCIL
45 LEXINGTON AVE. N.W.
GRAND RAPIDS, MICHIGAN
49504

	TITLE IV-A
PROGRAM	98,255
COST POOL	24,564
TOTAL	122,819

MR. JOSEPH C. RAPHAEL
TRIBAL CHAIRPERSON
GRAND TRAVERSE BAND OF OTTAWA AND CHIPPEWA INDIANS
756 BRIDGE, N.W.
GRAND RAPIDS, MICHIGAN
49504

	TITLE IV-A
PROGRAM	55,642
COST POOL	13,910
TOTAL	69,552

MR. FREDRICK DAKOTA
CHAIRMAN
INTER-TRIBAL COUNCIL OF MICHIGAN, INC.
405 EAST EASTERDAY AVENUE
SAULTE ST. MARIE, MICHIGAN
49783

	TITLE IV-A
PROGRAM	76,216
COST POOL	19,054
TOTAL	95,270

MR. ROBERT F. LEWIS
CHAIRPERSON
MICHIGAN INDIAN MANPOWER INC.
3415 SOUTH CEDAR STREET
LANSING, MICHIGAN
48910

	TITLE IV-A
PROGRAM	431,971
COST POOL	107,993
TOTAL	539,964

MR. ELMER SEBASTIAN
CHAIRMAN
NORTH AMERICAN INDIAN ASSOC. OF DETROIT
360 JOHN ROAD
DETROIT, MICHIGAN
48226

	TITLE IV-A
PROGRAM	273,723
COST POOL	68,431
TOTAL	342,154

MR. JOSEPH K. LUMSDEN
CHAIRMAN
SAULT STE. MARIE TRIBE OF CHIPPEWA INDIANS
2218 SHUNK ROAD
SAULT STE. MARIE, MICHIGAN
49783

	TITLE IV-A
PROGRAM	82,074
COST POOL	20,518
TOTAL	102,592

MR. EDWARD PEREZ
EXEC. DIRECTOR
SOUTHEASTERN MICHIGAN INDIANS, INC.
P.O. BOX 861
WARREN, MICHIGAN
48090

	TITLE IV-A
PROGRAM	21,148
COST POOL	5,287
TOTAL	26,435

MR. MICHAEL J. LIND
CHAIRMAN
AMERICAN INDIAN FELLOWSHIP ASSN.
2 E. SECOND STREET
DULUTH, MINNESOTA
55802

	TITLE IV-A
PROGRAM	104,106
COST POOL	26,027
TOTAL	130,133

MS. ELAINE J. SALINAS
TREASURER OF THE BOARD
AMERICAN INDIAN OPPORTUNITIES CTR.
2300 CEDAR AVE. SOUTH
MINNEAPOLIS, MINNESOTA
55404

	TITLE IV-A
PROGRAM	431,798
COST POOL	107,949
TOTAL	539,747

MR. GARY W. RONALD
CHAIRMAN
BOIS FORTE R. B. C.
P.O. BOX 698
NETT LAKE, MINNESOTA
55772

	TITLE IV-A
PROGRAM	36,066
COST POOL	9,016
TOTAL	45,082

MR. WILLIAM J. HOULE
CHAIRMAN
FOND DU LAC R.B.C.
105 UNIVERSITY ROAD
CLOQUET, MINNESOTA
55720

	TITLE IV-A
PROGRAM	65,352
COST POOL	16,338
TOTAL	81,690

MR. HARTLEY WHITE
CHAIRMAN
LEECH LAKE R.B.C.
BOX 308
CASS LAKE, MINNESOTA
56633

	TITLE IV-A
PROGRAM	196,080
COST POOL	49,020
TOTAL	245,100

MR. ARTHUR W. GAHBOW
CHAIRMAN
MILLE LACS R.B.C.
STAR ROUTE-BOX 194
ONAMIA, MINNESOTA
56359

	TITLE IV-A
PROGRAM	37,586
COST POOL	9,397
TOTAL	46,983

MR. ANTOINE BELLANGER
CHAIRMAN, BOARD OF DIRECTORS
MINNEAPOLIS AMERICAN INDIAN CENTER
1530 EAST FRANKLIN AVENUE
MINNEAPOLIS, MINNESOTA
55404

	TITLE IV-A
PROGRAM	185,297
COST POOL	46,324
TOTAL	231,621

MR. ROGER A. JOURDAIN
CHAIRMAN
RED LAKE TRIBAL COUNCIL
RED LAKE, MINNESOTA
56671

	TITLE IV-A
PROGRAM	143,698
COST POOL	35,924
TOTAL	179,622

MR. DARRELL WADENA
CHAIRMAN

MR. PHILLIP MARTIN
CHAIRMAN

MR. ALLEN ROLAND

MR. FRANK ELYSE

MR. DARRELL WADENA
CHAIRMAN
WHITE EARTH R.B.C.
BOX 418
WHITE EARTH, MINNESOTA
56591

	TITLE IV-A
PROGRAM	140,417
COST POOL	35,104
TOTAL	175,521

MR. PHILLIP MARTIN
CHAIRMAN
MISSISSIPPI BAND OF CHOCTAW INDIANS
ROUTE 7, BOX 21
PHILADELPHIA, MISSISSIPPI
39350

	TITLE IV-A
PROGRAM	379,726
COST POOL	94,932
TOTAL	474,658

MR. ALLEN ROWLAND
CHAIRMAN
NORTHERN CHEYENNE TRIBE
P.O. BOX 368
LAME DEER, MONTANA
59043

	TITLE IV-A
PROGRAM	141,567
COST POOL	35,392
TOTAL	176,959

MR. FRANK ELYSE
CHAIRMAN
INDIAN CENTER, INC.
1100 MILITARY ROAD
LINCOLN, NEBRASKA
68510

	TITLE IV-A
PROGRAM	106,441
COST POOL	26,610
TOTAL	133,051

MR. GEORGE BARTA
CHAIRMAN
REGION VII AMERICAN INDIAN COUNCIL, INC.
310 ARMOUR ROAD, SUITE 205
KANSAS CITY, MISSOURI
64116

	TITLE IV-A
PROGRAM	308,592
COST POOL	77,148
TOTAL	385,740

MR. NORMAN HOLLOW
CHAIRMAN, ASSINIBOINE &SIOUX TRIBES
FORT PECK INDIAN RESERVATION
P.O. BOX 37
POPLAR, MONTANA
59255

	TITLE IV-A
PROGRAM	242,184
COST POOL	60,546
TOTAL	302,730

MR. LOUIS LAROSE
PRES. BOARD OF DIRECTORS
NEBRASKA INDIAN INTER-TRIBAL DEV. CORP.
ROUTE 1 - BOX 66-A
WINNEBAGO, NEBRASKA
68071

	TITLE IV-A
PROGRAM	137,382
COST POOL	34,346
TOTAL	171,728

MR. RICHARD L. KITTO
TRIBAL CHAIRMAN
SANTEE SIOUX TRIBE OF NEBRASKA
ROUTE 2 SANTEE
NIOBRARA, NEBRASKA
68760

	TITLE IV-A
PROGRAM	29,702
COST POOL	7,425
TOTAL	37,127

MR. EARL OLD PERSON
CHAIRMAN
BLACKFEET TRIBAL BUSINESS COUNCIL
P.O.BOX 1090
BROWNING, MONTANA
59417

	TITLE IV-A
PROGRAM	368,000
COST POOL	92,000
TOTAL	460,000

MR. JOHN WINDY BOY
CHAIRMAN
CHIPPEWA CREE TRIBE, ROCKY BOYS RESERV.
ROCKY BOY ROUTE
BOX ELDER, MONTANA
59521

	TITLE IV-A
PROGRAM	96,421
COST POOL	24,105
TOTAL	120,526

MR. RICHARD TAPIO
CHAIRMAN
UNITED INDIANS OF NEBRASKA
1402 SOUTH 78TH ST.
OMAHA, NEBRASKA
68124

	TITLE IV-A
PROGRAM	67,373
COST POOL	16,843
TOTAL	84,216

MS. JOSEPHINE GONZALES
EXECUTIVE DIRECTOR
INTER-TRIBAL COUNCIL OF NEVADA
P.O. BOX 7440
RENO, NEVADA
89510

	TITLE IV-A
PROGRAM	292,957
COST POOL	73,239
TOTAL	366,196

MR. THOMAS E. PABLO
CHAIRMAN
CONFEDERATED SALISH & KOOTENAI TRIBES
P.O. BOX 278
PABLO, MONTANA
59855

	TITLE IV-A
PROGRAM	208,306
COST POOL	52,076
TOTAL	260,382

MR. DONALD STEWART, SR.
ADMINISTRATIVE CHAIRMAN
CROW INDIAN TRIBE
P.O. BOX 550
CROW AGENCY, MONTANA
59022

	TITLE IV-A
PROGRAM	174,994
COST POOL	43,749
TOTAL	218,743

MR. BOB PAISANO
CHAIRPERSON
NATIONAL AMERICAN INDIAN CENTER, INC.
418 HOOVER AVE., ROOM ONE
LAS VEGAS, NEVADA
89101

	TITLE IV-A
PROGRAM	45,564
COST POOL	11,391
TOTAL	56,955

MR. JAMES A. PAIVA
TRIBAL CHAIRMAN
SHOSHONE PAIUTE TRIBES
P.O. BOX 219
OWYHEE, NEVADA
89832

	TITLE IV-A
PROGRAM	52,819
COST POOL	13,205
TOTAL	66,024

MR. HENRY BROCKIE,SR.
PRESIDENT
FT. BELKNAP AGENCY
BOX 249
HARLEM, MONTANA
59526

	TITLE IV-A
PROGRAM	100,506
COST POOL	25,127
TOTAL	125,633

MS. JEANETTE LEI
CHAIRPERSON
MONTANA UNITED INDIAN ASSOCIATION
910 HELENA AVE.
HELENA, MONTANA
59601

	TITLE IV-A
PROGRAM	391,622
COST POOL	97,906
TOTAL	489,528

CARL MAJOR
TRIBAL CHAIRMAN
RAMAPOUGH LENAPE NATION
P.O. BOX 629
MT. HOLLY, NEW JERSEY
08060

	TITLE IV-A
PROGRAM	245,554
COST POOL	61,389
TOTAL	306,943

WALTER APACHITO
PRESIDENT
ALAMO NAVAJO SCHOOL BOARD
P.O. BOX 907
MAGDALENA, NEW MEXICO
87825

	TITLE IV-A
PROGRAM	40,546
COST POOL	10,136
TOTAL	50,682

MR. DELFIN J. LOVATO
CHAIRMAN
ALL INDIAN PUEBLO COUNCIL
P.O. BOX 6507- STAT. B
1015 INDIAN SCHOOL ROAD, N.W.
ALBUQUERQUE, NEW MEXICO 87197

	TITLE IV-A
PROGRAM	348,218
COST POOL	87,054
TOTAL	435,272

MR. HENRY AGOYO
EXEC. DIRECTOR
EIGHT INDIAN PUEBLO COUNCIL
P.O. BOX 969
SAN JUAN PUEBLO, NEW MEXICO
87566

	TITLE IV-A
PROGRAM	48,526
COST POOL	12,132
TOTAL	60,658

THE AREA WHICH IN FY 1933 WAS ASSIGNED TO:

JICARILLA APACHE TRIBE
P.O. BOX 507
DULCE, NEW MEXICO
87528

	TITLE IV-A
PROGRAM	69,828
COST POOL	17,457
TOTAL	87,285

MESCALERO APACHE TRIBE
P.O. BOX 176
MESCALERO, NEW MEXICO
88340

	TITLE IV-A
PROGRAM	98,159
COST POOL	24,540
TOTAL	122,699

MR. GERALD T. WILKINSON
EXECUTIVE DIRECTOR
NATIONAL INDIAN YOUTH COUNCIL
201 HERCOSA DRIVE, N.E.
ALBUQUERQUE, NEW MEXICO
87108

	TITLE IV-A
PROGRAM	596,106
COST POOL	149,026
TOTAL	745,132

MR. MERLE L. GARCIA
GOVERNOR
PUEBLO OF ACOMA
P.O.BOX 469
PUEBLO OF ACOMA, NEW MEXICO
87034

	TITLE IV-A
PROGRAM	106,240
COST POOL	26,560
TOTAL	132,800

MR. EDWIN MARTINEZ
GOVERNOR
PUEBLO OF LAGUNA
P.O. BOX 194
LAGUNA, NEW MEXICO
87026

	TITLE IV-A
PROGRAM	137,070
COST POOL	34,267
TOTAL	171,337

MR. TONY REINA
GOVERNOR
PUEBLO OF TAOS
P.O. BOX 1846
TAOS, NEW MEXICO
87571

	TITLE IV-A
PROGRAM	44,626
COST POOL	11,156
TOTAL	55,782

MR. QUINCY PANTEAH
GOVERNOR
PUEBLO OF ZUNI
ZUNI TRIBAL COUNCIL
P.O. BOX 339
ZUNI, NEW MEXICO 87327

	TITLE IV-A
PROGRAM	249,198
COST POOL	62,300
TOTAL	311,498

MR. CHAVEZ P. COHO
PRESIDENT
NAVAJO NAVAJO SCHOOL BOARD, INC.
DRAWER G
PINE HILL, NEW MEXICO
87321

	TITLE IV-A
PROGRAM	77,177
COST POOL	19,294
TOTAL	96,471

MR. PAUL PAYOYA
GOVERNOR
SANTA CLARA INDIAN PUEBLO
P.O. BOX 580
ESPANOLA, NEW MEXICO
87532

	TITLE IV-A
PROGRAM	27,538
COST POOL	6,885
TOTAL	34,423

MR. ALEX GARCIA
GOVERNOR
SANTO DOMINGO TRIBE
GENERAL DELIVERY
SANTO DOMINGO, NEW MEXICO
87052

	TITLE IV-A
PROGRAM	105,202
COST POOL	26,300
TOTAL	131,502

MR. MICHAEL BUSH
EXECUTIVE DIRECTOR
AMERICAN INDIAN COMMUNITY HOUSE, INC.
842 BROADWAY, 8TH FLOOR
NEW YORK CITY, NEW YORK
10003

	TITLE IV-A
PROGRAM	640,200
COST POOL	160,050
TOTAL	800,250

MISS IVA BRANT
CHAIRPERSON
NATIVE AMERICAN MANPOWER PROGRAMS, INC.
1047 GRANT STREET (REAR)
BUFFALO, NEW YORK
14207

	TITLE IV-A
PROGRAM	204,640
COST POOL	51,160
TOTAL	255,800

MS. JUDY L. MEGESTO
PRESIDENT
THE NORTH AM. IND. CLUB OF SYRACUSE AND VICINITY, INC.
P.O. BOX 851
SYRACUSE, NEW YORK
13201

	TITLE IV-A
PROGRAM	244,964
COST POOL	61,241
TOTAL	306,205

MR. LEONARD V. GARROW
HEAD CHIEF
ST. REGIS MOHAWK TRIBE
COMMUNITY BUILDING
HOGANSBURG, NEW YORK
13655

	TITLE IV-A
PROGRAM	108,370
COST POOL	27,093
TOTAL	135,463

MR. LIONEL R. JOHN
PRESIDENT
SENECA NATION OF INDIANS
P.O. BOX 344
SALAMANCA, NEW YORK
14779

	TITLE IV-A
PROGRAM	336,800
COST POOL	84,200
TOTAL	421,000

MR. EDDIE MAYNOR
CHAIRMAN, BOARD OF DIRECTORS
CUMBERLAND COUNTY ASSOC. FOR IND. PEOPLE
102 INDIAN DRIVE
FAYETTEVILLE, NORTH CAROLINA
28301

	TITLE IV-A
PROGRAM	104,334
COST POOL	26,084
TOTAL	130,418

MR. JOHN CROW
PRINCIPAL CHIEF
EASTERN BAND OF CHEROKEE INDIANS
P.O. BOX 481
CHEROKEE, NORTH CAROLINA
28719

	TITLE IV-A
PROGRAM	294,043
COST POOL	73,511
TOTAL	367,554

MS. PATRICIA R. CAVAN
BOARD CHAIRPERSON
GUILFORD NATIVE AMERICAN ASSOC.
P.O. BOX 5623
400 PRESCOTT STREET
GREENSBORO, NORTH CAROLINA 27403

	TITLE IV-A
PROGRAM	79,312
COST POOL	19,828
TOTAL	99,140

MR. ADOLPH L. DIAL

MS. EARLINE STACKS

MR. JOHN SLOAT

MR. ROSS O. SWIMMER

MR. ADOLPH L. DIAL
EXECUTIVE DIRECTOR
LUMBEE REG. DEV. ASSOC.
P.O. BOX 68
PEMBROKE, NORTH CAROLINA
28372

	TITLE IV-A
PROGRAM	1,671,640
COST POOL	417,910
TOTAL	2,089,550

MS. EARLINE STACKS
CHAIRPERSON
METROLINA NATIVE AMERICAN ASSN.
800 BRIAR CREEK ROAD
CHARLOTTE, NORTH CAROLINA
28205

	TITLE IV-A
PROGRAM	81,050
COST POOL	20,263
TOTAL	101,313

MR. JOHN SLOAT
PRESIDENT
CENTRAL TRIBES OF THE SHAWNEE AREA, INC.
624 NORTH BROADWAY
SHAWNEE, OKLAHOMA
74801

	TITLE IV-A
PROGRAM	80,056
COST POOL	20,014
TOTAL	100,070

MR. ROSS O. SWIMMER
PRINCIPAL CHIEF
CHEROKEE NATION OF OKLAHOMA
P.O. BOX 948
TAHLEQUAH, OKLAHOMA
74464

	TITLE IV-A
PROGRAM	1,513,936
COST POOL	378,484
TOTAL	1,892,420

MR. A. BRUCE JONES
EXECUTIVE DIRECTOR
NORTH CAROLINA COMM. OF IND. AFFAIRS
P.O. BOX 27228
RALEIGH, NORTH CAROLINA
27611

	TITLE IV-A
PROGRAM	319,488
COST POOL	79,872
TOTAL	399,360

MR. DANIEL DUBOIS
CHAIRMAN
DEVILS LAKE SIOUX TRIBE
P.O. BOX 300
FORT TOTTEN, NORTH DAKOTA
58335

	TITLE IV-A
PROGRAM	141,613
COST POOL	35,403
TOTAL	177,016

MS. JUANITA LEARNED
CHAIRPERSON
CHEYENNE-ARAPAHO TRIBES
P.O. BOX 67
CONCHO, OKLAHOMA
73022

	TITLE IV-A
PROGRAM	212,721
COST POOL	53,180
TOTAL	265,901

MR. OVERTON JAMES
GOVERNOR
CHICKASAH NATION OF OKLAHOMA
P.O. BOX 1548
ADA, OKLAHOMA
74820

	TITLE IV-A
PROGRAM	358,654
COST POOL	89,664
TOTAL	448,318

MR. PAT MCLAUGHLIN
CHAIRMAN
STANDING ROCK SIOUX TRIBE
GENERAL DELIVERY
FORT YATES, NORTH DAKOTA
58538

	TITLE IV-A
PROGRAM	242,032
COST POOL	60,508
TOTAL	302,540

MR. AUSTIN GILLETTE
TRIBAL CHAIRMAN
THREE AFFILIATED TRIBES
BOX 597
NEW TOWN, NORTH DAKOTA
58763

	TITLE IV-A
PROGRAM	112,981
COST POOL	28,245
TOTAL	141,226

MR. MOLLIS E. ROBERTS
CHIEF
CHOCTAW NATION OF OKLAHOMA
DRAWER 1210
DURANT, OKLAHOMA
74701

	TITLE IV-A
PROGRAM	625,655
COST POOL	156,414
TOTAL	782,069

MR. BILLY J. BURCH
CHAIRMAN
CITIZENS BAND POTAWATOMI IND. OF OKLA.
RT. 5, BOX 151
SHAWNEE, OKLAHOMA
74801

	TITLE IV-A
PROGRAM	160,037
COST POOL	40,009
TOTAL	200,046

MR. RICHARD LA FROMBOISE
TRIBAL CHAIRMAN
TURTLE MOUNTAIN BAND OF CHIPPEWA IND.
TURTLE MOUNTAIN TRIBAL COUNCIL
BELCOURT, NORTH DAKOTA
58316

	TITLE IV-A
PROGRAM	356,615
COST POOL	89,154
TOTAL	445,769

MR. DAVID GIPP
EXECUTIVE DIRECTOR
UNITED TRIBES - ED. TECH. CNTR.
3315 S. AIRPORT ROAD
BISMARCK, NORTH DAKOTA
58501

	TITLE IV-A
PROGRAM	143,987
COST POOL	35,997
TOTAL	179,984

MR. BERNARD KAHANAHAN
CHAIRMAN
COMANCHE TRIBE OF OKLAHOMA
P.O. BOX 908
LAWTON, OKLAHOMA
73502

	TITLE IV-A
PROGRAM	212,961
COST POOL	53,240
TOTAL	266,201

MR. CLAUDE COX
PRINCIPAL CHIEF
CREEK NATION OF OKLAHOMA
P.O. BOX 580
OKMULGEE, OKLAHOMA
74447

	TITLE IV-A
PROGRAM	703,358
COST POOL	175,840
TOTAL	879,198

MR. GREGORY FRAZIER
CHIEF EXECUTIVE
OHIO INDIAN JOB TRAINING PARTNERSHIP AGENCY
5500 LARADA AVENUE
CLEVELAND, OHIO
44102

	TITLE IV-A
PROGRAM	331,722
COST POOL	82,931
TOTAL	414,653

MS. MARY PAT FRANCIS
CHAIRPERSON
CADDO TRIBE
P.O. BOX 487
BINGER, OKLAHOMA
73009

	TITLE IV-A
PROGRAM	77,346
COST POOL	19,336
TOTAL	96,682

MR. NEWTON LAMAR
TRIBAL CHAIRMAN
FOUR TRIBES CONSORTIUM OF OKLAHOMA
P.O. BOX 1193
ANADARKO, OKLAHOMA
73005

	TITLE IV-A
PROGRAM	65,482
COST POOL	16,371
TOTAL	81,853

MR. GEORGE J. CAPTAIN
PRESIDENT
INTER-TRIBAL COUNCIL OF N.E. OKLAHOMA
P.O. BOX 1308
MIAMI, OKLAHOMA
74334

	TITLE IV-A
PROGRAM	85,492
COST POOL	21,373
TOTAL	106,865

MR. MARCELLUS CHOUTEAUX
TRIBAL CHAIRMAN
KAW TRIBE OF OKLAHOMA
DRAWER 50
KAW CITY, OKLAHOMA
74641

	TITLE IV-A
PROGRAM	29,830
COST POOL	7,457
TOTAL	37,287

MR. JAMES WAHPEPAH
CHAIRMAN
KICKAPOO TRIBES OF OKLAHOMA
P.O. BOX 58
MCLOUD, OKLAHOMA
74851

	TITLE IV-A
PROGRAM	10,012
COST POOL	2,503
TOTAL	12,515

MR. BILLY EVANS HORSE
TRIBAL CHAIRMAN
KIOWA TRIBE OF OKLAHOMA
P.O. BOX 361
CARNEGIE, OKLAHOMA
73015

	TITLE IV-A
PROGRAM	172,418
COST POOL	43,105
TOTAL	215,523

MR. DEWEY E. HERRYHILL
CHAIRMAN
OKLAHOMA TRIBAL ASSISTANCE PROGRAM, INC.
P.O. BOX 2841
TULSA, OKLAHOMA
74101

	TITLE IV-A
PROGRAM	390,766
COST POOL	97,692
TOTAL	488,458

MR. GEORGE E. TALLCHIEF
PRINCIPAL CHIEF
OSAGE TRIBAL COUNCIL
P.O. BOX 147 - OSAGE AGENCY CAMPUS
PAWHUSKA, OKLAHOMA
74056

	TITLE IV-A
PROGRAM	138,548
COST POOL	34,637
TOTAL	173,185

MR. RUBIN DEROIN
TRIBAL CHAIRMAN
OTOE-MISSOURIA INDIAN TRIBE OF OKLA.
P.O. BOX 68
RED ROCK, OKLAHOMA
74651

	TITLE IV-A
PROGRAM	36,609
COST POOL	9,152
TOTAL	45,761

MR. DELBERT HORSECHIEF
PRESIDENT
PAWNEE TRIBE OF OKLAHOMA
P.O. BOX 470
PAWNEE, OKLAHOMA
74058

	TITLE IV-A
PROGRAM	16,990
COST POOL	4,247
TOTAL	21,237

MR. SYLVESTER KEMBLE
CHAIRMAN
PONCA TRIBE OF INDIANS
WHITE EAGLE - BOX 11
PONCA CITY, OKLAHOMA.
74601

	TITLE IV-A
PROGRAM	47,710
COST POOL	11,928
TOTAL	59,638

MR. JAMES M. MILAH
PRINCIPAL CHIEF
SEMINOLE NATION OF OKLAHOMA
P.O. BOX 745
WEWOKA, OKLAHOMA
74884

	TITLE IV-A
PROGRAM	155,298
COST POOL	38,824
TOTAL	194,122

MR. HENRY L. ALLEN
PRESIDENT
TONKAWA TRIBE OF OKLAHOMA
P.O. BOX 70
TONKAWA, OKLAHOMA
74653

	TITLE IV-A
PROGRAM	48,406
COST POOL	12,101
TOTAL	60,507

MR. HUGH ED JOHNSON
PRESIDENT
UNITED URBAN INDIAN COUNCIL
2900 SOUTH HARVEY
OKLAHOMA CITY, OKLAHOMA
73109

	TITLE IV-A
PROGRAM	440,453
COST POOL	110,113
TOTAL	550,566

MR. ARTHUR S. BENSELL
TRIBAL CHAIRMAN
CONFED. TRIBES OF SILETZ INDIANS
P.O. BOX 549
101 E. BUFORD ST.
SILETZ, OREGON 97380

	TITLE IV-A
PROGRAM	186,410
COST POOL	46,602
TOTAL	233,012

MR. ELWOOD H. PATAWA
CHAIRMAN
CONFED. TRIBES OF THE UMATILLA IND. RES.
P.O. BOX 638
PENDLETON, OREGON
97801

	TITLE IV-A
PROGRAM	37,977
COST POOL	9,494
TOTAL	47,471

MR. ZANE JACKSON
TRIBAL CHAIRMAN
CONFEDERATE TRIBES OF WARM SPRINGS
P.O. BOX C
WARM SPRINGS, OREGON
97761

	TITLE IV-A
PROGRAM	82,798
COST POOL	20,700
TOTAL	103,498

MR. ROBERT BOJORCAS
EXECUTIVE DIRECTOR
ORGANIZATION OF FORGOTTEN AMERICANS
3949 SO. 6TH STREET
KLAMATH FALLS, OREGON
97601

	TITLE IV-A
PROGRAM	316,873
COST POOL	79,218
TOTAL	396,091

MS. FAITH MATHEW
CHAIRPERSON
URBAN INDIAN COUNCIL
P.O. BOX 3198, 1634 S.W. ALDER
PORTLAND, OREGON
97205

	TITLE IV-A
PROGRAM	232,994
COST POOL	58,249
TOTAL	291,243

MR. DAVID CHARLES
BOARD CHAIRMAN
COUNCIL OF THREE RIVERS
200 CHARLES STREET
PITTSBURGH, PENNSYLVANIA
15238

	TITLE IV-A
PROGRAM	182,629
COST POOL	45,657
TOTAL	228,286

MR. WILLIAM H. LINCH
BOARD PRESIDENT
UNITED AM. INDIANS OF THE DEL. VALLEY
225 CHESTNUT STREET
PHILADELPHIA, PENNSYLVANIA
19106

	TITLE IV-A
PROGRAM	151,601
COST POOL	37,900
TOTAL	189,501

MR. GARRISON E. PARKER
EXECUTIVE DIRECTOR
RHODE ISLAND INDIAN COUNCIL
444 FRIENDSHIP ST.
ROOM 300
PROVIDENCE, RHODE ISLAND 02907

	TITLE IV-A
PROGRAM	102,806
COST POOL	25,702
TOTAL	128,508

THE HON. RICHARD W. RILEY
GOVERNOR, STATE OF SOUTH CAROLINA
OFFICE OF THE GOVERNOR OF SOUTH CAROLINA
1800 ST. JULIAN PLACE
COLUMBIA, SOUTH CAROLINA
29204

	TITLE IV-A
PROGRAM	139,372
COST POOL	34,843
TOTAL	174,215

MR. MORGAN S. CARREAU
TRIBAL CHAIRMAN

MR. ROBERT G. PHILBRICK
CHAIRMAN

MR. JOHN R. HISA
TRIBAL COUNCILOR

MR. HOMER J. SECAKUKU

MR. MORGAN S. GARREAU
TRIBAL CHAIRMAN
CHEYENNE RIVER SIOUX TRIBE
P.O. BOX 768
EAGLE BUTTE, SOUTH DAKOTA
57625

	TITLE IV-A
PROGRAM	229,038
COST POOL	57,260
TOTAL	286,298

MR. ROBERT G. PHILBRICK
CHAIRMAN
CROW CREEK SIOUX TRIBE
P.O. BOX 658
FORT THOMPSON, SOUTH DAKOTA
57339

	TITLE IV-A
PROGRAM	85,558
COST POOL	21,390
TOTAL	106,948

MR. JOHN R. ELSA
TRIBAL GOVERNOR
TIGUA INDIAN TRIBE
P.O. BOX 17579 - YSLETA STATION
EL PASO, TEXAS
79917

	TITLE IV-A
PROGRAM	222,512
COST POOL	55,628
TOTAL	278,140

MR. HOMER J. SECAWEU
TRIBAL CHAIRWOMAN
UTE INDIAN TRIBE
P.O. BOX 190
FORT DUCHESNE, UTAH
84026

	TITLE IV-A
PROGRAM	90,469
COST POOL	22,617
TOTAL	113,086

MR. ORVILLE C. LAMOREAU, SR.
TRIBAL CHAIRMAN
LOWER BRULE SIOUX TRIBE
P.O. BOX 313
LOWER BRULE, SOUTH DAKOTA
57548

	TITLE IV-A
PROGRAM	47,179
COST POOL	11,795
TOTAL	58,974

MR. STANDLEY LOOKING ELK
PRESIDENT
OGLALA SIOUX TRIBE
P.O. BOX G
PINE RIDGE, SOUTH DAKOTA
57770

	TITLE IV-A
PROGRAM	590,007
COST POOL	147,502
TOTAL	737,509

MR. LEONARD LAHMAN, SR.
PRESIDENT
ABENAKI SELF-HELP ASSN./N.E.IND. COUNC.
BOX 276
SWANTON, VERMONT
05488

	TITLE IV-A
PROGRAM	29,588
COST POOL	7,397
TOTAL	36,985

TECUMSEH D. COOK
CHIEF
MATTAPONI PAMUNKEY MONACAN CONSORTIUM
P.O. BOX 771
PRINCE WILLIAM, VIRGINIA
23086

	TITLE IV-A
PROGRAM	196,305
COST POOL	49,076
TOTAL	245,381

THE AREA WHICH IN FY 1983 WAS ASSIGNED TO :

ROSEBUD SIOUX TRIBE
BOX 38
ROSEBUD, SOUTH DAKOTA
57570

	TITLE IV-A
PROGRAM	406,695
COST POOL	101,174
TOTAL	505,869

SISSETON-WAHPETON SIOUX TRIBE
P.O. BOX 209
SISSETON, SOUTH DAKOTA
57262

	TITLE IV-A
PROGRAM	136,118
COST POOL	34,030
TOTAL	170,148

MR. LEONARD C. HENDRICK
EXECUTIVE DIRECTOR
AMERICAN INDIAN COMMUNITY CENTER
1007 N. COLUMBUS STREET
SPOKANE, WASHINGTON
99202

	TITLE IV-A
PROGRAM	121,726
COST POOL	30,431
TOTAL	152,157

MS. VIRGINIA CANALES
CHAIRPERSON
CHE-HO-CUL-SHO
P.O. BOX 397
ROCHESTER, WASHINGTON
98579

	TITLE IV-A
PROGRAM	32,546
COST POOL	8,136
TOTAL	40,682

MR. CLARENCE W. SKYE
EXECUTIVE DIRECTOR
UNITED SIOUX TRIBES DEV. CORP.
P.O. BOX 1193
PIERRE, SOUTH DAKOTA
57501

	TITLE IV-A
PROGRAM	476,003
COST POOL	119,001
TOTAL	595,004

MR. REX J. EVANS
EXECUTIVE DIRECTOR
USET INCORPORATED
1101 KERMIT DRIVE
SUITE 800
NASHVILLE, TENNESSEE 37217

	TITLE IV-A
PROGRAM	213,745
COST POOL	53,436
TOTAL	267,181

MR. AL ALBERTIN
CHAIRMAN
COLVILLE CONFEDERATED TRIBES
P.O. BOX 150
NESPELEM, WASHINGTON
99155

	TITLE IV-A
PROGRAM	167,729
COST POOL	41,932
TOTAL	209,661

MR. ROGER JIM
CHAIRMAN
EASTERN WASHINGTON INDIAN CONSORTIUM
P.O. BOX 223
WELLPINIT, WASHINGTON
99040

	TITLE IV-A
PROGRAM	587,569
COST POOL	146,892
TOTAL	734,461

MR. FULTON BATTISTE
PRINCIPAL CHIEF
ALABAMA-COUSHATTA INDIAN RESERVATION
P.O. BOX 1141
LIVINGSTON, TEXAS
77351

	TITLE IV-A
PROGRAM	357,298
COST POOL	89,325
TOTAL	446,623

MR. GREG GOMEZ
CHAIRPERSON
DALLAS INTER-TRIBAL CENTER
CARTER PLAZA
209 EAST JEFFERSON BLVD.
DALLAS, TEXAS 75201

	TITLE IV-A
PROGRAM	307,902
COST POOL	76,976
TOTAL	384,878

MR. LARRY G. KINLEY
CHAIRMAN
LUMMI INDIAN BUSINESS COUNCIL
2616 KWINA ROAD
BELLINGHAM, WASHINGTON
98225

	TITLE IV-A
PROGRAM	36,336
COST POOL	9,084
TOTAL	45,420

MR. GUY MADISON
CHAIRMAN
N.W. INTER-TRIBAL COUNCIL
P.O. BOX 115
NEAH BAY, WASHINGTON
98357

	TITLE IV-A
PROGRAM	69,221
COST POOL	17,305
TOTAL	86,526

THE AREA WHICH IN FY 1983 WAS ASSIGNED TO :

PUYALLUP TRIBE
2002 EAST 28TH ST.
TACOMA, WASHINGTON
98404

	TITLE IV-A
PROGRAM	133,688
COST POOL	33,422
TOTAL	167,110

MS. CAMILLE HONZON NAKASEI
EXECUTIVE DIRECTOR
SEATTLE INDIAN CENTER
121 STEWART STREET
SEATTLE, WASHINGTON
98101

	TITLE IV-A
PROGRAM	350,254
COST POOL	87,564
TOTAL	437,818

MR. BRUCE TAYLOR
ACTING CHAIRMAN
LAC COURTE OREILLES TRIBAL GOVERNING BOARD
ROUTE 2
HAYWARD, WISCONSIN
54843

	TITLE IV-A
PROGRAM	81,799
COST POOL	20,450
TOTAL	102,249

MS. LUCILLE CHAPMAN
CHAIRPERSON
MENOMINEE INDIAN TRIBE OF WISCONSIN
P.O. BOX 397
KESHENA, WISCONSIN
54135-0397

	TITLE IV-A
PROGRAM	125,381
COST POOL	31,345
TOTAL	156,726

MR. PURCELL POLLESS
CHAIRMAN
ONEIDA TRIBE OF INDIANS OF WIS., INC.
P.O. BOX 365
ONEIDA, WISCONSIN
54115

	TITLE IV-A
PROGRAM	204,249
COST POOL	51,062
TOTAL	255,311

THE AREA WHICH IN FY 1983 WAS ASSIGNED TO:

QUINAULT INDIAN NATION
P.O. BOX 247
TAHOLAH, WASHINGTON
98587

	TITLE IV-A
PROGRAM	58,006
COST POOL	14,502
TOTAL	72,510

MS. MAUREEN R. FISHER
CHAIRPERSON
WESTERN WASH. IND. EMPL. AND TRNG. PROG.
11005 PACIFIC AVENUE, SUITE 2 & 4
KELLER PROFESSIONAL BUILDING
TACOMA, WASHINGTON 98444

	TITLE IV-A
PROGRAM	650,154
COST POOL	162,538
TOTAL	812,692

MR. WILLIAM WILDCAT, SR.
TRIBAL CHAIRMAN
LAC DU FLAMBEAU CONSORTIUM
P.O. BOX 24
LAC DU FLAMBEAU, WISCONSIN
54538

	TITLE IV-A
PROGRAM	59,421
COST POOL	14,855
TOTAL	74,276

MR. SHERWIN F. DAVIDS
CHAIRPERSON
MILWAUKEE AREA A.I. IND. MANPOWER CONSC.
3121 W. WISCONSIN AVE.
MILWAUKEE, WISCONSIN
53208

	TITLE IV-A
PROGRAM	187,919
COST POOL	46,980
TOTAL	234,899

MR. EUGENE W. TAYLOR
CHAIRMAN
ST. CROIX TRIBAL COUNCIL
STAR ROUTE
WEBSTER, WISCONSIN
54893

	TITLE IV-A
PROGRAM	33,806
COST POOL	8,452
TOTAL	42,258

MR. LEONARD E. MILLER, JR.
TRIBAL CHAIRMAN
STOCKBRIDGE-MUNSEE COMMUNITY
ROUTE 1
BOWLER, WISCONSIN
54416

	TITLE IV-A
PROGRAM	50,638
COST POOL	12,659
TOTAL	63,297

MR. CHLORIS A. LOWE, JR.
CHAIRMAN
WISCONSIN-WINNEBAGO BUSINESS COMMITTEE
RT 1 CREAMERY RD
NEKOOSA, WISCONSIN
54457

	TITLE IV-A
PROGRAM	118,582
COST POOL	29,645
TOTAL	148,227

NATIONAL TOTAL

	TITLE IV-A
PROGRAM	49,794,396
COST POOL	12,448,604
TOTAL	62,243,000

MR. VERNON STONE
CHAIRMAN
WISCONSIN INDIAN CONSORTIUM
P.O. BOX 639
ASHLAND, WISCONSIN
54806

	TITLE IV-A
PROGRAM	106,850
COST POOL	26,713
TOTAL	133,563

MR. ROBERT HARRIS, SHOSHONE CHAIRMAN
MR. WAYNE FELTER, ARAPAHOE CHAIRMAN
SHOSHONE/ARAPAHOE TRIBES
P.O. BOX 217
FORT WASHAKIE, WYOMING
82514

	TITLE IV-A
PROGRAM	286,723
COST POOL	71,681
TOTAL	358,404

[FR Doc. 83-24256 Filed 9-6-83; 8:45 am]
BILLING CODE 4510-30-C

Occupational Safety and Health Administration

[V-83-1]

Hammermill Papers Group; Grant of Variance

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Notice of grant of variance.

SUMMARY: Administrative Law Judge David A. Clarke, Jr., has granted the Hammermill Papers Group a permanent variance from the regulation set forth at § 1910.261(c)(9)(i) which requires that the flagman on a train crew must always remain in sight of the operator when the crane or locomotive is in motion.

DATES: The effective date of this grant of variance was April 22, 1983.

FOR FURTHER INFORMATION CONTACT:

Mr. James J. Concannon, Director, Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-3662, 200 Constitution Avenue, NW., Washington, D.C. 20210, telephone: (202) 523-7183

Regional Administrator, U.S. Department of Labor—OSHA, Gateway Building, Suite 2100, 3535 Market Street, Philadelphia, PA 19104

U.S. Department of Labor—OSHA, Federal Building;, Rm. 2236, 1000 Liberty Avenue, Pittsburgh, PA 15522

I. Background

On December 14, 1982, the Hammermill Papers Group made application for permanent variance from that part of 29 CFR 1910.261(c)(9)(i) which requires that the flagman must always remain in sight of the operator when the crane or locomotive is in motion. By letter dated December 23, 1982, Local 620, United Paperworkers International Union, AFL-CIO-CLC, (hereinafter referred to as "Union"), 703 French Street, Erie, Pennsylvania 16501, the authorized employee representative, requested a hearing on the variance application.

On January 14, 1983, a notice of application for variance from 29 CFR 1910.261(c)(9)(i) and a notice of hearing on the application was published in **Federal Register** (48 FR 1847).

The applicant contended that radio communications between the railroad crew was as safe and healthful as visual contact between the railroad crew as required by 1910.261(c)(9)(i). The applicant proposed that their railroad crews use portable radios to relay verbal instructions in directing movement of the locomotives rather than using visual observation of hand signals. The railroad crew would thus be able to maintain voice contact when throwing switches, coupling, uncoupling or spotting rail cars within the applicant's railroad system. The applicant contended that constant visual contact while the locomotive is in motion was not the exclusive means of achieving a safe operation.

The applicant further stated that the operating area of the locomotive encompasses approximately 7.5 miles of track, all within the confines of the company's property. Approximately one mile is owned, maintained and operated by Conrail. Only two miles of its track are in frequent use. The maximum operating speed of the locomotive is 10 miles per hour. Normally, only one to five rail cars are moved at one time. Inbound cargo includes longwood, wood chips, pulp and chemicals such as chlorine, caustic soda, clay, rosin, sodium chlorate, talc, sulphur dioxide and starch. Outbound products are pulp and paper.

The applicant maintained that a variance from the requirement that the railroad crew be in visual contact with the locomotive engineer at all times should be granted because the use of radios in conjunction with written operational procedures provides an operation which is as safe, or safer than, the currently employed and outdated method of hand signals.

The Union was opposed to the applicant's request to use radio communication as a subsitute for the standard's requirement for a flagman to be in visual contact with a locomotive engineer while the engine is in motion. The Union did not object to the use of radio communication as an aid to the present method of operation but only when radio communication is used as a substitute for visual contact between the railroad crew.

The Union also strongly objected to the applicant's announced intention to reduce its three-man railroad crews to two-man railroad crews. The Union stated that Conrail operates locomotives and freight cars into the applicant's premises with a crew consisting of three men that use radio communication. The Union's understanding was that the Conrail railroad crews had frequent problems with their radio and therefore relied primarily on visual contact as the method of insuring the safe movement of their rail cars.

The Union further contended that during periods of darkness, railroad crew members such as flagman and switchmen must use one hand to maintain their hold on a moving train and their other hand to grasp and use a lantern or other lighting device. The contention was that should an emergency situation occur, it would not be possible for the flagman or switchman to attempt to use a radio to communicate with the locomotive engineer. Similarly, during periods of severe cold weather, which are common at the Erie Plant during the winter months, crew members must wear extensive protective clothing including hoods, earmuffs and hats in order to protect their faces and heavy mittens in order to protect their hands. With such protective clothing, crew members operating the company's rail cars would not be able to communicate by radio at all, much less in a safe manner.

The Union further stated that extremely loud conditions exist in many areas of the applicant's facility. In addition, the engineer is required to frequently use the locomotive horn which emits an extremely loud noise. The Union contended that the loud conditions, in addition to a second radio in the cab of the locomotive used for railroad yard communications, could cause the engineer to fail to understand a radio communication in an emergency situation.

The Union stated there were other reasons for their opposition which were to be brought out in the hearing. Some of these situations inlcuded the need for a third crew member to reduce the risk of derailment, the need for the flagman and the switchman to manually brake a rail car and the need for the railroad crew to pay close attention to constant truck and pedestrian traffic across railroad tracks.

The hearing was held on February 23 and 24, 1983 at the Federal Building in Erie, Pennsylvania, with Administrative Law Judge David A. Clarke, Jr., presiding. The decision, which was rendered on April 22, 1983, stated in part that, based upon a preponderance of the reliable and probative evidence presented at the hearing on February 23 and 24, 1983, the Company has demonstrated that the proposed operation of its trains by two-man crews, utilizing radio communications as a substitute for the visual contact required by the line-of-sight standard set forth at 29 CFR 1910.261(c)(9)(i), provides employment and places of employment to its employees which are as safe and healthful as those which would prevail if the applicant complied with the line-of-sight standard.

No exceptions were filed to the Judge's decision and order. Accordingly, pursuant to 29 CFR 1905.27(b), the

Judge's decision and order have become final.

Judge Clarke's order, including the terms of the variance, is reproduced here in its entirety:

Order

Accordingly, it is ordered that:

The Applicant be and hereby is granted a permanent variance, in accordance with its request, from the line-of-sight standard set forth in 29 CFR 1910.261(c)(9)(i) and may proceed to utilize two-man crews, equipped with two-way radios, to direct the movements of trains within the perimeters of its Erie plant, provided that the Applicant shall:

(a) Institute a radio control program for assignment, storage, security, recharging and periodic maintenance of the radio equipment.

(b) Clearly designate the area where the two-way radio communications may be conducted.

(c) Develop safe operating procedures in the use of the radio communications system and provide a copy to each employee required to work with a two-way radio.

(d) Instruct and thoroughly train each employee who is authorized to use the two-way radio in the proper methods for using the radio communications.

(e) Assure testing of the radio before and at least once during each railroad crew shift to verify that the radio is operating properly. The test at a minimum shall consist of an exchange of voice transmissions.

(f) Immediately remove from service all improperly functioning radios until they have been repaired.

(g) Assure that when radio communication is used in lieu of hand signals in connection with the switching, backing or pushing of a train, engine, or car, the employee directing the movement shall give complete instructions or keep in continuous radio contact with the employees receiving the instructions. When backing or pushing a train, engine or cars, the distance of the movement must be specified, and the movement must stop in one-half the remaining distance unless additional instructions are received. If the instructions are not understood or continuous radio contact is not maintained, the movement shall be stopped immediately and may not be resumed until the misunderstanding has been resolved, radio contact has been restored, or communication has been achieved by hand signals.

(h) Assure that a traffic pattern across and on the railroad tracks be well defined and a safe operating procedure established.

(i) Install and maintain appropriate and practical warning signs at each vehicular and pedestrian crossing of the railroad track and the blind areas of the track.

(j) Require that an audible signal be given when approaching a crossing. The sound of the engine whistle or horn shall be distinct, with intensity and duration proportionate to the distance the signal is to be conveyed.

(k) Assure that when outside railroad company operators are on the premises, operations of the Applicant's crew shall be fully coordinated with those of the outside railroad company to assure a safe joint operation. Crews of one company shall be informed of the operating procedures of the other company.

(l) Allow OSHA to inspect its premises in connection with this variance.

This order became effective on April 22, 1983, and shall remain in effect until modified or revoked in accordance with Section 6(d) of the Occupational Safety and Health Act of 1970.

Signed at Washington, D.C. this 31st day of August 1983.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 83-24430 Filed 9-6-83; 8:45 am]

BILLING CODE 4510-26-M

Maryland State Standards; Notice of Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor Occupational Safety and Health (hereinafter called the Assistant Secretary), 29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On July 5, 1973, notice was published in the **Federal Register** (38 FR 17834) of the approval of the Maryland State Plan and the adoption of Subpart O to Part 1952 containing the decision.

The Maryland State plan provides for the adoption of Federal standards as State standards after comments and public hearing. Sections 1952.210–214 of Subpart O set forth the State's schedule for the adoption of Federal standards. By letters dated May 13, 1983 from Commissioner Dominic N. Fornaro, Maryland Division of Labor & Industry to William W. White, Jr., Acting Regional Administrator, and incorporated as part of the plan, the State submitted State standards comparable to (1) 29 CFR 1910.401(a)(2)(iv) and 1910.402 pertaining to amendments, corrections and revisions relating to commercial diving operations as published in the **Federal Register** (47 FR 53365) dated November 26, 1982, and (2) 29 CFR 1910.106(g)(2) and 1910.106(g)(3)(vi), pertaining to amendments, corrections and revisions relating to hazardous materials; Attendant Exemption and Latch-open devices, as published in the **Federal Register** dated September 7, 1982. These standards, which are contained in COMAR 09.12.31 Maryland Occupational Safety and Health Standards, were promulgated after public hearings on February 8, 1983 pursuant to article 41, § 25F(e), Annotated Code of Maryland and effective May 9, 1983.

2. *Decision.* Having reviewed the State submission in comparision with the Federal standards it has been determined that the State standards are identical to the Federal standards and accordingly should be approved.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, 3535 Market Street, Suite 2100, Philadelphia, PA 19104; Office of the Commissioner of Labor & Industry, 501 St. Paul Place, Baltimore, Maryland 21202; and the Technical Data Center, Room N2439R, Third Street and Constitution Avenue, NW., Washington, D.C. 20210.

4. *Public participation.* Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Maryland State plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are identical to the Federal standards which were promulgated in accordance with Federal law including meeting requirements for public participation.

2. The standards were adopted in accordance with the procedural requirements of State law and further participation would be unnecessary.

This decision is effective September 7, 1983.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667)

Signed at Philadelphia, PA this 4th day of August 1983.

Linda R. Anku,

Regional Administrator.

[FR Doc. 83-24429 Filed 9-6-83; 8:45 am]

BILLING CODE 4510-19-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 83-74]

Intent To Prepare a Draft Environmental Impact Statement; Centaur Upper Stage

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent to prepare a draft environmental impact statement (EIS).

SUMMARY: The National Aeronautics and Space Administration (NASA) will prepare an Environmental Impact Statement (EIS) to address the production, assembly, test and operations, both ground and spaceborne, of a high-energy upper stage designated Centaur. This stage is planned for use with the Space Transportation System (STS) as an upper stage vehicle. In support of this stage, certain facilities at the Eastern Launch Site, Florida, will require modification to accommodate the STS/Centaur configuration.

In a number of respects, the new Centaur vehicle is the same as that which has been used to perform space related missions for the past 20 years. These missions have encompassed low earth and geosynchronous orbits; lunar, solar, inner and outer planetary transfer trajectories; and solar system escape trajectories. In performing these missions while operating from the Eastern Launch Site, considerable environmental analysis has been accomplished and reported. Additionally, a mature operations plan with all its attendant processing and safety procedures exists. Also available are personnel experienced in the utilization of the procedures. This existing capability and data bank will be used to the extent applicable.

The present concept for the largest version of Centaur in STS, designated G prime, will satisfy requirements for the NASA missions planned for 1986. This Centaur stage is larger than the expendable vehicle version and includes certain STS integration and safety considerations not required by the Expendable Vehicles' Program. A smaller version, designated Centaur G, has been conceived to accommodate missions which require larger volumes of the STS cargo bay for the payloads.

The Centaur G prime and G versions are characterized by:

	G Prime	Centaur G
Length	29.1 ft	19.5 ft
Diameter	10 ft (LOX tank) 14.2 ft (LH_2 tank).	Same as G prime
Propellant capacity.	46,000 lbs (LO_2+LH_2).	28,700 lbs (LO_2+LH_2)
Engines	P&W RL-10 at 5:1 LO_2/LH_2.	5:1 LO_2/LH_2
Coast control	170 lbs N_2H_4	250 lbs N_2H_4

When fully loaded, the G prime vehicle contains 38,333 pounds of liquid oxygen and 7,667 pounds of liquid hydrogen (the G vehicle contains approximately 25,300 pounds of liquid oxygen and 4,400 pounds of liquid hydrogen) to provide prime propulsive force. Properly expended these are the cleanest possible propellants where impact on the environment is minimal. The small quantity of hydrazine aboard the vehicle is totally expended in orbit. The propellants and gases used by Centaur are the same as those used by the Shuttle three main engines, but in much lesser quantities such that environmental impact analysis performed for STS is directly applicable to Centaur.

Modification of existing facilities and construction of minor new facilities at the manufacturing and test sites in California and Florida will impact land use, and will temporarily disturb air and water quality in the immediate vicinity of the work presenting minor, localized environmental effects. In all instances, the sites being modified for test have existed for some time and supported the types of test to be conducted for both design evaluation and operational uses of Centaur.

Alternatives Considered

No Action—This alternative was given much consideration. However, to realize the potential of STS capability to satisfy desired missions, a high energy stage is required. Such a high energy stage can allow for more flexible mission planning.

Alternate Stages—An alternate stage exists (the IUS) and is planned for missions where its capability meets requirements. An environmental assessment for the IUS was previously submitted by the Air Force. From an environmental standpoint, no advantage exists by using this alternate stage.

In summary, use of Centaur in STS helps realize a performance capability while providing a system with minimal environmental impact.

Environmental Issues: Environmental issues to be analyzed in depth are those associated with the impact areas listed below. In particular, worst case events will be considered for: Air quality; water quality; noise; radiation; socioeconomics; weather; ecology; and unplanned events.

Scoping Process: The inclusion of Centaur into the STS does not introduce any new commodity, quantity of a commodity, or mode of operation beyond that already considered by the STS itself. In this respect, the scoping process is to evaluate the effect of adding the Centaur stage to the STS on a one-for-one basis of all environmental considerations for both STS and expendable vehicles. This process will allow for a complete environmental evaluation based upon extensive work which was years in consideration and making. Consultations, as necessary, will take place with those who prepared the EIS for the Kennedy Space Center (KSC) to assure completeness of the Centaur EIS. Written comments are being requested as part of the scoping process and must be received on or before 30 days after publication of this notice in the **Federal Register**. The draft EIS for Centaur is expected to be released for review and comment by October 1, 1983.

DATE: Comments must be reviewed on or before October 7, 1983.

ADDRESS: National Aeronautics and Space Administration, Code MSD-5, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. John Castellano, (202) 755-7983.

Ann P. Bradley,

Acting Associate Administrator for Management.

[FR Doc. 83-24321 Filed 9-6-83; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Inter-Arts Advisory Panel (Presenting Organizations); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Inter-Arts Advisory Panel (Presenting Organizations) to the National Council

on the Arts will be held on September 19, 1983, from 9:00 a.m.–6:00 p.m.; on September 20, 1983, from 8:30 a.m.–7:15 p.m.; on September 21, 1983, from 8:30 a.m.–9:00 p.m.; and, on September 22, 1983, from 9:00 a.m.–5:30 p.m. in Room 730 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, D.C.

A portion of this meeting will be open to the public on September 21, 1983, from 3:00 p.m.–6:00 p.m. to discuss Policy Guidelines and Future Directions.

The remaining sessions of this meeting on September 19 from 9:00 a.m.–6:00 p.m.; on September 20 from 8:30 a.m.–7:15 p.m.; on September 21 from 8:30 a.m.–3:00 p.m. and 6:30 p.m.–9:00 p.m.; and on September 22 from 9:00 a.m.–5:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682–5433.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

August 30, 1983.

[FR Doc. 83–24344 Filed 9–6–83; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL SCIENCE FOUNDATION

Permit Application Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of Permit Applications Received Under Antarctic Conservation Act of 1978, Pub. L. 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act at Title 45 Part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to these permit applications by September 30, 1983. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESS: Comments should be addressed to Permit Office, Room 627, Division of Polar Programs, National Science Foundation, Washington, D.C. 20550.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers at the above address or (202) 357–7934.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541), has developed regulations that implement the "Agreed Measures for the Conservation of Antarctic Fauna and Flora" for all United States citizens. The Agreed Measures, developed in 1964 by the Antarctic Treaty Consultative Parties, recommended establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas as requiring special protection. The regulations establish such a permit system to designate Specially Protected Areas and Sites of Special Scientific Interest. Additional information was published in the 21 July 1983 **Federal Register**, page 33372.

The application received is as follows:

1. *Applicant:* Virginia A. P. Zinsmeister, Department of Anatomy, School of Veterinary Medicine, Purdue University, West Lafayette, Indiana 47907.

Activity for Which Permit Requested

Taking, Import into U.S.A. The applicant requests permission to take ten specimens of each of three pygoscelid penguins (*P. papua, P. antarctica,* and *P. adelie*) from colonies in the vicinity of Teniente Marsh Base on King George Island and to import tissue and skeletal material from these specimens. These specimens will provide material for a study of blood cells and blood forming tissue and should yield new information on penguins which will be useful in assessing the health of individuals and populations.

Location: King George Island, Antarctica.

Dates: October 15, 1983–December 15, 1983

Authority to publish this notice has been delegated by the Director, NSF to the Director, Division of Polar Programs.

Edward P. Todd,

Division Director, Division of Polar Programs.

[FR Doc. 83–24334 Filed 9–6–83; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

Accident Reports; Safety Recommendations and Responses; Availability

Reports Issued:

Marine Accident Report—Explosion and Fire Onboard U.S. Coastal Tankship POLING BROS. NO. 9, East River, New York Harbor, February 26, 1982 (NTSB/MAR–83/03) (NTIS Order No. PB83–916403).

Marine Accident Report—Collision of U.S. Towboat CREOLE GENII and Liberian Tank Vessel ARKAS, near Mile 130, Mississippi River, March 31, 1982 (NTSB/MAR–83/04) (NTIS Order No. PB83–916404).

Railroad Accident Report—Side Collision of Two Missouri Pacific Railroad Company Freight Trains, at Glaise Junction, Near Possum Grape, Arkansas, October 3, 1982 (NTSB/RAR–83/06) (NTIS Order No. PB83–916306).

Note.—Reports may be ordered from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, for a fee covering the cost of printing, mailing, handling, and maintenance. For information on report call 703–487–4650 and to order subscription to reports call 703–487–4630.

Recommendations to:

Aviation—*Federal Aviation Administration: Jul. 29: A–83–52:* Issue a telegraphic Airworthiness Directive to require the immediate retirement from service of all Robinson R–22 main rotor blades, PNA016–1, Revision W, (SNs 600 through 810) and to require the installation of main rotor blades with a service life of 2,000 hours. *A–83–53:* Review and evaluate the main rotor blade fatigue substantiation data for the Robinson R–22 main rotor blades Revisions Y and Z, to verify that adequate margins of safety exist for the presently assigned service life of 2,000 hours; if adequate margins do not exist, revise the service life limit accordingly. *Aug. 9: A–83–50:* Require the Piper Aircraft Corporation to revise the Piper PA–23 Aztec Flight Manual to indicate that if the parking brake is pulled and held extended during application of the toe brakes, hydraulic pressure to the wheel brakes can be blocked or restricted. *A–83–51:* Review the braking systems of other models of Piper Aircraft Corporation airplanes to determine whether the simultaneous application of the toe brakes and the parking brake handle limits the wheel braking pressure which can be applied and where necessary, require that the Airplane Flight Manuals be revised to include appropriate cautionary information. *A–83–54:* Consolidate information on visual scan techniques in Advisory Circular AC90–48C, "Pilot Role In Collision Avoidance," and information such as that contained in the Aircraft Owners and Pilots Association's program "Take Two and See," regarding visual scan techniques, in one or more publications that are referred to by pilots on a continuing basis. *A–83–55:* Include questions regarding visual scanning techniques for airborne targets in written examinations for pilot licenses.

Railroad—*Federal Railroad Administration: Aug. 9: R–83–79:* Immediately issue an emergency order to reduce the speed of all trains carrying hazardous materials in the Louisville District of the Illinois Central Gulf Railroad Company until a safe speed can be determined by the Federal Railroad Administration. *R–83–80:* Immediately conduct a one-time emergency on-site inspection of the track in the Louisville District of the Illinois Central Gulf Railroad Company to assign the appropriate class of track for that District. *R–83–81:* Evaluate the adequacy of the Illinois Central Gulf track inspection program and take remedial action as necessary. *R–83–82:* Conduct on-site spot checks of other routes of the Illinois Central Gulf Railroad Company which carry hazardous materials for defective track conditions and where warranted conduct a comprehensive on-site emergency track inspection and assign the appropriate class of track.

Pipeline—*Interstate Power Company: Jul. 20: P–83–21:* Immediately instruct its employees, including supervisory personnel, in the gas commpany's procedures for responding to emergencies, emphasizing the requirement for rapid evacuation of the public from areas exposed to potential danger from leaking gas, for prompt shutoff of gas to failed facilities, and for prompt analysis of leak severity.

Note.—Single copies of these recommendation letters are available on written request to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. Please include recommendation number in your request. Copies of recent recommendations are free of charge while supplies last. Recommendations that must be photocopied will be billed at a cost of 20 cents per page ($2 minimum charge).

Recommendation Responses from:

Highway—*Commonwealth of Virginia, Secretary of Transportation: May 31: H–78–5:* When the Benjamin Harrison Bridge was rebuilt, the warning signals and gates were installed according to Section 4E–16 of the Manual on Uniform Traffic Control Devices. *H–81–51:* Has requested District Highway Engineers to establish a program of soil buildup removal at guardrail installations. *H–81–52:* Accident data system has capability to permit storage and retrieval of information for each roadway on divided facilities. *H–81–53:* Is unaware of any guidelines to assist in determining when a heavier barrier for heavy vehicles would be cost effective.

City of Beattyville, Kentucky: May 17: H–78–33 and –34: A four-mile section of Kentucky Route 11 was rebuilt in 1979, and runaway truck ramp was constructed.

City of Plant City, Florida: May 11: H–78–72: Flashing signals and gates are installed at the Turkey Creek Road grade crossing at S.R. 574. *H–78–73 and –74:* Hillsborough County Traffic Control Division is checking to make sure there are proper pavement markings and advance warning signs in place near the crossing. *H–78–75:* It is the policy and practice of the City's Police Department to charge warning signal violators and those who drive while under the influence of alcohol or drugs.

U.S. Department of Labor, Occupational Safety and Health Administration: May 5: P–73–5: OSHA's Safety Standards Directorate is preparing a Notice of Proposed Rulemaking regarding changes to the standard for trenching and excavation operations. *P–78–79:* Is continuing its comprehensive review of the personal protective equipment standards.

National Committee on Uniform Traffic Laws and Ordinances: May 9: H–79–30: Subcommittee will consider the modification of Section 11–106(b)3 of the Uniform Vehicle Code regarding exemptions from posted speed limits at its next meeting. *H–81–60:* Subcommittee will consider the revision of Section 10–2 of the Model Traffic Ordinance and the addition of a section to the Uniform Vehicle Code which effects the provisions of the model guidelines developed for Safety Recommendation H–79–40 concerning prohibiting passengers from riding in open-cargo areas of vehicles that are not being used for work-related purposes.

State of Georgia, Department of Transportation: May 31: H–79–9: Extended pavement edge lines through the length of the curved section of the exit ramp at the rest area on I–75. *H–78–64:* Has adopted a construction and maintenance policy of restricting work activities to off-peak hours on high volume roadways, of keeping of least two lanes of traffic open on freeway-type facilities in Atlanta during daylight hours.

Missouri Highway and Transportation Commission; May 18: H–79–20: The Delmar Avenue on-ramp was closed in August 1979. *H–79–21:* In addition to closing the Delmar Avenue on-ramp, part of the section of I–70 in question was resurfaced in 1979 and the remainder easterly to the Popular Street Bridge is now under contract for resurfacing. *H–79–22 and –23:* A Federal Highway Administration review of the Missouri State Highway Commission's wet pavement surface improvement program, discussed in a Sep. 24, 1979, letter to the Safety Board, concluded that the State has an adequate pavement surface improvement program. *H–79–24,* which recommended determining whether additional resources are necessary to attain a wet pavement surface policy level that is consistent with other States: Funds are quite limited and are available only to the highest priority needs.

New York State Department of Transportation: May 31: H–79–48: Median improvements are scheduled on a 4.5-mile section of the Grand Central Parkway. On sections with a median width of 4 feet, the existing curb is to be eliminated and concrete median barrier will be installed. On sections with a 10-foot to 18-foot-wide median, the existing nonmountable curb will be modified to a 3-inch mountable curb and heavy post blocked-out corrugated "W" beam median barrier will be installed.

City of New York: May 25: H–79–52: Accident reports for the years 1977 and 1979 have not been processed through the Police Department's Management Information Systems Division. Computer printouts for accident reports for the years 1981 and 1982, provided by the New York State Department of Motor Vehicles, are available through the Aided and Accident Section, New York Police Department to highway transportation officials.

National Tour Association, Inc.: May 27: H–81–16: Will communicate to its members through its bi-weekly publication *Tuesday* that they should specify to carriers that the carriers should comply with all safety regulations.

National School Transportation Association: May 4: H–80–74: The Safety Board's recommendation that front and rear seats of schoolbuses be left vacant when feasible was discussed at the Feb. 1981 Board of Directors meeting and the Jan. 1981 Legislative meeting. Since that time, the State of New York recommends that buses be loaded from the center first, before the front and back, in the New York State Driver Training Manual.

Town of Yorktown, New York: May 11: H–81–70: A "T" warning sign has been installed on the east side of Aqueduct Street before the intersection of Old Croton Dam Road, and a double arrow warning sign was installed on the north side of Old Croton Dam Road.

City of Kenner, Louisiana: May 11: H–81–31: The Kenner Police Department has instituted an aggressive enforcement program concerning vehicles driving around lowered railroad crossing gates at a railroad/highway grade crossing. The Illinois Gulf Central Railroad has made adjustments to the timing of gates in an attempt to make it safer for vehicular traffic. The city has also striped and placed signs at intersections throughout the area.

Department of Police, Upper Southampton Township, Pennsylvania: May 11: H–82–57: Has requested a meeting with the Pennsylvania Department of Transportation Hazardous Substance Transportation Board to dicuss the establishment of hazardous material routes through the township to avoid the rail-highway grade crossing on Second Street Pike.

The Long Island Rail Road: May 12: H–82–53: Gate arms at Herricks Road crossing were extended to within six inches of the centerline of the roadway. *H–82–54:* The billboard in the northwest quadrant of Herricks Road and the Main Line of the Long Island Rail Road has been removed, and brush was cut to improve the sight line of motorists. *H–82–55:* All crossings have been checked and brush cut on the railroad's right of way to improve motorists' sight line. Adjacent property owners have been contacted to remove or trim brush which interferes with the sight line.

Association of College and University Housing Officers International: May 11: H–83–5 and –6: Will urge its members to establish a policy for the transportation of student groups to and from offcampus events.

Research and Special Programs Administration: May 18: H–83–29 and –30: Acknowledges receipt of recommendations and will forward a substantive response after evaluation.

Pipeline—*American Gas Association: May 9: P–83–10:* Notified its members of the circumstances of the accident in Burke, Virginia, on Oct. 29, 1982, and urge them to emphasize to their supervisory personnel the need for strict adherence to established company safety procedures.

Governor of Texas: May 30: P–80–2: U.S. Dept. of Transportation has the jurisdiction and responsibility for the safety aspects of pipelines transporting hazardous liquids, including propane. Has inquired about what kind of information and notification effort might be effective in order to help avoid future accidents during excavation.

Marine—*Mobil Oil Canada, Ltd.: May 2: M–83–34:* Requires the owners of its contracted standby-vessels to install new high-speed, semi-rigid, boom-launched rescue boats and has instituted training programs in their operation for standby-vessel personnel. Requires owners of contracted supply-vessels to carry an adequate supply of exposure suits. *M–83–35:* Mobile Canada's Contingency Plan and Emergency Procedures Manual has been amended to include a detailed disaster action plan for heavy weather damage to mobile offshore drilling units.

Federal Communications Commission: May 23: M–81–54: Released a public notice on Sep. 23, 1982, recommending that stations, other than Class III stations which are engaged in local communications, participate in a voluntary notification procedure for vessels out of contact for over 2 days. *M–81–53:* Appendix A of a Notice of Inquiry concerning the 26th Session of the International Maritime Organization's Subcommittee on Radiocommunications describes the Future Global Maritime Distress and Safety System being developed by IMO and discusses the application of satellite Emergency Position Indicating Radiobeacons.

Railroad—*Governor of California: May 23: R–83–44:* California's contract with Southern Pacific for operation of the San Francisco-San Jose Peninsula commuter train service provides for adequate supervision and controls where traincrews report to duty. *R–83–45:* The California Public Utilities Commission, which has jurisdiction over safety inspections concerning railroad operations has been asked to respond to the Safety Board.

Governor of Connecticut: May 27: R–83–44 and –45: The State will take appropriate steps to insure that the operators of Connecticut's trains implement the recommendations regarding supervisory checks of traincrews and State railroad inspections of operating practices on commuter trains.

International Association of Chiefs of Police, Inc.: May 12: R–82–85: Warned its members of the potential inadequacies of waybill descriptions for TOFC (trailer on flat car) or COFC (container on flat car) containers carrying hazardous materials.

Conrail: May 9: R–82–108: Conrail's Technical Services Laboratory is presently testing the switch lock used by Conrail versus other type locks to determine their resistance to vandalism, cost, etc. *R–82–109:* The cost of installing electric locks on all hand-operated switches on main tracks over which trains are permitted to operate at speeds greater than 30 mph cannot be justified by any measurable increase in operating safety.

Governor of Louisiana: May 13: R–81–76: The Illinois Central Gulf Railroad Company completed the relocation of the flashing lights and gates and the installation of the motion sensors at the Williams Blvd. grade crossing in Kenner, Louisiana. Other work should be completed by mid-May 1983.

Note.—Single copies of these response letters are available on written request to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. Please include respondent's name, date of letter, and recommendation number(s) in your request. The photocopies will be billed at a cost of 20 cents per page ($2 minimum charge).

H. Ray Smith, Jr.,

Federal Register Liaison Officer.

September 1, 1983.

[FR Doc. 83-24420 Filed 9-6-83; 8:45 am]

BILLING CODE 4910-58-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. STN–50–528–OL, STN–50–529–OL & STN–50–530–OL]

Arizona Public Service Co., Et Al. (Palo Verde Nuclear Generating Station, Units 1, 2, & 3) Reconstitution of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority conferred by 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has reconstituted the Atomic Safety and Licensing Appeal Board for this operating license proceeding. As reconstituted, the Appeal Board for this operating license proceeding will consist of the following members:

Alan S. Rosenthal, Chairman
Dr. Reginald L. Gotchy
Howard A. Wilber

Dated: August 30, 1983.

C. Jean Shoemaker,

Secretary to the Appeal Board.

[FR Doc. 83-24405 Filed 9-6-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–537]

Department of Energy et al.; Oral Argument Rescheduled

In the matter of United States Department of Energy, Project Management Corporation, Tennessee Valley Authority (Clinch River Breeder Reactor Plant), Docket No. 50–537; Rescheduling of Oral Argument.

Notice is hereby given that the oral argument on the appeal of the Natural Resources Defense Council and the Sierra Club (Intervenors) from the February 28, 1983 partial initial decision of the Licensing Board in this proceeding, previously scheduled for September 29, 1983, has been rescheduled for *9:30 a.m. on Wednesday, September 28, 1983, in the NRC Public Hearing Room, Fifth Floor, East-West Highway, Bethesda, Maryland.*

Dated: August 30, 1983.
For the Appeal Board.

C. Jean Shoemaker,

Secretary to the Appeal Board.

[FR Doc. 83-24406 Filed 9-6-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–322 OL]

Long Island Lighting Co.; Oral Argument

In the matter of Long Island Lighting Company (Shoreham Nuclear Power Station, Unit 1), Docket No. 50–322 OL; Oral Argument

Notice is hereby given that, in accordance with the Appeal Board's order of August 26, 1983, oral argument on the appeal of Citizens for an Orderly Energy Policy, Inc., from the Licensing Board's July 28, 1983 memorandum and order denying its petition for leave to intervene in this operating license proceeding will be held at *9:30 a.m. on September 14, 1983, in the NRC Public Hearing Room, Fifth Floor, 4350 East-West Highway, Bethesda, Maryland.*

Dated: August 30, 1983.
For the Appeal Board.

C. Jean Shoemaker,

Secretary to the Appeal Board.

[FR Doc. 83-24408 Filed 9-6-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50–352 and 50–353]

Philadelphia Electric Co.; Availability of Safety Evaluation Report

Notice is hereby given that the Office of Nuclear Reactor Regulation has published its Safety Evaluation Report on the proposed operation of the Limerick Generating Station, Units 1 and 2, located on the Schuylkill River, near Pottstown, in Limerick Township, Montgomery and Chester Counties, Pennsylvania. Notice of receipt of the application of Philadelphia Electric Company to operate Limerick Generating Station, Units 1 and 2 was published in the **Federal Register** on August 21, 1981 (46 FR 42557–42558).

The report is being referred to the Advisory Committee on Reactor Safeguards and is being made available at the Commission's Public Document Room, 1717 H Street, NW, Washington, DC 20555, and at the Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464 for inspectioin and copying. The report (NUREG–0991) can also be purchased, at current rates, from

the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161, and through the NRC GPO sales program by writing to the U.S. Nuclear Regulatory Commission, Attention Sales Manager, Washington, DC 20555. GPO deposit holders can call (301) 492–9530.

Dated at Bethesda, Maryland this 31st day of August 1983.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Licensing Branch No. 2, Division of Licensing.

[FR Doc. 83-24407 Filed 9-6-83; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Revised Notice of Meeting

The following is a proposed additional session for the September 1, 1983 (48 FR 36929) meeting of the Advisory Committee on Reactor Safeguards.

Thursday, September 1, 1983

5:30 P.M.–6:00 P.M.: ACRS Chairman's Report on Matters of Current Interest (Closed)—This session will be closed to discuss information that relates solely to the internal personnel rules and practices of the agency.

I have determined in accordance with Subsection 10(d) Pub. L. 92–463 that it is necessary to close this portion of the meeting as noted above to discuss information that relates solely to the internal personnel rules and practices of the agency [5 U.S.C. 552b(c)(2)].

Dated: August 31, 1983.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 83-24412 Filed 9-6-83; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Reactor Radiological Effects; Meeting

The ACRS Subcommittee on Reactor Radiological Effects will hold a meeting on September 22, 1983 in Room 1046, 1717 H Street, NW., Washington, DC. The Subcommittee will be briefed on 10 CFR Part 20 (final rule), DOE's draft comments on NRC's Radiation and Health Effects Research Programs, DOE Dose Reduction Working Group final report, and AIF environmental programs. Notice of this meeting was published August 15.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1982 (47 FR 43474), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Thursday, September 22, 1983—8:30 a.m. until the conclusion of business

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, industry and other interested persons.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Ms. R. C. Tang (telephone 202/634–1414) between 8:15 a.m. and 5:00 p.m., EDT.

Dated: August 30, 1983.

Samuel J. Chilk,

Acting Advisory Committee Management Officer.

[FR Doc. 83-24411 Filed 9-6-83; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Heating, Cooling, and Ventilation Systems; Meeting

The ACRS Subcommittee on Heating, Cooling, and Ventilation Systems will hold a meeting on September 23, 1983 in Room 1046, 1717 H Street, NW., Washington, DC. The Subcommittee will review General Electric's response on control room habitability for the GESSAR II design, Generic Safety Issue I, and NRC Staff's progress report on resolution of control room habitability issues. Notice of this meeting was published August 15.

In accordance with the procedures outlined in the Federal Register on October 1, 1982 (47 FR 43474), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Friday, September 23, 1983—8:30 a.m. until the conclusion of business.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, industry and other interested persons.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Ms. R. C. Tang (telephone 202/634–1414) between 8:15 a.m. and 5:00 p.m., EDT.

Dated: August 30, 1983.

Samuel J. Chilk,

Acting Advisory Committee Management Officer.

[FR Doc. 83-24410 Filed 9-6-83; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Fire Protection; Meeting

The ACRS Subcommittee on Fire Protection will hold a meeting on September 23, 1983, Room 1167, at 1717 H Street, NW., Washington, D.C. The Subcommittee will review the current status of fire protection, and the effects of fire systems actuation on safety systems. Notice of this meeting was published August 15.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1982 (47 FR 43474), oral or written statements may be presented by members of the public, recording will be permitted only during those portions of the meeting when a transcript is being

kept, and questions may be asked only by members of the Subcommittee and its Staff. Persons desiring to make oral statements should notify the cognizant Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting will be as follows:

Friday, September 23, 1983—8:30 a.m. until the conclusion of business

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Herman Alderman (telephone 202/634–1414) between 8:15 a.m. and 5:00 p.m., EDT.

Dated: August 30, 1983.

Samuel J. Chilk,

Acting Advisory Committee Management Officer.

[FR Doc. 83-24499 Filed 9-6-83; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

Proposed Policy Letter Change on Procurement Data Reporting Requirements to Comply with Pub. L. 96–39

AGENCY: Office of Management and Budget.

ACTION: Notice for comment.

SUMMARY: The purpose of the Policy Letter change is to simplify reporting requirements to comply with Pub. L. 96–39 by relying to a greater extent on the Federal Procurement Data System.

DATES: Comments are due on or before October 4, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Maraist, Office of Federal Procurement Policy, Office of Management and Budget ((202) 395–3300).

SUPPLEMENTARY INFORMATION: The proposed change will eliminate separate reporting on SF 279a for all covered procurements made with appropriated funds. By adding synopsis data to the Federal Procurement Data System, the FPDS will satisfy the reporting requirements under Pub. L. 96–39. This change was recommended by the U.S. Trade Representative and approved by the FPDS Policy Advisory Board representing the major procuring agencies.

Comments: Agencies and interested parties are invited to comment on this proposed change. Comments should be forwarded to William J. Maraist, Office of Federal Procurement Policy, Office of Management and Budget, 726 Jackson Place, NW., Washington, D.C. 20503 on or before October 4, 1983.

Policy Letter 80–8; Transmittal Memorandum No. 3

To the heads of executive departments and establishments

Subject: Establishment of Procurement Data Reporting Requirements to Comply with Public Law 96–39

The purpose of this Transmittal Memorandum is to simplify the procurement data reporting requirements to comply with Pub. L. 96–39. The Office of the United States Trade Representative has determined that, with a single change, the standard data reported under the Federal Procurement Data System (FDS) will meet the requirements of Pub. L. 96–39 for procurements with appropriated funds, thus eliminating the need to report such procurements separately on SF 279a. Henceforth the SF 279a will only be used by covered agencies to report procurements made with nonappropriated funds above the specified threshold.

The General Services Administration will add a new data element to the standard FPDS reporting requirements which covers "Synopsis of Procurement Prior to Award". It will contain the following subelements:

(1) Synopsized Prior to Award.

(2) Not Synopsized Due to Emergency.

(3) Not Synopsized for Other Reasons.

The first sentence of the sixth paragraph of this Policy Letter is changed to read as follows:

The 'Individual Contract Report for Contracts Exceeding $150,000 for the Purchase of Supplies and Equipment'(SF 279a) shall be completed whenever a covered agency awards such a contract using nonappropriated funds.

This change is effective on October 1, 1984, however, agencies are strongly encouraged to implement this change on January 1, 1984 if it is possible without undue impact on systems and resources.

Concurrence: This Transmittal Memorandum has been concurred in by the Director of OMB.

Dated: August 31, 1983.

Donald E. Sowle,

Administrator.

[FR Doc. 83-24396 Filed 9-7-83; 8:45 am]

BILLING CODE 3110-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Determination Modifying Sugar Import Quota Allocation

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: This notice modifies for the remainder of the 1982–83 quota year the allocation provisions which are presently applicable to sugar import quotas.

EFFECTIVE DATE: September 7, 1983.

FURTHER INFORMATION: Rollinde Prager, (202) 395–3077.

SUPPLEMENTARY INFORMATION: Presidential Proclamation 4941 of May 5, 1982 (47 FR 19661), modified the quotas on the importation into the United States of sugars, sirups and molasses provided for in items 155.20 and 155.30 of the Tariff Schedule of the United States (TSUS) and allocated the quotas on a country-by-country basis. Under this system, sugar from an individual country enters the United States and is counted against that country's quota on a first-come-first-served basis. If the quota allocation is filled for that quota period, the sugar may be entered into warehouse under bond and later withdrawn from warehouse for consumption in a subsequent quota period. The quota periods are established on an annual basis.

Proclamation 4941 also authorizes the U.S. Trade Representative or his designee and the Secretary of Agriculture, after appropriate consultations, to make certain modifications in the sugar import quota systems if such modifications are appropriate to carry out U.S. obligations under the International Sugar Agreement, 1977 (ISA), and if such modifications give due consideration to the interests in the United States sugar market of domestic producers and materially affected contracting parties

to the General Agreement on Tariffs and Trade. After appropriate consultations between the Office of the United States Trade Representative and the Departments of State and Agriculture, the Deputy United States Trade Representative has determined that certain modifications in the import quota system are appropriate to give due consideration to these interests. Accordingly, the country-by-country quota allocations are modified as follows:

—Having declared a shortfall of 30,800 short tons, raw value (STRV), Ecuador's quota for 1982–83 is reduced to zero.

—Having declared a shortfall of 19,600 STRV, Trinidad and Tobago's quota for 1982–83 is reduced to zero.

—The 50,400 STRV resulting from declarations of shortfall is allocated as follows:

Country	Percentage	STRV
1. Canada	1.1	554.4
2. Guatemala	5.0	2520.0
3. Belize	1.1	554.4
4. El Salvador	2.7	1360.8
5. Honduras	1.0	504.0
6. Costa Rica	1.8	906.4
7. Panama	3.0	1512.0
8. Jamaica	1.1	554.4
9. Dominican Republic	16.3	8223.2
10. Colombia	2.5	1260.0
11. Guyana	1.3	655.2
12. Peru	4.3	2167.2
13. Brazil	15.1	7610.4
14. Argentina	4.5	2268.0
15. Thailand	1.5	756.0
16. Philippines	14.1	7106.4
17. Taiwan	1.3	655.2
18. Australia	8.6	4334.4
19. Mauritius	1.1	554.4
20. Mozambique	1.4	705.6
21. Rep. S. Africa	2.4	1209.6
22. Swaziland	1.7	856.8
23. Barbados	.7	352.8
24. Bolivia	.8	403.2
25. India	.8	403.2
26. Fiji	.7	352.8
27. Malawi	.7	352.8
28. Zimbabwe	1.3	655.2
29. Other specified countries and areas	.3	151.2

NOTE.—The category "Other specified countries and areas" shall consist of the following: Mexico, Haiti, Paraguay, Saint Christopher-Nevis, Malagasy Republic, and the Ivory Coast.

This notice is effective the day following the day of filing. The allocations made herein are in addition to the 1982–83 annual allocation for these countries. Reallocated sugar must be entered or withdrawn from warehouse for consumption on or before September 30, 1983.

I have determined that the above allocations are appropriate to carry out the obligations of the United States under the International Sugar Agreement, 1977, and that the above allocations give due consideration to the interests in the U.S. sugar market of domestic producers and materially affected contracting parties to the General Agreement on Tariffs and Trade.

Michael B. Smith,

Deputy United States Trade Representative.

[FR Doc. 83-24625 Filed 9-2-83; 2:06 pm]

BILLING CODE 3190-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 23048; 70-6896]

New England Power Co., and New England Electric System; Proposed Sale of Two Surplus Gas Turbine Generating Units

New England Electric System, a registered holding company, and one of its electric utility subsidiaries, New England Power Company ("NEP"), 25 Research Drive, Westborough, Massachusetts 01581, have filed a declaration with this Commission pursuant to Section 12(d) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 44 promulgated thereunder.

In 1970, NEP purchased two gas turbine generating units with a nameplate baseload generating capacity of 19.5 megawatts each from General Electric at a price of approximately $1.4 million each. As a result of the infrequent use of these gas turbine generating units in recent years, the relatively high cost of power generated from these units, and the high costs of maintaining and operating them, NEP retired these generating units from service on August 6, 1983. NEP now proposes to sell the two surplus generating units and certain associated equipment and is having discussions with an interested party. An independent engineering consulting firm has estimated the current fair market value of the gas turbines and associated equipment to be within the range of $.7 million to $1.1 million if sold within this country.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by September 26, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarants at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as filed or as it may be amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-24626 Filed 9-6-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13474; 812-5605]

Societe Generale (Canada) Funding Inc.; Filing of Application for an Order Pursuant to Section 6(c) of the Act Granting Exemption From All Provisions of the Act

Notice is hereby given that Societe Generale (Canada) Funding Inc. ("Applicant"), 165 Broadway, New York, NY 10080, a Delaware corporation, filed an application on July 18, 1983, for an order of the Commission, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"), exempting Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and the rules thereunder for the text of relevant provisions.

Applicant states that its sole business will consist of selling the Applicant's commercial paper notes ("Commercial Paper Notes") in the United States and depositing the proceeds from the sale of the Commercial Paper Notes with Societe Generale (Canada), a Canadian bank ("Bank"), for use in the ordinary course of its banking operations. According to the application, substantially all of Applicant's assets will consist of a registered certificate of deposit of the Bank ("Certificate of Deposit") evidencing deposits ("Deposits") made by Applicant with the Bank from the net proceeds of sales of the Commercial Paper Notes. Applicant represents that payment of amounts owed by Applicant in respect of the Commercial Paper Notes will be guaranteed by the irrevocable guarantee of Societe Generale, a bank organized under the laws of France ("Guarantor"). The Bank is a wholly-owned subsidiary of the Guarantor. The application states that none of Applicant's outstanding common stock is, or in the future will be, owned by the Bank or by the Guarantor, or by any affiliate of either of them. Applicant further represents that there has been, and undertakes that in the

future there will be, no public offering of its common stock or of any other equity security of Applicant. In connection with the proposed issuance of commercial paper in the United States, in 1979 the Guarantor applied for and received an order of the Commission, pursuant to Section 6(c) of the Act, exempting it from all provisions of the Act (Release No. 10615, August 7, 1979).

According to the application, the Bank provides a range of commercial banking services. In accordance with the Bank Act (Canada) ("Bank Act"), the Bank does not carry on any trust, fiduciary or insurance business in Canada. Applicants state that the Bank Act contains provisions pertaining to all aspects of banking in Canada, including the kinds of business that banks may carry on, the types of loans and investments which they make, the powers and qualifications of their directors and officers, the rights of their shareholders, the nature of their capital structure, the obligation to maintain reserves, compliance with specific auditing requirements, financial disclosure, and periodic inspection by the Inspector General of Banks ("Inspector General"). Applicant asserts that further regulation of each Canadian bank is provided by the Inspector General, who is required to conduct no less frequently than annually such an examination of each bank as may be necessary to insure that the provisions of the Bank Act have been complied with and that such bank is in a sound financial condition. According to the application, the Bank Act also governs reporting requirements for Canadian Banks.

Applicant proposes to enter into an agreement ("Deposit Agreement") with the Bank pursuant to which the Bank may request the Applicant to make Deposits. To obtain funds to make the Deposits, Applicant proposes to issue and sell the Commercial Paper Notes, which will be short-term negotiable promissory notes exempt from the registration requirements of the Securities Act of 1933 ("Securities Act"), by virtue of Section 3(a)((3) thereof. The Commercial Paper Notes will be sold in minimum denominations of $100,000, will have maturities not exceeding 270 days, and will neither be payable on demand prior to maturity nor eligible for any extension, renewal, or automatic "rollover" at the option of either the holders or Applicant. Applicant undertakes not to market any Commercial Paper Notes prior to receiving an opinion of counsel to the effect that the proposed offering is exempt from the registration requirements of the Securities Act by virtue of Section 3(a)(3) thereof.

The Commercial Paper Notes will be offered publicly, through one or more major dealers, only to the types of sophisticated and largely institutional investors that ordinarily participate in the commerical paper market. While an announcement of the establishment of the commercial paper facility may be made as a matter of record, the offering will not be advertised. Applicant undertakes to ensure that each dealer in the Commercial Paper Notes will furnish to each offeree memoranda describing the businesses of the Applicant, the Bank and the Guarantor and providing the most recent annual audited financial statements for the Guarantor, together with a description of the material differences between the French accounting principles utilized in preparation of the financial statements of the Guarantor and generally accepted accounting principles as applied in the United States. The memoranda prepared by each dealer will be updated as promptly as practicable to reflect material adverse changes in the financial status of the Applicant, the Bank or Guarantor and will be at least as comprehensive as memoranda customarily used in offering commerical paper in the United States. Applicant consents to the inclusion, in any order granting this application, of an express condition that the Applicant comply with the undertaking in the last two sentences of this paragraph.

According to the application, the Guarantor will unconditionally guarantee payment by the Applicant of amounts due in respect of the Commercial Paper Notes. The Guarantor's obligations in respect of its guarantee will rank *pari passu* and equally with all deposit liabilities and other unsecured, unsubordinated indebtedness of the Guarantor and superior to any subordinated indebtedness of the Guarantor and to claims of the holders of the Guarantor's capital stock. Applicant represents that, prior to their issuance, the Commercial Paper Notes will have received one of the three highest investment grade ratings from at least one nationally recognized statistical rating organization and that the Applicant's United States counsel shall have certified that the rating has been received. The Bank and the Guarantor will each submit to the non-exclusive jurisdiction of any State or Federal Court located in New York City, and each will authorize an agent in New York City to accept service of process, in any action based upon their respective obligations described in the application. The application states that such consents to jurisdiction and such appointments of authorized agents to accept service of process will be irrevocable until amounts due and to become due with respect to the Deposits and the Commercial Paper Notes and all obligations of the Bank and the Guarantor as described in the application have been paid.

Applicant represents that it may, from time to time, offer its debt securities other than the Commercial Paper Notes for sale in the United States, the proceeds of which would be loaned or advanced to, or deposited with, the Bank in a similar manner to the Deposits for purposes similar to those described in the application. Applicant undertakes that any future issue of its debt securities other than the Commercial Paper Notes will have received one of the three highest investment grade ratings from at least one nationally recognized statistical rating organization and Applicant's United States counsel shall have certified that the rating was received. However, Applicant represents that no such rating shall be required to be obtained with respect to an issue of Applicant's debt securities other than the Commercial Paper Notes if, in the opinion of United States counsel to Applicant, (counsel having taken into account for the purposes thereof the doctrine of "integration") and exemption is available for the issue pursuant to subsection 4(2) of the Securities Act or Regulation D promulgated thereunder.

Applicant further undertakes that it will not issue or sell in the future any of its debt securities other than the Commercial Paper Notes in the United States unless Applicant has received an opinion of United States counsel or a "no-action" letter issued by the Staff of the Commission to the effect that the proposed offering is in compliance with, or entitled to an exemption from, the registration requirements of the Securities Act. Applicant also undertakes that any such future offering will be effected on the basis of disclosure documents at least as comprehensive in their description of Applicant and the bank or the Guarantor or both, as the case may be, their businesses and their financial statements, as the commerical paper dealer memoranda referred to above. However, in the case to an offering made pursuant to a registration statement under the Securities Act, the offering will be made on the basis of disclosure documents appropriate for such registration.

Applicant states that approval of its application for exemption from all provisions of the Act is necessary or appropriate in the public interest. If Applicant were required to register as an investment company and comply with the provisions of the Act, the Bank would be denied ready access to the United States credit markets. In addition, Applicant asserts that the option of establishing a branch in the United States to market commercial paper and other debt securities is not available to the Bank because the Bank Act prohibits the establishment of foreign branches by foreign-owned Canadian banks. Also, foreign-owned Canadian banks, such as the Bank, are precluded from establishing a foreign subsidiary. Applicant further asserts that approval of the application is consistent with the protection of investors. The Bank is extensively regulated by Canadian banking authorities, which regulation, it is argued, afford protection to investors beyond that provided by the Act and renders the Act's protection unnecessary.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than September 26, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-24390 Filed 9-6-83; 8:45 am]

BILLING CODE 8010-01-M

[File No. 22-12672]

Standard Oil Co. (an Indiana corporation); Application and Opportunity For Hearing

August 31, 1983.

Notice is hereby given that Standard Oil Company, an Indiana corporation ("Standard") has filed and application pursuant to clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939, as amended (the "Act") for a finding of the Securities and Exchange Commission (the "Commission") that the trusteeship of the Northern Trust Company, a banking association organized and existing under the laws of the State of Illinois ("Northern Trust"), as successor under the following indentures of Standard:

(a) An indenture dated as of October 1, 1958, as amended by the First Supplemental Indenture dated as of April 14, 1977 (the "1958 Indenture");

(b) An indenture dated January 15, 1968 (the "1968 Indenture"); and

(c) An indenture dated as of August 1, 1974 (the "1974 Indenture"); which were heretofore qualified under the Act, and the trusteeship of Northern Trust under an indenture of the City of Evanston, Wyoming (the "City"), dated as of May 1, 1983 (the "1983 Indenture"), is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Northern Trust from acting as trustee under either the 1958 Indenture, the 1968 Indenture or the 1974 Indenture. The obligations of the City under the 1983 Indenture will be secured by the pledge of the proceeds due the City under a Loan Agreement (the "Loan Agreement") by and between the City and Standard date as of May 1, 1983. The 1983 Indenture and the Loan Agreement are part of an Industrial Development Revenue Bond financing issued by the City for the purpose of providing funds for the construction of an office building in Evanston, Wyoming for the use of Amoco Production Company, a wholly-owned subsidiary of Standard. The obligations of the City under the 1983 Indenture are guaranteed by the Guarantee of Amoco Production Company.

Section 310(b) of the Act, provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest it shall within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of this section provides, in effect, with certain exceptions, that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities of the same issuer are outstanding. However, under clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture under which any other securities of the same issuer are outstanding if the issuer shall have sustained the burden of proving, on application to the Securities and Exchange Commission and after opportunity for hearing thereon, that trusteeship under such qualified indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under either of such indentures.

In support of its application Standard alleges that:

(1) Standard has outstanding on the date hereof $54,885,000 aggregate principal amount of its 4½% Debentures Due October 1, 1983 (the "4½% Debentures") issued under the 1958 Indenture executed by Standard and the First National Bank of Chicago ("First Chicago") as Trustee as amended by the First Supplemental Indenture dated as of April 14, 1977. Upon the resignation of First Chicago, Northern Trust was appointed the successor trustee under the 1958 Indenture effective July 7, 1982. The 4½% Debentures were registered under the Securities Act of 1933, as amended (File No. 2-14327), and the 1958 Indenture was qualified under the Trust Indenture Act of 1939, as amended. Northern Trust is currently acting as trustee under the 1958 Indenture.

(2) Standard has outstanding on the date hereof $156,416,000 aggregate principal amount of its 6% Debenture Due 1998 (the 6% Debentures") issued under the 1968 Indenture executed by Standard and First Chicago, as Trustee. Upon resignation of First Chicago, Northern Trust was appointed the successor trustee under the 1968 Indenture effective July 7, 1982. The 6% Debentures were registered under the Securities Act of 1933, as amended (File No. 2-27988), and the 1968 Indenture was qualified under the Trust Indenture Act of 1939, as amended (File No. 22-4854). Northern Trust is currently acting as trustee under the 1968 Indenture.

(3) Standard has outstanding on the date hereof $93,965,000 aggregate principal amount of its Floating Rate Notes Due 1989 (the "Floating Rate Notes") issued under the 1974 Indenture executed by Standard and First Chicago, as Trustee. Upon the resignation of First Chicago, Northern Trust was appointed the successor trustee under the 1974 Indenture effective July 7, 1982, as amended (File No. 2-51667), and the 1974 Indenture was qualified under the Trust Indenture Act of 1939, as amended (File No. 22-7999). Northern Trust is currently acting as trustee under the 1974 Indenture.

(4) Pursuant to the 1983 Indenture and the Loan Agreement, the City issued

$1,000,000 aggregate principal amount of its 9¾ percent Industrial Development Revenue Bonds (the "Revenue Bonds") which are secured by a pledge of the proceeds of the Loan Agreement payable to the City from Standard. Inasmuch as the Revenue Bonds are issued by a political subdivision of the State of Wyoming, the Revenue Bonds have not been registered under the Securities Act of 1933, as amended, and the 1983 Indenture has not been qualified under the Trust Indenture Act of 1939, as amended.

(5) Execution of the 1983 Indenture could involve Northern Trust in a conflict of interest within the meaning of Section 8.08 of the 1958 Indenture, Section 7.08 of the 1968 Indenture and Section 7.08 of the 1974 Indenture since the 1983 Indenture is not qualified under the Act and is not the subject of any other proceeding of the Commission.

(6) The 1958 Indenture, the 1968 Indenture and the 1974 Indenture are wholly unsecured. The 1983 Indenture is secured by the proceeds from the Loan Agreement. Standard's obligations under the Loan Agreement are unsecured and rank equally with Standard's other unsecured and unsubordinated indebtedness, including the 4½ percent Debentures, the 6 percent Debentures and the Floating Rate Notes. The obligations of the City under the 1983 Indenture are guaranteed by Amoco Production Company, a wholly owned subsidiary of Standard. The guarantee of Amoco Production Company is unsecured. The primary differences between the 1958 Indenture, the 1968 Indenture, the 1974 Indenture and the 1983 Indenture, and between the rights of the holders of the 4½ percent Debentures, the 6 percent Debentures, and the Floating Rate Notes and the holders of the Revenue Bonds as beneficiaries of the Loan Agreement and the guarantee of Amoco Production Company, relate to aggregate principal amounts, dates of issue, denominations, events of default, maturity and interest payment dates, interest rates, places of payment of interest and principal, form of registration, redemption or prepayment procedures, Trustee's reports, restrictions of transferability, provisions relating to the non-registered offering of the Revenue Bonds and other provisions of a similar nature. Any such differences and any other differences in the provisions of the 1958 Indenture, the 1968 Indenture, the 1974 Indenture and the 1983 Indenture, Loan Agreement and the guarantee of Amoco Production Company, are not so likely to involve any material conflict of interest between the respective trusteeships of Northern Trust under these Indentures so as to make it necessary in the public interest or for the protection of investors to disqualify Northern Trust from acting as trustee under any of such Indentures.

(7) Standard is not in default under the 1958 Indenture, the 1968 Indenture, the 1974 Indenture, the 1983 Indenture or the Loan Agreement.

For more information with respect to the matters of fact and law asserted, all persons are referred to said Application which is on file in the offices of the Commission at 450 5th Street, NW., Judiciary Plaza, Washington, D.C. 20549.

Notice is further given that any interested person may, not later than September 26, 1983, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, that the issues of fact or law raised by said Application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission by the Division of Corporation Finance, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-24388 Filed 9-6-83; 8:45 am]

BILLING CODE 8010-01-M

Standard Oil Co. (an Indiana Corporation); Application and Opportunity for Hearing

[File No. 22-12637]

August 31, 1983.

Notice is hereby given that Standard Oil Company, an Indiana corporation ("Standard") has filed an application pursuant to clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939, as amended (the "Act") for a finding of the Securities and Exchange Commission (the "Commission") that the trusteeship of the Northern Trust Company, a banking association organized and existing under the laws of the State of Illinois ("Northern Trust"), as successor under the following indentures of Standard:

(a) An indenture dated as of October 1, 1958, as amended by the First Supplemental Indenture dated as of April 14, 1977 (the "1958 Indenture");

(b) An indenture dated January 15, 1968 (the "1968 Indenture"); and

(c) An indenture dated as of August 1, 1974 (the "1974 Indenture"); which were heretofore qualified under the Act, and the trusteeship of Northern Trust under an indenture of Lincoln County, Wyoming (the "County"), dated as of May 1, 1983 (the "1983 Indenture"), is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Northern Trust from acting as trustee under either the 1958 Indenture, the 1968 Indenture or the 1974 Indenture. The obligations of the County under the 1983 Indenture will be secured by the pledge of the proceeds due the County under a Loan Agreement (the "Loan Agreement") by and between the Country and Standard dated as of May 1, 1983. The 1983 Indenture and the Loan Agreement are part of an Industrial Development Revenue Bond financing issued by the County for the purpose of providing funds for the construction of a condensate pipeline gathering system in Lincoln Country, Wyoming, for the use of Amoco Production Company, a wholly-owned subsidiary of Standard. The obligations of the City under the 1983 Indenture are guaranteed by the Guarantee of Amoco Production Company.

Section 310(b) of the Act, provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest it shall within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of this section provides, in effect, with certain exceptions, that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities of the same issuer are outstanding. However, under clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture under which any other securities of the same issuer are outstanding if the issuer shall have sustained the burden of proving, on application to the Securities and Exchange Commission and after opportunity for hearing thereon, that trusteeship under such qualified indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under either of such indentures.

In support of its application Standard alleges that:

(1) Standard has outstanding on the date hereof $54,885,000 aggregate principal amount of its 4½ percent Indentures due October 1, 1983 (the "4½ percent Debentures") issued under the 1958 Indenture executed by Standard and The First National Bank of Chicago ("First Chicago") as Trustee as amended by the First Supplemental Indenture dated as of April 14, 1977. Upon the resignation of First Chicago, Northern Trust was appointed the successor trustee under the 1958 Indenture effective July 7, 1982. The 4½ percent Debentures were registered under the Securities Act of 1933, as amended (File No. 2–14327), and the 1958 Indenture was qualified under the Trust Indenture Act of 1939, as amended. Northern Trust is currently acting as trustee under the 1958 Indenture.

(2) Standard has outstanding on the date hereof $156,416,000 aggregate principal amount of its 6 percent Indentures Due 1998 (the "6 percent Debentures") issued under the 1968 Indenture executed by Standard and First Chicago, as Trustee. Upon resignation of First Chicago, Northern Trust was appointed the successor trustee under the 1968 Indenture effective July 7, 1982. The 6 percent Debentures were registered under the Securities Act of 1933, as amended (File No. 2–27988), and the 1968 Indenture was qualified under the Trust Indenture Act of 1939, as amended (File No. 22–4854). Northern Trust is currently acting as trustee under the 1968 Indenture.

(3) Standard has outstanding on the date hereof $93,965,000 aggregate principal amount of its Floating Rate Notes Due 1989 (the "Floating Rate Notes") issued under the 1974 Indenture executed by Standard and First Chicago, as Trustee. Upon the resignation of First Chicago, Northern Trust was appointed the successor trustee under the 1974 Indenture effective July 7, 1982, as amended (File No. 2–51667), and the 1974 Indenture was qualified under the Trust Indenture Act of 1939, as amended (File No. 22–7999). Northern Trust is currently acting as trustee under the 1974 Indenture.

(4) Pursuant to the 1983 Indenture and the Loan Agreement, the County issued $1,000,000 aggregate principal amount of its adjustable rate Industrial Development Revenue Bonds (the "Revenue Bonds") which are secured by a pledge of the proceeds of the Loan Agreement payable to the County from Standard. Inasmuch as the Revenue Bonds are issued by a political subdivision of the State of Wyoming, the Revenue Bonds have not been registered under the Securities Act of 1933, as amended, and the 1983 Indenture has not been qualified under the Trust Indenture Act of 1939, as amended.

(5) Execution of the 1983 Indenture could involve Northern Trust in a conflict of interest within the meaning of Section 8.08 of the 1958 Indenture, Section 7.08 of the 1968 Indenture and Section 7.08 of the 1974 Indenture since the 1983 Indenture is not qualified under the Act and is not the subject of any other proceeding of the Commission.

(6) The 1958 Indenture, the 1968 Indenture and the 1974 Indenture are wholly unsecured. The 1983 Indenture is secured by the proceeds from the Loan Agreement. Standard's obligations under the Loan Agreement are unsecured and rank equally with Standard's other unsecured and unsubordinated indebtedness, including the 4½% Debentures, the 6% Debentures and the Floating Rate Notes. The obligations of the County under the 1983 Indenture are guaranteed by Amoco Production Company, a wholly owned subsidiary of Standard. The guarantee of Amoco Production Company is unsecured. The primary differences between the 1958 Indenture, the 1968 Indenture, the 1974 Indenture and the 1983 Indenture, and between the rights of the holders of the 4½% Debentures, the 6% Debentures, the Floating Rate Notes and the holders of the Revenue Bonds as beneficiaries of the Loan Agreement and the guarantee of Amoco Production Company, relate to aggregate principal amounts, dates of issue, denominations, events of default, maturity and interest payment dates, interest rates, places of payment of interest and principal, form of registration, reemption of prepayment procedures, Trustee's reports, restrictions of transferability, provisions relating to the non-registered offering of the Revenue Bonds and other provisions of a similar nature. Any such differences and any other differences in the provisions of the 1958 Indenture, the 1968 Indenture, the 1974 Indenture and the 1983 Indenture, Loan Agreement and the guarantee of Amoco Production Company, are not so likely to involve any material conflict of interest between the respective trusteeships of Northern Trust under these Indentures so as to make it necessary in the public interest or for the protection of investors to disqualify Northern Trust from acting as trustee under any of such Indentures.

(7) Standard is not in default under the 1958 Indenture, the 1968 Indenture, the 1974 Indenture, the 1983 Indenture or the Loan Agreement.

For more information with respect to the matters of fact and law asserted, all persons are referred to said Application which is on file in the offices of the Commission at 450 5th Street, N.W., Judiciary Plaza, Washington, D.C. 20549.

Notice is further given that any interested person may, not later than September 26, 1983, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, that the issues of fact or law raised by said Application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing theron. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission by the Division of Corporation Finance, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

FR Doc. 83-24307 Filed 9-6-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13475; File No. 812–5639]

IDS Life Insurance Company, et al.; Filing of Application

August 31, 1983.

Notice is hereby given that on August 24, 1983, as amended on August 31, 1983, an application for exemptive relief pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") was filed on behalf of the following Applicants: (1) IDS Life Insurance Company ("IDS Life"), a stock life insurance company; (2) IDS Life Accounts C, D, and E, a separate account of IDS Life registered under the Act as a single unit investment trust ("Innovest I"); (3) IDS Life Accounts F, G, and H, a separate account of IDS Life registered under the Act as a single unit investment trust ("Innovest II"); (4) IDS Life Insurance Company of New York ("IDS New York"), a stock life insurance company; (5) IDS New York Accounts 1, 2, and 3, a separate account of IDS New York registered under the Act as a single unit investment trust ("Innovest (NY) I"); (6) IDS New York Accounts 4, 5, and 6, a separate account of IDS New York registered under the Act as a single unit investment trust ("Innovest (NY) II"); and (7) IDS Life Capital Resources Fund I, Inc., IDS Life Capital Resources Fund

II, Inc., IDS Life Special Income Fund I, Inc., IDS Life Special Income Fund II, Inc., and IDS Life Moneyshares Fund, Inc., five open-end management investment companies which serve as the underlying funds for the above separate accounts (collectively, the "Funds") IDS Tower, Minneapolis, Minnesota, 55402. Applicants request an order granting relief from Section 24(f) under the Act and Rules 24f–1 and 24f–2 thereunder in the circumstances described in the application and further request that an order be issued granting certain of that relief on a temporary basis pending issuance of a permanent order after appropriate notice and opportunity for a hearing. All interested persons are referred to the application and amendment on file with the Commission for a statement of the representations contained therein, which are summarized below, and are referred to the Act and the Rules thereunder for a statement of the relevant provisions.

In connection with the offer of certain variable annuity contracts, each of the Applicants registered an indefinite number of securities under the Securities Act of 1933 ("1933 Act"), as permitted by Section 24(f) under the Act and Rule 24f–2 thereunder, and in connection therewith undertook to file, within six months after the end of each fiscal year, a Rule 24f–2 notice (a "Notice"). Paragraph (b)(2) of that rule provides that if a Notice is not filed within six months of the close of the issuer's fiscal year, the issuer's registration statement under the 1933 Act will then terminate and the issuer shall discontinue all sales pursuant to that registration statement. Applicants state that on several occasions they inadvertently failed to file the required Notices within six months after fiscal year end, *i.e.*, by June 30, 1982 in the case of Innovest I and Innovest II, by February 28, 1983 in the case of the Funds, and by June 30, 1983 in the case of Innovest (NY) I and Innovest (NY) II, and that Applicants have sold a substantial amount of securities subsequent to those respective dates.

Applicants request that the Commission, pursuant to Section 6(c), grant them an exemption to the extent necessary to permit them to proceed, and their respective registration statements to continue in effect, as if proposed amended Rule 24f–2 (Investment Company Act Rel. No. 13274 (May 26, 1983)) were adopted and available to Applicants at the time they failed to file timely Notices. If available, amended Rule 24F–2 would modify the consequences of Applicants' failure to file a Notice on a timely basis, providing that their declarations filed pursuant to the rule would be terminated but that their registration statements containing those declarations would remain in effect. The amended rule also would permit Applicants to use Rule 24f–1 to register retroactively securities sold during a six month period subsequent to termination of their Rule 24f–2 Notice provided, *inter alia*, that they pay a fee equal to three times the registration fee as calculated in Section 6(b) of the 1933 Act. In order that they may offer their securities to the public without interruption pending issuance of a permanent order, Applicants request that this relief be made effective on a temporary basis as of August 31, 1983. Applicants also state that temporary relief is appropriate in the case of the Funds because August 31, 1983 is the last day that they, in reliance on proposed amended Rule 24f–2, would be able to utilize Rule 24f–1 to register retroactively all shares sold subsequent to February 28, 1983.

In the case of Innovest I and Innovest II, Applicants, in addition to the above relief, request relief from Section 24(f) and Rule 24f–1 thereunder because although Innovest I and Innovest II, pursuant to the above relief, would be able to utilize Rule 24f–1 to register retroactively shares sold during the six month period from approximately February 28, 1983 to August 31, 1983, they would not be able to utilize that rule, or any other provision, to register retroactively shares sold during the period from approximately June 30, 1982 to February 28, 1983. Applicants therefore request relief to the extent necessary to permit Innovest I and Innovest II to utilize Rule 24f–1 to register retroactively shares sold during this latter period.

In support of the relief requested, Applicants make the following representations: (1) The Commission has recognized that termination of an issuer's registration statement because of the issuer's failure to file a timely Rule 24f–2 Notice is too harsh a result and has proposed to amend Rule 24f–2 to provide relief from that rule to persons similarly situated as Applicants; (2) Applicants will comply with all requirements of proposed amended Rule 24f–2 as if it were available, and in connection with the retroactive registration of securities in reliance on Rule 24f–1 as made available by proposed amended Rule 24f–2, Applicants will, *inter alia*, pay a fee equal to three times the registration fee as calculated in Section 6(b) of the 1933 Act; (3) no contractowner has been injured in any way by Applicants' inadvertent failure to file Notices, nor will granting the relief requested erode the integrity of the registration process, since each Applicant has timely filed and made effective a registration statement and post-effective amendments thereto and each potential investor has received all required prospectuses; (4) granting the requested relief will not be detrimental to contractowners because IDS Life has agreed to bear all costs arising from Applicants' failure to file Notices; (5) contractowners would be detrimentally affected if Applicants ceased sales pending the effectiveness of new registration statements because, among other things, contractowners would lose the ability to transfer amounts among the Funds and Applicants believe that their inability to accept tendered payments might jeopardize the tax-qualified status of certain of the contracts; (6) in the case of the relief from Rule 24f–1 requested by Innovest I and Innovest II, the fees for shares sold during the period from June 30, 1982 to February 28, 1983 will be equal to three times the registration fees as calculated in Section 6(b) of the 1933 Act; (7) Applicants' best judgment, which is based in part on the exhibit to the application showing the monthly accumulation unit value for the period July 1982 to August 1983 for each of the accounts comprising Innovest I and Innovest II, is that the relief requested will not deprive any contractowner of any material advantage or opportunity otherwise available under or pursuant to the 1933 Act; and (8) all filings (and fees in connection therewith) required to be made by Applicants will be made by August 31, 1983, except in the limited instances set forth in the application in which case the required filings will be made by September 12 1983.

The matter has been considered and it is found that the granting of the application on a temporary basis to the extent necessary is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Accordingly,

It is ordered, pursuant to Section 6(c), that the application, to the extent necessary, be and hereby is granted as of August 31, 1983, on a temporary basis;

It is further ordered, that the above temporary order shall remain in effect only until such time as the Commission shall by order: (1) Terminate such temporary order after notice and opportunity for a hearing; or (2) terminate such temporary order by the

issuance of a permanent order in this matter.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than September 26, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-24418 Filed 9-6-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13476; 812-5589]

Related Housing Associates I and the Related Companies, Inc.; Filing of Application

August 31, 1983.

Notice is hereby given that Related Housing Associates I ("Partnership"), a New York limited partnership, and its general partner, The Related Companies, Inc. ("Related," together with the Partnership, "Applicants"), 645 Fifth Ave., New York, NY, 10024, filed an application for an order of the Commission, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"), exempting the Partnership from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below, and to the Act for the text of relevant provisions.

The application states that the Partnership will operate as a "two-tier" limited partnership through its investment as the beneficial and record owner of not less than a 98% limited partner interest in each of three other limited partnerships ("Project Partnerships"). Each Project Partnership owns and is rehabilitating and operating an apartment complex for occupancy by low and moderate income persons ("Projects") in accordance with the purposes and criteria set forth in Investment Company Act Release No. 8456 (August 9, 1974) ("Release No. 8456"). Applicants further state that Related, the General Partner of the Partnership, is the sole general partner of one of Project Partnerships, and the managing general partner of each of the other Project Partnerships.

According to the application, the Partnership's investment objectives are to (i) serve and protect the Partnership's capital, (ii) provide capital appreciation through appreciation in value of the Projects, (iii) provide "tax losses" during the early years of the Partnership's operations which the Limited Partners may use to offset income from other sources, (iv) provide annual cash distributions which are not expected, during the early years of Partnership operations, to constitute taxable income, and (v) build additional equity through reduction of mortgage loans of the Project Partnerships. Investors will be making their capital contributions in six installments over a five-year period. The payment of each installment after the first is conditioned upon achievement of certain stages in the rehabilitation of the Projects and the closings of the permanent loans, and will be evidenced by non-interest bearing notes. Applicants represent that the purpose of the Partnership is to provide a vehicle for private investment in government-assisted apartment complexes in accordance with the express determination made by Congress in Title IX of the Housing and Urban Development Act of 1968 ("Title IX").

Applicants represent that under each Local Limited Partnership Agreement, the Project General Partners of that Partnership have the exclusive responsibility for operating the Local Limited Partnership and its Project. Although the Partnership's direct control over the management of each apartment complex is limited, Applicants assert that the Partnership's beneficial ownership of interests in the Project Partnerships is, in an economic sense, tantamount to direct ownership of the Projects themselves. The interests in the Project Partnerships have no value other than the value of the Projects. No Project Partnership will generate a substantial amount of income or expense other than as directly related to the development, ownership and operation of its Project. Moreover, the General Partner of the Partnership is also the sole or Managing General Partner of each Project Partnership.

Applicants state that the Partnership is organized as a limited partnership because a limited partnership is the only form of organization which provides investors with both (1) the ability to claim on their individual tax returns the deductions, losses, credits and other tax items arising from the Partnership's interests in the Project Partnerships, which own, operate and rehabilitate government-assisted apartment complexes and (2) liability limited to their capital investment.

According to the application, the Partnership is controlled by the General Partner pursuant to the "Partnership Agreement." The Limited Partners, consistent with their limited liability status, are not entitled to participate in the control of the Partnership's business. Applicants assert, however, that a majority in interest of the Investor Limited Partners has the right to amend the Partnership Agreement, dissolve the Partnership and remove any General Partners and elect a replacement therefor under the circumstances set forth in the Partnership Agreement. Under the Partnership Agreement, each Limited Partner is entitled to review all books of account of the Partnership at any and all reasonable times.

In addition, Applicants represent that any subscriptions for units of Limited Partnership Interests will be approved by the General Partner, which approval will be conditioned upon representations as to suitability of the investment for each subscriber. Applicants represent that these suitability standards are consistent with the requirements in Release No. 8456 and are consistent with the guidelines of those states which prescribe suitability standards. Applicants further state that the Partnership Agreement contains numerous provisions designed to ensure fair dealing by the General Partner with the Limited Partners. Also, the high suitability standards ensure that the investors will have a level of sophistication such that they ought to be able to analyze critically the terms of the offering.

According to the application the General Partner and its affiliates will receive substantial reimbursements, fees and other compensation from the proceeds of the sale of the Units and from the operations of the Project Partnerships of which the General Partner is a general partner. This compensation will be fully disclosed in the Partnership Agreement and a private placement memorandum. Applicants assert that the General Partner believes the fee structure to be fair, normal and not excessive for transactions structured with the tax characteristics of an offering of this type and sold to investors meeting suitability standards

such as those included with this offering.

Finally, Applicants assert that the contemplated arrangement of the Partnership is not susceptible to abuses of the sort the Act was designed to remedy. The suitability standards described above, the requirements for fair dealing provided by the Partnership's governing instruments, and pertinent governmental regulations imposed on each Project Partnership by various federal, state and local agencies, provide protection to investors in Units comparable to and in some respects greater than that provided by the Act. Therefore, Applicants represent that exemption would be entirely consistent with the protection of investors and the purposes and policies of the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than September 26, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-24418 Filed 9-6-83; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 34-20142; File No. SR-MCC-83-4]

Self-Regulatory Organizations; Proposed Rule Change by Midwest Clearing Corp. Relating to Enhancements to OTC Comparison and Settlement Service Processing

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on July 26, 1983 the Midwest Clearing Corporation filed with the Securities and Exchange Commission the proposed rule change as described in Items, I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Attached to the filing as Exhibit A and B are MST System Administrative Bulletins which describe certain enhancements added to the processing of OTC Comparison and Settlement Services input.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C) below of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The Midwest Clearing Corporation has adopted certain enhancements to its OTC Comparison System. One such enhancement will permit partial acceptance of either Demand As Of Advisories or Regular Advisories when participants agree that a trade has taken place but do not agree with the number of shares specified. Under the previous system, a participant had no way to resolve an aged uncompared OTC trade unless he submitted new trade data. The proposed rule change provides an effective method for participants to resolve trades which otherwise would remain unresolved.

The proposed rule change also makes certain changes to the OTC Comparison System forms to facilitate that enhancements.

The proposed rule change is consistent with the requirements of the Securities Exchange Act of 1934, as amended, in that the changes will facilitate the prompt and accurate clearance and settlement of securities transactions for which it is responsible.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Midwest Clearing Corporation does not believe that any burdens will be placed on competition as a result of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments have neither been solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 5th Street, NW. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: August 31, 1983.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-24419 Filed 9-6-83; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 20142; File No. SR-MCC-83-4]

Midwest Clearing Corp.; Filing and Immediate Effectiveness of Proposed Rule Change

August 31, 1983.

On July 26, 1983, Midwest Clearing Corporation ("MCC") submitted a proposed rule change, pursuant to Rule 19b-4 under the Securities Exchange Act of 1934 (the "Act"), that enhances MCC's Over-the-Counter Equity Comparison System (the "System").[1] First, the proposal would amend the System's Regular As Of[2] and Demand As Of[3] services to enable a participant partially to accept either Regular As Of Advisories or Demand As Of Advisories when that participant agrees with all aspects of the trade data except quantity.[4] Currently, MCC does not permit participants partially to accept such Advisories. Thus, a participant must reject an Advisory wholly and must resubmit new trade data for the entire number of shares. Second, the proposed rule change would add to the System a Demand Withhold capability. The Demand Withhold enhancement would enable MCC participants to delete from the System previously compared OTC equity trades.[5] Third, the proposal would permit MCC participants to delete previous Demand As Of or Demand Withhold data through the submission of Demand As Of Delete or Demand Withhold Delete instructions.[6] Finally, MCC's proposal would make some technical amendments to the System forms to facilitate comparison processing.

MCC believes that these enhancements will reduce significantly the number of unresolved, aged uncompared trades. MCC further believes that the proposal is consistent with Sections 17A(b)(3) (A) and (F) of the Act in that it facilitates the safeguarding of securities and funds in MCC's custody or control of for which MCC is responsible.

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Securities Exchange Act of 1934 and Rule 19b-4 thereunder. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Publication of the submission is expected to be made in the **Federal Register** during the week of September 5, 1983. Interested persons are invited to submit written data, views and arguments concerning the submission within twenty-one days from the date of publication in the **Federal Register**. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR-MCC-83-4.

Copies of the submission, with accompanying exhibits, and of all written comments will be available for public inspection at the Securities and Exchange Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. Copies of the filing will also be available at the principal office of the above-mentioned self-regulatory organization.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-24417 Filed 9-6-83; 8:45 am]

BILLING CODE 8010-01-M

[1] MCC's proposed rule change is designed to conform MCC's System procedures to enhancements to National Securities Clearing Corporation's ("NSCC") OTC Equity Comparison System which were recently approved by the Commission, pursuant to delegated authority. *See, e.g.*, Securities Exchange Act Release No. 19530 (February 23, 1983), 48 FR 8616 (March 1, 1983). NSCC currently performs OTC trade comparison processing for MCC and other registered clearing corporations.

[2] The As Of feature allows MCC participants on or after the second day after trade date to submit to MCC a trade for comparison. After an As Of trade is received by MCC, MCC generates an As Of Advisory to the trade's *contra* party, who then may agree to the trade by accepting that Advisory and returning it to MCC within two days of receipt. If a stamped Advisory is not returned, the trade remains uncompared and is dropped from the System.

[3] The Demand As Of service provides MCC participants with a procedure for resolving aged, uncompared OTC equity transactions (*i.e.*, transactions that remain uncompared after MCC's regular comparison cycle). The Demand As Of service is similar to the Regular As Of service. Upon receipt of a Demand As Of by MCC, MCC generates a Demand As Of Advisory to the trade's *contra* party, who may accept, reject, or ignore the Advisory. A Demand As Of Advisory that is not returned to MCC within three days will result in an automatically compared trade.

[4] For example, a MCC participant that receives a Demand As Of Advisory indicating a transaction for 400 shares may, if it agrees with all the data (security identification, identification of the market place of execution, trade data, *contra* broker, executing broker and trade value) contained in the Advisory but recognizes the quantity as 500 shares of the security involved, accept the Demand As Of Advisory for 400 shares by, among other things, submission to MCC of an Advisory Re-entry Blotter. With respect to the remaining 100 shares, new trade data must be submitted by that participant.

[5] Submission of Demand Withhold data may be made two days after trade date only. If the Demand Withhold matches a *contra* Demand Withhold or a *contra* Regular Withhold, a compared Demand Withhold is generated which enters the clearing cycle in the same manner as a Regular Withhold and deletes the trade. A Demand Withhold that does not match another Demand Withhold or a Regular Withhold generates a Demand Withhold Advisory that MCC forwards to the *contra* party. Upon receiving a Demand Withhold Advisory, the *contra* party may accept, reject, or ignore the Advisory. If no action is taken by the *contra* party within two days after receipt, the trade will be dropped from the system.

[6] Demand Withhold Delete instructions must be submitted to MCC on or before the fourth day after trade date. Demand As Of Delete instructions, however, can be submitted to MCC at any time after MCC's regular comparison cycle up to and including the sixteenth day after trade date.

DEPARTMENT OF STATE

[Public Notice CM-8/659]

Advisory Committee to the United States National Section of the International Commission for the Conservation of Atlantic Tunas; Partially Closed Meeting

Notice is hereby given, pursuant to the provisions of Pub. L. 92-463, that a meeting of the Advisory Committee to the United States National Section of the International Commission for the Conservation of Atlantic Tunas will be held on October 13, 1983, from 9:30 a.m. to 5:00 p.m., and on October 14, 1983, from 9:30 a.m. to 12:00 p.m. and from 1:30 p.m. to 5:00 p.m. at the Woodward Room of the National Wildlife Federation, 1412 16th Street, NW., Washington, D.C.

The October 13 meeting and the morning session of the October 14 meeting will be open to the public, and the public may participate in the discussions subject to instructions of the Committee Chairman. Subjects to be discussed include: Review of the 1983 schedule for the Standing Committee on Research and Statistics (SCRS) and U.S. participation; Review of Status of Stocks and Research Concerning Yellowfin, Skipjack, Albacore, and Bigeye Tunas; Review of Status of Stocks and Research Concerning Atlantic Bluefin Tuna and Billfish; Report of the Panel of Bluefin Tuna Experts; Report of Bluefin Tuna Fishery Conducted in the U.S. Zone and in the Canadian Zone; and estimates of the Japanese Harvest of Tunas and Billfish in the Atlantic U.S. EEZ.

The Advisory Committee will meet in closed session on the afternoon of October 14, 1983. At this session documents classified in accordance with Executive Order 12356 of April 2, 1982 will be circulated and discussed and matters will be considered which the public interest requires be withheld from disclosure. Accordingly the

determination has been made to close this session pursuant to section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. App. I, S10(d) and 5 U.S.C. 552b (c)(1) and (c)(9).

Requests for further information on the October 14 meeting should be directed to Barbara Rothschild, Office of International Fisheries Affairs, National Marine Fisheries Service, Department of Commerce. She may be reached by telephone on (202) 634–7257.

Dated: August 23, 1983.

Theodore G. Kronmiller,

Deputy Assistant Secretary for Oceans and Fisheries Affairs.

[FR Doc. 83-24337 Filed 9-6-83; 8:45 am]

BILLING CODE 4710-09-M

[Public Notice CM–8/657]

Advisory Committee on International Investment, Technology, and Development; Partially Closed Meeting

The Department of State will hold a meeting of the Working Group on Treatment of Investment and Special Investment Problems of the Advisory Committee on International Investment, Technology, and Development on Thursday, September 29, 1983, from 9:30 a.m. to noon in Room 1912, Department of State, 2201 C. Street, NW., Washington, D.C.

A portion of this meeting will be closed to the public, pursuant to Section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. 552(b)(C)(9)(B) because the Working Group will discuss the status of ongoing diplomatic negotiations, premature disclosure of which could adversely affect U.S. interests.

At 11:15, the meeting will be opened to the public for a briefing and discussion of the results of the September meeting of the OECD Committee on Investment and Multilational Enterprises (CIME). This will include a discussion of progress on the CIME's 1984 review of the OECD investment instruments.

Members of the public wishing to attend the meeting must contact Mr. Lincoln's office (202–632–2728) in order to arrange admittance to the State Department. Please use the "C" Street entrance.

The Chairman of the Working Group will, as time permits, entertain oral comments from members of the public attending the meeting.

Dated: August 25, 1983.

Philip T. Lincoln, Jr.,

Executive Secretary.

[FR Doc. 83-24335 Filed 9-6-83; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice CM–8/658]

Shipping Coordinating Committee, Committee on Ocean Dumping; Notice of Meeting

The Committee on Ocean Dumping, a subcommittee of the Shipping Coordinating Committee, will hold an open meeting at 9:30 a.m. on Wednesday, October 5, 1983, in conference room 3906–3908 (Mall), Waterside Mall, Environmental Protection Agency, 401 M Street, SW., Washington, D.C.

The purpose of the meeting is to review and discuss draft U.S. position documents for the seventh meeting of the Scientific Group on Dumping, a technical advisory group of the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, to be held in London on October 24–28, 1983.

For further information, contact Ms. Norma Hughes, Executive Secretary, Committee on Ocean Dumping (WH–585), Environmental Protection Agency, Washington, D.C. 20460. Telephone: (202) 755–2927.

Members of the public may attend up to the seating capacity of the room.

The Chairman will entertain comments from the public as time permits.

Dated: August 23, 1983.

Samuel V. Smith,

Executive Secretary, Shipping Coordinating Committee.

[FR Doc. 83-24336 Filed 9-6-83; 8:45 am]

BILLING CODE 4710-09-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Public Information Collection Requirements Submitted to OMB for Review

On August 31, 1983 the Department of the Treasury submitted the following public information collection requirement(s) to OMB (listed by submitting bureaus), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 634–2179. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 309, 1625 I Street, NW., Washington, D.C. 20220.

Internal Revenue Service

OMB No. None.
Form No. None.
Type of review: New.
Title: Roper Reports Proprietary Questions Vol. 83–9.
OMB No. 1545–0175.
Form No. 4626
Type of review: Revision.
Title: Computation of Minimum Tax—Corporations.
Omb No. 1545–0016.
Form No. 706–A.
Type of review: Revision.
Title: United States Additional Estate Tax Return.
OMB reviewer: Norman Frumkin (202) 395–6880, Office of Management and Budget Room 3208, New Executive Office Building, Washington, D.C. 20503.

Cathy L. Thomas,

Departmental Reports Management Office.

August 31, 1983.

[FR Doc. 83-24431 Filed 9-6-83; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

On August 30, 1983 the Department of Treasury submitted the following public information collection requirement(s) to OMB (listed by submitting bureaus), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 634–2179. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 309, 1625 "I" Street, NW., Washington, D.C. 20220.

Internal Revenue Service

OMB Number: 1545–0197
Form Number: 5300/5301
Type of Review: Existing Regulation
Title: Application for Determination for Defined Benefit Plan/Defined Contribution Plan

OMB Number: 1545–0129
Form Number: 1120 POL
Type of Review: Revision
Title: U.S. Income Tax Return for Certain Political Organizations

OMB Number: 1545–0120

Form Number: 1099–G
Type of Review: Revision
Title: Reporting of State and Local Income Tax Refunds
OMB Number: 1545–0390
Form Number: 5306
Type of Review: Revision
Title: Application for Approval of Prototype or Employer Sponsored Individual Retirement Account
OMB Number: 1545–0089
Form Number: 1040 NR
Type of Review: Revision
Title: U.S. Nonresident Alien Income Tax Return
OMB Number: 1545–0222
Form Number: 6047
Type of Review: Revision
Title: Windfall Profit Tax
OMB Number: 1545–0144
Form Number: 2438
Type of Review: Revision
Title: Regulated Investment Company Undistributed Capital Gains Tax Return

Bureau of Alcohol, Tobacco and Firearms

OMB Number: 1512–0052
Form Number: AFT F 103 (5130.9)
Type of Review: Extension
Title: Brewers Monthly Report of Operations
OMB Number: 1512–0049
Form Number: AFT F 96
Type of Review: Extension
Title: Importers Report of Red Strip Stamps
OMB Number: 1512–0107
Form Number: AFT F 2093 & 2098
Type of Review: Reinstatement
Title: Application for Permit under 26 U.S.C. Chapter 52/Manufacturer of Tobacco Products or Proprietor of Export Warehouse and Application for Amended Permit
OMB Reviewer: Norman Frumkin (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

U.S. Saving Bonds Division

OMB Number: None
Form Number: N/A
Type of Review: New
Title: Survey of Consumer Awareness of U.S. Savings Bonds and Attitudes Toward Them
OMB Reviewer: Judy McIntosh (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Rita A. DeNagy,
Department Reports Management Office.

[FR Doc. 83-24371 Filed 9-1-83; 8:45 am]
BILLING CODE 4810-25-M

Fiscal Service

[Dept. Circ. 570, 1983 Rev., Supp. No. 3]

The American Automobile Insurance Co., the American Insurance Co., the Associated Indemnity Corp., and the Fireman's Fund Insurance Co.; Surety Companies Acceptable on Federal Bonds; Correction

The business address for the above mentioned companies was listed at 48 FR 30529, 30530, 30533 (July 1, 1983) as: 777 San Marin Drive, Novato, CA 94998. The companies' business address is hereby corrected to: 3333 California Street, San Francisco, CA 94118.

Federal bond-approving officers should annotate their reference copies of Treasury Circular 570, 1983 Revision, at the appropriate pages to reflect this correction.

Questions concerning this correction notice may be directed to the Operations Staff (Surety), Banking and Cash Management, Bureau of Government Financial Operations, Department of the Treasury, Washington, DC 20226. Telephone (202) 634–5745.

Dated: August 29, 1983.

W. E. Douglas,
Commissioner, Bureau of Government Financial Operations.

[FR Doc. 83-24367 Filed 9-6-83; 8:45 am]
BILLING CODE 4810-35-M

[Dept. Circ. 570, 1983 Rev., Supp. No. 4]

Surety Companies Acceptable on Federal Bonds; Correction

At 48 FR 30528–30543, Treasury published its Circular 570, 1983 Revision. The following company and information should be added at the bottom of page 9 of the Circular (48 FR 30536):

Mission Insurance Company. BUSINESS ADDRESS: 2600 Wilshire Boulevard, Los Angeles, CA 90057. UNDERWRITING LIMITATION b/: $13,326,000. SURETY LICENSES c/: All except CZ, Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: California. FEDERAL PROCESS AGENTS d/.

Questions concerning this correction notice may be directed to the Operations Staff (Surety), Banking and Cash Management, Bureau of Government Financial Operations, Department of the Treasury, Washington, DC 20226. Telephone (202) 634–5745.

Dated: August 29, 1983.

W. E. Douglas,

Commissioner, Bureau of Government Financial Operations.

[FR Doc. 83-24366 Filed 9-6-83; 8:45 am]

BILLING CODE 4810-35-M

UNITED STATES INFORMATION AGENCY

President's International Youth Exchange Initiative; Selective Assistance Through Limited Grant Support To Not-For-Profit Organizations

The United States Information Agency announced in the **Federal Register** on August 12, 1983 (page 36730) a program of selective assistance through limited grant support to private not-for-profit organzations for programs in support of the President's International Youth Exchange Initiative.

Eligibility requirements for this program inadvertently left out an important paragraph. The eligibility requirements are repeated below for the benefit of those who have an interest in participating in this program.

Eligibility

Academic, cultural and not-for-profit exchange-of-persons organizations are eligible to apply. Organizations should be able to demonstrate a proven record (four years) of work in the field (except for pilot projects, as noted below). To be eligible, activities must fall within the purposes of the Mutual Education and Cultural Exchange (Fullbright-Hayes) Act. Organizations with less than four years experience in youth exchanges will be considered only for pilot projects (grants of less than $60,000).

Not-for-profit organizations that are the offsping of for-profit firms engaged in similar activities will not be eligible for consideration under this program.

Priority will be given to organizations with national or regional volunteers. Organizations must be capable of meeting the "Criteria for Teenager Exchange Visitors Programs" or "Criteria for Practical Trainees", which may be obtained by writing to the USIA address listed at the end of this announcement.

Dated: September 1, 1983.

Charles N. Canestro,

Federal Register Liaison.

[FR Doc. 83-24383 Filed 9-6-83; 8:45 am]

BILLING CODE 8230-01-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 174
Wednesday, September 7, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Civil Aeronautics Board	1
Civil Rights Commission	2
Commodity Futures Trading Commission	3
Federal Communications Commission	4, 5
Federal Deposit Insurance Corporation	6, 7, 8
Federal Elections Commission	9, 10
Federal Mine Safety and Health Review Commission	11
Federal Reserve System	12
International Trade Commission	13
Libraries and Information Science National Commission	14
National Mediation Board	15

1

CIVIL AERONAUTICS BOARD

TIME AND DATE: 9:30 a.m., September 7, 1983.

PLACE: Room 1027 (open), room 1012 (closed), 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of Items Adopted by Notation.
2. Docket 41553, *Martinair Holland, N.V. Enforcement Proceeding,* Petition for review of staff action taken under delegated authority instituting enforcement proceeding and seeking civil penalties. (Memo 1993, OGC)
3. Docket 40543, Final rule to exempt from section 409 all interlocking relationships other than those between certificated air carriers or their affiliates, and those between a certificated air carrier and a foreign air carrier or their affiliates. (OGC)
4. Docket 40757, Revision of the "33 percent notice" in Part 323 to reflect the limits on the Board's statutory authority established by the D.C. Court of Appeals in the *Delta* case. (Memo 1326–A, OGC, BDA, OCCCA)
5. Docket 41431, Additional proposals in the Board's smoking rulemaking. (Memo 1993, OGC, OCCCA)
6. Docket 41443, Domestic Baggage Liability: Request for Instructions. (Memo 1780–A, OGC, BDA, BIA, OCCCA, OEA)
7. Docket 41207, Airline Computer Reservation System. (OGC, BDA)
8. Contract terms and tariff rules absolving carriers from any responsibility to transport a passenger to the destination airport named on his or her ticket, or to reimburse a passenger for expenses incurred in reaching that airport, where a flight is diverted to another airport in the same general metropolitan area. (OCCCA)
9. Docket 41412, Agreements Among Members of the Air Traffic Conference of America Relating to Interline Traffic Agreement-Passenger. (Memo 1987, BDA, OCG)
10. Docket 40726, Subpart Q Application of Island Airlines Hawaii, Inc. for certificate to provide interstate all-cargo service between points in Hawaii. (Memo 1435–C, BDA)
11. Docket 41453, Request by Midwest Express for grant of confidential treatment. (BDA, OGC)
12. Docket 41320, *Classic Air, Inc. Fitness Investigation;* Order Declining Review. (Memo 1991, OGC)
13. Docket 41551, Application of Imperial International Airlines, Inc. for a two-year fitness review. (Memo 1994, BDA)
14. Commuter carrier fitness determination of West Coast Airlines. (Memo 1986, BDA)
15. Commuter air carrier fitness determination of Atlantic Gulf Airlines, Inc. (Memo 1996, BDA)
16. Fitness determination for Centennial Airlines. (BDA)
17. Commuter carrier fitness determination of Precision Valley Aviation, Inc. d/b/a/ Precision Airlines. (Memo 1982, BDA)
18. Dockets 40340 and 41225, Notices of Continental Airlines, Inc. and Arrow Airways, Inc. to terminate service at Pago Pago, American Samoa and petition for review by Continental Airlines of Order 83–7–39. (Memo 1988, BDA, OCCCA)
19. Docket 41194, Application of Atlantic Southeast Airlines, Inc. to replace Republic Airlines, Inc. at Valdosta, Georgia. (Memo 1660–A, BDA, OCCCA)
20. Dockets 41368, EAS–343 and EAS–344, Essential air service for Harrison and Jonesboro, Arkansas. (BDA, OCCCA)
21. Docket 41325, Airways of New Mexico's 30-day notice of intent to suspend service at Alamogordo, New Mexico. (BDA)
22. Docket 40960, Intercarrier fare agreement revising U.S.-U.K. fares. (BIA)
23. Docket 35634, C.A.B. Agreements 29025, 29033, 29034, and 29046, IATA agreement proposing various international cargo rate revisions. (Memo 1983, BIA)
24. Docket 35634, Agreement C.A.B. 29044, IATA agreement which, *inter alia,* establishes new cargo rate structures to/from the U.S. and the Middle East/Africa and from the U.K./Ireland to the U.S., increases rates from certain other European countries and readopts/extends a resolution on tariff integrity. (Memo 1984, BIA)
25. Docket 41131, Petition of Korean Air Lines Co. Ltd., for reconsideration of Order 83–3–129 which denied KAL's application for intermodal exemption authority. (BIA, OGC and BALJ)
26. Docket 41354, *Albany/Burlington-Montreal Service Proceeding.* Applications of Air Vermont, Clinton Aero, Northeastern International, Pilgrim Airlines and Precision Airlines. Memorandum of Issues, Summary and Analysis of Direct and Rebuttal Exhibits and Request for Instructions. (BIA, OGC)
27. Italy Negotiations. (BIA)
28. Israel Negotiations. (BIA)
29. Report on Netherlands Discussions. (BIA)
30. Report on Philippine Discussions. (BIA)
31. Report on Switzerland Discussions. (BIA)
32. Report on France Discussions. (BIA)

STATUS: 1–26 Open, 27–32 closed.

PERSON TO CONTACT FOR MORE INFORMATION: Phyllis T. Kaylor, the Secretary (202) 673–5068.

[S–1230–83 Filed 9–3–83; 9:07 am]

BILLING CODE 6320–01–M

2

COMMISSION ON CIVIL RIGHTS

PLACE: Room 512, 1121 Vermont Avenue NW., Washington, D.C.

DATE AND TIME: Wednesday, September 14, 1983, 10:30–1 p.m.

STATUS OF MEETING: Open to public.

MATTERS TO BE CONSIDERED.

I. Approval of Agenda
II. Approval of Minutes of Last Meeting
III. Review of the Report, *Fifteen Years Ago . . . Today: Rural Alabama Revisted*
IV. Briefing on Data for Presidential Appointments of Women
V. State Advisory Committee Interim Appointment for Minnesota
VI. State Advisory Committee Recharters:
A. Delaware
B. Idaho
C. Louisiana
VII. Joint Advisory Committee (Arkansas, Louisiana, New Mexico, Oklahoma and Texas) Report Entitled *Block Grants and You: A Citizen's Handbook*
VIII. Hawaii Advisory Committee Report *Entitled Policy* v. *Results:* Affirmative Action in Hawaii's Department of Education
IX. Massachusetts Advisory Committee Report Entitled *Implementating the Massachusetts Civil Rights Act*
X. Wisconsin Advisory Committee Report Entitled *Business Incentives and Minority Employment*
XI. Staff Director's Report (July and August)
A. Status of Funds
B. Personnel Report
C. Office Directors' Reports

PERSON TO CONTACT FOR FURTHER INFORMATION: Barbara Brooks, Press

and Communications Division, (202) 254–8697.

[S–1201–83 Filed 9–2–83; 9:54 am]
BILLING CODE 6296–01–M

3

COMMODITY FUTURES TRADING COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: V. 48 FR 162, Friday, August 19, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 11 a.m., Friday, September 2, 1983.

CHANGES IN THE MEETING:

The Meeting has been Cancelled

[S–12046–83 Filed 9–2–83; 3:27 pm]
BILLING CODE 6351–01–M

4

FEDERAL COMMUNICATIONS COMMISSION

September 2, 1983.

Open Commission Meeting Friday, September 9, 1983

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Friday, September 9, 1983, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street NW., Washington, D.C.

Agenda, Item No., and Subject

General—1—*Title:* Second Report and Order to allocate spectrum for use by stations in Digital Termination Systems (DTS) and in Point-to-Point Microwave Radio Systems for the Provision of Digital Electronic Message Services (DEMS) and for other Common Carrier, Private Radio, and Broadcast Auxiliary Services. *Summary:* The Commission will consider the merits of the Further Notice of Proposed Rule Making Gen. Docket 79–188. The Further Notice set forth an allocation plan at 18 GHz along with certain rules governing the technical operation and administration of radio equipments in the various radio services listed in the title caption.

General—2—*Title:* First Report and Order in General Docket 82–334 regarding the establishment of a spectrum utilization policy for the fixed and mobile services in certain bands between 947 MHz and 40 GHz. *Summary:* The Commission will consider the adoption of this First Report and Order which addresses the reaccommodation of private operational fixed links in the 12.2–12.7 GHz band necessary due to the introduction of the Broadcast Satellite Service in that band.

General—3—*Title:* Notice of Inquiry into Prohibitions Against the Use of Common Carrier Facilities for the Transmission of Obscene Materials. *Summary:* The Commission will consider issuance of a Notice of Inquiry to assist the Commission in developing appropriate policies for the Commission and common carriers to pursue in enforcing prohibitions against the transmission by common carrier facilities of allegedly indecent materials.

Private Radio—1—*Title:* Report and Order in the matter of substituting 20 miles in place of 40 dBu as the measure of market service area in 800 MHz private land mobile operations. *Summary:* The FCC will consider whether to adopt the rules proposed in PR Docket 81–787. The Notice proposed to use a 20 mile radius rather than a 40 dBu field intensity contour as the criterion for determining a station's theoretical market service area.

Private Radio—2—*Title:* Notice of Proposed Rule Making proposing to revise the rules in the Aviation Services concerning aeronautical advisory stations. *Summary:* The FCC will consider whether to propose amending Part 87 (Aviation Services) to remove the limitation of one aeronautical advisory (unicom) per airport, at airports with control towers. The FCC will also consider whether to propose modifying the rules concerning the frequencies available for assignment at airports which do not have control towers.

Private Radio—3—*Title:* In the Matter of Amendment of Parts 1, 90 and 94 of the Commission's Rules to eliminate outdated or unnecessary rules pursuant to the Commission's Regulatory Review Program. *Summary:* The FCC will consider whether to adopt a Notice of Proposed Rule Making proposing the elimination of rules, procedures, reporting and recordkeeping requirements which may no longer be necessary to the effective operation of the Private Land Mobile Radio Services and the Private Operational-Fixed Microwave Service.

Common Carrier—1—*Title:* Amendment of Parts 34 and 35 Uniform System of Accounts and conforming amendments to Annual Report Forms O and R with respect to accounting for carriers' nonregulated activity. *Summary:* The Commission will consider whether to adopt a Report and Order amending the accounting procedures to be followed for carriers' nonregulated activity, as ordered in Docket 21005 and Computer II, and the regulating changes to Parts 34 and 35 of the Commission's Rules and Regulations (Uniform System of Accounts).

Common Carrier—2—*Title:* In the Matter of Amendment of Sectoin 61.38 of the Commission's Rules. *Summary:* Commission will consider Satellite Business Systems' petition for reconsideration of recent amendments to Section 61.38 of the Commission's Rules, governing cost support materials required to be filed with tariffs.

Common Carrier—3—*Title:* Final Decision in Docket No. 21122. *Summary:* The Commission will consider whether to adopt a Final Decision on the Initial Decision in Docket No. 21122 of Administrative Law Judge Frederick W. Denniston, FCC 48D–40, released July 7, 1978. The Initial Decision found that a revision to AT&T's Tariff F.C.C. No. 260, Private Line Service, was not contrary to the public interest nor in violation of Section 202(a) of the Act.

Common Carrier—4—*Title:* In the Matter of American Television Relay, Inc. Refunds resulting from the findings and conclusions in Docket No. 19600. *Summary:* The Commission will consider an order responding to the remand by the U.S. Court of Appeals of an earlier Commission decision ordering refunds to certain customers of American Television Relay.

Common Carrier—5—*Title:* Exceptions to the Initial Decision in Offshore Telephone Company, Docket No. 21396, released December 18, 1980. *Summary:* The Commission will consider whether it should establish, pursuant to Section 201(a) of the Act, through rates and a division of charges between Offshore Telephone Company, South Central Bell Telephone Company and the American Telephone and Telegraph Company for the joint provision of interstate message telephone service.

Common Carrier—6—*Title:* Amendment of Parts 1 and 61 of the Commission's Rules. *Summary:* The Commission will consider a Notice of Proposed Rule Making which proposes a recodification of Part 61 of the Commission's Rules, governing tariffs, and a single related change to Part 1 of the Rules.

Common Carrier—7—*Title:* Application of Satellite Business Systems for Modification of Domestic Fixed-Satellite Space Station Authorizations to Permit Noncommon Carrier Transponder Transactions. *Summary:* The Commission will consider the above-captioned application for modification of license filed by Satellite Busiess Systems.

Audio—1—*Title:* Petition filed by Rancocas Valley Broadcasting, Inc., seeking reconsideration of the action of the Chief, Mass Media Bureau, pursuant to delegated authority, dismissing its application for the deleted facilities of station WJJZ, Mt. Holly, New Jersey. *Summary:* The Commission considers whether dismissal was proper under the circumstances presented.

Audio—2—*Title:* License Renewal application of KQED, Inc., for Stations KQED–TV, KQEC–TV and KQED–FM, San Francisco, California. *Summary:* The Commission considers a petition for reconsideration filed by a coalition composed of the California Public Broadcasting Forum, the Bay Area Bilingual Education League, the National Association for the Advancement of Colored People (Western Region), the Community Coalition for Media Change, the Public Media Center, and the Committee to Save KQED, seeking reconsideration of the Commission's denial of their petition to deny the licensee's renewal applications. The Coalition alleges that the Commission erred in its ruling on issues concerning alleged violations of Section 396 of the Communications Act which requires noncommercial licensees to hold open board meetings; unfair election practices fairness doctrine violations; possible improper *ex parte* communication between the licensee and the Commission; and misrepresentations by the licensee.

Audio—3—*Title:* License Renewal Applications of Franklin Communications, Inc., for Stations WVKO (AM) and WSNY–FM, Columbus, Ohio. *Summary:* The

Commission considers a petition to deny filed by a coalition of the stations' listeners alleging that the licensee "abandoned" its "target audience"; that the licensee made misrepresentations to the Commission in its application for assignment of the stations; and that the licensee failed to comply with the Commission's rules and policies concerning equal employment opportunity and the maintenance of a public file.

Video—1—*Title:* Petition filed by the National Black Media Coalition requesting reconsideration of the Commission's action granting applications for the voluntary assignment of station KSDK–TV, St. Louis, Missouri, from KSDK, Inc., to Multimedia, Inc., in exchange for Multimedia's stations WFBC–TV, Greenville, South Carolina, and WXII (TV), Winston-Salem, North Carolina. *Summary:* The Commission will consider the petitioner's allegations concerning equal employment opportunity performance at all of Multimedia's broadcast stations.

Audio—2—*Title:* (1) Application to assign the construction permit of unbuilt television station KDOG, Channel 19, Nacogdoches, Texas, from Dogwood Broadcasting Corporation to KLMB–TV, Incorporated; (2) Application of KLMB–TV, Incorporated for construction permit to make changes in the facilities of television station KDOG; and (3) Application of KLMB–TV, Incorporated for construction permit to make changes in the facilities of televisio.: station KLMG–TV, Longview, Texas. *Summary:* The Commission will consider KLMB–TV Incorporated's application to buy television station KDOG(TV) and its proposal to operate KDOG(TV) primarily as a satellite of KLMG–TV, Longview, Texas. KLMB–TV, Incorporated requests a grant of the assignment application pursuant to Note 9 of Section 73.636, which exempts satellite stations from the ban on Grade B overlap of commonly owned stations.

Video—3—*Title:* Application for Review of Bureau action denying petition for reconsideration of grant of application of KBMT(TV), Beaumont, Texas. *Summary:* The Commission will consider an Application for Review of the action of the Chief, Mass Media Bureau, denying a petition for reconsideration of the Bureau's action granting an application of Texas Telecasting, Inc. to make minor changes in KBMT(TV), Beaumont, Texas. Review sought by licensee of KSLA–TV, Shreveport, Louisiana.

Video—4—*Title:* Applications for interim authority to operate the facilities of former station KHOF–TV, Channel 30, San Bernardino, California. *Summary:* Eight applications were timely filed for interim operation of the channel, and four of them have entered into an agreement whereby they would dismiss their applications if the Commission would conditionally grant their merged application. The Commission will consider the manner in which the interim operator will be selected.

Video—5—*Title:* Petition for Reconsideration filed by Schuyler-Littlefield Broadcasting Company. *Summary:* Schuyler-Littlefield Broadcasting Company, applicant for a new television station on Channel 67, Monterey, California, filed a petition to dismiss a competing application. The Mass Media Bureau denied the motion and the Commission, upon review, affirmed the Bureau. The Commission now considers a petition for reconsideration of its denial of the application for review.

Video—6—*Title:* Application for review of the Bureau's action dismissing the application of WTSP–TV, Inc. for a major change in the facilities of WTSP–TV, Channel 10, St. Petersburg, Florida. *Summary:* The Commission will consider whether the Bureau properly dismissed WTSP's application to move its transmitter to a site that is 42 miles short-spaced to that of co-channel station WPLG(TV), Miami, Florida.

Policy—1—*Title:* Hours of Operation of Daytime-Only AM Stations. *Summary:* Amendment of Sections 73.99, 73.185, and 73.190 of the Commission's Rules governing extended hours of operation by AM stations.

Enforcement—1—*Title:* License Renewal Applications of Certain Broadcast Stations Serving Communities in the States of Alabama and Georgia. *Summary:* The Commission considers a petition to deny filed by the National Black Media Coalition against the license renewal applications for 15 broadcast stations located in Alabama and Georgia. The petition alleges that the licensees have not complied with the Commission's EEO rule with respect to Blacks.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 254–7674.

Issued: September 1, 1983.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S–1255–83 Filed 9–2–83; 12:20 pm]

BILLING CODE 6712–01–M

5

FEDERAL COMMUNICATIONS COMMISSION

Closed Commission Meeting, Friday, September 9, 1983

September 2, 1983.

The Federal Communications Commission will hold a Closed Meeting on the subjects listed below on Friday, September 9, 1983 following the Open Meeting, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street NW., Washington, D.C.

Agenda, Item No., and Subject

General—1—Primary Jurisdiction Referral in Family Viewing Case.

Hearing—1—Applications for Review in the Waco, Texas UHF television comparative proceeding (BC Docket Nos. 79–286 to 79–289).

Hearing—2—Applications for Review in the Faith Center, Inc., San Bernardino television renewal proceeding (BC Docket No. 78–326).

Hearing—3—Applications for Review of a Review Board Decision in the Lansing, Michigan AM, FM, TV license renewal proceeding (Docket No. 20014).

General Item 1 is closed to the public because it concerns Privileged/ Confidential and Premature Disclosure matters (See 47 CFR 0.603 (d) and (i)).

Hearing Items 1 thru 3 are closed to the public because they concern Adjudication Matters (See 47 CFR 0.603(j)).

The following persons are expected to attend the appropriate portions of this meeting:

Commissioners and their Assistants
Managing Director and members of his staff
General Counsel and members of his staff
Chief, Office of Public Affairs and members of his staff

Action by the Commission September 1, 1983.

Commissioners Fowler, Chairman, Quello, Dawson and Rivera voting to consider these items in Closed Session.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 254–7674.

Issued: September 1, 1983.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S–1250–83 Filed 9–6–83; 12:28 pm]

BILLING CODE 6712–01–M

6

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the"Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporations' Board of Directors will meet in open session at 2 p.m. on Monday, September 12, 1983, to consider the following matters:

Summary Agenda: No substantive discussion of the followinag items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Application for Federal deposit insurance:

Oahu Finance Company; Ltd., and operating noninsured industrial bank located at 94–889 Waipahu Street, Waipahu, Hawaii

Recommendations regarding the liquidation of a bank's assests acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 45,768–L: Banco Regional, Bayamon, Puerto Rico

Memorandum and Resolution re: Penn Square Bank National Association Oklahoma City, Oklahoma

Memorandum and Resolution re: Final amendment to Part 337 of the Corporation's rules and regulations, entitled "Unsafe and Unsound Banking Practices," which would: (1) Eliminate the current requirement for prior approval by a majority of a bank's board of directors of all extensions of credit exceeding in the aggregate $25,000 that are made to one of the bank's directors, executive officers, principal shareholders, or any related interest of any such person; and (2) substitute a prior approval formula whereby extensions of credit in excess of five percent of capital and unimpaired surplus or $25,000, whichever is larger, must receive prior approval but in no event may any extension of credit or line of credit exceeding in the aggregate $500,000 be made without prior approval of the bank's board of directors.

Memorandum and Resolution re: Final amendments to Part 348 of FDIC's rules and regulations, entitled "Management Official Interlocks," which would: (a) Simplify the procedure for obtaining exemptions from the Act's prohibitions and extensions of time to permit compliance with the Act; (b) ease the burden of the Act on depository institution holding companies by redefining the terms "office" and "total assets;" (c) exclude from certain of the Act's prohibitions management officials whose functions relate exclusively to retail merchandising and manufacturing; (d) broaden the circumstances under which the "disruptive management loss" exemption from the Act's prohibitions is available; (e) clarify the circumstances that require termination of non-grandfathered management official interlocks; and (f) provide that interlocks between depository organizations and nondepository organizations that become diversified savings and loan holding companies, or their subsidiaries, need not be broken until November 10, 1988, despite the occurrence of changes in circumstances.

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications, requests, or actions involving administrative enforcement proceedings approved by the Director or an Associate Director of the Division of Bank Supervision and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Report of the Director, Division of Liquidation:

Memorandum re: Case No. 45,624–L, Bollinger County Bank Lutersiville, Missouri

Discussion Agenda:

No matters scheduled

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street NW., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: September 2, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–1261–83 Filed 9–2–83; 3:23 pm]

BILLING CODE 6714–01–M

7

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, September 12, 1983, The Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsectins (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Recommendations regarding the Corporation's assistance agreements with insured banks pursuant to section 13 of the Federal Deposit Insurance Act.

Discussion Agenda:

Application for Federal deposit insurance:

Rainbow Finance Corporation, an operating noninsured industrial bank located at 77 Merchant Street, Honolulu, Hawaii

Application for consent to establish a branch:

Union Bank, Tucson, Arizona, for consent to establish a branch at #37 Haven's Green Valley Mall, Green Valley, Arizona

Request for an extension of time to establish a branch:

Centennial Bank, Springfield, Oregon, for an extension of time within which to establish its approved branch to be located at the intersection of 40th Avenue and Donald, Eugene, Oregon.

Application pursuant to section 19 of the Federal Deposit Insurance Act for consent to service of a person convicted of an offense involving dishonesty or a breach of a trust as a director, officer, or employee of an insured bank:

Name of person and of bank authorized to be exempt from disclosure pursuant to provisions of subsectins (c)(6, (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Memorandum and Resolution re: American City Bank, Los Angeles, California

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: September 2, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–1202 Filed 9–2–83; 3:23 pm]

BILLING CODE 6714–01–M

8

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 4:05 p.m. on Thursday, September 1, 1983, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider the following matters:

Recommendation regarding a proposal for financial assistance to facilitate a voluntary merger of savings banks: Names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii)).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.: Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(2), (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii)).

Dated: September 2, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–1203–83 Filed 9–2–83; 3:22 pm]

BILLING CODE 6714–01–M

9

FEDERAL ELECTION COMMISSION

DATE AND TIME: Thursday, September 15, 1983 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C. (fifth floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates for future meetings
Correction and approval of minutes
Eligibility report for candidates to receive Presidential Primary Matching Funds
Draft Advisory Opinion 1983–13: Sidney H. Kalban, on behalf of NWU–PLOW
Draft Advisory Opinion 1983–21: Congressman Gerry E. Studds
Draft Advisory Opinion 1983–22: Charles Schillings, on behalf of Northwest Central PAC
Proposed Revisions of 11 CFR 114.3, 114.4, and 114.8 (if not concluded on Wednesday, September 14, 1983)
FOIA Fee Waiver Appeal—Herbert E. Alexander Citizens Research Foundation
Proposal to revise the "testing the waters" regulations to preclude the acceptance of funds that would otherwise be limited or prohibited

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, Telephone: 202–523–4065.

Marjorie W. Emmons,

Secretary of the Commission.

[S–1252–83 Filed 9–2–83; 11:16 am]

BILLING CODE 6715–01–M

10

FEDERAL ELECTION COMMISSION

DATE AND TIME: Monday, September 12, 1983, 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C. (fifth floor).

STATUS: This meeting will be open to the public.

MATTER TO BE CONSIDERED: Fiscal year 1985 budget.

* * * * *

DATE AND TIME: Tuesday, September 13, 1983, 10 a.m.,

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED: Compliance. Litigation. Audits. Personnel.

* * * * *

DATE AND TIME: Wednesday, September 14, 1983, 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C. (fifth floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Proposed Revisions to 11 CFR 114.3, 114.4, and 114.8

[S–1253–83 Filed 9–2–83; 11:16 am]

BILLING CODE 6715–01–M

11

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

August 31, 1983.

TIME AND DATE: 10 a.m., Wednesday, September 7, 1983.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. United Mine Workers of America on behalf of Billy Dale Wise v. Consolidation Coal Company, Docket No. WEVA 82–38–D. (Issues include whether the ALJ erred in dismissing a discrimination complaint filed by a safety committeeman.)

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653–5632.

[S–1250–83 Filed 9–2–83; 12:26 pm]

BILLING CODE 6735–01–M

12

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10 a.m., Monday, September 12, 1983.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: September 2, 1983.

James McAfee,

Associate Secretary of the Board.

[S–1200–83 Filed 9–3–83; 3:11 pm]

BILLING CODE 6210–01–M

13

INTERNATIONAL TRADE COMMISSION

TIME AND DATE: 9 a.m. (p.t.d.) and 12 noon (e.d.t.), Monday, September 12, 1983.

PLACE: Los Angeles Hilton, 930 Wilshire Blvd., Los Angeles, and Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints:

a. Certain Duracell alkaline batteries (Docket No. 965).

5. Investigation 731–TA–103 (Final) (Cotton Shop Towels from the People's Republic of China)—briefing and vote.
6. Investigations 731–TA–140, –141, –142, and –144 (Preliminary) (Spindle Belting from the Federal Republic of Germany, Italy, Spain, and Switzerland)—briefing and vote.
7. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary(202) 523–0161.

[S–1254–83 Filed 9–2–83; 11:52 am]

BILLING CODE 7020–02–M

14

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

TIME:

October 5, 1983:

1 p.m. to 5 p.m.

1 p.m. to 2 p.m. (closed)

Executive Session: (closed meeting—Sec. 1703.202 (2) and (6) of the Code of Federal Regulations, 45 CFR, Part 1703)

October 6, 1983:

9 a.m. to 12 p.m.

October 7, 1983:

9 a.m. to 12 p.m.

DATE: October 5, 6, and 7, 1983, respectively.

PLACE: Hyatt Regency Crystal City, 2799 Jefferson Davis Highway, Arlington, Virginia 22202.

STATUS: Open.

MATTERS TO BE DISCUSSED:

Chairman's Report
Approval of Agenda
Approval of Minutes
Executive Director's Report—Report on the Blue Ribbon Panel on the Information Policy Implications of Archiving Satellite Data
Louis Vagianos, Executive Director, The Institute for Research on Public Policy.
Discussion, International Reciprocity
Discussion of FY 1984 Programs
IFLA 1985 Ad Hoc Committee Report
Introduction to ASIS Representatives and Programs
Forrest W. Horton—White House Conference on Productivity and the ASIS Conference
Discussion of Implications of Conferences for the Library/Information Field
Old Business

CONTACT PERSON FOR MORE INFORMATION: Toni Carbo Bearman, Executive Director.

Toni Carbo Bearman,
NCLIS Executive Director.
August 31, 1983.

[S–1257–83 Filed 9–2–83; 12:28 pm]

BILLING CODE 7527–01–M

15

NATIONAL MEDIATION BOARD

TIME AND DATE: 2 p.m., Wednesday, September 14, 1983.

PLACE: Board Hearing Room, Eighth floor, 1425 K. Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Ratification of the Board actions taken by notation voting during the month of August 1983.
2. Other priority matters which may come before the Board for which notice will be given at the earliest practicable time.

SUPPLEMENTARY INFORMATION: Copies of the monthly report of the Board's notation voting actions will ba available from the Executive Secretary's office following the meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Rowland K. Quinn, Jr., Executive Secretary, Telephone: (202) 523–5920.

Dated: September 2, 1983.

[S–1259–83 Filed 9–2–83; 12:58 pm]

BILLING CODE 7550–01–M

federal register

Wednesday
September 7, 1983

Part II

Department of Energy

Federal Energy Regulatory Commission

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Volume 962]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

August 31, 1983.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274–104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register**.

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Rd, Springfield, Va 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OSC lease
102–2: New well (2.5 Mile rule)
102–3: New well (1000 Ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal Seams
107–DV: Devonian Shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS — VOLUME 962
ISSUED AUGUST 31, 1983

JD NO	JA DKT	API NO	B	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
WEST VIRGINIA DEPARTMENT OF MINES									
-COLUMBIA GAS TRANSMISSION CORP		RECEIVED: 08/16/83		JA: WV					
8350206		4708702116	108			A A KNIGHT #2 801774			
8350168		4708702290	108			A B HALL 801290	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8349979		4708702325	108			A C COTTRELL 801591	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8349986		4708702115	108			A J ROBERTS 800978	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350417		4704302086	108			A K WATERS 805913	W VA FIELD AREA A	4.0	COLUMBIA GAS TRAN
8350060		4708702119	108			A R RUNION 800262	W VA FIELD AREA B	0.8	COLUMBIA GAS TRAN
8350317		4703900236	108			AHAZ SPENCER #1 805705	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8350077		4708702326	108			AL KEEFER 800582	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350406		4705100592	108			AMELIA ESTEP ETAL 801219	W VA FIELD AREA A	0.3	COLUMBIA GAS TRAN
8350074		4708702293	108			ANDREW PARKS 801170	WV SHALLOW	1.0	COLUMBIA GAS TRAN
8350293		4704301966	108			ANDREW WATTS SURFACE 805953	W VA FIELD AREA A	4.0	COLUMBIA GAS TRAN
8350359		4708702121	108			ANNA B MOORE 801308	W VA FIELD AREA B	10.0	COLUMBIA GAS TRAN
8350056		4708702295	108			B E BRADLEY 801178	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350043		4703901191	108			B F QUICK 805598	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350344		4708702124	108			B M COOK 800743	W VA FIELD AREA A	10.0	COLUMBIA GAS TRAN
8350038		4703902986	108			BARAUM JARRETT 801384	W VA FIELD AREA A	0.1	COLUMBIA GAS TRAN
8350064		4708702125	108			BASCOM CHAPMAN 800009	W VA FIELD AREA A	0.1	COLUMBIA GAS TRAN
8350188		4708702126	108			BASCOM CHAPMAN 803920	W VA FIELD AREA A	0.6	COLUMBIA GAS TRAN
8350177		4704301968	108			BAZIL EPLIN 802180	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350244		4705100569	108			BERTHA LILLEY 801508	W VA FIELD AREA B	7.0	COLUMBIA GAS TRAN
8350218		4708702127	108			BETTY A DAMEWOOD 800264	WV SHALLOW	1.0	COLUMBIA GAS TRAN
8350045		4703901159	108			BLACK BAND C & C #13 805422	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350049		4703902048	108			BLACK BAND C & C CO 803969	W VA FIELD AREA A	21.0	COLUMBIA GAS TRAN
8350048		4703900042	108			BLACK BAND C & C CO 804066	W VA FIELD AREA A	5.0	COLUMBIA GAS TRAN
8350044		4703901912	108			BLACK BAND C & C CO 809235	W VA FIELD AREA A	5.0	COLUMBIA GAS TRAN
8350046		4703901113	108			BLACK BAND COAL CO 805408	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8350047		4703901018	108			BLACK BANK C & C CO 805252	W VA FIELD AREA A	7.0	COLUMBIA GAS TRAN
8350050		4703901844	108			BLACK BANK COAL CO 801965	W VA FIELD AREA A	28.0	COLUMBIA GAS TRAN
8350144		4703901872	108			BLUE CK COAL & LAND 809146	W VA FIELD AREA A	6.0	COLUMBIA GAS TRAN
8350145		4703901873	108			BLUE CK COAL & LAND 809147	W VA FIELD AREA A	6.0	COLUMBIA GAS TRAN
8350010		4703901948	108			BLUE CK COAL & LAND 809278	W VA FIELD AREA A	10.0	COLUMBIA GAS TRAN
8350011		4703901977	108			BLUE CK COAL & LAND 809312	W VA FIELD AREA A	6.0	COLUMBIA GAS TRAN
8350146		4703901874	108			BLUE CREEK COAL & LAND CO 809148	W VA FIELD AREA A	5.0	COLUMBIA GAS TRAN
8350319		4704302090	108			BRANCHLAND COAL CO 802144	W VA FIELD AREA A	6.0	COLUMBIA GAS TRAN
8350306		4705900650	108			BRIAR MT C & CO 15 808915	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350332		4701500544	108			BROWN - GOSHORN & SWAN 808782	W VA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8350330		4701500830	108			BROWN - GOSHORN & SWAN 809376	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8350329		4701500028	108			BROWN GOSHORN & SWAN 804073	W VA FIELD AREA A	0.9	COLUMBIA GAS TRAN
8350327		4701500807	108			BROWN GOSHORN & SWAN 809382	WEST VIRGINIA FIELD A	1.0	COLUMBIA GAS TRAN
8350325		4701500878	108			BROWN GOSHORN & SWAN 809480	W VA FIELD AREA A	17.0	COLUMBIA GAS TRAN
8350334		4701500557	108			BROWN-GOSHORN & SWAN 808883	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350333		4701500806	108			BROWN-GOSHORN & SWAN 809374	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350331		4701500810	108			BROWN-GOSHORN & SWAN 809377	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350328		4701500809	108			BROWN-GOSHORN & SWAN 809381	W VA FIELD AREA A	0.7	COLUMBIA GAS TRAN
8350326		4701500814	108			BROWN-GOSHORN & SWAN 809383	W VA FIELD AREA A	15.0	COLUMBIA GAS TRAN
							W VA FIELD AREA A	14.0	COLUMBIA GAS TRAN

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8350238		4705100010	108			BRYON MCCRACKEN 603403	WV SHALLOW	0.7	COLUMBIA GAS TRAN
8350073		4708702298	108			C P HASCUE 801172	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8349999		4708500753	108			C RIVER M & L CO 805826	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350385		4703902011	108			CAMPBELL CK COAL 07 809344	W VA FIELD AREA A	7.0	COLUMBIA GAS TRAN
8350384		4703902012	108			CAMPBELL CK COAL 18 809345	W VA FIELD AREA A	4.0	COLUMBIA GAS TRAN
8349988		4708702335	108			CAROLINA CAMPBELL 800682	W VA FIELD AREA A	0.1	COLUMBIA GAS TRAN
8350247		4710300727	108			CARRIE LOUGH 601601	WV SHALLOW	11.0	COLUMBIA GAS TRAN
8350103		4708702149	108			CB DRENNEN 800038	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350084		4708702296	108			CC HAMMACK 801101	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8349962		4705900077	108			CENTRAL TRUST 013 805409	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8349963		4705900076	108			CENTRAL TRUST CO 012 805408	W VA FIELD AREA B	0.6	COLUMBIA GAS TRAN
8350310		4705900078	108			CENTRAL TRUST CO 014 805410	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8349961		4705900127	108			CENTRAL TRUST CO 015 806175	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8349960		4705900156	108			CENTRAL TRUST CO 018 806313	W VA FIELD AREA B	0.3	COLUMBIA GAS TRAN
8349959		4705900318	108			CENTRAL TRUST CO 027 806984	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350308		4705900006	108			CENTRAL TRUST CO 804236	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350309		4705900033	108			CENTRAL TRUST CO 804346	W VA FIELD AREA B	0.3	COLUMBIA GAS TRAN
8350208		4704302095	108			CHARLES MILLER L&LD 802023	W VA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8350161		4708702334	108			CHAS M ABBOTT 800658	W VA FIELD AREA A	0.1	COLUMBIA GAS TRAN
8350261		4710300728	108			CHAS SHAVER AGT ETAL 602029	WV SHALLOW	0.0	COLUMBIA GAS TRAN
8350080		4708500959	108			COAL RV M & L CO 011 809308	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350081		4708500946	108			COAL RV M & L CO 016 809211	W VA FIELD AREA B	0.0	COLUMBIA GAS TRAN
8349998		4708500794	108			COAL RV M & L CO 03 806265	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8349996		4708500819	108			COAL RV M & L CO 05 806436	W VA FIELD AREA B	12.0	COLUMBIA GAS TRAN
8349997		4708500817	108			COAL RV M & L CO 06 806428	W VA FIELD AREA B	19.0	COLUMBIA GAS TRAN
8349993		4708500938	108			COAL RV M & L CO 08 809144	W VA FIELD AREA B	30.0	COLUMBIA GAS TRAN
8349994		4708500939	108			COAL RV M & L CO 09 809166	W VA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8350271		4705900775	108			COTIGA DEV CO 012 809396	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350296		4705901270	108			COTIGA DEV CO 013 808141	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350303		4705900353	108			COTIGA DEV CO 015 808007	W VA FIELD AREA B	16.0	COLUMBIA GAS TRAN
8350299		4705900613	108			COTIGA DEV CO 017 808796	W VA FIELD AREA B	15.0	COLUMBIA GAS TRAN
8350302		4705900631	108			COTIGA DEV CO 019 808819	W VA FIELD AREA B	13.0	COLUMBIA GAS TRAN
8350274		4705900698	108			COTIGA DEV CO 021 809087	W VA FIELD AREA B	11.0	COLUMBIA GAS TRAN
8350272		4705900774	108			COTIGA DEV CO 023 809395	W VA FIELD AREA B	0.3	COLUMBIA GAS TRAN
8350305		4705900681	108			COTIGA DEV CO 032 808964	W VA FIELD AREA B	8.0	COLUMBIA GAS TRAN
8349957		4705900711	108			COTIGA DEV CO 034 808967	W VA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8350297		4705900399	108			COTIGA DEV CO 05 808219	W VA FIELD AREA B	10.0	COLUMBIA GAS TRAN
8350301		4705900419	108			COTIGA DEV CO 06 808220	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350298		4705900473	108			COTIGA DEV CO 08 808188	W VA FIELD AREA A	11.0	COLUMBIA GAS TRAN
8350300		4705900587	108			COTIGA DEV CO MO 16 808700	W VA FIELD AREA B	11.0	COLUMBIA GAS TRAN
8350304		4705900576	108			COTIGA DEV CO 808140	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350089		4708702335	108			CUMMINGS MRS 800246	W VA FIELD AREA A	0.9	COLUMBIA GAS TRAN
8350233		4701702166	108			D C HAUGHT ETAL 603167	WV SHALLOW	0.2	COLUMBIA GAS TRAN
8350352		4708702150	108			D C TAYLOR MRS 801667	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350370		4708702336	108			D D KELLY 801391	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350121		4708702337	108			D G WALKER 800234	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8349971		4708700291	108			D M WILLIS ET AL 804775	W VA FIELD AREA A	4.0	COLUMBIA GAS TRAN
8350163		4708702151	108			DAN'L M HOFF 800603	W VA FIELD AREA A	0.3	COLUMBIA GAS TRAN
8350087		4708702299	108			DANA SPARR 0801043	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350082		4708702338	108			DANL JONES 800344	W VA FIELD AREA A	0.8	COLUMBIA GAS TRAN
8350215		4705100593	108			DAVID DOWDELL ETAL 601227	WV SHALLOW	1.0	COLUMBIA GAS TRAN
8350213		4705100594	108			DAVID E CROW 601221	WV SHALLOW	1.0	COLUMBIA GAS TRAN
8350108		4703901154	108			DAVID WARD 05 805503	W VA FIELD AREA A	12.0	COLUMBIA GAS TRAN
8350034		4703901866	108			DAVID WARD 809180	W VA FIELD AREA A	5.0	COLUMBIA GAS TRAN
8350032		4703901857	108			DAVID WARD 809181	W VA FIELD AREA A	6.0	COLUMBIA GAS TRAN
8350033		4703901959	108			DAVID WARD 809290	W VA FIELD AREA A	5.0	COLUMBIA GAS TRAN
8349956		4703901962	108			DAVID WARD 809293	W VA FIELD AREA A	6.0	COLUMBIA GAS TRAN
8350085		4703902013	108			DAVID WARD 809294	W VA FIELD AREA A	4.0	COLUMBIA GAS TRAN
8350031		4703901858	108			DAVID WARE 809182	W VA FIELD AREA A	6.0	COLUMBIA GAS TRAN
8350176		4704302098	108			E E ADKINS ETAL 802104	W VA FIELD AREA B	32.0	COLUMBIA GAS TRAN
8350212		4708702154	108			ED BULLARD 800270	W VA FIELD AREA A	4.0	COLUMBIA GAS TRAN
8350316		4703903123	108			EDWARD GEBHART 800428	W VA FIELD AREA A	5.0	COLUMBIA GAS TRAN
8350265		4705100577	108			EDWIN MONROE AGT 602956	WV SHALLOW	0.4	COLUMBIA GAS TRAN
8350099		4708702152	108			EE NIDA - 800154	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350061		4708702340	108			EFFIE MORGAN 800013	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350342		4708702155	108			ELIZABETH MCCUNE 800807	W VA FIELD AREA A	0.7	COLUMBIA GAS TRAN
8350397		4706100158	108			ELSIE MAYNLE ADM 603674	WV SHALLOW	1.0	COLUMBIA GAS TRAN
8350218		4705100578	108			EMERALD COAL CO 600991	WV SHALLOW	1.0	COLUMBIA GAS TRAN
8350294		4704301971	108			EMILY MCCOMAS 805994	W VA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8350201		4708702308	108			ESTALINE CAMPBELL 801651	W VA FIELD AREA A	0.8	COLUMBIA GAS TRAN
8350027		4703902394	108			EVERETT MAYNES 01 809508	ROCK FORK	0.0	COLUMBIA GAS TRAN
8350426		4704302108	108			F A HARLESS 802046	W VA FIELD AREA B	8.0	COLUMBIA GAS TRAN
8350040		4703903004	108			FANNIE L GIBSON 801133	W VA FIELD AREA A	0.0	COLUMBIA GAS TRAN
8350267		4705100579	108			FIRST NATL BANK 601550	WV SHALLOW	1.0	COLUMBIA GAS TRAN
8350237		4705100601	108			FIRST NATL BANK 603394	WV SHALLOW	0.8	COLUMBIA GAS TRAN
8350236		4705100570	108			FLO ELBIN ETAL 603391	WV SHALLOW	2.0	COLUMBIA GAS TRAN
8350226		4710300722	108			FRANCES B BOWERS 601138	WV SHALLOW	3.0	COLUMBIA GAS TRAN
8349981		4708700104	108			FRANK P LOONEY 804385	W VA FIELD AREA A	0.6	COLUMBIA GAS TRAN
8350420		4704302109	108			FRED WINTERS 802251	W VA FIELD AREA B	11.0	COLUMBIA GAS TRAN
8350295		4704302110	108			FREE LD DIAL 806035	W VA FIELD AREA B	5.2	COLUMBIA GAS TRAN
8350389		4709700461	108			G D MCCOY 650539	UNION DISTRICT	1.0	COLUMBIA GAS TRAN
8350207		4709700487	108			G D MCCOY 650546	UNION DISTRICT	1.0	COLUMBIA GAS TRAN
8350081		4708702303	108			G E SHELTON 800311	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8350416		4704302111	108			G F CLARK 802250	W VA FIELD AREA B	10.0	COLUMBIA GAS TRAN
8350111		4703903005	108			G G REYNOLDS 803030	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350075		4708702159	108			G M & ROXIE GROVES 800581	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350346		4708702342	108			G M & SL WALKER 800738	W VA FIELD AREA A	0.4	COLUMBIA GAS TRAN
8350264		4710300723	108			G W CLARK ETAL 602753	WV SHALLOW	1.0	COLUMBIA GAS TRAN
8350153		4703901381	108			GALLATIN MINING 011 806238	W VA FIELD AREA A	4.0	COLUMBIA GAS TRAN
8350154		4703901389	108			GALLATIN MINING 012 806244	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350106		4703901373	108			GALLATIN MINING 09 806221	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350155		4703901181	108			GALLATIN MINING CO 04 805549	W VA FIELD AREA A	8.0	COLUMBIA GAS TRAN
8350028		4703901321	108			GALLATIN MINING CO 805829	W VA FIELD AREA A	0.3	COLUMBIA GAS TRAN
8350042		4703901390	108			GALLATIN MINING CO 806245	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8350124		4703901894	108			GALLATIN MINING CO 809217	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350125		4703901943	108			GALLATIN MINING CO 809260	W VA FIELD AREA A	0.7	COLUMBIA GAS TRAN
8350152		4703901374	108			GALLATIN MINING MO 10 806222	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350131		4703901242	108			GALLATIN MINING MO 5 805725	W VA FIELD AREA A	7.0	COLUMBIA GAS TRAN
8350130		4703901357	108			GALLATIN MINING MO 7 806176	W VA FIELD AREA A	8.0	COLUMBIA GAS TRAN
8350132		4703901368	108			GALLATIN MINING MO 8 806201	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350088		4708702170	108			GEARY DRENNEN 801112	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350058		4708702171	108			GEARY DRENNEN 801231	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350151		4703900054	108			GEO CK LAND & MIN CO 804898	W VA FIELD AREA A	5.0	COLUMBIA GAS TRAN
8350129		4703900270	108			GEO CK LAND & MIN CO 804679	W VA FIELD AREA A	7.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8350003		4703900354		108		GEO CK LAND & MIN CO 804742	W VA FIELD AREA A	5.0	COLUMBIA GAS TRAN
8349965		4703901865		108		GEO CK LAND & MIN CO 809194	W VA FIELD AREA A	14.0	COLUMBIA GAS TRAN
8349964		4703901923		108		GEO CK LAND & MIN CO 809237	W VA FIELD AREA A	4.0	COLUMBIA GAS TRAN
8350052		4703901946		108		GEO CK LAND & MIN CO 809259	W VA FIELD AREA A	17.0	COLUMBIA GAS TRAN
8350051		4703901957		108		GEO CK LAND & MIN CO 809291	W VA FIELD AREA A	17.0	COLUMBIA GAS TRAN
8350004		4703901965		108		GEO CK LAND & MIN CO 809292	W VA FIELD AREA A	14.0	COLUMBIA GAS TRAN
8350009		4703901979		108		GEO CK LAND & MIN CO 809313	W VA FIELD AREA A	18.0	COLUMBIA GAS TRAN
8350150		4703900241		108		GEO CK LAND & MINING CO 804637	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350002		4703901834		108		GEO CK LAND & MINING CO 809154	W VA FIELD AREA A	7.0	COLUMBIA GAS TRAN
8350100		4708702174		108		GEORGE R PETTIT 800115	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350023		4701100598		108		GEORGE WOODRAFFE 803733	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350249		4705100575		108		GLADYS YOHO 601288	WV SHALLOW	2.0	COLUMBIA GAS TRAN
8350142		4703901361		108		GLEN HAYES CO 809084	W VA FIELD AREA B	8.0	COLUMBIA GAS TRAN
8350242		4709700517		108		GRACIE M FORINASH 650557	UNION DISTRICT	3.0	COLUMBIA GAS TRAN
8350241		4709700518		108		GRACIE M FORINASH 650558	UNION DISTRICT	2.0	COLUMBIA GAS TRAN
8350422		4704302112		108		GUY PARSONS 802239	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350209		4704301997		108		GUYAN LD ASSN 802049	W VA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8350411		4704301975		108		GUYAN LD ASSN 802058	W VA FIELD AREA B	8.0	COLUMBIA GAS TRAN
8350409		4704301976		108		GUYAN LD ASSN 802198	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350414		4704301977		108		GUYAN LD ASSN 802231	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350423		4704301978		108		GUYAN LD ASSN 802232	W VA FIELD AREA B	20.0	COLUMBIA GAS TRAN
8350413		4704301979		108		GUYAN LD ASSN 802234	W VA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8350292		4704301983		108		GUYAN LD ASSN 802363	W VA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8350413		4704301985		108		GUYAN LD ASSN 805973	W VA FIELD AREA B	7.0	COLUMBIA GAS TRAN
8350286		4704301998		108		GUYAN LD ASSN 806036	W VA FIELD AREA B	7.0	COLUMBIA GAS TRAN
8350185		4708702175		108		H A SMITH ETAL 801459	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350068		4708700044		108		H C SIMMONS 804089	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350307		4705900005		108		H CLOSTERMAN 804237	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350362		4708702176		108		H D JARRETT 801334	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350078		4708702177		108		H D JARRETT 801589	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350205		4708702178		108		H D SERGENT 801837	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8349991		4703501448		108		H E EDWARD ETAL 803596	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350022		4703501449		108		H E EDWARD ETAL 803670	W VA FIELD AREA A	0.9	COLUMBIA GAS TRAN
8350371		4704301999		108		H K WALTERS 805900	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350321		4704301882		108		H L STICKLER 805170	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350102		4708702343		108		H M VINEYARD 800052	W VA FIELD AREA A	0.2	COLUMBIA GAS TRAN
8350072		4708702344		108		H M VINEYARD 801393	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350383		4703901528		108		H P JARRETT 02 806559	W VA FIELD AREA A	4.0	COLUMBIA GAS TRAN
8350174		4708702181		108		H R CARPER 8800693	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350162		4708702180		108		H R CARPER 800612	W VA FIELD AREA A	0.1	COLUMBIA GAS TRAN
8350338		4708702182		108		H R CARPER 800856	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350191		4708702183		108		H R STUMP 801882	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350189		4708702184		108		HANNA MESS 802496	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350269		4705100581		108		HARRY A WENDT ETAL 602059	WV SHALLOW	0.6	COLUMBIA GAS TRAN
8350285		4704302000		108		HARRY HAYES 802141	W VA FIELD AREA B	19.0	COLUMBIA GAS TRAN
8350374		4704301137		108		HERBERT ADKINS 808158	W VA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8350398		4706100407		108		HOWARD PRICE ETAL 601178	WV SHALLOW	1.0	COLUMBIA GAS TRAN
8350188		4704300564		108		HUNT DEV & GAS CO 802194	W VA FIELD AREA B	6.1	COLUMBIA GAS TRAN
8350367		4709900365		108		HUNT DEV & GAS MIN 805731	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350257		4704300619		108		HUNT DEV & GAS 806133	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350353		4708702187		108		I P SMITH 801664	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350341		4708902188		108		I W BOGGS 801331	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350251		4703901085		108		IMPERIAL COAL CO 836 805347	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350336		4703901108		108		IMPERIAL COAL CO 839 805375	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350315		4703901128		108		IMPERIAL COAL CO 84 805474	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8350387		4703901202		108		IMPERIAL COAL CO 849 805582	W VA FIELD AREA A	0.7	COLUMBIA GAS TRAN
8350386		4703901203		108		IMPERIAL COAL CO 850 805583	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350407		4703901199		108		IMPERIAL COAL CO 851 805584	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350365		4703901086		108		IMPERIAL COAL CO 34 805348	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350312		4703901135		108		IMPERIAL COAL CO 4 805478	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8350314		4703901129		108		IMPERIAL COAL CO 44 805475	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350313		4703901133		108		IMPERIAL COAL CO 45 805476	W VA FIELD AREA A	6.0	COLUMBIA GAS TRAN
8350259		4703901200		108		IMPERIAL COAL CO 52 805585	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8350250		4703901345		108		IMPERIAL COAL CO 58 805811	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350143		4703901852		108		IMPERIAL COAL CO 809160	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8350140		4703901583		108		IMPERIAL COAL CO 809161	W VA FIELD AREA A	6.0	COLUMBIA GAS TRAN
8350228		4705100571		108		IRENE BURNS AGT ETAL 601893	WV SHALLOW	0.8	COLUMBIA GAS TRAN
8350026		4703902392		108		IRENE MARSHALL ETAL 809525	ROCKY FORK	0.3	COLUMBIA GAS TRAN
8350403		4705100572		108		IRMA CALDWELL ETAL 601017	WV SHALLOW	0.4	COLUMBIA GAS TRAN
8350248		4701702172		108		IVA HOLMES AGT ETAL 602004	WV SHALLOW	0.0	COLUMBIA GAS TRAN
8350230		4703301631		108		IVEL GARRETT ETAL 601376	WV SHALLOW	1.0	COLUMBIA GAS TRAN
8350343		4708702198		108		J & MC HALL 800757	W VA FIELD AREA A	0.8	COLUMBIA GAS TRAN
8350110		4703903422		108		J A ROSS 800401	W VA FIELD AREA A	8.0	COLUMBIA GAS TRAN
8349980		4708702191		108		J B CARPER 800883	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350350		4708702300		108		J C HIVELY 801675	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350219		4710300746		108		J CARL PALMER 603506	WV SHALLOW	1.0	COLUMBIA GAS TRAN
8350280		4708700188		108		J D LOONEY 804572	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350181		4703903158		108		J D TAYLOR 803373	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8350335		4701500009		108		J F BROWN ETAL 804000	W VA FIELD AREA A	0.6	COLUMBIA GAS TRAN
8350276		4709900288		108		J F CALDWELL 02 805265	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350279		4709900281		108		J F CALDWELL 03 805266	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350253		4704302005		108		J F CALDWELL 805903	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350278		4709900710		108		J F CALDWELL 806561	W VA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8350057		4708702192		108		J F HARRAH 801212	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350059		4708702347		108		J F JONES 800259	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350157		4708702193		108		J F PAYNE 801315	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350347		4708702348		108		J G & L F WESTFALL 800737	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350184		4708702195		108		J G MYERS 800032	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350376		4704300588		108		J L CALDWELL 06 805901	W VA FIELD AREA B	10.0	COLUMBIA GAS TRAN
8350275		4709901198		108		J L CALDWELL 804497	W VA FIELD AREA B	10.0	COLUMBIA GAS TRAN
8350289		4704302002		108		J L CALDWELL 805883	W VA FIELD AREA B	11.0	COLUMBIA GAS TRAN
8350373		4704302003		108		J L CALDWELL 805884	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350252		4704302004		108		J L CALDWELL 805899	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350323		4704301988		108		J L CALDWELL 805902	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350418		4704302006		108		J L CALDWELL 805905	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350322		4704301989		108		J L CALDWELL 805906	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350254		4704301990		108		J L CALDWELL 805908	W VA FIELD AREA B	12.0	COLUMBIA GAS TRAN
8350255		4704301991		108		J L CALDWELL 805909	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350256		4704302007		108		J L CALDWELL 805912	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350379		4704302008		108		J L CALDWELL 805915	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350372		4704301992		108		J L CALDWELL 805916	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8350378		4704300926		108		J L CALDWELL 805918	W VA FIELD AREA B	7.0	COLUMBIA GAS TRAN
8350320		4704301993		108		J L CALDWELL 805919	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350097		4708702196		108		J L MOORE 800172	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	B	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8350168		4708702198		108		J M ARMSTEAD 801740	N VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350366		4709901624		108		J M CURRY 803961	N VA FIELD AREA B	8.0	COLUMBIA GAS TRAN
8350287		4704301371		108		J M DIAL 806039	N VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350069		4708700043		108		J M MOORE ETAL 804232	N VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350345		4708702199		108		J M MOORE 800747	N VA FIELD AREA A	0.7	COLUMBIA GAS TRAN
8350079		4708702208		108		J M MOORE 801539	N VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350107		4708702308		108		J M WELCH 801152	N VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350391		4710300730		108		J P GIBLIN AGT ETAL 601151	WV SHALLOW	0.6	COLUMBIA GAS TRAN
8350192		4708702201		108		J Q DICKINSON ETAL 801881	N VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350007		4703903009		108		J R & S E RYAN 800043	N VA FIELD AREA A	0.8	COLUMBIA GAS TRAN
8350318		4704302010		108		J R BRANCH 802190	N VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8349976		4708702203		108		J S ASHLEY 801620	N VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350202		4708702310		108		J W KELLEY 801627	N VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8349992		4708702353		108		J W SHAFFER 8800627	N VA FIELD AREA A	0.8	COLUMBIA GAS TRAN
8350184		4708702205		108		JAMES CUTLIP 801462	N VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350221		4710300724		108		JAMES F PENDERGAST 602908	WV SHALLOW	0.4	COLUMBIA GAS TRAN
8350229		4705100582		108		JAMES KINSEY AGT 602881	WV SHALLOW	0.8	COLUMBIA GAS TRAN
8350178		4704302012		108		JAS M DIAL 802076	N VA FIELD AREA B	13.0	COLUMBIA GAS TRAN
8349977		4708702207		108		JAS REED 801619	N VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350419		4706300754		108		JENNIE HALL 802278	N VA FIELD AREA B	18.0	COLUMBIA GAS TRAN
8350223		4705100583		108		JOHN E BURLEY ETAL 601975	WV SHALLOW	1.0	COLUMBIA GAS TRAN
8350234		4710300725		108		JOHN R SAPP ETAL 603830	WV SHALLOW	1.0	COLUMBIA GAS TRAN
8350392		4707700070		108		JOSEPH E REGER 604868	N VA SHALLOW	20.0	COLUMBIA GAS TRAN
8350402		4700500073		108		JULIAN HILL ETAL 01 803950	N VA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8350171		4708702355		108		K K LOWE 801269	N VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350224		4705100585		108		KEITH A MCCRACKEN 602879	WV SHALLOW	0.8	COLUMBIA GAS TRAN
8350284		4709700527		108		KENT SMITH ETAL 650564	UNION DISTRICT	8.0	COLUMBIA GAS TRAN
8350141		4703901719		108		KING LAND CO 808960	N VA FIELD AREA A	8.0	COLUMBIA GAS TRAN
8350095		4708702213		108		L A ENGLE 800202	N VA FIELD AREA A	0.3	COLUMBIA GAS TRAN
8350357		4708702214		108		L A ENGLE 800983	N VA FIELD AREA A	0.7	COLUMBIA GAS TRAN
8350083		4708702215		108		L A HOPKINS 800402	N VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8349985		4708702323		108		L D SIMMONS 800651	N VA FIELD AREA A	0.1	COLUMBIA GAS TRAN
8350172		4708702216		108		L G NESTOR 801242	N VA FIELD AREA A	0.3	COLUMBIA GAS TRAN
8350096		4708702217		108		L M JARRETT 800208	N VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8349972		4708702356		108		L M KELLEY 801410	N VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350194		4708702357		108		L M KELLY 02 801692	N VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350399		4703900647		108		LAURA FLOWERS 01 806351	N VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8350324		4701302732		108		LAURA GAINER ETAL 803827	N VA FIELD AREA A	4.0	COLUMBIA GAS TRAN
8350273		4706501023		108		LAWSON HEIRS 803734	N VA FIELD AREA B	0.0	COLUMBIA GAS TRAN
8350424		4704302065		108		LEE PARSONS 805972	N VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350363		4710300733		108		LEE TEAGARDEN 602229	WV SHALLOW	1.0	COLUMBIA GAS TRAN
8350092		4708702218		108		LINDSAY DRAKE 800230	N VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350264		4705100587		108		LOU TASKER ETAL 603223	WV SHALLOW	1.0	COLUMBIA GAS TRAN
8350101		4708702221		108		LULA PETITT 800114	N VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350358		4708702222		108		LYDIA LEDSOME 800665	N VA FIELD AREA A	0.3	COLUMBIA GAS TRAN
8350216		4710300747		108		M A DAUGHERTY ETAL 601253	WV SHALLOW	1.0	COLUMBIA GAS TRAN
8349989		4708702359		108		M C SHAFFER 800629	N VA FIELD AREA A	0.1	COLUMBIA GAS TRAN
8350006		4703903031		108		M E & M E GOANS 800045	N VA FIELD AREA A	0.2	COLUMBIA GAS TRAN
8349969		4708700446		108		M E CUMMINGS 805362	N VA FIELD AREA A	0.5	COLUMBIA GAS TRAN
8349990		4708702360		108		M E GOINS 800628	N VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350158		4708702225		108		M J JONES 801322	N VA FIELD AREA	2.0	COLUMBIA GAS TRAN
8350047		4708702230		108		M T & R K OGDEN 803952	N VA FIELD AREA A	0.3	COLUMBIA GAS TRAN
8350248		4705100573		108		MABEL L LOUGH 601599	WV SHALLOW	0.7	COLUMBIA GAS TRAN
8350405		4710300734		108		MADGE D BRADLEY AGT 601135	WV SHALLOW	0.6	COLUMBIA GAS TRAN
8350037		4703903032		108		MAE JARRETT 801474	N VA FIELD AREA A	0.2	COLUMBIA GAS TRAN
8350222		4705100574		108		MARGARET CAMPBELL 601653	WV SHALLOW	1.0	COLUMBIA GAS TRAN
8350220		4705100602		108		MARGARET COSTER 604204	WV SHALLOW	2.0	COLUMBIA GAS TRAN
8350114		4703901805		108		MARGARET Y DICKINSON 809122	N VA FIELD AREA A	6.0	COLUMBIA GAS TRAN
8350119		4703901900		108		MARGART Y DICKINSIN 8-809223	N VA FIELD AREA A	4.0	COLUMBIA GAS TRAN
8350116		4703901815		108		MARGART Y DICKINSN 05 809125	N VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350118		4703901897		108		MARGART Y DICKINSN 07 809222	WV FIELD AREA A	3.0	COLUMBIA GAS TRAN
8350117		4703901816		108		MARGART Y DICKINSN 6 809132	N VA FIELD AREA A	5.0	COLUMBIA GAS TRAN
8350127		4703901901		108		MARGART Y DICKINSN 9 809224	N VA FIELD AREA A	4.0	COLUMBIA GAS TRAN
8350170		4708702231		108		MARTHA GROVES 801270	N VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350211		4708702232		108		MARY A JUSTICE 800269	N VA FIELD AREA A	0.4	COLUMBIA GAS TRAN
8350173		4708702233		108		MARY A LEDSOME 800694	N VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350200		4708702234		108		MARY A SMITH 801662	N VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350070		4708702235		108		MARY A SMITH 801663	N VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350232		4701702179		108		MARY B DAVIS AGT 603299	WV SHALLOW	0.1	COLUMBIA GAS TRAN
8350263		4701702178		108		MARY B DAVIS 602707	WV SHALLOW	0.2	COLUMBIA GAS TRAN
8350380		4703900556		108		MARY BEAVER 01 806350	N VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8350245		4705100576		108		MARY E COZART AGT 601272	WV SHALLOW	1.0	COLUMBIA GAS TRAN
8350243		4710300742		108		MARY L S COOKE ATTY 601391	WV SHALLOW	1.0	COLUMBIA GAS TRAN
8350080		4708702314		108		MARY STONE ETAL 801513	N VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350193		4708702238		108		MARY THOMPSON 801732	N VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8350281		4708100267		108		MCCREERY COAL LAND 809282	N VA FIELD AREA C	30.0	COLUMBIA GAS TRAN
8350282		4708100274		108		MCCREEY COAL LND 809357	N VA FIELD AREA C	7.0	COLUMBIA GAS TRAN
8350113		4703900758		108		MD SHAFFER ETAL 804983	N VA FIELD AREA A	0.7	COLUMBIA GAS TRAN
8350401		4700500617		108		MOHLER LUMBER CO 14 805345	N VA FIELD AREA B	9.0	COLUMBIA GAS TRAN
8350400		4700500322		108		MOHLER LUMBER CO 804641	N VA FIELD AREA B	22.0	COLUMBIA GAS TRAN
8350199		4708702229		108		MT & R K OGDEN 803951	N VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350076		4708702228		108		MT & RK OGDEN 800604	N VA FIELD AREA A	0.8	COLUMBIA GAS TRAN
8350351		4708702240		108		N J CARPER 801672	N VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350195		4708702361		108		N M & V L KELLY 02 801691	N VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350203		4708702362		108		N M KELLEY 801626	N VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350123		4708702241		108		NANCY HALL 800237	N VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350179		4704301916		108		NANNIE HARMON 805990	N VA FIELD AREA B	0.0	COLUMBIA GAS TRAN
8350395		4710300736		108		NELLE MUNT ETAL 602199	WV SHALLOW	0.1	COLUMBIA GAS TRAN
8350239		4705100603		108		NELSON M RICHARDS 604330	WV SHALLOW	0.9	COLUMBIA GAS TRAN
8350240		4705100604		108		NELSON M RICHARDS 604331	WV SHALLOW	0.9	COLUMBIA GAS TRAN
8350175		4708702243		108		NEWTON J DRAKE 800672	N VA FIELD AREA A	0.9	COLUMBIA GAS TRAN
8350368		4708702239		108		NJ & HR HARPER 801347	N VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8350214		4705100595		108		NORA M ALLEY ETAL 601226	WV SHALLOW	2.0	COLUMBIA GAS TRAN
8350055		4703901807		108		NUMA BLACK COAL CO 805220	N VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350484		4705100588		108		O E BURGE 601039	WV SHALLOW	2.0	COLUMBIA GAS TRAN
8350231		4705100121		108		O E BURGE 603616	WV SHALLOW	0.7	COLUMBIA GAS TRAN
8350340		4708702363		108		O J VINEYARD 800848	N VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350339		4708702364		108		O J VINEYARD 800850	N VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350094		4708702244		108		O JETL 800219	N VA FIELD AREA A	7.0	COLUMBIA GAS TRAN
8350204		4708702245		108		O V ASHLEY 801857	N VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350396		4710300737		108		OLA BAKER ETAL 601906	WV SHALLOW	3.0	COLUMBIA GAS TRAN
8350217		4710300748		108		OLAN M HALL 601263	WV SHALLOW	1.0	COLUMBIA GAS TRAN
8350186		4708702365		108		P F MARKS 801457	N VA FIELD AREA A	8.0	COLUMBIA GAS TRAN
8350196		4708702366		108		P G KELLEY 801677	N VA FIELD AREA A	3.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8350369		4708702247		108		P M SUMMERS 801381	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350098		4708702248		108		P V GEARY 800164	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350169		4708702249		108		P V GEARY 801287	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350260		4710300738		108		PAT COSGRAY ETAL 602486	WV SHALLOW	2.0	COLUMBIA GAS TRAN
8350246		4710300739		108		PAUL J SHIBEN ETAL 603344	WV SHALLOW	1.0	COLUMBIA GAS TRAN
8349993		4708702367		108		PERRY JARVIS 800121	W VA FIELD AREA A	0.1	COLUMBIA GAS TRAN
8349987		4708702368		108		PERRY JARVIS 801197	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350425		4704302075		108		PHIL HAGER 805959	W VA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8350090		4708702258		108		PHILLIP JUSTICE 800243	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350262		4710300740		108		PHOEBE KUHN ETAL 602425	WV SHALLOW	4.0	COLUMBIA GAS TRAN
8350375		4704302023		108		R B HAZELETT 802229	W VA FIELD AREA B	8.0	COLUMBIA GAS TRAN
8350412		4704302025		108		R B HAZELETT 805966	W VA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8350288		4704302026		108		R B HAZELETT 806040	W VA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8350235		4705100590		108		R C ISIMINGER ETAL 602160	WV SHALLOW	1.0	COLUMBIA GAS TRAN
8350225		4705100591		108		R E MATHEWS 602589	WV SHALLOW	1.0	COLUMBIA GAS TRAN
8350390		4710300741		108		R L MAPLE ETAL 601148	WV SHALLOW	0.7	COLUMBIA GAS TRAN
8350283		4707900894		108		R M THOMPSON 805186	W VA FIELD AREA A	5.0	COLUMBIA GAS TRAN
8350071		4708702252		108		R O SAMPLES 801397	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350163		4708702253		108		R O SAMPLES 801398	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350291		4704302027		108		REBECCA ADKINS 802313	W VA FIELD AREA B	7.0	COLUMBIA GAS TRAN
8350029		4708702370		108		REBECCA JARVIS 801356	W VA FIELD AREA A	0.2	COLUMBIA GAS TRAN
8350159		4708702371		108		ROBERT CROMWELL 801742	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350427		4704302076		108		ROBERT MCCOY 802177	W VA FIELD AREA B	19.0	COLUMBIA GAS TRAN
8350036		4703903040		108		ROBERTSOM & TAYLOR 801596	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350033		4703903041		108		ROBERTSOM & TAYLOR 801655	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350156		4703901204		108		ROBSOM & PRITCHARD 805587	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350041		4703903042		108		ROXIE E BLACKWELL 800950	W VA FIELD AREA A	0.6	COLUMBIA GAS TRAN
8350091		4708702257		108		S B RUNNER 800240	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8349970		4708700445		108		S P ROBINSON 805359	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8349978		4708702260		108		S R TAWNEY 801618	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350348		4708702261		108		S V CARPER 800716	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350382		4703903076		108		SALLIE P SNEAD 86 801584	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350381		4703903078		108		SALLIE P SNEAD 801789	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8349966		4708702262		108		SARAH E & GEO C DRKE 800669	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8350016		4703901729		108		SUNDAY CREEK COAL CO 808979	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350015		4703901831		108		SUNDAY CREEK COAL CO 809141	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350014		4703901832		108		SUNDAY CREEK COAL CO 809142	W VA FIELD AREA A	0.9	COLUMBIA GAS TRAN
8350013		4703901833		108		SUNDAY CREEK COAL CO 809143	W VA FIELD AREA A	0.9	COLUMBIA GAS TRAN
8350012		4703900033		108		SUNDAY CREEK COAL 803896	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350354		4708702376		108		SUSAN CARPER 8801392	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350039		4703903048		108		SUSAN M GOOD 801327	W VA FIELD AREA A	0.5	COLUMBIA GAS TRAN
8350147		4709900891		108		T A COPLEY 806967	W VA FIELD AREA B	7.0	COLUMBIA GAS TRAN
- 8350393		4709900333		108		TCO FEE TR 012 806128	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350133		4704500762		108		TCO FEE TR 02 808958	W VA FIELD AREA B	15.0	COLUMBIA GAS TRAN
8350112		4703901006		108		TCO FEE 805222	W VA FIELD AREA A	5.0	COLUMBIA GAS TRAN
8349968		4708700570		108		TCO FEE 806652	W VA FIELD AREA A	15.0	COLUMBIA GAS TRAN
8349967		4708700572		108		TCO FEE 806688	W VA FIELD AREA A	6.0	COLUMBIA GAS TRAN
8349975		4708700574		108		TCO FEE 806731	W VA FIELD AREA A	6.0	COLUMBIA GAS TRAN
8349974		4708700575		108		TCO FEE 806732	W VA FIELD AREA A	4.0	COLUMBIA GAS TRAN
8349973		4708700592		108		TCO FEE 806864	W VA FIELD AREA A	11.0	COLUMBIA GAS TRAN
8350198		4708700594		108		TCO FEE 806866	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
= 8350115		4703901870		108		TCO FEE 809195	W VA FIELD AREA A	5.0	COLUMBIA GAS TRAN
8350025		4709901446		108		TCO FEE 809233	W VA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8350128		4703901994		108		TCO FEE 809323	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8350421		4704301066		108		TCO MIN TR 01 802249	W VA FIELD AREA B	35.0	COLUMBIA GAS TRAN
8350377		4704301304		108		TCO MIN TR 01 805957	W VA FIELD AREA B	25.0	COLUMBIA GAS TRAN
8350136		4709901040		108		TCO MIN TR 01 808181	W VA FIELD AREA B	11.0	COLUMBIA GAS TRAN
8350277		4709901031		108		TCO MIN TR 01 808341	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350134		4709901331		108		TCO MIN TR 01 809029	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350020		4709901372		108		TCO MIN TR 01 809107	W VA FIELD AREA B	0.6	COLUMBIA GAS TRAN
8350019		4709901382		108		TCO MIN TR 01 809111	W VA FIELD AREA B	0.5	COLUMBIA GAS TRAN
8350018		4709901421		108		TCO MIN TR 01 809197	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8350017		4709901424		108		TCO MIN TR 01 809198	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350138		4709901431		108		TCO MIN TR 01 809199	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350137		4709901422		108		TCO MIN TR 01 809201	W VA FIELD AREA B	0.5	COLUMBIA GAS TRAN
8350122		4709901423		108		TCO MIN TR 01 809204	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350148		4709901444		108		TCO MIN TR 01 809229	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350024		4704301361		108		TCO MIN TR 01 809265	W VA FIELD AREA B	10.0	COLUMBIA GAS TRAN
8350364		4709901520		108		TCO MIN TR 01 809403	W VA FIELD AREA B	15.0	COLUMBIA GAS TRAN
8350311		4705900252		108		TCO MIN TR 010 806712	W VA FIELD AREA B	10.0	COLUMBIA GAS TRAN
8350149		4704300887		108		TCO MIN TR 012 806467	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8350394		4709900836		108		TCO MIN TR 013 806961	W VA FIELD AREA B	0.5	COLUMBIA GAS TRAN
8350388		4709900859		108		TCO MIN TR 013 806985	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350135		4709901340		108		TCO MIN TR 02 809028	W VA FIELD AREA B	15.0	COLUMBIA GAS TRAN
8350298		4704500606		108		TCO MIN TR 05 808472	W VA FIELD AREA B	26.0	COLUMBIA GAS TRAN
8350428		4704301163		108		TCO MIN TR 06 802162	W VA FIELD AREA B	5.9	COLUMBIA GAS TRAN
8350258		4704302334		108		TCO MIN TR 07 802047	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350418		4704302335		108		TCO MIN TR 07 802051	W VA FIELD AREA B	8.9	COLUMBIA GAS TRAN
8350429		4704301306		108		TCO MIN TR 07 802158	W VA FIELD AREA B	31.0	COLUMBIA GAS TRAN
8350408		4704301097		108		TCO MIN TR 07 802203	W VA FIELD AREA B	33.0	COLUMBIA GAS TRAN
8350139		4709901458		108		TCO MIN 809276	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8349984		4708702324		108		TD BURDETTE 800824	W VA FIELD AREA A	4.0	COLUMBIA GAS TRAN
8350227		4710301149		108		THELMA ALLEN FOX 603518	WV SHALLOW	1.0	COLUMBIA GAS TRAN
8350086		4708702267		108		THOS B GARRETT 800660	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350054		4703901484		108		THREE MILE FORK L CO 806479	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350120		4708702265		108		TV ASHLEY 800657	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350349		4708702268		108		V A LEDSOME 800695	W VA FIELD AREA A	0.3	COLUMBIA GAS TRAN
8350355		4708702317		108		V E FRANCISCO 800932	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350053		4703903208		108		W A MCCORKLE 800864	W VA FIELD AREA A	4.0	COLUMBIA GAS TRAN
8350197		4708702378		108		W D C STEELE 801676	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350166		4708702379		108		W E DODD 801307	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350008		4703903052		108		W F & E A RYAN 800023	W VA FIELD AREA A	0.1	COLUMBIA GAS TRAN
8350085		4708702274		108		W G CARPER 800566	W VA FIELD AREA A	0.1	COLUMBIA GAS TRAN
8350167		4708702279		108		W G CARPER 801306	W VA FIELD AREA A	7.0	COLUMBIA GAS TRAN
- 8350021		4703501458		108		W H OBRIEN 800972	W VA FIELD AREA A	0.8	COLUMBIA GAS TRAN
8350190		4708702275		108		W J GRAHAM 801923	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350187		4708702280		108		W J JUSTICE 801419	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350183		4708702319		108		W L HERSHBERGER 801475	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350164		4708702380		108		W M SERGENT 801409	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350356		4708702281		108		W P DRENNAN 800962	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350360		4708702381		108		W R DODD 801323	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350062		4708702284		108		W S LEWIS 87 800812	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
= 8350066		4708702282		108		W S LEWIS 800003	W VA FIELD AREA A	0.0	COLUMBIA GAS TRAN
= 8350065		4708702382		108		W S LEWIS 800004	W VA FIELD AREA A	9.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8350063		4708702383		108		W S LEWIS 800011	W VA FIELD AREA A	6.0	COLUMBIA GAS TRAN
8350185		4708702283		108		W S LEWIS 800015	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350109		4703903146		108		W S SHRADER 800785	W VA FIELD AREA A	7.0	COLUMBIA GAS TRAN
8349983		4708702321		108		W S SIMMONS 801469	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8349982		4708702322		108		W S SIMMONS 801470	W VA FIELD AREA A	0.8	COLUMBIA GAS TRAN
8350093		4708702273		108		WC MCCROSKY 800227	W VA FIELD AREA A	0.7	COLUMBIA GAS TRAN
8350126		4703903169		108		WD PAYNE 801593	W VA FIELD AREA A	15.0	COLUMBIA GAS TRAN
8350182		4708702287		108		WESLEY T ROE 801494	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8349958		4705900719		108		WILLIAMSON M & M 82 808944	W VA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8350341		4708702288		108		WM LEDSOME 800845	W VA FIELD AREA A	5.0	COLUMBIA GAS TRAN
8350337		4708702289		108		WM P KNIGHT 800875	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350270		4704501024		108		WM R THOMPSON 803706	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350030		4701302089		108		WOOD CO REALTY CO 809295	WEST VA FIELD AREA A	1.0	COLUMBIA GAS TRAN

[FR Doc. 83-24330 Filed 9-6-83; 8:45 am]

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VOL
48
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TI

FE

395
398
401
403

Reader Aids

Federal Register

Vol. 48, No. 174

Wednesday, September 7, 1983

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202–523–3419 523–3517
General information, index, and finding aids	523–5227
Incorporation by reference	523–4534
Printing schedules and pricing information	523–3419

Federal Register

Corrections	523–5237
Daily Issue Unit	523–5237
General information, index, and finding aids	523–5227
Privacy Act	523–4534
Public Inspection Desk	523–5215
Scheduling of documents	523–3187

Laws

Indexes	523–5282
Law numbers and dates	523–5282 523–5266
Slip law orders (GPO)	275–3030

Presidential Documents

Executive orders and proclamations	523–5233
Public Papers of the President	523–5235
Weekly Compilation of Presidential Documents	523–5235

United States Government Manual 523–5230

SERVICES

Agency services	523–5237
Automation	523–3408
Library	523–4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275–2867
Public Inspection Desk	523–5215
Special Projects	523–4534
Subscription orders (GPO)	783–3238
Subscription problems (GPO)	275–3054
TTY for the deaf	523–5229

FEDERAL REGISTER PAGES AND DATES, SEPTEMBER

39595–39910.....1
39911–40186.....2
40187–40364.....6
40365–40496.....7

CFR PARTS AFFECTED DURING SEPTEMBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Executive Orders:
8854 (Amended by PLO 6458).....40232
Proclamations:
5085.....39595
5086.....40187

4 CFR

Proposed Rules:
83.....39632

5 CFR

2422.....40189
2426.....40189
2429.....40189

7 CFR

29.....40365
210.....40194
220.....40194
226.....40197
301.....39597, 40198
421.....39911
760.....40366
908.....39602
910.....39912
981.....40367
1076.....39603
1865.....40202
1944.....40202
1945.....40202
1951.....40202
Proposed Rules:
278.....40263
279.....40263
660.....40389
658.....39944
1126.....39643

8 CFR

109.....40209
231.....40209
238.....40210

10 CFR

Proposed Rules:
1017.....40265

12 CFR

217.....39604
525.....39912
531.....39912
Proposed Rules:
563.....39944

14 CFR

39.....40210–40212
71.....39913, 40213
75.....40214
97.....39913
Proposed Rules:
22.....40388
39.....40266
71.....40267, 40270

15 CFR

369.....40368

16 CFR

Proposed Rules:
13.....39950

17 CFR

240.....39604
249.....39604

20 CFR

655.....40168
Proposed Rules:
225.....40390
226.....40390
227.....40390

21 CFR

145.....39916
524.....39607
561.....40369
Proposed Rules:
Subch. H.....40272
882.....40273

23 CFR

Proposed Rules:
Ch. I.....39953

24 CFR

203.....39606
213.....39606
234.....39606

26 CFR

1.....40214, 40370, 40371
25.....40371
48.....40217
301.....40371, 40376
Proposed Rules:
1.....39953
5f.....39953

27 CFR

9.....40377

30 CFR

251.....40380
701.....39892, 40140
785.....39892
816.....39892, 40140
817.....39892, 40140
824.....39892
938.....40223
Proposed Rules:
75.....40165

935.....39645, 40396
938.....39645

32 CFR

286g.....39917
634.....39919
730.....40224

33 CFR

100.....39609
165.....39609, 39610, 40380
401.....39934

Proposed Rules:

117.....39646

34 CFR

668.....40380

Proposed Rules:

366.....39647

36 CFR

219.....40381

38 CFR

21.....40224
36.....40226

Proposed Rules:

36.....40402

39 CFR

10.....39610
601.....40232

Proposed Rules:

111.....39647, 39648

40 CFR

17.....39934
122.....39611
123.....39611
124.....39611
144.....39611
145.....39611
180.....40384
233.....39611
270.....39611
271.....39611, 39623
410.....39624

Proposed Rules:

52.....39653
65.....40278
81.....39655
124.....40098
144.....40098
146.....40098
147.....40098
721.....40282
799.....39656

41 CFR

Ch. 1.....40385
Ch. 7.....40385

42 CFR

405.....39740, 39752
409.....39752
435.....39624
436.....39624
489.....39752

Proposed Rules:

435.....39959
436.....39959

43 CFR

Public Land Orders:

1707 (Amended by PLO 6458).....40232
6457.....39939
6458.....40232

46 CFR

153.....39629
154.....39629

47 CFR

25.....40233, 40256

Proposed Rules:

68.....39656

49 CFR

179.....39630
571.....39908, 39939, 40260
1042.....39630
1160.....39630, 40387
1161.....39630
1162.....39630
1165.....39630
1168.....39630, 40387
1181.....39630

Proposed Rules:

213.....39965
571.....40282, 40286
821.....39657
1157.....40287

50 CFR

17.....39941, 40178

Proposed Rules:

17.....40288, 40404, 40407
26.....39661
32.....40411
33.....40411
655.....39967
681.....39665

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing August 31, 1983

VOL
48
ISS
1
7
4
SE
7
1983
UMI

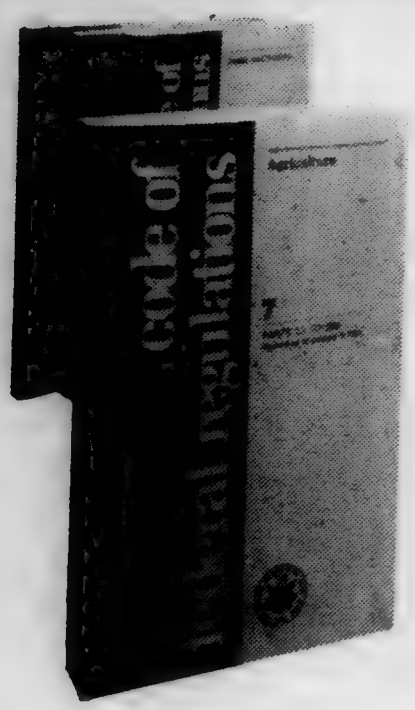

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VOL
48
ISS
1
7
4
SE
7
1983
UMI

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8
SS
7
5
SE
8
1983
41

9-8-8
Vol. 4

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9-8-83
Vol. 48 No. 175

federal register

Thursday
September 8, 1983

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Vol. 48 No. 175
Pages 40497-40694

federal register

Thursday
September 8, 1983

Selected Subjects

Agricultural Commodities
Agricultural Marketing Service
Animal Drugs
Food and Drug Administration
Authority Delegations (Government Agencies)
Small Business Administration
Aviation Safety
Federal Aviation Administration
Community Development Block Grants
Community Planning and Development, Office of Assistant Secretary
Fisheries
National Oceanic and Atmospheric Administration
Food Additives
Food and Drug Administration
Handicapped
Transportation Department
Income Taxes
Internal Revenue Service
Marketing Agreements
Agricultural Marketing Service
Milk Marketing Orders
Agricultural Marketing Service
Old-Age, Survivors and Disability Insurance
Social Security Administration

CONTINUED INSIDE

Selected Subjects

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Organization and Functions
Customs Service

Soil Conservation
Soil Conservation Service

Superfund
Environmental Protection Agency

Surface Mining
Surface Mining Reclamation and Enforcement Office

Tobacco
Agricultural Stabilization and Conservation Service

Contents

Federal Register
Vol. 48, No. 175
Thursday, September 8, 1983

The President
PROCLAMATIONS
40497 Fire Prevention Week (Proc. 5087)
40499 School Lunch Week, National (Proc. 5088)
40501 Columbus Day (Proc. 5089)
40503 Pulaski Memorial Day, General (Proc. 5090)
40505 White Cane Safety Day (Proc. 5091)
40507 Forest Products Week, National (Proc. 5092)

Executive Agencies

Agency for International Development
NOTICES
Authority delegations:
40572 East Africa Regional Economic Development Services Office, Director
40573 West Africa Regional Economic Development Services Office, Director

Agricultural Marketing Service
RULES
40509 Grapes, table; grade standards
Milk marketing orders:
40511 Iowa
40510 Oranges (Valencia) grown in Ariz. and Calif.

Agricultural Stabilization and Conservation Service
RULES
Marketing quotas and acreage allotments:
40644 Tobacco; burley
40638 Tobacco (flue-cured)

Agriculture Department
See also Agricultural Marketing Service; Agricultural Stabilization and Conservation Service; Animal and Plant Health Inspection Service; Forest Service; Soil Conservation Service.
NOTICES
40531 Agency information collection activities under OMB review
Meetings:
40532 Agricultural Research and Extension Users National Advisory Board
40531 Rural housing borrowers and rural rental housing tenants against Virginia Employment Commission Records; computer matching program

Animal and Plant Health Inspection Service
RULES
Livestock and poultry quarantine:
40512 Contagious equine metritis (CEM); correction

Arts and Humanities, National Foundation
NOTICES
Meetings:
40578 Theater Advisory Panel; location change

Commerce Department
See International Trade Administration; National Bureau of Standards; National Oceanic and Atmospheric Administration.

Community Planning and Development, Office of Assistant Secretary
RULES
Community development block grants:
40517 Small cities program; Hawaii; final

Conservation and Renewable Energy Office
NOTICES
Industrial energy conservation program:
40616 Corporations; exemption and adequate reporting programs

Customs Service
PROPOSED RULES
Liquidation of duties:
40527 Currency rates of exchange certified quarterly; withdrawal of amendments
Organization, functions, and authority delegations:
40526 Field organization; realignment
NOTICES
Tariff reclassification petitions:
40593 Acrylic blankets with fabric borders or capping

Defense Department
See also Navy Department.
NOTICES
Meetings:
40541 Joint Strategic Target Planning Staff Scientific Advisory Group

Economic Regulatory Administration
NOTICES
Consent orders:
40543 Killingsworth, S. H.
40544 Sigmor Corp.
Natural gas; fuel oil displacement certification applications:
40545 Allied Corp. et al.
40545 CertainTeed Corp.
40546 Ohio Steel Tube Co. et al.

Energy Department
See Conservation and Renewable Energy Office; Economic Regulatory Administration; Federal Energy Regulatory Commission; Southeastern Power Administration.

Environment and Energy Office, Housing and Urban Development Department
NOTICES
Environmental statements; availability, etc.:
40566 Grogan's Crossing Subdivision, Montgomery County, et al., Tex.; terminated

Environmental Protection Agency
RULES
Superfund programs:
40658 National oil and hazardous substances contingency plan; national priorities list

PROPOSED RULES
Superfund program:
40574 National oil and hazardous substances contingency plan; National Priorities List update
NOTICES
Toxic and hazardous substances control:
40555 Premanufacture notification requirements; test marketing exemption applications; denied

Federal Aviation Administration
PROPOSED RULES
40525 Transition areas

Federal Communications Commission
RULES
40519 Land mobile services; high frequency spectrum use in special industrial, petroleum, telephone maintenance and power radio services; correction
NOTICES
40556 Agency information collection activities under OMB review
40556 Cellular application filing procedures; standard metropolitan statistical areas; changes in markets; correction
40556 Emergency broadcast system; closed circuit test
Hearings, etc.:
40556 Rebel Broadcasting Co. of Mississippi et al.
40557 Wikstrom, LouGena J., et al.
Meetings:
40557 Telecommunications Industry Advisory Group

Federal Emergency Management Agency
NOTICES
40558 Agency information collection activities under OMB review
Disaster and emergency areas:
40558 Texas

Federal Energy Regulatory Commission
NOTICES
Hearings, etc.:
40547 Arizona Public Service Co. (2 documents)
40546, 40547 Arkansas Louisiana Gas Co. (2 documents)
40547 Eastern Shore Natural Gas Co.
40548 El Paso Natural Gas Co.
40548 Florida Gas Transmission Co.
40549 Kansas Power & Light Co.
40549 Mega Hydro, Inc.
40549 Pacific Interstate Transmission Co.
40550 Southern Natural Gas Co.
Natural Gas Policy Act:
40650 Jurisdictional agency determinations

Federal Maritime Commission
NOTICES
Investigations, hearings, petitions, etc.:
40558 U.S. Atlantic and Gulf-Jamaica and Hispaniola Steamship Freight Association

Federal Reserve System
NOTICES
Applications, etc.:
40560 Barnett Banks of Florida, Inc., et al.
40560 Commercial Holding Co. et al.
40559 Peoples Bancorp, Inc., et al.
Bank holding companies; proposed de novo nonbank activities:
40560 Shawmut Corp. et al.
Federal Reserve Bank services; fee schedules and pricing principles:
40558 Automated clearing house night cycle transcations; interim
40595 Meetings; Sunshine Act

Fish and Wildlife Service
NOTICES
40572 Endangered and threatened species permit applications

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
40516 Furosemide tablets
Food additives:
40515 Adhesive coatings and components; hydrogenated styrene polymer resins
Human drugs:
40516 Antibiotic drugs; cefazolin sodium injection; correction
NOTICES
Food additive petitions:
40562 G.D. Searle & Co.
40562 Lonza, Inc.
Food for human consumption:
40563 Shrimp, raw breaded; defect action levels for microbiological contamination occurring during processing; guide availability; inquiry
Laser variance approvals, etc.:
40561 Automation Systems, Inc.

Foreign Claims Settlement Commission
NOTICES
40595 Meetings; Sunshine Act

Forest Service
NOTICES
Land and resource management plans:
40532 Sequoia National Forest, Calif.; intent to reevaluate roadless areas

General Services Administration
See National Archives and Records Service.

Health and Human Services Department
See Food and Drug Administration; Health Resources and Services Administration; National Institutes of Health; Public Health Service; Social Security Administration.

Health Resources and Services Administration
NOTICES
Grants; availability, etc.:
40564 Family medicine, faculty development
40564 Health careers opportunity program; correction

Housing and Urban Development Department
See also Community Planning and Development, Office of Assistant Secretary; Environment and Energy Office, Housing and Urban Development Department.
NOTICES
40565, 40566 Agency information collection activities under OMB review (2 documents)

Indian Affairs Bureau
NOTICES
Indian tribes, acknowledgment of existence determinations, etc.:
40568 Waccamaw Siouan Development Association, Inc.
Judgment funds; plan for use and distrubition:
40567 Potawatomi Nation of Indians
40568 Southern Ute Tribe

Interior Department
See Fish and Wildlife Service; Indian Affairs Bureau; Land Management Bureau; Surface Mining Reclamation and Enforcement Office.

Internal Revenue Service
RULES
Employment and income taxes:
40518 Tips; reporting by food and beverage establishments; final; correction
PROPOSED RULES
Income taxes:
40528 Household and dependent care services necessary for gainful employment; credit for expenses

International Development Cooperation Agency
See Agency for International Development.

International Trade Administration
NOTICES
Antidumping:
40533 Carton closing staples and staple machines from Sweden; postponement
40533 Lightweight polyester filament fabrics from Japan
Countervailing duties:
40534 Castor oil products from Brazil
40535 Footwear from India
40536 Nonrubber footwear from Spain
40538 Oleoresins of paprika from Spain
40539 Viscose rayon staple fiber from Sweden

International Trade Commission
NOTICES
Import investigations:
40574 Bicycles from Taiwan
40574 Caulking guns
40574, 40576, 40577 Copper-clad stainless steel cookware (6 documents)
40577 Direct current brushless axial flow fans
40575 Electronic chromatogram analyzers and components
40577 Office desk accessories and related products
40577 Papermaking machine forming sections for continuous production of paper and components (2 documents)
40575 Rectangular welded carbon steel pipes and tubes from Korea
40577 Rotary wheel printers
40575 Spindle belting from Netherlands
40577 Trolley wheel assemblies
Senior Executive Service:
40573 Performance Review Board; membership

Interstate Commerce Commission
RULES
Tariffs and schedules:
40520 Motor contract carriers; exemption; court action
NOTICES
40578 Agency information collection activities under OMB review
Motor carriers:
40577 Agricultural cooperative transportation; filing notices
40578 Lease and interchange of vehicles

Labor Department
See Wage and Hour Division.

Land Management Bureau
NOTICES
Alaska Native claims selection; applications, etc.:
40570 Chugach Natives, Inc. (2 documents)
Conveyance of public lands:
40570 Idaho
Environmental statements; availability, etc.:
40572 Ah-shi-sle-pah wilderness study area, San Juan County, N. Mex.; meeting
40569 Big Lost Planning Unit et al., Idaho
Exchange of public lands for private land:
40572 Arizona; correction
Sale of public lands:
40571 New Mexico
40570 Ohio
Withdrawal and reservation of lands, proposed, etc.:
40570 Colorado; correction

Management and Budget Office
NOTICES
40582 Prompt payment circular, proposed amendment (Circular A-125); inquiry

National Archives and Records Service
NOTICES
40561 Nixon White House special files opening; extension of time for filing objections

National Bureau of Standards
NOTICES
Information processing standards, Federal:
40540 Area networks, local; baseband carrier sense multiple access with collision detection, physical layer specifications, and link layer protocol

National Institutes of Health
NOTICES
Meetings:
40565 Eye National Advisory Council
40565 Recombinant DNA Advisory Committee; time changes

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
40521 Ocean salmon off coasts of Calif., Oreg., and Wash.; closure

National Science Foundation
NOTICES
40595 Meetings; Sunshine Act

Navy Department
NOTICES
Procurement:
40541 Commercial activities, performance; program cost studies announcement

Nuclear Regulatory Commission
RULES
40512 Radioactive wastes; licensing requirements for land disposal; topical reports in support of implementation, fee waiver
NOTICES
Applications, etc.:
40579 Consumers Power Co.
40581 Niagara Mohawk Power Corp.
40579 Export and import license applications for nuclear facilities or materials (Westinghouse Electric Co.)
40581 International Atomic Energy Agency draft safety guide; availability and inquiry
Meetings:
40578 Reactor Safeguards Advisory Committee; additional day
40595 Meetings; Sunshine Act

Public Health Service
NOTICES
Medical technology scientific evaluations:
40565 Transillumination light scanning (diaphanography) for treatment in diagnosis of breast cancer, etc.

Securities and Exchange Commission
NOTICES
Hearings, etc.:
40584 First Midwest Capital Corp.
40585 Hartford Mutual Investment Fund, Inc.
40586 Hutton Utility Trust et al.
40587 PB–SB 1983 Investment Partnership III et al.
40588 Scudder Cash Investment Trust et al.
40589 Texaco Capital Inc.
Self-regulatory organizations; proposed rule changes:
40590 Pacific Clearing Corp.
40590, 40591 Philadelphia Stock Exchange, Inc. (2 documents)
Self-regulatory organizations; unlisted trading privileges:
40584 Boston Stock Exchange, Inc.

Small Business Administration
RULES
Organization, functions, and authority delegations:
40513 Field offices program activities; surety bond guarantee program etc.
NOTICES
Meetings; regional advisory councils:
40591 District of Columbia
40591 New York
40591 North Dakota

Social Security Administration
RULES
40514 Federal old-age, survivors and disability insurance; real estate agents and direct sellers as self-employed; request for comments

Soil Conservation Service
PROPOSED RULES
Contracting, long term:
40522 Great Plains conservation program; revision

Southeastern Power Administration
NOTICES
Power rates:
40550 Georgia-Alabama Project

Surface Mining Reclamation and Enforcement Office
RULES
Permanent and interim regulatory programs:
40622 Coal exploration permit requirements and performance standards

Tennessee Valley Authority
NOTICES
40596 Meetings; Sunshine Act

Trade Representative, Office of United States
NOTICES
Meetings:
40584 Investment Policy Advisory Committee

Transportation Department
See also Federal Aviation Administration.
RULES
Organization, functions, and authority delegations:
40519 Federal Highway and Federal Railroad Administrators; Union Station, Washington, D.C.; correction
PROPOSED RULES
40684 Handicapped; nondiscrimination on basis of
NOTICES
Senior Executive Service:
40592 Performance Review Board; membership

Treasury Department
See also Customs Service; Internal Revenue Service.
NOTICES
Notes, Treasury:
40592 K–1988 series

Veterans Administration
NOTICES
Meetings:
40594 Cooperative Studies Evaluation Committee
40594 Special Medical Advisory Group
40594 Structural Safety of Veterans Administration Facilities Advisory Committee

Wage and Hour Division
RULES
40518 Fire protection and law enforcement employees of public agencies; average number of hours worked, study

---

Separate Parts in This Issue

Part II
40616 Department of Energy, Office of Conservation and Renewable Energy

Part III
40622 Department of the Interior, Office of Surface Mining Reclamation and Interior

Part IV
40638 Department of Agriculture, Agricultural Stabilization and Conservation Service

Part V
40644 Department of Agriculture, Agricultural Stabilization and Conservation Service

Part VI
40650 Department of Energy, Federal Energy Regulatory Commission

Part VII
40658 Environmental Protection Agency

Part VIII
40684 Department of Transportation, Office of the Secretary

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR

Proclamations:
5087.....40497
5088.....40499
5089.....40501
5090.....40503
5091.....40505
5092.....40509

7 CFR
51.....40509
725.....40638
726.....40644
908.....40510
1079.....40511

Proposed Rules:
631.....40522

9 CFR
75.....40512

10 CFR
61.....40512

13 CFR
101.....40513

14 CFR

Proposed Rules:
71.....40525

19 CFR

Proposed Rules:
101.....40526
159.....40527

20 CFR
404.....40514

21 CFR
175.....40515
442.....40516
520.....40516

24 CFR
570.....40517

26 CFR
31.....40518

Proposed Rules:
1.....40528

29 CFR
553.....40518

30 CFR
700.....40622
701.....40622
772.....40622
776.....40622
815.....40622

40 CFR
300.....40658

Proposed Rules:
300.....40674

47 CFR
2.....40519

49 CFR
1.....40519
1162.....40520
1307.....40520

Proposed Rules:
27.....40684

50 CFR
661.....40521

Federal Register
Vol. 48, No. 175
Thursday, September 8, 1983

Presidential Documents

Title 3—

The President

Proclamation 5087 of September 6, 1983

Fire Prevention Week, 1983

By the President of the United States of America

A Proclamation

This great Nation of ours, the richest and most technologically advanced in the world, continues to lead all major industrialized countries in per capita deaths and property loss from fire.

Each year thousands of American lives are lost, billions of dollars in property are needlessly destroyed, and thousands of persons are permanently disfigured or disabled by burn injuries from preventable fires.

Obviously, we must continue to address fire prevention as a national priority, and I strongly urge each citizen to make a personal commitment to aid in the reduction of this senseless and tragic waste of precious lives, property, and natural resources from fire. Through a concentrated effort our Nation can substantially reduce the human suffering and economic losses from fire.

Since most deaths and injuries from fire occur in the home, it is essential that families install and maintain smoke detectors to provide early warning should a fire occur. In addition, each family should establish and practice home fire escape plans. Commercial enterprises and State and local governments should consider installation of fast-response sprinklers to protect lives in residences, hotels, motels, and nursing homes.

An indispensable ingredient of fire prevention is our professional firefighter. Firefighting is one of our most hazardous occupations. We are indebted to the brave men and women who serve communities across the Nation so bravely—often at the risk of their own safety and sometimes at the cost of their own lives.

We must also applaud the efforts of our fire chiefs, the National Fire Protection Association, the Fire Marshals Association of North America, the International Association of Fire Chiefs, the International Association of Firefighters, the National Volunteer Fire Council, the International Society of Fire Service Instructors, the Joint Council of National Fire Service Organizations, the National Safety Council, and others for their work to reduce fire losses. These dedicated men and women need and merit our assistance and support.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby designate the week of October 9 through 15, 1983, as Fire Prevention Week, 1983.

IN WITNESS WHEREOF, I have hereunto set my hand this 6th day of Sept., in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and eighth.

Ronald Reagan

[FR Doc. 83-24761
Filed 9-7-83; 11:08 am]
Billing code 3195-01-M

VOL 48 ISS 175 SE 8 1983 UMI

Presidential Documents

Proclamation 5088 of September 6, 1983

National School Lunch Week, 1983

By the President of the United States of America

A Proclamation

The National School Lunch Program—now in its 37th year—operates to provide nutritious and well-balanced meals to many young people of our country. The school lunch program is an outstanding example of the partnership between the Federal government and State and local governments to make available the food, funds, and technical support that insures continued nutritional assistance for school students.

The youth of America are our greatest resource. The school lunch program demonstrates the awareness, concern, and willingness to work together that we all share in promoting the health and well-being of our students.

Over 23 million lunches are served daily in some 90,000 schools throughout the country. This effort is being conducted by resourceful and creative food service managers and staff in cooperation with government, parents, teachers, and civic groups.

By joint resolution approved October 9, 1962, the Congress designated the week beginning on the second Sunday of October in each year as National School Lunch Week and requested the President to issue annually a proclamation calling for the observance of that week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby urge the people of the United States to observe the week of October 9, 1983, as National School Lunch Week and to give special and deserved recognition to those people at the State and local level who, through their innovative efforts, have made it possible to have a successful school lunch program.

IN WITNESS WHEREOF, I have hereunto set my hand this 6th day of Sept., in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and eighth.

Ronald Reagan

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VOL
48
ISS
1
7
5
SE
8
1983
UMI

Presidential Documents

Proclamation 5089 of September 6, 1983

Columbus Day, 1983

By the President of the United States of America

A Proclamation

It is fitting that Americans honor those individuals who have altered the course of history in this country by exhibiting great moral character and courage—men and women who have contributed to the development of personal liberties we enjoy today. Thus, it is especially appropriate that I urge all Americans to honor one of those individuals, Christopher Columbus.

Columbus was a bold and adventurous navigator who left Europe in 1492 in search of new lands and first recorded the sighting of the North American continent. In this sense he personifies the courage and vision so many explorers exhibited during this period. Yet he is more than this. He represents a spirit, the spirit of the Renaissance which contributed to the development of America. Along with Galileo, Copernicus, and others, Columbus symbolizes a quest for knowledge, a willingness and fortitude to go beyond what is accepted as truth in the name of progress. Columbus did not fall off the face of the earth; rather, through daring, risk, and innovation, he discovered new horizons.

Since Columbus discovered America, numerous families have exhibited that same courage and fortitude in setting sail across the seas to become American citizens. By taking that step into the new and unknown, those same families created an opportunity to realize increased prosperity and greater freedom here in these United States. The accomplishments and contributions of Christopher Columbus provide an example of the rewards that can come from taking initiatives. Today Americans have the opportunity and freedom to make accomplishments and contributions of their own and to enjoy the feelings of accomplishment which follow.

Of course Columbus Day is a day of special importance to Americans of Italian heritage. It is a day when all Americans should join in recognizing the great contributions of Italian-Americans to this country's cultural, scientific, athletic and commercial achievements, and religious vitality.

In tribute to the achievement of Columbus, the Congress of the United States, by joint resolution approved April 30, 1934 (48 Stat. 657), as modified by the Act of June 28, 1968 (82 Stat. 250), has authorized and requested the President to issue a proclamation designating the second Monday in October of each year as Columbus Day.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby designate Monday, October 10, 1983, as Columbus Day. I invite the people of this Nation to observe that day in schools, churches and other suitable places with appropriate ceremonies in honor of this great explorer. I also direct that the flag of the United States be displayed on all public buildings on the appointed day in memory of Christopher Columbus.

IN WITNESS WHEREOF, I have hereunto set my hand this 6th. day of Sept., in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and eighth.

Ronald Reagan

[FR Doc. 83-24703
Filed 9-7-83; 11:10 am]
Billing code 3195-01-M

VOL 48 ISS 175 SEP 8 1983 UMI

Presidential Documents

Proclamation 5090 of September 6, 1983

General Pulaski Memorial Day, 1983

By the President of the United States of America

A Proclamation

On October 11, 1779, the Polish and American patriot Casimir Pulaski was mortally wounded while leading his troops in battle at Savannah, Georgia. Pulaski died fighting in our American Revolution so that we could live as a free and independent Nation.

It is fitting that we should pay tribute to this martyr for freedom and that free men and women everywhere should take this occasion to rededicate themselves to the principles for which Pulaski gave his life. The power of the ideal of freedom remains vital, both in Pulaski's homeland and in his adopted country. In paying tribute to Casimir Pulaski, we pay tribute as well to all those Poles who have sacrificed themselves over the years for their common goal: the freedom of that heroic nation.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, in recognition of the supreme sacrifice General Pulaski made for his adopted country, do hereby designate October 11, 1983, as General Pulaski Memorial Day, and I direct the appropriate Government officials to display the flag of the United States on all Government buildings on that day.

IN WITNESS WHEREOF, I have hereunto set my hand this 6th day of Sept., in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and eighth.

Ronald Reagan

[FR Doc. 83-24764
Filed 9-7-83; 11:11 am]
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VOL
48
ISS
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7
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1983
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Presidential Documents

Proclamation 5091 of September 6, 1983

White Cane Safety Day, 1983

By the President of the United States of America

A Proclamation

One of the great blessings of life is to be able to move at will from place to place unhampered by fear for one's personal safety. For those who are blind, the white cane helps to make such freedom of movement possible. It enables the blind to use our streets and public facilities with maximum safety and thereby know the joys of self-reliance and independence and experience a more fulfilling life.

All Americans should be aware of the significance of the white cane and extend every courtesy and consideration to the men and women who carry it. In this way, we respect the privacy of the visually disabled and contribute to enlarging their mobility and independence.

In recognition of the significance of the white cane, the Congress, by a joint resolution approved October 6, 1964 (78 Stat. 1003), has authorized and requested the President to proclaim October 15 of each year as White Cane Safety Day.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim October 15, 1983, as White Cane Safety Day. I urge all Americans to mark this occasion by giving greater consideration to the special needs of the visually disabled, and, particularly, to observe White Cane Safety Day with activities that contribute to maximum independent use of our streets and public facilities by our visually handicapped.

IN WITNESS WHEREOF, I have hereunto set my hand this 6th day of Sept., in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and eighth.

Ronald Reagan

[FR Doc. 83-24705
Filed 9-7-83; 11:12 am]
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VOL
48
ISS
1
7
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8
1983
UMI

Presidential Documents

Proclamation 5092 of September 6, 1983

National Forest Products Week, 1983

By the President of the United States of America

A Proclamation

Throughout our history, our Nation's abundant forests have served us in so many vital respects that we sometimes forget this extraordinary renewable natural resource. The growing and harvesting of trees, and the work force that turns them into useful products, make a valuable contribution to the Nation's economic well-being, and to providing homes for our people.

Familiar and useful items ranging from furniture to grocery bags to turpentine were once parts of trees in the forest. Our forest lands also provide water for homes, agriculture, and industry and pastures for grazing animals. Our forests serve us in many other ways. They provide a home for wildlife and are a source of recreational activities ranging from driving through and enjoying the scenery, to mountain climbing and backpacking in our numerous parks and wilderness areas.

We recognize that maintaining a healthy environment and a healthy economy are essential and complementary goals. We can be proud of our success and commitment to effective forest management, which strikes a vital balance between preservation and development of our forests. Through wise and sensitive management, we will maintain this vitally important part of our Nation's heritage, so those who follow will inherit forests that are even more useful and productive.

To promote greater awareness and appreciation for our forest resources, the Congress, by Public Law 86-753, 36 U.S.C. 163, has designated the week beginning on the third Sunday in October as National Forest Products Week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning on October 16, 1983, as National Forest Products Week and request that all Americans express their appreciation for the Nation's forests through suitable activities.

IN WITNESS WHEREOF, I have hereunto set my hand this 6th day of Sept., in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and eighth.

Ronald Reagan

[FR Doc. 83-24700
Filed 9-7-83; 11:13 am]
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VOL
48
ISS
1
7
5
SE
8
1983
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Rules and Regulations

Federal Register
Vol. 48, No. 175
Thursday, September 8, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 51

United States Standards for Grades of American (Eastern Type) Bunch Grapes

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule amends the voluntary U.S. Standards for Grades of American (Eastern Type) Bunch Grapes. This rule will provide more reasonable tolerance limitations for small consumer-size containers; make minor changes in bunch requirements for U.S. No. 1-Table Grapes; and, delete reference to specific varieties with respect to applicable size requirements.

The Agricultural Marketing Service has the responsibility, in cooperation with industry, to maintain grade standards in line with current cultural and marketing practices.

EFFECTIVE DATE: September 8, 1983.

FOR FURTHER INFORMATION CONTACT: Michael V. Morrelli, Fresh Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–2011.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA Procedures and Executive Order 12291 and has been designated as a "non-major" rule. It will not result in an annual effect on the economy of $100 million or more. There will be no major increase in cost or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. It will not result in significant effects on competition, employment, investments, productivity, innovations, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act, Pub. L. 96–354 (5 U.S.C. 601), because it reflects current marketing practices.

This amendment makes the following changes in the standards:

(1) The current container tolerance limitations of 1½ times for a lot tolerance of 10 percent or more and 2 times for a lot tolerance of less than 10 percent are increased to 3 times the specified lot tolerance for grapes packed in containers of 5 pounds or less. This provides more reasonable container limitations for small consumer-size units. Inasmuch as this change applies only to individual container tolerances and does not affect lot tolerances, the quality level for the lot as a whole is maintained as under the current standards.

(2) The U.S. No. 1 Table Grapes grade currently requires at least 85 percent of the bunches in each container to be fairly compact. This amendment will permit containers of 5 pounds or less to have not less than 50 percent fairly compact bunches, provided that the average for the lot is not less than 85 percent. Bunches may not be excessively small, except that portions of bunches consisting of not less than three berries may be use to fill open spaces between whole bunches. This provides more realistic bunch requirements for individual consumer-size packages.

(3) Deletes from the "Size of berries" sections of the U.S. Fancy and U.S. No. 1 Table Grapes grades references to specific varieties and adds "unless otherwise specified." This allows a minimum berry size, other than 9/16 inch, to be specified in connection with the grade for any variety.

A proposal to amend the U.S. Standards for Grades of American (Eastern Type) Bunch Grapes was published in the **Federal Register** on June 2, 1983 (48 FR 24723–24724) with a comment period ending August 1, 1983. Industry requested that the standards be amended to bring them in line with current cultural and marketing practices. Copies of the proposal were widely distributed to interested persons for review and comment.

Eleven responses were received during the comment period. Nine of them were in complete agreement with the proposed changes. A large grocery chain expressed concern that permitting the minimum berry size to be specified in connection with the grade by the seller, instead of a specified minimum size, would encourage inferior horticultural practices on the part of the grape-growing community and tend to weaken the grade standards. However, this change does not prevent the buyer from setting the minimum berry size desired in buyer-seller purchase contracts. Continuing to require a specific minimum berry size would reduce the flexibility necessary to keep the standards in line with changes in cultural and marketing practices and introduction of new varieties.

A State Director of Agriculture opposed the proposal to increase the amount of defects permitted in the individual container, contending that the individual container sold to the consumer would be a very poor quality package if it contained the proposed maximum allowable defects. The standards, in effect since 1926 (revised 1965), were established when the product was marketed in 8-quart or larger containers and the package limitations were based on what was considered to be reasonable for the size of the container. Industry now markets a substantial portion of the product in a much smaller consumer-size container. As a result, package limitations are overly restrictive in that a single 1-quart container exceeding limitations will cause a lot to fail to meet the U.S. grades even though the lot average is within or well within the specified tolerances.

After a careful review of the comments, the U.S. Department of Agriculture has determined that the issuance of these amended standards will benefit users in that they will be more in line with current cultural and marketing practices.

It is found that it is contrary to public and industry interests to postpone the effective date until 30 days after publication in the **Federal Register** [5 U.S.C. 553], and good cause exists for making this amendment effective upon

publication in that: (1) The domestic grape harvest will begin on or about the last week of August; (2) this rule remains the same as the proposed rule; (3) amending of the standards will not require industry to make any changes in their current marketing practices.

List of Subjects in 7 CFR Part 51

Agricultural commodities.

PART 51—[AMENDED]

Accordingly, 7 CFR Part 51 is amended as follows:

1. In § 51.3610, paragraph (b) is revised to read:

§ 51.3610 U.S. Fancy Table Grapes.

* * * * *

(b) Size of berries. Not less than 90 percent, by count, of the berries, exclusive of dried berries, on each bunch shall have a minimum diameter, unless otherwise specified, of 9/16 of an inch.

* * * * *

2. In § 51.3611, paragraph (a) and (b) are revised to read:

§ 51.3611 U.S. No. 1 Table Grapes.

* * * * *

(a) *Bunches.* At least 85 percent of the bunches in each container are fairly compact; except that for packages which contain 5 pounds or less, at least 50 percent of the bunches in any container are fairly compact, provided that the average for the lot is not less than 85 percent. Bunches shall not be excessively small, except that portions of bunches consisting of not less than three berries may be used to fill open spaces between whole bunches.

(b) *Size of berries.* Not less than 90 percent, by count, of the berries, exclusive of dried berries, on each bunch shall have a minimum diameter, unless otherwise specified, of 9/16 of an inch.

3. Section 51.3614 is amended by revising the introductory text, paragraph (a) and adding paragraph (b) to read:

§ 51.3614 Application of tolerances.

The contents of individual packages in the lot, based on sample inspection, are subject to the following limitations, provided that the averages for the entire lot are within the tolerances specified for the grade:

(a) Individual packages which contain more than 5 pounds: Shall contain not more than one and one-half times a specified tolerance of 10 percent or more and not more than double a specified tolerance of less than 10 percent.

(b) Individual packages which contain 5 pounds or less: Shall contain not more than three times the specified tolerance.

(Agricultural Marketing Act of 1946, Secs. 203, 205, 60 Stat. 1087, as amended, 1090, as amended [7 U.S.C. 1622, 1624])

Done at Washington, D.C. on: September 1, 1983.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 83-24535 Filed 9-7-83; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 908

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

[Valencia Orange Reg. 316]

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period September 9–September 15, 1983. Such action is needed to provide for orderly marketing of fresh Valencia oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: September 9, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, 202–447–5975.

SUPPLEMENTARY INFORMATION:

Findings

This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona Valencia orange crop for the benefit of producers and will not substantially affect costs for the directly regulated handlers.

This regulation is issued under the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendation and information submitted by the Valencia Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy for 1982–83. The marketing policy was recommended by the committee following discussion at a public meeting on February 22, 1983. The committee met again publicly on September 6, 1983 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of Valencia oranges deemed advisable to be handled during the specified week. The committee reports the demand for Valencia oranges continues to improve.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared policy of the Act to make this regulatory provision effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 908

Marketing agreements and orders, California, Arizona, Oranges (Valencia).

PART 908—[AMENDED]

1. Section 908.616 is added as follows:

§ 908.616 Valencia orange regulation 316.

The quantities of Valencia oranges grown in California and Arizona which may be handled during the period September 9, 1983 through September 15, 1983, are established as follows:

(a) District 1: 470,000 cartons;

(b) District 2: 530,000 cartons;

(c) District 3: Unlimited cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: September 7, 1983.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 24780 Filed 9-7-83; 11:47 am]

BILLING CODE 3410-02-M

7 CFR Part 1079

Milk in the Iowa Marketing Area; Temporary Revision of Shipping Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Temporary revision of rule.

SUMMARY: This action temporarily relaxes the supply plant shipping requirements under the Iowa Federal milk order for the months of September, October and November 1983 to prevent uneconomic shipments of milk to the market and to maintain the pool status of producers who regularly supply the market. The revisions are made in response to the request of the operator of a pool supply plant who ships milk to distributing plants regulated by the order.

EFFECTIVE DATE: September 8, 1983.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–4829.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding: Proposed Temporary Revision of Shipping Percentages: Issued August 12, 1983; published August 18, 1983 (48 FR 37424).

This proposed action has been reviewed under USDA procedures established to implement Executive Order 12291 and has been classified as a "non-major" action.

It has also been determined that the need for adjusting certain provisions of the order on an emergency basis precludes following certain review procedures set forth in Executive Order 12291. Such procedures would require that this document be submitted for review to the Office of Management and Budget at least 10 days prior to its publication in the **Federal Register**. However, this would not permit the completion of the procedure in time to give interested parties timely notice that the supply plant shipping requirement for September 1983 would be modified. The initial request for the action was received on August 5, 1983. Public comments on the proposed action were due August 25, 1983.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and would tend to assure that the market would be adequately supplied with milk for fluid use with a smaller proportion of milk shipments from pool supply plants.

This temporary revision is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*) and the provisions of § 1079.7(b)(1) of the Iowa milk order.

Notice of proposed rulemaking was published in the **Federal Register** (48 FR 37424) concerning a proposed decrease in the shipping requirements for pool supply plants for the months of September, October and November 1983. The public was afforded the opportunity to comment on the proposal by submitting written data, views and arguments. One comment, in addition to the original request, was received in favor of the temporary revision. No comments were received in opposition to the temporary revision.

After consideration of all relevant material, including the proposal set forth in the aforesaid notice and other available information, it is hereby found and determined that the supply plant shipping percentages should be lowered by 10 percentage points from the present 35 percent to 25 percent for each of the months of September, October and November 1983.

Pursuant to the provisions of § 1079.7(b)(1), the supply plant shipping percentages set forth in § 1079.7(b) may be increased or decreased by up to 10 percentage points during any month to encourage additional milk shipments to pool distributing plants or to prevent uneconomic shipments.

Beatrice Foods Co., which requested the action, said that under the current supply conditions distributing plants in the Iowa market will have more than an adequate supply of milk for Class I use and that there will be no need for supply plants to ship 35 percent of their producer receipts to distributing plants during each of the months of September, October and November 1983. The petitioner said that a 25 percent shipping standard would be adequate for such months and would prevent uneconomic shipments of milk. If the shipping requirements were not lowered as requested, the spokesman indicated that his company would have to "back-haul" approximately three million pounds of milk each month. "Back-hauling" means that milk is hauled from a supply plant to a distributing plant when it is not needed for use there, and then is hauled back to the supply plant. The purpose of back-hauling would be to assure the continued pooling of the supply plant that has regularly supplied the market. He said such uneconomic shipments could be avoided if the shipping requirements were lowered.

Data for the first six months of 1983 indicate that producer milk receipts for the market were higher by more than 2 percent than for the same months of last year, while the pounds of pooled Class I milk were down more than 1 percent from a year ago.

The shipping percentage reductions are aimed at facilitating the delivery of milk to the market from supply plants for Class I use without requiring uneconomic shipments merely for pooling purposes. It is expected that less than 35 percent of the producer milk supply on the market will be needed for Class I use during each of the months of September, October and November 1983. It is concluded that the supply-demand conditions in the market warrant a lowering of the shipping requirements 10 percentage points for each month of September, October and November 1983.

It is hereby found and determined that 30 days' notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that:

(a) This temporary revision is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the Iowa marketing area for the months of September, October, and November 1983;

(b) This temporary revision does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of the proposed temporary revision was given interested parties and they were afforded opportunity to file written data, views, or arguments concerning this temporary revision. No comments were received in opposition to the temporary revision.

Therefore, good cause exists for making this temporary revision effective upon publication in the **Federal Register**.

List of Subjects in 7 CFR Part 1079

Milk marketing orders, Milk, Dairy products.

It is therefore ordered, that the aforesaid provisions of § 1079.7(b) of the Iowa Federal milk order are hereby revised for the months of September, October and November 1983.

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674

Effective Date: September 8, 1983.

Signed at Washington, D.C., on September 2, 1983.

Edward T. Coughlin,

Director, Dairy Division.

[FR Doc. 83-24544 Filed 9-7-83; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service.

9 CFR Part 75

[Docket No. 83-051]

Contagious Equine Metritis (CEM); Areas Released From Quarantine

Correction

In FR Doc. 83-23533 beginning on page 38793 in the issue of Friday, August 26, 1983, make the following correction:

In the amendment to § 75.7(a)(1), page 38794, second column, in the paragraph numbered 10, third and fourth lines, "paragraph (ii) is redesignated (iii)" should have read "paragraph (iii) is redesignated (ii)".

BILLING CODE 1505-01-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 61

Topical Reports in Support of the Implementation of Waste Classification and Waste Form Requirements

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of fee waiver for topical reports in support of the implementation of 10 CFR Part 61.

SUMMARY: The Nuclear Regulatory Commission is granting a limited waiver of fees for the review of topical reports submitted in support of the implementation of 10 CFR Part 61 waste classification and waste form requirements. The staff believes that the waiver will help ensure a cost-effective and orderly implementation of the new 10 CFR Part 61 requirements. The waiver applies to topical reports which are submitted prior to June 30, 1984 and are accepted for review.

ADDRESSES: Documents referred to in this notice may be examined at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Copies of technical positions and topical report review procedures may be obtained from the Low-level Waste Licensing Branch, U.S. Nuclear Regulatory Commision, Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: Paul H. Lohaus, Low-Level Waste Licensing Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 427-4500.

SUPPLEMENTARY INFORMATION: On December 27, 1982 (47 FR 57446) the NRC amended its regulations to provide specific requirements for licensing the land disposal of low-level radioactive wastes. The amendments, 10 CFR Part 61, "Licensing Requirements for Land Disposal of Radioactive Waste," provide licensing facilities for the land disposal of radioactive waste. Specifically, the regulations establish performance objectives for land disposal of waste; technical requirements for the siting, design, operations, and closure activities for a near-surface disposal facility; technical requirements concerning the waste form that waste generators must meet for the land disposal of waste; classification of waste; institutional requirements; and administrative and procedural requirements for licensing a disposal facility. The NRC staff believes that the implementation of 10 CFR Part 61 waste classification and waste-form requirements by waste generators will be extremely important in ensuring that the performance objectives for disposal sites are met.

NRC licensees will be required to classify wastes and meet the waste form requirements in 10 CFR Part 61 on December 27, 1983. To provide further guidance to waste generators, the NRC staff has prepared technical positions on waste classification and waste form. These technical positions present methods which are acceptable to the NRC staff for demonstrating compliance with 10 CFR Part 61. An announcement of the availability of the technical positions was made in the **Federal Register** on June 7, 1983 (48 FR 26295). In addition, copies were mailed to NRC licensees, to Agreement States, to firms which provide solidification equipment and services, and to firms which provide services related to waste classification.

Background

Compliance with the 10 CFR Part 61 waste classification and waste form requirements is the responsibility of the individual licensee. Individual licensees are not required to submit their compliance programs for formal NRC review and approval. However, subsequent to December 27, 1983 individual licensees will be required to have available for NRC inspectors data which demonstrates compliance with the waste classification and waste form requirements.

An alternate method for simplifying the review of 10 CFR Part 61 waste classification and waste form programs, however, is to reference previously reviewed and approved generic reports. Since many licensees utilize similar services from the same firm, NRC staff has encouraged these firms to submit for review generic topical reports on these services. If approved, these topical reports can be referenced in licensing documents and repetitive reviews by NRC inspectors can be eliminated.

The review of the information submitted by vendors would result in identification of solidification processes and containers determined to conform to the "waste stability" requirements of Part 61. The review of computer codes for classifying wastes would result in the identification of approved methods for meeting the waste classification requirements in 10 CFR Part 61. This information would then be used in the NRC inspection programs as a pro forma determination of compliance with the requirements; that is, determination of licensee compliance would be simplified if a licensee is using one of the "acceptable" codes, processes or products identified from the reviews.

In the absence of a review of this "topical information," compliance with the requirements for classifying or stabilizing waste will require detailed review of the information during inspections at each NRC licensee facility. This approach requires that a large number of inspectors receive detailed training in the testing and acceptance criteria related to the requirements for waste classification and waste stability in 10 CFR Part 61.

While both the topical report review and individual reviews during inspections are manpower intensive, the topical report reviews of the information submitted to NRC is a much more effective method and ensures NRC a much higher degree of consistency in the overall process of demonstrating compliance with the requirements of Part 61.

The results of the topical report reviews by the NRC would also be provided to the States, as the waste classification and stability requirements of 10 CFR Part 61 are matters of compatibility in the Agreement State program. Thus, the NRC would be providing technical assistance to and aiding the States in carrying out the intent of the Part 61.

A topical report review approach would permit NRC to continue its leadership role in dealing with the national problem of radioactive waste disposal, and would provide a centralized national level of review with active participation of the States. This will aid in assuring consistency in meeting requirements and lessening the possibility that States may adopt different approaches due to a perceived

absence of a nationally recognized waste management position.

The information from the review would also be provided to the operators of the waste disposal sites. While the persons shipping waste to the site must certify to the site operator that the waste has been classified and put in a stabilized form which meets Part 61 (and equivalent Agreement State) requirements, the results of the review should provide operators of waste disposal sites an added measure of confidence that waste classification and stability requirements have been fulfilled.

Fee Waiver

To ensure a cost-effective and orderly implementation of the new 10 CFR Part 61 requirements, NRC staff believes that a waiver should be granted for the review fees for topical reports related to meeting the 10 CFR Part 61 waste classification and waste form requirements.

The 10 CFR Part 61 waste classification and waste form requirements will involve the implemention of new testing, analytic, and administrative procedures which for waste generators will be important additions to their current practice. For these waste generators NRC staff believes that the referencing of topical reports will provide substantial benefits in terms of minimizing inspection resources required to ensure that their programs comply with 10 CFR Part 61. In addition, the use of topical reports will minimize waste generator costs required for testing, data presentation, and administration of the implementation programs.

This limited waiver of review fees is justified considering the importance of ensuring an orderly implementation of 10 CFR Part 61 and considering the benefits achieved in simplifying inspecitions of waste generators.

The waiver specifically applies to topical reports which qualify solidification agents and high-integrity containers to meet the 10 CFR Part 61 waste form requirements and to those computer code which are used to prepare waste classification documentation and waste manifest forms. The waiver is applicable to any solidification agent, high-integrity container, or waste classification computer codes which could be used by any NRC or Agreement State licensee. This waiver of fees for the review of topical reports relating to the 10 CFR Part 61 waste classification and waste form requirements will be effective for topical reports which are submitted prior to June 30, 1984 and are accepted for review.

Submittal procedures and the recommended content of 10 CFR Part 61 related topical reports are available from the Low-Level Waste Licensing Branch, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Dated at Silver Spring, Maryland, this 29th day of August, 1983

For the Nuclear Regulatory Commission.

Leo B. Higginbotham,

Chief, Low-Level Waste Licensing Branch Division of Waste Management.

[FR Doc. 83-24498 Filed 9-7-83; 8:45 am]

BILLING CODE 7590-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 101

[Rev. 2—Amdt. 20]

Delegation of Authority To Conduct Program Activities in Field Offices

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: Proposed changes to the Delegations of Authority for Field Offices were received from the Regional Administrators of Regions IV and VII, and were expanded by the Central Office. These changes affected Part III, Section C, Surety Guarantee (Region IV, Central Office) and Part X, Section A, Administrative (Region VII) of 13 CFR 101.3–2 and were approved. The change in Part III deletes all Region IV Surety Bond Guaranty Program authority at the District Office level and completes the consolidation of the program to the Atlanta Regional Office. Additionally, Surety Bond Guaranty authority is deleted in the San Francisco District Office. The change in Part X, for Region VII only, deletes the position of Administrative Officer. Added is the position of Budget Officer in certain administrative sections of that part.

EFFECTIVE DATE: September 8, 1983.

FOR FURTHER INFORMATION CONTACT: Ronald Allen, Paperwork Management Branch, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416. Telephone No. (202) 653–8538.

SUPPLEMENTARY INFORMATION: Part 101 consists of rules relating to the Agency's organization and procedures; therefore, notice of proposed rulemaking and public participation thereon as prescribed in 5 U.S.C. 553 is not required and this amendment to Part 101 is adopted without resort to those procedures.

List of Subjects in 13 CFR Part 101

Authority delegations (Government agencies), Administrative practice and procedure, Organization and functions (Government agencies).

PART 101—[AMENDED]

For the reasons set forth in the preamble and pursuant to authority in section 5(b)(6) of the Small Business Act, 15 U.S.C. 634, Part 101, 13 CFR 101.3–2 is amended as set forth below:

§ 101.3–2 [Amended]

1. Part III, Section C, paragraph 1, existing subparagraphs g and h are removed and existing subparagraphs i and j are redesignated as subparagraphs g and h as follows:

g. Senior Surety Bond Guarantee Specialist 250.000
h. Surety Bond Officer 250.000

2. Part X, Section A, paragraph 1, subparagraph g is revised to read as follows:

g. Administrative Officer, Region VI only

3. Part X, Section A, paragraph 2, subparagraph g is revised, subparagraphs h through j are redesignated as i through k and a new subparagraph h is added as follows:

g. Administrative Officer, Region VI only.
h. Budget Officer, Region VII only.
i. District Director.
j. Deputy District Director.
k. Branch Manager.

4. Part X, Section A, paragraph 3, paragraphs f through h are redesignated as g through i and a new subparagraph f is added as follows:

f. Budget Officer, Region VII only.
g. District Director.
h. Deputy District Director.
i. Branch Manager.

5. Part X, Section A, paragraph 5, subparagraph g is revised to read as follows:

g. Administrative Officer, Region VI only.

6. Part X, Section A, paragraph 6, subparagraph g is revised and a new subparagraph h is added as follows:

g. Administrative Officer, Region VI only.
h. Budget Officer, Region VII only.

(Sec. 5(b)(6) of the Small Business Act, 15 U.S.C. 634)

Dated: August 31, 1983.

James C. Sanders,

Administrator.

[FR Doc. 83-24499 Filed 9-7-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 404

Federal Old-Age, Survivors and Disability Insurance; Real Estate Agents and Direct Sellers as Self-Employed

AGENCY: Social Security Administration, HHS.

ACTION: Final rule with comment period.

SUMMARY: The Social Security Administration has revised its regulations to implement section 269(b) of the "Tax Equity and Fiscal Responsibility Act of 1982" (Pub. L. 97–248). This statutory provision provides that certain real estate agents and direct sellers shall be treated as self-employed for Social Security coverage and tax purposes regardless of their status under the common-law rules.

DATES: These regulations are effective beginning September 8, 1983. We will consider any comments we receive by November 7, 1983 and will revise these regulations if public comment warrants it.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, Maryland 21203, or delivered to the Office of Regulations, Social Security Administration, 3–A–3 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235 between 8:00 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Cliff Terry, Legal Assistant, Room 3–B–4 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, (301) 594–7519.

SUPPLEMENTARY INFORMATION:

Prior Regulations

Prior regulations, before the Social Security Act was amended by section 269(b) of the "Tax Equity and Fiscal Responsibility Act of 1982" (Pub. L. 97–248), provided that a person is an employee for Social Security purposes if he or she is an officer of a corporation, is an employee under common-law rules, or works in any of four occupations listed in subsection 210(j)(3) of the Social Security Act under the conditions set out in that subsection. The four groups of statutory employees are certain agent-drivers or commission-drivers, full-time life insurance sales persons, home workers performing services on goods or materials, and full-time traveling or city sales persons.

Interim Statutory Provisions Relating to Classification Controversies

Section 530 of the Revenue Act of 1978 provided that taxpayers who had a reasonable basis for not treating workers as employees in the past could continue such treatment without incurring employment tax liabilities. This relief was available only if the taxpayer filed all Federal tax returns (including information returns) that are required to be filed with respect to workers whose status is at issue on a basis consistent with the taxpayer's treatment of the workers as independent contractors. Also, the Revenue Act of 1978 prohibited the Treasury Department from issuing any regulation or revenue ruling that classifies individuals for purposes of employment taxes under interpretations of the common law.

The interim provisions of section 530 of the Revenue Act of 1978 were extended, by subsequent legislation, through June 30, 1982.

The Statutory Change and Amended Regulations

Section 269(b) of Pub. L. 97–248 added section 3508 to the Internal Revenue Code (IRC) and subsection 210(p) to the Social Security Act. Subsection 210(p) provides that the section 3508 rules of the IRC shall apply under title II of the Social Security Act.

Section 3508 states that, for employment tax purposes, "qualified real estate agents" and "direct sellers" shall not be treated as employees and the persons for whom they perform services shall not be treated as employers. The effect of these provisions is that a "qualified real estate agent" or "direct seller," as defined in section 3508, will be considered self-employed without regard to whether he or she is an employee under the common-law rules. These statutory provisions apply to services performed after December 31, 1982.

Section 210(p) of the Social Security Act, which applies section 3508 of the IRC, and our amended regulations define a "qualified real estate agent" as any individual who is a salesperson if—

1. The individual is a licensed real estate agent;

2. Substantially all of the earnings (whether or not paid in cash) for the services performed by the individual as a real estate agent are directly related to sales or other output (including the performance of services) rather than to the number of hours worked; and

3. The individual's services are performed under a written contract between the individual and the person for whom the services are performed which provides the individual will not be treated as an employee with respect to these services for Federal tax purposes.

Section 210(p) of the Social Security Act, which applies section 3508 of the IRC, and our amended regulations provide that a person is a "direct seller" if—

1. The person is engaged in the trade or business of selling (or soliciting the sale of) consumer products—

a. To any buyer on a buy-sell basis, a deposit-commission basis, or any similar basis which the Secretary of the Treasury prescribes by regulations, for resale (by the buyer or any other person) in the home or in other than a permanent retail establishment; or

b. In the home or in other than a permanent retail establishment; and

2. Substantially all of the person's earnings (whether or not paid in cash) for the performance of these services are directly related to sales or other output (including the performance of services) rather than to the number of hours worked; and

3. The person's services are performed under a written contract between the person and the person for whom the services are performed which provides that the person will not be treated as an employee with respect to these services for Federal tax purposes.

Section 269(c) of Pub L. 97–248 indefinitely extends the interim provisions of section 530 of the Revenue Act of 1978 from July 1, 1982, until such time as the Congress enacts legislation as to the classification of workers as independent contractors or employees. This provision, however, does not prohibit implementation (e.g., through issuance of regulations or rulings) of the provision in section 269(b) relating to statutory nonemployees.

Regulatory Procedures

We are publishing these regulations as a final rule without Notice of Proposed Rulemaking and opportunity for public comment because we find that notice and comment are "unnecessary" within the meaning of 5 U.S.C. 553(b)(B). Notice and comment are unnecessary because they merely revise the regulations to reflect changes mandated by Pub. L. 97–248, and do not grant or deny rights or impose obligations which do not already exist under the statute. Further, the statute does not permit any

discretion to be exercised by the Secretary of Health and Human Services in the regulations, even if public comment were to propose such an exercise of discretion. Any regulations interpreting the statutory provision will be issued by the Secretary of the Treasury.

These regulations are final and will become effective on the date they are published in the Federal Register.

Executive Order No. 12291—These regulations have been reviewed under Executive Order 12291. They will not have an annual effect on the economy of $100 million or more and do not meet any of the other criteria for a major regulation. Moreover, since the regulatory change merely conforms the regulations to the statutory change, any costs or other effects are not a result of the regulatory change. Therefore, a regulatory impact analysis is not required.

Regulatory Flexibility Act—We certify that these regulations will not have a significant economic impact on a substantial number of small entities. The only economic impact on small entities will be tax savings for the businesses (small and otherwise) previously considered the employers of the workers affected by the regulations since there will no longer be an employer share of Social Security tax to be paid. This economic impact will not be significant because the employer share of the tax is currently less than 7 percent of taxable payroll. Further, any benefits to small entities merely reflect statutory changes and are not a result of these regulations. Therefore, a regulatory flexibility analysis pursuant to the Regulatory Flexibility Act (Pub. L. 96–354) is not required.

Paperwork Reduction Act of 1980—These regulations impose no reporting/recordkeeping requirements requiring OMB clearance.

(Secs. 210, 205, and 1102 of the Social Security Act, as amended; sec. 269 of Pub. L. 97–248; 64 Stat. 494, as amended; 49 Stat. 624 and 647, as amended; 96 Stat. 324; 42 U.S.C. 410, 405, and 1302)

(Catalog of Federal Domestic Assistance Program Nos. 13.802 Social Security—Disability Insurance; 13.803 Social Security—Retirement Insurance; and 13.805 Social Security—Survivors Insurance.)

List of Subjects in 20 CFR Part 404

Administrative practice and procedure, Death benefits, Disabled, Old-Age, Survivors and Disability Insurance.

Dated: February 2, 1983.

John A. Svahn,

Commissioner of Social Security.

Approved: August 19, 1983.

Margaret M. Heckler,

Secretary of Health and Human Services.

PART 404—[AMENDED]

Title 20, Chapter III, Part 404 of the Code of Federal Regulations is amended as set forth below:

1. § 404.1005 is amended by revising paragraph (b) to read as follows:

§ 404.1005 Who is an employee.

* * * * *

(b) A common-law employee as described in § 404.1007 [unless you are, after December 31, 1982, a qualified real estate agent or direct seller as described in § 404.1069]; or

* * * * *

2. A new § 404.1069 is added to read as follows:

§ 404.1069 Real estate agents and direct sellers.

(a) *Trade or business.* If you perform services after 1982 as a qualified real estate agent or as a direct seller, as defined in section 3508 of the Code, you are considered to be engaging in a trade or business.

(b) *Who is a qualified real estate agent.* You are a qualified real estate agent as defined in section 3508 of the Code if you are a salesperson and—

(1) You are a licensed real estate agent;

(2) Substantially all of the earnings (whether or not paid in cash) for the services you perform as a real estate agent are directly related to sales or other output (including the performance of services) rather than to the number of hours worked; and

(3) Your services are performed under a written contract between yourself and the person for whom the services are performed which provides you will not be treated as an employee with respect to these services for Federal tax purposes.

(c) *Who is a direct seller.* You are a direct seller as defined in section 3508 of the Code if—

(1) You are engaged in the trade or business of selling (or soliciting the sale of) consumer products—

(i) To any buyer on a buy-sell basis, a deposit-commission basis, or any similar basis which the Secretary of the Treasury prescribes by regulations, for resale (by the buyer or any other person) in the home or in other than a permanent retail establishment; or

(ii) In the home or in other than a permanent retail establishment; and

(2) Substantially all of your earnings (whether or not paid in cash) for the performance of these services are directly related to sales or other output (including the performance of services) rather than to the number of hours worked; and

(3) Your services are performed under a written contract between yourself and the person for whom the services are performed which provides you will not be treated as an employee with respect to these services for Federal tax purposes.

[FR Doc. 83-24515 Filed 9-7-83; 8:45 am]
BILLING CODE 4190-11-M

Food and Drug Administration

21 CFR Part 175

[Docket No. 82F-0390]

Indirect Food Additives; Adhesive Coatings and Components

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of hydrogenated styrene polymer resins as components of adhesives used in articles intended for packaging, transporting, or holding food. This action responds to a petition filed by Hercules, Inc.

DATES: Effective September 8, 1983; objections by October 11, 1983.

ADDRESS: Written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Andrew D. Laumbach, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St., SW., Washington, D.C. 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of January 18, 1983 (48 FR 2210), FDA announced that a food additive petition (FAP 3B3692) had been filed by Hercules, Inc., Wilmington, DE 19899, proposing that Part 175 (21 CFR Part 175) be amended to provide for the safe use of hydrogenated styrene polymer resins as components of adhesives used in articles intended for packaging, transporting, or holding food.

FDA has evaluated the data in the petition and other relevant material and concludes that the proposed food additive use is safe and that the regulations should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Bureau of Foods (address above) by appointment with the information contact person listed below. As provided in 21 CFR 171.1(h)(2), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (address above), between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 175

Adhesives, Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Foods (21 CFR 5.61), Part 175 is amended as follows:

PART 175—INDIRECT FOOD ADDITIVES: ADHESIVE COATINGS AND COMPONENTS

1. Part 175 is amended:

a. In § 175.105(c)(5) by alphabetically inserting a new item in the list of substances, to read as follows:

§ 175.105 Adhesives.

* * * * *

(c) * * *

(5) * * *

Substances	Limitations
* * * * *	
Hydrocarbon resins (produced by the polymerization of styrene and *alpha*-methyl styrene), hydrogenated (CAS Reg. No. 68441–37–2)	
* * * * *	

Any person who will be adversely affected by the foregoing regulation may at any time on or before October 11, 1983, submit to the Dockets Management Branch (address above) written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective September 8, 1983.

(Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348))

Dated: August 30, 1983.

Richard J. Ronk,

Acting Director, Bureau of Foods.

[FR Doc. 83-24450 Filed 9-7-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 442

[Docket No. 83N-0210]

Antibiotic Drugs; Cefazolin Sodium Injection; Correction

AGENCY: Food and Drug Administration.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a document that amended the antibiotic drug regulations to provide for the inclusion of accepted standards for new antibotic drug, cefazolin sodium injection.

EFFECTIVE DATE: July 22, 1983.

FOR FURTHER INFORMATION CONTACT: Joan M. Eckert, National Center for Drugs and Biologics (HFN–140), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4290.

SUPPLEMENTARY INFORMATION: In FR Doc. 83–19535 in the issue of Friday, July 22, 1983, the following correction is made on page 33479 in the third column:

§ 442.211b [Corrected]

In § 442.211b *Cefazolin sodium injection,* paragraph (a)(3) (ii) (*a*) is corrected by removing the word "sodium" from the sentence.

Dated: September 1, 1983.

James C. Morrison,

Assistant Director for Regulatory Affairs.

[FR Doc. 83-24446 Filed 9-7-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Furosemide Tablets

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Biocraft Laboratories, Inc., providing for safe and effective use of furosemide tablets for oral treatment of dogs for edema associated with cardiac insufficiency.

EFFECTIVE DATE: September 8, 1983.

FOR FURTHER INFORMATION CONTACT: Bob G. Griffith, Bureau of Veterinary Medicine (HFV–112), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3430.

SUPPLEMENTARY INFORMATION: Biocraft Laboratories, Inc., P.O. Box 200, Elmwood Park, NJ 07407, filed NADA 131–806 providing for use of 50-milligram furosemide tablets for oral treatment of dogs of edema (pulmonary) congestion, ascites) associated with cardiac insufficiency.

The NADA is approved and the regulations are amended to reflect the approval. The basis for approval is discussed in the freedom of information (FOI) summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and Information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 520

Animal drugs, Oral use.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), § 520.1010a is amended by revising paragraph (b) and by adding new paragraph (c)(3) to read as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

§ 520.1010a Furosemide tablets or boluses.

* * * * *

(b) *Sponsor.* See No. 012799 in § 510.600(c) of this chapter for conditions of use provided for in paragraph (c) (1) and (2) of this section; see Nos. 000725 and 013983 in § 510.600(c) of this chapter for use in dogs as provided for in paragraph (c)(1) of this section; see No. 000332 in § 510.600(c) of this chapter for use of a 50-milligram tablet for conditions of use provided for in paragraph (c)(3) of this section.

(c) * * *

(3) *Dogs*—(i) *Amount.* 1 to 2 milligrams per pound of body weight, once or twice daily, with a 6- to 8-hour interval between successive daily doses.

(ii) *Indications for use.* It is used for the treatment of edema (pulmonary congestion, ascites) associated with cardiac insufficiency.

(iii) *Limitations.* The dosage should be adjusted to the animal's response. In severe cases, the dosage may be doubled or increased by increments of 1 milligram per pound of body weight to establish the effective dose. This dose should be administered once or twice daily on an intermittent schedule. Diuretic therapy should be discontinued after reduction of edema, or when necessary, maintained after determining a programmed dosage schedule to prevent recurrence. The drug, if given in excessive amounts or over extended periods of time, may result in dehydration and/or electrolyte imbalance. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. September 8, 1983.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: August 29, 1983.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 83-24446 Filed 9-7-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 570

[Docket No. R-83-1096]

Community Development Block Grants; State of Hawaii Small Cities Program

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Final rule.

SUMMARY: On May 23, 1983 (48 FR 22915), HUD published an interim rule amending its regulations governing the HUD-administered Small Cities Program for community development block grants. The interim rule amended the regulations to adopt special procedures applicable only to the State of Hawaii. This rule adopts the interim rule as final, without change.

EFFECTIVE DATE: October 11, 1983.

FOR FURTHER INFORMATION CONTACT: Helen Duncan, State and Small Cities Division, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, telephone (202) 755-6322. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: 24 CFR Part 570, Subpart F establishes a competitive application process and a National Selection System for determining the distribution of funds under the HUD-administered Small Cities Program. However, factors unique to the State of Hawaii, such as the relatively small amount of funds provided, and the fact that the only applicants eligible for funding under the Small Cities Program are three counties, have made a competitive system unnecessary in that State.

On May 23, 1983 (48 FR 22915), HUD published an interim rule amending 24 CFR Part 570, Subpart F to add special application and selection provisions applicable only to the State of Hawaii. Those special provisions eliminated the former competitive procedure in Hawaii in favor of a new distribution procedure based upon the formula for allocating funds to Hawaii under section 106(d)(1)(A) of the Housing and Community Development Act of 1974.

This rule adopts the interim rule as final, without change. While the Department usually takes this opportunity to respond to comments submitted by members of the general public, we have received no such comments and have dispensed with that procedure for this rule.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 570, which implements Section 102(1)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the General Counsel, Rules Docket Clerk, Room 10278, 451 Seventh Street, SW., Washington, D.C. 20410.

This rule does not constitute a "major rule" as that term is defined in Section 1(b) of Executive Order 12291 on Federal Regulation issued on February 17, 1981. Analysis of the rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Pursuant to the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned certifies that this rule does not have a significant economic impact on a substantial number of small entities because the changes are procedural in nature, and the amount of funds available to the applicants remains the same, with minimal adjustments in the amounts for which each applicant may apply.

This rule was listed as CPD-3-83 in the Department's most recent Semi-Annual Agenda of Regulations, published on April 25, 1983 (48 FR 18091) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance Program number is 14.219, Community Development Block Grants/Small Cities Program.

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96-511), the reporting or recordkeeping provisions that are included in this regulation have been approved by the Office of Management and Budget (OMB) and have been assigned OMB control number 2506-0060.

List of Subjects in 24 CFR Part 570

Community development block grants, Grant programs: housing and community

development, Loan programs: housing and community development, Low and moderate income housing, New communities, Pockets of poverty, Small cities.

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

Accordingly, the interim amendment to 24 CFR Part 570, published on May 23, 1983 (48 FR 22915) and effective on July 12, 1983, is hereby adopted as final without change.

Dated: August 29, 1983.

Stephen J. Bollinger,

Assistant Secretary for Community Planning and Development.

[FR Doc. 83-24469 Filed 9-7-83; 8:45 am]

BILLING CODE 4210-29-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 31

[T.D. 7906]

Employment Taxes; Reporting by Certain Large Food or Beverage Establishments With Respect to Tips

Correction

In FR Doc. 83-22255 beginning on page 36807 in the issue of Monday, August 15, 1983, make the following correction:

In § 31.6053-3(d)(1)(ii)(A), page 36811, first column, eighteen lines from the top of the page, "attributable by the employee" should have read "attributable to the employee".

BILLING CODE 1505-01-M

DEPARTMENT OF LABOR

Employment Standards Administration

29 CFR Part 553

Fire Protection and Law Enforcement Employees of Public Agencies; Study of Average Number of Hours Worked

AGENCY: Employment Standards Administration, Labor.

ACTION: Rule-related notice.

SUMMARY: The Department of Labor was required by the Fair Labor Standards Amendments of 1974 to conduct studies of the average number of hours in tours of duty worked by fire protection personnel and by law enforcement personnel employed by public agencies. Under the Act, the average number of hours worked by such employees, if less than 216 hours in a 28-day work period, determines the overtime standard which applies to such employees, effective January 1, 1978. The Department designed and initiated studies of the relevant governments, including state and local governments. Before the studies were completed, the Supreme Court held in *National League of Cities* v. *Usery*, 426 U.S. 833 (1976), that firefighting and law enforcement employees of state and local governments (as well as certain other categories of employees) could not constitutionally be covered by the minimum wage and overtime provisions of the Fair Labor Standards Act. The Department finished the studies and based the overtime hours standards solely on the data collected from the federal government. This was challenged on various grounds, and in *Jones* v. *Donovan*, 25 WH Cases 380 (D.D.C. 1981), *aff'd per curiam*, No. 81-1615 (D.C. Cir. March 2, 1982), the Court ordered the Department to recompute the overtime standards by including valid state and local government data with the federal data. The Department has now completed this recomputation and published the results in the **Federal Register**, as required by the 1974 amendments.

DATE: The overtime standard required as a result of the study took effect on January 1, 1978, to the extent that it is less than 216 hours on a work period of 28 consecutive days. The 216-hour standard became effective by statute on January 1, 1977.

FOR FURTHER INFORMATION CONTACT: Willis J. Nordlund, Director, Division of Program Development and Research, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210, Telephone 202-523-8493.

SUPPLEMENTARY INFORMATION: Section 7(a) of the Fair Labor Standards Act ("FLSA" or "Act") requires that premium overtime wages be paid after 40 hours in a workweek. However, section 7(k) of the Act sets forth a partial overtime exemption for fire protection and law enforcement personnel (including security personnel in correctional institutions) who are employed by public agencies. Effective January 1, 1978, section 7(k) provides as follows:

> No public agency shall be deemed to have violated (the normal 40-hour overtime standard of the Act) with respect to the employment of any employee in fire protection activities or any employee in law enforcement activities (including security personnel in correctional institutions) if—
>
> (1) In a work period of 28 consecutive days the employee receives for tours of duty which in the aggregate exceed the lesser of (A) 216 hours, or (B) the average number of hours (as determined by the Secretary pursuant to section 6(c)(3) of the Fair Labor Standards Amendments of 1974) in tours of duty of employees engaged in such activities in work periods of 28 consecutive days in calendar year 1975; or
>
> (2) In the case of such an employee to whom a work period of at least 7 but less than 28 days applies, in his work period the employee receives for tours of duty which in the aggregate exceed a number of hours which bears the same ratio to the number of consecutive days in his work period as 216 hours (or if lower, the number of hours referred to in clause (B) of paragraph (1) bears to 28 days, compensation at a rate not less than one and one-half times the regular rate at which he is employed.

The Study referred to in section 7(k) is described in section 6(c)(3) of the Fair Labor Standards Amendments of 1974:

> The Secretary of Labor shall in the calendar year beginning January 1, 1976, conduct (A) a study of the average number of hours in tours of duty in work periods in the preceding calendar year of employees (other than employees exempt from section 7 of the Fair Labor Standards Act of 1938 by section 13(b)(20) of such Act) of public agencies who are employed in fire protection activities, and (B) a study of the average number of hours in tours of duty in work periods in the preceding calendar year of employees (other than employees exempt from section 7 of the Fair Labor Standards Act of 1938 by section 13(b)(20) of such Act) of public agencies who are employed in law enforcement activities (including security personnel in correctional institutions). The Secretary shall publish the results of each such study in the **Federal Register**.

When the study was originally designed, it excluded those fire protection and law enforcement personnel (including security personnel in correctional institutions) who, as a result of the section 13(b)(20) exemption, were not subject to the special overtime standard in section 7(k).

During the time that the study was being designed and initiated, the Supreme Court took action which at first temporarily, and later permanently, prevented application of the special section 7(k) overtime standard to many other fire protection and law enforcement employees besides those exempted by section 13(b)(20). Specifically, on December 31, 1974, the day before the section 7(k) provisions

became effective, the Supreme Court stayed them, as well as regulations which the Department of Labor had issued, insofar as they applied to State and local governments. The stay order specifically enjoined "enforcement by the Secretary of Labor or by any other person in any Federal court" of the provisions referred to above with respect to State and local governments (see 419 U.S. 1321 (Dec. 31, 1974)). Later, in *National League of Cities* v. *Usery*, 426 U.S. 833 (1976), the Supreme Court struck down as unconstitutional the application of the FLSA's minimum wage and overtime provisions to State and local government employees engaged in "traditional" government functions, including firefighters and law enforcement personnel. As a result of the stay order and the 1976 decision by the Supreme Court, State and local firefighters and law enforcement personnel were never subject to section 7(k) (or any other overtime provisions of the Act).

In light of this action by the Supreme Court, the Department excluded from the computations not only the hours of those employees exempt from the section 7(k) overtime standard by reason of section 13(b)(20), but also the hours of rank and file employees of state and local government firefighting and law enforcement agencies.

The data with respect to the remaining public agency employees were published in the **Federal Register**, Vol. 44, No. 237, Friday, December 7, 1979. Based on these data, the partial overtime exemption for employees engaged in fire protection activities under section 7(k) was determined to be 216 hours per work period of 28 consecutive days in calendar year 1975. For employees engaged in law enforcement activities, the average was determined to be 186 hours per work period of 28 consecutive days in calendar year 1975.

In *Jones* v. *Donovan*, 25 WH Cases 380 (D.D.C. 1981), *aff'd per curiam*, No. 80–1615 (D.C. Cir. March 2, 1982), the Court held that the Department has erred in establishing the special overtime standards applicable to firefighters and law enforcement personnel under section 7(k) of the Fair Labor Standards Act, by failing to take into consideration the hours worked by state and local government employees in these areas. The Court determined that, although the Act's overtime pay standard may not be applied to such state and local government employees, the average number of hours these employees work remains relevant in determining the standard applicable to Federal employees. The Court ordered the Department to recompute the overtime standards by counting state and local data along with the federal data, including data obtained from the study of state and local firefighting and law enforcement agencies and any additional data provided by the plaintiffs which the Department judged to be vaild.

In accordance with the District Court's order, the Department has recomputed the average work hours for public fire protection and law enforcement employees and the results are as follows: For employees engaged in fire protection activities, the average number of hours in tours of duty in work periods of 28 consecutive days in 1975 was 212 hours. Consequently, the partial overtime exemption in section 7(k) for such employees is changed from 216 hours to 212 hours in a work period of 28 consecutive days (or a correspondingly lesser number of hours for a shorter work period).

For employees engaged in law enforcement activities (including security personnel in correctional institutions), the average number of hours in tours of duty in work periods of 28 consecutive days was 171 hours. Consequently, the partial overtime exemption in 7(k) for these employees is changed from 186 hours to 171 hours in a work period of 28 consecutive days (or a correspondingly lesser number of hours for a shorter work period).

As provided in section 6(e)(1)(D) of the Fair Labor Standard Amendments of 1974 (Pub. L. 93–259, 88 Stat. 610), the effective date of these changes is January 1, 1978. Where any Federal employee is entitled to additional overtime compensation as a result of the studies described herein, such overtime compensation shall be paid retroactively to January 1, 1978. The Office of Personnel Management has taken the position that this means the first applicable work period commencing on or after January 1, 1978.

As a result of these studies, pertinent changes will be made in 29 CFR Part 553 ("Employees of Public Agencies Engaged in Fire Protection or Law Enforcement Activities (Including Security Personnel in Correctional Institutions)").

Signed at Washington, D.C., on this 6th day of September, 1983.

Robert B. Collyer,
Deputy Under Secretary.

William M. Otter,
Administrator, Wage and Hour Division.

[FR Doc. 83-24597 Filed 9-7-83; 8:45 am]
BILLING CODE 4510-27-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[Gen. Docket No. 82-625; RM-3504; RM-3534; FCC 83-301]

Providing High Frequency Spectrum for Use by Eligibles in the Special Industrial, Petroleum, Telephone Maintenance and Power Radio Services

Correction

In FR Doc. 83-19285 beginning on page 32991 in the issue of Wednesday, July 20, 1983, make the following correction:

In § 2.106, in the table on page 32994, under "Band (kHz)" the entry now reading "5000–4550" should have read "5005–5450".

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 1

[OST Docket No. I; Amdt. 1-183]

Organization and Delegation of Powers and Duties; Correction

AGENCY: Office of the Secretary, DOT.
ACTION: Final rule.

SUMMARY: This amendment corrects delegations to the Federal Highway Administrator which inadvertently displaced the delegations to the Administrator to carry out the functions vested in the Secretary by Section 30 of the Motor Carrier Act of 1980 and those functions relating to motor carriers which were vested in the Secretary by Executive Order 12316, relating to Superfund.

DATE: The effective date of this amendment is September 8, 1983.

FOR FURTHER INFORMATION CONTACT: Robert I. Ross, Office of the General Counsel, C–50 Department of Transportation, Washington, DC (202) 426–4723.

SUPPLEMENTARY INFORMATION: Since this amendment relates to Departmental management, procedures, and practice, notice and comment on it are unnecessary and it may be made effective in fewer than thirty days after publication in the **Federal Register.**

In the **Federal Register** of August 5, 1982 (47 FR 33985), DOT published Amendment 1–174, which delegated to the Federal Highway Administrator the authority to complete the parking

facility and associated ramps at Union Station in Washington, DC, under section 118 of the National Visitor Center Facilities Act of 1968, as added by the Union Station Redevelopment Act of 1981. This delegation was mistakenly made paragraph (w) of Section 1.46, thereby displacing from the Code of Federal Regulations the then-existing delegation in paragraph (w) relating to Superfund, which itself had mistakenly displaced an even earlier paragraph (w) regarding the establishment of minimum levels of financial responsibility for motor carriers of property under Section 30 of the Motor Carrier Act of 1980. It was never intended in any way to affect the delegation to the Federal Highway Administrator under either Superfund or Section 30; consequently, those delegations are replaced in the Code of Federal Regulations as paragraphs (w) and (x) by this amendment, and the succeeding delegation regarding Union Station in Washington, DC, is redesignated accordingly. DOT emphasizes that it considers that these delegations have been in continuous effect since their original effective dates, despite the clerical errors which led to their removal from the Code of Federal Regulations and despite further that the effective date of this amendment is the date of its appearance in the Federal Register.

List of Subjects in 49 CFR Part 1

Authority delegations (government agencies), Organization and functions (government agencies), Transportation.

PART 1—[AMENDED]

In consideration of the foregoing, § 1.48 of Part 1 of Title 49, Code of Federal Regulations, is amended by revising paragraph (w), and adding new paragraphs (x) and (y) to read as follows:

§ 1.48 Delegations to Federal Highway Administrator.

The Federal Highway Administrator is delegated authority to:

* * * * *

(w) Carryout the functions vested in the Secretary by section 30 of the Motor Carrier Act of 1980 (Pub. L. 96–296), relating to the establishment of minimum levels of financial responsibility for motor carriers of property.

(x) Carry out the functions vested in the Secretary by sections 4(a) and (5)(c) of Executive Order 12316 of August 14, 1981 (46 FR 42237; August 20, 1981) (delegating sections 107(c)(1)(C) and 108(b), respectively, of the Comprehensive Environmental Response, Compensation, and Liability Act of 1981, Public Law 96–510), insofar as they relate to motor carriers.

(y) Carry out the functions vested in the Secretary by section 118 of the National Visitor Center Facilities Act of 1968 (Pub. L. 90–264, 82 Stat. 43), as added by the Union Station Redevelopment Act of 1981 (Pub. L. 97–125; 95 Stat. 1672), with respect to the completion of the parking facility and associated ramps at Union Station in Washington, D.C. (40 U.S.C. 818).

(49 U.S.C. 322, 49 CFR 1.57(1))

Issued in Washington, D.C., on August 31, 1983.

James H. Burnley IV,

General Counsel.

[FR Doc. 83-24522 Filed 9-7-83; 8:45 am]

BILLING CODE 4910-62-M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1162 and 1307

[Ex Parte No. MC–165[1]]

Exemption of Motor Contract Carriers From Tariff Filing Requirements

AGENCY: Interstate Commerce Commission.

ACTION: Rule related notice; notice of court action.

SUMMARY: In Ex Parte No. MC–165, *Exemption of Motor Contract Carriers From Tariff Filing Requirements*, we exempted all motor contract carriers of property from the otherwise applicable tariff filing requirements. In No. 38749 (Sub-No. 1) et al. and No. 38895 et al., we granted final exemptions or affirmed final grants of exemption to certain individual motor contract carriers. By order filed July 20, 1983, the United States Court of Appeals for the District of Columbia Circuit stayed the Commission's decisions in: Ex Parte No. MC-165 (48 FR 24388, June 1, 1983 corrected at 48 FR 32024, July 13, 1983); No. 38749 (Sub-No. 1) et al. (served July 5, 1983); and No. 38895 et al. (served July 5, 1983), pending judicial review. By order filed July 29, 1983, the court denied motions for reconsideration, rehearing, and vacation of the stays and it also further clarified its July 20th order.

FOR FURTHER INFORMATION CONTACT:
Jane Morris, (202) 275–6434
or
Howell I. Sporn (202) 275–7691.

SUPPLEMENTARY INFORMATION: The purpose of this notice is to inform the public of recent court decisions that affect these proceedings and to explain how we plan to handle contract carrier tariff exemption proceedings in the future.

In Ex Parte No. MC–165, *Exemption of Motor Contract Carriers From Tariff Filing Requirements*, served May 27, 1983, we exempted all motor contract carriers of property from the otherwise applicable tariff filing requirements. In No. 38749 (Sub-No. 1) et al., *UTF Carriers, Inc.—Petition for Exemption From Tariff Filing Requirements*, and No. 38895 et al., *International Transport, Inc.—Petition for Exemption From Tariff Filing Requirements*, we granted final exemptions or affirmed final grants of exemption to certain individual motor contract carriers.

The United States Court of Appeals for the D.C. Circuit stayed all three of these decisions pending judicial review in its order filed July 20, 1983.

Subsequently, by order filed July 29, 1983, the court denied motions for reconsideration, rehearing, and vacation of the stays and also offered the following clarification of its July 20th order:

> The movants erroneously characterize the stay of the Commission's July 5, 1983 orders as staying individual exemption proceedings. Individual exemption proceedings have not been stayed; we do no more than return each to the status quo existing prior to the July 5 orders. Rather, what has been stayed is the Commission's summary disposition of all pending individual exemption proceedings simply by reference to the findings and general conclusions made in issuing the prior industry-wide tariff exemption in *Ex Parte MC—165*. Our stay in No. 83–1581 of *Ex Parte MC–165* precludes such an automatic grant of individual exemption applications. Each such application must, pursuant to past practice, be examined on its own merits.

As a result of the court action, the decision granting industry-wide relief in Ex Parte No. MC–165 and the final decisions in the individual proceedings consolidated in No. 38749 (Sub-No. 1) et al. and No. 38895 et al., are no longer in effect. Provisional or permanent exemptions previously granted in those proceedings, however, remain in effect

[1] This notice also includes No. 38749 (Sub-No. 1) et al., *UTF Carriers, Inc.—Petition for Exemption From Tariff Filing Requirements*, and No. 38895 et al., *International Transport, Inc.—Petition for Exemption From Tariff Filing Requirements*.

since the court directed that each of the proceedings be returned to the status quo existing prior to our July 5th decisions. Therefore, those operating without tariffs under an existing provisional or permanent exemption may continue to do so.

Consistent with the court's July 29th order, we will continue to process petitions for exemption from tariff filing requirements. Each petition will be handled on an individual basis. When a carrier files a petition that makes a *prima facie* case for tariff relief, we will publish a notice of proposed exemption in the **Federal Register** and will issue a decision advising that the proposed grant will become effective at the close of the 15 day comment period unless timely filed adverse comments are received.[2] If timely adverse comments are received, we will issue a final decision granting or denying the relief sought within 20 days of the close of the comment period.

Factors which we will consider in individual tariff relief proceedings include (but are not limited to) the following:

1. Specific ways in which an exemption will increase the particular carrier's pricing flexibility and marketing ability.

2. Specific dollar amounts by which a particular contract carrier's costs will be lowered as a result of an exemption.

3. Any particular facts unique to the contracting shippers involved which make an exemption consistent with the public interest and the national transportation policy.

4. Any unnecessary burdens that will be alleviated by a tariff exemption.

Decided: August 29, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-24533 Filed 9-7-83; 8:45 am]

BILLING CODE 7035-01-M

[2] Individual exemption applications may be consolidated for **Federal Register** publication, but each should be addressed individually in the comments and will be decided separately.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

[Docket No. 30831-175]

Ocean Salmon Fisheries Off the Coasts of Washington, Oregon, and California

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of closure.

SUMMARY: The Secretary of Commerce issues this notice to close the recreational salmon fishery in the fishery conservation zone (FCZ) between Leadbetter Point, Washington, and the U.S.-Canada border at midnight September 5, 1983, to ensure that the quota for coho salmon is not exceeded in 1983. The Director, Northwest Region, National Marine Fisheries Service, has determined in consultation with the Washington Department of Fisheries and the Pacific Fishery Management Council that the recreational quota of 129,000 coho salmon for the area will be reached by September 5. This action is required by the Federal regulations for this fishery.

EFFECTIVE DATES: Closure of the FCZ from Leadbetter Point, Washington, to the U.S.-Canada border to recreational salmon fishing is effective at 2400 hours Pacific Daylight Time (P.D.T.), September 5, 1983.

FOR FURTHER INFORMATION CONTACT: H. A. Larkins (Director, Northwest Region, National Marine Fisheries Service), 7600 Sand Point Way NE, Bin C-15700, Seattle, Washington 98115; telephone 206-527-6150.

SUPPLEMENTARY INFORMATION: Emergency regulations to manage the ocean commercial and recreational salmon fisheries off the coasts of Washington, Oregon, and California were published in the **Federal Register** on May 11, 1983 (48 FR 21135). These emergency regulations were effective on May 23, 1983, for a 90-day period, and were extended for an additional 90-day period effective August 21, 1983 (48 FR 36823).

The emergency regulations specify at § 661.22(a)(2) that when the Director, Northwest Region, National Marine Fisheries Service (Regional Director), projects that a quota is to be reached by a certain date, the Secretary of Commerce (Secretary) shall, by publishing a notice in the **Federal Register**, close the fishery as of the date the quota will be reached.

The coho quota for the recreational fishery in the area from Leadbetter Point to the U.S.-Canada border is 129,000 fish as shown in Table 3, § 661.22(a)(1). Based on the most recent catch and effort information supplied by the Washington Department of Fisheries (WDF), the recreational fishery in the area is projected to reach the 129,000 coho salmon quota by midnight September 5, 1983. The Secretary therefore issues this notice to close the ocean recreational salmon fishery from Leadbetter Point to the U.S.-Canada border effective midnight, September 5, 1983. This notice affects only the fishery specified here.

The Regional Director held consultations with the Director of WDF and with representatives of the Pacific Fishery Management Council regarding this closure. The Director of WDF has indicated Washington will close the recreational salmon fishery in the ocean inshore of the FCZ at the same time this action closes the specified parts of the FCZ.

As provided under § 661.22(e), all information and data relevant to this notice of closure have been compiled in aggregate form and are available weekdays for public review at the above address from 8:00 am to 4:30 pm.

This action is taken under the authority of 50 CFR 661.22 and in compliance with Executive Order 12291.

(16 U.S.C. 1801 *et seq.*)

List of Subjects in 50 CFR Part 661

Fish, Fisheries, Fishing, Indians.

Dated: September 2, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 83-24532 Filed 9-2-83; 2:31 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 48, No. 175
Thursday, September 8, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

7 CFR Part 631

Great Plains Conservation Program

AGENCY: Soil Conservation Service (SCS), USDA.

ACTION: Proposed rule.

SUMMARY: SCS is revising its regulations for implementing the Great Plains Conservation Program (GPCP) which operates in the States of Colorado, Kansas, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming. This is a revision of the present GPCP rules published November 18, 1975 (40 FR 53370). The regulations were revised to simplify them and allow more decisions to be made at the State level.

DATE: Comments are due November 7, 1983. All comments received during the review period will be considered during preparation of the final rules.

ADDRESS: Interested persons are invited to submit written comments to Cletus J. Gillman, Deputy Chief for State and Local Operations, Soil Conservation Service, USDA, P.O. Box 2890, Washington, D.C. 20013, (202) 447–7145.

FOR FURTHER INFORMATION CONTACT: Dennie G. Burns, Director, Land Treatment Program Division, Soil Conservation Service, USDA, P.O. Box 2890, Washington, D.C. 20013, (202) 382–1870.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum 1512–1 to implement Executive Order 12291 and has been classified "nonmajor."

Peter C. Myers, Chief, Soil Conservation Service, has determined that this action: (1) Will not affect the national economy by $100 million or more, nor will it cause a major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic regions; (2) will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (3) will not have a significant economic impact on a substantial number of small entities.

The rule will govern a program of technical and financial assistance in which participation is voluntary. Thus, it will not impose an unnecessary regulatory, information, or compliance burden on small businesses, organizations, or governmental jurisdictions as defined in the Regulatory Flexibility Act, Pub. L. 96–354 (5 U.S.C. 601).

The Great Plains Conservation Program is authorized by the Soil Conservation and Domestic Allotment Act as amended by Pub. L. 84–1021, 70 Stat. 1115; Pub. L. 91–118, 83 Stat. 194; and Pub. L. 96–263 (16 U.S.C. 590p(b)).

The Soil Conservation and Domestic Allotment Act, as amended, authorizes the Secretary of Agriculture to assist farmers and ranchers to prepare and implement a land use and treatment program that will help prevent or reduce the effects of the erratic climate of the Great Plains area. The Great Plains Conservation Program provides financial and technical assistance to land users who have developed acceptable conservation plans for the entire farm or ranch operating unit.

The Secretary of Agriculture has delegated authority for administration of the Act to the Chief of the Soil Conservation Service (SCS).

List of Subjects in 7 CFR Part 631

Grant programs (agriculture), Grant programs (natural resources), Soil conservation, Technical assistance, and Water resources.

Accordingly, 7 CFR Part 631, Table of Contents and text are revised to read as follows:

PART 631—GREAT PLAINS CONSERVATION PROGRAM

Subpart A—General Provisions

Sec.
631.1 Purpose.
631.2 Definitions.
631.3 Administration.
631.4 Program applicability.
631.5 Land user eligibility.
631.6 Land eligible for the program.
631.7 Conservation treatment eligible for cost sharing.
631.8 Cost-share rates.
631.9 Conservation plan.

Subpart B—Contracts

631.10 Contracts.
631.11 Conservation practice maintenance.
631.12 Cost-share payments.
631.13 Disputes and appeals.
631.14 Contract violations.

Subpart C—Miscellaneous

631.20 Setoffs.
631.21 Compliance with regulatory measures.
631.22 Access to operating unit.
631.23 State conservationists's authority.

Authority: 16 U.S.C 590p(b).

Subpart A—General Provisions

§ 631.1 Purpose.

The Great Plains Conservation Program (GPCP) is a special program targeted to the total conservation treatment of farm or ranch units with the most severe soil and water resources problems. The program is supplemental to, not a substitution for, other programs in the Great Plains area. Program participation is voluntary and is carried out by applying a conservation plan encompassing an entire operating unit. A conservation plan is developed with the land user in consultation with the local conservation district and is used to establish a Great Plains Conservation Program contract. This contract provides for cost sharing between the land user and the Secretary of Agriculture for applying needed land use adjustments and conservation treatment within a specified time schedule.

§ 631.2 Definitions.

The terms defined shall have the following meaning in this part and in all contracts, forms, documents, instructions, and procedures in connection therewith, unless the contract or subject matter requires otherwise.

Applicant. A land user has requested in writing to participate in the GPCP.

Area Conservationist. The SCS employee who is the first line supervisor with primary responsibility for quality control. Serves as contracting officer as designated by the state conservationist.

Chief. The Chief of the Soil Conservation Service (SCS), USDA.

Conservation district (CD). A conservation district, soil conservation district, soil and water conservation district, natural resource district, or similar legally constituted body with which the Secretary of Agriculture cooperates pursuant to the Soil Conservation and Domestic Allotment Act. The members of governing bodies of these organizations may be known as supervisors, directors, or commissioners.

Conservation plan. A written record of the land user's decisions regarding planned land use and treatment, including estimates of extent and cost. The timing of applications for each practice and/or identifiable unit is scheduled in the conservation plan.

Conservation practice. A specific treatment which is planned and applied according to SCS standards and specifications as a part of a resource management system for land, water, and related resources.

Contract. A legal document that binds both the participants and the government to carry out the terms of the Great Plains Conservation Program.

Contracting officer. The SCS employee authorized to sign GPCP contracts on behalf of SCS.

County program committee. A group of Federal, state, and local officials selected by the designated conservationist. The committee provides ideas to the designated conservationist regarding program development and interagency program coordination.

Designated county. A county within a Great Plains state which has been designated for participation by the Chief.

Designated conservationist. A district conservationist or other SCS employee who is designated by the state conservationist to be responsible for administration of the Great Plains Conservation Program in a designated county.

District conservationist. The SCS employee assigned to direct and supervise SCS activities in one or more conservation districts.

Great Plains area. The area comprising those counties within the Great Plains states which have been designated for GPCP participation.

Great Plains states. The states of Colorado, Kansas, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming.

Identifiable unit. A clearly identifiable component of a conservation practice.

Land user. An individual, partnership, firm, joint-stock company, corporation, association, trust, estate, or other nonpublic legal entity having control of a unit of land. This definition includes two or more persons having a joint or common interest.

Life span. The period of time specified in the contract and/or operation and maintenance agreement during which the resource management systems or component practices are to be maintained and used for the intended purpose. Most practices will have a useful life beyond the specified life span.

Operation and maintenance agreement. A document signed by both the participant and the contracting officer outlining the operation and maintenance requirements for applied conservation treatment.

Operating unit. A parcel or parcels of land, whether contiguous or noncontiguous, constituting a single management unit for agricultural purposes.

Other land. Nonagricultural land on which erosion must be controlled to protect agricultural land and which can be covered by contract.

Participant. A land user who is a party to a GPCP contract.

Resource management system. A combination of conservation practices needed to protect or improve the resource base of the land covered by the contract.

Specifications. Minimum quantity or quality requirements established by the SCS to meet the standard for a specific conservation practice.

State conservationist. The SCS employee authorized to direct and supervise SCS activities within the state.

State program committee. A group of Federal, state, and local officials selected by the state conservationist. The committee provides ideas to the state conservationist regarding program development, coordination, general policies, and operating procedures of GPCP in the state.

Technical assistance. Guidance provided to land users regarding the use and treatment of soil, water, plant, animal and related resources. This assistance may include conservation plan formulation, application, and maintenance, and is usually confined to those activities which the recipient could not reasonably be expected to do without specialized assistance.

Technical Guide. A document containing detailed information on the conservation of soil, water, plant, animal and related resources applicable specifically to the area for which it is prepared.

§ 631.3 Administration.

(a) The Soil Conservation Service (SCS) is responsible for administration of GPCP.

(b) The program shall be carried out in close cooperation with interested Federal, state, and local governmental units and organizations. The program in designated counties shall be coordinated with the long-range program of conservation districts operating in such counties and with other USDA activities.

(c) Applicants who have USDA-Farmers Home Administration (FmHA) loans must furnish evidence satisfactory to SCS that the conservation plan used as a basis for the GPCP contract is compatible with planning assistance provided by FmHA. Such evidence may consist of written acknowledgement by the authorized FmHA official that the GPCP conservation plan is compatible with the farm management plan prepared for FmHA program purposes.

§ 631.4 Program applicability.

The program is applicable only to designated counties within the Great Plains states. County designation is a responsibility of the SCS Chief.

§ 631.5 Land user eligibility.

Any land user in a designated county may file an application for participation in the GPCP with the SCS field office. A land user who develops an acceptable conservation plan in cooperation with SCS and the conservation district in compliance with the terms and conditions of the program is eligible to sign a contract.

§ 631.6 Land eligible for the program.

The program is applicable to: (a) Privately owned land, (b) nonfederally owned public land under private control for the contract period and included in the participant's operating unit, and (c) federally owned land if installation of conservation practices would directly benefit nearby or adjoining privately owned land of persons who maintain and use the Federal land.

§ 631.7 Conservation treatment eligible for cost sharing.

(a) The state conservationist, in consultation with the state GPCP committee, shall select the resource management systems, or conservation practices or identifiable units eligible for GPCP cost sharing in the state.

(b) The designated conservationist, in consultation with the county program committee, shall select from the state list the eligible conservation systems, practices or identifiable units eligible for GPCP cost share in the county.

§ 631.8 Cost-share rates.

(a) The maximum Federal rate may not exceed 80 percent.

(b) The maximum Federal rate within each state for each practice or identifiable unit shall be established by the state conservationist.

(c) The maximum rate for each county is established by the designated conservationist not to exceed the state rate.

(d) The rate established by a state conservationist or a designated conservationist shall not exceed the amount necessary and appropriate to apply conservation treatment.

§ 631.9 Conservation plan.

(a) An applicant is responsible for developing a conservation plan, in cooperation with the conservation district, that protects the resource base in a manner acceptable to SCS. This plan will be used as a basis for developing a contract. Conservation treatment is to be planned and implemented as a resource management system.

(b) The applicant decides how the land will be used and selects the resource management systems that will achieve the applicant's objectives and provide protection of soil, water and related resources acceptable to SCS. At the option of the applicant, eligible practices may be included in the conservation plan to enhance fish and wildlife and recreation resources, promote the economic use of land, and reduce or control agriculture-related pollution.

(c) Technical assistance will be provided by SCS, as needed by the land user. SCS may utilize the services of private, state, and other Federal agencies in discharging its responsibilities for technical assistance.

(d) Participants are responsible for accomplishing the conservation plan and may sue all available sources of assistance, including other USDA programs that are consistent with the conservation plan.

(e) All conservation practices scheduled in the conservation plan will be carried out in accordance with the applicable SCS technical guide.

Subpart B—Contracts

§ 631.10 Contracts.

(a) To participate in the program, an applicant must enter into a contract in which the applicant agrees to implement a conservation plan. All persons who control or share control of the operating unit for the proposed contract period must sign the contract or one person with power-of-attorney may sign the contract for all persons. The applicant must provide the contracting officer with satisfactory evidence of control of the operating unit.

(b) Contracts may be entered into not later than September 30, 1991. The contract shall be for a period needed to establish conservation treatment scheduled in the conservation plan and must extend at least 3 years but not more than 10 years.

(c) Contracts may be transferred or modified by mutual consent. The transferee assumes full responsibility for the contract including all land treatment installed under the contract. This includes all payments made under the contract to the participant or preceding participants, before and after the transfer.

(d) Contracts may be terminated by mutual consent, or by SCS for cause.

§ 631.11 Conservation practice maintenance.

Each participant is obligated to maintain the resource management systems or conservation practices which have been applied under the contract for the duration of the contract. Practices installed before execution of the contract are to be maintained as specified in the contract. If the life span of practices or resource management systems extends beyond the period of the contract, state conservationists may make the operation and maintenance of those practices or systems a condition of the contract. The length of such operation and maintenance shall extend for the expected life span.

§ 631.12 Cost-share payments.

(a) Federal cost sharing shall be adjusted so that the combined cost share by Federal and state government or subdivision of a state shall not exceed 100 percent of the cost.

(b) Cost-share payments for completing resource management systems or a practice or an identifiable unit according to specifications will be made by SCS as specified in the contract.

§ 631.13 Disputes and appeals.

(a) If an applicant or a participant disagrees with a determination of the district conservationist, other than as to a contract violation, the person must notify the contracting officer in writing on the nature, extent, and reasons for the disagreement. The contracting officer will review the situation and attempt to negotiate a mutually acceptable solution. If a negotiated solution is not possible, the state conservationist will review the facts and notify the landowner of the decision.

(b) An applicant/participant may appeal a state conservationist's decision of a dispute to the Chief. The appeal must be in writing, setting forth the applicant/participant's disagreement with the state conservationists's decision, and must be made within 30 days of the state conservationist's decision. The Chief will review the facts of the appeal and notify the applicant/participant of his decision. The Chief's decision will constitute the final administrative determination within SCS.

§ 631.14 Contract violations.

Contract violations will be determined by and handled in accordance with the terms of the contract and attachments thereto.

Subpart C—Miscellaneous

§ 631.20 Setoffs.

If any participant to whom compensation is payable under the program is indebted to USDA, or any agency thereof, or is indebted to any other agency of the United States, and such indebtedness is listed on the county claim control record maintained in the office of the county ASC committee, the compensation due the participant shall be set off against the indebtedness. Indebtedness owing to USDA, or any agency thereof, shall be given first consideration. Setoffs made pursuant to this section shall not deprive the participant of any right to contest the justness of the indebtedness involved either by administrative appeal or by legal action. Participants who are indebted to this program for any reason will be placed on the USDA claim control record promptly by the state conservationist after the participant has been given opportunity to pay the debt.

§ 631.21 Compliance with regulatory measures.

Participants who carry out conservation practices shall be responsible for obtaining the authorities, rights, easements, or other approvals necessary for the implementation and maintenance of the conservation practices in keeping with applicable laws and regulations. Participants shall save the United States harmless from any infringements upon the rights of others or from any failure to comply with applicable laws or regulations.

§ 631.22 Access to operating unit.

Any authorized SCS representative shall have the right to enter an operating unit for the purpose of ascertaining the accuracy of any representations made in

a contract or leading up to a contract, and as to the performance of the terms and conditions of the contract. Access shall include the right to measure acreages, render technical assistance, and inspect any work undertaken under the contract.

§ 631.23 State conservationist's authority

The state conservationist, upon his own initiative, may revise or require revision of any determination made by the contracting officer or the district conservationist in connection with the program, except that the state conservationist may not revise any executed contract other than as may specifically be authorized herein.

Dated: September 1, 1983.

Peter C. Myers,

Chief, Soil Conservation Service.

[FR Doc. 83-24534 Filed 9-7-83; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 83-AGL-10]

Proposed Designation of Transition Area

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate controlled airspace near Valley City, North Dakota, to accommodate a new NDB Runway 31 instrument approach procedure for Valley City Municipal Airport, Valley City, North Dakota.

The intended effect of this action is to ensure segregation of the aircraft using approach procedures in instrument weather conditions from other aircraft operating under visual weather conditions in controlled airspace.

DATE: Comments must be received on or before October 3, 1983.

ADDRESS: Send comments on the proposal in triplicate to FAA Office of Regional Counsel, AGL-7, Attention: Rules Docket Clerk, Docket No. 83-AGL-10, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

An informal docket will also be available for examination during normal business hours in the Airspace, Procedures, and Automation Branch, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7360..

SUPPLEMENTARY INFORMATION: The development of the proposed instrument procedure requires the FAA to lower the floor of the controlled airspace to ensure that the procedure will be contained within controlled airspace. .

The new instrument approach procedure is being established in an area which is now primarily uncontrolled airspace below an approximate average of 1,500 feet above the surface. This necessitates the designation of a transition area with a base of 1,200 feet above the surface to contain arriving instrument flight rules operations at 1,500 feet and higher above the surface and departing instrument flight rules operations from the point where they reach 1,200 feet above the surface. That 1,200-foot transition area includes the procedure turn area of the instrument procedure which is located southeast of Valley City Airport. The new procedure also requires the designation of an area with a base of 700 feet above the surface to contain arriving instrument flight rules operations below 1,500 feet above the surface and departing instrument operations until they reach 1,200 feet above the surface. The minimum descent altitude for this procedure may be established below the floor of the 700-foot controlled airspace.

Aeronautical maps and charts will reflect the area of the instrument procedure which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Commments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 83-AGL-10." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed on the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, S.W., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2, which describes the application procedures.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a new 700-foot controlled airspace transition area near Valley City, North Dakota.

Section 71.181 of Part 71 of the Federal Aviation Regulations was published in Advisory Circular Ac 70-3A dated January 3, 1983.

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Valley City, ND

That airspace extending upward from 700 feet above the surface within a 6.5 mile radius of the Valley City Municipal Airport (lat. 46°56'30" N., long. 98°01'00" W.) and that

airspace extending upward from 1,200 feet above the surface within a 9-mile radius of the Valley City Municipal Airport (lat. 46°56'30" N., long. 98°01'00" W.); within 4.5 miles southwest and 9.5 miles northeast of the 133° bearing from the Valley City, North Dakota, NDB (lat. 46°52'38" N., long. 97°54'49" W.), extending from the NDB to 18.5 miles southeast of the NDB.

(Sec. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, it is certified that this—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Des Plaines, Illinois, on August 18, 1983.

Monte R. Belger,

Acting Director, Great Lakes Region.

[FR Doc. 83-24518 Filed 9-7-83; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 101

Proposed Change in the Customs Service Field Organization; Kentucky et al.

AGENCY: Customs Service, Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations to change the Customs Service field organization by (1) consolidating the geographical limits of the adjacent ports of Owensboro, Kentucky, and Evansville, Indiana, into a single consolidated port of Owensboro-Evansville, and (2) consolidating the geographical limits of the port of Cincinnati, Ohio, and Lawrenceburg, Indiana, into a single consolidated port of Cincinnati-Lawrenceburg. The change is being proposed as part of Customs continuing program to secure the most economical use of personnel, facilities, and resources, and to provide better service to carriers, importers, and the public.

DATES: Comments must be received on or before November 7, 1983.

ADDRESS: Comments (preferably in triplicate) may be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, Room 2426, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Denise Crawford, Office of Inspection, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C., 20229 (202-566-8157).

SUPPLEMENTARY INFORMATION:

Background

As part of a continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers, and the public, Customs proposes to amend § 101.3(b), Customs Regulations (19 CFR 101.3(b)), by (1) consolidating the geographical limits of the adjacent ports of Owensboro, Kentucky, and Evansville, Indiana, into a single consolidated port of Owensboro-Evansville, and (2) consolidating the geographical limits of the ports of Cincinnati, Ohio, and Lawrenceburg, Indiana, into a single consolidated port of Cincinnati-Lawrenceburg.

There consolidations are being proposed because of the close proximity of both sets of ports and the low volume of Customs activities being conducted. Also, because of the new warehouse procedures established by T.D. 82-204, effective December 1, 1982, responsibility has been shifted from Customs personnel to warehouse proprietors to ensure that the necessary Customs procedures are followed in operating bonded warehouses. The new warehouse procedures have allowed Customs to remove its personnel from the duty of warehouse supervision previously required at these ports. Thus, the minimal service needs at these ports enable Customs to effect the two proposed port consolidations without any loss in operational efficiency.

If the proposed changes are adopted, the list of Customs regions, districts, and ports of entry in § 101.3(b), Customs Regulations, will be amended accordingly.

Owensboro—Evansville

The limits of the proposed consolidated port of Owensboro-Evansville would be the geographical territory of the existing two ports of Owensboro, Kentucky, and Evansville, Indiana. The geographical limits of the proposed consolidated port would be as follows:

All the territory within the corporate limits of the cities of Evansville, Indiana, Henderson, Kentucky, and Owensboro, Kentucky, including that territory encompassing the Owensboro-Daviess County Airport which, on the north is bounded by Kentucky Highways 54, 56, and 81, on the west by Kentucky Highway 81, on the south by Fisher Road, on the east by Carter Road until it intersects with U.S. Bypass 60 and northwest on U.S. Bypass 60 until it meets Kentucky Highways 54, 56, and 81. In addition, the consolidated port would also include that territory located between U.S. Route 60 on the south and the Ohio River on the north from the western city limits of Owensboro, Kentucky, to the eastern city limits of Henderson, Kentucky. It also would include only that territory occupied by U.S. Highway 41 proceeding from Evansville's northern corporate limits to the point where Indiana State Route 241 intersects with U.S. Highway 41.

Cincinnati—Lawrenceburg

The limits of the proposed consolidated port of Cincinnati—Lawrenceburg would be the geographical territory of the existing two ports of Cincinnati, Ohio, and Lawrenceburg, Indiana. The geographical limits of the proposed consolidated port would be as follows:

All the territory within the corporate limits of the cities of Lawrenceburg and Greendale, Indiana, and the territory bounded by a line proceeding north and east on U.S. Highway 50 from the northern corporate limits of Lawrenceburg to the junction of U.S. Highway 50 with the Great Miami River, then proceeding in a northeasterly direction along the eastern bank of the Great Miami River to the northern boundary of Hamilton County, then proceeding in an easterly direction along the northern boundary of Hamilton County to Ohio State Highway 747, then proceeding in a northerly direction in Butler County along Ohio State Highway 747 to Rialto Road, then proceeding in a generally northeasterly direction along Rialto Road to Allen Road, then proceeding in a southerly, then easterly direction on Allen Road to Cincinnati-Dayton Road, then proceeding in a southerly direction on Concinnati-Dayton Road to the northern boundary of Hamilton County, then proceeding in an easterly direction along the northern boundary of Hamilton County to the eastern boundary of Hamilton County, then proceeding in a southerly direction along the eastern boundary of Hamilton County to the north bank of the Ohio River, then proceeding in a westerly

direction along the northern bank of the Ohio River to the bridge at Interstate Highway 275, then proceeding in a westerly direction along Interstate Highway 275 to its intersection with Kentucky State Highway 9, then proceeding in a southeasterly direction along Kentucky State Highway 9 to its intersection with Pooles Creek Road 1, then proceeding due west from that intersection to the eastern bank of the Licking River, then proceeding in a northwesterly direction along the eastern bank of the Licking River to its intersection with Interstate Highway 275, then proceeding in a westerly direction along Interstate Highway 275 to its intersection with Interstate Highway 75, then proceeding in a southerly direction along Interstate Highway 75 to its intersection with Kentucky State Highway 18, then proceeding in a northwesterly direction along Kentucky State Highway 18 to its intersection with Kentucky State Highway 237, then proceeding in a generally northerly direction along Kentucky State Highway 237 to its intersection with Interstate Highway 275, then proceeding in a westerly direction along Interstate Highway 275 to its intersection with the northern bank of the Ohio River, then proceeding in a southwesterly direction to the eastern corporate limits of Lawrenceburg, Indiana.

Comments

Before adopting these proposals, consideration will be given to any written comments timely submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229.

Authority

These changes are proposed under the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2) and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR 1949–1953 Comp. Ch. II) and pursuant to authority provided by Treasury Department Order No. 101–5 (47 FR 2449).

List of Subjects in 19 CFR Part 101

Customs duties and inspection, Imports, Organization.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to these proposals. Customs routinely establishes, expands, and consolidates Customs ports of entry throughout the United States to accommodate the volume of Customs-related activity in various parts of the country. Although these changes may have a limited effect upon some small entities in the Owensboro, Kentucky, Evansville and Lawrenceburg, Indiana, and Cincinnati, Ohio, areas, they are not expected to be significant because the consolidations of Customs ports of entry in other locations have not have a significant economic impact upon a substantial number of small entities to the extent contemplated by the Regulatory Flexibility Act. Accordingly, it is certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that the amendments, if adopted, will not have a significant economic impact on a substantial number of small entities.

Drafting Information

The principal author of this document was James S. Demb, Regulations Control Branch, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

William von Raab,

Commissioner of Customs.

Approved: August 19, 1983.

John W. Walker, Jr.,

Assistant Secretary of the Treasury.

[FR Doc. 83–24529 Filed 9–7–83; 8:45 am]

BILLING CODE 4820–02–M

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19 CFR Part 159

Currency Rates of Exchange

AGENCY: Customs Service, Treasury.

ACTION: Withdrawal of proposed rule.

SUMMARY: The Customs Regulations provide a list of foreign countries whose currencies are converted into equivalent United States currencies and certified on a quarterly basis.

This document withdraws a notice which proposed to amend the regulations by (1) removing the list of countries from the regulations, and (2) providing that Customs would establish, and publish as a Treasury Decision in the Customs Bulletin for each calendar quarter, a list of foreign countries for which quarterly currency rates were certified, and for the currency of each of the countries, the rate or rates first certified by the Federal Reserve Bank of New York for such foreign currency for a day in that quarter.

After analysis of the comments received in response to the proposal and further review of the matter, Customs has determined that the proposal should not be adopted.

DATE: Withdrawal effective September 8, 1983.

FOR FURTHER INFORMATION CONTACT: Susan Ajello, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–5307).

SUPPLEMENTARY INFORMATION:

Background

In accordance with 31 U.S.C. 372, it is necessary to convert foreign currency into equivalent United States currency for the purpose of assessing and collecting duties upon merchandise imported into the United States. To do this, Customs must use the rates of exchange certified to the Secretary of the Treasury by the Federal Reserve Bank of New York ("FRB").

For currencies for which there is a high demand for rate information, certified rates of exchange are provided by the daily rate sheets. The daily rate sheets list (1) countries set forth in section 159.34(a), Customs Regulations (19 CFR 159.34(a)), whose currencies are converted into equivalent United States currencies and certified on a quarterly basis, and (2) countries not set forth in section 159.34(a), but for which there is a demand for currency rate information.

For those countries listed in section 159.34(a), certified quarterly rates of exchange are used. For these countries, Customs publishes in the Customs Bulletin, for the quarter beginning January 1, and for each quarter thereafter, the rate or rates first certified by the FRB for the respective foreign currency for a day in that quarter.

Customs published a notice in the **Federal Register** on May 20, 1982 (47 FR 21847), proposing to amend section 159.34(a) by removing the list of countries and, in its place, advised the public that Customs would establish, and publish as a Treasury Decision in the Customs Bulletin for each calendar quarter, a list of foreign countries for which quarterly rates of exchange are certified and for the currency of each of the countries, the rate or rates first certified by the FRB for such foreign currency for a day in that quarter. The supposed advantage of this proposed approach was that § 159.34(a) need not have been amended repeatedly each time another country was added to the daily rate sheets.

Interested parties were given until July 19, 1982, to submit written comments concerning the proposal. Two comments, both in opposition, were received in response to the notice.

Action

Withdrawal of Proposal

Based on the comments received and Customs review of the proposal, Customs has determined that the proposed procedure might cause confusion and the present system may not be significantly burdensome. Accordingly, the notice published in the **Federal Register** on May 20, 1982 (47 FR 21847), is withdrawn.

Drafting Information

The principal author of this document was James S. Demb, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

William von Raab,

Commissioner of Customs.

Approved: August 17, 1983.

John W. Walker, Jr.,

Assistant Secretary of the Treasury.

[FR Doc. 83-24527 Filed 9-7-83; 8:45 am]

BILLING CODE 4820-02-M

Internal Revenue Service

26 CFR Part 1

[LR-214-81]

Credit for Expenses for Household and Dependent Care Service Necessary for Gainful Employment

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations that provide rules governing the credit for expenses for household and dependent care services necessary for gainful employment. Changes to the applicable tax law were made by the Economic Recovery Tax Act of 1981. The regulations would provide the public with the guidance needed to comply with changes to the credit made by the Act.

DATES: Written comments and requests for a public hearing must be delivered or mailed by November 7, 1983. The amendments are proposed to be effective for taxable years beginning on or after January 1, 1982.

ADDRESS: Send comments and requests for a public hearing to Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Nerman Dobynes Hubbard of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3297).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 44A of the Internal Revenue Code of 1954. These amendments are proposed to conform the Income Tax Regulations to section 124 (a) through (d) and (f) of the Economic Recovery Tax Act of 1981 (95 Stat. 197). The proposed regulations are to be issued under the authority contained in sections 44A (g) and 7805 of the Internal Revenue Code of 1954 (90 Stat. 1565, 26 U.S.C. 44A (g); 68A Stat. 917, 26 U.S.C. 7805).

Explanation of Provisions

Prior to the modification by the Economic Recovery Tax Act of 1981, section 44A provided a tax credit equal to 20% of the employment-related expenses paid by a taxpayer for the care of a qualifying individual, *i.e.*, a dependent under the age of 15, or a dependent or spouse who is physically or mentally incapable of self-care. The employment-related expenses on which the credit is based were limited to $2,000 for the care of one qualifying individual and $4,000 if more than one qualifying individual was involved. Employment-related expenses which are incurred for services provided outside the taxpayer's household were taken into account only if incurred for the care of the taxpayer's dependent who is under the age of 15. Moreover, if a taxpayer is married, the employment-related expenses could not exceed the lesser of the taxpayer's or the spouse's earned income. For purposes of this earned income limitation, a spouse who is a full-time student or incapable of self-care was considered to have earned income of $166 per month if there was one qualifying individual, or $333 per month if there was more than one qualifying individual.

The Proposed regulations reflect the modification to section 44A made by the Economic Recovery Tax Act of 1981. The 1981 Act increases the credit from 20% of the employment-related expenses paid by a taxpayer in order to be gainfully employed to 30% of the employment-related expenses for a taxpayer whose adjusted gross income is $10,000 or less, phasing down to 20% where the adjusted gross income is above $28,000. The credit rate is reduced by one percentage point for each $2,000 (or fraction thereof) of adjusted gross income above $10,000. The employment-related expenses on which the credit is based is increased from $2,000 to $2,400 for the care of one qualifying individual and from $4,000 to $4,800 if more than one qualifying individual is involved.

The Act also provides that a taxpayer may take into account employment-related expenses incurred outside the taxpayer's household for the care of a physically or mentally incapacitated dependent (age 15 or over) or spouse of the taxpayer who regularly spends at least eight hours each day in the taxpayer's household. Payment for services provided outside the taxpayer's household for a qualifying individual by a dependent care center are to be taken into account as employment-related expenses only if the center complies with all applicable State and local laws and regulations. A dependent care center is any facility which provides care for more than six individuals (other than residents) and receives a fee, payment, or grant for providing services for any of the individuals. The proposed regulations provide, in general, that in order for a facility to be considered a dependent care center the care provided by the facility for more than six individuals must be on a regular basis during the taxpayer's taxable year. A rebuttable presumption is created when the center has six or less individuals (including the qualifying individual) enrolled on the day the qualifying individual enrolls in the center. In such a case, the center is presumed to provide care for six or less individuals on a regular basis during the taxpayer's taxable year. Also, if the qualifying individual continues to attend the same center the following taxable year and the center has six or less individuals (including the qualifying individual) enrolled on the first day the qualifying individual attends the center in that taxable year, the center is presumed to be a center that provides care for six or less individuals on a regular basis during that taxable year. The presumption is rebutted if the Internal Revenue Service shows that the center has more than six individuals enrolled on a regular basis during the taxpayer's taxable year.

Finally, the Act increases the amount of income deemed to be earned by the taxpayer's spouse who is a full-time student or incapable of self-care from $166 to $200 per month if there is one qualifying individual and from $333 to $400 per month if there is more than one qualifying individual.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably seven copies) to the Commissioner of Internal Revenue. All comments will be made available for public inspection and copying. A public hearing will be held upon written request of any person who has submitted written comments.

Special Analyses

The Commissioner of Internal Revenue has determined that these proposed regulations are not subject to review under Executive Order 12291 or the Treasury and OMB implementation of the Order dated April 29, 1983. Accordingly, a Regulatory Impact Analysis is not required.

Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Drafting Information

The principal author of these proposed regulations is Nerman Dobynes Hubbard of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing these regulations, both on matters of substance and style.

List of Subjects in 1.0–1–1.58–8

Income taxes, Tax liability, Tax rates, Credits.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 1 are as follows:

PART 1—[AMENDED]

Paragraph 1. Section 1.44A–1 is amended by revising paragraph (a)(2), by revising paragraph (c)(4), by redesignating subparagraphs (5) and (6) of paragraph (c) as subparagraphs (6) and (7), respectively, and inserting a new subparagraph (5), to read as follows:

§ 1.44A–1 Expenses for household and dependent care services necessary for gainful employment.

(a) *In general.* * * *

(2) Section 44A allows a credit against the tax imposed by chapter 1 of the Code to an individual who maintains a household (within the meaning of paragraph (d) of this section) which includes as a member one or more qualifying individuals (as defined in paragraph (b) of this section). The amount of the credit is equal to the applicable percentage of the employment-related expenses (as defined in paragraph (c) of this section) paid by the individual during the taxable year (but subject to the limits prescribed in § 1.44A–2(a)). However, the credit cannot exceed the tax imposed by chapter 1, reduced by the sum of the allowable credits enumerated in section 44A(b). The term "applicable percentage" means 30 percent reduced by 1 percentage point for each $2,000 (or fraction thereof) by which the taxpayer's adjusted gross income for the taxable year exceeds $10,000, but in no event shall the percent be less than 20 percent. Thus, for example, if a taxpayer's adjusted gross income is over $10,000, but less than $12,000.01, the applicable percentage is 29 percent. (For expenses incurred in taxable years beginning before January 1, 1982, the applicable percentage is a flat 20 percent).

* * * * *

(c) *Employment-related expenses.* * * *

(4) *Services outside the taxpayer's household.* The credit is allowed under section 44A with respect to employment-related expenses incurred for services performed outside the taxpayer's household only if those expenses are incurred for the care of—

(i) One or more qualifying individuals who are described in paragraph (b)(1)(i) of this section; or

(ii) One or more qualifying individuals (as to expenses incurred for taxable years beginning after December 31, 1981) who are described in paragraph (b)(1) (ii) or (iii) of this section and who regularly spend at least 8 hours each day in the taxpayer's household.

(5) *Dependent care centers.* The credit is allowed under section 44A with respect to employment-related expenses incurred in taxable years beginning after December 31, 1981, for services provided outside the taxpayer's household by a dependent care center only if:

(i) The center complies with all applicable laws and regulations of a State or unit of local government (*e.g.*, State or local requirements for licensing, if applicable, and building and fire Code regulations); and

(ii) The requirement provided in paragraph (c)(4) (i) or (ii) of this section is met.

The term "dependent care center" means any facility that provides full-time or part-time care for more than six individuals (other than residents of the facility) on a regular basis during the taxpayer's taxable year, and receives a fee, payment, or grant for providing services for any such individuals (regardless of whether such facility is operated for profit). For purposes of the preceding sentence, a facility will be presumed to provide full-time or part-time care for six or less individuals on a regular basis during the taxpayer's taxable year if the facility has six or less individuals (including the qualifying individual) enrolled for full-time or part-time care on the day the qualifying individual is enrolled in the facility (or on the first day of the taxable year the qualifying individual attends the facility in the case where the individual was enrolled in the facility in the preceding taxable year) unless the Internal Revenue Service demonstrates that the facility provides full-time or part-time care for more than six individuals on a regular basis during the taxpayer's taxable year.

* * * * *

Par. 2. Section 1.44A–2 is amended by revising paragraph (a) and by revising subparagraphs (3)(i) and (4) of paragraph (b) to read as follows:

§ 1.44A–2 Limitations on amount creditable.

(a) *Annual dollar limit on amount creditable.* The amount of the employment-related expenses incurred during any taxable year which may be taken into account under § 1.44A–1 (a) cannot exceed—

(1) $2,400 ($2,000 in the case of expenses incurred in taxable years beginning before January 1, 1982) if there is one qualifying individual with respect to the taxpayer at any time during the taxable year, or

(2) $4,800 ($4,000 in the case of expenses incurred in taxable years beginning before January 1, 1982) if there are two or more qualifying individuals with respect to the taxpayer at any one time during the taxable year.

For example, a calendar year taxpayer whose only qualifying individual reaches age 15 on April 1, 1982, is subject for 1982 to the entire annual dollar limit of $2,400, without proration of the $2,400 limit. However, only expenses incurred prior to the child's

15th birthday may be employment-related expenses.

(b) *Earned income limitation.* * * *

(3) *Special rule for spouse who is a student or incapable of self-care.* (i) For purposes of this section, a spouse is deemed, for each month during which the spouse is a full-time student or is a qualifying individual described in § 1.44A–1(b)(1)(iii), to be gainfully employed and to have earned income of not less than:

(A) $200 ($166 for taxable years beginning before January 1, 1982), if there is one qualifying individual with respect to the taxpayer at any one time during the taxable year, of

(B) $400 ($333 for taxable years beginning before January 1, 1982), if there are two or more qualifying individuals with respect to the taxpayer at any one time during the taxable year.

However, in the case of any husband and wife, this subparagraph shall apply with respect to only one spouse for any one month.

* * * * *

(4) *Illustrations.* The application of this paragraph may be illustrated by the following examples:

Example (1). During the 1982 taxable year, A, a married taxpayer, incurs and pays employment-related expenses of $4,000 for the care of a qualifying individual. A's earned income for the taxable year is $20,000 and his wife's earned income is $1,500. Under these circumstances, the amount of employment-related expenses for the year which may be taken into account under § 1.44A–1(a) is $1,500, determined as follows:

Employment-related expenses incurred during taxable year ($4,000, but limited to $2,400 by paragraph (a)(1) of this section), $2,400

Application of paragraph (b)((1)(ii) of this section (employment-related expenses may not exceed wife's earned income of $1,500), $1,500

Employment-related expenses taken into account, $1,500

Example (2). Assume the same facts as in example (1) except that A's wife is a full-time student for nine months of the taxable year and earns no income for the year. Under these circumstances, the amount of employment-related expenses for the year which may be taken into account under § 1.44A–1 (a) is $1,800, determined as follows:

Employment-related expenses incurred during taxable year ($4,000 but limited to $2,400 by paragraph (a)(1) of this section), $2,400

Application of paragraph (b)(3) of this section [employment-related expenses may not exceed wife's earned income of $1,800 ($200 × 9)], $1,800

Employment-related expenses taken into account, $1,800

Par. 3. Paragraph (b) of § 1.44A–4 is amended by revising examples (1) and (3) to read as follows:

§ 1.44A–4 Other special rules relating to employment-related expenses.

* * * * *

(b) *Expenses qualifying as medical expenses.* * * *

Example (1). In 1982, a calendar year taxpayer incurs and pays $5,000 of employment-related expenses during the taxable year for the care of his child when the child is physically incapable of self-care. These expenses are incurred for services performed in the taxpayer's household and are of a nature which qualify as medical expenses under section 213. The taxpayer's adjusted gross income for the taxable year is $100,000. Of the total expenses, the taxpayer may take $2,400 into account under section 44A; the balance of the expenses, or $2,600, may be treated as medical expenses to which section 213 applies. However, this amount does not exceed 3 percent of the taxpayer's adjusted gross income for the taxable year and is thus not allowable as a deduction under section 213.

* * * * *

Example (3). In 1982, a calendar year taxpayer incurs and pays $12,000 of employment-related expenses during the taxable year for the care of his child. These expenses are incurred for services performed in the taxpayer's household, and they also qualify as medical expenses under section 213. The taxpayer's adjusted gross income for the taxable year is $18,000. The taxpayer takes $2,400 of such expenses into account under section 44A. The balance, or $9,600, he treats as medical expenses for purposes of section 213. The allowable deduction under section 213 for the expenses is limited to the excess of the balance of $9,600 over $540 (3 percent of the taxpayer's adjusted gross income of $18,000), or $9,060.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 83–24570 Filed 9–7–83; 8:45 am]

BILLING CODE 4830–01–M

Notices

Federal Register
Vol. 48, No. 175
Thursday, September 8, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Forms Under Review by Office of Management and Budget

September 2, 1983.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Marshall L. Dantzler, Acting Department Clearance Officer, USDA, OIRM, Room 108–W Admin. Bldg., Washington, D.C. 20250, (202) 447–6201.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, Attn: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

New

• Economic Research Service
December 1983 Current Population Survey Hired Farm Worker Supplement CPS–1
Biennually
Individuals and households: 58,000 responses; 1,450 hours; not applicable under 3504(h)
Leslie Whitner (202) 763–2773

Extension

• Agricultural Marketing Service
Administrative Information Collection Under Marketing Order No. 910 and Proposal Marketing Agreement
Every 10 years
Farms, Business: 175 responses; 102 hours; not applicable under 3504(h)
William J. Doyle (202) 447–5975

• Economic Research Service
Farm Real Estate Taxies Levied
Annually
State or Local Governments: 3,323 responses; 1,255 hours; not applicable under 3504(h)
Jerome M. Stam (202) 447–7340

Reinstatement

• Agricultural Stabilization and Conservation Service
MQ–76 Tobacco Marketing Card, MQ–77 Excess Marketing Card, MQ–117 Application for Duplicate Marketing Card
MQ–76, MQ–77 MQ–117
On Occasion
Farms: 489,300 responses; 81,650 hours; not applicable under 3504(h)
Harry Millner (202) 447–4281.

Dewayne E. Hamilton,
Acting Department Clearance Officer.

[FR Doc. 83–24510 Filed 9–7–83; 8:45 am]
BILLING CODE 3410–01–M

Computer Matching of USDA Farmers Home Administration Rural Housing Borrowers and Rural Rental Housing Tenants Against Virginia Employment Commission Records

1. Introduction and Legal Authority

The Office of Inspector General (OIG) conducts continuing, antifraud reviews pursuant to its authority under Pub. L. 94–452 (the IG Act).

This notice is required by section 5f(1) of the Office of Management and Budget (OMB) Guidelines for conducting matching programs. 47 FR 21656.

2. Purpose

One of the responsibilities of OIG under the IG Act is to prevent and detect fraud and abuse in U.S. Department of Agriculture (USDA) programs. As part of OIG's efforts to meet this responsibility, it is performing a wage match of Farmers Home Administration (FmHA) tenants in the State of Virginia, against the wage files of the Virginia Employment Commission (VEC) to detect underreporting of income in order to receive higher mortgage interest subsidies or rent subsidies.

3. Description of Records To be Matched

The FmHA Borrower Finder File was obtained from the FmHA Management Finance Office in St. Louis, MO. The file is identified by Privacy Act System Name "Applicant/Borrower or Grantee File, USDA/FmHA–1" and was originally published in 40 FR 38923 on August 27, 1975.

From this file, OIG selected Direct and Insured Rural Housing loan data for loans which FmHA made in Virginia. This data was incorporated into the OIG Privacy Act System identified as USDA/OIG–6, Audit Information System, 44 FR 5174, January 25, 1979. This data is to be combined with information collected on Rural Rental Housing (RRH) tenants for selected areas. This file will be sent to VEC for matching against the VEC wage file. The results of this match will be returned to OIG. OIG will initially limit its match to the State of Virginia but will conduct matches in other States in the future.

4. Projected Start and Ending Dates of the Program

The survey work for this wage match in Virginia began in February, 1983, and field visits for review and analysis of information are scheduled to be completed by September 30, 1983.

5. Privacy Protection

The personal privacy of individuals identified on tapes is protected by strict compliance with the Privacy Act and OMB Circular A–71. Information from matching programs will not be used except for official audit purposes.

8. Procedures of the Matching Program

At the audit control point in Hyattsville, MD, the Regional Inspector General for Auditing will approve each key action required.

Processing of the FmHA information will result in printouts identifying all Rural Housing (RH) borrowers and all projects in Virginia. Matching social security numbers of RH borrowers and RRH tenants against social security numbers on file with the VEC will provide tapes of raw hits. These raw hits will be analyzed and printouts will be generated to tentatively identify those borrowers or tenants who have not reported or have underreported their earnings. These borrowers will be classified as hits.

If OIG's findings, relevant to specific borrowers or tenants, are substantiated, it may request FmHA to take action, or OIG may seek prosecution. The final results of OIG's overall reviews will be disclosed in conformance with the Privacy Act to those officers and employees of USDA who have need for the information in the performance of their duties, and to those others in conformance with the routine uses for the OIG Privacy Act System under which this matching program will be conducted (USDA/OIG–6, Audit Information System, 44 FR 5174, January 25, 1979).

OIG also plans to refer cases of tenants receiving "Section 8" rental assistance to the Department of Housing and Urban Development for followup by that Department.

7. Disposal of Records

Matching source records will not be retained by OIG for more than 6 months. The records supplied on tape by VEC will be scratched within 6 months. Printouts generated from this tape will be maintained in audit workpapers.

Done at Washington, D.C., this 31st day of August, 1983.

Anthony J. Gabriel,

Deputy Inspector Geneal.

[FR Doc. 83-24545 Filed 9-7-83; 8:45 am]

BILLING CODE 3410-23-M

National Agricultural Research and Extension Users Advisory Board; Meeting

According to the Federal Advisory Committee Act of October 6, 1972, (Pub. L. 92–463, 86 Stat. 770–776) Science and Education announces the following meeting:

Name: National Agricultural Research and Extension Users Advisory Board.

Date: September 26–27, 1983.

Time: 8:00 a.m.–5:00 p.m., September 26, 1983—8:00 a.m.–5:00 p.m., September 27, 1983.

Place: U.S. Department of Agriculture, Room 107–A, Administration Bldg. (September 26)—Room 201–W, Administration Bldg. (September 27), 12th & Independence Avenue, SW, Washington, D.C.

Type of Meeting: Open to the public. Persons may participate in the meeting as time and space permit.

Comments: The public may file written comments before or after the meeting with the contact person below.

Purpose: The Board will be having an orientation session to acquaint new members with the organization, mission, functions and funding levels and mechanisms of the Science and Education agencies.

Contact Person for Agenda and More Information: Barbara L. Fontana, Executive Secretary, National Agricultural Research and Extension Users Advisory Board; Room 351–A, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250; telephone (202) 447–3684.

Done in Washington, D.C., this first day of September 1983.

Barbara L. Fontana,

Executive Secretary, National Agricultural Research and Extension Users Advisory Board.

[FR Doc. 83-24548 Filed 9-7-83; 8:45 am]

BILLING CODE 3410-01-M

Forest Service

Land and Resource Management Plan; Sequoia National Forest, Fresno, Tulare, Kern County, California; Intent To Reevaluate Roadless Areas

The Department of Agriculture, Forest Service issued a national environmental impact statement in January 1979. This environmental impact statement documented the results of an analyses of 62 million acres of roadless and undeveloped land within the 190 million acre National Forest System. The purpose of this Roadless Area Review and Evaluation (RARE II) was to determine which of thse roadless areas were more suitable for wilderness than for other National Forest uses.

In California, RARE II analyzed over 6 million acres located in the Forest Service Pacific Southwest Region. Of the total acres analyzed, abbut 983,000 acres were recommended for wilderness; 2,643,000 acres for further planning for wilderness; and 2,395,000 acres were not considered suitable for wilderness or were designated nonwilderness.

In 1979 the State of California challenged the adequacy of the RARE II Environmental Impact Statement prepared as the basis for making the decisions for the allocation of the roadless land to either wilderness or nonwilderness use. In October 1982, the United States Court of Appeals for the Ninth Circuit affirmed a lower court decision which applied specifically to 46 roadless areas in California. This decision sets a binding precedent for all Federal Courts in the Ninth Court.

As a result of the October 1982 court decision all the roadless areas on the National Forests in California that were allocated to wilderness or nonwilderness in the RARE II FEIS will be re-evaluated. The re-evaluation of these RARE II areas on the Sequoia National Forest will be done as part of the Forest's present land and resource management planning. The areas to be re-evaluated are:

Name	Gross acres	Net N.F. acres
Slate	42,351	42,351
Black Mtn	15,800	15,800
Slate Mtn	13,100	13,100
Carnell	47,300	47,300
South Sierra	34,499	34,049
Jarvis Lake	13,700	13,700
Rincon	59,700	58,866
Domeland Addition II	1,100	1,100
Chico	43,700	43,700
Lyon Ridge	5,200	5,200
Mill Creek	29,800	29,800
Greenhorn Creek	29,800	29,400
Total	335,950	334,366

Detailed information on the roadless areas and the re-evaluation process will be mailed to those on the Forest Planning mailing list by September 13, 1983. Individuals and organizations not on the Forest mailing list who wish this information should contact the Forest. In addition, there will be a briefing session held at 7:30 p.m. on Thursday, October 6, 1983 at the Sequoia National Forest Headquarters, 900 West Grand Avenue, Porterville, CA, to answer questions about the roadless areas and the re-evaluation process.

Written comments concerning the re-evaluation are encouraged. These comments should be directed to Charles R. Pickering, Planning Officer, Sequoia National Forest, 900 West Grand Ave., Porterville, CA 93257. Thse comments should be received by October 21, 1983. For further information about the proposed re-evaluation contact Charles Pickering, Planning Officer, Sequoia National Forest at the above address, or call (209) 784–1500.

Dated: August 29, 1983.

James A. Crates,

Forest Supervisor, Sequoia National Forest.

[FR Doc. 83-24478 Filed 9-7-83; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

International Trade Administration

Postponement of Final Determinations; Certain Carton Closing Staples and Staple Machines From Sweden

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of postponement of final antidumping determinations: Certain carton closing staples and staple machines from Sweden.

SUMMARY: This notice informs the public that the Department of Commerce (the Department) has received a request from Josef Kihlberg Trading AB (Kihlberg) that the final determinations be postponed as provided for in section 735(a)(2)(A) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673d(a)(2)(A)), and, that the Department has decided to postpone its final determinations as to whether sales of certain carton closing staples and staple machines from Sweden have occurred at less than fair value, until not later than October 17, 1983.

Kihlberg is qualified to make this request since it is an exporter which accounts for a significant proportion of the exports of the carton closing staples and the staple machines which are the subjects of these investigations.

EFFECTIVE DATE: September 8, 1983.

FOR FURTHER INFORMATION CONTACT: Deborah A. Semb, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone: (202) 377–3534.

SUPPLEMENTARY INFORMATION: On January 6, 1983, the Department of Commerce published a notice in the **Federal Register** (January 13, 1983; 48 FR 1530) that it was initiating, under section 732(b) of the Act (19 U.S.C. 1673(b)), antidumping investigations to determine whether certain carton closing staples and staple machines from Sweden are being, or are likely to be, sold at less than fair value. The Department published affirmative preliminary determinations on June 2, 1983 (48 FR 24755). The notice stated that if these investigations proceeded normally, we would make our final determinations by August 9, 1983.

Section 735(a)(2) of the Act provides that the Department of Commerce may postpone its final determination concerning sales at less than fair value if, after an affirmative preliminary determination, an exporter who accounts for a significant proportion of exports of the merchandise which is the subject of the investigation requests an extension. The Department may postpone its final determination until not later than the 135th day after the date on which it published notice of its preliminary determination. Counsel for Kihlberg requested postponements on July 5, 1983 and July 27, 1983. On August 10, 1983, the Department published a notice of postponement of final antidumping determinations until September 15, 1983, 105 days after the date on which it published notice of its preliminary determinations (48 FR 36304).

On August 15, 1983, counsel for Kihlberg requested postponements of these investigations for the full period available under the Act. Accordingly, the Department will issue final determinations in these investigations not later than October 17, 1983.

This notice is published pursuant to section 735(d) of the Act.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

September 1, 1983.

[FR Doc. 83–24542 Filed 9–7–83; 8:45 am]

BILLING CODE 3510–25–M

Lightweight Polyester Filament Fabrics From Japan; Amendment to Preliminary Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Commerce.

ACTION: Amendment to the preliminary determination of sales at less than fair value.

SUMMARY: On August 8, 1983, we published a preliminary affirmative antidumping duty determination on lightweight polyester filament fabrics (LPFF) from Japan (48 FR 35976). Due to clerical errors in computing the cost of production and the cost of manufacturing of LPFF by Nishikawa Bussan, and a clerical error where linear meters were inadvertently interpreted as linear yards, foreign market value was incorrectly calculated.

Also, in the case of Teijin Limited, because we were unable to process the company's computerized response, we applied the weighted-average margin for all other companies to Teijin. We have now solved the data processing problem, and we are able to calculate a weighted-average margin for Teijin based on the company's response.

Fair Value Comparison

To determine whether sales of the subject merchandise by Nishikawa Bussan in the United States were made at less than fair value, we compared the United States price with the foreign market value, as explained in the above-cited preliminary determination on this merchandise. To determine whether sales of the subject merchandise by Teijin in the United States were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

As provided in section 772(b) of the Act, we used the purchase price of the subject merchandise to represent the United States price for sales by Teijin, because the merchandise was sold to unrelated purchasers prior to its importation into the United States.

We calculated the purchase price based on the ex-go-down, landed, duty-paid, or delivered packed price to purchasers in the United States. We made deductions, where appropriate, for foreign inland freight and insurance, foreign brokerage and handling charges, ocean freight, marine insurance, U.S. brokerage and handling charges, U.S. excise and other special taxes, U.S. customs duties, U.S. inland freight and insurance.

Foreign Market Value

In accordance with section 773(a) of the Act, we calculated foreign market value based on home-market sales. We did not use constructed value for Teijin.

The petitioner alleged that sales in the home market were at prices below the cost of producing LPFF. We examined production costs which included all appropriate costs for materials, fabrication and general expenses. Sales below the cost of production were found to be made within certain categories of such or similar LPFF. Where sales within any of the categories were made over an extended period of time and in substantial quantities, and were at prices which did not permit recovery of all costs within a reasonable period of time in the normal course of trade, the Department disregarded these sales in its analysis in accordance with section 773(b) of the Act.

After having disregarded these sales, we found that sufficient sales of LPFF were made at or above the cost of production and, therefore, those sales were used in making price-to-price comparisons with sales in the U.S. market. We calculated the home-market prices for each type of LPFF on the basis of delivered packed prices to unrelated purchasers. From these prices, we deducted, where appropriate, foreign inland freight and rebated. We made

adjustments, where appropriate, for credit expenses, advertising expenses, warranty and servicing expenses, and after-sale warehousing expenses, in accordance with section 353.15 of the Commerce regulations. We also made adjustments for the cost of materials, labor, and direct factory overhead associated with differences in the merchandise in accordance with section 353.16 of the Commerce regulations. We also deducted home-market packing costs and added the packing cost incurred on sales to the United States.

The following claims were disallowed in calculating foreign market value. Teijin requested a circumstances-of-sale adjustment for other direct selling expenses. We disallowed this claim for other direct selling expenses because the claim includes both allowable and non-allowable selling expenses and we do not have sufficient information with which to allocate the allowable expenses. We will seek further information for purposes of our final determination. In addition, Teijin identified a small number of its home-market sales made at distress prices (in the case of out-of-fashion or end-of-season merchandise), which it claims are in the normal course of trade for the lightweight polyester filament fabric industry, and which permit the recovery of all costs over a reasonable period of time. However, Teijin did not provide sufficient documentation to support this claim. Therefore, these sales were treated in the same manner as all other home-market sales in calculating foreign market value.

Suspension of Liquidation

The "Suspension of Liquidation" section of the original notice is corrected to require the posting of a cash deposit, bond, or other security based on the following revised weighted-average margins.

Manufacturer and status	Weighted-average margin percentage
Nishikawa Bussan Co., Ltd. (excluded)	0.465
Teijin Limited (not subject to suspension but not excluded from this preliminary determination)	0.310
All other companies	1.056

Although Teijin Limited has only a *de minimis* margin, we are not excluding this firm from the preliminary determination because the Department needs to analyze supplemental information which has been requested in order to make more extensive comparisons.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

August 21, 1983.

[FR Doc. 83-24543 Filed 9-7-83; 8:45 am]

BILLING CODE 3510-25-M

[C-351-037]

Certain Castor Oil Products From Brazil; Final Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration.

ACTION: Notice of final results of Administrative review of countervailing duty order.

SUMMARY: On May 16, 1983, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on certian castor oil products from Brazil. The review covers the period January 1, 1980 through December 31, 1980. The notice stated that the Department had preliminarily determined the net subsidy for 1980 to be 2.22 percent *ad valorem*.

We gave interested parties an opportunity to comment on the preliminary results. After review of all timely comments received, the final assessment rates are the same as those presented in the preliminary results.

EFFECTIVE DATE: September 8, 1983.

FOR FURTHER INFORMATION CONTACT: Lorenza Olivas or Brian Kelly, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On May 16, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 21982) the preliminary results of its administrative review of the countervailing duty order on certian castor oil products from Brazil (42 FR 8634, March 16, 1976). The Department has now completed that Administrative review, in accordance with section 751(a)(1) of the Tariff Act of 1930 ("the Tariff Act")

Scope of the Review

Imports covered by the review are shipments of Brazilian hydrogenated castor oil products and 12-hydroxystearic acid. Such merchandise is currently classifiable under items 178.2000, 490.2650 and 490.2670 of the Tariff Schedules of the United States Annotated.

The review covers the period January 1, 1980 through December 31, 1980, and three programs: preferential financing for exports, income tax exemptions for export earnings, and an export credit premium for the Industrial Products Tax ("IPI").

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received timely comments from the Government of Brazil.

Comment 1: The Government of Brazil argues that the Department has overstated the benefit from the income tax exemption for export earnings. Brazilian federal tax laws permit corporations to invest 28 percent of taxes owed in certain specified corporations. The Brazilian government claims that this provision results in an effective reduction of the corporate income tax rate, which directly diminishes the benefit from the income tax exemption.

Department's Position: We disagree. As a threshold matter, we could only consider an adjustment if those other tax provisions result in a diminshed benefit. In this case, the amount a company invests does not diminish the amount of the tax exemption available for export revenue. Therefore, no offset is appropriate. *See also,* notice of "Suspension of Investigation" of frozen concentrated orange juice from Brazil (48 FR 8839, March 2, 1983).

Comment 2: The Government of Brazil claims that benefits derived from the income tax exemption for export earnings should be allocated over total revenue rather than export revenue. Under this program, a Brazilian exporter receives an exemption from income tax liabilities at the end of the fiscal year based upon the ratio of export to total revenue, provided that the firm has made an overall profit. The Brazilian government argues that, because the determining factor in a firm's eligibility for this benefit is its overall profitability for a given year, the benefit accrues to the operations of the whole firm and not just to exports. Further, an exemption from an income tax calculated on this basis cannot directly affect the price of the exported product alone; it must have a general effect on all prices, both domestic and export. Thus, by allocating the benefits only to export revenue, the Department overstates the value of the subsidy.

Department's Position: The Government of Brazil has made this

argument before in section 751 administrative reviews of countervailing duty orders on other Brazilian products. *See, e.g.*, notice of "Final Results of Administrative Review" of certain scissors and shears from Brazil (47 FR 10266, March 10, 1982). In those reviews we responded that, when a firm must export to be eligible for benefits under a subsidy program and when the amount of the benefit received is tied directly or indirectly to the firm's level of exports, that program is an export subsidy. The fact that the firm as a whole must be profitable to benefit from this program does not detract from the program's basic function as an export subsidy. Therefore, the Department will continue to allocate the benefits under this program over export revenue instead of total revenue.

Comment 3: The Government of Brazil claims that, in calculating the interest differential under the program of preferential financing for exports, the exemption of loans received under Resolution 674 from the tax on financial transactions ("the IOF") should not be considered. The IOF is an indirect tax on the financing used for the purchase of physically incorporated inputs. For the Department to determine the interest rate subsidy on preferential loans by considering the IOF tax an integral part of the commercially-available rate (*i.e.*, considering exemption from the tax a subsidy) is contrary to the GATT and U.S. law, both of which permit non-excessive rebate of indirect taxes.

Department's Position: We have addressed this issue in other countervailing duty cases on Brazilian products. *See, e.g.*, notice of "Final Affirmative Countervailing Duty Determination" for prestressed concrete steel wire strand from Brazil (48 FR 4516, February 1, 1983). In those determinations we stated that although the IOF is an indirect tax paid on financial transactions, including the discounting of accounts receivable, we do not consider this fact relevent. Since we consider the discounting of cruzeiro-denominated accounts receivable as the commercial alternative to Resolution 674 loans, it is appropriate that we include the exemption of Resolution 674 loans from the IOF as part of the measurement of the full benefit provided under this program.

Comment 4: The Government of Brazil argues that benefits from the preferential financing are realized by a borrower at the time loans are repaid. Consequently, the Department should calculate the net subsidy based upon the date of repayment of such loans, similar to the Department's treatment of long-term loans, rather than prorate the benefit over the duration of the loans.

Department's Position: In the notice of final results of review of the countervailing duty order on certain scissors and shears from Brazil, we noted that the Government of Brazil argued for the allocation of benefits from these loans throughout the life of the loans rather than for assignment to the period in which the loan was received. We agreed with their argument and prorated the benefits throughout the life of the loan. We believe this to be a reasonable method for allocating these benefits and do not believe that the Government of Brazil has demonstrated that their current approach is more reasonable than their past approach.

Final Results of the Review

After consideration of the timely comments, we determine that aggregate net subsidy to be 2.22 percent *ad valorem* for the period January 1, 1980 through December 31, 1980. The Department will instruct the Customs Service to assess countervailing duties of 2.22 percent of the f.o.b. invoice price on any shipments of the merchandise exported on or after January 1, 1980 and on or before December 31, 1980.

On February 21, 1983, the Government of Brazil reduced the maximum eligibility for preferential financing under Resolution 674 from 20 percent of the previous year's exports to 15 percent, which is lower than the average usage rate of 16.38 percent. Effective January 3, 1983, the Banco do Brasil increased its discount rate to 72 percent. In addition, the Government of Brazil increased the effective preferential interest rate for export financing from 44 percent to 69 percent and lowered the IOF from 4.50 percent to 1.50 percent on June 10, 1983 (Resolutions 832 and 830, respectively). Adding the 1.50 percent IOF to the 72 percent rate for discounting accounts receivable, the adjusted benchmark commercial interest rate is 73.50 percent. As a result, the differential between the commercial benchmark rate and the preferential interest rate is 4.50 percent. Using the adjusted interest differential and assuming, in the absence of knowledge of current usage levels, that Brazilian producers of certain castor oil products borrow the maximum amount to which they are legally entitled since February 21, 1983, we find the potential benefit under the preferential financing for export program to be 0.69 percent rather than 5.48 percent as presented in our preliminary results.

Therefore, as provided by section 751(a)(1) of the Tariff Act, the Department will instruct the Customs Service to collect a cash deposit of estimated countervailing duties of 0.82 percent of the entered value on any shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review. The Department now intends to conduct the next administrative review.

The Department encourages interested parties to review the public record and submit applications for protective orders as early as possible after the Department's receipt of the requested information.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: August 31, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-24511 Filed 9-7-83; 8:45 am]

BILLING CODE 3510-25-M

[C-533-060]

Certain Footwear From India; Final Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration; Commerce.

ACTION: Notice of final results of administrative review of countervailing duty order.

SUMMARY: On June 28, 1983, the Department of Commerce published the preliminary results of its administrative review and revocation of the countervailing duty order on certain footwear from India. The review covers the period January 1, 1981 through December 31, 1981.

We gave interested parties an opportunity to comment on the preliminary results. We received no comments contesting our results. Based on our analysis, the final results of the review are the same as the preliminary results.

EFFECTIVE DATE: September 8, 1983.

FOR FURTHER INFORMATION CONTACT: Josephine Russo or Joseph Black, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On June 28, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 29724) the preliminary results of its administrative review and revocation of the countervailing duty order on certain footwear from India (44 FR 61588, October 26, 1979). The Department has now completed that administrative review, in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of Indian leather footwear and leather uppers, other than unlasted leather uppers. Such merchandise, currently classifiable under items 700.0500 through 700.9545 of the Tariff Schedules of the United States Annotated ("TSUSA"), is subject to the order, unless it falls within one of the following categories:

(1) Certain footwear explicity excluded by TSUSA number in the order. Such footwear is currently classifiable under TSUSA items 700.2800, 700.5100 through 700.5400, 700.5700 through 700.7100, and 700.9000.

(2) Hurraches, slippers and chappals. These items are currently classifiable under TSUSA items 700.0500, 700.3200, and 700.4110 through 700.4140.

(3) Sandals, defined as "footwear consisting of a sole held to the foot by uppers composed of thongs or straps without regard to heel height." Such footwear, regardless of TSUSA classification, is not subject to the order. TSUSA item 700.5630 is specifically excluded.

The review covers the period January 1, 1981 through December 31, 1981, and three programs: (1) Short-term preferential financing (2) a deduction from taxable income of up to 133 percent of overseas business expenses; and (3) cash rebates on export under the Cash Compensatory Support Program.

Final Results of Review

We gave interested parties an opportunity to comment on the preliminary results. We received no comments contesting the results. Based on our analysis, the final results of the review are the same as the prelimary results. We determine the net subsidy to be 15.08 percent *ad valorem* for leather footwear, and 12.58 percent *ad valorem* for the leather uppers, other than unlasted leather uppers, for the period January 1, 1981 through December 31, 1981.

The Department will instruct the Customs Service to assess countervailing duties of 15.08 percent of the f.o.b. invoice price on leather footwear, and 12.58 percent for leather uppers, other than unlasted leather uppers, on any shipments exported on or after January 1, 1981 and entered, or withdrawn from warehouse, for consumption before October 13, 1981, the effective date of the revocation.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: August 31, 1983.

Alan F. Holmer,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 83-24510 Filed 9-7-83; 8:45 am]

BILLING CODE 3510-25-M

[C-469-022]

Non-Rubber Footwear From Spain; Final Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review of countervailing duty order.

SUMMARY: On April 4, 1983, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on non-rubber footwear from Spain. The review covers the period January 1, 1980 through December 31, 1980.

We gave interested parties an opportunity to comment on our preliminary results. After review of all of the comments received, the final assessment rates are the same as those presented in the preliminary results.

EFFECTIVE DATE: September 8, 1983.

FOR FURTHER INFORMATION CONTACT: Josephine Russo or Joseph Black, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On April 4, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 14426) the preliminary results of its administrative review of the countervailing duty order on non-rubber footwear from Spain (39 FR 32904; September 12, 1974). The Department has now completed that administrative review, in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

On June 2, 1983, the International Trade Commission ("the ITC") published its determination that an industry in the United States would not be materially injured, or threatened with material injury, by reason of imports of Spanish non-rubber footwear if the order were revoked (48 FR 24796). Consequently, the Department published in the **Federal Register** (48 FR 28310; June 21, 1983) a revocation if the order with respect to all merchandise entered, or withdrawn from warehouse, for consumption on or after May 3, 1982.

Scope of the Review

Imports covered by the review are shipments of non-rubber footwear from Spain. Such merchandise is currently classifiable under items 700.0500 through 700.4575, 700.5605 through 700.5673, 700.7220 through 700.8360, and 700.9515 through 700.9545 of the Tariff Schedules of the United States Annotated.

The review covers the period January 1, 1980 through December 31, 1980, and two programs: (1) A rebate upon exportation of indirect taxes under the Desgravacion Fiscal a la Exportacion ("the DFE"); and (2) an operating capital loans program.

Analysis of Comments Received

We gave interested parties an opportunity to comment on our preliminary results. We received written comments from the petitioner, the Spanish exporters and certain footwear importers in the United States.

Comment 1: The petitioner, Footwear Industries of America ("FIA"), argues that we should countervail the full rate of rebate under the DFE. FIA states that the Spanish government's "Structure of Cost Analysis" Provides only an approximation of the actual indirect tax incidence borne by the product and thus does not represent a "reasonable calculation" required to establish linkage. Further, FIA states that during verification the Department learned that: (a) The Spanish producers were not able to itemize input costs to match those of the government's study and (b) the proportion of physically incorporated raw material inputs were lower than that claimed in the government's analysis.

Department's Position: The Department has accepted the data base and methodology used by the Spanish goverment in estimating the tax incidence and setting the rebate under the DFE. (See *Certain Stainless Steel Products from Spain*, 47 FR 51453; November 15, 1982.)

It is not correct that all of the sampled producers were unable to disaggregate

input costs. Prior to verification, we instructed each firm to prepare aggregate raw material costs regardless of whether individual inputs were accounted for separately in company records. We chose this verification approach because of the time constraints imposed by the large number of companies to be verified and the necessity to include a representative sampling of small scale firms in our verification. Recognizing that the smaller firms would have less sophisticated accounting techniques, we required only those records most likely kept by all companies. As demostrated by verification documents, disaggregated records were available from a number of firms had the Department required a more detailed analysis.

With respect to the differences in the proportion of raw material inputs when compared with the government's analysis, these differences do not undermine our finding of linkage in this case. We have taken them into account in measuring the magnitude of the overrebate.

Comment 2: FIA asserts that, in setting the deposit rate for future entries under the operating capital loans program, the Department underestimated the benefit by choosing a nationwide benchmark rate based on "average creditworthiness." It claims that the Spanish footwear producers should be considered uncreditworthy, facing higher interest rates when borrowing in the commercial markets.

Department's Position: Because of the Department's revocation of the order these final results do not incorporate a requirement for cash deposit of estimated countervailing duties on future entries. Further, uncreditworthiness would only affect entries after 1981 when the Spanish government established a free market for such rates. Our review only covers 1980. If FIA more full describes its allegation of uncreditworthiness early in the Department's next administrative review, covering the period January 1, 1981 through May 2, 1982, we can look further into the allegation.

Comment 3: FIA states that, for duty deposit purposes, the Department should investigate and include any potential benefits stemming from the Spanish government's plans to restructure the footwear sector, as proposed in Royal Decree 1002 of May 14, 1982.

Department's Position: Again, because of the revocation of the order with respect to shipments of this merchandise entered on or after May 3, 1982, the Department has not set a requirement for deposit of estimated countervailing duties. Further, any potential benefits from the May 14, 1982 decree would not affect entries made before the effective date fo the revocation.

Comment 4: The Spanish exporters' association, the Federacion de Industrias del Calzados Espanol ("FICE"), contends that the revocation of the order should apply to entries made on or after August 20, 1980, the date of a general suspension of liquidation by the U.S. Customs Service at the direction of the Department. FICE claims that the date of notification by the ITC is purposefully deleted from section 104(b)(4)(B) of the Trade Agreements Act of 1979 ("the TAA") and that the revocation should therefore apply to all suspended entries entered on or after August 20, 1980. Similarly, the Volume Footwear Retailers of America ("VFRA"), importers of Spanish non-rubber footwear, claim that section 104(b)(4)(B) refers to *any* countervailing duties collected since the TAA became effective. VFRA argues that the revocation should apply to entries made since January 1, 1980.

Department's Position: We do not agree with these arguments. Congress did not intend for subparagraphs 104(b)(4) (A) and (B) to apply to different periods or it would have made such intention clear. Further, there is no indication in the statute or legislative history that the effective date of a 104(b)(4)(B) revocation should be different than the ITC notification date merely because the Department, for reasons apart from an ITC investigation, suspended liquidation of entries.

Comment 5: Both FICE and VFRA argue that the results of section 751 reviews of countervailing duty orders issued under section 303 of the Tariff Act are intended to be applied prospectively. The law does not permit suspension of liquidation pending the completion of administrative reviews or the retroactive assessment of countervailing duties except in accordance with the transition rules of section 104(b)(3) of the TAA.

Department's Position: Section 751(a)(1) provides for a review of countervailing duty orders to determine the amount of any net subsidy to be "assessed" and estimated duties to be "deposited." There would be no reasons for determining the deposit figure if Congress did not intend to suspend prior entries and later assess countervailing duties on those entries based on subsidy information obtained during a section 751 review.

Comment 6: VFRA alleges that, even if the law permits suspension of liquidation pending completion of reviews, it does not authorize suspension if the Department fails to complete a review by the time limits set forth in section 751 of the Tariff Act. Since the Department did not complete its administrative review by the anniversary date of the order, entries made during calendar year 1980 should automatically be liquidated in accordance with section 504(a) of the Tariff Act.

Department's Position: With certain exceptions, section 504(a) of the Tariff Act requires liquidation within one year of entry. Under paragraph 504(b)(2), liquidation may be extended if "liquidation is suspended as required by statute or court order." Since the statutory scheme of section 751 requires the retroactive assessment of countervailing duties, suspension of liquidation of entries covered by the countervailing duty order is necessary to the implementation of section 751. When the review is completed, the suspended entries that were made during the review period are liquidated at the rate calculated by the Department for that period. Liquidation of all subsequent entries subject to the same order remain suspended and the Department requires deposits of estimated duties at the new rate pending the results of the next section 751 review. If the Department does not finish its review within 12 months, it is necessary for Customs to continue to suspend liquidation until the Department completes its review and informs Customs of the rate at which to liquidate suspended entries.

Where a statute imposes a duty upon a governmental agency to carry out express statutory objectives, the statute carries with it by necessary implication the authority to effect the legislative mandate. Accordingly, the authority to order suspension of liquidation is present by necessary implication in section 751 and suspension of liquidation beyond one year is permissible under section 504(a).

Final Results of the Review

Based on our analysis of the comments received, we determine the aggregate net subsidy to be 4.91 percent *ad valorem* during 1980. The Department will instruct the Customs Service to assess countervailing duties of 4.91 percent of the f.o.b. invoice price on all shipments of non-rubber footwear entered, or withdrawn from warehouse, for consumption on or after January 1, 1980 and exported on or before December 31, 1980.

The provisions of T.D. 74–235 (39 FR 32904), T.D. 78–165 (43 FR 25814), or T.D.

79–23 (44 FR 3477) and section 303(a)(5) of the Tariff Act, prior to the enactment of the TAA, apply to all entries made prior to January 1, 1980. Accordingly, the Customs Service shall assess countervailing duties on unliquidated entries of non-rubber footwear which were entered, or withdrawn from warehouse, for consumption prior to January 1, 1980, at the applicable rates set forth in T.D. 74–235, T.D. 78–165, or T.D. 79–23.

The Department still must review the period of January 1, 1981 through May 2, 1982. The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information during the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: August 31, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-24512 Filed 9-7-83; 8:45 am]

BILLING CODE 3510-25-M

[C-469-053]

Oleoresins of Paprika From Spain; Final Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review of countervailing duty order.

SUMMARY: On May 16, 1983, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on oleoresins from Spain. The review covered the period July 1, 1980 through June 30, 1981.

We gave interested parties an opportunity to comment on our preliminary results. After review of all comments received, we have determined the net subsidy for the period to be 0.68 percent *ad valorem*.

EFFECTIVE DATE: September 8, 1983.

FOR FURTHER INFORMATION CONTACT: Victoria M. Marshall or Joseph Black, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On May 16, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 21984) the preliminary results of its administrative review of the countervailing duty order on oleoresins of paprika from Spain (44 FR 11214, February 28, 1979). The Department has now completed that administrative review, in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of Spanish oleoresins of paprika. Such imports are currently classifiable under item 450.2010 of the Tariff Schedules of the United States Annotated.

The review covers the period July 1, 1980 through June 30, 1981, and two programs: (1) A rebate upon exportation of indirect taxes under the Desgravacion Fiscal a la Exportacion ("DFE"); and (2) an operating capital loans program.

Analysis of Comments Received

We gave interested parties an opportunity to comment on our preliminary results. We received written comments from oleoresins exporters in Spain.

Comment 1: The exporters assert that the methodology used by the Department to calculate DFE benefits is inherently unfair since it does not incorporate changes in the IGTE tax rate that occur during the review period. They argue that we should weight-average the taxes paid during the period of review by the volume of sales occurring before and after the tax change to determine the net subsidy.

Department's Position: The Department agrees with the principle of weight-averaging benefits received for the review period. The proper weighting factor, however, is the average value of inputs for the review period included in the final product at a given tax rate. Since the Department does not know the variations in the price and volume of input purchases during the review period, we have assumed that they were made uniformly throughout the 12 months. We have now deducted the simple average of allowable taxes for the period from the 10.5 percent DFE rebate. We determine the net subsidy for this program during the review period to be 0.25 percent.

Comment 2: The exporters contend that the methodology for calculating the weighted-average differential for the operating capital loans overstates the benefit during the review period by not taking into account the fact that all loans were taken at the beginning of the period when the differential was 1.5 percent.

Department's Position: The Department uses the date of receipt of loans in computing interest differentials. Because the Spanish government did not respond to our request for actual loan data, we assumed uniform borrowing throughout the period of review. Therefore, the Department used a 1.5 percent differential for borrowing up to March 1, 1981, and 9.48 percent after that date.

Comment 3: The exporters contend that the Department disregarded information about commercial interest rates at which oleoresins companies would have been able to borrow. The exporters assert that the "actual borrowing rates for firms, rather than some 'average national' rate, must be [the] controlling" factor in determining the weighted-average differential. In addition, they question how appropriate it is, first, for the Department to assume that oleoresin manufacturers and exporters could not borrow at prime interest rates, and second, that an arbitrary 2.5 percent should be added to monthly average prime interest rates to arrive at the benchmark rate.

Department's Position: Since the preferential loans are given under a broad, national lending program, we used a national commercial interest rate as our benchmark. Additionally, because the operating capital loans program is not directed toward a particular group of exporters, we have used an average commercial rate (composed of prime plus 2.5 percent), and not a rate available to borrowers of better-than-average creditworthiness. Finally, the 2.5 percent addition is based on our estimate of the normal difference between prime and the average commercial interest rate.

Final Results of the Review

After consideration of all comments received, we determine the aggregate net subsidy to be 0.68 percent for the period July 1, 1980 through June 30, 1981. The Department will instruct the Customs Service to assess countervailing duties of 0.68 percent of the f.o.b. invoice price on any shipments exported on or after July 1, 1980 and on or before June 30, 1981.

Further, as provided for by section 751(a)(1) of the Tariff Act, the Department intends to instruct the Customs Service to collect a cash deposit of estimated countervailing duties of 0.94 percent of the f.o.b. invoice price on any shipments of this

merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review. The Department is now beginning the next administrative review.

The Department encourages interested parties to review the public record and to submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information in the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: August 31, 1983.

Alan F. Holmer,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 83-24514 Filed 9-7-83; 8:45 am]
BILLING CODE 3510-25-M

[C-401-056]

Viscose Rayon Staple Fiber From Sweden; Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of countervailing duty order.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on viscose rayon staple fiber from Sweden. The review covers the period October 1, 1981 through September 30, 1982.

As a result of the review, the Department has preliminarily determined the net subsidy to be 10.48 percent *ad valorem* for both modal and regular fiber. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: September 8, 1983.

FOR FURTHER INFORMATION CONTACT: Bernard Carreau or Joseph Black, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On August 5, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 35691) the final results of its last administrative review of the countervailing duty order on viscose rayon staple fiber from Sweden (44 FR 28319, May 15, 1979) and announced its intent to conduct the next administrative review. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of Swedish regular viscose rayon staple fiber and high-wet modulus ("modal") viscose rayon staple fiber. Such merchandise is currently classifiable under items 309.4320 and 309.4325 of the Tariff Schedules of the United States Annotated.

The review covers the period October 1, 1981 through September 30, 1982, and two programs: (1) Capital loans/grants and (2) elderly employment compensation. The sole known Swedish producer of the merchandise is Svenska Rayon AB.

Analysis of Programs

The Swedish government and Svenska did not respond to our questionnaire on the status of benefits during the review period. Therefore, we have used the information provided previously as the best information available to calculate the benefits received during the current review period.

(1) Interest-free Government Loans/Grants: For the purpose of national defense, the Swedish government subsidizes the establishment of productive capacity for modal rayon staple fiber. Accordingly, the government lent to Svenska, on an interest-free basis, investment capital needed to establish productive capacity for modal fiber. The loans were to be forgiven if Svenska maintained these production facilities for ten years. The loans provided to Svenska under this first agreement, referred to as Project 77, totaled 14 million kroner.

Government bill 1977/78: 125, adopted on March 16, 1978, approved a second larger investment loan program, referred to as Project 81, under which Svenska has received additional interest-free loans for the development of its modal fiber plant. Under this latter program, the government authorized a 67.3 million kroner loan and, by the end of September 1981, Svenska had received the total budgeted amount. In February 1979 the Swedish government provided separately an additional 1.8 million kroner loan to Svenska for environmental improvements to the plant.

We concluded in previous reviews that the Swedish government forgave 10 percent per year of Svenska's obligation of 14 million kroner under Project 77 in 1978, 1979, 1980 and 1981. As best evidence, we preliminarily conclude that Svenska maintained its modal production facilities in 1982 and that the government forgave in 1982 another 10 percent of the Project 77 loans. We are therefore treating 10 percent of the Project 77 funds as a grant during the review period. We also concluded, in our last review, that the Swedish government began forgiveness of the Project 81 loans in 1982 at the rate of 10 percent per year. Therefore, we are treating 10 percent of the Project 81 funds, together with 10 percent of the environmental loan, as grants during the review period. We allocated the full amount of these grants to the review period.

Additionally, we are considering the unforgiven protions of the Project 77, Project 81, and 1979 environmental funds as interest-free loans during the period of review. We have calculated the subsidy on these funds on the basis of the interest Svenska would have paid if it had borrowed the money commercially at the time that the loans were granted. We have used as the benchmark rates the Swedish prime rates in 1975 (for Project 77 funds), 1978 (for Projrct 81 funds), and 1979 (for the environmental improvement loan) and added to that the difference between prime and the average rate paid by Svenska on other commercial loans during a prior review period. We then calculated the present value of the payment differentials in each year of the loans using as the discount rate the "risk-free" rates for long-term government debt that were available during the relevant periods. This amount was then allocated evenly over the life of each loan using the same discount rates to yield the annual subsidy amounts. For the period of review, we preliminarily determine that the net subsidy under the interest-free government loans/grants program is 7.04 percent *ad valorem*.

(2) Elderly Employment Program: The Swedish government provides a subsidy to certain companies within the textile industry through a special employment contribution by the government for older workers. This program was established by Swedish government bill 1976/77: 105, adopted on March 3, 1977. The program is designed to encourage the retention of redundant employees in certain regions of the country. Compensation is provided to a company based upon the number of hours worked

by employees over 50 years of age. A company participating in the program must agree not to dismiss or release redundant employees of any age for any reason other than normal attrition. The payments can total up to 15 percent to the company's total labor cost. Svenska participated in this program. For this review, we have preliminarily used the same rate determined in our previous review, 3.44 percent *ad valorem*, as the best information available.

Preliminary Results of Review

As a result of the review, we preliminarily determine that the aggregate net subsidy conferred by the Government of Sweden on the production of both modal and regular viscose rayon staple fiber during the period October 1, 1981 through September 30, 1982 is 10.48 percent *ad valorem*. However, on October 30, 1980, the International Trade Commission ("the ITC") notified the Department that the Swedish government had requested an injury determination for this order under section 104(b) of the Trade Agreements Act of 1979. On March 15, 1983, the ITC notified the Department of its determination that an industry in the United States would be materially injured or threatened with material injury if the order were revoked. The Department announced in the final results of its last administrative review of this order that it would instruct the Customs Service to assess contervailing duties, in the amount of the estimated duties required to be deposited, on all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after October 30, 1980 and on or before March 15, 1983.

As provided for by section 751(a)(1) of the Tariff Act, the Department intends to instruct the Customs Service to collect a cash deposit of estimated countervailing duties of 10.48 percent of the f.o.b. invoice price on all shipments of Swedish regular or modal fiber entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of the current review. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675)(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: August 31, 1983.

Alan F. Holmer,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 83-24513 Filed 9-7-83; 8:45 am]

BILLING CODE 3510-25-M

National Bureau of Standards

[Docket No. 30718-132]

Local Area Networks; Baseband Carrier Sense Multiple Access With Collision Detection and Physical Layer Specifications and Link Layer Protocol; Proposed Federal Information Processing Standard

Under the provisions of Pub. L. 89-306 (79 Stat. 1127; 40 U.S.C. 759(f)) and Executive Order 11717 (38 FR 12315, dated May 11, 1973), the Secretary of Commerce (Secretary) is authorized to establish uniform Federal automatic data processing standards.

A notice published in the **Federal Register** on December 30, 1980, requested comments on the desirability of issuing a family of local network protocol standards, on the desirability of issuance, as soon as possible, of a specific access method known as carrier sense multiple access with collision detection (CSMA/CD), and on the desirability of protocol standards that meet user needs and can be implemented in a cost effective manner with large scale integrated circuit technologies. A specification of CSMA/CD has been developed by the Institute of Electrical and Electronics Engineers. The purpose of this notice is to announce the Baseband CSMA/CD Access Method and Physical Layer Specification, and Link Layer Protocol as the first member of a family of proposed Federal Information Processing Standards for local area networks.

Prior to submission of this proposed standard to the Secretary for approval as a Federal Information Processing Standard, it is essential to assure that proper consideration is given to the needs and views of the public, State and local governments, and manufacturers. It is appropriate at this time to solicit such views.

The proposed Federal Information Processing Standard contains two basic sections: (1) An announcement section the provides information concerning the applicability and implementation of the standard, and (2) a specification section that defines the technical parameters of the standard. Only the announcement section is provided in this notice.

Interested parties may obtain a copy of the specification section of this proposed standard from the Director, Institute for Computer Sciences and Technology, National Bureau of Standards, ATTN: CSMA/CD, Washington, D.C. 20234.

Written comments on this proposed standard should be submitted to the Director, Institute for Computer Sciences and Technology at the above address. Comments to be considered must be received on or before December 7, 1983.

Written comments received in response to this notice will be made part of the public record and will be made available for inspection and copying in the Department's Central Reference and Records Inspection Facility, Room 6622, Main Commerce Building, 14th Street between Constitution Avenue and E Street, NW., Washington, D.C. 20230. Persons desiring more information about this proposed standard may contact John Heafner, Chief, Systems and Network Architecture Division, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234; (301) 921-3537.

Dated: September 1, 1983.

Ernest Ambler,

Director.

Federal Information Processing Standard Publication———

Date———————

Announcing the standard for local area networks: baseband carrier sense multiple access with collision detection access method and physical layer specifications and link layer protocol.

Federal Information Processing Standard Publications are issued by the National Bureau of Standards pursuant to section 111(f)(2) of the Federal Property and Administrative Services Act of 1949, as amended, Pub. L. 89-306 79 Stat. 1127), Executive Order 11717 (38 FR 12315, dated May 11, 1973) and Part 6 of Title 15 Code of Federal Regulations (CFR).

Name of Standard. Local Area Networks: Baseband CSMA/CD Access Method and Physical Layer Specifications and Link Layer Protocol (FIPS Pub———).

Category of Standard. Software and Hardware Standard; Subcategory: Computer Network Protocols.

Explanation. This standard provides the mechanical, electrical, functional and procedural specifications and the link protocol required to establish physical connections, to transmit bits and to send data link frames between nodes. The local area network spans a local area with a baseband coaxial cable of up to 2500 meters in length, transmitting at 10 megabits per second. This is one of a family of local area network standards that will make possible computer to computer and terminal to computer communications. This standard is based on national consensus. In particular, it adopts the Institute of Electrical and Electronics Engineers (IEEE) draft standard 802–2 Logical Link Control type 1 class 1 service, and draft standard 802–3, CSMA/CD Access Method and Physical Layer Specifications.

Approving Authority. Secretary of Commerce.

Maintenance Agency. Department of Commerce, National Bureau of Standard, Institute for Computer Science and Technology.

Cross Index. Draft IEEE Standard 802.2, Logical Link Control. Draft IEEE Standard 802.3, CSMA/CD Access Method and Physical Layer Specifications.

Related Documents. None.

Applicability. This standard is made available to Federal departments and agencies which require compatibility with voluntary industry standards, which are evolving nationally and internationally according to the architecture of the ISO Reference Model for Open Systems Interconnection.

Specifications. This standard adopts the Type 1, Class 1, Logical Link Control procedures of Draft IEEE standard 802.2, Logical Link Control, and all of Draft IEEE standard 802.3, CSMA/CD Access Method and Physical Layer Specifications. Note that the specifications adopted by this standard appear in two volumes.

Implementation Schedule. This standard becomes effective upon publication in the **Federal Register** of an announcement by the National Bureau of Standards of approved by the Secretary of Commerce. Use by Federal agencies is encouraged when such use contributes to operational benefits, efficiency, or economy.

Where to Obtain Copies. Copies of the Federal Information Processing Standard, including technical specifications, may be purchased from the National Technical Information Service (NITIS) by ordering Federal Information Processing Standard Publication (FIPS–Pub——). Ordering information, including prices and deliver alternatives, may be obtained by contacting the National Technical Information Services (NITS), U.S. Department of Commerce, Springfield, Virginia 22161.

[FR Doc. 83–24520 Filed 9–7–83; 8:45 am]
BILLING CODE 3510–13–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Joint Strategic Target Planning Staff Scientific Advisory Group; Advisory Committee Meeting

The Joint Strategic Target Planning Staff (JSTPS) Scientific Advisory Group will meet in closed session October 13 and 14, 1983, at Offutt Air Force Base, Nebraska. The purpose of the meeting is to discuss matters which relate to the development of the Single Integrated Operational Plan (SIOP). The entire meetings will be devoted to the discussion of classified matters within the meaning of Section 552b(c)(1), Title 5 of the U.S. Code and designated as TOP SECRET in accordance with Executive Order 12356, April 2, 1982. Therefore, pursuant to the provisions of Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463 as amended) notice is hereby given that the meeting will be closed to the public.

September 2, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

[FR Doc. 83–24546 Filed 9–7–83; 8:45 am]
BILLING CODE 3810–01–M

Department of the Navy

Performance of Commercial Activities: Announcement of Program Cost Studies

Navy intends to conduct OMB Circular A–76 (48 FR 37110, August 16, 1983) cost comparison studies of various functions at listed activities commencing 10 October 1983.

Naval and Marine Corps Reserve Center, Phoenix, AZ
Custodial Services

Naval and Marine Corps Reserve Center, Tucson, AZ
Custodial Services

Naval Air Station, Alameda, CA
Custodial Services
Messenger Service
Air Transportation Services

Naval and Marine Corps Reserve Center, Alameda, CA
Custodial Services

Naval Weapons Center, China Lake, CA
Public Works Support to RDT&E

Naval Amphibious School, Coronado, CA
Administrative Support

Naval and Marine Corps Reserve Center, Encino, CA
Buildings and Structures Maintenance (Other)

Naval and Marine Corps Reserve Center, Los Angeles, CA
Custodial Services

Naval Supply Center, Oakland, CA
Preservation and Packaging

Pacific Missile Test Center, Point Mugu, CA
Office Equipment
Reference Libraries and Recreational Library Services
Automatic Data Processing/Technical Publications

Naval Construction Battalion Center, Port Hueneme, CA
Data Processing Services
System Design, Development and Programming Services

Naval and Marine Corps Reserve Center, San Bernardino, CA
Custodial Services

Naval Training Center, San Diego, CA
Storage and Warehousing
Recreational Library Services

Navy Regional Data Automation Center, San Diego, CA
Motor Vehicle Operations
Storage and Warehousing
Administrative Support Services
Maintenance of ADP Equipment
System Design, Development and Programming Services
Technical Support Services

Naval Electronic Systems Engineering Center, San Diego, CA
Custodial Services
Systems Engineering and Installation of Communications and Electronics Equipment
Administrative Support Services
Printing and Reproduction

Naval Supply Center, San Diego, CA
Buildings and Structures
Physical Count/Location Survey

Navy Personnel Research and Development Center, San Diego CA
Printing and Reproduction
Administrative Support Services
Systems Design, Development and Programming Services
Technical Support Services

Naval and Marine Corps Reserve Center, San Jose, CA
Custodial Services

Navy Public Works Center, San Francisco, CA
Other Services or Utilities

Naval and Marine Corps Reserve Center, Treasure Island, San Francisco, CA
Custodial Services
Navy Regional Data Automation Center, San Francisco Bay, CA
Storage and Warehousing
Administrative Support Services
Maintenance of ADP Equipment
Technical Support Services
Naval Communication Station, Stockton, CA
Motor Vehicle Operations
Motor Vehicle Maintenance
Water Plants and Systems, Operation and Maintenance
Buildings and Structures
Grounds and Surfaced Areas
Mare Island Naval Shipyard, Vallejo, CA
Motor Vehicle Operations, Motor Vehicle Maintenance, and Drawbridge Operations
Naval Submarine School, Groton, CT
Administrative Support
Naval and Marine Corps Reserve Center, Hartford, CT
Custodial Services
Naval and Marine Corps Reserve Center, New Haven, CT
Custodial Services
Naval and Marine Corps Reserve Center, Wilmington, DE
Custodial Services
Naval Audiovisual Center, Washington, DC
Custodial Services
Data Processing Services
Motion Picture Processing
Naval and Marine Corps Reserve Center, Washington, DC
Custodial Services
Naval Security Station, Washington, DC
Insect and Rodent Control
Administrative Support Services
Naval Air Station, Cecil Field, FL
Heating, Water, Sewage and Waste Plants
Naval and Marine Corps Reserve Center, Jacksonville, FL
Custodial Services
Naval Supply Center, Jacksonville, FL
Personal Property Services
Material Turned into Store
Navy Regional Data Automation Center, Jacksonville, FL
Motor Vehicle Operation
Storage and Warehousing
Administrative Support Services
Technical Support Services
Naval Security Group, Activity Key West, FL
Other Maintenance and/or Repair or Equipment (Intermediate/Direct General)
Naval Air Station, Pensacola, FL
Storage and Warehousing
Navy Regional Data Automation Center, Pensacola, FL
Storage and Warehousing
Administrative Support Services
Technical Support Services
Naval Technical Training Center, Corry Station, Pensacola, FL
Administrative Services, Word Processing, and Printing and Reproduction
Naval Reserve Center, St. Petersburg, FL
Custodial Services
Naval Reserve Center, Tampa, FL
Custodial Services
Naval and Marine Corps Reserve Center, Honolulu, HI
Custodial Services
Naval Supply Center, Pearl Harbor, HI
Motor Vehicle Maintenance
Navy Public Works Center, Pearl Harbor, HI
Operation and Maintenance of Special and Heavy Equipment
Navy Data Automation Facility, Pearl Harbor, HI
Maintenance of ADP Equipment
Naval Administrative Command, Naval Training Center, Great Lakes, IL
Motor Vehicle Operations, Motor Vehicle Maintenance, and Storage and Warehousing
Navy Data Automation Facility, Great Lakes, IL
Storage and Warehousing
Data Processing Services
Maintenance of ADP Equipment
System Design, Development and Programming Services
Naval Reserve Center, Forest Park, IL
Custodial Services
Naval and Marine Corps Reserve Center, Rock Island, IL
Custodial Services
Naval and Marine Corps Reserve Center, Des Moines, IO
Custodial Services
Naval and Marine Corps Reserve Center, Louisville, KY
Custodial Services
Naval and Marine Corps Reserve Center, New Orleans, LA
Custodial Services
Navy Regional Data Automation Center, New Orleans, LA
Storage and Warehousing
Administrative Support Services
Maintenance of ADP Equipment
Technical Support Services
Naval Reserve Center, Portland, ME
Custodial Services
Naval Reserve Center, Adelphi, MD
Custodial Services
Naval Reserve Center, Baltimore, MD
Custodial Services
Buildings and Structures Maintenance (Other than Family Housing)
Naval Security Group Activity, Fort Meade, MD
Other Morale, Welfare and Recreation
Naval Surface Weapons Center, White Oak Laboratory, Silver Springs, MD
Support to R&D
Other Test, Measurement and Diagnostic Equipment
Administrative Support Services
Machine Parts
Buildings and Structures (Other than Family Housing)
Insect and Rodent Control
Electrical Plant and Systems
Heating Plant and Systems
Water Plants and Systems
Sewage and Waste Plants and Systems
Air Conditioning and Refrigeration Plants
Other Utilities
Architect/Engineering Service
Communications Centers
Grounds and Surfaced Areas
Naval and Marine Corps Reserve Center, Lawrence, MA
Custodial Services
Naval Reserve Center, Quincy, MA
Custodial Services
Naval and Marine Corps Reserve Center, Worcester, MA
Custodial Services
Naval and Marine Corps Reserve Center, Detroit, MI
Custodial Services
Naval Reserve Center, Southfield, MI
Custodial Services
Naval and Marine Corps Reserve Center, St. Paul, MN
Custodial Services
Naval Air Station Meridian, MS
Storage and Warehousing
Naval Technical Training Center, Meridian, MS
Printing
Naval and Marine Corps Reserve Center, Kansas City, MO
Custodial Services
Naval and Marine Corps Reserve Center, St. Louis, MO
Custodial Services
Naval and Marine Corps Reserve Center, Omaha, NE
Custodial Services
Naval Reserve Center, Perth Amboy, NJ
Custodial Services
Naval and Marine Corps Reserve Center, West Trenton, NJ
Custodial Services
Naval and Marine Corps Reserve Center, Albany, NY
Custodial Services
Naval and Marine Corps Reserve Center, Brooklyn, NY
Custodial Services
Buildings and Structures maintenance (Other than Family Housing)
Naval and Marine Corps Reserve Center, Buffalo, NY
Custodial Services
Naval Reserve Center, Syracuse, Mattydale, NY
Custodial Services

Naval Reserve Center, Whitestone, NY
Custodial Services
Naval and Marine Corps Reserve Center, Raleigh, NC
Custodial Services
Naval and Marine Corps Reserve Center, Cincinnati, OH
Custodial Services
Naval and Marine Corps Reserve Center, Cleveland, OH
Custodial Services
Naval and Marine Corps Reserve Center, Columbus, OH
Custodial Services
Naval and Marine Corps Reserve Center, Toledo, OH
Custodial Services
Naval and Marine Corps Reserve Center, Portland, OR
Custodial Services
Buildings and Structures Maintenance (Other)
Naval Reserve Center, Avoca, PA
Custodial Services
Navy Ships Parts Control Center, Mechanicsburg, PA
Storage and Warehousing
Naval and Marine Corps Reserve Center, Northeast, Philadelphia, PA
Custodial Services
Aviation Supply Office; Philadelphia, PA
Administrative Support Services
Naval Damage Control Training Center, Philadelphia, PA
Buildings and Structures
Naval International Logistics Control Office, Philadelphia PA
Processing Support
Naval and Marine Corps Reserve Center, Pittsburgh, PA
Custodial Services
Navy Data Automation Facility, Newport, RI
Data Processing Services
Maintenance of ADP Equipment
System Design, Development and Programming Services
Technical Support Services
Naval Education and Training Center, Newport, RI
Administrative Support
Naval and Marine Corps Reserve Center, Providence, RI
Custodial Services
Naval Reserve Center, Charleston, SC
Custodial Services
Navy Fleet Ballistic Missile Submarine Training Center, Naval Base, Charleston, SC
Administrative Support
Naval Air Station, Chase Field, TX
Storage and Warehousing
Naval and Marine Corps Reserve Center, Dallas, TX
Custodial Services
Naval and Marine Corps Reserve Center, San Antonio, TX
Custodial Services
Naval Security Group Activity Northwest, Chesapeake, VA
Other Social Services
Naval Surface Weapons Center, Dahlgren, VA
Other Test, Measurement and Diagnostic Equipment
Other Maintenance/Repair of Equipment
Administrative Support Services
Machine Parts Buildings and Structures (Other than Family Housing)
Recreational Library Other Recreational Library Other Recreational, Morale and Welfare Activities
Dispensaries
Electrical Plant and Systems
Heating Plants and Systems
Water Plants and Systems
Sewage and Waste Plants and Systems
Air Conditioning and Refrigeration Plants and Systems
Architect/Engineering Service
Communications Centers
Buildings and Structures (Family Housing)
Navy Regional Data Automation Facility, Norfolk, VA
Railroad Facilities
Insect and Rodent Control
Other Utilities
Storage and Warehousing
Administrative Support Services
Maintenance of ADP Equipment
Technical Support Services
Navy Public Works Center, Norfolk, VA
Air Conditioning and Refrigeration
Other Utilities and Services
Maintenance of Historic Buildings
Naval Supply Center, Norfolk, VA
Motor Vehicle Equipment Maintenance
Maintenance Services
Cargo Documentation
Environmental Control Services
Fleet Combat Training Center, Atlantic, Virginia Beach, VA
Electric Plants/Systems
Heating Plants/Systems
Water Plants/Systems
Other Services or Utilities
Buildings and Structures (Family Housing)
Buildings and Structures (Other Than Family Housing)
Surfaced Areas
Administrative Support
Naval and Marine Corps Reserve Center, Little Creek, Norfolk, VA
Custodial Services
Fleet Anti-Submarine Warfare Training Center, Norfolk, VA
Motor-Vehicle Operations
Administrative Support
Naval and Marine Corps Reserve Center, Richmond, VA
Custodial Services
Naval Air Station, Whidbey Island, WA
Utilities
Maintenance, Repair, Alteration, and Minor Construction of Real Property
Office Equipment
Automatic Data Processing
Naval Reserve Center, Seattle, WA
Custodial Services
Buildings and Structures Maintenance (Other)
Naval and Marine Corps Reserve Center, Spokane, WA
Custodial Services
Naval and Marine Corps Reserve Center, Takoma, WA
Custodial Services
Buildings and Structures Maintenance (Other)
Naval and Marine Corps Reserve Center, Madison, WI
Custodial Services

Dated: August 22, 1983.

J. P. Cornell,

Captain, U.S. Navy, Deputy Director, Shore Activities Planning & Programming Division.

[FR Doc. 83-24217 Filed 9-7-83; 8:45 am]
BILLING CODE 3810-AE-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Estate of S. H. Killingsworth; Proposed Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of proposed Consent Order and opportunity for comment.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces a proposed Consent Order with the Estate of S. H. Killingsworth (Killingsworth) and provides an opportunity for public comment on the terms and conditions of the proposed Consent Order.

DATE: Comments by October 11, 1983.

ADDRESS: Send comments to: James O. Neet, Jr., Chief Counsel, Economic Regulatory Administration, Dallas Office, 1341 West Mockingbird Lane, Suite 200E, Dallas, Texas 75247.

FOR FURTHER INFORMATION CONTACT: James O. Neet, Jr., Chief Counsel, Economic Regulatory Administration, Dallas Office, 1341 West Mockingbird Lane, Suite 200E, Dallas, Texas 75247 214/767-7404. Copies of the Consent Order may be obtained free of charge by writing or calling this office.

SUPPLEMENTARY INFORMATION: On June 27, 1983, the ERA executed a proposed Consent Order with the Estate of S. H. Killingsworth. Under 10 CFR 205.199J(b),

a proposed Consent Order which involves the sum of $500,000 or more, excluding interest and penalties, becomes effective no sooner than thirty days after publication of a notice in the **Federal Register** requesting comments concerning the proposed Consent Order. Although the ERA has signed and tentatively accepted the proposed Consent Order, the ERA may, after consideration of the comments it receives, withdraw its acceptance and, if appropriate, attempt to negotiate a modification of the Consent Order or issue the Consent Order as signed.

I. The Consent Order

Killingsworth produced and sold crude oil during the period August 19, 1973 through January 28, 1981 ("the period covered by this Consent Order"), and therefore was subject to the price rules imposed by 6 CFR Part 150 Subpart L, and 10 CFR Part 212, Subpart D. To resolve certain potential civil liability arising in connection with the first sales of crude oil by Killingsworth during the period covered by this Consent Order, the ERA and Killingsworth entered into a Consent Order. The ERA alleged that Killingsworth produced and sold domestic crude oil at prices in excess of the applicable ceiling prices. Killingsworth denied these allegations, but determined that this Consent Order was an equitable resolution of these allegations which avoided the disruption of its orderly business functions and the expense and inconvenience of protracted and complex litigation.

II. Remedial Provisions

A. Under this Consent Order, Killingsworth and DOE will direct the Texas Commerce Bank—Longview, N.A., in Longview, Texas to transfer all monies $2,800,000.00 plus interest) held in escrow by the bank pursuant to an "Escrow Agreement" executed by Texas Commerce Bank, Killingsworth, and OSC on February 14, 1983, to the "Injection Well Litigation Escrow Account," of the Fourth National Bank and Trust Company of Wichita, Kansas. The "Injection Well Litigation Account" is an account established and maintained under supervision of the United States District Court in Wichita, Kansas, by Orders dated June 11 and 25, 1980, issued in *In Re: The Department of Energy Stripper Well Exemption Litigation*, M.D.L. Docket No. 378 (D. Kan.)

B. Within five (5) days following receipt by the Fourth National Bank of Wichita of the monies held in escrow by the Texas Commerce Bank—Longview, N.A. of Longview, Killingsworth shall move the Federal Energy Regulatory Commission to dismiss with prejudice its appeal in *Estate of S. H. Killingsworth*, FERC Docket No. RO81-63-000.

C. Effective with the receipt by the Fourth National Bank of Wichita of the monies held in escrow by Texas Commerce Bank—Longview, N.A. of Longview, DOE and Killingsworth stipulate to move for the dismissal with prejudice of Killingsworth's appeal in *In Re: DOE Stripper Well Litigation*, supra. Within 30 days after the effective date of this Consent Order, Killingsworth will execute and deliver to DOE a stipulation for such purpose.

III. Submission of Written Comments

Interested persons are invited to submit written comments concerning the terms and conditions of this Consent Order to the address given above. Comments should be identified on the outside of the envelope and on the documents submitted with the designation, "Comments on Estate of S. H. Killingsworth Consent Order." The ERA will consider all comments it receives by 4:30 p.m., local time on October 11, 1983. Any information or data considered confidential by the person submitting it must be identified as such in accordance with the procedures in 10 CFR 205.9(f).

Issued in Dallas, Texas on the 15th day of July 1983.

Ben L. Lemos,

Director, Dallas Office, Economic Regulatory Administration.

[FR Doc. 83-24459 Filed 9-7-83; 8:45 am]

BILLING CODE 6450-01-M

Sigmor Corporation; Proposed Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of proposed Consent Order and opportunity for comment.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces a proposed Consent Order with Sigmor Corporation (Sigmor) and provides an opportunity for public comment on the terms and conditions of the proposed Consent Order.

DATE: Comments by October 11, 1983.

ADDRESS: Send comments to: James O. Neet, Jr., Chief Counsel, Economic Regulatory Administration, Dallas Office, 1341 West Mockingbird Lane, Suite 200E, Dallas, Texas 75247.

FOR FURTHER INFORMATION CONTACT:

James O. Neet, Jr., Chief Counsel, Economic Regulatory Administration, Dallas Office, 1341 West Mockingbird Lane, Suite 200E, Dallas, Texas 75247, 214/767-7404. Copies of the Consent Order may be obtained free of charge by writing or calling this office.

SUPPLEMENTARY INFORMATION: On July 19, 1983, the ERA executed a proposed Consent Order with Sigmor Corporation. Under 10 CFR 205.199J(b), a proposed Consent Order which involves the sum of $500,000 or more, excluding interest and penalties, becomes effective no sooner than thirty days after publication of a notice in the **Federal Register** requesting comments concerning the proposed Consent Order. Although the ERA has signed and tentatively accepted the proposed Consent Order, the ERA may, after consideration of the comments it receives, withdraw its acceptance and, if appropriate, attempt to negotiate a modification of the Consent Order or issue the Consent Order as signed.

I. The Consent Order

Sigmor Corporation, a subsidiary of Diamond Shamrock which is located in San Antonio, Texas, is a firm engaged in the refining of crude oil and the sale of covered petroleum products as well as other petroleum related activities, and was subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Parts 210, 211, and 212 during the period covered by this Consent Order. To resolve certain potential civil liability arising out of the Mandatory Petroleum Allocation and Price Regulations and related regulations, 10 CFR Parts 205, 210, 211, and 212, in connection with Sigmor's transactions involving petroleum products during the period January 1, 1973 through January 28, 1981 ("the period covered by this Consent Order"), the ERA and Sigmor entered into a Consent Order, the significant terms of which are as follows:

A. The Consent Order is intended by the signatories to settle the civil issues between DOE and Sigmor relating to Sigmor's compliance with the Federal Petroleum Price and Allocation regulations during the period from January 1, 1973 through January 28, 1981; provided, however, that the Consent Order does not cover Sigmor's entitlements obligation for January 1981 or pursuant to 10 CFR 211.69.

B. ERA conducted a thorough audit to determine Sigmor's compliance during the period covered by this Consent

Order with the Federal petroleum price and allocation statutes, regulations and requirements. ERA and Sigmor disagree in several respects concerning the proper application of such Federal petroleum price and allocation statutes, regulations and requirements to Sigmor's activities during the settlement period. Sigmor and ERA each believes that its respective positions on the legal issues underlying such disagreement are meritorious. Neither Sigmor nor ERA disavows any position it has taken with respect to such legal issues.

C. Notwithstanding the above, Sigmor maintains that it has calculated all of its costs, determined all of its prices, and operated in all other respects in accordance with all applicable statutes, regulations and other requirements. Execution of the Consent Order constitutes neither an admission by Sigmor nor a finding by ERA of any violation by Sigmor of any statute or regulation.

II. Refunds

Under the Consent Order, Sigmor Corporation, will pay the sum of $800,000 to the Department of Energy (DOE). These funds will be held in an appropriate account pending a determination by the DOE of the disposition of the funds in accordance with applicable statutes and regulations. Payment is to be made on or before thirty (30) days after the effective date of the Consent Order. If payments are not made within the specified time, Sigmor agrees to pay installment interest on the unpaid balance. Upon full satisfaction of the terms and conditions of this Consent Order by Sigmor, the DOE releases Sigmor from any civil claims that the DOE may have arising out of the specified transactions during the period covered by this Consent Order.

The foregoing provisions for payment of the refund amount were agreed to because ERA was unable to readily identify the ultimately injured parties as a result of the nature of the alleged violations, and of the complexities of petroleum marketing.

III. Submission of Written Comments

Interested persons are invited to submit written comments concerning the terms and conditions of this Consent Order to the address given above. Comments should be identified on the outside of the envelope and on the documents submitted with the designation, "Comments on Sigmor Corporation Consent Order." The ERA will consider all comments it receives by 4:30 p.m., local time, on 30 days after the date of publication of this notice. Any information or data considered confidential by the person submitting it must be identified as such in accordance with the procedures in 10 CFR 205.9(f).

Issued in Dallas, Texas on the 24th day of August, 1983.

Ben Lemoe,

Director, Dallas Field Office, Economic Regulatory Administration.

[FR Doc. 83-24459 Filed 9-7-83; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Docket No. 83-CERT-274 et al.]

Allied Corp. et al.; Certifications of Eligible Use of Natural Gas To Displace Fuel Oil

The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) has received the following applications for certification of an eligible use of natural gas to displace fuel oil pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). Notice of these applications, along with pertinent information contained in the applications, was published in the **Federal Register** and an opportunity for public comment was provided for a period of ten calendar days from the date of publication. No comments were received. More detailed information is contained in each application of file and available for inspection at the ERA Fuels Conversion Division Docket Room, RG-42, Room GA-093, Forrestal Building, 1000 Independence Avenue, SW., Washington D.C. 20585, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

Applicant and facility	Date filed	Docket No.	Federal Register notice of application
Allied Corp., Baltimore, Md., Hopewell, Va., Ironton, Ohio	July 22, 1983	83-CERT-274	48 FR 37061, Aug. 16, 1983.
Anchor Glass Container Corp., Winchester, Ind.	do	83-CERT-275	48 FR 37061, Aug. 16, 1983.
Ross Laboratories (Div. of Abbott Laboratories, Inc.), Altavista, Va.	do	83-CERT-276	48 FR 37061, Aug. 16, 1983.
American Laundry Machinery Inc., Norwood, Ohio	July 27, 1983	83-CERT-277	48 FR 37061, Aug. 16, 1983.

The ERA has carefully reviewed the above applications for certification in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 4920, August 16, 1979). The ERA has determined that the applications satisfy the criteria enumerated in 10 CFR Part 595 and, therefore, has granted the certifications and transmitted those certifications to the Federal Energy Regulatory Commission.

Issued in Washington, D.C., on August 31, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-24456 Filed 9-7-83; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 83-CERT-179, as amended]

Certainteed Corp.; Amended Certification of Eligible Use of Natural Gas To Displace Fuel Oil

The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) has received the following application to amend an existing certification of the eligible use of natural gas to displace fuel oil pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). Notice of this application, along with pertinent information contained in the amendment request, was published in the **Federal Register** and an opportunity for public comment was provided for a period of ten calendar days from the date of publication. No comments were received. More detailed information is contained in the application on file and available for inspection at the ERA

Fuels Conversion Division Docket Room, RG–42, Room GA–093, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

Applicant and facility	Existing certification number and date issued	Date amendment filed	FEDERAL REGISTER notice of applicant's amendment
Certainteed Corp., Milan Plant, Milan, Ohio, York Plant, York, Pa.	83–CERT–179, July 5, 1983	July 14, 1983	48 FR 37690, Aug. 19, 1983.

The ERA has carefully reviewed the above application to amend the existing certification in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that the application satisfies the criteria enumerated in 10 CFR Part 595 and, therefore, has granted the amended certification and transmitted that amended certification to the Federal Energy Regulatory Commission.

Issued in Washington, D.C., on August 31, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-24458 Filed 9-7-83; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 83–CERT–283 et al.]

Ohio Steel Tube Co. et al; Certifications of Eligible Use of Natural Gas To Displace Fuel Oil

The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) has received the following applications for certification of an eligible use of natural gas to displace fuel oil pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). Notice of these applications, along with pertinent information contained in the applications, was published in the **Federal Register** and an opportunity for public comment was provided for a period of ten calendar days from the date of publication. No comments were received. More detailed information is contained in each application on file and available for inspection at the ERA Fuels Conversion Division Docket Room, RG–42, Room GA–093, Forrestal Building, 1000 Independence Avenue, SW., Washington D.C. 20585, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

Applicant and facility	Date filed	Docket No.	FEDERAL REGISTER notice of application
Ohio Steel Tube Co., Shelby, Ohio	July 28, 1983	83–CERT–283	48 FR 37691, Aug. 19, 1983.
Troy Laundry & Dry Cleaning Co., Inc., Carlisle, Pa.	July 29, 1983	83–CERT–284	48 FR 37691, Aug. 19, 1983.
Central Power & Light Co., Barney M. Davis Powerplant, Corpus Christi, Tex.	do	83–CERT–285	48 FR 37691, Aug. 19, 1983.
Carlisle Hospital, Carlisle, Pa.	do	83–CERT–286	48 FR 37691, Aug. 19, 1983.
Quin-T Corp., Erie, Pa.	do	83–CERT–287	48 FR 37691, Aug. 19, 1983.

The ERA has carefully reviewed the above applications for certification in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that the applications satisfy the criteria enumerated in 10 CFR Part 595 and, therefore, has granted the certifications and transmitted those certifications to the Federal Energy Regulatory Commission.

Issued in Washington, D.C., on August 31, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-24457 Filed 9-7-83; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. TA84–1–31–000 (PGA84–1, IPR84–1)]

Arkansas Louisiana Gas Co.; Filing of Revised Tariff Sheets Reflecting Tariff Adjustment

September 2, 1983.

Take notice that on August 31, 1983 Arkansas Louisiana Gas Company (Arkla) tendered for filing 34th Revised Sheet No. 4 and 8th Revised Sheet No. 4A to its FERC Gas Tariff First Revised Volume No. 1, Rate Schedule No. G–2, to become effective October 1, 1983.

Arkla states that the purpose of 34th Revised Sheet No. 4 is to (1) reflect the cost of purchased gas for the six months period commencing October 1, 1983, (2) recover the accumulated deferred gas costs as of June 30, 1983, and (3) set forth the reduced PGA and estimated incremental pricing surchages to be billed during the PGA period as contained on 8th Revised Sheet No. 4A effective October 1, 1983.

Arkla also states that a copy of the revised tariff sheets and supporting data are being mailed to Arkla's jurisdictional customers and other interested parties affected by this tariff change.

Any person desiring to be heard or to protest said filing should file a Petition to Intervene or Protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before September 19, 1983. Protests will be considered by the Commission determining the appropriate action to be taken, but will not serve to make protestants parties to

the proceeding. Any person wishing to become a party must file a Petition to Intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-24575 Filed 9-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-31-001 (PGA84-1, IPR 84-1)]

Arkansas Louisiana Gas Co.; Filing of Revised Tariff Sheets Reflecting Tariff Adjustment

September 2, 1983.

Take notice that on August 31, 1983 Arkansas Louisiana Gas Company (Arkla) tendered for filing 33rd Revised Sheet No. 185 and 8th Revised Sheet No. 185A to its FERC Gas Tariff Original Volume No. 3, Rate Schedule No. X-26, to become effective October 1, 1983.

Arkla states that the purpose of 33rd Revised Sheet No. 185 is to (1) reflect the cost of purchased gas for the six months period commencing October 1, 1983, (2) recover the accumulated deferred gas costs as of June 30, 1983, and (3) set forth the reduced PGA and estimated incremental pricing surcharges to be billed during the PGA period as contained on 8th Revised Sheet No. 185A effective October 1, 1983.

Arkla also states that copies of the revised tariff sheet and supporting data are being mailed to Arkla's jurisdictional customers and other interested parties affected by this tariff change.

Any person desiring to be heard or to protest said filing should file a Petition to Intervene or Protests with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before September 19, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a Petition to Intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-24576 Filed 9-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-481-003]

Arizona Public Service Co.; Refund Report

September 2, 1983.

Take notice that on August 4, 1983, Arizona Public Service Company ("APS"), submitted for filing a Refund Report in compliance with a Commission order dated June 27, 1983, in which the Commission accepted the rate settlement agreement between APS and Washington Water Power Company dated February 1, 1983 (APS-FERC Rate Schedule No. 84).

APS states that copies of the Refund Report have been served on the Arizona Corporation Commission, Washington Water Power Company, and the Washington Utilities and Transportation Commisson.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before September 15, 1983. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-24573 Filed 9-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-481-004]

Arizona Public Service Co.; Refund Report

September 2, 1983.

Take notice that on August 12, 1983, Arizona Public Service Company, ("APS"), submitted for filing a Refund Report in compliance with the July 8, 1983 Commission order, which accepted the rate settlement agreement between APS and Plains Electric Generation and Transmission Cooperative, Inc.

APS states that the required refund was forwarded to Plains on July 29, 1983.

APS further states that copies of this Refund Report have been served on the Arizona Corporation Commission and Plains Electric Generation and Transmission Cooperative, Inc.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before September 15, 1983. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-24574 Filed 9-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TC83-32-000]

Eastern Shore Natural Gas Co.; Tariff Filing

September 2, 1983.

Take notice that on August 25, 1983, Eastern Shore Natural Gas Company (Eastern Shore), P.O. Box 615, Dover, Delaware 19903, tendered for filing in Docket No. TC83-32-000, Fifth Revised Sheet No. 424 superseding Substitute Fourth Revised Sheet No. 424, to Eastern Shore's FERC Gas Tariff, Original Volume No. 1, to be effective November 1, 1983.

Such tariff sheet contains Eastern Shore's annual update of its Index of Entitlements to reflect changes in its agricultural requirements in compliance with Section 401 of the Natural Gas Policy Act of 1978 and Part 281 of the Commission's Regulations. Eastern Shore states that the Priority 2 entitlement changes have been approved by a Data Verification Committee and that copies of the tariff filing have been mailed to its customers and State Commissions.

Any person desiring to be heard or to make any protest with reference to said tariff sheet should on or before September 16, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-24577 Filed 9-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-33-000]

El Paso Natural Gas Co.; Proposed Change in Rates

September 2, 1983.

Take notice that on August 31, 1983, El Paso Natural Gas Company ("El Paso") tendered for filing a notice of change in rates for jurisdictional gas service rendered to customers served by its interstate gas transmission system under rate schedules affected by and subject to Section 19, Purchased Gas Cost Adjustment Provision ("PGA"), contained in the General Terms and Conditions of El Paso's FERC Gas Tariff, Original Volume No. 1, Section 19 also applies to certain special rate schedules contained in El Paso's FERC Gas Tariff, Third Revised Volume No. 2 and Original Volume No. 2A.

El Paso states that the rate change reflects implementation, with respect to certain of its pipeline production, of the decision of the Supreme Court of the United States in *Public Service Comm'n. of the State of New York v. Mid-Louisiana Gas Co.*, 51 U.S. L.W. 5030 (June 28, 1983), effective October 1, 1983. Additionally, in recognition of the August 9, 1983 decision of the United States Court of Appeals for the D.C. Circuit in *Interstate Natural Gas Association of America, et al., v. FERC*, No. 81-1690, *et al.*, vacating Order Nos. 93, *et seq.*, issued at Docket No. RM80-33 by the Federal Energy Regulatory Commission ("Commission"), El Paso states that in the instant filing it has determined the Btu content of natural gas for wellhead pricing purposes under standard, saturated or "wet" conditions rather than on an "as delivered" basis, commencing October 1, 1983. The filing reflects a decrease in the base purchased gas cost of $0.0073 per dth and an increase of $0.0073 per dth in the surcharge rate for a net adjustment in El Paso's currently effective rates of zero (0) dollars per dth attributable to the PGA.

The notice of rate change also reflects a reduction of $0.0071 per dth in El Paso's Base Tariff Rates placed in effect April 1, 1983 pursuant to the "Stipulation and Agreement in Settlement of Rate Proceedings" at Docket No. RP82-33, *et al.*, approved by Commission letter order dated May 31, 1983. El Paso states that such reduction is made in accordance with Paragraph 2.5 of Article II of the referenced Stipulation and Agreement to account for a decrease in the amount for transportation of gas by others included in the settlement cost of service upon which the Base Tariff Rates were predicated.

To implement the notice of rate change, El Paso tendered for filing the following revised tariff sheets to its FERC Gas Tariff:

Tariff volume	Tariff sheet
Original Volume No. 1.	Thirty-fourth Revised Sheet No. 3-B.
	Eighth revised Sheet No. 158.
Third Revise Volume No. 2.	Twenty-fifth Revised Sheet No. 1-D.
Original Volume No. 2A.	Twenty-sixth Revised Sheet No. 1-C.

El Paso requests that the Commission grant waiver of its applicable rules, regulations and orders as may be necessary to permit the tendered revised tariff sheets to become effective on October 1, 1983.

El Paso states that copies of the filing, together with all enclosures, have been served upon all interstate pipeline system customers of El Paso and all interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, in accordance with §§ 385.211 and 385.211 of this Chapter. All such motions or protests should be filed on or before Sept. 19, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-24578 Filed 9-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-34-000]

Florida Gas Transmission Co.; Proposed Changes in Rates and Charges Under Purchased Gas Adjustment and Incremental Pricing Provisions

September 2, 1983.

Take notice that on August 31, 1983, Florida Gas Transmission Company (FGT), P.O. Box 44, Winter Park, Florida 32790, tendered for filing the following tariff sheets to its F.E.R.C. Gas Tariff to be effective October 1, 1983.

Original Volume No. 1

Substitute 31st Revised Sheet No. 3-A
Eighth Revised Sheet No. 3-B

Original Volume No. 2

Substitute 21st Revised Sheet No. 128

The aforementioned tariff sheets contain changes in FGT's resale rates, under Rate Schedules G and I, and in Rate Schedule T-3 resulting from the purchased gas adjustment clause and incremental pricing provision of FGT's Tariff. FGT proposes to make the rate changes effective October 1, 1983.

Southern Natural Gas Company (Southern) supplies natural gas to FGT under Southern's Rate Schedules OCDL-1 and AOL-1 and Southern will file its regular semi-annual purchase gas adjustment filing with a proposed effective date of October 1, 1983. The rate adjustments being filed by FGT reflect Southern's OCDL-1 and AOL-1 rates contained on Southern's Fifty-eighth Revised Sheet No. 4-A proposed to be effective October 1, 1983.

Southern also has pending a general rate increase filing in Docket No. RP83-58-000 to take effect on October 1, 1983. Due to the pendency of settlement discussions in that docket FGT is unable at the time of this filing to determine the impact the rates Southern will file to be effective October 1, 1983 in Docket No. RP83-58-000 on FGT's purchase gas cost.

FGT requests such waiver of the Commission's Regulations that may be necessary in order to permit FGT to adjust the rates being filed should the rate changes to be filed by Southern in Docket No. RP83-58-000 materially affect FGT's rates.

The net effect of the adjustments being filed for Rate Schedules G and I is to decrease the currently effective rate by 1 570¢/therm Based on estimated G and I sales for the next 12 months. This results in an annual revenue decrease of approximately $13,300,000. The net effect on the adjustments being filed for Rate Schedule T-3 is an increase of 1.08/Mcf. The annual effect on revenues from Rate Schedule T-3 is an increase of approximately $538,400.

According to FGT, the changes contained on Substitutes 31st Revised Sheet No. 3-A and Substitute 21st Revised Sheet No. 128 are made in accordance with the purchased gas cost adjustment and incremental pricing provision in its tariff (Section 15 General Terms and Conditions) and Section 154 of the Commission's Regulations (18 CFR 154.38). FGT also states that Eighth Revised Sheet No. 3-B contains the estimated incremental pricing surcharges by customer by month for the adjustment period.

FGT states that a copy of its filing has been served on all customers receiving

gas under its FERC Gas Tariff. Original Volume Nos. 1 and 2 and interested State Commissions and is being posted.

Any person desiring to be heard or to make any protests with reference to said filing should on or before Sept. 19, 1983, file with the Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, a petition to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (385.211, 385.214). All protests filed with the Commission will be considerd by it in determining the appropriate action to be taken but will not serve to make protestants parties in the proceeding. Any person wishing to become a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-24579 Filed 9-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-620-000]

Kansas Power & Light Co., Order Accepting Rates for Filing, Denying Waiver of Notice Requirements, and Terminating Docket

Issued: August 31, 1983.

On July 7, 1983, the Kansas Power & Light Company (KPL) tendered for filing a supplement to its Interconnection Agreement with Sunflower Electric Cooperative, Inc. (Sunflower) dated April 21, 1980.[1] The Interconnection Agreement contains, *inter alia*, Participation Power Service Schedules under which Sunflower purchases from KPL specified annual amounts of capacity and energy from specified units at KPL's Jeffery Energy Center (JEC). For the contract year June 1, 1982 through May 31, 1983, Sunflower purchased a total of 55 MW from JEC Unit Nos. 1 and 2. For the succeeding contract year, Sunflower has agreed to purchase the same 55 MW from Unit No. 2 and a new JEC Unit No. 3. KPL's proposed demand and energy charges would increase revenues by approximately $1,145,600 (43.6%) for the twelve month period ending May 31, 1984.[2] KPL requests waiver of the sixty day notice requirement to permit these rates to become effective as of June 1, 1983, in accordance with the date in the Interconnection Agreement for the annual commitment of capacity and energy entitlements. In support of its request for waiver, KPL states that certain costs were not available to develop the proposed schedules sixty days prior to June 1, 1983.

Notice of the instant filing was published in the **Federal Register**, with comments due on or before August 2, 1983. Sunflower filed a timely letter in opposition to the increase without raising any specific issues or seeking to intervene. Sunflower also opposed the requested waiver of notice stating that it would be in a deficit position if the waiver were granted inasmuch as it has already collected revenues from its members for the month of June based upon service schedules presently in effect.

Discussion

Based on our review of the instant filing, we find that the proposed rates will not produce excessive revenues. Furthermore, Sunflower has not identified any substantive concerns which might lead us to conclude otherwise and has not asked to participate in a hearing. Accordingly, we shall accept KPL's submittal for filing without suspension.

We shall, however, deny KPL's request for waiver of the sixty day notice requirement to permit a June 1, 1983 effective date. KPL's assertion that certain costs were previously unavailable, rendering timely filing impossible, does not constitute good cause for granting waiver of the notice requirements, particularly since the choice of test period was entirely within KPL's discretion and since the affected customer opposes the retroactive effective date. Accordingly, we shall accept KPL's rates for filing to become effective sixty days after filing, on September 6, 1983. For the period between June 1, 1983, and September 5, 1983, the 55 MW of participation power shall be provided at the rates in effect prior to the instant submittal.

The Commission orders:

(A) KPL's request for waiver of the notice requirements is hereby denied.

(B) KPL's proposed rates applicable to Participation Power Service are hereby accepted for filing to become effective, without suspension or hearing, sixty days after filing, on September 6, 1983.

(C) Docket No. ER83-620-000 is hereby terminated.

(D) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-24582 Filed 9-7-83; 8:45 am]

BILLING CODE 6717-01-M

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[1] Designated as follows: The Kansas Power and Light Company, Supplement No. 22 to Rate Schedule FERC No. 205 (Supersedes Supplement No. 21).

[2] We note that the charge for capacity from JEC Unit No. 2 has not been changed by the instant filing.

[Project No. 6673-001]

Mega Hydro, Inc.; Surrender of Preliminary Permit

September 1, 1983.

Take notice that Mega Hydro, Inc., Permittee for the Chinese Dam Power Project, FERC No. 6673, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 6673 was issued January 1, 1983, and would have expired on June 30, 1984. The project would have been located on Clear Creek in Shasta County, California.

Mega Hydro, Inc. filed the request August 9, 1983, and the surrender of the preliminary permit for Project No. 6673 is deemed accepted as of August 9, 1983, and effective as of 30 days after the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-24583 Filed 9-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-39-000 (PGA84-1 and IPR84-1)]

Pacific Interstate Transmission Co.; Proposed Changes in FERC Gas Tariff Pursuant to Purchased Gas Cost Adjustment Provision

September 2, 1983.

Take notice that Pacific Interstate Transmission Company (Pacific Interstate) on August 31, 1983, tendered for filing as part of its FERC Gas Tariff, original Volume No. 2, the following sheets:

Twenty-third Revised Sheet No. 4
Seventh Revised Sheet No. 4-A
Nineteenth Revised Sheet No. 5

Pacific Interstate states that these tariff sheets are issued pursuant to Pacific Interstate's Purchased Gas Cost Adjustment (PGCA) Provision and Incremental Pricing Provision as set forth in Sections 16 and 17, respectively, of the General Terms and Conditions of its FERC Gas Tariff, Original Volume No. 2. The proposed effective date of these tendered tariff sheets and the rates thereon is October 1, 1983.

Pacific Interstate also states that the above-tendered tariff sheets reflect a

proposed October 1, 1983 Pacific Interstate Rate Schedule S–G–1 commodity rate of 223.31¢ per decatherm, a decrease of 45.03¢ per decatherm from the 268.34¢ per decatherm rate effective April 1, 1983, the date of the last S–G–1 commodity rate change, and that such decrease reflects a current Gas Cost Adjustment and a change in the Surcharge Adjustment.

Pacific Interstate states that the Current Gas Cost Adjustment is based on an annualized gas cost increase of $27,144 and that the Surcharge Adjustment is designed to refund, over a six-month period beginning April 1, 1983 an amount of $57,546.04, which is the amount of Pacific Interstate's Unrecovered Purchased Gas Cost account at June 30, 1983. Furthermore, Pacific Interstate states that there is no incremental pricing surcharge adjustment applicable to this filing, since its only customer has no surcharge absorption capability.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before September 19, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–24580 Filed 9–7–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA84–1–7–000 and Docket No. TA84–1–7–000]

Southern Natural Gas Co.; Proposed Changes in FERC Gas Tariff

September 2, 1983.

Take notice that Southern Natural Gas Company ("Southern") on August 31, 1983 tendered for filing alternative proposed changes in its FERC Gas Tariff, Sixth Revised Volume No. 1, to become effective October 1, 1983 or November 1, 1983.

Southern has filed proposed tariff sheets to revise Section 17 (Purchased Gas Adjustment) of the General Terms and Conditions of its Tariff to change Southern's semi-annual PGA effective dates from each April 1 and October 1 to each May 1 and November 1. As part of this change in PGA dates, Southern has proposed to maintain its existing PGA rate increase in effect through October 31, 1983 and to place into effect on November 1, 1983 an increase in the Current Adjustment pursuant to Section 17.3 of the General Terms and Conditions of Southern's Tariff of approximately 6.39¢ per Mcf and an increase in the Surcharge Adjustment pursuant to § 17.4 of the General Terms and Conditions of Southern's Tariff of 2.623¢ per Mcf.

In the event that the Commission does not accept Southern's proposal to change its PGA effective dates, Southern has filed alternate revised tariff sheets to implement a PGA increase effective Octobr 1, 1983 in accordance with the current PGA provisions of Southern's Tariff. Southern states that the October 1, 1983 PGA rate change reflects an increase in the Current Adjustment of approximately 6.39¢ per Mcf and an increase in the Surcharge Adjustment of 2.62¢ per Mcf.

Copies of the filing were served upon the company's jurisdictional customers and interested state consumers.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such petitions or protests should be filed on or before September 19, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–24581 Filed 9–7–83; 8:45 am]

BILLING CODE 6717–01–M

Southeastern Power Administration

Order Confirming and Approving Power Rates on an Interim Basis; Georgia-Alabama Project

AGENCY: Southeastern Power Administration (SEPA), DOE.

ACTION: Notice of approval on an interim basis of Georgia-Alabama Projects' rates.

SUMMARY: On August 29, 1983, the Assistant Secretary for Conservation and Renewable Energy confirmed and approved, on an interim basis, seven replacement Rate Schedules, GAMF–1–C, GAMF–2–C, ALA–1–C, MISS–1–C, SC–1–C, SC–2–C, CAR–1–D, and established one new Rate Schedule CAR–2–C, for Georgia-Alabama Projects' power. The rates were approved on an interim basis through September 30, 1984, and are subject to confirmation and approval by the Federal Energy Regulatory Commission on a final basis.

DATES: Approval of rates on an interim basis is effective on October 1, 1983.

FOR FURTHER INFORMATION CONTACT:

Leon Jourolmon, Jr., Chief, Division of Fiscal Operations, Southeastern Power Administration, Department of Energy, Samuel Elbert Building, Elberton, Georgia 30635

Fred Sheap, Office of Power Marketing Coordination, CE–91, Department of Energy, James Forrestal Building, 1000 Independence Ave., SW., Washington, D.C. 20585

SUPPLEMENTARY INFORMATION: The Federal Energy Regulatory Commission by Order issued April 3, 1981, in Docket No. EF79–3011 confirmed and approved Wholesale Power Rate Schedules GAMF–1–B, GAMF–2–B, ALA–1–B, MISS–1–B, SC–1–B, and SC–2–B through September 30, 1983. Rate Schedules GAMF–1–C, GAMF–2–C, ALA–1–C, MISS–1–C, SC–1–C, SC–2–C replace respectively the approved wholesale power rate schedules. The Federal Energy Regulatory Commission by Order issued April 9, 1982, in Docket No. EF82–3011 confirmed and approved Rate Schedule CAR–1–C for a period ending September 30, 1983. Rate Schedule CAR–1–D replaces CAR–1–C. Rate Schedule CAR–2–C is a new rate schedule.

Issued in Washington, D.C. August 29, 1983.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

In the matter of Southeastern Power Administration Georgia-Alabama Projects' Power Rates; Rate Order No. SEPA–18.

Order Confirming and Approving Power Rates on an Interim Basis

August 29, 1983.

Pursuant to Sections 302(a) and 301(b) of the Department of Energy Organization Act, Pub. L. 95–91, the functions of the Secretary of the Interior and the Federal Power Commission under Section 5 of the Flood Control Act of 1944, 16 U.S.C. 825s, relating to the

Southeastern Power Administration (SEPA) were transferred to and vested in the Secretary of Energy. By Delegation Order No. 0204–33, effective January 1, 1979, 43 FR 60636 (December 28, 1978), the Secretary of Energy delegated to the Assistant Secretary for Resource Applications the authority to develop power and transmission rates, acting by and through the Administrator, and to confirm, approve, and place in effect such rates on an interim basis and delegated to the Federal Energy Regulatory Commission (FERC) the authority to confirm and approve on a final basis or to disapprove rates developed by the Assistant Secretary under the delegation. Due to a Department of Energy organizational realignment, Delegation Order No. 0204–33 was amended, effective March 19, 1981, to transfer the authority of the Assistant Secretary for Resource Applications to the Assistant Secretary for Conservation and Renewable Energy. This rate order is issued pursuant to the delegation to the Assistant Secretary for Conservation and Renewable Energy.

Background

Power from the Georgia-Alabama System of Projects is presently sold under Wholesale Power Rate Schedules GAMF–1–B, GAMF–2–B, ALA–1–B, MISS–1–B, SC–1–B, SC–2–B, and CAR–1–C, confirmed and approved through September 30, 1983. All of these rate schedules except CAR–1–C were approved by the Federal Energy Regulatory Commission (FERC) on April 3, 1981, for a period ending September 30, 1983. Rate Schedule CAR–1–C was confirmed and approved by FERC on April 9, 1982, for a period ending September 30, 1983.

Public Notice and Comment

Opportunities for public review and comment on the Rate Schedules proposed for use during the period October 1, 1983, through September 30, 1984, were announced by Notice published in the **Federal Register** on May 31, 1983, and all customers were notified by mail. A Public Information and Comment Forum was held in Atlanta, Georgia, on July 7, 1983, and written comments were invited by the Notice through July 22, 1983. Exhibit A–4 is a transcript of the hearing which includes comments. Exhibit A–5 includes the written comment and the review of all the comments.

Discussion

System Repayment

An examination of SEPA's system power repayment study, prepared in June 1983, for the Georgia-Alabama System of Projects, reveals that with an annual revenue increase of $6,279,000 over the current revenues shown in a June 1983 SEPA repayment study, all system power costs are paid within their repayment life. Additionally, Rate Schedules GAMF–1–C, GAMF–2–C, ALA–1–C, MISS–1–C, SC–1–C, SC–2–C, CAR–1–D, and new Rate Schedule CAR–2–C are designed so as to produce revenue adequate to recover all system power costs on a timely basis.

Rate Design

Because the rates are expected to be in effect for only a one-year period, SEPA attempted to increase rates ratably for those cost increases caused by increased generating costs. The proposed rate schedules were drawn on the basis of increasing all rates by an identical 17.5 percent. However, the increased wheeling costs were passed directly to the effected customers through an "additional wheeling charge."

Environmental Impact

SEPA has reviewed the possible environmental impacts of the rate adjustment under consideration and has concluded with Departmental concurrence that, because the increased rates would not significantly affect the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, the proposed action is not a major Federal action for which preparation of an Environmental Impact Statement is required.

Availability of Information

Information regarding these rates including studies, and other supporting materials is available for public review in the offices of Southeastern Power Administration, Samuel Elbert Building, Elberton, Georgia 30635, and in the Office of the Director of Power Marketing Coordination, James Forrestal Building, 1000 Independence Avenue, SW., Room 6B104, Washington, D.C. 20585.

Submission to the Federal Energy Regulatory Commission

The rates hereinafter confirmed and approved on an interim basis, together with supporting documents, will be submitted promptly to the Federal Energy Regulatory Commission for confirmation and approval on a final basis for a period beginnning October 1, 1983, and ending no later than September 30, 1984.

Order

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby confirm and approve on an interim basis, effective October 1, 1983, attached Wholesale Power Rate Schedules GAMF–1–C, GAMF–2–C, ALA–1–C, MISS–1–C, SC–1C, SC–2–C, CAR–1–D, and CAR–2–C. The rate schedules shall remain in effect on an interim basis through September 30, 1984, unless such period is extended or until the FERC confirms and approves them or substitute rate schedules on a final basis.

Issued in Washington, D.C., this 29th day of August 1983.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

Wholesale Power Rate Schedule GAMF–1–C

Availability

This rate schedule shall be available to public bodies and cooperative (any one of which is hereinafter called the Customer) in Georgia, Alabama, southeastern Mississippi, and panhandle Florida owning distribution systems, to whom power may be wheeled pursuant to contracts between the Government and, respectively, the Georgia Power Company, Alabama Power Company, Mississippi Power Company, and Gulf Power Company (any one of which is hereinafter called the Company).

Applicability

This rate schedule shall be applicable to the sale at wholesale of power and accompanying energy generated at the Allatoona, Buford, Clarks Hill, Walter F. George, Hartwell, Millers Ferry, West Point, Robert F. Henry, and Carters Projects and sold under appropriate contracts between the Government and the Customer and to any deficiency energy purchased by the Governement from the Companies.

Character of Service

The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 Hertz delivered at the delivery points of the Customer of the Company's transmission and distribution system. The voltage of delivery will be maintained within the limits established by the state regulatory commission.

Monthly Rate

The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge

$1.20 per kilowatt of total contract demand.

Energy Charge

4.29 mills per kilowatt-hour.

Additional Wheeling Charge

$0.06 per kilowatt of total contract demand.

Contract Demand

The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Customer is entitled to receive.

Energy to be Furnished by the Government

The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to an annual energy quantity specified by contract and prorated on an equal daily amount throughout the year. The Customer's contract demand and accompanying energy will be allocated proportionately to its individual delivery points served from the Company's system.

Billing Month

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Conditions of Service

The Customer shall at its own expense provide, install, and maintain on its side of each delivery point the equipment necessary to protect and control its own system. In so doing, the installation, adjustment, and setting of all such control and protective equipment at or near the point of delivery shall be coordinated with that which is installed by and at the expense of the Company on its side of the delivery point.

Service interruption

When energy delivery to the Customer's system for the account of the Government is reduced or interrupted for 1 hour or longer, and such reduction or interruption is not due to conditions on the Customer's system, the demand charge for the month shall be appropriately reduced.

October 1, 1983.

Wholesale Power Rate Schedule GAMF–2–C

Availability

This rate schedule shall be available to the Georgia Power Company, The Alabama Power Company, the Mississippi Power Company, and the Gulf Power Company (any one of which is hereinafter called the Company).

Aplicability

This rate schedule shall be applicable to electric capacity available from the Allatoona, Buford, Clarks Hill, Walter F. George, Hartwell, Millers Ferry, West Point, Robert F. Henry, and Carters Projects (hereinafter called the Projects) and sold under contract between the Government and the Company.

Character of Service

Electric capacity and energy delivered to the Company will be three-phase alternating current at a nominal frequency of 60 Hertz and will be delivered at mutually agreeable points in the vicinity of the Projects' power stations at approximately 115,000 volts, except that delivery from, the Hartwell and Carters Projects will be at approximately 230,000 volts or at points of interconnection between the Companies.

Monthly Rate

The monthly rate for capacity sold under this rate schedule shall be:

Demand Charge

$1.20 per kilowatt per billing month for monthly dependable capacity made available to the Company for its own use.

Monthly dependable capacity is the monthly capacity, specified by contract, which based on past water records would be available for scheduling by the Companies within the energy limitations also specified by contract, except during the worst water period of record and except for a few minor short-term reductions under flood conditions.

Billing Month

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Power Factor

The Company shall take capacity and energy from the Government at such power factor as will best serve the Company's system from time to time, provided that the Company shall not impose a power factor of less than .85 lagging on the Government's facilities which requires operation contrary to good operating practice or results in overload or impairment of such facilities or unreasonably interferes with the delivery of capacity and energy by the Government to the Company and to its other customers.

Service Interruption

When delivery of capacity to the Company is interrupted or reduced due to conditions on the Government's system which have not been arranged for and agreed to in advance, the demand charge for capacity made available will be reduced as to the kilowatts of such capacity which have been interrupted or reduced in accordance with the following formula:

$$\text{Number of kilowatts unavailable for at least 12 hours in any calendar day} \times \frac{\$1.20}{\text{Number of days in billing month}}$$

October 1, 1983.

Wholesale Power Rate Schedule ALA–1–C

Availability

This rate schedule shall be available to the Alabama Electric Cooperative, Incorporated (hereinafter called the Cooperative).

Applicability

This rate schedule shall be applicable to power and accompanying energy generated at the Allatoona, Buford, Clarks Hill, Walter F. George, Hartwell, Millers Ferry, West Point, Robert F. Henry, and Carters Projects and sold under contract between the Cooperative and the Government.

Character of Service

The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 Hertz and shall be delivered at the Walter F. George Project or other points of interconnection between the Cooperative and Alabama Power Company.

Monthly Rate

The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge

$1.20 per kilowatt of total contract demand.

$0.33 per kilowatt for standby capacity made available, plus $0.041 per kilowatt per calendar day for such capacity as the cooperative actually utilizes.

Energy charge

3.53 mills per kilowatt-hour for scheduled energy.

Contract Demand

The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Cooperative is entitled to receive.

Energy To Be Furnished by the Government

The Government will sell to the Cooperative and the Cooperative will purchase from the Government those quantities of energy specified by contract as available to the Cooperative for scheduling on a weekly basis. Energy quantities for a billing month shall be the energy scheduled by the Cooperative for the month.

Billing Month

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Power Factor

The Cooperative shall take capacity and energy from the Government at such power factor as will best serve the Cooperative's system from time to time; provided, that the Cooperative shall not impose a power factor of less than .85 lagging on the Government's facilities which requires operation contrary to good operating practice or results in overload or impairment of such facilities.

Service Interruption

When capacity and energy delivery to the Cooperative's system for the account of the Government is reduced or interrupted and such reduction is not due to conditions on the Cooperative's system or has not been planned and agreed to in advance, the demand charge for the month for capacity made available shall be reduced as to the kilowatts of such capacity which have been interrupted or reduced in accordance with the following formula:

$$\text{Number of kilowatts unavailable for at least 12 hours in any calendar day} \times \frac{\$1.20}{\text{Number of days in billing month}}$$

October 1, 1983.

Wholesale Power Rate Schedule MISS–1–C

Availability

This rate schedule shall be available to the South Mississippi Electric Power Association (hereinafter called the Cooperative).

Applicability

This rate schedule shall be applicable to power and accompany energy generated at the Allatoona, Buford, Clarks Hill, Walter F. George, Hartwell, Millers Ferry, West Point, Robert F. Henry, and Carter Projects and sold under contract between the Cooperative and the Government.

Character of Service

The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 Hertz and shall be delivered at points of interconnection between the Cooperative and Mississippi Power Company.

Monthly Rate

The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge

$1.20 per kilowatt of total contract demand.

Energy Charge

4.29 mills per kilowatt-hour for scheduled energy.

Additional Wheeling Charge

$0.06 per kilowatt of total contract demand.

Contract Demand

The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Cooperative is entitled to receive.

Energy To Be Furnished by the Government

The Government will sell to the Cooperative and the Cooperative will purchase from the Government those quantities of energy specified by contract as available to the Cooperative for scheduling on a weekly basis. Energy quantities for a billing month shall be the energy scheduled by the Cooperative for the month.

Billing Month

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Power Factor

The Cooperative shall take capacity and energy from the Government at such power factor as will best serve the Cooperative's system from time to time; provided, that the Cooperative shall not impose a power factor of less than .85 lagging on the Government's facilities which requires operation contrary to good operating practice or results in overload or impairment of such facilities.

Service Interruption

When capacity and energy delivery to the Cooperative's system for the account of the Government is reduced or interrupted and such reduction is not due to conditions on the Cooperative's system or has not been planned and agreed to in advance, the demand charge for the month for capacity made available shall be reduced as to the kilowatts of such capacity which have been interrupted or reduced in accordance with the following formula:

$$\text{Number of kilowatts unavailable for at least 12 hours in any calendar day} \times \frac{\$1.20}{\text{Number of days in billing month}}$$

October 1, 1983.

Wholesale Power Rate Schedule SC–1–C

Availability

This rate schedule shall be available to the South Carolina Public Service Authority (hereinafter called the Customer).

Applicability

This rate schedule shall be applicable to power and accompanying energy generated at the Clarks Hill Project (hereinafter called the Project) and sold in wholesale quantities.

Character of Service

Electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 cycles per second and shall be delivered at a nominal voltage of 115,000 volts at the 115 kv bus of the Project powerplant. The actual operating voltage of the Government shall within the limits of good operating practice be suitable for operation with the Customer's system.

Monthly Rate

The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge

$1.20 per kilowatt per billing month for dependable capacity made available to the Customer for its own use.

$0.33 per kilowatt per billing month for standby capacity made available, plus $0.041 per kilowatt per calendar day (or fraction thereof) for such capacity as the Customer actually utilizes.

Energy Charge

3.53 mills per kilowatt-hour for energy declared for the peak period hours and for energy made available to meet stream flow requirements.

2.64 mills per kilowatt-hour for dump energy.

Energy Sold to the Customer

The Customer shall purchase and pay for all dump energy made available by the Government and accepted by the Customer. Additionally, the Customer shall purchase and pay for all energy, exclusive of dump energy, declared and made available from the Project to the Customer's system over and above such energy made available for the transmission to the Government's other preference customers.

Billing Month

All project energy shall be accounted for on a weekly basis and the total quantities of energy billed monthly shall be the sum of the weekly quantities. Energy declared or made available for any week which falls within 2 billing months shall be divided between the months on the basis of weekly schedules for energy delivery furnished by the Customer.

The billing month for power sold under this rate schedule shall end at 12:00 midnight on the last day of each calendar month.

Power Factor

The Customer shall not impose a power factor of less than .85 lagging on the Government's facilities which requires operation contrary to good operating practice or results in overload or impairment of such facilities.

Service Interruption

When capacity made available to the Customer's system is reduced or interrupted for 1 hour or longer, and such reduction or interruption is not agreed to in advance nor due to conditions on the Purchaser's system, the monthly demand charge for dependable capacity shall be reduced for each on-peak hour (the nearest number of whole hours) that such capacity is reduced or interrupted, by an amount equal to $1.20 divided by the number of peak hours in the billing month times the reduction, in kilowatts, of such capacity; and the amount of energy previously scheduled and not taken during the time of interruption shall be placed in storage to the Customer's account. If the Customer advises the Government within 1 working day after a day in which energy is placed in storage that it does not desire to retain ownership of such energy, the ownership of the energy will revert to the Government and the Customer shall not be obligated to pay for such energy.

October 1, 1983.

Wholesale Power Rate Schedule SC-2-C

Availability

This rate schedule shall be available to any of the following whose requirements or a portion thereof the Government shall contract to supply by delivery from the South Carolina Public Service Authority's (hereinafter called the Authority) system: a municipality or county located in part or completely within the Authority's service area, owning its own transmission or distribution system, and desiring to purchase capacity and energy from the Government for resale to the public in its territory; Central Electric Cooperative, Incorporated; or an electric cooperative not a member of Central, operating under the laws of the State of South Carolina, and located in part or completely within the service area of the Authority desiring to purchase capacity and energy from the Government for resale to ultimate consumers under the provisions of said laws (any one of such municipalities, counties, or cooperatives is hereinafter called the Customer).

Applicability

This rate schedule shall be applicable to power and accompanying energy generated at the Clarks Hill Project (hereinafter called the Project) and sold in wholesale quantities.

Character of Service

The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 cycles per second delivered at the delivery points of the Customer on the Authority's transmission and distribution system. The voltage of delivery will be maintained within the limits established by the state regulatory commission.

Monthly Rate

The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge

$1.20 per kilowatt of total contract demand.

Energy Charge

4.29 mills per kilowatt-hour.

Energy To Be Furnished by the Government

The Government will sell to the Customer and the Customer will purchase from the Government energy from the Project each billing month up to a total amount annual of 4,500 hours per kilowatt of contract demand.

For billing purposes, the energy allocated on an annual basis to accompany the Customer's contract demand as assigned to individual delivery points shall be allocated in equal quantities each day throughout the year. Such Customer shall be billed by the Government by delivery points for its contract demand and for its accompany monthly energy allocation in amounts determined by multiplying its respective daily allocation by the number of days in the billing month. The quantity of energy to be billed under this rate schedule in any billing month shall be the quantity considered to have been transmitted for the account of the Government by the Authority.

Billing Month

The billing month for power sold under this rate schedule shall end at 12:00 midnight on the last day of each calendar month.

Conditions of Service

The Customer shall at its own expense provide, install, and maintain on its side of each delivery point the equipment necessary to protect and control its own system. In so doing, the installation, adjustment and setting of all such control and protective equipment at or near the point of delivery shall be coordinated with that which is installed by and at the expense of the Authority on its side of the delivery point.

Service Interruption

When the energy delivery to the Customer's system for the account of the Government is reduced or interrupted for 1 hour or longer, and such reduction or interruption is not due to conditions on the Customer's system, the demand charge for the month shall be appropriately reduced.

October 1, 1983.

Wholesale Power Rate Schedule CAR-1-D

Availability

This rate schedule shall be available to public bodies and cooperatives (any one of which is hereinafter called the Customer) in North Carolina and South Carolina to whom power may be wheeled pursuant to contract between the Duke Power Company (hereinafter called the Company) and the Government.

Applicability

This rate schedule shall be applicable to power and accompanying energy generated at the Hartwell and Clarks Hill Projects (hereinafter called the Projects) and sold in wholesale quantities.

Character of Service

The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 cycles per second delivered at the delivery points of the Customer on the Company's transmission and distribution system. The voltage of delivery will be maintained within the limits established by the state regulatory commission.

Monthly Rate

The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge

$2.73 per kilowatt of total contract demand.

Energy Charge

4.29 mills per kilowatt-hour.

Energy To Be Furnished by the Government

The Government will sell to the customer and the customer will purchase from the Government a portion of the energy available to the Company area from the Projects in any billing month determined by multiplying the total energy available less six and one-half percent losses by the ratio of the customer's contract demand to the sum of the contract demands of all customers served under this rate schedule.

Billing Month

The billing month for power sold under this schedule shall end at 12:00 midnight on the 20th day of each calendar month.

Conditions of Service

The customer shall at its own expense provide, install, and maintain on its side of each delivery point the equipment necessary to protect and control its own system. In so doing, the installation, adjustment and setting of all such control and protective equipment at or near the point of delivery shall be coordinated with that which is installed by and at the expense of the Company on its side of the delivery point.

October 1, 1983.

Wholesale Power Rate Schedule CAR-2-C

Availability

This rate schedule shall be available to the Duke Power Company (hereinafter called the Company).

Applicability

This rate schedule shall be applicable to electric capacity generated at the Hartwell Project (hereinafter called the Project) and sold under contract between the Government and the Company.

Character of Service

Electric capacity delivered to the Company will be three-phase alternating current at a nominal frequency of 60 cycles per second and will be delivered at approximately 230,000 volts where the Company's transmission line is connected to the bus at Hartwell.

Monthly Rate

The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge

$1.20 per kilowatt per billing month for dependable capacity made available to the Company for its own use.

Billing Month

The billing month for power sold under this schedule shall end at 12:00 midnight on the 20th day of each calendar month.

Power Factor

The Company shall take capacity and energy from the Government at such power factor as will best serve the Company's system from time to time, provided that the Company shall not impose a power factor of less than. 85 lagging on the Government's facilities which requires operation contrary to good operating practice of results in overload or impairment of such facilities or unreasonably interferes with the delivery of capacity and energy by the Government to the Company and to its other Customers.

Service Interruption

When delivery to the Company is interrupted or reduced due to conditions on the Government's system which have not been arranged for and agreed to in advance, the charge for dependable capacity will be reduced as to the kilowatts of such capacity which have been interrupted or reduced in the proportion that the number of declaration hours during such period of interruption or reduction bears to the total number of declaration hours during the period covered by such charge.

October 1, 1983.

[FR Doc. 83-24454 Filed 9-7-83; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-59132C; TSH-FRL 2429-5]

Alkoxy Alkanol; Denial of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's denial of TM-83-75, an application for a test marketing exemption (TME) under section 5(h)(6) of the Toxic Substances Control Act (TSCA).

EFFECTIVE DATE: August 29, 1983.

FOR FURTHER INFORMATION CONTACT: Margaret J. Stasikowski, Acting Chief, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-204, 401 M Street S.W., Washington, D.C. 20460 (202-382-3725).

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorized EPA to exempt persons from premanufacture notification (PMN) requirements and to permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities.

EPA has not been able to determine that test marketing of the new chemical substance described below, under the conditions set out in the application, will not present any unreasonable risk of injury to health or the environment. Therefore, the application is denied.

TM-83-75

Date of Receipt: July 19, 1983.

Notice of Receipt: July 29, 1983.

Applicant: Claimed as Confidential Business Information.

Generic Chemical Name: Alkoxy alkanol.

Use: Claimed as Confidential Business Information.

Production Volume: Claimed as Confidential Business Information.

Number of Customers: Claimed as Confidential Business Information.

Worker Exposure: The potential for eye, inhalation, and dermal exposure during manufacturing and use operations appears to exist. During manufacturing and use operations the following worker exposures are expected: Manufacturing—20 persons, for less than 8 hours/day, for less than 30 days.

Use. (Customer evaluation)—250 persons, for less than 8 hours/day, for less than 250 days.

Test Marketing Period: 6 months.

Risk Assessment: Based on test data on a close analog, EPA believes that the TMEA substance has the potential to cause teratogenic effects, liver and kidney and spleen toxicity, blood effects, and effects to thymus and testes. EPA is unable to determine, in the absence of chronic and subchronic test data on the test market substance, whether expected worker exposure levels are low enough to ensure that there will be no unreasonable risks to workers during manufacture and processing operations during the test marketing of this substance.

Public Comments: None.

Dated: August 29, 1983.

Marcia E. Williams,

Acting Director, Office of Toxic Substances.

[FR Doc. 83-24530 Filed 9-7-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

On August 26, 1983 the Federal Communications Commission submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511.

Copies of this submission are available from Richard D. Goodfriend, Agency Clearance Officer, (202) 632-7513. Persons wishing to comment on this information collection should contact David Reed, Office of Management and Budget, Room 3235 NEOB, Washington, D.C. 20503, (202) 395-7231.

Title: Application for New or Modified Common Carrier Microwave Radio Station Construction Permit Under Part 21

Form No.: FCC 435

Action: Extension

Respondents: Communications Common Carriers applying for construction permits in the Point-to-Point Microwave Radio Service, Multipoint Distribution Service, Digital Electronic Message Service, and Local Television Transmission Service

Estimated Annual Burden: 6,000 Responses; 12,000 Hours.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-24487 Filed 9-7-83; 8:45 am]

BILLING CODE 6712-01-M

Cellular Application Filing Procedures, Changes in Markets Below the 90 Largest; Correction

August 30, 1983.

The Public Notice dated August 19, 1983 (48 FR 38897; August 26, 1983), Mimeo 6031, is corrected as follows:

(1) On LIST A, "Florence, SC" should include only Florence County. Colbert and Lauderdale Counties are in the Florence, AL SMSA.

(2) The following two SMSAs were inadvertently omitted from LIST D and should be included:

Newport News-Hampton, VA (merged into Norfolk-Virginia Beach-Newport News, VA)
Gloucester, James City and York Counties, and Hampton, Newport News, Poquoson and Williamsburg Cities

Petersburg-Colonial Heights-Hopewell, VA (merged into Richmond-Petersburg, VA)
Dinwiddie and Prince George Counties, and Colonial Heights, Hopewell and Petersburg Cities

(3) Add to LIST A, the following SMSA: Victoria, TX (Victoria County).

William J. Tricarico,

Secretary.

[FR Doc. 83-24489 Filed 9-7-83; 8:45 am]

BILLING CODE 6712-01-M

Closed Circuit Test of the Emergency Broadcast System During the Week of September 19, 1983

September 2, 1983.

A test of the Emergency Broadcast System (EBS) has been scheduled during the week of September 19, 1983. Only ABC, MBS, NPR, AP Radio, CBS, IMN, NBC and UPI Audio Radio Network affiliates will receive the Test Program for the Closed Circuit Test. AP and UPI wire service clients will receive activation and termination messages of the Closed Circuit Test. The ABC, CBS, NBC and PBS television networks are not participating in the Test.

Network and press wire service affiliates will be notified of the test procedures via their network approximately 30 to 45 minutes prior to the test.

Final evaluation of the test is scheduled to be made about one month after the Test.

This is a closed circuit test and will not be broadcast over the air.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-24490 Filed 9-7-83; 8:45 am]

BILLING CODE 6712-01-M

[File No. BPH-811019AG; MM Docket No. 83-818 et al.]

Applications for Consolidated Hearing; Rebel Broadcasting Co. of Mississippi et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant	City/State	File No.	MM Docket No.
A. Donald B. Brady, d.b.a. Rebel Broadcasting Company of Mississippi.	Tillatoba, Mississippi	BPH-811019AG	83-818
B. Arnold Lane Tucker, d.b.a. L and I Broadcasting Co	Tillatobe, Mississippi	BPH-820426AB	83-819
C. Tallahatchie Broadcasting Systems	Charleston, Mississippi	BPH-820524BI	83-820

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue heading	Applicant(s)
1. Main Studio	A.
2. (See Appendix)	A.
3. Air Hazard	A.
4. (See Appendix)	A.
5. (See Appendix)	B.

Issue heading	Applicant(s)
6. 307(b)	A, B, and C.
7. Contingent Comparative	A, B, and C.
8. Ultimate	A, B, and C.

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, NW., Washington, D.C. 20554. Telephone (202) 632–6334.

Larry D. Eads,

Chief, Audio Services Division, Mass Media Bureau.

Appendix—Issue(s)

2. To determine with respect to the following applicant(s) whether, in light of the evidence adduced concerning the deficiency set forth above in paragraph 8,[1] the applicant(s) is financially qualified: A (Rebel)

3. If a final environmental impact statement is issued with respect to A (Rebel), which concludes that the proposed facilities are likely to have an adverse effect on the quality of the environment, (a) to determine whether the proposal is consistent with the National Environmental Policy Act, as implemented by §§ 1.1301–1.1319 of the Commission's Rules; and (b) whether, in light of the evidence adduced pursuant to (a) above, the applicant is qualified to construct and operate as proposed.

4. If a final environmental impact statement is issued with respect to B (L and I), which concludes that the proposed facilities are likely to have an adverse effect on the quality of the environment, (a) to determine whether the proposal is consistent with the National Environmental Policy Act as implemented by §§ 1.1301–1.1319 of the Commission's Rules; and (b) whether, in light of the evidence adduced pursuant to (a) above, the applicant is qualified to construct and operate as proposed.

[FR Doc. 83-24488 Filed 9-7-83; 8:45 am]

BILLING CODE 6712-01-M

[1] Paragraph 8 reads as follows:

The material submitted by the applicant(s) below does not demonstrate its financial qualifications. Accordingly, an issue will be specified concerning the following deficiency:

Applicant(s)	Deficiency
A (Rebel)	Undated balance sheet. Applicant proposes to use existing funds to build and operate station for 3 months. However, current liabilities ($16,350) exceed net liquid assets ($11,200). Therefore, no funds are available.

[File No. BPH-820115AE; MM Docket No. 83-801 et al.]

Applications for Consolidated Hearing; LouGene J. Wikstrom et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant	City/State	File No.	MM Docket No.
A. LouGene J. Wikstrom	Yakima, Washington	BPH-820115AE	83-801
B. Andrew Vallejo	Yakima, Washington	BPH-820308AG	83-802

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings show below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue heading	Applicant(s)
1. City Coverage	A.
2. (See Appendix	A.
3. Comparative	A and B.
4. Ultimate	A and B.

3. If there is any non-standard issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street NW., Washington, D.C. 20554. Telephone (202) 632–6334.

Larry D. Eads,

Chief, Audio Services Division, Mass Media Bureau.

Appendix—Issue(s)

* * * * *

2. To determine with respect to the following applicant(s) whether, in light of the evidence adduced concerning the deficiency set forth above in paragraph 8,[1] the applicant(s) is financially qualified: A (Wikstrom).

[FR Doc. 83-24485 Filed 9-7-83; 8:45 am]

BILLING CODE 6712-01-M

[1] Paragraph 8 reads as follows:

The material submitted by the applicant(s) below does not demonstrate its financial qualifications. Accordingly, an issue will be specified concerning the following deficiency:

Applicant(s)	Deficiency
A (Wikstrom)	Applicant's balance sheet shows liabilities ($67,746) exceeding net liquid assets ($10,500). Therefore, no funds are available.

Telecommunications Industry Advisory Group, Separations and Costing Subcommittee; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Telecommunications Industry Advisory Group (TIAG) Separations and Costing Subcommittee scheduled for Monday, September 26, 1983 and Tuesday, September 27, 1983. The meeting will begin at 10:00 a.m. in the Offices of MCI, First Floor Conference Room, located at 1133 19th Street, NW., Washington, D.C. and will be open to the public. The agenda is as follows:

I. Minutes
II. Discussion of Assignments for Last Meeting
III. Discussion of Proposed New Assignments
IV. General Administrative Matters
V. Other Business
VI. Presentation of Oral Statements
VII. Adjournment

With prior approval of Subcommittee Chairman Eric Leighton, oral statements, while not favored or encouraged, may be allowed if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of Subcommittee objectives. Anyone not a member of the Subcommittee and wishing to make an oral presentation should contact Mr.

Leighton (518/462–2030) at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-24488 Filed 9-7-83; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Form Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for clearance in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35)

Type: New.

Title: Federal Regional Reconstitution Area (FRRA) Survey.

Abstract: Data collectors will perform on-site surveys of potential reconstitution sites in order to confirm, upgrade, or expand information now stored in FEMA's data base on Federal Regional Reconstitution Areas.

Type of Respondents: State or Local Governments, Businesses or Other For-Profit, Federal Agencies or Employees, Non-Profit Institutions.

Number of Respondents: 2,500.

Burden Hours: 2,500.

OMB Desk Officer: Ken Allen, (202) 395–3788.

Copies of the above information collection clearance package can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley, (202) 287–9906, Federal Plaza Center, 500 C. Street SW., Washington, D.C. 20472.

Written comments and recommendations for the proposed information collection package should be sent to Linda Shiley, FEMA Reports Clearance Officer, Federal Plaza Center, 500 C. Streets SW., Washington, D.C. 20472 and to Ken Allen, Desk Officer, OMB Reports Management Branch, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Dated: August 25, 1983.

Wesley Moore,

Acting Assistant-Associate Director, Administrative Support.

[FR Doc. 83-24509 Filed 9-7-83; 8:45 am]

BILLING CODE 6718-01-M

[FEMA-689-DR]

Texas; Amendment to Notice of Major-Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the Notice of a major disaster for the State of Texas (FEMA–689–DR), dated August 19, 1983, and related determinations.

DATED: August 29, 1983.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472; (202) 287–0501.

Notice: The notice of a major disaster for the State of Texas dated August 19, 1983, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of August 19, 1983.

Liberty, Montgomery and San Jacinto Counties for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 83-24508 Filed 9-7-83; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL MARITIME COMMISSION

[Docket No. 83-37]

Rates Applicable to Charitable Shipments by U.S. Atlantic and Gulf/Jamaica and Hispaniola Steamship Freight Association; Filing of Petition for Declaratory Order

Notice is given that a petition for declaratory order has been filed by U.S. Atlantic and Gulf/Jamaica and Hispaniola Steamship Freight Association to permit waiver or refund of port charges on shipments of Public Law 480 aid cargo to Haiti. The alleged circumstance giving rise to the petition is that, for a period of time in May, 1983, the Association was unaware that the Government of Haiti had exempted certain charitable organizations from payment of the charges.

Interested persons may inspect and obtain a copy of the petition at the Washington Office of the Federal Maritime Commission, 1100 L St., NW., Room 11101. Participation in this proceeding by persons not named in the petition will be permitted only upon grant of intervention pursuant to Rule 72 of the Commission's Rules of Practice and Procedure (46 CFR 502.72).

Petitions to intervene shall be accompanied by intervenors complete reply in the matter. Such petitions and any replies to the petition for declaratory order shall be filed with the Secretary on or before September 30, 1983. An original and fifteen copies shall be submitted and a copy served on Petitioner, Nathan J. Bayer, Esquire, Freehill, Hogan and Mahar, 80 Pine Street, New York, New York 10005. Replies shall contain the complete factual and legal presentation of the replying party as to the desired resolution of the petition for declaratory order.

Francis C. Hurney,

Secretary.

[FR Doc. 83-24473 Filed 9-7-83; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Fee Schedules for Federal Reserve Bank Services

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Interim fee schedule for automated clearing house night cycle deposits.

SUMMARY: The Board has approved an interim fee schedule for automated clearing house (ACH) night cycle transactions.

EFFECTIVE DATE: October 6, 1983.

FOR FURTHER INFORMATION CONTACT: Elliott C. McEntee, Associate Director (202/452–2231) or Florence M. Young, Program Manager (202/452–3955), Division of Federal Reserve Bank Operations; Gilbert T. Schwartz, Associate General Counsel (202/452–3625), or Elaine M. Boutilier, Attorney (202/452–2418) Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: In 1979, the Federal Reserve enhanced its ACH services by adding a second, later deposit deadline restricted to cash concentration debits.[1]

Before this change was implemented, only one deposit deadline was available to depository institutions. The addition of a later deposit deadline improved the ACH service because it provided originators of ACH cash concentration debits additional processing time as well as better availability than they were able to achieve with a single deposit deadline. The primary reason for imposing this restriction was due to concern about potential volume shifts from morning deposit deadlines to the nighttime deposit deadlines, which might have caused capacity constraints at some offices. During the last four years, however, the Reserve Banks have

[1] Cash concentration debits are used by businesses to draw down balances held at a number of depository institutions in order to accumulate funds at a primary institution for investments or other purposes.

gained considerable experience with the ACH nighttime operation and sufficient capacity currently exists to handle anticipated volume levels.

The Federal Reserve has received requests to accept deposits of all types of ACH transactions at the nighttime deposit deadline because depository institutions believe the nighttime deposit deadline increases the flexibility of the ACH. For example, hourly payrolls, unlike salary payments, may require last minute calculations to reflect an individual's actual work experience. The early morning deposit deadline for ACH credit transactions does not provide corporations sufficient time to determine hourly employees' pay. This modification of the night cycle will enable credit transactions to be deposited at the nighttime deposit deadline, allowing additional time for calculating hourly payrolls. Additionally, the night cycle can be used to accommodate payments that would normally be processed during the daytime but are delayed due to operating problems at originating depository institutions.

In opening the night cycle to all ACH transactions and in offering next-day availability for both debit and credit transactions, there may be an increase in the number of ACH payments delivered to country institutions after the actual settlement date due to the short processing time and long distances for delivery. However, institutions faced with this late delivery situation currently only receive about four percent of total ACH payments; it is unlikely that a large proportion of these payments will be converted to next-day settlement payments. Nevertheless, these institutions may face some problems in continuing to provide high quality service to their customers. Therefore, the Reserve Banks will expand their current ACH telephone advice services to country banks to include all debit and credit transactions processed during nighttime operations so that country institutions will be able to receive the transaction information that they need.

The current ACH fees where implemented on December 29, 1982, and were set to recover 40 percent of the total costs of providing commercial ACH services. A new ACH fee schedule based on a 60 percent recovery rate, as required under the Board's ACH incentive pricing policy, is currently being developed. Since expansion of the night cycle is desired by users of the ACH service as soon as possible, the new service will be made available on October 6, 1983, with an interim fee schedule based on the current 40 percent recovery rate. These interim fees will be in effect until the new ACH fees, based on a 60 percent recovery rate, are implemented.

Presently, originators of cash concentration debits are assessed a surcharge of five cents per transaction for each debit deposited at the nighttime deposit deadline. This fee is based on the benefits realized by originators of cash concentration debits, including improved funds availability obtained by using the night cycle. Since opening the night cycle to all types of debit transactions will afford all originators of debit transactions benefits similar to those realized by originators of cash concentration debits, the current five cents surcharge will apply to all debit transactions deposited at the nighttime deposit deadline.

The current ACH fee schedule assesses no fees to depository institutions that originate credit transactions because most of the benefits of the ACH service are realized by receivers of credit transactions. Originators of credit transactions for two-day settlement will not realize significant benefits from the additional processing time. Further, by initiating credits for two-day settlements, originators are taking steps to ensure that payments reach receiving institutions by the settlement date. In view of these factors a surcharge for two-day credit transactions would not be appropriate. Originators of credits deposited for next-day availability, however, clearly benefit from the increased processing time this option offers them. Because originating institutions will be able to realize benefits that previously were unavailable to them, it is appropriate that a fee be charged for this new service. Since originators of credits are not able to realize benefits comparable to those realized by originators of debits, the Board has determined that a surcharge of two cents rather than five cents will be assessed to originators of credit transactions deposited for next-day settlement.

Depository institutions located in the Cleveland and Richmond Federal Reserve Districts are now able to deposit all ACH transactions at the nighttime deposit deadline. Further, the Federal Reserve Bank of Richmond currently does not offer a daytime ACH deposit deadline. Because of the difference, depository institutions located in these two Districts will need some time to adjust their operating schedule in order to use the daytime deposit deadline and to avoid nighttime surcharges where they are not cost effective. To avoid the inequity of requiring originators in the Cleveland and Richmond Districts to pay increased fees for a deposit deadline that is optional in other districts, all Reserve Districts will establish daytime deposit deadlines. Further, the Board has determined to grant a temporary waiver of the five cents debit surcharge for non-cash concentration debits in those two Districts to permit originators and depository institutions to make the necessary operational adjustments. The two cents surcharge on next-day settlement credits, however, is a new service for all Districts and no inequities will result from universal application. Consequently, this surcharge will not be waived for originators located in the Cleveland and Richmond Federal Reserve Districts.

Accordingly, the Board has determined that the interim fee schedule for the ACH night cycle, effective October 6, 1983, will be as follows:

Per item surcharge to originators

	Cents
Debits[1]	5
Next-day settlement credits	2
Two-day settlement credits	0

[1] This surcharge will not be assessed for debits, other than cash concentration debits, originated by depository institutions located in the Cleveland and Richmond Federal Reserve District.

Any comments regarding the interim fee schedule should be forwarded to your local Federal Reserve office.

This interim fee schedule will remain in effect until the repricing of the ACH service.

By order of the Board of Governors of the Federal Reserve System, September 1, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83-24468 Filed 9-7-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies; Peoples Bancorp, Inc., and Bay Rock Bancshares, Inc.

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in 3(c) of the Act (12 U.S.C 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated

for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Peoples Bancorp, Inc.*, Prairie du Chien, Wisconsin; to become a bank holding company by acquiring 80 percent of the voting shares of Peoples State Bank, Prairie du Chien, Wisconsin. Comments on this application must be received not later than October 1, 1983.

B. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Bay Rock Bancshares, Inc.*, Maiden Rock, Wisconsin; to become a bank holding company by acquiring 80 percent of the voting shares of The First National Bank of Maiden Rock, Maiden Rock, Wisconsin. Comments on this application must be received not later than October 1, 1983.

Board of Governors of the Federal Reserve System, September 1, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-24487 Filed 9-7-83; 8:45 am]

BILLING CODE 6210-01-M

Acquisition of Bank Shares by Bank Holding Companies; Barnett Banks of Florida, Inc., and Harris Bancorp, Inc.

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Barnett Banks of Florida, Inc.*, Jacksonville, Florida; to acquire at least 99 percent of the voting shares of Flagship Bank of Kissimmee, Kissimmee, Florida, at least 85 percent of the voting shares of Flagship Bank of Okeechobee, Okeechobee, Florida, and at least 99.5 percent of the voting shares of Flagship Bank of Putnam County, Crescent City, Florida. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Atlanta. Comments on this application must be received not later than September 30, 1983.

2. *Harris Bankcorp, Inc.*, Chicago, Illinois; to acquire 100 percent of the voting shares of the successor by merger to Bank of Naperville, Naperville, Illinois. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Chicago. Comments on this application must be received not later than September 30, 1983.

Board of Governors of the Federal Reserve System, September 1, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-24484 Filed 9-7-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies; Commercial Holding Co., et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Commercial Holding Company*, Paris, Tennessee; to become a bank holding company by acquiring 100 percent of the voting shares of Commercial Bank & Trust Company, Paris, Tennessee. Comments on this application must be received not later than September 30, 1983.

2. *Tell City National Bancorp*, Tell City, Indiana; to become a bank holding company be acquiring 100 percent of the voting shares of the successor by merger to Tell City National Bank, Tell City, Indiana. Comments on this application must be received not later than September 30, 1983.

B. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank of Marin, San Fafael, California. Comments on this application must be received not later than September 30, 1983.

Board of Governors of the Federal Reserve System, August 31, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-24485 Filed 9-7-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities; Shawmut Corp., et al.

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in

lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writting and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. Federal Reserve Bank of Boston (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Shawmut Corporation*, Boston, Massachusetts (insurance activities; Massachusetts): To engage through its direct subsidiary, Wornat Insurance Agency, Inc., Worcester, Massachusetts (Wornat; to be renamed Shawmut Insurance Agency, Inc., and to be relocated to One Federal Street, Boston, Massachusetts) in insurance agency activities for the sale of credit life and credit accident and health insurance sold in connection with extensions of credit. These activities would be conducted from additional existing banking offices of Shawmut in Massachusetts and from Wornat's main office, which would be relocated from Worcester, Massachusetts to Boston, Massachusetts, a distance of approximately 40 miles, serving the commonwealth of Massachusetts. Comments on this application must be received not later than September 28, 1983.

B. Federal Reserve Bank of New York (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Citicorp*, New York, New York (finance company and credit-related insurance activities; Idaho, Montana, Washington): To expand the service area of an existing office of its subsidiary, Citicorp Acceptance Company, Inc., located in Portland, Oregon, to include the states of Idaho, Montana and Washington, in addition to the previously approved service area of Oregon, for the following previously approved activities: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes; the purchasing and servicing for its own account of sales finance contracts; the sale of credit related life and accident and health insurance by licensed agents or brokers, as required; the making of loans to individuals and businesses secured by a lien on mobile homes, modular units or related manufactured housing, together with the real property to which such housing is or will be permanently affixed, such property being used as security for the loans; and the servicing, for any person, of loans and other extensions of credit. Comments on this application must be received not later than September 30, 1983.

2. *Citicorp*, New York, New York (finance company and credit-related insurance activities; Oklahoma): To expand the service area of an existing office of its subsidiary, Citicorp Acceptance Company, Inc., located in Irving, Texas. The proposed expanded service area will include the entire state of Oklahoma for the following previously approved activities: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes; the purchasing and servicing for its own account of sales finance contracts; the sale of credit related life and accident and health insurance by licensed agents or brokers, as required; the making of loans to individuals and businesses secured by a lien on mobile homes, modular units or related manufactured housing, together with the real property to which such housing is or will be permanently affixed, such property being used as security for the loans; and the servicing, for any person, of loans and other extensions of credit. Comments on this application must be received not later than September 30, 1983.

C. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *IntraWest Financial Corporation*, ("IntraWest"), Denver, Colorado, (credit related insurance activities; Colorado): To engage through its subsidiary, IntraWest Insurance Agency, Inc., ("IntraWest Insurance"), in acting as agent for the sale of credit life and credit accident and health insurance to borrowers from member banks of the IntraWest System. This application is to expand the geographic scope of such agency activities to include the offices of IntraWest Bank of Aurora, N.A., Aurora, Colorado, IntraWest Bank of Southwest Plaza, N.A., Littleton, Colorado, and IntraWest Bank of Highlands Ranch, N.A., Highlands Ranch, Colorado. IntraWest earlier gained approval to engage in such activities by Board Order of October 20, 1972. These activities would be conducted by IntraWest Insurance at said offices, serving the counties of Denver, Adams, Arapahoe, Douglas and Jefferson, all in Colorado. Comments on this application must be received not later than September 30, 1983.

Board of Governors of the Federal Reserve System, September 1, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-24695 Filed 9-7-83; 8:45 am]
BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

National Archives and Records Service

Extension of Period for Filing an Objection to the Opening of Nixon White House Special Files

Notice is hereby given that this agency has extended the time limit for the receipt of objections to public access to the Nixon White House Special Files. The period for filing an objection has been extended to November 10, 1983. Any person who wishes to claim a right, privilege or defense concerning these materials should follow the procedures outlined in 48 FR 36655 (August 12, 1983). Any claims must be received by November 10, 1983.

Dated: September 7, 1983.

Robert M. Warner,

Archivist of the United States.

[FR Doc. 83-24774 Filed 9-7-83; 11:40 am]
BILLING CODE 6820-26-M

[Docket No. 82P-0073]

Automation Systems, Inc.; Availability of Approved Variance for Verification Laser Gauge

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a variance from the performance standard for laser products has been approved by FDA's National Center for Devices and Radiological health

(NCDRH) for verification laser gauges manufactured by Automation Systems, Inc. The electronic product is designed to inspect various threaded parts for quality of threads; for length gauging and sorting mixed parts based on length; and for making qualitative judgments concerning the characteristics of inspected surfaces.

DATES: The variance became effective on March 2, 1983, and will terminate on March 2, 1988.

ADDRESS: The application and all correspondence on the application have been placed on display in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Norbert P. Heib, Jr., National Center for Devices and Radiological Health (HFX–460), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3426.

SUPPLEMENTARY INFORMATION: Under § 1010.4 (21 CFR 1010.4) of the regulations governing establishment of performance standards under section 358 of the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263f), Automation Systems, Inc., 1106 Federal Rd., Brookfield, CT 06804, has been granted a variance from § 1040.10(f)(6) (21 CFR 1040.10(f)(6)) of the performance standard for laser products for its verification laser gauges nominal 2 milliwatts (mW) power. The specific provision of § 1040.10(f)(6) for which a variance has been granted would otherwise require that the verification laser gauges be provided with one or more permanently attached beam attenuators (other than laser energy source switches, electrical supply main connectors, or the key-actuated master control) capable of preventing access by any part of the human body to all laser and collateral radiation in excess of the accessible emission limits of Class I laser radiation and collateral radiation specified in Table III of § 1040.10. All other provisions of the standard remain applicable to the laser product.

The Applicant has shown that the beam attenuator tends to destroy the seal integrity protecting optical components of its verification laser gauges. Thus, gauges equipped with beam attenuators require excessive downtime for repair, which can be accompanied by the accumulation of oil, dust, and dirt contamination, whereas new equipment built without permanently attached beam attenuators can be effectively sealed against environment contamination of optical components. Access to any laser radiation during its operation is limited. These instruments are installed in areas of moving machinery, and access to such area is limited to certain employees familiar with the operation and hazards of the machinery. The beams are emitted from an enclosed housing, travel only a few inches and terminate on receivers. Each beam is typically less than 1.5 mW in power, and the configuration of a semi-enclosed housing is such that it is not possible to place an employee's eye in the direct beam path.

The NCDRH has determined that the beam attenuator requirement is inappropriate for the product and that alternate means of radiation protection can be provided by the location and the physical design of the product and its labeling. Limiting personnel entry into the area of use also provides protection. Under terms of the variance the laser system shall have a separate control (power switch) to terminate the energy supplied to the laser and serve as a means of attenuating the level of accessible laser radiation to less than the accessible emission limit of Class I while the main power to the gauge is on. The verification laser gauges can be sold only for use in an industrial environment with limited access by authorized personnel. In addition, labels and instructions that are provided to users of the verification laser gauges shall include information and instructions adequate to assure that individuals who are untrained in the safe use of lasers can use the product safely. Therefore, on March 2, 1983, FDA approved the requested variance by letter to the manufacturer from the Acting Director, Office of Radiological Health.

To associate the product with the variance the product shall bear on the certification label required by § 1010.2(a) (21 CFR 1010.2(a)), the identifying number (the docket number appearing in the heading of this notice) and the effective date of the variance.

In accordance with § 1010.4, the application and all correspondence on the application have been placed on public display under the designated docket number in the Dockets Management Branch (address above), and may be seen in that office between 9 a.m. to 4 p.m., Monday through Friday.

Dated: August 31, 1983.

William R. Clark,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83–24447 Filed 9–7–83; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 83F–0262]

G.D. Searle and Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that G.D. Searle and Co. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of aspartame as a sweetener available to the consumer in bulk package form.

FOR FURTHER INFORMATION CONTACT: Anthony P. Brunetti, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 3A3744) has been filed by the Searle Research and Development Division of G.D. Searle and Co., 4901 Searle Parkway, Skokie, IL 60077, proposing that § 172.804 *Aspartame* (21 CFR 172.804) be amended to provide for the safe use of aspartame (1–methyl *N*–*L*–α–aspartyl–*L*–phenylalanine) as a sweetener available to the consumer in bulk package form.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated August 30, 1983.

Richard J. Ronk,

Acting Director, Bureau of Foods.

[FR Doc. 83–24445 Filed 9–7–83; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 83F–0258]

Lonza, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice

SUMMARY: The Food and Drug Administration (FDA) is announcing

that Lonza, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of di-*n*-alkyl (C_8–C_{10}) dimethylammonium chloride, *n*-alkyl (C_{12}–C_{18}) benzyldimethylammonium chloride, tetrasodium ethylenediamine tetraacetate, and either *alpha*-alkyl-*omega*-hydroxypoly(oxy-ethylene)9-13 moles of ethylene oxide, or *alpha*-(p-nonyl-phenyl)-*omega*-hydroxypoly(oxyethylene)9-13 moles of ethylene oxide, as components of a sanitizing solution to be used on food-contact surfaces.

FOR FURTHER INFORMATION CONTACT: Anthony P. Brunetti, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 3H3735) has been filed by Lonza, Inc., Fair Lawn NJ 07410, proposing that the food additive regulations be amended to provide for the safe use of di-*n*-alkyl (C_8–C_{10}) dimethylammonium chloride, *n*-alkyl (C_{12}–C_{18}) benzyldimethylammonium chloride, tetrasodium ethylenediamine tetraacetate, and either *alpha*-alkyl-*omega*-hydroxypoly(oxy-ethylene)9-13 moles of ethylene oxide, or *alpha*-(p-nonyl-phenyl)-*omega*-hydroxypoly(oxyethylene)9-13 moles of ethylene oxide, as components of a sanitizing solution to be used on food-contact surfaces.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: August 30, 1983.

Richard J. Ronk,

Acting Director, Bureau of Foods.

[FR Doc. 83-24444 Filed 9-7-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 83D-0001]

Raw Breaded Shrimp; Microbiological Defect Action Levels

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the availability of the Compliance Policy Guide 7108.25, which establishes defect action levels for microbiological contamination occurring during processing of raw breaded shrimp. These action levels are based on the results of a survey that FDA conducted in 1978–1979 of 31 raw breaded shrimp processors, all of which were operating according to current good manufacturing practice regulations. Compliance with the new action levels will be determined on the basis of samples of raw shrimp, prior to processing, and of finished, unfrozen shrimp product collected from the manufacturer.

DATE: Comments, data, and information may be submitted by September 10, 1984.

ADDRESS: Requests for single copies of Compliance Policy Guide 7108.25, which sets forth the microbiological defect action levels for raw breaded shrimp, the background document for the guide, and written comments, data, and information on the action levels may be submitted to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Raymond W. Gill, Bureau of Foods (HFF–312), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–245–3092.

SUPPLEMENTARY INFORMATION: Current good manufacturing practice regulations (21 CFR Part 110) were developed as general guides for determining whether foods for human consumption are safe and are prepared, packed, and held under sanitary conditions. Because some filth such as microbial contamination may occur naturally in foods or may be unavoidable even when current good manufacturing practice is used, FDA, in instances where the contamination does not pose a health hazard to consumers, may establish defect action levels as a basis for regulatory action.

To meausre objectively the extent to which microbial contamination of raw breaded shrimp can be attributed to the manufacturing process, FDA, in 1978–1979, conducted a survey of shrimp breading processors that were following current good manufacturing practice in their operations. During the survey, the agency carried out 59 in-plant inspections of 31 breaded shrimp processors. During the inspections, subsamples from various points along the processing line were collected and then analyzed for aerobic plate counts, coliforms, *Escherichia coli*, and *Staphylococcus aureus*. FDA evaluated the survey data and used them to develop regulatory criteria that could be used as an objective measure of compliance with current good manufacturing practice regulations. These regulatory criteria are the microbiological defect action levels for raw breaded shrimp set forth in compliance Policy Guide 7108.25. The full text of that guide is as follows:

Subject: Raw Breaded Shrimp—Microbiological Defect Action Levels

Background: Insanitary practices and processing conditions in food plants usually result in an increase in the number of microorganisms in the food being processed. To determine the extent to which an increase in the level of microorganisms could be attributed to the manufacturing process for breaded shrimp, a survey was conducted in FY 1978 of 31 shrimp breader plants that were determined to be utilizing current good manufacturing practices in their operations. The results of that survey were used as a basis for establishing microbiological criteria that could be used to objectively evaluate compliance with current good manufacturing practice regulations.

Regulatory Action Guidance: Microbiological criteria specified in this Guide are based on a statistically designed plan involving the collection of subsamples at the beginning and end of the breaded shrimp manufacturing process. The raw shrimp collected from the first location on the processing line are considered "stock" shrimp. When frozen, raw shrimp are used for processing, samples of stock shrimp should be collected after thawing.

The criteria in this Guide do not apply to breaded shrimp that are precooked by the processor.

To determine compliance with these criteria, in-plant sampling during inspection of the shrimp breading operation should include the following:

A. Duplicate subsamples of stock shrimp collected four times a day for each of two days at intervals appropriately spaced to cover the plant's production day (16 subs).

B. Duplicate subsamples of finished product collected prior to freezing four times a day for each of two days at intervals appropriately spaced to cover the plant's production day (16 subs).

C. Representative subsamples of raw materials other than shrimp used in processing the breaded shrimp.

Each subsample shall be analyzed for aerobic plate count (35° C), *Escherichia coli* (MPN) and *Staphylococcus aureus* (direct plating according to AOAC, 13th Edition (1980), Chapter 46. The results of analysis of the stock shrimp and the finished product shrimp will be used to

determine whether the actionable criteria in this Guide have been met. The results of analysis of the representative subsamples of raw materials other than shrimp should be reviewed to determine whether any of them are a potential source of contamination found in the finished product raw breaded shrimp.

The following represent criteria for recommending legal action to the Division of Regulatory Guidance (HFF-310).

Actionable if one or more of the following conditions are met:

1. *Aerobic Plate Counts (35° C)*—The mean log of 16 units of finished product breaded shrimp collected prior to freezing is greater than 5.00 (i.e., geometric mean greater than 100,000/g) and exceeds the mean log of 16 units of stock shrimp by more than twice the standard error of their difference (2 SED).

2. *Escherichia coli*—The mean log of 16 units of finished product breaded shrimp collected prior to freezing is greater than 0.56 (i.e., geometric mean greater than 3.6/g) and exceeds the mean log of 16 units of stock shrimp by more than twice the standard error of their difference (2 SED).

3. *Staphylococcus aureus*—The mean log of 16 units of finished product breaded shrimp collected prior to freezing is greater than 2.00 (i.e., geometric mean greater than 100/g) and exceeds the mean log of 16 units of stock shrimp by more than twice the standard error of their difference (2 SED).

Compliance with the microbiological defect action levels above was achieved by 100 percent of the 31 plants from which samples were collected during the 1978 survey. All of those plants were using current good manufacturing practice in their operations. Thus, FDA expects that all shrimp manufacturers following current good manufacturing practice can readily comply with the action level criteria above.

In accordance with the revised procedure for establishing and evaluating all new defect action levels (published in the **Federal Register** of September 21, 1982 (47 FR 41637)), FDA invites interested persons to submit any relevant data and information showing why the levels should be revised. These defect action levels will remain in effect until FDA has evaluated all the available data and has published its decision in the **Federal Register**.

A copy of Compliance Policy Guide 7108.25, as set forth above, and a copy of the background document for the guide have been filed with the Dockets Management Branch under the bracketed docket number above. Requests for single copies of these documents and written comments on the microbiological defect action levels for raw breaded shrimp should be sent to the Dockets Management Branch (address above).

FDA, the U.S. Department of Agriculture, and the National Marine Fisheries Service are currently funding a study by the National Academy of Sciences (NAS) of microbiological criteria for foodstuffs. On the basis of this study, NAS will make recommendations to the Federal agencies on the development of such criteria.

FDA intends to review the defect action levels announced in this notice after receiving the results of the NAS study to determine whether any changes in these levels are appropriate based on those recommendations.

Dated: August 30, 1983.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 83-24449 Filed 9-7-83; 8:45 am]

BILLING CODE 4160-01-M

Health Resources and Services Administration

Application Announcement for Grants for Faculty Development in Family Medicine

The Bureau of Health Professions, Health Resources and Services Administration, announces that applications for Fiscal Year 1984 Grants for Faculty Development in Family Medicine are being accepted under the authority of Section 786(a) of the Public Health Service Act, as amended by Pub. L. 97-35.

Section 786(a) of the Public Health Service Act authorizes the award of grants to public or nonprofit private hospitals, schools of medicine or osteopathy, or other public or private nonprofit entities to assist in meeting the cost of planning, developing and operating programs for the training of physicians who plan to teach in family medicine training programs. In addition, Section 786(a) authorizes assistance in meeting the cost of supporting physicians who are trainees in such programs and who plan to teach in a family medicine training program.

To receive support, programs must meet the requirements of regulations, published in the **Federal Register** on October 16, 1980, Vol. 45, No. 202.

A funding preference may be accorded approved applications with emphasis on increasing he number of new faculty who will be teaching on a full-time basis in family medicine.

Approximately $1.0 million is expected to be available in Fiscal Year 1984 for competitive grants. Application materials are being made available without final action on the related Fiscal Year 1984 budget; therefore, adjustments and other changes may be necessary at a later date.

The deadline date for receipt of applications is November 7. Applications sent by mail will be considered on time if postmarked on or before November 7 and received on or before November 14. The term "postmark" means a printed, stamped, or otherwise placed impression, exclusive of a postage meter impression, that is readily identifiable as having been affixed on the date of mailing by an employee of the U.S. Postal Service. All hand delivered applications must be received on or before November 7.

Requests for application materials and questions regarding grants policy should be directed to: Grants Management Officer (D15), Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 8C-22, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443-6960.

Should additional programmatic information be required, please contact: Multidisciplinary Resources Development Branch, Division of Medicine, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 4C-16, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443-3614.

This program is listed at 13.895 in the *Catalog of Federal Domestic Assistance*. It is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs, or 45 CFR, Part 100.

Dated: September 1, 1983.

John H. Kelso,

Acting Administrator.

[FR Doc. 83-24451 Filed 9-7-83; 8:45 am]

BILLING CODE 4160-15-M

Application Announcement and Final Funding Preferences for the Health Careers Opportunity Program (HCOP)

Correction

In FR Doc. 83-24065 beginning on page 39700 in the issue of Thursday, September 1, 1983, make the following correction.

On page 39703, first column, add the following date, name, and title of the signing official to the end of the document:

Dated: August 29, 1983.

John H. Kelso,

Acting Administrator.

BILLING CODE 1505-01-M

National Institutes of Health

National Advisory Eye Council; Amended Meeting

Notice is hereby given of an amendment to the announcement of the meeting of ther National Advisory Eye Council, National Eye Institute. September 19 and 20, 1983, Building 31, Conference Room 8, National Institutes of Health, Bethesda, Maryland. The notice announcing the meeting was published in the **Federal Register** on August 15, 1983 (48 FR 36895).

This notice should be amended to announce the meeting of the Council's standing subcommittee, the Vision Research Program Planning Subcommittee, at 7:00 p.m. on Sunday, September 18, 1983, in the Bethesda Mariott Hotel, 5151 Pooks Hill Road, Bethesda, Maryland, for the purpose of discussing various implementation aspects of *Vision Research—A National Plan: 1983–1987.* Attendance by the public will be limited to space available.

As previously published in the **Federal Register**, the meeting of the full Council will be closed to the public from mid-afternoon for the remainder of the day on Monday, September 19, and until adjournment on Tuesday, September 20.

(Catalog of Federal Domestic Assistance Programs Nos. 13.867, Retinal and Choroidal Disease Research; 13.868, Corneal Disease Research; 13.869, Cataract Research; 13.870, Glaucoma Research; and 13.871, Sensory and Motor Disorders of Visual Research; National Institutes of Health)

Dated: August 29, 1983.

Betty J. Beveridge,

National Institute of Health Committee Management Officer.

Recombinant DNA Advisory Committee; Amended Notice of Meeting

Notice is hereby given for an amendment to the Notice of Meeting of the Recombinant DNA Advisory Committee, National Institutes of Health, September 19, 1983, which was published in the **Federal Register** on August 16 (48 FR 37198).

The meeting was to be open to the public from 9:00 a.m. to 4:00 p.m., and closed to the public from 4:00 to adjournment. The closed session will now occur from approximately 10:30 a.m. to 11:30 a.m. The open portions of the meeting will be from 9:00 a.m. to 10:30 a.m. and again at 11:30 a.m. to adjournment.

For further information please contact Dr. William J. Gartland, Executive Secretary, Building 31, Room 3B10, 9000 Rockville Pike, Bethesda, Maryland 20205.

Dated: August 29, 1983.

Betty J. Beveridge,

Committee Management Officer, National Institute of Health.

[FR Doc. 83-24452 Filed 9-7-83; 8:45 am]

BILLING CODE 4140-01-M

Public Health Service

National Center for Health Services Research; Assessment of Medical Technology

The Public Health Service (PHS), through the Office of Health Technology Assessment (OHTA), announces that it is coordinating an assessment of what is known of the safety, clinical effectiveness, appropriateness, and use of Transillumination Light Scanning (diaphanography). Specifically, we are interested in the medical indications for the: (1) Use of diaphanography in the diagnosis of breast cancer; (2) whether this technology has significant advantages over other diagnostic technologies; (3) what are the specific indications for its use.

For the purposes of this announcement, transillumination light scanning (diaphanography) is defined as a non-x-ray, non-invasive modality which uses ordinary low intensity light to visualize the tissues of the breast. Unusual variations in breast tissue are distinguishable from the surrounding tissue by changes in the amount and spectrum of the transmitted light. The breast is illuminated with low intensity white light and the transmission pattern of relatively narrow band of red and infra red light is detected, amplified and displayed in visual wavelengths. It has been suggested that when appropriate wavelengths are used, carcinoma will preferentially absorb light and will appear as a dark area on the lightscan.

The PHS assessment consists of a synthesis of information obtained from appropriate organizations in the private sector and from PHS agencies and others in the Federal Government. PHS assessments are based on the most current knowledge concerning the safety and clinical effectiveness of a technology. Based on this assessment, a PHS recommendation will be formulated to assist the Health Care Financing Administration (HCFA) in establishing Medicare coverage policy. Any person or group wishing to provide OHTA with information relevant to this assessment should do so in writing no later than September 30, 1983, or within 30 days from the date of publication of this notice.

The information being sought is a review and assessment of past, current and planned research related to this technology, a bibliography of published, controlled clinical trials and other well-designed clinical studies since 1970 and other information related to the characterization of the patient population most likely to benefit, the clinical acceptability, and the effectiveness of this technology. Proprietary information is not being sought, but published commercial information may be submitted.

Written material should be submitted to: Dr. Bruce Waxman, National Center for Health Services Research, Office of Health Technology Assessment, Park Building, Room 3-10, Stop #2, 5600 Fishers Lane, Rockville, Maryland 20857.

Further information is available from Dr. Bruce Waxman, Health Science Analyst, at the above address or by telephone (301) 443-5660.

Dated: August 30, 1983.

Harold Margulies,

Director, Office of Health Technology Assessment, National Center for Health Services Research.

[FR Doc. 83-24671 Filed 9-7-83; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N-83-1283]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refere to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755–5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) The office of the agency to collect the information; (3) The agency form number, if applicable; (4) How frequently information submissions will be required; (5) What members of the public will be affected by the proposal; (6) An estimate of the total number of hours needed to prepare the information submission; (7) Whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) The names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirement is described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Title I Lender Approval Handbook
Office: Housing
Form Number: HUD–92001B, HUD–92001L, HUD–92001LC, HUD–92001LK, HUD–92001V
Frequency of Submission: Annually and On Occasion
Affected Public: State or Local Governments, Businesses or Other For-Profit, Federal Agencies or Employees, Non-Profit Institutions, and Small Businesses or Organizations
Estimated Burden Hours: 10,350
Status: Revision
Contact: Robert Harrigan, HUD, (202) 426–3976; Robert Neal, OMB (202) 395–7316

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: July 22, 1983.

Lea Hamilton,

Director, Office of Information Policies and Systems.

[FR Doc. 83-24471 Filed 9-7-83; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. N–83–1284]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755–5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) The office of the agency to collect the information; (3) The agency form number, if applicable; (4) How frequently information submissions will be required; (5) What members of the public wil be affected by the proposal; (6) An estimate of the total number of hours needed to prepare the information submission; (7) Whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) The names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirement is described as follows:

Submission of Proposed Information Collection to OMB

Proposal: Survey of Mortgage Lending Policies by Commercial Banks, Mortgage Bankers, and Realtors
Office: Policy Development and Research
Form Number: None
Frequency of Submission: On Occasion
Affected Public: Businesses or Other For-Profit
Estimated Burden Hours: 1,353
Status: New
Contact: Michael F. Molesky, HUD, (202) 755–5421; Rober Neal, OMB, (202) 395–7316

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: August 23, 1983.

Lea Hamilton,

Director, Office of Information Policies and Systems.

[FR Doc. 83-24472 Filed 9-7-83; 8:45 am]

BILLING CODE 4210-01-M

Office of Environment and Energy

[Docket No. NI–114]

Terminate Two Environmental Impact Statements

The Department of Housing and Urban Development gives notice to terminate the Environmental Impact Statement process for the Grogan's Crossing Subdivision located in Montgomery County, Texas and the Greenwood Valley Subdivision located in the City of Allen, Collin County, Texas. The Department's Dallas Area Office prepared, circulated and filed with the Environmental Protection Agency Draft Environmental Impact Statements on September 24, 1980 and December 23, 1982 respectively. Since the filings, both developers have disposed of their proposed subdivision sites and have withdrawn their applications for mortgage insurance. Therefore, HUD gives notice that the Environmental Impact Statement process will not be completed for both subdivisions.

Issued at Washington, D.C., August 29, 1983.

Francis G. Haas,

Deputy Director, Office of Environment and Energy.

[FR Doc. 83-24479 Filed 9-7-83; 8:45 am]

BILLING CODE 4310-29-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Potawatomi Nation of Indians; Plan for the Use and Distribution of the Potawatomi Nation Judgment funds in Dockets 15–C, 29–A and 71; 29–E; 15–P, 29–N and 306; 29–D, 15–D, 29–B and 311; 15–I, 29–G and 308; 216, 15–L and 29–I; 128, 309, 310, 15–N, O, Q and R, and 29–L, M, O and P and 15–E, 29–C and 338 Before the United States Court of Claims

August 24, 1983.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 209 DM 8.

The Act of October 19, 1973 (Pub. L. 93–134, 87 Stat. 466), as amended, requires that a plan be prepared and submitted to Congress for the use or distribution of funds appropriated to pay a judgment of the Indian Claims Commission or Court of Claims to any Indian tribe. Funds were appropriated on March 10, 1978, September 13, 1978, October 31, 1978, February 22, 1979, March 2, 1979, May 21, 1979, July 24, 1979 and March 17, 1981 in satisfaction of the awards granted to the Potawatomi Nation of Indians in Indian Claims Commission and United States Court of Claims Dockets 15–C, 29–A and 71; 15–P, 29–N and 306; 29–D, 15–D, 29–B and 311; 15–I, 29–G and 308; 216, 15–L and 29–I; 128, 309, 310, 15–N, O, Q and R, and 29–L, M, O and P and 15–E, 29–C and 338. The plan for the use and distribution of the funds was submitted to the Congress with a letter dated April 22, 1983, and was received (as recorded in the Congressional Record) by the House of Representatives on April 25, 1983, and by the Senate on April 27, 1983. The plan became effective on July 17, 1983, as provided by Section 5 of the amended 1973 Act, since a joint resolution disapproving it was not enacted.

The plan reads as follows:

"The funds appropriated in satisfaction of awards granted to the Potawatomi Nation of Indians in Dockets 15–C, 29–A and 71, appropriated March 10, 1978; Docket 29–E, appropriated September 13, 1978; Dockets 15–P, 29–N and 306, appropriated October 31, 1978; Docket 29–D, appropriated October 31, 1978; Docket 15–D, 29–B and 311, appropriated February 22, 1979; Dockets 15–I, 29–G and 308, appropriated March 2, 1979; Dockets 216, 15–L and 29–I, appropriated May 21, 1979; Dockets 128, 309, 310, 15–N, O, Q and R, and 29–L, M, O and P, appropriated July 24, 1979, and Dockets 15–E, 29–C and 338, appropriated March 17, 1981, before the Indian Claims Commission and the U.S. Court of Claims, including all interest and investment income accrued, less attorney fees and litigation expenses, shall be used and distributed as herein provided:

Section 2. The Secretary of the Interior (hereinafter "Secretary") shall divide such funds on the basis of the population of the four Potawatomi tribal entities and the Potawatomi descendant entity as reflected in allotment, annuity and census rolls for the period 1892–1906 in relation to the total population of 3,523. The participating entities and their respective shares are as follows: Citizen Band of Potawatomi Indians, Oklahoma 1,718/3,523 (or 48.7652%); Prairie Band of Potawatomi Nation of Indians, Kansas, 809/3,523 (or 22.9634%); Hannahville Indian Community, Michigan, and Forest County Potawatomi Community, Wisconsin, 457/3,523 (or 12.9719%), which whall be further divided as provided in subsection (b) herein, and lineal descendants who are United States citizens of Potawatomi Indians of Michigan and Indiana, including Pokagon, Huron and other bands, 539/3, 523 (or 15.2995%).

(b) The apportioned share of the Hannahville Indian Community and the Forest County Potawatomi Community shall be further divided between the two groups on the basis of their respective numbers in separate census rolls of January 1, 1940, with 141/451 share (or 31.2639%) to the Hannahville Indian Community and 310/451 share (or 68.7361%) to the Forest County Potawatomi Community.

(c) The apportioned share of the funds of each tribal group, including the interest and investment income accrued, shall be further divided between the per capita and program aspects of this plan. The apportioned share of the funds of the descendant group shall be handled in the manner set forth in Section 4 of this plan, under the heading Per Capita Aspect.

Per Capita Aspect

Section 3. The Secretary shall make a per capita distribution, in sums as equal as possible, on the basis of percentages established by the respective tribal groups of their apportioned shares, including the interest and investment income accrued thereon, to all members of the respective tribes, whose names appear on the membership rolls brought current under tribal enrollment procedures to include the names of all person born on or prior to and living on the effective date of the plan: Citizen Band, seventy (70) percent; Prairie Band, eighty (80) percent; Hannahville Indian Community, sixty (60) percent; Forest County Potawatomi Community, to all enrollees age sixty years and older, a full share of the total funds apportioned under Section 2(b) of this plan, including the interest and investment income accrued, based on the total enrollment, and an eighty (80) percent share of such funds to enrollees who are under age sixty.

(b) The Secretary, to expedite per capita payments to the enrollees of a tribal group, shall hold at interest in an escrow account sufficient funds from the per capita portion of the funds to cover the shares of the appellants pending determination of enrollment appeals. The respective tribes shall by tribal resolution establish appropriate deadlines for filing applications for enrollment. The amount of any shares not used to pay successful appellants shall be used by the tribe in the program portion of the tribal plan.

Section 4. For the purposes of distributing the apportioned share of the funds of the lineal descendants of Potawatomi Indians of Michigan and Indiana, including the Pokagon and Huron Bands and other bands, the Secretary shall bring current to the effective date of this plan, the descendant payment roll prepared pursuant to the Potawatomi judgment use plan of March 6, 1978, as published in the **Federal Register** of April 14, 1978, Vol. 43, No. 73: (i) By adding the names of persons living on the effective date of this plan who would have been eligible for enrollment under the 1978 plan, but who were not enrolled; (ii) by adding the names of children born and living on the effective date of this plan to persons who were eligible for enrollment, regardless of whether such parents are living or deceased on the effective date of this plan; (iii) by adding the names of children born to enrollees on or prior to and who are living on the effective date of this plan; and (iv) by deleting the names of enrollees who are deceased as of the effective date of this plan. Entitlement to share in the judgment funds under this section shall be limited to lineal descendants who are United States citizens, and who are not enrolled or entitled to be enrolled with any of the four federally recognized tribal organizations named in this plan, whose

names appear on or as lineal descendants who can trace their Potawatomi ancestry to persons on the Cadman Payment Roll of 1896, the Taggart Census Roll of 1904, or on official payment or annuity rolls of persons designated as "Potawatomi Indians of Michigan and Indiana," Huron Band, Pokagon Band, or "Notawasepi and other bands," or other records which are acceptable to the Secretary.

(b) An application by a person who meets the requirements of (i), (ii) or (iii) under subsection (a) for addition of his or her name on the updated roll for the purposes of a per capita share distribution of the funds apportioned to the descendant group under this plan, must be filed with the Superintendent of the Michigan Agency, Bureau of Indian Affairs, within one year from the effective date of this plan. The Secretary shall publish the deadline as a notice in the **Federal Register**. Appeals shall be handled in accordance with the procedures established under 25 CFR 42, Enrollment Appeals.

(c) The Secretary shall make a per capita distribution of the totality of the apportioned share of the lineal descendant group in a sum as equal as possible to each person enrolled for purposes of effecting this plan.

Programing Aspects

Section 5. *Prairie Band Potawatomi of Kansas.* The funds for the programing aspects of the plan (20%), shall be held and invested by the Secretary pursuant to 25 U.S.C. 162a, until such time as social, economic, tribal governmental, or other developmental program or programs benefiting the Prairie Band are established. Such plans as proposed by the tribal council shall be brought before the General Council in a meeting or by a mail survey for concurrence or modification according to the wishes of the tribe. All program plans and tribal budgets are subject to the approval of the Secretary. Interest earnings on the principal program amount shall be utilized first in the administration of any of the approved programs.

(b) *Forest County Potawatomi, Wisconsin.* The funds for the programing aspect shall be utilized in tribal developmental programs, in accordance with Tribal Council Resolution No. 190, adopted March 21, 1981. The funds shall be held and invested by the Secretary under 25 U.S.C. 162a until advanced to the tribe under tribal budgets approved by the General Council and the Secretary.

(c) *Hannahville Indian Community, Michigan.* The funds for the programing aspect (40%) shall be utilized by the tribe for a new multi-purpose tribal center, as provided in the unnumbered Tribal Council Resolution adopted on April 5, 1982. The funds shall be held and invested by the Secretary under 25 U.S.C. 162a until advanced to the tribe under tribal budgets approved by the Secretary.

(d) *Citizen Band Potawatoni Indians of Oklahoma.* The funds for the programing aspect (30%) shall be utilized in a Ten-Year Tribal Acquisition, Development, and Maintenance Plan. The 10-year plan shall include the acquisition of additional lands to build upon the tribal land base, the development of the tribe's assets and to provide for the maintenance and care of the tribal property, as set forth in Tribal Business Committee Resolution No. Pott 81–32, adopted June 8, 1981, and confirmed by the June 27, 1981, General Council, and as clarified and defined in Tribal Business Committee Resolution No. Pott 82–6, adopted September 23, 1981. Such funds shall be held and invested by the Secretary pursuant to the provisions of 25 U.S.C. 162a until advanced under procedures set forth in this subsection:

(i) All expenditures of funds, including the initial $500,000 from the interest account to commence the implementation and administration of the ten-year plan, shall be subject to the preparation by the Tribal Business Committee of an annual tribal budget, with specific line item budgets covering the proposed uses of such funds for the year, which shall be subject to approval by the General Council and the Secretary. Program accountability reports shall be provided to the General Council and the Secretary with the annual tribal budget presented for approval. In preparing tribal budgets, the tribe shall plan the use of the interest and investment earnings on the principal funds first.

(ii) The Tribal Business Committee shall be required to prepare, separate from annual line item tribal budgets, appropriate administrative guidelines and plans of operation covering the 10-year plan, which also shall be subject to approval by the General Council and the Secretary. All tribal actions taken prior to the effective date of this plan, in approving the administrative guidelines, plans of operation, and tribal budgets of the programing aspects of the Citizen Band plan, are subject to such actions being reconfirmed or revised under the provisions of the effective plan, and approved by the General Council and the Secretary.

(iii) At the end of the 10-year program period, the General Council shall evaluate tribal needs as concerns the remaining balances in the program principal and interest accounts, and any changes proposed by the General Council shall be subject to approval by the Secretary.

(iv) In view of the scattered nature of the population, the Tribal Business Committee should establish a line of communication with the general membership of the tribe for the purpose of keeping them informed on the status and progress of the Ten-Year Acquisition, Development and Maintenance Plan.

General Provisions

Section 6. No person shall be entitled to more than one per capita share of the funds in his/her own right. The per capita shares of competent adults shall be paid directly to them. Per capita shares of deceased individual beneficiaries shall be determined and distributed in accordance with 43 CFR Part 4, Subpart D. Per capita shares of legal incompetents and minors shall be handled as provided in the Act of October 19, 1973, 87 Stat. 466, as amended January 12, 1983, by Pub. L. 97–458.

(b) None of the funds distributed per capita or made available under this plan for programing shall be subject to Federal or State income taxes, nor shall such funds nor their availability be considered as income or resources nor otherwise utilized as the basis for denying or reducing the financial assistance or other benefits to which such household or member would otherwise be entitled under the Social Security Act or, except for per capita shares in excess of $2,000, any Federal or federally assisted programs.

(c) To insure the proper performance of the approved plans, the Area Director shall provide an accounting of the expenditure of all programing funds and shall report deficient performance of any aspect of a plan to the Secretary, together with the corrective measure the Area Director has taken or intends to take, as provided in subpart 87.12, 25 CFR Part 87, of the rules and regulations implementing the Indian Judgement Funds Act of 1973, 25 USC 1401; 87 Stat. 466."

John W. Fritz,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 83–24477 Filed 9–7–83; 8:45 am]

BILLING CODE 4310–02–M

Receipt of Petition for Federal Acknowledgment of Existence as an Indian Tribe

August 23, 1983.

This is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 83.8(a) (formerly 25 CFR 54.8(a)) notice is hereby given that the Waccamaw Siouan Development Association, Inc., c/o Ervin Jacobs, P.O. Box 221, Bolton, North Carolina 28423, has filed a petition for acknowledgment by the Secretary of the Interior that the group exists as an Indian tribe. The petition was received by the Bureau of Indian Affairs on June 27, 1983. The petition was forwarded and signed by members of the group's governing body.

This is a notice of receipt of petition and does not constitute notice that the petition is under active consideration. Notice of active consideration will be by mail to the petitioner and other interested parties at the appropriate time.

Under § 83.8(d) (formerly 54.8(d)) of the Federal regulations, interested parties may submit factual or legal arguments in support of or in opposition to the group's petition. Any information submitted will be made available on the same basis as other information in the Bureau of Indian Affairs files.

The petition may be examined by appointment in the Division of Tribal Government Services, Bureau of Indian Affairs, Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20242.

John W. Fritz,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 83-24476 Filed 9-7-83; 8:45 am]

BILLING CODE 4310-02-M

Southern Ute Tribe; Plan for the Use and Distribution of the Southern Ute Tribe Judgment Funds in Dockets 342-70, 343-70, 523-71 and 524-71 Before the United States Court of Claims

August 23, 1983.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 209 DM 8.

The Act of October 19, 1973 (Pub. L. 93-134, 87 Stat. 466), as amended, requires that a plan be prepared and submitted to Congress for the use or distribution of funds appropriated to pay a judgment of the Indian Claims Commission or Court of Claims to any Indian tribe. Funds were appropriated on April 14, 1981, in satisfaction of the award granted to the Southern Ute Tribe in United States Court of Claims Dockets 342-70, 343-70, 523-71 and 524-71. The plan for the use and distribution of the funds was submitted to the Congress with a letter dated April 20, 1983, and was received (as recorded in the Congressional Record) by the House of Representatives on April 26, 1983, and by the Senate on April 27, 1983. The plan became effective on July 17, 1983, as provided by Section 5 of the amended 1973 Act, since a joint resolution disapproving it was not enacted.

The plan reads as follows:

"The funds appropriated on April 7, 1981, in satisfaction of awards granted to the Southern Ute Tribe in Dockets 342-70, 343-70, 523-71 and 524-71 before the United States Court of Claims, including all interest and investment income accrued, less attorney fees and litigation expenses shall be distributed as herein provided.

Per Capita Aspect

The Southern Ute Tribe's latest approved membership roll shall be brought current to include all eligible members born on or prior to and living on the effective date of this plan. Subsequent to the preparation and approval of this roll, the Secretary of the Interior (hereinafter 'Secretary') shall make a per capita distribution of eighty (80) percent of the funds, in a sum as equal as possible to each enrollee. Any amount remaining after the per capita payment to the enrollees shall revert to the Southern Ute Tribal Council for use in their program portion of this plan.

The per capita shares of living, competent adults shall be paid directly to them. The per capita shares of deceased individual beneficiaries shall be determined and distributed in accordance with 43 CFR, Part 4, Subpart D. Per capita shares of legal incompetents and minors shall be handled as provided in the Act of October 19, 1973, 87 Stat. 466, as amended January 12, 1983, by Pub. L. 97-458.

Programing Aspect

Twenty (20) percent of the funds shall be invested as seed money in a tribal life insurance program. The invested funds, including all interest and investment income accrued, shall provide for burial expenses on a case by case basis, subject to the approval of the Secretary.

General Provision

None of the funds distributed per capita or made available under this plan for programing shall be subject to Federal or State income taxes, nor shall such funds nor their availability be consideed as income or resources nor otherwise utilized as the basis for denying or reducing the financial assistance or other benefits to which such household or member would otherwise be entitled under the Social Security Act or, except for per capita shares in excess of $2,000, any Federal or federally assisted programs."

John W. Fritz,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 83-24475 Filed 9-7-83; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

Availability of and Public Hearing on the Draft Big Lost/Pahsimeroi Wilderness Environmental Impact Statement

AGENCY: Bureau of Land Management.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969 and section 603(a) of the Federal Land Policy and Management Act of 1976, the Department of the Interior has prepared a Draft Wilderness Environmental Impact Statement for three Wilderness Study Areas (WSAs) in east-central Idaho. Two of the WSAs are located in the Big Lost Planning Unit, Idaho Falls District, and one in the Pahsimeroi Planning Unit, Salmon District, Idaho. The three WSAs contain 56,830 acres of public land. The proposed action recommends 48,530 acres as nonsuitable for wilderness and 8,300 acres as suitable for wilderness.

Copies of the Draft Big Lost/Pahsimeroi Wilderness Environmental Impact Statement are available for review at the following locations:

Bureau of Land Management, Salmon District Office, Highway 93 South, Box 430, Salmon, Idaho 83467. Telephone (208) 756-2201.

Bureau of Land Management, Idaho Falls District Office, 940 Lincoln Road, Idaho Falls, Idaho 83401. Telephone (208) 529-1020.

Bureau of Land Management, Idaho State Office, 3380 Americana Terrace, Boise, Idaho 83706. Telephone (208) 334-1406.

Director (130), Bureau of Land Management, Department of the Interior, 18th & C Streets, N.W., Washington, D.C. 20240. Telephone (202) 343-5717.

DATES: Written comments on the Draft Statement are invited and should be submitted by October 27, 1983. A public hearing as required by section 3(d) of the Wilderness Act, will be held on September 28, 1983, at 7:00 p.m. at the

Arco Memorial Building in Arco, Idaho. A public hearing will also be held on September 27, 1983, at 7:00 p.m. at the American Legion Hall in Challis, Idaho.

ADDRESS: Written comments should be submitted to: District Manager, Bureau of Land Management, Box 430, Salmon, Idaho 83467.

FOR FURTHER INFORMATION CONTACT:

David Wolf, Bureau of Land Management, Box 430, Salmon, Idaho 83467. Telephone (208) 756–2201, or
John Butz, Bureau of Land Management, 940 Lincoln Road, Idaho Falls, Idaho 83401. Telephone (208) 529–1020, or
George Weiskircher, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho 83706.

SUPPLEMENTARY INFORMATION: Persons wishing to give testimony may be limited to 10 minutes with written submission invited. Prior to giving testimony at the public hearing, individuals or spokespersons are requested to contact the Salmon District Manager at the above address.

Dated: August 26, 1983.

Clair M. Whitlock,

State Director.

[FR Doc 83–24531 Filed 9–7–83; 8:45 am]

BILLING CODE 4310–84–M

[ES 32195]

Competitive Sale of Public Land in Seneca County, Ohio; Realty Action

This will amend the Notice of Realty Action for public land sale ES–32195, published in the May 27, 1983, **Federal Register**, which announced the proposed sale of two Federally owned parcels under Bureau of Land Management jurisdiction in Seneca County, Ohio. The date of the proposed sale will be postponed 45 days, from September 9, 1983 to 1:00 p.m., Eastern Time, October 24, 1983.

Further details concerning the proposed sale are available from Robert Gausman, Eastern States Office, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304.

G. Curtis Jones, Jr.,

Eastern States Director.

[FR Doc. 83–24484 Filed 9–7–83; 8:45 am]

BILLING CODE 4310–84–M

[C–28560, C–28562, C–28564, C–28565]

Colorado; Proposed Continuation of Withdrawals of Lands

Correction

In FR Doc. 83–23228 beginning on page 38540 in the issue of Wednesday, August 24, 1983, make the following corrections:

1. On page 38540, third column, in the land description, T. 46 N., R. 17 W., Sec. 1, in the second line, "including" should have read "excluding".

2. Same column, T 47 N., R. 17 W., Sec. 6, in the second line, "excluding" should have read "including".

BILLING CODE 1505–01–M

[Serial No. I–18531]

Idaho; Conveyance of Public Lands Bear Lake County

August 30, 1983.

Notice is hereby given that pursuant to the Act of October 21, 1976 (90 Stat. 2750; 43 U.S.C. 1713), a patent was issued to John A. Matis, Nadine T. Matis, Peggy P. Nielsen, and F. Stanley Nielsen, Ogden, Utah, for the following-described public land:

Boise Meridian, Idaho

T. 11 S., R. 44 E., sec 8, NW¼SE¼.
Containing 40.00 acres.

The purpose of this notice is to inform the public and interested State and local governmental officials of the conveyance.

Louis B. Bellesi,

Deputy State Director for Operations.

[FR Doc. 83–24481 Filed 9–7–83; 8:45 am]

BILLING CODE 4310–84–M

[AA–50379–6]

Alaska Native Claims Selection

In accordance with Departmental Regulations 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14 of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (1976) (ANCSA)), will be issued to Chugach Natives, Inc., for approximately 997 acres. The lands involved are within the Seward Meridian, Alaska:

T. 2 S., R. 9 E.

The decision to issue conveyance will be published once a week, for four (4) consecutive weeks, in the Cordova Times upon issuance of the decision. For information on how to obtain copies, contact the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal Government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the regulations in Title 43, Code of Federal Regulations (CFR), Part 4, Subpart E, as revised.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of Conveyance Management (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of the decision by personal service or certified mail, return receipt requested, shall have thirty days from the receipt of the decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt, and parties who received a copy of the decision by regular mail which is not certified, return receipt requested, shall have until October 11, 1983 to file an appeal.

Any party known or unknown who is adversely affected by the decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of Conveyance Management.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obained from the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 995130.

If an appeal is taken, the party to be served with a copy of the notice of appeal is: Chugach Natives, Inc., 903 West Northern Lights Boulevard, Suite 201, Anchorage, Alaska 99503.

Steven L. Willis,

Acting Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 83–24523 Filed 9–7–83; 8:45 am]

BILLING CODE 4310–84–M

[AA–50379–7]

Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyence under the provisions of Sec. 14 of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (1976) (ANCSA)), will be issued to Chugach Natives, Inc., for

approximately 1,498 acres. The lands involved are within the Seward Meridian, Alaska:

T. 3 S., R. 10 E.,
Sec. 15, S½Se¼;
Sec. 21 (fractional), S½NE¼, S½;
Sec. 22;
Sec. 28 (fractional), NW¼NW¼;
Secs. 29 and 30 (fractional).

The decision to issue conveyance will be published once a week, for four (4) consecutive weeks, in the Cordova Times upon issuance of the decision. For information on how to obtain copies, contact the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal Government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E, as revised.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of Conveyance Management (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of the decision by personal service or certified mail, return receipt requested, shall have thirty days from the receipt of the decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt, and parties who received a copy of the decision by regular mail which is not certified, return receipt requested, shall have until October 11, 1983 to file an appeal.

Any party known to unknown who is adversely affected by the decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of Conveyance Management.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of the requirements for filing an appeal may be obtained from the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the party to be served with a copy of the notice of appeal is: Chugach Natives, Inc., 903 West Northern Lights Blvd., Suite 201, Anchorage, Alaska 99503.

Steven L. Willis,

Acting Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 83-24524 Filed 9-7-83; 8:45 am]

BILLING CODE 4310-84-M

Realty Action; Noncompetitive Sale of Public Lands in Hidalgo County, New Mexico (NM 52980)

August 22, 1983.

The following described land has been examined and identified as suitable for disposal by sale under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713) at no less than the appraised fair market value.

New Mexico Principal Meridan

T. 19 S., R. 21 W.,
Sec. 2, Lots 7, 8, 9, 10, 11, 12.

The land described aggregates 10.06 acres in Hidalgo County.

This land is being offered by noncompetitive direct sale at the appraised fair market value:

Lot 7 containing 3.74 acres to Alan Day, P.O. Box 188, Duncan, Arizona 85534
Lot 8 containing 1.71 acres to Raymond and Margie Bejarano, Rt. 1, Box 275, Duncan, Arizona 85534
Lot 9 containing 1.25 acres to Antonio and Paula Burrola, Rt. 1, Box 274, Duncan, Arizona 85534
Lot 10 containing .98 acres to Marcedes Garcia, 171 Avenida del Sol, Lordsburg, New Mexico 88045
Lot 11 containing 1.19 acres to Cruz Garcia, Rt. 1, Box 269, Duncan, Arizona 85534
Lot 12 containing 1.19 acres to Jesus and Lala Bejarano, Rt. 1, Box 275, Duncan, Arizona 85534

The above described lands will be offered for direct sale 60 days after the appraised price has been made known to the persons listed. In no event will the lands be offered sooner than 60 days from the date of this notice.

The environmental document, land report and decision record which support this Notice are available for review at the Las Cruces/Lordsburg Resource Area Office, 1705 N. Valley Drive, Las Cruces, New Mexico 88004.

The terms and conditions applicable to the sale are:

1. Sale of these lands will be subject to all valid existing rights.

2. Right-of-way LC 056238 is reserved to the New Mexico State Highway Department for State Highway 92. The width is 100' on each side of the centerline. The north boundary of lots 7, 8, 9, 10 is the centerline.

3. A right-of-way is reserved to Hidalgo County for a county road (A031). The reservation is for 40 feet east of and adjacent to and parallel with the west boundary line of lots 10 and 11.

4. A 25 foot wide access road is reserved south of and adjacent to and parallel with the north boundary line of lot 11.

5. A right-of-way is reserved for ditches and canals constructed by the authority of the United States. Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945).

6. All minerals are to be reserved to the United States. Federal Land Policy and Management Act of 1976 (90 Stat. 2757; 43 U.S.C. 1719).

7. The total purchase price for the land will be due 30 days from the offer date.

8. Any land described in this Notice which is not purchased by direct sale will be reoffered for sale by competitive bidding. In no case will the land be sold for less than fair market value.

9. If it is determined that any of the lots lie within a floodplain the patents will be issued subject to the provisions of Section 3(d) of Executive Order 11988 of May 24, 1977 which prevents the patentees or their successors from seeding compensation from the United States or its agencies in the event existing on future facilities on the patents are damaged by floods.

For a period of 45 days from the date of this Notice, interested parties may submit comments to the Area Manager, Las Cruces/Lordsburg Resource Area, P.O. Box 1420, Las Cruces, New Mexico 88004. Any adverse comments will be evaluated by the State Director who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior. The payment when due, is in accordance with 43 CFR 1822.1–2.

William J. Harkenrider, Jr.,

Area Manager, Las Cruces/Lordsburg Resource Area.

[FR Doc. 83-24478 Filed 9-7-83; 8:45 am]

BILLING CODE 4310-84-M

San Juan River Basin Coal Production Region; Meeting Amendment

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Amendment to meeting announcement.

SUMMARY: The **Federal Register** dated Wednesday, August 17, 1983, Vol. 48, No. 160, page 37308, announced that the Ah-shi-sle-pah Preference Right Lease Application (PRLA) Exchange Subgroup would discuss comments on the draft report on September 30, 1983. Because the Ah-shi-sle-pah report is scheduled for completion on September 30, 1983, the meeting at which the subgroup will discuss comments on the draft report will occur on September 15, 1983. The public is invited to attend this meeting.

DATE: The meeting is scheduled for September 15, 1983, at 1 p.m.

ADDRESS: The Ah-shi-sle-pah subgroup meeting will take place in the conference room at the New Mexico Energy and Minerals Department, 525 Camino de los Marquez, Santa Fe, New Mexico.

FOR FURTHER INFORMATION CONTACT: Joseph Sovcik, Subgroup Chairman, BLM, Santa Fe, New Mexico 87501, telephone number (505) 988-6565.

Persons planning to attend this meeting should verify the time and location by calling Mr. Sovcik on the day before the scheduled meeting.

Charles W. Luscher,

State Director.

[FR Doc. 83-24480 Filed 9-7-83; 8:45 am]

BILLING CODE 4310-84-M

[A-18453]

Public Lands Exchange; Mohave County, Arizona

Correction

On page 35176 in the issue of Wednesday, August 3, 1983 make the following corrections:

1. On page 35176, column one, line fourteen from the bottom, "Sec. 19: NW¼." should read "Sec. 19: NW½.".

2. On page 35176, column one, line two from the bottom, "Sec. 25, NW¼;" should read "Sec. 25, NW½;".

3. On page 35176, column two, line one, "Sec. 35, NW¼." should read "Sec. 35, NW½.".

4. On page 35176, column two, line six, NW¼" should read "NW½".

5. On page 35176, column three, seven lines from the bottom, the document number should read.

"FR Doc. 83-20979".

BILLING CODE 1505-01-M

Fish and Wildlife Service

Endangered Species Permit; Receipt of Applications

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT 2-10916
Applicant: Smithsonian Institution, Washington, D.C.

The applicant requests a permit to import skull parts of one leopard (*Panthera pardus*), two seledang (*Bos gaurus*), and two Indian rhinoceros (*Rhinoceros uniceros*), from the Department of National Parks and Wildlife Conservation, Nepal, for scientific research.

PRT 2-11024
Applicant: Florida State Museum, Gainesville, FL

The applicant requests a permit to import skulls of broad snouted caiman (*Caiman latirostris*) for scientific research.

PRT 2-10746
Applicant: University of Hawaii Laboratory Animal Service, Honolulu, HI

The applicant requests a permit to export on captive-born male white-handed gibbon (*Hylobates lar*) to the Calgary Zoo, Alberta, Canada, for enhancement of propagation.

PRT 2-9392
Applicant: Jonathan R. Reed, Madison, WI

The applicant requests an amendment to his permit to take (harass) five additional fledging Hawaiian dark-rumped petrels (*Pterodroma phaeopygia*) turned in to Shearwater aid stations for scientific research; he presently has a permit to take five.

PRT 2-10994
Applicant: New York Zoological Society, Bronx, NY

The applicant requests a permit to import two captive-born white-naped cranes (*Grus vipio*) from Hong Kong Zoological Gardens, Hong Kong, for enhancement of propagation and survival.

PRT 2-10995
Applicant: New York Zoological Society, Bronx, NY.

The applicant requests a permit to import one captive-born male pudu (*Pudu pudu*) from Royal Rotterdam Zoo, The Netherlands, for enhancement of propagation and survival.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 N. Glebe Rd., Arlington, Virginia, or by writing to the U.S. Fish & Wildlife Service, WPO, P.O. Box 3654, Arlington, VA 22203.

Interested persons may comment on these applications within 30 days of the date of this publication by submitting written data, views, or arguments to the above address. Please refer to the file number when submitting comments.

Dated: September 2, 1983.

R. K. Robinson,

Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.

[FR Doc. 83-24540 Filed 9-7-83; 8:45 am]

BILLING CODE 4310-55-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

[Redelegation of Authority No. 99.1.208]

Director, East Africa, Regional Economic Development Services Office; Redelegation of Authority Regarding Contraction Functions

Pursuant to the authority delegated to me as Director, Office of Contract Management, under the Redelegation of Authority No. 99.1, from the Assistant to the Administrator for Management, dated May, 1, 1973 (38 FR 12836), I hereby redelegate to the Director, East Africa Regional Economic Development Services Office, the authority to sign the following documents up to an amount of Five Million Dollars ($5,000,000) (or local currency equivalent) per transaction:

(1) U.S. Government contracts, grants (other than grants to foreign governments or agencies thereof), inter-agency service agreements (IASAs) between A.I.D. and other U.S. Government agencies, cooperative agreements, and amendments thereto.

(2) To make findings and determinations with respect to advance payments to nonprofit organizations that collect no fee for services including those financed by Federal Reserve letters of credit, and to approve the contract, cooperative agreement, and grant provisions relating to such advance payments.

(3) To approve advances under nonpersonal services contracts with individuals.

The authorities herein delegated in (1) and (2) above may be redelegated in writing, in whole or in part, by said Regional Director as follows:

(1) Basic contracting authority up to $100,000 and authority up to $300,000 for personal services contracts may be redelegated at the Regional Director's discretion; and

(2) Basic contracting authority over $100,000 and the authority over $300,000 for personal services contracts may be redelegated with the prior concurrence of the Director, Office of Contract Management (except that such prior concurrence is not required in the case of a redelegation to the Regional Director's principal deputy).

The authority delegated in (3) above is only redelegable with prior concurrence from the Office of Contract Management. Such redelegations shall remain in effect until revoked by the Regional Director, or upon advice from the Director, Office of Contract Management that his concurrence in a redelegation is withdrawn, whichever shall first occur. The authorities delegated herein are to be exercised in accordance with regulations, procedures, and policies promulgated within A.I.D. and in effect at the time this authority is exercised and is not in derogation of the authority of the Director, Office of Contract Management, to exercise any of the functions herein redelegated.

The authorities herein delegated to the Regional Director may be exercised by duly authorized persons who are performing the functions of the Regional Director in an acting capacity.

Redelegation of Authority No. 99.1.81 (41 FR 48171 and 48172) dated October 18, 1976, as amended, is hereby revoked.

Any official actions taken prior to the effective date hereto by officers duly authorized pursuant to the redelegation revoked hereunder are hereby continued in effect, according to their terms, until modified, revoked, or superseded by action of the officer to whom I have delegated relevant authority in this redelegation.

This redelegation of authority is effective on the date of signature.

Dated: August 26, 1983.

Francis J. Moncada,

Acting Director, Office of Contract Management.

[FR Doc. 83-24481 Filed 9-7-83; 8:45 am]

BILLING CODE 8116-01-M

[Redelegation of Authority No. 99.1.207]

Director, West Africa, Regional Economic Development Services Office; Redelegation of Authority Regarding Contracting Function

Pursuant to the authority delegated to me as Director, Office of Contract Management, under the Redelegation of Authority No. 99.1, from the Assistanct to the Administrator for Management, dated May 1, 1973 (38 FR 12836), I hereby redelegate to the Director, West Africa Regional Economic Development Services Office, the authority to sign the following documents up to an amount of Five Million Dollars ($5,000,000) (or local currency equivalent) per transaction:

(1) U.S. Government contracts, grants (other than grants to foreign governments or agencies therof), interagency service agreements (IASAs) between A.I.D. and other U.S. Government agencies, cooperative agreements, and amendments thereto.

(2) To made findings and determinations with respect to advance payments to monprofit organizations that collect no fee for services including those financed by Federal Reserve letters of credit, and to approve the contract, cooperative agreement, and grant provisions relating to such advance payments.

(3) To approve advances under nonpersonal services contracts with individuals.

The authorities herein delegated in (1) and (2) above may be redelegated in writing, in whole or in part, by said Regional Director as follows:

(1) Basic contracting authority up to $100,000 and authority up to $300,000 for personal services contracts may be redelegated at the Regional Director's discretion; and

(2) Basic contracting authority over $100,000 and the authority over $300,000 for personal services contracts may be redelegated with the prior concurrence of the Director, Office of Contract Management (except that such prior concurrence is not required in the case of a redelegation to the Regional Director's principal deputy).

The authority delegated in (3) above is only redelegable with prior concurrence from the Office of Contract Management. Such redelegations shall remain in effect until revoked by the Regional Director, or upon advice from the Director, Office of Contract Management that his concurrence in a redelegation is withdrawn, whichever shall first occur.

The authorities delegated herein are to be exercised in accordance with regulations, procedures, and policies promulgated within A.I.D. and in effect at the time this authority is exercised and is not in derogation of the authority of the Director, Office of Contract Management, to exercise any of the functions herein redelegated.

The authorities herein delegated to the Regional Director may be exercised by duly authorized persons who are performing the functions of the Regional Director in an acting capacity.

Redelegation of Authority No. 99.1.5 (38 FR 2194) dated July 30, 1973, as ameneded, is hereby revoked.

Any official actions taken prior to the effective date hereto by officers duly authorized pursuant to the redelegation revoked hereunder are hereby continued ineffect, according to their terms, until modified, revoked, or superseded by action of the officer to whom I have delegated relevant authority in this redelegation.

This redelegation of authority is effective on the date of signature.

Dated: August 26, 1983.

Francis J. Moncada,

Acting Director, Office of Contract Management.

[FR Doc. 83-24482 Filed 9-7-83; 8:45 am]

BILLING CODE 8116-01-M

INTERNATIONAL TRADE COMMISSION

Appointment of Individuals To Serve as Members of Performance Review Boards

AGENCY: International Trade Commission.

ACTION: Appointment of individuals to serve as members of Performance Review Boards.

SUPPLEMENTARY INFORMATION: The Chairman of the U.S. International Trade Commission has appointed the following individuals to serve on the Commission's Performance Review Board (PRB).

Acting Chairman of PRB—Commissioner Paula Stern
Member—Commissioner Veronica A. Haggart
Member—Commissioner Seeley G. Lodwick
Member—Charles W. Ervin
Member—E. William Fry
Member—Lorin L. Goodrich
Member—Norris A. Lynch
Member—Eugene A. Rosengarden
Member—Michael H. Stein
Member—John W. Suomela

Notice of these appointments is being published in the **Federal Register** pursuant to the requirement of 5 U.S.C. 4314(c)(4).

FOR FURTHER INFORMATION CONTACT: Terry P. McGowan, Director of Personnel, U.S. International Trade Commission, (202) 523-0182.

Issued: August 29, 1983.

Kenneth R. Mason,

Secretary.

By order of the Chairman.

Alfred E. Eckes.

[FR Doc. 83-24583 Filed 9-7-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-111 (Final)]

Bicycles From Taiwan, Determination

Determination

On the basis of the record [1] developed in investigation No. 731-TA-111 (Final), the Commission determines, [2] pursuant to sections 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673(b)), that an industry in the United States is not materially injured, is not threatened with material injury, and that the establishment of an industry in the United States is not materially retarded, by reason of imports of bicycles from Taiwan, provided for in items 732.02 through 732.26, inclusive, of the Tariff Schedules of the United States, which have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted this final investigation, effective April 29, 1983, following a preliminary determination by the Department of Commerce that imports of bicycles from Taiwan are likely being sold at LTFV. Commerce's preliminary affirmative LTFV determination was published in the **Federal Register** of April 29, 1983 (48 FR 19439).

Notice of the institution of the Commission's investigation and of the public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the **Federal Register** of May 25, 1983 (48 FR 23488). The hearing was held in Washington, D.C. on July 26, 1983, and all persons who requested the opportunity were permitted to appear in person or through counsel. The Commission's determination in this investigation was made in an open "Government in the Sunshine" meeting, held on August 17, 1983.

On September 24, 1982, petitions were filed with the Commission and with the U.S. Department of Commerce by counsel for AMF, Wheel Goods Division (now Roadmaster Corp.), Columbia Manufacturing Co., [1] Huffy Corp., and Murray Ohio Manufacturing Co., individually, and as members of the Bicycle Manufacturers Association of America, Inc., alleging that bicycles from the Republic of Korea (Korea) and Taiwan were being, or were likely to be, sold in the United States at LTFV. Accordingly, on September 27, 1982, the Commission instituted investigations Nos. 731-TA-110 and 731-TA-111 (Preliminary) under section 733(a) of the Tariff Act of 1930 to determine whether there was a reasonable indication that an industry in the United States was materially injured, or was threatened with material injury, or the establishment of an industry in the United States was materially retarded, by reason of imports from Korea or Taiwan of bicycles provided for in TSUS items 732.02 through 732.26.

On November 8, 1982, the Commission notified the Commerce Department of its negative determination with respect to its preliminary investigation on imports of bicycles from Korea and of its affirmative determination with respect to its preliminary investigation of imports from Taiwan. Notice of the Commission's preliminary determination was published in the **Federal Register** on November 17, 1982 (47 FR 51618). As a result, Commerce terminated its investigation into alleged LTFV sales of bicycles from Korea and continued its investigation into alleged LTFV sales of bicycles from Taiwan. Commerce's final determination with respect to LTFV imports from Taiwan was published in the **Federal Register** of July 11, 1983 (48 FR 31688).

The Commission transmitted its report on this investigation to the Secretary of Commerce on August 29, 1983. A public version of the Commission's report, Bicycles from Taiwan (investigation No. 731-TA-111 (Final)), USITC Publication 1417, contains the views of the Commission and information developed during the investigation.

Issued: August 29, 1983.

By order of the Commission:

Kenneth R. Mason,

Secretary.

[FR Doc. 83-24564 Filed 9-7-83; 8:45 am]

BILLING CODE 7020-02-M

[1] The "record" is defined in section 207.2(i) of the Commission's *Rules of Practice and Procedure* (19 U.S.C. § 207.2(i)).

[2] Commissioner Seely Lodwick, who received his oath of office on August 12, 1983, did not participate.

[1] Columbia Manufacturing Co. has since withdrawn its support for the petition.

[Investigation No. 337-TA-130]

Certain Caulking Guns; Determination Not To Review Initial Determination Terminating Respondent

AGENCY: International Trade Commission.

ACTION: The commission has determined not to review an initial determination (I.D.) (Order No. 30) to terminate this investigation as to respondent Macklanburg-Duncan Co. Accordingly, the I.D. has become the Commission's determination as to this matter.

Authority: 19 U.S.C. 1337, 47 FR 25134, June 10, 1982, and 8 FR 20225, May 5, 1983 (to be codified at 19 CFR 210.53 (c) and (h)).

SUPPLEMENTARY INFORMATION: Notice of the I.D. was published in the **Federal Register** of August 11, 1983, 48 FR 36534. The Commission has received neither a petition for review of the I.D. nor comments from the public or other Government agencies.

FOR FURTHER INFORMATION CONTACT: William D. Perry, Esq., Office of the General Counsel, telephone 202-523-0350.

By order of the Commission.

Issued: September 2, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-24561 Filed 9-7-83; 8:45 am]

BILLING CODE 7020-01-M

[Investigation No. 337-TA-141]

Certain Copper-Clad Stainless Steel Cookware; Determination Not To Review Initial Determination Terminating Respondent

AGENCY: International Trade Commission.

ACTION: The Commission has determined not to review an initial determination (I.D.) (Order No. 55) to terminate this investigation as to respondent Fingerhut Corp. Accordingly, the I.D. has become the Commission's determination as to this matter.

Authority: 19 U.S.C. 1337, 47 FR 25134, June 10, 1982, and 48 FR 20225, May 5, 1983 (to be codified at 19 CFR 210.53 (c) and (h)).

SUPPLEMENTARY INFORMATION: Notice of the I.D. was published in the **Federal Register** of August 11, 1983, 48 FR 36535. The Commission has received neither a petition for review of the I.D. nor comments from the public or other Government agencies. A modification to the settlement agreement was filed on August 17, 1983.

FOR FURTHER INFORMATION CONTACT: Jack Simmons, Esq., Office of the General Counsel, telephone 202–523–0493.

By order of the Commission.

Issued: September 1, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-24580 Filed 9-7-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337–TA–142]

Certain Electronic Chromatogram Analyzers and Components Thereof; Initial Determination Terminating Respondents on the Basis of Settlement Agreement

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondents on the basis of a settlement agreement: Laboratorium Prof. Dr. Berthold and Berthold Instruments, Inc.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on September 2, 1983.

Copies of the initial determination, the settlement agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

Written comments: Interested persons may file written comments with the Commission concerning termination of the aforementioned respondents. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, D.C. 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202–523–0176.

By order of the Commission.

Issued: September 2, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-24582 Filed 9-7-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-138 (Preliminary)]

Certain Rectangular Welded Carbon Steel Pipes and Tubes From the Republic of Korea; Determinations

Determinations

On the basis of the record [1] developed in the subject investigation, the Commission determines,[2] pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from the Republic of Korea (Korea) of welded carbon steel pipes and tubes, of rectangular (including square) cross section, having a wall thickness not less than 0.156 inch, provided for in item 610.3955 of the Tariff Schedules of the United States Annotated (1983) (TSUSA), which are alleged to be sold in the United States at less than fair value (LTFV).

The Commission further determines that there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury,[3] [4] by reason of imports from Korea of welded carbon steel pipes and tubes, of rectangular (including square) cross section, having a wall thickness less than 0.156 inch, provided for in item 610.4975 of the TSUSA, which are alleged to be sold at LTFV.

Background

On July 14, 1983, counsel for the Committee on Pipe and Tube Imports (CPTI) filed a petition with the U.S. International Trade Commission and the U.S. Department of Commerce alleging that an industry in the United States is materially injured or is threatened with material injury, by reason of imports from Korea of certain rectangular welded carbon steel pipes and tubes which are allegedly being sold at LTFV. Accordingly, effective July 14, 1983, the Commission instituted a preliminary antidumping investigation under section 733(a) of the Act (19 U.S.C. 1673b(a)).

Notice of the institution of the Commission's investigation and of a conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the **Federal Register** on July 20, 1983 (48 FR 33063). The conference was held in Washington, D.C. on August 4, 1983, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its report on the investigation to the Secretary of Commerce on August 29, 1983. A public version of the Commission's report, *Certain Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Korea* (investigation No. 731–TA–138 (Preliminary), USITC Publication 1418, 1983), contains the views of the Commission and information developed during the investigation.

Issued: August 29, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-24586 Filed 9-7-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731–TA–143 (Preliminary)]

Certain Spindle Belting From the Netherlands; Termination of Preliminary Antidumping Investigation

AGENCY: United States International Trade Commission.

ACTION: Termination of preliminary antidumping investigation.

EFFECTIVE DATE: August 29, 1983.

SUMMARY: On August 4, 1983, the Commission instituted preliminary antidumping investigations under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from the Federal Republic of

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[1] The record is defined in sec. 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(i)).

[2] Chairman Eckes and Commissioner Stern dissenting.

[3] Commissioners Haggart and Lodwick determine only that there is a reasonable indication of material injury, and therefore do not reach the issue of reasonable indication of threat of material injury.

[4] Chairman Eckes determines that there is a reasonable indication of threat of material injury.

Germany, Italy, Japan, the Netherlands, and Switzerland of certain spindle belting (specifically, belting, of man-made fibers, or of such fibers and rubber or plastics, all the foregoing designed for use on spindles and coated, filled, or laminated with rubber or plastics, provided for in items 358.14 and 358.16 of the Tariff Schedules of the United States), which are alleged to be sold in the United States at less than fair value (see 48 FR 38677, August 12, 1983). These investigations were instituted in response to a petition filed by Barber Manufacturing Co., a domestic producer of spindle belting. On August 18, 1983, however, Barber Manufacturing amended its petition so as to omit the allegation concerning imports from the Netherlands. Accordingly, on August 24, 1983, the Department of Commerce instituted antidumping investigations only with respect to imports of certain spindle belting from the Federal Republic of German, Italy, Japan, and Switzerland. Therefore, pursuant to § 207.14 of its Rules of Practice and Procedure (19 CFR 207.14), the Commission hereby gives notice of the termination of preliminary antidumping investigations No. 731–TA–143 (Preliminary), concerning certain spindle belting from the Netherlands.

FOR FURTHER INFORMATION CONTRACT: Mr. Lawrence Rausch, Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0286.

Issued: August 30, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–24566 Filed 9–7–83; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–141]

Certain Copper-Clad Stainless Steel Cookware; Commission Determination Not To Review Initial Determination Terminating Respondent

AGENCY: International Trade Commission.

ACTION: The Commission has determined not to review an initial determination (I.D.) (Order No. 56) to terminate this investigation as to respondent Zayre Corporation. Accordingly, the I.D. has become the Commission's determination as to this matter.

Authority: 19 U.S.C. 1337, 47 FR 25134, June 10, 1982, and 48 FR 20225, May 5, 1983 (to be codified at 19 CFR 210.53(c) and (h)).

SUPPLEMENTARY INFORMATION: Notice of the I.D. was published in the **Federal Register** of August 12, 1983, 48 FR 36676. The Commission has received neither a petition for review of the I.D. nor comments from the public or other Government agencies.

FOR FURTHER INFORMATION CONTRACT: Jack Simmons, Esq., Office of the General Counsel, telephone 202–523–0493.

Issued: August 30, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–24554 Filed 9–7–83; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–141]

Certain Copper-Clad Stainless Steel Cookware; Commission Determination Not To Review Initial Determination Terminating Respondent

AGENCY: International Trade Commission.

ACTION: The Commission has determined not to review an initial determination (I.D.) (Order No. 54) to terminate this investigation as to respondent Ken Carter Industries, Inc. Accordingly, the I.D. has become the Commission's determination as to this matter.

Authority: 19 U.S.C. 1337, 47 FR 25134, June 10, 1982, and 48 FR 20225, May 5, 1983 (to be codified at 19 CFR 210.53(c) and (h)).

SUPPLEMENTARY INFORMATION: Notice of the I.D. was published in the **Federal Register** of August 11, 1983, 48 FR 36535. The Commission has received neither a petition for review of the I.D. nor comments from the public or other Government agencies.

FOR FURTHER INFORMATION CONTACT: Jack Simmons, Esq., Office of the General Counsel, telephone 202–523–0493.

Issued: August 30, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–24555 Filed 9–7–83; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–141]

Certain Copper-Clad Stainless Steel Cookware; Commission Determination Not To Review Initial Determination Terminating Respondent

AGENCY: International Trade Commission.

ACTION: The Commission has determined not to review an initial determination (I.D.) (Order No. 52) to terminate this investigation as to respondent Dajere, Inc. Accordingly, the I.D. has become the Commission's determination as to this matter.

Authority: 19 U.S.C. 1337, 47 FR 25134, June 10, 1982, and 48 FR 20225, May 5, 1983 (to be codified at 19 CFR 210.53 (c) and (h)).

SUPPLEMENTARY INFORMATION: Notice of the I.D. was published in the **Federal Register** of August 10, 1983, 48 FR 36347. The Commission has received neither a petition for review of the I.D. nor comments from the public or other Government agencies.

FOR FURTHER INFORMATION CONTACT: Jack Simmons, Esq., Office of the General Counsel, telephone 202–523–0493.

Issued: August 30, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–24558 Filed 9–7–83; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337 TA–141]

Certain Copper-Clad Stainless Steel Cookware; Commission Determination Not To Review Initial Determination Terminating Respondent

AGENCY: International Trade Commission.

ACTION: The Commission has determined not to review an initial determination (I.D.) (Order No. 51) to terminate this investigation as to respondent Davidcraft Corp. Accordingly, the I.D. has become the Commission's determination as to this matter.

Authority: 19 U.S.C. 1337, 47 FR 25134, June 10, 1982, and 48 FR 20225, May 5, 1983 (to be codified at 19 CFR 210.53(c) and (h)).

SUPPLEMENTARY INFORMATION: Notice of the I.D. was published in the **Federal Register** of August 8, 1983, 48 FR 36010. The Commission has received neither a petition for review of the I.D. nor comments from the public or other Government agencies.

FOR FURTHER INFORMATION CONTACT: Jack Simmons, Esq., Office of the General Counsel, telephone 202–523–0493.

Issued: August 30, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–24557 Filed 9–7–83; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337-TA-141]

Certain Copper-Clad Stainless Steel Cookware; Commission Determination Not To Review Initial Determination Terminating Respondents

AGENCY: International Trade Commission.

ACTION: The Commission has determined not to review an initial determination (I.D.) (Order No. 50) to terminate this investigation as to respondents Hanover House Industries and Horn & Hardart Co. Accordingly, the I.D. has become the Commission's determination as to this matter.

Authority: 19 U.S.C. 1337, 47 FR 25134, June 10, 1982, and 48 FR 20225, May 5, 1983 (to be codified at 19 CFR 210.53 (c) and (h)).

SUPPLEMENTARY INFORMATION: Notice of the I.D. was published in the **Federal Register** of August 8, 1983, 48 FR 36010. The Commission has received neither a petition for review of the I.D. nor comments from the public or other Government agencies.

FOR FURTHER INFORMATION CONTACT: Jack Simmons, Esq., Office of the General Counsel, telephone 202-523-0493.

Issued: August 30, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-24558 Filed 9-7-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-144]

Certain Direct Current Brushless Axial Flow Fans; Prehearing Conference and Hearing

Notice is hereby given that a prehearing conference will be held in this case at 9:00 a.m. on October 3, 1983, in Room 201, the Waterfront Center, 1010 Wisconsin Avenue, N.W., Washington, D.C., and the hearing will commence immediately thereafter.

The purpose of the prehearing conference is to hear argument on objections to exhibits, to get as many exhibits as possible into the record before the hearing starts, and to discuss any questions raised by the parties relating to the hearing.

The Secretary shall publish this notice in the **Federal Register.**

Issued: August 30, 1983.

Janet D. Saxon,

Administrative Law Judge.

[FR Doc. 83-24559 Filed 9-7-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-157]

Certain Office Desk Accessories and Related Products; Prehearing Conference and Hearing

Notice is hereby given that a prehearing conference will be held in this case at 9:00 a.m. on October 24, 1983, in Room 201, the Waterfront Center, 1010 Wisconsin Avenue, NW., Washington, D.C., and the hearing on temporary relief will commence immediately thereafter.

The purpose of the prehearing conference is to hear argument on objections to exhibits, to get as many exhibits as possible into the record before the hearing starts, and to discuss any questions raised by the parties relating to the hearing.

The Secretary shall publish this notice in the **Federal Register.**

Issued: August 30, 1983.

Janet D. Saxon,

Administrative Law Judge.

[FR Doc. 83-24550 Filed 9-7-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 377-TA-147]

Certain Papermaking Machines Forming Sections for the Continuous Production of Paper and Components Thereof; Prehearing Conference and Hearing

Notice is hereby given that a prehearing conference will be held in this case at 9:00 a.m. on November 28, 1983, in Room 201, the Waterfront Center, 1010 Wisconsin Avenue, N.W., Washington, D.C., and the hearing will commence immediately thereafter.

The purpose of the prehearing conference is to hear agrument on objections to exhibits, to get as many exhibits as possible into the record before the hearing starts, and to discuss any questions raised by the parties relating to the hearing.

The Secretary shall publish this notice in the **Federal Register.**

Issued: August 30, 1983.

Janet D. Saxon,

Administrative Law Judge.

[FR Doc. 83-24552 Filed 9-7-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-147]

Certain Papermaking Machine Forming Sections for the Continuous Production of Paper and Components Thereof; Change of the Commission Investigative Attorney

Notice is hereby given that, as of this date, Denise DiPersio, Esq., of the Unfair Import Investigations Division will be the Commission investigative attorney in the above-cited investigation instead of Arthur Wineburg, Esq.

The Secretary is requested to publish this Notice in the **Federal Register.**

Dated: August 31, 1983.

David I. Wilson,

Chief, Unfair Import Investigations Division.

[FR Doc. 83-24553 Filed 9-7-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-145]

Certain Rotary Wheel Printers; Change of the Commission Investigative Attorney

Notice is hereby given that, as of this date, Denise DiPersio, Esq., of the Unfair Import Investigations Division will be the Commission investigative attorney in the above-cited investigation instead of Arthur Wineburg, Esq.

The Secretary is requested to publish this Notice in the **Federal Register.**

Dated: August 31, 1983.

David I. Wilson,

Chief, Unfair Import Investigations Division.

[FR Doc. 83-24551 Filed 9-7-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-161]

Certain Trolley Wheel Assemblies; Order No. 1

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Donald K. Duvall as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the **Federal Register.**

Issued: August 26, 1983.

Donald K. Duvall,

Chief Administrative Law Judge.

[FR Doc. 83-24549 Filed 9-7-83; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

Agricultural Cooperative Notice to the Commission of Intent To Perform Interstate Transportation for Certain Nonmembers

September 2, 1983.

The following Notices were filed in accordance with section 10526 (a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform

nonmember, nonexempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change.

The name and address of the agricultural cooperative (1) and (2), the location of the records (3), and the name and address of the person to whom inquiries and correspondence should be addressed (4), are published here for interested persons. Submission of information which could have bearing upon the propriety of a filing should be directed to the Commission's Office of Compliance and Consumer Assistance, Washington, D.C. 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C.

(1) Mid-America Farm Lines, Inc.

(2) 420 North Nettleton, Springfield, MO 65802.

(3) 420 North Nettleton, Springfield, MO 65802.

(4) Gary Hanman, 800 West Tampa, Springfield, MO 65805.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-24492 Filed 9-7-83; 8:45 am]

BILLING CODE 7035-01-M

Forms Under Review by Office of Management and Budget

The following proposal for collection of information under the provisions of the Paperwork Reduction Act (44) U.S.C. Chapter 35) is being submitted to the Office of Management and Budget for review and approval. Copies of the forms and supporting documents may be obtained from the Agency Clearance Officer, Lee Campbell (202) 275-7238. Comments regarding this information collection should be addressed to Lee Campbell, Interstate Commerce Commission, Room 1325, 12th and Constitution Ave. NW., Washington, D.C. 20423 and to Gary Waxman, Office of Management and Budget, Room 3001 NEOB, Washington, D.C. 20503, (202) 395-7313.

Type of Clearance: Extension
Bureau/Office: Office of Transportation Analysis
Title of Form: Minority Carrier Survey
OMB Form No.: 3120-0050
Agency Form No.: OPA 81-1
Frequency: Annually
Respondents: Minority & Female Owned Firms
No. of Respondents: 36
Total Burden Hrs.: 3

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-24536 Filed 9-7-83; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. MC-43]

Lease and Interchange of Vehicles by Motor Carriers

Decided: August 30, 1983.

Bestway Expediting, Inc., MC-157459, and Lewis C. Howard, Inc., petition for waiver of Section 1057.4(a)(3) of the *Lease and Interchange of Vehicle* regulations (49 CFR Part 1057).

We Find:

In Docket No. MC-FC-81375, certificate MC-157459, formerly held by Lewis C. Howard, Inc. (Howard), was transferred to Bestway Expediting, Inc. (Bestway). Howard currently holds only intrastate authority.

Bestway and Howard are commonly owned by the same family of shareholders. Further, petitioners maintain a commonly administered safety program. They also share a common terminal facility in Kalamazoo, Michigan.

Although the petition refers to a desire to interchange equipment, it was determined that the petitioners need is to trip-lease equipment between the two companies enabling a more economical operation with substantial savings in deadhead mileage and fuel. The petition requests waiver of Section 1057.4(a)(3) which identifies the former regulation requiring that equipment leases have a minimum duration of 30 days. The corresponding current regulation is designated as Section 1057.12(c).

Since petitioners are not both carriers authorized to conduct interstate transportation, the leasing regulations of Sections 1057.11 and 1057.12 are applicable. However, since common ownership exists between the two carriers, the need to retain the protective provisions of those regulations is minimized.

The practice of the Commission has been to grant waivers of leasing regulations found burdensome where common ownership does exist. Thus in keeping with the Commission's responsibility to eliminate unnecessary regulations which prove burdensome, we will waive the normally applicable 30-day minimum lease requirement as it relates to the exchange of equipment between the petitioners only. Any other leasing will be subject to the applicable leasing regulations without exception.

It is Ordered:

The petition of Bestway Expediting, Inc., MC-157459, and Lewis C. Howard, Inc., for waiver of the regulation requiring that leases have a minimum duration of 30 days, is granted by the waiver of Section 1057.12(c) of the *Lease and Interchange of Vehicles* regulations (49 CFR Part 1057) when equipment is exchanged between Bestway Expediting, Inc., and Lewis C. Howard, Inc.

By the Motor Carrier Leasing Board, Board Members, J. Warren McFarland, Bernard Gaillard, and John H. O'Brien.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-24537 Filed 9-7-83; 8:45 am]

BILLING CODE 7035-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Theater Advisory Panel (Overview); Change of Location

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Theater Advisory Panel (Overview) to the National Council on the Arts Document #83-22953 published August 22, 1983 (48 FR 38118) will be held on September 13, 1983, from 9:00 a.m.-5:30 p.m. in room 106 of the River Inn, 924 25th Street, NW., Washington, D.C.

This meeting will be open to the public on a space available basis. The topic for discussion will be Guidelines and Multi-Year Plan.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682-5433.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

September 2, 1983.

[FR Doc. 83-24529 Filed 9-7-83; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee on Waste Management; Change

The ACRS Subcommittee on Waste Management scheduled for September 9, 1983 has been extended to September 8 and 9, 1983, at the Hanford House Thunderbird, 802 George Washington Way, Richland, WA.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Thursday, September 8, 1983—5:00 p.m. until 10:00 p.m.

Friday, September 9, 1983—8:00 a.m. until 12:00 noon.

The Subcommittee will continue its review of the basalt waste isolation project at the Hanford site and possibly review the DOE's site characterization plan for the proposed site if it is available by then.

All other items regarding this meeting remain the same as announced in the **Federal Register** published Monday, August 22, 1983 (48 FR 38123).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Ms. R. C. Tang (telephone 202/634–1414) between 8:15 a.m. and 5:00 p.m., e.d.t.

Dated: September 2, 1983.

Samuel J. Chilk,

Acting Advisory Committee Management Officer.

[FR Doc. 83–24559 Filed 9–7–83; 8:45 am]

BILLING CODE 7590–01–M

Applications for Licenses To Export Nuclear Facilities or Materials

Pursuant to 10 CFR 110.70(b) "Public notice of receipt of an application", please take notice that the Nuclear Regulatory Commission has received the following applications for export licenses. A copy of each application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, NW., Washington, D.C.

A request for a hearing or petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register**. Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, The Secretary, U.S. Nuclear Regulatory Commission and the Executive Secretary, Department of State, Washington, D.C. 20520.

In its review of applications for licenses to export production or utilization facilities, special nuclear material or source material, noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the facility or material to be exported. The table below lists all new major applications.

Dated this 31 day of August at Bethesda, Maryland.

For the Nuclear Regulatory Commission.

James V. Zimmerman,

Assistant Director Export/Import and International Safeguards Office of International Programs.

Applicant, date of application, date received, application No.	Material in kilograms or reactor type and power	Enrichment (percent)	End-use	Country of destination
Westinghouse Electric Co., Aug. 11, 1983, Aug. 15, 1983, XR–144.	950 MWe, PWR reactor, El Dabaa Unit I			Egypt.
Westinghouse Electric Co., July 28, 1983, Aug. 15, 1983, XSNM02088.	286,500 11,460	4	Initial core and 10 reloads for El Dabaa Unit I	Egypt.

[FR Doc. 83–24563 Filed 9–7–83; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–329 and 50–330; Construction Permit Nos. CPPR–81 and CPPR–82, EA 83–03]

Consumers Power Co. (Midland Energy Center); Order Imposing Civil Monetary Penalties

I

Consumers Power Company (the "licensee") is the holder of Construction Permits No. CPPR–81 and No. CPPR–82 (the "permit") issued by the Nuclear Regulatory Commission (the "Commission"). These Construction Permits authorize the construction of the Midland Energy Center near Midland, MI. These Construction Permits were issued on December 15, 1972.

II

As a result of a special inspection of the licensee's facilities by the Nuclear Regulatory Commission's Region III office during the period October 12–November 25, 1982, and on January 19–21, 1983, the NRC Staff determined that a breakdown had occurred in the implementation of the Midland quality assurance program as evidenced by numerous examples of noncompliance with nine of the eighteen criteria as set forth in 10 CFR Part 50, Appendix B.

The breakdown was caused by personnel who failed to follow procedures, drawings, and specifications; by first line supervisors and field engineers who failed to identify and correct unacceptable work; by construction management who failed to call for quality control inspections in a timely manner, and by quality assurance personnel who failed to identify the problems and ensure that corrective actions were taken. The NRC served the licensee a written Notice of Violation and Proposed Imposition of Civil Penalties by letter dated February 8, 1983. The Notice stated the nature of the violations, the Nuclear Regulatory Commission's requirements that were violated, and the amount of civil penalty proposed for each violation. The licensee responded to the Notice of Violation and Proposed Imposition of Civil Penalties with letters dated March 10, June 24, and July 12, 1983.

III

Upon consideration of Consumers Power Company's responses (March 10, June 24, and July 12, 1983) and the statements of fact, explanation, and argument in denial or mitigation contained therein, as set forth in the Appendix to the Order, the Director of the Office of Inspection and Enforcement has determined that the penalties proposed for the violations designated in the Notice of Violation and Proposed Imposition of Civil Penalties should be imposed. However, in view of the $3,500 overpayment made by Consumers Power Company in response to the January 7, 1981 Notice of Violation and Notice of Proposed Imposition of Civil Penalties, the cumulative amount of civil penalties due is reduced from $120,000 to $116,500.

IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2282, Pub. L. 96–295), and 10 CFR 2.205, it is hereby ordered that:

The licensee pay civil penalties in the total amount of One Hundred Sixteen Thousand Five Hundred Dollars within thirty days of the date of this Order, by check, draft, or money order payable to the Treasurer of the United States and mailed to the Director of the Office of Inspection and Enforcement, USNRC, Washington, D.C. 20555.

V

The licensee may within thirty days of the date of this Order request a hearing. A request for a hearing shall be addressed to the Director, Office of Inspection and Enforcement. A copy of the hearing request shall also be sent to the Executive Legal Director, USNRC, Washington, D.C. 20555. If a hearing is requested, the Commission will issue an Order designating the time and place of hearing. Should the licensee fail to request a hearing within thirty days of the date of this Order, the provisions of this Order shall be effective without further proceedings and, if payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the licensee requests a hearing as provided above, the issues to be considered at such a hearing shall be:

(a) whether the licensee was in violation of the Commission's requirements as set forth in the Notice of Violation and Proposed Imposition of Civil Penalties referenced in Section II above, and

(b) whether on the basis of such violations this Order should be sustained.

Dated at Bethesda, Maryland, this 29th day of August 1983.

For the Nuclear Regulatory Commission.

Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

Appendix—Evaluations and Conclusions

The licensee admits violation A occurrred as stated. The licensee also admits violation B occurred, but takes exception with portions of examples B.1.a and B.1.f. Although the licensee admits the two violations, the licensee requests that certain mitigating factors be considered.

The particular portions of Item B of the Notice of Violation (dated February 8, 1983), which were denied by the licensee, are restated below. The Office of Inspection and Enforcement's evaluation of the licensee's response is presented, followed by conclusions regarding the occurrence of the noncompliance and the proposed civil penalty. In addition, the licensee's request for reduction of civil penalty is summarized below. The Office of Inspection and Enforcement's evaluation of the licensee's request is presented followed by conclusions regarding the proposed civil penalty.

Item B—Statement of Noncompliance

10 CFR 50, Appendix B, Criterion II requires holders of construction permits for nuclear power plants to document, by written policies, procedures, or instructions, a quality assurance program which complies with the requirements of Appendix B for all activities affecting the quality of safety-related structures, systems, and components and to implement that program in accordance with those documents.

Contrary to the above, Consumers Power Company and its contractor did not adequately implement a quality assurance program to comply with the requirements of Appendix B as evidenced by the following examples:

1. 10 CFR 50, Apendix B, Criterion V requires, in part, "Activities affecting quality shall be prescribed by documented instructions, procedures, or drawings of a type appropriate to the circumstances and shall be accomplished in accordance with these instructions, procedures, or drawings."

Consumers Power Quality Assurance Program Policy No. 5, Revision 12, Paragraph 1.0 states, in part, "Instructions for controlling and performing activities affecting quality of equipment or activities such as . . . construction, installation . . . are documented in instructions, procedures . . . and other forms of documents."

Contrary to the above, the following instances of failure to accomplish activities affecting quality in accordance with instructions, procedures, specifications, or drawing requirements were identified:

a. Installation of diesel generator engine control panels 1C111, 1C112, 2C111, and 2C112 was not in accordance with the requirements delineated on foundation Drawing 7220–M18–250 in that the foundation bolt washers required by the subject drawing were not installed.

[Items B.1.b through B.1.e are not restated here.]

f. The inspectors identified various stock steel shapes in the "Q" area with yellow-colored paint on the ends (indicating the material was non "Q") and various steel stock shapes in the non "Q" area without painted ends (indicating "Q" material), contrary to the requirements of Field Instruction FIG–9.600, Revision 1.

[Items B.1.g through B.8 are not restated here.]

Contrary to the above:

a. Measures were not established or implemented to determine if materials ultimately restricted (per Nonconformance Report No. 3286) from installation or use in ASME Class I systems were actually installed or used in Class I systems.

b. As of November 10, 1982, two nonconforming conditions identified by the NRC on October 12, 1982, and confirmed by the licensee on October 19 and 25, respectively, had not been documented on a nonconformance report, a quality assurance report, or other appropriate report. The two nonconforming conditions were:

(1) The diesel generator exhaust hangers were not classified, designed, or built as "Q" as committed to in the FSAR. (See item 2.c.)

(2) The design of diesel generator monorail was not analyzed to seismic Category I design requirements as committed to in the FSAR. (See item 2.d.)

This is a Severity Level III violation (Supplement II) (Civil Penalty]—$60,000)

Licensee's Response to the Violation

The licensee admits that with the exception of portions of examples B.1.a and B.1.f, the violation occurred as stated in the NOV.

NRC Evaluation

Concerning example B.1.a., the licensee contends that since the inspection records for panels 1C–111, 1C–112, 2C–111, and 2C–112 were open with attributes such as washers and torquing not yet inspected, the portion of the noncompliance pertaining to flat washers was not a violation. The licensee's position that open inspection records can negate the failure to install the required flat washers is unacceptable. The philosophy of inspection quality into the job cannot be accepted as a substitute for the philosophy of building quality into the job. The licensee admits the remaining portion of the violation which deals with the omission of bevel washers.

Concerning example B.1.f., the licensee contends that, contrary to the Notice of Violation, all steel in the "Q" area was identified in accordance with procedures. The licensee contends that some manufacturer's marking of this steel led to confusion. At the time of the NRC inspection, the inspectors observed yellow-colored paint on steel in the "Q" area. This condition, as stated in the Notice of Violation, is contrary to the requirements of Field Instruction FIG–9.600, Revision 1. The licensee's contention that this paint was applied by some manufacturers does not mitigate the finding. Site quality control inspections should have detected the nonconforming paint and initiated proper corrective actions. The licensee admits the remaining portion of this violation which deals with the marking of steel in "non-Q" areas.

Conclusion

These violations did occur as originally stated. The information in the licensee's response does not provide a basis for modification of the enforcement action.

Licensee's Request for Reduction of Civil Penalty

The licensee states that it does not contest the validity of the violations and agrees that a civil penalty is warranted, but believes that certain mitigating factors should be considered. Specifically, the licensee believes mitigation is warranted on the basis of its corrective actions.

Evaluation of Licensee's Response

The licensee's corrective actions are recognized as being both comprehensive and far reaching. However, given the nature and severity of the noncompliance identified during the diesel generator building inspection and the history of the quality assurance program implemented at the Midland facility, the actions are not unusually extensive and, under the circumstances, do not warrant mitigation. In addition, we perceive the issuance of nonconformance reports in March 1983 (items

B.1.b., B.1. C., B.1.d., B.1.e., B.1.f., and B.5) for nonconforming conditions identified by the NRC during the period of October 12–November 25, 1982, and January 19–21, 1983, to be indicative of less than prompt corrective action.

Conclusion

The infomation in the licensee's request does not provide a basis for reduction of the proposed civil penalty.

[FR Doc. 83-24586 Filed 9-7-83; 8:45 am]
BILLING CODE 7590-01-M

International Atomic Energy Agency Draft Safety Guide; Availability of Draft for Public Comment

The International Atomic Energy Agency (IAEA) is completing development of a number of internationally acceptable codes of practice and safety guides for nuclear power plants. These codes and guides are in the following five areas: Government Organization, Design, Siting, Operation, and Quality Assurance. All of the codes and most of the proposed safety guides have been completed. The purpose of these codes and guides is to provide guidance to countries beginning nuclear power programs.

The IAEA codes of practice and safety guides are developed in the following way. The IAEA receives and collates relevant existing information used by member countries in a specified safety area. Using this collation as a starting point, an IAEA working group of a few experts develops a preliminary draft of a code or safety guide which is then reviewed and modified by an IAEA Technical Review Committee corresponding to the specified area. The draft code of practice or safety guide is then sent to the IAEA Senior Advisory Group which reviews and modifies as necessary the drafts of all codes and guides prior to their being forwarded to the IAEA Secretariat and thence to the IAEA Member States for comments. Taking into account the comments received from the Member States, the Senior Advisory Group then modifies the draft as necessary to reach agreement before forwarding it to the IAEA Director General with a recommendation that it be accepted.

As part of this program, Safety Guide SG–D13, "Reactor Cooling Systems in Nuclear Power Plants," has been developed. The working group consisting of Mr. G. Ellia from France; Mr. C. N. Bapat from India; Mr. P. C. Dannatt from the United Kingdom; and Mr. W. H. D'Ardenne (General Electric Company) from the U.S.A., developed the initial draft of this guide from an IAEA collation. This draft was subsequently modified by the IAEA Technical Review Committee for Design and the Senior Advisory Group, and we are now soliciting public comment on a modified draft (Rev. 2, dated May 16, 1983). Comments received by the Director, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, by October 21, 1983, will be particularly useful to the U.S. representatives to the Technical Review Committee and the Senior Advisory Group in developing their positions on its adequacy prior to their next IAEA meetings.

Single copies of this draft Safety Guide may be obtained by a written request to the Director, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(5 U.S.C. 522(a))

Dated at Washington, D.C. this 1st day of September 1983.

For the Nuclear Regulatory Commission.

Robert B. Minogue,

Director, Office of Nuclear Regulatory Research.

[FR Doc. 83-24588 Filed 9-7-83; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50–410, Construction Permit No. CPPR–112 and EA 83–16]

Niagara Mohawk Power Corp. (Nine Mile Point, Unit 2); Order Imposing a Civil Monetary Penalty

I

Niagara Mohawk Power Corporation (the "licensee") is the holder of Construction Permit CPPR–112 issued by the Atomic Energy Commission, now the Nuclear Regulatory Commission ("NRC" or "Commission"), which authorizes the licensee to construct Nine Mile Point, Unit 2 in Oswego County, New York. The Construction Permit was issued on June 24, 1974.

II

An inspection of the licensee's activities under the permit was conducted between August 30 and September 30, 1982 at the Nine Mile Point Nuclear Station, Unit 2 in Oswego County, New York. An investigation was also conducted at Nine Mile Point Nuclear Station, Unit 2, on November 1–4, 1982. As a result of the inspection and investigation it appears that the licensee did not conduct its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalty was served upon the licensee by letter dated April 26, 1983.

The Notice states the nature of the violation, the provision of the Nuclear Regulatory Commission requirements which the the licensee had violated, and the amount of civil penalty proposed for the violation. An answer dated June 30, 1983 to the Notice of Violation and Proposed Imposition of Civil Penalty was received from the licensee.

III

Upon consideration of the answer received and the statements of fact, explanation, and argument for mitigation of the proposed civil penalty contained therein, and for the reasons set forth in the Appendix to this Order, the Director of the Office of Inspection and Enforcement has determined that the penalty proposed for the violation designated in the Notice of Violation and Proposed Imposition of Civil Penalty should be imposed.

IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2282, Pub. L. 96–295), and 10 CFR 2.205, it is hereby ordered that:

The licensee pay a civil penalty in the amount of One Hundred Thousand Dollars ($100,000) within thirty days of the date of this Order, by check, draft or money order, payable to the Treasurer of the United States and mailed to the Director of the Office of Inspection and Enforcement, USNRC Washington, D.C. 20555.

V

The licensee may within thirty days of the date of this Order request a hearing. A request for a hearing shall be addressed to the Director, Office of Inspection and Enforcement. A copy of the hearing request shall also be sent to the Executive Legal Director, USNRC, Washington, D.C. 20555. If a hearing is requested, the Commission will issue an Order designating the time and place of hearing. If the licensee fails to request a hearing within thirty days of the date of this Order, the provisions of this Order shall be effective without further proceedings; if payment has not been made by that time, the matter may be referred to the Attorney General for collection. In the event the licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

(a) whether the licensee was in violation of the Commission's requirements as set forth in the Notice of Violation and Proposed Imposition of Civil Penalty referenced in Section II above, and

(b) whether, on the basis of such violations, this Order should be sustained.

Dated at Bethesda, Maryland this 24th day of August 1983.

For the Nuclear Regulatory Commission.

Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

Appendix—Evaluation and Conclusion

The violation and associated civil penalty identified in the NRC's April 28, 1983 Notice of Violation and Proposed Imposition of Civil Penalty is restated, the licensee's response is summarized, and the NRC's evaluation and conclusion regarding the licensee's response are presented in this appendix. The licensee's response was provided in a letter dated June 30, 1983, from Gerald K. Rhode, Senior Vice President, Niagara Mohawk Power Corporation (NMPC), to the Director, Office of Inspection and Enforcement. The NRC staff evaluation and conclusion are based on the June 30, 1983 letter.

Statement of Violation

10 CFR 50, Appendix B requires that each licensee implement a quality assurance program to be applied to the design, fabrication, construction and testing of the structures, systems and components of the facility.

Contrary to the above, the licensee did not comply with the provisions of Appendix B for the period June 1 through September 17, 1982 as evidenced below:

A. Criterion I of Appendix B requires the establishment and execution of a quality assurance program which assures that activities affecting safety-related functions have been correctly performed. Niagara Mohawk Power Corporation's application for a Construction Permit for Unit 2 commits to adherence to ANSI N 45.2.6–1978. This standard requires that each person who verifies the conformance of work activities to quality requirements shall be certified by his employer as being qualified to perform his assigned work, and the period of certification shall be established. ANSI N 45.2.6–1978 also requires a Level I rating classification as a prerequisite for inspecting and accepting safety-related installations. Stone & Webster Engineering Corporation (SWEC) Quality Assurance Directive (QAD) 2.5, Revision F, allows trainees possessing Associate Degrees to be certified as Level I inspectors after a three month training period provided the trainees work under the direct supervision of higher level personnel capable of performing assigned tasks.

However, numerous safety-related electrical installations (involving stud-welding, embedments, supplemental steel, cable, raceways, welding, and raceway supports) were inspected by Stone & Webster personnel classified as trainees with Associate Degrees. Installations inspected by these trainees were accepted by Stone & Webster even though the trainees were not certified because they did not possess the required three months inspection experience.

B. Criterion XVII of Appendix B requires, in part, that sufficient records be maintained to furnish evidence of activities affecting quality.

However, Stone & Webster Level II quality assurance inspectors signed several inspection reports indicating they had performed the inspection when, in fact, the inspections were performed by a trainee. Stone & Webster's first and second line supervision was aware of this practice, but did not take action to discbntinue it.

This is a Severity Level III violation (Supplement II) Civil Penalty—$100,000

Summary of Licensee Response

By letter dated June 30, 1983, the licensee admits that inspections were performed at Nine Mile Point, Unit 2, by uncertified trainees who were not accompanied by Level II inspectors and that the Level II inspectors who were supervising such trainees indicated acceptance of the inspection results by co-signing and initialing inspection reports. The licensee states that the Level II inspectors believed that the trainees were qualified to perform the inspection tasks.

The licensee states that its own investigation, and an investigation by SWEC, revealed that the inspectors were adequately qualified and trained individuals, but were not certified because they had not completed the three month period of working experience. The licensee also indicates that such qualification is evidenced by the fact that all the trainees were subsequently successfully certified upon completion of experience requirements. However, the licensee acknowledges that it was improper to use these trainees to perform inspections.

The licensee claims the false records were the result of misunderstandings in connection with SWEC's FQC procedures rather than intentional falsification of documents, but the licensee acknowledges the seriousness of false records under any circumstances.

The licensee requests reduction of the proposed civil penalty from $100,000 to $40,000, claiming that amount is commensurate with the findings of the investigation as a Severity Level III violation. The licensee provides the following bases for mitigation: (1) The deficiencies noted did not involve inspections which were not performed, attempts to conceal unacceptable work, or misrepresentation of the quality of construction at Nine Mile Point, Unit 2; (2) the reinspection work which was performed demonstrated the problem did not result in construction deficiencies; (3) neither NMPC nor SWEC management, with the exception of the first line supervisor and possibly the second line supervisor, were aware of the existence of these practices prior to NRC investigation, and demonstrates that both NMPC and SWEC management attempted to provide proper direction regarding the manner in which inspections were to be conducted and documented; and (4) the licensee's investigation indicated that the problem was limited to the electrical Field Quality Control group and did not reflect an across-the-board deficiency in NMPC's quality assurance program.

NRC Evaluation of Licensee Response

The NRC staff acknowledges that the trainees who performed the inspections, although not properly certified inspectors, may have been qualified individuals. The staff also recognizes that the practices involving use of trainees and falsifying records were not directed by NMPC or SWEC upper management, but that supervisory involvement was limited to the first and second line supervisors within SWEC. The staff agrees that there was no indication that the violation occurred in any other area except the electrical FQC group. The NRC staff further acknowledges that its inspection and investigation did not indicate that these practices resulted in construction deficiencies.

Nonetheless, the staff maintains that the significant concerns in this case are the facts that: (1) Contractor trainees performed inspections that they were not certified to perform; (2) Level II inspectors signed inspection reports indicating they performed an inspection when in fact the inspection was performed by an uncertified trainee; and (3) the first line (immediate) supervisor was aware of this practice and the evidence indicates that the second line supervisor was also aware of this practice, yet neither supervisor took action to discontinue the practice. Licensees are responsible for assuring that inspections are properly performed by certified individuals, that records of inspections accurately reflect the work inspected and the individual performing that inspection, and that such inspection activities are properly supervised.

Although a $40,000 civil penalty is the base amount for a Severity Level III violation, the staff has determined to impose a civil penalty of $100,000 to emphasize both the seriousness of falsifications, and the seriousness of supervision's awareness of a practice involving falsification and their failure to take action to discontinue this practice.

NRC Conclusion

This violation did occur as originally stated. The violation is appropriately classified at Severity Level III and assessment of a $100,000 civil penalty is appropriate in this case because it involves falsification of records under circumstances where supervision was aware of this practice, and failed to take appropriate action to discontinue it. The information in the licensee's response does not provide a basis for modifying the proposed enforcement action.

[FR Doc. 83–24587 Filed 9–7–83; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF MANAGEMENT AND BUDGET

Amendment to OMB Circular A–125, "Prompt Payment" Opportunity for Comment

AGENCY: Office of Management and Budget.

ACTION: Comment on proposed OMB circular amendment.

SUMMARY: This notice offers interested parties an opportunity to comment on a proposed amendment to OMB Circular A–125, "Prompt Payment." The proposed amendment would provide additional policy guidance to Federal agencies on the proper timing of payments to contractors.

One of the priority issues in the President's Management Improvement Initiative: Reform '88 is cash management. As part of this program, we are reviewing agency practices with regard to payments to vendors and contractors.

Last year, as a Result of enactment of the Prompt Payment Act (Pub. L. 97–177), OMB issued Circular A–125. The Circular provides that generally payment will be made 30 days after receipt of goods and services. Questions have been raised, however, regarding the proper timing of payments made before recepit of goods and services. These payments involve contract financing by the Federal Government and are made by the Government without interest.

The proposed attachment to OMB Circular A–125 will assure recognition of the time value of money in the Government's acquisition/contracting process. It is also intended to assure that the benefits provided to suppliers through early payments result in like benefits to the Government in the form of better prices, improved delivery schedules, or in other considerations. In this regard, it provides a policy bais for the Government to offer contract financing on an optional basis and to consider the time value of money as an award factor. Organizational and procedural changes affecting procuring agencies are proposed to achieve these objectives.

OMB proposes to increase the lower limit thresholds at which contractors are eligible for progress payments. This proposed change would update thresholds that have been in place for nearly 20 years.

The Office of Management and Budget has, as yet, made no final decisions on this proposed Circular. Interested parties are invited to make their concerns known.

Comments should be submitted in duplicate to the Finance and Accounting Division, Office of Management and Budget, Washington, D.C. 20503. All comments should be received within 45 days after publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Mr. William M. Henderson, Finance and Accounting Division, Office of Management and Budget, Washington, D.C. 20503, (202) 395–5193.

Candice C. Bryant,

Deputy Associate Director for Administration.

Circular A–125—to the Heads of Executive Departments and Establishments

Subject: Payment Terms

1. This Attachment establishes standards for assuring that appropriate payment terms are included in all Government contracts. It supplements the guidance provided in paragraph 6, "Payment Standards," of the basic Circular.

2. Generally, payment for goods and services acquired by the Federal Government is made after receipt, inspection, and acceptance of the goods or services. In such cases, payment due dates are determined in accordance with paragraph 7, "Determining Due Dates," of the basic Circular.

3. In other cases, payment may be made before receipt of goods or services. These payments are referred to as progress payments, contract financing, advances, or prepayments. It is important to recognize in these cases that the Government is, in effect, advancing funds to a contractor without interest. While these arrangements may in the best interest of the Government, it is necessary to assure that the benefit to the contractor is reflected in the price of the goods or services acquired, improved contract delivery schedules, or in other consideration.

a. *Time Value of Money in the Acquisition/Contracting Process.*

(1) The time value of money to the Government will be considered in the acquisition/contracting process whenever the contract involves payment terms other than those described in paragraph 2 of this Attachment.

(2) When it is in the Government's interest, contract financing will be offered on an optional basis in invitation for bids and, except for offers from small businesses, the time value of money will be used as a contract award factor. The final comparison of proposed prices will include the appropriate adjustment for the time value of money for those offerors requesting contract financing.

(3) Agencies shall require specific consideration whenever:

—Government contract financing is to be provided.

—Contract financing is added to a contract after award.

—Progress payments are authorized at intervals more frequently than monthly.

—Provision is made in a contract for payment of invoices or bills in less than 30 days, except as required by law or industry practices.

(4) Agencies shall include in the price negotiation memorandum or contract file a statement of the specific consideration received from the contractor and the analysis of how the contracting officer determined that the value of the consideration was at least equal to the increased cost to the Government of the earlier disbursement of funds.

(5) Time value of money calculations shall be based on the interest rate established pursuant to paragraph 4.b. of this Circular.

b. *Change in Progess Payment Liquidation Rates.*

Agencies shall also require specific consideration before authorizing progress payment liquidation rates other than those specified in the contract.

c. *Thresholds for Progress Payments.*

Unless the contractor is a small business concern, agencies generally should not provide for progress payments on contracts of less than $10,000,000, unless the contractor will perform a group of contracts equal in impact to a $10,000,000 contract.

d. *Contract Financing Oversight.*

Each Federal department and agency with major procurement activities shall assign responsibility at the headquarters level for oversight of contract policy and practices. The responsibility shall be shared by the acquistion policy function and financial management policy function. These officials shall review and approve all contract financing arrangements for contracts of $10,000,000 or more and shall be responsible for formulation, revision, and promulgation of uniform contract financing policies. A Contract Finance Office shall be designated to support each operational contracting office.

e. *Payment Methods.*

Agencies shall encourage the use of partial payments in lieu of providing contract financing wherever possible. In resolving any questions concerning the comparative cost to the Government of providing different types of payment methods or contract financing, the contracting officer should consult the appropriate contract finance office.

f. *Collection of Contract Debts*

Contractors should be required to remit debts in excess of $25,000 via electonic funds transfer in accordance with Treasury Department regulations.

4. Where payments are made before receipt of goods or services, and title does not pass, the date of the payment request shall be construed as the invoice

date for purposes of determining due dates, in accordance with paragraph 7, "Determining Due Dates" of the basic Circular.

5. *Implementing Instructions.* Guidelines and instructions for implementing provisions of this Attachment will be set forth in application acquisition regulations within 90 days from date of issuance of this Attachment.

[FR Doc. 83-24587 Filed 9-7-83; 8:45 am]
BILLING CODE 3110-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Investment Policy Advisory Committee; Meeting and Determination of Closing

The meeting of the Investment Policy Advisory Committee (the Advisory Committee) to be held Wednesday, September 14, 1983, from 10:00 a.m. to 12:30 p.m. at the Federal Deposit Insurance Corporation—Executive Dining Room, will involve a review and discussion of current issues involving the investment and trade policies of the United States. The review and discussion will deal with information submitted in confidence by the private sector members of the Committee under Section 135(g)(1)(A) of the Trade Act of 1974, as amended, (the Act); information submitted by government officials under Section 135(g)(2) of the Act the disclosure of which could be reasonably expected to prejudice United States negotiating objectives; information the disclosure of which would be likely to significantly frustrate implementation of proposed government action; and information properly classified pursuant to Executive Order 12356 and specifically required by such Order to be kept secret in the interests of national security (i.e., the conduct of foreign relations) of the United States. All members of the Advisory Committee have all necessary security clearances. Consistent with previous determinations concerning other advisory committees, established under Section 135(c) of the Act, I hereby determine that the meeting of the Advisory Committee will be concerned with matters listed above and with matters listed in Section 552b(c) of Title 5 of the United States Code. Therefore, the meeting of the Investment Policy Advisory Committee will be closed to the public.

More detailed information can be obtained by contacting Phyllis O. Bonanno, Director, Office of Private Sector Liaison, Office of the United States Trade Representative, Executive Office of the President, Washington, D.C. 20506.

William E. Brock,
United States Trade Representative.

[FR Doc. 83-24519 Filed 9-7-83; 8:45 am]
BILLING CODE 3190-01-M

SECURITIES AND EXCHANGE COMMISSION

Boston Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

September 1, 1983.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Charter Medical Corp.
Class A Common Stock, $.25 Par Value (File No. 7-7078)
Corroon & Black Corp.
Common Stock, $.25 Par Value (File No. 7-7079)
Media General, Inc.
Class A Common Stock, $5 Par Value (File No. 7-7080)
MSI Data Corp.
Common Stock, $1 Par Value (File No. 7-7081)
Materials Research Corp.
Common Stock, $1 Par Value (File No. 7-7082)
Matrix Corp.
Common Stock, $1 Par Value (File No. 7-7083)
Mountain Medical Equipment, Inc.
Common Stock, $.10 Par Value (File No. 7-7084)
Orange & Rockland Utilities, Inc.
Common Stock, $5 Par Value (File No. 7-7085)
Orion Capital Corp.
Common Stock, $1 Par Value (File No. 7-7086)
Overhead Door Corp.
Common Stock, $1 Par Value (File No. 7-7087)
Paradyne Corp.
Common Stock, $.10 Par Value (File No. 7-7088)
Parker-Hannifin Corp.
Common Stock, No Par Value (File No. 7-7089)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before September 23, 1983 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,
Assistant Secretary.

[FR Doc. 83-24489 Filed 9-7-83; 8:45 am]
BILLING CODE 8010-01-M

[Rel. No. 13481; 812-5630]

First Midwest Capital Corp.; Application

Notice is hereby given that First Midwest Capital Corporation ("Applicant"), 1010 Plymouth Building, 12 South Sixth Street, Minneapolis, Minnesota 55402, a closed-end, non-diversified, management investment company registered under the Investment Company Act of 1940 ("Act"), and a federal licensee under the Small Business Investment Act of 1958, filed an application on August 11, 1983, pursuant to Section 17(d) of the Act and Rule 17d-1 thereunder, for an order of the Commission permitting the participation of Applicant in additional financing of Datatext Systems Incorporated ("Datatext"). Applicant is a wholly-owned subsidiary of First Midwest Corporation, also a closed-end, non-diversified, management investment company registered under the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of provisions relevant to this application.

Applicant states that it is engaged in the business of providing long-term equity funding to eligible small businesses to assist them in their growth and development. According to the application, under an agreement dated October 23, 1981 and an amendment thereto dated February 23, 1983, the Applicant and four other investors ("Investors"), provided debt and equity financing to Datatext in the sum of $1,000,000. The Applicant's participation therein consisted of purchasing $125,000 of notes bearing interest at the rate of 15% per annum, and 5,000 shares of common stock for $125,000. The common

stock purchased by Applicant represented the power to vote 15.8% of the voting shares of Datatext. As a result of such ownership, Applicant became an affiliated person, as defined by Section 2(a)(3) of the Act, of Datatext and Datatext became an affiliated person of Applicant. In addition, the other investors became affiliated persons of Datatext and Datatext became an affiliated person of the Investors. Moreover, Alan K. Ruvelson, an officer, director, and greater than five percent owner of First Midwest Corporation, was elected to the board of directors of Datatext.

It is stated in the application that, pursuant to an amendment to the above agreement, additional financing totaling $250,000 was provided by the Investors to Datatext. The financing took the form of a purchase of 500 shares of convertible preferred stock for $500 per share. Applicant's participation consisted of purchasing $62,500 of the preferred stock. As a result of the second financing, Applicant's fully diluted voting stock ownership of Datatext increased to 16.1%.

Subsequently, Applicant and two other Investors purchased 12% demand notes of $12,500 each. Applicant proposes now to provide an additional investment of $76,000 which would bring its total investment in Datatext to $401,000, or $76,000 greater than 20% of its paid-in capital and surplus. The investment by Applicant will involve a purchase of shares of common stock along with a conversion of the demand note to common stock and will be a part of a total new package of financing of approximately $802,000 to be provided by the three Investors who purchased demand notes, other new outside investors and the officers or management of Datatext.

Applicant describes the proposed transaction as a joint enterprise involving a registered investment company (Applicant), an affiliate of that investment company (Datatext) and other affiliates of Datatext. The application further states that Rule 17d–1(d)(5) would exempt the proposed transaction from the prohibitions of Section 17(d) of the Act and Rule 17d–1 except for the fact that Applicant proposes to commit in excess of 20% of its paid-in capital and surplus to investments in Datatext. Applicant states that the Small Business Administration ("SBA") has given Applicant oral permission (with written confirmation to follow) to exceed its SBA investment limit. In addition, Applicant states that the proposed transaction is exempted from Section 17(a) of the Act by Rule 17a–6 thereunder.

The Applicant states that it will be participating in the proposed transaction on a basis which is no less advantageous than that of any other Investor participant, and that the proposed transaction is consistent with the general purposes and policies of the Act. Applicant further states that while the officers of Datatext may be purchasing shares of common stock at a lower per share purchase price, the lower priced securities will be an incentive for the officers to remain in the employ of Datatext which is important to the operations of the company. Applicant represents that none of the officers which will be purchasing common stock are affiliated persons of the Investors, including the Applicant, or of the outside investors, and that no affiliate of Applicant has any financial interest in Datatext or in the subject transaction. The Applicant further asserts that the proposed transaction is fair to all parties and that it believes the investment has a potential for substantial return. According to the application, without the additional financing by the Investors and the new outside investors, Datatext will cease operations and Applicant will lose its entire investment.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than September 21, 1983, at 5:30 p.m. do so by submitting a written request setting forth the nature of his/her interest, the reasons for his/her request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-24485 Filed 9-7-83; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 13478; 812-5489]

Hartford Mutual Investment Fund, Inc.; Filing of Application

September 1, 1983.

Notice is hereby given that Hartford Mutual Investment Fund, Inc. ("Applicant") c/o The New Haven Savings Bank, 195 Church Street, New Haven, Connecticut 06510, a registered, open-end management investment company, filed an application on March 9, 1983 and an amendment thereto on May 23, 1983, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") for an order of the Commission exempting Applicant from the provisions of Section 30(a) of the Act and Rule 8b–16 thereunder. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below. Such persons are also referred to the Act and the rules thereunder for the complete text of the provisions thereof pursuant to and from which an exemption is being sought.

According to the application, Applicant was organized on September 30, 1968 under the stock corporation laws of the State of Connecticut to provide a mutual fund investment medium to Connecticut savings banks. It is represented that each shareholder is thoroughly familiar with the Applicant's operations and investments and regularly receives detailed information concerning the nature and performance of the Applicant's investments. It is also represented that almost all of the Applicant's directors and officers have been and all will continue to be officers of savings bank shareholders of the Applicant.

Applicant represents that, if the requested exemptions are granted, certain information not currently provided to shareholders in documents other than Applicant's annual reports (Form N–1R and the Form N–1 amendment) will be provided to shareholders. The annual report by the investment adviser, for example, shall include a statement of business and other connections of its directors and officers during the last two fiscal years, ownership interests of affiliated persons of the investment adviser in the investment adviser or broker-dealers, personnel of the investment adviser, considerations that affected participation of broker-dealers in commissions or other compensation paid on portfolio transactions of the Applicant, a statement whether its code of ethics has been maintained and enforced, and a statement of any cross-

ownership or circular ownership between the Applicant and any other company. The custodian's quarterly financial report for the quarter ending March 31 shall state the amount of commissions and any other amounts paid to broker-dealers, and wether any suspension of the right of redemption or delay in payment upon repurchase has occurred during the fiscal year. The minutes of Applicant's annual meeting of shareholders shall contain the results of a survey which shall be undertaken each year to determine the relationships and transactions, if any, between directors, officers, and affiliated persons of the Applicant and the Applicant, its investment adviser or directors, officers, controlling persons or affiliated persons of the investment adviser, and its broker-dealers. Applicant represents that it will submit the various documents to be sent to shareholders to the Commission in lieu of the annual reports should such submission be desired.

Applicant states that it believes that an exemption from the annual reporting requirements of Section 30(a) of the Act and Rule 8B–16 thereunder will be in the public interest and consistent with the protection of investors and the purposes and policies of the Act. Applicant submits that its shareholders, all of which are alleged to be financially sophisticated institutional investors, receive and will continue to receive all the relevant financial and investment information necessary to make an informed investment decision from sources other than the Form N–1R and the annual amendment to Form N–1. Applicant states that the Commission will continue to receive the information required under Sections 30(b) (1) and (2) of the Act, which is alleged to supply the Commission with an ongoing summary of the Applicant's activities and performance, and maintains that due to its peculiar ownership and management characteristics and state regulation, submission of annual reports to the Commission serves no purpose not already accomplished. Finally, Applicant submits that compliance with the annual reporting requirements of the Act imposes an unnecessary and substantial economic burden upon it.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than September 23, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83–24498 Filed 9–7–83; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 13477; 812–5638]

Hutton Utility Trust (A Unit Investment Trust) and E.F. Hutton & Company Inc.; Filing of an Application

September 1, 1983.

Notice is hereby given that Hutton Utility Trust ("Trust") One Battery Park Plaza, New York, New York 10004, registered under the Investment Company Act of 1940 ("Act") as a unit investment trust, and its sponsor, E.F. Hutton & Company Inc., ("Sponsor," collectively "Applicants") filed an application on August 23, 1983, for an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicants from the provisions of Rule 22c–1 under the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below. Such persons are also referred to the Act and the rules thereunder for the complete text of the provisions thereof pursuant to which and from which an exemption is being sought.

According to the application, on the morning of the business day following completion of the contracting for the underlying securities of each new series (the "Date of Deposit"), the indenture is signed and the Sponsor deposits with the Trustee the securities (and/or contracts to purchase the securities) in exchange for a certificate for units representing the entire ownership of that series. On the Date of Deposit, after the effectiveness of the registration statement, the initial public offering period for a series commences and continues until all units for that series have been sold, but does not normally extend for more than 30 days. The Sponsor proposes to offer units of each future series of the Trust to the public on the first day of the initial public offering period for each such series at a public offering price determined as of the close of trading on the New York Stock Exchange (currently 4 p.m., New York time) on the preceding business day ("backward pricing"). Applicants state that, since the public offering price so determined will be effective for all purchase orders received until the close of trading on such first day, the "forward pricing" requirement of Rule 22c–1 under the Act will not be met.

Applicants assert that the "forward pricing" requirement has two purposes: (1) To eliminate or reduce any dilution of the value of outstanding redeemable securities of registered investment companies which might occur through the practice of selling securities at a price based upon a previously established value which permits a potential investor to take advantage of an upswing in the market and an accompanying increase in the value of investment company shares by purchasing such shares at a price which does not reflect such increase; (2) to minimize speculative trading practices. Applicants submit that concern with dilution of the value of outstanding units is inapplicable to the Trust because the Sponsor, having paid for and deposited all of the securities (or contracts for the purchase thereof), owns all of the units, and the price at which the Sponsor sells those units can affect only the Sponsor and not the value of the securities or the fractional undivided interest in the securities represented by each outstanding unit. With respect to speculative trading practices, Applicants state that the relative lack of volatility in the prices of the public utility common stocks comprising the portfolio significantly reduces the opportunity for profitable speculative trading. Applicants represent that the Sponsor has studied daily price change data with respect to the first five business days of each of the twelve series of the Trust previously offered and that in light of the sales charge of 4 percent of the public offering price which is deducted before the net amount is invested, profitable speculation was possible on only one out of the total of sixty days (assuming a market for the units at a current price could be found at all). Applicants assert that this price stability is also sufficient to effectively foreclose speculation by the Sponsor or dealers. To eliminate, however, even the theoretical possibility of such speculation, the Sponsor agrees, as a condition to the exemptive order requested, not to tender or allow its registered representatives (or any dealer

through which it might in the future distribute units) to tender any units of a series for redemption during the period in which backward pricing is in effect for such series.

According to the Applicants, the proposed method of pricing units offers the advantage of providing a uniform, specified public offering price (that would be stated in the prospectus) for purchasers submitting orders during the one-day period in which backward pricing would be in effect. Applicants assert that, in contrast, forward pricing is often confusing to investors who do not appreciate the intricacies of that method. Applicants state that another factor favoring the known purchase price per unit is that sales of units will be made in connection with tax deferred retirement plans that are subject to contribution limitations. According to Applicants, offering units at a fixed, predetermined price ensures that a plan participant's total annual contribution may be invested in units if he so elects whereas, with forward pricing, purchasers cannot use their total contribution since they must provide some "cushion" for increases in the net asset value of the portfolio during the day on which they effect their purchases. It is asserted that the resulting indefiniteness makes the units less available for these investments.

Applicants contend that the sole risk to investors in the Trust which could result from the adoption of the proposed backward pricing system is that if the current evaluation of units declines, a purchaser would pay more under the proposed system than if the price were determined pursuant to forward pricing. Applicants believe that any unfairness to potential investors is avoided by full disclosure of the backward pricing system in the prospectus relating to each series. However, in order to reduce this risk of loss to a level Applicants consider minimal, Applicants agree, as a condition to the exemptive order requested, that if the net asset evaluation of the securities determined by the proposed backward pricing system on any day would exceed the evaluation determined in accordance with the requirements of Rule 22c-1 under the Act by more than 2.5 percent, investors will be charged the lower public offering price based on the forward pricing evaluation of the securities in accordance with Rule 22c-1. Applicants submit that potential investors may benefit significantly from the proposed system in that while their risk of a negative market shift is limited to a minimal level which is unlikely to be reached, their potential to profit from positive market shifts in the value of the securities is unlimited.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than September 23, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-24469 Filed 9-7-83; 8:45 am]
BILLING CODE 8010-01-M

[Rel. No. 13479; 813-55]

PB-SB 1983 Investment Partnership III; Application

Setpember 1, 1983.

Notice is hereby given that on September 3, 1982, a notice (Investment Company Act Release No. 12833) (the "Prior Notice") PB-SB Ventures Inc; One New York Plaza, New York, New York 10004 was issued on an application filed on April 3, 1982, and amended on July 20, 1982 ("Application I") by PB-SB 1982 Investment Partnership I, a New York limited partnership registered under the Investment Company Act of 1940 (the "Act") as a closed-end, non-diversified management investment company, and its general partner, PB-SB Investments ("Partnership I"), for an order of the Commission, pursuant to Section 6(b) of the Act, exempting Partnership I from all provisions of the Act or, alternatively, from Sections 10(a), 10(b), 10(f), 14(a), 15(a), 16(a), 17(a), 17(d), 17(g), 45(a) of the Act, for confidential treatment. On July 29, 1983, PB-SB 1983 Investment Partnership III ("Partnership III"), a New York limited partnership, and its general partner (the "General Partner"), PB-SB Ventures Inc ("Applicants"), filed an application and an amendment thereto on August 30, 1983 ("Application II"), pursuant to Section 6(b) of the Act, requesting an order of the Commission exempting Partnership III and other partnerships (the "Partnerships") which may be offered in successive years to the same or similar classes of limited partner investors from all provisions of the Act or, alternatively, from the provisions of Sections 10(a), 10(b), 10(f), 15(a), 16(a), 17(a), 17(d), 17(e)(1), 17(g), 18(i), 19(b), 23(c), 30(a), 30(b), 30(d) and 32(a) of the Act, and, pursuant to Section 45(a) of the Act, for confidential treatment. The Prior Notice summarized the representations made in Application I and Applicants make substantially similar representations in Application II.[1] All interested persons are referred to Application I and Application II on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Prior Notice. Such persons are also referred to the Act for the text of the relevant provisions thereof.

Applicants state that Partnership III was formed to enable certain officers and other employees of Phibro-Solomon Inc. ("PSB"), its subsidiaries, including Salomon Brothers Inc., and their successors in interest (the "Employers") to pool their investment resources and to receive the benefit of certain venture captial investment opportunities which come to the attention of the General Partner. In addition to relief pursuant to Section 6(b) of the Act from the provisions of Sections 10(a), 10(b), 10(f), 15(a), 16(a), 17(a), 17(d), 17(g), 18(i), 23(c), 30(a), 30(b), 30(d), and 32(a) of the Act, and, pursuant to Section 45(a) of the Act for confidential treatment, Applicants request an exemption from the provisions of the following Sections of the Act:

(a) From Section 17(e)(1) to the extent requested to permit the Employers or affilated persons of the Employers (other than the General Partner or any director, officer or employee of the General Partner, except in their capacities as shareholders of PSB) to receive compensation for acting, in the ordinary course of their business, as agents for general partners or principals of proposed investment entitities in which a Partnership may invest (or persons designated by such persons) in connection with the sale to, or purchase by, the Partnerships of interests in such investment entities. Applicants state that in the ordinary course of their brokerage and securities business the Employers and affiliated persons thereof are regularly engaged as agents of others to solicit investments in a broad range of investment opportunities.

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[1] This notice summarizes only those material representations contained in Application II that differ from those made in Application I.

Applicants submit that application of Section 17(e)(1) of the Act would require a Partnership to forego investment in such opportunities which might otherwise be attractive to it or would require the respective Employer affiliate, as the case may be, to forego customary and usual compensation. Applicants assert that the protections of Section 17(e)(1) of the Act are not required because of the community of interests between the Employers and the Partnerships. Applicants request an exemption from the provisions of Section 17(e)(1) of the Act on the undertakings that whenever a Partnership proposes to enter into an investment entity and as a result any Employer or affiliate thereof would receive compensation for acting as agent for the general partners or principals of such investment entity (or persons designated by such persons) in connection with the sale of interests therein to a Partnership, (1) the fact of such compensation and all terms and arrangements in connection therewith shall be fully described in the subscription agreement relating to such investment, (2) the Board of Directors of the General Partner shall review the terms of the proposed transaction, inlcuding the compenstion to be received by any Employer or affilate thereof, with full regard to its fiduciary responsibility to the limited partners and shall determine that such terms are fair and reasonable and (3) the Board of Directors of the General Partner shall determine that the proposed transaction, including the compensation to be received by any Employer or affilate thereof, is consistent with the general policies of the Act. In addition, the General Partner specifically represents and concedes that it is subject to Sections 36, 57(f)(3) and 57(h) of the Act.

(b) From Section 19(b) and Rule 19(b–1 to the extent necessary to permit the General Partner to distribute cash and assets to the partners of, and to terminate, classes of the Partnerships in accordance with the terms of the Partnerships' limited partnership agreement. Cash or assets allocable to or arising from the investment of a particular class, which may include the proceeds of long-term capital gains allocable to such investment, would, in accordance with the limited partnership agreement be distributed on a quarterly basis (in the case of cash) or in the General Partner's discretion (in the case of assets). Applicants maintain that compliance with Section 19(b) of the Act and Rule 19b–1 thereunder would seriously interfere with the proposed operations of the Partnerships and would therefore be contrary to the best interests of the investors therein.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than September 26, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commision, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83–24497 Filed 9–7–83; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 13480; 812–5592]

Scudder Cash Investment Trust and Scudder, Stevens & Clark; Application

September 1, 1983.

Notice is hereby given that Scudder Cash Investment Trust ("Trust") 175 Federal Street, Boston, Massachusetts 02110, an open-end, management investment company registered under the Investment Company Act of 1940 ("Act"), and its adviser, Scudder, Stevens & Clark ("Adviser") 345 Park Avenue, New York, New York 10154 (together, the "Applicants"), filed an application on June 27, 1983, for an order of the Commission, pursuant to Section 17(d) of the Act and Rule 17d–1 thereunder, permitting Applicants to carry out the terms of an agreement settling certain litigation with a shareholder of the Trust. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below, and are referred to the Act and the rules thereunder for further information as to the provisions to which the exemption applies.

Applicants state that a shareholder of the Trust, in September 1981, filed a shareholder derivative action *(Gloria Kamen v. Scudder, Stevens & Clark and Scudder Cash Investment Trust)* in the United States District Court for the District of Massachusetts ("Court"), alleging that the Adviser had breached its fiduciary duty to the Trust under Section 36(b) of the Act by charging excessive advisory fees. After extensive discovery, the parties entered into a stipulation of settlement submitted to the Court on April 22, 1983 (and to the Commission on April 26, 1983, pursuant to Section 33 of the Act). The Trust gave its shareholders notice, in a form approved by the Court, of the terms of the proposed settlement, and advised them of their right to file objections to the settlement and to appear at a hearing held by the Court to determine the appropriateness of the proposed settlement. The Court approved the proposed settlement, after a hearing on June 17, 1983, and entered a final order on that date dismissing the action in its entirety. The settlement mandated, among other things, that the Trust, subject to the receipt of an exemptive order pursuant to Rule 17d–1, pay one-third of plaintiff's attorneys' fees and expenses. The Court awarded $205,000 in attorneys' fees and expenses to the plaintiff, making the Adviser's shares of those expenses $136,666.67 and the Trust's share $68,333.33.

Applicants contend that, because the Adviser will bear twice as much of the plaintiff's litigation expenses as the Trust, the proposed division of fees does not constitute participation by the Trust in a joint transaction on a basis less advantageous than the Adviser's participation. Moreover, because prevailing legal principles would ordinarily require the Trust, as beneficiary of a settlement of a derivative action brought on its behalf, to pay all of the plaintiff's litigation expenses, Applicants argue that such a division of fees cannot constitute participation by the Trust on a basis less advantageous than the Adviser's basis. The disinterested trustees of the Trust, as well as the entire board of trustees, unanimously approved the settlement, including the fee payment provision, as being in the best interest of the Trust and its shareholders.

Applicants claim that the Trust will obtain benefits from the settlement that more than compensate it for the accompanying expenses it will incur. The settlement stipulates that the Adviser rebate to the Trust, for a period of eight years, a portion of the advisory fees it receives from the Trust. Applicants assert that such rebates in the first year alone will total more than twice the Trust's portion of the plaintiff's expenses. Applicants assert that the settlement further benefits the Trust by freeing it from the added

expense, inconvenience, and disruption of continued litigation. The settlement also reconstitutes the Trust's board of trustees so that a majority of its members shall not be "interested persons" of the Adviser as defined by Section 2(a)(19) of the Act, and stipulates that any written plan adopted by the Trust under Rule 12b–1 of the Act shall not require or cause the Trust to bear any distribution costs during the two-and-a-half year period commencing on the effective date of the settlement.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than September 26, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollins,

Assistant Secretary.

[FR Doc. 83–24496 Filed 9–7–83; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 13482; 812–5603]

Texaco Capital Inc.; Application

September 1, 1983.

Notice is hereby given that Texaco Capital Inc. ("Applicant"), 229 South State Street, Dover, Delaware 19901, a Delaware corporation and a wholly owned subsidiary of Texaco Inc. ("Texaco"), a Delaware corporation, filed an application on July 15, 1983, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") for an order exempting Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of relevant statutory provisions.

Applicant states that it was organized on June 24, 1983, and that it wishes to engage primarily in the business of lending funds, derived either from capital contributions or borrowed from unrelated persons, to Texaco and its subsidiaries for general corporate purposes. In accordance with this purpose, it is stated, Applicant wishes to be in a position to undertake, on behalf of Texaco, the issuance and sale of long-term, intermediate-term, or short-term debt securities ("Securities") in the United States. Applicant represents that payment of principal and premium and interest, if any, on Securities would be unconditionally guaranteed by Texaco, and that the terms of the Texaco guaranties will be such that in the event of a default with respect to a Security, legal proceedings could be instituted directly against Texaco to enforce the guarantee without previously proceeding against Applicant. It is stated further that Applicant would advance to, or deposit with, Texaco or subsidiaries of Texaco substantially all of the proceeds of Applicant's sales of Securities, and that the terms of the advances or deposits would be such as to permit Applicant to make timely payments of principal and premium and interest, if any, owing on such Securities. Applicant states that it will not deal or trade in securities or hold securities other than instruments resulting from its primary purpose of borrowing funds and making them available to Texaco and its subsidiaries.

Applicant further represents that prior to any public offering of Securities in the United States not exempt from the registration requirements of the Securities Act of 1933 ("Securities Act"), it would file a registration statement under the Securities Act, and would not sell such Securities until the registration statement had been declared effective by the Commission and the related indenture had been qualified under the Trust Indenture Act of 1939. It is also stated that Applicant and Texaco would comply with the prospectus-delivery requirements of the Securities Act in connection with the offering and sale of such Securities.

In addition, it is stated that, in the case of an offering of Securities not requiring registration under the Securities Act, Applicant and Texaco would undertake, as an express condition to the granting of the exemption requested herein, to provide to any offeree of such securities a memorandum at least as comprehensive as memoranda customarily used in such offerings, and in the event that subsequent such offerings are made, to update such memorandum to reflect material changes in the financial position of Texaco. Applicant undertakes, in addition, to appoint an agent, in connection with any issuance by Applicant of Securities, to accept service of process in any action based on such Securities and instituted in any state or federal court located in New York City by any holder thereof, and undertakes further to submit to jurisdiction in any state or federal court located in the city of New York in any action based on such Securities instituted by any holder thereof. Such appointment and consent, it is stated, would be irrevocable until the amounts due or to become due on such Securities had been paid, but no such authorized agent for service of process would be a trustee for the holders of Securities, or have any responsibilities or obligation to act for such holders as would a trustee.

Applicant further represents that prior to their issuance and sale, the Securities shall have received one of the three highest investment grade ratings from at least one nationally recognized statistical rating organization, and Applicant shall have certified to its counsel in writing that such rating has been received. It is also stated, however, that no such rating shall be required to be obtained if in the opinion of counsel for the Applicant, an exception from registration is available with respect to such issuance and sale under Section 4(2) of the Securities Act.

Applicant states that its proposal to engage in the business of lending funds to Texaco and its other subsidiaries would cause all of Applicant's assets to consist of amounts receivable from such borrowers, thereby bringing Applicant within the definition of an "investment company" set forth in Section 3(a) of the Act. However, having been organized solely for the purpose of financing operations of Texaco and its subsidiaries, Applicant asserts that it is not a person which the Act was intended to regulate. Therefore, Applicant contends that the issuance of an order by the Commission pursuant to Section 6(c) of the Act exempting Applicant from all provisions of the Act would be appropriate.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than September 26, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-

at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-24494 Filed 9-7-83; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 20149; File No. SR-PCC-82-7]

Amendment of Proposed Rule Change by Pacific Clearing Corp.

September 2, 1983.

Pacific Clearing Corporation ("PCC") submitted on August 16, 1983, an amendment to a proposed rule change (SR-PCC-82-7), pursuant to Rule 19b-4 under the Securities Exchange Act of 1934, concerning minimum standards for admission to, and continued participation in, PCC. Notice of the proposed rule change, together with a statement of its terms, was published in Securities Exchange Act Release No. 19198 (November 1, 1982), 47 FR 50792 (November 9, 1982).

The amendment to the proposed rule change sets forth PCC's Standards of Financial Responsibility and Operational Capability ("Standards") to be applied by PCC to its members and applicants for membership. The largely separate Standards for broker-dealers and banks provide (i) minimum financial and operational requirements for members and applicants; (ii) criteria for closer surveillance of certain securities issues and financially or operationally troubled members; (iii) guidelines for requiring members to provide PCC specified further assurances of financial responsibility and operational capability; and (iv) requirements for members to report to PCC on a regular basis and upon the occurrence of specified events. The amendment also makes various related technical or nonsubstantive changes to PCC's rules. PCC believes that the proposed rule change, as amended, is consistent with the requirements of Section 17A(b)(3)(A) of the Act in that it will not affect PCC's ability to safeguard securities and funds in its custody or control or for which it is responsible.

In order to assist the Commission in determining whether to approve the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved, interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR-PCC-82-7.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-24500 Filed 9-7-83; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 20148; SR-Phlx-82-4]

Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Change

September 2, 1983.

The Philadelphia Stock Exchange, Inc., 1900 Market Street, Philadelphia, PA 19103, submitted on August 27, 1982, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to define and standardize the methods by which title to exchange memberships may be held; to implement a program for the leasing of memberships; to clarify the use of a-b-c agreements relating to membership; and to achieve certain objectives relating to the use of memberships for the satisfaction of members' debts. On July 22, 1983, Phlx filed with the Commission Amendment No. 1 to the proposed rule change.[1]

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commisson Release (Securities Exchange Act Release No. 19163, October 21, 1982) and by publication in the **Federal Register** (47 FR 49515, November 1, 1982). Notice of Amendment No. 1 together with the terms of substance of the amendment was given by the issuance of a Commission Release (Securities Exchange Release Act No. 20010, July 27, 1983) and by publication in the **Federal Register** (48 FR 35219, August 3, 1983). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change, by providing a ready mechanism for the satisfaction of certain securities related debts owned by Phlx members, will provide greater creditor protection to the Exchange and its members; will facilitate access to the exchange by eliminating confusion relating the procedures and substantive requirements attendant to application for a membership which is to be subject to a lease or a-b-c agreements; and is designed to protect investors by establishing means to assure Phlx members' satisfaction of their financial obligations. The Commission also finds that any burden on competition imposed upon Phlx members by requiring their execution of sale and subordination agreements in certain circumstances is clearly outweighed by the additional creditor protection this affords to the Exchange, its members, and, thus, ultimately, to public investors. The Commission finds, therefore, that the proposed rule change is consisent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6 generally and Sections 6(b)(2), 6(b)(5), 6(b)(8), and 6(c)(3)(A) specifically.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-24501 Filed 9-7-83; 8:45 am]

BILLING CODE 8010-01-M

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[1] *See also* File No. SR-Phlx-83-15, a related filing in which Phlx proposes to make Phlx Rule 941 permanent. Rule 941 requires Phlx members and member organizations who are parties to a-b-c agreements to execute a sale and subordination agreement relating to the seat subject to the a-b-c agreement. File No. SR-Phlx-83-15 was granted accelerated approval in Securities Exchange Act Release No. 20147, September 2, 1983.

[Rel. No. 20147; SR-Phlx-83-15]

Philadelphia Stock Exchange, Inc.; Filing and Order Granting Accelerated Approval of Proposed Rule Change

September 2, 1983.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on August 29, 1983, the Philadelphia Stock Exchange, Inc. ("Phlx"), 1900 Market Street, Philadelphia, Pa. 19103, filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The Phlx proposes to amend Phlx Rule 941 to delete the scheduled expiration date of the rule and thus, to make the rule permanent.[1] Rule 941 requires Phlx member organizations and members who are parties to a-b-c agreements to execute a sale and subordination agreement under which the exchange may sell the membership upon termination of the member's interest in it and to apply the proceeds to satisfy the priority claims specified in Phlx By-law XV. The purpose of Rule 941 is to give Phlx a ready mechanism for the collection of certain debts owing to the Phlx or its members. The Exchange states that the statutory basis for the proposed rule change is Sections 6(b)(1), 6(b)(5) and 6(c)(3)(A) of the Act.

Interested persons are invited to submit written data, vieus and arguments concerning the proposed rule change within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR–Phlx–83–15.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission and all written communications relating to the proposed rule change between the Commission any any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the Phlx.

The Commission finds that the proposed rule change, by making temporary Rule 941 permanent, will provide greater creditor protection to the Phlx, Phlx members, and ultimately to public customers of Phlx members. As such it is designed to be a part of the overall membership transfer package approved by the Commission today in Securities Exchange Act Release No. 20148. The Commission finds, therefore, that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular the requirements of Sections 6(b)(1), 6(b)(5) and 6(c)(3)(A). Furthermore, the Commission finds that the proposed rule change is consistent with Section 6(b)(8) of the Act in that any possible burden on competition imposed by the proposed rule change is clearly outweighed by the increased financial protection it affords to the Exchange, its members and its members' customers.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in that it merely makes permanent a temporary rule already in place, the proposed permanency of which has been effectively announced in the several orders approving the rule temporarily. In addition, proposed Rule 941 directly parallels Phlx Rule 932, which requires the same sale and subordination agreement in the context of leases and which the Commission has approved today after over 10 months public notice in Securities Exchange Act Release No. 20148.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-24502 Filed 9-7-83; 8:45 am]

BILLING CODE 8010-01-M

[1] The Commission approved adoption of temporary Rule 941 on October 21, 1982 (Securities Exchange Act Release No. 19335, October 21, 1982; 47 FR 49503, November 1, 1982). Most recently the Commission approved the extension of the rule through August 31, 1983 (Securities Exchange Act Release No. 19667, July 13, 1983; 48 FR 32903, July 19, 1983).

SMALL BUSINESS ADMINISTRATION

Region II Advisory Council; Public Meeting

The U.S. Small Business Administration Region II Advisory Council, located in the geographical area of Syracuse, will hold a public meeting at 9:00 a.m., on Wednesday, September 28, 1983, at the Federal Building—U.S. Courthouse, 100 South Clinton Street, Room 1117 (11th floor), Syracuse, New York, to discuss matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call J. Wilson Harrison, District Director, U.S. Small Business Administration, 100 South Clinton Street, Room 1071, Syracuse, New York 13260; (315) 423–5371.

Jean M. Nowak,

Director, Office of Advisory Councils.

August 29, 1983.

[FR Doc. 83-24437 Filed 9-7-83; 8:45 am]

BILLING CODE 8025-01-M

Region VIII Advisory Council; Public Meeting

The Small Business Administration Region VIII Advisory Council, located in the geographical area of Fargo, North Dakota, will hold a public meeting at 9:30 a.m., on Tuesday, October 4, 1983, at the Federal Building, Room 435, 657–2nd Avenue North, Fargo, North Dakota, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, or other attending.

For further information, write or call Robert L. Pinkerton, District Director, U.S. Small Business Administration, 657–2nd Avenue North, Fargo, North Dakota 58102—(701) 237–5771, extension 5131.

Jean M. Nowak,

Director, Office of Advisory Councils.

August 29, 1983.

[FR Doc. 83-24438 Filed 9-7-83; 8:45 am]

BILLING CODE 8025-01-M

Region III Advisory Council; Public Meeting

The U.S. Small Business Administration Region III Advisory Council, located in the geographical area of Washington, D.C., will hold a public meeting at 9:00 a.m. to 12 Noom, on Wednesday, September 14, 1983, at the SBA Washington District Office, 1111 18th Street, NW., Room 404, Washington, D.C., to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Janice E. Wolfe, District Director, U.S. Small Business Administration, 1111

Eighteenth Street, NW., Washington, D.C. 20417, (202) 634–1805.

Jean M. Nowak,

Director, Office of Advisory Councils.

August 31, 1983.

[FR Doc. 83-24430 Filed 9-7-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Notice 83–15]

Senior Executive Service Performance Review Boards (PRB); Membership

AGENCY: Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: DOT publishes the names of the persons selected to serve on the various Departmental Performance Review Boards (PRB) established by DOT under the Civil Service Reform Act (CSRA).

FOR FURTHER INFORMATION CONTACT: Robert S. Smith, Director, Office of Personnel and Training, and Executive Secretary, DOT Executive Resources Board (202) 426–4088.

SUPPLEMENTARY INFORMATION: The CSRA of 1978, which created the Senior Executive Service, requires that each agency implement a performance appraisal system making senior executives accountable for organizational and individual goal accomplishment. As part of this system, CSRA requires each agency to establish one or more PRB's, the function of which is to review and evaluate the initial appraisal of a senior executives's performance by the supervisor and to make recommendations to the final rating authority relative to the performance of the senior executive.

The persons named below have been selected to serve on one or more Departmental PRB's.

Issued in Washington, D.C., on August 29, 1983.

Karen S. Lee,

Acting Assistant Secretary for Administration.

Department of Transportation Senior Executive Service Performance Review Boards

Office of the Secretary

Gail T. Young, Director, Office of Financial Management
Bruce T. Barkley, Director, Office of Management Planning
Robert E. Jones, Director, Transportation Computer Center
Martin Convisser, Director, Office of Industry Policy
Rosario J. Scibilia, Director, Office of International Policy and Programs
Raymond A. Karam, Deputy Assistant Secretary for Budget and Programs
William H. FitzGerald, Jr., Director, Office of Budget
Carolina L. Mederos, Director, Office of Programs and Evaluation
Rosalind A. Knapp, Deputy General Counsel
Barclay W. Webber, Assistant General Counsel for Environmental, Civil Rights and General Law
Diane R. Liff, Assistant General Counsel for Litigation
Thelma Duggin, Coordinator of Minority Affairs
Shirley Ybarra, Special Assistant to the Assistant Secretary for Policy and International Affairs
Lawrence A. Cresce, Assistant Inspector General for Investigations, Office of the Inspector General
Joseph J. Genovese, Assistant Inspector General for Auditing, Office of the Inspector General
Glenn W. Wienhoff, Assistant Inspector General for Policy, Planning and Resources, Office of the Inspector General

Office of the Inspector General

C. Shannon Roberts, Deputy Director, Office of Management Planning, Office of the Secretary
Donald R. Trilling, Executive Assistant to the Deputy Secretary, Office of the Secretary
Richard D. Morgan, Executive Director, Federal Highway Administration
James R. Richards, Inspector General, Department of Energy
Joseph A. Sickon, Inspector General, General Services Administration
Wallace E. Busbee, Executive Assistant to the Inspector General, Veterans Administration
Raymond F. Randolph, Assistant Inspector General for Auditing, Small Business Administration

United States Coast Guard

RADM Richard P. Cueroni, Chief, Office of Personnel
RADM William P. Kozlovsky, Comptroller
RADM Bobby F. Hollingsworth, Chief, Office of Marine Environment and Systems
Karen S. Lee, Deputy Assistant Secretary for Administration, Office of the Secretary
C. Shannon Roberts, Deputy Director, Office of Management Planning, Office of the Secretary
James G. Gross, Deputy Associate Administrator for Research and Development, Maritime Administration
Leon C. Watkins, Director, Office of Civil Rights, Federal Aviation Administration

Federal Aviation Administration

Albert P. Albrecht, Associate Administrator for Development and Logistics
Paul K. Bohr, Director, Great Lakes Region
Franklin L. Cunningham, Deputy Director, Alaskan Region.
Joseph M. Del Balzo, Director, Eastern Region
Benjamin Demps, Jr., Director, Aeronautical Center
Charles R. Foster, Director, Northwest Mountain Region
Jonathan Howe, Director, Southern Region
Walter S. Luffsey, Associate Administrator for Aviation Standards
Homer C. McClure, Director, Western-Pacific Region
Clarence R. Melugin, Jr., Director, Southwest Region
John E. Murdock, III, Chief Counsel
Donald R. Segner, Associate Administrator for Policy and International Aviation
William F. Shea, Associate Administrator for Airports
Murray E. Smith, Director, Central Region
Raymond J. Van Vuren, Director, Air Traffic Service
Leon C. Watkins, Director, Office of Civil Rights
Charles E. Weithoner, Associate Administrator for Administration
Robert E. Whittington, Director, New England Region
Jenna Dorn, Special Assistant to the Secretary, Office of the Secretary
Shirley Ybarra, Special Assistant to the Assistant Secretary for Policy and International Affairs, Office of the Secretary
Anthony Welters, Associate Deputy Secretary, Office of the Secretary

Federal Highway Administration

Rex C. Leathers, Associate Administrator for Engineering and Operations
Marshall Jacks, Jr., Associate Administrator for Safety, Traffic Engineering and Motor Carriers
Daniel Markoff, Associate Administrator for Administration
George R. Turner, Regional Administrator, Region 3
Edward M. Wood, Associate Administrator for Research, Development and Technology

Joseph M. O'Connor, Associate Administrator for Right-of-Way and Environment
Robert G. S. Young, Regional Administrator, Region 9
Thelma Duggin, Coordinator of Minority Affairs, Office of the Secretary
Rebecca C. Gernhardt, Director, Office of Public Affairs, Office of the Secretary

Federal Railroad Administration

James C. Rooney, Associate Administrator for Policy
Leavitt A. Peterson, Deputy Associate Administrator for Safety
Robert C. Hunter, Deputy Associate Administrator for Federal Assistance
W. Wayne Wilson, Associate Administrator for Administration
William H. FitzGerald, Jr., Director, Office of Budget, Office of the Secretary
Gail T. Young, Director, Office of Financial Management, Office of the Secretary

National Highway Traffic Safety Administration

Diane K. Steed, Deputy Administrator
Richard E. Burdette, Jr., Director, Office of Public and Consumer Affairs
Michael M. Finkelstein, Associate Administrator for Research and Development
George L. Reagle, Associate Administrator for Traffic Safety Programs
Anthony Welters, Associate Deputy Secretary, Office of the Secretary

Urban Mass Transportation Administration

Thomas R. Hunt, Associate Administrator for Administration
Robert H. McManus, Associate Administrator for Grants Management
Raymond J. Sander, Executive Director
Harold B. Williams, Deputy Associate Administrator for Management and Demonstrations
Carole A. Foryst, Associate Administrator for Budget and Policy
Kevin E. Heanue, Director, Office of Highway Planning, Federal Highway Administration
Dennis C. Judycki, Chief, Urban Planning and Transportation Management Division, Federal Highway Administration
Raymond A. Karam, Deputy Assistant Secretary for Budget and Programs, Office of the Secretary
C. Shannon Roberts, Deputy Director, Office of Management Planning, Office of the Secretary
W. Wayne Wilson, Associate Administrator for Adminstration, Federal Railroad Adminstration
William T. Hudson, Director, Office of Civil Rights, Office of the Secretary
Logan H. Sallada, Director, Executive Secretariat, Office of the Secretary

Maritime Administration

Howard A. Watters, Deputy Administrator (Inland Waterways and Great Lakes)
Russell F. Stryker, Jr., Associate Administrator for Policy and Administration
Gerald E. Neumann, Associate Administrator for Maritime Aids
Thomas W. Pross, Associate Administrator for Shipbuilding and Ship Operations
James G. Gross, Deputy Associate Administrator for Research and Development
Gary S. Misch, Associate Administrator for Marketing and Domestic Enterprise
Logan H. Sallada, Director, Secretariat, Office of the Secretary
Jenna Dorn, Special Assistant to the Secretary, Office of the Secretary

Research and Special Programs Administration

James Costantino, Director, Transportation Systems Center
Leon D. Santman, Director, Materials Transportation Bureau
Lloyd J. Money, Director, Office of University Research
Rosalind A. Knapp, Deputy General Counsel, Office of the Secretary
Michael M. Finkelstein, Associate Administrator for Research and Development, National Highway Traffic Safety Administration
Lester P. Lamm, Jr., Deputy Adminstrator, Federal Highway Administration

[FR Doc. 83-24521 Filed 9-7-83; 8:45 am]
BILLING CODE 4910-62-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Supplement to Department Circular; Public Debt Series—No. 26-83]

Treasury Notes; Series K-1988

The Secretary announced on August 31, 1983, that the interest rate on the notes designated Series K-1988, described in Department Circular—Public Debt Series—No. 26-83 dated August 24, 1983, will be 11¾percent. Interest on the notes will be payable at the rate of 11¾ percent per annum.

Washington, September 1, 1983.

Carole J. Dineen,

Fiscal Assistant Secretary.

[FR Doc. 83-24474 Filed 9-7-83; 8:45 am]
BILLING CODE 4810-40-M

Customs Service

[T.D. 83-190]

Decision Denying Domestic Interested Party Petition Requesting Reclassification of Certain Acrylic Blankets; Petitioner's Desire To Contest the Decision

AGENCY: Customs Service, Treasury.

ACTION: Notice of: (1) Decision on domestic interested party petition, and (2) receipt of notice of petitioner's desire to contest the decision.

SUMMARY: In response to a petition from a domestic interested party requesting that certain imported acrylic blankets that have a fabric border or capping be reclassified for tariff purposes under the provision for other bedding, ornamented, of man-made fibers, blankets, 363.25, Tariff Schedules of the United States (TSUS), Customs invited comments on the correctness of the current classification. However, no comments were received. After further review of the matter, Customs has advised the petitioner that such blankets would continue to be classified under the provision for bedding, not ornamented, of man-made fibers, blankets, in item 363.85, TSUS, at a lower rate of duty than for blankets classified under item 363.25, TSUS. Upon being informed that its petition had been denied, the petitioner filed a notice of its desire to contest the decision.

DATE: September 8, 1983.

FOR FURTHER INFORMATION CONTACT: Phil Robins, Classification and Value Division, Office of Regulations and Rulings, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229; (202-566-8181).

SUPPLEMENTARY INFORMATION:

Background

On April 13, 1982, a petition was filed under section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516), on behalf of Textiles Asociados del Caribe, Inc., an American manufacturer of acrylic blankets, requesting that certain imported acrylic blankets that have a fabric border or capping be reclassified under the provision for other bedding, ornamented, or man-made fibers, blankets, in item 363.25, Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202) at a higher rate of duty. Based on Customs practice that they are not ornamented, such blankets have been classified under the provision for other bedding, not ornamented, of man-made fibers, blankets, in item 363.85, TSUS, at

a lower rate of duty than for blankets classified under item 363.25, TSUS.

A notice of receipt of the petition was published in the **Federal Register** on October 6, 1982 (47 FR 44184), inviting public comment on the correctness of the current classification. Written comments were to have been received on or before December 6, 1982. However, no comments were received.

The petitioner argues that the imported blankets should be classified as ornamented because of the fabric edgings around their border. It is contended that these borders are decorative in nature and therefore cause the blankets on which they are located to be classified under the ornamented bedding provisions of the tariff schedules, specifically item 363.25, TSUS.

The edgings which are described in the petition are, in actuality, folded over strips of fabric that encase the edgings of the blankets. As such, they constitute capping. It is Customs experience that borders or cappings of this type almost always *cover unfinished edges* and thus protect and finish the edges. Although the borders or cappings do add a certain amount of embellishment to the article, it is Customs position that the functional purpose performed by them outweighs any decorative effects they may impart.

In regard to those blankets which have borders or cappings that *cover finished edges*, Customs has continually classified such merchandise as ornamented for tariff purposes.

Decision on Petition and Receipt of Petitioner's Notice of Desire To Contest

In a ruling dated March 3, 1983, the petitioner was advised that Customs would adhere to its practice of classifying such blankets as nonornamented, in item 363.85, TSUS. In response, by letter dated April 1, 1983, the petitioner filed a notice of its desire to contest the decision in accordance with section 516(c), Tariff Act of 1930, as amended (19 U.S.C. 1516(c)), and § 175.23, Customs Regulations (19 CFR 175.23).

After further review of the matter, Customs remains of the opinion that its practice of classifying the subject blankets under item 363.85, TSUS, is correct. This practice will continue unless a decision of the United States Court of International Trade or the United States Court of Appeals for the Federal Circuit not in harmony with this practice is rendered.

This notice is being published in accordance with section 516(c), Tariff Act of 1930, as amended (19 U.S.C. 1516(c)), and § 175.24, Customs Regulations (19 CFR 175.24).

Drafting Information

The principal author of this document was Jesse V. Vitello, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Dated: July 12, 1983.

William von Raab,

Commissioner of Customs.

[FR Doc. 83-24528 Filed 9-7-83; 8:45 am]

BILLING CODE 4820-02-M

VETERANS ADMINISTRATION

Advisory Committee on Structural Safety of Veterans Administration Facilities; Meeting

The Veterans Administration gives notice under Pub. L. 92-463 that a meeting of the Advisory Committee on Structural Safety of Veterans Administration faiclities will be held in Room 442, of the Lafayette Building, 811 Vermont Avenue NW, Washington, DC on October 14, 1983, at 10 a.m. The committee members will review Veterans Administration construction standards and criteria relating to fire, earthquake and other disaster resistant construction.

The meeting will be open to the public up to the seating capacity of the room. Because of the limited seating capacity, it will be necessary for those wishing to attend to contact Mr. Richard D. McConnell, Director, Civil Engineering Service, Office of Construction, Veterans Administration Central Office (phone 202-389-2864) prior to October 7, 1983.

Dated: August 30, 1983.

By the direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 83-24505 Filed 9-7-83; 8:45 am]

BILLING CODE 8320-01-M

Cooperative Studies Evaluation Committee; Meeting

The Veterans Administration gives notice under Pub. L. 92-463 that a meeting of the Cooperative Studies Evaluation Committee, authorized by 38 U.S.C. 4101, will be held at the Howard Johnson's Motor Lodge, 2650 Jefferson Davis Highway, Arlington, Virginia 22202 on October 28, 1983. The meeting will be for the purpose of reviewing proposed cooperative studies and advising the Veterans Administration on the relevance and feasibility of the studies, the adequacy of the protocols, and the scientific validity and propriety of technical details, including protection of human subjects. The Committee advises the Director, Medical Research Service, through the Chief of the Cooperative Studies Program, on its findings.

The meeting will be open to the public up to the seating capacity of the room from 8 to 8:30 a.m., on October 28, to discuss the general status of the program. To assure adequate accommodations, those who plan to attend should contact Dr. James A Hagans, Coordinator, Cooperative Studies Evaluation Committee, Veterans Administration Central Office, Washington, DC (202-389-3702), prior to October 14, 1983.

The meeting will be closed from 8:30 a.m. to 4:00 p.m. on October 28, for consideration of specific proposals in accordance with provisions set forth in subsection 10(d) of Public Law 92-463, as amended by section 5(c) of Pub. L. 94-409, and subsection (c)(6) and (c)(9)(B) of section 552b, title 5, United States Code. During this portion of the meeting, discussions and decisions will deal with qualifications of personnel conducting the studies and the medical records of patients who are study subjects, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Additionally, premature disclosure of the Committee's recommendations would likely frustrate implementation of final proposed actions.

Dated: August 26, 1983.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 83-24506 Filed 9-7-83; 8:45 am]

BILLING CODE 8320-01-M

Special Medical Advisory Group; Meeting

The Veterans Administration gives notice under Pub. L. 92-463 that a meeting of the Special Medical Advisory Group will be held in the Administrator's Conference Room at the Veterans Administration Central Office, 810 Vermont Avenue, NW, Washington, DC, on September 27 and 28, 1983. The purpose of the Special Medical Advisory Group is to advise the Administrator and the Chief Medical Director relative to the care and treatment of disabled veterans, and other matters pertinent to the Veterans Administration's Department of Medicine and Surgery.

The sessions will convene at 8:30 a.m. both days. These sessions will be open to the public up to the seating capacity of the room. Because this capacity is limited, it will be necessary for those wishing to attend to contact Mrs. Von Hudson, Program Assistant, Office of the Chief Medical Director, Veterans Administration Central Office (phone 202/389-2298) prior to September 16, 1983.

Dated: August 29, 1983.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 83-24507 Filed 9-7-83; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 175
Thursday, September 8, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Federal Reserve System	1
Foreign Claims Settlement Commission	2
National Science Foundation	3
Nuclear Regulatory Commission	4
Tennessee Valley Authority	5

1

FEDERAL RESERVE SYSTEM

(Board of Governors)

TIME AND DATE: 10 a..m., Wednesday, September 14, 1983.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: September 6, 1982.

James McAfee,

Associate Secretary of the Board.

[S-1288-83 Filed 9-6-83; 3:27 pm]

BILLING CODE 6210-01-M

2

FOREIGN CLAIMS SETTLEMENT COMMISSION

[F.C.S.C. Meeting Notice No. 7-83]

Announcement in Regard to Commission Meetings and Hearings

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings and oral hearings for the transaction of Commission business and other matters specified, as follows:

Date, Time, and Subject Matter

Mon., Sept. 19, 1983 at 10:30 a.m.
Consideration of decisions involving claims against the Government of the Czechoslovak Socialist Republic.
Tues., Sept. 20, 1983 at 10:30 a.m.
Consideration of decisions involving claims against the Government of the Czechoslovak Socialist Republic.

Subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign Claims Settlement Commission, 1111 20th Street, NW., Washington, D.C. Requests for information, or advance notices of intention to observe a meeting, may be directed to: Administrative Officer, Foreign Claims Settlement Commission, 1111 20th Street, NW., Room 409, Washington, DC 20579. Telephone: (202) 653-6155.

Dated at Washington, D.C. on September 2, 1983.

Judith H. Lock,

Administrative Officer.

[S-1287-83 Filed 9-6-83; 1:54 pm]

BILLING CODE 4410-01-M

3

NATIONAL SCIENCE FOUNDATION

AGENCY HOLDING MEETING: National Science Board

DATE AND TIME:

September 15, 1983 9 a.m. Open Session
September 16, 1983 8:45 a.m. Closed Session
September 16, 1983 9:15 a.m. Open Session

PLACE: National Science Foundation, Washington, D.C.

STATUS: Most of this meeting will be open to the public. Parts of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED AT THE OPEN SESSIONS: *Thursday, September 15, 1983—9 a.m.:*

1. Minutes—August 1983 Meeting.
2. Chairman's Items.
3. Report of NSB Commission on Precollege Education in Mathematics, Science, and Technology.
4. Program Review—Industrial Science and Technological Innovation.

Friday, September 16, 1983—9:15 a.m.:

5. Director's Report.
6. Grants, Contracts, and Programs.
7. Report on Capital Facilities Planning.
8. Physics Briefing.
9. Reports of Board Committees.
10. Board Representation at Advisory Committee and Other Meetings.
11. Other Business
12. Next Meeting.

MATTERS TO BE CONSIDERED AT THE CLOSED SESSION: *Friday, September 16, 1983—8:45 a.m.:*

A. Minutes—August 1983 Meeting.
B. NSB and NSF Staff Nominees.
C. Nominees for Alan T. Watewman Award Committee.
D. Grants, Contracts, and Programs.

[S-1289-83 Filed 9-6-83; 2:28 pm]

BILLING CODE 7555-01-M

4

NUCLEAR REGULATORY COMMISSION

DATE: Week of September 5, 1983 (revised) and Week of September 12, 1983.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE DISCUSSED: *Tuesday, September 6:*

10:30 a.m.
Discussion of Management-Organization and Internal Personnel Matters (Closed—Exemption 2 and 6) (New Item)

Wednesday, September 7:

10:00 a.m.
Discussion of Regulatory Reform Task Force—Administrative Proposals—Revisions to Part 2 (Public Meeting) (As Announced)

Thursday, September 8:

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (As Announced)

a. Final Rule on Temporary Operating Licensing Authority
b. Review of ALAB-734
c. Motion for Reconsideration of Indian Point Decision
d. Draft Order ALAB-696
e. Final Rule—NRC Rulemaking to Amend 10 CFR 2.200 and 2.201

Friday, September 9:

9:30 a.m.
Briefing by Executive Branch (Closed—Exemption 1) (Time Change)
2:00 p.m.
Discussion of Management-Organization and Internal Personnel Matters (Closed—Exemption 2 and 6) (As Announced)

Monday, September 12:

1:00 p.m.

Status of NTOL Plants (Public Meeting)
2:00 p.m.
Discussion of Status of Investigations (Closed—Exemption 5 and 7)

Tuesday, September 13:

10:00 a.m.
Public Meeting on Diablo Canyon (Public Meeting)
1:30 p.m.
Continuation of Public Meeting on Diablo Canyon (Public Meeting)

Wednesday, September 14:

10:00 a.m.
Discussion of Proposed Insider Safeguards Rule (Public Meeting)

Friday, September 16:

10:00 a.m.
Discussion/Possible Vote on Full Power Operating License for San Onofre-3 (Public Meeting)
11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting)
a. Final Rule—10 CFR 50—Fitness for Duty of NPP Personnel
1:30 p.m.
Periodic Meeting with Advisory Panel on TMI–2 Cleanup (Public Meeting)

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498. Those planning to attend a meeting should verify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

September 2, 1983.

Walter Magee,

Office of the Secretary.

[S–1286–83 Filed 9–3–83; 4:56 pm]

BILLING CODE 7590–01–M

5

TENNESSEE VALLEY AUTHORITY

[No. 8–523–4539]

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 40056, September 2, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:15 a.m. (e.d.t.), Wednesday, September 7, 1983.

PREVIOUSLY ANNOUNCED PLACE OF MEETING: TVA West Tower Auditorium, 400 West Summit Hill Drive, Knoxville, Tennessee.

STATUS: Open.

ADDITIONAL MATTER: The following item is added to the previously announced agenda:

F. *Unclassified*
6. Interagency agreement with the Department of Energy (DOE) providing for TVA's technical support and assistance in connection with a study of the terrestrial impacts of acidic deposition on deciduous forests in the Tennessee Valley region.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call 615–632–8000, Knoxville, Tennessee. Information is also available at TVA's Washington Office, 202–245–0101.

SUPPLEMENTARY INFORMATION:

TVA Board Action

The TVA Board of Directors has found, the public interest not requiring otherwise, that TVA business requires the subject matter of this meeting to be changed to include the additional item shown above and that no earlier announcement of this change was possible.

The members of the TVA Board voted to approve the above findings and their approvals are recorded below.

Dated: September 2, 1983.

C. H. Dean, Jr.,

S. David Freeman,

Richard M. Freeman.

[S–1285–83 Filed 9–2–83; 4:37 pm]

BILLING CODE 8120–01–M

federal register

Thursday
September 8, 1983

Part II

Department of Energy

Office of Conservation and Renewable Energy

Industrial Energy Conservation Program; Notice of Exempt Corporations and Adequate Reporting Programs

DEPARTMENT OF ENERGY

Office of Conservation and Renewable Energy

[Docket No. CAS-RM-80-304]

Industrial Energy Conservation Program; Notice of Exempt Corporations and Adequate Reporting Programs

AGENCY: Department of Energy.

ACTION: Notice of exempt corporations and adequate reporting programs.

SUMMARY: As an annual part of the Department of Energy's (DOE) Industrial Energy Conservation Program, DOE is exempting certain corporations from the requirement of filing corporate energy consumption reporting forms directly with DOE and is determining as adequate certain industrial reporting programs for third party sponsor reporting. This notice is required pursuant to section 376(g)(1) of the Energy Policy and Conservation Act (EPCA) and DOE's regulations set forth at 10 CFR Part 445, Subpart D. These procedures which allow identified corporations to be exempted from filing energy consumption data directly with DOE, assist in maintaining the confidentiality of consumption information and reduce the reporting burden for corporations. The exempt corporations and the respective sponsors of adequate reporting programs are listed alphabetically by industry in the appendix to this notice.

FOR FURTHER INFORMATION CONTACT:

Tyler E. Williams, Jr., Office of Industrial Programs, CE-122.1, U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585; (202) 252-2371,

or

Pamela Pelcovits, Office of General Counsel, GC-33, U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585; (202) 252-9519.

Issued in Washington, D.C., August 30, 1983.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

Final Exempt Corporations and Sponsors of Adequate Reporting Programs

SIC 20—FOOD AND KINDRED PRODUCTS

American Bakers Association

Campbell Soup Company (partial)
Campbell Taggart, Inc.
Consolidated Foods Corporation (partial)
Flowers Industries Inc.
G. Heileman Brewing Company, Inc. (partial)
ITT Continental Baking Company Inc. (partial)
Interstate Brands Corporation

American Feed Manufacturers Association

Archer Daniels Midlands Company (partial)
Cargill Inc.
Central Soya Company Inc. (partial)
Gold Kist Inc.
Land O'Lakes, Inc. (partial)
Moorman Manufacturing Company
Ralston Purina Company (partial)

American Frozen Food Institute

Campell Soup Company (partial)
J. R. Simplot Company

American Meat Institute

Beatrice Foods Company (partial)
Consolidated Foods Corporation (partial)
Farmland Industries Inc.
Geo. A. Hormel & Company
Greyhound Corporation
Oscar Mayer & Company
Rath Packing Company
Swift & Company
United Brands Company
Wilson Foods Corporation

Biscuit & Cracker Manufacturers Association

Keebler Company
Lance Inc.
Nabisco Inc. (partial)
Sunshine Biscuits Inc.

Chemical Manufacturers Association

National Distillers Products Company

Corn Refiners Association

A. E. Staley Manufacturing Company (partial)
American Maize-Products Company
CPC International Inc.
Grain Processing Association
National Starch & Chemical Corporation

Grocery Manufacturers of America, Inc.

A. E. Staley Manufacturing Company (partial)
American Home Products Corporation
Amstar Corporation
Anderson Clayton & Company
Archer Daniels Midland Company (partial)
Basic American Foods
Beatrice Foods Company (partial)
Borden Inc. (partial)
Carnation Company
Central Soya Company, Inc. (partial)
Chesebrough-Ponds Inc.
Cola-Cola Company
Consolidated Foods Corporation (partial)
General Foods Corporation
General Mills Inc.
H. J. Heinz Company (partial)
Hershey Foods Corporation
Kellogg Company
Kraft Inc.
Kroger Company
Lance Inc.
Lever Bros.
Mars Inc.
Nabisco Inc. (partial)
Pepsico Inc.
Pet Incorporated
Pillsbury Company
Procter & Gamble Company
Quaker Oats Company
Ralston Purina Company (partial)
R. T. French Company
Thomas J. Lipton Inc.
Universal Foods Corporation

National Food Processors Association

California Canners and Growers Company
Campbell Soup Company (partial)
Castle & Cooke Inc.
Curtice-Burns Inc.
Del Monte Corporation
Gerber Products Company
H. J. Heinz Company (partial)
Norton Simon Inc.
Stokely-Van Camp Inc.
Sunkist Growers Inc.
Tri/Valley Growers Inc.

National Frozen Food Association

ITT Continental Baking Company Inc. (partial)

Pharmaceutical Manufacturers Association

Eli Lilly and Company

U.S. Beet Sugar Association

Amalgamated Sugar Company
American Crystal Sugar Company
Holly Sugar Corporation
Michigan Sugar Company
Minn-Dak Farmers Cooperative
Monitor Sugar Company
Southern Minnesota Sugar Cooperative
Union Sugar Company

U.S. Brewers Association

Adolph Coors Company
Anheuser-Busch Inc. (partial)
Archer Daniels Midland Company (partial)
Froedtert Malt Corporation
Jos. Schlitz Brewing Company
Ladish Malting Company
Miller Brewing Company
Olympia Brewing Company
Pabst Brewing Company
The Stroh Companies Inc.

U.S. Cane Sugar Refiners Association

California & Hawaiian Sugar Company
Colonial Sugars Inc.
Georgia Sugar Refinery
Imperial Sugar Company

Refined Sugars Inc.
Revere Sugar Corporation
Savannah Foods & Industries Inc. (partial)
Supreme Sugar Company, Inc.

SIC 22—TEXTILE MILL PRODUCTS

American Textile Manufacturers Institute

Avondale Mills Inc.
Bibb Company
Burlington Industries Inc.
Clinton Mills Inc.
Coats & Clark Inc.
Colgate-Palmolive Company
Collins & Aikman Corporation
Cone Mills Corporation
Cranston Print Works Company
Crompton Company Inc.
Dan River Inc.
Dixie Yarns Inc.
Fieldcrest Mills Inc.
Goodyear Tire & Rubber Company
Graniteville Company
Greenwood Mills Inc.
J. P. Stevens & Company Inc.
Johnson & Johnson
Kimberly-Clark Corporation
M. Lowenstein & Sons Inc.
Milliken & Company
Northwest Industries Inc.
Reeves Brothers Inc.
Riegel Textile Corporation
Sayles Biltmore Bleacheries Inc.
Spartan Mills Inc.
Sperry and Hutchinson Company (partial)
Springs Industries Inc.
Standard-Coosa-Thatcher Company
Thomaston Mills Inc.
Ti-Caro Inc.
United Merchants & Manufacturers Inc.
West Point-Pepperell Inc.

Carpet & Rug Instiute

Bigelow-Sanford Inc.
Mohasco Corporation
Shaw Industries Inc.
Standard Oil Company (Indiana)
WWG Industries Inc.

SIC 24—LUMBER AND WOOD PRODUCTS

National Forest Products Association

Abitibi-Price Corporation
Boise Cascade Corporation
Champion International Corporation
Georgia-Pacific Corporation
Koppers Company Inc.
Louisiana-Pacific Corporation
Masonite Corporation
Potlatch Corporation
Weyerhaeuser Company
Willamette Industries Inc.

SIC 26—PAPER AND ALLIED PRODUCTS

American Paper Institute

Abitibi-Price Southern Corporation
Alabama River Pulp Company, Inc.
Alton Box Board Company
American Can Company
Appleton Papers Inc.
Arcata Corporation
Austell Box Board Corporation
Bell Fibre Products Corporation
Blandin Paper Company
Boise Cascade Corporation
Bowater Incorporated
Caraustar Industries Company
Champion International Corporation
Chesapeake Corporation
Clevepak Corporation
Consolidated Packaging Corporation
Consolidated Papers Inc.
Continental Group Inc.
Crown Zellerbach Corporation
Deerfield Specialty Papers, Inc.
Dennison Manufacturing Company
Dexter Corporation
Diamond International Corporation
Eddy Paper Company Limited
Erving Paper Mills Inc.
Federal Paper Board Company Inc.
Finch Pruyn & Company Inc.
Fort Howard Paper Company
Fraser Paper, Limited
GAF Corporation
Garden State Paper Company Inc.
Georgia-Pacific Corporation
Gilman Paper Company
Great Northern Nekoosa Corporation
Green Bay Packaging Inc.
Gulf States Paper Corporation
Hammermill Paper Company
International Paper Company
International Telephone & Telegraph Corporation
James River Corporation of Virginia
Kimberly-Clark Corporation
Litton Industries Inc.
Longview Fibre Company
Macmillan Bloedel Inc.
Marcal Paper Mills Inc.
Mead Corporation
Menasha Corporation
Mobil Oil Corporation (partial)
Mosinee Paper Corporation
National Gypsum Company
Newark Boxboard Company
Newton Falls Paper Mill Inc.
Olin Corporation
Owens-Illinois Inc.
PH Glatfelter Company
Penntech Papers Inc.
Pentair Industries Inc.
Philip Morris Inc.
Pope and Talbort Inc.
Port Huron Paper Company
Potlatch Corporation
Procter & Gamble Company
Rhinelander Paper Company
Scott Paper Company
Simpson Paper Company
Sonoco Products Company
Southeast Paper Manufacturing Company
Southwest Forest Industries Inc.
St. Joe Paper Company
St. Regis Paper Company
Sorg Paper Company
Stone Container Corporation
Tenneco Inc.
Time Inc.
Times Mirror Company
Union Camp Corporation
Virginia Fibre Corporation
Wausau Paper Mills Company
Weston Paper & Manufacturing Company
Westvaco Corporation
Weyerhaeuser Company
Willamette Industries Inc.

Chemical Manufacturers Association

Minnesota Mining & Manufacturing Company
Mobil Chemical Company

SIC 28—CHEMICALS AND ALLIED PRODUCTS

Aluminum Association

Aluminum Company of America
Reynolds Metals Company

American Feed Manufacturers Association

Cargill Inc.

Chemical Manufacturers Association

Air Products & Chemicals Inc.
Airco Inc.
Akzona Inc.
Allied Corporation
American Can Company
American Chrome & Chemicals Inc.
American Cyanamid Company
American Hoechst Corporation
American Petrofina Inc.
Arizona Chemical Company
Ashland Oil Inc.
Atlantic Richfield Company
Avtex Fibers Inc.
B F Goodrich Company
Badische Corporation
BASF Wyandotte Corporation
Big Three Industries Inc.
Borden Inc.
Borg-Warner Corporation
Buffalo Color Corporation
Cabot Corporation
Celanese Corporation
CIBA-GEIGY Corporation
Cities Service Company
CONOCO Inc.
Corpus Christi Petrochemical Company
CPC North America
Diamond Crystal Salt Company
Diamond Shamrock Corporation
Dow Chemcial Company
Dow Corning Corporation
E. I. du Pont de Nemours & Company
Eastman Kodak Company
Elf Aquitaine Inc.
El Paso Products Company
Ethyl Corporation
Exxon Corporation
Farmland Industries Inc. (partial)
Firestone Tire & Rubber Company
FMC Corporation

Freeport Minerals Company
GAF Corporation
Georgia-Pacific Corporation
Getty Oil Company
Goodyear Tire & Rubber Company
Great Lakes Chemical Corporation
Greyhound Corporation
Gulf Oil Corporation
Harshaw Chemical Company
Henkel Corporation
Hercules Incorporated
ICI Americas Inc.
International Minerals & Chemicals Corporation (partial)
Inter North Inc.

Fertilizer Institute

Cominco America Inc.
Estech General Chemicals Corporation
Farmland Industries Inc. (partial)
First Mississippi Corporation
Gardinier Big River Inc.
Green Valley Chemcial Company
Hawkeye Chemical Company
International Minerals & Chemical Corporation (partial)
J. R. Simplot Company
Mississippi Chemical Corporation
Occidental Petroleum Corporation (partial)
Reichhold Chemicals Inc. (partial)
Terra Chemicals International Inc.
Tyler Corporation (Atlas Powder Company)
Union Oil Company of California
United States Steel Corporation (partial)
Vertac Inc. (partial)
The Williams Companies

Pharmaceutical Manufacturers Association

Abbott Laboratories
American Home Products Corporation (partial)
Baxter-Travenol Laboratories
Eli Lilly & Company
Hoffmann-La Roche Inc.
Johnson & Johnson
Merck & Company Inc.
Miles Laboratories Inc.
Richardson Vicks Inc.
Squibb Corporation
Upjohn Company (partial)
Warner-Lambert Company

SIC 29—PETROLEUM AND COAL PRODUCTS

American Petroleum Institute

Agway Inc.
American Petrofina Inc.
Asamera Oil (US) Inc.
Ashland Oil Inc.
Atlantic Richfield Company
Beacon Oil Company
Champlin Petroleum Company
Charter International Oil Company
Cities Services Company
Clark Oil & Refining Corporation
Coastal Corporation
Crown Central Petroleum Corporation
Diamond Shamrock Corporation
Dorchester Gas Corporation
Earth Resources Company
Energy Cooperative Inc.
Exxon Corporation
Farmers Union Central Exchange Inc.
Farmland Industries Inc.
Fletcher Oil & Refining Company
Getty Oil Company
Gulf Oil Corporation
Hunt Oil Company
Husky Oil Company
Indiana Farm Bureau Cooperative Association
Kerr-McGee Corporation
Koch Industries Inc.
Little America Refining Company
Marathon Oil Company
Mobil Oil Corporation
Murphy Oil Corporation
National Cooperative Refinery Association
OKC Corporation
Pacific Resources Inc.
Pennzoil Company
Phillips Petroleum Company
Placid Refining Company
Powerine Oil Company
Quaker State Oil Refining Corporation
Rock Island Refining Corporation
Shell Oil Company
Southern Union Company
Southland Oil Company
Standard Oil Company (Indiana)
Standard Oil Company (Ohio)
Standard Oil Company of California
Sun Company Inc.
Tenneco Inc.
Tesoro Petroleum Corporation
Texaco Inc.
Texas Eastern Transmission Corporation
Time Oil Company
Tosco Corporation
Total Petroleum Inc.
Union Oil Company of California
USA Petroleum Corporation
Winston Refining Company
Witco Chemical Corporation

Chemical Manufacturers Association

GAF Corporation
Great Lakes Carbon Corporation
Koppers Company Inc.
USS Chemicals

Glass—Pressed and Blown (Battelle Institute)

Owns-Corning Fiberglas Corporation

SIC 30—RUBBER AND MISCELLANEOUS PLASTIC PRODUCTS

Chemical Manufacturers Association

American Cyanamid Company
Dart Industries Inc.
Ethyl Corporation
Exxon Corporation
Minnesota Mining & Manufacturing Company
Union Carbide Corporation
W. R. Grace & Company

Pharmaceutical Manufacturers Association

Baxter-Travenol Laboratories

Rubber Manufacturers Association

Armstrong Rubber Company
B. F. Goodrich Company
Carlisle Corporation
Cooper Tire & Rubber Company
Dayco Corporation
Dunlop Tire & Rubber Corporation
Firestone Tire & Rubber Company
Gates Rubber Company
General Tire & Rubber Company
Goodyear Tire & Rubber Company
Owens-Illinois Inc.
Uniroyal Inc.

SIC 32—STONE, CLAY AND GLASS PRODUCTS

Brick Institute of America

Belden Brick Company
Bickerstaff Clay Products Company Inc.
Boren Clay Products Company
Delta Brick & Tile Company
General Dynamics Corporation (partial)
General Shale Products Corporation
Glen-Gery Corporation
Justin Industries Inc.

Chemical Manufacturers Association

Engelhard Corporation
GAF Corporation
Minnesota Mining & Manufacturing Company
Reichhold Chemicals Inc.
Vulcan Materials Company

Expanded Shale Clay and Slate Institute

Lehigh Portland Cement Company (partial)
Solite Corporation

Glass—Flat (Eugene L. Stewart)

AFG Industries Inc.
Ford Motor Company
Guardian Industries Corporation
Hordis Brothers Inc.
Libbey-Owens-Ford Company
PPG Industries Inc.

Glass Packaging Institute

Anchor Hocking Corporation (partial)
Ball Corporation
Brockway Glass Company Inc. (partial)
Coors Container Company
Diamond Glass
Dorsey Corporation
Gallo Glass Company
Glenshaw Glass Company Inc.
Indian Head Inc.
Kerr Glass Manufacturing Corporation
Latchford Glass Company
Liberty Glass Company
Midland Glass Company Inc.
National Bottle Manufacturing Company
National Can Corporation
Norton Simon Inc.

Owens-Illinois Inc. (partial)
Philip Morris Inc.
Thatcher Glass Corporation
Wheaton Industries

Glass—Pressed and Blown (Battelle Institute)

Anchor Hocking Corporation (partial)
Brockway Glass Company Inc. (partial)
Certainteed Corporation
Corning Glass Works (partial)
Owens-Corning Fiberglas Corporation
Owens-Illinois Inc. (partial)

Gypsum Association

Domtar Industries Inc. (partial)
Genstar Building Materials Company
Georgia-Pacific Corporation
Jim Walter Corporation (partial)
National Gypsum Company (partial)
Pacific Coast Building Products Company (partial)
United States Gypsum Company (partial)

National Lime Association

Ash Grove Cement Company (partial)
Bethlehem Steel Corporation (partial)
Can-Am Corporation
CLM Corporation
Domtar Industries Inc. (partial)
Dravo Corporation
Edw. C. Levy Company
Flintkote Company (partial)
General Dyanmics Corporation (partial)
J. E. Baker Company (partial)
Martin Marietta Corporation (partial)
National Gypsum Company (partial)
Pfizer Inc. (partial)
Round Rock Lime Company
St. Clair Lime Company
United States Gypsum Company (partial)
Vulcan Materials Company (partial)
Warner Company

Portland Cement Association

Alamo Cement Company
Alpha Portland Cement Compahy
Arkansas Louisiana Gas Company
Ash Grove Cement Company (partial)
California Portland Cement Company
Capitol Aggregates Inc.
Centex Corporation
Citadel Cement Corporation
Coplay Cement Manufacturing Company
Crane Company
Cyprus Hawaiian Cement Company
Dundee Cement Company
Filtrol Corporation
Flintkote Company (partial)
Florida Mining & Materials Corporation
General Portland Cement Company
Giant Portland & Masonry Cement Company
Gifford-Hill & Company Inc.
Ideal Basic Industries Inc.
Independent Cement Corporation
Kaiser Cement & Gypsum Corporation
Keystone Portland Cement Company
Lehigh Portland Cement Company (partial)
Lone Star Industries Inc.
Louisville Cement Company
Martin Marietta Corporation (partial)
McDonough Company
Missouri Portland Cement Company
Monarch Cement Company
Monolith Portland Cement Company
National Cement Company
Newmont Mining Corporation
Northwestern St. Portland Cement Company
Oregon Portland Cement Company
Penn-Dixie Industries Inc.
Rinker Portland Cement Corporation
River Cement Company
South Dakota Cement Company
Southdown Inc.
Texas Industries Inc. (partial)
Whitehall Cement Manufacturing Company

Refractories Institute

Allied Chemical Corporation (partial)
Combustion Engineering Inc. (partial)
Corning Glass Works (partial)
Dresser Industries Inc. (partial)
Ferro Corporation (partial)
Grefco Inc.
Interpace Corporation (partial)
J. E. Baker Company (partial)
Kaiser Aluminum & Chemical Corporation (partial)
Kennecott Corporation (partial)
Martin Marietta Corporation (partial)
McDermott Inc. (partial)
Norton Company (partial)
Pfizer Inc. (partial)
United States Gypsum Company (partial)

Tile Council of America

National Gypsum Company (partial)

SIC 33—PRIMARY METAL INDUSTRIES

Aluminum Association

Alcan Aluminum Corporation
Alumax Inc.
Aluminum Company of America
American Can Company
Atlantic Richfield Company (partial)
Cabot Corporation
Considated Aluminum Corporation
Ethyl Corporation
Kaiser Aluminum & Chemical Corporation
Martin Marietta Corporation
National Steel Corporation (partial)
Noranda Aluminum Inc.
Pechiney Ugine Kuhlmann Corporation (partial)
Revere Copper and Brass Inc. (partial)
Reynolds Metals Company
Southwire Company

American Die Casting Institute

Hayes-Albion Corporation (partial)

American Foundrymen's Society

American Cast-Iron Pipe Company
Clow Corporation
Dayton Mallleable Inc.
Grede Foundries Inc.
Mead Corporation
Teledyne Inc. (partial)

American Iron & Steel Institute

A. Finkl & Sons Company
Allegheny International
Armco Inc.
Athlone Industries Inc.
Atlantic Steel Company
Bethlehem Steel Corporation
Cargill Inc.
Carpenter Technology Corporation
Ceco Corporation
Colt Industries Inc.
Crane Company
Cyclops Corporation
Eastmet Corporation
Florida Steel Corporation
Ford Motor Company
Guteri Special Steel Corporation
Inland Steel Company
Interlake Inc. (partial)
Jones & Laughlin Steel Corporation
Kaiser Steel Corporation
Keystone Consolidated Industries Inc.
Korf Industries Inc.
Laclede Steel Company
LTV Corporation
Lukens Steel Corporation
McDermott Inc.
McLouth Steel Corporation
National Steel Corporation (partial)
Northwest Industries Inc. (partial)
Northwest Steel Rolling Mills Inc.
Northwestern Steel & Wire Company
Phoenix Steel Corporation
Republic Steel Corporation
Sharon Steel Corporation
Shenango Inc.
Teledyne Inc. (partial)
Timken Company
United States Steel Corporation
Washington Steel Corporation
Wheeling Pittsburgh Steel Corporation

American Mining Congress

Amax Inc.
Asarco Inc.
Inspiration Consol Copper Company
Kennecott Corporation (partial)
Louisiana Land & Exploration Company (partial)
Marmon Group Inc.
Newmont Mining Corporation (partial)
Phelps Dodge Corporation (partial)
St. Joe Minerals Corporation

Construction Industry Manufacturers Association

Caterpillar Tractor Company
Tenneco Inc.

Copper & Brass Fabricators Council

Atlantic Richfield Company (partial)
Century Brass Products Inc.

Kennecott Corporation (partial)
Louisiana Land & Exploration Company (partial)
National Distillers & Chemical Corporation
Olin Corporation
Phelps Dodge Corporation (partial)
Revere Copper & Brass Inc. (partial)

Ferroalloys Association

Chromium Mining & Smelting Corporation
Dow Chemical Company
Elkem Metals Company
Foote Mineral Company
Hanna Mining Company—Silicon Division
Hanna Nickel Smelting Company
Interlake Inc. (partial)
International Minerals & Chemical Corporation
MacAlloy Corporation
Newmont Mining Corporation (partial)
Ohio Ferroalloys
SKW Alloys
Union Carbide Corporation

SIC 34—FABRICATED METAL PRODUCTS

Aluminum Association

Aluminum Company of America
Kaiser Aluminum & Chemical Corporation
Martin Marietta Corporation
Reynolds Metals Company

American Boiler Manufacturers Association

Combustion Engineering Inc.
McDermott Inc.

Can Manufacturers Institute

American Can Company
Campbell Soup Company
Continental Group Inc.
Crown Cork & Seal Company Inc.
Jos Schlitz Brewing Company
Miller Brewing Company
National Can Corporation

Chemical Manufacturers Association

E. I. du Pont de Nemours & Company
Remington Arms Company Inc.

SIC 35—MACHINERY, EXCEPT ELECTRICAL ELECTRICAL

Air Conditioning & Refrigeration Institute.

Emerson Electric Company
IC Industries
Trane Company

Computer & Business Equipment Manufacturers Association

Control Data Corporation
Digital Equipment Corporation
International Business Machines Corporation
Sperry Rand Corporation
TRW Inc.
Xerox Corporation

Construction Industry Manufacturers Association

Bucyrus-Erie Company
Caterpillar Tractor Company
Clark Equipment Company
Cummins Engine Company Inc.
FMC Corporation
Ford Motor Company
Harnischfeger Corporation
Ingersoll-Rand Company
Tenneco Inc

SIC 36—ELECTRIC, ELECTRONIC EQUIPMENT

Chemical Manufacturers Association

Great Lakes Carbon Corporation
Minnesota Minning & Manufacturing Company

National Electrical Manufacture's Association

Airco Inc.
Allied Chemical Corporation
Emerson Electric Company
Harvey Hubbell Inc.
Johnson Controls Inc.
McGraw-Edison Company
Reliance Electric Company
Square D Company
Union Carbide Corporation

SIC 37—TRANSPORTATION EQUIPMENT

Aerospace Industries Association of America

Boeing Company
General Dynamics Corporation (partial)
Grumman Corporation
Hughes Aircraft Corporation
Lockheed Corporation
Martin Marietta Corporation
McDonnell Douglas Corporation
Northorp Corporation
Textron, Inc.
Thiokol Corporation
TRW Inc.
Vought Corporation

Chemical Manufacturers Association

Hercules Incorporated
Tenneco Inc.

Motor Vehicle Manufacturers Association

American Motors Corporation
Chrysler Corporation
Ford Motor Company (SIC Code 33, Recovered Materials)
General Motors Corporation (SIC Code 30, 33, Recovered Materials)

SIC 38—INSTRUMENTS AND RELATED PRODUCTS

Chemical Manufacturers Association

Eastman Kodak Company
Minnesota Mining & Manufacturing Company

Pharmaceutical Manufacturers Association

Johnson & Johnson

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Thursday
September 8, 1983

Part III

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

Surface Coal Mining and Reclamation Operations Permanent Regulatory Program; General Requirements and Performance Standards for Coal Exploration

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 700, 701, 772, 776, and 815

Surface Coal Mining and Reclamation Operations Permanent Regulatory Program; General Requirements and Performance Standards for Coal Exploration

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is amending its rules that relate to coal exploration activities outside of the permit area that are not subject to the requirements of 30 CFR Part 211. The amendments include a requirement that notices of intention to explore need to be filed only when an exploration operation proposing to remove 250 tons of coal or less may substantially disturb the natural land surface, rather than by all persons who propose to conduct coal exploration. In addition, the definition of the term "substantially disturb" is amended.

EFFECTIVE DATE: October 11, 1983.

FOR FURTHER INFORMATION CONTACT: Stan J. Zeccolo, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, DC, 20240; 202–343–2184.

SUPPLEMENTARY INFORMATION:

I. Background
II. Discussion of Comments and Rules Adopted
III. Procedural Matters

I. Background

The Surface Mining Control and Reclamation Act of 1977 (the Act), 30 U.S.C. 1201 *et seq.*, requires that each State and Federal program ensure that coal exploration operations that substantially disturb the natural land surface are conducted in accordance with exploration rules issued by the regulatory authority. Section 512 of the Act, entitled "Coal Exploration Permits," sets forth the notice, reclamation, and other requirements for conducting coal exploration operations. Section 512(a) of the Act specifies that, at a minimum, the exploration rules must include (1) a requirement that before beginning exploration operations, a person planning such operations must file with the regulatory authority a notice of intention to explore that includes a description of the area of exploration and the period of exploration, and (2) provisions for reclamation of all lands to be disturbed by the exploration, including excavations, roads, drill holes, and the removal of facilities and equipment, in accordance with the performance standards set forth in Section 515 of the Act. Although the Act requires that a notice of intention to explore be filed with the regulatory authority, the Act does not require that the exploration be approved by the regulatory authority unless more than 250 tons of coal are to be removed, in which case specific written approval is required under Section 512(d).

On March 13, 1979, the Office of Surface Mining (OSM) issued general requirements for coal exploration, 30 CFR Part 776, and performance standards for coal exploration, 30 CFR Part 815. 44 FR 15351 and 15394, respectively.

On May 18, 1982, OSM published in the **Federal Register** proposed rules to revise the coal exploration notice and permit requirements, to redesignate them as 30 CFR Part 772 (originally Part 776), and to revise the coal exploration performance standards in 30 CFR Part 815. Also proposed for revision were the definitions of the terms "coal exploration" and "substantially disturb," in 30 CFR 701.5 (See 47 FR 21442.)

A public comment period commenced with publication of the proposed rules. The comment period closed on August 25, 1982.

The comment period was reopened on September 7, 1982, and closed again on September 10, 1982. Two speakers presented testimony at a public hearing in Denver, Colo., on June 16, 1982; no one requested to testify at hearings that had been scheduled for Washington, D.C., and Pittsburgh, Pa. Industry and associations, environmental groups, universities, State and Federal agencies, and interested individuals commented. All comments received on the May 18, 1982, proposed rules were considered in this final rulemaking and are on file in the Administrative Record.

To assist the reader in understanding the changes in the final rule the following derivation table shows the relationship of the final rules to the previous rules and the proposed rules.

DERIVATION TABLE—COAL EXPLORATION, PARTS 772 AND 815

Final rule	Previous rule	Proposed rule
772.1	776.1 and 776.2	772.1.
772.10		772.10.
772.11 (a)	776.11 (a) and (c)	772.11 (a).
772.11 (b)(1)	776.11 (b)(1)	772.11 (b)(1).
772.11 (b)(2)	776.11 (b)(2)	772.11 (b)(2).
772.11 (b)(3)	776.11 (b)(3)	772.11 (b)(3).
772.11 (b)(4)	776.11 (b)(4)	772.11 (b)(4).
772.11 (b)(5)	776.11 (b)(6)	772.11 (b)(5).
772.12(a)	776.12 intro	772.12(a).
772.12(b)	776.12(a)	772.12(b).
772.12(b)(1)	776.12(a)(1)	772.12(b)(1).
772.12(b)(2)	776.12(a)(2)	772.12(b)(2).
772.12(b)(3)	776.12(a)(3)(i)	772.12(b)(3).
772.12(b)(4)	776.12(a)(3)(ii)	772.12(b)(4).
772.12(b)(5)	776.12(a)(3)(iii)	772.12(b)(5).
772.12(b)(6)	776.12(a)(3)(iv)	772.12(b)(6).
772.12(b)(7)		772.12(b)(7).
772.12(b)(8)	776.12(a)(3)(i)	772.12(b)(8).
772.12(b)(9)	776.12(a)(3)(i)	
772.12(b)(10)	776.12(a)(3)(v)	772.12(b)(9).
772.12(b)(11)	776.12(a)(4)	772.12(b)(10).
772.12(b)(12)	776.12(a)(5)	772.12(b)(11).
772.12(b)(13)	776.12(a)(6)	772.12(b)(12).
772.12(c)	776.12(b)	772.12(c).
772.12(c)(1)	776.12(b)(1)	772.12(c)(1).
772.12(c)(2)	776.12(b)(2)	772.12(c)(2).
772.12(c)(3)	776.12(b)(3)	772.12(c)(3).
772.12(d)(1)	776.13(a)	772.12(d)(1).
772.12(d)(2)	776.13(b)	772.12(d)(2).
772.12(d)(2)(i)	776.13(b)(1)	772.12(d)(2)(i).
772.12(d)(2)(ii)	776.13(b)(2)	772.12(d)(2)(ii)
772.12(d)(2)(iii)	776.13(b)(3)	772.12(d)(2)(iii)
772.12(d)(3)	776.13(c)	772.12(d)(3).
772.12(e)(1)	776.14(a)	772.12(e)(1).
772.12(e)(2)	776.14(b)	772.12(e)(2).
772.13(a)	776.15(a)	772.13(a).
772.13(b)	776.15(b)	772.13(b).
772.14	815.17	772.14.
772.15(a)	776.17(a)	772.15(a).
772.15(b)	776.17 (b)(1) and (b)(2).	772.15(b).
772.15(c)	776.17(b)(3)	772.15(c).
815.1	815.1	815.1.
815.13	815.13	815.13.
815.15(a)	815.15(a)	815.15(a).
815.15(b)	815.15(c)(2–4)	815.15(b).
815.15(c)	815.15(d)	815.15(c).
815.15(d)	815.15(e)	815.15(d).
815.15(e)	815.15(f)	815.15(e).
815.15(e)(1)	815.15(f)(1)	815.15(e)(1).
815.15(e)(2)	815.15(f)(2)	815.15(e)(2).
815.15(f)	815.15(g)	815.15(f)(1) and (f)(2).
815.15(g)	815.15(h)	815.15(g).
815.15(h)	815.15(i)	815.15(h).
815.15(h)(1)	815.15(i)(1)	815.15(h)(1).
815.15(h)(2)	815.15(i)(2)	815.15(h)(2).
815.15(h)(3)	815.15(i)(3)	815.15(h)(3).
815.15(i)	815.15(j)	815.15(i)
815.15(j)	815.15(k)	815.15(j).

II. Discussion of Comments and Rules Adopted

Section 700.11 Applicability.

On February 16, 1983 (48 FR 6915–6916), OSM revised 30 CFR 700.11 to clarify the extent to which the Act governs coal exploration on Federal lands. It extended the requirements of 30 CFR Chapter VII to coal exploration on Federal lands except for Federal lands that are subject to the requirements of 30 CFR Part 211. Where 30 CFR Part 211

applies, the Bureau of Land Management has the primary responsibility for coal exploration. In the February 16 rule, OSM inadvertently amended § 700.11(g), a paragraph that had been redesignated as § 700.11(a)(6) on August 2, 1982 (47 FR 33432) as part of the revision to OSM's "2-acre" rule. This final rule corrects that error and properly amends § 700.11(a)(6) rather than attempting to amend § 700.11(g) which no longer exists. The substance of the rule is unchanged from the February rule.

Section 701.5 Definitions.

This section of the preamble contains a discussion of the definitions of the two terms—"coal exploration" and "substantially disturb"—that are fundamental to understanding the requirements for conducting coal exploration.

"Coal exploration"

The term "coal exploration" is defined in § 701.5 as the field gathering of (a) surface or subsurface geologic, physical, or chemical data by mapping, trenching, drilling, geophysical, or other techniques necessary to determine the quality and quantity of overburden and coal of an area; and (b) the gathering of environmental data to establish the conditions of an area before beginning surface coal mining and reclamation operations.

On May 18, 1982, OSM proposed a revised definition that it thought would be more easily understood, while retaining the same basic features of the previous definition (47 FR 21446). After consideration of the comments received, OSM found the existing definition to be more descriptive of the procedures commonly associated with coal exploration, especially in that it better expresses the role of environmental-data gathering during coal exploration. Consequently, the existing definition will not be revised.

The definition is based generally on the definition of "exploration" under the Interior Department's rules for coal exploration on Federal lands (30 CFR Part 211), as was explained in the preamble to the 1978 proposed permanent program rules (September 18, 1978, 43 FR 41689). The definition was slightly revised from the proposal in those final permanent program rules for the reasons given in the preamble to those rules (March 13, 1979, 44 FR 14927).

"Coal exploration" consists of data-gathering activities with two objectives: To locate and evaluate coal deposits in an area, and to establish the environmental conditions in an area before beginning mining operations. As was explained in the preamble to the 1979 permanent program rules, the existing definition was written to cover pre-permit environmental-data gathering as an activity separate from locating and evaluating coal deposits in an area, although the two types of exploration may be conducted at the same time. However, the proposed definition did not appear to some commenters to make that distinction.

Seven commenters expressed their opinions regarding various aspects of the proposed definition, and all discussed the collection of environmental data, as was requested in the preamble to the proposed definition. One of the commenters felt that the collection of environmental data did not come within the meaning of coal exploration, and that collecting the data would be an unnecessary burden. Another remarked that the gathering of data on related environmental conditions was not contemplated by Congress and therefore recommended deletion of that phrase, as did another commenter who stated that no other environmental data were needed beyond those related to data collection on coal, associated strata, and hydrologic conditions. The former commenter cited the rules of the Bureau of Land Management (30 CFR Part 211) in which the definition of the term "exploration" does not include a requirement for additional environmental data-gathering. A fifth commenter believed that reference to hydrologic conditions should also be deleted from the definition.

These commenters apparently misunderstood the purpose and effect of the coal exploration rules. These rules do not require operators to engage in exploration. Rather, they set environmental protection standards if and when exploration is conducted for whatever reason. Data collection requirements for permit applications are provided in Parts 779, 780, 782, 783, 784, and 785 of the permanent program regulations. These requirements extend to data on coal, associated strata, hydrologic conditions and other environmental conditions. Many of these activities could, based on the scope of the exploration and site-specific conditions, result in a substantial disturbance to the environment. The inclusion of such activities in the definition ensures that the environmental protection requirements of Section 512 of the Act will be met and that such data gathering activities will be subject to the notice, approval, and reclamation standards set by these rules.

A commenter who advocated retention of environmental data-gathering within the definition pointed out that that activity may cause substantial disturbance, such as the destruction of the hydraulics of alluvial valley floors by excessive soil compaction by vehicles and the contamination of water by drilling fluids. OSM agrees that the procedures used in collecting environmental data could substantially disturb the land surface under some circumstances.

The existing definition, which has been retained, will ensure that such disturbances are in accordance with the requirements applicable to coal exploration.

A commenter recommended that "related" be substituted for "field" in the phrase "field activities." The term "field" is more appropriate. Several comments were received when the permanent program definition was originally proposed that recommended insertion of the word "field" so that activities carried out away from the exploration site, such as laboratory studies, would not be included (March 13, 1979, 44 FR 14972). These comments were accepted and OSM continues to believe that Congress intended that the rules apply to field activities that could disturb the environment and not laboratory studies or other "related" activities.

Another commenter maintained that unless the definition of coal exploration was limited to data-gathering activities that substantially disturb the land, all exploration operations would require approval by the regulatory authority. This is not correct. Only exploration that is proposed to take place on lands designated as unsuitable for mining or that remove more than 250 tons of coal will require regulatory authority approval (30 CFR 772.12(a)). Other persons conducting exploration activities that substantially disturb the surface are only required to submit a notice to the regulatory authority and comply with the performance standards in Part 815.

One commenter thought that the proposed definition would weaken the environmental protection sought by Section 512 of the Act. The commenter claimed that trenching is generally more environmentally destructive than drilling and that the phrase "to determine the quality and quantity of overburden and coal of an area" made the previous definition more inclusive, yet neither concept was included in the proposed definition. Additionally, the commenter felt that the proposed definition for "coal exploration" would

apply to scientific research not related to locating and describing coal deposits, which had been excluded by the previous definition. Further, it was unclear to the commenter as to whether the phrase "related environmental conditions" referred to the exploration process or to pre-permit data gathering.

OSM has decided to retain the existing definition of coal exploration. It defines coal exploration to include the field gathering of data on the overburden and coal in an area as well as collection of environmental data. OSM agrees that this definition does not extend to scientific research and applies only to prepermit data gathering.

One commenter suggested that the word "utilized" be used in place of "necessary," so that all methods of exploration that might actually be used, whether or not they are in fact necessary, would be included. While OSM agrees with the objective indicated by the commenter, no change is deemed necessary in the existing definition. Whatever techniques are used by a particular exploration operation would be considered "necessary" to that operation and would be covered.

"Substantially disturb"

The term "substantially disturb" was defined in previous § 701.5 as including, for purposes of coal exploration, such activities as blasting, mechanical excavation, drilling or altering coal or water exploratory holes or wells, construction of roads and other access routes, and the placement of structures, excavated earth, or other debris on the surface of the land that have a significant impact on land, air, or water resources.

OSM proposed to revise the definition (May 18, 1982, 47 FR 21446) so that it would be more closely aligned with the definition of the term "disturbed area" than was the previous definition. Specific reference to blasting, drilling, mechanical excavation, and placement of structures was proposed to be removed, and the more general categories likely to have a significant impact individually, such as the removal of vegetation, topsoil, or overburden; the construction of roads; and the placement of excavated earth or waste material on the land surface used in their place. This was not intended to indicate that blasting, drilling, or mechanical treatment could not result in a substantial disturbance, but rather was a desire to rely on the more generic terms. Additionally, a new activity—the removal of more than 250 tons of coal—was added in the proposed rule as causing a "substantial disturbance" because of the significant impact that results from such activity.

The final definition is essentially the same as the proposed definition, except that blasting has been restored as an exploration activity that is presumed to have a significant impact. Also, the phrase "removal of more than 250 tons of coal" has been set out from the rest of the activities to clarify that the removal of such an amount of coal will be considered in all cases a substantial disturbance.

The final rule is generally in agreement with the rules that govern coal exploration on Federal lands (30 CFR 211.10). Those rules distinguish between "casual use" of the land which does not cause significant surface disturbance during exploration and "other than casual use" (the use of heavy equipment or explosives and vehicular movement off established roads and trails are given as example of the latter).

The final definition is as specific as is practical, given the variability of the environmental and technical factors involved. The definition describes only minimum requirements. Individual regulatory authorities will have the flexibility to establish more specific standards that consider the particular conditions within the State.

One of the major concerns of commenters was whether or not drilling should be included as one of the activities mentioned specifically in the definition of "substantially disturb." Four commenters concurred with removal of that activity from the definition and three protested its removal. As was expressed in the preamble to the proposed definition, drilling may, but need not in every case, result in a substantial disturbance to the natural land surface. Therefore, while it is not included specifically as a listed activity, the definition as revised is broad enough to encompass drilling when it does result in such a disturbance. Usually, such a substantial disturbance would occur when drilling is combined with other activities (e.g., drilling alongside existing roads versus construction of roads to a drilling site, or the removal of vegetation and topsoil for the drill pad, in addition to the drilling itself). Whether such activities result in a substantial disturbance will be determined by the regulatory authorities either on a case-by-case basis or through guidelines supplementing the State program.

Another major concern of commenters was how to determine at what point the activities identified in the definition are considered to significantly impact land or water resources. For example, one commenter was concerned that drill cuttings or cores that are temporarily placed on the land surface before being replaced in the hole or removed from the site would be considered as earth or waste material placed on the land surface. The commenter also questioned whether the phrase "construction of roads," referred to removal of vegetation and topsoil, use of a bulldozer, or upgrading of existing roads.

Other commenters were concerned that the removal of small amounts of vegetation, the taking of samples (e.g., soil sampling), or driving across a field, or spreading drill cuttings on the ground near a drill hole would be construed as substantially disturbing the land. Other commenters recommended that the language of the rule be revised to either apply only to, or to exclude, such items as "large areas," "limited vegetation removal," "temporary placement," "extensive removal," and "lasting degradation." Two commenters maintained that the term "significant impact" should be defined because they said it is ambiguous and vague, but they offered no suggestion as to wording.

As previously indicated, the final rule is not intended to extend to casual use and other minor activities that would not be expected to result in substantial disturbances to the land surface. On the other hand, it is not possible to exclude broad categories of activities from the definition. Thus, placing drill cuttings on the surface or driving across a field could be classified as a substantial disturbance based on site-specific circumstances. A complete listing of every possible situation that may be encountered is not possible in a rule of nationwide application. Rather, the final rule provides basic standards to be applied by State regulatory authorities.

The concept of a substantial disturbance, which in turn depends upon the interpretation of what constitutes a significant impact on land or water resources, is necessarily expressed in general terms, just as it was in the Act. Section 515 of the Act provides sufficient additional guidance to establish the reclamation requirements and goals of the Act. OSM expects the requirements for coal exploration to be applied in a manner consistent with this intent. The phrase "to significantly impact land or water resources" will be interpreted and applied in the same way as the phrase "to impact significantly upon land, air or water resources" in the previous rule, except that air resources are not included.

A commenter who questioned the ligitimacy of establishing that the

removal of more than 250 tons of coal would substantially disturb the land claimed that the figure has no significance in terms of land disturbance. OSM agrees that removal of a lesser amount of coal may also substantially disturb the land. However, the removal of that large a quantity of coal will always substantially disturb the land. The commenter also maintained that because special rules under § 772.12 apply to the removal of more than 250 tons of coal, the provision is not needed in the definition. OSM disagrees. The definition of substantial disturbance is consistent with Section 512(d) of the Act and § 772.12. In those sections the Act and regulations impose more stringent approval requirements for exploration operations that remove more than 250 tons. Thus, Congress was concerned that such exploration not occur without special approval to ensure reclamation and protection of the environment. The definition of substantially disturb supports this approval by ensuring that such large amounts of coal are not removed without reclamation occurring.

One commenter proposed that the definition of "substantially disturb" not apply to exploration operations of less than 2 acres, claiming this would then correspond with Section 529(a) of the Act. Since Section 529 of the Act refers to anthracite coal mining, it is assumed the commenter means Section 528 of the Act which provides that the Act shall not apply to the "extraction of coal for commercial purposes where the mining affects two acres or less." Because Section 528(2) of the Act applies only to the extraction of coal for "commercial purposes," the 2-acre exemption does not apply to coal exploration operations.

Two commenters remarked that reference to air resources in the previous definition was unnecessary, as the effect of coal exploration on air quality would be negligible. On the other hand, two commenters maintained that air should not have been deleted as one of the resources that can be subject to substantial disturbance by coal exploration. Their reasoning was that vehicular traffic and other sources generate fugitive dust.

Previous §§ 816.95 and 817.95, entitled "Air Resources Protection," of the permanent program, promulgated under Sections 515(b)(4) and 516(b)(10) of the Act and regulating air pollution, were remanded by the court in *In re: Permanent Surface Mining Regulation Litigation*, CA 79–1144, at 28 (D.D.C., May 16, 1980), on the grounds that the Act's legislative history "indicates that the Secretary's authority to regulate [air] pollution is limited to activities related to erosion." As a result, OSM revised § 816.95 and § 817.95 and on January 10, 1983, published final rules that relate only to erosion control and air pollution attendant to erosion (48 FR 1160). Fugitive-dust emissions are subject to the National Ambient Air Quality Standards established by the U.S. Environmental Protection Agency under the Clean Air Act, as amended (42 U.S.C. 7401 *et seq.*), and each State is responsible for complying with those standards. Thus, inclusion of air quality in the definition of substantially disturb is inappropriate. The final rule thus does not include reference to air resources.

New Part 772—Requirements for Coal Exploration

Part 776 is redesignated as Part 772 because the requirements for initiating coal exploration logically should precede those for initiating coal mining, which, as revised, start with Part 773.

Section 772.1 Scope and purpose.

In the final rule the scope and purpose of Part 772 are set forth in § 772.1. As proposed, final § 772.1 does not contain a specific section entitled "Responsibilities" (previous § 776.3) because the substantive requirements of the rules delineate with adequate specificity the respective obligations of the regulatory authorities and the persons conducting coal exploration activities. Similarly, there is no need for a separate section containing the objectives of the part, as was done in previous § 776.2.

In general, final Part 772 applies to all coal exploration operations outside the permit area, which are not subject to 30 CFR 211. No comments were received on this section. The final rule is revised, however, for clarity and to be consistent with OSM's final Federal lands rules issued on February 16, 1983, by excluding exploration operations regulated under 30 CFR Part 211. Under these rules, coal exploration activities on Federal lands not subject to 30 CFR Part 211 would be regulated. This would include such activities on lands with federally-owned surface and privately-owned minerals.

Section 772.10 Information collection.

The mandatory information collection requirements of Part 772 will be used by the regulatory authority to establish a baseline on which to assess the impact of a proposed coal exploration operation. Collection of the information is necessary in order to meet the requirements of Section 512(a) of the Act and has been approved by the Office of Management and Budget. No comments were received on this section.

Section 772.11 Notice requirements for exploration removing 250 tons of coal or less.

Final § 722.11(a) requires that any person who is proposing to conduct coal exploration that would remove up to 250 tons or less of coal and which may substantially disturb the land surface, must file a written notice of intention with the regulatory authority before beginning the operation. Previous § 776.11 had required that a notice of intention be filed whether or not a substantial disturbance would occur. Final § 722.11(b) lists the type of information required to be in the notice of intent.

Section 722.11(a)

The broad notice requirement of previous § 776.11(a) was held to be consistent with the Act in *In re: Permanent Surface Mining Regulation Litigation*, Civil Action No. 79–1144, at 33 (D.D.C. February 26, 1980), but it is not mandated by the Act. On the basis of comments received initially on the preproposed draft rules circulated by OSM prior to the issuance of the proposal and, more recently, on the proposed rules, as well as reexamination of the statutory language, OSM has determined that a notice of intent to conduct coal exploration is not necessary if there will not be a substantial disturbance of the natural land surface. States can continue to require notices of all coal exploration activities if the State determines that such notice is necessary to protect the environment or aid in enforcement. The State can also set standards, consistent with the definition in § 701.5, as to activities that it considers to substantially disturb the natural land surface according to local conditions. Anyone planning coal exploration should determine from the regulatory authority what activities have been established as substantially disturbing the land surface in the area of exploration. The final rule will ease the paperwork burden associated with the previous filing requirement, but will continue to provide protection for environment.

Proposed § 722.11(a) was supported by seven commenters and was opposed by two State agencies and two environmental groups. Three proponents of the change advocated replacing "may" with "will" in the phrase "may substantially disturb," on the grounds that it would be more precise. As a further indication of the difficulty in

establishing precisely what activities substantially disturb, one of the commenters who favored "will" remarked in justification that "virtually any exploration activity has the potential to substantially disturb the land," and another stated that "anything may substantially disturb."

No change in the proposal has been made based upon these suggestions. Filing a notice of intent for any exploration operations that may cause substantial disturbance as opposed to those that will certainly have that effect is not an excessive burden. OSM disagrees with the commenter who suggested that anything "may" substantially disturb. Such a reading of the language of the final rule would be excessive. OSM interprets the use of the term "may" in this context to refer to those operations that have a reasonable likelihood of resulting in such a disturbance.

Several commenters expressed concern that unless all persons planning exploration are required to file a notice of intention with the regulatory authority, the land could be substantially disturbed without the knowledge of the regulatory authority and therefore without reclamation or penalty. OSM recognizes the possibility that notices of intent will not be filed. However, this is an enforcement problem. The failure to submit the required notice could occur under the previous rule as easily as under the new rule. In any event, any such failure to file the notice will not waive reclamation requirements upon disturbance of the environment. The penalties for noncompliance with these rules are the same as those for surface coal mining operations and should deter non-compliance.

Section 772.11(b)

The required contents of a notice of intention to conduct exploration activities are set forth in final § 772.11(b)(1–5). Final § 722.11 (b)(1) and (b)(2), adopted as proposed, require the notice to include the names, addresses and telephone numbers of the person seeking to explore and the person's representative who will be responsible for conducting the exploration.

A commenter objected to the requirement in proposed § 722.11(b)(1) that the person seeking to explore be identified and suggested that a consultant or attorney should be able to submit the notice without disclosing the company name or the nature of the activity. OSM rejects this comment. The name of the person or company responsible for the exploration activity must be known in the event of a violation, and the nature of the activity must be stated so that it can be determined that no more than 250 tons of coal will be removed. A determination of confidentiality can be requested under § 772.15, if desired, but it is unlikely that the name of the company will be kept from public disclosure.

Final § 772.11(b)(3) requires the notice to include a narrative or a map describing the exploration area. In accordance with the May 16, 1980, district court decision, the new final rules neither require the submission of a map of the exploration area nor a description of the legal basis of the right to enter for exploration when 250 tons of coal or less are proposed for removal. These requirements were located Paragraphs (b)(3) and (b)(5), respectively, of previous § 776.11. Both requirements were held to be beyond the authority of the Act in *In re: Permanent Surface Mining Regulation Litigation,* Civil Action No. 79–1144, at 54 (D.D.C. May 16, 1980) at 54.

A commenter noted that under the district court ruling a map may be submitted only as an adjunct to the narrative description.

OSM disagrees. Section 512(a)(1) of the Act requires a description of the exploration area, but does not dictate that the description be a narrative or a map. The court was concerned that OSM was attempting to "convert" the requirement for a description into a requirement for a map. This rule does not do that. A narrative without a map may satisfy the requirement for a description. On the other hand, a map that is sufficiently detailed to describe the exploration area could also suffice without the narrative. Thus, the final rule allows a map to be used as an alternative to a narrative describing the area, but does not require a map.

Final § 772.11(b)(4) requires a statement of the period of intended exploration be included in the notice. No comments were received on this provision and it is adopted as proposed.

Final § 772.11(b)(5) requires the notice of intent to include a description of the method of exploration, including what practices will be followed to protect the environment and to reclaim the area in accordance with the performance standards of 30 CFR Part 815. A requirement to describe the "method of exploration" is added to Paragraph (b)(5) to assist the regulatory authority in determining the potential impacts likely to result from the proposed exploration. Another phrase was also added to clarify that the method and practices used must be in accordance with 30 CFR Part 815.

Section 772.12 Permit requirements for exploration removing more than 250 tons of coal.

Requirements for conducting coal exploration that will remove more than 250 tons of coal were included in previous §§ 776.12, 776.13, and 776.14. Those sections are combined into new final § 772.12, which contains the same basic requirement that any person who plans to conduct such exploration must have the approval of the regulatory authority, in writing, before starting exploration activities. Final § 772.12 also lists the type of information required in an exploration permit application and sets the procedures for public notice of the application, for opportunity to comment, for decisions on exploration applications proposing to remove more than 250 tons of coal, and for decision notifications and review proceedings.

Section 772.12(a)

Final § 772.12(a) requires any person intending to conduct coal exploration operations outside a permit area during which more than 250 tons of coal will be removed or which will take place on lands designated as unsuitable for surface mining under Subchapter F, to obtain, prior to mining, a written approval from the regulatory authority in an exploration permit.

An editorial change in the phrasing was made from the proposal to clarify that the written approval must come from the regulatory authority.

A commenter, who objected to the word "permit" in proposed § 772.12(a) instead of "written approval" on the basis of the legislative history, also stated that the term "permit" would invite needless litigation. OSM notes that section 512 of the Act is entitled "Coal Exploration Permits," and section 512(d) of the Act refers specifically to "an exploration permit." The required permit is a form of written approval to conduct an exploration operation that will remove more than 250 tons of coal and is in keeping with the terminology mentioned above.

One commenter noted that any exploration operation within an area designated as unsuitable for mining must have written approval regardless of whether or not it will remove over 250 tons of coal. OSM agrees and language has been added to final § 772.12(a) which requires that any person planning coal exploration on lands designated as unsuitable for surface mining obtain an exploration permit from the regulatory authority regardless of whether or not it may substantially disturb the land surface or whether 250 tons of coal are

removed. This change is consistent with § 762.14, which requires that such exploration operations receive regulatory authority approval.

Section 772.12(b)

The information that must be supplied in an application for an exploration permit under final § 772.12(b)(1–13) is similar to that proposed and retains some provisions from previous § 776.12(a).

One commenter recommended that the concept of an exploration and reclamation plan of previous § 776.12(a)(3) be retained. The commenter felt this would be in keeping with the structure for a surface mining operation permit and more adequately anticipate and protect the environment.

OSM agrees that certain aspects of previous § 776.12(a)(3) should be included as requirements for a coal exploration permit application in the final rule. OSM disagrees, however, that there is any significance to the label "exploration and reclamation plan" and therefore has not retained this as a "concept" in the final rule.

Previous § 776.12(a)(3)(i) identified specific items that were to be described and cross referenced to the map required by previous § 776.12(a)(5). New Paragraphs (b)(3), (b)(8), and (b)(9) of final §772.12 contain three of those items; other items that appeared in the previous paragraph were repetitious of items normally shown on a map. The final rule is simplified by removing from the narrative description those items that will be adequately described by their inclusion on the map required by final § 772.12(b)(12). Also, information pertaining to important habitats of fish and wildlife is no longer required. The February 26, 1980, district court decision, cited previously, held that such information cannot be required in surface coal mining permit applications. OSM has determined that such information is not necessary and should not be required for an exploration permit application.

Previous § 776.12(a)(3) (ii), (iii), (iv), and (v) correspond to § 773.12(b) (4), (5), (6) and (10) respectively of the final rule. Each of these requirements is discussed in more detail below.

Section 772.12 (b)(1) and (b)(2)

Final § 772.12 (b)(1) and (b)(2), which requires the name, address and telephone number of the applicant and that of the representative responsible for conducting the exploration activities, is adopted as proposed. No comments were received on these provisions.

Section 772.12(b)(3)

Final § 772.12(b)(3) requires an exploration application to include a narrative or map describing the proposed exploration area. The final rule has been revised to allow the description to include either narrative or map descriptions. This change parallels final § 772.11(b)(3) discussed above.

Section 772.12(b)(4)

Final § 772.12(b)(4), adopted as proposed, contains information previously required under § 776.12(a)(3)(ii). It requires a narrative description of the method and equipment to be used to conduct the exploration and reclamation.

One commenter suggested that proposed § 772.12(b)(4) require that the narrative description be specific as to the type of methods and equipment to be used, as was required in previous § 776.12(a)(3)(ii). Such specificity is not necessary in a rule of nationwide applicability. The required narrative description of the methods and equipment will, of necessity, identify the procedures and types of equipment to be used. The regulatory authority may require more specific descriptions if necessary to ensure that exploration will be conducted in accordance with the Act and the regulatory program.

Section 772.12(b)(5)

Final § 772.12(b)(5), adopted as proposed, requires an estimated timetable for conducting and completing each phase of the exploration and reclamation. No comments were received on this provision. It follows previous § 776.12(a)(3)(iii).

Section 772.12(b)(6)

Final § 772.12(b)(6), adopted as proposed, requires an estimate of the amount of coal to be removed and a description of the methods used to determine those amounts. No comments were received on this provision. It follows previous § 776.12(a)(3)(iv).

Section 772.12(b)(7)

Final § 772.12 (b)(7), adopted as proposed, requires that the reason for extracting more than 250 tons of coal be stated in the exploration application. Two commenters supported the requirement, and another commenter questioned the statutory right to require it. Section 512(d) of the Act requires specific written approval of the regulatory authority to remove more than 250 tons. It is important in the regulatory process to know exactly why it is necessary to remove more than 250 tons of coal, in order to prevent mining under the guise of exploration. This is particularly pertinent because of the abbreviated permit approval requirements and the lack of a requirement for a performance bond associated with exploration operations.

Section 772.12(b)(8)

Final § 772.12(b)(8) requires that applications for approval contain a description of cultural and historical resources known to be eligible for listing on the National Register of Historic Places (NRHP), as well as a description of those already listed on the register. Proposed § 772.12(b)(8) did not contain the former requirement.

Proposed § 772.12(b)(8) received several comments, all of which were opposed to the proposed rule, and two of which claimed that the rule would be in violation of the National Historic Preservation Act. OSM does not agree that the proposal was in violation of the National Historic Preservation Act. However, the final rule restores the requirement of previous § 776.12(a)(3)(i) that resources eligible for listing on the NRHP, as well as those already listed, must be described under final § 772.12(b)(8). The provision is slightly modified to require description of only those resources known to be eligible for listing on the Register and is in accordance with the National Historic Preservation Act. Since notices of eligiblity are published in the Federal Register, this requirement should not impose an undue burden, yet help ensure that the person conducting exploraton is aware of such sites.

Section 772.12(b)(9)

Final § 772.12(b)(9) requires that a description of any endangered or threatened species identified within the proposed area of exploration be included in the exploration application.

This provision was not proposed, but is included in the final rule from previous § 776.12(a)(3)(i).

Two commenters protested the removal of the requirements of previous § 772.12 (a)(3)(i) and (a)(5), respectively, to describe and show on a map the critical habitats of endangered or threatened species. OSM agrees that such habitats should be identified so that the finding, required by final § 772.12(d)(2)(ii), relating to threatened and endangered species can be made. The district court in February 1980 held that the study and information on habitats of all fish and wildlife was not authorized by the permitting sections for surface coal mining operations. However, the court did not have before it the issue of how the Secretary could implement his responsibilities under the

Endangered Species Act of 1973, 16 U.S.C. 1531 *et seq.* (ESA), with respect to coal exploration. Under the Act and the ESA, OSM has decided to continue to require a description of any identified endangered or threatened species listed under the ESA to be included in the exploration application.

Section 772.12(b)(10)

Final § 772.12(b)(10), proposed as § 772.12(b)(9), is adopted as proposed. It requires a description of the measures to be used to comply with the applicable requirement of Part 815 of this chapter. No comments were received on this provision. It follows previous § 776.12(a)(3)(v).

Section 772.12(b)(11)

Final § 772.12(b)(11), proposed as § 772.12(b)(10), is adopted as proposed. It requires the exploration permit application to include the name and address of the owner of record of the surface land and of the subsurface mineral estate of the area to be explored. No comments were received on this provision. It follows previous § 776.12(a)(4).

Section 772.12(b)(12)

Final § 772.12(b)(12), proposed as § 772.12(b)(11), contains the requirements for a map of the exploration area previously contained in § 776.12(a)(5). Though not proposed, a previous requirement is included in this final provision and it requires that critical habitats of endangered or threatened species be shown on the map. Two commenters objected to the proposed deletion from the map requirements of habitats of endangered or threatened species. Under its authority under the Act and the Endangered Species Act, OSM has decided to include in final § 772.12(b)(12) a requirement that the map of the exploration area show critical habitats of endangered or threatened species as that term is defined under the Endangered Species Act. The final rule also requires the map to show roads, occupied dwellings, bodies of water, pipelines, proposed locations of trenches, access routes, structures, excavations, drill holes and other important locations. Previous provisions requiring the map to show historic and cultural features are deleted because they duplicate provisions of Paragraph (b)(8) which requires a description of such features. The final rule includes, however, a requirement from previous § 776.12(a)(3)(i) to show topographic and drainage features. These features are important in relation to potential impacts and reclamation and are normally included on all maps. Another revision for final § 772.12(b)(12) requires that the map show all "areas of the land to be disturbed." In the proposed and previous rules only those areas to be "substantially disturbed" had to be shown on the map. This revision is to ensure that all areas disturbed by coal exploration activities, that is, areas where vegetation, topsoil, or overburden are removed, are reclaimed in accordance with Part 815.

Section 772.12(b)(13)

Final § 772.12(b)(13), proposed as § 772.12(b)(12), requires that, if the surface is owned by someone other than the applicant, the application include the basis upon which the applicant claims the right to enter the land for exploration and reclamation operation. No comments were received on this provision. It follows previous § 772.12(a)(6).

Section 772.12(c)

Final § 772.12(c)(1–3) is adopted as proposed except for a few minor editorial changes. It provides procedures for public notice and opportunity to comment on exploration applications. Final § 772.12(c)(1) revises the proposal by requiring that the applicant place public notice of the filing of an administratively complete application in a newspaper of general circulation in the county, rather than the "vicinity," in which exploration will take place. This change is discussed later in this preamble.

A commenter claimed that there is no statutory basis for public notice and comment on exploration plans, and recommended deletion of § 772.12(c)(1–3). (12G) The similar issue of public availability of notices of intent was discussed in the preamble to the previous rules. Such notice and availability are authorized under Sections 102, 201(c), 501(b), 512 and 517(f) of the Act, to provide for an adequate level of public participation in the permanent regulatory program.

Under Section 517(f) of the Act, a general rule of public availability is established for information obtained by the regulatory authority in administration of programs under Title V of the Act, including Section 512(a). As such, documents obtained under Section 512(a) of the Act are ordinarily to be made available to the public for inspection and copying under Section 517(f) of the Act. In addition, OSM is required to ensure under Section 102(i) of the Act that adequate provisions are made for public participation in the enforcement of regulatory programs. To foster the purposes of the Act, as supplied by Section 102(8), OSM has decided that public availability of exploration applications received by the regulatory authority is to be required as an aid to public participation in enforcement of the permanent regulatory programs. (See 44 FR 15019)

A commenter who concurred with publication of the notice recommended that the requirement for providing public notice should follow the permit requirements for mining by being more specific as to the timing of the notice and the comment period. OSM disagrees. Final § 772.12(c) ensures adequate opportunity for public review and input into the decision to approve or deny an application for an exploration permit. Because coal exploration generally does not have as adverse an impact on the environment as surface mining, more flexibility can be provided to the regulatory authority to establish the more specific requirements for timing of the notice and comment period.

One commenter proposed that the area of public notice be the county, not the vicinity, of the proposed exploration area. OSM agrees that the term "county" is more definitive an area than "vicinity." While either term would likely result in adequate public notice, OSM has accepted the comment and replaced the term "vicinity" with the term "county" in final § 772.12(c)(1).

Final § 772.12(c)(2), adopted as proposed with minor editorial revisions, requires the public notice to include the name and address of the applicant, filing date, address of the regulatory authority, closing date of the comment period and a description of the proposed exploration area. No comments were received on this provision.

Final § 772.12(c)(3), adopted as proposed with minor editorial revisions, provides that any person having an interest which is or may be adversely affected may file written comments on the application within a reasonable time limit.

A commenter suggested that, for consistency, proposed § 772.12(c)(3) be changed to the same language as that of § 764.13(a), which states that any person having an interest which is or may be adversely affected has the right to petition the regulatory authority, with regard to lands unsuitable for mining. OSM agrees that the suggested language is appropriate because it is similar to that used in the rules on public comments on surface coal mining permits and the final rule is editorially revised to reflect similar language.

A commenter questioned the reference to § 772.11(c) in the preamble

discussion of proposed § 772.12(c), which, because of a typographical error in the section number, stated that a notice of exploration had to be published for exploration removing 250 tons or less. The commenter correctly surmised that the reference should have been to § 772.12(c).

Section 772.12(d)

Proposed § 772.12(d), which is similar to previous § 776.13, remains essentially unchanged in the final rule and continues to set forth the necessary findings and terms for approval of an exploration application where more than 250 tons of coal are to be removed, including compliance with the performance standards of Part 815.

Final § 772.12(d)(1) requires the regulatory authority to act upon an administratively complete application for a coal exploration permit within a reasonable period of time. However, any approval of an exploration permit may only be based upon a complete and accurate application. This final rule differs from the previous and proposed rules which required the regulatory authority to "act upon a complete application * * *." The modifiers "administratively complete" and "complete and accurate" (in final § 772.12 (d)(1) and (d)(2)) are used in referring to applications for coal exploration permits replacing the phrase "complete application" used in the previous and proposed rules. For a complete explanation of these terms see the preamble to the proposed permitting rules (47 FR 27694, June 25, 1982). The phrase "application for coal exploration permit" was added to final § 772.12(d)(1) to clarify what type of application the rule covered. No comments were received on the proposed rule.

Final § 772.12(d)(2) provides that the regulatory authority shall approve a complete and accurate application in accordance with Part 772 if it finds, in writing, that the applicant has demonstrated that three specific conditions listed in § 772.12(d)(2)(i–iii) will be met.

Under the final rule the applicant must demonstrate that the exploration and reclamation described in the application will—(i) be conducted according to 30 CFR Parts 772 and 815 and any other applicable provisions of the regulatory program; (ii) not jeopardize the continued existence of an endangered or threatened species or destroy or adversely modify the critical habitat of those species; and (iii) not adversely affect any cultural or historical resources listed on the National Register of Historic Places, unless the proposed exploration has been approved by both the regulatory authority and the agency with jurisdiction over such matters.

Final § 772.12(d)(2) (i) and (ii) are adopted as proposed. The phrase "districts, sites, buildings, structures, or objects" from the previous and proposed rules is replaced by the more inclusive term "historical resources" without changing the intended meaning of final § 772.12(d)(2)(iii).

A commenter recommended that in § 772.12(d)(2)(iii) on the adverse effects on cultural resources, the final word "matters" be retained from the previous rules rather than the word "resources," because it is broader in scope. OSM agrees and the final word of the provision continues to be "matters."

Final § 772.12(d)(3), adopted as proposed, requires that terms of approval of the application issued by the regulatory authority contain conditions necessary to ensure exploration and reclamation will be done in compliance with 30 CFR Parts 772 and 815 and the regulatory program.

A commenter advocated including a reference to "the Act" in § 772.12 (d)(2)(i), (d)(2)(iii), and (d)(3), as well as the reference to the rules promulgated thereunder. General references to the Act that were in the previous rules are unnecessary. It is implicit in all of the rules that they derive their authority from, and fully implement the provisions of, the Act.

Section 772.12(e)

Final § 772.12(e), similar to previous § 776.14, pertains to the notice of decision on an application and right of review. It is adopted as proposed with a few editorial changes. The previous rule had required that the regulatory authority notify the applicant and appropriate local government officials, in writing, of its decision. As proposed, final § 772.12(e)(1) requires that commenters on the application also be notified in writing of the decision on the application, in keeping with the objective of ensuring public participation. The previous rule had also required that the regulatory authority provide public notice of the decision in a newspaper of general circulation in the vicinity of the exploration area. Although it is important to require a newspaper notice of the filing of an application so that it can be commented on before a decision is made, final § 772.12(e)(1) requires only that a public notice be posted at a public office in the vicinity of the proposed exploration operation once a decision has been made. Because OSM has added all those who commented on the application to the lists of those receiving written notification of the decision (§ 722.12(e)(1)), the placing of the notice of decision in a public office is sufficient to notify other interested persons.

One commenter concurred with proposed § 772.12(e)(1) provided that the written decision of the regulatory authority is to be mailed to the persons who provided comments on the application pursuant to § 772.12(c). Although such notification may often best be accomplished through the mails, the regulatory authority should have the flexibility to use other methods of actual notification, such as hand delivery for example. The final rule states only that the regulatory authority must notify such persons, in writing, of its decision.

Another commenter recommended that notification of a decision should be published rather than posted, because changes resulting from the decision might be of interest to persons who had not commented previously. This recommendation was rejected. Persons who are interested in proposed exploration in an area, even though they submitted no comments, would be aware that the decision will be posted. Requiring that the decision be published would be an unnecessary burden.

A third commenter opposed proposed § 772.21 (e)(1) and (e)(2) on the grounds that there should be no public participation in coal exploration decisions. The comment is rejected, for the reasons stated under the preamble discussion of § 772.12(c). One of the primary objectives of the Act is to include the public in the decision-making process. This also applies to coal exploration.

Final § 772.12(e)(2) provides that any person having an interest which is or may be adversely affected by the decision of the regulatory authority pursuant to Paragraph (e)(1) shall have the opportunity for administrative and judicial review as set forth in 30 CFR Part 775. The language of proposed § 772.12(e)(2) is changed to be consistent with the changes in final § 772.12(c)(3) discussed above. This change is not intended to have any affect on the rights of persons to obtain administrative or judicial review. The proposed incorrect reference to Paragraph (d)(1) is changed to Paragraph (e)(1) which follows previous § 776.14(b). The references in the proposed and previous rules to 30 CFR Part 787 is changed to Part 775 to reflect the redesignation of revised Part 787. No comments were received on the proposed provision.

Section 772.13 Coal exploration compliance duties.

Final § 772.13 is similar to previous § 776.15. Final § 772.13(a) requires any person who conducts coal exploration activities that substantially disturb the natural land surface to comply with the performance standards of 30 CFR Parts 772 and 815, the regulatory program and any exploration permit term or condition imposed by the regulatory authority. Such operations are also subject to the inspection and enforcement provisions of Subchapter L and the regulatory program.

Final § 772.13(a) is the same as the proposed rule except for removal of the phrase "or that remove more than 250 tons of coal" and a few editorial changes. The quoted phrase does not appear in the final rule because it is now an integral part of the definition of the term "substantially disturb" and is therefore redundant. That phrase, and similar phrases used in the proposed rules that referred to more than 250 tons of coal in conjunction with the term "substantially disturbed," are not used in any of the final rules, except in the definition itself.

Final § 772.13(b), adopted as proposed, states that any person conducting coal exploration in violation of the regulations listed in Paragraph (a) is subject to the provisions of Section 518 of the Act, Subchapter L of this chapter and the applicable inspection and enforcement provisions of the regulatory program.

The phrase "or any exploration permit term or condition imposed by the regulatory authority" was added to clarify that if the terms or conditions are violated the operator is subject to the provisions of Section 518 of the Act, Subchapter L and inspection and enforcement provisions of the regulatory program.

One comment on this section was received regarding the omission of the phrase "the Act." OSM's response is the same as that given to the same commenter in the preamble discussion of § 772.12(d)(3).

Section 772.14 Requirements for commercial sale.

Previous § 815.17, setting forth the requirements for commercial sale of coal extracted during exploration operations, is retitled and moved to Part 772 as § 772.14. The substance of the previous section was unchanged in the proposed rule except to clarify that a "surface coal mining and reclamation operations" permit will be needed for the commercial sale of coal extracted during exploration operations and that no such permit is needed if, prior to exploration, the regulatory authority determines the sale is to test coal properties for development of a mining operation for which a permit is to be submitted at a later time. In final § 772.14 the phrase "must obtain" is changed to "shall obtain" for legal clarity and the reference to Part 771 is changed to Parts 773–785 to reflect the new organization of the permitting rules.

Three other commenters suggested changes in the wording of the phrase "is to be submitted at a later time." They felt the requirement to submit a permit application should be optional, based on results of the testing and whether or not it would be worthwhile to submit a permit application, rather than mandatory, based on the fact of commercial sales. Although it is possible that unsatisfactory test results of some marginal coal deposits, or changing economic conditions, might cause abandonment of plans for mining coal in an area, the large majority of exploration operations that remove more then 250 tons of coal will follow up with a full mining operation. The operator must show an intent to mine the area at a later date. It is not intended to require that a permit application be submitted at a later date if the testing shows that the mine would be uneconomical.

A commenter claimed that there is no statutory basis for the first sentence of the proposed section and that some coal removed during exploration may be disposed of by placing it in a stockpile. The commenter said that eventual use of the coal has no environmental significance, and that what is important is how much coal is removed and the extent of the damage to the environment. Section 506(a) of the Act states that a permit is required to engage in surface coal mining operations. Surface coal mining operations, by definition in Section 701(28) of the Act, are activities whose products "enter commerce." Final § 772.14 recognizes a difference between exploration operations and mining operations and is in accordance with Sections 512 and 701 of the Act. The comment is therefore not accepted.

One commenter was confused as to why coal would be sold if it was to be used for testing purposes. Users, the commenter asserted, generally do not pay for "test burns." The commenter said if the sample load is so large it is paid for, then a permit should be required anyway. The commenter feared the provision would be abused by operators who negotiate purchase agreements with buyers of coal providing in those agreements for testing of the coal in order to fit within the exception.

OSM agrees that it is common for larger operators to provide test loads to users rather than to charge for such tests. However, this is not necessarily always the case and thus the language of final § 772.14 allows a regulatory authority to distinguish between those situations where coal is sold in interstate commerce as part of a surface coal mining and reclamation operation, and those situations where, although the coal is sold, the objective is testing of the coal as part of coal exploration. OSM agrees that care should be taken so that this provision is not abused.

Section 772.15 Public availability of information.

Final § 772.15, adopted as proposed, follows previous § 776.17. Under this final rule, all information submitted to the regulatory authority is to be made available to the public, unless it is confidential. Trade secrets and other confidential information are to be kept confidential only if requested by the applicant. The final rule differs from the previous rule by making some editorial changes and allowing information requested to be held confidential to be kept confidential if it meets criteria for confidentiality until after opportunity to be heard is afforded persons both seeking and opposing disclosure.

One commenter concurred with the rule, provided that confidentiality applies only to trade secrets or privileged commercial or financial information. The commenter was concerned that justification of confidentiality might be broadened by the wording of the rule. That was not OSM's intent in simplifying the structure of this section.

A commenter wanted it made clear that Paragraph (a) of this section would also apply to written notices of intent to explore where 250 tons or less would be removed.

Final § 772.15 applies to any information submitted to the regulatory authority under Part 772. That requirement, which was in previous § 776.11(d), is not repeated in final § 772.11 because it would be duplicative.

A commenter was concerned that the rule would imply that all information will eventually be released after the hearing. The commenter misunderstood the intent of the rule, which states that information will not be made available until persons seeking and opposing the disclosure of the information have had an opportunity to be heard. The rule does not state that the information will be made available after the hearing. If it

is determined after the hearing that the information should be treated as confidential, the information cannot be made public until such time as the applicant authorizes its disclosure.

Part 815—Permanent Program Performance Standards—Coal Exploration

Section 815.1 Scope and purpose.

Final § 815.1 states that this part sets forth the performance standards required if the land is to be substantially disturbed by coal exploration. The final rule also clarifies that the regulatory authority may require coal exploration operations to comply with applicable standards of Parts 816–828, as well as the requirements of Part 815.

Previous §§ 815.2 and 815.11, which has set the objectives, and general responsibilities of the part, are removed in the final rules, for the same reasons that previous §§ 776.2 and 776.3 were not included in final § 772.1. In addition, the language in final § 815.1 describing the scope and purpose of Part 815 is shortened without changing the legal effect.

One commenter expressed concern that removal of the proviso in previous § 815.1 that the regulatory authority may impose additional performance standards "threatens to transform 'floor' standards into a 'ceiling' beyond which State programs cannot go." OSM disagrees. The deleted portion mentioned by the commenter is unnecessary. Under Section 505 of the Act, a regulatory authority may always prescribe additional requirements. However, OSM agrees that there may be some benefit to referencing Parts 816–828 in § 815.1 to ensure the requirements of Section 512(a)(2) of the Act to reclaim all disturbed lands in accordance with the standards of Section 515 of the Act are met in all cases. Thus, the final rule specifies that regulatory authorities may impose further reclamation standards if it is determined that these minimum standards are inadequate to ensure proper reclamation under particular local conditions.

Section 815.13 Required documents.

Previous § 815.13 required that while persons are conducting coal exploration that would substantially disturb the land surface and would remove more than 250 tons of coal, the written approval of the regulatory authority must be available for review by authorized representatives of the regulatory authority. Final § 815.13 requires the person conducting the exploration to have either the notice of intention to explore or the coal exploration permit available for review by the representative of the regulatory authority upon request. Both the previous and proposed rule had included the phrase "including exploration which removes more than 250 tons of coal," to describe an additional situation when the documents would be required. This phrase is unnecessary with the change to the rule replacing "written approvals" with the specific documents. The notice of intention should be available for those exploration operations removing less than 250 tons of coal and substantially disturbing the land, as well as the exploration permit for those removing more than 250 tons of coal.

Final § 815.13 has been rephrased to clarify that only copies of the official documents must be available, not the originals. In the case of notices of intent, it must be a copy of the actual notice that was filed.

One commenter stated that it is unnecessary for an exploration crew to have a copy of the notice already in the possession of the regulatory authority and that this section should be deleted in its entirety. Reclamation according to the exploration performance standards is mandatory if an operation substantially disturbs the land surface. Under §§ 840.11(c) and 772.13(b), exploration operations are subject to inspection and monitoring for compliance. A filed notice, or an exploration permit, is a document that an inspector must have in order to properly evaluate the site. The onsite copies of notices or permits are necessary so that exploration crews will be aware of their responsibilities and so that inspectors will have the correct information on the exploration activities at the site for reference.

Section 815.15 Performance standards.

The performance standards for exploration that substantially disturbs the land surface are specified in final § 815.15. The introductory paragraph of this section in the proposed rules was repetitious of final § 815.1 and is removed in the final rules.

Section 815.15(a)

Final § 815.15(a), as proposed, set forth the protection for fish, wildlife, and other related environmental values by specifying habitats that cannot be disturbed during exploration. This was done for clarity, eliminating the need for reference to the provisions of the permit application, as in previous § 815.15(a). The final rule describes two types of habitats. Critical habitats of threatened or endangered species identified under the Endangered Species Act must not be disturbed by the coal exploration operations. Under the Endangered Species Act such critical habitats may not be destroyed or adversely modified except as provided in that statute. The proposed phrase "protected by State or Federal law" is not included in the final rule as it is replaced by the Endangered Species Act which specifies those Federal laws involved and the regulatory authority may specify any State law that is applicable. In addition, habitats of unique or unusually high value for fish and wildlife and related environmental values must not be disturbed by the exploration. No comments were received on this section.

Previous § 815.15(b), which required operators to "measure important environmental characteristics of the exploration area during the operations," is removed as proposed because of its vagueness. A request to collect and measure such information could be imposed by the regulatory authority in specific instances if deemed necessary to ensure compliance with any of the performance standards which require protection of important environmental characteristics during coal exploration.

The lack of specificity of previous § 815.15(b) was remarked on by a commenter who was in agreement with OSM's proposed removal. The commenter further remarked that the rule would have been unnecessarily burdensome because much of the land upon which exploration is conducted is not mined.

Commenters who objected to this revision maintained that this action, coupled with the proposed changes in § 815.1, would absolve the operator from seeking environmental information. One commenter said it is essential to mitigation of environmental harm that the operator catalog and monitor the environmental values of the exploration area. Another said it would seem difficult for the operator to determine if environmental damage is minimized without making some assessment of the environment. OSM agrees that there may be circumstances where operational monitoring or data collection is appropriate with a coal exploration operation to ensure that the requirements of the performance standards will be met. However, coal exploration generally does not have as large scale or as adverse an impact on the environment as surface mining. Therefore, such an across the board requirement is unnecessary in a rule of nationwide applicability. Under the final rule, the regulatory authority is provided discretion to impose any monitoring requirements that may be necessary.

Section 815.15(b)

Final § 815.15(b), adopted as proposed, sets performance standards for roads used in coal exploration. The final rule also includes reference to OSM's revised roads rules which were published on May 16, 1983 (48 FR 22110).

One commenter thought that it was improper to refer in proposed rules to the specifics of other rules that are not yet final. OSM disagrees that the reference to the proposed roads rules was improper. In the interest of clarity and providing the public with the best notice of contemplated changes to rules, referring to other proposed rules was appropriate when changes were being proposed concurrently.

Another commenter supported the addition of an ancillary-road category to encompass roads used only for a brief period, as is frequently the case in coal exploration. A third commenter maintained that it would be inefficient and environmentally unsound to require roads to be removed and the land otherwise restored to its original condition if the area was to be redisturbed by future mining operations. OSM rejects this comment because many factors can delay the start of mining operations for months, years, or indefinitely, during which time environmental damage could occur.

The final regulatory language is simplified from the proposed rule and requires that all roads, including ancillary roads, meet the general performance standards for all roads in § 816.150 and requires that primary roads meet additional standards in § 816.151. The phrase "or other transportation facilities" is added to final § 815.15(b) as is the reference to §§ 816.180 and 816.181 to cover any "other transportation facilities" used in the exploration operation besides roads. See proposed rule in 47 FR 16599, April 16, 1982 and the final §§ 816.180 and 816.181 in 48 FR 20401, May 5, 1983.

Section 815.15(c)

Final § 815.15(c), adopted as proposed, repeats previous § 815.15(d) in requiring prompt restoration of the approximate original contour after artificial topographical features created by exploration are no longer needed for the exploration.

One commenter maintained that it would be inefficient and environmentally unsound to require the reclamation performance standards of § 815.15(c–g) be met if the area is to be redisturbed by future mining operations. OSM disagrees. Mining operations can be unexpectedly delayed for months, years, or indefinitely, during which time damage to the environment could occur.

Section 815.15(d)

Final § 815.15(d), adopted as proposed with slight editorial revisions, follows previous § 815.15(e) in requiring topsoil removal, storage, and redistribution to assure successful revegetation or as required by the regulatory authority.

A commenter pointed out that the term "disturbed area" is defined in § 701.5 only in terms of surface coal mining operations and that those disturbed areas require bonding. The commenter was correct, and consequently the phrase "disturbed areas" will be replaced wherever it occurs in these coal exploration rules by the phrase "areas disturbed by coal exploration activities." The intent, however, is unchanged and the terms still refer to areas where vegetation, topsoil or overburden are removed.

The requirement that topsoil be separately removed is added to final § 815.15(d) to be consistent with Section 515(b)(5) of the Act and to ensure that the integrity and qualities of the topsoil are maintained.

Section 815.15(e)

Final § 815.15(e), adopted as proposed with only an editorial change, requires all areas disturbed by coal exploration activities to be revegetated so as to encourage prompt revegetation and recovery of a diverse, effective and permanent cover. Additional performance standards are listed in Paragraphs (e)(1) and (e)(2). The separate references in previous § 815.15(f)(1) to preexploration and postexploration use of intensive-agriculture land are removed, as proposed, to reflect that exploration activities are not expected to change land uses.

In addition, in final Paragraphs (e) and (e)(1) the phrases "disturbed areas" and "disturbed lands" are replaced by the phrase "areas disturbed by coal exploration activities" for the reasons given in the preamble discussion of § 815.15(d).

A commenter maintained that proposed § 815.15(e) should specify that the person conducting the exploration is responsible for revegetating areas disturbed, so that legal responsibility would be specified. OSM rejects the comment. Persons conducting exploration are responsible for observing *all* of the rules, and to add that wording to this paragraph is unnecessary.

Final § 815.15(e)(1), adopted as proposed with the editorial change discussed, requires that all areas disturbed by coal exploration activities be seeded and planted to the same seasonal variety native to the area disturbed. If the land use of the area is intensive agriculture, the planting of crops normally grown will meet the provision of this paragraph. One commenter claimed that the rule is vague and subject to abuse because the planting of crops where the land use had not been agricuture might be used to avoid responsibility for proper revegetation. The intent and language of final § 815.15(e)(1) is clear and not subject to abuse. If the land use had not been agriculture prior to exploration, then the condition that the "land use of the exploration area is intensive agriculture" would not be met and planting crops would not be allowed. There is no need to change the language.

Two commenters recommended that for exploration in forested areas an exception be granted to § 815.15(e)(1), which requires that areas disturbed by exploration activities must be revegetated with a plant variety that is native to the area of exploration. Their reasoning was that reforestation would be prohibitively expensive and that grasses and other low cover are often a better alternative. OSM disagrees. Section 815.15(e)(1) does not specifically require reforestation. A variety of plant species may meet the requirements of Paragraphs (e)(1) and (e)(2), including grasses and legumes. This will be determined by the regulatory authority.

Final § 815.15(e)(2) is adopted as proposed with one editorial change to clarify that the surface is to be stabilized "from" erosion rather than "in regards to" erosion.

Section 815.15(f)

Final § 815.15(f) allows diversion of streams, as well as the diversion of overland flow, in contrast to previous § 815.15(g), which prohibited diversion of ephemeral, intermittent, or perennial streams with the exception of small and temporary diversions of overland flow of water around new roads, drill pads, and support facilities. Such diversions shall be made in accordance with the performance standards for such diversions in § 816.43. The design criteria for perennial and intermittent stream diversions specified in previous § 815.15(g) are not specified in the final rule, so as to allow flexibility in meeting the exploration performance standards. Proposed Paragraphs (f)(1) and (f)(2) are combined in the final rules and the appropriate reference change has been made to reflect the new organization of the hydrology rules.

A commenter was concerned that this proposed provision did not reference all of §§ 816.43 and 816.44 and §§ 817.43 and 817.44. Previous § 816.44 is to be combined in § 816.43, and consequently proposed §§ 815.15 (f)(1) and (f)(2) may be combined and reference new final § 816.43 in its entirety. There is no need to refer to the performance standards for underground mines in Part 817 because exploration is conducted on the surface. There are no distinct differences between the surface effects of exploring prior to underground mining and prior to surface mining sufficient to require different performance standards. Reference to one set of standards is less confusing and accomplishes the required reclamation.

Another commenter stated that OSM's proposed rule would allow more flexibility in meeting the performance standards. OSM agrees and adopts the rule essentially as it was proposed with the appropriate reference changes.

Section 815.15(g)

Final § 815.15(g), adopted as proposed, requires the casing and sealing of exploration holes, boreholes, wells or other exposed underground openings created during exploration in accordance with §§ 816.13–816.15. No specific comments were received on this provision. It is unchanged from previous § 815.15(h).

Section 815.15(h)

Final § 815.15(h), adopted as proposed with some editorial changes, requires prompt removal of facilities and equipment no longer needed for exploration, but allows them to remain if the regulatory authority determines they are needed for the purposes listed in Paragraph (h)(1–3). The final rule is relatively unchanged from previous § 815.15(i) except for deletion of the superfluous word "quality" in the phrase "environmental quality data" from Paragaph (h)(1). The phrase "under an approved permit" in proposed § 815.15(h)(3) and previous § 815.15(i)(3) is not included in the final rule because it is redundant. The phrase "on- and offsite" is corrected to read "onsite and offsite." These editorial changes do not affect the meaning of the provisions. No comments were received on this provision.

Section 815.15(i)

Final § 815.15(i), adopted as proposed, requires that exploration be conducted in a manner that minimizes disturbance of the prevailing hydrologic balance by complying with the hydrologic balance performance standards of §§ 816.41–816.49, including the use of sediment-control measures. It also provides that the regulatory authority may specify additional measures which must be adopted by the person engaged in coal exploration. Both requirements were in previous § 815.15(j). No comments were received on this provision.

Section 815.15(j)

Final § 815.15(j), adopted as proposed with some editorial changes, requires that acid- and toxic-forming materials be handled and disposed of in accordance with hydrologic-balance protection and backfilling and grading standards. The allowance in previous § 815.15(k) for regulatory authority specification of additional measures is also included in final § 815.15(j). The appropriate change in references was done to reflect the new organization of the hydrology and backfilling and grading rules. No comments were received on this provision.

Reference Materials.

The reference materials used to develop these final rules are the same as those listed in the previous rules (44 FR 15017–15021 and 1526–15136).

Cross-referencing

This final rule references certain of OSM's regulatory revisions that have not yet been finalized. An approximate picture of those final rules that have not been finalized is set forth in Volume III of the FEIS. To the extent the rules referenced in this final rule are not adopted, or are adopted with different section numbers, a conforming amendment will be issued.

III. Procedural Matters

National Environmental Policy Act

OSM has analyzed the impacts of these final rules in the "Final Environmental Impact Statement OSM EIS–1: Supplement" (FEIS) according to Section 102(2)(c) of the National Environmental Policy Act of 1969 (NEPA) [42 U.S.C. 4332(2)(c)]. This FEIS is available in OSM's Administrative Record in Room 5315, 1100 L Street, N.W., Washington, D.C., or by mail request to Mark Boster, Chief, Branch of Environmental Analysis, Room 134, Interior South Building, U.S. Department of the Interior, Washington, D.C. 20240. This preamble serves as the record of decision under NEPA. Although there have been a number of editorial changes and clarifications, in general, these final rules were analyzed as the preferred alternative A in the FEIS.

The following substantive changes are noted between these final rules and the FEIS preferred alternative.

1. The scope of Part 772 has been broadened to encompass those Federal lands for which BLM does not regulate exploration. This is more environmentally protective than the preferred alternative.

2. Exploration on lands designated as unsuitable for mining requires approval of the regulatory authority under § 772.12 rather than just the filing of a notice of intent under § 772.11. This change has no environmental effect because such approval was already required under existing § 762.14.

3. Under § 772.11 and § 772.12, a map may be submitted instead of a narrative description. This will have no environmental effect because the map has to be sufficiently detailed to replace the narrative.

4. The map required under § 772.12(b)(10) must show location of critical habitats of listed endangered or threatened species. This is more protective than the FEIS preferred alternative.

5. Final § 815.1 expressly provides regulatory authorities with discretion to impose additional performance standards. This is not expected to have any environmental effect.

6. Final § 815.15(a) does not allow disturbance of habitats of unique or unusally high value for fish, wildlife or other related environmental values. This is more environmentally protective than the FEIS preferred alternative and consistent with FEIS alternatives B and C.

Executive Order 12291 and Regulatory Flexibility Act

The Department of the Interior (DOI) has determined, according to the criteria of Executive Order 12291, February 17, 1981, that this document is not a major rule and does not require a regulatory impact analysis. These rules have also been examined pursuant to the Regulatory Flexibility Act, 5 U.S.C., 601 *et seq.*, and OSM has certified that these rules do not have significant economic impact on a substantial number of small entities. The rules are expected to ease the regulatory burden on small coal operators proposing to remove 250 tons of coal or less in their exploration activities by requiring regulatory programs to require notices of intent only when their exploration activities may substantially disturb the natural land surface. Previously, all persons who conducted exploration activities were required to file a notice of intent to explore. The rules also reduce the types of information that will have to accompany each permit application.

Federal Paperwork Reduction Act

The information collection requirements in Part 772 have been approved by the Office of Management and Budget (OMB) under 44 U.S.C. 3507 and assigned clearance number 1029–0033. This approval is codified under § 772.10. The information required by Part 772 is being collected to meet the requirements of Section 512(a) of the Act, which provides that coal exploration operations which substantially disturb the natural land surface be conducted in accordance with exploration rules. This information will be used to give the regulatory authority a sufficient baseline upon which to assess the impact of the proposed exploration operation during the permanent regulatory program. The obligation to respond is mandatory.

There are no information collection requirements in Part 815. This rulemaking does not add any information collection requirements to Parts 700 or 701.

List of Subjects

30 CFR Part 700

Administrative practice and procedure, Coal mining, Surface mining, Reporting and recordkeeping requirements, Underground mining.

30 CFR Part 701

Coal mining, Law enforcement, Surface mining, Underground mining.

30 CFR Part 772

Coal mining, Reporting and recordkeeping requirements, Surface mining, Underground mining.

30 CFR Part 776

Reporting and recordkeeping requirements, Surface mining, Underground mining.

30 CFR Part 815

Coal mining, Surface mining

Accordingly, 30 CFR Parts 700, 701, 772, 776, and 815 are amended as set forth herein.

Dated: September 6, 1983.

William P. Pendley,

Deputy Assistant Secretary, Energy and Minerals.

PART 700—GENERAL

1. Section 700.11 is amended by revising paragraph (a)(6) and by removing paragraph (g) as follows:

§ 700.11 Applicability.

(a) * * *

(6) Coal exploration on lands subject to the requirement of Part 211 of this title.

* * * * *

PART 701—PERMANENT REGULATORY PROGRAM

2. Section 701.5 is amended by revising the definition of the term "substantially disturb" to read as follows:

§ 701.5 Definition.

* * * * *

Substantially disturb means, for purposes of coal exploration, to significantly impact land or water resources by blasting; by removal of vegetation, topsoil, or overburden; by construction of roads or other access routes; by placement of excavated earth or waste material on the natural land surface or by other such activities; or to remove more than 250 tons of coal.

* * * * *

(Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*)

3. Part 772 is added to read as follows:

PART 772—REQUIREMENTS FOR COAL EXPLORATION

Sec.

772.1 Scope and purpose.
772.10 Information collection.
772.11 Notice requirements for exploration removing 250 tons of coal or less.
772.12 Permit requirements for exploration removing more than 250 tons of coal.
772.13 Coal exploration compliance duties.
772.14 Requirements for commercial sale.
772.15 Public availability of information.

Authority: Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*

§ 772.1 Scope and purpose.

This part establishes the requirements and procedures applicable to coal exploration operations on all lands except for Federal lands subject to the requirements of 30 CFR Part 211.

§ 772.10 Information collection.

The information collection requirements contained in Part 772 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1029—0033. The information is to be collected to meet the requirements of section 512(a) of the Act, which requires that coal exploration operations that substantially disturb the natural land surface be conducted in accordance with exploration rules. This information will be used to give the regulatory authority a sufficient baseline upon which to assess the impact of the proposed exploration operation during the permanent regulatory program. The obligation to respond is mandatory.

§ 772.11 Notice requirements for exploration removing 250 tons of coal or less.

(a) Any person who intends to conduct coal exploration operations outside a permit area during which 250 tons or less of coal will be removed and which may substantially disturb the natural land surface, shall, before conducting the exploration, file with the regulatory authority a written notice of intention to explore.

(b) The notice shall include—

(1) The name, address, and telephone number of the person seeking to explore;

(2) The name, address, and telephone number of the person's representative who will be present at, and responsible for, conducting the exploration activities;

(3) A narrative or map describing the exploration area;

(4) A statement of the period of intended exploration; and

(5) A description of the method of exploration to be used and the practices that will be followed to protect the environment and to reclaim the area from adverse impacts of the exploration activities in accordance with the applicable requirements of Part 815 of this chapter.

§ 772.12 Permit requirements for exploration removing more than 250 tons of coal.

(a) *Exploration permit.* Any person who intends to conduct coal exploration outside a permit area during which more than 250 tons of coal will be removed or which will take place on lands designated as unsuitable for surface mining under Subchapter F of this chapter shall, before conducting the exploration, submit an application and obtain written approval from the regulatory authority in an exploration permit.

(b) *Application information.* Each application for an exploration permit shall contain, at a minimum, the following information:

(1) The name, address, and telephone number of the applicant.

(2) The name, address and telephone number of the applicant's representative who will be present at, and responsible for, conducting the exploration activities.

(3) A narrative or map describing the proposed exploration area.

(4) A narrative description of the methods and equipment to be used to conduct the exploration and reclamation.

(5) An estimated timetable for conducting and completing each phase of the exploration and reclamation.

(6) The estimated amount of coal to be removed and a description of the methods to be used to determine the amount.

(7) A statement of why extraction of more than 250 tons of coal is necessary for exploration.

(8) A description of—

(i) Cultural or historical resources listed on the National Register of Historic Places;

(ii) Cultural or historical resources known to be eligible for listing on the National Register of Historic Places; and

(iii) Known archeological resources located within the proposed exploration area.

(9) A description of any endangered or threatened species listed pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*) identified within the proposed exploration area.

(10) A description of the measures to be used to comply with the applicable requirements of Part 815 of this chapter.

(11) The name and address of the owner of record of the surface land and of the subsurface mineral estate of the area to be explored.

(12) A map or maps at a scale of 1:24,000, or larger, showing the areas of land to be disturbed by the proposed exploration and reclamation. The map shall specifically show existing roads, occupied dwellings, topographic and drainage features, bodies of surface water, and pipelines; proposed locations of trenches, roads, and other access routes and structures to be constructed; the location of proposed land excavations; the location of exploration holes or other drill holes or underground openings; the location of excavated earth or waste-material disposal areas; and the location of critical habitats of any endangered or threatened species listed pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

(13) If the surface is owned by a person other than the applicant, a description of the basis upon which the applicant claims the right to enter that land for the purpose of conducting exploration and reclamation.

(c) *Public notice and opportuntiy to comment.* Public notice of the application and opportuntiy to comment shall be provided as follows:

(1) Within such time as the regulatory authority may designate, the applicant shall provide public notice of the filing of an administratively complete application with the regulatory authority in a newspaper of general circulation in the county of the proposed exploration area.

(2) The public notice shall state the name and address of the person seeking approval, the filing date of the application, the address of the regulatory authority where written comments on the application may be submitted, the closing date of the comment period, and a description of the area of exploration.

(3) Any person having an interest which is or may be adversely affected shall have the right to file written comments on the application within reasonable time limits.

(d) *Decisions on applications for exploration removing more than 250 tons of coal.*

(1) The regulatory authority shall act upon an administratively complete application for a coal exploration permit and any written comments within a reasonable period of time. The approval of a coal exploration permit may be based only on a complete and accurate application.

(2) The regulatory authority shall approve a complete and accurate application for a coal exploration permit filed in accordance with this part if it finds, in writing, that the applicant has demonstrated that the exploration and reclamation described in the application will—

(i) Be conducted in accordance with this part, Part 815 of this chapter, and the applicable provisions of the regulatory program;

(ii) Not jeopardize the continued existence of an endangered or threatened species listed pursuant to Section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533) or result in the destruction or adverse modification of critical habitat of those species; and

(iii) Not adversely affect any cultural or historical resources listed on the National Register of Historic Places, pursuant to the National Historic Preservation Act, as amended (16 U.S.C. Sec. 470 *et seq.*, 1976, Supp. V), unless the proposed exploration has been approved by both the regulatory authority and the agency with jurisdiction over such matters.

(3) Terms of approval issued by the regulatory authority shall contain conditions necessary to ensure that the exploration and reclamation will be conducted in compliance with this part, Part 815 of this chapter, and the regulatory program.

(e) *Notice and hearing.* (1) The regulatory authority shall notify the applicant, the appropriate local government officials, and other commenters on the application, in writing, of its decision on the application. If the application is disapproved, the notice to the applicant shall include a statement of the reason for disapproval. Public notice of the decision on each application shall be posted by the regulatory authority at a public office in the vicinity of the proposed exploration operations.

(2) Any person having an interest which is or may be adversely affected by a decision of the regulatory authority pursuant to paragraph (e)(1) of this section shall have the opportunity for administrative and judicial review as set forth in Part 775 of this chapter.

§ 772.13 Coal exploration compliance duties.

(a) All coal exploration and reclamation activities that substantially disturb the natural land surface shall be conducted in accordance with the coal exploration requirements of this part, Part 815 of this chapter, the regulatory program, and any exploration permit term or condition imposed by the regulatory authority.

(b) Any person who conducts any coal exploration in violation of the provisions of this part, Part 815 of this chapter, the regulatory program, or any exploration permit term or condition imposed by the regulatory authority shall be subject to the provisions of Section 518 of the Act, Subchapter L of this chapter, and the applicable inspection and enforcement provisions of the regulatory program.

§ 772.14 Requirements for commercial sale.

Any person who extracts coal for commercial sale during coal exploration operations shall obtain a surface coal mining and reclamation operations permit for those operations from the regulatory authority under Parts 773–785 of this chapter. No surface coal mining and reclamation operations permit is required if the regulatory authority makes a prior determination that the sale is to test for coal properties necessary for the development of surface coal mining and reclamation operations for which a permit application is to be submitted at a later time.

§ 772.15 Public availability of information.

(a) Except as provided in paragraph (b) of this section, all information submitted to the regulatory authority under this part shall be made available for public inspection and copying at the local offices of the regulatory authority closest to the exploration area.

(b) The regulatory authority shall keep information confidential if the person submitting it requests in writing, at the time of submission, that it be kept

confidential and the information concerns trade secrets or is privileged commercial or financial information relating to the competitive rights of the persons intending to conduct coal exploration.

(c) Information requested to be held as confidential under paragraph (b) of this section shall not be made publicly available until after notice and opportunity to be heard is afforded persons both seeking and opposing disclosure of the information.

PART 776—GENERAL REQUIREMENTS FOR COAL EXPLORATION—[REMOVED]

4. 30 CFR Chapter VII is amended by removing Part 776.

(Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*)

5. Part 815 is revised to read as follows:

PART 815—PERMANENT PROGRAM PERFORMANCE STANDARDS—COAL EXPLORATION

Sec.
815.1 Scope and purpose.
815.13 Required documents.
815.15 Performance standards for coal exploration.

Authority: Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*

§ 815.1 Scope and purpose.

This part sets forth performance standards required for coal exploration which substantially disturbs the natural land surface. At the discretion of the regulatory authority, coal exploration operations may be further required to comply with the applicable standards of 30 CFR Parts 816–828.

§ 815.13 Required documents.

Each person who conducts coal exploration which substantially disturbs the natural land surface shall, while in the exploration area, have available a copy of the filed notice of intention to explore or a copy of the exploration permit for review by the authorized representative of the regulatory authority upon request.

§ 815.15 Performance standards for coal exploration.

(a) Habitats of unique or unusually high value for fish, wildlife, and other related environmental values and critical habitats of threatened or endangered species identified pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*) shall not be disturbed during coal exploration.

(b) All roads or other transportation facilities used for coal exploration shall comply with the applicable provisions of §§ 816.150, 816.151, 816.180 and 816.181 of this chapter.

(c) If excavations, artificially flat areas, or embankments are created during exploration, these areas shall be returned to the approximate original contour promptly after such features are no longer needed for coal exploration.

(d) Topsoil shall be separately removed, stored, and redistributed on areas disturbed by coal exploration activities as necessary to assure successful revegetation or as required by the regulatory authority.

(e) All areas disturbed by coal exploration activities shall be revegetated in a manner that encourages prompt revegetation and recovery of a diverse, effective, and permanent vegetative cover. Revegetation shall be accomplished in accordance with the following:

(1) All areas disturbed by coal exploration activities shall be seeded or planted to the same seasonal variety native to the areas disturbed. If the land use of the exploration area is intensive agriculture, planting of the crops normally grown will meet the requirements of this paragraph.

(2) The vegetative cover shall be capable of stabilizing the soil surface from erosion.

(f) Diversions of overland flows and ephemeral, perennial, or intermittent streams shall be made in accordance with § 816.43 of this chapter.

(g) Each exploration hole, borehole, well, or other exposed underground opening created during exploration shall be reclaimed in accordance with §§ 816.13–816.15. of this chapter.

(h) All facilities and equipment shall be promptly removed from the exploration area when they are no longer needed for exploration, except for those facilities and equipment that the regulatory authority determines may remain to—

(1) Provide additional environmental data,

(2) Reduce or control the onsite and offsite effects of the exploration activities, or

(3) Facilitate future surface mining and reclamation operations by the person conducting the exploration.

(i) Coal exploration shall be conducted in a manner which minimizes disturbance of the prevailing hydrologic balance in accordance with §§ 816.41–816.49 of this chapter. The regulatory authority may specify additional measures which shall be adopted by the person engaged in coal exploration.

(j) Acid- or toxic-forming materials shall be handled and disposed of in accordance with §§ 816.41(b), 816.41(f), and 816.102(e) of this chapter. The regulatory authority may specify additional measures which shall be adopted by the person engaged in coal exploration.

[FR Doc. 83–24441 Filed 9–7–83; 8:45 am]
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September 8, 1983

Part IV

Department of Agriculture

Agriculture Stabilization and Conservation Service

Flue-Cured Tobacco Acreage Allotment and Marketing Quota Regulations

DEPARTMENT OF AGRICULTURE

Agriculture Stabilization and Conservation Service

7 CFR Part 725

Flue-Cured Tobacco Acreage Allotment and Marketing Quota Regulations

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final rule.

SUMMARY: This rule adopts as a final rule with certain amendments the interim rule published in the **Federal Register** on December 17, 1982 (47 FR 56473). The amendments consist of technical revisions and a provision allowing the new owner of a farm to which flue-cured tobacco allotment and quota has been assigned to be considered as either the successor-in-interest to the previous owner of the farm or the buyer of the allotment and quota.

In addition, the proposed rule published in the **Federal Register** on April 22, 1983 (48 FR 17532) is adopted as final rule with one amendment with respect to the percentage or gross income which an owner of a flue-cured tobacco acreage allotment and marketing quota must derive from the management or use of land for agricultural purposes in order to retain such allotment and quota. The amendment reduces such percentage from 50 percent to 20 percent.

DATE: Effective September 8, 1983.

ADDRESS: Copies of the Final Regulatory Flexibility Impact Analysis and the Final Regulatory Impact Analysis may be obtained from the Director, Analysis Division, Room 3714 South Building, Fourteenth Street and Independence Avenue, SW., P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Jack S. Forlines, Agriculture Program Specialist, Tobacco and Peanuts Division, USDA–ASCS, P.O. Box 2415, Washington, D.C. 20013. (202) 382–0200.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum 1512–1 and has been classified as "not major." It has been determined that this rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local governments, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises, to compete with foreign-based enterprises in domestic or export markets.

Information collection requirements contained in this regulation (7 CFR Part 725) have been approved by the Office of Management and Budget in accordance with the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB numbers 0560–0058 and 0560–0117.

The title and number of the Federal Assistance Program to which this rule applies are: Commodity Loan and Purchases; 10.051, as found in the Catalog of Federal Domestic Assistance.

While the Regulatory Flexibility Act is not applicable to this rule, a Final Regulatory Flexibility Impact Analysis has been prepared with a Final Regulatory Impact Analysis. Since this action may have a significant economic impact on a substantial number of small entities, the impact analysis addresses the issues required in section 603 of that Act.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

An interim rule was published in the **Federal Register** on December 17, 1982, (47 FR 56473) which amended 7 CFR Part 725 to set forth rules relating to the sale or forfeiture of flue-cured tobacco allotments and quotas. The interim rule provided for restrictions on lease and transfer of allotments and quotas and provided for adjustment of farm yields and acreage allotments. In addition, the interim rule provided for restrictions with respect to the marketing of tobacco by producers, warehousemen, and dealers. A proposed rule was published in the **Federal Register** on April 22, 1983 (48 FR 17532) which contained provisions with respect to the forfeiture of allotment and quota established for farms owned by persons, other than individuals, which are not significantly involved in the management or use of land for agricultural purposes.

Statutory Authority

This rule is necessary to implement amendments to the Agricultural Adjustment Act of 1938, as amended (the Act), which were made by the No Net Cost Tobacco Program Act of 1982 (Pub. L. 97–218). The amendments provided for: (1) Changes with respect to the lease and transfer of flue-cured tobacco allotment and quota; (2) the sale of flue-cured tobacco allotment and quota; (3) forfeiture of flue-cured tobacco allotment and quota under certain conditions; (4) reallocation of forfeited allotment and quota; (5) periodic adjustment of flue-cured tobacco yields; (6) limitations on the amount of floor sweepings which may be marketed without penalty by a warehouseman; (7) a lien on tobacco as a mechanism for collecting marketing quota penalties; and (8) other changes to strengthen the operation of the tobacco price support and production adjustment programs.

Interim Rule

No comments were received in response to the interim rule which was published in the **Federal Register** on December 17, 1982 (47 FR 56473). Accordingly, the provisions of the interim rule have been adopted as a final rule with the following changes.

Amendments to the table of contents for 7 CFR Part 725 and to §§ 725.99 and 725.109 have been made to reflect the change of the name of the Kansas City Field Office (KCFO) to the Kansas City Management Office (KCMO).

Sections 725.72(m) and 725.74(f)(1)(x) are amended to correct typographical errors.

A new section has been added with respect to reporting requirements of the Paperwork Reduction Act. The table of contents has been amended to reflect this addition.

Section 725.74(d)(2) has been amended to include the phrase "for the production of tobacco" to clarify that the term "utilize" for purposes of this section does not include the sale or lease of an allotment or quota which has been purchased.

Section 725.74(j)(1) has been amended to provide that the new owner of a farm to which an allotment and quota has been assigned may elect to be treated as the buyer of such allotment and quota in lieu of being treated as the successor-in-interest to the prior owner. Without this amendment, if the seller of a farm to which an allotment and quota had been assigned was not considered an active flue-cured tobacco producer, the new owner, as successor-in-interest, would also not be considered an active flue-cured tobacco producer and would be required to sell the allotment and quota or forfeit such allotment and quota.

Section 725.102 has been amended to remove the requirement that prior approval of the Director, Production Adjustment Division, ASCS, is necessary when certain resales of tobacco are made by dealers and buyers. This prior approval has been determined to be unduly burdensome on

such dealers or buyers and unnecessary if the reporting requirements of section 725.102 are satisfied.

Proposed Rule

The Department received 79 comments from 67 persons relating to the proposed rule which was published in the **Federal Register** on April 22, 1983 (48 FR 17532). The 67 persons who commented consisted of 13 producers, 13 financial institutions, 21 individuals, 15 congressmen, 1 national farm organization, 2 State farm organizations, and 2 corporations.

The comments which were relevant to the proposed rule were made with respect to one or more of the following issues:

(a) *Whether certain persons, especially estates and trusts, should be excluded from the requirement to sell or forfeit allotment and quota established for farms owned by any person, other than an individual, who is not significantly involved in the management or use of land for agricultural purposes.* The No Net Cost Tobacco Program Act of 1982 added a new section 316A to the Act which provides, in part:

> (a) Any person (including, but not limited to, any governmental entity, public utility, education institution, or religious institution, but not including any individual) which, on or after the date of the enactment of the section—
>
> (1) Owns a farm for which a flue-cured acreage allotment or marketing quota is established under this Act; and
>
> (2) Is not significantly involved in the management or use of land for agricultural purposes;
>
> Shall sell such allotment or quota in accordance with section 316(g) of this Act not later than December 1, 1983, or December 1 of the year after the year in which the farm is acquired, whichever is later, or shall forfeit such allotment or quota under the procedure specified in subsection (c).

The term "person" is defined by section 301(a)(8) of the Act to mean "an individual, partnership, firm, joint-stock company, corporation, association, trust, estate, or any agency of a State." Since the term "person" has previously been defined in the Act and has been used as a basis for defining the term "person" for the purpose of other domestic commodity programs, the proposed rule is adopted as the final rule with respect to the definition of a "person."

(b) *What constitutes "significantly involved in the management or use of land for agricultural purposes."* Section 316A of the Act also provides that any person, other than an individual, which is not significantly involved in the management or use of land for agricultural purposes shall sell or forfeit any flue-cured tobacco allotment and quota established for any farm which such person owns. In the proposed rule, the basic criterion for determining significant involvement was the determination that the primary business purpose of the person is to manage or use land for production of crops which are planted and harvested annually and/or the production of livestock, including pasture and forage for livestock. Also, more than 50 percent of such person's total gross income for the three preceding years must have been derived from the management or use of land for such purposes.

A national farm organization proposed that a person be considered significantly involved if "the primary purpose of the person is the management or use of land for the production of crops which are planted and harvested annually; or the person materially participates in the management or use of the land for agricultural purposes, including advancing funds or assuming financial responsibility for the production of tobacco." The organization expressed the view that its proposed language more directly addresses the significantly involved issue than a test which is based on both farm and nonfarm sources of gross income. The organization did not suggest a method for determining "primary purpose" without considering income. The Department, however, remains committed to the view that significant involvement should be on the basis of gross income since such a basis can be readily determined from existing records of the person. Also, such a basis can be uniformly applied by all county ASCS offices.

(c) *Whether the person's gross income for the three preceding years should be considered in determining significant involvement.* One person suggested that one year's gross income, rather than three years' gross income, should be considered in determining significant involvement. Another person suggested a period of five years, and a third person suggested that meeting the gross income requirement in any one of the past three years should suffice. Using one year would not be sufficient to conclusively determine whether a person is significantly involved. A five-year period would require the person to provide documentation for years for which records may no longer be available. In view of these concerns, a three-year period has been determined to be reasonable.

(d) *What percentage of gross income must be derived from the management or use of land for agricultural purposes.* The proposed rule requires that the person derive more than 50 percent of its gross income for the three preceding years from the management or use of land for agricultural purposes in determining whether the person is significantly involved in such activities. Twelve of the persons who commented recommended that either 5 percent or 10 percent of gross income be used instead of 50 percent. Four other persons recommended use of differing percentages ranging from 15 percent to 33 percent. Fifteen Congressmen recommended that the percentage be no higher than 20 percent. Only one person commented in support of the rule as proposed.

Section 201(d) of the No Net Cost Tobacco Program Act of 1982 amended section 316 of the Act to permit the owner of a flue-cured tobacco allotment and quota to sell such allotment and quota to an "active flue-cured tobacco producer." To be considered such a producer, several requirements must be met, including the requirement that "the investment of such person in the production of such crop is not less than 20 per centum of the proceeds of the sale of such crop." (See section 316(g)(2)(A) of the Act.) After reviewing this requirement and taking into consideration all comments received, the Department has concluded that the proposed rule may have been too restrictive. Therefore, the final rule provides that a person shall be considered significantly involved in the management or use of land for agricultural purposes if such person's total gross income from the management or use of land for agricultural purposes during the three preceding years is more than 20 percent of such person's total gross income from all sources during such period.

These comments and all others received were considered in developing the final rule.

Final Rule From Interim or Proposed Rules

The interim rule which was published in the **Federal Register** on December 17, 1982 (47 FR 56473), is adopted as the final rule with the exception of amendments which are required to make minor technical revisions and one substantive amendment.

The proposed rule which was published in the **Federal Register** on April 22, 1983 (48 FR 17532), is adopted as the final rule with the exception that more than 20 percent of a person's gross income during the three preceding years must be derived from the management or use of land for agricultural purposes

to constitute significant involvement in lieu of the 50 percent requirement of the proposed rule.

List of Subjects in 7 CFR Part 725

Acreage allotment, Marketing quota, Penalties, Report requirements, Tobacco.

Final Rule

PART 725—[AMENDED]

Accordingly, 7 CFR Part 725 is amended as follows:

1. The interim rule published at 47 FR 56473 is adopted as a final rule with the following changes:

A. The table of contents is amended by adding the entry for § 725.49 and revising the entry for § 725.109 to read as follows:

Sec.

* * * * *

725.49 OMB Control Numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

725.109 Duties of Kansas City ASCS Management Office.

* * * * *

B. A new § 725.49 is added to read as follows:

§ 725.49 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

The information collection requirements contained in these regulations (7 CFR Part 725) have been approved by the Office of Management and Budget (OMB) in accordance with the provisions of the 44 U.S.C. Chapter 35 and have been assigned OMB Control Numbers 0560–0058 and 0560–0117.

* * * * *

C. In § 725.72, the last sentence in paragraph (m) is revised to read as follows:

§ 725.72 Transfer of tobacco marketing quotas by lease or by sale.

* * * * *

(m) * * * If there was more than one farm to which a farm marketing quota was transferred by sale, the marketing may be assigned to the farms in the manner agreed to in writing by each of the buyers of such farm marketing quota.

* * * * *

D. In § 725.74, paragraph (d)(2) and the undesignated paragraph following paragraph (f)(1)(x) are revised and paragraph (j)(1) is revised to read as follows:

§ 725.74 Forfeiture of allotment and quota.

* * * * *

(d) * * *

(2) *Failure to utilize purchased allotment and quota.* Failure to utilize purchased allotment and quota for the production of tobacco shall not subject such allotment and quota to forfeiture, but the five year period of paragraph (d)(1) of this section shall be extended one year for each year in which the allotment and quota is not utilized.

* * * * *

(f) * * *

(1) * * *

(x) * * *

The portion of the forfeiting farm data which shall be included in a forfeiture pool for the county shall be determined by subtracting the acres or pounds which are retained of the forfeiting farm from the acres or pounds established for the forfeiting farm before the forfeiture.

* * * * *

(j) * * *

(1) *New owner of farm.* The new owner of a farm on which a portion or all of the farm acreage allotment and farm marketing quota for such farm was either purchased and/or was reallocated from forfeited allotment and quota shall become the successor-in-interest to the previous owner of the farm. However, if a farm is acquired by a new owner on or before June 15 of the current crop year and such owner would otherwise be required to sell or forfeit the farm acreage allotment and farm marketing quota because in the preceding crop year the owner of such allotment and quota did not share in the risk of producing a crop of tobacco which was subject to such purchased or reallocated allotment and quota, the new owner may be considered the buyer of the allotment and quota instead of being considered as a successor-in-interest to the previous owner of the farm. However, the new owner must furnish to the county committee on or before June 15 of the current year a certification that such owner intends to become an active flue-cured tobacco producer. Any purchased or reallocated allotment and quota which is acquired by a new owner who is considered to be the buyer of allotment and quota in accordance with the provisions of this paragraph shall be subject to the same terms and conditions with respect to forfeiture which would be applicable if the new owner actually had purchased the allotment and quota at the time the farm was acquired.

* * * * *

§ 725.99 [Amended]

E. In § 725.99, paragraph (a)(4)(xvii) is amended by removing the words "Kansas City Field Office (KCFO)" and inserting in their place the words "Kansas City Management Office (KCMO)" and paragraph (d)(2) is amended by removing "KCFO" and inserting in its place "KCMO".

§ 725.102 [Amended]

F. In § 725.102, paragraph (a) is amended by removing the comma which follows the last parenthesis in the second sentence and inserting in its place a period and removing the words "provided prior approval is obtained from the Director."

G. Section 725.109 is revised to read as follows:

§ 725.109 Duties of Kansas City ASCS Management Office.

The Kansas City ASCS Management Office (KCMO) has responsibility for processing certain data and making such reports as may be required by the Deputy Administrator.

2. In § 725.74, a new paragraph (b) is added to read as follows:

§ 725.74 Forfeiture of allotment and quota.

* * * * *

(b) *Person not significantly involved in management or use of land for agricultural purposes.* For purposes of this paragraph, the term "person" means a person as defined in Part 719 of this chapter, including any governmental entity, public utility, educational institution, religious institution, or joint venture (but not including any farming operation involving only a husband and wife, but excluding any individual.

(1) *Required forfeiture.* Any person not significantly involved in the management or use of land for agricultural purposes which owns a farm for which a flue-cured tobacco acreage allotment and marketing quota are established shall forfeit such allotment and quota which is not sold on or before:

(i) *Farm owned or acquired before January 1, 1983.* December 1, 1983.

(ii) *Farm acquired on or after January 1, 1983.* December 1 of the year after the year in which the farm is acquired.

(2) *Significantly involved.* A person shall be considered to be significantly involved in the management or use of land for agricultural purposes if the county ASC committee determines that:

(i) For the 3 preceding years, more than 20 percent of the gross income of the person has been derived from the management or use of land for the production of crops which are planted and harvested annually, and/or livestock, including pasture and forage for livestock; and

(ii) Any other person or all other persons which in combination own more

than 50 percent of the assets of the owner of the flue-cured tobacco allotment and marketing quota also meet the criteria specified in paragraph (b)(2)(i) of this section.

(iii) In addition, an institution of higher education, such as a university or college, shall be considered to be a person significantly involved in the management or use of land for agricultural purposes if the county ASC committee determines that it is actively engaged in the production of tobacco for experimental purposes or for instructional purposes under a program whereby students are enrolled in courses requiring them to actually produce the tobacco crop.

(3) *Documentation.* Within 30 days after a written request is made by the county ASC committee, or within such extended time as may be granted by the county ASC committee, a person must submit such documentation as may be requested to support a determination that the provisions of paragraph (b)(2) of this section have been met with respect to such person. Upon failure of such person to timely respond to such request, the county ASC committee shall determine that the person is not significantly involved in the management or use of land for agricultural purposes.

Authority: Sec. 301, 313, 314, 316, 316A, 317, 363, 372–375, 377, 378, 52 Stat. 38 as amended, 47, as amended, 48, as amended, 75 Stat. 469, as amended, 96 Stat. 205, 79 Stat. 66, as amended, 52 Stat. 63, as amended, 65–66, as amended, 70 Stat. 206, as amended, 72 Stat. 995, as amended, 7 U.S.C. 1301, 1313, 1314, 1314b, 1314b–1, 1314c, 1363, 1372–75, 1377, 1378, Sec. 401, 63 Stat. 1054, as amended, 7 U.S.C. 1421.

Signed at Washington, D.C. on September 1, 1983.

Daniel G. Amstutz,

Acting Secretary.

[FR Doc. 83-24603 Filed 9-2-83; 12:01 pm]

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Part V

Department of Agriculture

Agricultural Stabilization and Conservation Service

Burley Tobacco Marketing Quota Regulations

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 726

Burley Tobacco Marketing Quota Regulations

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final rule.

SUMMARY: This rule adopts as a final rule with certain amendments the interim rule published in the **Federal Register** on April 22, 1983 (48 FR 17520) regarding Burley tobacco marketing quotas. The amendments consist of technical revisions.

In addition, the proposed rule published in the **Federal Register** on April 22, 1983 (48 FR 17528) is adopted as a final rule with one amendment with respect to the percentage of gross income which an owner of a burley tobacco quota must derive from the management or use of land for agricultural purposes in order to retain such quota. The amendment reduces such percentage from 50 percent to 20 percent.

DATES: Effective September 8, 1983.

ADDRESS: Copies of the Final Regulatory Flexibility Impact Analysis and the Final Regulatory Impact Analysis may be obtained from the Director, Analysis Division, Room 3714 South Building, Fourteenth Street and Independence Avenue, SW., P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Jack S. Forlines, Agricultural Program Specialist, Tobacco and Peanuts Division, USDA–ASCS, P.O. Box 2415, Washington, D.C. 20013, (202) 382–0200.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum 1512–1 and has been classified as "not major." It has been determined that this rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local governments, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Information collection requirements contained in this regulation (7 CFR Part 726) have been approved by the Office of Management and Budget (OMB) in accordance with the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB numbers 0560–0058 and 0560–0117.

The title and number of the Federal Assistance Program to which this rule applies are: Commodity Loan and Purchases; 10.051, as found in the Catalog of Federal Domestic Assistance.

While the Regulatory Flexibility Act is not applicable to this rule, a Final Regulatory Flexibility Impact Analysis has been prepared with a Final Regulatory Impact Analysis. Since this action may have a significant economic impact on a substantial number of small entities, the impact analysis addresses the issues required in section 603 of that Act.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Enviromental Impact Statement is needed.

An interim rule was published in the **Federal Register** on April 22, 1983 (48 FR 17520) which amended 7 CFR Part 726 to provide restrictions with respect to the lease and transfer of quotas by producers and the marketing of tobacco by producers, warehousemen, and dealers. A proposed rule was published in the **Federal Register** on April 22, 1983 (48 FR 17528) which contained provisions with respect to the forfeiture of burley tobacco quota established for farms owned by persons, other than individuals, which are not significantly involved in the management or use of land for agricultural purposes.

Statutory Authority

This rule is necessary to implement amendments to the Agricultural Adjustment Act of 1938, as amended (the Act), which were made by the No Net Cost Tobacco Program Act of 1982 (Pub. L. 97–218). The amendments provided for: (1) Changes with respect to the lease and transfer of burley tobacco quota; (2) forfeiture of burley tobacco quota under certain conditions; (3) reallocation of forfeited quota; (4) limitations on the amount of floor sweepings which may be marketed without penalty by a warehouseman; (5) a lien on tobacco as a mechanism for collecting marketing quota penalties; and (6) other changes to strengthen the operation of the tobacco price support and production adjustment programs.

Interim Rule

Only one comment was received in response to the interim rule which was published in the **Federal Register** on April 22, 1983 (48 FR 17520). The comment relates to the provision which subjects a producer of burley tobacco to a penalty with respect to any marketing of burley tobacco produced on a farm on which the farm operator or any other producer has not agreed to pay assessments to the No Net Cost Tobacco Account. Since the penalty is required by section 314 of the Act, the Secretary does not have discretionary authority with respect to this matter. Accordingly, the provisions of the interim rule have been adopted as a final rule except for technical amendments required to correct a typographical error and to reflect the change of the name of the Kansas City Field Office (KCFO) to the Kansas City Management Office (KCMO). A new section has also been added with respect to the reporting requirements of the Paperwork Reduction Act. The table of contents has been amended to reflect this addition.

Proposed Rule

The Department received 223 comments from 221 persons relating to the burley tobacco proposed rule which was published in the **Federal Register** on April 22, 1983 (48 FR 17528). The 221 persons who commented consisted of 28 producers, 7 financial institutions, 160 individuals, 2 congressmen, 1 national farm organization, 2 State farm organizations, 7 organizations other than farm organizations, 1 church, 6 county governments, 1 State government, 1 law firm, and 5 corporations.

The comments which were relevant to the proposed rule were made with respect to one or more of the following issues:

(a) *Whether certain persons should be excluded from the requirement to sell or forfeit quota established for farms owned by any person, other than an individual, who is not significantly involved in the management or use of land for agricultural purposes.* The No Net Cost Tobacco Program Act of 1982 added a new section 316B to the Act, which provides, in part:

> (a) Any person (including, but not limited to, any governmental entity, public utility, educational institution, or religious institution, but not including any individual) which, on or after the date of the enactment of the section—
>
> (1) owns a farm for which a burley tobacco marketing quota is established under this Act; and
>
> (2) is not significantly involved in the management or use of land for agricultural purposes;
>
> shall sell, not later than December 1, 1983, or December 1 of the year after the year in which the farm is acquired, whichever is later, such quota to an active burley tobacco

producer or any person who intends to become an active burley tobacco producer, as defined by the Secretary, for use on another farm in the same county or shall forfeit such quota under the procedure specified in subsection (b).

The term "person" is defined by section 301(a)(8) of the Act to mean "an individual, partnership, firm, joint-stock company, corporation, association, trust, estate, or any agency of a State." Since the term "person" has previously been defined in the Act and has been used as a basis for defining the term "person" for the purpose of other domestic commodity programs, the proposed rule is adopted as the final rule with respect to the definition of a "person."

(b) *What constitutes "significantly involved in the management or use of land for agricultural purposes."* Section 316B of the Act also provides that any person, other than an individual, which is not significantly involved in the management or use of land for agricultural purposes shall sell or forfeit any burley tobacco quota established for any farm which such person owns. In the proposed rule, the basic criterion for determining significant involvement was the determination that the primary business purpose of the person is to manage or use land for production of crops which are planted and harvested annually and/or the production of livestock, including pasture and forage for livestock. Also, more than 50 percent of such person's total gross income for the three preceding years must have been derived from the management or use of land for such purposes.

A national farm organization proposed that a person be considered significantly involved if "the primary purpose of the person is the management or use of land for the production of crops which are planted and harvested annually; or the person materially participates in the management or use of the land for agricultural purposes, including advancing funds or assuming financial responsibility for the production of tobacco." The organization expressed the view that its proposed language more directly addresses the significantly involved issue than a test which is based on both farm and nonfarm sources of gross income. The organization did not suggest a method for determining "primary purpose" without considering income. The Department, however, remains committed to the view that significant involvement should be on the basis of gross income since such a basis can be readily determined from existing records of the person. Also, such a basis can be uniformly applied by all county ASCS offices.

(c) *Whether a governmental body or a school board should be permitted to retain any burley tobacco quota established for a farm owned by such entity.* The proposed rule requires any governmental entity or any educational institution to sell or forfeit any burley tobacco quota established for any farm owned by such entity if such entity is not significantly involved in the management or use of land for agricultural purposes. However, under the provisions of the proposed rule, institutions of higher education, such as a university or college, are considered to be a person significantly involved in the management or use of land for agricultural purposes if such institutions are actively engaged in the production of tobacco for experimental purposes or for instructional purposes in a program whereby students are enrolled in courses requiring them to actually produce the tobacco crop. There were 165 comments recommending that county governments or county school boards be permitted to retain burley tobacco quota established for any farms owned by such entities. Some of these comments suggested that such entities be considered significantly involved in the management or use of land for agricultural purposes if they meet the same criterion which is required for an institution of higher education to be considered as significantly involved.

In keeping with the requirements of the Act that the burley tobacco marketing quota established for certain farms must be sold to active tobacco producers, or forfeited and reallocated to active tobacco producers, the Department has concluded that there should be no special rules which would be applicable to governmental bodies or school boards in determining whether they are significantly involved in the management or use of land for agricultural purposes.

In order to conduct an effective high school teaching and training program with respect to the production of burley tobacco, it is not necessary that the students produce burley tobacco on farms owned by governmental bodies or school boards for which a burley tobacco marketing quota is established. There are many vocational agriculture programs conducted by high schools which do not have access to a publicly owned farm for which a burley tobacco quota is established. The students in such programs generally gain practical experience on privately owned farms which produce burley tobacco.

(d) *The percentage of gross income which must be derived from the management or use of land for agricultural purposes.* The proposed rule requires that the person derive more than 50 percent of its gross income for the three preceding years from the management or use of land for agricultural purposes when determining whether the person is significantly involved in such activities. Only one person commented with respect to burley tobacco. That person recommended that 10 percent of gross income be used instead of 50 percent.

Section 302 of the No Net Cost Tobacco Program Act of 1982 amended the Act by adding section 316B which requires any person who acquires any burley tobacco marketing quota by purchase to share in the risk of producing burley tobacco subject to such quota. For a person to be considered to have shared in the risk of producing burley tobacco, such person must meet several requirements, including the requirement that "the investment of such person in the production of such crop is not less than 20 per centum of the proceeds of the sale of such crop." (See section 316B(c)(2)(A) of the Act.) After reviewing this requirement and taking into consideration all comments received, the Department has concluded that the proposed rule may have been too restrictive. Therefore, the final rule provides that a person shall be considered significantly involved in the management or use of land for agricultural purposes if such person's total gross income from the management or use of land for agricultural purposes during the three preceding years is more than 20 percent of such person's total gross income from all sources during such period.

These comments and all others received were considered in developing the final rule.

Final Rule From Interim or Proposed Rules

The interim rule which was published in the **Federal Register** on April 22, 1983 (48 FR 17520) is adopted as the final rule except for certain amendments which are made for the purpose of minor technical revisions.

The proposed rule which was published in the **Federal Register** on April 22, 1983 (48 FR 17528) is adopted as the final rule except for an amendment which states that more than 20 percent of a person's gross income during the three preceding years must be derived from the management or use of land for agricultural purposes to constitute significant involvement. This 20 percent level is substituted for the 50

percent requirement which was contained in the proposed rule.

List of Subjects in 7 CFR Part 726

Marketing quota, Penalties, Report requirements, Tobacco.

Final Rule

PART 726—[AMENDED]

Accordingly, 7 CFR Part 726 is amended as follows:

1. The interim rule published at 48 FR 17520 is adopted as a final rule with the following changes:

A. The table of contents is amended by adding the entry for § 726.49 and by revising the entry for § 726.100 to read as follows:

Sec.

* * * * *

726.49 OMB Control Numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

726.100 Duties of Kansas City ASCS Management Office.

* * * * *

B. A new § 726.49 is added to read as follows:

§ 726.49 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

The information collection requirements contained in these regulations (7 CFR Part 726) have been approved by the Office of Management and Budget (OMB) in accordance with the provisions of the 44 U.S.C. Chapter 35 and have been assigned OMB Control Numbers 0560–0058 and 0560–0117.

§ 726.93 [Amended]

C. In § 726.93, the title of the section is corrected to read *"Warehouseman's records and reports."*; paragraph (a)(4) is amended by removing the words "Kansas City Field Office (KCFO)" and inserting in their place the words "Kansas City Management Office (KCMO)"; and paragraph (d)(2) is amended by removing "KCFO" and inserting in its place "KCMO".

D. Section 726.100 is revised to read as follows:

§ 726.100 Duties of Kansas City ASCS Management Office.

The Kansas City ASCS Management Office (KCMO) has responsibility for processing certain data and making such reports as may be required by the Deputy Administrator.

2. Section 726.69 is revised to read as follows:

§ 726.69 Forfeiture of quota.

(a) *Determination of quota subject to forfeiture.* (1) For purposes of paragraph (b) of this section, the phrase "owns a farm" means ownership of:

(i) A farm as constituted under Part 719 of this Chapter if the entire farm shares a common ownership; or

(ii) All of the land within a farm which shares common ownership (commonly referred to as a "tract") if the parent farm consists of tracts of land having separate ownership.

(2) For purposes of paragraph (b) of this section, the county committee shall apportion, in accordance with the provisions of Part 719 of this chapter, the burley tobacco quota assigned to a farm between the various tracts of land which are separately owned by:

(i) A person which is not significantly involved in the management or use of land for agricultural purposes, as described in paragraph (b) of this section.

(ii) An individual, or owned by a person which is significantly involved in the management or use of land for agricultural purposes.

(3) The farm marketing quota determined under this section for each farm or tract, as applicable, shall be the amount of quota subject to forfeiture under this section.

(b) *Person not significantly involved in management or use of land for agricultural purposes.* For purposes of this paragraph, the term "person" means a person as defined in Part 719 of this chapter, including any governmental entity, public utility, educational institution, religious institution, or joint venture (but not including any farming operation involving only a husband and wife), but excluding any individual.

(1) *Required forfeiture.* Any person not significantly involved in the management or use of land for agricultural purposes which owns a farm for which a burley tobacco marketing quota is established shall forfeit such quota which is not sold on or before:

(i) *Farm owned or acquired before January 1, 1983.* December 1, 1983.

(ii) *Farm acquired on or after January 1, 1983.* December 1 of the year after the year in which the farm is acquired.

(2) *Signficantly involved.* A person shall be considered to be significantly involved in the management or use of land for agricultural purposes if the county ASC committee determines that:

(i) For the 3 preceding years, more than 20 percent of the gross income of the person has been derived from the management or use of land for the production of crops which are planted and harvested annually, and/or livestock, including pasture and forage for livestock; and

(ii) Any other person or all persons which in combination own more than 50 percent or more of the assets of the owner of the farm for which a burley tobacco marketing quota is established also meet the criteria specified in paragraph (b)(2)(i) of this section.

(iii) In addition, an institution of higher education, such as a university or college, shall be considered to be a person significantly involved in the management or use of land for agricultural purposes if the county ASC committee determines that it is actively engaged in the production of tobacco for experimental purposes or for instructional purposes under a program whereby students are enrolled in courses requiring them to actually produce the tobacco crop.

(3) *Documentation.* Within 30 days after a written request is made by the county ASC committee, or within such extended time as may be granted by the county ASC committee, a person must submit such documentation as may be requested to support a determination that the provisions of paragraph (b)(2) of this section have been met with respect to such person. Upon failure of such person to timely respond to such request, the county ASC committee shall determine that the person is not significantly involved in the management or use of land for agricultural purposes.

(c) *Buyer of quota fails to share in risk of production*—(1) *Forfeiture required.* If any person buys burley tobacco quota in accordance with the provisions of § 726.68 and such person fails to share in the risk of producing the tobacco which was planted subject to such quota during any of the five crop years beginning with the crop year for which the purchase became effective, such person shall forfeit the purchased quota if it is not sold on or before December 31 of the year after the crop year in which such crop was planted.

(2) *Failure to utilize purchased quota.* The failure to utilize purchased burley tobacco quota for the production of tobacco shall not result in the forfeiture of such quota, but the five year period which is specified in paragraph (c)(1) of this section shall be extended one year for each year in which the quota is not utilized.

(3) *Reduction for failure to share in risk of production.* The effective quota shall be reduced, but not below zero pounds, for leasing and marketing quota purposes only, to the extent of the purchased quota for each crop year after the crop year in which the buyer of such quota fails to share in the risk of producing a crop of tobacco which is subject to such quota.

(4) *Determining forfeited amount.* If only part of the quota on a farm is attributable to a purchased quota, the amount of the farm marketing quota which must be forfeited under this paragraph (c) shall be determined by increasing or decreasing each respective purchase of farm marketing quota for the farm to reflect changes in national quota factors since the purchase occurred and subtracting the pounds of quota which have been sold to prevent forfeiture.

(d) *Hearing.* Before any forfeiture of quota becomes effective under the provisions of this section, the county committee shall:

(1) Schedule a hearing for the affected person.

(2) Notify the affected person of the hearing at least 10 days in advance of the hearing.

(3) Make a determination, on the basis of any evidence presented at the hearing, as to whether or not the affected person knowingly failed to take steps to prevent forfeiture of quota.

(4) Notify the affected person of the county committee determination and, if forfeiture of quota is to be required, afford such person an opportunity to appeal to a review committee in accordance with the provision of Part 711 of this chapter.

(e) *Apportionment of data and determination of quota after forfeiture*—(1) *Apportionment of data.* The pounds of farm marketing quota retained on the forfeiting farm after the forfeiture shall be divided by the farm marketing quota established for the forfeiting farm before the forfeiture to determine a factor for apportioning farm data. The data to be retained on the forfeiting farm shall be determined by multiplying the factor by the following data of the forfeiting farm:

(i) The overmarketings which have not been subtracted when determining the effective farm marketing quota of the forfeiting farm.

(ii) The pounds of quota transferred from the forfeiting farm by lease or by the owner in the current year.

(iii) The pounds of quota reduced in the current year for a marketing quota violation in a prior year.

(iv) The previous year's effective farm marketing quota.

(v) The previous year's marketings.

(vi) The previous year's farm marketing quota.

(vii) The pounds of quota transferred to the farm by lease or by the owner in the previous year.

The portion of the forfeiting farm data which shall be included in a forfeiture pool for the county shall be determined by subtracting the pounds of each respective item of farm data which are retained on the forfeiting farm from the pounds of the respective item of data which were established for the forfeiting farm before the forfeiture.

(2) *Forfeiture pool data.* The data for the forfeiture pool shall be added to any previous data in the forfeiture pool.

(3) *Quota after forfeiture.* After adjustment of data, the effective farm marketing quota shall be determined in accordance with the provisions of § 726.57 for the forfeiting farm.

(f) *Forfeiture pool*—(1) *Forfeiture pool required.* A forfeiture pool shall be established in each county in which a forfeiture of quota occurs. The forfeiture pool shall be increased to include data for each forfeiture and shall be decreased for each reallocation in order to reflect any forfeited or reallocated amounts of:

(i) The farm marketing quota for the current year.

(ii) The quota reduced for marketing quota violations.

(iii) The quota transferred from the forfeiting farm by lease or by the owner.

(iv) The previous year's effective farm marketing quota.

(v) The previous year's marketings.

(2) *Adjustment of data in forfeiture pool.* At the beginning of the current year, the data in the forfeiture pool shall be adjusted by the factor used in determining quotas for old farms. Quota data in the forfeiture pool shall be decreased each time any burley tobacco quota is reallocated from the forfeiture pool. Such decrease in the quota data will be made in the same proportion as the pounds of quota which are reallocated from the pool are to the pounds of quota which were in the pool before the reallocation.

(g) *Reallocation of quota from forfeiture pool*—(1) *Application.* In order to establish eligibility to receive quota from the forfeiture pool in the current year, an application must be made on a form approved by the Deputy Administrator. Such application must be filed:

(i) *Who may file.* By an active producer.

(ii) *When to file.* On or before April 30. *Provided,* That the State committee may establish an earlier date if notice of such earlier date is given in time for interested applicants to file an application by the earlier date.

(iii) *Where to file.* At the county ASCS office which serves the farm for which the application is filed.

(2) *Eligibility of applicant.* In order for an applicant to be eligible for quota from the forfeiture pool the county committee must determine that:

(i) The application was filed timely.

(ii) The applicant is an active tobacco producer.

(iii) During the current year or during the four years preceding the current year, the applicant has not sold or forfeited quota from any farm.

(3) *Time to reallocate.* The county committee shall:

(i) Not reallocate any quota from the forfeiture pool until the time has passed for filing an application for forfeited quota for the current year.

(ii) Reallocate any quota from the forfeiture pool only during the 30-day period beginning on the day after the final date for filing an application for quota from the forfeiture pool.

(4) *Reallocation by county committee.* Reallocation of any burley tobacco quota shall be made by the county committee. In making its determination of the amounts of quota to reallocate, the county committee may consider the size of the current quotas on the farms of the eligible applicants, the length of time the applicants have been farming tobacco, the type of farming done by the applicants (i.e., livestock, grain, or other commodities), previous leasing history of applicants, and such other factors which in the judgment of the county committee should be considered. A burley tobacco quota may be reallocated to a farm which currently does not have a burley tobacco quota. A factor shall not be used to reallocate quota between all eligible applicants.

(5) *Basis for reallocation from forfeiture pool.* Reallocation from the forfeiture pool shall be on the basis of pounds of farm marketing quota.

(6) *Amount of quota to reallocate.* The county committee may reallocate all or part of the quota in the forfeiture pool. The minimum and maximum amounts of quota which may be reallocated to an eligible applicant are:

(i) *Minimum.* The total amount of quota in the pool or 100 pounds, whichever is less.

(ii) *Maximum.* 500 pounds *Provided,* That not to exceed 1,500 pounds may be reallocated with State committee approval.

(7) *Data for receiving farm.* All quota data for the forfeiture pool shall be apportioned to the receiving farm in the proportion that the reallocated farm marketing quota is to the total farm marketing quota in the forfeiture pool before the reallocation. The data determined for the receiving farm in accordance with the provisions in this paragraph shall be added to any previous data for the receiving farm.

(8) *Quota for receiving farm.* After any adjustments which are made in accordance with the provisions of this

section, the effective farm marketing quota shall be determined for the receiving farm in accordance with the provisions of § 726.57.

(h) *Forfeiture of reallocated quota.* Any burly tobacco quota which is reallocated in accordance with the provisions of this section shall be forfeited if the applicant to whom the quota is reallocated fails to share in the risk of producing a crop of tobacco which is subject to such quota during any of the five years beginning with the crop year during which the quota is reallocated. The amount of farm marketing quota which must be forfeited shall be determined in the same manner which is specified in paragraph (c)(4) of this section with respect to the forfeiture of purchased quota. Any forfeiture of quota shall occur on December 1 of the year in which the applicant fails to share in the risk of production of tobacco which is produced subject to such quota: *Provided,* That while the failure to utilize a quota shall not subject the quota to forfeiture, the five year period which is specified in this paragraph shall be extended by a year for each year in which the allotment and quota is not utilized.

(i) *Successor-in-interest.* A successor-in-interest shall be subject to the provisions of this section in the same manner and to the same extent as would be applicable to the person whose interest has been assumed by such successor-in-interest.

(1) *New owner of farm.* The new owner of a farm on which a portion or all of the farm marketing quota for such farm was either purchased and/or was reallocated from forfeited quota shall become the successor-in-interest to the previous owner of the farm. However, if a farm is acquired by a new owner on or before June 30 of the current crop year and such owner would otherwise be required to sell or forfeit the farm marketing quota because in the preceding crop year the owner of such quota did not share in the risk of producing a crop of tobacco which was subject to such purchased or reallocated quota, the new owner may be considered the buyer of the quota instead of being considered as a successor-in-interest to the previous owner of the farm. However, the new owner must furnish to the county committee on or before June 30 of the current year a certification that such owner intends to become an active burley tobacco producer. Any purchased or reallocated quota, which is acquired by a new owner who is considered to be the buyer of quota in accordance with the provisions of this paragraph, shall be subject to the same terms and conditions with respect to forfeiture which would be applicable if the new owner actually had purchased the quota at the time the farm was acquired.

(2) *Buyer no longer shares in risk of production.* The owner of a farm shall become the successor-in-interest to the buyer of burly tobacco quota which was transferred to a farm but which was not owned by such buyer if the buyer ceases to share in the risk of production of burley tobacco produced on the farm.

Authority: Secs. 301, 313, 314, 314A, 316B, 317, 372–375, 377, 378, 52 Stat. 38, as amended, 47, as amended, 48, as amended, 96 Stat. 210, 215, 75 Stat. 469, as amended, 79 Stat. 66, 52 Stat. 63, as amended 65–66, as amended, 70 Stat. 206, 7 U.S.C. 1301, 1313, 1314, 1314–1, 1314b–2, 1314c, 1383, 1372–1375, 1377, 1378, Sec. 401, 63 Stat. 1054, as amended, 7 U.S.C. 1421.

Signed at Washington, D.C. on September 1, 1983.

Daniel G. Amstutz,

Acting Secretary.

[FR Doc. 83-24506 Filed 9-3-83; 12:03 pm]

BILLING CODE 3410-05-M

federal register

Thursday
September 8, 1983

Part VI

Department of Energy

Federal Energy Regulatory Commission

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Vol. 963]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: September 1, 1983.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register**.

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Rd, Springfield, Va 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 Mile rule)
102–3: New well (1000 Ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease.
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal Seams
107–DV: Devonian Shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS — VOLUME 963
ISSUED SEPTEMBER 1, 1983

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
WEST VIRGINIA DEPARTMENT OF MINES									
-COLUMBIA GAS TRANSMISSION CORP		RECEIVED: 08/16/83		JA: WV					
8350516		4708702117		108		A B JACKSON 801401	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350880		4704300722		108		A F CUMMINGS 805825	WEST VIRGINIA FIELD A	6.0	COLUMBIA GAS TRAN
8350568		4704300400		108		A I DOTSON - 803908	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8350838		4707900878		108		A P ROBERTS 804122	WEST VIRGINIA FIELD A	5.0	COLUMBIA GAS TRAN
8350475		4705900323		108		A W BREWER - 800855	W VA FIELD AREA B	0.6	COLUMBIA GAS TRAN
8350539		4705900900		108		A W BREWER 800854	W VA FIELD AREA B	0.8	COLUMBIA GAS TRAN
8350487		4703902983		108		A W GRAHAM 801333	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350529		4708702327		108		A WALKER-800235	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350508		4703902984		108		ADAM B LITTLEPAGE 800477	WVA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350496		4703902985		108		ADAM B LITTLEPAGE 800565	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8350840		4707900879		108		ADDISON WISEMAN - 804189	W VA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8350799		4704302088		108		ALBERT HODGES 805877	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8350805		4704303177		108		ALBERT RICA 805995	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350807		4704301853		108		ALBERT RICE 805998	WVA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350712		4703900024		108		AMERICA SEARS - 800820	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8350871		4704301855		108		ANDREW SPONAUGLE 805983	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8350811		4704301856		108		ANDREW SPONAUGLE 805984	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350690		4701501585		108		ANNA B HICKS 820386	WEST VIRGINIA FIELD A	8.6	
8350461		4701500035		108		ANNA B HICKS 820387	WEST VIRGINIA FIELD A	8.6	
8350669		4701502091		108		ANNA B HICKS 820388	WEST VIRGINIA FIELD A	8.6	
8350434		4701502092		108		ANNA B HICKS 820392	WEST VIRGINIA FIELD A	8.6	
8350689		4701501255		108		ANNA B HICKS 820394	WEST VIRGINIA FIELD A	8.6	
8350928		4709900343		108		ANNIE PINSON ET AL 805466	WVA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8350503		4704501020		108		ANTHONY LAWSON HEIRS - 800633	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350677		4701502066		108		B G S BUTLER 801638	WEST VIRGINIA FIELD A	8.6	
8350438		4701500112		108		B G S GEARY 801247	WEST VIRGINIA FIELD A	8.6	
8350439		4701500121		108		B G S GEARY 801252	WEST VIRGINIA FIELD A	8.6	
8350680		4701500125		108		B G S GEARY 801258	WEST VIRGINIA FIELD A	8.6	
8350679		4701500131		108		B G S GEARY 801265	WEST VIRGINIA FIELD A	8.6	
8350442		4701500195		108		B G S GEARY 801282	WEST VIRGINIA FIELD A	8.6	
8350443		4701500196		108		B G S GEARY 801284	WEST VIRGINIA FIELD A	8.6	
8350444		4701500199		108		B G S GEARY 801285	WEST VIRGINIA FIELD A	8.6	
8350445		4701500237		108		B G S GEARY 801297	WEST VIRGINIA FIELD A	8.6	
8350446		4701500265		108		B G S GEARY 801315	WEST VIRGINIA FIELD A	8.6	
8350448		4701500267		108		B G S GEARY 801318	WEST VIRGINIA FIELD A	8.6	
8350447		4701500279		108		B G S GEARY 801323	WEST VIRGINIA FIELD A	8.6	
8350449		4701500280		108		B G S GEARY 801324	WEST VIRGINIA FIELD A	8.6	
8350450		4701500297		108		B G S GEARY 801327	WEST VIRGINIA FIELD A	8.6	
8350692		4701502058		108		B G S GEARY 801349	WEST VIRGINIA FIELD A	8.6	
8350597		4701500396		108		B G S GEARY 801354	WEST VIRGINIA FIELD A	8.6	
8350600		4701502068		108		B G S GEARY 801570	WEST VIRGINIA FIELD A	8.6	
8350601		4701501856		108		B G S GEARY 801571	WEST VIRGINIA FIELD A	8.6	
8350592		4701501857		108		B G S GEARY 801606	WEST VIRGINIA FIELD A	8.6	
8350675		4701501858		108		B G S GEARY 801641	WEST VIRGINIA FIELD A	8.6	
8350642		4701502074		108		B G S GEARY 801871	WEST VIRGINIA FIELD A	8.6	

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8350641		4701502073	108			B G S GEARY 801919	WEST VIRGINIA FIELD A	8.6	
8350699		4701500734	108			B G S GEARY 802021	WEST VIRGINIA FIELD A	8.6	
8350636		4701500737	108			B G S GEARY 802024	WEST VIRGINIA FIELD A	8.6	
8350637		4701500738	108			B G S GEARY 802025	WEST VIRGINIA FIELD A	8.6	
8350633		4701500864	108			B G S GEARY 802040	WEST VIRGINIA FIELD A	8.6	
8350634		4701500865	108			B G S GEARY 802041	WEST VIRGINIA FIELD A	8.6	
8350702		4701500869	108			B G S GEARY 802042	WEST VIRGINIA FIELD A	8.6	
8350701		4701500870	108			B G S GEARY 802043	WEST VIRGINIA FIELD A	8.6	
8350700		4701500871	108			B G S GEARY 802044	WEST VIRGINIA FIELD A	8.6	
8350686		4701500872	108			B G S GEARY 802045	WEST VIRGINIA FIELD A	8.6	
8350684		4701500879	108			B G S GEARY 802046	WEST VIRGINIA FIELD A	8.6	
8350704		4701500880	108			B G S GEARY 802047	WEST VIRGINIA FIELD A	8.6	
8350644		4701500881	108			B G S GEARY 802048	WEST VIRGINIA FIELD A	8.6	
8350705		4701500900	108			B G S GEARY 802052	WEST VIRGINIA FIELD A	8.6	
8350640		4701500889	108			B G S GEARY 802053	WEST VIRGINIA FIELD A	8.6	
8350639		4701500903	108			B G S GEARY 802072	WEST VIRGINIA FIELD A	8.6	
8350468		4701502081	108			B G S GEARY 803984	WEST VIRGINIA FIELD A	8.6	
8350654		4701502083	108			B G S GEARY 803985	WEST VIRGINIA FIELD A	8.6	
8350703		4701500031	108			B G S GEARY 804039	WEST VIRGINIA FIELD A	8.6	
8350674		4701502086	108			B G S GEARY 804050	WEST VIRGINIA FIELD A	8.6	
8350667		4701502088	108			B G S GEARY 804090	WEST VIRGINIA FIELD A	8.6	
8350668		4701502090	108			B G S GEARY 804254	WEST VIRGINIA FIELD A	8.6	
8350655		4701500058	108			B G S GEARY 804258	WEST VIRGINIA FIELD A	8.6	
8350651		4701500096	108			B G S GEARY 804591	WEST VIRGINIA FIELD A	8.6	
8350646		4701501095	108			B G S GEARY 820325	WEST VIRGINIA FIELD A	8.6	
8350463		4701501088	108			B G S GEARY 820327	WEST VIRGINIA FIELD A	8.6	
8350599		4701501855	108			B G S SENNETT 801565	WEST VIRGINIA FIELD A	8.6	
8350602		4701502061	108			B G S SENNETT 801588	WEST VIRGINIA FIELD A	8.6	
8350435		4701502062	108			B G S SENNETT 801681	WEST VIRGINIA FIELD A	8.6	
8350436		4701502063	108			B G S SENNETT 801602	WEST VIRGINIA FIELD A	8.6	
8350440		4701502064	108			B G S SENNETT 801604	WEST VIRGINIA FIELD A	8.6	
8350678		4701502065	108			B G S SENNETT 801632	WEST VIRGINIA FIELD A	8.6	
8350695		4701502078	108			B G S SENNETT 801767	WEST VIRGINIA FIELD A	8.6	
8350666		4701502089	108			B G S SENNETT 804247	WEST VIRGINIA FIELD A	8.6	
8350877		4704301858	108			BETTY SMITH 806001	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8350707		4703903122	108			BLUE CK COAL & LAND 803958	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8350774		4703901059	108			BLUE CK COAL & LAND 805306	WEST VIRGINIA FIELD A	1.0	COLUMBIA GAS TRAN
8350548		4705900556	108			BURN CK MARBNE LD CO 808529	W VA FIELD AREA B	13.0	COLUMBIA GAS TRAN
8350926		4705900086	108			BURN CK MARBNE LD CO 805608	W VA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8350694		4701502071	108			BUTLER 801768	WEST VIRGINIA FIELD A	8.6	
8350682		4701502080	108			BUTLER 803865	WEST VIRGINIA FIELD A	8.6	
8350616		4704302092	108			C A HOLDERBY - 802259	W VA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8350563		4704301861	108			C E BIAS 802596	W VA FIELD AREA	2.0	COLUMBIA GAS TRAN
8350584		4704301862	108			C K MADDOX 802530	W VA FIELD AREA B	0.5	COLUMBIA GAS TRAN
8350543		4704302093	108			C M ADKINS 802426	W VA FIELD AREA B	0.8	COLUMBIA GAS TRAN
8350849		4704302032	108			C M ADKINS 805930	W VA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8350578		4709901626	108			C M FARLEY 803956	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350843		4709901664	108			C M FRALEY 803957	W VA FIELD AREA B	8.0	COLUMBIA GAS TRAN
8350878		4704302094	108			C MIDKIFF 805895	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350548		4704301863	108			C ROBERTS 802403	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8350756		4704302096	108			CHAS BOOTH - 802179	WVA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350557		4703901936	108			CINCO COAL CO 803919	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350528		4708702332	108			CO CANTERBURG ETAL 801219	W VA FIELD AREA A	0.8	COLUMBIA GAS TRAN
8350533		4700501196	108			COURTNEY CO - 801845	W VA FIELD AREA B	0.5	COLUMBIA GAS TRAN
8350892		4704300458	108			COURTNEY CO 811 805316	WEST VIRGINIA FIELD A	3.0	COLUMBIA GAS TRAN
8350893		4704300472	108			COURTNEY CO 812 805354	WVA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350760		4700500633	108			COURTNEY CO 813 805373	WVA FIELD AREA B	11.0	COLUMBIA GAS TRAN
8350764		4700500634	108			COURTNEY CO 814 805374	WVA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350909		4704300521	108			COURTNEY CO 815 805467	WVA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8350781		4704300522	108			COURTNEY CO 816 805468	WVA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350917		4704300547	108			COURTNEY CO 817 805510	W VA FIELD AREA B	11.0	COLUMBIA GAS TRAN
8350890		4704300548	108			COURTNEY CO 818 805511	W VA FIELD AREA B	19.0	COLUMBIA GAS TRAN
8350891		4704300549	108			COURTNEY CO 819 805512	WVA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8350532		4700500783	108			COURTNEY CO 82 801801	W VA FIELD AREA B	7.0	COLUMBIA GAS TRAN
8350915		4704300550	108			COURTNEY CO 822 805515	W VA FIELD AREA B	11.0	COLUMBIA GAS TRAN
8350914		4704300545	108			COURTNEY CO 824 805521	W VA FIELD AREA B	11.0	COLUMBIA GAS TRAN
8350907		4704300557	108			COURTNEY CO 827 805528	W V FIELD AREA B	19.0	COLUMBIA GAS TRAN
8350769		4700500678	108			COURTNEY CO 828 805529	WVA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8350768		4700500679	108			COURTNEY CO 830 805530	WVA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8350779		4704300566	108			COURTNEY CO 831 805533	W VA FIELD AREA B	12.0	COLUMBIA GAS TRAN
8350905		4704300460	108			COURTNEY CO NO 11 805293	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350509		4700501195	108			COURTNEY CO NO 801853	WVA FIELD AREA B	0.5	COLUMBIA GAS TRAN
8350749		4704300407	108			COURTNEY CO NO 805201	WVA FIELD AREA B	7.0	COLUMBIA GAS TRAN
8350731		4700500133	108			COURTNEY CO 804273	WVA FIELD AREA B	0.8	COLUMBIA GAS TRAN
8350732		4700500134	108			COURTNEY CO 804274	WEST VIRGINIA FIELD A	0.8	COLUMBIA GAS TRAN
8350875		4704301969	108			CYRUS YEAGER 805946	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8350473		4705900901	108			D F CASSADY 800098	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350501		4704302274	108			D G COURTNEY - 800556	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350508		4700500774	108			D G COURTNEY #3 801829	W VA FIELD AREA B	9.0	COLUMBIA GAS TRAN
8350545		4704301865	108			DAN BIAS 802597	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350567		4704300426	108			DELITA MULLINS 803907	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350480		4708702339	108			E E MAHAN - 800289	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350867		4704501021	108			E J STONE 804493	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350722		4701100350	108			EA CHILDERS ETAL 804846	W VA FIELD AREA B	13.0	COLUMBIA GAS TRAN
8350882		4704302099	108			EDGAR SOWARDS 805922	W VA FIELD AREA B	11.0	COLUMBIA GAS TRAN
8350757		4704302104	108			EDWARD SAMSON - 802263	WVA FIELD AREA B	11.0	COLUMBIA GAS TRAN
8350632		4704302100	108			EDWARD SAMSON 802129	WVA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8350631		4704302102	108			EDWARD SAMSON 802188	WVA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8350665		4704302103	108			EDWARD SAMSON-802262	WVA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8350758		4704302105	108			EDWARD SAMSON-802267	WVA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350800		4704300699	108			ELIPHUS SPEARS 805789	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350713		4703900023	108			ELIZA BODKINS 804021	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8350485		4703903124	108			ELK RIVER COAL CO 800284	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8350483		4703903125	108			ELK RIVER COAL CO 800340	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8350546		4704301870	108			EMILY S BIAS 802598	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350558		4703903517	108			ENOCH HUNTER 803917	W VA FIELD AREA A	4.0	COLUMBIA GAS TRAN
8350741		4707900881	108			EVALINE JOHNSON 805164	WVA FIELD AREA A	7.0	COLUMBIA GAS TRAN
8350549		4704301872	108			F M VICKERS 802407	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350517		4708702158	108			FLORENCE & MARK YOUNG 800023	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350502		4704501022	108			FLOYD & R J BUTCHER - 800643	WVA FIELD AREA B	0.1	COLUMBIA GAS TRAN
8350861		4707900882	108			FRANK HARDIN 804107	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350522		4708702341	108			G A HARPER - 800236	W VA FIELD AREA A	4.0	COLUMBIA GAS TRAN
8350901		4704300492	108			G B ADKINS 805395	W VA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8350886		4704301972	108			G S SITES 805941	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8350588		4704301973	108			G W GODBY - 802283	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350518		4708702160	108			G W OSBORNE - 801408	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350579		4704301875	108			GEO & WALTER CHAMBRS 802430	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350794		4704301876	108			GEORGE NIDA 806048	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350858		4705900049	108			GEORGE STEPP ETAL 804865	W VA FIELD AREA B	7.0	COLUMBIA GAS TRAN
8350623		4709901631	108			GUYAN LD ASSN - 802207	W VA FIELD AREA B	0.8	COLUMBIA GAS TRAN
8350621		4709901633	108			GUYAN LD ASSN - 802310	W VA FIELD AREA B	0.3	COLUMBIA GAS TRAN
8350605		4709901635	108			GUYAN LD ASSN - 802361	W VA FIELD AREA B	0.5	COLUMBIA GAS TRAN
8350604		4709901636	108			GUYAN LD ASSN - 802362	W VA FIELD AREA B	0.2	COLUMBIA GAS TRAN
8350627		4709901630	108			GUYAN LD ASSN 802136	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350586		4704301878	108			GUYAN LD ASSN 802372	WVA FIELD AREA B	9.0	COLUMBIA GAS TRAN
8350622		4709901638	108			GUYAN LD ASSN 802396	W VA FIELD AREA B	0.6	COLUMBIA GAS TRAN
8350573		4709901640	108			GUYAN LD ASSN 802556	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350574		4709901641	108			GUYAN LD ASSN 802558	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350575		4709901642	108			GUYAN LD ASSN 802560	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350577		4709901623	108			GUYAN LD ASSOC 802040	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350606		4709901627	108			GUYAN LD ASSOC 802071	W VA FIELD AREA B	0.7	COLUMBIA GAS TRAN
8350625		4709901628	108			GUYAN LD ASSOC 802098	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350619		4709901634	108			GUYANLD ASSN - 802316	WVA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350572		4709901639	108			GYYAN LD ASSN 802553	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350842		4709901667	108			H G & G CO MIN FEE 804367	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350862		4707900883	108			H HENSON 804126	WEST VA FIELD AREA A	7.0	COLUMBIA GAS TRAN
8350469		4708702345	108			H W SHARR - 800254	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350844		4709900228	108			HANEY BLANKENSHIP 804985	W VA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8350792		4704301858	108			HENRY LAKE 806050	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350304		4704301889	108			HENRY LAKE 806051	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350481		4705900906	108			HIRAM STEPP - 800327	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350520		4705900905	108			HIRAM STEPP #2 800409	W VA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8350536		4700500784	108			HORSE CK COAL LD 29 801867	W VA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8350734		4700500078	108			HORSE CK COAL LD 48 804072	WVA FIELD AREA B	7.0	COLUMBIA GAS TRAN
8350823		4700500590	108			HORSE CK COAL LD 58 805276	WEST VIRGINIA FIELD A	8.0	COLUMBIA GAS TRAN
8350822		4700500591	108			HORSE CK COAL LD 59 805277	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8350763		4700500596	108			HORSE CK COAL LD 60 805292	WVA FIELD AREA B	10.0	COLUMBIA GAS TRAN
8350761		4700500608	108			HORSE CK COAL LD 61 805311	W VA FIELD AREA B	15.0	COLUMBIA GAS TRAN
8350766		4700500695	108			HORSE CK COAL LD 66 805556	WVA FIELD AREA B	10.0	COLUMBIA GAS TRAN
8350765		4700500697	108			HORSE CK COAL LD 67 805557	W VA FIELD AREA B	13.0	COLUMBIA GAS TRAN
8350476		4700500615	108			HORSE CK COAL LD 801761	W VA FIELD AREA B	13.0	COLUMBIA GAS TRAN
8350534		4700501199	108			HORSE CK COAL LD 801846	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350511		4700501200	108			HORSE CK COAL LD 801864	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350537		4700501201	108			HORSE CK COAL LD 801865	W VA FIELD AREA B	0.6	COLUMBIA GAS TRAN
8350510		4700501202	108			HORSE CK COAL LD 801866	W VA FIELD AREA B	0.3	COLUMBIA GAS TRAN
8350535		4700501203	108			HORSE CK COAL LD 801868	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
- 8350717		4700500075	108			HORSE CK COAL LD 804069	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350718		4700500079	108			HORSE CK COAL LD 804071	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350738		4700500132	108			HORSE CK COAL LD 804272	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350825		4700500314	108			HORSE CK COAL LD 804624	W VA FIELD AREA B	7.0	COLUMBIA GAS TRAN
8350820		4700500337	108			HORSE CK COAL LD 804680	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350819		4700500568	108			HORSE CK COAL LD 805203	W VA FIELD AREA B	13.0	COLUMBIA GAS TRAN
8350826		4700500571	108			HORSE CK COAL LD 805208	W VA FIELD AREA B	14.0	COLUMBIA GAS TRAN
8350754		4704300410	108			HORSE CK COAL LD 805209	WVA FIELD AREA B	11.0	COLUMBIA GAS TRAN
- 8350750		4704300412	108			HORSE CK COAL LD 805213	WVA FIELD AREA B	1.0	COLUMBIA GAS TRAN
- 8350762		4700500715	108			HORSE CK COAL LD 805683	W VA FIELD AREA B	10.0	COLUMBIA GAS TRAN
8350767		4700500694	108			HORSE CK COOL LD #65 805555	W VA FIELD AREA B	8.0	COLUMBIA GAS TRAN
8350846		4700500762	108			HORSE CK L & M CO #74 805871	W VA FIELD AREA B	11.0	COLUMBIA GAS TRAN
8350538		4700500632	108			HORSE CK L & M CO 801927	W VA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8350772		4704300524	108			HORSE CREEK COAL LD #45 805485	WVA FIELD AREA B	12.0	COLUMBIA GAS TRAN
8350708		4700500292	108			HORSE CREEK COAL LD 804582	W VA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8350507		4700500631	108			HORSE CRK COAL LD 24-801806	WVA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8350733		4700500098	108			HORSE CRK COAL LD 41 804221	WVA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8350477		4700500614	108			HORSE CRK COAL LD 801760	W VA FIELD AREA B	9.0	COLUMBIA GAS TRAN
8350531		4700501204	108			HORSE CRK COAL LD 801961	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350908		4704300437	108			HUNT DEV & GAS CO - 805286	WVA FIELD AREA B	0.0	COLUMBIA GAS TRAN
8350618		4709900423	108			HUNT DEV & GAS CO 802383	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350746		4704300387	108			HUNT DEV & GAS CO 805080	WVA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8350747		4704300401	108			HUNT DEV & GAS CO 805155	WVA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8350755		4704300453	108			HUNT DEV & GAS CO 805219	WVA FIELD AREA B	7.0	COLUMBIA GAS TRAN
8350752		4704300419	108			HUNT DEV & GAS CO 805230	WVA FIELD AREA B	19.0	COLUMBIA GAS TRAN
8350751		4704300420	108			HUNT DEV & GAS CO 805231	WVA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8350777		4704300438	108			HUNT DEV & GAS CO 805287	WVA FIELD AREA B	19.0	COLUMBIA GAS TRAN
8350918		4704300466	108			HUNT DEV & GAS CO 805344	W VA FIELD AREA B	15.0	COLUMBIA GAS TRAN
8350895		4704300470	108			HUNT DEV & GAS CO 805352	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350894		4704300475	108			HUNT DEV & GAS CO 805357	WVA FIELD AREA B	8.0	COLUMBIA GAS TRAN
8350783		4704300480	108			HUNT DEV & GAS CO 805387	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8350780		4704300481	108			HUNT DEV & GAS CO 805388	WVA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350771		4704300539	108			HUNT DEV & GAS CO 805389	WVA FIELD AREA B	0.9	COLUMBIA GAS TRAN
8350770		4704300495	108			HUNT DEV & GAS CO 805394	WVA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350900		4704300493	108			HUNT DEV & GAS CO 805396	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350899		4704300496	108			HUNT DEV & GAS CO 805397	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8350916		4704300494	108			HUNT DEV & GAS CO 805398	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350935		4709900314	108			HUNT DEV & GAS CO 805421	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350904		4704300526	108			HUNT DEV & GAS CO 805487	W VA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8350784		4704300527	108			HUNT DEV & GAS CO 805488	W VA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8350933		4709900329	108			HUNT DEV & GAS CO 805492	W VA FIELD AREA B	0.5	COLUMBIA GAS TRAN
8350930		4709900332	108			HUNT DEV & GAS CO 805493	W VA FIELD AREA B	16.0	COLUMBIA GAS TRAN
8350927		4709900334	108			HUNT DEV & GAS CO 805505	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350923		4704300624	108			HUNT DEV & GAS CO 805676	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8350896		4704300710	108			HUNT DEV & GAS CO 805722	WVA FIELD AREA B	14.0	COLUMBIA GAS TRAN
8350868		4704300611	108			HUNT DEV & GAS CO 805732	W VA FIELD AREA B	7.0	COLUMBIA GAS TRAN
8350897		4704300581	108			HUNT DEV & GAS FEE 805588	WVA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350802		4709900428	108			HUNT DEV & GAS FEE 805773	WVA FIELD AREA B	12.0	COLUMBIA GAS TRAN
8350831		4709900448	108			HUNT DEV & GAS FEE 805819	W VA FIELD AREA B	9.0	COLUMBIA GAS TRAN
8350910		4704300582	108			HUNT DEV & GAS MIN 805543	W VA FIELD AREA B	18.0	COLUMBIA GAS TRAN
8350785		4704300570	108			HUNT DEV & GAS MIN 805544	W VA FIELD AREA B	7.0	COLUMBIA GAS TRAN
8350940		4709900351	108			HUNT DEV & GAS MIN 805547	W VA FIELD AREA B	0.4	COLUMBIA GAS TRAN
- 8350920		4704300593	108			HUNT DEV & GAS MIN 805604	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350898		4704300594	108			HUNT DEV & GAS MIN 805605	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350922		4704300605	108			HUNT DEV & GAS MIN 805607	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8350921		4704300607	108			HUNT DEV & GAS MIN 805625	W VA FIELD AREA B	14.0	COLUMBIA GAS TRAN
8350919		4704300608	108			HUNT DEV & GAS MIN 805626	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350934		4709900372	108			HUNT DEV & GAS MIN 805629	W VA FIELD AREA B	0.8	COLUMBIA GAS TRAN
8350936		4709900380	108			HUNT DEV & GAS MIN 805638	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350937		4709900381	108			HUNT DEV & GAS MIN 805640	W VA FIELD AREA B	19.0	COLUMBIA GAS TRAN
- 8350911		4704300690	108			HUNT DEV & GAS MIN 805643	WEST VIRGINIA FIELD A	5.0	COLUMBIA GAS TRAN
- 8350913		4704300691	108			HUNT DEV & GAS MIN 805644	WVA FIELD AREA B	1.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8350912		4704300615		108		HUNT DEV & GAS MIN 805658	W VA FIELD AREA B	0.5	COLUMBIA GAS TRAN
8350932		4709900386		108		HUNT DEV & GAS MIN 805660	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350904		4704300534		108		HUNT DEV & GAS MIN 805692	W VA FIELD AREA B	8.0	COLUMBIA GAS TRAN
8350902		4704300636		108		HUNT DEV & GAS MIN 805693	WVA FIELD AREA B	0.6	COLUMBIA GAS TRAN
8350903		4704300631		108		HUNT DEV & GAS MIN 805694	W VA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8350782		4704300633		108		HUNT DEV & GAS MIN 805695	W VA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8350889		4704300640		108		HUNT DEV & GAS MIN 805696	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350869		4704300647		108		HUNT DEV & GAS MIN 805723	W VA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8350828		4709900391		108		HUNT DEV & GAS MIN 805736	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350829		4709900385		108		HUNT DEV & GAS MIN 805737	W VA FIELD AREA B	0.8	COLUMBIA GAS TRAN
8350801		4709900421		108		HUNT DEV & GAS MIN 805746	WVA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8350837		4709900432		108		HUNT DEV & GAS MIN 805781	W VA FIELD AREA B	7.0	COLUMBIA GAS TRAN
8350830		4709900449		108		HUNT DEV & GAS MIN 805822	WEST VIRGINIA FIELD A	0.4	COLUMBIA GAS TRAN
8350809		4704300560		108		HUNTON D & G CO MIN 805588	WVA FIELD AREA B	8.0	COLUMBIA GAS TRAN
8350499		4703901880		108		I D & AL ROLLINS 800481	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350863		4707900884		108		J A HODGE - 804120	WEST VIRGINIA FIELD A	7.0	COLUMBIA GAS TRAN
8350839		4707900328		108		J A JOHNSON 804137	W VA FIELD AREA A	13.0	COLUMBIA GAS TRAN
8350486		4703903008		108		J A OSBORNE 801344	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350938		4709900363		108		J B DAVIS 805542	W VA FIELD AREA B	14.0	COLUMBIA GAS TRAN
8350617		4704301986		108		J B PULLEN - 802243	W VA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8350630		4704300816		108		J B PULLEN - 802244	WVA FIELD AREA B	17.0	COLUMBIA GAS TRAN
8350687		4701502093		108		J BELCHER 820396	WEST VIRGINIA FIELD A	8.6	
8350457		4701502094		108		J BELCHER 820398	WEST VIRGINIA FIELD A	8.6	
8350459		4701502095		108		J BELCHER 820400	WEST VIRGINIA FIELD A	8.6	
8350460		4701502096		108		J BELCHER 820404	WEST VIRGINIA FIELD A	8.6	
8350653		4701502097		108		J BELCHER 820405	WEST VIRGINIA FIELD A	8.6	
8350652		4701502098		108		J BELCHER 820407	WEST VIRGINIA FIELD A	8.6	
8350542		4704301958		108		J C BRAGG 802423	W VA FIELD AREA B	0.4	COLUMBIA GAS TRAN
8350726		4703900058		108		J D CAMPBELL 804216	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350723		4703900059		108		J D CAMPBELL 804217	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8350556		4703903159		108		J D TAYLOR 803708	W VA FIELD AREA B	7.0	COLUMBIA GAS TRAN
8350555		4703903160		108		J D TAYLOR 803723	W VA FIELD AREA A	0.9	COLUMBIA GAS TRAN
8350564		4703903162		108		J D TAYLOR 803753	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350626		4709901644		108		J F FRAZIER - 802084	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350721		4701100058		108		J F GRASS 804365	W VA FIELD AREA B	0.8	COLUMBIA GAS TRAN
8350870		4704301892		108		J F TURLEY 806009	WVA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350571		4708702194		108		J G MALCOLM 802588	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8350523		4708702349		108		J H COPENHAVER-800161	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350541		4704302043		108		J J SMITH 802420	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350864		4707900017		108		J L ASHWORTH 804378	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8350479		4708702197		108		J M ARMSTEAD 800010	W VA FIELD AREA A	4.0	COLUMBIA GAS TRAN
8350709		4703903148		108		J M CYRUS 804110	WEST VIRGINIA FIELD A	5.0	COLUMBIA GAS TRAN
8350492		4703903132		108		J M STAUNTON 801257	W VA FIELD AREA A	8.0	COLUMBIA GAS TRAN
8350504		4708702351		108		J P YOUNG 801380	W VA FIELD AREA A	0.1	COLUMBIA GAS TRAN
8350647		4701501126		108		J PHILLIPS 820317	WEST VIRGINIA FIELD A	8.6	
8350441		4701501244		108		J PHILLIPS 820378	WEST VIRGINIA FIELD A	8.6	
8350464		4701500816		108		J PHILLIPS 820379	WEST VIRGINIA FIELD A	8.6	
8350465		4701500023		108		J PHILLIPS 820380	WEST VIRGINIA FIELD A	8.6	
8350466		4701501947		108		J PHILLIPS 820381	WEST VIRGINIA FIELD A	8.6	
8350467		4701501946		108		J PHILLIPS 820382	WEST VIRGINIA FIELD A	8.6	
8350593		4701501945		108		J PHILLIPS 820383	WEST VIRGINIA FIELD A	8.6	
8350458		4701500114		108		J PHILLIPS 820384	WEST VIRGINIA FIELD A	8.6	
8350688		4701501240		108		J PHILLIPS 820385	WEST VIRGINIA FIELD A	8.6	
8350472		4708702352		108		J R & M BRISENDINE 800046	W VA FIELD AREA A	0.4	COLUMBIA GAS TRAN
8350743		4707900886		108		J R SWEETLAND 805172	WVA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350866		4707900316		108		J T YOUNG 80-4175	W VA FIELD AREA A	15.0	COLUMBIA GAS TRAN
8350845		4709900237		108		J W BLANKENSHIP 805010	W VA FIELD AREA B	14.0	COLUMBIA GAS TRAN
8350728		4703903149		108		J W RUSSELL 804131	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8350888		4704301932		108		J W STRICKLER 805979	WEST VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350725		4703903150		108		J WALTER RUSSELL 804128	W VA FIELD AREA A	10.0	COLUMBIA GAS TRAN
8350803		4704301893		108		JACKSON BURNS - 806055	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8350521		4705900902		108		JACOB BAACH - 800547	W VA FIELD AREA B	0.5	COLUMBIA GAS TRAN
8350796		4704301894		108		JACOB SMITH 806013	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350798		4704301895		108		JACOB SMITH 806014	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350498		4703903119		108		JAMES JARRETT - 801382	W VA FIELD AREA A	4.0	COLUMBIA GAS TRAN
8350560		4703903011		108		JAMES JARRETT 802589	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8350788		4704301897		108		JAMES MOORE 806024	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350638		4701501904		108		JAMES REED 803814	WEST VIRGINIA FIELD A	8.6	
8350595		4701502078		108		JAMES REED 803823	WEST VIRGINIA FIELD A	8.6	
8350685		4701501584		108		JAMES REED 803835	WEST VIRGINIA FIELD A	8.6	
8350681		4701501969		108		JAMES REED 803868	WEST VIRGINIA FIELD A	8.6	
8350657		4701500024		108		JAMES REED 804065	WEST VIRGINIA FIELD A	8.6	
8350649		4701501109		108		JAMES REED 820314	WEST VIRGINIA FIELD A	8.6	
8350648		4701501110		108		JAMES REED 820315	WEST VIRGINIA FIELD A	8.6	
8350497		4703903012		108		JAS A OSBORNE - 800584	WVA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350494		4703903014		108		JAS CAMPBELL 801188	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8350590		4704302014		108		JAS R BRANCH 802152	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8350612		4704300551		108		JAS R BRANCH 802155	W VA FIELD AREA B	17.0	COLUMBIA GAS TRAN
8350613		4704301162		108		JENNIE JONES - 802119	W VA FIELD AREA B	18.0	COLUMBIA GAS TRAN
8350614		4704300596		108		JENNIE JONES - 802120	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8350514		4708702209		108		JNO T CASEY 800022	W VA FIELD AREA A	6.0	COLUMBIA GAS TRAN
8350505		4708702354		108		JOHN GOOD 800129	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350589		4704301995		108		JOHN PULLEN - 802282	W VA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8350587		4704301996		108		JOHN PULLEN - 802318	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350795		4704301898		108		JOHN WOODALL 806046	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350759		4704302017		108		L C L A 802115	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350887		4704301899		108		L C L A/WATSON 805999	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350744		4704301960		108		L R SWEETLD ETAL 802435	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350476		4705900904		108		L V SARTAIN - 800112	W VA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8350742		4707900888		108		L W BECKETT 805183	WVA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350753		4704300418		108		LEONIDAS HILL ETAL 805229	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350609		4704302067		108		LINCOLN LAND ASSN - 802270	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8350582		4704302019		108		LINCOLN LAND ASSN 802440	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350580		4704301906		108		LINCOLN LAND ASSOC - 802431	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350615		4704302048		108		LINCOLN LAND ASSOC 802401	WVA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8350550		4704302049		108		LINCOLN LAND ASSOC 802409	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350850		4704302068		108		LINCOLN LAND ASSOC 805938	W VA FIELD AREA B	7.0	COLUMBIA GAS TRAN
8350879		4704302069		108		LINCOLN LAND ASSOC 805944	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350786		4704302070		108		LINCOLN LAND ASSOC 805962	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350883		4704300207		108		LINCOLN LAND ASSOC 805965	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350808		4704302072		108		LINCOLN LAND ASSOC 805968	WVA FIELD AREA B	7.0	COLUMBIA GAS TRAN
8350789		4704301907		108		LINCOLN LAND ASSOC 806010	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8350855		4704300165		108		LOUIS B SWEETLAND 804612	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350856		4704302050		108		LOUISA ATKINS - 804426	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8350513		4708702224		108		M F & F H OSBORNE 800851	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350596		4701500394		108		M L BROWN 801352	WEST VIRGINIA FIELD A	8.6	
8350432		4701501580		108		M L BROWN 801781	WEST VIRGINIA FIELD A	8.6	
8350433		4701501581		108		M L BROWN 801782	WEST VIRGINIA FIELD A	8.6	
8350551		4704302020		108		MARY A NIDA 802415	W VA FIELD AREA B	0.9	COLUMBIA GAS TRAN
8350530		4709901666		108		MARY A PHELPS - 800580	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350724		4703903151		108		MATTIE WISEMAN 804129	WEST VIRGINIA FIELD A	4.0	COLUMBIA GAS TRAN
8350729		4700501206		108		MOHLER LUMBER CO 801624	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8350854		4704300164		108		MOHLER LUMBER CO 804618	W VA FIELD AREA B	13.0	COLUMBIA GAS TRAN
8350824		4700500309		108		MOHLER LUMBER CO 804617	W VA FIELD AREA B	13.0	COLUMBIA GAS TRAN
8350735		4700500310		108		MOHLER LUMBER CO 804618	WVA FIELD AREA B	8.0	COLUMBIA GAS TRAN
8350736		4703900234		108		MOHLER LUMBER CO 804640	WVA FIELD AREA B	14.0	COLUMBIA GAS TRAN
8350719		4700500321		108		MOHLER LUMBER CO 804642	W VA FIELD AREA B	8.0	COLUMBIA GAS TRAN
8350714		4703900298		108		MOHLER LUMBER CO 804676	WEST VIRGINIA FIELD A	9.0	COLUMBIA GAS TRAN
8350720		4700500344		108		MOHLER LUMBER CO 804694	W VA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8350814		4703900962		108		MOHLER LUMBER CO 805135	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350748		4704300386		108		MOHLER LUMBER CO 805137	WVA FIELD AREA B	10.0	COLUMBIA GAS TRAN
8350821		4700500573		108		MOHLER LUMBER CO 805217	W VA FIELD AREA B	11.0	COLUMBIA GAS TRAN
8350512		4700501207		108		MOHLER LUMBER CO-801683	W VA FIELD AREA B	0.5	COLUMBIA GAS TRAN
8350925		4709900364		108		N FORK COAL CO #1 805550	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350929		4709900405		108		N FORK COAL CO #2 805701	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350833		4709900435		108		N FORK COAL CO #4 805765	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350832		4709900446		108		N FORK COAL CO #6 805816	W VA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8350931		4709900406		108		N FORK COAL NO #3 805702	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350576		4709901645		108		NANCY A ADKINS ETAL 802586	W VA FIELD AREA B	0.7	COLUMBIA GAS TRAN
8350493		4703903069		108		NELLIE B TOMPKINS - 800907	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350491		4703903070		108		NELLIE B TOMPKINS-801018	W VA FIELD AREA A	8.6	COLUMBIA GAS TRAN
8350857		4705900008		108		NETTIE B WILCOX 804265	W VA FIELD AREA B	14.0	COLUMBIA GAS TRAN
8350591		4704301945		108		NOAH TURLEY - 802680	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350706		4703903142		108		NUMA BLOCK COAL CO 803965	W VA FIELD AREA A	16.0	COLUMBIA GAS TRAN
8350716		4703903180		108		NUMA BLOCK COAL CO 803966	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8350813		4703901008		108		NUMA BLOCK COAL CO 805221	W VA FIELD AREA A	6.0	COLUMBIA GAS TRAN
8350569		4707900890		108		O A HARDIN 803754	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350547		4704301917		108		O C ROBERTS 802402	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350676		4701502067		108		O'DELL 801639	WEST VIRGINIA FIELD A	8.6	
8350697		4701502068		108		O'DELL 801684	WEST VIRGINIA FIELD A	8.6	
8350696		4701502069		108		O'DELL 801687	WEST VIRGINIA FIELD A	8.6	
8350430		4701502072		108		O'DELL 801771	WEST VIRGINIA FIELD A	8.6	
8350431		4701502073		108		O'DELL 801779	WEST VIRGINIA FIELD A	8.6	
8350683		4701502079		108		O'DELL 803864	WEST VIRGINIA FIELD A	8.6	
8350645		4701502084		108		O'DELL 804024	WEST VIRGINIA FIELD A	8.6	
8350525		4708702246		108		ORPHA NAYLOR-800268	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350611		4704302022		108		OSCAR FRANKLIN 802133	WVA FIELD AREA B	12.0	COLUMBIA GAS TRAN
8350873		4704301918		108		P A OXLEY 805980	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350797		4704301919		108		P A OXLEY 805981	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350471		4707900891		108		P H YOUNG - 801357	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8350810		4704301920		108		P M MCGHEE 805988	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350462		4701500190		108		P M SUMMERS ET AL 801279	WEST VIRGINIA FIELD A	8.6	
8350693		4701500352		108		P M SUMMERS 801334	WEST VIRGINIA FIELD A	8.6	
8350691		4701500357		108		P M SUMMERS 801347	WEST VIRGINIA FIELD A	8.6	
8350598		4701502059		108		P M SUMMERS 801492	WEST VIRGINIA FIELD A	8.6	
8350437		4701501578		108		P M SUMMERS 801834	WEST VIRGINIA FIELD A	8.6	
8350635		4701501579		108		P M SUMMERS 801835	WEST VIRGINIA FIELD A	8.6	
8350698		4701501583		108		P M SUMMERS 801876	WEST VIRGINIA FIELD A	8.6	
8350594		4701502082		108		P M SUMMERS 803905	WEST VIRGINIA FIELD A	8.6	
8350643		4701502085		108		P M SUMMERS 804029	WEST VIRGINIA FIELD A	8.6	
8350656		4701502087		108		P M SUMMERS 804082	WEST VIRGINIA FIELD A	8.6	
8350347		4703901344		108		PAINT CK COAL & LAND #7 805874	W VA FIELD AREA A	4.0	COLUMBIA GAS TRAN
8350773		4703901106		108		PAINT CK COAL & LAND 805369	WVA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350434		4703903071		108		PAINT CREEK COAL & LAND 800295	W VA FIELD AREA A	0.5	COLUMBIA GAS TRAN
8350859		4707900892		108		PETER MCCALLISTER 804138	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350812		4704301967		108		PHIL HAGER 805949	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350482		4703903034		108		PRINCE LAND CO 800583	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8350559		4703903036		108		QUEEN LAND CO 802510	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350552		4704300378		108		R & ATTIE MILLER 802416	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350860		4707900593		108		R F CARPENTER 804146	W VA FIELD AREA A	12.0	COLUMBIA GAS TRAN
8350793		4704301923		108		R F MCCOLGIN 806025	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350673		4701501966		108		R P PARKER 820425	WEST VIRGINIA FIELD A	8.6	
8350451		4701501965		108		R P PARKER 820426	WEST VIRGINIA FIELD A	8.6	
8350452		4701502103		108		R P PARKER 820427	WEST VIRGINIA FIELD A	8.6	
8350453		4701502104		108		R P PARKER 820428	WEST VIRGINIA FIELD A	8.6	
8350455		4701502105		108		R P PARKER 820429	WEST VIRGINIA FIELD A	8.6	
8350454		4701501967		108		R P PARKER 820430	WEST VIRGINIA FIELD A	8.6	
8350456		4701501968		108		R P PARKER 820431	WEST VIRGINIA FIELD A	8.6	
8350628		4701502106		108		R P PARKER 820432	WEST VIRGINIA FIELD A	8.6	
8350670		4701501964		108		R S KYLE (EAST) 820421	WEST VIRGINIA FIELD A	8.6	
8350671		4701502101		108		R S KYLE (EAST) 820423	WEST VIRGINIA FIELD A	8.6	
8350672		4701502102		108		R S KYLE (EAST) 820424	WEST VIRGINIA FIELD A	8.6	
8350650		4701501133		108		R S KYLE (WEST) 820339	WEST VIRGINIA FIELD A	8.6	
8350658		4701501845		108		R S KYLE (WEST) 820408	WEST VIRGINIA FIELD A	8.6	
8350659		4701502099		108		R S KYLE (WEST) 820411	WEST VIRGINIA FIELD A	8.6	
8350660		4701501859		108		R S KYLE (WEST) 820412	WEST VIRGINIA FIELD A	8.6	
8350661		4701501852		108		R S KYLE (WEST) 820413	WEST VIRGINIA FIELD A	8.6	
8350662		4701501853		108		R S KYLE (WEST) 820414	WEST VIRGINIA FIELD A	8.6	
8350663		4701502100		108		R S KYLE (WEST) 820416	WEST VIRGINIA FIELD A	8.6	
8350664		4701500423		108		R S KYLE (WEST) 820417	WEST VIRGINIA FIELD A	8.6	
8350506		4708702369		108		R W DONGHOE - 800198	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350554		4701501353		108		RALPH SMITH HRS 802527	W VA FIELD AREA A	0.0	COLUMBIA GAS TRAN
8350519		4708702372		108		ROBERT HARPER-800656	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350561		4703903144		108		ROBERTSON & TAYLOR 801535	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350495		4703903073		108		ROBSON & PRITCHARD - 801092	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8350316		4703901027		108		ROBSON & PRITCHARD 5 805278	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350566		4704300424		108		S A EGNOR 803897	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8350570		4708702255		108		S A HILL 803928	WVA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8350874		4704301925		108		S B HALL 806003	W VA FIELD AREA B	0.9	COLUMBIA GAS TRAN
8350715		4703500183		108		S L CASEY ETAL 804568	W VA FIELD AREA A	4.0	COLUMBIA GAS TRAN
8350524		4708702259		108		S L CASEY 800019	W VA FIELD AREA A	5.0	COLUMBIA GAS TRAN
8350533		4704302055		108		S W OXLEY 802441	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350727		4703903152		108		SAMUEL CASDORPH 804124	W VA FIELD AREA A	9.0	COLUMBIA GAS TRAN
8350553		4701100595		108		SARAH A BERRY 803941	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350478		4708702374		108		SARAH F TAYLOR 801057	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350841		4709900095		103		SARAH SAMSON ETAL 804682	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350881		4704302077		108		SIAS YAEGER 805945	WEST VIRGINIA FIELD A	5.0	COLUMBIA GAS TRAN
8350603		4709901647		108		SPRY FARM 802380	W VA FIELD AREA B	6.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8350489		4703903047	108			STEPHEN TAYLOR 801351	WVA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8350798		4704300700	108			SUSAN R SPEARS - 805798	WVA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350513		4700500781	108			T J PRICE - 801682	W VA FIELD AREA B	8.0	COLUMBIA GAS TRAN
8350818		4700500570	108			T J PRICE 805204	WEST VIRGINIA FIELD A	10.0	COLUMBIA GAS TRAN
8350817		4700500572	108			T J PRICE 805212	W VA FIELD AREA B	10.0	COLUMBIA GAS TRAN
8350775		4703901114	108			TCO FEE TR #4 805423	WVA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8350776		4703901169	108			TCO FEE TR #5 805501	WVA FIELD AREA A	14.0	COLUMBIA GAS TRAN
8350498		4703903417	108			TCO FEE 800661	W VA FIELD AREA A	6.0	COLUMBIA GAS TRAN
8350815		4703901015	108			TCO FEE 805237	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8350739		4709901649	108			TCO MIN TR #1 802139	WVA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350620		4709901489	108			TCO MIN TR #1 802358	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350607		4709900835	108			TCO MIN TR #1 802376	W VA FIELD AREA B	9.0	COLUMBIA GAS TRAN
8350778		4704300673	108			TCO MIN TR #1 805687	WVA FIELD AREA B	12.0	COLUMBIA GAS TRAN
8350939		4709900483	108			TCO MIN TR #1 805706	W VA FIELD AREA B	16.0	COLUMBIA GAS TRAN
8350806		4704302078	108			TCO MIN TR #1 805969	W VA FIELD AREA B	0.6	COLUMBIA GAS TRAN
8350836		4709900472	108			TCO MIN TR #1 806027	W VA FIELD AREA B	0.8	COLUMBIA GAS TRAN
8350835		4709900476	108			TCO MIN TR #1 806058	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350834		4709900478	108			TCO MIN TR #1 806060	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350610		4704300297	108			TCO MIN TR #11 - 802268	W VA FIELD AREA B	10.0	COLUMBIA GAS TRAN
8350885		4704302333	108			TCO MIN TR #19 805950	W VA FIELD AREA B	7.0	COLUMBIA GAS TRAN
8350827		4709900392	108			TCO MIN TR #6 805738	W VA FIELD AREA B	0.8	COLUMBIA GAS TRAN
8350745		4704302029	108			TCO MIN TR #7 - 802163	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350608		4704301065	108			TCO MIN TR #7 802392	W VA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8350876		4704302081	108			TCO MIN TR #7 805947	WEST VIRGINIA FIELD A	10.0	COLUMBIA GAS TRAN
8350884		4704302082	108			TCO MIN TR #7 805948	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350740		4709901648	108			TCO MIN TR NO 1 802099	WVA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350924		4709900471	108			TCO MINE TR #1 805677	W VA FIELD AREA B	0.5	COLUMBIA GAS TRAN
8350581		4704301928	108			TENNA HUFFMAN 802438	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350544		4704301947	108			V P MCMILLAN 802427	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8350470		4708702271	108			W A GEARY 800005	W VA FIELD AREA A	0.8	COLUMBIA GAS TRAN
8350865		4707900102	108			W A WOMACK 805012	W VA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8350488		4703903051	108			W C THOMPSON - 801346	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8350624		4709901658	108			W E JONES - 802202	W VA FIELD AREA B	0.6	COLUMBIA GAS TRAN
8350851		4704302059	108			W F BLACK 804936	W VA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8350852		4704302060	108			W F BLACK 804937	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350848		4704300319	108			W G ADKINS 805929	W VA FIELD AREA B	14.0	COLUMBIA GAS TRAN
8350711		4703903153	108			W H TOMPKINS 804119	WEST VIRGINIA FIELD A	6.0	COLUMBIA GAS TRAN
8350585		4704301949	108			W H TURLEY ETUX 802519	W VA FIELD AREA B	8.9	COLUMBIA GAS TRAN
8350629		4701502107	108			W HIVELY 820434	WEST VIRGINIA FIELD A	8.6	
8350787		4704301930	108			W J ASHWORTH 806022	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8350562		4703903145	108			W J PA HERSON - 801472	W VA FIELD AREA A	0.3	COLUMBIA GAS TRAN
8350710		4703903154	108			W P BRIGHTWELL 804113	W VA FIELD AREA A	5.0	COLUMBIA GAS TRAN
8350526		4708702384	108			W S LEWIS 800029	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350527		4708702385	108			W T SMITH-800232	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350853		4704301934	108			W W RAY 804960	W VA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8350565		4704301935	108			WILEY & THOMPSON 803946	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350872		4704301936	108			WM BROWNING 806008	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8350791		4704301938	108			WM BROWNING 806019	W VA FIELD AREA B	0.6	COLUMBIA GAS TRAN
8350738		4709901651	108			Z A SKEEN - 802116	WVA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350737		4709901652	108			Z A SKEENS-802159	WVA FIELD AREA B	4.0	COLUMBIA GAS TRAN

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Part VII

Environmental Protection Agency

Final and Proposed Amendments to National Oil and Hazardous Substances Contingency Plan; National Priorities List

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[SWER-FRL 2421-1]

Amendment to National Oil and Hazardous Substance Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency ("EPA") is amending the National Oil and Hazardous Substances Contingency Plan ("NCP"), which was promulgated on July 16, 1982, pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA") and Executive Order 12316. This amendment supplements the NCP with the National Priorities List ("NPL"), which will become Appendix B of the NCP. CERCLA requires that the NCP include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, and contaminants throughout the United States, and that the list be revised at least annually. The NPL constitutes this list.

DATES: The promulgation date for this amendment to the NCP shall be September 8, 1983. Under section 305 of CERCLA, amendments to the NCP cannot take effect until Congress has had at least 60 "calendar days of continuous session" from the date of promulgation in which to review the amended Plan. Since the actual length of this review period may be affected by Congressional action, it is not possible at this time to specify a date on which the NPL will become effective. Therefore, EPA will publish a **Federal Register** notice at the end of the review period announcing the effective date of this NPL. EPA notes, however, that the legal effect of a Congressional veto pursuant to section 305 has been placed in question by the recent decision, *Immigration and Naturalization Service* v. *Chadha*, —— U.S. ——, (Docket No. 80-1832, decided June 23, 1983). Nonetheless, the Agency has decided, as a matter of policy, to submit the NPL for Congressional review.

ADDRESSES: The public docket for the NCP will contain Hazard Ranking System (HRS) score sheets for all sites on the NPL, as well as a "Documentation Record" for each site, describing the information used to compute the scores. The main docket is located in Room S325 of Waterside Mall, 401 M Street, S.W., Washington D.C. 20460 and is available for viewing from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays. Requests for copies of these documents should be directed to EPA at the above address. The EPA Regional Offices maintain dockets concerning the sites located in their Regions. Addresses for the Regional Office dockets are:

Jennifer Arns, Region I, U.S. EPA Library, John F. Kennedy Federal Bldg., Boston, MA 02203, 617/223-5781
Audrey Thomas, Region II, U.S. EPA Library, 26 Federal Plaza, 10th Floor, New York, NY 10278, 212/264-2881
Diane McCreary, Region III, U.S. EPA Library, Curtis Building, 6th & Walnut Streets, Philadelphia, PA 19106, 215/597-0580
Carolyn Mitchell, Region IV, U.S. EPA Library, 345 Courtland Street NE, Atlanta, GA 30365, 404/257-4216
Lou Tilly, Region V, U.S. EPA Library, 230 South Dearborn Street, Chicago, IL 60604, 512/353-2022
Nita House, Region VI, U.S. EPA Library, First International Building, 1201 Elm Street, Dallas, TX 75270, 214/767-7341
Connie McKenzie, Region VII, U.S. EPA Library, 324 East 11th Street, Kansas City, MO 64106, 816/374-3497
Delores Eddy, Region VIII, U.S. EPA Library, 1860 Lincoln Street, Denver, CO 80295, 303/837-2560
Jean Circiello, Region IX, U.S. EPA Library, 215 Freemont Street, San Francisco, CA 94105, 415/974-8076
Julie Sears, Region X, U.S. EPA Library, 1200 6th Avenue, Seattle, WA 98101, 206/442-1289.

FOR FURTHER INFORMATION CONTACT: Stephen M. Caldwell, Hazardous Site Control Division, Office of Emergency and Remedial Response (WH-548-E), Environmental Protectioin Agency, 401 M Street SW, Washington, D.C. 20460, Phone (800) 424-9346 or 382-3000 in the Washington, D.C., metropolitan area).

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Purpose of the NPL
III. Implementation
IV. Process for Establishing and Updating the List
V. Contents of the NPL
VI. Eligibility of Sites
VII. Changes from the Proposed NPL
VIII. Updates and Deletions
IX. Regulatory Impact Analysis
X. Regulatory Flexibility Act Analysis

I. Introduction

Pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9601-9657 ("CERCLA" or "the Act"), and Executive Order 12316 (46 FR 42237, August 20, 1981), the Environmental Protection Agency ("EPA" or "the Agency") promulgated the revised National Contingency Plan ("NCP"), 40 CFR Part 300, on July 16, 1982 (47 FR 31180). Those amendments to the NCP implement the new responsibilities and authorities created by CERCLA to respond to releases and threatened releases of hazardous substances, pollutants, and contaminants.

Section 105(8)(A) of CERCLA requires that the NCP include criteria for determining priorities among releases or threatened releases throughout the United States for the purpose of taking remedial action and, to the extent practicable taking into account the potential urgency of such action, for the purpose of taking removal action. Removal action involves cleanup or other actions that are taken in response to emergency conditions or on a short-term or temporary basis (CERCLA Section 101(23)). Remedial action tends to be long-term in nature and involves response actions which are consistent with permanent remedy for a release (CERCLA Section 101(24)). Criteria for determining priorities are included in the Hazard Ranking System ("HRS"), which EPA promulgated as Appendix A of the NCP (47 FR 31219, July 16, 1982).

Section 105(8)(B) of CERCLA requires that these criteria be used to prepare a list of national priorities among the known releases or threatened releases throughout the United States, and that to the extent practicable at least 400 sites be designated individually. EPA has included releases on the NPL where CERCLA authorizes Federal response to the release. Under section 104(a) of CERCLA, this response authority is quite broad and extends to releases or threatened releases not only of designated hazardous substances, but of any "pollutant or contaminant" which presents an imminent and substantial danger to the public health or welfare. CERCLA requires that this National Priorities List ("NPL") be included as part of the NCP. Today, the Agency is amending the NCP by adding the NPL as Appendix B. The discussion below may refer to "releases or threatened releases" simply as "releases," "facilities," or "sites."

II. Purpose of the NPL

The primary purpose of the NPL is stated in the legislative history of CERCLA (Report of the Committee on Environment and Public Works, Senate

Report No. 96-848, 96th Cong., 2d. Sess. 60 (1980)):

> The priority lists serve primarily informational purposes, identifying for the States and the public those facilities and sites or other releases which appear to warrant remedial actions. Inclusion of a facility or site on the list does not in itself reflect a judgment of the activities of its owner or operator, it does not require those persons to undertake any action, nor does it assign liability to any person. Subsequent government action in the form of remedial actions or enforcement actions will be necessary in order to do so, and these actions will be attended by all appropriate procedural safeguards.

The purpose of the NPL, therefore, is primarily to serve as an informational tool for use by EPA in identifying sites that appear to present a significant risk to public health or the environment. The initial identification of a site in the NPL is intended primarily to guide EPA in determining which sites warrant further investigation designed to assess the nature and extent of the public health and environmental risks associated with the site and to determine what response action, if any, may be appropriate. Inclusion of a site on the NPL does not establish that EPA necessarily will undertake response actions. Moreover, listing does not require any action of any private party, nor does it determine the liability of any party for the cost of cleanup at the site

In addition, although the HRS scores used to place sites on the NPL may be helpful to the Agency in determining priorities for cleanup and other response activities among sites on the NPL, EPA does not rely on the scores as the sole means of determining such priorities, as discussed below. Neither can the HRS itself determine the appropriate remedy for a site. The information collected to develop HRS scores to choose sites for the NPL is not sufficient in itself to determine the appropriate remedy for a particular site. After a site has been included on the NPL, EPA generally will rely on further, more detailed studies conducted at the site to determine what response, if any, is appropriate. Decisions on the type and extent of action to be taken at these sites are made in accordance with the criteria contained in Subpart F of the NCP. After conducting these additional studies EPA may conclude that it is not feasible to conduct response action at some sites on the NPL because of more pressing needs at other sites. Given the limited resources available in the Hazardous Substance Response Fund, the Agency must carefully balance the relative needs for response at the numerous sites it has studied. It is also possible that EPA will conclude after further analysis that no action is needed at the site because the site does not present a problem.

III. Implementation

EPA's policy is to pursue cleanup of hazardous waste sites using all appropriate response and/or enforcement actions which are available to the Agency. Publication of sites on the final NPL will serve as notice to any potentially responsible party that the Agency may initiate Fund-financed response action. The Agency will decide on a site-by-site basis whether to take enforcement action or to proceed directly with Fund-financed response actions and seek recovery of response costs after cleanup. To the extent feasible, once sites are listed on the NPL EPA will determine high priority candidates for Fund-financed response action and enforcement action through State or Federal initiative. The determinations will take into account consideration of which approach is more likely to accomplish cleanup of the site while using the Fund's limited resources as efficiently as possible.

In many situations, it is difficult to determine whether private party response through enforcement measures or Fund-financed response and cost recovery will be the more effective approach in securing site cleanup until studies have been completed indicating the extent of the problem and alternative response actions. Accordingly, the Agency plans to proceed with remedial investigations and feasibility studies at sites as quickly as possible. (See the NCP, 40 CFR 300.68, and the preamble, 47 FR 31180, July 16, 1982, for a more detailed discussion of remedial investigations and feasibility studies.)

Funding of response actions for sites will not necessarily take place in order of the sites' ranking on the NPL. EPA does intend in most cases to set priorities for remedial investigations and feasibility studies largely on the basis of HRS scores and the States' priorities simply because at this early stage these may be the only sources of information regarding the risk presented by a site. Funding for the design and construction of remedial measures is less likely, however, to occur in order of HRS score. State assurance that cost sharing and other State responsibilities will be met are prerequisites for construction of remedial measures. Taking those factors into account, priorities for design and construction will be based on impacts on public health and the environment, as indicated by the HRS scores and other available information, and on a case-by-case evaluation of economic, engineering, and environmental considerations.

The NPL does not determine priorities for removal actions; EPA may take removal actions at any site, whether listed or not, that meets the criteria of sections 300.65–67 of the NCP. Likewise, EPA may take enforcement actions under applicable statutes against responsible parties regardless of whether the site is listed on the NPL.

IV. Process for Establishing the NPL

Section 105(8) of CERCLA contemplates that the bulk of the initial identification of sites for the NPL will be done by the States according to EPA criteria, although EPA also has independent authority to consider sites for listing. For that reason, most of the sites on the NPL were evaluated by the States in accordance with the HRS and submitted to EPA. In some cases, however, EPA Regional Offices also scored sites using the HRS. For all sites considered, EPA reviewed the HRS evaluations and conducted quality assurance audits on a sample of the sites submitted for the NPL. The purpose of these audits was to ensure accuracy and consistency in HRS scoring among the various EPA and States offices.

On December 30, 1982, the proposed list of 418 sites was published in the **Federal Register**. The 418 sites consisted of any site specifically designated by a State as its top priority, and all sites receiving HRS scores of 28.50 or higher. This cutoff score was selected because it would yield an initial NPL of at least 400 sites as suggested by CERCLA, not because of any determination that it represented a threshold in the significance of the risks presented by sites. On March 4, 1983, the Agency also proposed to include the Times Beach, Missouri, site on the NPL, and has considered comments on that site along with those for the other 418 sites. Based on the comments received on the proposed sites, as well as further investigation by EPA and the States, EPA recalculated the HRS scores for individual sites where appropriate. EPA's response to public comments, and an explanation of any score changes made as a result of such comments, are addressed on the NPL in the "Support Document for the National Priorities List." This document is available in the EPA dockets in Washington, D.C. and the Regional Offices.

Some commenters stated that certain specific sites that EPA did not consider in developing the proposed NPL merit inclusion on the NPL. In most such cases EPA did not have sufficient data to score the sites using the HRS. EPA and

the States are in the process of investigating and evaluating those sites, and will propose to include any sites that meet EPA's criteria for listing on the NPL in future updates. In addition, some commenters submitted comments or information supporting the inclusion of sites that EPA had evaluated according to the HRS but had not proposed because the sites scored too low. The Agency is considering those comments, and where new information results in raising the HRS score of a site over 28.50, will propose to include the site on the NPL in a future update.

The Agency considered accepting further comment on the final NPL sites for a second 60 day period following proposal of the first NPL update. This option was considered in order to be as responsive as possible to the concerns of a few commenters who had requested extensions of the original comment period. In fact, in an exercise of its discretion, EPA was able to consider practically all late comments, and believes that this more than adequately accommodated the concerns of the few commenters who had requested more time. Accordingly, EPA has determined that the NPL can now be published in final form and that a second opportunity for comment is not necessary.

V. Contents of the NPL

As noted above, CERCLA requires that the NPL include, if practicable, at least 400 sites. The NPL established today contains 406 individual entries. The December proposal was based on a minimum HRS score of 28.50, and EPA is continuing to use the same minimum score as the basis for including sites on the final NPL. Each entry on the NPL contains the name of the facility, the State and city or county in which it is located, and the corresponding EPA Region. For informational purposes, each entry on the NPL is accompanied by a notation on the current status of response and enforcement activities at the site, as described more fully below.

The sites on the NPL are listed in order of their HRS scores (except where EPA modified the order to reflect top priorities designated by States, as discussed in the following paragraph). The list is presented in groups of 50 sites. EPA has grouped the sites in this manner to emphasize the fact that minor differences in HRS scores do not necessarily represent significantly different levels of risk. Within these groups EPA will consider the sites to have approximately the same priority for response actions.

Section 105(8)(B) of CERCLA requires that, to the extent practicable, the NPL include within the 100 highest priorities at least one facility designated by each State as representing the greatest danger to public health, welfare, or the environment among known facilities in the State. For that reason, EPA included within the 100 highest priority sites each site designated by a State as its top priority. The Agency did not require States to rely exclusively on the HRS in designating their top priority sites, and certain of the sites designated by the States as their top priority were not among the one hundred highest sites accordingly to HRS score. These lower scoring State priority sites are listed at the bottom of the group of 100 highest priority sites. All top priority sites designated by States are indicated by asterisks.

One commenter said that the HRS scores do not represent levels of risk with sufficient precision to allow the Agency to array sites on the NPL sequentially by score. The commenter contended that EPA could not properly distinguish on the basis of score between the risks posed by two sites whose HRS scores differed only slightly. This commenter recommended, therefore, that EPA list sites on the NPL in two groups: The first group would consist of the top 100 sites, while the second would be comprised of all the remaining sites. Both groups would be organized alphabetically by EPA Region.

EPA has decided to list sites sequentially by score because it wants the presentation of the NPL to be simple and easily understood, and because it believes that, at a minimum, large differences in HRS scores between sites can be a meaningful indicator of different levels of risk. Based on its experience with the Interim Priorities List, which was prepared before the formal NPL process began, as well as with the proposed NPL, EPA has found that the public wants to know the relative HRS scores of sites. As EPA discovered with the Interim Priorities List, when sites are listed alphabetically or by some other non-sequential manner the public is still likely to assume that the sites presented high on the list are those presenting the greatest risk to public health. Thus, listing sites other than by scores could result in confusion.

Even if the Agency were to list sites on the NPL on a non-sequential basis, public concern about the relative scores could soon cause the media or members of the public to obtain the HRS scores and compile a list presented sequentially by score. A large number of people requesting copies of the proposed NPL list preferred to receive the list presented sequentially by score.

While EPA agrees that the HRS scoring system is not so precise as to accurately distinguish between the risks presented by two sites whose scores are very close, it was not designed to do so and the Agency has not relied upon it on that basis. The HRS had to be designed for application to a wide variety of sites and to sites where expensive, detailed data on all relevant characteristics are not available; consequently, the HRS can only roughly approximate the risk presented by the various sites. For that reason, presenting the NPL sites sequentially by score simply reports the numerical results of applying this system for approximating risk and does not represent a determination by EPA that any particular site on the NPL necessarily presents a greater risk than all sites listed below or a lesser risk than all sites listed above. EPA is confident, however, that the HRS is an effective tool for approximating risk and that differences of more than a few points in score generally are meaningful in discriminating between sites. For this reason also, therefore, EPA has chosen to list sites sequentially by score to avoid the misapprehension that all sites on the list present an equivalent level of risk even when separated by twenty or thirty points in score.

EPA will continue, whenever possible, to accompany the presentation of the NPL with the caveat that minor differences in score may not be meaningful, and that therefore a given site may not necessarily be "worse" than the site or sites immediately following.

Another commenter recommended establishing a dual list, so that the second list could indicate those sites at which substantial progress in cleanup is being made. The Agency believes that the effort involved in establishing a second list would not be justified. In order to develop a dual list the Agency would have to determine what constitutes "substantial progress" and develop the criteria for making such a determination. This would also require EPA to conduct extensive engineering and evironmental studies of all sites at which cleanup is being done before each publication or update of the NPL. In addition, such a list could result in undue emphasis on partial solutions being implemented at a site rather than on the completion of cleanup to minimize the risks to the public and the environment. Rather than taking the resource-intensive approach suggested, EPA has included in the NPL a notation for each site that summarizes the status of action at the site, based on simple, easily verifiable criteria. Where private parties are taking response actions pursuant to a formal agreement with

EPA, the status of the site is described by notation as "Voluntary or Negotiated Response." EPA also intends to delete sites from the NPL when cleanup has been completed.

The Agency has included in the NPL for informational purposes several such categories of notation reflecting the current status of response and enforcement actions at sites. It should be noted that these notations are based on the Agency's most current information. Because a site's status may change periodically, these notations may become outdated. Site status will be noted in the following categories: Voluntary or Negotiated Response (V); Federal and State Response (R); Federal or State Enforcement (E); and Actions to be Determined (D). Each category is explained below.

Voluntary or Negotiated Response. Sites are included in this category if private parties are taking response actions pursuant to a consent order or agreement to which EPA is a party. Voluntary or negotiated cleanup may include actions taken pursuant to consent orders reached after EPA has commenced an enforcement action. This category of response may include remedial investigations, feasibility studies, and other preliminary work, as well as actual cleanup.

Several commenters were concerned that this category did not adequately reflect voluntary response efforts undertaken without formal agreements with EPA. However, EPA studies have shown that many of the response actions undertaken by private parties outside the sanction of EPA consent agreements have not been successful. Furthermore, some private parties have represented routine maintenance or waste management activities as response actions, thereby leading to the conclusion that only after a thorough technical review can the Agency describe actions by private parties as "responses". Thus, EPA believes that to describe actions taken outside consent orders as "response" would in many instances be misleading to the public as EPA cannot assure the public that the actions are appropriate, adequate, consistent with the NCP, and are being fully implemented. Therefore, the Agency encourages any responsible parties who are undertaking voluntary response actions at NPL sites to contact the Agency to negotiate consent agreements.

This is not intended to preclude responsible parties from taking voluntary response actions outside of a consent agreement. However, in order for the site to be deleted or to be noted in the voluntary or negotiated response category, EPA must still sanction the completed cleanup. If the remedial action is not fully implemented or is not consistent with the NCP, the responsible party may be subject to an enforcement action. Therefore, most responsible parties may find it in their best interest to negotiate a consent agreement.

Federal and State Response. The Federal and State Response category includes sites at which EPA or State agencies have commenced or completed removal or remedial actions under CERCLA, including remedial investigations and feasibility studies (see NCP, § 300.68 (f)–(i), 47 FR 31217, July 16, 1982). For purposes of this categorization, EPA considers the response action to have commenced when EPA has obligated funds. For some of the sites in this category EPA may follow remedial investigations and feasibility studies with enforcement actions, at which time the site status would change to "Federal or State Enforcement."

Federal or State Enforcement. This category includes sites where the United States or the State has filed a civil complaint or issued an administrative order. It also includes sites at which a Federal or State court has mandated some form of non-consensual response action following a judicial proceeding. It may not, however, include all sites at which preliminary enforcement activities are underway. A number of sites on the NPL are the subject of enforcement investigation or have been formally referred to the Department of Justice for enforcement action. EPA's policy is not to release information concerning a possible enforcement action until a lawsuit has been filed. Accordingly, these sites have not been included in the enforcement category.

Actions To Be Determined. This category includes all sites not listed in any other category. A wide range of activities may be in progress for sites in this category. The Agency may be considering whether to undertake response action, or may be conducting an enforcement investigation. EPA may have referred a case involving the site to the Department of Justice, prior to formal commencement of enforcement action. Investigations may be underway or needed to determine the source of a release in areas adjacent to or near a Federal facility. Responsible parties may be undertaking cleanup operations that are not covered by consent orders, or corrective action may not be occurring yet.

VI. Eligibility

CERCLA restricts EPA's authority to respond to the release of certain substances into the environment, and explicitly excludes some substances from the definition of release. In addition, as a matter of policy, EPA may choose not to respond to certain types of releases under CERCLA because existing regulatory or other authority under other Federal statutes provides for an appropriate response. Where these other authorities exist, and the Federal government can undertake or enforce cleanup pursuant to a particular, proven program, listing on the NPL to determine the priority or need for response under CERCLA does not appear to be appropriate. EPA has therefore chosen not to consider certain types of sites for inclusion on the NPL even though authority to respond to them may exist under CERCLA. If, however, the Agency later determines that sites which it has not listed as a matter of policy are not being properly responded to, the Agency will consider listing those sites on the NPL.

This section discusses the comments received on these categories of releases and the Agency's decision on how to address them on the NPL.

Releases of Radioactive Materials

Section 101(22) of CERCLA excludes several types of releases of radioactive materials from the statutory definition of "release." These releases are therefore not eligible for CERCLA response actions or inclusion on the NPL. The exclusions apply to 1) releases of source, by-product or special nuclear material from a nuclear incident if these releases are subject to financial protection requirements under section 170 of the Atomic Energy Act, and 2) any release of source, by-product or special nuclear material from any processing site designated under the Uranium Mill Tailings Radiation Control Act of 1978. Accordingly, such radioactive releases have not been considered eligible for inclusion on the NPL. As a policy matter, EPA has also chosen not to list releases of source, by-product, or special nuclear material from any facility with a current license issued by the Nuclear Regulatory Commission (NRC), on the grounds that the NRC has full authority to require cleanup of releases from such facilities. (Formerly licensed facilities whose licenses no longer are in effect will, however, be considered for listing.) Comments generally supported the position.

Some commenters said that EPA should also not list facilities that hold a current license issued by a State pursuant to a delegation of authority from the NRC pursuant to section 274 of the Atomic Energy Act (42 U.S.C. 2021).

EPA has decided, however, that its policy of excluding licensed facilities from the list should extend only to those facilities over which the Federal agency, the NRC, has direct control. When a facility is licensed by a State pursuant to an NRC delegation, the NRC has no authority, short of withdrawing the delegation itself, to enforce conditions of the license or determine that new conditions are necessary. EPA recognizes that the licensing State may be able to ensure cleanup of any release through the license, but has decided to list such sites on the NPL to provide potential Federal authorities if necessary. Since listing on the NPL in no way determines whether actual cleanup actions will be taken, EPA will be able to defer to the licensing State whenever the Agency determines that State efforts are adequate to address the problem.

Some commenters stated that no sites of radioactive releases should be included on the NPL, for several reasons. One point made was that other Federal authorities, such as the Uranium Mill Tailings Radiation Control Act of 1978 (UMTRCA), provide adequate authority to control releases from such sites. With the exception of certain specified sites (which EPA has not considered for listing on the NPL), however, UMTRCA addresses the problem only by inclusion of conditions in facility licenses and does not authorize any direct response actions. While UMTRCA may prove adequate in some cases, EPA believes that CERCLA provides sufficiently broader authorities to warrant listing in anticipation of the possibility that action under CERCLA may prove necessary or appropriate at some of these sites.

Another point made was that the HRS does not accurately reflect the real hazard presented by radioactive sites because the HRS scores releases of radioactive material even when those releases are within radiation limits established by the Nuclear Regulatory Commission and by EPA pursuant to the Atomic Energy Act. As explained above in discussing the HRS approach to scoring observed releases, this factor is designed to reflect the likelihood that substances can migrate from the site, not that the particular release observed is itself a hazard. In addition, EPA's experience has been that some radioactive releases do exceed these standards, confirming the premise of the HRS that a current observed release in low concentrations may be followed by greater releases leading to higher concentrations.

Releases From Federal Facilities

CERCLA section 111(e)(3) prohibits use of the Fund for remedial actions at Federally owned facilities. In the proposed NPL, EPA did not list any sites where the release resulted solely from a Federal facility, regardless of whether contamination remained onsite or has migrated offsite. EPA did, however, consider eligible for inclusion on the NPL sites where it was unclear whether the Federal facility was the sole source of contamination, on the grounds that if it turned out that some other source were also responsible EPA might be authorized to respond. In these situations, the offsite contaminated area associated with this type of release was considered eligible for inclusion. Sites that are not currently owned by the Federal Government were also considered eligible for the NPL, even if they were previously owned by the Federal Government. Finally, non-Federally owned sites where the Federal Government may have contributed to a release were also eligible for inclusion.

EPA chose not to list releases coming solely from Federal facilities because of the lack of EPA response authority, and because the responsibility for cleanup of these sites rests with the responsible Federal agency, pursuant to Executive Order 12316 (46 FR 42237, Aug. 20, 1981). EPA incorporated this position into the NCP, at section 300.66(e)(2), 47 FR 31215 (July 16, 1982). However, a number of commenters believed that Federal facilities should be listed on the NPL when the HRS score was sufficiently high in order to focus public attention and appropriate resources on the most serious sites even though they are not eligible for Fund-financed remedial action. After consideration of this comment, the Agency believes that it may be appropriate to include Federal facility sites on the NPL when they meet the criteria for inclusion, and has decided to propose a future amendment to the NCP which would permit it to do so. While it was not feasible to consider Federal facilities for inclusion in this final NPL or in the first update, EPA intends to begin considering Federal facilities for inclusion on the NPL, and expects to include qualifying sites in the next feasible NPL update proposal.

EPA will develop working relationships with Federal agencies on the implementation of corrective actions at Federal sites, whether on a future version of the NPL or not. If the sites are owned by the Department of Defense, they will take the appropriate action, as they have response authority under Executive Order 12316. For sites owned by other agencies, EPA will conduct the remedial action with funding provided by the agency that owns the site. In both of these instances, the response action must be in conformity with the NCP, just as all response action performed by private parties must be.

RCRA-Related Sites

Both CERCLA and the Resource Conservation and Recovery Act (RCRA) contain authorities applicable to hazardous waste facilities. These authorities overlap for certain sites. Accordingly, where a site consists of regulated units of a RCRA facility operating pursuant to a permit or interim status, it will not be included on the NPL but will instead be addressed under the authorities of RCRA. The Land Disposal Regulations under RCRA (40 CFR Parts 122, 260, 264, and 265) give EPA and the States authority to control active sites through a broad program which includes monitoring, compliance inspections, penalties for violations, and requirements for post closure plans and financial responsibility. RCRA regulations require a contingency plan for each facility. The regulations also contain Groundwater Protection Standards (40 CFR Part 264 Subpart F) that cover detection monitoring, compliance monitoring (if ground water impacts are identified) and corrective action.

These monitoring and corrective action standards apply to all "regulated units" of RCRA facilities, i.e., any part of the waste treatment, storage, or disposal operation within the boundaries of the facility that accepted waste after January 26, 1983, the effective date of the Land Disposal Regulations (47 FR 32349, July 26, 1982). Even if the unit ceases operation after this time, the unit is still required to be covered by a permit and the monitoring and corrective action requirements will be enforced. Given this alternative authority to ensure cleanup, regulated units of RCRA facilities generally are not included on the NPL. This is true not only of sites subject to EPA-administered hazardous waste programs but also to sites in States that administer programs approved by EPA. Even in the latter instance, close Federal control is ensured by the comprehensiveness of the program elements required of all State programs coupled with EPA's authority to enforce State program requirements directly if the State fails to do so. Only if the facility is abandoned and the RCRA corrective action requirements cannot be enforced will EPA consider listing the site on the NPL for possible response under CERCLA. EPA does, however,

consider eligible for listing on the NPL those RCRA facilities at which a significant portion of the release appears to come from "non-regulated units" of the facility, that is, portions of the facility that ceased operation prior to January 26, 1983.

Releases of Mining Wastes

Some commenters presented the view that CERCLA does not authorize EPA to respond to releases of mining wastes, and that sites involving mining wastes should not be included on the NPL. This view is based on the interpretation that mining wastes are not considered hazardous substances under CERCLA. CERCLA includes in its definition of hazardous substances materials that constitute hazardous wastes under the Resource Conservation and Recovery Act (RCRA). In the 1980 amendments to RCRA, the regulation of mining wastes under Subtitle C of RCRA was temporarily suspended and that suspension is presently in effect. For that reason, the commenters believe that mining wastes should not be considered hazardous substances under CERCLA.

EPA disagrees with the commenters' interpretation. The Agency believes that mining wastes can be considered hazardous substances under CERCLA if it meets any of the other statutory criteria (e.g., if the material is also a hazardous air pollutant listed under section 112 of the Clean Air Act). More importantly, however, EPA's authority to respond to mining waste releases, and the Agency's ability to list mining waste sites on the NPL, does not depend on whether mining wastes are hazardous substances. Section 104(a)(1) of CERCLA authorizes EPA to respond to releases of not only "hazardous substances," but also "any pollutant or contaminant." "Pollutant or contaminant" is defined very broadly in section 104(a)(2) to include essentially any substance that may cause an adverse effect on human health. EPA is convinced that mining wastes can satisfy these minimal criteria, that the Agency therefore has the authority to respond to releases of mining wastes, and that listing of mining waste sites on the NPL is appropriate.

Commenters also presented the view that it is unclear whether CERCLA was intended to address the type of waste problem, characterized by low concentrations and large volumes, associated with mining waste. They argued that the approach taken under RCRA, of preparing a study of mining wastes before determining whether regulation of such wastes is appropriate, should be adopted in the CERCLA program as well. Commenters suggested that as a policy matter, long term permanent remedial actions could be postponed and only removal actions taken at such sites when emergency conditions warrant.

As described above, however, the response authorities of CERCLA are very broad. As long as EPA has the authority to respond, and no other Federal statute provides authority comparable to CERCLA, the Agency has the obligation at least to evaluate the precise extent of the risk and the possible response actions at all sites that upon preliminary investigation appear to present a significant risk. EPA should also remain free at least to consider all types of response actions at all sites in order to determine which is the most appropriate and cost-effective, and should not limit itself to considering only removal actions at a particular class of facilities. Inclusion of the NPL is appropriate in order to begin the process of determining how to address such sites. Since inclusion on the NPL does not determine whether response actions will be taken or what response is appropriate, EPA is free to develop an approach for responding to mining waste sites that takes into account any unique features of such sites.

Comments also presented the view that the HRS is not an appropriate tool to estimate the risk to health and the environment presented by mining waste sites.

They pointed out that the HRS does not consider concentration levels at the point of impact, but rather the mere presence of the substance in the environment. As explained in Part VII below, however, the purpose of scoring for an observed release without taking level of concentration into account is simply to reflect the likelihood that the subject substances will migrate into the environment, which in the case of an observed release is 100 percent. Future releases, or even current releases for which concentration data do not exist, may raise the level of concentration to the point that it presents a greater risk than the release first observed. While releases from mining waste sites may be somewhat less likely than releases of man-made chemical substances to ever reach extremely high concentrations, harmful concentrations can occur from mining waste sites and the distinction is not sufficient to invalidate the HRS as an appropriate model for scoring mining waste sites.

Another comment was that the locations of mining waste sites are generally rural, so that the only sizable target population are far downstream. The comment alleged that these populations are considered in the HRS scoring but in reality may never be affected. This assumption, however, is false. The HRS considers only those persons living within a three mile radius of the site as constituting the target population. If a mining waste site has a high score for this factor, it indicates that despite the fact that the locations of such sites typically are rural, this particular site has a significant number of people within three miles.

Indian Lands

EPA has always considered sites on Indian lands to be eligible for inclusion on the NPL. However, one commenter was concerned that some sites on Indian lands may not have been included in the State evaluation of NPL candidate sites because Indian lands are not subject to State jurisdiction. The Agency recognizes that this may happen. However, EPA Regional Offices may also evaluate sites for inclusion on the NPL. The Agency urges commenters to submit information on any sites which they feel may not have been evaluated during preparation of the NPL for consideration in subsequent updates.

Non-Contiguous Facilities

Section 104(d)(4) of CERCLA authorizes the Federal Government to treat two or more non-contiguous facilities as one for purposes of response, if such facilities are reasonably related on the basis of geography or on the basis of their potential threat to public health, welfare, or the environment. For purposes of the NPL, however, EPA has decided that in most cases such sites should be scored and listed individually because the HRS scores more accurately reflect the hazards associated with a site if the site is scored individually. In other cases, however, the nature of the operation that created the sites and the nature of the probable appropriate response may indicate that two non-contiguous sites should be treated as one for purposes of listing and EPA has done so for some sites on the final NPL.

Factors relevant to such a determination include whether the two sites were part of the same operation. If so, the substances deposited and the means of disposal are likely to be similar, which may imply that a single strategy for cleanup is appropriate. In addition, potentially responsible parties would generally be the same for both sites, indicating that enforcement or cost recovery efforts could be very similar for both sites. Another factor is whether contamination from the two sites are threatening the same ground water or

surface water resource. Finally, EPA will also consider the distance between the non-contiguous sites and whether the target population is essentially the same or substantially overlapping for both sites, bearing in mind that the HRS uses the distance of three miles from the site as the relevant distance for determining target population.

Where the combination of these factors indicates that two non-contiguous locations should be addressed as a single site, the locations will be listed as a single site for purposes of the NPL. While the nature of the listing may be a guide to prospective response actions, it is not determinative; EPA may decide that response efforts, after all, should be distinct and separate for the two locations. Also, EPA may decide to coordinate the response to several sites listed separately on the NPL into a single response action when it appears more cost-effective to do so.

VII. Changes From the Proposed NPL

The Agency received a total of 343 comments on 217 of the sites listed on the proposed NPL. General comments on the NPL are addressed throughout this preamble. Significant comments regarding specific sites are addressed in the Support Document for the National Priorities List, previously cited. A number of the site-specific comments addressed similar issues, and EPA's approaches to those common issues are presented in this section.

A total of 144 HRS score changes have resulted from the Agency's reviews of comments and other information, and these are summarized in Table I. EPA determined that a total of five sites that had been proposed have HRS scores below 28.50 and should not be included on the NPL. For seven sites, the Agency is still considering the comments received concerning those sites and was unable to reach a final decision on listing in time for this publication. EPA will continue to evaluate these sites and make a final decision on them in a future update to the NPL. In one instance, where cleanup actions have adequately addressed the problems, EPA determined that a site should be deleted from the proposal and not included on the final NPL. In addition, two States have revised their designations of top priorities. These items are addressed below.

Waste Quantity. A number of commenters said that the waste quantity values assigned under the HRS were too high, because EPA had included the non-hazardous constituents of the hazardous substances in calculating the quantity of waste located at the facility. This issue was raised and resolved when the Agency adopted the HRS. In the preamble to that publication (47 FR 31180, July 16, 1982), EPA addressed the rationale for including all constituents, including the non-hazardous portions of the materials, in the calculation of the quantity of hazardous waste at a site. Briefly stated, the rationale for the Agency's approach is that detailed information of the portion of the total substances at a site that consist of hazardous constituents is expensive to determine, and therefore, because of the need to use a consistent method of evaluation of this factor at many sites nationwide, cannot be required as an element necessary for HRS scoring. EPA recognizes that most hazardous wastes contain some fractions of non-hazardous substances, and this fact was taken into account when the rating scales for waste quantity were established. In most instances a very small amount of the hazardous substances can have a significant impact on public health, welfare, or the environment. The Agency did not revise waste quantity values in response to comments presenting calculations that excluded the non-hazardous constituents.

Consideration of Flow Gradients. In some instances commenters maintained that, based upon their conclusions regarding prospective movement of contaminants in ground waters, the values assigned by EPA to population served by ground water are too high. The HRS, however, specifies that all the population using the aquifer of concern within a three mile radius of the facility should be included in the calculations of population served by ground water. The Agency's approach is based on the difficulty of predicting precisely the movements of ground water; furthermore, in establishing the rating scales, the Agency took into account the fact that most wells within the three mile radius would not be affected. As was the case with the waste quantity issue, this issue was addressed and resolved in adopting the HRS in July 1982. The rationale for the Agency's approach is further addressed in the preamble to the NCP (47 FR 31190–91, July 16, 1982) and is equally applicable now.

Scoring on the Basis of Current Conditions. Some commenters felt that EPA should take current conditions into account when scoring sites where response actions have reduced the hazards posed by the site. EPA scored sites for inclusion in the NPL based on the hazards that existed before any response actions were initiated. This policy was explained in the preamble to the final revisions to the NCP (47 FR 31187, July 16, 1982). The Agency explained that public agencies might have been discouraged from taking early response if such actions could lower the HRS score and prevent a site from being included on the NPL. This has turned out to be the case, as at least one State and some EPA Regional Offices have actually sought reassurances prior to taking emergency action at sites that a site's HRS score would not be lowered as a result of the response action. Alternatively, some private parties might have only taken action sufficient to lower the score to the point that it would not be listed on the NPL but would not be completely cleaned up. Those types of score manipulations could be accomplished by such actions as temporarily removing wells from service to lower target scores, or removing wastes from a site to lower waste quantity scores while failing to address contaminated ground waters, or by remedying only air discharges where ground or surface water contamination also present a problem. Therefore, EPA was and is concerned that scoring on the basis of the latest conditions at a site could encourage incomplete solutions that might leave significant health threats unaddressed.

Even where the response actions occurred before the listing process began, EPA believes that these actions should not be considered when scoring the site for the NPL. The ability of the HRS to approximate risk at a given site is based on a number of presumed relationships between the various factors considered in calculating the HRS scores. When partial response actions are conducted, the validity of these relationships for the purpose of approximating the risk posed by a site may be affected. For this reason, if the site is rescored taking the response actions into account, the drop in score that may result might not reflect a commensurate reduction in the level of risk presented by a site.

For example, the factor of hazardous waste quantity, when considered with other factors that predict the toxicity of the substances and the likelihood of release, helps predict how extensive the harm from a release can be. For a site that has been in existence for some time, however, hazardous substances may already have begun migration toward ground water or surface water. If the hazardous materials on the surface are then removed, and the site is scored according to conditions existing after removal, the site would be assigned a negligible value for waste quantity, even though substantial amounts of the material may still be under the site and a potential threat to the public health.

Another example is where some of the original population at risk has been provided with alternative drinking water supplies. In such a case, the population at risk factor might be rescored quite low, even where the alternative supplies are temporary, costly, or limited in supply. In addition, rescoring in this situation could penalize residents for securing alternative supplies by lowering the priority of the site or deleting it from the list and thereby precluding completion of proper remedial actions. A final reason is that response action at sites is an ongoing process, and it may become unduly burdensome to continually recalculate scores to reflect such actions.

Where response actions have already been initiated by private parties or another agency, listing such sites will enable EPA to evaluate the need for a more complete response. Inclusion on the NPL therefore does not reflect a judgment that responsible parties are failing to address the problems. The Agency believes, therefore, that this approach is appropriate, and consistent with the purpose of the NPL as stated in the legislative history of CERCLA.

Small Observed Release. Some commenters maintained that EPA incorrectly assigned values for observed releases to ground waters because the measured concentrations of the substances involved were below the regulatory limits specified under the Safe Drinking Water Act. The HRS states:

> If a contaminant is measured (regardless of frequency) in ground water or in a well in the vicinity of a facility at a significantly (in terms of demonstrating that a release has occurred, not in terms of potential effects) higher level than the background level, then . . . a release has been observed (NCP, Appendix A, ¶ 3.1, 47 FR 31224, July 16, 1982).

This scoring instruction is based on the fact that the observed release factor is considered for purpose of estimating the likelihood that substances can migrate from the site. When a release is observed in any quantity, as long as the concentration is above background level, that likelihood is 100 percent, and this factor receives the maximum score of 45. The observed release factor is not intended to reflect the level of hazard presented by the particular release observed. The hazard presented is, rather, approximated by the total score, incorporating the observed release factor indicating the likelihood of migration with other factors such as waste quantity, toxicity, and the persistence of the substance. These combined factors are indicative of the possibility of future releases of much higher amounts. Furthermore, concentrations of substances migrating in the environment tend to show extreme variation through time and space. Given that only periodic sampling is feasible in most instances, requiring contaminants to exceed certain levels before assigning an observed release could exclude many sites from the NPL which may be endangering the public. The rationale for this approach is further discussed in the preamble to the NCP (47 FR 31188 (July 16, 1982)).

Summary of Score Changes. A summary of the 144 sites where EPA's review of comments and new data resulted in a final score that changed from the score as originally proposed is shown in the table below:

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NATIONAL PRIORITIES LIST HRS SCORE CHANGES

State	City/County	Site Name	HRS Score Original	HRS Score Revised
EPA Region I				
CT	Southington	Solvents Recovery Systems	37.28	44.93
CT	Canterbury	Yaworski Waste Lagoon	36.70	36.72
MA	Bridgewater	Cannon Engineering	38.19	39.89
MA	Groveland	Groveland Wells	40.06	40.74
MA	East Woburn	Wells G&H	59.20	42.71
MA	Acton	WR Grace Co. (Acton Plant)	59.30	59.31
ME	Washburn	Pinette's Salvage Yard	39.61	33.98
ME	Saco	Saco Tannery Waste Pits	33.40	43.19
ME	Winthrop	Winthrop Landfill	40.47	35.62
NH	Dover	Dover Municipal Landfill	36.90	36.98
NH	Kingston	Ottati and Gross/Kingston Steel Drum	53.40	53.41
NH	Somersworth	Somersworth Sanitary Landfill	65.57	65.56
NH	Nashua	Sylvester	63.26	63.28
NH	Londonderry	Tinkham Garage Site	42.70	43.24
RI	Coventry	Picillo Coventry	67.70	53.63
VT	Burlington	Pine Street Canal	40.40	40.42
EPA Region II				
NJ	Mount Olive Twp.	Combe Fill North Landfill	42.44	47.79
NJ	Dover	Dover Municipal Well 4	42.24	28.90
NJ	Gloucester Township	Gems Landfill	68.88	68.53
NJ	Mantua	Helen Kramer Landfill	70.06	72.66
NJ	Marlboro Township	Imperial Oil/Champion Chem.	42.69	33.87
NJ	Pittman	Liperi Landfill	72.12	75.60
NJ	Pedricktown	M.L. Industries	49.74	52.96
NJ	Rockaway Township	Rockaway Township Wells	44.46	28.90
NJ	Dover Township	Toms River Chemical	45.87	50.33
NY	South Cairo	American Thermostat Co.	48.01	33.61
NY	Batavia	Batavia Landfill	44.16	50.18
NY	South Glens Falls	G.E. Moreau Site	49.83	58.21
NY	Niagara Falls	Hooker-S Area	52.58	51.62
NY	Wellsville	Sinclair Refinery	72.01	53.90
NY	Vestal	Vestal Water Supply	42.24	
		Vestal Water Supply 1-1		37.93
		Vestal Water Supply 4-2		42.24
PR	Juana Diaz	G.E. Wiring Devices	42.40	31.24
PR	Barceloneta	RCA, del Caribe	31.28	31.14
EPA Region III				
DE	New Castle County	Army Creek Landfill	69.96	69.92
DE	New Castle County	New Castle Spill	38.43	38.33
MD	Annapolis	Middletown Road Dump	38.51	29.36
PA	State College Bor.	Centre County Repone	39.44	45.09
PA	Parker	Craig Farm Drum Site	28.71	28.72
PA	North Whitehall Twp.	Heleva Landfill	41.79	50.23
PA	Kimberton Borough	Kimberton	29.42	29.44
PA	Harrison Township	Lindane Dump	51.50	51.62
PA	McAdoo Borough	McAdoo Associates	65.32	63.03
PA	Grove City	Osborne	58.41	54.60
PA	Palmerton	Palmerton Zinc Pile	46.44	42.93
PA	Erie	Presque Isle	37.20	40.59
PA	Westline	Westline	31.85	31.71
VA	Saltville	Saltville Waste Disposal Ponds	53.23	29.52
WV	Follansbee	Follansbee Sludge Fill	31.89	33.77
EPA Region IV				
FL	Galloway	Alpha Chemical Corporation	55.66	43.24
FL	Pensacola	American Creosote	40.44	58.41
FL	Hialeah	Northwest 58th Street LF	49.27	49.43
FL	Mount Pleasant	Parramore Surplus	34.85	37.61
FL	Jacksonville	Pickettville Road Landfill	58.75	42.94
FL	Tampa	Reeves SE Galvanizing Corp.	51.97	58.75
FL	Clermont	Tower Chemical	38.53	44.03
KY	Calvert City	B. F. Goodrich	31.14	33.01
KY	West Point	Distler Brickyard	37.62	44.77
NC	Swannanoa	Chemtronics, Inc.	30.01	30.16
SC	Cayce	SCRDI Dixiana	40.46	40.70
TN	Chattanooga	Amnicola Dump	30.24	40.91
TN	Gallaway	Gallaway Ponds	30.78	30.77
TN	Lawrenceburg	Murray Ohio Dump	46.43	46.44
TN	Memphis	North Hollywood Dump	6.58	19.46
EPA Region V				
IL	Waukegan	Johns-Manville Corp.	38.82	38.20
IL	LaSalle	LaSalle Electric Utilities	30.98	42.06
IN	Gary	Lake Sandy Jo (M&M Landfill)	38.31	38.21
IN	Gary	Midco I	60.43	46.44
MI	Grand Rapids	Butterworth #2 Landfill	50.30	50.31
MI	Charlevoix	Charlevoix Municipal Well	31.95	37.94
MI	Marquette	Cliff/Dow Dump	34.66	34.50
MI	Dalton Twp.	Duell and Gardner Landfill	34.66	34.68

State	City/County	Site Name	HRS Score Original	HRS Score Revised
EPA Region V (concluded)				
MI	Greilickville	Grand Traverse Overall Supply Co.	40.86	35.53
MI	St. Louis	Gratiot County Landfill Supply	53.60	53.65
MI	Oscoda	Hedblum Industries	31.70	37.29
MI	Ionia	Ionia City Landfill	38.02	31.31
MI	Kentwood	Kentwood Landfill	35.43	35.39
MI	Albion	McGraw Edison Corp.	44.63	33.42
MI	Temperance	Novaco Industries	38.16	38.20
MI	Filer City	Packaging Corp. of America	51.95	51.91
MI	Petoskey	Petoskey Municipal Well Field	35.97	42.68
MI	Muskegon Heights	SCA Indpendent Landfill	36.36	34.75
MI	Mancelona Twp.	Tar Lake	48.50	48.55
MI	St. Louis	Velsicol Michigan	48.78	52.29
MI	Pleasant Plains Twp.	Wash King Laundry	52.05	40.03
MN	Brainerd/Baxton	Burlington Northern	58.41	46.77
MN	Fridley	FMC Corp.	74.16	65.50
MN	Lehillier	Lehillier/Mankato	50.49	42.49
MN	St. Louis Park	NL Industries/Taracorp/Globe	50.95	39.97
OH	Kingsville	Big D Campground	34.78	30.77
OH	Circleville	Bowers Landfill	51.80	50.49
OH	Ironton	E.H. Schilling Landfill	40.37	34.56
OH	Ashtabula	Fields Brook	51.62	44.95
OH	New Lyme	New Lyme Landfill	37.70	31.19
OH	Zanesville	Zanesville	28.98	35.59
EPA Region VI				
AR	Newport	Cecil Lindsey	35.40	35.60
AR	Walnut Ridge	Frit Industries	39.40	39.47
AR	Edmondson	Gurley Pit	38.10	40.13
AR	Ft. Smith	Industrial Waste Control	36.90	30.31
AR	Mena	Mid-South Wood Products	45.43	45.87
AR	Jacksonville	Vertac, Inc.	64.96	65.46
LA	Slidell	Bayou Bonfouca	36.75	29.78
NM	Milan	Homestake Mining Co.	42.29	34.21
NM	Albuquerque	South Valley	35.57	42.24
OK	Ottawa County	Tar Creek	58.20	58.15
TX	Grand Prairie	Bio-Ecology Systems, Inc.	35.10	35.06
TX	Crosby	French, Ltd.	63.30	63.33
TX	Highlands	Highlands Acid Pit	37.66	37.77
TX	LaMarque	Motco	62.70	62.66
TX	Crosby	Sikes Disposal Pits	61.60	61.62
TX	Bridge City	Triangle Chemical Co.	28.74	28.75
EPA Region VII				
IA	Des Moines	Des Moines TCE	28.91	42.28
KS	Arkansas City	Arkansas City Dump	4.23	5.49
KS	Cherokee County	Tar Creek	66.74	58.15
MO	Verona	Syntex Facility	43.77	43.78
EPA Region VIII				
CO	Leadville	California Gulch	51.94	55.84
CO	Idaho Springs	Central City, Clear Creek	46.50	51.39
CO	Denver	Denver Radium Site	44.00	44.11
CO	Boulder County	Marshall Landfill	41.00	46.52
CO	Commerce City	Sand Creek	37.00	59.65
CO	Commerce City	Woodbury Chemical Co.	45.00	44.87
MT	Anaconda	Anaconda Smelter-Anaconda	58.70	58.71
MT	Libby	Libby Ground Water Contam.	37.70	37.67
MT	Milltown	Milltown Reservoir Sediments	43.80	43.78
MT	Silver Bow/ Deer Lodge	Silver Bow Creek	63.80	63.76
ND	Southeastern	Arsenic Trioxide Site	34.00	34.07
SD	Whitewood	Whitewood Creek	59.50	63.76
UT	Salt Lake City	Rose Park Sludge Pit	7.50	7.46
WY	Laramie	Baxter/Union Pacific Tie Treating	37 00	37.24
EPA Region IX				
AZ	Scottsdale	Indian Bend Wash Area	40.02	42.24
AZ	Globe	Mountain View Mobile Homes Estates	26.46	30.24
CA	Ukiah	Coast Wood Preserving	42.02	44.73
CA	Cloverdale	MGM Brakes	34.52	34.70
CA	Selma	Selma Treating Co.	41.17	48.83
EPA Region X				
OR	Portland	Gould, Inc.	32.84	32.12
OR	Albany	Teledyne Wah Chang	48.15	54.27
WA	Spokane	Colbert Landfill	40.05	41.59
WA	Yakima	FMC Corp. (Yakima)	32.18	38.90
WA	Vancouver	Frontier Hard Chrome	57.92	57.93
WA	Seattle	Harbor Island Lead	41.79	34.60
WA	Mead	Kaiser Mead	41.26	38.07
WA	Lakewood	Lakewood	29.07	42.49
WA	Yakima	Pesticide Lab	33.50	29.33
WA	Kent	Western Processing Co., Inc.	36.30	58.63

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Proposed NPL Sites with Scores which Fall Below 28.50. The following sites will not be included on the NPL because EPA has determined that the HRS scores are below 28.50:

State	Site name
Arkansas	Crittenden County Landfill.
Idaho	Flynn Lumber.
Indiana	Parrot Road.
Nebraska	Phillips Chemical.
Ohio	Van Dale Junkyard.

Sites Still Under Consideration. In the case of the following sites, EPA was unable to reach a final decision on whether to include them on the final NPL in time for this publication.

State	Site name
Arizona	Kingman Airport Industrial Area.
Kentucky	Airco.
Louisiana	Bayou Sorrel.
Michigan	Clare Water Supply.
Michigan	Electravoice.
Michigan	Littlefield Township Dump.
Michigan	Whitehall Wells.

EPA will announce its decisions regarding these sites in subsequent NPL updates.

Deletion. The criteria for deletion, which are discussed in Part VIII below, have already been met at the Gratiot County Golf Course site which was included on the proposed NPL. EPA has consulted with the State of Michigan and has determined that the responsible parties have completed cleanup of the site such that no Fund-financed response will be required.

Name Revisions. In some instances EPA has determined that the names of sites should be revised to more accurately reflect the location or nature of the problem. Those name revisions are listed below:

State	Site name for proposed NPL	New site name
MA	Plymouth Harbor/ Cordage.	Plymouth Harbor/Cannon Engineering.
NH	Ottati & Goss	Ottati & Goss/Kingston Steel Drum.
RI	Forestdale	Stamina Mills.
NJ	Imperial Oil	Imperial Oil Co., Inc./Champion Chemicals.
IN	Lake Sandy Jo	Lake Sandy Jo (M&M Landfill).
MN	National Lead Taracorp.	NL Industries/Taracorp/ Golden Auto.
	New Brighton	New Brighton/Arden Hills.
OH	Allied Chemical	Allied Chemicals & Ironton Coke.
	Poplar Oil	Laskin/Poplar Oil.
	Rock Creek/Jack Webb.	Oil Mill.
OK	Criner/Hardage	Hardage/Criner.

In addition, in the case of one site proposed for the NPL, the Vestal Water Supply, the Agency has determined that there are two distinct sites rather than one as was previously believed. Geohydrologic studies have indicated that the ground water contamination is present in two distinct plumes, apparently from two different sources. Thus, the site name has been revised to Vestal Water Supply Well No. 1–1 and Vestal Water Supply Well No. 4–2.

States' Top Priority Sites. The State of Mississippi has informed EPA that the Plastifax site, previously designated as their top priority site, is not the State's highest priority. Since the site does not otherwise meet the criteria for inclusion on the NPL, the Plastifax site has not been listed. Mississippi has designated another site as its top priority, which EPA has proposed for inclusion on the NPL in the proposed update immediately following this final NPL promulgation in today's **Federal Register.** Likewise, the State of Maine has informed EPA that the Winthrop Landfill is no longer considered their top priority site. However, that site has a sufficiently high HRS score to warrant inclusion on the list and has been included. Maine has not yet designated an alternative top priority site.

VIII. Updates and Deletions to the NPL

CERCLA requires that the NPL be revised at least once per year. EPA believes that more frequent revision may be appropriate. Thus, the Agency may revise the NPL more often than is specified in CERCLA. NPL revisions, or "updates," may add new sites to the NPL, and may delete sites from the list. EPA anticipates that each update publication will present proposed additions, proposed deletions, and the current NPL consisting of all sites previously established as part of the list as well as the final listing of sites that were proposed in the preceding update publication. EPA's first NPL update is proposed in today's **Federal Register** immediately following this publication of the final NPL.

In addition to the periodic updates described above, EPA believes it may be appropriate in rare instances to add sites to the NPL individually as the Agency did in the case of the Times Beach site in Missouri.

The Agency plans to identify and consider additional sites for inclusion on NPL updates in the same manner as for sites on the initial NPL. States have the primary responsibility for identifying sites, computing HRS scores, and nominating them for inclusion on the NPL, although EPA Regional Offices may assist in investigation, sampling, monitoring, and scoring, and may in some cases consider candidate sites on their own initiative. EPA will notify the States in advance of each update publication of the closing dates for submission of proposed additions (or deletions, as discussed below) to EPA. EPA will exercise quality control and quality assurance to verify the accuracy and consistency of scoring. The Agency will then publish a proposal of all sites that appear to meet the criteria for listing, and solicit public comment on the proposal. Based on comments, and any further review by EPA, the Agency will determine final scores, and in the next update publication will include on the final NPL any sites that score high enough for listing. For the proposed update immediately following this rulemaking in today's **Federal Register,** the Agency has continued to use the same minimum HRS score of 28.50 that was used to establish eligibility for this final rule.

There is no specific statutory requirement that the NPL be revised to delete sites. However, EPA has decided to consier deleting sites in order to provide incentives for cleanup to private parties and public agencies. Furthermore, establishing a system of deleting sites affords the Agency the opportunity to give notice that the sites have been cleaned up and gives the public an opportunity to comment on those actions. On June 28, 1982, the Agency developed a guidance document which addressed how sites may be deleted from the NPL. This guidance suggested that a site meeting any of the following criteria could be deleted from the NPL:

(1) EPA in consultation with the State has determined that responsible parties have completed cleanup so that no Fund-financed response actions will be required.

(2) All appropriate Fund-financed cleanup action under CERCLA has been completed, and EPA has determined that no further cleanup by responsible parties is appropriate.

(3) EPA, in considering the nature and severity of the problems, the potential costs of cleanup, and available funds, has determined that no remedial actions should be undertaken at the site.

EPA does not consider this guidance to be binding, and may revise it to provide for deletion of sites based on other factors in appropriate cases. EPA will delete sites from the NPL by publishing notices in the **Federal Register** at the time of the updates, naming the sites and providing the reasons for deletion.

EPA expects that updates to the NPL will be solely for the purposes of adding sites to or deleting sites from the NPL. The current EPA position, which will serve as guidance for individual listing and deletion decisions, is that updates will not present any HRS score changes for sites that might alter a site's relative ranking, nor will they delete any sites on the basis of score changes. Once a final HRS score has been calculated for a site, and the site has been included on the NPL, EPA does not plan to conduct any recalculations of HRS scores to affect any site's listing.

Several commenters presented suggestions to the contrary. Some recommended that EPA revise HRS scores periodically to reflect the results of cleanup activities, and suggested deleting any site whose HRS score dropped below the cutoff. Other commenters addressed the possibility that new data gathered on a site might alter previous assumptions in scoring, and suggested continual rescoring to reflect any new data for purposes of adjusting a site's position on the list or deleting the site if the score fell below the cutoff.

While it is not necessary to resolve these issues now, as they will be considered as part of each future update determination, EPA believes that a number of important factors support its current position that sites on the final NPL should not be rescored for future updates. With respect to sites where response actions have been taken, the HRS was not designed to reflect completeness of cleanup, and therefore should not be used as a tool for deleting sites from the list or altering their relative ranking. As discussed in Part VII of this preamble, in explanation of EPA's policy to score sites on the basis of original conditions rather than take cleanup actions into account, the HRS approximates risk on the basis of the original conditions at the site. If response actions are taken into account in scoring, the lower HRS score that results might not reflect a commensurate reduction in the level of risk presented by the site.

Another reason discussed in Part VII is that revision of scores simply because cleanup has been partially completed might encourage partial solutions to potentially serious risks of public health and welfare and environmental harm. Removing a site from the list based on score changes resulting from partial cleanup might give private parties an incentive to design response actions to effect such changes rather than completely remedying the situation at the site.

In addition to the foregoing reasons, other considerations justify the current position not to rescore sites after final listing. These considerations apply not only to cleanup situations but also to situations where a score might be affected by new information about a site or by detection of an error in the original calculations.

The process established by EPA for establishing the NPL is comprehensive, involving initial scoring, public proposal, consideration of public comment, re-examination of data and scores, final score calculation, and inclusion on the final NPL. Given this level of scrutiny, and the time and expense involved in scoring sites, EPA believes it appropriate to consider inclusion of a score on the final NPL to end the scoring process.

Furthermore, as described in Part II of this preamble, the purpose of the NPL is primarily informational, to serve as a tool for EPA to identify sites that appear to present a significant risk to public health or the environment, for purposes of deciding which sites to investigate fully and determine what response, if any, is appropriate. EPA believes that it is most consistent with that statutory purpose to cease the costly and time-consuming efforts of site scoring once the NPL development process on a site is complete. Rather than spend the limited resources of the fund on rescoring efforts, the Agency wants to use all available resources to clean up sites. In addition, because the NPL serves as guidance for possible future action and does not determine liability or whether response actions will be taken, a decision not to recalculate scores will not prejudice any potentially responsible parties. This is especially true since any additional information can be considered at other stages of EPA's investigation and response process.

EPA recognizes that the NPL process cannot be perfect, and it is possible that errors exist or that new data will alter previous assumptions. Once the initial scoring effort is complete, however, the focus of EPA activity must be on investigating sites in detail and determining the appropriate response. New data or errors can be considered in that process. Since HRS scores do not alone determine the priorities for actual response actions, any new data or revealed error that indicate that a site is either more or less a problem than reflected in the HRS score will be taken into account and the priority for response adjusted accordingly. If the new information indicates that the site does not present any significant threat to health or the environment, the site will meet one of the EPA criteria for deletion regardless of any original or revised HRS score.

In conclusion, because the HRS was not designed to reflect reductions in hazard resulting from cleanup; because of the desire not to create the incentive for incomplete cleanup actions; because of the need to conserve resources and focus on further investigation and cleanup; because the NPL serves as guidance to EPA and is not determinative of liability or the need for response; and because any new information can be considered for adjustment of a site response priority or for deletion without recalculating the HRS score, EPA does not currently plan to rescore sites once they have been included on the final NPL. Actual decisions on the appropriate treatment of individual sites, however, will be made on a case-by-case basis, with consideration of this policy and any other appropriate factors.

IX. Regulatory Impact

EPA prepared a Regulatory Impact Analysis pursuant to Executive Order 12291 (46 FR 13193, Feb. 19, 1981) for the revised NCP at the time that it was promulgated. That analysis considered regulatory and economic impact that would result from this amendment to the NCP. The analyses of the NCP are available for inspection at Room S-325, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

X. Regulatory Flexibility Act Analysis

EPA prepared a Regulatory Flexibility Analysis pursuant to the Regulatory Flexibility Act (5 U.S.C. 601-612) for the revised NCP at the time that it was promulgated. The Agency reviewed the impact of the revised NCP on small entities, which are small businesses and small municipalities.

While there could be a substantial effect on a few small disposer firms, it is unlikely that a high percentage of these small firms is at risk from potential enforcement actions, because they probably tend to produce much smaller quantities of waste compared to the large firms in the industry. It may, of course, be the case that a small disposer's hazardous waste site has resulted in serious problems (such as ground water contamination). However, again, to the extent that small disposers operate one or two sites on a small amount of acreage, they run a reduced risk of being responsible for serious hazardous waste site problems.

It remains at EPA's discretion whether or not to proceed with enforcement actions against small entities. Thus, any potentially adverse effects are not automatic results of the NCP revisions, including the NPL, and implementation of the Superfund program. On the basis of this analysis, the Agency has concluded that the final NPL will not result in a significant impact on a substantial number of small entities.

The analyses of the NCP are available for inspection at Room S-325, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460.

List of Subjects in 40 CFR Part 300

Air pollution control, Chemicals, Hazardous materials, Intergovernmental relations, Natural resources, Oil pollution, Reporting and recordkeeping requirements, Super fund, Waste treatment and disposal, Water pollution control, Water supply.

PART 300—[AMENDED]

Part 300, Title 40 of the Code of Federal Regulations is hereby amended by adding a new Appendix B, to read as follows:

BILLING CODE 6560-50-M

Appendix B—National Priorities List

Group 1

EPA REG	ST	SITE NAME *	CITY/COUNTY	RESPONSE STATUS #	
02	NJ	LIPARI LANDFILL	PITMAN	V R E	
03	DE	TYBOUTS CORNER LANDFILL *	NEW CASTLE COUNTY	R E	
03	PA	BRUIN LAGOON	BRUIN BOROUGH	R	
02	NJ	HELEN KRAMER LANDFILL	MANTUA TOWNSHIP	R	
01	MA	INDUSTRI-PLEX	WOBURN	V R E	
02	NJ	PRICE LANDFILL *	PLEASANTVILLE	R E	
02	NY	POLLUTION ABATEMENT SERVICES *	OSWEGO	R E	
07	IA	LABOUNTY SITE	CHARLES CITY	V E	
03	DE	ARMY CREEK LANDFILL	NEW CASTLE COUNTY	E	
02	NJ	CPS/MADISON INDUSTRIES	OLD BRIDGE TOWNSHIP	E	
01	MA	NYANZA CHEMICAL WASTE DUMP	ASHLAND	R	
02	NJ	GEMS LANDFILL	GLOUCESTER TOWNSHIP	R E	
05	MI	BERLIN & FARRO	SWARTZ CREEK	R	
01	MA	BAIRD & MCGUIRE	HOLBROOK	R E	
02	NJ	LONE PINE LANDFILL	FREEHOLD TOWNSHIP	R E	
01	NH	SOMERSWORTH SANITARY LANDFILL	SOMERSWORTH		D
05	MN	FMC CORP.	FRIDLEY	V E	
06	AR	VERTAC, INC.	JACKSONVILLE	V E	
01	NH	KES - EPPING	EPPING	R E	
08	SD	WHITEWOOD CREEK *	WHITEWOOD	V	
08	MT	SILVER BOW/DEER LODGE	SILVER BOW CREEK		D
06	TX	FRENCH, LTD.	CROSBY	R	
01	NH	SYLVESTER *	NASHUA	R E	
05	NY	LIQUID DISPOSAL INC.	UTICA	R	
03	PA	MCADOO ASSOCIATES *	MCADOO BOROUGH	R E	
06	TX	MOTCO *	LA MARQUE	R	
05	OH	ARCANUM IRON & METAL	DARKE COUNTY	E	
06	TX	SIKES DISPOSAL PITS	CROSBY	R E	
04	AL	TRIANA TENNESSEE RIVER	LIMESTONE/MORGAN	E	
09	CA	STRINGFELLOW *	GLEN AVON HEIGHTS	R E	
01	ME	MCKIN CO.	GRAY	R	
06	TX	CRYSTAL CHEMICAL CO.	HOUSTON	R E	
02	NJ	BRIDGEPORT RENTAL & OIL	BRIDGEPORT	V R E	
08	CO	SAND CREEK	COMMERCE CITY		D
01	MA	W R GRACE CO. (ACTON PLANT)	ACTON	V E	
05	MN	REILLY TAR *	ST. LOUIS PARK	R E	
02	NJ	BURNT FLY BOG	MARLBORO TOWNSHIP	R E	
04	FL	SCHUYLKILL METALS CORP.	PLANT CITY		D
05	MN	NEW BRIGHTON/ARDEN HILLS	NEW BRIGHTON	R E	
02	NY	OLD BETHPAGE LANDFILL	OYSTER BAY	E	
04	FL	REEVES SE GALVANIZING CORP.	TAMPA		D
08	MT	ANACONDA SMELTER - ANACONDA	ANACONDA	V	
10	WA	WESTERN PROCESSING CO., INC.	KENT	E	
04	FL	AMERICAN CREOSOTE WORKS	PENSACOLA		D
02	NJ	CALDWELL TRUCKING CO.	FAIRFIELD	E	
02	NY	GE MOREAU	SOUTH GLENS FALLS	E	
05	IN	SEYMOUR RECYCLING CORP. *	SEYMOUR	V R E	
06	OK	TAR CREEK	OTTAWA COUNTY	R	
07	KS	CHEROKEE COUNTY	CHEROKEE COUNTY		D
02	NJ	BRICK TOWNSHIP LANDFILL	BRICK	E	

#: V = VOLUNTARY OR NEGOTIATED RESPONSE; R = FEDERAL AND STATE RESPONSE;
E = FEDERAL AND STATE ENFORCEMENT; D = ACTIONS TO BE DETERMINED.
* = STATES' DESIGNATED TOP PRIORITY SITES.

Group 2

EPA REG	ST	SITE NAME *	CITY/COUNTY	RESPONSE STATUS #	
05	MI	NORTHERNAIRE PLATING	CADILLAC	R	
10	WA	FRONTIER HARD CHROME	VANCOUVER	R E	
04	FL	DAVIE LANDFILL	DAVIE		D
04	FL	GOLD COAST OIL CORP.	MIAMI	V	
09	AZ	TUCSON INT'L AIRPORT	TUCSON	V R	
02	NY	WIDE BEACH DEVELOPMENT	BRANT		D
09	CA	IRON MOUNTAIN MINE	REDDING	R	
02	NJ	SCIENTIFIC CHEMICAL PROCESSING	CARLSTADT	E	
08	CO	CALIFORNIA GULCH	LEADVILLE	R	
02	NJ	D'IMPERIO PROPERTY	HAMILTON TOWNSHIP	R	
05	MN	OAKDALE DUMP	OAKDALE	V R E	
05	IL	A & F MATERIALS	GRENNUP	R E	
03	PA	DOUGLASSVILLE DISPOSAL	DOUGLASSVILLE		D
02	NJ	KRYSOWATY FARM	HILLSBOROUGH	R	
05	MN	KOPPERS COKE	ST. PAUL		D
01	MA	PLYMOUTH HARBOR/CANNON ENG	PLYMOUTH	R E	
10	ID	BUNKER HILL MINING	SHELTERVILLE	E	
02	NJ	UNIVERSAL OIL PRODUCTS(CHEM DIV)	EAST RUTHERFORD	E	
09	CA	AEROJET GENERAL CORP.	RANCHO CORDOVA	E	
10	WA	COM. BAY, S. TACOMA CHANNEL	TACOMA	R E	
03	PA	OSBORNE LANDFILL	GROVE CITY		D
02	NY	SYOSSET LANDFILL	OYSTER BAY		D
09	AZ	NINETEENTH AVENUE LANDFILL	PHOENIX	E	
10	OR	TELEDYNE WAH CHANG	ALBANY		D
05	MI	GRATIOT COUNTY LANDFILL *	ST. LOUIS	V E	
01	RI	PICILLO FARM *	COVENTRY	R E	
01	MA	NEW BEDFORD *	NEW BEDFORD	V R E	
06	LA	OLD INGER OIL REFINERY *	DARROW	R	
05	OH	CHEM-DYNE *	HAMILTON	V R E	
04	SC	SCRDI BLUFF ROAD *	COLUMBIA	V R E	
01	CT	LAUREL PARK, INC. *	NAUGATUCK BOROUGH	E	
08	CO	MARSHALL LANDFILL *	BOULDER COUNTY		D
05	IL	OUTBOARD MARINE CORP. *	WAUKEGAN	R E	
06	NM	SOUTH VALLEY *	ALBUQUERQUE		D
01	VT	PINE STREET CANAL *	BURLINGTON		D
03	WV	WEST VIRGINIA ORDNANCE *	POINT PLEASANT	R	
07	MO	ELLISVILLE SITE *	ELLISVILLE	R	
08	ND	ARSENIC TRIOXIDE SITE *	SOUTHEASTERN	R	
09	TT	PCB WASTES *	PACIFIC TRUST TERR.	R	
03	VA	MATTHEWS ELECTROPLATING *	ROANOKE COUNTY	R	
07	IA	AIDEX CORP. *	COUNCIL BLUFFS	R E	
09	AZ	MOUNTAIN VIEW MOBILE HOMES *	GLOBE	R E	
09	AS	TAPUTIMU FARM *	AMERICAN SAMOA		D
04	TN	NORTH HOLLYWOOD DUMP *	MEMPHIS	R	
04	KY	A. L. TAYLOR(VALLEY OF THE DRUMS)	BROOKS	R E	
04	NC	PCB SPILLS *	210 MILES OF ROADS	R E	
09	GU	ORDOT LANDFILL *	GUAM	R	
08	UT	ROSE PARK SLUDGE PIT *	SALT LAKE CITY	V	
07	KS	ARKANSAS CITY DUMP *	ARKANSAS CITY	R	
09	CM	PCB WAREHOUSE *	NORTH MARIANAS	R	

#: V = VOLUNTARY OR NEGOTIATED RESPONSE; R = FEDERAL AND STATE RESPONSE;
E = FEDERAL AND STATE ENFORCEMENT; D = ACTIONS TO BE DETERMINED.
* = STATES' DESIGNATED TOP PRIORITY SITES.

Group 3

Group 4

Group 3

EPA REG	ST	SITE NAME *	CITY/COUNTY	RESPONSE STATUS ◊			
02	NY	SINCLAIR REFINERY	WELLSVILLE		R		
04	AL	MOWBRAY ENGINEERING CO.	GREENVILLE				D
05	MI	SPIEGELBERG LANDFILL	GREEN OAK TOWNSHIP		R		
04	FL	MIAMI DRUM SERVICES	MIAMI		R	E	
02	NJ	REICH FARMS	PLEASANT PLAINS			E	
02	NJ	SOUTH BRUNSWICK LANDFILL	SOUTH BRUNSWICK	V			
04	FL	KASSAUF-KIMERLING BATTERY DISP.	TAMPA			E	
05	IL	WAUCONDA SAND & GRAVEL	WAUCONDA		R		
01	RI	OTTATI & GOSS/KINGSTON STEEL DRUM	KINGSTON		R	E	
05	MI	OTT/STORY/CORDOVA	DALTON TOWNSHIP		R		
02	NJ	ML INDUSTRIES	FREDRICKTOWN			E	
02	NJ	RINGWOOD MINES/LANDFILL	RINGWOOD BOROUGH				D
04	FL	WHITEHOUSE OIL PITS	WHITEHOUSE		R		
05	MI	VELSICOL MICHIGAN	ST. LOUIS	V		E	
05	OH	SUMMIT NATIONAL	DEERFIELD TOWNSHIP	V		E	
02	NY	LOVE CANAL	NIAGARA FALLS		R	E	
05	IN	FISHER CALO	LA PORTE	V		E	
04	FL	PIONEER SAND CO.	WARRINGTON			E	
05	MI	SPRINGFIELD TOWNSHIP DUMP	DAVISBURG		R		
03	PA	KRANICA LANDFILL	BUFFALO TOWNSHIP				D
04	NC	MARTIN MARIETTA,BODYCO	CHARLOTTE				D
04	FL	SELLWOOD GROUNDWATER CONTAM	SELLWOOD				D
05	WI	PACKAGING CORP. OF AMERICA	FILER CITY				D
02	NY	HOOKER - S AREA	NIAGARA FALLS			E	
03	PA	LINDANE DUMP	HARRISON TOWNSHIP			E	
08	CO	CENTRAL CITY, CLEAR CREEK	IDAHO SPRINGS		R		
04	FL	TAYLOR ROAD LANDFILL	SEFFNER			E	
01	RI	WESTERN SAND & GRAVEL	BURRILLVILLE		R	E	
02	NJ	HAYWOOD CHEMICAL CO.	HAYWOOD/ROCHELLE PK			E	
06	OK	HARDAGE/CRINER	CRINER		R	E	
05	MI	ROSE TOWNSHIP DUMP	ROSE TOWNSHIP		R		
05	MN	WASTE DISPOSAL ENGINEERING	ANDOVER				D
02	NJ	KIN-BUC LANDFILL	EDISON TOWNSHIP	V	R	E	
05	OH	BOWERS LANDFILL	CIRCLEVILLE				D
02	NJ	TOMS RIVER CHEMICAL	TOMS RIVER				D
05	MI	BUTTERWORTH ◊2 LANDFILL	GRAND RAPIDS			E	
02	NJ	AMERICAN CYANAMID CO.	BOUND BROOK			E	
03	PA	NELEVA LANDFILL	NORTH WHITEHALL TWP				D
02	NY	BATAVIA LANDFILL	BATAVIA				D
01	RI	L & BR, INC.	NORTH SMITHFIELD			E	
04	FL	NW 58TH STREET LANDFILL	HIALEAH			E	
04	FL	SIXTY-SECOND STREET DUMP	TAMPA				D
05	MI	G&H LANDFILL	UTICA		R		
02	NJ	METALTEC/AEROSYSTEMS	FRANKLIN BOROUGH			E	
02	NJ	LANG PROPERTY	PEMBERTON TOWNSHIP				D
02	NJ	SHARKEY LANDFILL	PARSIPPANY, TROY HLS				D
09	CA	SELMA TREATING CO.	SELMA			E	
06	LA	CLEVE REBER	SORRENTO				D
05	IL	VELSICOL ILLINOIS	MARSHALL	V			
05	MI	TAR LAKE	MANCELONA TOWNSHIP		R		

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Group 4

EPA REG	ST	SITE NAME *	CITY/COUNTY	RESPONSE STATUS ◊			
02	NJ	COMBE FILL NORTH LANDFILL	MOUNT OLIVE TWP				D
01	MA	RE-SOLVE, INC.	DARTMOUTH		R	E	
02	NJ	GOOSE FARM	PLUMSTEAD TOWNSHIP		R		
04	TN	VELSICOL (HARDEMAN COUNTY)	TOONE	V			
02	NY	YORK OIL CO.	MOIRA		R		
04	FL	SAPP BATTERY SALVAGE	COTTONDALE		R		
07	KS	DORPKE DISPOSAL, HOLLIDAY	JOHNSON COUNTY				D
01	RI	DAVIS LIQUID WASTE	SMITHFIELD		R	E	
01	MA	CHARLES-GEORGE RECLAMATION	TYNGSBOROUGH			E	
02	NJ	KING OF PRUSSIA	WINSLOW TOWNSHIP				D
03	VA	CHISMAN CREEK	YORK COUNTY				D
05	OH	HEASE CHEMICAL	SALEM				D
02	NJ	CHEMICAL CONTROL	ELIZABETH		R	E	
05	OH	ALLIED CHEMICAL & IRONTON COKE	IRONTON				D
05	MI	VERONA WELL FIELD	BATTLE CREEK		R		
01	CT	BEACON HEIGHTS LANDFILL	BEACON FALLS				D
05	MN	BURLINGTON NORTHERN	BRAINERD/BAXTER				D
03	PA	MALVERN TCE	MALVERN		R		
02	NY	FACET ENTERPRISES, INC.	ELMIRA	V			
03	DE	DELAWARE SAND & GRAVEL LANDFILL	NEW CASTLE COUNTY				D
04	TN	MURRAY OHIO DUMP	LAWRENCEBURG				D
05	IN	ENVIROCHEM	ZIONSVILLE		R		
05	IN	MIDCO I	GARY		R	E	
04	FL	COLEMAN EVANS WOOD PRESERVING CO.	WHITEHOUSE			E	
04	FL	FLORIDA STEEL CORP.	INDIANTOWN				D
09	AZ	LITCHFIELD AIRPORT AREA	GOODYEAR/AVONDALE				D
02	NJ	SPENCE FARM	PLUMSTEAD TOWNSHIP		R		
06	AR	MID-SOUTH WOOD PRODUCTS	MENA			E	D
04	FL	BROWN WOOD PRESERVING	LIVE OAK				D
02	NY	PORT WASHINGTON LANDFILL	PORT WASHINGTON			E	
02	NJ	COMBE FILL SOUTH LANDFILL	CHESTER TOWNSHIP				D
02	NJ	JIS LANDFILL	JAMESBURG/S.BRUNSWIC			E	
03	PA	CENTRE COUNTY KEPONE	STATE COLLEGE BOROUG			E	
05	OH	FIELDS BROOK	ASHTABULA		R	E	
01	CT	SOLVENTS RECOVERY SERVICE	SOUTHINGTON	V		E	
08	CO	WOODBURY CHEMICAL CO.	COMMERCE CITY		R		
01	MA	HOCOMONCO POND	WESTBOROUGH		R		
04	KY	DISTLER BRICKYARD	WEST POINT		R		
02	NY	RAMAPO LANDFILL	RAMAPO			E	
09	CA	COAST WOOD PRESERVING	UKIAH			E	
02	NY	MERCURY REFINING, INC.	COLONIE			E	
04	FL	HOLLINGSWORTH SOLDERLESS TERMINAL	FORT LAUDERDALE				D
02	NY	OLEAN WELL FIELD	OLEAN		R		
04	FL	VARSOL SPILL	MIAMI	V	R		
08	CO	DENVER RADIUM SITE	DENVER		R		
04	FL	TOWER CHEMICAL CO.	CLERMONT		R	E	
07	MO	SYNTEX FACILITY	VERONA	V		E	
08	MT	MILLTOWN RESERVOIR SEDIMENTS	MILLTOWN		R		
02	NJ	PIJAK FARM	PLUMSTEAD TOWNSHIP		R		
02	NJ	SYNCON RESINS	SOUTH KEARNY	V		E	

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Group 5

EPA REG	ST	SITE NAME *	CITY/COUNTY	RESPONSE STATUS #		
09	CA	LIQUID GOLD OIL CORP.	RICHMOND		E	
09	CA	PURITY OIL SALES, INC.	MALAGA			D
01	NH	TINKHAM GARAGE	LONDONDERRY	R		
04	FL	ALPHA CHEMICAL CORP.	GALLOWAY			D
02	NJ	BOG CREEK FARM	HOWELL TOWNSHIP	R		
01	ME	SACO TANNERY WASTE PITS	SACO	R		
04	FL	PICKETTVILLE ROAD LANDFILL	JACKSONVILLE			D
03	PA	PALMERTON ZINC PILE	PALMERTON			D
05	IN	NEAL'S LANDFILL	BLOOMINGTON		E	
01	MA	SILRESIN CHEMICAL CORP.	LOWELL	R	E	
01	MA	WELLS G&H	WOBURN		E	
02	NJ	CHEMSOL, INC.	PISCATAWAY			D
05	MI	PETOSKEY MUNICIPAL WELL FIELD	PETOSKEY	R		
02	NJ	FAIR LAWN WELL FIELD	FAIR LAWN			D
05	IN	MAIN STREET WELL FIELD	ELKHART			D
05	MN	LEMILLIER/MANKATO	LEMILLIER	R		
10	WA	LAKEWOOD	LAKEWOOD		E	
02	NJ	MONROE TOWNSHIP LANDFILL	MONROE TOWNSHIP		E	
02	NJ	ROCKAWAY BOROUGH WELL FIELD	ROCKAWAY TOWNSHIP			D
05	IN	WAYNE WASTE OIL	COLUMBIA CITY	R	E	
07	IA	DES MOINES TCE	DES MOINES			D
02	NJ	BEACHWOOD/BERKLEY WELLS	BERKLEY TOWNSHIP			D
02	NY	VESTAL WATER SUPPLY WELL 4-2	VESTAL		E	
09	AZ	INDIAN BEND WASH AREA	SCOTTSDALE			D
10	WA	COM. BAY, NEAR SHORE/TIDE FLAT	PIERCE COUNTY	R	E	
05	IL	LASALLE ELECTRIC UTILITIES	LA SALLE	R		
05	IL	CROSS BROS/PEMBROKE	PEMBROKE TOWNSHIP	R		
09	CA	MCCOLL	FULLERTON			D
10	WA	COLBERT LANDFILL	SPOKANE	R		
02	PR	FRONTERA CREEK	RIO ABAJO			D
02	PR	BARCELONETA LANDFILL	FLORIDA AFUERA			D
03	MD	SAND, GRAVEL AND STONE	ELKTON		E	
05	MI	SPARTAN CHEMICAL CO.	WYOMING		E	
02	NJ	ROEBLING STEEL CO.	FLORENCE			D
04	TN	AMNICOLA DUMP	CHATTANOOGA			D
02	NJ	VINELAND STATE SCHOOL	VINELAND			D
03	PA	ENTERPRISE AVENUE	PHILADELPHIA			D
01	MA	GROVELAND WELLS	GROVELAND		R	
04	SC	SCRDI DIXIANA	CAYCE			E
07	MO	FULBRIGHT LANDFILL	SPRINGFIELD			D
03	PA	PRESQUE ISLE	ERIE			D
02	NJ	WILLIAMS PROPERTY	SWAINTON		R	
02	NJ	REMORA, INC.	EDISON TOWNSHIP			D
02	NJ	DENZER & SCHAFER X-RAY CO.	BAYVILLE			E
02	NJ	HERCULES, INC. (GIBBSTOWN)	GIBBSTOWN			D
05	IN	NINTH AVE. DUMP	GARY	V		E
06	AR	GURLEY PIT	EDMONDSEN			D
01	RI	PETERSON/PURITAN, INC.	LINCOLN/CUMBERLAND	V		
07	MO	TIMES BEACH	TIMES BEACH		R	
05	MI	WASH KING LAUNDRY	PLEASANT PLAINS TWP			D

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Group 6

EPA REG	ST	SITE NAME *	CITY/COUNTY	RESPONSE STATUS #		
05	MN	NL INDUSTRIES/TARACORP/GOLDEN	ST. LOUIS PARK	V		
01	MA	CANNON ENGINEERING CORP. (CEC)	BRIDGEWATER		R	E
02	NY	NIAGARA COUNTY REFUSE	WHEATFIELD			D
04	FL	SHERWOOD MEDICAL INDUSTRIES	DELAND			D
05	MI	SOUTHWEST OTTAWA LANDFILL	PARK TOWNSHIP			E
02	NY	KENTUCKY AVE. WELL FIELD	HORSEHEADS			D
02	NJ	ASBESTOS DUMP	MILLINGTON			D
04	KY	LEE'S LANE LANDFILL	LOUISVILLE			D
06	AR	FRIT INDUSTRIES	WALNUT RIDGE	V		E
05	OH	FULTZ LANDFILL	JACKSON TOWNSHIP			D
05	OH	COSHOCTON LANDFILL	FRANKLIN TOWNSHIP			D
03	PA	LORD-SHOPE LANDFILL	GIRARD TOWNSHIP			E
10	WA	PMC CORP. (YAKIMA)	YAKIMA	V		
01	MA	PSC RESOURCES	PALMER	V		
05	MI	FOREST WASTE PRODUCTS	OTISVILLE		R	
03	PA	DRAKE CHEMICAL	LOCK HAVEN		R	
03	PA	HAVERTOWN PCP	HAVERFORD			E
03	DE	NEW CASTLE SPILL	NEW CASTLE COUNTY			D
05	IN	LAKE SANDY JO (MAN LANDFILL)	GARY			D
05	IL	JOHNS-MANVILLE CORP.	WAUKEGAN			D
05	MI	CHEM CENTRAL	WYOMING TOWNSHIP			D
05	MI	NOVACO INDUSTRIES	TEMPERANCE			D
02	NJ	JACKSON TOWNSHIP LANDFILL	JACKSON TOWNSHIP			E
05	MI	K & L AVENUE LANDFILL	OSHTEMO TOWNSHIP		R	
10	WA	KAISER MEAD	MEAD			D
05	MI	CHARLEVOIX MUNICIPAL WELL	CHARLEVOIX			D
02	NJ	MONTGOMERY TOWNSHIP HOUSING DEV	MONTGOMERY TOWNSHIP			D
02	NJ	ROCKY HILL MUNICIPAL WELL	ROCKY HILL BOROUGH			D
02	NY	BREWSTER WELL FIELD	PUTNAM COUNTY			D
02	NY	VESTAL WATER SUPPLY WELL 1-1	VESTAL			E
02	NJ	U.S. RADIUM CORP.	ORANGE			D
06	TX	HIGHLANDS ACID PIT	HIGHLANDS		R	
03	PA	RESIN DISPOSAL	JEFFERSON BOROUGH			E
08	MT	LIBBY GROUND WATER CONTAMINATION	LIBBY			D
04	KY	NEWPORT DUMP	NEWPORT			E
03	PA	MOYERS LANDFILL	EAGLEVILLE			E
04	FL	PARRAMORE SURPLUS	MOUNT PLEASANT	V		
05	MI	HEDBLUM INDUSTRIES	OSCODA			D
08	WY	BAXTER/UNION PACIFIC TIE TREATING	LARAMIE			D
02	NJ	SAYREVILLE LANDFILL	SAYREVILLE			D
01	NH	DOVER MUNICIPAL LANDFILL	DOVER			D
02	NY	LUDLOW SAND & GRAVEL	CLAYVILLE			D
07	MO	MINKER/STOUT/ROMAINE CREEK	IMPERIAL		R	
01	CT	YAWORSKI WASTE LAGOON	CANTERBURY			E
03	WV	LEETOWN PESTICIDE	LEETOWN			D
02	NJ	EVOR PHILLIPS LEASING	OLD BRIDGE TOWNSHIP			D
03	PA	WADE (ABM)	CHESTER		R	E
03	PA	LACKAWANNA REFUSE	OLD FORGE BOROUGH			E
02	NJ	MANNHEIM AVENUE DUMP	GALLOWAY TOWNSHIP			D
02	NY	FULTON TERMINALS	FULTON	V		

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Group 7

Group 8

Group 7

EPA REG	ST	SITE NAME *	CITY/COUNTY	RESPONSE STATUS #		
01	NH	AUBURN ROAD LANDFILL	LONDONDERRY		E	
03	WV	FIKE CHEMICAL, INC.	NITRO	V		
09	CA	LASKIN/POPLAR OIL CO.	JEFFERSON TOWNSHIP	R	E	
05	OH	OLD MILL	ROCK CREEK	R		
07	KS	JOHNS' SLUDGE POND	WICHITA	V	E	
02	NJ	SWOPE OIL & CHEMICAL CO.	PENNSAUKEN			D
01	ME	WINTHROP LANDFILL	WINTHROP	R		
06	AR	CECIL LINDSEY	NEWPORT			D
05	OH	SANESVILLE WELL FIELD	SANESVILLE			D
05	MI	GRAND TRAVERSE OVERALL SUPPLY CO.	GREILICKVILLE			D
05	MN	SOUTH ANDOVER SITE	ANDOVER			D
05	MI	KENTWOOD LANDFILL	KENTWOOD	R		
05	IN	MARION (BRAGG) DUMP	MARION			D
05	OH	PRISTINE, INC.	READING		E	
05	OH	BUCKEYE RECLAMATION	ST. CLAIRSVILLE			D
06	TX	BIO-ECOLOGY SYSTEMS, INC.	GRAND PRAIRIE	R		
01	VT	OLD SPRINGFIELD LANDFILL	SPRINGFIELD			D
02	NY	SOLVENT SAVERS	LINCKLAEN		E	
03	VA	U.S. TITANIUM	PINEY RIVER		E	
05	IL	GALESBURG/KOPPERS	GALESBURG			D
02	NY	BOOKER - HYDE PARK	NIAGARA FALLS	V	E	
05	MI	SCA INDEPENDENT LANDFILL	MUSKEGON HEIGHTS		E	
09	CA	MGM BRAKES	CLOVERDALE		E	
05	MI	DUELL & GARDNER LANDFILL	DALTON TOWNSHIP	R		
02	NJ	ELLIS PROPERTY	EVESHAM TOWNSHIP	R		
04	KY	DISTLER FARM	JEFFERSON COUNTY	R		
10	WA	HARBOR ISLAND LEAD	SEATTLE			D
05	OH	E.H. SCHILLING LANDFILL	HAMILTON TOWNSHIP			D
05	MI	CLIFF/DOW DUMP	MARQUETTE		E	D
06	NM	HOMESTAKE MINING CO.	MILAN	V	E	
05	MI	MASON COUNTY LANDFILL	PERE MARQUETTE TWP		E	
05	MI	CEMETERY DUMP	ROSE CENTER	R		
01	RI	STAMINA MILLS, INC.	NORTH SMITHFIELD	R	E	
01	ME	PINETTE'S SALVAGE YARD	WASHBURN			D
06	TX	HARRIS (FARLEY ST)	HOUSTON	V	E	
03	PA	OLD CITY OF YORK LANDFILL	SEVEN VALLEYS		E	
05	IL	BYRON SALVAGE YARD	BYRON	R		
03	PA	STANLEY KESSLER	KING OF PRUSSIA		E	
02	NJ	FRIEDMAN PROPERTY	UPPER FREEHOLD TWP	R		
02	NJ	IMPERIAL OIL/CHAMPION CHEMICALS	MORGANVILLE		E	
02	NJ	MYERS PROPERTY	FRANKLIN TOWNSHIP			D
02	NJ	PEPE FIELD	BOONTON			D
05	MI	OSSINEKE GROUND WATER CONTAM	OSSINEKE	R		
03	WV	FOLLANSBEE	FOLLANSBEE			D
05	MI	U.S. AVIEX	HOWARD TOWNSHIP		E	
06	NM	AT & SF / CLOVIS	CLOVIS			D
02	NY	AMERICAN THERMOSTAT CO.	SOUTH CAIRO		E	
04	TN	LEWISBURG DUMP	LEWISBURG			D
05	MI	MCGRAW EDISON CORP.	ALBION		E	
03	PA	METAL BANKS	PHILADELPHIA		E	

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[FR Doc. 83-24536 Filed 9-7-83; 8:45 am]

BILLING CODE 6560-50-C

Group 8

EPA REG	ST	SITE NAME *	CITY/COUNTY	RESPONSE STATUS #		
04	KY	B.F. GOODRICH	CALVERT CITY			D
05	MI	ORGANIC CHEMICALS, INC.	GRANDVILLE		E	
02	PR	JUNCOS LANDFILL	JUNCOS			D
04	FL	MUNISPORT LANDFILL	NORTH MIAMI			D
02	NJ	M&T DELISA LANDFILL	ASBURY PARK			D
10	OR	GOULD, INC.	PORTLAND		E	
05	MI	AUTO ION CHEMICALS, INC.	KALAMAZOO	R		
04	SC	CAROLAWN, INC.	FORT LAWN	R	E	
05	MI	SPARTA LANDFILL	SPARTA TOWNSHIP		E	
05	IL	ACME SOLVENT/MORRISTOWN	MORRISTOWN	R		
01	ME	O'CONNOR	AUGUSTA			D
05	MI	RASMUSSEN'S DUMP	BRIGHTON	R		
03	PA	WESTLINE	WESTLINE			D
05	MI	IONIA CITY LANDFILL	IONIA	R		
05	IN	WEDZEB INC	LEBANON		E	
02	PR	GE WIRING DEVICES	JUANA DIAZ			D
05	OH	NEW LYME LANDFILL	NEW LYME			D
02	PR	RCA DEL CARIBE	BARCELONETA			D
03	PA	BRODHEAD CREEK	STROUDSBURG	R		
05	MI	ANDERSON DEVELOPMENT CO.	ADRIAN		E	
05	MI	SHIAWASSEE RIVER	HOWELL	R		
03	DE	HARVEY & KNOTT DRUM, INC.	KIRKWOOD	R		
04	TN	GALLAWAY PITS	GALLAWAY		E	
05	OH	BIG D CAMPGROUND	KINGSVILLE			D
03	DE	WILDCAT LANDFILL	DOVER			D
03	PA	BLOSENSKI LANDFILL	WEST CALN TOWNSHIP		E	
03	DE	DELAWARE CITY PVC PLANT	DELAWARE CITY			D
03	MD	LIMESTONE ROAD	CUMBERLAND		E	
02	NY	BOOKER - 102ND STREET	NIAGARA FALLS		E	
03	DE	NEW CASTLE STEEL	NEW CASTLE COUNTY			D
06	NM	UNITED NUCLEAR CORP.	CHURCH ROCK			D
06	AR	INDUSTRIAL WASTE CONTROL	FT. SMITH			D
09	CA	CELTOR CHEMICAL WORKS	HOOPA	R		
04	AL	PERDIDO GROUND WATER CONTAM	PERDIDO			D
02	NY	MARATHON BATTERY CORP.	COLD SPRINGS			D
03	PA	LEHIGH ELECTRIC & ENG. CO.	OLD FORGE BOROUGH	R	E	
05	OH	SKINNER LANDFILL	WEST CHESTER			D
04	NC	CHEMTRONICS, INC.	SWANNANOA			D
07	MO	SHENANDOAH STABLES	MOSCOW MILLS		E	
06	LA	BAYOU BONFOUCA	SLIDELL			D
03	VA	SALTVILLE WASTE DISPOSAL PONDS	SALTVILLE			D
03	PA	KIMBERTON	KIMBERTON BOROUGH			D
03	MD	MIDDLETOWN ROAD DUMP	ANNAPOLIS		E	
10	WA	PESTICIDE LAB	YAKIMA			D
05	IN	LEMON LANE LANDFILL	BLOOMINGTON			D
10	ID	ARRCOM (DREXLER ENTERPRISES)	RATHDRUM			D
03	PA	FISCHER & PORTER CO.	WARMINSTER		E	
09	CA	JIBBOOM JUNKYARD	SACRAMENTO			D
02	NJ	A. O. POLYMER	SPARTA TOWNSHIP	R		
02	NJ	DOVER MUNICIPAL WELL 4	DOVER			D

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Group 9

EPA REG	ST	SITE NAME *	CITY/COUNTY	RESPONSE STATUS #		
02	NJ	ROCKAWAY TOWNSHIP WELLS	ROCKAWAY			D
06	TX	TRIANGLE CHEMICAL CO.	BRIDGE CITY	R	E	
02	NJ	PJP LANDFILL	JERSEY CITY			D
03	PA	CRAIG FARM DRUM	PARKER			D
03	PA	VOORTMAN FARM	UPPER SAUCON TWP			D
05	IL	BELVIDERE MUNICIPAL LANDFILL	BELVIDERE			D

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[S WER-FRL 2421-2]

Amendment to National Oil and Hazardous Substances Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency ("EPA") is proposing the first update to the National Priorities List ("NPL") which is promulgated today as Appendix B of the National Oil and Hazardous Substances Contingency Plan ("NCP"), pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA") and Executive Order 12316. CERCLA requires that the NPL be revised at least annually, and today's notice proposes the first such revision.

DATES: Comments may be submitted on or before November 7, 1983.

ADDRESSES: Comments may be mailed to Russell H. Wyer, Director, Hazardous Site Control Division, Office of Emergency and Remedial Response (WH–548E), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. The public docket for the update to the NCP will contain Hazard Ranking System score sheets for all sites on the proposed update, as well as a "Documentation Record" for each site describing the information used to compute the scores. The main docket is located in Room S–325 of Waterside Mall, 401 M Street, S.W., Washington, D.C., and is available for viewing from 9.00 a.m. to p.m., Monday through Friday, excluding holidays. Requests for copies of these documents should be directed to EPA Headquarters, although the same documents will be available for viewing in the EPA Regional Offices. In addition, the background data relied upon by the Agency in calculating or evaluating HRS scores are retained in the Regional Offices. Any such data in EPA files may be obtained upon request. An informal written request, rather than a formal request under the Freedom of Information Act, should be the ordinary procedure for requesting these data sources. Addresses for the Regional Office dockets are:

Jenifer Arns, Region I, U.S. EPA Library, John F. Kennedy Federal Bldg., Boston, MA 02203, 617/223–5791

Audrey Thomas, Region II, U.S. EPA Library, 10th Floor, New York, NY 10278, 212/264–2881

Diane McCreary, Region III, U.S. EPA Library, Curtis Building, 6th & Walnut Streets, Philadelphia, PA 19106, 215/597–0580

Carolyn Mitchell, Region IV, U.S. EPA Library, 345 Courtland Street NE., 404/257–4216

Lou Tilly, Region V, U.S. EPA Library, 230 South Dearborn Street, Chicago, IL 60604, 512/353–2022

Nita House, Region VI, U.S. EPA Library, First International Building, 1201 Elm Street, Dallas, TX 75270, 214/767–7341

Connier McKenzie, Region VII, U.S. EPA Library, Kansas City, MO 64106, 816/374–3497

Delores Eddy, Region VIII, U.S. EPA Library 1860 Lincoln Street, Denver, CO 80295, 303/837–2560

Jean Circiello, Region IX, U.S. EPA Library, 215 Fremont Street, San Francisco, CA 94105, 415/974–8076

Julie Sears, Region X, U.S. EPA Library, 1200 6th Avenue, Seattle, WA 98101, 206/442–1289.

FOR FURTHER INFORMATION CONTACT: C. Scott Parrish, Hazardous Site Control Division, Office of Emergency and Remedial Response (WH–548E), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, Phone (800) 424–9346 (or 382–3000 in the Washington, D.C., metropolitan area).

SUPPLEMENTARY INFORMATION:

Table of Contents

I. NPL Update Process and Schedule
II. Contents of the Proposed Update
III. Additional Criteria for Listing
IV. Regulatory Impact Analysis
V. Regulatory Flexibility Act Analysis

I. NPL Update Process and Schedule

Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), 42 U.S.C. §§ 9601–9657, EPA is required to establish, as part of the National Contingency Plan (NCP) for responding to releases of hazardous substances, a National Priorities List (NPL) of sites of such releases. The NPL serves as guidance to EPA in setting priorities among sites for further investigation and possible response actions. After proposing over 400 sites for inclusion on the NPL on December 30, 1982 (47 FR 58476), EPA has established a final NPL, which is being published in today's **Federal Register** immediately preceding this update proposal. The preamble to that final list explains in more detail the purpose of the NPL, the criteria used to develop the list, and how it will be administered and revised. The purpose of this notice is to propose the addition of 133 new sites to the NPL.

CERCLA requires that the NPL be revised at least once per year, and today's notice proposes the first such revision. EPA believes, however, that it may be desirable to update the list on a more frequent basis. Thus, the Agency may revise the NPL more often than is specified in CERCLA. For each revision, EPA will inform the States of the closing dates for submission of candidate sites to EPA. In addition to these periodic updates, EPA believes it may be desirable in rare instances to propose separately the addition of individual sites on the NPL as the Agency did in the case of the Times Beach, Missouri, site.

As with the establishment of the initial NPL, States have the primary responsibility for selecting and scoring sites that are condidates for inclusion on the NPL using the Hazard Ranking System (HRS) and submitting the candidates to the EPA Regional Offices. The regional Offices then conduct a quality control review of the States' candidate sites. After conducting this review, the EPA Regional Offices submit condidate sites to EPA Headquarters. The Regions may include candidate sites in addition to those submitted by States. In reviewing these submissions, EPA Headquarters conducts further quality assurance audits to ensure accuracy and consistency among the various EPA and State offices participating in the scoring.

EPA anticipates that each update publication will list sites in three categories: the "Current List;" "Proposed Additions;" and "Proposed Deletions". Sites on the "Current List" are those which have previously been proposed for listing, either in the initial NPL process or in any subsequent update proposal, and for which final scores have been established based on public comment and further investigation by EPA. In today's proposal, the "Current List" consists of the final NPL published immediately preceding this proposed update notice. As explained more fully in the preamble to the final NPL published today, once a site appears on the final "Current List," EPA does not expect to recalculate its HRS score. Although EPA does not plan to consider additional information on such sites for purposes of rescroing, the Agency always welcomes information on a site that may be useful in determining more precisely the nature of the release and what response actions may be appropriate.

"Proposed Additions" consist of sites not currently on the NPL that the Agency is proposing to add to the NPL. The "Proposed Additions" for this update are those contained in the list immediately following this preamble discussion. The Agency is requesting public comment on whether it is appropriate to add these sites to the final NPL, and may recalculate site scores based on comments received during the comment period.

"Proposed Deletions" will consist of sites on the current NPL that EPA proposes to delete because listing of the site no longer is appropriate. EPA is not today proposing to delete any sites from the NPL. The Agency will consider deleting sites on a case by case basis, according to internal EPA guidance currently being developed. Deletions may be based on such circumstances as the fact that the site has been cleaned up by EPA or the responsible party, or a determination that no fund-financed cleanup is appropriate. EPA does not anticipate, however, that deletions will be based on recalculations of a site's HRS score. The criteria for deletion under consideration by EPA are discussed more fully in the preamble to the final NPL.

II. Contents of the Proposed Update

Each entry on the final NPL, as well as proposed additions and deletions, contains the name of the facility, the State and city or county in which it is located, and the corresponding EPA Region. Each site EPA is proposing to add is placed by score in a group corresponding to the groups of 50 sites presented on the final NPL. Thus, the sites in group 1 of the proposed update have scores that fall within the range of scores covered by the first 50 sites on the final NPL. Each entry on the proposed update, as well as those on the final NPL, is accompanied by one or more notations on the status of response and enforcement activities at the site at the time the list was prepared or updated. These status categories are described briefly below.

Voluntary or Negotiated Response (V). Sites are included in this category if private parties are taking response actions pursuant to a consent order or agreement to which EPA is a party. Voluntary or negotiated cleanup may include actions taken pursuant to agreements reached after enforcement action had commenced. This category of response may include remedial investigations, feasibility studies, and other preliminary work, as well as actual cleanup.

Even though response actions qualify for notation in this category only if sanctioned by a formal agreement, this is not intended to preclude responsible parties from taking voluntary response actions outside of such an agreement. However, in order for the site to be deleted, or to be noted in the Voluntary or Negotiated Response category, EPA must still sanction the complete cleanup. If the remedial action is not fully implemented or is not consistent with the NCP, the responsible party may be subject to an enforcement action. Therefore, most responsible parties may find it in their best interest to negotiate a consent agreement.

Federal and State Response (R). The Federal and State Response category includes sites at which EPA or State agencies have commenced or completed removal or remedial actions under CERCLA, including remedial investigations and feasibility studies (see NCP section 300.68(f)(i)). For purposes of this categorization, EPA considers the response action to have begun when LPA has obligated funds. For some of the sites in this category, remedial investigations and feasibility studies may be followed by EPA enforcement actions, at which time the site status will change to "Federal or State Enforcement."

Federal or State Enforcement (E). This category includes sites where the United States or the State has filed a civil complaint or issued an administrative order. It also includes sites at which a Federal or State court has mandated some form of no-consensual response action following a judicial proceeding. It may not, however, include all sites at which preliminary enforcement activities are underway. A number of sites that EPA is proposing to add to the NPL are the subject of enforcement investigation or have been formally referred to the Department of Justice for enforcement action. EPA's policy is not to release information concerning a possible enforcement action until a lawsuit has been filed. Accordingly, these sites have not been included in the enforcement category.

Actions to be Determined (D). This category includes all sites not listed in any other category. A wide range of activities may be in progress for sites in this category. The Agency may be considering a response action, or may be conducting an enforcement investigation. EPA may have referred a case involving a site to the Department of Justice, but no lawsuit has yet been filed. Investigations may be underway or needed to determine the source of a release in areas adjacent to or near a Federal facility. Responsible parties may be undertaking cleanup operations that are unknown to the Federal or State government, or corrective action may not be occurring yet.

EPA requests public comment on each of the sites it is proposing to add to the NPL, and will accept such comments for 60 days following the date of this notice. A "Documentation Record" and HRS scoring sheets for all proposed sites are available for inspection and copying in the NPL docket located in Washington, D.C. These documents are also available in the EPA Regional Offices, as are background data referred to in the Documentation Records and relied on for scoring. In some instances, where States calculated site scores and EPA review and quality control checking did not require direct inspection of background data, these data may be available only from the State that conducted the original scoring. After considering the relevant comments received during the comment period and determining the final score for each proposed site, the Agency will add to the current NPL at the time of the next update all sites that meet EPA's criteria for listing.

III. Additional Criteria for Listing

The preamble to the proposed NPL (47 FR 58476, December 30, 1982) stated that the more than 400 sites on the proposed list were included based primarily on total scores ("migration" or "S_m" scores) calculated according to the HRS. For the proposed NPL, all sites (with the exception of some sites designated by States as "top priority" sites) scored 28.50 or higher according to the HRS.

EPA has found that the HRS scoring factors provide a good estimate of the relative hazards at sites for purpose of establishing a list of national priorities for further investigation and possible remedial action. As explained in the preamble to the proposed NPL (47 FR 58479, December 30, 1982) and the preamble to the NCP which discusses the HRS (47 FR 31187–88, July 16, 1982), the HRS total score used for the NPL is designed to take into account a standard set of factors related to risks from migration of substances through ground water, surface water, and the air. Although the HRS also does provide an approximation of risk from direct contact with substances and from the possibility of fire and explosion, these pathway scores are not considered in computing the HRS "total score" of a site for purposes of listing. Rather, scores from the direct contact and fire and explosion pathways are used as guidance in determining the need for immediate removal action at a site.

EPA has found, however, that in certain instances EPA's authority to

conduct an immediate removal action may not be sufficient to address completely the direct contact risks at a site, and that remedial action may therefore be warranted. For example, where relocation of residents is the appropriate remedy, the Agency's removal authority extends only to evacuation of threatened residents, whereas its remedial authority may include permanent relocation of those residents. Although EPA can take removal actions, including temporary relocation of residents, irrespective of whether a site appears on the NPL, the NCP (40 CFR 300.68(a)) provides that remedial actins may be taken only at sites on the NPL.

Since the "direct contact" scores are not included in calculating the HRS total score for purposes of listing sites on the NPL, some of the sites involving direct contact to residents where remedial action, rather than immediate removal action, appears necessary to address the problem completely may not receive a sufficiently high HRS total score to be listed on the NPL. This situation has led EPA to believe that in limited circumstances it may be appropriate to consider other criteria than simply a sufficiently high HRS total score for purposes of listing sites on the NPL to make them eligible for remedial action.

Quail Run Mobile Manor, Gray Summit, Missouri, is an example of a site that presents a significant risk to the public that may warrant remedial action, although its HRS total score is too low for the site to be included on the NPL. During the winter of 1982–1983, the EPA conducted environmental sampling at Quail Run as part of its investigation of a number of sites in the State of Missouri that were potentially contaminated with dioxin. The investigation of the Quail Run site revealed widespread dioxin contamination of yards, roadsides, and garden areas, as well as high concentrations under the road pavement and presence in at least one residence.

In the case of Quail Run, EPA believes that a number of factors suggest that it may be appropriate to consider including the site on the NPL even though its HRS total score is less than 28.50. First, based on EPA's sampling, the Centers for Disease Control (CDC) on May 11, 1983 issued a public health advisory for the trailer park. This advisory was based on the risk to residents posed by direct contact with the contaminated areas. Second the Federal Emergency Management Agency determined that temporary relocation of the residents was necessary to protect public health, based on the CDC avisory and its determination that the possible human exposure would continue unless the residents left their homes. Finally, EPA's current assessment is that some type of remedial action—as opposed to an immediate removal action—may be the most health-protective and cost-effective response.

Therefore, EPA is proposing to add the Quail Run site to the NPL. Including the Quail Run site on the NPL will permit EPA to consider the broadest possible range of response actions, including remedial actions, that will protect the public health and environment and provide the most cost-effective response.

EPA recognizes, however, that the sole criterion in the NCP for listing sites on the NPL is a sufficiently high HRS total score (or designation by a State as its top priority site). Before EPA includes the Quail Run site on the NPL, therefore, the Agency intends to amend the NCP to authorize consideration of limited criteria other than the HRS total score for purposes of including sites on the NPL. These alternative criteria would take into account circumstances such as those existing at the Quail Run site.

In preparing a proposed amendment to the NCP, EPA will consider the advisability of relying in part on health assessments or advisories such as those issued by the newly formed Agency for Toxic Substances and Disease Registry (ATSDR) or special information from the Federal Emergency Management Agency. Such information could serve as the technical basis for an EPA advisory committee review and subsequent administrative decision on the relative risk of the site. A related approach, for situations where persons at different locations are affected by the risks of direct contact from common substances (such as dioxin), might be to group such sites by geography or political subdivision on the NPL. For example, EPA might develop some process whereby many of the locations in Missouri involving direct contact risks from dioxin could be grouped into a single listing on the NPL if a suitable health assessment or advisory had been issued by an agency such as ATSDR with respect to those locations. Of course, this approach could also apply to similar dioxin risks in other States or territories.

EPA anticipates, however, that any alternative criteria it may develop will apply only to a limited number and type of sites. With rare exception, the HRS has proven to be an effective tool for approximating the risk posed by sites, and will remain the principal criterion for listing. EPA invites comments on the general issue of considering alternative criteria for listing on the NPL and on approaches such as those discussed above, as well as on the inclusion of the Quail Run site.

IV. Regulatory Impact Analysis

The EPA has conducted a preliminary analysis of the economic implications of today's amendment to the NCP. The EPA belives that the direction of the economic effects of this revision is generally similar to those effects identified in the regulatory impact analysis (RIA) prepared in 1982 for the revisions to the NCP pursuant to section 105 of CERCLA.[1] Nevertheless, the Agency intends to go beyond this earlier characterization of possible effects with a more extensive analysis of the combined economic impact of this update proposal and other amendments to the NCP that EPA may propose in the near future. The analysis will accompany publication of future major amendments to the NCP. A more comprehensive examination, together with more than 2 years of experience with the Superfund program, will allow better estimates of the economic impact of this and other proposed amendments. In the meantime, the Agency belives the anticipated economic effects of adding 133 sites to the NPL can be characterized in terms of the conclusions of the earlier regulatory impact analysis.

Costs

The costs associated with revising the NCP that were estimated in the 1982 RIA included costs to States of meeting cost-share requirements; costs to industries and individual firms of financing remedies at NPL sites as a result either of enforcement or cost recovery action or of voluntary response; and macroeconomic costs resulting from effects on industries and State governments. Each of these types of costs is discussed below.

Costs to States associated with today's amendment arise from the statutory State cost-share requirement of 10 percent of remedial action costs at privately-owned sites. Using the assumptions developed in the 1982 RIA, we can assume that 90 percent of the 133 sites proposed for listing in this amendment will involve a 10 percent State cost share, and 10 percent will

[1] TCF Incorporated, Regulatory Impact Analysis of the Revisions to the National Oil and Hazardous Substances Contingency Plan, February 16, 1982. The analysis is available for inspection at the U.S. Environmental Protection Agency, 401 M Street, S. W., Washington, D.C. 20460.

involve a 50 percent cost share at publicly-owned sites. Estimating the average costs of a remedial action at $6.5 million, the cost to all States of undertaking Federal remedial actions at all 133 sites would be $121 million.

Cost to industry could result from required financing of remedies at sites on the NPL under enforcement or cost recovery action. Firms could also be induced to respond to sites for which they are responsible as a prudent business action to avoid possible enforcement actions and to prevent adverse publicity if they are linked to hazardous waste sites that are now national priority targets. Precise estimates must await the full analysis to be conducted; however, the range of costs would extend from zero (if none of the 133 sites is addressed) to a maximum of $865 million (if the 133 sites are privately-owned and each remedial action costs an average of $6.5 million). The EPA cannot identify at this time which firms may be threatened with specific portions of response costs. The act of adding a hazardous waste site to the NPL does not itself cause firms responsible for that site to bear these costs. Instead, listing acts only as a potential trigger for subsequent enforcement, cost recovery, or voluntary remedial efforts. Moreover, it remains at EPA's discretion whether or not to proceed with enforcement actions against firms which may be adversely affected by such actions.

Economy-wide effects of this amendment are aggregations of effects on firms and State and local governments. Although effects could be felt by some individual firms and States, the total impact of this revision on output, prices, and employment is expected to be negligible at the national level, as was the case in the 1982 RIA.

Benefits

Associated with the costs are significant potential benefits and cost offsets. The distributional costs to firms of financing NPL remedies have corresponding "benefits" in that each dollar expended for a response puts someone to work directly or indirectly (through purchased materials).

The real benefits associated with today's amendment come in the form of increased health and environmental protection as a result of additional response actions at hazardous waste sites. In addition to the potential for more Federally-financed remedial actions, expansion of the NPL could accelerate privately-financed, voluntary cleanup efforts to avoid potential adverse publicity, torts, and/or enforcement action. Listing sites as national priority targets may also give States increased support for funding responses at particular sites.

As a result of the additional NPL remedies, there will be lower human exposure to high-risk chemicals, and higher quality surface water, ground water, soil, and air. The magnitude of these benefits is expected to be significant, although difficult to estimate. As an example of a rough calculation, the 1982 RIA estimated that the population potentially at risk from contamination of ground water, soil, and air would be reduced by approximately 1.8 million, 600,000, and 97,000 respectively, if remdial actions were taken at 170 NPL sites. Assuming an average estimate per NPL site of 10,000 people at risk of exposure to contaminated ground water, response actions at the 133 sites to be listed by this revision could result in a reduced risk of exposure to ground water contamination for up to 1.3 million people.

V. Regulatory Flexibility Act Analysis

As required by the Regulatory Flexibility Act of 1980, the Agency has reviewed the impact of this revision to the NCP on small entities. The EPA certifies that the revision will not have a significant impact on a substantial number of small entities.

While modifications to the NPL are considered revisions to the NCP, they are not typical regulation changes since the change does not automatically impose across-the-board costs. As a consequence, it is hard to predict effects. The Agency does expect that certain industries and firms within industries that have caused a proportionally high percentage of waste site problems will possibly be significantly affected by CERCLA actions. Being included on the NPL will increase the likelihood that these effects will occur. The costs, when imposed to these affected firms and industries, are justified because of the public health and environmental problems they have caused. Adverse effects are not expected to affect a substantial number of small businesses, as a class.

List of Subjects in 40 CFR Part 300

Air pollution control, Chemicals, Hazardous materials, Intergovernmental relations, Natural resources, Oil pollution, Reporting and recordkeeping requirements, Superfund, Waste treatment and disposal, Water pollution control, Water supply.

PART 300—[AMENDED]

It is proposed to amend Appendix B of 40 CFR Part 300 by adding the following sites to the National Priorities List:

BILLING CODE 6560-50-M

Appendix B—National Priorities List

Group 1

EPA REG	ST	SITE NAME *	CITY/COUNTY	RESPONSE STATUS #		
03	PA	TYSONS DUMP	UPPER MERION TWP		R	
08	MT	EAST HELENA SMELTER	EAST HELENA			D
06	TX	GENEVA INDUSTRIES (FUHRMANN)	HOUSTON		R	E
02	NJ	VINELAND CHEMICAL CO.	VINELAND	V		E
02	NJ	FLORENCE LAND RECONTOURING LF	FLORENCE TOWNSHIP	V		E
02	NJ	SHIELDALLOY CORP.	NEWFIELD BOROUGH			E
05	WI	OMEGA HILLS NORTH LANDFILL	GERMANTOWN	V		E
05	OH	UNITED SCRAP LEAD CO.,INC.	TROY			D

#: V = VOLUNTARY OR NEGOTIATED RESPONSE; R = FEDERAL AND STATE RESPONSE;
E = FEDERAL AND STATE ENFORCEMENT; D = ACTIONS TO BE DETERMINED.
* = STATES' DESIGNATED TOP PRIORITY SITES;
NOTE: GROUP REFERS TO THE NPL GROUP WITH SIMILAR HRS SCORES;

Group 2

EPA REG	ST	SITE NAME *	CITY/COUNTY	RESPONSE STATUS #		
05	WI	JANESVILLE OLD LANDFILL	JANESVILLE			D
04	SC	INDEPENDENT NAIL CO.	BEAUFORT			D
04	SC	KALAMA SPECIALTY CHEMICALS	BEAUFORT		E	
05	WI	JANESVILLE ASH BEDS	JANESVILLE			D
05	OH	MIAMI COUNTY INCINERATOR	TROY			D
05	WI	WHEELER PIT	LA PRAIRIE TOWNSHIP			D
02	NY	HUDSON RIVER PCBS	HUDSON RIVER			D
01	CT	OLD SOUTHINGTON LANDFILL	SOUTHINGTON	V	E	
04	MS	FLOWOOD *	FLOWOOD			D

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Group 3

EPA REG	ST	SITE NAME *	CITY/COUNTY	RESPONSE STATUS #
10	ID	UNION PACIFIC RAILROAD CO.	POCATELLO	E
04	AL	CIBA-GEIGY CORP. (MCINTOSH PLANT)	MCINTOSH	D
05	MN	ST. REGIS PAPER CO.	CASS LAKE	V
04	GA	HERCULES 009 LANDFILL	BRUNSWICK	D
05	MN	MACGILLIS & GIBBS/BELL & POLE	NEW BRIGHTON	D
05	WI	MUSKEGO SANITARY LANDFILL	MUSKEGO	D
02	NJ	VENTRON/VELSICOL	WOODRIDGE BOROUGH	E
04	SC	KOPPERS CO.,INC. (FLORENCE PLANT)	FLORENCE	E
02	NJ	NASCOLITE CORP.	MILLVILLE	E
05	MN	BOISE CASCADE/ONAN/MEDTRONICS	FRIDLEY	D
02	NJ	DELILAH ROAD	EGG HARBOR TOWNSHIP	E
03	PA	MILL CREEK DUMP	ERIE	R
05	WI	SCHMALZ DUMP	HARRISON	D
08	CO	LOWRY LANDFILL	ARAPAHOE COUNTY	E

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Group 4

EPA REG	ST	SITE NAME *	CITY/COUNTY	RESPONSE STATUS #.
04	SC	WAMCHEM, INC.	BURTON	D
02	NJ	CHEMICAL LEAMAN TANK LINERS, INC.	BRIDGEPORT	E
05	WI	MASTER DISPOSAL SERVICE LANDFILL	BROOKFIELD	E
02	NJ	W. R. GRACE CO. (WAYNE PLANT)	WAYNE TOWNSHIP	D
04	SC	LEONARD CHEMICAL CO.,INC.	ROCK HILL	V
04	AL	STAUFFER CHEM. (COLD CREEK PLANT)	BUCKS	D
04	GA	OLIN CORP. (AREAS 1,2 & 4)	AUGUSTA	V
05	OH	SOUTH POINT PLANT	SOUTH POINT	D
03	PA	DORNEY ROAD LANDFILL	UPPER MACUNGIE TWP	D
05	IN	NORTHSIDE SANITARY LANDFILL	ZIONSVILLE	E
09	CA	ATLAS ASBESTOS MINE	FRESNO COUNTY	E
09	CA	COALINGA ASBESTOS MINE	COALINGA	D
02	NJ	EWAN PROPERTY	SHAMONG TOWNSHIP	D
10	ID	PACIFIC HIDE & FUR RECYCLING CO.	POCATELLO	R E
05	MN	JOSLYN MFG. & SUPPLY CO.	BROOKLYN CENTER	D
05	MN	ARROWHEAD REFINERY CO.	HERMANTOWN	D
05	WI	MOSS-AMERICAN(KERR-MCGEE OIL CO.)	MILWAUKEE	D

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Group 5

EPA REG	ST	SITE NAME *	CITY/COUNTY	RESPONSE STATUS #
01	MA	IRON HORSE PARK	BILLERICA	D
05	WI	KOHLER CO. LANDFILL	SHEBOYGAN	D
05	IN	REILLY TAR & CHEMICAL CORP.	INDIANAPOLIS	D
05	WI	LAUER I SANITARY LANDFILL	MENOMONEE FALLS	E
05	MN	UNION SCRAP	MINNEAPOLIS	D
02	NJ	RADIATION TECHNOLOGY, INC.	ROCKAWAY TOWNSHIP	E
05	WI	ONALASKA MUNICIPAL LANDFILL	ONALASKA	D
05	MN	NUTTING TRUCK & CASTER CO.	FARIBAULT	D
02	PR	VEGA ALTA PUBLIC SUPPLY WELLS	VEGA ALTA	D
05	MI	STURGIS MUNICIPAL WELLS	STURGIS	D
05	MN	WASHINGTON COUNTY LANDFILL	LAKE ELMO	R
09	CA	SAN GABRIEL AREA 1	EL MONTE	D
09	CA	SAN GABRIEL AREA 2	BALDWIN PARK AREA	D
06	TX	PIG ROAD	NEW WAVERLY	D
02	PR	UPJOHN FACILITY	BARCELONETA	V
03	PA	HENDERSON ROAD	UPPER MERION TWP	D
06	LA	PETRO-PROCESSORS	SCOTLANDVILLE	E
03	PA	INDUSTRIAL LANE LANDFILL	WILLIAMS TOWNSHIP	D
03	PA	EAST MOUNT ZION	SPRINGETTSBURY TWP	D
02	NY	GENERAL MOTORS-CENT. FOUNDRY DIV.	MASSENA	D
03	DE	OLD BRINE SLUDGE LANDFILL	DELAWARE CITY	D
05	MN	WHITTAKER CORP.	MINNEAPOLIS	D

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Group 6

EPA REG	ST	SITE NAME *	CITY/COUNTY	RESPONSE STATUS #
01	CT	KELLOGG-DEERING WELL FIELD	NORWALK	V E
04	AL	OLIN CORP. (MCINTOSH PLANT)	MCINTOSH	V
04	FL	TRI-CITY OIL CONSERVATIONIST,INC.	TEMPLE TERRACE	D
05	WI	NORTHERN ENGRAVING CO.	SPARTA	D
01	NH	KEARSAGE METALLURGICAL CORP.	CONWAY	V E
04	SC	PALMETTO WOOD PRESERVING	DIXIANNA	E
05	MN	MORRIS ARSENIC DUMP	MORRIS	D
05	MN	PERHAM ARSENIC	PERHAM	D
01	NH	SAVAGE MUNICIPAL WATER SUPPLY	MILFORD	D
05	IN	POER FARM	HANCOCK COUNTY	R
06	TX	UNITED CREOSOTING CO.	CONROE	D
05	WI	CITY DISPOSAL CORP. LANDFILL	DUNN	D
02	NJ	TABERNACLE DRUM DUMP	TABERNACLE TWP	D
02	NJ	COOPER ROAD	VOORHEES TOWNSHIP	D
04	FL	CABOT-KOPPERS	GAINESVILLE	D

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E = FEDERAL AND STATE ENFORCEMENT; D = ACTIONS TO BE DETERMINED.
* = STATES' DESIGNATED TOP PRIORITY SITES;
NOTE: GROUP REFERS TO THE NPL GROUP WITH SIMILAR HRS SCORES;

Group 7

EPA REG	ST	SITE NAME *	CITY/COUNTY	RESPONSE STATUS #	
05	MN	GENERAL MILLS/HENKEL CORP.	MINNEAPOLIS	R	
09	CA	DEL NORTE PESTICIDE STORAGE	CRESCENT CITY		D
02	NJ	DE REWAL CHEMICAL CO.	KINGWOOD TOWNSHIP		D
04	GA	MONSANTO CORP. (AUGUSTA PLANT)	AUGUSTA		D
01	NH	SOUTH MUNICIPAL WATER SUPPLY WELL	PETERSBOROUGH		D
05	WI	EAU CLAIRE MUNCIPAL WELL FIELD	EAU CLAIRE CITY		D
04	GA	POWERSVILLE	PEACH COUNTY		D
05	MI	METAMORA LANDFILL	METAMORA		D
02	NJ	DIAMOND ALKALI CO.	NEWARK	R	
02	PR	FIBERS PUBLIC SUPPLY WELLS	JOBOS		D
05	WI	MID-STATE DISPOSAL, INC.,LANDFILL	CLEVELAND TOWNSHIP	E	
08	CO	BRODERICK WOOD PRODUCTS	DENVER		D
02	NJ	WOODLAND ROUTE 532 DUMP	WOODLAND TOWNSHIP		D
05	IN	AMERICAN CHEMICAL SERVICE	GRIFFITH		D
05	WI	LEMBERGER TRANSPORT & RECYCLING	FRANKLIN TOWNSHIP	E	
10	WA	QUEEN CITY FARMS	MAPLE VALLEY		D
05	WI	SCRAP PROCESSING CO., INC.	MEDFORD		D
02	NJ	HOPKINS FARM	PLUMSTEAD TOWNSHIP		D
02	NJ	WILSON FARM	PLUMSTEAD TOWNSHIP	R	
06	OK	COMPASS INDUSTRIES	TULSA	R	
09	CA	KOPPERS CO.,INC. (OROVILLE PLANT)	OROVILLE	E	
03	PA	WALSH LANDFILL	HONEYBROOK TWP		D
02	NJ	UPPER DEERFIELD TOWNSHIP SLF	UPPER DEERFIELD TWP	E	

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Group 8

EPA REG	ST	SITE NAME *	CITY/COUNTY	RESPONSE STATUS #
01	MA	SULLIVAN'S LEDGE	NEW BEDFORD	D
05	IN	BENNETT STONE QUARRY	BLOOMINGTON	R
04	AL	STAUFFER CHEM. (LE MOYNE PLANT)	AXIS	D
04	SC	GEIGER (C&M OIL)	RANTOULES	D
05	WI	WASTE RESEARCH & RECLAMATION CO.	EAU CLAIRE	V E
04	FL	PEPPER STEEL & ALLOYS, INC.	MEDLEY	V R E
05	MN	ST. LOUIS RIVER	ST. LOUIS COUNTY	D
03	PA	BERKS SAND PIT	LONGSWAMP TOWNSHIP	D
04	FL	HIPPS ROAD LANDFILL	DUVAL COUNTY	R
05	WI	OCONOMOWOC ELECTROPLATING CO.	ASHIPPIN	E
08	CO	LINCOLN PARK	CANON CITY	D
02	NJ	WOODLAND ROUTE 72 DUMP	WOODLAND TOWNSHIP	D
10	OR	UNITED CHROME PRODUCTS, INC.	CORVALLIS	D
02	NJ	LANDFILL & DEVELOPMENT CO.	MOUNT HOLLY	V E
03	PA	TAYLOR BOROUGH DUMP	TAYLOR BOROUGH	D
05	OH	POWELL ROAD LANDFILL	DAYTON	D
05	MI	BURROWS SANITATION	HARTFORD	R
10	WA	ROSCH PROPERTY	ROY	D

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Group 9

EPA REG	ST	SITE NAME *	CITY/COUNTY	RESPONSE STATUS #
05	WI	DELAVAN MUNICIPAL WELL #4	DELAVAN	D
09	CA	SAN GABRIEL AREA 3	ALHAMBRA	D
09	CA	SAN GABRIEL AREA 4	LA PUENTE	D
10	WA	AMERICAN LAKE GARDENS	TACOMA	R
10	WA	GREENACRES LANDFILL	SPOKANE COUNTY	D
06	OK	SAND SPRINGS PETROCHEMICAL	SAND SPRINGS	R
07	MO	QUAIL RUN MOBILE MANOR	GRAY SUMMIT	R

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Thursday
September 8, 1983

Part VIII

Department of Transportation

Office of the Secretary

Nondiscrimination on the Basis of Handicap in Programs Receiving Financial Assistance From the Department of Transportation

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 27

[Docket No. 56b; Notice No. 83-14]

Nondiscrimination on the Basis of Handicap in Programs Receiving Financial Assistance From the Department of Transportation

AGENCY: Department of Transportation.

ACTION: Notice of proposed rulemaking.

SUMMARY: Section 504 of the Rehabilitation Act of 1973 provides that "no otherwise qualified handicapped individual . . . shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance . . . ." The Department is currently implementing this statute in the mass transit area through an interim final rule. This proposal would replace the interim final rule with a new regulation consistent with section 317(c) of the Surface Transportation Assistance Act of 1982. The proposed regulation would establish minimum criteria for the provision of transportation services to handicapped and elderly persons, provide for public participation in the establishment of such services, and create a mechanism through which the Department can monitor the compliance with the regulation of transit providers receiving financial assistance form the Department.

DATE: Comments should be received in the Department by November 7, 1983.

ADDRESS: Comments should be addressed to Docket Clerk, Docket 56b, Department of Transportation, Room 10105, 400 7th Street, SW., Washington D.C., 20590. Comments will be available for review by the public at this address from 9:00 a.m. through 5:30 p.m., Monday through Friday. Commenters wishing acknowledgement of their comments should include a stamped, self-addressed postcard with their comment. The Docket Clerk will time and date stamp the card and return it to the commenter.

FOR FURTHER INFORMATION CONTACT: Robert C. Ashby, Office of Assistance General Counsel for Regulation and Enforcement, U.S. Department of Transportation, Room 10105, 400 7th Street, SW., Washington, D.C. 20590. 202/426-4723. Hearing-impaired persons may contact Mr. Ashby by using TTY (202) 755-7687. The NPRM has been taped for the use of visually-impaired persons.

SUPPLEMENTARY INFORMATION:

Background

Section 504 of the Rehabilitation Act of 1973 provides that "no otherwise qualified handicapped individual . . . shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance . . . ." The Department's existing regulation appears in 49 CFR Part 27, and implements this statute, section 16(a) of the Urban Mass Transportation Act of 1964 and section 165(b) of the Federal-Aid Highway act of 1973. This regulation, originally published in 1979, prescribed various planning and other administrative requirements and prohibited employment discrimination on the basis of handicap. It also imposed general requirements for the accessibility of DOT-assisted programs and activities to handicapped persons and specific accessibility requirements for Federally aided highways, airports, intercity rail service, and mass transit.

The 1979 regulations, as they applied to mass transit, were very costly and controversial. The American Public Transit Association (APTA) and several of its members sued the Department in June 1979, alleging that the mass transit requirements of the 1979 rule exceeded the Department's authority and were arbitrary and capricious. The U.S. District Court of the District of Columbia upheld the rule, but the Court of Appeals for the District of Columbia Circuit reversed the District Court's decision (*American Public Transit Association v. Lewis*, 556 F.2d 1271 (D.C. Cir., 1981)). The Court of Appeals held that, under section 504, a transit authority might be required to take "modest, affirmative steps to accommodate handicapped persons" in order to avoid the discrimination that section 504 prohibits. In the Court's view, however, the regulation required extensive and costly affirmative action efforts to modify existing systems and, therefore, exceeded the Department's authority under the statute.

While the court decision was pending, the Presidential Task Force on Regulatory Relief determined that the regulation deserved priority review. As a result of this review, the Department established a clear policy concerning mass transit for handicapped persons. The Department believes that recipients of Federal assistance for mass transit must provide transportation that handicapped persons can use but that local communities have the major responsibility for deciding how this transportation should be provided.

Following the establishment of this policy and the Court decision, the Department issued an interim final rule in July 1981, which deleted the mass transit requirements of the original regulation and substituted a new section. The new section requires recipients to certify that special efforts are being made in their service area to provide transportation that handicapped persons can use. The interim final rule was designed as a temporary measure to remain in effect only until a permanent regulation could be adopted. This NPRM proposes a replacement for the interim final rule.

As required by Executive Order 11914, the Department's 1979 regulation was consistent with government-wide guidelines promulgated by the Department of Health, Education, and Welfare (HEW). These guidelines included a specific requirement that each mode of mass transit be made accessible to handicapped persons. Following the dissolution of HEW, Executive Order 12250 transferred responsibility of the guidelines to the Department of Justice (DOJ). In August 1981, in response to the APTA decision, DOJ suspended the application of the guidelines to mass transit. Both the interim final rule and this NPRM were approved by DOJ pursuant to Executive Order 12250.

Comments on the Interim Final Rule

The Department received approximately 300 comments in response to the interim final rule. Of these, 141 were from persons identifying themselves as handicapped individuals or from groups representing them. Thirty were from transit operators or groups representing them, 56 from various state and local agencies, 18 from metropolitan planning organizations or other regional associations of governments, and 54 were from people or organizations not falling into any of these categories.

Most handicapped persons and organizations commenting on the interim final rule opposed its provisions. Many of the 115 commenters in this category who opposed the interim final rule favored retaining the accessibility requirements of the Department's original section 504 rule or requiring that transit authorities that provide special services be required to meet service criteria. The service criteria would be designed to ensure comparable service for handicapped persons. The criteria commenters mentioned included same

geographic service area, same hours of service, comparable fares, no restrictions or priorities based on trip purpose, and reasonable wait time. Thirteen commenters in the handicapped person and group category favored the interim final rule and the local option/special services approach to providing transportation for handicapped persons. The rest of the comments could not be classified as either for or against the interim final rule.

Thirty transit authorities commented on the interim final rule; a majority of them (23) favored the interim final rule's approach. They also endorsed local option and special services as the best way to provide transportation services for handicapped persons. Most metropolitan planning organizations and other regional associations of governments also favored local option and special services. Fourteen of these favored the interim final rule, and the other 4 commented without expressing support or opposition. On the other hand, state and local government agencies or organizations gave mixed responses. In this category, 28 favored the interim final rule, 16 were opposed (most of whom favored an accessibility or service criteria approach) and 12 commented but did not indicate a position for or against. The mixed nature in this category is attributable, in part, to the fact that the category includes both state and local agencies concerned principally with transportation matters, such as state Departments of Transportation, and agencies concerned with providing services to handicapped persons, such as state vocational rehabilitation agencies. Many of the agencies in this category also favored a service criteria approach to providing transit services for handicapped persons.

Of the remaining commenters, 33 opposed the interim final rule, 14 favored it, and 7 did not express an opinion for or against. Many opponents in this category supported retaining accessibility requirements or requiring service criteria.

Two issues in the regulation received numerous comments from a variety of commenters. First, there was broad support for retaining or strengthening public participation requirements in the planning of transportation services for handicapped persons, including requirements for the participation of handicapped persons in the process. Second, commenters expressed substantial concern about the financial level of effort criterion (3.5 percent of section 5 funds) in the interim final rule. Many commenters thought that this criterion was too vague or too low. In addition, many pointed out that the criterion did not provide a sound basis for determining an appropriate financial level of effort over the long term because, under Administration legislative proposals, operating assistance funds under section 5 would be phased out.

Section 317(c) of the Surface Transportation Assistance Act of 1982

Section 317(c) of the Surface Transportation Assistance Act of 1982 directly affects the content of this proposed rule. It provides as follows:

> In carrying our subsection (a) of this section [section 16 (a) of the Urban Mass Transportation Act of 1964, as amended] section 165(b) of the Federal-Aid Highway Act of 1973, and section 504 of the Rehabilitation Act of 1973 (consistent with any applicable government-wide standards for the implementation of such section 504), the Secretary shall, not later than 90 days after the date of enactment of this subsection, publish in the **Federal Register** for public comment, proposed regulations and, not later than 180 days after the date of such enactment, promulgate final regulations, establishing (1) minimum criteria for the provision of transportation services to handicapped and elderly individuals by recipients of Federal financial assistance under this Act or any provision of law referred to in section 165(b) of the Federal-Aid Highway Act of 1973, and (2) Procedures for the Secretary to monitor recipients' compliance with such criteria. Such regulations shall include provisions ensuring that organizations and groups representing such individuals are given adequate notice of and opportunity to comment on the proposed activities of recipients for the purpose of achieving compliance with such regulations.

This provision was sponsored by Senators Cranston and Riegle. The sponsors' floor statements expressed concern that the Department's interim rule did not ensure adequate service for handicapped persons. For example, Senator Cranston, in his discussion of a General Accounting Office survey of transportation systems, referred to "widespread deficiencies" in paratransit services for handicapped persons, such as waiting lists, long advance notice requirements, priorities based on trip purpose, shorter hours and fewer days of service, denials of requests for service, smaller geographical area of service, and inaccessibility of paratransit vehicles. He and Senator Riegle also cited the survey as evidence that some transit authorities had stopped or slowed programs to make their buses accessible. In addition, the Senators believed that procedural problems—the absence of requirements for public participation in the formulation of transportation services for handicapped persons and a mechanism enabling the Department to know whether recipients were complying with section 504 requirements—also impeded the provision of adequate service for handicapped persons.

To address these problems, which Congress believed stemmed from the interim final rule, section 317(c) directs the Department to change its approach to implementing section 504 both substantively and procedurally. Substantively, the statute requires that DOT's new regulation include "minimum criteria for the provision of transportation services" to handicapped persons. Procedurally, the statute calls for explicit regulatory provisions concerning the participation of handicapped persons in the establishment of transportation services for their use and for monitoring by the Department of recipients' compliance with section 504 requirements. This proposed rule includes provisions carrying out these new substantive and procedural requirements of the statute.

The version of section 317(c) that the Senate originally passed was stronger than the language the Congress eventually enacted, requiring "minimum criteria for each recipient . . . to provide handicapped and elderly individuals with transportation services that such individuals can use *and that are the same as or comparable to those which the recipient provides to the general public*" (emphasis added). Of the two requirements that this version imposed—minimum criteria for the provision of service and "same or comparable" service—the final version of the section retained only the former. The "same or comparable" formulation was dropped by the Conference Committee. It is reasonable to interpret this deletion to mean that the "minimum criteria" required by the final version of the section do not have to result in service for handicapped persons that is the same as or comparable to that provided the general public.

Section 317(c) is the latest and most definitive instruction by Congress to the Department concerning the regulatory requirements the Department much impose with respect to mass transit services for handicapped and elderly individuals. The proposed rule is intended to implement this Congressional instruction. Section 317(c) does not amend section 504 or diminish the nondiscrimination obligation of recipients under section 504. As coordinator of section 504 enforcement

pursuant to Executive Order 12250, DOJ has approved the proposed rule.

Section-by-Section Analysis

Section 27.77(a) Certification

Subparagraph (1) provides that, as under the interim final rule, each recipient of Federal financial assistance for capital or operating expenses of urban mass transportation systems (under sections 3, 5, 9, and 9A of the Urban Mass Transportation Act; recipients of funds only under section 18 would be treated separately) would be required to certify to the Urban Mass Transportation Administration (UMTA) that it is complying with the rule. In this case, compliance means having in effect a program for the provision of transportation services to handicapped and elderly individuals. The certification acceptance approach is designed to reduce administrative burdens and delays associated with a requirement for prior approval of a program by the Department. The certification must state that the recipient has met all procedural and substantive requirements set forth in the rest of this section.

Subparagraph (2) states the certification requirement for recipients only of section 18 funds. This requirement would be the same as under the existing regulation. The Department is proposing to retain this relatively less burdensome requirement because section 18 recipients tend to be small entitites—small cities and rural jurisdictions. Consistent with the policies of the Regulatory Flexibility Act, the Department believes it appropriate, in this situation, to impose fewer substantive and procedural burdens on these recipients. In addition, many section 18 recipients are likely to be called upon to serve only a few handicapped persons.

Section 18 recipients have an obligation under this subparagraph to provide service for handicapped persons, but, given the nature of small cities and rural areas, it is probable that they can provide this service on an informal basis without the more elaborate substantive and procedural requirements imposed on larger urban areas. Section 18 certifications would be sent to the Federal Highway Administrator rather than the UMTA Administrator because the Secretary has delegated primary responsibility for administering the section 18 program to the Federal Highway Administration. The Department seeks comment on whether this approach to section 18 recipients is appropriate. We request that commenters favoring a different approach make suggestions concerning how the Department can be responsive to the situation of small recipients.

Subparagraph (3) provides that the certification would stand for compliance with section 504, section 16(a), and section 165(b). While the Department would regularly monitor compliance with the requirements, and the Department could "look behind" the recipient's certification to ensure that it is delivering the promised services and following the appropriate procedures, a recipient with a valid certification would normally be regarded by the Department as meeting statutory requirements with respect to the provision of transportation services to handicapped persons.

Section 27.77(b) Types of Service

The Department is fully committed to the policy of allowing each local area to determine the kind of transportation service for handicapped persons that best fits its circumstances. The department is aware that no one kind of service is right for all areas. At the same time, section 317(c) requires minimum criteria for the provision of service to handicapped persons. In this paragraph, the Department proposes three alternative ways that recipients can meet their obligation to provide transportation services for handicapped persons. Whatever choice a recipient made, it would have to ensure, subject to the cost limit of paragraph (d), that the service it provided met the service criteria of paragraph (c).

Subaragraph (1) permits recipients to choose to make 50 percent of its fixed route bus service accessible. To meet this requirement, a recipient would have to ensure that half of the buses it has on the street during both peak (i.e., rush hour) and non-peak periods are lift-equipped or otherwise accessible to wheelchair users and semiambulatory persons. In order to maintain the 50 percent "on the street" level of service, the recipient would probably have to have a sufficient number of accessible buses in its reserve fleet to substitute for accessible buses that were in the shop at a given time. The relationship of accessible bus service to the service criteria is discussed further in the last paragraph of the discussion of paragraph (c) below.

One difficult problem that has arisen in the past is the use of lift-equipped buses by semiambulatory persons (e.g., persons who can walk with walkers or crutches but who are not wheelchair users). Some transit authorities permit such persons to use bus lifts. Others, citing potential safety and legal liability problems, permit only wheelchair users to use the lifts. The Department's policy has been to let transit authorities make this decision based on their own evaluation of the risks involved. The Department seeks comment on this issue and on whether the final regulation should impose any requirements or standards with respect to the use of bus lifts by semiambulatory persons.

Subparagraph (2) permits recipients to establish a paratransit or special services system to provide transportation for handicapped and elderly persons. Such a system would provide demand-responsive service by means such as accessible vans operated by the recipient or subsidized taxi vouchers.

Recipients are required to regard as eligible for special service under this subparagraph or subparagraph (3) all handicapped and elderly persons who, because of their handicap or age, are unable to use the recipient's service for the general public. This requirement has two important implications. First, the service may not be restricted to one or more types of handicapped persons (e.g., wheelchair users), with other types of handicapped persons (e.g., blind or mentally retarded persons) categorically excluded. The question is whether a given individual can use the recipient's service for the general public. If not, then he or she must be regarded as eligible for the special service.

Second, being elderly (i.e., over a certain age) does not, by itself, confer eligibility for the special service. The key is whether or not a particular elderly person can use the service for the general public. If, because of age, an individual is unable to use the regular service—even if that individual does not not have a specific, identifiable physical handicap—that individual is eligible for the special service. For example, some 80 year old individuals may be able to use the service for the general public, and some 65 year old individuals may be unable to do so.

The Department seeks comment on whether it is appropriate to require recipients to regard elderly and handicapped persons not having identifiable mobility handicaps (e.g., mentally handicapped persons whose inability to find their way around a city using the regular bus system, rather than any physical mobility handicap, prevents their using the transportation service for the general public) as eligible to use a paratransit service. The rationale for not having such a requirement could be that in a system being used to its capacity, use of the system by handicapped persons without mobility handicaps could restrict the system's use by mobility handicapped

persons. However, section 504 makes no distinction among different types of handicapped persons. In this context, we would point out that it would be consistent with the intent of the proposed rule for a recipient to provide a combination of different kinds of special services designed to fit the needs of people with different sorts of handicaps.

Subparagraph (3) permits recipients to choose a mix of fixed route accessibility and special service paratransit. For example, a recipient could make 15 percent of its buses accessible limiting their use to two or three important corridors. The recipient could then establish a paratransit system to cover other areas of the service area. Another example of a mixed system would be a "dial-a-bus" program, in which a recipient has a number of accessible buses which it assigns to certain trips on a demand-responsive basis. The accessible fixed route and special service components of the system, taken together, would have to meet the service criteria of paragraph (c).

While all handicapped or elderly individuals who could not use the recipient's service for the general public would be eligible to use the paratransit component of a mixed service, a recipient would not be required to provide duplicate service. If fixed route accessible bus service were provided between point A and point B, the recipient would not have to provide paratransit service between these same points. The recipient, consistent with the service criteria, would have to provide service between Point A or Point B and other points in the general service area not served by accessible bus service, however. The Department seeks comments on whether, in a mixed system, there could be problems with inconvenience caused by multiple transfers between different components of the system. If so, should the final regulation impose limits on transfers or use another mechanism for dealing with the problem?

To understand how this paragraph would work in practice, one needs to understand that its requirements are "subject to the cost limit of paragraph (d) of this section" (the calculation of this cost limit is discussed in the portion of this preamble that explains paragraph (d)). That cost limit is not a minimum expenditure requirement. If the recipient can meet the requirements of paragraph (b) while spending less than the cost limit, the recipient is not required to spend more. Nor is the cost limit a ceiling on the amount of funds a recipient may spend on transportation services for handicapped persons. The recipient always has the choice to spend more. Rather, the cost limit is a ceiling on the amount of funds the recipient is required to spend to comply with the requirements of this paragraph. The recipient would not be required to achieve full compliance with paragraph (b) in a given year to the extent that it could not do so without exceeding the cost limit. Within the cost limit, the Department expects recipients to meet their obligations to provide transportation to handicapped persons in the most cost-effective way possible.

A few hypothetical examples may explain how the cost limit would affect the requirements of paragraph (b). The Hypothetical Area Transit System (HATS) is an imaginary UMTA recipient. For fiscal year (FY) 1984, its cost limit is $319,500. At the present time, HATS has no accessible buses among its fleet of 150 buses (all of which are in use during the area's hypothetical rush hour) and does not operate a paratransit service.

Under subparagraph (1), HATS could choose to make 50 percent of its buses accessible. In FY 1984, HATS is planning to buy 30 new buses to replace an equal number of older vehicles. It costs HATS an additional $12,000 to have the manufacturer add a lift to each bus. If HATS decides to order lifts for all its new buses, the cost will come to $360,000. The incremental cost of maintaining a lift-equipped bus for year is $1,000. Therefore, the cost of buying and maintaining 30 lift-equipped bused for FY 1984 would be $390,000. This figure exceeds the cost limit by $70,500. HATS is not required to spend this $70,500 in FY 1984.

HATS could voluntarily spend the entire $390,000. However, it also has the option (among others) of buying lifts on only 24 of the 30 new buses, thereby saving $78,000. If it did so, its total expenditures for the year would be $312,000. Since HATS does not yet have 50 percent of its buses accessible, it would be required to use the $7,500 to ensure that it would meet, as closely as possible, the service criteria with its existing bused or on other expenditures allowable under paragraph (e) of the regulation (e.g., marketing for the accessible service, training for drivers) relating to the provision of accessible service.

Of course, HATS could choose, subject to the public participation requirements of paragraph (g) of the regulation, to buy fewer buses and spend more on marketing, training, and other allowable administrative costs. The Department stresses, however, that recipients' efforts should be directed toward "on the street service." While training, marketing and other administrative activities are important, recipients should not overemphasize them at the expense of actually providing accessible transportation services. The Department would examine the balance between administrative expenses and service provision in programs submitted to the Department under paragraph (g).

The Department seeks comment on one possible variation to this scheme. The rule could permit recipients to take credit for their expenditures above the cost limit in the following two or three-year period. In the above example, HATS could order lifts on all 30 of the buses it buys in FY 1984, adding the amount in excess of its cost limit for that year to its allowable expenditures for FY 1985. HATS would not, however, be permitted to spend less than its cost limit in FY 1984 (because it has not yet reached 50 percent accessibility) and compensate by higher expenditures in subsequent years. Is this idea consistent with the "prevention of undue hardship" rationale for the cost limit? Is it or some other averaging scheme workable? If such provision is adopted, should the Department set limits on the degree of averaging that should occur, in order to prevent undue fluctuations in levels of support for service?

HATS would be required to make expenditures up to its cost limit every year until the 50 percent accessibility level was reached. Once having reached that level (e.g., 75 buses) HATS would only be required to spend the funds needed to maintain the lifts (e.g., $75,000 per year), administer the system (e.g., marketing or training related to the accessible bus service) plus whatever amount was needed to replace worn-out-lift-equipped buses with new lift-equipped buses on a one-for-one basis. The fact that this amount was substantially below the cost limit for any year would not mean that HATS would have to spend more.

During the years before HATS reached the 50 percent level, it would be required to provide service to handicapped persons with the buses it had. HATS would design this service in consultation with handicapped persons and organizations representing them as part of the public participation process required by subparagraphs (g)(1)-(4) of this section. One of the issues the recipient should discuss as part of this consultation process is the tradeoff between immediate provision of usable transportation and the buildup of the final accessible system. For example, a

recipient could buy fewer accessible buses each year (resulting in a longer period of time before the 50 percent level was reached) and spend some of its funds on a transitional special services system which would provide, during the early years of the system, more rides to handicapped individuals. The Department seeks comment on whether the final rule should include any provisions governing this kind of trade-off.

Under subparagraph (2), HATS could choose to establish a special service system, the Hypothetical Area Paratransit Service (HAPS). For FY 1984, the capital and operating costs of HAPS—assuming it met all service criteria—would be $400,000. But HATS is required to spend only $319,500. HATS could voluntarily spend the entire $400,000. If it does not choose to do so, HATS could make trade-offs among the various service criteria to the point where the combined capital and operating costs of HAPS fell to $319,500. For example, if HAPS did not operate on evenings and weekends, established some restrictions on trip purpose, and charged fares a dollar higher than regular bus service, HAPS could reduce capital and operating outlays by $80,500. HATS would use the public participation process to obtain the views of handicapped persons and their groups concerning these trade-offs. On the other hand, if HAPS could meet all service criteria for $250,000, HAPS would not have to spend another $69,500 to come up to the cost limit.

Under subparagraph (3), HATS could use accessible buses on two major routes and use HAPS to cover the remainder of the service area. If HATS bought eight lift-equipped buses toward this end in FY 1984, it would spend $104,000 (including maintenance) on the accessible bus portion of its mixed service. HATS would not be required to spend more than $215,500 on its HAPS paratransit service in this case. If the cost of meeting all service criteria for the HAPS service exceeded $215,500, HATS could again make trade-offs among the service criteria to bring costs down to this level. In deciding on the service and resource allocation mixes between accessible bus and HAPS service, as well as in deciding the service criteria trade-offs in the HAPS component of the mix, HATS would obtain the views of handicapped persons and their organizations through the public participation process.

This portion of the rule speaks in terms of bus and special services. Where accessible rail systems exist, it would make sense for recipients to integrate their accessible bus or paratransit service with the accessible rail service. As pointed out in the discussion of the cost limit, however, costs of accessibility modifications to rail systems required by the Architectural Barriers Act of 1968 could not be counted toward the cost limit.

In addition, the three alternatives for meeting section 504 requirements proposed in this paragraph do not directly address one situation that may exist in some parts of the country. The Department seeks comment on what, if anything, the regulation should provide with respect to commuter rail operations that extend beyond normal mass transit service areas and that, in some cases, may not be operated by agencies that have regular mass transit systems. For example, Maryland DOT operates a commuter rail service between Brunswick, Maryland and Washington, D.C. This service extends far beyond the service areas for the Washington Metropolitan Area Transit Authority's bus and rapid rail systems.

If a special provision for commuter rail operations is included in the final rule, it could take a number of different forms. For example, it could require certain rail vehicles and key stations to be made accessible (similar to the commuter rail provision of the Department's 1979 rule). It could require special service (e.g., accessible vans) running along commuter rail routes during morning and evening rush hours. It could allow commuter rail operators to choose among these or other options. The Department's regulatory impact analysis discusses the potential costs of some of these options.

Section 27.77(c) Service Criteria

This paragraph lists six service criteria which special service systems under subparagraphs (b) (2) and (3) are required to meet. As mentioned in the discussion of paragraph (b), the requirement to meet these criteria is subject to the cost limit of paragraph (d). Recipients have a responsibility to meet these criteria in a sensible manner that maximizes the utility of transportation services to their users. The UMTA Administrator would not accept a certification of a program that, while technically meeting the criteria, was not compatible with the objectives of this regulation (e.g., a system that met all criteria for only eight months out of the year and did not operate during the rest of the year).

The first criterion is that the service shall be available to handicapped persons throughout the same general service area as the recipient's service for the general public. Generally speaking, if a member of the public can get to a given location by fixed route service, the special service should take a handicapped user there.

The Department seeks comments on how the regulation should treat service that extends substantially beyond the normal urban service area. For example, Baltimore's regular bus service covers the City of Baltimore and Baltimore County, which surrounds the city. However, there are extended commuter bus runs to locations such as Annapolis, about 40 miles away from downtown Baltimore. Under the proposed rule, the recipient would cover these routes if it could do so within the cost cap. If not, the coverage of these routes could be one of the factors involved in a tradeoff with other demands on resources. Should the final rule include any special provision concerning this situation?

The second criterion is that the special service be available on the same days and during the same hours as the recipient's service for the general public. If the recipient's regular bus service, for example, runs evenings and weekends, so should the special service.

The third criterion is that the fare for a handicapped person using the special service be comparable to the fare for a member of the general public using the recipient's regular service. These comparable fares can vary, as do the fares for the general public, with the length of the trip and time of day (e.g., rush hour vs. non-peak). By saying "comparable" fares, the Department does not mean "identical" fares. Any variance between special service and regular service fares should be relatively small, however, and be justifiable in terms of actual differences between the two kinds of service provided by the recipient.

In existing special service systems, it is common for transportation to be restricted to certain purposes, such as medical treatment or commuting to work. Travel for other purposes is not provided or is provided only after all demand for trips for the priority purposes is satisfied. These restrictions or priorities do not apply to the general public's use of the recipient's regular service. The fourth criterion prohibits the establishment of such restrictions or priorities based on trip purpose.

One of the major inconveniences of using many existing demand-responsive systems is the long period of time that elapses between a request for service and the arrival of a vehicle. This waiting period—which can be 48 or 72 hours in some cases—is far longer than a member of the general public must wait for public transportation. The fifth

criterion would limit this waiting period to a "reasonable time." This reasonable advance notification time would be determined by the recipient, after obtaining the views of handicapped persons and their organizations through the public participation process. Since shorter response times cost the system more, the precise length of the maximum response time is one of the "trade-offs" that recipients and handicapped users should discuss as recipients establish their programs. The Department seeks comment on whether there should be a regulatory maximum waiting period and, if so, what it should be.

The sixth criterion prohibits the use of waiting lists. Some systems limit the availability of service to a certain number of users. All other eligible potential users are placed on a waiting list, and receive no service at all. This criterion would require the special service system to have sufficient capacity to serve all eligible users.

The context of this discussion of service criteria has been a special services system. However, the service criteria also apply to the other options recipients can choose. An accessible fixed route bus system, for example, would meet some criteria (e.g., comparable fares, no waiting lists) almost automatically. On the other hand, buses could be assigned to various routes and trips in a way that might not result in accessible service that covered the same service area as the recipient's service to the general public or operated during the same hours on all routes. Accessible buses could be scheduled on routes in a way that would result in long waiting periods for handicapped users (the waiting time criterion would refer to scheduling intervals rather than advance notification in an accessible bus system).

Accessible bus service would have to be designed to meet the criteria that were not met automatically, subject to the cost limit. The Department seeks comment on the relationship of the service criteria to accessible fixed route bus service, particularly with respect to the recipient's obligations in situations in which its accessible bus service (either before or after the 50 percent accessibility level were reached) did not meet all service criteria.

Section 27.77(d) Limitation on Costs to Recipients

In *APTA* v. *Lewis*, the Court while suggesting that the Department could require recipients to take modest affirmative steps to meet the needs of handicapped persons, said that the Department's 1979 rule exceeded the Department's authority under section 504. The primary reason for this conclusion was that the 1979 rule imposed, in the Court's view, extremely high financial burdens on recipients.

The Court relied on the Supreme Court's holding in *Southeastern Community College v. Davis*, 442 U.S. 397 (1979), that section 504 does not require program modifications that result in a fundamental alteration in the nature of a program, the Supreme Court also stated in this case that section 504 does not require modifications that would result in "undue financial and administrative burdens."

Paragraph (d) is intended to apply the principles stated in these cases to the Department's section 504 regulation. The paragraph is intended to ensure that compliance with the regulation does not necessitate fundamental alteration to recipients' programs or impose undue financial or administrative burdens. A fundamental alteration of recipients' programs, and the related undue finacial burdens, are not required to comply with the nondiscrimination mandate of section 504. the absence of a provision of this kind could cause the regulation or enforcement action under the regulation to be subject to successful legal challenge. Such a result, and the consequent uncertainty about the duties of recipients, would benefit no one.

It should be emphasized that this provision is not intended to judge the value of handicapped persons or weigh the cost of an accommodation to a recipient against the benefit to a handicapped person. The Department proposes this provision in recognition of the boundaries to the section 504 obligations of recipients articulated in the *Davis* and *APTA* cases. In the Department's view, it is a reasonable administrative mechanism for ensuring the recipients' obligations under the rule do not go beyond those boundaries.

The Department makes two alternative proposals for this cost limit. Both these proposals are based on a review by the Department of a special services program operated in Milwaukee, Wisconsin. The Department also looked at special service systems in other areas, and decided to use the Milwaukee system as a model because it appeared to meet many (though not all) of the service criteria proposed in the rule at a cost that did not impose an undue financial hardship. The percentages discussed in the two alternative cost limit proposals are approximately the percentages of UMTA assistance to Milwaukee and the Milwaukee transit provider's operating budget, repectively, expended on Milwaukee's special service system.

The Department recognizes that Malwaukees's experience may not necessarily be representative of that of other transit authorities. The cost of providing service in other cities could differ. The Department would like to receive comments and cost information from other areas in connection with establishing a cost limit that will be as widely applicable as possible. The Department believes that it is important to have as broad and deep a set of data as possible to help us make a decision on the appropriate cost limit (if this concept is retained for the final rule) and the relationship of expenditure levels to the adequacy of services. Consequently, we are interested in receiving as much comment and information as possible on this matter.

The first alternative is to limit each recipient's obligation to make expenditures in a given fiscal year to 7.1 percent of the annual average amount of Federal financial assistance it has received for mass transportation purposes over the current and the previous two fiscal years. By tying the cost limit to Federal financial assistance, this approach would respond to concerns about the equity of Federal requirements for expenditures that are not proportional to actual assistance received. This consideration may be especially important in light of current Federal budget limitations.

The second alternative is to limit a recipient's costs to 3.0 percent of the recipient's average operating budgets, from whatever source derived, over the current and previous two fiscal years. Since operating budgets may fluctuate less than Federal assistance, this approach might provide more stability in funding levels for the recipient's program of transportation services for handicapped persons.

In addition to soliciting comments on the relative merits of these two alternative approaches, we also request that commenters provide suggestions, based on their own experience if possible, of what an appropriate percentage level for either approach would be. We also seek suggestions for cost limit approaches other than the two set forth here. Combinations of cost limit approaches might also be possible (e.g., the greater, or lesser, amount derived by applying the two criteria discussed above).

The Department also seeks comments on whether greater specification of the bases (UMTA financial assistance, operating budget) from which the cost limits would be calculated would be desirable. For example, are there a standard set of items which should be

regarded as part of a recipient's operating budget? Are there some UMTA funding sources that should not go into the calculation? Should there be a specified way of handling unusual funding situations (e.g., and unusually heavy infusion of Federal funds connected with the construction of a new rail system) that could distort the funding base for transportation for handicapped persons?

The following example illustrates how the cost limit calculations would turn out, beginning with FY 1984. The table shows imaginary operating budget and DOT financial assistance figures for HATS. The right-hand columns show the HATS cost limits calculated according to Alternative 1 (7.1 percent of DOT financial assistance) and Alternative 2 (3.0 percent of operating budget).

Fiscal year	HATS operating budget (Million)	DOT financial assistance (Million)	Cost Limit	
			Alternative 1	Alternative 2
1982	$11	$4		
1983	12	4.5		
1984	13	5	$319,500	$360,000
1985	14	5.5	355,000	390,000
1986	15	6	390,500	420,000

The cost limits were calculated by averaging the operating budget or financial assistance figures for the fiscal year in question and the two previous fiscal years and taking the appropriate percentage of the result. For example, the alternative 2 cost limit for FY 1984 was 3.0 percent of $12 million, the average of the HATS operating budgets for FY 1982–1984.

In this example, the alternative 2 cost limit always turned out higher than the alternative 1 cost limit. This was because of the relationship between the hypothetical HATS operating budget and DOT assistance amounts. This relationship may not be at all typical of real transit authority situations (it is not the same as the situation in Milwaukee, for instance). The Department requests that recipients commenting on the proposed rule inform the Department of the relationship between the two figures in their cases.

The cost limits under either alternative would be higher in the example if one took the appropriate percentage of the operating budget or financial assistance for the current fiscal year alone, rather than of the average of the current fiscal year with the two previous fiscal years (though there are conceivable circumstances in which this would not be true). The averaging approach, however, allows for greater predictability and, particularly with respect to the Federal assistance approach, greater stability. The Department seeks comments from interested parties making detailed recommendations on how these caluclations can best be made.

Section 27.77(e) Eligible Project Expenses

Paragraph (e) describes the types of expenditures which may or may not be counted toward calculating the cost limit effort criterion. The eligible and ineligible expense categories are taken, with minor modifications, from Appendix A of the current interim final rule. The Department seeks comments on these eligible and ineligible expenses.

The Department calls the public's attention to three provisions of this paragraph in particular. Subparagraph (e)(1)(i) permits the recipient to count the incremental costs of operating accessible rolling stock. Subparagraph (e)(1)(iii) allows the incremental capital costs of accessible rolling stock. In most cases, the accessible rolling stock in question will be lift-equipped buses. However, for recipients who have accessible rail systems, the incremental costs of buying and operating accessible rail vehicles could also be counted. For purposes of this subparagraph, rail vehicles would not be regarded as accessible unless they formed part of an accessible rail system that handicapped persons could use. We emphasize that the allowable costs are the *incremental* costs of buying and operating accessible vehicles (i.e., the cost of equipping a bus with a lift, not the whole cost of the bus). Only costs which could be specifically identified and reasonably attributed to accessibility would be allowable.

Subparagraph (e)(2)(i) provides that the cost of constructing or modifying fixed facilities in order to comply with a requirement of the Department's regulation or a requirement unde the Architectural Barriers Act of 1968 are not eligible expenses, unless the construction or modification relates directly to the provision of transportation services that handicapped persons can use.

One difference between this paragraph and Appendix A results from the fact that Appendix A dealt with a minimum expenditure criterion. To meet this criterion, expenditures by parties other than the recipient could be counted. However, the purpose of the cost limit is to prevent the recipient itself from having to make unreasonably large expenditures. Therefore, only expenditures by the recipient itself count in calculating the cost limit.

Section 27.77(f) Provision of Service

Paragraph (f) is an important statement of the recipient's responsibility to provide actual transportation service to handicapped persons. To fulfill its committment to provide transportation service according to its program, the recipient cannot avoid its responsibility by planning service on paper and failing to provided it in the streets. If a recipient certifies that it has a program for providing transportation services, but does not maintain and deploy accessible vehicles, train drivers and other personnel, and administer its program (e.g., provide information and assistance to handicapped persons and establish usable means of communications with respect ot using the service) so that the service is actually provided as the program promises, then the recipient is not in compliance with this regulation. for example, a recipient that chose to comply with the regulation by making 50 percent of its buses accessible would not be in compliance with this paragraph if, after buying lift-equipped buses, it failed to maintain them in operating condition.

Section 27.77(g) Procedural requirements

Paragraph (g) sets forth several procedural requirements. One of these is that there be consultation with handicapped individuals and groups representing them as part of a public participation process for developing the program for transporting the handicapped persons. Handicapped people, public and private health and welfare agencies, and groups representing handicapped persons should be meaningfully involved in planning efforts to meet recipients' requirements under this proposed rule. Otherwise, effective project development is unlikely.

At least one public hearing would be required as part of this process. This public hearing would not necessarily need to be a special hearing called just to consider the recipient's program. As long as the concerns of the public

(especially handicapped persons) about the program could be fully addressed, the Department would not object to combining this hearing with any other timely UMTA-required hearing (e.g., the public comment and hearing process required under section 9(f) of the Urban Mass Transportation Act of 1964, as amended). In order to permit handicapped persons to participate as required by section 23.67 of the Department's existing section 54 regulation, recipients must schedule hearings in accessible facilities and publicized the hearings in a way to reach persons with hearing and vision impairments (e.g., large print notices, radio advertisements, etc. for visually impaired persons; notices sent to organizations representing or serving people with vision or hearing impairments). In addition, a sign language interpreter for hearing-impaired persons should be provided at a hearing if one has been requested or if it is reasonable to expect that hearing-impaired persons will attend.

In addition to the public hearing, there must be notice (again, a notice that reaches hearing and vision imaired persons) and an opportunity for written comment on the recipient's program proposal. Under the proposal, the public would be given 60 days to submit written comments on the recipient's proposed program. There would have to be at least 30 days advance notice of the public hearing, which would take place sometime during the second half of the 60-day public comment period. The local Metropolitan Planning Organization (MPO), where one exists, must also have the opportunity to comment on the proposed program.

One of the subjects which the Department believes it is relevant for transit authorities to discuss as part of the public participation process is the effect of changes in service patterns on handicapped or elderly users of existing service. For example, if a recipient which currently has a paratransit system decides to comply with this regulation by making 50 percent of its buses accessible, some current users of the paratransit system might have difficulty adapting to the new system. The recipient should seek ways of making the transition between the old and new service that would mitigate hardship to current users.

The recipient would be required to make efforts to accommodate, to the extent reasonable and consistent with overall program objectives, significant comments it receives from the MPO, the public, and handicapped persons and organizations representing handicapped persons. The recipient is not required to accommodate every comment, or even a majority of such comments. However, it is required to make available to the public a written explanation of its reasons for not accommodating comments. This is intended to ensure that recipients are responsive to significant comments, even those that they do not agree with. This "accommodate or explain" requirement parallels the obligation of Federal agencies, under Executive Order 12372, to respond to concerns from state and local governments on proposed Federal actions.

The recipient would have to complete its program planning process and submit required materials to UMTA within nine months after the effective date of a final regulation. The Department seeks comment on whether nine months is an appropriate length of time for the planning public participation process. There is no requirement that the recipient obtain prior approval of the program from UMTA; sending in the certification and program description are sufficient. After reviewing the description and certification, UMTA could, however, require changes to be made in the program. The agency could also reject the program as inconsistent with the requirements of this part.

UMTA would review recipients' submissions as expeditiously as possible, and would respond to recipients as soon as possible within the 90-day period if problems are discovered. Any certification that is not rejected or required to be changed within 90 days of its receipt by UMTA would be considered accepted. If the recipient did not hear from UMTA within this time, it could assume that UMTA had accepted the submission. The Administrator could extend this 90-day review period, if necessary. It is not intended that such an extension would be open-ended. The letter notifying the recipient of the extension—the purpose of which is simply to give the Administrator sufficient time to make a thorough evaluation of the recipient's program—would set a particular length of time (e.g., 30 additional days) for the extension. During any such extension, the recipient would not be subject to a finding of noncompliance based on the inadequacy of its program.

Subparagraph (g)(8) proposes that the recipient's program must actually go into effect (i.e., money must begin to be spent and transportation made available as provided in the program) on the first day of the fiscal year (the recipient's fiscal year, not the Federal fiscal year) next following the date on which the recipient's certification is due (i.e., a date nine months from the effective date of the final regulation). If the Administrator's 90-day (or extended) review period had not ended before the first day of the fiscal year in question, the recipient would not be required to begin implementing its program until the review period had ended.

This provision for the date on which the program actually goes into effect is proposed for two reasons. First, it gives recipients what should be an adequate start-up or transition period for its transportation service. Second, it avoids budgeting problems that recipients might have if they had to begin a new expenditure program in the middle of a fiscal year, particularly given the uncertainty that would result if the Administrator required changes in the recipient's program. Between the effective date of the regulation and the effective date of the recipient's program, the certification provided by the recipient under the present interim final rule (and the transportation provided by the recipient pursuant to the existing certification) would remain in effect.

The Department seeks comment on whether this method of determining the effective date is appropriate, or whether other alternatives would be better. We are interested in devising a provision that avoids undue delay for the beginning of service as well as budget and planning difficulties for recipients. For example, the Department might use the Federal fiscal year instead of the recipient's fiscal year to calculate the starting point, or determine that recipients should start to implement their programs a stated time after submission, even if that fell in the middle of a fiscal year.

The Department also generally seeks comments on ways of minimizing administrative burdens resulting from the statutorily-required public participation mechanism, particularly with respect to small entities.

Section 27.77(h) Monitoring of Program Implementation

This paragraph would require recipients to send UMTA an annual report detailing the services provided to handicapped persons under its program. The contents of the program are self-explanatory. UMTA would designate a date each year on which the report of a given recipient would be due. (The date would be the same each year for the recipient; however, the due dates would be staggered so that UMTA did not have to review all reports at the same time). This paragraph is intended to comply

with the monitoring requirement of section 317(c).

The annual report is intended to be a public document, which the recipient would make available to anyone who requested it. In addition, the Department seeks commments on whether the recipient should be required to seek and respond to comments concerning the annual report (a requirement analogous to the comment and response requirement for the recipient's original program submission).

Section 9 recipients are required to submit independently conducted annual audits. In addition, the Department must perform a full evaluation or review of section 9 recipient's programs every three years. The Department invites comment on whether it would be practical to combine this monitoring provision with these audit requirements, and, if so, how such a combined system would work. The Department also seeks comments on whether, when a recipient reports significant changes in its program as part of its annual report, it should also be required to submit a new certification pertaining to its altered program.

The Department generally seeks suggestions on ways of minimizing the administrative burdens involved in the statutorily required monitoring process, especially as regards smaller transit authorities and smaller local governments.

Section 27.77(i) Disparate Treatment

This paragraph is identical to section 27.77(c) of the existing interim final rule. It is intended to make explicit that this section does not permit the recipient to engage in disparate treatment to the disadvantage of a handicapped person with respect to transportation on the recipient's regular mass transit system. If a handicapped person is capable of using the recipient's regular service provided to the general public, then the transit operator cannot deny service to the handicapped person on the ground of handicap. This means, for example, that a recipient must permit a person using means of assistance such as guide dogs or crutches to use its vehicles and services.

Disparate treatment contrary to this paragraph is encompassed by § 27.7, the general nondiscrimination section of 49 CFR Part 27. However, under this proposal, a recipient's certification will constitute compliance with section 504 as it relates to the transportation of handicapped persons. Therefore, the Department believes that it is useful to make this prohibition specific, so that it is clear that, notwithstanding the certification, the recipient may not engage in disparate treatment.

Section 27.77(j) Noncompliance

This paragraph would make explicit the kinds of conduct that would place a recipient in jeopardy of enforcement action under Subpart F of 49 CFR Part 27. A recipient could be in noncompliance if it failed to make the appropriate certification under paragraph (a), had its certification rejected under paragraph (g) and did not correct the deficiencies that led to the rejection in a timely manner, failed to provide service as required by paragraph (f) or to put its program into effect in the time required by subparagraph (g)(8), failed to use public participation procedures required by paragraph (g), or failed to provide a report under paragraph (h). This list is not intended to be exhaustive or to limit the Department's discretion with respect to enforcement of section 504. For example, violation of the general requirements of Subparts A and B of Part 27 would also subject the recipient to the procedures of Subpart F.

Executive Orders 12250 and 12291, Regulatory Flexibility Act, and Paperwork Reduction Act

Under Executive Order 12250, the Department of Justice is required to review Federal agency regulations implementing section 504. This NPRM has been reviewed and approved by the Department of Justice under this Executive Order.

Under the criteria of Executive Order 12291, this NPRM proposes a major rule. The Department has concluded that the proposal could have an annual cost impact exceeding $100 million. The Department has prepared a preliminary regulatory impact analysis to accompany this proposal, which is available for public review in the rulemaking docket. The proposal also constitutes a significant regulation under the Department to Transportation's Regulatory Policies and Procedures. This is the case both because of its cost impact and because it deals with subject matter that has always been controversial.

This proposal includes information collection requirements (the certification and program materials submission requirement of subparagraphs (g) (5) and (6) and the reporting requiremnent of paragraph (h)). The Office of Management and Budget must review and approve such requirements under the Paperwork Reduction Act. These provisions, if included in a final regulation, would not go in effect until approved by OMB.

The rule proposed by this notice could have a significant economic impact on a substantial number of small entities. That is, the proposed requirements could impose cost and administrative burdens on relatively small transit authorities, local governments, and businesses. The Department has consequently incorporated a preliminary regulatory flexibility analysis into its regulatory impact analysis. The Department seeks comments on ways of mitigating the potential effects of the proposed rule on small entities.

List of Subjects in 49 CFR Part 27

Handicapped, Mass transportation.

Issued at Washington, D.C., this first day of September, 1983

Jim Burnley,

Acting Secretary of Transportation.

PART 27—[AMENDED]

For the reasons set forth in the preamble, the Department of Transportation proposes to amend Part 27 of Title 49, Code of Federal Regulations, by revising § 27.77 thereof to read as follows:

§ 27.77 Urban mass transportation.

(a) *Certification.* (1) Except as provided in paragraph (a)(2) of this section, each recipent of Federal financial assistance from the Urban Mass Transportation Administration (UMTA) under sections 3, 5, 9, or 9A of the Urban Mass Transportation Act of 1964, as amended, shall certify that it has in effect a program for providing transportation services to handicapped and elderly persons. The certification shall state that the program meets all substantive and procedural requirements of this section.

(2) In lieu of certifying as required by paragraph (a)(1) of this Section, recipients who receive funds only under section 18 of the Urban Mass Transportation Act, as amended (small urban and rural transportation programs), shall certify to the FHWA Division Administrator through the designated section 18 state agency that special efforts are being made in their service areas to provide transportation that handicapped persons, including wheelchair users and semiambulatory persons, can use. This transportation service shall be reasonable in comparison to the service provided to the general public and shall meet a significant fraction of the actual transportation needs of such persons within a reasonable time. Recipients of section 18 funds who have already

provided such a certification are not required to recertify.

(3) Acceptance of the recipient's certification by the UMTA or FHWA Administrator, and compliance by the recipient with all other applicable requirements of this Part, shall be deemed by the Department to constitute compliance with section 504 of the Rehabilitation Act of 1973, sections 16 (a) and (c) of the Urban Mass Transportation Act, and section 165(b) of the Federal-aid Highway Act of 1973, insofar as these statutes relate to the provision of mass transportation services for handicapped persons.

(b) *Types of Service.* Subject to the cost limit of paragraph (d) of this section, each recipient's program shall provide for making transportation services meeting the service criteria of paragraph (c) of this section available to handicapped and elderly through one of the following methods:

(1) Making 50 percent of fixed route bus service accessible to handicapped and elderly persons. Fifty percent of fixed route bus service shall be deemed to be accessible when half the buses the recipient uses during both peak and non-peak hours are accessible.

(2) Providing paratransit or special services for handicapped and elderly persons. All handicapped and elderly persons in the recipient's service area who are unable, by reason or their handicap or age, to use the recipient's service for the general public shall be eligible to use the service; or

(3) Providing a mix of accessible fixed route service and paratransit or special services. All persons eligible to use a special services or paratransit system under paragraph (b)(2) of this section shall be eligible to use the special services or paratransit component of the mixed system.

(c) *Service Criteria.* The following minimum criteria for the provision of transportation services to handicapped and elderly individuals apply to any means of providing such services selected by the recipient under paragraph (b) of this section:

(1) The service shall be available throughout the same service area as the recipient's service for the general public.

(2) The service shall be available on the same days and during the same hours as the recipient's service for the general public.

(3) The cost of a trip on the service to each user shall be comparable to the cost of a trip of similar length, at a similar time of day, to a user of the recipient's service for the general public.

(4) Use of the service shall not be restricted by priorities or conditions related to trip purpose.

(5) Users of the service shall not be required to wait for the service more than a reasonable time.

(6) There shall not be a waiting list for the provision of service to eligible users.

(d) *Limitation on Costs to Recipients.* No recipient shall be required, in order to meet the requirements of paragraph (b), to expend in any fiscal year an amount exceeding [Alternative 1–7.1 percent of the average annual amount of Federal financial assistance for mass transportation it expects to receive over the current fiscal year and has received over the two previous two fiscal years] or [Alternative 2–3.0 percent of the average of the recipient's operating budgets for the current fiscal year and the previous two fiscal years]

(e) *Eligible Project Expenses.* (1) Project expenses eligible to be counted in determining whether a recipient has reached the cost limitation of paragraph (d) of this section include the following:

(i) Payment of current incremental operating costs for accessible rolling stock;

(ii) Operating costs of special service system;

(iii) Capital costs for special services systems components, incremental capital costs of acquiring accessible rolling stock;

(iv) Payment of expenses of indirect methods of providing services;

(v) Administrative costs directly attributable to coordinating services (including those receiving funds under the UMTA section 16(b)(2) program) for handicapped persons;

(vi) Incremental costs directly attributable to training the recipient's personnel to provide services to handicapped persons;

(2) Project expenses ineligible to be counted in determining whether the cost limit of paragraph (d) of this section has been reached include the following:

(i) Costs of construction of or structural changes to fixed facilities required by the Architectural Barriers Act of 1968 that do not directly relate to the actual provision of transportation service that handicapped persons can use, as required by this section and set forth in the recipient's program; and

(ii) Administrative costs of compliance with this Part not specifically allowed by paragraph (e)(1) of this section.

(3) With respect to transportation that serves both handicapped persons and other persons, only that part of the service that serves handicapped persons may be counted toward eligible project expenses for purposes of this section.

(f) *Provision of Service.* Each recipient shall ensure that service is provided to handicapped and elderly persons as set forth in the recipient's program. The recipient shall ensure that equipment is maintained, personnel are properly trained and supervised, and program administration is carried out in a manner that does not permit actual service to handicapped and elderly persons to fall below the level set forth in the recipient's program.

(g) Procedural Requirements (1) The recipient shall develop the program required by this section through a public participation process that includes consultation with handicapped individuals and/or groups representing them, an opportunity for written public comment, and at least one public hearing. Any subsequent significant changes to the program shall also be developed through such a public participation process.

(2) The recipient's public participation process shall include a period of at least 60 days for comment on the recipient's proposed program for providing transportation services to handicapped and elderly persons. The public hearing shall take place during this comment period, and notice of the hearing shall be given at least 30 days before the date of the hearing. All notices and materials pertaining to the proposed program, comment period, and public hearing shall be made available by means that will reach persons with hearing and vision impairments.

(3) The recipient shall also submit its proposed program to the local metropolitan planning organization (MPO), if any, for comment.

(4) The recipient shall make efforts to accommodate significant comments from the MPO and the public (including handicapped individuals and groups representing handicapped individuals). With respect to such comments that the recipient did not accommodate, the recipient shall make available to the public a written statement of its reasons for not accommodating them. The program and associated materials, including comments and recommendations from the MPO and the public, a transcript of the hearing, and the recipient's explanation of instances of non-accommodation, shall be kept available to the public for review for three years.

(5) The recipient shall submit copies of the following materials to the UMTA Administrator at the time it submits its certification:

(i) A copy of its program;

(ii) The recipient's projected cost limit for the first fiscal year in which the program will be in effect and the amount of funds the recipient will expend to implement the program in that year;

(iii) The comments of the public (including handicapped persons and groups representing them) and the MPO on the recipient's program, or a summary of these comments; and

(iv) The recipient's responses to these comments, or a summary of the recipient's responses.

(6) The recipient shall complete the program planning process and submit its certification and program materials to the UMTA Administrator by [a date nine months from the effective date of the revised regulation].

(7) Based on the information contained in the program materials and other relevant information gathered by the Administrator, the Administrator may reject the certification or require the recipient to make changes in its program. Any certification that the Administrator does not reject or require to be changed within 90 days of its receipt is deemed to be accepted. The Administrator may, at his or her discretion, extend this review period for a reasonable time.

(8) The recipient's program shall go into effect no later than the first day of the next fiscal year of the recipient which begins after the date the recipient is required to submit its certification to the Administrator. Provided, that in no case shall a recipient's program be required to go into effect before the conclusion of the review period established by paragraph (g)(7) of this section. In the interim between the effective date of this section and the date the recipient's program goes into effect, the certification submitted by the recipient in response to the Department's July 20, 1981 interim final rule (46 FR 34788) shall remain in effect.

(h) *Monitoring of Program Implementation.* Each recipient shall send an annual report to the UMTA Administrator on or before a date designated for the recipient by the Administrator. The report, which shall be available to the public, shall contain the following information:

(1) A description of the transportation services provided to handicapped persons in the year covered by the report, with specific reference to the service criteria listed in paragraph (c) of this section;

(2) If the recipient was unable to meet all the service criteria listed in paragraph (c) of this section because doing so would cause the recipient to exceed the cost limitation of paragraph (d) of this section, the recipient's cost limit and a summarized account of the recipient's eligible project expenses;

(3) If the recipient has not attained the level of service which its program ultimately projects, the recipient's progress toward that level during the completed reporting year and an estimate of the progress expected to be made toward that level during the next reporting year;

(4) Any significant changes in the program made during the completed reporting year; and

(5) A description of any significant changes in the transportation service provided to handicapped persons or the resources available for such services expected in the next reporting year.

(i) *Disparate Treatment.* Notwithstanding the recipient's certification under paragraph (a) of this section, the recipient shall not on the basis of handicap deny transportation service on the recipient's system of mass transportation for the general public to any handicapped person capable of using such service, or otherwise discriminate against such person in connection with such service.

(j) *Noncompliance.* The following conduct on the part of a recipient constitutes noncompliance with this section and makes the recipient liable to enforcement action under Subpart F of this Part. This list of noncomplying conduct is not necessarily exhaustive.

(1) Failure to make a certification required by paragraph (a) of this section in the time provided in paragraph (g)(6);

(2) After rejection of a certification by the UMTA Administrator under paragraph (g)(7), failure to correct in a timely manner the deficiencies that resulted in the rejection, sufficient to allow the Adminstrator to accept the certification;

(3) Failure to put the program into effect at the time required by paragraph (g)(8);

(4) Failure to provide service as required by paragraph (f) of this section

(5) Failure to follow public participation procedures set forth in paragraphs (g) (1)–(4); and

(6) Failure to provide program materials required by paragraphs (g)(5)–(6) or reports required by paragraph (h) of this section at the times required by paragraphs (g) and (h) of this section, respectively.

(Sec 504 of the Rehabilitation Act of 1973; 29 U.S.C. 794; Sec. 317(c) of the Surface Transportation Act of 1982; 49 U.S.C 1612(c))

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Reader Aids

Federal Register

Vol. 48, No. 175

Thursday, September 8, 1983

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202–523–3419 523–3517
General information, index, and finding aids	523–5227
Incorporation by reference	523–4534
Printing schedules and pricing information	523–3419

Federal Register

Corrections	523–5237
Daily Issue Unit	523–5237
General information, index, and finding aids	523–5227
Privacy Act	523–4534
Public Inspection Desk	523–5215
Scheduling of documents	523–3187

Laws

Indexes	523–5282
Law numbers and dates	523–5282 523–5266
Slip law orders (GPO)	275–3030

Presidential Documents

Executive orders and proclamations	523–5233
Public Papers of the President	523–5235
Weekly Compilation of Presidential Documents	523–5235

United States Government Manual 523–5230

SERVICES

Agency services	523–5237
Automation	523–3408
Library	523–4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275–2867
Public Inspection Desk	523–5215
Special Projects	523–4534
Subscription orders (GPO)	783–3238
Subscription problems (GPO)	275–3054
TTY for the deaf	523–5229

FEDERAL REGISTER PAGES AND DATES, SEPTEMBER

39595–39910	1
39911–40186	2
40187–40364	6
40365–40496	7
40497–40694	8

CFR PARTS AFFECTED DURING SEPTEMBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Executive Orders:
8854 (Amended by PLO 6458) 40232

Proclamations:
5085 39595
5086 40187
5087 40497
5088 40499
5089 40501
5090 40503
5091 40505
5092 40507

4 CFR

Proposed Rules:
83 39632

5 CFR

2422 40189
2426 40189
2429 40189

7 CFR

29 40365
51 40509
210 40194
220 40194
226 40197
301 ..... 39597, 40196
421 39911
725 40638
726 40644
760 40366
908 ..... 39602, 40510
910 39912
981 40367
1076 39603
1079 40511
1865 40202
1944 40202
1945 40202
1951 40202

Proposed Rules:
278 40263
279 40263
631 40522
660 40389
658 39944
1126 39643

8 CFR

109 40209
231 40209
238 40210

9 CFR

75 40512

10 CFR

61 40512

Proposed Rules:
1017 40265

12 CFR

217 39604
525 39912
531 39912

Proposed Rules:
563 39944

13 CFR

101 40513

14 CFR

39 40210–40212
71 ..... 39913, 40213
75 40214
97 39913

Proposed Rules:
39 40266
71 ..... 40267, 40270, 40525
221 40389

15 CFR

369 40368

16 CFR

Proposed Rules:
13 39950

17 CFR

240 39604
249 39604

19 CFR

Proposed Rules:
101 40526
159 40527

20 CFR

655 40168
404 40514

Proposed Rules:
225 40390
226 40390
227 40390

21 CFR

145 39916
175 40515
442 40516
520 40516
524 39607
561 40369

Proposed Rules:
Subch. H 40272
882 40273

23 CFR

Proposed Rules:
Ch. I 39953

24 CFR

203.....39606
213.....39606
234.....39606
570.....40517

26 CFR

1.....40214, 40370, 40371
25.....40371
31.....40518
48.....40217
301.....40371, 40376
Proposed Rules:
1.....39953, 40528
5f.....39953

27 CFR

9.....40377

29 CFR

553.....40518

30 CFR

251.....40380
700.....40622
701.....39892, 40140, 40622
772.....40622
776.....40622
785.....39892
815.....40622
816.....39892, 40140
817.....39892, 40140
824.....39892
938.....40223
Proposed Rules:
75.....40165
935.....39645, 40396
938.....39645

32 CFR

286g.....39917
634.....39919
730.....40224

33 CFR

100.....39609
165.....39609, 39610, 40380
401.....39934
Proposed Rules:
117.....39646

34 CFR

668.....40380
Proposed Rules:
366.....39647

36 CFR

219.....40381

38 CFR

21.....40224
36.....40226
Proposed Rules:
36.....40402

39 CFR

10.....39610
601.....40232
Proposed Rules:
111.....39647, 39648

40 CFR

17.....39934
122.....39611
123.....39611
124.....39611
144.....39611
145.....39611
180.....40384
233.....39611
270.....39611
271.....39611, 39623
300.....40658
410.....39624
Proposed Rules:
52.....39653
65.....40278
81.....39655
124.....40096
144.....40098
146.....40098
147.....40098
300.....40674
721.....40282
799.....39656

41 CFR

Ch. 1.....40385
Ch. 7.....40385

42 CFR

405.....39740, 39752
409.....39752
435.....39624
436.....39624
489.....39752
Proposed Rules:
435.....39959
436.....39959

43 CFR

Public Land Orders:
1707 (Amended by PLO 6458).....40232
6457.....39939
6458.....40232

46 CFR

153.....39629
154.....39629

47 CFR

2.....40519
25.....40233, 40256
Proposed Rules:
68.....39656

49 CFR

1.....40519
179.....39630
571.....39908, 39939, 40260
1042.....39630
1160.....39630, 40387
1161.....39630
1162.....39630, 40520
1165.....39630
1168.....39630, 40387
1181.....39630
1307.....40520
Proposed Rules:
27.....40684
213.....39965
571.....40282, 40286
821.....39657
1157.....40287

50 CFR

17.....39941, 40178
661.....40521
Proposed Rules:
17.....40288, 40404, 40407
26.....39661
32.....40411
33.....40411
655.....39967
681.....39665

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing August 31, 1983

. 40411
. 40411
. 39967
. 39665

y the
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VOL
48
ISS
1
7
5
SE
8
1983
UMI

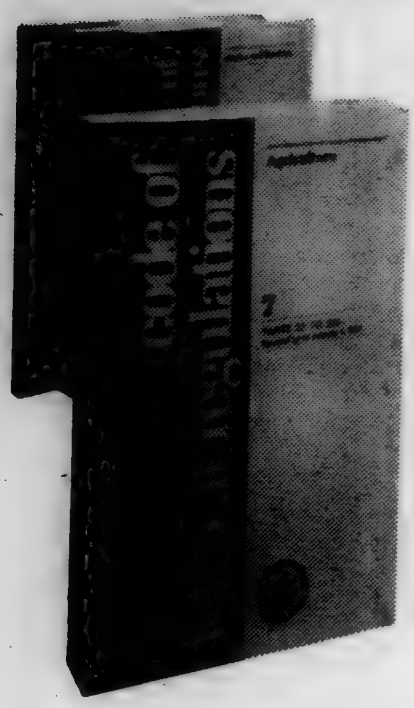

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VOL
48
ISS
1
7
5
SE
8
1983
UMI

AL
8
SS
7
6
SE
9
1983
41

9-9-83
Vol. 48 No. 176

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Friday
September 9, 1983

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48
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1
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9-9-83
Vol. 48 No. 176
Pages 40695–40870

federal register

Friday
September 9, 1983

Selected Subjects

Administrative Practice and Procedure
Land Management Bureau

Air Pollution Control
Environmental Protection Agency

Animal Drugs
Food and Drug Administration

Authority Delegations (Government Agencies)
Food and Drug Administration

Banks, Banking
Federal Reserve System

Classified Information
Information Security Oversight Office

Customs Duties and Inspection
Customs Service

Endangered and Threatened Wildlife
Fish and Wildlife Service

Fisheries
National Oceanic and Atmospheric Administration

Food Grades and Standards
Agricultural Marketing Service

Government Employees
Personnel Management Office

Hunting
Fish and Wildlife Service

CONTINUED INSIDE

Selected Subjects

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Loan Programs-Housing and Community Development
Farmers Home Administration

Marine Safety
Coast Guard

Marketing Agreements
Agricultural Marketing Service

Mortgage Insurance
Federal Housing Commissioner—Office of Assistant Secretary for Housing

Mortgages
Comptroller of Currency

National Banks
Comptroller of Currency

Natural Gas
Federal Energy Regulatory Commission

Oil Pollution
Coast Guard

Organization and Functions (Government Agencies)
Housing and Urban Development Department

Recreation and Recreation Areas
Engineers Corps

Seizures and Forfeitures
Customs Service

Contents

Federal Register
Vol. 48, No. 176
Friday, September 9, 1983

The President
ADMINISTRATIVE ORDERS
40695 Trading With the Enemy Act, extension of authority (Memorandum of September 7, 1983)

Executive Agencies

Administrative Conference of United States
NOTICES
Meetings:
40754 Uniform Federal Agency Rules of Procedure Select Committee

Agency for International Development
NOTICES
Authority delegations:
40601 Africa, Mission Directors, et al.

Agricultural Marketing Service
RULES
40697 Lemons grown in Ariz. and Calif.
PROPOSED RULES
40734 Grapefruit and orange (canned) for salad, grade standards

Agricultural Research Service
NOTICES
Meetings:
40754 Soybean Research Advisory Institute

Agriculture Department
See Agricultural Marketing Service; Agricultural Research Service; Farmers Home Administration; Forest Service; Soil Conservation Service.

Antitrust Division
NOTICES
Competitive impact statements and proposed consent judgments:
40803 H. S. Crocker Co., Inc., et al.

Coast Guard
RULES
Boating safety:
40716 Hull identification numbers
Regattas and marine parades; safety of life:
40714 Miller High Life Thunderboat Regatta
40715 South Bay Marathon
PROPOSED RULES
Pollution:
40741 Cargo lightering operations, special requirements

Commerce Department
See also International Trade Administration; National Oceanic and Atmospheric Administration.
NOTICES
40758 Agency information collection activities under OMB review

Commodity Futures Trading Commission
NOTICES
40815 Meetings; Sunshine Act

Comptroller of Currency
RULES
40702 Adjustable-rate mortgages; amortization and maturity requirements
National banks:
40698 Real estate loans
PROPOSED RULES
National banks:
40735 Corporate activities; employee stock option and stock purchase plans

Customs Service
PROPOSED RULES
Air commerce:
40737 Unaccompanied baggage; processing
Articles conditionally free, subject to a reduced rate, etc.:
40738 Importation bonds; cancellation
Recordkeeping, inspection, search and seizure:
40740 Seized and forfeited property, disposition of proceeds of sale

Defense Department
See also Engineers Corps; Navy Department.
NOTICES
Meetings:
40772 Science Board task forces

Education Department
NOTICES
Meetings:
40773 Indian Education National Advisory Council

Employment and Training Administration
NOTICES
Adjustment assistence:
40803 Tennessee Texas Alloy Chemical Corp.

Employment Standards Administration
NOTICES
40818 Minimum wages for Federal and federally-assisted construction; general wage determination decisions, modifications, and supersedeas decisions (Conn., Fla., Ind., Kans., Ky., Minn., Mo., N.J., N. Mex., Pa., and R.I.)

Energy Department
See Federal Energy Regulatory Commission.

Engineers Corps
RULES
40719 Falls of the Ohio National Wildlife Conservation Area; protection, use, and management
NOTICES
Environmental statements; availability, etc.:
40773 Lake Champlain, Whitehall, N.Y., et al.

Environmental Protection Agency
RULES
Air quality planning purposes; designation of areas:
40722 California
PROPOSED RULES
Air quality planning purposes; designation of areas:
40746 California

NOTICES
Environmental statements; availability, etc.:
40780 Agency statements; weekly receipts
Toxic and hazardous substances control:
40782 Premanufacture notices receipts
40781 Premanufacture notices review period extensions
40781 Premanufacture notification requirements; test marketing exemption applications

Equal Employment Opportunity Commission
NOTICES
40815 Meeting; Sunshine Act

Farmers Home Administration
RULES
Rural housing loans and grants:
40697 Policies, procedures, and authorizations (Section 502); alien legal status of noncitizen applicant

Federal Aviation Administration
NOTICES
Advisory circulars; availability, etc.:
40810 Airplanes, small; self-locking nuts on bolts subject to rotation
Meetings:
40811 Air Traffic Procedures Advisory Committee
40811 Rotorcraft regulatory analysis seminar

Federal Deposit Insurance Corporation
NOTICES
40815 Meetings; Sunshine Act

Federal Energy Regulatory Commission
PROPOSED RULES
Natural Gas Policy Act; ceiling prices for high cost natural gas produced from tight formations; various States:
40736 Texas
NOTICES
Hearings, etc.:
40774 Central Maine Power Co. (3 documents)
40775 Cincinnati Gas & Electric Co.
40775, 40776 Cleveland Electric Illuminating Co. (4 documents)
40776 Consolidated Gas Supply Corp. et al.
40777 East Tennessee Natural Gas Co.
40778 Nantahala Power & Light Co.
40778 Northern Natural Gas Co.
40778 Pacific Power & Light Co.
40779 Texas Gas Transmission Corp.
40780 Wisconsin Power & Light Co.
Small power production and cogeneration facilities; qualifying status; certification applications, etc.:
40774 Aquenergy Systems, Inc.
40776 Corn Products Corp.
40777 Dutchess County Resource Recovery Agency
40777 Heber Geothermal Co.
40778 Hydraco Power
40779 Perkins Power of Broken H Ranch

Federal Highway Administration
NOTICES
Environmental statements; availability, etc.:
40811 Honolulu, Hawaii; intent to prepare

Federal Housing Commissioner—Office of Assistant Secretary for Housing
RULES
Mortgage and loan insurance programs:
40711 Home ownership and project rehabilitation; repayment of assistance
40710 Multifamily housing; mobile home parks insured under National Housing Act
NOTICES
Authority delegations:
40789 Regional Administrators et al.

Federal Maritime Commission
NOTICES
40815 Meetings; Sunshine Act

Federal Railroad Administration
NOTICES
Exemption petitions, etc.:
40812 Ontario Eastern Railroad et al.

Federal Reserve System
RULES
Interest on deposits (Regulation Q):
40702 Texas; early withdrawal penalty; temporary suspensions

Fish and Wildlife Service
RULES
Migratory bird hunting:
40852 Seasons, limits, and shooting hours; establishment, etc.
PROPOSED RULES
Endangered Species Convention:
40750 American ginseng

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
40704 SDS Biotech Corp.; sponsor change
Human drugs:
40704 Antibiotic drugs; sterile cefuroxime sodium; correction
Organization and authority delegations:
40703 Orphan Products Development Office, Director, et al.; orphan products
NOTICES
Human drugs:
40784 Orphan drugs, interim procedures; availability and inquiry

Forest Service
NOTICES
Land and resource management plans:
40756 Stanislaus National Forest, Calif.; intent to reevaluate roadless areas
Meetings:
40754 North Kaibab Grazing Advisory Board
40754 Timer sale contracts, extension; interim policy; clarification

General Services Administration
NOTICES
40783 Agency information collection activities under OMB review

Health and Human Services Department
See also Food and Drug Administration; Health Care Financing Administration; Health Resources and Services Administration; National Institutes of Health; Public Health Service.
NOTICES
40783 Agency information collection activities under OMB review

Health Care Financing Administration
PROPOSED RULES
Medicaid:
40749 Claims processing assessment system; correction

Health Resources and Services Administration
NOTICES
Grants; availability, etc.:
40785 Hill-Burton program; health facilities or hospitals modernization or construction

Housing and Urban Development Department
See also Federal Housing Commissioner—Office of Assistant Secretary for Housing.
RULES
40705 Mortgagee Review Board

Indian Affairs Bureau
NOTICES
Judgment funds; plan for use and distribution:
40790 Shoshone-Bannock Tribes of Fort Hall Reservation
Land additions:
40790 Isabella Indian Reservation, Mich.

Information Security Oversight Office
RULES
National security information program:
40849 Standard forms

Interior Department
See Fish and Wildlife Service; Indian Affairs Bureau; Land Management Bureau; Minerals Management Service.

Internal Revenue Service
NOTICES
Procurement:
40814 Commercial activities, performance; cost comparison review

International Development Cooperation Agency
See Agency for International Development.

International Trade Administration
NOTICES
Antidumping:
40769 Animal glue and inedible gelatin from Sweden
40758 Animal glue and inedible gelatin from West Germany
40759 Cadmium from Japan
40760 Elemental sulphur from Canada
40761 Portable electric typewriter from Japan
40771 Potassium permanganate from China; postponement
40768 Steel reinforcing bars from Canada
Countervailing duties:
40770 Vitamin K from Spain

Interstate Commerce Commission
NOTICES
Motor carriers:
40802 Compensated intercorporate hauling operations; intent to engage in
Rail carriers:
40802 Union Pacific Railroad Co.; passenger train operation

Justice Department
See also Antitrust Division.
NOTICES
Pollution control; consent judgments:
40803 Watts Regulator Co.

Labor Department
See Employment and Training Administration; Employment Standards Administration.

Land Management Bureau
RULES
Administrative procedures:
40724 Colorado State Office; jurisdiction over public lands in Kansas
Public land orders:
40724 New Mexico
NOTICES
Coal leases, exploration licenses, etc.:
40797 New Mexico
Conveyance of public lands:
40792 Montana
Disposal of public lands:
40796 New Mexico
Environmental statements; availability, etc.:
40794 California Desert Conservation Area Plan, Calif.
40796 Eagle Lake/Cedarville wilderness study areas, Susanville District, Calif. and Nev.
Geothermal resource lease sales:
40796 California
Meetings:
40798 Dickinson District Advisory Council
40798 Rawlins District Advisory Council
40798 Salem District Advisory Council
Motor vehicles, off-road, etc.; area closures and openings:
40793, 40794 Nevada (2 documents)
Opening of public lands:
40791, 40795 Arizona (3 documents)
Resources management plans:
40795 Rio Puerco Resource Area, N. Mex.
Sale of public lands:
40793 Montana
40792 North Dakota
40799 Utah
Survey plat filings:
40791 Arizona (2 documents)
Wilderness areas; characteristics, inventories, etc.:
40792 Utah

Merit Systems Protection Board
NOTICES
40815 Meetings; Sunshine Act

Minerals Management Service
NOTICES
Outer Continental Shelf; oil, gas, and sulphur operations:
40799 Gulf of Mexico; lease offerings
Outer Continental Shelf; oil, gas, and sulphur operations; development and production plans:
40801 Huffco Petroleum Corp.

National Institutes of Health
NOTICES
Meetings:
40786 Aging National Advisory Council
40786 Animal Resources Review Committee
40785 Dental Research National Advisory Council
40785 National Library of Medicine; Board of Regents
40785 Neurological Disorders Program Project Review Committees
40786 Research Grants Division study sections

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
40725 Tanner crab off Alaska
PROPOSED RULES
Fishery conservation and management:
40752 Northern anchovy; hearings
NOTICES
Costal Zone management program:
40771 California

National Science Foundation
NOTICES
Meetings:
40803 Economics Oversight Panel

National Transportation Safety Board
NOTICES
40803 Accident reports, safety recommendations, and responses, etc.; availability

Navy Department
NOTICES
Meetings:
40773 Chief of Naval Operations Executive Panel Advisory Committee

Personnel Management Office
PROPOSED RULES
40732 Life insurance; basic, standard optional, additional optional and family optional; coverage waiver cancellation
40731 Suitability and adverse actions

Postal Rate Commission
NOTICES
40816 Meetings; Sunshine Act
Post office closing; petitions for appeal:
40806 Uler, W. Va.

Public Health Services
NOTICES
Meetings:
40787 National Toxicology Program; Scientific Counselors Board

Securities and Exchange Commission
NOTICES
Hearings, etc.:
40807 Indiana & Michigan Electric Co.
40807 PHM Credit Corp.
40808 Presidential Associates I Ltd. Partnership et al.
Self-regulatory organizations; proposed rule changes:
40809 National Securities Clearing Corp.
40809 Options Clearing Corp.

Small Business Administration
NOTICES
Applications, etc.:
40810 Mighty Capital Corp.
Authority delegations:
40810 Disaster Assistance, Deputy Associate Administrator
40810 Finance and Investment, Associate Administrator
Meetings; regional advisory councils:
40810 South Dakota
40810 Vermont

Soil Conservation Service
NOTICES
Environmental statements; availability, etc.:
40757 East-West-Dry Maple Creeks Watershed, Nebr.
40756 Juniper Canyon Watershed, Oreg.
40757 Okfuskee Tributaries Watershed, Okla.
40758 Thornton Academy Athletic Area Land Drainage RC&D Measure, Maine
Watershed projects; deauthorization of funds:
40757 Dewitt Creek Watershed, Ind.
40756 West Creek Watershed, Ill. and Ind.

Solar Energy and Energy Conservation Bank
NOTICES
Committees; establishment, renewals, terminations, etc.:
40787 Energy Conservation Advisory Committee et al.

Transportation Department
See Coast Guard; Federal Aviation Administration; Federal Highway Administration; Federal Railroad Administration.

Treasury Department
See also Comptroller of Currency; Customs Service; Internal Revenue Service.
NOTICES
40813 Agency information collection activities under OMB review

---

Separate Parts in This Issue

Part II
40818 Department of Labor, Employment Standards Administration, Wage and Hour Division

Part III
40849 Information Security Oversight Office

Part IV
40852 Department of the Interior, Fish and Wildlife Service

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR

Administrative Orders:

Memorandums:
September 7, 1983.....40695

Executive Orders:

6143 (Revoked by PLO 6459).....40724
6276 (Revoked by PLO 6459).....40724
6583 (Revoked by PLO 6459).....40724

5 CFR

Proposed Rules:

731.....40731
754.....40731
870.....40732
871.....40732
872.....40732
873.....40732

7 CFR

910.....40697
1944.....40697

Proposed Rules:

5.....40734

12 CFR

7.....40698
29.....40702
34.....40698
217.....40702

Proposed Rules:

5.....40735

18 CFR

Proposed Rules:

271.....40736

19 CFR

Proposed Rules:

6.....40737
10.....40738
114.....40738
162.....40740

21 CFR

5.....40703
436.....40704
510.....40704
520.....40704
522.....40704
558.....40704

24 CFR

25.....40705
207.....40710
235.....40711

32 CFR

2003.....40849

33 CFR

100 (2 documents).....40714, 40715
181.....40716

Proposed Rules:

1.....40741
156.....40741

36 CFR

331.....40719

40 CFR

81.....40722

Proposed Rules:

81.....40746

42 CFR

Proposed Rules:

431.....40749

43 CFR

1820.....40724

Public Land Orders:

6459.....40724

50 CFR

20.....40852
671.....40725

Proposed Rules:

23.....40750
662.....40752

VOL
48
ISS
1,
7
6
SE
9
1983
UMI

Federal Register
Vol. 48, No. 176
Friday, September 9, 1983

Presidential Documents

Title 3—

The President

Memorandum of September 7, 1983

Extension of the Exercise of Certain Authorities Under the Trading With the Enemy Act

Memorandum for the Secretary of State, the Secretary of the Treasury

Under section 101(b) of Public Law 95–223 (91 Stat. 1625, 50 U.S.C. App. 5(b) note), and a previous determination made by the President on September 8, 1982 (47 F.R. 39797 (1982)), the exercise of certain authorities under the Trading With the Enemy Act is scheduled to terminate on September 14, 1983.

I hereby determine that the extension for one year of the exercise of those authorities with respect to the applicable countries is in the national interest of the United States.

Therefore, pursuant to the authority vested in me by section 101(b) of Public Law 95–223, I extend for one year, until September 14, 1984, the exercise of those authorities with respect to countries affected by:

(1) the Foreign Assets Control Regulations, 31 CFR Part 500;

(2) the Transaction Control Regulations, 31 CFR Part 505;

(3) the Cuban Assets Control Regulations, 31 CFR Part 515; and

(4) the Foreign Funds Control Regulations, 31 CFR Part 520.

This memorandum shall be published in the **Federal Register.**

Ronald Reagan

THE WHITE HOUSE,
Washington, September 7, 1983.

[FR Doc. 83–24833
Filed 9–7–83; 4:42 pm]
Billing code 3195–01–M

VOL
48
ISS
1
7
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1983
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Rules and Regulations

Federal Register
Vol. 48, No. 176
Friday, September 9, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 428]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 245,000 cartons during the period September 11–17, 1983. Such action is needed to provide for orderly marketing of fresh lemons for the period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: September 11, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona lemon crop for the benefit of producers, and will not substantially affect costs for the directly regulated handlers.

This final rule is issued under Marketing Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy currently in effect. The committee met publicly on September 6, 1983, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is good on larger sizes and weaker on smaller sizes.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the Act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

Section 910.728 is added as follows:

§ 910.728 Lemon Regulation 428.

The quantity of lemons grown in California and Arizona which may be handled during the period September 11, 1983, through September 17, 1983, is established at 245,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: September 6, 1983.

Charles R. Brader,
Director, Fruit and Vegetable Division, Agricultural Marketing Service

[FR Doc. 83–24880 Filed 9–8–83; 11:31 am]
BILLING CODE 3410–02–M

Farmers Home Administration

7 CFR Part 1944

Section 502 Rural Housing Loan Policies, Procedures, and Authorizations

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations regarding Section 502 Rural Housing loans by providing the procedures for verifying the legal alien status of a noncitizen applicant. This action is needed to clarify such procedures. The intended effect of the action is to advise FmHA field staffs of these procedures.

EFFECTIVE DATE: September 9, 1983.

FOR FURTHER INFORMATION CONTACT: Frank Colon, Supervisory Loan Specialist, Single Family Housing Processing Division, Farmers Home Administration, USDA, Room 5345, South Agriculture Building, 14th and Independence Avenue, SW, Washington, D.C. 20250, Telephone (202) 382–1482.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1512–1 which implements Executive Order 12291 and has been determined to be exempt from those requirements because it involves only internal Agency management. This final action does not affect eligibility requirements for Section 502 Rural Housing Loans. The requirement that an applicant be a citizen or a noncitizen with legal alien status remains the same. Only the administrative procedures for providing and verifying evidence of noncitizen eligibility is changed with this final action. It is the policy of this Department that rules relating to public property, loans, grants, benefits, or

contracts shall be published for comment notwithstanding the exemption in 5 U.S.C 553 with respect to such rules. This action, however, is not published for proposed rulemaking since the purpose of this change involves only internal Agency management and publication for comment is unnecessary.

If the authenticity of the information shown on the alien's identification document is questioned, the Agency may ask the Immigration and Naturalization Service (INS) to verify the information for law enforcement purposes (in the case of FmHA, for compliance with the eligibility requirements set forth by the Housing Act of 1949). The payment of a service fee by FmHA to INS is waived by inserting in the upper right hand corner of INS Form G-641, "Application for Verification of Information from Immigration and Naturalization Records," the following words, "Interagency Law Enforcement Request".

This document has been reviewed in accordance with 7 CFR Part 1901, Subpart G, "Environmental Impact Statements". FmHA has determined that this action does not constitute a major Federal action significantly affecting the quality of human environment, and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-190, an Environmental Impact Statement is not required.

The Catalog of Federal Domestic Assistance programs affected by this regulation are: 10.410, "Low to Moderate Income Housing Loans" and 10.417, "Very Low-Income Housing Repair Loans and Grants."

List of Subjects in 7 CFR Part 1944

Home improvement, Loan programs—housing and community development, Low and moderate income housing—rental, Mortgages, Rural housing, Subsidies.

PART 1944—HOUSING

Accordingly, Subpart A of Part 1944, Chapter XVIII, Title 7, Code of Federal Regulations is amended as follows:

1. Section 1944.9 is amended by revising paragraph (c) to read as follows:

§ 1944.9 Other eligibility requirements.

* * * * *

(c) Be a natural person (individual) who resides in any of the 50 States, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Marianas, or the Trust Territory of the Western Pacific Islands, or a noncitizen who resides in one of the foregoing areas after being legally admitted for permanent residence or on indefinite parole. Permanent residents will verify their status by presentation of Form I-151 or Form I-551, "Alien Registration Receipt Card," or any later revision of the form. Those on indefinite parole must present Form I-94, "Arrival/Departure Card," or any later revision of the form. If the authenticity of the information shown on the alien's identification document is questioned, the County Supervisor may request the Immigration and Naturalization Service (INS) to verify the information appearing on the alien's identification card by completing INS Form G-641, "Application for Verification of Information from Immigration and Naturalization Records" (obtainable from the nearest INS District. See Exhibit B of this Subpart), and mailing the form to INS. The payment of a service fee by FmHA to INS is waived by inserting in the upper right hand corner of INS Form G-641, the following: "Interagency Law Enforcement Request".

* * * * *

2. Section 1944.50 is added to read as follows:

§ 1944.50 OBM control number.

The collection of information requirements in this regulations have been approved by the Office of Management and Budget and have been assigned OMB control number 0575-0059.

(42 U.S.C. 1480; 7 CFR 2.23; 7 CFR 2.70)

Dated: August 19, 1983.

Charles W. Shuman,

Administrator, Farmers Home Administration.

[FR Doc. 83-24700 Filed 9-8-83; 8:45 am]

BILLING CODE 3410-07-M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Parts 7 and 34

[Docket No. 83-37]

Real Estate Lending by National Banks

AGENCY: Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: The Office of the Comptroller of the Currency is adopting final amendments to its regulations and is removing interpretive rulings regarding real estate lending by national banks. This action implements statutory changes contained in the Garn-St Germain Depository Institutions Act of 1982. This rule eliminates certain real estate lending limitations and restrictions. This rule is intended to enhance the ability of national banks to develop real estate lending products.

DATE: The regulation is effective September 9, 1983.

FOR FURTHER INFORMATION CONTACT: Robert Sihler, National Bank Examiner, National Bank Surveillance System Division, (202) 447-1181; or Jerome Edelstein or Francis S. Rath, Attorneys, Legal Advisory Services Division, (202) 447-1880, Office of the Comptroller of the Currency, Washington, D.C. 20219.

SUPPLEMENTARY INFORMATION:

Background

The Garn-St Germain Depository Institutions Act of 1982 (Act), Pub. L. 97-320, Section 403, amends 12 U.S.C. 371 by removing statutory restrictions on real estate lending by national banks. The Act authorizes national banks to make, arrange, purchase, or sell loans or extensions of credit secured by liens on interests in real estate subject to terms, conditions and limitations that the Comptroller of the Currency may prescribe.

Because of this statutory change the Office reviewed its existing regulations regarding real estate lending by national banks. On March 10, 1983, the Office published a notice of proposed rulemaking (Docket No. 83-13) in the **Federal Register** (48 FR 10068) requesting comments. The comment period closed on April 11, 1983.

Existing Requirements

Notice of proposed rulemaking Docket No. 83-13 set out in detail those federal statutory and regulatory requirements for real estate lending in effect prior to passage of the Act. These requirements fall into the following five categories:

A. *Loan-to-value ratios.* These limit the amount a national bank may loan relative to the appraised value of the property that secures the loan.

B. *Amortization requirements.* These require a scheduled reduction of principal for certain loans secured by real estate.

C. *Maturity requirements.* These require that certain loans secured by real estate must mature within 30 years.

D. *Aggregate limits.* These limit the aggregate amount of loans secured by real estate that a national bank may make. Specific aggregate limits are also set for forest tract loans, construction loans that are considered to be commercial loans, and loans secured by junior liens on real estate.

E. *Leasehold loan requirements.* These require amortization and set other conditions for loans secured by leaseholds.

Regulatory Options Considered

The Office considered three regulatory options in response to its broadened authority under the Act. These were:

1. Adopt a regulation that reaffirms the limitations that existed under 12 U.S.C. 371 before the 1982 amendment and currently exist in Interpretive Rulings 12 U.S.C. 7.2000 through 7.2700.

2. Adopt a regulation that modifies the limitations that existed under 12 U.S.C. 371 before the 1982 amendment and currently exist in the interpretive rulings.

3. Adopt a regulation that imposes no limitations on national banks' real estate lending and rescinds current regulations which do impose limitations.

Proposal

The Office proposed the third option: Adopt a regulation that imposes no limitations on national banks' real estate lending and rescind current regulations which do impose limitations. The proposed rule provided:

A. General permission for national banks to engage in real estate lending, including a clarification of types of property considered to be real estate;

B. Clarification that certain loans are not considered real estate loans under 12 U.S.C. 371, and a statement that such loans may be made by national banks under 12 U.S.C. 24 Seventh;

C. Preemption of certain state laws regulating real estate loans, including nonpurchase money loans secured by real estate; and

D. Notice that banks must comply with other federal laws and regulations, including those pertaining to disclosure.

Request for Comments in the Notice

In the notice of proposed rulemaking the Office requested comments on the proposal and the alternative regulatory options. In addition, the Office requested comments specifically addressing:

A. A variety of regulatory requirements, including loan-to-value ratios, amortization (including negative amortization), maturity requirements, aggregate limitations on real estate loans, loans on leaseholds, limitations on forest tract loans, and construction loans;

B. The preemption of state laws regarding loans secured by real estate, particularly nonpurchase money loans; and

C. Any other issues that the public felt were relevant to the regulation of real estate lending by national banks.

Discussion of Comments

Fifty-five comments were received on the proposed action. The majority of the commenters were national banks or their representatives. The final rule includes changes based on recommendations offered by commenters.

Forth-eight of the commenters support the proposal. The seven commenters opposing the proposal include four national banks, a consumer group, a state banking regulator, and an association of mortgage insurance companies. One of these commenters suggests gradual relaxation of the existing limitations rather than the approach taken in the proposal. Comments addressing the proposal are discussed below.

A. Regulatory Requirements

1. Loan-to-value ratios. The Office proposed to eliminate limitations on the amount a national bank may loan relative to the appraised value of the property securing the loan.

The majority of the commenters support the elimination of limitations on loan-to-value ratios. Two commenters opposing the proposal state that the maximum loan-to-value ratio should be 100%. Two others state that the present 90% maximum ratio should be retained. One of these commenters contends that the 90% ratio limits the risk of default.

2. Amortization, including negative amortization, and maturity requirements. The Office proposed to eliminate the requirements that certain loans follow a scheduled reduction of principal and that certain loans mature within 30 years.

The majority of the commenter support the elimination of amortization and maturity requirements. A few commenters oppose the elimination of these requirements. Three commenters state that the present 30 year maturity requirements should be retained. One commenter states that some amortization should be required. Another suggests that negative amortization be prohibited.

3. Loans on leaseholds. The Office proposed to eliminate amortization and other requirements for loans secured by leaseholds.

The majority of the commenters support the elimination of these requirements. A few commenters declined to comment specifically on these requirements because of their limited experience with such loans. Two commenters state that the maturity of leasehold loans should not extend beyond the lease period.

4. Construction loans. The Office proposed to eliminate maturity requirements, aggregate limitations, and certain other requirements which construction loans had to satisfy in order to be considered commercial loans, not real estate loans. Upon removal of the restrictions, construction loans would be considered real estate loans.

A few commenters suggest that a loan for which there is a valid and binding commitment by a financially responsible third party to purchase or repay the loan at or prior to maturity, be treated as a commercial loan. One commenter states that construction loans should be limited to seven years and that equity or take-out commitments should be required.

Office's Reasons for Eliminating These Regulatory Restrictions

The Office believes that aside from the regulations, factors such as market forces and management philosophies are the real determinants of banks' real estate lending practices. A number of comments support this conclusion. One commenting bank notes that its underwriting standards exceed the requirements of existing regulations. Another urges the removal of existing restrictions in favor of permitting national banks to make real estate loans that conform to the requirements of the secondary market. Other commenters state that they will use the existing restrictions as guidelines if the restrictions are eliminated.

In recent years there have been a number of developments in the mortgage market. In more than a few cases regulatory changes had to be made to respond to market occurrences. If restrictions were retained, national banks' responses to real estate market occurrences would be constrained. Therefore, the Office believes that, in the interest of facilitating national banks' ability to respond to market conditions, removal of the restrictions is warranted.

Decisions concerning the forms and terms of national bank lending are properly the responsibility of each bank's directorate and management. The lending forms and terms which management chooses should be

reflected in the bank's lending policy. Bank managers and directors are expected to prudently manage real estate lending activities and not expose the bank to undue or unwarranted risk. The removal of restrictions should not be interpreted as a sign of reduced Office concern with banks' real estate lending activities. Rather, the elimination of regulatory restrictions emphasizes that this is properly the responsibility of bank management.

The Office believes that, at this time, regulatory restrictions are unnecessary to ensure the safety and soundness of national banks' real estate lending activities. These activities can be monitored and evaluated through various means including the examination process, surveillance procedures, contact with the industry, and economic reviews.

B. Preemption of State Law

The proposal included preemption of certain state laws which apply to real estate lending.

Numerous commenters are concerned with this aspect of the proposal. Predominantly these commenters express concern that the extent of preemption is unclear and suggest that the final rule clarify the scope of preemption. Additionally, several commenters oppose preemption with regard to loans secured by junior liens, usury limits, prepayments, foreclosures, interest on escrow accounts, delinquency charges, and adjustable rate mortgage indexes within the control of the lender. Other commenters question whether interest rates are covered by the preemption, and suggest that the usury override for first liens should be made applicable to junior liens. Also sought is a clarification of the preemption, particularly as it relates to state law restrictions on the terms of mortgage loans secured by junior liens.

Several commenters suggest that national banks not be subject to state law restrictions on nonpurchase money adjustable rate mortgages. One commenter opposes preemption of state law that prohibits additional liens on a homestead. Finally, four commenters suggest the addition of the word "federal" to the proposed 12 CFR 7.2000(c) thereby precluding the application of state law restrictions to areas directly addressed by the proposed rule.

The Office acknowledges a need to clarify the extent of preemption of state law. The Office proposed to eliminate certain federal regulatory restrictions and limitations on real estate lending by national banks, and to preempt state law imposing, on national banks, restrictions similar to those eliminated. The restrictions and limitations eliminated in this final rule include loan-to-value ratios, amortization, maturity requirements, aggregate limits, and certain terms of loans secured by leaseholds.

The Congress, when it passed the Act, sought to provide flexibility in real estate lending for national banks. The Office is preempting, at this time, only those state laws that govern those areas in which federal limitations and restrictions are eliminated. This is to precluce any conflict of state law with Congressional intent and the intent of the Office in removing the regulatory restrictions. The final rule clarifies the limited scope of the preemption. Aside from the specific preemption of state law as to the restrictions discussed, the relationship between state and federal law in regard to real estate loans as it existed prior to the amendment of 12 U.S.C. 371 is expected to remain unchanged. Other changes in the regulations are intended to assure that banks are aware that other federal laws and regulations remain applicable.

C. Other Issues

A number of commenters raise various other concerns about the notice of proposed rulemaking. One concern is the belief that there is an inconsistency between 12 CFR Part 29, which governs adjustable rate mortgages, and the proposed regulations regarding the treatment of loans secured by liens on mobile homes. The focus of 12 CFR Part 29 is on loans secured by dwellings (which include mobile homes), while 12 U.S.C 371 and 12 CFR 7.2000(e) are concerned with loans primarily secured by real estate (which does not include mobile homes). Therefore, there is no inconsistency.

Another commenter suggests that the final rule clarify that national banks may sell real estate loans with recourse. This is unnecessary since § 7.7000 provides that a national bank may endorse or otherwise guarantee notes or other obligations sold by the bank for its own account. It should also be noted that language in 12 U.S.C. 92, which has been interpreted by several courts as casting some doubt on the ability of national banks to repurchase real estate mortgages, has been rescinded by the Act.

One commenter states that national banks should not be permitted to invest in real estate projects that they finance. The Office emphasizes that the authority for national bank ownership of real estate is separately contained in 12 U.S.C. 29 and, as such, is unaffected by the Act and this regulation.

One commenter questions whether the removal of loan-to-value ratios will alter the § 7.3025 requirement that other real estate owned includes covered transactions where less than 10% of the total sales price is received in cash. Again regulations concerning bank ownership of property are separate from this regulation and are not affected by this regulation.

Two commenters question the applicability of this regulation to state banks. Title 8 of the Act provides that state commercial banks may engage in "alternative mortgage transactions" in accordance with Office regulations. In the opinion of the Office, this regulation has applicability for state banks to the extent that the regulation permits national banks to engage in what the Act characterizes as "alternative mortgage transactions."

Summary of Changes

The final rule is changed from the proposal in the following ways:

1. The scope of preemption of state law is clarified. The preemption, at this time, is limited to state laws that govern those areas for which the Office is eliminating federal limitations and restrictions;

2. It is specified that national banks must comply with all applicable federal laws and regulations, including those pertaining to disclosure;

3. The section which identifies loans not constituting real estate loans within 12 U.S.C. 371 is changed to clarify the treatment of construction loans as commercial loans where there is an agreement by a third party to advance the full amount of the bank's loan upon completion of the construction. Also, added to this section are loans made to finance the construction of residential or farm buildings; and

4. The scope of loans constituting real estate loans now includes forest tract loans.

Special Studies

The Secretary of the Treasury has certified that this regulation will not have a "significant impact on a substantial number of small businesses," as that phrase is used in the Regulatory Flexibility Act; therefore, no regulatory flexibility analysis has been prepared. This regulation will ease the burden of existing regulations. The effect of this regulation is expected to be beneficial rather than adverse, and small entities are expected to share the benefits of this regulation with larger institutions.

A Regulatory Impact Analysis is not required because the Office has

determined that this regulation is not a "major rule" as defined by Executive Order 12291. The regulation will not have an annual effect on the economy of $100 million or more, will not result in a major increase in costs or prices to consumers, individual industries, federal, state, or local government agencies, or geographic regions, nor will it have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises.

Reason for Immediate Effective Date

The regulation is effective upon publication. Delayed effectiveness of 30 days is not required because the regulation relieves restrictions.

Designation of Final Rule

In the notice of proposed rulemaking, the Office proposed to include these regulations in 12 CFR Part 7—INTERPRETIVE RULINGS. Because the final rule is regulatory in nature, it is inappropriate to place these regulations with Office interpretive rulings in Part 7. Therefore, the final rule is issued under new CFR Part 34.

List of Subjects in 12 CFR Parts 7 and 34

Credit, Mortgages, National bank, Real estate lending

Accordingly, pursuant to authority under 12 U.S.C. 93a and 371, the Comptroller hereby amends Title 12 of the Code of Federal Regulations by amending Part 7 and adding a new Part 34 as follows:

PART 7—INTERPRETIVE RULINGS

1. The authority for Part 7 is:

Authority: R.S. 324 *et seq.*, as amended; 12 U.S.C. 1 *et seq.*, unless otherwise noted.

§ 7.2000 through 7.2700 [Removed]

2. Part 7 is amended by removing § 7.2000 through and including § 7.2700.

3. The authority for Part 34 is:

Authority: 12 U.S.C. 93a; 12 U.S.C. 371.

4. A new Part 34 is added to 12 CFR Chapter I to read as follows:

PART 34—REAL ESTATE LENDING

Sec.
34.1 General and scope.
34.2 Applicability of law.
34.3 Loans not constituting real estate loans.

Authority: 12 U.S.C. 93a; 12 U.S.C. 371.

§ 34.1 General and scope.

(a) *General.* Any national bank may make, arrange, purchase, or sell loans or extensions of credit secured by liens on interests in real estate, subject to such terms, conditions and limitations as may be prescribed, from time to time, by the Comptroller of the Currency by order, rule, or regulation.

(b) *Scope.* For the purposes of 12 U.S.C. 371 and this part, loans secured by liens on interests in real estate include loans made upon the security of condominiums, leaseholds, cooperatives, forest tracts, construction project loans (except as specified in § 34.3(a) (6) and (7)), and land sales contracts.

§ 34.2 Applicability of Law.

(a) *State Law.* National banks may proceed under 12 U.S.C. 371 and § 34.1 without regard to state law limitations as to:

(1) The amount of a loan in relation to the appraised value of the real estate;

(2) The schedule for the repayment of principal and interest;

(3) The term to maturity of the loan;

(4) The aggregate amount of funds which may be loaned upon the security of real estate; and

(5) The covenants and restrictions which must be contained in a lease to qualify the leasehold as acceptable security for a real estate loan.

Limitations imposed on paragraphs (a) (1) through (5) of this section directly or indirectly by law or judicial decisions of any state, the District of Columbia, Puerto Rico, the Virgin Islands, the Trust Territory of the Pacific Islands, and Guam are hereby expressly preempted.

(b) *Federal Law.* National banks, in making real estate loans pursuant to this part, must comply with all applicable federal laws and regulations, including those pertaining to disclosure.

§ 34.3 Loans not constituting real estate loans.

The loans listed below are not real estate loans for the purposes of 12 U.S.C. 371 and this part.[1] National banks have the authority to make these loans pursuant to 12 U.S.C. 24 Seventh, even when the bank takes a security interest in real estate as a matter of prudent banking practice or because such security is required by the insurer or guarantor.

(a) *Insured or Guaranteed Loans.* (1) When the bank relies substantially on the insurance or guaranty of a governmental agency in making a loan. This includes loans which are:

(i) Insured under the provisions of the National Housing Act;

(ii) Insured by the Secretary of Agriculture pursuant to Title I of the Bankhead-Jones Farm Tenant Act, or the Act of August 28, 1937, as amended, or Title V of the Housing Act of 1949, as amended;

(iii) Guaranteed by the Secretary of Housing and Urban Development, for the payment of obligations of which the full faith and credit of the United States is pledged;

(iv) Fully guaranteed or insured by a state, any agency or instrumentality of a state, or by a state authority for the payment of obligations of which the full faith and credit of the State is pledged, if under the terms of the guaranty or insurance agreement the association will be assured of repayment in accordance with the terms of the loan;

(v) At least 20% guaranteed or insured by the Administrator of Veterans Affairs under Chapter 37, Title 38 of the United States Code;

(vi) Guaranteed under section 802 of the Housing and Community Development Act of 1974;

(vii) Subject to a firm commitment to insure by a Government insuring agency. A firm commitment is a commitment in which a specific mortgagor is named; and

(viii) Loans in which the Small Business Administration cooperates through agreements to participate on an immediate or deferred or guaranteed basis under the Small Business Act.

(2) When the bank relies substantially upon private company mortgage insurance or guaranty, but only to the extent of the insurance or guaranty.

(b) Loans where the association looks for repayment by relying primarily on the borrower's general credit standing and forecast of income.

(c) Loans secured by an assignment of rents under a lease.

(d) Loans secured by the pledge or assignment of another real estate mortgage.

(e) Loans secured by a valid chattel mortgage on timber, in states which permit such mortgages.

(f) Loans having maturities not to exceed 60 months made to finance the construction of a building or buildings, where there is a valid and binding agreement entered into by a financially responsible lender or other party to advance the full amount of the bank's loan upon completion of the building or buildings.

[1] It continues to be the position of the Office that these loans are not subject to state laws which restrict the ability of national banks to make such loans. Those state laws, including laws governing amortization, maturity, loan-to-value, and aggregate limits, conflict with the federal statutory scheme which gives exclusive authority to this Office to assure the safety and soundness of national banks and the national banking system. Those laws also infringe on the ability of national banks to exercise their statutory authority.

(g) Loans having maturities not to exceed 60 months made to finance the construction of residential or farm buildings.

(h) Loans for which a security interest is taken in a mobile home.

(i) Loans made previously where a security interest in real estate is taken subsequently in good faith.

Dated: August 12, 1983.

C. T. Conover,

Comptroller of the Currency.

[FR Doc. 83-24863 Filed 9-8-83; 8:45 am]

BILLING CODE 4810-33-M

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12 CFR Part 29

[Docket No. 83-35]

Adjustable-Rate Mortgages

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Final Rule.

SUMMARY: The Office of the Comptroller of the Currency ("Office") is revising its Adjustable-Rate Mortgage ("ARM") regulation to remove references to amortization and maturity requirements. The action is necessary to conform the ARM regulation to the Office's real estate lending regulation which removes such restrictions on real estate loans. The action is intended to assure that banks have the same flexibility to establish amortization and maturity requirements in ARM loans as they have with regard to real estate loans not governed by the ARM regulation.

EFFECTIVE DATE: September 9, 1983.

FOR FURTHER INFORMATION CONTACT: David Nebhut, Financial Economist, Economic and Policy Analysis Division (202) 447-1924, Francis S. Rath, Attorney, or Jerome L. Edelstein, Attorney, Legal Advisory Services Division (202) 447-1880, Office of the Comptroller of the Currency, Washington, D.C. 20219.

SUPPLEMENTARY INFORMATION:

Background

On March 7, 1983, the Office published in the **Federal Register** (48 FR 8506), final revisions of its regulation on ARMs. This regulation provided that ARM loans by national banks must be amortized no later than the 21st year of the loan. This amortization occurs under a schedule that provides for full repayment without a substantial balloon payment by the end of the 30th year, and, for state banks by the end of any maximum loan term permitted by state law. 12 CFR 29.5.

The provision was included so that the ARM regulation, which includes loans made upon the security of certain real estate, would comply with the amortization and maturity requirements imposed on real estate loans by 12 U.S.C. 371 (as of the date of enactment of the rule; September 9, 1983) and 12 CFR 7.2125. The statutory restrictions were repealed as of April 14, 1983. *See* Garn-St Germain Depository Institutions Act of 1982, Pub. L. 97-320, Title IV, § 403(a), 96 Stat. 1510.

The regulatory restrictions are rescinded today in another final rule published in this **Federal Register**. Because there is no longer any separate law, rule or regulation imposing amortization and maturity requirements on ARM loans, the Office is rescinding 12 CFR 29.5. The Office also notes that in the event a bank makes a loan under this Part without a specified term to maturity, the disclosure requirements of 12 CFR 29.7(b)(5) and 29.7(c)(3) would be inapplicable.

Special Analyses

A regulatory flexibility analysis has not been prepared for this final rule because a notice of proposed rulemaking is not required by the Administrative Procedure Act.

The Office has determined that this final rule does not constitute a major rule within the meaning of Executive Order 12291. Accordingly, a regulatory impact analysis will not be prepared on the grounds that the revision (1) will not have an annual effect on the economy of $100 million or more, (2) will not result in a major increase in the cost of bank operations or government supervision, nor is it likely to generate substantially higher payments for borrowers and (3) will not have a significant adverse effect on competition, employment, investment, productivity, innovation, or competitive with foreign-based entities.

Notice and Comment

The final rule has not been published for notice and comment, because such notice and comment is unnecessary. The Office's proposal to eliminate amortization and maturity requirements from its real estate lending regulations was published on March 10, 1983 (48 FR 10068). Today, the Office is publishing its final real estate lending regulation eliminating those restrictions. This final rule merely conforms 12 CFR Part 29 to the new real estate lending regulations.

Immediately Effective

This final rule is also being made effective immediately because, as discussed, it simply effects a technical change. Further, delayed effectiveness is not required for regulations which relieve restrictions.

List of Subjects in 12 CFR Part 29

National banks, Mortgages, Adjustable rate mortgages

PART 29—[AMENDED]

Accordingly, for the reasons set forth above, 12 CFR Part 29 is amended as follows:

1. The authority citation for Part 29 reads as follows:

Authority: 12 U.S.C. 1 *et seq.*; 12 U.S.C. 93a; and 12 U.S.C. 371.

§ 29.5 [Removed]

2. By removing § 29.5.

3. By revising § 29.9 to read as follows:

§ 29.9 Nonfederally chartered commercial banks.

Under authority granted by Pub. L. 97-320, the Garn-St Germain Depository Institutions Act of 1982, nonfederally chartered commercial banks may make adjustable-rate mortgages in accordance with the following provisions of this part: §§ 29.1, 29.3, 29.4, 29.6 and 29.7.

Dated: August 12, 1983.

C. T. Conover,

Comptroller of the Currency.

[FR Doc. 83-24862 Filed 9-8-83; 8:45 am]

BILLING CODE 4810-33-M

FEDERAL RESERVE SYSTEM

12 CFR Part 217

[Docket No. R-0480]

Interest on Deposits; Temporary Suspension of Early Withdrawal Penalty; Regulation Q

AGENCY: Federal Reserve System.

ACTION: Amendment of Board Order temporarily suspending the Regulation Q early withdrawal penalty.

SUMMARY: The Board of Governors, acting through its Secretary, pursuant to delegated authority, has suspended temporarily the Regulation Q penalty for the withdrawal of time deposits prior to maturity from member banks for depositors affected by Hurricane Alicia in the Texas counties of Brazoria, Chambers, Fort Bend, Galveston, Harris and Matagorda on August 26, 1983. This action expands that Order to include additional counties in Texas.

DATE: August 29, 1983.

FOR FURTHER INFORMATION CONTACT: Daniel L. Rhoads, Attorney (202/452-3711), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: On August 19, 1983, pursuant to section 301 of the Disaster Relief Act of 1974 (42 U.S.C. 5141) and Executive Order 12148 of July 15, 1979, the President, acting through the Director of the Federal Emergency Management Agency, designated the Texas counties of Brazoria, Chambers, Fort Bend, Galveston, Harris and Matagorda, major disaster areas. The Board regarded the President's actions as recognition by the Federal government that a disaster of major proportions had occurred. The President's designation enables victims of the disaster to qualify for special emergency financial assistance. The Board of Governors, acting through its Secretary, pursuant to delegated authority, suspended temporarily the Regulation Q penalty for the withdrawal of time deposits prior to maturity from member banks for depositors suffering property or other financial loss in the disaster areas as a result of Hurricane Alicia beginning on or about August 18, 1983. (48 FR 39604). Subsequent to this action, the Presidential declaration of a major disaster has been amended to include the Texas counties of Liberty, Montgomery and San Jacinto. The Board therefore believes it appropriate to amend its Order to include the additional counties. The Board's action permits a member bank, wherever located, to pay a time deposit before maturity without imposing this penalty upon a showing that the depositor has suffered property or other financial loss in the disaster areas as a result of Hurricane Alicia beginning on or about August 18, 1983. A member bank should obtain from a depositor seeking to withdraw a time deposit pursuant to this action a signed statement describing fully the disaster-related loss. This statement should be approved and certified by an officer of the bank. This amendment will be retroactive to August 29, for the Texas counties of Liberty, Montgomery and San Jacinto and will remain in effect unitl 12 midnight, February 18, 1984.

List of Subjects in 12 CFR Part 217

Advertising, Banks, banking, Federal Reserve System, Foreign banking.

In view of the urgent need to provide immediate assistance to relieve the financial hardship being suffered by persons in the designated counties of Texas directly affected by Hurricane Alicia, good cause exists for dispensing with the notice and public participation provisions in Section 553(b) of Title 5 of the United States Code with respect to this action. Because of the need to provide assistance as soon as possible and because the Board's action relieves a restriction, there is good cause to make this action effective immediately.

By order of the Board of Governors, acting through its Secretary, pursuant to delegated authority, September 2, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83-24607 Filed 9-8-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 5

Delegations of Authority and Organization; Orphan Products

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations for delegations of authority relating to orphan products. This amendment redelegates new authorities to the Director of the Office of Orphan Products Development and officials in the National Center for Drugs and Biologics.

EFFECTIVE DATE: September 9, 1983.

FOR FURTHER INFORMATION CONTACT: Robert L. Miller, Office of Management and Operations (HFA-340), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4976.

SUPPLEMENTARY INFORMATION: Section 2 of the Orphan Drugs Act (Pub. L. 97-414) amended Chapter V of the Federal Food, Drug, and Cosmetic Act by adding Subchapter B—Drugs for Rare Diseases or Conditions. In a notice published elsewhere in this issue of the **Federal Register**, FDA announces the availability of copies of interim procedures under which the agency will operate until final regulations can be promulgated implementing the provisions of the amendment.

The responsibility for agency actions under the new provisions has been divided between the Office of Orphan Products Development in the Office of the Commissioner and the National Center for Drugs and Biologics. FDA is revising the delegation of authority in 21 CFR 5.58 relating to orphan products to include the appropriate delegations of authority to officials in those organizations for the conduct of agency operations.

List of Subjects in 21 CFR Part 5

Authority delegations (Government agencies), Organization and functions (Government agencies).

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 5 is amended by revising § 5.58 to read as follows:

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

§ 5.58 Orphan products.

(a) The Director, Office of Orphan Products Development, Office of the Commissioner, is authorized to issue notices, and amendments thereto, inviting sponsorship for orphan products (drugs, biological products, and medical devices) and submission of new drug applications, new animal drug applications, applications for establishment and product licenses for biological products, or premarket approval applications for medical devices, as appropriate.

(b) The Director, Office of Orphan Products Development, Office of the Commissioner, is authorized:

(1) To determine whether there is reason to believe that a drug is a drug for a disease or condition that is rare in the United States under section 525(a) of the Federal Food, Drug, and Cosmetic Act (the act) and to designate such drug as a drug for a rare disease or condition under section 526(a) of the act.

(2) To issue holders of approved applications or licenses notice and opportunity for the submission of views under section 527(b)(1) of the act.

(3) To encourage sponsors of an investigational new drug for a rare disease or condition to design protocols for clinical investigations to permit the addition to the investigation of persons with the disease or condition under section 528 of the act.

(c) The following officials are authorized to provide sponsors, under section 525(a) of the act, with recommendations for nonclinical or clinical investigations believed to be necessary for a drug for a rare disease or condition to be approved or licensed:

(1) The Director and Scientific Director, National Center for Drugs and Biologics (NCDB).

(2) For drugs under their jurisdiction:

(i) The Director and Deputy Director, Office of New Drug Evaluation, NCDB.

(ii) The Directors of the Divisions of: Neuropharmacological Drug Products, Anti-Infective Drug Products, Metabolism and Endocrine Drug

Products, Cardio-Renal Drug Products, Surgical-Dental Drug Products, and Oncology and Radiopharmaceutical Drug Products, Office of New Drug Evaluation, NCDB.

(3) For drugs, including drugs that are biological products, under their jurisdiction, the Director and Deputy Director, Office of Biologics, NCDB.

Effective date. This regulation shall become effective September 9, 1983.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)).)

Dated: September 2, 1983.

Mark Novitch,

Deputy Commissioner of Food and Drugs.

[FR Doc. 83-24580 Filed 9-6-83; 10:47 am]

BILLING CODE 4160-01-M

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21 CFR Part 436

[Docket No. 83N-0251]

Antibiotic Drugs; Sterile Cefuroxime Sodium

Correction

In FR Doc. 83-23205 beginning on page 38459 in the issue of Wednesday, August 24, 1983, make the following corrections:

On page 38460, first column, § 436.343, paragraph (b)(2), second line, "304" should read "3.4".

BILLING CODE 1505-01-M

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21 CFR Parts 510, 520, 522, and 558

Animal Drugs, Feeds, and Related Products; Change of Sponsor

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of supplemental new animal drug applications (NADA's) filed by SDS Biotech Corp., providing for a change of sponsor from Diamond Shamrock Corp. to SDS Biotech Corp.

EFFECTIVE DATE: September 9, 1983.

FOR FURTHER INFORMATION CONTACT: David L. Gordon, Bureau of Veterinary Medicine (HFV-238), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6243.

SUPPLEMENTARY INFORMATION: SDS Biotech Corp., 7528 Auburn Rd., P.O. Box 348, Concord Township, Painesville, OH 44077, filed several supplemental NADA's providing for a change of sponsor from Diamond Shamrock Corp. Diamond Shamrock Corp. has confirmed the change of sponsor. This change affects the following NADA's:

NADA and product	Ingredient
31-512 Atgard V/Swine Wormer	Dichlorvos.
33-603 Task Dog Anthelmintic	Do.
35-918 Equigard/Horse Wormer	Do.
36-200 Oxy WS (Turkey)	Oxytetracycline hydrochloride.
39-077 CSP 250, CSP 500 (Swine).	Chlortetracycline sulfathiazole, penicillin.
40-848 Atgard C Swine Wormer	Dichlorvos.
41-128 Custom Broiler Premixes	Zoalene, procaine penicillin, zinc bacitracin.
41-129 Custom Broiler Premixes	Zoalene, roxarsone, bacitracin methylene disalicylate.
43-606 Atgard V/Swine Wormer	Dichlorvos.
45-143 Oxyject (Cattle)	Oxytetracycline hydrochloride.
46-699 CTC Premixes (e.g., CTC 10, CTC 50, CTC 100 MR) (Swine, Chicken, Turkey).	Chlortetracycline.
48-237 Equigel Equine Anthelmintic.	Dichlorvos.
48-271 Task Tabs Anthelmintic for Cats and Puppies.	Do.
49-032 Atgard C Production Efficiency Improver (Swine).	Do.
65-020 Micro CTC-100 (Chicken, Turkey, Swine).	Chlortetracycline.
65-178 CTC Soluble (Chicken, Turkey, Swine, Cattle).	Chlortetracycline hydrochloride.
65-486 CTC Bisulfate Soluble (Chicken, Turkey).	Chlortetracycline bisulfate.
97-452 Oxyject 100 (Cattle, Swine).	Oxytetracycline hydrochloride.

Supplemental NADA's filed by SDS Biotech Corp. provide for the change of sponsor. The supplements are approved and Parts 520, 522, and 558 are amended to reflect the approval. In addition, SDS Biotech has not been previously added to 21 CFR 510.600(c). Part 150 is amended to add the new sponsor.

This action concerns a change of sponsor and does not involve any changes in manufacturing facilities, equipment, procedures, or production personnel. The facilities, personnel, and procedures transfer to the new firm. Under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), this change does not require reevaluation of the safety and effectiveness data in the parent applications.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting requirements.

21 CFR Part 520

Animal drugs, Oral use.

21 CFR Part 522

Animal drugs, Injectable.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Parts 510, 520, 522, and 558 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. Part 510 is amended in § 510.600 in paragraph (c)(1) by adding a new entry alphabetically and in paragraph (c)(2) by adding a new entry numerically to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
SDS Biotech Corp., 7528 Auburn Rd., P.O. Box 348, Concord Township, Painesville, OH 44077	052313

(2) * * *

Drug labeler code	Firm name and address
052313	SDS Biotech Corp., 7528 Auburn Rd., P.O. Box 348, Concord Township, Painesville, OH 44077.

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

§ 520.600 [Amended]

2. Part 520 is amended in § 520.600 *Dichlorvos* in paragraph (c) by removing "025001" and inserting in its place "052313."

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

§ 522.1662a [Amended]

3. Part 522 is amended in § 522.1662a *Oxytetracycline hydrochloride injection* in paragraphs (a)(2) and (g)(2) by removing "025001" and inserting in its place "052313."

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§ 558.15 [Amended]

4. Part 558 is amended:

a. In § 558.15 *Antibiotic, nitrofuran, and sulfonamide drugs in the feed of animals* in paragraph (g)(1) in the table under "Drug sponsor" by changing "Diamond Shamrock Chemical Co." and "Diamond Shamrock Chemical Corp." to read "SDS Biotech Corp." and in paragraph (g)(2) in the table under "Drug Sponsor" by changing "Diamond Shamrock Corp." to read "SDS Biotech Corp."

§ 558.155 [Amended]

b. In § 558.155 *Chlortetracycline, procaine penicillin, and sulfathiazole* in paragraph (b)(1) and (2) by removing "025001" and inserting in its place "052313."

§ 558.205 [Amended]

c. In § 558.205 *Dichlorvos* in paragraph (b) by removing "025001" and inserting in its place "052313."

Effective date. September 9, 1983.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: September 2, 1983.

Max L. Crandall,

Associate Director for Surveillance and Compliance.

[FR Doc. 83-24592 Filed 9-8-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 25

[Docket No. R-83-862]

Mortgage Review Board; Administrative Actions

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: This rule revises the administrative actions available to the Mortgage Review Board and the permissible grounds for such actions. The rule provides greater clarification of the grounds which may result in an administrative action by the Board against a HUD/FHA approved mortgagee. The rule also provides greater flexibility in the administrative actions available to the Board to ensure compliance with HUD regulations and procedures.

EFFECTIVE DATE: October 11, 1983.

FOR FURTHER INFORMATION CONTACT: Phillip L. Schulman, Department of Housing and Urban Development, Office of General Counsel, Room 10270, 451 Seventh Street, SW., Washington, D.C. 20410 (202) 755-5557. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: This rule provides greater clarification of the grounds which may result in administrative actions by the Mortgagee Review Board against a HUD/FHA approved mortgagee. The rule also provides greater flexibility in the administrative actions available to the Board to ensure compliance with HUD regulations and procedures. Under the previous regulation the sole remedy available to the Board was withdrawal of mortgagee approval. The operation of the Board over the past several years has shown that less severe sanctions are appropriate in some cases. In addition, it has been possible to identify the grounds for administrative actions with greater specificity.

The Department received relatively few comments on the proposed regulation, published August 28, 1980 (45 FR 57437). Nevertheless, some of the comments were quite detailed, and specific changes were recommended and have been adopted. Several commentators suggested that the proposed rule did not adequately address due process considerations. Several provisions have been modified to increase procedural safeguards.

Establishment and Operation of the Board

Section 25.2 has been modified to clarify the relationship between the administrative sanctions under Part 24 and Part 25, as applied to mortgagees. No suspension or debarment action may be initiated against a mortgagee under Part 24 without the prior approval of the Mortgagee Review Board. This section has also been modified to provide express redelegation authority for the Board in areas involving non-discretionary acts.

Section 25.3 has been amended to delete the term "Respondent," since it does not otherwise appear in the regulation.

One commentator questioned the technical expertise of Board members, the adequacy of the Board's staff, and the failure to include the President of the Government National Mortgage Association (GNMA) as a member of the Board. The composition of the Mortgagee Review Board is intended to provide a cross-section of Departmental interests, as well as an impartial high-level body to determine whether sanctions against mortgagees are warranted. Board members receive detailed agendas concerning cases under consideration, as well as briefings from both a legal and programmatic perspective concerning HUD requirements and any alleged violations by a mortgagee. The Office of Lender Certification in the Office of Housing essentially operates as the Board's staff. In addition, the Office of Inspector General and the Inspector General and Administrative Proceedings Division of the Office of General Counsel provide advice to the Board concerning pending cases. Consequently, the Department has determined that the members of the Board are adequately informed, and additional staffing is unnecessary.

The Department has eliminated the Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection as a voting member of the Board. Since the Government National Mortgage Association (GNMA) often has a direct interest in Board decisions, the President of GNMA will be made a full voting member of the Board under § 25.4. With the elimination of the Assistant Secretary for NVACP and the addition of the President of GNMA, the Board will continue to be comprised of four voting members.

A suggestion that officials in the Office of Housing and the Office of General Counsel be formally designated as advisors to the Board was rejected, since both the General Counsel and the Assistant Secretary for Housing are full voting members of the Board.

Administrative Actions

Comments on the expanded range of sanctions in section 25.5 were generally favorable: however some suggested that greater procedural protections are needed. Two commentators recommended modification of the regulation to provide mortgagees with a hearing prior to imposition of some or all of the sanctions available to the Board. Both commentators recognized, however, that action prior to a hearing may be necessary under limited circumstances. Alternative procedures suggested included (1) Providing the mortgagee with an opportunity to respond in writing and in person before the Board, or (2) Adoption of expeditious procedures akin to applications for temporary injunctions.

The Department has carefully considered these comments, and has modified the regulation to address the due process concerns of mortgagees while preserving the Board's ability to act promptly where necessary and in the public interest.

Section 25.7 has been redesignated as § 25.8 and amended to provide the mortgagee with a right to a hearing

within thirty days when a serious sanction is made effective prior to a full hearing. In addition, § 25.5(a) has been redesignated as § 25.6. Under § 25.6 the Secretary of the Board is required to issue a written notice to the mortgagee at least thirty days prior to consideration of any matter by the Board, where there is a possibility of probation or withdrawal. The Notice will inform the mortgagee that the Board is considering an administrative action and will set forth the allegations. The Notice will also direct the mortgagee to reply within a reasonable period. An exception to this requirement has been established where immediate action is necessary because of serious and egregious violations of the Department's requirements or because the violations are of an objective requirement and notice is unnecessary. Examples of the latter would be withdrawal actions for failure to file the required annual audit report (§ 25.9(e)) or to pay the annual fee (§ 25.9(u)).

One commentator suggested the need for greater specificity and a minimum period for response by the mortgagee in a Notice of Possible Violation. Section 25.6 will now require the Notice to set forth specifically the violations which have been alleged. While a minimum of thirty days for response by the mortgagee was suggested, § 25.6 was modified to permit the Board to require a reply within a "reasonable period, but not less than fifteen days." It is contemplated that the length of this period would vary depending upon the complexity of the allegations, but in no event would it be less than fifteen days. One commentator expressed concern that the penalty for failure to respond was too harsh, since the failure to reply may result from non-receipt of the notice or other innocent cause. Therefore, § 25.6 has been modified to provide that the minimum period for reply is fifteen days after receipt of the notice by the mortgagee.

The Department has determined that it would not be advisable to provide the mortgagees with an opportunity to respond in person before the Board. To inject the argument of counsel before the Board decides to impose a sanction would result in lengthy and duplicative proceedings. Mortgagees are given adequate opportunity to respond in writing under § 25.6 and for a prompt hearing before an impartial Departmental Hearing Officer under § 25.8.

One commentator suggested that mortgagees should be entitled to a hearing where any sanction is imposed by the Board, not just for a suspension or withdrawal action. The Department has determined that no hearing is required where a letter of reprimand is issued directing the mortgagee to bring and maintain its activities into conformity with all HUD/FHA requirements. Where the Board issues a Notice of Possible Violation, it is legally sufficient and consistent with due process to offer the mortgagee the opportunity to respond in writing. Since an order of probation may entail the imposition of reasonable additional requirements as specified in the regulation, § 25.8 has been amended to provide that the mortgagee is entitled to a hearing to contest a probation order. The remedial order sanction has been eliminated. Instead, § 25.5(e) has been modified to provide that the Board may incorporate remedial measures into a consent agreement with a mortgagee to resolve any outstanding grounds for administrative action. This procedure is more closely patterned after the past practice of the Board.

Section 25.5(b) and 25.5(c) have been modified to provide that probation and suspension actions shall become effective upon receipt of notice of the action by the mortgagee. One commentator suggested that suspensions should be limited to a period of ninety days and that a greater evidentiary standard should be required. A suspension is an interim measure to be utilized where there is evidence of serious misconduct prior to the completion of an audit, investigation, review, or associated administrative or legal proceedings. While some audits or investigations could be concluded within ninety days, legal proceedings may often continue for a larger period. In recognition of this, suspensions of government contractors have been upheld by the courts for significantly longer periods, so long as a limited opportunity for a hearing is provided. Since a pending investigation or criminal proceedings may preclude a full due process hearing, a somewhat lesser standard of proof has been required where a suspension is contested. Section 25.5(c) has been modified to set forth with greater specificity the type of evidence which may warrant suspension of a mortgagee.

Section 25.6 has been redesignated as § 25.7 and modified to require a Notice of Administrative Action to state the specific reasons for the action taken by the Board. In addition, the section expressly provides for the issuance of a supplemental Notice.

Grounds for Administrative Actions

Numerous comments were received on the grounds for administrative actions. Some commentators were concerned that the Board would impose a sanction based upon a de minimis infraction or indiscretion. In addition, one commentator suggested gradation of the grounds in terms of severity and establishment of the type of administrative action warranted by particular infractions. Each case considered by the Board involves a different set of circumstances and may also present mitigating factors. In addition, many cases involve a combination of several infractions or causes. Therefore, a gradation of factors would not be possible. Instead, a general introduction to the grounds has been adopted which states that the Board will consider, among other factors, the seriousness and extent of infractions, the degree of mortgagee responsibility for the occurrences, and any mitigating factors, in determining which sanction, if any, is appropriate.

The failure of a nonsupervised mortgagee to conduct its business in accordance with the plan indicated on its application for approval has been deleted as a ground for administrative action. This provision is superseded by several more specific grounds in the revised regulations.

Section 25.9(g) has been modified to clarify that the Board may take an administrative action based upon non-compliance with the terms of an application for approval or Branch Office notification. Since the application for approval has been interpreted as a contract between HUD/FHA and the mortgagee, this ground is necessary and appropriate.

Several comments were received concerning the provision that an administrative action may be based upon a violation of the requirements of any contract with the Department, or any statute, regulation, mortgagee letter, handbook or other written rule or instruction. One commentator suggested the inclusion of a materiality and willfulness test, as well as a showing of specific harm or damage resulting from the violation. These concerns have essentially been dealt with in the introduction to the section, which is generally applicable to all of the grounds. The Board will consider several factors including the seriousness of the infraction and the degree of mortgagee responsibility. Administrative actions need not be based upon willful violations, since mismanagement, poor supervision, or negligence may be just as damaging to the interests of the Department and the public. In addition, no showing of specific harm or damage has been required. Violations or

disregard for HUD/FHA regulations and procedures generally increase the risk of harm or damage in connection with insured mortgages, even though no default has yet occurred.

Other comments expressed concern that mortgagees may not be aware of the contents of mortgagee letters, handbooks, and other written rules and instructions. This provision encompasses violations of these documents only where the mortgagee has received actual or constructive notice of the contents.

One commentator suggested that a willfulness and materiality test should be adopted with respect to submission of false information to HUD/FHA. These concerns are adequately addressed by the introduction to the section.

Several commentators objected to the inclusion of indictments as a ground for administrative actions. While a withdrawal action could never be based solely on an indictment, suspension or some other lesser sanction may be appropriate based upon an indictment pending completion of criminal proceedings. An indictment is not a mere allegation, but rather a finding by a grand jury that there is probable cause to believe that a crime has been committed. An indictment in and of itself may result in the loss of liberty pending completion of a criminal proceeding though the indicted party is not deemed to be guilty of the offense. The Department must be able to protect itself pending completion of criminal proceedings after a finding of probable cause has been made.

Several commentators suggested the need for a clearer delineation of the type of offense which would result in an administrative action. While it would not be possible to specify every offense which would result in an action by the Board, § 25.9(m) has been modified to encompass only those offenses which reflect upon the responsibility, integrity, or ability of the mortgagee to participate in HUD programs as an approved mortgagee.

Some commentators suggested that the standard for practices of prudent lenders is ill-defined. Section 25.9(p) has been modified to make clear that the Department will take action based upon deviations from the practices of prudent lenders only where the practice is widely accepted in the industry. The standard for evaluating the mortgagee's actions may be found in codes of conduct developed by the industry or other generally accepted industry practices. One commentator suggested that the deviation should be material and substantial to justify an administrative action. These concerns have been addressed in the introduction to § 25.9.

One commentator suggested that the ground relating to failure properly to service an insured mortgage is ambiguous. Section 25.9(s) has been modified to make clear that the mortgagee must service an insured mortgage in accordance with the regulations, and any other requirements of the Secretary which are in effect at the time of servicing the mortgage, regardless of when the mortgage was insured. This provision recognizes the fact that the mortgagee must service HUD/FHA loans inaccordance with changes in procedures subsequent to the issuance of those changes. The failure to do so may result in an administrative action by the Board.

One commentator suggested that the failure by a mortgagee to administer an assistance payment contract properly under § 25.9(t) may be immaterial or due to an honest mistake. These concerns are adequately addressed in the introduction to the section.

Three new bases for administrative action have been added to the regulation. A new § 25.9(n) provides for an administrative action against a mortgagee that knowingly employs or retains an officer, director, principal or employee who has been suspended or debarred pursuant to 24 CFR Part 24. This provision would constitute a ground for administrative action only where the mortgagee has actual notice that the individual has been suspended or debarred. A new ground for administrative action is set forth in § 26.9(u) for failure to pay the application and annual fees required by 24 CFR 203.2(a)(11). In addition, a new § 25.9(v) has been added to include as a ground for administrative action the failure of a coinsuring mortgagee to comply with HUD/FHA procedures relating to coinsured mortgages.

Some commentators objected to the inclusion of a catch-all ground in the regulation. The comments generally suggested that the provision would be subject to gross abuse by the Board. The Department has determined that this provision should be retained as modified in § 25.9(w) because of the possibility of unanticipated but serious misconduct. Reliance on this rather general ground will be rare, since the express grounds for an administrative action have been developed from the experience of the Board over the past several years.

This rule does not constitute a "major rule" as that term is defined in Section 1(b) of the Executive Order 12291 on Federal Regulations. An analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, state or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of the United State-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The regulations adopted in this document are categorically excluded from the requirements of the National Environmental Policy Act of 1969 pursuant to 24 CFR 50.20(k).

Pursuant to section 605(b) of the Regulatory Flexibility Act, the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. This finding is based upon the fact that the rule only codifies existing practice, provides greater notice to the public of that practice and provides greater due process protections to participants than under the predecessor rule.

This rule was listed as item S–3–79 in the Department's Semi-Annual Agenda of Regulations published in the **Federal Register** on April 25, 1983 (48 FR 18056) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance is not applicable.

List of Subjects in 24 CFR Part 25

Administrative practice and procedure, Mortgages, Organization and functions (government agencies).

Accordingly, the Department revises 24 CFR Part 25 to read as follows:

PART 25—MORTGAGEE REVIEW BOARD

Sec.

25.1 Scope of rules of this part.
25.2 Establishment of Board.
25.3 Definitions.
25.4 Operation of the Mortgagee Review Board.
25.5 Administrative actions.
25.6 Notice of possible violation.
25.7 Notice of administrative action.
25.8 Hearings and hearing request.
25.9 Grounds for an administrative action.

§ 25.1 Scope of rules in this part.

The rules in this part are applicable to the operation of the Mortgagee Review Board and to proceedings arising from Mortgagee Review Board administrative actions.

§ 25.2 Establishment of Board.

There is established in the Office of the Secretary a Mortgagee Review Board. Except as limited by this part, the Mortgagee Review Board shall exercise all of the authority and perform all of the functions of the Secretary with respect to administrative actions against mortgagees. The Board may in its discretion approve the initiation of a suspension or debarment action by any Assistant Secretary against a mortgagee under 24 CFR Part 24. The Board shall have all powers necessary and incident to the performance of these functions. The Board may redelegate its authority to impose administrative sanctions under § 25.9 (e) and (u), to designate hearing officers and for all other nondiscretionary acts.

§ 25.3 Definitions.

(a) "Administrative Action." A letter of reprimand, an order of probation, a suspension or withdrawal of approval issued by the Mortgagee Review Board.

(b) "Board." The Mortgagee Review Board.

(c) "Letter of Reprimand." A letter informing the mortgagee of the existence or occurrence of a violation and directing the mortgagee to correct the violation and maintain its activities in conformity with all HUD/FHA requirements.

(d) "Party." The Department of Housing and Urban Development or the mortgagee.

(e) "Probation." A period of time during which a mortgagee is allowed to continue participation in HUD/FHA programs, while an evaluation is made of the mortgagee's compliance with HUD/FHA requirements, or an order of the Board.

(f) "Secretary." The Secretary of the Department of Housing and Urban Development or a person designated by the Secretary.

(g) "Suspension." The immediate exclusion of the mortgagee from HUD/FHA programs for a temporary period of time, pending completion of an audit, review, investigation or other administrative or legal proceedings.

(h) "Withdrawal." The exclusion of a mortgagee from participation in HUD/FHA programs for a specified period of time, or an indefinite period of time, commensurate with the seriousness of the violation(s).

§ 25.4 Operation of the Mortgagee Review Board.

(a) *Members.* The Mortgagee Review Board consists of the following members: The Assistant Secretary for Housing—Federal Housing Commissioner who serves as the Chairperson; the General Counsel; the President of the Government National Mortgage Association (GNMA); the Assistant Secretary for Administration; or their designees.

(b) *Advisors.* The Inspector General or his or her designee shall serve as a nonvoting advisor to the Board.

(c) *Quorum.* Three members of the Mortgagee Review Board or their designees shall constitute a quorum.

(d) *Determination by the Board.* Any suspension or withdrawal of mortgagee approval shall be determined by a unanimous vote of the quorum. Any other administrative action shall be determined by a majority vote of the quorum.

(e) *When action effective.* Any acts taken by the Board shall be effective when served in accordance with § 25.7 and § 26.15 of this Title.

§ 25.5 Administrative actions.

When any report, audit, investigation or other information before the Mortgagee Review Board discloses that a basis for an administrative action against a mortgagee exists under § 25.9, the Mortgagee Review Board, depending on the nature and extent of the violations, may take one or more of the following administrative actions:

(a) *Letter of Reprimand.* The Board may issue a letter of reprimand to a mortgagee informing the mortgagee of the existence or occurrence of a violation and directing the mortgagee to bring and maintain its activities in conformity with all HUD/FHA requirements. Failure of the mortgagee to comply with a directive in the letter of reprimand may result in any other administrative action under this part that the Board finds appropriate.

(b) *Probation.* The Board may place a mortgagee on probation for a specified period of time for the purpose of evaluating the mortgagee's compliance with HUD/FHA requirements or an order of the Board. The period of probation shall become effective upon receipt of notice by the mortgagee unless otherwise specified by the Board. During a period of probation, the Board may impose reasonable additional requirements on a mortgagee to aid the Board in evaluating the mortgagee. Such additional requirements may include supervision of the mortgagee's activities by HUD/FHA, periodic reporting to HUD, or submission to HUD/FHA of internal audits, audits by an Independent Public Accountant or other audits. If the Board determines that a mortgagee has failed to comply with the terms of a probation or otherwise violates HUD/FHA requirements, the Board may take any other administrative action the Board determines appropriate.

(c) *Suspension.*—(1) *General:* The Board may issue an order suspending a mortgagee's approval temporarily if there exists adequate evidence of violation(s) under § 25.9 such that continuation of mortgagee approval pending completion of any audit, investigation or other review, or such administrative or legal proceedings as may ensue, would not be in the public interest or in the best interests of the Department. Suspension shall not be imposed based upon an unsupported accusation. In assessing whether adequate evidence exists for imposing a suspension, all available relevant facts should be considered including, but not limited to: (i) the amount of credible evidence available; (ii) the existence or absence of corroboration of important allegations; and (iii) inferences which may be drawn from the existence or absence of available facts.

(2) *Duration.* A suspension shall be for a specified period of time not to exceed one year. The Board may extend the suspension for an additional six months if it determines the extension is in the public interest. These time limits may be waived by the mortgagee.

(3) *Effect.* During the period of suspension, HUD/FHA will not commit to insure any mortgage originated by the suspended mortgagee. The Board may limit the geographical extent of the suspension, or limit its scope to either the single family or multifamily activities of the suspended mortgagee.

(4) *Effective date.* Suspensions shall be effective upon receipt of notice by the mortgagee unless otherwise specified by the Board.

(d) *Withdrawal.* (1) The Board may issue an order withdrawing the HUD/FHA approval of a mortgagee.

(2) *Duration.* A withdrawal shall be for a reasonable, specified period of time commensurate with the seriousness of the ground(s) for withdrawal, generally not to exceed six years. A withdrawal may be for an indefinite period for egregious or willful violations by the mortgagee.

(3) *Effect.* (i) During the period of withdrawal, HUD/FHA will not commit to insure any mortgage originated by the withdrawal mortgagee. The Board may limit the geographical extent of the withdrawal, or limit its scope to either the single family or multifamily activities of the withdrawn mortgagee.

(ii) Upon expiration of a period of withdrawal, the mortgagee may file a new application for approval with the Secretary under 24 CFR Part 203.

(iii) Where a withdrawal is for an indefinite period, the mortgagee, at the expiration of six years and then no more than one time during each following year, may file with the Board a written request to set a date certain for expiration of the withdrawal. The decision to grant or deny the request is solely within the discretion of the Board.

(4) *Effective date of withdrawal.* The withdrawal of a mortgagee's approval shall be effective: (i) Upon receipt of notice by the mortgagee if the Board determines that continuation of mortgagee approval pending a hearing under § 25.8 would not be in the public interest or in the best interests of the Department;

(ii) At the expiration of the 30 day period specified in § 25.8 if the mortgagee has not requested a hearing; or

(iii) Upon receipt of a final determination under Part 26.

(e) *Settlements.* The Board may at any time enter into a settlement agreement with a mortgagee to resolve any outstanding grounds for administrative action. Agreements may include provisions for: cessation of any violation; correction or mitigation of the effects of any violation; repayment of sums of money wrongfully or incorrectly paid to the mortgagee by a mortgagor, by a seller or by HUD/FHA; actions to collect sums of money wrongfully or incorrectly paid by the mortgagee to a third party; indemnification of HUD/FHA for mortgage insurance claims on mortgages originated in violation of HUD/FHA requirements; or implementation of a quality control plan or other corrective measures acceptable to the Board. Failure of a mortgagee to comply with a settlement agreement may result in suspension or withdrawal.

§ 25.6 Notice of possible violation.

Except as provided below, the Chairperson of the Board, or the Chairperson's designee, shall issue a written notice to the mortgagee at least thirty days prior to consideration of any matter by the Board, where there is a possibility of probation or withdrawal.

The Notice shall inform the mortgagee that the Board is considering an administrative action, shall state the specific violations which have been alleged, and shall direct that the mortgagee reply in writing to the Board within a reasonable period of time but not less than fifteen days after receipt of the notice by the mortgagee. If the mortgagee fails to reply, the Board may make a determination without considering the mortgagee's comments. The Notice shall not be required where the Board has made a determination as set forth in 25.5(d)(4)(i).

§ 25.7 Notice of Administrative action.

Whenever the Mortgagee Review Board takes an administrative action against a mortgagee, the Chairperson of the Board of the designee of the Chairperson shall notify the mortgagee by certified mail of the determination. The notice shall describe the nature and duration of the administrative action and shall state the specific reasons for the action. The notice shall inform the mortgagee of any right to a hearing pursuant to Part 26 and the manner and time in which to request such hearing, as required by § 25.8. The notice shall be served in accordance with 24 CFR 26.15. Notice shall be considered to have been received by the addressee, if sent certified mail, return receipt requested, to the addressee's last known address. A supplemental notice may be issued in the discretion of the Board to add to or modify the reasons for the action.

§ 25.8 Hearings and hearing request.

(a) *Hearing Request.* In the case of a probation, suspension or withdrawal action, a mortgagee is entitled to request a hearing before a Hearing Officer to challenge the action.

(b) *Procedural Rules.* Hearings to challenge a probation, suspension or withdrawal action shall be conducted according to the applicable rules of Part 26. Where the Board has determined that a probation, suspension, or withdrawal action shall become effective prior to a hearing, the mortgagee shall be entitled to a hearing within thirty days after the Department receives the mortgagee's request. This period may be extended at the request or with the agreement of the mortgagee.

(c) *Procedure for request.* The request for hearing shall be made in writing within thirty days of receipt of the notice of probation, suspension or withdrawal. The request shall be filed in accordance with 24 CFR 26.15, addressed to the Mortgagee Review Board Docket Clerk, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Failure to request a hearing within the thirty days shall be a waiver of the mortgagee's opportunity for hearing and a waiver of its right to contest the probation, suspension or withdrawal, which shall then become final.

§ 25.9 Grounds for an administrative action.

One or more of the following violations may result in administrative action by the Board under § 25.5. The Board will consider, among other factors, the seriousness and extent of the infractions, the degree of mortgagee responsibility for the occurrences and any mitigating factors, in determining which sanction, if any, is appropriate. Any administrative action under § 25.5 shall be based upon one or more of the following grounds:

(a) The transfer of an insured mortgage to a non-approved mortgagee, except pursuant to 24 CFR 203.433 or 203.435;

(b) The failure of a nonsupervised mortgagee to segregate all escrow funds received from mortgagors on account of ground rents, taxes, assessments and insurance premiums, or failure to deposit these funds in a special account with a financial institution whose accounts are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation or by the National Credit Union Administration except as otherwise provided in writing;

(c) The use of escrow funds for any purpose other than that for which they were received;

(d) The termination of a mortgagee's supervision by a governmental agency;

(e) The failure of a nonsupervised mortgagee to submit the required annual audit report of its financial condition prepared in accordance with instructions issued by the Secretary within 75 days of the close of its fiscal year or such longer period as the Assistant Secretary for Housing—Federal Housing Commissioner may authorize in writing prior to the expiration of the 75 days;

(f) The payment by a mortgagee of a referral fee to any person or organization; or payment of any thing of value, directly or indirectly, in connection with any insured mortgage transaction or transactions to any person, including but not limited to an attorney, escrow agent, title company, consultant, mortgage broker, seller, builder or real estate agent, if that person has received any other compensation from the mortgagor, the seller, the builder or any other person for services related to such transactions or from or related to the purchase or sale of the mortgaged property, except compensation paid for the actual performance of such services as may be approved by the Assistant Secretary for Housing—Federal Housing Commissioner;

(g) Failure to comply with any agreement, certification, undertaking, or condition of approval listed on either a mortgagee's application for approval or on an approved mortgagee's Branch Office notification;

(h) Failure of an approved mortgagee to meet or maintain the net worth in assets required by 24 CFR Part 203;

(i) Failure or refusal of an approved mortgagee to comply with an order of the Mortgagee Review Board, the Secretary or hearing officer under this part;

(j) Violation of the requirements of any contract with the Department, or violation of the requirements set forth in any statute, regulation, handbook, mortgagee letter, or other written rule or instruction;

(k) Submission of false information to HUD in connection with any HUD/FHA insured mortgage transaction;

(l) Failure of mortgagee to respond to inquiries from the Mortgage Review Board;

(m) Indictment or conviction of a mortgagee or any of its officers, directors, prinicipals or employees for an offense which reflects upon the responsibility, integrity, or ability of the mortgagee to participate in HUD/FHA programs as an approved mortgagee;

(n) Employing or retaining an officer, director, principal or employee who is suspended or debarred under 24 CFR Part 24 where it was known that the individual was on the Department's Consolidated List of parties subject to administrative sanctions;

(o) Violation by an approved mortgagee of the nondiscrimination requirements of the Equal Credit Opportunity Act, 15 U.S.C. 1691–1691f, Title VIII of the Civil Rights Act of 1968 (Fair Housing Act, 42 U.S.C. 3601–3619), Executive Order 11063 (27 FR 11527) and all regulations issued pursuant thereto;

(p) Business practices which do not conform to generally accepted practices of prudent lenders or which demonstrate irresponsibility;

(q) Failure to cooperate with an audit or investigation by the Department's Office of Inspector General or an inquiry by HUD/FHA into the conduct of the mortgagee's HUD/FHA insured business or any other failure to provide information to the Secretary or a representative related to the conduct of the mortgagee's HUD/FHA business;

(r) Violation by an approved mortgagee of the requirements or prohibitions of the Real Estate Settlement Procedures Act, 12 U.S.C. 2601–2617;

(s) Without regard to the date of insurance of the mortgage, failure to service an insured mortgage in accordance with the regulations and any other requirements of the Secretary which are in effect at the time the act or omission occurs;

(t) Failure to administer properly an assistance payment contract under Section 235 of the National Housing Act;

(u) Failure to pay the application and annual fees required by 24 CFR 203.2(a)(11).

(v) The failure of a coinsuring mortgagee:

(1) properly to perform underwriting, servicing or property disposition functions in accordance with instructions and standards issued by the Commissioner;

(2) to make full payment to an investing mortgagee as required by 24 CFR Part 204;

(3) to discharge responsibilities under a contract for coinsurance;

(4) to comply with restrictions concerning the transfer of a coinsured mortgage to an agency not approved under 24 CFR Part 250;

(5) to maintain additional net worth requirements, as applicable.

(w) Any other reasons the Board, Secretary or Hearing Officer, as appropriate, determine to be so serious as to justify an administrative action.

Authority: Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d), and Section 211 of the National Housing Act of 1934, 12 U.S.C. 1715b.

Dated: September 1, 1983.

Samuel R. Pierce, Jr.,

Secretary of Housing and Urban Development.

[FR Doc. 83-24888 Filed 9-8-83; 8:45 am]

BILLING CODE 4210-01-M

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 207

[Docket No. R-83-1092]

Multifamily Housing Mortgage Insurance; Amendments to Part 207 Concerning Mobile Home Parks Insured Under the National Housing Act

AGENCY: Department of Housing and Urban Development, Office of the Assistant Secretary for Housing—Federal Housing Commissioner.

ACTION: Final rule.

SUMMARY: This rule partially implements section 308(c)(1) of the Housing and Community Development Act of 1980 which replaces the term "mobile home", whenever it appears in the National Housing Act, with the term "manufactured home". It also implements section 338(b) of the Housing and Community Development Amendments of 1981 which increases from $8,000 to $9,000 per space the maximum mortgage limit for manufactured home parks insured under the Section 207 multifamily housing mortgage insurance program.

EFFECTIVE DATE: October 11, 1983.

FOR FURTHER INFORMATION CONTACT: April LeClair, Office of Multifamily Development, Development Division, Room 6116, 451 Seventh Street SW., Washington, D.C. 20410, telephone (202) 755–9280. (This is not a toll free number).

SUPPLEMENTARY INFORMATION: Section 308(c)(1) of the Housing and Community Development Act of 1980 amended the National Housing Act to replace, wherever it appears in the Act, the term "mobile home(s)" with the term "manufactured home(s)". Section 338(b) of the Housing and Community Development Amendments of 1981 increased the maximum mortgage limit from $8,000 to $9,000 per space for manufactured home parks insured under Section 207 of the National Housing Act.

The rule amends 24 CFR 207.33 to implement these statutory requirements. The change in name from "mobile home(s)" to "manufactured home(s)" to conform with the statutory terminology is ministerial in nature and does not involve the exercise of a policy judgment by this Department. Also, it will make the regulation consistent with current industry terminology. The increase in per-space maximum mortgage limits reflects clear Congressional policy and is certainly more indicative of the current costs of development than the existing $8,000 limit. Therefore, the Secretary has determined that advance publication, notice and public comment procedures are unnecessary and would be contrary to the public interest and that good cause exists for making these amendments effective as soon as possible.

This rule does not constitute a "major rule" as that term is defined in Section 1(b) of the Executive Order 12291 on Federal Regulation issued on February 17, 1981. Analysis of the rule indicates that it does not: (1) Have an annual effect on the economy on $100 million or more; (2) cause a major increase in cost or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rule was listed as item H-25-82 under the Office of Housing in the Department's Semiannual Agenda of Regulations published on October 28, 1982 (47 FR 48432) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations 24 CFR Part 50, which implements Section 102(2)(c) of the National Environmental Policy Act of 1969. A copy of this Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of General Counsel, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Pursuant to Section 605(b) of the Regulatory Flexibility Act, the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. The rule will, if anything, increase the chances of a finding of feasibility on manufactured home park projects which involve small entities.

The Catalog of Federal Domestic Assistance Programs number is 14.134.

List of Subjects in 24 CFR Part 207

Mortgage insurance, Rental housing, Mobile home parks.

PART 207—[AMENDED]

Accordingly, 24 CFR is amended by revising § 207.33 as follows:

1. 24 CFR 207.33 is amended by removing the words "mobile home" and "mobile homes" and substituting in lieu thereof the words "manufactured home" and "manufactured homes," respectively in the section heading and in the following places in the text:

(a) 24 CFR 207.33(a).
(b) 24 CFR 207.33(b).
(c) 24 CFR 207.33(c).
(d) 24 CFR 207.33(f).
(e) 24 CFR 207.33(h).

2. By revising paragraph (b) introductory text and (b)(1) of § 207.33 to read as follows:

§ 207.33 Eligibility of mortgages on manufactured home courts and parks.

* * * * *

(b) A mortgage on a manufactured home park may involve a principal obligation in an amount to be determined as follows:

(1) An amount not exceeding the lesser of $9,000 per space (as defined by the Commissioner), or 90 percent of the estimated value of the property after the improvements are completed.

* * * * *

Authority: Section 207 of the National Housing Act (12 U.S.C. 1713); Section 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: September 1, 1983.

Philip Abrams,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 83-24060 Filed 9-8-83; 8:45 am]
BILLING CODE 4210-27-M

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24 CFR Part 235

[Docket No. R-83-916]

Mortgage Insurance and Assistance Payments for Home Ownership and Project Rehabilitation; Mortgage Insurance and Assistance Payments for Lower Income Families

AGENCY: Office of Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This rule makes final the interim rule published on May 27, 1981 at 46 FR 28401, which implemented a provision of the Housing and Community Development Act of 1980 requiring the recapture of assistance payments made on behalf of lower income families under the Section 235 program. This rule also contains the revision to the interim rule made by the final rule published on December 3, 1982 at 47 FR 54430, which implemented a provision of the Housing and Community Development Amendments of 1981 removing the 90-day default trigger for the recapture of assistance payments. In addition, the rule makes a technical amendment clarifying what conditions may trigger recapture.

EFFECTIVE DATE: October 11, 1983.

FOR FURTHER INFORMATION CONTACT: Richard B. Buchheit, Director, Single Family Servicing Division, Office of Single Family Housing, Room 9180, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410, telephone (202) 755-6672. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

Background

Section 206(b) of the Housing and Community Development Act of 1980 amended section 235 of the National Housing Act by adding a new paragraph (c)(2) requiring the recapture, in certain circumstances, of all or a portion of the assistance payments made on behalf of lower income families who have insured financing under section 235. This change was implemented by HUD in an interim rule, published on May 27, 1981 at 46 FR 28401, which amended 24 CFR Part 235 to add a new § 235.12.

Section 328(a) of the Housing and Community Development Amendments of 1981 amended section 235(c)(2) of the Act to remove one of the circumstances triggering recapture—where the mortgagor ceased to make payments on the mortgage for a period of 90 continuous days. HUD implemented this change in a final rule amending § 235.12, published on December 3, 1982 at 47 FR 54430.

Response to Public Comments

The interim rule invited public comments for a 60-day period. In response, HUD received six comments. Two of these comments were from mortgage companies, two from municipal development departments and one each from a municipal development legal office and a construction company. The comments, as well as HUD's responses to them, are discussed below.

Increased Costs for Mortgagors and Owners

Most of the six commenters were concerned that the interim rule would significantly increase the costs of participating in the Section 235 assistance program. In general, they argued that those increased costs would discourage many low-income families from participating in the program and would prevent those who do participate from accumulating equity in their property. Both effects would contravene the purpose of the program, which is to move low-income families into the unassisted homebuying market. These commenters cited several specific provisions of the rule as being particularly burdensome.

First, several commenters objected to HUD's requirement that the entire amount of Section 235 assistance that may be provided must constitute a second lien on the property. These commenters argued that the second mortgage (which, as specified in HUD Handbooks, could exceed a total of $113,000—an amount two and a half times greater than the maximum original loan) is excessive and will discourage participation in the program by many lower income families. They maintain that HUD need not require such a large lien and that the Department could ensure the recapture of most assistance with a much smaller second lien.

In order to comply with the 1980 law, the Department has no other option than to impose a lien for the total assistance that may be provided under the Section 235 program. That law requires HUD to recapture either the total amount of assistance or 50% of the net appreciation of the property, whichever is less. Since it is impossible to know in advance either how much a property will appreciate or how much assistance the Department will eventually provide, HUD must be prepared to recapture the maximum possible amount required by law. In this case, that means the maximum amount of assistance the Department may provide over the 30-year term. Requiring a smaller lien which would guarantee recapture in most cases, as suggested by one commenter, is not adequate: to comply with the law, HUD must be able to recapture all of the assistance in all of the cases. It should be noted, however, that because HUD will rarely provide the maximum possible amount of assistance, and the amount recaptured is the lesser of two factors, very few families (if any) will be required to repay the full lien amount. Thus, the actual burden imposed by the rule will not be as significant as it might appear.

A second objection raised by some commenters was that, because of local tax structures and recapture agreements already effective in some local programs, this interim rule could impose severe cost increases on Section 235 participants in some areas. For example, one commenter noted that some local programs already require the recapture of significant amounts of assistance and that HUD's recapture rule, when applied in conjunction with these local provisions, could result in a mortgagor having to repay more than 100% of his or her net gain, thus contravening the purpose of the program. Another commenter pointed out that, in areas where taxes are levied as a percentage of a mortgage, local mortgage taxes would be increased by these provisions.

HUD recognizes that this rule may impose cost increases upon program participants in areas subject to taxes and recapture provisions of the type discussed in these comments. However, HUD is not free to adjust the amount of recapture in response to these conditions. The statute is clear and mandatory. Local governments and agencies may wish to adjust their programs, as appropriate, to take account of this requirement.

A third comment regarding increased program costs for mortgagors expressed concern that this interim rule would increase legal costs for closings because such legal fees are sometimes calculated as a percentage of the amount of the lien. The commenter pointed to Puerto Rico as one area where this could occur.

HUD is aware of this potential problem; however it can be handled by local HUD field offices, which may establish maximum reasonable legal costs of use in conjunction with the recapture provisions. Field Office directors are authorized to establish a schedule of "reasonable and customary fees and charges" under 24 CFR Section 203.27, which is made applicable to Part 235 by § 235.1. Legal fee limits have been established under this provision in Puerto Rico and in other areas where the problem has arisen, and HUD expects that the procedure will obviate this difficulty.

Finally, one commenter argued that, because of tight housing markets in some areas of the country, the debt caused by the second lien will not be reflected in the purchase price of homes and will be passed on to new homeowners. By adding the costs of the second lien onto the cost of the home, without any compensatory adjustment in the latter, this provision could increase housing costs significantly.

HUD does not agree that this constitutes a significant drawback to the rule. Only an assumptor, that is, one eligible for Section 235 assistance, could have this problem; disposition of the property to a purchaser not qualified to receive Section 235 assistance would trigger the recapture. Furthermore, the recapture is required by law, and it is beyond HUD's control that some families may purchase encumbered property without making provisions for the Secretary's recapture lien.

In sum, the Department does not agree that this rule will necessarily result in unreasonable cost increases for participants in the Section 235 program. Those cost increases which do result from the rule are largely the result of HUD's compliance with the statutory provision and cannot be avoided.

General Negative Impact on Mortgagors and Homebuyers

A frequently offered comment was that the interim rule would have pernicious, long-term secondary effects upon mortgagors, and that these secondary effects would result in a variety of difficulties for mortgagors and communities.

One commenter argued that the interim rule fails to protect the homebuyer against inflation. Under the interim rule, a mortgagor will have to repay to the Federal government a significant amount of the net gain on the property; thus, the final profit is unlikely to compensate for inflation and the owner will not be able to build up any real equity in the property. To prevent this, the commenter suggested that HUD establish an inflation factor exempting from recapture any increase in property value which is less than the rate of inflation.

HUD recognizes that, to a certain extent, this comment may be valid; however, the Department cannot alter the rule to account for inflation. Such a change would violate the requirement of the 1980 statute that the recapture equal the lesser of either all of the Section 235 assistance actually provided or 50% of the property's net appreciation.

A second commenter noted that, because the total amount of assistance grows larger over time, mortgagors may be encouraged to sell out quickly to avoid repayment of a larger subsidy. The commenter suggested that HUD could discourage this practice by recapturing assistance only from those who sell their property to non-eligible buyers within a short time.

As with the preceding suggestion, HUD is unable to make adjustments in the amount of recapture regardless of the purpose of the adjustments.

Another commenter observed that the recapture provisions are regressive and hit hardest at the poor. Because they receive the largest subsidies, the poor must pay back the largest amounts of recapture. The commenter argues that this is unfair.

HUD agrees with the observation that the recapture provision may sometimes have a regressive effect. However, this is a consequence of the statutory requirement, and will not diminish the program's effectiveness in meeting the program goals of assisting low- and moderate-income families to own their homes. Furthermore, it is not necessarily true that families receiving the largest subsidy will pay the largest amount of recapture, because the property value at the time of recapture may limit the amount recaptured.

A fourth commenter argued that the mortgagor assumes the full risk for any decline in property values, but is allowed to profit from only half of the appreciation. Thus, the potential benefits of purchasing a home in depressed urban areas will not offset the risks of such a venture.

The assumption of risk is inherent in homebuying, while the recapture of assistance is statutorily mandated: HUD can do nothing about either. However, it should be noted that the rule does protect the homeowner from having to repay assistance on property which has

declined in value because there would be no appreciation on that property.

Finally, it was argued that the owner's knowledge that 50% of his or her net gain would be subject to recapture would serve as a disincentive to routine maintenance. To prevent this, the commenter suggested that HUD should allow the costs of routine maintenance to be deducted from net appreciation.

HUD disagrees with this comment for two reasons. First, the Department does not agree that the recapture will be a disincentive to routine maintenance. Absence of such maintenance can limit or detract from the value of the property, so owners can be expected to conduct routine maintenance, if only to safeguard their investment. Secondly, and more importantly, HUD is not free to make any adjustment in the recapture amount. Section 235(c)(2)(A) of the National Housing Act does permit a seller to deduct from the sale price of a house the reasonable costs of any improvements made to the property. However, routine maintenance is not considered an improvement because it does not raise the value of the property and thus does not increase the property's selling price. Therefore, HUD cannot give any kind of credit for routine maintenance and must collect recapture as required by the 1980 law.

Originator/Servicer Difficulties

A third issue which provoked numerous comments was the impact of this rule on those who originate and service mortgages. Most of these comments consisted of technical questions or suggestions.

One commenter did oppose the rule on these grounds. That commenter argued that the interim rule could create logistical and administrative difficulties by requiring the presence of HUD officials at all closings of Section 235 transactions. HUD does not believe that this comment necessitates any change in the rule. This concern is procedural, and since implementation of the rule in 1981, has not arisen as an obstacle. It does not constitute a significant regulatory issue.

The remaining comments on this subject consisted of specific technical questions on various issues, answered as follows:

Q. How will the loan originator be protected where it makes loans for HUD in States which require a license to originate second mortgages?

A. It is up to the mortgagee to ensure that it meets applicable State laws when acting as the Secretary's agent for the origination of mortgages insured and assisted under the Department's programs. To act as an Agent for the Secretary in the origination of second mortgages, the mortgagor must be in compliance with State licensing requirements.

Q. The servicer is often not informed of property transfers. When this occurs, what is the servicer's obligation?

A. The servicer has no legal obligation. The realtor, seller and buyer are responsible for protecting their own interests. If a first mortgage is assumed by a title transfer with or without the mortgagee's participation, the buyer will take title subject to all lien encumbrances, just as in any other real estate transaction. However, when a mortgagee learns of an assumption of a mortgage by a homeowner not qualified to receive assistance payments, the mortgagee, "shall immediately send a notification to the local HUD Field Office having a jurisdiction over the property." (See HUD Handbook 4330.1, Chapter 11.188.)

Q. Whose responsibility is: (a) Reviewing individual cases to determine whether the repayment at time of sale will be for the amount of assistance received or for 50% of appreciated value; (b) Verification of costs of sale and improvements when determining appreciation; and (c) Enforcement of recapture from the mortgagor?

A. These issues have been addressed in Handbook 4330.1 CHG. 1, dated August 1982, which states that local HUD Field Offices will calculate the amount of recapture, including calculating allowances for improvements and costs of sales, and will enforce recapture provisions.

Q. If a loan amortizes in full and the balance of the loan is zero, will assistance have to be repaid at that time?

A. The payoff of the first mortgage does not make the recapture provision effective. The second lien would assume first lien position, but recapture is only due (a) Upon sale of the property to a party ineligible for assistance, (b) When a property has been rented for more than 12 months, or (c) When the mortgagor requests satisfaction of the HUD lien.

Q. When a loan is sold to, or assumed by, a qualified mortgagor, and then the new mortgagor sells to an unqualified mortgagor, how much assistance will have to be repaid?

A. The statutory provision requires recapture of either all the assistance received on behalf of the mortgagor or mortgagors, or 50 percent of net appreciation in value at the time that recapture is due. The second owner may have to repay all assistance that he or she received and all assistance received by his or her predecessor if that figure is less than 50 percent of the net appreciation when recapture is occasioned by the sale to an unqualified mortgagor.

Q. If a delinquent mortgagor repays assistance and then reinstates, is the mortgagor entitled to recover the previously paid assistance?

A. This question is no longer relevant, since the statutory provision calling for recapture where a default has occurred for 90 continuous days was deleted by the Housing and Community Development Amendments of 1981 and the final rule reflects this change.

Q. Section 235.12(a)(2), reading "Has rented the property for more than one year," should be expanded to say "Has rented property for up to one year."

A. The statutory provision states that recapture is triggered when the property has been rented for more than one year. The Department is without authority to change this provision.

Effective Date Objections

The final provision of the rule which provoked comment was the effective date. Several commenters objected to the immediate implementation of the rule as unfair to those home buyers who had begun, but not yet completed, purchase negotiations for Section 235-assisted homes in the belief that Section 235 did not require any recapture of assistance. Others argued that it was unfair to the contractors who had begun developing property aimed at buyers using Section 235 assistance but who would not now be able to sell to that market. All of those who commented on this provision recommended that HUD delay the implementation of the rule to allow those affected by it to adjust their plans.

HUD has decided to retain the original effective date. The statute exempted from the recapture provision all commitments issued within 6 months following enactment of the law, and the May 27, 1981 effective date complied with that provision. HUD therefore has decided not to change the effective date of the rule.

For the reasons outlined above, this rule has not been changed in response to public comments.

Technical Amendment

The Department has decided to make one minor, technical amendment to § 235.12(a)(2). This change is intended only to clarify that recapture may be triggered by rental of the owner's unit in a two- to four-family property. That provision is part of the 1980 law and the Department wishes to make it clear that it is included in § 235.12(a)(2). No substantive change is intended.

In connection with this technical amendment, the Department would like to clarify the procedure by which we provide for the recapture of assistance when a mortgager rents a Section 235 property for more than one year. As soon as HUD determines that such a property has been rented for more than one year, the appropriate HUD Field Office both calculates the amount of recapture due and determines whether recapture will be deferred or required immediately. In almost all cases, because mortgagors do not possess the financial resources to repay the assistance immediately, the Department defers recapture until the mortgagor either requests satisfaction of the Secretary's recapture lien, or disposes of the property. When either of those events occurs, the Department recalculates the amount of recapture to include the original recapture amount, plus interest, and requires payment of that amount. (Procedures for implementing the recapture laws and regulations are contained in Chapter 11 of HUD Handbook 4330.1, titled "Administration of Insured Home Mortgages".)

Findings and Certifications

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement Section 102(2)(c) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection during regular business hours at the Office of the Rules Docket Clerk, Office of General Counsel, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

This rule does not constitute a "major rule" as that term is defined in Section 1(b) of Executive Order 12291 on Federal Regulation issued on February 17, 1981. Analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Pursuant to the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned certifies that this final rule does not have a significant economic impact on a substantial number of small entities because individual mortgagors under the § 235 program, which are the ones primarily affected by the rule, are not considered small entities, and because the responsibilities and duties imposed on originators and servicers are very limited.

This rule was listed as Item H–5–81 under the Office of Housing in the Department's Semiannual Agenda of Regulations published on April 25, 1983 pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The Section 235 Program is listed as program number 14.105, Interest Reduction—Homes for Lower Income Families, in the Catalog of Federal Domestic Assistance Programs.

List of Subjects in 24 CFR Part 235

Condominiums, Cooperatives, Low and moderate income housing, Mortgage insurance, Homeownership, Grant programs—housing and community development.

PART 235—MORTGAGE INSURANCE AND ASSISTANCE PAYMENTS FOR HOMEOWNERSHIP AND PROJECT REHABILITATION

Accordingly, the interim amendment to 24 CFR Part 235, published on May 27, 1981 (46 FR 28401), is adopted as final, subject to the changes in the final rule published on December 3, 1982 (47 FR 54430) and to a technical amendment at § 235.12(a)(2), as set forth below. Section 235.12 is revised to read as follows:

§ 235.12 Recapture of assistance payments.

(a) With respect to any mortgage insured under this part pursuant to a firm commitment issued on or after May 27, 1981, the mortgagor shall repay to the Secretary any assistance received under this part in the amount provided in paragraph (b) of this section when the mortgagor:

(1) Disposes of the property or a homeowner not qualified to receive assistance payments, or

(2) Has rented the property (or rented the owner's unit in the case of a two- to four-family property) for more than one year, or

(3) Requests a release of the Secretary's lien on the property.

(b) The amount of assistance to be repaid by the mortgagor shall be the lesser of the amount of assistance actually received under this part (other than handling charges) or 50 percent of the net appreciation of the property.

(c) The term "net appreciation of the property" as used in this section means any increase in the value of the property over the purchase price, as of the time the mortgage is accepted for insurance, less the reasonable costs of sale and the reasonable costs of improvements made to the property.

(d) The mortgagor shall execute such documents as the Secretary shall require to assure repayment to the Secretary of the amounts provided in this paragraph.

Authority: Sec. 211, 235, National Housing Act (12 U.S.C. 1715b, 1715z); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: September 1, 1983.

Philip Abrams,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 83-24670 Filed 9-8-83; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD11 11-85-83]

Establishment of Special Local Regulations for the "Miller High Life Thunderboat Regatta"

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for the Miller High Life Thunderboat Regatta, a unlimited hydroplane race in Mission Bay, to be held on 15 thru 18 September 1983. The regulations are needed to provide for the safety of life on navigable waters during the event.

EFFECTIVE DATE: These regulations become effective on 15 September 1983 at 9:00 a.m. and terminate on 18 September 1983 at 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: LTJG J. N. Arroyo, Commander(bb), Eleventh Coast Guard District, 400 Oceangate, Long Beach, California 90822, (213) 590–2331.

SUPPLEMENTARY INFORMATION: A notice of proposed rule making has not been published for these regulations and was impracticable as they are being made effective in less than 30 days from the date of publication. Following normal rule making procedures would have been impracticable. The application to hold the event was not received until 18 May 1983, and there was not sufficient time remaining to publish proposed rules in advance of the event or to provide for a delayed effective date.

Drafting Information

The principal individuals involved in drafting this rule are CDR T. A. Welch, Chief, Boating Safety Division, Eleventh Coast Guard District, and Lt. Joseph R. McFaul, Project Attorney, Legal Office, Eleventh Coast Guard District.

Discussion of Regulations

Thunderboats Unlimited of San Diego, Inc. "Thunderboat Regatta" will be conducted in Mission Bay San Diego beginning 15 September 1983, starting west of Fiesta Island. This event will have 20 unlimited hydroplanes that could pose hazards to navigation. Vessels desiring to transit the regulated area may do so only with clearance from a patrolling law enforcement vessel or an event committee boat.

Evaluation

These regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. This conclusion follows from the fact that the regulated area can be open periodically for the passage of commercial and recreational vessels.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

Final Regulations: In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended by adding a temporary § 100.35–11–85 to read as follows:

§ 100.35–11–85 Thunderboats Unlimited/ Thunderboat Regatta.

(a) *Regulated area:* The following regulated area will be closed intermittently to all vessel traffic from 9:00 a.m. to 5:00 p.m. on 15 thru 18 September 1983, for the subject race, bounded by the following coordinates:

That enclosed portion of Fiesta Bay, Mission Bay, CA starting at 32°27′32″ N 117°13″ W, thence due west to 117°13′25″ W, thence along the eastern shoreline of Crown Point to the Vacation Isle Bridge thence south along the bridge to Vacation Isle; thence along the eastern shoreline of Vacation Isle to 32°46′18″ N 117°14′01″ W, thence southeasterly to 32°46′14″ N 117°13′43″ W, thence along the western shoreline of Fiesta Isle to 32°47′20″ N 117°13″ W, thence due north to the starting point.

(b) *Special Local Regulations:*

(1) No person or vessel may enter or remain in the regulated area unless participating in the event or authorized by the sponsor of the event to do so.

(2) Procedures for Transiting: The regulated area will be opened every hour on the hour or after each heat or race for a minimum of ten (10) minutes for the safe transit of non-participant water craft.

(3) These regulations are temporary in nature and shall cease to be in effect or further enforced at the end of the period set forth.

(46 U.S.C. 454; 49 U.S.C. 1655(b)(1); 33 CFR 100.35; 49 CFR 1.46(b))

Dated: August 30, 1983.

F. P. Schubert,

Rear Admiral, U.S. Coast Guard Commander, Eleventh Coast Guard District.

[FR Doc. 83-24685 Filed 9-8-83; 8:45 am]
BILLING CODE 4910-14-M

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33 CFR Part 100

[CGD3–83–50]

Special Local Regulations; South Bay Marathon, Great South Bay, N.Y.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for the South Bay Marathon. This power boat race will be held in the Great South Bay, near Brookhaven, New York on September 10, 1983. This regulation is needed to provide for the safety of participants and spectators on navigable waters during the event.

EFFECTIVE DATE: This regulation becomes effective on September 10, 1983 at 11:30 a.m. and terminates the same day at 3:30 p.m. No rain date has been approved for this event.

FOR FURTHER INFORMATION CONTACT: LTJG D. R. Cilley, (212) 668–7974.

SUPPLEMENTARY INFORMATION: A notice of proposed rule making has not been published for this regulation and it is being made effective in less than 30 days from the date of publication. Following normal rule making procedures would have been impracticable. Supporting documentation was not received with sufficient time remaining to publish proposed rules in advance of event or to provide for a delayed effective date.

Drafting Information: The drafters of this regulation are LTJG D. R. Cilley, Project Officer, and Ms. MaryAnn Arisman, Project Attorney, Third Coast Guard District Legal Office.

Discussion of Regulations: The South Bay Marathon is sponsored by the South Bay Performance Association of East Patchogue, New York. This power boat race will be held in the Great South Bay on September 10, 1983. This event is well known to the boaters and residents alike in this area. The race will be held within the area around Patchogue Bay, west to Blue Point and east to Bellport. It will consist of both a warm up session from 1:00 p.m. to 2:00 p.m. followed by a single race lasting about one hour. Approximately 30–45 production performance class power boats will race four (4) times around a 12 and one half mile triangular course at speeds in excess of 60 mph for a total distance of nearly 52 miles. The course will be marked by patrol craft and a line of helium filled weather balloons. East/ west traffic through the Great South Bay will be allowed during the event near the shoreline. Ferry traffic will be allowed to pass at the direction of the Coast Guard Patrol Commander. A large spectator fleet is expected to watch this race. The Coast Guard in conjunction with vessels provided by the sponsor and local authorities will set up a large safety patrol. In order to provide for the safety of participants and spectators, the Coast Guard will restrict vessel movement within the regulated area during the event.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

PART 100—[AMENDED]

Regulations: In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended by adding a temporary § 100.35–311 to read as follows:

§ 100.35–311 South Bay Marathon, Great South Bay, Brookhaven, New York.

(a) *Effective Date:* This regulation shall be effective from 11:30 a.m. to 3:30 p.m. on September 10, 1983. No rain date has been approved for this event.

(b) *Regulated Area:* That section of the Great South Bay bounded by longitude 73°04′ on the west and longitude 72°56′ on the east.

(c) *Special Local Regulations:* (1) the approximate boundaries of the triangular race course area within the regulated area will be marked by the following three corner coordinates: 40°44′00″N, 72°56′20″W; 40°44′10″N, 73°01′00″W; and 40°42′35″N, 73°02′50″W. This area shall be marked by helium balloons provided by the sponsor, anchored at half mile intervals around the race course. Patrol craft will be spaced between these balloons. No person or vessel shall enter or remain within this area unless participating in the event or authorized by the sponsor or Coast Guard Patrol personnel.

(2) All race participants shall remain within the race course area described in

paragraph (c)(1) of this section. Any participant going outside this area into the spectator areas shall be immediately disqualified by the event sponsor unless the vessel is down off plane, at a slow speed before entering the spectator area.

(3) The sponsor shall provide approximately 15 vessels to assist in marking the race course and patrolling the event. Each patrol vessel shall have an orange flag displayed conspicuously as a means of identification.

(4) The sponsor shall ensure that at a minimum the 3 check point (corner) boats have VHF-FM marine radios capable of communications with the Coast Guard. Each of these vessels shall have a black and a red flag to be used to communicate a stop or cancel command to race participants.

(5) Ferry traffic shall be given an opportunity to pass through the regulated area at times designated by the Coast Guard Patrol Commander.

(6) All persons or vessels not registered with sponsor as participants or not part of the regatta patrol are considered spectators. Spectator vessels shall be anchored outside the race course in such a way that will allow passage through the regulated area by transiting vessels.

(7) All persons and vessels shall comply with the instructions of U.S. Coast Guard patrol personnel. Upon hearing five or more blasts from a U.S. Coast Guard vessel, the operator of a vessel shall stop immediately and proceed as directed. U.S. Coast Guard patrol personnel include commissioned, warrant and petty officers of the Coast Guard. Members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation and other applicable laws.

(46 U.S.C. 454; 49 U.S.C. 1655(b); 49 CFR 1.46(b) and 33 CFR 100.35)

Dated: August 29 1983.

W. E. Caldwell,

Vice Admiral, Coast Guard, Commander, Third Coast Guard District.

[FR Doc. 83-24082 Filed 9-8-83; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 181

[CGD 79-013]

Identification, Boat Hull Numbers

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule amends the regulations concerning boat hull identification numbers in Subpart C of Part 181. During past recall campaigns, altered or removed hull identification numbers reduced the effectiveness of the recall causing an adverse impact on boating safety. These amendments make alteration or removal of the hull identification number (HIN) more difficult and require the placement of an additional HIN which will enable identification of the boat even if the primary HIN is altered or removed. These amendments also clarify certain ambiguities in the hull identification number regulations. These changes will ensure that a manufacturer responsible for repairing a defective or noncomplying boat can be identified and that each boat remains uniquely identified with the number assigned by its manufacturer.

EFFECTIVE DATE: These regulations are effective August 1, 1984.

FOR FURTHER INFORMATION CONTACT: LCDR Calvin F. Perkins, Jr., Office of Boating, Public, and Consumer Affairs (G-BBS/43), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593 (202) 426-1065, between 8 am and 4 pm Monday through Friday, except holidays.

SUPPLEMENTARY INFORMATION: The Coast Guard published a notice of proposed rulemaking in the **Federal Register** on December 29, 1980 (45 FR 85476). Interested persons were invited to participate in this proposed rulemaking by submitting relevant comments. All of the comments received were carefully considered. The National Boating Safety Advisory Council was consulted and its opinions and advice have been considered in the formulation of these amendments. The transcripts of the proceedings of the National Boating Safety Advisory Council at which this proposed rule was discussed are available for examination in Room 4304, U.S. Coast Guard Headquarters, 2100 Second Street SW, Washington, D.C. The minutes of the meetings are available from the Executive Director, National Boating Safety Advisory Council, c/o Commandant (G-BBS), U.S. Coast Guard, Washington, D.C. 20593.

Since the Hull Identification Number (HIN) regulation became effective in 1972, the Coast Guard has evaluated its usefulness in other areas. The Coast Guard uses the HIN in notification campaigns for defects which create a substantial risk of personal injury to the public and for failures to meet required recreational boating safety standards. The HIN also provides a positive identification of lost and stolen boats. Other law enforcement groups and state agencies have adopted the HIN for titling, registration, accident investigation, and insurance. Since 1972, certain problems have been identified. This amendment seeks to solve them by: (1) Restricting assignment and use of manufacturer identifications to those persons who have defect notification accountability. (2) Allowing only one method of indicating the date of certification or manufacture in the HIN; (3) Establishing measures to make alteration or removal of an HIN difficult; (4) Requiring an additional means of identification; and (5) Resolving miscellaneous ambiguities in the regulation which have led to confusion and accidental noncompliance.

For the purposes of enforcement of the Federal Boat Safety Act of 1971 (Pub. L. 92-75) and regulations and standards issued thereunder, the U.S. importer of a boat is considered the "manufacturer" of that boat. The HIN regulations issued in November 1972, did not make it clear whether the foreign manufacturer or the U.S. importer must apply for the manufacturer identification code. As a result, § 181.31 is revised to require the HIN to contain the manufacturer identification code of the U.S. importer. Under the new HIN regulations, a foreign manufacturer wishing to export its recreational boats to the U.S. will be able to do so only by securing an importer within the United States who will assume the responsibilities attendant with the Federal Boat Safety Act of 1971 and applicable regulations and standards issued thereunder.

The Coast Guard is also accepting other nations' hull identification number systems that meet the requirements of § 181.25. Those persons interested in the countries whose HIN's are currently accepted may write the Office of Boating, Public, and Consumer Affairs (G-BBS/43), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593. The acceptance of another country's HIN means that the HIN format is compatible with the requirements of § 181.25. This acceptance applies to the HIN and does not in any way affect the requirements for imported boats to comply with the applicable U.S. Coast Guard safety standards and regulations.

Drafting Information

The principal persons involved in drafting these rules are LCDR Calvin F. Perkins, Jr., Project Manager, Office of Boating, Public, and Consumer Affairs and LT. Mark Hanlon, Project Attorney, Office of the Chief Counsel.

Discussion of Comments

Twenty six written comments were received. Revisions have been made to the final rule in accordance with the written comments and with opinions

expressed by members of the National Boating Safety Advisory Council at a meeting held in Washington, D.C., on 18 and 19 May, 1982. Comments received on the proposed amendments, and the changes made, are grouped according to the section to which they relate:

Section 181.24 Additional marking required.

Several commenters want to know if one additional marking is adequate, while others state that we could require three or more additional markings and a thief could still find them all. The Coast Guard disagrees. The Coast Guard considers the second additional marking adequate to identify the manufacturer that is responsible for complying with boating safety regulations.

Some commenters state that the location of the additional marking should be released only to law enforcement personnel or boat owners. The main purpose of the HIN is the identification of individual boats involved in recall campaigns. Any benefit to law enforcement is secondary.

Some commenters state that the additional number should be a duplicate of the HIN which would give the manufacturer's name. They also indicate that this additional number should be as permanent as the transom HIN. The Coast Guard agrees. These two recommendations are accepted.

One law enforcement official wants an additional HIN placed on the foredeck adjacent to the operators station to help speedily identify the boat. The transom number is very difficult to read when a boat is underway. The Coast Guard disagrees. The transom marking and the newly required duplicate marking are adequate for recall campaigns.

Other commenters state that the additional number should be concealed. The duplicate HIN should be placed in an unexposed and protected area, not necessarily a concealed one, because identification and not law enforcement is the intent of these regulations.

One label manufacturer states that the additional HIN should be required to have distinctive features that make it highly resistant to counterfeiting and alteration. He states that one way would be through the use of an optical system including unique markings visible only under retro-reflected light. This type of system is too complex and expensive. Manufacturers will be allowed to affix the HIN in any manner acceptable, including a permanent ink marker covered with resin.

Several manufacturers of inflatable boats want all inflatable boats to be exempt from the requirement to have a second HIN because of an inflatable's construction. The Coast Guard disagrees. Even the simplest of boats have a location, in addition to the transom area, for the second HIN.

Section 181.25 Hull identification number format.

Several comments from boat manufacturers, boat manufacturer associations and government agencies request that the model year be clearly marked on all HIN's. Model year is extremely important in the recreational boating field, particularly in those states which conduct title programs and levy sales taxes on boat sales. Model year also affects resale value.

Under past HIN regulations and the Notice of Proposed Rulemaking, § 181.25 allowed for two methods of indicating the date of manufacture in the last four characters of the 12 digit HIN. When these two formats were devised it was believed that the new model year would not commence prior to August and therefore the letter "A" was chosen to designate that month. Recently some manufacturers have begun their model years as early as April and therefore, the original HIN formats have proven impractical.

Under the past HIN regulations § 181.25(c) required that the last four characters in the HIN indicate the date of certification for boats subject to standards in Part 183. Thus, anyone reading the HIN could determine what standards the manufacturer certified that he complied with simply by knowing what standards were in effect prior to that date. For boats that were not subject to any standards in Part 183, the last four characters indicated the date of manufacture. The Coast Guard believes that manufacturers who have never used the concept of model year could simply repeat the year of certification as the model year. At the National Boating Safety Advisory Council (NBSAC) meeting in October 1981 a proposal for a single numbering system based on the month and year of manufacture as well as a clear indication of the model year was proposed. This format, introduced at the request of the recreational boating industry in agreement with State and Federal boating affairs officers, is the only HIN system allowed.

The new HIN format in § 181.25 remains at twelve characters with the first three characters being the manufacturer identification code (MIC). Characters four through eight continue as serial numbers assigned by the manufacturer. Characters nine and ten now indicate the month and year of certification, when certification is required. In all other cases, characters nine and ten indicate the date of manufacture. Character nine is the month of manufacture using letters of the English alphabet starting with January as "A" and ending with December as "L". Character ten is the last digit of the year of manufacture.

Characters eleven and twelve indicate the model year using the last two numbers of the model year such as "82" for 1982 and "83" for 1983.

In other comments on the HIN format, one commenter states that more than one importer of a certain line of boats ought to be allowed to use the same MIC. This comment is not accepted. The Coast Guard must have a single entity to whom we may direct the responsibility for defect notification.

Another commenter wants more than twelve characters in the HIN which would show length, boat type, etc. Present State and Federal data systems, however, cannot handle more than twelve digits.

One commenter recommends that the letter "X" be used instead of the certification date in boats that do not presently require a certification date. This comment is not accepted. This method would not allow a consumer or titling agency to determine the date of manufacture or model year.

One commenter recommends that a manufacturer be prohibited from re-assigning the first eight characters of the HIN. However, the proposal is not being changed. § 181.23(c) prohibits the assignment of the same twelve digit number to more one boat. This uniqueness can always be achieved using the last four characters in the HIN, which indicate month of manufacture and model year. The regulations give a manufacturer more flexibility by permitting him to repeat the serial number (characters four through eight) on a monthly basis. This allows the manufacturer to use more of the available characters within the serial numbers to indicate model, size and options.

Section 181.27 Information displayed near hull identification number.

One commenter requests a requirement for a border around the HIN to make it more prominent. Historically, most manufacturers did not place additional information near the HIN. The new requirement to keep any additional information that is affixed within two inches of the HIN separated by means of borders or labeling should be sufficient.

Several commenters desired the ability to display additional information

in the HIN with a hyphen to separate from any following information. The Coast Guard disagrees. Additional information may be displayed near the HIN, but must be separated from the HIN. Since a character as small as ¼" may be used, the hyphen does not provide adequate separation.

One commenter states that it would be too costly to border the information. He also favors a one inch separation instead of two inches. There is no requirement in the regulations to place additional information after the HIN, so if a manufacturer chooses to do so, he must bear any expense incurred. The two inch separation is the minimum separation the Coast Guard considers sufficient to ensure a clear recognition of the HIN.

One commenter recommends borders except when placing information below the HIN. The model year below the HIN for example. This comment is also not accepted. The two inch rule and border is considered to be less confusing.

Section 181.29 Hull identification number display.

One commenter states that to require HIN's to be mounted on the starboard side of the transom generates no benefit. He also states that the current requirement to mount the HIN on the outboard side of the transom creates no confusion, makes it easy to locate, and allows manufacturers to place the HIN out of the way of obstructions. The commenter also states that by requiring the HIN to be "within two inches below the top of the transom" it may interfere with the ability to place thick rub rails on a boat, or interfere with deck joining construction. This commenter states that these changes do not generate improved ability to locate or identify the HIN. Another commenter states that on decked racing canoes the location of the HIN could not be worse due to the possibility of damage at the ends of the boat or along the seams. He recommends that the HIN be a meter forward and 5–6 cm down from the seam line. These comments are not accepted. No single HIN position is perfect for all types of boats. The Coast Guard concludes that by requiring the placement of the HIN on the starboard side within two inches of the top of the transom, a quick identification can be made. In the case of a manufacturer with thick rubrails or other construction problems, § 181.29(a)(4) gives the builder the flexibility to depart slightly from the rigid two inch rule when necessary.

Most commenters agree that the word "permanently" should remain in § 181.29(b). A few commenters state that the word "considerable" should be placed before the word "scarring." Other commenters state that plates should not be allowed for indicating the HIN, that poprivets should not be allowed in mounting the HIN, and that manufacturers should be required to mold in HIN's. These comments were addressed in the discussion of the proposed regulations where it is noted that any plate must be bonded or welded in addition to any riveting. No method is fool proof.

Economic Evaluation

The Coast Guard has analyzed the economic impact of this action and has determined that it is not "major" within the meaning of Executive Order 12291 and not "significant" within the meaning of Department of Transportation Order 2100.5, "Policies and Procedures for Simplification, Analysis and Review of Regulations", dated May 22, 1980. A draft evaluation has been prepared. The change to a single HIN format and the requirement for a boat manufacturer to place a second HIN within the boat will impose little or, in some cases, no new cost on the boat manufacturer. In no case will it be necessary to cost more than $1.00 per boat. An estimated 500,000 boats will be affected per year. Among the many methods of compliance, a manufacturer may choose to write the HIN with an indelible marker on some unexposed portion of the boat, or laminate a torn-off piece of a production control document containing the HIN into the boat, or stamp the HIN into the hull of an aluminum boat. In addition, many manufacturers already have additional HIN numbers on their boats which will meet this new requirement. The total cost of the additional marking is estimated at $250,000 per year.

The additional HIN will provide a means whereby a boat can be identified even if the transom-located HIN is damaged or lost. The Coast Guard also expects the additional HIN to act as some deterrence to those who would deliberately alter an HIN to disguise the model year or for any other reason. The HIN is crucial not only to Coast Guard boating safety recall campaigns, but also for state boat registration programs.

The Coast Guard has considered the impact of this action on small entities under the provisions of Section 605(b) of the Regulatory Flexibility Act (94 Stat 1164) and certifies that this rule will not have a significant economic impact on a substantial number of small business entities. Many boat manufacturers are considered to be small business entities; however, this rule will not have a significant impact on them since as discussed above, the cost of compliance is insignificant when compared to the cost of manufacturing even the smallest boat.

List of Subjects in 33 CFR Part 181

Marine safety.

In consideration of the foregoing Subpart C of Part 181 of Title 33, Code of Federal Regulations, is revised as follows:

PART 181—MANUFACTURER REQUIREMENTS

* * * * *

Subpart C—Identification of Boats

Sec.

181.21 Purpose, applicability and effective date.
181.23 Hull identification numbers required.
181.25 Hull identification number format.
181.27 Information displayed near hull identification number.
181.29 Hull identification number display.
181.31 Manufacturer identification code assignment.
181.33 Conditions for use of manufacturer identification codes.
181.35 Removal of numbers

Authority: 46 U.S.C. 1454, 1456, 1464, 1488; 49 CFR 1.46(n)(1).

* * * * *

Subpart C—Identification of Boats

§ 181.21 Purpose, applicability and effective dates.

(a) This subpart prescribes the requirements for identification of boats to which section 4 of the Federal Boat Safety Act of 1971 applies.

(b) These amendments are effective on August 1, 1984, however, a manufacturer may voluntarily comply with this regulation on January 1, 1984.

§ 181.23 Hull identification numbers required.

(a) A manufacturer (or importer), as defined in § 181.3 of this part, must identify each boat produced or imported with two hull identification numbers that meet the requirements of this subpart:

(1) A primary hull identification number affixed in accordance with §§ 181.29 (a) and (c) of this subpart; and

(2) A duplicate hull identification number affixed in accordance with §§ 181.29 (b) and (c) of this subpart.

(b) A person who builds or imports a boat for his or her own use and not for the purposes of sale, must identify that boat with two hull identification numbers that meet the requirements of this subpart.

(c) No person may assign the same hull identification number to more than one boat.

§ 181.25 Hull identification number format.

Each of the hull identification numbers required by § 181.23 must consist of twelve characters, uninterrupted by slashes, hyphens, or spaces, as follows:

(a) The first three characters must be a manufacturer identification code assigned under § 181.31(a) or the importer designation assigned under § 181.31(b).

(b) Characters four through eight must be a serial number assigned by the manufacturer in letters of the English alphabet, or Arabic numerals, or both, except the letters I, O, and Q.

(c) Characters nine and ten must indicate the month and year of certification when a date of certification is required. In all other cases characters nine and ten must indicate the date of manufacture. The date indicated can be no earlier than the date construction or assembly began and no later than the date the boat leaves the place of manufacture or assembly or is imported into the United States for the purposes of sale. Character nine must be indicated using letters of the English alphabet. The first month of the year, January, must be designated by the letter "A", the second month, February, by the letter "B", and so on until the last month of the year, December. Character ten must be the last digit of the year of manufacture or certification and must be an Arabic numeral.

(d) Characters eleven and twelve must indicate the model year using Arabic numerals for the last two numbers of the model year such as "82" for 1982 and "83" for 1983.

§ 181.27 Information displayed near hull identification number.

If additional information is displayed on the boat within two inches of the hull identification number, that information must be separated from the hull identification number by means of borders or must be on a separate label so that it will not be interpreted as part of the hull identification number.

§ 181.29 Hull identification number display.

Two identical hull identification numbers are required to be displayed on each boat hull.

(a) The primary hull identification number must be affixed—

(1) On boats with transoms, to the starboard side of the transom within two inches of the top of the transom, gunwale, or hull/deck joint, whichever is lowest.

(2) On boats without transoms or on boats on which it would be impractical to use the transom, to the starboard outboard side of the hull, aft, within one foot of the stern and within two inches of the top of the hull side, gunwale or hull/deck joint, whichever is lowest.

(3) On catamarans and pontoon boats which have readily replaceable hulls, to the aft crossbeam within one foot of the starboard hull attachment.

(4) If the hull identification number would not be visible, because of rails, fittings, or other accessories, the number must be affixed as near as possible to the location specified in paragraph (a) of this section.

(b) The duplicate hull identification number must be affixed in an unexposed location on the interior of the boat or beneath a fitting or item of hardware.

(c) Each hull identification number must be carved, burned, stamped, embossed, molded, bonded, or otherwise permanently affixed to the boat so that alteration, removal, or replacement would be obvious. If the number is on a separate plate, the plate must be fastened in such a manner that its removal would normally cause some scarring of or damage to the surrounding hull area. A hull identification number must not be attached to parts of the boat that are removable.

(d) The characters of each hull identification number must be no less than one-fourth of an inch high.

§ 181.31 Manufacturer identification code assignment.

(a) Each person required by § 181.23 to affix hull identifications numbers must request a manufacturer identification code in writing from the Commandant (G–BP), U.S. Coast Guard, 2100 Second Street, SW., Washington, D.C. 20593. The request must indicate the manufacturer's name and U.S. address along with the general types and lengths of boats that will be manufactured.

(b) For boats manufactured outside of the jurisdiction of the United States, a U.S. importer must obtain a manufacturer identification code as required by paragraph (a) of this section. The request of an importer, as defined in § 181.3 of this subpart, must indicate the importer's name and U.S. address along with a list of the manufacturers, their addresses, and the general types and sizes of boats that will be imported. If a nation has a hull identification number system which has been accepted by the U.S. Coast Guard for the purpose of importing boats, it may be used by the importer instead of the one specified within this subpart. To request a list of those nations having such a numbering system, write: Commandant (G–BP), U.S. Coast Guard, 2100 Second Street SW., Washington, D.C. 20593.

(c) Persons who are required to identify boats under § 181.23(b) must obtain the required hull identification number from the State Boating Law Administrator of the State where the boat will be principally used, or, if the State Boating Law Administrator does not assign these numbers, from the Coast Guard District office in the area of principal use.

§ 181.33 Conditions for use of manufacturer identification codes.

(a) No manufacturer or importer may sell or transfer a manufacturer identification code or use a manufacturer identification code that has been assigned to another.

(b) A manufacturer or importer who changes the business name or address must advise the Commandant (G–BP), U.S. Coast Guard, 2100 Second Street, SW., Washington, D.C. 20593 of the change in writing.

§ 181.35 Removal of numbers.

No person may remove or alter a number required by this subpart unless authorized by the Commandant, U.S. Coast Guard.

Dated: August 8, 1983.

L. C. Kindbeam,

Captain, U.S. Coast Guard, Acting Chief, Office of Boating, Public, and Consumer Affairs.

[FR Doc. 83-24660 Filed 9-8-83; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

36 CFR Part 331

Navigational Regulations; Falls, Ohio River, Kentucky and Indiana; Protection, Use, and Management of Conservation Area

AGENCY: Department of the Army, Corps of Engineers, DOD.

ACTION: Final rule.

SUMMARY: The U.S. Army Corps of Engineers is publishing final rules and regulations for the protection, use and management of the national wildlife conservation area located at the Falls of the Ohio River in Kentucky and Indiana. The Federal law which established the conservation area directs publication of these regulations and that they include a complete prohibition on hunting, vandalism (including the removal of fossils), and the dumping of refuse within the boundaries of the conservation area.

EFFECTIVE DATE: September 12, 1983.

FOR FURTHER INFORMATION CONTACT: Richard Leverty, 202–272–0130.

SUPPLEMENTARY INFORMATION: These regulations place certain restrictions, prohibitions and limitations on use of the lands and waters under Federal jurisdiction within the designated boundaries of the Falls of the Ohio National Wildlife Conservation Area (WCA) in order to protect, preserve and provide for the proper management of the significant physical and biological features of the WCA and to prevent interference with the generation of hydroelectric power and with commercial and recreational navigation on the Ohio River.

The WCA was authorized by Title II of Pub. L. 97–137, approved by the President on December 29, 1981. Responsibility for administration of the WCA and for promulgation of these regulations is assigned by statute to the Secretary of the Army, acting through the U.S. Army Corps of Engineers. Within the boundary of the WCA, which was designated by the Secretary of the Interior through publication of notice in the **Federal Register** of August 12, 1982, lands, waters and interests therein will be acquired by the Corps of Engineers as may be necessary to insure that the WCA can be effectively managed for the conservation, research, interpretive, environmental and recreational purposes for which it was established.

An Interim Rule to govern the protection, use and management of the WCA was published in the **Federal Register** of December 28, 1982, with a period for comment until Fedruary 28, 1983. A total of twenty-four comments were received from private organizations, government agencies and individuals. As a result, § 331.3, Hunting and Trapping, has been amended to include the lead phrase "Unless authorized in writing by the District Engineer." Omission of that phrase in the Interim Rule was an administrative oversight; it has been included in the Final Rule in order to provide for properly permitted scientific research in keeping with the purposes for which the WCA was established. Other comments concerned present management practices or were more pertinent to future planning and management of the WCA and its resources and did not result in substantive changes or amendments in this Final Rule.

"Regulation Changes:" This Rule amends Title 36 of the Code of Federal Regulations by adding a new Part 331 which governs the protection, use and management of the Falls of the Ohio National Wildlife Conservation Area, Kentucky and Indiana.

Impact Analysis

The Department of the Army has determined that this is not a "major rule" requiring preparation of a regulatory impact analysis under Executive Order 12291. The Department of the Army has also determined that this Rule will not have a significant economic impact on a substantial number of small entities and, therefore, does not require a small entity regulatory flexibility analysis under provisions of the Regulatory Flexibility Act (5 U.S.C. 601 et seq). The Department of the Army has further determined that these regulations do not necessitate any new "collection of information" as defined in the Paperwork Reduction Act (44 U.S.C. 4501 et seq); therefore the requirements of that Act do not apply to this action. These regulations were reviewed by the Office of Management and Budget and on July 13, 1983, were approved for publication in the **Federal Register** as a Final Rule.

List of Subjects in 36 CFR Part 331

Recreation areas, Waterways, Hunting and fishing, Administrative practice and procedure, Public lands.

John O. Roach II,

Army Liaison Officer with the Federal Register.

Accordingly, 36 CFR is amended by adding a new Part 331 to read as set forth below.

PART 331—REGULATIONS GOVERNING THE PROTECTION, USE AND MANAGEMENT OF THE FALLS OF THE OHIO NATIONAL WILDLIFE CONSERVATION AREA, KENTUCKY AND INDIANA

Sec.

331.1 Applicability and scope.
331.2 Policy.
331.3 Hunting and trapping.
331.4 Fishing.
331.5 Explosives and fireworks.
331.6 Public property.
331.7 Sanitation.
331.8 Picnicking.
331.9 Camping.
331.10 Swimming.
331.11 Special events.
331.12 Vehicles.
331.13 Vessels.
331.14 Aircraft.
331.15 Fires.
331.16 Interference with government employees.
331.17 Minerals.
331.18 Restrictions.
331.19 Commercial activities.
331.20 Advertisement.
331.21 Unauthorized structures.
331.22 Abandonment of personal property.
331.23 Control of animals.
331.24 Permits.
331.25 Violation of regulations.

Authority: Pub. L. 97–137.

§ 331.1 Applicability and scope.

(a) The regulations contained in this part apply to those lands and waters within the established boundary of the Falls of the Ohio National Wildlife Conservation Area (WCA). Included in this boundary, which was published in the **Federal Register** of August 12, 1982, are publicly and privately owned lands, waters and improvements. The Federal Government, acting through the Corps of Engineers, will acquire such rights to privately-owned properties in the WCA as are necessary to carry out the purposes of Title II, Pub. L. 97–137. The regulations prescribed herein are for the use, management and protection of the resources of the WCA and all persons entering, using or visiting within the boundaries of the WCA are subject to these regulations. All other applicable Federal, State and local laws and regulations remain in full force and effect. The District Engineer, US Army Corps of Engineers, exercises non-exclusive jurisdiction over the lands and waters of the WCA and enforces these regulations.

(b) The WCA boundary encompasses an existing hydroelectric generating station and the McAlpine Locks and Dam, operating navigation structures which are part of the authorized Ohio River Navigation System. The continued operation and maintenance of this system take precedence over the purposes of the WCA, except that such operation and maintenance will be consistent with the basic purpose of the WCA as regards prohibition of hunting, vandalism, and dumping of refuse. Management of the WCA to achieve its intended purposes will, to the extent practicable, be accomplished in a manner consistent and compatible with continued generation of electricity and navigation on the Ohio River, including operation and maintenance of the McAlpine Locks and Dam and the Louisville Repair Station and material storage areas located on Shippingport Island.

§ 331.2 Policy

(a) It is the policy of the Secretary of the Army, acting through the Chief of Engineers, to manage the natural and cultural resources of the WCA in the public interest, providing the public with safe and healthful recreational opportunities while protecting and enhancing these resources.

(b) Unless otherwise indicated herein, the term "District Engineer" shall include the authorized representatives of the District Engineer.

(c) The WCA shall be available to the public without regard to sex, race, color, creed or national origin. No lessee, licensee or concessionaire providing a service to the public shall discriminate against any person because of sex, race, creed, color, or national origin in the conduct of the operations under the lease, license, or concession contract.

§ 331.3 Hunting and trapping.

Unless authorized in writing by the District Engineer:

(a) The hunting, trapping, catching, molesting, killing, or having in possession any wild animal or bird, or taking the eggs of any such bird, is prohibited.

(b) Possession of equipment (including, but not limited to, firearms, ammunition, traps, projectile firing devices including bow and arrow) which could be used for hunting, trapping, or the taking of wildlife, is prohibited.

§ 331.4 Fishing.

Unless otherwise authorized in writing by the District Engineer:

(a) Fishing is only permitted in accordance with the laws and regulations of the State within whose exterior boundaries that portion of the WCA is located, and such laws and regulations which are now or may hereafter be in effect are hereby adopted as part of these regulations.

(b) Fishing by means of the use of drugs, poisons, explosives, bow and arrow or electricity is prohibited.

(c) Commercial fishing and fishing with gill nets, trammel nets, hoop nets, bow and arrow or trot lines is prohibited.

§ 331.5 Explosives and fireworks.

Unless otherwise authorized in writing by the District Engineer.

(a) The possession or use of fireworks is prohibited.

(b) The possession or use of explosives is prohibited.

§ 331.6 Public property.

Unless otherwise authorized in writing by the District Engineer, the destruction, injury, defacement, removal, or any alteration of public property including, but not limited to natural formations, paleontological features, historical and archaeological features and vegetative growth is prohibited. Any such destruction, removal, or alteration of public property shall be in accordance with the conditions of any permission granted.

§ 331.7 Sanitation.

(a) Garbage, trash, rubbish, litter, or any other waste material or waste liquid generated on the WCA shall be removed from the area or deposited in receptacles provided for that purpose. The improper disposal of such wastes within the boundaries of the WCA is prohibited.

(b) The use of refuse containers for the disposal of refuse not generated on the WCA is prohibited.

(c) It is a violation to bring any material onto the WCA for the purpose of disposal.

(d) The discharge or placing of sewage, galley waste, garbage, refuse or pollutants into the WCA waters from any vessel or watercraft is prohibited.

§ 331.8 Picnicking.

(a) Picnicking is permitted only in designated areas.

(b) Picnickers shall remove all personal equipment and clean their sites upon departure.

§ 331.9 Camping.

Camping is not permitted within the WCA.

§ 331.10 Swimming.

Swimming is prohibited unless authorized in writing by the District Engineer.

§ 331.11 Special events.

(a) Special events including, but not limited to, water carnivals, boat regattas, music festivals, dramatic presentations, or other special recreation programs are prohibited unless written permission has been granted by the District Engineer.

(b) The public shall not be charged any fee by the sponsor of such permitted event unless the District Engineer has approved in writing the proposed schedule of fees. The District Engineer shall have authority to revoke permission and require removal of any equipment upon failure of the sponsor to comply with terms and conditions of the permit/permission. Any violation shall constitute a separate violation for each calendar day in which it occurs.

§ 331.12 Vehicles.

(a) The use of a vehicle off roadways is prohibited except as may be authorized by the District Engineer.

(b) Vehicles shall not be parked in violation of any posted restriction, or in such a manner as to endanger any Federal property to include natural features. The owner of any vehicle parked in violation of this section shall be presumed to have parked it, and unless rebutted such presumption will be sufficient to sustain a conviction as provided for in § 331.25.

(c) Vehicles shall be operated in accordance with all posted regulations.

(d) Driving or operating any vehicle in a careless, negligent, or reckless manner, heedlessly or in willful disregard for the safety of other persons, or in such manner as to endanger any property or environmental feature, or without due care or at a speed greater than is reasonable and prudent under prevailing conditions with regard to traffic, weather, road, light and surface conditions, is prohibited.

(e) This section pertains to all vehicles, including, but not limited to, automobiles, trucks, motorcycles, minibikes, trail bikes, snowmobiles, dune buggies, all terrain vehicles, bicycles, trailers, campers, or any other such equipment.

(f) Except as authorized by the District Engineer, no person shall operate any motorized vehicle without a proper and effective exhaust muffler, or with an exhaust muffler cutout open, or in any other manner which renders the exhaust muffler ineffective in muffling the sound of engine exhaust.

§ 331.13 Vessels.

(a) Vessels or other watercraft may be operated in the WCA waters except in prohibited or restricted areas in accordance with posted regulations and applicable Federal, State and local laws.

(b) All vessels when not in actual use shall be removed from the WCA unless securely moored at mooring facilities approved by the District Engineer. The placing of floating or stationary mooring facilities to, or interfering with, a buoy, channel marker, or other navigational aid is prohibited.

(c) The operation of vessels or other watercraft in a careless, negligent, or reckless manner so as to endanger any property (including the operator and/or user(s) of the vessel or watercraft) is prohibited.

§ 331.14 Aircraft.

(a) The operation of aircraft on WCA lands and waters is prohibited, unless authorized in writing by the District Engineer.

(b) Except in extreme emergencies threatening human life or serious property loss, the air delivery of any person or thing by parachute, helicopter, or other means onto project lands or waters without written permission of the District Engineer is prohibited.

(c) The provisions of this section shall not be applicable to aircraft engaged on official business of the Federal Government or used in emergency

rescue in accordance with the directions of the District Engineer.

§ 331.15 Fires.

Open fires are prohibited unless confined to fireplaces, grills, or other facilities designed for this purpose as designated by the District Engineer. Fires shall not be left unattended and must be completely extinguished prior to departure.

§ 331.16 Interference with government employees.

Interference with any Government employee in the conduct of his or her official duties pertaining to the administration of these regulations is prohibited. It is a violation to fail to comply with a lawful order directed by any Government employee or to knowingly give any false, fictitious, or fraudulent report or other information to any government employee in the performance of his or her official duties pertaining to the administration of these regulations.

§ 331.17 Minerals.

All activities in connection with prospecting, exploration, development, mining or other removal or the processing of mineral resources and all uses reasonably incident thereto are prohibited.

§ 331.18 Restrictions.

The District Engineer may establish and post a schedule of visiting hours and/or restrictions on the public use of a portion or portions of the WCA. The District Engineer may close or restrict the use of the WCA or portion of the WCA when necessitated by reason of public health, public safety, security, maintenance, or other reasons in the public interest. Entering or using the project in a manner which is contrary to the schedule of visiting hours, closure or restrictions is prohibited.

§ 331.19 Commercial activities.

Unless otherwise authorized in writing by the District Engineer, the engaging in or solicitation of business or money is prohibited.

§ 331.20 Advertisement.

Unless otherwise authorized in writing by the District Engineer, advertising by the use of billboards, signs, markers, audio devices, or any other means whatsoever including handbills, circulars, and posters is prohibited. Vessels or vehicles with semipermanent or permanently installed signs are exempt if being used for authorized recreational activities or special events and in compliance with all other rules and regulations pertaining to vessels and vehicles.

§ 331.21 Unauthorized structures.

The construction, placing, or continued existence of any structure of any kind under, upon, in, or over WCA lands or waters is prohibited unless a permit, lease, license, or other appropriate written agreement therefor has been issued by the District Engineer. Structures not so authorized are subject to summary removal or impoundment by the District Engineer. The design, construction, placing, existence, or use of structures in violation of the terms of the permit, lease, license, or other written agreement therefor is prohibited.

§ 331.22 Abandonment of personal property.

(a) Personal property of any kind left unattended upon WCA lands or waters for a period of 24 hours shall be considered abandoned and may be impounded and stored at a storage point designated by the District Engineer who may assess a reasonable impoundment fee. Such fee shall be paid before the impounded property is returned to its owner.

(b) If abandoned property is not claimed by its owner within 3 months after the date it is received at the storage point designated by the District Engineer, it may be disposed of by public or private sale or by other means determined by the District Engineer. Any net proceeds from the sale of property shall be conveyed unto the Treasury of the United States as miscellaneous receipts.

§ 331.23 Control of animals.

(a) No person shall bring or allow horses, cattle, or other livestock in the WCA.

(b) No person shall bring dogs, cats, or other pets into the WCA unless penned, caged, or on a leash under 6 feet in length, or otherwise under physical restraint at all times. Unclaimed or unattended animals are subject to immediate impoundment and removal in accordance with State and local laws.

§ 331.24 Permits.

It shall be a violation of these regulations to refuse to or fail to comply with the terms or conditions of any permit isued by the District Engineer.

§ 331.25 Violation of regulations.

Anyone violating the provisions of this regulation shall be subject to a fine of not more than $500 or imprisonment for not more than 6 months, or both. All persons designated by the Chief of Engineers, U.S. Army Corps of Engineers, for that purpose shall have the authority to issue a citation for the violation of these regulations, requiring the appearance of any person charged with violation to appear before the U.S. Magistrate within whose jurisdiction the violation occurred.

Authority: Section 206, Pub. L. 97-137, 95 Stat. 1710 (16 U.S.C. 668dd note))

[FR Doc. 83-24621 Filed 9-8-83; 8:45 am]
BILLING CODE 3710-92-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[A-9-FRL 2430-4]

Designation of Areas for Air Quality Planning Purposes; Attainment Status Designations, California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: On November 12, 1981, EPA invited comments on California's air quality attainment status designations and proposed action on six California Air Resources Board (ARB) redesignation requests. This is the second in a series of final actions which respond to the comments EPA received concerning that proposal. Elsewhere in today's **Federal Register**, EPA is proposing changes to several California designations as a result of comments received on the November 12 notice.

In this notice, EPA retains the following nonattainment area designations, which we have determined are correct despite challenges from certain public comments: the ozone designations in the San Francisco Bay Area, the Sacramento Valley, and the San Joaquin Valley Air Basins; the total suspended particulate (TSP) designations in the San Joaquin Valley Air Basin; and the carbon monoxide designation in Yolo County and Solano County.

DATE: This action is effective October 11, 1983.

ADDRESS: Copies of the public comments and EPA's Technical Support Document are available for public inspection during normal business hours at the EPA Region 9 Office.

FOR FURTHER INFORMATION CONTACT: Douglas Grano, Air Programs Branch (A-2-3), Air Management Division, EPA Region 9, 215 Fremont Street, San Francisco, CA 94105, Tele: (415) 974-7641, FTS 454-7641.

SUPPLEMENTARY INFORMATION:

Background

In response to the November 12, 1981, notice of proposed rulemaking, EPA received comments from industry, environmental groups, local air pollution control districts, and the ARB. These comments include general policy issues, recommended boundary changes, and discussion of the six proposed actions.

To address the extensive comments received, EPA elected to issue a series of rulemaking actions. The first notice, published June 29, 1982 (47 FR 28100), retained the proposed designations in those areas where EPA received no comments, took final action on the six ARB redesignation requests, and, in response to comments, reduced the carbon monoxide (CO) nonattainment area in Sacramento County. In this second final notice, EPA retains certain challenged designations and responds to policy questions raised in the comments. A third notice, found elsewhere in today's **Federal Register**, proposes to revise several area designations based on the comments, State requests, and EPA's own analysis. EPA will address the ozone designation for the Monterey Bay Unified Air Pollution Control District in a fourth rulemaking action.

Significant Issues

The public response to the November 12 proposal covered many policy issues concerning Section 107, "Air Quality Control Regions," of the Clean Air Act. The two most significant issues are discussed in the paragraphs below. EPA's complete response to the concerns raised by comments can be found in EPA's "Public Comment Technical Support Document, California Attainment Status Designations, Second Notice of Final Rulemaking," available at the address listed above.

Several comments argued that the EPA's Section 107 nonattainment designation should be used only for those areas immediately surrounding air quality monitors that record violations and not for larger areas that include emission *sources* which cause or contribute to the recorded violations.

EPA disagrees with this narrow interpretation of Section 107 designations. Section 107 requires that areas not meeting a national ambient air quality standard (NAAQS) be identified. EPA terms such areas nonattainment and equates them with the nonattainment areas defined in Section 171 of the Act. These areas are for the purpose of and initiate the Part D "Plan Requirements for the Nonattainment Areas."

Part D requires states to develop, for each nonattainment area, plans which will provide for the attainment of the NAAQS as expeditiously as practicable. Therefore, the nonattainment area designation must include all sources that significantly contribute to or cause NAAQS violations, even if the area immediately surrounding certain sources does not record violations.

If, as some comments suggest, the nonattainment area designation is interpreted to describe a smaller area, it would be further argued that the planning agencies should only inventory and control those sources within that area, even when sources upwind were the major cause of the violations. In this scenario, the possible over-control of sources within the designated nonattainment area and the probable under-control of sources outside of the area could result in an economically and technically unreasonable strategy and continued NAAQS violations.

In the same scenario, the Clean Air Act construction moratorium would only apply within the area where the sources were already controlled and would not affect the sources which may be the major cause of the continued NAAQS violations. Thus, EPA rejects the narrow interpretation of the nonattainment area designation since it could hinder development of approvable Part D plans and could lead to unreasonable and inequitable situations.

Several comments state that only *measured* concentrations should be used in determining the proper attainment status designations and boundaries.

EPA policy, since the original March 3, 1978 designations, has been to use both measured and modeled data whenever possible in the process of determining the Section 107 and 171 attainment/nonattainment boundaries. The policy is derived from the fact that monitoring data is an accurate, but limited tool. While it provides information for a given geographic *point*, it does not specify the *area* which should be designated to attainment or nonattainment. Interpolation between points with measured data can be quite inaccurate if used as the only criterion to determine area designations. EPA must also rely upon other methods when available, including diffusion modeling results.

Findings

Comments were received, primarily from the Western Oil and Gas Association (WOGA), that recommended new designations for certain parts of California. EPA has reevaluated the challenged designations and finds the original designations addressed in this notice to be correct and proper. Below is a listing of those designations EPA is retaining along with a summary of the comments and EPA's response. For further details on EPA's evaluation and a full discussion of the comments received, please refer to the Technical Support Document.

1. San Francisco Bay Area Air Basin

The basinwide nonattainment designation for ozone is retained (including the following areas: San Francisco County, Alameda County, Contra Costa County, Marin County, San Mateo County, Santa Clara County, Napa County, and the San Francisco Bay Area Air Basin portions of Solano and Sonoma Counties).

WOGA argued that portions of the Air Basin should be redesignated to attainment based on air quality data showing less than one exceedance for recent years. This recommendation would reduce the size of the ozone nonattainment area from the entire basin to primarily the southeast counties. However, WOGA's recommendation does not satisfy EPA's "General Criteria for Nonattainment Designations," number 5 (November 12, 1981, 46 FR 55724). Specifically, a nonattainment area must include all sources of significant impact on violations. Since emissions originating in the northwest counties can significantly contribute to the violations measured in the southeast counties, EPA cannot redesignate those counties to attainment.

2. Sacramento Valley Air Basin

The nonattainment designation for ozone is retained in the following areas: Butte County, Sacramento County, Sutter County, Yolo County, Yuba County, and the Sacramento Valley Air Basin portion of Solano County.

WOGA stated that the counties listed above (or portions of them) should be redesignated to unclassifiable because there is insufficient data available to determine a proper designation. EPA's analysis of the air quality data shows that there is at least one season's data available to validate the nonattainment designations.

3. San Joaquin Valley Air Basin

The nonattainment designation for ozone is retained in the following areas: Fresno County, Kings County, and the San Joaquin Valley Air Basin portion of Kern County.

WOGA suggested that a portion of the areas listed above should be redesignated to attainment or

unclassifiable because air quality data shows an average of less than one expected exceedance in 1979 and 1980. This approach does not satisfy EPA's general criteria number 5 as described in number 1 above.

4. Sacramento Valley Air Basin

The unclassifiable designation for carbon monoxide is retained for Yolo County, and the Sacramento Valley Air Basin portion of Solano County.

The Yolo-Solano Air Pollution Control District recommended that it be redesignated from unclassifiable to attainment for carbon monoxide. However, since the District did not present data supporting its recommended change, EPA is retaining the unclassifiable designation.

5. San Joaquin Valley Air Basin

The nonattainment designation for total suspended particulate matter (TSP) is retained in the following areas: Fresno County, Kings County, San Joaquin County, and the San Joaquin Valley Air Basin portion of Kern County.

WOGA requested that the counties listed above (or portions of them) should be redesignated to attainment or unclassifiable based on EPA's fugitive dust policy, since much of the area is rural and lacks major industrial development (November 12, 1981, 46 FR 55723). EPA has determined, however, that the fugitive dust policy does not apply in this case because region-wide industrial emissions in the form of secondary aerosols are known to be significantly impacting monitors recording violations. EPA is therefore retaining the nonattainment designation throughout the San Joaquin Valley Air Basin.

Administration

Under the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 8, 1983. This action may not be challenged later in proceedings to enforce its requirements.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Authority: Secs. 107(d) and 301(a), Clean Air Act, as amended (42 U.S.C. 7407(d) and 7601(a)).

List of Subjects in 40 CFR Part 81

Environmental Protection Agency, Air pollution control, National parks, Wilderness areas.

Dated: August 31, 1983.

William D. Ruckelshaus,

Administrator.

[FR Doc. 83-24619 Filed 9-8-83; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 1820

Change of Area of Jurisdiction and Responsibility in Colorado and Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: By this final rulemaking, as of October 1, 1983, administrative jurisdiction over public lands in the State of Kansas is moved from the Wyoming State Office to the Colorado State Office because of reorganizational of Minerals Management Activities within the Department. As of October 1, 1983, all filings and other documents relating to public lands in the State of Kansas shall be filed with the Colorado State Office of the Bureau of Land Management. As of that date, all official Bureau records relating to the State of Kansas that were formerly in the Wyoming State Office will have been moved to the Colorado State Office.

EFFECTIVE DATE: October 1, 1983.

FOR FURTHER INFORMATION CONTACT: Ralph Smith, (303) 837-3816.

SUPPLEMENTARY INFORMATION: This final rulemaking reflects administrative actions taken by the Bureau of Land Management to allow for more efficient handling of filings and other documents required by other provisions of Title 43 of the Code of Federal Regulations but makes no change in the filing requirements. Therefore, this amendment is published as final rulemaking with the effective date shown above.

The Department of the Interior has determined that because this rule is an administrative action, it is not a major rule for purposes of E.O. 12291, and neither an environmental impact analysis nor a regulatory flexibility analysis is required. There are no additional information collection requirements imposed by this final rulemaking.

List of Subjects in 43 CFR Part 1820

Administrative practice and procedure, Alaska, Archives and records, Public Lands.

Under the authority of section 2478 of the Revised Statutes (43 U.S.C. 1201), Subpart 1821, Part 1820, Group 1800, Subchapter A, Chapter II of Title 43 of the Code of Federal Regulations is amended as set forth below.

Dated: September 6, 1983.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

PART 1821—[AMENDED]

1. Section 1821.2-1(d), under the heading "State Office and Area of Jurisdiction" is amended by revising the entries for Colorado and Wyoming as follows:

A. "Colorado State Office, 1037 Twentieth Street, Denver, Colorado 80202—Colorado and Kansas".

B. "Wyoming State Office, 2515 Warren Avenue, P.O. Box 1828, Cheyenne, Wyoming 82003—Wyoming and Nebraska".

[FR Doc. 83-24632 Filed 9-8-83; 8:45 am]

BILLING CODE 4310-84-M

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43 CFR Public Land Order 6459

[NM-42705, NM-42706, NM-42707]

New Mexico; Revocation of Executive Order Nos. 6143, 6276 and 6583

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order will revoke three Executive Orders dated May 23, 1933, September 8, 1933 and February 3, 1934, which reserved 223,580.71 acres of lands for "in lieu" State selection rights. The public lands will be restored to operation of the public land laws and to location for nonmetalliferous minerals. All lands affected by this order have been and will remain open to metalliferous mining and mineral leasing.

EFFECTIVE DATE: October 7, 1983.

FOR FURTHER INFORMATION CONTACT: Stella V. Gonzales, New Mexico State Office, 505-988-6211.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Executive Orders No. 6143, May 23, 1933; No. 6276, September 8, 1933; and No. 6583, February 3, 1934, which withdrew public lands in New Mexico to aid the State in making exchange selections as provided by the Act of June 15, 1926, 44 Stat. 746-748, are hereby revoked in their entirety. The

townships involved are described as follows:

New Mexico Principal Meridian

T. 13 S., R. 2 W.
T. 21 S., R. 2 W.
T. 7 S., R. 3 W.
T. 20 S., R. 3 W.
T. 24 S., R. 3 W.
T. 5 S., R. 4 W.
T. 20 S., R. 4 W.
T. 19 S., R. 5 W.
T. 22 S., R. 5 W.
T. 23 S., R. 5 W.
T. 19 S., R. 6 W.
T. 20 S., R. 6 W.
T. 21 S., R. 6 W.
T. 22 S., R. 6 W.
T. 23 S., R. 6 W.
T. 29 S., R. 6 W.
T. 11 S., R. 7 W.
T. 12 S., R. 7 W.
T. 15 S., R. 7 W.
T. 17 S., R. 7 W.
T. 18 S., R. 7 W.
T. 20 S., R. 7 W.
T. 21 S., R. 7 W.
T. 22 S., R. 7 W.
T. 23 S., R. 7 W.
T. 24 S., R. 7 W.
T. 18 S., R. 7½ W.
T. 10 S., R. 8 W.
T. 15 S., R. 8 W.
T. 18 S., R. 8 W.
T. 19 S., R. 8 W.
T. 24 S., R. 8 W.
T. 19 S., R. 9 W.
T. 20 S., R. 9 W.
T. 19 S., R. 10 W.
T. 20 S., R. 10 W.
T. 22 S., R. 10 W.
T. 27 S., R. 10 W.
T. 28 S., R. 10 W.
T. 29 S., R. 10 W.
T. 16 S., R. 11 W.
T. 19 S., R. 11 W.
T. 21 S., R. 11 W.
T. 22 S., R. 11 W.
T. 24 S., R. 11 W.
T. 26 S., R. 11 W.
T. 27 S., R. 11 W.
T. 28 S., R. 11 W.
T. 21 S., R. 12 W.
T. 24 S., R. 12 W.
T. 22 S., R. 13 W.
T. 24 S., R. 13 W.
T. 25 S., R. 13 W.
T. 27 S., R. 13 W.
T. 21 S., R. 14 W.
T. 23 S., R. 14 W.
T. 16 S., R. 15 W.
T. 17 S., R. 15 W.
T. 22 S., R. 15 W.
T. 24 S., R. 15 W.
T. 25 S., R. 15 W.
T. 16 S., R. 16 W.
T. 17 S., R. 16 W.
T. 29 S., R. 16 W.
T. 16 S., R. 17 W.
T. 17 S., R. 17 W.
T. 18 S., R. 17 W.
T. 19 S., R. 17 W.
T. 20 S., R. 17 W.
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T. 29 S., R. 18 W.
T. 30 S., R. 18 W.
T. 31 S., R. 18 W.
T. 16 S., R. 19 W.
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T. 24 S., R. 21 W.
T. 28 S., R. 21 W.
T. 29 S., R. 21 W.
T. 30 S., R. 21 W.

The townships described aggregate 223,580.71 acres in Dona Ana, Grant, Hidalgo, Luna, Sierra and Socorro Counties. More specific legal descriptions showing the sections and subdivision involved in each township may be examined by the public during regular working hours at the New Mexico State Office in Santa Fe.

2. At 10 a.m. on October 7, 1983, the lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on October 7, 1983, shall be considered in the order of filing.

3. The lands have been and continue to be open to applications and offers under the mineral leasing laws and to location under the U.S. mining laws for metalliferous minerals. They will be open to location for nonmetalliferous minerals at 10 a.m. on October 7, 1983.

Inquiries concerning the lands should be addressed to the Chief, Division of Technical Services, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501.

August 16, 1983.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 83-24087 Filed 9-8-83; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 671

[Docket No. 30815-164]

Tanner Crab Off Alaska

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NOAA issues a final rule to implement the approved parts of Amendment 8 to the Fishery Management Plan for the Commercial Tanner Crab Fishery Off the Coast of Alaska. Approved measures contained in this amendment have been adopted by the North Pacific Fishery Management Council to protect stocks from over-harvest, provide for an equal start in the fishery by the participants, reduce the incidental take of Pacific halibut, and provide for fishing seasons that are biologically and economically optimal.

EFFECTIVE DATE: October 5, 1983.

ADDRESS: Copies of the amendment, the environmental assessment, and the regulatory impact review may be obtained by contacting the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, Alaska 99510, telephone 907-274-4563.

FOR FURTHER INFORMATION CONTACT: Raymond E. Baglin (Fishery Biologist, Kodiak Field Office), 907-486-4791.

SUPPLEMENTARY INFORMATION:

Background

The Fishery Management Plan for the Commercial Tanner Crab Fishery Off the Coast of Alaska (FMP) was developed by the North Pacific Fishery Management Council (Council) and approved and implemented by the Assistant Administrator for Fisheries, NOAA (Assistant Administrator), under the Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1801 (Magnuson Act). The FMP was published in the **Federal Register** on May 16, 1978 (43 FR 21170). Following initial implementation of the FMP in

December 1978, the Assistant Administrator approved and implemented seven amendments to the FMP that had been developed by the Council.

Amendment 8 was adopted by the Council at its September 1982, meeting and contains five measures. All but part of one of these measures have been approved by the Director, Alaska Region, National Marine Fisheries Service (Regional Director) acting for the Secretary of Commerce. The approved measures accomplish the following:

A. An existing vessel pot limit in Registration Area H (Cook Inlet) is removed and an implementing regulation is thus rescinded. Existing vessel pot limits in Registration Area A (Yakutat and Southeast Districts), for which regulations were never implemented, are also removed.

B. A regulation that allowed storing crab pots on the fishing grounds for 72 hours before the start of a season is rescinded.

C. A minimum carapace size limit for *Chionoecetes opilio* Tanner crab of 3.1 inches (78 mm) is established.

D. The use of side-loading pots in the Yakutat District of Registration Area A is prohibited.

E. Fishing seasons in four districts of Registration Area J and one district in Registration Area A are revised.

In addition to regulations implementing the above approved measures, a regulation is implemented to modify the definition of a Tanner crab pot. Regulations are also implemented to describe and implement certain management districts that were incorporated into the original FMP, but never implemented. Those descriptions pertain to the Southeast and Yakutat Districts of Registration Area A and the Eastern and Western Aleutian Districts of Registration Area J.

When Measure A was adopted by the Council, it included the establishment of vessel pot limits in the Kodiak District of Registration Area J and two areas of Registration Area E (Prince William Sound). This part of Measure A is disapproved for the reasons discussed below.

The preamble to the proposed rule (48 FR 27807, June 17, 1983) discussed the need and justification for the above measures. Public comments were invited until July 29, 1983. Comments received have been considered and are responded to below. A correction to the proposed rule was published in the Federal Register (48 FR 34231, June 27, 1983). After considering the comments, the Regional Director has: (1) Disapproved the vessel pot limits proposed for the Kodiak District and Prince William Sound, (2) approved the other management measures, and (3) implemented the approved measures with this final rule.

The decision to disapprove the proposed vessel pot limits is based on recognition that enforcement of vessel pot limits is not practicable without expenditure of considerable fiscal resources. This proposed management measure is, therefore, not consistent with National Standard 7, which requires that conservation and management measures shall, when practicable, minimize costs. The Regional Director recognizes that the pot limits were intended as a conservation tool to control effort and thus better monitor the fishery. To assure compliance with vessel pot limits by the fishermen, however, would require some type of sampling system to ascertain the total number of pots being fished from a given vessel.

The Kodiak fleet is traditionally composed of about 160 vessels. Vessels from other areas number about 500. Although the actual total number of vessels that fished the Kodiak District in the 1983 season was about 400, over 600 vessels could be available to fish there. The known average number of pots to be fished is about 130 per vessel although the vessel pot limit adopted by the Council for this district is 250. The possible number of pots in the Kodiak District, then, could vary from 52,000 to 150,000 and these could be dispersed widely across thousands of square miles of fishing grounds. Enforcement would require on-site accountability of the number of pots being fished from a representative number of vessels, which would likely require considerable effort by patrol vessels that are not available.

The number of vessels that fish in Registration Area E (Prince William Sound) is about 30. The vessel pot limit in this area is 175 pots, except in part of the northern district of Registration Area E where the vessel pot limit is 100. Hence, totals of 3,000 and 5,250 pots could be fished. Enforcement of the number of pots being fished from a representative number of vessels is more feasible than the enforcement in the Kodiak District but is still not considered desirable in view of costs that would be incurred.

In making his decision to disapprove the above vessel pot limits, the Regional Director also considered the general requirements of Executive Order 12291. General Requirement 2a stipulates that, in promulgating new regulations, administrative decisions shall be based on adequate information concerning the need for a proposed government action. Because fishermen would likely use the number of pots optimal for the grounds they are fishing, and because the pot limits are not enforceable without greatly increased costs, information to justify the need for this regulation is not adequate.

Public Comments

Several comments were received from an individual representing the North Pacific Fishing Vessel Owners' Association. These comments are summarized and responded to as follows:

Comment 1. The intent, as well as the mandate, of the National Environmental Policy Act (NEPA), the Regulatory Flexibility Act, and Executive Order 12291 (E.O. 12291), is to analyze impacts of management measures prior to the Council's making a decision. Resulting analytical documents are not to be written as after-the-fact justifications to support the Councils actions. The Council's failure to have these documents available for public review before a decision was made on the measures contained in Amendment 8 is a fatal procedural defect.

Response. To comply with requirements of Executive Order 12291 and the Regulatory Flexibility Act, NMFS prepares a regulatory impact review (RIR) to aid the NOAA Administrator in his determination on whether or not an implementing rule is "major" under the Executive Order or "significant" under the Regulatory Flexibility Act. If a rule is determined to be "major," preparation of a Regulatory Impact Analysis would be required; if it is "significant ," preparation of an initial and final Regulatory Flexibility Analysis would be required. In actual practice, the RIR serves as either or both documents. To comply with regulatory requirements implementing the National Environmental Policy Act of 1969 (NEPA), an environmental assessment (EA) is prepared to aid the responsible Federal Agency in its determination of whether or not a Federal action (e.g. implementing a fishery management plan or amendment) would have a significant adverse impact on the quality of the human environment. If significant, an environmental impact statement is required.

Current procedures provide for public review of these documents during the period of proposed rulemaking. The contention in the above comments is that the Council should have had these documents available for public review prior to its decision to approve the measures in Amendment 8. The Council might then have been influenced by the

analyses during its decision-making process.

There is no specific legal requirement that the Council have the RIR or EA available prior to its making a final decision. Explicit under the E.O. 12291, the RFA, and NEPA are the requirements that an agency shall prepare and make available for public comment such analyses and to combine them, or summaries thereof, with proposed rulemaking. The RIR and EA were prepared and made available for public comment and associated with the proposed rulemaking. All specific legislative responsibilities were fulfilled.

There is merit in the comment that the Council should have prepared and made available for public comment some type of similar analyses, if not the RIR and EA themselves, before making a final decision. In lieu of these documents, the Council acted on the combined testimony of professional fishery managers and the public who aired their advice, concerns, and support of the management measures during public hearings. The Council also acted on the advice and recommendations of its advisory panel and Scientific and Statistical Committees.

Comment 2. Rules implementing the management measures contained in Amendment 8 should be determined to be "major" under E.O. 12291 and "significant" under the RFA.

Response. None of the implementing rules are "major" within the meaning of E.O. 12291 nor significant under the RFA. This conclusion is based upon an assessment of the existing fleet's capacity, market conditions, and the likely effects of the rule as depicted in the RIR. Specifically, the crab fleet operating off Alaska contains, by any standard, significant excess harvesting capacity. There are no limits placed on new entry to this fishery. Combined with strong world demand, small inventories and reduced landings in recent seasons, more than adequate incentives exist to assure full utilization of the harvestable resource. This is evidenced by the fact that a series of management constraints are necessary to prevent overexploitation of the Tanner crab resource, e.g., season opening and closing dates, registration areas, etc., and to distribute the excess potential effort more widely among the fishing grounds.

Comment 3. The Council continues to adopt State of Alaska management measures without first ascertaining whether they are consistent with national standards of the Magnuson Act. The Council should demonstrate that such measures are consistent with the national standards prior to adopting them.

Response. Section 303(b)(5) of the Magnuson Act (16 U.S.C. 1853(b)(5)) permits a Council to incorporate the relevant management measures of adjacent states when consistent with national standards. The Regional Director, on behalf of the Secretary of Commerce, has determined that the approved measures are so consistent.

Comment 4. Vessel pot limits violate National Standards 4, 5, and 7 of the Magnuson Act, because they function as an allocation measure and have the sole purpose of rendering fishing by a large vessel economically unattractive. Consequently, pot limits are anti-competitive and protectionist measures, and they result in the inefficient use of large vessels. Pot limits violate National Standard 7 because costs of enforcement outweigh the benefits.

Response. The cost of enforcement of vessel pot limits outweigh any conservation purpose. These measures are disapproved for failure to meet the requirements of National Standard 7 (16 U.S.C. 1851(a)(7)).

Comment 5. The measure that has allowed the storage of crab pots, in a non-fishing condition, on the fishing grounds for 72 hours prior to a fishing season is still necessary for the Bering Sea Tanner crab fisheries, although elimination of this provision may be justified around Kodiak. Fishing grounds in the Bering Sea are considerably distant from the major fishing port. At-sea storage areas in the Bering Sea are not used between the king crab and Tanner crab seasons. On-land storage facilities are inadequate to quickly load pots from shore onto the vessels. The 72-hour storage provision provides a "fair start" among vessels that compete for the same fishing grounds but vary considerably in pot-carrying capacity. The Council never gave serious consideration to an alternative measure that would have prohibited at-sea storage of gear until the season opened with the requirement that vessels, after setting gear, would be required to return to port to have their holding tanks inspected no sooner than 116 hours after the season opened. Vessel safety in the Bering Sea may have been compromised in the 1983 fishery by the elimination of this provision if vessels, to be competitive, had been carrying more pots than could be safely handled.

Response. Although pot storage facilities in the Bering Sea area, whether on land or at sea, are not optimal in relation to the large number of pots that must be loaded in a short time, the justification for the recission of the preseason pot storage provision in the Bering Sea is the same as for the Kodiak area—compliance is difficult to enforce without inordinate costs.

The Council's rescission of this measure is a result of lessons learned following several fishing seasons with this provision in effect. As discussed in the preamble to the proposed rule, effective enforcement of this provision has never been possible, given the size of the fishing grounds, the number of pots, and enforcement capabilities. Effective enforcement would have required the use of several patrol boats at great expense to adequately sample crab pots that are placed on several thousand square miles of fishing grounds. Sampling would require lifting each pot to the surface, as only the floating marker buoy is otherwise visible.

The Council did consider the alternative measure to require a vessel tank inspection system after setting gear once the season opened. Vessels would demonstrate the same degree of competitiveness and would strive to set their gear on the fishing grounds in a timely manner, regardless of whether year placement were allowed on the opening day of, or 72 hours prior to, the fishery. The problem of transporting pot numbers in excess of vessel capacity would exist in either case. Further, the cost to the fishermen of setting unbaited pots, then pulling and baiting them and returning them to the water ought to be greater than simply setting baited pots on the grounds. Continuance of this preseason pot storage measure would be inconsistent with National Standard 7 and General Requirement 2 of E.O. 12291. The Council's decision to rescind is approved.

Comment 6. The Council has not presented supporting rationale in its documents to explain why the fishing seasons are changed. The simultaneous openings of certain districts are dictated by a desire of local fishermen to insulate themselves from "outside" fishermen. No valid biological justification exists for closing the *C. opilio* fishery on August 1. This fishery should remain open until the optimum yield is harvested so as not to violate National Standard 1.

Response. Supporting documentation was provided to interested persons at public hearings held by the Council when it met jointly with the Alaska Board of Fisheries in March, 1982, and aired again in public hearings before the Council approved the changes at its September, 1982, meeting. The season changes respond to local conditions in the districts concerned, perceived by the industry or by the area Tanner crab

management biologists to warrant a season change. Some of the factors that warrant season changes, and which were considered by the Council, include (1) optimum management of effort among areas, thus preventing gear saturation in any particular area, which could result in local overfishing, (2) coordination of the Tanner crab fishery with the king crab fishery to prevent additional handling and possible injury that occurs when one crab species, for which a season is closed, must be discarded during the open season for another crab species, (3) scheduling in consideration of other fisheries that may demand the same harvesting, processing, and transportation facilities as in the Tanner crab fishery, (4) scheduling in recognition of weather conditions that could result in loss of fishing time, and (5) scheduling to increase meat recovery from the crab, or in response to their physical condition (e.g., proportion of crab that are in a "soft shell" condition).

Justifications considered by the Council for each season change being implemented fall under one or more of the above considerations and are presented here in response to the above comment.

Chignik and South Peninsula Districts—Because the current season opening for the Kodiak District is February 10, seasons for the nearby Chignik and South Peninsula Districts are being changed to February 10 to encourage fishermen to direct their effort among these districts simultaneously rather than concentrate effort in a single district. Participation by the fishermen will therefore be maximized, and the rate of harvest within a single district can be slowed down to better monitor the extent of the harvest.

Western Aleutian District—The season in the Western Aleutian District is being changed to November 10 to coincide with the start of the king crab season. By allowing fishermen to retain legal Tanner crab that would be caught incidentally in the king crab fishery, the potential for wastage is minimized, and the economic efficiency of the fishery is improved.

Bering Sea District—In the Bering Sea District—the scheduled season closing date for *C. opilio* Tanner crab is being changed to August 1 instead of closure only by field order. August 1 approximates the time of year when the problem of "dead loss," i.e., increasing crab mortality due to warm water temperatures in the vessel holding tanks, becomes unacceptable, which justifies a season closure. Also, a king crab fishery (St. Matthew Island fishery) usually starts about August 20, the orderly conduct of which is complicated if the *C. opilio* fishery is left open. For instance, effective enforcement against exploratory fishing for the stock piling of king crab, or enforcement of a king crab closure is difficult to conduct if buoys marking Tanner crab pots remain on the grounds.

Yakutat District—In the Yakutat District, the season ending date is extended by fourteen days, from May 1 to May 15. Although the condition of Tanner crab in this district is likely to generally decline at this time of year due to their soft shell condition following molting, processors and fishermen believe that enough high quality crab would still be available to warrant extra fishing time to fully utilize the resource. The Council decided to honor their request, recognizing that the fishery could be curtailed by inseason adjustment if stock conditions warranted such action.

Simultaneous openings in certain districts are not intended to insulate local fishermen from, and therefore discriminate against, nonresident fishermen. The simultaneous openings are intended to encourage fishermen to disperse their effort more widely throughout the available fishing grounds rather than to concentrate effort in a single district. Participation by the fishermen will therefore be maximized, and the rate of harvest within a single district can be slowed down to better monitor the extent of the harvest.

Biological justification exists to close the *C. opilio* fishery on August 1. The amount of deadloss occurring in the *C. opilio* catches often becomes a problem at this time of year. The 1982 *C. opilio* fishery was closed by field order on August 1 because the amount of deadloss was unacceptable, and because the desired harvest level for that season was achieved (47 FR 33711, August 4, 1982).

Comment 7. The prohibition against the use of side-loading Tanner crab pots in the Yakutat District violates National Standards 4, 5, and 7. The prohibition results in an allocation of Tanner crab to fishermen residing in the Yakutat District and, therefore, is an anti-competitive and protectionist measure. Costs incurred by "outside" fishermen to convert from side-loading to top-loading pots are significant and would impose a hardship. The Council never considered less costly methods of solving the problem such as requiring modified Tanner boards to restrict tunnel eye openings in the crab pots. Members of the North Pacific Fishing Vessel Owners' Association have not been successful in using top-loading pots for king crab, and new entrants would have to purchase another complement of gear for king crab. Crab fishermen should be allowed to retain incidentally caught halibut. Literature citations should be provided for studies of Pacific halibut caught in crab pots. The comment also includes a series of questions and several critical statements about the amendment text, RIR, and EA that address the need for more quantified and detailed data relating to the problem of incidentally caught Pacific halibut in Tanner crab pots.

Response. The prohibition does not violate National Standard 4, because all fishermen who fish in the Yakutat District, regardless of their state residency, will be required to use only top-loading pots. The prohibition does not violate National Standard 5, because the prohibition on the use of side-loading pots is a conservation measure, not an economic allocation measure. The Council recognized that the general area of the Yakutat District is a significant and productive Pacific halibut fishing ground for U.S. fishermen who target on this species. Management measures that conserve Pacific halibut, without adversely affecting the harvest of Tanner crab by fishermen who may wish to fish in this district, are considered reasonable. The Council considered the fact that the Tanner crab resource in the Yakutat District is small and would not likely support an increase in effort by other fishermen. As summarized in the preamble to the proposed rule at 48 FR 27809, any new entrant from outside the Yakutat District could incur about $14,000 in expenses to employ all top-loading pots, assuming 75 pots per boat at a cost of $185 per pot. Impacts of the prohibition are likely to be limited to the estimated 9 to 16 fishermen who traditionally fish this district. They may incur costs of between $700 and $3,500 each to employ all top-loading pots, depending on how many pots need to be converted. Whether or not this would impose a hardship on any one fisherman, as alleged, is conjectural. The comment that the Council never considered less expensive options of mitigating the Pacific halibut by-catch problem is not correct. The Council was aware of recommendations contained in the January 1981 Council report that further gear research could be conducted to ascertain if Tanner boards could be modified to mitigate the problem.

The prohibition does not violate National Standard 7, because it is a conservation and management measure that could be enforced by physically lifting to the surface a sample of the

relatively small number of pots that are fished in the Yakutat District without imposing burdensome costs on the public, as discussed above, or on management agencies.

The agency is not aware of any studies that address the catchability of king crab in top-loading pots. Both side-loading and top-loading pots are used in the king crab fishery; which type of gear is used appears to be a personal preference. Literature citations for the studies conducted in the Yakutat District are listed in the RIR.

Present regulations promulgated by the International Pacific Halibut Commission preclude the use of crab pots as a legal gear type for catching Pacific halibut. Crab fishermen, therefore, cannot legally retain Pacific halibut.

There is a need for more quantified and detailed data relating to the incidental catch of Pacific halibut in crab pots. As with any scientific studies, the very nature of the results often brings to light new aspects of the problem being studied and new questions thus are raised. Results of studies rarely solve all problems or explain to the fullest degree all the parameters of a single problem. These same circumstances hold true for the studies that compare the amounts of Pacific halibut caught in side-loading and top-loading crab pots in the Yakutat District. These studies show conclusively that the catch of Pacific halibut is less by top-loading than by side-loading pots. Because the Yakutat District is also important to commercial Pacific halibut fishermen, the measure to ban side-loading pots is an appropriate conservation and management measure that benefits the Pacific halibut industry with relatively small cost to Tanner crab fishermen. Further studies could be conducted to provide more quantified and detailed data that would answer questions and respond to statements in the comment, but the conclusion of the studies already conducted would not change. The ban on side-loading pots in the Yakutat District is approved.

Classification

The Regional Director has determined that the approved measures contained in Amendment 8 to the FMP and this rule are necessary for the conservation of the Tanner crab resource off Alaska and the management of that resource. Each is consistent with the Magnuson Act and other applicable law.

The Council prepared an environmental assessment for this amendment. Based upon the environmental assessment, the Assistant Administrator for Fisheries determined that no significant impact on the human environment will occur as a result of this rule. A copy of the environmental assessment may be obtained from the Council at the address listed above.

The Council has determined that approval and implementation of this rule would be carried out in a manner that is consistent to the maximum extent practicable with the Alaska Coastal Management Program, as required by section 307(c) of the Coastal Zone Management Act of 1972 and its implementing regulations at 15 CFR Part 930, Subpart C. The State of Alaska's Division of Policy Development and Planning concurred with the Council's determination on May 18, 1983.

The NOAA Administrator has determined that this rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291. The General Counsel of the Department of Commerce has certified to the Small Business Administration that the rule to implement Amendment 8 will not have a significant economic impact upon a substantial number of small domestic entities for the purposes of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* The determination and the certification were made on the basis of the analysis contained in a regulatory impact review on the impacts of this rule. A summary of the review can be found in the preamble to the proposed rule at 48 FR 27809.

The rule does not contain a collection of information requirement for purposes of the Paperwork Reduction Act.

List of Subjects in 50 CFR Part 671

Fish, Fisheries, Reporting and recordkeeping requirements.

Joseph W. Angelovic,

Deputy Assistant Administrator for Science and Technology, National Marine Fisheries Service.

PART 671—[AMENDED]

For the reasons set forth in the preamble, 50 CFR Part 671 is amended as follows:

1. The authority citation in 50 CFR Part 671 reads as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 671.2, the definition of Tanner crab pot is revised to read as follows:

§ 671.2 Definitions.

* * * * *

Tanner crab pot means a live-capture pot with either (1) side-loading, rigid tunnel eye openings that are individually a maximum of 5 inches (13 cm) in one dimension, and tunnel eye opening perimeters that individually are larger than 30 inches (76 cm), or (2) a single, top-loading, horizontal opening of any size.

* * * * *

3. In § 671.22, paragraph (b) is revised to read as follows:

§ 671.22 Size and sex restrictions.

* * * * *

(b) *Male Tanner crab.* No male Tanner crab of the species *C. bairdi* measuring less than 5.5 inches (140 mm) across the greatest width of the carapace may be retained, except that male Tanner crab of the species *C. bairdi* in Federal registration area E (Prince William Sound) may be retained if they measure 5.3 inches (135 mm) or greater across the greatest width of the carapace. No male Tanner crab of the species *C. opilio* measuring less than 3.1 inches (78 mm) across the greatest width of the carapace may be retained. The width measurement of Tanner crab is determined by measuring the greatest straight line distance across the carapace, including the spines, perpendicular to an imaginary line drawn between a point midway between the eyes and the midpoint of the posterior portion of the carapace.

* * * * *

4. In § 671.26, the section heading and the heading of paragraph (b) are revised, paragraph (e)(3) is removed, paragraphs (f)(1)(v) (A)–(C)(2) are redesignated as paragraphs (f)(1)(vi) (A)–(C)(2), (f)(2)(v) is redesignated as (f)(2)(vi), new paragraphs (f)(1)(v) and (f)(2)(v) are added, and paragraphs (a), (b)(3)(ii), (c), (f)(1)(iv), and (f)(2) (ii)–(iv), and (vi) are revised to read as follows:

§ 671.26 Seasons, general gear restrictions, and registration areas.

(a) *Season dates.* All season dates in this section are inclusive. Time periods begin at 12:00 noon and end at 12:00 noon on the dates specified, based on local time zones, unless otherwise specified.

(b) *General gear restrictions.*

* * * * *

(3) * * *

(ii) Tanner crab pots with all doors secured fully open and with all bait and bait containers removed may be stored in water depth greater than the maximum permissible storage depth for 72 hours after the season closure where the pots are fished.

* * * * *

(c) *Registration Area A.*—(1) Districts. The following districts within Registration Area A are established:

(i) *Southeast District:* All waters between Dixon Entrance and a line

projected southwest (225° true north) from the westernmost tip of Cape Fairweather.

(ii) *Yakutat District.* All waters between a line projected southwest from the westernmost tip of Cape Fairweather and the longitude of Cape Suckling (143°53′ W. longitude).

(2) *Seasons.* (i) Tanner crab may be taken in the Southeast District from December 1 through May 1, subject to adjustment by the Secretary of Commerce under § 671.27 of this part.

(ii) Tanner crab may be taken in the Yakutat District from February 1 through May 15, subject to adjustment by the Secretary of Commerce under § 671.27 of this part.

(3) *Gear* Tanner crab may be taken in the Yakutat District with top loading pots only.

* * * * *

(f) * * *

(1) * * *

(iv) *Eastern Aleutian District:* All waters of Registration Area J between the longitude of Scotch Cap light (164°44′6″ W. longitude) and 172° W. longitude and south of 54°36′ N. latitude.

(v) *Western Aleutian District:* All waters of Registration Area J west of 172° W. longitude and south of 54°36′ N. latitude.

* * * * *

(2) * * *

(ii) In the South Peninsula District from 12:00 noon February 10 through 12:00 noon May 15 only.

(iii) In the Chignik District from 12:00 noon February 10 through 12:00 noon May 15 only.

(iv) In the Eastern Aleutian District from 12:00 noon February 15 through 12:00 noon June 15 only.

(v) In the Western Aleutian District from 12:00 noon November 10 through 12:00 noon June 15 only.

(vi) In the Bering Sea District from 12:00 noon February 15 through 12:00 noon June 15 only, except that Tanner crab other than *C. bairdi* may be taken or possessed from 12:00 noon February 15 until 12:00 noon August 1.

* * * * *

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Proposed Rules

Federal Register
Vol. 48, No. 176
Friday, September 9, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 731 and 754

Suitability and Adverse Actions by OPM

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The Office of Personnel Management (OPM) proposes to amend its regulations governing suitability, and to make technical and conforming changes in its regulations regarding adverse actions by OPM. The changes are intended to update nomenclature to reflect internal reorganization within OPM; to correct certain inconsistencies and omissions; and to strengthen and clarify the procedures designed to ensure the according of due process of law to persons adversely affected by suitability decisions made both by OPM and by agencies with suitability authority delegated by OPM.

DATE: Comments must be received on or before November 8, 1983.

ADDRESS: Mail written comments to Peter Garcia, Assistant Director, Office of Personnnel Investigations, U.S. Office of Personnel Management, Post Office Box 886, Washington, D.C., 20044. Written comments may be delivered to Mr. Garcia at Room 913, 1717 H Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Joseph L. Durant, Chief, Investigations Planning Division, Office of Personnel Investigations, 202–632–6181.

SUPPLEMENTARY INFORMATION: OPM proposes four changes in its regulations on suitability, at 5 CFR Part 731, and on related adverse actions, at 5 CFR Part 754. First, in 5 CFR 731.202, a typographical error found in the Code of Federal Regulations would be corrected, with the proper reference being to 5 CFR 5.4 rather than § 5.3, and clarification would be given to OPM's implementational responsibility regarding both its own suitability program and any undertaken under authority delegated by OPM.

Second, the automatic nature of the exception from suitability redeterminations that has hitherto been given, under 5 CFR 731.301(a)(vi), to persons leaving the Federal service and returning within one year would be ended. If the exception were not automatic, OPM and other agencies would be able to assess needs for suitability redeterminations on a case-by-case basis. The present automatic exception is anomalous, constituting the only exception to OPM's suitability authority for appointments of persons from outside the Government to positions in the competitive service. In curing this defect, OPM would thus put all candidates for appointment from outside the Government on comparable footings.

Third, OPM proposes to codify in its regulations the due process procedures that it presently follows in virtually all suitability cases and to bring into conformity the safeguards that it now accords variously to applicants and eligibles for appointment and to employees and appointees. OPM and other agencies with suitability authority would thus be clearly required to give appropriate notices and opportunities to be heard to respondents in suitability cases and to inform them fully of their rights of appeal. OPM further proposes to grant in all cases a right to be heard, at least in writing before a final suitability disqualification action is taken and, thus, before the Merit Systems Protection Board (MSPB) would have jurisdiction of an appeal. No change is proposed regarding the right of appeal to the MSPB.

Fourth, OPM would revise 5 CFR Part 754 to effect the extension and conformation of these due process safeguards and to reflect the transfer of relevant responsibility within OPM from the Associate Director for Staffing Services (a title; the most comparable post is now that of the Associate Director for Staffing) to the Associate Director for Compliance and Investigations (a successor to some of the duties, including those germane here, of the former Associate Director for Staffing Services).

Finding on Comment Period

The Director of OPM finds that good cause exists for setting the comment period on this proposed rulemaking at 60 days. This comment period will allow sufficient time for all interested persons to review and evaluate the proposed regulatory revisions and to submit comments thereon. At the same time, the comment period is not so long that OPM will not have sufficient time to consider comments, assimilate them into a final rulemaking, and publish a final rule in time for it to be reflected in the codification, as of January 1, 1984, of Title 5 of the Code of Federal Regulations.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule as defined in section 1(b) of Executive Order 12291, Federal Regulation.

Regulatory Flexibility Act

I hereby certify that this regulation will not have significant economic impact on a substantial number of small entities, as it relates entirely to federal employment suitability requirements and adverse personnel action procedures relating to a very narrow range of internal personnel matters within the federal government.

List of Subjects

5 CFR Part 731

Administrative practice and procedure, Government employees.

5 CFR Part 754

Administrative practice and procedure, Government employees.

Donald J. Devine,
Director.

Accordingly, the Office of Personnel Management proposes to amend Title 5 of the Code of Federal Regulations as follows:

PART 731—SUITABILITY

1. In 5 CFR 731.202, paragraph (b)(4) would be revised, and paragraph (d) would be added, to read as follows. The introductory text of paragraph (b) is shown for reader convenience.

§ 731.202 OPM determination.

* * * * *

(b) *Specific factors.* Among the reasons which may be used in making a

determination under paragraph (a) of this section, any of the following reasons may be considered a basis for disqualification:

* * * * *

(4) Refusal to furnish testimony as required by § 5.4 of this chapter;

* * * * *

(d) *Implementation.* Policies, procedures, criteria, and guidance for the implementation of this Part shall be set forth in issuances of the Federal Personnel Manual System and other appropriate instruments. Agencies exercising authority under this Part by delegation from OPM shall conform to such policies, procedures, criteria, and guidance.

2. In 5 CFR 731.301, paragraph (a)(1)(vi) would be removed and paragraph (a)(1)(vii) would be redesignated as paragraph (a)(1)(vi), and is revised to read as follows:

§ 731.301 Jurisdiction.

(a) * * *

(1) * * *

(vi) Transfer, provided the one-year, subject-to-investigation period applied to the previous appointment has expired.

* * * * *

3. In 5 CFR 731.302, the section heading would be revised and paragraph (e) added to read as follows:

§ 731.302 Actions by OPM and other agencies.

* * * * *

(e) Before OPM shall take a final suitability disqualification action against an applicant, eligible, appointee, or employee under this Part, the person against whom the action is proposed shall be given notice of the proposed action, an opportunity to answer, notice of the final decision on the action, and notice of rights of appeal, if any, all in accordance with 5 CFR Part 754. Before any agency to which OPM may have delegated authority under this Part shall take a final suitability disqualification action against any person under this Part, an agency shall give such person the same notices and opportunities that OPM would be required to give in such a case under 5 CFR Part 754, *Provided,* That the agency shall assign to its own officer or officers the duties that are assigned to an officer or officers of OPM in 5 CFR Part 754.

4. 5 CFR Part 754 would be revised to read as follows:

PART 754—SUITABILITY DISQUALIFICATION ACTIONS BY OPM

Sec.

754.101 Scope.
754.102 Notice of proposed action.
754.103 Answer.
754.104 Decision.
754.105 Appeal rights.

Authority: 5 U.S.C. 1302, 3301, 3302, and 7701; E.O. 10577, 3 CFR, 1954–1958 Comp. p. 218; E.O. 11491, 3 CFR, 1966–1970 Comp., p. 861.

§ 754.101 Scope.

(a) *Coverage.* This part sets forth the procedures to be followed when the Associate Director for Compliance and Investigations or his/her designee (referred to in this part as the Associate Director), acting under authority of 5 CFR part 731, proposes to take a final suitability disqualification action to remove, or to take other disciplinary action against an applicant or eligible for appointment in, or an appointee or employee in, the competitive service, or to instruct an agency to take such action.

(b) *Definition.* In this part, "days" means calendar days and not, for example, work-days.

§ 754.102 Notice of proposed action.

The Associate Director shall notify the applicant, eligible, appointee, or employee (hereinafter, the "respondent") in writing of the proposed action and of the charges against him or her. The notice shall state the reasons, specifically and in detail, for the proposed action. The Associate Director shall send a copy of this notice to the agency, if any, that is involved. The notice shall be served upon the respondent by being mailed to him or her at his/her last known residence or duty station no less than 30 days prior to the effective date of the proposed adverse action. In the event that, at the time of the service of the notice, the respondent is an employee in the competitive service, the respondent shall be entitled to be retained in pay status during the notice period.

§ 754.103 Answer.

(a) *Respondent's answer.* A respondent may answer the charges in writing and furnish affidavits in support of his/her answer. The respondent may also request in writing, an opportunity to be heard orally by the Associate Director. To be timely, a written answer and a written request, if any, for the opportunity to make an oral answer shall be received by the Associate Director no more than 15 days next following after the day of service of the notice of proposed action. In the event that the respondent makes a timely written request for an opportunity to make an oral answer, the Associate Director shall, in his/her sole discretion, determine whether or not such opportunity shall be granted and, if granted, the time and place thereof. The Associate Director shall consider any answer that the respondent makes in reaching his/her decision.

(b) *Agency's answer.* In actions proposed by OPM under 5 CFR § 5.4, the agency may also answer the notice of proposed adverse action. The time limit for filing an answer is 15 days from the date of service of the notice upon the agency. The Associate Director shall consider any answer that the agency makes in reaching his/her decision.

§ 754.104 Decision.

The Associate Director shall notify the respondent and the agency of his/her decision and inform the respondent of his/her appeal rights as prescribed by 5 CFR 1201.21. The decision shall be in writing, be dated, and inform the respondent of the reasons for the decision.

§ 754.105 Appeal rights.

(a) A respondent may appeal an adverse decision of the Associate Director to the Merit Systems Protection Board under the provisions of the Board's regulations.

(b) An employee who appeals under this section and who is, at the time that the final adverse action is taken against him/her, an employee in the competitive service, shall be entitled to be retained in a pay status until action on appeal, if any, is completed under Part 1201 of this title.

(5 U.S.C. 1302, 3301, 3302, and 7701; E.O. 10577, 3 CFR, 1954–1958 Comp., p. 218; E.O. 11491, 3 CFR, 1966–1970 Comp., p. 861)

[FR Doc. 83-24612 Filed 9-8-83; 8:45 am]
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5 CFR Parts 870, 871, 872, and 873

Basic Life Insurance; Standard Optional Life Insurance; Additional Optional Life Insurance; Family Optional Life Insurance

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The Office of Personnel Management (OPM) proposes to revise the rules governing cancellation of waiver of life insurance coverage under the Federal Employees' Group Life Insurance (FEGLI) Program. These regulations would liberalize the cancellation of waiver provision for reinstated employees.

DATE: Comments must be received on or before October 11, 1983.

ADDRESS: Written comments may be sent to Jerome D. Julius, Office of Pay and Benefits Policy, Compensation Group, P.O. Box 57, Office of Personnel Management, 1900 E Street, NW., Washington, D.C. 20044, or delivered to Room 4351.

FOR FURTHER INFORMATION CONTACT: Mary Ann Mercer, 202-632-4634.

SUPPLEMENTARY INFORMATION: This revised regulation would automatically cancel a waiver of insurance at time of reinstatement if at least 180 days have elapsed since last date of separation. The regulations as currently written present a dichotomy in the treatment of new hires and returning employees. New employees are automatically covered unless they waive coverage. Persons with previous Federal service who are reinstated after age 50 have no opportunity to enroll if they waived coverage prior to their last break in service; if they are under age 50, they must present medical evidence of insurability. This regulatory change is being made to provide equitable treatment to returning Federal employees who, for whatever reason, left Federal service and had no opportunity to cancel their waiver of life insurance.

If this regulation is adopted as final, OPM will ask for agency cooperation in publicizing the change so that those employees who returned to duty between April 1, 1981 (when all previous waivers of insurance coverage were automatically cancelled pursuant to regulations implementing the Federal Employee's Group Life Insurance Act of 1980) and the effective date of this regulation will be made aware of the new provision and will have the opportunity to apply promptly if they wish to do so. Applications for these employees must be made within 31 days of the effective date of the regulation. Agencies will not be required to identify individually those who might be affected by the regulation.

I have determined that the comment period on this proposal will be 30 days because of its beneficial and non-controversial nature.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule as defined under Section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that, within the scope of the Regulatory Flexibility Act, this regulation will not have a significant economic impact on a substantial number of small entities because it would affect only employees of the Federal Government.

List of Subjects in 5 CFR Parts 870, 871, 872, and 873

Administrative practice and procedure, Government employees, Life insurance, Retirement, Workers' Compensation.

U.S. Office of Personnel Management.

Donald J. Devine,

Director.

For the reasons set forth above, OPM proposes to revise Title 5 of the Code of Federal Regulations as follows:

PART 870—BASIC LIFE INSURANCE

1. In § 870.204, a new paragraph (f) is added to read as follows:

§ 870.204 Cancellation of waiver of insurance coverage.

* * * * *

(f)(1) A previous waiver is automatically canceled at time of reinstatement on or after April 1, 1981, if an employee has been separated from service for at least 180 days. If no new waiver is filed, basic insurance coverage automatically attaches on the date the employee actually enters on duty in a pay status in a position wherein he/she is not excluded from insurance by law or regulation. This paragraph does not apply to an individual who is reinstated after having been in receipt of workers' compensation or disability retirement payments.

(2) An employee who returned to Federal service between April 1, 1981, and (effective date of final regulation) after a 180-day break in service may elect basic insurance coverage upon application to his or her employing office before (31 days after effective date of final regulation).

PART 871—STANDARD OPTIONAL LIFE INSURANCE

2. In § 871.205, a new paragraph (f) is added to read as follows:

§ 871.205 Cancellation of declination.

* * * * *

(f)(1) A previous declination is automatically canceled at time of reinstatement on or after April 1, 1981, if an employee has been separated from service for a least 180 days. If no new declination is filed, standard optional insurance coverage is effective on the date the employee actually enters on duty in pay status in a position wherein he/she is not excluded from insurance by law or regulation, provided that the employee has filed an affirmative election of standard optional insurance on the form entitled Life Insurance Election. An employee whose declination is so canceled and who does not file the form with his/her employing office within 31 days after reinstatment shall be deemed to have declined standard optional insurance, except that an employee who fails to file the form during that period due to cause beyond his/her control shall be allowed to enroll belatedly under the conditions prescribed under § 871.202(b). This paragraph does not apply to an individual who is reinstated after having been in receipt of workers' compensation or disability retirement payments.

(2) An employee who returned to Federal service between April 1, 1981, and (effective date of final regulation) after a 180-day break in service may elect standard optional insurance upon application to his or her employing office before (31 days after effective date of final regulation).

PART 872—ADDITIONAL OPTIONAL LIFE INSURANCE

3. In § 872.205, a new paragraph (a)(5) is added to read as follows:

§ 872.205 Cancellation of declination.

(a) * * *

(5)(i) A previous declination is automatically canceled at time of reinstatement on or after April 1, 1981, if an employee has been separated from service for a least 180 days. If no new declination is filed, additional optional insurance coverage is effective on the date the employee actually enters on duty in pay status in a position wherein he/she is not excluded from insurance by law or regulation, provided that the employee has filed an affirmative election of additional optional insurance on the Life Insurance Election form. An employee whose declination is so canceled and who does not file the form with his/her employing office within 31 days after reinstatement shall be deemed to have declined additional optional insurance, except that an employee who fails to file the form during that period due to cause beyond his/her control shall be allowed to enroll belatedly under the conditions prescribed under § 872.202(b). This paragraph does not apply to an individual who is reinstated after having been in receipt of workers' compensation or disability retirement payments.

(ii) An employee who returned to Federal service between April 1, 1981, and (effective date of final regulation) after a 180-day break in service may elect additional optional insurance upon application to his or her employing

office before (31 days after effective date of final regulation).

* * * * *

PART 873—FAMILY OPTIONAL LIFE INSURANCE

4. In § 873.205, a new paragraph (d) is added to read as follows:

§ 873.205 Cancellaton of declination.

* * * * *

(d)(1) A previous declination or waiver is automatically canceled at time of reinstatement on or after April 1, 1981, if an employee has been separated from service for a least 180 days. If no new declination is filed, family optional insurance coverage is effective on the date the employee actually enters on duty in a pay status in a position wherein he/she is not excluded from insurance by law or regulation, provided that the employee has filed an affirmative election of family optional insurance on the Life Insurance Election form. An employee whose declination is so canceled and who does not file the form with his/her employing office within 31 days after reinstatement shall be deemed to have declined family optional insurance, except that an employee who fails to file the form during that period due to cause beyond his/her control shall be allowed to enroll belatedly under the conditions prescribed under § 873.202(b). This paragraph does not apply to an individual who is reinstated after having been in receipt of workers' compensation or disability retirement payments.

(2) An employee who returned to Federal Service between April 1, 1981, and (effective date of final regulation) after a 180-day break in service may elect family optional insurance upon application to his or her employing office before (31 days after effective date of final regulation).

(5 U.S.C. 8716)

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 52

United States Standards for Grades of Canned Grapefruit and Orange for Salad

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The purpose of this proposed rule is to revise the voluntary U.S. Standards for Grades of Canned Grapefruit and Orange for Salad. The proposed rule was developed by the United States Department of Agriculture (USDA) at the request of major segments of the citrus industry. This proposal would: (1) Allow sliced oranges to be used in packing this product; and (2) replace dual grade nomenclature with single letter designations. Its effect would be to improve the grade standards and promote orderly and efficient marketing of grapefruit and orange for salad.

DATE: Comments must be received on or before October 11, 1983.

ADDRESS: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in duplicate to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250. Comments should reference the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Paul Jennings, Processed Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, Telephone (202) 447-6247.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated as a "nonmajor" rule. It will not result in an annual effect on the economy of $100 million or more. There will be no major increase in cost or prices to consumers, individual industries, Federal, State, or local government agencies, or geographic regions. It will not result in significant effects on competition, employment, investments, productivity, innovations, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601), because this reflects current marketing practices.

The currently effective standards for grades of canned grapefruit and orange for salad provide only for segmented fruit to be used in the product. The proposed rule would add sliced oranges or a combination of segmented and sliced oranges, to segmented grapefruit as styles used in canned grapefruit and orange for salad for the purpose of describing product subject to grading. Sliced oranges are utilized in packing canned oranges, chilled oranges and chilled citrus salad. They are more attractive than segmented oranges because they are more uniform in size and remain more intact.

Following the policy of making grade standards simpler to understand, the dual grade nomenclature is being replaced with single letter grades of "U.S. Grade A" and "U.S. Grade B."

List of Subjects in 7 CFR Part 52

Fruits, Vegetables, Food grades and Standards.

PART 52—[AMENDED]

Accordingly, the United States Standards for Grades of Canned Grapefruit and Orange for Salad (7 CFR 52.1251–52.1264) are proposed to be amended as follows:

1. The Table of Contents of the Subpart is revised to read as follows:

Sec.
52.1251 Product description.
52.1252 Styles.
52.1253 Grades.
52.1254 Liquid media and Brix measurement.
52.1255 Fill of container.
52.1256 Minimum drained weight.
52.1257 Sample unit size.
52.1258 Determining the grade of a sample unit.
52.1259 Determining the rating for factors which are scored.
52.1260 Wholeness.
52.1261 Color.
52.1262 Defects.
52.1263 Character.
52.1264 Determining the grade of a lot.

2. Section 52.1251 is revised to read as follows:

§ 52.1251 Product description.

Canned grapefruit and orange for salad, commonly known as canned citrus salad, is prepared from sound, mature grapefruit (Citrus paradisi Macfadyen) and sound, mature oranges of the orange group (Citrus sinensis). The fruit ingredients have been properly washed, the grapefruit units segmented and the orange units segmented or sliced, and cored; and seeds and major portions of tough membrance have been removed. The product is packed with a suitable packing medium which may be water, fruit juice, nutritive carbohydrate sweetener, artificial sweeteners, or any other safe and suitable ingredients permissible under the Federal Food, Drug, and Cosmetic Act. The product is sufficiently processed by heat to assure

preservation in hermetically or aseptically sealed containers.

§ 52.1264 [Removed]

3. Section 52.1264 is removed.

§§ 52.1253–52.1264 [Redesignated from §§ 52.1252–52.1263]

4. Sections 52.1252 through 52.1263 are redesignated as §§ 52.1253 through 52.1264 respectively.

§ 52.1252 [Added]

5. A new § 52.1252 is added to read as follows:

§ 52.1252 Styles.

(a) Segmented.
(b) Mixed segmented and sliced.

§ 52.1253 [Amended]

6. Newly designated § 52.1253 is amended in paragraph (a) by removing the phrase "(or U.S. Fancy)" and in paragraph (b) by removing the phrase "(or U.S Choice)".

§§ 52.1253, 52.1260, and 52.1263 [Amended]

7. Newly designated §§ 52.1253, 52.1260, and 52.1263 are amended by changing "segments" to "units" wherever it appears.

§§ 52.1260 and 52.1262 [Amended]

8. In newly designated §§ 52.1260(a) introductory text and (a)(2); and 52.1262(a)(4) change the word "segment" to read "unit".

9. In newly designated § 52.1260(a)(1) and (a)(2) add the words "or sliced" after "segment" and before "that."

(Agricultural Marketing Act of 1946, Secs. 203, 205, 60 Stat. 1087, as amended, 1090, as amended (7 U.S.C. 1622, 1624))

Done at Washington, D.C. on September 6, 1983.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 83-24698 Filed 9-8-83; 8:45 am]
BILLING CODE 3410-02-M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 5,

[Docket No. 83-38]

Rules, Policies, and Procedures for Corporate Activities: Employee Stock Option and Stock Purchase Plans.

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: 12 CFR 5.51 sets forth the policies of the Office of the Comptroller of the Currency (Office) with regard to Employee Compensation Programs (plans). Generally, national banks must submit plans to the Office for approval. Approved plans must meet requirements listed in 12 CFR 5.51. The Office's policies were originally adopted in 1966 and were intended to prevent potential abuses which the Office identified. Subsequent changes in tax law governing all employee compensation plans, safeguards in the securities laws, and the Office's experience with plans suggest that the current requirements for approval are superfluous and impose an unnecessary burden on national banks. Therefore, the Office is proposing to eliminate the current requirements for approval of employee stock option and stock purchase plans.

DATE: Written comments must be submitted on or before October 11, 1983.

ADDRESS: Comments should be directed to: Docket No. [83-38], Communications Division, 3rd Floor, Office of the Comptroller of the Currency, 490 L'Enfant Plaza, East, SW., Washington, D.C. 20219, Attention: C. Christine Jones. Comments will be available for public inspection and photocopying at the same location.

FOR FURTHER INFORMATION CONTACT: Randall J. Miller, Manager, Policy, Bank Organization and Structure (202) 447-1184; Ginger Barnum, Attorney, Securities and Corporate Practices Division (202) 447-1954, Office of the Comptroller of the Currency.

SUPPLEMENTARY INFORMATION:

Purpose

The purpose of this proposal is to reduce costs and burdens on national banks and the Office by eliminating the requirement for Office approval of employee stock option and stock purchase plans.

Background

This proposal is part of the Office's Corporate Activites Review and Evaluation (CARE) program. That program is described in 45 FR 68586, dated October 15, 1980, and involves a comprehensive review of the Office's rules, policies, procedures and forms governing filings for corporate expansion and structural changes for national banks. The goals of the CARE program are to minimize costs and burdens on applicants, the agency, and the public; to provide a better understanding of Office policies; to modify or eliminate rules, policies, procedures and forms which are unnecessary or lead to inefficiencies; and to remove barriers to competition.

Discussion

Under 12 U.S.C. 57, a national bank may increase its capital stock to any sum provided the increase is approved by the Comptroller of the Currency and by a vote of the shareholders owning two thirds of the outstanding voting stock. The Office's power to review the terms of a stock option or stock purchase plan and direct changes therein derives from the authority of the Office to approve capital increases under 12 U.S.C. 57.

In 1966, the Office adopted a regulation requiring national banks to submit their proposed plans and other pertinent information for review and approval. On October 15, 1980, this regulation was reedesignated 12 CFR 5.51 and was incorporated into Part 5, Rules, Policies and Procedures for Corporate Activities. The regulation provides that plans will generally be approved if their terms are fair and reasonable, and requires that certain conditions be met to obtain approval. These include: (1) Submission of a letter of application for approval containing specified information; (2) Administration of the plan by a committee, none of whose members may participate in the plan; (3) Allocation of shares to any person under the plan in accordance with resonable criteria in relation to the purpose of the plan and the needs of the bank; and (4) Limitation of the number of shares subject to a plan relative to the bank's capital structure and anticipated growth. In addition, the regulation specifies that shares issued to employees pursuant to a plan may be authorized but unissued stock which has been approved by stockholders in accordance with the procedures outlined in 12 CFR 5.46.

The requirements of the regulation are intended to limit abuses which may arise in connection with employee stock option and stock purchase plans. Such abuses include, for example: dilution of existing shareholders equity by large issuances of stock under an option or purchase plan; excessive compensation to corporate insiders; and sales of large or controlling blocks of stock to corporate insiders at preferential prices. Such abuses are of concern to the Office. However, the Office has tentatively concluded that adequate safeguards against such abuses would exist in the absence of the current regulatory requirements in 12 CFR 5.51.

The Office's experience with plans indicates that those of most national banks are intended to qualify for favorable tax treatment under the Internal Revenue Code (IRC). IRC 422A

contains requirements relating to, among other things, exercise price, duration of the option, and shareholder approval for implementation of the plan. Those requirements limit the potential for abuses such as those noted above.

Moreover, for those plans submitted which do not qualify for favorable tax treatment, disclosure requirements often provided a safeguard against abuses. For example, if a plan requires a bank to increase its capital, such an increase requires shareholder approval. Banks subject to the reporting requirements of the Securities Exchange Act of 1934 through 12 CFR 11 must disclose all material information regarding a proposed plan to shareholders before seeking their approval. Similarly, new banks seeking initial capitalization through an offering of stock must disclose all material information, including any stock option or stock purchase plan in an offering circular to prospective shareholders.

In some cases, insiders own a controlling interest in a bank's stock. The approval of informed shareholders would not be an adequate deterrent to abuse in these cases. However, if insiders own a controlling interest in a bank's stock, stock option or stock purchase plan is less likely to be used as a compensation vehicle because the bank's stock would not be subject to significant fluctuations in market value.

In those few cases where abuses may still occur, affected shareholders are not defenseless. Where the operation of a plan results in a breach of fiduciary duty to shareholders or some other violation of law, enforcement mechanisms, such as shareholder's right of action or an administrative action by the Office, would still be available.

Finally, nonbank corporate entities generally need no regulatory approval to establish stock option or stock purchase plans. The Officer's experience in this area suggests that there is no reason why the plans of national banks should be treated differently from those of nonbank corporate entities.

Therefore, the Office is proposing to eliminate the current requirements for approval of national bank stock option or stock purchase plans.

Regulatory Flexibility Analysis

Pursuant to Section 605(b) of the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601 *et seq.*), the Secretary of the Treasury has certified that the proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities. The proposal eliminates a regulatory requirement and its attendant burden for all institutions, large and small.

Regulatory Impact Analysis

The Office has determined that the proposed rule does not constitute a major rule within the meaning of Executive Order 12291. The proposed elimination of the rule, if adopted, would not have an annual effect on the economy of $100 million or more, would not cause a major increase in costs or prices for consumers, individual industries, government agencies or geographic regions, and would not have an adverse effect on competition, employment, investment, productivity, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 12 CFR Part 5

National banks, Employee stock option and stock purchase plans.

Authority and Issuance

The Comptroller of the Currency proposes to amend 12 CFR Part 5 as follows:

1. The authority citation for Part 5—Rules, Policies, and Procedures for Corporate Activities reads as follows:

Authority: 12 U.S.C. 1 *et seq.*

§ 5.51 [Removed]

2. By removing section 5.51.

Dated: August 12, 1983.

C. T. Conover,

Comptroller of the Currency.

[FR Doc. 83–24666 Filed 9–8–83; 8:45 am]

BILLING CODE 4810–33–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79–76–212; (Texas—38)]

High-Cost Gas Produced From Tight Formations, Texas; Proposed Rulemaking

Issued: September 6, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432 (Supp V. 1982), to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the Railroad Commission of Texas that the Austin Chalk Formation be designated as a tight formation under § 271.703(d).

DATES: Comments on the proposed rule are due on October 21, 1983.

Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on September 21, 1983.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT:

Leslie Lawner, (202) 357–8511,
or
Walter W. Lawson, (202) 357–8556.

SUPPLEMENTARY INFORMATION:

I. Background

On July 29, 1983, the Railroad Commission of Texas (Texas) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (18 CFR 271.703 (1982)), that the Austin Chalk Formation underlying portions of Grimes County, Texas, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Texas' recommendation that the Austin Chalk Formation be designated a tight formation should be adopted. Texas' recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

Texas recommends that the Austin Chalk Formation, underlying a portion of Grimes County, Texas, Railroad Commission District 3, be designated as a tight formation. The recommended area lies within a 2.5 mile radius around the Tenneco Oil Company, L. R. Fuqua No. 1 well, located 5,200 feet from the north line and 1,500 feet from the east line of the John Bowman Survey A–7.

In the recommended area, the Austin Chalk Formation is the stratigraphic interval defined as being above the Eagleford Formatin and below the Pecan

Gap Formation. The top of the Austin Chalk Formation is found at 12,210 feet subsea, with the bases at 12,484 feet subsea, in the L.R. Fuqua No. 1 well.

III. Discussion of Recommendation

Texas claims in its submission that evidence gathered through information and testimony presented at a public hearing on April 7, 1983, convened by Texas on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed, 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Texas further asserts that existing state and federal regulations assure that development of the formation will not adversely affect any fresh water aquifers that are or are expected to be used as domestic or agricultural water supply.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, [Reg. Preambles 1977–1981] FERC Stats. and Regs. ¶ 30,180 (1980), notice is hereby given of the proposal submitted by Texas that the Austin Chalk Formation as described and delineated in Texas' recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before October 21, 1983. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76–212 (Texas—38), and should give reasons including supporting data for any recommendation. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An orginal and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of a desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than September 21, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432)

PART 271—[AMENDED]

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Texas' recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

Section 271.703 is amended by adding paragraph (d)(197) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) Designated tight formations. * * *

(142) through (196) [Reserved] * * *

(197) *Austin Chalk Formation in Texas.* RM79–76 (Texas—38)

(i) *Delineation of formation.* The Austin Chalk Formation is found in Grimes County, Texas, Railroad Commission District 3. The area lies within a 2.5 mile radius around the Tenneco Oil Company L. R. Fuqua No. 1 well, located 5,200 feet from the north line and 1,500 feet from the east line of the John Bowman Survey, A–7.

(ii) *Depth.* The Austin Chalk Formation in the designated area is defined as the stratigraphic interval above the Eagleford Formation and below the Pecan Gap Formation. The top of the Austin Chalk Formation is found at 12,210 feet subsea, with the base at 12,484 feet subsea, in the L.R. Fuqua No. 1 well.

[FR Doc. 83–24709–Filed 9–8–83; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 6

Proposed Customs Regulations Amendment Relating To Processing of Unaccompanied Baggage

AGENCY: Customs Service, Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposed to amend the Customs Regulations to allow unaccompanied *checked* baggage to be treated as other than air cargo for Customs documentation purposes. Currently, that baggage is considered to be cargo, and subject to more paperwork than is necessary to expedite its delivery to the traveler.

Baggage which is unaccompanied but *not* checked will continue to be treated, controlled and documented as air cargo.

Customs is proposing the amendment to reduce the paperwork requirements applicable to unaccompanied checked baggage.

DATE: Comments must be received on or before November 8, 1983.

ADDRESS: Written comments (preferably in triplicate) may be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Larry K. Shirk, Office of Passenger Enforcement and Facilitation, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–5607).

SUPPLEMENTARY INFORMATION:

Background

A fundamental part of Customs traditional mission is to prevent fraud and smuggling. One means to accomplish this is to control carriers, persons and articles entering and departing the United States.

For reasons of Customs anti-smuggling enforcement effort and quantity control purposes, all unaccompanied baggage has been treated as cargo. Accordingly, section 6.7(b)(3)(vii), Customs Regulations (19 CFR 6.7(b)(3)(vii)), requires that all unaccompanied baggage, whether checked or unchecked, arriving in the United States on a foreign flight, be manifested on Customs Form 7509 as air cargo. However, informal surveys conducted by Customs at various United States airports have shown that for the sake of expediency, diverse local

procedures for handling unaccompanied baggage have been developed in many field offices to accommodate their particular workload, enforcement, and control situations. Those local procedures have been devised because of a general recognition that baggage traveling under a regular destination tag, *i.e.*, "checked," poses less risk of a loss to the revenue because of undervaluation or failure to declare articles and is less likely to be used to introduce articles illegally into the commerce of the United States.

However, because unaccompanied checked baggage is treated as air cargo, an entry for immediate transportation without appraisement (in bond) on Customs Form 7520, must be completed by Customs for all such baggage traveling from a port of entry to a port of destination—even though the baggage may have been examined by Customs at the port of entry and will be claimed by the passenger at the port of destination. In addition, all overages of unaccompanied baggage manifested as air cargo now require a "post entry" and completion of Customs Form 5931, Discrepancy Report and Declaration, if the baggage is not claimed immediately by the deplaning passenger (see §§ 6.7(h), 18.13, Customs Regulations (19 CFR 6.7(h), 18.13)).

The proposed amendment would distinguish between unaccompanied checked baggage and that which is not checked, and would eliminate the application to unaccompanied checked baggage of the procedures normally applied to air cargo entering the United States.

Accordingly, the proposal would streamline procedures for processing unaccompanied, checked baggage arriving via air carrier and timely presented to Customs for examination. Only unaccompanied unchecked baggage and unaccompanied checked baggage not timely presented or, if timely presented but containing dutiable, restricted, or prohibited merchandise, would be required to be manifested on Customs Form 7509. Such baggage will be subject to other documentation, allowing other unaccompanied but checked baggage to clear the airport with minimal delay to the air carrier and the traveler. This action, however, will not result in a relaxation of Customs enforcement responsibilities, because unaccompanied checked baggage still will receive an appropriate inspection before release from Customs custody. Once released from Customs custody, delivery of the baggage to the traveler would remain the responsibility of the carrier. Customs believes that the net result of the change will be less required paperwork for air carriers and Customs.

Based on the foregoing, Customs is proposing to amend § 6.7(b)(3)(vii), Customs Regulations, to eliminate the requirement of having air carriers show on an Air Cargo Manifest, Customs Form 7509, baggage which has been checked with the air carrier but is arriving in the United States from any foreign country unaccompanied. Baggage which has *not* been checked with the air carrier and which is arriving unaccompanied would still have to be manifested on Customs Form 7509 as other air express or freight.

Authority

This project is being initiated under the authority of R.S. 251, as amended section 624, 644, 46 Stat. 759, 761, as amended, sections 904, 1109, 72 Stat. 787, 799, as amended (19 U.S.C. 66, 1624, 1644; 49 U.S.C. 1474, 1509).

Comments

Before adopting this proposal, consideration will be given to any written comments timely submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with § 103.11(b), Customs Regulations (19 CFR 103.11(b)), during regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Room 2426, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Executive Order 12291

The proposed amendment does not meet the criteria for a "major rule" as specified in section 1(b) of E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

Regulatory Flexibility Act

Pursuant to the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), it is hereby certified that the proposed regulation set forth in this document will not have a significant economic impact on a substantial number of small entities. Accordingly, this regulation is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Drafting Information

The principal author of this document was Todd J. Schneider, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects in 19 CFR Part 6

Air carriers, Baggage, Customs duties and inspection, Freight, Imports.

Proposed Amendment

It is proposed to revise § 6.7(b)(3)(vii), Customs Regulations (19 CFR 6.7(b)(3)(vii)), to read as follows:

PART 6—AIR COMMERCE REGULATIONS

§ 6.7 Documents for entry.

* * * * *

(b) * * *

(3) * * *

(vii) Unaccompanied baggage arriving in the United States under a check number from any foreign country by air and presented timely to Customs may be authorized for delivery by the carrier after inspection and examination without preparation of an entry, declaration, or being manifested as cargo. Such baggage must be found to be free of duty or tax under any provision of Schedule 8, Tariff Schedules of the United States (19 U.S.C. 1202), and cannot be restricted or prohibited. Unaccompanied checked baggage not presented timely to Customs or presented timely and found to be dutiable, restricted, or prohibited will be shown on the cargo manifest in columns under the following headings:

Check No.	Description of package	Where from	Destination

On the right of the foregoing columns two blank columns, one headed "Name of examining officer" and on the right thereof another headed "Disposition," will be provided on the cargo manifest for the use of Customs officers. Unaccompanied unchecked baggage arriving as air express or freight will be manifested as other air express or freight.

William von Raab,

Commissioner of Customs.

* * * * *

Approved: August 17, 1983.

John W. Walker, Jr,

Assistant Secretary of the Treasury.

[FR Doc. 83-24657 Filed 9-8-83; 8:45 am]

BILLING CODE 4820-02-M

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19 CFR Parts 10 and 114

Proposed Customs Regulations Amendments Concerning Cancellation of Temporary Importation Bonds

AGENCY: Customs Service, Treasury.

ACTION: Proposed rule

SUMMARY: This document proposes to eliminate the necessity for Customs to examine merchandise, imported temporarily under bond or under a carnet, before exportation and to supervise the exportation process in order to have the temporary importation bond or carnet canceled. Proof of exportation would be verified by documentary evidence ordinarily submitted to Customs. Elimination of these requirements would ease the Customs workload and benefit importers who use the temporary importation bond procedures.

DATES: Comments must be received on or before November 8, 1983.

ADDRESS: Written comments should be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Donald Beach, Carriers, Drawback and Bonds Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202–566–5856).

SUPPLEMENTARY INFORMATION:

Background

Under the provisions of Schedule 8, Part 5, Subpart C, Tariff Schedules of the United States (19 U.S.C. 1202), certain classes of articles may be imported into the United States on a temporary basis under bond. Such articles, when not imported for sale or sale on approval, may be admitted into the United States without the payment of duty by furnishing Customs with a bond which provides for exportation of the articles under Customs supervision. Exportation must be within one year from the date of importation. This period may be extended upon application for one or more periods which when added to the initial one year period will not exceed a total of three years. The Customs Regulations governing temporary importations under bond are found in section 10.31 *et seq.* (19 CFR 10.31 *et seq.*)

A carnet is an international customs document which also may be used for the temporary duty free importation of certain articles into a country in lieu of the usual customs documents required. The carnet serves as a guarantee against the payment of customs duties which may become due on articles temporarily imported and not exported. The Customs Regulations governing carnets are found in § 10.31 *et seq.* and Part 114, Customs Regulations (19 CFR 10.31 *et seq.*, Part 114).

Section 10.38(a), Customs Regulations (19 CFR 10.38(a)), states that articles entered under a temporary importation bond or carnet may be exported at the port of entry or at another port. An Application for Exportation of Articles Under Special Bond, Customs Form 3495, must be filed with the district director of Customs a sufficient length of time in advance of the date of exportation to permit Customs to examine and identify the articles if circumstances warrant examination. The past practice has been to examine most articles before exportation. Articles entered under a carnet are examined at the port from which they are to be exported.

If Customs decides to examine the articles, all expenses in connection with the delivery of the articles to Customs for examination, the cording and sealing of the articles, and their transfer for exportation are paid for by the parties in interest. Customs is required to supervise the exportation process. Section 10.39, Customs Regulations (19 CFR 10.39), sets forth the procedures for cancellation of bonds.

Because of increased demands for Customs service and decreased staffing, it is believed that the requirements of examination and supervision of exportation are now unrealistic. This procedure was instituted to insure that the articles were in fact exported. However, it is Customs opinion that documentary evidence, such as a copy of a bill of lading, a landing certificate, a vessel or vehicle manifest, a certificate of lading, or a certified notice of exportation which shows that the article was exported, is adequate proof of exportation.

Because of the benefit which accrues to the public by modifying the procedure to allow exportations to be proven by documentary evidence and the benefit to Customs by eliminating physical supervision, on April 3, 1981, Customs notified all principal field offices that an importer of a temporarily imported article may cancel the bond or carnet by filing documentary evidence of exportation with Customs. By Treasury Decision 81–124, published in the Customs Bulletin on May 20, 1981, notice was given to the public that the requirements of sections 10.38 and 10.39, Customs Regulations, were being suspended at the importers option. Since that time, most importers have exercised the option without problem.

In light of the foregoing, it is now proposed to amend Parts 10 and 114, Customs Regulations, to eliminate the necessity of examination by Customs of merchandise imported temporarily under bond or carnet and the requirement of supervision of the exportation process. Because of the unique nature of mail or parcel post exportations supervision of their exportation will continue. It is proposed to eliminate Customs Form 3495, Application for Exportation of Articles under Special Bond.

Authority

These amendments are proposed under the authority of R.S. 251, as amended, section 623, as amended, section 624, section 1202, as amended (19 U.S.C. 66, 1202, 1623, 1624).

Comments

Before adopting this proposal, consideration will be given to any written comments, preferably in triplicate, that are submitted timely to the Commissioner of Customs. Comments will be available for public inspection in accordance with section 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. to 4:30 p.m. at the Regulations Control Branch, Room 2426, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Drafting Information

The principal author of this document was John E. Elkins, Regulations Control Branch, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Executive Order 12291

This proposal is not a major regulation as defined in section 1(b) of E.O. 12291. Accordingly, a regulatory impact analysis is not required.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this proposal because the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. The proposal is not expected to; have significant secondary or incidental effect on a substantial number of small entities; impose, or otherwise cause, a significant increase in the reporting, recordkeeping or other compliance burdens on a substantial number of small entities, or; generate significant interest or attention from entities through comments, either formal or informal.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that the rule, if promulgated, will

not have a significant economic impact on a substantial number of small entities.

List of Subjects

19 CFR Part 10

Customs duties and inspection, Imports, Temporary importation under bond.

19 CFR Part 114

Customs duties and inspection, Imports.

Proposed Amendments to the Regulations

It is proposed to amend Part 10 and 114, Customs Regulations (19 CFR Parts 10 and 114), as set fourth below.

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

1. It is proposed to amend § 10.38 by revising it to read as follows:

§ 10.38 Exportation.

(a) *General.* Articles temporarily imported under bond or carnet may be exported without Customs examination or supervision. Bond liability will be cancelled or no claim will be brought against the guaranteeing association on a carnet under § 10.39 of this chapter if satisfactory written proof of timely exportation by the person principally liable under the bond or carnet, or an authorized representative or agent, is provided to the district director at the port of importation within (1) 30 days of exportation or (2) 10 days of the end of the period during which the articles were authorized to remain in the customs territory of the United States under bond, whichever occurs first. Evidence sufficient to prove exportation of articles entered temporarily under bond includes, but is not limited to, a bill of lading, landing certificate, vessel or vehicle manifest, certificate of lading or certified notice of exportation. The request for cancellation of the bond must also include a copy of the import entry or a copy of the invoice used on entry. In the case of a carnet, the reexportation voucher shall be submitted and the carnet shall be presented for certification.

(b) *Mail or parcel post exportations.* If articles are exported by mail or parcel post, the package containing the articles shall be presented to Customs for mailing under Customs supervision. If presented for mailing at a port other than the port of entry, the request for cancellation of the bond shall be presented in duplicate along with the package. After the package is mailed, the district director shall certify the orginal of the request and forward it to the port of entry.

(c) *Verification.* Whenever the circumstances warrant, and occasionally in any event, district directors shall cause the fact of exportation to be verified in accordance with the procedures provided for in §§ 18.7 and 22.43 of this chapter.

2. It is proposed to amend § 10.39(e) by removing the words "under Customs supervision" from paragraph (2) and by revising the first sentence of paragraph (3) to read as follows:

§ 10.39 Cancellation of bonds.

* * * * *

(e) * * *

(3) If the article was exported within the bond period, but a timely request for cancellation of the bond was not made, and satisfactory documentary evidence of actual exportation (e.g. foreign landing certificate), or of death or other complete destruction (e.g. veterinarian's certificate or certificates of two disinterested witnesses) is furnished, upon the payment of such lesser amount, or without the collection of liquidated damages, as the district director may deem appropriate under the law and in view of the circumstances. * * *

* * * * *

PART 114—CARNETS

It is proposed to amend the second sentence of section 114.26(a) by revising it to read as follows:

§ 114.26 Discharge, nonacceptance, or cancellation of carnets.

(a) *Unconditionally discharge.* * * *

A TIR carnet shall be discharged unconditionally when all merchandise covered thereby has been properly entered, placed in general order, or exported.

* * * * *

Alfred R. De Angelus,

Acting Commissioner of Customs.

Approved: August 19, 1983.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

[FR Doc. 83-24658 Filed 9-8-83; 8:45 am]

BILLING CODE 4820-02-M

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19 CFR Part 162

Proposed Customs Regulations Amendments Concerning Disposition of Proceeds of Sale of Property Seized and Forfeited Other Than Under 19 U.S.C. 1592

AGENCY: Customs Service, Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations relating to the disposition of the proceeds of sale of certain property. The amendment would eliminate language which precludes the recovery of expenses incurred for Government labor and storage on Government-owned or Government-leased property from the proceeds of the sale of property seized and forfeited under laws other than under 19 U.S.C. 1592, when no application for remission and restoration is filed, or the application is denied.

The proposed amendment is necessary because the prohibition of the current regulation has hindered Government enforcement efforts.

DATE: Comments must be received on or before November 8, 1983.

ADDRESS: Written comments, preferably in triplicate, should be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Robert J. Pisani, Entry Procedures and Penalties Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–8317).

SUPPLEMENTARY INFORMATION:

Background

Section 162.51(a)(2)(iv), Customs Regulations (19 CFR 162.51(a)(2)(iv)), which was amended by T.D. 79–160, published in the Federal Register on June 4, 1979 (44 FR 31950), provides that the Government may not recover expenses incurred for Government labor and storage on Government-owned or Government-leased property from the proceeds of the sale of property seized and forfeited under laws enforced or administered by Customs other than under 19 U.S.C. 1592, when no application for remission and restoration is filed or the application is denied. Prior to T.D. 79–160, section 162.51 has stated that if the forfeited property is cleared for sale, the Customs appropriation shall be reimbursed from the proceeds of the sale for all expenses paid from such appropriation in connection with the seizure and forfeiture of such property.

The restriction of present section 162.51(a)(2)(iv) is not contained in section 613, Tariff Act of 1930, as amended (19 U.S.C. 1613), which provides for the payment of all proper expenses of the proceedings and sale,

including expenses of maintaining custody of the property.

The inability to recover expenses incurred for Government labor and storage on Government-owned or Government-leased property has hindered Government enforcement efforts, inasmuch as those expenses must be paid with funds appropriated for other purposes such as enforcement efforts. The total cost of storing and maintaining conveyances in the Southeast Customs Region (Miami) alone has exceeded $2,000,000 per year.

Accordingly, this document proposes to amend section 162.51(a)(2)(iv) to eliminate the language which precludes the recovery of such expenses.

List of Subjects in 19 CFR Part 162

Customs duties and inspection, Imports, Seizures and forfeitures.

Proposed Regulations Amendments

It is proposed to amend Part 162, Customs Regulations (19 CFR Part 162), in the following manner:

PART 162—RECORDKEEPING, INSPECTION, SEARCH, AND SEIZURE

It is proposed to revise § 162.51(a)(2)(iv) to read as follows:

§ 162.51 Disposition of proceeds of sale of property seized and forfeited other than 19 U.S.C. 1592.

(a) * * *

(2) * * *

(iv) Expenses of cartage, storage, and labor. When the proceeds are insufficient to pay these expenses fully, they shall be paid pro rata.

* * * * *

Comments

Before adopting this proposal, consideration will be given to any written comments timely submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with section 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Room 2426, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Authority

These amendments are proposed under the authority of R.S. 251, as amended, section 613, 46 State. 756, as amended, section 624, 46 Stat. 759 (19 U.S.C. 66, 1613, 1624).

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to initial and final regulatory flexibility analyses (5 U.S.C. 603, 604) are not applicable to this proposal because the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. The proposal is not expected to have significant secondary or incidential effects on a substantial number of small entities or to impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C.605(b)) that the proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

Executive Order 12291

Because this proposed rule, if promulgated, will not result in a regulation which will be a "major rule" as defined in section 1(b) of E.O. 12291, a regulatory impact analysis as prescribed by section 3 of the E.O. is not required.

Drafting Information

The principal author of this document was Gerard J. O'Brian, Jr., Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

George C. Corcoran, Jr.

Acting Commissioner of Customs.

Approved: August 19, 1983.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

[FR Doc. 83-24859 Filed 9-8-83; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 1 and 156

[CGD 78-180]

Special Requirements for Cargo Lightering Operations

AGENCY: Coast Guard, DOT.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: This supplemental notice presents proposed regulations for the lightering of oil and hazardous materials cargoes in bulk from one vessel to another in the marine environment surrounding the United States. It contains substantial changes to the notice of proposed rulemaking that was published on May 31, 1979 (44 FR 31486). The Port and Tanker Safety Act of 1978 requires the Secretary of the Department in which the Coast Guard is operating to issue regulations for lightering. If adopted, the proposed rules will establish uniform safety and pollution prevention rules for vessels engaged in offshore lightering.

DATES: Comments must be received on or before November 8, 1983.

ADDRESSES: Comments should be submitted to Commandant (G-CMC/44), U.S. Coast Guard, Washington, D.C. 20593. Comments will be available for examination at the Marine Safety Council (G-CMC/44), Room 4402, U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C., 20593, (202) 426-1477. Normal office hours are between 7:30 a.m. and 3:30 p.m. Monday through Friday, except Federal holidays. The Draft Environmental Assessment and Finding of No Significant Impact are also available at the above address.

FOR FURTHER INFORMATION CONTACT: Lieutenant Clayton W. Evans, Project Manager, Office of Marine Environment and Systems (G-WPE/3), (202) 426-0578.

SUPPLEMENTARY INFORMATION: The public is invited to participate in this proposed rulemaking by submitting written views, data or arguments. Comments should include the name and address of the person making them, identify this notice (CGD 78-180), and the specific section of the proposal to which each comment applies, and give the reasons for the comment. If an acknowledgment is desired, a stamped, self-addressed postcard should be enclosed.

All comments received before the expiration of the comment period will be considered before final action is taken on this proposal.

No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will be beneficial.

Drafting Information

The principal persons involved in drafting this proposal are: Lt. Clayton W. Evans, Project Manager, Office of Marine Environment and Systems, and LCDR William B. Short, Project Attorney, Office of the Chief Counsel.

Discussion of the Proposed Regulations

The Port and Tanker Safety Act of 1978 (Pub. L. 95-474, October 17, 1978), hereafter called the Act, amended the Tank Vessel Act (46 U.S.C. 391a). Paragraph 17 of Section 5 of the Act requires the Secretary of the Department

in which the Coast Guard is operating to develop regulations for the lightering of oil and hazardous materials which takes place in the navigable waters of the United States or on the adjacent high seas if the cargo is destined for a port or place subject to the jurisdiction of the United States. Congress took this action in response to an increased number of tank vessel casualties, an increasing number of lightering operations, and increasing public awareness of these activities.

A Notice of Proposed Rulemaking (NPRM) regarding lightering was published on 31 May 1979 (44 FR 31488). A 90-day comment period was provided, which expired on 29 August 1979. A total of 47 comments were received. These comments reflected a wide variety of opinion on the subject of lightering and ranged from suggestions for very minimal or no regulation of lightering operations to requests for a total prohibition on lightering within 200 miles of land and complex licensing and permit fee systems. Many of the equipment and behavioral requirements in the original proposal were found restrictive or inappropriate. Additionally, lightering superintendent and personnel experience and qualifications were considered too selective.

The comments were carefully evaluated, and the Coast Guard also observed lightering operations in the Gulf of Mexico. As a result of the comments received and the Coast Guard's observations, it became apparent that the proposal should be simplified, and a Supplemental Notice of Proposed Rulemaking issued. The Coast Guard's initial approach was to encourage use of an existing operations manual on the subject, *The Ship-to-Ship Transfer Guide*, but this concept was later rejected, to avoid incorporation of an impermanent manual by reference.

Offshore lightering has decreased 60 percent from 1979 levels and this is additional incentive to simplify the regulations. Contributing to this decline are: The decreased use of foreign crude oil, increased costs of supertanker operations, and opening of the Louisiana Offshore Oil Port (LOOP) that now receives Very Large and Ultra Large Crude Carriers. Despite these decreases, there will be a continuing need to regulate offshore lightering. For example, in 1981 two substandard tankships were denied entry into port by Coast Guard Captains of the Port and subsequently lightered their cargoes beyond the contiguous zone. Accordingly, pollution prevention requirements must be placed upon vessels lightering offshore. Vessels lightering in waters off the United States coast will be required to comply with the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL 73/78), and where required by part 151 of this chapter, must have on board an International Oil Pollution Prevention (IOPP) Certificate or other evidence of compliance with MARPOL 73/78.

This Supplemental Notice of Proposed Rulemaking (SNPRM) requires vessels lightering in the marine environment to hold a Certificate of Inspection or Certificate of Compliance (or Tank Vessel Examination Letter); to comply with MARPOL 73/78; and to give pre-arrival notices and report certain incidents. The SNPRM also delegates the authority to establish lightering zones to the Coast Guard District Commander. The following is a discussion of specific sections of the proposed rules.

Discussion of Specific Sections

Section 156.200 Applicability.

The rules apply to all vessels, including barges, which engage in lightering of oil or hazardous materials in the "marine environment" as that term is defined in § 156.205 of this subpart, when the cargo is bound for the United States. Within the contiguous zone and navigable waters of the United States these rules are in addition to the rules in Subpart A, as well as the rules in 33 CFR Part 155 and the applicable sections of 33 CFR Part 157.

Section 156.205 Definitions.

The definitions are in addition to those in § 154.105 of this chapter.

Section 156.210 General.

The vessel to be lightered and service vessel must have a valid Certificate of Inspection, Certificate of Compliance, or Tank Vessel Examination Letter. These vessels must also have an International Oil Pollution Prevention Certificate, or equal documentation of compliance with MARPOL 73/78, as would be required by part 151 of this chapter for U.S. vessels and foreign vessels in navigable waters of the United States. This requirement is effective under the timetable set out in § 151.19 of this chapter (Proposed Rules, 48 FR 30673). The Port and Tanker Safety Act (46 U.S.C. 391a (8) and (17) requires a Certificate of Inspection, or a Certificate of Compliance (or Tank Vessel Examination Letter). The IOPP Certificate can form the basis, in part, for the issuance of the Certificate of Compliance or Tank Vessel Examination Letter.

The rules also apply to vessels lightering hazardous materials. Because of the unique properties of hazardous materials, approval for their lightering must be obtained from the Commandant. At the time of entry into force of Annex II to MARPOL 73/78, these vessels will be required to have an International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk (1973), if required by Annex II to MARPOL 73/78, or equivalent documentation of compliance with the annex.

Section 156.215 Pre-arrival Notices.

This section requires the master or other respresentative of a vessel to be lightered to notify the Captain of the Port nearest the lightering location at least 24 hours in advance of arrival in the lightering location or zone. Notification information includes vessel name, call sign or official number; registry; cargo; number of transfers; lightering location or zone; time of arrival; and information on service vessels. This information allows the Coast Guard to monitor lightering and conduct inspection, enforcement and response activities if necessary.

Section 156.220 Reporting of Incidents.

The reporting requirements apply to service vessels having a destination in the United States, and facilitate enforcement.

Immediate reports of incidents such as fires, explosions or other casualties, and failure of critical vessel systems are required to allow for Coast Guard response to an emergency. The term "immediate" means as soon as possible after the incident. A report that is delayed by clearance through an administrative or legal staff is not immediate. Delays decrease the effectiveness or make any remedial action impossible.

The requirement to report the discharge or cargo into the water is included because the Captain of the Port must have knowledge of spills that could impact his area. This requirement incorporates the MARPOL 73/78 reporting requirement in § 151.15 of this chapter (Proposed Rules, 48 FR 30673) to provide uniform requirements.

The Federal Water Pollution Control Act (FWPCA) prohibits the discharge of oil, in such quantities as may be harmful, into or upon the navigable waters or contiguous zone of the United States. The Environmental Protection Agency (EPA) has determined such "quantity as may be harmful" as being

any quantity that creates or causes a film or sheen upon or a discoloration of the surface of the water or adjoining shoreline or causes an emulsion or sludge to be deposited beneath the surface of the water or adjoining shorelines (40 CFR 110.3). Section 311(b)(3)(A) of the FWPCA was amended by Section 13(b) of Pub. L. 96-478 (33 U.S.C. 1901-1911), to allow discharges of oil into the waters of the contiguous zone, where permitted under the provisions of MARPOL 73/78.

The effect of these statutes and the regulations issued under their authority is that within the navigable waters of the United States, the discharge of an oily mixture must be in accordance with the "sheen test". Seaward of the outermost boundary of the navigable waters of the United States, but within the contiguous zone, a discharge allowed by MARPOL 73/78 is allowed under the FWPCA. Such a discharge from machinery space bilges or fuel oil tanks with an oil content of less that 15 ppm (parts per million), would be allowed without regard to the "sheen test". Seaward of the outermost boundary of the contiguous zone of the United States, a discharge from machinery space bilges or fuel oil tanks with an oil content of less than 100 ppm is allowed by MARPOL 73/78. All other oil discharges must be reported.

Section 156.225 Designation of Lightering Zones.

The authority to establish lightering zones is delegated to the Coast Guard District Commander. The District Commander is the official directly responsible for operations in the lightering areas and can best evaluate the need for lightering zones.

It was initially thought the first lightering zones could be readily included in this rulemaking. District Commanders where lightering occurs, however, have recommended lightering zones not be established at this time, because lightering operations have been conducted prudently and zones for some lightering operations could be unreasonably large. For this reason, zones are not proposed and authority will be delegated to the District Commander to designate lightering zones when necessary for safety or environmental protection. § 1.05-1(g)(2) of this chapter, describing rulemaking delgations, has also been amended to include designation of lightering zones.

Section 156.230 Factors Considered in Designating Lightering Zones.

This section describes safety, environmental, and economic factors to be considered by the District Commander in evaluating existing and proposed lightering zones. The factors are thought to be broad enough to permit involvement by concerned parties and ensure careful evaluation of lightering zone sites by the District Commander.

Regulatory Evaluation

The Coast Guard has evaluated this proposal under Executive Order 12291 and the Department of Transportation's "Policies and Procedures for Simplification, Analysis, and Review of Regulations" (DOT Order 2100.5 dated 22 May 1980), and has determined that it is neither a major nor a significant rulemaking. The cost of the regulations to the marine industry is anticipated to be minimal. MARPOL 73/78 requires vessels over 400 gross tons to have installed bilge oily-water separating equipment, and this is not a new cost in the rulemaking are those for the required notices (an estimated 156 notices per year × $5.00 per notice = $780 per year).

This proposed rule will require vessels engaged in lightering to give a pre-arrival notice, and report cargo spills and serious casualties. The collection of information requirements contained in the rule have been submitted to the Office of Management and Budget (OMB) for review under Section 3504(h) of the Paperwork Reduction Act, Pub. L. 96-511. Comments on the collection of information in § 156.215 and § 156.220 are directed to the Office of Information and Regulatory Affairs of OMB, Attention: Mr. Wayne Leiss, Desk Officer for the Coast Guard.

The Coast Guard certifies that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act, Pub. L. 96-354, 19 September 1980 (5 U.S.C. 603). The companies involved in lightering are generally large oil companies. The costs have been identified and are minimal.

This action will not produce a significant impact on the environment. It is designed to prevent degradation of the environment from lightering activity. A revised Draft Environmental Assessment and a Finding of No Significant Impact have been prepared and are available for study and comment from the Marine Safety Council (G-CMC/44), U.S. Coast Guard, 2100 Second Street, S.W., Washington, D.C. 20593, (202) 426-1477.

The Coast Guard, through this Supplemental Notice of Proposed Rulemaking, proposes to establish safe, effective, and practical rules for lightering operations. Comments on all aspects of this issue are sought.

List of Subjects

33 CFR Part 1

Administrative practice and procedure, Authority delegations (Government agencies), Freedom of Information, Penalties.

33 CFR Part 156

Oil pollution.

PART 1—[AMENDED]

In consideration of the foregoing the Coast Guard proposes to amend Chapter I of Title 33, Code of Federal Regulations as follows:

1. By revising paragraph (g)(2) of § 1.05-1 to read as follows:

§ 1.05-1 General.

* * * * *

(g) * * *

(2) The designation of lightering zones.

* * * * *

PART 156—[AMENDED]

2. By revising the authority citation for Part 156 to read as follows:

Authority: Sec. 2, Pub. L. 92-500, 86 Stat. 868, (33 U.S.C. 1321(j)(1) (C) and (D)); E.O. 11735, 3 CFR, 1971-1975 COMP., p. 793; 49 CFR 1.46(m). Subpart B is issued under Sec. 5, Pub. L. 95-474, 92 Stat. 1491, (46 U.S.C. 391a(17)(B)); 49 CFR 1.46(n)(4).

3. By designating § 156.100 through § 156.170 as "Subpart A."

4. By revising § 156.105 to read as follows:

§ 156.105 Definitions.

The definitions in § 154.105 of this chapter apply to this subpart.

5. By adding a new "Subpart B" to read as follows:

PART 156—OIL TRANSFER OPERATIONS

* * * * *

Subpart B—Special Requirements for Lightering of Oil and Hazardous Materials Cargos

Sec.

156.200 Applicability.
156.205 Definitions.
156.210 General.
156.215 Pre-arrival notices.
156.220 Reporting of incidents.
156.225 Designation of lightering zones.
156.230 Factors considered in designating lightering zones.

* * * * *

Subpart B—Special Requirements for Lightering of Oil and Hazardous Materials Cargoes

§ 156.200 Applicability.

This subpart applies to vessels which engage in oil and hazardous materials lightering operations in the marine environment, when the cargo lightered is destined for a port or place subject to the jurisdiction of the United States. Within the contiguous zone and navigable waters of the United States these rules are in addition to the rules in Subpart A, as well as the rules in 33 CFR Part 155 and the applicable sections of 33 CFR Part 157.

§ 156.205 Definitions.

(a) In addition to the terms defined in this section, the definitions in § 154.105 of this chapter apply to this subpart.

(b) As used in this subpart:

"Hazardous material" means any liquid material or substance which is:

(1) Flammable or combustible; or

(2) Designated a hazardous substance under section 311(b) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1321);

(3) Designated a hazardous material under section 104 of the Hazardous Materials Transportation Act (49 U.S.C. 1803); or

(4) Designated as a noxious liquid substance under Annex II of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL 73/78).

"Lightering" or "Lightering operation" means the transfer of a cargo of oil or a hazardous material in bulk from one vessel to another, including all phases of the operation from the beginning of the mooring operation to the departure of the service vessel from the vessel to be lightered, except when that cargo is intended only for use as fuel or lubricant aboard the receiving vessel.

"Marine environment" means the navigable waters of the United States, the contiguous zone, the waters of any area over which the United States asserts exclusive fishery management authority, and the waters over the Outer Continental Shelf of the United States.

"Oil" means oil of any kind or in any form, including, but not limited to petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil.

"Service vessel" means the vessel which receives a cargo of oil or a hazardous material from another vessel in a lightering operation.

"Vessel to be lightered" means the vessel which transports a cargo of oil or a hazardous material to a place within the marine environment for transfer of that cargo to another vessel for further transport to a port or place subject to the jurisdiction of the United States.

§ 156.210 General.

(a) No vessel may transfer oil or hazardous materials in a port or place subject to the jurisdiction of the United States, if the cargo has been lightered from another vessel in the marine environment, unless:

(1) The regulations in this subpart have been complied with;

(2) Both the vessel to be lightered and service vessel have, on board, at the time of transfer, a valid Certificate of Inspection, Certificate of Compliance, or a Tank Vessel Examination Letter, as would have been required under 46 U.S.C. 391a(8), had the transfer taken place in a port subject to the jurisdiction of the United States;

(3) Both the vessel to be lightered and service vessel have, on board, at the time of transfer an International Oil Pollution Prevention (IOPP) Certificate or equivalent documentation of compliance with the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL 73/78) as would be required by part 151 of this chapter for U.S. vessels and foreign vessels in navigable waters of the United States. The IOPP Certificate shall be that prescribed by § 151.19 of this chapter, and shall be effective under the same timetable as that section.

(b) Lightering operations involving hazardous materials may be conducted only with the specific approval of the Commandant. A letter application to lighter hazardous materials must be submitted to Commandant (G–WPE) 90 days prior to the planned start of lightering operations. On the date of entry into force of Annex II to MARPOL 73/78, vessels lightering hazardous materials other than oil shall carry an International Pollution Prevention Certificate for the carriage of Noxious Liquid Substances in Bulk (1973), if required by Annex II to MARPOL 73/78, or equivalent documentation of compliance with the annex.

§ 156.215 Pre-arrival notices.

The master, owner or agent of each vessel to be lightered in the marine environment, must give at least 24 hours advance notice to the Captain of the Port nearest the lightering location or zone, prior to arrival in the lightering location or zone. This advance notice must include:

(a) The vessel's name, call sign or official number, and registry;

(b) The cargo type (if oil) or shipping name (if hazardous material) and approximate amount on board;

(c) The number of transfers expected;

(d) The lightering location or zone to be used;

(e) The estimated time of arrival in the lightering location or zone;

(f) The estimated duration of transfer operation; and

(g) The name and destination of service vessel(s).

§ 156.220 Reporting of incidents.

(a) An immediate report must be made to the nearest Captain of the Port, by the service vessel, if fire, explosion, collision, grounding or any similar emergency, which poses a threat to the vessels involved occurs during lightering.

(b) Any discharge of cargo into the water shall be reported, by the service vessel, in accordance with the procedures specified in § 151.15 of this chapter.

§ 156.225 Designation of lightering zones.

The District Commander is delegated the authority to designate lightering zones. Lightering zones will be designated for lightering operations conducted in the marine environment where they are necessary for safety or environmental protection.

§ 156.230 Factors considered in designated lightering zones.

The following factors must be considered in designating a lightering zone:

(a) The findings of the environmental analysis or, if prepared, the Environmental Impact Statement;

(b) The proximity of the zone to:

(1) Shipping lanes;

(2) Vessel traffic schemes or vessel separation systems;

(3) Anchorages;

(4) Fixed structures;

(5) Designated marine sanctuaries;

(6) Commercial and recreational fishing areas; and

(7) Environmentally sensitive areas;

(c) The traditional use of areas for lightering operations;

(d) The normal weather and sea conditions in the areas, and their effect on lightering operations, and the fate of possible cargo discharges;

(e) The depth of water and underwater obstructions that may adversely impact anchorages and clearance of vessels;

(f) Other relevant safety, environmental, or economic data.

Dated: August 2, 1983.

B. F. Hollingsworth,

Rear Admiral, Coast Guard, Chief, Office of Marine Environment and Systems.

Addendum—Draft Environmental Assessment and Finding of No Significant Impact

(CGD 78–180)

Special Requirements For Cargo Lightering Operations

The Supplemental Notice of Proposed Rulemaking presents simpler regulations than the original proposal (44 FR 31486), and costs to the marine industry have been significantly reduced. Additionally, lightering zones will be established by the District Commander only when necessary for safety or environmental protection. For these reasons, the regulatory impact has decreased.

Dated: August 2, 1983.

Clayton Evans,

Project Manager.

Dated: August 2, 1983.

W. M. McGovern,

Environmental Reviewer.

Dated: August 2, 1983.

Jules Peebles,

Program Manager.

Dated: August 2, 1983.

B. F. Hollingsworth,

Program Director.

Supporting Statement for Requests for Approval Under the Paperwork Reduction Act and 5 CFR Part 1320

A. *Justification*

1. *Circumstances that make the collection of information necessary.*

The Port and Tanker Safety Act of 1978 (Pub. L. 95–474, October 17, 1978) amended the Tank Vessel Act (46 U.S.C. 391a). Paragraph 17 of Section 5 of the Port and Tanker Safety Act requires the Secretary of the Department in which the Coast Guard is operating to develop regulations for the lightering of oil and hazardous materials which takes place in the navigable waters of the United States or on the adjacent high seas if the cargo is destined for a port or place subject to the jurisdiction of the United States. Congress took this action in response to an increased number of tank vessel casualties, an increasing number of lightering operations, and increasing public awareness of these activities. The law requires regulations developed under it to address:

- Prevention and response to spills.
- Requirements for communication and prearrival messages.

A copy of the appropriate section of the statute and the draft regulation mandating the collection of information is attached to this statement.

2. *Purpose for information collection and consequence to Federal program or policy activities if the collection of information was not conducted.*

The Coast Guard must monitor lightering activities and conduct inspection, enforcement, and casualty and pollution response activities. Notices of vessel arrival, casualties and pollution incidents enable the Coast Guard Captain of the Port to conduct these activities.

Immediate reports of incidents such as fires, explosions or other casualties, and failures of critical vessel systems are required to allow for Coast Guard response to an emergency. The requirement to report the discharge of cargo into the water is included because the Captain of the Port must have knowledge of spills that could impact his area. If the collection of information was not conducted, the Coast Guard could not provide timely response in an emergency, or minimize the environmental damage from an oil or hazardous materials spill.

3. *Description of considerations of use of improved information technology to reduce burden and any technical or legal obstacles to reducing burden.*

Advance notices of offshore lightering activity are most commonly given by telex, telephone or marine radio. The improved information technology of telephone and marine radio have eased the reporting burden to the marine industry.

4. *Description of efforts to identify duplication.*

There is no duplication of information gathering in this area. We have confirmed this with the American Petroleum Institute, companies involved in offshore lightering and Coast Guard District and field units.

5. *Why similar information already available cannot be used.*

There is no existing requirement for vessels lightering oil or hazardous materials cargoes in the marine environment of the United States to report their activity.

6. *Methods used to minimize burden to small businesses if involved.*

This collection of information will not place a burden on small businesses or other small entities. The companies involved in offshore lightering are generally large oil companies, for example Texaco, Arco, Exxon, Gulf, Conoco and Mobil.

7. *Consequences to Federal program or policy activities if collection were conducted less frequently.*

The consequence to the offshore lightering enforcement program if the collection were conducted less frequently would be incomplete knowledge of vessel activity which would result in failure to respond to a vessel emergency or increased environmental damage from an oil or hazardous materials spill.

8. *Special circumstances that require the collection to be conducted in a manner inconsistent with the guidelines in 5 CFR 1320.6.*

There are no special circumstances that require the collection to be conducted in a manner inconsistent with the guidelines in 5 CFR 1320.6.

9. *Efforts to consult with persons outside the agency concerning this information collection.*

a. Consultation was conducted with representatives of the following maritime organizations on the offshore lightering regulations and the required notifications:

Individual consulted	Phone No.	Year consulted	Organization represented
Mr. John G. Blackburn.	(202) 457–7080	1983	American Petroleum Institute. Representatives for major oil companies in governmental affairs.
Ms. Mary Paul.	(713) 754–4755	1982	Gulf Oil Co.
Capt. Harold Muth.	(202) 841–8360	1983	American Waterways Operators.
Mr. T. E. Behringer.	(812) 288–0280	1983	American Commercial Barge Line.
Mr. Charles Burrel.	(304) 394–3000	1983	Lewis Marine Transportation.

b. There were no major problems that could not be resolved during consultation. The proposed rules have been substantially simplified from comment given by industry representatives upon the Notice of Proposed Rulemaking issued in May 1979.

c. A Staff Study was undertaken by the Department of Transportation Research and Special Programs Administration, Transportation Systems Center, Cambridge, MA. This study involved working closely with oil companies presently involved in offshore lightering to determine the current practices of oil companies in the regulatory areas considered, in the absence of Federal rules. The Study concluded that some regulatory areas outlined in the Port and Tanker Safety Act which should be covered by Federal regulations are addressed in company operations manuals through general statements or specific operations

requirements. The regulations were further simplified to remove regulation where industry practice was found to be satisfactory.

10. *Assurances of confidentiality provided to respondents.*

No assurances of confidentiality are expressly provided to respondents. However, 46 USC states that no Coast Guard official receiving information from a licensed officer who is employed on any vessel as to defects in such vessel, or her equipments, boilers, or machinery, or that any provision of title 52 of the Revised Statutes is being violated, shall impart the name of such licensed officer, or the source of his information to any person other than his superiors in the Coast Guard. Any Coast Guard official violating this provision shall be subject to dismissal from the service.

Section 507 of the Federal Water Pollution Control Act (33 U.S.C. 1367) also provides a measure of protection for witnesses, in pollution incidents, by establishing a procedure whereby an employee may apply to the Secretary of Labor to investigate his employer, when the employee has been fired or otherwise discriminated against for participating in any proceeding for enforcement of this Act.

11. *Additional justification for any questions of a sensitive nature.*

There are no questions of a sensitive nature and no justification is necessary.

12. & 13. *Estimates of annualized cost to the Federal Government and respondents, and collection burden.*

The Coast Guard estimates the total cost of the notification requirements to be $1,830 per year for:

- Advance notice of transfer.
- Casualties.
- Oil and hazardous materials spills.

The cost components considered were limited to the direct labor cost of communicating and processing information. The cost of industry knowing the location and schedule of vessels and cargo was considered to be a cost of a standard business practice and therefore not a requirement posed solely by the advance notice regulations. Similarly, the requirement for communications equipment (radio, telephone) was considered an existing business need and not attributable directly to the Coast Guard regulations. Two cost components were used to estimate the overall cost to the economy of these regulations:

- Time for shipping companies to notify the Coast Guard—$730.
- Time for Coast Guard processing of information—$1100.

Estimation of Cost to Industry

	Notices
• Six companies are currently involved in offshore lightering. The frequency of their notifications fluctuates from the magnitude of their operations and oil demand. The average number of notifications per company per year is 22. Approximate number of offshore lightering notifications per year	132
• Annual average spill occurrence from lightering operations, reported to the American Petroleum Institute and the Coast Guard's Pollution Incident Reporting System	11
• Causualty statistics for offshore lightering operations do not exist. An annual casualty occurrence rate equal to spills is assumed. Estimated annual casualties	12
• Total annual reporting burden	156

The Coast Guard assumed it takes a maximum of ten minutes for industry personnel to preprare the information for each notification and call the Coast Guard. Using an assumed general personnel cost of $28.00 per hour, ten minutes of labor equates to a cost of $4.67 per notification. In order to arrive at the yearly industry cost, the cost per notification was multiplied by the total number of notices of transfers, spills and casualties:

$4.67 × 156 notices=$728.52 (rounded to $730)

Estimation of Cost of Coast Guard Processing

Each notification received by the Coast Guard is processed in approximately fifteen minutes. The processing time by the Coast Guard involves recording the information in a log and, if necessary, a check of vessel history on the computerized Marine Safety Information System. Using a standard enlisted personnel cost of $28 per hour yields a cost of $7.00 per notification. Total yearly cost is obtained by multiplying this personnel cost by the total number of notifications of transfer, spills and casualties:

$7.00 × 156 notices=$1092 (rounded to $1100)

14. *Reasons for changes in burden.*

Changes in burden are not anticipated. Offshore lightering activity has decreased 60 percent from 1979 levels. Consultation with companies presently involved in offshore lightering indicated that lightering is not expected to increase.

15. *Plans for tabulation, statistical analysis, and publication.*

The results of this collection of information are not planned to be published for statistical use.

B. Collections of Information Employing Statistical Methods

The collection of information does not employ statistical methods and Section B is not applicable.

Supporting Material Contained in this Clearance Request

Form(s):

None.

Regulation(s):

Proposed 33 CFR 156 B.

Statutes:

Port and Tanker Safety Act, Section 5, Paragraph 17 (46 U.S.C. 391a).

Presidential Documents:

None.

Other Documents:

None.

[FR Doc. 83-24696 Filed 9-8-83; 8:45 am]
BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[A-9-FRL 2430-3]

Designation of Areas for Air Quality Planning Purposes; Attainment Status Designations in California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice or proposed rulemaking.

SUMMARY: On November 12, 1981, EPA invited comments on California's attainment status designations and proposed action on six California Air Resources Board (ARB) redesignation requests. This is the third in a series of actions that respond to the comments EPA received concerning the November 12 proposal.

In this notice, EPA is proposing to change certain designations based on the comments, state requests, and EPA's own analysis. The following actions are proposed: reduce the size of the carbon monoxide (CO) nonattainment areas in San Joaquin County, Butte County, the Bay Area Air Quality Management District (BAAQMD), and Stanislaus County; redesignate Santa Barbara County to attainment for CO; reduce the size of the ozone nonattainment area in Santa Barbara County; reduce the size of the particulate matter (PM) nonattainment areas in Santa Barbara and Ventura Counties; and redesignate San Luis Obispo County to attainment for PM. EPA is inviting public comments on these proposed redesignation actions.

DATE: Comments may be submitted up to October 24, 1983.

ADDRESSES:

Comments should be sent to: Regional Administrator, Environmental Protection Agency, Region 9, Attn.: Air Management Division, Air Programs Branch, State Implementation Plan Section, 215 Fremont Street, San Francisco, CA 94105.

Information pertinent to this notice is available for public inspection during normal business hours at the EPA Region 9 Office at the above address and at the following locations:

California Air Resources Board, 1102 "Q" Street, Sacramento, CA 95812
Bay Area Air Quality Management District, 939 Ellis St., San Francisco, CA 94109
Butte County Air Pollution Control District, 316 Nelson Avenue, Oroville, CA 95965
San Joaquin County Air Pollution Control District, 1601 E. Hazelton Avenue, Stockton, CA 95201
San Luis Obispo County Air Pollution Control District, P.O. Box 637, County Airport, Edna Road, San Luis Obispo, CA 93406
Santa Barbara County Air Pollution Control District, 315 Camino del Remedio, Santa Barbara, CA 93110
Stanislaus County Air Pollution Control District, 1716 Morgan Road, Modesto, CA 95351
Ventura County Resource Management Agency, Air Pollution Control District, 800 South Victoria Avenue, Ventura, CA 93009

FOR FURTHER INFORMATION CONTACT:

Douglas Grano, Chief, State Implementation Plan Section, Air Management Division, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105; (415) 974–7641.

SUPPLEMENTARY INFORMATION:

Background

On March 3, 1978, under Paragraph 107(d)(2) of the Clean Air Act, as amended, EPA promulgated attainment status designations for all states (43 FR 8962). The Western Oil and Gas Association (WOGA) and others challenged EPA's designations for California in the Ninth Circuit Court of Appeals. The suit alleged that EPA had violated the notice and comment requirements of the Administrative Procedure Act by failing to provide an opportunity to comment prior to taking final action on the designations. The Court ruled that the present designations would be allowed to stand temporarily but ordered EPA to reconsider its original designations for California, after first providing public notice and opportunity for comments.

On November 12, 1981, EPA published a notice or proposed rulemaking (46 FR 55722) inviting comments on all of California's designations and proposed action on six ARB redesignation requests. Because of the strong public interest, EPA extended the public comment period to March 17, 1982 (and further extended to May 17, 1982 for the Monterey Bay Unified District). During this time EPA received a total of 41 comments from industry, environmental groups, local air pollution districts, and the ARB. These comments included general policy issues, recommended boundary changes, and discussion of the six proposed redesignations.

To address the extensive comments received, EPA has elected to publish a series of rulemaking actions: (a) The first, a final notice published on June 29, 1982, addressed seven relatively noncontroversial redesignations and retained the designations for areas throughout California that received no comments; (b) the second, a final rulemaking found elsewhere in today's **Federal Register** disagrees with certain recommended boundary changes and retains several present designations; (c) the third, this notice proposes to change certain designations; and (d) the fourth will address the ozone designation in the Monterey Bay Unified Air Pollution Control District (APCD).

EPA believes it is appropriate to repropose action on the areas addressed in this notice since (1) no change was initially proposed on November 12, 1981, (2) several of the redesignations are based on air quality data not available during the comment period, and (3) there is strong public interest as demonstrated through the November 12 proposal.

Redesignation Criteria

EPA has established criteria for defining attainment status classifications. The general criteria for attainment apply to all National Ambient Air Quality Standard pollutants, except as noted below. EPA designation policy was further clarified in an April 21, 1983 memorandum from Sheldon Meyers, Director, Office of Air Quality Planning and Standards, to all regional offices.

Criteria for Redesignation to Attainment

In general, an attainment area cannot have measured or modeled violations or contain sources that contribute significantly to violations.

Evidence of a fully approved and implemented control strategy is required for all redesignations to attainment in addition to one of the following criteria:

(1) Two years of violation-free* data at all monitoring locations, including sites located at points of expected maximum concentration.

(2) One year of violation-free* data at all monitoring sites, provided it is shown that recent air quality improvements (over the previous year) are the result of enforceable emission reductions. As state of the act modeling analysis is required to show that the enforceable emission reductions are responsible for the air quality improvement.

3. Modeling showing no violations of the ambient standards where the initial designations were based only on modeling.

4. For ozone, 3 years of data showing an average expected exceedance of less than or equal to 1.0 at each monitoring site.

Areas where sources are employing unauthorized dispersion techniques in place of enforceable emission limitations are not eligible for redesignation to attainment.

Unclassifiable Designation

Since EPA and the states have had over five years to resolve discrepancies for nonattainment disignations, it is now inappropriate to redesignate any area from nonattainment to unclassifiable. Sufficient data should now exist to either make a redesignation to attainment or to keep the nonattainment designation.

Estimation of Ozone Expected Exceedances

On February 8, 1979 (44 FR 8202), EPA revised the oxidant standard of 0.08 parts per million (ppm) to an ozone standard of 0.12 ppm. In addition, EPA established a statistical method of determining whether the standard has been exceeded. The national standards for ozone are published as a revision to 40 CFR 50.9 and the statistical method as the new Appendix H, 40 CFR Part 50.

The demonstration of attainment/nonattainment for the ozone standard must be based upon the calculated number of expected exceedances of the NAAQS at each monitoring station. Three years of air quality data are needed to accurately determine the number of expected exceedances. The average number of expected exceedances per year at each monitoring station must not exceed 1.0, if the area is to be designated as attainment.

Specific provisions are also included in 40 CFR Part 50, Appendix H, for determining whether compliance with the NAAQS can be assumed for days with insufficient data.

Special Exemption for Particulate Matter-Fugitive Dust Policy

The EPA Fugitive Dust Policy of August 1, 1977 allows areas that have a low urbanized population (less than 50,000) and which lack industrial influence, to be designated attainment for particulate matter under certain conditions despite violations of the NAAQS. An area is considered influenced by industry if it has major industrial development or if industrial particulate emissions significantly impact the air quality.

Carbon-Monoxide—Modeling Requirement for Redesignation to Attainment

For large urban nonattainment areas (greater than 200,000 population, 1980 census) EPA Region 9 requires a modeling analysis to

* For ozone substitute the word "evidence" for violation."

supplement the monitoring data in order to show that places of expected maximum CO concentration are in attainment.

Evaluation and Proposed Actions

In this action EPA is addressing only those technical comments from the November 12, 1981 notice that relate directly to the 9 areas/designations listed in the "Summary" Section. As noted in the "Background" Section, the other comments are addressed in separate rulemaking actions/support documents (available at Region 9 EPA) which should be used as reference material.

The "urbanized areas" referred to below are defined in the *Number of Inhabitants Report for California*, 1980 U.S. Census. Urbanized areas in general consist of a central city or cities and surrounding closely settled territory (urban fringe). A more detailed discussion of EPA's evaluation is found in the Technical Support Document (TSD) associated with this notice (available at the Region 9 office).

Carbon Monoxide

1. Bay Area Air Quality Management District (BAAQMD). EPA received technical comments from WOGA, the Association of Bay Area Governments, the Metropolitan Transportation Commission, and the Bay Area Air Quality Management District concerning the CO designation in the Bay Area. WOGA recommended that the nonattainment area be reduced from the entire Bay Area District to small areas within the cities of Vallejo and San Jose, because the ARB data showed violations (8 hour Standard) in just these cities. The 3 regional agencies opposed WOGA's recommendation and submitted data, including a special study conducted in 1981–1982, to support retention of the nonattainment designation throughout the District. Including the special study data, there are measured violations of the 8 hour CO standard in six major Bay Area cities and potential for violations (hotspot screening) throughout the District's urbanized areas.

After a lengthy evaluation of the comments and all available information, EPA concludes that the nonattainment area boundary should be changed but not exactly as WOGA suggests. WOGA's recommendation does not satisfy EPA's criteria for a redesignation to attainment because their boundary does not encompass all six areas of violation and all sources that significantly impact those violations. In general, however, EPA agrees that the basinwide nonattainment designation is not appropriate for CO because of this pollutant's localized characteristics.

As noted above, in large urban nonattainment areas, EPA's policy for CO requires detailed modeling to show that places of expected maximum concentration are attaining the standards before a redesignation to attainment can be made.

Although this detailed modeling has not been completed, EPA is coordinating efforts by the State and BAAQMD to obtain the necessary modeling (see TSD for description). The modeling will be used by EPA to redesignate those areas shown to be in attainment.

EPA is therefore proposing to retain the nonattainment designation for CO in all urbanized portions of the BAAQMD until both monitoring and modeling support a redesignation to attainment.

2. Butte County. EPA received technical comments from WOGA and the Butte County Air Pollution Control District. WOGA suggested that the CO nonattainment area be reduced from the entire county to a small central business district area in the City of Chico. The District commented that an overview of the CO data should be done to determine the feasibility of a redesignation.

EPA finds that WOGA's suggested boundary is not appropriate because it does not encompass all places of expected violations and all sources of significant impact on those violations. As discussed above, however, CO is generally a localized problem and the Countywide designation is thus inappropriate. EPA therefore proposes that the nonattainment area be reduced to the Chico urbanized area. Violations of the 8 hour standard occurred at the Chico State monitor in 1979. The monitor was discontinued after 1980 before enough data was collected to support an attainment designation.

3. San Joaquin County. EPA received techincal comments from WOGA recommending that the CO nonattainment area in San Joaquin County be reduced from the entire county to a small central business district area in the City of Stockton.

EPA finds that WOGA's suggested boundary is not appropriate because it does not encompass all places of expected violations and all sources of significant impact on those violations. As discussed above, however, CO is generally a localized problem and the county-wide designation is thus inappropriate. EPA therefore proposes that the nonattainment area be reduced to the Stockton urbanized area.

4. Santa Barbara County. On April 27, 1983, the ARB requested that the entire County be redesignated to attainment for CO. WOGA earlier commented that the nonattainment area should be reduced to a small area in the central business district of Santa Barbara. The County earlier commented that the area should remain nonattainment.

The ARB request is based on 8 quarters of data from 1981 and 1982 showing no violations of the CO standards. EPA has also approved the 1979 nonattainment area plan (NAP) for CO in Santa Barbara County. The 1979 NAP plus the annual reasonable further progress (RFP) reports represent evidence of an implemented control strategy that EPA has fully approved. EPA evaluated the ARB request and agrees that the County should be redesignated to attainment.

5. Stanislaus County. On December 14, 1982, the ARB requested that the entire County be redesignated to attainment for CO. Although the ARB request included 2 years of violation free data (at a residential location), it also indicated that a special study recorded an exceedance of the 8 hour CO standard near two intersections in the City of Modesto. These exceedances, which were measured over only one winter month, indicate that violations could be expected if additional monitoring were obtained in an area of expected high concentration.

EPA is therefore proposing to retain the nonattainment designation in the Modesto urbanized area until detailed modeling shows the area is in attainment. For reasons described above, however, the remainder of the County is proposed to be redesignated to attainment. EPA is coordinating efforts with the State and District to complete the necessary modeling.

Ozone

6. Santa Barbara County. EPA received technical comments from WOGA, the Santa Barbara County Department of Regional Programs, Santa Barbara Chamber of Commerce and the Santa Barbara County Air Pollution Control District. WOGA recommended that the ozone nonattainment area be reduced from the entire County to a small segment extending roughly from Goleta to Carpenteria based on air quality monitoring data. The County's comments opposed WOGA's suggested boundary and favored retention of the nonattainment designation throughout the County due to potential transport of ozone and the impacts from future Outer Continental Shelf development. WOGA's suggested boundary does not encompass all sources that impact the measured violations. Alternatively, air quality monitoring and emission data

when considered with topography and meteorology do not support a nonattainment designation for the entire county. The data show violations of the ozone standard in only the southern portion of Santa Barbara County (AQMA portion). EPA believes that the emissions from the northern part of the county do not significantly impact the air quality in the southern portion during periods of O_3 violations. EPA is therefore proposing that the northern portion of the county be redesignated to attainment for O_3.

Total Suspended Particulate Matter (TSP)

7. San Luis Obispo County. The ARB submitted a request to EPA on December 17, 1982 asking that the Salinas Valley portion of San Luis Obispo County be redesignated from nonattainment (secondary) to attainment for TSP. The ARB request is consistent with WOGA's comment. EPA is proposing to redesignate the Salinas Valley portion of the County to attainment because there are more than 2 years of violation free data and there are no major sources of particulate in the area. The criterion for evidence of an implemented control strategy is satisfied because there are federally enforceable rules limiting TSP emissions in effect.

8. Santa Barbara County. EPA received technical comments from WOGA, the Santa Barbara County Department of Regional Programs, and the Santa Barbara County Air Pollution Control District. WOGA commented that the nonattainment area should be reduced from the entire AQMA coastal region to areas (5 mile radius circles) around the monitoring sites at Santa Maria and Lompoc. EPA, using more recent air quality data, concluded that only the Santa Maria area should be designated nonattainment.

The County, in a letter dated January 20, 1983, argues that future growth in the coastal area (specifically Lompoc) will eventually cause violations of the TSP standards and that the entire area should retain the nonattainment designation. After evaluating the County's arguments, EPA concluded that the emission growth and (future) violations analysis are not adequately documented. Air quality in this area has actually improved over the last 3 years and there are 8 quarters of violation free data in the Lompoc area.

On April 29, 1983, the ARB requested that the non-attainment area be reduced from the entire non-AQMA coastal region to an area enclosed by a 15 mile radius circle centered at the Broadway Library monitoring site in Santa Maria. EPA is deferring to the State's judgment and proposing that the nonattainment area be reduced to the 15 mile radius circle. There are violations of both the primary and secondary TSP standards in the Santa Maria area. EPA believes that the ARB request is reasonable and that there is no evidence to support a smaller non-attainment area. The 15 mile circle encompasses all areas of expected violation and all sources that impact those violations. The criterion for evidence of an implemented control strategy is satisfied because there are federally enforceable rules limiting TSP emissions in effect.

9. Ventura County. WOGA commented that the southern portion of Ventura County should be redesignated from nonattainment (primary) to areas of nonattainment primary, nonattainment secondary and attainment. The District, however, forwarded to EPA air quality data from 1971–81, which show that only the Ojai area is in attainment. The ARB indicated that the Piru area may be redesignated to attainment using the fugitive dust policy due to the lack of any major particulate sources. On April 29, 1983, the ARB requested that the Ojai and Piru areas be redesignated to attainment (an area north of the 34° 23′ latitude line).

Using the District's additional air quality and emission data, EPA agrees with the ARB request and proposes to redesignate the area accordingly. The criterion for evidence of an implemented control strategy is satisfied because there are federally enforceable rules limiting TSP emissions in effect.

Regulatory Process

EPA is working with the ARB and local/regional agencies to complete modeling studies to properly support CO designations in the BAAQMD and Modesto. The modeling will use CALINE3 to analyze several worst case locations in each area. The results of the modeling should be available during the public comment period. EPA invites comments on whether to proceed directly to final rulemaking based on the studies, or whether to reopen the comment period following their completion.

If areas are redesignated to attainment or unclassifiable, the requirements of Title I, Part D of the Clean Air Act, as amended, would no longer apply to those areas for the pollutants for which they were designated nonattainment. However, these areas remain subject to the requirements of Part D for the particular pollutant until EPA approves the requested redesignations in a final rulemaking action.

The Administrator has certified (46 FR 87709) that this action will not have a significant economic impact on a substantial number of small entities. The Office of Management and Budget has exempted this action from the requirements of Section 3 of Executive Order 12291.

Authority: Secs. (107(d) and 301(a), Clean Air Act, as amended, 42 U.S.C. 7407(d) and 7601(a)).

List of Subjects in 40 CFR Part 81

Environmental Protection Agency, Air pollution control, National parks, Wilderness areas.

Dated: June 10, 1983

John Wise,

Acting Regional Administrator.

[FR Doc. 83-24618 Filed 9-8-83; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 431

Medicaid Program; Claims Processing Assessment System

Correction

In FR Doc. 83–21627 beginning on page 36151 in the issue of Tuesday, August 9, 1983, make the following corrections:

1. On page 36153, all three columns (9 places) any references to "MGC" should be "MQC").

2. On page 36156, in the table, under the column headed "Result of assessment", in the sixth and sixteenth lines, "not exceeding" should have read "above" in both places.

3. In the same table, under the column headed "CPAS requirement for review period", seven lines from the *bottom*, "(40 percent full sample)" should have read "(full sample)". Also, three lines from the bottom of the same column, "(full sample)" should have read "(40 percent full sample)".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 23

Export of American Ginseng Harvested in 1983 Season

AGENCY: Fish and Wildlife Service; Interior.

ACTION: Proposed findings and rule.

SUMMARY: The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) regulates the international trade in certain animal and plant species. Export of animals and plants listed in Appendix II of CITES may occur only if a Scientific Authority (SA) has advised a permit-issuing Management Authority (MA) that such exports will not be detrimental to the survival of the species, and if an MA is satisfied that the animals or plants were not obtained in violation of laws for their protection.

This notice announces proposed findings by the United States MA and SA concerning the export of American ginseng from the United States. The Service requests comments on these findings and information on the species involved.

DATES: The Service will consider information and comments received by October 11, 1983 in making its final findings and rule.

ADDRESS: Please send correspondence concerning this notice to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, P.O. Box 3654, Arlington, Virginia 22203. Materials received will be available for public inspection from 7:45 a.m. to 4:15 p.m., Monday through Friday, at the Federal Wildlife Permit Office, room 620, 1000 N. Glebe Road, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Scientific Authority: Dr. Richard L. Jachowski, Office of the Scientific Authority, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone (202) 653–5948.

Management Authority: Mr. Thomas J. Parisot, Chief, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, P.O. Box 3654, Arlington, Virginia 22203, telephone (703) 235–1937.

Ginseng Export Program: Mr. S. Ronald Singer, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, P.O. Box 3654, Arlington, Virginia 22203, telephone (703) 235–2418.

SUPPLEMENTARY INFORMATION: This is the second in a series of a notices concerning the Service's findings on the export of American ginseng (*Panax quinquefolius*) harvested in the 1983 season. In this notice, the Service announces its decisions on the guidelines to be used in making MA findings for the export of American ginseng, an Appendix II species, and proposes findings based on those guidelines and on previously determined SA adivce (see 47 FR 43701: October 4, 1982).

In the previous notice on this subject (48 FR 26651; June 9, 1983), the Service invited comments on proposed MA guidelines and information on American ginseng. CITES regulates international trade in Appendix II species through a system of permits issued by designated MA's in each Party nation. Export permits are to be issued only if an MA receives advice from an SA that export will not be detrimental to the survival of the species. The only comment received in response to the previous notice was a letter of support from the State of North Carolina for the outlined criteria and guidelines.

Scientific Authority Findings

General criteria used by the SA in advising on whether export will not be detrimental to the survival of a species are as follows (see notice of July 10, 1980, 45 FR 46464):

(1) Whether similar export has occurred in the past and has not reduced the numbers or distribution of the species, nor caused signs of ecological or behavioral stress within the species, or in other species of the affected ecosystem;

(2) Whether such export is expected to increase, decrease, or remain constant; and

(3) Whether the life history of the species and the structure and function of its ecosystem indicate that present and proposed levels of export will not appreciably reduce the numbers or distribution of the species, nor cause signs of ecological or behavioral stress within the species or in other species of the affected ecosystem.

For wild-collected ginseng, the determination of non-detriment by the SA, in accordance with these general criteria, has been and will continue to be based on an evaluation of the following information concerning each affected State (see notice of April 5, 1982; 47 FR 14666):

(1) Historic, present, and potential distribution of ginseng on a county basis, using county outline maps, and indicating the source(s) and accuracy of this information. Include also the distribution of preferred habitat on a regional or Statewide basis, indicating recent trends in loss or protection of habitat;

(2) Approximate number or density of ginseng populations per county or region, and the approximate under of all known ginseng localities in the State, including also the source of this information;

(3) Average number of plants per population or patch, or local abundance, of wild ginseng on a county or regional basis in the State, indicating the source(s), general reliability, and accuracy of the information. Include also any changes from previous years or differences from historical population sizes;

(4) An assessment of population trends on a county or regional basis indicating whether populations of ginseng are believed to be increasing, decreasing, stable, extirpated or unknown. Included in this assessment should be source(s) and general reliability and accuracy of this information;

(5) An assessment of harvest intensity on a county or regional basis indicating if the relative collecting intensity is heavy, moderate, light, none or unknown, and any changes from previous years. The State to provide also the known or estimated number of ginseng collectors in the State;

(6) A county map showing those counties in which ginseng is reported to be commercially cultivated. Figures are to be included on the amount of cultivated ginseng reported to be harvested and certified for export Statewide;

(7) Average number of roots per pound harvested, preferably on a county or regional basis or, if these are not available, on a Statewide basis. An assessment of any trend in root sizes or number of roots per pound over previous years is also to be included;

(8) A description of the State's current research program on ginseng and its progress, including a summary of results so far obtained; and

(9) A description of the State's harvest practices and controls, including regulations on length of harvest season, any harvest restrictions such as size and age of collected plants, and any seed planting requirements.

In 1982, the Service reported that it had found that the status of wild ginseng does not vary greatly from year to year within any given State, and that information compiled to date was adequate to justify multi-year SA findings under CITES. The Service used information compiled since 1977 to make such findings (47 FR 43701; October 4, 1982). the SA determined in 1982 that the export of ginseng harvested in the following states during the 1982–84

seasons will not be detrimental to the survival of the species: Arkansas, Georgia, Illinois, Indiana, Iowa, Kentucky, Maryland, Minnesota, Missouri, North Carolina, Ohio, Tennessee, Virginia, West Virginia, and Wisconsin.

Even though SA findings were made for the export of ginseng harvested in certain States in the 1982–84 seasons, the Service indicated it would continue to monitor the status of ginseng each year, and would retain the option of revising the findings at any time if new information shows the need for change. Through the notice of June 9, 1983 (48 FR 26851), any new information of the types described above was requested in order to enable the Service to perform such monitoring. Information submitted in the past need not be resubmitted. In addition the Service will also consider any biological and harvest information submitted by those States seeking export approval for 1983 American ginseng that are not currently approved.

Management Authority Findings

In addition to the SA advice on a State-by-State basis that the wild-collected ginseng exports will not be detrimental to the survival of the species, the MA must be satisfied that the ginseng was not obtained in contravention of laws for its protection.

Criteria used by the MA in determining if a State program qualifies for export are that the State has adopted and is implementing the following regulatory measures (relisted from notice of July 10, 1980):

(1) State licensing or regulation of dealers purchasing or selling ginseng in the State;

(2) State requirements that these licensed or registered ginseng dealers maintain true records of their commerce in ginseng, and report such commerce to the State;

(3) Inspection and certification by State personnel of all ginseng shipments from the State. (This certification is necessary to authenticate that the ginseng was legally taken from wild or cultivated sources within the State. Experience has shown the value of a State official inspection and certification program which can document that the weight of the roots in question were legally taken from the wild or artificially propagated in that State).

In order to determine if these criteria are met, the Service reviews the following extant information or materials from each affected State:

(a) A copy of the State ginseng law and regulations;

(b) State dealer, grower, or digger license or registration rules;

(c) Cost of license or registration;

(d) Season of selling/buying operation;

(e) Dealer records, maintenance and reporting requirements;

(f) Samples of current year dealer certificates and reporting forms;

(g) Sample of current year State certificate of legal take and origin;

(h) Sample diggers license, if any, indicating cost of license and dates of harvest;

(i) Description of State certification system for wild and cultivated ginseng legally harvested within the State, including controls to minimize uncertified ginseng from moving into or from the State; and

(j) Name, address, and telephone number of the State person to contact concerning such information.

In the notice of December 4, 1982 (45 FR 80444), the Service announced that the MA would approve export of artificially propagated ginseng from those States approved by the SA for export of wild-collected ginseng that had the programs necessary to document the source of roots, and from other States if acceptable procedures have been implemented to minimize the risk of wild-collected plants being exported as cultivated.

The Service previously noted (47 FR 3869) that, beginning with the 1983 harvest season, export approval for wild or cultivated American ginseng would depend on the existence of a legally established State ginseng program requiring that a State official examine and certify all ginseng exported. This certification must verify State of origin, legal take, year of take, weight of shipment, whether wild or artifically propagated, date of certification, shipment number, dealer's State registration number, and signatures of both the dealer and State certifying official. The Service believes that a program of State inspection remains the proper method of insuring legal ginseng export. However, in an attempt to examine other possible methods, the Service will consider and decide on programs other than State examination of ginseng leaving the State. Such a proposed system must offer the same assurance as an actual examination of the shipment and dealers records, as to the origin, legal take and whether wild or cultivated roots are involved in the shipment. On October 4, 1982, the Service granted multi-year export approval for 1982–84 only to those States with a current ginseng program that provided for a State inspection and certification system and otherwise satisfied the criteria of both the SA and MA (47 FR 43701).

Proposed Findings

In its notice of October 4, 1982 (47 FR 43701), the Service approved export of ginseng lawfully taken during the 1982–84 harvest seasons from the following States, on the grounds that both SA and MA criteria had been met: Georgia, Kentucky, Minnesota, North Carolina, Vermont (artificially propagated only) and Virginia.

In the same notice, the Service approved export of American ginseng lawfully taken only during the 1982 season for the following States, although they did not meet all the MA criteria: Arkansas, Illinois, Indiana, Iowa, Maryland, Ohio, Missouri, Tennessee, West Virginia, and Wisconsin.

As announced in that notice, States given approval last year only for the export of ginseng harvested in 1982 would not be granted further export approval until they had developed an acceptable ginseng program. The Service did not grant general approval for exports of American ginseng taken from any State other than those named above during 1982–84 harvest seasons.

The Service proposes to continue approval of exports of American ginseng from the following States on the grounds that both the SA and MA guidelines are expected to be met (1982 to 1984 seasons): Georgia, Kentucky, Minnesota, North Carolina, Vermont (artificially propagated ginseng only), and Virginia. The Service also proposes to approve the export of 1983–85 season American ginseng from Maryland and West Virginia as these States have recently passed legislation and promulgated rules that satisfy the MA guidelines.

The Service proposes to approve an experimental ginseng export program for the 1983 and 1984 harvest of wild ginseng in Wisconsin. A decision will be made prior to the 1985 harvest season whether to continue approval of the Wisconsin wild ginseng export program. The Service proposes to approve the export of 1983 cultivated ginseng legally harvested in Wisconsin.

The Service does not propose at this time to grant export approval of wild collected or cultivated American ginseng taken from any other State for the 1983–85 seasons.

Other States now working to pass regulatory legislation and regulations acceptable to the MA are Arkansas, Iowa, Tennessee, Indiana, Illinois, Ohio, Vermont (wild), and Missouri. These State export programs will be approved as appropriate programs are developed and the supporting State laws are promulgated. In the case of cultivated ginseng, the Service will issue CITES

certificates of artificial propagation as soon as satisfactory State programs are in place.

Information on the biological status and management of American ginseng on a State-by-State basis has been compiled by the Service. This information and assembled records are available for public inspection at the Service's Office of Scientific Authority. An analysis of the States' CITES export programs for American ginseng is available for inspection at the Service's Federal Wildlife Permit Office (see address above).

Request for Information and Comments: The Service holds the view that every attempt should be made to provide the public with the greatest possible opportunity to comment on regulations being established. On June 9, 1983, the Service published a preliminary notice (48 FR 26651–26653) of its intent to propose findings on the export of American ginseng taken during the 1983 harvest season, providing the largest period possible for public comment.

The Service recognizes that a public comment period for this proposed notice is also important and looks forward to receiving all and every public comment possible concerning the Federal actions described in this notice. However, additional delays in publishing the final findings for the 1983 ginseng harvest season may adversely affect the harvest season already under way in all of the States. A further delay may also adversely impact State conservation programs for this species by reducing compliance with State certification, documentation, and reporting requirements.

The Service, therefore, finds that "good cause" exists, within the terms of 5 U.S.C. 553 (d)(3) of the Administrative Procedure Act, to grant a 15-day public comment period on these proposed findings.

The Service requests comments on the guidelines to be used in MA findings, and current information on the biology and management of American ginseng. The Service also requests information on environmental and economic impacts and effects on small entities (including small businesses, small organizations, and small governmental jurisdictions) that would result from findings for or against export. The Service determined that the findings for the 1981–82 harvest seasons were not a major rule near Executive Order 12291 and did not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act. For the 1983 harvest, the Service has analyzed the impacts and concluded that the determinations made for the 1981–82 seasons are unchanged.

List of Subjects in 50 CFR Part 23

Endangered and threatened wildlife, Exports, Fish, Imports, Plants (Agriculture), Treaties.

Accordingly, it is proposed to amend Part 23 of Title 50, Code of Federal Regulations, as set forth below:

PART 23—ENDANGERED SPECIES CONVENTION

Subpart F—Export of Certain Species

In § 23.51, revise paragraph (e) to read as follows:

§ 23.51 American ginseng (Panax quinquefolius).

* * * * *

(e) *1982 through 1984 harvests:* Georgia, Kentucky, Maryland, Minnesota, North Carolina, Vermont (artificially propagated ginseng only), Virginia, West Virginia, and Wisconsin (wild only);

1982 harvest only: Arkansas, Illinois, Indiana, Iowa, Ohio, Missouri, and Tennessee;

1982 and 1983 harvest only: Wisconsin (cultivated only).

Conditions on findings: Roots must be documented as to state of origin and season of collecting. Wild and artificially propagated roots must be certified by the State as legally collected and such certification must be presented upon export.

This notice of proposed findings is issued under authority of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.; 87 Stat. 884 as amended), and was prepared by S. Ronald Singer, Federal Wildlife Permit Office.

Dated: August 30, 1983.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83-24691 Filed 9-8-83; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 662

Northern Anchovy Fishery Management Plan; Public Hearings

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public hearings.

SUMMARY: The Pacific fishery Management Council (Council) and the National Marine Fisheries Service (NMFS) will hold joint public hearings to receive public comments on Amendment 5 of the Northern Anchovy Fishery Management Plan, including the draft supplementary environmental impact statement and draft regulatory impact review/initial regulatory flexibility analysis.

DATES: Written comments are invited through September 28, 1983. Individuals or organizations desiring to comment in person may do so at the public hearings to be held on—

September 26, 1983—Monterey, California;
September 27, 1983—Long Beach, California; and
September 28, 1983—San Diego, California (see Addresses).

All public meetings will start at 7 p.m., and adjourn at or about 11 p.m., or when all public testimony has been received.

ADDRESSES: Hearings will be held at—

Casa Munras Hotel, 700 Munras Avenue, Monterey, California 93940
California State University Auditorium, 400 Golden Shore, Long Beach, California 90802
Bahia Hotel, Del Mar Room, 998 West Mission Bay Drive, San Diego, California 92109

Written comments should be sent to Mr. Joseph C. Greenley, Executive Director, Pacific Fishery Management Council, 526 SW Mill St., Portland, Oregon, 97201.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph C. Greenley, (Executive Director), 503–221–6352; or Floyd S. Anders (Acting Director, Southwest Region), 213–548–2572; or H. A. Larkins (Director, Northwest Region), 206–527–6150.

SUPPLEMENTARY INFORMATION: The hearings will deal with the proposed amendment for managing the fisheries for the northern anchovy central subpopulation off of California. The hearings will be tape recorded and the tapes will be filed as an official transcript of the proceedings. A written summary will be prepared on each hearing.

The amendment consists of a complete revision of the 1978 Northern Anchovy Fishery Management Plan (FMP) including biological, ecological, social, and economic aspects of the anchovy. The amendment establishes a revised optimum yield (OY) formula whereby U.S. OY is calculated each year based on an annual estimate of stock abundance. The revised formula estimates spawning biomass by the egg production method (EMP), or its equivalent, and results in lower

estimated productivity of the anchovy stock. The amendment provides several options for managing the anchovy resource including regulations governing harvest allocation, fishing areas and seasons, as well as foreign and joint venture fishery management. The Council has adopted some preferred management options. These range from regulations that are less restrictive to those that are more restrictive than regulations developed since implementation of the FMP in 1978.

Final management measures will be determined by the Council at its September 28–29 meeting in San Diego, after the close of the public comment period on September 28.

Amendment 5 to the Northern Anchovy FMP, including the draft supplemental impact statement and draft regulatory impact review/initial regulatory flexibility analysis, has been mailed to organizations and individuals who are currently on the Council's mailing list. A limited number of copies will be available at the public hearing.

(16 U.S.C. 1801 *et seq.*)

Dated: September 6, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 83-24673 Filed 9-8-83; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 48, No. 176
Friday, September 9, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Select Committee on Uniform Federal Agency Rules of Procedure; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. No. 92–463), notice is hereby given of a meeting of the Select Committee on Uniform Federal Agency Rules of Procedure of the Administrative Conference of the United States, will meet on Thursday, September 15, 1983, at 11:00 a.m., in the library of the Administrative Conference, Suite 500, 2120 L Street, NW., Washington, D.C. 20037. This will be the first meeting of the Select Committee and it will be for the purpose of discussing the committee's future activities.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman of the Administrative Conference at least two days in advance. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information concerning this meeting contact Jeffrey S. Lubbers, Office of the Chairman, Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington, D.C. (Telephone: 202–254–7065.) Minutes of the meetings will be available on request.

Richard K. Berg,

General Counsel.

September 2, 1983.

[FR Doc. 83–24733 Filed 9–8–83; 8:45 am]

BILLING CODE 6110–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Soybean Research Advisory Institute; Meeting

According to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776), the Agricultural Research Service announces the following meeting:

Name: Soybean Research Advisory Institute.

Date: September 26–28, 1983 (9:00 a.m. Daily).

Place: Room 3109, South Building, U.S. Department of Agriculture, 12th and Independence Avenue, SW, Washington, DC 20250.

Type of Meeting: Open to the public. Persons may participate in the meeting as time and space permit.

Comments: The public may file written comments before or after the meeting with the contact person below.

Purpose: This is the third meeting of the Soybean Research Advisory Institute. The purpose of this Advisory Institute is to provide a temporary advisory body to assess soybean production and utilization research in the United States and to submit a comprehensive report to Congressional committees on its findings. The third meeting includes Production and Utilization and Marketing Task Force Reports work sessions, assessment of current U.S. soybean research programs, prioritization of problem areas within research areas, and reviews of drafts of the final report.

Contact Person: Dr. Robert C. Leffel, Executive Secretary, Soybean Research Advisory Institute, Bldg. 011, HH–19, BARC-West, Beltsville, MD 20705. Telephone: (301) 344–1722.

Done at Beltsville, Maryland, this 24th day of August 1983.

Robert C. Leffel,

Executive Secretary, Soybean Research Advisory Institute.

[FR Doc. 83–24697 Filed 9–8–83; 8:45 am]

BILLING CODE 3410–03–M

Forest Service

Southwest Region, North Kaibab Grazing Advisory Board Meeting

The North Kaibab Grazing Advisory Board will meet at 1:00 p.m., Tuesday, October 4, 1983, at the Coconino County Building, Fredonia, Arizona. The purpose of this meeting is development of allotment management plans and utilization of Range Betterment funds.

The meeting will be open to the public. Persons who wish to attend should notify the Forest Supervisor, Kaibab National Forest, 800 South 6th Street, Williams, Arizona, telephone (602) 635–2681. Written statements may be filed with the committee before or after the meeting.

The committee has established the following rules for public participation: Those attending may express their views when recognized by the chairman.

Dated: August 30, 1983.

Leonard A. Lindquist,

Forest Supervisor.

[FR Doc. 83–24682 Filed 9–8–83; 8:45 am]

BILLING CODE 3410–11–M

Extension of Certain Timber Sale Contracts; Clarification of Interim Policy

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: On Friday, August 26, at 48 FR 38862, the Forest Service published a notice of interim policy governing extension of certain National Forest timber sale contracts for up to 5 years. These extensions are necessary to prevent substantial numbers of timber purchasers from defaulting on contracts. This notice clarifies which contracts qualify for extension and the minimum standards the purchasers must meet in scheduling the harvest of National Forest timber sales before a Multi-Sale Extension Plan will be approved. In addition, this notice clarifies that Multi-Sale Extension Plans will not be approved until the public has had an opportunity to comment on the interim policy and the final policy is published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Wendall Jones, Timber Management Staff, Forest Service, USDA, P.O. Box 2417, Washington, DC 20013, (202) 447–4051.

SUPPLEMENTARY INFORMATION: The interim policy published by the Forest Service on Friday, August 26, at 48 FR 38862 described the criteria for implementing extensions of certain National Forest timber sale contracts for up to 5 years. In the summary of the interim policy document, the Forest Service characterized the policy as providing opportunity for "additional

extension." This has generated inquiries about which contracts are eligible for extension under the interim policy. The Forest Service hereby clarifies that extensions are available to qualifying contracts that have previously been extended by the Forest Service as well as to those qualifying contracts that are still in their original period. The term "qualifying contracts" refers to contracts which meet the minimum criteria and conditions set forth in the interim policy (See Policy, paragraph 4, 48 FR 38863).

One of the conditions for receiving an extension is that the purchaser must be in substantial compliance with the terms of the existing contract (See Policy, paragraph 7, item 5, 48 FR 38864). With respect to a previously extended contract that the purchaser wishes to extend under this program, the purchaser must pay any interest accumulated under the previous extension to be deemed in compliance. This payment is due in advance of execution of the contract modification. This may coincide with or follow execution of the Multi-Sale Extension Plan.

The notice of interim policy stated that the Forest Service will not approve a Multi-Sale Extension Plan which includes a harvest schedule that defers removal of disproportionate volumes of timber to the last years of the Multi-Sale Extension Plan. However, the notice failed to provide details on the minimum standards for scheduling the harvest of National Forest timber sale contracts to be extended under this policy. To be acceptable, the harvest schedule of the Multi-Sale Extension Plan must include timber harvest rates that meet the requirements of one of two alternatives. Under Alternative 1, the total timber volume to be extended under the 5 year extension policy is divided by the number of years between January 1, 1984, and the last planned termination date of the extended contracts. The quotient is the minimum volume which can be scheduled for annual harvest. Under alternative 2, the minimum acceptable harvest for each year is equivalent to 20 percent of the volume extended to date each year under the plan. A contract is removed from the minimum harvest calculation once the extension period under the policy is completed.

The two alternatives are illustrated in the following exhibits. In this example, the purchaser has seven timber sale contracts with 120 MMBF to be extended. Exhibit 1 shows the schedule of extensions. Exhibit 2 demonstrates how the minimum annual harvest requirements are calculated for the two alternatives, and Exhibits 3 and 4 are an example of how the purchaser might schedule timber harvest to meet the Multi-Sale Extension Plan requirements under each alternative.

EXHIBIT 1.—SCHEDULE OF EXTENSIONS

Sale	Volume extended (MMBF)	Five-year extension period under this policy							
		1984	1985	1986	1987	1988	1989	1990	1991
A	10								
B	15								
C	10								
D	30								
E	25								
F	20								
G	10								
Total	120								

EXHIBIT 2.—MINIMUM ANNUAL HARVEST CALCULATIONS

A. Alternative 1

Volume Extended = 120 MMBF
Length of Plan = 8 years
Minimum Harvest = 120 MMBF/8 years
Minimum Harvest = 15 MMBF/Year

Year	Included sales	Volume extended (MMBF)	20 percent extended volume (MMBF)

B. Alternative 2

1984	A,D,F	60	12
1985	A,B,C,D,F	85	17
1986	A,B,C,D,F,G	95	19
1987	A,B,C,D,E,F,G	120	24
1988	A,B,C,D,E,F,G	120	24
1989	B,C,E,G	60	12
1990	E,G	35	7
1991	E	25	5
Total			

EXHIBIT 3.—SAMPLE HARVEST SCHEDULE—ALTERNATIVE 1

Sale	Volume extended (MMBF)	1984	Annual harvest scheduled (MMBF)						
			1985	1986	1987	1988	1989	1990	1991
A	10	10							
B	15					15			
C	10						10		
D	30	5	15	10					
E	25							10	15
F	20			5	15				
G	10						5	5	
Annual harvest	120	15	15	15	15	15	15	15	15

EXHIBIT 4.—SAMPLE HARVEST SCHEDULE—ALTERNATIVE 2

Sale	Volume extended (MMBF)	1984	Annual harvest scheduled (MMBF)						
			1985	1986	1987	1988	1989	1990	1991
A	10	10							
B	15				2	13			
C	10				10				
D	30	2	17	11					
E	25					1	12	7	5
F	20			8	12				
G	10					10			
Annual harvest	120	12	17	19	24	24	12	7	5

NOTE.—These are only examples of how the purchaser could schedule harvest of the 7 sales. Other schedules which met the minimum annual harvest requirements and called for completion of the contracts before the planned termination dates would also be acceptable.

Public comments received on the interim policy for timber sale contract extensions will be an important part of the development of the final policy, and

the timber sale purchasers' Multi-Sale Extension Plans must confrom with the final policy in order to be approved by the Forest Service. Multi-Sale Extension Plans will only be approved after the final policy is developed and published in the **Federal Register.** However, as of August 26, purchasers meeting the conditions for interim modifications established in the interim policy may request and be granted interim modifications. Those purchasers who are facing imminent contract termination may receive a conditional extension. This type of extension will keep the contract in effect until a Multi-Sale Extension Plan can be approved and the contract modified to include the 5-year extension.

Please note that the notice of the interim policy contained a typographical error which set November 25 as the deadline for public comment. By notice of August 31 at 48 FR 39482, the Office of the Federal Register corrected the deadline to October 25. Public comments on the interim policy and this clarification will be considered and the policy revised, as necessary, in light of the public comments received. Comments on the policy should be sent by October 25 to: R. Max Peterson, Chief (2400), Forest Service, USDA, P.O. Box 2417, Washington, DC 20013.

Dated: September 2, 1983.

R. Max Peterson,

Chief, Forest Service.

[FR Doc. 83-24008 Filed 9-8-83; 8:45 am]

BILLING CODE 3410-11-M

Land and Resource Management Plan; Stanislaus National Forest; Alpine, Calaveras, Mariposa and Tuolumne Counties, California; Intent To Reevaluate Roadless Areas

The Department of Agriculture, Forest Service issued a national environmental impact statement in January 1979. This environmental impact statement documented the results of a review of 62 million acres of roadless and undeveloped areas within the 190 million acre National Forest system. The purpose of the roadless area review and evaluation (RARE II) was to determine which areas were suitable for wilderness and which should be used for other purposes.

In the Pacific Southwest Region RARE II dealt with over 6 million acres located in California only. About 983,000 acres were recommended for wilderness; 2,643,000 acres were recommended for further planning; and 2,395,000 acres were recommended for nonwilderness.

In 1979 the State of California challenged the adequacy of the National RARE II Environmental Impact Statement as the basis for decisions to manage 46 areas in California for other uses than wilderness. In October 1982, the United States Court of Appeals for the Ninth Circuit affirmed a lower court decision that the RARE II Environmental Impact Statement was inadequate. Although the decision applied specifically to only the 46 roadless areas in California, it sets binding precedent in any Federal District Court in the Ninth Circuit.

Because of the October 1982 court decision, National Forest roadless areas studied for wilderness potential during RARE II will be reevaluated. This Notice is being issued because, contrary to earlier regulations (issued 9/30/82), a proposed revision to 36 CFR 219.17 (issued 4/18/83) will allow further evaluation of RARE II wilderness and nonwilderness areas during the Forest planning process.

The reevaluation of areas on the Stanislaus National Forest will be done as part of the Forest's land and resource management plan.

During the reevaluation process, current management and protection policies and activities in the roadless areas will be continued. Wilderness values will be protected in areas recommended in RARE II for wilderness, and management for other uses will continue in areas recommended for nonwilderness.

On the Stanislaus National Forest, two roadless areas containing 101,400 acres were recommended for wilderness and ten roadless areas of 77,000 acres were recommended for nonwilderness. These areas will now be reevaluated. They include:

Name	Gross acres	Net N.F. acres
Bell Meadow	8,200	8,200
Carson-Iceberg (A)	15,200	14,500
Carson-Iceberg (C)	95,600	95,600
Cherry Creek Exclusion	5,850	5,830
Cherry Lake	1,100	1,100
Dome	11,100	11,100
Eagle	16,000	16,000
Mt. Reba	4,100	3,900
Night	3,100	3,100
North Mountain	8,100	8,100
Trumbull Peak	6,300	6,300
Waterhouse	4,400	4,400

Detailed information on the roadless areas and the reevaluation process will be distributed to individuals on the Forest mailing list and to other individuals and organizations requesting a copy. In addition, there will be a public briefing held on October 13, 1983, from 7:00–10:00 p.m., at the Supervisor's Office, Stanislaus National Forest, 19777 Greenley Road, Sonora, California, to further explain, discuss, and gather information about the roadless areas and the reevaluation process.

For further information about the proposed reevaluation contact John E. Tonnesen, Forest Planning Officer, 19777 Greenley Road, Sonora, California, 209–532–3671.

Dated: September 1, 1983.

Blaine L. Cornell,

Forest Supervisor, Stanislaus National Forest.

[FR Doc. 83-24049 Filed 9-8-83; 8:45 am]

BILLING CODE 3410-11-M

Soil Conservation Service

Juniper Canyon Watershed, Oregon; Record of Decision, Availability

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of Availability of a Record of Decision.

SUMMARY: Jack P. Kanalz, responsible federal official for projects administered under the provision of Pub. L. 83–566, 16 U.S.C. 1001–1008, in the State of Oregon, is hereby providing notification that a Record of Decision to proceed with the installation of the Juniper Canyon Watershed Project is available. Single copies of this Record of Decision may be obtained from Jack P. Kanalz at the address shown below.

FOR FURTHER INFORMATION CONTACT: Jack P. Kanalz, State Conservationist, Soil Conservation Service, 1220 S.W. Third Avenue, 16th Floor, Portland, Oregon 97204, telephone (503) 221–2751.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention. Office of Management and Budget Circular A–95 regarding state and local clearinghouse review of federal and federally-assisted programs and projects is applicable)

Dated: August 23, 1983.

Jack P. Kanalz,

State Conservationist.

[FR Doc. 83-24083 Filed 9-8-83; 8:45 am]

BILLING CODE 3410-16-M

West Creek Watershed, Indiana and Illinois; Deauthorization of Federal Funding

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of deauthorization of Federal funding.

SUMMARY: Pursuant to the Watershed Protection and Flood Prevention Act, Pub. L. 83–566, and the Soil Conservation Service Guidelines (7 CFR Part 622), the Soil Conservation Service gives notice of the deauthorization of

Federal funding for the West Creek Watershed project, Lake County, Indiana and Will County, Illinois, effective on June 6, 1983.

FOR FURTHER INFORMATION CONTACT: Robert L. Eddleman, State Conservationist, Soil Conservation Service, Suite 2200, 5610 Crawfordsville Road, Indianapolis, Indiana 46224, telephone 317/248–4350.

(Catalog of Federal Domestic Assistance Program No. 10–904, Watershed Protection and Flood Prevention. Office of Management and Budget Circular No. A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: September 1, 1983.

Robert L. Eddleman,

State Conservationist.

[FR Doc. 83–24655 Filed 9–8–83; 8:45 am]

BILLING CODE 3410–16–M

Dewitt Creek Watershed, Indiana; Deauthorization of Federal Funding

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of deauthorization of Federal funding.

SUMMARY: Pursuant to the Watershed Protection and Flood Prevention Act, Pub. L. 83–566, and the Soil Conservation Service Guidelines (7 CFR Part 622), the Soil Conservation Service gives notice ot the deauthorization of Federal funding for the Dewitt Creek Watershed project, Lawrence County, Indiana, effective on June 6, 1983.

FOR FURTHER INFORMATION CONTACT: Robert L. Eddleman, State Conservationist, Soil Conservation Service, Suite 2200, 5610 Crawfordsville Road, Indianapolis, IN 46224, telephone 317/243–4350.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention. Office of Management and Budget Circular No. A–95 regarding State and local clearing-house review of Federal and federally assisted programs and projects is applicable)

Dated: September 1, 1983.

Robert L. Eddleman,

State Conservationist.

[FR Doc. 83–24654 Filed 9–8–83; 8:45 am]

BILLING CODE 3410–16–M

East-West-Dry Maple Creeks Watershed, Nebraska; Environmental Impact

AGENCY: Soil Conservation Service, Agriculture.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. Sherman L. Lewis, State Conservationist, Soil Conservation Service, Federal Building, Room 345, 100 Centennial Mall No., P.O. Box 82502, Lincoln, Nebraska 68501, Telephone 402–471–5300.

Notice: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (40 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the East-West-Dry Maple Creeks Watershed, Colfax, Cuming, Dodge, Platte, and Stanton Counties, Nebraska.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Sherman L. Lewis, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

This Watershed Protectio Plan describes a plan of accelerated land treatment including terraces, grassed waterways or outlets, underground outlets, diversions, grade stabilization structures, water and sediment control basins, critical area plantings, and range seedings. These conservation practices will reduce soil depletion by sheet and rill erosion, increase production, reduce voiding the depreciation of land by fully erosion, reduce flood plain deposition, improve water quality, and reduce sediment yields.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reveiwed by contacting Mr. Sherman L. Lewis. The FONSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse reveiw of Federal and Federally assisted programs and projects is applicable)

Date: August 9, 1983.

Clinton R. Johnson,

Assistant State Conservationist (WR).

[FR Doc. 83–24653 Filed 9–8–83; 8:45 am]

BILLING CODE 3410–16–M

Okfuskee Tributaries Watershed, Oklahoma; Environmental Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); and the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Okfuskee Tributaries Watershed, Creek, Okfuskee, and Okmulgee Counties, Oklahoma.

FOR FURTHER INFORMATION CONTACT: Roland R. Willis, State Conservationist, Soil Conservation Service, USDA Agricultural Center Building, Farm Road and Brumley Street, Stillwater, Oklahoma 74074, telephone (405) 624–4360.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Roland R. Willis, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan for watershed protection, flood prevention, and both agricultural and nonagricultural water management. The planned works of improvement include removal of restricting debris, mostly logs, and the construction of a maintenance road along the channel.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Roland R. Willis.

No administrative action on implementation of the proposal will be

taken until 30 days after the date of this publication in the **Federal Register**

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: September 1, 1983.

Donald R. Vandersypen,

Assistant State Conservationist (WR).

[FR Doc. 83-24698 Filed 9-8-83; 8:45 am]

BILLING CODE 3410-16-M

Thornton Academy Athletic Area, Land Drainage RC&D Measure, Maine; Environmental Impact

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. Roger A. Hansen, Acting State Conservationist, Soil Conservation Service, USDA Office Building, University of Maine, Orono, Maine 04473, telephone 207-866-2132.

Notice: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Thornton Academy Athletic Area Land Drainage RC&D Measure, York County, Maine.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional or national impacts on the environment. As a result of these findings, Mr. Roger A. Hansen, acting State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for surface and subsurface water control and disposal on an athletic area in the city of Saco, Maine. The planned works of improvement consists of installation of surface ditches and an underground conduit system to collect, convey, and dispose of surface and subsurface water, and seeding the area disturbed by construction.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Roger A. Hansen. The FONSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until 30 days after the date of this publication.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: September 2, 1983.

Roger A. Hansen,

Acting State Conservationist.

[FR Doc. 83-24700 Filed 9-8-83; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Minority Business Development Agency (MBDA)
Title: MBDA Memoranda of Understanding—Private Sector Agreements
Form Numbers: Agency—N/A; OMB—N/A
Type of Request: Existing collection in use without an OMB control number
Burden: 1,500 respondents; 750 reporting hours
Needs and Uses: Memorandum of Understanding identifies private sector corporations that have agreed to volunteer business, market capital and management development opportunities to minority business firms
Affected Public: Business or other for-profit, small businesses or organizations
Frequency: Other
Respondent's Obligation: Voluntary
OMB Desk Officer: Tim Sprehe, 395-4814

Agency: National Oceanic and Atmospheric Administration
Title: Dealer Purchases and Trip Interviews
Form Numbers: Agency—N/A; OMB—0648-0013
Type of Request: Revision of a currently approved collection
Burden: 4,556 respondents; 8,512 reporting hours
Needs and Uses: Survey has been revised to include the Western Pacific Spiny Lobster. Data collected is used for fish stock assessment, monitoring fishery managment measure compliance, and measuring impact of regulations at the ex-vessel and processor level
Affected Public: Businesses or other for-profit, small businesses or organizations
Frequency: On occasion, Annually
Respondent's Obligation: Mandatory
OMB Desk Officer: Ken Allen, 395-3785

Agency: National Oceanic and Atmospheric Administration
Title: Federal Fisheries Permit
Form Numbers: Agency—88-155; OMB—0648-0097
Type of Request: Revision of a currently approved collection
Burden: 10,000 respondents; 5,005 reporting hours
Needs and Uses: Collection has been revised to include the Western Pacific Spiny Lobster. Information collected is used to issue a permit to domestic fishermen
Affected Public: Businesses or other for-profit, small businesses or organizations
Frequency: Annually
Respondent's Obligation: Required to obtain or retain a benefit
OMB Desk Officer: Ken Allen, 395-3785

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Edward Michals (202) 377-4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collections should be sent to the respective OMB Desk Officer, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Ed Michals,

Departmental Clearance Officer.

[FR Doc. 83-24698 Filed 9-8-83; 8:45 am]

BILLING CODE 3510-CW-M

International Trade Administration

[A-428-062]

Animal Glue and Inedible Gelatin From West Germany; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review of antidumping finding.

SUMMARY: On May 24, 1983, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on animal glue and inedible gelatin from West Germany. The review covers the eight known manufacturers and/or exporters and one third-country reseller of this merchandise to the United States and generally the period December 1, 1980, through November 30, 1981.

We gave interested parties an opportunity to comment on the preliminary results. After an analysis of the comments received, we have determined that certain shipments are not covered by the finding. The final results of review are otherwise unchanged from those presented in the preliminary results of review.

EFFECTIVE DATE: September 9, 1983.

FOR FURTHER INFORMATION CONTACT: Linda L. Pasden or Robert J. Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377–5255.

SUPPLEMENTARY INFORMATION:

Background

On May 24, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 23287) the preliminary results of its last administrative review of the antidumping finding on animal glue and inedible gelatin from West Germany (42 FR 64116, December 22, 1977). The Department has not completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of animal glue and inedible gelatin, of which there are two principal types, hide glue and bone glue. Animal glue is an organic colloid of protein derivation. There is no significant differences between animal glue and inedible gelatin. Animal glues are odorless, dry, hard, hornlike materials. They are used as general purpose adhesives in industries producing abrasives, paper containers, book and magazine bindings, and leather goods. They are also used as sizing agents and as colloids in emulsions and cleaning compounds. Animal glue and inedible gelatin are currently classifiable under items 455.4000 and 455.4200 of the Tariff Schedules of the United States Annotated.

The review covers the eight known manufacturers and/or exporters and one third-country reseller of West German animal glue and inedible gelatin to the United States and generally the period December 1, 1980 through November 30, 1981.

Analysis of Comments Received

We are invited interested parties to comment on our preliminary results. One importer, Gould, Inc., submitted comments.

Comment: Gould claims that the gelatin exported by Gould-Metall during the period of review is edible gelatin, and not inedible gelatin covered by the antidumping finding.

Department's Position: We agree that the gelatin exported by Gould-Metall during the period of review is edible gelatin, and therefore not within the scope of the finding.

Gould made various other claims and arguments regarding the preliminary results. Since we have determined that the material shipped by Gould-Metall during the period of review is not within the scope of the finding, Gould's other comments are moot.

Final Results of the Review

After analysis of the comments received, we determine that the following margins exist:

Manufacturer/exporter	Time period	Margin (percent)
Chemische Dungerfabriek Rendsburg	12/01/80–11/30/81	[1] 158.00
G. Conradt & Sohn	12/01/80–11/30/81	[1] 67.00
Johannes Martens	12/01/80–11/30/81	[1] 0
Ph. Carl Weise	12/01/80–11/30/81	16.34
Nienburger Gelatin	01/01/76–11/30/81	158.00
Fritz Hecker	12/01/80–11/30/81	0
Deutsche Gelatin-Fabriken Stoess & Co./Gould-Metall	12/01/80–11/30/81	[1] 158.00

[1] No shipments during the period.

Third-country reseller	Time period	Margin (percent)
Marcuse & Company (London)	12/01/80–11/30/81	16.34

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all appropriate entires made with purchase dates during the time periods involved. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Further, as provided for in § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based on the above margins shall be required on all shipments of West German animal glue and inedible gelatin from these firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. We will not require a cash deposit on future entries for any shipment from a new exporter not covered in this or prior administrative reviews, whose first shipments occurred after November 30, 1981 and who is unrelated to any reviewed firm. These deposit requirements shall remain in effect until publication of the final results of the next administrative review. The Department intends to begin immediately the next administrative review.

The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information during the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Dated: September 1, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-24708 Filed 9-8-83; 8:45 am]

BILLING CODE 3510-25-M

[A–588–035]

Cadmium From Japan; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review of antidumping finding.

SUMMARY: On June 23, 1983, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on cadmium from Japan. The review covers the seven known manufacturers and/or exporters of this merchandise to the United States and the period August 1, 1981 through July 31, 1982.

Interested parties were given an opportunity to submit oral or written comments on the preliminary results. We received no comments. Based on our analysis, the final results of review are unchanged from those presented in the preliminary results of review.

EFFECTIVE DATE: September 9, 1983.

FOR FURTHER INFORMATION CONTACT: Edward Haley or John R. Kugelman, Office of Compliance, International Trade Administration, U.S. Department

of Commerce, Washington, D.C. 20230, telephone: (202) 377–3601.

SUPPLEMENTARY INFORMATION:

Background

On June 23, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 28692) the preliminary results of its last administrative review of the antidumping finding on cadmium from Japan (37 FR 15760, August 4, 1972). The Department has now completed that administrative review.

Scope of the Review

Imports covered by this reveiw are shipments of cadmium, currently classifiable under items 632.1420 and 632.1440 of the Tariff Schedules of the United States Annotated.

The review covers the seven known manufacturers and/or exporters of Japanese cadmium to the United States and the period August 1, 1981 through July 31, 1982. There were no known shipments to the United States during the period and there are no known unliquidated entries.

Final Results of the Review

Interested parties were invited to comment on the preliminary results. The Department received no written comments or requests for a hearing. Based on our analysis, the final results of our review are the same as those presented in the preliminary results of review.

Further, the Department shall not require a cash deposit of estimated antidumping duties, as provided for in § 353.48(b) of the Commerce Regulations, on shipments of cadmium from Japan entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review. The Department intends to begin immediately the next administrative review. The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information during the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Dated: August 31, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-24704 Filed 9-8-83; 8:45 am]

BILLING CODE 3510-25-M

[A-122-047-011]

Elemental Sulphur From Canada; Partial Revocation of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of partial revocation of antidumping finding.

SUMMARY: On May 3, 1983, the United States Court of International Trade concluded that the Department of Commerce erred in its determination not to revoke Chevron Standard Limited from the antidumping finding on elemental sulphur from Canada in the final results of its last administrative review. Accordingly, the court remanded the proceeding to the Department for reconsideration of the Chevron revocation question consistent with the opinion of the Court.

On June 1, 1983, the Department reported the results of its remand reconsideration to the Court. On June 10, 1983, the Court affirmed the remand findings of the Department.

As a result, the Department is revoking the antidumping finding on elemental sulphur from Canada with regard to merchandise produced and exported by Chevron.

EFFECTIVE DATE: September 9, 1983.

FOR FURTHER INFORMATION CONTACT: Joseph A. Fargo or Robert J. Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377–0651/5255.

SUPPLEMENTARY INFORMATION:

Background

On December 17, 1973, the Treasury Department published in the **Federal Register** (38 FR 34655) a dumping finding with respect to elemental sulphur from Canada. On April 9, 1981, the Department of Commerce ("the Department") published in the **Federal Register** (46 FR 21214) the preliminary results of its first administrative review of and tentative determination to revoke the finding with respect to Chevron Standard Limited along with four other companies. On July 23, 1982, the Department published in the **Federal Register** (47 FR 31911) the final results of that review with regard to Chevron, but postponed action on its application for revocation. The Department stated that Chevron was a shareholder member of Cansulex, an organization from which the Department had been unable to obtain information on third-country sales required for theDepartment's review of shipments made by two other companies covered in the review. The Department further stated that no Cansulex member would be excluded from the finding until Cansulex complied with our repeated requests for information.

On August 20, 1982, the United States Court of International Trade received a complaint from Chevron, alleging that the Department's determination was unlawful because it was not supported by substantial evidence on the record, and was arbitrary and capricious. The Court subsequently concluded that the Department's determination in postponing action on Chevron's application or revocation was based on a ground neither reasonable nor related to the subject matter of plaintiff's application. The Court further directed that the proceedings be remanded to the Department for reconsideration with regard to Chevron and without regard to the behavior of Cansulex (*Chevron Standard, Limited and Chevron Chemical Company* v. *United States*, Slip Op. 83–39, May 3, 1983).

On June 1, 1983 the Department reported the results of its remand reconsideration to the Court. That report concluded that:

1. there have been no Chevron sales at less than fair value from the date of suspension of liquidation through the date of the last period of Departmental examination, February 8, 1979.

2. the appropriate representations have been filed with the Department as required by 19 CFR 353.54.

3. the Department is aware of no other circumstances with respect to Chevron which might prompt the Department not to invoke its discretion to revoke at this time; therefore, a partial revocation of the finding should be issued regarding Chevron.

On June 10, 1983, the Court affirmed the remand determination of the Department (*id.* Slip Op. 83–55).

For purposes of this notice, the Department would like to state that the administrative record of this proceeding clearly shows that the Department did not focus exclusively on Cansulex in its attempts to obtain the requested information, but rather attempted, prior to its contacts with Cansulex, to obtain the information directly from the companies affected. Only when those companies indicated that the requested information would be available only

from Cansulex did the Department approach Cansulex. Accordingly, the Department does not believe it has acted capriciously in this matter.

Partial Revocation of Finding

The Department of Commerce, in accordance with the Court's order of remand, revokes the antidumping finding on elemental sulphur from Canada with regard to merchandise produced and exported by Chevron. This partial revocation applies to all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after February 8, 1979. The Department will instruct Customs officers to proceed with liquidation of this merchandise without regard to antidumping duties.

This revocation is in accordance with the order of the United States Court of International Trade, *Chevron Standard Limited and Chevron Chemical Company* v. *United States*, Slip Op. 83–39, May 3, 1983, and § 353.54 of the Commerce Regulations (19 CFR 353.54).

Dated: August 31, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-24703 Filed 9-8-83; 8:45 am]

BILLING CODE 3510-25-M

[A-588-087]

Portable Electric Typewriters From Japan; Final Results of Administrative Review of Antidumping Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Final Results of Administrative Review of Antidumping Duty Order.

SUMMARY: On October 5, 1982, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order on portable electric typewriters from Japan. The review covers three of the five known exporters of this merchandise to the United States, Brother Industries Ltd., Silver Seiko Ltd. and Nakajima All Co., Ltd., and varying periods through 1980 and 1981.

We gave interested parties an opportunity to comment on the preliminary results. At the request of the petitioner and the exporters, we held a public hearing on November 15 and 16, 1982.

After an analysis of the comments received, and correction of certain mathematical errors, the Department has changed the margins for all three exporters.

EFFECTIVE DATE: September 9, 1983.

FOR FURTHER INFORMATION CONTACT: Barbara J. Victor or Susan M. Crawford, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377–1130.

SUPPLEMENTARY INFORMATION:

Background

On October 5, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 43992–93) the preliminary results of its administrative review of the antidumping duty order on portable electric typewriters from Japan (45 FR 30618–19, May 9, 1980). The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of portable electric typewriters ("PETs") from Japan. The Department defines such merchandise as all typewriters currently classifiable under item 676.0510 of the Tariff Schedules of the United States Annotated ("TSUSA") and some typewriters currently classifiable under TSUSA item 676.0540, depending on the individual characteristics of the typewriters. The characteristics we consider include, but are not limited to, the dimensions, weight, presence of a carrying case, type of market, and method of distribution.

The review covers three of the five known exporters of Japanese portable electric typewriters to the United States and the following periods:

Brother Industries Ltd.: April 21, 1980 through May 20, 1981
Nakajima All Co., Ltd.: May 1, 1980 through April 30, 1981
Silver Seiko Ltd.: April 1, 1980 through March 31, 1981.

On February 24, 1983, the Department published in the **Federal Register** (48 FR 7768–71) the final results of its administrative review for the other two exporters, Tokyo Juki Industrial Co., Ltd. and Towa Sankiden Corporation.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. At the request of the petitioner, Smith-Corona Group, SCM Corporation ("SCM"), and the respondents, the Department held a public hearing on November 15 and 16, 1982. Comments 1 through 8 are general comments submitted by SCM that apply to two or more of the exporters. The remaining comments apply to individual exporters.

Comment 1: The Tariff Act of 1930 ("the Tariff Act") requires that the Department compare United States price and foreign market value on a transaction-by-transaction basis. SCM contends that the current section 751 review does not involve a great number of sales and, therefore, does not warrant the use of weighted-average home market prices, provided for in section 773(f) of the Tariff Act.

Department's Position: The Department used weighted-average home market prices for Brother Industries and Silver Seiko since each had over 2000 sales in the home market. For Silver Seiko we used weighted-average figures for each month of the review and, for Brother Industries, two weighted-average figures for each of the two distinct time periods in which price lists were in effect. Weighted-average home market price is the Department's preferred basis for foreign market value in any case, such as here, where significant numbers of sales exist.

Comment 2: The Department has no authority to use average United States prices or to use average adjustments to United States price. SCM claims that in many instances the respondents provided data on a transaction-by-transaction basis and, yet, the Department used averages. Further, the only authority for averaging is found in section 773(f) of the Tariff Act, permitting use of averaged data to calculate the adjustments to foreign market value but only in cases of "greatest need".

Department's Position: The Court of International Trade determined that, where averaging of deductions is necessary in order to compute a realistic per unit net price, averaging is permissable *(See Brother Industries Ltd.* v. *United States*, 540 F. Supp. 1348 (1982)). The Department used averages in adjusting United States price only in those instances where transaction-by-transaction information was not available. In no instance did we use averaged data in adjusting United States price when the respondents provided transaction-by-transaction data or when averaging would cause a distortion. Further, for both Brother International Corporation and Silver Reed America, the U.S. subsidiaries, we required that they submit additional information on either a customer-by-customer or sale-by-sale basis when we found that averaged data would permit a distortion. Finally, since we appropriately used weighted-average home market prices for the parent firms, Brother Industries and Silver Seiko, we have the authority

to adjust and appropriately adjusted those prices using weighted averages.

Comment 3: Assuming *arguendo* that the Department has the authority to average amounts to be deducted from United States price, it cannot average when the expenses vary considerably by sale, by model, and/or by customer.

Department's Position: We agree. As stated in Comment 2, where individual customer or transaction data were initially available the Department made its adjustments on a transaction-by-transaction or customer-by-customer basis. Where the use of averages would permit a distortion and we lacked customer or transaction data, we asked for and received supplemental submissions.

Comment 4: The Department should exercise its discretion to interpret section 773(a)(4) of the Tariff Act to require that respondents establish that claimed differences in circumstances of sale have a price effect. SCM argues that the terms of section 773(a)(4) require a two-step finding: (1) Is the difference in prices due in whole or part to the circumstance of sale; and (2) what is the "due allowance" for the price difference. For the second step, SCM argues that the Department should return to the interpretation in the pre-1976 Treasury Regulation which stated that "* * * the Secretary will be guided primarily by the effect of such differences upon the market value of the merchandise, but, where appropriate, may *also* consider the cost of such differences to the seller, as contributing to an *estimate of market value*". (Emphasis added.) SCM contends that it is unreasonable for the Department to assume that differences in cost result in differences in price since a seller considers factors in addition to costs when setting its prices.

Department's Position: The Department's allowances for circumstance-of-sale adjustments is in accordance with § 353.15(a) of the Commerce Regulations which states that reasonable allowance will be made for the costs to the seller for any differences in circumstance of sale. While our regulation differs from the cited pre-1976 Treasury Regulation, in 1976 Treasury brought its regulation in line with its own administrative practice. As the Court of International Trade recognized in *Brother Industries, supra,* to do as SCM recommends would be virtually impossible and would result in unfair comparisons of United States price and foreign market value. Therefore, we maintain that differences in cost are a *reasonable* indication of differences in price.

Comment 5: When comparing foreign market value with exporter's sales price ("ESP"), the Department should discontinue granting the offset to foreign market value for indirect selling expenses incurred in the home market. SCM argues that this offset is without statutory basis and that it distorts the purpose of the exporter's sales price provision because the offset effectively eliminates most or all of the statutorily mandated deductions from the resale price in the U.S.

Department's Position: The statute requires the deduction of all selling expenses incurred in the U.S. when exporter's sales price is used as United States price; therefore, an adjustment to foreign market value for indirect selling expenses actually incurred in the foreign market, up to the amount of any indirect selling expenses in the U.S., permits a fair comparison between United States price and foreign market value. Without such an offset, our analysis could create artificial dumping margins. (*See Brother Industries, supra*).

Comment 6: The Department did not adequately investigate factual information which SCM presented during the course of its review. When SCM's information conflicted with that of a respondent, SCM argues that the Department disregarded SCM's data and merely accepted the statements of the respondent.

Department's Position: The Department conducted a thorough review in this case. We examined each of SCM's points, and, where warranted, we required extensive additional information from the respondents. We conducted two detailed verifications at the U.S. and Japanese premises of each of the respondents. We accepted statements from the respondents in instances where the petitioner's information required us to disprove a negative or when we were satisfied that prior documentary verification upheld the respondent.

Comment 7: Section 773 of the Tariff Act in straighforward terms insists that, in purchase price transactions, "the foreign market value shall be ascertained as of the date of such purchase or agreement to purchase." The Department therefore should not accept the date of export for purchase price transactions with respect to sales by Brother Industries and Silver Seiko. The Department should use the date of a long-term contract as the date of sale where one exists. SCM specifically cites Silver Seiko's response which gave the date of export and to a letter from Brother Industries which requests that we permit the continued reporting of sales on date of export.

Department's Position: The Department agrees with SCM. In the preliminary results for all purchase price transactions, we used the date of the U.S. sale to select the appropriate foreign market value sale date. If the seller and U.S. buyer agreed on the terms of sale in a long-term contract, as was the case with Silver Seiko and with two of Nakajima's three U.S. customers, we used the date of contract. For Nakajima's third customer and Brother Industires' U.S. customers, we used the date of the individual purchase orders. We rejected Silver Seiko's claim that the date of export was the appropriate date and obtained the dates of the long-term contracts during our on-site verification. Brother Industries correctly reported the dates of the purchase orders. The letter referred to by SCM concerned Brother Industries' reporting of total sales. We affirm that in no instance did we use date of export.

Comment 8: The Department failed to use evidence of offers for sale in the home market, contrary to the express language in section 773(a)(1)(A) of the Tariff Act and the substantial evidence in the record. SCM argues that the structure and language of section 773 requires the Department to use offers to sell ahead of third-country prices or constructed value in determining foreign market value. Further, with respect to Nakajima, SCM supplied advertisements which SCM argues demonstrate that Nakajima made offers for sale in the home market within the meaning of the statute.

Department's Position: Since Brother Industries and Silver Seiko had adequate actual home market sales, the issue does not apply to them for this review. SCM focuses on Nakajima, where the Department used third-country sales as the basis for foreign market value. It is our practice to use, in the absence of sufficient home market sales, actual third-country sales rather than offers for sale in the home market. We agree with SCM that the statute and Congress showed a propensity to use the exporter's home market as the basis for foreign market value, but we disagree with SCM's argument that offers for sale is the congressionally preferred basis in all cases. In the cases where the Department has used offers for sale (*see e.g.,* "Preliminary Results of Administrative Review of Antidumping Finding" concerning *Pig Iron from Canada,* 47 FR 21908–9) the affected firms had sufficient sales in the home market to justify the use of the home market under section 773(a)(1) of the

Tariff Act and § 353.4 of the Commerce Regulations. The firms sold from a price list and the Department was able to demonstrate that the firms adhered to the price list. Certain items on the price list were not sold in the home market and for those particular items the Department used the price list as a valid offer. Such is not the case with Nakajima. Nakajima had insufficient sales of the group of such or similar merchandise to justify any use of the home market. Nakajima also explained that the majority of the advertisements submitted as evidence by SCM were designed for third countries and that the remaining examples were also created and used by parties having no ties to Nakajima. Therefore, the Department maintains that, for Nakajima, its use of actual third-country sales is the preferable basis for foreign market value.

Silver Seiko Ltd. and Silver Reed America

SCM's Comments

Comment 9: The Department should allocate trade show expenses incurred by Silver Reed on a PET model-by-model basis, rather than using the ratio of PET sales to total sales, since trade shows are often limited to promoting certain products.

Department's Position: In calculating Silver Reed's indirect selling expenses, we verified its trade show expenses and found that it did not maintain its records on a model-by-model basis. Further, we conclude that trade shows promote not only particular products but also a company name. Therefore, the allocation of these expenses uniformly over all products is justified.

Comment 10: Department did not adequately investigate information presented by SCM that Silver Reed double invoiced certain sales. SCM argues that we should use best information for Silver Reed since we cannot be certain that a company engaged in keeping two sets of books, for whatever purpose, can be deemed capable of submitting reliable information. Further, the information used to allocate expenses might be based on the lower unreported prices which would seriously understate the ratio of PET sales of total sales.

Department's Position: Silver Reed presented an adequate explanation of the instances in which it double invoices shipments and stated that the practice does not pertain to its sales of PETs. The Department as part of its verification reconciled Silver Reed's reported sales values and selling expense information to its financial statements and found no discrepancies. We have been unable to determine the author of SCM's information. Therefore, we have been unable to explore further in this review the question of double invoicing of PETs. We found no justification for using best information.

Comment 11: The Department should allocate warranty expenses incurred by Silver Reed on a model-by-model basis. SCM presented several examples of warranty return shipments which were related to specific models of PETs.

Department's Position: The Department verified that, because the expenses are small, Silver Reed does not maintain records of its warranty expenses on a model-by-model basis. In this instance, the Department considers a uniform method of allocation reasonable.

Comment 12: The Department erroneously allocated Silver Reed's cost of interest equally across all PET sales rather than attributing the interest cost incurred on a particular transaction to that transaction. SCM argues that our methodology dilutes the effect of preferential payment terms on individual transactions; such terms are most commonly provided during three promotional seasons and on large orders, and our methodology reduces the dumping margins on those transactions. SCM alleges that confidential information it provided to us demonstrates that Silver Reed does maintain records on the age of receivables. Accordingly, the Department should apply Silver Reed's cost of money to the age of each receivable and apply the resultant figure to the individual transactions.

Even if the Ddepartment were to continue to apply its averaging methodology, SCM argues that the Department chose an erroneous basis for calculating the ratio of PETs to total products. Rather than calculate the ratio of PET procucts to total Silver Reed products based on inventory values, SCM contends that we should use the ratio of the age of receivables.

Department's Position: The Department verified in detail Silver Reed's interest expense. Silver Reed sells to over 90% of its customers at the same terms of sale, and the reported average terms of sale are significantly lower than the Department's calculated overall percentage deducted from U.S. price. We have examined SCM's evidence in light of our verification of Silver Reed's records and confirm that Silver Reed does not maintain its records on the age of receivables in a manner that allows application of the cost of interest to individual transactions or that permits the calculation of the ratio of the age of PET receivables to the age of total receivables.

The Department calculated the direct selling expense credit adjustment in two segments. We calculated an amount for the expense incurred during the period between resale of the merchandise by Silver Reed and receipt by Silver Seiko of Silver Reed's repayment. (see Comment 13). We added to that figure the expenses for financing the time from the time of repayment to Silver Seiko and the time of payment by Silver Reed's customers. Relying on inventory values to calculate the second number is the only reliable way available to the Department.

Comment 13: While SCM agrees with the Department's decision to deduct an amount from ESP to account for the extended payment terms between Silver Seiko and Silver Reed, SCM argues that the deduction should be on a transaction-by-transaction basis, and that the interest rate should be the short term interest rate faced by Silver Reed in the United States, not the rate facing Silver Seiko in Japan. Further, SCM agrees that the expense incurred during the period between resale of the merchandise by Silver Reed and Silver Seiko's receipt of payment from Silver Reed is a direct expense; however, SCM argues that the Department should relate the payment terms on the shipments to Silver Reed to particular Silver Reed sales and prorate the Silver Seiko interest expenses among those U.S. transactions.

Department's Position: Silver Seiko submitted the information on its shipments to Silver Reed on a shipment-by-shipment basis. We then allocated the expense to the affected Silver Reed sales to its unrelated U.S. customers. We maintain that use of the Japanese rate of interest is correct since Silver Seiko incurred the expense for its subsidiary.

Comment 14: Silver Reed did not allocate to PET sales all of its exchange loss expenses, explaining that Silver Seiko invoices PET shipments to Silver Reed in U.S. dollars. Silver Reed only allocated to PET sales exchange losses through loans from Silver Seiko. SCM claims that in accepting Silver Reed's explanation, the Department misconceives the system used by Silver Seiko to control exchange losses on sales to Silver Reed. Even though Silver Seiko invoices to Silver Reed in dollars, based on the prevailing exchange rates during the period of review, Silver Seiko must have sustained exchange losses on the sales to Silver Reed in 7 of the 12 months. Accordingly, SCM claims that

we should make an upward adjustment to foreign market value to account for Silver Seiko's expenses.

Department's Position: The Department agrees that one or the other of the Silver companies incurred this expense. Lacking any information on Silver Seiko's exchange losses, we based our adjustment on Silver Reed's exchange loss experience on products other than PETs. We deducted the resultant amount from U.S. price as an indirect selling expense.

Comment 15: The Department ignored SCM's confidential evidence that Silver Reed incurred training expenses in its sales of PETs, and instead, accepted Silver Reed's unsubstantiated statement that it incurred training expenses only on sales of single element typewriters, not covered by the order.

Department's Position: We are satisfied that Silver Reed recorded the expenses referred to in SCM's data in accounts other than training, and we allocated an appropriate amount to PETs. Therefore, we accept Silver Reed's claim that training expenses are attributable only to single element machines.

Comment 16: The Department failed to verify that Silver Reed provided extended payment terms to customers who pay "on account", which is another avenue of effectively granting discounts. Therefore, SCM claims that we should use best evidence for sales in the United States to customers "on account" absent verification of the payment cycle for such customers.

Department's Position: We recognize that Silver Reed has certain customers that do not pay for individual shipments. We examined Silver Reed's records and found that there is no way to calculate the payment cycle for such customers.

Comment 17: Silver Reed incorrectly disclosed that it incurred no advertising expenses during the period of review. SCM presented evidence that it did, including a spread-sheet tabulation of expenses during a portion of the period and examples of types of advertising. Further, SCM points out that Silver Reed inaugurated a co-op advertising program for all PETs on March 1, 1981. SCM contends that appropriate adjustments must be made for advertising.

Department's Position: The Department made appropriate adjustments for Silver Reed's advertising expenses. Silver Reed did report advertising in its original response; the Department verified the amount and deducted it from U.S. price. However, not all advertising expenses are accounted for in Silver Reed's advertising account. For instance, Silver Reed explained that it prints its own advertising materials and incurs a cost for that printing, which is included in other selling expenses deducted from U.S. price. Silver Reed also stated that it charges its customers for advertising according to a published price list. We made deductions for both. Concerning the co-op advertising, since such advertising did not begin until March 1981, we agree with Silver Reed that it is virtually impossible that the company could have incurred any advertising expense under this program by the end of the review period. In subsequent periods, we will deduct this allowance from the customer accounts that specifically receive it.

Comment 18: The Department incorrectly ignored SCM's evidence that Silver Seiko was likely manipulating the terms of sale and/or prices for non-PET products which it sold to Silver Reed. SCM argues that we are obligated to investigate the domestic industry's evidence concerning the unfair trade practices of its foreign competitors who have already been found guilty of violating the U.S. trade laws.

Department's Position: Subsequent to the hearing, we advised SCM that we found the cited practice also applied to the sale of PETs and that we accounted for it in our calculation of credit and interest expenses.

In its pre-hearing brief, SCM raised additional issues concerning commissions and certain other Silver Reed expenses. SCM argued that we did not obtain additional information on Silver Reed's "neon sign", and it alleged that Silver Reed was giving free PETs on purchases of a predetermined number of other PETs. At the hearing, we clarified that we had adjusted for the commissions and other expenses as SCM indicated we should. Also, we explained that although we did not cover it in our verification report, we did see the "neon sign" and we confirmed that it was only a sign above Silver Reed's office door, not an advertising sign. Subsequent to the hearing, SCM withdrew its allegation on the promotion.

Silver's Comments

Comment 19: The Department errroneously denied Silver Seiko's claim for an adjustment for differences in the quantities produced for sales in the U.S. and Japan. Since home market production runs are much smaller than U.S. production runs, Silver Seiko contends that the per-unit amount of fixed expenses, specifically labor expenses, is much higher on home market sales. Silver Seiko disagrees with the Department's reason for denying the claim, i.e. that the cost adjustments proposed by Silver Seiko were based on Silver Seiko's special time studies and were not substaintiated by Silver Seiko's customary labor cost accounting procedure, the Management Time Method. Silver Seiko argues that the Management Time Method is not applicable to the tasks involved in setting up the production runs because they are unlike the simple and repetitive tasks reliably measured by the Management Time Method. Further, in previous determinations in this case, the Department denied this claim not because its record keeping was inadequate, but because the expense related to overhead costs. Silver Seiko argues that this type of reversal of policy decisions applies the antidumping law as a trap for the unwary, rather than encourages an exporter to make fair pricing decisions.

Department's Position: The Department acknowledges that Silver Seiko sells in smaller quantities in its home market than it does to the United States. However, when we verified the expense, we found that Silver Seiko does not produce for specific orders in the home market but instead produces machines which are then placed in the warehouse. Therefore, we regard these increased per-unit expenses as general overhead costs, as we have done in the past. In denying the claim, we did not rely on inadequate record keeping.

Comment 20: The Department erroneously denied Silver Seiko's claim for an adjustment for differences in level of trade. In its home market, Silver Seiko sells only to retailers, using three market channels, while on certain sales to the U.S. it sells to Olivetti, a wholesaler. Section 353.19 of the Commerce Regulations, permits an adjustment for actual differences in level of trade, to the extent it can be established that the differences in level of trade produce differences in cost. Silver Seiko submits that it has established a reasonable basis for quantifying the differences in cost due to level of trade through its separation of corporate divisions, with one for large Japanese retailers, one for small Japanese retailers, and one for Olivetti.

Department's Position: The Department maintains that Silver Seiko did not adequately demonstrate that the difference in cost between the two markets is due to a difference in level of trade. Moreover, in the final affirmative determination in this case (45 FR 18416–18, March 21, 1980), we stated tht "[s]ince the price comparison was made in both markets using sales to customers who bought in large wholesale

quantities, no adjustment for differences in level of trade is warranted."

Comment 21: In its calculation of the ESP offset, the Department improperly "offset" direct selling expenses in the U.S. against direct selling expenses in the home market, and indirect selling expenses in the U.S. against indirect selling expenses in the home market. Such a calculation represents a change from the Department's prior policy of offsetting all home market expenses by the amount of all selling expenses incurred in the U.S. and contravenes the language in the Commerce Regulations.

Department's Position: We disagree. In accordance with § 353.15(a) of the Commerce Regulations, the Department in purchase price transactions adjusts foreign market value for differences in circumstances of sale that are directly related to the sales in question. In ESP transactions, instead of adjusting foreign market value for the difference between home market and U.S. direct selling expenses, we deduct direct selling expenses from both U.S. price and foreign market value. We then deduct indirect selling expenses on the home market side up to the amount of indirect selling expenses deducted on the U.S. side. If we were to accept Silver Reed's argument, we would in effect be offsetting the U.S. direct selling expenses under both § 353.15(a) *and* (c).

Comment 22: In calculating exporter's sales price, the Department improperly imputed an interest cost to Silver Seiko for the payment terms it grants to Silver Reed. The Department treated part of the imputed cost as an indirect selling expense and part as a direct selling expense. Silver Seiko argues that the imputation of such costs either as direct or indirect selling expenses runs contrary to the clear language (and logic) of the exporter's sales price provision of the Tariff Act, which states that selling expenses incurred in the United States should be deducted in calculating exporter's sales price; Silver Seiko further argues that the practice violates established Department policy against imputed costs. Silver Seiko incurs no actual interest expense in granting extended payment terms to Silver Reed. To be consistent with our positions in the preliminary affirmative determination concerning *Certain Stainless Steel Pipes and Tubes from Japan* (47 FR 37283) and the final affirmative determination concerning *Prestressed Concrete Strand from the United Kingdom* (47 FR 56692), we cannot impute an interest cost where there is no actual experience of cost.

If the Department does impute this cost it should only do so for the time beyond a normal 90 day payment cycle and then only as an indirect selling expense for Silver Reed. Silver Seiko argues that to take as a direct expense the portion of the expense between the time Silver Reed sells the merchandise and the time it pays Silver Seiko only compounds the Department's error and cannot be justified. Silver Seiko provides extended payment terms to permit Silver Reed to finance its inventory, and to a lesser extent, to facilitate general operations. Silver Reed does not pass the extended payment terms on to its U.S. customers and it cannot trace a resale to a shipment. Therefore, Silver Seiko maintains there is simply no direct relationship between payment terms from Silver Seiko and payment terms offered by Silver Reed to its resale customers.

Department's Position: The Department considers the calculated expense between the time Silver Seiko ships the merchandise to the United States and the time Silver Reed sells it to an unrelated U.S. customer as an indirect selling expense to be deducted from exporter's sales price. The Department considers the time between Silver Reed's sale and Silver Reed's repayment of Silver Seiko to be a direct selling expense. For both types of expense, the Department imputed values. These are expenses that would have been incurred in the U.S. but for Silver Seiko's action. It is therefore proper under the Tariff Act to impute such a cost and deduct it in calculating ESP. This case is different from those cited by Silver Seiko. In those cases, the Department was stating that it did not need to impute costs because actual cost data existed.

We maintain that, without the first adjustment for the indirect expenses, Silver Reed's selling expenses would improperly exclude any overhead costs for the time the merchandise is in inventory. As for the time prior to Silver Reed's repayment treated as imputed direct expense for Silver Reed, that credit cost is directly related to the sale to the unrelated party.

Brother Industries and Brother International Corporation

SCM's Comments

Comment 23: The Department did not adeqately investigate whether Brother International's reported expenses include "key city" fund expenses. SCM argues that we should have examined Brother International's corporate records to ensure that the companies SCM identified as receiving these grants did in fact and that the amount was correctly deducted from U.S. price.

Department's Position: Brother International explained that key city funds are included in its co-op advertising expenses account. The funds are termed "key city" to designate that the money is provided by the corporate, rather than the regional office. Although we did not look at the specific amounts cited by SCM, we examined certain customer accounts in our verification of the co-op advertising account, including some mentioned by SCM, and we reconciled the total amount to Brother International's financial statements. The customer accounts cited by SCM received large amounts of advertising. We are, therefore, satisfied that we properly deducted the "key city" fund money.

Comment 24: The Department must verify the customer-by-customer advertising information submitted by Brother International. Further, SCM objects to our acceptance and use of the advertising information reported on a computer listing which SCM alleges also calculated the margin for us.

Department's Position: The Department requested this information after conducting two verifications at Brother International's premises. During those verifications, we found no discrepancies in any of Brother International's data, and we decided for this issue that it was unnecessary to undertake a third verification. The Department did not use Brother International's computer generated margin calculations.

Comment 25: SCM presented information that Brother International pays Brother Industries 60–70 days after receipt of the goods. Accordingly, the Department should increase foreign market value by the amount of credit expense absorbed by Brother Industries on its sales of PETs to Brother International.

Department's Position: In its home market, Brother Industries sells to a related Japanese trading company who resells the merchandise to unrelated parties. The Brother trading company also pays Brother Industries within 60–70 days of the receipt of the goods. Therefore, any adjustment for sales to the U.S. would be offset by the terms on the sales in the home market.

Comment 26: The Department should deduct from the individual customer account commissions paid by Brother International to independent representatives rather than allocating them uniformly over all PET sales according to the ratio of PET sales to total sales.

Department's Position: The Department verified that during this review period it is impossible to tie commission amounts to specific transactions or specific customers because Brother International paid its representatives flat fees based on past total sales in the representative's territory. The representatives were not paid on a percentage basis for current sales. Since Brother International has advised us that its current commission schedule is more refined and Brother International now has records tying commissions to individual customer accounts, we will do so in subsequent reviews.

Comment 27: The Department should apply cash discounts, freight overbilling expenses, and bad debt charges to individual sales rather than allocating uniformly over all PET sales according to the ratio of PET sales to total sales. In each instance, if the expenses cannot be linked to a particular sale, they should be tied to the individual customer accounts.

Department's Position: The Department verified that these categories of expenses are not tied to individual transactions or to individual accounts. They are general expense categories maintained to account for small discrepancies in billing and payment.

Comment 28: The Department should require Brother International to submit transaction- or customer account-specific overbilling expenses. If Brother International does not, the Department should use the best information available and attribute overbilling charges, in the amounts suggested by SCM, to all sales to Montgomery Ward, the only customer SCM claims receives the repayment.

Department's Position: Brother International stated that it did not offer the overbilling service only to Montgomery Ward, but also offered it to its East Coast customers. We have asked for and received account-by-account information and have recalculated accordingly.

Comment 29: The Department should investigate which expenses, if any, Brother International incurs for Brother Industries on purchase price transactions, and if any, should deduct them from U.S. price.

Department's Position: In purchase price transactions, Brother International acts as an agent for Brother Industries. We determined that Brother International's direct selling expenses also apply to purchase price transactions and we adjusted foreign market value for differences in circumstances of sale based cumulatively on Brother International's and Brother Industries' respective expenses, in accordance with § 353.15 of the Commerce Regulations. Neither the Tariff Act nor the Commerce Regulations provides for adjustment in purchase price transactions for indirect selling expenses.

Comment 30: Brother International's claimed warranty expense does not include warranty repairs performed by its repair department. SCM argues that the Department should reject Brother International's argument against inclusion because the revenues generated from non-warranty work make the department a "separate line of business." Instead, we should make the warranty deduction from U.S. price using the best information available, *i.e.* the highest percentage warranty costs incurred by other respondents or by SCM.

Department's Position: We agree that Brother International's warranty expense should include an amount from the repair department. For the preliminary results, we deducted an amount based on the repair department's total expenses. Based on clarifying information provided by Brother International after the preliminary results, we have adjusted the amount to reflect only the expenses incurred on machines repaired under warranty. (See Comment 36)

Comment 31: The Department should require Brother International to detail fully its pricing practices with respect to major customer accounts during seasonal promotions.

Department's Position: For this review, we are satisfied that Brother International's prices are net of seasonal promotions. We verified randomly selected individual sales and we reconciled the entire sales and expenses amounts to Brother International's financial statements. We found no discrepancies.

Comment 32: The Department should use U.S. commercial interest rates in computing the interest expense incurred by Brother International on its loans from Brother Industries, rather than the lower Japanese preferential rate.

Department's Position: We disagree. Since the Japanese rate is Brother International's cost of obtaining money, we assume that it is the expense built into the price and, therefore, the amount that should be deducted from U.S. price.

Comment 33: Accrual advertising expenses incurred by Brother International are direct selling expenses because they are related to particular customer accounts. Accordingly, such expenses should be deducted transaction-by-transaction and also should not be included in the ESP offset cap.

Department's Position: The Department properly categorized Brother International's accrual advertising as indirect selling expenses Brother International stated and we verified that it does not buy the ads to promote only typewriters. Rather, this advertising payment is granted to customers who in turn make the decisions as to the substantive nature of the ads, their timing and the media to be used. For Brother International this advertising is done indirectly and represents a general expense of benefit to all of Brother's merchandise. We deducted this expense on a customer-by-customer basis.

Brother's Comments

Comment 34: In its calculations for this review, the Department improperly took into account entries of Brother typewriters with sale dates during this review period but with entry dates which were within the period covered by a review completed in August 1980 under section 736(c) of the Tariff Act. Brother submits that the language in section 736(c) unequivocally defines the universe of entries to be covered in a determination under that provision, and that the Department's early determination notice (45 FR 53853–6, August 13, 1980) stated that it covered "all imports" during the period January 4, 1980 through May 7, 1980. Therefore, Brother argues that we are not only violating the statute but that we are re-examining in this review certain entries which were included in the prior review.

Department's Position: Brother International did not sell some of the entered merchandise until this review period. Brother's inventory system allows the Department to trace a resale to an individual shipment. Since the sales occurred in the current review period, we have properly included the merchandise in this section 751 review.

Comment 35: The Department arbitrarily and improperly changed the method of allocating Brother International's cooperative/accrual advertising. In three previous determinations, the Department allocated such expenses to all PET models; without confessing error, therefore, the Department cannot argue that allocation to all PET models is unreasonable. Section 751 reviews are compliance proceedings; Brother International complied with previously accepted methods. To change the allocation method to a customer-by-customer basis, as we did in this review, must be considered arbitrary and

capricious administration of the law. Brother International contends that any such change should be prospective, not retroactive.

Department's Position: Until we received information from SCM, we were not aware that only a small percentage of Brother International's customers actually received an advertising allowance. Since customer-by-customer information is available (and to do otherwise would distort U.S. price for individual customers), we maintain that the change in method of allocation from earlier determinations is justified and that our action is not arbitrary or capricious. We assert that in each review we must allocate expenses in the best manner possible.

Comment 36: The Department improperly deducted too much warranty expense from U.S. price because the amount deducted included both warranty and out-of-warranty repairs for Brother International's customers. After publication of the preliminary results, Brother International submitted clarifying data, segregating from total repair expenses an amount for PETs covered by warranty.

Department's Position: In calculating the preliminary results, we realized that the deducted warranty expense included an amount for out-of-warranty repairs. However, we believed that Brother International could not provide us with a further breakout of the repair department's expenses. Since we invited the supplemental submission and the information clarifies the warranty expense, we have accepted it and recalculated the results.

Nakajima All Co., Ltd.

SCM's Comments

Comment 37: The Department erroneously determined that Nakajima, in its sales to third countries during the review period, did not sell below its cost of production. Based on a market research study, SCM argues that Nakajima's reported cost of materials, labor and certain other cost items are understated. SCM suggests that Nakajima's cost of purchased parts might cover only the labor involved in assembly by Nakajima of the parts, or that the records examined by the Department at verification were not records of arms-length business transactions. Concerning labor, SCM points out that Nakajima's reported labor costs may include only the labor incurred in finishing the final assembly process, omitting labor at earlier stages of assembly and manufacture. Further, SCM disagrees with Nakajima's reported percentages of direct production workers.

If the Department uses the percentage provided in the market research report, the overall unit labor costs will be much closer to the amounts cited in the report and much higher than the Department's calculated amount. Finally, SCM speculates, based on its information, that related parties in the home market might be incurring research and development costs for Nakajima and that the rent reported for buildings and land might be understated because Nakajima rents from major stockholders.

Department's Position: SCM did not adequately comply with the Department's request for proper source and background information for the market research report. Therefore, we did not conduct a further investigation of Nakajima's cost of production. Moreover, we maintain that we conducted a thorough verification of all elements of Nakajima's cost of production and are satisfied that all appropriate costs are included. The verified cost of purchased parts included material and labor, and were arms-length transactions. We verified that the labor costs were for all steps of the Nakajima production process. We did not accept Nakajima's reported method of allocating indirect labor, thereby increasing the overall unit labor costs. Concerning SCM's allegation that related parties incurred certain expenses, we did not pursue this issue again because of difficulties with the market research report.

Comment 38: The Department, having found the Japanese market viable with respect to Brother Industries and Silver Seiko, and having evidence of sales to unrelated parties in Japan by Nakajima and of resale advertising in Japan of Nakajima PETs, cannot single out Nakajima's home market sales and inflexibly apply section 353.4 of the Commerce Regulations. SCM submits that the Department should use home market sales for Nakajima's PETs, where available, and otherwise, use offers for sale.

Department's Position: The Department's use of third-country sales for foreign market value is in accordance with section 353.4 of the Commerce Regulations. That section does not allow the Department to use other manufacturer's sales activity in determining viability. It requires the Department to compare the quantity "of such or similar merchandise sold for consumption in the country of exportation" with that sold for exportation to countries other than the U.S. Section 771(16) of the Tariff Act defines "such or similar merchandise" as that made by the same person. Nakajima's sales in the home market compared to its sales for exportation to countries other than the U.S. were well below the Department's benchmark of 5 percent. With regard to our use of offers, see Comment 8. We maintain that the correct basis for foreign market value for Nakajima is third-country sales.

Comment 39: To enable SCM to fully participate in the investigation of Nakajima's cost of production, the Department should provide the confidential exhibits to its verification report to counsel for SCM under the terms of the administrative protective order concerning release of the verification report itself.

Department's Position: We maintain that the information released to counsel for SCM under the administrative protective order allows full participation in the investigation of Nakajima's cost of production. Counsel for SCM received the cost of production calculations for each of the models, the Department's verification report, which detailed how Nakajima derived its cost figures and the Department's adjustments to Nakajima's calculations. We find no basis to deviate from our established administrative practice of not releasing under an administrative protective order confidential exhibits to verification reports.

Nakajima's Comments

Comment 40: In accordance with section 353.20 of the Commerce Regulations, for four of the five models sold to the U.S., the Department should use a weighted-average price in West Germany as the basis for foreign market value, rather than individual sales, since the prices varied. For the remaining model, instead of comparing U.S. sales to sales in a different third country, we should use the one sale to a purchaser in West Germany, since the sale to that purchaser constituted 86 percent of all sales of that model to third countries.

Department's Position: As stated in Comment 1, we use weighted-average prices for foreign market value when significant numbers of sales exist. Such is not the case with Nakajima's sales to West Germany. The number of sales of all five models totalled less than 100. Concerning the fifth model, the sale in West Germany suggested by Nakajima was not contemporaneous with the sale to the U.S.

Comment 41: The Department cannot lawfully assess antidumping duties on entries for which there is a *de minimis* margin.

Department's Position: As stated here under *Final Results of the Review* "the Department intends to instruct the Customs Service to assess antidumping duties on *all* appropriate entries." (Emphasis added). We do not believe that the *de minimis* benchmark for waiver of the cash deposit of estimated antidumping duties must also apply to the assessment of antidumping duties. We maintain that we are required to instruct Customs to collect all actual dumping duties regardless of the amount. Unlike the situation in countervailing duty cases, where the Department calculates one uniform assessment rate for all entries, the Tariff Act here directs us to calculate margins and assess duties for each entry separately.

Final Results of the Review

Based on our analysis of the comments received and the correction of certain mathematical errors, the margins for all three exporters have changed from those presented in our preliminary results of review. As a result of our review we determine that the following weighted-average margins exist:

Exporter	Time period	Margin (percent)
Brother Industries, Ltd.	4/21/80–5/20/81	1.1
Nakajima All Co., Ltd.	5/1/80–4/30/81	0.17
Silver Seiko, Ltd.	4/1/80–3/31/81	3.8

The Department intends to instruct the Customs Service to assess antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above.

Further, as provided for by § 353.48(b) of the Commerce Regulations, the Department intends to instruct the Customs Service to collect a cash deposit of estimated antidumping duties, based on the above margins, on all shipments of Japanese portable electric typewriters from those firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice.

Because the weighted-average for Nakajima All Co., Ltd. is less than 0.5 percent, and therefore *de minimus* for cash deposit purposes, the Department waives the deposit requirement for shipments from that firm. For any future shipment from a new exporter not covered in this or prior reviews, whose first shipments occurred on or after May 20, 1981 and who is unrelated to any reviewed firm, a cash deposit of 3.8 percent shall be required. These deposit requirements and waiver shall remain in effect until publication of the final results of the next administrative review. The Department intends to immediately begin the next administrative review.

The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information during the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Dated: August 31, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-24702 Filed 9-8-83; 8:45 am]
BILLING CODE 3510-25-M

[A-122-040]

Steel Reinforcing Bars From Canada; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review of antidumping finding.

SUMMARY: On May 17, 1983, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on steel reinforcing bars from Canada. The review covered the only manufacturer covered by the finding, Western Canada Steel Limited, and the two other known exporters to the United States of this merchandise manufactured by Western Canada Steel Limited. The review period is April 1, 1981 through March 31, 1982.

Interested parties were given an opportunity to submit oral or written comments on the preliminary results. We received no comments. Based on our analysis, the final results of review are unchanged from those presented in the preliminary results of review.

EFFECTIVE DATE: September 9, 1983.

FOR FURTHER INFORMATION CONTACT: Cynthia C. Connell or David R. Chapman, Office of Compliance, International Trade Administration, Department of Commerce, Washington, D.C. 20230, telephone: (202) 377–2923.

SUPPLEMENTARY INFORMATION:

Background

On May 17, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 22178–9) the preliminary results of its last administrative review of the antidumping finding on steel reinforcing bars from Canada (29 FR 5341–2, April 21, 1964). The Department has now completed that review.

Scope of the Review

Imports covered by the review are shipments of steel reinforcing bars from Canada, manufactured by Western Canada Steel Limited, currently classifiable under items 606.7900 and 606.8100 of the Tariff Schedules of the United States Annotated.

The review covers the only manufacturer covered by the finding, Western Canada Steel Limited, and the two other known exporters to the United States of Canadian steel reinforcing bars manufactured by Western Canada Steel Limited. The review period is April 1, 1981 through March 31, 1982.

Final Results of the Review

Interested parties were invited to comment on the preliminary results. The Department received no comments or requests for a hearing. Based on our analysis, the final results of the review are the same as those presented in the preliminary results and we determine that the following margins exist for the period April 1, 1981 through March 31, 1982:

Manufacturer/exporter	Margin (percent)
Western Canada Steel Limited	6.40
Western Canada Steel Limited/Rhodes Vaughan & Co., Ltd	[1]6.40
Western Canada Steel Limited/Russelsteel Limited	[1]6.40

[1] No shipments during the period.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all appropriate entries with purchase dates during the time period involved. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided for in § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties of 6.40 percent shall be required on all shipments of Canadian steel reinforcing bars manufactured by Western Canada Steel Limited entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of our next administrative review. The Department intends to begin immediately the next administrative

review. The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information during the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Dated: August 31, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-24705 Filed 9-8-83; 8:45 am]

BILLING CODE 3510-25-M

[A-401-601]

Animal Glue and Inedible Gelatin From Sweden; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of Administrative Review of Antidumping Finding.

SUMMARY: On August 17, 1981, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on animal glue and inedible gelatin from Sweden. The review covers the one known exporter of this merchandise to the United States, Extraco AB, and the period June 1, 1978 through November 30, 1980.

Interested parties were given an opportunity to submit oral or written comments on these preliminary results. At the request of three of the petitioners, we held a public hearing on October 16, 1981. After analysis of the comments received and Extraco's failure to provide additional information, we have changed the margin from that contained in our preliminary results of review.

EFFECTIVE DATE: September 9, 1983.

FOR FURTHER INFORMATION CONTACT: Linda L. Pasden or Susan Crawford, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-5255/1130.

SUPPLEMENTARY INFORMATION:

Background

On December 22, 1977, a dumping finding with respect to animal glue and inedible gelatin from Sweden was published in the **Federal Register** as Treasury Decision 78-4 (42 FR 64116-7). On August 17, 1981, the Department of Commerce ("the Department") published in the **Federal Register** (46 FR 41540-1) the preliminary results of its first administrative review of the finding. The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of animal glue and inedible gelatin, of which there are two principal types, hide glue and bone glue. Animal glue is an organic colloid of protein derivation. There is no significant difference between animal glue and inedible gelatin. Animal glues are odorless, dry, hard, hornlike materials. They are used as general purpose adhesives in industries producing abrasives, paper containers, book and magazine bindings, and leather goods. They are also used as sizing agents and as colloids in emulsions and cleaning compounds. Animal glue and inedible gelatin are currently classifiable under items 455.4000 and 455.4200 of the Tariff Schedules of the United States Annotated. The review covers the one known exporter of this merchandise to the United States, Extraco AB, and the period from June 1, 1978 through November 30, 1980.

Analysis of Comments Received

Interested parties were given an opportunity to submit oral or written comments on the preliminary results. At the request of three of the petitioners, Peter Cooper Corporation, Hudson Industries, and Eschem, Inc., the Department held a hearing on October 16, 1981.

(1) *Comment*: The petitioners argue that the letter and spirit of title VII of the Tariff Act of 1930 ("the Tariff Act") and its legislative history require the Department to verify all information used in section 751 reviews.

Department's Position: The Department maintains that it has discretion in section 751 administrative reviews to determine on a case-by-case basis what factual elements warrant verification. (See, e.g., "Final Results of Administrative Review of Antidumping Finding" with regard to animal glue from Yugoslavia (47 FR 42768)). The Department did in fact verify information for the latter part of the review period.

(2) *Comment*: The petitioners allege that home market sales of three grades (collexes 14, 18, and 22) were not made in the ordinary course of trade but were made to create a fictitious market, within the meaning of section 773(a) of the Tariff Act.

Department's Position: Based on Extraco's failure to provide home market sales data for similar merchandise, we cannot resolve the petitioners' allegation that home market sales of the three grades were not in the ordinary course of trade. As a result, we have used the best information available to determine the assessment and estimated duty cash deposit rate. The best information available is Extraco's fair value rate.

(3) *Comment*: The petitioners argue that, because of product interchangeability, our comparison of identical merchandise in the two markets is inappropriate. They also request the Department to investigate further Extraco's U.S. sales to determine if those sales were in fact of the grades Extraco reported.

Department's Position: The petitioners' comment with regard to interchangeability is mooted by the Department's use of the best information otherwise available. With regard to questions about the reported grades, the Department has no reason to suspect that the collexes as imported were other than the reported collexes 14, 18, and 22. The unrelated importer provided evidence that it has been importing some of these same collexes from other countries since before the original fair value investigation.

(4) *Comment:* The petitioners request that the Department make an adjustment for differences in credit terms.

Department's Position: The petitioners' request is mooted by the Department's use of the best information otherwise available.

(5) *Comment:* The petitioners argue that the Department erred in using, for comparison with U.S. sales, home market sales which were made on dates not contemporaneous in time to the U.S. sale dates. Instead, the Department should consider information on offers for sale in Sweden of the grades in question, sales to third countries, or the use of constructed value in determining foreign market value.

Department's Position: The petitioners' comment is mooted by the Department's use of the best information otherwise available.

Final Results of the Review

After analysis of the comments received, the margin for Extraco has changed from that presented in our preliminary results of review. We determine that the following margin exists:

Exporter	Time period	Margin (percent)
Exreco AB	6/01/78–11/30/80	92.72

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries made with purchase dates during the time period involved. The Department will issue assessment instructions directly to the Customs Service.

Further, as provided for by § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties of 92.72 percent shall be required on all shipments of Swedish animal glue and inedible gelatin entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review. The Department is currently conducting the next administrative review. The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information during the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

September 1, 1983.

[FR Doc. 83-24707 Filed 9-8-83; 8:45 am]

BILLING CODE 3510-25-M

[C-469-035]

Vitamin K From Spain; Preliminary Results of Administrative Review of Countervail Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of countervailing duty order.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on vitamin K from Spain. The review covers the period January 1, 1982 through December 31, 1982. As a result of the review, the Department has preliminarily determined the net subsidy to be 2.51 percent *ad valorem* for the period of review. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: September 9, 1983.

FOR FURTHER INFORMATION CONTACT: Bernard Carreau or Joseph Black, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On March 4, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 9327) the final results of its last administrative review of the countervailing duty order on vitamin K from Spain (41 FR 50419, November 16, 1976) and announced its intent to conduct the next administrative review by the end of November, 1983. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of Spanish vitamin K, commercially known as menadione sodium bisulfite. Such merchandise is currently classifiable under item 412.6420 of the Tariff Schedules of the United States Annotated.

The review covers the period January 1, 1982 through December 31, 1982, and two programs: (1) A rebate of indirect taxes upon exportation, under the Desgravacion Fiscal a la Exportacion ("the DFE"), and (2) an operating capital loans program.

Analysis of Programs

(1) *Desgravacion Fiscal a la Exportacion.* Spain employs a cascading tax system. Under this system, the government levies a turnover tax ("IGTE") on each sale of a product through its various stages of production, up to (but not including) the final sale in Spain. Upon exportation of the product, the government, under the DFE, rebates both these accumulated IGTE indirect taxes and certain final stage taxes.

Although the Spanish government rebates upon exportation all indirect taxes paid under the cascading tax system, the Tariff Act and the Commerce Regulations allow the rebate of only the following: (1) Indirect taxes borne by inputs which are physically incorporated in the exported product (see Annex 1.1 of part 355 of the Commerce Regulations); and (2) indirect taxes levied at the final stage (see Annex 1.2 of part 355 of the Commerce Regulations). If the payment upon export exceeds the total amount of allowable indirect taxes described above, the Department considers the difference to be an overrebate of indirect taxes and, therefore, a subsidy.

The Spanish government provided no response to our questionnaire. We have therefore used, as the best information available, the physically incorporated inputs and the parafiscal tax on export licenses allowed by the Department in the last review to determine the incidence of rebatable indirect taxes borne by this product.

As of January 1, 1982, the Spanish government increased the IGTE rate from 3.80 percent to 4.60 percent, while maintaining the previous rate for the export rebate. We concluded in our last review that an earlier increase in the IGTE rate had eliminated the overrebate previously found countervailable. Based on our analysis of the indirect taxes on physically incorporated inputs and the parafiscal tax on vitamin K, we preliminarily find that the additional change in the IGTE rate for 1982 continues to eliminate that overrebate. Therefore, we preliminarily determine the net subsidy attributable to this program during the period of review to be zero percent.

(2) *Operating Capital Loans.* The Spanish government requires banks to set aside funds to provide short-term operating capital loans. These loans are granted for a period of less than one year. For 1982, the Spanish government fixed the interest rate for such loans at 10 percent. To determine the interest rate on comparable commercial loans, we took the average national prime interest rate for loans of comparable length, added the prevailing interest charge over prime facing borrowers of average creditworthiness and added the legally established fees and commissions. Comparing this benchmark with the 10 percent interest rate established for the operating capital loans program, we found a differential of 9.38 percent during the period of review.

The maximum loan principal available to a given exporter is determined as a percentage of the firm's previous year's exports. This amount may be increased by 10 percent if the firm has a government-issued Exporter's Card. We are assuming that exporters of vitamin K have such a card, so that the maximum eligibility until April 18, 1982 was 28 percent. On April 19, 1982, the Spanish government decreased the maximum eligibility (including Exporter's Card eligibility) to 26.25 percent. Because we have no information on actual utilization of this

program, we assumed that the maximum allowable amount was borrowed. After prorating for the interest rate differentials and eligibility levels prevailing in 1982, we preliminarily determine the net subsidy conferred under this program to be 2.51 percent *ad valorem* for 1982.

Effective January 1, 1983, the Spanish government further reduced the maximum percentage of eligibility for operating capital loans to 17.5 percent. As a result, using the same methodology and the interest rate differential for 1982 as the most recent information available, we preliminarily determine, for purposes of cash deposits of estimated countervailing duties, that the net subsidy currently attributable to this program is 1.64 percent *ad valorem.*

Preliminary Results of the Review

As a result of the review, we preliminarily determine that the aggregate net subsidy conferred by the two programs is 2.51 percent *ad valorem* during 1982. Accordingly, the Department intends to instruct the Customs Service to assess countervailing duties of 2.51 percent of the f.o.b. invoice price on all shipments of Spanish vitamin K exported on or after January 1, 1982 and entered, or withdrawn from warehouse, for consumption on or before June 20, 1982.

On June 21, 1982, the International Trade Commission ("the ITC") notified the Department that the Spanish government had requested an injury determination for this order under section 104(b) of the Trade Agreements Act of 1979. Should the ITC find that there is material injury or likelihood of material injury to an industry in the United States, the Department will instruct the Customs Service to assess countervailing duties in the amount of the estimated duties required to be deposited on all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after June 21, 1982, and through the date of the ITC's notification to the Department of its determination.

Further, as provided for by section 751(a)(1) of the Tariff Act, the Department intends to instruct the Customs Service to collect a cash deposit of estimated countervailing duties of 1.64 percent of the f.o.b. invoice price on all shipments of Spanish vitamin K entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of the current review. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of issues raised in any such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: September 3, 1983.

Alan F. Holmer,

Deputy Assistant Secretary Import Administration.

[FR Doc. 83-24708 Filed 9-8-83; 8:45 am]
BILLING CODE 3510-25-M

Postponement of Final Determination; Potassium Permanganate From the People's Republic of China

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of postponement of final antidumping determination: potassium permanganate from the People's Republic of China.

SUMMARY: This notice informs the public that the Department of Commerce (the Department) has received a request from the China National Chemicals Import and Export Corporation (SINOCHEM) that the final determination be postponed until not later than 105 days after the date of publication of the preliminary determination, as provided for in section 735(a)(2)(A) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673d(a)(2)(A)); and, that the Department has determined to postpone its final determination as to whether sales of potassium permanganate from the People's Republic of China have occurred at less than fair value, until not later than November 22, 1983. SINOCHEM is qualified to make this request since it is the exporter who accounts for virtually all of the merchandise which is the subject of the investigation. The additional time is necessary to obtain information requested by the Department. We have considered the positions presented by all parties to the investigation regarding postponement of the final determination and have determined that the additional time is necessary.

EFFECTIVE DATE: September 9, 1983.

FOR FURTHER INFORMATION CONTACT: John Brinkmann, Jr., Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone (202) 377-4929.

SUPPLEMENTARY INFORMATION: On March 18, 1983, the Department of Commerce published a notice in the **Federal Register** (48 FR 11482) that it was initiating under section 732(b) of the Act (19 U.S.C. 1673a(b)), an antidumping investigation to determine whether potassium permanganate from the People's Republic of China is being, or is likely to be, sold at less than fair value. The Department published an affirmative preliminary determination on August 9, 1983 (48 FR 36175). The notice stated that if this investigation proceeded normally we would make a final determination by October 17, 1983. Section 735(a)(2) of the Act provides that the Department of Commerce may postpone its final determination concerning sales at less than fair value if exporters who account for a significant proportion of the merchandise which is the subject of the investigation request an extension after an affirmative preliminary determination.

Accordingly, the Department will issue a final determination in this case not later than November 22, 1983.

This notice is published pursuant to section 735(d) of the Act.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

August 31, 1983.

[FR Doc. 83-24699 Filed 9-8-83; 8:45 am]
BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Federal Consistency Appeal by Exxon Company U.S.A. From California Coastal Commission Objection

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of appeal.

SUMMARY: On August 26, 1983, the Secretary of Commerce received an appeal by the Exxon Company, U.S.A.

(Exxon) from an objection by the California Coastal Commission to Exxon's certification that the proposed drilling of a maximum of three wells on the southwest one-quarter of lease OCS–P 0467 as stated in Exxon's Outer Continental Shelf Oil and Gas Exploration Plan for the Santa Rosa Unit in the Santa Barbara Channel is consistent with the California Coastal Management Program. This appeal has been filed pursuant to Section 307(c)(3)(A) and (B) of the Coastal Zone Management Act of 1972, as amended (CZMA), 16 U.S.C. 1456(c)(3)(A) and (B), and implementing regulations at 15 CFR Part 930 Subpart H.

Interested persons are advised that they may submit comments to the Secretary of Commerce (Secretary) on the issues raised in this appeal within 30 days from the date of publication of this notice. Comments should be sent to: Peter L. Tweedt, Director, Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration, Department of Commerce, 3300 Whitehaven Street, N.W., Washington, D.C. 20235.

Copies of comments should also be sent to the following persons:

1. James C. Dale, Exxon Company U.S.A., P.O. Box 4279, Houston, Texas 77001.

2. Tim Eichenberg, California Coastal Commission, 631 Howard St., San Francisco, CA 94105.

3. William Grant, Minerals Management Service, Pcific OCS Region, 1340 W. 6th St., Los Angeles, CA 90017.

Comments should address whether Exxon's proposed exploratory drilling complies with the regulatory criteria, as set forth in 15 CFR 930.121 and 930.122, to be considered by the Secretary in deciding whether to override the objection of the California Coastal Commission under Secton 307(c)(3)(A) and (B) of the CZMA.

It is NOAA's intention to hold a public hearing in Santa Barbara, at sòme future date, for the purpose of receiving additional comments from interested persons and organizations on the issues raised by this appeal. Notice of the date and location of the public hearing will be published pursuant to 15 CFR 930.129.

Access to Exxon's Notice of Appeal and accompanying public information, and to the public information contained in comments submitted by Federal and State agencies, will be available to the public at the following State and Federal offices during normal working hours:

1. California Coastal Commission, 631 Howard Street, 4th Floor, San Francisco, California 94105.

2. Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration, Department of Commerce, Room 328A, 3300 Whitehaven Street, N.W., Washington, D.C. 20235.

A copy of Exxon's notice of appeal and supporting information is also available at the Santa Barbara Public Library, 40 E. Anapamu, Santa Barbara, California 93101; and the Minerals Management Service, Pacific OCS Region, Public Information Room, 1340 W. 6th St., Los Angeles, California 90017.

FOR FURTHER INFORMATION CONTACT: Bernard Cody, Attorney Advisor, Office of the General Counsel for Ocean Services (202–254–7512) or Nan Evans, Policy Coordination Division (202–634–4249).

SUPPLEMENTARY INFORMATION: Exxon is the operator for the exploration of crude oil and gas reserves in the southwest one-quarter of lease OCS–P 0467 in the Santa Rosa Unit on the Federal Outer Continental Shelf (OCS) in the Santa Barbara Channel. On February 4, 1983, Exxon submitted an Exploration Plan for the lease to the Minerals Management Service of the Department of the Interior which contained applications for the Department of the Interior's permits to drill, deepen or plug. Exxon estimates that recoverable gas reserves could be in the range of 272 billion cubic feet of natural gas and that there may be recoverable oil reserves of 35 million barrels of crude oil.

On July 27, 1983, the California Coastal Commission (CCC) objected to Exxon's consistency certification for the proposed drilling of a maximum of three wells on the southwest one-quarter of Lease OCS–P 0467. The CCC's objection was based on its assessment that the drilling of these wells fails to comply with Sections 30230, 30231, 30232, 30250(a) and 30260 of the California Coastal Act.

Exxon appealed to the Secretary of Commerce on August 26, 1983, to override the objections of the CCC to the proposed exploratory drilling operations. NOAA regulations, at 15 CFR 930 Subpart H, authorize the Secretary to find that a Federal license or permit activity described in detail in an OCS plan, which has been found by a State to be inconsistent with its federally approved coastal zone management program, may nevertheless be permitted if the activity meets one of two tests. To meet the first test, four criteria must be satisfied: (a) the activity furthers one or more of the competing national objectives or purposes contained in Sections 302 or 303 of the CZMA; (b) when performed separately or when its cumulative effects are considered, the activity will not cause adverse effects on the natural resources of the coastal zone substantial enough to outweigh its contribution to the national interest; (c) the activity will not violate any requirements of the Clean Air Act, as amended, or the Clean Water Act, as amended; and (d) there is no reasonable alternative available which would permit the activity to be conducted in a manner consistent with the State management program. To meet the second test, the Secretary must find that a national defense or other national security interest would be significantly impaired if the activity were not permitted to go forward as proposed.

If the Secretary does not find that the activity meets either of these two tests, the Federal agency shall not approve the activity.

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Administration)

Dated: September 7, 1983.

K. E. Taggart,

Assistant Administrator, National Ocean Service.

[FR Doc. 83–24846 Filed 9–8–83; 9:32 am]

BILLING CODE 3510–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on Supercomputer Applications: Advisory Committee Meeting

The Defense Science Board Task Force on Supercomputer Applications will meet in closed session on 28 October 1983 in DARPA Headquarters, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

At the meeting on 28 October 1983, the Task Force will conduct a review of the Defense Department's program to apply emerging capacity of computers to contribute to military programs and issues. It will attempt to identify areas where the expected many orders of magnitude improvement in computing power can be of aid to the defense establishment.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C.

App. I, (1976)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly these meetings will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Service, Department of Defense.

September 6, 1983.

[FR Doc. 83-24680 Filed 9-8-83; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army, Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement for a Proposed Maintenance Dredging of the Narrows of Lake Champlain Federal Navigation Channel

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a Draft Supplemental Revised Environmental Impact Statement.

SUMMARY: 1. Description of Proposed Action. Maintenance dredging of a 12 foot deep, 200 foot wide, 13.5 mile long federal navigation channel from Whitehall, N.Y. to Benson Landing, Vermont. Priority dredging reaches have been described in a Corps study entitled "Disposal Site screening for the Narrows of Lake Champlain", a copy of which may be obtained by contacting the EIS coordinator. The EIS will be generic in nature (discuss general impacts) and will be followed by site specific Environmental Assessments for each proposed action. A ten year management plan for proposed actions will also be developed.

2. Reasonable Alternatives: No action, upland disposal, in water disposal, wetland disposal, habitat creation, beneficial uses of dredging material.

3. Scoping Process.

a. Public Involvement. Environmental Assessments were prepared for specific jobs in 1974 and 1977. Federal, State and local agencies have been canvassed for environmental concerns and potential disposal site-selection process developed with their review and input. Preliminary scope of work for EIS will be sent to each agency and all individuals on local mailing lists. The scope will be modified to reflect comments of reviewers; a public scoping meeting will be held prior to finalization to facilitate this review. The draft EIS will be circulated to all interested individuals for review and comment.

b. Significant Issues Requiring In-depth Analysis:

Dredging and disposal impacts to water quality. Ten year management plan and site-specific Environmental Assessments;

Dredging and disposal impacts to fishery and/or wetlands;

Long-term disposal procedures and impacts;

Selection of disposal sites;

Cultural impacts to sites on or eligible for the National Register, and to submerged maritime resources (particularly shipwrecks).

c. Assignments: None anticipated at this time.

d. Environmental review and consultation: Environmental agencies/groups assisted in the development of a screening procedure to locate preferred potential upland disposal sites. Agencies and local groups and citizens have been and will again be canvassed for pertinent data and concerns related to dredging/disposal impacts.

4. Scoping Meeting will ☐* will not ☐ be held.

* Date September 29, 1983, time 7:00 p.m., location Whitehall, NY.

5. Estimate date of statement availability April 1984; Address: Skenesborough Fire Company, Skenesborough Drive.

Project Manager (US Army Corps)
Soon Lew

Attn: NANOP-N
Tel No. (212) 264-0176
EIS Coordinator (US Army Corps)
Robert Will

Attn: NANPL-E
Tel No. (212) 264-4662
US ARMY ENGINEER DISTRICT, NEW YORK
26 Federal Plaza,
New York, N.Y. 10007

Dated: August 29, 1983.

Stanley Fafinski, P.E.,

Acting Chief, Planning Division.

[FR Doc. 83-24679 Filed 9-8-83; 8:45 am]

BILLING CODE 3710-08-M

Department of the Navy

Chief of Naval Operations Executive Panel Advisory Committee, Task Force on the Pacific Basin; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee Task Force on the Pacific Basin will meet on September 26-27, 1983, from 9 a.m. to 5 p.m. each day, at 2000 North Beauregard Street, Alexandria, Virginia. All sessions will be closed to the public.

The entire agenda for the meeting will consist of discussions impacting on United States national security interests and naval strategies in the Pacific and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact Commander R. Robinson Harris, Executive Secretary of the CNO Executive Panel Advisory Committee, 2000 North Beauregard Street, Room 392, Alexandria, Virginia 22311. Phone (703) 756-1205.

Dated: September 7, 1983.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 83-24781 Filed 9-8-83; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF EDUCATION

National Advisory Council on Indian Education; Meeting

AGENCY: National Advisory Council on Indian Education, Department of Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the scheduled and proposed agenda of a forthcoming meeting of the Executive Committee. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend the meeting.

DATES: Executive Committee Meeting: September 27, 1983, 9:00 a.m. to 5:00 p.m.; and, September 28, 1983, 9:00 a.m. to 5:00 p.m.

ADDRESS: Howard Johnson's Motor Lodge, 225 E. Apache Blvd. Tempe, Arizona 85281 (602/967-9431).

FOR FURTHER INFORMATION CONTACT: Lincoln C. White, Acting Executive Director, National Advisory Council on Indian Education, Pennsylvania Building, Suite 326, 425 13th Street, NW., Washington, D.C. 20004 (202/376-8882).

SUPPLEMENTARY INFORMATION: The National Advisory Council on Indian Education is established under Section 442 of the Indian Education Act (20 U.S.C. 1221g). The Council is established to assist the Secretary in carrying out responsibilities under Section 441(a) of the Indian Education Act (Title IV of Pub. L. 92-318), through advising Congress, the Secretary of Education, the Under Secretary of Education and the Assistant Secretary for Elementary and Secondary Education with regard to programs benefiting Indian children and adults.

The meeting will be open to the public. This meeting will be held at the Howard Johnson's Motor Lodge, 225 E. Apache Blvd., Tempe, Arizona 85281 (602/967-9431).

The proposed agenda includes:

(1) Consultation with Center Four, Title IV, Research and Evaluation Center's Director and staff.

(2) Preparation for Fiscal Year 1984 NACIE budget and Council activities.

(3) Set procedures for preparation of list of nominees for IEP Director's position.

(4) Regular Council business.

Records shall be kept of all Council proceedings and shall be available for public inspection at the office of the National Advisory Council on Indian Education located in the Pennsylvania Building, Suite 326, 425 13th Street, NW., Washington, D.C. 20004.

Dated: September 1, 1983. Signed at Washington, D.C.

Lincoln C. White,

Acting Executive Director—NACIE

[FR Doc. 83-24694 Filed 9-8-83; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. QF83-377-000]

Aquenergy Systems, Inc.—Coneross; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

September 6, 1983.

On August 1, 1983, Aquenergy Systems, Inc., of P.O. Box 8991, Greenville, South Carolina 29604, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations.

The 800 kilowatt hydroelectric project will be located on Coneross Creek near the town of Seneca, Oconee County, South Carolina.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-24716 Filed 9-8-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-705-000]

Central Maine Power Co.; Filing

September 6, 1983.

Take notice that Central Maine Power Company (CMP), on August 25, 1983, tendered for filing as a rate schedule an executed agreement dated as of April 2, 1983 between Central Maine and Central Vermont Public Service Corporation. The proposed rate schedule provides for the sale of interruptible energy by Central Maine to Central Vermont Public Service Corporation.

Central Maine states that a copy of the filing was served on Central Vermont Public Service Corporation and the Maine Public Utilities Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 26, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-24717 Filed 9-8-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-703-000]

Central Maine Power Co.; Filing

September 6, 1983.

Take notice that on August 25, 1983, Central Maine Power Company (CMP) tendered for filing, as a rate schedule, an executed agreement dated as of June 16, 1981 between Central Maine Power Company and the Public Service Company of New Hampshire. The proposed rate schedule provides for the sale of interruptible energy by Central Maine to Public Service.

CMP states that a copy of the filing was served on the Public Service Company of New Hampshire and the Maine Public Utilities Commission.

CMP requests an effective date of June 16, 1981, and therefore requests waiver of the Commission's notice requirements so that CMP and Public Service may fulfill their written agreement. CMP also states that waiver would not affect other utilities since the power and energy was scheduled on a daily basis.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 26, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-24718 Filed 9-8-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-704-000]

Central Maine Power Co.; Filing

September 6, 1983.

Take notice that on August 25, 1983, Central Maine Power Company (CMP), tendered for filing, as a rate schedule, an

executed agreement dated as of June 11, 1983, between Central Maine and the Connecticut Municipal Electric Energy Cooperative. The proposed rate schedule provides for the sale of interruptible enegy by Central Maine to Connecticut Municipal Electric Energy Cooperative.

Central Maine states that a copy of the filing was served on the Connecticut Municipal Electric Energy Cooperative and the Maine Public Utilities Commission.

Central Maine requests that this rate schedule become effective June 11, 1983, and therefore requests waiver of the Commission's notice requirements as allowed by 18 CFR Section 35.11 so that Central Maine and the Connecticut Municipal Electric Energy Cooperative may fulfill their written agreement. Waiver would not affect other utilities since the power and energy was scheduled on a daily basis.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 26, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-24719 Filed 9-8-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-519-001]

Cincinnati Gas & Electric Co.; Compliance

September 6, 1983.

Take Notice that on August 17, 1983, Cincinnati Gas & Electric Company (Cincinnati) in compliance with the Commission's Order of July 19, 1983, submitted for filing its revised tariff sheets and cost of service statements reflecting the exclusion of CWIP in rate base and the deduction of accumulated deferred income taxes related to property tax normalization.

Any person desiring to be heard or to protest said filing should file comments with the Federal Energy Regulatory Commission 825 North Capitol Street, NE., Washington, D.C. 20426, on or before September 23, 1983. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-24720 Filed 9-8-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-700-000]

Cleveland Electric Illuminating Co.; Filing

September 6, 1983.

Take notice that on August 25, 1983, The Cleveland Electric Illuminating Company (CEI) tendered for filing an executed Service Agreement and Exhibits A and B thereto, providing for transmission by CEI of approximately 20 MW of power from the 345 kV interconnection point on CEI's Juniper—Canton Line with the Ohio Power Company to the City of Cleveland, Ohio (City) in accordance with the terms and conditions of CEI's FERC Transmission Service Tariff.

CEI has requested waiver of the FERC's 60-day notice requirements in order to permit commencement of transmission service on August 1, 1983.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before September 26, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-24721 Filed 9-8-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-701-000]

Cleveland Electric Illuminating Co.; Filing

September 6, 1983.

Take notice that on August 25, 1983, The Cleveland Electric Illuminating Company (CEI) tendered for filing an executed Service Agreement and Exhibits A and B thereto, providing for transmission by CEI of approximately 65 MW or power from the 345 kV interconnection point on CEI's Juniper—Canton Line with the Ohio Power Company to the City of Cleveland, Ohio (City) in accordance with the terms and conditions of CEI's FERC Transmission Service Tariff.

CEI has requested waiver of the FERC's 60-day notice requirement in order to permit commencement of transmission service on August 1, 1983.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before September 26, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-24722 Filed 9-8-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-697-000]

Cleveland Electric Illuminating Co.; Filing

September 6, 1983.

Take notice that on August 25, 1983, The Cleveland Electric Illuminating Company (CEI) tendered for filing an executed Service Agreement and Exhibits A and B thereto, providing for transmission by CEI of approximately 5 MW of power from the 345 kv interconnection point on CEI's Juniper-Canton Line with the Ohio Power Company to the City of Cleveland, Ohio (City) in accordance with the terms and conditions of CEI's FERC Transmission Service Tariff.

CEI has requested waiver of the Commission's notice requirement, and therefore requests an effective date of June 22, 1983, concurrent with the commencement of service.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C., 20426, in accordance with Rules

211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before September 26, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available to public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-24723 Filed 9-8-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-599-000]

Cleveland Electric Illuminating Co.; Filing

September 6, 1983.

Take notice that on August 25, 1983, the Cleveland Electric Illuminating Company (CEI) tendered for filing an executed Service Agreement and Exhibits A and B thereto, providing for transmission by CEI of approximately 20 MW of power from the 345 kv interconnection point on CEI's Juniper-Canton Line with the Ohio Power Company to the City of Cleveland, Ohio (City) in accordance with the terms and conditions of CEI's FERC Transmission Service Tariff. Also enclosed was an Agreement for the Wheeling and Purchase of Big Rivers Power, dated July 13, 1983.

CEI has requested waiver of the FERC's 60-day notice requirement in order to permit commencement of transmission service on July 1, 1983.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C., 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before September 26, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-24724 Filed 9-8-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-460-000]

Consolidated Gas Supply Corp. and Texas Eastern Transmission Corp., Application

September 6, 1983.

Take notice that on August 10, 1983, Consolidated Gas Supply Corporation (Consolidated), 445 West Main Street, Clarksburg, West Virginia 26101, and Texas Eastern Transmission Corporation (Texas Eastern), One Houston Center, Houston, Texas 77010, filed in Docket No. CP83-460-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the drilling of one new well and the construction of certain pipeline facilities at Applicants' jointly-owned Oakford Storage Pool in Westmoreland County, Pennsylvania, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants state that inventory data indicate that horizontal gas migration is occurring in the northern end of the Murrysville Sand, the more shallow of the two storage formations at the Oakford Storage Pool. Applicants propose to drill a new well outside the northern boundary of the Oakford Storage Pool and, if the well indicates the presence of storage gas in this area, Applicants propose to connect the well to the storage pipeline system for use as a withdrawal well to recycle any migrated gas. Applicants also propose to connect six existing storage observation wells located in the northern end of the pool (wells Nos. JW-214, -231, -250, -261, -262, and -263) to the sotrage pipeline system for use as withdrawal wells to recycle migrated storage gas.

It is indicated that the estimated cost of the proposals would be $765,000. Consolidated's part would be financed from funds to be obtained from Consolidated's parent, Consolidated Natural Gas Company, or from funds on hand. Texas Eastern's financing would be from funds on hand, borrowing under revolving credit arrangements, or short-term financing. Applicants state that no new sales or services are proposed.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 26, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-24725 Filed 9-8-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-384-000]

Corn Products Corp.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

September 6, 1983.

On August 5, 1983, Corn Products Corp., of 1021 Industrial Drive, Stockton, California 95206, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying facility pursuant to § 292.207 of the Commission's regulations.

The facility will be located at the existing plant. The power production capacity of the facility will be 2,760 kilowatts. The primary energy source will be natural gas.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-24726 Filed 9-8-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-390-000]

Dutchess County Resource Recovery Agency; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

September 6, 1983.

On August 12, 1983, Dutchess County Resource Recovery Agency, of 22 Market Street, Poughkeepsie, New York 12601, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying facility pursuant to § 292.207 of the Commission's regulations.

The facility is located at Sand Dock Road, Poughkeepsie, New York 12601. The primary energy source of the facility is biomass in the form of municipal solid waste. The power production capacity of the facility is 5.6 megawatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C., 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-24727 Filed 9-8-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-461-000]

East Tennessee Natural Gas Co.; Request Under Blanket Authorization

September 6, 1983.

Take notice that on April 11, 1983, East Tennessee Natural Gas Company (East Tennessee), P.O. Box 10245, Knoxville, Tennessee 37919, filed in Docket No. CP83-461-000 a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that East Tennessee proposes to abandon four lateral lines by sale to the customers served by them under authorization issued in Docket No. CP83-412-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

East Tennessee proposes the abandonment of the following facilities:

(1) The Signal Mountain Lateral consisting of 9,010 feet of 4½-inch O.D. pipeline, 1,000 square feet of property, and related facilities downstream of its Signal Mountain delivery station in Hamilton County, Tennessee, by sale to Chattanooga Gas Company.

(2) The Cookeville Low Pressure Lateral consisting of 1,880 feet of 6⅝-inch O.D. pipeline and related facilities downstream of its Cookeville delivery station in Putnam County, Tennessee, by sale to Cookeville Natural Gas System.

(3) The Greeneville Stub Lateral consisting of 4.21 miles of 6⅝-inch O.D. pipeline and related facilities, along with the assignment of right-of-way agreements, downstream of its Greeneville delivery station in Greene County, Tennessee, by sale to Tennessee-Virginia Energy Corporation.

(4) The Knoxville Stub Lateral consisting of 10,948 feet of pipeline and related facilities in Knox County, Tennessee. One thousand three hundred seventy-eight feet of this lateral would be abandoned in place. The remaining 9,570 feet of 3½-inch O.D. pipeline would be abandoned by sale to Knoxville Utilities Board.

It is stated that each of these laterials serves only the customer of East Tennessee which is acquiring it and that each such customer has consented to the abandonment.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-24728 Filed 9-8-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-394-000]

Heber Geothermal Co.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

September 6, 1983.

On August 16, 1983, Heber Geothermal Company (Applicant), of 210 Sixth Avenue, Pittsburgh, Pennsylvania 15222, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The small power production facility will be located near Heber, California. The primary energy source for the facility will be geothermal fluids from underground reservoirs. The spent geothermal fluid will be injected back into the ground. The facility will have a maximum net electric capacity of forty-seven megawatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-24728 Filed 9-8-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-391-000]

Hydraco Power; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

September 6, 1983.

On August 15, 1983, Hydraco Power, of Rt. 2, Box 303 San Marcos, Hays County, Texas 78666, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations.

The 150 kilowatt hydroelectric project will be located on the San Marcos River in the town Martindale, Caldwell County, Texas.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-24730 Filed 9-8-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER76-828-007]

Nantahala Power & Light Co.; Compliance

September 6, 1983.

Take notice that on August 15, 1983, Nantahala Power & Light Company (Nantahala), submitted for filing revised tariff sheets, pursuant to a Commission Letter Order dated July 12, 1983, supporting workpapers reflecting the requested revision to the allocation of the elimination of the restatement of wartime depreciation.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before September 23, 1983. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-24710 Filed 9-8-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-393-000]

Northern Natural Gas Company, Division of InterNorth, Inc.; Application

September 6, 1983.

Take notice that on June 29, 1983, Nothern Natural Gas Company, Division of InterNorth, Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP83-393-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain pipeline and related facilities in the Matagorda Island Area, offshore Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northern proposes to construct and operate approximately 8.5 miles of 20-inch pipeline, 2.2 miles of 10-inch pipeline, and associated metering and appurtenances adjacent to and connecting with the Matagorda Offshore Pipeline System in the Matagorda Island Area, offshore Texas. Northern states that the proposed facilities would provide transportation for Matagorda Island Blocks 701, 703, 712, and 713 gas reserves estimated to commence production during 1984 and for production projected from Matagorda Island Blocks 709 and 711.

Northern estimates the cost of the facilities to be $12,900,000 which would be financed with funds on hand.

Northern states that it is willing to share the costs and ownership of the proposed facilities with other pipeline companies who purchase reserves in Matagorda Island Blocks 701, 703, 712, and 713. Applicant indicates that such participation would be based upon the projected volumes of throughput each pipeline company would transport through the proposed system.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 26, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Northern to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-24711 Filed 9-8-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES83-63-000]

Pacific Power & Light Co.; Application

September 6, 1983.

Take notice that on August 29, 1983, Pacific Power & Light Company (Applicant) filed its application with the Federal Energy Regulatory Commission, pursuant to Section 204 of the Federal Power Act, seeking an order (1) authorizing it to issue and sell not more than 1,000,000 additional shares of its common stock pursuant to its Employee Stock Ownership Plan and Trust, and (2) exempting the issuance from

competitive bidding pursuant to 18 CFR 34.2(b)(2).

Any person desiring to be heard or to make any protest with reference to the application should, on or before September 26, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with 18 CFR 385.211 or 385.214, respectively.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-24712 Filed 9-8-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-140-001]

Perkins Power of Broken H Ranch; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

September 6, 1983.

On July 22, 1983, Rosemary Perkins Flanigin, Wapiti, Wyoming 82450, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The topping-cycle cogeneration facility will be located at the Acme Power Plant, formerly a Montana-Dakota Utilities steam electric plant, in Sheridan, Wyoming. Waste steam from the facility will be recovered for use in a greenhouse. The primary energy source to the facility will be lignite, a type of coal. The electric power production capacity of the facility will be 12 megawatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-24713 Filed 9-8-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-485-000]

Texas Gas Transmission Corp.; Application

September 6, 1983.

Take notice that on August 25, 1983, Texas Gas Transmission Corporation (Applicant), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP83-485-000 an application pursuant to Section 7(b) of the Natural Gas Act on behalf of Applicant's producer-suppliers for permission and approval to abandon in part for a limited term the sales of natural gas between Applicant and Applicant's producer-suppliers; pursuant to Section 7(c) of the Natural Gas Act on behalf of Applicant's producer-suppliers for a blanket limited-term certificate of public convenience and necessity authorizing the sale for resale in interstate commerce of such partially abandoned reserves by Applicant's producer-suppliers and/or any off-system producer to Memphis Light, Gas and Water Division (MLGW) for the account of W. R. Grace and Co. (Grace) for use by Grace at its Memphis, Tennessee, Ammonia Plant (Memphis Grace Plant) for a limited period; and pursuant to Section 7(c) of the Natural Gas Act on its own behalf for a blanket limited-term certificate of public convenience and necessity authorizing the transportation and delivery of such gas in interstate commerce by Applicant to MLGW for ultimate use at the Memphis Grace Plant, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The application states that Applicant has agreed to implement an experimental Texas Gas Ammonia Feedstock Marketing Program (AMFEED) whereunder Applicant would arrange, as agent for MLGW, Applicant's customer, gas supplies to be purchased by Grace for the purposes of keeping natural gas prices competitive with the prices of alternate fuels and of maintaining historical throughput levels on Applicant's system. Applicant states that the authorizations sought in this case are necessary to permit the inclusion in the AMFEED program, which is limited to the period November 1, 1983, through October 31, 1984, of gas supplies which presently are sold to Applicant under certificates of public convenience and necessity and which its producer-supplies voluntarily elect to direct temporarily for sale to Applicant's customers. The application also states that except to the extent that such gas supplies are utilized for the limited scope and term of the AMFEED program, Applicant's long-term gas supplies would remain the same.

In addition, Applicant seeks (1) to waive the provisions of Section 157.105(g) of the Commission's Regulations which would otherwise be applicable to the revenues realized on the transportation services performed hereunder by Applicant because the transportation services being performed under AMFEED by Applicant are in lieu of sales services which would otherwise be performed; (2) to waive the provisions of the Commission's Regulations pertaining to the acquisition of prior authorization or the expiration of any notice period before commencing the transportation services contemplated by this application; and (3) to waive Applicant's tariff relative to (a) MLGW's status as a General Service Buyer pursuant to the General Terms and Conditions of Applicant's FERC Gas Tariff, Third Revised Volume No. 1, and (b) MLGW's obligation to purchase all of its requirements from Applicant in accordance with the Service Agreement between Applicant and MLGW dated September 1, 1970.

Applicant submits that AMFEED essentially parallels the Transcontinental Gas Pipe Line Corporation, Incentive Sales Program, already approved by the Commission [1] and that AMFEED would result in the same or greater benefit to Applicant's non-AMFEED customers. Applicant states that approval and implementation of AMFEED would allow Grace to obtain supplies of natural gas for use at the Memphis Grace Plant at or below the competitive price defined in the application in order to continue economic ammonia production at the Memphis Grace Plant and asserts that unless this program is approved the Memphis Grace Plant would necessarily close resulting in a loss of load at the Memphis Grace Plant equalling at least 12,000,000 Mcf of gas per year. Applicant further states that authorization under this application would alleviate its take-or-pay liability as gas sold by its producer-suppliers to MLGW under AMFEED would be credited to Applicant's minimum take obligation and would allow Applicant to continue to transport natural gas through existing pipeline facilities. In addition, Applicant asserts, customers of Applicant would benefit because the shifting of fixed costs associated with the ultimate sale to Grace to other customers of Applicant and MLGW would be averted. Also,

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[1] Order issued May 13, 1983, *Transcontinental Gas Pipe Line Corporation*, 23 FERC ¶ 61,221 (1983), Docket No. CP83-279-000.

Applicant expects its participating producer-suppliers to benefit by continued cash flow and consumers to benefit by the availability of natural gas at more reasonable prices.

Applicant would select the supply of gas necessary to meet MLGW's needs first from Applicant's producer-suppliers from which it has taken less than contract minimums; second, from Applicant's other producer-suppliers from the highest cost volumes to the lowest cost volumes in descending order; and last, from off-system producers. Price would be determined for each quarter during the term of AMFEED according to a formula set forth in the application. Applicant states that the gas would be transported through existing transmission facilities to established receipt points subject to such obligations as set out in Applicant's gas purchase contracts and to such other points as may be established from time to time. Applicant requests authority to use a reporting system detailed in its application as an alternative to the reporting requirements set forth by the Commission's regulations.

Applicant proposes to place MLGW in a position of priority over its other customers and asserts that the net benefits to Applicant's remaining customers exceed and outweigh any apparent discriminatory impact associated with the cost of gas to other purchasers on the Applicant's system.

Applicant wants no waiver, if any is granted in this proceeding, to serve as a precedent in any future proceeding before the Commission or to bind Applicant with respect to similar requests from other customers on its system.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 26, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, of if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-24714 Filed 9-8-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-702-000]

Wisconsin Power and Light Co.; Filing

September 6, 1983.

Take notice that on August 25, 1983, Wisconsin Power and Light Company (WPL) tendered for filing Amendment No. 4 (dated August 1, 1983) to its Interconnection Agreement with Commonwealth Edison Company. WPL states that this filing provides terms for optional daily reservations in addition to the current weekly reservation provisions for Service Schedule D (Short Term Power).

WPL requests an effective date of September 1, 1983 and therefore requests waiver of the Commission's notice requirements. WPL states that a copy of the above Amendment No. 4 and the filing have been provided to Commonwealth Edison Company, the Illinois Commerce Commission, and the Public Service Commission of Wisconsin.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding.

Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection. Interventions and protests are due on or before September 26, 1983.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-24715 Filed 9-8-83; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-2430-8]

Availability of Environmental Impact Statements Filed August 29 Through September 2, 1983 Pursuant to 40 CFR Part 1506.9

RESPONSIBLE AGENCY: Office of Federal Activities, general information (202) 382-5075 or (202) 382-5076.

Corps of Engineers:
- EIS No. 830483, DSuppl, COE, VA, Virginia Beach, Erosion Control and Hurricane Protection, Due: Oct. 24, 1983

Department of Commerce:
- EIS No. 830478, Final, NOA, MXG, Reef Fish Resources of the Gulf of Mexico, Fishery Management Plan, Due: Oct. 25, 1983

Department of the Interior:
- EIS No. 830477, Draft, BLM, CA, California Desert Conservation Area Plan, 1983 Amendments, Due: Dec. 7, 1983
- EIS No. 830461, Draft, BLM, ID, Big Lost/Pahsimeroi WSAs, Wilderness Designation, Custer and Butte Counties, Due: Oct. 27, 1983
- EIS No. 830475, Final, IBR, CA, Tahoe City, 64 Acre Tract Land Transfer/Newland Project, Placer County, Due: Oct. 11, 1983
- EIS No. 830469, Final, IBR, PRO, WY, MT, Yellowtail (Bighorn) Boysen Reservoirs Industrial Water Supply, Due: Oct. 11, 1983

Department of Transportation:
- EIS No. 830470, Draft, FHW, HI, Huleja Bridge Replacement/Approaches, Kaumualii Highway, Lihue County, Due: Oct. 25, 1983
- EIS No. 830472, Draft, FHW, CA, Russian River Bridge No. 20-31 Replacement and US 101 Relocation, Due: Oct. 24, 1983
- EIS No. 830474, Draft, FHW, IL, FAP-406/IL-121 Freeway Construction, Lincoln to Morton, Logan/Tazewell Counties, Due: Oct. 24, 1983

Environmental Protection Agency:
- EIS No. 830476, Draft, EPA, REG, Steel Plants, Elec, Arc Furnaces/Argon-Oxygen Decarburization Vessels, Due: Nov. 3, 1983
- EIS No. 830473, Final, EPA, FL, MXG, Tampa Harbor Ocean Dredged Material Disposal Site, Designation, Due: Oct. 11, 1983
- EIS No. 830480, DSuppl, EPA, LA, Jefferson Parish/West Bank Wastewater Treatment Facilities, Grant, Due: Oct. 24, 1983

Department of Housing and Urban Development:
EIS No. 830471, Final, HUD, NM, The High Range Subdivision, Mortgage Insurance, Dona Ana County, Due: Oct. 11, 1983
Department of Agriculture:
EIS No. 830479, Draft, AFS, CO, Rio Grande National Forest Land and Resource Management Plan, Due: Dec. 16, 1983
Amended Notice:
EIS No. 731519, Final, FHW, IL, FAP-406 Freeway Construction, Lincoln to Morton, Logan and Tazewell Counties. Officially withdrawn—Superseded by draft EIS No. 830474
EIS No. 731690, Draft, FHW, IL, FAP-406 Freeway Construction, Lincoln to Morton, Logan and Tazewell Counties. Officially withdrawn—Superseded by draft EIS No. 830474
EIS No. 791111, DSuppl, FHW, IL, FAP-406 Freeway Construction, Lincoln to Morton, Logan and Tazewell Counties. Published FR 11/02/79—Officially withdrawn. Superseded by draft EIS No. 830474

Dated: September 6, 1983.

Pasquale A. Alberico,

Acting Director, Office of Federal Activities.

[FR Doc. 83-24732 Filed 9-8-83; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51471B; TSH—FRL 2430-5]

Certain Chemicals; Premanufacture Notices; Extension of Review Board

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is extending the review period for an additional 90 days for premanufacture notices (PMN's) PMN's 83-820, 83-821, and 83-822, under the authority of section 5(c) of the Toxic Substances Control Act (TSCA). The review period will now expire on December 4, 1983.

FOR FURTHER INFORMATION CONTACT: Paul Matthai, Chemical Control Division (TS-794), Environmental Protection Agency, Rm, E-216, 401 M St., SW., Washington, D.C. 20460, (202-382-3746).

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, anyone who intends to manufacture or import a new chemical substance for commercial purposes in the United States must submit a PMN to EPA 90 days before manufacture or import begins. Under section 5(c) EPA may, for good cause, extend the notice period for additional periods, not to exceed a total of 180 days from the date of receipt.

On June 9, 1983, EPA received PMN 83-820 for a substance described generically as disubstituted heterocyclic azo disubstituted benzene, PMN 83-821 for substance described generically as trisubstituted phenyl azo disubstituted heterocycle, and PMN 83-822 for a substance described generically as trisubstituted aniline. The substances will be manufactured for use as dyes in textiles or as dye intermediates. The submitter claimed its identity, chemical identity, and volume to be confidential business information. Notice of receipt of the PMN's was published in the **Federal Register** of June 24, 1983 (48 FR 29048). The original 90-day review period is scheduled to expire on September 6, 1983.

EPA's detailed analysis of the substances described in the PMN's addressed the following: chemical analysis of the PMN substances, effects on human health, human exposure, environmental release, ecological effects, degree or risk relative to available commercial substitutes, potential marketability, and the identification of other information which may be required to resolve outstanding issues.

As a result of this analysis, EPA has reason to believe the following:

1. Exposure to the PMN substances may result in adverse health effects, among which may be carcinogenicity, mutagenicity, liver toxicity and sensitization.

2. During processing of the PMN substances the potential exists for significant worker exposure.

3. There may be an unreasonable risk to persons who drink water containing the PMN substances.

Based on the analysis, EPA finds that there is a possibility that the substances submitted for review in PMN's 83-820, 83-821, and 83-822 may be regulated under section 5(e) of TSCA. The Agency requires an extension of the review period to examine its regulatory options and to prepare the necessary documents, should regulatory action be required. An administrative order under section 5(e) must be issued no later than 45 days prior to expiration of the review period. Therefore EPA has determined that good cause exists to extend the review period for an additional 90 days, to December 4, 1983.

PMN's 83-820, 83-821, and 83-822 are available for public inspection in Rm. E-107, at the EPA Headquarters, address given above, from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

Dated: September 2, 1983.

Marcia E. Williams,

Acting Director, Office of Toxic Substances.

[FR Doc. 83-24617 Filed 9-8-83; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59135; TSH FRL 2430-7]

Certain Chemicals; Premanufacture Exemption Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5 (a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's revised statement of interim policy published in the **Federal Register** of Novemeber 7, 1980 (45 FR 74378). This notice, issued under section 5(h)(6) of TSCA, announces receipt of three applications for exemptions, provides a summary, and requests comments on the appropriateness of granting each of the exemptions.

DATE: Written comments by September 26, 1983.

ADDRESS: Written comments, identified by the document control number "[OPTS-59135]" and the specific TME number should be sent to: Document Control Officer (TS-793), Management Support Division, Office of Toxic Substances, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Margaret Stasikowski, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M Street SW, Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the TME received by EPA. The complete nonconfidential document is available in the Public Reading Room E-107.

TME 83-79

Close of Review Period. October 9, 1983.

Manufacturer. Confidential.

Chemical. (G) Mono and polycarbocyclic poly(ester-amide).

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by publicly owned treatment works (POTW).

TME 83–80

Close of Review Period. October 12, 1983.

Importer. Confidential.

Chemical. (G) Polyether acid phosphate.

Use/Import. (G) Additive for aqueous cutting fluids. Prod. range: 7,500 kg one year.

Toxicity Data. Acute oral: LD_{50} ca. 10,000 mg/kg; Irritation: Skin-Moderate, Eye-Moderate; Inhalation: Negative.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

TME 83–81

Importer. Confidential.

Chemical. (G) Amine salt of a substituted organic acid.

Use/Import. (G) Additive for aqueous cutting fluids. Import range: 4,000 kg one year.

Toxicity Data. No data on the PMN substance submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

Dated: September 2, 1983.

V. Paul Fuschini,

Acting Director, Management Support Division.

[FR Doc. 83-24615 Filed 9-8-83; 8:45 am]

BILLING CODE 6560-50-M

[OPTS–51483 BH–FRL 2430–6]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of eleven PMNs and provides a summary of each.

DATES: Close of Review Period:

PMN 83–1086, 83–1087, 83–1088, 83–1089, and 83–1090—Nov. 23, 1983

PMN 83–1091—Nov. 26, 1983

PMN 83–1092 and 83–1093—Nov. 28, 1983

PMN 83–1094, 83–1095 and 83–1096—Nov. 29, 1983

Written comments by:

PMN 83–1086, 83–1087, 83–1088, 83–1089, and 83–1090—Oct. 24, 1983

PMN 83–1091—Oct. 27, 1983

PMN 83–1092 and 83–1093—Oct. 29, 1983

PMN 83–1094, 83–1095, and 83–1096—Oct. 30, 1983

ADDRESS: Written comments, identified by the document control number "[OPTS–51483]" and the specific PMN number should be sent to Document Control Officer (TS–793), Office of Toxic Substances, Office of Pesticides and Toxic and Substances, Environmental Protection Agency, Rm. E–409, 401 M St., SW., Washington, DC 20460, (202–382–3532).

FOR FURTHER INFORMATION CONTACT: Margaret Stasikowski, Acting Chief, Notice Review Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–216, 401 M St., SW., Washington, DC 20460, (202–382–3729).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E–107.

PMN 83–1086

Manufacturer. Confidential.

Chemical. (G) Aliphatic unsaturated copolyester.

Use/Production. (G) Manufacture of electrical insulation which is an industrial application. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by biological treatment system.

PMN 83–1087

Manufacturer. Confidential.

Chemical. (G) Sodium poly[1-oxoalkyl-1-amino-2-(tert-butyl-2-sulfonate)-1-oxoalkyl-1-amino (N,N-dimethane)].

Use/Production. (G) Open, non-dispersive use. Prod. range: 14,000–230,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: inhalation, a total of 4 workers, up to 2 hrs/da, up to 250 da/yr.

Environmental Release/Disposal. Less than 0.5 kg released to air. Disposal by approved landfill.

PMN 83–1088

Manufacturer. Confidential.

Chemical. (G) Polyester from an alkanediol, alkanoic acid and a carbomonocyclic anhydride.

Use/Production. (G) Highly dispersive use. Prod. range: 100,000–1,500,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal and ocular, a total of 70 workers, up to 4 hrs/da, up to 250 da/yr.

Environmental Release/Disposal. 3–25 kg/batch released to land. Disposal by incineration and landfill.

PMN 83–1089

Manufacturer. Confidential.

Chemical. (G) Unsaturated polyester with halogenated polyol.

Use/Production. (G) Cured thermoset cross-linked plastic. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, 1 person/shift, 5 min/sample.

Environmental Release/Disposal. No data submitted. Disposal by incineration and approved landfill.

PMN 83–1090

Manufacturer. Confidential.

Chemical. (G) Mono and polycarbocyclic poly (ester-amide).

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by publicly owned treatment works (POTW).

PMN 83–1091

Manufacturer. Confidential.

Chemical. (G) Reaction product of: mixed aliphatic and amino aliphatic alcohols and dimer diisocyanate and 1,1'-methylenebis [4-isocyanate]-cyclohexane.

Use/Production. (G) Open, non-dispersive use. Prod. range: Confidential.

Toxicity Data. Irritation: Skin—Mild, Eye—Minimal.

Exposure. Manufacture: dermal, a total of 8 workers, up to 4 times/yr, up to 8 hours each.

Environmental Release/Disposal. No release. Disposal by incineration and landfill.

PMN 83–1092

Manufacturer. Confidential.

Chemical. (G) Mixed castor amide with diethylene triamine.

Use/Production. (G) Open, non-dispersive and dispersive use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 1 worker, up to 1 hr/da, up to 11 da/yr.

Environmental Release/Disposal. 11 kg released to air with 45 kg to water. Disposal by POTW.

PMN 83–1093

Manufacturer. Confidential.

Chemical. (G) Mixed castor amide with amino ethyl ethanol amine.

Use/Production. (G) Open, non-dispersive and dispersive use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 1 worker, up to 1 hr/da, up to 11 da/yr.

Environmental Release/Disposal. 11 kg released to air with 45 kg to water. Disposal by POTW.

PMN 83–1094

Manufacturer. Confidential.

Chemical. (G) Modified phenol-formaldehyde alkyl amine.

Use/Production. (S) Industrial epoxy curing agent. Prod. range: 300,000–500,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

PMN 83–1095

Manufacturer. Petrochemicals Company, Inc.

Chemical. (G) Amine salt of alkylnaphthalene sulfonic acid.

Use/Production. (G) Destructive use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 83–1096

Manufacturer. Chem-tronics, Inc.

Chemical. (G) Benzophenotetracarboxy imide amide copolymer.

Use/Production. (S) Thermal acoustical, cushioning, rigid, and semi-flexible foams for industrial and commercial use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 7 workers, up to 7 hrs/da, up to 180 da/yr.

Environmental Release/Disposal. No data submitted. Disposal by POTW.

Dated: September 2, 1983.

V. Paul Fuschini,

Acting Director, Management Support Division.

[FR Doc. 83–24610 Filed 9–8–83; 8:45 am]

BILLING CODE 6560–50–M

GENERAL SERVICES ADMINISTRATION

Sale of Government Property Forms (Standard Form 114 series)

AGENCY: Office of Policy and Management Systems, GSA.

ACTION: Notice of Information Collection.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), GSA is required to consider comments received on information collection proposals that affect the public. This notice announces GSA's plan to request the Office of Management Budget to approve the extension of clearance of the above information collection requirement.

DATE: Comments must be received on or before: September 28, 1983.

ADDRESSES: Submit comments to Franklin S. Reeder, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and to John F. Gilmore, GSA Clearance Officer, GSA (ORAI), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Jim Flowers (202–566–0666).

SUPPLEMENTARY INFORMATION: The SF 114 series is voluntarily completed by the general public to submit bids for the sale of surplus personal property. Annual reporting or disclosure burden: Respondents—84,000; responses—84,000; hours—42,000.

A copy of the information collection proposal may be obtained from the Directives and Reports Management Branch (ORAI), Room 3015, GS Building, Washington, DC 20405, telephone: 202–566–0666.

Dated: August 31, 1983.

Clarence A. Lee, Jr.,

Deputy Associate Administrator for Policy and Management Systems.

[FR Doc. 83–24661 Filed 9–8–83; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on September 2.

Public Health Service

Health Resources and Services Administration

Subject: Health Maintenance Organizations National Data Reporting Requirements (NDRR) (0915–0063)—Revision.

Respondents: Federally qualified maintenance organizations in the United States.

Subject: Application for Participation in the National Health Service Corps Scholarship Program (0915–0039)—Reinstatement.

Respondents: Health professions students.

OMB Desk Officer: Fay S. Iudicello.

National Institutes of Health

Subject: The Cooperative Study of Sickle Cell Desease (CSSCD) Psychosocial Component (0925–0185)—Extension/No Change.

Respondents: Parents and patients enrolled in the Cooperative Study of Sickle Cell Disease.

OMB Desk Officer: Fay S. Iudicello.

Health Care Financing Administration

Subject: Municipal Health Services Cost Report Form (0938–0155)—Extension/No Change.

Respondents: Municipal health clinics participating in the demonstration.

OMB Desk Officer: Fay S. Iudicello.

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202–245–6511.

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington,

D.C. 20503, Attn: (name of OMB Desk Officer).

Dated: September 1, 1983.

Wallace O. Keene,

Director, Office of Computer and Information Systems.

[FR Doc. 83-24632 Filed 9-8-83; 8:45 am]

BILLING CODE 4150-04-M

Food and Drug Administration

[Docket No. 83N-0213]

Implementation of the Orphan Drug Act of 1983; Notice of Availability of Interim Procedures

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the availability of interim procedures under which a manufacturer of a drug for a rare disease or condition may request recommendations on drug development and may obtain designation of the drug as a drug for a rare disease or condition so that the drug may qualify for the incentives provided by section 2(a) of the Orphan Drug Act (the Act) (Pub. L. 97-414). FDA announces its responsibility to implement those provisions of the Act that amend the Federal Food, Drug, and Cosmetic Act.

ADDRESSES: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. Requests for single copies of the interim procedures to Emery J. Sturniolo, Office of Orphan Products Development (HF-35), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Roger C. Gregorio, Office of Orphan Products Development (HF-35), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857; 301-443-4903.

SUPPLEMENTARY INFORMATION: On January 4, 1983, President Reagan signed into law the Orphan Drug Act (Pub. L. 97-414). The legislation is based on a finding that adequate drugs for some rare diseases are not being developed and that some of these "orphan" drugs will not be developed unless changes are made in applicable Federal laws. The legislation, which amends the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 201 et seq.), the Internal Revenue Code, and other statutory provisions, establishes incentives for sponsors and manufacturers of drugs for rare diseases or conditions to develop such drugs and speedily make them available to affected individuals.

FDA's responsibility is to implement those sections of the Orphan Drug Act that amend the Federal Food, Drug, and Cosmetic Act. Reference in those sections of the Orphan Drug Act to the Secretary of the Department of Health and Human Services should, therefore, be understood to refer to the Commissioner of Food and Drugs. The Commissioner has delegated the responsibility to implement the Act to specific offices within FDA. This redelegation is published elsewhere in this issue of the **Federal Register.**

The Orphan Drug Act creates a comprehensive scheme to assist sponsors in developing drugs for rare diseases or conditions. The Orphan Drug Act adds four sections to the Federal Food, Drug, and Cosmetic Act—sections 525, 526, 527, and 528. The most significant elements of these statutory provisions are described as follows:

1. Section 525 requires FDA to provide written recommendations on clinical and nonclinical investigations to a sponsor or manufacturer of a drug if FDA finds that there is reason to believe that the drug is a drug for a disease or condition that is rare in the United States.

2. Section 526 establishes a designation procedure for drugs ("orphan drugs") intended for rare diseases or conditions and requires FDA to publicize the designation of drugs as orphan drugs. This designation is solely for the purpose of implementing those sections of the Orphan Drug Act that amend the Federal Food, Drug, and Cosmetic Act. Section 3 of the Orphan Drug Act establishes in the Department of Health and Human Services a board for the development of drugs for rare diseases or conditions to be known as the Orphan Products Board. FDA will designate a drug as an orphan drug in consultation with the Orphan Products Board. Under the designation procedure, a drug may be designated as an orphan drug if its sponsor demonstrates that the drug is intended for a disease or condition that occurs so infrequently that there is no reasonable expectation that the cost of its development and marketing will be recovered from sales in the United States. When a drug is designated under section 526, its sponsor may become eligible under other provisions of the Act for tax credits for expenses incurred in the clinical development of the drug.

3. Section 527 provides protection for unpatented drugs for rare diseases or conditions. Designation of a drug as an orphan drug may also provide its sponsor with exclusive marketing rights under section 527 of the Act. Under this section, a sponsor of an orphan drug for which a United States letter of patent may not issue may obtain an exclusive right to market the drug in the United States for the orphan disease or condition for 7 years after the date of its approval.

4. Section 528 of the Act requires FDA to encourage sponsors who are conducting clinical investigations of designated drugs to make the drugs available to patients under open (treatment) protocols.

The provisions of the Orphan Drug Act became effective on the date of their enactment, even though several of the provisions call for FDA to promulgate regulations to establish specific procedures for implementation. FDA will shortly propose regulations to implement those sections of the Orphan Drug Act for which it is responsible. Pending issuance of final regulations, FDA has established interim procedures for requests for written recommendations on drug development under section 525 and for requests for designation of a drug as an orphan drug under section 526. Copies of these interim procedures may be obtained from the Office of Orphan Products Development (HF-35) (address above (301-443-4718)). Questions about implementing the Orphan Drug Act should be directed to the Office of Orphan Products Development.

FDA invites interested persons to comment on the interim procedures for implementing sections 525 and 526. Please submit these comments in writing to the Dockets Management Branch (address above). Two copies of all comments shall be submitted, except that individuals may submit single copies of comments. Comments should be identified by the docket number found in brackets at the heading of this document. Comments received by the agency may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

The information collection requirements contained in these interim guidelines have been submitted to the Office of Management and Budget (OMB) for review under section 3507 of the Paperwork Reduction Act of 1980. These guidelines are not effective until approved by OMB. Notice of OBM action will be published in a future **Federal Register** notice. Other organizations and individuals desiring to submit comments on these information collection requirements should direct them to FDA's Dockets Management Branch (address above) and to the Office of Information and Regulatory Affairs, Office of Management and Budget, New

Executive Office Bldg., Rm. 3208, Washington, DC 20503, Attn: Richard Eisinger.

Dated: September 2, 1983.

Mark Novitch,

Deputy Commissioner of Food and Drugs.

[FR Doc. 83-24591 Filed 9-6-83; 11:21 am]

BILLING CODE 4160-01-M

Health Resources and Services Administration

Hill-Burton Health Facilities; Review

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice of review.

SUMMARY: This notice announces a review of institutions and organizations which have received grants under the Hill-Burton Program (Title VI of the Public Health Service Act, 42 U.S.C. 291 *et seq.*) for the construction or modernization of hospitals or other health facilities.

FOR FURTHER INFORMATION CONTACT: Donald Sylvain, Chief, Facilities Grants Branch, Office of Health Facilities, BHMORD, HRSA, Parklawn Building, Room 11A-25, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-5766.

SUPPLEMENTARY INFORMATION: Under Section 609 of the Public Health Service Act, (42 U.S.C. 291i), the United States is entitled to recover an amount of funds to be determined by a statutory formula if at any time within 20 years after the completion of Hill-Burton grant-assisted construction, the assisted facility undergoes certain changes in status. In general, those changes involve transfer of ownership or control of the facility to an entity that would have been ineligible to receive a Hill-Burton grant, or conversion of the facility to a use for which such a grant could not have been made.

Recent court decisions in *United States* v. *The City of Palm Beach Gardens, et al.* (635 F. 2d 337, 5th Cir. (1981)) and *United States* v. *First Georgia Bank and Beverly Enterprises, Inc.* (529 F. Supp. 384 (1982)), support the right of the Federal Government to secure financial recovery from Hill-Burton recipients and transferees.

During the coming months, the Public Health Service will be reviewing those institutions whose Hill-Burton construction was completed more than 20 years ago in order to identify those instances where a change of status occurred during the 20-year period of obligation. Based upon these findings, the Department will take appropriate administrative and legal actions where moneys are due the Federal Government.

Dated: September 3, 1983.

Robert Graham,

Administrator, Assistant Surgeon General.

[FR Doc. 83-24665 Filed 9-8-83; 8:45 am]

BILLING CODE 4160-16-M

National Institutes of Health

Board of Regents and the Extramural Programs Subcommittee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Regents of the National Library of Medicine on October 13-14, 1983, in the NMAC Classroom, Lister Hill Center Building of the National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland. In connection with this meeting, the Extramural Programs Subcommittee of the Board of Regents will meet on the preceding day, October 12, 1983, from 2:00 to 4:00 p.m., in the 5th-floor Conference Room of the Lister Hill Center Building. The meeting of the Board will be open to the public from 9:00 a.m. to approximately 5:00 p.m. on October 13 and from 9:00 a.m. to 10:15 a.m. and from 11:15 to adjournment on October 14 for administrative reports and program discussions. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4), 552b(c)(6), Title 5, United States Code and Section 10(d) of Pub. L. 92-463, the entire meeting of the Extramural Programs Subcommittee on October 12 will be closed to the public, and the regular Board meeting on October 14 will be closed from 10:15 to 11:15 a.m. for the review, discussion, and evaluation of individual grant applications. These applications and the discussion could reveal confidential trade secrets or commercial property, such as patentable material and personal information concerning individuals associated with the applications, the dislosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Robert B. Mehnert, Chief, Office of Inquiries and Publications Management, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20209, Telephone Number: 301-496-6308, will furnish a summary of the meeting, rosters of Board members, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program No. 13.879—Medical Library Assistance, National Institutes of Health)

Dated: August 29, 1983.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 83-24630 Filed 9-8-83; 8:45 am]

BILLING CODE 4140-01-M

Neurological Disorders Program Project Review A Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Neurological Disorders Program Project Review A Committee, National Institutes of Health, October 20, 21, and 22, 1983 at Wellington Hotel, 2505 Wisconsin Avenue, Washington, D.C. 20007.

The meeting will be open to the public from 8:00 p.m. until 9:00 p.m. on October 20, 1983 to discuss program planning and program accomplishments. Attendance by the pubic will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(4), and 552b(c)(6), Title 5, United States Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 8:00 a.m. on October 21 to adjournment on October 22, 1983 for the review, discussion and evaluation of individual grant applications. The applications and the discussion could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Sylvia Shaffer, Chief, Office of Scientific and Health Reports, Building 31, Room 8A03, NIH, NINCDS, Bethesda, MD 20205 (Tel. No. 301/496-5751) will furnish summaries of the meeting and the roster of committee members.

Dr. Leon Jack Greenbaum, Jr., Executive Secretary, Federal Building, Room 9C14, Bethesda, MD 20205 (Tel. No. 301/496-9223) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.853, Clinical Basis Research; No. 13.854, Biological Basis Research)

Dated: August 29, 1983.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 83-24629 Filed 9-8-83; 8:45 am]

BILLING CODE 4140-01-M

National Advisory Dental Research Council; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Dental Research Council, National Institute of Dental

Research, on October 17–18, 1983, in Conference Room 8, Building 31–C, National Institute of Health, Bethesda, Maryland. This meeting will be open to the public from 9:00 a.m. to adjournment on October 18 for general discussion and program presentations. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, United States Code and Section 10(d) of Pub. L. 92–463, the meeting of the Council will be closed to the public on October 17 from 9:00 a.m. to recess for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Dixie Kanagy, Council Secretary for the National Institute of Dental Research, National Institutes of Health, Westwood Building, Room 503, Bethesda, Maryland 20205 (phone 301 496–7723), will furnish rosters of committee members, a summary of the meeting, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Programs Nos. 13.840—Caries Research, 13.841—Periodontal Diseases Research, 13.842—Craniofacial Anomalies Research, 13.843—Restorative Materials Research, 13.844—Pain Control and Behavioral Studies, 13.845—Dental Research Institutes, 13.878—Soft Tissue Stomatology and Nutrition Research, National Institutes of Health)

Dated: August 29, 1983.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 83–24627 Filed 9–8–83; 8:45 am]

BILLING CODE 4140–01–M

Safety and Occupational Health Study Section; Meeting

Pursuant to Pub. L. 92–463, a meeting of the Safety and Occupational Health Study Section, National Institute for Occupational Safety and Health, in conjunction with the Division of Research Grants, will be held on October 12–14, 1983, at the Colonial Manor Motel, 11410 Rockville Pike, Rockville, Maryland 20852.

This meeting will be open to the public on October 12 from approximately 1:00 p.m. to 2:00 p.m., to discuss program policies and issues. Attendance by the public is limited to space available.

In accordance with the provisions set forth in Sections 522b(c)(4) and 552b(c)(6), Title 5, United States Code, and Section 10(d) of Pub. L. 92–463, the meeting of the Study Section will be closed to the public from 2:00 p.m. October 12 until adjournment on October 14 for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Grants Inquiries Office, Division of Research Grants, Westwood Building, National Institutes of Health, Bethesda, Maryland 20205, telephone (301) 496–7441, will furnish summaries of the meetings and rosters of committee members.

Dr. John Beisler, Executive Secretary of the Study Section, Westwood Building, Room 3A10, National Institutes of Health, Bethesda, Maryland 20205, telephone (301) 496–6723, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.262, Occupational Safety and Health Research Grants, National Institutes of Health, HHS)

Dated: August 29, 1983.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 83–24629 Filed 9–8–83; 8:45 am]

BILLING CODE 4140–01–M

Meeting of the Subcommittee On Primate Research Centers of the Animal Resources Review Committee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Subcommittee On Primate Research Centers, Animal Resources Review Committee, Division of Research Resources, on October 26, 1983, in the Vista Room, Nendel's Motor Inn, 9900 S.W., Canyon Road, Portland, Oregon 97225.

The meeting will be open to the public from approximately 2:00 p.m. until 3:00 p.m. for a staff presentation on the current status of the Animal Resources Program, and the selection of future meeting dates. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, United States Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from approximately 3:00 p.m. until adjournment for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Information Officer, Divion of Research Resources, Room 5B10, Building 31, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–5545, will provide summaries of the meeting and rosters of the committee members. Dr. Carl E. Miller, Executive Secretary of the Animal Resources Review Committee, Room 5B55, Building 31, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–5175, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Programs No. 13.306, Primate Research, National Institutes of Health)

Dated: August 29, 1983.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 83–24625 Filed 9–8–83; 8:45 am]

BILLING CODE 4140–01–M

Meeting of National Advisory Council on Aging

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory Council on Aging, National Institute on Aging, on October 13–14, 1983, in the Shannon Building, (Building 1), Wilson Hall, National Institutes of Health, Bethesda, Maryland. This meeting will be open to the public on Thursday, October 13, from 9:00 a.m. until noon for a status report by the Director, National Institute on Aging, and a report from the Council ad hoc Program Committee. It will be open to the public on Friday, October 14, from 9:00 a.m. until adjournment for general discussion and program presentations. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, United States Code and Section 10(d) of Pub. L. 92–463, the meeting of the Council will be closed to the public on October 13 from 1:00 p.m. to recess for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the

applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. June McCann, Council Secretary for the National Institute on Aging, National Institutes of Health, Building 31, Room 2C05, Bethesda, Maryland 20205 (Area Code 301/496–5898), will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.866, Aging Research, National Institutes of Health)

Dated: August 29, 1983.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 83-24628 Filed 9-8-83; 8:45 am]

BILLING CODE 4140-01-M

Public Health Service

National Toxicology Program Board of Scientific Counselors; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Toxicology Program (NTP) Board of Scientific Counselors, U.S. Public Health Service, Conference Room, Building 13, National Center for Toxicological Research (NCTR), Jefferson, Arkansas, on September 27 and 28, 1983. The meeting will be open to the public from 8:30 a.m. to adjournment on September 27. The preliminary agenda with *approximate* times are as follows:

8:30 a.m.–8:50 a.m. Report of the Director, NTP
8:50 a.m.–9:30 a.m. Status Report on the Ad Hoc Panel on Chemical Carcinogenesis Testing and Evaluation
9:45 a.m.–11:15 a.m. NIH/NTP Concept Reviews:
a. Analytical Chemistry Support Services
b. Cooperative Agreements:
—Chemical Disposition and Metabolism
—Characterizing the Role of Vegetables Oils in Pancreatic Lesions
—Development of a System for Co-Culture of Isolated Cells From Kidney and Liver
11:15 a.m.–12:15 a.m. Peer Review and Priority Ranking of Chemicals Nominated for NTP Testing. (Chemicals to be reviewed are among those listed in the **Federal Register** of March 4, 1983 (48 FR 9379–9380)
1:00 p.m.–3:00 p.m. Tour of NCTR
3:15 p.m.–5:00 p.m. Toxicology Data Management Systems—A Progress Report

The meeting on September 28 will be open to the public from 8:30 a.m. to adjournment. The preliminary agenda with *approximate* times are as follows:

NCTR Programs

8:30 a.m.–9:15 a.m. Developmental Toxicology
9:15 a.m.–9:30 a.m. Genetic Toxicology
9:30 a.m.–10:15 a.m. Biochemical Toxicology
10:30 a.m.–10:45 a.m. Office of Scientific Intelligence
10:45 a.m.–11:30 a.m. Chemistry
11:30 a.m.–12:00 p.m. Biometry
12:45 p.m.–1:30 p.m. Chemical Toxicology/ Microencapsulation
1:30 p.m.–2:15 p.m. Office of the Director, NCTR

The Executive Secretary, Dr. Larry G. Hart, Office of the Director, National Toxicology Program, P.O. Box 12233, Research Triangle Park, North Carolina 27709, telephone (919) 541–3971, FTS 629–3971, will furnish a roster of Board members and other program information prior to the meeting, and summary minutes subsequent to the meeting. For information on hotels and directions to the Center contact Mrs. Ruth Bryant, telephone (501) 541–4528, FTS 542–4528.

Dated: August 26, 1983.

David P. Rall,

Director, National Toxicology Program.

[FR Doc. 83-24605 Filed 9-8-83; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N–83–1285]

Energy Conservation Advisory Committee and Solar Energy Advisory Committee; Charters

AGENCY: Solar Energy and Energy Conservation Bank, HUD.

ACTION: Notice of advisory committee charters.

SUMMARY: The Energy Conservation Advisory Committee and the Solar Energy Advisory Committee were established by the Solar Energy and Energy Conservation Bank Act, Title V of Pub. L. 96–294 (94 Stat. 719), to advise the Board of Directors of the Solar Energy and Energy Conservation Bank. In accordance with provisions of the Federal Advisory Committee Act, 5 U.S.C. App. I section 1 *et seq.*, the Secretary published charters for the advisory committees, on November 25, 1980 at 45 FR 78235. The aforesaid charters have been amended and duly approved by the Secretary as Chairperson of the Board of Directors of the Bank.

FOR FURTHER INFORMATION CONTACT: Dr. Richard Francis, Manager, Solar Energy and Energy Conservation Bank, Department of Housing and Urban Development, Room 2244, 451 Seventh Street, SW., Washington, D.C. 20410 (202–755–7166).

SUPPLEMENTARY INFORMATION: There is appended hereto the text of the charters, as approved by the Secretary as of the date of this notice.

Dated: September 2, 1983.

Samuel R. Pierce, Jr.,

Secretary of Housing and Urban Development and Chairperson of the Board of Directors, Solar Energy and Energy Conservation Bank.

Energy Conservation Advisory Committee Charter

1. *Purpose.* This establishes the charter for the Energy Conservation Advisory Committee as required under the provisions of the Federal Advisory Committee Act [FACA] of 1972, Pub. L. No. 92–463, 5 U.S.C. App. I section 1.

2. *Objectives, Scope and Duties.* The Energy Conservation Advisory Committee will advise the Board of Directors (the Board) of the Solar Energy and Energy Conservation Bank (the Bank) for the purpose of assisting the Bank in carrying out its activities relating to residential and commercial energy conserving measures pursuant to the Solar Energy and Energy Conservation Bank Act (12 U.S.C. 3601). The function of the advisory committee shall be advisory only and all the matters under its consideration shall be determined, in accordance with law, by the Board of Directors of the Bank.

3. *Authority.*

a. The Energy Conservation Advisory Committee is mandated by and established under the authority of Section 508(a) of the Solar Energy and Energy Conservation Bank Act, Pub. L. No. 96–294, 94 Stat. 719, 724.

b. The Energy Conservation Advisory Committee shall operate in conformance with the requirements outlined in the Solar Energy and Energy Conservation Bank Act, and all applicable laws, rules, regulations and guidelines, promulgated by the Congress, the President, the General Services Administration and the Secretary of Housing and Urban Development.

4. *Composition.* The Energy Conservation Advisory Committee shall be composed of five members who are not officers of, and whose principal employment is not by, a Federal, State or local governmental entity. Each of the following groups shall be represented by one member who is able, due to education, training and experience, to represent its views: consumers, financial institutions, builders, architectural or engineering interests, producers or installers of residential and commerical energy conserving improvement.

5. *Appointments.*

a. Members are appointed by the Board to serve two-year terms.

b. The terms of members are automatically extended until new members are appointed.

c. Any member who becomes an officer or employee of any governmental entity may continue as a member of the advisory committee for not longer than 90 days after becoming such an officer or employee.

d. The terms of all members shall automatically cease upon termination of the advisory committee.

e. Any member may be removed prior to the expiration of his or her term at the discretion of the Board.

6. *Chairperson.* The chairperson of the Energy Conservation Advisory Committee shall be selected by the members of the advisory committee.

7. *Designated Federal Employee.* In accordance with section 10(e) of FACA, the Secretary of Housing and Urban Development has designated the Chief Operating Officer of the Bank to attend every advisory committee meeting. The Chief Operating Officer is the highest official of the Bank, whether President, Executive Vice-President or Manager or in the case of absence or vacancy, the official designee of such official.

8. *Meetings.* The Energy Conservation Advisory Committee shall convene in full session as needed and under the following conditions:

a. The Designated Federal Employee may call, and will approve in advance the scheduling and agenda of, advisory committee meetings and subcommittee meetings after consultation with the advisory committee chairperson (unless the office of chairperson is vacant).

b. A notice of all advisory committee meetings will be published at least 15 days in advance in the **Federal Register.**

c. Three members of the Energy Conservation Advisory Committee shall constitute a quorum, but a lesser number of members may hold hearings.

d. All advisory committee meetings will be open to the general public, except meetings concerned with matters listed in the Freedom of Information Act, 5 U.S.C. 552(b)) covering such subjects as investigatory files, trade secrets, and internal Government memoranda which are not available to the public upon request.

e. Detailed minutes of each meeting of the advisory committee shall be kept and their accuracy shall be certified by the advisory committee chairperson. The minutes shall conform with Departmental regulations and shall include:

1. The time and place of the meetings;

2. A list of advisory committee members and staff, Board members or delegates and Departmental employees present at the meeting;

3. A summary of matters discussed and the conclusions reached;

4. Copies of all reports received, issued, or approved by the advisory committee;

5. A description of the extent to which the meeting was open to the public;

6. A description of public participation, including a list of members of the public who presented oral or written statements; and

7. Copies of reports or written statements received from members of the public; and

8. An estimate of the number of members of the public who attended the meeting.

f. In accordance with FACA, no meeting of the advisory committee will be held in the absence of the Designated Federal Employee or a delegate. The Designated Federal Employee is authorized to adjourn any advisory committee meeting whenever he or she determines adjournment to be in the public interest.

9. *Support Service.* The Bank's Chief Operating Officer may provide staff support services for the Energy Conservation Advisory Committee. General support services provided to the Bank by various organizational units of the Department of Housing and Urban Development will be available to the advisory committee upon approval of the Bank's Chief Operating Officer.

10. *Estimated Support and Costs.* It is estimated that the annual operating cost of the Energy Conservation Committee will not exceed $12,500. This includes travel compensation, transcripts, and miscellaneous meeting expenses but excludes staff support costs which are estimated to be 270 staff hours.

11. *Travel and Compensation.*

a. Members of the Energy Conservation Advisory Committee, while engaged in the performance of formal advisory committee duties away from their homes or regular places of business, are allowed travel expenses on an actual expenses basis for travel incurred for official advisory committee business as authorized by 5 U.S.C. 5703(b).

b. Subject to the availability of appropriations, the rate of compensation for members of the advisory committee is equal to the daily equivalent of the maximum annual rate in effect for grade GS–15 of the General Schedule (5 U.S.C. 5332(a)) for each day, including travel time, during which they are engaged in the actual performance of duties vested in the advisory committee. Members will be paid only in connection with called meetings unless the Bank's Chief Operating Officer authorizes otherwise.

12. *Expiration of Charter.* The Energy Conservation Advisory Committee shall not terminate until the Solar Energy and Energy Conservation Bank ceases to exist, which by statute is September 30, 1987.

13. Date Charter filed with the Secretary of Housing and Urban Development as Chairperson of the Board of Directors of the Solar Energy and Energy Conservation Bank: September 2, 1983.

Solar Energy Advisory Committee Charter

1. *Purpose.* This establishes the charter for the Solar Energy Advisory Committee as required under the provisions of the Federal Advisory Committee Act (FACA) of 1972, Pub. L. No. 92–463, 5 U.S.C. App. I section 1.

2. *Objectives, Scope and Duties.* The Solar Energy Advisory Committee will advise the Board of Directors (the Board) of the Solar Energy and Energy Conservation Bank (the Bank) for the purpose of assisting the Bank in carrying out its activities relating to solar energy systems pursuant to the Solar Energy and Energy Conservation Bank Act (12 U.S.C. 3601). The function of the advisory committee shall be advisory only and all matters under its consideration shall be determined, in accordance with law, by the Board of Directors of the Bank.

3. *Authority.*

a. The Solar Energy Advisory Committee is mandated by and established under the authority of Section 508(b) of the Solar Energy and Energy Conservation Bank Act, Pub. L. No. 96–294, 94 Stat. 719, 724.

b. The Solar Energy Advisory Committee shall operate in conformance with the requirements outlined in the Solar Energy and Energy Conservation Bank Act, and all applicable laws, rules, regulations and guidelines promulgated by the Congress, the President, the General Services Administration and the Secretary of Housing and Urban Development.

4. *Composition.* The Solar Energy Advisory Committee shall be composed of five members who are not officers of, and whose principal employment is not by, a Federal, State or local governmental entity. Each of the following groups shall be represented by one member who is able, due to education, training and experience, to represent its views: consumers, financial institutions, builders, architectural or engineering interests, solar energy industry.

5. *Appointments.*

a. Members are appointed by the Board to serve two-year terms.

b. The terms of members are automatically extended until new members are appointed.

c. Any member who becomes an officer or employee of any governmental entity may continue as a member of the advisory committee for not longer than 90 days after becoming such an officer or employee.

d. The terms of all members shall automatically cease upon termination of the advisory committee.

e. Any member may be removed prior to the expiration of his or her term at the discretion of the Board.

6. *Chairperson.* The chairperson of the Solar Energy Advisory Committee shall be selected by the members of the advisory committee.

7. *Designated Federal Employee.* In accordance with section 10(e) of FACA, the Secretary of Housing and Urban Development has designated the Chief Operating Official of the Bank to attend every advisory committee meeting. The Chief Operating Officer is the highest official of the Bank, whether President, Executive Vice-President or Manager or in the case of absence or vacancy, the official designee of such official.

8. *Meetings.* The Solar Energy Advisory Committee shall convene in full session as needed and under the following conditions:

a. The Designated Federal Employee may call, and will approve in advance the scheduling and agenda of, advisory committee meetings and subcommittee meetings after consultation with the advisory committee chairperson (unless the office of Chairperson is vacant).

b. A notice of all advisory committee meetings will be published at least 15 days in advance in the **Federal Register.**

c. Three members of the Solar Energy Advisory Committee shall constitute a quorum, but a lesser number of members may hold hearings.

d. All advisory committee meetings will be open to the general public, except meetings concerned with matters listed in the Freedom of Information Act, 5 U.S.C. 552(b), covering such subjects as investigatory files, trade secrets, and internal Government memoranda which are not available to the public upon request.

e. Detailed minutes of each meeting of the advisory committee shall be kept and their accuracy shall be certified by the advisory committee chairperson. The minutes shall conform with Departmental regulations and shall include:

1. The time and place of the meeting;

2. A list of advisory committee members and staff, Board members or delegates and Departmental employees present at the meeting;

3. A summary of matters discussed and the conclusions reached;

4. Copies of all reports received, issued, or approved by the advisory committee;

5. A description of the extent to which the meeting was open to the public;

6. A description of public participation, including a list of members of the public who presented oral or written statements; and

7. Copies of reports or written statements received from members of the public; and

8. An estimate of the number of members of the public who attended the meeting.

f. In accordance with FACA, no meeting of the advisory committee will be held in the absence of the Designated Federal Employee or a delegate. The Designated Federal Employee is authorized to adjourn any advisory committee meeting whenever he or she determines adjournment to be in the public interest.

9. *Support Services.* The Bank's Chief Operating Officer may provide staff support services for the Solar Energy Advisory Committee. General support services provided to the Bank by various organizational units of the Department of Housing and Urban Development will be available to the advisory committee upon approval of the Bank's Chief Operating Officer.

10. *Estimated Support and Cost.* It is estimated that the annual operating cost of the Solar Energy Committee will not exceed $12,500. This includes travel compensation, transcripts, and miscellaneous meeting expenses but excludes staff support costs which are estimated to be 270 staff hours.

11. *Travel and Compensation.*

a. Members of the Solar Energy Advisory Committee, while engaged in the performance of formal advisory committee duties away from their homes or regular places of business, are allowed travel expenses on an actual expenses basis for travel incurred for official advisory committee business as authorized by 5 U.S.C. 5703(b).

b. Subject to the availability of appropriations, the rate of compensation for members of the advisory committee is equal to the daily equivalent of the maximum annual rate in effect for grade GS–15 of the General Schedule (5 U.S.C. 5332(a)) for each day, including travel time, during which they are engaged in the actual performance of duties vested in the advisory committee. Members will be paid only in connection with called meetings unless the Bank's Chief Operating Officer authorizes otherwise.

12. *Expiration of Charter.* The Solar Energy Advisory Committee shall not terminate until the Solar Energy and Energy Conservation Bank ceases to exist, which by statute is September 30, 1987.

13. Date Charter filed with the Secretary of Housing and Urban Development as Chairperson of the Board of Directors of the Solar Energy and Energy Conservation Bank: September 2, 1983.

[FR Doc. 83-24697 Filed 9-8-83; 8:45 am]
BILLING CODE 4210-01-M

Office of Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. D–83–703]

Amendment of Redelegation of Authority With Respect to Housing Management

AGENCY: Office of Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of redelegation of authority.

SUMMARY: The Assistant Secretary for Housing—Federal Housing Commissioner is redelegating the authority to determine that a substantial breach or default under the Annual Contributions Contract (ACC) exists for the purpose of terminating the ACC with respect to a low-income public housing project assisted under the U.S. Housing Act of 1937 (42 U.S.C. 1437, et seq.), as amended, (the Act). This amendment is necessary to enable Regional Administrators, and other authorized officials (Field Offices) to terminate ACCs with respect to a low-income public housing project when a local housing authority has failed to develop and complete a project in accordance with HUD requirements.

EFFECTIVE DATE: May 3, 1983.

FOR FURTHER INFORMATION CONTACT: Mildred E. Moore, Management Analysis and Services Division, Office of Management, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410 (202) 755–8694. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Housing-Federal Housing Commissioner is amending the Redelegation of Authority published on October 14, 1970 (35 FR 16104), as amended August 29, 1975 (40 FR 39921) to include authority to determine that a substantial breach or default under the

ACC exists for the purpose of terminating the ACC with respect to a project assisted under the Act when a Field Office determines that a local housing authority has failed to develop and complete a project in accordance with HUD requirements.

The Redelegation of Authority currently excepts from authority delegated under Section A the authority to declare a substantial breach or default or to terminate an ACC when the decision to terminate is made by the Federal Government.

Accordingly, the subparagraphs under Section A, paragraph 8 of the Delegation of Authority published October 14, 1970 (35 FR 16104) as amended August 29, 1975 (40 FR 39921) are amended as follows:

Regional Administrators et al.

Redelegation of Authority With Respect to Housing Management.

* * * * *

8. * * *

a. Determine that there is a substantial breach or default and invoke any remedy on behalf of the Federal Government upon default or breach by a local housing authority with respect to the terms, covenants or conditions of an annual contributions contract, except that any Field Office is authorized to determine that a substantial breach or default exists for the purpose of terminating the ACC when a local housing authority has failed to develop and complete a project in accordance with HUD requirements.

b. Revoked.

c. Redesignated as b.

d. Redesignated as c.

Authority: Section 7(d), Department of HUD Act, 42 U.S.C. 3535(d); U.S. Housing Act of 1937, 42 U.S.C. 1437.

Dated: September 1, 1983

Philip Abrams,

Assistant Secretary for Housing, Federal Housing Commissioner.

[FR Doc. 83-24671 Filed 9-8-83; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Isbella Indian Reservation, Michigan; Addition of Land

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.1.

On August 12, 1983, pursuant to authority contained in Section 7 of the Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 467), the following described land, located in Isabella and Arenac Counties, Michigan, was hereby added to and made a part of the Isabella Indian Reservation.

Michigan Meridian

Isabella Site

T. 14 N., R. 3 W.,
Sec. 20, NW¼NW¼, S½NW¼ and N½SW¼.

Pinconning-Saganing Site

T. 18 N., R. 5 E.,
Sec. 29, E½NE¼SW¼, and also a piece commencing at the Southeast corner of SE¼NW¼ of Sec. 29, T. 18 N., R. 5 E., hence West 2 rods, hence North 2 rods, hence East 2 rods, hence South 2 rods to place of beginning. Containing 20.025 acres, more or less.
Parcel of land commencing at the Southwest corner of the NE¼SW¼, hence North 60 rods, East 40 rods, South 20 rods, West 8 rods, South 40 rods, West 32 rods to beginning. Containing 13 acres, more or less.
Parcel of land beginning 50 rods North of Southeast corner of NW¼SW¼, hence North 10 rods, West 16 rods, South 10 rods, East 16 rods to place of beginning. Containing 1.00 acre, more or less.
Parcel of land beginning at Northwest corner of NE¼SW¼, hence East 20 rods, South 10 rods, West 8 rods, South 10 rods, West 12 rods, North 20 rods to place of beginning. Containing 2.00 acres, more or less.
Parcel of land beginning 22⅓ rods South of Northwest corner of Government Lot 1, hence East 20 rods, North 8 rods, East 20 rods, South 20 rods, West 15.037 rods, South 6⅓ rods, West 24.963 rods North 18⅓ rods to place of beginning. Containing 5.06 acres, more or less.
Parcel of land beginning at Southeast corner of SE¼NW¼, hence North 8 rods, West 40 rods, South 8 rods, East 40 rods to beginning, except 2 square rods in Southeast corner. Containing 1.97 acres, more or less.
Sec. 30, All that portion of SW¼SE¼, lying East of the right-of-way East Michigan Power Co., excepting 1 acre in square form in the Northeast corner of said SW¼SE¼ of said section, and a further exception of 2 acres (Church lot) on East line of said SW¼SE¼ of said section, described as follows: Beginning at a point 20 rods and 8 links, North of Southeast corner of said SW¼SE¼ of said section, extending hence West 12 rods and 13 links, thence South 25 rods and 13 links, to place of beginning. Containing 22.91 acres of land more or less.
Parcel of land, beginning 32 rods South of Northwest corner SE¼SE¼ hence East 23 rods 22½ links West, 3 rods 2 links South, 28 rods West, 19 rods 22 links North to point of beginning. Containing 4.10 acres, more or less.

Subject to all valid existing easements, reservations, and rights-of-way of record containing approximately 270.065 acres.

Kenneth Smith,

Assistant Secretary—Indian Affairs.

[FR Doc. 83-24665 Filed 9-8-83; 9:24 am]

BILLING CODE 4310-02-M

Shoshone-Bannock Tribes of Fort Hall Reservation; Plan for the Use and Distribution of Shoshone-Bannock Tribes of Fort Hall Reservation Judgment Funds in Docket 326–C–1 Before the United States Court of Claims

August 24, 1983.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 209 DM 8.

The Act of October 19, 1973 (Pub. L. 93–134, 87 Stat. 466), as amended, requires that a plan be prepared and submitted to Congress for the use or distribution of funds appropriated to pay a judgment of the Indian Claims Commission or Court of Claims to any Indian tribe. Funds were appropriated on October 28, 1982, in satisfaction of the award granted to the Shoshone-Bannock Tribes of Fort Hall Reservation in United States Court of Claims Docket 326–C–1. The plan for the use and distribution of the funds was submitted to the Congress with a letter dated April 12, 1983, and was received (as recorded in the Congressional Record) by the House of Representatives on April 18, 1983, and by the Senate on April 26, 1983. The plan became effective on July 16, 1983, as provided by Section 5 of the amended 1973 Act, since a joint resolution disapproving it was not enacted.

The plan reads as follows:

"The funds appropriated October 28, 1982, in satisfaction of the judgment granted in Docket 326–C–1 to the Shoshone-Bannock Tribes before the United States Claims Court, less attorney fees and litigation expenses, and including all interest and investment income accrued, shall be used and distributed as provided herein.

"Per Capita Aspect

"Eighty (80) percent of the funds shall be distributed in the form of per capita payments, in sums as equal as possible, to all tribal members born on or prior to and living on the effective date of this plan.

"Programing Aspect

"Twenty (20) percent of the funds, and any amounts remaining from the per capita payment provided above, shall be

invested by the Secretary of the Interior, and the principal and interest and investment income accrued shall be utilized by the tribal governing body, on an annual budgetary basis with the approval of the Secretary, for tribal economic programing purposes. Such economic programs and projects may include, but are not limited to, the construction of a restaurant; the establishment of a museum, campgrounds and related facilities; the establishment of new sewer and water systems; the expansion of the tribal grocery store; and the installation of diesel pumps.

"General Provisions

"The per capita shares of living, competent adults shall be paid directly to them. The per capita shares of deceased individual beneficiaries shall be determined and distributed in accordance with 43 CFR, Part 4, Subpart D. Per capita shares of legal incompetents and minors shall be handled as provided in the Act of October 19, 1973, 87 Stat. 466, as amended January 12, 1983, by Public Law 97–458.

"None of the funds distributed per capita or made available under this plan for programing shall be subject to Federal or State income taxes or be considered as income or resources in determining either eligibility for or the amount of assistance under the Social Security Act or, except for per capita shares in excess of $2,000, any Federal or federally assisted programs."

John W. Fritz,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 83–24647 Filed 9–8–83; 8:45 am]

BILLING CODE 4310–02–M

Bureau of Land Management

Arizona; Filing of Supplemental Plats of Survey

September 1, 1983.

1. Plats of survey of lands described below, accepted on August 12, 1983, were officially filed in the Arizona State Office, Phoenix, Arizona, on August 26, 1983:

Gila and Salt River Meridian, Arizona

T. 1 N., R. 22 W.,
Supplemental plat of sections 4, 5, 6, 7, 8, 18 and 19.
T. 2 N., R. 23 W.,
Supplemental plat of sections 13, 24 and 25.
T. 3 N., R. 22 W.,
Supplemental plat of sections 20, 21, 28 and 29.

2. These supplemental plats were prepared to relot areas in accordance with the Amended Judgments of the United States District Court, Central District of California, dated December 14, 1982, and of record under serial number A–18614 of the Arizona State Office, Bureau of Land Management.

3. These plats will immediately become the basic record for describing the land for all authorized purposes. These plats have been placed in the open files and are available to the public for information only.

4. Inquiries concerning the lands should be addressed to the Arizona State Office, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073.

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83–24643 Filed 9–8–83; 8:45 am]

BILLING CODE 4310–84–M

Arizona; Filing of Supplemental Plat of Survey

September 1, 1983.

1. Plat of survey of land described below, accepted on August 23, 1983, was officially filed in the Arizona State Office, Phoenix, Arizona, on August 26, 1983:

Gila and Salt River Meridian, Arizona

T. 14 N., R. 1 W.,
Supplemental Plat of section 29.

2. This supplemental plat was prepared for the State of Arizona Indemnity Lieu Selection Program. (A–17000(B))

3. This plat will immediately become the basic record for describing the land for all authorized purposes. The plat has been placed in the open files and is available to the public for information only.

4. Inquiries concerning the lands should be addressed to the Arizona State Office, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073.

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83–24644 Filed 9–8–83; 8:45 am]

BILLING CODE 4310–84–M

[A–1700–B]

Arizona; Opening of Public Lands

August 31, 1983.

1. In **Federal Register** Volume 46, Number 136, Pages 36949–36950 dated July 16, 1981, approximately 23,650 acreas were proposed as suitable classification for transfer to the State of Arizona under the State Indemnity Selection Program. All of the lands have been transferred to the State of Arizona with the exception of 3991.42 acres, which have been deleted from the State's application and are described as follows:

T. 8 N., R. 19W., G&SRM.
Sec. 2, Lots 1, 2, S½NE¼, NW¼SE¼;
Sec. 11, E½, E½W½;
Sec. 14, E½, E½W½, SW¼SW¼;
Sec. 15, SE¼SE¼;
Sec. 21, Lot 1, SW¼NW¼, W½SW¼, E½W½, E½;
Sec. 22, N½NE¼, N½N½ NW¼, SW¼SW¼, SE¼SE¼;
Sec. 23, All;
Sec. 26, All;
Sec. 27, NW¼NW¼, E½SE¼;
Sec. 28, NE¼NE¼;
Sec. 34, N½S½SW¼NE¼, SW¼SE¼N E¼, W½SE¼SE¼NE¼.
Sec. 35, NE¼, SE¼SE¼NW¼, S½.

The areas described aggregate about 3991.42 acres in La Paz County.

2. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands described in paragraph 1 were opened to the operation of the public land laws including the mining laws (Ch. 2, Title 30, U.S.C.) on August 27, 1983.

Appropriation of lands under the general mining laws between August 27, 1981 and August 26, 1983 was unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Section 38, vested no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determination in local courts.

3. The lands have been and will continue to be open to applications and offers under the mineral leasing laws.

4. Inquires concerning the lands should be address to the Bureau of Land Management, Department of the Interior, 2400 Valley Bank Center, Phoenix, Arizona 85073 (602–261–4774).

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83–24641 Filed 9–8–83; 8:45 am]

BILLING CODE 4310–84–M

[A–17000–E]

Arizona; Opening of Public Lands

August 23, 1983.

1. In **Federal Register** Volume 46, Number 200, Pages 51052–51053 dated October 16, 1981, and **Federal Register**

Volume 47, Number 195, Pages 44434–44435, dated October 7, 1982, approximately 8470.77 acres were proposed as suitable for classification for transfer to the State of Arizona under the State Indemnity Selection Program. All of the lands have been transferred to the State of Arizona with the exception of 1101.88 acres, which have been deleted from the State's application and are described as follows:

T. 1N., R. 4W., G&SRM,
Sec. 11: N½ SE¼;
Sec. 12: SW¼NW¼NW¼NE¼, NW¼SW¼NW¼NE¼, S½SW¼ NW¼NE¼, N½NW¼SW¼NE¼, N½NW¼, N½N½S½NW¼, NW¼SW¼.
T.1N., R.5W., G&SRM,
Sec. 2: E½E½SW¼, W½SE¼.
T. 2N., R. 5W., G&SRM,
Sec. 1: SW¼, W½SE¼;
Sec. 11: SE¼SE¼;
Sec. 12: NW¼, W½SW¼, W½E½SW¼;
Sec. 13: W½SW¼;
Sec. 14: E½E½;
Sec. 26: S½S½SW¼SW¼NE¼, SE¼SE¼SE¼SE¼NW¼, E½NE¼ NE¼SW¼, SE¼SW¼NE¼SW¼.
T. 5S., R.8W., G&SRM,
Sec. 4: N½SW¼NE¼, N½S½SW¼NE¼, N½SE¼NW¼, N½S½SE¼NW¼.

The areas described aggregate about 1101.88 acres in Maricopa County.

2. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands described in paragraph 1 were opened to the operation of the public land laws including the mining laws (Ch. 2, Title 30 U.S.C.) on August 27, 1983.

Appropriation of lands under the general mining laws between August 27, 1981 and August 26, 1983 was unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Section 38, vested no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determination in local courts.

3. The lands have been and will continue to be open to applications and offers under the mineral leasing laws.

4. Inquiries concerning the lands should be addressed to the Bureau of Land Management, Department of the Interior, 2400 Valley Bank Center, Phoenix, Arizona 85073 (602–261–4774).

Mario L. Lopez,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-24642 Filed 9-8-83; 8:45 am]
BILLING CODE 4310-84-M

[UT-910-4310-84]

Negro Bill Canyon Intensive Wilderness Inventory Decision in Effect

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice.

SUMMARY: This notice announces that the State Director's final wilderness intensive inventory decision to identify 7,620 acres of the Negro Bill Canyon inventory unit (UT–060–138) is now in effect. The decision was originally published in the September 14, 1982, **Federal Register** but did not become effective due to an appeal filed with the Interior Board of Land Appeals (IBLA). IBLA in a decision dated August 17, 1983, affirmed the decision by the State Director, therefore the decision is now final.

The final decision is that: Approximately 7,620 acres are identified as a wilderness study area (WSA). Approximately 1,840 acres are being dropped from further consideration as wilderness and will no longer be subject to the management restrictions imposed by Section 603 of Pub. L. 94–579. The area identified as a WSA will be studied and reported to Congress with a recommendation as to the suitability or non-suitability of the area for wilderness.

FOR FURTHER INFORMATION CONTACT: Kent Biddulph, Utah BLM Wilderness Coordinator, (801) 524–4257.

Dated: September 1, 1983.

Dean Stepanek,
Acting State Director.

[FR Doc. 83-24651 Filed 9-8-83; 8:45 am]
BILLING CODE 4310-84-M

[M58023]

Competitive Sale of Public Land in Mountrail County, North Dakota

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Amended Realty Action (M58023).

SUMMARY: On June 10, 1983, and June 17, 1983, notices appeared in the **Federal Register** regarding sale of two tracts of public land in North Dakota. One of these tracts was sold. No bids were received on the other tract, which is now being reoffered for sale. It is described as follows:

5th Principal Meridian

T.155N., R.91W.,
Sec. 5, Lot 3.

Containing 39.83 acres.

This tract is offered for sale by sealed bids and oral auction. Bids must be made by the prospective buyer or his qualified representative by either: (1) sealed bids mailed or delivered to the Dickinson District Office, or (2) oral bids at the auction. Each bid must be accompanied by a certified check, postal money order, bank draft, or cashier's check, and made payable to the Bureau of Land Management for not less than 20 percent (20%) of the amount bid. No bid will be accepted for less than the appraised fair market value of $5,175.00.

Following the auction, if an acceptable bid has not been received, the tract will remain for sale at the Dickinson District Office on a continuing basis until the parcel is sold or withdrawn. Except as stated in this notice, all reservations and conditions of the sale contained in the earlier **Federal Register** notices (pertaining to the sale of this tract) apply to this reoffering.

DATES: To be considered, sealed bids must be received at the Dickinson District Office no later than 10:00 a.m. Mountain Time, October 14, 1983. The oral auction will be held on that date at 11:00 a.m. in the Conference Room of the Dickinson District Office.

ADDRESSES: The BLM Dickinson District Office is located on the Second Floor of the Gate City Building, 204 Sims Street, Dickinson, ND (mailing address: P.O. Box 1229, Dickinson, ND 58602).

FOR FURTHER INFORMATION CONTACT: Kenneth Burke or Leonard Koerth at the BLM Dickinson District Office, (701)225–9148.

Charles W. Pettee,
Acting District Manager.

[FR Doc. 83-24675 Filed 9-8-83; 8:45 am]
BILLING CODE 4310-84-M

[M56401]

Montana; Conveyance of Public Land

August 30, 1983.

AGENCY: Bureau of Land Management, Montana State Office, Interior.

ACTION: Notice of Conveyance of Public Land in McCone County, Montana.

SUMMARY: Notice is hereby given that pursuant to Section 203 of the Act of October 21, 1976 (43 U.S.C. 1713 (1976)), the following described land was

conveyed to Delbert M. Vine and Dannette Vine:

Principal Meridian, Montana

T. 25 N., R. 47 E.,
Sec. 4, NE¼SW¼, NE¼SE¼.
Containing 80 acres.

The purpose of this notice is to inform State and local governmental officials and other interested parties of the conveyance of the land to Delbert and Dannette Vine.

Edgar D. Stark,

Chief, Lands Adjudication Section.

[FR Doc. 83-24676 Filed 9-8-83; 8:45 am]

BILLING CODE 4310-84-M

[M-58712]

Montana; Realty Action; Modified Competitive Sale of Public Land in Valley County, Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action—M-58712, modified competitive sale of public land in Valley County, Montana.

SUMMARY: The following described lands have been examined and identified as suitable for disposal by sale pursuant to Secs. 203 and 209(b) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1713 (1976), at no less than the fair market value:

Principal Meridian

T. 27 N., R. 40 E.,
Sec. 2, Lot 4, SW¼NW¼, N½W¼;
Sec. 3, S½NE¼, NE¼SE¼.

The area described contains 283.5 acres, more or less.

The land, locally known as Tiger Butte, shall be offered for sale (surface and mineral estate excluding oil and gas) by modified competitive bidding procedures by sealed bid. The grazing permittee of the tract, Mr. Ross Dorr, is the designated bidder and will be offered the right to meet the high bid. The high bidder, if not the grazing permittee, must compensate the grazing permittee for his interest in authorized permanent range improvements. Refusal or failure to meet the highest bid shall constitute a waiver of such bidding provisions.

The subject land is located five miles southeast of Glasgow, Montana, about one mile from a county road. It is an isolated parcel and has no unique public values, no known mineral values other than oil and gas, and has historically been used for livestock grazing. The parcel has been determined, through evaluation and through the Land Report for the case, to be surplus to the needs of the BLM and is considered uneconomical and difficult to manage. Its disposal will not significantly affect other public land users.

The terms and conditions applicable to the sale are as follows:

1. A reservation to the United States of a right-of-way for ditches or canals constructed by the authority of the United States in accordance with 43 U.S.C. 945, for lands being transferred out of Federal ownership.
2. The reservation to the United States of oil and gas in the lands being transferred out of Federal ownership.
3. All valid existing rights (e.g. rights-of-way, easements, and leases of record).
4. Value equalization by cash payment or acreage adjustment.
5. The exchange must meet the requirements of 43 CFR 4110.4-2(b).

DATES: For a period of 45 days from the date of this notice (October 24, 1983), interested parties may submit comments to the Lewistown District Manager, Bureau of Land Management, Lewistown District Office, at the address shown below. Any adverse comments will be evaluated by the BLM Montana State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become a final determination of the Department of the Interior.

The modified competitive sale of the above described land in Valley County will be held at the Montana State Office, 222 North 32nd Street, Billings, Montana on October 12, 1983, at 2:00 p.m.

FOR FURTHER INFORMATION CONTACT: Information concerning the sale, including the planning documents, environmental assessment and the record of public discussions, is available for review at the Lewistown District Office, Airport Road, Lewistown Montana 59547 and the Valley Resource Area Office, Highway 2 West, Route 1-775, Glasgow, Montana 59230.

Bidder Qualifications: The bidder must be a U.S. citizen or, in the case of a corporation, subject to the laws of any state or the U.S. A state, state instrumentality, or political subdivision submitting a bid must be authorized to hold property. Any other entity submitting a bid must be legally capable of holding and conveying lands or interests therein under the laws of the State of Montana. Bids must be made by the principal or his agent.

Bid Standards: No bid will be accepted for less than the appraised value and bids must include all of the land identified in this notice.

Method of Bidding: The land will be sold by sealed bid. Each bid must be in a sealed envelope accompanied by a certified check, postal money order, bank draft, or cashiers check made payable to the Department of the Interior, BLM for not less than one-fifth of the amount bid along with a $50 nonreturnable filing fee for conveyance of the mineral interests. Sealed bids delivered or sent by mail will be considered only if received by the Bureau of Land Management, 222 North 32d Street, P.O. Box 36800, Billings, Montana 59107 prior to October 11, 1983.

The sealed bid envelope must be marked in the lower corner as follows:

Public Land Sale M-57737
October 12, 1983

If two or more envelopes containing valid bids of the same amount are received, the determination of which is to be considered, the highest bid shall be by drawing. The drawing, if required, shall be held immediately following the opening of the sealed bids. The highest qualifying sealed bid shall then be publicly declared.

Modified Bidding: For a period of 30 days following the date of the sale, Ross Dorr, the designated bidder, will be offered the right to meet the highest qualifying bid. The designated bidder must submit a bid of at least the fair market value and the $50 minerals application fee prior to the sale date in order to be considered under the modified bidding provisions. If he meets the highest bid, the land will be sold to him, and the other bid will be returned. His refusal to meet the highest bid or to submit any bid at all prior to the sale date shall constitute a waiver of such bidding provisions.

Final Details: Once a high bid is accepted, the successful bidder shall submit the remainder of the full bid price within the time period designated by the authorized officer. Failure to submit the required amount within the allotted time will result in cancellation of the sale and the deposit will be forfeited. All bids will be either returned, accepted, or rejected within 30 days of the sale date.

Dated: August 31, 1983.

William J. Cutler,

Acting District Manager.

[FR Doc. 83-24674 Filed 9-8-83; 8:45 am]

BILLING CODE 4310-84-M

[Designation Order NV-020-8301]

Nevada Off-Road Vehicle Designation

Notice is hereby given relating to the use of off-road vehicles on public lands

in accordance with the authority and requirements of Executive Orders 11644 and 11989, and regulations contained in 43 CFR Part 8340. The following described lands under administration of the Bureau of Land Management are designated as open, limited or closed to off-road motorized vehicle use.

The 3,728,614 acres affected by the designations is known as the Paradise-Denio Resource Area, which includes public lands in parts of Humboldt and Pershing Counties, Nevada. These designations are a result of resource management decisions made in the 1982 Paradise-Denio Management Framework Plan. Comments received from three public meetings and numerous written responses influenced the designation decisions. These designations are published as final today. Under 43 CFR 4.21, an appeal may be filed within 30 days with the Interior Board of Land Appeals.

A. *Open Designation.* Areas which are designated open comprise 3,711,776 acres. Open designation was determined to be appropriate for these public lands since off-road vehicle use is an important recreational activity and is essential for the conduct of other authorized resource uses.

B. *Closed Designation.* The 17,838 acre Pine Forest Area is located twenty-five miles southwest of Denio, Nevada. All motorized vehicle use is prohibited in this area to protect the pristine quality of the natural features present.

These designations become effective upon publication in the **Federal Register** and will remain in effect until rescinded or modified by the authorized officer. An environmental assessment describing the impact of these designations is available for inspection at the office listed below.

For further information about these designations, contact the following: Bureau of Land Management official: District Manager, Winnemucca District Office, 705 East Fourth Street, Winnemucca, NV 89445, (702) 623–3676.

Dated: August 30, 1983.

Frank C. Shields,

District Manager.

[FR Doc. 83–24678 Filed 9–8–83; 8:45 am]

BILLING CODE 4310–84–M

[Designation Order NV–020–8302]

Nevada Off-Road Vehicle Designation

Notice is hereby given relating to the use of off-road vehicles on public lands in accordance with the authority and requirement of Executive Orders 11644 and 11989, and regulations contained in 43 CFR Part 8340. The following described lands under administration of the Bureau of Land Management are designated as open, limited or closed to off-road motorized vehicle use.

The 4,424,396 acre area affected by the designations is known as the Sonoma-Gerlach Resource Area, which includes all public lands in Pershing County and parts of Humboldt, Washoe, Churchill and Lyon Counties. These designations are made as a result of resource management decisions made in the 1982 Sonoma-Gerlach Management Framework Plan. Comments received from three public meetings, four open houses and several written comments influenced the designation decisions. These designations are published as final today. Under 43 CFR 4.21, an appeal may be filed within 30 days with the Interior Board of Land Appeals.

A. *Open Designation.* Areas which are designated open comprise 4,313,872 acres. Open designation was determined to be appropriate for these public lands since off-road vehicle use in an important recreational activity and is essential for the conduct of other authorized resource uses.

B. *Limited Designation.*

1. Limited Season of Use—4,544 acres.

The Granite Range Bighorn Sheep Lambing Area is located four miles northwest of Gerlach, Nevada. This area is open to motorized vehicle use from June 1 through January 31 and closed to use from February 1 through May 31, to protect the bighorn sheep from being disturbed during their lambing season, a critical time.

2. Limited Type of Use—105,820 acres.

The playa of the Black Rock Desert begins at Gerlach, Nevada and extends northeast for 25 miles. This area is limited to allow no organized or competitive off-road vehicular use that would permanently detract from its natural character.

C. *Closed Designation.* One hundred and sixty acres of the George W. Lund Petrified Forest is closed to motorized vehicles. Located approximately forty miles north of Gerlach, Nevada, this area is closed to protect large fossilized stumps.

These designations become effective upon publication in the **Federal Register** and will remain in effect until rescinded or modified by the authorized officer. An environmental assessment describing the impact of these designations is available for inspection at the office listed below.

For further information about these designations, contact the following: Bureau of Land Management official: District Manager, Winnemucca District Office, 705 East Fourth Street, Winnemucca, NV 89445, (702) 623–3676

Dated: August 30, 1983.

Frank C. Shields,

District Manager.

[FR Doc. 83–24677 Filed 9–8–83; 8:45 am]

BILLING CODE 4310–84–M

1983 Amendments to the California Desert Conservation Area Plan, Draft Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability.

SUMMARY: Pursuant to Section 102(2)(c), of the National Environmental Policy Act of 1969, the Bureau of Land Management has prepared a Draft Environmental Impact Statement (DEIS) concerning the 1983 Amendment review of the California Desert Plan.

DATE: Comments on the DEIS are being accepted for 90 days from the date of this notice

ADDRESS: For further information contact Gerald E. Hillier, district Manager, California Desert District 1695 Spruce Street, Riverside, California 92507.

SUPPLEMENTARY INFORMATION: Fourteen amendments were accepted for consideration. The amendments propose changes in both general plan guidelines and in site-specific measure. The latter include changes in vehicle access restrictions, Areas of Critical Environmental Concern (ACECs), grazing allotments, wildness suitability recommendations, and multiple-use class designations. Under the preferred alternative, 11 amendments would either be accepted or accepted with modification, and 3 would be rejected.

Comment on the DEIS should be submitted to the following address; use of any other address may result in comments not being processed: 1983 Plan Amendments, Bureau of Land Management, California Desert District, 1695 Spruce Street, Riverside, CA 92507.

A limited number of copies of the Draft Environmental Impact Statement are available upon request at the address listed above for comments. Copies are also available for review at two other locations:

USDI—Bureau of Land Management, 2800 Cottage Way, Rm. E–2841, Sacramento, CA 95825

USDI—Bureau of Land Management, 1725 Eye Street NW., Suite 906, Washington, D.C. 20240.

Dated: September 2, 1983.

Ed Hastey,

State Director.

[FR Doc. 83-24665 Filed 9-8-83; 8:45 am]

BILLING CODE 4310-84-M

New Mexico; Rio Puerco Resource Area; Call for Coal Resource Information

AGENCY: Bureau of Land Management, Interior.

ACTION: Call for coal resource information.

SUMMARY: The Bureau of Land Management (BLM), Rio Puerco Resource Area, New Mexico is currently engaged in the preparation of a Resource Management Plan (RMP) which will include an environmental impact statement (EIS). The major land use decision concerning the coal resource shall be the identification of areas acceptable for further consideration for leasing. The data received from this call will, in part, be used to delineate tracts which will be considered for third round competitive leasing for the San Juan River Coal Production Region.

The purpose of this notice is to solicit coal resource information and indications of interest and needs, pursuant to 43 CFR 3420.1–2 for incorporation into the RMP. Coal companies, state and local governments, and the general public are encouraged to submit information to the BLM to assist in the determination of coal development potential. Where such information is determined to indicate development potential for an area, the area may be included in the land use planning for evaluation of acceptability for further consideration for leasing.

DATE: Comments relating to this notice will be accepted until November 8, 1983.

ADDRESS: Send comments to: BLM, Albuquerque District Office, Branch of Solid Minerals, P.O. Box 6770, 3550 Pan American Fwy. NE, Albuquerque, New Mexico 87101. Proprietary data should be identified to ensure confidentiality.

FOR FURTHER INFORMATION CONTACT: Herrick E. Hanks, Area Manager; or Jim Turner, Geologist, Rio Puerco Resource Area, (505) 766–3114.

SUPPLEMENTARY INFORMATION: The area undergoing evaluation includes all of Bernalillo and Torrance Counties. It also includes most of Sandoval County and 3,200 acres of southwestern Santa Fe County.

Significant resources issues will be identified during the first phase of the planning process. The development of the coal resource may be one of the issues addressed in the Resource Management Plan. The purpose of this notice is to solicit coal resource information for planning issue identification and definition and to help delineate tracts for third round competitive coal leasing in the San Juan River Coal Production Region. Industry and other interested parties are asked to provide any information that will be useful in tract delineation, ranking, selection, and the analysis processes of the Federal Coal Management Program defined in 43 CFR Subpart 3420.

A major objective is to integrate potential lessees' and other public data and needs with the process of delineating the logical mining units. The BLM hopes to gain sufficient information from this call, as well as from its own site-specific analyses, to ultimately make fair market value determinations on specific tracts. It is important to note that availability of information from this call will be a major factor in applying the unsuitability criteria and delineating tracts likely to receive consideration for coal leasing.

The type of information needed includes, but is not limited to, the following:

1. Location:

a. Tracts desired by mining companies (narrative description with delineation of surface/minerals management quad map or other such map).

b. Public and private industry user facilities in the general region.

2. Quantity needs (tonnage, average tons per year, and year during which production should commence) for both coal producers and users.

3. Quality needs (types and grades of coal) for both producers and users.

4. Coal reserve or drilling data of company or the public may have pertaining to the Rio Puerco Resource Area.

5. Proposed Users of Coal:

a. By mining companies.

b. By public and private industries.

6. Information Relating to Mineral Ownership:

a. Information of surface owner consents previously granted; e.g., description of the location of the property, whether consents are transferable, etc.

b. Commitments from fee coal owners or from associated non-Federal coal.

For those wishing to identify areas for non-development, the following information should in included:

1. Location—delineations should be made on suitable map with a scale not less than ½ inch to the mile accompanied with a narrative description.

2. Reasons for non-development.

3. Other pertinent information.

Any individual, business entity, governmental entity, or public body may participate and submit coal resource information under this call. The public is also asked to comment on the applicability of the coal unsuitability criteria to the public lands in the Rio Puerco Resource Area. Public participation activities will be conducted in accordance with 43 CFR Part 1601. Dates, times and locations will be announced through local media and mailings to interested parties. All persons, groups, and other government agencies with an interest in the Rio Puerco Resource Area and its management are asked to make their comments or recommendations on this planning effort on or before November 8, 1983.

Dated: August 31, 1983.

L. Paul Applegate,

BLM, Alburquerque District Manager.

[FR Doc. 83-24660 Filed 9-8-83; 8:45 am]

BILLING CODE 4310-84-M

[A-17000-A]

Arizona; Notice of Opening of Public Lands

1. In **Federal Register** Volume 46, Number 131, Page 35561 dated July 9, 1981, approximately 21,869 acres were proposed as suitable for classification for transfer to the State of Arizona under the State Indemnity Selection Program. All of the lands have been transferred to the State of Arizona with the exception of 6080.21 acres, which have been deleted from the State's application and are described as follows:

T. 2 S., R. 1 W., G&SRM
Sec. 25; N½; SW¼;
Sec. 26; N½; SE¼;
Sec. 27; E½;
Sec. 34; NE¼;
Sec. 35; all.
T. 3 S., R.1 W., G&SRM,
Sec. 1; Lots 3, 4, S½ NW¼, SE¼;
Sec. 3; SE¼;
Sec. 11; NW¼, S½;
Sec. 12; all;
Sec. 13; all;
Sec. 14; NE¼, SW¼;
Sec. 24; all.
T. 3 S., R.1 E., G&SRM,
Sec. 5; SE¼
Sec. 8; all.

The areas described aggregate about 6080.21 acres in Maricopa County.

2. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands described in paragraph 1 were opened to the operation of the public

land laws including the Mining laws (Ch. 2, Title 30 U.S.C.) on August 27, 1983.

Appropriation of lands under the general mining laws between August 27, 1981 and August 26, 1983 was unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, vested no rights against the United States. Acts required to establish a location and to initate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determination in local courts.

3. The lands have been and will continue to be open to applications and offers under the mineral leasing laws.

4. Inquiries concerning the lands should be addressed to the Bureau of Land Management, Department of Interior, 2400 Valley Bank Center, Phoenix, Arizona 85073; (602–261–4774).

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-24040 Filed 9-8-83; 8:45 am]

BILLING CODE 4310-84-M

Susanville District; Additions to Glass Mountain Known Geothermal Resources Area, California

AGENCY: Bureau of Land Management, Interior.

ACTION: Additions to the Glass Mountain Known Geothermal Resources Area.

SUMMARY: Pursuant to the authority vested in the Secretary of the Interior by Section 21(a) of the Geothermal Steam Act of 1970 (84 State. 1566, 1572; 30 U.S.C. 1020), and delegations of authority in 220 Departmental Manual 4.1 H, and Secretarial Orders 3071 and 3087, the following described lands are hereby defined as additions to the Glass Mountain Known Geothermal Resources Area, effective August 3, 1983:

(5) California

Glass Mountain Known Geothermal Resources Area

Mount Diablo Meridian, California

T. 43 N., R. 3 E.,
Secs. 1 to 14, inclusive.
T. 42 N., R. 4 E.,
Secs. 1 to 9 inclusive, and 16 to 18 inclusive.
T. 43 N., R. 2 E.,
Secs. 1 to 5, inclusive, 8 to 17, inclusive, and 22 to 26, inclusive.
T 43 N., R. 3 E.,
Secs. 5 and 6, 16 to 18, inclusive, 20 to 27, inclusive, 29 to 34, inclusive, and 36.
T. 43 N., R. 4 E.,
Secs. 1, 11, 12, 19, 21 to 33, inclusive, and 35.
T. 44 N., R. 2 E.,
Sec. 36.
T. 44 N., R. 3 E.,
Secs. 1 to 3, inclusive, 10 to 16, inclusive, and 20 to 35, inclusive.
T. 44 N., R. 4 E.,
Secs. 3, 4, 6, 7, 9, 10, 14 to 16, inclusive, 18, 19, 25, and 36.
T. 45 N., R. 3 E.,
Secs. 1, 2, 11 to 14, inclusive, 23 to 26, inclusive, and 34 to 36, inclusive.
T. 45 N., R. 4 E.,
Secs. 5 to 9, inclusive, 16 to 21, inclusive, and 27 to 34, inclusive.
T. 46 N., R. 4 E.,
Secs. 31 and 32.

The defined area described contains 100,918.26 acres, more or less.

FOR FURTHER INFORMATION CONTACT:

Bureau of Land Management, California State Office, Division of Mineral Resources, 2800 Cottage Way, Sacramento, California 95825; (916) 484–4515

Bureau of Land Management, Susanville District Office, P.O. Box 1090, Susanville, California 96130; (916) 257–5381

Dated: August 30, 1983.

C. Rex Cleary,

District Manager.

[FR Doc. 83-24037 Filed 9-8-83; 8:45 am]

BILLING CODE 4310-84-M

Preparation of Susanville District, Eagle Lake/Cedarville Wilderness Environmental Impact Statement and Subsequent Management Framework Plan Amendment

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: Pursuant to 43 CFR 1601.3 and 40 CFR 1501.7, notice is hereby given that the Susanville District, BLM, California, will prepare an amendment to the Tuledad-Home Camp, Cowhead-Massacre, Cal-Neva, and Willow Creek Management Framework Plans (MFPs). This plan will facilitate the identification of issues for preparation of (1) a Wilderness Study Report and (2) an Environmental Impact Statement (EIS) for 15 Wilderness Study Areas (WSAs) numbers CA–020–311, 609, 612, 615, 619, 619A, 805, 913, 913A, 913B, 914, 1012, 1013, and NV–020–006A, 008. A Memorandum of Understanding between the Susanville and Winnemucca BLM District Managers established that the two Nevada WSAs would be studied by the Susanville District in conjunction with California WSAs 914 and 913, respectively.

DATE: Land and Resource Management Alternatives for EIS and Plan Amendment will be developed by August, 1984. Public input and analysis by an inter-disciplinary team are scheduled for completion in July, 1985.

For further information or to be placed on the mailing list for this planning effort, contact: Larry Teeter, Wilderness Coordinator, Susanville District Office, Bureau of Land Management, P.O. Box 1090, Susanville, California 96130, (916) 257–5381.

SUPPLEMENTARY INFORMATION: The Wilderness Study Areas are located in Lassen County in northeastern California and Washoe and Humboldt Counties in Northwestern Nevada. Anticipated issues include: (1) Potential developments for range management, energy and minerals, forestry, and wildlife; (2) use of motorized vehicles for management and maintenance of the above activities plus wild horse management and recreation; (3) manageability of WSAs for long term preservation of wilderness values. Interdisciplinary team members will represent the following disciplines: wildlife, range, lands, minerals, watershed, forestry, recreation, archaeology, botany, and wild horses. Opportunities for public input and comments will be announced through the media mail, and personal contact. Public hearings will be scheduled in November-December of 1984. Times, dates, and locations of any public meeting and the hearing will be announced through the media, mail, and **Federal Register.**

C. Rex Cleary,

District Manager.

[FR Doc. 83-24046 Filed 9-8-83; 8:45 am]

BILLING CODE 4310-84-M

Disposal of Public Lands; Bernalillo County, New Mexico

Dated: August 19, 1983.

AGENCY: Bureau of Land Management, Albuquerque District Office, Interior.

ACTION: Notice of realty action on proposed land disposal.

SUMMARY: This notice is to advise the public that the Bureau of Land Management (BLM) is proposing to dispose of approximately 5.232 acres of public land in the town of Los Padillas, Bernalillo County, New Mexico.

SUPPLEMENTARY INFORMATION: The BLM has determined that the 5.232 acres of public land described below are suitable

for disposal under Section 203 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716, at $2.50/acre.

New Mexico Principal Meridian

Parcel #1—(New Mexico State Highway Department)

T. 8N., R. 2E.,
Sec. 2—Lot 84—1.54 ac.
Sec. 3—Lot 20—0.37 ac.
T. 9N., R. 2E.,
Sec. 35—Lot 3—0.001 ac.

Parcel #2—(Bernalillo County Road Department)

T. 8N., R. 2E.,
Sec. 1—Lot 29—1.96 ac.; Lot 60—0.001 ac.; Lot 62—0.01 ac.
Sec. 2—Lot 36—0.58 ac.; Lot 50—0.31 ac.; Lot 71—0.29 ac.; Lot 88—0.17 ac.

The land described aggregates 5.232 acres.

Parcel #1 is being offered to New Mexico State Highway Department; Parcel #2 is being offered to the Bernalillo County Road Department. Both parcels are being offered to the above mentioned government entities at $2.50/acre.

The parcels of land are totally encumbered by long standing county roads and state highways. These prevailing uses are considered as the highest and best uses; therefore, disposal by direct sale will authorize the occupancy of the land, assure continued use of the roadways and eliminate United States ownership of a small completely isolated parcel of public land. Encumbrances of these types have no recognizable value in the marketplace, therefore, a direct sale at the nominal fee of $2.50/acre will be assessed. The Bureau of Land Management Rio Grande's Management Framework Plan approved June 11, 1979 (Decision L–7.1 and L–7.2) identified the subject public land as suitable for disposal.

The subject public land tract is not required for any other Federal purpose and meets the disposal criteria of the regulations contained in 43 CFR 2710.0–3(a)(3).

A Notice of Realty Action, describing the tract and conditions of the disposal shall be published once in the **Federal Register** and once a week for three consecutive weeks in a newspaper of general circulation.

The BLM has not effectively managed this land in the past and will not be capable of such management in the future. The location as well as the physical characteristics and the private ownership of adjoining lands, make it difficult and uneconomical to manage as public land.

The land will not be offered for sale for at least 60 days after the date of this notice

The terms and conditions applicable to the sale are:

1. The patent will include a reservation of a right-of-way for ditches and canals constructed by the authority of the United States in accordance with 43 U.S.C. 945.

2. The sale of these lands will be subject to all prior existing rights.

3. Mineral rights will be reserved to the United States.

4. Geothermal resources will be reserved to the United States.

Detailed information concerning the sale, including the combined Environmental Assessment and Land Report, is available for review at the Rio Puerco Resource Area Office, Albuquerque, New Mexico and the Albuquerque District Office, 3350 Pan American Freeway, Albuquerque, New Mexico.

For a period of 45 days from the date of this notice interested parties may submit comments to the District Manager at 350 Pan American Freeway, Albuquerque, New Mexico 87107. Any adverse comments will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of the Interior.

L. Paul Applegate,
District Manager.

[FR Doc. 83–24645 Filed 9–8–83; 8:45 am]
BILLING CODE 4310–84–M

[NM 55217/NM 57003]

New Mexico; Legal Notice

August 29, 1983.

Department of the Interior, Bureau of Land Management, Santa Fe, New Mexico 87501. Pursuant to an amended coal exploration license application NM 55217 filed by Dorado Energy Group, Inc., and coal exploration license application NM 57003 filed by Salt River Project, members of the public are hereby invited to participate on a pro rata cost sharing basis, in either program for the exploration of coal deposits owned by the United States of America. The lands for both applications are located in Catron and Cibola Counties, New Mexico and are described as follows:

NM 55217—Dorado Energy Group, Inc.

T 3 N., R. 15 W., NMPM, Catron County
Sec. 18: Lots 1, 2, 3, 4, E½, E½W½.
T 4 N., R 15 W., NMPM, Catron County
Sec. 31 Lots 1, 2, 3, 4, E½, E½W½.
T 3 N., R 16 W., NMPM, Catron County
Sec. 1 SW¼SW¼,
Sec. 4: Lots 1, 2, 3, 4, S½N½, S½;
Sec. 5: Lots 1, 2, 3, 4, S½N½, S½;
Sec. 6: Lots 1, 2, 3, 4, 5, 6, 7, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 7: Lots 1, 2, 3, 4, E½, E½W½;
Sec. 8: All;
Sec. 9: All;
Sec. 13: All;
Sec. 17: All;
Sec. 18: Lots 3, 4, NE¼, E½SW¼, SE¼;
Sec. 19: Lots 1, 2, 3, 4, E½, E½W½;
Sec. 20: All;
Sec. 29: N½;
Sec. 30: Lots 1, 2, NE¼, E½NW¼.
T. 4 N., R. 16 W., NMPM, Cibola/Catron County
Cibola
Sec. 4: Lots 1, 2, 7, 8, 9, 10, 11, 12, S½;
Sec. 9: W½NW¼, SW¼, S½SE¼;
Sec. 11: All.
Catron
Sec. 13: All;
Sec. 15: All;
Sec. 21: E½;
Sec. 22: All;
Sec. 24: All;
Sec. 25: All;
Sec. 26: N½, N½SW¼, SE¼SW¼, SE¼;
Sec. 27: N½, N½SW¼, SE¼SW¼, SE¼;
Sec. 31: Lots 1, 2, 3, 4, E½, E½W½;
Sec. 35: All.
T. 3 N., R. 17 W., NMPM, Catron County
Sec. 1: Lots 1, 2, 3, 4, S½N½, S½;
Sec. 3: Lots 1, 2, S½NE¼, S½;
Sec. 8: NE¼, W½NW¼, S½;
Sec. 12: All;
Sec. 14: N½, SW¼, W½SE¼;
Sec. 15: N½N½;
Sec. 17: All;
Sec. 20: All;
Sec. 24: All.
T. 4 N., R. 17 W., NMPM, Cibola/ Catron County
Cibola
Sec. 9: N½, SW¼, W½SE¼, SE¼SE¼
Catron
Sec. 20: All;
Sec. 22: All;
Sec. 30: Lots 1, 2, 3, 4, E½, E½W½;
Sec. 33: N½, SW¼.
T. 3 N., R. 18 W., NMPM, Catron County
Sec. 23: SE¼SW¼, S½SE¼;
Sec. 26: NE¼, E½NW¼, NE¼SW¼, N½SE¼.

Containing 24,707.5. acres

NM 57003—Salt River Project

T. 3 N., R. 16 W., NMPM, Catron County,
Sec. 4: Lots 1, 2, 3, 4, S½N½, S½;
Sec. 5: Lots 1, 2, 3, 4, S½N½, S½;
Sec. 6: Lots 1, 2, 3, 4, 5, 6, 7, S½NE¼ SE¼NW¼, E½SW¼, SE¼;
Sec. 7: Lots 1, 2, 3, 4, E½, E½W½;
Sec. 8: All;
Sec. 9: All;
Sec. 18: Lots 3, 4, E½ E½SW¼.
T 4 N., R. 16 W., NMPM, Cibola/Catron County
Sec. 18: Lots 2, 3, NE¼, E½NW¼, NE¼SW¼, N½SE¼;
Sec. 19: SE¼NW¼;
Sec. 31: Lots 1, 2, 3, 4, E½, E½W½.
T 3 N., R. 17 W., NMPM, Catron County
Sec. 1: Lots 1, 2, 3, 4, S½N½, S½;
Sec. 3: Lots 1, 2, S½NE¼, S½;

Sec. 12: All;
Sec. 14: N½, SW¼, W½SE¼;
Sec. 15: All.
T. 4 N., R. 17 W., NMPM, Cibola/Catron County
Sec. 13: E½E½ N½NW¼;
Sec. 14: All;
Sec. 15: All;
Sec. 21: All;
Sec. 22: All;
Sec. 23: All;
Sec. 28: E½, SW¼NW¼, SW¼;
Sec. 33: N½, SW¼.
Containing 12,764.71 acres.

The reader may determine the specific areas which are included in both applications by comparing the lands described above.

Consideration is being given by the Bureau of Land Management as to whether separate licenses for the same area are warranted, or whether only one license should be issued, with appropriate modifications incorporated in the exploration plan to accommodate the needs of the parties involved.

Any party electing to participate in either exploration program shall notify in writing, both the State Director, Bureau of Land Management, P. O. Box 1449, Santa Fe, Mew Mexico 87501, and either Dorado Energy Group, Inc., 8757 East Monterosa Street, Scottsdale, Arizona 85251 or Salt River Project, P. O. Box 1980, Phoenix, Arizona 85001. Such written notice must include a justification for wanting to participate and any recommended changes in the particular exploration plan with specific reasons for such changes. The notice must be received no later than 30 calendar days after the publication of this notice in the **Federal Register**.

Certain parties have already expressed an interest to participate in the exploration program in response to the first notice of invitation published in February 1983, pursuant to Dorado's original application. They will continue to be considered as prospective participants under the amended application NM 55217 if they are still interested and willing to participate on the basis of the amended exploration plan.

Both proposed exploration programs are for the purpose of determining the quality and quantity of the coal in each application area and are fully described and will be conducted pursuant to one or more exploration plans to be approved by the Bureau of Land Management. A copy of the exploration plans as submitted by Dorado Energy Group, Inc., and Salt River Project, may be examined at the Bureau of Land Management State Office, Room 3031, Joseph M. Montoya Federal Building and U.S. Post Office, South Federal Place, Santa Fe, New Mexico, and the Bureau of Land Management, 317 North Main, Santa Teresa Building, Las Cruces, New Mexico.

Charles W. Luecher,

State Director.

[FR Doc. 83-24635 Filed 9-8-83; 8:45 am]

BILLING CODE 4310-84-M

Dickinson District Advisory Council; Meeting

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of meeting.

SUMMARY: The BLM Dickinson District Advisory Council will meet to review and discuss public comments received on the McKenzie-Williams and Southwest North Dakota management framework plans and to consider how the BLM should respond to the comments. The Council will also have the opportunity to discuss and make recommendations on any other aspect of the two land use plans. If enough interest is shown, the Council may go on a field trip to western Bowman County to see examples of BLM scattered tracts as well as the Big Gumbo Management Area, which contains the largest acreage of consolidated BLM lands in North Dakota.

LOCATION, DATE, AND TIME: The meeting will be held from 8:30 a.m. to 4:00 p.m. Mountain Time, October 12, 1983, in the Community Room of the Gate City Building, 204 Sims Street, Dickinson, North Dakota. If the proposed field trip does occur, it would start at Dickinson on the morning of September 28, 1983. Specific time and itinerary has not yet been set.

FOR FURTHER INFORMATION CONTACT: Mel Ingeroi, Public Affairs Specialist, BLM Dickinson District, 204 Sims Street, P.O. Box 1229, Dickinson, ND 58602; telephone (701) 225-9148. Anyone interested in participating in the field trip should contact him in advance. The final decision on whether or not to go on a field trip will be made by September 19.

SUPPLEMENTARY INFORMATION: The meeting and field trip are open to the public. Anybody may attend and ask questions or make statements. Written statements for the Council can be mailed to the Dickinson District at the above address. Minutes of the meeting will be prepared and made available to the public.

Kenneth Burke,

Acting District Manager.

[FR Doc. 83-24638 Filed 9-8-83; 8:45 am]

BILLING CODE 4310-84-M

Salem District Advisory Council; Meeting

Notice is hereby given in accordance with section 309 of the Federal Land Policy and Management Act of 1976 that a meeting of the Salem District Advisory Council will be held on Oct. 24, 1983, at 1:30 p.m. at the BLM Salem District Office, 1717 Fabry Road S.E., Salem, Oregon.

Agenda for the meeting will include:

1. Discussion of the proposed management plan for Yaquina Head Outstanding Natural Area.
2. Oral statements from the public.

The meeting is open to the public. Any organization, associations or individual may file a statement or appear before the council regarding topics on the meeting agenda. Anyone wishing to make an oral statement must notify the Salem District Manager, P.O. Box 3227, Salem, OR 97302, by Oct. 20, 1983. Summary minutes will be maintained in the District Office and will be available for public inspection and reproduction during regular business hours within 30 days following the meeting.

Dated: August 29, 1983.

John D. Evans,

Acting District Manager.

[FR Doc. 83-24636 Filed 9-8-83; 8:45 am]

BILLING CODE 4310-84-M

Wyoming; Rawlins District Advisory Council Meeting

AGENCY: Bureau of Land Management, Rawlins District Office, Rawlins, Wyoming, Interior.

ACTION: Notice of meeting of the Rawlins District Advisory Council.

SUMMARY: Notice is hereby given in accordance with Pub. L. 94-579 that a meeting of the Rawlins District Advisory Council will be held.

DATE: October 13, 1983.

ADDRESS: Rawlins District Office, 1300 N. 3rd Street, P.O. Box 670, Rawlins, Wyoming 82301.

FOR FURTHER INFORMATION CONTACT: David J. Walter, District Manager, Rawlings District, Bureau of Land Management, P.O. Box 670, Rawlins Wyoming 82301 (307) 324-7171.

SUPPLEMENTARY INFORMATION: The meeting will be begin at 9:30 a.m. in the conference room and the Rawlins District Office. The agenda for this meeting will include:

(1) Cooperative Range Management Agreements

(2) Programs planned for the next two years

(3) Lander Resource Management Plan

(4) Adobe Town/Ferris Mountains Environmental Impact Statement and wilderness study

(5) Wild Horse Management issues

(6) Public comment period.

The meeting is open to the public. Interested persons may make oral statement to the council at 3 p.m. or file written statements for the council's consideration. Anyone wishing to make an oral statment must nofiy the District Manager on or before October 6, 1983. Depending on the number of persons wanting to make statements, a time limit may be established.

David J. Walter,

District Manager.

[FR Doc. 83-24639 Filed 9-8-83; 8:45 am]

BILLING CODE 4310-84-M

Richfield District, Richfield, Utah, Realty Action; Modified Competitive Sale of Public Land in Sanpete County, Utah (UT-51878)

The following described land has been examined and identified as suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713), at no less than the appraised fair market value:

Salt Lake Meridian, Utah

T. 14 S., R. 2 E.,
Sec. 25, SE¼NW¼.
Containing 40 acres.

This is an isolated tract of public land. The surrounding private lands, the lack of public access, and the relatively small size of the tract make it difficult and uneconomical to manage as part of the public lands, and it is not suitable for management by another federal agency. Disposal would best serve the public interest. The sale is consistent with the Bureau's planning system for the land involved as well as local land-use plans and zoning regulations.

The land will be offered for sale by modified competitive bidding. Bidding will be limited to the adjoining landowners because of the lack of access to the general public and because the anticipated future use of the sale tract would be less likely to jeopardize the existing use of the adjacent lands.

The sale of this land will be held at 2 p.m. on November 22, 1983, at the Richfield District Office, 150 East 900 North, Richfield, Utah 84701. The land will be sold by a combination of sealed and oral bids. Sealed bids may be submitted by mail or in person and/or oral bids may be made at the sale. Sealed bids will be considered only if received at the above address prior to 1 p.m. on November 22, 1983. Sealed bids must contain a certified check, post office money order, bank draft, or cashier's check made payable to the Bureau of Land Management for at least twenty percent (20%) of the amount of the total bid for the parcel. Sealed bid envelopes must be marked in lower left-hand corner as:

"Bid for Public Land Sale U-51878, Sanpete County."

The sealed bids shall be opened and publicly declared at the beginning of the sale. Oral bids will then be entertained. The oral bids must be made in increments of $100 or more. A maximum of three minutes will be allowed between oral bids for the submission of a higher bid. After oral bids are entertained, the apparent high bidder will be declared. The person declared to have entered the apparent high qualifying oral bid shall submit payment by cash, personal check, bank draft, money order or any combination thereof, for any additional amount necessary to bring the amount tendered with their sealed bids up to one-fifth of the amount of the oral bid, immediately following the close of the sale. All bids may be made by a principal or a duly qualified agent. All bidders must qualify pursuant to 43 CFR Subpart 2711.2.

The terms and conditions applicable to the sale are:

1. The apparent high bidder shall submit the remainder of the full bid price within 30 days from date of sale. Failure to submit the full bid price prior to, but not including the 30th day following the sale, shall result in cancellation of the sale of the above described lands and the deposit shall be forfeited.

2. The authorized officer may reject the highest qualified bid and release the bidder from his obligation and withdraw the tract for sale, if he determines that consummation of the sale would be inconsistent with the provisions of any existing law or collusive or other activities have hindered or restrained free and open bidding or consummation of the sale would encourage or promote speculation in public lands.

3. All deposits accompanying unsuccessful sealed bids will be returned within 30 days from the sale date.

4. The patent will contain a reservation of a right-of-way for ditches and canals constructed by the authority of the United States in accordance with 43 U.S.C. 945. The patent will also reserve all minerals to the United States.

5. The patent will be subject to all valid existing rights.

Detailed information concerning the sale, including the planning documents, environmental assessment, and the decision document is available for review at the Richfield District Office.

For a period of 45 days from the date of this notice, interested parties may submit comments to the Richfield District Manager, Bureau of Land Management, 150 East 900 North, Richfield, Utah 84701. Any adverse comments will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination.

In the absence of any action by the District Manager, this realty action will become the final determination of the Department of the Interior.

Dated: September 2, 1983.

Donald L. Peddleton,

District Manager.

[FR Doc. 83-24664 Filed 9-8-83; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Gulf of Mexico Lease Offerings (May, August, and November 1985); Call for Information

Purpose of Call

The purpose of the Call is to assist the Secretary of the Interior in carryng out his responsibilities under the Outer Continental Shelf (OCS) Lands Act (43 U.S.C. 1331-1343), as amended (92 Stat. 629), and regulations appearing at 30 CFR 256.23. Potential bidders are requested to outline areas where they believe hydrocarbon potential is sufficient to warrant offering these areas in the Gulf of Mexico. The Secretary is also requesting comments from all interested parties—Federal, State, and local governments, environmental groups, the general public, and potential bidders—on possible environmental effects and use conflicts in the Call area.

Use of Information from Call

Information submitted in response to this Call will be considered in the area identification which is a procedure used to select the areas of hydrocarbon potential to be proposed for leasing and analyzed in the environmental impact

statement as the proposed Federal action. This information will also be used to identify alternatives to the proposed action. Comments received on possible environmental effects and use conflicts may be used in the analysis of local environmental conditions within the Call area so that the potential effects of oil and gas exploration and development, other than the benefits accruing to the Nation as a result of inventorying and producing oil and gas, can be assessed. The comments may also be useful in developing special lease terms and conditions designed to ensure safe offshore operations.

Description of Areas

The general area of this Call covers the entire Gulf of Mexico which lies between approximately 82° W. longitude on the east and approximately 97° W. longitude on the west and extends from the Federal/State boundary seaward to about the 3,000-meter isobath. The entire Call area is offshore Texas, Louisiana, Mississippi, Alabama, and Florida.

Although indications of interest and comments are requested throughout the entire Gulf of Mexico Call area, that area is divided into three planning areas for individual lease offerings: Central Gulf of Mexico (May 1985); Western Gulf of Mexico (August 1985); and Eastern Gulf of Mexico (November 1985).

The Central Gulf of Mexico planning area is bounded on the east by approximatly 88° W. longitude. Its western boundary begins at the offshore boundary between Texas and Louisiana and proceeds southeast to approximately 28° N. latitude, thence east to approximately 92° W. longitude, and thence south to approximately 26° N. latitude. The northern part of the area is bounded by the Federal/State boundary offshore Louisiana, Mississippi, and Alabama. The southern part of the area is bounded by approximately 26° N. latitude.

The Western Gulf of Mexico planning area is bounded on the west and north by the State/Federal boundary and on the east by the Central Gulf of Mexico planning area. Approximately 26° N. latitude borders on the south.

The Eastern Gulf of Mexico planning area is bounded along the north and east by a line proceeding along the State/Federal boundary to approximately 82° W longitude, thence south to approximately 25° N. latitude, thence west to approximately 86° W longitude, thence north to approximately 27° N. latitude, thence west to approximately 88° W. longitude. Its western boundary is the Central Gulf of Mexico planning area.

Indications of interest and comments are requested for all Federal acreage within the boundaries of the Call area. Boundaries of the Call area are shown, in general, on the map at the end of this Call and are shown in detail on the standard Call for Information Map available free either by mail from the Regional Manager, Gulf of Mexico OCS Region, P.O. Box 7944, Metairie, Louisiana 70010, or from the office located at 3301 North Causeway Boulevard, Metairie, Louisiana.

The following list comprises the Leasing Maps and the OCS Official Protraction Diagrams used in identifying this Call area. These maps and diagrams may be purchased from the Regional Manager, Gulf of Mexico OCS Region.

1. Central Gulf of Mexico

Leasing Maps

Outer Continental Shelf Leasing Maps—Louisiana Nos. 1 through 12.

Outer Continental Shelf Official Protraction Diagrams

These diagrams sell for $2.00 each.

NH 15–12 Ewing Bank, 12/2/76
NG 15–3 Green Canyon, 12/2/76
NH 15–6 Walker Ridge, 12/2/76
NH 16–4 Mobile, 4/19/83
NH 16–7 Viosca Knoll, 12/2/76
NH 16–10 Mississippi Canyon, 12/2/76
NG 16–1 Mississippi Canyon, 12/2/76
NG 16–4 Mississippi Canyon, 12/2/76

2. Western Gulf of Mexico

Leasing Maps

Outer Continental Shelf Leasing Maps—South Texas Nos. 1 through 4. This set of seven maps sells for $5.00.

Outer Continental Shelf Leasing Maps—East Texas Nos. 5 through 8. This set of nine maps sells for $7.00.

Outer Continental Shelf Official Protraction Diagrams

These diagrams sell for $2.00 each.

NG 14–3 Corpus Christi, 1/27/76
NG 14–6 Port Isabel, 1/27/76
NG 15–1 East Breaks, 1/27/76
NG 15–4 Alaminos Canyon, 3/26/76
NG 15–2 Garden Banks, 12/2/76
NG 15–5 Keathley Canyon, 12/2/76

3. Eastern Gulf of Mexico

Outer Continental Shelf Official Protraction Diagrams

These diagrams sell for $2.00 each.

NH 16–5 Pensacola, 6/2/83
NH 16–8 Destin Dome, 12/2/76
NH 16–11 Desoto Canyon, 12/2/76
NG 16–2 Desoto Canyon, 12/2/76
NH 16–9 Apalachicola, 6/2/83
NH 16–12 Florida Middle Ground, 12/2/76
NG 16–3 The Elbow, 12/2/76
NG 16–6 The Elbow, 12/2/76
NG 16–9 Howell Hook, 4/18/79
NH 17–7 Gainesville, 6/2/83
NH 17–10 Tarpon Springs, 6/2/83
NG 17–1 St. Petersburg, 6/2/83
NG 17–4 Charlotte Harbor, 6/2/83
NG 17–7 Pulley Ridge, 10/24/78

Instructions on Call

The standard Call map delineates the Call area and represents the entire area, as identified by the Minerals Management Service (MMS), as having potential for the discovery of deposits of oil and gas. Although individual indications of interest are considered to be privileged and confidential information, the names of persons or entities indicating interest or submitting comments will be of public record.

Indications of interest from potential bidders are requested on any or all Federal acreage included in the Call area described above. Respondents are requested to indicate areas within the Call area that they have interest in having included in the lease offerings. Those indicating such interest are required to do so on the standard Call for Information Map, available free from the Regional Manager, Gulf of Mexico OCS Region, at the address stated under "Description of Areas." Interest should be shown by outlining the area(s) of interest along block lines.

In addition to indictions of interest, we are seeking comments from all interested parties about particular geological, environmental, biological, archeological, or socioeconomic conditions or problems, or other information which might bear upon potential leasing and development of particular areas. Comments should preferably address broad areas but may be restricted to particular blocks of concern. Those submitting comments are requested to outline the subject area on the standard Call map.

Indications of interest and comments must be submitted no later than 30 days following publication of this document in the **Federal Register** in envelopes labeled "Indications of Interest for Leasing Offshore the Gulf of Mexico" or "Comments on Leasing Offshore the Gulf of Mexico," as appropriate. The original standard Call map and indications of interest and/or comments must be submitted to the Regional Supervisor for Offshore Leasing and Environment, Gulf of Mexico OCS Region, at the address stated under "Description of Areas." Send two copies of the standard Call map showing interest and any comments to the Chief, Offshore Resource Evaluation Division,

Minerals Management Service, Mail Stop 643, 12203 Sunrise Valley Drive, Reston, Virginia 22091.

Final delineation of the areas for competitive bidding will be made at a later date only after compliance with established departmental procedures, all requirements of the National Environmental Policy Act of 1969, and the OCS Lands Act, as amended. A final Notice of Lease Offering will be published for each offering in the **Federal Register**, detailing areas to be offered for competitive bidding, stating the terms and conditions for leasing, and announcing the location, date, and time bids will be received and opened.

Dated: September 1, 1983.

David C. Russell,

Acting Director, Minerals Management Service.

Approved

William P. Pendley,

Deputy Assistant Secretary of the Interior.

UNITED STATES DEPARTMENT OF THE INTERIOR
MINERALS MANAGEMENT SERVICE

GULF OF MEXICO LEASE OFFERING - 1985 CALL FOR INFORMATION

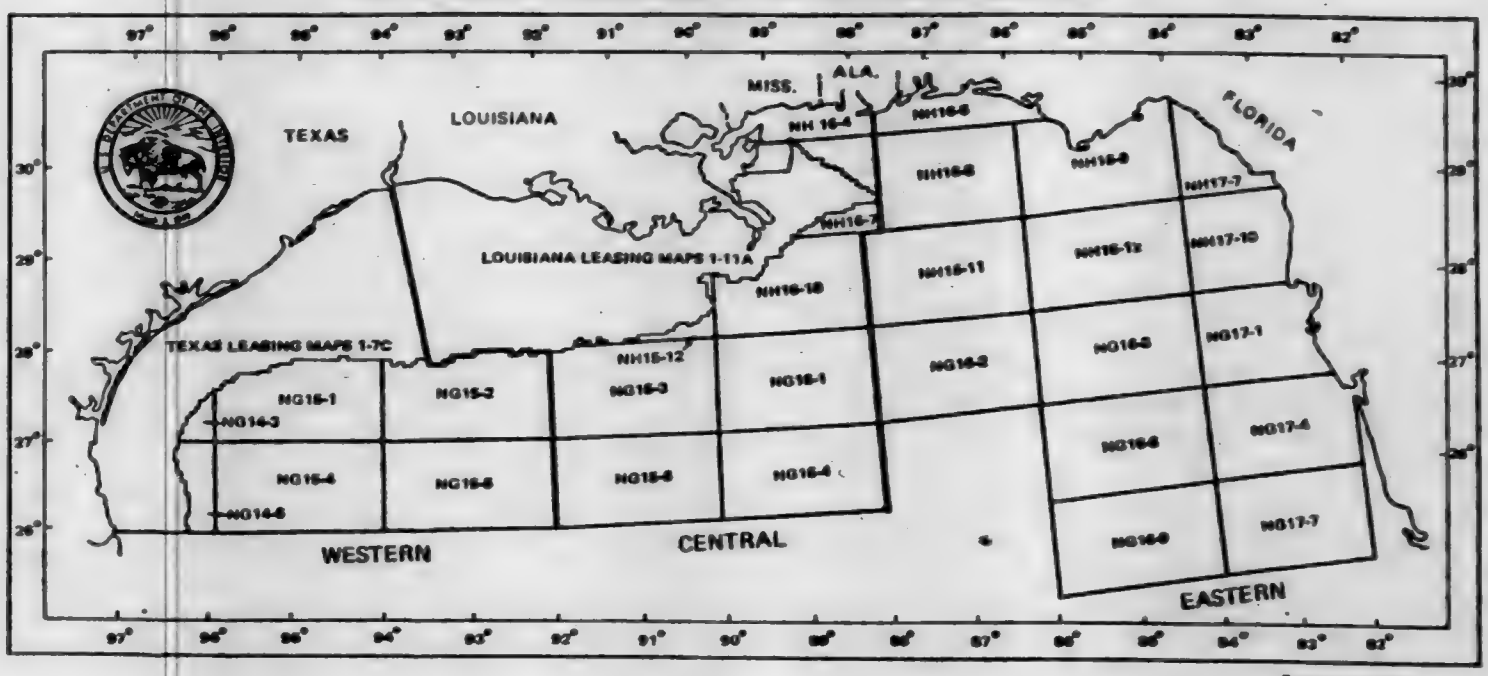

September 1983

[FR Doc. 83-24491 Filed 9-8-83; 8:45 am]
BILLING CODE 4310-MR

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Huffco Petroleum Corp.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Huffco Petroleum Corporation has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 4523, Block 235, South Marsh Island Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 838–0519.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: September 2, 1983.

John L. Rankin,

Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-24491 Filed 9-8-83; 8:45 am]
BILLING CODE 4310-MR-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

[Redelegation of Authority No. 99.1.121, Amendment No.1]

Mission Directors and A.I.D. Principal Officers, Africa; Redelegation of Authority Regarding Grant Functions

Pursuant to the authority delegated to me as Director, Office of Contract Management under Redelegation of

Authority No. 99.1 (38 FR 12,836) from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby amend Redelegation of Authority No. 99.1.121 (47 FR 873) to add Botswana, Lesotho and Zimbabwe to the list of countries in the first paragraph. Redelegation of Authority No. 99.1.121 is otherwise unchanged.

This Amendment to the Redelegation of Authority is effective on the date of signature.

Dated: August 31, 1983.

Francis J. Moncada,

Acting Director, Office of Contract Management.

[FR Doc. 83-24650 Filed 9-8-83; 8:45 am]
BILLING CODE 6116-01-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Intent To Engage In Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: The Coca-Cola Company, 310 North Avenue NW., Atlanta, Georgia 30313.

2. Wholly owned subsidiaries which will participate in the operations, and states of incorporation:

Subsidiary	State of Incorporation
(a) Coca-Cola Bottling Company of New England.	Massachusetts.
(b) Coca-Cola Bottling Company of California.	Delaware.
(c) Pacific Coca-Cola Bottling Company	Washington.
(d) Coca-Cola Bottling Company of Michigan.	Michigan.
(e) General Bottling Company	Georgia.
(f) The Atlanta Coca-Cola Bottling Company.	do.
(g) General Beverage Company	Delaware.
(h) Gonzales & Co., Inc. d/b/a/ The Monterey Vineyard.	California.
(i) Sterling Vineyards	do.
(j) The Taylor Wine Company, Inc.	New York.
(k) Presto Products, Incorporated	Wisconsin.
(l) Caribbean Refrescos, Inc.	Delaware.
(m) Coca-Cola Interamerican Corporation	do.
(n) Coca-Cola Export Corporation	do.
(o) Coca-Cola Ltd.	Ontario, Canada.
(p) Coca-Cola Bottling Company of Puerto Rico, Inc..	Delaware.
(q) The Coca-Cola Trading Company	do.
(r) Belmont Springs Water Co., Inc.	Massachusetts.
(s) Winkler/Flexible Products, Inc.	California.
(t) (Ronco Enterprises, Inc.	Delaware.
(u) Columbia Pictures Industries, Inc.	do.
(v) Lauredle Imports Company	Florida.

1. Parent corporation and address of principal office: Euclid Chemical Company, 19218 Redwood Road, Cleveland, OH 44110.

2. Wholly owned subsidiaries which will participate in the operations, and states of incorporation:

Redwood Transport Company—an Ohio Corporation

1. Parent corporation and address of princial office: Southwestern General Corporation, 2942 State Highway 74, Evergreen, Colorado 80439.

Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation:

1. Mountain States Bean Company, P.O. Box 16488, 4401 E. 46th Avenue, Denver, CO 80216. State of incorporation: DE
2. Transportation Parts Company, 8901 N.W. 20th, Miami, FL; State of incorporation: NY
3. Sanford Company, Peachtree, GA; State of incorporation: DE
4. Twin Pane Company, Detroit, MI; State of incorporation: DE
5. Transelectric Supply, 1300 Industry Drive, Owensboro, KY; State of incorporation: DE
6. Beakon Bean Company, First and Oregon Streets, Gooding, ID; State of incorporation: ID.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-24613 Filed 9-8-83; 8:45 am]
BILLING CODE 7035-01-M

[I.C.C. Order No. P-62]

Passenger Train Operation; Union Pacific Railroad Co.

To: Union Pacific Railroad Company

It appearing, that the National Railroad Passenger Corporation (Amtrak) has established through passenger train service between Oakland, California, and Chicago, Illinois. The operation of these trains requires the use of the tracks and other facilities of Southern Pacific Transportation Company (SP). A portion of the SP tracks in Utah over the Great Salt Lake are temporarily out of service because of flooding. An alternate route is available via Union Pacific Railroad Company (UP) between Alazon, Nevada, and Salt Lake City, Utah.

It is the opinion of the Commission that the use of such alternate route is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exits for making this order effective upon less than thirty days' notice.

It is ordered,

(a) Pursuant to the authority vested in me by order of the Commission decided April 29, 1981, and of the authority vested in the Commission by Section 402(c) of the Rail Passenger Service Act of 1970 (45 U.S.C. 562(c)), Union Pacific Railroad Company (UP) is directed to operate trains of the National Railroad Passenger Corporation (Amtrak) between a connection with Southern Pacific Transportation Company (SP) at Alazon, Nevada, and Salt Lake City, Utah.

(b) In executing the provisions of this order, the common carriers involved shall proceed even though no agreements or arrangements now exist between them with reference to the compensation terms and conditions applicable to said transportation. The compensation terms and conditions shall be, during the time this order remains in force, those which are voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree the compensation terms and conditions shall be as hereafter fixed by the Commission upon petition of any or all of the said carriers in accordance with pertinent authority conferred upon it by the Interstate Commerce Act and by the Rail Passenger Service Act of 1970, as amended.

(c) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign commerce.

(d) *Effective date.* This order shall become effective at 12:45 a.m. (EDT), August 29, 1983.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m. (PDT), August 29, 1983, unless otherwise modified, amended, or vacated by order of this Commission.

This order shall be served upon Union Pacific Railroad Company, and upon the National Railroad Passenger Corporation (Amtrak), and a copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., August 29, 1983.

Interstate Commerce Commission.

John H. O'Brien,

Agent.

[FR Doc. 83-24614 Filed 9-8-83; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

Consent Judgment in Clean Water Act Enforcement Action

In accordance with Departmental policy, 28 CFR 50.7, 38 FR. 19029, notice is hereby given that a proposed consent decree in *United States* v. *Watts Regulator Co.*, Civil Action No. 83–150–D, has been lodged with the United States District Court for the District of New Hampshire. The consent decree requires Watts Regulator Co. to comply with all terms and conditions of its NPDES permit, to pay a civil penalty of $78,000, and to pay stipulated penalties in the event of future violations of the permit requirements.

The consent decree may be examined at (1) the office of the United States Attorney, District of New Hampshire, Federal Building, 55 Pleasant Street, Concord, New Hampshire, (2) the Office of the Environmental Protection Agency, Region I, Office of Regional Counsel, John F. Kennedy Federal Bldg., Boston, Massachusetts 02203, and (3) the Environmental Enforcement Section, Land and Natural Resources Division, of the Department of Justice, Room 1521, Ninth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division, of the Department of Justice.

The Department of Justice will receive comments relating to the consent decree for a period of thirty (30) days from the date of this notice. Comments should be directed to the Assistant Attorney General for the Land and Natural Resources Division of the Department of Justice, Ninth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20530 and should refer to *United States* v. *Watts Regulator Co.*, DOJ Reference No. 90–5–1–1–1918.

F. Henry Habicht, II.

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 83–24648 Filed 9–8–83; 8:45 am]

BILLING CODE 44–10–01–M

Antitrust Division

United States v. H. S. Crocker Co., Inc., et al.

Notice is hereby given that Sequoia Pacific Holdings, Inc. ("Sequoia") and Smurfit Diamond Packaging Corporation ("Smurfit") have asked the United States District Court for the Northern District of California to modify the Final Judgment in *United States v. H. S. Crocker Co., Inc., et al.*, Civil No. C–74–0560 RHS, and that this application will be heard before the Honorable Robert H. Schnacke on September 30, 1983. The United States has consented to the proposed modification. The Final Judgment prohibits the defendant corporations, among other things, from agreeing with any other seller of paper labels: (1) To allocate or divide customers territories or markets for the sale of any paper label or (2) to raise, fix, stabilize or maintain the price, discount, markup or any other term or condition for the sale of any paper label to any third person. Smurfit International B.V., an affiliate of Smurfit, proposes to transfer all the stock of Exeter Graphics, Inc. ("Exeter"), a labels subsidiary to Sequoia. Smurfit, which also operates a labels business proposes to form a joint venture with Exeter for marketing their labels. Under the proposal, if the joint venture terminates before December 31, 1986. Smurfit would not compete with Exeter for certain existing customers of Exeter until December 1986; would use best efforts to refer to Exeter orders for labels to the extent provided to Exeter during the 18-month period before termination of the venture; and would not participate in any price discussions or price negotiations with Exeter and all negotiations and price determinations on referred business would be conducted directly by Exeter. The joint venture would be allowed to continue beyond five years only with the further permission of the Department. Smurfit and Exeter will be bound by the provisions of the final Judgment, as modified by the pending application. Copies of the Complaint, the final Judgment, the motion to modify the Judgment, the joint venture agreement and all correspondence between the Department and the parties have been filed with the Court, and are available for inspection in the Legal Procedure Unit of the Antitrust Division, Room 7416, Department of Justice, 10th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20530 (telephone 202–633–2481) and at the office of the Clerk of the United States District Court, 450 Golden Gate Avenue, San Francisco, California 94102. Interested persons may submit comments regarding the proposed Judgment modification to the Department. Such comments must be received by September 29, 1983, and will be filed with the Court. Comments should be addressed to Anthony E. Desmond, Chief, Antitrust Division, P.O. Box 36046, 450 Golden Gate Avenue, San Francisco, California 94102 (telephone 415–556–6300).

Joseph H. Widmar,

Director of Operations Antitrust Division.

[FR Doc. 83–24633 Filed 9–8–83; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–14,522]

Tennessee Texas Alloy Chemical Corp., Houston, Texas; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on March 28, 1983, in response to a petition received on March 8, 1983, which was filed by the United Steel Workers of America on behalf of workers at Tennessee Texas Alloy Chemical Corporation.

No public hearing was requested and none was held.

All workers were separated from the subject firm more than one year prior to the date of the petition. Section 223 of the Act specifies that no certification may apply to any worker whose last separation occurred more than one year before the date of the petition. Consequently further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, D.C. this August 31, 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 83–24731 Filed 9–8–83; 8:45 am]

BILLING CODE 4510–30–M

NATIONAL SCIENCE FOUNDATION

Oversight Panel for Economics; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–46, the National Science Foundation announces the following meeting:

Name: Oversight Panel for Economics.

Date and Time: September 23, 1983; 9:00 a.m. to 5:00 p.m.

Place: Room 642, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.

Type of Meeting: Closed—9:00 a.m. to 2:00 p.m., open—2:00 p.m. to 5:00 p.m.

Contact Person and Summary Minutes: James H. Blackman, Acting Division Director, Social and Economic Sciences, Room 310,

National Science Foundation, Washington, D.C. 20550. Telephone (202) 357–7986.

Purpose of Panel: To provide advice and recommendations concerning NSF support of economics research.

Agenda: Closed 9:00 a.m.–2:00 p.m. Review and comparison of declined proposals (and supporting documentation) with the successful awards under the Economics Program, including review of peer review materials and other privileged material.

Open 2:00 p.m.–5:00 p.m. Discussion of program priorities and general management of program.

Reason for Closing: The Panel will be reviewing grants and declinations jackets which contain the names of applicant institutions and principal investigators and privileged information contained in declined proposals. This session will also include a review of peer review documentation pertaining to applicants. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to Close: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Reason for Late Notice: Administrative Oversight.

M. Rebecca Winkler,

Committee Management Coordinator.

September 6, 1983.

[FR Doc. 83–24634 Filed 9–8–83; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

Accident Reports, Safety Recommendations, and Responses; Availability

Reports Issued

Safety Report—General Aviation Crashworthiness Project, Phase One (NTSB/SR–83/01) (NTIS Order No. PB83–917004).

Note.—Reports may be ordered from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, for a fee covering the cost of printing, mailing, handling, and maintenance. For information on reports, call 703–487–4650, and to order subscriptions to reports, call 703–487–4630.

Recommendations to

Aviation—*Federal Aviation Administration: Aug. 24: A–83–56:* Conduct a special certification review of Mitsubishi MU–2 airplanes relative to the engines, fuel system, autopilot, and flight control systems; flight in known icing conditions; engine inoperative characteristics; and handling characteristics during IMC landing approaches; and take the appropriate action to correct any deficiencies identified. *Aug. 31: A–83–59:* Issue an Emergency Airworthiness Directive to operators of Swearingen SA 226–TC Metro airplanes to require an immediate inspection of hydraulic tubing and oxygen lines in the vicinity of the electrical circuit breaker panel on the copilot's side console and behind the instrument panel. The inspection should be conducted according to a procedure adequate to detect leakage or stress cracks which could cause future leakage when the system are pressurized. Require immediate replacement of hydraulic or oxygen lines exhibits defects. Further, require operators to comply with Fairchild Aircraft Corporation Service Bulletin 32–018 to use fire-resistant hydraulic fluid. *A–83–60:* Determine the applicability of this problem and corrective action to other models of Swearingen airplanes, and if necessary, include these airplane models in the Airworthiness Directive. *A–83–61:* In conjunction with the manufacturer, determine the susceptability of the hydraulic tubing in Swearingen SA 226–TC Metro airplanes to stress or fatigue cracking, particularly where such tubing is routed in the vicinity of electrical circuitry, and take appropriate action to establish life limits, to replace tubing with assemblies not susceptible to stress or fatigue failure, and if necessary, to reroute tubing to assure that leakage will not present a fire hazard.

Marine—*U.S. Coast Guard: Aug. 16: M–83–56:* Promulgate regulations similar to the regulations contained in 33 CFR 128.801 to be applicable to barge fleets moored in all portions of the inland waters of the United States. *M–83–57:* Once barge fleeting regulations have been promulgated, institute an enforcement program including periodic fleet inspections to insure that the regulations are followed.

U.S. Army: Aug. 16: M–83–58: Institute a monitoring program for District Engineers to verify that the terms and conditions of construction permits issued for barge fleeting areas by the Corps of Engineers are met. *M–83–59:* Develop a means to protect dams of the McClellan-Kerr Arkansas River Navigation System from the danger presented during periods of high water by breakway barges.

Railroad—*Illinois Central Gulf Railroad: Aug. 12: R–83–83:* Provide intensive supervision of night train operators and include in its prescribed supervisory efficiency checks, periodic unannounced checks of train crewmembers' fitness for duty at reporting points and on trains en route. *R–83–84:* Improve locomotive inspection procedures at the Baton Rouge diesel facility. *R–83–85:* Provide all employees who are involved in the makeup, handling, and operation of hazardous materials trains thorough training in emergency response to hazardous materials incidents and train dynamics. *R–83–86:* Include in its hazardous materials and operating rules training curricula thorough reviews and explanations of the timetable special instructions pertaining to the handling of hazardous materials incidents and providing local emergency forces with accurate response information. *R–83–87:* Provide the conductors and engineers of all trains which include hazardous materials cars with current and complete emergency response information for each hazardous material carried in their train. *R–83–88:* Before reopening the Hammond District to the through operation of trains containing hazardous materials, improve roadbed conditions to provide adequate vertical support at track joints and replace all track joint bars which give evidence of fatigue cracking. *R–83–89:* Require that the rehiring of train service employees who are discharged for serious infractions of the operating rules and restoring them to train service be approved by management above the division level. *Aug. 24: R–83–93:* Expedite the program for the replacement of rails in curves and all rails that fall within the criteria established by the Chief Engineer Maintenance of Way Department set out in Special Instruction T–10–82. *R–83–94:* Reestablish the practice of superelevating main track curves where it has been discontinued. *R–83–95:* Upgrade the maintenance level of the track in the Louisville District to met fully the Federal Railroad Administration's Track Safety Standards for Class 3 track.

Research and Special Programs Administration: Aug. 12: R–83–90: Require the Materials Transportation Bureau to identify commodities such as perchloroethylene which may pose a serious long-term threat to local environments, and to take timely action to regulate their transportation.

State of Louisiana: Aug. 12: R–83–91: Expand the Louisiana State Police "Hazardous Materials Awareness Program" to focus on rural communities, which have schools, business districts, residential areas, highways in close proximity to railroad lines used to transport hazardous materials.

Chemical Manufacturers Association: Aug. 12: R–83–92: Extend the use of color coding of tank cars or adopt some other effective means of identifying high-risk commodity tank cars in switching operations and in wreck clearing operations.

Note.—Single copies of these recommendation letters are available on written request to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. Please include recommendation number in your request. Copies of recent recommendations are free of charge while supplies last. Recommendations that must be photocopied will be billed at a cost of 20 cents per page ($2 minimum charge).

Recommendation Responses From

Aviation—*Federal Aviation Administration: Jun. 2: A–81–166:* Has revised Advisory Circular 90–48C, Pilot's Role in Collision Avoidance to include detailed information regarding the psychophysiological factors affecting pilots' ability to see and avoid other aircraft. *A–81–168:* Does not concur in recommendation to amend 14 CFR 105 to require that the pilot of a jump aircraft contact all control facilities having jurisdiction of the airspace in which the aircraft will transit during the operation for the purpose of receiving traffic advisories while proceeding to and departing from the location where jumpers are released. While in transit, the jump aircraft is another en route aircraft. It is not engaged in jump operations and therefore, while en route, the operation is not unique. The pilot of a VFR jump aircraft, as with any other en route aircraft, may ask for traffic advisories but is

not required to do so. Such a requirement would mandate traffic advisories for an operation which is not in progress but only planned. *Jun. 2: A–81–27:* Does not believe that information provided by the Board with its recommendation to amend 14 CFR 23.807(a)(1) concerning emergency exits or by the FAA's Small Airplane Certification Directorate warrants a revision to the present rule and its associated economic impact. *A–81–28:* The proposal to require external doors and emergency exits of aircraft to be conspicuously marked on the outside with directions for opening the door is an item in the forthcoming 14 CFR Part 23 airworthiness review announced in the **Federal Register** of Jan. 31, 1983. *Jun. 2: A–82–35:* A team of experts in nondestructive inspection technology concluded from a review that the fluorescent penetrant inspection method established in General Electric Service Bulletin A72–709 is adequate for use by engine maintenance and overhaul facilities to detect initial stage cracks in CF6–50 stage 1 high-pressure turbine disks. *Jun. 2: A–82–59:* The routes depicted in Teterboro Letter to Airmen 83–3 are efficient and safe when flown as depicted. *A–82–60:* An Apr. 21, 1982, memorandum sent to all regional directors stresses the importance of facility managers ascertaining that their personnel, as appropriate, receive the required training on the BRITE radar display. *Jun. 8: A–83–12:* The FAA's Small Airplane Certification Directorate in the Central Region is continuing its investigation and review of the recommendation regarding the design criteria for the aluminum hydraulic lines in Cessna Model 404 airplanes. *Jun. 8: A–82–64 through –66:* Has prepared an evaluation report titled "Cockpit Voice and Flight Data Recorder Evaluation" which served as the basis upon which the decision relating to the cockpit voice recorder/flight data recorder retrofit and/or new installation requirements for aircraft operating under 14 CFR Parts 121 and 135 was made. *Jun. 15: A–74–125:* Does not agree with the recommendation to incorporate information and techniques concerning hydroplaning phenomena in Airplane Flight Manuals. Information on the subject has been given wide dissemination in Advisory Circular 91–24, "Aircraft Hydroplaning or Aquaplaning on Wet Runways," dated Sep. 4, 1969. Air Carrier Operations Bulletin Nos. 7–76–32 and –33 pertain. FAA plans to issue a General Aviation Operations Bulletin on this subject. *Jun. 15: A–81–53:* FAA's Small Airplane Certification Directorate in the Central Region is continuing to monitor Beech Aircraft Corporation's stall research program, and the company will also communicate directly with the Board on this subject. *Jun. 16: A–82–42,* which recommended amending 14 CFR 135 by incorporating a 90-day recency of experience requirement of three takeoffs and landings for all pilots conducting operations in aircraft which are required by their certificate to have more than one pilot: Recency of experience would not necessarily equate to proficiency. It is common practice for two-pilot flightcrews to alternate flying responsibilities on each leg during the day's flying. The improved safety record in Part 135 operations over the past few years demonstrates that there would be no substantiated degree of tangible benefit accruing from the action recommended. *Jun. 27: A–83–31:* Is evaluating the issuance of an Airworthiness Directive to require inspection and, if necessary, replacement of the heat exchanger/tailpipe on all 1972 through 1974 Piper Model PA–34–200 aircraft.

Highway—*Federal Highway Administration: Jun. 17: H–80–9:* Does not agree that it is appropriate to extend the emergency final rule revising 23 CFR, Part 630, Subpart J (FHPM 6–4–2–12) to apply to all construction and maintenance zones on divided Federal-aid roads. The two-lane, two-way traffic son one roadway of a normally divided highway provision is a specific operational situation which uses the principles of the Manual on Uniform Traffic Control Devices. Because the provision is operations oriented, its application is within the prerogative of the responsible highway agency. *H–82–8:* The final rule revising 23 CFR, Part 630, Subpart J (FHPM 6–4–2–12) was published in the **Federal Register** on May 20, 1982. The FHWA believes the two-lane, two-way traffic on one roadway provision to be more applicable to the Traffic Control Devices Handbook rather than the Manual on Uniform Traffic Control Devices, and has included a detailed discussion of the provision in the revised Handbook, pages 6–57 through 6–61.

American Council on Education: Jun. 2: H–83–5 and –6: Will advise other presidential associations to advise their members of the circumstances of the accident on Oct. 6, 1982, in Lynchburg, Virginia, involving University of Virginia students, and urge the institutions to review their policies related to transportation of student groups, based on the uniqueness of their own campus environment, to minimize the risk in automotive travel.

State of Wisconsin: Jun. 6: H–82–31: The State's Transportation Safety Office has been directed to respond to the recommendation concerning "Operation Lifesaver."

National Tank Truck Carriers, Inc.: Jun. 1: H–82–21: Notified its members of the circumstances of the accident involving a gasoline tank truck in Canon City, Colorado, on Nov. 14, 1981. Member carriers have driver selection procedures. The National Driver Register is not responsive to carrier needs. There is no satisfactory method of cross-checking for multistate licensing. States are reluctant to advise carriers of citations for moving violations. Many States cannot or will not respond to pre-employment inquiries in a timely fashion. Labor agreements will both complicate and frustrate carrier hiring and discipline programs.

California Highway Patrol: Jun. 20: H–80–70: Amended its tire tread depth regulations on July 28, 1982, to be consistent with Federal Motor Carrier Safety Regulations. *H–80–71:* Copies of the Safety Board's Highway Accident Report—"B & J Trucking Company Truck Tractor/Coachella Valley Unified School District Schoolbus Collision, State Route 86, Coachella, California, April 23, 1980" (NTSB–HAR–80–6) were distributed to commercial vehicle enforcement personnel.

State of Utah: Jun. 21: H–80–38: Legislature has not yet made changes in Utah statutes for upgrading marking and lighting of farm vehicles. The effort by the farm industry in the past has been to relax both Federal and State requirements covering this equipment. *H–80–39:* State Highway Patrol was instructed to concentrate selective enforcement on nondaylight-hour movements of farm implements. *H–80–40:* Utah DOT continues to utilize the roadside obstacle elimination portion of the High Hazard Program.

State of North Carolina: Jun. 21 and Jun. 23: H–78–14: To identify problem drinkers, the State uses the point system and suspends licenses of drivers when convictions exceed certain limits. State operates driver improvement clinics and alcohol and drug schools. State supports early implementation of the National Driver Register.

State of Texas: Jun. 20: H–81–40 and –41: As of March 18, 1982, inspection requirements of tread depth apply to both tires on a dual set of wheels. The required tread depth remains at 2/32 of an inch. *H–81–42 and –43:* Improvements were made to accident curve on U.S. 183.

New York City Department of Transportation: Jun. 2: H–79–49: Graded (cut down) the soil buildup in the center median of the Grand Central Parkway between approximately 168th and 193rd Streets.

State of Alabama: Jun. 8: H–82–1: The Operation Lifesaver Program continues to exist and is supported by the Governor's Highway Safety Committee as well as the Highway Department. *H–82–2:* Believes it is in the best interest to receive information on designating routes for hazardous materials vehicles from the American Association of State Highway and Transportation Officials, which has not formulated a guide for the States. *H–82–3:* A project that includes an examination of the Jordan Lane crossing is underway and nearing completion.

Marine—*Federal Communications Commission: Jun. 2: M–82–10:* Upon completion of a special high priority VHF Marine education/monitoring/enforcement program, FCC will determine whether to propose a power-limiting device on bridge-to-bride radiotelephone transmitters. *M–82–11:* Recently signed a memorandum of understanding with the Coast Guard concerning the enforcement of bridge-to-bridge radiotelephone regulations.

Federal Emergency Management Agency: Jun. 8: M–80–117: Has contacted the Coast Guard regarding improvements in the firefighting services to vessels calling at the Virgin Islands ports.

U.S. Coast Guard: Jun. 21: M–83–1: There are no casualty statistics which would warrant requiring more selfcontained breathing apparatus on merchant vessels at this time. *M–83–2:* The responsibility for conducting meaningful shipboard fire drills belongs with the ship's master, who is responsible for the safety of the vessel. *M–83–3:* Regulation 4 of the International Convention for the Safety of Life at Sea, 1974 requires that fire control plans be in the national language and in English or French. *M–83–4:* New guidelines for firefighting contingency plans are being developed that address the requirement for Coast Guard

Captains of the Port to recognize the responsibility of local governments and private operators for providing principal firefighting capability. *M–83–5:* The Captain of the Port of Portland, Oregon has organized a multi-jurisdictional Marine Fire Protection Committee to deal specifically with "burning ship contingency planning" on the Columbia River. The Coast Guard Captain of the Port can encourage local jurisdictions to provide firefighting capability in remote areas through proper planning; however, it is inconsistent with Coast Guard policy to develop first line response capability for remote areas. *M–83–6:* Guidance to Captains of the Ports for developing firefighting contingency plans specifies that an annex covering geographical boundaries, areas of jurisdiction, and responsibility be included. The Coast Guard attempts to coordinate multi-jurisdictional agreements of authority and responsibility, but we cannot guarantee that local jurisdictions will participate. *M–83–7:* Private firefighting and marine salvage firms are already included in our contingency planning process. The Coast Guard can alert these private firms and put them in contact with owners and operators of burning ships, but cannot require them to contract for services.

State of Florida: Jun. 17: M–81–23: Has recommended to the Federal Highway Administration a pier protection system of islands around the first three piers either side of the main shipping channel for the new bridge to replace the Sunshine Skyway Bridge in Tampa.

Pipeline—*Land Improvement Contractors of America: Jun. 15 and Jun. 30: P–83–15:* Will notify members of the circumstances of the accident in Hudson, Iowa, on Nov. 4, 1982, and relay to them the Safety Board's recommendation that they cooperate and communicate with pipeline operators before beginning excavation work, to explain their excavation plans, and any changes in plans.

Washington Gas Light Company: Jun. 8: P–83–8: Reviewed its policies, training programs, and safety procedures on working with live gas. Held special training meetings for employees and formal training sessions with all Transmission and Distribution Department field personnel. *P–83–9:* Formal meetings have been held with all Transmission and Distribution Department personnel on the policy of strict adherence to procedures relating to employee and public safety.

The Cincinnati Gas & Electric Company: Jun. 9: P–81–6: No unrestrained compression couplings have been found upstream of the customers' meters.

Interstate Natural as Association of America: Jun. 22: P–83–14: Notified its members of the circumstances of the accident in Hudson, Iowa, on November 4, 1982, and urged them to emphasize to their employees the importance of communicating fully with excavators about the extent of the proposed work and about the importance of remaining on the job site until all excavation activities are clear of the pipelines.

American Public Works Association: Jun. 23: P–83–15: A copy of the recommendation to notify its members of the circumstances of the accident in Hudson, Iowa, on Nov. 4, 1982, and urge them to cooperate and communicate with pipeline operators before beginning excavation work and to explain fully their excavation plans and any changes in plans has been sent to each member of the Utility Location and Coordination Council's Executive Committee for review and comment.

American Petroleum Institute: Jun. 30: P–83–14: Transmitted to its Central Committee on Pipeline Transporation for consideration and action by each individual company the recommendation to notify its members of the circumstances of the accident in Hudson, Iowa, on Nov. 4, 1982, and urge them to emphasize to their employees the importance of communicating fully with excavators about the extent of the proposed work and about the importance of remaining on the job site until all excavation activities are clear of the pipelines.

American Gas Association: Jun. 29: P–83–4: Which recommended notifying its members of the circumstances of the accident in Portales, New Mexico, on June 28, 1982, and urging them to include accurate information on their system maps sufficient to identify the existence and location of all their pipeline facilities, and to emphasize to their employees the importance of checking for unseen damage where their facilities have been damaged by excavation operations: AGA agrees with the safety improvement goal of the recommendation, but feels that it can be achieved through records and/*or* maps, as appropriate. It is neither practical nor cost effective to require maps of all pipeline facilities where records or standard procedures can achieve the same or better results at lower cost.

Research and Special Programs Administration: Jun. 1: P–81–13: Conducted a study in cooperation with the American Petroleum Institute and the American Gas Association to determine the extent of pipe failures in existing pipeline systems with a diameter-to-thickness ratio of 70 or greater due to fatigue cracks initiated during rail shipment of the pipe. *P–81–14:* The results of the study indicate that failure of pipelines caused by fatigue cracking resulting from rail transportation is a limited problem that does not warrant regulatory action at this time.

Note.—Single copies of these response letters are available on written request to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C 20594. Please include respondent's name, date of letter, and recommendation number(s) in your request. The photocopies will be billed at a cost of 20 cents per page ($2 minimum charge).

H. Ray Smith, Jr.,

Federal Register Liaison Officer.

September 6, 1983.

[FR Doc. 83–24736–Filed 9–8–83; 8:45 am]

BILLING CODE 4910–59–M

POSTAL RATE COMMISSION

[Docket No. A83–28; Order No. 523]

Uler, West Virginia 25282 (Lionel L. Smith, Petitioner); Notice and Order Accepting Appeal and Establishing Procedural Schedule Under 39 U.S.C. 404(b)(5)

Issued: September 2, 1983.

Docket No.: A83–28.

Name of Affected Post Office: Uler, West Virginia 25282.

Name(s) of Petitioner(s): Lionel L. Smith.

Type of Determination: Closing.

Date of Filing of Appeal Papers: August 8, 1983.

Categories of Issues Apparently Raised:

Effect on community served by office (39 U.S.C. 404(b)(2)(A)).

Whether such closing or consolidation is consistent with the policy of the Government, as stated in section 101(b) of this title, that the Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities and small towns where post offices are not selfsustaining. (39 U.S.C. 404(b)(2)(C)).

The economic savings to the Postal Service resulting from such closing or consolidation (39 U.S.C. 404(b)(2)(D)).

Other legal issues may be disclosed by the record when it is filed; or, conversely, the determination made by the Postal Service may be found to dispose of one more of these issues.

In the interest of expedition within the 120-day decision schedule (39 U.S.C. 404(b)(5)) the Commission reserves the right to requests of the Postal Service memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request; a copy shall be served on the Petitioner(s). In a brief or motion to dismiss or affirm, the Postal Service may incorporate by reference any such memorandum previously filed.

The Commission orders:

The Secretary shall publish this Notice and Order and Procedural Schedule in the **Federal Register**.

By the Commission.

Cyril J. Pittack,

Acting Secretary.

Appendix

Aug. 8, 1983	Filing of petition.
Sept. , 1983	Notice and order of filing of appeal.
Sept. 2, 1983	Last day for filing of petitions to intervene (see CFR 3001.111(b)).
Sept. 12, 1983	Petitioners' Initial Brief (see 39 CFR 3001.115(b)).

Appendix—Continued

Oct. 3, 1983	Postal Service Answering Brief (*see* CFR 3001.115(c)).
Oct. 18, 1983	(1) Petitioner's Reply Brief should Petitioner choose to file one (*see* 39 CFR 3001.115(d)).
Oct. 25, 1983	(2) Deadline for motions by any party requesting oral argument. The Commission will exercise its discretion, as the interests of prompt and just decision may require, in scheduling or dispensing with oral argument. (*see* 39 CFR 3001.116).
Dec. 8, 1983	Expiration of 120-day decisional schedule (*see* 39 U.S.C. 404(b)(5)).

[FR Doc. 83-24734 Filed 9-8-83; 8:45 am]
BILLING CODE 7715-01-M

SECURITIES AND EXCHANGE COMMISSION

[70-6897; Rel. No. 23048]

Indiana & Michigan Electric Co.; Proposed Sale of Electric Utility Assets

September 2, 1983.

Indiana & Michigan Electric Company ("I&MECo"), One Summit Square, P.O. Box 60, Fort Wayne, Indiana 46801, an electric utility subsidiary of American Electric Power Company, Inc., a registered holding company, has filed a declaration with this Commission pursuant to Section 12(d) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 44 promulgated thereunder.

I&MECo proposes to sell to Magnavox Government & Industrial Electronics Co. ("Magnavox"), an electronics manufacturer based in Fort Wayne, Indiana, certain primary distribution facilities now used by I&MECo to service the Magnavox plant in Fort Wayne, for a total price of $113,496.64, which includes taxes and other expenses expected to be incurred by I&MECo in the sale. The proposed sale of equipment is priced at the reproduction cost, less observed depreciation, for the equipment. The facilities involved in the proposed sale are installed at the purchaser's plant site; are not now employed by I&MECo for providing service to any other customer other than the proposed purchaser; and are not adaptable, at that location, for use in serving any customer other than the purchaser. Magnavox will realize a savings in the cost of electric service by converting to service at a primary voltage, and I&MECo will benefit from recovering its investment in the transformation equipment and, more importantly, by shifting the costs of maintaining and servicing that equipment to the new owner.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by September 27, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as filed or as it may be amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-24737 Filed 9-8-83; 8:45 am]
BILLING CODE 8010-01-M

[File No. 22-12601]

PHM Credit Corp.; Notice of Application and Opportunity for Hearing

September 2, 1983.

Notice is hearby given that PHM Credit Corporation (the "Company") has filed an application under Clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Securities and Exchange Commission that the trusteeship of National Bank of Detroit ("NBD") under an Indenture, dated as of April 1, 1981, between NBD and the Company which is qualified under the Act (the "1981 Indenture") and an Indenture (the "New Indenture") proposed to be entered into between NBD and the Company, pertaining to issuance of a new format of the Company's mortgage-backed bonds, is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify NBD from acting as Trustee under either of such indentures.

The Company alleges that:

1. The Company has issued the following four series of Mortgage-Backed Bonds under the 1981 Indenture which remain outstanding as of July 6, 1983:

(a) $37,709,243.24 principal amount of its 15.75% Mortgage-Backed Bonds, Series A, due April 1, 2009, issued in a registered public offering under the 1981 Indenture as supplemented by the Series A Supplement to Indenture dated as of April 1, 1981, between the Applicant and NBD, as Trustee, which Supplement was filed as an Exhibit to Registration Statement No. 2-75538 under the Securities Act of 1933 ("the 1933 Act");

(b) $13,630,137.02 principal amount of its 16.375% Mortgage-Backed Bonds, Series B, due October 1, 2009, issued in a private placement under the 1981 Indenture as supplemented by the Series B Supplement to Indenture dated as of October 1, 1981, between the Applicant and NBD, as Trustee, which Supplement was filed as an Exhibit to Registration Statement No. 2-75538 under the 1933 Act as a material contract of the applicant (Series B was not registered under the 1933 Act);

(c) $6,398,000.00 principal amount of its 16.25% Mortgage-Backed Bonds, Series C, due February 28, 2012, issued in a registered public offering under the 1981 Indenture as supplemented by the Series C supplement to Indenture dated as of February 1, 1982, between the Applicant and NBD, as Trustee, which Supplement was filed as an Exhibit to the Applicant's Annual Report on Form 10-K for 1981;

(d) $27,491,000.00 principal amount of its 11% Mortgage-Backed Bonds, Series D, due May 28, 2015, under the 1981 Indenture as supplemented by the Series D Supplement to Indenture dated as of May 1, 1983, between the Applicant and NBD, as Trustee, which Supplement was filed as an Exhibit to the Applicant's current report on Form 8-K, dated May 26, 1983.

2. The 1981 Indenture referred to in paragraph 1 above contains the provisions required by Section 310(b) of the Trust Indenture Act of 1939.

3. The Company and NBD intend to enter into a New Indenture pursuant to which the Company will issue its new format of mortgage-backed bonds.

4. Since each series of Bonds issued under the 1981 Indenture and each series to be issued under the New Indenture is, and will be, secured by a separate pool of mortgage loans, should NBD have occasion to proceed against the collateral securing the Bonds issued under the 1981 Indenture, such action would not affect the collateral, or use of any collateral, held pursuant to the New Indenture. Thus, the existence of the New Indenture should not inhibit or discourage action by NBD or involve it in a conflict of interest. Moreover, a default by the Company under one Indenture is not a default under the other, and would have no effect upon collateral held pursuant to the other.

5. The Company is not in default under the 1961 Indenture, nor will the execution of the New Indenture cause a default.

Such differences as exist between the 1961 Indenture and the New Indenture are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify NBD from acting as Trustee under each such Indenture.

The Company has waived (a) notice of hearing, (b) hearing on the issues raised by the application, and (c) all rights to specify procedures under Rule 8(b) of the Commission's Rules of Practice.

For a more detailed account of the matters of fact and law asserted, all persons are referred to said application, which is a public document on file in the offices of the Commission at the Public Reference Room, 1100 L Street, NW., Washington, D.C.

Notice is further given that any interested person may, not later than September 22, 1983, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of law on fact raised by such application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-24736 Filed 9-8-83; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 13483; 812-5610]

Presidential Associates I Limited Partnership Winthrop Financial Co., Inc.; Filing of Application

September 2, 1983.

Notice is hereby given that Presidential Associates I Limited Partnership (the "Partnership"), 225 Franklin Street, Boston, Massachusetts 02110, a Maryland limited partnership formed to invest in Presidential Towers, Ltd., an Illinois limited partnership which will own and operate a residential project for moderate income persons in accordance with the purposes and criteria set forth in Investment Company Act Release No. 8456 (August 9, 1974), together with the Partnership's general partner (the "General Partner"), Winthrop Financial Co., Inc. ("Applicants"), filed an application on July 22, 1983, and an amendment thereto on August 12, 1983, pursuant to Section 6(c) of the Investment Company Act of 1940 (the "Act"), to exempt the Partnership from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the relevant provisions thereof.

Applicants represent that any subscriptions for units of limited partnership interests of the Partnership ("Units") must be approved by the General Partner, which approval shall be conditioned upon representations as to the suitability of the investment for each subscriber. According to the application, the Units are being offered only to "Accredited Investors" as defined in Regulation D under the Securities Act of 1933 ("Regulation D") and not to more than 30 other "Non-Accredited Investor" who meet certain suitability requirements. An Accredited Investor under Regulation D is an investor who (a) has a net worth (i.e., total assets in excess of total liabilities) of at least $1,000,000 or (b) has an annual income in excess of $200,000 in each of the last two years and reasonably expects an income in excess of $200,000 in the current year. For the purpose of this offering a Non-Accredited Investor is an investor who has a net worth (exclusive of homes, home furnishings and automobiles) of at least five times the purchase price of the Units purchased.

Applicants state that each prospective investor will be required to represent in his subscription agreement that: (a) he is either an Accredited Investor or a Non-Accredited Investor; (b) some portion of his income is subject to a marginal federal income tax rate of 48% for 1984; (c) his overall commitment to investments that are not readily marketable is reasonable in relation to his net worth; (d) he is willing and able to bear the economic risk of his investment in the Units, has no need for liquidity in his investment in the Units and is able to sustain a complete loss of his investment in the Units; (e) he has read the relevant partnership agreements and the Confidential Memorandum (the "Memorandum") relating to the offering of the Units for the purpose of evaluating the risks of investing in the Units; (f) he has substantial experience in making investment decisions of this type or is relying on his own tax counsel or other qualified adviser in making this investment decision; and (g) he is purchasing Units for his own account, for investment, and not with a view to resale. Furthermore, because the Units will be offered without registration pursuant to Section 4(2) of the Securities Act of 1933 and Regulation D thereunder, transfer of the Units will be restricted.

Applicants state that the limited partnership agreement of the Partnership and the Memorandum contain numerous provisions designed to insure fair dealing by the General Partners with the limited partners. Applicants state further that the compensation to be paid to the General Partner and its affiliates will be fair and on terms no less favorable to the Partnership than would be the case if such arrangements had been made with independent third parties. Moreover, Applicants believe that such compensation meets all applicable guidelines necessary to permit the Units to be offered and sold in the various states that prescribe such guidelines, including the statement of policy adopted by the North American Securities Administration Association, Inc. in respect of real estate programs.

Applicants represent that the contemplated arrangement of the Patnership is not susceptible to the abuses the Act was designed to remedy. Applicants further represent that the suitability standards described above, the requirements for fair dealing provided by the Partnership's governing instruments, and the fact that the project in which the limited partners will invest has been fully described in the Memorandum, provide protection to investors in Units comparable to that provided by the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than September 26, 1983, at 5:30 pm., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commission Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order

disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretry.

[FR Doc. 83-24602 Filed 9-8-83; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 20152; File No. SR-NSCC-83-11]

Filing of Proposed Rule Change by the National Securities Clearing Corporation

September 2, 1983.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on July 22, 1983, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission a proposed rule change to amend NSCC's Rule 4, Section 2, relating to the use and investment of members' cash contributions to NSCC's clearing fund. Currently, the Rule provides that any cash in the clearing fund may be partially or wholly invested by NSCC in securities issued, or guaranteed as to principal and interest, by the United States or its agencies. The proposed rule change would give NSCC, in addition to its current authority to invest in such U.S. government securities, the discretion to invest all or part of the cash portion of the clearing fund in certificates of deposit or similar deposits (collectively "CD's") of banks approved by the Federal Deposit Insurance Corporation ("FDIC") and selected by NSCC. The CD's can also be used as collateral for loans to NSCC, a use currently authorized for other clearing fund assets. NSCC expects such investments to generate a higher yield than securities issued or guaranteed by the United States or its agencies. Furthermore, to ensure that the funds invested in CD's are safe, the FDIC has assured NSCC that each member's cash contributions invested in CD's of an approved bank would be insured up to $100,000. To stay within FDIC insurance parameters, NSCC represents that it will not invest more than $100,000 of a member's contributions in CD's of a single FDIC-approved bank.

NSCC states that the proposed rule change is consistent with the Securities Exchange Act of 1934, as amended, because it provides adequate protection for funds in NSCC's possession and control by enabling NSCC to invest clearing fund cash in FDIC-insured CD's of approved institutions.

In order to assist the Commission in determining whether to approve the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved, interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Reference should be made to file No. NSCC-83-11.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-24600 Filed 9-8-83; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 20151; File No. SR-OCC-83-19]

Filing and Immediate Effectiveness of Proposed Rule Change by the Options Clearing Corporation

September 2, 1983.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on August 22, 1983, the Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change consists of a letter from OCC to the four options exchanges ("Participating Exchanges") that clarifies Section 28(f) of OCC's Restated Participant Exchange Agreement (the "Agreement"). The purpose of the proposal is to ensure that the indemnification authority in Section 28(f) extends to all parties intended under the Agreement. Thus, OCC and the Participating Exchanges would acknowledge in the proposed rule change that the terms "Participating Exchange" and "Clearing Corporation" in Section 28(f) would be interpreted consistently with broader language in Section 2(g) of the Agreement. In that Section, "Participating Exchange" includes the "Participating Exchange, its governors, directors and officers and each person, if any, who controls such Exchange within the meaning of Section 15 of the Securities Act [of 1933] or Section 20 of the Exchange Act [of 1934], and "Clearing Corporation" includes "the Clearing Corporation, its directors and officers." OCC believes that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act in that it fosters cooperation and coordination with persons engaged in the clearance and settlement of securities transactions.

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register**.

Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. Reference should be made to File No. SR-OCC-83-19.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C.

Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-24601 Filed 9-8-83; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 12; Revision 2, Amendment 2]

Associate Administrator for Finance and Investment; Delegation of Authority

Associate Administrator for Finance and Investment Delegation of Authority No. 12 (47 FR 14995) as amended (48 FR 9979) is hereby amended to provide authority to declare disaster loan areas in cases of Presidential declarations. Paragraph I.C is amended to read as follows:

* * * * *

C. Disaster Activities

1. To declare a disaster loan area in instances where the President has determined that a "major disaster" has occurred pursuant to Pub. L. 93-288 as amended, or to declare a disaster loan area for Economic Injury disaster loans upon notification that the Secretary of Agriculture has declared a natural disaster for that area.

2. To amend declarations made under authority of Paragraph C.1 above.

* * * * *

Effective date: Upon publication in the **Federal Register.**

Dated: June 1, 1983.

James C. Sanders,

Administrator.

[FR Doc. 83-24603 Filed 9-8-83; 8:45 am]

BILLING CODE 8025-01-M

[Delegation of Authority No. 12-C; Amendment 1]

Deputy Associate Administrator for Disaster Assistance; Delegation of Authority

Delegation of Authority No. 12-C (48 FR 9980) is hereby amended to delegate authority to the Deputy Associate Administrator for Disaster Assistance to declare disaster loan areas in cases of Presidential declarations.

Delegation of Authority No. 12-C is amended to read as follows:

* * * * *

1. To declare a disaster loan area in instances where the President has determined that a "major disaster" has occurred pursuant to Pub. L. 93-288 as amended, or to declare a disaster loan area for Economic Injury disaster loans upon notification that the Secretary of Agriculture has declared a natural disaster for that area.

2. To amend declaration made under authority of Paragraph 1 above.

* * * * *

Effective Date: September 9, 1983.

Dated: June 1, 1983

Edwin T. Holloway,

Associate Administrator for Finance and Investment.

[FR Doc. 83-24604 Filed 9-8-83; 8:45 am]

BILLING CODE 8025-01-M

[License No. 04/04-0221]

Mighty Capital Corp.; Issuance of License To Operate as a Small Business Investment Company

On Federal 18, 1983, a notice was published in the **Federal Register** (48 FR 7345), stating that an application had been filed by Mighty Capital Corporation, 50 Technology Park/Atlanta, Suite 100, Norcross, Georgia 30092, with the Small Business Administration (SBA) for a license to operate as a small business investment company (SBIC), pursuant to Section 107.102 of the Regulations governing SBICs (13 CFR 107.102(1983)).

Interested parties were given until the close of business March 5, 1983, to submit their written comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, and after having considered the application and all other information, SBA issued License No. 04/04-0221, on May 3, 1983, to Mighty Capital Corporation to operate as an SBIC.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: June 3, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-24605 Filed 9-8-83; 8:45 am]

BILLING CODE 8025-01-M

Region I Advisory Council; Public Meeting

The Small Business Administration Region I Advisory Council, located in the geographical area of Montpelier, Vermont, will hold a public meeting at 10:00 A.M., Wednesday, October 5, 1983, at the Cortina Inn, Route 4, Mendon, Vermont, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call David C. Emery, District Director, U.S., Small Business Administration, Federal Building, 87 State Street, P.O. Box 605, Montpelier, Vermont 05602. (802) 229-0538.

Jean M. Nowak,

Director, Office of Advisory Councils.

September 2, 1983.

[FR Doc. 83-24735 Filed 9-8-83; 8:45 am]

BILLING CODE 8025-01-M

Region VIII Advisory Council; Public Meeting

The Small Business Administration Region VIII Advisory Council, located in the geographical area of Sioux Falls, South Dakota, will hold a public meeting on Tuesday, October 4, 1983, from 9:00 a.m. to 3:00 p.m., at the Community Room, First National Bank in Sioux Falls, 100 South Phillips, Sioux Falls, South Dakota 57102, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Chester B. Leedom, District Director, U.S. Small Business Administration, Suite 101 Security Building, 101 South Main, Sioux Falls, South Dakota 57102—605/336-2980, Ext. 231.

Jean M. Nowak,

Director, Office of Advisory Councils.

September 2, 1983.

[FR Doc. 83-24736 Filed 9-8-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Advisory Circular on Self-Locking Nuts on Bolts Subject to Rotation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Draft advisory circular (AC) availability and request for comments.

SUMMARY: This AC provides information and guidance concerning the use of self-locking nuts on bolts subject to rotation during operation. This guidance material is applicable for new, amended and supplemental type certificates and alterations that use self-locking nuts on

bolts subject to rotation for small airplanes.

DATE: Commenters must identify File AC 23.607–XX; Subject: Self-Locking Nuts on Bolts Subject to Rotation, and comments must be received on or before October 24, 1983.

ADDRESS: Send all comments on the draft AC to: Federal Aviation Administration, ATTN: Regulations and Policy Office (ACE–110), 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph W. Burress, Aerospace Engineer, Regulations and Policy Office (ACE–110), Aircraft Certification Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; Commercial Telephone (816) 374–6941, or FTS 758–6941.

SUPPLEMENTARY INFORMATION: Any person may obtain a copy of this draft AC by writing to: Federal Aviation Administration, Aircraft Certification Division, Regulations and Policy Office (ACE–110), 601 East 12th Street, Kansas City, Missouri 64106.

Comments Invited: Interested parties are invited to submit comments on the draft AC. The draft AC and comments received may be inspected at the offices of the Regulations and Policy Office (ACE–110), Room 1656, Federal Office Building, 601 East 12th Street, Kansas City, Missouri, between the hours of 7:30 a.m. and 4:00 p.m. on weekdays, except Federal holidays.

Issued in Kansas City, Missouri, August 30, 1983.

Murray E. Smith,

Director, Central Region.

[FR Doc. 83–24596 Filed 9–8–83; 8:45 am]

BILLING CODE 4910–13–M

Air Traffic Procedures Advisory Committee; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 1) notice is hereby given of a meeting of the Federal Aviation Administration (FAA) Air Traffic Procedures Advisory Committee to be held from October 3, at 1 p.m., through October 7, at 1 p.m., at FAA Headquarters, 800 Independence Avenue, SW., Washington, D.C.

The agenda for this meeting is as follows: A continuation of the Committee's review of present air traffic control procedures and practices for standardization, clarification, and upgrading of terminology and procedures.

Attendance is open to the interested public but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons desiring to attend and persons desiring to present oral statements should notify, not later than the day before the meeting, Mr. Wayne C. Newcomb, Executive Director, Air Traffic Procedures Advisory Committee, Air Traffic Service, AAT–301, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone (202) 426–3725. Information may be obtained from the same source.

Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C., on August 31, 1983.

Wayne C. Newcomb,

Executive Director, Air Traffic Procedures Advisory Committee.

[FR Doc. 83–24585 Filed 9–8–83; 8:45 am]

BILLING CODE 4910–13–M

Rotorcraft Regulatory Analysis Seminar.

AGENCY: Federal Aviation Administration.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 1) notice is hereby given of a seminar to be conducted by the Office of Aviation Policy and Plans of the Federal Aviation Administration. The agenda for this seminar is as follows: A review of the conduct of regulatory analysis and the role of the analysis in the rotorcraft rulemaking process.

DATE: October 13, 1983, from 8:15 a.m. to 4:45 p.m.

ADDRESS: The meeting will be held at the Federal Aviation Administration, conference room 6A/B, 800 Independence Avenue, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Regulatory Analysis Branch, Office of Aviation Policy and Plans, room 938A, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; (202) 426–3070. Attendance is open to the interested public, but limited to the space available.

Issued in Washington, D.C., on August 31, 1983.

Kenneth W. Harris,

Manager, Regulatory Analysis Branch, Office of Aviation Policy and Plans.

[FR Doc. 83–24594 Filed 9–8–83; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Environmental Impact Statement: City and County of Honolulu, Hawaii

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in the City and County of Honolulu, Hawaii.

FOR FURTHER INFORMATION CONTACT: Mr. H. Kusumoto, Division Administrator, Federal Highway Administration, U.S. Department of Transportation, P.O. Box 50206, Honolulu, Hawaii 96850, Telephone: (808) 546–5150.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the City and County of Honolulu Department of Public Works and the State of Hawaii Department of Transportation, will prepare an environmental impact statement (EIS) on a proposal to improve Moanalua Road between Pali Momi Street and the Aiea Interchange in Kalauao, Aiea, on the island of Oahu, in the State of Hawaii. The total length of the proposed improvement is approximately 4,200 feet.

The proposed project would consist of widening and improving the existing Moanalua Road. Along both sides of the roadway, grade adjustment walls will be constructed as required. Driveway ramps will be reconstructed where necessary to provide access to existing driveways and garages. Existing street intersections will be modified, as necessary, to provide for safer traffic movement and smooth riding connections.

Moanalua Road, between Pali Momi Street and the Aiea Interchange, is currently substandard and is inadequate in accommodating the increased traffic volume generated by adjacent residential and commercial developments.

Alternatives under consideration include: (1) Taking no action; (2) providing intersection improvements as a transportation systems management (TSM) action; (3) widening the existing two- and four-lane roadway to between four and six lanes; (4) constructing a divided four-lane roadway; and (5) implementing turning movement restrictions. Various combinations of the above alernatives will be studied.

No formal scoping meetings will be scheduled. However, FHWA will be meeting with several agencies to

identify crucial issues and to ensure that matters of importance are not overlooked in the early stages of review. To further ensure that the full range of issues related to this proposed action is addressed and all significant issues are identified, comments will be received from all interested agencies and parties, pursuant to Chapter 343, Hawaii Revised Statutes.

A public information meeting and a public hearing will be held; public notice will be given of the time and place of the hearing. The draft EIS will be available for public and agency review and comment.

Comments or questions concerning the proposed project and the EIS should be directed to the FHWA at the address provided above.

Issued on August 30, 1983.

M. L. Arthur,

Acting Division Administrator, Honolulu, Hawaii.

[FR Doc. 83-24689 Filed 9-8-83; 8:45 am]

BILLING CODE 4910-22-M

Federal Railroad Administration

[Waiver Petition Docket Nos. RSGM-83-26, 27, 30 to 38 and 40 to 45]

Petitions for Waiver of Safety Glazing Standards; Ontario Eastern Railroad et al.

Notice is hereby given that 17 petitioners have submitted requests for temporary or permanent waivers of compliance with Safety Glazing Standards (49 CFR Part 223). The Federal Railroad Administration (FRA) published a final rule on December 31, 1979, that requires that all newly built and most existing railroad equipment have improved safety glazing materials installed in order to reduce the risk of death or serious injury resulting from flying objects, including bullets. The regulations provide for the affected locomotives, passenger cars, and cabooses to be equipped with certified glazing in all windows after December 31, 1983.

The individual petitions for a waiver of compliance with this regulation are described below. The description indicates the nature and extent of the relief requested as well as any information that has been submitted in support of the request for the waiver of compliance.

Interested persons are invited to participate in these proceedings by submitting written data, views, or comments FRA does not anticipate scheduling an opportunity for oral comment since the facts do not appear to warrant it. All communications concerning these petitions must identify the appropriate Docket Number (e.g., FRA Waiver Petition Docket Number RSGM-83-26) and should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Communication received before October 11, 1983 will be considered by the Federal Railroad Administration before action is taken. All comments will be available for examination both before and after the closing date for comments, during regular business hours (9:00 a.m.-5:00 p.m.) in room 5101 Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

Ontario Eastern Railroad

[FRA Waiver Petition Docket No. RSGM-83-26]

The Ontario Eastern Railroad seeks a Waiver for their single locomotive which operates between Ogdensburg and Dekalk Junction, New York, a distance of about 20 miles. They operate through a rural area and have had no problems with vandalism.

Allegheny Southern Railway

[FRA Waiver Petition Docket No. RSGM-83-27]

The Allegheny Southern Railway seeks waiver for their single locomotive which operates between Roaring Spring and Martinsburg, Pennsylvania, a distance of about 6 miles. They operate through a rural area and have had no problems with vandalism.

Maryland and Delaware Railroad

[FRA Waiver Petition Docket No. RSGM-83-30]

The Maryland and Delaware Railroad seeks a waiver for their four locomotives, Nos. 18, 20, 21 and 22, which operate over three light density branch lines; Frankford, Delaware to Snow Hill, Maryland 26.7 miles; Seaford, Delaware to Cambridge, Maryland, with a stub line to Preston, Maryland 36 miles; and Townsend, Delaware to Chestertown and Centreville, Maryland, 55 miles. They have experienced no incidents of locomotives window damage other than an occasional cracked window caused by vibration.

Pioneer Valley Railroad

[FRA Waiver Petition Docket No. RSGM-83-31]

The Pioneer Valley Railroad seeks a waiver for their four locomotives which operate over about 25 miles of track between Westfield and Holyoke, Massachusetts and between Westfied and Easthampton, Massachusetts. They have had no reportable incidents or injuries since they started operation.

Cadiz Railroad Company

[FRA Waiver Petition Docket No. RSGM-83-32]

The Cadiz Railroad Company seeks a waiver for their two locomotives which operate over 10 miles of track through rural area between Cadiz and Gracey, Kentucky. They have not had any incidents of vandalism.

Southern Pacific Transportation Company

[FRA Waiver Petition Docket No. RSGM-83-33]

The Southern Pacific Transportation Company is currently operating, under contract, for the California Department of Transportation (Caltrain), 73 passenger cars in commuter service between San Francisco and San Jose, California. Over 80 percent of the glazing in these cars consist of ¼ inch Lexan polycarbonate glazing which meet the test requirement in § 223.15 (a) and (b). They seek a temporary waiver to equip the remaining cars with the aforementioned Lexan material since this equipment is scheduled to be replaced with new cars within three years. To date none of the existing Lexan glazing has required replacement due to breakage. They said that equipping subject cars with certified glazing would seriously hamper their ability to provide the necessary transportation services for the daily commuter.

Illinois Central Gulf

[FRA Waiver Petition Docket No. RSGM-83-34]

The Illinois Central Gulf seeks an extension of the compliance date to March 31, 1984 to complete 120 of 165 passenger cars with certified glazing. Subject cars are used in their commuter operations in the vicinity of Chicago, Illinois. The Illinois Central Gulf operation is subsidized by the Regional Transportation Authority who in turn receive some funding from the Urban Mass Transportation Administration. Delays in funding have hindered the retrofit program and additional time is needed to complete the project.

Middletown and New Jersey Railway Company

[FRA Waiver Petition Docket No. RSGM-83-35]

The Middletown and New Jersey Railway Company seeks a permanent waiver of compliance for two locomotives and one caboose. They operate through sparsely populated rural

farm country at a speed not over 10 mph. They have not experienced any incidents of vandalism.

Brillion and Forest Junction Railroad Company

[FRA Waiver Petition Docket No. RSGM–83–36]

The Brillion and Forest Junction Railroad seeks a waiver of compliance for one locomotive. Their financial situation is poor and there is a possibility of lease termination on their locomotive.

Norfolk and Portsmouth Belt Line Railroad Company

[FRA Waiver Petition Docket No. RSGM–83–37]

The Norfolk and Portsmouth Belt Line Railroad Company seeks a waiver of compliance until June 30, 1984 for five locomotives. They have equipped ten of their fifteen locomotives but need additional time to complete the required installation of this glazing in the remaining locomotives.

Northeast Illinois Regional Commuter Railroad Corporation

[FRA Waiver Petition Docket No. RSGM–83–38]

Northeast Illinois Regional Commuter Railroad Corporation seeks a waiver of compliance until June 30, 1984 for completion of emergency sashes and side door loading sashes on 103 bi-level coaches. Their effort to obtain the necessary material was delayed due to reasons beyond their control. This equipment is used in commuter passenger service in the Chicago, Illinois Metropolitian area over two lines owned by the Milwaukee Railroad.

In addition, the Northeast Illinois Regional Commuter Railroad seeks a waiver of compliance until June 30, 1984 for completion of 20 bi-level passenger coaches, two cabooses and two locomotives operating over the former Chicago, Rock Island and Pacific Railroad in Chicago, Illinois area. The passenger cars will undergo a complete rehabilitation next year. The two locomotives and cabooses were recently purchased and more time is needed to complete the retrofit project.

Kankakee, Beaverville and Southern Railroad

[FRA Waiver Petition Docket No. RSGM–83–40]

The Kankakee, Beaverville and Southern Railroad seeks a waiver for three locomotives. They operate from Kankakee to Sheldon, Illinois, a distance of 26 miles. They also operate over about 48 miles of former Milwaukee Road trackage to Danville, Illinois. Their operation is through four small towns and they feel the expense to retrofit the locomotives would be burdensome.

Mississippi Export Railroad Company

[FRA Waiver Petition Docket No. RSGM–83–41]

The Mississippi Export Railroad Company seeks a waiver for four locomotives and two cabooses. They own and operate 42 miles of railroad from Pascogoula, Mississippi, where they connect with the Seaboard System and to Evanston, Mississippi where they connect with the Illinois Central Gulf Railroad. They operate in the hot, humid Gulf Coast region and the crews often leave the windows open. In addition their limited funds are needed for other projects.

Spencerville and Elgin Railroad Company

[FRA Waiver Petition Docket No. RSGM–83–42]

The Spencerville and Elgin Railroad Company seeks a waiver for one locomotive. They operate in a rural area between Lima and Glenmore, Ohio a distance of about 30 miles. They have no record of any injuries due to thrown objects.

Detroit and Mackinac Railway Company

[FRA Waiver Petition Docket No. RSGM–83–43]

The Detroit and Mackinac Railway Company seeks a waiver for six locomotives and two cabooses. The six locomotives have custom cabs thus negating any possibility of buying off-the-shelf windows. The railroad operates in rural northeastern Michigan and traverses no major metropolitan area. They said there have not been any accidents/incidents for the last ten years.

North Louisiana and Gulf Railroad Company

[FRA Waiver Petition No. RSGM–83–44]

The North Louisiana and Gulf Railroad Company seeks a waiver for six locomotives and one caboose. They operate between Hodge and Gibsland, Louisiana a distance of 40 miles six days a week. In addition, three trips a week are made from Hodge to Alexandria, Louisiana. The operation is through sparsely populated and wooded areas. There is no record of objects striking windows.

East Tennessee Railway Corporation

[FRA Waiver Petition Docket No. RSGM–83–45]

The East Tennessee Railway Corporation seeks a waiver for two locomotives. They operate over eleven miles of track between Johnson City and Elizabethtown, Tennessee. Their operation is in a sparsely populated area and they said it would be a financial hardship to replace all the windows with their limited budget.

This notice is issued under the authority of Section 202 of the Federal Railroad Safety Act of 1970, 84 Stat. 97 (45 U.S.C. 43) and § 1.49(m) of the regulations of the Office of the Secretary of Transportation 49 CFR 1.49(m).

Issued in Washington, D.C. on September 2, 1983.

J. W. Walsh,

Associate Administrator for Safety.

[FR Doc. 83–24583 Filed 9–8–83; 8:45 am]

BILLING CODE 4910–06–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

On September 2, 1983 the Department of the Treasury submitted the following public information Collection requirement(s) to OMB (listed by submitting bureaus), for review and clearance under the Paperwork Reduction act of 1980., Pub. L. 96–511. Copies of these submissions may be obtained from the Treasury department Clearance Officer, by calling (202) 634–2179. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 309, 1625 "I" Street, N.W., Washington, D.C. 20220.

Internal Revenue Service

OMB Number: 1545–0173
Form Number: 4563
Type of Review: Revision
Title: Exclusion of Income from Sources in United States Possessions

OMB Number: 1545–0575
Form Number: 5330
Type of Review: Revision
Title: Return of Initial Excise Taxes Related to Pension and Profit-Sharing Plan

OMB Number: 1545–0712
Form Number: 6198
Type of Review: Revision
Title: Computation of Deductible Loss for an Activity Described in Section 465 (c)

OMB Number: 1545–0110
Form Number: 1099–DIV
Type of Review: Existing Regulations
Title: Statement for Recipients of Dividends and Distributions

OMB Number: 1545–0118
Form Number: 1099–PATR
Type of Review: Existing Regulations
Title: Statement for Recipients (Patrons) of Taxable Distributions from Cooperatives

OMB Number: N/A
Form Number: 8082
Type of Review: New
Title: Notice of Inconsistent Treatment or Amended Return

OMB Number: 1545–0415
Form Number: W–4P
Type of Review: Existing Regulations
Title: Withholding Certificate for Pension or Annuity Payments

OMB Number: 1545–0099
Form Number: 1065 and Schedules
Type of Review: Revision
Title: U.S. Partnership Return of Income, Capital Gains and Losses, Partners' Shares of Income, Credits, Deductions, etc., Partner's Share of Income, Credits, Duductions, etc.

OMB Number: 1545–0128
Form Number: 1120–L
Type of Review: Revision
Title: U.S. Life Insurance Income Tax Return

Bureau of Alcohol, Tobacco and Firearms

OMB Number: 1512–0195
Form Number: ATF F 5110.25
Type of Review: Revision
Title: Application for Operating Permit under 26 U.S.C. 5171(d)

OMB Number: 1512–0166
Form Number: ATF F 3071
Type of Review: Extension
Title: Tax Return—Manufacturer of Tobacco Products

OMB Number: 1512–0028
Form Number: ATF F 5 (7560.5)
Type of Review: Revision
Title: Application for Tax-Exempt Transfer and Registration of Firearms

OMB Number: 1512–0027
Form Number: ATF F 4 (7560.4)
Type of Review: Revision
Title: Application for Tax-Paid Transfer and Registration of Firearms

OMB Number: 1512–0220
Form Number: ATF F 5170.4
Type of Review: Reinstatement
Title: Application for Importer's and/or Wholesaler's Basic Permit Under Federal Alcohol Administration Act

OMB Number: 1512–0024
Form Number: ATF F 1 (7560.1)
Type of Review: Extension
Title: Application to Make and Register a Firearm

OMB Number: 1512–0163
Form Number: ATF F 3068
Type of Review: Extension
Title: Manufacturer of Tobacco Products—Monthly Reports

OMB Number: 1512–0180
Form Number: ATF F 4640
Type of Review: Extension
Title: Remittance Transmittal (Alcohol, Tobacco and Firearms)

OMB Number: 1512–0022
Form Number: ATF F 7560
Type of Review: Revision
Title: Application to Transport Interstate or to Temporarily Export Certain National Firearms Act (NFA) Firearms

OMB Number: 1512–0191
Form Number: ATF F 5100.16
Type of Review: Extension
Title: Application for Transfer of Spirits and/or Denatured Spirits in Bond

OMB Number: 1512–0203
Form Number: ATF F 5110.35
Type of Review: Extension
Title: Distilled Spirits Tax Return—Deferred Payment

OMB Number: 1512–0087
Form Number: ATF F 1627
Type of Review: Extension
Title: Report of Use or Other Disposition of Red Strip Stamps

OMB Reviewer: Norman Frumkin (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Office of the Secretary

OMB Number: 1505–0021
Form Number: TD F 90–22.1
Type of Review: Revision
Title: Report of Foreign Bank and Financial Accounts

OMB Reviewer: Judy McIntosh (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Rita A. DeNagy,
Departmental Reports, Management Office.
September 2, 1983.
[FR Doc. 83–24631 Filed 9–8–83; 8:45 am]
BILLING CODE 4810–25–M

Internal Revenue Service

Cost Comparison Review

The Internal Revenue Service will begin a cost comparison review of the Health Unit in its Philadelphia Service Center, 11601 Roosevelt Boulevard, Philadelphia, Pennsylvania, October 11, 1983, as required by OMB Circular No. A–76 *Performance of Commercial Activities.*

Dated: September 6, 1983.

Edwin Murphy,
A–76 Program Manager, Internal Revenue Service.
[FR Doc. 83–24660 Filed 9–8–83; 8:45 am]
BILLING CODE 4830–01–M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 176
Friday, September 9, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Commodity Futures Trading Commission	1
Equal Employment Opportunity Commission	2
Federal Deposit Insurance Corporation	3
Federal Maritime Commission	4
Merit Systems Protection Board	5
Postal Rate Commission	6

1

COMMODITY FUTURES TRADING COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 170, Wednesday, August 31, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Tuesday, September 13, 1983.

CHANGES IN THE MEETING: Addition to Meeting:

Consideration of Joint New Orleans-MidAmerica Rule Submissions

[S–1274–83 Filed 9–7–83; 3:12 pm]

BILLING CODE 6351–01–M

2

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: 9:30 a.m. (eastern time), Tuesday, September 13, 1983.

PLACE: Commission Conference Room No. 200, second floor, Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Announcement of Notation Vote.
2. Report on Commission Operations (Optional).
3. Freedom of Information Act Appeal No. 83–6–FOIA–110–PA, concerning a request for materials from a Title VII charge file.
4. Proposed Amendment of Fee Schedule for FOIA Requests.
5. Criteria and Procedures for Issuance of Opinion Letters by Legal Counsel.
6. Voluntary Assistance Program Phase I.
7. Recommended TERO Contracts for FY 1984.
8. Recommended State and Local Agency Program Contracts for FY 1984.

Closed:

1. Litigation Authorization; General Counsel Recommendations.
2. Discussion of Subpoena (062–82–0048).

Note.—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the Federal Register, the Commission also provides recorded announcements a full week in advance on future Commission sessions. Please telephone (202) 634–6748 at all times for information on these meetings).

CONTACT PERSON FOR MORE INFORMATION: Treve McCall, Executive Secretary to the Commission at (202) 634–6748.

Issued: September 6, 1983.

[S–1272–83 Filed 9–7–83; 11:18 am]

BILLING CODE 6570–06–M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 7:05 p.m. on Saturday, September 3, 1983, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to: (1) Receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in The Douglass State Bank, Kansas City, Kansas, which was closed by the Bank Commissioner for the State of Kansas on Saturday, September 3, 1983; (2) accept the bid for the transaction submitted by The Douglass Bank, Kansas City, Kansas, a newly-chartered State nonmember bank subsidiary of Douglass Bancorp Inc., Kansas City, Kansas, a newly-formed bank holding company; (3) approve the applications of The Douglass Bank, Kansas City, Kansas, for Federal deposit insurance and for consent to purchase certain assets of and assume the liability to pay deposits made in The Douglass State Bank, Kansas City, Kansas; and (4) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: September 6, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–1273–83 Filed 9–7–83; 11:32 am]

BILLING CODE 6714–01–M

4

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9 a.m., September 14, 1983.

PLACE: Hearing Room One, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Closed.

MATTER TO BE CONSIDERED:

1. Docket No. 83–20; AABCO, INC.—Petition for Declaratory Order—Further Consideration of the Record.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523–5725.

[S–1271–83 Filed 9–6–83; 03:4:46 pm]

BILLING CODE 6730–01–M

5

MERIT SYSTEMS PROTECTION BOARD

TIME AND DATE: 10 a.m., Thursday, September 22, 1983.

PLACE: 1120 Vermont Avenue NW., Room 801, Washington, D.C.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: Oral argument in the case of *Social Security Administration, Department of Health and Human Services* v. *Robert W. Goodman, Administrative Law Judge,* MSPB Docket No. HQ75218210015.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Pat Paige, Office of the

Secretary, 1120 Vermont Avenue NW., Washington, D.C. 20419; (202) 653–7200.

Dated: August 22, 1983.

For the Board.

Herbert E. Ellingwood,

Chairman.

[S–1275–83 Filed 9–7–83; 3:40 pm]

BILLING CODE 7400–01–M

6

POSTAL RATE COMMISSION

TIME AND DATE: 10 a.m., Thursday, September 8, 1983.

PLACE: Conference Room, Room 500, 2000 L Street NW., Washington, DC 20268.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Closed pursuant to 5 U.S.C. 552b(c)(2)(6).

Personnel Matters

CONTACT PERSON FOR MORE INFORMATION: Cyril J. Pittack, Acting Secretary, Postal Rate Commission Room 500, 2000 L Street NW., Washington, D.C. 20268, Telephone (202) 254–3880.

[S–1270–83 Filed 9–6–83; 4:35 pm]

BILLING CODE 7715–01–M

federal register

Friday
September 9, 1983

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Connecticut: CT83-3021	June 3, 1983.
Florida:	
FL83-1017	Apr. 1, 1983.
FL83-1018	Apr. 8, 1983.
FL83-1029	Apr. 22, 1983.
FL83-1060	Apr. 26, 1983.
Kentucky:	
KY82-1060	Oct. 8, 1982.
KY82-1062, KY82-1064, KY82-1065, KY82-1066, KY82-1067.	Oct. 15, 1982.
KY82-1071	Oct. 22, 1982.
Minnesota:	
MN83-2001	Jan. 14, 1983.
MN83-2057	July 29, 1983.
Missouri: MO83-4047	June 24, 1983.
New Jersey:	
NJ83-3015, NJ83-3016	June 17, 1983.
NJ83-3026	July 29, 1983.
New Mexico: NM83-4032	Apr. 15, 1983.
Rhode Island: RI83-3042	Aug. 19, 1983.

Supersedeas Decision to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Indiana:	
IN82.2029(IN83-2071)	Apr. 8, 1982.
IN82.2031(IN83-2073)	Apr. 22, 1982.
Kansas: KS83-4015(KS83-4066)	Feb. 4, 1983.
Pennsylvania: PA81-3041(PA83-3002)	July 8, 1981.

Signed at Washington, D.C., this 2nd day of September 1983.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

DECISION NO. FL83-1017 - MOD. # 1	Basic Hourly Rates	Fringe Benefits
(April 1, 1983 in 48 FR 14307)		
Escambia & Santa Rosa Counties in Florida		
DELETE:		
Asbestos Workers	$14.15	2.43
Insulation Installers (Batt or Blown)	6.29	
ADD:		
Mechanical Insulators (Heat & Frost)	9.32	

DECISION NO. FL83-1018 - MOD. # 1	Basic Hourly Rates	Fringe Benefits
(April 8, 1983 in 48 FR 15409)		
Okaloosa & Walton Counties in Florida		
DELETE:		
INSULATION INSTALLERS (Batt or Blown)	$ 6.00	

DECISION NO. CT83-3021 - MOD. #5	Basic Hourly Rates	Fringe Benefits
(48 FR 25090 - June 3, 1983)		
STATEWIDE, CONN.		
CHANGE:		
IRONWORKERS	18.00	4.93+j

DECISION NO. FL83-1029 - MOD. # 4	Basic Hourly Rates	Fringe Benefits
(April 22, 1983 in 48 FR 17500)		
VOLUSIA (except Cape Kennedy Space Center & Cape Canaveral Air Force Station) COUNTY, FLORIDA		
BUILDING CONSTRUCTION		
CHANGE:		
Plumbers, Pipefitters, & Steamfitters:		
a. Commercial-Commercial Schools, Hospitals, Shopping Centers, & work not listed as Industrial.	$13.62	1.70
b. Industrial-Bulk Plants, Powerhouses, Chemical Plants, Missile Sites, Oil Refineries, Etc., and such other work which is related to & considered a part of the above type projects.	17.15	2.27

DECISION NO. FL83-1060 - MOD. # 1	Basic Hourly Rates	Fringe Benefits
(August 26, 1983 in 48 FR 38958)		
Cape Canaveral AFS, Patrick AFB, Kennedy Space Flight Center, & Malabar Radar Site in BREVARD & VOLUSIA COUNTIES in FLORIDA		
BUILDING, HEAVY, & HIGHWAY CONSTRUCTION		
CHANGE:		
Plumbers, Pipefitters, & Steamfitters:		
1.Industrial	$17.15	2.27
2.Commercial	13.62	1.70

DECISION NO. KY82-1060 Mod # 3 (47 FR 44668 - October 8, 1982)	Basic Hourly Rates	Fringe Benefits
FORT CAMPBELL (Christian County, Kentucky & Montgomery County, Tennessee)		
CHANGE:		
ASBESTOS WORKERS	$16.15	2.81
ELECTRICIANS:		
Wiremen:		
Tennessee Portion	14.10	1.05 + 3%
Cable Splicers:		
Tennessee Portion	14.35	1.05 + 3%
ELEVATOR CONSTRUCTORS:		
Mechanics	12.44	2.69+a
Helpers	8.71	2.69+a
Probationary Helpers	6.22	
IRONWORKERS	12.85	2.17
LABORERS:		
Group 1	10.75	2.00
Group 2	10.90	2.00
Group 3	11.25	2.00
PAINTERS:		
Brush & Roller	11.60	1.30
Spray Work & Drywall Finishing	11.85	1.30
Structural Steel, Swing Stage & Chair, Motor Stage	11.95	1.30
Paperhangers	12.10	1.30
Sandblasting	12.35	1.30
PLUMBERS & PIPEFITTERS	14.14	1.89
ROOFERS	10.60	1.46
SHEET METAL WORKERS	16.03	1.14
SPRINKLER FITTERS:		
Kentucky Portion	16.47	3.23
Tennessee Portion	14.57	3.23

DECISION #MN83-2001 - Mod #1 (48 FR 1910 - January 14, 1983)	Basic Hourly Rates	Fringe Benefits
Anoka, Benton, Blue Earth, Carlton, Carver, Chisago, Cook, Dakota, Dodge, Faribault, Fillmore, Freeborn, Goodhue, Hennepin, Houston, Lake, LeSueur, Mower, Nicollet, Olmsted, Ramsey, Rice, St. Louis, Scott, Sherburne, Sibley, Stearns, Steele, Wabasha, Waseca, Washington, Winona, & Wright Counties, Minnesota		
OMIT:		
The Following Counties: Blue Earth, Carver, Dodge, Faribault, Fillmore, Freeborn, Goodhue, Houston, LeSueur, Mower, Nicollet, Olmsted, Rice, Sibley, Steele, Wabasha, & Waseca		

DECISION NO. MN83-2057 Mod # 1 (48 FR 34614 - July 29, 1983)	Basic Hourly Rates	Fringe Benefits
ANOKA, CARVER, DAKOTA, HENNEPIN, RAMSEY, SCOTT, WASHINGTON COUNTIES, MINNESOTA		
CHANGE:		
ELECTRICIANS:		
Anoka (Anoka & Fridley Twps. & the cities of Andover, Anoka, Columbia Heights, Coon Rapids, Fridley, Hilltop, Ramsey & Spring Lake Park), Carver, Hennepin, & Scott Counties:		
Commercial Building:		
Electricians	17.76	28%+
Cable Splicers	18.26	28%+

MODIFICATION P. 3

DECISION NO. KY82-1062 Mod # 3 (47 FR 46225 - October 15, 1982) WARREN COUNTY, KENTUCKY	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ASBESTOS WORKERS	$16.15	2.81
IRONWORKERS	12.85	2.17
LABORERS:		
Group 1	10.75	2.00
Group 2	10.90	2.00
Group 3	11.25	2.00
MILLWRIGHTS	14.85	2.90
PAINTERS:		
Brush & Roller	11.60	1.30
Spray Work, Drywall Finishers	11.85	1.30
Structural Steel, Swing Stage & Chair, & Motor Stage	11.95	1.30
Paperhangers	12.10	1.30
Sandblasting	12.35	1.30
PIPEFITTERS	16.25	3.22
ROOFERS	10.60	1.46
SHEET METAL WORKERS	17.22	3.75
SPRINKLER FITTERS	16.47	3.23

DECISION NO. KY82-1064 Mod # 3 (47 FR 46230 - October 15, 1982) McCRACKEN COUNTY, KENTUCKY	Basic Hourly Rates	Fringe Benefits
CHANGE:		
CEMENT MASONS	13.65	2.05
GLAZIERS	14.735	2.41
IRONWORKERS	15.05	2.45
LABORERS:		
Group 1	10.75	2.00
Group 2	10.95	2.00
Group 3	11.25	2.00
SHEET METAL WORKERS	17.22	3.75
SPRINKLER FITTERS	16.47	3.23

DECISION NO. KY82-1065 Mod # 4 (47 FR 46229 - October 15, 1982) BOYD COUNTY, KENTUCKY	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BRICKLAYERS & STONE MASONS	$15.36	2.54
CEMENT MASONS & PLASTERERS	17.06	1.05
IRONWORKERS	17.23	3.61
LABORERS:		
Group 1	12.57	2.00
Group 2	12.72	2.00
Group 3	12.74	2.00
Group 4	12.77	2.00
Group 5	12.82	2.00
Group 6	13.07	2.00
Group 7	13.27	2.00
Group 8	13.77	2.00
LINE CONSTRUCTION:		
Linemen	18.46	2.35 + 3½%
Cable Splicer	20.31	2.35 + 3½%
Mechanical Equipment Operator	14.77	2.35 + 3½%
Groundman	12.00	2.35 + 3½%
PAINTERS:		
Brush, Roller, Drywall Finishers, Tapers, Mittens or Rags, Paperhangers, Sandblast, Steamcleaning, & Drywall Machine Operators	12.76	3.26
PLUMBERS & PIPEFITTERS:		
Area 1	15.71	4.60
Area 2	15.91	4.60
Area 3	16.11	4.60
SPRINKLER FITTERS	16.47	3.23

MODIFICATION P. 4

DECISION NO. KY82-1066 Mod # 3 (47 FR 46226 - October 15, 1982) FAYETTE & FRANKLIN COUNTIES KENTUCKY	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ASBESTOS WORKERS	$16.57	3.07
LINE CONSTRUCTION:		
Linemen & Equipment Ops.	17.23	.85+8½%
Cable Splicers	17.48	.85+8½%
Groundmen - Truck Driver	13.78	.85+8½%
Groundmen	12.92	.85+8½%
PLUMBERS & PIPEFITTERS:		
Franklin County (West 3/4 of Co., including the City of Frankfurt):		
Pipefitters	17.10	3.22
SHEET METAL WORKERS	17.22	3.75
SPRINKLER FITTERS	16.47	3.23

DECISION NO. KY82-1067 Mod # 3 (47 FR 46227 - October 15, 1982) HARDIN, JEFFERSON, & MEADE COUNTIES, KENTUCKY	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ASBESTOS WORKERS	$16.57	3.07
CEMENT MASONS	13.14	3.32
LINE CONSTRUCTION:		
Linemen, Line Truck Ops. & Mechanized Equip. Ops	16.44	1.25 + 13½%
Backhoe Operator	13.16	1.25 + 13½%
Trencher Operator	12.34	1.25 + 13½%
Truck Driver	11.52	1.25 + 13½%
Groundmen	10.21	1.25 + 13½%
MILLWRIGHTS	14.85	2.90
PIPEFITTERS:		
Area 1	16.25	3.22
Area 2	16.85	3.22
Area 3	17.10	3.22

DECISION NO. KY82-1067 Mod # 3 (Cont'd)	Basic Hourly Rates	Fringe Benefits
CHANGE: (Cont'd)		
SHEET METAL WORKERS	$17.22	3.75
SPRINKLER FITTERS	16.47	3.23

DECISION NO. KY82-1071 Mod # 2 (47 FR 47153 - October 22, 1982) BOONE, CAMPBELL, KENTON, & PENDLETON COUNTIES, KENTUCKY	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BRICKLAYERS & STONE MASONS	17.225	1.99
ELEVATOR CONSTRUCTORS:		
Mechanics	15.65	2.33 + a
Helpers	10.955	2.33 + a
Probationary Helpers	7.825	
LATHERS (Except Pendleton County)	16.62	2.625
SHEET METAL WORKERS:		
Pendleton County	17.22	3.75
SPRINKLER FITTERS	16.47	3.23
LABORERS - Boone, Campbell, & Kenton Cos.:		
Group A	14.75	2.60
Group B	14.85	2.60
Group C	14.90	2.60
Group D	14.95	2.60
Group E	15.10	2.60
Group F	15.25	2.60
Group G	15.50	2.60

MODIFICATION P. 5

MODIFICATION P. 6

DECISION #MO83-4047,MOD#3 48FR 29428-June 24, 1983 Statewide, Missouri	Basic Hourly Rates	Fringe Benefits
OMIT		
Cement Masons:		
Zone 8:		
(a) Heavy Construction	$14.30	$1.95
(b) Highway Construction	14.97	1.95
Areas Covered by Cement Masons Zones:		
Zone 8 (a & b)		
Areas Covered by Carpenters & Piledrivermen Zones:		
Zone 4 - Buchanan, Clinton & Johnson Counties		
ADD:		
Cement Masons:		
Zone 8	14.30	1.95
Areas Covered by Cement Masons Zones:		
Zone 8-Andrew,Atchison,Buchanan,Caldwell Clinton,Daviess, DeKolb,Gentry,Grundy, Harrison,Holt, Livingston,Mercer, Nodaway & Worth Cos.		
Areas Covered by Carpenters & Piledriver:		
Zone 3 - Buchanan, Clinton & Johnson Counties		
CHANGE:		
Laborers:		
Zone 6:		
General Laborer	14.425	2.55
Dynamiter or Powderman	14.925	2.55
Carpenters & Piledrivermen:		
Zone 3	15.40	2.23
Zone 4	14.80	2.23

DECISION NO. NJ83-3015 - Mod. #6 (48 FR 27991 - June 17, 1983) Bergen, Essex, Hudson, Hunterdon, Middlesex, Morris, Passaic, Somerset, Sussex, Union, and Warren Counties, New Jersey	Basic Hourly Rates	Fringe Benefits
Change:		
Air Conditioning and Refrigeration Mechanic: Group 1	$13.85	$1.15+a
Bricklayers, Cement Masons, Plasterers and Stonemasons:		
Zone 1	15.21	3.30
Zone 2	15.62	4.48
Carpenters, Insulators, and Millwrights:		
Zone 2	16.40	3.60
Zone 5:		
Carpenters and Insulators	16.63	20.5%
Millwrights	17.13	20.5%
Zone 6:		
Carpenters and Insulators	16.70	20.5%
Millwrights	17.20	20.5%
Divers and Diver Tenders:		
Zone 1:		
Divers	20.87	6.68
Diver Tenders	16.27	6.68
Ironworkers:		
Reinforcing, Ornamental, and Structural:		
Zone 1	18.70	3.45
Zone 2	17.15	6.11
Pipefitters:		
Zone 2	16.62	5.81
Zone 3	17.67	3.76
Add:		
Carpenters:		
Zone 3:		
Warren County (all Townships)		
Pipefitters:		
Zone 2:		
Warren County (Phillipsburg Township)		
Plumbers:		
Zone 2:		
Warren County (Phillipsburg Township)		

DECISION NO. NJ83-3026 - Mod. #1 (48 FR 34624 - July 29, 1983) Bergen, Essex, Hudson, and Passaic Counties, New Jersey	Basic Hourly Rates	Fringe Benefits
Change:		
Air Conditioning and Refrigeration Mechanics: Group 1	$13.85	$1.15+a
Bricklayers, Cement Masons, Plasterers, and Stonemasons:		
Zone 1	15.21	3.30
Zone 2	16.99	2.82
Zone 3	15.62	4.40
Carpenters, Insulators, and Millwrights:		
Zone 2:		
Carpenters and Insulators	16.70	20.5%
Zone 4:		
Carpenters and Insulators	16.63	20.5%
Millwrights	17.13	20.5%
Divers and Diver Tenders		
Divers	20.27	6.68
Diver Tenders	16.27	6.68
Ironworkers:		
Ironworkers, Reinforcing: Ornamental and Structural	17.15	6.11
Power Equipment Operators:		
Construction, repairs and alterations of dwellings such as a home, duplex, town house or walk-up apartment, 3 stories or less (including clearing and grading, excavation for foundations, back filling, storm and sanitary sewers, sidewalks, street excavation and paving, curbing and landscaping, water and gas supply lines)	11.94	4.40+a
Other Residential Construction (up to and including 4 stories):		
Group 1	$21.67	$4.80+a
Group 2	20.08	4.80+a
Group 3	18.17	4.80+a
Group 4	16.54	4.80+a
Group 5	14.83	4.80+a
Group 6	23.49	4.80+a

DECISION NO. NJ83-3026 (Cont'd)

CLASSIFICATION DESCRIPTIONS

POWER EQUIPMENT OPERATORS
Other Residential Construction (up to and including 4 stories)

Group 1: Autograde, combination Sub-grader; Base Metal Spreader and Base Trimmer (CMI and similar types); Autograde Placer-Trimmer Spreader, combination (CMI and similar types); Autograde Slipform Paver (CMI and similar types); Backhoe; Central Power Plants (all types); Concrete Paving Machines; Cranes (all types including Overhead and Straddle Traveling type); Cranes, Gantry; Derricks (Land or Floating); Drillmaster, Quarrymaster (down the hole drill); Rotary Drill; Self-propelled Hydraulic Drill; Self-powered Drill; Draglines; Elevator Graders; Front End Loaders (5 yds. and over); Gradalls; Grader; Rago; Locomotive (large); Mucking Machines; Pavement and Concrete Breaker, i.e.; Superhammer and Hoe Ram; Pile Driver, length of boom including length of leads, shall determine premium rate applicable; Roadway Surface Grinder; Scooper (Loader and Shovel); Shovels; Tree Chopper with boom and Trench Machines

Group 2: "A" Frame; Backhoe (combination); Boom Attachment on Loaders (rate based on size of bucket)(not applicable to Pipe-hook); Boring and Drilling Machines; Brush Chopper; Shredder and Tree Shredder; Tree Shearer; Cableways; Carryalls; Concrete Pumps; Concrete Pumping System; Pumpcrete and similar types; Conveyors, 125 ft. and over; Drill Doctor (including Dust Collector Maintenance); Front End Loaders (2 yds. but less than 5 yds); Graders (finish); Groove Cutting Machine (ride on type); Heater Planer; Hoists (all types hoists, shall also include Steam, Gas, Diesel, Electric, Air Hydraulic, Single and Double Drum, Concrete, Brick Shaft Caisson, Snorkel Roof, and/or any other similar type Hoisting Machines, Portable or Stationary, except Chicago Boom type); Hoist (Chicago Boom type); Hydraulic Cranes, 10 tons and under; Hydro-axle; Jacks, Screw Air Hydraulic, power operated unit or console type (not hand Jack or Pile Load Test type); Log Skidder; Pans; Pavers (all) Concrete; Pumpcrete Machines; Squeezecrete and Concrete Pumping (regardless of size); Scrapers; Sidebooms; Straddle Carrier; Ross and similar types and Winch Trucks (hoisting)

DECISION NO. NJ83-3026 (Cont'd)

Group 3: Asphalt Curbing Machine; Asphalt Plant Engineer; Asphalt Spreader; Autograde Tube Finisher and Texturing Machine (CMI and similar types); Autograde Curecrete Machine (CMI and similar types); Autograde Curb Trimmer and Sidewalk, Shoulder; Slipform (CMI and similar types); Bar Bending Machines (power); Batchers; Batching Plant and Crusher on site; Belt Conveyor Systems; Boom type Skimmer Machines; Bridge Deck Finisher; Bulldozers (all); Car Dumpers (railroad); Compressor and Blower type units (used independently or mounted on Dual Purpose Trucks, on job site or in conjunction with job site, in loading and unloading of concrete, cement, fly ash, instantcrete, or similar type materials); Compressor (2 or 3) in a battery; Concrete Finishing Machines; Concrete Saws and Cutters (ride on type); Concrete Spreaders, Hetzel; Rexomatic and similar types; Concrete Vibrators; Conveyors, under 125 ft.; Crushing Machines; Ditching Machine, small (Ditchwitch or similar type); Dope Pots (mechanical with or without Pump); Dumpster; Elevator; Fireman; Fork Lifts (Economobile, Lull and similar types of equipment); Front End Loaders (1 yd. and over but less than 2 yds); Generators (2 or 3) in battery; Giraffe Grinders; Graders and Motor Patrols; Gunnite Machines (excluding Nozzle); Hammer Vibratory (in conjunction with Generator); Hoists (Roof, Tugger, Aerial Platform Hoist and House Cars); Hoppers; Hopper Doors (power operated); Ladders (motorized); Laddervator; Locomotive, Dinky type; Maintenance, Utility Man; Mechanics; Mixers (excepting Paving Mixers); Motor Patrols and Graders; Pavement Breakers, small self-propelled ride on type (also maintaining Compressor or Hydraulic Unit); Pavement Breaker, truck mounted; Pipe Bending Machine (power); Pitch Pump; Plaster Pump (regardless of size); Post Hole Digger (Post Pounder and Auger); Rod Bending Machines (power); Roller, Black Top; Scales (power); Seaman Pulverizing Mixer; Shoulder Widener; Silos; Skimmer Machines (boom type); Steel Cutting Machine, service and maintaining; Tractors; Tug Captain; Vibrating Plants (used in conjunction with unloading) and Welder and Repair Mechanics

Group 4: Brooms and Sweepers; Chippers; Compressor (single); Concrete Spreaders (small type); Conveyor Loaders (not including Elevator Graders); Engines, large diesel (1620 HP) and Staging Pump; Farm Tractors; Fertilizing Equipment (operation and maintenance); Fine Grade Machine (small type); Form Line Graders (small type); Front Loader (under 1 yd.); Generator (single); Grease, Gas, Fuel, and Oil Supply Trucks; Heaters (Nelson or other type including propane natural gas or flowtype units); Lights, Portable Generating Light Mixers, concrete, small; Mulching Equipment (operation and maintenance); Pumps (2 or less, than 4 inch suction); Pumps (4 in. suction and over including submersible pumps); Pumps (diesel engine and hydraulic) immaterial of power; Road Finishing Machines (small type); Rollers, Grade, Fill or Stone Base; Seeding Equipment (operation and maintenance of); Sprinkler and Water Pump; Steam Jennies and Boilers; Stone Spreader; Tamping Machines; Vibrating Ride on; Temporary Heating Plant (Nelson or other type including propane, natural gas or flow type units); Water and Sprinkler Trucks; Welding Machines (gas, diesel and/or electric converters or any type, single, two or three in a battery); Welding System, multiple (rectifier Transformer type); Trucks and Wellpoint Systems

VOL 48 ISS 176 SEP 9 1983 UMI

DECISION NO. NJ83-3026 (Cont'd)

Group 5: Oiler

Group 6: Helicopter, Pilot

FOOTNOTE
a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Presidential Election Day and Veterans Day, provided the employee works any of the 3 days in the 5-day workweek preceeding the holiday and the first work day after the holiday.

DECISION NO. NJ83-3016 - MOD. #7
(48 FR 28003 - June 17, 1983)
Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Monmouth, Ocean, and Salem Counties, New Jersey

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
AIR CONDITION AND REFRIGERATION MECHANIC:		
Group 1	$13.85	1.15+a
BRICKLAYERS, STONE MASONS, MARBLE MASONS, CEMENT MASONS, PLASTERERS, TILE LAYERS & TERRAZZO WORKERS		
Zone 4	16.40	2.13
CARPENTERS, MILLWRIGHTS, & INSULATORS:		
Zone 4		
Carpenters		
Insulators & Millwrights	16.40	3.60
Zone 5		
Carpenters & Insulators	16.63	20.5%
Millwrights	17.13	20.5%
DIVERS & DIVERS TENDENS:		
Zone 1		
Divers	20.87	6.68
Diver Tenders	16.27	6.68
DOCK BUILDERS & PILEDRIVERMEN:		
Zone 1	14.82	6.16
Zone 2	17.36	6.60
IRONWORKERS:		
REINFORCING, ORNAMENTAL, STRUCUTURE:		
Zone 3	18.40	3.75

DECISION #NM83-4032-Mod.#10
48FR16413-April 15, 1983
STATEWIDE, NEW MEXICO

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Sprinkler fitters	$16.17	3.15
IN DESCRIPTION OF WORK WHERE COUNTIES ARE SPECIFIED FOR RESIDENTIAL CONSTRUCTION, INCLUDE "Cibola County".		
PAINTERS (RESIDENTIAL CONSTRUCTION) Area Definition published in Federal Register dated July 1, 1983 on modification #6 to read "Bernalillo, Cibola, Rio Arriba, Sandoval, Taos, Santa Fe, and Valencia Counties".		

DECISION NO. RI83-3042
MOD. NO. 1
(48 FR 37809 - August 19, 1983)
Statewide, Rhode Island

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
HEAVY & HIGHWAY CONSTRUCTION:		
ELECTRICIANS:		
Tiverton & Little Compton	$14.90	16%
Westerly Township	16.80	4.65+ 3.5%
Remainder of State	16.85	29%+ .04

STATE: Indiana
DECISION NUMBER: IN83-2071
Supersedes Decision No. IN83-2029, dated April 8, 1983 in 48 FR 15417
DESCRIPTION OF WORK: Building Construction (does not include single family homes and apartments up to and including 4 stories)

COUNTIES: *See Below
DATE: Date of Publication

*Adams, Allen, Bartholomew, Benton, Blackford, Boone, Carroll, Cass, Clinton, DeKalb, Delaware, Fountain, Fulton, Grant, Hamilton, Hancock, Hendricks, Howard, Huntington, Jay, Johnson, Madison, Marion, Miami, Monroe, Montgomery, Morgan, Noble, Shelby, Steuben, Tippecanoe, Tipton, Wabash, Warren, Wells, White, & Whitley

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS:		
Area 1	17.20	2.32
Area 2	17.46	2.88
Area 3	17.75	2.70
BOILERMAKERS	18.655	3.58
BRICKLAYERS; CAULKERS; POINTERS; CLEANERS & STONEMASONS:		
Area 1:		
Regular Commercial	15.36	1.92
Reduced Commercial: (applies to single story office bldg. up to 10,000 sq. ft., warehouses & metal bldgs. up to 30,000 sq. ft.) 80% OF REGULAR RATE		
Area 2	14.80	1.77
Area 3	15.47	1.62
Area 4	14.85	2.56
Area 5	16.74	1.68
Area 6	15.47	3.62
Area 7	15.06	2.22
Area 8	14.88	2.80
CARPENTERS; MILLWRIGHTS; PILEDRIVERMEN & SOFT FLOOR LAYERS:		
Area 1		
Carpenters & Soft Floor Layers	14.68	2.02
Millwrights	15.43	2.02
Piledrivermen	14.88	2.02
Area 2:		
Regular Commercial:		
Carpenters & Soft Floor Layers	13.40	2.52
Millwrights & Piledrivermen	13.80	2.52
Reduced Commercial: (applies to Small office bldgs. under 10,000 sq. ft. & metal bldgs. (Pre-Engineered) 30,000 sq. ft. or less) 75% OF REGULAR RATE		
Area 3:		
Carpenters & Millwrights	13.78	2.25
Area 4:		
Carpenters & Soft Floor Layers	13.86	2.00
Millwrights	14.61	2.00
Piledrivermen	14.36	2.00
Area 5:		
Carpenters & Soft Floor Layers	15.36	2.17
Millwrights & Piledrivermen	15.71	2.17
Area 6:		
Carpenters & Soft Floor Layers	13.63	2.35
Millwrights	13.93	2.35
Piledrivermen	13.83	2.35
Area 7:		
Carpenters & Soft Floor Layers	15.75	2.34
Millwrights	16.50	2.34
Piledrivermen	16.00	2.34
CEMENT MASONS:		
Area 1	12.85	1.57
Area 2	14.70	
Area 3	14.33	2.60
Area 4	13.70	1.85
Area 5	14.10	1.95
Area 6	14.73	3.54
Area 7	14.16	2.58
Area 8	13.50	
Area 9	16.35	1.00
ELECTRICIANS:		
Area 1	17.70	1.83+ 3%
Area 2	17.50	16.83
Area 3	17.50	1.83+ 3%
Area 4	16.30	2.20 +3.3%
Area 5	18.15	1.33 +3.3%
Area 6	17.37	1.33 +3%
Area 7	17.30	1.86+ 3%

DECISION NO. IN83-2071

	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION:		
Linemen, Groundman Equipment Operators	17.25	.65+ 8.5%
Groundman - Truck Driver W/Winch	14.21	.65+ 8.5%
Groundman - Truck Driver W/O Winch	13.38	.65+ 8.5%
Groundman	12.78	.65+ 8.5%
ELEVATOR CONSTRUCTORS:		
Area 1:		
Elevator Constructor	16.95	2.69 +a&b
Helper	70%JR	2.69 +a&b
Helpers (Prob.)	50%JR	
Area 2:		
Elevator Constructors	16.32	2.69 +a&b
Helpers	70%JR	2.69 +a&b
Helpers (Prob.)	50%JR	
Area 3:		
Elevator Constructors	17.265	2.69 +a&b
Helpers	70%JR	2.69 +a&b
Helpers (Prob.)	50%JR	
GLAZIERS:		
Area 1	15.44	1.14c
Area 2	13.97	.01+ 16%
Area 3	16.55	1.65
Area 4	19.45	
IRONWORKERS:		
Area 1	15.00	6.11
Area 2	17.05	3.60 + 1%
Area 3	14.79	4.22
Area 4	14.90	5.06
Area 5	16.90	3.60 + 1%
Area 6	15.25	4.60
MARBLE SETTERS; TILE SETTERS & TERRAZZO WORKERS:		
Area 1:		
Marble Setter	15.36	1.92
Area 2	14.80	2.02
Area 3	15.47	1.62
Area 4:		
Tile Setter	14.85	2.56
Area 5:		
Marble & Tile Setters	17.71	1.39
Terrazzo & Mosaic Workers	17.46	1.63
Area 6	13.00	3.57
Area 7	15.06	2.22
MARBLE & TILE SETTERS FINISHERS:		
Area 1	14.05	c&g
Area 2	11.00	
Area 3	14.86	
TERRAZZO WORKERS FINISHERS:		
Area 1	14.18	c&g
Area 2	11.00	
Area 3	12.60	
PAINTERS:		
Area 1:		
Brush, Roller, Taping and Paperhangers	12.75	2.17
Spray & Sandblasting	13.75	2.17
Area 2:		
Brush, Paperhangers, & Tapers	11.65	1.75
Spray & Sandblasting	12.65	1.75
Area 3:		
Brush, Roller, Drywall Tapers & Finishers, & Paperhangers	14.65	1.70
Spray	17.92	1.70
Structural Steel	14.90	1.70
Sandblasting	15.65	1.70
Area 4:		
Brush, Roller, Drywall Tapers & Finishers, & Paperhangers	15.30	1.40
Spray & Sandblasting	16.30	1.40
Area 5:		
Brush, Drywall, Roller & Paperhanger	11.67	
Structural Steel	12.42	
Spray & Sandblasting	12.67	
Area 6:		
Brush, Roller, Drywall Taping and Finishing, & Paperhanging	15.80	
Spray & Sandblasting	16.80	
Area 7:		
Brush	14.70	2.49
Spray & Sandblasting	15.45	2.49
Drywall Taping	15.75	2.49
Area 8:		
Painters, Drywall Tapers and Finishers	12.56	2.03

DECISION NO. IN83-2071

	Basic Hourly Rates	Fringe Benefits
PLASTERERS:		
Area 1	13.48	1.40
Area 2	14.70	
Area 3	14.35	1.55
Area 4	13.40	.86
Area 5	15.73	1.52
Area 6	13.20	1.22
Area 7	13.48	2.50
Area 8	16.35	1.00
Area 9	14.59	3.54
PLUMBERS & STEAMFITTERS:		
Area 1	17.68	2.87
Area 2	18.11	2.05
Area 3	17.85	2.51
Area 4	18.40	2.60
Area 5	16.18	2.45
Area 6	17.95	2.65
Area 7	19.92	2.20
ROOFERS:		
Area 1	15.00	.50
Area 2:		
Composition	15.32	2.00
Slate and Tile	15.57	2.00
Area 3:		
Composition	15.45	1.78
Slate and Tile	15.70	1.78
Area 4	13.10	1.35
Area 5:		
Composition	14.60	2.55
Slate & Tile	15.10	2.55
SHEET METAL WORKERS:		
Area 1	17.66	2.46 +3%
Area 2	17.61	2.62 +3%
Area 3	17.68	2.16 +3%
Area 4	16.46	2.16
SPRINKLER FITTERS	16.67	3.23
LABORERS:		
Area 1:		
Group 1	10.70	1.94
Group 2	10.90	1.94
Group 3	11.00	1.94
Group 4	11.70	1.94
Area 2:		
Group 1	11.23	1.94
Group 2	11.43	1.94
Group 3	11.53	1.94
Group 4	12.23	1.94
Area 3:		
Group 1	11.48	1.94
Group 2	11.68	1.94
Group 3	11.78	1.94
Group 4	12.48	1.94
Area 4:		
Group 1	12.25	1.94
Group 2	12.45	1.94
Group 3	12.55	1.94
Group 4	13.25	1.94
Area 5:		
Group 1	11.63	1.94
Group 2	11.83	1.94
Group 3	11.93	1.94
Group 4	12.63	1.94
Area 6:		
Group 1	11.58	1.94
Group 2	11.78	1.94
Group 3	11.88	1.94
Group 4	12.58	1.94
POWER EQUIPMENT OPERATORS:		
Area 1:		
Group 1	16.20	4.15
Group 2	15.30	4.15
Group 3	14.85	4.15
Group 4	14.05	4.15
Group 5	13.25	4.15
Area 2:		
Group 1	13.60	1.58
Group 2	13.40	1.58
Group 3	8.55	1.58
Area 3:		
Group 1	15.68	2.20
Group 2	14.39	2.20
Group 3	13.55	2.20
Area 4:		
Group 1	16.75	2.20
Group 2	15.80	2.20
Group 3	12.80	2.20
Group 4	11.30	2.20
TRUCK DRIVERS:		
Area 1:		
Group 1	12.62	$91.00 +e
Group 2	12.69	$91.00 +e
Group 3	12.77	$91.00 +e

DECISION NO. IN83-2071

TRUCK DRIVERS (CONT'D)	Basic Hourly Rates	Fringe Benefits
Area 2:		
Group 1	11.16	$81.00 +e
Group 2	11.26	$81.00 +e
Group 3	11.46	$81.00 +e
Group 4	11.31	$81.00 +e
Group 5	11.01	$81.00 +e
Group 6	11.11	$81.00 +e
Group 7	11.46	$81.00 +e
Area 3:		
Group 1	11.505	$65.00 +f
Group 2	11.715	$65.50 +f
Group 3	11.825	$65.50 +f
Group 4	11.875	$65.50 +f
Group 5	11.925	$65.50 +f
Area 4:		
Group 1	12.95	$76.50 +e
Group 2	13.00	$76.50 +e
Group 3	13.10	$76.50 +e
Group 4	13.15	$76.50 +e
Group 5	13.20	$76.50 +e
Group 6	13.30	$76.50 +e
Group 7	13.40	$76.50 +e
Group 8	13.45	$76.50 +e
Group 9	13.60	$76.50 +e
Group 10	13.05	$76.50 +e

Basic Hourly Rates	Fringe Benefits

DECISION NO. IN83-2071

PAID HOLIDAYS
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. 7 Paid Holidays: A through F, & Day after Thanksgiving Day
b. Employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years, and 6% for employee who has worked in business less than 5 years
c. 6 Paid Holidays: A through F, provided such employees work the last scheduled day prior to and the next scheduled work day after the holiday unless permission for not working on such day is granted by the employer
d. Per week per employee
e. One week's paid vacation after one year's employment; two weeks' paid vacation after three years employment; three weeks' paid vacation after ten years employment (1000 hours from May 1 up to and including April 30 to qualify in area 1, 1000 hours during previous 12 mos. in Area 2)
f. Paid Vacation - 1 year service - 1 week; 10 years - 2 weeks, 15 years - 3 weeks (1350 hours per calander year to qualify)
g. Health Insurance: Single Plan - $.92, Family Plan - $1.12

AREA DESCRIPTIONS

ASBESTOS WORKERS

Area 1: Adams, Allen, Blackford, DeKalb, Grant, Huntington, Jay, Miami, Noble, Steuben, Wabash, Wells & Whitley Counties
Area 2: Cass, Fulton & White Counties
Area 3: Remaining Counties

BRICKLAYERS

Area 1: Adams, Allen, DeKalb, Huntington, Noble, Steuben, Wells, and Whitley Counties
Area 2: Bartholomew and Monroe Counties
Area 3: Benton, Carroll, Clinton, Fountain, Tippecanoe, Warren & White Counties
Area 4: Blackford, Delaware, Hamilton, Jay, Madison & Tipton Counties
Area 5: Boone, Hancock, Hendricks, Johnson, Marion, Montgomery, Morgan & Shelby Counties
Area 6: Cass & Fulton Counties
Area 7: Grant & Wabash Counties
Area 8: Howard & Miami Counties

DECISION NO. IN83-2071

AREA DESCRIPTIONS (CONT'D)

CARPENTERS

Area 1: Adams, Cass, Fulton, Grant, Howard, Huntington, Miami, Tipton, Wabash, and Wells Counties
Area 2: Allen, DeKalb, Noble, Steuben, & Whitley Counties
Area 3: Bartholomew (Camp Atterbury), Boone, Fountain, Hamilton, Hancock, Hendricks, Johnson (excl. Edinburgh), Marion, Montgomery, Morgan (Excl. Twps. of Washington & Baker), Shelby (Camp Atterbury area, Moral & Van Buren Twps), and Warren Counties
Area 4: Remainders of Bartholomew, Johnson and Shelby Counties
Area 5: Benton, Carroll, Clinton, Tippecanoe & White Counties
Area 6: Blackford, Delaware, Jay, and Madison Counties
Area 7: Monroe County and Remainder of Morgan County

CEMENT MASONS

Area 1: Adams, Allen, DeKalb, Noble, Steuben, and Whitley Counties
Area 2: Bartholomew and Shelby (except parts ending at Pleasant View)
Area 3: Benton (E 2/3), Carroll, Cass, Clinton, Fountain (E½), Howard, Miami, Montgomery, Tippecanoe, Warren (NE ¼) and White Counties
Area 4: Blackford, Delaware, Grant, Huntington, Jay, Wabash & Wells Counties
Area 5: Boone, Hamilton (S½ of County N. to New Rte Ind. 32 including Noblesville), Hancock County (S. W. Corner N. to but not including Wilkinson & E. to but not including Fortville), Hendricks, Johnson, Marion, Morgan (N½), Shelby (parts of County ending at Pleasant View)
Area 6: Fulton County
Area 7: Madison, Tipton and the Remainders of Hamilton and Hancock Counties
Area 8: Monroe County and Remainder of Morgan County
Area 9: Remainders of Benton, Fountain & Warren Cos.

ELECTRICIANS

Area 1: Adams, Allen, DeKalb, Huntington, Noble, Steuben, Wells and Whitley Counties
Area 2: Bartholomew, Boone, Hamilton, Hancock, Hendricks, Johnson, Madison, Marion, Montogmery, Morgan and Shelby Counties
Area 3: Benton, Carroll, Cass, Fulton, Tippecanoe, and White Counties
Area 4: Blackford, Delaware and Jay Counties
Area 5: Clinton, Grant, Howard, Miami, Tipton & Wabash Counties
Area 6: Fountain and Warren Counties
Area 7: Monroe County

DECISION NO. IN83-2071

AREA DESCRIPTIONS (CONT'D)

ELEVATOR CONSTRUCTORS

Area 1: Adams, Allen, Blackford, DeKalb, Huntington, Jay, Miami, Noble, Steuben, Wabash, Wells, & Whitley Counties
Area 2: Cass, Fulton & White Counties
Area 3: Remainder of Counties

GLAZIERS

Area 1: Adams, Allen, Blackford, Cass (NE Corner), DeKalb, Fulton (E Tip), Grant, Huntington, Jay, Miami (N 2/3 exclu. NW Tip) Noble (exclu. N. W. Tip), Steuben, Wabash, Wells and Whitley Counties
Area 2: Cass (NW 2/3), Fulton (Rem. of Co.), White (NE Corner) Counties
Area 3: Benton (NE 1/3), White (NW 1/3)
Area 4: Remainder of Cos.

IRONWORKERS

Area 1: Adams, Allen, Blackford, DeKalb, Delaware (North-eastern 1/3 of Co.), Fulton (E Part), Grant (excl. South-western portion) Huntington, Jay, Miami (NE ¼), Noble (Ex. NE Tip), Steuben, Wabash, Wells, & Whitley Cos.
Area 2: Bartholomew, Boone (excluding NW¼), Clinton (E½), Delaware (S 2/3 of Co.), Grant (SW Portion), Hamilton, Hancock, Hendricks, Howard (SE 1/3), Johnson, Madison, Monroe (NE 2/3), Montgomery (SE Tip), Morgan, Shelby, & Tipton (excl. NW Tip) Counties
Area 3: Benton, Boone (NW¼), Cass, Carroll, Clinton (Rem. of Co.), Fountain, Fulton (SW ¼), Howard (Rem. of Co.), Miami (SW ½), Montgomery (Remainder of Co.), Tippecanoe, Tipton (NW¼), Warren & White Counties
Area 4: Fulton (Rem. of Co.), Noble (NE Tip)
Area 5: Marion County
Area 6: Monroe (Rem. of Co.)

MARBLE, TILE & TERRAZZO WORKERS

Area 1: Adams, Allen, DeKalb, Huntington, Noble, Steuben, Wells, & Whitley Counties
Area 2: Bartholomev & Monroe Counties
Area 3: Benton, Carroll, Clinton, Fountain, Tippecanoe, Warren & White Counties
Area 4: Blackford, Delaware, Hamilton, Jay, Madison & Tipton Counties
Area 5: Boone, Hancock, Hendricks, Johnson, Marion, Montgomery, Morgan & Shelby Counties
Area 6: Cass, Fulton, Howard & Miami Counties
Area 7: Grant & Wabash Counties

DECISION NO. IN83-2071

AREA DESCRIPTIONS (CONT'D)

MARBLE & TILE SETTERS' FINISHERS

Area 1: Fulton County
Area 2: Allen, DeKalb, Noble, Steuben & Whitley Cos.
Area 3: Adams, Bartholomew, Blackford, Boone, Clinton, Delaware, Fountain, Grant, Hamilton, Hancock, Hendricks, Howard, Huntington, Jay, Johnson, Madison, Monroe, Montgomery, Morgan, Marion, Shelby, Tippecanoe, Tipton, Wabash & Wells Counties

TERRAZZO WORKERS' FINISHERS

Area 1: Fulton County
Area 2: Adams, Allen, DeKalb, Huntington, Noble, Steuben, Wabash, Wells, & Whitley Cos.
Area 3: Remainder of Counties (excl. Miami County)

PAINTERS

Area 1: Adams, Allen, DeKalb, Grant, Huntington, Noble, Steuben, Wabash, Wells & Whitley Counties
Area 2: Blackford, Delaware, Howard, Jay, Madison, Miami, & Tipton Counties
Area 3: Benton, Carroll, Cass, Clinton, Fountain, Montgomery, Tippecanoe, & Warren Counties
Area 4: Boone, Hamilton, Hancock, Hendricks, Johnson, Marion, Morgan & Shelby Counties
Area 5: Monroe County
Area 6: Bartholomew County
Area 7: White County
Area 8: Fulton County

PLASTERERS

Area 1: Adams, Allen, DeKalb, Noble, Steuben, & Whitley Counties
Area 2: Bartholomew & Shelby (ex. parts ending at Pleasant View) Counties
Area 3: Benton (E. 2/3 W. to & incl. Boswell, Earl, Parke & Raub), Carroll, Cass, Clinton, Fountain (W. to & incl. Attica, in the N. & W. to but Excl. Veedersburg in the South), Howard, Miami, Montgomery, Tippecanoe, Warren (NE. ¼ of Judyville, & S. to & Incl. Kramer) & White Counties
Area 4: Blackford, Delaware, Grant, Jay, & Wabash Counties
Area 5: Boone, Hamilton (S. of Ind. Rte 32), Hancock (S. of State Rte. 234 & W. of County Rd 300-W), Hendricks, Johnson, Marion, Morgan (N¼), and Shelby (Parts of Co. ending of Pleasant View) Counties
Area 6: Monroe County and Remainder of Morgan County
Area 7: Remainder of Hamilton and Hancock Counties, Madison & Tipton Counties
Area 8: Remainder of Benton, Fountain & Warren Counties
Area 9: Fulton County

DECISION NO. IN83-2071

AREA DECSRIPTIONS (CONT'D)

PLUMBERS & STEAMFITTERS

Area 1: Adams, Allen, Blackford, DeKalb, Grant, Huntington, Noble, Steuben, Wabash, Wells & Whitley Counties
Area 2: Bartholomew (excluding Camp Atterbury)
Area 3: Bartholomew (Camp Atterbury), Boone, Hamilton, Hancock, Hendricks, Howard, Johnson, Marion, Miami (S. of a straight line where Rt. 218 enters W. boundary), Morgan, Shelby & Tipton Counties
Area 4: Benton, Carroll, Clinton, Fountain, Montgomery, Tippecanoe, Warren & White Counties
Area 5: Cass, Fulton & the Remainder of Miami Counties
Area 6: Delaware, Jay & Madison Counties
Area 7: Monroe County

ROOFERS

Area 1: Adams, Allen, DeKalb, Noble, Steuben, Wells, & Whitley Counties
Area 2: Bartholomew, Boone, Hamilton, Hancock, Hendricks, Johnson, Marion, Monroe, Morgan, & Shelby Counties
Area 3: Benton, Carroll, Cass, Clinton, Fountain, Montgomery, Tippecanoe, Warren & White Counties
Area 4: Blackford, Delaware, Grant, Howard, Huntington, Jay, Madison, Miami, Tipton & Wabash Counties
Area 5: Fulton County

SHEET METAL WORKERS

Area 1: Adams, Allen, Blackford, Cass, DeKalb, Grant, Howard, Huntington, Jay, Miami, Noble, Steuben, Wabash, Wells & Whitley Counties
Area 2: Bartholomew, Boone, Delaware, Hamilton, Hancock, Hendricks, Johnson, Madison, Marion, Monroe, Morgan, Shelby, & Tipton Counties
Area 3: Benton, Carroll, Clinton, Fountain, Montgomery, Tippecanoe, Warren & White Counties
Area 4: Fulton County

LABORERS

Area 1: Adams, Allen, DeKalb, Huntington, Noble, Steuben, Wabash, Wells & Whitley Counties
Area 2: Blackford, Delaware, Grant, Hancock, Hamilton, Jay, & Madison Counties
Area 3: Benton, Boone, Carroll, Cass, Clinton, Fulton, Howard, Maimi, Montgomery, Tippecanoe, Tipton & White Counties
Area 4: Marion & Shelby Counties
Area 5: Fountain, Hendricks & Warren Counties
Area 6: Bartholomew, Johnson, Monroe & Morgan Counties

DECISION NO. IN83-2071

AREA DESCRIPTIONS (CONT'D)

POWER EQUIPMENT OPERATORS

Area 1: Fulton & Noble Counties
Area 2: Boone, Fountain, Hendricks, Monroe, Montgomery, Morgan, & Warren Counties
Area 3: Bartholomew County
Area 4: Remainder of Counties

TRUCK DRIVERS

Area 1: Boone, Hamilton, Hancock, Hendricks, Johnson, Marion, Morgan, & Shelby Counties
Area 2: Benton, Carroll, Cass, Clinton, Fountain, Howard, Miami, Montgomery, Tippecanoe, Tipton, Wabash, Warren & White Counties
Area 3: Fulton County
Area 4: Bartholomew, Blackford, Delaware, Grant, Jay, Madison, & Monroe Counties

CLASSIFICATION DEFINITIONS

LABORERS AREA 1

Group 1 - Building & Construction Laborers; Scaffold Builders other than for Masons or Plasterers); Ironworker Tenders; Mechanic Tenders; Window Washers & Cleaners; Roofer's Tenders; Railroad Workers; Masonry Wall Washers (interior & exterior); Cement Finisher Tenders; Carpenter Tenders; Mason Tenders; All Portable Water Pumps with Discharge Up to 3 inches
Group 2 - Waterproofing; Handling of Creosote Lumber of Like Treated Material (excluding railroad material); Asphalt Rakers & Lutemen; Kettlemen; Air Tool Operators; Air & Electric Vibrators; Chipping Hammer Operators and All Pneumatic Tool Operators; Jackmen & Sheet Men Working Ditches deeper than 6 ft. in depth; Laborers Working Ditches 6 ft. in depth or Deeper; Assembly of Unicrete Pump, Chain Saw & Demolition Saw Operators; Tile Layers (sewer or field) & Sewer Pipe Layer (metallic or non-metallic); Motor Driven Wheebarrows & Concrete Buggies; Hyster Operators; Pump Crete Assemblers; Concrete Conveyor Assemblers; Core Drill Operator, Cement, Lime or Silia Clay Handlers (bulk or bag); Handling of Toxic Materials Damaging to Clothing; Pneumatic Spikers; Deck Engine & Winch Operators; Water Maine & Cable Ducking (metallic non-metallic; Screed Man or Screw Op. on Asphalt Paver; Earth Compactor
Group 3 - Plasterers' Tenders; Mortar Mixers; Welders (acetylene or electric); Cutting Torch or Burner; Cement Nozzle Laborers; Cement Gun Operators; Scaffold Builders when working for Plasterers
Group 4 - Dynamite Men; Drillers - Air Track or Wagon Drilling for Explosives

DECISION NO. IN83-2071

CLASSIFICATION DEFINITIONS (CONT'D)

LABORERS AREAS 2-3-4-5-6

Group 1 - Building and Construction Laborers; Scaffold Builders (other than for Masons or Plasterers); Ironworker Tenders; Mechanic Tenders; Window Washers and Cleaners; Water Boys and Tool Housemen; Roofers Tenders; Railroad Workers; Masonry Wall Washers; Cement Finishers Tenders; Carpenter Tenders; Portable Water Pumps with Discharge up to 3 inches
Group 2 - Waterproofing; Hauling of Creosote Lumber or like treated material (exclu. railroad material); Asphalt Rakers and Lutemen; Kettlemen; Air Tool Oper.; Pneumatic Tool Op.; Air & Electric Vibrators and Chipping Hammer Op.; Earth compactors; Jackman & Sheetmen in Ditches more than 6 feet Deep; Laborers in ditches 6' deep or deeper; Assemply of Unicrete Pump; Tile Layers (sewer or field); Sewer Pipe Layers; Motor Driven Wheelbarrows and Concrete Buggies; Hyster Op.; Pump Crete Assemblers; Core Drill Op.; Cement, Lime or Silica Clay Handlers; Handling of Toxic Materials Damaging to Clothing; Pneumatic Spikers; Deck Engine & Winch Op.; Water Main & Cable Ducking; Screed Man or Screw Op. On Asphalt Paver; Chain Saw & Demolition Saw Op.; Concrete Conveyor Assembler
Group 3 - Plaster Tenders; Mason Tender; Mortar Mixers; Welders; Cutting Torch or Burner; Cement Nozzle Laborers; Cement Gun Operators; Scaffold Builders for Plasterers; Scaffold Builders for Masons; Water Blast Mach. Op.
Group 4 - Dynamite Men, Drillers - Air Track or Wagon Drilling for Explosives

POWER EQUIPMENT OPERATORS AREA 1

Group 1 - Mechanic; Asphalt Plant; Asphalt Spreader; Autograde; Batch Plant; Benoto (requires two Engineers), Boiler and Throttle Valve Boring Machine (road); Caisson Rigs; Central Redi-Mix Plant; Concrete Conveyor Systems; Concrete Power over 27E cu. ft.; Concrete Paver 27E cu. ft. and under; Concrete Placer; Concrete Pumps (truck mounted); Concrete Tower, Cranes & Backhoe, all attachments; Cranes, Hammerhead; Creter Cranes; Derricks, All; Forklift capable of Hoisting and mechanically moving Forks horisontally; Grader, Elevating; Highlift Shovels or Front Endloader; Hoists, Two or more Drums; Locomotives, All; Motor Patrol; Pile Drivers and Skid Rig; Pre-stress Machine; Rock Drill (self-propelled); Rock Drill (truck mounted); Scoops - Tractor Drawn; Slip - Form Paver; Tournapull; Tractor with Boom, and Side Boom; Trenching Machines 12 or more inches in width

Group 2 - Combination Backhoe Front End Loader Machine with backhoe bucket or with attachments

40028 Federal Register / Vol. 48, No. 178 / Friday, September 9, 1983 / Notices

DECISION NO. IN83-2071

CLASSIFICATION DEFINITIONS (CONT'D)

POWER EQUIPMENT OPERATORS AREA 1 (CONT'D)

Group 3 - Air Compressor 600 cu. ft. and over; Bobcat (over 3/4 cu. yd.); Boilers; Broom, All Power Propelled; Bull Dozers; Compressor and Throttle Valve; Concrete Breaker (Truck mounted); Concrete Mixer of more than 21 cu. ft. capacity; Forklift with a fixed or tilt mast; Greaser Engineer; Hoists, One Drum; Hydraulic Boom Trucks; Post Hole Digger (vehicle mounted); Pump Cretes; Squeeze Crete Screw Type Pumps, Gypsum Bulker and Pump; Roller, All; Steam Generators; Stone Crushers; Straddle Buggies; Tractors; Winch Trucks with "A" Frame

Group 4 - Buck Hoist; Combination - Small Equipment Operator, Conveyor, Portable; Grouting Machines; Hoist Elevators Matl. & personnel; Hydraulic Power Units Grouting and Pile Driving; Stud Driving; Trenching Machines less than 12 inches in width, Welding Machines 8 through 15

Group 5 - Bobcat (up to and including 3/4 cu. yds.); Compressor over 210 cu. ft. and less than 600 cu. ft.; Generators - over 50KW; Heaters, Mechanical; Hoists, All Elevators (perm. installation); Hoist, Automatic; Hoist, Tugger Single Drum; Oilers; Pumps, Well Points and Electric Submerisbles; Small Rubber Tired End Loaders ¾ cu. yd. and under; Tractors, Farm Type; Welding Machines (2 through 8)

AREA 2

Group 1 - Utility Operator

Group 2 - Power Cranes, Draglines, Derrick, Electric Overhead Cranes, Shovels, Gradall, Mechanics, Repair and maintenance of All Equipment, Tractor Highlift, Fork Lifts, Tournadozer, Mixer over 14S Capacity, Tournamixer, Two Drum Machine or Two Cage Hoists, Cableways, Tower Machines, Motor Patrol, Boom Tractor Boom or Winch Truck, Truck Cranes, Tournapull, Tractor Operating Scoops, Bulldozer, Push Tractor, Finishing Machine on Asphalt, Large Rollers & Rollers on Asphalt, Gravel, Macadam and Brick Surface, Ross Carrier or Similar Machine, Gravel Processing Machine, Asphalt Plant Engineer or Pug Mill, Two Air Compressor, Hetherington Paver Operator, Farm Tractor with half Yard Bucket and or Back Hoe Attachment, Trench Machines cutting over 24", Dredging Equipmrnt, Central Mix Plant Engineer, CMI or similar type Machine, Concrete Spreader, Cherry Picker, Standard or Dinkey Locomotives, Scoopmobiles, Euclid Loader, Soil Cement Machines, Back Filler, Elevating Machines, Power Blade, Asphalt Plant Engineer, Well Drilling Machines, Paint Machines, Pipe Cleaning Machine, Pipe Wrapping Machine, Pipe Bending Machine, Apsco Paver, Boring Machine, Tractors without Winch, Head Equipment Greasers, Barber Green Loaders, Formless Paver, Well Point System, Hydra Ax, Resco Concrete Saw, Marine Scoops, Brush Mulcher, Brush Burner, Mesh Placer, Tree Mover Helicopter Crew (3), Pile Driver Skid or Crawler, Stump Remover, Root Rake, Tug Boat Operator, Refrigerating Machine, Freezing Operator, Chair Cart - Self Propelled, Hydra Seeder, Straw Blower, Concrete Mixers with Skip, All one Drum Hoists with Tower or Boom, Dredge Engineer, Dredge Operator, Rock Spreader, Truck or Skid Mounted Tower Crane, Engine or Rock Crusher Plant, Boiler Operator, Concrete Plant Engineer, Loader, Hydra Crane, Caissons, Shaft or any similar type Drilling Machine, Concrete Curb Machine - Self Propelled Winch Hydraulic Boom Truck

DECISION NO. IN83-2071

CLASSIFICATION DEFINITIONS (CONT'D)

POWER EQUIPMENT OPERATORS - AREA 2 (CONTd)

Group 3 - Mixers 14S capacity or less, Trench Machine cutting 24" and under, Farm Tractor with less than half yard bucket and other Attachments except Back Hoe, Truck Crane Oiler, Power Subgrader, Bull Float, Form Grader, Finishing Machine, Pavement Breaker, Rock Crushers, One Drum Machine, One Air Compressor, Concrete Pump, Gunite Machine, Air Tugger, Truck Crane Drivers, House Elevator when used for hoisting Material, Two to Four Generators or Welding Machine, Mechanized Heaters irrespective of Motor Power when used for temporary heat, Small Rollers on Earth, Engine Tenders, Fireman, Wagon Drill, Flexplane, Conveyor, Two to Four Water Pumps, Siphon and Pulsometer, Switchman, Fireman on Paint Pots, Fireman on Asphalt Plants, Distributor Operator on Trucks, Tampers, Power Broom, Post Hole Diggers, Self-Propelled Concrete Saw, Striping Machine (Motor driven), Form Tamper, Seaman Tiller, Bulk Cement Plant Equipment Greaser, Track Jack, Mud Jack, Operators to do winter Repair Work in Shop between November 1st and March 1st, Concrete Buggies Motor Driven, Oilers, Barrel Type Mixer, One Welding Machine or One Water Pump, Air Valves or Steam Valves from Plant, Concrete Mixers without Skip, Curing Machine Concrete & Blacktop Curb Machine, Deck Hands

POWER EQUIPMENT OPERATORS AREA 3

Group 1 - A-Frame Winch Truck, Air Compressors over 600 cu. ft., Air Tugger, Autograde (CMI), Auto Patrol, Backhoe, Ballast Regulator (RR), Batcher Plant (electrical control concrete), Bending Machine (pipe), Bituminous Plant (engineer), Bituminous Plant, Bituminous Mixer Travel Plant, Bituminous Paver, Bituminous Roller, Buck Hoist, Bull Dozer, Cable Way, Chicago Boom, Clamshell, Concrete Mixer (21 cu. ft. or over), Concrete Paver, Concrete Pump (crete), Crane, Craneman, Crusher Plant, Derrick, Derrick Boat, Dinkey, Dope Pots (pipeline), Dragline, Dredge Operator, Dredge Engineer, Drill Operator, Elevating Grader, Elevator, Ford Hoe

DECISION NO. IN83-2071

POWER EQUIPMENT OPERATORS - AREA 3 (CONT'D)

(or similar type equipment), Forklift, Formless Paver, Gantry Crane, Gradall, Grademan, Grout Pump, Helicopter Crew, Hetherington Paver, High-Lift, Hoist, Hopto, Hough Loader (or similar type), Hydro Crane, Hydro Hammer, Locomotive Crane, Locomotive, Mechanic, Mobile Mixer, Motor Crane, Mucking Machine, Multiple Tamping Machine (RR), Overhead Crane, Pile Driver, Pulls, Push Dozer, Push Boats, Roller (sheep foot), Ross Carrier, Scoop, Shovel, Side Boom, Swing Crane, Tail Boom, Tar Machine (pipeline), Throttle Valve, Tower Crane, Trench Machine, Welder (heavy duty), Truck Mounted Concrete Pump, Truck-Mounted Drill, Well Point, Whirleys

Group 2 - Air Compressor (up to 600 cu. ft.), Brakeman, Bull Float, Concrete Mixer (over 10S and under 21S), Concrete Spreader or Puddler, Deck Engine, Drill Helper, Electric Vibrator Rumpactor (earth or rock), Finishing Machine, Fireman, Greaser (on grease facilities servicing heavy equipment), Material Pump, Motor Boats, Motor Crane Oiler, Portable Loader, Post Hole Digger, Power Broom, Rock Roller, Roller-Wobble Wheel (earth and rock), Spike Machine (RR) Seaman Tiller, Spreader Rock, Sub Grader, Tamping Machine, Truck Mounted Drill Oiler, Welding Machine, Widener (Apsco or similar type)

Group 3 - Air Compressor (under 200 cu. ft. per min), Bituminous Distributor, Cement Gun, Concrete Saw, Conveyor, Deck Hand Oiler, Earth Roller, Form Grader, Generator, Guardrail Driver, Heater, Oiler, Paving Joint Machine, Power Traffic Signals, Steam Jenny, Vibrator, Water Pump, "JLG" Lifts and "Scissor" Lift or similar machine

POWER EQUIPMENT OPERATORS-AREA 4

Group 1 - Air Compressor (Pressurizing shafts, tunnels & drivers) Air Tugger, Auto Patrol, Back Filler, Backhoe, Boom Cat, Boring Machine, Bull Dozer, Caisson Drilling Machine, Cherry Picker, Compactor (with dozer blade), Concrete Mixer (dual drum) Concrete Plant, Concrete Pump, Crane with all attachments; Crane-Electric Overhead, Derrick, Ditching Machine (18" and over) Dredge, Elevators (when hoisting material or tools), Fork Lift (Machinery), Formless Paver; Generator (power for welders or compressors), Gradall, Helicopter, Helicopter Winch Operator, High Lift - Front End Loader, Hoist - Material and/or personnel over 3 floors, Locomotive, Mechanic on Job Site, Mucking Machine, Panel Board Concrete Plant, Pile Driver, Push Cat, Scoops & Tractor, Scraper - Rubber Tired, Spreader - Tractor Mounted, Straddle Carrier - Ross Type, Sub Base Finish Machine (C.M.I or similar), Tower Crane, Tractor with Backhoe (over ¼ yd.), Welder (craft)

DECISION NO. IN83-2071

POWER EQUIPMENT OPERATORS AREA 4 (CONT'D)

Group 2 - A Frame Truck, Batcher Plant (automatic dry batch), Bending Machine - Power Driven, Bituminous Mixer, Bituminous Paver, Bituminous Plant Engineer, Boatman, Bull Float, Compactor or Tamper - Self Propelled, Concrete Mixer (21 cu. ft. or over), Concrete Spreader - Power Driven, Dinkey Engine, Ditching Machine (less than 18"), Drilling Machine, Finish Machine & Bull Float, Finishing Machine, Fireman - Pile Driving and Boilers, Fork Lift - Masonry & Material, Gunite Machine, Head Greaser, Hoist - Material and/or personnel 3 floors and under, Mechanic in Shop, Mesh Depresser - Mesh Placer, P.C.C. Concrete Belt Placer, Roller - Asphalt Stone & Sub Base, Sheepsfoot Roller - Self Propelled, Shop Mule, Spreader or Based Paver - Self Propelled, Sub Grader, Throttle Valve with Air Compressor or Boiler, Tractor with Backhoe (¼ yd. & under), Tractor-High Lift - Farm Type, Tractor - Industrial Type, Tractor with Winch, Well Points, Winch Truck

Group 3 - Air Compressor (210 cu. ft. & over), Bituminous Distributor, Chair Cart, Concrete Curing Machine, Concrete Saw, Dope Pot - Power Agitated, Flex Plane, Form Grader, Hydrohammer, Jack-Hydraulic-Power Driven, Minor Equipment Operator 3,4, or 5, Paving Joint Machine, Post Hole Digger, Roller - Earth, Throttle Valve, Track Jack - Power Driven Tractor - Farm Type, Truck Crane Driver

Group 4 - Air Compressor (less than 210 cu. ft.), Concrete Mixer (under 21 cu. ft.), Conveyor, Generator, Mechanical Heater, Oiler, Operator - 2 pieces of minor equipment, Power Broom, Pump, Welding Machine

TRUCK DRIVERS AREA 1

Group 1 - Trucks not to exceed 3 tons

Group 2 - Truck Mechanics

Group 3 - Trucks over 3 tons; Semi Trailers, Tandems (double bottom); Winch truck when used with winch

AREA 2

Group 1 - Single Axle Straight Trucks

Group 2 - Tandem Axle and Dogleg Straight Trucks

Group 3 - Tri-Axle & Semi Trucks

Group 4 - Bituminous Distributors

Group 5 - Pick-up Trucks

Group 6 - Greasers and Tiremen

Group 7 - Mechanics

40630 Federal Register / Vol. 48, No. 176 / Friday, September 9, 1983 / Notices

FEDERAL REGISTER VOL 48 NO 176 FRIDAY SEPTEMBER 9 1983 GSA/NARS/OFR/FRC 6 1 7 1 1 1

DECISION NO. IN83-2071

CLASSIFICATION DEFINITIONS (CONT'D)

TRUCK TRIVERS (CONT'D)

AREA 3

Group 1 - Pick-up Trucks

Group 2 - Single Axle Trucks

Group 3 - Tandem or Fuel Trucks

Group 4 - Tri-Axle Trucks

Group 5 - Semi - Trailer

AREA 4

Group 1 - Single Axle Trucks, Low Boy Tenders, Air Compressor & Welding Machines including those pulled by cars, Pick-up Trucks, Tractors, Forklifts, Hi-Lo's Multi-Purpose Fork Lifts, Dumpsters & Val Truck when used for the specific purpose of transporting materials on the jobsite, All Pick-up Trucks (except used to transport superintendent, foremen or mechanics' transportation or to haul mechanics' tools or repair parts),

Group 2 - Mixer Trucks-2 yards

Group 3 - Batch Trucks, Wet or Dry-3 Batches or under

Group 4 - Tandem Axle Trucks (including Dog Legs), Oil Distributors, Mixers Trucks-3 yards, Winch Trucks (used for Transportation of Materials)

Group 5 - Single Axle Semi - Trucks, Batch Trucks, Wet or Dry-over 3 Batches, Pavement Breakers

Group 6 - Tandem Axle Semi Trucks, Trac-o-Trucks, Euclids, Tourn-a-Pull when pulling other than self-loading equip. up to & incl. 10 yards, Mixer Trucks-4 yds., Mechanics

Group 7 - Lowboy, Tandem-Tandem Axle Semi-Trucks

Group 8 - Trac-o-Trucks, Euclids, Tourn-a-Pull when Pulling other than self-loading equip. 11 yds. to and inclu. 16 yds., Mixer Trucks above 4 yds.

Group 9 - Trac-o-Trucks, Euclids, Tourn-a-Pull when pulling other than self-loading equip. over 16 yds., Working Foreman

Group 10 - Mechanics Tenders & Greasers

"Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii))".

SUPERSEDEAS DECISION

STATE: Indiana

COUNTIES: Statewide, except Lake, LaPorte, Porter and St. Joseph

DECISION NUMBER: IN83-2073

DATE: Date of Publication

Supersedes Decision No. IN83-2031 dated April 22, 1983, in 48 FR 17503

DESCRIPTION OF WORK: Heavy and Highway Construction Projects

	Basic Hourly Rates	Fringe Benefits
CARPENTERS; PILEDRIVERMEN:		
Area 1	$17.10	$3.77
Area 2	14.11	2.35
Area 3	14.61	3.40
Area 4	14.46	2.25
Area 5	13.76	2.55
CEMENT MASONS:		
Area 1	12.85	1.57
Area 2	15.12	1.58
Area 3	13.70	1.85
Area 4	12.45	1.80
Area 5	14.70	
Area 6	13.14	3.32
Area 7	14.85	2.10
Area 8	11.95	1.60
Area 9	15.93	2.55
Area 10	13.05	1.05
Area 11	13.50	
Area 12	14.10	1.95
Area 13	14.16	2.58
Area 14	14.33	2.60
Area 15	16.35	1.00
Area 16	14.21	3.54
Area 17	17.06	2.56
Area 18	17.00	2.93
IRONWORKERS:		
Area 1	15.00	6.11
Area 2	14.90	5.06
Area 3	17.80	3.67
Area 4:		
Heavy Construction	14.25	4.72
Airport, Bridge, and Highway Construction	13.50	4.72
Area 5	16.90	3.60+ 1%
Area 6	17.05	3.60+ 1%
Area 7	14.79	4.22
Area 8	17.01	2.95
Area 9	15.25	4.60
Area 10:		
Structural and Ornamental	16.28	3.18
Reinforcing	16.58	3.62
Area 11	17.85	2.21

	Basic Hourly Rates	Fringe Benefits
PAINTERS:		
Area 1:		
Brush and Roller	$12.75	$2.17
Spray and Sandblasting	13.75	2.17
Area 2:		
Brush	11.65	1.75
Spray and Sandblasting	12.65	1.75
Area 3	12.56	2.03
Area 4:		
Brush	14.85	2.37
Spray and Sandblasting	15.80	2.37
Area 5:		
Brush	14.70	2.49
Spray and Sandblasting	15.45	2.49
Area 6:		
Brush and Roller	14.65	1.70
Structrual Steel	14.90	1.70
Spray	17.92	1.70
Sandblasting	15.65	1.70
Area 7:		
Brush	13.75	2.02
Spray	14.75	2.02
Sandblasting	15.75	2.02
Area 8:		
Brush and Roller	15.30	1.40
Spray and Sandblasting	16.30	1.40
Area 9:		
Brush	8.90	.30
Structural Steel	9.65	.30
Spray	9.90	.30
Area 10:		
Brush and Roller	15.80	
Spray and Sandblasting	16.80	
Area 11:		
Commercial:		
Brush and Roller	16.00	
Spray	17.00	
Sandblasting	16.50	
Tanks, Elevators, Steeples and Structural Steel:		
Brush	16.85	
Spray	18.35	

DECISION NO. IN83-2073	Basic Hourly Rates	Fringe Benefits
PAINTERS: (Cont'd)		
Area 12:		
New Construction:		
Brush	$11.07 +a	$1.18
Sandblasting	11.42 +a	1.18
Spray	11.52 +a	1.18
Repaint:		
Brush	10.32 +a	1.18
Sandblasting	10.67 +a	1.18
Spray	10.77 +a	1.18
Area 13:		
Brush and Roller	14.30	1.90
Spray and Sandblasting	15.30	1.90
LINE CONSTRUCTION:		
Area 1:		
Lineman, Line Truck Operator Mechanical Equipment Operator	17.61	8%+.65
Groundman	10.92	8%+.65
Area 2:		
Linemen, Heavy Equipment Operators; Tool Handling Splicer	18.76	8%+.65
Truck Driver	17.63	8%+.65
Groundman	17.30	8%+.65
Area 3:		
Lineman, Groundman Equipment Operator; Crawler type Equipment larger than D-4	18.74	8%%+.65
Groundman Truck Driver w/Winch, Crawler type equipment D-4 and smaller	15.73	8%%+.65
Groundman Truck driver without Winch	14.93	8%%+.65
Groundman	14.33	8%%+.65
Area 4:		
Lineman, Groundman Equipment Operator, Crawler type equipment larger than D-4	17.25	8%%+.65
Groundman Truck Driver w/Winch, Crawler type equipment D-4 and smaller	14.21	8%%+.65

Page 2	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION: (Cont'd)		
Area 4: (Cont'd)		
Groundman Truck Driver without Winch	$13.38	$0.65+ 8%%
Groundman	12.78	0.65+ 8%%
LABORERS:		
Group 1	10.98	1.94
Group 2	11.13	1.94
Group 3	11.18	1.94
Group 4	11.28	1.94
Group 5	11.83	1.94
Utility Construction:		
Area 1:		
Group 1	11.18	1.94
Group 2	11.33	1.94
Group 3	11.38	1.94
Group 4	11.58	1.94
Group 5	12.03	1.94
Area 2:		
Group 1	10.98	1.94
Group 2	11.13	1.94
Group 3	11.18	1.94
Group 4	11.28	1.94
Group 5	11.83	1.94
Area 3:		
Group 1	11.48	1.94
Group 2	11.63	1.94
Group 3	11.68	1.94
Group 4	11.78	1.94
Group 5	12.33	1.94
POWER EQUIPMENT OPERATORS		
Area 1:		
Group 1	15.16	4.28
Group 2	13.55	4.28
Group 3	12.28	4.28
Group 4	10.86	4.28
Area 2:		
Group 1	15.50	2.50
Group 2	13.78	2.50
Group 3	12.86	2.50
Group 4	11.36	2.50
Area 3:		
Group 1	16.65	2.60
Group 2	10.50	2.60
Area 4:		
Group 1	15.45	2.20
Group 2	13.55	2.20
Group 3	11.87	2.20

DECISION NO. IN83-2073	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS: (Cont'd)		
Underground and Utility Construction:		
Area 1:		
Group 1	$17.65	$3.85
Group 2	17.15	3.85
Group 3	15.20	3.85
Group 4	14.00	3.85
Area 2:		
Group 1	16.55	2.20
Group 2	15.55	2.20
Group 3	12.75	2.20
Group 4	11.25	2.20
Area 3:		
Group 1	14.78	2.20
Group 2	13.28	2.20
Group 3	11.75	2.20

Page 3	Basic Hourly Rates	Fringe Benefits
TRUCK DRIVERS:		
Group 1	$12.81	$96.50+ b
Group 2	12.76	96.50+ b
Group 3	12.71	96.50+ b
Group 4	12.66	96.50+ b
Group 5	12.61	96.50+ b
Group 6	12.56	96.50+ b
Group 7	12.51	96.50+ b
Group 8	12.46	96.50+ b
Group 9	12.41	96.50+ b
Group 10	12.36	96.50+ b
Group 11	12.31	96.50+ b
Group 12	12.21	96.50+ b

FOOTNOTES:
a. All work outside a 25 mile radius of Jefferson County, Kentucky Courthouse - add $0.35 per hour to Basic Hourly Rate for all classifications
b. Per week, per employee

AREA DESCRIPTIONS

CARPENTERS:
Area 1: Jasper, Newton, and Starke Counties
Area 2: Adams, Benton, Carroll, Cass, Clinton, Elkhart, Fulton, Grant, Howard, Huntington, Kosciusko, Marshall, Miami, Pulaski, Tippecanoe, Tipton, Wabash, Wells, and White Counties
Area 3: Boone, Fountain, Hamilton, Hancock, Hendricks, Johnson, Marion, Montgomery, Morgan, Parke, Putnam, Vermillion (North of Clinton) and Warren Counties
Area 4: Brown (Western half consisting of Jackson, Washington and Van Buren Townships), Clay, Daviess, DuBois (Columbia, Harbison, and Boone Townships), Gibson, Greene, Knox, Lawrence, Martin, Monroe, Orange, Owen, Pike (Jefferson and Washington Townships), Sullivan, Vermillion (Remainder of County), and Vigo Counties
Area 5: Remainder of Counties

DECISION NO. IN83-2072 Page 4

AREA DESCRIPTIONS (Cont'd)

CEMENT MASONS:
Area 1: Adams, Allen, DeKalb, Noble, Stueben and Whitley Counties
Area 2: Elkhart, Lagrange and Kosciusko Counties
Area 3: Blackford, Delaware, Grant, Huntington, Jay, Randolph, Wabash and Wells Counties
Area 4: Decatur, Fayette, Franklin, Rush, Union, and Wayne Counties
Area 5: Bartholomew, Brown, Dearborn, Jackson, Jefferson, Jennings, Lawrence, Ohio, Orange, Ripley, Scott, Shelby (except parts ending at Pleasant View), Switzerland and Washington Counties
Area 6: Clark, Floyd and Harrison Counties
Area 7: Crawford, DuBois, Perry, Posey, Spencer, Vanderburgh, and Warrick Counties
Area 8: Daviess, Gibson, Knox, Martin, and Pike Counties
Area 9: Greene and Sullivan Counties
Area 10: Clay, Owen (Southwestern Pan Handle only), Parke, Putnam, Vermillion, and Vigo Counties
Area 11: Monroe, Morgan (Southern half) and Owen (Remainder of County) Counties
Area 12: Boone, Hamilton (Southern half North to Route Indiana 32 including Noblesville), Hancock (Southwestern corner North to but not including Wilkinson and East to but not including Fortville), Hendricks, Johnson, Marion, and Morgan (Northern half), Shelby (parts ending at Pleasant View) Counties
Area 13: Hamilton (Remainder of County), Hancock (Remainder of County), Henry, Madison, and Tipton Counties
Area 14: Benton (Eastern 2/3), Carroll, Cass, Clinton, Fountain (Eastern half), Howard, Miami, Montgomery, Tippecanoe, Warren (Northeastern 1/3) and White Counties
Area 15: Remainders of Benton, Fountain, and Warren Counties
Area 16: Fulton, Marshall, and Pulaski (Southern 1/3) Counties
Area 17: Jasper (Northeastern portion West to but not including Westfield), Pulaski (Northern 2/3), and Starke Counties
Area 18: Jasper (Remainder of County) and Newton Counties

IRONWORKERS:
Area 1: Adams, Allen, Blackford, DeKalb, Delaware (Northeastern 1/3 of County), Fulton (Western Pan Handle), Grant (Excluding Southwestern portion), Huntington, Jay, Kosciusko (Southwestern half including Warsaw), Lagrange (Eastern half of County), Miami (Northeastern half), Noble (excluding Northwestern tip), Randolph (Northern part of County excluding Union City but including Winchester), Steuben, Wabash, Wells, and Whitley Counties
Area 2: Elkhart, Fulton (Northern half), Kosciusko (Remainder of County), Lagrange (Western half of County), Marshall, Noble (Northwestern tip), Pulaski (Northeastern portion), and Starke (excluding Western tip) Counties
Area 3: Jasper (Northern half of County), and Newton (Northern half of County), Pulaski (Northwestern tip), Starke (Remainder of County)
Area 4: Clark, Crawford, DuBois (Northeastern tip), Floyd, Harrison, Jackson (Southern 3/4 of County), Jefferson (excluding Northeastern tip), Jennings (Southern 3/4 of County), Lawrence (Southern 2/3 of County), Martin (Southeastern tip) Orange, Perry (Eastern half), Ripley (Southwestern tip), Scott, Switzerland (Southwestern tip), and Washington counties
Area 5: Marion County

AREA DESCRIPTIONS (Cont'd)

IRONWORKERS: (Cont'd)
Area 6: Bartholomew, Boone (Southeastern 2/3 of County), Brown, Clinton (Eastern 1/4 of County), Decatur (Western 2/3 of County), Delaware (Southern 2/3 of County), Fayette (Western half of County), Franklin (Northwestern tip of County), Grant (Southwestern portion), Hamilton, Hancock, Hendricks, Henry, Howard (Southeastern portion), Jackson (Northern 1/4 of County), Jennings (Northeastern tip), Johnson, Lawrence (Northeastern corner), Madison, Monroe, Montgomery (Southwestern corner), Morgan, Owen (Northeastern corner), Putnam (Eastern half of County, excluding Greencastle), Rush, Shelby, and Tipton (excluding Northwestern tip) Counties
Area 7: Benton, Boone (Northwestern 1/3 of County), Carroll, Cass, Clinton (Western 3/4 of County), Fountain, Fulton (Remainder of County), Howard (Remainder of County), Jasper (Southern half of County), Miami (Remainder of County), Montgomery (Remainder of County), Newton (Southern half), Parke (Northeastern tip), Pulaski Remainder of County), Tippecanoe, Tipton (Northwestern tip), Warren, and White Counties
Area 8: Fayette (Eastern half of County), Franklin (Northeastern tip), Randolph (Remainder of County), Union, and Wayne Counties
Area 9: Clay, Daviess (Northern half), Greene, Knox (Northern half), Lawrence (Northwestern corner of County), Martin (Northern half), Monroe (Remainder of County), Owen (Remainder of County), Parke (Remainder of County), Putnam (Western half of County, including Greencastle), Sullivan, Vermillion, and Vigo Counties
Area 10: Dearborn, Decatur (Eastern 1/3 of County), Franklin (Remainder of County), Jefferson (Northeastern tip), Jennings (Northeastern corner), Ohio, Ripley (Remainder of County), Switzerland Counties
Area 11: Daviess (Southern half), DuBois (Remainder of County), Gibson, Knox (Southern half), Martin (Remainder of County), Perry (Western half), Pike, Posey, Spencer, Warrick and Vanderburgh Counties

PAINTERS:
Area 1: Adams, Allen, DeKalb, Grant, Huntington, Lagrange, Noble, Steuben, Wabash, Wells, and Whitley Counties
Area 2: Blackford, Delaware, Fayette, Franklin, Henry, Howard, Jay, Madison, Miami, Randolph, Rush, Tipton, Union and Wayne Counties
Area 3: Elkhart, Fulton, Kosciusko, and Marhall Counties
Area 4: Pulaski and Starke Counties
Area 5: Jasper, Newton, and White Counties
Area 6: Benton, Carroll, Cass, Clinton, Fountain, Montgomery, Tippecanoe, and Warren Counties
Area 7: Greene, Parke, Sullivan, Vermillion, and Vigo Counties
Area 8: Boone, Clay, Hamilton, Hancock, Hendricks, Johnson, Lawrence, Marion, Martin, Morgan, Orange, Putnam, and Shelby Counties
Area 9: Brown, Monroe, and Owen Counties
Area 10: Bartholomew, Decatur, Jackson, and Jennings Counties
Area 11: Dearborn, Ohio, Ripley, and Switzerland Counties
Area 12: Clark, Crawford, Floyd, Harrison, Jefferson, Scott, and Washington Counties
Area 13: Daviess, DuBois, Gibson, Knox, Perry, Pike, Posey, Spencer, Vanderburgh and Warrick Counties

AREA DESCRIPTIONS (Cont'd)

LINE CONSTRUCTION:
Area 1: Clark, Floyd, Harrison, Jackson, Jefferson, Scott, and Washington Counties
Area 2: Crawford, DuBois, Gibson, Perry, Pike, Posey, Spencer, Vanderburgh, and Warrick Counties
Area 3: Newton County
Area 4: Remainder of Counties

LABORERS:
Utility Construction
Area 1: Bartholomew, Brown, Clark, Clay, Crawford, Dearborn, Decatur, Elkhart, Floyd, Fountain, Franklin, Greene, Harrison, Hendricks, Jackson, Jefferson, Jennings, Johnson, Lawrence, Martin, Monroe, Morgan, Ohio, Orange, Owen, Parke, Perry, Putnam, Ripley, Scott, Sullivan, Switzerland, Vermillion, Vigo, Warren, and Washington Counties
Area 2: Adams, Allen, Benton, Blackford, Boone, Carroll, Cass, Clinton, DeKalb, Delaware, Fayette, Fulton, Grant, Hamilton, Hancock, Henry, Howard, Huntington, Jay, Kosciusko, Lagrange, Madison, Marion, Marshall, Miami, Montgomery, Noble, Pulsaki, Randolph, Rush, Shelby, Steuben, Tippecanoe, Tipton, Union, Wabash, Wayne, Wells, White, and Whitley Counties
Area 3: Daviess, DuBois, Gibson, Knox, Pike, Posey, Spencer, Vanderburgh, and Warrick Counties

POWER EQUIPMENT OPERATORS:
Heavy and Highway Construction:
Area 1: Elkhart, Fulton, Jasper, Kosciusko, Lagrange, Marshall, Newton, Noble, Pulaski, and Starke Counties
Area 2: Adams, Allen, Benton, Blackford, Carroll, Cass, Clinton, DeKalb, Delaware, Fayette, Grant, Hamilton, Hancock, Henry, Howard, Huntington, Jay, Johnson, Madison, Marion, Miami, Randolph, Rush, Shelby, Steuben, Tippecanoe, Tipton, Union, Wabash, Wayne, Wells, White, and Whitley Counties
Area 3: Boone, Clay, Daviess, Fountain, Greene, Hendricks, Knox, Monroe, Montgomery, Morgan, Owen, Parke, Putnam, Sullivan, Vermillion, Vigo, and Warren Counties
Area 4: Bartholomew, Brown, Clark, Crawford, Dearborn, Decatur, DuBois, Floyd, Franklin, Gibson, Harrison, Jackson, Jefferson, Jennings, Lawrence, Martin, Ohio, Orange, Perry, Pike, Posey, Ripley, Scott, Spencer, Switzerland, Vanderburgh, Warrick, and Washington Counties
Underground and Utility Construction:
Area 1: Jasper, Newton, Pulaski, and Starke Counties
Area 2: Benton, Carroll, Cass, Clinton, Delaware, Fayette, Grant, Hamilton, Hancock, Henry, Howard, Johnson, Madison, Marion, Miami, Randolph, Rush, Shelby, Tippecanoe, Tipton, Union, Wabash, Wayne, and White Counties
Area 3: Bartholomew, Brown, Clark, Crawford, Dearborn, Decatur, DuBois, Floyd, Franklin, Gibson, Harrison, Jackson, Jefferson, Jennings, Lawrence, Martin, Ohio, Orange, Perry, Pike, Posey, Ripley, Scott, Spencer, Switzerland, Vanderburgh, Warrick, and Washington Counties

LABORERS

Group 1: Construction Laborer; Carpenter Tender; Fence Erector; Grade Checker; Guard Rail Erector; Continuous Steel Rod or Mat Installer; Wire Mesh Layer; Joint Man (Mortar, Mastic, and all other types); Lighting Installer (permanent or temporary); Lineman for Automatic Grade Maker on Paving Machines; Mortar Man; Multi-Plate Erector; Rip-rap Installer (all products and materials); Road Marking and Delineation Laborer; Setting and Placing of all Precast Concrete Products; Sign Installation including supporting structure; Spraying of all Epoxy, Curing Compound, or like material

Group 2: Air Tool, Power Tool, and Power Equipment Operator; Asphalt Lute Man; Asphalt Raker Man; Batch Truck Dumper; Bridge Hand Rail Erector; Handler (bulk or bag cement); Chain Saw Man; Concrete Puddler; Concrete Rubber; Concrete Saw Operator; Core Drill Operator, eye level; Hand Blade Operator; Hydro Seeder Man; Motor driven Georgia Buggy Operator; Power driven Compactor or Tamper Operator; Power Saw Operator; Pumpcrete Assembly Man; Screed Man or Screw Man on Asphalt Paver; Rebar Installer; Sand Blaster Man; Sealer Applicator for asphalt (toxic); Setting and Placing Prestressed on Precast Concrete Structural Members; Side Rail Setter (for Sidewalks, Side Ditches, Radii, and Pavements); Spreader Box Tender (manual or power driven); Straw Blower Man; Subsurface Drain and Culvert Pipe Layer; Transverse and Longitudinal Hand Bull Float Man; Concrete Conveyor Assembly Man

Group 3: Horizontal Boring and Jacking Man; Jackman and Sheetman; Pipe Grade Man; Winch and Windlass Operator

Group 4: Conduit Installer; Cutting Torch Burner; Laser Beam Aligner; Manhole Erector; Sewer Pipe Layer; Water Line Installer, temporary or permanent; Welders (electric or Oxy-acetylene)

Group 5: Air Track and Wagon Drillman; Concrete Finisher; Dynamite and Powder Man; General Laborer Leadman

POWER EQUIPMENT OPERATORS
HEAVY and HIGHWAY CONSTRUCTION

AREAS 1 and 2

Group 1: Air Compressors in Manifold with Throttle Valve; Asphalt Plant Engineer; Auto Grade or similar type Machine; Auto Patrol; Backhoe or Farm type Tractor, 45 HP and over; Ballast Regulator (RR); Bituminous Mixer; Bituminous Paver; Bituminous Plant Engineer; Bull Dozer; Caisson Drilling Machine; Cherry Picker, 15 ton or over; Chip Spreader; Concrete Mixer, 21 cu. ft. or over; Core Drilling Machine; Crane or Derrick with any attachment (including Clamshell, Dragline, Shovel, Backhoe, etc.); Dredge Engineer; Dredge Operator; Drilling Machine on which the drill is an integral part; Earth Mover-rubber tired (Paddle Wheel, 619, 631, TS-24 or similar type); Earth Mover, rubber tired, Tandem ($0.50 per hour additonal for each Bowl); Elevating Grader; Fork Lift, 10 ton or over; P.C.C. Formless Paver; Gradall; Gravel Processing Plant, portable; Operator of Guard Rail Post Driver; Highlift Shovel, 1½ cu. yd. or over; Hoist, 2 drums and over; Helicopter, crew; Hydraulic Boom Truck; Keystone, Skimmer Scoop; Loader, self-propelled (Belt, Chain, Wheel); Locomotive Operator; Mechanic; Mucking Machine; Panel Board Concrete Plant, Central Mix type; Paver, Hetherington; Pile Driver, Skid or Crawler; Road Paving Mixer; Rock Breaking Plant; Rock Crushing Plant, portable; Roller (Asphalt, Waterbound Macadam, Bituminous Macadam, Brick Surface); Roller with Dozer Blade; Root Rake, tractor mounted; Self-propelled Widener; Stump Remover, tractor mounted; Surface Heater and Planer; Tandem Push Tractor ($0.50 per hour additional); Tractor, Boom; Winch or Hoe Head; Tractor, Push; Tractor with Scoop; Tractor mounted Spreader; Tree Mover; Trench machine, over 24; Tug Boat Operator; Well Drilling Machine; Winch Truck with A-Frame

Group 2: Air Compressor with Throttle Valve or Clever Brooks type Combination; Backfiller; Backhoe on Farm type Tractor, under 45 HP; Bull Float; Cherry Picker under 15 ton; Chip Spreader, self-propelled; Concrete Pump; Concrete Mesh Depressor, independently operated; Concrete Spreader, power driven; End Loader under 1½ cu. yd.; Excavating Loader, portable; Finishing Machine and Bull Float; Gunite Machine; Head Greaser; Mesh or Steel Placer; Multiple Tamping Machine (RR); P.C.C. Concrete Belt Placer; Pull Grader, power control; Refrigerating Machine, freezing operation; Ross Carrier; Sheepfoot Roller (self-propelled); Tamper (Multiple Vibrating, Asphalt, Waterbound Macadam, Bituminous Macadam, Brick Surface); Trench Machine, 24" and under; Tube Float; Welder

Group 3: Assistant Plant Engineer; Base Paver (Jersey or similar type machine); Concrete Finishing Machine; Concrete Mixer, less than 21 cu. ft.; Curb Machine; Farm Tractor, including Farm Tractor with all attachments except Backhoe and including High Lift End Loaders of 1 cu. yd. capacity or less; Fireman, on Boiler; Hoist, 1 drum; Operator, 5 pieces of minor equipment; Paving Breaker; Power Broom, self-propelled; Roller, earth and sub-base material; Slurry Seal Machine; Spike Machine (RR); Tamper (Multiple Vibrating, earth and sub-base material); Throttle Valve; Throttle Valve and Fireman Combination on Horizontal or Upright Boiler; Tractaire with Drill; Tractor, 50 H.P. or over; Well Point System; Widener, Apsco or similar type

POWER EQUIPMENT OPERATORS (Cont'd)
HEAVY and HIGHWAY CONSTRUCTION (Cont'd)

AREAS 1 and 2 (Cont'd)

Group 4: Air Compressor; Assistant to Engineer, Oiler; Automatic Dry Batch Plant; Bituminous Distributor; Bituminous Patching Tamper; Belt Spreader; Broom and Belt Machine; Chair Cart, self-propelled; Coleman type Screen; Conveyor, portable; Deck Hand; Digger Post Hole, power-driven; Fork Lift, under 10 ton; Form Grader; Form Tamper, motor-driven; Generator; Greaser Helper; Hetherington Driver; Hetherington Helper; Hydra Seeder; Mechanics Helpers; Mechanical Heater; Operator, 1 thru 4 pieces of minor equipment; Outboard or Inboard Motor Boat; Power Curing Spraying Machine; Power Saw, Concrete, power-driven; Pug Mill; Pull Broom, power type; Seaman Tiller; Straw Blower or Brush Mulcher; Striping Machine, paint, motor-driven; Sub Grader; Tractaire; Tractor, below 50 H.P.; Truck Crane Oiler, Driver; Spreader; Water Pump; Welding Machine, 2 of 300 amps or over

AREA 3

Group 1: Air Compressors (2); Compressors hooked in Manifold; Asphalt Plant Engineer; Auto Grade and/or C.M.I. or similar type Machine; Auto Patrol; Motor Patrol; Power Blade; Apsco Paver; Asphalt Planer; Asphalt Rollers; Asphalt Paver Operator; Milling Machine; Self-propelled Widener; Backhoe and/or Pavement Breaker attachment; Self-propelled Pavement Breaker; Ballast Regulator (RR); Bituminous Mixer; Bituminous Paver; Bituminous Plant Engineer; Bulldozer; One Drum Hoist with Tower or Boom; Cableways; Tower Machines; Backfiller; Boom Tractor; Boom or Winch Truck; Winch or Hydraulic Boom Truck; Boring Machine; Boiler Operator; Brush Mulcher; Bull Float; Finishing Machine; Power Cranes; Overhead Cranes; Truck Cranes; Pile-driver, Skid or Crawler; Guard Rail Post Driver; Tower Cranes; Hydro Crane; Cherry Picker; Draglines; Derricks; Shovels; Clam; Gradalls; Two Drum Machine; Concrete Mixers with Skip; Tournamixer; Concrete Pump (truck or skid mounted); Concrete Plant Engineer; Soil Cement Machine; Formless Paver; Concrete Spreader; Resco Concrete Saw; Chip Spreader; Mesh Placer; Dredging Equipment or Dredge Engineer or Dredge Operator; Tug Boat Operator; Marine Scoops; Ditching Machine with dual attachment; Standard or Dinkey Locomotives; Drilling Machine including Well Testing; Caissons; Shaft or any similar type Drilling Machines, Well Point Systems; Mud Cat; Mucking Machine; Sull-air; Mechanics; Welder; Head Equipment Greaser; Tournapull; Tractor Operating Scoops; Push Tractors; Large Rollers on Earth; Loaders, track or rubber mounted, or similar type Machine; Lull; Tournadozer; Scoopmobiles; Elevating Machines; Power Sub Grader; Hydra Ax; Farm Tractor with attachments; Seaman Tiller; Tree Mover; Stump Remover; Root Rake; Hydra Seeder; Straw Blower; Refrigerating Machine; Freezing Operator; Chair Cart, self-propelled; Helicopter Crew (3); Ross Carrier or Straddle Buggy or similar Machine; Rock Crusher Plant; Gravel Processing Machine; Pipe Cleaning Machine; Pipe Wrapping Machine; Pipe Bending Machine; Pug Mill; Concrete Bump Grinder Machine; Power Curing Spray Machine

POWER EQUIPMENT OPERATOR (Cont'd)
HEAVY And HIGHWAY CONSTRUCTION (Cont'd)

AREA 3 (Cont'd)

Group 2: Air Compressor, 600 cu. ft. and under; Air Tugger; Air Valves or Steam Valves; Assistant Concrete Plant Engineer; Assistant Plant Engineer; Asphalt Plant Fireman; Bulk Cement Plant Equipment Greaser; Concrete Mixers without Skips; Curbing Machine; Concrete Saw, self-propelled; Concrete and Blacktop Curb Machine; Conveyors; Cement Blimps; Ditching Machine, under 6"; Distributor Operator on Trucks; Deck Hands; Elevators when used for hoisting material; Engine Tenders; Fork Lift; Farm Tractor; Fireman; Fireman on Paint or Dope Pots; Form Tamper; Form Grader; Flex Plane; Generators (two or four), or Welding Machines or Water Pumps, within 400 ft.; Gunite Machine; Greaser Helper; Machine mounted Post Hole Digger; Mud Jack; One drum Machines without Tower or Boom; One Water Pump; Oilers; One Welding Machine; Outboard or Inboard Motor Boat; Power Broom, self-propelled; Pull Broom, power type; Siphons and Pulsometer; Switchman; Striping and or Painting Machine, motor driven; Slurry Seal Machine; Track Jack; Temporary Heat; Throttle Valve; Tube Float; Tractaire; Wagon Drill; Multiple Tamping Machine (RR); Spike Machine (RR); Mechanical Heaters; Brush Burner

AREA 4

Group 1: Air Compressor in Manifold with Throttle Valve; Asphalt Plant Engineer; Auto Grade or similar type Machine; Auto Patrol; Backhoe, all; Ballast Regulator (RR); Bituminous Mixer; Bituminous Paver; Bituminous Plant Engineer; Bulldozer; Caisson Drilling Machine; Cherry Picker, all; Chip Spreader, self-propelled; Cold Grinder or similar type equipment; Concrete Mixer, 21 cu. ft. or over; Concrete Pump, truck mounted; Core Drilling Machine; Crane or Derrick with any attachment (including Clamshell, Dragline, Shovel, Backhoe, etc.); Dredge Operator; Drilling Machine on which the Drill is an integral part; Earth Mover, rubber tires, Paddle Wheel 619, 631, TS-24, or similar type; Earth Mover, rubber tired, tandem $0.50 per hour additional; Elevating Grader; Endloader, Hi-lift Shovel; P.C.C. Formless Paver; Gradall; Gravel Processing Plant, portable; Guardrail Post Driver Operator; Head Greaser; Hi-lift Shovel, Endloader; Hoist (2 drums and over); Helicopter, crew; Hydraulic Boom Truck; Keystone, Skimmer Scoop; Loader, self-propelled (belt, chain wheel); Locomotive Operator; Mechanic; Mucking Machine; Multi-bank Drill Operator; Panel Board Concrete Plant, Central Mix type; Paver, Hetherington; Pile Driver, Skid or Crawler; Road Paving Mixer; Rock Breaking Plant; Rock Crushing Plant, portable; Roller (Asphalt, Waterbound, Macadam, Bituminous Macadam, Brick Surface); Roller, with Dozer Blade; Root Rake, tractor mounted; Stump Remover, tractor mounted; Surface Heater and Planer; Tandem Push Tractor, $0.50 per hour additional; Tractor, Boom Winch or Hoe Head; Tractor, Push; Tractor with Scoop; Tractor mounted Spreader; Tree Mover; Trench Machine, over 24"; Tug Boat Opurator; Welder; Well Drilling Machine; Self-propelled Widener

POWER EQUIPMENT OPERATORS (Cont'd)
HEAVY and HIGHWAY CONSTRUCTION (Cont'd)

AREA 4 (Cont'd)

Group 2: Air Compressor with Throttle Valve or Clever Brooks type combination; Backfiller; Base Paver, Jersey or similar type machine; Bull Float; Concrete Finishing Machine; Concrete Mesh Depressor, independently operated; Concrete Spreader, power-driven; Dredge Engineer; Excavator Loader, portable; Fireman, on Boiler; Forklift, regardless of ton; Hoists, 1 drum; Mesh or Steel Placer; Minor Equipment Operator, 5 pieces; Multiple Tamping Machine (RR); P.C.C. Concrete Placer; Paving Breaker; Power Broom, self-propelled; Pull Grader, power controlled; Refrigerating Machine, freezing operation; Roller, earth and sub-base material; Ross Carrier (Straddle Buggy); Sheepfoot Roller, self-propelled without blade; Tamper, Multiple Vibrating (Asphalt, Waterbound Macadam, Bituminous Macadam, Brick Surface); Tamper, Multiple Vibrating (earth and sub-base material); Trench Machine, 24" and under; Tube Float; Well Point System; Widener, Apsco or similar type; Winch Truck with A-Frame

Group 3: Air Compressor; Assistant to Engineer, Oiler; Assistant Plant Engineer; Automatic Dry Batch Plant; Bituminous Distributor; Bituminous Patching Tamper; Belt Spreader; Broom and Belt Machine; Brush Burner; Chair Cart, self-propelled; Coleman type Screen; Cold Grinder Oiler; Concrete Mixer, less than 21 cu. ft.; Conveyor, portable; Curb Machine; Deckhand; Digger (Post Hole, power-driven); Farm Tractor, including farm tractor with all attachments (except Backhoe, Hi-lift Endloaders); Form Grader; Form Tamper, motor-driven; Generator; Gunite Machine; Hetherington Driver; Hetherington Helper; Hydra Seeder; Mechanic's Helper; Mechanical Heater; Minor Equipment Operator, 1 thru 4 pieces; Outboard or Inboard Motor Boat; Power Curing Spraying Machine; Power Saw, Concrete (power-driven); Pug Mill Pull Broom, power type; Seaman Tiller; Slurry Seal Machine; Spike Machine; Straw Blower or Brush Mulcher; Striping Machine (Paint, motor-driven); Sub Grader; Throttle Valve; Tractaire with Drill; Truck Crane and Multi-Drill Oiler, Driver; Spreader; Water Pump

UNDERGROUND and UTILITY CONSTRUCTION

AREA 1

Group 1: Mechanic; Asphalt Plant; Autograde; Batch Plant; Benoto (requires 2 Engineers); Boiler and Throttle Valve; Boring Machine (Mining Machine); Caisson Rigs; Central Redi-mix Plant; Combination Backhoe-Endloader with Backhoe Bucket over 1/2 cu. yd.; Combination Tugger Hoist and Air Compressor; Compressor and Throttle; Concrete Breaker (truck mounted); Concrete Conveyor; Concrete Paver over 27E cu. ft.; Concrete Paver 27E cu. ft. and under; Concrete Pump with Boom (truck mounted); Concrete Tower; Cranes and Backhoes, all attachments; Cranes, Hammerhead Tower; Creter Cranes; Derricks, all; Derricks, traveling; Forklift, Lull type; Forklift, 10 ton and over; Hoists, 1, 2, and 3 drum; Hoist, 2 Tugger-one floor; Hydraulic Boom Truck; Locomotives, all; Motor Patrol; Mucking Machine; Pile Driving and Skid Rig; Pit Machines; Pre-stress Machines; Pump Cretes and similar types; Rock Drill, self-propelled; Rock Drill, truck mounted; Slip Form Paver; Straddle Buggies; Tractor with Boom and Side Boom; Trenching Machine; Winch Tractors

40836 Federal Register / Vol. 48, No. 178 / Friday, September 9, 1983 / Notices

POWER EQUIPMENT OPERATORS (Cont'd)
UNDERGROUND and UTILITY CONSTRUCTION (Cont'd)

AREA 1 (Cont'd)

Group 2: Asphalt Spreader; Boilers; Bulldozers; Combination Backhoe-Endloader with Backhoe Bucket 1/2 cu. yd. and under; Engineer acting as Conductor in charge of Crew; Grader, Elevating; Greaser Engineer; Grouting Machines; Highlift Shovels or Front Endloader; Hoists, automatic; Corboy Drillings Machines; Hoists, all Elevators; Hoists, Tugger, single drum; Post Hole Digger; Roller, all; Scoops, tractor drawn; Stone Crushers; Taurnapull; Winch Trucks

Group 3: Concrete Mixer (2 bag and over); Conveyor, portable; Steam Generators; Tractor, farm and similar type; Air Compressor, small 150 and under, 1 to 5 not to exceed a total of 300 ft.; Air Compressor, large over 150; Combination, small equipment Operator; Forklift, under 10 ton; Generator; Pumps, 1 to 3 not to exceed a total of 315 ft.; Pumps, Well Points; Welding Machines (2 thru 5); Winches, 4 Electric Drill Winches

Group 4: Heaters, Mechanimal (1 to 5); Oilers; Switchmen

AREA 2

Group 1: Air Compressor (pressurizing Shafts, Tunnels and Divers); Air Tugger; Auto Patrol; Back Filler; Backhoe; Boom Cat; Boring Machine; Bull Dozer; Caisson Drilling Machine; Cherry Picker; Compactor (with Dozer Blade); Concrete Mixer, dual drum; Concrete Plant; Concrete Pump; Crane with all attachments; Crane, Electric Overhead; Derrick; Dual purpose truck (Pitman type); Ditching Machine, 18" and over; Dredge; Elevators, when hoisting materials or tools; Fork Lift; Formless Paver; Generator, power for Welders or Compressors; Gradall; Helicopter; Helicopter Winch Operator; High Lift-Front End Loader; Hoist Backhoe; Locomotive and/or Dinky Engine; Mechanic on Job site; Mucking Machine; Panel Board Concrete Plant; Pile Driver; Push Cat; Scoop and Tractor; Scraper, rubber tired; Spreader, tractor mounted; Straddle Carrier, Ross type; Sub Base Finish Machine (C.M.I. or similar); Tower Crane; Tractor with Backhoe, 1/2 yd. and over; Trench Box, power-driven; Tunnel Shield; Welder (craft)

Group 2: A-Frame Truck; Batcher Plant, Automatic Dry Batch; Bending Machine, power-driven; Bituminous Mixer; Bituminous Paver; Bituminous Plant Engineer; Boatman; Bull Float; Compactor or Tamper, self-propelled; Concrete Mixer, 21 cu. yd. or over; Concrete Spreader, power driven; Ditching Machines, less than 18"; Drilling Machine; Finish Machine and Bull Float; Finishing Machine; Firemen, Pile Driving and Boilers; Gunite Machine; Head Greaser; Mechanic; Mesh Depressor; Mesh Placer; P.C.C. Concrete Belt Placer; Roller (Asphalt, Stone and Sub Base); Rotary Drill; Sheepsfoot Roller, self-propelled; Sub Grader; Throttle Valve with Air Compressor or Boiler; Tractor with Backhoe, under 1/2 yd.; Tractor, Highlift, farm type, Tractor, industrial type; Tractor with Winch; Well Points; Winch Truck

POWER EQUIPMENT OPERATORS (Cont'd)
UNDERGROUND and UTILITY CONSTRUCTION (Cont'd)

AREA 2 (Cont'd)

Group 3: Air Compressor, 210 cu. ft. and over; Bituminous Distributor; Chair Cart; Concrete Curing Machine; Concrete Saw; Dope Pot, power agitated; Flex Plane; Form Grader; Hydro-hammer; Jack, Hydraulic, power-driven; Minor Equipment Operator, 2, 3, 4, or 5; Paving Joint Machine; Post Hole Digger; Roller, earth; Throttle Valve; Track Jack, power-driven; Tractor, farm type; Truck Crane Driver

Group 4: Air Compressor, less than 210 cu. ft.; Concrete Mixer, under 21 cu. ft.; Conveyor; Generator; Mechanical Heater; Oiler; Power Broom; Pump; Welding Machine

AREA 3

Group 1: A-Frame Winch Truck; Air Compressor 900 cu. ft. and over; Air Tugger; Autograde (CMI); Auto Patrol; Backhoe; Ballast Regulator (RR); Batcher Plant (electrical control concrete); Bending Machine (pipe); Bituminous Plant (Engineer); Bituminous Plant; Bituminous Mixer Travel Plant; Bituminous Paver; Bituminous Roller; Buck Hoist; Bull Dozer; Cable Way; Chicago Boom; Clamshell; Concrete Mixer, 21 cu. ft. or over; Concrete Paver; Concrete Pump, Crete; Crane; Craneman; Crusher Plant; Derrick; Derrick Boat; Dinkey; Dope Pots (pipeline); Dragline; Dredge Operator; Dredge Engineer; Drill Operator; Elevator Grader; Elevator; Ford Hoe, or similar type equipment; Forklift; Formless Paver; Gantry Crane; Gradall; Grademan; Grout Pump; Helicopter Crew; Hetherington Paver; Highlift; Hoist; Hopto; Hough Loader, or similar type; Hydro Crane; Hydro Hammer; Locomotive Crane; Locomotive; Mechanic; Mobile Mixer; Motor Crane; Mucking Machine; Multiple Tamping Machine (RR); Overhead Crane; Pile Driver; Pulls; Push Dozer; Push Boats; Roller (Sheep Foot); Ross Carrier; Scoop; Shovel; Side Boom; Swing Crane; Tail Boom; Tar Machine (pipeline); Throttle Valve; Tower Crane; Trench Machine; Welder (heavy duty); Truck mounted Concrete Pump; Truck mounted Drill; Well Point; Whirleys

Group 2: Air Compressor, up to 900 cu. ft.; Brakeman; Bull Float; Concrete Mixer, over 105 and under 218; Concrete Spreader or Puddler; Deck Engine; Electric Vibrator Kompactor (earth or rock); Finishing Machine; Fireman; Greaser, on grease facilities servicing heavy equipment; Material Pump; Motor Boats; Portable Loader; Post Hole Digger; Power Broom; Rock Roller; Roller, Wobble Wheel (earth and rock); Spike Machine (RR); Seaman Tiller; Spreader Rock; Sub Grader; Tamping Machine; Welding Machine; Widener, Apsco or similar type

Group 3: Assistant Engineer; Bituminous Distributor; Cement Gun; Concrete Saw; Conveyor; Deckhand Oiler; Drill Helper; Earth Roller; Form Grader; Generator; Guard Rail Drive; Heater; JLG Lifts; Oiler; Paving Joint Machine; Power Traffic Signal; Scissor Lift; Steam Jenny; Truck Crane Oiler; Vibrator; Water Pump

DECISION NO. IN83-2073 Page 14

TRUCK DRIVERS

Group 1: Acetylene Wagons over 3 Buckets

Group 2: Acetylene Wagons to and including 3 Buckets

Group 3: Tandem, Tandem Semi Trucks; Trucks Mechanics and Welders; Heavy Equipment type Water Wagon over 5,000 gallons; Tri-axle Trucks pulling Tilt-top Trailers; Low Boys; Tandem, Tandem axle

Group 4: Tri-Axle Trucks; Tandem Axle Trucks; Equipment not self loaded or Pusher loaded such as Koehring or similar Dumpster; Track Truck; Euclid Bottom Dump and Hug Bottom Dump; Tournatrailers; Tournarockers; Athey Wagons or similar equipment over 12 cu. yds.; Tandem Axle Trucks pulling Tilt-top Trailers; Low Boys; Tandem Axle; Tri-Axle Batch

Group 5: Tandem "Dog-Legs"; Semi-Water Trucks; Sprinkler Trucks; Heavy Equipment type Water Wagons, 5,000 gallons and under

Group 6: Truck mounted Pavement Breakers; Tandem Trucks, over 15 ton payload; Single Axle Semi Trucks; Farm Tractors hauling material; Equipment not self loaded or Pusher loaded such as Koehring or similar Dumpster; Track Truck; Euclid Bottom Dump and Hug Bottom Dump; Tournatrailers; Tournarockers; Athey Wagons or similar equipment, 12 cu. yds. and under; Mixer Trucks, all types; Single Axle Trucks pulling Tilt-up Trailer; Lowboys, single axle

Group 7: Tandem Axle Fuel Trucks; Tandem Axle Water Trucks; Bituminous Distributor (one man)

Group 8: Single Axle Dog-legs; Tandem Trucks or Dog Legs; Winch Trucks or A-Frames used for transportation; Batch Trunks, wet or dry over 3(34E) Batches; Grease and Maintenance Truck Servicing Tandem Axle Trucks

Group 9: Single Axle Fuel Trucks; Single Axle Water Trucks; Bituminous Distributors (two Men)

Group 10: Single Axle Straight Trucks; Wet or Dry 3(34E) Batches or less; Grease and Maintenance Trucks Servicing Single Axle Trucks

Group 11: Tenders; Greasers; Tire Men; Batch Board Tenders

Group 12: Pick-up Trucks

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5(a)(1)(ii))

SUPERSEDEAS DECISION

STATE: KANSAS

COUNTIES: Douglas, Jefferson, Leavenworth, Miami and Shawnee

DECISION NO.: KS83-4066

DATE: Date of Publication

Supersedes Decision No. KS83-4015 dated February 4, 1983 in 48 FR 5443.

DESCRIPTION OF WORK: Highway Construction.

	Basic Hourly Rates	Fringe Benefits
CARPENTERS & PILEDRIVERMEN:		
Zone 1	$11.20	1.80
Zone 2	16.05	2.67
Zone 3	15.04	1.80
CEMENT MASONS:		
Zone 1	14.97	1.85
Zone 2	12.50	1.05
Zone 3	12.20	1.05
ELECTRICIANS:		
Zone 1	16.18	10%+ 2.51
Zone 2	15.55	3%+ 2.13
IRONWORKERS	16.25	4.25
LINE CONSTRUCTION:		
Zone 1:		
Lineman	18.28	3-1/2% +1.06
Lineman Operator	17.02	3-1/2% +1.06
Groundman Powderman	12.68	3-1/2% +1.06
Groundman	12.05	3-1/2% +1.06
Zone 2:		
Lineman	15.97	3-1/2% +.65
Cable Splicers	16.77	3-1/2% +.65
Groundman	9.67	3-1/2% +.65
Powderman	13.19	3-1/2% +.65
Line Truck & Equipment Operator	13.19	3-1/2% +.65
LABORERS:		
Zone 1		
Group 1	7.65	2.30
Group 2	7.80	2.30
Group 3	7.90	2.30
Group 4	8.05	2.30
LABORERS (Cont'd):		
Zone 2		
Group 1	$ 8.45	2.30
Group 2	8.60	2.30
Group 3	8.70	2.30
Group 4	8.85	2.30
Zone 3		
Group 1	9.05	2.05
Group 2	9.20	2.05
Group 3	9.30	2.05
Group 4	9.45	2.05
Zone 4		
Group 1	8.00	2.30
Group 2	8.15	2.30
Group 3	8.25	2.30
Group 4	8.40	2.30
POWER EQUIPMENT OPERATORS		
Zone 1: Leavenworth County		
Group 1	14.00	3.77
Group 2	13.75	3.77
Group 3	13.05	3.77
Group 4		
a	9.03	3.77
b	12.05	3.77
Zone 2: Jefferson, Miami, Douglas & Shawnee Cos.:		
Group 1	12.87	2.70
Group 2	12.62	2.70
Group 3	12.37	2.70
Group 4	12.02	2.70
Group 4A	12.12	2.70

	Basic Hourly Rates	Fringe Benefits
TRUCK DRIVERS		
Zone 1: Leavenworth & Miami Counties:		
Group 1	$12.66	3.50
Group 2	12.86	3.50
Group 3	13.17	3.50
Group 4	13.32	3.50
Group 5	12.44	3.50
Zone 2: Douglas, Shawnee and Jefferson Counties		
Group 1	9.40	1.75
Group 2	9.50	1.75
Group 3	9.65	1.75

ZONE DESCRIPTIONS

CARPENTERS AND PILEDRIVERMEN:
Zone 1:Douglas, Shawnee and Jefferson Counties
Zone 2:Leavenworth County
Zone 3:Miami County

CEMENT MASONS:
Zone 1: Leavenworth and Miami Counties
Zone 2: Douglas and Shawnee Counties
Zone 3: Jefferson County

ELECTRICIANS:
Zone 1: Leavenworth County (Delaware, High Prairie & Kickapoo Townships) City of Leavenworth & Fort Leavenworth Military Reservation
Zone 2: Douglas, Jefferson, Miami, Shawnee and the remainder of Leavenworth County

LINE CONSTRUCTION:
Zone 1: Leavenworth County, north of Fairmont Stranger, and Tonganoxie Townships
Zone 2: Douglas, Jefferson, Miami, Shawnee Counties, and remainder of Leavenworth County

LABORERS:
Zone 1: Jefferson County,
Zone 2: Douglas and Shawnee Counties
Zone 3: Leavenworth County
Zone 4: Miami County

ZONE DESCRIPTIONS - (Cont'd)

TRUCK DRIVERS
Zone 1:

Group 1 - One Team; Station Wagons; Pickup Trucks; Material trucks, single axle; Tank Wagon Drivers, single axle
Group 2 - Material Trucks; Tandem; Two Teams; Semi-trailers; Winch Trucks-Fork Trucks; Distributor Drivers and Operators; Agitator and Transit Mix Tank Wagon Drivers, single axle; Tank Wagon Drivers; Tandem or Semi-trailer; Insley Wagons; Dump Trucks; Excavator, 5 cu. yds. and over; Dumpsters; Half-tracks; Speedace; Euclids and other similar excavating equipment
Group 3 - A-frame; Lowboy; Boom Truck Drivers
Group 4 - Mechanics and Welders
Group 5 - Oilers and Greasers

Zone 2:

Group 1 - Pickups; Panel Trucks; Station Wagons; Flat Beds; Dump and Batch Trucks, single axle
Group 2 - Tandem Trucks; Warehousemen or Partsmen; Mechanic Helpers and Servicemen
Group 3 - Lowboys; Semi-trailers; all Transit Mixer Trucks (single or tandem axle); A-frame and Winch Trucks when used as such; Euclid, End and Bottom Dump Tournarockers, Atheys, Dumpsters and similar off-road equipment and mechanics on such equipment

CLASSIFICATION DEFINITIONS

LABORERS
Group 1: Board Mat Weavers and Cable Tiers; Georgia Buggy (manually operated); Mixerman-on skip lift; Salamander Tenders; Track Men; Tractor Swamper; Truck Dumper; Wire Mesh Setter; Water Pump, up to 4 inches and all other General Laborers
Group 2: Air Tool Operators; Cement Handlers (bulk); Chain Saw; Georgia Buggy (mechanically operated); Grademen; Hot Mastic Kettlemen; Crusher Feeder; Joint Man; Jute Man; Mason Tender; Material Batch Hopper and Scale Man; Mixer Man; Pier Hole Man working 10 feet deep; Pipelayer-drainage (concrete and/or corrugated metal); Signal Man (crane); Truck Dumper-Dry Batch; Vibrator Operator; Wagon and Churn Drill Operator
Group 3 - Asphalt Raker; Barco Tamper; Concrete Saw; Creosote Material, handling and applying; Nozzle Burner (cutting torch and burning bar)
Group 4 - Conduit Pipe; Water and Gas Distribution Lines; Tile and Duct Line Setter; Form Setter and Liner on concrete paving; Powderman; Sandblasting and Gunite Nozzleman; Sanitary Sewer pipe Layer; Steel Plate Structure Erectors

CLASSIFICATION DEFINITIONS (Cont'd)

POWER EQUIPMENT OPERATORS
Zone 1: Leavenworth County:

Group 1 - Asphalt Paver and Spreader; Asphalt Plant Console Operator; Auto Grader; Back Hoe; Blade Operator, all types; Boiler, 2; Booster Pump on Dredge; Boring Machine (truck or crane mounted); Bulldozer Operator; Clamshell Operator; Compressor Maintenance Operator, 2; Concrete Plant Operator, Central Mix; Concrete Mixer Paver; Crane Operator; Derrick or Derrick Trucks; Ditching Machine; Dragline Operator; Dredge Engineman; Dredge Operator; Drillsat with compressor mounted on cat; Drilling or Boring Machine; Rotary, self-propelled; High Loader-Fork Lift; Locomotive Operator, standard guage; Mechanics and Welders; Maintenance Operator; Mucking Machine; Pile Driver Operator; Pitman Crane Operator; Pump, 2; Quad-trac; Scoop Operator, all types; Scoops in Tandem; Self-propelled Rotary Drill (Leroy or equal-not Air Trac); Shovel Operator; Side Discharge Spreader; Sideboom Cats; Skimmer Scoop Operator; Slip-form Paver (CMI, REX, or equal); Throttle Man; Truck Crane; Welding Machine Maintenance Operator, 2; Hoisting Engine, 2; Active Drums

Group 2: "A" Frame Truck; Asphalt Hot Mix Silo; Asphalt Plant Fireman, drum or boiler; Asphalt Plant Mixer Operator; Asphalt Plant Man; Asphalt Roller Backfiller Operator; Chip Spreader; Concrete Batch Plant, dry power operated; Concrete Mixer Operator; Skip Loader; Concrete Pump Operator; Crusher Operator; Elevating Grader Operator; Greaser, hoisting engine, 1 drum; Latourneau Rooter; Multiple Compactor; Pavement Breaker, self-propelled of the Hydra-hammer or similar type; Power Shield; Pug Mill Operator; Stump Cutting Machine; Towboat Operator; Tractor Operator, over 50 H.P.

Group 3: Boilers, 1; Chip Spreader (Front Man); Churn Drill Operator; Compressor Maintenance Operator, 1; Concrete Saws, self-propelled; Conveyor Operator; Distributor Operator; Finishing Machine Operator; Fireman, Rig; Float Operator; Form Grader Operator; Pump; Pump Maintenance Operator, other than Dredge; Roller Operator, other than high type asphalt; Screening and Washing Plant Operator; Self-propelled Street Broom or Sweeper; Siphons and Jets; Sub-grading Machine Operator; Tank Car Heater Operator, combination boiler and booster; Tractor, 50 H.P. or less without attachments; Vibrating Machine Operator, not hand; Welding Machine Maintenance Operator, 1

Group 4:
a - Oilers
b - Oiler driver, all types

CLASSIFICATION DEFINITIONS (Cont'd)

POWER EQUIPMENT OPERATORS
Zone 2: Jefferson & Miami Counties:

Group 1 - Asphalt Paver & Spreader; Backhoe; Boring Machine; Blades, all types; Clamshell; Concrete Mixer Paver Operator; Concrete Plant Operator (automatic); Crane; Truck Crane; Pitman Crane; Hydro Crane or any machine with power swing; Derrick or Derrick Trucks; Dragline Operator; Dredge Operator; Dozer; Ditching Machine; Euclid Loader; Hoist, 2 active drums; Loader, all types; Mechanic or Welder; Mixermobile; Multi-unit Scraper; Piledriver Operator; Power Shovel Operator; Quad Track; Scoop Operator, all types; Sideboom Cat, Cherry Picker; Skimmer Scoop Operator; Pushcat Operators

Group 2 - Asphalt Plant Operator; Elevating Grader Operator

Group 3 - A-frame Truck; Asphalt Roller Operator; Asphalt Plant Boiler Fireman; Backfiller Operator; Barber Green Loader; Boiler, other than asphalt; Bull Float Operator; Churn Drill Operator; Compressor Operator (1); Concrete Central Plant Operator; Concrete Mixer Operator, Skip; Concrete Pump Operator; Crusher Operator; Distributor Operator; Finish Machine Operator, concrete; Fireman, other than asphalt; Flex Plane Operator; Fork Lift; Form Grader Operator; Greaser; Hoist, 1 drum; Jeep Ditching Machine; Pavement Breaker, self-propelled (of the Hydra Hammer or similar type); Pump Operator, 4" or over, two; Pump Operator, other than Dredge Screening and Wash Plant Operator; Small Machine Operator; Spreader Box Operator, self-propelled; Tractor Operator, over 50 H.P.; Self-propelled Roller Operator, other than Asphalt Siphons and Jets; Subgrading Machine Operator; Tank Car Heater Operator; Combination Booster and Boilers; Towboat Operator; Vibrating Machine Operator, not hand

Group 4 - Concrete Gang Saw, Self-propelled (con-cut); Conveynr Operator; Harrow, disc. Seeder; Oiler; Tractor Operator, 50 H.P. or less without attachments

Group 4A - Oiler; Motor Crane

POWER EQUIPMENT OPERATORS
Zone 3: Douglas & Shawnee Counties:

Group 1 - Asphalt Paver and Spreader; Backhoe, Boring Machine; Blades, all types; Clamshell; Concrete Mixer Paver Operator; Concrete Plant Operator (automatic); Crane; Truck Crane; Pitman Crane; Hydro Crane or any machine with power swing; Derrick or Derrick Trucks; Dragline Operator; Dredge Operator; Dozer; Ditching Machine; Euclid Loader; Hoist, 2 active drums; Loaders, all types; Mechanic or Welder; Mixer-Mobile; Multi-unit Scraper; Piledriver Operator; Power Shovel Operator; Quad Track; Scoop Operators, all types; Sideboom Cat, Cherry Picker; Skimmer Scoop Operator; Pushcat Operators

Group 2 - Asphalt Plant Operator; Elevating Grader Operator

SUPERSEDEAS DECISION

40040 Federal Register / Vol. 48, No. 176 / Friday, September 9, 1983 / Notices

CLASSIFICATION DEFINITIONS (Cont'd)

POWER EQUIPMENT OPERATORS
Zone 3: Douglas & Shawnee Counties (Cont'd):

Group 3 - A-frame Truck; Asphalt Roller Operator; Asphalt Plant Boiler Fireman; Backfiller Operator; Barber Green Loader; Boiler, other than asphalt; Bull Float Operator; Churn Drill Operator; Compressor Operator (1); Concrete Central Plant Operator; Concrete Mixer Operator, skip; Concrete Pump Operator; Crusher Operator; Distributor Operator; Finish Machine Operator, concrete; Firemen, other than asphalt; Flex Plane Operator; Fork Lift; Form Grader Operator; Greaser; Hoist, 1 drum; Jeep Ditching Machine; Pavement Breaker, self-propelled (of the Hydra Hammer or similar type); Pump Operator, 4" or over, two; Pump Operator, other than Dredge Screening and Wash Plant Operator; Small Machine Operator; Spreader Box Operator, self-propelled; Tractor Operator over 50 H.P.; Self-propelled Operator, other than asphalt siphons and jets; Subgrading Machine Operator; Tank Car Heater Operator; Combination Booster and Boilers; Towboat Operator; Vibrating Machine Operator, not hand

Group 4 - Concrete Gang Saw, self-propelled (con-cut); Conveyor Operator; Harrow; Disc, Seeder; Oiler; Tractor Operator, 50 H.P. or less without attachments

Group 4A - Oiler; Motor Crane

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Pennsylvania COUNTIES: Allegheny, Armstrong, Beaver, Bedford, Blair, Butler, Cambria, Cameron, Centre, Clarion, Clearfield, Clinton, Crawford, Elk, Erie, Fayette, Forest, Franklin, Fulton, Greene, Huntingdon, Indiana, Jefferson, Lawrence, McKean, Mercer, Mifflin, Potter, Somerset, Venango, Warren, Washington, Westmoreland

DECISION NUMBER: PA83-3002 DATE: Date of Publication

Supersedes Decision No. PA81-3041 dated July 6, 1981 in 46 FR 34934.

DESCRIPTION OF WORK: Heavy and Highway Construction, excluding Sewage and Water Treatment Plant Projects

HEAVY & HIGHWAY	Basic Hourly Rates	Fringe Benefits
CARPENTERS		
ZONE I	14.14	28%
ZONE II	13.94	28%
CARPENTER _ WELDER		
ZONE I	14.53	28%
ZONE II	14.33	28%
CARPENTER - BURNER		
ZONE I	14.33	28%
ZONE II	14.14	28%
CEMENT MASONS	14.73	23%
PILEDRIVERMEN	15.12	27%
PILEDRIVERMEN - WELDER	15.35	27%
IRONWORKERS:		
Reinforcing		
ZONE 1	12.01	2.40
Structural, Ornamental & Reinforcing		
ZONE 2	17.365	3.745
ZONE 3	16.37	4.95
LABORERS		
CLASS I		
ZONE I	12.02	20%
ZONE II	11.90	20%
CLASS II		
ZONE I	12.17	20%
ZONE II	12.07	20%
CLASS III		
ZONE I	12.60	20%
ZONE II	12.60	20%
CLASS IV		
ZONE I	13.55	20%
ZONE II	13.55	20%
LANDSCAPING		
ZONE I		
CLASS 1		
Landscape laborer to include general landscaping work and the driving of trucks for the distributing of materials on the job site but not to include dump trucks used to transport supplies to the job	10.30	22%
CLASS 2		
Landscape tractor operator to operate small industrial rubber tire tractor equipped with front end loader and back hoe attachment used for the sole purpose of landscape work including soil spreading, but not for heavy and highway work	10.72	22%
ZONE 2		
CLASS 1		
Landscape laborer to include general landscaping work and the driving of trucks for the distributing of materials on the job site but not to include dump trucks used to transport supplies to the job	12.00	20%
LINE CONSTRUCTION:		
ZONE 1		
Lineman	18.24	.60+ 3 3/8%
Winch Truck Op.	12.77	.60+ 3 3/8%
Truck Driver	11.86	.60+ 3 3/8%
Groundman	10.94	.60+ 3 3/8%
ZONE 2		
Lineman	14.74	.60+ 3 3/8%
Winch Truck Op.	10.26	.60+ 3 3/8%
Truck Driver	9.52	.60+ 3 3/8%
Groundman	8.77	.60+ 3 3/8%

DECISION NO. PA83-3002

	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION: (CONT'D)		
ZONE 3		
Lineman, Dynamite Man, Heavy Equipment Operator	15.64	.65+ 3 3/8%
Winch Truck Op.	10.94	.65+ 3 3/8%
Truck Driver	10.72	.65+ 3 3/8%
Groundman	10.46	.65+ 3 3/8%
LINE CONSTRUCTION (RAILROAD ONLY) Armstrong, Bedford, Blair, Cambria, Centre, Clarion, Clearfield, Fayette, Franklin, Fulton, Greene, Huntingdon, Indiana, Jefferson, Somerset, Washington, Westmoreland Counties:		
Linemen	12.34	.60+ 6%+a
"A" Equipment Operator	12.34	.60+ 6%+a
"B" Equipment Operator	10.78	.60+ 6%+a
PLUMBERS (Bridge - drain Pipe) Allegheny, Washington, Greene, Armstrong Counties	15.80	3.59
POWER EQUIPMENT OPERATPRS: HEAVY & HIGHWAY CONSTRUCTION		
CLASS I		
ZONE I	15.85	20½%
ZONE II	15.61	20½%
CLASS II		
ZONE I	15.63	20½%
ZONE II	15.38	20½%
CLASS III		
ZONE I	12.59	20½%
ZONE II	12.35	20½%
CLASS IV		
ZONE I	12.21	20½%
ZONE II	11.94	20½%
CLASS V		
ZONE I	12.01	20½%
ZONE II	11.77	20½%
TRUCK DRIVERS: HEAVY & HIGHWAY CONSTRUCTION		
CLASS I		
ZONE 1	12.88	18%
ZONE 2	12.65	18%
CLASS 2		
ZONE 1	13.02	18%
ZONE 2	12.83	18%
CLASS 3		
ZONE 1	13.09	18%
ZONE 2	12.93	18%
CLASS 4		
ZONE 1	13.09	18%
ZONE 2	12.93	18%
CLASS 5		
ZONE 1	13.19	18%
ZONE 2	13.01	18%
CLASS 6		
ZONE 1	13.19	18%
ZONE 2	13.01	18%
CLASS 7		
ZONE 1	13.17	18%
ZONE 2	12.98	18%
CLASS 8		
ZONE 1	12.92	18%
ZONE 2	12.68	18%
CLASS 9		
ZONE 1	13.02	18%
ZONE 2	12.79	18%
ZONE 10		
ZONE 1	13.09	18%
ZONE 2	12.93	18%
CLASS 11		
ZONE 1	13.01	18%
ZONE 2	12.83	18%
CLASS 12		
ZONE 1	12.97	18%
ZONE 2	12.79	18%

DECISION NO. PA83-3002

AREA COVERED BY CARPENTERS ZONES

ZONE I - Allegheny, Armstrong, Beaver, Butler, Erie, Fayette, Greene, Lawrence, Mercer, Washington and Westmoreland

ZONE II - Bedford, Blair, Cambria, Cameron, Centre, Clarion, Clinton, Clearfield, Crawford, Elk, Forest, Franklin, Fulton, Huntingdon, Indiana, Jefferson, McKean, Mifflin, Potter, Seomerset, Venango and Warren

AREA COVERED BY IRONWORKERS ZONES

ZONE 1 - Butler, Cambria, Erie, Fayette, Mercer, Washington, Westmoreland, Lawrence, Somerset, Allegheny, Beaver, Armstrong, Blair, Cameron, Centre, Clarion, Clearfield, Crawford, Forest, Greene, Indiana, McKean, Venango, Warren, Bedford, Jefferson, Clinton, Elk, Fulton and Potter Counties

ZONE 2 - Franklin, Huntingdon and MiffIin Counties

ZONE 3 - Allegheny, Armstrong, Beaver, Butler, Cambria, Clarion, Fayette, Indiana, Washington & Westmoreland Counties

AREA COVERED BY LABORERS ZONES

ZONE I - Allegheny, Armstrong, Beaver, Blair, Butler, Cambria, Clarion, Clearfield, Elk, Erie, Fayette, Greene, Indiana, Lawrence, McKean, Mercer, Somerset, Venango, Warren, Washington, Westmoreland

ZONE II - Bedford, Cameron, Centre, Clinton, Crawford, Forest, Franklin, Fulton, Huntingdon, Jefferson, Mifflin, Potter

LABORERS CLASSIFICATION DEFINITIONS

CLASS I - Heavy & Highway Construction Laborers (Including Craft Tenders, handling Salamanders L. P. Gas Heaters or similar etc.); Asphalt Curb Sealer; Asphalt Tamper; Batchman (weigh); Blaster's Helper; Boatman; Brakeman; Change House Attendant; Coffer Dam; Concrete Curing Pitman; Puddler; Drill Runner's Helper, (Including Drill Mounted on Truck, Track, or similar and Davey Drill - Spots-clean-up & Helps to maintain); Electric Brush and or Grinder; Fence Construction (including Fence Machine Operator); Form Stripper and Mover; Gabion (Erectors and Placers); Hydro Jet Claster Nozzlemen; Manually moved Emulsion Sprayer; Radio Actuated Traffic Control Operator; Rip Rap Work, Scaffolds and Runways; Sheeters and Shorers; Structural Concrete Top Surfacer; Walk Behind Street Sweeper; Welder's Helper (pipeline); Wood Chipper

DECISION NO. PA83-3002

LABORERS (CONT'D)

CLASS II - Air Tool Operator (all types); ASphalt, Batch & Concrete Plant Operator (manually operated) asphalt Rakers; Burner; Caisson Men (open air); Carryable Pumps; Chain Saw Operator (Including attachments); Cribbing (Concrete or steel); Curb Machine Operator (asphalt or concrete - walk behind); Diamond Head Core Driller; Drill Runner's Helper (Tunnel); Fork Lift (walk behind); Form Setter (Road Forms Line Man); Highway Slab Reinforcement Placers (Including Joint and Basket Setters); Hydraulic Pipe Pusher; Liner Plates (Tile or Vitrified Clay); Mechanical Compacting Equipment Operators; Mechanical Joint Sealer, Dope Pot and Tar Kettle; Mortar Mixer (hand or machine); Muckers, Brakemen & All Other Labor (Includes installation of Utility Lines); Pipe Layers (Regardless of material); Portable Single Unit Conveyor; Post Hole Auger (2 or 4 cycle-hand operated); Power Wheelbarrows and Buggies; Rail Porter or Similar; Sand Blaster; Vibrator Operator, All Rail Road Track Work to Include The Following: Adzing Machine, Ballast Router; Bolting Machine; Power Jacks; Rail Drill; Railroad Brakeman; Rail Saw; Spike Drivers (Manually or hamdheld tool); Spike Pullers; Tamping Machine; Thermitweld

CLASS III - Blacksmith, blaster, brick stone and block pavers and block cutters (wood, belgian and asphalt), cement mortar lining car pusher, cement mortar mixer (pipe relining), cement mortar pipe reliners, concrete saw operator (walk behind), curb cutters and setters, elevated roadway drainage construction, form setter (road forms-lead man), grout machine operator, gunite or dry pack gun (nozzle and machine man), manhole or catch basin (brick, block, concrete or any prefabrication), Miners and drillers (including lining, supporting and form workmen, setting of shields, miscellaneous equipment and jumbos), multi-plate pipe (aligning and securing), placing wire mesh on gunite projects reinforcing steel placers (bending, aligning and securing and cad weld), wagon drill operators (air track or similar), walk behind ditching machine (trencher or similar), welder

CLASS IV - Welder (pipeline); High Burner (any burning not done from deck)

DECISION NO. PA83-3002

AREA COVERED BY LANDSCAPE
LABORERS ZONES

ZONE 1 - Allegheny, Armstrong, Beaver, Butler, Clarion, Crawford, Fayette, Greene, Indiana, Jefferson, Lawrence, Mercer, Venango, Washington, Westmoreland, Bedford, Blair, Cambria, Centre, Clearfield, Clinton, Erie, Franklin, Fulton, Huntingdan, Mifflin, Somerset

ZONE 2 - Cameron, Elk, Forest, McKean, Potter, Warren

AREA COVERED BY LINE CONSTRUCTION ZONES

ZONE 1 - Allegheny, Armstrong, Beaver, Bedford, Blair, Cambria, Centre, Clarion, Clearfield, Fayette, Fulton, Greene, Huntingdon, Indiana, Jefferson, Somerset, Washington & Westmoreland Counties

ZONE 2 - Franklin & Mifflin Counties

ZONE 3 - Butler, Cameron, Clinton, Crawford, Elk, Erie, Forest, Lawrence, McKean, Mercer, Venango, Warren & Potter Countios

FOOTNOTE:
a. Paid Holidays: New Year's Day; Declaration Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day and Good Friday.

CLASSIFICATION DEFINITIONS FOR LINE CONSTRUCTION (RAILROAD ONLY)

"A" Equipment Operators:
1. Hoisting equipment - when erecting complete towers, erecting framed structures, erecting steel transmission poles, erecting railroad pole extensions and crossbeams and when operating personnel lift baskets.

2. Tension pulling equipment under energized conditions - paralled with other energized circuits or above energized circuits on the same structure, not to include crossovers. Bunled consuctor stringing, including static conductors on bundled conductor lines.

3. Excavating augures 36" inches in diameter or larger, 5/8 cubic yard backhoe and larger, trencher over four feet in depth, bulldozer D-6 (caterpillar) or larger, and blade on finish grade work

"B" Equipment Operators:
Operators of all othor equipment

DECISION NO. PA83-3002

AREA COVERED BY POWER EQUIPMENT OPERATORS ZONES

ZONE I - Allegheny, Armstrong, Beaver, Blair, Butler, Cambria, Clarion, Centre, Clearfield, Crawford, Erie, Elk, Fayette, Greene, Indiana, Jefferson, Lawrence, McKean, Mercer, Somerset, Venango, Warren, Washington & Westmoreland Counties

ZONE II - Bedford, Cameron, Clinton, Forest, Franklin, Fulton, Huntingdon, Mifflin, Potter

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

CLASS I - Autograde (C.M.I. & similar); Backfiller; Backhoe - 360° Swing; Cableway; Caisson Drill (similar to Hugh Williams); Central Mix Plant; Cooling Plant; Concrete Paving Mixer; Concrete Pump (self-propelled); Cranes; Cranes (Boom or mast 101 ft. or over up to & including 150 ft. inclusive of job + $.25; Boom or mast over 150 ft. up to & including 200 ft. inclusive of jib + $.50; Boom or mast over 200 ft. inclusive of jib + $.75; Tower-Stationary-Climbing Tower Crane); Derrick; Derrick Boat; Dozer (D-6 & over); Dragline; Dredge; Dredge Hydraulic; Elevating Grader; Franki Pile Machine; Gradall (Remote control or other-wise); Grader (Power-Fine Grade); Helicopter; Hilift (4 cy. and over); Hoist 2 Drums or more (in one unit); Hydraulic Boom TRuck (with pivotal cab) (single motor-Pitman or similar); Kocal; Locomotive (std. Gauge); Metro-chip Harvester or similar; Milling Machine (Roto Mill or Similar); Mix Mobile; Mucking Machine (Tunnel); Pile Driver Machine; Pipe Extrusion Machine; Prespliter Drill (Self contained); Refrigeration Plant (Soil Stabilisation) Rough Terrain Crane; Scrapers; Shovel-Power; SliP Form Paver (C.M.I. and similar); Trenching Machine; Tunnel Machine (Mark XXI Jarva or similar) 1 Whirley

CLASS II - Asphalt paving machines (spreader), asphalt plant operator, auger (tractor mtd.), auger (truck mtd.), backhoe (rear pivotal swing) (180 swing), belt loader (euclid or similar), boring machine, cable placer or layer, compactor with blade, concrete batch plant (electronically synchronized), concrete belt placer (C.M.I. and similar), concrete finishing machine and spreader concrete mixer (over 1 cy.), concrete pump (stationary), core drill (truck or skid mtd. - similar to Pen drill), dozer (under D-6), force feedloader, fork lift (lull or similar), grader - power, grease unit operator (head), guard rail post driver (truck mounted), guard rail post driver (skid type), hi-lift (under 4 cy.) hydraulic boom truck (Non-Pivotal cab), job work boat (powered) when assistance is required it shall be a deckhand), jumbo operator, locomotive (narrow guage), mechanic, minor equipment operator (accumulative four units), mucking machine, multi-head saw (groover), overhead crane, roller - power-asphalt, ross carrier, side boom or tractor mounted boom, stone cursher, (screening-washing plants), stone spreader (self-propelled) truck mounted drill (davey or similar), welder and repairman, well point pump operator

DECISION NO. PA83-3002

CLASSIFICATION DEFINITIONS
FOR ALL ZONES CONT'D

CLASS III - Broom Finisher (C.M.I. or similar); Compactors/Rollers (Static or Vibratory (Self-propelled); Curb Builder; Minor Equipment Operator (two to three units); Multi-head Tie Tamper, Pavement Breaker (Self-Propelled or ridden); Soil Stabilizer Machine; Tire Repairman; Tractor (Snaking and hauling); Well Driller and Horizontal; Winch or "A" Frame Truck (when hoisting and lowering)

CLASS IV - Ballast Regulator, Compressor, Concrete Mixer (1 cy. & under with skip), Concrete Saw (Ridden or self-propelled), Conveyor, Elevator (Material hauling only), Fork-lift (Ridden or self-propelled), Form Line Machine, Generator, Groute Pump, Heater (Mechanical), Hoist (Single Drum), Ladavator Light Plant, Mulching Machine, Spray Cure Machine (powered Driven), Subgrader, Tie Puller, Tugger and welding Machine (Gas or Diesel)

CLASS V - Deck Hand, Farm Tractor; Fireman on Boiler; Mechanic's Helper; Oiler, Pnwer Broom, Side Delivery Shoulder Spreader

40044 Federal Register / Vol. 48, No. 176 / Friday, September 9, 1983 / Notices

DECISION NO. PA83-3002

TRUCK DRIVER CLASSIFICATION DEFINITIONS

CLASS 1 - Trucks under 33,000 lbs. gross load category (including all types of trucks such as fuel, dump, flat bottom, pickup and similar equipment. Also parts man and warehouseman)

CLASS 2 - Truck over 33,000 lbs. gross load category (including all types of trucks such as fuel, dump (tandem), flat, bottom, scissors and combination fuel and fuel and grease)

CLASS 3 - Tri-axle Trucks

CLASS 4 - Heavy equipment whose capacity exceeds that for which state licenses are issued - specifically refers to units in excess of 8 feet, width (such as euclids, Athey Wagon, Payloader, Tournawagons and similar equipment when not self-loaded rated under forty-five tons

CLASS 5 - Heavy off-the-road equipment (rated at forty-five tons or over)

CLASS 6 - Bottom or Belly-dump Trucks

CLASS 7 - Heavy Duty Trailer, such as Low Boy, Hi-Boy, Dump Trailer, Pole Trailer A-Frames (when used for transporting materials), Dumpseters, Ross Carriers, Form Trucks, Dual-purpose Trucks (when load has been loaded or unloaded with truck winch, loading, hauling and unloading), Mechanical Tailgate Truck, Bucket Selfloading Trucks, Farm Tractor (when pulling and hauling), Fork Lift Trucks (in storage areas and warehouses), Tar and Asphalt Distributint Trucks, Tar and Asphalt Trailer Trucks, mobile mixer and slurry seal truck

CLASS 8 - Single-axle Ready Mixed Concrete Trucks (such as agitators barrel, redimix concrete trucks, etc.

CLASS 9 - Tandem-axle Ready-mixed Concrete Trucks (such as agitators, barrel, redi-mix concrete trucks, etc.

CLASS 10 - Tri-Axle Ready-Mixed Concrete Trucks (such as agitators, barrel, redi-mix concrete trucks, etc.

[FR Doc. 83-24572 Filed 9-8-83; 8:46 am]

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DECISION NO. PA83-3002

TRUCK DRIVER CLASSIFICATION DEFINITIONS CONT'D

CLASS 11 - Liquid Tank Trucks - Straight and Semi (including water, sprinkler, oil trucks, etc.)

CLASS 12 - Trucks with Dolly or Trailer

AREA COVERED BY TRUCK DRIVERS ZONES

ZONE 1 - Allegheny, Armstrong, Beaver, Blair, Butler, Cambria, Centre, Clearfield, Crawford, Erie, Fayette, Greene, Indiana, Jefferson, Lawrence, McKean, Mercer, Somerset, Venango, Warren, Washington, Westmoreland

ZONE 2 - Bedford, Cameron, Clarion, Clinton, Elk, Forest, Franklin, Fulton, Huntingdon, Mifflin, Potter

Welders - Rate for craft

"Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii))."

VOL
48
ISS
1
7
6
SE
9
1983
UMI

federal register

Friday
September 9, 1983

Part III

Information Security Oversight Office

National Security Information; Standard Forms; Final Rule

VOL
48
ISS
1
7
6
SE
9
1983
UMI

INFORMATION SECURITY OVERSIGHT OFFICE

32 CFR Part 2003

National Security Information; Standard Forms

AGENCY: Information Security Oversight Office (ISOO).

ACTION: Final rule.

SUMMARY: This rule provides for the use within the executive branch of standard forms that pertain to national security information. These forms are issued in accordance with the provisions of Section 5.2(b)(7) of Executive Order 12356.

EFFECTIVE DATE: September 9, 1983.

FOR FURTHER INFORMATION CONTACT: Steven Garfinkel, Director, ISOO. Telephone: 202–535–7251.

SUPPLEMENTARY INFORMATION: Section 5.2(b)(7) of Executive Order 12356 authorizes the Director of ISOO to prescribe the use of standard forms that will promote the implementation of the government-wide information security program. ISOO has developed these forms in coordination with those agencies that will be primarily affected by them.

List of Subjects in 32 CFR Part 2003

Classified information, Executive orders, Information, National security information, Security information.

Title 32 of the Code of Federal Regulations, Chapter XX, is amended by adding a new Part 2003 to read as follows:

PART 2003—NATIONAL SECURITY INFORMATION—STANDARD FORMS

Subpart A—General Provisions

Sec.

2003.1 Purpose.
2003.2 Scope.
2003.3 Waivers.
2003.4 Availability.

Subpart B—Prescribed Forms

2003.20 Classified Information Nondisclosure Agreement: SF 189.

Authority: Sec. 5.2(b)(7) of E.O. 12356.

Subpart A—General Provisions

§ 2003.1 Purpose.

The purpose of the standard forms prescribed in Subpart B is to promote the implementation of the government-wide information security program. Standard forms are prescribed when their use will enhance the protection of national security information and/or will reduce the costs associated with its protection.

§ 2003.2 Scope.

The use of the standard forms prescribed in Subpart B is mandatory for all departments, and independent agencies or offices of the executive branch that create and/or handle national security information. As appropriate, these departments, and independent agencies or offices may mandate the use of these forms by their contractors, licensees or grantees who are authorized access to national security information.

§ 2003.3 Waivers.

Except as specifically provided, waivers from the mandatory use of the standard forms prescribed in Subpart B may be granted only by the Director of ISOO. The Director of ISOO will be responsible for ensuring that all waivers that necessitate changes to a standard form are cleared with the General Services Administration's Office of Information Resources Management (KLSO) as an exception to the standard form (41 CFR 101–11.8).

§ 2003.4 Availability.

Agencies may obtain copies of the standard forms prescribed in Subpart B by ordering through FEDSTRIP/MILSTRIP or by including the required quantities on a Standard Form 3146 signed by an agency approving official for self-service store purchases. The national stock number of each form is cited with its description in Subpart B.

Subpart B—Prescribed Forms

§ 2003.20 Classified Information Nondisclosure Agreement: SF 189.

(a) SF 189 is a nondisclosure agreement between the United States and an individual that is to be executed as a condition prior to the United States Government authorizing that individual access to classified information.

(b) All employees of executive branch departments, and independent agencies or offices, and the employees of their contractors, grantees and licensees must sign SF 189 as a condition prior to being authorized access to classified information. This requirement may be implemented prospectively by an agency for which the administrative burden of compliance would be excessive. Only the National Security Council may grant an agency's application for prospective implementation. To request prospective implementation, an agency must submit its justification to the Director of ISOO, who will forward it with a recommendation to the National Security Council.

(c) Agencies may require other persons, who are not included under paragraph (b), above, to execute SF 189 as a condition prior to receiving access to classified information.

(d) Only the National Security Council may grant an agency's application for a waiver from the use of SF 189. To apply for a waiver, an agency must submit its proposed alternative nondisclosure agreement to the Director of ISOO, along with its justification. The Director of ISOO will request a determination about the alternative agreement's enforceability from the Department of Justice prior to making a recommendation to the National Security Council.

(e) Each agency must retain its executed copies of the SF 189 in file systems from which the agreements can be expeditiously retrieved in the event that the United States must seek their enforcement.

(f) The national stock number for the SF 189 is 7540–01–161–1869.

Dated: September 6, 1983.

Steven Garfinkel,

Director, Information Security Oversight Office.

[FR Doc. 83-24666 Filed 9-8-83; 8:45 am]

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VOL
48
ISS
1
7
6
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9
1983
UMI

federal register

Friday
September 9, 1983

Part IV

Department of the Interior

Fish and Wildlife Service

Final Frameworks for Late Season Migratory Bird Hunting Regulations

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

Final Frameworks for Late Season Migratory Bird Hunting Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes final late season frameworks from which States may select season dates, limits, and other options for 1983–84 migratory bird hunting season. The earliest of these seasons generally commences on or about October 1, 1983, and include most of those for waterfowl.

Except as noted, the frameworks are similar to those in effect last hunting season. The Service continues its program of stabilized duck hunting regulations into the 1983–84 hunting season as the fourth year of a 5-year cooperative study with Canada. Special restrictions to reduce the black duck harvest will be initiated this year. Management strategies for canvasbacks will be altered in the 3 eastern flyways.

The Service annually prescribes hunting regulations frameworks to the States. The effects of this final rule are to facilitate the selection of hunting seasons by the States and to further the establishment of the late season migratory bird hunting regulations for the 1983–84 season. State selections will be published in the **Federal Register** as amendments to § 20.104 through 20.107 and § 20.109 of Title 50 CFR Part 20.

EFFECTIVE DATE: This rule takes effect on September 9, 1983. Tentative State selections of seasons and other options based on the proposed frameworks are due by September 9, 1983.

ADDRESSES: Send State season selections to: Director (FWS/MBMO), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments received on the proposed late season frameworks are available for public inspection during normal business hours in Room 536, Matomic Building, 1717 H Street, NW., Washington, D.C. Copies of the environmental assessments on black ducks and canvasbacks are available from the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: John P. Rogers, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240 (202) 254–3207.

SUPPLEMENTARY INFORMATION: The Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755; 16 U.S.C. 703 et seq.), as amended, authorizes and directs the Secretary of the Interior, having due regard for the zones of temperature and for the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory game birds, to determine when, to what extent, and by what means such birds or any part, nest, or egg thereof may be taken, hunted, captured, killed, possessed, sold, purchased, shipped, carried, exported, or transported.

On April 5, 1983, the U.S. Fish and Wildlife Service (hereinafter the Service) published for public comment in the **Federal Register** (48 FR 14700) proposals to amend 50 CFR Part 20, with comment periods ending June 22, July 15, and August 19 (later extended to August 24), 1983, respectively, for the 1983–84 Alaska, Puerto Rico, and Virgin Islands hunting seasons; other early hunting seasons; and the late hunting seasons frameworks. That document dealt with the establishment of hunting seasons, shooting hours, areas, and limits for migratory game birds under §§ 20.101 through 20.107 and 20.109 of Subpart K. A supplemental proposed rulemaking for both the early and late season frameworks appeared in the **Federal Register** dated June 17, 1983 (48 FR 27799).

On July 7, 1983, the Service published for public comment in the **Federal Register** (48 FR 31266) a third document consisting of a proposed rulemaking dealing specifically with frameworks for early season migratory bird hunting regulations. On July 22, 1983, the Service published in the **Federal Register** (48 FR 33488) a fourth document containing final frameworks for Alaska, Puerto Rico, and the Virgin Islands, and on August 3, 1983 (48 FR 35100), a fifth document containing final frameworks for other early seasons for migratory bird hunting regulations from which State wildlife conservation agency officials selected early season hunting dates, hours, areas, and limits for the 1983–84 season. A sixth document (48 FR 35152) also dated August 3, 1983, supplements **Federal Register** documents 48 FR 14700 and 48 FR 27799 as these concern black ducks. On August 15, 1983, the Service published in the **Federal Register** (48 FR 36853), a seventh document containing proposed frameworks for late season migratory bird hunting regulations. On August 26, 1983, the Service published in the **Federal Register** (48 FR 39023) an eighth document consisting of a final rule amending Subpart K of Title 50 CFR Part 20 to set hunting seasons, hours, areas, and limits for mourning doves, white-winged doves, band-tailed pigeons, rails, woodcock, snipe, and gallinules; September teal seasons; sea ducks in certain defined areas of the Atlantic Flyway; ducks in September in Florida, Iowa, Kentucky, and Tennessee; sandhill cranes in the Central Flyway and Arizona; sandhill cranes and Canada geese in southwestern Wyoming; migratory game birds in Alaska, Hawaii, Puerto Rico, and the Virgin Islands; and special falconry seasons. This document is the ninth in the series and establishes final frameworks for late season migratory bird hunting regulations for the 1983–84 season.

These final regulations contain no information collections subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980.

Review of Public Comments and the Service's Response—Written Comments Received

In the **Federal Register** dated June 17, 1983 (at 48 FR 27799), the Service responded to comments received up to that time on proposed late season frameworks. Eight statements made at the public hearing on proposed late hunting season frameworks and 18 additional written comments were summarized and responded to in the **Federal Register** dated August 15, 1983 (at 48 FR 36853). Since then 33 written comments have been received. In several cases, more than one comment was received from the same respondent and in some others views were offered on more than one regulatory subject. The new comments originated from 17 states, 5 national conservation organizations, 1 regional organization and a number of individuals. They are summarized and responded to as follows according to the regulatory topics identified in the **Federal Register** dated April 5, 1983 (48 FR 14700).

Framework dates for ducks and geese in the continental United States. Seven comments were received regarding frameworks for ducks and geese. Delaware and Washington endorsed the proposed late season regulations. Washington reaffirmed support for stabilized season frameworks but opposed extending framework dates. The Wildlife Legislative Fund of America supported the season lengths, bag limits and shooting hours proposed and offered other comments treated in following sections. Missouri

recommended the daily bag limit of Canada geese in the Swan Lake Zone remain at one through November 13. South Carolina announced a closed season on mottled ducks Statewide. Defenders of Wildlife questioned what they view as liberal regulations and cautioned that Anderson and Burnham's compensatory mortality conclusions are tenuous and should not be applied to justify liberal regulations frameworks. One Michigan hunter recommended establishment of a special "black and white" duck season in the State.

Response. The support of Delaware, Washington and the Wildlife Legislative Fund of America for the proposed frameworks is acknowledged as is Washington's support for present framework dates. The Service has incorporated in this document Missouri's recommendation concerning Canada goose season dates in the Swan Lake Zone. Also included is South Carolina's closure of the mottled duck season.

In response to comments by Defenders of Wildlife, the Service does not rely solely on compensatory mortality theories when establishing regulation frameworks. Annual breeding population and harvest surveys, which provide direct means to monitor the status of many waterfowl species, are also considered. The Service believes such surveys in conjunction with banding and other studies provide sufficient information to develop informed management decisions, and do not indicate that current frameworks are too liberal.

The proposal for a "black and white" duck season in Michigan was considered but not endorsed by the Mississippi Flyway Council. The Service believes additional information and justification is needed before such a season proposal can be evaluated.

Black ducks. Ten comments pertaining to the proposed regulations on black duck hunting received. Of these, six indicated support for the proposed regulations with or without some modification; one comment with 139 individually signed form letters attached opposed the regulations for upstate New York as being too restrictive; and three comments indicated that, in general, the regulations were not restrictive enough and recommended that no hunting of black ducks should be permitted. Following are the comments and Service responses.

The Delaware Division of Fish and Wildlife endorsed the proposed black duck harvest restrictions for Delaware published in the **Federal Register** on August 3, 1983 (48 FR 35132).

The New York Department of Environmental Conservation (NYDEC) by telephone expressed support for the proposed black duck regulations but noted an error in the proposed regulation for the Southeastern Zone of New York. In the August 15, 1983 **Federal Register** (48 FR 27860), it was stated that hunting of black ducks would be prohibited throughout the second part of a split season in the Southeastern Zone of New York. NYDEC pointed out that the prohibition should apply to the last 25 days of the second part of a split season in the Southeastern Zone.

Response. The Service concurs that the proposal in the August 15, 1983 **Federal Register**, is misstated and that the correct wording is as indicated by NYDEC. The wording is corrected in this final rule. The restriction in the Southeastern Zone of New York will continue to have the effect of prohibiting black duck hunting during 25 of the 50 days of duck hunting permitted in this Zone as was originally intended.

The Connecticut Department of Environmental Protection (CDEP) requested an amendment to the proposed black duck regulations for Connecticut for 1983. In the August 15, 1983 **Federal Register** (48 FR 36360), it was proposed that one black duck per day be permitted in the North (Inland) Zone of Connecticut throughout both portions of a split season. The amendment provides that black duck hunting will be prohibited during the first part of a split season in the North (Inland) Zone and one black duck will be permitted per day during the second part of a split season in that zone. This change makes the black duck regulation of the North (Inland) Zone similar to that for the South (Coastal) Zone of Connecticut.

Response. The amendment is adopted in this final rule. The change will further reduce the harvest of black ducks in Connecticut and is consistent with Service and Atlantic Flyway Council objectives in this regard.

Mr. Frederick G. Faerber III and 139 other correspondents objected to the black duck hunting restriction proposed for the Southeastern Zone of New York on the ground that it was too severe. They requested that one black duck per day be permitted throughout the entire duck hunting season and that a prohibition on black duck hunting during the second part of a split season as proposed in the August 15, 1983 **Federal Register** (48 FR 36860), be eliminated. They stated that a prohibition closure would increase the risk of unintentional violations of the regulations because hunters will mistake black ducks for mallards.

Response. The restriction on black duck hunting in the Southeastern Zone of New York is discussed above in response to comments from the New York Department of Environmental Conservation. It was noted that a misstatement in the proposal described in the August 15, 1983 **Federal Register** (48 FR 27860) is corrected in this final rule. This has the effect of permitting one black duck per day during a portion of the second part of a split season in the Southeastern Zone of New York. It does not, however, permit one black duck per day throughout the entire season in the Southeastern Zone as requested by these correspondents. The purpose of restrictions of black duck hunting is to reduce the rate of harvest of black ducks to a level lower than that of previous years. The Service and the Atlantic Flyway Council are seeking ways to halt a downward trend in numbers of black ducks evident during the past 25 years and these restrictions are an important part of that effort. A combination of reduction in bag limit and in number of days of black duck hunting has been determined by the Service and the State to be an appropriate and effective way to reduce harvest in New York. It is recognized that hunters may encounter some difficulties in distinguishing black ducks from mallards in the field under some circumstances. To help hunters with this problem, the Service and the State cooperatively are providing identification aids that illustrate the differences between black ducks and mallards. It is important that hunters assume a share of responsibility in this effort by taking advantage of these aids to learn to distinguish black ducks from other species, and refrain from shooting when in doubt.

South Carolina Wildlife and Marine Resources Department recommended that in addition to restrictions described in the August 14, 1983 **Federal Register** (48 FR 36860), there be no open season on black ducks in Georgetown, Charleston, Colleton, and Beaufort Counties.

Response. This proposed change in the regulation for South Carolina is included in the black duck regulations listed below. This change should reduce the number of black ducks harvested in South Carolina and is consistent with objectives of the Service and the Atlantic Flyway Council in this regard.

The Wildlife Legislative Fund of America (WLFA) commented in support of the Service proposal to reduce black duck harvest by 25 percent in the Atlantic Flyway but questioned the idea that hunting is the cause of the decline

of the black duck and that hunting restrictions will lead to an increase. They pointed out that the combined population of mallards and black ducks within the Atlantic Flyway does not reflect a decrease in numbers of ducks. They support hunting restrictions on black ducks primarily as an information gathering device that may help in determining the precise cause of the black duck problem and thus benefit the species. In further comments they question the classification of the black duck as a species, and suggest that it might more properly be considered a subspecies of the mallard. They suggest that hybridization between mallards and black ducks may be a natural process and in this case hunting regulations to combat it would be difficult to justify.

Response. the Service concurs that the cause or causes of the decline in black duck numbers is not clear. The views expressed by WLFA are consistent in general terms with the course of action being followed by the Service. Hybridization of black ducks and mallards is a complex subject and is being further investigated in the United States and Canada.

Mr. M. W. Coulter of East Holden, Maine requested that the Service propose an experimental closure on black duck hunting because of a continuing, alarming decline of black ducks in the Atlantic Flyway.

Response. A complete ban on the hunting of black ducks is one of the alternatives considered in the Environmental Assessment, *Proposed Hunting Regulations on Black Ducks, 1983.* As pointed out in that assessment, a complete ban on the hunting of black ducks would be more effective than other alternatives in improving the status of black ducks if hunting was the principal limiting factor. However, the relationship between hunting and the status of the black duck population in the Atlantic Flyway is not clear. The Service believes that the restrictions proposed in the **Federal Register** on June 17, 1983 (48 FR 27799) and August 15, 1983 (48 FR 36853 represent a reasonable and appropriate first step toward determining the relationship, if any, between black duck harvests and populations and will, at the same time, reduce harvest pressure on black ducks. Hunting provides a major source of information in evaluating the relationship between harvests and populations. This source of information would be lost under a complete closure. The Service has stated previously (47 FR 41253) and continues to believe that the current status of the black duck population does not require such drastic management action as a complete closure of black duck hunting in the Atlantic Flyway. This question is further discussed below in response to comments from Maine.

The Maine Department of Inland Fisheries and Wildlife stated that individual State restrictions on black duck hunting do not constitute a sufficient effort to attempt to reverse the population decline of this species, and recommended a complete closure on black duck hunting throughout the Atlantic Flyway.

Response. This question is discussed above under the response to comments by M. W. Coulter. It is recognized that Maine has different views on this matter than other States in the Atlantic Flyway, and that these views are influenced by special consideration for the black duck situation in Maine. As compared to other States in the Flyway, Maine is an important production area for black ducks as well as an important migration and wintering area. A large proportion of the black ducks produced in Maine are also harvested there. A sharp decline in the black duck breeding population in recent years, observed by waterfowl biologists in Maine, has led to concern about the status of the species in that State. The restrictions on harvest of black ducks proposed in the **Federal Register** on June 17, 1983 (48 FR 27799) and August 15, 1983 (48 FR 36853) for the Atlantic Flyway were developed in cooperation with the States of that Flyway and, after thorough review and discussion at meetings in March and July, 1983, were supported by the Atlantic Flyway Council. Even though Maine spoke in favor of a closed season at these meetings, the Council determined that this was not necessary or appropriate for the entire Flyway. The Service, also, is of the view that the particular situation in Maine does not extend to most of the remainder of the Flyway.

The Humane Society of the United States (HSUS), through its legal counsel, submitted a 15 page statement of views on the proposed 1983–84 black duck hunting regulations. In this statement HSUS asserts that (1) the "Service has reneged on its commitment to the federal courts and to the public", interpreting this commitment to be "a program of attempting to restore the black duck population by reducing hunting pressure, particularly that on immatures"; (2) the Service has provided "no analysis of the appropriate amount of kill reduction" referring here to "what reduction would fulfill its [the Service] duty to achieve prompt and demonstrable restoration of the species"; and (3) "the means chosen to reduce kill are inadequate to the task", referring here to alleged inadequacies of the proposed bag limit and season length reductions to achieve a 25% reduction in harvest in the Atlantic Flyway.

Response. The HSUS assertions are in response to statements and views expressed by the Service in the **Federal Register** of August 15, 1983 (48 FR 36856) and earlier rulemakings. The Service has responded in the **Federal Register** of August 15, 1983 (48 FR 36856), June 17, 1983 (48 FR 27802), and earlier to many of the points of concern identified by HSUS. Also, many of the same points relating to the biology and management of the black ducks were the subject of detailed testimony by the Service before the U.S. District Court for the District of Columbia in October, 1982 to which HSUS has not responded. The court hearings were in connection with a lawsuit filed by HSUS against the Department of the Interior and the Fish and Wildlife Service challenging the regulations for hunting black ducks in the 1982–83 hunting season specifically, and the Service approach to regulating the harvest of black ducks generally. The District Court subsequently ruled in favor of the government and the U.S. Court of Appeals upheld the ruling.

Although the Service has responded previously in court hearings and in the **Federal Register** to HSUS points of concern, the main points in the most recent HSUS statement (described above) are addressed here in the interest of providing the public with additional information concerning views about black duck management actions that are contrary to those of the Service, and the Service response to those views, which follow.

The Service commitment in regard to black ducks is to undertake a program of harvest restrictions beginning in the 1983–84 hunting season, and to develop that program in cooperation with State, Provincial and Federal wildlife agencies in the United States and Canada (47 FR 41254; 48 FR 14707). The Service has not backed away from this commitment; on the contrary it has proceeded exactly along lines that were described and discussed in the **Federal Register** on April 5, 1983 (48 FR 14707), June 17, 1983, (48 FR 27801), August 3, 1983 (48 FR 35152), and August 15, 1983 (48 FR 36855). Statements in these documents clearly describe the general approach to harvest restrictions that the Service intended to take, the harvest restrictions proposed by the Service for the 1983–84 hunting season, and their development

in cooperation with the agencies mentioned above.

The immediate objective of the harvest restrictions is to seek to halt the downward trend in black duck numbers. This is in accordance with a black duck management plan cooperatively developed by Canadian and U.S. waterfowl biologists representing Provincial, State and Federal wildlife agencies. In seeking to move toward this objective the Service has determined that the restrictions should be aimed, first, at obtaining a reduction in harvest rates and, second, determining whether such reduction is associated with any change in population status of the black duck.

It is recognized that the above approach differs from objectives for black ducks previously stated by the Service in 1980 and earlier. However, based on its most recent observation and investigations and its understanding of the complexities of the black duck situation the Service is of the view that this is the most realistic approach to take at this time.

A related point of concern of HSUS is how great the black duck harvest restrictions should be. Underlying this is a continuing insistence by HSUS that the hunting of black ducks must be completely prohibited by the Service, regardless of any cooperative effort with other responsible agencies, and anything less than a complete prohibition is unacceptable (e.g. a 25% reduction in the Atlantic Flyway harvest). The Service has previously stated its belief that a complete closure of black duck hunting in the Atlantic Flyway is not necessary, and has discussed its reasons for believing that the restrictions proposed for the 1983–84 hunting season are reasonable and appropriate (e.g. 48 FR 36856).

The objective of a management program for the black duck is, as stated previously, to seek to halt a downward trend in numbers of black ducks. In the September **Federal Register** notice the Service referred to the Black Duck Management Plan developed by the Atlantic Flyway Council with participation by the Service, the Canadian Wildlife Service, and State and Provincial Wildlife Agencies, stating that the several regulatory options identified in that plan should be evaluated to determine which are the most appropriate for the Atlantic Flyway (eastern United States). The Management Plan identifies as the primary short term goal the need to stop the downward trend of the black duck population. This information was entered in the record at court hearings before the U.S. District Court in October 1982 and is noted in the Court's Memorandum Opinion in which it found in favor of the government on November 29, 1982. The reduction in harvest rates discussed by the Service (48 FR 36856), which HSUS views as a change in the objective, is considered to be an appropriate and reasonable first step in this direction. It is an essential step in an effort to more clearly define the relationship, if any, between black duck harvests and population levels, and the degree to which the population will respond to harvest restrictions.

The Service has previously responded (48 FR 36856) to HSUS statements that restrictions on bag limits and season length "are inadequate to the task" [of reducing kill]. The Service is of the view that their is no reason to doubt the effectiveness of these measures in reducing harvest. They are standard measures that have been employed for many years in waterfowl management and are widely recognized to be effective.

HSUS states that its analysis of the restrictions proposed for certain States in the Atlantic Flyway shows, contrary to Service estimates, that the restrictions will not achieve a 25% reduction in harvest in these States. The HSUS analysis is based on assumptions about the effectiveness of bag limit and season restrictions that are considerably different than those used by the Service. The Service believes that its assumptions are reasonable. However, it cannot be guaranteed that a 25% reduction in harvest will occur, or will occur in each individual State. These matters cannot be predicted with certainty because there are other factors that may intervene to effect the level of harvest in any one particular year. Nevertheless, the Service believes that under normal circumstances with production, migration, distribution, and fall flight characteristics similar to those of recent years the specific restrictions proposed will be effective in achieving the harvest reductions estimated for the Atlantic Flyway.

In regard to immature black ducks the proposed restrictions do not neglect them, as HSUS believes. In a normal production year immatures are a major component of the black duck population in the United States throughout the fall hunting period not just in early fall. While delayed season openings on black ducks in northern areas may reasonably be expected to provide protection to immatures, and several northern States will utilize such delays, this measure is not the only way to relieve hunting pressure on immatures as HSUS suggests. The Service believes the proposed restrictions for the various States will protect immatures as well as adults even though not all will include delayed openings.

HSUS states that recent indirect population estimates made by the Service "dramatically" change the black duck population picture from what the Service previously contended it was by providing evidence that the population has declined in recent years. The recent indirect estimates are for the period 1977–80—a period for which indirect estimates only recently became available. The indirect estimates made by the Service for the periods, 1967–70, 1971–76, and 1977–80 indicate fall black duck populations of 4.4 million, 4.8 million, and 3.9 million respectively. The Service has used these estimates to obtain indications of the approximate size of the black duck population. They provide evidence that the black duck is not in a crisis situation that would require an immediate closure to hunting. Indirect population estimates have not been used as primary sources of information on population trends. For population trends the Service has used the winter population survey, which shows a decline in the population over the past 25 years. The Service has utilized information from both winter survey data and indirect population estimates as well as other information in developing harvest restrictions for the 1983–84 hunting season.

The Maryland Wildlife Administration on August 24, 1983, notified the Service that the dates to be selected for the Maryland duck hunting season would differ from those used in planning the proposed black duck hunting regulations for Maryland (48 FR 36860) because the State will establish inland and coastal zones for harvest management. Maryland recommended the following changes:

Inland Zone. The season on black ducks will be closed during the first part of a split season. It is understood that this closure will incorporate no less than 3 hunting days. During the remainder of the duck hunting season, the black duck will have a point value of 100.

Coastal Zone. The season on black ducks will be closed during the first 6 days of the duck hunting season. During the remainder of the duck hunting season the black duck will have a point value of 100.

The Service has evaluated this change and finds it to be consistent with the guidelines for harvest restrictions established by the Service and the Atlantic Flyway Council. These black duck hunting regulations for Maryland are included in this final rule.

Canvasback and redhead ducks. Two States commented on the proposed canvasback regulations: Alabama agreed with the management concepts expressed for canvasbacks, and Virginia requested an adjustment of the area wherein canvasbacks may be taken during the proposed experimental late season. In other comments the Wildlife Legislative Fund of America urged that proposals offered for canvasbacks be implemented, and Mr. M. F. Tattenbaum of New York requested the upper Niagara River be opened to hunting of canvasback and suggested the limit be 1 or 2.

Response. The support of Alabama and the Wildlife Legislative Fund concerning proposals relating to canvasbacks is noted. The Service has reviewed information relating to Virginia's request and has concluded that it would not cause any significant change in the harvest of canvasbacks as compared to the proposal published in the August 15, 1983 **Federal Register**. The area proposed for an experimental canvasback season in Virginia is amended in this final rule.

In regard to the upper Niagara River the Service notes that it is one of the areas in New York that may be opened to the taking of canvasbacks during the proposed experimental late season.

Zoning. Four States and three individuals commented on zoning matters within their boundaries: Pennsylvania requested Service approval of a boundary change for the area where a 90-day Canada goose season is offered; West Virginia requested a minor boundary change in their upland zone for ducks; Maine noted their zoning experiment was completed and asked whether they could alter existing zone boundaries and select the point system instead of convention regulations in relation to earlier zoning studies; The Iowa Conservation Commission and three individuals from Iowa objected to the proposed frameworks because they did not incorporate a provision that would allow the State to implement zones for the regulation of duck hunting in 1983.

Response. The Service concurs in a limited expansion of the 90-day goose season area proposed by Pennsylvania. That change and the boundary adjustment requested by West Virginia are incorporated in this final rule.

The Service notes that Maine has completed their zoning experiment in which the State is divided into two zones. With Council and Service approval the State tested two different zone boundaries. Either of the tested boundaries appear to be acceptable but Council and Service review and concurrence should be obtained prior to a change of existing boundaries. At this time Service is aware of no reason why Maine could not either select point system or conventional regulations options statewide.

The Service has examined the proposal for zoning submitted by Iowa and finds that it meets the criteria established in 42 FR 26671 dated May 25, 1977. The proposal was approved in principle by the Upper Region Regulations Committee of the Mississippi Flyway Council. The Service therefore believes it appropriate for Iowa to initiate a three year experimental zoning study beginning in 1983 and provision for this is incorporated in this final rule.

Goose and brant seasons. Four individuals and one organization commented in support of an extended Canada goose season in southwest Michigan. In addition, South Carolina notified the Service that it intends to close selected counties to the taking of Canada geese.

Response. The Service notes that a proposal to extend the Canada goose season in southwest Michigan to increase the harvest of resident Canada geese was considered by the Mississippi Flyway Council. It is understood that the Council withheld its endorsement pending additional information from Michigan about the impact of an extended season on migrant geese. The Service believes it desirable to provide Michigan and the Council opportunity to evaluate this aspect of the extended season before taking action.

The Service notes South Carolina's intent to close the Canada goose season in certain counties and the closure is incorporated into this final rule.

Nontoxic Shot Regulations

On August 13, 1981, the Service published in the **Federal Register** (46 FR 40879) final rules describing nontoxic shot zones for waterfowl hunting. When eaten by waterfowl, spent lead pellets can have a toxic effect. Nontoxic shot zones reduce availability of lead pellets in selected waterfowl areas.

Amendments to these regulations were published in the **Federal Register** (47 FR 32546; July 28, 1982 and 48 FR 26457; June 8, 1983). These amendments relate to changes in Indiana, Maine, Massachusetts, Nebraska, Michigan, Illinois, Florida, and Texas. Some States have State regulations requiring steel shot for waterfowl hunting in areas not included in the Federal regulations published in the **Federal Register** on August 13, 1981 (46 FR 40879). Zones in other States will remain as they were described on August 13, 1981 (46 FR 40879).

Some national wildlife refuges require use of steel shot on hunting areas within their boundaries, and these rules are published with other regulations regarding public use of the refuges (Title 50 CFR Part 32—Hunting).

Waterfowl hunters are advised to consult State and local regulations regarding the use of nontoxic shot for waterfowl hunting.

NEPA Consideration

The "Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES 75–54)" was filed with the Council of Environmental Quality on June 6, 1975, and notice of availability was published in the **Federal Register** on June 13, 1975 (40 FR 25241). In addition, several environmental assessments have been prepared on specific matters which serve to supplement the material in the Final Environmental Statement. Copies of these documents are available from the Service.

Endangered Species Act Consideration

Section 7 of the Endangered Species Act provides that, "The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act" [and] " * * * by taking such action necessary to insure that any action authorized, funded, or carried out * * * is not likely to jeopardize the continued existence of such endangered or threatened species or result in the destruction or modification of habitat of such species * * * which is determined to be critical." The Service therefore initiated Section 7 consultation under the Endangered Species Act for the proposed hunting season frameworks.

On June 28, 1983, the Chief, Office of Endangered Species, concluded that the proposed actions were not likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of their critical habitats.

As in the past, hunting regulations this year are designed, among other things, to remove or alleviate chances of conflict between seasons for migratory game birds and the protection and conservation of endangered and threatened species.

The Service's biological opinion resulting from its consultation under Section 7 is considered a public document and is available for public inspection in or available from the Office of Endangered Species and the

Office of Migratory Bird Management, Department of the Interior, Washington, D.C.

Regulatory Flexibility Act and Executive Order 12291

In the **Federal Register** dated April 5, 1983 (at 48 FR 14700), the Service reported measures it had undertaken to comply with requirements of the Regulatory Flexibility Act and the Executive Order. These included preparing a Determination of Effects and an updated Final Regulatory Impact Analysis, and publication of a summary of the latter. These regulations have been determined to be major under Executive Order 12291 and they have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act. This determination is detailed in the aforementioned documents which are available upon request from the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

Memorandum of Law

The Service published its Memorandum of Law, required by Section 4 of Executive Order 12291, in the **Federal Register** dated July 22, 1983 (at 48 FR 33488).

Authorship

The primary author of this final rule is Morton M. Smith, Office of Migratory Bird Management, working under the direction of John P. Rogers, Chief.

Regulations Promulgation

The rulemaking process for migratory bird hunting must, by its nature, operate under severe time constraints. However, the Service is of the view that every attempt should be made to give the public the greatest possible opportunity to comment on the regulations. Thus, when the proposed late hunting season rulemakings were published on April 5, June 17, and August 15, the Service established what it believed were the longest periods possible for public comment. In doing this, the Service recognized that at the close of each period time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, the Service is of the opinion that the States would have insufficient time to select season dates, shooting hours, and limits; to communicate those selections to the Service; and to establish and publicize the necessary regulations and procedures that implement their decisions.

Therefore, the Service under authority of the Migratory Bird Treaty Act of July 3, 1918, as amended, (40 Stat. 755; 16 U.S.C. 701–711), prescribes final frameworks setting forth the species to be hunted, the daily bag and possession limits, the shooting hours, the season lengths, the earliest opening and latest closing season dates, and hunting areas, from which State conservation agency officials may select hunting season dates and other options. Upon receipt of season and option selections from State officials, the Service will publish in the **Federal Register** final rulemaking amending 50 CFR Part 20 (§§ 20.104 through 20.107 and § 20.109) to reflect seasons, limits, and shooting hours for the contiguous United States for the 1983–84 season.

The Service therefore finds that "good cause" exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and these frameworks will, therefore, take effect immediately upon publication.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Transportation, Wildlife.

Dated: September 1, 1983.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

BILLING CODE 4310-55-M

Final Regulations Frameworks for 1983-84 Late Hunting Seasons on Certain Migratory Game Birds

Pursuant to the Migratory Bird Treaty Act, the Secretary of the Interior has approved final frameworks for season lengths, shooting hours, bag and possession limits, and outside dates within which States may select seasons for hunting waterfowl, coots, and gallinules; sandhill cranes in Arizona; and common snipe in the Pacific Flyway. Frameworks are summarized below. States may be more restrictive in selecting season regulations, but may not exceed the framework provisions.

GENERAL

Split Season: States in all Flyways may split their season for ducks, geese, or brant into two segments. States in the Atlantic and Central Flyways may, in lieu of zoning, split their season for ducks or geese into three segments. Exceptions are noted in appropriate sections.

Shooting Hours: From one-half hour before sunrise to sunset daily, for all species and seasons, including falconry seasons.

Extra Blue-winged Teal: States in the Mississippi and Central Flyways selecting neither a teal or early duck season in September nor the point system may select an extra daily bag and possession limit of 2 and 4 blue-winged teal, respectively, for 9 consecutive days designated during the regular duck season. These extra limits are in addition to the regular duck bag and possession limits.

Extra teal: States in the Atlantic Flyway (except Florida) not selecting the point system may select an extra teal limit of no more than 2 blue-winged teal or 2 green-winged teal or 1 of each daily and no more than 4 singly or in the aggregate in possession for 9 consecutive days during the regular duck season.

Special Scaup-only Season: States in the Atlantic, Mississippi, and Central Flyways may select a special scaup-only hunting season not to exceed 16 consecutive days, with daily bag and possession limits of 5 and 10 scaup, respectively, subject to the following conditions:

1. The season must fall between October 1, 1983, and January 31, 1984, all dates inclusive.

2. The season must fall outside the open season for any other ducks except sea ducks.

3. The season must be limited to areas mutually agreed upon by the State and the Service prior to September 2, 1983.

4. These areas must be described and delineated in State hunting regulations.

OR

Extra Scaup: As an alternative, States in the Atlantic, Mississippi, and Central Flyways, except those selecting the point system, may select an extra daily bag and possession limit of 2 and 4 scaup, respectively, during the regular duck hunting season, subject to conditions 3 and 4 listed above. These extra limits are in addition to the regular duck limits and apply during the entire regular duck season.

Point System: Selection of the point system for any State entirely within a flyway must be on a statewide basis, except if New York selects the point system, conventional regulations may be retained for the Long Island Area. New York may not select the point system within the Upstate zoning option, and New Hampshire, Massachusetts, Connecticut and Pennsylvania may not select the point system pending completion of zoning studies.

Deferred Season Selections: States that did not select rail, woodcock, snipe, sandhill crane, gallinule, and sea duck seasons in July should do so at the time they make their waterfowl selections.

Frameworks for open seasons and season lengths, bag and possession limit options, and other special provisions are listed below by Flyway.

ATLANTIC FLYWAY

The Atlantic Flyway includes Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia and West Virginia.

Ducks, Coots, and Mergansers

Outside Dates: Between October 1, 1983, and January 20, 1984.

Hunting Season: 50 days.

Daily Bag and Possession Limits (including restrictions on black ducks): (a) basic daily bag and possession limits of 4 and 8 ducks, respectively, of which no more than 2 in the daily bag and 4 in possession may be black ducks; or (b) basic daily bag and possession limits of 5 and 10 ducks, respectively, of which no more than 1 in the daily bag and 2 in possession may be black ducks. In addition, the following restrictions of black duck harvest are listed by State.

Connecticut: During the first segment of the split season in both the coastal and inland zones, no black ducks are permitted; during the second segment of the season, 1 black duck is permitted per day and 2 in possession.

Delaware: No hunting of black ducks is permitted on the following dates of the duck hunting season: October 1-3 and October 31-November 5. On other days of the duck hunting season 1 black duck in the daily bag and 2 in possession is permitted.

Maine: North Zone: 1 black duck is permitted per day and 2 in possession. South Zone: during the first segment of a split season, no black ducks are permitted; during the

possession during the November 7 to December 3 portion of the duck season; on all other duck hunting days no black ducks are permitted.

Maine: North Zone: 1 black duck is permitted per day and 2 in possession. South Zone: during the first segment of a split season, no black ducks are permitted; during the second segment, 2 black ducks are permitted per day and 4 in possession.

Maryland: Inland Zone: The season is closed on black ducks during the first segment of a split season (no less than 3 hunting days); during the remainder of the season the black duck will have a point value of 100. Coastal Zone: The season is closed on black ducks during the first 6 days of the duck season; during the remainder of the season the black duck will have a point value of 100.

Massachusetts: Western Zone: 1 black duck is permitted per day and 2 in possession, and the season will open no earlier than October 14. Central Zone: 1 black duck is permitted per day and 2 in possession, and the season opening will coincide with the Coastal Zone opening and the pheasant hunting season. Coastal Zone: The season opening will coincide with the pheasant hunting season. During periods when black ducks may be hunted, 2 black ducks are permitted per day and 4 in possession. No hunting of black ducks is permitted during a 10-day period in the second segment of a split season, and no hunting of black ducks is permitted after January 1 in this zone.

New Hampshire: Inland Zone: 1 black duck is permitted per day and 2 in possession. Coastal Zone: during the first part of a split season no hunting of black ducks is permitted; during the second part of the split season 2 black ducks are permitted per day and 4 in possession.

New Jersey: For black duck restrictions see point system option for Atlantic Flyway.

New York: Long Island Zone: 1 black duck is permitted per day and 2 in possession throughout the season. Western Zone: during the first part of a split season, 1 black duck is permitted per day and 2 in possession; during the second part of the split season no hunting of black ducks is permitted. Northeastern Zone: during the first part of a split season, 1 black duck is permitted per day and 2 in possession; during the second part of the split season no hunting of black ducks is permitted. Southeastern Zone: during the first 25 days of the duck hunting season 1 black duck is permitted per day and 2 in possession and during the last 25 days of the duck hunting season no hunting of black ducks is permitted.

North Carolina: The season for black ducks is closed during that part of the duck season prior to December 17; thereafter 1 black duck per day and 2 in possession is permitted.

Pennsylvania: Lake Erie Zone: 1 black duck is permitted per day and 2 in possession during the October 22 to December 3 portion of the duck season; on all other duck hunting days no black ducks are permitted. Northwest Zone: 1 black duck is permitted in the daily bag and 2 in possession during the October 24 to December 3 portion of the duck season; on all other duck hunting days no black ducks are permitted. North Zone: 1 black duck will be permitted per day and 2 in possession during the October 20 to November 19 portion of the duck season; on all other duck hunting days no black ducks are permitted. South Zone: 1 black duck will be permitted per day and 2 in possession during the November 7 to December 3 portion of the duck season; on all other duck hunting days no black ducks are permitted.

Rhode Island: The daily bag limit of black ducks is 1 and the possession limit is 2.

South Carolina: During the November 23 to November 26 portion of the duck season no black ducks are permitted in the daily bag. On all other duck hunting days the daily bag limit of black ducks is 1 and the possession limit is 2; however, there will be no open season on black ducks in Georgetown, Charleston, Colleton, and Beaufort Counties.

Vermont: No black ducks are permitted in the daily bag during the first 5-7 days of the hunting season; 1 black duck per day and 2 in possession is permitted during the remainder of the duck hunting season.

Virginia: During the period November 23-December 4 (including no less than 10 duck hunting days), no black ducks are permitted in the daily bag.

West Virginia: The daily bag limit of black ducks is 1 and the possession limit is 2.

Canvasbacks and Redheads: Except in closed areas, the limit of canvasbacks is 1 daily and 1 in possession. The limit of redheads throughout the flyway is 2 daily, except that in areas open to canvasback harvest the daily bag limit is 2 redheads, or 1 redhead and 1 canvasback. The possession limit of redheads is twice the daily bag limit under conventional regulations. The possession limit of canvasbacks is equal to the daily bag limit. Under the point system, canvasbacks (except in closed areas) count 100 points each and redheads flywaywide count 70 points each.

Areas closed to canvasback hunting are:

New York - Upper Niagara River between the Peace Bridge at Buffalo, New York, and the Niagara Falls. All waters of Lake Cayuga.

New Jersey - Those portions of Monmouth County and Ocean County lying east of the Garden State Parkway.

Maryland, Virginia and North Carolina - Those portions of each State lying east of U.S. Highway 1.

In addition, areas or portions of areas as specified below, otherwise closed to taking of canvasbacks, may be opened to hunting of canvasbacks during an experimental season. The experimental season must occur during the last 11 days or last 6 days of the regular duck season, the daily bag under conventional regulations may include no more than 4 canvasbacks, not more than 1 of which may be a female. Under the point system male canvasbacks are 25 points and females 100 points. Possession limits are twice daily bag limits. The areas eligible for this experimental season are:

New York - Upper Niagara River between the Peace Bridge at Buffalo, New York, and the Niagara Falls, and all waters of Lake Cayuga.

New Jersey - (1) east of the Garden State Parkway from Route 440, south to Route 35 (Raritan and Sandy Hook Bays, Navesink and Shrewsbury Rivers); (2) east of the Garden State Parkway from Route 88 south to Route 72 (Barnegat, Silver and Manahawkin Bays, Metedeconk and Toms Rivers).

Maryland - Chesapeake Bay and tributaries to first upstream bridge; including Potomac River and its tributaries upstream to U.S. Route 301 bridge.

Virginia - Starting at the Virginia-Maryland line (301 bridge) those lands and waters enclosed in the area bounded by: U.S. Highway 301 south to Route 207 and continuing to the junction of U.S. Route 1, south on Route 1 to Route 460, then southeast on 460 to Route 13, then east and north on Route 13 to the Maryland line, then westward on the Maryland-Virginia line to Route 301.

North Carolina - that portion of Pamlico Sound designated as commercial fishing waters within two miles of the mainland, extending from Long Shoal Point on north side of Long Shoal River to Maw Point on southside of Bay River and upstream in Pamlico River to the Aurora-Belhaven ferry crossing.

The remaining portions of areas in each of the five participating States presently closed to the taking of canvasback will remain closed.

Early Wood Duck Season Option: Virginia, North Carolina, South Carolina, and Georgia may split their regular hunting season so that a hunting season not to exceed 9 consecutive days occurs between October 1 and October 15. During this period under conventional regulations, no special restrictions within the regular daily bag and possession limits established for the flyway shall apply to wood ducks. Under the point system, wood ducks shall be 25 points. For other ducks, daily bag and possession limits shall be the same as established for the flyway under conventional or point system regulations. For those States using conventional regulations, the extra teal option may be selected concurrent with the early wood duck season option. This exception to the daily bag and possession limits of wood ducks shall not apply to that portion of the duck hunting season that occurs after October 15.

Restrictions on Wood Ducks: Under conventional and point system options, the daily bag and possession limits may not include more than 2 and 4 wood ducks, respectively.

Restriction on Mottled Ducks: The season is closed to taking of mottled ducks in South Carolina.

Merganser Limits: The daily bag limit of mergansers is 5, only 1 of which may be a hooded merganser. The possession limit is 10, only 2 of which may be hooded mergansers.

Coot Limits: The daily bag and possession limits of coots are 15 and 30, respectively.

Lake Champlain Area, New York Follows Vermont: The Lake Champlain Area of New York must follow the waterfowl seasons, daily bag and possession limits, and shooting hours selected by Vermont. This area includes that part of New York lying east and north of a boundary running south from the Canadian border along U.S. Highway 9 to New York Route 22 south of Keeseville, along New York Route 22 to South Bay, along and around the shoreline of South Bay to New York Route 22, along New York Route 22 to U.S. Highway 4 at Whitehall, and along U.S. Highway 4 to the Vermont border.

Special Scaup and Goldeneye Season: In lieu of a special scaup season, Vermont may, for the Lake Champlain Area, select a special scaup and goldeneye season not to exceed 16 consecutive days, with a daily bag limit of 3 scaup or 3 goldeneyes or 3 in the aggregate, and a possession limit of 6 scaup or 6 goldeneyes or 6 in the aggregate, subject to the same provisions that apply to the special scaup season elsewhere.

Zoning:

Long Island: New York may, for Long Island, select season dates and daily bag and possession limits which differ from those in the remainder of the State.

Upstate New York: Upstate New York (excluding the Lake Champlain area) may be divided into three zones (West, North, South) for the purpose of setting separate duck, coot and merganser seasons. Option (a) or (b) for seasons and bag limits (see Daily Bag and Possession Limits) is applicable to the zones in the Upstate area within the Flyway framework; only conventional regulations may be selected. Each zone will be permitted the number of days offered under options (a) or (b). In addition, a 2-segment split season may be selected in each zone. The basic daily bag limit on ducks in each zone and the restrictions applicable to options (a) and (b) of the regular season for the Flyway also apply. Teal and scaup bonus options shall be applicable to the Upstate zones, but the 16-day special scaup season will not be allowed.

New York Zone Definitions: The zones are defined as follows:

The West Zone is that portion of Upstate New York lying west of a line commencing at the north shore of the Salmon River and its junction with Lake Ontario and extending easterly along the north shore of the Salmon River to its intersection with Interstate Highway 81, then southerly along Interstate Highway 81 to the Pennsylvania border.

The North and South Zones are bordered on the west by the boundary described above and are separated from each other as follows: starting at the intersection of Interstate Highway 81 and State Route 49 and extending easterly along State Route 49 to its junction with State Route 365 at Rome, then easterly along State Route 365 to its junction with State Route 28 at Trenton, then easterly along State Route 28 to its junction with State Route 29 at Middleville, then easterly along State Route 29 to its intersection with Interstate Highway 87 at Saratoga Springs, then northerly along Interstate Highway 87 to its junction with State Route 9, then northerly along State Route 9 to its junction with State Route 149, then easterly along State Route 149 to its junction with State Route 4 at Fort Ann, then northerly along State Route 4 to its intersection with the New York/Vermont boundary.

Connecticut may be divided into two zones as follows:

a. North Zone - That portion of State north of Interstate 95.

b. South Zone - That portion of State south of Interstate 95.

Maine may be divided into two zones as follows:

Massachusetts

b. South Zone - That portion of State south of Interstate 95.

Maine may be divided into two zones as follows:

a. North Zone - Game Management Zones 1 through 5.

b. South Zone - Game Management Zones 6 through 8.

West Virginia may be divided into two zones as follows:

a. Allegheny Mountain Upland Zone to include the north boundary is the State line adjacent to Pennsylvania and Maryland. The eastern boundary extends south along U.S. Route 220 through Keyser, West Virginia, to the intersection of U.S. Route 50, and follows U.S. Route 50 to the intersection with State Route 93. The boundary follows State Route 93 south to the intersection with State Route 42 and continues south on State Route 42 to Petersburg. At Petersburg, the boundary follows State Route 28 south to Minnehaha Springs, and then follows State Route 39 west to U.S. Route 219 and follows 219 south to the intersection of Interstate 64. The southern boundary follows I-64 west to the intersection with U.S. Route 60, and follows Route 60 west to the intersection of U.S. Route 19. The western boundary follows Route 19 north to the intersection of I-79, and follows I-79 north to the intersection of U.S. Route 48. The northern boundary follows U.S. Route 48 east to the Maryland State line.

b. Remainder of the State - That portion outside the above boundaries.

Maryland, Massachusetts, New Hampshire, New Jersey, and Pennsylvania, may continue zoning experiments now in progress or implement zoning proposals as shown in the sections that follow. Maryland and New Hampshire each may be divided into two zones, Massachusetts and New Jersey may be divided into three zones, and Pennsylvania into four zones all on an experimental basis for the purpose of setting separate duck, coot and merganser seasons. Option (a) or (b) for seasons and bag limits (see Daily Bag and Possession Limits) is applicable to the zones within the Flyway framework. Only conventional regulations may be selected in New Hampshire, Massachusetts, Connecticut, West Virginia, and Pennsylvania. New Jersey and Maryland must select the point system. Each zone will be permitted the full number of days offered under options (a) or (b). In addition, a two-segment split season without penalty may be selected. The basic daily bag limit of ducks in each zone and the restrictions applicable to options (a) and (b) of the regular season for the Flyway also apply. Teal and scaup bonus bird options, and the 16-day special scaup season shall be allowed.

Zone Definitions:

Maryland

Inland Zone - that portion of the State north and west of U.S. Route 1 from its junction with the Maryland-Pennsylvania border south to its junction with I-95 north of Washington, D.C. and east and south along I-95 to the Maryland-Virginia border.

Coastal Zone - that portion of State south and east of the above described highway boundaries.

Massachusetts

Western Zone - That portion of the State west of a line extending from the Vermont line at Interstate 91, south to Route 9, west on Route 9 to Route 10, south on Route 10 to Route 202, south on Route 202 to the Connecticut line.

Central Zone - That portion of the State east of the Western Zone and west of a line extending from the New Hampshire line at Interstate 95 south to Route 1, south on Route 1 to I-93, south on I-93 to Route 3, south on Route 3 to Route 6, west on Route 6 to Route 28, west on Route 28 to I-195, west on I-195 to the Rhode Island line. EXCEPT the waters, and the lands 150 yards along the high water mark, of the Assonit River to the Route 24 bridge, and the Taunton River to the Center St.-Elm St. bridge shall be in the coastal zone.

Coastal Zone - That portion of the State east and south of the Central Zone.

New Hampshire

Coastal Zone — That portion of the State east of a boundary formed by State Highway 4 beginning at the Maine-New Hampshire line in Rollinsford west to the city of Dover, south to the intersection of State Highway 108, south along State Highway 108 through Madbury, Durham, and Newmarket to the junction of State Highway 85 in Newfields, south to State Highway 101 in Exeter, east to State Highway 51 (Exeter-Hampton Expressway), east to Interstate 95 (New Hampshire Turnpike) in Hampton, and south along Interstate 95 to the Massachusetts line.

Inland Zone — That portion of the State north and west of the above boundary.

New Jersey

Coastal Zone — That portion of New Jersey seaward of a continuous line beginning at the New York State boundary line in Raritan Bay; then west along the New York boundary line to its intersection with Route 440 at Perth Amboy; then west on Route 440 to its intersection with the Garden State Parkway; then south on the Garden State Parkway to the shoreline at Cape May City and continuing to the Delaware boundary in Delaware Bay.

North Zone - That portion of New Jersey west of the Coastal Zone and north of a boundary formed by Route 70 beginning at the Garden State Parkway west to the New Jersey Turnpike, north on the turnpike to Route 206, north on Route 206 to Route 1, Trenton, west on Route 1 to the Pennsylvania State boundary in the Delaware River.

South Zone - That portion of New Jersey not within the North Zone or the Coastal Zone.

Pennsylvania

Lake Erie Zone - The Lake Erie waters of Pennsylvania and a shoreline margin along Lake Erie from New York on the east to Ohio on the west extending 150 yards inland, but including all of Presque Isle Peninsula.

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North Zone - That portion of the State north of I-80 from the New Jersey State line west to the junction of State Route 147, then north on State Route 147 to the junction of Route 220, then west and/or south on Route 220 to the junction of I-80, then west on I-80 to its junction with the Allegheny River, and then north along but not including the Allegheny River to the New York border.

Northwest Zone - That portion of the State bounded on the north by the Lake Erie Zone and the New York line, on the east by and including the Allegheny River, on the south by Interstate Highway I-80, and on the west by the Ohio line.

South Zone - The remaining portion of the State.

Point System Option for all States in the Atlantic Flyway: As an alternative to conventional bag limits for ducks, a 50-day season with a point-system bag limit may be selected by States in the Atlantic Flyway during the framework dates prescribed. Point values for species and sexes taken are as follows: in Florida only, the fulvous tree duck counts 100 points each; in all States the canvasback counts 100 points each (except in closed areas or during the special experimental season); the female mallard, black duck (except as noted below), mottled duck (except South Carolina), wood duck (except in Virginia, North Carolina, South Carolina, and Georgia during the early wood duck season option), redhead, and hooded merganser count 70 points each; the blue-winged teal, green-winged teal, pintail, gadwall, wigeon, shoveler, scaup, sea ducks, and mergansers (except hooded) count 10 points each; the male mallard, the wood duck during the early wood duck season option in Virginia, North Carolina, South Carolina, and Georgia, and all other species of ducks count 25 points each. The daily bag limit is reached when the point value of the last bird taken, added to the sum of the point values of the other birds already taken during that day, reaches or exceeds 100 points. The possession limit is the maximum number of birds which legally could have been taken in 2 days.

Special point system restrictions will be in effect for taking black ducks in Maryland and New Jersey. Black ducks will have a point value of 100 in the Southern and Coastal Zones of New Jersey. In Maryland, during the period when black ducks are permitted in the daily bag, the black duck will have a point value of 100.

Sea Ducks: In any State in the Atlantic Flyway selecting both point-system regulations and a special sea duck season, sea ducks count 10 points each during the point-system season, but during any part of the sea duck season falling outside the point-system season, sea duck daily bag and possession limits of 7 and 14, respectively, apply.

Coot Limits: The daily bag and possession limits of coots are 15 and 30, respectively.

Canada Geese

Outside Dates, Season Lengths, and Limits: Between October 1, 1983, and January 20, 1984, Maine, New Hampshire, Vermont, Massachusetts, Pennsylvania, West Virginia, Maryland, and Virginia (excluding those portions of the cities of Virginia Beach and Chesapeake lying east of Interstate 64 and U.S. Highway 17) may select 70-day seasons for Canada geese; the daily bag and possession limits are 3 and 6 geese, respectively. In New York (including Long Island), Rhode Island, Connecticut, New Jersey, Delaware, the

Delmarva Peninsula portions of Maryland and Virginia, and that portion of Pennsylvania lying east and south of a boundary beginning at Interstate Highway 83 at the Maryland border and extending north to Harrisburg, then east on I-81 to Route 443, east on 443 to Leighton, then east via 309 to Stroudsburg, then east on I-80 to the New Jersey line, the Canada goose season length may be 90 days with the closing framework date extended to January 31, 1984. In addition, that portion of the Susquehanna River from Harrisburg north to the confluence of the west and north branches at Northumberland, including a 25-yard zone of land adjacent to the waters of the river, is included in the 90-day zone. The daily bag limit within this area (except New York, Rhode Island, and Connecticut) will be 4 birds with a possession limit of 8 birds. The daily bag and possession limits in New York, Rhode Island, and Connecticut will be 3 and 6, respectively. Those portions of the cities of Virginia Beach and Chesapeake lying east of Interstate 64 and U.S. Highway 17 in Virginia may select a 50-day season for Canada geese within the October 1, 1983, to January 20, 1984, framework; the daily bag and possession limits are 2 and 4 Canada geese, respectively. North Carolina and South Carolina may select a 43-day season for Canada geese within a December 20, 1983, to January 31, 1984, framework; the daily bag and possession limits are 1 and 2 Canada geese, respectively. In South Carolina the season on Canada geese is closed in the counties of Abbeville, Allendale, Anderson, Bamberg, Barnwell, Beaufort, Cherokee, Chester, Colleton, Edgefield, Fairfield, Greenwood, Hampton, Kershaw, Lancaster, Laurens, Lee, McCormick, Newberry, Oconee, Pickens, Richland, Saluda, Spartenburg, Sumter, Union and York.

Closures on Canada Geese: The season for Canada geese is closed in Florida and Georgia.

Snow Geese

Outside Dates, Season Lengths, and Limits: Between October 1, 1983, and January 31, 1984, States in the Atlantic Flyway may select a 90-day season for snow geese (including blue geese); the daily bag and possession limits are 4 and 8 geese, respectively.

Atlantic Brant

Outside Dates, Season Lengths, and Limits: Between October 1, 1983, and January 20, 1984, States in the Atlantic Flyway may select a 50-day season for Atlantic brant; the daily bag and possession limits are 2 and 4 brant, respectively.

MISSISSIPPI FLYWAY

The Mississippi Flyway includes Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Ohio, Tennessee and Wisconsin.

Ducks, Coots, and Mergansers

Outside Dates: Between October 1, 1983, and January 20, 1984, in all States, except that the framework opening date is September 17 in Iowa, and the framework closing date is January 31 in Mississippi.

Hunting Season: Not more than 50 days.

Limits: The daily bag limit of ducks is 5, and may include no more than 3 mallards (no more than 2 of which may be females), 1 black duck, and 2 wood ducks (except as noted below). The possession limit is 10, including no more than 6 mallards (no more than 4 of which may be females), 2 black ducks, and 4 wood ducks (except as noted below). Except in closed areas, the limits of canvasbacks and redheads are 1 daily and 2 in possession for each species.

Closed Areas for Canvasback Hunting:

Mississippi River - (1) Entire river, both sides, from Lock and Dam 9 upstream to the confluence of the Chippewa River. (2) Pool 19 bordering Iowa and Illinois.

Michigan - Macomb and St. Clair Counties, including the adjacent Great Lakes waters and interconnecting waterways under the jurisdiction of the State of Michigan.

Wisconsin - In the Mississippi River Zone, all that part of Wisconsin west of the Burlington-Northern Railroad from Lock and Dam 9 north to the center-line of the Chippewa River.

Merganser Limits: The daily bag limit of mergansers is 5, only 1 of which may be a hooded merganser. The possession limit is 10, only 2 of which may be hooded mergansers.

Coot Limits: The daily bag and possession limits of coots are 15 and 30, respectively.

Point System Option: As an alternative to conventional bag limits for ducks, a 50-day season with point-system bag and possession limits may be selected within the framework dates prescribed. Point value for species and sexes taken are as follows: except in closed areas, the canvasback and black duck count 100 points each; the redhead, female mallard, wood duck (except as noted below), and hooded merganser count 70 points each; the pintail, blue-winged teal, cinnamon teal, wigeon, gadwall, shoveler, scaup, green-winged teal, and mergansers (except hooded merganser) count 10 points each; the male mallard and all other species of ducks count 25 points each. The daily bag limit is reached when the point value of the last bird taken, added to the sum of the point value of the other birds already taken during that day, reaches or exceeds 100 points. The possession limit is the maximum number of birds that legally could have been taken in 2 days.

Coot Limits--Point System: Coots have a point value of zero, but the daily bag and possession limits are 15 and 30, respectively, as under the conventional limits.

Early Wood Duck Season Option: Arkansas, Louisiana, Mississippi, and Alabama may split their regular duck hunting seasons in such a way that a hunting season not to exceed 9 consecutive days may occur between October 1 and October 15. During this period, under conventional regulations, no special restrictions within the regular daily bag and possession limits established for the Flyway shall apply to wood ducks, and under the point system, the point value of wood ducks shall be 25 points. For other species of

ducks, daily bag and possession limits shall be the same as established for the Flyway under conventional or point system regulations. In addition, the extra blue-winged teal option available to States in this Flyway that select conventional regulations and do not have a September teal season may be selected during this period. This exception to the daily bag and possession limits for wood ducks shall not apply to that portion of the duck hunting season that occurs after October 15.

Western Louisiana: In that portion of Louisiana west of a boundary beginning at the Arkansas-Louisiana border on Louisiana Highway 3; then south along Louisiana Highway 3 to Bossier City; then east along Interstate 20 to Minden; then south along Louisiana Highway 7 to Ringgold; then east along Louisiana Highway 4 to Jonesboro; then south along U.S. Highway 167 to Lafayette; then southeast along U.S. Highway 90 to Houma; then south along the Houma Navigation Channel to the Gulf of Mexico through Cat Island Pass--the season for ducks, coots and mergansers may extend 5 additional days. If the 5-day extension is selected, and if point-system regulations are selected for the State, point values will be the same as for the rest of the State.

Pymatuning Reservoir Area, Ohio: The waterfowl seasons, limits, and shooting hours in the Pymatuning Reservoir area of Ohio will be the same as those selected by Pennsylvania. The area includes Pymatuning Reservoir and that part of Ohio bounded on the north by County Road 306 known as Woodward Road, on the west by Pymatuning Lake Road, and on the south by U.S. Highway 322.

Zoning: Alabama, Illinois, Indiana, Iowa, Michigan, Missouri, Ohio, Tennessee, and Wisconsin may select hunting seasons for ducks, coots, and mergansers by zones described as follows:

Alabama: South Zone - Mobile and Baldwin Counties. North Zone - The remainder of Alabama. The season in the South Zone may be split.

Illinois: North Zone - That portion of the State north of a line running east from the Iowa border along Illinois Highway 17 to I-74, north along I-74 to I-80, then east along I-80 to the Indiana border. Central Zone - That portion of the State between the North and South Zone boundaries. South Zone - That portion of the State south of a line running east from the Missouri border along Illinois Highway 150 to Illinois Highway 4, north along Illinois Highway 4 to Illinois Highway 15, east along Illinois Highway 15 to I-57, north along I-57 to I-70, then east along I-70 to the Indiana border.

Indiana: North Zone - That portion of Indiana north of State Highway 18. South Zone - The remainder of Indiana. Seasons may be split into two segments in each zone.

Iowa: North Zone - all portions of Iowa north of U.S. Interstate 80. South Zone - all portions south of U.S. Interstate 80.

Michigan: North Zone - That portion of the State north of a line extending east from the mouth of the Manistee River along the south bank to the U.S. 31 bridge, south on old U.S. 31 to East Preuss Road, east on East Preuss Road to Huer Road, north on Huer Road to County 591 in Stronach, east on County 591 to M-55, east on M-55 to M-37, south on M-37 to M-82, east on M-82 to U.S. 131, north on U.S. 131 to M-46, then east on M-46 to Port Sanilac. South Zone - The remainder of Michigan.

Missouri: North Zone - That portion of Missouri north of a line running east from the Kansas border along U.S. Highway 54 to U.S. Highway 65, south along U.S.

Highway 65 to State Highway 32, east along State Highway 32 to State Highway 72, east along State Highway 72 to State Highway 34, then east along State Highway 34 to the Illinois border. South Zone - The remainder of Missouri. Missouri may split its season in each zone into two segments.

Ohio: North Zone - The counties of Darke, Miami, Clark, Champaign, Union, Delaware, Licking, Muskingum, Guernsey, Harrison, and Jefferson and all counties north thereof. In addition, the North Zone also includes that portion of the Buckeye Lake area in Fairfield and Perry Counties bounded on the west by State Highway 37, on the south by State Highway 204, and on the east by State Highway 13. South Zone - The remainder of Ohio. Ohio may split its season in each zone into two segments.

Tennessee: Reelfoot Zone - Lake and Obion Counties, or a designated portion of that area. State Zone - The remainder of Tennessee. Seasons may be split into two segments in each zone.

Wisconsin: North Zone - That portion of the State north of a line extending northerly from the Minnesota border along the center line of the Chippewa River to State Highway 35, east along State Highway 35 to State Highway 25, north along State Highway 25 to U.S. Highway 10, east along U.S. Highway 10 to its junction with the Manitowoc Harbor in the city of Manitowoc, then easterly to the eastern State boundary in Lake Michigan. South Zone - The remainder of Wisconsin. The season in the South Zone may be split into two segments.

Within each State: (1) the same bag limit option must be selected for all zones; and (2) if a special scaup season is selected for a zone, it shall not begin until after the regular season closing date in that zone.

Geese

Definition: For the purpose of hunting regulations listed below, the term "geese" also includes brant.

Outside Dates, Season Lengths, and Limits: Between October 1, 1983, and January 20, 1984, States may select 70-day seasons for geese, with a daily bag limit of 5 geese, to include no more than 2 white-fronted geese. The possession limit is 10 geese, to include no more than 4 white-fronted geese. Regulations for Canada geese and exceptions to the above general provisions are shown below by State.

Outside Dates and Limits on Snow and White-fronted Geese in Louisiana: Between October 1, 1983, and February 14, 1984, Louisiana may select 70-day seasons on snow (including blue) and white-fronted geese by zones established for duck hunting seasons, with daily bag and possession limits as described above.

Minnesota. In the:

(a) Lac Qui Parle Zone (described in State Regulations)—the season for Canada geese closes after 50 days or when 4,500 birds have been harvested, whichever occurs first. The daily bag limit is 1 Canada goose and the possession limit is 2.

(b) Southeastern Zone (described in State regulations)—the season for Canada geese may extend for 70 consecutive days. The daily bag limit is 2 Canada geese and the possession limit is 4.

(c) Remainder of the State—the season for Canada geese will be concurrent with the duck season. The daily bag limit is 1 Canada goose and the possession limit is 2.

Iowa: The season may extend for 70 consecutive days. The daily bag limit is 2 Canada geese and the possession limit is 4.

Missouri. In the:

(a) Swan Lake Zone (described in State regulations)—the season for Canada geese closes after 70 days or when 16,000 birds have been harvested, whichever occurs first. Through November 13, the daily bag limit is 1 Canada goose and the possession limit is 4. After November 13, the daily bag limit is 2 Canada geese and the possession limit is 4.

(b) Southeastern Area (east of U.S. Highway 67 and south of Crystal City)— A 50-day season on Canada geese may be selected between December 1, 1983, and January 20, 1984, with a daily bag limit of 1 Canada goose and a possession limit of 2.

(c) Remainder of the State—the season for Canada geese will be concurrent with the duck season in the respective duck hunting zones. The daily bag limit is 1 Canada goose, and the possession limit is 2.

Wisconsin: In the:

(a) Horicon and Central Zones (Columbia, Dodge, Fond Du Lac, Green Lake, Marquette, and Winnebago Counties, and the northwest portion of Washington County north of State Highway 33 and west of U.S. Highway 45) - the harvest of Canada geese is limited to 15,000 birds. The season may not exceed 40 days, and the seasonal bag limit may not exceed 2 birds.

(b) Mississippi River Zone (that portion of the State west of the Burlington-Northern Railroad in Grant, Crawford, Vernon, LaCrosse, Trempealeau, Buffalo, Pepin, and Pierce Counties)—the season for Canada geese may not exceed 70 days. Through November 25, the daily bag limit is 1 Canada goose and the possession limit is 2. After November 25, the daily bag limit is 2 Canada geese and the possession limit is 4.

(c) Northeast Zone (that portion of the North Hunting Zone which includes the Counties of Vilas, Oneida, Lincoln, Marathon, a portion of Wood County, and all counties or portions of counties eastward). The season for Canada geese may not exceed 20 days. The daily bag limit is 1 Canada goose and the possession limit is 2. In Brown County, a special late season to control local populations of giant Canada geese may be held during December 1-31. The daily bag and possession limits during this special season are 2 and 4 birds, respectively.

(d) Southeast Zone (that portion of the South Hunting Zone which includes part of Wood County, Juneau, Sauk, Dane, and Green Counties and all counties or portions of

counties eastward) - in that portion of the Southeast Zone outside the Horicon and Central tag zones and the Rock Prairie Zone, the season may not open before October 15 and may not exceed 25 days. The daily bag limit is 1 Canada goose and the possession limit is 2.

(e) Rock Prairie Zone (described in State regulations) - the season for Canada geese may extend for 30 days. The daily bag limit is 1 Canada goose and the possession limit is 2.

(f) Remainder of the State - the season for Canada geese may not exceed 50 days. The daily bag limit is 1 Canada goose and the possession limit is 2.

Illinois: Seasons for geese up to 40 days may be selected by zones established for duck hunting seasons, except that in the South Zone the season will close no later than December 31. The harvest of Canada geese in the Southern Illinois Quota Zone (described in State regulations) is limited to 17,500 birds. In the Southern Illinois Quota Zone, the daily bag limit is 2 Canada geese and the possession limit is 4. Elsewhere in Illinois, the daily bag limit is 1 Canada goose and the possession limit is 4.

In the Tri-County Area (all of Knox County; the townships of Buckhart, Canton, Cass, Deerfield, Fairview, Farmington, Joshua, Orion, Putnam, and that portion of Banner Township bounded on the north by Illinois Route 9 and on the east by U.S. 24 in Fulton County; the townships of Alba, Annawan, Atkinson, and Cornwall in Henry County), the season for Canada geese may extend for 20 days or until a quota of 800 birds is reached, whichever occurs first. The daily bag limit is 1 Canada goose and the possession limit is 4.

Michigan. In the:

(a) Counties of Baraga, Dickinson, Delta, Gogebic, Houghton, Iron, Keweenaw, Marquette, Menominee, and Ontonagon—the season for Canada geese may extend for 40 days, with a framework opening date of September 26. The daily bag limit is 2 Canada geese and the possession limit is 4.

(b) Southeastern Canada Goose Management Area (described in State regulations)—the season for Canada geese may not exceed 107 days between October 1, 1983, and February 15, 1984. During that portion of the season which coincides with the duck hunting season in the South Zone, the daily bag limit is 2 Canada geese and the possession limit is 4. During that portion of the season which occurs after the close of the duck season in the South Zone, the daily bag limit is 3 Canada geese and the possession limit is 6.

(c) Remainder of the State—the daily bag limit is 2 Canada geese and the possession limit is 4.

Ohio: The daily bag limit is 2 Canada geese and the possession limit is 4, except that in the counties of Ashtabula, Trumbull, Marion, Wyandot, Lucas, Ottawa, Erie, Sandusky, Mercer, and Auglaize, the daily bag limit is 1 Canada goose and the possession limit is 3.

Indiana: The season for Canada geese may extend for 70 days, except in Posey County where the season may not exceed 40 days. The daily bag limit is 2 Canada geese and the possession limit is 4. The goose season may be set by zones established for duck hunting.

Kentucky: The season for Canada geese may extend for 70 days, except in the area west of the following boundary where the season may not exceed 40 days: Starting at the Kentucky-Tennessee border at Fulton, Kentucky, extending northerly along the Purchase Parkway to I-24, east on I-24 to U.S. 641; northerly on U.S. 641 to U.S. 60; northeasterly on U.S. 60 to U.S. 41; and then northerly on U.S. 41 to the Kentucky-Indiana border.

In the Ballard County Zone (described in State regulations), the season for geese may extend through January 31, 1984. If the selected season closes January 20 or earlier, the season length may be up to 40 days; however, if the selected season ends after January 20, the season for all geese will close after 40 days or when 6,000 Canada geese have been harvested, whichever occurs first.

The daily bag limit Statewide is 2 Canada geese and the possession limit is 4.

Tennessee: The season for Canada geese may extend for 70 days, except in Lake, Obion, Weakley, and Carroll Counties, and those portions of Gibson and Dyer Counties north of State Highways 20 and 104 and east of U.S. Highway 45W, where the season may not exceed 40 days. The daily bag limit is 1 Canada goose and the possession limit is 2, except in that portion of the State west of State Highway 13 where the daily bag limit is 2 Canada geese and the possession limit is 4. In that portion of Tennessee bounded on the north by State Highways 20 and 104, and on the east by U.S. Highways 45W and 45, the season for Canada geese may extend for 15 days with a daily bag and possession limit of 2 birds. In those areas where seasons of 15 and 40 days are prescribed, the season may extend through January 31.

Arkansas and **Louisiana:** The season for Canada geese may extend for 40 days with bag and possession limits of 2 and 4 birds, respectively.

Mississippi: In the Sardis Zone (described in State regulations), the season for Canada geese may extend for 40 days with daily bag and possession limits of 2 and 4 birds, respectively. Elsewhere in Mississippi, the season may not exceed 15 days with a daily bag and possession limit of 2 birds.

Alabama: The season is closed for all geese in the counties of Henry, Russell, and Barbour. Elsewhere in Alabama, the daily bag limit is 2 Canada geese and the possession limit is 4.

Missouri, Illinois, and Kentucky Quota Zone Closures: When it has been determined that the quota of Canada geese allotted to the Southern Illinois Zone, the Tri-County Area in Illinois, the Swan Lake Zone in Missouri, and, if applicable, the Ballard County Zone in Kentucky will have been filled, the season for taking Canada geese in the respective area will be closed by the Director upon giving public notice through local information media at least 48 hours in advance of the time and date of closing.

Shipping Restrictions: In Illinois and Missouri and in the Kentucky counties of Ballard, Hickman, Fulton, and Carlisle, geese may not be transported, shipped or delivered for transportation or shipment by common carrier, the Postal Service, or by any person

except as the personal baggage of licensed waterfowl hunters, provided that no hunter shall possess or transport more than the legally-prescribed possession limit of geese. Geese possessed or transported by persons other than the taker must be labeled with the name and address of the taker and the date taken.

CENTRAL FLYWAY

The Central Flyway includes Colorado (east of the Continental Divide), Kansas, Montana (Blaine, Carbon, Fergus, Judith Basin, Stillwater, Sweetgrass, Wheatland, and all counties east thereof), Nebraska, New Mexico (east of the Continental Divide except that the entire Jicarilla Apache Indian Reservation is in the Pacific Flyway), North Dakota, Oklahoma, South Dakota, Texas, and Wyoming (east of the Continental Divide).

Ducks (including mergansers) and Coots

Outside Dates: October 1, 1983, through January 22, 1984.

Hunting Season: The season in the Low Plains Unit may include no more than 60 days. The season in the High Plains Mallard Management Unit may include no more than 83 days provided that the last 23 days of such season must begin on or after December 10, 1983. The High Plains Unit, roughly defined as that portion of the Central Flyway which lies west of the 100th meridian, shall be described in State regulations.

States may split their seasons into 2 or, in lieu of zoning, 3 segments.

Daily Bag and Possession Limits: Conventional limits for ducks are 5 daily, including no more than 1 canvasback, 1 redhead, 1 female mallard, 1 hooded merganser, and 2 wood ducks; and 10 in possession, including no more than 1 canvasback, 2 redheads, 2 female mallards, 2 hooded mergansers, and 4 wood ducks.

As an alternative to conventional bag and possession limits for ducks, States may select point system regulations. Under this system, the daily bag limit is reached when the point value of the last bird taken, added to the sum of the point values of other birds already taken during that day, reaches or exceeds 100 points. The point values are: canvasbacks, 100 points each; female mallards, Mexican-like ducks, mottled ducks (Texas only), wood ducks, redheads, and hooded mergansers, 70 points each; blue-winged teal, green-winged teal, cinnamon teal, scaup, pintails, gadwalls, wigeon, shovelers, and mergansers (except the hooded merganser), 10 points each; all other species and sexes of ducks, 20 points each. The possession limit is the maximum number of birds which legally could have been taken in 2 days.

The daily bag and possession limits of coots are 15 and 30, respectively.

Zoning: Montana, Nebraska, New Mexico, South Dakota, Oklahoma, and Wyoming may select hunting seasons for ducks (including mergansers) and coots by zones described as follows:

Montana: Two zones in the Central Flyway portion as follows:

Zone 1. The counties of Bighorn, Blaine, Carbon, Daniels, Fergus, Garfield, Golden Valley, Judith Basin, McCone, Musselshell, Petroleum, Phillips, Richland, Roosevelt, Sheridan, Stillwater, Sweetgrass, Valley, Wheatland, and Yellowstone.

Zone 2. The counties of Carter, Custer, Dawson, Fallon, Powder River, Prairie, Rosebud, Treasure, and Wibaux.

Nebraska: Four zones within the Low Plains portion as follows:

Zone 1. Keya Paha County east of U.S. Highway 183 and all of Boyd, Knox, Cedar, and Dixon Counties, including the adjacent waters of the Niobrara River.

Zone 2. The Low Plains portions of Dawson, Gosper, Frontier, and Furnas Counties and all of Boone, Buffalo, Phelps, Harlan, Hall, Kearney, Franklin, Merrick, Nance, Hamilton, Platte, Polk, Colfax, Butler, Dodge, Saunders, Douglas, Washington, and Wheeler Counties, including the adjacent waters of the Platte River.

Zone 3. The Low Plains portions of Brown, Blaine, and Custer Counties and all of Rock, Holt, Loup, Garfield, Valley, Greeley, Sherman, Howard, Antelope, Pierce, Madison, Wayne, Stanton, Cuming, Dakota, Thurston, and Burt Counties.

Zone 4. Adams, Webster, Clay, Nuckolls, York, Fillmore, Thayer, Seward, Saline, Jefferson, Lancaster, Gage, Sarpy, Cass, Otoe, Johnson, Nemaha, Pawnee, and Richardson Counties.

New Mexico: Two zones as follows:

Zone 1. The Central Flyway portion of New Mexico north of Interstate Highway 40 and U.S. Highway 54.

Zone 2. The remainder of the Central Flyway portion of New Mexico.

Oklahoma: Two zones in the Low Plains portion as follows:

Zone 1. That portion of northwestern Oklahoma, except the Panhandle, bounded by the following highways: starting at the Texas-Oklahoma border, OK 33 to OK 47, OK 47 to U.S. 183, U.S. 183 to I-40, I-40 to U.S. 177, U.S. 177 to OK 51, OK 51 to I-35, I-35 to U.S. 60, U.S. 60 to U.S. 64, U.S. 64 to OK 132, and OK 132 to the Oklahoma-Kansas state line.

Zone 2. The remainder of the Low Plains portion.

South Dakota: Two zones within the Low Plains portion as follows:

South Zone. Bon Homme, Charles Mix, Clay, Gregory, Union, and Yankton Counties.

North Zone. The remainder of the Low Plains portion.

Wyoming: Four zones in the Central Flyway portion as follows:

North Dakota: The daily bag limit may include no more than 1 Canada goose and 1 white-fronted goose or 2 white-fronted geese; through Oct. [illegible]

Wyoming: Four zones in the Central Flyway portion as follows:

Zone 1. Sheridan, Johnson, Natrona, Campbell, Crook, Weston, Converse, and Niobrara Counties.

Zone 2. Platte, Goshen, and Laramie Counties.

Zone 3. Carbon and Albany Counties.

Zone 4. Park, Big Horn, Hot Springs, Washakie, and Fremont Counties.

Geese

Definitions: In the Central Flyway, "geese" includes all species of geese and brant, "dark geese" includes Canada and white-fronted geese and black brant, and "light geese" include all other species.

Outside Dates: October 1, 1983, through January 22, 1984, except as noted for New Mexico.

Possession Limits: Goose possession limits are twice the daily bag limits.

West Tier States. States in this tier may select seasons either statewide or in designated management units as follows:

Montana: No more than 93 days; daily bag limits are 2 geese in Sheridan County and 3 geese in the remainder of the Central Flyway portion.

Wyoming: No more than 93 days with daily bag limits of 2 geese for each of four Goose Management Units which coincide with management zones for ducks.

Colorado: No more than 93 days with a daily bag limit of 2 geese.

New Mexico: For dark geese, no more than 93 days with a daily bag limit of 2 during the period October 1, 1983, through January 22, 1984; and for light geese, no more than 93 days with a daily bag limit of 5 during the period October 1, 1983, through February 12, 1984.

Texas (west of U.S. 81): No more than 93 days with a daily bag limit of 5 geese which may include no more than 2 dark geese.

East Tier States - Light geese. North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and that portion of Texas east of U.S. Highway 81 may select a season for light geese of no more than 86 days with a daily bag limits of 5 geese.

East Tier States - Dark geese. States may select seasons statewide or in designated management units for dark geese of no more than 72 days, except in Nebraska and South Dakota as noted, with a daily bag limit of 2 geese except as follows:

North Dakota: The daily bag limit may include no more than 1 Canada goose and 1 white-fronted goose or 2 white-fronted geese through October 30 and no more than 2 Canada geese or 2 white-fronted geese or 1 of each during the remainder of the season.

South Dakota: In Bon Homme, Brule, Buffalo, Campbell, Charles Mix, Corson (east of SD Highway 65), Dewey, Gregory, Haakon (north of Kirley Road and east of Plum Creek), Hughes, Hyde, Lyman, Potter, Stanley, Sully, Tripp (east of U.S. Highway 183), Walworth, and Yankton (west of U.S. Highway 81) Counties, the season length may not exceed 79 days and the daily bag limit may include no more than 1 Canada goose and 1 white-fronted goose through November 11, and no more than 2 Canada geese or 1 Canada goose and 1 white-fronted goose for the remainder of the season. In the remainder of the State, the season length may be no more than 72 days and the daily bag limit may include no more than 1 Canada goose and 1 white-fronted goose.

Nebraska: In Goose Management Unit 1 comprised of Boyd, Cedar (west of U.S. Highway 81), Keya Paha (east of U.S. Highway 183), and Knox Counties, the season length may be no more than 79 days and the daily bag limit may include no more than 1 Canada goose and 1 white-fronted goose through November 11 and no more than 2 Canada geese or 1 Canada goose and 1 white-fronted goose for the remainder of the season.

In Goose Management Unit 2, the remainder of Nebraska east of the following highways starting at the South Dakota line; U.S. 183 to NE 2, NE 2 to U.S. 281, and U.S. 281 to the Kansas line; and in Goose Management Unit 3, that portion of Nebraska west of these highways, the daily bag limit may include no more than 2 Canada geese or 1 Canada goose and 1 white-fronted goose through November 20 and no more than 1 Canada goose and 1 white-fronted goose for the remainder of the season.

Kansas: The daily bag limit may include no more than 2 Canada geese or 1 Canada goose and 1 white-fronted goose through November 27 and no more than 1 Canada goose and 1 white-fronted goose during the remainder of the season.

Oklahoma: In Goose Management Unit 1 (that portion of western and southern Oklahoma bounded by the following highways: starting at the Kansas-Oklahoma line, U.S. 77 to U.S. 177, U.S. 177 to OK 33, OK 33 to U.S. 75, U.S. 75 to Indian Nation Turnpike, Indian Nation Turnpike to U.S. 271, and U.S. 271 to the Oklahoma-Texas line) and in Goose Management Unit 2 (the remainder of Oklahoma), the daily bag limit may include no more than 2 Canada geese or 1 Canada goose and 1 white-fronted goose.

Texas: In that portion east of U.S. Highway 81, the bag limit may include no more than 1 Canada goose and 1 white-fronted goose daily.

Whistling (Tundra) Swans

The following States may issue permits authorizing each permittee to take no more than one whistling (tundra) swan, subject to guidelines in a current, approved management plan and general conditions that each State determine hunter participation and harvests, and specified conditions as follows:

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Montana (Central Flyway portion): no more than 500 permits with the season dates concurrent with the season for taking geese.

North Dakota: no more than 1,000 permits with the season dates concurrent with the season for taking ducks.

South Dakota: no more than 500 permits with the season dates concurrent with the season for taking ducks.

PACIFIC FLYWAY

The Pacific Flyway includes Arizona, California, Colorado (west of the Continental Divide), Idaho, Montana (including and to the west of Hill, Chouteau, Cascade, Meagher, and Park Counties), Nevada, New Mexico (the Jicarilla Apache Indian Reservation and west of the Continental Divide), Oregon, Utah, Washington, and Wyoming (west of the Continental Divide including the Great Divide Basin).

Ducks (including Mergansers), Coots, Gallinules, and Common Snipe

Outside Dates: Between October 1, 1983, and January 22, 1984.

Hunting Seasons: Concurrent 93-day seasons on ducks, coots, gallinules, and common snipe may be selected except as subsequently noted.

Duck Limits: Basic daily bag and possession limits for ducks are 7 and 14, respectively. No more than 2 redheads or 2 canvasbacks or 1 of each may be taken daily and no more than 4 singly or in the aggregate may be possessed.

Coot and Gallinule Limits: The daily bag and possession limit of coots and gallinules is 25 singly or in the aggregate.

Common Snipe Limits: The daily bag and possession limit of common snipe is 8 and 16, respectively.

California—Waterfowl Zones: Season dates for the Colorado River Zone of California must coincide with season dates selected by Arizona. Season dates for the Northeastern and Southern Zones of California may differ from those in the remainder of the State.

Nevada—Clark County Waterfowl Zone: Season dates for Clark County may differ from those in the remainder of Nevada.

"Columbia Basin" Portions of Washington, Oregon, and Idaho: In the Idaho counties of Ada, Bannock, Benewah, Blaine, Bonner, Boundary, Camas, Canyon, Cassia, Elmore, Gem, Gooding, Jerome, Kootenai, Latah, Lewis, Lincoln, Minidoka, Nez Perce, Owyhee, Payette, Power, Shoshone, Twin Falls, Washington, and that portion of Bingham County lying outside the Blackfoot Reservoir drainage; the Oregon counties of Baker, Gilliam, Malheur, Morrow, Sherman, Umatilla, Union, Wallowa, and Wasco; and in Washington all areas lying east of the summit of the Cascade Mountains and east of the Big White

Salmon River in Klickitat County, the seasons may be 100 days and must run concurrently.

Colorado, Montana, New Mexico, and Wyoming — Common Snipe: For States partially within the Flyway a 93-day season for common snipe may be selected to occur between September 1, 1983, and February 28, 1984, and need not be concurrent with the duck season.

Geese (including Brant)

Outside dates, season lengths, and limits on geese (including brant): Between October 1, 1983, and January 22, 1984, a 93-day season on geese (except brant in Washington, Oregon and California) may be selected, except as subsequently noted. The basic daily bag and possession limit is 6, provided that the daily bag limit includes no more than 3 white geese (snow, including blue, and Ross' geese) and 3 dark geese (all other species of geese). The basic daily bag and possession limits are proportionately reduced in those areas where special restrictions apply to Canada geese. In Washington and Idaho, the daily bag and possession limits are 3 and 6 geese, respectively. Between October 22, 1983, and February 19, 1984, Washington, Oregon, and California may select an open season for brant of 93 days with daily bag and possession limits of 4 and 8 brant, respectively.

Aleutian Canada goose closure: The season is closed on the Aleutian Canada goose. Emergency closures may be invoked for all Canada geese should Aleutian Canada goose distribution patterns or other circumstances justify such actions.

Canada goose closures in California: Three areas in California, described as follows, are restricted in the hunting of Canada geese:

(1) In the counties of Del Norte and Humboldt there will be no open season for Canada geese.

(2) In the Sacramento Valley in that area bounded by a line beginning at Willows in Glenn County proceeding south on Interstate Highway 5 to the junction with Hahn Road north of Arbuckle in Colusa County; then easterly on Hahn Road and the Grimes-Arbuckle Road to Grimes on the Sacramento River; then southerly on the Sacramento River to the Tisdale By-pass; then easterly on the Tisdale By-pass to where it meets O'Banion Road; then easterly on O'Banion Road to State Highway 99; then northerly on State Highway 99 to its junction with the Gridley-Colusa Highway in Gridley in Butte County; then westerly on the Gridley-Colusa Highway to its junction with the River Road; then northerly on the River Road to the Princeton Ferry; then westerly across the Sacramento River to State Highway 45; then northerly on State Highway 45 to its junction with State Highway 162; then continuing northerly on State Highway 45-162 to Glenn; then westerly on State Highway 162 to the point of beginning in Willows, the hunting season for Canada geese will not open before December 15 and may continue to the end of the waterfowl hunting season.

(3) In the San Joaquin Valley in that area bounded by a line beginning at Modesto in Stanislaus County proceeding west on State Highway 132 to the junction of Interstate Highway 5; then southerly on Interstate Highway 5 to the junction of State Highway 152

in Merced County; then easterly on State Highway 152 to the junction of State

Nevada: Nevada may designate season dates on geese in Clark County and in Elko

in Merced County; then easterly on State Highway 152 to the junction of State Highway 59; then northerly on State Highway 59 to the junction of State Highway 99 at Merced; then northerly and westerly on State Highway 99 to the point of beginning; the hunting season for Canada geese will close no later than November 23.

Canada goose closures in Oregon: Those portions of Coos and Curry Counties lying west of U.S. Highway 101 and that portion of Tillamook County lying south of an east-west line passing through the most westerly point of Cape Lookout shall be closed to the hunting of Canada geese.

"Columbia Basin" Portions of Washington and Oregon—geese: In the Washington counties of Adams, Benton, Douglas, Franklin, Grant, Kittitas, Klickitat, Lincoln, Walla Walla, and Yakima, and in the Oregon counties of Gilliam, Morrow, Sherman, Umatilla, Union, Wallowa, and Wasco, the goose season may be of 100 days duration and must run concurrently with the duck season.

Oregon (Lake and Klamath Counties) — geese: In the Oregon counties of Lake and Klamath the daily bag and possession limits through October 28 are 2 and 4 geese, respectively, with no more than 1 and 2, respectively, being dark geese. Thereafter, the limits may be increased to those which are allowed for the Flyway.

California (Northeastern Zone) — geese: In the Northeastern Zone of California through October 28, the limits are 1 dark goose or 1 white goose in the daily bag and 2 geese in possession. Thereafter, the limits may be increased to 4 geese in bag and possession with not more than 2 dark geese or 3 white geese being in either the daily bag or possession.

California (Balance of the State Zone) — geese: In the Balance of the State Zone the season shall not exceed 79 days. The daily bag and possession limits are 5, with not more than 2 dark geese or 3 white geese in either the daily bag or possession.

Pacific Population of Canada geese—Idaho, Oregon, and Montana: In that portion of Idaho lying west of the line formed by U.S. Highway 93 north from the Nevada border to Shoshone, thence northerly on Idaho State Highway 75 (formerly U.S. Highway 93) to Challis, thence northerly on U.S. Highway 93 to the Montana border (except Boundary, Bonner, Kootenai, Benewah, Shoshone, Latah, Nez Perce, Lewis, Clearwater and Idaho Counties); in the Oregon counties of Baker and Malheur; and in Montana (Pacific Flyway portion west of the Continental Divide), the daily bag and possession limits are 2 Canada geese and the season for Canada geese may not extend beyond January 1, 1984.

Rocky Mountain Population of Canada Geese—Montana and Wyoming: In Montana (Pacific Flyway portion east of the Continental Divide) and Wyoming the season may not extend beyond January 1, 1984. In Lincoln County, Wyoming, the combined special sandhill crane-Canada goose season and the regular goose season shall not exceed 93 days.

Idaho, Colorado, and Utah: In that portion of Idaho lying east of the line formed by U.S. Highway 93 north from the Nevada border to Shoshone, thence northerly on Idaho State Highway 75 (formerly U.S. Highway 93) to Challis, thence northerly on U.S. Highway 93 to the Montana border; in Colorado; and in Utah, except Washington County, the daily bag and possession limits are 2 and 4 Canada geese, respectively, and the season for Canada geese may be no more than 86 days and may not extend beyond January 1, 1984.

Nevada: Nevada may designate season dates on geese in Clark County and in Elko County and that portion of White Pine County within Ruby Lake National Wildlife Refuge differing from those in the remainder of the State. In Clark County the season on Canada geese may be no more than 86 days. The daily bag and possession limit is 2 Canada geese throughout the State.

Arizona, California, Utah, and New Mexico: In California, the Colorado River Zone where the season must be the same as that selected by Arizona and the Southern Zone; in Arizona; in New Mexico; and in Washington County, Utah; the season for Canada geese may be no more than 86 days. The daily bag and possession limit is 2 Canada geese except in that portion of California Department of Fish and Game District 22 within the Southern Zone (i.e. Imperial Valley) where the daily bag and possession limits for Canada geese are 1 and 2, respectively.

Washington—snow geese: In the Washington counties of Island, Skagit, Snohomish, and Whatcom, the season for snow geese may not extend beyond January 1, 1984.

Whistling Swans

In Utah, Nevada and Montana, an open season for whistling swans may be selected subject to the following conditions: (a) the season must run concurrently with the duck season; (b) the appropriate State agency must issue permits and obtain harvest and hunter participation data; (c) in Utah, no more than 2,500 permits may be issued, authorizing each permittee to take 1 whistling swan; (d) in Nevada, no more than 650 permits may be issued, authorizing each permittee to take 1 whistling swan in either Churchill, Lyon, or Pershing Counties; (e) in Montana, no more than 500 permits may be issued authorizing each permittee to take 1 whistling swan in either Teton or Cascade Counties.

Sandhill Cranes

Arizona may select an experimental sandhill crane season subject to the conditions specified in the frameworks for early seasons.

SPECIAL FALCONRY FRAMEWORKS

Extended Seasons: Falconry is a permitted means of taking migratory game birds in any State meeting Federal falconry standards in 50 CFR 21.29(k). These States may select an extended season for taking migratory game birds in accordance with the following:

Framework Dates: Seasons must fall within the regular and any special season framework dates.

Daily Bag and Possession Limits: Daily bag and possession limits for all permitted migratory game birds shall not exceed 3 and 6 birds, respectively, singly or in the aggregate, during both regular hunting seasons and extended falconry seasons.

Regulations Publication: Each State selecting the special season must inform the Service of the season dates and publish said regulations.

Regular Seasons: General hunting regulations, including seasons, hours, and limits, apply to falconry in each State listed in 50 CFR 21.29(k) which does not select an extended falconry season.

NOTE: In no instance shall the total number of days in any combination of duck seasons (regular duck season, sea duck season, September teal season, special scaup season, special scaup and goldeneye season, or falconry season) exceed 107 days for a species in one geographical area.

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VOL
48
ISS
1
7
6
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9
1983
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Reader Aids

Federal Register

Vol. 48, No. 175

Friday, September 9, 1983

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202–523–3419 523–3517
General information, index, and finding aids	523–5227
Incorporation by reference	523–4534
Printing schedules and pricing information	523–3419

Federal Register

Corrections	523–5237
Daily Issue Unit	523–5237
General information, index, and finding aids	523–5227
Privacy Act	523–4534
Public Inspection Desk	523–5215
Scheduling of documents	523–3187

Laws

Indexes	523–5282
Law numbers and dates	523–5282 523–5266
Slip law orders (GPO)	275–3030

Presidential Documents

Executive orders and proclamations	523–5233
Public Papers of the President	523–5235
Weekly Compilation of Presidential Documents	523–5235

United States Government Manual 523–5230

SERVICES

Agency services	523–5237
Automation	523–3408
Library	523–4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275–2867
Public Inspection Desk	523–5215
Special Projects	523–4534
Subscription orders (GPO)	783–3238
Subscription problems (GPO)	275–3054
TTY for the deaf	523–5229

FEDERAL REGISTER PAGES AND DATES, SEPTEMBER

39595–39910.....1
39911–40186.....2
40187–40364.....6
40365–40496.....7
40497–40694.....8
40695–40870.....9

CFR PARTS AFFECTED DURING SEPTEMBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Administrative Orders:
Memorandums:
September 7, 1983.....40695
Executive Orders:
6143 (Revoked by PLO 6459).....40724
6276 (Revoked by PLO 6459).....40724
6583 (Revoked by PLO 6459).....40724
8854 (Amended by PLO 6458).....40232
Proclamations:
5085.....39595
5086.....40187
5087.....40497
5088.....40499
5089.....40501
5090.....40503
5091.....40505
5092.....40507

4 CFR

Proposed Rules:
83.....39632

5 CFR

2422.....40189
2426.....40189
2429.....40189
Proposed Rules:
731.....40731
754.....40731
870.....40732
871.....40732
872.....40732
873.....40732

7 CFR

29.....40365
51.....40509
210.....40194
220.....40194
226.....40197
301.....39597, 40198
421.....39911
725.....40638
726.....40644
760.....40366
908.....39602, 40510
910.....39912, 40697
981.....40367
1076.....39603
1079.....40511
1865.....40202
1944.....40202, 40697
1945.....40202
1951.....40202
Proposed Rules:
52.....40734
278.....40263
279.....40263
631.....40522
660.....40389
658.....39944
1126.....39643

8 CFR

109.....40209
231.....40209
238.....40210

9 CFR

75.....40512

10 CFR

61.....40512
Proposed Rules:
1017.....40265

12 CFR

7.....40696
29.....40702
34.....40696
217.....39604, 40702
525.....39912
531.....39912
Proposed Rules:
5.....40735
563.....39944

13 CFR

101.....40513

14 CFR

39.....40210–40212
71.....39913, 40213
75.....40214
97.....39913
Proposed Rules:
39.....40266
71.....40267, 40270, 40525
221.....40389

15 CFR

369.....40368

16 CFR

Proposed Rules:
13.....39950

17 CFR

240.....39604
249.....39604

18 CFR

Proposed Rules:
271.....40736

19 CFR

Proposed Rules:
6.....40737

10.....40738
101.....40526
114.....40738
159.....40527
162.....40740

20 CFR

655.....40168
404.....40514

Proposed Rules:

225.....40390
226.....40390
227.....40390

21 CFR

5.....40703
145.....39916
175.....40515
436.....40704
442.....40516
510.....40704
520.....40516, 40704
522.....40704
524.....39607
558.....40704
561.....40369

Proposed Rules:

Subch. H.....40272
882.....40273

23 CFR

Proposed Rules:

Ch. I.....39953

24 CFR

25.....40705
203.....39608
207.....40710
213.....39608
234.....39608
235.....40711
570.....40517

26 CFR

1.....40214, 40370, 40371
25.....40371
31.....40518
48.....40217
301.....40371, 40376

Proposed Rules:

1.....39953, 40528
5f.....39953

27 CFR

9.....40377

29 CFR

553.....40518

30 CFR

251.....40380
700.....40622
701.....39892, 40140, 40622
772.....40622
776.....40622
785.....39892
815.....40622
816.....39892, 40140
817.....39892, 40140
824.....39892
938.....40223

Proposed Rules:

75.....40165
935.....39645, 40396
938.....39645

32 CFR

286g.....39917
634.....39919
730.....40224
2003.....40849

33 CFR

100.....39609, 40714, 40715
165.....39609, 39610, 40380
181.....40716
401.....39934

Proposed Rules:

1.....40741
117.....39646
156.....40741

34 CFR

668.....40380

Proposed Rules:

366.....39647

36 CFR

219.....40381
331.....40719

38 CFR

21.....40224
36.....40226

Proposed Rules:

36.....40402

39 CFR

10.....39610
601.....40232

Proposed Rules:

111.....39647, 39648

40 CFR

17.....39934
81.....40722
122.....39611
123.....39611
124.....39611
144.....39611
145.....39611
180.....40384
233.....39611
270.....39611
271.....39611, 39623
300.....40658
410.....39624

Proposed Rules:

52.....39653
65.....40278
81.....39655, 40746
124.....40098
144.....40098
146.....40098
147.....40098
300.....40674
721.....40282
799.....39656

41 CFR

Ch. 1.....40385
Ch. 7.....40385

42 CFR

405.....39740, 39752
409.....39752
435.....39624
436.....39624
489.....39752

Proposed Rules:

431.....40749
435.....39959
436.....39959

43 CFR

1820.....40724

Public Land Orders:

1707 (Amended by PLO 6458).....40232
6457.....39939
6458.....40232
6459.....40724

46 CFR

153.....39629
154.....39629

47 CFR

2.....40519
25.....40233, 40256

Proposed Rules:

68.....39656

49 CFR

1.....40519
179.....39630
571.....39908, 39939, 40260
1042.....39630
1160.....39630, 40387
1161.....39630
1162.....39630, 40520
1165.....39630
1168.....39630, 40387
1181.....39630
1307.....40520

Proposed Rules:

27.....40684
213.....39965
571.....40282, 40286
821.....39657
1157.....40287

50 CFR

17.....39941, 40178
20.....40852
661.....40521
671.....40725

Proposed Rules:

17.....40288, 40404, 40407
23.....40750
26.....39661
32.....40411
33.....40411
655.....39967
662.....40752
681.....39665

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing August 31, 1983

VOL
48
ISS
1
7
6
SE
9
1983
UMI

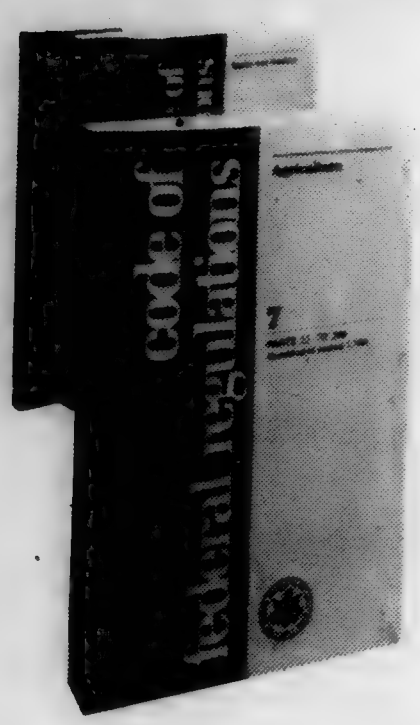

Just Released

Code of Federal Regulations

Revised as of April 1, 1983

Quantity	Volume	Price	Amount
_____	Title 26—Internal Revenue (Part 1, §§ 1.851 to 1.1200) (Stock No. 022-003-95175-0)	$8.00	$_____
_____	Title 26—Internal Revenue (Part 1, § 1.1201 to End) (Stock No. 022-003-95176-8)	$8.50	_____
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Vol. 48 No. 177
Pages 40871-41008

Federal Register

Monday
September 12, 1983

Selected Subjects

Animal Drugs
Food and Drug Administration

Animals
Animal and Plant Health Inspection Service

Banks, Banking
Federal Deposit Insurance Corporation

Coal Mining
Surface Mining Reclamation and Enforcement Office

Endangered and Threatened Wildlife
Fish and Wildlife Service

Energy Conservation
Federal Trade Commission

Fisheries
National Oceanic and Atmospheric Administration

Flood Insurance
Federal Emergency Management Agency

Food Grades and Standards
Agricultural Marketing Service

Fruit Juices
Agricultural Marketing Service

Government Employees
Animal and Plant Health Inspection Service

Loan Programs—Agriculture
Farmers Home Administration

CONTINUED INSIDE

Selected Subjects

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Occupational Safety and Health
Occupational Safety and Health Administration

Postal Service
Postal Service

Supplemental Security Income (SSI)
Social Security Administration

Surface Mining
Surface Mining Reclamation and Enforcement Office

Contents

Federal Register
Vol. 48, No. 177
Monday, September 12, 1983

The President
EXECUTIVE ORDERS
40871 Food Assistance, President's Task Force on (EO 12439)
40873 Industrial Competitiveness, President's Commission on (EO 12440)

Executive Agencies

Agency for International Development
NOTICES
Meetings:
40960 Security and Economic Assistance Commission; date change

Agricultural Marketing Service
RULES
40875 Grapefruit juice; grade standards
40878 Leafy greens, frozen; grade standards
PROPOSED RULES
Milk marketing orders:
40894 Texas, hearing; correction

Agriculture Department
See also Agricultural Marketing Service; Animal and Plant Health Inspection Service; Commodity Credit Corporation; Farmers Home Administration; Human Nutrition Information Service.
NOTICES
Meetings:
40925 Food Assistance, President's Task Force

Animal and Plant Health Inspection Service
RULES
Overtime services relating to imports and exports:
40881 Commuted traveltime allowances
PROPOSED RULES
40899 Animals, purebred; recognized breeds and books of record; listing for Hereford cattle from Canada

Civil Aeronautics Board
NOTICES
40926 Certificates of public convenience and necessity and foreign air carrier permits; weekly applications (Skystar International, Inc., et al.)
Hearings, etc.:
40927 Atlantic Gulf Airlines, Inc.
40926 British Caribbean Airways Ltd.
40926 Imperial International Airlines, Inc.
40927 Northeast Imperial Airlines, Inc.
40927 West Coast Airlines
40972 Meetings; Sunshine Act

Commerce Department
See International Trade Administration; National Oceanic and Atmospheric Administration.

Commodity Credit Corporation
NOTICES
Price support rates:
40925 Tobacco

Consumer Product Safety Commission
NOTICES
40972 Meetings; Sunshine Act (2 documents)

Customs Service
NOTICES
Customhouse broker license cancellation, suspension, etc.:
40971 Shields, William J., Jr.

Defense Department
See Engineers Corps.

Economic Regulatory Administration
NOTICES
Electric energy transmission; exports to Canada or Mexico; authorizations, permits, etc.:
40934 Presley, Edward T., Dr.

Employment and Training Administration
RULES
Job Training Partnership Act programs:
40886 Service delivery areas; appeals procedures to Secretary of Labor on final disapproval of job training plans

Energy Department
See Economic Regulatory Administration; Energy Research Office; Federal Energy Regulatory Commission; Western Area Power Administration.

Energy Research Office
NOTICES
Meetings:
40950 Magnetic Fusion Advisory Committee

Engineers Corps
PROPOSED RULES
40909 Permit regulations; controlling activities in U.S. waters; hearing
NOTICES
Meetings:
40933 Environmental Advisory Board

Environmental Protection Agency
PROPOSED RULES
Air pollutants, hazardous; national emission standards:
40911 Inorganic arsenic; correction
Toxic substances:
40911 Isopropylamine and ethylamine, distillation residues; manufacturing, importing or processing; correction
NOTICES
40950 Agency information collection activities under OMB review

Farmers Home Administration
PROPOSED RULES
Loan and grant programs:
40894 Aliens lawfully admitted for permanent residence; farmer program loans

Federal Communications Commission
NOTICES
40951 Agency information collection activities under OMB review
40954 Sonshine Educational Radio, Inc., et al.
Hearings, etc.:
40952 Advanced Mobile Phone Service, Inc., et al.
40953, 40955 Broadcast Data Corp. et al. (2 documents)
40951 Capps Radio Co. et al.
40956 Cellular Network, Inc., et al.
40953 Genessee County Educational Radio, Inc., et al.
Meetings:
40952 Radio Broadcasting Advisory Committee
40952 Telecommunications Industry Advisory Group
40952 Rulemaking proceedings filed, granted, denied, etc.; petitions

Federal Deposit Insurance Corporation
PROPOSED RULES
40900 Insured banks involvement; real estate, insurance brokerage and underwriting data processing for third parties, and travel agency activities; advance notice

Federal Emergency Management Agency
RULES
Flood elevation determinations:
40891 Colorado et al.
40890 Flood insurance; special hazard areas; map corrections; list of communities submitting new technical data
PROPOSED RULES
Flood elevation determinations:
40911 Colorado et al.
40915 Delaware et al.
40917 Florida, correction
40919 Kentucky
40917 Ohio, correction
40918 Wisconsin, correction
NOTICES
40956 Emergency food and shelter program; reallocate unclaimed or refused award funds

Federal Energy Regulatory Commission
NOTICES
Hearings, etc.:
40948, 40949 Arcata, Calif. (3 documents)
40948 Central City, Pa.
40949 Coleman, William T., Jr.
40949 Maurin, Lee V., Jr.
40934 Pacific Gas & Electric Co. et al.
40949 Pacific Interstate Transmission Co.
40949 Southwest Gas Corp.
40950 White, John F.
40972 Meetings; Sunshine Act
Natural Gas Policy Act:
40976, 40982 Jurisdictional agency determinations (2 documents)
40948 Oil pipelines, interstate; tentative valuations

Federal Home Loan Bank Board
NOTICES
40974 Meetings; Sunshine Act

Federal Housing Commissioner—Office of Assistant Secretary for Housing
NOTICES
Authority delegations:
40958 Regional Administrators et al.

Federal Maritime Commission
NOTICES
Freight forwarder licenses:
40957 C. C. Group Forwarding Agency (USA) Corp. et al.

Federal Reserve System
NOTICES
Applications, etc.:
40957 BancOklahoma Corp.

Federal Trade Commission
RULES
Appliances, consumer; energy cost and consumption information in labeling and advertising:
40882 Water heaters; comparability ranges on required labels

Fish and Wildlife Service
PROPOSED RULES
Endangered and threatened species:
40920 Hau-hele'ula

Food and Drug Administration
RULES
Administrative practice and procedure:
40887 Advisory committee meetings; technical correction
Animal drugs, feeds, and related products:
40887 Altrenogest solution
NOTICES
Meetings:
40957 Advisory committees, panels, etc.

Health and Human Services Department
See Food and Drug Administration; Health Resources and Services Administration; Social Security Administration.

Health Resources and Services Administration
NOTICES
Grants; availability, etc.:
40958 Health careers opportunity program; correction

Housing and Urban Development Department
See also Federal Housing Commissioner—Office of Assistant Secretary for Housing.
NOTICES
Authority delegations:
40958 Regional Administrators; departmental reorganization

Human Nutrition Information Service
NOTICES
Meetings:
40926 Dietary Guidelines Advisory Committee; comment time extended

Indian Affairs Bureau
NOTICES
Liquor and tobacco sale or distribution ordinance:
40959 Lac du Flambeau Indian Reservation, Wis.; correction

Interior Department
See Fish and Wildlife Service; Indian Affairs Bureau; Land Management Bureau; Surface Mining Reclamation and Enforcement Office.

Internal Revenue Service
RULES
Income taxes:
40888 Foreign corporation, U.S. citizen controlled; taxation of shipping income and shareholders; correction

International Development Cooperation Agency
See Agency for International Development.

International Trade Administration
NOTICES
Countervailing duties:
40928 Steel pipe and tube products from South Africa
Meetings:
40931 Semiconductor Technical Advisory Committee
Scientific articles duty free entry:
40931 University of California et al.

International Trade Commission
NOTICES
Import investigations:
40960 Cardiac pacemakers and components
40961 Copper-clad stainless steel cookware
40961 Rotary wheel printers

Interstate Commerce Commission
NOTICES
Railroad operation, acquisition, construction, etc.:
40961 Baltimore & Ohio Railroad Co. et al.
40962 Bellefonte Central Railroad Co.; abandonment exemption
40963 Union Pacific Railroad Co.
Railroad services abandonment:
40963 Seaboard System Railroad, Inc.
Rerouting of traffic:
40962 St. Louis Southwestern Railway Co. et al.

Justice Department
See National Institute of Justice.

Labor Department
See Employment and Training Administration; Occupational Safety and Health Administration.

Land Management Bureau
RULES
40889 Information collection requirements clearance numbers codification

Management and Budget Office
NOTICES
40964 Federal information management; policy circular development; inquiry

National Institute of Justice
NOTICES
Grants, competitive solicitation:
40963 Criminal justice graduate research fellowship program

National Oceanic and Atmospheric Administration
RULES
Tuna, Atlantic fisheries:
40892 Bluefin tuna; quota
PROPOSED RULES
Fishery conservation and management:
40923 Foreign fishing; Bering Sea and Aleutian Islands groundfish fishery management plan
NOTICES
Marine mammal permit applications; etc.:
40933 Southwest Fisheries Center

Nuclear Regulatory Commission
RULES
Byproduct and special nuclear material, domestic licensing:
40882 Irretrievable well-logging sources; correction
Production and utilization facilities, domestic licensing:
40882 Immediate notification requirements of significant events at operating power reactors; correction

Occupational Safety and Health Administration
PROPOSED RULES
State plans; development, enforcement, etc.:
40902 Hawaii

Postal Service
PROPOSED RULES
Organization and administration:
40910 Inspection Sevice Authority; mail covers

Research and Special Programs Administration
NOTICES
Hazardous materials:
40969, 40970 Applications; exemptions, renewals, etc. (2 documents)

Securities and Exchange Commission
NOTICES
Hearings, etc.:
40968 Great Western Financial Corp.
Self-regulatory organizations; proposed rule changes:
40965 Municipal Securities Rulemaking Board

Social Security Administration
RULES
Supplemental security income:
40883 Disposing of resources for less than fair market value

State Department
NOTICES
Meetings:
40968 Shipping Coordinating Committee

Surface Mining Reclamation and Enforcement Office
RULES
Permanent program submission; various States:
41000 Massachusetts
40888 Pennsylvania
40990 Rhode Island

PROPOSED RULES
Permanent program submission; various States:
40908 Illinois
NOTICES
40959 State regulatory and abandoned mine lands program; annual evaluation reports availability; Iowa, Kansas, Utah, and Virginia

Transportation Department
See Research and Special Programs Administration.

Treasury Department
See Customs Service; Internal Revenue Service.

Western Area Power Administration
NOTICES
40950 Salt Lake City Area; post-1989 marketing criteria, etc.; correction

---

Separate Parts in the Issue

Part II
40976 Department of Energy, Federal Energy Regulatory Commission

Part III
40990 Department of the Interior, Office of Surface Mining Reclamation and Enforcement

Part IV
41000 Department of the Interior, Office of Surface Mining Reclamation and Enforcement

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR

Executive Orders:
12428 (Amended by EO 12440)..... 40873
12439..... 40871
12440..... 40873

7 CFR
52 (2 documents)..... 40875, 40878

Proposed Rules:
1126..... 40894
1941..... 40894
1943..... 40894
1945..... 40894
1980..... 40894

9 CFR
97..... 40881

Proposed Rules:
151..... 40899

10 CFR
50..... 40882
150..... 40882

12 CFR

Proposed Rules:
332..... 40900
333..... 40900
337..... 40900

16 CFR
305..... 40882

20 CFR
416..... 40883
628..... 40886

21 CFR
14..... 40887
510..... 40887
520..... 40887

26 CFR
1..... 40888

29 CFR

Proposed Rules:
1952..... 40902

30 CFR
921..... 41000
938..... 40888
939..... 40990

Proposed Rules:
913..... 40908

33 CFR

Proposed Rules:
320..... 40909
322..... 40909
323..... 40909
325..... 40909
327..... 40909
328..... 40909
330..... 40909

39 CFR

Proposed Rules:
233..... 40910

40 CFR

Proposed Rules:
61..... 40911
721..... 40911

43 CFR
Ch. II..... 40889

44 CFR
65..... 40890
67..... 40891

Proposed Rules:
67 (6 documents)..... 40911–40919

50 CFR
285..... 40892

Proposed Rules:
17..... 40920
611..... 40923

VOL
48
ISS
1
7
7
SE
12
1983
UMI

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Vol.
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The

Federal Register
Vol. 48, No. 177
Monday, September 12, 1983

Presidential Documents

Title 3—

The President

Executive Order 12439 of September 8, 1983

President's Task Force on Food Assistance

By the authority vested in me as President by the Constitution and laws of the United States of America, in order to establish, in accordance with the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C. App. I), an advisory committee to examine programs intended to render food assistance to the needy and to make recommendations on how such programs may be improved, it is hereby ordered as follows:

Section 1. *Establishment.* (a) There is established the President's Task Force on Food Assistance, which shall be composed of not more than fifteen persons, who shall be appointed by the President from among citizens of the United States who are not full-time officers or employees of the Federal Government.

(b) The President shall designate a Chairman, and may also designate a Vice Chairman, from among the members of the Task Force.

Sec. 2. *Functions.* The Task Force shall analyze Federal and other programs intended to render food assistance to the needy and shall make recommendations to the President and the Secretary of Agriculture with respect to how such programs may be improved. The Task Force shall submit its report to the President within ninety days of its first meeting.

Sec. 3. *Administration.* (a) The heads of Executive agencies shall, to the extent permitted by law, provide the Task Force such information as it may require for purposes of carrying out its functions.

(b) Members of the Task Force shall serve without compensation for their work on the Task Force, but may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the Government service (5 U.S.C. 5701–5707), to the extent funds are available therefor.

(c) The Secretary of Agriculture shall, to the extent permitted by law and subject to the availability of funds, provide the Task Force with such administrative services, facilities, staff and other support services as may be necessary for the effective performance of its functions.

Sec. 4. *General.* (a) Notwithstanding any other Executive Order, the functions of the President under the Federal Advisory Committee Act, as amended, which are applicable to the Task Force, except that of reporting to the Congress, shall be performed by the Secretary of Agriculture in accordance with guidelines and procedures established by the Administrator of General Services.

(b) The Task Force shall, unless sooner extended, terminate thirty days after submission of its report to the President, but in no event later than January 31, 1984.

Ronald Reagan

THE WHITE HOUSE,
September 8, 1983.

[FR Doc. 83-24955
Filed 9-9-83; 10:45 am]
Billing code 3195-01-M

Editorial Note: For the President's announcement of Sept. 8, 1983, of his intention to appoint the membership of the Task Force, see the *Weekly Compilation of Presidential Documents* (vol. 19, no. 36).

Presidential Documents

Executive Order 12440 of September 8, 1983

President's Commission on Industrial Competitiveness

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Federal Advisory Committee Act, as amended (5 U.S.C. App. I), and in order to increase the membership of the President's Commission on Industrial Competitiveness, it is hereby ordered that the second sentence of Section 1(a) of Executive Order No. 12428 of June 28, 1983 is hereby amended to provide as follows:

"The Commission shall be composed of no more than thirty members appointed or designated by the President.".

Ronald Reagan

THE WHITE HOUSE,
September 8, 1983.

[FR Doc. 83-24956
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VOL
48
ISS
1
7
7
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12
1983
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Rules and Regulations

Federal Register
Vol. 48, No. 177
Monday, September 12, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 52

United States Standards for Grades of Grapefruit Juice

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this final rule is to revise the voluntary U.S. Standards for Grades of Grapefruit Juice. The final rule was developed by the United States Department of Agriculture (USDA) at the request of major segments of the citrus industry. This final rule will revise the voluntary grade standards to: (1) Allow additional dilution ratios in frozen concentrated grapefruit juice; (2) amend the required Brix for grapefruit juice from concentrate to conform to the requirements of the Food and Drug Administration (FDA) Standards of Identity for Grapefruit Juice; (3) clarify the definition of "free and suspended pulp"; (4) delete the term "Total Score Points" from Tables I through IV and (5) make minor editorial changes. Its effect would be to improve the standards and promote orderly and efficient marketing of grapefruit juice.

EFFECTIVE DATE: September 12, 1983.

FOR FURTHER INFORMATION CONTACT: Paul Jennings, Processed Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, Telephone (202) 447–6247.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated as a "nonmajor" rule. It will not result in an annual effect on the economy of $100 million or more. There will be no major increase in cost or prices to consumers, individual industries, Federal, State, or local government agencies, or geographic regions. It will not result in significant effects on competition, employment, investments, productivity, innovations, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act, Pub. L. 96–354 (5 U.S.C. 601), because this reflects current marketing practices.

It is found that good cause exists for making this document effective upon publication in the **Federal Register** (5 U.S.C. 533) because: (1) The 1983–84 crop year begins in mid-September 1983, and this final rule should be effective by the time new crop deliveries from growers to processors begin; (2) postponing the effective date of this final rule would serve no useful purpose and could cause administrative problems in the application of the U.S. Standards for Grades of Grapefruit Juice.

The effective date for the current voluntary grade standards for grapefruit juice was October 15, 1982. The USDA was petitioned by major segments of the citrus industry to revise the quality standards for grapefruit juice. The industry requested the standards for frozen concentrated grapefruit juice be revised to allow dilution ratios other than three parts water to one part concentrate. Some processors of frozen concentrated grapefruit juice market products that have higher concentrations than allowed in the currently effective standards for frozen concentrated grapefruit juice. These products must be graded as concentrated grapefruit juice for manufacturing, which does not represent the intended use of the products. Providing other dilution ratios will promote orderly marketing of these products.

On October 1, 1982, the FDA amended the Standards of Identity for Grapefruit Juice to set the minimum soluble solids requirement at ten (10) percent for grapefruit juice from concentrate. The effective date of the FDA minimum soluble solids requirement was July 1, 1983. The currently effective grade standards require a minimum soluble solids of nine (9) percent in grapefruit juice from concentrate. This final rule will conform the grade standards to the FDA Standards of Identity for Grapefruit Juice.

On May 3, 1983, a proposed rule was published in the **Federal Register**. The comment filing period ended July 5, 1983. A Texas processor addressed the "free and suspended pulp" requirements in the proposed rule. This processor produces grapefruit juice with floating pulp added. He requested that the maximum pulp requirement be removed from the standards for grades of concentrated grapefruit juice to allow the addition of floating pulp. This final rule satisfies the intent of the comment by redefining "free and suspended pulp" to include only the pulp that sinks upon centrifuging, after the floating pulp. This allows manufacturers to add floating pulp which does not cause bitterness, but does restrict the amount of sinking pulp which can cause bitterness in the finished product.

Another comment addressed the Brix/acid ratio requirements for sweetened grapefruit juice and sweetened grapefruit juice from concentrate. It was suggested that the maximum Brix/acid ratio requirements for these products should be increased from 14.0:1 to 16.0:1 in Grade A. The maximum Brix/acid ratio requirements in the grade standards for the other sweetened style grapefruit juices are: frozen concentrated grapefruit juice—13.01:1; concentrated grapefruit juice for manufacturing—no minimum or maximum; dehydrated grapefruit juice—14.0:1. Since the other grapefruit products, that are marketed without further processing, all have maximum ratios as low or lower than the maximum Grade A requirements for Brix/acid ratio in sweetened grapefruit juice and sweetened grapefruit juice from concentrate, it has been determined that more data are needed before this change should be made.

The Total Score Point requirement has been deleted in Tables I, II, III, IV, and V. To meet the requirements for "Grade A," grapefruit juice has to score 18 points or more on color, 18 points or more on defects, and 54 points or more on flavor. A total of the minimum score points for each factor (18+18+54)

assures any sample that is "Grade A" will have a total score of at least 90 points. The same is true in the "Grade B" classification (16 points for color, 16 points for defects, and 48 points for flavor—total 80 points). Since the requirement is redundant and may cause confusion, it has been removed from the tables.

After review of the comments and in order to promote the orderly marketing of grapefruit juice, the USDA hereby revises the grade standards for grapefruit juice to: (1) Allow dilution ratios other than three parts water to one part concentrate; (2) conform the grade standards to the FDA standards of identity; (3) clarify the definition of free and suspended pulp; (4) delete total score points from Tables I through V; and (5) make minor editorial changes.

List of Subjects in 7 CFR Part 52

Fruits, Vegetables, Fruit Juices, Food grades, and Standards.

PART 52—[AMENDED]

Accordingly, the United States Standards for Grades of Grapefruit Juice (7 CFR 52.1221–52.1230) are revised to read as follows:

Subpart—United States Standards for Grades of Grapefruit Juice

Sec.

52.1221 Produce description.
52.1222 Styles.
52.1223 Color.
52.1224 Definitions of terms.
52.1225 Recommended sample unit size.
52.1226 Grades.
52.1227 Factors of quality and analysis.
52.1228 Requirements for grades.
52.1229 Sample size.
52.1230 Lot requirements.

Authority: Agricultural Marketing Act of 1946, Secs. 203, 205, 60 Stat. 1087, as amended, 1090, as amended, 7 U.S.C. 1622, 1624.

Subpart—United States Standards for Grades of Grapefruit Juice

§ 52.1221 Product description.

(a) "Grapefruit juice" is the product represented as defined in the Standards of Identity for Grapefruit Juice (21 CFR 146.132), issued under the Federal Food, Drug, and Cosmetic Act.

(b) "Grapefruit juice from concentrate" is the product represented as defined in the Standards of Identity for Grapefruit Juice (21 CFR 146.132), issued under the Federal Food, Drug, and Cosmetic Act.

(c) "Frozen concentrated grapefruit juice" is processed by concentrating and preserving by freezing the product represented as defined in the Standards of Identity for Grapefruit Juice (21 CFR 146.132), issued under the Federal Food, Drug, and Cosmetic Act.

(d) "Concentrated grapefruit juice for manufacturing" is processed by concentrating and preserving by physical means the product represented as defined in the Standards of Identity for Grapefruit Juice (21 CFR 146.132), issued under the Federal Food, Drug, and Cosmetic Act. The finished product may not contain any additives except cold-pressed oil, to standardize flavor, and chemical preservatives permissible under provisions of the Federal Food, Drug and Cosmetic Act.

(e) "Dehydrated grapefruit juice" is processed by concentrating and preserving by dehydration the product represented as defined in the Standards of Identity for Grapefruit Juice (21 CFR 146.132), issued under the Federal Food, Drug, and Cosmetic Act.

§ 52.1222 Styles.

(a) Unsweetened.
(b) Sweetened (Sweetener added).

§ 52.1223 Color.

(a) White or amber.
(b) Pink or red.

§ 52.1224 Definitions of terms.

In these U.S. standards, unless otherwise required by the context, the following terms shall be construed, respectively, to mean:

(a) *Acid* means the percent, by weight, of total acidity (calculated as anhydrous citric acid).

(b) *Appearance* means the physical properties of grapefruit juice which are evaluated by the human eye.

(c) *Brix* means the total soluble solids as determined when tested with a Brix hydrometer and applying the applicable temperature correction. The Brix may be determined by any other method that gives equivalent results.

(d) *Brix/Acid Ratio* means the ratio of the degrees Brix of the juice to the grams of anhydrous citric acid per 100 grams of the juice.

(e) *Brix value* means the refractometric sucrose value determined in accordance with the "International Scale of Refractive Indices of Sucrose Solutions" and to which the applicable correction for acid is added. The Brix value is determined in accordance with the refractometric method outlined in the "Official Methods of Analysis of the Association of Official Analytical Chemists."

(f) *Brix value/Acid Ratio* means the ratio of the Brix value of the concentrate, in degrees Brix, to the grams of anhydrous citric acid per 100 grams of concentrate.

(g) *Coagulation* means curdling of grapefruit juice.

(h) *Color.*—

(1) *Good color* means the color of grapefruit juice which is representative of juice expressed from mature, well-ripened grapefruit; and the grapefruit juice may show fading and lack of luster.

(2) *Reasonably good color* means the color of grapefruit juice which may be slightly, but not materially, affected by scorching, oxidation, or caramelization.

(i) *Defects* refer to juice cells, seeds or portion of seeds, specks, particles of membrane, core, peel, or any other distinctive features that adversely affect the appearance or drinking quality of grapefruit juice.

(1) *Practically free from defects* means defects in excess of that normally expected in grapefruit juice are not present.

(2) *Reasonably free from defects* means the presence of defects does not seriously affect the appearance or drinking quality of grapefruit juice.

(j) *Flavor.*—(1) *Good flavor* means flavor of:

(i) *Grapefruit juice* that is typical of freshly extracted juice from mature, well-ripened grapefruit. The grapefruit juice may be slightly affected by processing, packaging, or storage conditions.

(ii) *Grapefruit juice from concentrate* that is typical of juice from mature, well-ripened grapefruit. The grapefruit juice may be slightly affected by processing, packaging, or storage conditions.

(iii) *Frozen concentrated grapefruit juice* that is typical of freshly extracted juice from mature, well-ripened grapefruit; and does not have more than a slight trace of bitterness.

(iv) *Concentrated grapefruit juice for manufacturing* that is practically free from traces of scorching, caramelization, oxidation, and terpene.

(v) *Dehydrated grapefruit juice* that is free from terpene, caramelization, oxidation, and rancid flavors.

(2) *Reasonably good flavor* means flavor of:

(i) *Grapefruit juice* that is materially but not seriously affected by bitterness, terpene, processing, storage, or container flavors.

(ii) *Grapefruit juice from concentrate* that is materially but not seriously affected by bitterness, terpene, processing, storage, or container flavors.

(iii) *Frozen concentrated grapefruit juice* that is fairly typical of freshly extracted grapefruit juice, no more than slightly affected by bitterness, and is free from abnormal flavors of any kind.

(iv) *Concentrated grapefruit juice for manufacturing* that is no more than slightly affected by scorching, caramelization, or oxidation. It may have a trace of terpene, but is free from any other abnormal flavors.

(v) *Dehydrated grapefruit juice* that is no more than slightly affected by scorching, caramelization, oxidation, or terpene flavors, but is free from any other abnormal flavors.

(k) *Free and suspended pulp* means the particles of membrane, core, peel, and similar particles that settle upon centrifuging a sample unit from which the floating fruit cells and floating pulp have been removed.

(l) *Reconstituted juice* means the product obtained by thoroughly mixing the concentrate with the amount of water prescribed on the label or other appropriate directions.

(m) *Reconstitutes properly* means, that upon mixing with water, the concentrate dissolves readily and has no material coagulation or separation.

(n) *Recoverable oil* means the volume of oil that may be recovered from grapefruit juice as determined by the "Official Methods of Analysis of the Association of Official Analytical Chemists."

(o) *Sample unit* means a portion of grapefruit juice used for grading.

(p) *Terpene* means a specific flavor found in oils and resins.

§ 52.1225 Recommended sample unit size.

The requirements for all factors of quality and analysis are based on the following:

(a) The entire contents of a container;

(b) A representative portion of the contents of a container;

(c) A combination of the contents of two or more containers; or

(d) A portion of unpacked product.

§ 52.1226 Grades.

(a) *U.S. Grade A* is the quality of the grapefruit juice that meets the applicable requirements of Tables I through V.

(b) *U.S. Grade B* is the quality of grapefruit juice that meets the applicable requirements of Tables I through V.

(c) *Substandard* is the quality of grapefruit juice that fails to meet the requirements for "U.S. Grade B."

§ 52.1227 Factors of quality and analysis.

The grade for a lot of product is based on observation and analysis of grapefruit juice and reconstituted grapefruit juice for the following quality and analytical factors:

(a) *Quality:*
(1) Appearance;
(2) Coagulation;
(3) Color;
(4) Defects;
(5) Flavor; and
(6) Reconstitution.

(b) *Analytical:*
(1) Brix measurement or Brix value measurement;
(2) Brix/acid ratio or Brix value/acid ratio;
(3) Free and suspended pulp; and
(4) Recoverable oil.

§ 52.1228 Requirements for grades.

TABLE II.—GRAPEFRUIT JUICE

Factors	Grade A		Grade B	
Quality:				
Appearance	Fresh grapefruit juice		Fresh grapefruit juice.	
Coagulation	None		Slight.	
Color	Good		Reasonably good.	
Score Points	18–20		16–17	
Defects	Practically free		Reasonably free.	
Score Points	18–20		16–17	
Flavor	Good		Reasonably good	
Score Points	54–60		48–53	
	Unsweetened	Sweetened	Unsweetened	Sweetened
Analytical:				
Brix: Minimum	9.0°	11.5°	9.0°	11.5°
Brix/Acid Ratio:				
Minimum	8.0:1	9.0:1	7.0:1	9.0:1
Maximum	14.0:1	14.0:1	None	None
Free and suspended pulp (percent by volume): Maximum	10		15	
Recoverable oil (percent by volume): Maximum	0.020		0.025	

TABLE II.—GRAPEFRUIT JUICE FROM CONCENTRATE

Factors	Grade A		Grade B	
Quality:				
Appearance	Fresh grapefruit juice		Fresh grapefruit juice.	
Coagulation	None		Slight.	
Color	Good		Reasonably good.	
Score Points	18–20		16–17.	
Defects	Practically free		Reasonably free.	
Score Points	18–20		16–17.	
Flavor	Good		Reasonably good.	
Score Points	54–60		48–53.	
	Unsweetened	Sweetened	Unsweetened	Sweetened
Analytical:				
Brix: Minimum	10.0°	11.5°	10.0°	11.5°
Soluble grapefruit solids, exclusive of sweeteners (percent by weight): Minimum		10.0		10.0
Brix/Acid Ratio:				
Minimum	8.0:1	9.0:1	7.0:1	9.0:1
Maximum	14.0:1	14.0:1	None	None
Free and suspended pulp (percent by volume): Maximum	10		15	
Recoverable oil (percent by volume): Maximum	0.020		0.025	

TABLE III.—FROZEN CONCENTRATED GRAPEFRUIT JUICE

Factors	Grade A	Grade B
Quality:[1]		
Appearance	Fresh grapefruit juice	Fresh grapefruit juice.
Color	Good	Reasonably good.
Score Points	18–20	16–17
Defects	Practically free	Reasonably free.
Score Points	18–20	16–17
Flavor	Good	Reasonably good.
Score Points	54–60	48–53
Reconstitution	Reconstitutes properly	Reconstitutes properly.

	Unsweetened	Sweetened	Unsweetened	Sweetened
Analytical:				
Concentrate:				
Brix value: Minimum	36.0°	36.0°	36.0°	36.0°
Brix value/Acid Ratio:				
Minimum	9.0:1	10.0:1	7.0:1	8.0:1
Maximum	14.0:1	13.0:1	16.0:1	13.0:1
Reconstituted Juice:				
Brix: Minimum	10.6°		10.6°	
Minimum soluble grapefruit solids, exclusive of sweeteners (percent by weight)		10.6		10.6
Free and suspended pulp (percent by volume): Maximum		10		15
Recoverable oil (percent by volume): Maximum	0.020		0.025	
Seeds and portions of seeds that:				
Pass through round perforations 3.2 mm (0.125 in)	No more than slightly detract.		No more than materially detract.	
Fail to pass through round perforations 3.2 mm (0.125 in)			Practically none.	

[1] Reconstituted prior to grading.

TABLE IV.—CONCENTRATED GRAPEFRUIT JUICE FOR MANUFACTURING

Factors	Grade A	Grade B
Quality: [1]		
Color	Good	Reasonably good.
Score Points	18–20	16–17
Defects	Practically free	Reasonably free.
Score Points	18–20	16–17
Flavor	Good	Reasonably good.
Score Points	54–60	48–53
Reconstitution	Reconstitutes properly.	
Analytical: Brix value/Acid Ratio: Minimum	6.0:1	5.5:1
Free and suspended pulp (percent by volume-reconstituted juice): [1] Maximum.	10	12
Seeds and portions of seeds that: [1] Pass through round perforations 3.2 mm (0.125 in).	No more than slightly detract.	No more than materially detract.
Fail to pass through round perforations—3.2 mm (0.125 in)	Practically none.	

[1] Reconstituted prior to grading.

TABLE V.—DEHYDRATED GRAPEFRUIT JUICE [1]

Factors	Grade A	Grade B
Quality:		
Appearance	Fresh grapefruit juice	Fresh grapefruit juice.
Color	Good	Reasonably good.
Score Points	18–20	16–17
Defects	Practically free	Reasonably free.
Score Points	18–20	16–17
Flavor	Good	Reasonably good.
Score Points	54–60	48–53
Reconstitution	Reconstitutes properly.	

	Unsweetened	Sweetened	Unsweetened	Sweetened
Analytical:				
Brix: Minimum	10.0°	11.5°	10.0°	11.5°
Brix/Acid Ratio:				
Minimum	8.0:1	9.0:1	7.0:1	9.0:1
Maximum	14.0:1	14.0:1	None	None
Recoverable oil (percent by volume): Maximum	0.020		0.025	

[1] Reconstituted prior to grading.

§ 52.1229 Sample size.

The sample size to determine acceptance with the requirements of these standards shall be as specified in the sampling plans and procedures in the "Regulations Governing Inspection and Certification of Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products" (7 CFR 52.1 through 52.83).

§ 52.1230 Lot requirements.

A lot of grapefruit juice is considered as meeting the requirements for quality if:

(a) The requirements specified in Tables I, II, III, IV, and V, as applicable, are met; and

(b) The sampling plans and procedures in 7 CFR 52.1 through 52.83 are met.

Done at Washington, D.C., on September 6, 1983.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 83-24690 Filed 9-9-83; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 52

United States Standards for Grades of Frozen Leafy Greens

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to revise the voluntary United States Standards for Grades of Frozen Leafy Greens (including spinach). The revision was developed by the U.S. Department of Agriculture at the request of the frozen vegetable industry. The rule will: (1) Increase the allowance for torn leaves to accommodate the use of automatic filling machines in the processing of frozen spinach; (2) Combine frozen spinach and frozen leafy greens into one standard while considering differences in character; (3) Convert the current variables (score points) standards to attributes type standards; (4) Replace dual grade nomenclature with single letter grade designations; and (5) Include new forms of product in the grade standards (pureed spinach and other market accepted "types" of frozen leafy greens). Its effect will be to improve the standards, and promote orderly and efficient marketing.

EFFECTIVE DATE: October 12, 1983.

FOR FURTHER INFORMATION CONTACT: Melvin J. Horst, Processed Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–6247.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated as a "nonmajor" rule. It will not result in an annual effect on the economy of $100 million or more. There will be no major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. It will not result in significant effects on competition, employment, investments, productivity, innovations, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601), because it reflects current marketing practices.

The current voluntary grade standards for frozen spinach have been in effect since September 17, 1964. The current voluntary grade standards for frozen leafy greens (other than spinach) became effective July 1, 1957. During the 1950's and 1960's, the leafy greens (including spinach) were packaged into their primary containers by hand. Product filled in this manner showed very little evidence of machine damage (ragged and torn leaves and stems). Reflecting processing practices prevalent when they were developed, the current grade standards required a lower quality designation for leafy greens that are ragged and torn.

During the 1970's, machinery became available to package leafy greens. The use of automatic fillers is becoming commonplace in spinach processing plants. Although product can be processed more efficiently using machinery, the spinach will show the effects of "tearing". Tearing of the product, however, is "cosmetic" and does not affect the eating quality or nutritional value of the leafy greens (including spinach).

On November 30, 1982, the USDA published in the **Federal Register** (47 FR 53875) a notice of proposed rulemaking to revise the U.S. Standards for Grades of Frozen Leafy Greens.

The proposed revision of the voluntary grade standards suggested changing the quality requirements of the product with respect to appearance of the "leaf" style by permitting more slightly torn leaves and partially crushed stems. It would accommodate the present day industry practice of using automatic filling machines.

While the frozen spinach standards and the frozen leafy greens standards contain similar narrative text, there are differences in the relative importance of two of the three quality factors. The quality factor of "character" which refers to the tenderness and texture of the leaves and stems is determined to be more significant in the quality evaluation of leafy greens than in the quality evaluation of spinach. Consequently, in the leafy greens standards, weight given to the factor of character was increased while weight given to the factor of "defects," which refers to the damaged areas on the leaves and stems in leafy greens, is reduced.

The proposed revision suggested combining frozen spinach and frozen leafy greens into one standard by considering the differences in character for the varietal types of leafy greens. Spinach would be included as a "type" of leafy green.

The current grade standards for frozen spinach and frozen leafy greens (other than spinach) specify numerical scoring systems (0 to 100 points) for assigning quality grades to the products.

The proposed revision recommended changing the procedure for assigning a quality grade and eliminating the numerical scoring system. This system for determining whether the product quality meets or fails a designated grade level is called "attributes sampling." Under this system, the quality of the product is compared with the minimum quality permitted in the intended or designated grade. If the quality is as good as, or better than, the minimum quality permitted, the product would be assigned that grade. If the quality of the product is not as good as the minimum quality permitted, it would be assigned a lower grade.

Suitable manuals to guide the user of the "attributes sampling" system are available from the person designated as the contact for further information on this rule.

The existing grade standards for frozen spinach and frozen leafy greens provide two names for each quality grade level. Currently, "Grade A" and "Fancy" are used to describe the higher of two quality grade levels, and "Grade B" and "Extra Standard" the lower quality grade level acceptable in the marketplace. The proposed revision suggested changing the grade names by deleting the terms "Fancy" and "Extra Standard" and retaining only the single letter grades of "Grade A" and "Grade B."

Also, the proposed action recommended incorporating grades for new types of frozen leafy greens—"pureed" style spinach and other "market accepted" types of frozen leafy greens.

No adverse comments were received regarding the proposed rule. Following the close of the comment period, written correspondence was received from the American Frozen Food Institute suggesting the proposed revision be published in final form as soon as possible. One minor editorial change has been made in the final publication to enable better reader understanding.

List of Subjects in 7 CFR Part 52

Fruit and vegetable, Food grades, Standards.

In consideration of the foregoing, 7 CFR 52 is amended as set forth below.

Subpart—United States Standards for Grades of Frozen Spinach [Reserved]

1. Subpart—United States Standards for Grades of Frozen Spinach is revoked in its entirety and §§ 52.1921 through 52.1931 are reserved. The Table of Contents is amended to reflect this change.

2. Subpart—United States Standards for Grades of Frozen Leafy Greens is revised to read as follows, and the Table of Contents is revised accordingly:

Subpart—United States Standards for Grades of Frozen Leafy Greens

Sec.

52.1371 Product description.
52.1372 Types.
52.1373 Styles.
52.1374 Definitions of terms.
52.1375 Recommended sample unit sizes.
52.1376 Grades.
52.1377 Factors of quality.
52.1378 Classification of defects.
52.1379 Tolerances for defects.
52.1380 Sample size.
52.1381 Quality requirements.

. . . . .

Subpart—United States Standards for Grades of Frozen Leafy Greens

§ 52.1371 Product description.

"Frozen leafy greens" means the frozen product prepared from the clean, sound, succulent leaves and stems of any one of the plants listed under § 52.1372 by sorting, trimming, washing, blanching, and properly draining. The product is processed by freezing and maintained at temperatures necessary for its preservation. Any functional, optional ingredient(s) permissible under the Federal Food, Drug, and Cosmetic Act may be used to acidify and/or season the product.

§ 52.1372 Types.

(a) Beet greens.
(b) Collards.
(c) Dandelion greens.
(d) Endive.
(e) Kale.
(f) Mustard greens.
(g) Spinach.
(h) Swiss chard.
(i) Turnip greens.
(j) Any other "market accepted" leafy green.

§ 52.1373 Styles.

(a) *Leaf* consists substantially of the leaf, cut or uncut, with or without adjoining portion of the stem.

(b) *Chopped* consists of the leaf with or without adjoining portion of the stem that has been cut into small pieces less than approximately 20 mm (0.78 in) in the longest dimension but not comminuted to a pulp or a puree.

(c) *Pureed* consists of the leaf with or without adjoining portion of the stem that has been comminuted to a pulp or a puree.

§ 52.1374 Definitions of terms.

As used in these U.S. standards, unless otherwise required by the context, the following terms shall be construed, respectively, to mean:

(a) *Acceptable Quality Level (AQL)* means the maximum percent of defective units or the maximum number of defects per hundred units of product that, for the purpose of acceptance sampling, can be considered satisfactory as a process average.

(b) *Blemished* means any unit affected by discoloration or other means to the extent that the appearance or eating quality is adversely affected. Each 4 cm^2 in leaf style or each 2 cm^2 in chopped and pureed styles (aggregate area measurement) is counted as one defect.

(c) *Character (other than pureed style*—(1) *Good character* means:

(i) The frozen spinach is tender upon cooking.

(ii) The frozen leafy greens, other than spinach, may be slightly tough upon cooking.

(2) *Reasonably good character* means:

(i) The frozen spinach is reasonably tender upon cooking.

(ii) The frozen leafy greens, other than spinach, may be moderately tough upon cooking.

(3) *Poor character* means the frozen leafy greens fail the requirements for "reasonably good character."

(d) *Defect* (or defective) means any nonconformance of a unit(s) of product from a specified requirement of a single characteristic.

(e) *Extraneous vegetable material (EVM).* (1) Group I—Green, fine, tender string-like blades and stems of grass and weeds.

(2) Group II—Green, coarse grass and weeds.

(3) Group III—Grass and weeds other than green.

(f) *Flavor and odor. "Normal flavor and odor"* means the frozen product is free from objectionable flavors and odors of any kind after cooking.

(g) *Root crown* means the solid area of the leafy green plant between the root and attached leaves or clusters of leaves.

(h) *Root stub* means any portion of the root whether or not leaves are attached.

(i) *Sample unit* means the amount of product to be used for grading. It may be:

(1) the entire contents of a container;

(2) a portion of the contents of a container;

(3) a combination of the contents of two or more containers;

(4) a portion of unpacked product.

(j) *Seed head* means the seed bearing portion of the leafy green plant that is longer than 2.5 cm (1 in) or that is objectionable in appearance.

(k) *Stem material* (in leaf and chopped styles of spinach only) means the portion of the plant located between the stalk or root crown and the point of attachment to the leaf.

(l) *Unit* means any whole or portion of a leaf or stem from the leafy green plant.

§ 52.1375 Recommended sample unit sizes.

(a) Leaf style—300 g (10.6 oz).

(b) Chopped style—75 g (2.65 oz).

(c) Pureed style—75 g (2.65 oz).

§ 52.1376 Grades.

(a) *U.S. Grade A* is the quality of frozen leafy greens that: (1) Meets the following prerequisites in which the leafy greens:

(i) Have similar varietal characteristics;

(ii) Have a good overall brightness as a mass;

(iii) Have a normal flavor and odor;

(iv) Have a good character (other than pureed style);

(v) May have stem material (leaf style spinach only) that does not exceed an AQL of 20.0;

(vi) May have stem material (chopped style spinach only) that slightly affects the appearance or eating quality;

(vii) May have blemished areas that do not exceed an AQL of 20.0.

(2) Is within the limits for defects as classified in Table I and specified in Table II.

(b) *U.S. Grade B* is the quality of frozen leafy greens that: (1) Meets the following prerequisites in which the leafy greens:

(i) Have similar varietal characteristics;

(ii) Have a fairly good overall brightness as a mass;

(iii) Have a normal flavor and odor;

(iv) Have a reasonably good character (other than pureed style);

(v) May have stem material (leaf style spinach only) that does not exceed an AQL of 25.0;

(vi) May have stem material (chopped style spinach only) that materially affects the appearance or eating quality;

(vii) May have blemished areas that do not exceed an AQL of 40.0.

(2) Is within the limits for defects as classified in Table I and specified in Table II.

(c) *Substandard* is the quality of frozen leafy greens that fails to meet the requirements of *U.S. Grade B.*

§ 52.1377 Factors of quality.

The grade of frozen leafy greens is based on meeting the requirements for the following quality factors:

(a) *Prerequisite quality factors:*

(1) Varietal characteristics;

(2) Brightness;

(3) Flavor and odor;

(4) Character (other than pureed style);

(5) Stem material (leaf and chopped styles of spinach only);

(6) Blemished.

(b) *Classified quality factors:*

(1) Root crowns (leaf style only);

(2) Root stubs (leaf style only);

(3) Seed heads (leaf style only);

(4) Extraneous vegetable material.

§ 52.1378 Classification of defects.

All defects are classified as minor, major, severe, or critical. Each "X" in Table I represents "one (1) defect."

TABLE I—CLASSIFICATION OF DEFECTS

Quality factor	Defect	Classification			
		Minor	Major	Severe	Critical
Leaf Style					
Root crowns	Each piece			X	
Root stubs	Each piece				X
Seeds heads	Each piece			X	
Extraneous vegetable material	Group I (each 2.5 cm increment)	X			
	Group II (each 2.5 cm increment)		X		
	Group III (each 2.5 cm increment)				X
Chopped: Pureed Styles					
Extraneous vegetable material [1].	Group I (each 1.3 cm increment)	X			

TABLE I—CLASSIFICATION OF DEFECTS—Continued

Quality factor	Defect	Classification			
		Minor	Major	Severe	Critical
	Group II (each 1.3 cm increment)		X		
	Group III (each 1.3 cm increment)				X

[1] Includes root crown, root stub and seed head material.

§ 52.1379 Tolerances for defects.

TABLE II (ALL STYLES)

	Total [1]	Major	Severe	Critical
Grade A: AQL [2]	15.0	6.5	2.5	0.4
Grade B: AQL [2]	25.0	12.5	6.5	1.5

[1] Total = Minor + Major + Severe + Critical.
[2] AQL expressed as defects per hundred units.

§ 52.1380 Sample size.

The sample size to determine meeting the requirements of these standards shall be as specified in the "Regulations Governing Inspection and Certification of Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products" (7 CFR 52.1–52.83) for lot grading and on-line grading, as applicable.

§ 52.1381 Quality requirements.

(a) *Lot grading.* A lot of frozen leafy greens is considered as meeting the requirements for quality if:

(1) The prerequisite requirements specified in § 52.1376 are met; and

(2) The Acceptable Quality Levels (AQL) in Table II are not exceeded.

(b) *On-line grading.* A portion of production is considered as meeting the requirements for quality if:

(1) The prerequisite requirements specified in § 52.1376 are met; and

(2) The Acceptable Quality Levels (AQL) in Table II are not exceeded.

(c) *Single sample unit.* Each single sample unit submitted for quality evaluation will be treated individually and is considered as meeting the requirements for quality if:

(1) The prerequisite requirements specified in § 52.1376 are met; and

(2) The Acceptable Quality Levels (AQL) in Table II are not exceeded.

(Agricultural Marketing Act of 1946, Secs. 203, 205, 60 Stat. 1087, as amended 1090, as amended (7 U.S.C. 1622, 1624))

Done at Washington, D.C., on September 7, 1983.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 83-24823 Filed 9-9-83; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

[Docket 83-092]

9 CFR Part 97

Overtime Services Relating to Imports and Exports; Commuted Traveltime Allowances

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends administrative instructions prescribing commuted traveltime. This amendment changes commuted traveltime periods to reflect changes in the time necessarily spent in reporting to and returning from the place at which an employee of Veterinary Services performs overtime or holiday duty when such travel is performed solely on account of such overtime or holiday duty. Such changes depend upon facts within the knowledge of the Animal and Plant Health Inspection Service.

EFFECTIVE DATE: September 12, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. J. L. Ellis, Executive Officer, VS, APHIS, USDA, Room 857, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8511.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This final action has been reviewed under Executive Order 12291, and has been determined to be exempt from those requirements. Bert W. Hawkins, Administrator, Animal and Plant Health Inspection Service, has made this determination because commuted traveltime allowance are strictly a function of where the APHIS employee lives in relation to the place overtime or holiday duty is performed. As employees are transferred or change their residence or as the place of inspection changes, the number of hours of commuted traveltime allowed may change. This amendment merely reflects such changes and serves to notify the public of the new allowed hours.

It is to the benefit of the public that these instructions be made effective at the earliest practicable date. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

List of Subjects in 9 CFR Part 97

Exports, Government employees, Imports, Livestock and livestock products, Poultry and poultry products, Transportation.

PART 97—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

Therefore, pursuant to the authority conferred upon the Administrator, Animal and Plant Health Inspection Service by § 97.1 of the regulations concerning overtime service relating to imports and exports (9 CFR 97.1), administrative instructions 9 CFR 97.2 (1983 ed.), as amended February 14, 1983 (48 FR 6523–6524), March 2, 1983 (48 FR 8803–8804), March 15, 1983 (48 FR 10808–10809), and August 18, 1983 (48 FR 37361), prescribing the commuted traveltime that shall be included in each period of overtime or holiday duty are further amended by adding "Peace Gardens" under "North Dakota", in appropriate alphabetical sequence as shown below:

§ 97.2 Administrative instructions prescribing commuted traveltime.

* * * * *

COMMUTED TRAVELTIME ALLOWANCES

[In hours]

Location covered	Served from	Metropolitan area	
		Within	Outside
* * * * *			
Add:			
* * * * *			
North Dakota:			
Peace Gardens	Bottineau		1
* * * * *			

(64 Stat. 561 (7 U.S.C. 2260))

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than

30 days after publication of this document in the **Federal Register.**

Done at Washington, D.C., this 6th day of September, 1983.

Bert W. Hawkins,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 83-24777 Filed 9-9-83; 8:45 am]

BILLING CODE 3410-34-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Immediate Notification Requirements of Significant Events At Operating Nuclear Power Reactors

Correction

In FR Doc. 83-23602 beginning on page 39039 in the issue of Monday, August 29, 1983, make the following corrections to § 50.72 on page 39046:

1. In the second line of (a)(1) insert the words "licensee licensed" between the words "reactor" and "under".

2. In the second line of (a)(1)(ii) the word "ths" should read "this".

3. In the fourth line of (a)(2) the word "commerical" should read "commercial".

4. In the third and sixth lines of (b)(1)(ii) the word "powerplant" should read "power plant".

5. In the first line of (b)(1)(ii)(A) the word "a" should read "an".

6. In the fourth line of (b)(1)(iii) the word "power-plant" should read "power plant".

7. In the third and sixth lines of (b)(1)(vi) the word "powerplant" should read "power plant". Also in the sixth line of that paragraph the word "nulcear" should read "nuclear".

8. In the fifth line of (b)(2)(i) the word "powerplant" should read power plant".

9. In the second line of (b)(2)(ii) the word "an" should read "any".

BILLING CODE 1505-01-M

10 CFR Part 150

Irretrievable Well-Logging Sources

Correction

In FR Doc. 83-23603 beginning on page 39036 in the issue of Monday, August 29, 1983, make the following corrections in the first column on page 39039:

1. Between the third and fourth lines from the bottom of the page, insert the following language:

"8. Remove the authority citations following §§ 150.3, 150.14, 150.15, 150.15a, 150.30, 150.31, and 150.32."

2. In the fourth line from the bottom of the page the section number reading "1509.32" should read "150.32".

BILLING CODE 1505-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 305

Energy Cost and Consumption Information Used in Labeling and Advertising of Consumer Appliances Under the Energy Policy and Conservation Act; Ranges of Comparability for Water Heaters

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission amends its Appliance Labeling Rule by revising the ranges of comparability used on required labels for water heaters.

Under the rule, each required label on a covered appliance must show a range, or scale, indicating the range of energy costs or efficiencies for all models of a size or capacity comparable to the labeled model. These ranges, which show the highest and lowest energy costs or efficiencies for the various size or capacity groupings of the appliances covered by the rule, are published in the **Federal Register** by the Commission no more often than annually, and are called "ranges of comparability." The figures to be used on the ranges are provided by the Commission after an analysis of data submitted by appliance manufacturers, who derive the energy costs or efficiencies of their appliances by following test procedures prescribed by the Department of Energy ("DOE"). One element used in calculating the ranges is the representative average unit cost of the energy used by the appliances, which is calculated annually by DOE. Because this average cost usually changes annually, and because appliance models are constantly being added, changed, or dropped by manufacturers, the ranges of comparability are likely to change from year to year. This has been the case with the ranges for water heaters, and this notice publishes the new range figures, which, under §§ 305.10, 305.11 and 305.14 of the rule, must be used in the labeling and advertising of water heaters beginning December 12, 1983.

EFFECTIVE DATE: December 12, 1983.

FOR FURTHER INFORMATION CONTACT: James Mills, 202-376-2891, or Lucerne D. Winfrey, 202-376-2805, Attorneys, Division of Enforcement, Federal Trade Commission, Washington, D.C. 20580

SUPPLEMENTARY INFORMATION: Section 324 of the Energy Policy and Conservation Act of 1975 (EPCA) [1] required the Federal Trade Commission to consider labeling rules for the disclosure of estimated annual energy cost or alternative energy consumption information for at least thirteen categories of appliances: (1) Refrigerators and refrigerator-freezers; (2) freezers; (3) dishwashers; (4) clothes dryers; (5) water heaters; (6) room air conditioners; (7) home heating equipment, not including furnaces; (8) television sets; (9) kitchen ranges and ovens; (10) clothes washers; (11) humidifiers and dehumidifiers; (12) central air conditioners; and (13) furnaces. Under the statute, DOE is responsible for developing test procedures that measure how much energy the appliances use. In addition, DOE is required to determine the representative average cost a consumer pays for the different types of energy available.

On November 19, 1979, the Commission issued a final rule [2] covering seven of the thirteen appliance categories: refrigerators and refrigerator-freezers, freezers, dishwashers, water heaters, clothes washers, room air conditioners and furnaces.

The rule requires that energy efficiency ratings or energy costs and related information be disclosed on labels and fact sheets and in retail sales catalogs for all covered products manufactured on or after May 19, 1980. Certain point-of-sale promotional materials must disclose the availability of energy cost or energy efficiency rating information. The required disclosures and all claims concerning energy consumption made in writing or in broadcast advertisements must be based on the results of the DOE test procedures.

Pursuant to § 305.8 of the rule, manufacturers submitted reports to the Commission by January 21, 1980. These reports contained information on the estimated annual cost or energy efficiency rating for the seven categories of appliances derived from tests

[1] Pub. L. 94-163, 89 Stat. 871 (Dec. 22, 1975).

[2] 44 FR 66466, 16 CFR 305 (November 19, 1979).

performed pursuant to the DOE test procedures. The reports also contained the model, the number of tests performed on each model, and the capacity of each model. From that information, the Commission compiled and published [3] ranges of comparability for each product, as required by § 305.10 of the rule.

Section 305.8(b) of the rule requires that manufacturers, after filing this initial report, shall report annually by specified dates for each product type.[4] The data submitted by manufacturers is based, in part, on the representative average unit cost of the type of energy used to run the appliances tested. According to § 305.9 of the rule, these average energy costs, which are provided by DOE, will be periodically revised by the Commission, but not more often than annually. Because the costs for the various types of energy appear to be increasing steadily, and because manufacturers regularly add new models to their lines, improve existing models and drop others, the data base from which the ranges of comparability are calculated is constantly changing. To keep the required information in line with these changes, the Commission is empowered, under § 305.10 of the rule, to publish new ranges (but not more often than annually), if an analysis of the new data indicates that the upper or lower limits of the ranges have changed by more then 15%.

The new figures for the estimated annual costs of operation for water heaters, which were calculated using the 1983 representative average energy costs published by the Commission on April 1, 1983 [5] have been submitted and have been analyzed by the Commission. New ranges based upon them are herewith published.

List of Subjects in 16 CFR Part 305

Advertising, Energy conservation, Household appliances, Labeling, Reporting and recordkeeping requirements.

In consideration of the foregoing, the Commission publishes the following ranges of comparability for use in the labeling and advertising of water heaters beginning December 12, 1983.

[3] 45 FR 13998 (March 3, 1980), 45 FR 19520 (March 25, 1980), 45 FR 26036 (April 17, 1980), 46 FR 3829 (January 16, 1981).

[4] Reports for clothes washers are due by March 1; reports for water heaters, room air conditioners and furnaces are due by May 1; reports for dishwashers are due by June 1; reports for refrigerators, refrigerator-freezers and freezers are due by August 1.

[5] 48 FR 3409.

Rules for Using Energy Cost and Consumption Information Used in Labeling Ad Advertising of Consumer Appliances Under the Energy Policy and Conservation Act

Appendices D1, D2 and D3 to 16 CFR Part 305 are revised to read as set forth below:

D1—WATER HEATER—GAS

First hour rating	Ranges of estimated yearly energy cost			
	Natural Gas		Propane	
	Low	High	Low	High
Less than 21	(1)	(1)	(1)	(1)
21 to 24	(1)	(1)	(1)	(1)
25 to 29	(1)	(1)	(1)	(1)
30 to 34	(1)	(1)	(1)	(1)
35 to 40	$186.00	$219.00	(1)	(1)
41 to 47	187.00	202.00	$258.00	$284.00
48 to 55	176.00	266.00	243.00	368.00
55 to 64	188.00	295.00	260.00	407.00
65 to 74	185.00	273.00	255.00	377.00
75 to 86	170.00	288.00	236.00	397.00
87 to 99	210.00	243.00	290.00	335.00
100 to 114	219.00	304.00	301.00	419.00
115 to 131	254.00	266.00	351.00	368.00
Over 131	254.00	266.00	351.00	397.00

(1) No data submitted.

APPENDIX D2—WATER HEATER—ELECTRIC

First hour rating	Ranges of estimated yearly energy cost	
	Low	High
Less than 21	(1)	(1)
21 to 24	$414.00	$443.00
25 to 29	469.00	469.00
30 to 34	414.00	469.00
35 to 40	410.00	513.00
41 to 47	402.00	513.00
48 to 55	406.00	526.00
55 to 64	406.00	519.00
65 to 74	410.00	549.00
75 to 86	419.00	573.00
87 to 99	414.00	557.00
100 to 114	419.00	628.00
115 to 131	448.00	573.00
Over 131	(1)	(1)

(1) No data submitted.

APPENDIX D3—WATER HEATER—OIL

First hour rating	Ranges of estimated yearly energy cost	
	Low	High
Less than 65	(1)	(1)
65 to 74	(1)	(1)
75 to 86	(1)	(1)
87 to 99	(1)	(1)
100 to 114	$269.00	$269.00
115 to 131	284.00	307.00
Over 131	(1)	(1)

(1) No data submitted.

Authority: Sec. 324 of the Energy Policy and Conservation Act (Pub. L. 94–163) (1975), as amended by the National Energy Conservation Policy Act (Pub. L. 95–619) (1978), 42 U.S.C. 8294; section 553 of the Administrative Procedure Act, 5 U.S.C. 553.

Michael A. Baggage,

Acting Secretary.

[FR Doc. 83–24796 Filed 9–9–83; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

Supplemental Security Income for the Aged, Blind, and Disabled; Resources, Disposing of Resources for Less Than Fair Market Value

AGENCY: Social Security Administration, HHS.

ACTION: Final Rule.

SUMMARY: The Department of Health and Human Services is amending its regulations to implement the changes made by sections 5 (a) and (c) of Pub. L. 96–611 which limit eligibility for supplemental security income (SSI) benefits when an individual or eligible spouse sells or gives away a resource at less than fair market value. These provisions apply to any nonexcluded resource transferred (disposed of) within the 24 months preceding an SSI application date of March 1, 1981, or later or within 24 months of any redetermination based on a claim filed March 1, 1981, or later. These provisions do not apply to those resources excluded under the Social Security Act (the Act) and other Federal statutes.

Any nonexcluded resource (or interest in a resource) owned by an individual or eligible spouse which was transferred at less than fair market value within the preceding 24 months is presumed to have been transferred for the purpose of establishing SSI or Medicaid eligibility unless convincing evidence is furnished by the individual or eligible spouse to establish that the transfer was exclusively for some other reason.

EFFECTIVE DATE: These regulations are effective September 12, 1983 but the statutory changes which the regulations reflect were effective March 1, 1981.

FOR FURTHER INFORMATION CONTACT: Henry D. Lerner, Legal Assistant, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Md. 21235, telephone (301) 594–7414.

SUPPLEMENTARY INFORMATION: We are amending our rules to reflect the effect that section 5(a) of Pub. L. 96–611 has on determining an individual's resources when the individual has transferred a resource for less than fair market value. These rules were proposed in a notice of proposed rulemaking (NPRM) published October 22, 1981 (46 FR 51778). Comments received since publication are discussed later in the preamble.

Section 5(a) of Pub. L. 96–611, amends section 1613 of the Act. It provides that

an individual (or eligible spouse) who gives away or sells any nonexcludable resource for less than fair market value for the purpose of establishing SSI or Medicaid eligibility will have any uncompensated value of those resources (the difference between fair market value and the amount received for the resource) counted toward the resources limit of $1,500 for an eligible individual and $2,250 for a couple for a period of 24 months from the date of transfer. Fair market value is equal to the current market value of a resource at the time of transfer or contract for sale, if earlier. The transfer (disposal) of a resource at less than fair market value is presumed to be for the purpose of establishing SSI or Medicaid eligibility unless the individual (or eligible spouse) can present convincing evidence that the transfer was exclusively for some other reason. These rules will apply to all individuals who file SSI applications on March 1, 1981, or later and to all redeterminations of those claims.

Comments Received Following Publication of the Notice of Proposed Rulemaking Published October 22, 1981 (46 FR 51778).

Comment: One commenter indicates that § 416.1246(a) refers to nonexcluded resources and the preclusion against their transfer. It appears that excluded resources can be transferred with no impact on SSI or Medicaid eligibility.

Response: Section 1613(c) of the Act precludes SSA from applying the transfer of assets rules to excluded resources. Additionally, the new provision applies to resources that were transferred for the purpose of establishing eligibility and excluded resources do not affect eligibility.

Comment: Section 416.1246(a) refers to the amount of compensation received within a 24 month period from the date of transfer. Several commenters ask why the period is limited. If an agreement has been reached at the time of transfer, and payments to the recipient are set up for a time period longer than two years, the commenters do not see why that would defeat the purpose of the Act.

Response: We believe that this section is being misinterpreted. We are clarifying the language to show that the period over which the compensation is received is not limited to 24 months. Instead, the uncompensated value is counted toward the resource limit ($1,500 individual, $2,250 couple) for a period of 24 months from the date of transfer.

Comment: Several commenters state that § 416.1246(a) would permit SSA to deny SSI benefits to someone who transfers property for the purpose of receiving Medicaid, as opposed to receiving SSI. They believe the statute does not give SSA authority to do this; therefore "or Medicaid" should be deleted from the first sentence.

Response: The statute does give SSA this authority. Section 1613(c)(1) of the Social Security Act indicates that these rules will apply to an individual "establishing eligibility for benefits or assistance under this Act". This means all applicable titles of the Social Security Act which includes title XIX (Medicaid). Also, the legislative history for section 5 of Pub. L. 96–611 indicates that this provision was specifically related to the transfer of assets by claimants for SSI benefits and Medicaid and that it was designed to try to discourage people from transferring assets for the purpose of qualifying for the SSI and Medicaid programs.

Comment: One commenter suggests that the 24 month period in § 416.1246(a) is longer than it should be. Legislatures and courts over a period of many years have generally recognized a 12 month period to be adequate as setting up a presumption of fraudulent conveyance for any other purpose.

Response: Section 5(a) of Pub. L. 96–611 provides for a period of 24 months and we are following this provision of the statute.

Comment: One commenter suggests that § 416.1246(b) should be clarified to show that expert testimony will be allowed in determining a resource's fair market value.

Response: This policy is currently being followed and is described in operating instructions which are used in the claims development and adjudicative process.

Comment: Several commenters indicate that § 416.1246(c) only considers compensation received for the asset "at or after" the time the transfer takes place. They ask what happens if an aged person agrees to transfer property (e.g., the home) at some point in the future to a person who is presently providing care to him? Also, consider that resources are often transferred to repay prior debts. Therefore, compensation should also extend to that which is received prior to transfer. The commenters suggest that "at or after the time of transfer" be deleted.

Response: Compensation is something received in exchange for a resource. If an individual receives care, services, or support and maintenance prior to an actual resource transfer, the services may be considered as compensation if they were provided per an agreement in exchange for the resource. We have amended the regulations to clarify this point. The disposal rule does not apply to repayment of a legal debt if nothing is sold or given away.

Comment: Several commenters suggest that our rules should indicate that care given up to the time of the asset's transfer be considered. Oral contracts are common among elderly persons and the promise of inheritance is a direct incentive for a friend or relative to provide in-home services, care and attention to an aged person.

Response: Care and services received in exchange for a resource may be considered as compensation. An oral contract concerning care and services may be recognized as long as it is a valid legal contract under the appropriate State law.

Comment: Several commenters suggest that § 416.1246(e) should be clarified to list all forms of convincing evidence, including documents that clearly imply intentions; such as wills and life estates. They recommend that we include non-documentary evidence if it is convincing evidence. The commenters also indicate that this section lacks specifically regarding what factors may rebut the presumption that the resource was transferred to establish SSI or Medicaid eligibility.

Response: We agree that non-documentary evidence should be included as convincing evidence with regard to rebuttal of the presumption that resources were transferred to establish eligibility for SSI or Medicaid benefits. We have amended the regulation to reflect this. Convincing evidence may be pertinent documentary or non-documentary evidence which shows, for example, that the transfer was ordered by a court, or that at the time of transfer the individual could not have anticipated becoming eligible due to the existence of other factors which would have precluded eligibility.

Comment: Several commenters suggest that the applicable date in § 416.1246(f) be clarified. Since the rules do not allow the transfer of assets provision to apply to persons who applied for benefits prior to March 1, 1981, the rules should clearly prohibit applying these rules to anyone who was eligible and filed prior to March 1, 1981. Also, this section should not be applied to redeterminations of applications filed prior to March 1, 1981.

Response: We believe these commenters have misinterpreted this provision. We are in fact applying this policy only to persons who apply for benefits March 1, 1981 or later and to redeterminations on those claims. We believe that the rule as presently written

is sufficient; therefore, no change is being made.

Comment: Several commenters ask why the transfer of assets rules apply retroactively. These commenters state that attorneys, advocates, and SSA personnel relying on the law as it existed prior to sec. 5 of Pub. L. 96–611 becoming law, explained that such transactions would not affect a person's eligibility for SSI benefits. Changing the law retroactively after people have relied on it violates fundamental notions of fairness. They believe that a just way to implement sec. 5(a) of Pub. L. 96–611 is to only apply the presumption to transfers made after March 1, 1981.

Response: Section 5(c) of Pub. L. 96–611 indicates that the provisions made by section (a) shall be effective March 1, 1981. The effect of the statute is prospective, applying only to applications filed on or after March 1, 1981. However, the 24 month backward reach (from the date of application) of the uncompensated value provision reflects Congressional intent to tighten up resource transfer rules. Both the effective date and 24 month reach are specified in the statute. Thus, we are following these rules.

Comment: One commenter states that there is no provision for exception when the transfer proves not to be voluntary. People are often manipulated into transferring property out of fear, duress, or just plain confusion. While it may be possible to legally invalidate such a transfer, the asset may be gone by the time this is accomplished and the presumption still lives.

Response: The statute covers all transfers of assets for less than fair market value. The people that are manipulated into transferring property have an opportunity to rebut the presumption that the resources were transferred to establish SSI or Medicaid eligibility. If they successfully rebut the presumption, the new transfer rules will not apply.

Comment: One commenter states that the new *Claims Manual* sections governing transfer of assets are much more detailed than the proposed regulations. The commenter believes the regulations must be more specific about the procedures which will be followed and the standards which will govern eligibility determinations and redeterminations involving transfer of assets issues.

Response: The regulations reflect the provisions of the law and the general policies implementing the law. Our operating instructions contain procedures which are used to develop and adjudicate claims for benefits, and thus may contain more detail for applying the rules to specific factual situations.

Comment: One commenter indicates the provisions for the disposal of resources for Medicaid took effect July 1, 1981, and suggests that separate regulations be published as soon as possible for the Medicaid program.

Response: Separate regulations for the Medicaid program are being prepared by the Health Care Financing Administration and will be published in the **Federal Register** for public comment.

New Policies on Fair Market Value and Uncompensated Value

Section 416.1246(a) of the NPRM is revised to show that when a transferred asset is returned to the individual, we will stop charging uncompensated value as of the date of return. Similarly, when the individual receives additional compensation in the form of cash for the transferred resource we will reduce the uncompensated value, as of the date the additional cash compensation is received, by that amount of the additional compensation.

Section 416.1246(b) of the NPRM is revised to define fair market value as the current market value of a resource at the time of transfer or contract for sale, if earlier. This is in recognition of the fact that the claimant has no control over, and should not be affected by, fluctuations in the value of a resource due to inflation, market conditions, etc. which occur after he or she has entered into a legally binding contract to sell the resource.

Section 416.1246(d) of the NPRM is revised to show that if the transferred resource was partially excluded (for example, an automobile valued at more than $4,500) we will not count uncompensated value in an amount greater than the countable value of the resources at the time of transfer. Section 1613(a) of the Act provides for the exclusion of household goods, personal effects, and an automobile "to the extent that their total value does not exceed such an amount as the Secretary determines to be reasonable." Existing regulations state the amounts determined by the Secretary to be reasonable. Thus, in may cases the total fair market value of an item is not charged as a resource. The amendment to § 416.1246(d) recognizes that the transfer of resources provision is to be applied subject to the exclusions in section 1613(a) of the Act.

Executive Order 12291—Cost reductions from limiting SSI eligibility when an individual or spouse sells or gives away a resource at less than fair market value are estimated to be $16 million in fiscal year 1983, $26 million in fiscal year 1984, $37 million in fiscal year 1985, and $47 million in fiscal year 1986. These decreases in program costs are due primarily to decisions made in the legislative process. Cost impacts directly resulting from the regulations themselves are minor. For this reason, the Secretary has determined that the regulations are not a "major rule" under Executive Order 12291, and a regulatory impact analysis is not required.

Paperwork Reduction Act: These regulations impose no additional reporting or recordkeeping requirements requiring OMB clearance.

Regulatory Flexibility Act: We certify that these regulations do not have a significant economic impact on a substantial number of small entities because these rules affect only individuals. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96–354, the Regulatory Flexibility Act, is not required.

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income Program.)

List of Subjects in 20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disabled, Public assistance programs, Social Security Administration, Supplemental Security Income (SSI).

Dated: April 6, 1983.

John A. Svahn,

Acting Commissioner of Social Security.

Approved: August 19, 1983.

Margaret M. Heckler,

Secretary of Health and Human Services.

PART 416—[AMENDED]

Subpart L of Part 416 of Chapter III of Title 20 of the Code of Federal Regulations is amended to read as follows:

1. The authority citation for Subpart L of Part 416 reads as follows:

Authority: Secs. 1102, 1601, 1602, 1611, 1612, 1613, 1614(f) and 1631(d) of the Social Security Act, as amended; 49 Stat. 647, as amended; 86 Stat. 1465, 1466, 1468, 1470, 1471(f) and 1475(d), as amended; 42 U.S.C. 1302, 1381, 1381a, 1382, 1382a, 1382b, 1382c(f) and 1383(d); Sec. 5 of Pub. L. 96–611, 94 Stat. 3567.

2. Section 416.1246 is added to read as follows:

§ 416.1246 Disposal of resources at less than fair market value.

(a) *General.* (1) An individual (or eligible spouse) who gives away or sells a nonexcluded resource for less than fair market value for the purpose of establishing SSI or Medicaid eligibility will be charged with the difference

between the fair market value of the resource and the amount of compensation received. The difference is referred to as uncompensated value and is counted toward the resource limit ($1,500 for an eligible individual, $2,250 for a couple) for a period of 24 months from the date of transfer.

(2) If the transferred resource (asset) is returned to the individual, the uncompensated value is no longer counted as of the date of return. If the transferred asset is cash, the uncompensated value is reduced as of the date of return by the amount of cash that is returned. No income will be charged as a result of such returns. The returned asset will be evaluated as a resource according to the rules described in §§ 416.1201–416.1230 as of the first day of the following month.

(3) If the individual receives additional compensation in the form of cash for the transferred asset the uncompensated value is reduced, as of the date the additional cash compensation is received, by the amount of the additional compensation.

(b) *Fair market value.* Fair market value is equal to the current market value of a resource at the time of transfer or contract of sale, if earlier. See § 416.1101 for definition of current market value.

(c) *Compensation.* The compensation for a resource includes all money, real or personal property, food, shelter, or services received by the individual (or eligible spouse) at or after the time of transfer in exchange for the resource if the compensation was provided pursuant to a binding (legally enforceable) agreement in effect at the time of transfer. Compensation also includes all money, real or personal property, food, shelter, or services received prior to the actual transfer if they were provided pursuant to a binding (legally enforceable) agreement whereby the eligible individual would transfer the resource or otherwise pay for such items. In addition, payment or assumption of a legal debt owed by the eligible individual in exchange for the asset is considered compensation.

(d) *Uncompensated value.* The uncompensated value is the fair market value of a resource at the time of transfer minus the amount of compensation received by the individual (or eligible spouse) in exchange for the resource. However, if the transferred resource was partially excluded, we will not count uncompensated value in an amount greater than the countable value of the resource at the time of transfer.

(e) *Presumption that resource was transferred to establish SSI or Medicaid eligibility.* Transfer of a resource for less than fair market value is presumed to have been made for the purpose of establishing SSI or Medicaid eligibility unless the individual (or eligible spouse) furnishes convincing evidence that the resource was transferred exclusively for some other reason. Convincing evidence may be pertinent documentary or non-documentary evidence which shows, for example, that the transfer was ordered by a court, or that at the time of transfer the individual could not have anticipated becoming eligible due to the existence of other circumstances which would have precluded eligibility. The burden of rebutting the presumption that a resource was transferrred to establish SSI or Medicaid eligibility rests with the individual (or eligible spouse).

(f) *Applicability.* These rules apply to all individuals who filed for SSI benefits on March 1, 1981, or later and to all redeterminations of claims which were filed on March 1, 1981, or later.

[FR Doc. 83-24783 Filed 9-9-83; 8:45 am]
BILLING CODE 4190-11-M

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 628

Service Delivery System; Procedures for Appeals to the Secretary of Labor; Job Training Partnership Act

AGENCY: Employment and Training Administration, Labor.

ACTION: Rule related notice.

SUMMARY: This notice announces procedures for appeals to the Secretary of Labor on final disapproval of service delivery area (SDA) job training plans under Section 105(b)(2) of the Job Training Partnership Act (JTPA), pursuant to Section 628.5(b) of the final regulations for Titles I, II, and III (48 FR 11081, March 15, 1983).

FOR FURTHER INFORMATION CONTACT: Robert N. Colombo, Acting Director, Office of Employment and Training Programs, 601 D Street NW., Room 6402, Washington, D.C. 20213, telephone number: (202) 376–6093.

SUPPLEMENTARY INFORMATION: Section 105(b)(2) of JTPA and § 628.5(b) of the final regulations permit the private industry council and appropriate chief elected official(s) of an SDA to appeal a Governor's final disapproval of the SDA job training plan to the Secretary. As indicated in the regulations, the Secretary will only accept appeals dated no later than 30 days after receipt of written notification of final disapproval by the Governor. Appeals will not be accepted on the Governor's preliminary disapproval, after which the SDA has 20 days to respond. The regulations provide the address for appeal submittal and require simultaneous submittal of the appeal to the Governor.

Decisions will be based strictly on whether or not the Governor's final disapproval is clearly erroneous within the context of Section 105(b)(1) of the Act. In order for the Secretary to make an informed decision, the SDA should provide all relevant information in the appeal. This includes, at a minimum:

- Detailed demonstration that a provision of Section 105(b)(1) of the Act has been violated.
- A copy of instructions and schedules provided by the Governor on job training plans.
- A copy of the Governor's preliminary disapproval.
- A copy of the documents submitted by the SDA to the Governor in response to the preliminary disapproval.
- A copy of the Governor's notification of the final disapproval, and evidence of the date of receipt of such disapproval.

If they choose to comment on the appeals, Governors may submit similar or additional information. Since the Secretary will make a final decision within 45 days of receipt of an appeal, Governors will need to submit their comments to the Secretary quickly in order for them to be considered. A letter indicating the Secretary's receipt of an appeal and established a cut-off date for comments will be sent to the appropriate Governor by the Assistant Secretary of Labor for Employment and Training.

Paperwork Reduction Act Clearance

This notice was submitted to and approved by OMB under the Paperwork Reduction Act. The control number assigned to this document by OMB is 1205–0208.

Signed this 26th day of August 1983.

Joyce Kaiser.

Associate Assistant Secretary for Employment and Training.

[FR Doc. 83-24786 Filed 9-9-83; 8:45 am]
BILLING CODE 4510-30-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 14

Administrative Practices and Procedures; Correction

AGENCY: Food and Drug Administration.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a final rule that revised the administrative practices and procedures regulations to make editorial changes and to make the regulations more concise and readable. The effect of the correction is to eliminate inconsistency with respect to the locations where advisory committee meetings and meetings held by conference telephone calls may be held. The text in 21 CFR 14.22(g) is inconsistent with § 14.22(b) which states that advisory committee meetings will be held in Washington, DC, or Rockville, MD, or the immediate vicinity. FDA is correcting § 14.22(g) to conform to § 14.22(b).

EFFECTIVE DATE: September 12, 1983.

FOR FURTHER INFORMATION CONTACT: Richard Schmidt, Committee Management Office (HFA–306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857; 301–443–2765.

SUPPLEMENTARY INFORMATION: In FR Doc. 79–11402 in the issue for Friday, April 13, 1979, at page 22318, the following correction is made on page 22354 in the center column.

§ 14.22 [Corrected]

In § 14.22 *Meetings of an advisory committee* the introductory text of paragraph (g) is corrected by changing the phrase "in Washington, D.C., or Rockville, Md.," to read "in Washington, D.C., or Rockville, Md., or the immediate vicinity,".

Dated: September 8, 1983.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 83–24829 Filed 9–8–83; 4:24 pm]

BILLING CODE 4160–01–M

21 CFR Parts 510 and 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Altrenogest Solution

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Roussel-UCLAF, providing for use of altrenogest solution to suppress estrus in mares and to add the sponsor to the list of sponsors of approved NADA's.

EFFECTIVE DATE: September 12, 1983.

FOR FURTHER INFORMATION CONTACT: Sandra K. Woods, Bureau of Veterinary Medicine (HFV–114), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3420.

SUPPLEMENTARY INFORMATION: Roussel-UCLAF, Division Agro-Veterinaire, 163 Avenue Gambetta, 75020 Paris, France, is sponsor of NADA 131–310 providing for use of altrenogest solution to suppress estrus in mares. Suppression of estrus allows for a predictable occurrence of estrus following drug withdrawal and facilitates the attainment of regular cyclicity during the transition from winter anestrus to the physiological breeding season. Suppression of estrus will also facilitate management of prolonged estrus conditions. Suppression of estrus may be used to facilitate scheduled breeding during the physiological breeding season. The NADA is approved and the regulations are amended to reflect the approval. In addition, the list of sponsors of approved NADA's in 21 CFR 510.600(c) is amended to add this new sponsor. The basis of approval is discussed in the freedom of information (FOI) summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) [21 CFR 514.11(e)(2)(ii)], a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement therefore will not be prepared. The Bureau's finding of no significant impact and the evidence supporting this finding, contained in a statement of exemption (pursuant to 21 CFR 25.1 (f)(1)(ii)) may be seen in the Dockets Management Branch (address above).

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 520

Animal drugs—oral use.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Parts 510 and 520 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. In Part 510, §510.600 is amended by adding a new sponsor alphabetically to paragraph (c)(1) and numerically to (c)(2) to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * *	
Roussel-UCLAF, Division Agro-Veterinaire, 163 Avenue Gambetta, 75020 Paris, France	012579
* * * * *	

(2) * * *

Drug labeler code	Firm name and address
* * * * *	
012579	Roussel-UCLAF, Division Agro-Veterinaire, 163 Avenue Gambetta, 75020 Paris, France.
* * * * *	

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

2. In Part 520, by adding new § 520.48 to read as follows:

§ 520.48 Altrenogest solution.

(a) *Specifications.* Each milliliter of altrenogest solution contains 2.2 milligrams of altrenogest.

(b) *Sponsor.* See No. 012579 in § 510.600(c) of this chapter.

(c) *Conditions of use*—(1) *Amount.* Administer orally at the rate of 1 milliliter per 100 pounds body weight (0.05 milligram per kilogram body

weight). Give one dose daily for 15 consecutive days.

(2) *Indications for use.* For suppression of estrus in mares.

(3) *Limitations.* For oral use in horses only; avoid contact with the skin. Do not administer to horses intended for use as food. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. September 12, 1983.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: September 2, 1983.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 83-24747 Filed 9-9-83; 8:45 am]
BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 7894]

Foreign Base Company Shipping Income

Correction

In FR Doc. 83-12815 beginning on page 22512 in the issue of Thursday, May 19, 1983, make the following corrections:

1. In § 1.955A-1(b)(3)(iii)(B), page 22531, middle column, thirty four lines from the top, "(2)(1)(A) (*1*) and (*2*)" should have read "(2)(i)(A) (*1*) and (*2*)".

2. In § 1.955A-1(c)(1), page 22532, first column, fifteen lines from the top, "section 995(a)(3)" should have read "section 955(a)(3)".

3. In § 1.955A-1(d), Example (1), page 22532, middle column, fourth line from the top, "1975" should have read "1976".

4. In § 1.955A-2(a)(4), page 22532, third column, twenty eight lines from the top, "(b)(i)" should have read "(b)(1)".

5. In § 1.955A-3, page 22538, first column, the last paragraph now designated as (c) should have been designated (e).

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 938

Permanent State Regulatory Program of Pennsylvania; Modification of Deadline

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: The Secretary of the Interior is modifying the deadline for Pennsylvania to meet condition (d) of its approved State permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The Secretary is extending the deadline for the State to resolve condition (d) to February 1, 1984. The condition relates to prime farmland requirements for a permit applicant who proposes to mine coal in the anthracite regions.

EFFECTIVE DATE: September 12, 1983.

FOR FURTHER INFORMATION CONTACT: Robert Biggi, Director, Harrisburg Field Office, Office of Surface Mining, 101 South 2nd Street, Suite L-4, Harrisburg, Pennsylvania 17101; Telephone: (717) 782-4036.

SUPPLEMENTARY INFORMATION: On June 16, 1983, the Director, OSM, published a proposed rule to extend the deadline for Pennsylvania to meet condition (d) of the approval of its approved regulatory program under the Act (48 FR 27551-27552). Public comment was invited until July 18, 1983.

Parts 730-732 of OSM's regulations establish the procedures for the submission, review and decision on State permanent regulatory programs whereby the State assumes primary jurisdiction to regulate surface coal mining under the Act. Under § 732.13(j), the Secretary may conditionally approve a State program which contains minor deficiencies according to a schedule set in the notice of conditional approval. The schedule is established in consultation with the State, based on its administrative needs and the time required for changes to be adopted under State rulemaking on legislative procedures. The Pennsylvania program was conditionally approved on July 30, 1982 (47 FR 33050-33080). The Secretary's approval was conditioned on the State's correction of 10 minor deficiencies.

In a letter dated April 25, 1983, from the Commonwealth of Pennsylvania, the State requested an additional six months to satisfy condition (d). By the terms of the conditional approval, condition (d) was to be met by August 1, 1983. The State explained that because of the recently passed Regulatory Review Act, which took effect on March 1, 1983, proposed regulations must be submitted to both houses of the Pennsylvania General Assembly and an Independent Regulatory Review Commission prior to adoption. Proposed regulations can be disapproved by either the General Assembly or the Commission. Since a portion of the condition requires a regulatory change, and such a revision must be submitted to the General Assembly and the Commission, Pennsylvania claimed it could not meet the August 1, 1983, deadline for the condition.

Therefore, the Secretary proposed to allow the State until February 1, 1984, to meet condition (d) pertaining to certain coal mine permit requirements with respect to prime farmland in the anthracite region.

Secretary's Findings

The Secretary finds that the request from Pennsylvania, dated April 25, 1983, is reasonable and has decided to grant the State's request for the extension of time to satisfy condition (d). However, in the interim, the Secretary requires the State to utilize its authority to require the permittee to conduct a prime farmland investigation prior to mining in the anthracite region and, if appropriate, obtain a negative determination with respect to prime farmland as Pennsylvania agreed to do at the time of conditional approval. The Secretary assumes that the State will also prohibit bond release for prime farmland until after the soil productivity for prime farmland has been returned to a level of yield comparable with nonmined prime farmland which is no less effective than 30 CFR 807.12(e)(2)(iii), in accordance with section 519(c)(2) of SMCRA.

Public Comment: The public comment period on the proposed extension ended July 18, 1983. No comments were received.

Additional Findings

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not

impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 938

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Accordingly, 30 CFR Part 938 is amended as set forth herein.

Dated: September 1, 1983.

William P. Pendley,

Deputy Assistant Secretary for Energy and Minerals.

PART 938—PENNSYLVANIA

§ 938.11 [Amended]

30 CFR 938.11(d) is amended by substituting "February 1, 1984", for "August 1, 1983", each time it appears.

(Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*)).

[FR Doc. 83–24629 Filed 9–9–83; 8:45 am]
BILLING CODE 4310–05–M

Bureau of Land Management

43 CFR Ch. II

Codification of Information Collection Requirements Clearance Numbers

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: In compliance with the requirements of the Office of Management and Budget set forth in 5 CFR Part 1320, this final rulemaking codifies the information collection requirements for existing parts of Title 43 of the Code of Federal Regulations which have not been previously codified.

EFFECTIVE DATE: September 12, 1983.

ADDRESS: Any suggestions or comments should be sent to: Director (140), Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: David R. Shepard, (202) 343–8735.

SUPPLEMENTARY INFORMATION: There are a number of parts in Title 43 of the Code of Federal Regulations that have not had included in them the codification of the information collection requirements imposed by the Paperwork Reduction Act of 1980 (5 U.S.C. 601 et seq.). This final rulemaking will complete this process for all outstanding parts so that the information collection requirements and the associated Office of Management and Budget clearance numbers will be reflected in this year's revision of the Title 43 of the Code of Federal Regulations.

The changes made by this final rulemaking are reporting and recordkeeping requirements and impose no additional requirements on the public. They also represent administrative actions already taken by the Office of Management and Budget through the issuance of clearance numbers for the information requirements contained in each part. Therefore, the changes are being published as a final rulemaking that will be effective upon publication.

Because this final rulemaking is an administrative action to meet reporting and recordkeeping requirements imposed by statute and will have no additional impacts on the public, it has been determined that no action needs to be taken with regard to a determination under either the provisions of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) or the provisions of Executive Order 12291.

This final rulemaking contains no additional information collection requirements.

The principal author of this final rulemaking is David R. Shepard, Office of Legislation and Regulatory Management, Bureau of Land Management.

Under the authority of the Paperwork Management Act (5 U.S.C. 601 et seq.) and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), Groups 2500, 2700, 2800, 2900, 3100, 3200, 3500, 3700, 3800, 4100, 4300, 4700, 5400, 8300 and 9100 and their related Parts in Subchapters B, C, D, E, H and I, Chapter II of Title 43 of the Code of Federal Regulations are amended by inserting language codifying the information collection requirements as set forth below.

Dated: September 1, 1983.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

1. Group 2500 is amended by inserting immediately after the group heading a "Note" to read:

Note.—The information collection requirements contained in Parts 2520, 2530, 2540 and 2560 of Group 2500 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance numbers 1004—0004, 1004—1010, 1004—0011, 1004—0023, 1004—0026, 1004—0028, 1004—0029 and 1004—0069. The information is being collected to permit the authorized officer to determine whether certain petitions or applications for use and occupancy of the public lands should be granted. The information will be used to make that determination. A response is required to obtain a benefit.

2. Group 2700 is amended by inserting immediately after the group heading a "Note" to read:

Note.—The information collection requirements contained in Part 2740 of Group 2700 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1004—0012. The information is being collected to permit the authorized officer to determine if disposition of public lands should be made for recreation and public purposes. The information will be used to make this determination. A response is required to obtain a benefit.

3. Group 2800 is amended by inserting immediately after the group heading a "Note" to read:

Note.—The information collection requirements contained in Parts 2800, 2810 and 2880 of Group 2700 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance numbers 1004—0102 and 1004—0107. The information is being collected to permit the authorized officer to determine if use of the public lands should be granted for right-of-way grants or temporary use permits. The information will be used to make this determination. A response is required to obtain a benefit.

4. Group 2900 is amended by inserting immediately after the group heading a "Note" to read:

Note.—The information collection requirements contained in Part 2920 of Group 2900 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1004—0009. The information is being collected to permit the authorized officer to determine if use of the public lands should be granted for various authorized uses under a lease, permit or easement. The information will be used to make this determination. A response is required to obtain a benefit.

5. Group 3100 is amended by revising the "Note" immediately after the group heading by removing the phrase "and 3120" and replacing it with the phrase "3120, 3130, 3140 and 3160", by inserting after the figure "1004—0065," the figure "1004—0067,", by inserting after the figure "1004—0074," the figure "1004—0118" and by inserting after the figure "1004—0134" the figures ", 1004—0135, 1004—0136, 1004—0137, 1004—0138".

6. Group 3200 is amended by inserting immediately after the group heading a "Note" to read:

Note.—The information collection requirements contained in Parts 3200, 3210, 3220, 3240, 3250 and 3260 of Group 3200 have been approved by the Office of Management

and Budget under 44 U.S.C. 3507 and assigned clearance numbers 1004—0038, 1004—0063, 1004—0074, 1004—0132 and 1004—0141. The information is being collected to permit the authorized officer to determine whether an applicant is qualified to hold a lease for the exploration, development and utilization of geothermal resources on the public lands. The information will be used to make this determination. A response is required to obtain a benefit.

7. Group 3500 is amended by inserting immediately after the group heading a "Note" to read:

Note.—The information collection requirements contained in Parts 3500, 3510 and 3570 of Group 3500 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance numbers 1004—0030, 1004—0121 and 1004—0142. The information is being collected to permit the authorized officer to determine whether an applicant is qualified to hold a lease for the exploration, development and utilization of leasable minerals other than coal and oil and gas on the public lands. The information will be used to make this determination. A response is required to obtain a benefit.

8. Group 3700 is amended by inserting immediately after the group heading a "Note" to read:

Note.—The information collection requirements contained in Part 3730 of Group 3700 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1004–0110. The information is being collected to permit the authorized officer to determine whether an applicant is qualified to hold a lease for the exploration, development and utilization of minerals on all public lands withdrawn for power development. The information will be used to make this determination. A response is required to obtain a benefit.

9. Group 3800 is amended by inserting immediately after the group heading a "Note" to read:

Note.—The information collection requirements contained in Parts 3800, 3810, 3820, 3830, 3860 and 3870 of Group 3800 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance numbers 1004—0025, 1004—0104, 1004—0110 and 1004—0114. The information is being collected to permit the authorized officer to review certain proposed mining activities to ensure that they provide adequate protection of the public lands and their resources. The information will be used to make this determination. A response is required to obtain a benefit.

10. Group 4100 is amended by revising the "Note" immediately after the group heading to read:

Note.—The information collection requirements contained in Parts 4120 and 4130 of Group 4100 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance numbers 1004–0005, 1004–0019, 1004–0020, 1004–0041, 1004–0051, 1004–0068 and 1004–0131. The information is being collected to permit the authorized officer to determine whether an application to utilize the public lands for grazing purposes should be granted. The information will be used to make this determination. A response is required to obtain a benefit.

11. Group 4300 is amended by inserting immediately after the group heading a "Note" to read:

Note.—The information collection requirements contained in Part 4320 of Group 4300 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1004–0024. The information is being collected to permit the authorized officer to determine whether an application to utilize the public lands in Alaska for reindeer grazing should be granted. The information will be used to make this determination. The obligation to respond is required to obtain a benefit.

12. Group 4700 is amended by inserting immediately after the group heading a "Note" to read:

Note.—The information collection requirements contained in Parts 4740 of Group 4700 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance numbers 1004–0042 and 1004–0046. The information is being collected to permit the authorized officer to determine whether an application for adoption of or title to wild horses or burros should be granted. The information will be used to make this determination. A response is required to obtain a benefit.

13. Group 5400 is amended by inserting immediately after the group heading a "Note" to read:

Note.—The information collection requirements contained in Parts 5400, 5420, 5440, 5450 and 5470 of Group 5400 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance numbers 1004–0058, 1004–0076, 1004–0112 and 1004–0113. The information is being collected to permit the authorized officer to determine whether an individual is qualified to purchase timber located on the public lands. The information will be used to make this determination. A response is required to obtain a benefit.

14. Group 8300 is amended by inserting immediately after the group heading a "Note" to read:

Note.—The information collection requirements contained in Part 8370 of Group 8300 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1004–0119. The information is being collected to permit the authorized officer to determine whether an application for use of the public lands for special recreation purposes should be granted. The information will be used to make this determination. A response is required to obtain a benefit.

15. Group 9100 is amended by inserting immediately after the group heading a "Note" to read:

Note.—The information collection requirements contained in Part 9180 of Group 9100 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1004–0033. The information is being collected to permit the authorized officer to determine whether an application for survey of islands or other omitted lands that are part of the public lands should be granted. The information will be used to make this determination. A response is required to obtain a benefit.

[FR Doc. 83–24801 Filed 9–9–83; 8:45 am]
BILLING CODE 4310–84–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

Identification and Mapping of Special Flood Hazard Areas

AGENCY: Federal Emergency Management Agency

ACTION: Final rule.

SUMMARY: This rule adds a new section to Part 65 which provides lists of communities where prompt modification of base flood elevation determinations is needed because of submission of new scientific or technical data under § 65.3.

DATES: This rule is effective September 12, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472; (202) 287–0230.

SUPPLEMENTARY INFORMATION:

Numerous changes are made in base flood elevation determinations as a result of the requirements in Section 65.3 to submit new scientific and technical data. It is administratively infeasible to publish all of the modified base flood elevations in an interim rule in Part 67. There should be a list of communities where this action has occurred.

These modifications are made pursuant to Section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended, Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 65.3.

For rating purposes, the revised community number is listed and must be used for all new policies and renewals.

This is not a substantive rule and can be made effective immediately. Also public comment is unnecessary as this rule deals only in administrative matters.

This is not a major rule under Executive Order 12291, nor does it have a significant impact on a substantial number of small entities. There are no collection of information requirements under Section 3504(L) of the Paperwork Reduction Act.

List of Subjects in 44 CFR Part 65

Flood insurance, Flood plains.

PART 65—[AMENDED]

Accordingly, Part 65 of Title 44, Code of Federal Regulations is amended by adding a new § 65.4, as follows:

§ 65.4 List of communities submitting new technical data.

This section provides a cumulative list of communities where modifications of the base flood elevation determinations have been made because of submission of new scientific or technical data. Due to the need for expediting the modifications, the revised map is already in effect and the appeal period commences on or about the effective date of the modified map. An interim rule, followed by a final rule, will list the revised map effective date, local repository and the name and address of the community Chief Executive Officer. The map(s) is (are) effective for both floodplain management and insurance purposes.

Editorial Note

For a list of communities issued under this section and not carried in the CFR see the List of CFR Sections Affected, appearing in the Finding Aids section of this volume.

Issued: August 30, 1983.

Jeffrey S. Bragg,

Executive Deputy Director.

[FR Doc. 83-24791 Filed 9-9-83; 8:45 am]

BILLING CODE 6718-01-M

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations; Colorado, et al.

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are finalized for the communities listed below.

The base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base (100-year) flood elevations, for the community. This date may be obtained by contacting the office where the maps are available for inspection indicated on the table below:

ADDRESSES: See table below:

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determinations of flood elevations for each community listed. Proposed base flood elevations or proposed modified base flood elevations have been published in the **Federal Register** for each community listed.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR Part 67. An opportunity for the community or individuals to appeal the proposed determination to or through the community for a period of ninety (90) days has been provided.

The Agency has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies for reasons set out in the proposed rule that the final flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. Also, this rule is not a major rule under terms of Executive Order 12291, so no regulatory analyses have been proposed. It does not involve any collection of information for purposes of The Paperwork Reduction Act.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and Flood Insurance Rate Map available at the address cited below for each community.

The modified base flood elevations are finalized in the communities listed below. Elevations at selected locations in each community are shown. No appeal was made during the 90-day period and the proposed base flood elevations have not been changed.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD). Modified
Colorado	Fort Collins (City of), Larimer County, FEMA-6508	Dry Creek	25 feet upstream from centerline of North Lemay Avenue.	*4,950
			Centerline of College Avenue	*4,974
		Cache La Poudre River	500 feet north of the intersection of Riverside Avenue and Smith Street.	*4,946
Maps are available for inspection at City Hall, Drafting Department, Fort Collins, Colorado.				
Colorado	Loveland (City of), Larimer County, FEMA-6505	Big Thompson River	100 feet upstream of centerline of Colorado and Southern Pacific Railroad.	*4,946
			Intersection of South Taft Avenue and West 1st Street	*4,965
Maps are available for inspection at the Office of the City Clerk, 410 East Fifth Street, Loveland, Colorado.				
Maryland	Cumberland, City, Allegany County, (FEMA Docket No. 6514).	North Branch Potomac River	Downstream corporate limits	*602
			Upstream of Chessie System	*606
			Upstream of Ford Avenue	*609
			2nd crossing of Chessie System	*611
			Confluence of Wills Creek	*614

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD). Modified
		Wills Creek	Upstream corporate limits	*627
			Confluence with North Branch Potomac River	*614
Maps available for inspection at the City Hall, Cumberland, Maryland.				
Oregon	Gresham (City of), Multnomah County, FEMA-6505	Fairview Creek	Centerline of Stark Street	*243
		Johnson Creek	50 feet downstream from the centerline of Liberty Avenue.	*321
Maps are available for inspection at City Hall, 1333 NW. Eastman Avenue, Gresham, Oregon.				
Pennsylvania	Lycoming, Township, Lycoming County, (FEMA Docket No. 6514).	Lycoming Creek	Upstream U.S. Route 15	*581
			Downstream State Route 973	*597
			Downstream most upstream crossing of CONRAIL	*613
		Hoagland Run	Confluence with Lycoming Creek	*596
			Approximately 600 feet upstream of confluence with Lycoming Creek.	*597
Maps available for inspection at the Lycoming Township Building, R.D. 2, Linden, Pennsylvania.				
Pennsylvania	West Wyoming, Borough, Luzerne County, (FEMA Docket No. 6514).	Abrahams Creek	Downstream corporate limits	*554
			Upstream side, CONRAIL bridge	*557
			Upstream side, Eighth Street bridge	*593
			Upstream side, Shoemaker Avenue bridge	*599
Maps available for inspection at the Borough Building, West 6th Street, West Wyoming, Pennsylvania.				
South Carolina	(C) Columbia, Richland County, (Docket No. FEMA-6451).	Gills Creek	About 550 feet downstream of Garners Ferry Road at corporate limits.	*153
			Just upstream of Woodlake Drive	*161
			About 350 feet upstream of Quail Lane	*165
Maps available for inspection at the Mayor's Office, P.O. Box 147, Columbia, South Carolina.				
Utah	Provo (City of), Utah County, FEMA-6505	Rock Canyon	100 feet northeast of the intersection of 2320 N Street and 1200 E Street.	#1
Maps are available for inspection at Provo City Offices, 351 West Center Street, Provo, Utah.				

(National Flood Insurance Act of 1968 (Title XIII, Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; E.O. 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: August 31, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-24784 Filed 9-9-83; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[Docket No. 30907-181]

Atlantic Tuna Fisheries

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Rule-related notice; inseason adjustment.

SUMMARY: NOAA issues this notice to change the catch rate limit for giant Atlantic bluefin tuna in the General category from two to one fish per day per vessel. The regulations governing this fishery prescribe this change because the reported catch of giant Atlantic bluefin tuna as of September 7, 1983, is more than 85 percent of the 550 short tons (st) allowed before September 15, 1983. The decrease in the catch rate limit will assist in preventing an early closure of the General category fishery.

EFFECTIVE DATE: 0001 hours local time September 10, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. William C. Jerome, Jr., National Marine Fisheries Service, Northeast Region, State Fish Pier, Gloucester, MA 01930, Tel: 617–281–3600, ext. 325.

SUPPLEMENTARY INFORMATION: Final regulations governing the Atlantic bluefin tuna fishery were published on June 17, 1983 (48 FR 27745). The regulations require the Assistant Administrator for Fisheries, NOAA, to reassess the daily catch rate limit for giant Atlantic bluefin tuna based on specified criteria that stipulate that no more than 550 st of the 650 st total General category quota may be taken by September 15, 1983. Section 285.24(a) provides: "On or about September 7, the Assistant Administrator will review dealer and buy-boat reports to determine the total catch of giant Atlantic bluefin tuna. If the Assistant Administrator determines that 85 percent or more of the General category quota of giant Atlantic bluefin tuna is caught, an allowable catch rate limit of one giant Atlantic bluefin tuna per day per vessel will either remain or be reestablished."

The Assistant Administrator has determined that the catch of giant Atlantic bluefin tuna in the General category is approximately 1650 fish or 475 short tons. Since this amount is more than 85 percent of the allowable take, the daily catch rate limit of giant Atlantic bluefin tuna will be decreased from two to one fish per vessel at 0001 hours local time September 10, 1983. This catch rate limit will remain in effect for the remainder of 1983 or until the quota for the General category is reached. The change in the daily catch rate limit for giant Atlantic bluefin tuna does not apply to those vessels registered in the Incidental category.

Notice of the change has be provided to all dealers and vessel operators permitted by NOAA to operate in the Atlantic Bluefin tuna fishery.

The effects of this inseason adjustment of the daily catch rate limit on the participants in the fishery were considered in the design of the final regulations. This action is taken under the authority specified at 50 CFR 285.24(a), and is taken in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 285

Administrative practice and procedure, Fish, Fisheries, Fishing, Imports, International organizations, Penalties, Reporting and recordkeeping requirements.

(16 U.S.C. 971 *et seq.*)

Dated: September 7, 1983.

William G. Gordon,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 83-24843 Filed 9-8-83; 9:03 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 48, No. 177
Monday, September 12, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1126

[Docket No. AO-231-A51]

Milk in the Texas Marketing Area; Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

Correction

In FR Doc. 83-24061 beginning on page 39643 in the issue of Thursday, September 1, 1983, make the following correction: In the third column of that page, in § 1126.60(h), the last line, "0.04" should read "0.40".

BILLING CODE 1505-01-M

Farmers Home Administration

7 CR Parts 1941, 1943, 1945, and 1980

Farmer Programs Loans to Aliens Lawfully Admitted to the United States For Permanent Residence

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration (FmHA) proposes to amend its regulations to include aliens lawfully admitted to the United States for permanent residence as eligible applicants for FmHA Farmer Program loans. The amendment is needed to implement legislation which gives the Secretary of Agriculture authority to make and insure loans to aliens lawfully admitted to the United States for permanent residence under Immigration and Nationality Act. The intended effect of the action is to no longer exclude individuals in this category from program benefits who otherwise meet FmHA eligibility requirements and requirements for loan soundness.

DATES: Comments must be received on or before November 14, 1983.

ADDRESSES: Submit written comments, in duplicate, to the Office of the Chief, Directives Management Branch, Farmers Home Administration, USDA, Room 6348, South Agriculture Building, 14th and Independence Avenue, SW., Washington, D.C. All written comments made pursuant to this proposed rule will be available for public inspection during regular hours at the above address.

FOR FURTHER INFORMATION CONTACT: M. K. Smith, Loan Specialist, Farm Real Estate and Production Division, Farmers Home Administration, USDA, Room 5313, South Agriculture Building, 14th and Independence Avenue, S.W. Washington, D.C. 20250, telephone (202) 475-4016.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Secretary's Memorandum 1512-1 which implements Executive Order 12291, and has been determined nonmajor since the annual effect on the economy is less than $100 million and there will be no significant increase in cost or prices for consumers, individual industries, organizations, government agencies or geographic regions. There will be no significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets, since it does not affect other FmHA loan eligiblity or loan servicing requirements. The FmHA program or projects which are affected by this regulation should be carried out in accordance with 7 CFR Part 3015, "Intergovernmental Review of the Department of Agriculture Programs and Activities."

This document has been reviewed in accordance with 7 CFR Part 1901, Subpart G, "Environmental Impact Statements." It is the determination of FmHA that this proposed action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-190, an Environmental Impact Statement is not required.

The FmHA programs affected by this regulation change are Farm Ownership (FO) insured and guaranteed, Soil and Water (SW) insured and guaranteed Recreation Loan (RL) insured and guaranteed, Operating Loans (OL) insured and guaranteed, and Emergency Loans (EM) insured and guaranteed.

Section 2 of Pub. L. 96-438, enacted October 13, 1980, amended the Consolidated Farm and Rural Development Act by adding a new Section 348, which gives the Secretary of Agriculture authority to make and insure loans under this title to aliens lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act. The action is needed in order to no longer exclude legal resident aliens who are bona fide farmers from assistance that is available through a Federal Government loan program for farmers. It has been pointed out that aliens in good standing are able to receive the benefits of most Federal, State and local Government programs of assistance. Government programs under Federal law for which they are eligible include Social Security, medicare, school lunch programs, disability and workers compensation, student loans, veterans benefits, maternal and child health care, and small business loans. Moreover, in the agricultural area, farmer-owners, landlords, tenant sharecroppers, regardless of citizenship or alien status, are eligible to obtain crop insurance, commodity loans and indemnities for loss of various agricultural products. This action is also needed to make the availability of FmHA farmer program benefits to legal resident aliens consistent with FmHA housing program benefits, which already include legal resident aliens as eligible applicants. The action will exclude those individuals on indefinite parole from eligible farmer program loans. Previously, those legally admitted to the United States on indefinite parole were eligible applicants for Soil and Water loans. This action will standardize eligibility requirements in this regard for all FmHA farmer programs.

Alternatives Considered and Expected Effects

Alternative No. 1

No change. Continue to restrict eligibility for farmer loan program benefits to only U.S. Citizens and exclude legal resident aliens.

Effects: The agency will be subject to criticism for disparate treatment of those individuals who have many of the obligations of citizenship and are

eligible for similar types of assistance in other Federal programs. The Congress passed legislation in October 1980 which authorizes the Secretary of Agriculture to include legal resident aliens as eligible program beneficiaries; therefore, members of Congress who must represent the interests of legal resident aliens will continue to question the Department's delay in implementing the program authority. On the other hand, this alternative might be favored by U.S. Citizens, both farmers and non-farmers, who are concerned about the economic problems being experienced presently by U.S. citizen farmers and who do not believe that U.S. citizen farmers should have to compete for loan funds with legal resident aliens.

Alternative No. 2

Include aliens lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act as eligible for farmer loan program benefits.

Effects: The agency will no longer exclude from program benefits those legal resident aliens who are bona fide farmers, who are entitled to the full benefit of the laws, and who otherwise meet FmHA eligibility requirements.

The action should not adversely impact on the time of the FmHA County Office because the legal resident alien will have the responsibility to furnish evidence of legal alien status. If the identification document provided by the Immigration and Naturalization Service (INS) is not available, or if further information from INS records is required, the alien must make arrangements and pay the necessary fees to the INS for the information. If the authenticity of the identification presented by the alien is questioned by FmHA, the agency may ask INS to verify the information for law enforcement purposes; no form is required for this and no payment is expected from FmHA by INS. Otherwise, an application from a U.S. citizen. Therefore, no additional time and expense will be incurred by the Government in processing loans to legal resident aliens than those to U.S. citizens. The action will preclude losses to the economic base of the communities in which the legal resident aliens reside if they can receive assistance in carrying on their livelihood. Enabling legal resident aliens who are bona fide farmers to continue their livelihood in farming will preclude costs of retraining and impacting on other fields of employment. The sociological benefit of allowing their participation in another Federal Government program will be to enhance their participation in their communities and in the Nation and increase the prospect of their becoming U.S. citizens in the near future.

On the other hand, this alternative might not be popular among present U.S. citizens, both farmers and non-farmers, who are concerned with economic conditions presently being experienced by U.S. citizen farmers. While U.S. citizen farmers will be competing with legal resident aliens for available loan funds, the majority of the program beneficiaries will be U.S. citizen farmers. Also, such concerns will further be mitigated by:

(1) Legal resident aliens will be required to meet all other eligibility requirements and requirements for loan soundness.

(2) There have been Federal Government actions taken to alleviate the economic situation of the U.S. citizen farmer (e.g., the economic recovery program in general, which has resulted in a decrease in the rate of inflation and interest rates, and the PIK program specifically for farmers).

(3) The fact that legal resident aliens already participate in the benefits of various government programs.

There will be no additional costs to the Government by including legal resident aliens as eligible applicants because there will be no additional loan funds made available for this specific purpose; the legal resident aliens will compete with U.S. citizen applicants for available loan funds.

The Catalog of Federal Domestic Assistance (CFDA) numbers are: 10.404, Emergency Loans; 10.406, Farm Operating Loans; 10.407, Farm Ownership Loans; 10.408, Grazing Association Loans; 10.409, Irrigation, Drainage, and Other Soil and Water Conservation Loans; 10.413, Recreation Facility Loans; 10.414, Resource Conservation and Development Loans; 10.416, Soil and Water Loans (SW Loans).

List of Subjects

7 CFR Part 1941

Crops, Livestock, Loan programs—agriculture, Rural areas, Youth.

7 CFR Part 1943

Credit, Loan programs—agriculture, Recreation, Water resources.

7 CFR Part 1945

Agriculture, Disaster assistance, Loan programs—agriculture.

7 CFR Part 1980

Agriculture, Loan programs—agriculture.

Therefore, as proposed, Chapter XVIII, Title 7, Code of Federal Regulations, is amended as follows:

PART 1941—OPERATING LOANS

Subpart A—Operating Loan Policies, Procedures and Authorizations

1. In § 1941.12, paragraphs (a)(1) and (b)(4)(i) are revised to read as follows:

§ 1941.12 Eligibility requirements.

(a) * * *

(1) Be a citizen of the United States (see § 1941.4(o) of this subpart for the definition of "United States") or an alien lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act. Aliens must provide Forms I–151 or I–551, "Alien Registration Receipt Card." Indefinite parolees are not eligible. If the authenticity of the information shown on the alien's identification document is questioned, the County Supervisor may request the Immigration and Naturalization Service (INS) to verify the information appearing on the alien's identification card by completing INS Form GF–641, "Application for Verification of Information from Immigration and Naturalization Records" obtainable from the nearest INS District. (See Exhibit B of Subpart A of Part 1944 (FmHA Instruction 1944–A)). Mail the completed form to INS. The payment of a service fee by FmHA to INS is waived by inserting in the upper right hand corner of INS Form G–641, the following: "INTERAGENCY LAW ENFORCEMENT REQUEST".

* * * * *

(b) * * *

(4) * * *

(i) They must be citizens of the United States (see § 1941.4(o) of this subpart for the definition of "United States") or aliens lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act. Aliens must provide Forms I–151 or I–155, "Alien Registration Receipt Card." Indefinite parolees are not eligible. If the authenticity of the information shown on the alien's identification document is questioned, the County Supervisor may request the Immigration and Naturalization Service (INS) to verify the information appearing on the alien's identification card by completing INS Form G–641, "Application for Verification of Information from Immigration and Naturalization Records" obtainable from the nearest INS District. (See Exhibit B of Subpart A of Part 1944 (FmHA Instruction 1944–A)). Mail the completed form to INS. The

payment of a service fee by FmHA to INS is waived by inserting in the upper right hand corner of INS Form G–641, the following: "INTERAGENCY LAW ENFORCEMENT REQUEST".

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PART 1943—FARM OWNERSHIP, SOIL AND WATER AND RECREATION

Subpart A—Insured Farm Ownership Loan Policies, Procedures and Authorizations

2. In § 1943.12, paragraphs (a)(1) and (b)(4)(i) are revised to read as follows:

§ 1943.12 Farm ownership loan eligibility requirements.

(a) * * *

(1) Be a citizen of the United States (see § 1943.4(n) of this subpart for the definition of "United States") or an alien lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act. Aliens must provide Forms I–151 or I–551, "Alien Registration Receipt Card." Indefinite parolees are not eligible. If the authenticity of the information shown on the alien's identification document is questioned, the County Supervisor may request the Immigration and Naturalization Service (INS) to verify the information appearing on the alien's identification card by completing INS Form G–641, "Application for Verification of Information from Immigration and Naturalization Records" obtainable from the nearest INS District. (See Exhibit B of Subpart A of Part 1944 (FmHA Instruction 1944–A)). Mail the completed form to INS. The payment of a service fee by FmHA to INS is waived by inserting in the upper right hand corner of INS Form G–641, the following "INTERAGENCY LAW ENFORCEMENT REQUEST".

* * * * *

(b) * * *

(4) * * *

(i) They must be citizens of the United States (see § 1943.4(n) of this subpart for the definition of "United States") or aliens lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act. Aliens must provide Forms I–151 or I–551, "Alien Registration Receipt Card." Indefinite parolees are not eligible. If the authenticity of the information shown on the alien's identification document is questioned, the County Supervisor may request the Immigration and Naturalization Service (INS) to verify the information appearing on the alien's identification card by completing INS Form G–641, "Application for Verification of Information from Immigration and Naturalization Records" obtainable from the nearest INS District. (See Exhibit B of Subpart A of Part 1944 (FmHA Instruction 1944–A)). Mail the completed form to INS. The payment of a service fee by FmHA to INS is waived by inserting in the upper right hand corner of INS Form G–641, the following "INTERAGENCY LAW ENFORCEMENT REQUEST".

* * * * *

Subpart B—Insured Soil and Water Loan Policies, Procedures and Authorizations

3. In § 1943.62, paragraphs (a)(1) and (b)(3) are revised to read as follows:

§ 1943.62 Soil and water loan eligibility requirements.

(a) * * *

(1) Be a citizen of the United States (see § 1943.54(1) of this subpart for the definition of "United States") or an alien lawfully admitted to the United Staters for permanent residence under the Immigration and Nationality Act. Aliens must provide Forms I–151 or I–155, "Alien Registration Receipt Card." Indefinite parolees are not eligible. If the authenticity of the information shown on the alien's identification document is questioned, the County Supervisor may request the Immigration and Naturalization Service (INS) to verify the information appearing on the alien's identification card by completing INS Form G–641, "Application for Verification of Information from Immigration and Naturalization Records" obtainable from the nearest INS District. (See Exhibit B of Subpart A of Part 1944 (FmHA Instruction 1944–A)). Mail the completed form to INS. The payment of a service fee by FmHA to INS is waived by inserting in the upper right hand corner of INS Form G–641, the following "INTERAGENCY LAW ENFORCEMENT REQUEST".

* * * * *

(b) * * *

(3) Consist of members, stockholders or partners holding a majority interest who are citizens of the United States (see § 1943.54(1) of this subpart for the definition of "United States") or aliens lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act. Aliens must provide Forms I–151 or I–155, "Alien Registration Receipt Card." Indefinite parolees are not eligible. If the authenticity of the information shown on the alien's identification document is questioned, the County Supervisor may request the Immigration and Naturalization Service (INS) to verify the information appearing on the alien's identification card by completing INS Form G–641, "Application for Verification of Information from Immigration and Naturalization Records" obtainable from the nearest INS District. (See Exhibit B of Subpart A of Part 1944 (FmHA Instruction 1944–A)). Mail the completed form to INS. The payment of a service fee by FmHA to INS is waived by inserting in the upper right hand corner of INS Form G–641, the following "INTERAGENCY LAW ENFORCEMENT REQUEST".

* * * * *

Subpart C—Insured Recreation Loan Policies, Procedures and Authorizations

4. In § 1943.112, paragraphs (a)(1) and (b)(3) are revised to read as follows:

§ 1943.112 Recreation loan eligibility requirements.

(a) * * *

(1) Be a citizen of the United States (see § 1943.104(1) of this subpart for the definition of "United States") or an alien lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act. Aliens must provide Forms I–151 or I–551, "Alien Registration Receipt Card." Indefinite parolees are not eligible. If the authenticity of the information shown on the alien's identification document is questioned, the County Supervisor may request the Immigration and Naturalization Service (INS) to verify the information appearing on the alien's identification card by completing INS Form G–641, "Application for Verification of Information from Immigration and Naturalization Records" obtainable from the nearest INS District. (See Exhibit B of Subpart A of Part 1944 (FmHA Instruction 1944–A)). Mail the completed form to INS. The payment of a service fee by FmHA to INS is waived by inserting in the upper right hand corner of INS Form G–641, the following: "INTERAGENCY LAW ENFORCEMENT REQUEST".

* * * * *

(b) * * *

(3) Consist of members, stockholders or partners holding a majority interest who are citizens of the United States (see § 1943.104(1) of this subpart for the definition of "United States") or aliens lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act. Aliens must provide Forms I–151 or I–551, "Alien Registration Receipt Card". Indefinite parolees are not eligible. If the authenticity of the information shown on the alien's identification document is

questioned, the County Supervisor may request the Immigration and Naturalization Service (INS) to verify the information appearing on the alien's identification card by completing INS Form G–641, "Application for Verification of Information from Immigration and Naturalization Records" obtainable from the nearest INS District. (See Exhibit B of Subpart A of Part 1944 (FmHA Instruction 1944–A)). Mail the completed form to INS. The payment of a service fee by FMHA to INS is waived by inserting in the upper right hand corner of INS Form G–641, the following: "INTERAGENCY LAW ENFORCEMENT REQUEST".

* * * * *

PART 1945—EMERGENCY

Subpart D—Emergency Loan Policies, Procedures and Authorizations

5. In § 1945.162, paragraph (b) is revised to read as follows:

§ 1945.162 Eligibility requirements.

* * * * *

(b) *Citizenship.* (1) An individual applicant must be a citizen of the United States (see § 1943.154(a)(34) of this subpart for the definition of "United States") or an alien lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act. Aliens must provide Forms I–151 or I–551, "Alien Registration Receipt Card." Indefinite parolees are not eligible. If the authenticity of the information shown on the alien's identification document is questioned, the County Supervisor may request the Immigration and Naturalization Service (INS) to verify the information appearing on the alien's identification card by completing INS Form G–641, "Application for Verification of Information from Immigration and Naturalization Records" obtainable from the nearest INS District. (See Exhibit B of Subpart A of Part 1944 (FmHA Instruction 1944–A)). Mail the completed form to INS. The payment of a service fee by FmHA to INS is waived by inserting in the upper right hand corner of INS Form G–641, the following: "INTERAGENCY LAW ENFORCEMENT REQUEST".

(2) A cooperative, corporation or partnership application must meet the requirements set out in § 1945.154(a)(7), (a)(8) or (a)(24) of this subpart. In addition, more than a 50 percent interest in the cooperative, corporation or partnership must be owned by United States citizens (see § 1945.154(a)(34) of this subpart for the definition of "United States") or aliens lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act. The member, stockholder or partner who manages the farming operation must be a United States citizen or an alien lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act. Also, if another entity owns any interest in the applicant entity, more than a 50 percent interest in that other entity must be owned by a United States citizen(s) or an alien(s) lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act. Aliens must provide Forms I–151 or I–551, "Alien Registration Receipt Card." Indefinite parolees are not eligible. If the authenticity of the information shown on the alien's identification document is questioned, the County Supervisor may request the Immigration and Naturalization Service (INS) to verify the information appearing on the alien's identification card by completing INS Form G–641, "Application for Verification of Information from Immigration and Naturalization Records" obtainable from the nearest INS District. (See Exhibit B of Subpart A of Part 1944 (FmHA Instruction 1944–A)). Mail the completed form to INS. The payment of a service fee by FmHA to INS is waived by inserting in the upper right hand corner of INS Form G–641, the following: "INTERAGENCY LAW ENFORCEMENT REQUEST".

* * * * *

PART 1980—GENERAL

Subpart B—Farmer Program Loans

6. In § 1980.170, paragraph (b)(2) is revised to read as follows:

§ 1980.170 Emergency loans.

* * * * *

(b) * * *

(2) *Citizenship.* (i) If an individual, the applicant must be a citizen of the United States. (see § 1980.106(b)(29) of this subpart for the definition of "United States") or an alien lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act. Aliens must provide Forms I–151 or I–551, "Alien Registration Receipt Card." Indefinite parolees are not eligible. If the authenticity of the information shown on the alien's identification document is questioned, the County Supervisor may request the Immigration and Naturalization Service (INS) to verify the information appearing on the alien's identification card by completing INS Form G–641, "Application for Verification of Information from Immigration and Naturalization Records" obtainable from the nearest INS District. (See Exhibit B of Subpart A of Part 1944 (FmHA Instruction 1944–A)). Mail the completed form to INS. The payment of a service fee by FmHA to INS is waived by inserting in the upper right hand corner of INS Form G–641, the following: "INTERAGENCY LAW ENFORCEMENT REQUEST".

(ii) A cooperative, corporation or partnership must meet the requirements set out in § 1980.106 (b)(6), (b)(7) or (b)(22). In addition, more than a 50 percent interest in the cooperative, corporation or partnership must be owned by United States citizens (see § 1980.106(b)(29) of this subpart for the definition of "United States") or aliens lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act. Aliens must provide Forms I–151 or I–551, "Alien Registration Receipt Card." Indefinite parolees are not eligible. If the authenticity of the information shown on the alien's identification document is questioned, the County Supervisor may request the Immigration and Naturalization Service (INS) to verify the information appearing on the alien's identification card by completing INS Form G–641, "Application for Verification of Information from Immigration and Naturalization Records" obtainable from the nearest INS District. (See Exhibit B of Subpart A of Part 1944 (FmHA Instruction 1944–A)). Mail the completed form to INS. The payment of a service fee by FmHA to INS is waived by inserting in the upper right hand corner of INS Form G–641, the following: "INTERAGENCY LAW ENFORCEMENT REQUEST". The member, stockholder, or partner who manages the farming operation must be a United States citizen or an alien lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act. Also, the entity must be authorized to conduct the farming operation(s) in the State(s) in which the farming operation is conducted.

* * * * *

7. In § 1980.175, paragraphs (b)(1)(i) and (b)(2)(iv)(A) are revised to read as follows:

§ 1980.175 Operating loans.

* * * * *

(b) * * *

(1) * * *

(i) Be a citizen of the United States (see § 1980.106(b)(29) of this subpart for the definition of "United States") or an alien lawfully admitted to the United

States for permanent residence under the Immigration and Nationality Act. Aliens must provide Forms I–151 or I–551, "Alien Registration Receipt Card." Indefinite parolees are not eligible. If the authenticity of the information shown on the alien's identification document is questioned, the County Supervisor may request the Immigration and Naturalization Service (INS) to verify the information appearing on the alien's identification card by completing INS Form G–641, "Application for Verification of Information from Immigration and Naturalization Records" obtainable from the nearest INS District. (See Exhibit B of Subpart A of Part 1944 (FmHA Instruction 1944–A)). Mail the completed form to INS. The payment of a service fee by FmHA to INS is waived by inserting in the upper right hand corner of INS Form G–641, the following: "INTERAGENCY LAW ENFORCEMENT REQUEST".

* * * * *

(2) * * *

(iv) * * *

(A) They must be citizens of the United States. (see § 1980.106(b)(29) of this subpart for the definition of "United States") or aliens lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act. Aliens must provide Forms I–151 or I–551, "Alien Registration Receipt Card." Indefinite parolees are not eligible. If the authenticity of the information shown on the alien's identification document is questioned, the County Supervisor may request the Immigration and Naturalization Service (INS) to verify the information appearing on the alien's identification card by completing INS Form G–641, "Application for Verification of Information from Immigration and Naturalization Records" obtainable from the nearest INS District. (See Exhibit B of Subpart A of Part 1944 (FmHA Instruction 1944–A)). Mail the completed form to INS. The payment of a service fee by FmHA to INS is waived by inserting in the upper right hand corner of INS Form G–641, the following: "INTERAGENCY LAW ENFORCEMENT REQUEST".

* * * * *

8. In § 1980.180, paragraphs (c)(1)(i) and (2)(iv)(A) are revised to read as follows:

§ 1980.180 Farm ownership loans.

* * * * *

(c) * * *

(1) * * *

(i) Be a citizen of the United States (see § 1980.106(b)(29) of this subpart for the definition of "United States") or an alien lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act. Aliens must provide Forms I–151 or I–551, "Alien Registration Receipt Card." Indefinite parolees are not eligible. If the authenticity of the information shown on the alien's identification document is questioned, the County Supervisor may request the Immigration and Naturalization Service (INS) to verify the information appearing on the alien's identification card by completing INS Form G–641, "Application for Verification of Information from Immigration and Naturalization Records" obtainable from the nearest INS District. (See Exhibit B of Subpart A of Part 1944 (FmHA Instruction 1944–A)). Mail the completed form to INS. The payment of a service fee by FmHA to INS is waived by inserting in the upper right hand corner of INS form G–641, the following: "INTERAGENCY LAW ENFORCEMENT REQUEST".

* * * * *

(2) * * *

(iv) * * *

(A) They must be citizens of the United States (see § 1980.106(b)(29) of this subpart for the definition of "United States") or aliens lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act. Aliens must provide Forms I–151 or I–551, "Alien Registration Receipt Card." Indefinite parolees are not eligible. If the authenticity of the information shown on the alien's identification document is questioned, the County Supervisor may request the Immigration and Naturalization Service (INS) to verify the information appearing on the alien's identification card by completing INS Form G–641, "Application for Verification of Information from Immigration and Naturalization Records" obtainable from the nearest INS District. (See Exhibit B of Subpart A of Part 1944 (FmHA Instruction 1944–A)). Mail the completed form to INS. The payment of a service fee by FmHA to INS is waived by inserting in the upper right hand corner of INS form G–641, the following: "INTERAGENCY LAW ENFORCEMENT REQUEST".

* * * * *

9. In § 1980.185, paragraphs (c)(1)(i) and (2)(iii) are revised to read as follows:

§ 1980.185 Soil and water loans.

* * * * *

(c) * * *

(1) * * *

(i) Be a citizen of the United States (see § 1980.106(b)(29) of this subpart for the definition of "United States") or an alien lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act. Aliens must provide Forms I–151 or I–551, "Alien Registration Receipt Card." Indefinite parolees are not eligible. If the authenticity of the information shown on the alien's identification document is questioned, the County Supervisor may request the Immigration and Naturalization Service (INS) to verify the information appearing on the alien's identification card by completing INS Form G–641, "Application for Verification of Information from Immigration and Naturalization Records" obtainable from the nearest INS District. (See Exhibit B of Subpart A of Part 1944 (FmHA Instruction 1944–A)). Mail the completed form to INS. The payment of a service fee by FmHA to INS is waived by inserting in the upper right hand corner of INS form G–641, the following: "INTERAGENCY LAW ENFORCEMENT REQUEST".

* * * * *

(2) * * *

(iii) Consist of members, stockholders or partners holding a majority interest who are citizens of the United States (see § 1980.106(b)(29) of this subpart for the definition of "United States") or aliens lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act. Aliens must provide Form I–151 or I–551, "Alien Registration Receipt Card." Indefinite parolees are not eligible. If the authenticity of the information shown on the alien's identification document is questioned, the County Supervisor may request the Immigration and Naturalization Service (INS) to verify the information appearing on the alien's identification card by complefing INS Form G–641, "Application for Verification of Information from Immigration and Naturalization Records" obtainable from the nearest INS District. (See Exhibit B of Subpart A of Part 1944 (FmHA Instruction 1944–A.)) Mail the completed form to INS. The payment of a service fee by FmHA to INS is waived by inserting in the upper right hand corner of INS form G–641 the following: "INTERAGENCY LAW ENFORCEMENT REQUEST".

* * * * *

10. In § 1980.190, paragraphs (c) (1)(i) and (2)(iii) are revised to read as follows:

§ 1980.190 Recreation loans.

* * * * *

(c) * * *

(1) * * *

(i) Be a citizen of the United States (See § 1980.106(b)(29) of this subpart for the definition of "United States") or an alien lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act. Aliens must provide Form I–151 or I–551, "Alien Registration Receipt Card." Indefinite parolees are not eligible. If the authenticity of the information shown on the alien's identification document is questioned, the County Supervisor may request the Immigration and Naturalization Service (INS) to verify the information appearing on the alien's identification card by completing INS Form G–641, "Application for Verfication of Information from Immigration and Naturalization Records" obtainable from the nearest INS District. (See Exhibit B of Subpart A of Part 1944 (FmHA Instruction 1944–A).) Mail the completed form to INS. The payment of a service fee by FmHA to INS is waived by inserting in the upper right hand corner of the INS Form G–641, the following: "INTERAGENCY LAW ENFORCEMENT REQUEST".

(2) * * *

(iii) Consist of members, stockholders or partners holding a majority interest who are citizens of the United States (see § 1980.106(b)(29) of this subpart for the definition of "United States") or aliens lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act. Aliens must provide Form I–151 or I–551, "Alien Registration Receipt Card." Indefinite parolees are not eligible. If the authenticity of the information shown on the alien's identification document is questioned, the County Supervisor may request the Immigration and Naturalization Service (INS) to verify the information appearing on the alien's identification card by completing INS Form G–641, "Application for Verification of Information from Immigration and Naturalization Records" obtainable from the nearest INS District. (See Exhibit B of Subpart A of Part 1944 (FmHA Instruction 1944–A).) Mail the completed form to INS. The payment of a service fee by FmHA to INS is waived by inserting in the upper hand right hand corner of INS Form G–641 the following: "INTERAGENCY LAW ENFORCEMENT REQUEST".

(7 U.S.C. 1989; 7 CFR 2.23; 7 CFR 2.70)

Dated: July 28, 1983.

Charles W. Shuman,

Administrator, Farmers Home Administration.

[FR Doc. 83–24701 Filed 9–8–83; 8:45 am]

BILLING CODE 3410–07–M

Animal and Plant Health Inspection Service

9 CFR Part 151

[Docket No. 83–039]

Recognized Breeds and Books of Record

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the regulations by recognizing the Canadian Hereford Association as the association which maintains the books of record for Hereford cattle from Canada. This action appears to be necessary because this Association has met all regulatory requirements concerning recognition of books of record. The effect of this action would be to recognize a new record system for Hereford cattle from Canada.

DATE: Comments must be received on or before November 14, 1983.

ADDRESS: Written comments concerning this proposal should be submitted to Mr. T. O. Gessel, Director, Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Written comments received may be inspected at Room 728, Federal Building, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Mr. W. H. Ritchie, VS, APHIS, USDA, Import/Export Animal and Products, Federal Building, Room 844, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8172.

SUPPLEMENTARY INFORMATION:

Background

Section 101 of the Tariff Act of 1930, as amended (76 Stat. 72; 19 U.S.C. 1202) prescribes the applicable rates of duty for items imported into the United States. Schedule 1, Part 1, Item 100.01, states that animals, except for certain foxes, "certified to the collector of customs by the Department of Agriculture as being pure bred of a recognized breed and duly registered in a book or record recognized by the Secretary of Agriculture for that breed" shall, if imported under certain other specified circumstances, enter the United States free of duty.

The provisions of 9 CFR Part 151, as published by the U.S. Department of Agriculture, defines a "book of record" as: "[a] printed book or an approved microfilm record sponsored by a registry association and containing breeding data relative to a large number of registered purebred animals used as a basis for the issuance of pedigree certificates". Section 151.9(b) of these regulations lists the breeds of animals and books of records maintained in Canada which are recognized by the Secretary of Agriculture.

Previously, the books of record for Hereford cattle in Canada were maintained by the Canadian National Livestock Records, Ottawa, Canada, and Hereford cattle listed in the books of record were approved to enter the United States duty free. These records are no longer kept by the Canadian National Livestock Records, but instead are now maintained by the Canadian Hereford Association (CHA). In this connection, CHA has advised the Department that Agriculture Canada, the Canadian equivalent to the U.S. Department of Agriculture, has approved amendments to the CHA constitution which allow it to issue certificates of registration for Hereford cattle under the Canadian Livestock Pedigree Act, and the CHA has accordingly initiated a separate record system for their membership, effective January 1, 1983. The General-Manager of CHA now has authority to sign certificates of registration.

The Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture has received copies of the new CHA constitution, the certificate of approval granted by Agriculture Canada, all rules and forms of the CHA affecting the registration of animals in the books of record, and the new CHA books of record. APHIS personnel have reviewed these materials and determined that they comply with all requirements of Part 151 of the regulations, which concerns books of record.

In view of these facts, the Department is proposing to amend § 151.9(b) of the regulations to recognize the books of record of the Canadian Hereford Association for Hereford cattle from Canada.

Executive Order 12291 and Regulatory Flexibility Act

This proposed action has been reviewed in conformance with Executive Order 12291 and Secretary's Memorandum 1512–1, and has been determined to be not a "major rule." The Department has determined that this action will have an annual effect on the economy of less than one hundred million dollars; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions, and

would not have any significant adverse effects on competition, employment, investment, productivity, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Additionally, Mr. Bert W. Hawkins, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will have no economic impact on any small entities because this action only changes the name of the association responsible for printing and maintaining the recognized books of record for Hereford cattle in Canada, and should have little, if any, effect on the importation of Hereford cattle from Canada.

Alternatives

The only alternatives considered were to (1) approve the books of record for Hereford cattle in Canada issued by CHA, or to (2) not approve the books of record for Hereford cattle in Canada issued by CHA. It appears that the books of records maintained by the CHA fulfill the requirements of the Department, and, therefore, it is proposed to amend the regulations to recognize the CHA as the association in Canada responsible for maintaining books of records on Hereford cattle.

List of Subjects in 9 CFR Part 151

Animals, Imports, Purebred animals, Animal pedigree.

PART 151—RECOGNITION OF BREEDS AND BOOKS OF RECORD OF PUREBRED ANIMALS

Accordingly, § 151.9 would be amended as follows:

§ 151.9 [Amended]

1. In paragraph (b), Code "1110" and the corresponding reference to "Hereford" would be removed.

2. In paragraph (b), a new paragraph (8) would be added to read:

(b) * * *

(8) *Hereford cattle in Canada (Code 1110).* The Canadian Hereford Herd Book of the Canadian Hereford Association, 5160 Skyline Way NE., Calgary, Alberta, Canada, of which Dr. Duncan J. Porteous is General-Manager, is recognized for the Hereford breed registered therein.

(Sec. 101, 76 Stat. 72, Item 100.01, Title I, Tariff Act of 1930, as amended; 19 U.S.C. 1202, Item 100.01; 7 CFR 2.17, 2.51, and 371.2(d))

Done at Washington, D.C., this 2nd day of September, 1983.

D. F. Schwindaman,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 83-24778 Filed 9-8-83; 8:45 am]

BILLING CODE 3410-34-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 332, 333, and 337

Activities of Insured Banks; Real Estate, Insurance Brokerage and Underwriting, Data Processing for Third Parties, and Travel Agency Activities; Advance Notice of Proposed Rulemaking

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Advance notice of proposed rulemaking.

SUMMARY: FDIC is soliciting comment on the need for rulemaking to govern the direct or indirect involvement of insured banks in the following activities: Real estate; insurance brokerage and underwriting; data processing for third parties; and travel agency activities. Specifically FDIC is soliciting comment on whether or not such activities on the part of insured banks pose any safety and soundness problems, present any conflicts of interest, or are consistent with the purposes of Federal Deposit Insurance. Comment is also being solicited as to whether or not limitations should be imposed on the ability of a firm engaged in any of the subject activities to own an insured bank. In order to obtain the broadest possible discussion of the issues, this notice is directed to all insured banks rather than merely to those state insured banks for whom the FDIC is the primary federal supervisory authority.

DATE: Comments must be received by November 14, 1983.

ADDRESS: Send comments to Hoyle L. Robinson, Executive Secretary, FDIC, 550 17th Street NW., Washington, D.C. Comments may be hand delivered to Room 6108 between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: John F. Bovenzi (202-389-4321), Division of Research & Strategic Planning, Pamela E.F. LeCren or Barbara R. Messé (202-389-4171), Legal Division, or Ken A. Quincy (202-389-4141), Planning and Program Development Branch, Division of Bank Supervision.

SUPPLEMENTARY INFORMATION: For much of the last half century commercial banks and thrifts operated in a very insulated environment. In part, this was due to a healthy economy and government policies designed to control the cost of funds and limit competition among financial institutions. In addition, the clear separation which existed between the product lines of banks, thrifts, other types of financial companies and commercial firms served to limit bank competition. The environment in which banks function today, however, is rapidly changing. The traditional boundaries distinguishing "banking" from "other financial services" and from "commerce" are beginning to erode with ever increasing cross-industry acquisitions, expansion by banks in new product markets, and changes in state laws authorizing banks to engage directly or indirectly through subsidiaries in activities heretofore open to banks only in limited instances.

While much of the change has been gradual, in recent years the transition process has quickened dramatically. Technological innovations, the removal of deposit interest ceilings, relaxation of geographic limitations and entry by nonbank financial servicers and commercial firms into previously sheltered bank product lines (either directly, or by establishing or acquiring what is referred to as "a nonbank bank", or by acquiring or establishing a savings and loan institution) have all been important factors which have transformed the financial marketplace.

These changes have been especially noticeable in the case of entry by nonbank financial servicers into traditional bank product lines. In 1978, Merrill Lynch began marketing its Cash Management Account which can be characterized as a checking account that offers market rates of interest. This type of service has gradually become more sophisticated. For example, Fidelity Group through its Asset Management Account offers complementary services which include direct payroll deposit and telephone bill-paying services. Merrill Lynch, the Fidelity Group, Dean Witter, the Calvert Group and the VanGuard Group are among the securities firms now offering insured accounts.

Insurance companies have also become involved in activities traditionally associated with banking. In addition to the above-mentioned services, most large insurance companies are actively engaged in short-term corporate lending (*i.e.*, offering revolving credit lines and term loans from two to ten years). Moreover, some insurance firms, such as Prudential and Travelers, are practicing spread lending by borrowing money in the

commercial paper or Eurodollar markets to finance their shorter-term loans.

Many nonbank financial firms have purchased or established their own "nonbank bank" which, under current law, is permissible if the bank either does not accept demand deposits or does not offer commercial loans. Dreyfus Corporation, American Express, E. F. Hutton and Marsh & McLennan are among the firms currently operating "nonbank bank" affiliates. Merrill Lynch, Aetna and Prudential, among others, are proceeding with plans to acquire or establish nonbank banks.

In addition, a wide array of commercial enterprises are affiliated with or control savings and loan institutions or "nonbank banks". Gulf & Western, Sears Roebuck & Co., Parker Pen Corporation, Landmark Land Company, J. C. Penney, and Kroger Company are but a few of the many business firms that fall within this category.

Not only are nondepository institutions invading traditional bank markets, they are also entering into each other's traditional product lines. To give one example, Sears, in addition to owning a savings and loan insitution, owns and operates an insurance firm (Allstate), a real estate firm (Coldwell Banker), and a securities firm (Dean Witter). By combining various services within a single commercial enterprise, such companies may be able to achieve certain economies of scale which could allow them to realize an important competitive advantage over banks and thrifts, their less diversified rivals.

Conversely banks are beginning to explore product markets and services heretofore considered by some to be "non-banking" prouducts and services. The banks that the FDIC supervises are state chartered and as such their powers and authorities are defined by state law. Recently the California legislature enacted a law which, although not yet effective, will authorize securities and real estate activities by banks. Several state legislatures are actively considering, or have already enacted, legislation permitting state chartered institutions to engage in insurance activities. (See for example, recent legislation in South Dakota and legislative initiatives in Delaware, Maine and Minnesota). In Massachusetts, Connecticut, and New York, mutual saving banks are already authorized to indirectly engage in certain insurance activities.

Several states have what is commonly referred to as a "leeway investment" provision under authority of which banks may invest a certain percentage of their capital in *any* endeavor. Washington Mutual Savings Bank, Seattle, Washington is currently operating a full service brokerage subsidiary under authority of such a provision. Similarly, last year Boston Five Cent Savings Bank, Boston, Massachusetts organized two wholly owned subsidiaries to advise and distribute shares in a mutual fund pursuant to authority contained in a leeway investment provision.

The FDIC is presently engaged in a rulemaking procedure with regard to nonmember bank indirect securities activities through subsidiaries (*See* 48 FR 22155, May 17, 1983). The purpose of the proposed regulation is to ensure the safe and sound operation of insured nonmember banks and compliance with section 21 of the Glass-Steagall Act (12 U.S.C. 378) which prohibits deposit taking institutions from directly engaging in the sale, distribution, or underwriting of securities. The FDIC undertook rulemaking in this area because of expectations that bank entry into the securities area through subsidiaries will increase. For example, the North Carolina legislature recently lifted a prohibition on the underwriting of securities by bank subsidiaries.

Banks can no longer simply rely on low cost deposits as a source of funds to generate income. Banks are therefore considering entry into the above and other activities as a way of expanding their sources of income. Those activities include insurance brokerage and underwriting, real estate brokerage and development (the term "real estate development" and "real estate underwriting" are meant to be interchangeable), data processing for third parties, travel agency activities, as well as any number of other financially related services. As banking powers are expanded by the state legislatures or powers previouly conferred but not exercised are activitated, the FDIC has both the responisblity and the authority to carefully weigh these developments in its capacity as a supervisor of insured nonmember banks and insurer of the nation's banking system. The FDIC is committed to a dual banking system and is mindful of the issues raised by any effort by a federal agency to review the propriety of banks engaging in activities authorized by their state chartering authorities or their primary federal regulatory agency. At the same time, the FDIC cannot lose sight of its obligation to monitor marketplace developments and changes in law in order to assess the potential impact of such changes on bank safety and soundness.

The FDIC is issuing this Advance Notice of Proposed Rulemaking as part of its comprehensive review of the developments detailed above. The FDIC invites comments addressing two broad issues: (1) What, if any, guidelines or regulations should govern the direct or indirect involvement of FDIC-insured banks in expanded financial activities (specifically insurance brokerage and underwriting, real estate brokerage and underwriting, data processing for persons or companies other than banks, travel agency services, and other financially related services, *i.e.*, courier services, leasing, management consultant services); and (2) what, if any, limitation should there be on the ownership of insured banks by companies engaged in the activities listed above.

The second issue arises as over the past decade an increasing number of companies have taken advantage of the narrow definition of the term "bank" in the Bank Holding Company Act (12 U.S.C. 1841(a)) and acquired so-called "nonbank banks". If a bank targeted for acquisition does not make commercial loans or does not engage in the business of accepting demand deposits, the targeted institution is not a "bank" within the meaning of the Bank Holding Company Act. The acquiring company is therefore not a bank holding company and its activities, as well as those of its other subsidiaries, are not limited to activities permissible to bank holding companies under Federal Reserve Board Regulation Y (12 CFR Part 225).

The FDIC is interested in receiving comments on whether or not the affiliation of a bank with a company engaged in nonbanking activities (*i.e.*, the ownership of a bank by such a company) is inherently inappropriate from a safety and soundness or other standpoint; is inappropriate depending upon the activities of the parent company and the activities of the parents' other subsidiaries; and whether or not such a relationship is appropriately limited to companies that are engaged in the financial-services industry rather than general commerce. In this vein, the FDIC is interested in receiving comments on what constitutes the financial-services industry, *i.e.*, what standards should be used to differentiate between commercial banking, other financial services and commerce in today's changing environment.

The other major issue the FDIC wishes to explore focuses on bank expansion into additional activities. The FDIC is requesting comments from the public, bankers, and industry representatives that will help inform the FDIC as to how each of these industries function and what regulatory

requirements currently govern these industries. What are the capital requirements, if any, for such endeavors? What type of risks, if any, are incurred in these businesses which are not inherent in banking? Does the successful operation of these types of businesses require management skills and expertise that bankers do not possess? Would these activities unduly divert bank management's attention away from traditional banking endeavors to the detriment of the banking operation?

In order to facilitate receipt of comments, the FDIC has posed the following specific questions in addition to those set forth above. The Questions are designed to explore safety and soundness issues, conflicts of interest, and whether the activities under consideration are consistent with the purposes of federal deposit insurance. Commentors are reminded that the FDIC is specifically considering the two major issues outlined above in the context of the following activities: Insurance brokerage and underwriting, real estate brokerage and underwriting, data processing for persons of companies other than banks, travel agency services, and other financial services. Comments addressing the specific questions as well as any other comments on the general subject matter are welcomed.

1. Are there potential conflicts of interest associated with a bank's direct or indirect involvement in any of these activities? If so, are existing federal laws, such as the anti-tying provisions of the Bank Holding Company Act amendments of 1970 (12 U.S.C. 1971), sufficient safeguards against abuse?

2. Should disclosure requirements be imposed concerning any conflicts of interest that might exist; *i.e.*, disclosure to the bank's customer of the bank's relationship to the subsidiary, parent, or sister affiliate whenever the bank is brokering a product or service offered by the parent, a subsidiary, or a sister affiliate?

3. Do conflicts of interest concerns arise from a dual employment arrangement; *i.e.*, should it be permissible for a bank employee to also function as a representative of an affiliate company which is engaged in activities? Does the response to this question depend upon the type of activity in which the affiliate engages?

4. To the extent that any of the activities are regulated by state or federal law, does bank entry pose a problem of overlapping supervisory responsibility or conflicting regulatory requirements (*i.e.*, capital requirements, etc.)? Are these problems, if they exist, more or less prevalent in an in-house operation than they would be if the activity were conducted by a separate subsidiary of the bank? Would regulatory differences lead to competitive inequities between banks and their nonbank competitors? If so, how might these inequities be resolved?

5. If banks enter into any of these endeavors under authority of state or federal law, is there any safety and soundness, operational, or other reason to require that the services be conducted in a separate subsidiary as opposed to an in-house department of the bank? Does a response to this question depend upon the involvement in the activity, (*i.e.*, underwriting versus selling of the product or the service, or the type of activity; *i.e.*, travel agency activities versus insurance activities.)?

6. Are there fundamental differences between banking and any of the listed activities (structural, risk related, diversification, profitability, potential liabilities, requisite expertise) that dictate a response one way or the other as to the propriety of banks engaging in these activities whether directly or indiretly through subsidiaries?

7. Section 23A of the Federal Reserve Act, as amended, (12 U.S.C. 371c) does not cover extensions of credit by a bank to its own subsidiaries as those subsidiaries are not included in the definition of affiliate.

In view of that fact, should regulations be enacted imposing the same or similar restrictions as those found in Section 23A on extensions of credit by a bank to its subsidiaries? Should such restrictions be imposed only in certain instances, *i.e.*, depending upon the activity conducted by the subsidiary?

8. If an insured bank establishes or acquires a subsidiary that engages in any of these activities, should the bank's investment in such subsidiary be limited?

9. Should the investment be considered part of, or be excluded from, the parent bank's "capital" as defined for regulatory purposes?

10. If the FDIC were to adopt the posture that any actitivity was permissible if conducted by a separate subsidiary that was adequately capitalized and from which the parent bank was insulated (*i.e.*, potential liabilities, losses, etc.), should the FDIC attempt to define what constitutes adequate capital?

11. Should there be a prior approval requirement before an insured bank directly engages in or establishes or acquires a subsidiary that engages in any of the activities under review?

12. If no prior approval requirement is instituted for either in-house activities or a subsidiary, would a prior notice requirement be appropriate?

13. Should an insured bank's entry, either directly or indirectly, into any of these activities be limited by a bank's asset size, its composite rating, or by some other criteria?

14. Should the FDIC consider the initiation of any of the above activities directly by a state nonmember insured bank (or its subsidiary) to constitute a change in the character of the institution's business such that § 333.2 of FDIC's regulations (12 CFR 333.2) would apply? If so, upon what basis?

15. Should the FDIC consider the initiation of any of the above activities directly by a state nonmember insured bank (or through a subsidiary) to be inconsistent with the purposes of Federal Deposit Insurance; *i.e.*, should §§ 332.1 and 332.2 (12 CFR 332.1, 332.2) be amended to take one or more of these activities into account? If so, upon what basis?

16. Are existing antitrust laws adequate safeguards against excessive concentrations of economic power that may result from bank participation in insurance, real estate or any of the other areas being reviewed? If not, would it be appropriate to limit bank entry into new activities to *de novo* entry, (*i.e.*, not through the acquisition of an ongoing business)?

List of Subjects in 12 CFR Parts 332, 333 and 337

Banks, Banking.

By Order of the Board of Directors this 30th day of August, 1983.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 83-24776 Filed 9-9-83; 8:45 am]

BILLING CODE 6714-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1952

[Docket No. T-03]

Hawaii State Plan: Eligibility for Final Approval Determination; Comment Period and Informal Public Hearing

AGENCY: Occupational Safety and Health Administration (SHA) Labor.

ACTION: Proposed rule; request for written comments and notice of informal public hearing.

SUMMARY: This document gives notice that the Hawaii State plan is eligible for a determination under Section 18(e) of

the Occupational Safety and Health Act of 1970 as to whether final approval of the plan should be granted. If an affirmative determination under Section 18(e) is made, Federal standards and enforcement authority will no longer apply to issues covered by the Hawaii plan. This notice also announces that OSHA is soliciting public comment and has scheduled an informal public hearing in Hawaii to afford interested persons an opportunity to present their views regarding whether or not final approval should be granted.

DATES: Written comments must be received by October 10, 1983. Notices of intention to appear at the informal public hearing, testimony which exceeds 15 minutes, and all evidence which will be introduced into the hearing record must also be received by October 10, 1983.

The hearing will begin at 9:30 a.m. on Thursday, October 27, 1983, and will continue until all witnesses are heard.

ADDRESSES: Written comments should be submitted, in quadruplicate, to the Docket Officer, Docket No. T–03, Room S6212, 200 Constitution Avenue, NW., Washington, D.C. 20210, telephone (202) 523–7894.

Notices of intention to appear at the hearings, testimony and documentary evidence which will be introduced into the hearing record must be sent to Mr. Tom Hall, Division of Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3635, 200 Constitution Avenue, NW., Washington, D.C. 20210.

The hearing will be held at the following location: Room C270, Prince Kuhio Federal Building, 200 Ala Moana Boulevard, Honolulu, Hawaii 96850.

FOR FURTHER INFORMATION CONTACT: James Foster, Director, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3637, 200 Constitution Avenue, NW., Washington, D.C. 20210, telephone (202) 523–8148.

SUPPLEMENTARY INFORMATION:

Background

Section 18 of the Occupational Safety and Health Act of 1970, 29 U.S.C. 651 *et. seq.* (the "Act"), provides that States which desire to assume responsibility for the development and enforcement of occupational safety and health standards may do so by submitting, and obtaining Federal approval of, a State plan. Procedures for State plan submission and approval are set forth in regulations at 29 CFR Part 1902. If the Assistant Secretary, applying the criteria set forth in Section 18(c) of the Act and 29 CFR 1902.3 and .4, finds that the plan provides or will provide for State standards and enforcement which are "at least as effective as" Federal standards and enforcement, initial approval of the plan shall be granted. A State may commence operations under its plan after this determination is made, but the Assistant Secretary retains discretionary Federal enforcement authority during the initial-approval period as provided by Section 18(e) of the Act. A State plan may receive initial approval even though, upon submission, it does not fully meet the criteria set forth in §§ 1902.3 and .4 if such plan includes satisfactory assurances by the State that it will take the necessary "developmental steps" to meet the criteria within a 3-year period. 29 CFR 1902.2(b). The Assistant Secretary publishes a "certification of completion of developmental steps" when all of a State's developmental commitment have been met. 29 CFR 1902.34.

Following the initial approval of a complete plan, or the certification of a developmental plan, the Assistant Secretary must monitor and evaluate actual operations under the plan for a period of at least one year to determine, on the basis of actual operations under the plan, whether the criteria set forth in Section 18(c) of the Act and 29 CFR 1902.37 are being applied. An affirmative determination under Section 18(e) of the Act (usually referred to as "final approval" of the State plan) results in the withdrawal of Federal standards authority and enforcement jurisdiction in the State with respect to occupational safety and health issues covered by the plan. 29 U.S.C. 667(e) Procedures governing determinations under section 18(e) are found at 29 CFR Part 1902, Subpart D.

History of the Hawaii Plan

On September 20, 1972, Hawaii submitted an occupational safety and health plan in accordance with Section 18(b) of the Act and 29 CFR 1902, Subpart C, and on January 22, 1973, a notice was published in the **Federal Register** (38 FR 2187) concerning the submission of the plan, announcing that initial Federal approval of the plan was at issue and offering interested persons an opportunity to submit data, views and arguments concerning the plan. No public comments were received.

On January 4, 1974, the Assistant Secretary published a notice granting initial approval of the Hawaii plan as a developmental plan under Section 18(b) of the Act (39 FR 1010). The plan provides for a program patterned in most respects after that of the Federal Occupational Safety and Health Administration.

The Hawaii Department of Labor and Industrial Relations is designated as having responsibility for administering the plan throughout the State. The day-to-day administration of the plan is directed by the Division of Occupational Safety and Health in the Department of Labor and Industrial Relations. The plan provides for the adoption by Hawaii of standards which are at least as effective as Federal occupational safety and health standards. The plan requires employers to furnish employment and a place of employment which is free from recognized hazards that are causing or are likely to cause death or serious physical harm, and to comply with all occupational safety and health standards promulgated by the agency. The plan contains provisions similar to Federal procedures governing emergency temporary standards; imminent danger proceedings; variances; safeguards to protect trade secrets; and employer and employee rights to participate in inspection and review proceedings. Appeals of citations and penalties are hard by the Labor and Industrial Relations Appeals Board. Decisions of the Appeals Board may be appealed to the State Circuit Court.

The notice of initial approval noted a few distinctions between the Federal and Hawaii program. The State plan does not cover safety and health in private sector maritime employment. Although State standards are not identical to Federal standards, the plan contains a commitment that standards will continue to be at least as effective as Federal standards. Finally, employees are protected against discrimination not only for exercising their rights under the law but also for refusing to engage in unsafe practices or operate unsafe equipment in violation of the law or regulations. The Assistant Secretary's initial approval of Hawaii's developmental plan, a general description of the plan, a schedule of required developmental steps, and a provision for discretionary concurrent Federal enforcement during the period of initial approval were codified in the Code of Federal Regulations (29 CFR Part 1952, Subpart Y; 39 FR 1010 (January 4, 1974)).

In accordance with the State's developmental schedule all major structural components of the plan were put in place and submitted for OSHA approval during the period ending December 31, 1976. These "developmental steps" included amendments to the Hawaii Occupational Safety and Health Law,

promulgation of State occupational safety and health standards and program regulations, and revisions to the State's Field Operations Manual. In completing these developmental steps, the State developed and submitted for Federal approval all components of its enforcement program including, among other things, an occupational health program, management information system, a merit staffing system, and a safety and health poster for private and public employees. These submissions were carefully reviewed by OSHA; after opportunity for public comment and modification of State submissions, where appropriate, the major plan elements were approved by the Assistant Secretary as meeting the criteria of section 18 of the Act and 29 CFR 1902.3 and 1902.4. The Hawaii subpart of 29 CFR was amended to reflect each of these approval determinations (see 29 CFR 1952.314). On May 19, 1978, in accordance with procedures at 29 CFR 1902.34 and 1902.35, the Assistant Secretary certified that Hawaii had satisfactorily completed all developmental steps (43 FR 19849). In certifying the plan, the Assistant Secretary found the structural features of the program—the statute, standards, regulations, and written procedures for administering the Hawaii plan—to be at least as effective as corresponding Federal provisions. Certification does not, however, entail findings or conclusions by OSHA concerning adequacy of actual plan performance. As has already been noted, OSHA regulations provide that certification initiates a period of evaluation and monitoring of State activity to determine in accordance with section 18(e) of the Act whether the statutory and regulatory criteria for State plans are being applied in actual operations under the plan and whether final approval should be granted.

Determination of Eligibility

This **Federal Register** notice announces the eligibility of the Hawaii plan for an 18(e) determination. (29 CFR 1902.39(c) requires that this preliminary determination of eligibility be made before 18(e) procedures begin.) The determination of eligibility is based opon OSHA's findings that:

(1) The Hawaii plan has been monitored in actual operation for at least one year following certification. The results of OSHA monitoring of the plan since the commencement of plan operations are contained in written evaluation reports which are prepared annually and made available to the State and to the public. The results of OSHA's monitoring during the period from October 1981 through September 1982 are set forth in an *18(e) Evaluation Report of the Hawaii Plan*, which has been made part of the record of the present proceedings. Preliminary data for Fiscal Year 1983 reflect similar trends to those noted in Fiscal Year 1982.

(2) The plan meets the State's benchmarks for enforcement staffing. In 1978, the Assistant Secretary was directed by the U.S. District Court for the District of Columbia (*AFL–CIO* v. *Marshall*, C.A. No. 74–406) to calculate for each State plan the number of enforcement personel needed to assure a "fully effective" enforcement program; States must meet these staffing levels or "benchmarks" in order to qualify for final approval. In 1980, OSHA submitted a *Report to the Court* containing the benchmarks and requiring Hawaii to allocate nine safety compliance officers and nine industrial hygienists to conduct inspections under the plan. Hawaii has allocated these positions, as evidenced by the FY 1983 *Application for Federal Assistance* (as amended) in which the State has committed itself to funding the State share of salaries for eighteen safety inspectors and nine health compliance officers. The FY 1983 application has been made part of the record in the present proceeding.

The formula used to establish fully effective safety benchmarks for all State plan States assumed a need for a frequent inspection of large manufacturing establishments with high injury/illness rates. Because Hawaii's economy consists predominantly of small entities and includes very little manufacturing, application of the 1980 benchmark formula resulted in achievable safety and health staffing levels for the Hawaii plan, a result contrary to that in many other States with plans.

(3) Hawaii participates and has assured its continued participation in the unified management information system developed by OSHA.

Issues for Determination in the 18(e) Proceedings

The Hawaii plan in now at issue before the Assistant Secretary for determination as to whether the criteria of Section 18(c) of the Act are being applied in actual operation. 29 CFR 1902.37(a) requires the Assistant Secretary as part of the final approval process to determine if the State has applied and implemented all the specific criteria and indices of effectiveness of §§ 1902.3 and 1902.4. The Assistant Secretary must make this determination by considering the factors set forth in § 1902.37(b). OSHA believes that the results of its evaluation of the Hawaii plan, contained in the 18(e) Evaluation Report, considered in light of these regulatory criteria and the criteria in Section 18(c) of the Act, indicate that the regulatory indices and criteria are being met and the Assistant Secretary accordingly has made an initial determination that the Hawaii plan is eligible for an affirmative 18(e) determination. This notice initiates proceedings by which OSHA expects to elicit public comment on the issue of granting an affirmative 18(e) determination to Hawaii. In order to encourage the submission of informed and specific public comment, a summary of current evaluation findings with respect to these criteria is set forth below.

(a) *Standards and Variances*

Section 18(c)(2) of the Act requires State plans to provide for occupational safety and health standards which are at least as effective as Federal standards. A State is required to adopt, in a timely manner, all Federal standards and amendments or to develop and promulgate standards and amendments which are at least as effective as the Federal standards. See §§ 1902.37(b)(3); 1902.3(c); 1902.4 (a) and (b). The Hawaii plan provides for adoption of standards that are often not identical to but at least as effective as Federal standards.

Hawaii has recently experienced difficulty in complying with the six-month time frame for adopting Federal standards changes required by 29 CFR 1953. It appears, however, that this was a result of an enactment by the legislature in 1979 requiring the State to readopt all safety and health standards in a standardized format, which posed a tremendous administrative burden on the promulgation process. Since completion of that activity, in December 1982, the State has adopted all subsequent Federal standards changes in a timely manner. Previous to the legislative mandate, the State adopted Federal standards since plan certification within the six-month time frame. In addition, the designee has provided written assurance of continued timeliness in standards adoption (18(e) Evaluation Report, p. I–1).

Where a State adopts Federal standards, the State's interpretation and application of such standards must ensure consistency with Federal interpretation and application. Where a State develops and promulgates its own standards, interpretation and application must ensure coverage at least as effective as comparable Federal

standards. While acknowledging approval of individual standards by the Assistant Secretary, this requirement stresses that State standards, in actual operation, must be at least as effective as the Federal standards. See §§ 1902.37(b)(4), 1902.3(c)(1), 1902.3(d)(1), 1902.4(a), and 1902.4(b)(2). As already noted, the Hawaii plan provides for adoption of standards which are at least as effective as the Federal standards. Additionally, the State has generally adopted standards interpretations, which are at least as effective as the Federal, in a timely fashion.

The State is required to take the necessary administrative, judicial or legislative action to correct any deficiency in its program caused by an administrative or judicial challenge to any State standard, whether the standard is adopted from Federal standards or developed by the State. See § 1902.37(b)(5). No such challenges to State standards have occurred in Hawaii.

When granting permanent variances from standards, the State is required to ensure that the employer provides as safe and healthful working conditions as would have been provided if a permanent variance had not been granted. See §§ 1902.37(b)(6) and 1902.4(b)(2)(iv). Hawaii's regulations and procedures governing actions on permanent variances are virtually identical to the Federal. During the 18(e) evaluation period, one permanent variance was requested under the plan. The action on this request was in accordance with the State's procedure and the request was properly granted (18(e) Evaluation Report, p. II–1).

Where a temporary variance is granted, the State must ensure that the employer complies with the standard as soon as possible. See §§ 1902.37(b)(7) and 1902.4(b)(2)(iv). The State's temporary variance procedures are virtually identical to the Federal. During the 18(e) evaluation period, no requests for temporary variances were received (18(e) Evaluation Report, p. II–1.

(b) *Enforcement*

Section 18(c)(2) of the Act requires State plans to maintain an enforcement program which is at least as effective as that conducted by Federal OSHA; Section 18(c)(3) requires the State plan to provide for right of entry and inspection of all workplaces at least as effective as that in Section 8 of the Act.

The State inspection program must provide that sufficient resources be directed to designated target industries while providing adequate protection to all other workplaces covered under the plan. See §§ 1902.37(b)(8), 1902.3(d)(1), and 1902.4(c). Data contained in the 18(e) evaluation indicates that 100% of State programmed (general schedule) inspections are conducted in high hazard establishments (18(e) Evaluation Report p. VII–1). It should be noted that the method for compiling the high hazard inspection list used in scheduling State inspections differs from that used Federally, in that the State system is based on establishment-level data based on disability compensation records. Analysis of such data allows scheduling inspections of those employers who have the highest incidence of injuries and illnesses.

In cases of refusal of entry, the State must exercise its authority, through appropriate means, to enforce the right of entry and inspection. See §§ 1902.37 (b)(9), 1902.3 (e) and (f), and 1902.4(c)(2) (i) and (ix). The Hawaii Occupational Safety and Health Law authorizes the Director to apply to an appropriate circuit court for a search warrant to permit entry into such establishment that has refused entry for the purpose of inspection or investigation. During the FY 1982 evaluation period, Hawaii received nine refusals of entry. The State successfully obtained warrants in seven of these cases, was permitted a consensual investigation in one, and determined that it lacked jurisdiction in the final instance (18(e) Evaluation Report, p. X–1).

Inspections must be conducted in a competent manner following approved enforcement procedures which include the requirement that inspectors acquire information adequate to support any citation issued. See §§ 1902.37(b)(10), 1902.3(d)(1), and 1902.4(c)(2). Provisions of the Hawaii FOM relating to inspection procedures are substantially similar to the Federal. The Evaluation Report notes adherence by Hawaii to these procedures (18(e) Evaluation Report, p. XI–1).

Hawaii's provisions governing classification of violations differ in some respects from the Federal. Monitoring of State inspections, however, indicates that there is little difference in practice between Federal and State classification of violations, i.e., those hazards which would be classified as serious by OSHA would also be classified as serious by Hawaii DOSH. Comparison of Federal and State data shows that the State finds more violations per initial inspection (2.2) than Federal OSHA. Additionally, data shows that the State finds a higher percentage of programmed establishments not-in-compliance (78.1%). However, the State finds a lower percentage of serious violations (safety 7.8%, health 2.3%) than Federal OSHA. On-site monitoring of State inspections by OSHA, however, confirms the ability of State inspectors to recognize and properly classify violations (18(e) Evaluation Report pp. VII–1—VII–3, XII–1—XII–3).

State plans must include a prohibition on advance notice, and exceptions to this prohibition must be no broader than those allowed by Federal OSHA procedure. See § 1902.3(f). Hawaii has adopted procedures governing advance notice which are identical to OSHA's. There was one instance of advance notice during the current evaluation period. OSHA's review of the inspection file revealed that the advance notice was given for legitimate reasons (18(e) Evaluation Report, p. XI–1).

State plans must provide for inspections in response to employee complaints, and must provide an opportunity for employee participation in State inspections. See §§ 1902.4(c)(2) (i) through (iii). Hawaii follows a policy of responding to all employee complaints by either conducting an inspection or sending a letter to the employer but responds to most through inspections (69.3%). During the current evaluation period, 96.8% of all State inspections included either an employee representative on the walkaround or interviews with employees. Monitoring indicates that the State encourages employee participation in inspections (18(e) Evaluation Report, p. XI–1).

State plans must also provide protection for employees against discrimination similar to that found in Section 11(c) of the Federal Act. See § 1902.4(c)(2)(v). The Hawaii Law and regulations provide for discrimination protection which is at least as effective as the Federal and in some respects more protective. The State received and investigated three discrimination complaints during the evaluation period and determined that all three were non-merit cases. Federal evaluation of these cases indicates that the State action was proper (18(e) Evaluation Report, p. XVI–1).

The State is required to issue, in a timely manner, citations, proposed penalties, and notices of failure to abate. See §§ 1902.37(b)(11), 1902.3(d), and 1902.4(c)(2) (x) and (xi). The State's lapse time from inspection to issuance of citation has averaged 3.7 days for safety and 5.5 days for health.

The State must propose penalties in a manner that is at least as effective as the penalties under the Federal program, which includes first instance violation penalties and consideration of comparable factors required in the Federal program. See §§ 1902.37(b)(12),

1902.3(d), and 1902.4(c)(2) (x) and (xi). In general, Hawaii's procedures for calculation of penalties include consideration of most of the factors considered Federally (i.e., severity and probability of injury). Additionally, Hawaii's penalty adjustment factors are substantially similar to Federal factors. During this evaluation period, Hawaii's prescribed penalty levels differed from those prescribed by Federal OSHA. The 18(e) evaluation indicates that average proposed penalties for serious violations were $74 for safety and $87 for health (18(e) Evaluation Report, p. XIV–1).

The State must ensure abatement of hazards cited including inssuance of notices of failure to abate and appropriate penalties. See §§ 1902.37(b)(13), 1902.3(d), and 1902.4(c)(2) (vii) and (xi). Hawaii conducts a proportionately greater number of follow-up inspections than does Federal OSHA (10.6% of total inspections). The results of these follow-ups indicate that abatement is being achieved. Abatement periods are generally shorter than those set Federally (4.1 days average for safety; 10.9 days average for health). Hawaii attempts to document abatement in 100% of cases, and the 18(e) evaluation indicates acceptable performance (18(e) Evaluation Report pp. XIII–1—XIII–2).

In response to Federal review of Hawaii's procedures for petitions for modification of abatement dates, the State will revise its regulations to provide an opportunity for a hearing at which employees may express their objections to a modified abatement date. Hawaii has adopted an interim administrative procedures to address this issue.

Wherever appropriate, the State must seek administrative and judicial review of adverse adjudications. Additionally, the State must take necessary and appropriate action to correct any deficiencies in its program which may be caused by an adverse administrative or judicial determination. See §§ 1902.37(b)(14) and 1902.3 (d) and (g). The 18(e) Evaluation Report for Hawaii found no adverse adjudications which could result in program deficiencies.

(c) *Staffing and Resources*

A State is required to have a sufficient number of adequately trained and competent personnel to discharge its responsibilities under the plan. See Section 18(c)(4) of the Act; 29 CFR 1902.37(b)(1); 1902.3(d) and 1902.3(h). A State must also direct adequate resources to administration and enforcement of the plan. See Section 18(c)(5) of the Act and § 1902.3(i). The Hawaii plan now provides for 18 safety compliance officers and for 9 health compliance offices as set forth in the Hawaii FY 1983 grant. This staffing level meets the "fully effective" benchmarks established for Hawaii for health and safety staffing. The proportion of time spent on enforcement (72.2%) as opposed to administrative and other duties is similar to that for Federal compliance officers.

(d) *Other Requirements*

States which have approved plans must maintain a safety and health program for State and local employees which must be as effective as the State's plan for the private sector. See § 1902.3(j). Hawaii's plan provides a program in the public sector which is identical to that in the private sector. Injury rates are somewhat higher in the public sector than in the private. (12.4 combined State and local government all case rate; 6.9 combined State and local government lost workday case rate) (8(e) Evaluation Report pp. VI–1—VI–2).

As a factor in its 18(e) determination, OSHA must consider whether the Bureau of Labor Statistics annual occupational safety and health survey and other available Federal and State measurements of program impact on worker safety and health indicate that trends in worker safety and health injury and illness rates under the State program compare favorably with those under the Federal program. See § 1902.37(b)(15).

In this regard, although the 18(e) evaluation notes that both the all case and the lost workday case rates for Hawaii during the evaluation period (all case rate 11.3%; lost workday case rate 6.2%) were higher than rates in States where Federal OSHA provides enforcement coverage, it should be noted that the overall trend in worker safety and health injury and illness rates under the Hawaii program compares favorably to that under the Federal program. For example, for the period 1973–1981, the all case rate declined 20% in Hawaii and the lost workday case rate in Hawaii declined 6% (18(e) Evaluation Report p. XIX–2).

State plans must assure that employers in the state submit reports to the Secretary in the same manner as if the plan were not in effect. See Section 18(c)(7) of the Act; 29 CFR 1902.3(k). The plan must also provide assurances that the designated agency will make such reports to the Secretary in such form and containing such information as he may from time to time require. Section 18(c)(8) of the Act; 29 CFR 2901.4(1). Hawaii employer recordkeeping requirements are substantially identical to those of Federal OSHA, and the State participates in the BLS Annual Survey of Occupational Illness and Injuries. As noted above, the State participates and has assured its continuing participation with OSHA in the unified management information system as a means of providing reports on its activities to OSHA.

Section 1902.4(c)(2)(xiii) requires States to undertake programs to encourage voluntary compliance by employers by such means as conducting training and consultation with employers and employees.

The evaluation report notes that Hawaii conducted training and education for employers and employees in an acceptable manner and directed its training activities toward high hazard industries (18(e) Evaluation Report, p. IV–1). The State under its plan also conducts an on-site consultation program covering the public sector. (The State's on-site consultation program for the private sector is conducted apart from the State plan, under an agreement with OSHA under Section 7(c)(1) of the Act.)

Effect of 18(e) Determination

If the Assistant Secretary, after completion of the proceedings described in this notice, determines that the statutory and regulatory criteria for State plans are being applied in actual operations, final approval will be granted and Federal standards and enforcement authority will cease to be in effect with respect to issues covered by the Hawaii plan, as provided by Section 18(e) of the Act and 29 CFR 1902.42(c). Because the issue of maritime safety and health is not within the scope of the Hawaii plan, Federal coverage of this issue would be unaffected by an affirmative 18(e) determination. In the event an affirmative 18(e) determination is made by the Assistant Secretary following the proceedings described in the present notice, a notice will be published in the **Federal Register** in accordance with 29 CFR 1902.43; the notice will specify the issues as to which Federal authority is withdrawn, will state that Federal authority with respect to discrimination complaints under Section 11(c) of the Act remains in effect, and will state that if continuing evaluations show that the State has failed to maintain a program which is at least as effective as the Federal, or that the State has failed to submit program change supplements as required by 29 CFR Part 1953, the Assistant Secretary may revoke final approval and reinstitute Federal enforcement authority, or if the circumstances

warrant, initiate action to withdraw approval of the State plan. At the same time, Subpart Y of 29 CFR Part 1952, which codifies OSHA decisions regarding approval of the Hawaii plan, would be amended to reflect the 18(e) determination if an affirmative determination is made.

Documents of Record

All information and data presently available to OSHA relating to the Hawaii 18(e) proceeding have been made a part of the record in this proceeding and placed in the OSHA Docket Office. The contents of the records are available for inspection and copying at the following locations:

Docket Office, Room S–6212, Docket No. T–03, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210;

Regional Administrator, U.S. Department of Labor, OSHA, 11349 Federal Building, 450 Golden Gate Avenue, San Francisco, California 94102;

Area Director, U.S. Department of Labor—OSHA, 300 Ala Moana, Suite 5122, Honolulu, Hawaii 96850;

Office of the Administrator, Hawaii Department of Labor and Industrial Relations, Division of Occupational Safety and Health, 677 Ala Moana, Suite 910, Honolulu Hawaii 96913.

To date, the record includes copies of all **Federal Register** documents regarding the plan including notices of plan submission, initial Federal approval, certification of completion of developmental steps, and codification of the State's operational status agreement, and approval of various standards, developmental steps, and other plan supplements. The record also includes the State plan document which includes a plan narrative, the State legislation, regulations and procedures, an organizational chart for State staffing; the State's FY 1983 Federal grant; and the 18(e) Evaluation Report and preliminary performance data for FY 1983.

Public Participation

Request for Public Comment

In order to solicit information and encourage public participation as an essential part of its process to evaluate the Hawaii State plan and make a decision on the appropriateness of an affirmative 18(e) determination, OSHA invites interested members of the public to submit written comment.

The Assistant Secretary is directed under § 1902.41 to make a decision whether an affirmative 18(e) determination is warranted or not. As part of the Assistant Secretary's decision-making process, consideration must be given to the application and implementation by Hawaii of the requirements of Section 18(c) of the Act and all the specified criteria and indices of effectiveness as presented in 29 CFR 1902.3 and 1902.4. These criteria and indices must be considered in light of the 15 factors in 29 CFR 1902.37(b)(1)–(15). However, this action will be taken only after all the information contained in the record, including OSHA's evaluation of the actual operations of the State plan, and information presented in written submissions and during the informal public hearing is reviewed and analyzed. OSHA is soliciting public participation in this process so as to assure that all relevant information, views, data and arguments related to the indices, criteria and factors presented in 29 CFR Part 1902, as they apply to the Hawaii State plan, are available to the Assistant Secretary during this administrative proceeding.

Interested persons are invited to submit written data, views, and arguments with respect to this 18(e) determination. These comments must be postmarked on or before October 10, 1983, and submitted in quadruplicate to the Docket Officer, Docket No. T–03, Room S–6212, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Written submissions must clearly identify the issues which are addressed and the position taken with respect to each issue.

Public Participation in Hearing

A hearing has been scheduled for October 27, 1983, commencing at 9:30 a.m. in the Prince Kuhio Federal Building, Room C270, 300 Ala Moana Boulevard, Honolulu, Hawaii 96850.

The purpose of this informal, legislative type hearing is to present an opportunity to the public and particularly employers and employees in Hawaii affected by the State program to participate fully in OSHA's process of deciding whether or not to make an affirmative 18(e) determination for the Hawaii State plan. The public is encouraged to submit written comments and to appear in person at the informal public hearing. The conditions set forth below for the public hearing are meant to give the Administrative Law Judge and OSHA the flexibility needed to assure an orderly and complete hearing. OSHA seeks to elicit from the public varied written comments and oral testimony. Every attempt will be made to accommodate all interested persons.

Notices of Intention to Appear: OSHA's informal hearings are open to the public and the media. An interested party need not submit prior notice to attend the hearing. However, in order to assure participation (that is, to present oral or written testimony, to ask questions of witnesses, or to submit posthearing submissions) an interested party must file a notice of intention to appear. Persons desiring to participate at the hearing must file a notice of intention to appear by October 10, 1983. The notice of intention to appear must contain the following:

1. The name, address and telephone number of each person to appear;
2. The capacity in which the person will appear;
3. The approximate amount of time required for the presentation;
4. The specific issues that will be addressed;
5. A detailed statement of the position that will be taken with respect to each issue addressed; and
6. Whether the party intends to submit documentary evidence, and if so, a detailed summary of the evidence.

Filing of Testimony and Evidence Before the Hearing: Any party requesting more than 15 minutes for presentation at the hearing or who will submit documentary evidence must provide, in quadruplicate, the complete text of its testimony, including all documentary evidence to be presented at the hearing, to the OSHA division of Consumer Affairs by October 10, 1983.

Each submission will be reviewed in light of the amount of time requested in the notice of intention to appear. In instances where the information contained in the submission does not justify the amount of time, a more appropriate amount of time will be allocated and the participant will be notified of that fact.

Any party who has not substantially complied with the above requirements may be limited to a 15 minute presentation, and may be requested to return for questioning at a later time. Any party who has not filed a notice of intention to appear may be allowed to testify, as time permits, at the discretion of the Administrative Law Judge.

Notices of intention to appear, testimony, and evidence will be available for inspection and copying at the Docket Office, Docket No. T–03, U.S. Department of Labor, Occupational Safety and Health Administration, Room S–6212, 200 Constitution Avenue, NW., Washington, D.C. 20210, (202) 523–7894.

The hearing will commence at 9:30 a.m. at the scheduled location with the

resolution of any procedural matters relating to the proceeding. The hearing will be presided over by an Administrative Law Judge who will have the powers necessary or appropriate to conduct a full and fair information hearing as provided in 29 CFR Part 1902, including the powers:

1. To regulate the course of the proceedings;
2. To dispose of procedural requests, objections, and comparable matters;
3. To confine the presentation to the issues specified in this notice of hearing;
4. To regulate the conduct fo those present at the hearing by appropriate means;
5. To provide an opportunity for cross examination on pertinent issues;
6. To provide for a verbatim transcript of the hearing which shall be available to any interested person on such terms as the judge shall establish;
7. To take official notice of material facts not appearing in the evidence in the record provided the parties are afforded an opportunity to show evidence to the contrary; and
8. In the Judge's discretion, to keep the record open for a reasonable and specified time to receive additional recommendations, with supporting reasons and any additional data, views, and arguments from any person who has participated in the oral proceeding.

Conduct of the Hearing

Upon the completion of the oral presentations, the transcripts thereof, together with written submissions on the proceedings, exhibits filed during the hearing, and all post hearing comments, recommendations, and supporting reasons shall be certified by the Administrative Law Judge presiding at the hearing to the Assistant Secretary.

The Assistant Secretary will, within a reasonable time after the certification of the record of the hearing, publish his decision in the **Federal Register**. All written and oral submissions, as well as other information gathered by OSHA will be considered in any action taken, the record of this proceeding, including written comments and materials submitted in response to this notice and notices of intention to appear at the public hearing, will be available for inspection and copying in the Docket Office, Room S6212, at the above address, between the hours of 8:15 a.m. and 4:45 p.m.

Regulatory Flexibility Act

OSHA Certifies pursuant to the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 et. seq.) that this rulemaking will not have a significant economic impact on a substantial number of small entities. Final approval would not place small employers in Hawaii under any new or different requirements, nor would any additional burden be placed upon the State government beyond the responsibilities already assumed as part of the approved plan. A copy of this certification has been forwarded to the Chief Counsel for Advocacy, Small Business Administration.

List of Subjects in 29 CFR 1952

Intergovernmental relations, Law Enforcement, Occupational safety and health.

Authority

This document was prepared under the direction of Thorne G. Auchter, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

(Sec. 18, 84 Stat. 1608 (29 U.S.C. 667); 29 CFR Part 1902, Secretary of Labor's Order No. 6–76 (41 FR 25059))

Signed at Washington, D.C., this 6th day of September 1983.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 83-24828 Filed 9-9-83; 8:45 am]

BILLING CODE 4510-26-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 913

Modification to the Illinois Permanent Regulatory Program; Public Comment Period and Opportunity for Public Hearing

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: OSM is announcing a public comment period and opportunity for a public hearing on the substantive adequacy of a program amendment submitted by the State of Illinois to satisfy conditions of approval of the State's permanent regulatory program (hereinafter referred to as the Illinois program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment is intended to satisfy conditions (a) and (e) concerning blasting notice and extensions of the 90-day abatement period.

This notice sets forth the times and locations that the Illinois program and the proposed amendment are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and information pertinent to the public hearing.

DATES: Written comments, data or other relevant information relating to the proposed amendment to the Illinois program not received on or before 4:00 p.m. October 12, 1983 will not necessary be considered.

A public hearing on the proposed modifications has been scheduled for 10:00 a.m., September 29, 1983 at the address listed under **"ADDRESSES."**

Any person interested in making an oral or written presentation at the hearing should contact Mr. James Fulton at the address or phone number listed below by September 22, 1983. If no one has contacted Mr. Fulton to express an interest in participating in the hearing by the above date, the hearing will not be held. If only one person has so contacted Mr. Fulton by the above date, a public meeting, rather than a public hearing, may be held and the results of the meeting included in the Administrative Record.

ADDRESSES: Written comments should be mailed or hand delivered to: James Fulton, Director, Springfield Field Office, Office of Surface Mining, 600 E. Monroe Street, Room 20 Springfield, Illinois 62701.

The public hearing will at the Springfield Field Office, Office of Surface Mining, 600 E. Monroe Street, Room 20, Springfield, Illinois 62701.

Copies of the Illinois program, a listing of any scheduled public meetings and all written comments received in response to this notice will be available for review at the OSM Field Office listed above and at the OSM and State regulatory authority offices listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Office of Surface Mining Reclamation and Enforcement, Room 5315, 1100 "L" Street, NW., Washington, D.C. 20240

Illinois Department of Mines and Minerals, Land Reclamation Division, 227 South 7th Street, Springfield, Illinois 62706.

FOR FURTHER INFORMATION CONTACT: James Fulton, Director, Springfield Field Office, Office of Surface Mining, 600 E. Monroe Street, Room 20, Springfield, Illinois 62701, Telephone: (217) 492–4495.

SUPPLEMENTARY INFORMATION:

Background

The Illinois program was conditionally approved by the Secretary of the Interior on June 1, 1982 (47 FR 23858). Information pertinent to the general background, revisions,

modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Illinois program can be found in the June 1, 1982 **Federal Register.**

In accepting the Secretary's conditional approval, Illinois agreed to satisfy conditions (a), (d) and (e) by December 1, 1982. On November 30, 1982, Illinois submitted to OSM amended regulations intended to satisfy conditions (a), (d) and (e). On May 25, 1983, the Secretary approved certain of the regulations and removed condition (d) and part of condition (a). The Secretary extended until August 15, 1983, the deadline for Illinois to meet condition (e) and the remaining part of condition (a).

Submission of Amendment

On August 11, 1983, the Illinois Department of Mines and Minerals (IDMM) submitted a proposed program amendment consisting of proposed regulations to satisfy conditions (a) and (e). The proposed rules were published in the May 20, 1983 *Illinois Register.* the IDMM intends to adopt the rules as they were proposed on May 20, 1983.

Condition (a), as set forth in the May 25, 1983 **Federal Register,** requires the State to amend its regulations to require notification of surface owners or residents prior to any surface blasting event, consistent with 30 CFR 817.65(a). The Federal regulation was renumbered on March 8, 1983, as 30 CFR 817.62(a), but the substantive requirement remains unchanged.

The full text of the proposed revised Illinois rule follows (deleted language is in brackets):

§ 1817.65 Use of explosives: Surface blasting requirements.

(a) A resident or owner of a dwelling or structure that is located within one-half mile of any area affected by any surface blasting event shall be notified in writing at least 30 days, but not more than 60 days, before beginning a blasting program [in which blasts that use more than 25 pounds of explosives or blasting agent are detonated.] Such notice shall be accompanied by information advising the owner or resident how to request a pre-blast or condition survey.

Condition (e), as set forth in the May 25, 1983 **Federal Register,** requires the State to amend its regulations to provide for extensions of the 90-day abatement period in accordance with 30 CFR 843.12(f) and 843.12(i). In the May 25, 1983 notice, the Secretary found that although the rule submitted by Illinois on November 30, 1982, was intended to be substantially identical to the Federal rule, several key words or phrases had been omitted.

The full text of the proposed Illinois rule revision follows (new language is italicized):

§ 1843.12 Notice of violation.

* * * * *

(f) Circumstances which may qualify a surface coal mining operation for an abatement period of more than 90 days are:

* * * * *

(4) Where climatic conditions preclude abatement within 90 days, *or where, due to climatic conditions, abatement within 90 days* clearly:

* * * * *

(i) No extension granted under paragraph (h) *may* exceed 90 days in length. Where the condition or circumstance which prevented abatement within 90 days exists at the expiration of any such extension, the permittee may request a further extension in accordance with the provisions of paragraph (h).

The Director now seeks public comment on whether the Illinois proposed rules are no less effective than the Secretary's regulations and whether the rules satisfy the conditions of approval. If approved, the program amendment will become part of the Illinois program and the conditions to which it pertains will be removed.

Additional Determinations

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared for this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7 and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, for this action OSM is exempt from the requirement to prepare a Regulatory Impact Analysis and this action does not require regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules would be met by the State.

3. *Paperwork Reduction Act.* this rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 913

Coal Mining, Intergovernmental relations, Surface mining, Underground mining.

(Pub. L. 95–87, (30 U.S.C. 1201 *et seq.*))

Dated: September 7, 1983.

James R. Harris,

Director, Office of Surface Mining.

[FR Doc. 83–24827 Filed 9–9–83; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Parts 320, 322, 323, 325, 327, 328, and 330

Proposed Nationwide Permits and Amendments to Permit Regulations; Hearing

AGENCY: Corps of Engineers, Department of the Army, DOD.

ACTION: Notice of public hearing.

SUMMARY: On May 12, 1983, (48 FR 21466) The Corps of Engineers published a notice of proposed rulemaking to amend permit regulations for controlling certain activities in waters of the United States (33 CFR 320–330). The Corps extended the comment period for these proposed rules until August 31, 1983 (48 FR 31890). The Corps will hold a public hearing on two new proposed nationwide permits, proposed modifications to existing nationwide permits, and other proposed changes contained in that proposal, in Washington, D.C. The public hearing is open to the public. Comments may be submitted in person at the hearing or in writing to the Office of the Chief of Engineer at the address given below. The Corps will hold the hearing record open until October 24, 1983. The legal authority for this hearing is Section 404 of the Clean Water Act (33 U.S.C. 1344) and Section 10 of the River and Harbor Act of 1899 (33 U.S.C. 403).

DATES: The Corps will hold the hearing from 9:00 a.m. to 12:00 p.m. and 1:00 p.m. to 3:30 p.m. on October 12, 1983. The hearing record will remain open until October 24, 1983.

ADDRESS: The Corps will hold the hearing in Washington, D.C., at the National Archives Auditorium, 7th and Pennsylvania Avenue, NW. Comments should be sent to the Office of the Chief of Engineers, ATTN: DAEN–CWO–N, Washington, D.C. 20314.

FOR FURTHER INFORMATION CONTACT: Mr. Sam Collinson or Mr. Ralph Eppard, Regulatory Branch, Directorate of Civil Works, Office of the Chief of Engineers, ATTN: DAEN–CWO–N, Washington, D.C. 20314; (202) 272–0199.

SUPPLEMENTARY INFORMATION: *Procedures.* The Corps will transcribe the hearing. The Corps is requesting persons desiring to testify at the hearing to limit their statements to 15 minutes. Filing of a written statement at the time of giving the oral statement would be helpful and facilitate the job of the court reporter. Persons wishing to speak at the hearing need only fill out a card that will be available at the entrance to the hearing room. Advance requests to speak may be mailed to the given address under "**FOR FURTHER INFORMATION CONTACT.**"

The primary purpose of the public hearing is to obtain comments on the two new proposed nationwide permits, the proposed reinstatement of the 10-acre lake limitation on the nationwide permits at § 330.4, proposed conditions to be added to the existing nationwide permits, and assessment of cumulative impacts (reporting) of the nationwide permits. Additionally, the Corps welcomes comments on any of the proposed changes.

Dated: September 8, 1983.

Michael Volpe,

Colonel, Corps of Engineers, Executive Director of Civil Works.

[FR Doc. 83–24694 Filed 9–9–83; 8:45 am]

BILLING CODE 3710–02–M

POSTAL SERVICE

39 CFR Part 233

Inspection Service Authority; Mail Covers

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: The Postal Service proposes to amend its mail cover regulations to save time in certain investigations of mail depredation by eliminating a needless step. The proposal would permit postal inspectors investigating crimes such as mail theft or depredation to make the decision to record, and to use in criminal investigations and prosecutions, the information found on the covers of the mail matter against which such a crime is known to have been committed. The amendment would eliminate the present regulatory requirement in such cases to go through the procedure to apply for and obtain a mail cover order to record such information for investigatory purposes without the consent of the sender or addressee of each stolen, rifled, embezzled, or damaged mail article. Experience has shown that the issuance of a mail cover order in these cases is clearly justified and virtually automatic.

DATE: Written comments must be received on or before October 12, 1983.

ADDRESSES: Comments should be directed to Assistant General Counsel, Special Projects Division, U.S. Postal Service, Washington, D.C. 20260–1116. Written comments will be for public inspection, and arrangements can be made to obtain copies of such written comments, between the hours of 9 a.m. and 4 p.m. daily outside room 9010, 475 L'Enfant Plaza West, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Charles R. Braun at (202) 245–4620.

SUPPLEMENTARY INFORMATION: A description of existing mail cover regulations and a summary of the history of postal mail covers can be found in the supplementary information part of the previous proposed amendment of these regulations. 44 FR 24112–13 (1979); final rule at 44 FR 49687–91 (1979). Present mail cover regulations are codified at 39 CFR 233.3 (1982).

The proposed amendment would allow postal inspectors to record or copy, withoput obtaining a mail cover order, information on the covers of (a) stolen or misdelivered mail found in the possession of a person not entitled to it, or (b) mail which has been damaged or rifled as the result of an apparent violation of a postal criminal statute; such as damaged or rifled mail found at the premises of a post office where a break-in had just occurred. The information so obtained could then be used as evidence of the crime or to furnish leads for further investigation. Because such information would clearly constitute evidence of the commission of a crime, a mail cover order is routinely approved for such cases, under current regulations. 39 CFR 233.3(d)(2)(ii), 233.3(e)(1)(ii) (1982).

The time saved by the elimination of the requirement to seek a mail cover order can increase the likelihood that an offender no longer on the scene will be found. Although customer cooperation is rarely withheld in cases in which it can be sought, obtaining the timely consent of the customers for recording this information often is impractical when significant quantities of mail are involved or the customers' daytime telephone numbers cannot be obtained on the basis of the mailing addresses on the mail.

The general level of privacy presently afforded to postal customers would not be significantly affected by the amendment because mail cover approval is already routinely granted in such cases, and because the recording of the mail cover information does not reflect systematic government surveillance of any individual's mail. The investigative focus on the particular mail involved results from its being disturbed in the mail stream by action of an apparent thief, embezzler, or burglar.

Although exempt from the requirements of the Administrative Procedure Act (5 U.S.C. 553(b),(c)) regarding proposed rulemaking, 39 U.S.C. 410(a), the Postal Service invites comments on the following proposed revision of title 39, Code of Federal Regulations:

List of Subjects in 39 CFR Part 233

Postal Service, Crime.

PART 233—INSPECTION SERVICE AUTHORITY

In § 233.3, redesignate paragraphs (f), (g), (h), and (i) as paragraphs (g), (h), (i), and (j), respectively, add a new paragraph (f), and revise the second sentence of paragraph (g) (3) as redesignated as follows:

§ 233.3 Mail covers.

* * * * *

(f) A postal inspector, or a postal employee acting at the direction of a postal inspector, may record or copy the information appearing on the envelope or outer wrapping of mail, without obtaining a mail cover order, only under the following circumstances:

(1) The purpose must be to obtain evidence of a mail theft or embezzlement, or a depredation against the postal system or mail matter, constituting the commission or attempted commission of a postal crime; and,

(2) The mail must be either (i) undelivered mail found in the possession of a person reasonably believed to have stolen or embezzled such mail; or, (ii) damaged or rifled undelivered mail reasonably believed to be evidence of a postal crime against the security of the postal system (such as a post-office break-in) or evidence of a postal crime against the security of mail matter (such) as mail theft).

(g) *Limitations.* * * *

(3) * * * Under no circumstances shall a postmaster or postal employee furnish information as defined in § 233.3(c) (1) to any person, except as authorized by a mail cover order issued by the Chief Postal Inspector or a Postal Inspector in Charge or their designees, or as directed by a postal inspector only under the circumstances described in § 233.3(f).

* * * * *

(39) U.S.C. 401, 403, 404, 410, 411)

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 83-24741 Filed 9-9-83; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 61

[AH-FRL 2378-2]

National Emission Standards for Hazardous Air Pollutants; Proposed Standards for Inorganic Arsenic

Correction

In FR Doc. 83-19361, beginning on page 33112 of the issue of Wednesday, July 20, 1983, make the following corrections:

1. On page 33155, second column, second indented paragraph, line six, the parenthetical expression "(90 tons-yr)" should read "(90 tons/yr)".

2. On page 33161, first column, third line, the word "the" should read "that".

3. On page 33161, second column, third line from the bottom the word "has" should follow "EPA".

4. On page 33166, in § 61.166(a), the last word in the third line from the end of the paragraph reading "of" should read "if".

5. On page 33168, in Method 108 of Appendix B to Part 61, the first column, the equal signs in paragraphs 2.3.4 through 2.3.7 should be replaced with hyphens.

6. On page 33171, in the third column, make the following corrections:

a. In paragraph 5.1, seventh line, the citation "ug" should read "μg".

b. In the following undesignated paragraph, third line, the word "draft" should read "drift".

c. In paragraph 6.1, the fifth line, "ug" should read "μg".

d. In the last line of the page, "g." should be inserted after "sampling,".

7. On page 33172, first column, the fourth and eighth lines, "ug" should read "μg".

8. In the same column, paragraph 6.4, the first letter in the formula now reading "M" should read "m".

9. On page 33174, first column, in § 61.172(d), fourth line, "40 dg/h" should read "40 kg/h".

10. On page 33174, third column, in § 61.175(d)(3), the formula reading:

$$R_c = \frac{A_c W_c + A_1 W_1}{100\ H_c}$$

should read:

$$R_c = \frac{A_c W_c + A_1 W_1}{100\ H_c}$$

11. On page 33175, first column, in § 61.175(e)(3), the formula reading:

$$R_f = \frac{A_m W_m + A_s W_s}{100\ H_f}$$

should read:

$$R_f = \frac{A_m W_m + A_s W_s}{100\ H_f}$$

12. On page 33176, Method 108A to Appendix B of part 61, third column, paragraph 2.2.1, last line, "as" should read "As".

13. On page 33177, make the following corrections:

a. In the first column, paragraph 4.2, eighth line, "115°C" should read "105°C".

b. In the second column, paragraph 5.1, in the third line following "Where:", "F_s" should read "F_d". In the sixth line following "Where:", "$100/10s^3$" should read "$100/10^3$".

c. In the third column, in the fifth line of the text of § 61.180, "9.7" should read "0.7".

BILLING CODE 1505-01-M

40 CFR Part 721

[OPTS-50503; TSH-FRL 2359.1]

Toxic Substances; Isopropylamine, Distillation Residues, and Ethylamine, Distillation Residues; Proposed Determination of Significant New Uses

Correction

In FR Doc. 83-23199, beginning on page 38502, in the issue of Wednesday, August 24, 1983, make the following corrections:

1. On page 38503, in the first column, in the first complete paragraph, in the third line, "P-80-289. EPA" should read "P-80-290. EPA"; in the twelfth line "80-290)" should read "80-289)".

2. On the same page, in the third column, in the first complete paragraph, in the seventh line "(a)" should read "(1)".

3. On page 38504, in the first column, in the seventh line from the bottom "3-methyulpiperidine" should read "3-methylpiperidine".

4. Also on page 38504, in the second column, in the fifth line from the bottom, "uses of" should read "uses for".

5. On page 38506, in the second column, in the third paragraph, in the fourth line, "change" should read "chance".

6. On page 38510, in the first column, in paragraph "(6)", in the second line "Mioles" should read "Miles".

BILLING CODE 1505-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6557]

National Flood Insurance Program; Proposed Flood Elevation Determinations; Colorado, et al.

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year flood elevations and proposed modified flood elevations listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program.

DATES: The period for comment will be ninety (90) days following the second publication of the proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the proposed determinations of base (100-year) flood elevations and modified base flood elevations for selected locations in the nation, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain

management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under Section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the floodplain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts floodplain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the floodplain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirements; of itself it has no economic impact.

List of Subjects in 44 CFR, Part 67

Flood insurance, Floodplains.

The proposed base (100-year) flood elevations for selected locations are:

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Colorado	Delta (City), Delta County	Gunnison River	At U.S. Highway 50 Northbound	*4,934
		Uncompahgre River	70 feet upstream of the 5th Street Bridge (new)	*4,942
Maps available for inspection at Planning and Zoning Department, East 4th & Main Street, Delta, Colorado.				
Send comments to Honorable Elmer Bell, P.O. Box 19, Delta, Colorado 81416.				
Florida	Hillsborough County (unincorporated areas)	Gulf of Mexico	At the center of State Highway 45 crossing of Cockroach Creek.	*9
			At the center of the intersection of Memorial Highway and West Hillsborough Avenue.	*10
			At the center of the intersection of Estelle Avenue and Connecticut Street.	*11
			At the center of the junction of Kracker Avenue and State Highway 45.	*12
			At Sand Island	*15
Maps available for inspection at County Drainage Engineering Department, 800 Twiggs Street, Tampa, Florida.				
Send comments to Honorable Fred Anderson, P.O. Box 1110, Tampa, Florida 33601.				
Idaho	Grangeville (City), Idaho County	East Fork Three Mile Creek	40 feet upstream from the center of Main Street	*3,419
		Middle Fork Three Mile Creek	40 feet upstream from the center of W. North Street	*3,378
		Main Three Mile Creek	40 feet upstream from the center of E. North 7th Street.	*3,324
		West Fork Three Mile Creek	40 feet upstream from the center of South 5th Street	*3,423
		Shallow Flooding	At the center of intersection of State Street and South Street.	#2
		Long Haul Creek	40 feet upstream from the center of North 2nd Street	*3,352
		Shallow Flooding	50 feet east of the intersection of W. South 1st Street and E Street.	*1
Maps available for inspection at City Hall, 225 West North Street, Grangeville, Idaho.				
Send comments to Honorable Ralph Bos, 225 West North Street, Grangeville, Idaho 83530.				
New Jersey	Orange, City Essex County	Wigwam Brook	Downstream corporate limits	*149
			Upstream Cleveland Street	*156
			Upstream corporate limits	*163
		East Branch	Downstream corporate limits	*144
		Rahway River	Upstream of Treamont Avenue	*151
			Upstream corporate limits	*162
		East Fork of East Branch	Approximately 320' downstream of Freeman Street	*171
		Rahway River	Mitchell Street	*175
			Joyce Street	*176
Maps available for inspection at the City Hall, 29 North Day Street, Orange, New Jersey.				
Send comments to Honorable Joel L. Shain, Mayor of the City of Orange, 29 North Day Street, Orange, New Jersey 07050.				
New York	Ballston, Town, Saratoga County	Alplaus Kill	At downstream corporate limits	*265
			At upstream corporate limits	*294
		Ballston Creek	At confluence with Ballston Lake	*258
			At downstream corporate limits	*256
		Ballston Lake	Entire shoreline within community	*258
		Morning Kill	At East High Street	*226
			Upstream of CONRAIL crossing	*271
			Upstream of Morning Kill Road	*322
			Upstream of bridge at Goode Street	*393
			Upstream of Devils Lane	*437
			Upstream corporate limits	*482
Maps available for inspection at the Town Hall, Ballston, New York.				
Send comments to Honorable William Sewell, Supervisor of the Town of Ballston, P.O. Box 67, Burnt Hills, New York 12027.				
New York	Balston Spa, Village, Saratoga County	Gordon Creek	At confluence with Kayaderosseras Creek	*241
			Upstream of Bath Street	*246
			Upstream of Fair Ground Avenue	*255
			Approximately 1,200' upstream of Fair Ground Avenue	*264

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Kayaderosseras Creek	At corporate limits	*229
			Upstream of Ralph Street	*237
			Approximately 100' upstream of Milton Avenue	*249

Maps available for inspection at the Village Hall, 66 Front Street, Ballston Spa, New York.

Send comments to Honorable Bert C. Grandin, Mayor of the Village of Ballston Spa, 66 Front Street, Ballston Spa, New York 12020.

New York	Glenville, Town, Schenectady County	Mohawk River	Downstream corporate limits	*222
			At confluence of Kromme Kill	*228
			Upstream of Conrail and Delaware & Hudson Railroad	*231
			Upstream of Lock No. 8	*235
			Upstream of Boston and Maine Railroad	*243
			Upstream of State Route 103/Lock No. 9	*251
			Upstream corporate limits	*258
		Alplaus Kill	At confluence with Mohawk River	*224
			Upstream of Boston and Maine Railroad	*227
			Corporate limits (1st crossing)	*236
			Corporate limits (2nd crossing)	*294
			Upstream of dam	*330
			Upstream of Van Vorst Road	*336
			Upstream corporate limits	*340
		Kromme Kill	At confluence with Mohawk River	*226
			Downstream of Freemans Road	*229
			Approximately 950' upstream of Delaware & Hudson Railroad.	*241

Maps available for inspection at the town Hall, 127 Mohawk Avenue, Scotia, New York.

Send comments to Honorable William Baird, Supervisor of the Town of Glenville, 127 Mohawk Avenue, Scotia, New York 12302.

New York	Saratoga, Town, Saratoga County	Hudson River	Downstream corporate limits	*97
			Confluence of The Cove	*99
			Upstream corporate limits	*102
		Fish Creek	Downstream corporate limits	*181
			Upstream of State Route 32	*196
			Upstream Burgoyne Road	*198
			Upstream State Route 29 (1st crossing)	*200
			Upstream of dam	*206
			Upstream of Bryant Road	*209
			Approximately 1,000' upstream of State Route 9P	*210
		Saratoga Lake	Entire shoreline	*210

Maps available for inspection at the Town Hall, Ferry Street, Schuylerville, New York.

Send comments to Honorable Robert Hathaway, Supervisor of the Town of Saratoga, Town Hall, Ferry Street, Schuylerville, New York 12871.

New York	Saratoga Springs, City, Saratoga County	Geyser Brook	Upstream of State Route 50	*286
		Slade Creek	At confluence of Slade Creek and Rowland Hollow Creek.	*297
			At confluence of Geyser Brook and Rowland Hollow Creek.	*297
		Putnam Brook	At confluence with Putnam Brook	*290
			At confluence with Slade Creek	*290
		Rowland Hollow Creek	Approximately 6,500' above State Route 9N	*312
			At confluence of Geyser Brook and Slade Creek	*297
		Spring Run	Upstream corporate limits	*318
			Upstream of State Route 29	*231
			Upstream Interstate 87 southbound	*248
		Kayaderosseras Creek	Downstream State Route 50	*261
			At confluence with Saratoga Lake	*210
			Upstream U.S. Route 9 south	*215
		Fish Creek	Upstream corporate limits	*226
			At corporate limits downstream of Stafford Road	*210
			At confluence with Saratoga Lake	*210

Maps available for inspection at the City Hall, Lake Avenue, Saratoga Springs, New York.

Send comments to Honorable Ellsworth Jones, Mayor of the City of Saratoga Springs, City Hall, Lake Avenue, Saratoga Springs, New York 12366.

New York	Schuylerville, Village, Saratoga County	Hudson River	Downstream corporate limits	*100
			Upstream corporate limits	*101
		Fish Creek	At confluence with Hudson River	*100
			Upstream of Broad Street	*102
			At corporate limits	*149

Maps available for inspection at the Village Hall, Schuylerville, New York.

Send comments to Honorable John J. Sherman, Mayor of the Village of Schuylerville, Village Hall, Spring Street, Schuylerville, New York 12871.

New York	Scotia, Village, Schenectady County	Mohawk River	Downstream of Conrail	*230
			Upstream of Western Gateway bridge	*232
			Upstream corporate limits (extended)	*233
		Kromme Kill	Downstream corporate limits	*236
			Upstream of State Route 50	*247
			Approximately .46 mile upstream of U.S. Route 50	*249

Maps available for inspection at the Village Hall, Scotia, New York.

Send comments to Honorable John F. Ryan, Jr., Mayor of the Village of Scotia, Four Ten Broeck Street, Scotia, New York 12302.

New York	Stillwater, Town Saratoga County	Hudson River	Downstream corporate limits	*85
			Upstream of Lock No. 3	*92

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Upstream corporate limits with Village of Stillwater	*94
		Anthony Kill	Most upstream corporate limits	*97
			Downstream corporate limits at Round Lake Avenue	*106
			Confluence with Plum Brook	*118
			Upstream of footbridge	*133
		Schuyler Creek	Upstream corporate limits	*159
			Downstream corporate limits	*94
		Plum Brook	Approximately 3,150' upstream of corporate limits	*130
			Confluence with Anthony Kill	*118
			Upstream of George Thompson Road	*139
			Upstream of downstream dam	*152
			Approximately 4,400' upstream of dam	*215
			Approximately 2,800' downstream of dam	*275
			Upstream of dam	*303
			Approximately 2,700' upstream of dam, downstream of Robinson Road.	*326
		Saratoga Lake	Entire shoreline within community	*210

Maps available for inspection at the Town Hall, Stillwater, New York.

Send comments to Honorable William Herrick, Supervisor of the Stillwater, Box 700, Stillwater, New York 12170.

New York	Victory, Village, Saratoga County	Fish Creek	Approximately 3,600 feet downstream of Hill Street (corporate limits).	*149
			Hill Street (upstream side)	*179
			Approximately 300 feet upstream of Mennen Road	*193

Maps available for inspection at the Village Hall, Victory, New York.

Send comments to Honorable Christine Perotta, Mayor of the Village of Victory, P.O. Box 149, Victory Mills, New York 12884.

Massachusetts	Town of Phillipston, Worcester County	Millers River	Approximately 350' downstream of downstream corporate limits.	*747
			Upstream Boston and Maine RR	*762
			Upstream corporate limits	*770
		Beaver Brook	Downstream corporate limits	*820
			Upstream State Route 68	*824
			Upstream Fornald School Road	*936
			3rd upstream corporate limits	*1,002
			Approximately 8,500' upstream of 3rd upstream corporate limits.	*1,006

Maps available for inspection at the Town Hall, Phillipston, Massachusetts.

Send comments to Honorable Don Clifford, Chairman of the Board of Selectmen for the Town of Phillipston, Town Hall, Phillipston, Massachusetts 01331.

Massachusetts	Town of Southwick, Hampden County	Great Brook	Downstream State Route	*160
			Approximately 5,000' upstream of downstream face State Route 57.	*170
			Approximately 2,000' downstream of South Longyard Road.	*180
			Upstream Sheep Pasture Road	*222
			Upstream Industrial Drive	*229
			Upstream Berkshire Avenue	*230
		Tributary to Great Brook	Confluence with Great Brook	*222
			Approximately 70' upstream of State Route 57	*243
		Munn Brook	Downstream corporate limits	*208
			Upstream Covered bridge	*238
			Approximately 2,020' upstream of Covered Bridge	*251
		Surtleff Brook	Confluence with Munn Brook	*216
			Approximately 5,060' above confluence with Munn Brook.	*245

Maps available for inspection at the Town Hall, Southwick, Massachusetts.

Send comments to Honorable Vivian Brown, Chairman of the Board of Selectmen for the Town of Southwick, Depot Street, Southwick, Massachusetts 01077.

Oregon	Helix (City), Umatilla County	Greasewood Creek	Intersection of Harrison Street and Aurora Street	*1,755
		Southwest Drainage	Intersection of Columbia Street and Morton Street	*1,752

Maps available for inspection at City Hall, Helix, Oregon.

Send comments to the Honorable Phyllis Schuening, P.O. Box 325, Helix, Oregon 97835.

Texas	Webster, City, Harris County	Cow Bayou	Entire shoreline within corporate limits	*11
		Clear Creek	From confluence of Cow Bayou to State Route 3	*11
			From State Route 3 to U.S. Route 75	*12
		Tributary to Clear Creek	At confluence with Clear Creek	*12
			West NASA Road (upstream side)	*20
			Medical Center Boulevard (upstream side)	*22
			Most upstream corporate limits	*24

Maps available for inspection at the City Hall, 311 Pennsylvania Avenue, Webster, Texas.

Send comments to Honorable Beverly Heinrich, Mayor of the City of Webster, 311 Pennsylvania Avenue, Webster, Texas 77598.

Vermont	Westminister, Town, Windham County	Connecticut River	At downstream corporate limits	*241

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Upstream of State Route 123	*248
			Upstream corporate limits	*254

Maps available for inspection at the Town Hall, Westminster, Vermont.

Send comments to Honorable William O'Connor, Westminister Town Manager, P.O. Box 147, Westminister, Vermont 05158.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: August 15, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-24786 Filed 9-9-83; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-6558]

National Flood Insurance Program; Proposed Flood Elevation Determinations; Delaware, et al.

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations and proposed modified base flood elevations listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of the proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the proposed determinations of base (100-year) flood elevations and modified base flood elevations for selected locations in the nation, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premimum rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood Insurance, Flood Plains.

The proposed modified base flood elevations for selected locations are:

PROPOSED MODIFIED BASE FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
Delaware	Sussex	Little Assawoman Bay	Shoreline of Little Assawoman Canal south of Muddy Neck Road bridge.	*6	*4
			Shoreline at Conch Point	*7	*5

PROPOSED MODIFIED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground °Elevation in feet (NGVD) Existing	Modified
			Shoreline at Drum Point	°7	°4
			Shoreline at Miller Creek at Brickbat Point	°8	°4

Maps available for inspection at the Office of Planning and Zoning, Sussex County Courthouse, Georgetown, Delaware.
Send comments to Honorable Joseph T. Conaway, Sussex County Administrator, P.O. Box 589, Georgetown, Delaware 19947.

Georgia	(Uninc.) Douglas County	Chattahoochee River	Just upstream of State Highway 92	°747	°747
			At upstream county boundary	°758	°761
		Sweetwater Creek	At mouth	°755	°757
			About 1.3 miles upstream of Lower River Road	°755	°757

Maps available for inspection at 6754 Broad Street, Douglasville, Georgia. Send comments to Honorable Jerry H. Watson, Chairman, Douglas County Commissioners, 6754 Broad Street, Douglasville, Georgia 30134.

Illinois	(V) East Dundee, Kane County	Fox River	Northwest corporate limit near Wenholz Avenue and Water Street intersection.	°720	°721
			Southwest corporate limit 2,500 feet south of Williams Road and Elgin Avenue intersection.	°717	°717

Maps available for inspection at the Village Hall, 120 Barrington Avenue, East Dundee, Illinois. Send comments to Honorable David Bartelt, President, Village of East Dundee, Village Hall, 120 Barrington Avenue, East Dundee, Illinois 60118.

Illinois	(V) West Dundee, Kane County	Fox River	Southeast corporate limit 300 feet east of First Street and Fay Avenue intersection.	°717	°717
			Northern corporate limit near Sixth Street and Hillcrest Court intersection.	°720	°721

Maps available for inspection at 102 South Second Street, West Dundee, Illinois. Send comments to Honorable Thomas Warner, Village President, Village of West Dundee, 102 South Second Street, West Dundee, Illinois 60118.

New York	Manlius, Village, Onondaga County	Sweet Road	Downstream corporate limits	°560	°559
		Tributary	Upstream corporate limits†	°635	°717
		Sweet Road Tributary No. 1	Confluence with Sweet Road Tributary	None	°700
			Upstream corporate limits	None	°717
		Limestone Creek	Most downstream corporate limits	°499	°500
		West Branch Limestone Creek	Upstream corporate limits	°579	°576
			Approximately 400 feet upstream of upstream corporate limits.	None	°581

†The corporate limits have been modified due to annexations. The existing base flood elevation at this location refers to the old corporate limits; the modified base flood elevation represents the revise corporate limits.

Maps available for inspection at the Village Hall, One Elmbrook Drive, West, Manlius, New York.
Send comments to Honorable Angelo A. Albanese, Mayor of the Village of Manlius, One Elmbrook Drive, West, Manlius, New York 13104.

New York	Wheatfield, Town Niagara County	Bergholtz Creek	Approximately 2,000 feet downstream of Williams Road.	°575	°574
			Upstream of Niagara Road	°583	°582
			Upstream corporate limits (located downstream of Raymond Road)	°604	°602

Maps available for inspection at the Town Hall, 2800 Church Road, North Tonawanda, New York.
Send comments to Honorable Edward C. Greinert, Supervisor of Wheatfield, 2800 Church Road, North Tonawanda, New York 14120.

Oregon	Keizer (City), Marion County	Willamette River	Intersection of Olson Street and Chehalis Place		°124

Maps available for inspection at City Hall, 4823 River Road North, Keizer, Oregon.
Send comments to the Honorable Bob Simon, 4918 River Road North, Keizer, Oregon 97303.

Texas	Irving, City, Dallas County	West Fork of Trinity River	MacArthur Boulevard (upstream side)	°436	°437
		Bear Creek	Approximately 1,250' upstream of Hunter-Farrel Road	°437	°439
			Approximately 6,000' upstream of Hunter-Farrel Road	°438	°439

Maps available for inspection at the City Hall, 825 West Irving Boulevard, Irving, Texas.
Send comments to Honorable Bobby Joe Raper, Mayor or Irving, P.O. Box 3008, Irving, Texas 75061.

Virginia	Roanoke, City Independent City	West Fork	Downstream corporate limits	None	°1,032
		Carvin Creek	Upstream corporate limits	None	°1,047
		Ore Branch	Upstream of Wonju Street	°956	°959
		Glade Creek	Approximately 800' upstream of the Norfolk and Western Railway bridge.	°938	°939

Maps are available for inspection at the City Hall, 215 Church Avenue, SW, Roanoke, Virginia.
Send comments to Honorable Noel C. Taylor, Mayor of Roanoke, 215 Church Avenue, SW., Roanoke, Virginia 24011.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: August 31, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-24785 Filed 9-9-83; 8:45 am]
BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. 6508]

National Flood Insurance Program; Proposed Flood Elevation Determinations; Correction; Ohio

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Village of Whitehouse, Lucas County, Ohio, previously published at 48 FR 20444 on May 6, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Village of Whitehouse, Lucas County, Ohio previously published at 48 FR 20444 on May 6, 1983, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a)).

The Base Flood Elevation Determination for the Village of Whitehouse, Lucas County, Ohio was inadvertently published without listing the addresses of the Local Map Repository and the contact for comments.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the (proposed) flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood Insurance, Floodplains.

The listing appears correctly as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Ohio	(v) Whitehouse, Lucas County	Long Oak Ditch	Downstream corporate limits	*643	*644
			Approximately 900 feet upstream of downstream corporate limits.	*644	*644
		Blue Creek	Downstream corporate limits	*639	*641
		Swan Creek	Downstream corporate limits	*639	*641
			Upstream corporate limits	*640	*642

Map available for inspection at the Municipal Building, 6855 Providence Street, Whitehouse, Ohio. Send comments to the Honorable Donald O. Notzinger, Mayor, Village of Whitehouse, 6855 Providence Street, Whitehouse, Ohio 43571.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: August 30, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-24790 Filed 9-9-83; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-6508]

National Flood Insurance Program: Proposed Flood Elevation Determinations; Correction; Florida

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Unincorporated Areas of Clay County, Florida, previously published at 48 FR 20444 on May 6, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Unincorporated Areas of Clay County, Florida previously published at 48 FR 20444 on May 6, 1983, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a)).

The Base Flood Elevation Determination for the Unincorporated Areas of Clay County, Florida was inadvertently published without listing the addresses of the Local Map Repository and the contact for comments.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the

Director, Federal Emergency Management Agency, hereby certifies that the (proposed) flood elevation determinations, it promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Floodplains.

The listing appears correctly as follows:

State	City/town/County	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Florida	(Uninc.) Clay County	North Prong Double Branch	At confluence with Double Branch	*32	*32
			About 2.0 miles upstream of confluence with Double Branch	*61	*59

Map available for inspection at the Clay County Planning, Zoning and Building Department, Clay County Courthouse, P.O. Box 367, Green Cove Springs, Florida.

Send comments to the Honorable Talmadge L. Bennett, Chairman, Clay County Board of County Commissioners, Clay County Courthouse, P.O. Box 367, Green Cove Springs, Florida 32043.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: August 30, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-24787 Filed 9-9-83; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 67

[Docket No. 6508]

National Flood Insurance Program; Proposed Flood Elevation Determinations; Correction; Wisconsin

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the City of Richland Center, Richland County, Wisconsin previously published at 48 FR 20444 on May 6, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the City of Richland Center, Richland County, Wisconsin previously published at 48 FR 20444 on May 6, 1983, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a)).

The Base Flood Elevation Determination for the City of Richland Center, Richland County, Wisconsin was inadvertently published without listing the addresses of the Local Map Repository and the contract for comments.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the (proposed) flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood Insurance, Floodplains.

The listing appears correctly as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Wisconsin	(c) Richland Center, Richland County	Pine River	About 6,200 feet downstream Bohmann Drive	None	*720
			At upstream corporate limits	*740	*739

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
		Center Creek	Mouth at Pine River	*734	*733
		Brush Creek	Mouth at Pine River	*737	*736

Map available for inspection at 182 North Central Avenue, Richland Center, Wisconsin. Send comments to the Honorable Laverne Hardy, Mayor, City of Richland Center, 182 North Central Avenue, Richland Center, Wisconsin 53581.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: August 30, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-24780 Filed 9-9-83; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-6521]

National Flood Insurance Program; Proposed Flood Elevation Determinations; Kentucky

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule; Revision.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Russellville, Logan County, Kentucky.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 48 FR 22960 on May 23, 1983, and in the *News Democrat* on April 14, and April 21, 1983, hence supersedes those previously published rules.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for inspection at City Hall, Russellville, Kentucky 42276.

Send comment to: Honorable Elwood Raines, Mayor of the City of Russellville or the City Clerk, City Hall, Russellville, Kentucky 42276.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4 (A).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood Insurance, Flood Plains.

The proposed base (100-year) flood elevations are:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD).
Kentucky	City of Russellville, Logan County	Town Branch	Approximately 120 feet upstream of confluence of Town Branch Tributary D.	*575
			Approximately 125 feet downstream of West Third Street.	*584
			Approximately 150 feet upstream of Bluegrass Avenue	*596
		Town Branch Tributary A	Approximately 300 feet upstream of Louisville and Nashville Railroad.	*620

—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD).
			Approximately 300 feet upstream of Emerson By-pass (Industrial Road).	*630
		Town Branch	Approximately 60 feet downstream of West Sixth Street.	*592
		Tributary B	Approximately 130 feet upstream of U.S. Highway 79	*605
		Town Branch	Just upstream of U.S. Highway 431	*585
		Tributary C		
		Town Branch	Approximately 100 feet upstream of East Second Street.	*582
		Tributary D	Approximately 250 feet upstream of East Fourth Street (State Highway 68 & State Highway 80).	
			Approximately 100 feet downstream of State Highway 100.	*601
		Town Branch	Approximately 120 feet upstream of State Highway 100.	*610
		Tributary E		
		Town Branch	Just upstream of East Ninth Street	*599
		Tributary F	Just upstream of Gravel Street	*615
		Town Branch	Approximately 450 feet upstream of confluence with Town Branch.	*565
		Tributary G		
		Proctor Branch	Just upstream of the Eastern Corporate Limits	*600
		Tributary A		
		Proctor Branch	Just upstream of Modernmaid Drive	*605
		Tributary B		

Maps available for inspection at City Hall, Russellville, Kentucky 42276.

Send comments to Mayor Ken Smith or Ms. Peggy Jenkins, City Clerk, City Hall, Russellville, Kentucky 42276.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: August 17, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-24788 Filed 9-9-83; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status and Critical Habitat for Kokia drynarioides (hau-hele'ula)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to list a plant, *Kokia drynarioides* (hau-hele'ula), as an Endangered species and to designate its Critical Habitat under the authority contained in the Endangered Species Act of 1973, as amended. This species is known only from one small wild population of about 15 individuals located in the Ka'upulehu Forest Reserve and the adjoining Pu'uwa'awa'a Ranch, County and island of Hawaii, State of Hawaii. The lone population of this species is vulnerable to any substantial habitat alteration and faces numerous threats, including continued livestock damage, destruction of seeds by rodents and fire on and near the site where it occurs. A determination that *Kokia drynarioides* is an Endangered species and designation of its Critical Habitat would implement the protection provided by the Endangered Species Act of 1973, as amended. Comments and materials related to this proposal are solicited. The Service requests information on the impacts that would result from listing *Kokia drynarioides* as an Endangered species.

DATES: Comments from the public and the Hawaiian State agency must be received by December 12, 1983. A public hearing on this proposal will be held if requested by October 27, 1983.

ADDRESSES: Comments and related materials should be sent to the Pacific Islands Administrator, U.S. Fish and Wildlife Service, P.O. Box 50167, Honolulu, Hawaii 96850. Comments and materials relating to this proposal are available for public inspection by appointment during normal business hours at the Service's Office of Endangered Species, 300 Ala Moana Boulevard, Room 6307, Honolulu, Hawaii 96850.

FOR FURTHER INFORMATION CONTACT: Mr. Ernest Kosaka, Project Leader for Environmental Services, U.S. Fish and Wildlife Service, P.O. Box 50167, Honolulu, Hawaii 96850 (808/546–7530).

SUPPLEMENTARY INFORMATION: *Kokia drynarioides* (Seem.) Lewt. (koki'o, hau-hele'ula or Hawaii tress cotton) is a member of the mallow family. It is one of four native Hawaiian species belonging to this endemic genus and is the only koki'o growing on the island of Hawaii. There are no other wild trees on Hawaii with a combination of large red malvaceous flowers, palmately lobed leaves, and three large involucral bracts at the base of the flower and fruit. Initially collected during Cook's second visit to the Hawaiian Islands and described by Seemann in 1865, the species has undergone a steady population decline to a point at which only 15 plants are now known in the wild. The population was estimated at about 200 trees in 1929 (Degener and Degener, 1965). Cattle and various feral herbivores have been responsible for most of the population decline; however, the recent invasion of the exotic bunch grass (fountaingrass, *Pennisetum setaceum*) has served to inhibit regeneration as well as increase the probability, extent and intensity of wildfires.

Section 12 of the Endangered Species Act of 1973 directed the Secretary of the Smithsonian Institution to prepare a

report on those plants considered to be endangered, threatened or extinct. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975. On July 1, 1975, the Director published a notice in the **Federal Register** (40 FR 27823) of his acceptance of this report as a petition within the context of Subsection 4(c)(2) of the Act, and of his intention thereby to review the status of the plant taxa named within. On June 16, 1976, the Service published a proposed rule in the **Federal Register** (41 FR 24523) to determine approximately 1,700 vascular plant taxa to be Endangered species. This list was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94–51 and the July 1, 1975, **Federal Register** publication. *Kokia drynarioides* was included in the July 1, 1975, notice and the June 16, 1976, proposal. General comments on the 1976 proposal are summarized in an April 26, 1978, **Federal Register** publication (43 FR 17909). The Endangered Species Act Amendments of 1978 (Pub. L. 95–632) required that all proposals over 2 years old be withdrawn. On December 10, 1979, the Service published a notice of the withdrawal of that portion of the June 16, 1976, proposal that had not been made final, along with other proposals that had expired (44 FR 70796). At this time, the Service has sufficient information to warrant reproposing *Kokia drynarioides*. This new information includes a detailed status report prepared by a botanist from the University of Hawaii (Lamoureux, 1981). Its Critical Habitat is proposed for the first time.

Summary of Factors Affecting the Species

Subsection 4(a)(1) of the Endangered Species Act of 1973, as amended (15 U.S.C. 1531 *et seq.*), states that the Secretary of the Interior shall determine whether any species is an Endangered or Threatened species due to one or more of the five factors described in that subsection.

These factors and their application to *Kokia drynarioides* are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The habitat for this species has been greatly modified by many years of management as rangeland for livestock (see Factor C. below). The recent invasion of the exotic fountaingrass has further degraded the suitability of the habitat for seedling survival, and threatens also to increase the frequency, intensity and extent of wildfires, which may eliminate adult trees as well.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Not applicable to this species.

C. *Disease or predation* (including grazing). This plant is extremely palatable to herbivorous livestock. Cattle browse on the mature trees and graze any seedlings that may appear above the fountaingrass. Rodents, especially the introduced roof rat, *Rattus rattus*, eat the seeds, often before they fall from the tree.

D. *The inadequacy of existing regulatory mechanisms.* A plan to protect *Kokia drynarioides* was drawn up about 1915 (Young & Popenoe, 1916), but never thoroughly carried out (Rock, 1919). Continued use of the habitat for cattle pasture and subsequent incursion of the introduced fountaingrass have led to a continued decline of the population.

E. *Other natural or manmade factors affecting its continued existence.* The reduction in number of individuals of this species probably has a detrimental effect on the breeding system and genetic recombination. The present reduced wild population exists entirely within the potential destruction area of a dormant volcano, between lava tongues of its 1800–1801 eruption.

Critical Habitat

Section 4(a)(3) requires the Secretary to designate Critical Habitat for species concurrently with listing the species to the maximum extent prudent and determinable. The Act defines "Critical Habitat" as: "(i) the specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the provisions of Section 4 of this Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and (ii) specific areas outside the geographic area occupied by the species at the time it is listed in accordance with the provisions of Section 4 of this Act, upon a determination by the Secretary that such areas are essential for the conservation of the species."

Proposed Critical Habitat for *Kokia drynarioides* includes three areas of land in the North Kona District, island, County and State of Hawaii, as follows:

1. Ka'upulehu Ahupua'a area—approximately 0.76 square miles located immediately to the west of the Ka'upulehu 1800–1801 lava flow, extending between 1400 and 2600 feet of elevation, crossing Mamalahoa Highway, and including Ka'upulehu Forest Reserve, Section B.

2. A boundary area occupying most of an unnamed kipuka (discontinuity) in 1800–1801 lava that straddles the boundary between Ka'upulehu and Pu'uwa'awa'a Ahupua'a and also crosses Mamalahoa Highway. The area proposed is approximately 1.2 square miles in area.

3. Pu'uwa'awa'a Ahupua'a area—approximately 1.9 square miles, all of Halepi'ula 3, Waimea Paddock of Pu'uwa'awa'a Ranch which lies south of (upslope) and abuts Mamalahoa Highway just east of the boundary between Ka'upulehu and Pu'uwa'awa'a Ahupua'a.

The primary constituent elements of the proposed Critical Habitat are appropriate soil type and climate, protection from livestock damage, protection from aggressive exotic weeds, and presence of suitable pollinators.

Subsection 4(b)(8) of the Act requires, to the maximum extent practicable, that any proposal to determine Critical Habitat be accompanied by a brief description and evaluation of those activities which, in the opinion of the Secretary, may adversely modify such habitat if undertaken, or may be affected by such a designation. Such activities are identified below for this species. It should be emphasized that Critical Habitat designation may not affect all of the activities mentioned below, as Critical Habitat designation only affects Federal agency activities through Section 7 of the Act.

Any activity that would significantly disturb the soil, topography or other physical and biological components of the area in which *Kokia drynarioides* occurs could adversely modify its Critical Habitat. Existing and proposed land uses in the immediate locality of the population and in its surroundings must be carefully examined if such modifications are to be prevented. This might require revocation of grazing rights on the land and rezoning the land to conservation. Such a revocation, however, would be discretionary with the State and private landowners and would not be mandated under the Act.

Section 4(b)(2) of the Act requires the Secretary to consider the economic and other relevant impacts of designating Critical Habitat. The Service has contacted the State of Hawaii and the B. P. Bishop Estate, which have jurisdiction over the land under consideration in this proposed action. Interested Federal and State agencies as well as other interested persons or organizations are requested to submit information on economic or other impacts of the proposed action.

The Service will prepare a final economic impact analysis prior to the time a final rule is issued.

Available Conservation Measures

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as Endangered, and any proposed or designated Critical Habitat. In particular, Section 7(a)(4) requires Federal agencies to informally confer with the Service on any of their actions that are likely to jeopardize the continued existence of this proposed species, or destroy or result in adverse modification of its proposed Critical Habitat.

If this proposal is published as a final rule, Federal agencies would be required to insure that actions they authorize, fund or carry out are not likely to jeopardize the continued existence of this species, and to insure that their actions are not likely to result in the destruction or adverse modification of Critical Habitat that has been determined by the Secretary. There is no known planned action by a Federal agency they may be affected by this proposed listing and designation of Critical Habitat.

Section 9(a)(2) of the Act and implementing regulations published in the June 24, 1977, **Federal Register** (42 FR 32373) set forth a series of general trade prohibitions and exceptions that apply to all Endangered plant species. The regulations pertaining to plants are found at 50 CFR 17.61, and are summarized below.

With respect to *Kokia dryinariodes* all trade prohibitions of Section 9(a)(2) of the Act, as implemented by 50 CFR 17.61 would apply. The prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate of foreign commerce in the course of a commercial activity, or sell or offer for sale this species in interstate of foreign commerce. Certain exceptions would apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving Endangered species under certain circumstances. No such trade in this species is known. It is anticipated that few trade permits involving the species would ever be requested.

If this plant is listed as an Endangered species and its Critical Habitat designated, certain conservation authorities would become available and protective measures may be undertaken for it. These could include increased management of the species and its habitat, the provision of Federal funds for the species should Hawaii qualify for a cooperative agreement under Section 6(c)(2) of the Act, and the development of a recovery plan for the species as specified in Section 4(f).

National Environmental Policy Act

A draft Environmental Assessment has been prepared in conjunction with this proposal. It is on file in the Service's Pacific Islands Area Office, 300 Ala Moana Boulevard, Room, 6307, Honolulu, Hawaii 96850, and may be examined by appointment during regular business hours. A determination will be made at the time of a final rule as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969 (implemented at 40 CFR Parts 1500–1508).

Public Comments Solicited

The Service intends that the rules finally adopted be as accurate and effective as possible in the conservation of each Endangered species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspect of this proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) Biological or other relevant data concerning any threat (or the lack thereof) to the species included in this proposal:

(2) The location of any population of *Kokia drynarioides* and the reasons why any habitat of this species should or should not be designated as Critical Habitat;

(3) Additional information concerning the range and distribution of this species;

(4) Current or planned activities in the subject area and the probable impact of such activities on the area designated as Critical Habitat; and

(5) The foreseeable economic and other impacts of the the Critical Habitat designation on Federal activities, private individuals, etc.

Final promulgation of a rule on *Kokia drynarioides* will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final regulation that differs from this proposal.

Author

The primary author of the proposed rule is Dr. Derral Herbst, U.S. Fish and Wildlife Service, P.O. Box 50167, Honolulu, Hawaii. Status information and a preliminary listing package were provided by Dr. Charles H. Lamoureux, Department of Botany, University of Hawaii at Manoa, 3190 Maile Way, Honolulu, Hawaii 96822. Paul A. Opler and George E. Drewry of the Service's Washington Office served as editors.

References

Degener, O. and I. Degener. 1965. Flora Hawaiiensis. Family: 221. Genus: *Kokia*. Species: *drynariodies*. Honolulu.

Lamoureux, C. H. 1981. Status report on *Kokia drynarioides*. Research Corporation of the University of Hawaii under Contract 14–16–0001–79096 to the U.S. Fish and Wildlife Service. 28 pp.

Rock, J. F. 1919. The Hawaiian genus *Kokia*, a relative of the cotton. Terr. Hawaii Bd. Agr. For. Botanical Bull. 6:1–22.

Young, R. A. and P. Popenoe. 1916. Saving the Kokio tree. J. Heredity 7(1):24–28.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the U.S. Code of Federal Regulations, as set forth below:

1. The authority citation for Part 17 reads as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531, *et seq.*).

2. It is proposed to amend § 17.12(h) by adding, in alphabetical order, the following to the list of Endangered and Threatened plants:

Species						
Scientific Name	Common Name	Historic range	Status	When listed	Critical habitat	Special rules
Malvaceae—Mallow Family:						
Kokia drynarioides	Hau-hele'ula, Koki'o or Hawaii tree cotton	U.S.A. (HI)	E	N/A	17.96(a)	N/A

3. It is further proposed that § 17.96(a) be amended by adding the Critical Habitat of *Kokia drynarioides* in alphabetical order by family and scientific name.

§ 17.96 (a) [Amended]

Critical Habitat for Kokia Drynarioides

Primary constituent elements of Critical Habitat are appropriate soil type, climate, protection from grazing damage, protection from aggressive exotic weeds, and presence of suitable pollinators.

Family Malvaceae: *Kokia drynarioides* (Seem.) Lewt. Hau'hele'ula, Koki'o, or Hawaii tree cotton, State of Hawaii, island and County of Hawaii, North Kona District, 3 areas.

(1) Ka'upulehu Ahupua'a area, bounded as follows: from a point of origin at Universal Transverse Mercator (UTM) coordinate 925880 near or on the west boundary of the Ka'upulehu 1800–1801 lava flow (approximately at intersection of said west boundary and 2600 ft elevation contour); thence west southwesterly approximately 864 ft to UTM coordinate 914875 (also near 2600 ft elevation contour); thence north northwesterly approximately 1987 ft to UTM coordinate 909899 (near the 1400 ft elecation contour); thence east northeasterly approximately 378 ft to UTM coordinate 913900 (also near the 1400 ft elevation contour; thence south southeasterly approximately 720 ft to UTM coordinate 916891; thence east northeasterly approximately 320 ft to UTM coordinate 920892 (near the said west boundary of the 1800–1801 lava flow); thence south southeasterly approximately 1140 ft to the point of origin. Included in this area is Ka'upuleha Forest Reserve, Section B.

(2) Ka'upulehu Ahupua'a and Pu'uwa'awa'a Ahupua'a boundary area, identified as follows: An unnamed kipuka (discontinuity) in 1800–1801 lava that straddles the boundary between Ka'upulehu and Pu'uwa'awa'a Ahupua'a and also crosses Mamalahoa Highway between 2400 and 1000 feet of elevation. Excluded is a small tongue of the said kipuka that extends south of UTM coordinate 941885 at approximately 2400 ft of elevation and above. UTM coordinate 931924 marks the low elevation end of the said kipuka.

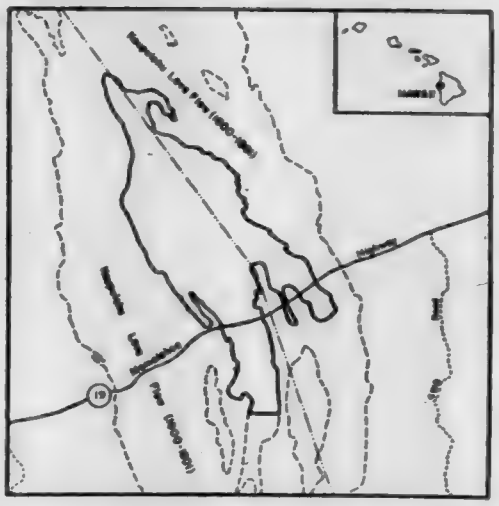

(3) Pu'uwa'awa'a Ahupua'a area, identified as follows: Halepi'ula 3, Waimea Paddock of Pu'uwa'awa'a Ranch, which lies south of (upslope) and abuts Mamalahoa Highway just east of the boundary between Ka'upulehu and Pu'uwa'awa'a Ahupua'a. East boundary of the 1800–1801 Ka'upulehu lava flow is the west boundary of the paddock. The paddock corners are near UTM coordinates 948901 (NW), 985909 (NE), 973886 (SE), and 971879 (SW).

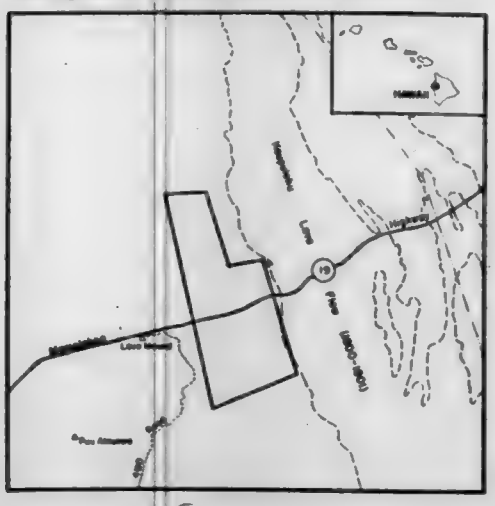

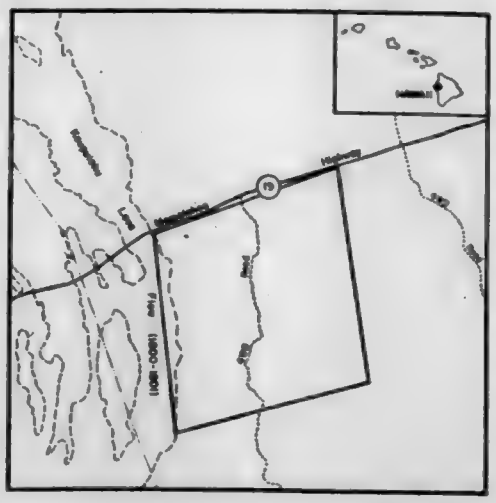

Dated: June 10, 1983.

J. Craig Potter,

Acting Assistant Secretary, Fish and Wildlife and Parks.

[FR Doc. 83-24824 Filed 9-9-83; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

Foreing Fishing, Groundfish of the Bering Sea Aleutian Islands Area

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of an amendment to a fishery management plan and request for comments.

SUMMARY: NOAA issues this notice that the North Pacific Fishery Management Council has submitted Amendment 6 to the fishery management plan for the groundfish fishery in the Bering Sea and Aleutian Islands area for Secretarial review and is requesting comments from the public on both the amendment and the environmental assessment prepared on the amendment. Copies of the amendment and the environmental assessment may be obtained from the address below.

DATE: Comments on the plan amendment and the environmental assessment should be submitted on or before November 18, 1983.

ADDRESS: All comments should be sent to Robert W. McVey, Director, Alaska Region, NMFS P.O. Box 1668, Juneau, Alaska 99802.

Copies of the amendment and the environmental assessment are available upon request from the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, Alaska 99510.

FOR FURTHER INFORMATION CONTACT: Jeffrey J. Povolny (North Pacific Fishery Management Council Groundfish Plan Coordinator), 907–274–4563.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) requires that each regional fishery management council submit any fishery management plan or plan amendment it prepares to the Secretary of Commerce

(Secretary) for review and approval or disapproval. This act also requires that the Secretary, upon reviewing the plan or amendment, must immediately publish a notice that the plan or amendment is available for public review and comment. The Secretary will consider the public comments in determining whether to approve the plan or plan amendment.

Amendment 6 proposes measures for managing the foreign groundfish fishery in the Bering Sea and Aleutian Islands area. Regualtions proposed by Council and based on this amendment are scheduled to be published within 30 days. (16 U.S.C. 1801 *et seq.*)

List of Subjects in 50 CFR Part 611

Fisheries, Foreign relations, Reporting and recordkeeping requrements.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 83-24817 Filed 9-7-83; 4:25 pm]
BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 48, No. 177
Monday, September 12, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

President's Task Force on Food Assistance; Meeting

In compliance with the Federal Advisory Committee Act (5 U.S.C. App. I) the United States Department of Agriculture announces the following meeting:

Name: President's Task Force on Food Assistance.
Date: September 27, 1983.
Time: 10:30 a.m.–4:30 p.m.
Place: Jefferson Auditorium, U.S. Department of Agriculture, South Building, 14th Street and Independence Avenue, SW., Washington, D.C.
Type of Meeting: Open to the public. The public may file written comments before or after the meeting with the contact person listed below.
Purpose: The purpose of the meeting will be to organize the work of the Task Force.

Contact Person For Agenda and Further Information: Ms. Irene Lankford, Food and Nutrition Service, U.S. Department of Agriculture, Room 1103, 3101 Park Center Drive, Alexandria, Va. 22302, Telephone (703) 756–3065.

Done at Washington, D.C., this 9th day of September 1983.

John R. Block,
Secretary of Agriculture.

[FR Doc. 83–24983 Filed 9–9–83; 12:02 pm]
BILLING CODE 3410–01–M

Commodity Credit Corporation

1983 Tobacco Price Suport Level—Flue-Cured Tobacco

AGENCY: Commodity Credit Corporation (CCC), USDA.

ACTION: Notice of Determination of Level of Price Support for 1983-Crop Flue-cured Tobacco.

SUMMARY: The purpose of this notice is to affirm the July 26, 1983 announcement of the determinations of the level of price support for the 1983 crop of flue-cured tobacco and the grade loan rates. The determination of the level of price support is made in accordance with Section 106 of the Agricultural Act of 1949, as amended.

EFFECTIVE DATE: September 12, 1983.

FOR FURTHER INFORMATION CONTACT: Robert L. Tarczy or Robert H. Miller, (202) 447–8839. The Final Regulatory Impact Analysis describing the impact of implementing the prescribed support level is available from Dr. Miller or Mr. Tarczy.

SUPPLEMENTARY INFORMATION: This notice of determination has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum 1512–1 and has been classified "not major." It has been determined that these program provisions will not result in: (1) An annual effect on the economy of $100 million or more, (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local governments, or geographical regions, or (3) significant adverse effects on competition, employment, investment, productivity, innovation, the environment, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program that this notice applies to are: Title—Commodity Loan and Purchases, Number—10.051, as set forth in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject of this notice.

Price support is required to be made available for flue-cured tobacco for 1983 crop since producers approved marketing quotas for the 1983, 1984, and 1985 marketing years.

The level of price support for the 1982-crop for flue-cured tobacco was determined in accordance with Sections 106 (b) and (d) of the 1949 Act and resulted in a level of support of 169.9 cents per pound for the 1982 crop (See 47 FR 37937).

Section 106 of the 1949 Act was amended by the Tobacco Price Support Stabilization Act of 1983 (Pub. L. 98–59, approved July 25, 1983) to provide that the 1983 support level for all kinds of tobacco for which marketing quotas are in effect or for which marketing quotas are not disapproved by producers shall be the support level in cents per pound at which the respective 1982 crop of such kind of tobacco was supported. Accordingly, the Secretary of Agriculture announced by press release on July 26, 1983, that the 1983-crop of flue-cured tobacco will be supported at 169.9 cents per pound, the same as the level of support for the 1982 crop. In addition, the Secretary announced the grade loan rates which reflected this level of support.

Since the only purpose of this notice is to affirm the announcement of the 1983 level of support for flue-cured tobacco and the grade loan rates by the Secretary on July 26, 1983, it has been determined that no further public rulemaking is required.

Determination

Accordingly, it has been determined that the level of support for the 1983 crop of flue-cured tobacco is 169.9 cents per pound. The grade loan rates reflecting this level of price support for the 1983 crop of tobacco have been announced by press release dated July 26, 1983, and are available at county Agricultural Stabilization and Conservation Service offices, producer associations and the Tobacco and Peanuts Division, Agricultural Stabilization and Conservation Service, Washington, D.C.

Authority: Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714b, 714c); Secs. 101, 106, 401, 405, 406, 63 Stat. 1051 as amended, 74 Stat. 6, as amended, 63 Stat. 1054, as amended, 63 Stat. 1055, as amended (7 U.S.C. 1441, 1445, 1421, 1423, 1426).

Signed at Washington, D.C. on August 30, 1983.

Everett Rank,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 83-24779 Filed 9-9-83; 8:45 am]

BILLING CODE 3410-05-M

Human Nutrition Information Service

Nutrition and Your Health: Dietary Guidelines for Americans; Extension of Comment Period

AGENCY: Human Nutrition Information Service, USDA.

ACTION: Extension of Comment Period.

In 48 FR 32039, dated Wednesday, July 13, 1983, USDA announced a meeting of the Dietary Guidelines Advisory Committee and acceptance of comments on Nutrition and Your Health: Dietary Guidelines for Americans. The comment period is hereby extended from September 1, 1983 to Octobe 1, 1983. Written statements should be submitted to Isabel D. Wolf, Administrator, Human Nutrition Information Service, 6525 Belcrest Road, Room 522, Hyattsville, Maryland 20782 by October 1, 1983.

Done at Washington, D.C. this 6th day of September, 1983.

Robert L. Rizek,

Acting Administrator, Human Nutrition Information Service.

[FR Doc. 83-24775 Filed 9-9-83; 8:45 am]

BILLING CODE 3410-KE-M

CIVIL AERONAUTICS BOARD

[Order 83-9-21]

Application of Imperial International Airlines, Inc. for Review of Fitness; Order to Show Cause

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause (83-9-21).

SUMMARY: The Board is proposing to find that Imperial International Airlines, Inc. continues to be fit to provide the air transportation authorized by the certificates issued to it in Orders 81-5-72 (for domestic charter and all-cargo service) and 81-7-26 (for foreign charter service). The complete text of this order is available, as noted below.

DATES: Objections: All interested persons having objections to the Board's tentative fitness findings shall file, and serve upon all persons listed below no later than September 26, 1983, a statement of objections, together with a summary of testimony, statistical data, and other material expected to be relied upon to support the objections.

ADDRESSES: Objections to the issuance of a final order should be filed in Docket 41551 and should be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428, and should be served upon Imperial International and the Federal Aviation Administration.

FOR FURTHER INFORMATION CONTACT: Carolyn S. Kramp, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428 (202) 673-5919.

SUPPLEMENTARY INFORMATION: The complete text of Order 83-9-26 is available from the Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 83-9-26 to that address.

By the Civil Aeronautics Board: September 7, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-24840 Filed 9-9-83; 8:45 am]

BILLING CODE 6320-01-M

[Docket 41677]

British Caribbean Airways Limited Enforcement Proceeding; Assignment of Proceeding

This proceeding has been assigned to Administrative Law Judge John M. Vittone. Future communications should be addressed to him.

Dated at Washington, D.C., September 6, 1983.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 83-24838 Filed 9-9-83; 8:45 am]

BILLING CODE 6320-01-M

Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits; Application for Week Ended September 2, 1983

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the Board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Date filed	Docket No.	Description
Aug. 31, 1983	41675	Skystar International, Inc., c/o Martin J. White, Sargent Ahearn & van Heemstra, Suite 4401, 200 Park Avenue, New York, New York 10166. Application of Skystar International, Inc. pursuant to Section 401(d)(3) of the Act and Subpart Q of the Board's Procedural Regulations, requests permanent authority to engage in foreign, overseas and interstate charter air transportation of persons, and property: (a) Between any point in any State of the United States or the District of Columbia, or any territory or possession of the United States on the one hand, and points in Canada, on the other; (b) Between any point in any State of the United States or the District of Columbia, or any territory or possession of the United States, on the one hand, and points in Mexico, on the other; (c) Between any point in any State of the United States or the District of Columbia, or any territory or possession of the United States, on the one hand, and points in Jamaica, the Bahama Islands, Bermuda, Haiti, the Dominican Republic, Trinidad, Aruba, the Leeward and Windward Islands, and any other foreign place located in the Gulf of Mexico or the Caribbean Sea, on the other hand; (d) Between any point in any State of the United States or the District of Columbia, or any territory or possession of the United States, on the one hand, and points in British Honduras, the Canal Zone, Guatemala, Honduras, El Salvador, Nicaragua, Costa Rica, Panama, and in the countries on the continent of South America, on the other hand; (e) Between any point in any State of the United States or the District of Columbia, or any territory or possession of the United States, on the one hand, and American Samoa, Guam, Johnson Island, the Marshall Islands, Okinawa, Wake Island, and points in Australasia, Indonesia, and Asia as far west as longitude 70 degrees east via a transpacific routing, on the other hand; (f) Between any point in any State of the United States or the District of Columbia, or any territory or possession of the United States, on the one hand, and points in Greenland, Iceland, the Azores, Europe, Africa, and Asia, as far east as (and including) India, on the other hand. Conforming Applications, Motions to Modify Scope and Answers may be filed by September 28, 1983.
Aug. 31, 1983	41676	El Al Israel Airlines Limited, c/o Robert Reed Gray, Hale Russell & Gray, 1025 Connecticut Avenue, N.W., Washington, D.C. 20036.

Date filed	Docket No.	Description
		Application of El Al Israel Airlines Limited, pursuant to Section 402 of the Act and Subpart Q of the Board's Procedural Regulations, request further amendment of its foreign air carrier permit, so as to engage in the foreign air transportation of persons, property and mail over the following routes:
		Between a terminal point or points in Israel, intermediate points in Cyprus, Turkey, Greece, Italy, Switzerland, Austria, Germany, France, Luxembourg, Belgium, Netherlands, United Kingdom of Great Britain and Northern Ireland, Ireland, Greenland, the Azores, and the Provinces of Newfoundland and Quebec, Canada, and the following coterminal points in the United States: New York, New York; Chicago, Illinois; Miami, Florida; Boston, Massachusetts; and Los Angeles, California and from New York, New York or Miami, Florida beyond to Mexico City, Mexico without traffic rights between U.S. points and Mexico City, Mexico; *provided that* the right to conduct such beyond service from New York, New York to Mexico City, Mexico shall automatically terminate upon the initiation of such beyond service from Miami, Florida.
		Answers may be filed by September 28, 1983.
Sept. 1, 1983	40986	Bidzy Ta Hot' Aana, Inc. d/b/a Tanana Air Service, c/o John B. Patterson, Stoshan, Kelly & Patterson, 880 H Street, Suite 201, Anchorage, Alaska 99501.
		Supplemental information as requested by the Board to the application of Bidzy Ta Hot' Aana, Inc. d/b/a Tanana Air Service for a certificate of public convenience and necessity. Answers may be filed by September 28, 1983.
Sept. 2, 1983	41079	Bicoastal Air Service, Inc., c/o R. Tenney Johnson, Zuckert, Scoutt, Rasenberger & Johnson, 888 Seventeenth Street, N.W., Washington, D.C. 20006.
		Application of Bicoastal Air Service, Inc. pursuant to Section 401(d)(1) of the Act and Subpart Q of the Board's Procedural Regulations, applies for a certificate of public convenience and necessity authorizing interstate and overseas air transportation of persons, property and mail.
		Conforming Applications, Motions to Modify Scope and Answers may be filed by September 30, 1983.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 83-24637 Filed 9-9-83; 8:45 am]
BILLING CODE 6320-01-M

[Order 83-9-23]

Fitness Determination of Atlantic Gulf Airlines, Inc.; Order To Show Cause

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Commuter Air Carrier Fitness Determination—Order 83-9-23, Order to Show Cause.

SUMMARY: The Board is proposing to find that Atlantic Gulf Airlines, Inc. is fit, willing, and able to provide commuter air carrier service under section 419(c)(2) of the Federal Aviation Act, as amended, and that the aircraft used in this service will conform to applicable safety standards. The complete text of this order is available, as noted below.

DATE: Responses: All interested persons wishing to respond to the Board's tentative fitness determination shall serve their responses on all persons listed below no later than September 27, 1983, together with a summary of the testimony, statistical data, and other material relied upon to support the allegations.

ADDRESS: Responses or additional data should be filed with the Special Authorities Division, Room 915, Civil Aeronautics Board, Washington, D.C. 20428, and with all persons listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Mary Catherine Terry, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673-5068.

SUPPLEMENTARY INFORMATION: The complete text of Order 83-9-23 is available from the Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 83-9-23 to that address.

By the Civil Aeronautics Board: September 7, 1983.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 83-24642 Filed 9-9-83; 8:45 am]
BILLING CODE 6320-01-M

[Order 83-9-22]

Fitness Determination of West Coast Airlines; Order To Show Cause

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Commuter Air Carrier Fitness Determination—Order 83-9-22, Order to Show Cause.

SUMMARY: The Board is proposing to find that West coast Airlines is fit, willing, and able to provide commuter air carrier service under section 419(c)(2) of the Federal Aviation Act, as amended, and that the aircraft used in this service conform to applicable safety standards. The complete text of this order is available, as noted below.

DATES: Responses: All interested persons wishing to respond to the board's tentative fitness determination shall serve their responses on all persons listed below no later than Septermber 28, 1983, together with a summeary of the testimony, statistical data, and other material relied upon to support the allegations.

ADDRESSES: Responses or additional data should be filed with the Special Authorities Division, Room 915, Civil Aeronautics Board, Washington, D.C. 20428, and with all persons listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Barbara P. Dunningan, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673-5918.

SUPPLEMENTARY INFORMATION: The complete text of Order 83-9-22 is available from the Distribution Section, room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 83-9-22 to that address.

By the Civil Aeronautics Board: September 7, 1983.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 83-24641 Filed 9-9-83; 8:45 am]
BILLING CODE 6320-01-M

[Docket No. 41048]

Northeast Imperial Airlines, Inc.; Fitness Investigation; Postponement of Hearing

Notice is hereby given that the hearing scheduled in the above-entitled proceeding for September 15, 1983, is rescheduled for September 29, 1983, at 10:00 a.m. (local time), Room 1027, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., before the undersigned administrative law judge.

Dated at Washington, D.C., September 1, 1983.

Ronnie A. Yoder,

Administrative Law Judge.

[FR Doc. 83-24639 Filed 9-9-83; 8:45 am]

BILLING CODE 6820-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Countervailing Duties; Final Affirmative Determination, Steel Pipe and Tube Products from South Africa

AGENCY: International Trade Administration, Commerce.

ACTION: Final affirmative countervailing duty determination.

SUMMARY: We determine that the Tubemakers of South Africa, Ltd., (TOSA) and Brollo (Africa), Ltd., (Brollo) are the only known manufacturers for export in South Africa of certain steel pipe and tube products receiving benefits that constitute bounties or grants within the meaning of the countervailing duty law. We find the aggregate net bounty or grant to be 21.64 percent of the f.o.b. value of the imported merchandise plus the dollar equivalent of 9.99 rands per metric ton for Brollo (Africa), Ltd., and 26.77 percent of the f.o.b. value of the imported merchandise plus the dollar equivalent of 9.99 rands per metric ton for Tubemakers of South Africa, Ltd. The Department of Commerce and the two firms have entered into a suspension agreement covering all steel pipe and tube which is made by them and exported to the United States. However, we continued the investigation at the request of the petitioners. The suspension agreement will remain in force, and we shall not issue a countervailing duty order.

EFFECTIVE DATE: September 12, 1983.

FOR FURTHER INFORMATION CONTACT: Steven Morrison, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone: (202) 377–3965.

SUPPLEMENTARY INFORMATION:

Final Determination

Based upon our investigation and in accordance with section 303 of the Tariff Act of 1930, as amended (the Act), we determine that manufacturers, producers, or exporters in South Africa of steel pipe and tube receive benefits that constitute bounties or grants through the programs cited below. We find the aggregate net bounty or grant to be the dollar equivalent of 9.99 rand per metric ton plus 21.64 percent of the f.o.b. value of the imported merchandise in the case of Brollo, and 9.99 rand per metric ton plus 26.77 percent of the f.o.b. value for TOSA, consisting of the following benefit amounts:

	(in percent)	
	Brollo	TOSA
• Export incentive program Category A and B	1.83	2.55
• Export incentive program Category D	0.31	4.72
• Iron/Steel export promotion scheme	19.5	19.5
• General levy and import subsidy scheme (per metric ton in rands)	9.99	9.99

The Department and TOSA and Brollo have entered into a suspension agreement. Pursuant to section 704(f)(3)(B) of the Act, the agreement will remain in effect and we will not issue a countervailing duty order as long as the conditions of the agreement are met.

Case History

On October 6, 1982, we received a petition from counsel for the Committee on Pipe and Tube Imports. The Committee consists of domestic companies which produce carbon steel pipe and tube products. The petition alleged that manufacturers, producers, or exporters in South Africa of certain carbon steel pipe and tube products received benefits which constitute bounties or grants within the meaning of the countervailing duty law. We found the petition sufficient, and on October 26, 1982, we initiated a countervailing duty investigation (47 FR 49057).

Since South Africa is not a "county under the Agreement" within the meaning of section 701(b) of the Act and the merchandise under investigation is dutiable, the domestic industry is not required to allege and the U.S. International Trade Commission is not required to determine whether imports of this product cause or threaten material injury to the U.S. industry in question.

We presented a questionnaire concerning the allegations to the South African government on October 26, 1982. On November 19, 1982, we amended the scope of the investigation and published a notice of this amendment in the **Federal Register** (47 FR 53440). We found the case extraordinarily complicated on December 10, 1982 (47 FR 56377). The questionnaire response was received on January 31, 1983.

Notice of an affirmative preliminary countervailing duty determination was published on March 9, 1983 (48 FR 9899). We directed the U.S. Customs Service to suspend liquidation of all entries, or withdrawals from warehouse, for consumption of the subject merchandise made on or after March 9, 1983, and to require a cash deposit or the posting of a bond in the amount of 19.5 percent for Tubemakers of South Africa, Ltd., and 23.3 percent of the f.o.b. value of the merchandise for Brollo (Africa), Ltd., and all others.

On April 20, 1983, the respondents and the Department of Commerce initialed a proposed suspension agreement, which was based upon the respondents' agreement to eliminate completely all benefits which we found to be bounties or grants on exports of the subject merchandise to the United States.

We provided copies of the proposed suspension agreement to the petitioners and to other parties to the proceeding on April 20, 1983. After consulting with the petitioners and considering respondents' and petitioners' comments, we modified portions of the proposed suspension agreement. On March 14 through 25, 1983, we conducted a verification of the respondents' submission. During verification, programs not mentioned in the preliminary determination were found and we requested additional information were found and we requested additional information on their operation and funding. Accordingly, we added a requirement that these programs be renounced in the suspension agreement as proposed and initialed. Additional information, subsequently received, establishes that the General Levy and Import Subsidy Scheme has conferred a bounty or grant under the U.S. countervailing duty law, and that the SEIFSA training program has not conferred a bounty or grant.

Notice of the suspension agreement was published on June 1, 1983 (48 FR 24407). The agreement applied to all steel pipe and tube products manufactured by Tubemakers of South Africa, Ltd., and Brollo (Africa), Ltd., and thus was more comprehensive than the investigation, which covered only carbon steel pipes and tubes. We required this coverage because a thorough verification of the specific products under investigation would necessitate screening hundreds of invoices, shipping records, and benefit applications and would consequently prolong the required annual verification efforts. The time and cost required to verify the suspension agreement as originally proposed would, in our judgment, not make effective monitoring possible and would not be in the public interest.

Scope of Investigation

For purposes of this investigation, the term "certain carbon steel pipe and tube products" includes electric resistance welded (ERW) carbon steel pipes and tubes with walls not thinner than 0.065 inch, of circular cross section, with an outside diameter of 0.375 inch or more but not exceeding 4.5 inches, as currently provided for in items 610.3241 and 610.3244 of the *Tariff Schedules of the United States Annotated* (TSUSA); ERW cold-rolled carbon steel pipes and tubes with walls not thinner than 0.065 inch or not exceeding 0.1 inch, of any circular cross-sectional diameter with an outside diameter of 0.375 and more, as currently provided for in item 610.3227 of the TSUSA; and ERW carbon steel pipes and tubes of any square or rectangular dimension with a wall thickness not less than 0.156 inch, as currently provided for in item 610.3955 of the TSUSA; and ERW carbon steel pipes and tubes not suitable for use in the manufacture of ball or roller bearings, of any square or rectangular dimension as currently provided for in item 610.4975 of the TSUSA.

Excluded from the investigation but not the suspension agreement are ERW carbon steel pipes and tubes suitable for use in boilers, superheaters, heat exchangers condensers, feedwater heaters, or ball or roller bearings, or conforming to A.P.I. specifications for oil well tubing and casing, or cold-drawn pipes and tubes or ERW carbon steel pipes and tubes imported with couplings.

TOSA and Brollo are the only known producers of products within the scope of investigation exported to the United States. According to responses from the respondents, no exports to the United States have been made of pipe and tube from South Africa under item 610.3227 of the TSUSA.

Analysis of Programs

The period for which subsidization is being measured is the corporate fiscal year ending September 30, 1982.

Based upon our analysis of information and data obtained in the course of the investigation we determine the following:

I. Programs Determined to Confer Bounties or Grants to Manufacturers, Producers, or Exporters of Steel Pipe and Tubes

Export Incentive Program

The South African Department of Industries, Commerce and Tourism has a general export incentive program, three parts of which were used in 1982. All three parts constitute export subsidies because they provide benefits contingent on export performance. These are described below.

Category A. This program consists of a credit against income tax. Its computation is based on the amount of the customs duty which would have been paid on raw materials which could have been imported, whether or not they were imported, if such materials were used in the production of exported merchandise. Actual importation of the materials is not required. The raw materials which would be dutiable, if imported, include paint, paint thinner and zinc. We verified that this program provides a benefit which constitutes a bounty or grant that accrues as tax credits was used by TOSA and Brollo.

Category B. This program consist of a credit against income taxes of 10 percent of the value-added component of the exported merchandise if there is a South African import duty on such merchandise. There is an import duty on carbon steel pipe and tube products. The value-added component is calculated by taking the average f.o.b. sales price per ton, increasing it by the rebate received under the Iron/Steel Export Promotion Scheme (see below) and subtracting the average raw materials costs. This figure is then multiplied by 10 percent to obtain the amount of the credit. We determine that the government of South Africa, through the category B tax credit program, provides a benefit which constitutes a bounty or grant.

Brollo received a benefit under category A and category B which was calculated to be 1.83 percent *ad valorem.* TOSA received a benefit under category A and category B which was calculated to be 2.55 percent *ad valorem.*

Category D. (Export Marketing Assistance Program). This program consists of a deduction from taxable income of 200 percent of export market development expenses. We found that TOSA and Brollo are eligible for the full deduction of 200 percent. Benefits from category D are deducted from income before taxes. We determined that the category D tax deduction program, provides a benefit which constitutes a bounty or grant. Brollo received a benefit under category D which was calculated to be 0.31 percent *ad valorem.* TOSA received a benefit under category D which was calculated to be 4.72 percent *ad valorem.*

Iron/Steel Export Promotion Scheme

The Iron/Steel Export Promotion Scheme rebates to secondary steel producers part of the price of rolled, drawn or forged steel used in secondary products which are destined for export and which meets a value-added criterion. The rebate is set at a fixed percentage, currently 19.5 percent, of the f.o.b. value of the exported products. Objective evidence indicates that primary steel producers fund the scheme through their contribution of 4 rand per ton of steel sold in the domestic market. The South African Iron and Steel Industrial Corporation (ISCOR) administers the scheme. Originally the South African government participated in its advisory committee.

We have determined that the Iron/Steel Export Promotion Scheme provides a benefit which constitutes an export subsidy under 303(a)(1) of the Act. Brollo and TOSA take full advantage of this program on exports of carbon steel pipe and tube.

The General Levy and Import Subsidy Scheme

Between 1970 and 1976, steel was in short supply in South Africa and had to be imported at prices higher than government controlled price for steel produced in South Africa. In order to stabilize prices at that time, the government funded the difference between the government controlled price and the higher price of foreign steel. The secondary steel producers are now repaying these government funds advanced during the earlier period.

We have recently received ISCOIR records from the government of South Africa concerning this Scheme. These records reveal that in the 1970–76 period, annual South Africa, imports of steel pipe and tube exceeded exports of the same products from South Africa. In the 1970–76 period there were extensive imports of primary steel products including steel sheet, used to manufacture steel pipe and tube, for which the government advanced funds to stabilize prices.

The government of South Africa has characterized its advancement of these funds to stabilize prices as a loan for which it has required repayment. In order to collect the repayment, the government has required all secondary producers of steel products to pay a surcharge for each ton of steel purchased. This surcharge is rebated to secondary producers on their export sales at a rate of R 9.99 per metric ton, while steel products sold in the domestic market are not entitled to this rebate. By requiring repayment of the loan on all domestic sales but forgiving such payments on exports, the government of South Africa has bestowed an export subsidy in the form of a grant upon each shipment which receives a rebate. The

amount of this grant is 9.99 rands per metric ton for all exporters of steel products.

II. Programs Determined Not to Confer Bounties or Grants to Manufacturers, Producers, of Exporters of Steel Pipe and Tubes

Reduced Ocean Freight Rates

The petition alleges that South African shippers benefitted from a program for reduced ocean freight rates if the products are disadvantaged with respect to foreign competition. We found on verification no evidence of ocean freight rates for steel pipe and tube products being reduced because of any program. In the Final Affirmative Countervailing Duty Determination on Certain Steel Products from South Africa, we said, "We did find evidence of variable ocean freight rates due to rate negotiation between shippers and carriers; however this variability does not constitute a bounty or grant under the Act," (47 FR 39379).

Preferential Railroad Rates

The South African Transport Services (SATS), a government-owned corporation, maintains a rate schedule that generally provides railroad rates for shipments of pipe and tube products destined for export that are lower than domestic rates. These rates are charged per unit weight of cargo. The amount charged the shipper, the rate times the weight, is subject to a minimum weight requirement. The minimum weight associated with the export rate substantially exceeds the minimum weight for the domestic rate.

SATS has made the export rate available to all shippers after January 1, 1983, subject to the larger minimum weight requirement applicable to this rate. SATS also provided the Department of Commerce with the results of a study revealing that it made a profit on shipments of pipe and tube at the export rate. We determine that the rates afforded by SATS to exporters of certain carbon steel pipe and tube products were not provided on terms more favorable than those for domestic shippers and that they do not constitute a bounty or grant.

On June 2, 1983, the Court of International Trade in *United States Corp.* v. *United States*, Slip Op. 83–53, remanded a prior decision on SATS program to the Department for a determination as to whether a South African railroad rate subsidy had been eliminated. The determination is still pending until all the issues have been decided in that case.

Preferential Prices for Primary Steel from ISCOR

ISCOR is South Africa's largest producer of primary steel. It supplies rolled steel for pipe and tube to both respondents in this investigation. The government of South Africa owns over 99 percent of ISCOR's stock. Petitioner alleged that ISCOR's prices for rolled sheet for use in the production of exported goods were preferential.

During verification we determined that the respondents used the same lots purchased from ISCOR for both domestic and foreign production. Furthermore, we have no information that ISCOR sells rolled steel to South African manufacturers who export some articles fabricated of steel at prices that are lower the prices sold to South African manufacturers who produce exclusively for their domestic market. Therefore, ISCOR's pricing of its rolled sheet has not been found to constitute an export a bounty or grant in this investigation.

III. Programs Determine Not To Be Used by Manufacturers, Producers, or Exporters of Steel Pipe and Tubes

- Allowance on harbor rates
- Pre-and post-shipment financing
- Beneficiation allowances for base mineral processing,
- Homeland development (now called decentralization of industries), and
- Industrial Development Corporation of South Africa, Ltd. Export Finance Scheme

IV. Program Determined To Be No Longer in Existence

Export Incentive Program—Category C (Finance Charges Aid Scheme)

The South African government provided for a tax-free rebate to certain firms which increase the value of their exports of all manufactured goods. The rebate was equal to 25 percent of the interest costs for financing exports. This program was discontinued on April 1, 1982 and no benefits have been received and none have been pending for either company subject to this investigation after July, 1982.

Respondents' Comments

Comment 1: Respondent argues that the Department should adjust its calculation of the benefit attributable to the Iron/Steel Export Promotion Scheme by substracting the amount the steel and pipe producers allegedly contribute to the fund.

The respondents' representative objects to the Department's refusal to rely on government assurances that secondary manufacturers contribute 4 rand per metric ton to the Iron/Steel Export Promotion Scheme on all purchases of primary steel.

DOC Position: Objective evidence from recent accounting records of the South African Steel Producers Coordinating Council suggests that the primary steel producers have historically funded the Scheme. The government of South Africa has requested that we make an allowance if they structure the Scheme records to separately invoice contributions to the Scheme from secondary manufacturers who export. We are concerned that the amounts intended for the Iron and Steel Export Promotion Scheme be itemized on all invoices and that receipts should go directly to the Scheme and not be comingled with funds contributed, controlled or used by primary producers. In short, the sources of funds for this Scheme must be made more apparent before the Department even can consider making an adjustment.

Comment 2: The respondent Brollo noted that in our preliminary determination we overstated category B benefits and requested revision for the final determination.

DOC Position: Brollo's observation is correct. We divided its category B benefits, then stated, by United States rather than total export sales. On verification both Brollo and TOSA revised their figures applicable to the category A and category B export incentive programs as well as total export figures. Further, our method of calculating these benefits is now determined on the basis of the date and amount of application for these benefits rather than the date of use of the tax benefits received. Accordingly, we have recalculated these benefits as a percentage of the value of total exports using the more recently submitted data.

Comment 3: The respondent's representative noted that in two prior investigations, verified by the Department, we had looked at the General Levy and Import Subsidy Scheme and determined that it was not a subsidy. In this investigation it was not alleged in the petition, but we now found it to be subsidy. The South African Rolled Steel Producer's Coordinating Council should be able to decide how the loan will be repaid.

DOC Position: We did not find this Scheme to be countervailable in two previous investigations, but did find it countervailable in the most recent prior investigation (Galvanized Steel Wire Strand, 48 FR 19451). Section 775 of the Act requires the Department to include practices in the investigation which appear to be subsidies, if found during

an investigation. Until recently, we did not fully understand the facts by which this Scheme operated. We now find that the rebate contingent on exports is countervailable as discussed earlier in this determination.

Verification

In accordance with section 776(a) of the Act, we verified information relied upon in this determination. We used normal verification procedures to verify the government response.

This included the inspection of government documents, discussions with government officials and on-site inspection of Brollo and TOSA accounts and records.

Administrative Procedures

The Department afforded interested parties the opportunity to present oral and written views in accordance with § 355.35 of the Commerce Regulations. All comments have been considered in reaching our final determination.

In the event the June 1st suspension agreement is violated, the Department, in accordance with Section 703(d) of the Act, will direct the U.S.Customs Service to suspend liquidation of all entries, or withdrawals from warehouse, for consumption of the subject merchandise and will issue a final countervailing duty order as required by section 704(i)(1)(C) of the Act.

This determination is published in accordance with section 705(d) of the Act.

September 6, 1983.

Lawrence J. Brady,

Assistant Secretary for Trade Administration.

[FR Doc. 83-24620 Filed 9-9-83; 8:45 am]

BILLING CODE 3510-25-M

Microcircuit Subcommittee of the Semiconductor Technical Advisory Committee; Closed Meeting

SUMMARY: The Semiconductor Technical Advisory Committee was initially established on January 3, 1973, and rechartered on September 18, 1981 in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act. The Subcommittee was approved for continuation on October 5, 1981 pursuant to the charter of the Committee. The Subcommittee was formed to study microcircuit and acoustic wave devices with the goal of making recommendations to the Department of Commerce relating to the appropriate parameters for controlling exports for reasons of national security.

Time and Place: September 28, 1983, at 9:30 a.m, Herbert C. Hoover Building, Room B841, 14th Street and Constitution Avenue NW., Washington, D.C. 20230.

Agenda: The Subcommittee will meet only in Executive Session to discuss matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

SUPPLEMENTARY INFORMATION: A Notice of Determination to close meetings of portions of meetings of the Subcommittee to public on the basis of 5 U.S.C. 552b(c)(1) was approved on September 29, 1981, in accordance with the Federal Advisory Committee Act.

A copy of the Notice is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Telephone: 202-377-4217.

FOR FURTHER INFORMATION CONTACT: Mrs. Margaret A. Cornejo, (202) 377-2583.

Dated: July 9, 1983.

Milton M. Baltas,

Director of Technical Programs, Office of Export Administration.

[FR Doc. 83-24619 Filed 9-9-83; 8:45 am]

BILLING CODE 3510-25-M

Duty-Free Entry of Scientific Instruments, Applications; University of California, et al.

The following are notices of the receipt of applications for duty-free entry of scientific instruments published pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the instrument is intended to be used is being manufactured in the United States.

Comments must be filed in accordance with § 301.5(a)(3) and (4) of the regulations. They are to be filed in triplicate with the Director, Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230, within 20 calendar days after the date on which the notice of application is published in the **Federal Register.**

A copy of each application is on file in the Department of Commerce, and may be examined between 8:30 A.M. and 5:00 P.M., Monday through Friday, Room 1523, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 83-290. Applicant: University of California, School of Public Health, Purchasing Department, 2405 Bowditch Street, Berkeley, CA 94720. Instrument: Microdensitometer, M85. Manufacturer: Vickers Instruments, United Kingdon. Intended use of instrument: The instrument is intended to be used in studies on the mechanisms of toxicity of various environmental contaminants to the liver and kidney. The long term aim of these studies is the prevention and therapy of toxic liver and kidney injury in man. The instrument will also be used in an Industrial Toxicology Laboratory course BioEnv 258 in which students will be shown how to operate the instrument and will use it in their practical classes. Several graduate students will also use the instrument to collect data for their Ph.D. theses. Application received by Commissioner of Customs: August 17, 1983.

Docket No. 83-291. Applicant: North Caroline State University, P.O. Box 5935, Raleigh, NC 27650. Instrument: 2 MKI (low power) Micromanipulators. Manufacturer: Singer Instrument Company Ltd., United Kingdom. Intended use of instrument: The instruments will be used to facilitate dissections requiring stereoscopic magnification. Their immediate use will be for the project entitled "A Phylogenetic Study of Segmental Innervation Pattens of the Vertebrate Pelvic Limb." This project will require the dissection of a series of vertebrates in order to elucidate the phylogenetic pattern of pelvic limb innervation by branches of the lumbosacral plexus. Due to the small size of specimens, dissection requires the use of a stereoscope and micromanipulators to control the excursion of dissection instruments under magnification. Application received by Commissioner of Customs: August 17, 1983.

Docket No. 83-292. Applicant: North Caroline State University, Purchases and Stores Division, P.O. Box 5935, Raliegh, NC 27650. Instrument: Satellite Imagery Receiver and Data Processer. Manufacturer: Tecnavia, Electronic Lab., Switzerland. Intended use of instrument: The instrument is intended to be used for studies of coastal oceanographic processes. The experiments to be conducted will consist of monitoring, tracking and cataloging oceanographic water masses and associated properties. In addition, the instrument will be used for laboratory and field analyses in the courses Ocean Circulation and Estuary Dynamics. Application received by Commissioners of Customs: August 17, 1983.

Docket No. 83–293. Applicant: Texas Tech University, Textitle Research Center, 7th & Boston St., P.O. Box 5217, Lubbox, TX 79417–5217. Instrument: Tensorapid Automatic Strength Tester System. Manufacturer: Zellweger Uster Co., Switzerland. Intended use of instrument: The instrument is intended to be used in experiments to determine the strength, elongation and variation of the breaking strength of different types of yarns spun under different conditions. The results of these tests will be compared to standard results as projects to improve yarn quality are conducted. The article will be used in various textile courses which have the overall objective of teaching young men and women the processes involved in manufacturing yarns and fabrics from textile fibers. Application received by Commissioner of Customs: August 17, 1983.

Docket No. 83–294. Applicant: University of California, San Diego, Department of Chemistry, B–014, La Jolla, CA 92093. Instrument: Superconducting Magnet System, Model 100/110. Manufacturer: Oxford Instruments Limited, United Kingdom. Intended use of instrument: The instrument is intended to be used in (a) studies of mobility of deuterated pyridines on γ-alumina, (b) orientation dependent relaxation rates of oriented liquid crystals and (c) multiple quantum spectroscopy of ^{14}N in solids via direct detection of "forbidden" transitions. The aim in all of these studies is to develop and exploit methods for determining static interaction strengths from lineship analysis, and to extract dynamical information by measuring individual spectral densities of motion at well defined, single frequencies. The instrument will also be used in the courses Chemistry 199, Senior Research and Chemistry 299, Graduate Research to train students in chemical research. Application received by Commissioner of Customs: August 17, 1983.

Docket No. 83–295. Applicant: Massachusetts Institute of Technology, Purchasing Department, 77 Massachusetts Avenue, Cambridge, MA 02139. Instrument: Gas Chromatograph/ Mass Spectrometer System, Model 8200 and Components. Manufacturer: Finnigan, MAT, West Germany. Intended use of instrument:

The instrument is intended to be used in conducting the following research projects:

1. Synthesis of Natural Products.
2. Technetium Chemistry and Its Application to Diagnostic Nuclear Medicine.
3. Natural Products Synthesis and Chemistry of Strained Ring Systems.
4. Bioinorganic Chemistry.
5. Asymmetric Catalysis and Synthesis of Biologically Active Chiral Substances.
6. Photochemistry and Interfacial Inorganic Chemistry.

Secondary Instrument Uses

1. Chemistry of Arene Oxides and Related Metabolites.
2. Mechanisms: Cancer Chemotherapy.
3. Synthesis of Complex Organic Compounds.
4. Amino Acid and Peptide Synthesis: Conformation-Controlling Amino Acid Derivatives and Amide Bond Formation.
5. Natural Products Chemistry and Organic Synthesis.
6. Metal-Carbon Multiple Bonds in Catalysis.
7. Synthetic Inorganic and Organometallic Chemistry.
8. Isotopically Selective Laser-Driven Reactions.
9. Enzyme Reaction Mechanisms.

Application received by Commissioner of Customs: August 17, 1983.

Docket No. 83–296. Applicant: University of Minnesota, 421 Washington Avenue SE., Minneapolis, MN 55455. Instrument: Surface Forces Apparatus. Manufacturer: Anutech Proprietary Limited, Australia. Intended use of instrument: The instrument is intended to be used for measuring forces as a function of distance between two mica surfaces, or between layers coated on mica, at separations from thousands of Angstroms down to just a few, 1 to 2 Angstroms (10^{-10} meters). The instrument will be used in conducting the following research projects:

(1) Measurement of forces between polymer layers;

(2) Microstructure, forces, and microfluid mechanics liquid at solids;

(3) Forces and energetics of micellization and related aggregation processes and

(4) Measurement of the effects of hydrogen upon the forces of attraction between two iron surfaces.

Application received by Commissioner of Customs: August 17, 1983.

Docket No. 83–297. Aplicant: University of Washington, Seattle, WA 98195. Instrument: Model 2104 $Cs^{\bullet}$ Colliding Beam Polarized Ion Source and Accessories. Manufacturer: ANAC Ltd., New Zealand. Intended use of instrument: the instrument is intended to be used together with two large NaI detectors and the momentum filter to make possible a new generation of experiments which involve very small effects (detection of nuclear parity violation, etc.) small cross sections or low counting rates (identification and study of narrow E2 or M1 resonances in radiative capture, polarization transfer measurements, etc) or require large amounts of data (determination of fine structure in the E2 amplitude in (p, γ) reactions, etc.) Application received by Commissioner of Customs: August 17, 1983.

Docket No. 83–300. Applicant: Georgia Institute of Technology, Engineering and Experimental Station, Atlanta, GA 30332. Instrument. Extended Interaction Oscillator. VKT 2458T1. Manufacturer: Varian Canada Inc., Canada. Intended use of instrument: The instrument is intended to be used in a high-resolution instrumentation radar being developed for use in research projects involving target identification and measurement of radar characteristics at 140 GHz. Application received by Commissioner of Customs: August 17, 1983.

Docket No. 83–301. Applicant: US Army Elct Tech & Dvcs Laboratory, Attn: Delet-ed, Fort Monmouth, NJ 07703. Instrument: Electron Microscope, EM 420T and Accessories. Manufacturer: Philips Gloeilampenfabrieken, The Netherlands. Intended use of instrument: The instrument is intended to be used for studies of (1) the III–V compound semiconductor including GaAs, (2) silcon/and silicon dioxide interface, and (3) TiB_2 and ZrB_2 thin films. Experiments will be conducted to obtain an understanding of the crystalline and defect nature of the above materials necessary to optimize the electrical properties useful for semi-conductor fabrication. Application received by Commissioner of Customs: August 22, 1983.

Docket No. 83–302. Applicant: Boston University, Department of Biology, 2 Cummington St., Boston, MA 02215. Instrument: Electron Microscope, EM 410LS and Accessories. Manufacturer: N. V. Philips, The Netherlands. Intended use of instrument: The instrument is intended to be used in conducting a variety of research projects. This research will include but is not limited to studies of the following:

(1) Fine structure and morphometrics of identifiable neurons and their target cells as related to their cellular physiology and function in the nervous system;

(2) Egg cytoplasmic information in cell differentiation: Ultrastructural markers of cellular response;

(3) Origin of eukaryotic cell motility and the study of stratified microbial mat communities—the subjects of the studies

are prokaryotes and unicellular protoctista;

(4) Neuropeptide containing amacrine cells in the inner plexiform layer of the turtle retina;

(5) Cellular mechanisms of regulation of testis;

(6) Ultrastructure of biomembranes incorporated into smectic liquid crystals according to a recently developed technique isopotential spin-drying; and

(7) Biology of the microvascular endothelial cells.

In addition the instrument is intended to be used in the course GRS BI 802 Experimental Biology to give students hands-on experience with basic and advanced techniques in electron microscopy including electron optics imaging and data analysis. Application received by Commissioner of Customs: August 22, 1983.

Docket No. 83–299. Applicant: Trustees of the University of Pennsylvania, Purchasing Department, 3451 Walnut Street/I6, Philadelphia, PA 19104. Instrument: GX–13 Single Cathode Rotating Anode X-ray Generator and Accessories. Manufacturer: Marconi Avionics Ltd., United Kingdom. Intended use of instrument: The instrument is intended to be used for structural studies of partially ordered materials. In addition, the instrument will be used in physical chemistry laboratories for second and third year undergraduates for the purpose of teaching the fundamentals of X-ray diffraction, and for the education of graduate students in the Departments of Physics, Chemistry and Materials Science and Engineering to teach X-ray scattering and X-ray diffraction of partially ordered materials. Application received by Commissioner of Customs: August 17, 1983.

Docket No. 83–303. Applicant: University of Miami, Department of Ophthalmology, P.O. Box 016880, Miami, FL 33101. Instrument: Electron Microscope, JEM–100CX and Accessories. Manufacturer: JEOL Inc., Japan. Intended use of instrument: The instrument will be used for high resolution investigations of ultrastructural components of the eye and retina in normal, experimental and pathological specimens. Both animal and human tissue will be studied. In addition, the instrument will be used in training medical residents and fellows who have the M.D. degree. it will also be used for medical student research projects and for training post-doctoral fellows and graduate students in the laboratories. Application received by Commissioner of Customs: August 23, 1983.

Docket No. 83–304. Applicant: Virginia Commonwealth University, Medical College of Virginia, Box 110, 1101 East Marshall St., Richmond, VA 23298. Instrument: Electron Microscope, EM 10CA and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of instrument: The instrument is intended to be used for conducting the following research projects:

(1) A study of the microvasculature of the Islets of Langerhans,

(2) An investigation of those neural and vascular changes which occur with head injury, and,

(3) An ongoing study concerning the uptake and distribution of extracellular Ca^{++} ions by dispersed, saponin-treated, guinea pig hepatocytes.

Application received by Commissioner of Customs: August 29, 1983.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 83–24618 Filed 9–8–83; 8:45 am]

BILLING CODE 3510–25–M

National Oceanic and Atmospheric Administration

[Modification No. 2 to Permit No. 347]

Marine Mammal Permit Applications; Southwest Fisheries Center

As proposed on May 9, 1983, (48 FR 20784) and pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), Scientific Research Permit No. 347 issued to the Southwest Fisheries Center, National Marine Fisheries Service, on July 25, 1981, is modified in the following:

Section A–1 is deleted and replaced by: "A–1. Up to three thousand two hundred (3200) California sea lions *(Zalophus californianus)* of either sex may be taken as described in the application and documents submitted in the modification request."

Section B–5 is changed to read: "B–5. This permit is valid with respect to the activities authorized herein until December 31, 1986."

This modification became effective on September 1, 1983.

The Permit as modified and documentation pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: September 1, 1983.

R. B. Brumsted,

Acting Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 83–24707 Filed 9–8–83; 8:45 am]

BILLING CODE 3510–22–M

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Chief of Engineers Environmental Advisory Board Meeting

AGENCY: Department of the Army, Corps of Engineers.

ACTION: Notice of Open Meeting.

SUMMARY: Under Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463) this notice sets forth the schedule and proposed agenda of the forthcoming meeting of the Chief of Engineers Environmental Advisory Board (EAB) Meeting. This meeting is to be jointly chaired, by Dr. Laurence R. Jahn, Chairman, EAB, and Major General Richard M. Wells, Deputy Chief of Engineers, U.S. Army. The meeting is open to the public.

DATE: The meeting will be held form 8:00 a.m., Tuesday, 27 September 1983, to 12:00 noon, Thrusday, 29 September 1983.

PLACE: The meeting will be held at the Officers Club, Ft. McClellan, Alabama 36205.

FOR FUTHER INFORMATION CONTACT: Lieutenant Colonel Ronald G. Kelsey, Assistant Director of Civil Works for Environmental Programs, or Capital Kevin A. Doxey, Office of the Chief of Engineers, Washington, D.C. 20314, (202) 272–0103.

SUPPLEMENTARY INFORMATION: The schedule and proposed agenda of the Environmental Advisory Board meeting is:

27 September—Tuesday—A.M. Session

8:00—Meeting convened-opening remakrs
9:30—Civil Works overview
10:30—Old business

P.M. Session

1:00—Army Environment Program
2:00—Training & Doctrine Command (TRADOC) Program
2:45—Ft. McClellan Program
3:15—Ft. McClellan tour

5:30—Meeting recessed

28 September—Wednesday—A.M. Session

8:00—Installation Restoration Program (IRP)
8:45—U.S. Army Toxic & Hazardous Material Agency (USATHAMA)
9:45—Army Environmental Hygiene Agency (AEHA)
10:30—Construction Engineering Reseach Laboratory (CERL)
11:15—Travel to Anniston Army Depot

P.M. Session

12:35—Anniston Army Depot tour
2:50—DARCOM Program
3:50—Anniston Army Depot Program
5:50—Meeting recessed

29 September—Thursday—A.M. Session

8:00—EAB reports to Deputy Assistance Chief of Engineers
9:30—Deputy Assistant Chief of Engineers response
10:30—Public comments
12:00—Meeting adjourned

Kevin Doxey,

Executive Director, Environmental Advisory Board.

[FR Doc. 83-24849 Filed 9-9-83; 8:45 am]
BILLING CODE 3710-08-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Docket No. PP-54a]

Amendment to Presidential Permit; Edward T. Presley, D.V.M.

AGENCY: Economic Regulatory Administration (ERA), Department of Energy (DOE).

ACTION: Issuance of an Amendment to Presidential Permit in Docket PP-54a.

SUMMARY: DOE hereby amends the Presidential Permit in Docket PP-54a (Federal Power Commission Docket No. E-7745) to permit Dr. Edward T. Presley to change the size of the transformer supplying his property from a 25 kilowatt (KW) rating to a 50 KW rating. Dr. Presley is further permitted to connect into the 4.8 kilovolt (kV) submarine cable which extends under the St. Lawrence River in order to supply two nearby residences.

FOR FURTHER INFORMATION CONTACT: Anthony J. Como, Petroleum and Electricity Division (RG-44), Office of Fuels Programs, Economic Regulatory Administration, Department of Energy, Forrestal Building, Room GA-017, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-5883.

Lise Courtney M. Howe, Office of Assistant General Counsel, International Trade and Emergency Preparedness (GC-11), Department of Energy, Forrestal Building, Mail Stop 6F-094, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-2900.

SUPPLEMENTARY INFORMATION:

Order Amending Presidential Permit in Docket PP-54a; Edward T. Presley, D.V.M.

On July 20, 1983, DOE received an application from Dr. Edward T. Presley to amend the Presidential Permit in Docket PP-54a (formerly Federal Power Commission Docket No. E-7745), which was issued to Dr. Presley on March 16, 1973, pursuant to Executive Order 10485. The original permit authorized the applicant to obtain electric service from the Ontario Hydro Electric Power Commission in Canada. This service was provided via a 25 KW transformer supplied by a 4.8 kV submarine cable extending under the waters of the St. Lawrence River near Wellesley Island, New York.

Dr. Presley requested authorization to change the size of his supply transformer from 25 KW to 50 KW and also to connect into the submarine cable supplying his facility and have it extended in order to provide electric service to two additional residences on Wellesley Island. DOE noticed this application in the **Federal Register** on August 3, 1983 (48 FR 35162). No comments were received.

All work required to implement the physical changes requested by this amendment application will be planned and performed by Ontario Hydro Electric Power Commission at the expense of Dr. Presley and the two nearby residences that would receive electric service.

DOE determined on August 8, 1983, that the proposed amendment would have no significant effects on the quality of the human environment and that neither an Environmental Assessment nor an Environmental Impact Statement was required. DOE also determined on August 1, 1983, that the reliability of the electric supply system in the United States would not be impaired due to the proposed amendment.

The Departments of State and Defense, which were notified of the amendment request by letters on August 11, 1983, indicated no objections to the amendment.

DOE finds that:

(1) The proposed amendment to the Presidential Permit in Docket PP-54a, filed by Dr. Presley on July 20, 1983, to change the size of his service transformer and extend his supply cable to two additional residences, is consistent with the public interest.

(2) The period of public notice given this matter is reasonable.

DOE orders that:

(A) Article 2 of the Presidential Permit in Docket PP-54a is amended to read:

Article 2. The facilities covered by and subject to this Permit shall include:

(1) One single-phase 50 KW transformer with supply voltage of 4800 volts and with secondary voltages of 120/240 volts.

(2) One single-phase, armored electric submarine cable, operating at 60 hertz, 4800 volts, crossing the United States-Canadian International Boundary from a point on Wellesley Island in New York to a point on Bingham Island, Province of Ontario, Canada.

(3) Extensions of the supply cable noted in Item 2, Article 2, from its connection point with Dr. Presley's facilities to the residences of Mr. William Anders and Mr. Donald Ames. These residences are located on either side of Dr. Presley's property on Wellesley Island, New York. These extensions will be accomplished under the waters of the St. Lawrence River.

No substantial change shall hereafter be made in the facilities described herein or in the operation of these facilities unless and until such change has been approved by DOE.

Issued in Washington, D.C., September 1, 1983.

Rayburn Hanzlik,

Administrator, Economic Regulatory Administration..

[FR Doc. 83-24814 Filed 9-9-83; 8:45 am]
BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project No. 2310-016, et al.]

Pacific Gas and Electric Co., et al.; Hydroelectric Applications Filed With the Commission

Take notice that the following hydroelectric applications have been filed with the Federal Energy Regulatory Commission and are available for public inspection:

a. Type of Application: Amendment of License.

b. Project No. 2310-016.

c. Date Filed: January 3, 1983.

d. Applicant: Pacific Gas and Electric Company (PG&E).

e. Name of Project: Drum-Spaulding Project (Wise 2 Powerhouse).

f. Location: South Yuba, American, and Bear Rivers, in Placer and Nevada Counties, California.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)-825(r) and Article 57 of the license for Project No. 2310.

h. Contact Person: Mr. W. M. Gallavan, Vice President, Rates and

Valuation, Pacific Gas and Electric Company, 77 Beale Street, Room 1087 A, San Francisco, California 94106, with a copy to: Mr. Louis E. Vincent, Attorney, Pacific Gas and Electric Company, Law Department, P.O. Box 7442, San Francisco, California 94106.

i. Comment Date: October 7, 1983.

j. Description of Project: The proposed addition to the existing Drum-Spaulding Project would consist of: (1) A 90-degree bend section to be added to the existing Wise Powerhouse intake structure; (2) a 1,400-Foot-long penstock with diameter varying from 60-inches to 42-inches; (3) Wise 2 Powerhouse to contain one 2.7-MW turbine-generating unit producing about 12.4 million kWh under a design head of 470 feet; (4) a 40-foot-long concrete-lined tailrace channel; and (5) other appurtenant facilities.

k. Purpose of Project: PG&E plans to use the entire output of the proposed Wise 2 Powerhouse for serving the electric needs of its service area.

l. This notice also consists of the following standard paragraphs: B, C, and Dl.

2a. Type of Application: Preliminary Permit.

b. Project No. 3298–003.

c. Date Filed: May 25, 1983.

d. Applicant: Hyrum City.

e. Name of Project: Blacksmith Fork River.

f. Location: Blacksmith Fork River in Cache County, Utah.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. Contact Person: Mr. Clifford R. Forsgren, James M. Montgomery Consulting Engineers, Inc., 1301 Vista Ave., Boise, Idaho 83705.

i. Comment Date: October 27, 1983.

j. Description of Project: The proposed project would consist of the following: (1) An existing 250-foot-long, 45-foot-high concrete gravity and earthfill dam; (2) an existing 15-acre reservoir; (3) a proposed 4,400-foot-long, 48-inch-diameter penstock; (4) a proposed powerhouse; (5) a proposed tailrace; (6) a proposed 100-foot-long transmission line; and (7) appurtenant facilities. The estimated average annual energy would be 4,857 MWh.

k. Purpose of Project: Project energy would be used by the City in their municipal power system.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 18 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $18,000.

3a. Type of Application: Preliminary Permit.

b. Project No: 7476–000.

c. Date Filed: July 29, 1983.

d. Applicant: Independence Electric Corporation.

e. Name of Project: Lake Tuscaloosa Hydroelectric Project.

f. Location: Tuscaloosa County, Alabama, North River.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. G. William Miller, President, Independence Electric Corporation, 919 18th Street, NW., Washington, D.C. 20006.

i. Comment Date: October 27, 1983.

j. Description of Project: The proposed project would consist of (1) An existing reservoir with a surface area of 5,885 acres and a storage capacity of 123,000 acre-feet; (2) an existing 1,300-foot-long and 125-foot-high earth-filled dam; (3) a proposed powerhouse to be located in an existing diversion channel and at the end of an existing but unused 66-inch diameter future water supply pipe; (4) the installation of one turbine/generator unit with a total installed capacity of 3.5 MW and with an estimated annual energy production of 13.0 GWh; (5) a proposed transmission line approximately 200 feet in length; and (6) appurtenant facilities.

k. Purpose of Project: The Applicant plans to sell the power generated at the proposed facility to the Alabama Power Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months. During this time the significant legal, institutional, engineering, environmental, marketing, economic and financial aspects of the project will be defined, investigated and assessed to support an investment decision. The report of the proposed study will address whether or not a commitment to implementation is warranted, and, if findings are positive, the Applicant intends to submit a license application. The Applicant's estimated total cost for performing these studies is $125,000.

n. *Purpose of Preliminary Permit*—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

4a. Type of Application: Preliminary Permit.

b. Project No.: 7310–000.

c. Date Filed: May 24, 1983, revised on July 14, 1983.

d. Applicant: Cacapon Hydro Associates.

e. Name of Project: Cacapon Hydropower Project.

f. Location: On the Cacapon River, near the town of Great Cacapon, in Morgan County, West Virginia.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. David M. Coombe, Synergics, Inc., 1444 Foxwod Court, Annapolis, Maryland 21401.

i. Comment Date: October 28, 1983.

j. Description of Project: The proposed project would consist of: (1) An existing concrete gravity dam, 370 feet in length and 12 feet high; (2) a reservoir with a capacity of about 100 acre-feet, and normal reservoir elevation at 442 feet m.s.l.; (3) an existing 300-foot-long, 10-foot-diameter tunnel; (4) an existing 25-foot-long open headrace; (5) an existing reinforced concrete powerhouse, 20 feet by 30 feet, housing one new turbine-generator with a rated capacity of 750 kW; (6) a proposed 13,800 volt transmission line, approximately one-half mile long; and (7) appurtenant facilities. Applicant estimates that the average annual energy generation would be 3,100,000 kWh. The water power facilities are owned by the State of West Virginia, Department of Natural Resources.

k. Purpose of Project: The Applicant anticipates that power will be sold to Potomac Edison Company, and possibly private industry.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 18 months during which time it would prepare studies of the hydraulic, construction, economic, environmental, historic and recreational aspects of the

project. Depending on the outcome of the studies, Applicant would prepare an application for an FERC license. Applicant estimates the cost of the studies under permit would be $36,000.

5a. Type of Application: Application for License of 5MW.

b. Project No.: P-2969-001.

c. Date Filed: February 28, 1983.

d. Applicant: Weatherly Borough.

e. Name of Project: F.E. Walter Dam.

f. Location: Lehigh River in Luzerne and Carbon Counties, Pennsylvania.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: James P. Palumbo, 1460 Wyoming Avenue, Forty Fort, Pennsylvania 18704.

i. Comment Date: October 27, 1983.

j. Description of Project: The proposed run-of-river project would utilize the U.S. Army Corps of Engineers' Francis E. Walter Dam and Reservoir and would consist of: (1) A new 8-foot diameter penstock 175 feet long to be connected to the existing outlet structures; (2) a new powerhouse with an installed capacity of 5,000 kW; (3) a new 250-foot long tailrace; (4) a new electric substation near the powerhouse; (5) a new 7½-mile long transmission line; and (6) other appurtenances. Applicant estimates an average annual generation of 19,995,000 kWh.

This application was filed during the term of Applicant's preliminary permit for Project No. 2969.

k. Purpose of Project: Project energy would be sold to the Pennsylvania Power and Light Company.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C and D1.

6a. Type of Application: Preliminary Permit.

b. Project No: 7494–000.

c. Date Filed: August 1, 1983.

d. Applicant: The Elements Power Company.

e. Name of Project: Brownville.

f. Location: Town of Brownville, Piscataquis County, Maine, Pleasant River.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Lawrence R. Gamble, RFD No. 2, Box 1221, Hampden, Maine 04444.

i. Comment Date: October 28, 1983.

j. Description of Project: The proposed project would consist of: (1) An existing 7-foot-high, 150-foot-long partially breached timber-crib dam with a concrete face; (2) an existing 6-acre reservoir with a normal water surface elevation of 320 feet M.S.L.; (3) an existing 10-foot-wide, 10-foot-deep, 45-foot-long headrace canal located on the bottom floor of a wooden mill building; (4) an existing powerhouse also located in the bottom floor of the mill building containing two new turbine-generators with a total rated capacity of 450 kW; (5) a new 300-foot-long transmission line; and (6) appurtenant facilities. The project property is owned by the Applicant. The project would generate up to 3,000,000 kWh annually.

k. Purpose of Project: Energy produced at the project would be sold to Bangor Hydro-Electric Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of preliminary permit for a period of 24 months. The work to be performed under this perliminary permit would consist of gathering necessary data, completing surveys and environmental studies, obtaining necessary Federal, State and local permits, and preparing necessary documentation for the Commission's licensing requirements. Applicant estimates that the cost of work to be performed under the permit would not exceed $10,000.

7a. Type of Application: Preliminary Permit.

b. Project No.: 7325–000.

c. Date Filed: May 31, 1983.

d. Applicant: Rogue River Power Company.

e. Name of Project: Rogue River Hydroelectric Power.

f. Location: On Rogue River in Jackson County, Oregon.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Harry S. D. Adams, Manager, Hydro Resources, P.O. Box 50, One Jefferson Square, Boise, Idaho 83728.

i. Comment Date: October 27, 1983.

j. Description of Project: The proposed project would consist of: (1) A 10-foot-high, 100-foot-long diversion structure at elevation 2,500 feet; (2) an 8,600-foot-long penstock; (3) a powerhouse containing five generating units with a combined rated capacity of 19,000 kW, operating under a head of 450 feet; and (4) a 1,300-foot-long, 69-kV transmission line tying into an existing Pacific Power and Light Company line. The estimated average annual energy output would be 107 million kWh.

A preliminary permit, if issued does not authorize construction. The Applicant seeks a 36 month permit to study the feasibility of constructing and operating the project. No new access road will be needed for the purpose of conducting these studies. The estimated cost for conducting these studies is $250,000.

k. Purpose of Project: Project power will be sold to Pacific Power and Light Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C.

m. Agency Comments: D2.

8a. Type of Application: Preliminary Permit.

b. Project No: 7471-000

c. Date Filed: July 28, 1983.

d. Applicant: Municipal Energy Agency of Nebraska.

e. Name of Project: Harlan County Dam Hydroelectric Project.

f. Location: Harlan County, Nebraska, Republican River.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)-825(r).

H. Contact Person: Mr. H. Steve Wacker, Executive Director, Municipal Energy Agancy of Nebraska, P.O. Box 95124, Lincoln, Nebraska 68509.

i. Comment Date: October 28, 1983.

j. Description of Project: The proposed project would utilize an existing U.S. Army Corps Engineers' dam and reservoir. Project No. 7471 would consist of: (1) A proposed 9-foot in diameter, 150-foot long penstock; (2) a proposed powerhouse with the installation of two turbine-generator units with total installed capacity of 2.4 MW; (3) a proposed discharge pipe diverting water from the turbine back into the river at the spillway; (4) a proposed three-mile-long transmission line; and (5) appurtenant facilities. Applicant estimates the average annual energy production to be 5.5 GWh.

k. Purpose of Project: The Applicant plans to sell the power generaged at the proposed project to its member municipalities for distribution to their customers.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months. During this time the significant legal, institutional, engineering, environmental, marketing, economic and financial aspects of the project will be defined, investigated, and assessed to support an investment decision. The report of the proposed study will address whether or not a commitment to implementation is warranted, and, if findings are positive, the Applicant intends to submit a license application. The Applicant's estmated total cost for performing these studies is $30,000.

n. *Purpose of Preliminary Permit*—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

9a. Type of Application: 5MW or less Exemption.

b. Project No.: 5206–003.

c. Date Filed: June 22, 1983.

d. Applicant: David H. Scott and Andrea K. Scott.

e. Name of Project: Digger-Battle Hydropower Project.

f. Location: On North Fork Battle Creek and Digger Creek, near Manton, in Shasta and Tehama Counties, California.

g. Filed Pursuant to: Section 408 of the Federal Energy Security Act, 16 U.S.C. 2705 and 2708 *as amended.*

h. Contact Person: Mr. David H. Scott, Digger-Battle Hydroelectric Project, 280 Hemsted Drive, Redding, California 96002.

i. Comment Date: October 13, 1983.

j. Description of Project: The proposed project would consist of: (1) An 8-foot-high, 88-foot-long diversion structure on North Fork Battle Creek at elevation 1,872.00 feet; (2) a 5-foot-high, 35-foot-long diversion structure on Digger Creek at elevation 1,813.00 feet; (3) a 54-inch-diameter, 13,100-foot-long pipeline; (4) a 33-inch-diameter, 9,000-foot-long pipeline; (5) a powerhouse with a total rated capacity of 4,000 kW; and (6) a 1.3-mile-long, 12.3-kV transmission line from the powerhouse to an existing Pacific Gas and Electric Company transmission line. The Applicant estimates that the average annual energy generation would be 14.6 million kWh.

k. The power generated by the proposed project will be sold to Pacific Gas and Electric Company.

l. This notice also consists of the following standard paragraphs: A1, A9, B, C, D3a.

10a. Type of Application: Major License (Over 5 MW).

b. Project No.: 3475–002.

c. Date Filed: November 2, 1982.

d. Applicant: Town of Clintwood, Virginia.

e. Name of Project: John W. Flannagan.

f. Location: On the Pound River, near the Town of Clintwood, Dickenson County, Virginia.

g. Filed Pursuant to: 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mayor Bernard Rakes, P.O. Box 456, Clintwood, Virginia 24228.

i. Comment Date: November 4, 1983.

j. Description of Project: The proposed project would utilize the existing U.S. Army Corps of Engineer's Flannagan Dam and would consist of: (1) New trash bars; (2) a new 7.3-foot-diameter penstock installed in the existing outlet tunnel; (3) a new gated by-pass; (4) a new powerhouse containing a generating unit having a rated capacity of 7,000-kW operated under a 180-foot-head and at a flow of 600 cfs; (5) a tailrace; (6) a new switchyard; (7) a new 4,500-foot-long 115-kV transmission line; and (8) appurtenant facilities.

Applicant proposes to reschedule the flow from the reservoir to generate the maximum energy during peak hours. Special release patterns would be employed to enhance recreation. Applicant estimates that the proposed project would cost $7,000,000. This application was filed during the term of Applicant's preliminary permit for Project No. 3475.

k. Purpose of Project: Project energy would be sold to VEPCO. Applicant estimates that the average annual energy output would be 21.5 GWh.

l. This notice also consists of the following standard paragraphs: A3, A9, B and C.

11a. Type of Application: Transfer of License.

b. Project No: 2312–002.

c. Date Filed: July 17, 1983.

d. Applicant: Diamond International Corporation and James River-Groveton, Inc.

e. Name of Project: Great Works.

f. Location: Penobscot River, near the town of Great Works, Penobscot County, Maine.

g. Filed Pursuant to: 16 U.S.C. 791(a)–825(r).

h. Contact Person: Stephen H. Watts, McGuire, Woods and Battle, Ross Bulding, Richmond, Virginia 23219.

i. Comment Date: October 11, 1983.

j. Description of the proposed Transfer: The Applicants propose to transfer the license from Diamond International Corporation (Licensee) to James River-Groveton, Inc. (Transferee) as part of an overall purchase of all corporate assets. The Great Works project consists of an existing dam, reservoir and a powerhouse with turbine-generators with a total rated cpacity of 5,300 kW.

Transferee has proposed to operate the project in accordance with the existing license. No change to the project operation has been proposed.

Transferee is a private corporation organized under the laws of the State of Virginia and has filed to be domesticated in the State of Maine.

k. This notice also consists of the following standard paragraphs: B and C.

12a. Type of Application: Preliminary Permit.

b. Project No: 7159–000.

c. Date Filed: March 21, 1983.

d. Applicant: Victor E. Gardener and Arthur L. Gardener.

e. Name of Project: Little Butte Creek.

f. Location: On North Fork of Little Butte Creek, near Eagle Point in Jackson County, Oregon, and occupying BLM lands and Rogue River National Forest lands.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Person: Victor E. Gardener, 2444 Gardener Road, Eagle Point, Oregon 97524.

i. Comment Date: October 31, 1983.

j. Description of Project: The proposed project would consist of: Development 1 comprising: (1) A 5-foot-high, 35-foot-long concrete diversion dam at elevation 3,320 feet; (2) a 2,000-foot-long, 40-inch-diameter pipeline; (3) a powerhouse with an installed capacity of 800 kW; and (4) a 500-foot-long transmission line; and Development 2 comprising: (1) A 5-foot-high, 100-foot-long concrete diversion dam at elevation 2,560 feet; (2) a 3,200-foot-long, 40-inch-diameter pipeline; (3) a 1,100-foot-long penstock; (4) a powerhouse with an installed capacity of 665 kW; and (5) a 500-foot-long transmission line. The average annual energy production is estimated to be 12.7 million kWh.

A preliminary permit if issued does not authorize any construction. Applicant seeks issuance of a 36-month preliminary permit during which it would conduct engineering, environmental, and economic studies, and prepare an FERC license appication. No new roads would be required to conduct the studies. The cost of the work under the permit is estimated to be $1,500.

k. Purpose of Project: Power would be sold to Pacific Power and Light Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, D2.

13a. Type of Application: Major License (Over 5 MW).

b. Project No: 4939–001.

c. Date Filed: February 17, 1983.

d. Applicant: Brownville Power Company.

e. Name of Project: Brownville Project.

f. Location: On the Black River in the Towns of Brownville and Hounsfield, Jefferson County, New York.

g. Filed Pursuant to: 16 U.S.C. 791(a)–825(r).

h. Contact Person: John H. Wasserlein, c/o Boise Cascade Corporation, P.O. Box 498, Brattleboro, Vermont 05301.

i. Comment Date: October 31, 1983.

j. Description of Project: The proposed run-of-river project would consist of the following Applicant owned facilities: (1) A new 62-foot-high 250-foot-long concrete gravity dam having spillway crest elevation 282 feet N.G.V.D. datum surmounted by 2-foot-high flashboards and having fish passage facilities at the right (north) abutment; (2) a recreated reservoir with a surface area of 19 acres and a gross storage capacity of 500 acre-feet; (3) a forebay; (4) a headwork structure at the dam's left abutment having trash racks and roller gates; (5) a new powerhouse containing two generating units having a total rated capacity of 9,000-kW operated under a 19-foot head and at a flow of 6,000 cfs; (6) a 700-foot-long tailrace; (7) a 200-foot-long 4,160-volt underground transmission line; (8) a 4.16/24.3-kV substation; and (9) appurtenant facilities. The new dam would be located near the site of a breached timber-crib structure.

Applicant estimates that the proposed project would cost $17,600,000. This application was filed during the term of the Applicant's preliminary permit for Project No. 4939.

k. Purpose of Project: Project energy would be used within the adjacent Boise Cascade Corporation Mill or would be sold to Niagara Mohawk Power Corporation. Applicant estimates that the average annual energy output would be 43,000,000 kWh.

l. This notice also consists of the following standard paragraphs: A3, A9, B and C.

14a. Type of Application: Preliminary Permit.

b. Project No: 7499–000.

c. Date Filed: August 3, 1983.

d. Applicant: Kentucky Hydro Associates.

e. Name of Project: Kentucky River Lock and Dam No. 3.

f. Location: Owen county, Kentucky, Kentucky River.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)—825(r).

h. Contact Person: Mr. Bruce J. Wrobel, Mitex, Inc., 91 Newbury Street, Boston, Massachusetts 02116.

i. Comment Date: October 31, 1983.

j. Description of Project: The proposed project would utilize a U.S. Army Corps of Engineers' dam and reservoir. Project No. 7499 would consist of: (1) The proposed replacement of approximately 100 feet of the right side of the present dam and spillway with a submerged powerhouse, constructed adjacent to the right abutment of the dm: (2) the proposed installation of two turbine/generators with a total installed capacity of 6.8 MW; (3) a proposed transmission line; and (4) appurtenant facilities. Applicant estimates the average annual energy production to be 27.0 GWh.

k. Purpose of Project: The Applicant plans to sell the power generated at the site to the Kentucky Utility Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 18 months. During this time the significant legal, institutional, engineering, environmental, marketing, economic and financial aspects of the project will be defined, investigated, and assessed to support an investment decision. The report of the proposed study will address whether or not a commitment to implementation is warranted, and, if findings are positive, the Applicant intends to submit a license application. The Applicant's estimated total cost for performing these studies is $75,000.

n. *Purpose of Preliminary Permit*—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

15a. Type of application: Preliminary Permit.

b. Project No. 7443–000.

c. Date Filed: July 19, 1983.

d. Applicant: Public Utility District No. 1 of Benton County, Washington.

e. Name of Project: McNary Lock and Dam North Shore Fish Attraction.

f. Location: At McNary Dam on the Columbia River, in Benton County, Washington.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C 791(a)—825(r).

h. Contact Person: R.W. Blodgett, Manager, PUD No. 1 of Benton County, P.O. Box 6270, Kennewick, Washington 99336.

i. Comment Date: October 11,1983.

j. Competing Application: Project No. 7075, Date Filed February 14, 1983, Notice Issued: April 18, 1983.

k. Description of Project: The proposed project would consist of: (1) The conduit No. 2 and conduit No. 3 of the fish attaction water supply system of the existing Corps of Engineers 7,365-foot-long McNary Dam; (2) two generating units, one rated at 2.2 MW and one rated at 4.2 MW, to be installed at the two conduits; and (3) a 2,000-foot-long transmission line. The average annual energy generation is estimated to be 46 million kWh.

A preliminary permit does not authorize any construction. Applicant seeks issuance of a 24-month preliminary permit, during which it would conduct engineering, environmental, and feasibility studies, and prepare an FERC license application. The cost of the work is estimated to be $200,000.

l. Purpose of Project: Project power woruld be utilized by the Applicant.

m. This notice also consists of the following standard paragraphs: A8, A9, B, C, D2.

16 a. Type of Application: License (Minor).

b. Project No: 7214–000.

c. Date Filed: April 11,1983.

d. Applicant: Lance Smith.

e. Name of Project: Spring Creek.

f. Location: On Spring Creek in Klickitat country, Washington.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)-825(r).

h. Contact Person: al Peters, Energy Planning associates, 3182 SE Timberlake Drive, Hillsboro, Oregon 97123.

i. Comment Date: October 31, 1983.

j. Description of Project: The proposed project would consist of: (1) A 13-foot-high diversion structure at elevation 537 feet; (2) a powerhouse contaning a generation unit with a rated capacity of 7 kW; and (3) a 200-foot-long transmission line. The Applicant estimates a 52,500 kWh average annual energy production.

k. Purpose of Project: Power would be sold to local utility.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, D1.

a. Type of Application: Preliminary Permit.

b. Project No: 7502–000.

c. Date Filed: August 3, 1983.

d. Applicant: Kentucky Hydro Associates.

e. Name of Project: Green River Lock and Dam No. 3.

f. Location: Muhlenberg County, Kentucky, Green River.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Bruce J. Wrobel, Mitex, Inc., 91 Newbury Street, Boston, Massachusetts 02116.

i. Comment Date: November 4, 1983.

j. Description of Project: The proposed project would utilize a U.S. Army Corps of Engineers' dam and reservoir. Project No. 7502 would consist of: (1) the proposed replacement of approximately 100 feet of the left side of the present dam and spillway with a submerged powerhouse, constructed adjacent to the left abutment of the dam; (2) the proposed installation of two turbine/generators with a total installed capacity of 11.0 MW; (3) a proposed transmission line; and (4) appurtenant facilities. Applicant estimates the average annual energy production to be 43.0 GWh.

k. Purpose of Project: The Applicant plans to sell the power generated at the site to the Kentucky Utility Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months. During this time the significant legal, institutional, engineering, environmental, marketing, economic and financial aspects of the project will be defined, investigated, and assessed to support an investment decision. The report of the proposed study will address whether or not a commitment to implementation is warranted, and, if findings are positive, the Applicant intends to submit a license application. The Applicant's estimated total cost for performing these studies is $60,000.

n. *Purpose of Preliminary Permit*—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

a. Type of Application: Transfer of License.

b. Project No: 2851–003.

c. Date Filed: July 17, 1983.

d. Applicant: Groveton Papers Company and James River-Groveton, Inc.

e. Name of Project: Natural Dam.

f. Location: Oswegatchie River, Village of Governeur, St. Lawrence County, New York.

g. Filed Pursuant to: 16 U.S.C. 791(a)—825(r).

h. Contact Person: Stephen H. Watts, McGuire, Woods and Battle, Ross Building, Richmond, Virginia 23219.

i. Comment Date: October 14, 1983.

j. Description of the proposed Transfer: The Applicants propose to transfer the license from Groveton Papers Company (Licensee) to James River-Groveton, Inc. (Transferee) as part of an overall purchase of all corporate assets. The Natural Dam project consists of an existing dam, reservoir and powerhouse with turbine-generators with a total rated capacity of 1,020 kW.

Transferee has proposed to operate the project in accordance with the existing license. No change to the project operation has been proposed.

Transferee is a private corporation organized under the laws of the State of Virginia and has filed to be domesticated in the State of New York.

k. This notice also consists of the following standard paragraphs: B and C.

a. Type of Application: License (under 5 MW).

b. Project No: 3227–002.

c. Date Filed: July 29, 1983.

d. Applicant: The City of Philadelphia.

e. Name of Project: Fairmount Dam Project.

f. Location: On the Schuylkill River in Philadelphia City, Pennsylvania.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. Contact Person: William J. Marrazzo, Commissioner, Water Department, The City of Philadelphia, 1180 Municipal Services Building, Philadelphia, Pennsylvania 19107.

i. Comment Date: November 4, 1983.

j. Description of Project: The proposed project would consist of: (1) The 1,025-foot-long and 35-foot-high Fairmount Dam owned by the Applicant; (2) a new forebay at the eastern side of the dam; (3) intake structures; (4) a powerhouse within the New Mill House with 2 new turbine-generator units with a total installed capacity of 2,000 kW (the New Mill House is one of none historic masonry buildings forming the Fairmount Waterworks Buildings which Applicant would rehabilitate as part of this project); (5) a 100-foot-long tailrace; (6) a 300-foot-long transmission line; (7) fish passage facilities; and (8) other appurtenances. Applicant estimates an annual generation of 10,800,000 kWh. This application was filed during the term of Applicant's preliminary permit for Project No. 3227.

k. Purpose of Project: Project energy would be delivered to the existing facilities of the Philadelphia Electric Company.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C and D1.

20. a. Type of Application: Exemption from licensing (5MW or less).

b. Project No.: 7010–001.

c. Date Filed: June 7, 1983.

d. Applicant: Xenophon Enterprises.

e. Name of Project: Big Creek-Hyampom.

f. Location: On Big Creek in Trinity County, California, partially on lands of the United States within the Trinity National Forest.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980 (16 U.S.C. §§ 2705 and 2708 as amended).

h. Contact Person: Mr. Mark Lyons, Ultrasystems Incorporated, 10340 Democracy Lane, Fairfax, Virginia 22030.

i. Comment Date: October 11, 1983.

j. Description of Project: The proposed project would consist of: (1) a 5-foot-high, 20-foot-long, natural rock and reinforced concrete diversion structure at elevation 1980 feet; (2) a 48-inch-diameter, 7,400-foot-long low pressure pipe; (3) a surge chamber at elevation 1,940 feet; (4) two 30-inch-diameter, 1,725-foot-long penstocks; (5) a powerhouse at elevation 1,300 feet containing two turbine generators with a total rated capacity of 4.61 MW and an average annual output of 18.46 GWh; (6) a 1-mile-long, 12–kV transmission line connecting with Pacific Gas and Electric Company facilities.

k. Purpose of Project: Project output would be used in part on the Applicant's ranch and the remainder sold to a utility company.

l. This notice also consists of the following standard paragraphs: Al, B, C, D3a.

21 a. Type of Application: Application for License (under 5 MW).

b. Project No: 7188–000.

c. Date Filed: April 1, 1983.

d. Applicant: The Public Service Company of New Hampshire and the New Hampshire Water Resources Board.

e. Name of Project: Murphy Dam Project.

f. Location: Connecticut River, in Coos County, New Hampshire.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Henry J. Ellis, Public Service Company of New Hampshire, 1000 Elm Street, P.O. Box 330, Manchester, New Hampshire 03105 and Delbert F. Downing, Chairman, New Hampshire Water Resources Board, 37 Pleasant Street, Concord, New Hampshire 03301.

i. Comment Date: Novermber 4, 1983.

j. Description of Project: The proposed project would consist of: (1) The existing 2,100-foot-long and 100-foot-high earthfill Murphy Dam; (2) a reservoir (Lake Francis) with a storage capacity of 96,000 acre-feet; (3) an existing 13-foot-diameter steel-lined concrete conduit through the dam; (4) a new 8-foot-diameter and 540-foot-long penstock; (5) a new 100-foot-long tailrace; (6) a new 500-foot-long transmission line; and (7) other appurtenances. Applicants estimate an average annual generation of 11,600,000 kWh.

k. Purpose of Project: Project energy would be sold to the Public Service Company of New Hampshire's customers.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C and D1.

22a. Type of Application: 5 MW Exemption.

b. Project No.: 7237–000.

c. Date Filed: April 19, 1983.

d. Applicant: Eugene Frederick Muller.

e. Name of Project: Elyria.

f. Location: On East Branch, Black River in the City of Elyria, Lorain County, Ohio.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980 (16 U.S.C. 2705 and 2708 *as amended*), and Part I of the Federal Power Act.

h. Contact Person: Eugene Frederick Muller, 25 Lake Avenue, Elyria, Ohio 44035.

i. Comment Date: October 11, 1983.

j. Description of Project: The run-of-river project would utilize existing facilities consisting of: (1) A 127-foot-long, 10-foot-high concrete dam having an 84-foot-long spillway section with crest elevation 681 m.s.l. and located at the head of a 40-foot-high natural waterfall; (2) a reservoir with a surface area of 12 acres and a storage capacity of 50 acre-feet at surface elevation 681 feet m.s.l.; (3) a forebay at the left (west) bank; (4) a powerhouse; and (5) miscellaneous appurtenances. Applicant proposes to: (1) Refurbish the existing structures; (2) install headgates and a trash rack; (3) install a 38-foot-long penstock; (4) install a generating unit having a rated capacity of 500-kW at a flow of 160 cfs and a generating unit having a rated capacity of 150-kW at a flow of 42 cfs, both operated under a 50-foot head; and (5) install electrical and transmission equipment.

k. Purpose of Exemption: An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

l. This notice also consists of the following standard paragraphs: A1, A9, B, C and D3a.

23a. Type of Application: Application for License for Major Project.

b. Project No.: 7270–000.

c. Project Filed: April 15, 1983.

d. Applicant: Northern Wasco County People's Utility District.

e. Name of Project: White River Hydroelectric Project.

f. Location: On White River, in Wasco County, near Maupin, Oregon.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. Contact Person: Mr. O. K. McCausland, International Engineering Company, 180 Howard Street, San Francisco, California 94105.

i. Comment Date: October 17, 1983.

j. Competing Application: Project No. 7206. Date Filed: April 8, 1983. The notice of the preliminary permit application for Project No. 7206 was issued on May 10, 1983, and expires on July 14, 1983.

k. Description of Project: The proposed run-of-the-river project would consist of: (1) An 8-foot-high by 245-foot-long ogee-type concrete diversion weir with crest elevation at 1,018.75 feet above m.s.l. replacing an existing weir at the same location and with the same crest elevation; (2) a sluiceway (3) an intake structure; (4) a 9-foot-diameter, 2,320-foot-long concrete-lined modified horseshoe tunnel; (5) a 9-foot-diameter, 245-foot-long concrete-lined pressure shaft and tunnel combination; (6) a 7.5-foot-diameter, 138-foot-long steellined penstock; (7) a powerhouse to contain three Francis-type, turbine-generating units with a total rated capacity of 8.5 MW operating under a head of 170 feet and producing about 33 million kWh of energy annually; (8) a 160-foot-long, 75-foot-wide tailrace; (9) a 1,650-foot-long, 69-kV transmission line from the project to the Applicant's existing Tygh Valley Substation; and (10) 2.8 miles of access road. Except for a visitors information center to provide information on the power generation history of the site, no new recreational development has been proposed by the Applicant. It is estimated that the total construction cost of the project would be about $14.8 million. Lands of the United States (1.8 acres) under the administration of the Bureau of Land Management would be affected by the project.

l. Purpose of Project: The Applicant plans to either retain the project power to serve its customers or sell to the Bonneville Power Administration or other utilities.

m. This notice also consists of the following standard paragraphs: A2, B, and C.

24a. Type of Application: Preliminary Permit.

b. Project No: 7328–000.

c. Date Filed: June 2, 1983.

d. Applicant: Small Hydro East.

e. Name of Project: Crystal Falls Water Power Project.

f. Location: On Phillips Brook, in Coos County, Town of Stark (Crystal Village), New Hampshire.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. James D. Sysko, Small Hydro East, Star Route 240, Bethal, Maine 04217.

i. Comment Date: November 4, 1983.

j. Description of Project: The proposed project would consist of: (1) A proposed 36-inch-diameter penstock running from a new concrete inlet structure in the stream bank at the head of the existing falls and extending approximately 2,500 feet to; (2) a proposed powerhouse, approximately 10 feet by 20 feet, housing two turbine/generator units with a total installed capacity of 400 kW; (3) a proposed 12,460-volt transmission line, running underground for approximately 2,500 feet and thereafter overhead for approximately 1,500 feet; and (4) appurtenant facilities. Applicant estimates that the average annual energy would be 2,400,000 kWh.

k. Purpose of Project: The Applicant anticipates that project energy will be sold to Public Service Company of New Hampshire.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time it would prepare studies of the hydraulic, construction, economic, environmental, historic and recreational aspects of the project. Depending on the outcome of the studies, Applicant would prepare an application for an FERC license. Applicant estimates the cost of the studies under permit would be $2,000.

25a. Type of Application: Preliminary Permit.

b. Project No: 7341–000.

c. Date Filed: June 3, 1983.

d. Applicant: John R. Anderson and Joseph D. Brostmeyer.

e. Name of Project: Wynantskill Water Power.

f. Location: On Wynantskill River, in Rensselaer County (Troy), New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Joseph D. Brostmeyer, RD No. 1, Delanson, New York 12053.

i. Comment Date: November 2, 1983.

j. Description of Project: The proposed project would consist of: (1) An existing dam 12 feet high and 30 feet wide which would be raised 3 feet; (2) a reservoir with negligible storage capacity, surface area of approximately 500 square feet, and normal water surface elevation of 244 feet U.S.G.S.; (3) a 24-inch-diameter PVC penstock 1,000 feet long which would be installed approximately along the alignment of an existing penstock (to be removed); (4) an existing concrete powerhouse, 10 feet wide by 20 feet long that will be repaired, and will house a new turbine-generator unit with an installed capacity of 100 kW; (5) an existing concrete surge tank to be repaired and reused; (6) a proposed 13,500-volt transmission line approximately 300 feet long; and (7) appurtenant facilities. Applicant estimates that the average annual energy generation would be 500,000 kWh. Owner of the dam, powerhouse, and surrounding properties is Dominic V. Panichi.

k. Purpose of Project: The Applicant anticipates that the energy generated will be sold to Niagara Mohawk Corporation.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time it would prepare studies of the hydraulic, construction, economic, environmental, historic and recreational aspects of the project. Depending on the outcome of the studies, Applicant would prepare an application for an FERC license. Applicant estimates the cost of the studies under permit would be $1,600.

26a. Type of Application: Preliminary Permit.

b. Project No.: 7360–000.

c. Date Filed: June 13, 1983.

d. Applicant: Panther Power Partnership.

e. Name of Project: Panther Creek.

f. Location: On Panther Creek, near Stevenson, in Skamania County, Washington.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Erling T. Soli, 15 S.E. 82nd Drive, Gladstone, Oregon 97027.

i. Comment Date: October 31, 1983.

j. Description of Project: The proposed project would consist of: (1) An 8-foot-high concrete diversion structure; (2) a 5,100-foot-long, 72-inch-diameter pipeline; (3) a surge tank; (4) two 400-foot-long, 48-inch-diameter steel penstocks; (5) a powerhouse containing two generating units, one rated at 900 kW and one rated at 3,300 kW; and (6) a transmission line. The average annual energy generation is estimated by Applicant to be 25 million kWh.

A preliminary permit does not authorize construction. Applicant seeks issuance of a 36-month permit during which time it would conduct engineering, environmental, and economic studies, and prepare an FERC license application. No new roads would be required to conduct the studies. The cost is estimated to be $127,000.

k. Purpose of Project: Power would be sold to a local utility.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, D2.

27a. Type of Application: License (Under 5 MW).

b. Project No.: 7410–000.

c. Date Filed: June 28, 1983.

d. Applicant: American Hydro Power Company.

e. Name of Project: Peterborough Project.

f. Location: On the Nubanusit Brook in Hillsborough County, New Hampshire.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. Contact Person: Peter A. McGrath, President, American Hydro Power company, 4028 Chestnut Street, Philadelphia, Pennsylvania 19104.

i. Comment Date: October 31, 1983.

j. Description of Project: The proposed project would consist of:

(A) The Verney Mill Dam Development which would utilize the U.S. Army Corps of Engineers' Verney Mill Dam and would consist of: (1) New 4-foot-high flashboards which would increase the reservoir storage capacity from 7 to 19 acre-feet; (2) a new 10-kW turbine-generator unit at the base of the dam; (3) new intake structures at the east abutment of the dam; (4) a new 5-foot-diameter and 1,750-foot-long penstock; (5) 2 submersible turbine-generator units with a total installed capacity of 354 kW within the downstream end of the penstock; (6) 2 transmission lines 580 and 1,950 feet long, respectively; and (7) other appurtenances.

(B) The Union Street Dam Development which would consist of: (8) the existing 101-foot-long and 13-foot-high Union Street Dam (about 1,850 feet downstream of Verney Mill Dam) and reservoir owned by Hampshire Living, Inc.; (9) new 2-foot-high flashboards; (10) a new 10-kW turbine-generator unit at the base of the dam; (11) existing intake structures; (12) a new 5-foot-diameter and 450-foot-long penstock; (13) 2 submersible turbine-generator units with a total installed capacity of 236 kW within the downstream end of the penstock; (14) 2 transmission lines 100 and 530 feet long, respectively; and (15) other appurtenances. Applicant estimates an average annual generation of 3,000,000 kWh.

k. Purpose of Project: Project energy would be sold to the Public Service Company of New Hampshire.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C and D1.

28a. Type of Application: Preliminary Permit.

b. Project No: 7427–000.

c. Date Filed: June 21, 1983.

d. Applicant: Little Wood River Irrigation District.

e. Name of Project: Little Wood River Water Power.

f. Location: At the Litte Wood River Dam and Reservoir near Carey in Blaine County, Idaho.

g. Filed Pursuant to: Federal Power Act [16 U.S.C. §§ 791(a)–825(r)].

h. Contact Person: Alton Patterson, President, Little Wood River Irrigation District, Carey, Idaho 83320.

i. Comment Date: October 31, 1983.

j. Description of Project: The proposed project would consist of (1) The existing Little Wood River Dam and Reservoir; (2) modifications to the existing outlet works; (3) a powerhouse at the downstream portal of the outlet works containing four turbine-driven generators with a total capacity of 2,350 kW and an average annual output of 10.29 GWH; and (4) connection to Idaho Power Company lines, extension of which through the project site is being considered by the Company.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks an 18-month preliminary permit to conduct investigations and secure data to ascertain project feasibility and to prepare an application for license.

k. Purpose of Project: Project-generated power will be sold to Idaho Power Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

29a. Type of Application: 5 MW Exemption.

b. Project No: 7434–000.

c. Date Filed: July 6, 1983.

d. Applicant: Kingsbury Hydroelectric Company.

e. Name of Project: Kingsbury.

f. Location: Kingsbury Branch of the Winooski River, Town of East Montpelier, Washington County, Vermont.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980, (16 U.S.C. §§ 2705 and 2708).

h. Contact Person: Mr. William K. Porter, Kingsbury Hydroelectric Company, Box 16, Adamant, Vermont 05640.

i. Comment Date: October 14, 1983.

j. Description of Project: The proposed project would consist of (1) An existing 10-foot-high, 74-foot-long masonry and stone dam with a concrete facing; (2) an existing 42 acre reservoir with no usable storage capacity at elevation 702.6 feet m.s.l.; (3) an existing penstock intake structure; (4) a new 5-foot-diameter, 289-foot-long, steel penstock replacement; (5) an existing powerhouse containing two new 100-kW turbine-generators; (6) an existing tailrace channel; (7) a new 480 volt, 100-foot-long transmission line; and (8) appurtenant facilities. The project is owned by the Applicant. The project would generate up to 600,000 kWh annually.

k. Purpose of Project: Energy produced at the project would be sold to Green Mountain Power Corporation.

l. This notice also consists of the following standard paragraphs: A1, A9, B, C, and D3a.

m. *Purpose of Exemption:* An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

30a. Type of Application: Preliminary Permit.

b. Project No: 7438–000.

c. Date Filed: July 12, 1983.

d. Applicant: Hydroelectric Development, Inc.

e. Name of Project: Blackwater Dam.

f. Location: Blackwater River, Merrimack Co., New Hampshire.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Michael Demos, Hydroelectic Development, Inc., 200 Union Boulevard, Suite 306, Denver, Colorado 80228.

i. Comment Date: November 4, 1983.

j. Description of Project: The proposed project would utilize the existing Corps of Engineers Blackwater Dam and Reservoir and would consist of: (1) A new penstock 10 feet in diameter and approximately 175 feet long; (2) a new powerhouse measuring 35 feet square; (3) a turbine/generator unit with a rated capacity of approximately 1,000 kW operating under a head of 60 feet; (4) a low voltage transmission line one mile long; and (6) appurtenant facilities.

k. Purpose of Project: The average annual generation of 3.5 million kWh would be sold to local public utility companies.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

m. Proposed Scope and Cost of Studies under Permit: Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would perform surveys and geological investigations, determine the economic feasibility of the project, reach final agreement on sale of project power, secure financing commitments, consult with Federal, State, and local government agencies concerning the potential environmental effects of the project, and prepare an application for FERC license, including an environmental report. Applicant estimates the cost of studies under the permit would be $40,000.

31a. Type of Application: Preliminary Permit.

b. Project No: 7469–000.

c. Date Filed: July 29, 1983.

d. Applicant: Dam Five Development, Ltd.

e. Name of Project: Kentucky River Lock and Dam No. 5.

f. Location: Anderson and Woodford Counties, Kentucky, Kentucky River.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Kenneth Lever, 4900 IDS Center, Minneapolis, Minnesota 55402.

i. Comment Date: October 31, 1983.

j. Description of Project: The proposed project would utilize a U.S. Army Corps of Engineers' dam and reservoir. Project No. 7469 would consist of: (1) A proposed powerhouse to be installed in a section on the right side of the existing dam; (2) the proposed installation of three turbine/generator units with a total installed capacity of 6.0 MW; (3) a proposed transmission line approximately one mile in length; and (4) appurtenant facilities. Applicant estimates the average annual energy production to be 26.4 GWh.

k. Purpose of Project: The Applicant plans to sell the power generated at the site to the Kentucky Utility Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months. During this time the significant legal, institutional, engineering, environmental, marketing, economic and financial aspects of the project will be defined, investigated, and assessed to support an investment decision. The report of the proposed study will address whether or not a commitment to implementation is warranted, and, if findings are positive, the Applicant intends to submit a license application. The Applicant's estimated total cost for performing these studies is $100,000.

n. Purpose of Preliminary Permit: A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

32a. Type of Application: Preliminary Permit.

b. Project No: 7470–000.

c. Date Filed: July 29, 1983.

d. Applicant: Dam Four Development Ltd.

e. Name of Project: Kentucky River Lock and Dam No. 4.

f. Location: Franklin County, Kentucky, Kentucky River.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)—825(r).

h. Contract Person: Mr. Kenneth Lever, 4900 IDS Center, Minneapolis, Minnesota 55402.

i. Comment Date: October 31, 1983.

j. Description of Project: The proposed project would utilize a U.S. Army Corps of Engineers' dam and reservoir. Project No. 7470 would consist of: (1) A proposed powerhouse to be installed in a section on the right side of the existing dam; (2) the proposed installation of three turbine/generator units with a total installed capacity of 5.0 MW; (3) a proposed transmission line less than one mile in length; and (4) appurtenant facilities. Applicant estimates the average annual energy production to be 28.4 GWh.

k. Purpose of Project: The Applicant plans to sell the power generated at the site to the Kentucky Utility Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months. During this time the significant legal, institutional, engineering, environmental, marketing, economic and

financial aspects of the project will be defined, investigated, and assessed to support an investment decision. The report of the proposed study will address whether or not a commitment to implementation is warranted, and, if findings are positive, the Applicant intends to submit a license application. The Applicant's estimated total cost for performing these studies is $100.000.

n. *Purpose of Preliminary Permit*—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permitee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

33a. Type of Application: Preliminary Permit.

b. Project No: 7482–000.

c. Date Filed: August 1, 1983.

d. Applicant: John R. Anderson and Joseph D. Brostmeyer.

e. Name of Project: Spicket Water.

f. Location: On the Spicket River in Essex County, Massachusetts.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contract Person: Mr. John R. Anderson, 64 Blanchard St., Burlington, Massachusetts 01803, and Mr. Joseph D. Brostmeyer, RD #1, Delanson, New York 12053.

i. Comment Date: October 27, 1983.

j. Description of Project: The proposed project would be based on run-of-river operation and would consist of: (1) A 25-foot-high, 40-foot-wide, existing fitted stone dam; (2) an existing reservoir having a surface area of 35,000 square feet and a surface elevation of 100 feet m.s.l.; (3) an existing 50-foot-long penstock; (4) an existing powerhouse which will contain a single new generating unit having a rated capacity of 100 kW; (5) a proposed 13,500-volt, 100-foot-long transmission line; and (6) appurtenant facilities.

k. Purpose of Project: The most likely market for the energy derived at the proposed project would be the Massachusetts Electric Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2

m. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $1,950.

34a. Type of Application: Preliminary Permit.

b. Project No: 7486–000.

c. Date Filed: August 1, 1983.

d. Applicant: Metropolitan District Commission (MDC).

e. Name of Project: Cordingly Dam.

f. Location: On the Charles River in Norfolk and Middlesex Counties, Massachusetts.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Alfred Ferull, Director of Environmental Quality, 20 Somerset Street, Boston, Massachusetts 02108.

i. Comment Date: October 3, 1983.

j. Competing Application: Project No. 7198–000. Date Filed: April 7, 1983. Due Date: August 14, 1983.

k. Description of Project: The proposed project would use an existing dam and facilities owned by the MDC and would consist of: (1) The 16-foot-high, 120-foot-long, Cordingly Dam; (2) and existing reservoir having a surface elevation of 58 feet M.S.L.; (3) a new powerhouse containing one or more generating units having a total rated capacity of 328 kW; (4) an existing 13.8-kV transmission line owned by the Boston Edison Company; and (5) appurtenant facilities. The Applicant estimates that the average annual energy output would be 1,464,000 kWh.

l. Purpose of Project: The most likely market for the energy derived at the proposed project would be the Boston Edison Company.

m. This notice also consists of the following standard paragraphs: A8, A9, B, C, and D2.

n. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 18 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $65,000.

35a. Type of Application: Relicense Involving New Capacity.

b. Project No: 18–000.

c. Date Filed: June 30, 1983.

d. Applicant: Idaho Power Company.

e. Name of Project: Twin Falls Hydroelectric.

f. Location: On the Snake River in Jerome and Twin Falls Counties, Idaho, partially on lands of the United States administered by the Bureau of Land Management.

g. Filed Pursuant to: Federal Power Act [16 U.S.C. 791(a)–825(r)].

h. Contact Person: Lee Sherline, Leighton & Sherline, Suite 803, 1701 K Street, N.W., Washington, D.C. 20006.

i. Comment Date: November 10, 1983.

j. Expiration of Initial License: June 10, 1984.

k. Description of Project: The project proposed for relicensing would consist of: (A) The facilities currently licensed as Project No. 18, including: (1) The Twin Falls dam, which has three sections, a concrete arch dam across the north falls with a 474-foot-long overflow crest at elevation 3,508 feet, 3,511.4 feet with flashboards, a non-overflow concrete gravity dam across the south falls with a 203-foot-long crest at elevation 3,520 feet, and a concrete dike across the island between the north and south falls in two sections, one 108 feet long with the crest at elevation 3,516 feet and the other 207 feet long with the crest at elevation 3,509 feet, 3,512 feet with flashboards; (2) the Twin Falls reservoir, which has a storage capacity of about 1,000 acre-feet at normal pool elevation 3,511.4 feet; (3) a gated intake structure in the non-overflow gravity section; (4) a 10-foot-diameter, 136-foot-long inclined penstock; (5) a 40-foot-long, 37-foot-wide concrete powerhouse containing a generating unit with a rated capacity of 9 MW; and (6) a 1-mile-long, 138 kV transmission line connecting to the Applicant's distribution system; and (B) proposed facilities including: (1) a gated intake structure at the existing low-level sluice in the non-overflow gravity dam; (2) an 18-foot-diameter water conductor consisting of a 120-foot-deep vertical shaft and a 93-foot-long horizontal tunnel; (3) a 63-foot-wide, 100-foot-long concrete powerhouse at the downstream toe of the non-overflow portion of the dam containing a generating unit with a rated capacity of 42 MW; and (4) a 138-kV transmission line connecting to the line from the existing powerhouse in a switchyard adjacent to that powerhouse; (5) a new tailrace channel; (6) a 1,875-foot-long access road to the powerhouse area; and (7) a 110-foot-long, 18-foot-wide concrete and steel access bridge between the powerhouses.

The Applicant does not propose additional recreation facilities. The estimated cost of the new development is $35,838,000.

The existing project will be subject to Federal takeover upon expiration of the initial license under Sections 14 and 15 of the Federal Power Act. As of July 1, 1983, the Applicant's estimated net investment in the project is $1,074,017 and estimated severance damages are $126,079,341.

l. This notice also consists of the following standard paragraphs: A3, A9, B and C.

36a. Type of Application: Amendment of License.

b. Project No: 2861–006

c. Date Filed: August 18, 1983.

d. Applicant: Robert W. Shaw (Licensee)

e. Name of Project: Pontook.

f. Location: Androscoggin River, Pontook Reservoir, near the town of Dummer, Coos County, New Hampshire.

g. Filed Pursuant to: 16 U.S.C. 791(a)–825(r).

h. Contact Person: William J. Madden, Jr., Debevoise and Liberman, 1200 Seventeenth Street, NW., Washington, D.C. 20036.

i. Comment Date: October 21, 1983.

j. Description of the Proposed Amendment: Licensee has requested a two year extension of the time required to start construction of the Pontook Project pursuant to Article 23 of the license issued on October 2, 1981, and modified on May 18, 1982. Licensee requested the extension due to delays caused by an appeal of staff action filed November 2, 1981, and the pending rehearing filed on July 19, 1982, by the Society for the Protection of New Hampshire Forests and the Appalachian Mountain Club (Intervenors). Licensee also stated that as a result of the modification to the license issued by the Commission on May 18, 1982, it has redirected its efforts toward obtaining an agreement for an interim flow release schedule for recreational boating at the project dam. Those efforts were undertaken consistent with Articles 26 and 27 of the license.

k. This notice also consists of the following standard paragraphs: B and C.

37a. Type of Application: License (over 5 MW).

b. Project No: 3493–003.

c. Date Filed: July 11, 1983.

d. Applicant: Town of Summersville, West Virginia.

e. Name of Project: Summersville Project.

f. Location: On Gauley River in Nicholas County, West Virginia.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Carroll T. Lay, Town Attorney, 717 Main Street, Summersville, West Virginia 26551, and Howard M. Hickey, Jr., President, Noah Corp., P.O. drawer 640, Aiken, South Carolina 29801.

i. Comment Date: November 14, 1983.

j. Description of Project: The proposed project would utilize the existing U.S. Army Engineers Summersville Dam and Reservoir, would be operated in run-of-river mode, and would consist of: (1) Three new penstocks connecting to the existing outlet works and leading to (2) a new powerhouse containing 3 turbine-generator units rated at 21 MW each and 1 unit rated at 7 MW for a total rated capacity of 70 MW; (3) a tailrace returning flow to the river just downstream of the existing outlet works discharge pond; (4) a new transmission line, 8 miles long, connecting to an existing 13.8 kV line; and (5) appurtenant facilities. The Applicant estimates that the average annual energy output would be 188 GWh. Project energy would be sold to the Allegheny Power System.

k. This notice also consists of the following standard paragraphs: A3, A9, B and C.

38 a. Type of Application: Exemption from Licensing (Conduit).

b. Project No.: 4729–002.

c. Date filed: July 11, 1983.

d. Applicant: Marin Municipal Water District.

e. Name of Project: Phoenix Lake.

f. Location: Marin County, California; Phoenix Lake.

Filed Pursuant to: Section 30 of the Federal Power Act, 16 U.S.C. 823(a).

h. Contact Person: Richard W. Rogers, General Manager, Marin Municipal Water District, 220 Nellen Avenue, Corte Madera, California 94925.

i. Comment Date: October 19, 1983.

j. Description of Project: The proposed project would consist of: a trubine-pump installed in the existing 18-inch-diameter overflow pipe from the existing Bon Tempe Plant, with a total installed capacity of 145 kW.

k. Purpose of Project: The Applicant proposes to sell the estimated 0.42 million kWh produced annually by the project to the Pacific Gas and Electric Company.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D3b

39a. Type of Application: Exemption for Small Hydroelectric Power Project of 5 MW or less Capacity.

b. Project No.: 5871–002.

c. Date Filed: July 18, 1983.

d. Applicant: Colombus Development Corporation.

e. Name of Project: Stillwater River Hydro Project.

f. Location: On the Stillwater river in Stillwater County, Montana.

g. Filed Pursuant to: Section 408, Energy Security Act of 1980, 16 U.S.C. 2705 and 2708 *as amended.*

h. Contact Person: Mr. Vernon W. Sanders, President, Colombus Development Corporation, Star Route 2, Box 26, Columbus, Montana 59019.

i. Comment Date: October 20, 1983.

j. Description of Project: The proposed project would consist of: (1) Replacing an existing diversion structure with a new structure; (2) enlarging the existing 9000-foot-long irrigation canal; (3) construction of a new 4000-foot-long canal beyond the irrigation canal to the penstock intake structure; (4) a new 900-foot-long steel penstock with a diameter of 72 inches leading to the powerhouse; (5) a new concete and steel powerhouse with an installed capacity of 1.6 MW; (6) a new tailrace; (7) a 0.72 mile new transmission line; and (8) appurtenant facilities. The Applicant estimates the average annual generation to be 7.75 GWH. Project energy would be sold to a local utility company.

k. This notice also consists of the following standard paragraphs: A1, A9, B,C and D3a.

l. Purpose of Exemption: An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

40a. Type of Application: 5 MW Exemption.

b. Project No: 7352–000.

c. Date Filed: June 9, 1983, and revised on August 4, 1983.

d. Applicant: Sven Elov Ericson.

e. Name of Project: Kings Falls.

f. Location: On the Deer River in Denmark Township, Lewis County, New York.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980 (16 U.S.C. 2705 and 2708 as amended), and Part I of the Federal Power Act.

h. Contact Person: Sven Elov Ericson, 6 Harrison Rd., Willowdale, Ontario, M2L IV2, Canada.

i. Comment Date: October 21, 1983.

j. Description of Project: The project would consist of the following proposed facilities: (1) A concrete weir or dam, 100 feet long and a maximum of 6 feet high; (2) an intake channel 450 feet long and 17 feet wide; (3) two parallel 7-foot by 7-foot concrete penstocks 100 feet long; (4) a concrete masonry powerhouse 70 feet in length and 35 feet

in width, that will house two turbine-generator units with a total installed capacity of 2,100 kW and provisions for an additional (3rd) unit with a capacity of 150 kW; (5) a tailrace channel, 250 feet in length and 35 feet in width; (6) a 23,000-volt transmission line, approximately 400 feet long that will connect to the existing line of Niagara Mohawk Power Corporation. The Applicant estimates that the average annual energy production would be approximately 4,500,000 kWh.

k. Purpose of Project: The Applicant anticipates that project energy will be sold to the Niagara Mohawk Power Corporation.

l. This notice also consists of the following standard paragraphs: A1, A9, B, C and D3a.

m. Purpose of Exemption: An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and projects the Exemptee from permit or license Applicant's that would seek to take or develop the project.

41a. Type of Application: Preliminary Permit.

b. Project No: 7446–000.

c. Date Filed: July 14, 1983.

d. Applicant: Bruce J. Brand.

e. Name of Project: Mound Plant Dam Hydroelectric Project.

f. Location: St. Croix County, Wisconsin, Willow River.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Bruce J. Brand, 1677 Montreal Avenue, St. Paul, Minnesota 55116.

i. Comment Date: November 14, 1983.

j. Description of Project: The proposed project would consist of: (1) An existing 431-foot-long, 55-foot-high dam consisting of a reinforced concrete spillway section, a powerhouse section, and an earth embankment section; (2) an existing reservoir with a surface area of 56 acres and a storage capacity of 594 acre-feet; (3) the renovation of the existing powerhouse with the proposed installation of one turbine/generator unit for a total installed capacity of 175 kW and with an annual energy production of 1.26 GWh; (4) a proposed transmission line less than 1 mile in length; and (5) appurtenant facilities.

k. Purpose of Project: The Applicant plans to sell the power generated at the site to Northern States Power Company Minneapolis, Minnesota.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. *Proposed Scope of Studies Under Permit*—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 18 months. During this time the significant legal, institutional, engineering, environmental, marketing, economic and financial aspects of the project will be defined, investigated, and assessed to support an investment decision. The report of the proposed study will address whether or not a commitment to implementation is warranted, and, if findings are positive, the Applicant intends to submit a license application. The Applicant's estimated total cost for performing these studies is negligible.

n. *Purpose of Preliminary Permit*—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

42a. Type of Application: Preliminary Permit.

b. Project No: 7474–000.

c. Date Filed: August 1, 1983.

d. Applicant: East Columbia Basin Irrigation District, Quincy-Columbia Basin Irrigation District and South Columbia Basin Irrigation District (Districts).

e. Name of Project: Rocky Coulee Water Power.

f. Location: On Rocky Coulee Wasteway, existing facilities owned by the U.S. Department of Interior, Bureau of Reclamation, in Grant County, Washington.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Richard A. Lemargie, Attorney, P.O. Box 955, Ephrata Washington 98823 and CH2M Hill, Peter F. Wiedemann, Manager, Hydropower Department, 1500–114th Avenue SE, Bellevue, Washington 98004.

i. Comment Date: November 10, 1983.

j. Description of Project: The proposed project would consist of two developments. (A) The Upper Chute Development would consist of: (1) A 15-foot-high, 20-foot-long intake structure; (2) a 6-foot-diameter, 1,475-foot-long penstock; (3) a powerhouse containing a single generating unit with a total rated capacity of 3,450 kW, operating under a head of 80 feet; (4) a 50-foot-long rectangular channel discharging into an existing stilling basin; and (5) a 4,000-foot-long transmission line tying into an existing 13.2-kV transmission line owned by Grant County Public Utility District. (B) The Lower Chute Development would consist of: (1) A 15-foot-high, 20-foot-long intake; (2) a 6-foot-diameter, 855-foot-long penstock; (3) a powerhouse containing a single generating unit with a capacity of 3,750 kW, operating under a head of 105 feet; (4) a 50-foot-long rectangular channel discharging into an existing stilling basin; and (5) a 2,500-foot-long transmission line tying into an existing 13.2-kV transmission line owned by Grant County Public Utility District. The estimated average annual energy output of the two developments would be 17.7 million kWh.

A preliminary permit, if issued does not authorize construction. The Applicant seeks a 36 month permit to study the feasibility of constructing and operating the project. No new access road will be needed for the purpose of conducting these studies. The estimated cost for conducting these studies is $200,000.

k. Purpose of Project: Project power would be sold to the Public Utility District No. 2 of Grant County.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

43a. Type of Application: Preliminary Permit.

b. Project No: 7501–000.

c. Date Filed: August 3, 1983.

d. Applicant: Kentucky Hydro Associates.

e. Name of Project: Green River Lock and Dam No. 2.

f. Location: McLean County, Kentucky, Green River.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Bruce J. Wrobel, Mitex, Inc., 91 Newbury Street, Boston, Massachusetts 02116.

i. Comment Date: November 14, 1983.

j. Description of Project: The proposed project would utilize a U.S. Army Corps of Engineers' dam and reservoir. Project No. 7501 would consist of: (1) The proposed replacement of approximately 100 feet of the left side of the present dam and spillway with a submerged powerhouse, constructed adjacent to the left abutment of the dam; (2) the proposed installation of two turbine/generators units with a total installed capacity of 11.4 MW; (3) a proposed transmission line; and (4) appurtenant facilities. Applicant estimates the average annual energy production to be 45.0 GWh.

k. Purpose of project: The Applicant plans to sell the power generated at the site to the Kentucky Utility Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. *proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months. During this time the significant legal, institutional, engineering, environmental, marketing, economic and financial aspects of the project will be defined, investigated, and assessed to support an investment decision. The report of the proposed study will address whether or not a commitment to implementation is warranted, and, if findings are positive, the Applicant intends to submit a license application. The Applicant's estimated total cost for performing these studies is $60,000.

n. *Purpose of Preliminary Permit*—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

44a. Type of Application: Preliminary Permit.

b. PROJECT No: 7511–000.

c. Date Filed: August 8, 1983.

d. Applicant: Orting Associates.

e. Name of Project: Orting Hydropower Project.

f. Location: On Voight Creek, Pierce County, Washington.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Joel Rector, Attorney at Law, 4832 Colony Circle, Salt Lake City, Utah 84117 and Mr. Thomas B. Forbes, P.O. Box 421, Mercer Island, Washington 98040.

i. Comment Date: October 31, 1983.

j. Description of Project: The proposed project would consist of: A 4-foot-high, 30-foot-long diversion structure at elevation 700 feet; (2) a 48-inch-diameter, 800-foot-long pipeline extending to a surge tank; (3) a 42-inch-diameter, 1,000-foot-long penstock; (4) a powerhouse containing a single generating unit with a total rated capacity of 600 kW; (5) a tailrace; and (6) a 2,000-foot-long, 12-kV transmission line tying into an existing Puget Power and Light Company line. The estimated average annual energy output would be 3 million kWh.

A preliminary permit, if issued does not authorize construction. The Applicant seeks a 36 month permit to study the feasibility of constructing and operating the project. No new access road will be needed for the purpose of conducting these studies. The estimated cost for conducting these studies is $125,000.

k. Purpose of Project: Project power will be sold to a utility located in the project area.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

Competing Applications

A1. Exemption for Small Hydroelectric Power Project under 5MW Capacity—Any qualified license or conduit exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license of conduit exemption application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such an application. Any qualified small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing small hydroelectric exemption application or a notice of intent to file such application. Submission of a timely notice of intent allows an interested person to file the competing license, conduit exemption, or small hydroelectric exemption application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

A2. Exemption for Small Hydroelectric Power Project under 5MW Capacity—Any qualified license or conduit exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license or conduit exemption application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing license or conduit exemption application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit and small hydroelectric exemption will not be accepted in response to this notice.

A3. License or Conduit Exemption—Any qualified license, conduit exemption, or small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license, conduit exemption, or small hydroelectric exemption application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing license, conduit exemption, of small hydroelectric exemption application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

This provision is subject to the following exception: if an application described in this notice was filed by the preliminary permittee during the term of the permit, a small hydroelectric exemption application may be filed by the permittee only (license and conduit exemption applications are not affected by this restriction).

A4. License or Conduit Exemption—Public notice of the filing of the initial license, small hydroelectric exemption or conduit exemption application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, any competing application for license, conduit exemption, small hydroelectric exemption, or preliminary permit, or notices of intent to file competing applications, must be filed in response to and in compliance with the public notice of the initial license, small hydroelectric exemption or conduit exemption application. No competing applications or notices of intent may be filed in response to this notice.

A5. Preliminary Permit: Existing Dam or Natural Water Feature Project—Anyone desiring to file a competing application for preliminary permit for a proposed project at an existing dam or natural water feature project, must submit the competing application to the Commission on or before 30 days after the specified comment date for the particular application (See 18 CFR 4.30 to 4.33 (1982)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

A competing preliminary permit application must conform with 18 CFR 4.33 (a) and (d).

A6. Preliminary Permit: No Existing Dam—Anyone desiring to file a competing application for preliminary permit for a proposed project where no dam exists or where there are proposed major modifications, must submit to the Commission on or before the specified comment date for the particular application, the competing application

itself, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 60 days after the specified comment date for the particular application.

A competing preliminary permit application must conform with 18 CFR 4.33 (a) and (d).

A7. Preliminary Permit—Except as provided in the following paragraph, any qualified license, conduit exemption, or small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license, conduit exemption, or small hydroelectric exemption applicaton or a notice of intent to file such an application. Submission of a timely notice of intent to file a license, conduit exemption, or small hydroelectric exemption application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application.

In Addition, any qualified license or conduit exemption applicant desiring to file a competing application may file the subject application until: (1) A preliminary permit with which the subject license or conduit exemption application would compete is issued, or (2) the earliest specified comment date for any license, conduit exemption, or small hydroelectric exemption application with which the subject license or conduit exemption application would compete; whichever occurs first.

A competing license application must conform with 18 CFR 4.33 (a) and (d).

A8. Preliminary Permit—Public notice of the filing of the initial preliminary permit application, which has already been given, established the due date for filing competing preliminary permit applications on notices or intent. Any competing preliminary permit application, or notice of intent to file a competing preliminary permit application, must be filed in response to and in compliance with the public notice of the initial preliminary permit application. No competing preliminary permit applications or notices of intent to file a preliminary permit may be filed in response to this notice.

Any qualified small hydroelectric exemption aplication desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing small hydroelectric exemption application or a notice of intent to file such an application. Submission of a timely notice of intent to file a small hydroelectric exemption application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application.

In addition, any qualified license or conduit exemption applicant desiring to file a competing application may file the subject application until: (1) A preliminary permit with which the subject license or conduit exemption application would compete is issued, or (2) the earliest specified comment date for any license, conduit exemption, or small hydroelectric exemption application with which the subject license or conduit exemption application would compete; whichever occurs first.

A competing license application must conform with 18 CFR 4.33 (a) and (d).

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an application may be filed, either: (1) A preliminary permit application or (2) a license, small hydroelectric exemption, or conduit exemption application, and be served on the applicant(s) named in this public notice.

B. *Comments, Protests, or Motions To Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may becomes a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST" or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular aplication to which the filing is in response. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Project Management Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D1. *Agency Comments*—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 86–29, and other applicable statues. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments with the Commission within the time set for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be set to the Applicant's representatives.

D2. *Agency Comments*—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3a. *Agency Comments*—The U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 408 of the Energy Security Act of 1980, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local

agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3b. *Agency Comments*—The U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 30 of the Federal Power Act, to file within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: September 7, 1983.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-24600 Filed 9-9-83; 8:45 am]

BILLING CODE 6717-01-M

Oil Pipeline; Tentative Valuation

September 8, 1983.

The Federal Energy Regulatory Commission by order issued February 10, 1978, established an Oil Pipeline Board and delegated to the Board its functions with respect to the issuance of valuation reports pursuant to Section 19a of the Interstate Commerce Act.

Notice is hereby given that tentative valuations are under consideration for the common carriers by pipeline listed below:

1980 Annual Report

Valuation Docket No. PV-1453-000

Osage Pipe Line Company, 1670 Broadway, Denver, Colorado 80217

1981 Basic Report

No. PV-1470-000

Enterprise Products Company of Mississippi, P.O. Box 4324, Houston, Texas 77210

On or before October 18, 1983, persons other than those specifically designated in Section 19a(h) of the Interstate Commerce Act having an interest in these valuations may file, pursuant to rule 214 of the Federal Energy Regulatory Commission's "Rules of Practice and Procedure" (18 CFR 385.214), an original and three copies of a petition for leave to intervene in these proceedings.

If the petition for leave to intervene is granted the party may thus come within the category of "additional parties as the FERC may prescribe" under Section 19a(h) of the Act, thereby enabling it to file a protest. The petition to intervene must be served on the company at its address shown above and an appropriate certificate of service must be attached to the petition. Persons specifically designated in Section 19a(h) of the Act need not file a petition; they are entitled to file a protest as a matter of right under the statute.

Francis J. Connor,

Administrative Officer, Oil Pipeline Board.

[FR Doc. 83-24610 Filed 9-9-83; 8:45 am]

BILLING CODE 6717-01-M

[Projects Nos. 3666-001 and 3700-001]

Borough of Central City, Pennsylvania; Notice of Surrender of Preliminary Permits

September 7, 1983.

Take notice that the Borough of Central City, Pennsylvania, Permittee for the proposed Allegheny Locks and Dam No. 4, FERC Project No. 3666; and Allegheny Locks and Dam No. 7, FERC Project No. 3700, has requested that its preliminary permits be terminated. The Applicant stated that it is inappropriate for the Borough of Central City to undertake the above referenced projects at this time due to the unavailability of private capital on reasonable terms.

The permit for Project No. 3666 was issued on June 24, 1982, and would have expired on May 31, 1984, and the permit for Project No. 3700 was issued on October 23, 1981, and would have expired on September 30, 1983. Project No. 3666 would have been located on the Allegheny River in Allegheny County, Pennsylvania. Project No. 3700 would have been located on the Allegheny River in Armstrong County, Pennsylvania.

The Permittee filed its request on August 17, 1983, and the surrender of the preliminary permits for Projects Nos. 3666 and 3700 are deemed accepted 30 days after issuance of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-24604 Filed 9-9-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5974-001]

City of Arcata; Surrender of Preliminary Permit

September 7, 1983.

Take notice that the City of Arcata, Permittee for the proposed Maple Creek Water Power Project No. 5974, has requested that its preliminary permit be terminated. The preliminary permit was issued on October 18, 1982, and would have expired on April 30, 1984. The project would have been located on Maple Creek in Humboldt County, California. The Permittee states that a preliminary study found that the project would not be economically feasiable to develop at this time.

The Permittee filed its request on August 10, 1983, and the surrender of the preliminary permit for Project No. 5974 is deemed accepted as of August 10, 1983, and effective 30 days after the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-24607 Filed 9-9-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5973-001]

City of Arcata; Notice of Surrender of Preliminary Permit

September 7, 1983.

Take notice that the City of Arcata, Permittee for the proposed Jacoby Creek Water Power Project No. 5973, has requested that its preliminary permit be terminated. The preliminary permit was issued on June 25, 1982, and would have expired on December 31, 1983. The project would have been located on Jacoby Creek in Humboldt County, California. The Permittee states that a preliminary study found that the project would not be economically feasible to develop at this time.

The Permittee filed its request on August 10, 1983, and the surrender of the preliminary permit for Project No. 5973 is deemed accepted as of August 10,

1983, and effective 30 days after the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-24806 Filed 9-9-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5981-001]

City of Arcata; Surrender of Preliminary Permit

September 7, 1983.

Take notice that the City of Arcata, Permittee for the proposed Cannon Creek Water Power Project No. 5981, has requested that its preliminary permit be terminated. The preliminary permit was issued on October 18, 1982, and would have expired on April 30, 1984. The project would have been located on Cannon Creek in Humboldt County, California. The Permittee states that a preliminary study found that the project would not be economically feasible to develop at this time.

The Permittee filed its request on August 10, 1983, and the surrender of the preliminary permit for Project No. 5981 is deemed accepted as of August 10, 1983, and effective 30 days after the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-24805 Filed 9-9-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-1956-003]

William T. Coleman, Jr.; Notice of Application

September 7, 1983.

The filing individual submits the following:

Take notice that on August 25, 1983, William T. Coleman, Jr. filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Director—Philadelphia Electric Company
Director—The Chase Manhattan Corporation
Director—The Chase Manhattan Bank, N.A.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR Sections 385.211, 385.214). All such motions or protests should be filed on or before September 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-24813 Filed 9-9-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-2059-000]

Lee V. Maurin, Jr., Notice of Application

September 7, 1983.

The filing individual submits the following:

Take notice that on August 18, 1983, Lee V. Maurin, Jr. filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Vice President—New Orleans Public Service, Inc.
Vice President—Louisiana Power & Light Company

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR Sections 385.211, 384.214). All such motions or protests should be filed on or before September 23, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-24809 Filed 9-9-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-128-000]

Pacific Interstate Transmission Co.; Notice of Request

September 7, 1983.

Take notice that on May 20, 1983, Pacific Interstate Transmission Company (Pacific Interstate) tendered for filing a request to make the appropriate accounting entries to reflect the amount of a civil judgement rendered February 13, 1983, and currently under appeal. Pacific Interstate requests that the judgement be entered into Account No. 186 (miscellaneous debits). Pacific Interstate further requests that, to the extent the judgement is affirmed on appeal, the final judgement amount be transferred to Account No. 101 (gas plant in service) and included in the monthly cost of service under its FERC Gas Tariff, Original Volume No. 1. Pacific Interstate also requests a waiver of all applicable Commission regulations.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before September 19, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-24811 Filed 9-9-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-41-000 (PGA84-1)]

Southwest Gas Corp.; Change in Rates Pursuant to Purchased Gas Cost Adjustment

September 7, 1983.

Take notice that on August 29, 1983, Southwest Gas Corporation (Southwest) tendered for filing Twenty-First Revised Sheet No. 10 and Seventh Revised Sheet No. 10A pursuant to Section 9, Purchased Gas Adjustment Clause (PGA), of the General Terms and Conditions contained in its FERC Gas Tariff, Original Volume No. 1. The purpose of said filing is to reflect an increase in rates occasioned by an increase in rates from Southwest's northern Nevada sole supplier of gas, Northwest Pipeline Corporation.

Southwest states that a copy of this filing has been mailed to the Nevada Public Service Commission, The California Public Utilities Commission, Sierra Pacific Power Company and CP National.

Any person desiring to be heard or to protect said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before September 19, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-24812 Filed 9-8-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-2067-000]

John F. White; Notice of Application

September 7, 1983.

The filing individual submits the following:

Take notice that on August 24, 1983, John F. White filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Director—Orange & Rockland Utilities, Inc.
Director—Hutton Investment Series Inc.
Director—Hutton Municipal Funds.
Director—Hutton Telephone and Telecommunications Tax-Advantage Trust

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR Sections 385.211, 385.214). All such motions or protests should be filed on or before September 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-24808 Filed 9-8-83; 8:45 am]

BILLING CODE 6717-01-M

Office of Energy Research

Magnetic Fusion Advisory Committee; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Magnetic Fusion Advisory Committee.

Date and time: Tuesday, September 27, 1983, 9:00 a.m.—5:00 p.m.; Wednesday, September 28, 1983, 9:00 a.m.—1:00 p.m.

Location: Massachusetts Institute of Technology, Room 2209, 170 Albany Street, Cambridge, MA 02139.

Contact: Rosalie H. Weller, U.S. Department Energy, Office of Fusion Energy, ER-50, Mail Stop G-226, Washington, D.C. 20545. Telephone: (301)-353-3598.

Purpose of the committee: To provide advice to the Secretary of Energy on the Department's Magnetic Fusion Energy Program, including periodic reviews of elements of the program and recommendations of changes based on scientific and technological advances or other factors; advice on long-range plans, priorities, and strategies to demonstrate the scientific and engineering feasibility of fusion; advice on recommended appropriate levels of funding to develop those strategies and to help maintain appropriate balance between competing elements of the program.

Agenda:

I. Fusion program balance and priorities
  a. (Change No. 6) Review of Charges
  b. Panel 6 Findings and Recommendations
II. MFAC Discussion and Formulation of Findings and Recommendations in Charge Area No. 6.
III. Public Discussion and Input
IV. New Charge Areas, Public Comment (10 minute rule)

Public participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Rosalie H. Weller at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Minutes: available approximately 30 days following the meeting.

Issued at Washington, D.C. on September 7, 1983.

K. Dean Helms,

Advisory Committee Management Officer.

[FR Doc. 83-24810 Filed 9-8-83; 8:45 am]

BILLING CODE 6450-01-M

Western Area Power Administration

Salt Lake City Area, Proposed Post-1989 General Power Marketing Criteria; Corrections

In Federal Register, Vol. 48, No. 164, on page 38291 in the issue of Tuesday, August 23, 1983, make the following corrections:

In the third column in item 3.a., last line, delete the word "and," and add the words "or other" following the word "agricultural."

In the third column in item 3.c., first line, change "Seasonal" to "Weekly" and add the phrase, "the peak weeks in the," following the word "for."

In the third column in item 5.1., add the words, "location of" following the word "and."

In the third column in item 8., add the following sentence: "Although not required, Western would appreciate receiving load duration curves for recent summer and winter seasons or hourly load data for a year."

In Federal Register, Vol. 48, No. 164, on page 38292 in the issue of August 23, 1983, make the following correction:

In the first column in item 9., fourth line, substitute the word "is" for the words "would be."

Issued in Golden, Colorado, September 2, 1983.

Robert L. McPhail,

Administrator.

[FR Doc. 83-24815 Filed 9-8-83; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPRM-FRL 2430-1]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) requires the Agency to publish in the Federal Register a notice of proposed information collection requests that have been forwarded to the Office of Management and Budget (OMB) for review. The information collection requests listed are available to the public for review and comment.

FOR FURTHER INFORMATION CONTACT: David Bowers; Office of Standards and Regulations; Information Management Section (PM-223); U.S. Environmental Protection Agency; 401 M Street SW.;

Washington, D.C. 20460; telephone (202) 382–2742 or FTS 382–2742.

SUPPLEMENTARY INFORMATION:

Toxics Programs

• Title: Reporting of Substantial Risk Pursuant to TSCA Section 8(e) (EPA ID 0794).

Abstract: EPA requires manufacturers, distributors and processors of chemical substances to report information that indicates a chemical substance poses a substantial risk to health or the environment. The Agency will review the information and take appropriate action.

Respondents: Manufacturers, distributors and processors of chemical substances.

Financial Management Programs

• Title: Funds Transfer Deposit (EPA ID 0253).

Abstract: EPA sends completed Funds Tranfer Deposit forms to businesses with Agency bills for $10,000 or more. The payer verifies the information on the form and takes it to the bank, which electronically transfers the funds to the U.S. Treasury. Treasury then credits the appropriate EPA account.

Respondents: Business paying EPA bills of $10,000 or more.

Agency PRA Clearance Requests Completed by OMB

EPA ID 0783, Application for Motor Vehicle Emission Certification and Fuel Economy Labeling, was cleared on August 8 (OMB #2900–0390).

EPA ID 1060, NSPS for Electric Arc Furnaces in Steel Plants, was cleared on August 25 (OMB #2060–0038).

EPA ID 1067, NSPS for Primary Aluminum Reduction Plants, was cleared on August 25 (OMB #2060–0031).

EPA ID 1069, NSPS for Basic Oxygen Process Funaces, was cleared on August 25 (OMB #2060–0029).

EPA ID 1070, NSPS Monitoring Regulations for Granular Triple Superphosphate Storage, was cleared on August 25 (OMB #2060–0027).

EPA ID 1071, NSPS for New-Modified Gas Turbines, was cleared on August 25 (OMB #2060–0028).

Comments on all parts of this notice should be sent to:

David Bowers (PM 223), U.S. Environmental Protection Agency, Office of Standards and Regulations, 401 M Street, SW., Washington, D.C. 20460

and

Don Arbuckle, Vartkes Broussalian or Anita Ducca, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3228), 726 Jackson Place NW., Washington, D.C. 20503

Dated: September 2, 1983.

N. Phillip Ross, Chief,

Statistical Policy Staff.

[FR Doc. 83-24824 Filed 9-9-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Applications for Consolidated Hearing

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant	City/State	File No.	MM docket No.
A. John Paul Capps and Elizabeth A. Capps d/b/a Capps Radio Company.	Bald Knob, Ark.	BPH-811018AL	83-877
B. Robert B. Blow and Robert G. Blow d/b/a R. B. Management Services.	Bald Knob, Ark.	BPH-820224AA	83-878

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 Fed. Reg. 22428, May 18, 1983. The issue heading shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. (See Appendix)—A & B
2. Air Hazard—B
3. Comparative—A & B
4. ULTIMATE—A & B

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, N.W., Washington, D.C. 20554. Telephone (202) 632–6334.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

Appendix

Issue(s)

To determine with respect to the following applicant(s) whether, in light of the evidence adduced concerning the deficiency set forth above in paragraph 8 [1], the applicant(s) is financially qualified: A (Capps), B (RBMS).

[FR Doc. 83-24752 Filed 9-9-83; 8:45 am]

BILLING CODE 6712-01-M

Agency Information Collection Activities Under OMB Review

September 1, 1983.

On September 1, 1983, the Federal Communications Commission submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511.

Copies of these submissions are available from Richard D. Goodfriend, Agency Clearance Officer, (202) 632–7513. Persons wishing to comment on these information collections should contact David Reed, Office of Management and Budget, Room 3235 NEOB, Washington, D.C. 20503, (202) 395–7231.

Title: Application for a Radio Station License or Modifications Thereof Under Parts 22, 23 or 25

Form No.: FCC 403

Action: Extension

Respondents: Licensees or Applicants in the Domestic Public Land Mobile Radio, Rural Radio, Airground, and Offshore Radio Telephone Services

Estimated Annual Burden: 3,000 Respondents; 30,000 Hours

Title: Application for Authorization in the Auxiliary Radio Broadcast Services

Form No.: FCC 313

Action: Revision

Respondents: Licensees or Applicants for Remote Pickup Aural Microwave, Television Microwave, and Low Power Auxiliary Stations

[1] Paragraph 8 reads as follows:

The material submitted by the applicant(s) below does not demonstrate its financial qualifications. Accordingly, an issue will be specified concerning the following deficiency:

Applicant(s) and Deficiency:

A(Capps)—No loan commitment letter.

B(RBMS)—Balance sheet does not segregate current and long term liabilities.

Estimated Annual Burden: 2,800 Respondents; 14,700 Hours

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-24731 filed 9-9-83; 8:45 am]

BILLING CODE 6712-01-M

Radio Advisory Committee Meeting Rescheduled for October 7, 1983

The next meeting of the Advisory Committee on Radio Broadcasting has been rescheduled for 9:30 a.m., Friday, October 7, 1983, in Room 330, 1200 19th Street NW., Washington, D.C. [Originally, this meeting had been scheduled to take place at the same location on Wednesday, September 28, 1983.]

The Committee will consider recommendations to the FCC concerning:

The development of a new bilateral agreement between the United States and Canada on AM broadcasting which will implement the Final Acts of the 1981 Rio de Janeiro Conference on AM broadcasting in Region 2 and supersede the North American Regional Broadcasting Agreement (NARBA);

The development of similar revisions to the U.S.-Mexican AM Radio Broadcasting Agreement; and

Other Business.

The meetings of the Committee are public, and are open for participation by all interested persons. The meeting scheduled for October 7, 1983, may, if the participants so decide, be recessed for resumption at such other time and place as they may designate.

For further information please contact the Committee Chairman, Louis C. Stephens or Jonathan David at F.C.C. Headquarters, (202) 632-7792.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-24740 Filed 9-9-83; 8:45 am]

BILLING CODE 6712-01-M

[Report No. 1424]

Petitions for Reconsideration of Actions in Rule Making Proceedings

September 2, 1983.

The following listings of petitions for reconsideration filed in Commission rulemaking proceedings is published pursuant to CFR 1.429(e). Oppositions to such petitions for reconsideration must be filed within 15 days after publication of this Public Notice in the **Federal Register**. Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of Parts 2, 21, 74 and 94 of the Commission's Rules and Regulations in regard to frequency allocation to the Instructional Television Fixed Service, the Multipoint Distribution Service, and the Private Operational Fixed Microwave Service. (Gen Docket No. 80-112)

Inquiry into the development of regulatory policy with regard to future service offerings and expected growth in the Multipoint Distribution Service and Private Operational Fixed Microwave Service, and into the development of provisions of the Commission's Rules and Regulations in regard to the compatibility of the operation of satellite services with other services authorized to operate in the 2500-2690 MHz band. (CC Docket No. 80-116)

Filed by: John B. Schwartz, Director for Western Communications Research Institute, Inc., on 8-10-83; Rodney O. Thorson, Attorney for Harry J. Pappas on 8-13-83; Lawrence A. Horn, Senior Vice President and General Counsel, Nancy H. Hendry, Deputy General Counsel & Peter Tannenwald & Theodore D. Frank, Attorneys for Public Broadcasting Service on 8-25-83.

Subject: Various Methods of Transmitting Program Material to Hotels and Similar Locations and Use of the Business Radio Service for the Transmission of Motion Pictures or Other Program Material to Hotels or Other Similar Points. (Docket No. 19671)

Filed by: Stephen R. Bell & Paul J. Sinderbrand, Attorneys for Satellite Broadcasting Company, Inc., on 8-17-83.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-24750 Filed 9-9-83; 8:45 am]

BILLING CODE 6712-01-M

Telecommunications Industry Advisory Group Plant Accounts Subcommittee; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Telecommunications Industry Advisory Group (TIAG) Plant Accounts Subcommittee scheduled to meet on Wednesday and Thursday, September 21 and 22, 1983. The meeting will begin on Wednesday, September 21 at 10:00 a.m. in Denver, Colorado. For further details on meeting site, contact FCC representative Hugh Boyle at (202) 634-1751. The meeting will be open to the public. The agenda is as follows:

I. General Administrative Matters

II. Review of Minutes of Previous Meeting

III. Discussion of Plant Accounts

IV. Further Assignments

VI. Adjournment.

With prior approval of Subcommittee Chairman Gyles Norwood, oral statements, while not favored or encouraged, may be allowed at the meeting if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of Subcommittee objectives. Anyone not a member of the Subcommittee and wishing to make an oral presentation should contact Mr. Norwood (703/486-4168) at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-24748 Filed 9-9-83; 8:45 am]

BILLING CODE 6712-01-M

Advanced Mobile Phone Service D.C. et al.; Correction

In re Applications of Advanced Mobile Phone Service, Inc., File No. 26023-CL-P-(15)-82, GTE Mobilnet of Dallas, Inc., File No. 26056-CL-P-(11)-82, for a construction permit to establish a new cellular system operating on frequency block B in the Domestic Public Cellular Radio Telecommunications Service to serve the Dallas-Fort Worth, Texas, Standard Metropolitan Statistical Area (SMSA).

In re Applications of D/FW Signal, Inc., CC Docket No. 83-945 File No. 26039-CL-P-(20)-82, LIN Cellular Communications Corp., File No. 26143-CL-P-(28)-82, MCI Cellular Telephone Co., File No. 26106-CL-P-(23)-82, Cellular Mobile Systems of Texas, Inc., File No. 26185-CL-P-(35)-82, Mid-American Cellular Systems, Inc., File No. 26158-CL-P-(5)-82, For a construction permit to establish a new cellular system operating on frequency block A in the Domestic Public Cellular Telecommunications Service to serve the Dallas-Fort Worth, Texas, Standard Metropolitan Statistical Area (SMSA)

Released: September 2, 1983.

1. The caption of the Memorandum Opinion and Order Granting Application and Designating Applications for Hearing in the above entitled matter, CC Mimeo 6154, adopted August 24, 1983, released August 26, 1983, is corrected to read "Mid-America Cellular Systems, Inc."

2. The first sentence of paragraph 40 is corrected to read "IT IS FURTHER ORDERED, pursuant to Section 309 of the Communications Act of 1934, as amended, that the applications of D/FW Signal, Inc., LIN Cellular Communications Corp., MCI Cellular Telephone Co., Cellular Mobile Systems of Texas, Inc., and Mid-America Cellular

Systems, Inc., are designated for hearing in a consolidated proceeding, upon the following issues:[11]".

William F. Adler,

Chief, Mobile Services Division, Common Carrier Bureau.

[FR Doc. 83-24755 Filed 9-9-83; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket Nos. 83-871 and 83-872; File Nos. 10304-CM-P-80 and 50016-CM-P81]

Broadcast Data Corp. and Telecommunications Systems, Inc.; Hearing Designation Order

In the matter of applications of Broadcast Data Corp. (CC Docket No. 83-871 File No. 10304-CM-P-80) and Telecommunications Systems, Inc. (CC Docket No. 83-872 File No. 50016-CM-P-81) for construction permits in the Multipoint Distribution Service for a new station at Goetzville, Michigan.

Adopted August 8, 1983.
Released August 26, 1983.

By the Common Carrier Bureau.

Memorandum Opinion and Order

1. For consideration are the above-referenced applications.[1] These applications are construction permit in the Multipoint Distribution Service and they propose operations on Channel 1 at Goetzville, Michigan. The applications are therefore mutually exclusive and, under present procedures, require comparative consideration. These applications have been amended as a result of informal requests by the Commission's staff for additional information. There are no petitions to deny or other objections under consideration.[2]

2. Upon review of the captioned applications, we find that these applicants are legally, technically, financially, and otherwise qualified to provide the services which they propose, and that a hearing will be required to determine, on a comparative basis, which of these applications should be granted.[3]

3. Accordingly, it is hereby ordered, That pursuant to section 309(e) of the Communications Act of 1934, as amended, 47 U.S.C. 309(e) and section 0.291 of the Commission's Rules, 47 CFR 0.291, the above-captioned applications are designated for hearing, in a consolidated proceeding, at a time and place to be specified in a subsequent Order, to determine, on a comparative basis, which of the above-captioned applications should be granted in order to best serve the public interest, convenience and necessity. In making such a determination, the following factors shall be considered: [4]

(a) The relative merits of each proposal with respect ot efficient frequency use, particularly with regard to compatibility with co-channel use in nearby cities and adjacent channel use in the same city;

(b) The anticipated quality and reliability of the service proposed, including installation and maintenance programs; and

(c) The comparative cost of each proposal considered in context with the benefits of efficient spectrum utilization and the quality and reliability of service as set forth in issues (a) and (b).

4. It is further ordered, That Broadcast Data Corp., Telecommunications Systems, Inc. and the Chief, Common Carrier Bureau, are made parties to this proceeding.

5. It is further ordered, That parties desiring to participate herein shall file their notices of appearance in accordance with the provisions of Section 1.221 of the Commission's Rules, 47 CFR 1.221.

6. It is further ordered, That any authorization granted to Broadcast Data Corp., a wholly-owned subsidiary of Graphic Scanning Corporation, as a result of the comparative hearing shall be conditioned on, and without prejudice to, reexamination and reconsideration of that company's qualifications to hold an MDS license following a decision in the hearing designated in *A.S.D. Answering Serivce, Inc., et at,* FCC 82-391, released August 24, 1982, and shall be specifically conditioned upon the outcome of that proceeding.

7. This Order is effective on its release date. Petitions for reconsideration under Section 1.106 or applications for review under Section 1.115 of the Rules may be filed within the time limits specified in those sections. *See also* Rule 1.4(b)(2).

8. The Secretary shall cause a copy of this Order to be published in the Federal Register.

Kevin J. Kelley,

Deputy Chief, Domestic Facilities Division, Common Carrier Bureau.

[FR Doc. 83-24756 Filed 9-9-83; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket NNS. 83-875 and 83-876; File Nos. BPED-790905AB and BPED-800314AL]

Genessee County Educational Radio, Inc., and The Regents of the University of Michigan; Hearing Designation Order

In the matter of applications of Genessee County Educational Radio, Inc. (hereafter Genessee) Goodrich, Michigan (MM Docket No. 83-875, File No. BPED-790905AB) Req: 91.1 MHz, Channel 216A. 115 kW (H&V), 100 feet and The Regents of the University of Michigan (hereafter University), Flint, Michigan (MM Docket No. 83-876, File No. BPED-800314AL) Req: 91.1 MHz, Channel 216B15 KW (H&V), 490 feet for construction permit.

Adopted: August 8, 1983.
Released: September 2, 1983.

By the Chief, Mass Media Bureau.

11. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications for a new educational FM station.

2. Neither applicant has indicated whether an attempt has been made to negotiate a share-time arrangement. Therefore, an issue will be specified to determine whether a share-time arrangement between the applicants would be the most effective use of the frequency and thus better serve the public interest. *Granfalloon Denver Educational Broadcasting, Inc.*, 43 FR 49560, published October 24, 1978. It should be noted that our action specifying a share-time issue is not intended to preclude the applicants, either before the commencement of the hearing or any time during the course of the hearing, from participating in negotiations with a view toward establishing a share-time agreement themselves.

3. The respective proposals, although for different communities, would serve substantial areas in common. Consequently, in addition to determining, pursuant to Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service, a

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[1] On September 10, 1981, Richard L. Vega and Christopher Laning executed an Assets Sale and Purchase Agreement with Broadcast Data Corp. to assign the radio authorizations and applications of Northstar Communications to Broadcast Data Corp. Broadcast Data Corp. is a wholly-owned subsidiary of Graphic Scanning Corporation. See International Television Corporation, File No. 50070-CM-AP/AL-(5)-82 (released June 25, 1982).

[2] On March 28, 1983, Northstar Communications was granted an exemption from the Commission's "cut-off" rules pursuant to Section 21.31 of the Rules. 47 CFR § 21.31, to preserve the status of its pending mutually exclusive applications.

[3] This finding is subject to paragraph 6, *infra.*

[4] Consideration of these factors shall be in light of the Commission's discussion in *Frank K. Spain,* 77 FCC 2d 20 (1980).

contingent comparative issue will also be specified.

4. Except as may be indicated by an issues specified below, the applicants are qualified to construct and operate as proposed. Since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

5. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine the number of other primary noncommerical educational FM services available in the proposed service areas and the area and populations served thereby.

2. To determine, whether a share-time arrangement between the applicants would result in the most effective use of the channel and thus better serve the public interest, and, if so, the terms and conditions thereof.

3. To determine, in light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service.

4. To determine, in the event it is concluded that a choice between applications should not be based solely on considerations relating to Section 307(b), the extent to which each of the proposed operations will be integrated into the overall educational operation and objectives of the respective applicants; or whether other factors in the record demonstrate that one applicant will provide a superior FM educational broadcast service.

5. To determine, in light of the evidence adduced pursuant to the foregoing issues, which, if either, of the applications should be granted.

6. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for hearing and to present evidence on the issues specified in this Order.

7. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by Section 73.3594(g) of the Rules.

Federal Communications Commission.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 83-24754 Filed 9-9-83; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket Nos. 83-856 and 83-857; File Nos. BPED-810505AJ and BPED-811127AC]

Sonshine Educational Radio, Inc., and the Association for Community Education, Inc.; Hearing Designation Order

In the matter of applications of Sonshine Educational Radio, Inc., Oxnard, California (MM Docket No. 83-856, File No. BPED-810505AJ) Req: 90.3 MHz, Channel 212B 4.6 kW (H&V), 1300 feet and The Association for Community Education, Inc., Camarillo, California (MM Docket No. 83-857, File No. BPED-811127AC) Req: 90.3 MHz, Channel 212B 4.4 kW (H&V), 1600 feet for construction permit for a new FM station.

Adopted: August 4, 1983.
Released: September 6, 1983.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications filed by Sonshine Educational Radio, Inc. (Sonshine) and The Association for Community Education, Inc. (Community).

2. *Sonshine.* Analysis of the financial data submitted by Sonshine reveals that $41,895 will be required to construct the proposed station and to operate the facilities for the first three months. Sonshine has shown only current liquid assets of $15,623 to meet the required costs, and it has acknowledged this deficiency in its timely-filed amendment of September 24, 1982, noting its ongoing attempt "to secure alternate financing." Accordingly, an issue will be specified concerning this deficiency.

3. On June 10, 1983, Sonshine petitioned for leave to amend its application. The accompanying amendment was filed after September 30, 1982, the last day for filing minor amendments as of the right. The amendment consists of a refiling of the certification page and was provided at the Commission's request pursuant to Section 73.3514(b) of the Rules since the original of the application is no longer in our files. Accordingly, the amendment is accepted for filing.

4. *Community.* Analysis of the financial data submitted by Community reveals that $47,737 will be required to construct the proposed station and to operate the facilities for three months. Community has shown current liquid assets in excess of current liabilities of $1,050 available to meet these required costs, and has provided no documents to support anticipated donations, grants, and corporate contributions. Accordingly, an issue will be specified concerning this deficiency.

5. Community has proposed 4.4 kW effective radiated power at 1600 feet HAAT. The effective radiated power requested by Community was calculated using the 50, 50 curves (Section 73.333, Figure 1) to determine the de-rating required by the use of an antenna height exceeding 500 feet HAAT. However, since Community's proposed site is within 199 miles of the Mexican border, the de-rating must be calculated using the curves specified in Section 73.333, Figure 3. Our analysis of Community's projected HAAT indicates that the maximum permissible ERP for antennas 1600 feet above average terrain is approximately 2.6 kW. Accordingly, Community will be required to file an amended Section V-B, Item 9 with the presiding Administrative Law Judge within 30 days of the date of mailing of this Order, specifying power in accordance with applicable Commission rules.

6. The respective proposals, although for different communities, would serve substantial areas in common. Consequently, in addition to determining, pursuant to Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient and equitable distribution of radio service, a contingent comparative issue will also be specified.

7. Inasmuch as this proceeding involves competing applicants for noncommercial educational facilities, the standard areas and populations issue will be modified in accordance with the Commission's prior action in *New York University*, FCC 67-673, released June 8, 1967, 10 RR 2d 215 (1967). Thus the evidence adduced under this issue will be limited to available noncommercial educational FM signals within the respective service areas.

8. Neither applicant has indicated whether an attempt has been made to negotiate a share-time arrangement. Therefore, an issue will be specified to determine whether a share-time arrangement between the applicants would be the most effective use of the frequency and thus better serve the public interest. *Granfalloon Denver Educational Broadcasting, Inc.*, 43 FR

49560, published October 24, 1978. In the event that this issue is resolved in the affirmative, an issue will also be specified to determine the nature of such an arrangement. it should be noted that our action specifying a share-time issue is not intended to preclude the applicants, either before the commencement of the hearing or at any time during the course of the hearing, from participating in negotiations with a view toward establishing a share-time agreement between themselves.

9. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

10. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to Sonshine whether, in light of the evidence adduced concerning the deficiency set forth above in paragraph 2, the applicant is financially qualified.

2. To determine with respect to Community whether, in light of the evidence adduced concerning the deficiency set forth above in paragraph 4, the applicant is financially qualified.

3. To determine the number of other reserved channel noncommercial educational FM services available in the proposed service area of each applicant, and the area and population served thereby.

4. To determine whether a share-time arrangement between the applicants would result in the most effective use of the channel and thus better serve the public interest, and, if so, the terms and conditions thereof.

5. To determine, in the light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient and equitable distribution of radio service.

6. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

11. It is further ordered, That the petition for leave to amend filed by Sonshine is granted, and the corresponding amendment is accepted.

12. It is further ordered, That Community shall file an amended Section V–B, Item 9 within thirty days from the release of this Order with the presiding Administrative Law Judge.

13. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for hearing and to present evidence on the issues specified in this Order.

14. It is further ordered, That, the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 83-24753 Filed 9-9-83; 8:45 am]
BILLING CODE 6712-01-M

[Docket Nos. 83-866 etc.; File Nos. 10301-CM-P-80]

Broadcast Data Corp. et al.; Hearing Designation Order

In the matter of applications of Broadcast Data Corp. (CC Docket No. 83-866, File No. 10301-CM-P-80) and Kravetz Media Corporation (CC Docket No. 83-867, File No. 11610-CM-P-80) and Telecommunications Systems, Inc. (CC Docket No. 83-863, File No. 500128-CM-P-81) for construction permits in the Multipoint Distribution Service for a new station at Farmington, New Mexico.

Adopted: August 5, 1983.
Released: August 26, 1983.

By the Common Carrier Bureau.

1. For consideration are the above-referenced applications.[1] These applications are for construction permits in the Multipoint Distribution Service and they propose operations on Channel 1 at Farmington, New Mexico. The applications are therefore mutually exclusive and, under present procedures, require comparative consideration. These applications have been amended as a result of informal requests by the Commission's staff for additional information. There are no petitions to deny or other objections under consideration.[2]

2. Upon review of the captioned applications, we find that these applicants are legally, technically, financially, and otherwise qualified to provide the services which they propose, and that a hearing will be required to determine, on a comparative basis, which of these applications should be granted.[3]

3. Accordingly, it is hereby ordered, That pursuant to section 309(e) of the Communications Act of 1934, as amended, 47 U.S.C. 309(e) and § 0.291 of the Commission's Rules, 47 CFR § 0.291, the above-captioned applications are designated for hearing, in a consolidated proceeding, at a time and place to be specified in a subsequent Order, to determine, on a comparative basis, which of the above-captioned applications should be granted in order to best serve the public interest, convenience and necessity. In making such a determination, the following factors shall be considered:[4]

(a) The relative merits of each proposal with respect to efficient frequency use, particularly with regard to compatibility with co-channel use in nearby cities and adjacent channel use in the same city;

(b) The anticipated quality and reliability of the service proposed, including installation and maintenance programs; and

(c) The comparative cost of each proposal considered in context with the benefits of efficient spectrum utilization and the quality and reliability of service as set forth in issues (a) and (b).

4. It is further ordered, That Broadcast Data Corp., Kravetz Media Corporation, Telecommunications Systems, Inc. and the Chief, Common Carrier Bureau, are made parties to this proceeding.

5. It is further ordered, That parties desiring to participate herein shall file their notices of appearance in accordance with the provisions of Section 1.221 of the Commission's Rules, 47 CFR § 1.221.

6. It is further ordered, That any authorization granted to Broadcast Data Corp., a wholly-owned subsidiary of Graphic Scanning Corporation, as a result of the comparative hearing shall

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[1] On September 10, 1981, Richard L. Vega and Christopher Laning executed an Assets Sale and Purchase Agreement with Broadcast Data Corp. to assign the radio authorizations and applications of Northstar Communications to Broadcast Data Corp. Broadcast Data Corp. is a wholly-owned subsidiary of Graphic Scanning Corporation. See International Television Corporation, File No. 80078-CM-AP/AL-(5)-82 (released June 25, 1982).

[2] On March 23, 1983, Northstar Communications was granted an exemption from the Commission's "cut-off" rules pursuant to Section 21.31 of the Rules, 47 CFR 21.31, to preserve the status of its pending mutually exclusive applications.

[3] This finding is subject to paragraph 6, *infra*.

[4] Consideration of these factors shall be in light of the Commission's discussion in *Frank K. Spain*, 77 FCC 2d 20 (1980).

be conditioned on, and without prejudice to, reexamination and reconsideration of that company's qualifications to hold an MDS license following a decision in the hearing designated in A.S.D. Answering Service, Inc., et al., FCC 81–391, released August 24, 1982, and shall be specifically conditioned upon the outcome of that proceeding.

7. This Order is effective on its release date. Petitions for reconsideration under Section 1.106 or applications for review under Section 1.115 of the Rules may be filed within the time limits specified in those sections. *See also* Rule 1.4(b)(2).

8. The Secretary shall cause a copy of this Order to be published in the **Federal Register.**

Kevin J. Kelley,

Deputy Chief, Domestic Facilities Division, Common Carrier Bureau.

[FR Doc. 83–24758 Filed 9–9–83; 8:45 am]

BILLING CODE 6712–01–M

[Docket No. 83–716; File Nos. 26085 etc.]

Cellular Network, Inc.; Hearing Designation Order

In the matter of applications of Cellular Network, Inc. (CC Docket No. 83–716, File No. 26085–CL–P–(19)–82); McCaw/Intrastate Cellular Systems [1] (File No. 26116–CL–P–(15)–82); Cellular Mobile Systems of California, Inc. (File No. 26193–CL–P–(20)–82); for a construction permit to establish a new cellular system operating on frequency block A in the Domestic Public Cellular Radio Telecommunications Service to serve the San Francisco, California, Standard Metropolitan Statistical Area.

Adopted: August 30, 1983.

Released: September 1, 1983.

By the Common Carrier Bureau.

Memorandum Opinion and Order on Reconsideration

1. Before the Common Carrier Bureau is the petition for reconsideration of the Bureau's San Francisco cellular designation order. The petition was filed by McCaw Communications of San Francisco, Inc. (McCaw). The petition refers to the San Francisco nonwireline applications.[2]

2. *CGSA Extension.* Petitioner McCaw argues that the San Francisco nonwireline applicants propose extensions of certain of their 39 dBu contours into adjacent central SMSAs in violation of the cellular rules. After reviewing the San Francisco applications, we agree and we will grant reconsideration. Cellular Network, Inc. (Cellnet), Cellular Mobile Systems of California, Inc. (CMS) and McCaw all have extensions of their 39 dBu Contours into adjacent central SMSAs including San Jose, Sacramento or Stockton.[3] The Bureau inadvertently overlooked these extensions in the *San Francisco Order, supra.* In addition, although McCaw's petition alleges that its exensions are *de minimis,* we find that they are impermissible under our rules.[4] Accordingly, we will require all the above applicants to file conforming amendments to shrink their 39 dBu contours within the San Francisco SMSA. The amended contours shall not cover any area in the SMSA not previously covered by the nonconforming 39 dBu contours. These amendments should consider the effects, if any, that these changes may have on other parts of the three applications. Under the circumstances, brief extensions of time may be granted at the discretion of the Administrative Law Judge.

3. *Cellnet application—Site Availability.* Petitioner McCaw alleges that the *San Francisco Order, supra,* did not adequately address its allegation that Cellnet misrepresented material facts with respect to its site availability showing. McCaw requests that the Bureau reconsider its decision not to designate a full site availability issue against Cellnet. After reviewing McCaw's petition, we have decided not to grant reconsideration on this issue. We find that the Designation Order adequately addressed the allegations raised by McCaw in its pleadings. Accordingly, we will not revisit that issue here.

4. Accordingly, for the reasons given, its is ordered, that the petition for reconsideration is granted to the extent indicated above, and the San Francisco designation order is amended as discussed here.

5. It is further ordered, the Cellnet, CMS and McCaw are directed to file the conforming amendments described above within 15 days of the publication of this order in the **Federal Register** and that the date for filing rebuttal cases under § 22.916(b)(4) of the Rules is deferred pending establishment of procedural dates by the Administrative Law Judge.

6. The Secretary shall cause a copy of this order to be published in the **Federal Register.**

Kenneth A. Levy,

Acting Deputy Chief/Operations, Common Carrier Bureau.

[FR Doc. 83–24757 Filed 9–11–83; 8:45 am]

BILLING CODE 6712–01–M

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[1] By Memorandum Opinion and Order, FCC 83M–2907, released August 29, 1983, the Administrative Law Judge granted a partial settlement agreement filed by McCaw and Intrastate for the San Francisco SMSA. In addition, Intrastate's application was dismissed with prejudice. Accordingly, Intrastate's application will not be discussed here.

[2] GTE Mobilnet of San Francisco, Inc. (San Francisco Order), CC Mimeo 5129, released July 8, 1982.

[3] On August 3, 1983, Cellnet filed an amendment with the Administrative Law Judge changing the location of several of its cell sites. In addition, on August 8, 1983, Cellnet submitted a map depicting its revised 39 dBu contours resulting from the new sites. However, these contours also overlap impermissibly into adjacent central SMSAs.

[4] See Memorandum Opinion and Order on Reconsideration (San Jose), CC Mimeo 5278, released July 12, 1983.

FEDERAL EMERGENCY MANAGEMENT AGENCY

Emergency Food and Shelter National Board Program Plan Supplement; Washington et al.

AGENCY: Federal Emergency Agency.

ACTION: Notice.

SUMMARY: The Emergency Food and Shelter National Board Program Plan, 48 FR 20014 (May 3, 1983) is formally amended to reflect the National Board's decision to reallocate unclaimed or refused award funds. The National Board voted to reallocate the $851,609.18 in total award funds to the seven counties that were funded on appeal (see 48 FR 30447, July 1, 1983), but had received a minimal level of funding. The additional amounts these counties will receive are:

Spokane County, Washington—$92,496.00
Contra Costa County, California—$140,856.00
Middlesex County, New Jersey—$132,456.00
Delaware County, Pennsylvania—$104,608.18
Salt Lake County, Utah—$111,294.00
Essex County, Massachusetts—$131,040.00
New Haven County, Connecticut—$138,859.00

With this decision, all National Board Program monies have been obligated, leaving no further funding decisions to be made.

FOR FURTHER INFORMATION CONTACT: Karen Keefer, Individual Assistance Division, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 287–0567.

Dated: August 30, 1983.

Dennis Kwiatkowski,

Chairman, National Board for Emergency Food and Shelter Program.

[FR Doc. 83–24792 Filed 9–9–83; 8:45 am]

BILLING CODE 6718–01–M

FEDERAL MARITIME COMMISSION

Independence Ocean Freight Forwarder License Applicants; C. C. Group Forwarding Agency (USA) Corp., et al.

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 75 (stat. 522 and 46 U.S.C. 841(c)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573,

C. C. Group Forwarding Agency (USA) Corporation, c/o 5428 West 104th Street, Los Angeles, CA 90045, Officers: Alejandro Quant, President/Director, Steven Che'ng, Stockholder, Leonard Quant, Board of Directors, Barbara Quant, Secretary/Treasurer

American Ensign Van Services, Inc., 2698 Dawson Avenue, Long Beach, CA 90806–2089, Officers: Richard A. Moore, Director, Robert A. Patton, Director, David P. Watkins, President/Director, Robert W. Shewan, Vice President

Alison Transport, Inc., Bldg. 15A Hook Creek Blvd. at 145 Avenue, Valley Stream, NY 11581, Officer: Stanley Safian, Sole Officer

By the Federal Maritime Commission.

Dated: September 7, 1983.

Francis C. Hurney,

Secretary.

[FR Doc. 83–24826 Filed 9–9–83; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Formation of Bank Holding Company; BancOklahoma Corp.

BancOklahoma Corp., Tulsa, Oklahoma, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent or more of the voting shares of the following banks: Boulder Bank and Trust Company, Tulsa, Oklahoma; Mercantile Bank and Trust Company, Tulsa, Oklahoma; City Bank and Trust Company, Tulsa, Okalahoma; Sand Springs State Bank, Sand Springs, Oklahoma; American Bank of Oklahoma, Pryor, Oklahoma; Southwest Tulsa Bank, Tulsa, Oklahoma; First Bank in Claremore, Claremore, Oklahoma; Affiliated Bank of Sapulpa, N.A., Sapulpa, Oklahoma, a *de novo* bank, and Affiliated Bank of Broken Arrow, N.A., Broken Arrow, Oklahoma, a *de novo* bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

BancOklahoma Corp., Tulsa, Oklahoma, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1842(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Family Protective Life Insurance Co., Tulsa, Oklahoma.

Applicant states that the proposed subsidiary would engage in the activities of selling credit life, accident, and health insurance. These activities would be performed from offices of Applicant's subsidiary in Tulsa, Oklahoma, and the geographic area to be served is the State of Oklahoma. In addition, Applicant's subsidiary Bank Oklahoma Mortgage Corp., Tulsa, Oklahoma, proposes to expand its service area to include the State of Oklahoma. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, indentifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Reserve Bank not later than October 3, 1983.

Board of Governors of the Federal Reserve System, September 6, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83–24740 Filed 9–9–83; 8:45 am]

BILLING CODE 6210–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committee; Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meeting is announced:

Hematology and Pathology Device Section of the Clinical Chemistry and Hematology Devices Panel

Date, time, and place. September 27, 2:30 p.m., Rm. 1200E, 8757 Georgia Ave., Silver Spring, MD.

Type of meeting and contact perons. This meeting will be held by conference telephone call. A speaker phone will be provided in the conference room to allow public participation in the open sessions of the meeting. Open public hearing, 2:30 p.m. to 3:15 p.m.; open committee discussion, 3:15 p.m. to 3:30 p.m.; Joseph L. Hackett, National Center for Devices and Radiological Health (HFK–440), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910; 301–427–7550.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before September 19, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss reclassification requests for

calibrators for hemoglobin or hematocrit measurement.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

Dated: September 8, 1983.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 83–24821 Filed 9–9–83; 4:25 pm]

BILLING CODE 4160–01–M

Health Resources and Services Administration

Application Announcement and Final Funding Preferences for the Health Careers Opportunity Program (HCOP)

Correction

In FR Doc. 83–24065 beginning on page 39700 in the issue of Thursday, September 1, 1983 make the following correction.

On page 39702, first column, the seventh through eighteenth lines, consisting of the following listing:

"Dental Hygienist
Dental Laboratory Technician
Medical Assistant
Medical Laboratory Technician
Medical Records Technician
Occupational Therapy Assistant
Ophthalmic Medical Assistant
Optometric Technician
Physical Therapy Assistant
Radiologic Technologist
Respiratory Therapist
Sanitarian Technician"

should have appeared on page 39701, third column, alphabetically, under the heading "Associate Degree:".

BILLING CODE 1505–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. D–83–705]

Delegations of Authority—September 6, 1983, Departmental Reorganization

AGENCY: Office of the Secretary, HUD.

ACTIONS: Delegations of Authority.

SUMMARY: The Department of Housing and Urban Development is reorganizing its Regional and Field offices beginning September 6, 1983. The reorganization requires an extensive revision of HUD's delegations of authority to Regional and Field offices to conform the delegations to the new organization. This Notice delegates to each of HUD's ten Regional Administrators all authority necessary to continue the operation of HUD's programs without interruption, and it authorizes the Regional Administrator to redelegate such authority to HUD employees within his or her Region. Redelegations issued under this authority will expire no later than 60 days after the effective date of this Notice by which time the Department will have issued at least a preliminary revision of all Regional and Field redelegations.

EFFECTIVE DATE: September 6, 1983.

FOR FURTHER INFORMATION CONTACT: David D. White, Assistant General Counsel for Administrative Law, Room 10254, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Telephone: (202) 755–7137 (this is not a toll-free number).

Authorities Delegated

1. Each Regional Administrator and Deputy Regional Administrator is hereby delegated all authority currently delegated to any HUD officer or employee in the Region for which that Regional Administrator or Deputy Regional Administrator is responsible.

2. Each Regional Administrator may redelegate to any HUD employee any authority delegated to the Regional Administrator by this Notice or otherwise. Such redelegations shall expire 60 days after the effective date of this Notice, unless earlier revoked.

Dated: September 6, 1983.

Samuel R. Pierce, Jr.,

Secretary of Housing and Urban Development.

[FR Doc. 83–24748 Filed 9–9–83; 8:45 am]

BILLING CODE 4210–01–M

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. D–83–704]

Redelegation of Authority

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Redelegation of Authority.

SUMMARY: This redelegation of authority delegates from the Assistant Secretary for Housing—Federal Housing Commissioner to each Regional Administrator and Field Office Manager the authority to execute documents necessary to transfer title in and to any debt, contract, claim, property, or security obtained by the Secretary in connection with the payment of claims under Title I of the National Housing Act and to execute settlement agreements in connection with the collection of any such debt, contract, claim, property, or security.

EFFECTIVE DATE: September 8, 1983.

FOR FURTHER INFORMATION CONTACT: William Halpern, Acting Director of the Office of Title Insured Loans, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 9154, Washington, D.C. 20410; (202) 426–3970. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: HUD will change the title of Area Office Manager and Service Office Supervisor to Field Office Manager on September 8, 1983 (effective date of HUD field office reorganization).

This redelegation of authority will give each Regional Administrator and Field Office Manager adequate administrative control of Title I security interest transfers and debt collection compromise agreements.

Accordingly, the redelegation of authority should read as follows:

Section A. The Assistant Secretary for Housing—Federal Housing Commissioner redelegates to each Regional Administrator and Field Office Manager the authority to execute documents necessary to transfer title in and to any debt, contract, claim, property or security obtained by the Secretary in connection with the payment of claims under Title I of the National Housing Act and to execute settlement agreements in connection with the collection of any such debt, contract, claim, property or security. Section B. The authority redelegated under Section A may not be further redelegated.

Authority: Delegation of Authority to the Assistant Secretary and Deputy Assistant Secretary for Housing Production and Mortgage Credit, 36 FR 5006 (March 16, 1971); Delegation of Authority to the Assistant Secretary for Housing—Federal Housing Commissioner, 41 FR 24755 (June 18, 1976).

Dated: September 1, 1983.

Philip Abrams,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 83–24759 Filed 9–8–83; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Lac du Flambeau Indian Reservation, Ordinance Regulating the Use, Possession, Sale and Distribution of Intoxicating Beverages; Correction

In FR Doc. 83–4258 appearing at pages 7316–7318 in the **Federal Register** of February 18, 1983, the following changes are made:

1. On page 7317, column two (2), the fourth paragraph is corrected to read as follows:

"2.24 'Class A Retailers License' shall mean the granting of authority to sell only fermented malt beverages for consumption away from the premises where sold and in the original packages, containers or bottles."

2. On page 7317, column two (2), the eighth paragraph is corrected to read as follows:

"2.28 'Temporary License' shall mean a license for a term of no more than 7 days of any of the types defined in 2.24, 2.25, 2.26 or 2.27."

3. On page 7317, column two (2), following paragraph eleven, section 2.32 is added and reads as follows:

"2.32 'Tribe' means the Lac du Flambeau Band of Lake Superior Chippewa Indians."

4. On page 7317, column three (3), line six of paragraph two is corrected to read as follows:

"Class B Retail Intoxicating Liquor"

The foregoing is published in accordance with authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8. Pursuant to that authority I certify these corrections for publication in the **Federal Register.**

Dated: August 24, 1983.

John W. Fritz,

Acting Assistant Secretary, Indian Affairs.

[FR Doc. 83–24744 Filed 9–9–83; 8:45 am]

BILLING CODE 4310–02–M

Office of Surface Mining Reclamation and Enforcement

Availability of Annual Evaluation Reports on the Administration of State Regulatory and Abandoned Mine Lands Programs Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Notice of availability.

SUMMARY: OSM is announcing the availability of four annual evaluation reports on the administration of State regulatory and abandoned mine lands (AML) programs under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The four reports, covering the States of Iowa, Kansas, Utah, and Virginia, were prepared under the provisions of OSM's oversight policy and have been transmitted to Congress.

ADDRESSES: See "**SUPPLEMENTARY INFORMATION**" for addresses where copies of the reports may be obtained.

FOR FURTHER INFORMATION CONTACT: Arthur W. Abbs, Chief, Division of State Program Assistance, Office of Surface Mining, 1951 Constitution Avenue, NW., Washington, D.C. 20240; Telephone: (202) 343–5351.

SUPPLEMENTARY INFORMATION:

Addresses

Copies of the reports are available, free of charge, at the respective OSM offices listed below:

Iowa, Kansas—Kansas City Field Office, Office of Surface Mining, 818 Grand Avenue, Scarritt Building, Kansas City, Missouri 64106

Utah—Albuquerque Field Office, Office of Surface Mining, 219 Central Avenue, NW., Albuquerque, New Mexico 87102

Virginia—Big Stone Gap Field Office, Office of Surface Mining, R.R. #3, Box 183–C, Big Stone Gap, Virginia 24219

Background

Under Section 503 of SMCRA, a State may elect to assume primary responsibility for regulating surface coal mining and reclamation operations within its borders by submitting a program to the Secretary of the Interior which demonstrates the State's capability to carry out the provisions of SMCRA. Once the Secretary approves the program, the State is granted primacy, and the Federal Government assumes a monitoring and evaluation role. OSM has developed an evaluation policy, in consultation with the States, which is implemented primarily through OSM's Field Offices. Monitoring of the State's administration and enforcement of its regulatory and AML programs is conducted throughout the year. The Field Office Directors compile and analyze the data gathered during the evaluation period and prepare annual evaluation reports for transmittal to Congress. The schedule for the reports calls for staggered completion dates.

The first 14 evaluation reports for this year have been completed. A notice announcing the availability of the first ten reports was published in the **Federal Register** on August 23, 1983 (48 FR 38317). The Iowa, Kansas, Utah, and Virginia reports have now been completed and were sent to Congress August 29, 1983. These final reports are now publicly available. As the remaining reports are completed, OSM plans to make them available also.

Dated: September 7, 1983.

J. R. Harris,

Director, Office of Surface Mining.

[FR Doc. 83-24832 Filed 9-9-83; 8:45 am]

BILLING CODE 4310-05-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Commission on Security and Economic Assistance; Meeting Change

Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given of a change in the date of the Seventh Meeting of the Commission on Security and Economic Assistance. This notification amends information which appeared in the **Federal Register** on August 5, 1983, Vol. 48, No. 152, page 35729.

The Seventh Commission Meeting will be held on November 7, 1983, from 1:30 to 5:00 p.m. in the Caucus Room of the Cannon House Office Building, Room 345, located at 1st Street and Independence Avenue, Southeast, Washington, D.C.

Mr. John K. Wilhelm is the designated A.I.D. Representative. Statements may be filed with him, or further information received by writing to him care of the Agency for International Development, PPC/C, Room 4319, Washington, D.C. 20523, or by telephoning him at 202/632-7800.

Dated: September 6, 1983.

John K. Wilhelm,

A.I.D. Representative, Commission on Security and Economic Assistance.

[FR Doc. 83-24743 Filed 9-9-83; 8:45 am]

BILLING CODE 6116-01-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-162]

Certain Cardiac Pacemakers and Components Thereof; Investigation

AGENCY: International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on August 2, 1983, under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), on behalf of Medtronic, Inc., 3055 Old Highway Eight, Box 1453, Minneapolis, Minnesota 55440. The complaint alleges unfair methods of competition and unfair acts in the importation of certain cardiac pacemakers and components thereof into the United States, or in their sale, by reason of alleged: (1) Infringement of at least claims 1 through 30 of U.S. Letters Patent 3,595,242; (2) infringement of at least claims 1 and 2 of U.S. Letters Patent 3,648,707; (3) infringement of at least claims 1 through 11 of U.S. Letters Patent 4,059,116; and (4) infringement of at least claims 1, 2, 4, 6, 9 and 11 through 18 of U.S. Letters Patent 4,312,355. The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

The complainant requests that the Commission institute an investigation and, after a full investigation, issue a permanent exclusion order.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930 and in § 210.12 of the Commission's Rules of Practice and Procedure (19 CFR 210.12).

Scope of investigation: Having considered the complaint, the U.S. International Trade Commission, on September 1, 1983, ordered that:

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930 an investigation be instituted to determine whether there is a violation of subsection (a) of section 337 in the unlawful importation of certain cardiac pacemakers and components thereof into the United States, or in their sale, by reason of: (1) Infringement of claims 1 through 30 of U.S. Letters Patent 3,595,242; (2) infringement of claims 1 and 2 of U.S. Letters Patent 3,648,707; (3) infringement of claims 1 through 11 of U.S. Letters Patent 4,059,116; and (4) infringement of claims 1, 2, 4, 6, 9 and 11 through 18 of U.S. Letters Patent 4,312,355, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated in the United States;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—

Medtronic, Inc., 3055 Old Highway Eight, Box 1453, Minneapolis, Minnesota 55440

(b) The respondents are the following companies, alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Telectronics Pty. Limited, 2 Sirius Road, Lane Cove, New South Wales 2066, Australia

Telectronics Proprietary Limited, 101 Inverness Drive East, Englewood, Colo. 80112

Telectronics Inc., 301 W. Vogel, Milwaukee, Wisc. 53207

Telectronics, Inc., P.O. Box 65, 40 Crane Hill Road, Suffield, Conn. 06078

Telectronics, U.S.A. Inc., Corporation Trust Co., 100 W. 10th Street, Wilmington, Del. 19801

(c) Victoria L. Partner, Esq.[1] Unfair Import Investigations Division, U.S. International Trade Commission, 701 E Street NW., Room 125, Washington, D.C. 20436, shall be the Commission investigative attorney, a party to this investigation; and

(3) For the investigation so instituted, Donald K. Duvall, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding officer.

Responses must be submitted by the named respondents in accordance with § 210.21 of the Commission's Rules of Practice and Procedure (19 CFR 210.21). Pursuant to §§ 201.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings.

The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Room 156, Washington, D.C. 20436, telephone 202-523-0471.

FOR FURTHER INFORMATION CONTACT: Victoria L. Partner, Esq., Unfair Import Investigations Division, U.S.

[1] Pending admission to the bar.

International Trade Coimmission, telephone 202–523–0440.

Issued: September 6, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-24836 Filed 9-9-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337–TA–141]

Certain Copper-Clad Stainless Steel Cookware; Commission Determination To Change the Effective Date of Order No. 53

AGENCY: International Trade Commission.

ACTION: The Commission has changed the effective date of an initial determination (I.D.) (Order No. 53) from September 6, 1983, to September 20, 1983.

Authority: 48 FR 20226, May 5, 1983 (to be codified at 19 CFR 210.53(h)).

SUPPLEMENTARY INFORMATION: An I.D. (Order No. 53) to terminate respondent Rose's Stores, Inc., on the basis of a joint motion was issued on August 5, 1983. Notice of the I.D. and a request for public comment thereon was forwarded to the **Federal Register** for publication on about August 8, 1983, but it was not published.

As the Commission's Rules (19 CFR 210.51(c)(2)) require publication of notice of the I.D., notice thereof has again been sent to the **Federal Register** and was published on August 31, 1983 (48 FR 39515), and public comments thereon must be received by September 12, 1983. In order for the Commission to be able to consider public comments, the effective date of the I.D. is being changed to September 20, 1983.

FOR FURTHER INFORMATION CONTACT: Jack Simmons, Esq., Office of the General Counsel, telephone 202–523–0493.

By order of the Commission.

Issued: September 6, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-24834 Filed 9-9-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337–TA–145]

Certain Rotary Wheel Printers; Initial Determination Terminating Respondent on the Basis of Settlement Agreement

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondent on the basis of a settlement agreement: Fujitsu Limited.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on September 7, 1983.

Copies of the initial determination, the settlement agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

Written comments: Interested persons may file written comments with the Commission concerning termination of the aforementioned respondent. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, D.C. 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202–523–0176.

Issued: September 7, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-24835 Filed 9-9-83; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30234]

The Baltimore and Ohio Railroad Co. and Buffalo, Rochester and Pittsburgh Railway Co.—Abandonment and Discontinuance of Exemption Operations Near Mt. Jewett, McKean County, Pa.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of 49 U.S.C. 10903 *et seq.*, the abandonment by the Baltimore and Ohio Railroad Company of a 0.71-mile segment of rail line; its discontinuance of operations over a contiguous 0.54-mile segment of line owned by its subsidiary, Buffalo, Rochester and Pittsburgh Railway; and abandonment by the latter of that line, all near Mt. Jewett, McKean County, Pa. subject to the standard labor protective conditions.

DATES: This exemption shall be effective October 12, 1983. Petitions to stay the effectiveness of this decision must be filed by September 22, 1983. Petitions for reconsideration must be filed by October 3, 1983.

ADDRESSES: Send pleadings referring to Finance Docket No. 30234 to:

(1) Office of Secretary, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representative: René J. Gunning, Suite 2204, 100 North Charles St., Baltimore, MD 21201

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, contact T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (D.C. Metropolitan area) or toll free (800) 242–5403.

Decided: August 25, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison. Commissioner Andre would delete the requirement that the Commission be notified of consummation.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-24770 Filed 9-9-83; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30236]

Bellefonte Central Railroad Co.—Abandonment in Centre County, Pa., Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts Bellefonte Central Railroad Company from the requirements of 49 U.S.C. 10903 *et seq.* in connection with abandonment of 5.1 miles of railroad in Centre County, PA.

DATES: This exemption will be effective on October 12, 1983. Petitions to stay the effectiveness of this decision must be filed by September 22, 1983, and petitions for reconsideration must be filed by October 3, 1983.

ADDRESSES: Send pleadings referring to Finance Docket No. 30236 to:

(1) Office of the secretary, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioners' representative: Lynn T. Cecil, P.O. Box 236, Bellefonte, PA 16823

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (D.C. Metropolitan area) or toll free (800) 424–5403.

Decided: August 30, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison. Commissioner Andre would delete the requirement that the Commission be notified of consummation.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-24771 Filed 9-9-83; 8:45 am]

BILLING CODE 7035-01-M

[Revised ICC Order No. 3]

Chicago, Rock Island and Pacific Railroad Co.; Rerouting of Traffic

To: St. Louis Southwestern Railway Company; North Central Oklahoma Railway, Inc.; Oklahoma, Kansas and Texas Railroad Company; Texas North Western Railway Company; and South Central Arkansas Railway, Inc.

In September of 1979, the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee) (RI), was declared cashless by the Commission and ceased operations. The Kansas City Terminal Railway Company (KCT) was ordered by the Commission then to serve all lines of the RI as a directed rail carrier under 49 U.S.C. 11125. That operation continued for almost six (6) months and until Federal funding was no longer available, and was replaced by non-compensated directed service provided by various carriers operating about fifty percent of the system in the form of short, unconnected line segments.

It became imminently clear that, in order for the carriers to perform their operations over various RI line segments, RI rates must be adopted and made immediately applicable, and routing flexibility permitted where continuous routings over the RI were not possible. This was accomplished by ICC Order No. 63, Rerouting Traffic, issued March 27, 1980. That order permitted certain carriers handling traffic to and from RI points to reroute that traffic over any available route in order to complete the movement, and to maintain the rate as originally routed.

On June 24, 1981, the Commission issued ICC Order No. 80, Rerouting Traffic (replacing ICC Order No. 63), which continued certain rerouting authorities in effect over the RI, and admonished carriers utilizing the reroute order and whose operating authorities were contained in Service Order No. 1473, to make the necessary revisions to their tariffs thus allowing the routings currently being utilized without the need for supplemental authority. Since that time, ICC Order No. 80 has been revised to accommodate additional carriers receiving authority under Service Order No. 1473, and to remove the rerouting authority for carriers which have completed their tariff modifications. ICC Order No. 80 expired on July 31, 1983.

Requests for continued rerouting authority were granted in ICC Order No. 3, for St. Louis Southwestern Railway Company (SSW); Oklahoma, Kansas and Texas Railroad Company (OKKT); North Central Oklahoma Railway, Inc. (NCOK), and Texas North Western Railway Company (TXNW). Those remarks emphasized the need for continuity of rates and routings being utilized while tariff revisions were being completed. Further, the requests indicated that tariff modifications should be completed within six (6) months.

In July, when the Commission considered requests from carriers for the continuation of the rerouting authority previously granted in ICC Order No. 80, South Central Arkansas Railway (SCK), which serves a 43 mile segment of Rock Island line between El Dorado, Arkansas, and Dubach, Louisiana, misinterpreted the matter before the Commission as it applied to SCK and indicated that it had no further need for the authority contained in Reroute Order No. 80. In a letter dated August 23, 1983, SCK now asserts that until its tariff modifications are completed, numerous rates will be unavailable to its shippers if it is without the authority to divert the traffic in order to reach the intended destination. Further, SCK believes that the present effective period of the order will be sufficient for it to accomplish its tariff modifications.

It is the opinion of the Commission that the RI cannot transport traffic offered for movement over its line due to the cessation of its operations; that the interests of the affected shippers and interim operators require continuation of this authority; that SCK should be permitted to utilize this authority while completing its tariff changes; that no need has been shown to revise the effective period of this order; and, that this matter is considered to be outside the scope of a single railroad, as provided by *Ex Parte No. 376, Rerouting of Traffic*, 364 ICC 827, thereby making this action by the Commission necessary.

It is ordered:

(a) *Rerouting traffic.* The Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee) (RI), being unable to transport promptly traffic offered for movement via its lines due to the cessation of its operations, that line's operators named below are authorized to reroute such traffic via any available route. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

St. Louis Southwestern Railway Company
North Central Oklahoma Railway, Inc.
Oklahoma, Kansas and Texas Railroad Company
Texas North Western Railway Company
South Central Arkansas Railway, Inc.

(b) *Concurrence of receiving roads to be obtained.* The railroad rerouting cars in accordance with this order must receive the concurrence of other railroads to which such traffic is to be rerouted.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted and

shall furnish to such shipper the new routing provided for under this order, except when the disability requiring the rerouting occurs after the movement has begun.

(d) Inasmuch as the rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic rerouted prusuant to this order shall be the rates which were applicable on the shipments as originally routed.

(e) In executing the directions of the Commission provided for in this order, the common carriers involved shall proceed even though no contracts, agreements or arrangements may now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 12:01 a.m., September 7, 1983.

(g) *Expiration date.* This order shall expire at 11:59 p.m., January 31, 1984, unless otherwise modified, amended or vacated by order of this Commission.

This action is taken under the authority of 49 U.S.C. 11124.

This order shall be served upon the Association of American Railroads, Transportation Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C. September 6, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison. Chairman Taylor was absent and did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-24772 Filed 9-8-83; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-55 (Sub-70)]

Seaboard System Railroad, Inc.—Abandonment in Halifax County, NC; Notice of Findings

The Commission has found that the public convenience and necessity permit Seaboard System Railroad, Inc. to abandon its 19.5-mile rail line between Pender, NC (milepost AA-91.0) and Scotland Neck, NC (milepost AA-110.5) in Halifax County, NC. A certificate will be issued authorizing this abandonment unless within 15 days after this publication the Commission also finds that: (1) A financially responsible person has offered assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower lefthand corner of the envelope containing the offer: "Rail Section, AB-OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-24769 Filed 9-8-83; 8:45 am]

BILLING CODE 7035-01-M

[ICC Order No. P-83]

Amtrak; Passenger Train Operation

To: Union Pacific Railroad Company

It appearing, that the National Railroad Passenger Corporation (Amtrak) has established through passenger train service between Oakland, California, and Chicago, Illinois. The operation of these trains requires the use of the tracks and other facilities of Southern Pacific Transportation Company (SP). A portion of the SP tracks in Utah over the Great Salt Lake are temporarily out of service because of flooding. An alternate route is available via Union Pacific Railroad Company (UP) between Alazon, Nevada, and Salt Lake City, Utah.

It is the opinion of the Commission that the use of such alternate route is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exits for making this order effective upon less than thirty days' notice.

It is ordered,

(a) Pursuant to the authority vested in me by order of the Commission decided April 29, 1981, and of the authority vested in the Commission by Section 402(c) of the Rail Passenger Service Act of 1970 (45 U.S.C. 562(c)), Union Pacific Railroad Company (UP) is directed to operate trains of the National Railroad Passenger Corporation (Amtrak) between a connection with Southern Pacific Transportation Company (SP) at Alazon, Nevada, and Salt lake City, Utah.

(b) In executing the provisions of this order, the common carriers involved shall proceed even though no agreements or arrangements now exist between them with reference to the compensation terms and conditions applicable to said transportation. The compensation terms and conditions shall be, during the time this order remains in force, those which are voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, the compensation terms and conditions shall be as hereafter fixed by the Commission upon petition of any or all of the said carriers in accordance with pertinent authority conferred upon it by the Interstate Commerce Act and by the Rail Passenger Service Act of 1970, as amended.

(c) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign commerce.

(d) *Effective date.* This order shall become effective at 12:05 a.m. (EDT), September 2, 1983.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m. (PDT), September 2, 1983, unless otherwise modified, amended, or vacated by order of this Commission.

This order shall be served upon Pacific Railroad Company, and upon the National Railroad Passenger Corporation (Amtrak), and a copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., September 2, 1983.

Interstate Commerce Commission.

John H. O'Brien,

Agent.

[FR Doc. 83-24773 Filed 9-8-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

National Institute of Justice

Solicitation; Graduate Research Fellowships, Announcement of a Competitive Research Grant Program; Criminal Justice

The National Institute of Justice announces a competitive Graduate Research Fellowship Program to provide a limited number of Fellowships which will be awarded to doctoral candidates, through sponsoring institutions, to

support students engaged in the research and writing of a doctoral dissertation in the area of criminal justice. Applicants must have completed all degree requirements except for research, writing and defense of the dissertion prior to awarding of the grant.

There will be two cycles of the Graduate Research Fellowship program during Fiscal Year 1984. Submissions postmarked on or before November 1, 1983 will be considered submissions to the first cycle, and those postmarked after November 1, 1983 and before March 2, 1984 will be considered submissions to the second cycle. A number of grants will be awarded. The maximum award for each grant is $11,000, which provides a stipend for the student, allowance for dependents, major project costs and certain university fees.

Additional information and copies of the announcement may be obtained by sending a self-addressed mailing label to: Solicitation—Graduate Research Fellowship Program, National Criminal Justice Reference Service, Box 6000, Rockville, Maryland 20850.

Dated: August 18, 1983.

James K. Stewart,

Director, National Institute of Justice.

[FR Doc. 83-24742 Filed 9-9-83; 8:45 am]

BILLING CODE 4410-18-M

OFFICE OF MANAGEMENT AND BUDGET

Development of an OMB Policy Circular on Federal Information Management; Solicitation of Public Comment

Summary: The Office of Management and Budget (OMB) solicits public comment in the development of a policy circular concerning Federal information management.

Date: Comments from the public should be submitted no later than November 14, 1983.

Address: Comments should be addresed to: J. Timothy Sprehe, Office of Information and Regulatory Affairs, Room 3235 New Executive Office Building, Office of Management and Budget, Washington, D.C. 20503. Telephone: (202) 395-4814.

Supplementary Information: OMB has a statutory responsibility under the Paperwork Reduction Act of 1980 (Pub. L. 96-511, Section 3504), to establish government wide policies which enhance the appropriate application of information technology, encourage better management and allocation of technological resources, and eliminate unnecessary structural or administrative barriers to more efficient information resources management.

As a part of a broader effort to reduce the burden of unnecessary central control over Federal departments and agencies, OMB and the Assistant Secretaries for Management Group (ASMG) conducted a joint review of OMB Circulars. The ASMG/OMB team reviewed the OMB Circulars from the standpoint of executive branch agencies, examining them for their appropriateness and utility, ease or difficulty of implementation relative to the benefits gained, duplication, reporting burden, and clarity of guidance. Among other things, the ASMG/OMB team recommended that the following four Circulars be revised and consolidated into a single Federal information management policy Circular.

A-71—Responsibilities for the Administration and Management of ADP Activities, including Transmittal Memorandum No. 1, Security of Federal Automated Information Systems

A-90—Cooperating with State and Local Governments to Coordinate and Improve Information Systems

A-108—Responsibilities for the Maintenance of Records about Individuals by Federal Agencies

A-121—Cost Accounting, Cost Recovery, and Interagency Sharing of Data Processing Facilities

OMB is currently engaged in an effort to rewrite these Circulars. We wish to solicit public views on revision and consolidation of matters covered in the four existing Circulars. OMB also seeks comments on how and whether the new Circular should be broadened so that the consolidated product will be fully representative of Federal information management policy.

As an aid toward addressing broader questions, OMB solicits public comment on a number of issues which go beyond the scope of the four Circulars. The list of issues below is neither all encompassing nor mutually exclusive, nor will OMB necessarily issue policies in all of these areas. Rather, the list is intended to be suggestive of the kinds of questions it may be appropriate to address in a policy directive, to encourage discussion and to stimulate recommendations for other issue areas that might be considered.

1. *General principles of information resources management.* General principles of information resources management can be derived from the Brooks Act (Pub. L. 89-306) and the Paperwork Reduction Act of 1980 (Pub. L. 96-511). They include principles such as: information is not a free good but a resource of substantial economic value and should be treated as such. How should these principles be expressed as policy guidance to Federal departments and agencies?

2. *Competition with the Private Sector.* OMB Circular No. A-76 prescribes policy under which the government shall not compete unfairly with the private sector in the acquisition of goods and services for the government's use. The government also provides many information products and services for the public's use. Policy guidance may be needed to ensure that Federal agencies do not compete unfairly with the private sector when they provide information products and services to the public.

3. *Information Processing Standards.* The Paperwork Reduction Act (Section 3505(3)(c)) calls for enforcement and revitalization of the Federal information processing standards program. Since that language was drafted, substantial changes have been made in the Federal standards program. Comments are solicited as to the areas in which further revitalization is needed as well as proposed policy guidance which will accomplish revitalization.

4. *Inter-Agency Sharing of Data Processing Facilities; Access to Alternative Facilities.* OMB Circular No. A-121 establishes policy for sharing excess data processing capacity among Federal agencies. It has been suggested that Circular No. A-121 requires strengthening so that program managers can be allowed to acquire data processing capability from the least costly source, whether intra-agency, inter-agency, or in the private sector.

5. *Cost Accounting Procedures for Data Processing.* Policy guidance is needed for establishing cost accounting procedures for automatic data processing in accordance with guidelines issued by the General Accounting Office.

6. *Least Overall Systems Life Cost.* The concept of information resources management clearly implies that, in procuring information technology systems, agencies shall apply the principle of least overall systems life cost. What difficulties are presented by application of least overall systems life cost and what form should policy direction take?

7. *User Charges for Information Products and Services.* OMB is also in the process of revising Circular No. A-25: User Charges, and many agencies practices in charging for information products and services have been questioned in recent years. What special

policy guidance is needed as regards the application of user charges to government information products and services?

8. *Software Management.* The General Accounting Office and the President's Private Sector Survey on Cost Control report that the government continues to pay high maintenance costs for custom-written software when less expensive off-the-shelf software products are available. As software consumes an increasingly large share of agency information resources budgets, what policy guidance would be helpful to ensure that agencies minimize the development and maintenance of duplicative software packages?

9. *Long-Range Planning Process.* Several studies, including the President's Private Sector Survey on Cost Control, have criticized Federal agencies for the absence of long-range planning processes in information resources management. What policy guidance should be provided for establishing meaningful long-range planning processes for information resources management, including computer hardware, computer software, and publications? How should agency level planning requirements relate to OMB's responsibility to produce a five-year ADP and telecommunications plan and to formulate the President's Budget?

10. *Microcomputer Technology, End-User Computing and Office Automation.* Agencies are moving rapidly toward acquisition of microcomputer technology and office automation. What policy issues should be considered in these developments, including the degree of central control, ensuring the integrity and safeguarding of Federal records (including compliance with the Privacy Act and Federal Records Act), and providing for integrated systems and networking? How should OMB policy guidance deal with the application of microcomputer technology, including end-user computing, in a manner which will enhance the ability of program managers to carry out their missions efficiently?

11. *Information Technology for Data Collection.* The General accounting Office reports that agencies could realize substantial savings both to themselves and to the public by increasing use of information technology in information collection. What policy guidance should be given to agencies which will cause them to modify their methods of collecting information from the public to provide for collection through electronic media?

12. *Security of Automated Information Systems.* OMB Circular No. A-71, Transmittal Memorandum No. 1, provides that agencies shall establish and maintain an adequate level of security for all agency data whether processed in-house or commercially. Criticism has been heard concerning the extent of agency compliance with these requirements. What policy issues exist concerning security of automated information systems, particularly in the new environment of end user computing?

13. *Maintenance of Records about Individuals.* Pursuant to the Privacy Act of 1974, agencies shall assure that personal information about individuals collected by Federal agencies is limited to that which is legally authorized and necessary and is maintained in a manner which precludes unwarranted intrusions upon individual privacy. What policy guidance is necessary to agencies to ensure that these provisions are met?

14. *Maintenance of Federal Records.* The Paperwork Reduction Act and the legislative history suggest that OMB needs to play a stronger role in records management. What should that role be, particularly with respect to records disposition?

15. *Roles of Suppliers, Consumers, and Managers of Information Technology.* Rapidly changing technology, particulary the advent of microcomputers and end user computing, is altering the organizational roles of those responsible for suplying, managing, and consuming information technolgoy. For example, the role of the central ADP facility within agencies is changing as end users manage their own computing needs. What policy issues arise in connection with these changing roles?

16. *Avoiding Development of Redundant Administrative and Management Systems.* Every department and agency needs certain basic information for management, such as personnel and payroll systems. How can OMB assure that agencies develop efficient and cost effective systems which do not duplicate systesem already available and that data produced by such systems are consistent on a government wide basis?

Christopher DeMuth,

Administrator for Information and Regulatory Affairs.

[FR Doc. 83-24797 Filed 9-9-83; 8:45 am]

BILLING CODE 3110-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 34-20153; File No. SR-MSRB-83-12]

Self-Regulatory Organizations; Proposed Rule Change by Municipal Securities Rulemaking Board Relating to Uniform Practice and Customer Confirmations

Pursuant to Section 19(b)(1) of the Securities exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on August 18, 1983, the Municipal Securities Rulemaking Board filed with the Securities and Exchange Commission the proposed rule changes as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

(a) The Municipal Securities Rulemaking Board (the "Board") is filing herewith proposed amendments to rule G-12 on uniform practice and to rule G-15 on customer confirmations (hereafter referred to as the "proposed rule change"). The text of the proposed rule change is as follows:

Rule G-12. Uniform Practice*

(a) through (b) No change.

(c) Dealer Confirmations

(i) through (iv) No change

(v) Each confirmation shall contain the following information:

(A) through (H) No change.

(I) Yield at which transaction was effected and resulting dollar price, except in the case of securities which are traded on the basis of ——— dollar price or securities sold at par, in which event only dollar price need be shown (in cases in which securities are priced to [premium] call or to par option, this must be stated and the call or option date and price used in the calculation must be shown, and where a transaction is effected on a yield basis, the dollar price shall be calculated to the lowest of price to [premium] call, price to par option, or price to maturity);

(J) through (N) No change.

(O) The confirmation for a transaction in securities traded on a discounted basis (other than discounted securities traded on a yield-equivalent basis) shall not be required to show the pricing

* Italics indicate new language; [brackets] indicate deletions.

information specified in subparagraph (I) nor the accrued interest specified in subparagraph (K). Such information shall, however, contain the rate of discount and resulting dollar price. Such confirmation may, in lieu, of the resulting dollar price and the extended principal amount specified in subparagraph (L), show the total dollar amount of the discount.

(P) The confirmation for a transaction in securites maturing in more than two years and paying investment return solely at redemption shall not show the par value of the securities specified in subpargraph (D) and shall not be required to show the amount of accrued interest specified in subparagraph (K). Such confirmation shall, however, show the maturity value of the securities and specify that the interest rate on the securities is "0%."

(Q) The initial confirmation for a "when, as and if issued" transaction shall not be required to contain the information specified in subparagraphs (H), (K), (L), and (M) of this paragraph or the resulting dollar price as specified in subparagraph (I).

(vi) No change.

(d) through (k) No change.

[(l) Effective Date. The requirements of this rule shall become effective on December 7, 1977, with the exception of the requirements set forth in item (c)(v)(F), which shall become effective on January 1, 1979.]

Rule G–15. Customer Confirmations

(a) At or before the completion of a transaction in municipal securities with or for the account of a customer, each broker, dealer or municipal securities dealer shall give or send to the customer a written confirmation of the transaction containing the following information:

(i) through (viii) No change.

(ix) yield and dollar price as follows:

(A) for transactions effected on a yield basis, the yield at which transaction was effected and the resulting dollar price shall be shown. Such dollar price shall be calculated to the lowest of price to [premium] call, price to par option, or price to maturity.

(B) for transactions effected on the basis of dollar price, the dollar price at which transaction was effected, and the lowest of the resulting yield to [premium] call, yield to par option, or yield to maturity shall be shown.

(C) for transactions at par, the dollar price shall be shown. In cases in which the resulting dollar price or yield shown on the confirmation is calculated to [premium] call or par option, this must be stated, and the call or option date and price used in the calculation must be shown; (b) through (d) No change.

(e) The confirmation for a transaction in securities maturing in more than two years and paying investment return solely at redemption shall not show the par value of the securities specified in subparagraph (iv) of paragraph (a) and shall not be required to show the amount of accrued interest specified in subparagraph (ix) of paragraph (a). Such confirmation shall, however, show the maturity value of the securities and specify that the interest rate on the securities is "0%."

[(e)] through [(h)] renumbered as (*f*) through (*i*). No substantive change.

[(i) The requirements of this rule shall become effective on December 8, 1977).]

II. Self-Regulatory Organization's Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Change

A. Self-Regulatory Organization's Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Board rules G–12 and G–15 require disclosure on confirmations of inter-dealer transactions and transactions with customers of certain information about the securities involved as well as the terms of the transactions. Certain new issues of municipal securities sold in recent years have had several maturities with a stated interest rate of 0% ("zero coupon" securities); such securities are sold at deep discounts, with the investor's return received in the form of an accretion of this discount to par at the rate represented by the original offering yield. Other securities, often described as "compound interest" or "multiplier" securities, are issued with a stated rate of investment return; an investor purchasing such a security would receive at maturity a single payment (the "maturity value") representing both return of the initial principal value and payment of an investment return accrued over the life of the instrument at a stated compounded rate. As discussed more fully below, the Board has adopted the proposed rule change in order to adapt its confirmation disclosure requirements to these characteristics of zero coupon, compound interest and multiplier securities. In order to distinguish these securities from short-term notes, which also generally pay all of the investment return at redemption, the proposed rule change by its terms applies only to transactions in securities which mature in more than two years and pay investment return solely at redemption.

1. Quantity of Securities

Board rules G–12 and G–15 currently require that confirmations of transactions state the "par value of the securities" involved in the transaction. The proposed rule change would require that confirmations of transactions in zero coupon, compound interest and multiplier securities state the maturity value, rather than the "par value" of the securities. The Board has adopted this proposed requirement because the subject securities usually are traded and sold on the basis of their maturity value; it is represented that investors will receive a certain maturity value at a particular time in the future. Further, there is considerable confusion as to whether these securities have a constant "par value" in the generally accepted sense of this term.

2. Interest Rate

Board rules G–12 and G–15 require that confirmations state certain descriptive details about the securities, including, among other matters, the "interest rate" of the securities. The current confirmation rules require that a confirmation of a transaction in a zero coupon security state the rate as "0%". The Board has concluded that confirmations of transactions in compound interest and multiplier securities also should identify the "interest rate" on such securities as "0%", and the proposed rule change will require that such disclosure be made. The Board believes that such disclosure is necessary to alert purchasers of these securities to the fact that they will not receive "interest" payments in the same fashion as on more traditional municipal securities, and also may prevent customers from mistakenly assuming that such securities pay "interest" in addition to the investment return included in the maturity value.

3. Transaction Moneys

Rules G–12 and G–15 currently require that confirmations show the "total dollar amount of [the] transaction," as well as its components—an "extended principal amount" and an "amount of accrued interest."

With respect to zero coupon securities, of course, since they have a stated interest rate of "0%", they would not have "accrued interest." A confirmation of a transaction in such securities, therefore, would set forth an "extended principal amount" and an (equal) "total dollar amount," with both the initial principal value and the investment return (accreted discount) included in this single sum. As is the case with zero coupon securities, the price of a transaction involving compound interest and multiplier securities will be based upon the

present value of a single "maturity value" amount. It appears questionable whether breaking up this single present value amount into initial principal and "accrued interest" components would provide additional meaningful information to the purchaser.

The proposed rule change would provide that with respect to confirmation disclosure of the transaction moneys for transactions in the subject securities, the inclusion of a single "present value" amount will be sufficient, and, therefore, that a separate figure representing accrued interest need not be shown.

4. Yield and Dollar Price Calculation

Board rules G–12 and G–15 contain dollar priced calculation and yield disclosure requirements which refer in part to computations to the lowest of "premium" call, par option or maturity. The proposed rule change will delete the adjective "premium" from the rules' reference to "premium call." This technical change is intended to eliminate possible confusion regarding the application of the requirements that dollar prices and (in the case of customer transactions) yields be calculated to the lower of call or maturity to securities with "accreted value" calls at prices below 100% of maturity value.

(b) The Board has adopted the proposed rule changes pursuant to section 15B(b)(2)(C) of the Securities Exchange Act of 1934, as amended (the "Act"), which directs the Board to propose and adopt rules which are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest . . . .

The Board has concluded that the confirmation disclosure requirements set forth in the proposed rule change will eliminate potential confusion about how the existing requirements apply to transactions involving zero coupon, compound interest and multiplier securities and will help to assure that the parties to these transactions understand certain of the unusual features of the subject securities.

B. *Self-Regulatory Organization's Statement on Burden on Competition*

The Board does not believe that the proposed rule change will impose any burden on competition, inasmuch as it applies equally to all municipal securities brokers and dealers.

C. *Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

On October 8, 1983, the Board released for comment an exposure draft of an amendment to Board rules G–12 and G–15 regarding confirmations of transactions in zero coupon, compound interest and multiplier securities.

Seven letters of comment on the exposure draft were received from the following:

The Cashiers' Association of Wall Street, Inc.
The First National Bank of Chicago
E. F. Hutton & Company, Inc.
Merrill Lynch, Pierce, Fenner & Smith, Inc.
Newman and Associates, Inc.
Paine Webber Jackson & Curtis, Inc.
Shearson/American Express, Inc.

Copies of the exposure draft and the letters of comment are on file at the Board's offices. In addition, oral comments were received from Goldman Sachs & Co.; Merrill Lynch, Pierce, Fenner & Smith, Inc.; and Newman and Associates, Inc. Copies of the letters (and memoranda concerning the oral comments) and two earlier letters on this general subject from Shearson/American Express, and a copy of a memorandum concerning oral comments on this subject from industry operations personnel are also on file at the Board's offices.

The commentators generally supported the adoption of the proposal relating to confirmation disclosure of the maturity value, rather than the "par value," of the subject securities. One commentator suggested that an exception be made for issues where the maturity value of the securities is expressed in dollars and cents rather than as whole round number. There are a very limited number of such issues, and the Board agrees with the comments of industry members to the effect that it should mandate a uniform standard of confirmation disclosure for the subject securities.

The commentators generally supported the proposal to disclose the interest rate on a compound interest or multiplier security as "0%". Certain commentators asserted that the interest rate which should be included on the confirmation is the compounding rate since this is the rate which identifies the particular securities involved in the transaction. As indicated above, the Board is concerned that customers may mistakenly assume that they will receive interest at the stated rate on a periodic basis and believes that, in order to avoid this result, the interest rate stated in the interest field on the confirmation should be "0%".

With respect to the proposal concerning the disclosure of transaction moneys, two commentators expressed the view that confirmations of transactions in compound interest and multiplier securities should show both a principal amount and a figure for accrued interest. These commentators indicated that since interest does accrue on such securities, it should be shown even though its payment is deferred until maturity. The Board believes that since a compound interest or multiplier security pays investment returns in the form of a single future payment (the maturity value), and is traded and sold on that basis, showing a single present value amount for this single future payment amount should be sufficient disclosure and a separate figure representing accrued interest need not be shown.

The commentators generally did not comment on the proposed technical amendment relating to yield disclosure and dollar price calculations.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed

with the Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and coping in the Commission's Public Reference Section. Copies of such filing also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted on or before October 3, 1983.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: September 6, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-24766 Filed 9-9-83; 8:45 am]

BILLING CODE 8010-01-M

[File No. 22-12659]

Great Western Financial Corp.; Application and Opportunity for Hearing

September 6, 1983.

Notice is hereby given the Great Western Financial Corporation (the "Company") has filed an application pursuant to clause (ii) of Section 310(b)(1) of Trust Indenture Act of 1939 (the "Act") for a finding by the Commission that the trusteeship of Bankers Trust Company ("Bankers") under an indenture dated as of December 1, 1982 (the "1982 Indenture") between the Company and Bankers which was heretofore qualified under the Act, and the trusteeship by Bankers under an indenture (the "New Indenture") among Bankers, as trustee, GW Overseas Finance N. V. (the "Issuer"), as issuer and the Company, as guarantor, which is not qualified under the Act, is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Bankers from acting as Trustee under the 1982 Indenture or under the New Indenture.

The Company alleges that:

(1) At June 1, 1983, it had outstanding $100,000,000 principal amount of 8⅞% Convertible Subordinated Debentures Due 2007 (the "1982 Debentures") under the 1982 Indenture. The 1982 Debentures issued pursuant to the 1982 Indenture were registered under the Securities Act of 1933 and the 1982 Indenture was qualified under the Trust Indenture Act of 1939. Bankers is not a trustee under any other indenture under which any other securities of the Company are outstanding.

(2) The Issuer, a wholly-owned subsidiary of the Company, has issued $50,000,000 principal amount of its 7½% Convertible Subordinated Debentures (the "New Debentures") under the New Indenture, which are guaranteed, on a subordinated basis, by the Comapny and are convertible into common stock of the Company in accordance with the terms of Section 304 of the New Indenture. In the event any payment made by the Company under such guarantee (the "Guarantee") is not otherwise reimbursed to it, upon payment in full of the New Debentures the Company will succeed to the rights of the trustee under the New Indenture in such collateral to the extent of such reimbursement deficiency. Bankers is trustee under the New Indenture. The New Debentures issued pursuant to the New Indenture, having been offered and sold solely outside the United States, have not been registered under the Securities Act of 1933 and are accordingly exempt from the qualification provisions of the Trust Indenture Act of 1939;

(3) The Company's obligations pursuant to the 1982 Indenture and under the New Indenture are both subordinate and wholly unsecured and such obligations will rank pari passu inter se;

(4) The Company is not in default under the 1982 Indenture or the 1982 Debentures, and neither the Company nor the Issuer is in default under the New Indenture, the New Debentures or the Guarantee;

(5) Such differences as exist between the 1982 Indenture and the New Indenture are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of any of the investors to disqualify Bankers from acting as Trustee under one of the Indentures.

The Company has waived notice of hearing, hearing and any and all rights to specify procedures under the Rules of Practice of the Securities and Exchange Commission in connection with this matter.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application which is on file in the offices of the Commission's Public Reference Section, 450 Fifth Street NW., Washington, D.C. 20549.

Notice is further given that an order granting the application may be issued by the Commission at any time on or after September 27, 1983, unless prior thereto a hearing upon the application is ordered by the Commission, as provided in clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939. Any interested person may, not later than September 26, 1983 at 5:30 p.m., Eastern Time, in writing, submit to the Commission his views or any additional facts bearing upon this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting a hearing, the reasons for such request, and the issues of fact and law raised by the application which he desires to controvert.

By the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-24825 Filed 9-9-83; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Public Notice CM-81662]

Shipping Coordinating Committee; Meetings

Working Group on The Carriage of Dangerous Goods Subcommittee on Safety of Life at Sea. The U.S. Safety of Life at Sea (SOLAS) Subcommittee Working Group on The Carriage of Dangerous Goods will conduct an open meeting on October 25, 1983, at 10:00 AM, in Room 3201 of the Coast Guard Headquarters Building, 2100 Second Street SW., Washington, D.C. 20593.

The purpose of the meeting will be to discuss:

—Report of the 35th Session of the International Maritime Organization (IMO) Subcommittee on the Carriage of Dangerous Goods held June 27-July 1, 1983;

—Possible United States proposals to be made to the 36th Session of the IMO Subcommittee on the Carriage of Dangerous Goods; and

—IMO Activities of a continuing nature.

Members of the public may attend up to the seating capacity of the room.

For further information contact Lieutenant John P. Aherne, U.S. Coast Guard (G-MTH-3), 2100 Second Street SW., Washington, D.C. 20593. Telephone: (202) 426-1577.

National Committee for the Prevention of Marine Pollution. The

National Committee for the Prevention of Marine Pollution (NCPMP) of the Shipping Coordinating Committee will conduct an open meeting at 9:30 AM on Tuesday, November 29, 1983 in Room 3201 of the Coast Guard Headquarters Building, 2100 Second Street SW., Washington, D.C. 20593.

The purpose of this meeting is to finalize preparations for the 19th Session of the Marine Environment Protection Committee (MEPC) of the International Maritime Organization (IMO) which is scheduled for December 5–9, 1983 in London. In particular, the NCPMP will discuss the development of U.S. positions dealing with the following topics:

—Uniform proposed and interpretation amendments of MARPOL 73/78
—Guideline for surveys under MARPOL 73/78
—Anti-Pollution Manual
—Provision of reception facilities

Members of the public may attend up to the seating capacity of the room.

For further information contact Mr. G. P. Yoest, U.S. Coast Guard (G-CPI), 2100 Second Street SW., Washington, D.C. 20593. Telephone: (202) 426–2280.

Dated: August 29, 1983.

Samuel V. Smith,

Executive Secretary, Shipping Coordinating Committee.

[FR Doc. 83-24745 Filed 9-9-83; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Notice of Applications for Renewal or Modification of Exemptions or Applications to Become a Party to an Exemption.

AGENCY: Materials Transportation Bureau, DOT.

ACTION: List of Applications for Renewal or Modification of Exemptions or Application to Become a Party to an Exemption

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier Federal Register publications they are not repeated here. Except as otherwise noted, renewal applications are for extension of the exemption terms only. Where changes are requested (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) they are described in footnotes to the application number. Application numbers with the suffix "X" denote renewal; application numbers with the suffix "P" denote party to. These applications have been separated from the new application for exemptions to facilitate processing.

DATES: Comment period closes September 27, 1983.

ADDRESS: Address comments to: Dockets Branch, Office of Regulatory Planning and Analysis, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, SW., Washington, D.C.

Application No.	Applicant	Renewal of exemption
2326-X	E. I. du Pont de Nemours & Company, Inc., Wilmington, DE.	2326
2582-X	Ozark-Mahoning Company, Tulsa, OK.	2582
2709-X	U.S. Department of Defense, Washington, DC (See Footnote 1).	2709
3415-X	U.S. Department of Defense, Washington, DC.	3415
4108-X	C & C Oxygen Company, Chattanooga, TN.	4108
5778-X	Liquid Air Corporation, Cambridge, MD.	5778
5778-X	Allied Healthcare Products, Inc., St. Louis, MO.	5778
6397-X	Pennwalt Corporation, Philadelphia, PA.	6397
6530-X	Liquid Air Corporation, San Francisco, CA.	6530
6536-X	South Jersey Gas Company, Folsom, NJ.	6536
6536-X	Philadelphia Gas Works, Philadelphia, PA.	6536
6536-X	SunOlin Chemical Company, Claymont, DE.	6536
6536-X	The Southern Connecticut Gas Company, Bridgeport, CT.	6536
6536-X	New Jersey Natural Gas Company, Wall, NJ.	6536
6536-X	Public Service Electric and Gas Company, Newark, NJ.	6536
6614-X	Jones Chemicals, Incorporated, Caledonia, NY.	6614
6614-X	GPS Industries, City of Industry, CA	6614
6614-X	Continental Chemical Company, Sacramento, CA.	6614
6614-X	FMC Corporation, Livonia, MI	6614
6614-X	Esbro Chemical, Redwood City, CA	6614
6614-X	Mid-State Chemical & Supply Corp., Indianapolis, IN.	6614
6614-X	Steelcrete Company, Novi, MI	6614
6614-X	Russel B. Mason Co., Inc., Webster, NY.	6614
6616-X	McDonnell Douglas Astronautics Company, Saint Louis, MI.	6616
6902-X	Synthetron Corporation, Parsippany, NJ.	6902
6974-X	U.S. Department of Defense, Washington, DC.	6974
6974-X	Tavco, Inc., Chatsworth, CA	6974
7071-X	Clayton Chemical, Los Angeles, CA	7071
7482-X	Monsanto Company, St. Louis, MO	7482
7491-X	Process Engineering, Incorporated, Plaistow, NH.	7491
7502-X	Synder Industries, Incorporated, Lincoln, NE.	7502
7657-X	Welker Engineering Company, Sugar Land, TX (See Footnote 2).	7657
7662-X	Born Free Plastics, Inc., Houston, TX.	7662
8009-X	Production Services, Inc., Oklahoma City, OK.	8009
8195-X	McDonnell Douglas Corporation, St. Louis, MO.	8195
8248-X	Western Electric Company, Greensboro, NC.	8248
8259-X	M-D Trailer Company, Fort Worth, TX.	8259
8276-X	Maintenance Mechanical Corporation, Houston, TX.	8276
8286-X	Union Carbide Corporation, Danbury, CT.	8286
8314-X	Barber Steamship Lines, Inc., New York, NY.	8314
8344-X	Western-Hoegee Company, Glendale, CA.	8344
8344-X	All-Sports Supply, Inc., Portland, OR	8344
8585-X	American Pyrotechnics Corporation, Llano, CA.	8585
8676-X	E. I. du Pont de Nemours & Company, Inc., Wilmington, DE.	8676
8689-X	Schlumberger Technology Corporation, Houston, TX.	8689
8693-X	Matheson Gas Products, Gloucester, MA (See Footnote 3).	8693
8709-X	Delta Drum, Inc., Crete, IL	8709
8728-X	Whitehall Laboratories, Inc., New York, NY.	8728
8750-X	Applied Environmenta Corporation, Woodland Hills, Ca.	8750
8757-X	Y-Z Industries, Inc., Synder, TX	8757
8786-X	The Marison Company, South Elgin, IL (See Footnote 4).	8786
8814-X	Structural Composites Industries, Inc., Pomona, CA (See Footnote 5).	8814
8915-X	Union Carbide Corporation, Danbury, CT (See Footnote 6).	8915
9001-X	Chesterfield Cylinder Company, Inc., Enid, OK (See Footnote 7).	9001
9035-X	Rohm and Haas Company, Philadelphia, PA (See Footnote 8).	9035
9073-X	Natloo, Inc., Chicago, IL (See Footnote 9).	9073

[1] To authorize an additional Class A explosive for shipment in DOT Specification 6D drum with a 2S polyethylene liner.
[2] To increase the volumetric capacity of subject cylinders from 500 cc to not over 4000 cc.
[3] To authorize water as an additional mode of transportation.
[4] To amend exemption to allow increase in volumetric capacity, of the cylinder, to authorize additional materials of construction, to modify test requirements and to authorize additional compressed gas.
[5] Request modification in method used to determine bending stresses in cylinders.
[6] To authorize water as an additional mode of transportation.
[7] To authorize an increase in cylinder water capacity, from 100 pound to 120 pounds.
[8] Request increase in water capacity of portable tanks from 2,000 to 2,500 gallons.
[9] To authorize water as an additional mode of transportation.

Application No.	Applicant	Parties to exemption
2587-P	Mid-West Gases, Inc., Kansas City, KS.	2587
3630-P	J. T. Baker Chemical Company, Phillipsburg, NJ.	3630
4453-P	E.D.C. Incorporated, Tulsa, OK	4453
5208-P	E.D.C. Incorporated, Tulsa, OK	5208

Application No.	Applicant	Parties to exemption
6267-P	Utility Chemical Company, Paterson, NJ.	6267
6305-P	E.D.C. Incorporated, Tulsa, OK	6305
6466-P	E.D.C. Incorporated, Tulsa, Ok	6466
6538-P	Hanco International, Inc., North Miami Beach, FL.	6538
6543-P	Texas Instruments Incorporated, Dallas, TX.	6543
6614-P	Berson Pump Company, Rockford, IL.	6614
6922-P	Henley Overseas Sales, Inc., New York, NY.	6922
7052-P	Bird Electronic Corporation, Solon, OH.	7052
7616-P	The Western Pacific Railroad Company, San Francisco, CA.	7616
7616-P	Union Pacific Railroad Company, Omaha, NE.	7616
7694-P	Applied Environments Corporation, San Fernando, CA.	7694
7907-P	Union Explosivos Rio Tinto, S.A., Madrid, Spain.	7907
7951-P	Hunt-Wesson Foods, Inc., Fullerton, CA.	7951
8127-P	Union Explosivos Rio Tinto, S.A., Madrid, Spain.	8127
8129-P	Virginia Polytechnic Institute & State University, Blacksburg, VA.	8129
8129-P	S & W Waste, Inc., South Kearny, NJ.	8129
8129-P	Union Carbide Agricultural Products Company, Danbury, CT.	8129
8129-P	Hallmark Cards, Inc., Kansas City, KS.	8129
8308-P	American Parcel Express Inc., Huntington Park, CA.	8308
8445-P	Diamond Shamrock Corporation, Irving, TX.	8445
8445-P	Union Carbide Agricultural Products Company, Danbury, CT.	8445
8445-P	SDS Biotech Corporation, Irving, TX	8445
8531-P	E.D.C. Incorporated, Tulsa, Ok	8531
8664-P	Redwing Carriers, Inc., Tampa, FL	8664
8677-P	Mallinckrodt, Inc., Paris, KY	8677
8988-P	Dresser Industries, Inc., Houston, TX	8988

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with Section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on September 1, 1983.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 83-24609 Filed 9-9-83; 8:45 am]

BILLING CODE 4910-60-M

Notice of Applications for Exemptions

AGENCY: Materials Transportation Bureau, DOT.

ACTION: List of applicants for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

DATES: Comment period closes October 12, 1983.

ADDRESS: Address comments to: Dockets Branch, Office of Regulatory Planning and Analysis, Materials Transportation Bureau, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicaste.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, S.W., Washington, DC.

New Exemptions

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9119-N	Bennett Industries, Pacoima, CA	49 CFR 173.125	To manufacture, mark and sell DOT specification 34 containers for shipment of certain flammable liquids. (Modes 1, 2, 3.)
9120-N	Dresser Industries, Inc., Houston, TX	49 CFR 173.302, 173.304, 178.37	To authorize shipment of a compressed gas, n.o.s. in non-DOT specification specially designed steel cylinders. (Modes 1, 2, 3, 4.)
9121-N	Morton Thiokol, Incorporated, Elkton, MD	49 CFR 172.101	To authorize shipment of one rocket motor, Class B explosive, exceeding the weight limitations presently authorized for cargo-only aircraft. (Mode 4.)
9124-N	Waste Management of Wisconsin, Inc., Menomonee Falls, WI.	49 CFR 173.153, 173.364	To authorize transport of various equipment contaminated with chromic acid and cyanide, by dump truck to a disposal site. (Mode 1.)
9125-N	Tri-Wall Containers (Israel) Ltd., Tel Aviv, Israel	49 CFR 173.252, 178.168, 178.169	To manufacture, mark and sell boxes comparable to DOT Specification 15A or 15B except they are constructed of mediterranean pine, for shipment of bromine, classed as corrosive material. (Modes 1, 3.)
9126-N	Allied Drum Service, Inc., Louisville, KY	49 CFR 178.102-4	To authorize DOT Specification 6D drums to be marked on the top head, for shipment of those commodities presently authorized in DOT Specification 6D drums. (Modes 1, 2, 3, 4, 5.)
9127-N	FMC Corporation, Livonia, MI	49 CFR 173.217(a)(6)	To authorize shipment of trichloro-s-triazinetrione dry, classed as an oxidizer, in two polyethylene containers of 20 pounds capacity each, overpacked in DOT Specification 12B fiberboard boxes. (Mode 1.)
9128-N	SkyCab, Inc., East Brunswick, NJ	49 CFR 173.403(bb), 173.448(g)(i)(iv)(B)	To authorize the carrier to perform the radiation measurements for transport index designation of overpack, rather than the person initially offering the packages contained therein. (Modes 1, 4.)
9129-N	Weldex Corporation, Grafton, MA	49 CFR 173.34(L)	To authorize the rebuilding of DOT Specification 4 series cylinders in accordance with procedures proposed in Compressed Gas Association's Docket 75-22. (Mode 1.)
9130-N	Hydrotech Chemical Corporation, Marietta, GA	49 CFR 173.154	To authorize shipment of an oxidizer, n.o.s., in polyethylene containers of not over 10 pounds capacity overpacked in a non-DOT specification fiberboard box as prescribed in 49 CFR 173.217(c). (Modes 1, 2.)
9131-N	River City Drum, Inc., St. Louis, MO	49 CFR 178.19, Part 173, Subpart F	To manufacture, mark and sell non-DOT specification polyethylene containers comparable to DOT Specification 34 except for 55 gallon capacity, for shipment of those corrosive liquids presently authorized in Specification 34. (Modes 1, 2, 3.)

NEW EXEMPTIONS—Continued

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9132-N	Welchem, Inc., Houston, TX	49 CFR 173.119, 173.245, 178.253	To authorize shipment of various flammable liquids or corrosive materials (oil well treating compounds) contained in either four separate 90 gallon steel tanks or three separate 120 gallon steel tanks firmly mounted on the chassis of truck. (Mode 1.)
9133-N	American Cyanamid Company, Wayne, NJ	49 CFR 173.377	To authorize shipment of an organic phosphate compound mixture, dry, class B poison in DOT Specification 56 metal portable tanks. (Modes 1, 2.)
9134-N	I.S.C. Chemicals Limited, Avonmouth, England	49 CFR 173.264	To authorize shipment of hydrofluoric acid solutions, corrosive material, in DOT Specification 51 portable tanks. (Modes 1, 2, 3.)
9135-N	Morton Thiokol, Inc., Elkton, MD	49 CFR 173.92	To authorize shipment of rocket motors, class B of up to 1360 pounds in specially designed packagings. (Mode 1.)
9136-N	Plast-Drum Corporation, Lockport, IL	49 CFR Part 173, Subpart D, Subpart E, F and H	To manufacture, mark and sell DOT Specification 34 containers, for shipment of various flammable liquids, poison B, organic peroxides, oxidizers and corrosive materials. (Modes 1, 2, 3.)
9137-N	Federal Express Corporation, Memphis, TN	49 CFR 172.406(e), 172.500(a), 172.504, 172.512(b)	To transport various hazardous materials packed in a freight container to which is affixed one "DANGEROUS" placard instead of four placards prescribed for the classification/s of the material. (Modes 1, 4.)
9138-N	National Aeronautics and Space Administration, Washington, D.C.	49 CFR 173.302(a), 173.304(a), 175.3	To ship a limited number of DOT-E 7218 FRP nitrogen cylinders, without safety relief devices, as an integral part of a propulsion system. (Mode 4.)
9139-N	Davidson Specialty Chemicals Company, Baltimore, MD	49 CFR 173.233	To ship nickel catalyst in prescribed metal drums equipped with vented closures. (Mode 1.)
9140-N	Crown Rotational Molded Products, Inc., Marked Tree, AR	49 CFR Part 173 Subpart D, Subpart E, F	To manufacture, mark and sell non-DOT specification 250 gallon capacity polyethylene portable tanks, for shipment of various flammable liquids, corrosive materials and hydrogen peroxide classed as an oxidizer. (Modes 1, 2.)
9141-N	Bristol Flare Corporation, Bristol, PA	49 CFR 172.101, 173.100	To ship certain hand signal devices, as a flammable solid instead of a class C explosive. (Mode 1.)

This notice of receipt of applications for new exemptions is published in accordance with Section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on September 1, 1983.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 83-24610 Filed 9-9-83; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 83-191]

Customhouse Broker License; Cancellation With Prejudice, Individual License #4437 for the Customs District of New York

Notice is hereby given that the Commissioner of Customs on August 25, 1983, pursuant to section 641, Tariff Act of 1930, as amended (19 U.S.C. 1641), and § 111.51(b) Customs Regulations, upon the specific request of William J. Shields, Jr., New York, New York, cancelled with prejudice individual customhouse broker's license No. 4437 issued to him for the Customs District of New York, New York. The Commissioner's decision is effective as of August 25, 1983.

Alfred R. De Angelus,

Acting Commissioner of Customs.

[FR Doc. 83-24795 Filed 9-9-83; 8:45 am]

BILLING CODE 4820-02-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 177
Monday, September 12, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Civil Aeronautics Board	1
Consumer Product Safety Commission	2, 3
Federal Energy Regulatory Commission	4
Federal Home Loan Bank Board	5

1

CIVIL AERONAUTICS BOARD

Short Notice Additions and Closure of Items for the September 7, 1983 Meeting

TIME AND DATE: 9:30 a.m., September 7, 1983.

PLACE: Room 1027 (open), room 1012 (closed), 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

33. Negotiations with Peru. (BIA)
34. Report on USSR-Korean Air Lines Situation. (OGC, BIA)

STATUS: Closed.

PERSON TO CONTACT FOR MORE INFORMATION: Phyllis T. Kaylor, the Secretary (202) 673–5068.

[S–1276–83 Filed 9–7–83; 4:46 pm]

BILLING CODE 6320–01–M

2

CONSUMER PRODUCT SAFETY COMMISSION

Commission Meeting

TIME AND DATE: 10 a.m. Wednesday, September 14, 1983.

LOCATION: Room 456, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: Closed to the public.

MATTERS TO BE CONSIDERED:

Compliance Status Report
The staff will brief the Commission on the status of various compliance matters.

For a recorded message containing the latest agenda information: call 301–492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, MD 20207; 301–492–6800.

[S–1278–83 Filed 9–8–83; 1:38 pm]

BILLING CODE 6355–01–M

3

CONSUMER PRODUCT SAFETY COMMISSION

Commission Meeting

TIME AND DATE: 10 a.m., Thursday, September 15, 1983.

LOCATION: Third Floor Hearing Room, 1111 18th Street NW., Washington, D.C.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. *Children's Chemical Hazards: DEHP (CHAP)*
The Commission will consider the staff's recommendation that a Chronic Hazard Advisory Panel (CHAP) on Di (2-Ethylhexyl) Phthalate (DEHP) in Children's Products be convened.
2. *Unvented Gas-Fired Space Heaters—Proposed Revocation*
The Commission will consider the draft **Federal Register** notice proposing revocation of the Commission's mandatory standard requiring the oxygen depletion sensor on unvented gas-fired space heaters.
3. *Urea Formaldehyde Insulation—Options*
The staff will brief the Commission on options related to potential future actions which the Commission may wish to consider in connection with urea formaldehyde foam insulation.

2:30 p.m., Closed to the Public:

4. *Enforcement Matter (OS# 3391)*
The staff will brief the Commission on Enforcement Matter OS# 3391.

For a recorded message containing the latest agenda information: call 301–492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, MD 20207; 301–492–6800.

[S–1279–83 Filed 9–8–83; 1:38 pm]

BILLING CODE 6355–01–M

4

FEDERAL ENERGY REGULATORY COMMISSION

September 7, 1983.

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552b:

TIMES AND DATES:

September 14, 1983, 10 a.m., All Consent agendas, Regular Hydro-Power, Electric Rates and Miscellaneous agendas
September 15, 1983, 9 a.m., Regular Gas agenda

PLACE: Room 9306, 825 North Capitol Street NE., Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: AGENDA.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, telephone (202) 357–8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Division of Public Information.

Consent Power Agenda—776th Meeting, September 14, 1983, Regular Meeting (10 a.m.)

CAP–1. Project Nos. 6827–001 and 002, Jackson Falls Hydroelectric Power Co.
CAP–2. Project No. 2787–003, White Current Corp.; Project No. 2816–001, Vermont Electric Generation and Transmission Cooperative, Inc.
CAP–3. Project No. 7235–002, Blueston Energy Design, Inc.
CAP–4. Project No. 2912–002, Alabama Electric Cooperative, Inc.
CAP–5. Project No. 7226–001, Onondaga County Water Authority; Project No. 6877–001, The Phoenix Hydro Corp.
CAP–6. Project No. 5906–002, North Canal Waterworks.
CAP–7. Project No. 6321–001, County of Tuolumne, California; Project No. 4950–000, City and County of San Francisco, California.
CAP–8. Project No. 6513–001, Village of Winnetka, Illinois; Project No. 6892–001, Village of Channahon, Illinois.
CAP–9. Project No. 6387–002, Western Hydro Electric, Inc.; Project No. 5448–000, Western Power, Inc.; Project No. 6071–000, Public Utility District No. 1 of Lewis County, Washington.
CAP–10. Omitted.
CAP–11. Project Nos. 7282–000 and 4155–000, Larry Pane and John Downs (Roaring Creek Ranch).
CAP–12. Project No. 4301–001, City of Gridley, California; Project No. 4490–001, City of Richvale, California; Project No. 5163–000, California Department of Water Resources.
CAP–13. Omitted.
CAP–14. Project Nos. 2149–007, 008, 009 and 010, Public Utility District No. 1, of Douglas County, Washington.

CAP–15. Project Nos. 2735–008 and 007, P–1988–000 and P–233–000, Pacific Gas & Electric Co.
CAP–16. Project Nos. 176–013 and 014, Escondido Mutual Water Co.
CAP–17. Project No. 3515–000, Fluid Energy Systems, Inc.; Project No. 4122–000, Kern County Water Agency; Project No. 4129–001, Olcese Water District
CAP–18. Project No. 3195–003, Joseph M. Keating.
CAP–19. Project No. 2845–000, Idaho Power Co.
CAP–20. Project No. 2591–003, Northern States Power Co.
CAP–21. Project Nos. 2232–058, 059, 060, 061, 062, 063, 064, 065, 066, 067, 068, 069, 071, 072, 074, 075, 076, 077, 078, 079, 080, 082, 083, 084, 085 and 090, Duke Power Co.
CAP–22. Omitted.
CAP–23. Project No. 3503–001, James B. Howell.
CAP–24. Docket No. EL83–9–001, Pennsylvania Power Co.
CAP–25. Docket No. ER83–557–000, Northern States Power Co. (Minnesota); Docket No. ER83–555–000, Northern States Power Co. (Wisconsin); Docket No. ER83–556–000, Lake Superior District Power Co.; Docket No. ER83–571–000, Northern States Power Co. (Minnesota), Northern States Power Co. (Wisconsin) and Lake Superior District Power Co.
CAP–26. Docket No. ER83–635–000, Texas Utilities Electric Co.; Docket No. ER83–657–000, Houston Lighting & Power Co.; Docket Nos. ER82–545–000, ER82–546–000, ER83–610–000 and ER83–611–000, Public Service Co. of Oklahoma, et al.
CAP–27. Docket No. ER83–646–000, Union Electric Co.
CAP–28. Docket Nos. ER83–647–000, ER83–648–000, ER83–649–000 and ER83–650–000, New England Power Co.
CAP–29. Docket No. ER83–654–000, Lockhart Power Co.
CAP–30. Docket No. ER83–656–000, Kentucky Utilities Co.
CAP–31. Docket No. ER83–655–000, Wisconsin Public Service Corp.; Docket Nos. ER83–5–001 and EL83–25–000, Wisconsin Public Power Inc. System v. Wisconsin Public Service Corp.
CAP–32. Omitted.
CAP–33. Omitted.
CAP–34. Docket No. ER83–683–00, Pacific Gas & Electric Co.
CAP–35. Docket No. ER78–417–003, Kentucky Utilities Co.
CAP–36. Docket No. ER81–179–000 (Phase II), Arizona Public Service Co.
CAP–37. Docket No. ER82–318–000, Philadelphia Electric Power Co., the Susquehanna Electric Co. and the Susquehanna Power Co.
CAP–38. Docket No. ER81–577–007, Arkansas Power & Light Co.
CAP–39. Docket No. ER82–576–000, Energy Conversions of America, Inc.
CAP–40. Docket No. EL82–21–001, Sacramento Municipal Utility District v. Pacific Gas & Electric Co., Southern California Edison Co. and San Diego Gas & Electric Co,
CAP–41. Docket No. EL83–24–000, Seminole Electric Cooperative, Inc.; Docket Nos. EL82–24–001 and ER82–793–000, Florida Power & Light Co.
CAP–42. Docket No. EL81–10–000, City of Manti, Utah v. Utah Power & Light Co.
CAP–43. Docket No. QF82–208–001, American Lignite Products Co.
CAP–44. Docket Nos. QF83–320–000 and QF82–321–000, Rumford Falls Power Co.
CAP–45. Docket No. QF83–175–001, James A. Drake, Miller's Plant Farm Foliage and Chrysanthemum Division of Dustin, Oklahoma, Inc.
CAP–46. Project No. 7309–000, Salt Lake City Corp.

Consent Miscellaneous Agenda

CAM–1. Omitted
CAM–2. Docket Nos. RM81–19–000, 010, 011, 012, 013, 014, 015, 016, 017, 018, 019, 020 and 021, interstate pipeline certificates for routine transactions; Docket No. RM81–29–000, 001, 002, 003, 004, 005, 006, 007, 008, 009, 010, 011, 012, 013 and 014, sales and transportation by interstate pipelines and distributors
CAM–3. Docket No. RM79–76–188 (Colorado—32), high-cost gas produced from tight formations
CAM–4. Docket No. RM79–76–196 (Colorado—37), high-cost gas produced from tight formations
CAM–5. Docket No. RM79–76–185 (New Mexico—21), high-cost gas produced from tight formations
CAM–6. Docket No. RM79–76–177 (Ohio—2 addition), high-cost gas produced from tight formations
CAM–7. Docket No. RM79–76–200 (Texas—2 addition), high-cost gas produced from tight formations
CAM–8. Docket No. RM79–76–190 (Texas—9 addition IV), high-cost gas produced from tight formations
CAM–9. Docket No. RM79–76–195 (Texas—22 addition IV), high-cost gas produced from tight formations
CAM–10. Docket No. RM79–76–194 (Texas—36), high-cost gas produced from tight formations
CAM–11. Docket Nos. RM79–76–151 (Wyoming—14) and RM 79–76–152 (Wyoming—15), high-cost gas produced from tight formations
CAM–12. Docket No. GP82–15–000, State of Kentucky, Section 108 NGPA, Notice of Increased Production and Seasonally Affected Filings, Ashland Exploration, Inc., D.C. Policy No. 1 Well, FERC No. JD80–02663; Docket No. GP82–16–000, State of West Virginia, Section 108 NGPA, Notice of Increased Production and Seasonally Affected Filings, Ashland Exploration, Inc., Eastern Gas & Fuel No. 48 Well, FERC No. JD81–45358; Docket No. GP82–17–000, State of West Virginia, Section 108 NGPA, Notice of Increased Production and Seasonally Affected Filings, Ashland Exploration Inc., Eastern Gas & Fuel No. 36 Well, FERC No. JD81–47136
CAM–13. Docket No. RO82–42–000, B. M. Hester
CAM–14. Docket No. RM83–13–000, annual charges for use of government dams and other structures under Part I of the Federal Power Act.

Consent Gas Agenda

CAG–1. Docket No. RP83–123–000 and RP83–78–001, Wyoming Interstate Company Ltd.
CAG–2. Docket No. RP80–97–027, RP80–97–028, RP81–41, RP77–62, RP82–12 and RP82–125 (liquids and liquefiables), Tennessee Gas Pipeline Co.; Docket Nos. RP80–100, RP81–61, RP82–80 and RP79–39, Michigan Wisconsin Pipe Line Co.; Docket Nos. RP80–145, RP81–62 and RP82–119, Columbia Gulf Transmission Co.; Docket Nos. RP80–146, RP81–83 and RP82–120, Columbia Gas Transmission Co.; Docket Nos. RP80–55, RP80–118, RP81–73 and RP82–32, Sea Robin Pipeline Co.; Docket Nos. RP81–7 and RP81–84, Florida Gas Transmission Co.; Docket No. RP81–130, Transwestern Pipeline Co.; Docket No. RP81–109, Texas Eastern Transmission Corp.; Docket No. RP82–55, Transcontinental Gas Pipe Line Corp.; Docket No. RP81–78, Northwest Central Pipeline Corp.; Docket Nos. RP80–121, RP81–81 and RP82–57 (not consolidated), United Gas Pipe Line Co.
CAG–3. Valuation Docket No. PV–1335–000 (1980 Report) (1981 Report), Sohio Pipe Line Co.
CAG–4. Docket No. RP78–68–020, United Gas Pipe Line Co.
CAG–5. Omitted.
CAG–6. Docket No. RP81–47–000, Northwest Pipeline Corp.
CAG–7. Docket No. RP8108–000, Transwestern Pipeline Co.; Docket No. RP83–100–000, El Paso Natural Gas Co.; Docket No. RP83–130–000, et al., Transwestern Pipeline Co.
CAG–8. Docket No. RP83–86–000, Public Service Co. of Colorado, Western Slope Gas Co. and Cheyenne Light, Fuel And Power Co. v. Colorado Interstate Gas Co.
CAG–9. Docket No. RP75–25–000, Columbia Gas Transmission Corp. v. Allied Chemical Corp., et al.
CAG–10. Docket No. RP82–132–000 and 001, North Penn Gas Co.
CAG–11. Docket No. TA82–2–21–000, Columbia Gas Transmission Corp.
CAG–12. Docket No. IS83–25–000 and IS83–30–000, Mid–America Pipeline Co.
CAG–13. Docket No. IS83–26–000, Gulf Central Pipeline Co.
CAG–14. The Union Light, Heat & Power Co.
CAG–15. Docket No. RI79–21–004, Shell Oil Co.
CAG–16. Docket Nos. RI74–188–016 and RI75–21–011, Independent Oil & Gas Association of West Virginia
CAG–17. Docket No. G–7648–004, Mobil Producing Texas & New Mexico, Inc.; Docket No. CS73–603–003, Santa Fe-Andover Oil Co. (Andover Oil Co.); Docket No. CS83–79–003, Williams C. Richardson, Jr.
CAG–18. Docket No. CI72–674–002, Texas Gas Exploration Corp.; Docket No. CI62–965–001, Gulf Oil Corp.; Docket No. CP73–72–001, Southern Natural Gas, Co.; Docket No. CP73–123–001, United Gas Pipe Line Co. v. Humble Oil & Refining Co. and Isaac Arnold, et al.; Docket No. CI75–420–002, Chevron U.S.A., Inc.
CAG–19. Docket No. CI79–53–002 Amoco Production Co.

CAG–20. Docket No. CI77–837–003, Exxon Corp.
CAG–21. Docket Nos. CI82–272–003 and CI82–308–003, Texaco Inc.
CAG–22. Docket No. CI77–320–001, Texaco Inc.; Docket Nos. CP77–304–001 and CP64–97–000, Sabine Pipe Line Co.
CAG–23. Docket No. CI83–347–000, Shell Oil Co. and Chaparro Gathering Co.
CAG–24. Docket Nos. CP80–275–003 and 004, Mountain Fuel Supply Co. and Wexpro Co.; Docket No. CI80–233–000, Celsius Energy Co.; Docket No. CI82–216–000 Wexpro Co.
CAG–25. Docket No. CP77–494–006, Columbia Gulf Transmission Co. and Texas Eastern Transmission Corp.
CAG–26. Docket Nos. CP83–306 and 002, Transcontinental Gas Pipe Line Corp.
CAG–27. Docket No. CP82–144–004, Natural Gas Pipeline Co. of America and Transcontinental Gas Pipeline Corp.
CAG–28. Docket No. CP83–14–006 and 008, Northern Natural Gas Co.
CAG–29. Docket No. CP83–410–000, Consolidated Gas Supply Corp.; Docket No. CP83–466–000, National Fuel Gas Supply Corp.
CAG–30. Docket No. CP83–466–000, National Fuel Gas Supply Corp.
CAG–31. Docket Nos. CP82–238–000 and CP82–238–001, Northwest Pipeline Corp.
CAG–32. Docket No. CP83–112–001, Valero Transmission Co.
CAG–33. Docket No. CP83–305–000, El Paso Natural Gas Co.
CAG–34. Docket No. CP83–312–000 Equitable Gas Co.
CAG–35. Docket Nos. CP75–33–002 and CP75–33–003, Mountain Fuel Supply Co.
CAG–36. Docket No. CP83–192–000, Columbia Gas Transmission Corp.
CAG–37. Docket No. CP83–435–000, The Inland Gas Co., Inc.
CAG–38. Docket No. CP83–320–000, The Inland Gas Co., Inc.
CAG–39. Docket No. CP68–179–001, Florida Gas Transmission Co.
CAG–40. Docket No. CP77–17–012, CP77–17–013, CP77–92–003, CP77–92–004, CP77–533–004 and CP77–533–005, Panhandle Eastern Pipe Line Co. and Trunkline Gas Co.; Docket No. CP81–114–002, Trunkline Gas Co.; Docket Nos. CP82–528–000, and CP82–528–001, Northern Natural Gas Co., a Division of Internorth, Inc.
CAG–41. Omitted.
CAG–42. Omitted.
CAG–43. Docket No. RP83–116–000, Colorado Interstate Gas Co. Complainant v. MIGC, Inc. Respondent
CAG–44. Docket No. CP83–428–000, Producer Suppliers of Transco Gas Supply Co. and Transcontinental Gas Pipe Line Corp.

Power Agenda

I. Licensed Project Matters

P–1. Project No. 935–000, Pacific Power & Light Co.; Project No. 2791–000, Clark-Cowlitz Joint Operating Agency
P–2. Project No. 6775–002, Winchester Water Control District and Elektra Power Corp.
P–3. Project No. 2750–000, Town of Springfield, Vermont and Vermont Public Power Supply Authority
P–4. Project No. 2757–000, Colorado River Water Conservation District and Colorado-Ute Electric Association
P–5. Project Nos. 4024–000 and 6439–000, Gregory Wilcox; Project Nos. 6423–000, 6424–000, 6425–000, 6426–000, 6427–000 and 6428–000, Uncompahgre Valley Water Users Association and Montrose Partners
P–6. Project No. 3118–000, Franklin Falls Hydro Electric Corp.; Project No. 3170–000, Public Service Co. of New Hampshire

II. Electric Rate Matters

ER–1. Docket No. ER80–567–000, Wisconsin Electric Power Co.
ER–2. Docket No. ER79–150–008, Southern California Edison Co.
ER–3. Docket No. EL81–17–000, Iowa Electric Light & Power Co.
ER–4. Docket No. EL83–10–001, Louisiana Power & Light Co.
ER–5. Docket No. EL83–11–000, Virginia Electric & Power Co.
ER–6. Docket No. EF82–5031–000, Western Area Power Administration (Pick-Sloan Project)
ER–7. Docket No. ER77–485–000, et al., Carolina Power & Light Co.

Miscellaneous Agenda

M–1. Docket No. PL83–5–000, Hydroelectric Power Project Development: Cumulative impact analyses
M–2. Docket No. RM80–40–000, filing requirements and procedures for the approval of rates of Federal power marketing agencies
M–3. Docket No. RM83–11–000, revision of monthly report of cost and quality of fuel for electric plants: Form No. 423
M–4. Omitted.
M–5. Omitted.
M–6. Docket No. RM83–40–000, revisions to regualtions on retention of records by natural gas companies, public utilities, licensees, and oil pipeline companies
M–7. Docket No. RM83–66–000, revisions to public utility and natural gas company classification criteria, uniform systems of accountants, form Nos. 1, 1–F, 2, and 2–A, and related regulations
M–8. Docket No. RM83–3–000, reduction in filing requirements for well category applications under sections 102, 103, 107 and 108 of the Natural Gas Policy Act of 1978; Docket No. RM81–12–000, NGPA Section 108, Temporary Pressure Buildup Determination
M–9. Docket No. RM83–6–000, regulations implementing refund procedures under subpart K of Part 271 for production-related costs
M–10. (a) Docket Nos. RM80–50–003, 004 and 005, high-cost natural gas: Production enhancement procedures; (b) Docket No. RM80–41–000, Sun Gas Co.
M–11. Docket Nos. RM80–73–000, 001, 002 and 003, delivery allowances under Section 110 of the Natural Gas Policy Act of 1978; Docket Nos. RM80–74–000, 001, 002 and 003, compression allowances under Section 110 of the Natural Gas Policy Act of 1978
M–12. (a) Docket Nos. RM80–21–000 and 001, regulations under Sections 110, 105 and 106(b), of the Natural Gas Policy Act of 1978; (b) Docket No. GP80–50–000, the Montana Power Co.
M–13. (a) Docket No. GP82–9–000, State of West Virginia, Section 103 NGPA Determination, Patrick Petroleum Corp., Jacob Daugherty No. 1 Well Ferc No. JD81–27387; (b) Docket No. GP82–48–000, State of New Mexico, Section 103 NGPA Determination, Warren Petroleum Corp. (a Division of Gulf Oil Corp.), Mark Well No. 8 FERC Docket No. JD79–16337; (c) Docket No. GP83–12–000, Continental Energy
M–14. Omitted.
M–15. Docket No. GP82–11–000, Sun Gas Co.
M–16. Docket No. GP82–46–000, Getty Oil Co.

Gas Agenda

I. Pipeline Rate Matters

RP–1. Omitted.
RP–2. Omitted.
RP–3. Docket No. RP83–7–000, Columbia Gas Transmission Corp. v. Texas Eastern Transmission Corp.; Docket No. RP83–9–000, Texas Eastern Transmission Corp.; Docket No. RP83–18–000, Texas Eastern Transmission Corp. v. North Alabama Gas District
RP–4. Docket Nos. RP83–100–001, 002 and 003, El Paso Natural Gas Co.

II. Producer Matters

CI–1. Docket No. CI83–289–000, Tennessee Gas Pipeline Co.

III. Pipeline Certificate Matters

CP–1. Docket Nos. CP75–140–010 and CP75–140–012, Pacific Alaska LNG Co.; Docket No. CP74–160–006, Pacific Indonesia LNG Co.; Docket No. CI78–453–001, Pacific Lighting Gas Devleopment Co.; Docket No. CI78–452–001, Pacific Simpco Partnership
CP–2. Docket No. CP66–289–000, et al., Tennessee Gas Pipeline Co; Docket Nos. CI67–1810 and CI77–347–000, the Louisiana Land and Exploration Co.
CP–3. Docket Nos. CP65–393–004 and TC82–63–000, Florida Gas Transmission Co.
CP–4. Omitted.

Kenneth F. Plumb,

Secretary.

[S–1280–83 Filed 9–8–83; 3:36 pm]

BILLING CODE 6717–01–M

5

FEDERAL HOME LOAN BANK BOARD

TIME AND DATE: 3 p.m., Thursday, September 15, 1983.

PLACE: Board Room, Sixth floor, 1700 G Street, NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Ms. Gravlee (202–377–6970).

MATTERS TO BE CONSIDERED:

Charters and Bylaws Available to Federal Associations and Savings Banks
Management Official Interlocks

[S–1277–83 Filed 9–8–83; 10:40 am]

BILLING CODE 6720–01–M

federal register

Monday
September 12, 1983

Part II

Department of Energy

Federal Energy Regulatory Commission

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Volume 964]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: September 7, 1983.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Rd., Springfield, Va. 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 Mile rule)
102–3: New well (1000 Ft rule)
102–4: New onshore reservoir
102–5: New reservior on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal Seams
107–DV: Devonian Shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS
Issued September 7, 1983

VOLUME 964

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
WEST VIRGINIA DEPARTMENT OF MINES									
-COLUMBIA GAS TRANSMISSION CORP		RECEIVED:	08/16/83		JA: WV				
8351231		4704500707		108		ANTHONY LAWSON HEIRS 808658	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8351258		4708702329		108		B K LITTLEPAGE - 803953	W VA FIELD AREA A	0.3	COLUMBIA GAS TRAN
8351255		4708702388		108		B K LITTLEPAGE 801694	W VA FIELD AREA A	0.1	COLUMBIA GAS TRAN
8351350		4708702330		108		B K LITTLEPAGE 803954	WVA FIELD AREA A	0.6	COLUMBIA GAS TRAN
8351412		4704300782		108		BRANCHLAND COAL CO 806215	W VA FIELD AREA B	13.0	COLUMBIA GAS TRAN
8351404		4705900515		108		BRIAR MT C&C CO 6 #808468	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8351393		4705900511		108		BRIAR MT C&C CO 7 808469	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8351381		4705900264		108		BRIAR MT C&C CO 806787	WVA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8351394		4705900647		108		BRIAR MT C&C CO 808858	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8351179		4705900286		108		BROOKIE PARSLEY ETAL 806703	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8351281		4708702131		108		BROWN GOSHORN & SWAN 800490	W VA FIELD AREA A	0.4	COLUMBIA GAS TRAN
8351280		4708702132		108		BROWN GOSHORN & SWAN 800491	W VA FIELD AREA A	0.5	COLUMBIA GAS TRAN
8351288		4708702136		108		BROWN GOSHORN & SWAN 800575	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8351287		4708702138		108		BROWN GOSHORN & SWAN 800578	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8351279		4708702140		108		BROWN GOSHORN & SWAN 802502	W VA FIELD AREA A	0.3	COLUMBIA GAS TRAN
8351295		4708703186		108		BROWN GOSHORN & SWAN 802540	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8351351		4708702144		108		BROWN GOSHORN & SWAN 802543	WVA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8351348		4708702145		108		BROWN GOSHORN & SWAN 802546	WVA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8351278		4708702146		108		BROWN GOSHORN & SWAN 803885	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8351349		4708702147		108		BROWN GOSHORN & SWAN 803929	W VA FIELD AREA A	0.4	COLUMBIA GAS TRAN
8351286		4708702137		108		BROWN GOSHORN - SWAN 800576	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8351285		4708702128		108		BROWN-GOSHORN & SWAN 800049	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8351284		4708702129		108		BROWN-GOSHORN & SWAN 800474	W VA FIELD AREA A	0.2	COLUMBIA GAS TRAN
8351283		4708702130		108		BROWN-GOSHORN & SWAN 800475	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8351291		4708702133		108		BROWN-GOSHORN & SWAN 800558	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8351289		4708702135		108		BROWN-GOSHORN & SWAN 800574	W VA FIELD AREA A	4.0	COLUMBIA GAS TRAN
8351292		4708702139		108		BROWN-GOSHORN & SWAN 801281	W VA FIELD AREA A	8.0	COLUMBIA GAS TRAN
8351294		4708702141		108		BROWN-GOSHORN & SWAN 802520	W VA FIELD AREA A	0.4	COLUMBIA GAS TRAN
8351293		4708702142		108		BROWN-GOSHORN & SWAN 802521	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8351296		4708702143		108		BROWN-GOSHORN & SWAN 802537	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8351282		4708700021		108		BROWN-GOSHORN & SWAN 804078	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8351420		4701500779		108		BROWN-GOSHORN & SWAN 809359	W VA FIELD AREA A	8.0	COLUMBIA GAS TRAN
8351298		4708702134		108		BROWN-GOSHORN-SWAN 800567	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8350999		4705900092		108		BURN CK MARBNE LD CO 805715	W VA FIELD AREA B	16.0	COLUMBIA GAS TRAN
8351181		4705900254		108		BURN CK MARBNE LD CO 806700	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351383		4705900253		108		BURN CK MARBNE LD CO 806701	W VA FIELD AREA B	12.0	COLUMBIA GAS TRAN
8351140		4705900255		108		BURN CK MARBNE LD CO 806755	WVA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8351226		4704302091		108		C A HOLDERBY - 802258	W VA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8351413		4703900187		108		CANTERBURY & DEARIEN 806877	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8351392		4705900152		108		CENTRAL TRUST CO #17 806287	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8351405		4705900137		108		CENTRAL TRUST CO #2 806224	W VA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8351317		4705900283		108		CENTRAL TRUST CO #24 806811	W VA FIELD AREA B	8.0	COLUMBIA GAS TRAN
8351319		4705900393		108		CENTRAL TRUST CO #28 808172	W VA FIELD AREA B	8.0	COLUMBIA GAS TRAN
8351318		4705900374		108		CENTRAL TRUST CO 27 808152	W VA FIELD AREA B	13.0	COLUMBIA GAS TRAN
8351312		4705900428		108		CENTRAL TRUST CO 31 808276	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8350962		4704301864	108			CLEVE JOHNSON 806076	W VA FIELD AREA B	0.9	COLUMBIA GAS TRAN
8351224		4704300558	108			COOK STOFFLER - 802253	W VA FIELD AREA B	20.0	COLUMBIA GAS TRAN
8351313		4705900265	108			COTIGA DEV CO #1 806769	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351368		4705900514	108			COTIGA DEV CO #10 808384	WVA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8351369		4705900569	108			COTIGA DEV CO #13 808647	WVA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8351376		4705900616	108			COTIGA DEV CO #18 808816	W VA FIELD AREA B	13.0	COLUMBIA GAS TRAN
8351437		4705900343	108			COTIGA DEV CO #19 808033	W VA FIELD AREA B	11.0	COLUMBIA GAS TRAN
8351334		4705900262	108			COTIGA DEV CO #2 806751	WVA FIELD AREA B	21.0	COLUMBIA GAS TRAN
8351370		4705900573	108			COTIGA DEV CO #2 808645	WVA FIELD AREA B	0.6	COLUMBIA GAS TRAN
8351333		4705900301	108			COTIGA DEV CO #3 806816	WVA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351314		4705900284	108			COTIGA DEV CO #4 806830	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351363		4705900594	108			COTIGA DEV CO #4 808733	WVA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8351315		4705900298	108			COTIGA DEV CO #6 806897	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351434		4705900116	108			COTIGA DEV CO #7 805865	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351435		4705900716	108			COTIGA DEV CO #8 806818	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8351436		4705900294	108			COTIGA DEV CO #9 806819	W VA FIELD AREA B	14.0	COLUMBIA GAS TRAN
8351433		4705900028	108			COTIGA DEV CO 804332	W VA FIELD AREA B	19.0	COLUMBIA GAS TRAN
8351325		4705900361	108			COTIGA DEV CO 808015	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8351358		4705900562	108			COTIGA DEV CO 808570	WVA FIELD AREA B	14.0	COLUMBIA GAS TRAN
8351024		4700500785	108			COURTNEY CO #36 806238	WVA FIELD AREA B	13.0	COLUMBIA GAS TRAN
8351023		4700500791	108			COURTNEY CO #37 806252	W VA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8351015		4704300818	108			COURTNEY CO #38 806283	W VA FIELD AREA B	12.0	COLUMBIA GAS TRAN
8351423		4700500920	108			E J BERWIND #6 809081	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8351422		4700500948	108			E J BERWIND #8 809169	WEST VIRGINIA FIELD A	2.0	COLUMBIA GAS TRAN
8351421		4700500953	108			E J BERWIND #9 809165	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351424		4700500916	108			E J BERWIND 808997	W VA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8351428		4709901314	108			ELI CRUM #1 808766	W VA FIELD B	11.0	COLUMBIA GAS TRAN
8351065		4709900645	108			ELLA CARSON 806495	W VA FIELD AREA B	10.0	COLUMBIA GAS TRAN
8351307		4709900921	108			ETHEL QUEEN 808312	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8351222		4704301871	108			EUGENE V KEYSER 802345	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8351431		4709900778	108			F D CALDWELL #34 806715	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351430		4709900745	108			F D CALDWELL #52 806648	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351393		4705900259	108			F D CALDWELL #60 806778	W VA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8351432		4709900785	108			F D CALDWELL #61 806791	W VA FIELD AREA B	11.0	COLUMBIA GAS TRAN
8351427		4709900809	108			F D CALDWELL #65 806838	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8351323		4709901847	108			F D CALDWELL #66 808375	W VA FIELD AREA B	11.0	COLUMBIA GAS TRAN
8351324		4709900803	108			F D CALDWELL 806625	W VA FIELD AREA B	7.0	COLUMBIA GAS TRAN
8351426		4709900839	108			F D CALDWELL 806814	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8351411		4704300886	108			G LAMBERT 806466	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8351397		4705900168	108			G R C WILES #1 806411	W VA FIELD AREA B	11.0	COLUMBIA GAS TRAN
8351384		4705900201	108			G R C WILES #2 806569	WVA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8350955		4704301877	108			GREELEY PUCKETT 806097	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8351221		4704301981	108			GUYAN LD ASSN - 802352	W VA FIELD AREA B	10.0	COLUMBIA GAS TRAN
8351220		4704301982	108			GUYAN LD ASSN - 802356	W VA FIELD AREA B	7.0	COLUMBIA GAS TRAN
8351429		4709901629	108			GUYAN LD ASSN 802122	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8351402		4705900175	108			H CLOSTERMAN #32 806467	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8351401		4705900177	108			H CLOSTERMAN #33 806468	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8351400		4705900219	108			H CLOSTERMAN #36 806598	W VA FIELD AREA B	10.0	COLUMBIA GAS TRAN
8351382		4705900236	108			H CLOSTERMAN #37 806679	WVA FIELD AREA B	7.0	COLUMBIA GAS TRAN
8351399		4705900261	108			H CLOSTERMAN #39 806736	W VA FIELD AREA B	14.0	COLUMBIA GAS TRAN
8351398		4705900266	108			H CLOSTERMAN #41 806782	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8351391		4705900267	108			H CLOSTERMAN #42 806783	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351390		4705900295	108			H CLOSTERMAN #43 806834	WVA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8351389		4705900296	108			H CLOSTERMAN #44 806835	WVA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8351388		4705900302	108			H CLOSTERMAN #45 806915	WVA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8351387		4705900303	108			H CLOSTERMAN #46 806916	WVA FIELD AREA B	25.0	COLUMBIA GAS TRAN
8351385		4705900602	108			H CLOSTERMAN #50 808592	WVA FIELD AREA B	0.7	COLUMBIA GAS TRAN
8351386		4705900332	108			H CLOSTERMAN #9 808005	WVA FIELD AREA B	14.0	COLUMBIA GAS TRAN
8351361		4705900178	108			H CLOSTERMAN NO 31 806408	WVA FIELD AREA B	10.0	COLUMBIA GAS TRAN
8351403		4705900128	108			H CLOSTERMAN 806174	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351322		4709900844	108			H J STARK 806960	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8351217		4704301884	108			H W MILLER ETAL - 802338	W VA FIELD AREA B	8.0	COLUMBIA GAS TRAN
8351223		4704301885	108			H W MILLER ETAL - 802339	W VA FIELD AREA B	8.0	COLUMBIA GAS TRAN
8351214		4704302036	108			HENRY STOWERS - 802387	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8351083		4704302037	108			HIRAM SCITES 806106	WVA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8351425		4700500742	108			HORSE CK L&M #71 805768	W VA FIELD AREA	10.0	COLUMBIA GAS TRAN
8351225		4704300565	108			HUNT DEV & GAS CO 802257	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8351016		4704300415	108			HUNT DEV & GAS CO 806117	W VA FIELD AREA B	8.0	COLUMBIA GAS TRAN
8351017		4704300416	108			HUNT DEV & GAS CO 806118	W VA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8351011		4704300427	108			HUNT DEV & GAS CO 806119	WV FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351012		4704300438	108			HUNT DEV & GAS CO 806120	W VA FIELD AREA B	0.5	COLUMBIA GAS TRAN
8351013		4704300428	108			HUNT DEV & GAS CO 806121	WVA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8351019		4704300528	108			HUNT DEV & GAS CO 806125	W VA FIELD AREA A	11.0	COLUMBIA GAS TRAN
8351018		4704300766	108			HUNT DEV & GAS CO 806126	W VA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8350944		4704300715	108			HUNT DEV & GAS CO 806130	WVA FIELD AREA B	18.0	COLUMBIA GAS TRAN
8350945		4704300599	108			HUNT DEV & GAS CO 806131	WVA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8350946		4704300692	108			HUNT DEV & GAS CO 806134	WVA FIELD AREA B	8.0	COLUMBIA GAS TRAN
8350947		4704300736	108			HUNT DEV & GAS CO 806138	WVA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8351340		4709900488	108			HUNT DEV & GAS MIN 805820	WEST VIRGINIA FIELD A	21.0	COLUMBIA GAS TRAN
8351020		4704300629	108			HUNT GAS & DEV CO 806122	W VA FIELD AREA B	17.0	COLUMBIA GAS TRAN
8350961		4704301887	108			I J CLARK 806089	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351367		4705900620	108			IRA SIMPKINS #2 808849	W VA FIELD AREA B	13.0	COLUMBIA GAS TRAN
8351377		4705900687	108			IRA SIMPKINS ETAL 808690	WVA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8351406		4704300963	108			IRVIN DUGAN 806630	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8351276		4708702189	108			ISABELLE MCCANN 801282	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8351275		4708700013	108			ISABELLE MCCANN 804037	W VA FIELD AREA A	0.5	COLUMBIA GAS TRAN
8351407		4704300901	108			J B LAMBERT #1 806482	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8351410		4704300915	108			J B LAMBERT #2 806535	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351409		4704300838	108			J B LAMBERT 806706	W VA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8351145		4704500252	108			J E PECK NO 8 806639	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8351203		4704500708	108			J E PECK 808627	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8351298		4709900789	108			J F CALDWELL #4 806737	W VA FIELD AREA B	13.0	COLUMBIA GAS TRAN
8351305		4709900320	108			J L CALDWELL #23 - 805430	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8351304		4709900321	108			J L CALDWELL #24 805431	W VA FIELD AREA B	16.0	COLUMBIA GAS TRAN
8351306		4709900335	108			J L CALDWELL #27 805506	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351303		4709900368	108			J L CALDWELL #29 805577	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351320		4705900304	108			J L CALDWELL #3 806786	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351302		4709900361	108			J L CALDWELL #30 805578	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8351301		4709900368	108			J L CALDWELL #35 805628	W VA FIELD AREA B	8.0	COLUMBIA GAS TRAN
8350985		4707900885	108			J L CHANEY - 804163	WVA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8351439		4708100245	108			J L DICKINSON 809031	W VA FIELD AREA C	11.0	COLUMBIA GAS TRAN
8351440		4708100252	108			J L DICKINSON 809109	W VA FIELD AREA C	0.6	COLUMBIA GAS TRAN
8351438		4708100257	108			J L DICKINSON 809143	W VA FIELD AREA C	2.0	COLUMBIA GAS TRAN
8351007		4704302044	108			J M EDGNOR-806112	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8351058		4705900198		108		JACOB BAACH #2 806567	WVA FIELD AREA B	0.0	COLUMBIA GAS TRAN
8351175		4705900220		108		JACOB BAACH #3 806627	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351182		4705900241		108		JACOB BAACH #4 806704	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8351174		4705900227		108		JAMES V HEIRS #4 806618	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8351417		4703500790		108		JOHN T SAYRE #1 806664	W VA FIELD AREA A	4.0	COLUMBIA GAS TRAN
8350984		4707900887		108		L D RIFE 804188	W VA FIELD AREA A	8.0	COLUMBIA GAS TRAN
8350974		4705900147		108		L V SARTIN #2 806247	WVA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8351418		4703500789		108		LANCE F SAYRE #1 806663	W VA FIELD AREA A	4.0	COLUMBIA GAS TRAN
8350963		4704301900		108		LEE DENT 806065	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8351002		4704301901		108		LEE DENT 806068	W VA FIELD AREA B	0.7	COLUMBIA GAS TRAN
8350966		4704301890		108		LEE DENT 806071	WVA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350967		4704301902		108		LEE DENT 806073	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350958		4704300831		108		LEONA D ADKINS 806297	WVA FIELD AREA B	20.0	COLUMBIA GAS TRAN
8351001		4704301989		108		LINCOLN LAND ASSOC 806867	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8351257		4708702358		108		LITTLEPAGE & JACKSON 801631	W VA FIELD AREA A	0.6	COLUMBIA GAS TRAN
8351355		4705900895		108		LOGAN CANNEL COAL CO 804437	WVA FIELD AREA B	0.3	COLUMBIA GAS TRAN
8351356		4705900432		108		LOGAN CANNEL COAL CO 804440	WVA FIELD AREA B	19.0	COLUMBIA GAS TRAN
8351415		4703903140		108		LUVERNIA HARPER 801361	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8351277		4708702223		108		M C HARRAH 801280	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8351008		4704302051		108		M F PORTER-806113	WVA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351300		4709901206		108		M L S PERKINS NO 8 808749	W VA FIELD AREA B	9.0	COLUMBIA GAS TRAN
8351310		4709901221		108		M L S PERKINS 808746	W VA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8351299		4709901226		108		M L S PERKINS 808748	W VA FIELD AREA B	15.0	COLUMBIA GAS TRAN
8350964		4704301912		108		MARINE JOHNSON 806089	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8351419		4703500796		108		MARSHALL COMER 806677	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8351311		4709901081		108		MARY L S PERKINS - 808626	W VA FIELD AREA B	10.0	COLUMBIA GAS TRAN
8351309		4709901169		108		MARY L S PERKINS 808745	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8351359		4705900582		108		MINGO BLOCK COAL #4 808627	WVA FIELD AREA B	9.0	COLUMBIA GAS TRAN
8351371		4705900596		108		MINGO BLOCK COAL 10 808732	WVA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8351372		4705900603		108		MINGO BLOCK COAL 11 808588	WVA FIELD AREA B	8.0	COLUMBIA GAS TRAN
8351374		4705900605		108		MINGO BLOCK COAL 12 808764	WVA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351375		4705900690		108		MINGO BLOCK COAL 14 809011	WVA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351365		4705900581		108		MINGO BLOCK COAL 5 808653	WVA FIELD AREA B	9.0	COLUMBIA GAS TRAN
8351373		4705900588		108		MINGO BLOCK COAL 808693	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8351316		4705900258		108		MINGO O & G CO 806752	W VA FIELD AREA B	8.0	COLUMBIA GAS TRAN
8351354		4705900395		108		MINGO O&G CO 808068	WVA FIELD AREA B	17.0	COLUMBIA GAS TRAN
8351357		4705900595		108		MINGO OIL & GAS CO #6 808730	WVA FIELD AREA B	13.0	COLUMBIA GAS TRAN
8351396		4705900169		108		MINGO-MARTIN #2 806412	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8351170		4704300961		108		MOHLER LUMBER CO #2 806655	W VA FIELD AREA B	9.0	COLUMBIA GAS TRAN
8351339		4709900671		108		N FORK COAL CO #7 806528	WVA FIELD AREA B	12.0	COLUMBIA GAS TRAN
8351119		4709900780		108		N FORK COAL CO #8 806743	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8351353		4707900183		108		N J OXLEY ETAL 805003	WVA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8351330		4705900391		108		NEIGHBERT LAND CO #7 806925	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351327		4705900409		108		NIGBERT LAND CO #11 808206	W VA FIELD AREA B	8.0	COLUMBIA GAS TRAN
8351331		4705900365		108		NIGHBERT LAND CO #3 808102	WVA FIELD AREA B	9.0	COLUMBIA GAS TRAN
8351335		4705900368		108		NIGHBERT LAND CO #6 808105	WVA FIELD AREA B	15.0	COLUMBIA GAS TRAN
8351336		4705900390		108		NIGHBERT LAND CO #8 806926	WVA FIELD AREA B	12.0	COLUMBIA GAS TRAN
8351337		4705900570		108		NIGHBERT LAND CO 13 808654	W VA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8351332		4705900320		108		NIGHBERT LAND CO 806965	WVA FIELD AREA B	9.0	COLUMBIA GAS TRAN
8351329		4705900367		108		NIGHBERT LAND CO 808104	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351328		4705900408		108		NIGHBERT LAND CO 808205	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351326		4705900410		108		NIGHBERT LAND CO 808208	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8351218		4704301921		108		PERRY WHITE - 802335	W VA FIELD AREA B	8.3	COLUMBIA GAS TRAN
8351128		4709900752		108		REBECCA PERRY 806678	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8351216		4704301963		108		ROBERT LOVEJOY - 802389	W VA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8351265		4703903074		108		S C C CO 801215	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8351416		4703903168		108		S J DICKINSON #3 801546	W VA FIELD AREA A	5.0	COLUMBIA GAS TRAN
8351156		4704301073		108		S MCELDOWNEY ETAL 806941	W VA FIELD AREA B	7.0	COLUMBIA GAS TRAN
8351378		4705500010		108		SALLIE L BAILEY #2 808272	WVA FIELD AREA C	3.0	COLUMBIA GAS TRAN
8351297		4705500006		108		SALLIE L BAILEY 808425	W VA FIELD AREA C	2.0	COLUMBIA GAS TRAN
8351256		4708702373		108		SAM D LITTLEPAGE 800398	W VA FIELD AREA A	0.3	COLUMBIA GAS TRAN
8351352		4707900899		108		ST EGGLETON 804181	WVA FIELD AREA A	4.0	COLUMBIA GAS TRAN
8351272		4703903081		108		SUNDAY CK COAL CO 800927	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8351271		4703903080		108		SUNDAY CREEK COAL CO 800925	W VA FIELD AREA A	7.0	COLUMBIA GAS TRAN
8351270		4703903095		108		SUNDAY CREEK COAL CO 801066	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8351269		4703903096		108		SUNDAY CREEK COAL CO 801147	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8351268		4703903097		108		SUNDAY CREEK COAL CO 801156	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8351267		4703903098		108		SUNDAY CREEK COAL CO 801157	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8351266		4703903099		108		SUNDAY CREEK COAL CO 801159	W VA FIELD AREA A	4.0	COLUMBIA GAS TRAN
8351264		4703903100		108		SUNDAY CREEK COAL CO 801297	W VA FIELD AREA A	7.0	COLUMBIA GAS TRAN
8351263		4703903102		108		SUNDAY CREEK COAL CO 801548	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8351262		4703903103		108		SUNDAY CREEK COAL CO 801549	WEST VIRGINIA FIELD A	2.0	COLUMBIA GAS TRAN
8351261		4703903104		108		SUNDAY CREEK COAL CO 801892	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8351260		4703903105		108		SUNDAY CREEK COAL CO 801957	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8351259		4703901565		108		SUNDAY CREEK COAL CO 801974	W VA FIELD AREA A	5.0	COLUMBIA GAS TRAN
8351408		4704300936		108		T B LAMBERT #3 806570	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351321		4709900825		108		T H HARVEY 806810	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350953		4704300763		108		TCO FEE MIN TR #4 806194	WVA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8351229		4704301351		108		TCO FEE TR #1 809049.	W VA FIELD AREA B	13.0	COLUMBIA GAS TRAN
8350983		4709901402		108		TCO FEE TR #15 809156	WVA FIELD AREA B	0.7	COLUMBIA GAS TRAN
8351176		4705900231		108		TCO FEE TR #22 806657	W VA FIELD AREA B	14.0	COLUMBIA GAS TRAN
8350951		4704300755		108		TCO FEE TR #31 806172	WVA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351061		4709900675		108		TCO FEE TR #31 806532	W VA FIELD AREA B	9.0	COLUMBIA GAS TRAN
8351123		4709900801		108		TCO FEE TR #31 806804	WVA FIELD AREA B	7.0	COLUMBIA GAS TRAN
8351151		4704301051		108		TCO FEE TR #31 806888	W VA FIELD AREA B	11.0	COLUMBIA GAS TRAN
8351211		4709901283		108		TCO FEE TR #31 808742	W VA FIELD AREA B	0.9	COLUMBIA GAS TRAN
8351021		4704300762		108		TCO FEE TR #4 806195	WVA FIELD AREA B	17.0	COLUMBIA GAS TRAN
8350949		4704300804		108		TCO FEE TR #4 806251	WVA FIELD AREA B	16.0	COLUMBIA GAS TRAN
8351010		4704300824		108		TCO FEE TR #4 806275	WVA FIELD AREA B	0.0	COLUMBIA GAS TRAN
8350959		4704300837		108		TCO FEE TR #4 806308	W VA FIELD AREA B	16.0	COLUMBIA GAS TRAN
8350960		4704300853		108		TCO FEE TR #4 806346	W VA FIELD AREA B	14.0	COLUMBIA GAS TRAN
8351057		4705900162		108		TCO FEE TR #4 806375	W VA FIELD AREA B	21.0	COLUMBIA GAS TRAN
8351056		4705900164		108		TCO FEE TR #4 806376	WVA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8351054		4705900165		108		TCO FEE TR #4 806377	WVA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8351053		4705900161		108		TCO FEE TR #4 806380	W V FIELD AREA B	3.0	COLUMBIA GAS TRAN
8351097		4704300894		108		TCO FEE TR #4 806456	WVA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8351095		4704300895		108		TCO FEE TR #4 806459	W VA FIELD AREA B	12.0	COLUMBIA GAS TRAN
8351177		4705900232		108		TCO FEE TR #4 806658	W VA FIELD AREA B	14.0	COLUMBIA GAS TRAN
8351178		4705900233		108		TCO FEE TR #4 806660	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351160		4704300972		108		TCO FEE TR #4 806683	WVA FIELD AREA B	14.0	COLUMBIA GAS TRAN
8351161		4704300977		108		TCO FEE TR #4 806689	W VA FIELD AREA B	11.0	COLUMBIA GAS TRAN
8351188		4705900237		108		TCO FEE TR #4 806698	W VA FIELD AREA B	16.0	COLUMBIA GAS TRAN
8351183		4705900257		108		TCO FEE TR #4 806723	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351168		4704300997		108		TCO FEE TR #4 806762	W VA FIELD AREA B	11.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8351166		4704301002		108		TCO FEE TR 04 806764	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8351184		4705900292		108		TCO FEE TR 04 806842	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8351150		4704301028		108		TCO FEE TR 04 806854	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8351149		4704301026		108		TCO FEE TR 04 806855	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351153		4704301031		108		TCO FEE TR 04 806869	W VA FIELD AREA B	12.0	COLUMBIA GAS TRAN
8351186		4705900291		108		TCO FEE TR 04 806883	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351189		4705900311		108		TCO FEE TR 04 806894	W VA FIELD AREA B	8.0	COLUMBIA GAS TRAN
8351188		4705900306		108		TCO FEE TR 04 806895	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351187		4705900307		108		TCO FEE TR 04 806896	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8351050		4705900329		108		TCO FEE TR 04 806983	W VA FIELD AREA B	9.0	COLUMBIA GAS TRAN
8351049		4705900331		108		TCO FEE TR 04 806992	WVA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351048		4705900354		108		TCO FEE TR 04 808042	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8351041		4705900387		108		TCO FEE TR 04 808185	WVA FIELD AREA B	18.0	COLUMBIA GAS TRAN
8351039		4705900389		108		TCO FEE TR 04 808186	WVA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8350991		4705900534		108		TCO FEE TR 04 808501	WVA FIELD AREA B	0.0	COLUMBIA GAS TRAN
8350993		4705900528		108		TCO FEE TR 04 808508	WVA FIELD AREA B	19.0	COLUMBIA GAS TRAN
8350992		4705900530		108		TCO FEE TR 04 808519	WVA FIELD AREA B	15.0	COLUMBIA GAS TRAN
8350990		4705900535		108		TCO FEE TR 04 808533	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350989		4705900536		108		TCO FEE TR 04 808534	WVA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350996		4705900558		108		TCO FEE TR 04 808568	WVA FIELD AREA B	8.0	COLUMBIA GAS TRAN
8350997		4705900560		108		TCO FEE TR 04 808571	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8350998		4705900557		108		TCO FEE TR 04 808572	WVA FIELD AREA B	0.0	COLUMBIA GAS TRAN
8351205		4705900592		108		TCO FEE TR 04 808734	W VA FIELD AREA B	9.0	COLUMBIA GAS TRAN
8351252		4705900784		108		TCO FEE TR 04 809433	WEST VA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8351219		4704301358		108		TCO FEE TR 86 - 802353	W VA FIELD AREA B	8.0	COLUMBIA GAS TRAN
8351232		4704500688		108		TCO FEE TR 89 808591	W VA FIELD AREA B	8.0	COLUMBIA GAS TRAN
8351072		4709900578		108		TCO FEE 806364	W VA FIELD AREA B	8.0	COLUMBIA GAS TRAN
8351126		4709900749		108		TCO FEE 806670	W VA FIELD AREA B	10.0	COLUMBIA GAS TRAN
8351131		4709900762		108		TCO FEE 806739	W VA FIELD AREA B	16.0	COLUMBIA GAS TRAN
8351141		4709900770		108		TCO FEE 806748	W VA FIELD AREA B	9.0	COLUMBIA GAS TRAN
8351118		4709900772		108		TCO FEE 806756	W VA FIELD AREA B	15.0	COLUMBIA GAS TRAN
8351195		4709901113		108		TCO FEE 808736	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8351201		4709901173		108		TCO FEE 808813	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8351366		4705900441		108		TCO MIN ET AL 808256	WVA FIELD AREA B	19.0	COLUMBIA GAS TRAN
8351100		4704300898		108		TCO MIN TR #1 606469	WVA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8351060		4709900674		108		TCO MIN TR #1 80 6531	W VA FIELD AREA B	20.0	COLUMBIA GAS TRAN
8350956		4704300746		108		TCO MIN TR #1 806153	W VA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8350948		4704300747		108		TCO MIN TR #1 806154	WVA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8350976		4709900468		108		TCO MIN TR #1 806184	W VA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8350952		4704300754		108		TCO MIN TR #1 806188	WVA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8351022		4704300773		108		TCO MIN TR #1 806196	WVA FIELD AREA B	10.0	COLUMBIA GAS TRAN
8350954		4704300764		108		TCO MIN TR #1 806197	W VA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8350968		4704500178		108		TCO MIN TR #1 806203	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350970		4704500181		108		TCO MIN TR #1 806204	W VA FIELD AREA B	12.0	COLUMBIA GAS TRAN
8350969		4704500179		108		TCO MIN TR #1 806205	WVA FIELD AREA B	16.0	COLUMBIA GAS TRAN
8350942		4704300778		108		TCO MIN TR #1 806206	WVA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8351073		4709900502		108		TCO MIN TR #1 806234	WVA FIELD AREA B	17.0	COLUMBIA GAS TRAN
8350957		4709900535		108		TCO MIN TR #1 806272	WVA FIELD AREA B	24.0	COLUMBIA GAS TRAN
8351071		4709900591		108		TCO MIN TR #1 806352	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8351074		4709900582		108		TCO MIN TR #1 806366	WVA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8351073		4709900586		108		TCO MIN TR #1 806369	WVA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351078		4709900616		108		TCO MIN TR #1 806419	WVA FIELD AREA B	10.0	COLUMBIA GAS TRAN
8351076		4709900626		108		TCO MIN TR #1 806439	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351080		4709900628		108		TCO MIN TR #1 806441	WVA FIELD AREA B	0.9	COLUMBIA GAS TRAN
8351081		4709900632		108		TCO MIN TR #1 806455	WVA FIELD AREA B	18.0	COLUMBIA GAS TRAN
8351096		4704300882		108		TCO MIN TR #1 806457	WVA FIELD AREA B	10.0	COLUMBIA GAS TRAN
8351098		4704300878		108		TCO MIN TR #1 806468	WVA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8351101		4704300880		108		TCO MIN TR #1 806470	WVA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8351086		4709900650		108		TCO MIN TR #1 806473	WVA FIELD AREA B	9.0	COLUMBIA GAS TRAN
8351085		4709900651		108		TCO MIN TR #1 806474	WVA FIELD AREA B	17.0	COLUMBIA GAS TRAN
8351084		4709900652		108		TCO MIN TR #1 806475	WVA FIELD AREA B	18.0	COLUMBIA GAS TRAN
8351083		4709900653		108		TCO MIN TR #1 806476	W VA FIELD AREA B	7.0	COLUMBIA GAS TRAN
8351347		4709900654		108		TCO MIN TR #1 806477	WVA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351066		4709900657		108		TCO MIN TR #1 806499	W VA FIELD AREA B	18.0	COLUMBIA GAS TRAN
8351067		4709900664		108		TCO MIN TR #1 806506	W VA FIELD AREA B	7.0	COLUMBIA GAS TRAN
8351069		4709900668		108		TCO MIN TR #1 806515	W VA FIELD AREA B	8.0	COLUMBIA GAS TRAN
8351102		4704300912		108		TCO MIN TR #1 806526	WVA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8351062		4709900690		108		TCO MIN TR #1 806541	WVA FIELD AREA B	9.0	COLUMBIA GAS TRAN
8351059		4709900714		108		TCO MIN TR #1 806564	WVA FIELD AREA B	12.0	COLUMBIA GAS TRAN
8351092		4709900729		108		TCO MIN TR #1 806593	WVA FIELD AREA B	12.0	COLUMBIA GAS TRAN
8351091		4709900730		108		TCO MIN TR #1 806594	WVA FIELD AREA B	13.0	COLUMBIA GAS TRAN
8351125		4709900732		108		TCO MIN TR #1 806595	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351090		4709900738		108		TCO MIN TR #1 806616	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8351127		4709900754		108		TCO MIN TR #1 806681	WVA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8351132		4709900776		108		TCO MIN TR #1 806697	WVA FIELD AREA B	16.0	COLUMBIA GAS TRAN
8351130		4709900763		108		TCO MIN TR #1 806710	W VA FIELD AREA B	16.0	COLUMBIA GAS TRAN
8351129		4709900757		108		TCO MIN TR #1 806721	WVA FIELD AREA B	18.0	COLUMBIA GAS TRAN
8351120		4709900774		108		TCO MIN TR #1 806744	WVA FIELD AREA B	0.1	COLUMBIA GAS TRAN
8351164		4704300995		108		TCO MIN TR #1 806765	W VA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8351147		4704500267		108		TCO MIN TR #1 806766	W VA FIELD AREA B	16.0	COLUMBIA GAS TRAN
8351146		4704500268		108		TCO MIN TR #1 806767	W VA FIELD AREA B	8.0	COLUMBIA GAS TRAN
8351122		4709900815		108		TCO MIN TR #1 806813	WVA FIELD AREA B	9.0	COLUMBIA GAS TRAN
8351121		4709900802		108		TCO MIN TR #1 806820	WVA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8351144		4709900805		108		TCO MIN TR #1 806825	W VA FIELD AREA B	8.0	COLUMBIA GAS TRAN
8351124		4709900806		108		TCO MIN TR #1 806826	WVA FIELD AREA B	15.0	COLUMBIA GAS TRAN
8351137		4709900808		108		TCO MIN TR #1 806840	WVA FIELD AREA B	8.0	COLUMBIA GAS TRAN
8351343		4704500275		108		TCO MIN TR #1 806844	WVA FIELD AREA B	0.0	COLUMBIA GAS TRAN
8351191		4704500276		108		TCO MIN TR #1 806845	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8351190		4704500277		108		TCO MIN TR #1 806846	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8351344		4709900823		108		TCO MIN TR #1 806856	W VA FIELD AREA B	17.0	COLUMBIA GAS TRAN
8351135		4709900816		108		TCO MIN TR #1 806857	W VA FIELD AREA B	9.0	COLUMBIA GAS TRAN
8351134		4709900812		108		TCO MIN TR #1 806862	W VA FIELD AREA B	20.0	COLUMBIA GAS TRAN
8351152		4704301060		108		TCO MIN TR #1 806880	W VA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8351106		4704301077		108		TCO MIN TR #1 806891	WVA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8351138		4709900818		108		TCO MIN TR #1 806906	W VA FIELD AREA B	17.0	COLUMBIA GAS TRAN
8351107		4704301036		108		TCO MIN TR #1 806926	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8351139		4709900828		108		TCO MIN TR #1 806929	WVA FIELD AREA B	12.0	COLUMBIA GAS TRAN
8351133		4709900830		108		TCO MIN TR #1 806930	WVA FIELD AREA B	19.0	COLUMBIA GAS TRAN
8351108		4704301070		108		TCO MIN TR #1 806946	WVA FIELD AREA B	12.0	COLUMBIA GAS TRAN
8351109		4704301071		108		TCO MIN TR #1 806947	WVA FIELD AREA B	13.0	COLUMBIA GAS TRAN
8351110		4704301079		108		TCO MIN TR #1 806948	WVA FIELD AREA B	18.0	COLUMBIA GAS TRAN
8351111		4704301080		108		TCO MIN TR #1 806950	W VA FIELD AREA B	10.0	COLUMBIA GAS TRAN
8351112		4704301061		108		TCO MIN TR #1 806951	W VA FIELD AREA B	31.0	COLUMBIA GAS TRAN
8351113		4704301049		108		TCO MIN TR #1 806952	W VA FIELD AREA B	18.0	COLUMBIA GAS TRAN

JD NO	JA BKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8351157		4704301068	108			TCO MIN TR #1 806955	W VA FIELD AREA B	18.0	COLUMBIA GAS TRAN
8351105		4704301109	108			TCO MIN TR #1 806957	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8351345		4709900851	108			TCO MIN TR #1 806958	W VA FIELD AREA B	15.0	COLUMBIA GAS TRAN
8351079		4709900850	108			TCO MIN TR #1 806994	W VA FIELD AREA B	7.0	COLUMBIA GAS TRAN
8351115		4704500328	108			TCO MIN TR #1 808026	W VA FIELD AREA B	15.0	COLUMBIA GAS TRAN
8351114		4704500329	108			TCO MIN TR #1 808030	WVA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8351030		4704500332	108			TCO MIN TR #1 808071	WVA FIELD AREA B	11.0	COLUMBIA GAS TRAN
8351029		4704500333	108			TCO MIN TR #1 808072	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8351028		4704500634	108			TCO MIN TR #1 808097	W VA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8351103		4704301128	108			TCO MIN TR #1 808124	WVA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8351035		4704500649	108			TCO MIN TR #1 808129	WVA FIELD AREA B	13.0	COLUMBIA GAS TRAN
8351034		4704500364	108			TCO MIN TR #1 808136	WVA FIELD AREA B	15.0	COLUMBIA GAS TRAN
8351088		4709900990	108			TCO MIN TR #1 808154	W VA FIELD AREA B	14.0	COLUMBIA GAS TRAN
8351087		4709900897	108			TCO MIN TR #1 808155	W VA FIELD AREA B	7.0	COLUMBIA GAS TRAN
8351031		4704500582	108			TCO MIN TR #1 808182	W VA FIELD AREA B	11.0	COLUMBIA GAS TRAN
8351346		4704500589	108			TCO MIN TR #1 808195	WVA FIELD AREA B	17.0	COLUMBIA GAS TRAN
8350982		4709901030	108			TCO MIN TR #1 808340	W VA FIELD AREA B	10.0	COLUMBIA GAS TRAN
8351000		4704500636	108			TCO MIN TR #1 808539	WVA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8351233		4704500689	108			TCO MIN TR #1 808590	W VA FIELD AREA B	14.0	COLUMBIA GAS TRAN
8350979		4709901069	108			TCO MIN TR #1 808602	W VA FIELD AREA B	19.0	COLUMBIA GAS TRAN
8351202		4704500692	108			TCO MIN TR #1 808604	W VA FIELD AREA B	8.0	COLUMBIA GAS TRAN
8351248		4704500695	108			TCO MIN TR #1 808629	W VA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8351247		4704500700	108			TCO MIN TR #1 808634	W VA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8351194		4704500696	108			TCO MIN TR #1 808646	W VA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8351198		4709901093	108			TCO MIN TR #1 808661	W VA FIELD AREA B	8.0	COLUMBIA GAS TRAN
8351227		4704301299	108			TCO MIN TR #1 808679	W VA FIELD AREA B	16.0	COLUMBIA GAS TRAN
8351026		4704500702	108			TCO MIN TR #1 808680	WVA FIELD AREA B	15.0	COLUMBIA GAS TRAN
8351237		4704301300	108			TCO MIN TR #1 808691	W VA FIELD AREA B	16.0	COLUMBIA GAS TRAN
8351238		4704301301	108			TCO MIN TR #1 808692	W VA FIELD AREA B	16.0	COLUMBIA GAS TRAN
8351025		4704500710	108			TCO MIN TR #1 808697	W VA FIELD AREA B	0.0	COLUMBIA GAS TRAN
8351246		4704500712	108			TCO MIN TR #1 808699	WEST VIRGINIA AREA B	4.0	COLUMBIA GAS TRAN
8351027		4704500717	108			TCO MIN TR #1 808711	W VA FIELD AREA B	17.0	COLUMBIA GAS TRAN
8351239		4704301311	108			TCO MIN TR #1 808740	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8351199		4709901280	108			TCO MIN TR #1 808741	W VA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8351196		4709901225	108			TCO MIN TR #1 808896	W VA FIELD AREA B	0.0	COLUMBIA GAS TRAN
8351193		4704500749	108			TCO MIN TR #1 808925	W VA FIELD AREA B	16.0	COLUMBIA GAS TRAN
8351228		4704301323	108			TCO MIN TR #1 808949	W VA FIELD AREA B	16.0	COLUMBIA GAS TRAN
8351208		4709901299	108			TCO MIN TR #1 808966	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8351207		4709901301	108			TCO MIN TR #1 808972	W VA FIELD AREA B	0.7	COLUMBIA GAS TRAN
8351208		4709901347	108			TCO MIN TR #1 809086	W VA FIELD AREA B	0.3	COLUMBIA GAS TRAN
8350980		4709901401	108			TCO MIN TR #1 809150	W VA FIELD AREA B	20.0	COLUMBIA GAS TRAN
8351210		4709901399	108			TCO MIN TR #1 809151	W VA FIELD AREA B	18.0	COLUMBIA GAS TRAN
8351197		4709901400	108			TCO MIN TR #1 809152	W VA FIELD AREA B	8.0	COLUMBIA GAS TRAN
8351242		4704301342	108			TCO MIN TR #1 809174	W VA FIELD AREA B	15.0	COLUMBIA GAS TRAN
8351244		4704301346	108			TCO MIN TR #1 809183	W VA FIELD AREA B	18.0	COLUMBIA GAS TRAN
8351243		4704301345	108			TCO MIN TR #1 809185	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351245		4704301348	108			TCO MIN TR #1 809210	W VA FIELD AREA B	14.0	COLUMBIA GAS TRAN
8351234		4704301378	108			TCO MIN TR #1 809335	W VA FIELD AREA B	7.0	COLUMBIA GAS TRAN
8350971		4705900122	108			TCO MIN TR #10 806171	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350972		4705900145	108			TCO MIN TR #10 806231	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350973		4705900146	108			TCO MIN TR #10 806246	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8351055		4705900160	108			TCO MIN TR #10 806378	WV FIELD AREA B	3.0	COLUMBIA GAS TRAN
8351143		4709900758	108			TCO MIN TR #10 806742	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351117		4709900759	108			TCO MIN TR #10 806745	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351171		4705900310	108			TCO MIN TR #10 806753	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351185		4705900297	108			TCO MIN TR #10 806841	W VA FIELD AREA B	14.0	COLUMBIA GAS TRAN
8351047		4705900335	108			TCO MIN TR #10 806978	WVA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351052		4705900326	108			TCO MIN TR #10 806979	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8351046		4705900378	108			TCO MIN TR #10 808135	W VA FIELD AREA B	7.0	COLUMBIA GAS TRAN
8351038		4705900488	108			TCO MIN TR #10 808198	WVA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8351212		4709901357	108			TCO MIN TR #10 808857	W VA FIELD AREA B	15.0	COLUMBIA GAS TRAN
8351240		4705900737	108			TCO MIN TR #10 809208	W VA FIELD AREA B	8.0	COLUMBIA GAS TRAN
8351204		4705900778	108			TCO MIN TR #10 809400	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351249		4705900781	108			TCO MIN TR #10 809428	W VA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8351250		4705900782	108			TCO MIN TR #10 809429	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8351251		4705900783	108			TCO MIN TR #10 809432	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351254		4705900346	108			TCO MIN TR #11 806875	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8351093		4705900206	108			TCO MIN TR #11 806583	W VA FIELD AREA B	15.0	COLUMBIA GAS TRAN
8351173		4705900280	108			TCO MIN TR #11 806806	W VA FIELD AREA B	11.0	COLUMBIA GAS TRAN
8351172		4705900281	108			TCO MIN TR #11 806807	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8351036		4705900357	108			TCO MIN TR #11 808066	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8351045		4705900492	108			TCO MIN TR #11 808133	WVA FIELD AREA B	15.0	COLUMBIA GAS TRAN
8351044		4705900384	108			TCO MIN TR #11 808171	WVA FIELD AREA B	8.0	COLUMBIA GAS TRAN
8351043		4705900385	108			TCO MIN TR #11 808175	WVA FIELD AREA B	15.0	COLUMBIA GAS TRAN
8350994		4705900518	108			TCO MIN TR #11 808476	WVA FIELD AREA B	0.0	COLUMBIA GAS TRAN
8351206		4705900591	108			TCO MIN TR #11 808729	W VA FIELD AREA B	16.0	COLUMBIA GAS TRAN
8351209		4709901348	108			TCO MIN TR #11 809085	W VA FIELD AREA B	0.3	COLUMBIA GAS TRAN
8351241		4705900738	108			TCO MIN TR #12 - 809289	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350941		4704300856	108			TCO MIN TR #12 806347	WVA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8351169		4704300950	108			TCO MIN TR #12 806606	W VA FIELD AREA B	9.0	COLUMBIA GAS TRAN
8351040		4705900493	108			TCO MIN TR #14 808192	WVA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350995		4705900538	108			TCO MIN TR #14 808520	WVA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351163		4704301017	108			TCO MIN TR #15 806817	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8351167		4704301001	108			TCO MIN TR #17 806763	W VA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8350943		4704300532	108			TCO MIN TR #18 806127	WVA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8351158		4704300979	108			TCO MIN TR #18 806686	WVA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8351148		4704300975	108			TCO MIN TR #18 806687	W VA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8351162		4704300976	108			TCO MIN TR #18 806688	W VA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8351165		4704301016	108			TCO MIN TR #18 806808	W VA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8351155		4704301072	108			TCO MIN TR #18 806942	W VA FIELD AREA B	11.0	COLUMBIA GAS TRAN
8351154		4704301069	108			TCO MIN TR #18 806943	W VA FIELD AREA B	8.0	COLUMBIA GAS TRAN
8351104		4704301063	108			TCO MIN TR #18 806953	WVA FIELD AREA B	8.0	COLUMBIA GAS TRAN
8351005		4704302079	108			TCO MIN TR #19 806099	W VA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8350977		4709900525	108			TCO MIN TR #19 806268	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351082		4709900637	108			TCO MIN TR #19 806461	WVA FIELD AREA B	10.0	COLUMBIA GAS TRAN
8351009		4704300825	108			TCO MIN TR #2 806276	WVA FIELD AREA B	9.0	COLUMBIA GAS TRAN
8351077		4709900623	108			TCO MIN TR #2 806421	WV FIELD AREA B	15.0	COLUMBIA GAS TRAN
8351116		4704500353	108			TCO MIN TR #2 808113	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351033		4704500354	108			TCO MIN TR #2 808114	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8351032		4704500357	108			TCO MIN TR #2 808115	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8351094		4704300889	108			TCO MIN TR #20 806443	WVA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8351014		4704300802	108			TCO MIN TR #21 806249	WV FIELD AREA B	15.0	COLUMBIA GAS TRAN
8351099		4704300897	108			TCO MIN TR #22 806463	W VA FIELD AREA B	15.0	COLUMBIA GAS TRAN
8351051		4705900328	108			TCO MIN TR #22 806982	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8351042		4705900388		108		TCO MIN TR #22 808184	WEST VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8351063		4709900712		108		TCO MIN TR #24 806562	WVA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350965		4704301182		108		TCO MIN TR #29 806095	WVA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8351142		4709900771		108		TCO MIN TR #3 806741	W VA FIELD AREA B	15.0	COLUMBIA GAS TRAN
8351230		4704301317		108		TCO MIN TR #31 808744	WEST VIRGINIA FIELD A	2.0	COLUMBIA GAS TRAN
8350950		4704300803		108		TCO MIN TR #4 806258	WVA FIELD AREA B	17.0	COLUMBIA GAS TRAN
8351159		4704300988		108		TCO MIN TR #4 806684	WVA FIELD AREA B	8.0	COLUMBIA GAS TRAN
8351342		4704500278		108		TCO MIN TR #4 806843	WVA FIELD AREA B	14.0	COLUMBIA GAS TRAN
8351037		4705900358		108		TCO MIN TR #4 808067	WVA FIELD AREA B	16.0	COLUMBIA GAS TRAN
8351089		4709901046		108		TCO MIN TR #4 808197	W VA FIELD AREA B	8.4	COLUMBIA GAS TRAN
8351070		4709900667		108		TCO MIN TR #5 806516	W VA FIELD AREA B	8.0	COLUMBIA GAS TRAN
8350975		4709900529		108		TCO MIN TR #6 806271	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8351136		4709900810		108		TCO MIN TR #6 806839	WVA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8351213		4704301303		108		TCO MIN TR #7 802298	W VA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8351236		4704301295		108		TCO MIN TR #7 808605	W VA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8351235		4704301375		108		TCO MIN TR #7 809336	W VA FIELD AREA B	15.0	COLUMBIA GAS TRAN
8351068		4709900665		108		TCO MIN TR #806507	WVA FIELD AREA B	22.0	COLUMBIA GAS TRAN
8351253		4704300815		108		TCO MIN TR CO #12 806269	W VA FIELD AREA B	8.0	COLUMBIA GAS TRAN
8350981		4709901028		108		TCO MIN 808239	WVA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351064		4709900656		108		TCO MINTR #1 806496	WVA FIELD AREA B	11.0	COLUMBIA GAS TRAN
8351192		4704500719		108		TCO MINTR #1 808712	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8351338		4709900713		108		TCO 806563	WVA FIELD AREA B	14.0	COLUMBIA GAS TRAN
8350978		4709901042		108		TCO 808518	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8351308		4709901107		108		TILDA MATTEW ETAL 808715	W VA FIELD AREA B	8.2	COLUMBIA GAS TRAN
8351215		4704301929		108		W A GARRETT - 802292	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350987		4707900896		108		W A MAYNARD 804172	WVA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8351414		4703903050		108		W A MCCORKLE 806839	W VA FIELD AREA A	14.0	COLUMBIA GAS TRAN
8351006		4704302058		108		W F ADKINS 806110	WVA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351341		4709902598		108		W R PARSLEY 806966	WVA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8351379		4705500008		108		W S WOODDELL 808424	WVA FIELD AREA E	3.0	COLUMBIA GAS TRAN
8351380		4705500007		108		W W CLARKE 808224	WVA FIELD AREA C	0.8	COLUMBIA GAS TRAN
8351004		4704301933		108		W W LUCAS 806103	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8351273		4708702285		108		W W NAYLOR 801237	W VA FIELD AREA A	5.0	COLUMBIA GAS TRAN
8351274		4708701875		108		W W TAYLOR 801238	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350986		4707900898		108		WILLETTA DALTON 804161	WVA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8351364		4705900575		108		WINIFREDE LAND CO #1 808677	WVA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8351362		4705900617		108		WINIFREDE LAND CO #2 808798	WVA FIELD AREA B	11.0	COLUMBIA GAS TRAN
8351360		4705900522		108		WINIFREDE LAND CO 808395	WVA FIELD AREA B	9.8	COLUMBIA GAS TRAN
8350988		4707900900		108		WIRT PAUL 804184	WVA FIELD AREA A	7.0	COLUMBIA GAS TRAN

[FR Doc. 83-24803 Filed 9-9-83; 8:45 am]

BILLING CODE 6717-01-C

[Volume 965]

Determination by Jurisdictional Agencies Under The Natural Gas Policy Act of 1978

Issued: September 7, 1983.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487-4808, 5285 Port Royal, Rd, Springfield, Va. 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102-1: New OCS lease
102-2: New well (2.5 Mile rule)
102-3: New well (1,000 Ft rule)
102-4: New onshore reservoir
102-5: New reservoir on old OCS lease
Section 107-DP: 15,000 feet or deeper
107-GB: Geopressured brine
107-CS: Coal Seams
107-DV: Devonian Shale
107-PE: Production enhancement
107-TF: New tight formation
107-RT: Recompletion tight formation
Section 108: Stripper well
108-SA: Seasonally affected
108-ER: Enhanced recovery
108-PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

NOTICE OF DETERMINATIONS — VOLUME 965
Issued September 7, 1983

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
WEST VIRGINIA DEPARTMENT OF MINES									
-COLUMBIA GAS TRANSMISSION CORP				RECEIVED:	08/16/83	JA: WV			
8351563		4703900633		108		A A BEANE 804821	W VA FIELD AREA A	0.0	COLUMBIA GAS TRAN
8351801		4703902284		108		A A LILLY ETAL 809493	W VA FIELD AREA A	7.0	COLUMBIA GAS TRAN
8351819		4708702291		108		A D FERRELL 800487	W VA FIELD AREA A	0.6	COLUMBIA GAS TRAN
8351698		4708702118		108		A L SAMS 801885	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8351531		4703901224		108		A M MARTIN ETAL 805653	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8351523		4703902982		108		A MARTIN 801337	W VA FIELD AREA A	18.0	COLUMBIA GAS TRAN
8351677		4708700048		108		A V ADAMS 804311	W VA FIELD AREA A	0.5	COLUMBIA GAS TRAN
8351675		4708702120		108		AARON TAWNEY 800756	WVA FIELD AREA A	0.4	COLUMBIA GAS TRAN
8351672		4708702294		108		ANDREW PARKS 801318	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8351521		4703903424		108		ANNA ORT ETAL 801921	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8351519		4703903121		108		ANNA ORT ETAL 802495	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8351823		4708100277		108		ANNIE BLR ANDERSON 809358	W VA FIELD AREA C	11.0	COLUMBIA GAS TRAN
8351866		4703900503		108		B A SISSON 804771	W VA FIELD AREA A	0.0	COLUMBIA GAS TRAN
8351697		4708702122		108		B L NOE 801850	W VA FIELD AREA A	0.9	COLUMBIA GAS TRAN
8351691		4708702123		108		B M KEENE 801296	WVA FIELD AREA A	0.6	COLUMBIA GAS TRAN
8351772		4701501317		108		B M SAMPLES 801484	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8351492		4703902066		108		BLUE CK COAL & LAND 809379	W VA FIELD AREA A	17.0	COLUMBIA GAS TRAN
8351751		4703902994		108		BROWN - GOSHORN & SWAN 802500	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8351760		4701501324		108		BROWN - GOSHORN & SWAN 803887	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8351777		4701500343		108		BROWN - GOSHORN & SWAN 805241	W VA FIELD AREA A	5.0	COLUMBIA GAS TRAN
8351781		4701501343		108		BROWN GOSHORN & SWAN 801007	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8351782		4701501321		108		BROWN GOSHORN & SWAN 802535	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8351784		4701501322		108		BROWN GOSHORN & SWAN 802542	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8351809		4701500017		108		BROWN GOSHORN & SWAN 803883	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8351558		4703902999		108		BROWN GOSHORN & SWAN 803926	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8351813		4701500391		108		BROWN GOSHORN & SWAN 805318	W VA FIELD AREA A	22.0	COLUMBIA GAS TRAN
8351771		4701500643		108		BROWN GOSHORN & SWAN 808907	W VA FIELD AREA A	7.0	COLUMBIA GAS TRAN
8351779		4701501341		108		BROWN-GOSHORN & SWAN 800958	W VA FIELD AREA A	4.0	COLUMBIA GAS TRAN
8351778		4701501342		108		BROWN-GOSHORN & SWAN 800984	W VA FIELD AREA A	4.0	COLUMBIA GAS TRAN
8351783		4701501320		108		BROWN-GOSHORN & SWAN 802534	W VA FIELD AREA A	0.5	COLUMBIA GAS TRAN
8351736		4703901657		108		BROWN-GOSHORN & SWAN 804014	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8351776		4701500344		108		BROWN-GOSHORN & SWAN 805242	W VA FIELD AREA A	4.0	COLUMBIA GAS TRAN
8351770		4701500345		108		BROWN-GOSHORN & SWAN 805243	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8351780		4701501340		108		BROWN-GOSHORN-SWAN 800956	W VA FIELD AREA A	4.0	COLUMBIA GAS TRAN
8351588		4705900097		108		BURN CK MARBNE LD CO 805745	W VA FIELD AREA B	9.0	COLUMBIA GAS TRAN
8351587		4705900106		108		BURN CK MARBNE LD CO 805785	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8351880		4705900107		108		BURN CK MARBNE LD CO 805797	W VA FIELD AREA B	9.0	COLUMBIA GAS TRAN
8351707		4708702148		108		C A SHAMBLIN 801737	WVA FIELD AREA A	0.2	COLUMBIA GAS TRAN
8351680		4708702297		108		C E MONROE 801406	WVA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8351600		4704302033		108		C P STOWERS 801371	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351758		4703500272		108		C W & S G STARCHER 805086	W VA FIELD AREA A	5.0	COLUMBIA GAS TRAN
8351759		4703500273		108		C W & S G STARCHER 805087	W VA FIELD AREA A	9.0	COLUMBIA GAS TRAN
8351753		4703500441		108		C W & S G STARCHER 805233	W VA FIELD AREA A	7.0	COLUMBIA GAS TRAN
8351791		4703902094		108		CARL H FIGGATT 809448	W VA FIELD AREA A	7.0	COLUMBIA GAS TRAN
8351927		4704301095		108		CATHERINE ATKINS ETAL 806956	W VA FIELD AREA B	6.0	COLUMBIA GAS TRAN

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8351593		4705900022		108		CENTRA TRUST CO 804329	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8351656		4709900678		108		CENTRAL TRUST CO #20 806538	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8351667		4705900423		108		CENTRAL TRUST CO #30 808273	WVA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8351668		4705900421		108		CENTRAL TRUST CO #32 808277	W VA FIELD AREA B	20.0	COLUMBIA GAS TRAN
8351584		4705900238		108		CENTRAL TRUST CO #5 806702	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351582		4705900299		108		CENTRAL TRUST CO 25 806898	W VA FIELD AREA B	10.0	COLUMBIA GAS TRAN
8351595		4705900020		108		CENTRAL TRUST CO 804323	W VA FIELD AREA B	25.0	COLUMBIA GAS TRAN
8351592		4705900023		108		CENTRAL TRUST CO 804325	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8351591		4705900025		108		CENTRAL TRUST CO 804327	W VA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8351594		4705900081		108		CENTRAL TRUST CO 804328	W VA FIELD AREA B	7.0	COLUMBIA GAS TRAN
8351590		4705900051		108		CENTRAL TRUST CO 804872	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8351579		4707900181		108		CHARLES B HEIRS 806863	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8351564		4703900563		108		CO SLATER ET AL 804807	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8351562		4703900771		108		CO SLATER ETAL 804984	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8351889		4705900334		108		COTIGA DEV #11 808014	W VA FIELD AREA B	8.5	COLUMBIA GAS TRAN
8351891		4705900392		108		COTIGA DEV CO #15 808139	W VA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8351664		4705900285		108		COTIGA DEV CO #5 806831	WVA FIELD AREA B	11.0	COLUMBIA GAS TRAN
8351826		4705900793		108		COTIGA DEV CO ETAL 809472	W VA FIELD AREA B	19.0	COLUMBIA GAS TRAN
8351829		4705900813		108		COTIGA DEV CO 809675	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8351755		4703500123		108		D J ROGERS ETAL 805011	W VA FIELD AREA A	6.0	COLUMBIA GAS TRAN
8351553		4704300359		108		D W MOHLER EXEC & TRUS 805079	W VA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8351748		4703901153		108		DAVID WARD #54 805502	W VA FIELD AREA B	12.0	COLUMBIA GAS TRAN
8351738		4703901194		108		DAVID WARD #56 805589	W VA FIELD AREA A	4.0	COLUMBIA GAS TRAN
8351749		4703901196		108		DAVID WARD #57 805590	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8351750		4703901478		108		DAVID WARD #59 806468	W VA FIELD AREA A	9.0	COLUMBIA GAS TRAN
8351742		4703903054		108		DAVID WARD 802446	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8351737		4703903055		108		DAVID WARD 802449	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8351744		4703903056		108		DAVID WARD 802453	W VA FIELD AREA A	4.0	COLUMBIA GAS TRAN
8351745		4703903058		108		DAVID WARD 802455	W VA FIELD AREA A	5.0	COLUMBIA GAS TRAN
8351746		4703903059		108		DAVID WARD 802458	W VA FIELD AREA A	5.0	COLUMBIA GAS TRAN
8351747		4703903060		108		DAVID WARD 802483	W VA FIELD AREA A	5.0	COLUMBIA GAS TRAN
8351796		4703902298		108		DORA BAILEY 809498	W VA FIELD AREA A	4.0	COLUMBIA GAS TRAN
8351808		4701100238		108		E D MEADOWS 804670	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8351875		4703500104		108		E G SCHERR ETAL 804982	W VA FIELD AREA A	9.0	COLUMBIA GAS TRAN
8351706		4708702153		108		E W CARPER 801617	W VA FIELD AREA A	0.9	COLUMBIA GAS TRAN
8351650		4709900765		108		EARL BURGESS 806694	W VA FIELD AREA B	0.6	COLUMBIA GAS TRAN
8351559		4703901265		108		EARL HANSEL 8805758	W VA FIELD AREA A	8.0	COLUMBIA GAS TRAN
8351803		4703501194		108		EDNA SHOCKEY ETAL 809548	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8351870		4703900287		108		ELKID IMP CO 806878	W VA FIELD AREA A	8.0	COLUMBIA GAS TRAN
8351729		4703903127		108		EMMA BARNETT #1 801744	W VA FIELD AREA A	11.0	COLUMBIA GAS TRAN
8351518		4703903126		108		EMMA BARNETT 801999	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8351442		4709900453		108		EULA PARSONS - 805836	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351444		4709900463		108		F D CALDWELL #39 806169	W VA FIELD AREA B	13.0	COLUMBIA GAS TRAN
8351468		4709900459		108		F D CALDWELL #40 806173	W VA FIELD AREA B	8.0	COLUMBIA GAS TRAN
8351445		4709900477		108		F D CALDWELL #41 806180	W VA FIELD AREA B	9.0	COLUMBIA GAS TRAN
8351446		4709900608		108		F D CALDWELL #43 806405	W VA FIELD AREA B	12.0	COLUMBIA GAS TRAN
8351657		4709900620		108		F D CALDWELL #45 806429	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8351441		4709900727		108		F D CALDWELL #46 806584	W VA FIELD AREA B	14.0	COLUMBIA GAS TRAN
8351447		4709900734		108		F D CALDWELL #47 806622	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8351467		4709900748		108		F D CALDWELL #48 806626	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351449		4709900736		108		F D CALDWELL #51 806624	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351645		4709900775		108		F D CALDWELL #55 806662	WVA FIELD AREA B	0.9	COLUMBIA GAS TRAN
8351465		4709900769		108		F D CALDWELL #56 806734	W VA FIELD AREA B	9.0	COLUMBIA GAS TRAN
8351646		4709900779		108		F D CALDWELL #57 806776	WVA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8351464		4709900786		108		F D CALDWELL #58 806738	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351647		4709900781		108		F D CALDWELL #59 806777	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351665		4705900290		108		F D CALDWELL #64 806836	WVA FIELD AREA B	13.0	COLUMBIA GAS TRAN
8351466		4709900747		108		F D CALDWELL 806661	W VA FIELD AREA B	9.0	COLUMBIA GAS TRAN
8351807		4702103198		108		F D MCELWEE 803761	W VA FIELD AREA A	8.0	COLUMBIA GAS TRAN
8351806		4702103199		108		F D MCELWEE 803789	W VA FIELD AREA A	0.6	COLUMBIA GAS TRAN
8351757		4703500413		108		F F WAYBRIGHT 806327	W VA FIELD AREA A	4.0	COLUMBIA GAS TRAN
8351684		4708702300		108		F K VINEYARD 801650	WVA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8351715		4708702301		108		F K VINEYARD 801656	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8351724		4708702302		108		FLEM LONG 800386	W VA FIELD AREA A	0.5	COLUMBIA GAS TRAN
8351804		4703901996		108		FRANK A HARDY 809325	W VA FIELD AREA A	7.0	COLUMBIA GAS TRAN
8351895		4705500002		108		FRED M CHEATWOOD 806913	W VA FIELD AREA C	0.8	COLUMBIA GAS TRAN
8351872		4703501447		108		G M CASTO 801168	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8351890		4705900369		108		G P ANDERSON ETAL 808186	W VA FIELD AREA B	8.0	COLUMBIA GAS TRAN
8351700		4709901388		108		GLEN HAYES CO 809133	WVA FIELD AREA B	9.0	COLUMBIA GAS TRAN
8351702		4709901415		108		GLEN HAYES CO 809200	W VA FIELD AREA B	8.0	COLUMBIA GAS TRAN
8351704		4709901443		108		GLEN HAYES CO 809227	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351703		4709901442		108		GLEN HAYES CO 809228	W VA FIELD AREA B	8.0	COLUMBIA GAS TRAN
8351774		4701501327		108		GROSE SUMMERS ETAL 801263	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8351928		4704300978		108		H ADKINS & UFG CO 806691	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8351926		4704301112		108		H ADKINS ETAL 808054	W VA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8351805		4701500820		108		H B DAVENPORT ETAL 809378	W VA FIELD AREA A	7.0	COLUMBIA GAS TRAN
8351795		4703903062		108		H C DICKINSON 801214	W VA FIELD AREA A	6.0	COLUMBIA GAS TRAN
8351589		4705900096		108		H CLOSTERMAN #23 805743	W VA FIELD AREA B	7.0	COLUMBIA GAS TRAN
8351586		4705900173		108		H CLOSTERMAN #30 806407	W VA FIELD AREA B	9.0	COLUMBIA GAS TRAN
8351596		4705900018		108		H CLOSTERMAN 804300	W VA FIELD AREA B	12.0	COLUMBIA GAS TRAN
8351580		4705900889		108		H CLOSTERMAN 804458	W VA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8351585		4705900184		108		H CLOSTERMAN 804467	W VA FIELD AREA B	8.0	COLUMBIA GAS TRAN
8351583		4705900271		108		H CLOSTERMAN 804469	W VA FIELD AREA B	20.0	COLUMBIA GAS TRAN
8351581		4705900314		108		H CLOSTERMAN 806892	W VA FIELD AREA B	13.0	COLUMBIA GAS TRAN
8351754		4703500225		108		H F BAILEY ETAL 805073	W VA FIELD AREA A	4.0	COLUMBIA GAS TRAN
8351682		4708702179		108		H H TAWNEY 801514	WVA FIELD AREA A	8.8	COLUMBIA GAS TRAN
8351652		4709900526		108		H J STARK #2 806274	W VA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8351739		4703901412		108		H O WITHROW ETAL 806296	W VA FIELD AREA A	0.1	COLUMBIA GAS TRAN
8351578		4707900318		108		H W BIRD ETAL 805739	W VA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8351688		4708702378		108		H WINTERS 801678	WVA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8351785		4705900891		108		HENRY MARCUM 804483	W VA FIELD AREA B	0.9	COLUMBIA GAS TRAN
8351830		4705900892		108		HENRY MARCUM 804484	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8351643		4704301138		108		HERBERT ADKINS 808157	WVA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351644		4704301135		108		HERBERT ADKINS 808159	WVA FIELD AREA B	10.0	COLUMBIA GAS TRAN
8351552		4704300417		108		HILL & ASHBY 805211	W VA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8351844		4704300515		108		HORSE CK COAL LD #45 805458	W VA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8351843		4704300516		108		HORSE CK COAL LD 46 805459	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8351860		4704300408		108		HORSE CK COAL LD 805205	W VA FIELD AREA B	12.0	COLUMBIA GAS TRAN
8351574		4704300679		108		HORSE CK L & M #56 805729	W VA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8351573		4704300693		108		HORSE CK L & M #63 805778	W VA FIELD AREA B	11.0	COLUMBIA GAS TRAN
8351569		4704300748		108		HORSE CK L & M #79 805491	WEST VIRGINIA FIELD A	7.0	COLUMBIA GAS TRAN
8351571		4704300713		108		HORSE CK L & M CO #64 805779	W VA FIELD AREA B	10.0	COLUMBIA GAS TRAN
8351848		4704301954		108		HORSE CK L & M CO 801948	W VA FIELD AREA B	8.8	COLUMBIA GAS TRAN
8351846		4704301955		108		HORSE CK L & M CO 801968	W VA FIELD AREA B	0.6	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8351564		4704301956		108		HORSE CK L & M CO 802515	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8351881		4704300041		108		HORSE CK L & M CO 804246	W VA FIELD AREA B	0.5	COLUMBIA GAS TRAN
8351547		4704300462		108		HORSE CK L&M 945 805317	W VA FIELD AREA B	12.0	COLUMBIA GAS TRAN
8351851		4704300791		108		HORSE CK L&M CO #1 801673	W VA FIELD AREA B	10.0	COLUMBIA GAS TRAN
8351857		4704300432		108		HORSE CK L&M CO #38 805271	W VA FIELD AREA B	15.0	COLUMBIA GAS TRAN
8351853		4704300790		108		HORSE CK L&M CO #4 801653	W VA FIELD AREA B	18.0	COLUMBIA GAS TRAN
8351549		4704300434		108		HORSE CK L&M CO #40 805273	W VA FIELD AREA B	9.0	COLUMBIA GAS TRAN
8351864		4704300454		108		HORSE CK L&M CO #41 805312	W VA FIELD AREA B	20.0	COLUMBIA GAS TRAN
8351887		4704300456		108		HORSE CK L&M CO #43 805314	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351841		4704300520		108		HORSE CK L&M CO #48 805463	W VA FIELD AREA B	7.0	COLUMBIA GAS TRAN
8351840		4704300574		108		HORSE CK L&M CO #49 805573	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8351886		4704300467		108		HORSE CK L&M CO #7 801746	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351858		4704300431		108		HORSE CK L&M CO 27 805270	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8351888		4704300455		108		HORSE CK L&M CO 42 805313	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8351842		4704300519		108		HORSE CK L&M CO 47 805462	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8351838		4704300604		108		HORSE CK L&M CO 50 805619	W VA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8351839		4704300603		108		HORSE CK L&M CO 51 805620	W VA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8351836		4704300625		108		HORSE CK L&M CO 52 805681	W VA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8351837		4704300645		108		HORSE CK L&M CO 54 805717	W VA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8351863		4704300680		108		HORSE CK L&M CO 57 805755	W VA FIELD AREA B	10.0	COLUMBIA GAS TRAN
8351834		4704300675		108		HORSE CK L&M CO 59 805757	W VA FIELD AREA B	0.3	COLUMBIA GAS TRAN
8351546		4700500741		108		HORSE CK L&M CO 60 805766	W VA FIELD AREA B	9.0	COLUMBIA GAS TRAN
8351535		4704300687		108		HORSE CK L&M CO 62 805776	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8351536		4704300704		108		HORSE CK L&M CO 66 805804	W VA FIELD AREA B	8.0	COLUMBIA GAS TRAN
8351491		4704300707		108		HORSE CK L&M CO 67 805805	W VA FIELD AREA B	0.7	COLUMBIA GAS TRAN
8351498		4704300708		108		HORSE CK L&M CO 68 805806	W VA FIELD AREA B	10.0	COLUMBIA GAS TRAN
8351572		4704300705		108		HORSE CK L&M CO 69 805808	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8351489		4704300716		108		HORSE CK L&M CO 70 805818	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351488		4704300725		108		HORSE CK L&M CO 70 805838	W VA FIELD AREA B	7.0	COLUMBIA GAS TRAN
8351855		4704300739		108		HORSE CK L&M CO 72 805842	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8351487		4704300726		108		HORSE CK L&M CO 73 805844	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8351485		4704300736		108		HORSE CK L&M CO 74 805858	W VA FIELD AREA B	7.0	COLUMBIA GAS TRAN
8351856		4704300737		108		HORSE CK L&M CO 75 805859	W VA FIELD AREA B	0.9	COLUMBIA GAS TRAN
8351486		4704300729		108		HORSE CK L&M CO 76 805860	WEST VA FIELD AREA B	8.0	COLUMBIA GAS TRAN
8351854		4704300758		108		HORSE CK L&M CO 80 805789	W VA FIELD AREA B	10.0	COLUMBIA GAS TRAN
8351835		4704300669		108		HORSE CK L&M CO 802517	W VA FIELD AREA B	8.0	COLUMBIA GAS TRAN
8351847		4704301940		108		HORSE CK L&M CO 802529	W VA FIELD AREA B	0.8	COLUMBIA GAS TRAN
8351845		4704301957		108		HORSE CK L&M CO 802563	W VA FIELD AREA B	0.7	COLUMBIA GAS TRAN
8351551		4704300425		108		HORSE CK L&M CO 803898	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8351884		4704300502		108		HORSE CK L&M CO 803900	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8351849		4704300796		108		HORSE CK L&M CO 803910	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8351885		4704300483		108		HORSE CK L&M CO 803911	W VA FIELD AREA B	9.0	COLUMBIA GAS TRAN
8351852		4704300774		108		HORSE CK L&M CO 803930	W VA FIELD AREA B	11.0	COLUMBIA GAS TRAN
8351850		4704300792		108		HORSE CK L&M CO 803973	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8351545		4700580072		108		HORSE CK L&M CO 804068	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351883		4704300048		108		HORSE CK L&M CO 804275	W VA FIELD AREA B	0.3	COLUMBIA GAS TRAN
8351861		4704300195		108		HORSE CK L&M CO 804698	W VA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8351859		4704300414		108		HORSE CK L&M CO 805206	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351550		4704300433		108		HORSE CK L&M CO 805272	W VA FIELD AREA B	11.0	COLUMBIA GAS TRAN
8351882		4704300807		108		HORSE CK L&M CO 806253	W VA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8351544		4700500737		108		HORSE CK L&M 61 805767	W VA FIELD AREA B	8.0	COLUMBIA GAS TRAN
8351575		4704300678		108		HORSE CK LAND & M CO 805756	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8351554		4704300168		108		HORSE CK LAND 804622	W VA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8351862		4704300171		108		HORSE CK LAND 804626	WEST VIRGINIA FIELD A	15.0	COLUMBIA GAS TRAN
8351576		4704300674		108		HORSE CREEK L&M CO 805716	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8351673		4708702185		108		HULDA C COOK 800261	WVA FIELD AREA A	0.1	COLUMBIA GAS TRAN
8351484		4709900324		108		HUNT DEV & GAS CO 805434	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8351711		4708702186		108		I C STUMP 801884	W VA FIELD AREA A	0.5	COLUMBIA GAS TRAN
8351720		4709901539		108		IDA C MCFADDEN ETAL 809437	W VA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8351561		4703901165		108		IMPERIAL COAL CO #48 805526	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8351794		4703901060		108		INEZ H ROSE ETAL 805307	W VA FIELD AREA A	8.0	COLUMBIA GAS TRAN
8351599		4704302042		108		ISAAC FARLEY 801288	WVA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8351577		4704300672		108		J A HALEY 809743	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8351578		4704300723		108		J A HALLEY 809744	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351548		4704300439		108		J A SPURLOCK ETAL 805289	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351871		4703500187		108		J B SHINN 805044	W VA FIELD AREA A	8.0	COLUMBIA GAS TRAN
8351686		4708702305		108		J BRAD VINEYARD 801646	WVA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8351448		4709900735		108		J D CALDWELL #50 806623	W VA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8351815		4701100591		108		J E & CHARLIE WHITE 801929	W VA FIELD AREA B	0.0	COLUMBIA GAS TRAN
8351678		4708702307		108		J E HILL 801377	WVA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8351699		4709900293		108		J F CALDWELL #4 805319	W VA FIELD AREA B	15.0	COLUMBIA GAS TRAN
8351475		4709900317		108		J F CALDWELL #5 805427	W VA FIELD AREA B	0.0	COLUMBIA GAS TRAN
8351474		4709900318		108		J F CALDWELL #6 805428	W VA FIELD AREA B	12.0	COLUMBIA GAS TRAN
8351469		4709900371		108		J F CALDWELL #8 805632	W VA FIELD AREA B	20.0	COLUMBIA GAS TRAN
8351653		4709900523		108		J L CALDWELL #1 806254	W VA FIELD AREA B	10.0	COLUMBIA GAS TRAN
8351648		4709900782		108		J L CALDWELL #1 806784	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351649		4709900783		108		J L CALDWELL #1 806785	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8351601		4709900282		108		J L CALDWELL #11 805267	W VA FIELD AREA B	14.0	COLUMBIA GAS TRAN
8351483		4709900283		108		J L CALDWELL #12 805268	W VA FIELD AREA B	27.0	COLUMBIA GAS TRAN
8351479		4709900302		108		J L CALDWELL #13 805321	W VA FIELD AREA B	10.0	COLUMBIA GAS TRAN
8351482		4709900295		108		J L CALDWELL #14 805322	W VA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8351481		4709900294		108		J L CALDWELL #15 805323	W VA FIELD AREA B	9.0	COLUMBIA GAS TRAN
8351478		4709900303		108		J L CALDWELL #16 805324	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8351477		4709900315		108		J L CALDWELL #19 805424	W VA FIELD AREA B	9.0	COLUMBIA GAS TRAN
8351463		4709901073		108		J L CALDWELL #26 805433	W VA FIELD AREA B	21.0	COLUMBIA GAS TRAN
8351473		4709900336		108		J L CALDWELL #28 805507	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8351470		4709900370		108		J L CALDWELL #34 805627	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351476		4709900316		108		J L CALDWELL 805426	W VA FIELD AREA B	10.0	COLUMBIA GAS TRAN
8351471		4709900367		108		J L CALDWELL 805579	W VA FIELD AREA B	0.8	COLUMBIA GAS TRAN
8351775		4701501328		108		J M GROSE 801246	W VA FIELD AREA A	4.0	COLUMBIA GAS TRAN
8351767		4701501329		108		J M GROSE 801811	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8351764		4701501420		108		J M GROSE 801821	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8351718		4708703156		108		J P R B SMITH 800885	W VA FIELD AREA A	0.8	COLUMBIA GAS TRAN
8351679		4708702309		108		J P YOUNG 801403	W VA FIELD AREA A	0.5	COLUMBIA GAS TRAN
8351709		4708702202		108		J S ALLEN 801841	W VA FIELD AREA A	0.6	COLUMBIA GAS TRAN
8351822		4708702204		108		J SELDON WHITE 802587	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8351867		4703900407		108		J V & C A RAY 804756	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8351798		4703902314		108		J V & C A RAY 809502	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8351833		4701500630		108		J W BOGGS ETAL 809059	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8351676		4708700432		108		J W EPLING 806542	W VA FIELD AREA A	9.0	COLUMBIA GAS TRAN
8351879		4701100181		108		J W GILL ETAL 804671	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8351556		4704300155		108		J W RAY 804573	W VA FIELD AREA B	0.5	COLUMBIA GAS TRAN
8351756		4703500419		108		J W SCARBERRY #2 805114	W VA FIELD AREA A	5.0	COLUMBIA GAS TRAN
8351598		4704302046		108		J W THOMAS 801986	WVA FIELD AREA B	0.7	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8351597		4704302047		108		J W THOMAS 801987	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8351687		4708702206		108		JAMES HALL ETAL 801648	WVA FIELD AREA A	0.1	COLUMBIA GAS TRAN
8351773		4701501330		108		JAMES PHILLIPS 801477	W VA FIELD AREA A	4.0	COLUMBIA GAS TRAN
8351557		4704300141		108		JENNIE BURTON ETAL 804383	W VA FIELD AREA B	0.3	COLUMBIA GAS TRAN
8351868		4703900392		108		JENNIE G LEWIS 804754	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8351820		4708702210		108		JOHN A DYE 800751	W VA FIELD AREA A	0.7	COLUMBIA GAS TRAN
8351793		4703902179		108		JOHN H RANSON ETAL 809452	W VA FIELD AREA A	11.0	COLUMBIA GAS TRAN
8351695		4708702211		108		JOHN SMITH 801363	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8351681		4708702311		108		JOHN T KEELEY 801456	WVA FIELD AREA A	0.6	COLUMBIA GAS TRAN
8351560		4703901205		108		JOSEPH ELSWICK 805618	W VA FIELD AREA A	8.0	COLUMBIA GAS TRAN
8351832		4703902246		108		JOSEPH PUGH ETAL 809489	W VA FIELD AREA A	7.0	COLUMBIA GAS TRAN
8351555		4704300161		108		JULIA B EGNOR ETAL 804686	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351607		4703903415		108		KAN-HOCKING C&C 803932	WVA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8351690		4708702212		108		KATE NIXON 803924	WVA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8351508		4703901072		108		KING LAND CO #17 805332	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8351501		4703901073		108		KING LAND CO #18 805333	W VA FIELD AREA A	6.0	COLUMBIA GAS TRAN
8351517		4703901102		108		KING LAND CO #19 805371	W VA FIELD AREA A	11.0	COLUMBIA GAS TRAN
8351513		4703901103		108		KING LAND CO #20 805372	W VA FIELD AREA A	35.0	COLUMBIA GAS TRAN
8351532		4703901186		108		KING LAND CO #21 805591	W VA FIELD AREA A	16.0	COLUMBIA GAS TRAN
8351528		4703901219		108		KING LAND CO #22 805654	W VA FIELD AREA A	21.0	COLUMBIA GAS TRAN
8351497		4703901337		108		KING LAND CO #23 805855	W VA FIELD AREA A	17.0	COLUMBIA GAS TRAN
8351529		4703901221		108		KING LAND CO #24 805656	W VA FIELD AREA A	31.0	COLUMBIA GAS TRAN
8351499		4703901414		108		KING LAND CO #26 806303	W VA FIELD AREA A	15.0	COLUMBIA GAS TRAN
8351496		4703901576		108		KING LAND CO #29 806970	W VA FIELD AREA A	15.0	COLUMBIA GAS TRAN
8351723		4703903016		108		KING LAND CO 801895	W VA FIELD AREA A	13.0	COLUMBIA GAS TRAN
8351515		4703903017		108		KING LAND CO 802508	W VA FIELD AREA A	9.0	COLUMBIA GAS TRAN
8351516		4703903018		108		KING LAND CO 802511	W VA FIELD AREA A	8.0	COLUMBIA GAS TRAN
8351533		4703903019		108		KING LAND CO 802512	W VA FIELD AREA A	22.0	COLUMBIA GAS TRAN
8351534		4703903020		108		KING LAND CO 802549	W VA FIELD AREA A	8.0	COLUMBIA GAS TRAN
8351732		4703903021		108		KING LAND CO 802550	W VA FIELD AREA A	8.0	COLUMBIA GAS TRAN
8351733		4703903022		108		KING LAND CO 802551	W VA FIELD AREA A	10.0	COLUMBIA GAS TRAN
8351726		4703903023		108		KING LAND CO 802567	W VA FIELD AREA A	5.0	COLUMBIA GAS TRAN
8351530		4703900228		108		KING LAND CO 804627	W VA FIELD AREA A	14.0	COLUMBIA GAS TRAN
8351504		4703901023		108		KING LAND CO 805259	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8351505		4703901024		108		KING LAND CO 805260	W VA FIELD AREA A	18.0	COLUMBIA GAS TRAN
8351498		4703901429		108		KING LAND CO 806304	W VA FIELD AREA A	15.0	COLUMBIA GAS TRAN
8351494		4703901426		108		KING LAND CO 806305	W VA FIELD AREA A	28.0	COLUMBIA GAS TRAN
8351500		4703901882		108		KING LAND CO 809212	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8351799		4703902593		108		KING LAND CO 809779	W VA FIELD AREA A	5.0	COLUMBIA GAS TRAN
8351524		4703903025		108		KOONTZ DAVENPORT & DAV 800662	W VA FIELD AREA A	4.0	COLUMBIA GAS TRAN
8351520		4703903134		108		L D UPDEGRAFT 801920	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8351736		4703903066		108		L E MCWHORTER 801981	W VA FIELD AREA A	7.0	COLUMBIA GAS TRAN
8351735		4703903067		108		L E MCWHORTER 801996	W VA FIELD AREA A	11.0	COLUMBIA GAS TRAN
8351769		4701500342		108		L J REED 805240	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8351933		4704301959		108		L R SWEETLAND ETAL 802237	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351658		4709900498		108		LAFAYETTE ALDRIDGE 806220	WVA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8351865		4703900533		108		LENA M SNODGRASS 806871	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8351730		4703903135		108		LEONARD LEACH #1 801775	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8351731		4703903136		108		LEONARD LEACH #2 801776	W VA FIELD AREA A	7.0	COLUMBIA GAS TRAN
8351512		4703903026		108		LEWIS & BROWN 800496	W VA FIELD AREA A	5.7	COLUMBIA GAS TRAN
8351522		4703903027		108		LEWIS & BROWN 800900	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8351671		4710900639		108		LITZ MCGUIRE 809815	WVA FIELD AREA C	13.0	COLUMBIA GAS TRAN
8351831		4705900115		108		LOGAN CANNEL COAL CO 804431	W VA FIELD AREA B	18.0	COLUMBIA GAS TRAN
8351788		4705900893		108		LOGAN CANNEL COAL CO 804432	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8351786		4705900896		108		LOGAN CANNEL COAL CO 804439	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8351790		4705900897		108		LOGAN CANNEL COAL CO 804452	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8351789		4705900138		108		LOGAN CANNEL COAL CO 804453	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8351787		4705900363		108		LOGAN CHANNEL COAL CO 804436	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351696		4708702219		108		LOONEY RAIDER 801365	WVA FIELD AREA A	0.8	COLUMBIA GAS TRAN
8351728		4703903137		108		LOUISA D UPEDEGRAFT 801502	W VA FIELD AREA A	13.0	COLUMBIA GAS TRAN
8351721		4703903138		108		LOUISA D UPEDEGRAFT 801804	W VA FIELD AREA A	7.0	COLUMBIA GAS TRAN
8351722		4703903139		108		LOUISA D UPEDEGRAFT 801847	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8351710		4708701199		108		LOUISE SHORT 801844	WVA FIELD AREA A	0.3	COLUMBIA GAS TRAN
8351766		4701501331		108		M A BELL 801812	W VA FIELD AREA A	0.9	COLUMBIA GAS TRAN
8351752		4703903167		108		M D & J Q DICKINSON 803680	W VA FIELD AREA A	4.0	COLUMBIA GAS TRAN
8351743		4703901115		108		M D & J Q DICKINSON 805437	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8351869		4703900254		108		M F ORTH & H WALKER 804667	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8351725		4708702312		108		M H CLARKSON 800296	W VA FIELD AREA A	0.5	COLUMBIA GAS TRAN
8351824		4708702227		108		M M HOPKINS 802497	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8351748		4703901019		108		MARGARET Y DICKINSON 805257	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8351741		4703901020		108		MARGARET Y DICKINSON 805258	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8351828		4705900182		108		MARTHA MARCUM #2 804486	W VA FIELD AREA B	22.0	COLUMBIA GAS TRAN
8351792		4705900898		108		MARTHA MARCUM 804485	W VA FIELD AREA B	16.0	COLUMBIA GAS TRAN
8351812		4701500008		108		MARY A DAVIS 803997	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8351472		4709900338		108		MARY L & S PERKINS #4 805445	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8351480		4709900301		108		MARY L S PERKINS #3 805320	W VA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8351462		4709901655		108		MARY L S PERKINS 804363	W VA FIELD AREA B	0.3	COLUMBIA GAS TRAN
8351461		4709901656		108		MARY L S PERKINS 804364	W VA FIELD AREA B	15.0	COLUMBIA GAS TRAN
8351674		4708701670		108		MARY M COOK 800659	WVA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8351712		4708702313		108		MARY M SMITH 800471	WVA FIELD AREA A	0.6	COLUMBIA GAS TRAN
8351655		4709900606		108		MILLER & CALDWELL #1 806406	WVA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8351654		4709900773		108		MILLER & CALDWELL #2 806716	WVA FIELD AREA B	9.0	COLUMBIA GAS TRAN
8351894		4705900571		108		MINGO BLOCK COAL #6 808651	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8351893		4705900411		108		MINGO BLOCK COAL 808210	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8351762		4701501338		108		MINNIE LEWIS 801918	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8351910		4704700078		108		M R & POC CON COAL 3 806642	W VA FIELD AREA C	6.0	COLUMBIA GAS TRAN
8351904		4704700115		108		M R & V POC CON COAL 6 806808	W VA FIELD AREA C	17.0	COLUMBIA GAS TRAN
8351923		4704700154		108		M R V & POC COAL CO 13 808381	W VA FIELD AREA C	2.0	COLUMBIA GAS TRAN
8351922		4704700158		108		M R V & POC COAL COM 808379	W VA FIELD AREA C	4.0	COLUMBIA GAS TRAN
8351902		4704700141		108		M R V & POC CON COAL - 806798	W VA FIELD AREA C	10.0	COLUMBIA GAS TRAN
8351918		4704700160		108		M R V & POC CON COAL #16 808428	W VA FIELD AREA C	16.0	COLUMBIA GAS TRAN
8351915		4704700248		108		M R V & POC CON COAL #31 809247	W VA FIELD AREA C	12.0	COLUMBIA GAS TRAN
8351896		4704700146		108		M R V & POC CON COAL 18 808077	W VA FIELD AREA C	2.0	COLUMBIA GAS TRAN
8351919		4704700159		108		M R V & POC CON COAL 17 808429	W VA FIELD AREA C	11.0	COLUMBIA GAS TRAN
8351899		4704700164		108		M R V & POC CON COAL 18 808191	W VA FIELD AREA C	5.0	COLUMBIA GAS TRAN
8351905		4704700166		108		M R V & POC CON COAL 19 808236	W VA FIELD AREA C	14.0	COLUMBIA GAS TRAN
8351920		4704700171		108		M R V & POC CON COAL 20 808462	W VA FIELD AREA C	16.0	COLUMBIA GAS TRAN
8351908		4704700172		108		M R V & POC CON COAL 21 808063	W VA FIELD AREA C	24.0	COLUMBIA GAS TRAN
8351921		4704700173		108		M R V & POC CON COAL 22 808542	W VA FIELD AREA C	18.0	COLUMBIA GAS TRAN
8351907		4704700176		108		M R V & POC CON COAL 23 808268	W VA FIELD AREA C	6.0	COLUMBIA GAS TRAN
8351911		4704700208		108		M R V & POC CON COAL 25 809018	W VA FIELD AREA C	34.0	COLUMBIA GAS TRAN
8351913		4704700213		108		M R V & POC CON COAL 28 809052	W VA FIELD AREA C	29.0	COLUMBIA GAS TRAN
8351903		4704700142		108		M R V & POC CON COAL 4 806799	W VA FIELD AREA C	2.0	COLUMBIA GAS TRAN
8351916		4704700538		108		M R V & POC CON COAL 41 809715	W VA FIELD AREA C	17.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8351917		4704700536		108		M R V & POC CON COAL 41 809726	W VA FIELD AREA C	18.0	COLUMBIA GAS TRAN
8351906		4704700133		108		M R V & POC CON COAL 7 806801	W VA FIELD AREA C	8.0	COLUMBIA GAS TRAN
8351909		4704700123		108		M R V & POC CON COAL 8 806802	W VA FIELD AREA C	4.0	COLUMBIA GAS TRAN
8351901		4704700065		108		M R V & POC CON COAL 806560	WEST VIRGINIA FIELD A	11.0	COLUMBIA GAS TRAN
8351900		4704700116		108		M R V & POC CON COAL 806902	W VA FIELD AREA C	1.0	COLUMBIA GAS TRAN
8351897		4704700148		108		M R V & POC CON COAL 808125	W VA FIELD AREA C	5.0	COLUMBIA GAS TRAN
8351898		4704700149		108		M R V & POC CON COAL 808127	W VA FIELD AREA C	3.0	COLUMBIA GAS TRAN
8351914		4704700465		108		M R V & POC CON COAL 809579	W VA FIELD AREA C	16.0	COLUMBIA GAS TRAN
8351912		4704700215		108		M R V POC CON COAL 28 809051	W VA FIELD AREA C	12.0	COLUMBIA GAS TRAN
8351663		4708100247		108		M RV & POC CON COAL 809080	WVA FIELD AREA C	2.0	COLUMBIA GAS TRAN
8351821		4708702242		108		NANCY MCQUAIN 802572	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8351761		4701501332		108		NETTIE J GRAHAM 801824	W VA FIELD AREA A	4.0	COLUMBIA GAS TRAN
8351768		4701501333		108		O D STOCKLEY 801859	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8351543		4703901266		108		OHLEY COAL CO #1 805759	W VA FIELD AREA A	16.0	COLUMBIA GAS TRAN
8351537		4703901691		108		OHLEY COAL CO #11 808859	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8351542		4703901351		108		OHLEY COAL CO #4 806143	W VA FIELD AREA A	12.0	COLUMBIA GAS TRAN
8351541		4703901391		108		OHLEY COAL CO #5 806243	W VA FIELD AREA A	9.0	COLUMBIA GAS TRAN
8351538		4703901430		108		OHLEY COAL CO #6 806336	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8351540		4703901653		108		OHLEY COAL CO #7 808117	W VA FIELD AREA A	15.0	COLUMBIA GAS TRAN
8351539		4703901654		108		OHLEY COAL CO #8 808169	W VA FIELD AREA A	4.0	COLUMBIA GAS TRAN
8351800		4703902223		108		OKEY HARBERT ETAL 809465	W VA FIELD AREA A	0.6	COLUMBIA GAS TRAN
8351797		4703902337		108		OSA RAY BURDETTE 809507	W VA FIELD AREA A	7.0	COLUMBIA GAS TRAN
8351565		4703900543		108		OV MILAM ET AL 804799	W VA FIELD AREA A	4.0	COLUMBIA GAS TRAN
8351669		4708700278		108		OWEN KIRKHART ETAL 804732	WVA FIELD AREA A	0.5	COLUMBIA GAS TRAN
8351765		4701501334		108		P M SUMMERS 801818	W VA FIELD AREA A	5.0	COLUMBIA GAS TRAN
8351817		4700500789		108		PEARL STALLING ETAL 802599	W VA FIELD AREA B	9.0	COLUMBIA GAS TRAN
8351932		4704302053		108		POLLIE ADKINS - 804966	W VA FIELD AREA B	0.5	COLUMBIA GAS TRAN
8351931		4704302054		108		POLLY ADKINS 804964	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8351525		4703903035		108		QUEEN LAND CO 800745	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8351727		4703902107		108		QUEEN LAND CO 803880	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8351493		4703903134		108		QUEEN LAND CO 803964	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8351503		4703901009		108		QUEEN LAND CO 805223	W VA FIELD AREA A	7.0	COLUMBIA GAS TRAN
8351506		4703901025		108		QUEEN LAND CO 805261	WVA FIELD AREA A	4.0	COLUMBIA GAS TRAN
8351507		4703901026		108		QUEEN LAND CO 805262	W VA FIELD AREA A	8.0	COLUMBIA GAS TRAN
8351495		4703901427		108		QUEEN LAND CO 806306	W VA FIELD AREA A	7.0	COLUMBIA GAS TRAN
8351705		4710900608		108		R D BAILEY ETAL 809016	W VA FIELD AREA C	2.0	COLUMBIA GAS TRAN
8351694		4708702251		108		R K OGDEN 801353	W VA FIELD AREA B	0.7	COLUMBIA GAS TRAN
8351511		4703901223		108		REAMER & BROWN #1 805652	W VA FIELD AREA A	7.0	COLUMBIA GAS TRAN
8351514		4703901137		108		REAMER & BROWN #4 805508	W VA FIELD AREA A	13.0	COLUMBIA GAS TRAN
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8351938		4704300998		108		TCO FEE TR 84 806772	W VA FIELD AREA B	7.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
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8351827		4705900794		108		W R THOMPSON ETAL 809459	W VA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8351717		4708700109		108		W R WRIGHT 804387	WVA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8351811		4701500006		108		W S PIERSON 803999	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
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Part III

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

Rhode Island; Surface Mining and Reclamation Operations Under Federal Program; Final Rules

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 939

Surface Mining and Reclamation Operations Under Federal Program for Rhode Island

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) of the Department of the Interior promulgates a Federal program for regulation of coal exploration and surface coal mining and reclamation operations on non-Federal and non-Indian lands in Rhode Island. This includes surface effects of underground coal mining. This program is necessary in order to regulate surface coal mining activities in the absence of a State program.

EFFECTIVE DATE: October 12, 1983.

ADDRESSES: The Federal program for Rhode Island will be administered and enforced by OSM's Pennsylvania Field Office, 100 Chestnut St., Suite 300, Harrisburg, Pennsylvania 17101.

FOR FURTHER INFORMATION CONTACT: James M. Kress, Office of Surface Mining, Branch of Regulatory Programs, Branch 222, 1951 Constitution Avenue NW., Washington, D.C. 20240. Telephone: (202) 343–5866.

SUPPLEMENTARY INFORMATION:

Availability of Copies

Copies of the Federal program for Rhode Island are available for inspection and may be obtained at the OSM office listed above in "ADDRESSES."

Background

Under Section 504(a) of the Surface Mining Control and Reclamation Act of 1977 (the Act), Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*, the Secretary of the Interior (the Secretary) is required to promulgate a Federal program within 34 months after passage of the Act if a State fails to submit a program to assume responsibility for regulating surface mining activities, fails to resubmit a program within 60 days of disapproval, or fails at any time to implement, enforce, or maintain an approved State program.

Rhode Island has identifiable coal reserves, but has failed to submit a program to the Secretary to obtain primary regulatory responsibility. The Director believes that it is reasonable to expect that coal exploration or surface coal mining could occur in Rhode Island before June 1985. Therefore, pursuant to 30 CFR 736.11, the Director must promulgate and implement a Federal program.

This decision does not necessarily imply and expectation of imminent mining in Rhode Island. It instead recognizes that the Act prohibits coal exploration or surface coal mining in States which do not have either an approved State program or a fully promulgated Federal program. Accordingly, OSM believes it prudent to put the required regulatory framework into place so that any future coal exploration or mining may be conducted in Rhode Island legally, without unnecessary delay, and in an environmentally sound manner.

Once a decision is made that a Federal program is necessary for a State, the Secretary must make several determinations before promulgating a program. Section 504(a) of the Act requires that in implementing a Federal program the Secretary take into consideration the nature of the State's terrain, climate, biological, chemical, and other relevant physical conditions. This requirement is also found in the regulations, 30 CFR 736.22(a)(1). The Act (Section 505(b)) and the regulations (§ 736.23(b)) also provide that if a State has more stringent land use and environmental laws or regulations, they shall not be construed to be inconsistent with the Act of the Secretary's regulations. If the State's laws or regulations establish more stringent standards regulating surface mining control and reclamation procedures than those found in the Act or the Secretary's regulations, or if the State regulates or protects an aspect of the environment affected by surface mining operations which neither the Act nor the Secretary's regulations protect, then those State standards are specifically preserved. Thus, the Secretary believes that the requirements of Section 505(b) can best be met by identifying Rhode Island laws and regulations which impose equivalent or more stringent environmental controls, and by listing them in § 939.700(e).

Also, in promulgating a program for a State, Section 504(g) of the Act specifies that State statute or regulation which regulates surface mining and reclamation operations subject to the Act will be superseded and preempted by the Federal program to the extent that it interferes with the achievement of the purposes and requirements of the Act and the Federal program. This provision is reinforced by Section 505(a) of the Act, which states that only those State laws and regulations which are inconsistent with the Act and its implementing regulations shall be superseded by the Federal program. Thus, State statutes and rules regulating the same activities as those covered by the Federal law and regulations and which interfere with achievement of the purposes of the Act must be identified and preempted by OSM. The Director has not identified any such Rhode Island statutes or rules, and consequently, none are preempted by this Federal program for Rhode Island (see § 939.700(f)).

Finally, a Federal program, according to Section 504(h) of the Act, must include a process for coordinating the review and issuance of surface mining permits with other Federal or State permits applicable to the proposed operation. The Federal statutes with which the surface mining permitting process must be coordinated are set out in 30 CFR 736.22(c). State statutes for which a permit is required must be identified in the process of promulgating a Federal program, and the Federal program must provide for coordination with the review and issuance procedures required by those statutes (see § 939.770(b)).

Federal programs are based on the Secretary's permanent program regulations: 30 CFR Subchapters A, F, G, J, K, L, and M. The permanent program regulations establish procedures and performance standards under the Act and form the benchmark for State programs. In order for a State to have a program approved by the Secretary, Section 503(a)(7) requires that the State's rules and regulations be consistent with the Secretary's regulations.

The parts of the permanent program regulations that must be included in a Federal program are listed at 30 CFR 736.22(b). They include general requirements and definitions (Parts 700 and 701), the exemption for coal extraction incident to government-financed highway or other construction (Part 707), the designation of lands unsuitable for surface mining (Parts 760, 761, 762, and 765), permits and permit applications (Subchapter G), reclamation bonding (Subchapter J), performance standards (Subchapter K), inspection and enforcement (Parts 842, 843 and 845), and blaster training and certification (Subchapter M). In addition, the provision in the permanent regulations on protection of employees (Subchapter P) and restrictions on financial interests (Part 706) are applicable to Federal employees who

perform functions or duties under the Act.

The rules for the permanent program are found in 30 CFR Parts 700–707 and 730–865. Part 705 was published October 20, 1977 (42 FR 56060). Parts 795 and 865 (originally Part 830) were published December 13, 1977 (42 FR 62639). The other permanent program regulations were published at 44 FR 15323–15463 (March 13, 1979). Subchapter M was published on December 12, 1980 (45 FR 82098). Corrections were published at 44 FR 15485 (March 14, 1979); 44 FR 53507–53509 (September 14, 1979); 44 FR 66195 (November 19, 1979); 45 FR 26001 (April 16, 1980); 45 FR 37818 (June 5, 1980); and 45 FR 47424 (July 15, 1980). Amendments to the rules have been published at 44 FR 60969 (October 22, 1979) as corrected at 44 FR 75143 (December 19, 1979); at 44 FR 77440–77447 (December 31, 1979); 45 FR 2628–2629 (January 11, 1980); 45 FR 25998–26001 (April 16, 1980); 45 FR 33926–33927 (May 20, 1980); 45 FR 39446–39447 (June 10, 1980); 45 FR 52306–52324 (August 6, 1980); 45 FR 52375 (August 7, 1980); 45 FR 58780–58786 (September 4, 1980); and 45 FR 76932 (November 20, 1980); 46 FR 37232 (July 17, 1981); 46 FR 41702 (August 17, 1981); 46 FR 47720 (September 29, 1981); 46 FR 53376 (October 28, 1981); 46 FR 52287 (October 26, 1981); 47 FR 32942 (July 30, 1982); 47 FR 33431 (August 2, 1982); 47 FR 35620 (August 16, 1982); 47 FR 38486 (August 31, 1982); 47 FR 44942 (October 12, 1982); 47 FR 47212 (October 22, 1982); 47 FR 51316 (November 12, 1982); 48 FR 1160 (January 10, 1983); 48 FR 2286 (January 18, 1983); 48 FR 9199 (March 4, 1983); 48 FR 9478 (March 4, 1983); 48 FR 9788 (March 8, 1983); 48 FR 14814 (April 5, 1983); 48 FR 19314 (April 28, 1983); 48 FR 20392 (May 5, 1983); 48 FR 21446 (May 12, 1983); 48 FR 22110 (May 16, 1983); 48 FR 22092 (May 16, 1983); 48 FR 23356 (May 24, 1983); 48 FR 24638 (June 1, 1983); 48 FR 29802 (June 28, 1983); and, 48 FR 30312 (June 30, 1983).

Representatives of industry, two States and several environmental groups challenged the permanent regulatory program in the U.S. District Court for the District of Columbia. These suits were consolidated and heard in a single lawsuit entitled *In Re Permanent Surface Mining Regulation Litigation* (Civil Action No. 79–1144). In response to the arguments raised in the challenges, the Secretary voluntarily suspended several permanent program regulations. These suspensions were announced in the **Federal Register** on November 27, 1979 (44 FR 67942); December 31, 1979 (44 FR 77447–77455); January 30, 1980 (45 FR 6913); and August 4, 1980 (45 FR 51547–51550). In two opinions the Court remanded certain other regulations which had been challenged in the lawsuit. These opinions were issued on February 26, 1980, and May 16, 1980. Many of the issues decided by the District Court have been appealed to the Court of Appeals for the District of Columbia Circuit. *In Re Permanent Surface Mining Regulation Litigation*, Nos. 80–1810, 80–1811, 80–1812, 80–1813 and 80–1823. The appeals were remanded to the District Court so that issues raised on appeal could be considered in the regulatory reform effort discussed *infra*.

Rhode Island Federal Program

On January 5, 1982, OSM proposed a Federal program that would regulate coal exploration and provide for a process of designating lands unsuitable for surface coal mining for the State of Rhode Island (47 FR 560). The coal exploration program which was proposed was uniform with respect to four States: Massachusetts, Rhode Island, Michigan, and Oregon. A program regulating just coal exploration was proposed because the Director was aware of the interest of some persons in conducting exploration. While Rhode Island law and regulations do provide for some limited regulation of surface coal mining and exploration, the Secretary is nevertheless required by the Act to regulate such activities in the absence of an approved State program.

On April 28, 1982, OSM published the final rule notice implementing a program in Rhode Island to regulate coal exploration and to provide for a process for designating lands unsuitable for mining (47 FR 18232 and 18282). The program became effective on May 28, 1982.

On December 22, 1982, OSM proposed to replace the exploration program for Rhode Island with a full program to regulate surface coal mining and reclamation operations, exploration operations, and the surface effects of underground mining operations. The proposed program additionally provided for a process for designating lands unsuitable (47 FR 57246). While superseding the exploration program, this later proposal and promulgation does not alter the date after which petitions may be submitted to designate lands unsuitable for coal mining in Rhode Island. That date remains May 28, 1983.

The December 22, 1982 notice announced a public hearing for February 23, 1983, and a public comment period closing February 28, 1983. The public hearing was subsequently postponed to and held on March 2, 1983 (48 FR 3638). Comments received at the hearing, and others received during the comment period are described below under "Desposition of Public Comments."

The Rhode Island Federal program will be administered by the Pennsylvania Field Office of OSM, at the address shown above under **ADDRESSES**. OSM will administer the program until such time as Rhode Island submits a State regulatory program which is approved pursuant to 30 CFR Parts 731 and 732.

As mentioned above, when promulgating a Federal program for a State, the Secretary is required by Section 504(a) of the Act to take into consideration the nature of the terrain, climate, biological, chemical, and other relevant physical conditions of that State. OSM has reviewed Rhode Island laws and regulations to determine whether they suggest that special provisions may be necessary or appropriate based on special terrain or other physical conditions in the State.

Pursuant to Section 504(a), the Secretary becomes the regulatory authority when a Federal program is implemented for a State. OSM's permanent program regulations contain reference to "the regulatory authority" and "the State regulatory authority," both of which mean the Secretary when a Federal program for a State is involved. Section 701(22) of the Act.

The Office of Surface Mining is delegated all of the Secretary's authority for implementing, maintaining, and enforcing a Federal program. This proposed program for Rhode Island would not change these responsibilities.

Explanation of Cross-Referencing

In the May 16, 1980 general notice of intent to promulgate Federal programs of (45 FR 32228), OSM stated that each Federal program would be specific to the particular State and would implement the permanent program procedures and environmental protection provisions of the Act (45 FR 32229). However, except to make changes to preserve more stringent State environmental protection standards, to list State laws requiring permits for which coordination is required, and to make any specific changes indentified which are needed to reflect conditions in a State, OSM believes that few changes are needed in the permanent program regulations for any particular State for which a Federal program must be promulgated.

During January 1981, the Secretary directed that the Department review all existing regulations in order to eliminate those which are burdensome, excessive, and unnecessary. A thorough review of

the permanent program regulations was initiated. The effort is now nearing completion and is resulting in extensive revisions. These changes are noted in the above listing of modifications in the permanent program rules.

In order to take advantage of the results which revision of the permanent program regulations is achieving, OSM has developed and promulgated this Federal program in the following manner. Rather than repeating the full text of the permanent regulations, there is instead a cross-reference to the permanent program regulations. For example, criteria for the designation of lands unsuitable for surface coal mining are provided by the statment that "Part 762 of this chapter * * * shall apply to surface coal mine operations." (See § 939.762). One effect of the proposed cross-referencing to the permanent program regulations is that as the permanent program regulations are revised, this Federal program will be similarly revised. Over time, all of the permanent program reglations will undergo review, and many will be revised. No separate rulemaking will be undertaken or necessary for revision of this program, however, unless OSM determines that special conditions are necessary for Rhode Island. See OSM's July 13, 1982, notice advising the public that all changes in the permanent program rules would also result in corresponding changes in Federal programs, absent special conditions (47 FR 30267).

The promulgation of this cross-referencing program does not modify the substance of OSM's permanent program rules. Where specific provisions are needed for Rhode Island's Federal program which are different from the permanent program regulations, a separate paragraph has been added to the appropriate section of this Federal program.

Several provisions of the permanent program regulations are already applicable to this Federal program and need not be cross-referenced here because they were fully promulgated for application to all regulatory programs. Those provisions are 30 CFR Chapter VII, Subchapter P—Protection of Employees; Part 706—Restrictions on Financial Interests of Federal Employees; and Part 769—Petition Process for Designation of Federal Lands Unsuitable for Surface Coal Mining. (30 CFR Part 764—Designating Lands Unsuitable for Surface Coal Mining, has been included in the Rhode Island program by a cross-reference under § 939.764, to provide a petition process on non-Federal and non-Indian lands in that State.)

With regard to the bonding regulations (Subchapter J), only Part 800 is cross-referenced because OSM has revised Subchapter J to include just one part, Part 800.

Content and Organization of the Program

The content and organization of the Federal program for Rhode Island generally follow the permanent program regulations. But, as discussed above, instead of the full text appearing, each section of this program includes only reference to the pertinent permanent program regulation. Section 939.700(e) sets out more stringent State statutes. Section 939.700(f) identifies the Rhode Island statutes and rules which may in an individual situation interfere with the achievement of the purposes and requirements of the Act and which accordingly may be preempted and superseded. Where specific provisions are needed for Rhode Island which are different from the permanent program regulations, a separate paragraph has been added to the appropriate section.

Disposition of Comments

Three persons testified at the hearing on the proposed Federal program for Rhode Island held in Providence, Rhode Island, on March 2, 1983. One of them also submitted written comments. Comments received and OSM's disposition of each are as follows:

1. The representative of the State wanted to know what new information, if any, was received by OSM between July 5, 1982, and December 22, 1982, which made the Director believe that coal mining in Rhode Island was a reasonable possibility before June 1985. He argued that the existing coal exploration program would be adequate if there were no reason for believing that coal mining could be reasonably expected.

In making the decision to promulgate this program, the Director re-evaluated the information available to OSM. There are large, identifiable coal reserves within the State. Exploration of this deposit has been undertaken in an adjacent State. After careful reconsideration, the Director concluded that it was reasonable to expect that mining could occur before June 1985.

The reasonableness of this conclusion is supported by the comment made by the two representatives of the University of Rhode Island Energy Center that "[w]hile mining of the known deposits of coal in Rhode Island may not presently appear either economically feasible or environmentally sound, future coal exploration and subsequent expansion of known reserves are possible that could feasibly allow for mining and exploration in an environmentally responsible manner. We, therefore, conclude that mining should not be excluded from the State, but should be conducted consistent with good mining practices."

Because it takes a considerable length of time to promulgate a Federal program for a State, it is in the best interest of all concerned to proceed with the program at this time. This will ensure that if and when an operator wants to conduct mining operations in Rhode Island, there will be no delays due to the absence of a regulatory program. It should be noted that the promulgation and administration of this program present no burden and no expense to the State.

2. The representative of the State testified during the public hearing that the State deemed it to be in its best interests to comment both on the existing Federal regulations and the proposed modifications thereto. Consequently, the State's written comments contained references to OSM's proposed changes to the Federal permanent program.

OSM recognizes the difficulty created by the simultaneous promulgation of this program and the revisions of the permanent program rules, and has carefully considered the State's comments concerning the proposed modifications where there was any indication of representation that conditions within the State would cause the regulation to have an abnormal impact, and thus to deserve special consideration. The appropriate forum for comments on each proposed modification, however, is the corresponding rulemaking, rather than this Federal program. OSM has therefore not accepted such comments unless the proposed modification would impact upon a condition or circumstances unique to Rhode Island. Section 201(g) of the Act provides the method by which a petitioner may seek review of any modifications to the permanent program regulations after the implementation of the Federal program for Rhode Island.

3. The State representative commented that Rhode Island is fully incorporated and governed by town or city governments at the local level. Each community has different performance standards regarding activities which can occur within their bounds. He stated that some community standards are worded in such a manner that a surface mining operation could never comply, others are not as strict, and others

prohibit quarrying and earth removal outright. The representative states the opinion that the Federal program would not preclude the local regulatory process.

Section 505(a) of the Act provides that no State law regulating surface coal mining operations shall be superseded unless it is inconsistent with the Federal Act and regulations. Under recognized principles of Federal law, any conflicting local regulations would also be preempted. However, local zoning laws do not ordinarily interfere with the regulation of surface coal mining activities, or the designation of areas as unsuitable for surface coal mining operations under Section 522 of the Act. For example, the local zoning of an area for a use which does not allow for surface coal mining would not necessarily interfere with the Federal program, and obtaining a land use variance in that instance is not inconsistent with Federal regulation. Consequently, the local laws and ordinances of Rhode Island towns and cities, which are land use provisions as opposed to regulation of mining, are not preempted by implementation of this Federal program.

4. Sections 779.25(1) and 780.25(a)(1)(i) both require that the material submitted pursuant to each be "prepared by, or under the direction of, and certified by a qualified registered professional engineer, or by a professional geologist with assistance from experts in related fields such as land surveying and landscape architecture." One commenter proposed that both sections be amended to provide that the materials be "prepared by, or under the direction of, and certified by a qualified registered professional engineer and by a qualified registered professional land surveyor, each registered or licensed to practice in this State, with assistance from experts in related fields such as geology and landscape architecture."

OSM disagrees. Section 507(b)(14), 515(b)(10)(B)(ii), 515 (b)(13) and (f), and 515(b)(22)(H), 515(c)(3)(B)(vii), 515(c)(4)(E) (incorporating 515(b)(22)(H) by reference), 515(e)(3)(B) and 515(e)(4) (incorporating 515(b)(22)(H) by reference), of the Act expressly require that certain maps, plans, and cross sections be developed by or under the direction of professional engineers and in some cases geologists. The regulations cited by the commenter follow the exact language in the Act. These provisions of the Act are clear and unambiguous, and OSM may neither waive their requirements nor grant variances from them. (*In Re Surface Mining Litigation*, 452 F. Supp. 327, 338 (D.D.C. 1978)).

5. One commenter suggested that the minimum scale of the map submitted pursuant to § 776.12(a)(5) be changed from 1:24,000 to 1:500.

OSM has not accepted this comment. Application requirements are covered by Section 507 of the Act. Specifically, Section 507(b)(13) requires that the maps submitted with an application contain, among other things, all types of information set forth on topographical maps of the United States Geological Survey of a scale of 1:24,000 or 1:25,000 or larger. Thus, if the applicant desires to map at a scale as large as 1:500, OSM will accept those maps.

The most important consideration in regard to map scales, however, is the legibility and usefulness of the information depicted. In order to make decisions on permit applications, it is necessary to have mapped information of sufficient detail and accuracy as a basis for making relatively precise estimates of the areas needed for certain operations. Consequently, OSM has set a minimum scale of 1:6,000 for the maps of surface mining operation permit area. However, because of the nature of exploration and the fact that it is often impossible to specify the precise location of each drill hole before actually commencing drilling, the regulations require that the map and narrative description disclose the general location and number of drill holes within the area. OSM believes that a map of the scale of 1:24,000 will usually be sufficiently detailed to provide the required information, although the regulatory authority will require maps of a larger scale where a map of the minimum scale is not sufficient to accurately reflect the required information.

6. The State noted the proposed amendment to OSM's permanent program regulations which, if adopted, would require notice only if the exploration will substantially disturb the natural land surface. It requested that provisions be made within the Rhode Island Federal program to retain the requirement that all persons who intend to undertake coal exploration operations file a notice of such intent. In support of this request, the State offered evidence indicating that Rhode Island is unique among States with significant coal reserves in that these reserves are located in or adjacent to a marine environment. Because of the proximity to the marine environment, the coal deposits and adjacent rocks are in close hydraulic connection with Narragansett Bay. The probability of salt water intrusion as a result of mining is, therefore, relatively high in many areas of the State.

OSM agrees, and has amended § 939.776 to incorporate this change. The director is unaware of any major coal deposits in or adjacent to a marine environment other than that in and around Narragansett Bay. Because of this unique situation, and the attendant possibility that coal exploration could pose effects and complications not posed in other States, OSM believes it is reasonable to require notice from all prospectors in Rhode Island. Such a provision will better enable OSM (as the regulatory authority) to determine whether the exploration will substantially disturb the surface, thus invoking the coal exploration regulations.

7. The State representative asked whether blasting which occurs as part of an exploration activity is outside of regulatory control.

The coal exploration standards of 30 CFR Part 815 apply if the exploration activity will substantially disturb the natural land surface or if more than 250 tons of coal will be removed. If the area is substantially disturbed or if more than 250 tons of coal are removed, the operator must comply with § 815.1, which states that the applicable performance standards of Parts 816 through 828 (containing many specific blasting requirements) apply to exploration.

8. The State cited the lack of bonding requirements for exploration activity. These comments were made in connection with the comments addressed above relative to blasting.

Section 512 of the Act does not require bonding for coal exploration activities. Moreover, the State has in effect a bond requirement for blasting operations. R.I. Gen. Laws Section 23–28. 28–32 (198). OSM does not believe that additional bonding is appropriate.

9. The State requested that § 939.761 be amended to include areas designated as National Estuarine Sanctuaries as established through the Coastal Zone Management Act of 1972, and administered as a component of National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

OSM disagrees. The areas enumerated in § 939.761 where mining is prohibited or limited are those classifications established by Congress in Section 522(e) of the Surface Mining Act. National Estuarine Sanctuaries are not included within any of the classes listed in Section 522(e). Therefore, OSM does not have the authority to expand

the list of areas by amending the implementing regulation without following the procedural requirements of Section 522(c) of the Act.

10. The State commented that the definition of "fish and wildlife habitat" in § 701.5 should be amended to include" marine and estaurine organisms." The State suggested that this addition is necessary for the purposes of clarity to ensure that the protection of natural resources provided by the Act will apply to the marine environment as well as the terrestrial environment of the State.

OSM disagrees. The phrase "fish and wildlife" is adequately clear and could not reasonably be understood as limited to fish or wildlife in the terrestrial environment.

11. The State commented in opposition to the proposed change to the permanent program's ground-water monitoring requirements of 30 CFR 780.21(j) and 784.14(j). The State argued that the required inclusion of a ground-water monitoring plan only where the probable hydrologic consequences determinaton indicated that onsite or offsite impacts may occur to a significant ground-water resource or where such a plan is required by the regulatory authority would not adequately protect the individual, or the operator in litigation with the individual, whose only water supply may be a rock well which yields less than 10 gpm. This opinion was expressed in connection with the comments referenced above concerning the potential for salt water intrusion.

OSM disagrees. The Director does not believe that there is sufficient evidence of extraordinary conditions in Rhode Island to warrant an exception for the State on this provision. OSM agrees with the State, however, that the regulations are sufficiently general to require consideration of the possibility of salt water intrusion as a part of the determination of the probable hydrologic consequences.

12. The State submitted a written comment concerning the proposed amendment of 30 CFR 761.11 which could limit the prohibition or limitation of mining to only publicly owned places included in the National Register of Historic Places. (June 10, 1982; 47 FR 25278.)

OSM has not accepted this comment, since it relates to the permanent program rules rather than to the Federal program for Rhode Island, and there is no indication that conditions in the State require special provisions. Section 106 of the National Historic Preservation Act (NHPA) of 1966, as amended (16 U.S.C. 470), and its accompanying regulations (36 CFR Part 800) require Federal agencies to take into account the effect of any of their direct or Federally assisted undertakings on properties listed, or eligible for listing, on the National Register, and to consult with the Advisory Council on Historic Preservation. Moreover, regulations of the Advisory Council on Historic Preservation (36 CFR 800.4(a)(2)) require the responsible agency to determine what action must be taken to comply with the NHPA. OSM will be subject to the requirements of Section 106 of the NHPA as the regulatory authority for the Rhode Island Program.

Additionally, Section 522(a)(3)(B) of the Act allows adversely impacted persons to petition for designations of unsuitability for potential mining areas where such operations could result in significant damage to important historic, cultural, scientific, and esthetic values.

13. The State urged OSM to include within § 701.5 a definition of "injury in fact" as it relates to the petition process for designating lands unsuitable. The State suggested that the test be applied over a broad spectrum.

OSM has not accepted this comment, since it relates to the permanent program rules rather than to the Federal program for Rhode Island, and there is no indication of conditions in the State which require special provisions.

14. The State asked for further consideration of the effect of the State's Fresh Water Wetlands Act and rules and regulations thereunder and the Coastal Resource Management Act and regulations thereunder as potentially providing stricter environmental standards and potentially interfering with the achievement of the purposes of the Act.

OSM believes that these provisions are not necessarily inconsistent with the Act. However, because of the wide latitude granted to the State concerning what it may require pursuant to these provisions, there is a possibility of interference with the achievement of the purposes of the Act. Since there is a potential, but no existing conflict, § 939.700(f) has been amended to allow OSM to supersede such provisions only on an individual basis after consultation with the State.

15. The State supported and incorporated into its comments by reference the editorial by Jay H. Lehr, "Soap Doesn't Wash Clean," which was published in the Winter 1983 issue of *Ground Water Monitoring Review*.

OSM has considered the comments contained therein, but is making no changes to the Federal program for Rhode Island as a result thereof. The State was correct in its comment that the changes suggested by editorial could be accomplished only by Congressional amendment to SMCRA, rather than by OSM rulemaking authority.

Detailed Discussion

OSM reviewed Rhode Island's pertinent statutes in the process of developing this proposed Federal program and determined that there were statutes which, under certain circumstances, imposed stricter environmental controls than those provided by either the Act or the Federal regulations (see § 939.700(e)). These Rhode Island statutes may be summarized as follows:

(a) The Rhode Island Hazardous Waste Management Act of 1978, as amended, R.I. General Laws Section 23–19.1–1 to 23–19.1–22, makes it unlawful to treat or dispose of hazardous wastes anywhere within the State of Rhode Island without an approved permit issued by the Director of the Department of Environmental Management. This statute also prohibits the disposal of waste in any area overlying underground water sources designated by the U.S. Geological Survey and the Rhode Island Water Resources Board. R.I. General Laws Sections 23–19.1–10. Any person who violates the Act's provisions is deemed to be absolutely liable for the costs of cleanup and removal of the discharged wastes and for all damages and injuries, including environmental losses, which result directly or indirectly from the unauthorized discharge. R.I. General Laws Section 23–19.1–22. Intentional or grossly negligent violations of these statutes are criminal offenses punishable by a maximum fine of $25,000 or a minimum prison term of five years, or both. R.I. General Laws Section 23–19.1–18(A).

(b) R.I. General Laws Sections 46–12–1 to 46–12–37 (statutes controlling the pollution of State waters) prohibit, *inter alia*, the entrance or discharge of sewage waste into any waters of the State without an order of approval from the Director of the Department of Environmental Management. This statute includes a provision imposing strict liability for negligent or intentional pollution of ground waters in the State. R.I. General Laws Section 46–12–37.

Section 939.700(f) states that no State laws have been identified as interfering with the Act's requirements and frustrating the accomplishment of its goals. If such State laws in an individual situation interfere with the achievement of the purposes and requirements of the Act, they may be superseded and preempted with respect to the

performance standards of §§ 939.815 through 939.828 as they affect a particular coal exploration or surface coal mining operation by publication of a notice to that effect in the Federal Register.

In order to coordinate the Federal program permitting process under the Act with the permitting requirements imposed by other Federal statutes and by Rhode Island, § 939.770 identifies the following pertinent permits, statutes, and rules.

(a) Air contaminant discharge permits and variances granted by the Department of Environmental Management pursuant to the Rhode Island Clean Air Act, R.I. General Laws Sections 23–23–1 to 23–23–23.

(b) Chapter 20 of the Rhode Island Act on Waters and Navigation, R.I. General Laws Sections 46–20–1 to 46–20–5, permit an owner of any lands in the State to file a petition with the town council of the town in which the lands are situated for permission to drain his lands.

(c) The Act for Inspection of Dams and Reservoirs, R.I. General Laws Sections 46–19–1 to 46–19–8, prohibits construction or substantial alteration of any dam or reservoir without first filing with the Department of Environmental Management, the work plan proposal and specifications, and securing written approval of the Director.

(d) Permits to possess or use explosives and permits for quarry operations and repeated blasting issued by the State Fire Marshal. No person shall conduct blasting operations without first posting a bond and obtaining a license from the State Fire Marshal. R.I. General Laws Sections 23–28.28–1 to 23–28.28–27.

(e) Permits from the appropriate local historic district commission are required prior to any construction, alteration, or demolition affecting any structures within a historic district. R.I. General Laws Sections 45–24.1–1 to 45–24.1–16.

(f) The Antiquities Act of Rhode Island, R.I. General Laws Sections 42–45.1–1 to 42–45.1–13, prohibits exploration or excavation activities on any site designated as a State archeological landmark without a permit from the State Historical Preservation Commission.

(g) Permits for dredging, filling, or otherwise altering coastal wetlands and all directly related contiguous areas are issued by the Coastal Resources Management Council. R.I. General Laws Sections 46–23–1 to 46–23–17.

(h) Permits and variances relative to disposal, transportation, and containment of hazardous wastes are issued by the Department of Environmental Management pursuant to the Rhode Island Hazardous Waste Management Act of 1978. R.I. General Laws Sections 23–19.1–1 to 23–19.1–22.

(i) The Department of Environmental Management is responsible for issuing orders of approval authorizing discharge of sewage into waterways within the State and modification or operation of sewage disposal systems. R.I. General Laws Sections 46–12–1 to 46–12–37.

(j) The Wetlands Protection Act, R.I. General Laws Sections 2–1–21 to 2–1–24 authorizes the Department of Environmental Management to designate wetlands and issue permits for excavation, drainage, or any other alteration affecting wetlands within the State.

Copies of the above Rhode Island statutes and other Rhode Island statutes referred to herein are in the administrative record and are available for review at the place listed above under "ADDRESSES."

Part 939.764 specifies that the process for designating areas as unsuitable for surface coal mining operations shall begin on May 28, 1983. This is because the Federal coal exploration program for Rhode Island published April 28, 1982, was effective on May 28, 1982, thereby triggering the one-year waiting period specified by Section 504(g) of the Act (47 FR 18232 and 18282; April 28, 1982).

OMB Review

The recordkeeping and reporting requirements of the Federal program for Rhode Island are the same as those of the permanent program regulations which have been approved by the Office of Management and Budget under 44 U.S.C. 3507. Although this program contains information and recordkeeping requirements, OSM anticipates less than ten respondents.

Other Information

The Department of the Interior has determined that this document is not a major rule under E.O. 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

The reasons underlying this determination are as follows:

This Federal program would not result in significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or foreign markets; nor would it increase costs or prices for consumers, individual industries, Federal, State, or local governmental agencies or geographic regions. We further certify that there will be no significant demographic effects, direct costs, indirect costs, nonquantifiable costs, competitive effects, enforcement costs, or aggregate effects on small entities.

The Office of Surface Mining Reclamation and Enforcement has determined that this rule is categorically excluded from compliance with the National Environmental Policy Act in accordance with 40 CFR 1507.3.

List of Subjects in 30 CFR Part 939

Coal mining, Intergovernmental relations, Surface mining, Underground mining, Reporting requirements.

Drafting Information

This program was drafted by Mark D. Caudill, Office of the Solicitor, and James M. Kress, Branch of Regulatory Programs, Office of Surface Mining.

(Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*))

Dated: August 12, 1983.

W. L. Dare,

Acting Deputy Assistant Secretary, Energy and Minerals.

The Federal Regulatory program for Rhode Island, 30 CFR Part 939, is revised to read as follows:

PART 939—RHODE ISLAND

Sec.

939.700 Rhode Island Federal program.
939.701 General.
939.707 Exemption for coal extraction incident to government-financed highway or other construction.
939.761 Areas designated unsuitable for surface coal mining by Act of Congress.
939.762 Criteria for designating areas as unsuitable for surface coal mining operations.
939.764 Process for designating areas unsuitable for surface coal mining operations.
939.770 General requirements for permits and exploration procedures.
939.771 General requirements for permits and permit applications.
939.776 General requirements for coal exploration.
939.778 Surface mining permit applications—minimum requirements for legal, financial, compliance, and related information.
939.779 Surface mining permit applications—minimum requirements for information on environmental resources.
939.780 Surface mining permit applications—minimum requirements for reclamation and operations plan.
939.782 Underground mining permit applications—minimum requirements for legal, financial, compliance, and related information.

Sec.

939.783 Underground mining permit applications—minimum requirements for information on environmental resources.
939.784 Underground mining permit applications—minimum requirements for reclamation and operation plan.
939.785 Requirements for permits for special categories of mining.
939.786 Review, public participation, and approval or disapproval of permit applications and permit terms and conditions.
939.787 Administrative and judicial review of decisions on permit applications.
939.788 Permit review, revisions, and renewals, and transfer, sale, and assignment of rights granted under permits.
939.795 Small operator assistance.
939.800 General requirements for bonding of surface coal mining and reclamation operations.
939.815 Performance standards—coal exploration.
939.816 Performance standards—surface mining activities.
939.817 Performance standards—underground mining activities.
939.819 Special performance standards—auger mining.
939.823 Special performance standards—operations on prime farmland.
939.824 Special performance standards—mountaintop removal.
939.826 Special performance standards—operations on steep slopes.
939.827 Special performance standards—coal processing plants and support facilities not located at or near the minesite or not within the permit area for a mine.
939.828 Special performance standards—in situ processing.
939.842 Federal inspections.
939.843 Federal enforcement.
939.845 Civil penalties.
939.850 Blaster training and certification.

Authority: Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977, 91 Stat. 445 *et seq.* (30 U.S.C. 1201 *et seq.*)

§ 939.700 Rhode Island Federal Program.

(a) This part contains all rules that are applicable to surface coal mining and reclamation operations in Rhode Island which have been adopted under the Surface Mining Control and Reclamation Act of 1977.

(b) The rules in this part cross-reference pertinent parts of the permanent program regulations in this chapter. The full text of a rule is in the permanent program rule cited under the relevant section of the Rhode Island Federal program.

(c) The rules in this part apply to all surface coal mining and reclamation operations in Rhode Island conducted on non-Federal and non-Indian lands. The rules in Subchapter D of this chapter apply to operations on Federal lands in Rhode Island.

(d) The information collection requirements contained in this part do not require approval by the Office of Management and Budget under 44 U.S.C. 3507 because there are fewer than ten respondents annually.

(e) The following provisions of Rhode Island laws provide, where applicable, for more stringent environmental control and regulation of surface coal mining and reclamation operations than do the provisions of the Act and the regulations in this chapter. Therefore, pursuant to Section 505(b) of the Act, they shall not be construed to be inconsistent with the Act:

(1) R.I. General Laws Sections 23–19.1–1 to 23–19.1–22, regulating treatment, disposal, and transportation of hazardous wastes within the State of Rhode Island.

(2) R.I. General Laws Sections 46–12–1 to 46–12–37, controlling the pollution of any of the State's waterways.

(f) There are no Rhode Island laws that generally interfere with the achievement of the purposes and requirements of the Act and which must be superseded and preempted pursuant to Section 504(g). Some Rhode Island laws may in an individual situation interfere with the achievement of the purposes and requirements of the Act and may be preempted and superseded with respect to the performance standards of Sections 939.815–939.828 as they affect a particular coal exploration or surface mining operation by publication of a notice to that effect in the **Federal Register**.

§ 939.701 General.

Sections 700.5, 700.11, 700.12, 700.13, 700.14, 700.15 and Part 701 of this chapter shall apply to surface coal mining and reclamation operations in Rhode Island.

§ 939.707 Exemption for coal extraction incident to Government-financed highway or other construction.

Part 707 of this chapter, Exemption for Coal Extraction Incident to Government-Financed Highway or Other Construction, shall apply to surface coal mining and reclamation operations.

§ 939.761 Areas designated unsuitable for surface coal mining by Act of Congress.

Part 761 of this chapter, Areas Designated by Act of Congress, shall apply to surface coal mining and reclamation operations.

§ 939.762 Criteria for designating areas as unsuitable for surface coal mining operations.

Part 762 of this chapter, Criteria for Designating Areas Unsuitable for Surface Coal Mining Operations, shall apply to surface coal mining and reclamation operations.

§ 939.764 Process for designating areas unsuitable for surface coal mining operations.

Part 764 of this chapter, State Processes for Designating Areas Unsuitable for Surface Coal Mining Operations, pertaining to petitioning, initial processing, hearing requirements, decisions, data base and inventory systems, public information, and regulatory responsibilities shall become applicable in Rhode Island on May 28, 1983.

§ 939.770 General requirements for permits and exploration procedures.

(a) Part 770 of this chapter, General Requirements for Permit Systems Under State Programs, shall apply to coal exploration and surface coal mining and reclamation operations.

(b) No person shall conduct coal exploration which results in the removal of more than 250 tons of coal nor shall any person conduct surface coal mining operations without a permit issued by the Secretary pursuant to 30 CFR Part 770 and permits issued pursuant to State law, including: the Wetlands Protection Act (R.I. General Laws Section 2–1–22); Chapter 20 of the Waters and Navigation Act (petitions for ditches and drains) (R.I. General Laws Section 46–20–1 *et seq.*); the Coastal Resources Management Council Act of 1971 (R.I. General Laws Section 46–23–6); the Rhode Island Clean Air Act (R.I. General Laws Section 23–23–15); the Rhode Island Hazardous Waste Management Act of 1978 (R.I. General Laws Section 23–19.1–11 *et seq.*); the Rhode Island Act for Inspection of Dams and Reservoirs (R.I. General Laws Section 46–19–1 *et seq.);* and Chapter 23–28.28 of Rhode Island's Health and Safety Code (R.I. General Laws Section 23–28.28–1, *et seq.*, permits for blasting), and an order of approval authorizing discharge of sewage into waterways within the State and modification or operation of sewage disposal systems if applicable (R.I. General Laws Sections 46–12–1 to 46–12–37). The permit issued by the Secretary shall incorporate the requirements of the Rhode Island Historical Zoning Act of 1954, as amended (R.I. General Laws Section 45–24.1–1 *et seq.*) and the Rhode Island Antiquities Act of 1974 (R.I. General Laws Section 42–45.1–1 *et seq.*).

(c) The Secretary shall coordinate review and issuance of a coal exploration or surface coal mining permit with the review and issuance of other Federal and State permits listed in this Section and 30 CFR Part 770.

§ 939.771 General requirements for permits and permit applications.

(a) Part 771 of this chapter, General Requirements for Permits and Permit Applications, shall apply to any person who makes application for a permit to conduct surface coal mining and reclamation operations.

(b) A person who wishes to conduct new surface coal mining and reclamation operations or who wishes a revision of his permit shall file a complete application at least 12 months prior to the date upon which permit issuance or revision is desired, and shall pay to the Secretary a permit fee in accordance with § 736.25 of this chapter.

§ 939.776 General requirements for coal exploration.

(a) Part 776 of this chapter, General Requirements for Coal Exploration, shall apply to any person who conducts or seeks to conduct coal exploration operations.

(b) The Office shall make every effort to act on an exploration application within 60 days of receipt or such longer time as may be reasonable under the circumstances. If additional time is needed, OSM shall notify the applicant that the application is being reviewed, but that more time is necessary to complete such review, setting forth the reasons and the additional time that is needed.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, any person who intends to conduct coal exploration shall, prior to conducting the exploration, file with the regulatory authority a written notice of intention to explore including:

(1) The name, address, and telephone number of the person seeking to explore;

(2) The name, address, and telephone number of the representative who will be present at and responsible for conducting the exploration activities;

(3) A precise description and map, at a scale of 1:24,000 or larger, of the exploration area;

(4) A statement of the period of intended exploration;

(5) If the surface is owned by a person other than the person who intends to explore, a description of the basis upon which the person will explore claims the right to enter such area for the purpose of conducting exploration and reclamation; and

(6) A description of the practices proposed to be followed to protect the environment from adverse impacts as a result of the exploration activities.

§ 939.778 Surface mining permit applications—minimum requirements for legal, financial, compliance, and related information.

Part 778 of this chapter, Surface Mining Permit Applications—Minimum Requirements for Legal, Financial, Compliance, and Related Information, shall apply to any person who makes application for a permit to conduct surface coal mining and reclamation operations.

§ 939.779 Surface mining permit applications—minimum requirements for information on environmental resources.

Part 779 of this chapter, Surface Mining Permit Applications—Minimum Requirements for Information on Environmental Resources, shall apply to any person who makes application to conduct surface coal mining and reclamation operations.

§ 939.780 Surface mining permit applications—minimum requirements for reclamation and operations plan.

(a) Part 780 of this chapter, Surface Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plan, shall apply to any person who makes application to conduct surface coal mining and reclamation operations.

(b) The applicant for a permit shall demonstrate compliance with Rhode Island air quality control laws (R.I. General Laws Section 23–23–1 *et seq.*) by obtaining an order of approval from the Director of the Department of Environmental Management for any facility with the potential to emit one ton per year or more of any air contaminant pursuant to R.I. General Laws Section 23–23–15.

§ 939.782 Underground mining permit applications—minimum requirements for legal, financial, compliance, and related information.

Part 782 of this chapter, Underground Mining Permit Applications—Minimum Requirements for Legal, Financial, Compliance, and Related Information, shall apply to any person who makes application for a permit to conduct underground coal mining operations.

§ 939.783 Underground mining permit applications—minimum requirements for information on environmental resources.

Part 783 of this chapter, Underground Mining Permit Applications—Minimum Requirements for Information on Environmental Resources, shall apply to any person who submits an application to conduct underground coal mining operations.

§ 939.784 Underground mining permit applications—minimum requirements for reclamation and operation plan.

Part 784 of this chapter, Underground Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plan, shall apply to any person who makes application to conduct underground coal mining.

§ 939.785 Requirements for permits for special categories of mining.

Part 785 of this chapter, Requirements for Permits for Special Categories of Mining, shall apply to each person who makes application for a permit to conduct certain categories of surface coal mining and reclamation operations as specified therein.

§ 939.786 Review, public participation, and approval or disapproval of permit applications and permit terms and conditions.

Part 786 of this chapter, Review, Public Participation, and Approval or Disapproval of Permit Applications and Permit Terms and Conditions, shall apply to the review of applications made by any person for surface coal mining and reclamation operations.

§ 939.787 Administrative and judicial review of decisions on permit applications

Decisions on permit applications shall be subject to administrative and judicial review in accordance with Part 787 of this chapter and Sections 520, 525 and 526 of the Act.

§ 939.788 Permit reviews, revisions, and renewals, and transfer, sale, and assignment of rights granted under permits.

Part 788 of this chapter, Permit Reviews, Revisions, and Renewals, and Transfer, Sale, and Assignment of Rights Granted Under Permits, shall apply to review, revision, and renewal of permits for surface coal mine operations, and to transfer, sale, and assignment of rights granted under permits.

§ 939.795 Small operator assistance.

Part 795 of this chapter, Small Operator Assistance, shall apply to any person making application for assistance under the small operator assistance program.

§ 939.800 General requirements for bonding of surface coal mining and reclamation operations.

Part 800 of this chapter, General Requirements for Bonding of Surface Coal Mining and Reclamation Operations Under Regulatory Programs, shall apply to all surface coal mining and reclamation operations.

§ 939.815 Performance standards—Coal exploration.

Part 815 of this chapter, Permanent Program Performance Standards—Coal Exploration, shall apply to any person conducting coal exploration operations.

§ 939.816 Performance standards—surface mining activities.

Part 816 of this chapter, Permanent Program Performance Standards—Surface Mining Activities, shall apply to any person who conducts surface coal mining and reclamation operations.

§ 939.817 Performance standards—underground mining activities.

Part 817 of this chapter, Permanent Program Performance Standards—Underground Mining Activities, shall apply to any person who conducts underground coal mining operations.

§ 939.819 Special performance standards—auger mining.

Part 819 of this chapter, Special Permanent Program Performance Standards—Auger Mining, shall apply to any person who conducts surface coal mining operations which include auger mining.

§ 939.823 Special performance standards—operations on prime farmland.

Part 823 of this chapter, Special Permanent Program Performance Standards—Operations on Prime Farmland, shall apply to any person who conducts surface coal mining and reclamation operations on prime farmlands.

§ 939.824 Special performance standards—mountaintop removal.

Part 824 of this chapter, Special Permanent Program Performance Standards—Mountaintop Removal, shall apply to any person who conducts surface coal mining operations constituting mountaintop removal mining.

§ 939.826 Special performance standards—operations on steep slopes.

Part 826 of this chapter, Special Permanent Program Performance Standards—Operations on Steep Slopes, shall apply to any person who conducts surface coal mining and reclamation operations on steep slopes.

§ 939.827 Special performance standards—coal processing plants and support facilities not located at or near the minesite or not within the permit area for a mine.

Part 827 of this chapter, Special Permanent Program Performance Standards—Coal Processing Plants and Support Facilities Not Located at or Near the Minesite or Not Within the Permit Area for a Mine, shall apply to any person who conducts surface coal mining and reclamation operations which include the operation of coal processing plants and support facilities not located at or near the minesite or not within the permit area for a mine.

§ 939.828 Special performance standards—in situ processing.

Part 828 of this chapter, Special Permanent Program Performance Standards—In Situ Processing, shall apply to any person who conducts in situ processing activities.

§ 939.842 Federal inspections.

(a) Part 842 of this chapter, Federal Inspections, shall apply to all coal exploration and surface coal mining and reclamation operations.

(b) The Secretary will furnish copies of inspection reports and reports of any enforcement action taken to the Rhode Island Department of Environmental Management upon request.

§ 939.843 Federal enforcement.

(a) Part 843 of this chapter, Federal Enforcement, shall apply when enforcement action is required for violations on coal exploration or surface coal mining and reclamation operations.

(b) The Office will furnish a copy of any order to show cause to the Rhode Island Department of Environmental Management upon request.

§ 939.845 Civil penalties.

Part 845 of this chapter, Civil Penalties, shall apply when civil penalties are assessed for violations on surface coal mining and reclamation operations.

§ 939.850 Blaster training and certification.

Part 850 of this chapter, Programs for Blasters Training and Certification, shall apply to any person who conducts coal exploration or surface coal mining operations.

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September 12, 1983

Part IV

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

Massachusetts; Surface Mining and Reclamation Operations Under Federal Program; Final Rules

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 921

Massachusetts; Surface Mining and Reclamation Operations Under Federal Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) of the Department of the Interior promulgates a Federal program for regulation of coal exploration and surface coal mining and reclamation operations on non-Federal and non-Indian lands in Massachusetts. This includes surface effects of underground coal mining. This program is necessary in order to regulate surface coal mining activities in the absence of a State program.

EFFECTIVE DATE: October 12, 1983.

ADDRESSES: The Federal program for Massachusetts will be administered and enforced by OSM's Pennsylvania Field Office, 100 Chestnut Street, Suite 300, Harrisburg, Pennsylvania 17101.

FOR FURTHER INFORMATION CONTACT: James M. Kress, Office of Surface Mining, Branch of Regulatory Programs, Room 222, 1951 Constitution Avenue, NW., Washington, D.C. 20240. Telephone: (202) 343–5866.

SUPPLEMENTARY INFORMATION:

Availability of Copies

Copies of the Federal program for Massachusetts are available for inspection and may be obtained at the OSM office listed above in "**ADDRESSES.**"

Background

Under Section 504(a) of the Surface Mining Control and Reclamation Act of 1977 (the Act), Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*, the Secretary of the Interior (the Secretary) is required to promulgate a Federal program within 34 months after passage of the Act if a State fails to submit a program to assume responsibility for regulating surface mining activities, fails to resubmit a program within 60 days of disapproval, or fails at any time to implement, enforce or maintain an approved State program.

Massachusetts has identifiable coal reserves within its borders, but has failed to submit a program to the Secretary to obtain primary regulatory responsibility. The Secretary believes that it is reasonable to expect that coal exploration or surface coal mining and reclamation operations could occur in Massachusetts before June 1985. Therefore, pursuant to 30 CFR 736.11, the Director must promulgate a Federal program.

This decision does not necessarily imply any expectation of imminent mining in Massachusetts. Instead, it recognizes that the Act prohibits coal exploration or surface coal mining in States which do not have either an approved State program or a fully promulgated Federal program. Accordingly, OSM believes it prudent to put the required regulatory framework into place so that any future coal exploration or mining may be conducted in Massachusetts legally, without unnecessary delay, and in an environmentally sound manner.

Once a decision is made that a Federal program is necessary for a State, the Secretary must make several determinations before promulgating a program. Section 504(a) of the Act requires that in implementing a Federal program the Secretary take into consideration the nature of the State's terrain, climate, biological, chemical, and other relevant physical conditions. This requirement is also found in the regulations, 30 CFR 736.22(a)(1). The Act (Section 505(b)) and the regulations (§ 736.23(b)) also provide that if a State has more stringent land use and environmental laws or regulations, they shall not be construed to be inconsistent with the Act or the Secretary's regulations. If the State's laws or regulations establish more stringent standards regulating surface mining control and reclamation procedures than those found in the Act or the Secretary's regulations, or if the State regulates or protects an aspect of the environment affected by surface mining operations which neither the Act nor the Secretary's regulations protect, then those State standards are specifically preserved. Thus, the Secretary believes that the requirements of Section 505(b) can best be met by identifying Massachusetts laws and regulations which impose more stringent environmental controls, and by listing them in § 921.700(e).

Also, in promulgating a program for a State, Section 504(g) of the Act specifies that any State statute or regulation which regulates surface mining and reclamation operations subject to the Act will be superseded and preempted by the Federal program to the extent that it interferes with the achievement of the purposes and requirements of the Act and the Federal program. This provision is reinforced by Section 505(a) of the Act, which states that only those State laws and regulations which are inconsistent with the Act and its implementing regulations shall be superseded by the Federal program. Thus, State statutes and rules regulating the same activities as those covered by the Federal law and regulations and which interfere with achievement of the purposes of the Act must be identified and preempted by OSM. The Director has identified such Massachusetts statutes and rules at § 921.700(f).

Finally, a Federal program, according to Section 504(h) of the Act, must include a process for coordinating the review and issuance of surface mining permits with other Federal or State permits applicable to the proposed operation. The Federal statutes with which the surface mining permitting process must be coordinated are set out in 30 CFR 736.22(c). State statutes for which a permit is required must be identified in the process of promulgating a Federal program, and the Federal program must provide for coordination with the review and issuance procedures required by those statutes (See § 921.770(b)).

Federal programs are based on the Secretary's permanent program regulations: 30 CFR Subchapter A, F, G, J, K, L, and M. The permanent program regulations establish procedures and performance standards under the Act and form the benchmark for State programs. In order for a State to have a program approved by the Secretary, Section 503(a)(7) requires that the State's rules and regulations be consistent with the Secretary's regulations.

The parts of the permanent program regulations that must be included in a Federal program are listed at 30 CFR 736.22(b). They include general requirements and definitions (Parts 700 and 701), the exemption for coal extraction incident to government-financed highway or other construction (Part 707), the designation of lands unsuitable for surface mining (Parts 760, 761, 762, and 765), permits and permit applications (Subchapter G), reclamation bonding (Subchapter J), performance standards (Subchapter K), inspection and enforcement (Parts 842, 843 and 845), and blaster training and certification (Subchapter M). In addition, the provision in the permanent regulations on protection of employees (Subchapter P) and restrictions on financial interests (Part 706) are applicable to Federal employees who perform functions or duties under the Act.

The rules for the permanent program are found in 30 CFR Parts 700–707 and 730–865. Part 705 was published October 20, 1977 (42 FR 56060). Parts 795 and 865 (originally Part 830) were published December 18, 1977 (42 FR 62639). The other permanent program regulations were published at 44 FR 15323–15463 (March 13, 1979). Subchapter M was published on December 12, 1980 (45 FR 82098). Corrections were published at 44 FR 15484 (March 14, 1979); 44 FR 53507–53509 (September 14, 1979); 44 FR 66195 (November 19, 1979); 45 FR 26001 (April 6, 1980); 45 FR 37818 (June 5, 1980); and 45 FR 47424 (July 15, 1980). Amendments to the rules have been published at 44 FR 60969 (October 22, 1979) as corrected at 44 FR 75143 (December 19, 1979); at 45 FR 77440–77447 (December 31, 1979); 45 FR 2626–2629 (January 11, 1980); 45 FR 25998–26001 (April 16, 1980); 45 FR 33926–33927 (May 20, 1980); 45 FR 39446–39447 (June 10, 1980); 45 FR 52306–52324 (August 6, 1980); 45 FR 52375 (August 7, 1980); 45 FR 58780–58786 (September 4, 1980); and 45 FR 76932 (November 20, 1980); 46 FR 37232 (July 17, 1981); 46 FR 41702 (August 17, 1981); 46 FR 47720 (September 29, 1981); 46 FR 53376 (October 28, 1981); 46 FR 52287 (October 26, 1981); 47 FR 32942 (July 30, 1982); 47 FR 33431 (August 2, 1982); 47 FR 35620 (August 16, 1982); 47 FR 38486 (August 31, 1982); 47 FR 44942 (October 12, 1982); 47 FR 47212 (October 22, 1982); 47 FR 51316 (November 12, 1982); 48 FR 1160 (January 10, 1983); 48 FR 2266 (January 18, 1983); 48 FR 6912 (February 16, 1983); 48 FR 9199 (March 3, 1983); 48 FR 9486 (March 4, 1983); 48 FR 9478 (March 4, 1983); 48 FR 9788 (March 8, 1983); 48 FR 14814 (April 5, 1983); 48 FR 19314 (April 28, 1983); 48 FR 20392 (May 5, 1983); 48 FR 21446 (May 12, 1983); 48 FR 22110 (May 16, 1983); 48 FR 22092 (May 16, 1983); 48 FR 23356 (May 24, 1983); 48 FR 24638 (June 1, 1983); 48 FR 29802 (June 28, 1983); 48 FR 30312 (June 30, 1983); 48 FR 32910 (July 19, 1983); and 48 FR 32932 (July 19, 1983).

Representatives of industry, two States and several environmental groups challenged the permanent regulatory program in the U.S. District Court for the District of Columbia. These suits were consolidated and heard in a single lawsuit entitled *In re: Permanent Surface Mining Regulation Litigation* (Civil Action No. 79–1144). In response to the arguments raised in the challenges, the Secretary voluntarily suspended several permanent program regulations. These suspensions were announced in the **Federal Register** on November 27, 1979 (44 FR 67942); December 31, 1979 (44 FR 77447–77455); January 30, 1980 (45 FR 6913); and August 4, 1980; (45 FR 51547–51550). In two opinions the Court remanded certain other regulations which had been challenged in the lawsuit. These opinions were issued on February 26, 1980, and May 16, 1980, subsequent modifications of the rules are noted above and in the rule revisions pursuant to regulatory reform, and are discussed below.

Massachusetts Federal Program

On January 5, 1982, OSM proposed a Federal program that would regulate coal exploration and provide for a process of designating lands unsuitable for surface coal mining for the State of Massachusetts (47 FR 560). The coal exploration program which was proposed was uniform with respect to four States: Massachusetts, Michigan, Oregon, and Rhode Island. A program regulating just coal exploration was proposed because the Director was aware of the interest of some persons in conducting exploration. While Massachusetts law and regulations do provide for some limited regulation of coal exploration and surface coal mining, the Secretary is nevertheless required by the Act to regulate such activities in the absence of an approved State program.

On April 28, 1982, OSM published the final rule notice implementing a program in Massachusetts to regulate coal exploration and to provide for a process for designating lands unsuitable for mining (47 FR 18232). The program became effective on May 28, 1982.

On April 1, 1983, OSM proposed to replace the exploration program for Massachusetts with a full program to regulate surface coal mining and reclamation operations, exploration operations, and the surface effects of underground mining operations. While superseding the exploration program, this later proposal and promulgation does not alter the date after which petitions may be submitted to designate lands unsuitable for coal mining in Massachusetts. That date remains May 28, 1983.

The April 1, 1983, notice announced a public hearing for June 9, 1983, and a public comment period closing June 17, 1983.

The Massachusetts Federal program will be administered by the Pennsylvania Field Office of OSM, at the address shown above under "**ADDRESSES.**" OSM will administer the program until such time as Massachusetts submits a State regulatory program which is approved pursuant to 30 CFR Parts 731 and 732.

Pursuant to Section 504(a), the Secretary becomes the regulatory authority when a Federal program is implemented for a State. OSM's permanent program regulations contain references to "the regulatory authority" and "the State regulatory authority," both of which mean the Secretary when a Federal program for a State is involved. Section 701(22) of the Act.

The Office of Surface Mining is delegated all of the Secretary's authority for implementing, maintaining, and enforcing a Federal program. This Federal program for Massachusetts does not change these responsibilities.

Explanation of Cross-Referencing

In the general notice of intent to promulgate Federal programs of May 16, 1980 (45 FR 32228), OSM stated that each Federal program would be specific to the particular State and would implement the permanent program procedures and environmental protection provisions of the Act (45 FR 32229). However, except to make changes to preserve more stringent State environmental protection standards, to list State laws requiring permits for which coordination is required, and to make any specific changes identified which are needed to reflect conditions in a State, OSM believes that few changes are needed in the permanent program regulations for any particular State for which a Federal program must be promulgated.

During January 1981, the Secretary directed that the Department review all existing regulations in order to eliminate those which are burdensome, excessive, and unnecessary. A thorough review of the permanent program regulations was initiated. The effort is now nearing completion and is resulting in extensive revisions. These changes are noted in the above listing of modifications in the permanent program rule.

To take advantage of the results which revision of the permanent program regulations is achieving, OSM has developed and promulgated this Federal program in the following manner. Rather than repeating the full text of the permanent regulations, there is instead a cross-reference to the permanent program regulations. For example, criteria for the designation of lands unsuitable for surface coal mining are provided by the statement that "Part 762 of this chapter . . . shall apply to surface coal mine operations." See Section 921.762. Persons wishing to obtain copies of the precise contents of a cross-referencing Federal program should contact the OSM office indicated above under "**ADDRESSES.**" Each OSM Field Office also has complete and current copies of the permanent program

rules cross-referenced in the Federal program for each State within its jurisdiction.

As each permanent program regulation is revised, this Federal program will be similarly revised. This cross-referencing effect on Federal programs through changes in the permanent program regulations will occur any time a permanent program rule is revised, not just during the regulatory reform effort. No separate rulemaking will be undertaken or necessary for revision of this program, however, unless OSM determines that special conditions are necessary for Massachusetts. See OSM's July 13, 1982, notice advising the public that all changes in the permanent program rules would also result in corresponding changes in Federal programs, absent special conditions (47 FR 30267).

One effect of regulatory reform is a change in the numbering of OSM's permanent program rules. Once regulatory reform is completed, OSM will then revise each cross-referencing Federal program to bring the program into line with the counterpart permanent program rule.

The promulgation of this cross-referencing program does not modify the substance of OSM's permanent program rules. Where specific provisions are needed for Massachusett's Federal program which are different from the permanent program regulations, a separate paragraph has been added to the appropriate section of this Federal program.

Several provisions of the permanent program regulations are already applicable to this Federal program and need not be cross-referenced here because they were fully promulgated for application to all regulatory programs. Those provisions are 30 CFR Chapter VII, Subchapter P—Protection of Employees; Part 706—Restrictions on Financial Interests of Federal Employees; and Part 769—Petition Process for Designation of Federal Lands Unsuitable for Surface Coal Mining. (30 CFR Part 764—Designating Lands Unsuitable for Surface Coal Mining—has been included in the Massachusetts program by a cross-reference under § 921.764, to provide a petition process on non-Federal and non-Indian lands in that State.)

With regard to the bonding regulations (Subchapter J), only Part 800 is cross-referenced because OSM has revised subchapter J to include just one part, Part 800 (48 FR 32932, July 19, 1983).

Content and Organization of the Program

The content and organization of the Federal program for Massachusetts generally follows the permanent program regulations. But, as discussed above, instead of the full text appearing, each section of this program includes only reference to the pertinent permanent program regulation. Section 921.700(e) states that no Massachusetts statutes have been identified as being more stringent than the corresponding provisions of the Act or the Secretary's regulations. Section 921.700(f) set out the Massachusetts statutes and rules preempted by the Federal program published here today. Where specific provisions are needed for Massachusetts which are different from the permanent program regulations, a separate paragraph has been added to the appropriate section.

Disposition of Comments

OSM proposed a Federal program for Massachusetts on April 1, 1983. The preamble to the proposed program invited public comment and announced a public hearing in Boston for June 9, 1983. The public comment period closed on June 17, 1983. No one testified at the public hearing, but OSM did receive one written comment, which is discussed below.

The commenter suggested that OSM consider the Massachusetts statute establishing the Massachusetts Register of Historic Places (Chapter 152, Acts of 1982) and the related final regulations (950 CMR 71) effective March 31, 1983.

OSM agrees and has included the cited act and regulations in § 921.770(b).

Detailed Discussion

Since Section 504(a) of the Act obligates the Secretary to take into account the nature of the terrain and the climate, in addition to biological, chemical, and other relevant physical conditions in each State, OSM reviewed pertinent Massachusetts statutes in the process of developing this Federal program. OSM has determined that there are no Massachusetts statutes which set more stringent land use and environmental controls for surface mining, as stated in § 921.700(e).

OSM examined the Massachusetts statutes listed in § 921.700(f) and concluded that they would interfere with achievement of the goals and purposes of the Act. In accordance with Section 504(g) of the Act and 30 CFR 736.23, this Federal program preempts and supersedes the following Massachusetts statutes:

(a) The Coal Mining Regulatory and Reclamation Act of 1977, as amended, Mass. Gen. Laws, Ch. 21B, Sections 1–15, governs all coal mining operations conducted in the State of Massachusetts. This statute is preempted to the extent that it empowers the Commissioner of the Department of Environmental Quality Engineering to license all coal mining and coal exploration, oversee all reclamation procedures, and protect the citizens and the environment of Massachusetts against potential public health hazards or significant damage occurring from operation of coal mines within the State which affect more than two acres of land and which are not exempt from regulation under the provisions of the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Under this Federal program, OSM is the permitting authority for surface coal mining and coal exploration and has full responsibility for the protection of public health and the environment, as well as for ensuring the reclamation of surface-mined coal lands, for operations subject to regulation under SMCRA.

(b) Mass. Gen. Laws, Ch. 21, Sections 54–56, authorize the Division of Mineral Resources in the Department of Environmental Quality Engineering to license exploration for, and regulate extraction of, mineral resources in coastal waters or on subsurface lands. These statutes are preempted only to the extent the State of Massachusetts interprets them as authority for the Division of Mineral Resources to issue permits for prospecting for and extracting coal underground. OSM becomes the exclusive permitting authority for all coal mining and coal exploration operations subject to regulation under SMCRA, including the surface effects of underground mining and exploration for coal, as of the effective date of this Federal program for Massachusetts. Since this Federal program does not regulate mineral leases, the Massachusetts Division of Mineral Resources retains its authority to lease exclusive rights to extract any minerals, including coal, found on State lands.

The Massachusetts statutes summarized above constitute the body of Massachusetts law on exploration and surface mining of minerals and reclamation of mined land. Administration and enforcement of these statutes are the responsibilities of the Department of Environmental Management. These statutes are inconsistent with the Federal Act or the permanent program regulations and interfere with attainment of the goals

and purposes of the Act. Accordingly, OSM is preempting these statutes to the extent that Massachusetts interprets them as authority to regulate coal exploration or surface coal mining and reclamation operations in Massachusetts, except insofar as they govern operations affecting two acres of land or less or which are not otherwise subject to regulation under the provisions of the Surface Mining Control and Reclamation Act of 1977.

To coordinate the Federal program permitting process with the permitting requirements of Massachusetts and those imposed by other Federal statutes, § 921.770(b) identifies the various permits, statutes, and rules which may, expressly or by implication, impact on coal exploration or surface coal mining and reclamation of lands. The pertinent permits, statutes, and rules are:

(a) Mass. Ann. Laws, Ch. 21, Sections 8–17B, authorize the Water Resources Commission to designate waterways within Massachusetts as scenic or historic rivers and streams which may not be dredged, diverted, or altered without a prior order of approval from the Commission. Mass. Ann. Laws, Ch. 21, Section 17B. Violations of the Commission's orders prohibiting or restricting dredging or otherwise altering Massachusetts' waterways and streams are punishable by a fine or imprisonment, or both. *Id.* Mass. Ann. Laws, Ch. 21, Section 16, renders it illegal for any person to engage in the business of digging or drilling wells within the State unless he has first obtained a certificate of registration from the Commission.

(b) Mass. Ann. Laws, Ch. 9, Sections 26–27D, prohibit exploration or excavation operations from being conducted on any site designated as a historical or archeological landmark by the State Historical Commission and on land owned or controlled by the State, its agencies, or political subdivisions without first securing a field investigation permit from the State Archeologist. It is unlawful to conduct exploration or excavation operations on private property reserved for agricultural, conservation, or recreational uses except when approved by the property owner and authorized under a field inspection permit obtained from the State Archeologist. Mass. Ann. Laws, Ch. 9, Section 27D.

(c) Mass. Ann. Laws, Ch. 184, Sections 31–32, grant owners of private property within the State the right to impose prohibitions against, *inter alia*, mineral exploration or mining activities which may affect the surface and to impose restrictions limiting the surface land to uses for conservation, recreational, or agricultural purposes to preserve those lands or improvements in their historic or natural conditions.

(d) Mass. Ann. Laws, Ch. 132, Sections 40–46, make it unlawful for any person to cut or cause timber to be removed from Massachusetts' forest lands unless cutting and, where appropriate, reseeding are done in accordance with an approved operational plan developed and promulgated by the Division of Parks and Forest. Persons are required to give the Division prior written notice of their intention to remove any timber. Failure to give the requisite notice or failure to follow the approved plan of operations is punishable by a maximum fine of $25.00 for each acre of land on which the unauthorized cutting occurs.

(e) The Wetlands Protection Act, Mass. Ann. Laws, Ch. 131, Sections 40–48, makes it unlawful to alter or dredge wetlands or floodplains which are determined to be areas of significance for flood control, water supply, or pollution control, without first obtaining and complying with an order of conditions for the proposed alteration. The State Conservation Commission is responsible for adopting, repealing, or modifying orders governing coastal wetlands. Mass. Ann. Laws, Ch. 131, Section 40. Orders governing inland wetlands are isued by the Board of Environmental Management. Mass. Ann. Laws, 131, Section 40A.

Section 42 prohibits the discharge of any waste or other material in violation of Section 40 or any provision of the Massachusetts Clean Water Act which may injure of kill fish or fish spawn within the State's inland waters. Nor shall a person alter or manipulate the flows or water levels in any of the State's inland waters to the extent that such manipulation injures or kills fish or fish spawn. This statute renders the use of explosives for engineering and public purposes exempt from the general prohibition only if an approved blasting permit has been granted by Federal, State, or municipal government authorities. Any person who violates either of Section 42's prohibitions is deemed liable in tort to the State's Division of Fisheries and Wildlife for damages in the amount of double the current commercial value of the fish killed. Section 48 makes it unlawful for a person to drain any pond, reservoir, or body of water within the State, unless he gives the Division of Fisheries and Wildlife written notice of his intention at least 10 days before commencing the drainage project. Exceptions to this prohibition are provided for emergencies and for drainage of any body of water used for insect control, irrigation, or public water supply.

(f) Mass. Ann. Laws, Ch. 21A, Section 14, prohibits the disposal of dredged materials within the marine boundaries of the State unless disposal is done pursuant to, and in accordance with, the terms and conditions of an approved permit issued by the Department of Environmental Quality Engineering. Disposal of dredged material within the State must comply with the Division's rules and regulations at 310 Code of Massachusetts Regulations (CMR) 9.01 *et seq.*

(g) The Massachusetts Hazardous Waste Management Act, Mass. Ann. Laws, Ch. 21C.

(1) Sections 1–14 make it unlawful for any person to collect, transport, treat, or dispose of hazardous waste in the absence of a valid license from the Department of Environmental Quality Engineering.

(2) Section 37 allows disposal of hazardous waste in a landfill only after treatment in accordance with the Department's regulations, and then only if the Department determines that the waste cannot be recycled or disposed of by some other means authorized by the Department's regulations.

(h) The Massachusetts Clean Water Act, Mass. Ann. Laws, Ch. 21, Sections 26–53, prohibits any person from discharging any pollutants into any of the State's waterways, except in conformity with a valid permit issued by the Division of Water Pollution Control. Permittees are also required to operate, install, or maintain a treatment facility or discharge outlet for pollutants. Mass. Ann. Laws, Ch. 21, Section 43.

(i) A person owning quarries, mines, or mineral deposits, which cannot be reached or used in the ordinary manner without crossing adjacent lands belonging to another person or occupied as a highway, must petition the commission for the county in which the land lies for approval to construct roads, drains, or ditches across the adjacent lands or roads. Mass. Ann. Laws, Ch. 252, Sections 15–18.

(j) Drilling or removal of sand or any minerals is prohibited in any area designated an ocean sanctuary by the Department of Environmental Management. Mass. Ann. Laws, Ch. 132A, Sections 13–18.

(k) Mass. Ann. Laws, Ch. 148, Sections 9–19, authorize the State Fire Prevention Board to promulgate rules and regulations governing the use, transportation, and storage of explosives. Section 13 prohibits the use or storage of explosives in the absence of a license from the local licensing authority. Holders of licenses are also required to obtain certificates of

registration from the Fire Commissioner of the city or county in which the explosives are to be used. Mass. Ann. Law, Ch. 148, Section 13. An applicant for a blasting permit must post an approved surety bond in favor of the licensing authority to cover the risk of damages that may ensue from his blasting activities. Mass. Ann. Laws, Ch. 148, Section 19.

(l) Mass. Ann. Law, Ch. 152, establishes the Massachusetts Register of Historic Places which is comprehensive in its requirements for environmental review.

Copies of the above Massachusetts statutes and other Massachusetts statutes referred to herein are in the administrative record and are available for review at the place listed above under "ADDRESSES."

Paragraph (g) of Section 921.700 authorizes the Secretary to grant a limited variance from the performance standards of the permanent program rules based on a showing by a permit applicant or permittee that the variance is necessary due to the unique nature of Massachusetts' terrain, climate, biological, chemical, or other relevant physical conditions. This provision gives effect to Section 504(a), which directs the Secretary to take these physical characteristics into consideration in promulgating a Federal program for a State. The permit applicant has the burden of requesting the variance and of demonstrating that such a variance is necessary based on special environmental conditions found in Massachusetts. To ensure that any proposed variance would not lessen the protection provided by the provision from which a variance is sought, OSM has added a clause to Paragraph (g) requiring the applicant to show that his proposed alternative is no less effective than the environmental protection requirements of the regulations in this program and that the proposed variance be consistent with the Act.

In promulgating Federal programs for a State, the Secretary reviews State laws to determine whether any must be superseded because they would interfere with achievement of the purposes of a Federal program, and whether any establish more stringent standards for environmental protection and must be preserved. The presumption is that State laws are a reflection of the particular environmental conditions in the State. There may be conditions present, however, which are not specifically covered by State law, but which must be accommodated pursuant to the requirement in Section 504(a). Paragraph (g) enables the Secretary to do so.

Section 921.700(g) does not authorize a general variance. Congress did not provide for a general variance from standards set in the Act. Congress was concerned that States not be allowed to grant variances from Federally-set minimum standards. The variance provided under Section 921.700(g) is intended for unique or special environmental conditions found in Massachusetts which are not adequately provided for in OSM's permanent program regulations.

Accordingly, the applicant would have to demonstrate that special environmental conditions in Massachusetts necessitated the limited variance sought.

Section 921.764 specifies that the process for designating areas in Massachusetts as unsuitable for surface coal mining operations shall begin on May 28, 1983. This is because the Federal coal exploration program for Massachusetts published April 28, 1982, was effective on May 28, 1982, thereby triggering the one-year waiting period specified by Section 504(g) of the Act (47 FR 18232; April 28, 1982).

Section 921.818 has been deleted from this final rule notice because OSM has removed the special category of mining for concurrent surface and underground operations (30 CFR Part 818) from its permanent program regulations (48 FR 24638; June 1, 1983). Other changes in the concurrent operation rules have been incorporated into this program through the cross-reference to 30 CFR Part 785 at § 921.785.

OMB Review

The recordkeeping and reporting requirements of the Federal program for Massachusetts are the same as those of the permanent program regulations which have been approved by the Office of Management and Budget under 44 U.S.C. 3507. Although this program contains information and recordkeeping requirements, OSM anticipates less than ten respondents.

Other Information

The Department of the Interior has determined that this document is not a major rule under E.O. 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

The reason underlying this determination are as follows:

This Federal program would not result in significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic for foreign markets; nor would it increase costs or prices for consumers, individual industries, Federal, State, or local governmental agencies or geographic regions. We further certify that there will be no significant demographic effects, direct costs, indirect costs, nonquantifiable costs, competitive effects, enforcement costs, or aggregate effects on small entities.

The Office of Surface Mining and Reclamation and Enforcement has determined that this rule is categorically excluded from compliance with the National Environmental Policy Act in accordance with 40 CFR 1507.3.

List of Subjects in 30 CFR Part 921

Coal mining, Intergovernmental relations, Surface mining, Underground mining, Reporting and recordkeeping requirements.

Drafting Information

These regulations were drafted by Patricia McHugh, Office of the Solicitor, and James M. Kress, Branch of Regulatory Programs, Office of Surface Mining.

Dated: August 12, 1983.

W. L. Dare,

Acting Deputy Assistant Secretary, Energy and Minerals.

Part 921 of 30 CFR Chapter VII is revised to read as follows:

PART 921—MASSACHUSETTS

Sec.

921.700 Massachusetts Federal Program.
921.701 General.
921.707 Exemption for coal extraction incident to government-financed highway or other construction.
921.761 Areas designated unsuitable for surface coal mining by Act of Congress.
921.762 Criteria for designating areas as unsuitable for surface coal mining operations.
921.764 Process for designating areas unsuitable for surface coal mining operations.
921.770 General requirements for permits and exploration procedures.
921.771 General requirements for permits and permit applications.
921.776 General requirements for coal exploration.
921.778 Surface mining permit applications—minimum requirements for legal, financial, compliance, and related information.
921.779 Surface mining permit applications—minimum requirements for information on environmental resources.
921.780 Surface mining permit applications—minimum requirements for reclamation and operation plan.

Sec.
921.782 Underground mining permit applications—minimum requirements for legal, financial, compliance, and related information.
921.783 Underground mining permit applications—minimum requirements for information on environmental resources.
921.784 Underground mining permit applications—minimum requirements for reclamation and operation plan.
921.785 Requirements for permits for special categories of mining.
921.786 Reviews, public participation, and approval or disapproval of permit applications and permit terms and conditions.
921.787 Administrative and judicial review of decisions on permit applications.
921.788 Permit reviews, revisions, and renewals, and transfer, sale, and assignment of rights granted under permits.
921.795 Small operator assistance.
921.800 General requirements for bonding of surface coal mining and reclamation operations.
921.815 Performance standards—coal exploration.
921.816 Performance standards—surface mining activities.
921.817 Performance standards—underground mining activities.
921.819 Special performance standards—auger mining.
921.823 Special performance standards—operations on prime farmland.
921.824 Special performance standards—mountaintop removal.
921.826 Special performance standards—operations on steep slopes.
921.827 Special performance standards—coal processing plants and support facilities not located at or near the minesite or not within the permit area for a mine.
921.828 Special performance standards—in situ processing.
921.842 Federal inspections.
921.843 Federal enforcement.
921.845 Civil penalties.
921.850 Blaster training and certification.

Authority: Pub. L. 95–87, The Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 *et seq.*, 91 Stat. 445.

§ 921.700 Massachusetts Federal Program.

(a) This Part contains all rules that are applicable to surface coal mining operations in Massachusetts which have been adopted under the Surface Mining Control and Reclamation Act of 1977.

(b) The rules in this part cross-reference pertinent parts of the permanent program regulations in this chapter. The full text of a rule is in the permanent program rule cited under the relevant section of the Massachusetts Federal program.

(c) The rules in this part apply to all surface coal mining operations in Massachusetts conducted on non-Federal and non-Indian lands. The rules in Subchapter D of this chapter apply to operations on Federal lands in Massachusetts.

(d) The information collection requirements contained in §§ 921.764, 921.770, 921.771, 921.795, and 921.800 do not require approval by the Office of Management and Budget under 44 U.S.C. 3507 because there are fewer than 10 respondents annually.

(e) There are no Massachusetts laws which provide more stringent environmental control and regulation of surface coal mining operations than do the provisions of the Surface Mining and Reclamation Act and the regulations in 30 CFR Chapter VII.

(f) The following are Massachusetts laws that interfere with the achievement of the purposes and requirements of the Act and are, in accordance with Section 504(g) of the Act, preempted and superseded insofar as they apply to surface coal mining operations regulated under the Act:

(1) The Coal Mining Regulatory and Reclamation Act of 1977, as amended, Mass. Ann. Laws. Ch. 21B, Sections 1–15.

(2) Statutes governing licenses for minerals exploration, Mass. Ann. Laws Ch. 21, Section 54–56.

(g) The Secretary may grant a limited variance from the performance standards of §§ 921.815 through 921.828 of this part if the applicant for coal exploration approval or a surface mining permit submitted pursuant to §§ 921.770 through 921.788 of this part can demonstrate in the application that:

(1) A variance is necessary because of the nature of Massachusetts' terrain, climate, biological, chemical or other relevant physical conditions; and

(2) The proposed variance is no less effective than the environmental protection requirements of the regulations in this program and is consistent with the Act.

§ 921.701 General.

Sections 700.5, 700.11, 700.12, 700.13, 700.14, 700.15, and Part 701 of this chapter shall apply to surface coal mining and reclamation operations in Massachusetts.

§ 921.707 Exemption for coal extraction incident to Government-financed highway or other construction.

Part 707 of this chapter, Exemption for Coal Extraction Incident to Government-Financed Highway or Other Construction, shall apply to surface coal mining and reclamation operations.

§ 921.761 Areas designated unsuitable for surface coal mining by Act of Congress.

Part 761 of this chapter, Areas Designated by Act of Congress, shall apply to surface coal mining and reclamation operations.

§ 921.762 Criteria for designating areas as unsuitable for surface coal mining operations.

Part 762 of this chapter, Criteria for Designating Areas Unsuitable for Surface Coal Mining Operations, shall apply to surface coal mine operations.

§ 921.764 Process for designating areas unsuitable for surface coal mining operations.

Part 764 of this chapter, State Processes for Designating Areas Unsuitable for Surface Coal Mining Operations, pertaining to petitioning, initial processing, hearing requirements, decisions, data base and inventory systems, public information, and regulatory responsibilities, are applicable in Massachusetts beginning on May 28 1983.

§ 921.770 General requirements for permits and exploration procedures.

(a) Part 770 of this chapter, General Requirements for Permit Systems Under State Programs, shall apply to surface coal mining and exploration operations.

(b) No person shall conduct coal exploration which results in the removal of more than 250 tons of coal nor shall any person conduct surface coal mining operations without a permit issued by the Secretary pursuant to 30 CFR Part 770 and applicable permits issued pursuant the laws of the State of Massachusetts, including: the Historic and Scenic Rivers Act, Mass. Ann. Laws Ch. 21, Sections 8–17B; Massachusetts Register of Historic Places, Mass. Ann. Laws Ch. 152 and the regulations (950 CMR 71); historical preservation statutes, Mass. Ann. Laws Ch. 9, Sections 26–27(D); real property statutes, Mass. Ann. Laws Ch. 184, Sections 31–32; statutes governing State forests and parks, Mass. Ann. Laws Ch. 132, Sections 40–46; the Wetlands Protection Act Ch. 131, Sections 40–46; statutes and rules governing dredging permits, Mass. Ann. Laws Ch. 21A; Section 14, 310 CMR 9.01 *et seq.*; the Massachusetts Hazardous Waste Management Act Ch. 21C, Sections 1–14; the Massachusetts Clean Water Act Ch. 21, Sections 26–53; statutes governing the construction of roads, drains, or ditches, Mass. Ann Laws Ch. 252 Sections 15–18; statutes governing drilling or removal of sand or any minerals, Mass. Ann. Laws Ch. 132A, Sections 13–18; and statutes governing use, storage, and handling of explosives, Mass. Ann. Laws Ch. 148, Sections 9–19.

(c) The Secretary shall coordinate reveiw and issuance of a coal

exploration or surface coal mining and reclamation permit with the review and issuance of other Federal and State permits listed in this Subpart and Part 770 of this chapter.

§ 921.771 General requirements for permits and permit applications.

(a) Part 771 of this chapter, General Requirements for Permits and Permit Applications, shall apply to any person who makes application for a permit to conduct surface coal mine operations.

(b) A person who wishes to conduct new surface coal mining and reclamation operations or who wishes a revision of his permit shall file a complete application at least 12 months prior to the date upon which permit issuance or revision is desired, and shall pay to the Secretary a permit fee in accordance with § 736.25 of this chapter.

§ 921.776 General requirements for coal exploration.

(a) Part 776 of this chapter, General Requirements for Coal Exploration, shall apply to any person who conducts or seeks to conduct coal exploration operations.

(b) The Office shall make every effort to act on an exploration application within 60 days of receipt or such longer time as may be reasonable under the circumstances. If additional time is needed, OSM shall notify the applicant that the application is being reviewed, but that more time is necessary to complete such review, setting forth the reasons and the additional time that is needed.

§ 921.778 Surface mining permit applications—minimum requirements for legal, financial, compliance, and related information.

Part 778 of this chapter, Surface Mining Permit Applications—Minimum Requirements for Legal, Financial, Compliance, and Related Information, shall apply to any person who makes application for a permit to conduct surface coal mining and reclamation operations.

§ 921.779 Surface mining permit applications—minimum requirements for information on environmental resources.

Part 779 of this chapter, Surface Mining Permit Applications—Minimum Requirements for Information on Environmental Resources, shall apply to any person who makes application to conduct surface coal mining and reclamation operations.

§ 921.780 Surface mining permit applications—minimum requirements for reclamation and operation plan.

Part 780 of this chapter, Surface Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plan, shall apply to any person who makes application to conduct surface coal mining and reclamation operations.

§ 921.782 Underground mining permit applications—minimum requirements for legal, financial, compliance, and related information.

Part 782 of this chapter, Underground Mining Permit Applications—Minimum Requirements for Legal, Financial, Compliance, and Related Information, shall apply to any person who makes application for a permit to conduct underground coal mining and reclamation operations.

§ 921.783 Underground mining permit applications—minimum requirements for information on environmental resources.

Part 783 of this chapter, Underground Mining Permit Applications—Minimum Requirements for Information on Environmental Resources, shall apply to any person who submits an application to conduct underground coal mining and reclamation operations.

§ 921.784 Underground mining permit applications—minimum requirements for reclamation and operation plan.

Part 784 of this chapter, Underground Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plan, shall apply to any person who makes application to conduct underground coal mining operations.

§ 921.785 Requirements for permits for special categories of mining.

Part 785 of this chapter, Requirements for Permits for Special Categories of Mining, shall apply to each person who makes application for a permit to conduct certain categories of surface coal mining and reclamation operations as specified therein.

§ 921.786 Review, Public participation, and approval or disapproval of permit applications and permit terms and conditions.

Part 786 of this chapter, Review, Public Participation, and Approval or Disapproval of Permit Applications and Permit Terms and Conditions, shall apply to the review of applications made by any person for surface coal mining and reclamation operations.

§ 921.787 Administrative and judicial review of decisions on permit applications.

Decisions on permit applications shall be subject to administrative and judicial review in accordance with Part 787 of this chapter and Sections 520, 525, and 526 of the Act.

§ 921.788 Permit reviews, revisions, and renewals, and transfer, sale, and assignment of rights granted under permits.

Part 788 of this chapter, Permit Reviews, Revisions, and Renewals, and Transfer, Sale, and Assignment of Rights Granted Under Permits, shall apply to review, revision, and renewal of permits for surface coal mine operations, and to transfer, sale, and assignment of rights granted under permits.

§ 921.795 Small operator assistance.

Part 795 of this chapter, Small Operator Assistance, shall apply to any person making application for assistance under the small operator assistance program.

§ 921.800 General requirements for bonding of surface coal mining and reclamation operations.

Part 800 of this chapter, General Requirements for Bonding of Surface Coal Mining and Reclamation Operations Under Regulatory Programs, shall apply to all surface coal mining and reclamation operations.

§ 921.815 Performance standards—coal exploration.

Part 815 of this chapter, Permanent Program Performance Standards—Coal Exploration, shall apply to any person conducting coal exploration operations.

§ 921.816 Performance standards—surface mining activities.

Part 816 of this chapter, Permanent Program Performance Standards—Surface Mining Activities, shall apply to any person who conducts surface coal mining and reclamation operations.

§ 921.817 Performance standards—underground mining activities.

Part 817 of this chapter, Permanent Program Performance Standards—Underground Mining Activities, shall apply to any person who conducts underground coal mining operations.

§ 921.819 Special performance standards—auger mining.

Part 819 of this chapter, Special Permanent Program Performance Standards—Auger Mining, shall apply to any person who conducts surface coal mining operations which include auger mining.

§ 921.823 Special performance standards—operations on prime farmland.

Part 823 of this chapter, Special Permanent Program Performance Standards—Operations on Prime Farmland, shall apply to any person who conducts surface coal mining and

reclamation operations on prime farmlands.

§ 921.824 Special performance standards—mountaintop removal.

Part 824 of this chapter, Special Permanent Program Performance Standards—Mountaintop Removal, shall apply to any person who conducts surface coal mining operations constituting mountaintop removal mining.

§ 921.826 Special performance standards—operations on steep slopes.

Part 826 of this chapter, special Permanent Program Performance Standards—Operations on Steep Slopes, shall apply to any person who conducts surface coal mining and reclamation operations on steep slopes.

§ 921.827 Special performance standards—coal processing plants and support facilities not located at or near the minesite or not within the permit area for a mine.

Part 827 of this chapter, special Permanent Program Performance Standards—Coal Processing Plants and Support Facilities Not Located at or Near the Minesite or Not Within the Permit Area for a Mine, shall apply to any person who conducts surface coal mining and reclamation operations which includes the operation of coal processing plants and support facilities not located at or near the minesite or not within the permit area for a mine.

§ 921.828 Special performance standards—in situ processing.

Part 828 of this chapter, special Permanent Program Performance Standards—In Situ Processing, shall apply to any person who conducts in situ processing activities.

§ 921.842 Federal inspections.

(a) Part 842 of this chapter, Federal Inspections, shall apply to all exploration and surface coal mining and reclamation operations.

(b) The Secretary will furnish copies of inspection reports and reports of any enforcement actions taken to the Massachusetts Department of Environmental Management upon request.

§ 921.843 Federal enforcement.

(a) Part 843 of this chapter, Federal Enforcement, shall apply when enforcement action is required for violations on exploration and surface coal mining and reclamation operations.

(b) The Office will furnish a copy of any enforcement document to the Massachusetts Department of Environmental Management upon request.

§ 921.845 Civil penalties.

Part 845 of this chapter, Civil Penalties, shall apply when civil penalties are assessed for violations on surface coal mining and reclamation operations.

§ 947.850 Blaster training and certification.

Part 850 of this chapter, Programs for Blaster Training and Certification, shall apply to any person who conducts coal exploration or surface coal mining operations.

[FR Doc. 83-24831 Filed 9-9-83; 8:45 am]

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VOL
48
ISS
1
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12
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Reader Aids

Federal Register
Vol. 48, No. 177
Monday, September 12, 1983

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419 523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Privacy Act	523-4534
Public Inspection Desk	523-5215
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282 523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235

United States Government Manual 523-5230

SERVICES

Agency services	523-5237
Automation	523-3408
Library	523-4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public Inspection Desk	523-5215
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, SEPTEMBER

39595–39910	1
39911–40186	2
40187–40364	6
40365–40496	7
40497–40694	8
40695–40870	9
40871–41008	12

CFR PARTS AFFECTED DURING SEPTEMBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Administrative Orders:
Memorandums:
September 7, 1983 40695
Executive Orders:
6143 (Revoked by PLO 6459) 40724
6276 (Revoked by PLO 6459) 40724
6583 (Revoked by PLO 6459) 40724
8854 (Amended by PLO 6458) 40232
12426 (Amended by EO 12440) 40873
12439 40871
12440 40873
Proclamations:
5085 39595
5086 40187
5087 40497
5088 40499
5089 40501
5090 40503
5091 40505
5092 40507

4 CFR

Proposed Rules:
83 39632

5 CFR

2422 40189
2426 40189
2429 40189
Proposed Rules:
731 40731
754 40731
870 40732
871 40732
872 40732
873 40732

7 CFR

29 40365
51 40509
52 ..... 40875, 40878
210 40194
220 40194
226 40197
301 ..... 39597, 40198
421 39911
725 40638
726 40644
760 40366
906 ..... 39602, 40510
910 ..... 39912, 40697
981 40367
1076 39603
1079 40511
1865 40202
1944 ..... 40202, 40697
1945 40202
1951 40202
Proposed Rules:
52 40734
278 40263
279 40263
631 40522
660 40389
658 39944
1126 ..... 39643, 40894
1941 40894
1943 40894
1945 40894
1980 40894

8 CFR

109 40209
231 40209
238 40210

9 CFR

75 40512
97 40881
Proposed Rules:
151 40699

10 CFR

50 40682
61 40512
150 40682
Proposed Rules:
1017 40265

12 CFR

7 40696
29 40702
34 40696
217 ..... 39604, 40702
525 39912
531 39912
Proposed Rules:
5 40735
332 40900
333 40900
337 40900
563 39944

13 CFR

101 40513

14 CFR

39 40210–40212
71 ..... 39913, 40213
75 40214
97 39913
Proposed Rules:
39 40266
71 ..... 40267, 40270, 40525
221 40389

15 CFR

369 40368

16 CFR

305 40882

Proposed Rules:

13 39950

17 CFR

240 39604
249 39604

18 CFR

Proposed Rules:

271 40736

19 CFR

Proposed Rules:

6 40737
10 40738
101 40526
114 40738
159 40527
162 40740

20 CFR

655 40168
404 40514
416 40883
628 40886

Proposed Rules:

225 40390
226 40390
227 40390

21 CFR

5 40703
14 40887
145 39916
175 40515
436 40704
442 40516
510 ..... 40704, 40887
520 ..... 40516, 40704, 40887
522 40704
524 39607
558 40704
561 40369

Proposed Rules:

Subch. H 40272
882 40273

23 CFR

Proposed Rules:

Ch. I 39953

24 CFR

25 40705
203 39608
207 40710
213 39608
234 39608
235 40711
570 40517

26 CFR

1 ..... 40214, 40370, 40371, 40886
25 40371
31 40518
48 40217
301 ..... 40371, 40376

Proposed Rules:

1 ..... 39953, 40528
54 39953

27 CFR

9 40377

29 CFR

553 40518
1952 40902

30 CFR

251 40380
700 40622
701 ..... 39892, 40140, 40622
772 40622
776 40622
785 39892
815 40622
816 ..... 39892, 40140
817 ..... 39892, 40140
824 39892
921 41000
938 40888
939 40990
938 40223

Proposed Rules:

75 40165
913 40906
935 ..... 39645, 40396
938 39645

32 CFR

286g 39917
634 39919
730 40224
2003 40849

33 CFR

100 ..... 39609, 40714, 40715
165 ..... 39609, 39610, 40380
181 40716
401 39934

Proposed Rules:

1 40741
117 39646
156 40741
329 40909
322 40909
323 40909
325 40909
327 40909
328 40909
330 40909

34 CFR

668 40380

Proposed Rules:

366 39647

36 CFR

219 40381
331 40719

38 CFR

21 40224
36 40226

Proposed Rules:

36 40402

39 CFR

10 39610
601 40232

Proposed Rules:

111 ..... 39647, 39648
233 40910

40 CFR

17 39934
81 40722
122 39611
123 39611
124 39611
144 39611
145 39611
180 40384
233 39611
270 39611
271 ..... 39611, 39623
300 40658
410 39624

Proposed Rules:

52 39653
61 40911
65 40278
81 ..... 39655, 40746
124 40098
144 40098
146 40098
147 40098
300 40674
721 ..... 40282, 40911
799 39656

41 CFR

Ch. 1 40385
Ch. 7 40385

42 CFR

405 ..... 39740, 39752
409 39752
435 39624
436 39624
489 39752

Proposed Rules:

431 40749
435 39959
436 39959

43 CFR

Ch. II 40889
1820 40724

Public Land Orders:

1707 (Amended by PLO 6458) 40232
6457 39939
6458 40232
6459 40724

44 CFR

65 40890
67 40891

Proposed Rules:

67 40911–40919

46 CFR

153 39629
154 39629

47 CFR

2 40519
25 ..... 40233, 40256

Proposed Rules:

68 39656

49 CFR

1 40519
179 39630
571 ..... 39908, 39939, 40260
1042 39630
1160 ..... 39630, 40387
1161 39630
1162 ..... 39630, 40520
1165 39630
1168 ..... 39630, 40387
1181 39630
1307 40520

Proposed Rules:

27 40684
213 39965
571 ..... 40282, 40286
821 39657
1157 40287

50 CFR

17 ..... 39941, 40178
20 40852
285 40892
661 40521
671 40725

Proposed Rules:

17 ..... 40288, 40404, 40407, 40920
23 40750
26 39661
32 40411
33 40411
611 40924
655 39967
662 40752
681 39665

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing August 31, 1983

VOL
48
ISS
1
7
7
SE
12
1983
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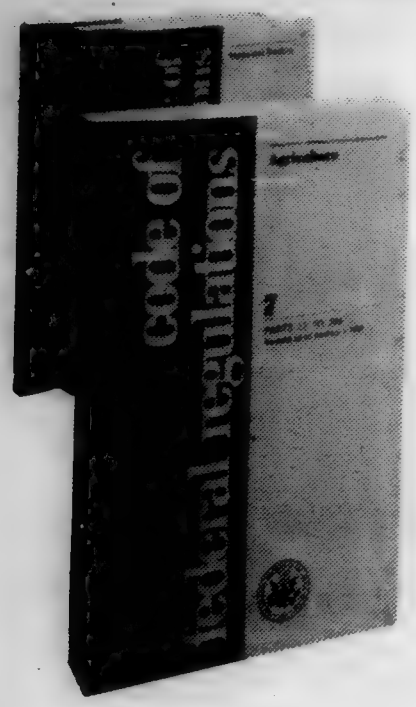

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VOL
48
ISS
1
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7
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7

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13

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9-13-83
Vol. 48 No. 178

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Federal Register

Tuesday
September 13, 1983

Selected Subjects

Administrative Practice and Procedure
Immigration and Naturalization Service

Chemicals
Environmental Protection Agency

Cotton
Agricultural Marketing Service

Flood Insurance
Federal Emergency Management Agency

Food Grades and Standards
Agricultural Marketing Service

Freedom of Information
Air Force Department

Methadone
Alcohol, Drug Abuse, and Mental Health Administration
Food and Drug Administration

Milk Marketing Orders
Agricultural Marketing Service

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Contents

Federal Register
Vol. 48, No. 178
Tuesday, September 13, 1983

The President
PROCLAMATIONS
41009 Mourning, National Day of (Proc. 5093)

Executive Agencies

Agricultural Marketing Service
RULES
41011 Cotton, upland; grade standards; correction
Milk marketing orders:
41015 Southwest Plains
41011 Olives, canned ripe; grade standards
PROPOSED RULES
Cotton:
41048 Testing and standards; fees

Agriculture Department
See also Agricultural Marketing Service.
NOTICES
41053 Missouri soil and water conservation cost-share program; determination of primary purposes for excluded amounts

Air Force Department
RULES
41020 Freedom of Information Act; implementation

Alcohol, Drug Abuse, and Mental Health Administration
PROPOSED RULES
41049 Methadone, conditions for use in treatment of narcotic addicts

Army Department
See also Engineers Corps.
NOTICES
Environmental statements; availability, etc.:
41066 Camp Bullis, Tex.; assault landing strip
Meetings:
41065 U.S. Military Academy, Board of Visitors

Blind and Other Severely Handicapped, Committee for Purchase from
NOTICES
41064 Agency information collection activities under OMB review
41065 Procurement list, 1983; additions and deletions; correction

Civil Aeronautics Board
NOTICES
Air carrier rules:
41054 Failure to operate on schedule or failure to carry
Hearings, etc.:
41053 Precision Airlines

Commerce Department
See International Trade Administration; National Bureau of Standards.

Defense Department
See also Air Force Department; Army Department; Engineers Corps.

Education Department
NOTICES
Education Appeal Board hearings:
41066 Appeals
Grants; availability, etc.:
41067 Challenge grant, special needs, and strengthening programs; eligible institution designation requests
41066 Mina Shaughnessy scholars program

Employment and Training Administration
NOTICES
Adjustment assistance:
41120 Copeland Corp. et al.
41121 Ford Motor Co. and Predelivery Service Corp.
41118 Ford Motor Co. et al.
41122 Park-Ohio Industries, Inc.
41122 Wasser & Fluhrer, Inc.
41117 Employment transfer and business competition determinations; financial assistance applications

Employment Standards Administration
NOTICES
41117 Minimum wages for Federal and federally-assisted construction; general wage determination decisions, modifications, and supersedeas decisions (Ala., Conn., Fla., Hawaii, Ill., Ind., Kans., Maine, Mass., Nebr., N.J., N.Y., Oreg., Pa., Utah, Wash., and Wis.); correction

Energy Department
See Federal Energy Regulatory Commission.

Engineers Corps
NOTICES
Environmental statements; availability, etc.:
41065 Lower Meramec River, Mo.

Environmental Protection Agency
RULES
Toxic substances:
41132 Premanufacture notification and review procedures; regulation revision and partial stay of effective date
NOTICES
Water pollution; discharge of pollutants (NPDES):
41078, 41084 Arkansas, Louisiana, Oklahoma, and Texas (2 documents)

Federal Communications Commission
RULES
Common carrier services:
41040 AT&T; manual and procedures for cost allocation
NOTICES
41129 Meetings; Sunshine Act

Federal Emergency Management Agency
RULES
Flood elevation determinations:
41021 Alabama et al.

Federal Energy Regulatory Commission
NOTICES
Meetings:
41078 Valuation Petroleum Pipeline Advisory Committee

Federal Maritime Commission
PROPOSED RULES
Tariffs filed by common carriers in foreign commerce of U.S.:
41052 Currency adjustment factors; filing requirements; discontinuance of proceeding
NOTICES
41090, 41091 Agreements filed, etc. (3 documents)

Federal Mine Safety and Health Review Commission
NOTICES
41129 Meetings; Sunshine Act

Federal Reserve System
NOTICES
Applications, etc.:
41093 American National Holding Co. et al.
41094 First Lansing Bancorp, Inc., et al.
41094 Local Investors, Inc., et al.
41095 National Bancshares Corp. of Texas
Bank holding companies; proposed de novo nonbank activities:
41092 Fleet Financial Group, Inc., et al.
41092 Old Stone Corp. et al.

Food and Drug Administration
PROPOSED RULES
Human drugs:
41049 Methadone, conditions for use in treatment of narcotic addicts
NOTICES
Animal drugs, feeds, and related products:
41095 Canine/feline anthelmintics, efficacy evaluation; draft guideline; availability and inquiry
Human drugs:
41096 Stimulant and/or hallucinogenic drugs; international drug scheduling; Psychotropic Substances Convention; inquiry

Health and Human Services Department
See Alcohol, Drug Abuse, and Mental Health Administration; Food and Drug Administration.

Housing and Urban Development Department
NOTICES
Authority delegations:
41097 Public and Indian Housing, Assistant Secretary

Immigration and Naturalization Service
RULES
Aliens:
41016 Nonimmigrant classification status; appeal of application denial eliminated

Indian Affairs Bureau
PROPOSED RULES
Energy and minerals:
41051 Mining; leasing of tribal lands and alloted Indian lands; extension of time

Interior Department
See also Indian Affairs Bureau; Land Management Bureau; National Park Service; Surface Mining Reclamation and Enforcement Office.
NOTICES
41098 Privacy Act; systems of records
Watches and watch movements; allocation of quotas:
41062 Virgin Islands

Internal Revenue Service
RULES
Income taxes:
41017 Meal expenses while traveling; substantiation; correction
Procedure and administration:
41018 Interest rate for overpayments and underpayments of tax; correction (2 documents)
PROPOSED RULES
Income taxes:
41051 Dividend reinvestment in stock of public utilities; hearing

International Trade Administration
NOTICES
Antidumping:
41056 Portland hydraulic cement from Australia
41059 Portland hydraulic cement from Japan
41055 Welded carbon steel pipes and tubes from Korea and Taiwan; postponement
Meetings:
41062 Management-Labor Textile Advisory Committee
Watches and watch movements; allocation of quotas:
41062 Virgin Islands

Interstate Commerce Commission
NOTICES
Railroad operation, acquisition, construction, etc.:
41117 Southern Pacific Transportation Co.
Railroad services abandonment:
41117 Burlington Northern Railroad Co.
41117 Central of Georgia Railroad Co.

Justice Department
See Immigration and Naturalization Service.

Labor Department
See Employment and Training Administration; Employment Standards Administration; Occupational Safety and Health Administration.

Land Management Bureau
RULES
Public land orders:
41021 Idaho; correction
NOTICES
41114 Agency information collection activities under OMB review

National Bureau of Standards
NOTICES
Information processing standards, Federal:
41062 Data encryption standard
41062 Pascal, proposed

National Park Service
NOTICES
Concession contract negotiations:
41115 Fletchers Boathouse, Inc.

Historic Places National Register; pending nominations:
41114 Alabama, et al.
Meetings:
41116 Delta Region Preservation Commission
41116 National Park System Advisory Board
41116 Santa Monica Mountains National Recreation Area Advisory Commission

Occupational Safety and Health Administration
NOTICES
Meetings:
41122 Occupational Safety and Health National Advisory Committee

Pacific Northwest Electric Power and Conservation Planning Council
NOTICES
41129 Meetings; Sunshine Act

Securities and Exchange Commission
NOTICES
41123 Agency information collection activities under OMB review
41129 Meetings; Sunshine Act
Self-regulatory organizations; proposed rule changes:
41123 Chicago Board Options Exchange, Inc.

Selective Service System
NOTICES
41124 Child support obligations, absent parent locator; computer matching program

Surface Mining Reclamation and Enforcement Office
RULES
Abandoned mine land reclamation program:
41019 Georgia; unexpended funds withdrawn
41018 Washington; unexpended funds withdrawn

Textile Agreements Implementation Committee
NOTICES
Cotton, wool, or man-made textiles:
41064 Pakistan

Transportation Department
See Urban Mass Transportation Administration.

Treasury Department
See also Internal Revenue Service.
NOTICES
41125 Agency information collection activities under OMB review
Notes; Treasury:
41125 Y–1985 series

United States Information Agency
NOTICES
Meetings:
41127 Public Diplomacy, U.S. Advisory Commmission

Urban Mass Transportation Administration
NOTICES
Committees; establishment, renewals, terminations, etc.:
41124 Section 15 Reporting System Advisory Committee

Veterans Administration
NOTICES
41127 Agency information collection activities under OMB review (3 documents)
Meetings:
41128 Cemeteries and Memorials Advisory Committee
41128 Readjustment Problems of Vietnam Veterans Advisory Committee
41128 Wage Committee

Separate Parts in This Issue

Part II
41132 Environmental Protection Agency

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Proclamations:
5093.....41009

7 CFR
26.....41011
52.....41011
1106.....41015
Proposed Rules:
28.....41048

8 CFR
103.....41016
248.....41015

21 CFR
Proposed Rules:
291.....41049

25 CFR
Proposed Rules:
211.....41051
212.....41051
225.....41051

26 CFR
1.....41017
301 (2 documents).....41018
Proposed Rules:
1.....41051

30 CFR
872 (2 documents).....41018, 41019

32 CFR
806.....41020

40 CFR
720.....41132

43 CFR
Public Land Orders:
6423 Corrected by PLO 6460.....41021
6460.....41021

44 CFR
67.....41021

46 CFR
Proposed Rules:
536.....41052

47 CFR
Ch. I.....41040

Federal Register
Vol. 48, No. 178
Tuesday, September 13, 1983

Presidential Documents

Title 3—

The President

Proclamation 5093 of September 9, 1983

National Day of Mourning
Sunday, September 11, 1983

By the President of the United States of America

A Proclamation

To the People of the United States:

September 1, 1983, will be seared in the minds of civilized people everywhere as the night of the Korean Air Lines Massacre. Two hundred sixty-nine innocent men, women and children, from 13 different countries, who were flying aboard KAL flight 007, were stalked, then shot out of the air and sent crashing to their deaths by a missile aimed and fired by the Soviet Union.

Good and decent people everywhere are filled with revulsion by this despicable deed, and by the refusal of the guilty to tell the truth. This was a crime against humanity that must never be forgotten, here or throughout the world.

We open our hearts in prayer to the victims and their families. We earnestly beseech Almighty God to minister to them in their trial of grief, sorrow, and pain.

In their memory, we ask all people who cherish individual rights, and who believe each human life is sacred, to come together in a shared spirit of wisdom, unity, courage, and love, so the world can prevent such an inhuman act from ever happening again.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, in tribute to the memory of the slain passengers of Korean Air Lines flight 007, and as an expression of public sorrow, do hereby appoint Sunday, September 11, 1983, to be a National Day of Mourning throughout the United States. I recommend that the people assemble on that day in their respective places of worship, there to pay homage to the memory of those who died. I invite the people of the world who share our grief to join us in this solemn observance.

IN WITNESS WHEREOF, I have hereunto set my hand this ninth day of September, in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and eighth.

Ronald Reagan

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VOL
48
ISS
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7
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13
1983
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Rules and Regulations

Federal Register
Vol. 48, No. 178
Tuesday, September 13, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 28

Addition of New Grade Standards for American Upland Cotton on Trial Basis; Correction

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule establishing two new grade standards for American Upland cotton on a trial basis. The action is necessary to correct typographical errors in the codified text and the text of the preamble appearing on pages 37002 and 37003 in the **Federal Register** of Tuesday, August 16, 1983 (48 FR 37001).

FOR FURTHER INFORMATION CONTACT: Harvin R. Smith, Chief, Standards and Testing Branch, Cotton Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202/447–2167).

Corrections: The following corrections are made in FR Doc. 83–22401 appearing on pages 37002 and 37003 in the issue of August 16, 1983:

1. On page 37002, column three, first paragraph, the fourth sentence is corrected to read "All spotted cotton lower in grade than these two standards is now defined as Below Grade cotton."

2. On page 37002, column three, the second paragraph is corrected by changing the words "(one year from the date of publication)" to "August 16, 1984."

3. On page 37003, column one, 7 CFR 28.435 is corrected to read as follows:

§ 28.435 Strict Good Ordinary Spotted. (Tentative)

Strict Good Ordinary Spotted is American Upland cotton which in color, leaf, and preparation is within the range represented by a set of samples in the custody of the United States Department of Agriculture in a container marked "Original Official Cotton Standards of the United States, American Upland, Strict Good Ordinary Spotted (Tentative), effective August 16, 1984."

Dated: September 7, 1983.

William T. Manley,
Deputy Administrator, Marketing Program Operations.

[FR Doc. 83-24919 Filed 9-12-83; 8:45 am]
BILLING CODE 3410-02-M

7 CFR Part 52

United States Standards for Grades of Canned Ripe Olives

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule

SUMMARY: The purpose of this final rule is to revise the voluntary U.S. Standards for Grades of Canned Ripe Olives. The final rule was developed by the U.S. Department of Agriculture (USDA) at the request of the California olive industry. This rule would: (1) Delete "mixed sizes" from size designations; (2) change the count per pound for super colossal size olives from "26–40" to "40 or less"; (3) include definitions for "obvious split pit" and "misshapen"; (4) revise Tables IV, V, and VI which show limits for defects; and (5) incorporate minor editorial changes. The revision is designed to promote efficient and orderly marketing.

EFFECTIVE DATE: September 13, 1983.

FOR FURTHER INFORMATION CONTACT: Harold A. Machias, Processed Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–6247.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated as a "nonmajor" rule. It will not result in an annual effect on the economy of $100 million or more. There will be no major increase in cost or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. It will not result in significant effects on competition, employment, investments, productivity, innovations, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act, Pub. L. 96–354 (5 U.S.C. 601), because it reflects current marketing practices.

It is found that good cause exists for making this document effective upon publication in the **Federal Register** (5 U.S.C. 553) because: (1) The 1983–84 crop year begins in mid-August 1983, and this final rule should be effective by the time new crop deliveries from growers to processors begin; and (2) postponing the effective date of this final rule would serve no useful purpose and could cause administrative problems in the application of the U.S. Standards for Grades of Canned Ripe Olives.

The USDA received a petition from the California olive industry to revise the U.S. Standards for Grades of Canned Ripe Olives. The California olive industry produces the entire U.S. crop.

Data collected and reviewed by the Processed Products Branch supports industry's request to revise the U.S. grade standards for canned ripe olives.

The latest revision of the U.S. Standards for Grades of Canned Ripe Olives, effective August 4, 1981, brought the size designations in the U.S. grade standards into agreement with the Olive Marketing Order. Drained weight requirements were revised to reflect the changes in the size designations.

On July 8, 1983, a proposed rule was published in the **Federal Register** (48 FR 31406) to: (1) Delete "mixed sizes" from size designations; (2) change the count per pound for super colossal size olives from "26–40" to "40 or less"; (3) include definitions for "obvious split pit" and "misshapen"; (4) revise Tables IV, V, and VI which show limits for defects; and (5) incorporate minor editorial changes. The revision is designed to promote efficient and orderly marketing.

The comment filing period ended August 8, 1983.

Three comments were received through the Hearing Clerk. Comments were received from the California Olive Committee, Joseph Caragol, Incorporated, an importer, and the Association of the Food Industries, Incorporated, an association of importers.

The California Olive Committee, in fully endorsing the proposed revision, found that the proposed standards, "reflect current practices, assist in insuring consumers (of) an adequate supply of quality ripe olives and will not place undue and unnecessary burdens and costs on ripe olive canners."

Joseph Caragol, Incorporated, commented that changes in the proposed revision place an unreasonable risk on American importers and foreign shippers by changing known quantitative limits to an interpretive "fairly free" and place an unreasonable burden on USDA inspectors to properly and equitably interpret the designation of "fairly free," as applied to imports.

The Association of Food Industries, Incorporated, commented that confusion exists in the trade as to the changes in Table VI—Limits for Defects in Grade C—as they relate to segmented, sliced, and chopped olives. The spokesman for the Association requested an additional thirty days for comments to review other related material (grading manual). The USDA has determined that sufficient time (30 days) was provided for interested parties to prepare comments and an extension of the comment period would not serve any useful purpose to the industry or consumers.

The use of descriptive terms (e.g. "fairly free") provides flexibility in both grade standards and marketing orders such as those for olives with requirements which may need to be changed due to crop conditions or other factors. Usually, the quantitative limits for such requirements are specified in the inspection manual and may be changed readily as conditions warrant.

An error appeared in Table V of the proposed revision in the limit for major stems in "halved per 100 halves." The limit should be "3" instead of "0". The error has been corrected in this rule.

This rule revises the U.S. grade standards in conformance with current olive industry practices and provides an improved basis for adaptation to olive marketing order requirements. This rule also deletes specific references to single sizes within the grades and deletes "mixed sizes" from the grade standards because mixed sizes are not in demand and cause confusion in the marketplace. The revision changes the count per pound for super colossal size olives from "26–40" to "40 or less" to facilitate the marketing of olives that are larger than 26 count.

Definitions of "obvious split pit" and "misshapen" units, not defined in the current U.S. grade standards but listed in the defect tables, have been added. Revision of Tables IV, V, and VI which show limits for defects and minor editorial changes recommended by the California olive industry are incorporated into this revision.

List of Subjects in 7 CFR Part 52

Fruit and vegetable, Food grades, Standards.

Accordingly, the United States Standards for Grades of Canned Ripe Olives (7 CFR 52.3754 and 52.3761) are revised to read as follows:

1. Section 52.3754(b) is revised to read as follows:

*

§ 52.3754 Size designations for whole and pitted style.

* * * * *

(b) *Size determination.* Size of canned whole or pitted olives shall conform to the applicable count per pound range indicated in Table I in the case of whole olives, or conform closely to the applicable illustration in Table I in the case of pitted olives. When the count per pound of whole olives falls between two count ranges, the size designation shall be the next smaller size.

TABLE I

SIZE - CANNED WHOLE AND PITTED RIPE OLIVES

DESIGNATION	COUNT PER POUND	ILLUSTRATION	APPROXIMATE DIAMETER RANGE ILLUSTRATED (mm)
SMALL	128 - 140		16 - 17
MEDIUM	106 - 121		17 - 19
LARGE	91 - 105		19 - 20
EXTRA LARGE	65 - 88		20 - 22
JUMBO	51 - 60		22 - 24
COLOSSAL	41 - 50		24 - 26
SUPER COLOSSAL	40 or less		26 and over

2. Section 52.3756 (a), (b), and (c) are revised to read as follows:

§ 52.3756 Grades of canned ripe olives.

(a) *U.S. Grade A* is the quality of canned ripe olives of whole, pitted, halved, segmented, sliced, and chopped styles that has a good flavor, that has a good color, that is practically free from defects, that has a good character; and that for those factors which are rated in accordance with the scoring system outlined in this subpart, the total score is not less than 90 points: *Provided,* That such canned ripe olives may have a reasonably good color if the total score is not less than 90 points; and further *Provided,* That in the styles of whole and pitted olives, the variation in diameters does not exceed 4 mm, and of the 90 percent, by count, of the most uniform in size, the diameter of the largest does not exceed the diameter of the smallest by more than 3 mm.

(b) *U.S. Grade B* is the quality of canned ripe olives of whole, pitted, halved, segmented, sliced, and chopped styles that has a good flavor, that has a reasonably good color, that is reasonably free from defects, that has a reasonably good character; and that for those factors which are rated in accordance with the scoring system outlined in this subpart, the total score is not less than 80 points: *Provided,* That for the styles of whole and pitted olives, the variation in diameters does not exceed 8 mm, and of the 80 percent, by count, of the most uniform in size, the diameter of the largest does not exceed the diameter of the smallest by more than 4 mm.

(c) *U.S. Grade C* is the quality of canned ripe olives of whole, pitted, halved, segmented, sliced, chopped, and broken pitted styles that has a reasonably good flavor, that has a fairly good color, that is fairly free from defects, that has a fairly good character; and that for those factors which are rated in accordance with the scoring system outlined in this subpart, the total score is not less than 70 points; *Provided,* That for the styles of whole and pitted olives, of the 60 percent, by count, of the most uniform in size, the diameter of the largest does not exceed the diameter of the smallest by more that 4 mm.

* * * * *

3. Section 52.3761 is revised to read as follows:

§ 52.3761 Defects.

(a) *General.* The factor of absence of defects refers to the degree of freedom from harmless extraneous vegetable material, stems, and portions thereof, blemishes, wrinkles, mutilated olives, and from any other defects which affect the appearance or edibility of the product.

(b) *Definition of defects*—(1) *Blemishes* mean dark-colored surface marks in either ripe type or green-ripe olives which may or may not penetrate into the flesh. Olives or pieces of olives affected by blemishes are classified as follows:

(i) *Minor blemishes* mean surface discolorations on olives or pieces of olives which individually or collectively materially affect the appearance of the unit.

(ii) *Major blemishes* mean surface discolorations or black flesh (oxidized) on olives or pieces of olives which may or may not be associated with a soft texture below the skin and which individually or collectively seriously affect the appearance or edibility of the unit.

(iii) *Severe blemishes* mean dark brown, dark purple, or black surface areas on olives or pieces of olives of the green-ripe type; or any other blemishes, whether or not specifically defined, which severely affect the appearance or edibility of the unit.

(2) *Blowout* refers to a soft pitted olive in which the pit has been pushed out instead of cut out leaving an irregular ring of flesh that materially affects its appearance.

(3) *Broken piece* in halved, segmented, and sliced style olives means any piece of olive flesh that appears to be less than three-fourths of a full unit. Also included are poorly cut units and end slices less than one-half the average size slice.

(4) *Cross pitted* refers to olives pitted along an axis other than the stem-flower axis. A defect is a unit where the angle of these two axes exceeds 45 degrees.

(5) *Harmless extraneous vegetable material.* Harmless extraneous vegetable material (HEVM), harmless extraneous material (HEM), and extraneous vegetable material (EVM), are synonymous terms and mean any vegetable substance that is harmless.

(6) *Mechanically damaged* means a unit in whole, pitted, and halved styles that is punctured, cut or damaged by means other than pitting so that its appearance is materially affected.

(7) *Misshapen* refers to an olive that does not have a normal shape for a given variety.

(8) *Mutilated* refers to an olive in whole or pitted styles that is so pitter-torn or damaged by other means that the entire pit cavity is exposed or the appearance of the olive is seriously affected.

(9) *Obvious split pit* means a pit in an olive that can be determined visually as split.

(10) *Pitter damage* means a loss of skin and flesh from a pitted olive caused by the pitter on the cut end exceeding the area of a circle 3 mm in diameter but is not mutilated.

(11) *Plunger damage* means a loss of skin and flesh from a pitted olive equal to or exceeding the area of a circle 5 mm in diameter.

(12) *Stem* means a stem that measures 3 mm or more from the shoulder of the olive. Stems are classified as follows:

(i) *Minor stem* is a stem that measures more than 3 mm but not more than 4 mm from the shoulder of the olive.

(ii) *Major stem* is a stem that measures more than 4 mm from the shoulder of the olive.

(iii) *Detached stem,* when it measures 4 mm or more, is a defect which shall be scored as a minor stem for whole pitted, halved, and broken pitted style olives and a major stem for segmented, sliced, and chopped style olives.

(13) *Wrinkles* are grooves 0.5 mm or more in width. Classification of wrinkles shall be determined immediately after removing surface moisture and any increase in wrinkles due to dehydration after removing from the container shall not be considered. Olives or pieces of olives affected by wrinkles are classified as follows:

(i) *Minor wrinkles* are wrinkles which collectively do not more than materially affect the appearance of the unit.

(ii) *Major wrinkles* are wrinkles which collectively more than materially affect the appearance of the unit.

(c) *Grade A.* Canned ripe olives of whole, pitted, halved, segmented, sliced, and chopped styles that are practically free from defects may be given a score of 36 to 40 points. "Practically free from defects" means that any defects present, but not specifically limited in Table IV, may not more than slightly affect the appearance or edibility of the olives; and, in addition, specified defects may be present in all other styles except "broken pitted" not to exceed the allowances for grade A provided in Table IV.

(d) *Grade B.* If canned ripe olives of whole, pitted, halved, segmented, sliced, and chopped styles are reasonably free from defects, a score of 32 to 35 points may be given. Canned ripe olives that fall into this classification shall not be graded above U.S. Grade B regardless of the total score for the product (this is a limiting rule). "Reasonably free from defects" means that any defects present but not specifically limited in Table V may not more than materially affect the

appearance or edibility of the olives; and in addition, specified defects may be present in all other styles except "broken pitted" not to exceed the allowances for grade B provided in Table V.

(e) *Grade C.* If canned ripe olives of whole, pitted, halved, segmented, sliced, chopped, and broken pitted styles are fairly free from defects, a score of 28 to 31 points may be given. Canned ripe olives that fall into this classification shall not be graded above U.S. Grade C, regardless of the total score for the product (this is a limiting rule). "Fairly free from defects" means that any defects present but not specifically limited in Table VI may more than materially affect the appearance and edibility of the olives; and in addition, specified defects may be present in all other styles not to exceed the allowances for grade C provided in Table VI.

(f) *Substandard (SStd.).* Canned ripe olives that fail to meet the requirements of paragraph (e) of this section may be given a score of 0 to 27 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

TABLE IV.—LIMITS FOR DEFECTS IN GRADE A

	Whole per 50 olives	Pitted per 50 olives	Halved per 100 halves	Segmented per 255 g (9 oz)	Sliced per 255 g (9 oz)	Chopped per 255 g (9 oz)
HEVM, HEM, or EVM	1	1	1	Practically free	Practically free	Practically free.
Stems:						
Minor and major stems incl.	2	2	2			
Major stems	1	1	1	Practically free	Practically free	Practically free.
Minor and major blemishes, minor and major wrinkles and mutilated.	5	5	10	Practically free	Practically free	Practically free.
Provided:						
Major blemishes, major wrinkles do not exceed	2	2	5			
Further Provided: Mutilated do not exceed	1	1				
Broken pieces and Poorly cut units			8	Practically free	Practically free	
Mechanical Damage	2	2	5			
Blowouts, cross pitted, plunger and pitter damage		5				
Obvious split pit or misshapen	2					
Sever blemishes (green-ripe type only)	0	0	0			

TABLE V.—LIMITS FOR DEFECTS IN GRADE B

	Whole per 50 olives	Pitted per 50 olives	Halved per 100 halves	Segmented per 255 g (9oz)	Sliced per 255 g (9oz)	Chopped per 255 g (9oz)
HEVM, HEM or EVM	1	1	1	Reasonably free	Reasonably free	Reasonably free.
Stems:						
Minor and major stems incl.	3	3	3			
Major stems	1	1	1	Reasonably free	Reasonably free	Reasonably free.
Minor and major blemishes, minor and major wrinkles and mutilated.	10	10	20	Reasonably free	Reasonably free	Reasonably free.
Provided:						
Major blemishes, major wrinkles do not exceed.	5	5	10			
Further provided: Mutilated do not exceed	2	2				
Broken pieces and poorly cut units			15	Reasonably free	Reasonably free	
Mechanical damage	5	5	10			
Blowouts, cross pitted, plunger and pitter damage		10				
Obvious split pit or misshapen	5					
Severe blemishes (green-ripe type only)	0	0	0			

TABLE VI.—LIMITS FOR DEFECTS IN GRADE C

	Whole per 50 olives	Pitted per 50 olives	Halved per 100 halved	Segmented per 255 g (9 oz.)	Sliced per 255 g (9 oz.)	Chopped per 255 g (9 oz.)	Broken Pitted per 255 g (9 oz.)
HEVM, HEM, or EVM	1	1	1	Fairly free	Fairly free	Fairly free	2
Minor and major stems inclusive.	4	4	4				
Major stems	2	2	2	Fairly free	Fairly free	Fairly free	4
Minor, major blemishes, major, minor wrinkles.	No limit	No limit	No limit	Fairly free	Fairly free	Fairly free	No limit.
Provided:							
Major blemishes, major wrinkles do not exceed.	13	13	25				51 g[1]
Further Provided:							
Mutilated, major blemish and major wrinkles do not exceed.	15	15	30				
Mutilated do not exceed	5	5	10				No limit.
Broken pieces and poorly cut units.			25	Fairly free	Fairly free		
Mechanical damage	10	10	20				
Blowouts, cross pitted, plunger and pitter damaged.		15					
Obvious split pit or misshapen.	No limit						
Severe blemishes (green-ripe type only).	3	3	3	0	0	0	

[1] Major blemishes only

(Agricultural Marketing Act of 1946, Sec. 203, 205, 60 Stat. 1087, as amended, 1090, as amended (7 U.S.C. 1622, 1624))

Done at Washington, D.C., on September 7, 1983.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 83-24863 Filed 9-12-83; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 1106

Milk in the Southwest Plains Marketing Area; Temporary Revision of the Supply Plant Shipping Percentage

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Temporary revision of rule.

SUMMARY: This action reduces temporarily the pooling standards for supply plants under the Southwest Plains Federal milk order. This reduction of the shipping standard from 50 percent of receipts to 40 percent was requested by the operator of a supply plant that is regulated as a pool plant by the Southwest Plains order. The handler contends that the reduction is necessary because increases in milk production without any corresponding increase in fluid milk sales have reduced the need for supply plant milk at distributing plants. In view of the market's supply-demand imbalance, it is concluded that the supply plants pooling standards should be reduced to prevent uneconomic shipments of milk to distributing plants from supply plants.

Notice of this proposed action was published in the **Federal Register** and interested parties were given the opportunity to submit comments on the proposed action. A cooperative association supported the proposed action and no views in opposition to the action were received.

EFFECTIVE DATE: September 13, 1983.

FOR FURTHER INFORMATION CONTACT: John F. Borovies, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-2089.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding: Proposed Temporary Revision of Shipping Percentage: Issued August 16, 1983; published August 19, 1983 (48 FR 37657).

This action has been reviewed under USDA procedures established to implement Executive Order 12291 and has been classified as a "non-major" action.

It also has been determined that the need for adjusting certain provisions of the order on a emergency basis precludes following certain review procedures set forth in Executive Order 12291. Such procedures would require that this document be submitted for review to the Office of Management and Budget at least 10 days prior to its publication in the **Federal Register**. However, this would not permit the completion of the procedure in time to give interested parties timely notice that the supply plant shipping requirement for September 1983 would be modified. The initial request for the action was received on August 4, 1983. Public comments on the proposed action were due August 26, 1983.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and would tend to ensure that dairy farmers will continue to have their milk priced and pooled under the order and therey receive the benefits that accrue from such pricing.

This temporary action is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*) and the provisions of § 1106.7(d) of the Southwest Plains milk order.

Notice of proposed rulemaking was published in the **Federal Register** (48 FR 37657) concerning a proposed decrease in the shipping requirement for pool supply plants for the months of September 1983 through January 1984. Interested parties were afforded the opportunity to comment on the proposal by submitting written data, views, and arguments. The action was supported by a cooperative association and no views in opposition to the action were received.

After consideration of all relevant material, including the proposal set forth in the aforesaid notice, data, views, and arguments filed thereon, and other available information, it is hereby found and determined that for the months of September 1983 through January 1984 the supply plant shipping percentage of 50 percent as set forth in § 1106.7(b) should be decreased to 40 percent.

Pursuant to the provisions of § 1106.7(d), the supply plant shipping percentage may be increased or decreased up to 10 percentage points during any month to encourage additional shipments milk to pool distributing plants or to prevent uneconomic shipments.

Kraft, Inc., which operates a supply plant regulated by the Southwest Plains order, requested this temporary revision of 10 percentage points in the supply plant shipping standard. Kraft stated that over the past year the Southwest Plains market has experienced an increase in milk production without a corresponding increase in Class I sales. The handler claimed that this marketwide development would make it difficult for its supply plant to meet the 50 percent shipping standard without engaging in uneconomic shipments of milk. Kraft also noted that the general supply-demand imbalance in the Southwest Plains market recently required emergency rulemaking to suspend the supply plant shipping standards of the order to prevent uneconomic shipments of milk to distributing plants.

The handler indicated that its situation is affected by an increase in the number of producers delivering milk to its supply plant in addition to the marketwide increase in milk production. Kraft stated that the additional producers associated with its plant are mainly producers who recently converted from manufacturing grade production to Grade A. Others have switched from other handlers and some are new to the dairy business.

Mid-America Dairymen, Inc. (Mid-Am), a cooperative association which represents producers who supply milk for this market, submitted comments in support of the proposed reduction in the shipping standard. Mid-Am stated that it expected the market's supply-demand imbalance to continue through January 1984. The cooperative said that the temporary revision would accommodate this current market environment by eliminating uneconomic movements of milk for the sole purpose of meeting the shipping provisions of the order.

Producer receipts on the Southwest Plains order were 8.0% above a year ago for the first 7 months of 1983. In July 1983, producer receipts were 12.6% above the level of July 1982. By contrast producer milk in Class I during January through July 1983 averaged 2.6% below a year ago with an 8.2% decline in July alone.

Under these circumstances, it is concluded that a reduction in the required shipments of a supply plant by 10 percentage points for the months of September 1983 through January 1984 will prevent uneconomic movements of milk merely for purposes of maintaining pool plant status.

It is hereby found and determined that 30 days' notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that:

(a) This temporary revision is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area for the months of September 1983 through January 1984;

(b) This temporary revision does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of the proposed temporary revision was given interested parties and they were afforded opportunity to file written data, views, or arguments concerning this temporary revision.

Therefore, good cause exists for making this temporary revision effective for the months of September 1983 through January 1984.

List of Subjects In 7 CFR Part 1106

Milk marketing orders, Milk, Dairy products

PART 1106—[AMENDED]

It is therefore ordered, that the aforesaid provisions in § 1106.7(b) of the order are hereby revised for the months of September 1983 through January 1984.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674).

Effective date: September 13, 1873.

Signed at Washington, D.C. on September 7, 1983.

Edward T. Coughlin,

Director, Dairy Division.

[FR Doc. 83-24804 Filed 9-12-83; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 103 and 248

Powers and Duties of Service Officers; Availability of Service Records; Change of Nonimmigrant Classification; Denial of Appeal

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule eliminates the right to appeal the denial of an application for change of nonimmigrant status. A right to appeal such a denial is not required by law; this rule furthers the Service's policy of not providing a right to appeal discretionary denials of applications by nonimmigrants for benefits of a minor nature.

This rule also makes a technical amendment to the regulation to correct a misapplied term not contained in the statute. The prohibition for change of nonimmigrant status should include all aliens who became exchange aliens to receive graduate medical education or training, not just "foreign medical graduates."

EFFECTIVE DATE: October 13, 1983.

FOR FURTHER INFORMATION CONTACT:

For General Information: Loretta Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C. 20536. Telephone (202) 633–3048.

For Specific Information: Bert C. Rizzo, Immigration Examiner, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C. 20536. Telephone (202) 633–3946.

SUPPLEMENTARY INFORMATION: This rule removes § 103.1(l)(2)(xvi) and modifies § 248.3(d) to eliminate the right to appeal the denial of an Application for Change of Nonimmigrant Status (Form I–506). Approval by the Service of such an application is discretionary and there is no right to appeal by law.

This rule corrects an inconsistency in Service procedures. The Service has historically processed nonimmigrant applications strictly at the local office level without a procedure for higher-level review, except in the case of the I–506. The Service does not provide appellate review of an alien's application for extension of stay (Form I–539) or an alien student's request for extension of stay, part-time employment, practical training (Form I–538). This treatment of nonimmigrant applications is based upon the minor consequences of a denial, and the fact that the decision to grant or deny the application is discretionary.

Twenty-nine responses were received concerning the proposed rule, which was published in the **Federal Register** on July 30, 1982 at 47 FR 32952. All of the comments were from the private immigration bar and were critical of the proposal. No comments were received from schools, student groups, or other interested parties who might be affected by the rule change. There were four major concerns:

First, 17 writers believed that the right to due process would be eliminated. The Service does not accept this assertion. The type of procedure necessary to assure due process varies with the nature of the matter being decided and the interests of the affected party. Due process does not require the Service to provide regional appellate review of discretionary denial of an application for a benefit conferred on a nonimmigrant, where the consequences of the denial are relatively minor. Due process requires only a fair, impartial review of the nonimmigrant's application.

The Service provides such a review by the officer who reviews the application. In addition, the Service provides an internal review of the officer's recommendation to deny an I–506. The authority to approve or deny an I–506 is vested in the district director (in larger offices this authority may be delegated to a deputy district director, an assistant district director for travel control, or in rare instances a supervisory immigration examiner). Thus, every denial of an I–506 is automatically given a higher-level internal review before being issued by the Service. There is a large, well-developed body of precedent decisions concerning change of nonimmigrant status, and novel or unusually complex issues are infrequently presented. This means that the regulations and precedent can be readily applied without recourse to appellate review. When novel or unusually complex issues are presented, the case should be certified for higher-level review.

Moreover, informal methods of review are available. A person who believes his application has been arbitrarily or erroneously denied can bring the matter to regional or Central Office attention, and action will be taken if warranted.

Finally, in deportation proceedings the alien may raise the defense that the Service's decision to deny the I–506 was arbitrary or capricious. If the immigration judge finds this to be correct, the case may be remanded to the Service for reconsideration.

Furthermore, the consequences of a denial are not serious. A nonimmigrant arrives in the United States expecting to stay for the limited period and purpose for which he was admitted and then return to his country. If his request is denied, he simply does what he came expecting to do, namely return to his country.

The denial of the request for change of status in no way prejudices his right to apply for and, if eligible, be granted a

visa to return to the United States in another status.

Second, 13 writers expressed the opinion that the appellate review provided a means for regional commissioners to perform quality reviews. While this is true as to the limited number of cases reviewed, the Service believes that quality assurance is adequately provided by the internal review discussed above. Also, since the Service-wide denial rate on applications for change of nonimmigrant status for Fiscal Year 1982 was 15%, only a portion of which were appealed, no approvals and only some denials are reviewed by the regional commissioners. The Service is concerned with the quality of all its decisions, not just denials, and will continue to develop systems of quality assurance.

Third, 14 writers believed that the right to appeal affords protection from arbitrary decisions and "boiler plate" denials. The Service goes to great lengths, through training, issuance of instructions and policy memoranda, field audits and investigations, and the oath given to its officers, to assure that they will discharge their duties in a fair, concerned manner without bias, prejudice, or arbitrary action. The commenters did not present evidence that serious abuses currently exist or could reasonably be anticipated with respect to denials of I–506's. The Service believes that the review mechanisms discussed above are adequate to deal with any problems that may arise.

Fourth, 19 writers commented on our observation that the right to appeal was being utilized as a delaying tactic to prolong an alien visitor's stay in the United States. They suggested that the system needed revision to improve the speed of processing appeals rather than eliminating appeals. We agree that the processing of appeals requires streamlining. The Service is working on a plan to consolidate in-Service appeals in a centralized unit. However, elimination of appeals of change of status denials and a corresponding reduction in workload will facilitate the processing of other kinds of appeals involving more substantial benefits or issues such as immigrant visa petitions based upon occupation or breach of maintenance of status and departure bonds. Elimination of section 248 appeals will also concurrently remove an avenue which mala fide alien applicants have used to delay their departure from the United States.

Based upon all of the reasons discussed, the rule change will be implemented.

The Immigration and Nationality Act Amendments of 1981 (Pub. L. 97–116, 95 Stat. 1611) amended section 248 to prohibit change of nonimmigrant status for any alien who entered the United States as an enchange alien (J–1) or had his status changed to J–1 in order to receive graduate medical education or training.

The regulations at 8 CFR 248.2 further detail the classes of aliens ineligible to receive changes of nonimmigrant status. Subparagraph (c) inadvertently was published to limit coverage to "foreign medical graduates" and not the broader category of "alien" specified in the statute. This amendment brings this technical oversite into conformity with the statute.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that the rule will not have a significant economic impact on a substantial number of small entities.

This rule is not a major rule within the meaning of section 1(b) of E.O. 12291.

List of Subjects

8 CFR Part 103

Administrative practice and procedure, Authority delegation, Organization and functions.

8 CFR Part 248

Administrative practice and procedure, Aliens.

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

§ 103.1 [Amended]

1. In § 103.1, paragraph (l)(2)(xvi) is removed and paragraphs (xvii) through (xxiv) are renumbered (xvi) through (xxiii).

PART 248—CHANGE OF NONIMMIGRANT CLASSIFICATION

2. Section 248.2 is amended by revising paragraph (c) to read as follows:

§ 248.2 Ineligible classes.

* * * * *

(c) Any alien admitted as a nonimmigrant under section 101(a)(15)(J) of the Act, or who acquired such status after admission in order to receive graduate medical education or training, whether or not the alien was subject to, received a waiver of, or fulfilled the two-year foreign residence requirement of section 212(e) of the Act; and

* * * * *

3. Section 248.3 is amended by revising paragraph (d) to read as follows:

§ 248.3 Application.

* * * * *

(d) *Denial of Application.* When the application is denied, the applicant shall be notified of the decision and the reasons for the denial. There is no appeal from the denial of the application under this chapter.

* * * * *

(Sec. 103 of the Immigration and Nationality Act, 66 Stat. 173 (8 U.S.C. 1103); sec. 248 of the Immigration and Nationality Act, as amended 66 Stat. 167 (8 U.S.C. 1258))

Dated: August 18, 1983.

Alan C. Nelson,

Commissioner of Immigration and Naturalization.

[FR Doc. 83–24793 Filed 9–12–83; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 7909]

Income Tax; Substantiation of Meal Expenses While Traveling

Correction

In FR Doc. 83–24317 beginning on page 40370 in the issue of Wednesday, September 7, 1983, make the following corrections:

1. On page 40370, in the summary, the word "whch" should read "which" and the word "recieved" should read "relieved".

2. On the same page, in the third column, the first line, "of Order" should read "of the Order".

3. On page 40371, the first paragraph, in § 1.274–5(h), the eleventh line should read "as well as the time, place, and business".

BILLING CODE 1505–01–M

26 CFR Part 301

[T.D. 7907]

Rate of Interest for Overpayments and Underpayments of Tax

Correction

In FR Doc. 83–23176 beginning on page 38229 in the issue of Tuesday, August 23, 1983, make the following corrections:

1. On page 38230, the middle column, in § 301.6621–1(b)(2) the third line from the bottom, insert the word "shall" before the word "be".

2. On the same page, the third column, in § 301.6621–1(d) in Example (3), in the last three lines of the example, remove the words "and at the rate of 9 percent per annum from June 30, 1975,".

BILLING CODE 1505-01-M

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26 CFR Part 301

[T.D. 7907]

Rate of Interest for Overpayments and Underpayments of Tax

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to final rule.

SUMMARY: This document contains a correction to the **Federal Register** publication beginning at 48 FR 38229 of the final regulations which were the subject of Treasury Decision 7907, relating to the rate of interest for overpayments and underpayments of tax under sections 6601, 6621 and 6622 of the Internal Revenue Code of 1954.

EFFECTIVE DATE: The amendments to the regulations that are the subject of this correction are effective for amounts outstanding or accruing after December 31, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph M. Rosenthal of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, Washington, D.C. 20224, telephone 202–566–3288 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1983, the **Federal Register** published final regulations (48 FR 38229) relating to the rate of interest for overpayments and underpayments of tax. Changes to the applicable tax law were made by the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248, 96 Stat. 324, 635).

Need for a Correction

As published, Treasury Decision 7907 incorrectly includes the language "section 2411(a) of Title 28 of the United" rather than "section 1961(c)(1) or 2411 of Title 28 of the United". This error appears in § 301.6621–1(c)(3), on page 38230, in the right-hand column.

Correction of Publication

Accordingly, the publication of Treasury Decision 7907 which was the subject of FR Doc. 83–23176, is corrected as follows:

Paragraph 1. In § 301.6621–1(c)(3) the language "section 2411(a) of Title 28 of the United" is removed and the language "section 1961(c)(1) or 2411 of Title 28 of the United" is added in its place.

George H. Jelly,

Director, Legislation and Regulations Division.

[FR Doc. 83-24886 Filed 9-12-83; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 872

Withdrawal of Unexpended Abandoned Mine Land Reclamation Funds From the State of Washington

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Rule related notice.

SUMMARY: The Office of Surface Mining is withdrawing abandoned mine land reclamation (AMLR) funds allocated to the State of Washington under the authority of Section 402(g)(2) of the Surface Mining Control and Reclamation Act of 1977, Pub. L. 95–87 (SMCRA) and 30 CFR 872.11 of the Secretary's regulations. The State of Washington failed to adopt a regulatory program for active mining pursuant to Section 503 of SMCRA or a reclamation plan for the restoration of lands previously degraded by past coal mining practices pursuant to Section 404 of SMCRA. Without these programs the State is ineligible to receive the State share allocation of AMLR funds collected within the State of Washington. Failure to expend these funds within the time limits allocated by SMCRA and the Secretary's regulations can result in the transfer of these funds to the Secretary's discretionary share for expenditure in any eligible area of the country.

Notice of OSM's intent to withdraw unexpended abandoned mine land reclamation funds was published on August 4, 1983 (48 FR 35399). An opportunity for public participation in OSM's decision was provided. Comments received are discussed below under "Disposition of Comments."

EFFECTIVE DATE: This action will be effective October 13, 1983.

FOR FURTHER INFORMATION CONTACT: Jim Fary, Division of Abandoned Mine Land Reclamation, 1951 Constitution Avenue, NW., Washington, D.C. 20240, telephone (202) 343–7921.

SUPPLEMENTARY INFORMATION: The Abandoned Mine Land Fund was established by the Surface Mining Control and Reclamation Act of 1977 in response to concern over extensive environmental damage caused by past coal mining activities. The Abandoned Mine Land Fund derives its financing from Title IV of the Act which establishes a fee on coal production for the purpose of financing specified Federal, State, and Indian reclamation programs. Programs funded by Congressional appropriations include grants to States and Indian Tribes to plan and carry out reclamation programs and projects, Federal Reclamation projects carried out by the Secretary of Interior through OSM, and the Rural Abandoned Mine Program (RAMP) administered by the Secretary of Agriculture and carried out by the Soil Conservation Service. Lands and water eligible for reclamation are those that were mined or affected by mining and abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there is no continuing reclamation responsibility under State or Federal law.

Title IV of SMCRA provides that fifty percent of the AMLR funds collected within a State or on Indian lands are to be allocated to that State or Indian Tribe to accomplish the purpose of this title. "Allocate" means the administrative identification in the records of OSM of monies in the Fund for a specific purpose, e.g., identification of monies for exclusive use by a State.

States and Tribes are eligible to receive such allocated funds only after they have received approved regulatory programs pursuant to Section 503 of the Act and approved reclamation plans under Section 405. If allocated funds have not been expended within three years of their allocation by the States or Indian tribes, Section 402 of the Act provides the Secretary authority to withdraw such funds from the States' accounts and utilize them in any eligible area of the county.

On June 30, 1982, OSM published revised final regulations concerning the implementation and administration of the Abandoned Mine Land Program. (47 FR 28574.) Under 30 CFR 872.11(b)(2),

OSM set out two procedures concerning the withdrawal of allocated but unexpended State or Indian tribal funds. First, if a State advises OSM in writing that is does not intend to submit a State reclamation plan, no monies will be allocated to that State. Secondly, amounts allocated to a State that have not been granted to the State within three years from the date of allocation shall be available to the Director for other purposes as set out in 30 CFR 872.11(b)(5) and Section 401(c) of the Act.

Disposition of Comments

The Department of Natural Resources of the State of Washington commented that: "the **Federal Register** text is incorrect in saying that the State had no intentions of regulating surface mining and reclamation operations. The converse is true as the State has a great environmental awareness and has had a Surface Mined Land Reclamation Act in place since 1970. What your notice should have said is that we have not implemented a Federal Program." OSM has reviewed the text of the **Federal Register** notice (48 FR 35399–35400, August 4, 1983) and cannot find where it has indicated that the State of Washington "had no intentions of regulating surface mining and reclamation operations." OSM does not question that the State of Washington "has a great environmental awareness and has had a Surface Mined Land Reclamation Act in place since 1970." OSM contends that it has said in the **Federal Register** text that the State of Washington has not implemented a Federal Program.

The relevant text reads as follows: "Both States (i.e., Georgia and Washington) have failed to adopt regulatory programs for active mining pursuant to Section 503 of SMCRA. . . ." (48 FR 35399). Section 503 of SMCRA is the Federal program. Moreover, the **Federal Register** text indicates: "The State of Washington, on the other hand, has never formally advised OSM in writing concerning its intentions not to regulate surface mining and reclamation operations. However, since the State has not made reasonable efforts to assume primacy over these areas and thereby become eligible for AMLR grants, the Director is proposing to withdraw all State AMLR funds which have been allocated but left unexpended for more that three years." Perhaps the Washington Department of Natural Resources has read the **Federal Register** text regarding the State of Georgia as applicable to Washington as well. The State of Georgia has indicated its intentions in writing to OSM that it does not wish to assume regulatory responsibility over surface mining. In conclusion, the OSM has not indicated that the State of Washington, "had no intentions of regulating surface mining and reclamation operations" but rather that since Washington has never formally advised OSM in writing concerning its intentions not to regulate surface mining and reclamation operations under SMCRA, the Director of OSM can and is withdrawing all State AMLR funds which have been allocated but left unexpended for more than three years.

The Washington Department of Natural Resources also commented that: "we disagree with the concept that monies collected in a State by the Federal government from coal mining can be withdrawn and used elsewhere at the discretion of the Secretary of the Interior. If a Federal program is in place, such as here in Washington State, OSM should utilize these funds for the benefit of Washington." OSM's response is that Section 402(g)(2) of SMCRA explicitly gives the Secretary the discretion to withdraw funds allocated to a State reclamation program that have not been expended within three years after their allocation and to use these withdrawn funds for expenditure in any eligible area as determined by the Secretary. To allow funds allocated by an Act of Congress for the specific purpose of abandoned mine land reclamation by States to remain idle because a State has not made reasonable efforts to become eligible for the funds, would be incompatible with the Secretary's responsibilities for management of public funds and resources. OSM will be developing a Federal abandoned mine land reclamation program for the State of Washington using available Federal funds to reclaim high priority abandoned mine land sites.

The Washington Irrigation and Development Company (WIDCO) requested that the Secretary "defer action on the withdrawal of the subject funds, pending meetings (by WIDCO) with the State" regarding the interest of the State of Washington to implement a State program. OSM declines to defer action on withdrawal of funds because it believes that the State has not made reasonable efforts to assume primacy over surface mining and thereby become eligible for AMLR grants. Moreover, the Washington Department of Natural Resources' response to the notice of intent to withdraw funds indicates that the State is still not making any efforts to assume primacy over surface mining and thereby become eligible for AMLR grants.

WIDCO further commented that: "If funds must be withdrawn now, perhaps a mechanism could be established for re-allocation if primacy was achieved by some future date." OSM declines to establish, at this time, a mechanism for re-allocation if primacy is achieved by the State at some later date. It should be noted that the action withdrawing funds allocated to Washington is limited to funds left unexpended for more than three years. Therefore, Washington will have available to it three years of funds to expend on a State AMLR program if it should decide, at some future date, to seek primacy. Moreover, as indicated above, OSM will be developing a Federal program for Washington using available Federal funds to reclaim high priority abandoned mine land sites.

Agency's Findings

The State of Washington has never formally advised OSM in writing concerning its intentions not to regulate surface mining and reclamation operations. However, since the State has not made reasonable efforts to assume primacy over these areas and thereby become eligible for AMLR grants, the Director is withdrawing all State AMLR funds which have been allocated but left unexpended for more than three years pursuant to the authority in Section 402 and 412(a) of the Act and 30 CFR 872.11(b)(2) of the Secretary's regulations.

Dated: September 7, 1983.

James R. Harris,

Director, Office of Surface Mining.

[FR Doc. 83-24925 Filed 9-12-83; 8:45 am]

BILLING CODE 4310-05-M

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30 CFR Part 872

Withdrawal of Unexpended Abandoned Mine Land Reclamation Funds From the State of Georgia

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Rule related notice.

SUMMARY: The Office of Surface Mining is withdrawing abandoned mine land reclamation (AMLR) funds allocated to the State of Georgia under the authority of Section 402(g)(2) of the Surface Mining Control and Reclamation Act of 1977, Pub. L. 95–87 (SMCRA) and 30 CFR 872.11 of the Secretary's regulations. The State of Georgia has failed to adopt a regulatory program for active mining pursuant to Section 503 of SMCRA or a reclamation plan for the restoration of lands previously degraded by past coal

mining practices pursuant to Section 405 of SMCRA. Without these programs the State is ineligible to receive the State share allocation of AMLR funds collected within the State of Georgia. Failure to expend these funds within the time limits allocated by SMCRA and the Secretary's regulations can result in the transfer of these funds to the Secretary's discretionary share for expediture in any eligible area of the country.

Notice of OSM's intent to withdraw unexpended abandoned mine land reclamation funds was published on August 4, 1983 (48 FR 35399). An opportunity for public participation in OSM's decision was provided. No comments or requests for meetings were received.

EFFECTIVE DATE: This action will be effective October 13, 1983.

FOR FURTHER INFORMATION CONTACT: Jim Fary, Division of Abandoned Mine Land Reclamation, 1951 Constitution Avenue, NW., Washington, D.C. 20240, Telephone (202) 343–7921.

SUPPLEMENTARY INFORMATION: The Abandoned Mine Land Fund was established by the Surface Mining Control and Reclamation Act of 1977 in response to concern over extensive environmental damage caused by past coal mining activities. The Abandoned Mine Land Fund derives its financing from Title IV of the Act which establishes a fee on coal production for the purpose of financing specified Federal, State, and Indian reclamation programs. Programs funded by Congressional appropriations include grants to States and Indian Tribes to plan and carry out reclamation programs and projects, Federal Reclamation projects carried out by the Secretary of Interior through OSM, and the Rural Abandoned Mine Program (RAMP) administered by the Secretary of Agriculture and carried out by the Soil Conservation Service. Lands and water eligible for reclamation are those that were mined or affected by mining and abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there is no continuing reclamation responsibility under State and Federal law.

Title IV of SMCRA provides that fifty percent of the AMLR funds collected within a State or on Indian lands are to be allocated to that State or Indian Tribe to accomplish the purpose of this title. "Allocate" means the administrative identification in the records of OSM of monies in the Fund for a specific purpose, e.g., identification of monies for exclusive use by a State.

States and Tribes are eligible to receive such allocated funds only after they have received approved regulatory programs pursuant to Section 503 of the Act and approved reclamation plans under Section 405. If allocated funds have not been expended within three years of their allocation by the States or Indian Tribes, Section 402 of the Act provides the Secretary authority to withdraw such funds from the State accounts and utilize them in any eligible area of the country.

On June 30, 1982, OSM published revised final regulations concerning the implementation and administration of the Abandoned Mine Land Program. 47 FR 28574. Under 30 CFR 872.11(b)(2), OSM set out two procedures concerning the withdrawal of allocated but unexpended State or Indian Tribal funds. First, if a State advises OSM in writing that it does not intend to submit a State reclamation plan, no monies will be allocated to that State. Secondly, amounts allocated to a State that have not been granted to the State within three years from the date of allocation shall be available to the Director for other purposes as set out in 30 CFR 872.11(b)(5) and Section 401(c) of the Act.

The State of Georgia has formally notified OSM in writing on September 8, 1981, that it does not wish to assume regulatory responsibility over surface mining. Accordingly the Director is transferring all funds allocated to the State of Georgia to the Secretary's discretionary share pursuant to the authority in Sections 402 and 412(a) of the Act and 30 CFR 872.11(b)(2) of the Secretary's regulations.

Dated: September 8, 1983.

James R. Harris,

Director, Office of Surface Mining.

[FR Doc. 83–24924 Filed 9–12–83; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 806

[Air Force Reg. 12–30]

Disclosure of Air Force Records

AGENCY: Department of the Air Force, Department of Defense.

ACTION: Final rule.

SUMMARY: The Department of the Air Force, is amending its rule for administering the Freedom of Information Act by incorporating as Air Force policy, Department of Defense Privacy Board Decision Memorandum 83–1 guidance concerning the release of servicemembers' names and unit or home addresses.

EFFECTIVE DATE: September 13, 1983.

FOR FURTHER INFORMATION CONTACT: Ms. M. K. Ward, Department of the Air Force, HQ USAF/DAQD, Washington, DC 20330, telephone (202) 694–3488.

SUPPLEMENTARY INFORMATION: The Department of the Air Force has determined that the release of servicemembers' names and unit or home addresses for primary purpose of commercial solicitation is normally not in the public interest. Requesters who seek lists or compilations of unit or home addresses of military pefsonnel for this purpose normally will be refused such lists pursuant to Exemption 6 of the Freedom of Information Act.

List of Subjects in 32 CFR Part 806

Freedom of information, Classified information, Records.

PART 806—[AMENDED]

32 CFR Part 806 is amended to read as follows:

1. In § 806.7, the introductory text of paragraph (f) is revised to read as follows:

§ 806.7 Specific policies on withholding records.

* * * * *

(f) Personnel and medical files, as well as similar personal information in other files that, if disclosed to a member of the public, would result in a clearly unwarranted invasion of personal privacy. In a situation where a requester has not established any public interest in obtaining release of lists of names and unit or home addresses of military personnel for commercial solicitation, the invasion of privacy which would result from such disclosure requires that this information be withheld under the balancing test. In the rare case where a requester does establish some public interest involving his or her intention to engage in commercial solicitation, that interest must be weighed against the invasion of privacy which will result from disclosure of the requested information. This policy applies to active duty, reserve, and retired personnel.

* * * * *

(Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012; 5 U.S.C. 552)

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer

[FR Doc. 83–24913 Filed 9–12–83; 8:45 am]

BILLING CODE 3910–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6460

[I–13218]

Idaho; Public Land Order No. 6423; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order will correct an error in the land description of Public Land Order No. 6423 of July 11, 1983.

EFFECTIVE DATE: October 15, 1983.

FOR FURTHER INFORMATION CONTACT: Larry Lievsay, Idaho State Office, 208–334–1735.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

The land description in Public Land Order No. 6423 of July 11, 1983, in FR Doc. 83–19681 published at page 33296 in the issue of Thursday, July 21, 1983, is corrected as follows:

On page 33296, under T. 32 N., R. 5 W., the line reading "sec. 11, SE¼NW¼" should read, "sec. 11, NE¼NW¼."

September 9, 1983.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 83–24912 Filed 9–12–83; 8:45 am]

BILLING CODE 4310–84–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations; Alabama; et al.

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are finalized for the communities listed below.

The base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base (100-year) flood elevations, for the community. This date may be obtained by contacting the office where the maps are available for inspection indicated on the table below.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Chief, Engineering Branch, National Flood Insurance Program, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determinations of flood elevations for each community listed. Proposed base flood elevations or proposed modified base flood elevations have been published in the **Federal Register** for each community listed.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR Part 67. An opportunity for the community or individuals to appeal proposed determination to or through the community for a period of ninety (90) days has been provided.

The Agency has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies for reasons set out in the proposed rule that the final flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. Also, this rule is not a major rule under terms of Executive Order 1229, so no regulatory analyses have been prepared. It does not involve any collection of information for purposes of the Paperwork Reduction Act.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and Flood Insurance Rate Map available at the address cited below for each community.

The base (100-year) flood elevations are finalized in the communities listed below. Elevations at selected locations in each community are shown. No appeal was made during the 90-day period and the proposed base flood elevations have not been changed.

State	City/Town/County	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Alabama	Town of Maplesville, Calhoun County (FEMA–6470)	Byrd Creek	Just downstream of Illinois Central Gulf Railroad	*323
			Just downstream of Farm Road	*352
		Little Mulberry Creek	Approximately 150 feet downstream of State Highway 22.	*352
			Approximately 100 feet upstream of State Highway 22	*326
		Mulberry Creek	At southeastern corporate limits approximately 50 feet north of the intersection of Illinois Central Gulf Railroad and Lee Broadhead Road.	*305
Maps available for inspection at Town Clerk's Office, Town Hall, Main Street, Maplesville, Alabama 36750.				
Alabama	City of Oxford, Calhoun County (FEMA–6470)	Choccolocco Creek	Just downstream of Friendship Road	*605
		Snow Creek	Just upstream of Interstate Highway 20	*612
			Just downstream of Snow Street	*618
		Golden Springs Branch	Just upstream of Highway 78 and 431	*623
		Boiling Springs Branch	Just upstream of U.S. Highway 78 and 431	*632
		Park Creek	Approximately 80 feet downstream of McDaniel Street	*662
		Hobson Creek	Approximately 350 feet upstream of Southern Railway	*647
		De Armanville Branch	Approximately 100 feet upstream of Interstate Highway 20 northbound.	*627
Maps available for inspection at City Administrators Office, City Hall, 100 Choccolocco Street, Oxford, Alabama 36203.				

State	City/Town/County	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
California	Escondido (City), San Diego County (FEMA-6485)	Escondido Creek	50 feet south of intersection of Harmony Grove Road and Howard Avenue.	*620
		Reidy Creek	100 feet upstream from center of Nutmeg Street	*679
			At the intersection of Broadway and Stanley Avenue	*708
		Kit Carson Park Creek	20 feet upstream from center of Via Rancho Parkway	*338
			50 feet upstream from center of Encino Drive	*417
Maps available for inspection at the Department of Engineering, 100 Valley Boulevard, Escondido, California.				
Connecticut	Fenwick, Borough, Middlesex County (Docket No. FEMA-6521).	Long Island Sound	Entire shoreline within community	*16
		Connecticut River	Entire shoreline within community	*16
			Shoreline of South Cove at Neponsett Avenue (extended).	*13
			Shoreline of South Cove at Nibang Avenue (extended)	*12
Maps available for inspection at the Borough Office, Maple Avenue, Fenwick, Connecticut.				
Connecticut	Noank Fire District, New London County (Docket No. FEMA-6499).	Fishers Island Sound	Shoreline at Cove Street (extended west)	*14
			Shoreline at Chesbro Road (extended)	*15
			Shoreline of Beebe Cove at Tryon Avenue (extended)	*12
Maps available for inspection at the Noank Fire Station, Noank, Connecticut.				
Connecticut	Stonington, Town, New London County (Docket No. FEMA-6521).	Fishers Island	Murphy Point	*13
			Pine Point	*13
			Ram Point	*15
			Entire shoreline of Baker Island	*16
			Southern end of Joyce Street extended	*13
			Latimer Point	*16
			Entire shoreline of Quambog Cove	*11
			Lords Point	*16
			Stonington Harbor south of CONRAIL	*14
			Stonington Harbor north of CONRAIL	*13
			Palmer Neck Road extended	*16
			Pawcatuck Point	*16
Maps available for inspection at the Building Inspector's in the Town Clerk's Office, Stonington, Connecticut.				
Connecticut	Stonington, Borough New London County (Docket No. FEMA-6499).	Fishers Island Sound	Shoreline of Stonington Harbor at High Street extended.	*14
			Shoreline at Water Street extended	*16
			Shoreline at South Street extended	*14
			Shoreline at Sandy Point	*16
Maps available for inspection at the Planning and Zoning Office in the Borough Hall, Stonington, Connecticut.				
Florida	Anna Maria (City) Manatee County (FEMA-6401)	Gulf of Mexico Open Coast and Tampa Bay.	300 feet north from the center of the western intersection of North Shore Drive and Bay Boulevard.	*14
			300 feet west from the center of intersection of Fern Street and North Shore Drive.	*13
			200 feet southwest from the center of intersection of Coconut Avenue and Palm Drive.	*12
			Center of intersection of Tuna Street and Cypress Avenue.	*11
			Center of intersection of Rose Street and Jacavanda Road.	*10
			Center of intersection of Maxine Place and Magnolia Avenue.	*9
Maps available for inspection at Public Works Department, 1005 Gulf Drive, Anna Maria, Florida.				
Florida	Dade County (unincorporated areas) (FEMA-6492)	Atlantic Ocean	At the intersection of Collins Avenue and Biscayne Street.	*9
			100 feet North of Bear Cut Bridge along Crandon Blvd	*13
			100 feet east of Petrel Point	*18
		Biscayne Bay	At the intersection of 190th Street and North Bay Road.	*6
			At the intersection of S. Miami Avenue and U.S. Highway 41.	*12
Maps available for inspection at Metro Dade Department of Environmental Resources Management, 909 SE 1st Avenue, 4th Floor, Brickell Plaza, Miami, Florida.				
Florida	Ft. Pierce (City) St. Lucie County (FEMA-6509)	Atlantic Ocean	At the center of intersection of Porpoise Avenue and Granda Street.	*7
			At the center of intersection of Melody Lane and Atlantic Avenue.	*8
			At the center of intersection of North 2nd Street and Port Ave.	*9
			100 feet east from the center of intersection of Port Avenue and Harbor Street.	*10
Maps available for inspection at City Hall, Ft. Pierce, Florida.				
Florida	Holmes Beach (City) Manatee County (FEMA-6401)	Gulf of Mexico Sarasota Pass and Tampa Bay.	75 feet west from the center of intersection of 36th Street and 3rd Avenue.	*14
			180 feet west from the center of intersection of 29th Street and Avenue E.	*12
			Center of intersection of 3rd Avenue W and 45th Street.	*11
			Center of intersection of Ague Lane and White Avenue.	*10
			Center of intersection of Marina Drive and 71st Street	*9
Maps available for inspection at City Hall, 5901 Marina Drive, Holmes Beach, Florida.				

State	City/Town/County	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Florida	Jupiter Island (town) Martin County (FEMA-6509)	Atlantic Ocean	200 feet west from the center of intersection of Linx Road and Grassy Trail.	*6
			400 feet east from the center of intersection of Allen Trail and North Beach Road.	*11
Maps available for inspection at Town Hall, Town of Jupiter Island, Hobe Sound, Florida.				
Florida	Martin County (unincorporated areas) (FEMA-6509)	Atlantic Ocean	At the center of the intersection of Laurel Lane and Bridge Road.	*6
			At the center of the intersection of Palmetto Terrace and Pine Lake Drive.	*7
			At the center of the intersection of Williams Way and Leonard Lane.	*8
			At the center of the intersection Skyline Drive and Indian River Drive.	*9
		Lake Okeechobee	At the confluence of St. Lucie Canal with Lake Okeechobee.	*23
Maps available for inspection at Engineering Department, 50 Kindred Street, 3rd Floor, Stuart, Florida.				
Florida	Seminole (City) Pinellas County (FEMA-6521)	Boca Ciega Bay	200 feet south from center of intersection of North Seminole Drive and State Highway 595.	*10
			Center of intersection of State Highway 595 (46th Avenue North) and 94th Street.	*11
			700 feet east from center of intersection of 94th Street and 46th Avenue North, along 46th Avenue North.	*13
		Lake Seminole	Easternmost end of Lake Vista Drive Loop	*11
Maps available for inspection at City Hall, 7464 Ridge Road, Seminole, Florida.				
Florida	St. Lucie County (unincorporated areas) FEMA-6509	Atlantic Ocean	At the center of the intersection of Las Olas Drive North and Elmar Drive.	*7
			At the center of the intersectin of Osceola Boulevard and Banyan Road.	*9
Maps available for inspection at Development Coordinator's Office, 2300 Virginia Avenue, Ft. Pierce, Flordia.				
Florida	Venice (City) Sarasota County (FEMA-6521)	Gulf of Mexico	Center of intersection of Firenze Avenue and Riviera Street.	*11
			100 feet west from center of intersection of Esplanade North and Tarpon Center Drive.	*12
			200 feet west from center of intersection of Granada Avenue and Esplanade North.	*15
			300 feet west from center of intersection of Granada Avenue and Esplanade North.	*17
Maps available for inspection at Building Inspector Department, 401 West Venice Avenue, Venice, Florida.				
Georgia	City of Fort Oglethorpe, Catoosa County (FEMA-6492).	Black Branch	Just downstream of State Highway 2A and Battlefield Parkway.	*705
			Just downstream of Van Cleve	*715
		Tributary No. 1 To Black Branch	*Just upstream of Elaine Circle	*714
		Tributary No. 2 To Black Branch	*Just downstream of LaFayette Road (U.S. Highway 27).	*736
			Just downstream of Old LaFayette Road	*740
			Just upstream of Coffman Drive	*752
		Tributary No. 3 To Black Branch	*Just downstream of Cross Street	*718
		West Chickamaiga Creek	Just downstream of Southern Corporate Limits (Upstream Crossing).	*692
Maps available for inspection at City Hall, Code Enforcement Office, 201 Forest Road, Fort Oglethorpe, Georgia 30742.				
Illinois	(V) Bath Mason County (Docket No. FEMA-6526)	Illinois River	Within the corporate limits	*452
Maps available for inspection at the Parrott's Restaurant, Bath, Illinois.				
Illinois	(Uninc.) Calhoun County (Docket No. FEMA-6521)	Illinois River	Just upstream of State Route 100	*440
			At upstream County Boundary	*442
		Mississippi River	About 2 miles upstream of confluence of Illinois River	*441
			About 2.5 miles upstream of Lock & Dam No. 24	*459
Maps available for inspection at the County Clerk's Office, Hardin, Illinois.				
Illinois	(V) Clay City Clay County (Docket No. FEMA-6521)	Little Wabash River	About 0.6 mile upstream of Cheesio System	*429
			About 0.5 mile upstream of Main Street	*432
Maps available for inspection at the Village Hall, 140 South Main Street, Clay City, Illinois.				
Illinois	(C) Edwardsville Madison County (Docket No. FEMA-6521).	Mooney Creek	About 250 feet downstream of Kiowa Street	*475
			Just downstream of Dunlap Lake Dam	*486
			Just upstream of Dunlap Lake Dam	*514
			Just downstream of East Lake Drive	*518
		Cahokia Creek	Just upstream of Old Edwardsville Road	*456
			About 650 feet upstream of Springfield Road	*458
Maps available for inspection at the City Clerk's Office, 400 North Main Street, Edwardsville, Illinois.				
Illinois	(Uninc.) Gallatin County (Docket No. FEMA-6521)	Ohio River	Just upstream confluence of Saline River	*365
			At confluence of Wabash River	*369
Maps available for inspection at the Clerk's Office, Gallatin County Courthouse, Shawneetown, Illinois.				

State	City/Town/County	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Illinois	(V) Gardner Grundy County (Docket No. FEMA-6521)	Illinois Central Gulf Railroad Ditch	Just upstream of State Route 53	*585
			About 0.3 mile upstream of East Street	*589
Maps available for inspection at the Village Hall, Major and Center Streets, Gardner, Illinois.				
Illinois	(V) Hainesville Lake County (Docket No. FEMA-6521)	Squaw Creek	Within corporate limits	*783
		Shallow Flooding	Northeast section of community (about 1,100 feet south, 600 feet east of intersection of Hainesville Road and Washington Street).	*783
Maps available for inspection at the Village Hall, Hainesville, Illinois.				
Illinois	Jersey County (Docket No. FEMA-6521)	Mississippi River	At downstream County Boundary	*438
			About 3.3 miles upstream of confluence of Illinois River.	*441
		Illinois River	At mouth	*440
			about 6.0 miles above mouth	*441
			About 1.8 miles upstream of confluence of Macoupin Creek.	*440
Maps available for inspection at the County Clerk's Office, County Courthouse, 201 W. Pearl, Jerseyville, Illinois.				
Illinois	(Uninc.) Jo Daviess Couty (Docket No. FEMA-6521)	Mississippi River	At downstream County Boundary	*600
			About 0.7 mile upstream of Illinois Central Gulf Railroad.	*611
		Galena River	At mouth	*604
			About 0.9 mile upstream of County Route 3	*619
		Hughlett Branch	At City of Galena corporate limits	*624
			About 250 feet upstream of the City of Galena corporate limits.	*626
Maps available for inspection at the Jo Daviess County Clerk's Office, Jo Daviess County Courthouse, Galena, Illinois.				
Illinois	(V) Junction, Gallatin County (Docket No. FEMA-6521).	Ohio River	Within the corporate limits	*367
Maps available for inspection at the Clerk's Office, Village Hall, Junction, Illinois.				
Illinois	(Uninc.) Marshall County (Docket No. FEMA-6521)	Illinois River	About 0.7 mile downstream of Atchison, Topeka and Santa Fe Railway.	*460
			Upstream County Boundary	*462
Maps available for inspection at the Marshall County Courthouse, Lacon, Illinois.				
Illinois	(Uninc.) Mason County (Docket No. FEMA-6521)	Illinois River	Downstream County Boundary	*450
			Upstream County Boundary	*455
Maps available for inspection at the Zoning Administrator's Office, County Building, Main and Broadway Streets, Havana, Illinois.				
Illinois	(V) Sparland, Marshall County (Docket No. FEMA-6521).	Illinois River	Within corporate limits	*461
Maps available for inspection at the Village Hall, 123 Center Street, Sparland, Illinois				
Illinois	(C) Sycamore, DeKalb County (Docket No. FEMA-6521).	South Branch Kishwaukee River	About 0.21 mile upstream of Rich Road	*834
			About 0.21 mile downstream of Bethany Road	*836
		East Branch Kishwaukee River	About 0.5 mile downstream of Brickville Road	*826
			About 0.4 mile upstream of State Route 64	*837
Maps available for inspection at City Clerk's Office, Sycamore Municipal Building, Sycamore, Illinois.				
Illinois	(Uninc.) Woodford County (Docket No. FEMA-6521)	Illinois River	Within the County Boundary	*460
Maps available for inspection at the Woodford County Courthouse, Eureka, Illinois.				
Indiana	(Uninc.) Jackson County (Dokct No. FEMA-6521)	East Fork White River	About 1.0 mile downstream of confluence with Medora Creek.	*523
			About 1.8 miles upstream of U.S. Highway 31A	*579
		Little Salt	Just upstream of State Highway 135	*615
			Just downstream of State Highway 258	*642
		Hough Creek	Just upstream of Cheesie System	*541
			Just downstream of Venus Road	*578
		Runt Run	Just upstream of Abandoned Railroad	*640
			Just downstream of State Highway 258°	*643
		Grassy Creek	Just upstream of County Road 600 South	*531
			Just downstream of Interstate 65	*547
		Blau Ditch	Mouth at Grassy Creek	*531
			About 2,000 feet upstream of U.S. Highway 31	*545
		Kiper Creek	Mouth at Little Salt Creek	*616
			About 1.22 miles upstream of County Road 660 North	*659
		Hound Hollow Creek	Mouth at Kiper Creek	*629
			About 0.63 mile upstream of County Road 550 West	*677
		Medora Creek	Mouth at East Fork White River	*523
			About 100 feet upstream of Town of Medora corporate limit.	*525
		Vernon Fork Muscatatuck River	Just upstream of County Road 600 South	*531
			At confluence with East Arm Tributary	*533
		South Fork Medora Creek	At Town of Medora corporate limits	*531
			About 800 feet upstream of Town of Medora corporate limits.	*534
		Shallow Flooding (Overflow from South Fork Medora Creek).	South and west of intersection of Cheesie System with Western corporate limits of Town of Medora.	#1

State	City/Town/County	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Shallow Flooding (Overflow from Medora Creek).	At western corporate limits of Town of Medora (near Main Street).	#2
Maps available for inspection at the County Courthouse, Brownstown, Indiana.				
Indiana	(T) Medora Jackson County (Docket No. FEMA-6521)	Medora Creek	About 0.16 mile downstream of Washington Street	*524
			At northern corporate limit	*535
		South Fork Medora Creek	At mouth	*526
			About 0.22 mile upstream of Jackson Street	*532
		East Fork White River	Just downstream of State Highway 235	*524
			About 0.1 mile upstream of State Highway 235	*525
		Shallow Flooding (Overflow from South Fork Medora Creek).	Along southern corporate limits (south of Sparksville Road).	#1
			At western corporate limits just north of Chessie System.	#1
		Shallow Flooding (Overflow from Medora Creek).	South of Chessie System and east of State Highway 235.	#2
			Intersection of Adams Street and State Highway 235	#1
			Intersection of Main Street and Elm Street	#2
Maps available for inspection at the Town Hall, Medora, Indiana.				
Indiana	(C) Mount Vernon Posey County (Docket No. FEMA-6442).	Ohio River	Within the corporate limits	*372
Maps available for inspection at the City Hall, 526 Main Street, Mount Vernon, Indiana.				
Indiana	(C) Peru Miami County (Docket No. FEMA-6521)	Wabash River	About 1.14 miles downstream of U.S. Route 31	*633
			About 1.45 miles upstream of Wayne Street	*645
		Little Pipe Creek	Mouth at Wabash River	*634
			About 0.13 mile upstream of 200 South Road	*651
			Just upstream of Dam (about 200 feet upstream of Norfolk Southern Railway).	*675
			About 0.32 mile upstream of Norfolk Southern Railway	*682
		Parkview Heights Ditch	Just upstream of Bob Tail Pike	*704
			About 0.73 mile upstream of Bob Tail Pike	*734
Maps available for inspection at the Miami County Courthouse, Peru, Indiana.				
Indiana	(C) Wabash, Wabash County (Docket No. FEMA-6521).	Wabash River	About 1.1 miles downstream of River Street	*861
			About 1.45 miles upstream of Huntington Street	*867
Maps available for inspection at the City Hall, 111 South Wabash, Wabash, Indiana.				
Maine	Saco, City York County (Docket No. FEMA-6521)	Atlantic Ocean	Shoreline at Palmer Avenue extended	*19
			Shoreline at Brooke Avenue (extended)	*14
			Shoreline at Lower Beach Road (extended)	*15
		Saco River	Upstream Cataract Dam	*48
			Upstream Cataract Dam	*46
			Upstream Springs Dam	*57
			Upstream Interstate Route 95	*61
			Upstream State Route 5	*69
			Upstream corporate limits	*73
		Goosefare Brook	Approximately 0.5 mile downstream of Boston & Maine Railroad.	*9
			Downstream Boston & Maine Railroad	*10
			Upstream Old Orchard Road	*15
			Upstream Ocean Park Road	*20
			Ross Road	*26
			Approximately 150' downstream U.S. Route 1	*30
Maps available for inspection at the Building Inspector's Office, City Hall, 300 Main Street, Saco, Maine.				
Massachusetts	Fall River, City Bristol County (Docket No. FEMA-6509).	Mount Hope Bay	Shoreline at I-95 bridge	*21
			Shoreline at Middle Street extended	20
			Shoreline at Mount Hope Avenue extended	*20
		Taulton River	At shoreline south of Brightman Street bridge	*21
			Shoreline north of Brightman Street bridge	*15
Maps available for inspection at the City Hall, 1 Government Center, Fall River, Massachusetts.				
Massachusetts	New Bedford, City Bristol County (Docket No. FEMA-6509).	Buzzards Bay	Shoreline at Norman Street extended	*19
			Shoreline at Lucas Street extended	*18
			Shoreline at Osborn Street extended	*18
			Shoreline at Brook Avenue extended	*25
		Acushnet River	Entire shoreline within community	*6
Maps available for inspection at the Planning Office in the City Hall, New Bedford, Massachusetts.				
Michigan	(Twp) Highland Oakland County (Docket No. FEMA-6521).	Pettibone Creek	Downstream corporate limit	*957
			Just downstream of Livingston Road	*962
			Just upstream of Dam near Livingston Road	*975
			About 600 feet upstream of State Highway 59	*976
			Just upstream of Abandoned Dam (upstream of State Highway 59).	*985
			About 1,000 feet downstream of Harvey Lake Road	*991
			Just upstream of Harvey Lake Road	*997
			Just upstream of Dunleavy Drive	*998
		Harvey Lake	Shoreline	*1,001
		Duck Lake	Shoreline	*1,017
		White Lake	Shoreline	*1,021
Maps available for inspection at the Clerk's Office, Town Hall, 205 N. John Street, Highland, Michigan.				

State	City/Town/County	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Michigan	(C) Saline Washtenaw County (Docket No. FEMA-6362).	Saline River	About 2,300 feet downstream of Monroe Street	*737
			Just downstream of Michigan Avenue	*750
			Just upstream of Saline River Dam	*759
		Wood Outlet Drain	Mouth at Saline River	*759
			About 600 feet downstream of Saline Water Works Road.	*790
			Just upstream of North Ann Arbor Street	*796
			About 1.0 mile upstream of North Maple Street	*810
Maps available for inspection at the City Hall, 100 Harris Street, Saline, Michigan.				
Minnesota	(C) Middle River Marshall County (Docket No. FEMA-6521).	Middle River	Just downstream of Burlington Northern Railroad	*1,138
			About 2,350 feet upstream of 2nd Street	*1,141
Maps available for inspection at Office of the City Clerk, Community Building, Middle River, Minnesota.				
Minnesota	(Uninc. Areas) Winona County (Docket No. FEMA-6384).	Mississippi River	About 0.8 mile downstream of Interstate 90	*645
			Upstream county boundary	*668
		Whitewater River	At confluence with South Fork Whitewater River	*734
			About 0.3 mile upstream of confluence with South Fork Whitewater River.	*736
		North Fork Whitewater River	About 1.1 mile downstream of Township Road 29 (downstream crossing).	*759
			About 1,000 feet upstream of Township Road 29 (upstream crossing).	*784
		South Fork Whitewater River	About 300 feet downstream of the City of St. Charles corporate limits.	*1,109
			Just downstream of the City of St. Charles corporate limits.	*1,104
		Middle Fork Whitewater River	About 0.5 mile downstream of County Highway 39	*762
			About 150 feet downstream of Country Highway 39	*772
		Gilmore Creek	Mouth at Bolter Lake	*662
			About 100 feet downstream of U.S. Highway 14	*672
			About 0.8 mile downstream of Loucks Drive	*704
			About 0.3 mile upstream of Speltz Drive	*740
		Homer Creek	Mouth at Mississippi River	*657
			About 1.5 miles upstream of County Highway 15	*788
		Pleasant Valley Creek	Just upstream of County Highway 15	*662
			About 1,000 feet upstream of Meadowbrook Drive	*929
		Burns Valley Creek-East Burns Valley Creek.	About 0.8 mile upstream of County Road 105	*684
			About 1,400 feet upstream of confluence of West Burns Valley Creek.	*700
		West Burns Valley Creek	At confluence with Burns Valley Creek	*695
			About 0.4 mile upstream of confluence with Burns Valley Creek.	*704
		Speltz Creek	At confluence with Rollingstone Creek	*718
			Just upstream of Winona Road	*719
			About 1.0 mile upstream of Winona Road	*730
		Rollingstone	About 1,250 feet upstream of State Highway 248 (downstream crossing).	*718
			About 1.0 mile upstream of State Route 248 (upstream crossing).	*731
		Peterson Creek	At confluence with Garvin Brook	*670
			About 0.4 mile upstream of U.S. Highway 14	*911
		South Creek	At City of Dakota corporate limits	*688
			About 150 feet upstream of City of Dakota corporate limits.	*691
		West Tributary	About 0.4 mile upstream of U.S. Highway 14	*781
			About 150 feet upstream of City of Stockton corporate limits.	*825
		Garvin Brook	About 1.3 miles upstream of mouth (at Minnesota City corporate limits).	*671
			Just downstream of Chicago and North Western Railroad.	*685
			Just upstream of Chicago and North Western Railroad	*690
			About 1.2 miles upstream of Chicago and North Western Railroad.	*694
			About 550 feet downstream of confluence of West Tributary.	*766
			About 0.2 miles downstream of County Road 120 (downstream crossing).	*837
			About 0.6 mile upstream of County Road 120 (upstream crossing).	*907
		Crooked Slough	Around the City of Winona	*654
		Bolters Lake	Shoreline	*662
		Shallow Flooding (overflow from Gilmore Creek).	Between left bank levee along Gilmore Creek and Good-view Road.	*662
Maps available for inspection at the Zoning Administrator's Office, Winona County Courthouse, 203 West Third Street, Winona, Minnesota.				
Missouri	(C) Cedar City, Callaway County, (Docket No. FEMA-6521).	Missouri River	About 0.28 mile downstream of US Highway 54	*556
			About 1,000 feet upstream of confluence of Turkey Creek.	*558
Maps available for inspection at the Fire Station, Cedar City, Missouri.				

State	City/Town/County	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Nevada	Carlin (City), Elko County, FEMA-6509	Humboldt River	75 feet upstream from the center of Western Pacific Railroad.	*4,889
Maps available for inspection at the City Clerk's Office, City Hall, Carlin, Nevada.				
Nevada	Elko County (Unincorporated Areas), FEMA-6509	Kittridge Creek	150 feet upstream of Interstate Highway 80 (U.S. Highway 40) Westbound.	*5,127
			200 feet north of the intersection of 7th Street and Seminole Road.	*5,236
		North Fork Humboldt River (Main Channel).	100 feet upstream of the Southern Pacific Railroad	*5,178
			100 feet downstream of Old U.S. Highway 40	*5,190
		North Fork Humboldt River Auxiliary Channel.	150 feet upstream of Interstate Highway 80 (U.S. Highway 40) Westbound.	*5,193
		Humboldt River (at Carlin)	500 feet north of the intersection of State Highway 51 and the Western Pacific Railroad.	*4,884
		Humboldt River (at Elko)	50 feet downstream of the Western Pacific Railroad	*5,046
		Humboldt River Overflow	50 feet upstream of Western Pacific Railroad	*5,048
		Shallow Flooding	500 feet southwest along Western Pacific Railroad from the Western Pacific Railroad crossing of Humboldt River Overflow.	#2
Maps available at the Department of Engineering, Elko County Courthouse, Elko, Nevada.				
Nevada	Elko (city), Elko County, FEMA-6509	Humboldt River	Intersection of Wilson Avenue and Lamoille Road	*5,056
			100 feet upstream of 12th Street	*5,080
Maps available for inspection at City Engineer's Office, 1751 College Avenue, Elko, Nevada.				
Nevada	Reno (City), Washoe County, FEMA-6485	Truckee River	150 feet upstream from centerline of South Rock Boulevard.	*4,414
			50 feet upstream from centerline of Kietzke Lane	*4,449
			50 feet upstream from centerline of Booth Street	*4,512
			100 feet upstream from centerline of Diversion Dam	*4,553
			210 feet upstream from centerline of Mayberry Dr.	*4,615
		Steamboat Creek	25 feet South of upstream Corporate Limit	*4,414
		Dry Creek	125 feet downstream from centerline of Panorama Dr.	*4,508
		Boynton Slouth	200 feet upstream from centerline of McCarran Boulevard.	*4,393
Maps available for inspection at City Clerk's Office, City Hall, 490 South Center, Room 209, Reno, Nevada.				
New Jersey	Bedminster, Township, Somerset County, (Docket No. FEMA-6492).	Lamington River	Confluence with North Branch Raritan River	*86
			Lamington Road (upstream side)	*96
			Lamington River Road (upstream side)	*106
			Interstate Route 78 (upstream side)	*115
			Lamington Road (2nd crossing) (upstream side)	*130
			Black River Road (1st crossing) (upstream side)	*150
			McCanemil Road (upstream side)	*166
			Approximately 2,200 feet upstream of Herzog Brook	*206
			Access Road (upstream side)	*222
			Approximately 470 feet downstream of the upstream corporate limits.	*241
			Upstream corporate limits	*254
		North Branch Raritan River	Confluence of Chambers Brook	*80
			Confluence of Lamington River	*86
			Confluence of Middle Brook	*96
			Klines Mill Road (upstream side)	*103
			U. S. Routes 202 and 206 (upstream side)	*117
			Approximately 3,900 feet upstream of the AT&T access roads.	*127
			U. S. Route 202 (upstream side)	*139
			Peapack Road (upstream side)	*153
			Upstream corporate limits	*162
		Chambers Brook	Downstream corporate limits	*80
			Airport Road (upstream side)	*85
			Country Club Road (upstream side)	*107
			Approximately 1,100 feet downstream of Interstate Route 287.	*124
			Approximately 620 feet upstream of Interstate Route 287.	*144
			Upstream Routes 202 and 206 (upstream side)	*171
			Upstream corporate limits	*190
		Middle Brook	Confluence with North Branch Raritan River	*96
			Confluence of Hoopstick Brook	*101
			Upstream dam (2nd)	*121
			Lamington Road (upstream side)	*137
			Footbridge (upstream side)	*163
			Upstream dam (4th)	*176
			Approximately 1,420 feet upstream of 4th dam	*196
			Approximately 85 feet upstream of Spook Hollow Road.	*213
		Cluces Brook	Confluence with North Branch Raritan River	*104
			Approximately 7,200 feet upstream of confluence with North Branch Raritan River.	*124
			Approximately 60 feet upstream of Lamington Road	*149
		Peapack Brook	Confluence with North Branch Raritan River	*152
			Upstream corporate limits	*163
		Herzog Brook	Confluence with Lamington River	*194

State	City/Town/County	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Hoopstick Brook	Approximately 60 feet upstream of Pottersville Road	*220
			Confluence with Middle Brook	*101
			Footbridge (upstream side)	*122
			Approximately 50 feet upstream of Lamington Road	*136
Maps available for inspection at the Municipal Building, Hillside Avenue, Bedminster, New Jersey.				
New Jersey	Bridgeton, City, Cumberland County (Docket No. FEMA-6521).	Cohansey River	Downstream corporate limits	*9
			Upstream corporate limits	*10
		Mill Creek/Indian Field Branch	At confluence with Cohansey River	*9
			Downstream Commerce Street/East Lake Dam and Spillway.	*18
			At confluence of Jacksons Run	*27
			Downstream of North Burlington Road	*41
			Upstream corporate limits	*46
		Jacksons Run	At confluence with East Lake	*27
			At Kingsway	*52
			Upstream corporate limits	*56
		Sunset Lake	Entire area within community	*20
		Raceway	Entire length within community	*18
		Jacksons Run (shallow flooding)	400 feet upstream of confluence with East Lake to Orchard Street.	#2
Maps available for inspection at the City Hall Annex, 168 East Commerce Street, Bridgeton, New Jersey.				
New Jersey	Byram, Township, Sussex County (Docket No. FEMA-6509).	Musconetcong River	Downstream corporate limits	*643
			Downstream Access Road between CONRAIL and Lubbers Run.	*655
			Corporate limits upstream of Chesnut Road extended	*711
			Corporate limits at CONRAIL bridge upstream of Lake Musconetcong.	*870
		Lubbers Run	Confluence with Musconetcong River	*661
			Upstream of U.S. Route 206	*685
			Upstream of Mansfield Drive	*714
			Upstream of Dam at Lake Lackawanna	*722
			Downstream of Lake Drive	*723
			Upstream of Spillway which is upstream of Lackawanna Drive.	*786
			Upstream of Old Stanhope Road	*809
Maps available for inspection at the Municipal Building, 10 Mansfield Drive, Byram, New Jersey.				
New Jersey	Deal, Borough, Monmouth County (Docket No. FEMA-6509).	Atlantic Ocean	Entire shoreline within community	*13
		Deal Lake	Entire shoreline within community	*11
Maps available for inspection at the Municipal Building, Durant Square, Deal, New Jersey.				
New Jersey	Lavallette, Borough, Ocean County (Docket No. FEMA-6521).	Atlantic Ocean	Entire shoreline within community	*13
		Barnegat Bay	Entire shoreline of harbor	*7
			Swan Point Road (extended)	*8
Maps available for inspection at the Borough Hall, Brooklyn and Grant Avenues (Route 35 N), Lavallette, New Jersey.				
New Jersey	Lebanon, Township, Hunterdon County (Docket No. FEMA-6499).	South Branch Raritan River	Downstream corporate limits	*327
			CONRAIL (upstream side)	*411
			Hoffmans Crossing Road (upstream)	*442
			Approximately 300 feet upstream of confluence of Little Brook.	*451
			Vernon Road (downstream side)	*487
			Upstream corporate limits	*489
		Musconetcong	State Route 31 Access Road (upstream side)	*346
			Springtown Road (upstream side)	*357
			Downstream Footbridge (downstream side)	*364
			Approximately 150 feet downstream of confluence of Derry Run.	*377
			Mowder Road (upstream side)	*384
			Mowder Hill Road (upstream side)	*395
			Penwell Road (upstream side)	*413
			Upstream corporate limits	*424
		Spruce Run	Van Syckels Corner Road	*275
			Confluence of Rocky Run	*302
			Approximately 50 feet upstream of 2nd Private Drive (upstream side).	*327
			Upstream corporate limits	*365
		Rocky Run	Confluence with Spruce Run	*302
			Approximately 75 feet upstream of CONRAIL	*336
			Private Drive (downstream side)	*426
			Rocky Run Road (upstream side)	*473
			Approximately 1,235 feet upstream of Rocky Run Road.	*530
		Willoughby Brook	Confluence with Spruce Run Reservoir	*275
			State Route 31 (upstream side)	*276
			Most downstream corporate limits	*293
			Downstream footbridge (upstream side)	*365
			Upstream footbridge (downstream side)	*440
			Approximately 60' upstream of upstream crossing of Buffalo Hollow Road (upstream side).	*467
Maps available for inspection at the Municipal Building, Hill Road at Wood Glen, Lebanon, New Jersey.				

State	City/Town/County	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
New Jersey	Long Branch, City, Monmouth County, (Docket No. FEMA-6509).	Atlantic Ocean	Atlantic Avenue (extended)	*14
			Sea View Avenue (extended)	*14
			Avery Avenue (extended)	*13
			Lincoln Avenue (extended)	*13
		Manhasset Creek	Narragansett Avenue (extended)	*11
		Branchport Creek	Seventh Avenue (extended)	*10
			Grand Avenue (extended)	*9
Maps available for inspection at the Office of the Planning Department, City Hall Annex, 344 Broadway, Long Branch, New Jersey.				
New Jersey	Manteloking, Borough, Ocean County, (Docket No. FEMA-6509).	Atlantic Ocean	Entire shoreline within community	*13
		Barnegat Bay	Entire shoreline of Barnegat Bay within community	*7
Maps available for inspection at the Municipal Building, Downer and Bay Avenues, Manteloking, New Jersey.				
New Jersey	Sea Girt, Borough, Monmouth County, (Docket No. FEMA-6521).	Atlantic Ocean	Entire shoreline within community	*13
			Wreck Pond at Second Avenue extended	*9
			Wreck Pond at CONRAIL bridge	*10
			Wreck Pond at State Route 71	*9
Maps available for inspection at the Municipal Building, 4th and Baltimore Avenue, Sea Girt, New Jersey.				
New Jersey	Seaside Park, Borough, Ocean County, (Docket No. FEMA-6509).	Atlantic Ocean	Entire Atlantic Ocean shoreline within community	*13
		Barnegat Bay	Entire Barnegat Bay shoreline within community	*7
Maps available for inspection at the Municipal Building, Sixth and Central Avenues, Seaside Park, New Jersey.				
New Mexico	City of Las Cruces, Dona Ana County (FEMA-6521)	Flow Path 1	Just upstream of Elks Drive	*4,010
			Just downstream of Interstate Highway 25	*4,066
			Just upstream of Del Rey Boulevard	*4,060
		Flow Path 2	Just downstream of U.S. Highways 70 and 82	*3,971
			Just upstream of Triviz Drive	*4,043
			Just upstream of Don Roser Drive	*4,067
		Flow Path 3	Just downstream of Roadrunner Road	*4,131
		Flow Path 4	Just downstream of U.S. Highway 70 and 82 (Main Street).	*3,916
			Just downstream of Mesquite Street	*3,919
		Flow Path 5	Just downstream of Mesquite Street	*3,915
			Just upstream of Solano Drive	*3,930
		Flow Path 6	Just upstream of Conway Avenue	*3,862
			Just downstream of May Avenue	*3,894
			Just upstream of Van Patten Avenue	*3,898
		Flow Path 7	Just upstream of Park View Drive	*3,887
			Just upstream of Perkins Drive (upstream most crossing).	*3,891
		Flow Path 8	Just downstream of Roadrunner Expressway	*4,143
		Flow Path 9	Approximately 300 feet upstream of centerline of Government Dam.	*4,105
		Flow Path 10	Just upstream of Interstate Highway 25	*4,009
		Flow Path 11	Just upstream of Stern Drive	*3,920
			Just downstream of Frontage Road	*3,925
		Flow Path 12	Just downstream of Interstate Highway 25	*3,948
			Just upstream of Las Alturas Road	*3,964
		Flow Path 13	Just downstream of Farney Drive	*3,865
		Flow Path 15	Just upstream of West Hadley Avenue	*3,891
			Just upstream of U.S. Highways 70 and 80 (West Picacho Avenue).	*3,896
Maps available for inspection at City Engineering Department, City-County Building, 575 S. Alameda, Las Cruces, New Mexico 88004.				
New York	Angelica, Village, Allegany County (Docket No. FEMA-6499).	Angelica Creek	Downstream corporate limits	*1,358
			Upstream Olean Street	*1,410
			Upstream Peacock Hill Road	*1,430
			Upstream corporate limits	*1,445
		Tributary A-1	Confluence with Angelica Creek	*1,435
			Downstream Common Road (North Street)	*1,506
Maps available for inspection at the Village Office, White Street, Angelica, New York.				
New York	Macedon, Town, Wayne County (Docket No. FEMA-6521).	Canargua Creek	Approximately 470 feet downstream of Village of Macedon corporate limits.	*456
			At upstream Village of Macedon corporate limits	*470
			Upstream of Canandaigua Road	*478
			Upstream of Nolan Road	*486
			Upstream of Victor Road	*499
			Upstream of footbridge	*504
			At upstream corporate limits	*511
		New York State Barge Canal	Approximately .26 mile downstream of Village of Macedon corporate limits.	*448
			Upstream of Canandaigua Road	*464
			At upstream corporate limits	*464
Maps available for inspection at the Town Hall, 30 West Main Street, Macedon, New York.				

State	City/Town/County	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Hudson River	Downstream corporate limits	*61
			Upstream of Mechanicville bridge	*63
			Upstream corporate limits	*63

Maps available for inspection at the City Hall, 32 North Main Street, Mechanicville, New York.

New York	Onondaga, Town, Onondaga County (Docket No. FEMA-6521).	Onondaga Creek	Downstream corporate limits	*421
			Roswell Avenue (extended)	*426
			Upstream corporate limits	*433
		Harbor Brook	Approximately 850 feet downstream of Farm Road	*781
			Harris Road (upstream side)	*863
			Approximately 1,900 feet upstream of Harris Road	*869

Maps available for inspection at the Town Hall, 4801 West Seneca Turnpike, Syracuse, New York

New York	Poughkeepsie, City, Dutchess County (Docket No. FEMA-6509).	Hudson River	Entire shoreline within community	*9
		Fall Kill Creek	Howard Street	*182
			Upstream corporate limits	*182
		Casper Kill Creek	Downstream corporate limits	*123
			Upstream corporate limits	*127

Maps available for inspection at the City Clerk's Office, Municipal Building, Poughkeepsie, New York.

New York	Roslyn, Village, Nassau County (Docket No. FEMA-6499).	Hempstead Harbor	Hempstead Harbor shoreline and entrance to Roslyn Channel	*17

Map available for inspection at the Village Hall, 1 Paper Mill Road, Roslyn, New York.

New York	Round Lake, Village, Saratoga County (Docket No. FEMA-6509).	Ballston Creek	Confluence with Round Lake	*160
			Upstream of Goldfoot Road	*163
			Upstream corporate limits	*164
		Round Lake	Entire shoreline within community	*160

Maps available for inspection at the Village Hall, Burling Avenue, Round Lake, New York.

New York	Stillwater, Village, Saratoga County (Docket No. FEMA-6509).	Schuyler Creek	Confluence with Hudson River	*83
			Upstream corporate limits	*94
		Hudson River	Downstream corporate limits	*82
			Upstream of dam	*92
			Upstream corporate limits	*94

Maps available for inspection at the Village Hall, School Street, Stillwater, New York.

New York	Utica, City, Oneida County (Docket No. FEMA-6470)	Mohawk River	Downstream corporate limits	*407
			Downstream North Genesee Street	*409
			Upstream North-South Arterial Highway	*414
		Sauquoit Creek	Downstream corporate limits	*487
			Upstream State Route 5 East	*508
			Upstream third spillway	*520
			Upstream Genesee Street	*534
			Upstream third CONRAIL crossing	*550
			Upstream corporate limits	*567
		Reall Creek	Confluence with New York State Barge Canal	*409
			Upstream North Genesee Street	*418
			Upstream New York State Thruway	*424
			Upstream Trenton Avenue	*434
			Upstream corporate limits	*446
		Nail Creek	Confluence with Mohawk River	*414
			Upstream Alder Street	*481
			Downstream second CONRAIL crossing	*502
			Approximately 500' upstream of Genesee Street	*543
			Upstream Oneida Street	*617
			Upstream corporate limits	*627
		Starch Factory Creek	Confluence with Mohawk River	*407
			Downstream East-West Arterial Highway	*417
			Upstream of second CONRAIL crossing	*439
			Upstream Rutger Street	*453
			Upstream Ludlow Avenue	*489
			Upstream Albany Street	*511
			Approximately 2,800 feet upstream of Albany Street	*550
			Upstream South Park Drive	*581
			Upstream corporate limits	*594
		Tributary to Sauquoit Creek	Downstream corporate limits	*516
			Upstream corporate limits	*516

Maps available for inspection at the City Engineer's Office, City Hall, 1 Kennedy Plaza, Utica, New York.

New York	Valley Stream, Village, Nassau County (Docket No. FEMA-6247).	Valley Stream	Downstream Corporate Limits	*11
			Valley Stream Boulevard (upstream side)	*16
			Footbridge and Weir (upstream side)	*19
			Hendrickson Avenue (upstream side)	*21
		Motts Creek	Downstream Corporate Limits	*11
			Rockaway Avenue (upstream side)	*12
			Argyle Street (upstream side)	*24
			Franklin Avenue (upstream side)	*30

Maps available for inspection at the Village Hall, 123 South Central Avenue, Valley Stream, New York.

Ohio	(V) Cleves, Hamilton County, (Docket No. FEMA-6526).	Great Miami River	Within community	*490

Maps available for inspection at the Clerk Treasurer's Office, Municipal Building, 101 North Miami Avenue, Cleves, Ohio.

State	City/Town/County	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Ohio	(V) Jamestown, Greene County, (Docket No. FEMA-6526).	Caesar Creek	About 0.38 mile downstream of South Charleston Road.	*1,050
			About 0.15 mile upstream of South Charleston Road	*1,053
		South Branch Caesar Creek	About 0.42 mile downstream of State Route 72	*1,043
			About 0.27 mile upstream of Chessie System	*1,053
Maps available for inspection at the Mayor's Office, Six East Xenia Street, Jamestown, Ohio.				
Ohio	(Uninc.) Jefferson County (Docket No. FEMA-6526)	Ohio River	About 0.6 mile downstream of confluence of Short Creek.	*663
			At north county boundary	*663
		Yellow Creek	At mouth at Ohio River	*662
			At confluence of North Fork Yellow Creek	*664
		North Fork Yellow Creek	At confluence with Yellow Creek	*664
			About 0.6 mile upstream of State Route 213	*690
		Wills Creek	At mouth at Ohio River	*672
			About 150 feet downstream of confluence of Cedar Creek.	*696
			Just upstream of Ross Ridge Alikanna Road (downstream crossing).	*709
			About 650 feet upstream of upstream crossing of Ross Ridge Alikanna Road.	*835
		Cross Creek	Just upstream of State Route 7	*666
			Just upstream of confluence of Dry Fork	*686
			Just upstream of Mingo Junction Goulds Road (third crossing).	*712
		Short Creek	At mouth at Ohio River	*663
			Just downstream of State Route 150 (about 0.9 mile upstream of confluence of Little Short Creek.	*667
			Just upstream of confluence of Jug Run	*718
			Just downstream of Norfolk Southern Railway (upstream of Dillonvale-Longrun Road).	*776
		Piney Fork	About 350 feet downstream of County Boundary	*664
			At mouth at Short Creek	*727
			About 1,500 feet upstream of State Route 150	*735
Maps available for inspection at the Regional Planning Commission, Adams & Eighth Street, Steubenville, Ohio.				
Ohio	(V) Marblehead, Ottawa County (Docket No. FEMA-6384).	Lake Erie	Within corporate limits	*578
Maps available for inspection at the Mayor's Office, 513 West Main Street, Marblehead, Ohio.				
Ohio	(V) Terrace Park, Hamilton County (Docket No. FEMA-6526).	Little Miami River	About 1.1 miles downstream of confluence of East Fork River.	506
			About 1,000 feet downstream of U.S. Route 50	*522
Maps available for inspection at the Terrace Park Municipal Building, 428 Elm Street, Terrace Park, Ohio 45174.				
Ohio	(Uninc.) Wood County (Docket No. FEMA-6526)	Maumee River	At City of Rossford upstream corporate limits	*579
			Just downstream of Ohio Turnpike	*580
			Just upstream of Interstate 475	*593
		Portage River	About 0.65 mile upstream of Providence Dam	*646
			Just upstream of U.S. Route 23	*636
		Middle Branch Portage River	At confluence of South Branch Portage River	*663
			At confluence of South Branch Portage River	*663
		North Branch Portage River	About 600 feet downstream of Solether Road	*676
			About 1,000 feet downstream of Place Road	*686
			About 1.6 miles downstream of Kohring Road	*646
			Just downstream of State Route 199	*654
			Just upstream of Gypsy Lane Road	*668
		East Branch Portage River	About 700 feet upstream of Portage Road	*676
			Just upstream of Eagleville Road	*729
		Ayers Creek	About 2,400 feet upstream of Stearns Road	*753
			Just upstream of Fostoria Road	*602
		Cedar Creek	About 600 feet downstream of Interstate 280	*617
			About 600 feet upstream of State Route 579	*600
		Little Cedar Creek	About 0.6 mile upstream of Interstate 280	*612
			At confluence with Cedar Creek	*604
			Just upstream of Interstate 280	*613
			Just downstream of Conrail (near Ayers Road)	*616
			Just upstream of Conrail (near Ayers Road)	*621
		Crane Creek	Just upstream of State Route 51	*610
			About 1,800 feet upstream of State Route 51	*611
		Dry Creek	About 400 feet upstream of State Route 579	*605
			About 400 feet downstream of State Route	*626
		Grassy Creek	Just upstream of City of Rossford upstream corporate limits.	*600
			Just downstream of State Route 795	*620
		Rocky Ford Creek	Just upstream of Jerry City Road	*692
			About 1,500 feet upstream of Front Street	*701
			Just upstream of Interstate 75	*712
		Rocky Ford Creek Tributary	About 0.5 mile upstream of State Route 18	*726
			At confluence with Rocky Ford Creek	*726
			Just upstream of West Park Road	*727

State	City/Town/County	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Sister Creek	Just downstream of Dam	*628
			Just upstream of Dam	*646
		Sugar Creek	Just downstream of State Route 235	*648
			At mouth at Maumee River	*628
			Just downstream of Dam	*629
			Just upstream of Dam	*646
			About 200 feet downstream of Sugar Creek Road	*653
Maps available for inspection at the Wood County Planning Commission, Courthouse Square, Bowling Green, Ohio.				
Oregon	The Dalles (City), Wasco County, FEMA-6526	Mill Creek	Intersection of W. Sixth Street and Stream	*102
			100 feet upstream from center of Wright Drive	*224
		Threemile Creek	25 feet upstream from center of Columbia River Highway.	*114
		Columbia River	At the mouth of Threemile Creek	*87
Maps available for inspection at Building Department, 313 Court Street, The Dalles, Oregon 97058.				
Oregon	Veneta (City), Lane County, FEMA-6526	Long Tom River	90 feet west from center of intersection Territorial Highway and Jeans Road.	*362
Maps available for inspection at City Hall, 24951 McCutcheon, Veneta, Oregon.				
Pennsylvania	Blair, Township Blair County (Docket No. FEMA-6526)	Beaverdam Branch Juniata River	Confluence with Frankstown Branch Juniata River	*927
			Approximately 850 feet upstream of confluence of Brush Run.	*934
			Approximately 950 feet downstream of Park Street (extended).	*954
			At corporate limits located Just downstream of U.S. Route 220.	*969
		Frankstown Branch Juniata River	Downstream of Township Route 405	*927
			Upstream of Legislative Route 07012	*933
			Approximately 2,100 feet upstream of CONRAIL	*944
			Approximately 2,200 feet downstream of Township Route 373.	*958
			Approximately 580 feet upstream of corporate limits	*997
		Halter Creek	Confluence with Frankstown Branch Juniata River	*990
			Most upstream corporate limits	*1,032
		Popular Run	At confluence with Frankstown Branch Juniata River	*965
			Upstream of U.S. Route 220	*1,030
			At upstream corporate limits	*1,044
		Brush Run	Upstream of U.S. Route 22	*936
			Downstream of Scotch Valley Road	*942
Maps available for inspection at the Blair Township Building, Duncansville, Pennsylvania.				
Pennsylvania	Buffalo, Township, Butler County (Docket No. FEMA-6526).	Little Bull Creek	Downstream corporate limits	*1,046
			Upstream Hranica Road bridge	*1,064
			1,480 feet upstream Hranica Road bridge	*1,072
Maps available for inspection at the Buffalo Township Building, 19 Bear Creek Road, Server, Pennsylvania.				
Pennsylvania	East Brandywine, Township, Chester County (Docket No. FEMA-6526).	Beaver Creek	Downstream corporate limits	*355
			Upstream of Bondsville Road	*425
			Upstream of Hadfield Road (2nd crossing)	*451
			Upstream of East Reeceville Road	*479
			Upstream corporate limits	*482
		East Branch of Brandywine Creek	Downstream corporate limits	*252
			Upstream of Dowlin Forge Road	*269
			Upstream of Dorlans Mill Road	*284
			Upstream of Reeds Road	*306
			Upstream of Lyndell Road	*329
			Upstream corporate limits	*343
Maps available for inspection at the East Brandywine Municipal Building, 1214 Horseshoe Pike, Downingtown, Pennsylvania.				
Pennsylvania	East Nantmeal, Township, Chester County (Docket No. FEMA-6526).	Beaver Run	Approximately 450 feet downstream of Fairview Road	*377
			Upstream of Fairview Road	*385
			Approximately 220' downstream of Horseshoe Trail	*437
Maps available for inspection at the Township Building, Elverson, Pennsylvania.				
Pennsylvania	Fawn, Township, Allegheny County (Docket No. FEMA-6526).	Bull Creek	Downstream corporate limits	*766
			Upstream side of Bull Creek Road bridge (Allegheny bridge No. 2).	*804
			Upstream side of Bull Creek Road bridge located approximately 0.3 mile upstream of confluence of Howes Run.	*823
			Upstream side of Lardintown Road bridge	*839
			Upstream side of most upstream Thompson Road bridge.	*885
			Upstream corporate limits	*895
		Tributary to Bull Creek	Confluence with Bull Creek	*843
			Upstream side of Bull Creek Road bridge	*852
			Upstream corporate limits	*992
Maps available at the Fawn Township Building, Howes Run Road, Tarentum, Pennsylvania.				
Pennsylvania	Newry, Borough, Blair County (Docket No. FEMA-6526).	Poplar Run	Corporate limits (extended)	*1,019
			Approximately 530' upstream of corporate limits (extended).	*1,023
Maps available for inspection at the Borough Building, Newry, Pennsylvania.				

State	City/Town/County	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Pennsylvania	Silverdale, Borough, Bucks County (Docket No. FEMA-6509).	Pleasant Spring Creek Tributary	Downstream corporate limits	*402
			Upstream of State Route 152/Walnut Street	*418
			Downstream of State Route 113/East Main Street	*432
			Upstream corporate limits	*441
Maps available for inspection at the Borough Building, Silverdale, Pennsylvania.				
Pennsylvania	West Marlborough, Township, Chester County (Docket No. FEMA-6526).	Doe Run	Downstream corporate limits	*284
			Upstream State Route 82	*296
			Upstream Spring Dell-Doe Run Road	*320
			Upstream corporate limits	*339
Maps available for inspection at the West Marlborough Township Building, Route 82, Coatesville, Pennsylvania.				
South Carolina	Unincorporated Areas of Charleston County (FEMA-6470).	Atlantic Ocean/South Santee River.	Just downstream of U.S. Highways 17 & 701	*14
		Atlantic Ocean	*At the confluence of Jeremy Creek with the Intracoastal Waterway near the Town of McClellanville.	*17
			At the intersection of U.S. Highways 17 and 701 and State Highway 1335.	*12
			At the intersection of State Highway 51 and Porcher Bluff Road.	*10
		Atlantic Ocean/Wando River	Just downstream of State Highway 41 along the north bank of the river.	*11
			Just downstream of State Highway 86	*9
		Atlantic Ocean/Charleston Harbor	At the intersection of Wampler Street and Sterling Drive.	*14
			At the intersection of Beauregard Street and Clear View Drive.	*14
		Atlantic Ocean/James Island Creek.	Just upstream of Harbor View Road	*16
		Atlantic Ocean/Ashley River	Just upstream of State Highway 7	*11
			At the intersection of Hutton Place and Ashley Hall Road.	*9
			Just upstream of Seaboard Coastline Railroad	*9
		Atlantic Ocean/Stono River	Just downstream of State Highway 700	*12
			Just downstream of State Highway 20 (John's Island Road).	*9
		Atlantic Ocean Rantowles Creek	Just upstream of Seaboard Coastline Railroad	*9
		Atlantic Ocean/Wadmalaw River	Approximately 1.95 miles southeast of the intersection of State Highways 89 and 174 along State Highway 89.	*14
		Atlantic Ocean/ Bohicket Creek	At State Highway 1443 extended	*12
		Atlantic Ocean/Toogoodoo Creek	At Ethel Road extended	*10
		Atlantic Ocean/Dawho Creek	At the intersection of State Highways 174 and 89	*8
		Atlantic Ocean/South Edisto River	At Racoon Island Road extended	*16
		Atlantic Ocean/Fishing Creek near St. Pierre.	Just downstream of the Seaboard Coastline Railroad	*12
			At State Highway 767 extended	*17
Maps available for inspection at Building Inspections Office, County Office Building, 2 Courthouse Square, Charleston, South Carolina 29401.				
South Carolina	Town of Meggett, Charleston County (FEMA-6526)	Atlantic Ocean	Approximately 500 feet south of intersection of Seaboard Coastline Railroad and County Road 1846 along County Road 1846.	*9
			Approximately 100 feet east of intersection of Donaldson Street and Church Street along Donaldson Street.	*8
Maps available for inspection at Mayor's Office, Masonic Hall, Meggett, South Carolina 29460.				
South Carolina	City of North Charleston, Charleston County (FEMA-6470).	Atlantic Ocean/Cooper River	At the confluence of Cooper River and Filbin Creek	*13
		Atlantic Ocean/Ashley River	Approximately 3,000 feet west of Dorchester Road and Bream Street intersection along Bream Street.	*9
Maps available for inspection at Planning and Management Department, City Hall, 4900 Lacross Road, North Charleston, South Carolina 29411.				
West Virginia	Logan County (Docket No. FEMA-6526)	Guyandotte River	Downstream County boundary	*627
			Downstream County Route 8	*648
			Upstream County Route 12	*658
			Upstream County Route 10-18	*682
			Upstream County Route 10-4	*711
			At upstream corporate limits of the Town of Man	*732
			At upstream County boundary	*759
		Crawley Creek	At confluence with Guyandotte River	*635
			Upstream County Route 3-9	*639
			Upstream County Route 3	*663
			Approximately 250' downstream of confluence of Brushy Fork.	*692
		Mud Fork	Confluence with Coppers Mine Fork	*675
			Upstream of third upstream Chessie System bridge	*692
			Confluence of Ellis Branch	*711
			Upstream of fourth upstream Chessie System bridge	*753
			Upstream County Route 41	*772
			Upstream of fifth upstream Chessie System bridge	*804
			Upstream of second upstream County Route 5 bridge	*830
		Copperas Mine Fork	Downstream of confluence of Right Hand Branch	*863
			Downstream of confluence of Brush Camp Fork	*910
			Confluence with Island Creek	*675
			Upstream County Route 9-1	*698
			Upstream of third upstream Chessie System bridge	*727

State	City/Town/County	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Upstream of abandoned railroad bridge	*745
			Upstream County Route 9–2	*784
			Upstream of third upstream County Route 9–2	*802
			Approximately 0.33 mile upstream of fourth upstream County Route 9–2.	*828
		Island Creek	Confluence with Guyandotte River	*661
			Upstream County Route 119–9	*668
			Upstream County Route 52	*714
			Upstream of third upstream State Route 44	*737
			Upstream of fourth upstream State Route 44	*760
			Upstream County Route 119–16	*772
			Upstream of second upstream County Route 119–16	*784
			Upstream of fifth upstream Chessie System	*815
			Confluence of Cow Creek	*842
			Approximately 0.29 mile upstream of confluence of Cow Creek.	*851
		Big Harts Creek	Downstream County boundary	*640
			Downstream County Route 5–8	*666
			Downstream County Route 18	*691
			At County Route 5–7	*727
			Approximately 0.60 mile upstream of County Route 5–7.	*762
			Confluence of Briar Branch	*807
			Approximately 260 feet upstream of Tobin Branch confluence.	*824
			Approximately 0.52 mile upstream of Tomblin Branch confluence.	*871
		Big Creek	Confluence with Guyandotte River	*630
			At County Route 4	*650
			At second upstream County Route 7	*672
			Upstream County Route 88	*702
			Confluence of Rock Lick Branch	*734
		Big Creek	Confluence of Hainer Branch	*777
			Approximately .47 mile upstream of confluence of Hainer Branch.	*801
		Trace Fork	Confluence with Big Creek	*646
			Upstream State Route 119	*656
			Approximately 200 feet upstream of upstream County boundary.	*670
		North Fork Big Creek	Confluence with Big Creek	*640
			Confluence of Chapman Branch	*702
			At upstream County boundary	*729
		Buffalo Creek	At downstream corporate limits	*757
			Upstream County Route 16–9	*804
			Upstream 2nd upstream County Route 16	*843
			At 1st upstream Access Road	*879
			Confluence of Robinette Branch	*942
			Upstream 4th upstream Access Road	*977
			Confluence of Cartwright Branch	*1,026
			Upstream County Route 68	*1,063
			Confluence of Upper Road Branch	*1,136
			Approximately 3,550 feet upstream of confluence of Upper Road Branch.	*1,163
		Right Fork Buffalo Creek	Confluence with Buffalo Creek	*630
			Approximately .55 mile upstream of confluence with Buffalo Creek.	*665
			Upstream County Route 16–1	*901
			Approximately .44 mile upstream of County Route 16–1.	*940
			Approximately .96 mile upstream of County Route 16–1.	*987
			Approximately 1.25 miles upstream of County Route 16–1.	*1,014
		Huff Creek	Confluence with Guyandotte River	*733
			Confluence of Green Branch	*750
			Upstream County Route 10	*784
			Upstream County Route 10–6	*819
			Confluence of Dolliver Branch	*836
			Confluence of Sandlick Branch	*873
			Confluence of Hollow Log Branch	*905
			Upstream of third upstream Access Road	*940
			At upstream County boundary	*974
		Big Springs Branch	Confluence with Huff Creek	*791
			Approximately .33 mile upstream of confluence with Huff Creek.	*832
			Approximately .63 mile upstream of confluence with Huff Creek.	*877

Maps available for inspection at the County Courthouse, Logan, West Virginia.

West Virginia	Princeton, City, Mercer County (Docket No. FEMA–6499).	Brush Creek	Downstream corporate limits	*2,386
			Downstream Thorn Street bridge	*2,388
			Upstream Brick Street bridge	*2,389
			Upstream Ingleside Road bridge	*2,390
			Upstream corporate limits	*2,393
		Daves Fork	At confluence with Brush Creek	*2,389
			Upstream Athens Road bridge	*2,393
			Upstream Thorn Street bridge	*2,396
		Glady Fork	Approximately .10 mile upstream Prince Street bridge	*2,396
			At confluence with Brush Creek	*2,391
			Upstream Old Bluefield-Princeton Road bridge	*2,397

State	City/Town/County	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Upstream Bluefield Road bridge	*2,400
			Approximately .66 mile upstream Bluefield Road bridge	*2,408
Maps available for inspection at the Municipal Building, Princeton, West Virginia.				
West Virginia	Triadelphia, Town, Ohio County (Docket No. FEMA-6528).	Little Wheeling Creek	Downstream corporate limits	*703
			Upstream of Middle Wheeling Creek Road	*717
			Upstream of U.S. Route 40 (downstream crossing)	*756
			Upstream corporate limits	*782
		Middle Wheeling Creek	Confluence with Little Wheeling Creek	*712
			At Interstate Route 70	*714
			Upstream corporate limits	*758
Maps available for inspection at the Triadelphia Town Hall, Triadelphia, West Virginia.				
West Virginia	Williamson, City, Mingo County (Docket No. FEMA-6526).	Tug Fork	Downstream corporate limits	*664
			Upstream U.S. Route 119 bridge	*668
			Upstream Norfolk & Western Railway bridge	*671
			Upstream corporate limits	*674
Maps available for inspection at the City Hall (old Amtrack Building), Route 52, Williamson, West Virginia.				
Wisconsin	(C) Evansville, Rock County, (Docket No. FEMA-6528).	Allen County	About 1.0 mile downstream of Water Street	*861
			Just downstream of Lake Leota Dam	*903
			Just upstream of Lake Leota Dam	*909
			About 2000 feet upstream Lake Leota Dam	*910
Maps available for inspection at the City Hall, 31 South Madison Street, Evansville, Wisconsin.				
Wisconsin	(C) Gillett, Oconto County, (Docket No. FEMA-6526)	Christie Brook	About 0.72 mile downstream of North Green Bay Avenue.	*765
			About 0.56 mile upstream of Mckenzie Avenue	*804
Maps available for inspection at the Building Inspector's Office, City Hall, Gillett, Wisconsin.				
Wisconsin	(V) Lac La Belle, Waukesha County, (Docket No. FEMA-6526).	Lac La Belle	At Shoreline	*854
Maps available for inspection at the Clerk's Office, Village Hall, 850 Summit Avenue, Lac La Belle, Wisconsin.				
Wisconsin	(V) Osceola, Polk County, (Docket No. FEMA-6526)	St. Croix River	About 1.7 miles downstream of State Highway 243	*702
			About 1.2 miles upstream of State Highway 243	*704
Maps available for inspection at the Village Administrator's Office, Municipal Building, Osceola, Wisconsin 54020.				
Wisconsin	(V) Whiting, Portage County, (Docket No. FEMA-6526).	Wisconsin River	Just downstream of Whiting-Plover Dam	*1,047
			Just upstream of Whiting-Plover Dam	*1,054
			Just upstream of Wisconsin River Division Dam	*1,069
			About 1.0 mile upstream of Wisconsin River Division Dam.	*1,071
Maps available for inspection at City Hall, 3600 Church Street, Whiting, Wisconsin.				
Wisconsin	(V) Wyocena, Columbia County, (Docket No. FEMA-6470).	Duck Creek	Just upstream of Private Drive	*794
			Just downstream of Dam	*795
			Just upstream of Dam	*800
			At upstream corporate limits	*803
Maps available for inspection at the Village Hall, Wyocena, Wisconsin.				

The base (100-year) flood elevations are finalized in the communities listed below. Elevations at selected locations in each community are shown. Appeals of the proposed base flood elevations were received and have been resolved by the Agency.

State	City/Town/County	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Colorado	Manitou Springs (City), El Paso County, FEMA-6262	Fountain Creek	Intersection of Creek and Beckers Lane	*6,196
			Intersection of Manitou Avenue and Waltham Avenue	*6,375
		Sutherland Creek	Intersection of Sutherland Road and Crystal Park Place.	*6,320
		Williams Canyon	Intersection of Canon Avenue and Grand Avenue	*6,380
		Ruxton Creek	Intersection of Creek and Ruxton Avenue	*6,539
Maps available for inspection at Town Hall, 606 Manitou Avenue, Manitou Springs, Colorado.				
Delaware	Sussex County, (Docket No. FEMA-6384)	Atlantic Ocean	From Cape Henlopen to approximately 2.18 miles south of Indian River Inlet.	*13
			From approximately 2.18 miles south of Indian River Inlet to approximately 0.23 mile south of Bethany Beach southern corporate limits.	*12
			From approximately 0.23 mile south of Bethany Beach southern corporate limits to approximately 0.07 mile south of South Bethany southern corporate limits.	*11

State	City/Town/County	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			From approximately 0.07 mile south of South Bethany southern corporate limits to state boundary.	*13
		Delaware Bay	Entire shoreline within county	*13
Maps available for inspection at the Office of Planning and Zoning, Sussex County Courthouse, Georgetown, Delaware.				
Louisiana	City of Shreveport, Caddo Parish, (FEMA-6356)	Red River	Just downstream of 70th Street	*162
			Just upstream of the Long Allen Bridge	*166
		Cross Bayou	Approximately 1,400 feet downstream of Hearne Avenue (LA Highway 3094).	*168
			Just upstream of the Texas and Pacific Railroad	*167
		Twelve Mile Bayou	Approximately 4,800 feet upstream of State Highway 3094.	*169
			Just upstream of U.S. Highway 71	*170
		Cross Bayon Lateral	Just downstream of Hotzman Street	*171
			Just upstream of Abbie Street	*175
		McCain Creek (backwater effects from Twelve Mile Bayou).	Just upstream of Interstate Highway 220	*169
			Just upstream of Cooper Road	*170
		Country Club Lateral	Just downstream of Lake Shore Drive	*176
			Just upstream of Hassett Avenue extended	*187
		Galaxy Lateral	Just upstream of Jefferson Paige Road	*196
		Bickham Bayou	Just upstream of South Lakeshore Drive	*176
			Approximately 300 feet upstream of Yontan Road	*205
		Boggy Bayou	At the confluence with Gilmer Bayou	*170
		Gilmer Bayou	Just downstream of Colquitt Road	*171
			Just upstream of Flournoy-Lucas Road	*182
			Just upstream of Burncombe Road	*218
		Southwood High Lateral (backwater effects from Gilmer Bayou).	At the confluence with Gilmer Bayou	*182
		Industrial Park Lateral	Just upstream of Texas Pacific Railroad (abandoned)	*177
			Just upstream of Buncombe Road	*206
			Just downstream of Industrial Loop Expressway	*208
		Francis Shirley Lateral	At the confluence with Industrial Park Lateral	*207
		Lincoln Memorial Park Lateral	Just downstream of Buncombe Road	*206
		Brush Bayou	Just upstream of U.S. Highway 171	*186
			Just upstream of West 70th Street	*192
			At Meadow Avenue	*198
		Brookwood Lateral	Just downstream of Kingston Road	*170
			Just upstream of Acacia Lane	*176
		75th Street Drainage Ditch	Just upstream of Wyngate Circle	*184
			Just upstream of Wallace Avenue	*190
		Airport Ditch	Just downstream of Southern Pacific Railroad	*186
			At Jewella Road	*194
			Just upstream of Texas and Pacific Railroad	*204
			Just upstream of Meriwether Road	*230
		Hollywood Lateral	Just upstream of West 70th Street	*200
			Just upstream of Powell-Broadway Street	*209
			Just downstream of Kennedy Street	*213
		Werner Park Lateral	Just upstream of Waggoner Street	*201
			Just downstream of Bibb Street	*211
		Southern Hills Lateral	Just upstream of Darlington Court extended	*172
			Just downstream of Southern Pacific Railroad	*184
		Bayou Pierre	Just upstream of Flournoy-Lucas Road	*160
			Just downstream of Ockley Drive	*164
			Just upstream of Ockley Drive	*166
			Just upstream of King's Highway	*169
		Bayou Pierre Lateral (Gilbert Ditch)	Approximately 100 feet upstream of Radcliff Street	*168
			Approximately 80 feet upstream of Wilder Street	*173
		Ockley Ditch	Just upstream of Line Avenue	*172
			Just upstream of Kansas City Southern Railroad	*190
		Sand Beach Bayou	Just downstream of Industrial Loop Expressway	*160
		South Broadmoor Lateral	Just upstream of Village Green Drive extended	*160
			Just upstream of State Highway 1	*160
		Old River	Just upstream of State Highway 1	*160
			Just downstream of East 70th Street	*167
		Cross Lake	The entire shoreline	*176
Maps available for inspection at City Engineer's Office, City Hall Annex, 1237 Murphy Avenue, Shreveport, Louisiana 71130.				
New Jersey	Piscataway, Township, Middlesex County, (Docket No. FEMA-6470).	Raritan River	Downstream of State Route 18	*16
		Ambrose Brook	Upstream of Fieldville Dam	*30
			Upstream of Possumtown Road (first crossing)	*43
			Upstream of confluence of Dotys Brook	*51
			Upstream of lake Nelson Dam	*62
			Upstream of Stelton Road	*78
		Dotys Brook	Downstream of South Randolphville Road	*50
			Upstream of Earthen Dam	*62
			Upstream of South Washington Avenue	*68
			Downstream of Stelton Road	*86
		Bound Brook	Upstream of South Avenue	*50
			Upstream of New Market Lake Dam	*59
			Downstream of New Brunswick Avenue	*61
		Bonygutt Brook	Downstream of Hazelwood Place	*58
			Upstream of Chestnut Place	*63
			Upstream of Leslie Avenue	*66
Maps available for inspection at the Municipal Building, Hoes Road and Sidney Road, Piscataway, New Jersey.				
New Jersey	River Edge, Borough, Bergen County, (Docket No. FEMA-6449).	Hackensack River	Upstream corporate limits	*12
			River Edge Road (downstream side)	*10

State	City/Town/County	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Coles Brook	New Bridge Road	*9
			Confluence with Hackensack River	*9
		Van Saun Mill Brook	Johnson Avenue (downstream side)	*12
			Confluence of Van Saun Mill Brook	*16
			Confluence with Coles Brook	*16
			Howland Avenue (downstream side)	*29
			Access Road upstream of Herring Brook (downstream side).	*32
			Continental Avenue (upstream side)	*46
Maps available for inspection at the Borough Hall, 705 Kinderkamack Road, River Edge, New Jersey.				
New York	Ilion, Village, Herkimer County, (Docket No. FEMA-6470).	Mohawk River	Upstream corporate limits	*385
			Upstream Central Avenue	*385
			Downstream corporate limits	*385
Maps available for inspection at the Village Clerk's Office, Village Hall, 45 Morgan Street, Ilion, New York.				
North Carolina	Unincorporated areas of Forsyth County (FEMA-6856).	Abbotts Creek	Just upstream of U.S. Highway 311	*808
			Just upstream of Watkins Ford Road (SR 2824)	*824
			Just upstream of Ogden Road	*851
		Bear Creek	Just upstream of Old Salem Road	*885
			Just downstream of Walker Road	*909
			Just downstream of Upper Dam	*926
			Just upstream of Upper Dam	*936
		Bill Branch	Just upstream of Spicewood Drive (North Carolina State Road 1434).	*732
		Carestaff Branch	Just upstream of Whitemore Drive	*960
		Cuddyburn Branch	Just upstream of U.S. Highway 311	*816
		Fairway 14 Branch	Just upstream of Uppermost Golf Cart Path	*875
		Fairway 7 Branch	Glenview Drive Extended	*969
		Fiddlers Creek	Just downstream of Teague Road	*751
			Just downstream of Oak Grove Road	*841
			Just upstream of Lake Valley Drive	*873
		Fiddlers Creek Tributary	Approximately 150 feet upstream of confluence with Fiddlers Creek.	*817
		Frazier Creek	Largo Drive extended	*865
		Grassy Creek	Just upstream of North Carolina State Road 1669 (Ziglar Road).	*818
			Just upstream of U.S. Highway 52 (Northbound Lanes)	*837
			Summit Street Extended	*867
		Harmon Mill Creek	Just upstream of Farm Road	*840
			Just upstream of I-40	*855
			Just upstream of U.S. Highway 150	*875
		Idlewild Road Branch	Approximately 300 feet upstream of New U.S. Highway 311 bypass.	*828
			Approximately 100 feet downstream of Watkins Ford Road.	*841
			Approximately 100 feet upstream of Watkins Ford Road.	*858
		James Branch	Just upstream of Hilltop Drive	*777
		Johnson Creek	Approximately 100 feet upstream of Tanglewood Park Road (State Road 3003).	*662
			Schaefer Court Extended	*709
		Johnson Creek Tributary	Tanglebrook Trail Extended	*694
		Kerners Mill Creek	Just upstream of Hopkins Road	*873
		Knights Road Branch	State Road 2830 Extended	*868
		Leak Creek	Just upstream of State Road 150	*725
			Just upstream of U.S. Highway 52 (Northbound Lanes)	*754
		Little Creek	Just upstream of Jonestown Road	*711
		Lowery Mill Creek	Approximately 200 feet upstream of U.S. Highway 158	*853
			Swain Lake Drive Extended	*877
		Martin Mill Creek	Ches Lane Extended	*863
		Mill Creek	Just upstream of Shattalon Road (Flooding at this location is affected by backwater from Muddy Creek).	*749
			Just upstream of Old Rural Hall Road	*823
			Just upstream of Beux Mountain Road	*844
			Just upstream of Davis Road	*872
		Mill Creek No. 3	Approximately 50 feet upstream of High Cliffs Road (State Road 1794).	*796
			Just upstream of Bowens Road (State Road 1825)	*843
		Millhaven Creek	Just downstream of Dam	*756
			Just upstream of Dam	*767
		Muddy Creek	Just downstream of Cooper Road	*692
			Just upstream of U.S. Highway 158 (Clemmons Road)	*706
			Just upstream of Robinhood Road	*747
			Just upstream of Yadkinville Road (State Road 1525)	*764
			Just upstream of North Carolina State Road 65	*784
			Just upstream of Jeff Trail	*805
			Just upstream of Griffin Road (State Road 1632)	*847
			Just upstream of Tobaccoville Road	*878
			Just downstream of Booze Road	*915
		Oil Mill Branch	Just upstream of Spicewood Road (North Carolina State Road 1434).	*784
		Parkers Creek	Approximately 150 feet upstream of Griffin Road (State Road 1632).	*853
		Petree Creek	Approximately 80 feet downstream of Petree Road	*752
			Just upstream of Petree Road	*764
		Pinetree Branch	Just downstream of Teague Road (North Carolina State Road 2680).	*838

State	City/Town/County	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Just downstream of Middle Dam	*871
			Just upstream of Middle Dam	*882
		Reynolds Creek	Approximately 100 feet downstream of Lewisville-Clemmons Road.	*736
			Approximately 150 feet upstream of Lewisville-Clemmons Road.	*746
		Rich Fork	Just upstream of U.S. Highway 311	*831
			Approximately 200 feet upstream of New U.S. Highway 311 (under construction).	*863
		Robindale Branch	Just upstream of Robbin Road (North Caroline State Road 2677).	*815
			Jayson Lane Extended	*839
		St. Delight Branch	Approximately 750 feet downstream of Townsend Road.	*890
		Salem Creek	Approximately 100 feet upstream of Fraternity Chruch Road.	*696
			Just downstream of Clemmonsville Road	*706
		Sawmill Branch	Just upstream of Sawmill Road	*805
		Silas Creek	Approximately 200 feet upstream of Interstate Highway 40.	*716
			Approximately 150 feet upstream of Robinhood Road	*817
			Just upstream of Partridge Lane	*826
			Approximately 150 feet upstream of Reynolds Road	*850
			Just downstream of Reynolds Estate Dam	*868
		Soakas Creek	Just upstream of Southern Railway	*747
		South Fork Muddy Creek	Approximately 100 feet upstream of Ebert Road	*704
			Just downstream of North Carolina State Road 3011	*716
			Just upstream of North Carolina State Road 150	*721
			Just upstream of Winston-Salem Southbound Railroad	*736
			Just downstream of North Carolina State Road 2743 (Old Lexington Road).	*747
			Just downstream of State Road 109	*774
			Just upstream of Union Cross Road	*789
			Just upstream of New U.S. Highway 311	$815
			Rash Drive Extended	*870
		Swain Creek	Just upstream of Old U.S. Highway 311	*824
			Parnell Road Extended	*866
		Tomahawk Branch	Chickasha Road Extended	*701
		Vernon Branch	Approximately 100 feet upstream of Fox Meadow Lane.	*766
			Langden Road Extended	*776
		West Fork Deep River	Just upstream of North Carolina State Road 2602	*866
			Just upstream of North Carolina State Road 2603	*887
Maps available for inspection at Office of the Director of Planning, City-County Planning Board, Winston-Salem, City Hall, 101 North Main Street, Winston-Salem, North Carolina 27102.				
North Carolina	City of Winston-Salem, Forsyth County (FEMA-8356)	Ardmore School Branch	Just downstream of Revere Road	*789
			Just upstream of Revere Road	*801
			Just upstream of Kenwood Street	*807
			Just upstream of Martin Street	*847
		Berry Branch	Just upstream of upstreammost Golf Cart Path	*780
		Bethebera Branch	Just upstream of Bethebera Road	*789
		Bottom Branch Creek	Just upstream of Silas Creek Parkway	*780
			Just downstream of Westover Drive	*815
			Just upstream of Westover Drive	*821
		Bowen Boulevard Branch	Approximately 130 feet downstream of Attucks Street	*822
			Approximatley 100 feet downstream of 25th Street	*845
			Just upstream of 25th Street	*858
		Branner Lake Branch	Wood Valley Road Extended	*784
			Just downstream of Petree Road Extended (Winston-Salem Southern Corporate Limits).	*855
		Brushy Fork Branch	Just upstream of U.S. Highway 311	*838
			Just upstream of Butterfield Drive	*878
		Brushy Fork Creek	Just upstream of Southern Railway	*781
			Just upstream of Old Greensboro Road	*790
			Just upstream of U.S. Highway 311	*797
			Just upstream of Teresa Avenue	*827
		Buena Vista Branch	Just upstream of Pine Valley Road	*827
			Rugby Road Extended	*840
		Burke Creek	Just upstream of Burke Mill Road	*745
			Woodworth Drive Extended	*758
		Cloverleaf Branch	Just upstream of Stadium Drive	*774
		Dunegun Branch	Just downstream of Fire Road	*804
			Gilbert Street Extended	*813
		Fiddlers Creek	Just downstream of Teague Road	*751
			Just upstream of Thomasville Road	*770
			Just upstream of Cole Road	*790
			Just upstream of U.S. Highway 311	*808
		Fishers Branch	Just upstream of Sedge Garden Road	*836
		Fivemile Branch	Tekoe Lane Extended	*854
		Frazier Creek	Just upstream of Waterworks Road	*792
			Approximately 50 feet upstream of Winston Lake Park Road.	*818
			Just upstream of Besson Dairy Road	*849
		Grassy Creek	Just upstream of Becks Church Road	*790
		Hanes Park Branch	Just upstream of Northwest Boulevard	*792
			Just upstream of Buena Vista Road	*814
		Hines Lake Branch	Appoximately 50 feet downstream of Roseann Drive	*759
			Ferndale Avenue Extended	*833
		Kemers Mill Creek	Just downstream of Linville Road	*796

State	City/Town/County	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Just upstream of Linville Road	*805
		Knollwood Street Branch	Just downstream of Interstate 40	*810
			Just upstream of Hawthorne Road	*789
			Just downstream of Maplewood Drive	*800
		Leak Fork	Approximately 60 feet upstream of Patricia Lane	*857
			Just upstream of University Parkway	*796
			Just upstream of U.S. Highway 52	*822
			Just upstream of Motor Road	*845
		Little Creek	Just upstream of Patterson Avenue Extension	*809
			Just upstream of U.S. Highway 421	*798
			Just upstream of Silas Creek Parkway	*815
		Lowery Mill Creek	Just upstream of Old Goldsboro Road (flooding at this location is affected by backwater from Kemers Mill Creek).	*799
			Richards Avenue Extended	*814
		Martin Mill Creek	Just upstream of Walkertown Road	*825
		Mill Creek	Just upstream of Valleyview Road	*785
			Just downstream of Bethania Road	*782
			Just downstream of Shattalon Drive	*787
			Just upstream of University Parkway	*799
			Just upstream of Germanton Road	*813
		Mill Creek Tributary	Confluence with Mill Creek (flooding at this location is affected by backwater from Mill Creek).	*803
		Millhaven Creek	Approximately 40 feet upstream of Millhaven Road (North Carolina State Road 1358).	*777
			Tallison Drive Extended	*837
		Monarcus Creek	Just upstream of Old Town Road (Indiana Avenue Extended).	*794
			Just upstream of Bethabara Road	*808
			Approximately 150 feet upstream of Linn Station Road	*860
		Muddy Creek	Just upstream of U.S. Highway 421	*729
			Just upstream of Lewisville Road (State Road 1001)	*734
		Muddy Creek Tributary	Gatewood Drive Extended	*740
		North School Branch	Just upstream of Trade Street	*841
		Parkway Branch	Just upstream of Salisbury Road	*743
			Just upstream of South Main Street	*821
		Peters Creek	Just upstream of Link Road	*745
			Just upstream of Glade Street	*764
			Just downstream of Northwest Boulevard	*802
		Petree Creek	Just upstream of Huntingreen Road	*865
		St. Delight Branch	Jamar Drive Extended	*817
		Salem Creek	Just upstream of Ebert Street	*728
			Just upstream of Silas Creek Parkway	*743
			Just upstream of Vargrave Street	*779
			Just upstream of Reynolds Park Road	*772
		Silas Creek	Just upstream of Country Club Road	*771
		Soakas Creek	Just upstream of Barnes Road	*742
		South Fork Muddy Creek	Just upstream of State Road 8 (Main Street)	*731
			Just upstream of Winston-Salem Southbound Railroad	*736
			Just downstream of North Carolina State Road 2743	*747
		Stadium Branch	Just upstream of Diggs Boulevard	*790
		Terry Road Branch	Just upstream of Fire Road	*805
			Approximately 30 feet downstream of Private Dam	*842
			Just upstream of Private Dam	*852

Maps available for inspection at City Hall, Room 27, 101 North Main Street, Winston-Salem, North Carolina 27102.

Pennsylvania	Bridgeville, Borough, Allegheny County (Docket No. FEMA-6449).	Chartiers Creek	Downstream corporate limits	*821
			Upstream of Washington Avenue	*827
			Upstream corporate limits	*833
		McLaughlin Run	Confluence with Chartiers Creek Auxiliary Channel	*801
			Upstream of 1st crossing of McLaughlin Run Road	*827
			Upstream corporate limits	*850
		Chartiers Creek Auxiliary Channel	Downstream corporate limits	*797
			Upstream corporate limits	*801

Maps available for inspection at the Borough Municipal Building, Bridgeville, Pennsylvania.

Texas	Deer Park, City, Harris County (Docket No. FEMA-6431).	Buffalo Bayou Tidal Flooding Affecting Patrick Bayou.	At corporate limits	*11
		Buffalo Bayou Tidal Flooding Affecting Tucker Bayou.	Entire shoreline within corporate limits	*11
		Willow Springs Bayou	Downstream corporate limits	*23
			Downstream of Pasadena Boulevard	*27
		Tributary A to Willow Springs Bayou.	Downstream corporate limits	*24
		Tributary B to Willow Springs Bayou.	Pasadena Boulevard	*26
		East 13th Street Outfall Channel	Confluence with Patrick Bayou	*17
			Houston Light and Power Easement (downstream side).	*26

Maps available for inspection at City Hall, Deer Park, Texas.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: August 16, 1983.
Dave McLoughlin,
Deputy Associate Director, State and Local Programs and Support.
[FR Doc. 83-24782 Filed 9-12-83; 8:45 am]
BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[CC Docket No. 79-245; FCC 83-374]

American Telephone & Telegraph Co.; Manual and Procedures for the Allocation of Costs

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: This Order modifies the Interim Cost Allocation Manual (ICAM) used by AT&T to allocate costs among its interstate services. These changes in the ICAM are needed to make it consistent with our Access Charge Rules and to eliminate references to classes of equipment or services which will no longer be part of AT&T after the divestiture of its Operating Companies. This action updates the ICAM and gives AT&T allocation methods to follow in future tariff filings.

EFFECTIVE DATE: August 22, 1983

FOR FURTHER INFORMATION CONTACT: Leonard S. Sawicki, Common Carrier Bureau, (202) 632-6363.

Order

In the Matter of American Telephone & Telegraph Co., CC Docket No. 79-245; FCC 83-374, Manual and Procedures for the Allocation of Costs.

Adopted: August 4, 1983.
Released: August 22, 1983.

By the Commission.

I. Introduction

1. On May 18, 1983, the Commission released a Notice of Proposed Rulemaking in this proceeding. 48 FR 23854 (May 27, 1983). That Notice contained our proposals to modify the *Interim Cost Allocation Manual (ICAM)* for AT&T's interstate services so that the *ICAM* would reflect changes brought about by our Access Charge Order [1] and the divestiture of the Bell Operating Companies.[2] This proceeding is intended to make changes to the *ICAM* necessitated by those events. As we stated in the Notice, there are other issues pending in this docket which are not addressed here. Our intention is to reach those issues later. This Order makes adjustments to the *Manual* to enable the American Telephone & Telegraph Co. (AT&T) to file new interstate tariffs in October 1983, to be effective at divestiture proposed for January 1, 1984.

II. Summary of the Comments

2. Comments and replies were received from seven parties. AT&T agreed for the most part with the changes in the *ICAM* described in the *Notice*. It observed, however, that it does not believe that *ICAM* is an appropriate long-term regulatory tool. AT&T further stated that even for the October 3, 1983 filing the Commission may have to consider not holding AT&T to the strict equalized rate of return requirements associated with the *ICAM*. These "equalization" requirements require AT&T to attempt to earn the same rate of return from MTS, WATS and private lines. The Commission may have to consider a "permissible zone of reasonableness" for the rates of return of the individual services because changes in the *ICAM* and changes resulting from the divestiture may affect the allocations of cost in unexpected ways.

3. AT&T states that with one major exception (premium access) it has chosen the same allocation methodology for its October 3, 1983 filings as that proposed in the *Notice*. Further, because of time constraints, if the *ICAM* amendments finally adopted differ substantially from AT&T's assumptions, it will have to have to take account of such changes in early 1984.

4. AT&T has argued against the premium access charge in *Access Reconsideration*. Regarding the allocation of the premium access charge, AT&T states that there is "no method that is not arbitrary for allocating an expense which is itself determined in an uneconomic manner." AT&T Comments, p. 6. The use of conversation minutes proposed in the *Notice* as an allocator for the premium access element will cause major shifts in the allocation of costs between MTS and WATS thus compounding the premium access problem as viewed by AT&T. If the requirement to equalize the rates of return of MTS and WATS is enforced by the Commission, the major shift in cost allocation would give improper and transitory price signals. To avoid such an abrupt shift in the cost allocation, AT&T recommends the use of the relative number of MTS and WATS messages as a basis of allocation. AT&T says that the use of messages would give the desired result by not changing significantly the relative allocation of costs to these services, ameliorating customer impact related to the premium access expense. The use of minutes would cause a "temporary but dramatic shift in cost assignments and rates, if an inflexible equalization requirement is imposed." AT&T Comments, p. 8. AT&T further argues that, to the extent that there are differences in access provided to it and the OCCs, these differences deal with call "setup," not a call's duration, thus arguing for the use of messages as an allocator rather than minutes.

5. AT&T asserts that the Exchange Contract Services Category proposed in the Notice is not appropriate to the *ICAM*. The revenues and costs of the services and facilities provided to the divested Bell Operating Companies will not be part of AT&T interstate common carrier operations and thus will not be part of the interstate rate base or cost of service. These revenues and costs will be identified on its books of account, AT&T declares, and the FCC may monitor those amounts through means other than the *ICAM*.

6. AT&T then presents arguments supporting its position that *ICAM* "will serve no useful purpose in 1984 and beyond." AT&T Comments, p. 11. AT&T cites what it calls "pervasive competition" and low entry barriers to bolster its arguments.

7. GTE Sprint Communications Corporation, formerly Southern Pacific Communications Corporation, points to a "lack of clarity in a number of access expense allocation procedures [which] will inevitably lead to an overallocation of costs to the MTS category and an under allocation of costs to the WATS category." In particular GTE Sprint points to the lack of a reason for using only the open-end minutes of WATS in the allocation of the premium access charge. GTE Sprint contends that MTS will be burdened with greater expenses

[1] MTS/WATS Market Structure Inquiry, Third Report and Order, 48 F.R. 10319 (March 11, 1983).

[2] Modification of Final Judgment (MFJ), United States v. American Telephone & Telegraph Co., 552 F. Supp. 131 (D.D.C. 1982), aff'd sub nom. Maryland v. United States, 51 U.S.L.W. (March 1, 1983).

while the WATS rate base would be artificially decreased, thus eventually increasing the rate differential between the two services. This would be "inimical to promotion of full and fair competition." GTE Sprint Comments, p. 6. GTE Sprint recommends that the Commission either count both the open and closed ends of WATS lines or allocate the premium access amount based on the number of MTS and WATS calls.

8. GTE Sprint also argues that the allocation of common and dedicated transport expenses do not account for the distance factor discussed in the *Third Report and Order* in CC Docket No. 78–72 (Access Charge decision). GTE Sprint Comments, p. 8. It also asserts that the allocation of billing and collection costs is not specific enough. GTE Sprint believes that the "obscure language" will allow AT&T "to interpret the allocation procedures in a variety of ways which subsequently would allow it to vary the share of expenses allocated among the three service categories." GTE Sprint Comments, p. 9. In addition, GTE Sprint claims that the allocation procedure for transitional surcharges is more general than it should be and the difference in detail between their descriptions in the *Notice* in this proceeding and the *Third Report and Order* could lead to inconsistent allocations. "The Commission should consider allocating directly according to the percentages of credit card, collect calls and 800 Service to AT&T's respective service categories," argues GTE Sprint. Comments, p. 11.

9. United States Transmission Systems, Inc. (USTS) argues that this proceeding is misconceived, noting that it may prejudice outstanding issues in the Access Charge proceeding. Further, if changes need to be made in the *ICAM* because of reconsideration of access charges, another Notice would be needed here. This is a procedure the Commission said it will not follow, declares USTS. The interim procedures are flawed and amending them to aid divestiture is uncalled for, says USTS. USTS argues that AT&T can file new tariffs effectuating divestiture without changing the *ICAM*. USTS asserts that the Commission should apply accounting and costing procedures to the BOCs. USTS characterizes the FCC's proposal as "treacherous" and urges that the Notice be dropped.

10. ABC, CBS and NBC (the Networks) note that the program transmission facilities provided to them by AT&T are treated separately in the access charge plan and point out that they have asked that a separate category for those costs be created in the access rules "to eliminate the possibility of confusion" concerning the Commission's intent. Networks' comments, p. 4. The *ICAM* should conform to the Commission's intent in the *Third Report and Order* and the Commission should "ensure that only the costs which are actually attributable directly to program transmission are allocated to these services." Networks' Comments, p. 7, footnote omitted.

11. Satellite Business Systems (SBS) "strongly urges the Commission to provide for continued reporting by the divested BOCs as to their interstate access-related investments, expenses and revenues." SBS Comments, p. 1. It urges the Commission to promptly issue a Notice in this matter.

12. SBS argues for the collection of data on time-of-day (peak/off-peak) network utilization to support and evaluate the FCC's network efficiency-related decisions. Expenses, investments, revenues and rates of return should be calculated by the time of day in any permanent cost manual and in the *ICAM* if possible.

13. SBS argues that AT&T will end up paying a premium access charge that is actually far less than the nominal $1.4 billion amount stated in the Access Charge Order. SBS suggests that AT&T report, parenthetically, the actual amount of a premium charge it is paying over what it would otherwise pay. Also, the FCC should not anticipate Joint Board action as it does in the *Notice*, says SBS. Only actual, not planned separations, changes should be dealt with. Finally, SBS argues that more detailed rules should be promulgated for Exchange Contract Services.

14. The Ad Hoc Telecommunications Users Committee (Committee) generally agrees with the changes proposed with three major exceptions. First, the FCC should include any material changes from the access charge reconsideration in the *ICAM* and not accept the *Third Report and Order* as "given" as the Committee interprets the *Notice*. Second, the *ICAM* language should be more precise concerning Local Switching, Dedicated Transport and Special Access. Third, "General Services and Licenses" cost procedures should not be changed as they were in the *Notice*.

15. The Committee suggests that the revised *ICAM* should specify that LS–1 switching "should be allocated among all *ICAM* services that utilize such switching in proportion to the relative incidence of line termination costs among those same services." The Committee also believes that the *ICAM* should recognize that an open-end private line service may someday be offered over a higher feature trunk-side type switching arrangement. This would require the reallocation of some LS–2 costs, the Committee asserts. Finally, the Committee argues that the "General Services and Licenses" changes sacrifice detail, and suggests that they should be retained at least as they are now. In fact, the Committee declares the *ICAM* should be amended to require AT&T "to allocate such costs to the service categories and specific service offerings on the same cost causative basis and level of disaggregation as exist in AT&T's internal cost allocation systems." Committee Comments, p. 17.

16. In its Reply, the Committee writes that it agrees with the allocation of the premium access charge based on messages rather than minutes. The Committee remarks that while it "firmly is of the view that NTS costs are best recovered through flat rate charges, premium access does relate more directly to the costs of establishing an individual message than to the duration of the message." Committee Reply, p. 2. The Committee also observes that AT&T's "facts" concerning the "Competitiveness" of the interexchange transmission services market are not undisputed at this time. The Committee opines that the Commission needs to continue to rely on the *ICAM* and other aspects of tariff regulation of AT&T well into any transition period toward freer pricing.

17. MCI Telecommunications Corporation (MCI) points out that no matter what the Commission adopts, "apparently AT&T will ignore any Commission action resulting from this proceeding." Reply, p. 2. The FCC "must resist AT&T's attempt to steamroll it into actions that clearly benefit AT&T and AT&T alone * * * [N]o new policies should be adopted in this docket at this time." MCI Reply, p. 3. The FCC did not adopt an allocation procedure for premium access in the Access Charge Order. MCI argues that adopting on here would be proposing a new policy despite the FCC's statement in the *Notice* that no new policies are being adopted here. MCI urges the FCC to first decide the size and components of the premium access charge on reconsideration in CC Docket No. 78–72 and thereafter seek public comment on the method of its allocation between MTS and WATS.

18. MCI wants the FCC to scrutinize AT&T's earnings ratios to minimize cross-subsidies despite AT&T's arguments that uncertainty over the outcome of the cost allocation process

should cause the FCC to use a "permissible zone of reasonableness." Not only should the FCC strictly enforce the *ICAM* requirements now but MCI suggests that the FCC develop a cost manual for exchange communication in the future. Finally, MCI argues against institution of any proceeding looking toward deregulation of AT&T's basic transmission services.

19. In its reply, GTE Sprint objects to the AT&T proposal for continued use of message minute-miles to allocate Interexchange Central Office Equipment. GTE Sprint believes that the number of circuits dedicated to MTS and WATS at the peak period should be used as a means of allocation. It also argues for a separate cost allocation manual for the Bell Operating Companies (BOCs), and claims that AT&T's market power in the interexchange industry makes a cost allocation manual necessary for the future.

20. AT&T, in its reply, begins by noting the similarity between its position and that of GTE Sprint concerning allocation of the premium access charge. It disagrees with GTE Sprint's proposal to include a distance factor in the allocation of common and dedicated transport expenses. AT&T argues that this is an unnecessary complication and the bills rendered to AT&T will not identify common or dedicated access by reporting category. AT&T could do this after the fact, but it would be complex. Besides, these costs will be "only about four percent of total reporting category costs in 1984" according to AT&T.

21. AT&T interprets the *ICAM* provision for billing and collection services costs to mean that these expenses should be directly assigned to the categories identified for AT&T by the exchange carriers (i.e., MTS, WATS, or private line). AT&T believes this answers GTE Sprint's objection concerning that access expense element. As for transitional surcharges, AT&T claims that it interprets the proposed *ICAM* language consistenlty with GTE Sprint's suggestion.

22. As for the Networks, AT&T alleges that they want a new reporting category for program transmission services. AT&T declares that the FCC rejected this approach before and that the questions raised by the Networks are better addressed in individual tariff filings and not the *ICAM*.

23. AT&T's reply says the SBs suggestion concerning time-of-day reporting should be rejected because it would contribute nothing to *ICAM's* purpose as a regulatory tool. AT&T dismisses SBS's suggestion concerning the parenthetical reporting of "actual" premium access expenses, noting that the *ICAM* deals only with actual amounts paid.

24. AT&T agrees with the Committee's recommendations dealing with LS–1 and LS–2 access facilities. On the other hand, AT&T faults the Committee's proposal to disaggregate dedicated Transport to distinguish between interface and conditioning costs that may apply differentially to MTS and WATS. This is inappropriate, AT&T asserts, because dedicated Transport facilities will be shared by MTS and WATS and no interface or conditioning costs in the dedicated Transport element will be associated only with MTS or WATS. AT&T also argues that the Committee's suggestion to segregate private line special access by individual types of private lines should be rejected because disaggregation below the broad private line category is inconsistent with the intent and structure of the *ICAM*.

25. With respect to the Committee's arguments regarding General Services and Licenses, AT&T observes that it will "disaggregate these amounts into categories based on directly incurred expenses and investments in a manner similar to the current procedure." AT&T Reply, p. 13. AT&T asserts, though, that it is premature to propose a detailed list of new categories which reflect the divestiture. AT&T believes that the proposed language gives it the flexibility to handle this problem, writes AT&T.

Discussion

I. Investments and Reserves General Instructions

26. In the Notice, we deleted references to the BOCs to reflect the divestiture of these entities from AT&T. This prompted several questions in the comments. The main issue was the applicability of the *ICAM* to the divested companies. See the Comments of SBS, for example. MCI also raised the possibility of a future exchange company cost allocation manual.

27. This proceeding is designed for the sole purpose of modifying the *ICAM* for use by the AT&T interexchange entity. While we recognize that the BOCs will also offer some interstate service, we are not prepared now to promulgate a manual for their interstate services. Persons who believe that such a manual would be desirable may file a petition for rulemaking. Our immediate need is to prepare for the October 1983 tariff filings of AT&T which will reflect the divestiture and the institution of interstate access charges.[3]

[3] MCI stated that an exchange manual should be developed at some time next year. We will handle that question if and when files MIC a petition seeking such action.

Reporting Categories

28. AT&T argues against the new category for "Exchange Contract Services to Divested Companies" which we proposed in the *Notice*. AT&T claims that none of the costs will be in the interstate rate base and that the revenues and costs associated with these will be accounted for separately, thus meeting the FCC's information needs for monitoring these relationships. See comment summaries above.

29. It appears likely that most AT&T revenues from such contract services relating to regulated operations will be intrastate revenues. If this is the case, we do not need a separate reporting category in the *ICAM* for exchange contract services. The separate accounting for these services by AT&T will allow for our review of these agreements as we now understand them. We note that our staff is now examining these sharing arrangements in connection with the divestiture-related Section 214 proceeding. [4] We will not require AT&T to report these as a separate *ICAM* category at this time. If we determine after further investigation of the post-divestiture arrangements that separate reporting is required, we will act to change the *ICAM*.

30. GTE Sprint and AT&T have both commented on the proposed change in the allocation of interexchange COE circuit equipment. We proposed that this investment would be allocated on the basis of the allocation of interexchange circuits rather than message minute-miles. GTE Sprint supports the change with the understanding that the relative number of circuits assigned to each service would be determined at the peak. AT&T claims that the change could not be implemented because there is no way to differentiate between MTS and WATS interexchange circuits.

31. The proposed change in the allocation of the interexchange COE circuit equipment has certain appeal from the standpoint that circuit equipment costs should be related to (and allocated according to) the assignment of those circuits to specific uses to provide certain services. For the purposes of this proceeding, we will accept AT&T's statement that there is not method to differentiate between the MTS and WATS circuits. However, further changes in the *ICAM* may be necessary in the future. We reserve the

[4] See the letter from the Chief of the Common Carrier Bureau to Alfred Green of AT&T dated July 8, 1983, p. 3.

right to revisit this issue and pursue the use of surrogate measures at that time.

32. References to the allocation of certain BOC switchboard investment were deleted in the *Notice* with the idea that AT&T would not do its own billing. AT&T observes that some switchboards will be transferred from the BOCs to AT&T whether AT&T does it own billing or not. We agree that the wording should be restored to account for the transferred switchboards which were originally covered under that wording in the *ICAM*. AT&T also notes that the deletion of references to the BOCs left only references to Long Lines in this section of the *ICAM*. This wording change apparently will exclude certain interstate costs which will reside in the AT&T interexchange companies (IXCs). These IXCs, according to AT&T , "will be formed to receive the BOC interLATA services." Besides omitting certain costs, the deletion of specific BOC or Long Line references also misallocates certain investments. For example, deleting the reference to Long Lines message switchboard investment, which is used to provide overseas MTS, inadvertently would have the effect of allocating all interstate message switchboard investment to MTS, even that used for WATS. This was certainly not the effect we wanted to achieve. We will adopt the specific language changes proposed by AT&T to remedy this oversight.

II. Allocation of Access Expenses

33. Since we issued the *Notice* in this proceeding, we have reconsidered the access charge decision set out in the *Third Report and Order* in CC Docket 78–72. While many changes were made on reconsideration, certain ones are especially relevant to this revision of the *ICAM*. First, we have changed the nature of the premium access charge. Our original proposal would have levied a $1.4 billion premium on AT&T. In *Access Reconsideration*, we have determined that the premium access amount will be implemented on the basis of a per minute differential in Carrier Common Line charges between AT&T [5] and Other Common Carriers. By accounting for premium access in this way, there is no longer a discrete premium amount which must be allocated among AT&T's services. Therefore, no further action is required for purposes of the *ICAM* except to delete the premium access charge as a separate expense category. All Carrier Common Line expenses will be allocated to AT&T services on the basis of relative access minutes.[6] We are also eliminating the assignment of the Operator Assistance charges because that rate element has been eliminated in the *Reconsideration Order*.[7] The *Access Reconsideration Order* also creates a category called "Coinless Pay Phones" for which a rule of allocation has to be developed. We understand that these phones are used almost exclusively for MTS calls. For the purposes of the October filing, we will have AT&T allocate this access expense exclusively to MTS because of the nature of the use of these coinless pay phones.

34. It will also be necessary to apportion the Special Access surcharges, which have been created by the Access Reconsideration Order, between the Private Line and WATS categories. This does not present a difficult problem because such surcharges will be assessed to a private line or a WATS access line and can be directly assigned to those categories.

35. Now we turn to specific suggestions made by the parties concerning various aspects of access expense allocation. The Networks have proposed that we create a new access category for program transmission in the access reconsideration. We did not create such a category on reconsideration. Alternatively, the Networks asked that we create a new *ICAM* category for program transmission if no separate access category is established. We reject this request. The *ICAM* is intended to reflect broad service categories. Any subdivision of the private line category such as that proposed by the Networks can be considered when we conduct further proceedings to determine whether a different Manual would be appropriate for the long run. This is not the proceeding in which to make such a determination.

36. GTE Spring argues that the proposed allocation of common and dedicated transport expenses does not conform with the access charge scheme because the proposed *ICAM* rule does not account for the distance weighting used in the development of the transport charges. While GTE Sprint's point is well taken, we must point out that it is unlikely that bills from local exchange carriers will specify this distance information. While the exchange carriers will use such information in developing their tariffed access charges, we have no requirement that they identify the transport billings by *ICAM* categories. We did not institute such a requirement because the exchange carriers cannot identify the service nature of the traffic being carried over what are truly "common" lines. However, if an appropriate, easier method can be suggested for the allocation of this expense, we will consider such a change for the future.

37. The GTE Sprint objection to what it characterizes as the "obscure language" directing the allocation of the "billing and collection" element is unfounded. If exchange carriers perform billing for MTS and WATS or MTS, WATS and private line, we understand that access charges for each will be separately stated where possible. Therefore, such expenses can be directly assigned to each category.[8] The cause of confusion here or any suggested method of correcting it is not immediately apparent from the GTE Sprint presentation.

38. GTE Sprint also requests that the transitional surcharge allocation be made more specific and directly allocated according to the percentages of credit card, collect calls and 800 Service to AT&T's respective service categories. The Access Reconsideration Order eliminates those surcharges and therefore GTE Sprint's arguments on this point are moot.

39. The Committee made a recommendation for changes to the local switching 1 (LS–1) and local switching 2 (LS–2) elements. It observes that, unlike the current situation, future "MTS" offerings might use line side connections and future "private line" offerings might use trunk side connections. Such offerings would require changes in the proposed methods of allocation. LS–1 for example is allocated only to private line today because the only AT&T service using them is private line. Such contingencies conceivably might

[5] The differential applies to users of certain services. For the purpose of the *ICAM*, we are concerned with the differential that applies to AT&T's services.

[6] In Access Reconsideration, we have defined "acess minutes of use" as the usage attributable to interexchange carriers for the purpose of calculating chargeable usage. In connection with the originator of an interstate foreign call, usage is to be charged from the time the originating end user's call is delivered by the telephone company and acknowledged as received by the interexchange carrier's facilities in the originating exchange area. In connection with the terminator of an interstate or foreign call, usage is to be charged from the time the call is received by the end user in the terminating exchange. Timing of usage at both the originating or terminating end of an interstate or foreign call shall terminate when the calling or called party disconnects, whichever event is first recognized in the originating and terminating end exchanges.

[7] The merger of the Dedicated Access Line and Special Access elements does not require any change in the apportionment of AT&T Special Access expense.

[8] In the event that the access charges are not separately stated, they will be allocated as expressly stated in the *ICAM*.

warrant changes in access charge classifications at some point in the future, but these suggested changes would not be consistent with the access charge rules as modified in the Reconsideration Order. Therefore, we are not adopting those suggestions.

40. The Committee's suggestions for (1) Disaggregating the Dedicated Transport element, (2) Segregating Special Access WATS and private line and (3) Segregating the Special Access Costs of individual types of private line are inappropriate here. The first two recommendations are topics for consideration in the formulation of access categories, not the allocation of already aggregated expenses. The third suggestion is appropriate for the tariff process. These revisions to the *ICAM* are concerned with the broad, existing categories. Future disaggregation may be desirable, but for now we leave this to future proceedings.

41. AT&T also notes that the definition of minutes of use in footnote 2 on page 3 of the Manual should only apply to carrier common line; that is, the computation of minutes of use which counts only openend WATS. We are deleting that footnote because changes in the access charge rules adopted in the Reconsideration Order provide the necessary clarification.

42. AT&T further says that Dedicated Transport can apply to private line as well as MTS and WATS. That statement is incorrect. Private line facilities that perform a parallel function are classified as Special Access under the access charge rules. Therefore, we reject the proposed revision.

43. While the nature of the premium access charge has changed, we recognize that there is still concern over the ultimate relative allocation of MTS and WATS costs. The *ICAM* methodology has yet to be tested in the divestiture and access environment. It is conceivable that the procedures that were adequate during relatively stable periods may not easily adapt to the new industry structure and associated changes in the way interstate costs are incurred. Consequently, until we are provided with concrete information about the effects this methodology has on service category costs, and particularly on rates, we shall keep an open mind about the suitability of these procedures and, more generally, the future of *ICAM* as a regulatory tool. For purposes of its October tariff filings, should AT&T find that application of the Manual will cause unacceptable delay in preparing tariffs, or produce distorted results or undesirable rate impacts as it learns more about the cost shifts associated with divestiture and access charges, it may wish to seek a waiver of the Manual or the earnings equalization requirement. Of course, other parties are not precluded from petitioning this Commission to voice their concerns.

III. Expenses Not Related to Access and Income—Description of FDC Methodologies

44. In the Notice, we deleted many portions of this final section of the *ICAM* which in our view at that time would not apply to AT&T after divestiture. There are some which should not have been deleted, and at AT&T's suggestion we are restoring them. The major deletion of the methods for allocation General Services and Licenses was criticized by the Committee. We proposed to delete dozens of very specific allocation rules and replace them with a general instruction which would have indirectly allocated these expenses to the categories in the same way as directly incurred expenses. We did not mean to reduce the specificity of the allocations, only to give AT&T the opportunity to provide such a listing which reflects those activities which are actually undertaken at the time it files rates and in the June reports. We agree with the Committee that such detail is important. We will retain the language proposed in the *Notice* in view of AT&T's statement in its replies that "Any annual FDC reports filed by AT&T allocating GS&L expenses will disaggregate those amounts into categories based on directly incurred expenses and investments in a manner similar to the current procedure." If AT&T's filings do not contain sufficient detail, we can amend the *ICAM* at a later date to require more detail.

Other Matters

45. There are some suggestions made in the comments which we have not addressed yet. SBS recommended that time-of-day data be developed in the *ICAM*. This suggestion is inappropriate to our limited purposes of updating the *ICAM* to reflect access charges and the divestiture. For this reason, we reject the suggestion. SBS also stated that we should not anticipate Joint Board actions in this item. MCI also said that changes to the *ICAM* are premature until the premium access question is settled. The changes which we are making in the Manual will make it consistent with access charges and the AT&T divestiture. We believe these changes are appropriate and necessary to permit timely filing of access charges. As a final matter, AT&T has argued for an end to *ICAM* after 1984 and also begins making a case for deregulation. Whether such arguments are valid or not, they do not fit into the narrow focus of this proceeding and, therefore, merit no futher discussion.

46. Accordingly, it is hereby ordered, pursuant to 47 U.S.C. 154(i), 154(j) and 201–205, That the AT&T Cost Allocation Manual is amended as noted above and in the attachment to this *order*, effective August 22, 1983.

Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Cost Allocation Manual

This manual contains general instructions for allocating the annual interstate investment and expense costs less any amounts for exchange contract services to divested companies to the following reporting categories for AT&T.

Private Line
Message Telecommunications Service (MTS)
Outward WATS and 800 Service (collectively, WATS)

For each of the reporting categories, an earnings ratio will be developed according to this formula:

$$\text{Earnings Ratio} = \frac{\text{Revenues minus (expenses and taxes)}}{\text{Gross investment minus reserves}}$$

These earnings ratios, plus supporting documents, will be filed with the Commission during June following the reporting year ("central submission"). These earnings ratios will be subject to final interpretation by the Commission.

The process for making changes to this manual shall be determined by the Chief, Common Carrier Bureau. Minor changes (such as changes in account names) may be made providing these changes are approved by the Chief, Common Carrier Bureau prior to filing of the central submission. Substantive changes, which may be requested by any party, will require appropriate procedures.

I. Investments and Reserves

Instructions in this section are to be used to allocate interstate investments and reserves to the reporting categories.

A. *General Instructions*

Using Jurisdictional Separations Process (JSP) data, principles and AT&T accounting records, investment and

reserves for the company and any wholly owned carrier subsidiaries will be divided between private line and message categories. Message investments will be grouped into interexchange and "other" categories to be used in further allocation to MTS and WATS. Those portions of investment associated with the switching function will be allocated separately as described below.

B. *Reporting Categories*

Private Line

This category contains investments and reserves associated with private line services.

MTS and WATS

Investment and reserve amounts for the message category, as developed above, will be allocated to MTS and WATS. Message telephone plant (defined here as Account 100.1 less private line investment, land, buildings, furniture and office equipment, and vehicles and other work equipment) will be identified. Interexchange Toll Dial Switching and Switchboard investment will also be separately identified. Interexchange outside plant and COE amounts will be allocated between MTS and WATS based on network message minute miles. Toll Dial Switching investment will be allocated on the basis of switched message minutes. The determination of investment in the various switchboard types will be based on JSP data. Investment in overseas/international message switchboards will be directly assigned to the MTS reporting category. Investment in switchboards used to provide 800 Service information will be assigned to the WATS category. Investment in other switchboards will be identified as serving billed or non-billed messages, using traffic unit data. Investment serving billed messages will be allocated between MTS and WATS based on the relative number of MTS and WATS messages served by such investment. Investment serving non-billed messages will be allocated based on the relative number of total MTS and Outward WATS messages. International satellite associated earth station investment (Account 100.5) and its associated depreciation and amortization account (Account 175) will be allocated on the basis of international satellite rents.

Interexchange, international satellite and switching telephone plant developed separately for MTS and WATS will be added together to form total message telephone plant amounts for MTS and WATS. The percentage which MTS and WATS telephone plant each makes of total message plant (as defined above) will be used as a distributive ratio to allocate all remaining investment ("other") and reserve accounts between MTS and WATS.[1]

[1] Included in these remaining investment and reserves portions are the following accounts: Land and Buildings; Furniture and Office Equipment; Vehicles and Other Work Equipment; Telephone Plant Under Construction; Property Held For Future Telephone Use; Materials and Supplies; Customer Deposits; Organization, Franchise and Patent Rights; Depreciation Reserve and Accumulated Deferred Income Tax Reserve; Amortization Reserve; and Cash Working Capital.

II. Allocation of Access Expenses

Procedures in this section are used to allocate the expenses associated with payments to local exchange carriers for access to their local facilities. The allocation of all other expense accounts is contained in Section III, below. "Private line" use referred to in categories allocated directly or indirectly among MTS, WATS and private line on a message or minute basis means FX, CCSA, SCAN and CCSA equivalent Open End traffic.

Access expense	Allocation procedures
Carrier Common Line Usage	Apportion among MTS, WATS and Private Line on the basis of the relative access minutes attributed to each category for purposes of such access charge billings.
Line Termination	Apportion among MTS, WATS and Private Line on the basis of the relative access minutes attributed to each category for purposes of such access charge billings.
Local Switching 1	Assign to the Private Line category.
Local Switching 2	Apportion between MTS and WATS in the same proportions as Line Termination charges apportioned to such categories.
Intercept	Apportion among MTS, WATS and Private Line in the same proportions as Line Termination charges apportioned to such categories.
Information	Assign to MTS and WATS on the basis of the relative proportion of total MTS and OUTWATS calls.
Common Transport	Apportion among MTS, WATS and Private Line on the basis of the relative access minutes attributed to each such category for purposes of such access charge billings.
Dedicated Transport	Apportion between MTS and WATS in the same proportions as Line Termination charges apportioned to such categories.
Special Access	Apportion between WATS and Private Line in the same proportions as such access charge billings attributed to each category.
Billing and Collection	Apportion among MTS, WATS and Private Line in proportion to access charge billings attributed to each category.
Coinless Pay Phone	Assign to MTS.
Special Access Surcharge	Assign to WATS or Private Line on the basis of the lines assessed.

III. Expenses Not Related to Access and Income—Description of FDC Methodologies

Procedures in this section are to be used to distribute all interstate expenses not related to access expenses (600 series accounts) and income to the reporting categories. Expenses are directly assigned where applicable or allocated on the basis of the procedures described below. Certain accounts are allocated on the basis of "total attributable expenses." This factor represents each reporting category's percentage share of expenses derived through direct assignment and allocation procedures (except local, state and federal income taxes).

EXPENSES AND REVENUES—FDC METHODS

Operating expense accounts	Allocation procedures
602.1–602.8 Repairs of Outside Plant (OSP)	Allocate to reporting categories based on associated OSP in service (Accounts 241 through 244).
	Allocate maintenance of overseas facilities to reporting categories based on the number of associated circuits in service.

EXPENSES AND REVENUES—FDC METHODS—Continued

Operating expense accounts	Allocation procedures
603-02 Service Order Testing	Directly assign the portion identified in JSP data as Private Line to the Private Line reporting category. Allocate amounts identified in the JSP as Message Interexchange to the MTS and WATS categories based on the distribution of outside plant and interexchange central office plant in service.
603-04 Trunk Testing	Allocate circuit testing to reporting categories using an analysis of reported testing hours.
	Overseas testing allocated to reporting categories based on number of circuits in service.
	Allocate facilities testing to reporting categories based on associated interexchange (IX) OSP and COE plant in service, excluding overseas.
604 COE Repairs	Directly assign the Service Engineering portions of Account 604 to the private line reporting category.
	Directly assign No. 4ESS international generic program costs to MTS.
	Allocate the circuit rearrangements and change portions of Account 604-07 and Account 604-08 (less Service Engineering) to reporting categories based on number of IX circuit sections.
	Allocate overseas facility terminal equipment maintenance to reporting categories based on associated number of circuits.
	Allocate the remainder of Account 604 to reporting categories based on associated COE plant in service.
605 Station Equipment Maintenance	Allocate Account 605 to reporting categories based on station equipment plant in service (Accounts 231, 232 and 234).
606 Buildings and Grounds	Allocate to reporting categories based on investment in buildings.
610 Maintaining Transmission Power	Allocate to reporting categories based on COE plant (Account 221) separately for domestic and overseas.
612 Other Maintenance	Allocate to reporting categories based on combined Accounts 602 through 606 and 610.
	Allocate Accounts 621-231 (network administration staff) to reporting categories based on the combined attribution of Accounts 624-222, -622 and -722.
	Allocate the remainder (training and other staff) of Account 621-03 based on the combined attribution of Accounts 621-231, -331 and -431.
608 Depreciation	Allocate to reporting categories based on the depreciable classes of plant in service using applicable depreciation rates. (Ocean cable depreciation is allocated separately based on the ocean plant in service in each category.)
609 Extraordinary requirements	Allocate to reporting categories based on special analysis of accounting records.
613 Amortization of Intangible Property	Allocate to reporting categories based on total attributable expenses.
614 Amortization of Plant Acquisition Adjustments	Directly assign to reporting categories based on special analysis of accounting records.
621-01 General Traffic Supervision (Except Accounts 621-311 and 316.).	Allocate to reporting categories based on Account 624 less 624-22 and 624-25.
621-311/316/05, 622-02/03, 624-25/629-09, 631-38 and 631-48 Business Services.	Allocate to reporting categories using data from a Business Service time reporting system.
621-03, 624-22, 629-07, 631-37/47 Network Administration	Allocate Accounts 621-431, 624-222, 624-422 and 624-622 (switching and line and number administration) to reporting categories based on toll dial switching equipment plant in service.
	Allocate Accounts 621-331 and 624-322 (traffic load data administration) to reporting categories based on toll dial switching and switched services IX central office equipment and OSP plant in service, excluding dedicated overseas IX central office equipment and outside plant.
	Allocate Accounts 624-722 (Trunk Administration) to reporting categories based on switched services IX central office equipment plant and OSP plant in service, excluding dedicated overseas IX central office equipment and outside plant.
	Allocate Accounts 621-231 (network administration staff) to reporting categories based on the combined attribution of Accounts 624-222, -622 and -722.
	Allocate the remainder (training and other staff) of Account 621-03 based on the combined attribution of Accounts 621-231, -331 and -431.
	Allocate the remainder (supervision, training and other) of Accounts 624-22, 629-07, 631-37 and 631-47 based on the combined attribution of Accounts 624-222, -322, -422, -622 and -722.
622-01 Service Observing	Allocate to reporting categories based on Account 624 less 624-22 and 624-25.
624 (Except Accounts 624-22 and 624-25), Operators Wages less Network Administration and Business Services.	Directly assign Private Line and overseas/international expenses to Private Line and MTS. Directly assign expenses incurred at 800 Service Switchboards to WATS. Determine expenses incurred at other switchboards associated with billed messages on the basis of traffic units. Allocate expenses associated with billed messages based on the relative number of MTS and WATS messages served by such switchboards. Allocate expenses associated with non-billed messages based on the relative number of total MTS and OUTWATS messages.
626 Rest and Lunch Rooms	Allocate to reporting categories based on Account 624 less 624-22, and 624-25. (Network Administration and Business Service portions of these accounts are treated above).
627 Operator's Employment and Training	Same as Account 626.
629 less -07 and -08 Co Stationery and Printing	Do.
630 Co House Service	Do.
631 less -37, -38, -47 and -48 Miscellaneous Co Expenses	Do.
633 Other	Do.
634 Joint Traffic—Debit	Do.
635 Joint Traffic—Credit	Do.
640 General Commercial Administration	Directly assign Service Management expense to reporting categories. Allocate remainder of Account 640 to service categories based on Account 643 for Long Lines and 645 for IXCs.
642 Advertising	Directly assign Long Distance Residence Sales, Long Distance Business Sales, Long Distance International, Long Distance Public, and Long Distance .DIAL-IT to MTS. Allocate remainder based on total attributable expenses.
643 Sales	Allocate to reporting categories using the results from a sales time reporting system.
644 Connecting Company Relations	Allocate to reporting categories based on allocation of Independent Company settlements for interexchange facilities.
645 Commercial Operations	Allocate expenses to reporting categories using results from a work measurement plan and a sales time reporting system.
649 Directory	Allocate to MTS and WATS based on a count of MTS and WATS messages.
650 Other Commercial Expenses	Allocate expenses based on Account 643 for Long Lines and 645 for IXCs.
661 Executive Department	Allocate based on total attributable expenses.
662 Accounting Department	Allocate Revenue Accounting to reporting categories based on analysis of Revenue Accounting Offices. Allocate remainder to reporting categories based on total attributable expenses.
663 Treasury Department	Allocate to reporting categories based on plant in service.
664 Law Department	Directly assign overseas legal expenses to overseas services based on analysis of records.
	Directly assign outside legal consultant fees and associated costs based on analysis of applicability to a category.
	Allocate remainder to reporting categories based on total attributable expenses.
665 Other General Office Salaries and Expenses	Allocate Personnel, Account 665-03, to reporting categories based on Maintenance, Traffic, Commercial and Revenue Accounting salaries.
	Directly assign Service Engineering expenses (Portion of 665-09) to the private line category.
	Allocate Account 665-29, Customer Services, to categories based on reported hours.
	Allocate Account 665-149, Central Office Planning and Engineering, based on toll dial switching equipment plant in service.
	Allocate remainder based on total attributable expenses.
668-669 Insurance and Accidents and Damages	Allocate to reporting categories based on plant in service.
670 Earth Station Expenses	Allocate to reporting categories based on Account 100.5.
671 Operating Rents	Allocate circuit and miscellaneous rents to reporting categories based on interexchange OSP and Circuit equipment and toll switching equipment plant in service.
	Allocate rents paid to affiliates to Message and the Private Line reporting category based on number of circuits. Message rents are allocated to MTS and WATS based on number of minutes.

EXPENSES AND REVENUES—FDC METHODS—Continued

Operating expense accounts	Allocation procedures
	Directly assign international satellite rents incurred for services that can only be provided on satellite facilities directly to reporting categories. Allocate remaining international satellite rents to reporting categories based on total international voice-grade circuits in use.
	Allocate domestic satellite rents to reporting categories based on domestic satellite circuits in use.
	Allocate building space rents to reporting categories based on the combined Accounts 643, 645 and Revenue Accounting portion of 662.
672 Relief and Pensions	Allocate to reporting categories based on Maintenance, Traffic, Commercial, and Revenue Accounting Salaries.
673 Telephone Franchise Requirement (dr)	Allocate based on the total investment in Account 100.1.
674 and 691 General Services and Licenses	Payment for services rendered by an affiliated company shall be assigned to expense categories in the same manner as expenses that are incurred directly by AT&T or a carrier subsidiary and shall be apportioned in the same manner as such directly incurred expenses.
675 Other Expenses	Allocate to reporting categories based on plant in service.
676 Telephone Franchise Requirements (cr)	Allocate based on the total investment in Account 100.1.
677 Expenses Charged Construction (cr)	Same as Account 675.

INCOME ACCOUNTS—FDC METHODS SUBSECTION

Income accounts	Allocation procedures
Gross Service Revenues (Accounts 510–516)	Directly assign to reporting categories based on accounting records.
Earth Station Revenue (Account 522)	Allocate to reporting categories based on the allocation of international satellite rent expense.
Directory Advertising and Sales	Directly assign to MTS.
Rent Revenues (Account 524)	Directly assign to reporting categories based on accounting records.
Other Operating Revenues (Account 526)	Allocate to reporting categories based on gross revenues (Accounts 510–526) less Account 526.
Uncollectibles (Account 530)	Allocate to reporting categories based on an analysis of accounting records.
Independent Company and Foreign Settlements	Allocate based on revenue account charged.
Miscellaneous Income Charges (Account 323)	Allocate based on plant in service (Account 100.1).
Interest on Customer Deposits	Allocate based on total investment in Account 100.1.

TAXES—FDC METHODS

Type of tax	Allocation procedures
Gross Receipts Taxes	Allocate based on the allocation of reporting category revenues.
Social Security Taxes (Account 307–05)	Allocate based on the apportionment of Maintenance, Traffic, Commercial, and Revenue Accounting salaries.
Ad Valorem Taxes (Account 307–01)	Allocate based on the allocation of plant in service.
Income Adjustments for Income Tax Determination	Allocate depreciation of capitalized items, Relief and Pensions, and Social Security Taxes capitalized based on plant in service.
	Allocate Operating Fixed Charges based on the allocation of net investment.
State and Local Income Taxes (Account 307–02)	Allocate the actual tax incurred based on the state and local taxable income for each reporting category (net revenue less expenses, income charges, taxes excluding Federal Income Taxes, and income adjustments).
Amortization of Investment Credits	Allocate based on the allocation of plant in service.
Federal Income Tax	Allocate to reporting categories by multiplying the statutory rate times the Federal taxable income for each reporting category (net revenue less expenses, income charges, other taxes, and income adjustments).

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Proposed Rules

Federal Register
Vol. 48, No. 178
Tuesday, September 13, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 28

Cotton Fiber and Processing Tests, Revision of Fees

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Marketing Service (AMS) is proposing to revise certain fees for performing cotton fiber and processing tests. This action would be taken in order to reflect increased costs of providing the testing services.

DATE: Comments must be received on or before October 13, 1983.

ADDRESS: Written comments to: Harvin R. Smith, Chief, Standards and Testing Branch, Cotton Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Harvin R. Smith, (202) 447–2167.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed in accordance with Executive Order 12291 and has been determined not to be a "major rule" since it does not meet the criteria for a major regulatory action as stated in the Order. William T. Manley, Deputy Administrator, AMS, has certified that this action would not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) because: (1) The fees proposed in this document are not new and merely reflect minimal increases of some of the costs currently borne by those entities utilizing the testing services; (2) the amount of the proposed increase in fees is too small to have a significant impact; (3) the proposed elimination of minimum fees for some of the tests offered will have a salutary effect on small entities; (4) the use of the services is voluntary; (5) and, if there is any impact, the Secretary has been directed to recover the costs of such service from users of the service.

Since all of these services are directly related to the marketing and utilization of cotton, it is desirable that all fee increases have a uniform effective date. If adopted, an effective date for the fees of October 15, 1983, is anticipated. In view of this and the limited number of test items affected, a thirty day comment period is deemed adequate.

Background. Cotton testing services are provided by a USDA laboratory in Clemson, S.C., under the authority of the Cotton Statistics and Estimates Act of 1927 (7 U.S.C. 471–476). The tests are available upon request to private sources on a fee basis. The Cotton Service Testing Amendment (7 U.S.C. 473d) specifies that the fees for the services shall be reasonable, and, as nearly as may be, cover the costs of rendering the services.

Fees. During FY 1983 to date, 52,000 cotton fiber and processing tests have been performed for private sources. A recently conducted in-depth analysis of the costs of providing the testing services showed that because of increased costs for materials and supplies used in conducting the tests as well as the applicable surface and air delivery rates to furnish cotton samples the costs of performing certain tests have increased since the last fee review in 1982 and general fee increase of October, 1982. As a result, the Department proposes to increase fees for the following fiber and processing tests items listed in section 28.956: 1.0, 2.0, 3.0, 3.1, 3.2, 7.0, 19.0, 20.2, 20.3, 22.0, and 25.0.

The Department does not propose to increase at this time the fees for the other test items because the costs of performing these tests have not increased appreciably since the last fee review.

At present, the Department conducts a micronaire test based on two samples. To reduce the costs of this service, the Department is proposing to add a micronaire test based on one specimen per sample. In addition, the Department is proposing to add a miniature carded cotton spinning test because the Agricultural Research Service no longer provides this service. Both of these tests would be added to the list of fiber and processing tests contained in section 28.956.

The Department also proposes to delete from the test listing the minimum fees for the following items in § 28.956: 4.0, 4.1, 5.1, 5.2, 5.3, 7.0, 19.0, 22.0 and 25.0. Due to increased computerization and improved billing procedures, it has been determined that minimum fees are no longer necessary for the preceding test items. A minimum fee will continue to be needed for certain other tests requiring the mixing of chemical solutions for batch processing. Specifically, these are items 6.0, 27.0, and 29.0 in section 28.956. AMS will continue to review this program so as to maintain its cost effectiveness.

Minor non-substantive changes in the language describing certain tests are also proposed. Specifically, revised working is proposed for items 1.0, 2.0, 7.0 and 19.0.

Lists of Subjects in 7 CFR Part 28

Cotton, Samples, Standards, Cotton linters grades, Staples, Market news, Testing.

Accordingly, it is proposed to amend the cotton testing regulations in Subpart E, Part 28, of Chapter 1, Title 7 of the Code of Federal Regulations as shown.

1. The authority citation for Part 28, Subpart E reads as follows:

Authority: Sec. 3c, 50 Stat. 62 (7 U.S.C. 473c); sec. 3d, 55 Stat. 131 (7 U.S.C. 473d).

2. Section 28.956 would be amended by revising the entry for item numbers 1.0, 2.0, 3.0, 3.1, 3.2, 4.0, 4.1, 5.1, 5.2, 5.3, 7.0, 19.0, 20.2, 20.3, 22.0, and 25.0, and § 28.956 would be further amended by adding entries to be numbered items 7.1 and 14.1 to read as follows:

§ 28.956 Prescribed fees.

* * * * *

Item No.	Kind of test	Fee per
1.0	Furnishing USDA calibration cotton in the short medium, long and extra long staple lengths including standard values for length by both array and Fibrograph methods, strength at ⅛-inch gage, and maturity and fineness by the Causticaire methods.	

Item No.	Kind of test	Fee per test
	a. By surface delivery, 1-lb. sample	$18.00
	b. By air delivery within the U.S., 1-lb. sample	21.00
	c. By air delivery outside the U.S., 1-lb. sample	26.00
2.0	Furnishing international calibration cotton standards with standard values for micronaire reading and fiber strength at zero and ⅛-inch gage and Fibrograph length:	
	a. By surface delivery, ½-lb. sample	13.00
	b. By air delivery within the U.S., ½-lb. sample	15.00
	c. By air delivery outside the U.S., ½-lb. sample	19.00
3.0	Fiber length array of cotton samples. Reporting the average percentage of fibers by weight in each ½-inch group, average length and average length variability as based on 3 specimens from a blended sample:	
	a. Ginned cotton lint, per sample	80.00
	b. Cotton comber noils, per sample	90.00
	c. Other cotton wastes, per sample	110.00
3.1	Fiber length array of cotton samples. Reporting the average percentage of fibers by weight in each ½-inch group, average length, and average length variability as based on 2 specimens from a blended sample:	
	a. Ginned cotton lint, per sample	45.00
	b. Cotton comber noils, per sample	65.00
	c. Other cotton wastes, per sample	85.00
3.2	Fiber array of cotton samples, including purified or absorbent cotton. Reporting the average percentage of fibers ½-inch and longer by weight, the average of fibers shorter than ¼-inch by weight, average length, and average length variability as based on 3 specimens from each sample, per sample	105.00
4.0	Fiber length of ginned cotton lint by Fibrograph method. Reporting the average length and length uniformity as based on 4 specimens from a blended sample, per sample	7.00
4.1	Fiber length of ginned cotton lint by Fibrograph method. Reporting the average length and average length uniformity as based on 2 specimens from each unblended sample, per sample	4.50
5.0	Pressley strength of ginned cotton lint by flat bundle method for either zero or ⅛-inch gage as specified by applicant. Reporting the average strength as based on 6 specimens from a blended sample, per sample	7.50
5.1	Pressley strength of ginned cotton lint by flat bundle method for either zero or ⅛-inch gage as specified by applicant. Reporting the strength as based on 2 specimens for each unblended sample, per sample	4.50
5.2	Stelometer strength and elongation of ginned cotton lint by the flat bundle method for ⅛-inch gage. Reporting the average strength and elongation as based on 6 specimens from a blended sample, per sample	7.50
5.3	Stelometer strength and elongation of ginned cotton lint by the flat bundle method for ⅛-inch gage. Reporting the average strength and elongation as based on 2 specimens from each unblended sample, per sample	4.50
7.0	Micronaire readings on ginned lint. Reporting the micronaire based on 2 specimens, per sample	.50
7.1	Micronaire reading based on 1 specimen, per sample	.25
14.1	Miniature carded cotton spinning test. Reporting data on tenacity (centinewtons per tex) of 22's yarn. Based on the processing of 50 grams of cotton in accordance with special procedures, per sample	25.00
19.0	Color of ginned cotton lint. Reporting data on the reflectance and yellowness in terms of Rd and b values as based on the Nickerson-Hunter Cotton Colorimeter on samples which measure 5×6½ inches and weigh approximately 50 grams, per sample	1.00
20.2	Furnishing a Colorimeter calibration sample box containing 6 cotton samples with color values Rd and +b plotted on a color diagram based on the Nickerson-Hunter Cotton Colorimeter, per box	20.00
20.3	Furnishing new Colorimeter readings on samples in calibration boxes returned for check readings, per 6-sample box	10.00
22.0	Foreign matter content of cotton samples. Reporting data on the non-lint content as based on the Shirley-Analyzer separation of lint and foreign matter:	
	a. For samples of ginned lint or comber noils, per 100-gram specimen	7.00
	b. For samples of ginning and processing wastes other than comber noils, per 100-gram specimen	12.00
25.0	High Volume Instrument (HVI) Measurements. Reporting micronaire, length, length uniformity, ⅛-inch gauge strength, color and trash content. Based on a 6 oz. (170 g) sample, per sample	1.50

Dated: September 7, 1983.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 83-24918 Filed 9-12-83; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Alcohol, Drug Abuse, and Mental Health Administration

21 CFR Part 291

[Docket No. 83N-0249]

Conditions for the Use of Methadone; Intent To Propose Revisions to Regulations and Request for Comments

AGENCY: Food and Drug Administration, Alcohol, Drug Abuse, Mental Health Administration, and National Institute on Drug Abuse.

ACTION: Notice of intent and request for comments.

SUMMARY: The Food and Drug Administration (FDA) and the National Institute on Drug Abuse (NIDA) are requesting comments on: (1) Whether to make the methadone regulations concerning narcotic addiction more flexible to accommodate more readily changes in medical practice while at the same time providing quality care and protecting against illicit diversion; and (2) whether to revise or eliminate the recordkeeping, reporting, and other requirements that may be unnecessary and/or overly burdensome as a result of changes in the state-of-the-art. The agencies will use information received in comments to determine appropriate changes to the methadone regulations. This action is the result of a retrospective review of the methadone regulations as required by law and by directive of the Office of Management and Budget.

DATE: Comments by November 14, 1983.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Edwin V. Dutra, Jr., National Center for Drugs and Biologics (HFN-7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6490.

SUPPLEMENTARY INFORMATION: The methadone regulations govern the use of methadone in the maintenance and detoxification treatment of narcotic

addicts. These regulations include conditions for the use of methadone and the appropriate methods of professional practice for medical treatment of the narcotic addiction of various classes of addicts (see 21 CFR 291.505).

Under the Regulatory Flexibility Act, the Paper Work Reduction Act of 1980, and Executive Order 12291, FDA is conducting a retrospective review of its existing regulations. The intent of these mandates is to have Federal agencies identify regulations that should be revised or revoked and thus save costs because, for example, they impose unnecessary burdens on the public generally or on specific segments of the public. FDA encouraged public participation in this process by publication of a notice in the Federal Register of July 14, 1981 (46 FR 36333) seeking public comment on which regulations were burdensome, and by establishment of agencywide review priorities including incorporation of retrospective review status reports into the agency's regulation planning process.

Although no public comments concerning the methadone regulations were received by FDA as a result of the July 14, 1981 notice, the rapidly evolving state-of-the-art in rehabilitation of narcotic addicts makes it desirable, in FDA's and NIDA's view, to reassess the suitability of the existing methadone regulations to assist in managing the narcotic addiction problem effectively. FDA and NIDA made this decision even though the methadone regulations were reviewed, evaluated, and substantially revised in the Federal Register of September 19, 1980 (45 FR 62894) to provide practitioners in treatment programs increased flexibility in treating the narcotic addiction problem with methadone.

FDA established a special Commission on Retrospective Reviews to coordinate the entire review process. Specific review teams were established by the Committee to focus on each major rule to be reviewed. A Methadone Retrospective Review Team was established under this mechanism. The Methadone Retrospective Review Team is composed of members from FDA and NIDA. The Review Team also consulted with the appropriate staff from the Drug Enforcement Administration (DEA).

In early 1983, the Methadone Retrospective Review Team recommended in an interim final report that revision of certain sections of the methadone regulations be considered.

In its revised final report, the review team recommended that sections of the methadone regulations be converted to guidelines with primarily the following exceptions remaining as regulations: (1) Qualifications for dispensers of methadone to narcotic addicts; (2) take-home standards (e.g., how much methadone could be taken away from treatment centers by patients on an unsupervised basis); and (3) certain admission and patient evaluation criteria and required forms for approval of treatment programs. The following is a general summary of the Methadone Retrospective Review Team Report and Recommendations. The entire report may be seen in FDA's Dockets Management Branch (address above).

General Summary of the Retrospective Review Team Report and Recommendations

1. *Statutory Requirements.* DHHS has the authority under the Narcotic Addict Treatment Act (NATA) (21 U.S.C. 823(g)) to establish standards for practitioners who use narcotic drugs for either maintenance or detoxification treatment of persons dependent upon narcotic drugs and responsibility under that Act to: (1) Determine whether a particular applicant/practitioner is qualified under those standards to engage in such treatment; (2) determine that the applicant/practitioner will comply with standards established by DHHS on the quantities of narcotic drugs that may be provided for unsupervised use by persons in such treatment; and (3) certify annually to DEA the DHHS determinations regarding both (1) and (2) for the purpose of DEA registration of applicant/practitioner.

2. *Current Approach to Handling These Functions.* The so-called practitioner standards under the NATA are the current methadone regulations codified at 21 CFR 291.505. Determination of the qualifications of practitioners is made currently (1) before registration of new programs, by review of applications submitted by sponsor/practitioners, and (2) for existing programs, by on-site inspections by DHHS/FDA of the existing program facilities.

3. *Regulatory Alternatives.* The DHHS responsibilities under the NATA could be carried out in the following manner:

The qualification *standards* could be in the form of regulations, guidelines (with certain exceptions), or labeling.

Certification regarding determinations on qualifications, to DEA by DHHS could be made after on-site DHHS inspections, determinations made by those States in which the programs are located, or after DHHS paper review of form or request from a practitioner/program.

The *enforcement/compliance of the standards* for purposes of recommending revocation of registration by DEA could be made via on-site DHHS inspections or DHHS could have no enforcement/compliance activities and encourage State activity in this area.

4. *Recommendations.* The Review Team's recommendations are summarized as follows:

a. With the exception of the take-home requirements and certain application and admission criteria, the methadone regulations (or standards) should be basically in the form of guidelines.

b. Certification to DEA that the standards are met should be made after an on-site inspection is conducted by DHHS.

c. On-site DHHS inspections should be conducted on an annual basis for each treatment program for purposes of enforcement/compliance of the standards.

In June and July 1983, the Office of Management and Budget (OMB) considered FDA's request for approval of the methadone recordkeeping and reporting requirements included in the forms for treatment programs. Following its review, on July 13, 1983, OMB notified the Department of Health and Human Services (DHHS) that OMB was invoking its authority under 5 CFR 1320.14(f) to require DHHS to initiate proposals for change in the collection of information (i.e., recordkeeping and reporting requirements) in the methadone regulations found at 21 CFR 291.501–291.505. Also on July 13, 1983, under section 3(i) of Executive Order 12291, OMB requested DHHS to review the substantive requirements of the methadone regulations with a view toward eliminating unnecessary requirements (see 48 FR 35668; August 5, 1983).

Accordingly, in addition to considering the changes recommended by the Methadone Retrospective Review Team, FDA will consider whether the reporting and recordkeeping requirements should be revised, and whether the substantive requirements of the regulations should be otherwise modified. Therefore, the primary issues upon which FDA will focus its considerations are:

1. Whether portions of the current methadone regulations can be revised into workable guidelines (rather than all regulations) that will enable practitioners to treat patients more easily in accordance with changes in medical practice and, at the same time, ensure against an increase in diversion.

2. Whether any specific sections of the methadone regulations should not become guidelines.

3. Whether and which of the recordkeeping and reporting requirements should be modified.

4. Whether and which of the other regulatory requirements should be modified.

5. Whether the revisions will affect the quality and level of patient care.

6. Whether modification of the regulations will have a harmful effect on enforcement and compliance programs at the State and local levels in jurisdictions with their own methadone regulations or in jurisdictions that rely only on the Federal regulations.

7. Whether modification of the regulations will have any impact on the diversion of methadone for illicit use.

Interested persons may, on or before November 14, 1983, submit to the Dockets Management Branch (address above) written comments regarding this notice of intent. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 291

Health professions, methadone, reporting and recordkeeping requirements.

Dated: September 8, 1983.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

James Lawrence,

Deputy Director, National Institute on Drug Abuse.

[FR Doc. 83-24922 Filed 9-12-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR, Parts 211, 212, and 225

Mining Regulations

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of extension of comment period.

SUMMARY: On July 12, 1983, the Bureau of Indian Affairs published new proposed rules and regulations in the **Federal Register**, 48 FR 31978–31994, which are intended to implement the Indian Mineral Development Act of 1982 and to revise existing rules and regulations in 25 CFR Part 211 governing the leasing of tribal lands and 25 CFR 212 governing the leasing of allotted lands. In addition, a new Part 225 governing contracts for oil and gas development is proposed. The notice provided that comments on the proposed rulemaking must be received by the Bureau of Indian Affairs no later than September 12, 1983. Subsequent to publication of the proposal in the **Federal Register**, the Bureau has received numerous letters indicating that, because of the complex nature of the new rules and revisions to existing rules, additional time within which to submit comments should be granted in order to permit more meaningful comment. After considering these requests I have concluded that a 30-day extension of time for the receipt of comments is warranted. Accordingly, comments on the proposed rules will be accepted by the Bureau until the close of business on October 12, 1983.

DATE: Comments on the proposed rulemaking must be received by the close of business on Wednesday, October 12, 1983.

ADDRESS: Comments should be submitted to Program Officer, Division of Energy and Mineral Resources, Bureau of Indian Affairs, 730 Simms Street, Room 239, Golden, Colorado 80401.

FOR FURTHER INFORMATION CONTACT: David Baldwin (303) 234–6961.

Theodore C. Krenzke,

Acting Deputy Assistant Secretary—Indian Affairs (Operations).

[FR Doc. 83-24850 Filed 9-12-83; 8:45 am]

BILLING CODE 4310-02-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-241-81]

Dividend Reinvestment in Stock of Public Utilities; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to reinvestment of dividends in the stock of public utilities.

DATES: The public hearing will be held on Wednesday, October 5, 1983, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by Wednesday, September 21, 1983.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, D.C. The requests to speak and outlines of oral comments should be submitted to the Commissioner of Internal Revenue, Attn CC:LR:T (LR–241–81), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Lou Ann Craner of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, 202–566–3935, not a toll-free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 305 of the Internal Revenue Code of 1954. The proposed regulations appeared in the **Federal Register** for Thursday, June 30, 1983, (48 FR 30146).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit, not later than Wednesday, September 21, 1983, an outline of the oral comments to be presented at the hearing and the time they wish to devote to each subject.

Each speaker will be limited to 10 minutes for an oral presentation exclusive of the time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

George H. Jelly,

Director, Legislation and Regulations Division.

[FR Doc. 83-24826 Filed 9-12-83; 8:45 am]

BILLING CODE 4830-01-M

FEDERAL MARITIME COMMISSION

46 CFR Part 536

[Docket No. 82-36]

Publishing and Filing Tariffs by Common Carriers in Foreign Commerce; Requirements for Filing Currency Adjustment Factors Reflecting Changes in the Exchange Rate of Tariff Currencies

AGENCY: Federal Maritime Commission.

ACTION: Discontinuance of Proceeding.

SUMMARY: By notice published in this proceeding (47 FR 31407–31410, July 20, 1982), the Federal Maritime Commission proposed to amend its rules to provide requirements for filing currency adjustment factors reflecting changes in the exchange rate of tariff currencies. Comments were received from conferences, carriers, and shippers. Upon consideration of these comments the Commission has decided to discontinue this proceeding. The Commission will continue to monitor industry practices and shipper complaints concerning currency adjustment factors in the foreign trades of the United States.

EFFECTIVE DATE: Effective September 13, 1983.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, D.C. 20573, (202) 523–5725.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 83-24822 Filed 9-12-83; 8:45 am]

BILLING CODE 6730-01-M

Notices

Federal Register
Vol. 48, No. 178
Tuesday, September 13, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Missouri Soil and Water Conservation Cost-Share Program; Determination of Primary Purpose of Program Payments for Consideration as Excludable From Income Under Section 126 of the Internal Revenue Code of 1954

AGENCY: Office of the Secretary, USDA.

ACTION: Notice of determination.

SUMMARY: The Secretary of Agriculture has determined that payments made to landowners under the Missouri Soil and Water Conservation Cost-Share Program are made primarily for purposes of conserving soil or protecting the environment. This determination, which is made in accordance with Section 126 of the Internal Revenue Code of 1954, as amended, and the provisions of 7 CFR Part 14, permits recipients of these payments to exclude some or all of them from gross income for Federal income tax purposes if certain other conditions are met.

FOR FURTHER INFORMATION CONTACT: Gordell Brown, Director, Conservation and Environmental Protection Division, Agricultural Stabilization and Conservation Service, USDA, P.O. Box 2415, Washington, D.C. 20013, (202) 447–6221.

SUPPLEMENTARY INFORMATION: Section 126 of the Internal Revenue Code of 1954, as added by the Revenue Act of 1978 and amended by the Technical Corrections Act of 1979, provides that certain payments made under State programs may be eligible for exclusion from gross income if certain determinations are made. The Secretary of Agriculture must determine whether payments made under a State program, as described in Section 126(a)(10), are "made primarily for the purpose of conserving soil and water resources, protecting or restoring the environment, improving forests, or providing a habitat for wildlife." In making this determination, the Secretary of Agriculture must evaluate each program according to criteria set forth in 7 CFR Part 14.

One such conservation program carried out by the State of Missouri is the "Soil and Water Conservation Cost-Share Program" authorized by the Soil and Water Conservation Districts Law, Section 278.060 *et seq.*, Revised Statutes of Missouri 1980. This program is designed to save the soil of Missouri through erosion control and abatement practices. Incentives for installation and maintenance of such practices are provided by cost-share payments from the State funded program. Under the Soil and Water Cost-Share Program, which is administered by the Missouri Soil and Water Districts Commission, State cost-share funds are available only to landowners located in soil and water conservation districts if the districts have agreed to locally administer the program and have executed a memorandum of understanding with the Soil and Water Districts Commission setting forth the terms of the assistance. To be eligible, a landowner must have a conservation plan approved by the district. Cost-share payments are made through the districts to eligible landowners for the satisfactory installation of soil erosion control and abatement practices. Practices eligible for cost-sharing are as follows:

(1) Establishment of permanent vegetative cover
(2) Improvement of permanent vegetative cover
(3) Stripcropping systems
(4) Terrace systems
(5) Diversions
(6) Cropland protective cover
(7) Permanent vegetative cover on critical areas
(8) Contour farming
(9) Reduced tillage systems
(10) No-till systems
(11) Filter strips
(12) Water impoundment reservoirs
(13) Sediment retention, erosion or water control structures
(14) Sod waterways
(15) Special conservation practices

The authorizing legislation, regulations, and operating procedures for the Soil and Water Conservation Cost-Share Program of the State of Missouri have been carefully examined using the criteria set forth in 7 CFR Part 14. The Department has concluded that the payments made under this soil and water cost-share program are made to provide financial assistance to agricultural landowners in carrying out soil erosion control and abatement practices. A "Record of Decision, Missouri Soil and Water Conservation Cost-Share Program: Primary Purpose Determination for Federal Tax Purposes" has been prepared and is available upon request from the Conservation and Environmental Protection Division, ASCS. Requests may be sent to the address listed above.

Determination

It is hereby determined in accordance with Section 126(b)(1) of the Internal Revenue Code of 1954, as amended, and 7 CFR Part 14 that all cost-share payments made after December 1, 1980 for conservation practices under the Soil and Water Conservation Cost-Share Program of the State of Missouri are made primarily for the purpose of conserving soil or protecting the environment.

Signed at Washington, D.C. on September 7, 1983.

John R. Block,

Secretary of Agriculture.

[FR Doc. 83-24872 Filed 9-12-83; 8:45 am]
BILLING CODE 3410-01-M

CIVIL AERONAUTICS BOARD

Fitness Determination; Precision Valley Aviation, Inc. d.b.a. Precision Airlines

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Commuter Air Carrier Fitness Determination—Order 83–9–32, Order to Show Cause.

SUMMARY: The Board proposing to find that Precision Valley Aviation, Inc. d.b.a. Precision Airlines is fit, willing and able to provide scheduled passenger service as a commuter under section 419(c)(2) of the Federal Aviation Act, as amended; that it is capable of providing reliable essential air service; and that the aircraft used in this service conform to the applicable safety standards. The complete text of this order is available, as noted below.

DATES: Responses: All persons wishing to respond to the Board's tentative fitness determination shall serve their responses on all persons listed below no later than September 27, 1983, together with a summary of the testimony, statistical data, and other material relied upon to support the allegations.

ADDRESSES: Responses or additional data should be filed with Mr. Jame M. Craun, Chief, Essential Air Services Division II, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, and with all persons listed in Attachment A to the Order.

FOR FURTHER INFORMATION CONTACT: Mr. James Lawyer, Essential Air Services Division II, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. (202) 673–5348.

SUPPLEMENTARY INFORMATION: The complete text of Order 83–9–32 is available from the Distribution Section, Room 100, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 83–9–32 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: September 7, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83–24933 Filed 9–12–83; 8:45 am]

BILLING CODE 6320–01–M

[Docket 40822; Order 83–9–31]

Air Carrier Rules Governing Failure To Operate on Schedule or Failure To Carry

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 7th day of September, 1983.

Order

By order 82–7–18, July 8, 1982, the Board tentatively concluded that Rule 240(G) in the domestic rules tariff, C.A.B. No. 352, and several similar rules in international tarriffs, are unlawful and should be cancelled. In general, these rules allow carriers to divert passengers to airports many miles from the destination airport named on their ticket without any obligation to arrange or pay for other transportation to that airport.[1] In Order 82–7–18, the Board cited as a typical example of such a rule one that eliminated the carrier's obligation to ensure transportation to a passenger's ticketed destination airport as follows:[2]

If the destination designated on the passenger's ticket is:	And the flight on which the passenger is being transported is diverted to:
Baltimore, MD	Washington, D.C. (Dulles).
Baltimore, MD	Washington, D.C. (National).
Ft. Lauderdale, FL	Miami, FL.
Los Angeles, CA	Ontario, CA.
Miami, FL	Ft. Lauderdale, FL.
Newark, NJ	New York, NY.
New York, NY	Newark, NJ.
Oakland, CA	San Francisco, CA.
Ontario, CA	Los Angeles, CA.
San Francisco, CA	Oakland, CA.
San Francisco, CA	San Jose, CA.
Washington, D.C. (Dulles)	Baltimore, MD.
Washington, D.C. (Dulles)	Washington, D.C. (National).
Washington, D.C. (Nat.)	Baltimore, MD.
Washington, D.C. (Nat.)	Washington, D.C. (Dulles).

The Board went on to note that tariff rules such as these effectively bind passengers, without actual notice, to terms that negate what is promised on the ticket, *i.e.*, transportation to a specific airport at a specific price. This circumstance was tentatively found to be inherently misleading and a violation of, *inter alia*, section 411 of the Act.

The Board tentatively emphasized that its action was meant merely to eliminate the constructive notice afforded such terms under the tariff system and to remove any appearance that they carry the substantive imprimatur of the government. The Board expressly stated in the order that it did not intend its action to interfere with the ability of carriers to establish such terms by normal contractual means.

Objections to the order were filed by the Air Transport Association (ATA), on behalf of 15 of its carrier members,[3] and United Air Lines. The ATA claimed that cancellation of domestic rules would interfere with the carrier/consumer contract process and hamper a smooth transition to deregulation. United requested that its Rule 240(G) not be cancelled because it had added a provision to its rule providing for ground transportation to a passenger's original destination airport where a flight is diverted to another airport in the same area.[4]

The Aviation Consumer Action Project (ACAP) filed an answer to the objections of United and ATA. ACAP supports the Board's tentative findings that Rule 240(G) and other rules similar in nature are unlawful and should be cancelled. ACAP suggest, in the alternative, that the Board require carriers to amend their tariffs to make clear that they will provide ongoing ground transportation to the destination airport designated on a passenger's ticket.

After careful consideration of these comments, we have concluded that our tentative findings should be made final. Since the domestic tariff system ceased to exist at the end of 1982, our action here affects only tariff rules filed with the Board applicable to foreign air transportation.

ATA admits at the outset that its response does not address the Board's substantive concerns about the tariff rules in question being unfair and deceptive. ATA claims, however, that cancellation of any domestic tariff rule will interfere with the normal development of court review of contract terms and is contrary to deregulation. ATA recommended that the Board not act to cancel any such rule on its own initiative, but act to do so only following a formal complaint and hearing, and only upon finding a "persuasive showing" of an injury that cannot be eliminated by "actual and potential competition."

ATA contends that a finding of unlawfulness would have a chilling effect on a carrier's decision to adopt the terms by normal contractual methods and would improperly influence a court's review of the term. This argument fails to recognize the purpose behind the proposed action. Our tentative finding of unlawfulness was predicated on an essentially procedural defect: the inherent unfairness in binding passengers to a term buried in a tariff that conflicts with what they are told on their ticket. Removal of the term from the tariffs would merely preclude carriers from relying on the legal fiction of constructive notice to bind passengers to unexpected terms. It would not preclude carriers from adopting the term in question through normal bargaining methods, nor would it influence court decisions as to the lawfulness of the term.[5]

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[1] When Order 82–7–18 was issued, United Air Lines, Continental Air Lines, Braniff Airways, Pan American World Airways, Trans World Airways, New York Air, Western Air Lines, American Airlines, and Northwest Airlines participated in Rule 240(G) as described and many of these carriers had similar rules governing international travel. See Appendix to Order 82–7–18.

[2] Rule 240(G)(23)(a), Exception (11) revised Page 258.

[3] ATA's objections were filed on behalf of Alaska Airlines, Inc., American Airlines, Inc., Capitol Air, Inc., Continental Airlines, Inc., Delta Air Lines, Inc., Eastern Air Lines, Inc., Frontier Airlines, Inc., Midway Airlines, Inc., Northwest Airlines, Inc., Ozark Air Lines, Inc., Pan American World Airways, Inc., Republic Airlines, Inc., Western Airlines, Inc., Wein Air Alaska, Inc., and USAir, Inc.

[4] Rule 240(G)(b). As discussed in more detail below, the cessation of the domestic tariff system effective January 1, 1983, has rendered the issue of whether to cancel unfair or deceptive tariff rules moot insofar as domestic tariffs are concerned.

[5] Thus, it is apparent that any deterrence ATA speaks of would arise only because a carrier might

Continued

In addition, ATA argues that the proposed cancellations are inappropriate for three reasons: (1) It claims cancellation of any rule, eliminates competition by "depriving carriers which do not follow the rule of the opportunity to offer an alternate, competitive service;" (2) it claims there will be some "residual" effect in litigation of cancelling tariffs; and (3) it claims continued CAB review of individual tariffs until the end of 1982 would prevent an orderly transition to a completely deregulated system.

Although ATA limits its comments to domestic tariffs, which are no longer in existence, we will address them to the extent they are also applicable to tariff rules governing foreign transportation.

Since we have made clear in Order 82–7–18 that a carrier is free to have the rule or not have the rule, the first argument above has no merit in the context of our show cause order. In this respect, in the past we have generally required removal from tariffs of terms found inherently unfair, in order to eliminate the constructive notice which attaches to tariff matter and make clear such terms do not carry the imprimatur of the government. Orders 79–9–129 and 79–12–98; *See also* Orders 80–5–9 and 81–6–41, which prohibited carriers exempted from the Board's oversales rule from filing different rules in their tariffs.

We have not declared the rules in question unlawful *per se* if the consumer is adequately apprised of them. Whether or not this type of rule is so beyond a passenger's expectation, and therefore so unfair, that it should be prohibited entirely is at issue in EDR– , issued concurrently with this order. ATA and anyone else will have ample opportunity to comment on the question in that rulemaking.

As we pointed out in Order 82–7–18, the tariff rules in question permit carriers to divert passengers to an airport many miles from that at which they expected to arrive and to leave them to their own means and expense in ultimately reaching their destination. It permits, in essence, substantial rather than complete performance of the basic contract terms stated on the face of the ticket. It is misleading for the tariff to negate what the ticket expressly promises, and unfair to bind passengers, through tariff filings, to such unexpected terms affecting the very basis of their bargain.[6] We find that tariff provisions such as those described herein, including those listed in the attached Appendix, are unlawful absent adequate notice and therefore should be removed from the tariffs.[7]

Carriers that accept the basic responsibility for providing ground transportation to the destination airport can continue to file such rules in international tariffs. We recognize that carriers may need some flexibility in meeting this basic responsibility. Failure to accept the basic responsibility for full performance as implied on the ticket, however, cannot be given tariff sanction. We also reject the contention that there will be a residual effect in litigation if such tariff rules are prohibited; the carriers will simply have to comply with accepted contract law requirements.

We further reject ATA's suggestion that we should not act to cancel this rule unless there has been a showing of an injury that cannot be eliminated by competition. Our need to act in section 411 cases is never more clear than here, where it is likely that consumers would have no redress under customary contract or tort law.

Because the domestic tariff system is no longer in effect, the cancellation of the domestic tariff rules that were the subject of Order 82–7–18 is no longer at issue here. However, the basic problem of adequate notice remains. In Part 253, ER–1302, we adopted rules permitting carriers to incorporate terms by reference in their contracts of carriage upon the provision to each passenger of appropriate notice and opportunity to learn of the incorporated terms. Carriers complying with the uniform notice requirements could be assured that the incorporated terms would not be subject to challenge under differing state law notice requirements, although their substantive validity would still be governed by state contract law.

Because we believe that passengers should not be subjected to the unfairness of a rule incorporated into their contract, whether by tariff or otherwise, that negates a fundamental term stated on their ticket, we are issuing contemporaneously herewith a notice of proposed rulemaking in Docket 41683 to remedy the problem.[8] In that rulemaking, we are offering two proposals. One would amend § 253.7 of our domestic notice rule to require that "conspicuous written notice" as provided for by that section be given passengers of any contract term that at issue here that fails to specifically provide for substitute transportation to a passenger's destination airport. The other proposal asks for comments on the prohibition of such terms entirely if they do not provide for substitute transportation to the destination airport.

Accordingly, 1. The Board finds that the tariff rules listed in the Appendix to this order, and any substantially identical rules found in other tariffs on file with the Board, are unlawful, and we order that they be cancelled effective 60 days from the date of service of this order; no cancelled rule shall be accepted for subsequent filing;

2. This order shall be served on all U.S. certificated carriers and foreign carriers and on all parties filing comments in this docket and shall be published in the **Federal Register.**

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83–24934 Filed 9–12–83; 8:45 am]

BILLING CODE 6320–01–M

be reluctant either to risk the competitive pressures of advising the public in advance exactly what they are getting for their money, *i.e.*, that the carrier may leave them to fend for themselves at an airport other than that named on their ticket, or to face court review of the rule in the absence of advance notice.

[6] We also note that at least two carriers have conflicting rules in different international tariffs. In this respect, American Airlines and Western Airlines subscribe to provisions in C.A.B. No. 55, Rule 43; which require ground transportation be given to a passenger whose flight is diverted to another airport in the same metropolitan area as that named on the ticket; however, both carriers also have provisions in C.A.B. No. 376, Rule 95, that allow them to divert a passenger without obligation to arrange or pay for other transportation. Such conflicts are likely to cause confusion and may even be discriminatory. Of course, outside of the tariff system, the enforceability of potentially inconsistent or conflicting contract terms is a matter to be resolved under local law.

[7] The listing in the Appendix to Order 82–7–18 of the exception to Rule 43(H)(1) in Tariff C.A.B. No. 55, was an error. Since that rule makes clear that ground transportation will be provided, it has been omitted from the list of permissible rules in the Appendix to this Order.

[8] The NPRM has been sent to OMB for review under Executive Order 12291. It will given EDR/PSDR numbers and served after OMB review.

DEPARTMENT OF COMMERCE

International Trade Administration

Postponement of Preliminary Antidumping Determination; Certain Welded Carbon Steel Pipes and Tubes From Taiwan and the Republic of Korea

AGENCY: International Trade Administration, Commerce.

ACTION: Postponement of Preliminary Antidumping Determinations.

SUMMARY: The preliminary determinations of certain welded carbon steel pipes and tubes from Taiwan and the Republic of Korea (Korea) are being postponed, and we intend to issue them not later than October 24, 1983.

EFFECTIVE DATE: September 13, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Nicholas C. Tolerico, Office of Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Telephone (202) 377–0436.

SUPPLEMENTARY INFORMATION: On May 11, 1983, we announced our initiation of antidumping investigations to determine whether certain welded carbon steel pipes and tubes from Taiwan and Korea are being, or are likely to be, sold in the United States at less than fair value within the meaning of the antidumping law (48 FR 22179). The notice states that we would issue preliminary determinations by September 28, 1983.

As detailed in the notice of initiation of the antidumping investigations, the petitions allege that imports from Taiwan and Korea of certain welded carbon steel pipes and tubes are being or are likely to be, sold in the United States at less than fair value. On August 31, 1983, counsel for the petitioners, requested that the Department extend the period for the preliminary determinations until 185 days after the date of receipt of the petition in accordance with section 733(c) (1)(A) of the Tariff Act of 1930, as amended.

We have determined that additional time is necessary to make these preliminary determinations. Accordingly, the period for determinations in these cases is hereby extended. We intend to issue preliminary determinations not later than October 24, 1983.

This notice is published purusant to section 733(c) of the Act.

Dated: September 7, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-24671 Filed 9-12-83; 8:45 am]
BILLING CODE 3510-25-M

Final Determination of Sales at Less Than Fair Value; Portland Hydraulic Cement From Australia

AGENCY: Department of Commerce, International Trade Administration..

ACTION: Notice of Final Determination of Sales at Less Than Fair Value: Portland Hydraulic Cement from Australia.

SUMMARY: We have determined that portland hydraulic cement from Australia is being, or is likely to be, sold in the United States at less than fair value. Therefore, we have notified the U.S. International Trade Commission (ITC) of our determination, and the ITC will determine whether these sales at less than fair value have caused injury to a U.S. industry. We have directed the U.S. Customs Service to continue to suspend the liquidation of all entries of the subject merchandise which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of our preliminary determination on April 29, 1983, and to require a cash deposit or bond for each such entry in an amount equal to the estimated dumping margin as described in the "Suspension of Liquidation" section of this notice.

EFFECTIVE DATE: September 13, 1983.

FOR FURTHER INFORMATION CONTACT: Terry Link, Office of Investigations, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone: (202) 377–0189.

SUPPLEMENTARY INFORMATION: .

Final Determination

We have determined that portland hydraulic cement from Australia is being sold, or is likely to be sold, in the United States at less than "fair value," as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The weighted-average margin for Adelaide Brighton Cement, Ltd. is indicated in the "Suspension of Liquidation" section of this notice.

Case History

On September 23, 1983, we received a petition in proper form filed by counsel on behalf of Kaiser Cement Corporation; Gifford-Hill Cement Company; Monolith Portland Cement Company; Nevada Cement Company; the Stone, Glass and Clay Coordinating Committee, AFL/CIO; and the United Cement, Lime, Gypsum, and Allied Workers International Union, AFL/CIO, CLC. In accordance with the filing requirements of section 353.36 of the Commerce Department Regulations (19 CFR 353.36), the petitioners alleged that portland hydraulic cement from Australia is being, or is likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that these imports are materially injuring, or are threatening to materially injure, a U.S. industry.

After reviewing the petition, we determined that it contained sufficient grounds to initiate an antidumping investigation. We notified the ITC of our action and initiated such an investigation on October 19, 1982 (47 FR 46557). The ITC subsequently found, on November 8, 1982, that there is a reasonable indication that imports of portland hydraulic cement from Australia are materially injuring, or are threatening to materially injure, a United States industry. We determined this case to be "extraordinarily complicated," as defined in section 733(c)(1)(B) of the Act. Therefore, we extended the period for making a preliminary determination by 50 days until April 21, 1983 (48 FR 7243).

On April 21, 1983, we preliminarily determined that portland hydraulic cement from Australia is being, or is likely to be, sold in the United States at less than fair value (48 FR 19449). After receiving a request from Adelaide Brighton Cement, Ltd., who accounts for 100 percent of the exports of portland hydraulic cement to the United States, on June 8, 1983, we postponed the final determination until not later than September 6, 1983 (48 FR 26507).

Scope of Investigation

The merchandise covered by this petition is portland hydraulic cement, other than white, non-staining portland cement imported from Australia and currently classifiable under item number 511.1440 of the *Tariff Schedules of the United States Annotated.* We investigated sales of this cement which were made by Adelaide Brighton Cement, Ltd. (ABC) and sold to the United States during the period of investigation, April 1, 1982 through September 30, 1982. Sales by this firm accounted for 100 percent of all cement sold to the United States during the period of investigation.

Fair Value Comparison

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States prices with the foreign market value. We compared United States prices based on purchase price with foreign market value based on home market prices.

United States Price

As provided in section 772(b) of the Act, we used the purchase price of the subject merchandise to represent the United States price for the sale by ABC because the merchandise was sold to an unrelated export trading firm for resale to a U.S. purchaser and because ABC knew the destination of the merchandise at the time of the sale. We calculated the purchase price based on the f.o.b., bulk price to the unrelated export trading firm for resale in the United States. We made deductions for wharfage and loading expenses.

Foreign Market Value

In accordnace with section 773(a) of the Act, we calculated foreign market value based on home market sales by ABC of Type A portland cement, which we determined to be similar to the Type II portland cement imported into the United States. We calculated home market price on the basis of the delivered or ex-factory prices of cement in bulk to unrelated home market customers (pre-mix concrete dealers and cement products manufacturers). Where appropriate, we deducted inland freight, inland insurance, and loading. We made circumstances of sale adjustments for differences between U.S. and home market credit costs in accordance with § 353.15(b) of the Commerce Regulations. We also made adjustments for the cost of direct factory overhead associated with differences in the merchandise (degree of grinding) in accordance with § 353.16 of the Commerce Regulations.

Verification

In accordance with section 776(a) of the Act, we verified all information used in making this determination, by using standard verification procedures, including on-site inspection of the manufacturer's operations and examination of accounting records and selected documents containing relevant information.

Results of Investigation

We made fair value comparisons on the U.S. sale reported by Adelaide Brighton Cement, Ltd. We have found that the foreign market value exceeded the United States price on 100 percent of the merchandise sold. The margin on all portland hydraulic cement sales is 136.19 percent.

Petitioners' Comment

Comment 1

Petitioners argue that no adjustment to the foreign market value should be made pursuant to 19 CFR 353.15(b) for the payment, as a part of the price in the home market, of membership dues in an organization that promotes the use of concrete made from cement.

DOC Position

This item is a membership "premium" charged only to ready-mix customers at their request. The amount of this "premium" was passed by ABC (on behalf of its customers) to the National Ready Mix Concrete Association. Inasmuch as the cost of this membership premium is being paid by the customer and is not an expense incurred by ABC, we do not consider it a part of the price, and therefore, no adjustment was made. We merely excluded the amount of the premium from the sales price to these customers.

Respondent's Comments

Comment 1

Respondent argues that the Department failed to base its preliminary determination upon the appropriate home market sales, which it claims are sales of Type A clinker. Respondent contends that Type A clinker and Type A cement are similar merchandise within the meaning of section 771(16)(B) of the Act, and that, therefore, the Department has the discretion to consider the sales of both cement and clinker (or either of them) in calculating foreign market value.

DOC Position

In calculating foreign market value, the Department used sales in the home market of only Type A cement for comparison with Type II cement sold for export to the United States. The two types of cement are not identical (Type II cement is more finely ground than Type A), but they are like in component materials and the purposes for which used, as provided in section 771(16)(B) of the Act.

The respondent claimed that we should use sales in the home market of Type A clinker, because clinker is merely "cement kept in a convenient form until needed for sale." We disagree. Type A clinker is a precursor of cement, which requires grinding and the addition of another material, usually gypsum, to make cement. Clinker is used to make cement, while cement is used to make concrete.

Section 771(16) of the Act defines "similar merchandise," as used in the definition of foreign market value (section 773(a)(1) of the Act), as merchandise in the *first* of three listed categories of merchandise for which a less-than-fair-value sales determination can satisfactorily be made. Type A cement sold by the respondent company (ABC) in Australia satisfies the second listed category. Cement clinker does not satisfy any of the three categories, because it is not like portland hydraulic cement in the purposes for which it is used.

We have determined that Type A cement was sold during the period of investigation in sufficient quantities and under conditions which permit the calculation of foreign market value under section 773(a)(1) of the Act. Thus, a sales-at-less-than-fair-value determination can satisfactorily be made by using sales of Type A cement for our comparisons.

Comment 2

Respondent states that less-than-fair-value comparisons can be made satisfactorily in this case only if clinker sales are considered in the calculation of foreign market value, because the clinker sales in the home market were at a level of trade closer to that of the export sale. ABC has claimed two level of trade adjustments. The first is the difference between the weighted-average of the prices of ABC's home market sales of cement to pre-mix concrete dealers and concrete products manufacturers and the weighted-average of the prices of its home market sales of clinker to cement manufacturers. Respondent contents that this adjustment is necessary because the sales of cement are "spot sales" made in truckload quantities from price lists, whereas the sales clinker to domestic cement manufacturers, like the sales of cement to the export traders, are negotiated bulk sales. Moreover, they contend that the price variations reflect differences in market functions of the two classes of purchasers.

In addition, the respondent claims as a level of trade adjustment the difference between the weighted-average of the price of its home market sales of clinker to cement manufacturers and the weighted-average of the price of its clinker sales to trading companies in Australia for shipment to third countries. Respondent contends that trading companies pay consistently lower prices than cement companies because they perform different functions in the marketing and distribution network.

DOC Position

Assuming that level of trade adjustments can appropriately be made in the basis of sales of merchandise that is determined not to be such or similar within the meaning of section 771(16) of the Act (a question we are not deciding at this time), we have determined that respondent's request for level of trade adjustments must be denied for the following reasons.

Regarding the first requested level of trade adjustment, we conclude that information submitted by the respondent falls short of establishing that the price differentials reflect differences in levels of trade. The sales of cement to pre-mix concrete dealers and concrete products manufacturers are made pursuant to published price lists which are changed only after advance notice to customer. The cement

is sold in bulk, not in bags. The respondent has not claimed an adjustment for differences in quantities sold, nor have we found any basis for making such an adjustment under 19 CFR 353.14.

To the extent that the respondent has established consistent differences between the prices of sales of cement to pre-mix dealers and concrete products manufacturers and the prices of clinker to cement manufacturers, we find that the differences are due to factors other than functional differences in the market or distribution network. Respondent's formula for converting clinker to "cement equivalents" accounted for the cost of adding gypsum and of grinding, but it did not account for the fact that the respondent sold clinker and cement in different markets. It sold cement in the South Australian market where it was the primary seller, and it sold clinker in a geographically distant Australian market where market conditions differed considerably. Respondent was unable to demonstrate that it sold any cement or clinker in the South Australian market at arm's length prices to related, or to unrelated, cement manufacturers either during or close to the period of investigation. Therefore, we conclude that the differences in weighted-average prices most likely reflect differences in market conditions between South Australia and the other market, rather than differences in the market functions of two classes of purchasers.

Regarding the second level of trade adjustment, respondent claims that the export trading companies, unlike the cement companies, incur additional expenses associated with the need to find foreign buyers, arrange for shipping, and take risks in international sales. The respondent, however, did not quantify the cost of these differences or compare such costs with costs associated with sales of cement in the principal market in South Australia in order to establish that the price differences reflect the different market functions of the sellers.

The claimed level of trade adjustments are denied because the respondent failed to establish the existence of different functions in the market place and failed to quantify differences in the selling costs associated with different functions in the market place.

Comment 3

The respondent has argued that distribution of samples, promotional literature, and fees for participation in the Cement and Concrete Association of Australia (CACA) are allowable circumstances of sale adjustments, because they are expenses assumed by the seller and attributable to a later sale by purchsers.

DOC Position

The Department allows as circumstances of sale adjustments only those promotional expenses attributable to a later sale of the merchandise by a purchaser. Distribution of samples may be considered an expense attributable to a later sale by purchasers. However, ABC could not separately quantify the cost of the samples distributed during the period of investigation.

The promotional activities of CACA benefit the entire cement and concrete industry in Australia and are not specifically directed toward ABC cement or the product under investigation. Therefore, fees to the CACA may not be considered directly related to sales of Type A cement by ABC. These promotional expenses of the respondent were not allowed as circumstances of sale adjustments under section 353.15(b) of the Commerce Regulations.

A promotional publication produced by ABC is an allowable circumstances of sale adjustment. We normally would allow the expense for this publication as an adjustment to the home market selling price under § 353.15(a) of the Commerce Regulations. However, this expense is so insignificant (0.002 Australian dollars per ton), that we disregarded this adjustment in accordance with § 353.23 of the Commerce Regulations.

Comment 4

The respondent argued that it has demonstrated a direct relationship between the activities of certain of its technical services personnel and its local home market sales. Therefore, expenses for technical services must be allowed as a circumstances of sale adjustment.

DOC Position

The respondent has demonstrated that it has personnel who provide technical services to cement customers, but it did not demonstrate that these services were provided pursuant to sales. Since a direct relationship between the home market cement sales and the respondent's technical services has not been demonstrated, we have disallowed this adjustment pursuant to § 353.15(a) of the Commerce Regulations.

Comment 5

The respondent has argued that an adjustment must be made for direct selling expenses pursuant to § 353.15(a) of the Commerce Regulations. The expenses include vehicle expenses, itemized travel and entertainment expenses, sundry expenses, freight expenses absorbed by ABC, and the cost of bulker bags.

DOC Position

The respondent claims these expenses as direct selling expenses because they are shown on respondent's books distinct from general overhead expenses. The respondent has not, however, demonstrated that these expenses are directly related to the home market sales under consideration. Therefore, we have not allowed these expenses as an adjustment under § 353.15(a) of the Commerce Regulations.

Suspension of Liquidation

On April 29, 1983, we instructed the United States Customs Service to suspend liquidation of all entries of portland hydraulic cement from Australia (48 FR 19449). As of the date of publication of this notice in the **Federal Register**, the liquidation of all entries, or withdrawals from warehouse for consumption of this merchandise will continue to be suspended. The Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average amounts shown in this notice, by which the foreign market value of the merchandise subject to this investigation exceed the United States price. This suspension of liquidation will remain in effect until further notice. The weighted-average margins are as follows:

Manufacturer	Weighted-average margin percentage
Adelaide Brighton Cement, Ltd.	136.19
All Others	136.19

ITC Notification

In accordance with section 735(d) of the Act, we wil notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

The ITC will determine whether these imports are materially injuring or threatening to materially injure a U.S. industry, before the latter of 120 days after the Department made its preliminary affirmative determination or 45 days after the Department made its final affirmative determination.

If the ITC determines that material injury or the threat of material injury does not exist, this proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. If, however, the ITC determines that such injury does exist, we will issue an antidumping duty order, directing Customs officers to assess an antidumping duty on portland hydraulic cement from Australia, entered, or withdrawn, for consumption after the suspension of liquidation, equal to the amount by which the foreign market value of the merchandise exceeds the United States prices.

This determination is being published pursuant to section 735(d) of the Act (19 U.S.C. 1673(d)).

Dated: September 6, 1983.

[FR Doc. 83-24873 Filed 9-12-83; 8:45 am]

BILLING CODE 3510-25-M

Final Determination of Sales at Less Than Fair Value; Portland Hydraulic Cement From Japan

AGENCY: Department of Commerce, International Trade Administration.

ACTION: Notice of Final Determination of Sales at Less Than Fair Value: Portland Hydraulic Cement from Japan.

SUMMARY: We have determined that portland hydraulic cement from Japan is being, or is likely to be, sold in the United States at less than fair value. Therefore, we have notified the U.S. International Trade Commission (ITC) of our determination, and the ITC will determine, within 45 days of publication of this notice, whether these imports are materially injuring, or are threatening to materially injure, a United States industry. We have directed the U.S. Customs Service to continue to suspend the liquidation of entries of the subject merchandise which are entered, or withdrawn from warehouse, for consumption, on or after April 29, 1983, in accordance with our preliminary determination, to begin suspension of liquidation on all exports of the subject merchandise by Sumitomo as of the date of publication of this notice, and to require a cash deposit or bond for each such entry in an amount equal to the estimated dumping margin as described in the "Suspension of Liquidation" section of this notice.

EFFECTIVE DATE: September 13, 1983.

FOR FURTHER INFORMATION CONTACT: Terry Link, Office of Investigations, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone: (202) 377-0189.

SUPPLEMENTARY INFORMATION:

Final Determination

We have determined that portland hydraulic cement from Japan is being sold, or is likely to be sold, in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The concerned firms are indicated in the "Suspension of Liquidation" section of this notice.

Case History

On September 23, 1982, we received a petition in proper form filed by counsel on behalf of Kaiser Cement Corporation; Gifford-Hill Cement Company; Monolith Portland Cement Company; Nevada Cement Company; the Stone, Glass and Clay Coordinating Committee, AFL/CIO; and the United Cement, Lime, Gypsum, and Allied Workers International Union, AFL/CIO, CLC. In accordance with the filing requirements of section 353.36 of the Commerce Department Regulations (19 CFR 353.36), the petitioners alleged that portland hydraulic cement from Japan is being, or is likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that these imports are materially injuring, or are threatening to materially injure, a U.S. industry.

After reviewing the petition, we determined that it contained sufficient grounds to initiate an antidumping investigation. We notified the ITC of our action and initiated such an investigation on October 19, 1982 (47 FR 46558). The ITC subsequently found, on November 8, 1982, that there is a reasonable indication that imports of portland hydraulic cement from Japan are materially injuring, or are threatening to materially injure, a United States industry. We determined this case to be "extraordinarily complicated," as defined in section 733(c)(1)(A) of the Act. Therefore, we extended the period for making a preliminary determination by 50 days until April 21, 1983 (48 FR 7243).

On April 21, 1983, we preliminarily determined that portland hydraulic cement from Japan is being, or is likely to be sold in the United States at less than fair value (48 FR 19445). After receiving a request from Nihon Cement Co., Ltd. (Nihon), who accounts for approximately one-third of the exports of portland hydraulic cement to the United States, on June 8, 1983, we postponed the final determination until not later than September 6, 1983 (48 FR 26507), in accordance with section 735(a)(2)(A) of the Act.

Scope of Investigation

The merchandise covered by this investigation is portland hydraulic cement, other than white, non-staining portland cement imported from Japan and currently classifiable under item number 511.1440 of the *Tariff Schedules of the United States Annotated*. We investigated sales of this cement which were made by two Japanese producers and sold to the United States during the period of investigation, March 1, 1982 through September 30, 1982.

The firms investigated were Sumitomo Cement Co., Ltd. (Sumitomo) and Nihon. Sales by these firms accounted for 100 percent of all sales of the subject merchandise to the United States during the period of investigation.

Fair Value Comparison

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States prices with the foreign market value. We compared United States price based on purchase price with foreign market value based on home market prices or on constructed value, where appropriate.

United States Price

As provided in section 772(b) of the Act, we used the purchase price of the subject merchandise to represent the United States price for sales by both producers, because the merchandise was sold by Nihon to an unrelated purchaser in the United States, and was sold by Sumitomo to an unrelated purchaser in Japan for resale to the United States, prior to importation of the merchandise into the United States. In the case of Sumitomo, the manufacturer knew the destination of the merchandise at the time the sales were made.

We calculated the purchase price based on the unpacked, f.o.b., bulk price to unrelated purchasers. We made deductions for foreign inland freight, foreign inland insurance, foreign brokerage charges, and, where appropriate, for discounts.

Foreign Market Value

In accordance with section 773 of the Act, we calculated foreign market value based on home market sales for Nihon, and on constructed value for Sumitomo. We determined that the moderate heat cement (MC) sold in Japan is similar to Type II portland hydraulic cement sold in the United States, in accordance with the provisions of section 771(16) of the Act.

The petitioners alleged that sales of MC cement in the home market were at prices below the cost of producing MC cement. We examined production costs, which included all appropriate costs for materials, fabrication, and general expenses. Sales of MC cement below the cost of production were found to be made by both Sumitomo and Nihon. Where sales of the merchandise under investigation were made over an extended period of time and in substantial quantities, and were at prices which did not permit recovery of all costs within a reasonable period of time in the normal course of trade, the Department disregarded these sales in its analysis, in accordance with section 773(b) of the Act. For Nihon, we found that sufficient sales of MC cement were made at or above the cost of production, and therefore, those sales were used in making price-to-price comparisons with the sale in the United States market. For Sumitomo, we found that sales which were made above the cost of production were inadequate as a basis for the determination of foreign market value and, consequently, we used the contructed value of the merchandise to determine the foreign market value.

We calculated the home market prices for Nihon on the basis of the delivered, unpacked, bulk prices to unrelated customers. We deducted foreign inland freight, and discounts. We made circumstances of sale adjustments for differences between U.S. and home market credit costs in accordance with section 353.15 of the Commerce Regulations, and we adjusted for the cost of materials, labor and direct factory overhead associated with differences in the merchandise, in accordance with section 353.16 of the Commerce Regulations. We also made an adjustment for indirect selling expenses in the home market used as an offset to U.S. commissions in accordance with section 353.15(c) of the Commerce Regulations.

Since the U.S. sale reported by Nihon was made in bulk to a trading company, we used only those home market sales that were made in bulk to distributors in our calculation of foreign market value.

We used constructed value as a basis for the determination of Sumitomo's foreign market value. We calculated it to include the cost of materials, fabrication, general expenses, and profit. Since the actual general expenses were higher than the statutory minimum of 10 percent of the sum of material and fabrication costs, actual expenses were added. The amount added for profit was the statutory minimum of 8 percent of the sum of materials, fabrication costs, and general expenses, because the actual profit was less than 8 percent.

Verification

In accordance with section 776(a) of the Act, we verified all the information used in making this determination, by using standard verification procedures, including on-site inspection of the manufacturers' operations and examination of accounting records and selected documents containing relevant information.

Results of Investigation

We made fair value comparisons on all U.S. sales reported by the respondents. We have found that the foreign market value exceeded the United States price on 100 percent of the merchandise sold. These margins ranged from 33.77 percent to 43.54 percent. The overall weighted-average margin on all portland hydraulic cement sales is 37.24 percent.

Petitioners' Comments

Comment 1

Petitioners argue that, in terms of component materials and the purposes for which it is used, the general purpose portland cement (PC) sold in Japan is more similar than MC cement to the Type II cement which is exported to the United States. Therefore, sales of PC cement constitute the appropriate basis for the determination of foreign market value.

DOC Position

The Type II cement sold to the United States and the PC and MC cements sold in Japan all have similar, but not necessarily the same, component materials. Also, the proportions of component materials contained in a particular cement vary according to cement type. We consulted a cement expert at the National Bureau of Standards (NBS) to assist us in identifying "such or similar" merchandise for comparison to Type II cement. We ascertained that in Type II cement the tricalcium aluminate content is limited to eight percent. This is important because the Type II cement under investigation is imported into California and Nevada, where moderate sulfate resistance is required. The percentage of tricalcium aluminate which MC cement sold in Japan can contain is limited to eight percent, while PC cement has no such limitation. The petitioners, in their letters of April 6 and April 14, 1983, stated that while PC cement does not have a required tricalcium aluminate level, it has an actual level of nine percent. The NBS expert stated that a cement containing a tricalcium aluminate level in excess of eight percent (PC cement) cannot be used in applications requiring moderate sulfate resistance. Therefore, with regard to the component materials contained in the cement types under consideration, we determine that MC cement sold in Japan is "such or similar" to the Type II cement which is sold to the United States.

The petitioners also claim that the uses of MC cement in the home market are different from the uses of Type II cement in the United States. They state that Type II cement is used in commercial and residential construction, highways, and manufacture of concrete products. Petitioners argue that PC cement is also used as a general construction cement, while MC cement is used for massive concrete work, such as dam construction. We have found, however, that not only is MC cement used for the construction of dams, but it is also used for the rehabilitation and construction of roads, and airport runways. Therefore, MC cement is like Type II cement in the purposes for which it is used.

MC cement is similar to Type II cement both in terms of component materials and in the purposes for which it is used. Therefore, we determined that MC cement is "such or similar" merchandise pursuant to section 771(16)(B) of the Act. Since Type II cement is imported for use in applications requiring moderate sulfate resistance, PC cement does not satisfy the requirements of section 771(16) of the Act and, is, therefore, not considered "such or similar" merchandise for purposes of this investigation.

Comment 2

The petitioners argue that sales of PC cement are made in the "principal markets" and in the "ordinary course of trade," while sales of MC cement are not. Therefore, sales of MC cement do not meet the statutory requirements for establishing foreign market value.

DOC Position

Petitioners base their arguments on the fact that PC cement is sold in greater volume in the home market than MC cement. It is immaterial that PC cement is sold in a greater volume. What is material is for MC cement, we use only the sales of MC cement in its principal market. All sales of MC cement during the period of investigation were made in those Japanese markets in which MC cement is usually sold. Therefore, the Department considers all sales of MC cement used in this investigation to have been sold in the principal market as required by section 773 of the Act.

The MC sales were made in the "ordinary course of trade" pursuant to section 771(15) of the Act. In Japanese domestic trade, cement is normally sold to distributors. All sales of MC cement used in our comparisons, in conformity with this parctice, were made to distributors. Therefore, we determine that the sales under consideration were made in the "ordinary course of trade".

Comment 3

Petitioners argue that the Department erred in its preliminary determination by using sales to a related party, Sumitomo Corporation, in determining foreign market value.

DOC Position

Sumitomo Corporation owns 2.9 percent of the stock in Sumitomo. Where one party retains less than a 5 percent interest in another party, the practice of the Department has been not to consider those parties as related within the meaning of section 771(13) of the Act. However, even assuming *arguendo* that the two firms were related within the meaning of section 771(13) of the Act, § 353.22(b) of the Commerce Regulations permits the price(s) at which the organization purchases the subject merchandise from the related seller to be used in the determination of foreign market value under certain conditions. Examination of the prices at which Sumitomo sells MC cement to Sumitomo Corporation in comparison to its sales prices to other customers does not indicate the Sumitomo maintains a pattern of preferentially pricing its sales to Sumitomo Corporation. Therefore, we determine that, pursuant to section 353.22 of the Commerce Regulations, sales to Sumitomo Corporation should be included in the determination of foreign market value, because they were made at prices comparable to those at which the subject merchandise is sold to other customers.

Comment 4

The petitioners argue that no adjustment for differences in physical characteristics should be made if foreign market value is based on sales of MC cement, because there is no evidence that any price differential is due to the greater cost of producing MC cement.

DOC Position

During verification, our examination of the cost of producing MC and Type II cement revealed certain cost differences which we determine are attributable to differing physical characteristics of the merchandise. The Department's allowance of an adjustment for differences in physical characteristics is in accordance with § 353.16 of the Commerce Regulations which states that reasonable allowances shall be made for differences in costs to the seller resulting from differing physical characteristics of the merchandise. The Court of International Trade recognized (*Brother Industries Ltd.* v. *United States*, 540 F. Supp. 1348 (1982)), and the Court of Appeals for the Federal Circuit affirmed (*Smith-Corona Group* v. *United States*, Appeal No. 82–84, decided Aug. 9, 1983), with respect to the circumstances of sale adjustment described in secton 353.15 of the Commerce Regulations, that, absent evidence that the cost of producing particular types of merchandise does not reflect their respective values, the Department may reasonably conclude that cost and value are directly related. Therefore, we maintain that it is reasonable to conclude that the differences in the cost of producing MC and Type II cement result in differences in their prices, and we determine that these cost differences constitute an appropriate basis for the allowance of an adjustment for differences in the physical characteristics of the merchandise.

Comment 5

The petitioners argue that there is a commission, not a discount, paid to distributors in the home market. Therefore, no deduction should be made for the indirect selling expenses claimed by the Japanese producers as an offset for commissions paid on the sales to the United States.

DOC Position

We examined sales of MC cement to distributors in Japan who purchase the coment from the investigated firms. Since the buyer of a product cannot receive a commission *per se* for its own purchases, as would a sales agent, the Department considers that a reduction of the sales price to a purchaser constitutes a rebate or a discount, not a commission. Furthermore, we have verified that the distributors negotiate prices with the cement companies and receive title to the cement. Therefore, pursuant to §353.15(c) of the Commerce Regulations, a deduction of indirect selling expenses has been made to offset commissions paid on the sales to the United States.

Respondent's Comments

Comment 1

Respondents argue that even if the Department finds that some of their sales of MC cement were below the cost of production, such sales did not take place over an "extended period of time" within the meaning of section 773(b) of the Act. Respondents define "an extended period of time" as one year for purposes of this section of the Act for this investigation.

DOC Position

The Department chose a seven-month period of investigation for the selection of prices to be compared to cost, and used an annual accounting period (which included the period of investigation) to examine cost. Our determination of whether below cost sales should be disregarded was thus made by comparing the prices for the period of investigation to the cost of producing the subject merchandise for at least a one-year period which encompassed the period of investigation. We found that sales of MC cement were made below the cost of production throughout the seven-month period of investigation. Consequently, we disregarded these sales in accordance with section 773(b) of the Act.

Suspension of Liquidation

On April 29, 1983, we instructed the United States Customs Service to suspend liquidation of all entries of portland hydraulic cement from Japan with the exception of portland hydraulic cement produced by Sumitomo (48 FR 19445). As of the date of publication of this notice in the **Federal Register**, the liquidation of all entries, or withdrawals from warehouse, for consumption, of this merchandise will continue to be suspended for Nihon and all other manufacturers and producers, which were previously subject to suspension. In addition, we are directing the United States Customs Service to suspend liquidation of all entries of portland hydraulic cement produced by Sumitomo. The Customs Service shall require a cash deposit or the posting of a

bond equal to the estimated weighted-average amounts shown in this notice by which the foreign market value of the merchandise subject to this investigation exceeds the United States price. This suspension of liquidation will remain in effect until further notice. The weighted-average margins are as follows:

Manufacturer	Weighted-average margin percentage
Sumitomo Cement Co., Ltd.	35.50
Nihon Cement Co., Ltd.	43.54
All others	37.24

ITC Notification

In accordance with section 735(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without written consent of the Deputy Assistant Secretary for Import Administration.

The ITC will determine whether these imports are materially injuring or threatening to materially injure a U.S. industry within 45 days of the publication of this notice.

If the ITC determines that material injury or the threat of material injury does not exist, this proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. If, however, the ITC determines that such injury does exist, we will issue an antidumping order, directing Customs officers to assess an antidumping duty on portland hydraulic cement from Japan, entered, or withdrawn, for consumption after the suspension of liquidation, equal to the amount by which the foreign market value of the merchandise exceeds the United States prices.

This determination is being published pursuant to section 735(d) of the Act (19 U.S.C. 1673(d)).

Lawrence J. Brady,

Assistant Secretary for Trade Administration.

[FR Doc. 83-24874 Filed 9-12-83; 8:45 am]

BILLING CODE 3510-25-M

Management-Labor Textile Advisory Committee; Open Meeting

A meeting of the Management-Labor Textile Advisory Committee will be held October 13, 1983, 1:00 p.m., Herbert C. Hoover Building, Room 4830, 14th Street and Constitution Avenue, NW., Washington, D.C. (The Committee was established by the Secretary of Commerce on October 18, 1961 to advise Department officials on problems and conditions in the textile and apparel industry.)

Agenda: Review of import trends, implementation of textile agreements, report on conditions in the domestic market, and other business.

The meeting will be open to the public with a limited number of seats available. For further information or copies of the minutes contact Helen L. LeGrande (202) 377-3737.

Dated: September 8, 1983.

Walter C. Lenahan,

Deputy Assistant Secretary for Textiles and Apparel.

[FR Doc. 83-24914 Filed 9-12-83; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF COMMERCE

International Trade Administration

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Closing Date for Receipt of Additional Applications from New Firms for a Portion of the 1983 Virgin Islands Watch Quota

September 6, 1983.

The Departments published an invitation for applications from new firms for a portion of the 1983 Virgin Islands Watch Quota (15 CFR Part 303) on May 16, 1983 (48 FR 21981).

A qualifying application was received on August 24, 1983. Accordingly, the Departments will consider additional applications only if they are received before close of business on October 13, 1983.

For additional information contact Mr. Frank Creel on (202) 377-1660.

Rick T. Montoya,

Acting Assistant Secretary for Territorial and International Affairs, Department of the Interior.

Frank W. Creel,

Acting Director, Statutory Import Programs Staff, Department of Commerce.

[FR Doc. 83-24915 Filed 9-12-83; 8:45 am]

BILLING CODE 4310-10-M; 3510-25-M

DEPARTMENT OF COMMERCE

National Bureau of Standards

[Docket No. 30812-158]

Federal Information Processing Standard 46, Data Encryption Standard

Under the provisions of Pub. L. 89-306 (79 Stat. 1127; 40 U.S.C. 759(f) and Executive Order 11717 (38 FR 12315, dated May 11, 1973), the Secretary of Commerce is authorized to establish uniform Federal automatic data processing standards. Within this authorization, the Data Encryption Standard was issued as Federal Information Processing Standard 46 on January 15, 1977.

This standard specified that a review would be performed by the National Bureau of Standards (NBS) five years after its effective date, taking into account technological trends and other factors, in order to determine whether the standard should be affirmed, revised, or withdrawn. This review process is not complete. In order to ensure that all parties had an opportunity to present their views, NBS solicited comments on the standard (47 FR 12375, March 23, 1982). Comments and recommendations regarding the adequacy, implementation and use of the standard have been carefully reviewed.

After considering all comments and recommendations, the standard has been affirmed in its present form, and will be reviewed again beginning on or before January 15, 1987.

Dated: September 6, 1983.

John W. Lyons,

Acting Director.

[FR Doc. 83-24901 Filed 9-12-83; 8:45 am]

BILLING CODE 3510-13-M

[Docket No. 30812-159]

Proposed Federal Information Processing Standard for Pascal

Under the provisions of Pub. L. 89-306 (79 Stat. 1127; 40 U.S.C. 759(f)) and Executive Order 11717 (38 FR 12315, dated May 11, 1973), the Secretary of Commerce is authorized to establish uniform Federal automatic data processing (ADP) standards. A Federal Information Processing Standard for Pascal is being proposed for Federal use. It is based on the Federal adoption of American National Standard ANSI/IEEE770X3.97-1983, Programming Language Pascal, which is a voluntary industry standard developed jointly by the American National Standards

Institute and the Institute of Electrical and Electronics Engineers. This standard will be added to the current family of Federal Information Processing Standard (FIPS) Languages which includes Minimal Basic, Fortran and Cobol.

Prior to the submission of this proposed standard to the Secretary of Commerce for review and approval as a FIPS, it is essential to assure that consideration is given to the needs and views of manufacturers, the public, and State and local governments. The purpose of this notice is to solicit such views.

This proposed Federal Information Processing Standard (FIPS) contains two portions: (1) An announcement portion, which provides information concerning the applicability, implementation, and maintenance of the standard, is provided in its entirety in this notice; and (2) a specification portion which deals with the technical requirements of the standard, American National Standard ANSI/IEEE770X3.97–1983, Programming Language Pascal. (Interested parties may obtain a copy of the technical specifications from the American National Standards Institute, 1430 Broadway, New York, New York 10018.)

Comments concerning the adoption of Pascal as a FIPS are invited and may be sent to Director, Institute for Computer Sciences and Technology, ATTN: Proposed FIPS for Pascal, Administration Building, Room A200, National Bureau of Standards, Washington, D.C. 20234. To be considered, comments on this proposed action must be received on or before December 12, 1983.

Written comments received in response to this notice plus written comments obtained from Federal department and agencies will be made part of the public record and will be made available for inspection and copying in the Central Reference and Records Inspection Facility, Room 6622, Main Commerce Building, 14th Street between Constitution Avenue and E Street, NW., Washington, D.C. 20230.

Persons desiring further information about this proposed FIPS for Pascal may contact Dr. Jack C. Boudreaux, Data Management and Programming Languages Division, Center for Programming Sciences and Technology, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234, telephone 301/921–2431.

Dated: September 7, 1983.

John W. Lyons,

Acting Director.

Federal Information Processing Standard Publication——

Announcing the Standard for Pascal

Federal Information Processing Standards Publications (FIPS PUBS) are issued by the National Bureau of Standards pursuant to Section 111(f)(2) of the Federal Property and Administrative Services Act of 1949, as amended, Pub. L. 89–306 (79 Stat. 1127), Executive Order 11717 (38 FR 12315, dated May 11, 1973), and Part 6 of Title 15 Code of Federal Regulations (CFR).

1. *Name of Standard.* Pascal (FIPS PUB ———).

2. *Category of Standard.* Software Standard, Programming Language.

3. *Explanation.* This publication announces the adoption of American National Standard Programming Language Pascal, ANSI/IEEE770X3.97–1983, as a Federal Information Processing Standard (FIPS). The American National Standard Pascal, ANSI/IEEE770X3.97–1983, specifies the form and establishes the interpretation of programs expressed in the Pascal Programming Language. The purpose of the standard is to promote portability of Pascal programs for use on a variety of data processing systems. The standard is for use by implementors as the reference authority in developing compilers, interpreters, or other forms of high level language processors; and by other computer professionals who need to know the precise syntactic and semantic rules adopted by ANSI. It is not the primary purpose of this standard to explain the language to the beginning or casual user.

4. *Approving Authority.* Secretary of Commerce.

5. *Maintenance Agency.* Department of Commerce, National Bureau of Standards (Institute for Computer Sciences and Technology).

6. *Cross Index.* American National Standard ANSI/IEEE770X3.97–1983, Pascal.

7. *Related Documents:*

a. Federal Property Management Regulation 101–36.1310, Implementation of Federal Information Processing and Federal Telecommunication Standards into Solicitation Documents, Federal Information Processing Standard (FIPS) Programming Languages.

b. FIPS PUB 29–1, Interpretation Procedures for Federal Information Processing Standard Programming Languages.

8. *Objectives.* Federal standards for high level programming languages permit Federal departments and agencies to more effectively produce, manage, and use the government's information resources. The primary objectives of Federal programming language standards are:

—To encourage more effective utilization and management of programmers by ensuring that programming skills acquired on one job are transportable to other jobs, thereby reducing the cost of programmer re-training;

—To reduce the cost of program development by achieving the increased programmer productivity that is inherent in the use of high level programming languages;

—To reduce the overall software costs by making it easier and less expensive to maintain programs and to transfer programs among different computer systems, including replacement systems;

—To protect the existing software assets of the Federal Government by ensuring to the maximal feasible extent that Federal programming language standards are technically sound and that subsequent revisions are compatible with the installed base.

Government-wide attainment of the above objectives depends upon the widespread availability and use of comprehensive and precise standard language specifications.

9. *Applicability:*

a. Federal standards for high level programming languages are intended for use in computer applications and programs that are either developed or acquired for government use. FIPS Pascal is one of the high level programming language standards available for use by all Federal departments and agencies. FIPS Pascal is suitable for use in programming applications that employ structured programming techniques and that require advanced data typing facilities, especially those applications which are of a size compatible with an implementation in a minicomputer or microcomputer environment.

b. The use of FIPS high level programming languages is strongly recommended when one or more of the following situations exist:

—It is anticipated that the lift of the program will be longer than the life of the presently utilized equipment.

—The application or program is under constant review for updating of the specifications, and changes may result frequently.

—The application is being designed and programmed centrally for a decentralized system that employs computers of different makes, models and configurations.
—The program will or might be run on equipment other than that for which the program is initially written.
—The program is to be understood and maintained by programmers other than the original ones.
—The advantages of improved program design, debugging, documentation and intelligibility can be obtained through the use of this high level language regardless of interchange potential.
—The program is or is likely to be used by organizations outside the Federal Government (i.e., State and local governments, and others).

d. Non-standard language features should be used only when the needed operation or function cannot reasonably be implemented with the standard features alone. Although non-standard language features can be very useful, it should be recognized that the use of these or any other non-standard language elements may make the interchange of programs and future conversion to an extended Pascal standard or replacement processor more difficult and costly.

e. It is recognized that programmatic requirements may be more economically and efficiently satisfied through the use of report generation, data base management, or text processing languages. The use of any facility should be considered in the context of system life, system cost, and the potential for data sharing.

f. Programmatic requirements may be also more economically and efficiently satisfied by the use of automatic program generators. However, if the final output of a program generator is a Pascal source program, then the resulting program should conform to the conditions and specifications of FIPS Pascal.

10. *Specifications.* American National Standard Programming Language Pascal, ANSI/IEEE770X3.97–1983, contains the specifications for FIPS Pascal. The ANS Pascal document defines the scope of the specifications, the syntax and semantics of the Pascal language and requirements for a conforming processor and program. All of these specifications apply to FIPS Pascal.

11. *Implementation.* The implementation of FIPS Pascal involves two areas of consideration: acquisition of Pascal processors, and interpretation of Pascal.

11.1 *Acquisition of Pascal Processors.* This publication is effective (the date of approval of this document). Pascal processors acquired for Federal use after this date should implement FIPS Pascal. Conformance to FIPS Pascal should be considered whether Pascal processors are developed internally, acquired as part of an ADP system procurement, acquired by separate procurement, used under an ADP leasing arrangement or specified for use in contracts for programming services.

A transition period provides time for industry to produce Pascal processors conforming to the standard. The transition period begins on the effective date and continues for eighteen (18) months thereafter. A Pascal language processor not conforming to FIPS Pascal may be acquired for interim use during the transition period.

11.2 *Interpretation of FIPS Pascal.* NBS provides for the resolution of questions regarding FIPS Pascal specifications and requirements, and issues official interpretations as needed. All questions about the interpretation of FIPS Pascal should be addressed to:

Director, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234

12. *Where to Obtain Copies.* Copies of this publication are for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22161. (Sale of the included specifications document is by arrangement with the American National Standards Institute.) When ordering, refer to Federal Information Processing Standards Publication —— (FIPS PUB ——), and title. Payment may be made by check, money order, or deposit account.

[FR Doc. 83-24892 Filed 9-12-83; 8:45 am]
BILLING CODE 3510-13-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Increasing the Import Limit for Certain Cotton Textile Products from Pakistan

September 8, 1983.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on September 13, 1983. For further information contact Gordana Slijepcevic (202/377–4212.

Background

A CITA directive dated December 14, 1982 (47 FR 56536) established limits for certain specified categories of cotton textile products, including Category 369 (other cotton manufactures, excluding bar mops in T.S.U.S.A. number 366.1855), produced or manufactured in Pakistan and exported during the agreement year which began on January 1, 1983. Under the terms of the Bilateral Cotton Textile Agreement of March 9 and 11, 1982, as amended, the Governments of the United States and Pakistan have agreed to increase the limit for Category 369 pt. (excluding T.S.U.S.A. Number 366.1855) from 5,869,565 pounds to 6,521,739 pounds during that twelve-month period.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175) and May 3, 1983 (48 FR 19924).

Walter C. Lenaha,

Chairman, Committee for the Implementation of Textile Agreements.

September 8, 1983.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of December 14, 1983 from the Chairman of the Committee for the Implementation of Textile Agreements concerning imports into the United States of certain cotton textile products, produced or manufactured in Pakistan.

Effective on September 13, 1983, the directive of December 14, 1982 is hereby further amended to include an increased level of restraint for cotton textile products in Category 369 pt. (all T.S.U.S.A. numbers except 366.1855) of 6,521,739 pounds.[1]

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-24875 Filed 9-12-83; 8:45 am]
BILLING CODE 3510-25-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Forms Under Review by Office of Management and Budget

The Committee for Purchase from the Blind and Other Severely Handicapped

[1] The level has not been adjusted to reflect any imports after December 31, 1982.

has submitted requests to extend the authorization for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S. Chapter 35).

On September 1, 1981, OMB approved the following Committee forms:

	Form
Initial Certification—Blind	401
Initial Certification—Severely handicapped	402
Annual Certification—Blind	403
Annual Certification—Severely handicapped	404

It is proposed to extend the authorization for the collection of information on the above forms. The information included on the forms is required to ensure that new workshops entering the Committee's program meet the requirements of Pub. L. 92–28, June 23, 1971 (44 U.S.C. 46–48c) and that participating workshops continue to meet the requirement of the Act.

Requests for information including copies of the proposed information requests and supporting documentation should be directed to: C. W. Fletcher, Committee for Purchase from the Blind and Other Severely Handicapped, 1755 Jefferson Davis Highway, Crystal Square 5, Suite 1107, Arlington, VA 22202; (703) 557–1145.

Comments on the requests to extend the authorization for the reports should be submitted to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, ATTN: Joseph Lackey.

C. W. Fletcher,

Executive Director.

[FR Doc. 83-24903 Filed 9-12-83; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1983; Correction of Additions and Deletions

FR Doc. 83–24176, published September 2, 1983 (48 FR 39976) under "Deletions" is amended by deleting the words "It is proposed to delete the following commodities and service from Procurement List 1983, November 18, 1982 (47 FR 52101):" and substituting therefor "After consideration of the relevant matter presented, the Committee has determined that the commodities and service listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

"Accordingly, the following commodities and service are hereby deleted from Procurement List 1983:"

C. W. Fletcher,

Executive Director.

[FR Doc. 83-24904 Filed 9-12-83; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Department of the Army

Draft Environmental Impact Statement (DEIS) for a Study to Reduce Flooding Along the Lower Meramec River, Missouri; Intent to Prepare

AGENCY: St. Louis District, U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a draft environmental impact statement (DEIS) as part of the study to reduce flooding along the lower Meramec River, Missouri.

SUMMARY: 1. *Proposed Action.* This study is to determine and implement nonstructural and structural measures that are economically and engineeringly feasible to prevent flood damages to communities along the Meramec River in St. Louis and Jefferson Counties and a portion of Franklin County, Missouri. The construction of any dams and reservoirs will not be considered.

2. *Alternatives.* The following alternatives will be studied: flood proofing structures; raising structures; floodwalls; levees; purchase of flood-prone land and relocation of flood-prone structures; establishing parks on vacated land; flood forecasting, warning, and evacuation systems; floodplain regulations; flood insurance; enlarging bridge openings; enlarging, realining, or clearing debris from stream channels.

3. *Scoping Process.* a. *Public Involvement Program:* Numerous public agencies, private groups and individuals are being involved with this study. These include members of the Missouri U.S. Congressional delegation, U.S. Fish and Wildlife Service, National Weather Service, Federal Emergency Management Agency, U.S. Geological Survey, U.S. Environmental Protection Agency, Missouri Department of Conservation, Missouri Department of Natural Resources, St. Louis Metropolitan Sewer District, Meramec River Recreation Association, St. Louis County Parks Department, East-West Gateway Coordination Council and officials from the affected communities.

Plan Formulation public meetings will be held in various communities throughout the study area in November and December 1983 and January 1984. Final public meetings will be held in these communities in July and August 1984.

b. *Significant Issues:* Significant issues addressed in the DEIS will include analysis of flood protection, fish and wildlife habitat, endangered species, prime farmland, cultural resources, water quality, parkland, relocations, land use changes, and the impact that the proposed action will have on the environment.

c. *Lead Agency and Cooperative Agency Responsibilities:* The St. Louis District, U.S. Army Corps of Engineers, is the lead agency responsible for the preparation of the DEIS.

d. *Environmental Review and Consultation Requirements:* The completed DEIS will be distributed to the appropriate Federal, state and local agencies, and representatives of interested groups and individuals. It will contain records of compliance with appropriate laws and regulations.

4. *Scoping Meetings:* The following scoping meetings have been held:

Date	Location	Participants
Apr. 6, 1983	Fenton, Mo	Congressional Representatives, Local Officials, and General Public.
May 5, 1983	St. Louis, Mo	State and Federal.
June 7, 1983	Pacific, Mo	Local Officials and General Public.
June 13, 1983	Arnold, Mo	Congressional Representatives, Local Officials, and General Public.

Scoping will continue throughout the study, both informally and formally, during the scheduled public meetings.

5. *Draft Environmental Impact Statement Preparation:* The DEIS is scheduled to be completed in April 1984.

ADDRESS: Questions about the proposed action and the Draft Environmental Impact Statement can be answered by contacting Mr. Jack F. Rasmussen; Chief, Planning Division; U.S. Army Corps of Engineers; St. Louis District; 210 Tucker Boulevard, North; St. Louis, Missiouri 63101.

Gary D. Beech,

Colonel, CE Commanding.

August 19, 1983.

[FR Doc. 83-24862 Filed 9-12-83; 8:45 am]

BILLING CODE 3710-08-M

Board of Visitors, United States Military Academy; Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act

(Pub. L. 92–463), announcement is made of the following meeting.

Name of Committee: Board of Visitors, United States Military Academy.

Date of Meeting: 3–4 November 1983.

Place of Meeting: West Point, New York (Exact location TBD).

Time of Meeting: 8:30 a.m.

Proposed Agenda: Executive Committee Meeting; discussion of the following items: Cadet Retention, Graduate Retention, Religious Facilities at West Point, Maintenance of Quarters and Facilities and Status of Ladycliff Acquisition, No-Marriage Policy, Impact Aid Update and Conclusions and Recommendations for inclusion in the Board of Visitors Report.

All proceedings are open. For further information contact Colonel D. P. Tillar, Jr., United States Military Academy, West Point, N.Y. 10996.

For the Board of Visitors.

D. P. Tillar, Jr.,

Col. GS, Executive Secretary, USMA Board of Visitors.

[FR Doc. 83-24910 Filed 9-12-83; 8:45 am]

BILLING CODE 3710-08-M

Camp Bullis, Texas; Assault Landing Strip; Intent To Prepare Environmental Impact Statement

AGENCY: Department of the Army Department of Defense.

ACTION: Notice of Intent.

SUMMARY: Notice is hereby given of intent to prepare an Environmental Impact Statement (EIS) concerning the operation of an Assault Landing Strip (ALS) for aircraft at Camp Bullis, Texas. The U.S. Army proposes to operate the ALS for standard transport aircraft in the Army and Air Force inventory. Questions about the ALS and the EIS scoping process should be addressed to Mr. Dick Strimel, Environmental Officer, Attn: AFZG–FE–EQ, Ft. Sam Houston, Texas 78234.

John O. Roach II,

DA Liaison Officer With the Federal Register.

[FR Doc. 83-24901 Filed 9-12-83; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

Education Appeal Board Proceeding

AGENCY: Department of Education.

ACTION: Notice of education appeal board proceeding.

SUMMARY: This notice advises readers that the Education Appeal Board has scheduled a prehearing conference on September 22, 1983, in the *Appeal of the Los Angeles Community College District*, Docket No. 26–(81)–81; the proceeding will begin at 10:30 a.m. in Room 1130, 400 Maryland Avenue, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Dr. David S. Pollen, Chairman, Education Appeal Board, 400 Maryland Avenue, SW. (Room 2141, FOB–6), Washington, D.C. 20202. Telephone (202) 245–7835.

SUPPLEMENTARY INFORMATION: Under the Education Amendments of 1978 (20 U.S.C. 1234), the Education Appeal Board has authority to conduct: (1) Audit appeal proceedings, (2) withholding, termination, and cease and desist proceedings initiated by the Secretary of Education, and (3) other proceedings designated by the Secretary as being within the jurisdiction of the Board. For information concerning the Board and its procedures, see the Board's final regulations as published in the **Federal Register** on May 18, 1981 (46 FR 27304).

(Catalog of Federal Domestic Assistance Number not applicable)

Dated: September 7, 1983.

A. Wayne Roberts,

Deputy Under Secretary.

[FR Doc. 83-24909 Filed 9-12-83; 8:45 am]

BILLING CODE 4000-01-M

Fund for the Improvement of Postsecondary Education

AGENCY: Department of Education.

ACTION: Application notice for Mina Shaughnessy Scholars Program.

SUMMARY: Applications are invited for new awards to be made in fiscal year 1984 under the Mina Shaughnessy Scholars Program of the Fund for the Improvement of Postsecondary Education.

Authority for this program is contained in Title X of the Higher Education Act, as amended. Under this program, the Secretary makes awards to institutions for postsecondary education and other public are private educational institutions and agencies. The purpose of the awards is to improve postsecondary education.

Closing date for transmittal of applications: Applications for awards must be mailed (postmarked) or hand-delivered by November 1, 1983.

Applications delivered by mail: An application sent by mail must be addressed to the Department of Education, Application Control Center, Attention: 84.116E, Washington, D.C., 20202.

To establish proof of mailing, an applicant must show one of the following:

(1) A legibly dated U.S. Postal Services postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

If an application is sent through the U.S. Postal Serivce, the Secretary does not accept a private metered postmark, or mail receipt that is not dated by the U.S. Postal Serivce as proof of mailing. An applicant should note that the U.S. Postal Serivce does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand-delivered must be taken to the Department of Education, Application Control Center, Attention: 84.116E, 7th and D Street, SW., Room 5673, Regional Office Building 3, Washington, D.C.

The Secretary will accept hand-delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays. Applications that are hand-delivered will not be accepted after 4:30 p.m. on November 1, 1983.

Program information:

Type of Competition: In this competition, the Secretary supports efforts by postsecondary educational practitioners to contribute to knowledge about postsecondary education or to the improvement of postsecondary education by producing a document or other product or by engaging in an activity designed to transmit the practitioner's knowledge to others.

Program Priorities: The Secretary is not establishing priorities for this competition. Applicants have the opportunity and resposibility to identify the areas of practice that they seek to address.

Selection Criteria: The Secretary evaluates an application on the basis of the following selection criteria:

(a) *Significance for Postsecondary Education.* The Secretary reviews each project for its significance in improving postsecondary education by determining the extent to which it would:

(1) Achieve the purposes of the Mina Shaughnessy Scholars Program.

(2) Address an important problem or need.

(3) Involve learner-center improvements; achieve far-reaching impact through improvements that will be useful in a variety of ways and in a

variety of settings; and increase the cost-effectiveness of services.

(b) *Feasibility.* The Secretary reviews each project for its feasibility by determining the extent to which:

(1) The project represents an appropriate response to the problem or need addressed;

(2) The applicant is capable of carrying out the project, as evidenced by the quality of the project design, including objectives and approaches and the adequacy of resources, including money, personnel, facilities, equipment, and supplies;

(3) The applicant is capable of carrying out the project, as evidenced by the qualifications of the prospective Scholar(s) and the relevance of each prospective Scholar's prior experience;

(4) The applicant and any other participating organizations are committed to the success of the project, as evidenced by their contribution of resources.

(c) *Appropriateness of the Fund's Support.* The Secretary reviews each application to determine whether support of the project by the Fund is appropriate in terms of the availability of other funding sources for the proposed activities.

The selection criteria (a)(1), (a)(2), (a)(3), (b)(1), (b)(2), (b)(3), (b)(4), and (c) are of equal importance. The Secretary's final judgment of an application is based on an overall assessment of the extent to which the application satisfactorily addresses the selection criteria.

Other Information or Materials that may be requested from Applicants: The Secretary will request each finalist in this competition to submit the names of at least three references and any supporting material relevant to the application such as samples of prior written work. In addition, phone interviews may be conducted with finalist.

Available funds: Approximately $350,000 is estimated to be available for new awards in fiscal year 1984. It is estimated that these funds could support approximately 15 new awards. The estimated maximum amount for new awards will be $20,000 for a 15-month project period.

However, these estimates do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant unless the amount is otherwise specified by statute or regulations.

Application forms: The application form includes in the program information package may be obtained from the Fund for the Improvement of Postsecondary Education, U.S. Department of Education, Room 3100, 7th and D Streets, SW., Attention: 84.116E, Washington, D.C. 20202. The program information package is intended to aid applicants in applying for assistance under this competition. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those specifically imposed under statute and regulations governing the competition.

(The application is approved under OMB 1840-0515, expiration 9/30/84)

Applicable regulations: The regulation governing awards made by the Fund for the Improvement of Postsecondary Education are contained in:

(1) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 74, 75, 77, and 78, with the exceptions noted in the regulations referred to below.

(2) Awards under this program will be subject to the regulations in 34 CFR Part 630.

Further information: For further information contact the Fund for the Improvement of Postsecondary Education, regarding 84.116E, the Mina Shaughnessy Scholars Program, telephone (202) 245-8091/8100.

(Catalog for Federal Domestic Assistance No. 84.116E, Fund for the Improvement of Postsecondary Education)
(20 U.S.C. 1135)

Dated: September 6, 1983.

T. H. Bell,

Secretary of Education.

[FR Doc. 83-24805 Filed 9-12-83; 8:45 am]
BILLING CODE 4000-01-M

Office of Postsecondary Education

Strengthening, Special Needs, and Challenge Grant Programs; Closing Date for Transmittal of Requests for Designation as an Eligible Institution For Fiscal Year 1984

Institutions of higher education that wish to apply for a grant under the Strengthening Program, the Special Needs Program or the Challenge Grant Program, collectively known as the Institutional Aid Programs, are invited to apply for designation as an "eligible institution" under one or more of those programs by submitting a "Request for Designation as an Eligible Institution" form (ED Form 1049-6). The Institutional Aid Programs are authorized under Section 301-347 of Title III of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1051-1069c)

The Institutional Aid Programs assist eligible institutions to become self-sufficient by providing funds to improve their academic quality and strengthen their planning, management and fiscal capabilities.

To apply for a grant for any of the Institutional Aid Programs, an institution must first be designated as an eligible institution under that program in accordance with the applicable regulations.

Closing date for transmittal of requests: A "Request for Designation as an Eligible Institution" form or the letter described in this notice must be mailed or hand-delivered by October 14, 1983.

Requests delivered by mail: A request sent by mail must be addressed to the Evaluation Section, Division of Institutional Development, L'Enfant Plaza, Post Office Box 23868, Washington, D.C. 20024.

Proof of mailing must consist of one of the following:

1. A legibly dated U.S. Postal Service postmark.

2. A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

3. A dated shipping label, invoice, or receipt from a commercial carrier.

4. Any other proof of mailing acceptable to the U.S. Secretary of Education.

If a request is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its request for designation as an eligible institution will not be considered for the FY 1984 funding cycle.

Request delivered by hand: A request that is hand-delivered must be taken to the Evaluation Section, Division of Institutional Development, Room 3045, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C. Hand-delivered requests must be receipted by the staff of the Evaluation Section.

The staff of the Evaluation Section will accept the receipt hand-delivered requests between 9:00 a.m. and 4:30 p.m. (Eastern Time) daily, except Saturdays, Sundays, and Federal holidays.

A request that is hand-delivered will not be accepted after 4:30 p.m. on October 14, 1983.

Request forms: Eligibility request forms (ED Form 1049–6; OMB Approval 1840–0103) are expected to be ready for mailing by September 16, 1983. Any institution wishing to obtain a request form must write to the Evaluation Section, Division of Institutional Development, L'Enfant Plaza, Post Office Box 23868, Washington, D.C. 20024.

Applicable regulations: Regulations applicable to the eligibility process include the Institutional Aid Programs General Provisions Regulations, 34 CFR 624.2, 624.3 and 624.20; the Strengthening Program Regulations, 34 CFR 625.2 and 625.3; the Special Needs Program Regulations, 34 CFR 626.2 and 626.3; and the Challenge Grant Program Regulations, 34 CFR 627.2. These regulations were published in the **Federal Register** of January 5, 1982, 47 FR 540–557.

Program information: In an effort to award new grants earlier in the fiscal year under the Strengthening Program, Special Needs Program and Challenge Grant Program, the Secretary is establishing October 14, 1983 as the closing date for institutions to submit their requests to be designated eligible institutions under each of those programs for the fiscal year 1984 grant award cycle. The Secretary will use award year 1980–81 (July 1, 1980–June 30, 1981) as the base year for calculating an institutions's eligibility under § 625.2(a) (2), (3) and (4) of the Strengthening Program § 626.2(a) (2), (3) and (4) of the Special Needs Program, and § 627.2(d)(2) of the Challenge Grant Program.

Because the Secretary is using the same base year (award year 1980–1981) to establish eligibility for the FY 1984 grant award cycle that was used to establish eligibility for the FY 1983 grant award cycle, the Secretary will consider any institution that was designated as an eligible institution for a particular program for the FY 1983 grant award cycle to be an eligible institution for that program for the FY 1984 grant award cycle if the institution submits a letter indicating the institution was designated eleigible under the appropriate program(s) in FY 1983 and that the institution wishes to maintain eligibility for FY 1984. In the case of institutions designated eligible under the Special Needs Program, the letter must include the institution's Fall 1983 full-time equivalent enrollment. This letter must be postmarked by October 14, 1983 and signed by the appropriate certifying official at the institution. However, institutions are advised that if they were designated as an eligible institution only for the Special Needs Program for the fiscal year 1983 grant award cycle and now wish to be designated as an eligible institution for the Strengthening Program for the 1984 grant award cycle, or *vice versa*, they must submit an eligibility request form (ED Form 1949–6) before the October 14, 1983 closing date to be so designated for the new program.

Institutions that were designated ineligible using base year 1980–81 may reapply for eligibility in FY 1984. Any corrected data submitted by these institutions must be submitted using ED Form 1049–6 (Request Form) and postmarked by midnight October 14, 1983.

Institutions must submit E & G expenditure data for the 12-month period on which they reported in the "Higher Education General Information Survey (HEGIS XVI), Financial Statistics of Institutions of Higher Education for Fiscal Year Ending 1981."

The Department of Education will use Pell Grant data currently on file in the Department in making its determinations under the financial aid eligibility criteria in 34 CFR 625.2 and 626.2. The Department will use the data corrected and updated as of October 28, 1983. *However, the Request Form and any other corrections submitted by institutions to the Evaluation Section must be postmarked by October 14, 1983.*

Conversion tables which explain how the Secretary assigns points to institutions applying for eligibility designation are published as an appendix to this Notice.

Under the Challenge Grant Program Regulations, § 627.2(e), the Secretary is authorized to waive requirements set forth in § 624.2(b)(2) of the Institutional Aid Programs-General Provisions. In Fiscal Year 1984, the Secretary chooses not to waive these requirements.

Institutions are urged to submit the form titled "Request for Designation as an Eligible Institution—ED Form 1049–6" (Request Form) well in advance of the October 14, 1983 closing date. Request Forms will be processed in the order they are received and all institutions will be notified about their eligibility status as soon as possible. The secretary permits no new information or adjustments to the information submitted on the Request Form after the October 14, 1983 closing date. However, amendments to the Request Form will be accepted if those amendments are submitted before that date.

An institution that does not submit a complete eligibility form or the letter described in this notice by October 14, 1983 will not be eligible to apply for an Institutional Aid Program grant under any FY 1984 Title III grant competition.

Further Information: For further information, contact the Evaluation Section, Division of Institutional Development, L'Enfant Plaza, Post Office Box 23868, Washington, D.C. 20024. Telephone (202) 245–2338. (20 U.S.C. 1051–1069c).

(Catalog of Federal Domestic Assistance Number: 84.031 Institutional Aid Programs)

Dated: September 2, 1983.

T. H. Bell,

Secretary for Education.

Fiscal Year 1984 Competition

National Standards for Determining Institutional Eligibility for the Title III Institutional Aid Programs

THRESHOLD CHART

Categories of potentially eligible institutions	Minimum thresholds			
	Strengthening program		Special needs program	
	Overall threshold	Waiver threshold	Overall threshold	Waiver threshold
Two-Year Public Institutions	147	98	92	46
Two-Year Non-profit Private Institutions	144	96	103	52
Four-Year Public Institutions	187	125	127	64
Four-Year Non-profit Private Institutions	186	125	130	65
Graduate Public Institutions [1]				26
Graduate Non-profit Private Institutions [1]				78

[1] Institutions that do not award bachelor's degrees but do award graduate, postgraduate or professional degrees may request designation for the Challenge Grant Program under the eligibility criteria for the Special Needs Program.

POINT TABLES

The Secretary of Education uses the following tables to determine Title III Institutional Eligibility for FY 1984 (based on 1980-1981 data):

PART-A & STRENGTHENING

2 YR PUBLIC

POINT	PELL PERCENT	PELL DOLLAR	E AND G
1	0.0001 - 0.0519	0.01 - 360.70	9991.00+
2	0.0520 - 0.0755	360.71 - 411.21	9990.99 - 7560.27
3	0.0756 - 0.0988	411.22 - 436.16	7560.26 - 6962.13
4	0.0989 - 0.1101	436.17 - 441.30	6962.12 - 6723.95
5	0.1102 - 0.1162	441.31 - 454.25	6723.94 - 6330.68
6	0.1163 - 0.1253	454.26 - 461.35	6330.67 - 6107.29
7	0.1254 - 0.1363	461.36 - 468.59	6107.28 - 5724.97
8	0.1364 - 0.1401	468.60 - 476.13	5724.96 - 5626.63
9	0.1402 - 0.1459	476.14 - 481.55	5626.62 - 5389.52
10	0.1460 - 0.1511	481.56 - 486.89	5389.51 - 5323.37
11	0.1512 - 0.1540	486.90 - 489.92	5323.36 - 5212.04
12	0.1541 - 0.1614	489.93 - 496.62	5212.03 - 5094.02
13	0.1615 - 0.1692	496.63 - 501.52	5094.01 - 5012.22
14	0.1693 - 0.1758	501.53 - 504.47	5012.21 - 4859.79
15	0.1759 - 0.1806	504.48 - 506.88	4859.78 - 4748.26
16	0.1807 - 0.1843	506.89 - 513.03	4748.25 - 4669.32
17	0.1844 - 0.1901	513.04 - 515.05	4669.30 - 4596.97
18	0.1902 - 0.1937	515.06 - 517.03	4596.96 - 4516.63
19	0.1938 - 0.2002	517.04 - 521.25	4516.62 - 4482.98
20	0.2003 - 0.2077	521.26 - 524.25	4482.96 - 4399.75
21	0.2078 - 0.2138	524.26 - 527.38	4399.74 - 4375.73
22	0.2139 - 0.2175	527.39 - 531.81	4375.71 - 4298.10
23	0.2176 - 0.2240	531.82 - 534.41	4298.09 - 4268.54
24	0.2241 - 0.2311	534.42 - 536.92	4268.53 - 4206.19
25	0.2312 - 0.2346	536.93 - 540.74	4206.18 - 4164.66
26	0.2347 - 0.2418	540.75 - 543.66	4164.64 - 4125.46
27	0.2419 - 0.2480	543.67 - 548.88	4125.45 - 4087.63
28	0.2481 - 0.2509	548.90 - 552.18	4087.62 - 4044.32
29	0.2510 - 0.2556	552.16 - 555.52	4044.31 - 3992.08
30	0.2557 - 0.2611	555.53 - 558.51	3992.07 - 3958.04
31	0.2612 - 0.2679	558.52 - 562.29	3958.03 - 3914.14
32	0.2680 - 0.2729	562.30 - 563.99	3914.13 - 3866.34
33	0.2730 - 0.2762	564.00 - 566.25	3866.33 - 3830.44
34	0.2763 - 0.2813	566.26 - 571.83	3830.43 - 3794.41
35	0.2814 - 0.2843	571.84 - 573.47	3794.40 - 3776.72
36	0.2844 - 0.2873	573.48 - 575.96	3776.71 - 3728.03
37	0.2874 - 0.2905	575.97 - 576.87	3728.02 - 3692.77
38	0.2906 - 0.2947	576.88 - 578.84	3692.76 - 3667.59
39	0.2948 - 0.3001	578.85 - 581.55	3667.58 - 3610.56
40	0.3002 - 0.3016	581.56 - 585.99	3610.55 - 3591.95
41	0.3017 - 0.3099	586.00 - 588.34	3591.94 - 3503.03
42	0.3100 - 0.3172	588.35 - 590.80	3503.02 - 3476.25
43	0.3173 - 0.3204	590.81 - 594.59	3476.24 - 3454.00
44	0.3205 - 0.3222	594.60 - 597.11	3453.99 - 3426.19
45	0.3223 - 0.3258	597.12 - 598.14	3426.18 - 3403.80
46	0.3259 - 0.3314	598.15 - 600.80	3403.79 - 3377.33
47	0.3315 - 0.3366	600.81 - 602.29	3377.32 - 3359.26
48	0.3367 - 0.3418	602.30 - 605.63	3359.25 - 3329.16
49	0.3419 - 0.3438	605.64 - 606.77	3329.15 - 3305.42
50	0.3439 - 0.3460	606.78 - 610.19	3305.41 - 3280.45

PART-A & CONTINUE

2 YR PUBLIC

POINT	PELL PERCENT	PELL DOLLAR	E AND G
51	0.3461 - 0.3507	610.20 - 614.05	3280.44 - 3248.17
52	0.3508 - 0.3549	614.06 - 615.89	3248.16 - 3219.55
53	0.3550 - 0.3584	615.90 - 618.11	3219.54 - 3199.76
54	0.3585 - 0.3607	618.12 - 619.91	3199.75 - 3186.75
55	0.3608 - 0.3631	619.92 - 623.06	3186.74 - 3168.26
56	0.3632 - 0.3669	623.07 - 624.09	3168.25 - 3142.28
57	0.3670 - 0.3745	624.10 - 627.00	3142.27 - 3116.59
58	0.3746 - 0.3809	627.01 - 628.70	3116.58 - 3093.42
59	0.3810 - 0.3848	628.71 - 631.36	3093.41 - 3070.46
60	0.3849 - 0.3956	631.37 - 634.03	3070.45 - 3045.47
61	0.3957 - 0.4002	634.04 - 637.78	3045.46 - 3026.91
62	0.4003 - 0.4111	637.79 - 640.19	3026.90 - 3001.81
63	0.4112 - 0.4177	640.20 - 643.17	3001.80 - 2971.63
64	0.4178 - 0.4225	643.18 - 644.45	2971.62 - 2944.64
65	0.4226 - 0.4249	644.46 - 648.54	2944.63 - 2922.57
66	0.4250 - 0.4298	648.55 - 652.71	2922.56 - 2901.29
67	0.4299 - 0.4368	652.72 - 654.29	2901.28 - 2863.16
68	0.4369 - 0.4418	654.30 - 657.68	2863.15 - 2843.61
69	0.4419 - 0.4477	657.69 - 660.16	2843.60 - 2826.03
70	0.4478 - 0.4504	660.17 - 663.17	2826.02 - 2790.48
71	0.4505 - 0.4553	663.18 - 665.72	2790.47 - 2758.16
72	0.4554 - 0.4607	665.73 - 670.37	2758.15 - 2734.44
73	0.4608 - 0.4687	670.38 - 674.18	2734.43 - 2709.00
74	0.4688 - 0.4742	674.19 - 676.90	2708.99 - 2693.92
75	0.4743 - 0.4823	676.91 - 680.76	2693.91 - 2685.18
76	0.4824 - 0.4887	680.77 - 683.03	2685.17 - 2663.88
77	0.4888 - 0.4984	683.04 - 688.07	2663.87 - 2648.36
78	0.4985 - 0.5065	688.08 - 690.78	2648.35 - 2623.84
79	0.5066 - 0.5111	690.79 - 693.54	2623.83 - 2581.64
80	0.5112 - 0.5154	693.55 - 698.65	2581.63 - 2558.39
81	0.5155 - 0.5233	698.66 - 701.39	2558.38 - 2528.05
82	0.5234 - 0.5288	701.40 - 705.54	2528.04 - 2494.88
83	0.5289 - 0.5355	705.55 - 710.64	2494.87 - 2477.04
84	0.5356 - 0.5462	710.65 - 717.74	2477.03 - 2451.33
85	0.5463 - 0.5620	717.75 - 724.52	2451.32 - 2438.25
86	0.5621 - 0.5865	724.53 - 730.54	2438.24 - 2416.30
87	0.5866 - 0.6007	730.55 - 735.56	2416.29 - 2396.77
88	0.6008 - 0.6154	735.57 - 741.06	2396.76 - 2372.14
89	0.6155 - 0.6231	741.07 - 745.10	2372.13 - 2335.90
90	0.6232 - 0.6402	745.11 - 751.62	2335.89 - 2308.62
91	0.6403 - 0.6613	751.63 - 758.09	2308.61 - 2279.32
92	0.6614 - 0.6797	758.10 - 765.23	2279.31 - 2222.72
93	0.6798 - 0.7013	765.24 - 771.52	2222.71 - 2201.47
94	0.7014 - 0.7296	771.53 - 777.42	2201.46 - 2136.87
95	0.7297 - 0.7833	777.43 - 787.48	2136.86 - 2080.25
96	0.7834 - 0.8332	787.49 - 798.72	2080.24 - 2033.77
97	0.8333 - 0.8902	798.73 - 810.62	2033.76 - 1975.39
98	0.8903 - 0.9748	810.63 - 840.73	1975.38 - 1918.39
99	0.9749 - 1.2684	840.74 - 861.16	1918.38 - 1760.97
100	1.2685+	861.17+	1760.96 - 1.00

2.

PART-B SPECIAL NEEDS

2 YR PUBLIC

POINT	NEED PERCENT	NEED DOLLAR	E AND G
1	0.0001 - 0.0489	0.01 - 422.72	7560.27+
2	0.0490 - 0.0695	422.73 - 473.22	7560.26 - 6723.95
3	0.0696 - 0.0775	473.23 - 492.32	6723.94 - 6107.29
4	0.0776 - 0.0894	492.33 - 508.48	6107.28 - 5626.63
5	0.0895 - 0.0967	508.89 - 523.17	5626.62 - 5323.37
6	0.0968 - 0.1041	523.18 - 538.49	5323.36 - 5094.02
7	0.1042 - 0.1099	538.50 - 547.55	5094.01 - 4859.79
8	0.1100 - 0.1170	547.56 - 553.18	4859.78 - 4669.32
9	0.1171 - 0.1227	553.19 - 562.59	4669.30 - 4516.63
10	0.1228 - 0.1317	562.60 - 571.71	4516.62 - 4399.75
11	0.1318 - 0.1380	571.72 - 577.46	4399.74 - 4298.10
12	0.1381 - 0.1445	577.47 - 584.21	4298.09 - 4206.19
13	0.1446 - 0.1530	584.22 - 589.67	4206.18 - 4125.46
14	0.1531 - 0.1582	589.68 - 594.59	4125.45 - 4044.32
15	0.1583 - 0.1659	594.60 - 599.97	4044.31 - 3958.04
16	0.1660 - 0.1704	599.98 - 605.33	3958.03 - 3866.34
17	0.1705 - 0.1782	605.34 - 612.41	3866.33 - 3794.41
18	0.1783 - 0.1851	612.42 - 617.81	3794.40 - 3728.03
19	0.1852 - 0.1911	617.82 - 625.40	3728.02 - 3667.59
20	0.1912 - 0.1948	625.41 - 627.76	3667.58 - 3591.95
21	0.1949 - 0.1986	627.77 - 632.33	3591.94 - 3476.25
22	0.1987 - 0.2036	632.34 - 639.28	3476.24 - 3426.19
23	0.2037 - 0.2092	639.29 - 644.24	3426.18 - 3377.33
24	0.2093 - 0.2124	644.25 - 648.32	3377.32 - 3329.16
25	0.2125 - 0.2164	648.33 - 651.57	3329.15 - 3280.45
26	0.2165 - 0.2220	651.58 - 657.12	3280.44 - 3219.55
27	0.2221 - 0.2262	657.13 - 662.98	3219.54 - 3186.75
28	0.2263 - 0.2310	662.99 - 667.97	3186.74 - 3142.28
29	0.2311 - 0.2379	667.98 - 674.92	3142.27 - 3093.82
30	0.2380 - 0.2443	674.93 - 682.09	3093.81 - 3045.47
31	0.2444 - 0.2542	682.10 - 688.33	3045.46 - 3001.81
32	0.2543 - 0.2589	688.34 - 698.29	3001.80 - 2944.64
33	0.2590 - 0.2698	698.30 - 700.66	2944.63 - 2901.29
34	0.2699 - 0.2795	700.67 - 705.86	2901.28 - 2843.61
35	0.2796 - 0.2866	705.87 - 710.64	2843.60 - 2790.48
36	0.2867 - 0.2959	710.65 - 717.84	2790.47 - 2734.44
37	0.2960 - 0.3052	717.85 - 722.85	2734.43 - 2693.92
38	0.3053 - 0.3149	722.86 - 727.78	2693.91 - 2663.88
39	0.3150 - 0.3268	727.79 - 736.85	2663.87 - 2623.84
40	0.3269 - 0.3394	736.86 - 745.21	2623.83 - 2558.39
41	0.3395 - 0.3509	745.22 - 756.43	2558.38 - 2494.88
42	0.3510 - 0.3614	756.44 - 763.30	2494.87 - 2451.33
43	0.3615 - 0.3838	763.31 - 775.80	2451.32 - 2416.30
44	0.3839 - 0.4020	775.81 - 793.57	2416.29 - 2372.14
45	0.4021 - 0.4220	793.58 - 806.60	2372.13 - 2308.62
46	0.4221 - 0.4491	806.61 - 821.12	2308.61 - 2222.72
47	0.4492 - 0.4891	821.13 - 847.78	2222.71 - 2136.87
48	0.4892 - 0.5344	847.79 - 875.82	2136.86 - 2035.77
49	0.5345 - 0.6421	875.83 - 954.43	2033.76 - 1914.39
50	0.6422+	954.44+	1914.38 - 1.00

PART=A I STRENGTHENING

2 YR PRIVATE

POINT	PELL PERCENT	PELL DOLLAR	E AND G
1	0.0001 - 0.0958	0.01 - 573.22	21390.55+
2	0.0959 - 0.1438	573.23 - 623.51	21390.54 -13858.04
3	0.1439 - 0.1723	623.52 - 637.94	13858.03 -11939.92
4	0.1724 - 0.1884	637.95 - 654.84	11939.91 - 9790.20
5	0.1885 - 0.2148	654.85 - 671.35	9790.19 - 8745.05
6	0.2149 - 0.2171	671.36 - 712.45	8745.04 - 8295.82
7	0.2172 - 0.2230	712.46 - 736.99	8295.80 - 7848.13
8	0.2231 - 0.2369	737.00 - 758.99	7848.12 - 7409.05
9	0.2370 - 0.2424	759.00 - 790.61	7409.04 - 7287.55
10	0.2425 - 0.2586	790.62 - 793.38	7287.54 - 6922.82
11	0.2587 - 0.2686	793.39 - 797.01	6922.80 - 6726.90
12	0.2687 - 0.2725	797.02 - 800.13	6726.89 - 6609.96
13	0.2726 - 0.2840	800.14 - 806.79	6609.95 - 6461.76
14	0.2841 - 0.2884	806.80 - 820.59	6461.75 - 5994.91
15	0.2885 - 0.3013	820.60 - 831.81	5994.89 - 5842.63
16	0.3014 - 0.3017	831.82 - 844.37	5842.62 - 5511.01
17	0.3018 - 0.3061	844.38 - 851.51	5511.00 - 5459.23
18	0.3062 - 0.3076	851.52 - 854.46	5459.21 - 5320.80
19	0.3077 - 0.3204	854.47 - 859.87	5320.79 - 5153.47
20	0.3205 - 0.3247	859.88 - 864.37	5153.55 - 5007.82
21	0.3248 - 0.3303	864.38 - 866.64	5007.80 - 4924.01
22	0.3304 - 0.3403	868.65 - 871.24	4924.00 - 4762.96
23	0.3404 - 0.3557	871.25 - 878.68	4762.96 - 4634.39
24	0.3558 - 0.3591	878.69 - 881.60	4634.38 - 4571.25
25	0.3592 - 0.3670	881.61 - 884.05	4571.24 - 4457.05
26	0.3671 - 0.3771	884.06 - 887.45	4457.04 - 4437.55
27	0.3772 - 0.3833	887.46 - 890.51	4437.54 - 4416.07
28	0.3834 - 0.3842	890.52 - 895.38	4416.05 - 4379.30
29	0.3843 - 0.3901	895.39 - 900.82	4379.29 - 4268.89
30	0.3902 - 0.4035	900.83 - 903.44	4268.88 - 4161.16
31	0.4036 - 0.4065	903.45 - 908.18	4161.14 - 4039.93
32	0.4066 - 0.4109	908.19 - 909.23	4039.92 - 4010.24
33	0.4110 - 0.4145	909.24 - 910.35	4010.23 - 3928.18
34	0.4146 - 0.4182	910.36 - 912.57	3928.17 - 3854.20
35	0.4183 - 0.4265	912.58 - 914.36	3854.19 - 3817.67
36	0.4266 - 0.4341	914.37 - 915.81	3817.66 - 3799.09
37	0.4342 - 0.4408	915.82 - 922.29	3799.08 - 3730.94
38	0.4409 - 0.4436	922.30 - 925.47	3730.93 - 3661.49
39	0.4437 - 0.4519	925.48 - 934.22	3661.48 - 3624.82
40	0.4520 - 0.4528	934.23 - 935.88	3624.81 - 3599.08
41	0.4529 - 0.4649	935.89 - 940.58	3599.07 - 3550.41
42	0.4650 - 0.4728	940.59 - 943.62	3550.40 - 3464.64
43	0.4729 - 0.4815	943.63 - 946.70	3464.63 - 3453.75
44	0.4816 - 0.4899	946.71 - 951.02	3453.74 - 3413.86
45	0.4900 - 0.4946	951.03 - 952.55	3413.85 - 3399.30
46	0.4947 - 0.5014	952.56 - 954.43	3399.29 - 3273.57
47	0.5015 - 0.5064	954.44 - 959.16	3273.56 - 3263.96
48	0.5065 - 0.5125	959.17 - 962.61	3263.95 - 3237.58
49	0.5126 - 0.5296	962.62 - 970.12	3237.57 - 3189.24
50	0.5297 - 0.5358	970.13 - 971.07	3189.23 - 3139.22

PART=A I CONTINUE

2 YR PRIVATE

POINT	PELL PERCENT	PELL DOLLAR	E AND G
51	0.5359 - 0.5447	971.08 - 975.34	3139.21 - 3125.79
52	0.5448 - 0.5529	975.35 - 976.74	3125.78 - 3105.30
53	0.5530 - 0.5548	976.75 - 978.06	3105.29 - 3074.31
54	0.5549 - 0.5576	978.07 - 980.55	3074.30 - 3069.29
55	0.5577 - 0.5642	980.56 - 984.38	3069.28 - 3027.28
56	0.5643 - 0.5689	984.39 - 989.75	3027.27 - 2983.23
57	0.5690 - 0.5872	989.76 - 990.21	2983.22 - 2951.65
58	0.5873 - 0.5924	990.82 - 995.79	2951.64 - 2928.63
59	0.5925 - 0.6011	995.80 - 999.42	2928.62 - 2788.02
60	0.6012 - 0.6089	999.43 -1000.79	2788.01 - 2746.99
61	0.6090 - 0.6167	1000.80 -1001.76	2746.89 - 2741.12
62	0.6168 - 0.6306	1001.77 -1003.81	2741.11 - 2715.40
63	0.6307 - 0.6516	1003.82 -1005.75	2715.39 - 2645.01
64	0.6517 - 0.6631	1005.76 -1009.93	2645.00 - 2583.80
65	0.6632 - 0.6819	1009.94 -1013.57	2583.79 - 2558.16
66	0.6820 - 0.6870	1013.58 -1018.83	2558.15 - 2525.54
67	0.6871 - 0.7080	1018.84 -1019.80	2525.53 - 2499.16
68	0.7081 - 0.7149	1019.81 -1024.56	2499.15 - 2475.69
69	0.7150 - 0.7205	1024.57 -1026.40	2475.68 - 2441.93
70	0.7206 - 0.7285	1026.41 -1034.12	2441.92 - 2361.71
71	0.7286 - 0.7373	1034.13 -1036.24	2361.70 - 2328.62
72	0.7374 - 0.7609	1036.25 -1036.80	2328.61 - 2300.84
73	0.7610 - 0.7735	1036.81 -1039.74	2300.83 - 2254.70
74	0.7736 - 0.7787	1039.75 -1045.66	2254.69 - 2225.74
75	0.7788 - 0.8021	1045.67 -1049.04	2225.73 - 2186.68
76	0.8022 - 0.8207	1049.05 -1064.94	2186.67 - 2151.49
77	0.8208 - 0.8444	1064.95 -1069.95	2151.48 - 2113.76
78	0.8445 - 0.8659	1069.96 -1073.90	2113.75 - 2044.82
79	0.8660 - 0.8737	1073.91 -1088.26	2044.81 - 2012.70
80	0.8738 - 0.8982	1088.27 -1095.04	2012.69 - 1996.87
81	0.8983 - 0.9183	1095.05 -1103.83	1996.86 - 1969.33
82	0.9184 - 0.9215	1103.84 -1113.79	1969.32 - 1930.48
83	0.9216 - 0.9226	1113.80 -1116.16	1930.47 - 1923.90
84	0.9227 - 0.9374	1116.17 -1121.03	1923.89 - 1888.54
85	0.9375 - 0.9625	1121.04 -1129.47	1888.53 - 1835.97
86	0.9626 - 0.9694	1129.48 -1133.46	1835.96 - 1824.82
87	0.9695 - 0.9972	1133.47 -1136.27	1824.81 - 1721.54
88	0.9973 - 1.0174	1136.28 -1142.04	1721.53 - 1681.23
89	1.0175 - 1.0197	1142.05 -1149.54	1681.22 - 1654.56
90	1.0198 - 1.0787	1149.55 -1154.61	1654.55 - 1563.47
91	1.0788 - 1.1039	1154.62 -1160.00	1563.46 - 1535.22
92	1.1040 - 1.1959	1160.01 -1172.20	1535.21 - 1502.39
93	1.1960 - 1.3003	1172.21 -1181.99	1502.38 - 1424.63
94	1.3004 - 1.4146	1182.00 -1192.82	1424.62 - 1243.14
95	1.4147 - 1.5640	1192.83 -1220.13	1243.13 - 1126.15
96	1.5641 - 1.6405	1220.14 -1230.99	1126.14 - 1024.85
97	1.6406 - 1.6499	1231.00 -1243.23	1024.84 - 978.15
98	1.6500 - 1.6500	1243.24 -1315.87	978.14 - 929.72
99	1.6500 - 1.6500	1315.88 -1328.87	929.71 - 756.78
100	1.6500+	1328.88+	756.77 - 1.00

PART-B I SPECIAL NEEDS

2 YR PRIVATE

POINT	NEED PERCENT	NEED DOLLAR	E AND G
1	0.0001 = 0.0844	0.01 = 597.44	13858.04+
2	0.0845 = 0.1279	597.45 = 835.28	13858.03 = 9790.20
3	0.1280 = 0.1442	835.27 = 869.36	9790.19 = 8295.82
4	0.1443 = 0.1562	869.37 = 888.23	8295.82 = 7409.05
5	0.1563 = 0.1733	888.24 = 712.98	7409.04 = 6922.82
6	0.1734 = 0.1785	712.99 = 725.94	6922.80 = 6600.98
7	0.1786 = 0.1954	725.95 = 736.72	6600.98 = 5994.61
8	0.1955 = 0.2062	736.73 = 750.04	5994.60 = 5511.01
9	0.2063 = 0.2150	750.05 = 769.18	5511.00 = 5320.40
10	0.2160 = 0.2244	769.19 = 774.64	5320.79 = 5007.82
11	0.2245 = 0.2287	776.65 = 786.04	5007.80 = 4762.98
12	0.2288 = 0.2424	786.85 = 800.13	4762.96 = 4571.25
13	0.2425 = 0.2492	800.14 = 813.47	4571.24 = 4437.55
14	0.2493 = 0.2664	813.48 = 820.64	4437.54 = 4370.50
15	0.2667 = 0.2787	820.65 = 830.16	4370.29 = 4161.16
16	0.2788 = 0.2905	830.17 = 845.04	4161.14 = 4010.24
17	0.2906 = 0.2945	845.05 = 854.06	4010.23 = 3854.20
18	0.2946 = 0.3004	854.07 = 868.12	3854.19 = 3709.00
19	0.3005 = 0.3110	868.13 = 872.43	3709.00 = 3661.40
20	0.3111 = 0.3252	872.44 = 882.89	3661.40 = 3568.04
21	0.3253 = 0.3432	882.90 = 893.63	3568.03 = 3464.64
22	0.3433 = 0.3513	893.64 = 903.76	3464.63 = 3413.88
23	0.3514 = 0.3655	893.77 = 903.07	3413.85 = 3273.57
24	0.3656 = 0.3834	903.08 = 909.63	3273.56 = 3237.58
25	0.3835 = 0.3988	909.64 = 916.42	3237.57 = 3139.22
26	0.3989 = 0.4021	916.43 = 927.63	3139.21 = 3105.30
27	0.4022 = 0.4076	927.64 = 934.22	3105.29 = 3009.29
28	0.4077 = 0.4145	934.23 = 946.21	3009.28 = 2963.23
29	0.4147 = 0.4271	946.22 = 951.43	2963.22 = 2928.63
30	0.4271 = 0.4416	951.44 = 958.94	2928.62 = 2746.90
31	0.4417 = 0.4571	958.95 = 963.00	2746.89 = 2715.40
32	0.4572 = 0.4832	963.01 = 969.21	2715.39 = 2583.40
33	0.4833 = 0.4999	969.22 = 976.49	2583.79 = 2525.54
34	0.5000 = 0.5080	976.90 = 986.03	2525.53 = 2475.69
35	0.5081 = 0.5310	986.04 = 994.90	2475.68 = 2361.71
36	0.5311 = 0.5450	994.91 = 1005.75	2361.70 = 2300.24
37	0.5451 = 0.5653	1005.76 = 1019.47	2300.23 = 2225.74
38	0.5654 = 0.5835	1019.48 = 1026.76	2225.73 = 2151.69
39	0.5836 = 0.6254	1026.77 = 1034.67	2151.68 = 2044.82
40	0.6255 = 0.6664	1034.68 = 1077.27	2044.81 = 1996.87
41	0.6665 = 0.6766	1077.24 = 1086.69	1996.86 = 1936.46
42	0.6767 = 0.7424	1086.70 = 1111.98	1930.47 = 1868.54
43	0.7425 = 0.7820	1111.99 = 1120.67	1868.53 = 1824.82
44	0.7821 = 0.8408	1129.44 = 1140.44	1824.81 = 1661.23
45	0.8409 = 0.8990	1140.45 = 1161.14	1481.22 = 1563.47
46	0.8991 = 0.9676	1161.15 = 1161.99	1563.46 = 1502.39
47	0.9677 = 1.0146	1162.00 = 1230.27	1502.36 = 1243.14
48	1.0147 = 1.2772	1230.28 = 1308.48	1243.13 = 1024.45
49	1.2773 = 1.6499	1308.47 = 1342.61	1024.44 = 929.72
50	1.6500+	1342.62+	929.71 = 1.00

PART-A I STRENGTHENING

4 YR PUBLIC

POINT	PELL PERCENT	PELL DOLLAR	E AND G
1	0.0001 - 0.1139	0.01 - 573.37	22191.88+
2	0.1140 - 0.1332	573.38 - 617.90	22191.87 -18000.83
3	0.1333 - 0.1520	617.91 - 631.12	18000.82 -15070.80
4	0.1521 - 0.1549	631.13 - 641.45	15070.79 -11645.29
5	0.1550 - 0.1670	641.46 - 646.28	11645.28 -10423.44
6	0.1671 - 0.1726	646.29 - 660.94	10423.43 - 9921.37
7	0.1727 - 0.1842	660.95 - 673.51	9921.36 - 8918.65
8	0.1843 - 0.1857	673.52 - 680.58	8918.64 - 8146.41
9	0.1858 - 0.1918	680.59 - 689.24	8146.39 - 7843.06
10	0.1919 - 0.1963	689.25 - 693.89	7843.05 - 7536.83
11	0.1964 - 0.2009	693.90 - 700.64	7536.82 - 7350.50
12	0.2010 - 0.2063	700.65 - 707.57	7350.49 - 7068.48
13	0.2064 - 0.2083	707.58 - 713.20	7068.46 - 6826.30
14	0.2084 - 0.2099	713.21 - 718.33	6826.29 - 6547.97
15	0.2100 - 0.2207	718.34 - 721.80	6547.96 - 6449.02
16	0.2208 - 0.2226	721.81 - 728.84	6449.01 - 6230.55
17	0.2227 - 0.2305	728.85 - 732.68	6230.54 - 6112.41
18	0.2306 - 0.2326	732.69 - 736.96	6112.39 - 6005.05
19	0.2327 - 0.2340	736.97 - 742.62	6005.04 - 5918.33
20	0.2341 - 0.2376	742.63 - 744.66	5918.32 - 5822.16
21	0.2377 - 0.2405	744.67 - 747.36	5822.14 - 5796.03
22	0.2406 - 0.2442	747.37 - 751.44	5796.02 - 5681.08
23	0.2443 - 0.2459	751.45 - 758.25	5681.07 - 5573.34
24	0.2460 - 0.2483	758.26 - 764.79	5573.33 - 5433.63
25	0.2484 - 0.2518	764.80 - 767.43	5433.62 - 5272.98
26	0.2519 - 0.2545	767.44 - 770.18	5272.96 - 5227.31
27	0.2546 - 0.2562	770.19 - 774.27	5227.30 - 5087.67
28	0.2563 - 0.2575	774.28 - 779.63	5087.66 - 4983.79
29	0.2576 - 0.2604	779.64 - 783.15	4983.78 - 4964.76
30	0.2605 - 0.2649	783.16 - 791.16	4964.75 - 4862.78
31	0.2650 - 0.2693	791.17 - 792.69	4862.77 - 4823.04
32	0.2694 - 0.2727	792.70 - 794.32	4823.03 - 4762.16
33	0.2728 - 0.2783	794.33 - 796.89	4762.14 - 4687.65
34	0.2784 - 0.2815	796.90 - 800.26	4687.64 - 4628.16
35	0.2816 - 0.2843	800.27 - 802.12	4628.14 - 4568.04
36	0.2844 - 0.2850	802.13 - 803.68	4568.03 - 4503.25
37	0.2851 - 0.2884	803.69 - 805.66	4503.24 - 4469.99
38	0.2885 - 0.2923	805.67 - 808.49	4469.98 - 4407.46
39	0.2924 - 0.2935	808.50 - 811.60	4407.45 - 4371.86
40	0.2936 - 0.2965	811.61 - 815.29	4371.85 - 4338.75
41	0.2966 - 0.2997	815.30 - 816.15	4338.74 - 4305.27
42	0.2998 - 0.3035	816.16 - 817.23	4305.26 - 4263.28
43	0.3036 - 0.3044	817.24 - 821.36	4263.27 - 4209.54
44	0.3045 - 0.3075	821.37 - 825.06	4209.53 - 4180.99
45	0.3076 - 0.3133	825.07 - 827.10	4180.98 - 4114.75
46	0.3134 - 0.3142	827.11 - 828.34	4114.74 - 4090.86
47	0.3143 - 0.3157	828.35 - 831.43	4090.85 - 4058.36
48	0.3158 - 0.3173	831.44 - 833.99	4058.35 - 4031.66
49	0.3174 - 0.3190	834.00 - 836.61	4031.65 - 4006.60
50	0.3191 - 0.3241	836.62 - 839.13	4006.59 - 3944.34

PART-A I CONTINUE

4 YR PUBLIC

POINT	PELL PERCENT	PELL DOLLAR	E AND G
51	0.3242 - 0.3267	839.14 - 840.53	3944.33 - 3919.94
52	0.3268 - 0.3276	840.54 - 841.81	3919.93 - 3889.87
53	0.3277 - 0.3330	841.82 - 843.83	3889.86 - 3850.68
54	0.3331 - 0.3355	843.84 - 845.03	3850.67 - 3781.81
55	0.3356 - 0.3395	845.04 - 845.77	3781.80 - 3754.78
56	0.3396 - 0.3434	845.78 - 848.36	3754.77 - 3711.80
57	0.3435 - 0.3469	848.37 - 850.13	3711.79 - 3674.77
58	0.3470 - 0.3518	850.14 - 853.62	3674.76 - 3595.21
59	0.3519 - 0.3553	853.63 - 854.97	3595.20 - 3557.17
60	0.3554 - 0.3580	854.98 - 856.84	3557.16 - 3543.72
61	0.3581 - 0.3610	856.85 - 860.91	3543.71 - 3510.03
62	0.3611 - 0.3622	860.92 - 863.89	3510.02 - 3448.13
63	0.3623 - 0.3640	863.90 - 868.90	3448.12 - 3422.20
64	0.3641 - 0.3676	868.91 - 870.78	3422.19 - 3404.81
65	0.3677 - 0.3749	870.79 - 872.66	3404.80 - 3380.18
66	0.3750 - 0.3781	872.67 - 876.24	3380.17 - 3336.48
67	0.3782 - 0.3820	876.25 - 881.47	3336.47 - 3324.10
68	0.3821 - 0.3861	881.48 - 883.25	3324.09 - 3299.58
69	0.3862 - 0.3911	883.26 - 884.28	3299.57 - 3284.63
70	0.3912 - 0.3995	884.29 - 886.39	3284.62 - 3256.53
71	0.3996 - 0.4042	886.40 - 889.65	3256.52 - 3184.56
72	0.4043 - 0.4082	889.66 - 890.75	3184.55 - 3159.90
73	0.4083 - 0.4109	890.76 - 891.79	3159.89 - 3144.01
74	0.4110 - 0.4212	891.80 - 892.64	3144.00 - 3073.79
75	0.4213 - 0.4270	892.65 - 896.92	3073.78 - 3062.16
76	0.4271 - 0.4339	896.93 - 900.47	3062.15 - 3023.42
77	0.4340 - 0.4402	900.48 - 904.24	3023.41 - 3014.78
78	0.4403 - 0.4469	904.25 - 907.21	3014.77 - 2973.08
79	0.4470 - 0.4590	907.22 - 911.65	2973.07 - 2959.62
80	0.4591 - 0.4699	911.66 - 914.84	2959.61 - 2945.90
81	0.4700 - 0.4915	914.85 - 919.80	2945.89 - 2916.42
82	0.4916 - 0.4971	919.81 - 921.67	2916.41 - 2883.26
83	0.4972 - 0.5098	921.68 - 925.77	2883.19 - 2861.51
84	0.5099 - 0.5175	925.78 - 935.23	2861.50 - 2833.69
85	0.5176 - 0.5293	935.24 - 938.14	2833.68 - 2819.27
86	0.5294 - 0.5494	938.15 - 949.49	2819.26 - 2739.04
87	0.5495 - 0.5628	949.50 - 956.67	2739.03 - 2728.95
88	0.5629 - 0.5729	956.68 - 959.35	2728.94 - 2664.43
89	0.5730 - 0.6003	959.36 - 968.39	2664.42 - 2631.48
90	0.6004 - 0.6137	968.40 - 980.04	2631.47 - 2572.99
91	0.6138 - 0.6502	980.05 - 986.91	2572.98 - 2476.21
92	0.6503 - 0.6833	986.92 - 997.56	2476.20 - 2449.73
93	0.6834 - 0.7217	997.57 -1002.00	2449.72 - 2410.79
94	0.7218 - 0.7784	1002.01 -1012.31	2410.78 - 2347.88
95	0.7785 - 0.7911	1012.32 -1035.08	2347.87 - 2314.44
96	0.7912 - 0.8320	1035.09 -1056.01	2314.43 - 2273.26
97	0.8321 - 0.8606	1056.02 -1072.59	2273.25 - 2188.87
98	0.8607 - 0.8780	1072.60 -1098.74	2188.86 - 2134.18
99	0.8781 - 0.9038	1098.75 -1167.41	2134.17 - 1973.19
100	0.9039+	1167.42+	1973.18 - 1.00

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PART-H I SPECIAL NEEDS

4 YR PUBLIC

POINT	NEED PERCENT	NEED DOLLAR	E AND G
1	0.0001 = 0.0994	0.01 = 667.95	18000.03+
2	0.0007 = 0.1134	667.94 = 709.21	18000.02 =11645.29
3	0.1137 = 0.1244	709.22 = 723.25	11645.28 = 9921.37
4	0.1249 = 0.1304	723.26 = 735.74	9921.36 = 8146.41
5	0.1305 = 0.1414	735.75 = 751.37	8146.39 = 7538.43
6	0.1415 = 0.1484	751.38 = 767.37	7538.42 = 7068.48
7	0.1485 = 0.1534	767.38 = 778.28	7068.46 = 6547.97
8	0.1535 = 0.1584	778.29 = 787.63	6547.96 = 6230.55
9	0.1585 = 0.1647	787.64 = 799.45	6230.54 = 6005.05
10	0.1677 = 0.1769	799.46 = 814.41	6005.04 = 5822.18
11	0.1770 = 0.1805	814.42 = 811.69	5822.14 = 5681.08
12	0.1806 = 0.1870	811.70 = 810.50	5681.07 = 5433.63
13	0.1875 = 0.1922	814.51 = 825.52	5438.62 = 5227.31
14	0.1923 = 0.1965	825.53 = 828.34	5227.30 = 4983.79
15	0.1964 = 0.2017	828.35 = 837.84	4983.78 = 4862.78
16	0.2018 = 0.2061	837.85 = 846.16	4862.77 = 4762.16
17	0.2062 = 0.2095	846.17 = 851.68	4762.14 = 4628.14
18	0.2096 = 0.2125	851.69 = 857.72	4628.14 = 4503.25
19	0.2126 = 0.2165	857.73 = 861.79	4503.24 = 4407.46
20	0.2166 = 0.2192	861.80 = 865.83	4407.45 = 4338.75
21	0.2193 = 0.2216	865.84 = 868.85	4338.74 = 4263.28
22	0.2217 = 0.2300	868.86 = 874.51	4263.27 = 4180.99
23	0.2301 = 0.2334	874.52 = 879.57	4180.98 = 4090.46
24	0.2337 = 0.2371	879.58 = 885.73	4090.45 = 4031.60
25	0.2372 = 0.2402	885.74 = 892.23	4031.45 = 3944.34
26	0.2409 = 0.2472	892.24 = 900.88	3944.33 = 3869.87
27	0.2473 = 0.2512	900.89 = 906.07	3869.86 = 3781.41
28	0.2513 = 0.2590	906.08 = 913.15	3781.40 = 3711.80
29	0.2591 = 0.2618	913.16 = 917.66	3711.79 = 3595.21
30	0.2619 = 0.2657	917.67 = 922.49	3595.20 = 3503.72
31	0.2658 = 0.2724	922.50 = 934.11	3543.71 = 3445.13
32	0.2729 = 0.2864	934.12 = 939.27	3448.12 = 3404.41
33	0.2865 = 0.2974	939.28 = 948.64	3404.40 = 3336.04
34	0.2975 = 0.3063	948.65 = 959.35	3336.47 = 3299.58
35	0.3064 = 0.3173	959.36 = 968.41	3299.57 = 3256.53
36	0.3174 = 0.3260	968.42 = 975.34	3256.52 = 3159.90
37	0.3261 = 0.3330	975.35 = 981.92	3159.89 = 3073.79
38	0.3331 = 0.3412	981.93 = 984.35	3073.78 = 3023.42
39	0.3413 = 0.3521	984.36 =1003.93	3023.41 = 2973.08
40	0.3522 = 0.3631	1003.94 =1018.59	2973.07 = 2945.90
41	0.3632 = 0.3674	1018.60 =1028.87	2945.89 = 2883.20
42	0.3675 = 0.4039	1028.88 =1045.87	2883.19 = 2833.89
43	0.4040 = 0.4539	1045.88 =1062.23	2833.88 = 2739.04
44	0.4540 = 0.4690	1062.24 =1073.09	2739.03 = 2664.43
45	0.4691 = 0.4881	1073.10 =1089.30	2664.42 = 2572.99
46	0.4882 = 0.5447	1089.31 =1127.26	2572.98 = 2449.73
47	0.5448 = 0.6234	1127.27 =1149.24	2449.72 = 2347.88
48	0.6239 = 0.6917	1149.25 =1186.35	2347.87 = 2273.26
49	0.6918 = 0.7668	1186.36 =1251.87	2273.25 = 2134.18
50	0.7669+	1251.88+	2134.17 = 1.00

PART=A & STRENGTHENING

4 YR PRIVATE

POINT	PELL PERCENT	PELL DOLLAR	E AND G
1	0.0001 - 0.0684	0.01 - 695.61	20062.09+
2	0.0685 - 0.1059	695.62 - 789.06	20062.08 -14952.07
3	0.1060 - 0.1205	789.07 - 820.26	14952.05 -12258.44
4	0.1206 - 0.1345	820.27 - 850.81	12258.43 -11136.20
5	0.1346 - 0.1533	850.82 - 865.81	11136.19 -10191.53
6	0.1534 - 0.1612	865.82 - 877.45	10191.52 - 9872.54
7	0.1613 - 0.1704	877.46 - 883.79	9872.53 - 9523.39
8	0.1705 - 0.1774	883.80 - 887.97	9523.38 - 9120.43
9	0.1775 - 0.1851	887.98 - 898.40	9120.42 - 8818.13
10	0.1852 - 0.1901	898.41 - 903.33	8818.12 - 8505.88
11	0.1902 - 0.1941	903.34 - 909.17	8505.87 - 8215.24
12	0.1942 - 0.2003	909.18 - 913.86	8215.23 - 7860.74
13	0.2004 - 0.2064	913.87 - 919.25	7860.73 - 7606.12
14	0.2065 - 0.2102	919.26 - 923.72	7606.11 - 7472.23
15	0.2103 - 0.2162	923.73 - 926.05	7472.21 - 7273.46
16	0.2163 - 0.2206	926.06 - 929.58	7273.45 - 7085.21
17	0.2207 - 0.2308	929.59 - 933.00	7085.20 - 7000.00
18	0.2309 - 0.2347	933.01 - 939.15	6999.99 - 6872.23
19	0.2348 - 0.2387	939.16 - 941.22	6872.21 - 6775.15
20	0.2388 - 0.2438	941.23 - 943.16	6775.14 - 6651.76
21	0.2439 - 0.2467	943.17 - 947.16	6651.75 - 6542.32
22	0.2468 - 0.2539	947.17 - 951.02	6542.30 - 6503.20
23	0.2540 - 0.2618	951.03 - 955.65	6503.19 - 6387.74
24	0.2619 - 0.2654	955.66 - 959.49	6387.73 - 6280.41
25	0.2655 - 0.2690	959.50 - 963.90	6280.39 - 6197.99
26	0.2691 - 0.2726	963.91 - 967.59	6197.98 - 6144.69
27	0.2727 - 0.2769	967.60 - 970.79	6144.88 - 6060.43
28	0.2770 - 0.2812	970.80 - 972.59	6060.42 - 5948.18
29	0.2813 - 0.2862	972.60 - 975.13	5948.17 - 5884.55
30	0.2863 - 0.2908	975.14 - 977.58	5884.54 - 5813.29
31	0.2909 - 0.2954	977.59 - 979.85	5813.28 - 5756.20
32	0.2955 - 0.3002	979.86 - 982.63	5756.19 - 5671.61
33	0.3003 - 0.3038	982.64 - 986.04	5671.60 - 5597.59
34	0.3039 - 0.3092	986.05 - 988.99	5597.58 - 5541.37
35	0.3093 - 0.3111	989.00 - 991.54	5541.36 - 5483.96
36	0.3112 - 0.3158	991.55 - 994.56	5483.96 - 5430.32
37	0.3159 - 0.3196	994.57 - 995.79	5430.30 - 5389.49
38	0.3197 - 0.3223	995.80 - 997.97	5389.48 - 5346.92
39	0.3224 - 0.3266	997.98 -1001.08	5346.91 - 5319.82
40	0.3267 - 0.3290	1001.09 -1002.89	5319.80 - 5281.14
41	0.3291 - 0.3361	1002.90 -1005.28	5281.13 - 5209.20
42	0.3362 - 0.3419	1005.29 -1008.50	5209.19 - 5183.43
43	0.3420 - 0.3470	1008.51 -1010.74	5183.42 - 5104.30
44	0.3471 - 0.3508	1010.75 -1013.30	5104.29 - 5057.97
45	0.3509 - 0.3555	1013.31 -1016.90	5057.96 - 5030.56
46	0.3556 - 0.3582	1016.91 -1019.86	5030.55 - 4990.63
47	0.3583 - 0.3616	1019.87 -1023.81	4990.62 - 4933.89
48	0.3617 - 0.3671	1023.82 -1025.42	4933.88 - 4885.75
49	0.3672 - 0.3724	1025.43 -1027.26	4885.74 - 4829.41
50	0.3725 - 0.3749	1027.27 -1030.63	4829.39 - 4770.40

PART=A & CONTINUE

4 YR PRIVATE

POINT	PELL PERCENT	PELL DOLLAR	E AND G
51	0.3750 - 0.3798	1030.64 -1033.52	4770.39 - 4746.50
52	0.3799 - 0.3843	1033.53 -1035.76	4746.49 - 4694.10
53	0.3844 - 0.3894	1035.77 -1038.59	4694.09 - 4634.94
54	0.3895 - 0.3913	1038.60 -1040.71	4634.93 - 4588.70
55	0.3914 - 0.3957	1040.72 -1043.27	4588.69 - 4543.34
56	0.3958 - 0.3995	1043.28 -1046.07	4543.33 - 4502.72
57	0.3996 - 0.4027	1046.08 -1050.02	4502.71 - 4465.56
58	0.4028 - 0.4080	1050.03 -1054.38	4465.55 - 4395.88
59	0.4081 - 0.4117	1054.39 -1055.40	4395.87 - 4334.99
60	0.4118 - 0.4166	1055.41 -1058.17	4334.89 - 4291.84
61	0.4167 - 0.4236	1058.18 -1062.02	4291.83 - 4235.57
62	0.4237 - 0.4281	1062.03 -1065.00	4235.55 - 4198.03
63	0.4282 - 0.4338	1065.01 -1066.45	4198.02 - 4166.52
64	0.4339 - 0.4399	1066.46 -1068.84	4166.51 - 4104.88
65	0.4400 - 0.4462	1068.85 -1071.64	4104.87 - 4020.28
66	0.4463 - 0.4506	1071.65 -1075.90	4020.27 - 3972.58
67	0.4507 - 0.4591	1075.91 -1082.76	3972.57 - 3923.91
68	0.4592 - 0.4643	1082.77 -1087.99	3923.90 - 3896.90
69	0.4644 - 0.4684	1088.00 -1090.51	3896.89 - 3847.66
70	0.4685 - 0.4775	1090.52 -1098.58	3847.65 - 3807.64
71	0.4776 - 0.4827	1098.59 -1100.58	3807.63 - 3766.09
72	0.4828 - 0.4879	1100.59 -1102.51	3766.08 - 3719.26
73	0.4880 - 0.4962	1102.52 -1105.76	3719.25 - 3669.75
74	0.4963 - 0.5006	1105.77 -1110.39	3669.74 - 3616.72
75	0.5007 - 0.5067	1110.40 -1115.64	3616.71 - 3578.17
76	0.5068 - 0.5144	1115.65 -1118.62	3578.16 - 3525.35
77	0.5145 - 0.5196	1118.63 -1122.35	3525.34 - 3494.11
78	0.5197 - 0.5269	1122.36 -1126.87	3494.10 - 3435.14
79	0.5270 - 0.5372	1126.88 -1131.80	3435.13 - 3380.12
80	0.5373 - 0.5465	1131.81 -1137.17	3380.11 - 3305.15
81	0.5466 - 0.5570	1137.18 -1144.48	3305.14 - 3263.71
82	0.5571 - 0.5647	1144.49 -1151.57	3263.70 - 3222.09
83	0.5648 - 0.5741	1151.58 -1159.05	3222.08 - 3167.71
84	0.5742 - 0.5921	1159.06 -1167.57	3167.70 - 3130.36
85	0.5922 - 0.6066	1167.58 -1174.91	3130.35 - 3068.55
86	0.6067 - 0.6162	1175.92 -1186.16	3068.54 - 3012.88
87	0.6163 - 0.6320	1186.17 -1194.99	3012.87 - 2926.52
88	0.6321 - 0.6466	1195.00 -1210.30	2926.51 - 2830.29
89	0.6467 - 0.6608	1210.31 -1234.72	2830.28 - 2768.58
90	0.6609 - 0.7033	1234.73 -1256.80	2768.53 - 2672.37
91	0.7034 - 0.7466	1256.81 -1284.64	2672.36 - 2582.27
92	0.7467 - 0.7765	1284.65 -1305.09	2582.26 - 2506.80
93	0.7766 - 0.8198	1305.10 -1334.16	2506.79 - 2412.02
94	0.8199 - 0.8610	1334.17 -1352.67	2412.01 - 2300.31
95	0.8611 - 0.8810	1352.68 -1372.62	2300.30 - 2158.15
96	0.8811 - 0.9450	1372.63 -1409.40	2158.14 - 1997.69
97	0.9451 - 0.9935	1409.41 -1446.11	1997.68 - 1801.28
98	0.9936 - 1.1036	1446.12 -1556.23	1801.27 - 1600.64
99	1.1037 - 1.3181	1556.24 -1849.46	1600.63 - 1175.37
100	1.3182+	1849.47+	1175.36 - 1.00

8.

PART-B I SPECIAL NEEDS

4 YR PRIVATE

POINT	NEED PERCENT	NEED DOLLAR	E AND G
1	0.0001 - 0.0817	0.01 - 740.66	14952.07+
2	0.0818 - 0.1233	740.67 - 796.78	14952.05 -11136.20
3	0.1234 - 0.1444	796.79 - 837.76	11136.19 - 9872.54
4	0.1445 - 0.1624	837.77 - 866.53	9872.53 - 9120.43
5	0.1627 - 0.1774	866.54 - 888.80	9120.42 - 8505.88
6	0.1777 - 0.1870	888.81 - 907.04	8505.87 - 7960.74
7	0.1871 - 0.1998	907.05 - 921.68	7960.73 - 7472.23
8	0.1999 - 0.2107	921.69 - 935.11	7472.21 - 7085.21
9	0.2108 - 0.2181	935.12 - 946.51	7086.20 - 6872.23
10	0.2182 - 0.2285	946.52 - 956.32	6872.21 - 6651.76
11	0.2286 - 0.2358	956.33 - 968.28	6651.75 - 6503.20
12	0.2359 - 0.2447	968.29 - 978.43	6503.19 - 6280.41
13	0.2448 - 0.2519	978.44 - 990.02	6280.39 - 6144.89
14	0.2520 - 0.2602	990.03 -1000.85	6144.88 - 5948.18
15	0.2603 - 0.2679	1000.86 -1014.67	5948.17 - 5813.29
16	0.2680 - 0.2745	1014.68 -1025.28	5813.28 - 5671.61
17	0.2746 - 0.2822	1025.29 -1035.34	5671.60 - 5541.37
18	0.2823 - 0.2877	1035.35 -1044.88	5541.36 - 5430.32
19	0.2878 - 0.2933	1044.89 -1055.57	5430.30 - 5346.92
20	0.2934 - 0.3031	1055.58 -1065.69	5346.91 - 5281.14
21	0.3032 - 0.3107	1065.70 -1073.01	9281.13 - 5183.43
22	0.3108 - 0.3179	1073.02 -1078.92	5183.42 - 5057.97
23	0.3180 - 0.3264	1078.93 -1088.27	5057.96 - 4990.63
24	0.3265 - 0.3354	1088.28 -1098.92	4990.62 - 4885.75
25	0.3355 - 0.3401	1098.93 -1107.38	4885.74 - 4770.40
26	0.3402 - 0.3474	1107.39 -1116.93	4770.39 - 4694.10
27	0.3475 - 0.3553	1116.94 -1126.67	4694.09 - 4588.70
28	0.3554 - 0.3647	1126.68 -1136.34	4588.69 - 4502.72
29	0.3648 - 0.3752	1136.35 -1146.94	4502.71 - 4395.88
30	0.3753 - 0.3848	1146.95 -1155.99	4395.87 - 4291.84
31	0.3849 - 0.3913	1156.00 -1165.35	4291.83 - 4198.03
32	0.3914 - 0.3992	1165.36 -1179.67	4198.02 - 4104.88
33	0.3993 - 0.4079	1179.68 -1192.83	4104.87 - 3972.58
34	0.4080 - 0.4194	1192.84 -1203.92	3972.57 - 3896.90
35	0.4195 - 0.4297	1203.93 -1214.16	3896.89 - 3807.64
36	0.4298 - 0.4374	1214.17 -1225.88	3807.63 - 3719.26
37	0.4375 - 0.4456	1225.89 -1235.13	3719.25 - 3616.72
38	0.4457 - 0.4593	1235.14 -1255.62	3616.71 - 3525.35
39	0.4594 - 0.4752	1255.63 -1276.07	3525.34 - 3435.14
40	0.4753 - 0.4885	1276.08 -1293.84	3435.13 - 3305.15
41	0.4886 - 0.5013	1293.85 -1316.11	3305.14 - 3222.09
42	0.5014 - 0.5143	1316.12 -1349.03	3222.08 - 3130.36
43	0.5144 - 0.5356	1349.04 -1374.61	3130.35 - 3012.88
44	0.5357 - 0.5624	1374.62 -1393.54	3012.87 - 2830.29
45	0.5625 - 0.5940	1393.55 -1431.98	2830.28 - 2672.37
46	0.5941 - 0.6450	1431.99 -1478.46	2672.36 - 2506.80
47	0.6451 - 0.7113	1478.47 -1534.20	2506.79 - 2300.31
48	0.7114 - 0.8181	1534.21 -1633.37	2300.30 - 1997.69
49	0.8182 - 0.9418	1633.38 -1755.21	1997.68 - 1600.64
50	0.9419+	1755.22+	1600.63 - 1.00

PART - B: SPECIAL NEEDS

GRADUATE PUBLIC

POINT	NEED PERCENT	NEED DOLLARS
1	0.0001 - 0.0017	0.01 - 1212.49
6	0.0018 - 0.1148	1212.50 - 1574.81
16	0.1149 - 0.3133	1574.82 - 1798.75
26	0.3134 - 0.3896	1798.76 - 2125.12
36	0.3897 - 0.4666	2125.13 - 3524.34
50	0.4667+	3524.35+

PART - B: SPECIAL NEEDS

GRADUATE PRIVATE

POINT	NEED PERCENT	NEED DOLLAR
1	0.0001 - 0.0221	0.01 - 514.16
2	0.0222 - 0.0360	516.17 - 762.82
3	0.0365 - 0.0376	762.83 - 780.62
4	0.0377 - 0.0662	780.63 - 835.11
5	0.0663 - 0.0759	835.12 - 838.81
6	0.0760 - 0.0870	838.82 - 876.52
7	0.0871 - 0.0908	876.53 - 892.37
8	0.0909 - 0.0999	892.38 - 917.56
9	0.1000 - 0.1030	917.57 - 926.04
10	0.1031 - 0.1077	926.45 - 928.56
11	0.1078 - 0.1143	928.57 - 940.22
12	0.1144 - 0.1204	940.23 - 960.08
13	0.1205 - 0.1221	960.09 -1095.77
14	0.1222 - 0.1276	1095.78 -1113.75
15	0.1277 - 0.1326	1113.76 -1133.93
16	0.1327 - 0.1370	1133.94 -1139.93
17	0.1371 - 0.1413	1139.94 -1144.99
18	0.1414 - 0.1484	1145.00 -1156.93
19	0.1485 - 0.1487	1156.94 -1160.60
20	0.1488 - 0.1596	1160.61 -1196.56
21	0.1597 - 0.1603	1196.57 -1232.04
22	0.1604 - 0.1648	1232.05 -1249.57
23	0.1649 - 0.1650	1249.58 -1250.95
24	0.1651 - 0.1757	1250.96 -1270.49
25	0.1758 - 0.1764	1270.50 -1270.84
26	0.1765 - 0.1837	1270.85 -1317.32
27	0.1838 - 0.2010	1317.33 -1337.42
28	0.2011 - 0.2218	1337.43 -1347.99
29	0.2219 - 0.2259	1348.00 -1352.11
30	0.2260 - 0.2264	1352.02 -1432.55
31	0.2265 - 0.2399	1432.56 -1458.79
32	0.2400 - 0.2434	1458.76 -1479.39
33	0.2435 - 0.2602	1479.40 -1506.87
34	0.2603 - 0.2608	1506.88 -1622.46
35	0.2609 - 0.2613	1622.47 -1722.92
36	0.2614 - 0.2656	1722.93 -1787.32
37	0.2657 - 0.2726	1787.33 -1803.44
38	0.2727 - 0.2740	1803.45 -1969.06
39	0.2741 - 0.2871	1969.07 -2015.93
40	0.2872 - 0.3076	2015.94 -2049.99
41	0.3077 - 0.3090	2050.00 -2158.93
42	0.3091 - 0.3338	2158.94 -2235.32
43	0.3339 - 0.3448	2235.33 -2354.42
44	0.3449 - 0.3549	2354.43 -2383.31
45	0.3550 - 0.3688	2383.32 -2499.99
46	0.3689 - 0.4614	2500.00 -3076.93
47	0.4615 - 0.5255	3076.66 -4230.73
48	0.5256 - 0.5454	4230.74 -5743.71
49	0.5455 - 1.0000	5743.72 -9999.00
50	1.0000+	9999.00+

[FR Doc. 83-24672 Filed 9-12-83; 8:45 am,
BILLING CODE 4000-01-C

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Petroleum Pipeline Advisory Committee on Valuation; Meeting

September 8, 1983.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given that the Petroleum Pipeline Advisory Committee on Valuation will meet on *Tuesday September 27, 1983 beginning 9:30 a.m.*, at the Federal Energy Regulatory Commission, 825 N. Capitol St., NE., *Conference Room 5301–I* Washington, D.C.

The purpose of this meeting is to present to each member, the Committee's objectives, scope of activities and duties to be performed. It is planned that this will be an informal re-organizational type meeting.

The meeting is open to the public. Minutes of the meeting will be available for public review and copying at FERC's Office of Public Information, Room 1000, 825 North Capitol St., NE.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83–24907 Filed 9–12–83; 8:45 am]
BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[WH–FRL 2423–5]

Draft General NPDES Permit for Hydrostatic Testing of Natural Gas Transmission Pipeline in the States of Arkansas, Louisiana, Oklahoma, and Texas; Fact Sheet

AGENCY: Environmental Protection Agency.

ACTION: Notice of draft general NPDES.

SUMMARY: The Regional Administrator of Region VI has decided to propose a draft general NPDES permit for certain discharges associated with hydrostatic testing of natural gas transmission pipeline. When issued, these general NPDES permits will establish effluent limitations, standards, prohibitions, and treatment facility design and operational requirements. The facilities to be covered by these permits are located within the States of Arkansas, Louisiana, Oklahoma and Texas.

DATES: These draft general permits are based on the administrative record available for public review in Region VI of the U.S. Environmental Protection Agency (EPA). The fact sheet sets forth the principal facts and the significant factual, legal, and policy questions considered in the development of the draft permits. Copies of the draft permits are reprinted below.

Comment Period: Interested persons may submit comments on the draft general permits and administrative record to the address below no later than October 28, 1983. Regional Administrator, U.S. Environmental Protection Agency, Region VI, InterFirst Two Building, 1201 Elm Street, Dallas, Texas 75270.

FOR FURTHER INFORMATION CONTACT: Mark Satterwhite (6W–PS), Permits Branch (6W–P), U.S. Environmental Protection Agency, Region VI, InterFirst Two Building, 1201 Elm Street, Dallas, Texas 75270, Telephone: (214) 767–9079.

SUPPLEMENTARY INFORMATION:

I. Background for General Permits

A. General Permit

Section 301(a) of the Clean Water Act (the Act) provides that the discharge of pollutants is unlawful except in accordance with a National Pollutant Discharge Elimination System (NPDES) permit. Although such permits to date have generally been issued to individual dischargers, the Environmental Protection Agency's regulations authorize the issuance of general permits to categories of dischargers (40 CFR 122.59). EPA may issue a single, general permit to a category of point sources located within the same geographic area whose discharges warrant similar pollution control measures. The Director of an NPDES permit program (in this case the Regional Administrator) is authorized to issue a general permit if there are a number of point sources operating in a geographic area that:

1. Involve the same or substantially similar types of operations;
2. Discharge the same types of wastes;
3. Require the same effluent limitations or operating conditions;
4. Require the same or similar monitoring requirements; and
5. In the opinion of the Director, are more appropriately controlled under a general permit than under individual permits.

As is the case of individual permits, violation of any condition of a general permit constitutes a violation of the Act and subjects the discharger to the penalties specified in section 309 of the Act. Any owner or operator authorized by a final general permit may be excluded from coverage by applying for an individual permit. This request may be made by submitting an NPDES permit application, together with reasons supporting the request no later than (90 days after publication).

The Regional Administrator may require any person authorized by the final general permit to apply for and obtain an individual permit. In addition, any interested person(s) may petition the Regional Administrator to take this action. However, an individual permit will not be issued for a point source covered by a general permit unless it can be clearly demonstrated that inclusion, under a general permit, is inappropriate. The Regional Administrator may consider the issuance of individual permits according to the criteria in 40 CFR 122.28(b)(2). These criteria include:

1. The discharge(s) is a significant contributor of pollution;
2. The discharger is not in compliance with the terms and conditions of the general permit;
3. A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the point source;
4. Effluent limitation guidelines are subsequently promulgated for the point sources covered by the general permit;
5. A Water Quality Management Plan containing requirements applicable to such point sources is approved; or
6. The requirements listed in 40 CFR § 122.28(a) and identified in the previous paragraphs are not met.

B. Pipeline Hydrostatic Test Discharges (PHTD)

Based on the current requirements and needs by various operators of pipelines, EPA has initiated statewide general permits in Arkansas, Louisiana, Oklahoma and Texas for NPDES discharges associated with hydrostatic testing of natural gas transmission pipelines. With new pipelines the pollutants found are suspended solids from soil and weld scab, and possibly slight oil contamination from pipe drawing compounds. Existing pipelines are "pigged" frequently and are relatively clean with the exception of slight contamination from hydrocarbon condensation. However, methods to prevent pollutants associated with hydrostatic testing from entering surface water are applicable to both new and existing pipelines.

Effluent control methods are based on best management practices (BMP) technology as determined by best professional judgment (BPJ) under section 401(1)(2) of the Clean Water Act (CWA). The draft permit addresses any

discharge of water from hydrostatic testing of natural gas transmission pipelines at various locations within the states of Arkansas, Louisiana, Oklahoma and Texas to various storm sewers, tributaries, stream segments, river basins and coastal basins. The draft permit addresses the control of the discharge of water to prevent erosion of materials into surface waters; the application of filtering to remove suspended solids to a level consistent with the source water; the filtering or treatment to prevent discharge of waters with a visible oil sheen; and the prohibition of the use of chemical additives, except for corrosion inhibitors. The pollutants contained in these discharges are of a low level because the hydrostatic test water does not come in direct contact with the product or the by-products. Oil and grease are at trace levels and are readily controlled by the application of the conventional filtration and treatment normally applied in this activity. Therefore, in accordance with BPJ, BCT (best conventional pollutant control technology) and BAT (best available technology economically achievable) are considered equivalent to BPT (best practicable control technology currently available).

Reporting of monitoring results in a summary report is required on an annual basis; except that oral 24-hour reporting is required for any bypass or upset which exceeds the effluent limitations on the permit; or for violation of a maximum daily discharge limitation of any toxic pollutant or hazardous substance, or any pollutant specifically identified as the method to control a toxic pollutant or hazardous substance. Unless specifically waived by the Regional Administrator, written reports must also be provided within 5 days of the above occurrences.

II. Rational for Permit Limitations

Technology based effluent limitations and monitoring requirements applied under this permit are derived on the basis of best professional judgment (BPJ) as provided under Section 402(a)(1) of the Clean Water Act (CWA). Pollution abatement steps are based on best management practices (BMP) as currently applied in the industry.

These include:

1. Control of the location and velocity of the discharged water to present erosion of materials and soils into surface water.

2. Filtering of water via methods such as hay bales to remove suspended solids to a level consistent with the source water.

3. Filtering or treatment of waters, by the use of hay bales, rock ballast and/or oil absorbents, where necessary, to prevent discharge of waters with a visible oil sheen.

4. Prohibition of the use of chemical additives except for corrosion inhibitors which do not contain any of the priority pollutants listed in 40 CFR Appendix D to Part 122, Tables II and III. The use of corrosion inhibitors is primarily limited to coastal areas where saline waters may be the primary source of test water available. In these instances, the use of corrosion inhibitors which contain toxic pollutants identified as priority pollutants is prohibited.

III. Conditions in the General Permit

A. Geographic Areas and Covered Facilities

The draft permit when issued, will authorize discharges from PHTD facilities at various locations within the States of Arkansas, Louisiana, Oklahoma and Texas to various storm sewers, tributaries, stream segments, river basins and coastal basins. The permit will be applicable only to the PHTD facilities which have direct discharges to the "waters of U.S." as defined in 40 CFR 122.2 and are therefore subject to the requirements of section 301 and 402 of the Act.

B. Notice of Intent To Be Covered by General Permits

Owners or operators of PHTD facilities located in the permit areas must notify the Regional Administrator of their intent to be covered by the appropriate general permit. Unless otherwise notified in writing by the Regional Administrator within 30 days after submission of their intent to be covered, owners or operators will be authorized to discharge under the appropriate general permit.

Owners or operators of existing facilities must submit their written request within 45 days of issuance of the final permits. New dischargers must submit the written request 45 days prior to commencement of discharge within the general permit area. All requests shall include the name and legal address of the owner or operator, the location, number and type of facilities to be covered and the name of the receiving streams(s).

Owners or operators who fail to request coverage, will not be authorized to discharge under the general permit.

C. Expiration Date

This permit is based on BMP (best management practices) and shall expire 5 years from the effective date.

D. Monitoring and Reporting Requirements

Monitoring results shall be reported annually in a summary report. For each location the results shall be summarized in a single report for the previous 12 months. The summary report shall include a general description of the project(s) which occurred during the twelve month period to include, by project, the water source and discharge point, water volume used, control measure implemented and description and quantity of corrosion inhibitors used.

Oral 24-hour reporting is required for any bypass or upset and any non-compliance which may endanger health or environment. Unless specifically waived by the Regional Administrator, written reports must also be provided within 5 days of the above occurrences.

IV. Other Legal Requirements

A. State Certification

Under section 401(a)(1) of the Act, EPA may not issue an NPDES permit until the State in which the discharge will originate grants or waives certification to ensure compliance with appropriate requirements of the Act and State law, including water quality standards. Region VI has requested the States of Arkansas, Oklahoma, Louisiana and Texas to certify their respective draft general permit.

B. Water Quality Standards

Section 301(b)(1)(c) of the Act requires that NPDES permits contain limitations necessary to ensure compliance with water quality standards established pursuant to State law or regulations, or any other Federal law, or regulation, or required to implement any applicable water quality standard established pursuant to the Act. These draft general permits contain effluent limitations which meet the requirements of Section 301(b)(1)(c) including the applicable water quality standards of each State. At no time shall the maximum values contained in the effluent exceed the water quality standards after mixing with the receiving stream.

Arkansas

The general criteria and numerical criteria which make up the stream standards are provided in "Arkansas Water Quality Standards, "Regulation No. 2, as amended September 1981, Arkansas Department of Water Pollution Control & Ecology.

Louisiana

The general criteria and numerical criteria which make up the stream standards are provided in "State of Louisiana Water

Quality Criteria," Louisiana Stream Control Commission, 1977.

Oklahoma

The narrative and numerical stream standards are provided in "Oklahoma's Water Quality Standard 1982." Oklahoma Water Resources Board, Publication 111.

Texas

The general criteria and numerical criteria which make up the stream standards are provided in "Texas Surface Water Quality Standards," Texas Department of Water Resources Publication LP–71, April 1981.

C. Endangered Species

A list of endangered species has been reviewed and EPA has determined that this action will not endanger the species involved, or result in the destruction of their habitats.

D. Coastal Zone Management Act

The Coastal Zone Management Act requires that consistency determinations be made for any federally licensed activity affecting the coastal zone of a State with an approved Coastal Zone Management Program. The States of Arkansas, Oklahoma, and Texas do not have approved Coastal Zone Management programs. The State of Louisiana does. The Agency will request a consistency concurrence determination from the State of Louisiana.

E. Spill Prevention Control and Countermeasure Plans (SPCC)

Any facility covered by these permits shall have a complete SPCC plan which conforms to EPA's SPCC regulations (40 CFR 122). Violations of a facility SPCC plan are subject to penalty provisions set forth in 40 CFR 112 and not to be construed as violations of this permit.

F. Duty to Provide Information

The permittee shall furnish to the Director, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Director, upon request, copies of records required to be kept by this permit.

G. Planned Changes

The permittee shall give notice to the Director as soon as possible of any planned physical alterations or additions to the permitted facility.

H. Transfers

This permit is nontransferable to any person except after notice to the Director. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Clean Water Act.

V. Public Comment Periods

The Regional Administrator of Region VI has tentatively decided to issue four general NPDES permits for certain dischargers associated with hydrostatic testing of natural gas transmission pipelines, subject to certain effluent limitations, standards, prohibitions, and other conditions necessary to carry out the provisions of the Act. The four draft general permits, reprinted below, cover facilities located in the following areas:

1. Permit No. ARG670001 covers facilities located in the State of Arkansas;
2. Permit No. LAG670001 covers facilities located in Louisiana;
3. Permit No. OKG670001 covers facilities located in the State of Oklahoma; and
4. Permit No. TXG670001 covers facilities located in Texas.

These draft general permits are based on the administrative record. Among other documents, the administrative record consists of the draft general permits and a fact sheet (published today) describing the reasons for the conditions of the draft general permits.

The administrative record (with exception of material readily available at Region VI, or published material that is generally available) is on file in the Administrative Branch, EPA Region VI, at the above address and may be inspected and copied (at a charge of $.20 per copy sheet) at any time between 8:30 a.m. and 4:00 p.m., Monday through Friday. Copies of the draft general permits and other available information may be obtained by writing to the above address.

Interested persons may submit comments on the draft general permits and administrative record to the Regional Administrator at the above address no later than (45 days after publication). The purpose of this Public Notice is to receive comments from interested persons on these draft general permits. all persons who believe that any of the conditions of the draft general permits are not appropriate, or that the tentative decision to issue these draft general permits is not appropriate, have an obligation to raise all reasonably ascertainable issues and submit all arguments and factual grounds supporting their position, including all supporting material, by the close of the comment period. All supporting material shall be included in full and may not be incorporated by reference, unless they are already a part of the administrative record or consist of State or Federal regulations, EPA documents of general applicability, or other generally available reference materials.

During the public comment period, any interested person may request a public hearing. A request for a public hearing shall be in writing and shall state the nature of the issues proposed to be raised in the hearing.

EPA will consider the issuance of final general permits following any public hearings and the close of the comment period. All comments timely submitted by interested persons in response to this notice and statements and other evidence properly submitted at any public hearings, will be considered by the Regional Administrator in his final decision.

Any person who submits timely comments will receive notice of the Regional Administrator's final decision. Further information concerning EPA's permitting procedures may be found in Part 124 of the Environmental Permit Regulations (48 FR 14146, April 1, 1983).

VI. Paperwork Reduction Act

EPA has reviewed the requirements imposed on regulated facilities in these draft general permits under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* The information collection requirements of the permits have already been approved by the Office of Management and Budget under submissions made for the NPDES permit program under the provisions of the Clean Water Act. the final general permits will explain how its information collection requirements respond to any OMB or public comments.

VII. Regulatory Flexibility Act

After review of the facts presented in the notice printed above, I hereby certify, pursuant to the provisions of 5 U.S.C. 604(b), that these draft general permits when finally issued will not have a significant impact on a substantial number of small entities. Moreover, they reduce a significant administrative burden on regulated sources.

VII. Economic Impact (Executive Order 12291)

EPA has reviewed the effect of Executive Order 12291 on these draft general permits and has determined that they are not major rules under that order. The permits, when promulgated, will result in substantially reduced paperwork required of regulated facilities by eliminating permit applications and reducing reporting

requirements. This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

Dated: August 11, 1983.

Dick Whittington, P.E.,

Regional Administrator, Region VI.

Permit No. ——

Authorization to Discharge Under the National Pollutant Discharge Elimination System

In compliance with the provisions of the Federal Water Pollution Control Act, as amended, (33 U.S.C. 1251 et. seq; the "Act"), within the State of ———— operators engaged in hydrostatic testing of natural gas transmission pipelines are authorized to discharge to various storm sewers, tributaries, stream segments, river basins, coastal basins, and tidal waters.

in accordance with effluent limitations, monitoring requirements and other conditions set forth in Parts I, II, and III hereof.

This permit shall become effective on

This permit and the authorization to discharge shall expire at midnight,

Operators within the general permit area who fail to notify the Regional Administrator of their intent to be covered by this general permit are not authorized under this general permit to discharge from those facilities to the above named receiving waters.

Signed this 11th day of August 1983.

Myron O. Knudson, P.E.,

Director, Water Management Division (6W).

Part I—Requirements for NPDES Permits

Section A. Effluent Limitations and Monitoring Requirements

During the period beginning the effective date and lasting through the expiration date, the permittee is authorized to discharge from Outfall(s) serial number(s) 001—intermittent discharge from hydrostatic testing of natural gas transmission pipelines in the State of

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The following pollution abatement steps shall be taken by the permittee in the discharge of hydrostatic pipeline testing waters.

1. All waters shall be discharged in a manner to prevent erosion of materials and soils into surface waters;

2. All waters shall be filtered so as to remove suspended solids, turbidity and color to a level consistent with the recieiving water;

3. All waters shall be filtered or otherwise treated to prevent discharge of waters with a visible oil sheen.

4. There shall be no chemical additives containing any of the priority pollutants listed in 40 CFR Appendix D to Part 122, Tables II and III (see Part III, paragraph B). If corrosion inhibitors are employed, the discharge shall be limited to concentrations which are not toxic to the aquatic biota.

At no time shall the maximum values contained in the effluent exceed the water quality standards after mixing with the receiving stream;

B. Permit Area

The area covered by this general permit includes all areas within the State of

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C. Monitoring and Records

1. *Representative Sampling.* Samples and measurements taken for the purpose of monitoring shall be representative of the volume and nature of the monitored activity.

2. *Monitoring Procedures.* Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit.

3. *Penalties for Tampering.* The Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate, any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

4. *Reporting of Monitoring Results.* Each permittee shall be responsible for submitting monitoring results. Monitoring results shall be reported annually in a summary report. For each location, the results shall be summarized in a single report for the previous 12 months. The summary report shall include a general description of the project(s) which occurred during the twelve month period to include, by project, the water source and discharge point, water volumes used, control measures implemented and description and quantity of corrosion inhibitors used. The first report is due on the 28th day of the 13th month from the day this permit first becomes applicable to a permittee. Signed and certified copies of these and other reports required herein, shall be submitted to the following addresses:

Director ————, Water Management Division (6W), U.S. Environmental Protection Agency, Region VI InterFirst Two Building, 1201 Elm Street, Dallas, Texas 75270

6. *Additional Monitoring by the Permittee.* If the permittee monitors any pollutant more frequently than required by the permit, using test procedures approved under 40 CFR Part 136 or as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the summary report.

7. *Averaging of Measurements.* Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Regional Administrator in the permit.

8. *Retention of Records.* The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, and copies of all reports required by this permit, for a period of at least 3 years from the date of the sample, measurement, or report. This period may be extended by request of the Regional Director at any time.

9. *Record Contents.* Records of monitoring information shall include:

(a) The date, exact place, time and methods of sampling or measurements;

(b) The individual(s) who performed the sampling or measurements;

(c) The date(s) analyses were performed;

(d) The individual(s) who performed the analyses;

(e) The analytical techniques or methods used; and

(f) The results of such analyses.

10. *Inspection and Entry.* The permittee shall allow the Regional Administrator, or an authorized representative, upon the presentation of credentials and other documents as may be required by law; to:

(a) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

(b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

(c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

(d) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

D. Reporting Requirements

1. *Anticipated Noncompliance.* The permittee shall give advance notice to the Regional Administrator of any planned changes in the permitted facility or activity which may result in noncompliance with the permit requirements.

2. *Monitoring Reports.* Monitoring results shall be reported at the intervals specified in Part I.C. of this permit.

3. *Twenty Four Hour Reporting.* The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate and prevent reoccurrence of the noncompliance.

The following shall be included as information which must be reported within 24 hours:

(a) Any unanticipated bypass which exceeds any effluent limitations in the permit;

(b) Any upset which exceeds any effluent limitations in the permit; and

(c) Violation of a maximum daily discharge limitation for any toxic pollutant or hazardous substance, or any pollutant specifically identified as the method to control a toxic pollutant or hazardous substance, listed as such by the Regional Administrator in the permit is to be reported within 24 hours.

Reports should be made to telephone (214) 767–2214. The Regional Administrator may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

4. *Other Non-Compliance.* The permittee shall report all instances of noncompliance not reported under Parts I. D. 3. at the time monitoring reports are submitted. The reports shall contain the information listed in Part I. D. 3.

5. *Signatory Requirements.* All reports or information submitted to the Regional Administrator shall be signed and certified in accordance with 40 CFR 122.41.

6. *Availability of Reports.* Except for data determined to be confidential under 40 CFR Part 2, all reports prepared in accordance with; the terms of this permit shall be available for public inspection at the offices of the Regional Administrator. As required by the Act, permit applications, permits, and effluent data shall not be considered confidential.

7. *Penalties for Falsification of Reports.* The Act provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

F. Notification Requirements

Commencement of Operations. Written notification of commencement of operations, including the legal name and address of the operator shall be submitted:

(a) Within 45 days of the effective date of this permit, by operators whose facilities are discharging into the general permit area on the effective date of this permit; and

(b) Forty-five days prior to the commencement of discharge by operators commencing discharge subsequent to the effective date of this permit.

Initiation of Discharge. Thirty days prior to initiation of each discharge the State water pollution control agency shall be notified in writing at:

Additional notification shall include:

Part II

A. Operation and Maintenance of Pollution Controls

1. *Proper Operation and Maintenance.* The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance includes, but is not limited to, effective performance, adequate funding, adequate operator staffing and training, adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

2. *Duty to Halt or Reduce Activity.* Upon reduction, loss, or failure of the treatment facility, the permittee shall to the extent necessary to maintain compliance with its permit, control production or all discharges or both until the facility is restored or an alternative method of treatment is provided. This requirement applies, for example, when the primary source of power of the treatment facility fails or is reduced or lost.

3. *Bypass of Treatment Facilities.*

(a) *Definitions.*—(1) "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.

(2) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(b) *Bypass Not Exceeding Limitations.*—The permittee may allow any bypass to occur if combined discharges from the outfall being bypassed and from any bypass discharge points do not exceed effluent limitations. All such discharge points shall be monitored during reporting periods affected by bypasses, and all results shall be reported to the Regional Administrator in the Discharge Monitoring Report. The Regional Administrator may require additional monitoring during such bypasses where necessary to assure that effluent limitations are not exceeded. These bypasses are not subject to Part II, 3 (c) and (d) of this permit.

(c) *Notice.*—(1) *Anticipated bypass.* If the permittee knows in advance of the need for a bypass, he shall submit prior notice, if possible, at least ten (10) days before the date of the bypass.

(2) *Unanticipated bypass.* The permittee shall submit notice of an unanticipated bypass as required in Part I.D.3. (24-hour notice).

(d) *Prohibition of bypass.*—(1) Bypass is prohibited, and the Regional Administrator may take enforcement action against the permittee for bypass unless:

(A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage:

(B) There were no feasible alternatives to the bypass, such as the use of auxilliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if the permittee could have installed adequate backup equipment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(C) The permittee submitted notices as required under paragraph (c) of this section.

(2) The Regional Administrator may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed above in paragraph (d)(1) of this section.

4. *Upset Conditions.*

(a) *Definitions.*—"Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by the operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(b) *Effect of an Upset.*—An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of paragraph (c) of this section are met. No determination, made during administrative review of claims that noncompliance was caused by an upset, and before an action for noncompliance, is final administrative action subject to judicial review.

(c) *Conditions Necessary for a Demonstration of Upset.*—A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed contemporaneous operating logs, or other relevant evidence that:

(1) An upset occurred and that the permittee can identify the specific cause(s) of the upset;

(2) The permitted facility was at the time being properly operated;

(3) The permittee submitted notice of the upset as required in Part I.D.3. (24-hour notice); and

(4) The permittee complied with any remedial measures required under Part II.B.4. (Duty to Mitigate).

(d) *Burden of Proof.* In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

5. *Remove Substances.* Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in a manner such as to prevent any pollutant from such materials from entering navigable waters.

B. General Conditions

1. *Duty to Comply.* The permittee must comply with all conditions of this permit. Noncompliance constitutes a violation of the Act and is grounds for enforcement action or for requiring a permittee to apply for and obtain an individual NPDES permit.

2. *Duty to comply with Toxic Effluent Standards.* The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the Act for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

3. *Penalties for Violations of Permit Conditions.* The Act provides that any person who violates a permit condition implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Act, is subject to a civil penalty not to exceed $10,000 per day of such violation. Any person who willfully or negligently violates permit conditions implementing sections 301, 302, 306, 307, or 308 of the Act, is subject to a fine of not less than $2,500 nor more than $25,000 per day of violation, or by

imprisonment for not more than 1 year, or both.

4. *Duty to Mitigate.* The permittee shall take all reasonable steps to minimize or correct any adverse impact on the environment resulting from noncompliance with this permit.

5. *Permit Actions.* This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

6. *Civil and Criminal Liability.* Except as provided in permit conditions on "Bypasses" (Part II.A.3.) and "Upsets" (Part II.A.4.), nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance.

7. *Oil and Hazardous Substance Liability.* Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under section 311 of the Act.

8. *State Laws.* Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabiliites, or penalties established pursuant to any applicable State law or regulation under authority preserved by section 510 of the Act.

9. *Property Rights.* The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State, or local laws or regulations.

10. *Severability.* The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

C. Additional General Permit Conditions

1. *When the Regional Administrator May Require Application for an Individual NPDES Permit.* The Regional Administrator may require any person authorized by this permit to apply for and obtain an individual NPDES permit for any of the reasons set forth in Section 122.28, 48 FR 14146 (April 1, 1983).

Prior to taking this action, the Regional Administrator must notify the operator in writing.

2. *When an Individual NPDES Permit may be Requested.* (a) Any operator authorized by this permit may request exclusion from the coverage of this general permit by applying for an individual permit. The operator shall submit an application together with the reasons supporting the request to the Regional Administrator no later than 90 days after the publication by EPA of this general permit in the **Federal Register.**

(b) When an individual NPDES permit is issued to an operator otherwise subject to this general permit, the applicability of this permit to that owner or operator is automatically terminated on the effective date of the individual permit.

(c) A source excluded from coverage under this general permit solely because it already has an individual permit may request that its individual permit be revoked, and that it be covered by this general permit. Upon revocation of the individual permit, this general permit shall apply to the source.

A. Methods of flow estimating shall be by the "California Pipe Method" as described in Section 7.4.2.2. of the *Handbook for Monitoring Industrial Wastewater,* August, 1973, U.S. Environmental Protection Agency, Technology Transfer.

B. Table II.—Organic Toxic Pollutants in Each of Four Fractions in Analysis by Gas Chromatography/Mass Spectroscopy (GC/MS).

Volatiles

1V acrolein
2V acrylonitrile
3V benzene
4V bis (chloromethyl) ether
5V bromoform
6V carbon tetrachloride
7V chlorobenzene
8V chlorodibromomethane
9V chloroethane
10V 2-chlorethylvinyl ether
11V chloroform
12V dichlorobromomethane
13V dichlorodifluoromethane
14V 1,1-dichloroethane
15V 1,2-dichloroethane
16V 1,1-dichloroethylene
17V 1,2-dichloropropane
18V 1,2-dichloropropylene
19V ethylbenzene
20V methyl bromide
21V methyl chloride
22V methylene chloride
23V 1,1,2,2-tetrachloroethane
24V tetrachloroethylene
25V toluene
26V 1,2-trans-dichloroethylene
27V 1,1,1-trichloroethane
28V 1,1,2-trichloroethane
29V trichloroethylene
30V trichlorofluoromethane
31V vinyl chloride

Acid Compounds

1A 2-chlorophenol
2A 2,4-dichlorophenol
3A 2,4-dimethylphenol
4A 4,6-dinitro-o-cresol
5A 2,1-dinitrophenol
6A 2-nitrophenol
7A 4-nitrophenol
8A p-chloro-m-cresol
9A pentachlorophenol
10A phenol
11A 2,4,6-trichlorophenol

Base/Neutral

1B acenaphthene
2B acenaphthylene
3B anthracene
4B benzidine
5B benzo(a)anthracene
6B benzo(a)pyrene
7B 3,4-benzofluoranthene
8B benzo(ghi)perylene
9B benzo(k)fluoranthene
10B bis(2-chloroethoxy)methane
11B bis(2-chloroethyl)ether
12B bis(2-chloroisopropyl)ether
13B bis(2,ethylhexyl)phthalate
14B 4-bromophenyl phenyl ether
15B butylbenzyl phthalate
16B 2-chloronaphthalene
17B 4-chlorophenyl phenyl ether
18B chrysene
19B dibenzo(a,h)anthracene
20B 1,2-dichlorobenzene
21B 1,3-dichlorobenzene
22B 1,4-dichlorobenzene
23B 3,3-dichlorobenzidine
24B diethyl phthalate
25B dimethyl phthalate
26B di-n-butyl phthalate
27B 2,4-dinitrotoluene
28B 2,6-dinitrotoluene
29B di-n-octyl phthalate
30B 1,2-diphenylhydrazine (as azobenzene)
31B fluoroanthene
32B fluorene
33B hexachlorobenzene
34B hexachlorobutadiene
35B hexachlorocyclopentadiene
36B hexachloroethane
37B indeno(1,2,3-cd)pyrene
38B isophorone
39B naphthalane
40B nitrobenzene
41B N-nitrosodimethylamine
42B N-nitrosodi-n-propylamine
43B N-nitrosodiphenylamine
44B phenanthrene
45B pyrene
46B 1,2,4-trichlorobenzene

Pesticides

1P aldrin
2P α-BHC
3P β-BHC
4P γ-BHC
5P δ-BHC
6P chlordane
7P 4,4'-DDT
8P 4,4'-DDE
9P 4,4'-DDD
10P dieldrin
11P α-endosulfan
12P β-endosulfan
13P endosulfan sulfate
14P endrin
15P endrin aldehyde
16P heptachlor
17P heptachlor epoxide
18P PCB-1242
19P PCB-1254
20P PCB-1221
21P PCB-1232
22P PCB-1248
23P PCB-1260
24P PCB-1016
25P toxaphene

Pesticides

TABLE III.—Other Toxic Pollutants: Metals, Cyanide, and Total Phenols.

Antimony, Total
Arsenic, Total
Beryllium, Total
Cadmium, Total
Chromium, Total
Copper, Total
Lead, Total
Mercury, Total

Nickel, Total
Selenium, Total
Silver, Total
Thallium, Total
Zinc, Total
Cyanide, Total
Phenols, Total

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[WH-FRL 2423-6]

Draft General NPDES Permit for Petroleum Storage and Transfer Facilities in the States of Arkansas, Louisiana, Oklahoma, and Texas; Fact Sheet

AGENCY: U.S. Environmental Protection Agency, Region VI, InterFirst Two Building, 1201 Elm Street, Dallas, Texas 75270

ACTION: Notice of Draft General NPDES Permits.

SUMMARY: The Regional Administrator of Region VI has decided to propose four draft general NPDES permits for certain dischargers associated with petroleum storage and transfer facilities. When issued, these general NPDES permits will establish effluent limitations, standards, prohibitions, and treatment facility design and operational requirements. The facilities to be covered by these permits are located within the States of Arkansas, Louisiana, Oklahoma and Texas.

DATES: These draft general permits are based on the administrative record available for public review in Region VI of the U.S. Environmental Protection Agency (EPA). The fact sheet sets forth the principal facts and the significant factual, legal, and policy questions considered in the development of the draft permits. Copies of the draft permits are reprinted below.

Comment Period:

Interested persons may submit comments on the draft general permits and administrative record to the address below no later than October 28, 1983.

Regional Administrator, U.S. Environmental Protection Agency, Region VI, InterFirst Two Building, 1201 Elm Street, Dallas, Texas 75270.

FOR FURTHER INFORMATION CONTACT: Mark Satterwhite (6W-PS), U.S. Environmental Protection Agency, Region VI, InterFirst Two Building, 1201 Elm Street, Dallas, Texas 75270, Telephone: (214) 767-9079.

FACT SHEET AND SUPPLEMENTARY INFORMATION:

I. Background

A. General Permits

Section 301(a) of the Clean Water Act (the Act) provides that the discharge of pollutants is unlawful except in accordance with a National Pollutant Discharge Elimination System (NPDES) permit. In the past, individual permits have been issued to dischargers; however, EPA's regulations authorize the issuance of general permits to categories of dischargers (40 CFR 122.28). EPA may issue a single, general permit to a category of point sources located within the same geographic area whose discharges warrant similar pollution control measures. The Director of an NPDES permit program (in this case the Regional Administrator) is authorized to issue a general permit if there are a number of point sources operating in geographic area that:

1. Involve the same or substantially similar types of operations;
2. Discharge the same types of wastes;
3. Require the same effluent limitations or operating conditions;
4. Require the same or similar monitoring requirements; and
5. In the opinion of the Director, are more appropriately controlled under a general permit than under individual permits.

As is the case of individual permits, violation of any condition of a general permit constitutes a violation of the Act and subjects the discharger to the penalties specified in section 309 of the Act. Any owner or operator authorized by a final general permit may be excluded from coverage by applying for an individual permit. This request may be made by submitting an NPDES permit application, together with reasons supporting the request no later than 90 days following the issuance of a final general permit.

The Regional Administrator may require any person authorized by the final general permit to apply for and obtain an individual permit. In addition, any interested person(s) may petition the Regional Administrator to take this action. However, an individual permit will not be issued for a point source covered by a general permit unless it can be demonstrated that inclusion under a general permit is clearly inappropriate. The Regional Administrator may consider the issuance of individual permits according to the criteria in 40 CFR 122.28(b)(2). These criteria include:

1. The discharge(s) is a significant contributor of pollution;
2. The discharger is not in compliance with the terms and conditions of the general permit;
3. A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the point source;
4. Effluent limitation guidelines are subsequently promulgated for the point sources covered by the general permit;
5. A Water Quality Management Plan containing requirements applicable to such point sources is approved; or
6. The requirements listed in 40 CFR 122.28(a) and identified in the previous paragraphs are not met.

B. Petroleum Storage and Transfer Facilities (PST)

The facilities covered by these draft general permits include facilities which store in one or more stationary tanks, bulk petroleum products, however received, and subsequently, transfer, distribute or sell the bulk petroleum products via pipeline, marine transportation, tank car or truck, to wholesale or commercial markets. Petroleum storage and transfer (PST) facilities include: (1) Marketing and pipeline terminals (which receive petroleum products primarily via pipeline, ship or barge and dispense it via delivery vessel or vehicle); (2) marketing bulk plants (which receive and dispense petroleum products primarily via delivery vehicle); (3) pipeline breakout terminals (which primarily store and return petroleum products to the pipeline system but do not dispense such products to delivery vessels or vehicles); (4) diesel dispensing facilities with diesel storage capacity exceeding 42,000 gallons and which are equipped with oil/water separators; (5) airport terminals which are equipped with oil/water separators and secondary containment areas (terminals on or adjacent to airports which dispense petroleum products via airport delivery vehicles). PST facilities do not include facilities which are part of petroleum refineries and facilities which store or transfer non-petroleum products. "Petroleum" and "petroleum products" means crude oil, gasoline, diesel fuel, aviation fuel, fuel oils, gasoline additivies stored and used in conjunction with gasoline storage, petroleum lubricants, petroleum solvents or petroleum derived asphalts.

The large number of PST facilities located in Region 6 has prompted the Agency to develop these draft general permits. A review of the nature of effluents from these facilities indicates that they involve the same types of operations, discharge the same types of wastewater, require the same effluent limitations or operating conditions, and

monitoring requirements and are therefore more appropriately controlled with general permits. In addition, general permits will eliminate or reduce for the Agency, the time-consuming process of drafting and issuing individual permits and similarly eliminate, for the industry, the regulatory burden of applying for and obtaining individual permits.

II. The Nature of Discharges From PST Facilities

The sources of discharges from PST facilities include discharges from secondary containment areas (dikes) surrounding petroleum storage tanks, petroleum loading and transfer areas, petroleum tank truck washing areas and contaminated stormwater runoff not otherwise covered by or commingled with the above stated discharges. The discharges consist primarily of oil and grease. These permits do not cover facilities which are part of a petroleum refinery or facilities which store or transfer non-petroleum products such as organic, inorganic and toxic chemicals. EPA, Region VI has reviewed the permit applications on file for this industry. The information indicates there are no toxic or priority pollutants in amounts that would produce toxic effects.

III. Conditions in the General Permit

A. Geographic Areas and Covered Facilities

The draft permit when issued, will authorize discharges from PST facilities at various locations within the State of (SC 4) to various storm sewers, tributaries, stream segments, river basins and coastal basins. The permit will be applicable only to PST facilities which have direct discharges to the "waters of United States" as defined in 40 CFR 122.2 and are therefore subject to the requirements of sections 301 and 402 of the Act.

B. Notification by Permittees

Owners or operators of PST facilities located in the permit areas must notify the Regional Administrator in writing of their intent to be covered by the appropriate general permit. Unless otherwise notified in writing by the Regional Administrator within 30 days, owners or operators requesting coverage will be authorized to discharge under the appropriate general permit.

Owners or operators of existing facilities must submit their written notification within 45 days following the issuance of permits. New dischargers must submit the written request 45 days prior to commencement of discharge within the general permit area. All requests shall include the name and legal address of the owner or operator, the location, number and type of facilities to be covered and the name of the receiving stream(s).

Owners or operators who fail to notify will not be authorized to discharge under the general permit.

C. Expiration Date

The permit shall expire 5 years from the effective date of the permit.

Oil and grease is considered a conventional pollutant. Best Conventional Pollutant Control Technology (BCT) is not an additional limitation but replaces Best Available Technology (BAT) for the control of conventional pollutants. In no case may BCT be less stringent than Best Practicable Control Technology (BPT). BPT limitations are generally based on the average of the best existing performance by facilities of various sizes and ages within the industry or subcategory. In the case of PST facilities and as determined by Best Practical Judgment (BPJ), the BCT for oil and grease removal is the API oil/water separator or its equivalent. Since we have determined that BCT=BPT, there is no additional cost associated with the treatment technology.

D. Technology Based Effluent Limitations

The technology-based effluent limitations contained in these draft permits were developed using best professional judgment (BPJ) and are based upon the terms and conditions of the 1976 Texaco Settlement Agreement. A copy of this settlement agreement has been placed in the administrative record. The Settlement Agreement resulted from negotiations between the Agency and Texaco over the Company's adjudicatory hearing request on permits for petroleum marketing terminals. The key point in the Settlement Agreement was the establishment of an oil and grease limit for these facilities of 30 mg/l daily average. The single most important pollutant associated with PST facilities is oil and grease. A daily average limitation of 30 mg/l is imposed on oil and grease discharges from petroleum loading and transfer areas, petroleum tank truck washings and discharges from petroleum tank truck garages. The limitations can be achieved by a properly designed and operated API oil/water separator or its equivalent. Discharges which are treated by an oil/water separator which satisfy the design criteria contained in Part III. A. of the draft general permits are exempt from the permit monitoring requirements.

E. Other Discharge Limitations

The limit imposed on discharges from secondary containment areas (dikes) surrounding petroleum storage tanks and contaminated stormwater runoff not otherwise covered is "no discharge of free oils." Free oils can be removed easily with an API separator or its equivalent. The permit does not authorize the discharge of treated sanitary sewage. Other discharge limitations include no discharge of floating solids or visible foam in other than trace amounts.

F. Monitoring and Reporting Requirements

Monitoring is required quarterly for oil and grease. Reporting of monitoring results is required on an annual basis; except that oral 24-hour reporting is required for any bypass or upset which exceeds the effluent limitations and any noncompliance which may endanger health or the environment. Unless specifically waived by the Regional Administrator, written reports must also be provided within 5 days of the above occurrences.

Part I.C.4. ("Reporting of Monitoring Results") of the draft general permits require that certain monitoring results be summarized and reported on Discharge Monitoring Reports (DMR) Forms (EPA No. 3320–1). Part I.D.3. ("Twenty-Four Hour Reporting") requires that unanticipated bypass and any upset that exceeds any effluent limitation in the permit must be reported within 24 hours. Also any noncompliance which may endanger human health or the environment should be reported.

IV. Other Legal Requirements

A. State Certification

Under section 401(a)(1) of the Act, EPA may not issue an NPDES permit until the State in which the discharge will originate grants or waives certification to ensure compliance with appropriate requirements of the Act and State law, including water quality standard. Region VI has requested the States of Texas, Louisiana, Arkansas and Oklahoma to certify their respective draft general permits.

B. Water Quality Standards

Section 301(b)(1)(C) of the Act requires that NPDES Permits contain limitations necessary to ensure compliance with water quality standards established pursuant to State law or regulation, or any other Federal law or regulation, or required to implement any applicable water quality

standard established pursuant to the Act. These draft general permits contain effluent limitations which meet the requirements of Section 301(b)(1)(C) including the applicable water quality standards of each State. The applicable water quality standards are described. (SC–5).

Water Quality Standard Options for SC–5

Arkansas—(WQS–A)

The general criteria and numerical criteria which make up the stream standards are provided in "Arkansas Water Quality Standards," Regulation No. 2, as amended September 1981, Arkansas Department of Water Pollution Control & Ecology.

Louisiana—(WQS–L)

The general criteria and numerical criteria which make up the stream standards are provided in "State of Louisiana Water Quality Criteria," Louisiana Stream Control Commission, 1977.

Oklahoma—(WQS–O)

The narrative and numerical stream standards are provided in "Oklahoma's Water Quality Standard 1982," Oklahoma Water Resources Board, Publication 111.

Texas—(WQS–T)

The general criteria and numerical criteria which make up the stream standards are provided in "Texas Surface Water Quality Standards," Texas Department of Water Resources Publication LP–71, April 1981.

At no time shall the maximum values contained in the effluent exceed the water quality standards after mixing with the receiving stream.

C. Endangered Species

A list of endangered species has been reviewed and EPA has determined that this action will not endanger the species involved, or result in the destruction of their habitats.

D. Coastal Zone Management Act

The Coastal Zone Management Act requires that consistency determinations be made for any federally licensed activity affecting the coastal zone of a State with an approved Coastal Zone Management Program. The States of Arkansas, Oklahoma, and Texas do not have approved Coastal Zone Management Programs. The State of Louisiana does. The Agency will request a consistency concurrence determination from the State of Louisiana.

E. Spill Prevention Control and Countermeasure Plans (SPCC)

Any facility covered by these permits shall have a complete SPCC plan which conforms to EPA's SPCC regulations (40 CFR Part 112). Violations of a facility SPCC plan are subject to penalty provisions set forth in 40 CFR 112 and not to be construed as violations of this permit.

F. Duty to Provide Information

The permittee shall furnish to the Director, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Director, upon request, copies of records required to be kept by this permit.

G. Planned Changes

The permittee shall give notice to the Director as soon as possible of any planned physical alterations or additions to the permitted facility.

H. Transfers

This permit is nontransferable to any person except after notice to the Director. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Clean Water Act.

V. Public Comment Period

The Regional Administrator of Region VI has tentatively decided to issue four general NPDES permits for certain dischargers associated with petroleum storage and transfer facilities, subject to certain effluent limitations, standards, prohibitions, and other conditions necessary to carry out the provisions of the Act. The four draft general permits cover facilities located in the following areas:

1. Permit No. ARG340001 covers facilities located in the State of Arkansas;
2. Permit No. LAG340001 covers facilities located in Louisiana;
3. Permit No. OKG340001 covers facilities located in Oklahoma; and
4. Permit No. TXG340001 covers facilities located in Texas.

These draft general permits are based on the administrative record. Among other documents, the administrative record consists of the draft general permits and a fact sheet (published today) describing the reasons for the conditions of the draft general permits.

The administrative record (with exception of material readily available at Region VI, or published material that is generally available) is on file in the Administrative Branch, EPA Region VI, at the above address and may be inspected and copied (at a charge of $.20 per copy sheet) at any time between 8:30 a.m. and 4:00 p.m., Monday through Friday. Copies of the draft general permits and other available information may be obtained by writing to the above address.

Interested persons may submit comments on the draft general permits and administrative record to the Regional Administrator at the above address no later then October 28, 1983. The purpose of this Public Notice is to receive comments from interested persons on these draft general permits. All persons who believe that any of the conditions of the draft general permits are not appropriate, or that the tentative decision to issue these draft general permits is not appropriate, have an obligation to raise all reasonably ascertainable issues and submit all arguments and factual grounds supporting their position, including all supporting material, by the close of the comment period. All supporting materials shall be included in full and may not be incoporated by reference, unless they are already a part of the administrative record or consist of State or Federal regulations, EPA documents of general applicability, or other generally available reference materials.

During the public comment period, any interested person may request a public hearing. A request for a public hearing shall be in writing and shall state the nature of the issues proposed to be raised in the hearing. EPA will consider the issuance of the final general permits following any public hearings and the close of the comment period. All comments timely submitted by interested persons in response to this notice, and statements and other evidence properly submitted at any public hearings, will be condsidered by the Regional Administrator in his final decision. Any person who submits timely written comments will receive notice of the Regional Administrator's final decision. Further information concerning EPA's permitting procedures may be found in 40 CFR Part 124.

VI. Paperwork Reduction Act

EPA has reviewed the requirements imposed on regulated facilities in these draft general permits under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501, *et seq.* The information collection requirements of the permits have already been approved by the Office of Management and Budget (OMB) under submissions made for the NPDES permit program under the provisions of the Clean Water Act. The final general permits will explain how its information collection requirements

respond to any OMB or public comments.

VII. Regulatory Flexibility Act

After review of the facts presented in the above notice, I hereby certify, pursuant to the provisions of 5 U.S.C. 605(b), that these draft general permits when finally issued will not have a significant impact on a substantial number of small entities. Moreover, they reduce a significant administrative burden on regulated sources.

VIII. Economic Impact Executive Order 12291

EPA has reviewed the effect of Executive Order 12291 on these draft general permits and has determined that they are not major rules under that order. The permits, when promulgated, will result in substantially reduced paperwork required of regulated facilities by eliminating permit applications and reducing reporting requirements. This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291

Dated: August 11, 1983.

Dick Whittington, P.E.,

Regional Administrator, Region VI.

Permit No.——

Appendix A—Draft General Permit Authorization To Discharge Under the National Pollutant Discharge Elimination System

In compliance with the provisions of the Federal Water Pollution Control Act, as amended, (33 U.S.C. 1251 et seq.; the "Act"), the following operators of petroleum storage and transfer facilities, as defined in Part III, items 5 and 7 are authorized to dicharge to all receiving waters within the jurisdictional boundaries of the State of in accordance with effluent limitations, monitoring requirements and other conditions set forth in Parts I, II, and III hereof.

This permit becomes effective on —.

This permit and the authorization to discharge shall expire at midnight, —.

Owners or operators within the general permit areas who fail to notify the Regional Administrator of their intent to be covered by the appropriate general permit are not authorized to discharge under the general permit. See Part I. F.

Signed this 11th day of August 1983.

Myron O. Knudson,

P. E. Director, Water Management Division (6W).

PART I

Serial Numbers/outfalls	Effluent characteristic	Discharge limitations (daily average)	Monitoring requirements	
			Measurement frequency	Sample type
101 Discharges from secondary containment areas (dikes) surrounding petroleum storage tanks.	Oil and grease	No discharge of free oil.		
201 Discharges from petroleum loading and transfer areas [1].	do	30 mg/l	Quarterly [3]	GRAB
301 Petroleum tank truck washings [1]	do	do	do	Do.
401 Discharges from petroleum tank truck garages located adjacent to petroleum storage and transfer facilities [1].	do	do	do	Do.
501 Treated sanitary sewage [2]				
601 Contaminated stormwater runoff not otherwise covered by or commingled with the above stated discharges [4].	Oil and grease	No discharge of free oil.		

[1] Discharges which are treated by an oil/water separating device satisfying the design criteria contained in Part III.A. are exempt from the monitoring requirements.
[2] The permit does not authorize the discharge of treated sanitary sewage. Such discharges must be permitted through individual permits.
[3] Monotoring is not required if there is no discharge during the quarter.
[4] Good housekeeping practices shall be maintained at the facility to minimize discharges of oil and grease.

B. Other Discharge Limitations

1. *Floating Solids or Visible Foam.* There shall be no discharge of floating solids or visible foam in other than trace amounts.

2. *Commingling.* The commingling of the waste water categories identified in this permit is authorized. All commingled discharges are subject to the no discharge of free oil limitation. If a commingled discharge contains wastewater from 201, 301, or 401, such discharge shall satisfy the discharge limitations and monitoring requirements from 201, 301, or 401. If the commingled discharge contains wastewater from 201, 301, or 401 and is treated by an oil/water separator satisfying the criteria contained in Part III.A., such discharge is exempt from the monitoring requirements. This exemption applies to 201, 301, and 401 discharges treated prior to commingling as well as such discharges treated after commingling.

3. *Noncontact Stormwater Runoff.* This permit imposes no limitation on the discharge of stormwater runoff uncontaminated by any industrial or commercial activity and not discharged through any oil/water separator or other treatment equipment or facility.

4. *Water Quality Standards.* At no time shall the maximum values contained in the effluent exceed the water quality standards after mixing with the receiving stream.

C. Monitoring and Records

1. *Representative Sampling.* Samples and measurements taken for the purpose of monitoring shall be representative of the volume and nature of the monitored activity.

2. *Monitoring Procedures.* Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit.

3. *Penalties for Tampering.* The Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

4. *Reporting of Monitoring Results.* The operator of each petroleum storage and transfer facility shall be responsible for submitting monitoring results, if any, for its facility. Monitoring results should be reported depending on the nature and effect of the discharge, but in no case less than once per year.

Required monitoring results shall be summarized and reported on an annual Discharge Monitoring Report Form (EPA Form No. 3320-1). In addition, the annual average shall be reported and shall be the arithmetic average of all samples taken during the reporting year. The first report is due on the 28th day of the 13th month from the day this permit first becomes applicable to a permittee. Signed and certified copies of these and other reports required herein, shall be submitted to the Regional Administrator at the following address:

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5. *Additional Monitoring by the Permittee.* If the permittee monitors any pollutant more frequently than required by the permit, using test procedures approved under 40 CFR Part 136, or as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMRs.

6. *Averaging of Measurements.* Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Regional Administrator in the permit.

7. *Retention of Records.* The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, and copies of all reports required by this permit for a period of at least

3 years from the date of the sample, measurement, report. This period may be extended by request of the Regional Director at any time.

8. *Record Contents.* Records of monitoring information shall include:

(a) The date, exact place, and time of sampling or measurements;

(b) The individual(s) who performed the sampling or measurements;

(c) The date(s) analyses were performed;

(d) The individual(s) who performed the analyses;

(e) The analytical techniques or methods used; and

(f) The results of such analyses.

9. *Inspection and Entry.* The permittee shall allow the Regional Administrator, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

(a) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be keep under the conditions of this permit;

(b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

(c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

(d) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

D. Reporting Requirements

1. *Anticipated Noncompliance.* The permittee shall give advance notice to the Regional Administrator of any planned changes in the permitted facility or activity which may result in noncompliance with the permit requirements.

2. *Monitoring Reports.* Monitoring results shall be reported at the intervals specified in Part I.C. of this permit.

3. *Twenty Four Hour Reporting.* The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

The following shall be included as information which must be reported within 24 hours:

(a) Any unanticipated bypass which exceeds any effluent limitations in the permit; and

(b) Any upset which exceeds any effluent limitations in the permit; and

(c) Violation of a maximum daily discharge limitation for any toxic pollutant or hazardous substance, or any pollutant specifically identified as the method to control a toxic pollutant or hazardous substance, listed as such by the Regional Administrator in the permit to be reported within 24 hours.

Reports should be made to telephone (214) 767–2214. The Regional Administrator may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

4. *Other Noncompliance.* The permittee shall report all instances of noncompliance not reported under Parts I.D.3. at the time monitoring reports are submitted. The reports shall contain the information listed in Part I.D.3.

5. *Signatory Requirements.* All reports or information submitted to the Regional Administrator shall be signed and certified in accordance with 40 CFR 122.41.

6. *Availability of Reports.* Except for data determined to be confidential under 40 CFR Part 2, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Regional Administrator. As required by the Act, permit applications, permits, and effluent data shall not be considered confidential.

7. *Penalities for Falsification of Reports.* The Act provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

E. Notification by Permittee

1. Owners or operators of PST facilities located within the permit area must submit a written notification to the Regional Administrator of their intent to be covered by the appropriate general permit. Unless otherwise notified in writing by the Regional Administrator within 30 days after submission of the request, owners or operators who have submitted a notification will be authorized to discharge under the appropriate general permit.

2. Written notifications shall include, the name and legal address of the owner or operator, the location, number and type of facilities to be covered by the permit, and the name of the receiving streams.

3. Written notifications shall be submitted to the Regional Administrator (and appropriate State Director):

(a) For existing dischargers, within 45 days of the effective date of this permit, and

(b) For new dischargers, 45 days prior to commencement of discharge within the permit area.

4. Owners or operators shall notify the Regional Administrator and the appropriate State Director upon permanent termination of discharge from their facilities.

Part II

A. Operation and Maintenance of Pollution Controls

1. *Proper Operation and Maintenance.* The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

2. *Need to Halt or Reduce Not A Defense.* Upon reduction, loss, or failure of the treatment facility, the permittee shall, to the extent necessary to maintain compliance with its permit, control production or all discharges or both until the facility is restored or an alternative method of treatment is provided. This requirement applies, for example, when the primary source of power of the treatment facility fails or is reduced or lost.

The reduction or halting of operations shall not be a defense against any enforcement action for non-compliance with conditions of the permit.

3. *Bypass of Treatment Facilities.*

(a) *Definitions.*—(1) "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility

(2) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe properly damage does not mean economic loss caused by delays in production.

(b) *Bypass Not Exceeding Limitations.*—The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to Part II, 3 (c) and (d) of this permit.

(c) *Notice.*—(1) *Anticipated bypass.* If the permittee knows in advance of the need for a bypass, he shall submit prior notice, if possible, at least ten (10) days before the date of the bypass.

(2) *Unanticipated bypass.* The permittee shall submit notice of an unanticpated bypass as required in Part I.D.3. (24-hour notice).

(d) *Prohibition of Bypass.*—(1) Bypass is prohibited, and the Regional Administrator may take enforcement action against the permittee for bypass unless:

(A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if the permittee could have installed adequate backup equipment to prevent a bypass which

occurred during normal periods of equipment downtime or preventive maintenance; and

(C) The permittee submitted notices as required under paragraph (c) of this section.

(2) The Regional Administrator may approve an anticipated bypass, after considering its adverse effects, if the Regional Administrator determines that it will meet the three conditions listed above in paragraph (d)(1) of this section.

4. *Upset Conditions.*

(a) *Definition.*—"Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(b) *Effect of an Upset.*—An upset constitutes an affirmative defense to an action brought or noncompliance with such technology-based permit effluent limitations if the requirements of paragraph (c) of this section are met. No determination made during administrative review of claims that noncompliance was caused by an upset, and before an action for noncompliance, is final administrative action subject to judicial review.

(c) *Conditions Necessary for a Demonstration of Upset.*—A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An upset occurred and that the permittee can identify the specific cause(s) of the upset;

(2) The permittee facility was at the time being properly operated;

(3) The permittee submitted notice of the upset as required in Part I.D.3. (24-hour notice); and

(4) The permittee complied with any remedial measures required under Part II.B.4 (Duty To Mitigate).

(d) *Burden of Proof.*—In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

5. *Removed Substances.* Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in a manner such as to prevent any pollutant from such materials from entering navigable waters.

B. General Conditions

1. *Duty to Comply.* The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action or for requiring a permittee to apply for and obtain an individual NPDES permit.

2. *Duty to Comply With Toxic Effluent Standards.* The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the Act for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

3. *Penalties for Violations of Permit Conditions.* The Act provides that any person who violates a permit condition implementing section 301, 302, 306, 307, 308, 318, or 405 of the Act, is subject to a civil penalty not to exceed $10,000 per day of such violation. Any person who willfully or negligently violates permit conditions implementing section 301, 302, 306, 307, or 308 of the Act, is subject to a fine of not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than 1 year, or both.

4. *Duty to Mitigate.* The permittee shall take all reasonable steps to minimize or correct any adverse impact on the environment resulting from noncompliance with this permit.

5. *Permit Actions.* This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

6. *Civil and Criminal Liability.* Except as provided in permit conditions on "Bypasses" (Part II.A.3.) and "Upsets" (Part II.A.4.), nothing in this permit shall be construed to relieve the permittee from civil or ciminal penalties for noncompliance.

7. *Oil and Hazardous Substance Liability.* Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under section 311 of the Act.

8. *State Laws.* Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State law or regulation under authority preserved by section 510 of the Act.

9. *Property Rights.* This permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State, or local laws or regulations.

10. *Severability.* The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

11. *Spill Prevention Control and Countermeasure Plans (SPCC).* The facility shall have a complete SPCC plan which conforms to EPA's SPCC regulations (40 CFR Part 112). Violations of a facility SPCC plan are subject to penalty provisions set forth in 40 CFR 112 and not to be construed as violations of this permit.

C. Additional General Permit Conditions

1. *When the Regional Administrator May Require Application for an Individual NPDES Permit.* The Regional Administrator may require any person authorized by this permit to apply for and obtain an individual NPDES permit for any of the reasons set forth in § 122.28, 48 FR 14146 (April 1, 1983). Prior to taking this action, the Regional Administrator must notify the operator in writing.

2. *When an Individual NPDES Permit May Be Requested.* (a) Any operator authorized by this permit may request exclusion from the coverage of this general permit by applying for an individual permit. The operator shall submit an application together with the reasons supporting the request to the Regional Administrator no later than 90 days after the publication by EPA of this general permit in the **Federal Register.**

(b) When an individual NDPES permit is issued to an operator otherwise subject to this general permit, the applicability of this permit to that owner or operator is automatically terminated on the effective date of the individual permit.

(c) A source excluded from coverage under this general permit solely because it already has an individual permit may request that its individual permit be revoked, and that it be covered by this general permit. Upon revocation of the individual permit, this general permit shall apply to the source.

Part III

A. Oil/Water Separator Design Criteria

1. Any discharge from an oil/water separator meeting the following criteria shall be exempt from the monitoring requirements for this permit:

(a) (i) The horizontal velocity through the separator shall not exceed three feet per minute except when the maximum runoff rate from a 24-hour once in 25 year rainfall event is exceeded.

(ii) The detention time of water flowing through the separator shall be at least twenty (20) minutes except when the maximum rainfall rate from a 24-hour once in 25 year rainfall event is exceeded; and

(iii) The separator shall be capable of treating the maximum rainfall runoff rate from a 24-hour 25 year rainfall event draining to it during the runoff period. Or,

(b) Any wastewater treatment system which has been monitored on at least a quarterly basis over a period of at least two (2) years and which has been in compliance with the 30 mg/l limitation specified in Part I.A. of this permit in at least 95 percent of the monitored samples shall be presumed to satisfy the design criteria of this part.

B. Definitions

1. "No Discharge of Free Oil" means that no discharge shall occur which results in a sheen.

2. "Sheen" means an iridescent appearance on the surface of water.

3. The "daily average" limitation for oil and grease stated in this permit shall be deemed to have been exceeded if either:

(a) The arithmetic average of the analyses of all representative samples taken during a quarter by the permittee in accordance with the monitoring requirements set forth above exceeds 30 mg/l; or

(b) The analyses of any two representative grab samples taken at least six (6) hours

apart during the thirty (30) day period each individually exceed 30 mg/l.

If only one grab sample is taken in a quarter, the results of the analysis of that sample shall be the daily average of the quarter.

4. "Quarter" means a three month period with the first quarter commencing on first day of the first month following the effective day of this permit.

5. "Petroleum Storage and Transfer Facility" of "PST facility"means any facility which stores, in one or more stationary tanks, bulk petroleum products, however received, and subsequently transfers, distributes or sells such petroleum products in large quantities, via pipeline, marine transportation, tank car or tank truck, to the wholesale or commercial market. PST facilities include: (1) Marketing and pipeline terminals (which receive petroleum products primarily via pipeline, ship or barge and dispense it via delivery vessel or vehicle); (2) marketing bulk plants (which receive and dispense petroleum products primarily via delivery vehicle); (3) pipeline breakout terminals (which primarily store and return petroleum products to the pipeline system but do not dispense such products to delivery vessels or vehicles); (4) diesel dispensing facilities with diesel storage capacity exceeding 42,000 gallons and which are equipped with oil water separators; and (5) airport terminals which are equipped with oil water separators and secondary containment areas (terminals on or adjacent to airports which dispense petroleum products primarily via airport delivery vehicles). The term "PST facilities" does not include any facility which is a part of a petroleum refinery or any facility which is a part of a petroleum refinery or any facility which stores or transfers non-petroleum products.

6. "Petroleum" and "Petroleum products" means crude oil, gasoline, diesel fuel, aviation fuel, fuel oils, gasoline additives stored and used in conjunction with gasoline storage, petroleum lubricants, petroleum solvents or petroleum derived asphalts.

7. The permit is applicable only to facilities which are direct discharges into "water of United States" as defined in 40 CFR 122.2 and are subject to the requirements of Sections 301 and 402 of the Clean Water Act.

[FR Doc. 83-34699 Filed 9-12-83; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

Agreements Filed, etc.

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and may request a copy of each agreement and the supporting statement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after the date of the Federal Register in which this notice appears. The requirements for comments and protests are found in § 522.7 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No.: T-4138.

Title: Matson Navigation Company, Inc. and Totem Ocean Trailer Express, Inc. Equipment Lease Agreement.

Parties: Matson Navigation Company, Inc. (Matson) and Totem Ocean Trailer Express, Inc. (TOTE).

Synopsis: Agreement No. T-4138 provides for a reciprocal equipment lease agreement between TOTE and Matsons, which specifies the rights and obligations of the parties when one party leases the containers, trailers, or other container equipment of the other party. Matson's vessels sail between ports on the U.S. West Coast and Honolulu, Hawaii and TOTE's vessels sail between the Ports of Tacoma, Washington, and Anchorage, Alaska.

Filing party: Mr. Thomas M. Kilbane, Jr., Garvey, Schubert, Adams & Barer, 30th Floor, The Bank of California Center, Seattle, Washington, 98164.

Agreement No.: 161-41.

Title: Gulf/United Kingdom Freight Conference.

Parties: Gulf Europe Express, Hapag Lloyd A/G, Lykes Bros. Steamship Co., INc., Sea-Land Service, Inc.

Synopsis: Agreement No. 161-41 amends the basic agreement to delete the December 31, 1983 expiration date of the right of independent action and would extend that right for an unrestricted future period.

Filing party: Howard A. Levy, Esquire, Suite 727, 17 Battery Place, New York, New York 10004.

Agreement No. 8220-11.

Title: North Atlantic/Israel Freight Conference.

Parties: Farrell Lines, Inc., Zim Israel Navigation Co., Ltd.

Synopsis: Agreement No. 8220-11 amends the basic agreement to provide that alternate port service by water or land may be performed from a loading port covered by the Agreement and named in the bill of lading to a loading port not named in the bill of lading.

Filing Party: Ms. Karen S. Ostrow, Billing, Sher & Jones, P. C., Suite 300, 2033 K Street, NW., Washington, D.C. 20006.

Agreement No.: 8420-12.

Title: Israel/North Atlantic Ports Westbound Freight Conference.

Parties: Farrell Lines, Inc., Zim Israel Navigation Co., Ltd.

Synopsis: Agreement No. 8420-12 amends the basic agreement to provide that alternate port service by water or land may be performed from a discharge port not named in the bill of lading to a discharge port covered by the Agreement and named in the bill of lading.

Filing party: Ms. Karen S. Ostrow, Billig, Sher & Jones, P. C., Suite 300, 2033 K Street, NW., Washington, D.C. 20006.

Agreement No.: 9474-9.

Title: Thailand Pacific Freight Conference.

Parties: American President Lines, Ltd., A. P. Moller-Maersk Line, Barber Blue Sea Line, EAC Line, Sea-Land Service, Inc.

Synopsis: The proposed amendment to the agreement would clarify the agreement's open rate authority, establish a misrating program in a new Article 5 and make certain clerical changes to accommodate the new Article 5.

Filing agent: Charles F. Warren, Esquire, Warren & Associates, 1100 Connecticut Avenue, NW., Washington, D.C. 20036.

Agreement No.: 9847-9.

Title: U.S. Atlantic Ports/Brazil Pooling Agreement.

Parties: Companhia de Navegacao Lloyd Brasileiro, Moore McCormack Lines, Incorporated, Netumar Line.

Synopsis: Agreement No. 9847-9 amends the basic agreement to extend the duration of the agreement for an additional three years beyond the December 31, 1983 expiration date and makes minor technical amendments to the accounting provisions.

Filing party: John D. Stratton, Jr., Director, South American Rate and Conferences, Moore McCormack Lines, Inc., 27 Commerce Drive, Cranford, N.J. 07016.

Agreement No.: 9848-11.

Title: U.S. Gulf Ports/Brazil Pooling Agreement.

Parties: Delta Steamship Lines, Inc., Companhia de Navegacao Lloyd Brasileiro, Companhia Maritima Nacional.

Synopsis: Agreement No. 9848-11 amends the basic agreement to: (1) Extend the agreement for an additional three-year term ending December 31, 1986; (2) reduce the minimum number of

required sailings; (3) modify the revenue pooling provisions by changing the carrying rate and pool payment calculation; (4) effect minor clarifying modifications to various other provisions; and (5) restate the entire agreement.

Filing party: William H. Fort, Esquire, Kominers, Port, Schlefer & Boyer, 1776 F Street, NW., Washington, D.C. 20006.

Agreement No.: 9873–5.

Title: U.S. Pacific Coast/Brazil, Pooling Agreement.

Parties: Companhia de Navegacao Lloyd Brasileiro, Delta Steamship Lines, Inc.

Synopsis: Agreement No. 9873–5 amends the basic agreement to: (1) Extend the agreement for an additional three-year term ending December 31, 1986; (2) modify the revenue pooling provisions by changing the carrying rate and pool payment calculation; (3) effect minor clarifying modifications to various other provisions; and (4) restate the entire agreement.

Filing party: William H. Fort, Esquire, Kominers, Fort, Schlefer & Boyer, 1776 F Street, Northwest, Washington, D.C. 20006.

Agreement No.: 9988–15.

Title: Continental/U.S. Gulf Freight Association.

Parties: Gulf Europe Express, Hapag Lloyd A/G, Lykes Bros. Steamship Co., Inc., Sea-Land Service, Inc., Trans Freight Lines, Inc.

Synopsis: Agreement No. 9988–15 amends the basic agreement to extend the notice period for independent action from 48 hours to 30 days.

Filing party: Howard A. Levy, Esquire, Suite 727, 17 Battery Place, New York, New York 10004.

Agreement No.: 10027–12.

Title: Brazil/U.S. Atlantic Coast Ports, Pooling Agreements.

Parties: Companhia De Navegacao Lloyd Brasileiro, Companhia De Navegacao Maritima Netumar S/A, Moore-McCormack Lines, Incorporated, A/S Ivaran Rederi, Empresa Lineas Maritimas Argentinas S/A, A. Bottacchi S. A. De Navegacao C.F.I. e I., Van Nievelt, Goudriaan And Co., B. V., Cylanco S/A.

Synopsis: Agreement No. 10027–12 would extend the Agreement for an additional three years beyond December 31, 1983 expiration date, provide for a new member of the Agreement, and make minor adjustments in certain party's shares and make other minor modifications to the accounting provisions of the Agreement.

Filing party: John D. Stratton, Jr., Director, South American Rates and Conferences, Moore-McCormack Lines, Inc., 27 Commerce Drive, Cranford, N.J. 07016.

Agreement No.: 10320–6.

Title: Brazil/U.S. Gulf Ports Pooling Agreement.

Parties: Delta Steamship Lines, Inc., Companhia de Navegacao Lloyd Brasileiro, Companhia Maritima Nacional, Empresa Lineas Maritimas Argentinas S. A., A. Bottacchi S. A. de Navegacion C. F. I. E. I., Transportacion Maritima Mexicana S. A., A/S Ivarans Rederi, Cylanco S. C.

Synopsis: Agreement No. 10320–6 amends the basic agreement to: (1) Add Ivarans and Cylanco as parties and eliminate Montemar as a party; (2) extend the agreement for an additional three-year term ending December 31, 1986; (3) reduce the minimum sailings and port call requirements for some of the parties; and (4) restate the entire agreement.

Filing party: William H. Fort, Esquire, Kominers, Fort, Schlefer & Boyer, 1776 F Street, Northwest, Washington, D.C. 20006.

Agreement No.: 10330–2.

Title: Brazil/U.S. Pacific Pool Agreement.

Parties: Companhia de Navegacao Lloyd Brasileiro, Delta Steamship Lines, Inc.

Synopsis: Agreement No. 10330–2 amends the basic agreement to: (1) Extend the agreement for an additional three-year term ending December 31, 1986; (2) modify the revenue pooling provisions by decreasing the percentages of a party's pool contribution and pool payment; (3) effect minor clarifying modifications to various other provisions; and (4) restate the entire agreement.

Filing party: William H. Fort, Esquire, Kominers, Fort, Schlefer & Boyer, 1776 F Street, Northwest, Washington, D.C. 20006.

Agreement No.: 10424–7.

Title: United States Atlantic & Gulf/Jamaica and Hispaniola Steamship Conference.

Parties: Concorde/Nopal Lines, Puerto Rico Marine Management, Inc., Sea-Land Service, Inc., Trailer Marine Transport/CTMT.

Synopsis: Agreement No. 10424–7 amends the basic agreement to authorize the parties to establish proportional rates.

Filing party: Nathan J. Bayer, Esquire, Freehill, Hogan & Mahar, 80 Pine Street, New York, New York 10005.

Agreement No.: 10453–1.

Title: Empresa Lineas Maritimas Argentinas S. A./Bottacchi, S. A. de Navegacion C. F. I. I., Space Charter and Sailing Agreement.

Parties: Empresa Lineas Maritimas Argentinas S. A., Bottacchi, S. A. de Navegacion C. F. I. I.

Synopsis: Agreement No. 10453–1 would amend the basic agreement to extend its termination date from December 31, 1983 to a date which is set forth in a written notice given at least 30 days prior to the effective date of the notice by one party to the other party.

Filing party: Seymour H. Kligler, Esquire, Brauner Baron Rosenzweig Kligler Sparber & Bauman, 120 Broadway, New York, New York 10271.

By Order of the Federal Maritime Commission.

Dated: September 8, 1983.

Francis C. Hurney,

Secretary.

[FR Doc. 83–24900 Filed 9–12–83; 8:45 am]

BILLING CODE 6730–01–M

[Agreement No. 10391]

United States Florida-Ecuador Freight Association; Agreement Termination

The Federal Maritime Commission gives notice that it has terminated its approval of the United States Florida/Ecuador Fright Association, as amended, effective August 20, 1983, the effective date of the withdrawal of "TRANSNAVE" from membership in the agreement. TRANSNAVE's withdrawal reduced the agreement membership to only one party, thereby terminating the agreement as a matter of law. Section 15 of the Shippng Act, 1916, only recognizes agreements between two or more persons subject to the Act.

By Order of the Federal Martime Commission.

Dated: September 8, 1983.

Francis C. Hurney,

Secretary.

[FR Doc. 83–24899 Filed 9–12–83; 8:45 am]

BILLING CODE 6730–01–M

[Section 15 Agreement]

Intent To Terminate; Cutlass Steamship Corp.

Agreement No.: 9979.

Title: Cutlass Steamship Corporation-S.V.M.V., Inc., Acquisition of Assets Agreement.

Parties: Cutlass Steamship Corporation and S.V.M.C., Inc.

Synopsis: On August 18, 1983, in response to a Commission inquiry, the Commission received notice to cancel Agreement No. 9979. It, therefore, appears that the subject agreement has served its purpose, is no longer active and should be terminated. Accordingly,

notice is hereby given that, in the absence of any showing of good cause to the contrary, the Commission intends to terminate the approval of Agreement No. 9979, said termination to be effective twenty days subsequent to the date of publication of this notice in the **Federal Register.**

Filing party: Eliot J. Halperin, Esq., Graham & James, 1050 17th Street, NW., Washington, D.C. 20036.

By Order of the Federal Maritime Commission.

Dated: September 8, 1983.

Francis C. Hurney,

Secretary.

[FR Doc. 83-24898 Filed 9-12-83; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Notice of Proposed De Novo Nonbank Activities; Fleet Financial Group, Inc.; et al.

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de nono* (or continue to engage in an activity earlier commenced de novo), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts or interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President), 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Fleet Financial Group, Inc.*, Providence, Rhode Island (consumer finance, mortgage banking and insurance agency; Florida): To engage *de novo* through its indirect subsidiary, Fleet Finance, Inc. in the origination of first and second real estate mortgage loans and the purchase of real estate mortgages, the origination of consumer loans and the purchase of sales finance contracts and acting as agent for the sale of credit life insurance, credit accident and health insurance and credit property insurance. The credit life and credit accident and health insurance which would be sold would be underwritten by an affiliate, Consumer Life Insurance Company, Inc. The sale of property insurance in connection with the extensions of credit by Fleet Finance, Inc. is grandfathered under section 601(D) of the Garn-St. Germain Depository Institutions Act. These activities would be conducted in the geographic area surrounding Fort Myers and Cape Coral, Florida. Comments on this application must be received not later than September 30, 1983.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President), 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Walter E. Heller International Corporation*, Chicago, Illinois (commercial finance and factoring activities; California): To engage through its subsidiaries, Abacus Real Estate Finance Company and Abacus Mortgage Investment Company, in making or acquiring, for its own account or for the account of others, loans and other extensions of credit, and servicing loans and any other extensions of credit for any person. These activities would be conducted from an office in Los Angeles, California, serving the State of California. Comments on this application must be received not later than September 28, 1983.

C. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President), 101 Market Street, San Francisco, California 94105:

1. *BankAmerica Corporation*, San Francisco California (discount securities brokerage and incidental activities; de novo offices: all fifty (50) states and the District of Columbia): To engage, through its indirect subsidiary, Charles Schwab & Co., Inc., in the activities of retail discount securities brokerage, consisting principally of buying and selling securities solely upon the order and for the account of customers, and of extending margin credit in conformity with Regulation T. The activities will be conducted from two *de novo* offices located in Miami, Florida and Providence, Rhode Island; each office serving all fifty (50) states and the District of Columbia. Comments on this application must be received not later than October 6, 1983.

2. *First Interstate Bancorp*, Los Angeles, California (leasing company and investment advisory activities, United States): To engage, through its subsidiaries, First Interstate Merchant Bankers Ltd., First Interstate Cogeneration Capital Associates, Inc., and First Interstate Resource Finance Associates, Inc. in leasing company activities to the extent of acting as agent, broker, adviser or lessor with respect to nonoperating leases of real and/or personal property; and in investment advisory activities to the extent of acting as financial adviser to state and local governments. These activities would be conducted from offices in Los Angeles, San Francisco, and Corte Madera, California, serving the entire United States. This application is to expand the powers and establish new offices of a previously approved activity conducted through wholly-owned subsidiaries. Comments on this application must be received not later than October 5, 1983.

Board of Governors of the Federal Reserve System, September 7, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-24855 Filed 9-12-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities; Old Stone Corp., et al.

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or

gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President), 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Old Stone Corporation,* Providence, Rhode Island (mortgage banking and insurance agency activities; Arizona): To engage *de novo* through its indirect subsidiary, UniMortgage Corporation, Tucson, Arizona, in the origination, sale and servicing of first and second mortgage loans; and to engage through its subsidiary, American Standard Insurance Agency, in the sale of credit life and credit accident and health insurance, which insurance would be reinsured by an affiliate, The Motor Life Insurance Agency, Jacksonville, Florida. These activities would be conducted from an office in Tucson, Arizona, serving Tucson and the county of Pima, Arizona. Comments on this application must be received not later than October 5, 1983.

B. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President), 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *PNC Financial Corp,* Pittsburgh, Pennsylvania (mortgage banking activities; Georgia): To engage, through its wholly-owned subsidiary, The Kissell Company, in making or acquiring and servicing for its own account and/or the account of others, loans and other extensions of credit. These activities will be conducted at an office located in the metropolitan area of Savannah, Georgia. The area of origination will be Bryan, Bullock, Candler, Chatham, Effingham, Evans, Liberty, Long, McIntosh, Screven and Tattnall Counties, Georgia. Comments on this application must be received not later than October 6, 1983.

2. *PNC Financial Corp,* Pittsburgh, Pennsylvania (mortgage banking activities; North Carolina): To engage, through its wholly-owned subsidiary, The Kissell Company, in making or acquiring and servicing for its own account and/or the account of others, loans and other extensions of credit. These activities will be conducted at all office located in the metropolitan area of Durham, North Carolina. The area of origination will be the Counties of Alamance, Caswell, Chatham, Durham, Franklin, Granville, Johnston, Lee, Orange, Randolph, Vance, Wake and Warren, North Carolina. Comments on this application must be received not later than October 6, 1983.

3. *PNC Financial Corp,* Pittsburgh, Pennsylvania (mortgage banking activities; Florida): To engage, through its wholly-owned subsidiary, The Kissell Company, in making or acquiring and servicing for its own account and/or the account of others, loans and other extension of credit. These activities will be conducted at an office located in the metropolitan area of Orlando, Florida. The area of origination will be the Counties of Alachua, Citrus, DeLand, Flagler, Hernando, Lake, Leesburg, Levy, Marion, Orange, Osceola, Pasco and Polk, Florida. Comments on this application must be received not later than October 6, 1983.

C. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President), 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Philadelphia Capital Corporation,* Philadelphia, Mississippi (financing activities; Mississippi): To engage through its subsidiary Philadelphia Finance Corporation in making of loans to persons, partnerships, corporations, and other legal entities, and taking security therefor as appropriate. These activities would be conducted from an office located in Philadelphia, Mississippi, serving Neshoba County, Mississippi. Comments on this application must be received not later than October 5, 1983.

D. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President), 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Walter E. Heller International Corporation,* Chicago, Illinois (realty appraisal activities, Western United States): To engage through its subsidiary, Abacus Realty Appraisers, Inc., in real estate appraisals. These activities are to be conducted from an office located in Phoenix, Arizona, serving the States of Arizona, California, Idaho, Nevada, New Mexico, Oregon and Washington. Comments on this application must be received not later than October 3, 1983.

Board of Governors of the Federal Reserve System, September 7, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-24656 Filed 9-12-83; 8:45 am]

BILLING CODE 6210-01-M

Acquisition of Bank Shares by Bank Holding Companies; American National Holding Co., et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President), 230 South LaSalle Street, Chicago, Illinois 60690:

1. *American National Holding Company,* Kalamazoo, Michigan; to acquire 100 percent of the voting shares or assets of Central National Bank of St. Johns, St. Johns, Michigan. Comments on this application must be received not later than October 5, 1983.

B. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President), 411 Locust Street, St. Louis, Missouri 63166:

1. *Ridgway Bancorp, Inc.,* Norris City, Illinois; to acquire 80 percent of the votings shares or assets of Bank of Christopher, Christopher, Illinois. Comments on this application must be received not later than October 5, 1983.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President), 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Citizens Banco, Inc.,* Westminster, Colorado; to acquire 100 percent of the voting shares of Citizens Bank of Glendale, Glendale, Colorado. Comments on this application must be received not later than October 5, 1983.

2. *Fourth Financial Corporation,* Wichita, Kansas; to acquire 24.98 percent of the voting shares of Salina BancShares, Inc., proposed parent bank holding company for The Planters Bank and Trust Company, Salina, Kansas. Comments on this application must be received not later than October 5, 1983.

D. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President), 400 South Akard Street, Dallas, Texas 75222:

1. *Victoria Bankshares, Inc.,* Victoria, Texas; to acquire 100 percent of the voting shares or assets of Allied First National Bank, Hallettsville, Texas. Comments on this application must be received not later than October 6, 1983.

E. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary), Washington, D.C. 20551:

1. *United Banks of Colorado, Inc.,* Denver, Colorado; to acquire 85 percent of the voting shares or assets of Westnet Bank National Association, Denver, Colorado, a proposed *de novo* banker's bank. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Kansas City. Comments on this application must be received not later than October 6, 1983.

Board of Governors of the Federal Reserve System, September 7, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-24863 Filed 9-12-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies; First Lansing Bancorp, Inc., et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President), 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Lansing Bancorp, Inc.,* Lansing, Illinois; to become a bank holding company by acquiring at least 80 percent of the voting shares of First National Bank of Lansing, Lansing, Illionis. Comments on this application must be received not later than October 4, 1983.

2. *Peoples First Bancshares, Inc.,* Pana, Illinois; to become a bank holding company by acquiring 100 percent less directors' qualifying shares of the voting shares of the successor by merger to Peoples Bank & Trust of Pana, Pana, Illinois. Comments on this application must be received not later than October 5, 1983.

B. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President), 411 Locust Street, St. Louis, Missouri 63166:

1. *Gorham Bancorp, Inc.,* Murphysboro, Illinois; to become a bank holding company by acquiring 89.88 percent of the voting shares of The Bank of Gorham, Gorham, Illinois. Comments on this application must be received not later than October 6, 1983.

C. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President), 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *1st United Bancorporation,* Sidney, Montana; to become a bank holding company by acquiring 80 percent of the voting shares of 1st United Bank of Sidney, Sidney, Montana. Comments on this application must be received not later than October 5, 1983.

D. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President), 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Salina Bancshares, Inc.,* Wichita, Kansas; to become a bank holding company by acquiring 100 percent of the voting shares of United Bancshares, Inc., Salina, Kansas and thereby indirectly acquire 99.6 percent of the voting shares of the Planters Bank and Trust Company, Salina, Kansas. Comments on this application must be received not later than October 5, 1983.

E. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President), 400 South Akard Street, Dallas, Texas 75222:

1. *Texas Valley Bancshares, Inc.,* Weslaco, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of The Citizens State Bank, Donna, Texas; The First National Bank of Weslaco, Weslaco, Texas; The Hidalgo County Bank and Trust Company, Mercedes, Texas; and National Bank of Commerce, Edinburg, Texas. Comments on this application must be received not later than October 5, 1983.

Board of Governors of the Federal Reserve System, September 7, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-24864 Filed 9-12-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies; Local Investors, Inc., et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lie of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President), 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Local Investors, Inc.,* Unadilla, Georgia; to become a bank holding company by acquiring 80 percent or more of the voting shares of State Bank and Trust Company, Unadilla, Georgia, and 12.6 percent of the voting shares of Citizens Bank, Vienna, Georgia. Comments on this application must be received not later than October 5, 1983.

B. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President), 411 Locust Street, St. Louis, Missouri 63166:

1. *First Bancorp of Sparta, Ltd.,* Sparta, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Sparta, Sparta, Illinois. Comments on this application must be received not later than October 7, 1983.

C. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President), 101 Market Street, San Francisco, California 94105:

1. *Scottscom Bancorp, Inc.,* Scottsdale, Arizona; to become a bank holding

company by acquiring 100 percent of the voting shares of Scottsdale Commercial Bank, Scottsdale, Arizona, a *de novo* bank. Comments on this application must be received not later than October 4, 1983.

D. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary), Washington, D.C. 20551:

1. *Georgia First Financial Corp.*, Calhoun, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of The Calhoun First National Bank, Calhoun, Georgia. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Atlanta. Comments on this application must be received not later than October 7, 1983.

Board of Governors of the Federal Reserve System, September 7, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-24856 Filed 9-12-83; 8:45 am]

BILLING CODE 6210-01-M

Acquisition of Bank Shares by a Bank Holding Company; National Bancshares Corporation of Texas

The company listed in this notice has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842)(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President), 400 South Akard Street, Dallas, Texas 75222:

1. *National Bancshares Corporation of Texas*, San Antonio, Texas; to acquire 100 percent of the voting shares of Heights State Bank, Houston, Texas. Comments on this application must be received not later than October 5, 1983.

Board of Governors of the Federal Reserve System, September 7, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-24857 Filed 9-12-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 83D-0247]

Animal Drugs, Feeds, and Related Products; Efficacy Evaluation of Canine/Feline Anthelmintics; Availability of a Draft Guideline

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guideline prepared by its Bureau of Veterinary Medicine entitled "Guideline for Efficacy Evaluation of Canine/Feline Anthelmintics." The guideline is for use in establishing the effectiveness of certain canine and feline anthelmintic new animal drugs. A copy of the draft guideline is available for public review to permit submission of comments to be considered in developing a final guideline.

ADDRESS: Written comments and requests for single copies should be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

DATE: Comments by April 18, 1984.

FOR FURTHER INFORMATION CONTACT: Bob G. Griffith, Bureau of Veterinary Medicine (HFV-112), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3430.

SUPPLEMENTARY INFORMATION: The Federal Food, Drug, and Cosmetic Act (the act) requires that a new animal drug be the subject of an approved new animal drug application (NADA) before it may be marketed. Section 512(b)(1) of the act (21 U.S.C. 360b(b)(1)) requires that each NADA include full reports of investigations which show that the drug is safe and effective for use. Section 512(d) of the act and 21 CFR 514.111 describe the studies needed in an NADA to show that a new animal drug is safe and effective and may be approved. The draft "Guideline for Efficacy Evaluation of Canine/Feline Anthelmintics" describes tests that an NADA sponsor may use to obtain the information needed in evaluating effectiveness of anthelmintic new animal drugs for canines and/or felines: titration of recommended dose, dose confirmation trials, and clinical field trials.

The draft guideline is being made available for public comment before being issued as the formal position of the agency. FDA is inviting public comment on the draft guideline which will be considered in determining whether revisions are warranted.

The agency is also prepared to meet with interested parties during the comment period to discuss the draft guideline. In accordance with 21 CFR 10.65 and 10.80, FDA will prepare memoranda summarizing any such meetings, which will be incorporated in the public file on the guideline. If, after considering the comments and making appropriate changes, FDA concludes that the guideline is appropriate, the guideline will be made final, and its availability will be announced under 21 CFR 10.90(b). That section of FDA's regulations provides for the use of a guideline to establish procedures of general applicability that are not legal requirements but are acceptable to the agency. A person who follows a guideline is assured that use of its procedures in a study will be acceptable to the agency. A person may also choose to use alternative procedures. If a person chooses to depart from a guideline, that person should discuss the matter in advance with the agency to prevent expenditures of resources for work that the agency may later determine to be unacceptable.

A copy of the draft guideline is available for public examination at the Dockets Management Branch (address above). Interested persons may obtain a single copy of the draft guideline by submitting a request to that office.

Interested persons may, on or before April 18, 1984, submit written comments on the draft guideline to the Dockets Management Branch. Two copies of any comments should be submitted; except that individuals may submit one copy. Submissions should be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 7, 1983.

Mervin H. Shumate,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-24852 Filed 9-12-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 83N-0308]

International Drug Scheduling; Convention on Psychotropic Substances; Stimulant and/or Hallucinogenic Drugs

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is requesting interested persons to submit data or comments concerning abuse potential, actual abuse, and medical usefulness and trafficking of 30 stimulant and/or hallucinogenic drugs. This information will be considered in preparing a response from the United States to the World Health Organization (WHO) regarding abuse liability, actual abuse, and trafficking of these drugs. WHO will use this information to consider whether to recommend that certain international restrictions be placed on these drugs. This notice requesting information is required by law.

DATE: Comments by November 14, 1983.

ADDRESS: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Edwin V. Dutra, Jr., National Center for Drugs and Biologics (HFN–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–6490.

SUPPLEMENTARY INFORMATION: The United States is a party to the 1971 Convention on Psychotropic Substances. Article 2 of the Convention on Psychotropic Substances provides that if a party to that Convention or WHO has information about a substance which in its opinion may require international control or change in such control, it shall so notify the Secretary-General of the United Nations and provide the Secretary-General with information in support of its opinion.

The Controlled Substances Act (CSA) (Title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970) provides that when WHO notifies the United States under Article 2 of the Convention on Psychotropic Substances that it has information that may justify adding a drug or other substance to one of the schedules of that Convention, transferring a drug or substance from one schedule to another, or deleting it from the schedules, the Secretary of State must transmit the notice to the Secretary of the Department of Health and Human Services (DHHS). The Secretary of DHHS must then publish the notice in the **Federal Register** and provide opportunity for interested persons to submit comments to assist DHHS in preparing scientific and medical evaluations about the drug or substance.

The Secretary of DHHS received the following notice from WHO on behalf of the Secretary-General:

The Secretary-General of the United Nations presents his compliments to the Secretary of State of the United States of America and has the honour to draw attention to a request from the Director-General of the World Health Organization for assistance in obtaining data on the following thirty substances:

Cathine (norpseudoephedrine)
Cathinone
Clobenzorex
Dimethoxyamphetamine
Dimethoxybromoamphetamine (DOB)
Ethylamphetamine
Fenbutrazate
Fencamfamin
Fenetylline
Fenproporex
Furfenorex
Levamfetamine
Levomethamphetamine
Mefenorex
Methoxyamphetamine (PMA)
Methoxymethylenedioxyamphetamine
Methylenedioxyamphetamine (MDA)
Morazone
Para-methoxyamphetamine
Para-oxyamphetamine
Pemoline
Propylhexedrine
Pyrovalerone
Trimethoxyamphetamine (TMA)
4-Bromo-2,5-dimethoxyphenethylamine
2,5-Dimethoxy-4-ethylamphetamine (DOET)
N,N-Dimethylamphetamine
N-Ethyl-3,4-methylenedioxyamphetamine (N-Ethyl-MDA)
5-Methoxy-3, 4-methylenedioxyamphetamine (MMDA)
3,4-Methylenedioxymethamphetamine (MDMA)

In March 1984 a WHO expert group will review these substances to determine whether WHO should recommend to the Commission on Narcotic Drugs that any of them should be brought under the control of the Convention on Psychotropic Substances.

The Secretary-General would accordingly be most grateful if Governments would submit data on each substance concerning the extent or likelihood of abuse, the degree of seriousness of the public health and social problems associated with such abuse and its usefulness in medical therapy.

It would also be very useful if Governments would indicate whether any of the above-mentioned substances have been seized from the illicit drug traffic during the past three years, and, if so, the amount seized, the number of such seizures and, where this could be determined, the provenance of the substances. Any additional information on clandestine laboratories where these substances may have been manufactured and on precursors used in this process would also be valuable.

In view of the fact that a report must be prepared for WHO on this subject, it would be appreciated if the information could be transmitted to the Secretary-General by 15 December 1983. Replies should be addressed to the attention of the Director of the Division of Narcotic Drugs, Vienna International Centre, P.O. Box 500, A–1400, Vienna, Austria.

July 25, 1983.

Therefore, as required by section 201(d)(2)(A) of the Controlled Substances Act (21 U.S.C 811(d)(2)(A)), FDA on behalf of DHHS invites interested persons to submit data or comments regarding the named 30 drugs.

Of the 30 drugs listed in the notice above, only pemoline and propylhexedrine are currently marketed in the United States. Pemoline, a prescription drug, is a central nervous system stimulant indicated, along with other forms of treatment, for a stabilizing effect in children with a certain behavioral syndrome. Pemoline is controlled domestically in CSA schedule IV. Propylhexedrine, an over-the-counter drug, is a nasal decongestant not now controlled under the CSA. Of the 28 remaining substances from the notice above, 18 are not controlled domestically under the CSA and 10 are controlled domestically in CSA schedule I. The 10 substances currently controlled in CSA schedule I are dimethoxyamphetamine (DMA), dimethoxybromo-amphetamine (DOB), ethylamphetamine, fenetylline, methoxyamphetamine (PMA), methoxymethylenedioxyamphetamine, methylenedioxyamphetamine (MDA), para-methoxyamphetamine, trimethoxyamphetamine (TMA), and 5-methoxy-3, 4 methylenedioxy-amphetamine (MMDA). Drugs or substances controlled in CSA schedule I have a high potential for abuse and no currently accepted medical use in treatment in the United States.

Data and information received in response to this notice will be used to prepare scientific and medical information on these drugs, with a particular focus on each drug's abuse liability. DHHS will forward that information to WHO, through the Secretary of State, for WHO's consideration in deciding whether to recommend international control of any of these drugs. Such control could limit, among other things, the manufacture and distribution (import/export) of these drugs, and could impose certain recordkeeping requirements on them.

DHHS will not now make any recommendations to WHO regarding whether any of these drugs should be subjected to international controls.

Rather, DHHS, will defer such consideration until WHO has made official recommendations to the Commission on Narcotic Drugs, which are expected to be made in the second half of 1984. Any DHHS position regarding international control of these drugs will be preceded by another Federal Register notice soliciting public comment as required by 21 U.S.C. 811(d)(2)(B).

Interested persons may, on or before November 14, 1983, submit to the Docket Management Branch (address above) written comments regarding this action. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 7, 1983.

Mervin H. Shumate,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-24851 Filed 9-12-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. D-83-706]

Delegation of Authority to Assistant Secretary for Public and Indian Housing

AGENCY: Office of the Secretary, HUD.

ACTION: Notice of delegation of authority.

SUMMARY: The Secretary of Housing and Urban Development has established within the Department a new position of Assistant Secretary for Public and Indian Housing and by this notice is transferring appropriate authority from the Assistant Secretary for Housing—Federal Housing Commissioner to the new Assistant Secretary for Public and Indian Housing.

EFFECTIVE DATE: September 7, 1983.

FOR FURTHER INFORMATION CONTACT: Thomas Sherman, Director, Office of Public Housing, Room 4100, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Telephone: (202) 755-6340 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Secretary of Housing and Urban Development has established within the Department a new position of Assistant Secretary for Public and Indian Housing to carry out the Department's programs relating to public housing and Indian housing. These programs, which have been administered by the Assistant Secretary for Housing—Federal Housing Commissioner, are now being transferred to the new Assistant Secretary for Public and Indian Housing. In this connection, the Secretary is delegating the authority to exercise these functions to the new Assistant Secretary and withdrawing such authority from the Assistant Secretary for Housing—Federal Housing Commissioner.

Accordingly, the Secretary of Housing and Urban Development delegates as follows:

Section A. Authority delegated. The following authority (previously delegated to the Assistant Secretary for Housing—Federal Housing Commissioner) is hereby delegated to the Assistant Secretary for Public and Indian Housing, except as is otherwise provided herein under Section B:

(1) The authority of the Secretary with respect to all Public Housing and Indian Housing Programs (including but not limited to Rental Housing, Turnkey III Housing and Mutual Help Housing) administered under the United States Housing Act of 1937, as amended (42 U.S.C. 1437–1437n), and, to the extent related to such programs, the authority of the Public Housing Commissioner and of the other officers and offices of the Public Housing Administration vested in the Secretary under Section 5(a) of the Department of Housing and Urban Development Act (42 U.S.C. 3534(a)).

(2) The authority of the Secretary with respect to insurance and bonding functions for the following programs:

(a) Housing programs authorized by the United States Housing Act of 1937, as amended (42 U.S.C. 1437–1437n);

(b) Slum Clearance and Urban Renewal Program, authorized by Title I of the Housing Act of 1949 (42 U.S.C. 1450–1468) and Section 312 of the Housing Act of 1954 (42 U.S.C. 1450 Note);

(c) New Communities Program, authorized by the Housing Act of 1968 (42 U.S.C. 3901–3914) and the Urban Growth and New Community Development Act of 1970 (42 U.S.C. 4501–4532); and

(d) Comprehensive Planning (701b Program), authorized by the Housing Act of 1954 (40 U.S.C. 461).

(3) The authority of the Secretary to waive rules and regulations relating to programs the authority for which is delegated under this Section A, as provided in 24 CFR 899.101.

Section B. Authority excepted. The authority delegated to the Assistant Secretary for Public and Indian Housing under Section A shall not include any authority to:

(1) Administer any function or program authorized under: (a) Section 10(c) or Section 23 of the United States Housing Act of 1937 (42 U.S.C. 1410(c), 1421(b)); or (b) Section 8 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437(f)), including insurance and bonding functions for any Section 8 program;

(2) Issue notes or other obligations for purchase by the Secretary of the Treasury; or

(3) Sue and be sued.

Section C. Authority to redelegate. Any of the authority delegated to the Assistant Secretary for Public and Indian Housing under Section A may be redelegated by the Assistant Secretary to other employees of the Department, except for the authority to:

(1) Issue rules and regulations; or

(2) Waive rules and regulations.

Section D. Supersedure. All authority previously delegated to the Assistant Secretary for Housing—Federal Housing Commissioner which is delegated herein under Section A to the Assistant Secretary for Public and Indian Housing is hereby revoked, and all previous delegations of such authority are superseded by this delegation of authority. However, any redelegations of authority previously made with respect to the programs and functions described in Section A (which are in effect on the effective date of this delegation of authority) shall remain in effect until expressly modified or superseded under Section C.

Section E. Conclusive evidence of authority. This notice of delegation of authority shall be conclusive evidence of the authority of the Assistant Secretary for Public and Indian Housing (or a delegate) to execute, in the name of the Secretary, any instrument or document relinquishing or transferring any right, title or interest of the Department in or to real or personal property.

(Secs. 5(a), 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3534(a), 3535(d))

Dated: September 7, 1983.

Samuel R. Pierce, Jr.,

Secretary of Housing and Urban Development.

[FR Doc. 83-24823 Filed 9-12-83; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Privacy Act of 1974; Revision and Update of Systems of Records

This notice updates and revises the information which the Department of the Interior has published describing systems of records maintained which are subject to the requirements of Section 3 of the Privacy Act of 1974 (5 U.S.C. 552a). Except as noted below, all changes being published are editorial in nature, and reflect organization changes and other minor administrative revisions which have occurred since the publication of the material in the **Federal Register** on April 11, 1977 (42 FR 19035), and July 3, 1980 (45 FR 45381).

Twenty-five systems of records notices for records maintained by the Bureau of Indian Affairs are updated and republished in their entirety below. Fifteen of the notices are revised to add a compatible disclosure to consumer reporting agencies. They are: BIA–1, BIA–2, BIA–3, BIA–4, BIA–5, BIA–7, BIA–8, BIA–10, BIA–11, BIA–13, BIA–14, BIA–15, BIA–17, BIA–22, and BIA–23.

Part X of the Appendix containing addresses of facilities of the Department which pertains to the Bureau of Indian Affairs (published at 42 FR 18992–18995) is revised and updated. The detailed listing of Bureau of Indian Affairs field facilities is no longer required for use with the Bureau's system notices and is deleted. The revised Part X of the Appendix is published below.

The system notices published below shall become effective on September 13, 1983. Additional information regarding this notice may be obtained from the Departmental Privacy Act Officer, Office of the Secretary (PIR), U.S. Department of the Interior, Washington, D.C. 20240.

Dated: September 7, 1983.

Richard R. Hite

Deputy Assistant Secretary of the Interior.

Appendix

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X. Bureau of Indian Affairs

Bureau of Indian Affairs, U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20245

* * * * *

INTERIOR/BIA–1

SYSTEM NAME:

Property Loan Agreement Files—Interior, BIA—1.

SYSTEM LOCATION:

All Area and Agency Offices (For a listing of specific locations, contact the Systems Manager.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individual Indians or non-Indians having a need for Government-owned real or personal property for use in a Bureau program.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Records of accountability for Government-owned real or personal property loaned to individuals, and (2) records concerning individuals which have arisen as a result of that individual's misuse of or damage to Government-owned or Government-leased real or personal property.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

40 U.S.C. 483(6).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is to identify individuals responsible for government-owned real or personal property by agreement. Disclosures outside the Department of the Interior may be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigation, (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, (3) from the record of an individual in respone to an inquiry from a Congressional office made at the request of that individual.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b) (12). Pursuant to 5 U.S.C. 552a (b)(12), disclosures may be made to a consumer reporting agency as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual: letter files.

RETRIEVABILITY:

(a) Indexed by individual name and cross-referenced by tribal name, contract or use permit number; (b) retrieved by manual search

SAFEGUARDS:

In accordance with 43 CFR 2.51

RETENTION AND DISPOSAL:

Destroy one year after property is returned.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Administration Bureau of Indian Affairs, Department of the Interior, 1951 Constitution Avenue, N.W., Washington, D.C. 20245.

NOTIFICATION PROCEDURE:

To determine whether the records are maintained on you in this system, write to the System Manager or, with respect to records maintained in the office for which he is responsible, an Area Director or Agency Superintendent. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

To see your records, write the officials listed in the Notification procedure. Describe as specifically as possible the records sought. If copies are desired, indicate the maximum you are willing to pay. See 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

To request corrections or the removal of material from your files, write the System Manager. See 43 CFR 2.71

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained, Bureau of Indian Affairs employees, supervisors.

INTERIOR/BIA–2

SYSTEM NAME:

Safety Management Information—Interior, BIA—2.

SYSTEM LOCATION:

(1) All Area, Agency and Field Offices of the BIA. (2) Director, Office of Administration, Bureau of Indian Affairs, Department of the Interior, 1951 Constitution Avenue, N.W., Washington, D.C. 20245. (For a listing of specific locations, contact the Systems Manager.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Employee operators and incidental operators of government-owned vehicles and equipment. (2) Federal employees who have had an accident or incident. (3) Injured employees who submit claims for medical attention or loss of earning capability due to on-the-job injury. (4) Individuals filing tort claims against the U.S. Government.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Documents supporting the issuance of SF–46 Motor Vehicle Identification Cards to employees, (2) reports of accident/incident by agency, area, name

of person involved and social security number, (3) employee claims case files pertaining to claims submitted to the Office of Workmen's Compensation, and (4) case files with supporting documents pertaining to tort claims filed by an individual against the U.S. Government, and (5) records concerning individuals which have arisen as a result of that individual's misuse of or damage to Government-owned or Government-leased motor vehicles, other equipment/facilities, and salary overpayments as a result of misuse of leave relating to Office of Workmen's Compensation claims deemed to be invalid.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7902, 28 U.S.C. 2671–2680, 31 U.S.C. 242–243.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the record is to provide complete record-keeping on qualified motor vehicle operators in BIA, employee accidents or incidents, Federal employees compensation claims and adjudication of tort claims. Disclosures outside the U.S. Department of the Interior may be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigation, (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual, (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit, (5) to Federal, State, or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Pursuant to 5 U.S.C. 552a (b)(12), disclosures may be made to a consumer reporting agency as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual: letter files.

RETRIEVABILITY:

(a) Indexed alphabetically by name of employee. (b) Retrieved by manual search.

SAFEGUARDS:

In accordance with 43 CFR 2.51.

RETENTION AND DISPOSAL:

Records permanently retained.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Administration, Bureau of Indian Affairs, Department of the Interior, 1951 Constitution Avenue, N.W., Washington, D.C. 20245.

NOTIFICATION PROCEDURE:

To determine whether the records are maintained on you in this system, write to the System Manager or with respect to records maintained in the office for which he is responsible, the Agency or School Superintendent, the Area or Field Office Director. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

To see your records, write the officials listed in the Notification procedure. Describe as specifically as possible the records sought. If copies are desired, indicate the maximum you are willing to pay. See 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

To request corrections or the removal of material from your files, write the System Manager. See 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Claimants. Individuals on whom the record is maintained.

INTERIOR/BIA–3

SYSTEM NAME:

Individual Indian Monies—Interior, BIA—3.

SYSTEM LOCATION:

(1) All Area and Agency Offices of the BIA or contractors processing IIM accounts for them. (2) Division of Accounting Management, Bureau of Indian Affairs, P.O. Box 2088, Albuquerque, NM 87103. For a listing of specific locations, contact the systems Manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individual Indians who have money accounts.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) General ledgers showing deposits and withdrawals from Indians' accounts and money folders with supporting documentation, and (2) records concerning overdrafts paid to individuals from the IIM account.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

25 U.S.C. 151.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are to control individual Indian's money accounts and to disclose to them the status of those accounts. (b) Provides management with an automated information system for program planning, reporting and management utilization. Disclosures outside the Department of the Interior may be made (1) granting of access or transfer to another Federal agency, a State or local government, Indian tribal group or to any individual or establishment that, under contract to the BIA or as the result of some form of legal transfer of the program to them, will have jurisdiction for the IIM program now under the jurisdiction of the BIA, (2) to the U.S. Department of Justice when related to litigation or anticipated litigation, (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statue, rule, regulation, order or license, (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual, (5) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made to a consumer reporting agency as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual: maintained in letter files, cardex, and binders for non-automated areas; Computer: maintained in computer translatable form on magnetic tape for automated areas.

RETRIEVABILITY:

(a) Indexed by name of identifying number. (b) Retrieved by manual search and through computer batch processes.

SAFEGUARDS:

In accordance with 43 CFR 2.51.

RETENTION AND DISPOSAL:

Closed files are transferred to the appropriate GSA Federal Records Center five years after probate and other actions are completed. Prior information on magnetic tape erased as updated information is added to the system.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Administration, Bureau of Indian Affairs, 1951 Constitution Avenue, N.W., Washington, D.C. 20245.

NOTIFICATION PROCEDURE:

To determine whether the records are maintained on you in this system, write to the System Manager or, with respect to records maintained in the office for which he is responsible, an Area Director or Agency Superintendent. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

To see your records, write the officials listed in the Notification procedure. Describe as specifically as possible the records sought. If copies are desired, indicate the maximum you are willing to pay. See 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

To request corrections or the removal of material from your files, write the System Manager. See 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individual on whom record is maintained, depositors in the accounts and claimants against the accounts.

INTERIOR/BIA–4

SYSTEM NAME:

Indian Land Records—Interior, BIA–4.

SYSTEM LOCATION:

(1) Land Records Improvement Program liaison Office Bureau of Indian Affairs, 500 Gold Ave., S.W., Albuquerque, NM 87103. (2) Title plants at the following five Area Offices of the BIA: Portland, Billings, Anadarko, Aberdeen and Albuquerque. (3) Central Area, Agency and Field Offices of the BIA. (For a listing of specific locations, contact the Systems Manager.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individual Indians and Indian tribal groups that owners of land held in trust by the government.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Land description, current ownership, probate and title history of Indian trust lands, and (2) records concerning individuals which have arisen as a result of that individual's receipt of overpayment(s) relative to land disposal, leases, sales and rentals.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

25 U.S.C. 392.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are (a) to identify individual Indians' and Indian Tribal Groups' interest in lands held in trust, (b) land acquisition and disposal and tenure and management purposes, (c) adjudication of rights to the land or resources, (d) administration leases, sales, rentals, transfers, (e) land statistics for BIA personnel information uses, and (f) to answer questions regarding land rights. Disclosures outside the Department of the Interior may be made (i) to transfer or disclose to another Federal agency, a State or local government, or to any individual or establishment that has been appointed to act as trustee for Indian lands, (2) to the Department of Justice when related to litigation or aniticipated litigation, (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, (4) from the record of an individual or tribe in response to an inquiry from a Congressional office made at the request of that individual or authorized tribal official, (5) to title insurance and abstracting companies and attorneys for the purposes of determining ownership of an encumbrance against title.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made to a consumer reporting agency as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

STORAGE:

Manual: basic legal documents in letter files at the five title plants and input documents and printed copies in letter files at the Albuquerque Office, the five title plants, and the Area, Agency and Field Offices. Computer: mag-tape and disk.

RETRIEVABILITY:

(a) Indexed by name of identification number of individual. Historical Index Computer files are in order by land location. Current owners are in order by land location and then by owner identification number. (b) Retrieved by manual search, use of computer printouts and batch inquiries of the computer.

SAFEGUARDS:

In accordance with 43 CFR 2.51.

RETENTION AND DISPOSAL:

Records permanently retained. Records permanently retained for historical index. Prior information on mag-tape and disk is erased as new data is added for the current owner files.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Trust Responsibilities, Bureau of Indian Affairs, 18th and C Streets, N.W., Washington, D.C. 20245.

NOTIFICATION PROCEDURE:

To determine whether the records are maintained on you in this system, write to the System Manager or, with respect to records maintained in the office for which he is responsible, an Area or Field Office Director, or an Agency Superintendent See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

To see your records, write the officials listed in the Notification procedure. Describe as specifically as possible the records sought. If copies are desired, indicate the maximum you are willing to pay. See 43 CFR 2.63

CONTESTING RECORD PROCEDURES:

To request corrections or the removal of material from your files, write the System Manager. See 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Legal records such as titles, deeds, probates and birth notices.

INTERIOR/BIA-5

SYSTEM NAME:

Indian Land Leases—Interior, BIA-5.

SYSTEM LOCATION:

(1) Area, Agency and Field Offices of the BIA. (2) Division of Automatic Data Processing Services, Bureau of Indian Affairs, 500 Gold Ave., S.W., Albuquerque, NM 87103. (3) Contractors, including Indian tribal groups and other federal agencies. (For a listing of specific locations, contact the Systems Manager.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individual Indian and Indian tribal groups that are owners of real property held in trust by the government, and individuals or groups that are potential or actual lessees of that property.

CATEGORIES OF RECORDS IN THE SYSTEM:

Land description, heirship and current ownership of Indian trust lands and real property; identification of owners and lessees; water, surface and subsurface rights on that land; conservation, irrigation and land use projects; and information on all types of leases, including grazing, farming, minerals and mining, timber, business, etc; and records concerning individuals which have arisen as a result of that individual's receipt of overpayment(s) relative to the distribution of leased income.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

25 U.S.C. 415.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are (a) to control leases on Indian trust lands and real property, (b) for the collection and distribution of lease income (c) protection of water, surface and subsurface rights on Indian trust lands, and (d) planning, and implementing conservation, irrigation and land use projects on Indian lands. Disclosures outside the Department of the Interior may be made, (1) to another Federal agency, a State or local government, Indian tribal group or contractor having jurisdiction of programs ordinarily the responsibility of the BIA, (2) to the Department of Justice when related to litigation or anticipated litigation, (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, (4) to title insurance and abstracting companies and attorneys for the purposes of determining ownership of and encumbrances against title.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made to a consumer reporting agency as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual: letter files and maps. Computer: mag-tape.

RETRIEVABILITY:

(a) Indexed by name of identification number of the individual. Computer file is in order by reservation and then by land lease numbers. (b) Retrieved by manual search, use of computer printouts, and batch inquiries of the computer.

SAFEGUARDS:

Most records are maintained in accordance with 43 CFR 2.51 for both manual and computer records. A program will be initiated to bring the safeguards for the remaining systems of records up to the same standards.

RETENTION AND DISPOSAL:

Records held two years after lease expiration and then transferred to the Federal Records Center. Records permanently retained on mag-tape. Prior information on mag-tape is erased as new data or changes are added.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Trust Responsibilities, Bureau of Indian Affairs, 18th and C Streets N.W., Washington, D.C. 20245.

NOTIFICATION PROCEDURE:

To determine whether the records are maintained on you in this system, write to the System Manager or, with respect to records maintained in the office for which he is responsible, an Area or Field Office Director, or an Agency Superintendent See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

To see your records, write the officials listed in the Notification procedure. Describe as specifically as possible the records sought. If copies are desired, indicate the maximum you are willing to pay. See 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

To request corrections or the removal of material from your files, write the System Manager. See 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individual on whom record is maintained. Titles, deeds, birth and death notices, all types of land and water rights and usages documents.

INTERIOR/BIA-6

SYSTEM NAME:

Navajo-Hopi Joint Use Project—Interior, BIA-6.

SYSTEM LOCATION:

(1) Joint Use Administrative Office, 125 E. Birch St. Arizona Bank Bldg., Flagstaff, Arizona 86001. (2) Division of Automatic Data Processing Services, Bureau of Indian Affairs, 500 Gold Ave., SW., Albuquerque, NM 87103.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Navajo and Hopi Indians who are residents of the Joint Use Area in Arizona.

CATEGORIES OF RECORDS IN THE SYSTEM:

Census enumerations, and inventories and ownerships of property improvements (includes livestock inventories).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

25 U.S.C. 631, et seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is to identify improvements locations, ownership and residents of the Joint Use Administration. Disclosures outside the Department of the Interior may be made (1) for Tribal Government use in adjudicating land disputes, (2) to Relocation Commission to identify resident and location and ownership of improvements, (3) U.S. Federal Courts concerned with the project, (4) to the U.S. Department of Justice when related to litigation or anticipated litigation, (5) of information indicating a violation or

potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, and (6) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual: letter files and computer printouts at the JUA Office. Computer: disk files with mag-tape backup.

RETRIEVABILITY:

(a) Indexed by name of individual. (b) Retrieved by manual search. Computer listings are by name in alphabetical order, also location and individual assigned number. Records are accessed from disk by location and individual's assigned number or a real estate improvement number in a batch process mode.

SAFEGUARDS:

In accordance with 43 CFR 2.51.

RETENTION AND DISPOSAL:

Disk files are perpetual. Prior information on disk is erased as new data is added.

SYSTEM MANAGER(S) AND ADDRESS:

Project Officer, Joint Use Administrative Office, 125 E. Birch St., Arizona Bank Building, Flagstaff, Arizona 86001.

NOTIFICATION PROCEDURE:

To determine whether the records are maintained on you in this system, write to the System Manager. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

To see your records, write the System Manager or the Offices cited under "Systems Location". Describe as specifically as possible the records sought. If copies are desired, indicate the maximum you are willing to pay. See 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

To request corrections or the removal of material from your files, write the System Manager. See 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Navajo and Hopi residents of the Joint Use Area and enumeration surveyors who are interviewing claimants and physically examining property improvements.

INTERIOR/BIA–7

SYSTEM NAME:

Tribal Rolls—Interior, BIA

SYSTEM LOCATION:

(1) All Area, Agency and Field Offices of the BIA. (2) Director, Office of Indian Services, Bureau of Indian Affairs, 18th and C Streets, N.W., Washington, D.C. 20245. (3) Division of Automatic Data Processing Services, Bureau of Indian Affairs, 500 Gold Ave., S.W., Albuquerque, NM 87103. (For a listing of specific locations, contact the System Manager.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individual Indians who are applying for or have been assigned interests of any kind in Indian tribes, bands, pueblos or corporations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documents supporting Individual Indians claims to interests in Indian tribal groups, including birth, marriage and death notices; records of actions taken (approvals, rejections, appeals); rolls of approved individuals; records of actions taken (judgement distributions, per capita payments, shares of stocks); ownership and census data taken using the rolls as a base; and records concerning individuals which have arisen as a result of that individual's receipt of funds or income to which that individual was not entitled or the entitlement was exceeded in the distribution of such funds.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

25 U.S.C. 163.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are (a) to determine eligibility of individuals who participate in or enjoy benefits from an interest in a tribal group, and (b) provide lists of approved enrollees used to distribute funds or income, or as a base to gather census or ownership data for planning purposes. Disclosures outside the Department of the Interior may be made (1) to the Tribe, Band, Pueblo or corporation of which the individual to whom a record pertains is a member or a stockholder, (2) to the U.S. Department of Justice when related to litigation or anticipated litigation, (3) of information indicating a violation or potenial violation of a statute, regulation, rule, order or license, to appropriated Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual, (5) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit, (6) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a (b)(12). Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made to a consumer reporting agency as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual: letter files and computer printouts. Computer: Disk files with mag-tape backup protection.

RETRIEVABILITY:

(a) Indexed by name, identification numbers, family numbers, etc. (b) Retrieved by manual search or computer inquiry.

SAFEGUARDS:

In accordance with 43 CFR 2.51.

RETENTION AND DISPOSAL:

Records permanently retained. Disk files are perpetual. Prior information on disk is erased as new data is added or changed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Indian Services, Bureau of Indian Affairs, 18th and C Streets N.W., Washington, D.C. 20245.

NOTIFICATION PROCEDURE:

To determine whether the records are maintained on you in this system, write to the System Manager or with respect to records maintained in the office for which he is responsible, an Agency Superintendent or an Area or Field Office Director. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

To see your records, write the officials listed in the Notification procedure. Describe as specifically as possible the

records sought. If copies are desired, indicate the maximum you are willing to pay. See 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

To request corrections or the removal of material from your files, write the System Manager. See 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individual on whom record is maintained. Birth, marriage and death certificates, and family and tribal histories.

INTERIOR/BIA–8

SYSTEM NAME:

Indian Social Services Case Files—Interior. BIA–8.

SYSTEM LOCATION:

All Area, Agency and Field Offices of the BIA. (For a listing of specific locations, contact the System Manager.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individual Indians who apply and receive social services and direct assistance from the Bureau of Indian Affairs on Indian reservations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Case files and related card files giving history of social services and direct assistance to individual Indians; and records concerning individuals which have arisen as a result of that individual's receipt of payment or overpayment of direct assistance funds which the individual was not entitled and/or for the misuse of funds disbursed under the direct entitlement program.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

25 U.S.C. 13.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are (a) provides permanent individual records on social services and direct assistance to individual Indians. (b) Provides management with an automated information system for program planning, reporting and management utilization. Disclosures outside the Department of the Interior may be made (1) granting or access of transfer to another Federal agency, a State or local government Indian tribal group or to any individual or establishment that will have jurisdication whether by contract to the BIA, by assumption of trust responsibilities or by other means, for social services programs now controlled by the BIA, (2) to the U.S. Department of Justice when related to litigation or anticipated litigation, (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license to appropriate Federal, State, local or foreign Agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual, (5) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant other benefit, (6) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made to a consumer reporting agency as defined in the Fair Credity Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual; letter files; computer-maintained in computer translatable form on magnetic tape for automated areas.

RETRIEVABILITY:

(a) Indexed alphabetically by name of applicant and/or recipient. (b) Retrieved by manual search.

SAFEGUARDS:

In accordance with 43 CFR 2.51.

RETENTION AND DISPOSAL:

Transfer inactive files to GSA Federal Records Center five years.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Indian Services, Bureau of Indian Affairs, 18th and C Streets N.W., Washington, D.C. 20245.

NOTIFICATION PROCEDURE:

To determine whether the records are maintained on you in this system write to the System Manager, or, with respect to records maintained in the office for which he is responsible, an Agency Superintendent or an Area or Field Office Director. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

To see your records, write the officials listed in the Notification procedure. Describe as specifically as possible the records sought. If copies are desired, indicate the maximum your are willing to pay. See 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

To request corrections or the removal of material from your files, write the System Manager. See 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individual on whom record is maintained.

INTERIOR/BIA–9.

SYSTEM NAME:

Traders License Files—Interior, BIA–9.

SYSTEM LOCATION:

All Area and Agency Offices of the BIA. (For a listing of specific locations, contact the Systems Manager.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants requesting licenses to trade on Indian reservations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Case files containing applications, bond forms, copies of licenses and related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

25 U.S.C. 261.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the record is to identify individuals authorized to trade Indian reservations. Disclosures outside the Department of the Interior may be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigation, and (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual: letter files at Area and Agency Offices.

RETRIEVABILITY:

(a) Indexed alphabetically by name of applicant. (b) Retrieved by manual search.

SAFEGUARDS:

In accordance with 43 CFR 2.51.

RETENTION AND DISPOSAL:

Transfer to the GSA Federal Records Center five years after case becomes inactive.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Indian Services, Bureau of Indian Affairs, 18th and C Streets N.W., Washington, D.C. 20245.

NOTIFICATION PROCEDURE:

To determine whether the records are maintained on you in this system, write to the System Manager or, for records maintained in the office for which he is responsible, an Agency Superintendent or an Area Director See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

To see your records, write the officials listed in the Notification procedure. Describe as specifically as possible the records sought. If copies are desired, indicate the maximum you are willing to pay. See 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

To request corrections or the removal of material from your files, write the System Manager. See 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individual on whom record is maintained.

INTERIOR/BIA–10

SYSTEM NAME:

Indian Housing Improvement program—Interior, BIA–10.

SYSTEM LOCATION:

(1) Division of Housing Services, Bureau of Indian Affairs, 1951 Constitution Avenue, N.W., Washington, D.C. 20245. (2) All Area and Agency Offices. (For a listing of specific locations, contact the System Manager.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individual Indians who qualify as housing improvement participants.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Housing applications, financial records, and engineering drawing material, and (2) records concerning individuals which have arisen as a result of that individual's receipt of Housing Improvement Program funds for which the individual did not meet prescribed eligibility criteria, or as a result of the individual's misuse of funds for the purpose(s) disbursed.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

25 U.S.C. 13.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are (a) to maintain a management control of funds distributed to each individual and (b) to provide a progress report on housing improvements. Provides management with an automated information system for program planning, reporting and management utilization. disclosures outside the Department of the Interior may be made (1) disclosure or transfer to another Federal agency, a State or local government, an Indian tribal group or a contractor that will have jurisdiction over programs now controlled by the BIA (2) to the U.S. Department of Justice when related to litigation or anticipated litigation, (3) of information indicating a violation or to approporiate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual, (5) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made to a consumer reporting agency as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual letter files. Computer: Maintained in computer translatable from on magnetic tape for automated areas.

RETRIEVABILITY:

(a) Indexed by name of applicant. (b) Retrieved by manual search.

SAFEGUARDS:

In accordance with 43 CFR 2.51.

RETENTION AND DISPOSAL:

Records permanently retained.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Indian Services, Bureau of Indian Affairs, 18th and C Sts, N.W., Washington, D.C. 20245

NOTIFICATION PROCEDURE:

To determine whether the records are maintained on you in this system, write to the System Manager or, with respect to records maintained in the office for which he is responsible, the Agency Superintendent or the Area or Field Office Director. See 43 CFR 2.60

RECORD ACCESS PROCEDURES:

To see your records, write the officials listed in the Notification procedure. Describe as specifically as possible the records sought. If copies are desired, indicate the maximum you are willing to pay. See 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

To request correction or the removal of material from your files, write the System Manager. See 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individual on whom record is maintained.

INTERIOR/BIA–11

SYSTEM NAME:

Indian Business Development Program (Grants)—Interior, BIA–11.

SYSTEM LOCATION:

(1) Office of Indian Services, Bureau of Indian Affairs, 18th and C Streets, N.W., Washington, D.C. 20245. (2) Division of ADP Services, Bureau of Indian Affairs, 500 Gold Ave., S.W., Albuquerque, NM 87103. (3) Area and Agency Offices. (For a listing of specific locations, contact the Systems Manager.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Indian Business Grant applicants.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Grant application and supporting documents including financial transactions recording obligations and disbursements of grant funds, and (2) records concerning individuals which have arisen as a result of that individual's receipt of grant funds for which the individual did not meet prescribed eligibility criteria or as a result of the individual's misuse of funds for the purpose(s) disbursed.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

88 Stat. 77 (1974).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the record is to identify individual receiving grant. Disclosures outside the Department of the Interior may be made (1) transfer or disclosure to another Federal agency, a State or local government, an Indian tribal group or a contractor that will have jurisdiction over programs now managed by the BIA, (2) to the Economic Development Administration, Farmers Home Administration and Small Business Administration in regard to participating funding packages between these agencies and BIA, (3) to the U.S. Department of Justice when related to litigation or anticipated litigation, (4) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, (5) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made to a consumer reporting agency as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual: letter files and computer printouts. Computer: mag-tape/disk.

RETRIEVABILITY:

(a) Indexed by individual's name or control number. (b) Retrieved by manual search and through batch inquiries of computer.

SAFEGUARDS:

In accordance with 43 CFR 2.51.

RETENTION AND DISPOSAL:

Records permanently retained. Prior information on mag-tape is erased as new data is added.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Indian Services, Bureau of Indian Affairs, 18th and C Streets N.W., Washington, D.C. 20245.

NOTIFICATION PROCEDURE:

To determine whether the records are maintained on you in this system, write to the Systems Manager or, with respect to records maintained in the office for which he is responsible, an Area Director or an Agency Superintendent. (See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

To see your records, write the Systems Manager or the offices cited under "Systems Location". Describe as specifically as possible the records sought. If copies are desired, indicate the maximum you are willing to pay. See 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

To request corrections or the removal of material from your files, write the Systems Manager. See 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individual on whom record is maintained. Legal records such as titles, deeds, probates and birth notices.

INTERIOR/BIA–12

SYSTEM NAME:

Indian Trust Land Mortages—Interior, BIA–12

SYSTEM LOCATION:

Area and Agency Offices. (For a listing of specific locations, contact the Systems Manager.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individual Indians who mortgaged trust land to customary lenders.

CATEGORIES OF RECORDS IN THE SYSTEM:

Mortgage records and supporting documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

25 U.S.C. 483(a).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are (a) to furnish lender with information on applicant and on status of land and (b) to maintain current information on payments and balances of loan. Disclosures outside the Department of the Interior may be made (1) to disclose or transfer to another Federal agency, a State of local government, an Indian tribal group or a contractor that will have jurisdiction over programs now managed by the BIA, (2) to the Economic Development Administration, Farmers Home Administration and Small Business Administration in regard to participating funding between those agencies and BIA, (3) to the U.S. Department of Justice when related to litigation or anticipated litigation, (4) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, and (5) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual, (6) to title insurance and abstracting companies and attorneys for the purposes of determining ownership of and encumbrances against title.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual: letter files.

RETRIEVABILITY:

(a) Indexed by individual's name. (b) Retrieved by manual search.

SAFEGUARDS:

In accordance with 43 CFR 2.51.

RETENTION AND DISPOSAL:

Records are permanently retained.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Trust Responsibilities, Bureau of Indian Affairs, 18th and C Streets N.W., Washington, D.C. 20245

NOTIFICATION PROCEDURE:

To determine whether the records are maintained on you in this system, write to the System Manager or, with respect to records maintained in the office for which he is responsible, an Area or Field Office Director, or any Agency Superintendent. (See 43 CFR 2.60.)

RECORD ACCESS PROCEDURES:

To see your records, write the officials listed in the Notification procedure. Describe as specifically as possible the records sought. If copies are desired, indicate the maximum you are willing to pay. (See 43 CFR 2.63.)

CONTESTING RECORD PROCEDURES:

To request correction or the removal of material from your files, write the System Manager. (See 43 CFR 2.71.)

RECORD SOURCE CATEGORIES:

Mortgage applicants.

INTERIOR/BIA-13

SYSTEM NAME:

Indian Loan Files—Interior, BIA—13.

SYSTEM LOCATION:

(1) Office of Indian Services, Bureau of Indian Affairs, 18th and C Streets, NW., Washington, D.C. 20245. (2) Division of ADP Services, Bureau of Indian Affairs, 500 Gold Ave., SW., Albuquerque, NM 87103. (3) Area and Agency offices. (For a listing of specific locations, contact the System Manager.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants who applied for or received loans. Applicants who applied for or received guaranteed loans.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Loan applications and supporting documents, record of payment cards, guaranty agreements, eligibility certificates, default documents, and/or promissory notes, and (2) records concerning an individual's refusal to make required loan payments when it is determined by the United States that the individual has sufficient assets to pay and/or as a result of the individual's misuse of loan proceeds.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

25 U.S.C. 482, 461, et seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are (a) to maintain a record of payments and unpaid balances and (b) to provide information on payments made for paying interest subsidy, credits obtained, service loans, and premiums paid by lenders. Disclosures outside the Department of the Interior may be made (1) disclosure or transfer to another Federal agency, a State or local government, an Indian tribal group or a contractor that will have jurisdiction over programs now maintained by the BIA, (2) to the Economic Development Administration, Farmers Home Administration and Small Business Administration, in regard to participating funding between those agencies and BIA, (3) to the U.S. Department of Justice when related to litigation or anticipated litigation, (4) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, (5) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made to a consumer reporting agency as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual: letter files, applications and computer printouts. Computer: mag-tape/disk.

RETRIEVABILITY:

Indexed by individual's name, control number or tribal name. (b) Retrieved by manual search and through batch inquiries.

SAFEGUARDS:

In accordance with 43 CFR 2.51.

RETENTION AND DISPOSAL:

Destroy seven years after loan is paid, cancelled, or otherwise disposed of. Prior information on mag-tape is erased as new data is added.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Indian Services, Bureau of Indian Affairs, 18th and C Street NW., Washington, D.C. 20245.

NOTIFICATION PROCEDURE:

To determine whether the records are maintained on you in this system, write to the Systems Manager or, with respect to records maintained in the office for which he is responsible, an Area Director or an Agency Superintendent. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

To see your records, write the Systems Manager or the offices cited under 'Systems Location'. Describe as specifically as possible the records sought. If copies are desired, indicate the maximum you are willing to pay. See 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

To request corrections or the removal of material from your files, write the System Manager. See 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individual on whom record is maintained.

INTERIOR/BIA-14

SYSTEM NAME:

Travel Accounting System—Interior, BIA-14.

SYSTEM LOCATION:

(1) Division of Accounting Management, Bureau of Indian Affairs, 500 Gold Ave., S.W., Albuquerque, NM 87103. (2) All Area, Agency, and Field Offices (including the Washington Office) of the BIA. (For a listing of specific locations, contact the Systems Manager.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are traveling at government expense.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Travel authorization, advances and vouchers, and (2) records concerning an individual's inability to file a proper travel voucher within prescribed time lines to liquidate a travel advance, to repay the difference between an advance and an audited travel voucher, or as a result of an individual's misuse of funds advanced for official travel.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5701, et seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the record is to identify individuals who are authorized to travel and be reimbursed by the government. Disclosures outside the Department of the Interior may be made (1) disclosure or transfer to another Federal agency, a State or local government, an Indian tribal group or a contractor that will have jurisdiction over programs now controlled by the BIA and that require personal travel at program expense, (2) to the U.S. Department of Justice when related to litigation or anticipated, lititgation, (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosure pursuant to 5 U.S.C. 552a(b)(12). Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made to a consumer reporting agency as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual: Input documents and printed copies are maintained at the Albuquerque Office and at Area, Agency and Field Offices for individuals under their jurisdiction; Computer: maintained in computer translatable form on mag-tape.

RETRIEVABILITY:

(a) Indexed by name or identification number of traveler. (b) Retrieved by manual search or batch computer processing.

SAFEGUARDS:

In accordance with 43 CFR 2.51.

RETENTION AND DISPOSAL:

Records are retained in current status pending final action which is accomplished through batched computer processing. Historical records retained one year then transferred to Federal Records Center.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Administration, Bureau of Indian Affairs, 1951 Constitution Avenue, N.W., Washington, D.C. 20245.

NOTIFICATION PROCEDURE:

To determine whether the records are maintained on you in this system, write to the System Manager or, with respect to records maintained in the office for which he is responsible, the Agency or School Superintendent, or the Area or Field Office Director. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

To see your records, write the officials listed in the Notification procedure. Describe as specifically as possible the records sought. If copies are desired, indicate the maximum you are willing to pay. See 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

To request corrections or the removal of material from your files, write the System Manager. See 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individual on whom record is maintained.

INTERIOR/BIA–15

SYSTEM NAME:

Trip Reports—Interior, BIA—15

SYSTEM LOCATION:

Central Office, Area, Agency and Field Office of the BIA. (For a listing of specific locations, contact the Systems Manager.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Federal employees who are assigned to travel as part of their job.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Copies of reports to supervisors and management officials documenting employee travel, findings and recommendations, and (2) records concerning an individual's failure to submit a prescribed trip report to substantiate official travel when the individual was granted an advance for such travel and as a result of an official trip report that does not substantiate the travel authorized and the individual was advanced funds and/or reimbursed funds for authorized travel.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5701, 25 U.S.C.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the record is to provide local files which identify staff officer trip reports by name of individual for each BIA program office. Disclosures outside the Department of the Interior may be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigation, (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made to a consumer reporting agency as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual-letter files.

RETRIEVABILITY:

(a) Indexed alphabetically by name of traveler. (b) Retrieved by manual search.

SAFEGUARDS:

In accordance with 43 CFR 2.51.

RETENTION AND DISPOSAL:

As administrative copies, records are destroyed after four years.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Assistant Secretary—Indian Affairs (Operations), U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

To determine whether the records are maintained on you in this system, write to the Agency Superintendent, the Area or Field Office director with respect to records maintained in the office for which he is responsible or to the System Manager in the Washington Office. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

To see your records, write the officials listed in the Notification procedure. Describe as specifically as possible the records sought. If copies are desired, indicate the maximum you are will to pay. See 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

To request corrections or the removal of material from your files, write the System Manager. See 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individual travelers who prepare the reports.

INTERIOR/BIA–16

SYSTEM NAME:

Travel Files—Interior, BIA—16

SYSTEM LOCATION:

Central Office, Area, Agency and Field Offices of the BIA. (For a listing of specific locations, contact the Systems Manager.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Federal employees who are authorized to travel at government expense.

CATEGORIES OF RECORDS IN THE SYSTEM:

Copies of correspondence, requests, travel authorizations and orders, itineraries and similar papers pertaining to an employees travel.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5701, et seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records are (a) to provide administrative copy files on each traveler for local office use. (b) Provides management with an automated information system for program planning, reporting and management utilization. Disclosures outside the Department of the Interior may be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigation, and (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual: letter files; Computer: Maintained in computer translatable form on magnetic tape for automated areas.

RETRIEVABILITY:

Indexed alphabetically by name of traveler. (b) Retrieved by manual search.

SAFEGUARDS:

In accordance with 43 CFR 2.51.

RETENTION AND DISPOSAL:

As administrative copies, records are destroyed after four years.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Administration, Bureau of Indian Affairs, 1951 Constitution Avenue, N.W., Washington, D.C. 20242.

NOTIFICATION PROCEDURE:

To determine whether the records are maintained on you in this system, write to the System Manager or with respect to records maintained in the office for which he is responsible, the Agency or School Superintendent, or the Area or Field Office Director. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

To see your records write the officials listed in the Notification procedure. Describe as specifically as possible the records sought. If copies are desired, indicate the maximum you are willing to pay. See 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

To request corrections or the removal of material from your files, write the System Manager. See 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individual on whom record is maintained.

INTERIOR/BIA–17

SYSTEM NAME:

Payroll—Interior, BIA–17.

SYSTEM LOCATION:

(1) Division of Employee Data and Compensation, Bureau of Indian Affairs, 500 Gold Ave., SW., Albuquerque, NM 87103. (2) Input documents supplied by all Area, Agency and Field Offices. (For a listing of specific locations, contact the Systems Manager.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All employees of the BIA, including all types of employment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Time and attendance data from each pay station are matched with personnel data at the Albuquerque Data Center and payrolls are prepared for distribution by Treasury (RDO), and numerous reports and call-ups are printed out; records concerning an individual's failure to repay salary overpayments and/or as a result of the individual's misuse of leave privileges while employed with the BIA.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5101, 31 U.S.C.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are (a) to prepare payrolls for distribution by the Regional Disbursing Offices of Department of Treasury and (b) to report results to the Office of Personnel Management. Disclosures outside the Department of the Interior may be made (1) granting of access or transfer to a Federal, State or local agency, or to an Indian tribal group or any establishment or individual that assumes jurisdiction, whether by contract to the BIA or by legal transfer, of any program under the control of the BIA, (2) to the Department of the Treasury for preparation of (a) payroll checks and (b) payroll deduction and other checks to Federal, State and local government agencies, nongovernmental organizations and individuals, (3) to the Internal Revenue Service and to State, Commonwealth, Territorial and local governments for tax purposes, (4) to the Office of Personnel Management in connection with the Civil Service Retirement System, (5) disclosure to another Federal agency to which an employee has transferred, (6) to the U.S. Department of Justice when related to litigation or anticipated litigation, (7) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, (8) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual, (9) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit, (10) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosure pursuant to 5 U.S.C. 552a(b)(12). Pursuant to 5 U.S.C. 552a(b)(12), disclosure may be made to a consumer reporting agency as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual: Computer printouts, microfiche, microfilm and special input and output forms are retained by user in the Employee Data and Compensation administrative offices; Computer: Master, History, and Recycle Data maintained on mag-tape/disk; a tape backup is stored in off-site vault.

RETRIEVABILITY:

(a) Indexed by name and identifying number of the employee. Computer printouts are in order alphabetic by last name, numeric by social security number and numeric by state code. (b) Retrieved from disk and/or mag-tape, indexed by name and social security number.

SAFEGUARDS:

In accordance with 43 CFR 2.51.

RETENTION AND DISPOSAL:

Computer printouts are kept one pay period then shredded, microfiche and microfilm are permanent. Disk files are permanent, outdated information is written over during updates; mag-tape files are permanent, yearly and cyclic.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Administration, Bureau of Indian Affairs, 1951 Constitution Avenue, NW., Washington, D.C. 20245.

NOTIFICATION PROCEDURE:

To determine whether the records are maintained on you in this sytem, write to the System Manager or, with respect to records maintained in the office for which he is responsible, an Area or Field Office Director or Agency Superintendent. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

To see your records write the officials listed in the Notification procedure. Describe as specifically as possible the records sought. If copies are desired, indicate the maximum you are willing to pay. See 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

To request corrections or the removal of material from your files, write the System Manager. See 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individual on whom record is maintained.

INTERIOR/BIA–18

SYSTEM NAME:

Law Enforcement Services—Interior, BIA–18.

SYSTEM LOCATION:

(1) All Area, Agency and Field Offices of the BIA. (2) Director, Office of Indian Services, Bureau of Indian Affairs, 18th and C Streets, N.W., Washington, D.C. 20245. (For a listing of specific locations, contact the Systems Manager.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Individuals violating laws on Indian Reservations and those who appear in court for violations of 25 CFR regulations. (2) Individuals primarily interested in Indian Affairs who advocate violence as a means of obtaining their goals.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documentation includes statements of witnesses, statutes involved, evidence seized, photographs, final disposition reports and related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

25 U.S.C. 1, 1a, 13; 18 U.S.C. 3055; Act of May 10, 1939, 58 Stat. 693; 53 Stat. 520.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is to identify individuals who have been arrested on Indian Reservations and who have appeared in court for violations of 25 CFR regulations; Disclosures outside the Department of the Interior may be made to the U.S. Department of Justice when related to litigation or anticipated litigation, (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual, (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit, and (5) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention or an employee or the issuance of a security clearance, contract, license, grant or other benefit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in manual form in file folders throughout Area and Agency offices.

RETRIEVABILITY:

Cross referenced by individual's name, case number and docket number.

SAFEGUARDS:

Maintained with safeguards meeting the requirements of 43 CFR 2.51 for manual records.

RETENTION AND DISPOSAL:

Transfer to GSA Federal Records Center five years after case is closed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Indian Services, Bureau of Indian Affairs, 18th and C Streets, N.W., Washington, D.C. 20245.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Under the general exemption authority provided by 5 U.S.C. 552a(j)(2), the Department of the Interior has adopted a regulation, 43 CFR 2.79(a), which exempts this system from all of the provisions of 5 U.S.C. 552a and the regulations in 43 CFR Part 2, Subpart D, except subsections (b), (c) (1) and (2), (e)(4) (A) through (F), (e) (6), (7), (9), (10), and (11) and (i) of 5 U.S.C. 552a and the portions of the regulations in 43 CFR Part 2, Subpart D implementing these subsections. The reasons for adoption of this regulation are set out at 40 FR 37317 (August 28, 1975).

INTERIOR/BIA–19

SYSTEM NAME:

Indian Association Stock Purchase Records—Interior, BIA—19.

SYSTEM LOCATION:

Agency Offices (For a listing of specific locations, contact the Systems Manager.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Indian stockholders.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records of purchase of stock in Indian associations by individuals.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

25 U.S.C. 1, 1a, 13.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the record is to identify individual Indians who have stocks in Indian Associations. Disclosures outside the Department of the Interior may be made (1) to another Federal agency, State of local government, an Indian tribal group or a contractor that will have jurisdiction over programs now managed by the BIA, (2) to the Economic Development Administration. Farmers Home Administration and Small Business Administration in regard to participating funding between these agencies and the BIA, (3) to the U.S. Department of Justice when related to litigation or anticipated litigation, (4) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, and (5) from the record of an individual in response

to an inquiry from a Congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Letter files.

RETRIEVABILITY:

(a) Indexed by individual's name. (b) Retrieved by manual search.

SAFEGUARDS:

In accordance with 43 CFR 2.51.

RETENTION AND DISPOSAL:

Destroy three years after disposal of stocks.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Indian Services, Bureau of Indian Affairs, 18th and C Streets, N.W., Washington, D.C. 20245.

NOTIFICATION PROCEDURE:

To determine whether the records are maintained on you in this system, write to the System Manager or, with respect to records maintained in the office for which he is responsible, an Area or Field Office Director, or an Agency Superintendent. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

To see your records, write the officials listed in the Notification procedure. Describe as specifically as possible the records sought. If copies are desired, indicate the maximum you are willing to pay. See 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

To request corrections or the removal of material from your files, write the System Manager. See 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individual on whom record is maintained.

INTERIOR/BIA-20

SYSTEM NAME:

Correspondence Files system—Interior, BIA–20.

SYSTEM LOCATION:

Office of Administration, Bureau of Indian Affairs, 1951 Constitution Avenue, N.W., Washington, D.C. 20245.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who correspond with or apply to the BIA Central Office on significant business or program matters.

CATEGORIES OF RECORDS IN THE SYSTEM:

Subject and case files pertaining to individual Indians and tribes on various BIA programs and subject matters.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 43 U.S.C. 1457, 44 U.S.C. 3101, Reorganization Plan 3 of 1950, 25 U.S.C. la, 2.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USE:

The primary use of the record is to provide information for use by Department of the Interior; BIA; Indian Tribes; Indian Claims Commission; and the Indian Claims Division, Office of Finance, GSA. Disclosures outside the Department of the Interior may be made (1) to another Federal agency, a State or local government, an Indian Tribal Group or a contractor that will have jurisdiction over programs now controlled by the BIA, (2) to the U.S. Department of Justice when related to litigation or anticipated litigation, (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, and (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

POLICES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual: letter files.

RETRIEVABILITY:

(a) Cross-indexed by name of person or firm name and subject. (b) Retrieved by manual search.

SAFEGUARDS:

In accordance with 43 CFR 2.51.

RETENTION AND DISPOSAL:

Records are permanent and are transferred to the GSA Federal Records Center after four years.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Admininstration, Bureau of Indian Affairs, 1951 Constitution Avenue, N.W., Washington, D.C. 20245.

NOTIFICATION PROCEDURE:

To determine whether the records are maintained on you in this system write to the System Manager. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

To see your records, write the System Manager. Describe as specifically as possible the records sought. If copies are desired, indicate the maximum you are willing to pay. See 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

To request corrections or the removal of material from your files, write the System Manager. See 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained.

INTERIOR/BIA-21

SYSTEM NAME:

Correspondence Control System—Interior, BIA–21.

SYSTEM LOCATION:

Office of the Commissioner, Bureau of Indian Affairs, Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20245.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

U.S. Senators and Congressmen, Governors of States, Indian leaders.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 43 U.S.C. 1457, 44 U.S.C. 3101, Reorganization Plan 3 of 1950, 25 U.S.C. 1a, 2.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the record is to provide control for prompt handling or priority correspondence by the Bureau of Indian Affairs. Disclosures outside the Department of the Interior may be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigation, and (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in manual form in file folders.

RETRIEVABILITY:

Indexed alphabetically by name of congressman or letter writer.

SAFEGUARDS:

Maintained with safeguards meeting the requirements of 43 CFR 2.51 for manual records.

RETENTION AND DISPOSAL:

Copies are destroyed after one year.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Assistant Secretary—Indian Affairs (Operations), Bureau of Indian Affairs, Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20245.

NOTIFICATION PROCEDURE:

To determine whether the records are maintained on you in this system, write to the System Manager. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

To see your records, write the System Manager. Describe as specifically as possible the records sought. If copies are desired, indicate the maximum you are willing to pay. See 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

To request corrections or the removal of material from your files, write the System Manager. See 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individual from whom incoming letter was received.

INTERIOR/BIA–22

SYSTEM NAME:

Indian Student Records—Interior, BIA–22.

SYSTEM LOCATION:

All Area and Agency Offices and BIA schools. (2) Indian Education Resources Center, Bureau of Indian Affairs, 123 Fourth Street, S.W., Albuquerque, NM 87103. (3) Division of ADP Services, Bureau of Indian Affairs, 500 Gold Ave., S.W., Albuquerque, NM 87103. (4) Washington, Computer Center, Department of the Interior, 18th and C Street, N.W., Washington, D.C. 20242. (For a listing of specific locations, contact the Systems Manager.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Students or potential students at BIA schools (including contact schools) and applicants for or recipients of BIA scholarships or educational grants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Student case files, attendance and performance records, banking records and expenditures of tribal benefit funds, and applications for grants and grant agreeements; and records concerning and individual's misuse of BIA scholarship or educational grant funds or as a result of that individual's receipt of payment or overpayment of funds for which the individual was not eligible or entitled.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

25 U.S.C. 271, et seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the record is to provide permanent individual student records on all phases of the education of Indians in BIA schools or under Government Education Grants. Disclosures outside the Department of the Interior may be made to (1) another federal agency, a State or local government, Indian Tribal Group or to any individual or establishment that will have jurisdiction whether by contract to the BIA, by assumptions of Trust Responsibilities or by other means for school programs now controlled by the BIA; (2) to any domestic recognized school, whether public, private, parochial or other, of those portions of students' records specified by the requesting school as being necessary for the acceptance, placement or satisfactory performance of the student at the requesting school, (3) to an individual or establishment of those portions of students records specified by the requester as necessary for a decision concerning the hiring or retention of the student as an employee of the requester, (4) to a Federal, State or local agency maintaining civil, criminal or other relevant enforcement information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, (5) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit, (6) to persons having official involvement in conjunction with a student's application for/or grant of financial aid, (7) to parents of a dependent student as defined in section 152 of the Internal Revenue Code of 1954, as amended, (8) to accreditation agencies in order to carry out their accrediting functions (9) to the Department of Health, Education and Welfare and other governmental education officials when necessary to carry out their functions, (10) to an educational testing center or similar institution as part of validation research authorized by the school involved, (11) to the U.S. Department of Justice when related to litigation or anticipated litigation, (12) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulations, order or license, and (13) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b) (12); Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made to a consumer reporting agency as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual: Student case letter files at the schools; Computer: student identification data on mag-tape/disk.

RETRIEVABILITY:

(a) Indexed by name of student and filed by student identification number. (b) Retrieved by manual search and through batch inquiries of computer.

SAFEGUARDS:

In accordance with 43 CFR 2.51.

RETENTION AND DISPOSAL:

Records permanently retained.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Indian Education Programs, Bureau of Indian Affairs, 18th and C Streets, N.W., Washington, D.C. 20245.

NOTIFICATION PROCEDURE:

To determine whether the records are maintained on you in this system write to the System Manager or, with respect to records maintained in the office for which he is responsible, an Area Director, and Agency or School Superintendent or a School Principal. (See 43 CFR 2.60.)

RECORD ACCESS PROCEDURES:

To see your records, write the System Manager or the offices cited under "Records Location". Describe as specifically as possible the records sought. If copies are desired, indicate the maximum you are willing to pay. (See 43 CFR 2.63.)

CONTESTING RECORD PROCEDURES:

To request corrections or the removal of material for your files, write the System Manager. (See 43 CFR 2.63.)

RECORD SOURCE CATEGORIES:

Individual on whom record is maintained, his parents, teachers, counselors, school principals doctors, etc.

INTERIOR/BIA–23

SYSTEM NAME:

Employment Assistance Case Files—Interior, BIA–23.

SYSTEM LOCATION:

Central Office, Area, Agency and Employment Assistance Program Contractors of the BIA. (For a listing of specific locations, contact the Systems Manager.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individual Indians who are given assistance in connection with direct employment service or adult vocational training.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications for assistance, departure and arrival schedules, records documenting financial assistance, training plans, contact sheets recording counseling and guidance service, employment referral and placement records, and reports on progress. Case history of employment assistance for individual Indians; records on a individual's receipt of payment or overpayment of direct employment services or vocational training grant funds for which the individual was not entitled, payment exceeded entitlement or as as a result of the individual's misuse of employment assistance funds granted.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

25 U.S.C. 13.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are (a) to identify individual Indians who are given direct employment or vocational training, and (b) to provide permanent records on Employment Assistance to individual Indians. (c) Provides management with an automated information system for program planning, reporting and management utilization. Disclosures outside the Department of the Interior may be made (1) to another Federal agency, a State or local government, Indian Tribal Group or to any individual or establishment that will have jurisdiction whether by contact to the BIA, by assumption of Trust Responsibilities or by other means, for Employment Assistance Programs now controlled by the BIA, (2) to the U.S. Department of Justice when related to litigation or anticipated litigation, (3) of information indicating a violation or potential violation of a statute, regulation, rule order or license, to appropriate Federal, State local or foreign agencies responsible for investigation or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual, (5) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract license, grant or other benefit.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures payment to 5 U.S.C. 552a(b)(12), disclosures may be made to a consumer reporting agency as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual: letter files. Computer: Maintained in computer translatable form on magnetic tape for automated areas.

RETRIEVABILITY:

(a) Indexed alphabetically by name of applicant and/or recipient. (b) Retrieved by manual search.

SAFEGUARDS:

In accordance with 43 CFR 2.51.

RETENTION AND DISPOSAL:

Transfer inactive files to GSA Federal Records Center five years after case is closed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Indian Services, Bureau of Indian Affairs, 18th and C Streets, N.W., Washington, D.C. 20245.

NOTIFICATION PROCEDURE:

To determine whether the records are maintained on you in this system, write to the System Manager or, with respect to records maintained in the office for which he is responsible, an Agency Superintendent or an Area or Field Office Director. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

To see your records, write the officials listed in the Notification procedure. Describe as specifically as possible the records sought. If copies are desired, indicate the maximum you are willing to pay. See 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

To request corrections or the removal of material from your files, write the System Manager. See 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individual on whom record is mantained, Schools, law enforcement agencies, employers, doctors, other Bureau of Indian Affairs activities having dealings with the applicant, other whom applicant has dealt.

INTERIOR/BIA–24

SYSTEM NAME:

Timber Cutting and Fire Trespass Claims Case Files—Interior, BIA—24.

SYSTEM LOCATION:

Central Office, Area, Agency and Field Offices of the BIA. (For a listing of specific locations, contact the Systems Manager.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Indian landowners who have filed trespass claims for fire or cutting damage to Indian forest lands under Bureau of Indian Affairs supervision.

CATEGORIES OF RECORDS IN THE SYSTEM:

Investigation and Claims Case Files on trespass actions involving fire or cutting damage to Indian forestlands under Bureau of Indian Affairs supervision.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

13 U.S.C. 1, 1A, 13; Act of May 10, 1939; 58 Stat. 520.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are (a) to identify unauthorized timber cutting claims filed against trespassers and/or converters, (b) for property damage claims filed against careless or negligent originators of wildfire which trespasses Indian property, and (c) establishing amounts and types of timber trespassed and their value. Disclosures outside the Department of the Interior may be made (1) authorized legal representative of Tribal Groups or members if necessary for litigation, (2) to the Department of Justice when related to litigation or anticipated litigation, (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

POLICIES AND PRACTICES FOR STORING, RETRIEVING ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in manual form in file folders.

RETRIEVABILITY:

Indexed by name of landowner.

SAFEGUARDS:

Maintained with safeguards meeting the requirements of 43 CFR 2.51 for manual records.

RETENTION AND DISPOSAL:

Records are disposed of after claims have been settled or closed out in full.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Trust Responsibilities, Bureau of Indian Affairs, 18th and C Streets N.W., Washington, D.C. 20245.

NOTIFICATION PROCEDURE:

System Manager or with respect to records maintained in the office for which he is responsible, the Agency or the Area Office Director. A written and signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access may be addressed the same as the notification. Th request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and meet the requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Indian landowners.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Under the general exemption authority provided by 5 U.S.C. 43 CFR 2.79(b), which exempts this system from the provisions of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I) and (f) and the portions of 43 CFR Part 2, Subpart D which implement these subsections. The reasons for adoptions of this regulation are set out at 40 FR 50432 (October 29, 1975).

INTERIOR/BIA-25

SYSTEM NAME:

Integfrated Records Management System—Interior, BIA–25

SYSTEM LOCATION:

(1) Division of Systems Operation, Bureau of Indian Affairs, 500 Gold Ave., SW., Albuquerque, New Mexico 87103;

(2) Central, Area, Agency and Field Offices, Schools of the BIA or contractors providing time-share services to the BIA: (For a listing of specific locations, contact the Systems Manager.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individual Indian and Indian Tribal Groups that are owners of real property held in trust by the Government, individuals or groups that are potential or actual lessees of that property, individuals who have been assigned interests of any in Indian Tribes, Pueblos or corporations, and individual Indians who have money accounts.

CATEGORIES OF RECORDS IN THE SYSTEM:

Land description, current ownership, dower and life estate interest, information on all types of leases or other land uses including grazing, farming, minerals mining, timber and business, etc. Information on individuals including name, address, aliases, sex date of birth, tribal membership and blood quantums, etc. General ledgers showing deposits and withdrawals from Indian accounts.

AUTHORITY FOR MAINTENACE OF THE SYSTEM:

25 U.S.C. 151, 25 U.S.C. 392, 25 U.S.C. 415, and 25 U.S.C. 163.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are: (a) To control individual Indians money accounts and disclose to them the status of those accounts.

(b) Identification of individual Indians and Indian Tribal groups with interest in lands held in trust.

(c) Control of leases on Indian trust lands and real property, and collection and distribution of lease income.

(d) Bill individual owners or lessees for irrigation.

(e) Determination of eligibility of individuals to participate in or enjoy benefits from an interest in or enjoy benefits from an interest in a tribal group.

(f) Lists of approved enrollees used to distribute funds or income, or as a base to gather consensus or ownership data for planning purposes. Disclosures outside the Department of the Interior may be made.

(1) To the Tribe, band, Pueblo or corporation of which the individual to whom a record pertains is a member or a stockholder.

(2) To a Federal, state or local agency maintaining civil, criminal or other relevant enforcement information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

(3) To a Federal agency, in reponse to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency's decision on the matter.

(4) To the U.S. Department of Justice in the event of litigation or potential litigation involving the records or the subject matter of the records.

(5) Transfer, in the event there is indicated a violation or a potential violation of a statute, regulation, rule, order or license whether civil, criminal or regulatory in nature, to the appropriate agency or agencies, whether federal, state, local or foreign, charged with the responsibility of enforcing or implementing the statue, rule, regulation, order or license violated or potentially violated.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual: letter files, computer readable media, input forms and computer printouts. Computer: mag tape and disk files.

RETRIEVABILITY:

(a) Indexed by name, identification numbers, family numbers, lease numbers, tract numbers, etc.

(b) Retrieved by manual search or computer inquiry.

SAFEGUARDS:

In accordance with 43 CFR 2.51.

RETENTION AND DISPOSAL:

Permanent records are retrieved. Closed or inactive records are tranferred to GSA storage. Prior information on mag tape erased as updated information is added to the system.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Director, Adminstrative Services Center, 500 Gold Ave., SW., Albuquerque, NM 87103.

NOTIFICATION PROCEDURE:

System Manager or with repect to records maintaned in the office for which he is responsible, an Agency Superintendent or an Area or Field Office Director. A written and signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access may be addressed the same as for Notification. The request must be in writing and be signed by the requester, and must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and must meet the requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Enrollees or claimants. Birth, marriage and death certificates, and family and tribal histories. Owners and lessees. Titles, deeds, probates, all types of land and water rights and usages documents. Individual Indians, depositors in the accounts and claimants against the accounts.

[FR Doc. 83-24859 Filed 9-12-83; 8:45 am]
BILLING CODE 4310-02-M

Bureau of Land Management

Bureau Forms Submitted for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau of Land Management's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget Reviewing Official at 202-395-7340.

Title: American Flats User Peference Study
Bureau For Number: N/A
Frequency: One season
Description of Respondents: Recreation Visitors to Public Lands
Annual Responses: 2440
Annual Burden Hours: 250
Bureau clearance officer (alternate): Linda Gibbs, 202-653-8853

James M. Parker,

Acting Director.

August 1, 1983.

[FR Doc. 83-24911 Filed 9-12-83; 8:45 am]
BILLING CODE 4310-84-M

National Park Service

National Register of Historic Places; Pending Nominations; Alabama

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before September 3, 1983. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, D.C. 20243. Written comments should be submitted by September 28, 1983.

Carol D. Shull,

Chief of Registration, National Register.

ALABAMA

Jefferson County

Birmingham, *First National-John A. Hand Building*, 17 N. 20th St.

ARKANSAS

Monroe County

Clarendon, *Moore-Jacobs House*, 500 N Main St.

Pulaski County

Little Rock, *First Missionary Baptist Church*, 701 S. Gaines St. North Little Rock, *Matthews House*, 406 Goshen

CALIFORNIA

Los Angeles County

Torrance, *Torrance School (Torrance High School Campus TR)*, 2200 W. Carson

COLORADO

La Plata County

Durango, *Colorado Ute Power Plant*, 14th St. and Animas River

FLORIDA

Duval County

Jacksonville, *Stanton, Edwin M., School*, 521 W. Ashley St.

Escambia County

Pensacola, *Crystal Ice Company Building*, 2024 N. Davis St.
Pensacola, *Edmunds, John, Apartment House (Mirador)*, 2007 E. Gadsden St.

IOWA

Decatur County

Lamoni vicinity, *Liberty Hall*, Main St.

Iowa County

Norway vicinity, *Lenox Township Church of the New Jerusalem*, S. of Norway

Johnson County

Iowa City, *Summit Apartment Building*, 228 S. Summit St.

Polk County

Des Moines, *Scottish Rite Consistory Building*, 6th Ave. and Park St.

Wapello County

Ottumwa, *Foster/Bell House*, 205 E. 5th St.

Woodbury County

Sioux City, *Everist, H. H., House*, 37 McDonald Dr.

KENTUCKY

Madison County

Richmond, *Arlington (Richmond MRA)*, Lexington Rd.
Richmond, *Blair Park (Richmond MRA)*, 108 Rosedale St.
Richmond, *Bronston Place (Richmond MRA)*, Woodland Ave.
Richmond, *Burnawood (Richmond MRA)*, Burnam Court
Richmond, *Clay, Pattie Field, House (Richmond MRA)*, W. Main St.
Richmond, *Eastern Kentucky University Historic District (Richmond MRA)*, Lancaster, Crabbe Sts. and University Dr.
Richmond, *Elmwood (Richmond MRA)*, Lancaster Ave.
Richmond, *Holloway, William, House (Rosehill) (Richmond MRA)*, Hillsdale St.
Richmond, *Mt. Pleasant (Richmond MRA)*, 2nd and Water Sts.
Richmond, *Richmond Cemetery (Richmond MRA)*, E. Main St.

Richmond, *Squire Turner House (Richmond MRA)*, 302 N. 2nd St.
Richmond, *Taylor House (Richmond MRA)*, 216 Water St.
Richmond, *Walker House (Richmond MRA)*, 315 Lancaster Ave.
Richmond, *West Richmond Historic District (Richmond MRA)*, Roughly W. Main St. between Church and Norwood Sts.
Richmond, *Woodlawn (Richmond MRA)*, Big Hill Pike

LOUISIANA

East Baton Rouge Parish

Baton Rouge, *Armour Building*, Mayflower St. (Addendum to Beauregard Town Historic District)

MAINE

Knox County

St. George vicinity, *Mosquito Island House*, of St. George on Mosquito Island

MONTANA

Missoula County

Missoula, *Grand Pacific Hotel*, 118 W. Alder

NEW YORK

St. Lawrence County

Canton, *Village Park Historic District*, 7–100 Main St., N and 70, 76, 80, 90, Main St. S (Boundary Increase)

NORTH DAKOTA

Burleigh County

Bismark, *Webb Brothers Block*, 317 E. Main Ave.

Cass County

Fargo, *Downtown Fargo District*, Roughly Roberts St., from S. 11st Ave. to 5th Ave. N., and Main Ave.,
Fargo, *Fargo South Residential District*, Roughly by 5th and 17th Aves. S., 7th and 9th Sts. S.

Emmons County

Hague, *St. Mary's Church Non-Contiguous Historic District*, Off ND 11

Richland County

Wahpeton, *Wahpeton Hospital*, 730–722 Dakota Ave.

OHIO

Hamilton County

Cincinnati, *Eckert Building*, 2600 Woodburn Ave.

Hancock County

Findlay, *Linaweaver, Albert Dr., House*, 1224 S. Main St.

Lake County

Willoughby, *Smart Building*, 4143–4145 Erie St.

Lucas County

Toledo, *Birckhead Place District*, Birckhead Pl.

Summit County

Akron, *Merriman, Wells E., House*, 641 W. Market St.

PENNSYLVANIA

Lancaster County

Mascot, *Mascot Roller Mills (Ressler's Mill)*, Newport and Stumptown Rds.

PUERTO RICO

San Juan County

Puerto de Tierra, *School of Tropical Medicine*, Ponce de Leon Ave.
San Juan, *Fortin de Geronimo de Boqueron*, Puerto de Tierra

UTAH

Salt Lake County

Salt Lake City, *Cummings, Byron, House (Perkins Addition Streetcar Suburb TR)*, 936 E. 1700 S.
Salt Lake City, *Dininny, Harper J., House (Perkins Addition Streetcar Suburb TR)*, 925 E. Logan Ave.
Salt Lake City, *Judd, John W., House (Perkins Addition Streetcar Suburb TR)*, 918 E. Logan Ave.
Salt Lake City, *Luce, Henry, House (Perkins Addition Streetcar Suburb TR)*, 921 E. 1700 S.
Salt Lake City, *Mabry-Van Pelt House (Perkins Addition Streetcar Suburb TR)*, 946 E. 1700 S.
Salt Lake City, *Mitchell, Alexander, House (Perkins Addition Streetcar Suburb TR)*, 1620 S. 10000 E.
Salt Lake City, *Pearsall, Clifford R., House (Perkins Addition Streetcar Suburb TR)*, 950 E. Logan Ave.
Salt Lake City, *Weeks, Charles H., House (Perkins Addition Streetcar Suburb TR)*, 935 E. Logan Ave.
Salt Lake City, *Yankee, Elgin, S., House (Perkins Addition Streetcar Suburb TR)*, 955 E. 1700 S.
Salt Lake City, *Yardley, Thomas, House (Perkins Addition Streetcar Suburb TR)*, 955 E. Logan Ave.

VERMONT

Orange County

Chelsea, *Chelsea Village Historic District*, N. and S. Main, Jail, School, Court and Church Sts., Maple and Highland Aves.

VIRGINIA

Albemarle County

Ivy vicinity, *D. S. Tavern*, U.S. 250

Clarke County

White Post, *White Post Historic District*, VA 658 and 628

Portsmouth (Independence City)

Port Norfolk Historic District Roughly bounded by Bayview Blvd., Chatauqua Ave., Hartford St., Douglas Ave. and Hull Creek

Richmond (Independent City)

English Village, 3418–3450 Grove Ave.

Wythe County

Cornett Archaeological Site (44 WY1)

The following property is being moved in order to avoid demolition.

OKLAHOMA

Canadian County

El Reno, *El Reno Hotel*, (proposed move—300 S. Choctaw)

[FR Doc. 83-24883 Filed 9-12-83; 8:45 am]
BILLING CODE 4310-70-M

Fletchers Boathouse, Inc.; Intention To Negotiate Concession Contract

Pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that sixty (60) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with Fletchers Boathouse, Inc., authorizing it to continue to provide boat, canoe and bicycle rental and bait, tackle and food sales facilities and services for the public at the C&O Canal National Historical Park for a period of five (5) years from January 1, 1984, through December 31, 1988.

This contract renewal has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expires by limitation of time on December 31, 1983, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. This provision in effect, grants Fletchers Boathouse, Inc., the opportunity to meet the terms and conditions of any other proposal submitted in response to this Notice which the Secretary may consider better than the proposal submitted by Fletchers Boathouse, Inc. If Fletchers Boathouse, Inc. amends its proposal and the amended proposal is substantially equal to the better offer, then the proposed new contract will be negotiated with Fletchers Boathouse, Inc.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before the sixtieth (60th) day following publication of this notice to be considered and evaluated.

Interested parties should contact the Superintendent, C&O Canal National Historical Park, for information as to the requirements of the proposed contract.

Dated: August 26, 1983.

Robert Stanton,

Regional Director, National Capital Region.

[FR Doc. 83-21822 Filed 9-12-83; 8:45 am]

BILLING CODE 4310-70-M

Delta Region Preservation Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Delta Region Preservation Commission will be held at 7:30 p.m., CST, on October 5, 1983, at the Jefferson Parish Council Chambers, 3330 North Causeway Boulevard, Metairie, Louisiana.

The Delta Region Preservation Commission was established pursuant to Pub. L. 95-265, Section 907(a) to advise the Secretary of the Interior in the selection of sites for inclusion in Jean Lafitte National Historical Park, and in the development and implementation of a general managment plan and of a comprehensive interpretive program of the natural, historic, and cultural resources of the Region.

The matters to be discussed at this meeting include:

—Cooperative agreement; Albania Plantation and Fort Proctor;

—Development Program Status;

—Interpretive Program Expansion;

—Land Protection Plan;

—Louisiana World Exposition.

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited, and persons will be accommodated on a first-come, first-serve basis. Any member of the public may file a written statement concerning the matters to be discussed with the Superintendent, Jean Lafitte National Historical Park.

Persons wishing further information concerning this meeting, or who wish to submit written statements may contact James Isenogle, Superintendent, Jean Lafitte National Historical Park, c/o Municipal Auditorium, 1201 St. Peter's Street, New Orleans, Louisiana 70116, telephone, area code 504 589-3882. Minutes of the meeting will be available for public inspection four weeks after the meeting at the office of Jean Lafitte National Historical Park.

Dated: August 31, 1983.

Robert L. Kerr,

Regional Director, Southwest Region.

[FR Doc. 83-24879 Filed 9-12-83; 8:45 am]

BILLING CODE 4310-70-M

National Park System Advisory Board; History Areas Committee; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act, as amended, that a meeting of the History Areas Committee of the National Park System Advisory Board will be held on October 4, 1983, commencing at 10 a.m. in Hearing Room No. 2, 1100 L Street NW., Washington, DC.

The purpose of the Advisory Board is to advise the Secretary of the Interior on matters relating to the National Park System and the administration of the Historic Sites Act of 1935. At this meeting the History Areas Committee of the National Park System Advisory Board will meet to consider potential National Historic Landmarks as follows:

1. Steamship SS Wapama.
2. Fort Sheridan, Illinois.
3. Joseph H. Rainey House, Georgetown, South Carolina.

The committee will also receive status reports on the History Program; Man-in-Space theme study; War in the Pacific theme study; and Cape Canaveral Air Force Station.

The form recommendations of the Committee will be made to the National Park System Advisory Board at its meeting on October 27-28, 1983 in Yosemite National Park, California. No formal action of the Secretary of the Interior will be sought until after the Advisory Board has considered the recommendations of its History Areas Committee and acted thereon.

The meeting will be open to the public. However, facilities and space to accommodate members of the public are limited and persons will be accommodated on a first come, first-served basis. Any member of the public may file with the committee a written statement concerning the matters to be discussed.

Persons wishing further information concerning the meeting, or who wish to submit written statements, may contact Mr. Benjamin Levy, History Division, National Park Service, Washington, D.C., at (202) 343-8164.

Minutes of the meeting will be available for public inspection 4 to 6 weeks after the meeting in room 4209, 1100 L Street NW., Washington, DC.

Dated: September 8, 1983.

Mark S. Carroll,

Acting Chief, Cooperative Activities Division, National Park Service.

[FR Doc. 83-24881 Filed 9-12-83; 8:45 am]

BILLING CODE 4310-70-M

Santa Monica Mountains National Recreation Area Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a public hearing of the Santa Monica Mountains National Recreation Area Advisory Commission will be held on Monday, October 3, 1983 at 7:30 p.m. in the gymnasium at Lindero Canyon Middle School, 5844 Larboard Lane, Agoura, CA.

The Advisory Commission was established by Pub. L. 95-625 to provide for free exchange of ideas between the National Park Service and the public to facilitate the solicitation of advice or other counsel from members of the public on problems pertinent to the National Park Service in Los Angeles and Ventura Counties.

Members of the Commission are as follows: Dr. Norman P. Miller, Chairperson, Honorable Marvin Braude, Ms. Sarah Dixon, Ms. Margot Feuer, Dr. Henry David Gray, Mr. Edward Heidig, Mr. Frank Hendler, Ms. Mary C. Hernandez, Mr. Peter Ireland, Mr. Bob Lovellette, Ms. Susan Barr Nelson, Mr. Carey Peck, and Mr. Donald Wallace.

The topics for the meeting will be the following:

Superintendent's Status Report.

Status Report on the Draft Land Protection Plan.

Recommendations on the Draft Development Concept Plan for Rancho Sierra Vista.

Committee Report on hunting within the National Recreation Area.

The meeting is open to the public. Any member of the public may file with the Commission a written statement concerning issues to be discussed.

Persons wishing to receive further information on this meeting or who wish to submit written statements may contact the Superintendent, Santa Monica Mountains National Recreation Area, 22900 Ventura Boulevard, Suite 140, Woodland Hills, California 91364.

A summary of public comment will be available for public inspection by November 29, 1983 at the above address.

Dated: August 30, 1983.

William Webb,

Acting Superintendent, Santa Monica Mountains National Recreation Area.

[FR Doc. 83-24880 Filed 9-12-83; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-6 (Sub-No. 158)]

Rail Carriers; Burlington Northern Railroad Co.; Abandonment, Walla Walla and Columbia Counties, WA; Findings

The Commission has issued a certificate authorizing the Burlington Northern Railroad Company to abandon its 31.18-mile rail line between milepost 68.00 near Walair and milepost 98.51 near Dayton in Walla Walla and Columbia Counties, WA. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB-OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-24676 Filed 9-12-83; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-28 (Sub-No. 6)]

Rail Carriers; Central of Georgia Railroad Co.; Abandonment and Discontinuance of Service, Coffee, Jeff Davis, Montgomery, Toombs, and Emanuel Counties, GA; Findings

The Commission has issued a certificate authorizing the Central of Georgia Railroad Company to: (1) Abandon a 26.1-mile line of railroad between milepost GF-93.0 near Douglas, GA, and milepost GF-119.1 near Hazlehurst, GA, in Coffee and Jeff Davis Counties, GA; and (2) discontinue service over a 46.0 mile line of railroad between milepost GF-125.0 near Hazlehurst to milepost GF-171.0 near Kirby, GA, in Jeff Davis, Montgomery, Toombs, and Emanuel Counties, GA. The abandonment and discontinuance of service certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower lefthand corner of the envelope containing the offer: "Rail Section, AB-OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-24677 Filed 9-12-83; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30242]

Rail Carriers; Southern Pacific Transportation Co.; Discontinuance of Service Exemption in Fresno County, CA

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission under 49 U.S.C. 10505 exempts from the requirements of prior approval under 49 U.S.C. 10903 *et seq.* discontinuance of service by Southern Pacific Transportation Company over a 12.337-mile segment of railroad line in Fresno County, CA, subject to the standard labor protective conditions.

DATES: This exemption shall be effective on October 13, 1983. Petitions to stay the effectiveness of this decision must be filed by September 23, 1983. Petitions for reconsideration must be filed by October 3, 1983.

ADDRESSES: Send pleadings referring to Finance Docket No. 30242 to:

(1) Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

(2) Petitioner's representative: Gary A. Laakso, Southern Pacific Building, One Market Plaza, San Francisco, CA 94105.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289-4357 (D.C. Metropolitan area) or toll free (800) 424-5403.

Decided: August 30, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison. Commissioner Andre would delete the requirement that the Commission be notified of consummation.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-24678 Filed 9-12-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

Correction

In FR Doc. 83-23931 beginning on page 40060 in the issue of Friday, September 2, 1983, make the following correction:

On page 40060, third column, the positions of the two lists should be reversed so that the one showing Alabama through Washington is under the text for **Modifications**, and the one showing Indiana through Wisconsin is under the text for **Supersedeas Decision.**

BILLING CODE 1505-01-M

Employment and Training Administration

Employment Transfer and Business Competition Determinations Under the Rural Development Act; Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new

branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market with particular emphasis upon its potential impact upon competitive enterprises in the same areas.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of application involving the establishment of branch plants or facilities, the potential effect of such new facilities in other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice. Comments received after the two-week period may not be considered. Send comments to: Richard C. Gilliland, Director, U.S. Employment Service, Employment and Training Administration, 601 D Street, NW., Room 8000—Patrick Henry Building, Washington, D.C. 20213.

Signed at Washington, D.C. this 7th day of September 1983.

Robert S. Kenyon,

Director, Office of Program Operations.

APPLICATIONS RECEIVED DURING THE WEEK ENDING SEPTEMBER 10, 1983

Name of applicant and location of enterprise	Principal product or activity
Westfield Tanning Company, Westfield, Pennsylvania.	Leather tannery (vegetable process).

[FR Doc. 83-24847 Filed 9-12-83; 8:45 am]

BILLING CODE 4510-30-M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance; Ford Motor Co., et al.

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period August 29, 1983–September 2, 1983.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

In the following cases the investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to workers separations at the firm.

TA–W–14,068; Ford Motor Co., Chesterfield Trim Plant, Mt. Clements, MI
TA–W–14,085; Ford Motor Co., Sheldon Road, Plymouth, MI
TA–W–14,086; Ford Motor Co., Green Island Plant, Troy, NY
TA–W–14,087; Ford Motor Co., Ypsilanti, MI
TA–W–14,088; Ford Motor Co., Rawsonville, MI
TA–W–14,089; Ford Motor Co., Sandusky, OH
TA–W–14,090; Ford Motor Co., Dearborn Engine, Dearborn, MI
TA–W–14,100; Ford Motor Co., Chicago Stamping, Chicago, IL
TA–W–14,101; Ford Motor Co., Dearborn Frame, Dearborn, MI
TA–W–14,102; Ford Motor Co., Dearborn Stamping, Dearborn, MI
TA–W–14,103; Ford Motor Co., Dearborn Tool & Die, Dearborn, MI
TA–W–14,110; Ford Motor Co., Saline Plant, Saline, MI
TA–W–14,111; Ford Motor Co., Livonia, MI
TA–W–14,113; Ford Motor Co., Canton Forge, Canton, OH
TA–W–14,114; Ford Motor Co., Batavia Transmission, Batavia, OH
TA–W–14,115; Ford Motor Co., Sharonville Plant, Cincinnati, OH
TA–W–14,116; Ford Motor Co., Indianapolis, IN
TA–W–14,117; Ford Motor Co., Van Dyke, MI
TA–W–14,082; Ford Motor Co., Vulcan Forge Plant, Detroit, MI
TA–W–14,093; Ford Motor Co., Wixom Warehouse, Wixom, MI
TA–W–14,094; Ford Motor Co., Glass Technical Center, Dearborn, MI
TA–W–14,095; Ford Motor Co., Dearborn Glass, Dearborn, MI
TA–W–14,096; Ford Motor Co., Nashville Glass, Nashville, TN
TA–W–14,129; Ford Motor Co., Seattle PDC, Seattle, WA
TA–W–14,130; Ford Motor Co., Detroit PDC, Detroit, MI
TA–W–14,131; Ford Motor Co., Cincinnati PDC, Cincinnati, OH
TA–W–14,132; Ford Motor Co., Kansas City PDC, Kansas City, MO
TA–W–14,134; Ford Motor Co., Chicago PDC, Chicago, IL
TA–W–14,135; Ford Motor Co., San Francisco PDC, San Jose, CA
TA–W–14,136; Ford Motor Co., Part Redistribution Center, Brownstown, MI
TA–W–14,137; Ford Motor Co., National Distribution PDC, Detroit, MI
TA–W–14,138; Ford Motor Co., Detroit Area Distribution, Dearborn, MI
TA–W–14,139; Ford Motor Co., Service Research Center, Dearborn, MI
TA–W–14,140; Ford Motor Co., Detroit Parts Depot, Dearborn, MI
TA–W–14,141; Ford Motor Co., Ford Parts & Service Div., General Office, Dearborn, MI
TA–W–14,142; Ford Motor Co., Dallas PDC, TX

TA–W–14,143; Ford Motor Co., Atlanta PDC, Atlanta, GA
TA–W–14,144; Ford Motor Co., Twin Cities PDC, St. Paul. MN
TA–W–14,145; Ford Motor Co., Memphis PDC, Memphis, TN
TA–W–14,146; Ford Motor Co., Mahwah PDC, Mahwah, NJ
TA–W–14,147; Ford Motor Co., Delaware Valley PDC, Delaware Valley, NJ
TA–W–14,148; Ford Motor Co., VA District PDC, Richmond, VA
TA–W–14,149; Ford Motor Co., Denver PDC, Denver, CO
TA–W–14,150; Ford Motor Co., Los Angeles PDC, Pico Rivera, CA
TA–W–14,151; Ford Motor Co., Charlotte PDC, Charlotte, NC
TA–W–14,152; Ford Motor Co., Jacksonville PDC, Jacksonville, FL
TA–W–13,821; General Motors Corp., Harrison Radiator Div., Dayton, OH
TA–W–13,823; General Motors Corp., Fisher Body Div., Trenton, NJ
TA–W–13,871; General Motors Corp., AC Spark Plug Div., Oak Creek, WI
TA–W–14,232; General Motors Corp., Cadillac Motor Car Div., Livonia, MI
TA–W–14,233; General Motors Corp., Chevrolet Adrian Plants, Adrian, MI
TA–W–14,234; General Motors Corp., Chevrolet Div., Bay City, MI
TA–W–14,235; General Motors Corp., Guide Div., Monroe, LA
TA–W–14,238; General Motors Corp., Oldsmobile Div., Lansing, MI
TA–W–14,243; General Motors Corp., Delco Electronics Div., Kokomo, IN
TA–W–14,244; General Motors Corp., Delco Electronics Div., Milwaukee, WI
TA–W–14,245; General Motors Corp., Delco Remy Div., Anderson, IN
TA–W–14,246; General Motors Corp., Delco Remy Div., Muncie, IN
TA–W–14,249; General Motors Corp., Delco Remy Div., Albany GA
TA–W–14,250; General Motors Corp., Delco Remy Div., Meridian, MS
TA–W–14,251; General Motors Corp., Rochester Products Div., Rochester, NY
TA–W–14,252; General Motors Corp., Rochester Products Div., Tuscaloosa, AL
TA–W–14,253; General Motors Corp., Rochester Products Div., Grand Rapids, MI
TA–W–14,254; General Motors Corp., Central Foundry Div., Danville Plant, Tilton, IL
TA–W–14,255; General Motors Corp., Central Foundry Div., Massena, NY
TA–W–14,256; General Motors Corp., Central Foundry Div., Saginaw, MI
TA–W–14,257; General Motors Corp., Central Foundry Div., Defiance, OH
TA–W–14,258; General Motors Corp., Central Foundry Div., Bedford, IN
TA–W–14,259; General Motors Corp., Central Foundry Div., Pontiac, MI
TA–W–14,260; General Motors Corp., Delco Moraine Div., Fredericksburg, VA
TA–W–14,261; General Motors Corp., Delco Moraine Div., Dayton, OH
TA–W–14,262; General Motors Corp., Harrison Radiator Div., Buffalo, NY
TA–W–14,263; General Motors Corp., Harrison Radiator Div., Lockport, NY
TA–W–14,264; General Motors Corp., Hydra-Matic Div., Ypsilanti, MI
TA–W–14,265; General Motors Corp., Hydra-Matic Div., Warren, MI
TA–W–14,266; General Motors Corp., Hydra-Matic Div., Three Rivers, MI
TA–W–14,267; General Motors Corp., New Departure-Hyatt Div., Sandusky, OH
TA–W–14,269; General Motors Corp., Saginaw Steering Gear Div., Saginaw, MI
TA–W–14,270; General Motors Corp., Saginaw Steering Gear Div., Saginaw, MI
TA–W–14,271; General Motors Corp., Saginaw Steering Gear Div., Saginaw, MI
TA–W–14,272; General Motors Corp., Saginaw Steering Gear Div., Saginaw, MI
TA–W–14,273; General Motors Corp., Saginaw Steering Gear Div., Saginaw, MI
TA–W–14,274; General Motors Corp., Saginaw Steering Gear Div., Saginaw, MI
TA–W–14,275; General Motors Corp., Saginaw Steering Gear Div., Saginaw, MI
TA–W–14,276; General Motors Corp., Saginaw Steering Gear Div., Athens, AL
TA–W–14,277; General Motors Corp., Saginaw Steering Gear Div., Athens, AL
TA–W–14,278; General Motors Corp., Saginaw Steering Gear Div., Athens, AL
TA–W–14,287; General Motors Corp., AC Spark Plug Div., Wichita Falls, TX
TA–W–14,288; General Motors Corp., AC Spark Plug Div., Flint, MI
TA–W–14,289; General Motors Corp., Chevrolet Motor Div., Parma, OH
TA–W–14,290; General Motors Corp., Central Foundry Div., Tonawanda, NY
TA–W–14,298; General Motors Corp., Chevrolet Motor Div., Tonawanda Forge, Tonawanda, NY
TA–W–14,300; General Motors Corp., Chevrolet Motor Div., Toledo, OH
TA–W–14,301; General Motors Corp., Chevrolet Motor Div., Muncie, IN
TA–W–14,302; General Motors Corp., Chevrolet Motor Div., Livonia, MI
TA–W–14,303; General Motors Corp., Truck & Bus Manufacturing Div., Indianapolis, IN
TA–W–14,304; General Motors Corp., Chevrolet Motor Div., Metal Fabricating Plant, Flint, MI
TA–W–14,307; General Motors Corp., Chevrolet Motor Div., Detroit Plants, Detroit, MI
TA–W–14,310; General Motors Corp., Chevrolet Motor Div., Buffalo, NY
TA–W–14,375; General Motors Corp., Central Foundry Div., Saginaw Metal Casting Plants, Saginaw, MI
TA–W–14,375A; General Motors Corp., Chevrolet Motor Div., Saginaw Mfg., Plant, Saginaw, MI
TA–W–14,375B; General Motors Corp., Chevrolet Motor Div., Saginaw Parts Plant, Saginaw, MI
TA–W–14,439; General Motors Corp., Packard Electric Div., Clinton, MS
TA–W–14,458; General Motors Corp., Packard Electric Div., Warren, OH
TA–W–14,459; General Motors Corp., Delco Products Div., Dayton, OH
TA–W–14,460; General Motors Corp., Delco Remy Div., New Brunswick, NJ
TA–W–14,588; General Corp., Packard Electric Div., Brookhaven, MS

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA–W–14,281; General Motors Corp., Harahan, LA Parts Warehouse

Aggregate U.S. imports of diesel-electric locomotives did not increase as required for certification.

TA–W–14,282; General Motors Corp., Halethorpe, MD Rebuild Branch

Aggregate U.S. imports of diesel-electric locomotives did not increase as required for certification.

TA–W–14,283; General Motors Corp., St. Paul, MN Parts Warehouse

Aggregate U.S. imports of diesel-electric locomotives did not increase as required for certification.

TA–W–14,284; General Motors Corp., Hazelwood, MO Rebuild Branch & Parts Warehouse

Aggregate U.S. imports of diesel-electric locomotives did not increase as required for certification.

TA–W–14,285; General Motors Corp., Forth Worth, TX Parts Warehouse

Aggregate U.S. imports of diesel-electric locomotives did not increase as required for certification.

TA-W-14,286; General Motors Corp., Omaha, NB Parts Warehouse

Aggregate U.S. imports of diesel-electric locomotives did not increase as required for certification.

TA-W-14,291; General Motors Corp., La Grange, IL

Aggregate U.S. imports of diesel-electric locomotives did not increase as required for certification.

TA-W-14,292; General Motors Corp., La Grange, IL

Aggregate U.S. imports of diesel-electric locomotives did not increase as required for certification.

TA-W-14,293; General Motors Corp., Atlanta, GA Parts Warehouse

Aggregate U.S. imports of diesel-electric locomotives did not increase as required for certification.

TA-W-14,294; General Motors Corp., Jacksonville, FL Rebuild Branch

Aggregate U.S. imports of diesel-electric locomotives did not increase as required for certification.

TA-W-14,295; General Motors Corp., Commerce, CA Rebuild Branch & Parts Warehouse

Aggregate U.S. imports of diesel-electric locomotives did not increase as required for certification.

Affirmative Determinations

TA-W-14,084; Ford Motor Co., Sheffield Aluminum Casting Plant, Sheffield, AL

A certification was issued covering all workers separated on or after April 25, 1982.

TA-W-14,564; Levi Strauss & Co., Charleston Heights, SC

A certification was issued covering all workers separated on or after March 7, 1982 and before September 1, 1983.

TA-W-14,236; General Motors Corp., Anderson, IN

A certification was issued covering all workers separated on or after May 14, 1982 and before January 1, 1983.

TA-W-14,105; Ford Motor Co., Stamping Plant, Buffalo, NY

A certification was issued covering all workers separated on or after June 2, 1982 and before October 1, 1982.

TA-W-14,069; Ford Motor Co., Utica Trim, Utica, MI

A certification was issued covering all workers separated on or after April 25, 1982 and before October 1, 1982.

TA-W-14,074; Ford Motor Co., B & A General Office, Dearborn, MI

A certification was issued covering all workers separated on or after April 25, 1982 and before October 1, 1982.

TA-W-14,083; Ford Motor Co., "B" Bldg., Pattern Shop, Dearborn, MI

A certification was issued covering all workers separated on or after April 25, 1982 and before October 1, 1982.

TA-W-14,091; Ford Motor Co., Engine Plant General Office, Dearborn, MI

A certification was issued covering all workers separated on or after April 25, 1982 and before October 1, 1982.

TA-W-14,092; Ford Motor Co., Lima Engine, Lima, OH

A certification was issued covering all workers separated on or after April 25, 1982 and before October 1, 1982.

TA-W-14,098; Ford Motor Co., Woodhaven Stamping, Woodhaven, MI

A certification was issued covering all workers separated on or after April 25, 1982 and before October 1, 1982.

TA-W-14,099; Ford Motor Co., Walton Hills Stamping, Cleveland, OH

A certification was issued covering all workers separated on or after April 25, 1982 and before October 1, 1982.

TA-W-14,104; Ford Motor Co., Monroe Plant, Monroe, MI

A certification was issued covering all workers separated on or after April 25, 1982 and before October 1, 1982.

TA-W-14,106; Ford Motor Co., Maumee Stamping, Maumee, OH

A certification was issued covering all workers separated on or after April 25, 1982 and before October 1, 1982.

TA-W-14,107; Ford Motor Co., Mt. Clemens Paint, Mt. Clemens, MI

A certification was issued covering all workers separated on or after April 25, 1982 and before October 1, 1982.

TA-W-14,108; Ford Motor Co., Mt. Clemens Vinyl, Mt. Clemens, MI

A certification was issued covering all workers separated on or after April 25, 1982 and before October 1, 1982.

TA-W-14,109; Ford Motor Co., Milan Plastics, Milan, MI

A certification was issued covering all workers separated on or after April 25, 1982 and before October 1, 1982.

TA-W-14,112; Ford Motor Co., Sterling Plant, Sterling, MI

A certification was issued covering all workers separated on or after April 25, 1982 and before October 1, 1982.

TA-W-14,153; Ford Motor Co., Research Engineering, Technical & Transportation Operations, Detroit, MI

A certification was issued covering all workers separated on or after April 25, 1982 and before October 1, 1982.

TA-W-14,083; Ford Motor Co., "B" Bldg., Pattern Shop, Dearborn, MI

A certification was issued covering all workers separated on or after April 25, 1982 and before October 1, 1982.

TA-W-14,154; Ford Motor Co., Rouge Sales, Operations Staff Renaissance Center, Detroit, MI

A certification was issued covering all workers separated on or after April 25, 1982 and before October 1, 1982.

TA-W-14,155; Ford Motor Co., Rouge Complex—Technical & Transportation Operations, Detroit, MI

A certification was issued covering all workers separated on or after April 25, 1982 and before October 1, 1982.

TA-W-14,156; Ford Motor Co., Personnel & Organization Staff, Operations Service Office, Finance Staff, Rouge Complex, Dearborn, MI

A certification was issued covering all workers separated on or after April 25, 1982 and before October 1, 1982.

TA-W-14,157; Ford Motor Co., North American Automotive Operations, Rouge Area, Dearborn, MI

A certification was issued covering all workers separated on or after April 25, 1982 and before October 1, 1982.

I hereby certify that the aforementioned determinations were issued during the period August 29, 1983–September 2, 1983. Copies of these determinations are available for inspection in Room 9120, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: September 6, 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 83-24930 Filed 9-12-83; 8:45 am]

BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance; Copeland Corp., et al.

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II,

Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 23, 1983.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 23, 1983.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213.

Signed at Washington, D.C. this 31st day of August 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Copeland Corp. (IUE)	West Union, Ohio	8/31/83	8/29/83	TA-W-14,960	Compressors—refrigeration, air conditioners, walk-in coolers, dairy cases.
FMC Corp., Industrial Chemical Group (USWA)	So. Charleston, WV	8/31/83	8/26/83	TA-W-14,961	Ammonia.
General Instrument Corp., RF Systems Div. (UE)	Sherburne, NY	8/26/83	8/24/83	TA-W-14,962	Antennas.
Goodyear Tire & Rubber Co., Plant II (URW)	Akron, Ohio	8/26/83	8/22/83	TA-W-14,963	Rotary type hose.
Hein-Werner Corp. (IAMAW)	Waukesha, WI	8/31/83	8/20/83	TA-W-14,964	Hydraulic jacks.
Muench-Kreuzer Candle Co. (USWA)	Syracuse, NY	8/29/83	8/24/83	TA-W-14,965	Candles.
(The) Newburgh & South Shore Railway Co. (BRAC)	Cleveland, Ohio	8/29/83	8/25/83	TA-W-14,966	Transporting steel and steel producing products—coal, coke ore.
RCA Records (IBEW)	Rockaway, NJ	8/26/83	8/22/83	TA-W-14,967	Distribution of finished records and tapes.
Southern Appalachian Coal Co. (workers)	Julian, WV	8/26/83	8/23/83	TA-W-14,968	Steam coal for power plants.
West Virginia Malleable Iron Co. (USWA)	Point Pleasant, WV	8/29/83	8/24/83	TA-W-14,969	Malleable iron castings.

[FR Doc. 83-24931 Filed 9-12-83; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-13,889]

Adjustment Assistance; Ford Motor Co., Predelivery Service Corp., Houston, Texas; Negative Determination Regarding Application for Reconsideration

By an application dated July 31, 1983, one of the petitioners requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers at Ford Motor Company's Predelivery Service Corporation at Houston, Texas. The determination was published in the **Federal Register** on July 29, 1983 (48 FR 34543).

Pursuant to CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) if it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) if, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The petitioner claims that workers were certified for trade adjustment assistance at other locations of Ford's Predelivery Service (PSC) and that Houston's PSC operations were identical to those whose workers were certified; e.g., La Mirada, California, TA-W-7924 and Portland Oregon, TA-W-8529-C.

The Department's review shows that Ford's PSC centers do not produce an article within the meaning of Section 222(3) of the Act but instead provide services on new automobiles for dealerships. The Department of Labor has consistently determined that the performance of services does not constitute production of an article, as required by Section 222 of the Trade Act of 1974; and this determination has been upheld in the U.S. Court of Appeals. Therefore, the only way workers at PSC centers may be certified is if their separation from employment was caused importantly by a reduced demand for their services from a firm which produces an article and which substantially beneficially owns or controls the service workers' firm. In addition, the reduction in demand for services must be determined to have originated at a production facility whose workers independently meet the statutory criteria for certification, and that reduction must directly relate to the product adversely affected by increased imports. Although the PSC center in Houston is a wholly owned subsidiary of the Ford Motor Company, the separation of its workers cannot be related to a facility whose workers independently meet the statutory criteria for certification. In June 1983, the Department denied as eligible to apply for adjustment assistance the majority of workers engaged in the production of automobiles at all Ford assembly plants.

With respect to the workers of Ford's five PSC centers previously filing petitions for trade adjustment assistance, the Department certified on January 9, 1981 only workers at the La Mirada, California and Portland, Oregon centers since the major share of automobiles serviced at those locations were domestically produced at Ford plants throughout the U.S. whose workers independently met the group certification criteria of the Trade Act of 1974. Workers at Houston, Texas (TA-W-8529-B) Portsmouth, Virginia (TA-W-8529-D) and Tampa, Florida (TA-W-8529-A) were denied eligibility to apply for adjustment assistance since they exclusively serviced imported vehicle during the time of the Department's investigation. Increased imports, therefore, would have led to sales increases, not decreases.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, D.C., this August 31, 1983.

Carolyn M. Golding,

Director, Unemployment Insurance Service.

[FR Doc. 83-24928 Filed 9-12-83; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-13,999]

Adjustment Assistance; Park-Ohio Industries, Inc., Ohio Crankshaft Division, Cleveland, Ohio; Affirmative Determination Regarding Application for Reconsideration

By an application dated August 18, 1983, the United Auto Workers requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance on behalf of workers and former workers of the Ohio Crankshaft Division of Park-Ohio Industries, Incorporated, Cleveland, Ohio. The determination was published in the **Federal Register** on July 22, 1983 (48 FR 33552).

The application for reconsideration claims, among other things, that the instant company had lost bids to foreign companies in 1982 on crankshaft orders.

Conclusion

After careful review of the application, I conclude that the claims are of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is therefore, granted.

Signed at Washington, D.C., this September 7, 1983.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 83-24929 Filed 9-12-83; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-12,531]

Adjustment Assistance; Wasser & Fluhrer, Inc., Kalama, Washington; Negative Determination on Reconsideration

On July 1, 1983, the department issued an Affirmative Determination Regarding Application for reconsideration for workers and former workers producing cedar shakes and shingles at Wasser & Fluhrer, Incorporated (W&F), Kalama, Washington. This determination was published in the **Federal Register** on July 12, 1983 (48 FR 31923).

The Department initiated the reconsideration on its own motion to insure that the "contributed importantly" test results used in the decision were adequate. The original decision issued on March 16, 1983 denied trade adjustment assistance benefits to workers of W&F engaged in the production of cedar shakes and shingles. That determination was based primarily on the sharp decline in domestic housing starts which began in late 1979. In affirming reconsideration the department decided to expand the test by conducting a survey of company customers to determine the extent to which they shifted purchases to foreign sources. The results of the customer survey are used to substantiate that increased imports of articles like or directly competitive with those produced by workers of W&F have contributed importantly to decreased company sales and production and to worker separations.

The Department found through its customer survey for the period 1979 through 1981 that the respondents accounting for a substantial amount of the W&F's 1981 sales showed that they either did not import cedar shakes and shingles or they reduced purchases of imported cedar shakes and shingles in 1981 compared to 1980. These results were generally true for the 1979 and 1980 period except that one respondent which decreased its purchases from W&F increased its import purchases somewhat. However, this customer also greatly increased its purchases of cedar shakes and shingles from other domestic firms.

In summation, the Department's review and reconsideration of the case shows that the worker petition did not meet the "contributed importantly" test of Section 222(3) of the Trade Act of 1974. U.S. imports of red cedar shakes, shingles, hips and ridges declined absolutely in 1980 compared to 1979 and in the first nine months of 1981 compared to the same period in 1980. Further, W&F's cedar shakes and shingles are primarily destined for the home construction industry in the southwest region of the United States. The declines in production and employment at the mill in 1980 coincided with a sharp downturn in domestic housing starts which began in late 1979. According to U.S. Department of commerce statistics, new housing starts declined by 26 percent in 1980 compared to 1979.

Conclusion

After reconsideration, I reaffirm the original denial of eligibility to apply for adjustment assistance to workers and former workers of Wasser & Fluhrer, Incorporated, Kalama, Washington.

Signed at Washington, D.C. this September 7, 1983.

Harold A. Bratt,

Deputy Director, Office of Program Management, UIS.

[FR Doc. 83-24927 Filed 9-12-83; 8:45 am]

BILLING CODE 4510-30-M

Occupational Safety and Health Administration

National Advisory Committee on Occupational Safety and Health; Meeting

Notice is hereby given that the National Advisory Committee on Occupational Safety and Health (NACOSH) will meet in Washington, D.C. on September 27–28, 1983. The meeting will begin at 9:45 a.m. on Tuesday September 27, in Room N3437 of the Frances Perkins Department of Labor Building (formerly the New Department of Labor Building), Third Street and Constitution Avenue, NW., Washington, D.C. The public is invited to attend.

The National Advisory Committee was established under Section 7(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656) to advise the Secretary of Labor and the Secretary of Health and Human Services on matters relating to the Administration of the Act.

New members will be sworn in at this meeting. The agenda will include a discussion of health policy and reports on the recent activities of OSHA and NIOSH.

Written data or views concerning these agenda items may be submitted to the Division of Consumer Affairs. Such documents which are received before the scheduled meeting dates, preferably with 20 copies, will be presented to the Committee and included in the official record of the proceedings.

Anyone who wishes to make an oral presentation should notify the Division of Consumer Affairs before the meeting date. The request should include the amount of time desired, the capacity in which the person will appear and a brief outline of the content of the presentation. Oral presentations will be scheduled at the discretion of the chairman of the Committee to the extent which time permits.

For additional information contact: Clarence Page, Division of Consumer Affairs, Occupational Safety and Health Administration, Room N-3635, Third Street and Constitution Avenue, NW., Washington, D.C. 20210, telephone: (202) 523-8024.

Official records of the meeting will be available for public inspection at the Division of Consumer Affairs.

Signed at Washington, D.C. this day of September 1983.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 83-24932 Filed 9-12-83; 8:45 am]

BILLING CODE 4510-28-M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash (202) 272-2142.

Upon Written Request Copy Available From: Securities and Exchange Commission, Office of Consumer Affairs, Washington, D.C. 20549.

Revision, Form S-18, No. 270-119

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for clearance proposed revisions to Form S-18; the simplified Securities Act of 1933 registration form currently available to certain nonreporting issuers for the registration of securities not exceeding an aggregate amount of $5 million.

The form provides a basis for the Commission to fulfill its statutory responsibility of requiring the filing of a registration statement making publicly available information regarding securities being publicly sold.

Submit comments to OMB Desk Officer: Mr. Robert Veeder (202) 395-4814, Office of Information and Regulatory Affairs, Room 3235 NEOB, Washington, D.C. 20503.

George A. Fitzsimmons,

Secretary.

September 6, 1983.

[FR Doc. 83-24867 Filed 9-12-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-20156; File No. SR-CBOE-83-29]

Self-Regulatory Organizations; Proposed Rule Change By Chicago Board Options Exchange, Inc., Relating to Terms of Option Contracts

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on September 2, 1983, the Chicago Board Options Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Text of Proposed Rule Change

Rule 24.9. The Exchange shall determine fixed point intervals of exercise prices for call and put options. *Index option contracts may expire at three-month intervals or in consecutive months. When option contracts on a particular index expire in consecutive months, series expiring in no more than four months may be listed.*

II. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in section (A), (B), and (C) below.

(A) *Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change.* The purpose of the proposed rules change is to permit CBOE to list index options which expire in consecutive months. Heretofore options on stock, debt, and indexes have expired at three-month intervals, on the Saturday following the third Friday of the expiration month. In the case of index options, a comparison of volume for the expiration months indicates tht the market participants strongly prefer to trade options series expiring in the nearby expiration month. This rule change is designed to respond to that preference. It will give CBOE the authority list index options series in up to four consecutive months. Option contracts will continue to expire on the Saturday following the third Friday of the expiration month. Terms of the options contracts and manner of trading them will also remain the same in every respect.

CBOE does not believe this proposal will adversely affect liquidity. As noted above, volume is concentrated in series expiring in the closest expiration month. Even if the volume in the nearby month is spread over three months, it is sufficient to maintain a reasonably deep and liquid market in series expiring in each of three months.

CBOE is also proposing to modify the Exchange's policy concerning the minimum duration of new options series. Presently the policy is not to list new option series if the new series would expire in less than 45 days. The proposed policy for index options is to permit the Exchange to list new series if they would expire in no less than 30 days. This change is consistent with the proposal to list index options expiring in consecutive months. The purpose of the "45 day rule" is to prevent the proliferation of new series which will expire in a short time and are unlikely to generate adequate liquidity. Experience with index options has demonstrated that there is significant interest in trading expiring series up to and including the week before expiration, and the Exchange anticipates that there would be sufficient volume to maintain a fair and orderly market.

The proposed rule changes are consistent with the Securities Exchange Act of 1934, and in particular Section 6(b)(5) of the Act, in that they will increase the utility of index options to market participants.

(B) Self-Regulatory Organization's Statement on Burden on Competition. The proposed rule changes will not impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others. No comments were solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.[1]

IV. Solicitation of Comments

Interested persons are invited to

[1] In its filing, CBOE requests that the Commission grant accelerated approval of the proposed rule change if and when the Commission approves a similar rule proposal by Amex. Amex's proposal was published for comment on August 19, 1983 (Securities Exchange Act Release No. 20089, August 11, 1983; 48 FR 37752, August 19, 1983), and the 21 day period for comment on that proposal will expire on September 9, 1983.

submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: September 7, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-24866 Filed 9-12-83; 8:45 am]

BILLING CODE 8010-01-M

SELECTIVE SERVICE SYSTEM

Matching Program to Locate Absent Parents With Child Support Obligations

AGENCY: Selective Service System.

ACTION: Notice.

SUMMARY: Pursuant to OMB Memorandum dated May 11, 1982, "Revised Supplemental Guidance for Conducting Matching Programs", the Selective Service System publishes the following information concerning its proposed program for computerized matching of individual records maintained by the Department of Health and Human Service's Office of Child Support Enforcement and the Selective Service System.

FOR FURTHER INFORMATION CONTACT: David A. Cox, Associate Director, Information Systems, Selective Service System, Washington, D.C. 20435, Phone: 202/724-0872.

Dated: September 6, 1983.

Thomas K. Turnage,

Director of Selective Service.

Report Concerning SSS Matching Program To Locate Absent Parents With Child Support Obligations

Pursuant to OMB Memorandum dated May 11, 1982, concerning "Revised Supplemental Guidance for Conducting Matching Programs", the Selective Service System submits the following information concerning its proposed program for computerized matching of individual records maintained by the Department of Health and Human Service's Office of Child Support Enforcement and the Selective Service System.

1(a). The legal authority under which this program is to be conducted is Section 453 of the Social Security Act (42 U.S.C. 653) relating the location of absent parents for child support enforcement.

1(b). The matching program will be performed on a continuing basis. The organizations involved include the Department of Health and Human Service's Office of Child Support Enforcement and the Selective Service System. The purpose of this program is to aid the Office of Child Support Enforcement in locating absent parents for payment of child support obligations. The matching procedures for the program include the following steps:

(1). The Office of Child Support Enforcement will periodically transmit data files to Selective Service. The data files will contain the names and Social Security Numbers of individuals for whom an address is needed.

(2). The data received from the Office of Child Support Enforcement will be compared with the Registrant Registration Records of the Selective Service System for possible matches.

(3). The Selective Service System will provide to the Office of Child Support Enforcement address information for matching records.

1(c). Selective Service will use the following system of records in the match: Selective Service System Record No. SSS-10 "Registrant Registration Records (after 1979)—SSS" published in 45 Fed. Reg. 30587 (8 May 1980).

1(d). The starting date for the matching program is September 15, 1983; the program will continue indefinitely.

1(e). Access to the information provided by the Office of Child Support Enforcement and the Selective Service System will be restricted to authorized personnel whose duties or responsibilities require such access and to whom disclosures must be made to comply with Federal Law. Computer files will be matched at the Joint Computer Center at Great Lakes, Illinois.

(1). Security guards for the building will allow access to authorized personnel only.

(2). The computer room will be secured with cypher locks.

(3) Terminal access to the computer system will be restricted to those with valid user ID and password.

(4). A software security package will protect access to the data in the system.

1(f). Source records from the Office of Child Support Enforcement will be retained by the Selective Service System for 90 days after the records have been matched. Magnetic tapes will then be returned to the Office of Child Support Enforcement. "Hits" with corresponding addresses matched on Selective Service System files, will be forwarded to the Office of Child Support Enforcement in report form.

2. The matching program between the Office of Child Support Enforcement and the Selective Service System will not result in the creation of any new or substantially altered existing record systems.

[FR Doc. 83-24844 Filed 9-12-83; 8:45 am]

BILLING CODE 8015-01-M

DEPARTMENT OF TRANSPORTATION

Urban Mass Transportation Administration

Section 15 Reporting System Advisory Committee; Meeting

AGENCY: Urban Mass Transportation, DOT.

ACTION: Notice of extension of committee charter and Section 15 Reporting System Advisory Committee meeting.

SUMMARY: The Urban Mass Transportation Administration (UMTA) announces the extension of the Section 15 (Urban Mass Transportation Act of 1964, as amended) Reporting System Advisory Committee The Charter sets forth the requirements for the Committee's operation. The Charter was originally filed on September 1, 1981, with an expiration date of September 1, 1983. The Charter has been extended for another 2-year period.

Also, this Notice announces a meeting of the Section 15 Reporting System Advisory Committee on October 6-7, 1983, in Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Ronald J. Fisher, Office of Information Services, Room 6419, 400 Seventh Street,

SW., Washington, D.C. 20590; (202) 426–9157.

SUPPLEMENTARY INFORMATION:

Background

Under the requirements of Section 9 of the Federal Advisory Committee Act (5 U.S.C. 9 (App. I, 1981)), UMTA announced the establishment of the Section 15 Reporting System Advisory Committee in the **Federal Register** (46 FR 43352) on August 27, 1981. In this Notice UMTA is announcing the extension of the Committee's Charter and a meeting of the Advisory Committee. The Committee members are composed of a cross section of the user community for the Section 15 Reporting System which includes representatives from individual transit systems, consultant organizations, representatives of organized labor, academia, state and local governments, special transit interest groups, and other Federal agencies. The Committee offers advice to UMTA's Administrator with respect to the quality and usefulness of the Section 15 Reporting System in providing meaningful financial and operating data for the analysis of the transit industry. The results of the Committee will be in the form of reports and recommendations.

All Committee meetings are open to the public. With the Chairman's approval, members of the public may speak at meetings in accordance with procedures established by the Committee. A written statement may be filed with the Committee at any time.

Location

Dates: Thursday, October 6, and Friday, October 7, 1983.

Time: 8:30 a.m.–4:00 p.m.

Place: Room 2230, Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590.

Issued on: August 29, 1983.

G. Kent Woodman,

Acting Deputy Administrator, Urban Mass Transportation Administration.

[FR Doc. 83-24016 Filed 9-12-83; 8:45 am]

BILLING CODE 4910-57-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Public Information Collection Requirements Submitted to OMB for Review

On September 6, 1983 the Department of Treasury submitted the following public information collection requirement(s) to OMB (listed by submitting bureaus), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 634–2179. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 309, 1625 "I" Street, NW., Washington, D.C. 20220.

Internal Revenue Service

OMB Number: 1545–0092
Form Number: 1041 and Schedules
Type of Review: Revision
Title: U.S. Fiduciary Income Tax Return

OMB Number: 1545–0236
Form Number: 11–C
Type of Review: Existing Regulations
Title: Special Tax Return and Application for Registry-Wagering

OMB Number: 1545–0181
Form Number: 4768
Type of Review: Existing Regulations
Title: Application for Extension of Time to File U.S. Estate Tax Return and/or Pay Estate Tax

OMB Reviewer: Norman Frumkin (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Dated: September 6, 1983.

Rita A. DeNagy,

Departmental Reports, Management Office.

[FR Doc. 83-24005 Filed 9-12-83; 8:45 am]

BILLING CODE 4810-25-M

[Dept. Cir. Public Debt Series No. 27–83]

Series Y–1985; Treasury Notes

September 8, 1983.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $8,000,000,000 of United States securities, designated Treasury Notes of September 30, 1985, Series Y–1985 (CUSIP No. 912827 PY 2). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The securities will be dated September 30, 1983, and will bear interest from that date, payable on a semiannual basis on March 31, 1984, and each subsequent 6 months on September 30 and March 31 until the principal becomes payable. They will mature September 30, 1985, and will not be subject to call for redemption prior to maturity. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next-succeeding business day.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Securities registered as to principal and interest will be issued in denominations of $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of registered and book-entry securities, and the transfer of registered securities will be permitted. Bearer securities will not be available, and the interchange of registered or book-entry securities for bearer securities will not be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Daylight Saving Time, Wednesday, September 14, 1983. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, September 13, 1983 and received no later than Friday, September 30, 1983.

3.2. The face amount of securities bid for must be stated on each tender. The minimum bid is $5,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender, and the amount may not exceed $1,000,000.

3.3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.5. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.500. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.6. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.4., must be made or completed on or before Friday, September 30, 1983. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Wednesday, September 28, 1983. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive

tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, and to receive payment for and make delivery of securities on full-paid allotments.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Carole J. Dineen,

Fiscal Assistant Secretary.

[FR Doc. 83-24994 Filed 9-9-83; 1:38 pm]

BILLING CODE 4810-40-M

UNITED STATES INFORMATION AGENCY

Advisory Commission on Public Diplomacy; Meeting

The United States Advisory Commission on Public Diplomacy will conduct a closed meeting in Room 800, 400 C Street, SW., on September 21.

The 15-day advance notice requirement in regulations implementing the Federal Advisory Committee Act is waived because of unanticipated emergency travel by the Chairman of the Commission.

The meeting will be closed to the public because it will involve a discussion of classified information relating to the implementation of National Security Decision Directive 77 and relations between the Agency, the Department of State and the National Security Council (5 U.S.C. 552b(c)(1)). Premature disclosure of this information is likely to significantly frustrate implementation of proposed Agency action because there will be a discussion of future Agency policy and programs (5 U.S.C. 552b(c)(9)(B)).

Dated: September 9, 1983.

Charles Z. Wick,

Director.

[FR Doc. 83-25136 Filed 9-12-83; 11:07 am]

BILLING CODE 8230-01-M

VETERANS ADMINISTRATION

Agency Form Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

SUMMARY: The Veterans Administration has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document contains an extended form and the entry contains the following information: (1) The department or staff office issuing the form; (2) The title of the form; (3) The agency form number, if applicable; (4) How often the form must be filled out; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to fill out the form; and (8) An indication of whether section 3504(h) of Pub. L. 96-511 applies.

ADDRESSES: Copies of the proposed form and supporting documents may be obtained from Patricia Viers, Agency Clearance Officer (004A2), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC. 20420; (202) 389-2146. Comments and questions about the items on this list should be directed to the VA's OMB Desk Officer, Rich Shepard, Office of Management and Budget, 726 Jackson Place, NW, Washington, DC. 20503; (202) 395-6880.

DATES: Comments on the form should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: September 7, 1983.

By direction of the Administrator.

Dominick Onorato,

Associate Deputy Administrator for Information Resources Management.

Revision

1. Department of Veterans Benefits
2. Veterans Application for Counseling
3. VA Form 28-8832
4. On occasion
5. Individuals or households
6. 10,000 responses
7. 833 hours
8. Not applicable

[FR Doc. 83-24988 Filed 9-12-83; 8:45 am]

BILLING CODE 8320-01-M

Agency Form Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

SUMMARY: The Veterans Administration has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document contains a proposed extension and the entry contains the following information: (1) The department or staff office issuing the form; (2) The title of the form; (3) The agency form number, if applicable; (4) How often the form must be filled out; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to fill out the form; and (8) An indication of whether section 3504(h) of Pub. L. 96-511 applies.

ADDRESSES: Copies of the proposed form and supporting documents may be obtained from Patricia Viers, Agency Clearance Officer (004A2), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420; (202) 389-2146. Comments and questions about the items on this list should be directed to the VA's OMB Desk Officer, Rich Shepard, Office of Management and Budget, 726 Jackson Place, NW, Washington, DC 20503; (202) 395-6880.

DATES: Comments on the form should be directed to the OMB Desk Officer within 60 days of this notice.

Dated September 7, 1983.

By direction of the Administrator.

Dominick Onorato,

Associate Deputy Administrator for Information Resources Management.

Extension

1. Department of Veterans Benefits
2. Request for Information Concerning Unreimbursed Family Medical Expenses
3. VA Form 21-8416a
4. On occasion
5. Individuals or households
6. 164,500 responses
7. 41,125 hours
8. Not applicable

[FR Doc. 83-24990 Filed 9-12-83; 8:45 am]

BILLING CODE 8320-01-M

Agency Forms Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

SUMMARY: The Veterans Administration has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document contains extended forms and the entries contain the following information: (1) The department or staff office issuing the form; (2) The title of the form; (3) The agency form number, if applicable; (4) How often the form must be filled out; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to fill out the form; and (8) An indication of whether section 3504(h) of Pub. L. 96-511 applies.

ADDRESSES: Copies of the proposed forms and supporting documents may be obtained from Patricia Viers, Agency Clearance Officer (004A2), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420; (202) 389-2146. Comments and questions about the items on this list should be directed to

the VA's OMB Desk Officer, Rich Shepard, Office of Management and Budget, 726 Jackson Place, NW., Washington, D.C. 20503; (202) 395–6880.

DATES: Comments on the forms should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: September 7, 1983.

By direction of the Administrator.

Dominick Onorato,

Associate Deputy Administrator for Information Resources Management.

Extensions

1. Department of Veterans Benefits
2. Statement of Income and Net Worth
3. VA Form 21–6897
4. On occasion
5. Individuals or households
6. 175,000 responses
7. 87,500 hours
8. Not applicable

1. Department of Veterans Benefits
2. Statement of Income and Net Worth
3. VA Form 21–4100
4. On occasion
5. Individuals or households
6. 320,000 responses
7. 160,000 hours
8. Not applicable

[FR Doc. 83–24870 Filed 9–12–83; 8:45 am]

BILLING CODE 8320–01–M

Advisory Committee on Cemeteries and Memorials; Meeting

The Veterans Administration gives notice that a meeting of the Administrator of Veterans Affairs' Advisory Committee on Cemeteries and Memorials, authorized by 38 U.S.C. 1001, will be held in the Omar N. Bradley Conference Room at the Veterans Administration Central Office, 810 Vermont Avenue, NW., Washington, D.C. 20420, on September 29 and 30, 1983.

The opening day session will begin at 9 a.m. to conduct routine business. The meeting will be open to the public up to the seating capacity which is about twenty persons. Those wishing to attend should contact Ms. Nan Nave in the Office of the Chief Memorial Affairs Director (phone 202–389–2512) not later than 12 noon, EDT September 22, 1983.

Any interested person may attend, appear before, or file a statement with the Committee. Individuals wishing to appear before the Committee should indicate this in a letter to the Chief Memorial Affairs Director (40) at the address furnished above. In any such letters, the writer must fully identify himself and state the organization or association or person they represent. Also, to the extent practicable, the letter should indicate the subject matter they want to discuss. Oral presentations should be limited to 10 minutes in duration. Those wishing to file written statements to be submitted to the Committee must also mail, or otherwise deliver them to the Chief Memorial Affairs Director. Letters and written statements as discussed above must be mailed or delivered in time to reach the Chief Memorial Affairs Director by 12 noon, EDT September 22, 1983. Oral statements will be heard only between 12 noon and 1 p.m. on September 30, 1983.

Dated: September 2, 1983.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 83–24895 Filed 9–12–83; 8:45 am]

BILLING CODE 8320–01–M

Advisory Committee on the Readjustment Problems of Vietnam Veterans; Meeting

The Veterans Administration gives notice under Pub. L. 92–463 that a meeting of the Advisory Committee on the Readjustment Problems of Vietnam Veterans will be held September 22 and 23, 1983. On September 22, 1983 from 10 a.m. to 4:30 p.m. the Committee will meet in Room 119, Veterans Administration Central Office, 810 Vermont Avenue NW., Washington, DC. On September 23, 1983 the Committee will meet in the Roanoke & Rappahannock Rooms at the Stouffer's Hotel, 2399 Jefferson Davis Highway, Arlington, Virginia from 8 a.m. to 4:30 p.m.

The sessions will be open to the public to the seating capacity of the rooms. Anyone having questions concerning the meeting may contact Mr. Edward Lord, Assistant Director for Administration and Development, Readjustment Counseling Service, Veterans Administration Central Office, at phone number 202–389–3317.

The appearance of this notice at least 15 days in advance of the meeting has been hindered due to delays in administrative processing.

Dated: September 2, 1983.

By Direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 83–24893 Filed 9–12–83; 8:45 am]

BILLING CODE 8320–01–M

Veterans Administration Wage Committee; Meetings

The Veterans Administration, in accordance with Pub. L. 92–463, gives notice that meetings of the Veterans Administration Wage Committee will be held on:

Thursday, October 13, 1983
Thursday, October 27, 1983
Thursday, November 10, 1983
Wednesday, November 23, 1983
Thursday, December 8, 1983
Thursday, December 22, 1983

The meetings will begin at 2:30 p.m. and will be held in Room 304, Veterans Administration Central Office, 810 Vermont Avenue, NW., Washington, DC 20420.

The Committee's purpose is to advise the Chief Medical Director on the development and authorization of wage schedules for Federal Wage System (blue-collar) employees.

At these meetings the Committee will consider wage survey specifications, wage survey data, local committee reports and recommendations, statistical analyses, and proposed wage schedules.

All portions of the meetings will be closed to the public because the matters considered are related solely to the internal personnel rules and practices of the Veterans Administration and because the wage survey data considered by the Committee have been obtained from officials of private business establishments with a guarantee that the data will be held in confidence. Closure of the meetings is in accordance with subsection 10(d) of Pub. L. 92–463, as amended by Pub. L. 94–409, and as cited in 5 U.S.C. 552b(c)(2) and (4).

However, members of the public are invited to submit material in writing to the Chairman for the Committee's attention.

Additional information concerning these meetings may be obtained from the Chairman, Veterans Administration Wage Committee, Room 1175, 810 Vermont Avenue, NW., Washington, DC 20420.

Dated: September 2, 1983.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 83–24894 Filed 9–12–83; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 178
Tuesday, September 13, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Federal Communications Commission	1
Federal Mine Safety and Health Review Commission	2
Pacific Northwest Electric Power and Conservation Planning Council	3
Securities and Exchange Commission	4

1

FEDERAL COMMUNICATIONS COMMISSION

Deletion of Agenda Item From September 9th Open Meeting

The following item has been deleted at the request of the Chairman's office from the list of agenda items scheduled for consideration at the September 9, 1983, Open Meeting and previously listed in the Commission's Notice of September 2, 1983.

Agenda, Item No., and Subject

Video—4—*Title:* Applications for interim authority to operate the facilities of former station KHOF–TV, Channel 30, San Bernardino, California. *Summary:* Eight applications were timely filed for interim operation of the channel, and four of them have entered into an agreement whereby they would dismiss their applications if the Commission would conditionally grant their merged application. The Commission will consider the manner in which the interim operator will be selected.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S–1283–83 Filed 9–9–83; 2:37 pm]

BILLING CODE 6712–01–M

2

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

September 8, 1983.

TIME AND DATE:

1. 10 a.m., Thursday, September 15, 1983
2. 2 p.m., Thursday, September 15, 1983
3. 10 a.m., Friday, September 16, 1983

PLACE: U.S. Federal District Court, Room: (to be announced), U.S. Courthouse, 1929 Stout Street, Denver, Colorado.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will hear oral arguments in the following cases:

1. Secretary of Labor, MSHA v. Mid-Continent Resources, Inc., Docket No. WEST 82–38–D. (Issue is whether the judge properly found a violation of 30 CFR 75.511.)
2. Secretary of Labor, MSHA v. Energy Fuels Nuclear, Inc., Docket No. WEST 81–385–M. (Issues include whether the judge erred in finding no violation of 30 CFR 57.6–116.)
3. Secretary of Labor, MSHA on behalf of Chester (Sam) Jenkins v. Hecla-Day Mines Corporation, Docket No. WEST 81–323–DM. (Issues include whether the judge erred in dismissing the discrimination complaint.)

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653–5632.

[S–1284–83 Filed 9–9–83; 2:47 pm]

BILLING CODE 6735–01–M

3

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Conservation Planning Council (Northwest Power Planning Council)

ACTION: Notice of meeting to be held pursuant to the Government in the Sunshine Act (5 U.S.C. 552b).

STATUS: Open.

TIMES AND DATES:
10 a.m., September 21, 1983
9 a.m., September 22, 1983

PLACE: Statehouse Inn, 981 Grove Street, Boise, Idaho.

MATTERS TO BE CONSIDERED:

Discussion of Yakima River Enhancement Project and Proposed Legislation
Presentation by Salmon and Steelhead Advisory Committee
Presentations on Water Budget, Known Stock Fisheries, and Hydropower Assessment Study
Report by Fish Propagation Panel
Report on U.S.-Canada Fisheries Treaty
Presentation on Cost-Effectiveness Analysis of WPPSE 1, 2, and 3
Selection of Contractors for Energy Studies (RFP 83–006)
Council Business

FOR FURTHER INFORMATION CONTACT:
Ms. Bess Wong (503) 222–5161.

Edward Sheets,

Executive Director.

[S–1282–83 Filed 9–9–83; 2:36 pm]

BILLING CODE 0000–00–M

4

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of September 12, 1983, at 450 5th Street, NW., Washington, D.C.

Closed meetings will be held on Tuesday, September 13, 1983, at 9 a.m. and on Thursday, September 15, 1983, following the 2:30 p.m. open meeting in Room 1C30.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10).

Chairman Shad and Commissioners Evans and Treadway voted to consider the items listed for the closed meetings in closed session.

The subject matter of the closed meeting scheduled for Tuesday, September 13, 1983, at 9:00 a.m., will be:

Settlement of injunctive actions.
Formal order of investigation.
Institution and settlement of administrative proceedings of an enforcement nature.
Institution of administrative proceedings of an enforcement nature.
Institution of injuctive action.
Settlement of administrative proceedings of an enforcement nature.
Litigation matter.
Opinion.

The subject matter of the closed meeting scheduled for Thursday, September 15, 1983, following the 2:30 p.m. open meeting, will be:

Institution of injunctive action.
Litigation matter.

The subject matter of the open meeting scheduled for Thursday, September 15, 1983, at 2:30 p.m., will be:

1. Consideration of whether to permit John B. Licata to become associated with Sonoma Investment Securities, proposed successor to Argus Management corporation in a proprietary, unsupervised, supervisory capacity. For further information, please contact Mary Binno at (202) 272–2310.
2. Consideration of the proposed response of the Division of Corporation Finance to the petition of the California Association of Utility Shareholders. The petition requests that the Commission propose amendments to its rules to provide for disclosure in

Commission filings by regulated utilities of the effects on book value and earnings per share arising from the sale of new equity securities at a price which is less than book value per share. For further information, please contact William H. Carter at (202) 272–3229.

3. Consideration of whether to adopt revised rules for determining when costs may be excluded from immediate amortization under the full cost method of accounting by oil and gas producing companies. The Commission will also consider whether to modify and propose for further comment revised rules for income recognition under the full cost method. For further information, please contact John W. Albert or Lawrence S. Jones at (202) 272–2130.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: JoAnn Zuercher at (202) 272–2014.

September 8, 1983.

[S–1281–83 Filed 9–8–83; 4:22 pm]

BILLING CODE 8010–01–M

federal register

Tuesday
September 13, 1983

Part II

Environmental Protection Agency

Premanufacture Notification; Revision of Regulation and Partial Stay of Effective Date

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 720

[OPTS-60002J; TSH-FRL 2412-8]

Premanufacture Notification; Revision of Regulation and Partial Stay of Effective Date

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; revision of regulation and partial stay of effective date.

SUMMARY: EPA is staying the effective date of §§ 720.3(y), 720.36, 720.50(c), and 720.78(b) and issuing nonsubstantive amendments to § 720.102 of the final premanufacture notice (PMN) rule issued under section 5 of the Toxic Substances Control Act (TSCA). Under section 5 of TSCA, any person who intends to manufacture or import a new chemical substance for commercial purposes must notify EPA at least 90 days before manufacture or import begins. EPA is also clarifying other sections of the rule.

DATE: The effective date of the premanufacture notification rule, with the exception of the stayed sections, §§ 720.3(y), 720.36, 720.50(c), and 720.78(b), is October 26, 1983.

FOR FURTHER INFORMATION CONTACT: Jack P. McCarthy, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St., SW., Washington, D.C. 20460; toll-free: (800-424-9065), in Washington, D.C.: (554-1404), outside the USA: (Operator 202-554-1404),

SUPPLEMENTARY INFORMATION:

I. Background

Under section 5 of TSCA, any person who intends to manufacture or import a new chemical substance for commercial purposes must notify EPA at least 90 days before manufacture or import begins. This requirement has been in effect since July 1, 1979. Since then, EPA has received and reviewed more than 2,500 notices on new substances. EPA has operated the new chemical review program under interim policies published in the **Federal Register** of May 15, 1979 (44 FR 28564), November 7, 1980 (45 FR 74378), and July 2, 1982 (47 FR 28969).

EPA proposed a rule to interpret section 5 requirements and to establish notification procedures in the **Federal Register** of January 10, 1979 (44 FR 2242). Portions of this rule were reproposed on October 16, 1979 (44 FR 59764). In addition, EPA proposed processor reporting requirements in the **Federal Register** of August 15, 1980 (45 FR 54642) and a clarification of importer requirements on September 23, 1980 (45 FR 63806).

After reviewing public comments and evaluating its experience in conducting the PMN program, EPA issued a final premanufacture notice rule in the **Federal Register** of May 13, 1983. This rule was scheduled to become effective on July 12, 1983. The rule covers the scope and applicability of section 5 requirements; the general procedures for submitting notices; information requirements, including a mandatory notice form; and EPA's procedures for processing information contained in the notices, including confidential business information.

On June 17, 1983, the Chemical Manufacturers Association (CMA) petitioned EPA to stay the effective date of the PMN rule for 90 days to provide EPA time "to clarify and modify the rule in several respects." CMA stated that, without clarification and possible modification of certain rule provisions, the rule would impose an undue burden on its member companies. CMA particularly expressed concern about: (1) The research and development (R&D) exemption, (2) the PMN notice form, (3) information requirements on polymer identity, (4) the submission of test data, (5) the submission of data on related chemicals, (6) the submission of descriptions of risk assessments, (7) the procedures for declaring PMNs "incomplete," and (8) the definition of "possession or control." In a memorandum accompanying its petition, CMA also raised questions about information requirements on use and manufacturing operations, the possible release of confidential chemical identity included in health and safety studies, the timing of substantiations of confidential chemical identity, the submission of generic use descriptions, and the timing for submitting notices of commencement of manufacture.

In addition, on June 27, 1983, the Society of the Plastics Industry (SPI) submitted a petition to EPA to stay the effective date of the PMN rule. SPI raised two issues concerning polymer information requirements—the requirements that the average molecular weight and percentage of low molecular weight species be estimated and that monomers and other reactants used at less than 2 percent by weight be identified.

In response to these petitions, EPA postponed the effective date of the rule for 60 days, so that it could review the rule language and, where necessary, clarify ambiguous points or revise specific provisions. This postponement was announced in the **Federal Register** of July 11, 1983 (48 FR 31641). During the postponement period, EPA has received further comments on the issues raised in the CMA and SPI petitions from SPI, CMA, the American Chemical Society, and the National Paint and Coatings Association. The CMA and SPI petitions, as well as these subsequent comments, are included in the public record on the PMN rule.

II. Summary of Action

In this notice, EPA announces that the major provisions of the TSCA section 5 PMN rule will go into effect on October 26, 1983. In addition, the notice announces the following actions with respect to the rule: (1) The stay, pending further consideration and rulemaking, of §§ 720.36 and 720.78 (requirements concerning new chemical substances manufactured under the section 5(h)(3) R&D exemption), § 720.3(y) (the definition of "possession or control"), and § 720.50(c) (data requirements on related chemicals), and (2) a nonsubstantive amendment of § 720.102(b)(1) (timing of submission of the notice of commencement of manufacture). EPA is also clarifying several other provisions of the rule (primarily those concerning polymer information requirements, test data requirements, and information requirements on risk assessments and uses), and explains why the Agency believes that other provisions identified as a concern by CMA—such as the mandatory form and incompleteness provisions—do not require revision.

Except for the sections that have been stayed, the final rule will go into effect on October 26, 1983. All PMNs received on or after that date must be submitted on the PMN form, and notice submitters must comply with the provisions of this rule that are in effect. These provisions include all the major notification and procedural requirements of the PMN rule, such as the mandatory form, test data and information requirements, procedures by which EPA can declare a notice incomplete, and confidentiality procedures.

With this notice, therefore, the basic provisions of the PMN rule will go into effect. These requirements will promote standardized PMN reporting and recordkeeping procedures; they will allow EPA more effectively to address the increasing number of PMNs it is now receiving; and they will ensure consistent enforcement of section 5 provisions. The temporary postponement of provisions concerning R&D, "possession or control," and data

on related chemicals will to a certain extent increase EPA's review burden but will not place the public at greater risk from new substances during the period before final provisions are developed, and it will not adversely affect the operation of EPA's new chemical review program, which is conducted under the statutory authority of TSCA section 5.

III. Clarification of Selected Rule Provisions

CMA and SPI expressed concern about several information requirements in the final rule, in particular, requirements concerning polymer identity, test data, use information, and risk assessments. EPA believes that these concerns result in part from a misunderstanding of EPA's intentions and in part from an extreme interpretation of the rule language. By clarifying these provisions, EPA hopes to reduce industry's concerns, while ensuring that adequate data for EPA's initial review are submitted in PMNs.

1. *Polymer identity*—(a) *Molecular weight estimates.* Section 720.45(a)(3) of the rule and Part I(B)(2)(b) of the PMN form require notice submitters to estimate or provide measurements of: (i) The lowest number-average molecular weight composition of new polymers, and (ii) the maximum weight percent of low molecular weight species below 500 and 1,000 absolute molecular weight. If the PMN applies to a range of products of varying molecular weight characteristics, the manufacturer should provide data or estimates for the lowest molecular weight material, or provide information on the range of values expected.

Information on molecular weight must be provided to the extent that it is known to or reasonably ascertainable by the submitter. EPA is requiring this information concerning the specific chemical identity of the polymer because data on average molecular weight and low molecular weight species are fundamental pieces of information used in characterizing polymers and are central to polymer risk assessment. Many of the potential risks from polymers result from the lower molecular weight portions of the monomer.

EPA has been asked to clarify the extent to which the "known to or reasonably ascertainable" standard requires manufacturers to determine the exact molecular weight of new polymers, and whether a failure to do so would lead EPA to declare a PMN submission incomplete. Under this rule, submitters are not required to determine molecular weight or molecular weight distribution by analytical measurement solely for the purpose of complying with PMN requirements. Rather, they are required to provide data from actual measurements only if they have conducted those measurements, or if during the normal course of business "a reasonable person similarly situated" would have conducted these measurements.

If molecular weight or molecular weight distribution have been measured at the time of PMN submission, the resulting data must be submitted and the method of measurement identified. Some examples of analytical methods which can be used to measure molecular weight or molecular weight distribution, or which can be used to estimate these values, are: size exclusion chromatography (e.g., gel permeation), vapor pressure osmometry, light scattering, dialysis, sedimentation rate, end-group analysis, solvent precipitation, and viscosity measurements.

EPA recognizes that in many cases it is not practicable to measure polymer molecular weight directly at the PMN stage. If a manufacturer has not conducted an analysis of average molecular weight or molecular weight distribution based on measurement of the polymer itself, the PMN submitter should estimate these parameters. The estimates can be expressed as precise values or as ranges; in some cases—for example, very high molecular weight polymers—it may be possible to estimate average molecular weight only as greater than a certain level. EPA's experience with PMNs submitted without molecular weight information has been that, in most cases, the submitter has been able to estimate these values readily when contacted by the Agency. Submitters can frequently estimate molecular values on the basis of past experience (e.g., correlating observed or measured physical properties with previously measured, calculated, or estimated molecular weight values); stoichiometric relationships, including molecular weights of starting materials and expected reactions; and knowledge of process or purification steps, such as extraction, solvent precipitation, and vaporization of volatile components.

From its PMN experience, EPA believes that submitters' expert knowledge concerning the polymers they produce will generally enable them to provide a reasonable estimate of molecular weight values, and therefore, that estimated values are for the most part reasonably ascertainable. However, if a submitter is unable to provide meaningful estimates for these parameters, he or she may indicate "NK" (not known or reasonably ascertainable) on the PMN form. In such cases, the submitter should be prepared to provide an explanation of why meaningful estimates cannot be made. If a reasonable explanation cannot be provided upon request, the Agency may declare the notice incomplete.

CMA and SPI argue that the requirement to estimate the percentage of low molecular weight species involves a substantial change from the proposed requirements and that it was adopted without any notice or opportunity for comment. EPA, however, believes that this requirement does not represent a substantial departure from earlier proposed requirements for molecular weight information. Furthermore, it is consistent with EPA practice under the interim policy. When the Agency receives PMNs on polymers without this information, it has routinely contacted the PMN submitters for measured values or estimates of molecular weight. EPA has found that submitters can provide this information with minimal burden. Finally, because the requirement to submit data on polymer identity is an interpretation of the statutory requirement to identify the new substance and its molecular structure, it would not require notice and comment.

(b) *Information on monomers and other reactants.* Section 720.45(a)(3) of the rule and Part I(B)(2)(b) of the PMN form require manufacturers to identify new polymers by monomers and other reactants. This requirement remains essentially unchanged from the January 10 and October 16, 1979, proposed forms.

CMA's and SPI's petitions and previous EPA experience with polymer reporting indicate that many submitters do not understand the PMN reporting requirements as they apply to monomers and other reactants used at or below 2 percent by weight (the phrase "monomers and other reactants" is defined below). For the initial Inventory, EPA required reporting only of monomers and oher reactants used at greater than 2 percent by weight, but submitters could report those monomers and other reactants used at 2 percent and below if they wanted them included in the Inventory description. This would allow the use of monomers later at greater than 2 percent.

In the proposed and final PMN rules, EPA consistently required all monomers and other reactants to be described. (See the proposed PMN forms, published in the **Federal Register** of January 10, 1979 (44 FR 2286) and October 10, 1979 (44 FR 59791).) However, while

monomers and reactants used at or below 2 percent by weight must be reported in the PMN, submitters have the option, as they did for the initial Inventory, of either including these substances in the polymer description or excluding them from the description for the purposes of listing on the Inventory. In the final PMN form, the submitter may exercise this option by marking the appropriate "Identity" column in the polymer identification section. (All monomers and other reactants used at greater than 2 percent are automatically included in the polymer name on the Inventory.) As for the initial Inventory, if a monomer or other reactant is not included in the Inventory description, that monomer cannot later be used at greater than 2 percent in the polymer.

In a letter dated July 27, 1983, SPI asked EPA to clarify the effect of changes in chemical identity information after the PMN review period but before a substance is added to the Inventory. As explained above, polymers are identified for Inventory purposes by: (1) All monomers and other reactants used at greater than 2 percent, and (2) at the choice of the manufacturer, monomers and other reactants used at 2 percent or less. If any monomers or other reactants included in the Inventory polymer description are eliminated before the material is added to the Inventory, a new PMN must be submitted, unless that polymer description is already included on the Inventory. If any reactants not included in the description are used at greater then 2 percent, a new PMN must also be submitted. However, the manufacturer may use new monomers or other reactants at less than 2 percent or new starting materials not incorporated into the polymer structure at any percent without notifying EPA.

Therefore, in deciding whether or not to describe a polymer on the Inventory by including monomers and other reactants used at less than 2 percent, submitters should be aware that, if they do not include the monomer and other reactants in the name listed on the Inventory, they will not be able to increase their level above 2 percent without submitting an additional PMN. On the other hand, if the monomers or other reactants are included in the Inventory name, they may be used at levels greater than 2 percent, but they may not be eliminated completely unless the manufacturer first submits a PMN.

The phrase "monomers and other reactants" applies to those reactive agents that are used intentionally to become chemically part of the polymer composition. These reactive agents include all monomers, e.g., vinyl chloride, acrylamide, terephthalic acid, and any other reactive agents that are intended to be incorporated into the polymer. Reactants other than monomers include crosslinking agents, chain-terminating agents, free radical initiators, and any other reactant which is intended to be incorporated into the structure of the polymer. This may include such substances as monohydric alcohols, e.g., methanol, and monofunctional amines, e.g., butyl amine, and acids or bases used to form a salt of the polymer.

SPI and others have indicated that in some cases it may be difficult for a manufacturer to determine whether a starting material—particularly a starting material used at less than 2 percent—is incorporated into the final polymer. EPA does not expect manufacturers to conduct a chemical analysis of the polymer to determine its exact composition for the purpose of complying with these requirements. Instead, substances should be listed in Part I(B)(2)(b) of the form only if they are intended to become incorporated into the polymer structure. If the manufacturer does not intend for the starting material to be incorporated into the polymer, it does not have to be listed in this section. For example, a starting material should not be listed in this section if it serves only to influence polymer formation without becoming a part of the new chemical substance, or if it is not intended to become part of the substance but is inadvertently incorporated into the polymer's structure. These materials, however, must be identified in other sections of the form.

Agents such as nonreactive surfactants, solvents, and catalysts and cocatalysts may be used during the manufacture of the polymer. If these agents are not intended to become chemically a part of the polymer, but if they remain in the polymer as impurities, they should be listed in Part I(B)(3) under Impurities (to the extent that it is known or reasonably ascertainable that they are present as impurities). These agents must also be identified, whether or not they may occur as polymer impurities, in the Process Description (Part I(A)(1)), which must include all feedstocks, such as reactants, solvents, catalysts, and any other substances used in the manufacture of the polymer.

In its July 27 letter, SPI expressed concern that EPA's approach to defining polymers in the PMN rule is inconsistent with Inventory reporting requirements. In particular, SPI stated that the Inventory rules required polymers to be identified only by monomers and not by "other reactants" as well. EPA, however, believes that the Inventory and PMN approaches are consistent. The Agency made it clear during the Inventory reporting period that polymer descriptions should include all reactants incorporated into the polymer structure. For example, in its standard guidance document, "Reporting for the Chemical Substance Inventory: Instructions for Reporting for the Initial Inventory" (August 1977), the Agency stated that the polymer description reported for the Inventory should identify "monomers and other reactive ingredients such as chain-transfer or crosslinking substances." Excluded from polymer descriptions were "other additives, such as emulsifiers and plasticizers, which are not chemically a part of the polymer composition" (p. 7). These are exactly the requirements for polymer identity in the PMN rule.

In addition, SPI expressed concern about the PMN rule's use of weight charged to the reactor to determine when a starting material is included in the Inventory entry. As explained in the PMN instructions manual, the "weight percent monomer or other reactant" is the weight of the material charged to the reactor expressed as a percentage of the dry weight of the manufactured polymer. Thus, the percent (by weight) of monomer A of a polymer manufactured from monomers A, B, and C is the weight of A charged to the reactor divided by the dry weight of the polymer A–B–C (times 100).

This approach is consistent with the Inventory rules and reporting instructions, which required reporting of reactants "used" at greater than 2 percent in the manufacture of the polymer. The Inventory reporting instructions clearly explain that "the 'percent (by weight)' of a monomer is the weight of the monomer charged expressed as a percentage of the weight of the polymeric chemical substance manufactured" (p. 6). EPA took this approach in developing the Inventory because of the difficulties that would be involved in requiring manufacturers to identify the exact weight percentage of different components in the final polymer. At the time, the approach was supported as reasonable by the general chemical and polymer industries.

In a letter of July 29, 1983, CMA raised a question about the requirement in Part I(B)(2)(b) of the PMN form (Polymer Identity) that submitters estimate maximum weight percent residual monomers and other reactants in new

polymers and the requirement in Part I(B)(3) (Impurities) that they estimate the maximum weight percent impurities in new chemical substances. Residual monomers and other reactants reported under "Polymer Identity" do not also have to be reported under "Impurities." However, as described above, other impurities, such as residual solvents, surfactants, or catalysts not intentionally incorporated into the polymer must be reported under "Impurities." Estimates of maximum percent residual monomers and other reactants and maximum percent impurities must be provided to the extent that they are known or reasonably ascertainable.

CMA's and SPI's petitions argue that the requirements on monomers and other reactants represent substantial changes from the proposed rule and that they were not adopted with adequate notice and comments. In fact, as stated earlier, requirements concerning monomers and other reactants in EPA's January 10, 1979 and October 16, 1979 proposed PMN rules are virtually identical to those in the final rule. EPA reviewed public comments on these requirements, as well as more than three years of PMN experience, before including them in the final rule.

2. *Test data requirements.* Section 720.50(a)(3) of the rule requires that submitters provide test data on the new chemical substance in their possession or control in a "full report." The report is defined as including "experimental methods and materials, results, discussion and data analysis, conclusions, references, and the name and address of the laboratory that developed the data." These items must be provided to the extent that they are in the submitter's "possession or control"—for example, submitters are not required to provide data analyses or conclusions where they have not conducted such analyses or developed such conclusions. (Where the data appear in the open literature, the submitter need only provide a standard literature citation.) The remainder of this unit discusses in more detail the information that a full report should contain.

In considering this clarification, PMN submitters should recognize that they must provide the information only if it is in their possession or control. If certain information is not developed in the course of the test—for example, the level of impurities in the test material—the usefulness of the test results may be reduced, and their interpretation may be complicated. However, the absence of this information in the report submitted with the PMN, will not make the PMN incomplete, because it is not in the submitter's possession or control.

In general, test data should be provided in a clear and concise manner that documents conclusions drawn from the test. The amount of information appropriate will depend on the type of test and the extent to which the test methods employed are based on generally accepted, standardized methodologies. The paragraphs below provide general guidance for different types of health and environmental effects data. Companies with questions on the appropropriate format for unusual or nonstandard data are encouraged to consult with EPA individually.

For test data on standard physical or chemical properties, the property itself and a reference to the method used to make the determination, or a reference to the source from which the test method was derived, will be sufficient. Discussions of experimental methods and materials, results, data analyses, and conclusions generally would not be expected. Physical/chemical properties include such properties as absorption spectra, density, solubility, viscosity, melting point, boiling point, vapor pressure, dissociation constant, and octanol/water partition coefficient.

For environmental fate data (such as data on biodegradation or sedimentation and soil adsorption), a reference to or description of the protocol should be included. The report should also include a general description of the conditions of the test when these are not specified in the referenced protocol. For example, a report on a biodegradation study should include such information as inoculum source, adaptation possibilities, and controls employed, in addition to information on the biodegradation of the test compound during the test. The data reporting sections of EPA's "Chemical Fate Test Guidelines" (EPA 560/6–82–003, August 1982), available through the National Technical Information Service (NTIS), provide additional guidance on reporting environmental fate data. Companies submitting PMNs are not required to follow these reporting guidelines; however, their use may reduce the need for followup contact by the Agency.

A report of health or environmental effects data should include test results and a reference to or a description of the protocol used for data development. If the protocol is generally recognized—e.g., it is cited in testing guidelines published by EPA, the Organization for Economic Cooperation and Development (OECD), or the American Society for Testing and Materials (ASTM), a reference to this method or protocol will be sufficient. When recognized test protocols are referenced, the test reports should describe testing conditions, such as dose or duration, which are not specified in the guidelines. When test protocols are not referenced, the full protocol should be submitted with the test report.

For acute, subchronic, and chronic health effects reports, results should generally provide information by species, strain, sex, age, and dose level. For any test result reported as a qualitative rating, a description of or reference to the scale being used should be provided. Environmental effects studies should also summarize relevant quality control data gathered during the study. Examples of quality control data include water quality analysis, e.g., hardness, pH, temperature, and measured concentration of test material.

For further guidance on reports of health and environmental studies, submitters may consult the data reporting sections of EPA's "Health Effects Test Guidelines" (EPA 560/6–82–001) and "Environmental Effects Test Guidelines" (EPA 560–6–82–002), published in August 1982 and available through NTIS, and testing guidance published by OECD, ASTM, the National Institutes of Health (NIH), the Department of Transportation (DOT), or other agencies. As indicated above, the PMN rule does not require the use of these guidelines for test reports submitted with PMNs; however, the guidelines do suggest appropriate formats for any test data submitted to EPA.

In addition to the information described above, test reports for health and environmental effects should contain a clear description of what was tested, including chemical identity, available information on impurities (if different from that reported in the PMN), the solvent or vehicle used in the study, and the concentration of the PMN substance in the test material. When a formulated product is tested, the submitter should also identify the concentrations of the PMN substance and of solvents or other components, if available. Test reports should specify whether the testing laboratory followed Good Laboratory Practices.

PMNs must also include environmental and workplace monitoring data on the new chemical substance relevant to possible levels of human exposure or environmental release that could be associated with the manufacture, processing,

distribution in commerce, use, or disposal of the substance. For example, this could include monitoring data from pilot plant operations or test marketing activities. Like other test data, these data must be provided to the extent they are in the submitter's possession or control. The data may be submitted in aggregate or summary form; underlying data, such as individual measurements, are not required.

PMN submitters should recognize that, while TSCA section 5 and the PMN rule require them to provide test data in their posession or control, they are not required to follow specific protocols or develop specific data in testing new chemical substances. The clarifications above are not intended to prescribe testing standards for new chemical substances, although EPA encourages PMN submitters to follow its guidelines, but rather to indicate the kind of data that, if available, should be included in the submitters' full test reports.

3. *Descriptions of risk assessments.* The final PMN form and the preamble to the PMN rule state that risk assessments and structure-activity relationships are "other data" under TSCA section 5(d)(1)(C). Therefore, they must be described in PMNs if they are known to or reasonably ascertainable by the submitter. In its petition, CMA asked EPA to clarify this requirement. In particular, CMA expressed the concern that the requirement would force PMN submitters to reconstruct informal, unwritten risk assessments generated during the development of a new chemical substance and to identify and assess all likely analogs of the substance. According to CMA, this would present PMN submitters with "serious practical and interpretive" problems.

The requirement to describe risks assessments and structure-activity analyses applies only to existing, written assessments of risks and analyses of structure-activity relationships. Section 720.50(b)(1) (i) and (ii) of the rule defines the "known to or reasonably ascertainable" standard, as it applies to "other data," to cover only data in the submitter's possession or control, or data known to any of his or her employees or other agents who are associated with R&D, test marketing, or commercial marketing of the new substance—that is, the requirement applies only to data that already exist. As a result, the submitter is not required to generate risk assessments or information on structure-activity relationships that do not already exist, but only to describe formal analyses already committed to writing.

PMN submitters are not required to submit the risk assessment documents or structure-activity analyses themselves. Instead, they are required to describe the contents of these documents in a technical summary. Descriptions of structure-activity analyses should include the identity of the analogs assessed (either individually or by class), structural characteristics evaluated, the health or environmental effects identified, conclusions on the applicability of the data on analogs to the PMN substance, and the bases for these conclusions. If an evaluation of structure-activity analysis did not discover any relevant information about the PMN substance, this result should also be included. Descriptions of risk assessments should include a statement of the nature and scope of the assessment and a summary of its results.

4. *Use information.* Section 720.45(f) of the rule and Part I, Section C of the form require PMN submitters to describe the intended categories of use, by function and application, to the extent that they are known or reasonably ascertainable. In its experience in the PMN program, EPA has found this information very important in estimating potential exposure and release. In the memorandum accompanying its petition, CMA expressed concern about the level of detail required on use, and asked EPA to confirm that the submitter "need not describe the substance's uses in exhaustive detail."

In its "Instructions Manual for Premanufacture Notification of New Chemical Substances," EPA provides several examples of acceptable use descriptions, including: "disperse dye for finishing polyester fibers," "surfactant in automobile spray wax," "colorant for paper and other cellulosics," and "antioxidant in fuel oils and lubricants." EPA believes that these examples clearly indicate that it neither expects nor requires exhaustively detailed use descriptions.

EPA also recognizes that in some cases PMN submitters may not know the uses of their products even to the level of detail indicated in the examples above. In these cases, the submitter is required only to identify the uses to the extent that they are known or reasonably ascertainable. For example, a manufacturer might know that it was making a surfactant for metal waxes, but might not know and could not reasonably ascertain that its customers intended to use it in automobile wax, or more particularly, automobile spray wax. In this case, a more general description would meet the rule's standard. As another example, the manufacturer might be making a surfactant that could have a wide range of applications. The PMN submitter in this case could provide a more generic description, with a few typical examples, e.g., the submitter could describe the new chemical substances as "a surfactant used in a broad range of consumer products, such as floor waxes, automobile cleaners, and general household cleaners.

EPA recognizes that a good deal of the potential burden associated with this requirement will depend on the meaning of "known or reasonably ascertainable." EPA does not expect notice submitters under this standard to obtain information that they, or "a reasonable person similarly situated," would not have obtained under normal business conditions, taking into account relevant safety and economic factors. More specifically, information derived from a knowledge of the product's chemistry (e.g., whether a dye is disperse or fiber-reactive), based on the manufacturer's knowledge of a specific customer's practices or the general practices of a processing industry (e.g., that waxes in the processing industry are typically applied by spraying), or developed by the submitter for marketing or advertising purposes should be considered reasonably ascertainable. EPA does not intend for the "reasonably ascertainable" standard to require manufacturers to contact customers solely for the purposes of completing a PMN. But where a PMN submitter routinely obtains a certain type of use information from customers as a normal part of business, he or she would be expected to provide that use information in his or her PMNs, unless the information could not be obtained in a specific case, for example, because customers considered the information confidential.

In providing use information, PMN submitters should recognize that EPA's evaluation of exposure associated with the use of the new chemical substance will be based largely on the use description in the notice. The more detailed that description, the more accurate EPA's exposure assessment will be. Therefore, while a relatively broad general use description might meet the minimum information requirements set forth in the PMN rule, it might lead to an overestimate of actual exposure levels. In the case of broad use descriptions, EPA would have to review the new chemical for all use scenarios that could be covered by the general description—some of which might involve considerably higher

exposure than the uses actually intended by the manufacturer or its customers. As a result, EPA encourages notice submitters to be as specific as reasonably possible in their use descriptions.

IV. Discussion of Other Issues

In its petition and its accompanying memorandum, CMA raised questions about the need for a mandatory PMN form, EPA's authority to declare PMNs incomplete, information requirements concerning manufacturing operations, the possibility of disclosure of confidential chemical identity contained in health and safety studies, the timing of substantiation of confidential chemical identity, and the submission of generic use information. EPA believes that the position it has taken on these issues is reasonable and correct and that the PMN rule language does not require detailed clarification. In the sections below, the Agency responds to the remaining points in the CMA petition and summarizes the reasons for the specific rule provisions. Most of these questions have been discussed more fully in the preamble to the final rule or in EPA's "Response to Comments on New Chemical Notice Requirements and Review Procedures," which is available in the public record on the PMN rule.

1. *Mandatory notice form.*

On several occasions, including its most recent petition, CMA has questioned the need for a standardized, mandatory PMN form. CMA instead recommends that EPA adopt an optional form for the guidance of submitters and that it permit the use of other forms at the submitter's discretion.

In its "Response to Comments" and elesewhere, EPA has already explained the legal basis for requiring a standardized PMN form and its need to do so. The Office of Toxic Substances (OTS) now receives, on the average, more than 100 PMNs a month, each of which must be reviewed within the statutory 90-day period. This review is now considerably complicated by the lack of a standard notice format, which makes it time-consuming and often difficult for OTS reviewers to identify critical pieces of information. Furthermore, lack of a standardized format makes it difficult to enter basic PMN data into various OTS data bases, which allows their retriveal in subsequent PMN and other reviews. As the number of PMNs increases, these problems will become more serious unless a standardized notice form is required.

2. *Incomplete notices.* CMA also expressed concern about EPA's authority to declare a PMN incomplete if the notice submitter failed to provide information required in the rule. According to CMA, "when combined with the other broad and open-ended provisions of EPA's rule, the incompleteness procedure will give EPA enormous leverage over PMN submitters," and it will result in the imposition of "onerous and unjustified" compliance burdens.

Despite these concerns, which CMA has expressed in earlier comments, EPA believes that it has clear authority to refuse to review notices that fail to meet the minimum standards of the Act, and that effective conduct of the PMN program depends on the Agency's ability to declare such notices incomplete. At the same time, however, EPA believes that it has substantially addressed CMA's concern regarding the incompleteness issue by staying or clarifying the major rule provisions identified by CMA as "broad and open-ended", the definition of "possession or control"; data requirements on "related chemicals"; and requirements concerning polymer identity, test data, risk assessments, and use. As a result, notice submitters can be assured that the incompleteness procedures will not be used in combination with "broad and open-ended" rule provisions to impose "onerous and unjustified" compliance demands.

Although EPA believes that it must have the ability to declare submissions incomplete that fail to meet the minimum standards of the rule, it anticipates having to exercise this authority only in rare cases. Since the PMN program began in July 1979, EPA has found it necessary to declare only a very few submissions incomplete out of a total of more than 2,500 notices. The Agency expects that this situation will continue once the rule is final.

In the preamble to the final rule and elsewhere, EPA has discussed the kinds of deficiencies that could lead to a determination of incompleteness.

3. *Manufacturing operations.* In the PMN form, EPA requires companies to provide certain limited information on manufacturing operations to the extent that it is known or reasonably ascertainable. For batch operations, the submitter must indicate the maximum number of kilograms per batch, the hours per batch, and the number of batches per year. For continuous operations, the submitter must indicate the maximum number of kilograms per day produced and the hours per day and days per year of operation. In addition, submitters must provide a brief description, including a diagram, of all manufacturing, processing, or use operations under their control. If any of this information is not known and not reasonably ascertainable, the submitter may simply write "NK" on the form.

In a memorandum acccompanying its petition, CMA questioned EPA's need for this information and its usefulness for the review of most new chemical substances. After reviewing its experience in the PMN program, however, EPA remains convinced that general information on manufacturing and processing operations, at the level of detail required in the current form, is essential to an effective initial review of new chemical substances. Workplace exposure and environmental release are a central part of EPA's new chemical reviews; without basic information on manufacturing and processing, it is difficult for the Agency to address these concerns adequately. At the same time, in conducting its new chemical reviews, EPA has found that companies can generally provide this information on manufacturing and processing with little difficulty. As a result, EPA does not believe that providing this information imposes a significant burden on PMN submitters.

4. *Confidential chemical identity.* In its accompanying memorandum, CMA expressed concern about the rule's provision that a chemical substance's identity is underlying data in a health and safety study of that chemical substance, regardless of whether or not the substance is identified in the study. CMA argues that, where a substance's identity is not included in a study, it should not be considered "part" of the study. This distinction is important because, under TSCA section 14(b) and the PMN rule, data underlying a health and safety study are subject to disclosure, with certain exceptions. Therefore, if a health and safety study is submitted on a new chemical substance, the substance's identity would potentially be subject to disclosure to the extent necessary to interpret the study—unless disclosure would reveal confidential information on process or mixture.

This issue was first raised in EPA's January 10, 1979, proposed PMN rules and has received considerable comment since then. Despite the concerns CMA has expressed in its petition and in earlier comments, EPA believes that its resolution of the issue in the final PMN rule appropriately balances industry's need for confidentiality and the public's need to be able to interpret test data, which underlies the purpose of section 14(b). EPA's rationale for its approach is discussed in detail in the preamble to the final rule.

As an alternative, CMA recommended that a chemical substance's identity be considered part of a health and safety study only if it is actually included in the study. EPA believes this approach is inappropriate, because the disclosure of a substance's identity would depend on the generally irrelevant question of whether or not the name of the substance, rather than a code name, was included in the report of the study submitted to EPA. Under EPA's approach in the final rule, disclosure would instead depend on the extent to which specific chemical identity was needed to interpret the health and safety study, rather than on the question of whether it was in fact included in the study. This approach was recommended by industry in previous comments on the proposed PMN rule. EPA believes this standard more effectively balances industry's and the public's interests.

5. *Timing of substantiation.* Section 720.85(b) requires that PMN submitters reassert and substantiate confidentiality claims for chemical identity at the time they file a notice of commencement of manufacture. This requirement ensures that chemical substances are listed on the TSCA Inventory by generic name only if the confidentiality claims for chemical identity are supported and if they are still applicable at the time of listing. In its accompanying memorandum, CMA questions "whether this objective justifies the time and effort required for substantiation."

EPA disagrees with CMA on this issue. The TSCA Inventory fulfills an important function as the only comprehensive public list of chemical substances in commerce in the United States, and, by listing "existing" chemical substances, it defines new chemical substances subject to PMN requirements. The presence of generic names in the Inventory appendix to a certain extent reduces its usefulness for both purposes. In particular, the use of generic names makes it more difficult for chemical companies to determine whether a given chemical substance is new and therefore subject to PMN, and it requires EPA to process and review *bona fide* requests from manufacturers asking whether their chemical substances are listed on the confidential Inventory.

For these reasons, EPA believes that it is important to ensure that generic names are entered in the Inventory appendix only when confidentiality claims for chemical identity have been supported. This will be accomplished by the requirement that companies substantiate claims for confidential chemical identity when they submit notices of commencement of manufacture. This approach is consistent with the reporting requirements for the initial Inventory, which also included substantiation of chemical identity confidentiality claims at the time a confidential substance was reported for inclusion on the Inventory. The requirement will generally impose little burden on notice submitters. As EPA's "Instructions Manual" indicates, substantiating confidentiality claims is straightforward and simple.

Although companies are required to substantiate confidentiality claims only for chemical identity at the time they submit notices of commencement, claims of confidentiality for any other information submitted in the notice of commencement should be asserted at that time.

6. *Submission of generic use description.* Section 720.87 of the rule requires PMN submitters to supply generic use descriptions for any new chemical substances whose uses they claim to be confidential. EPA issues these generic use descriptions in the **Federal Register** publication, required by section 5(d)(2) of TSCA, announcing the receipt of a PMN. In its accompanying memorandum, CMA expressed concern about the requirement that a generic use discription be included in PMNs, and it suggested that EPA delete this requirement from the rule.

EPA believes that this requirement should be retained and has not adopted CMA's suggestion. Section 5(d)(2) states that, within five days of receipt of a PMN, EPA must publish a **Federal Register** notice listing the uses or intended uses of the new chemical substance, subject to the confidentiality provisions of section 14. EPA believes that Congress intended section 14 in this context to limit public access only to the confidential aspects of a new chemical substance's uses and that, where more detailed uses are confidential, generic use descriptions must be developed to provide the public with a reasonable understanding of uses.

EPA has found it difficult to develop such use descriptions in the five days allowed by the statute, particularly because EPA staff often does not have direct knowledge of why the use is claimed confidential, or whether a particular generic use description might disclose some confidential information. Consequently, it has frequently proved necessary for EPA to consult with the PMN submitter before the **Federal Register** notice is published. As the number of PMN submissions grows, this task will become increasingly difficult. By requiring that PMN submitters provide generic use descriptions with their PMNs, EPA will ensure that reasonable use descriptions can be developed efficiently within the statutory time constraints. At the same time, developing this description is generally simple for the manufacturer and adds little to the costs of PMN submission.

V. Provisions Subject to Stay

As indicated above, EPA is staying certain provisions of the rule concerning the section 5(h)(3) R&D exemption, the definition of "possession or control," and data requirements on related chemicals. The Agency will be reproposing these provisions. EPA intends to issue a reproposal in the **Federal Register** requesting comments on specific aspects of these requirements and announcing a public meeting.

The specific provisions subject to this stay are discussed briefly below.

1. *R&D provisions.* In its petition, CMA expressed concern about four major requirements for R&D substances in the PMN rule: (1) The requirement that all persons involved in the chemical substance's lifecycle be notified of risks; (2) the requirement that companies perform an "open-ended hazard assessment" on R&D substances; (3) the recordkeeping requirements; and (4) the "retroactive" aspects of the requirements, which would apply to all new R&D substances, not simply those first manufactured after the effective date of the rule.

EPA believes that CMA has identified certain provisions in the rule concerning R&D that could, if interpreted literally, impose unnecessary burdensome requirements on manufacturers, in turn impeding chemical innovation unnecessarily. For example, EPA recognizes that the rule could be read as imposing retroactive recordkeeping requirements on R&D substances, and as requiring companies to conduct extensive, unnecessary literature searches before synthesizing laboratory substances with potential for minimal or no human or environmental exposure. EPA did not intend the R&D provisions of the rule to have either of these effects. For this reason, EPA is staying § 720.36 and § 720.78(b), the two sections of the rule that establish handling and recordkeeping requirements for exempt R&D substances. These sections of the rule will be reproposed.

The stay does not apply to the definition in § 720.3(cc) of "small quantities solely for research and development"; this definition becomes effective on October 26. The definition,

which is essentially the same as the definition of R&D in the Inventory reporting rules (40 CFR Part 710), specifies which activities are exempt from PMN requirements under TSCA section 5(h)(3). In response to questions from industry, EPA is now working to clarify the line between R&D and non-R&D commercial manufacture.

Companies manufacturing or processing new chemical substances under the section 5(h)(3) exemption should understand that, regardless of this stay, they are still subject to the requirements of section 5(h)(3) that they notify persons involved in R&D of any risks they are aware of and to the requirement of the Inventory reporting rule (§ 710.2(y)) that R&D substances be used by, or directly under the supervision of, technically qualified individuals. Companies should maintain records documenting compliance with these provisions. In the absence of any documentation that a new chemical substance was manufactured solely for R&D, the Agency might conclude that the company was required to submit a PMN for that substance.

2. *Definition of possession or control.* Section 5(d)(1)(B) of TSCA requires manufacturers to submit all health and environmental effects test data on the new chemical substance in their "possession or control." In addition, § 720.3(p) defines "known or reasonably ascertainable" information to include information in a person's "possession or control." Therefore, in submitting a notice, companies must provide relevant information in their possession or control.

In its petition, CMA expressed concern about the definition of "possession or control" in § 720.3(y) of the rule. Read literally, according to CMA, the rule would require companies to conduct extensive searches of all their employee files, regardless of whether or not the employees were associated with the venture or could reasonably be assumed to have relevant data. CMA argued that this could be extremely burdensome.

In addition, CMA expressed concern about the provision that information in the submitter's possession or control includes information "in commercially available data bases to which the submitter has purchased access." CMA stated that this provision could be read as requiring submitters to conduct manual searches of material in libraries and research facilities to which they had purchased access. Other industry representatives have stated that meaningful searches of all the computerized data bases to which a company has access (which, for some companies, might mean searching as many as 60–80 data bases) could be extremely expensive, and for many data bases would yield no relevant data. For these reasons, CMA has recommended that EPA revise the definition of "possession or control" so that it does not include information in commercially available data bases, and that EPA should recognize that the submission of this information is subject to the "reasonably ascertainable" standard.

EPA believes that the issues raised by CMA and other industry representatives are sufficiently complicated to justify a further postponement of the rule's definition of "possession or control." EPA did not intend for the rule to impose the more extreme interpretations suggested by CMA—for example, that files of employees who were in no way associated with the chemical substance must be searched, or that manual searches be conducted for information in library and research facilities. Therefore, EPA is staying § 720.3(y) of the rule. Like the R&D provisions, the exact language of this definition will be revised through appropriate rulemaking procedures.

Regardless of this stay, PMN submitters are still required under section 5(d)(1)(B) of TSCA to provide health and environmental effects test data in their "possession or control." In complying with this requirement, EPA believes that manufacturers should take steps to ensure that their PMNs include relevant data from the files of employees who are: (a) Associated with R&D, test-marketing, or commercial marketing of the substance, and (b) who are reasonably likely to have such data. In other words, pending further rulemaking, EPA does not expect companies to search the files of employees not associated with the venture, or of clerical staff, graphics staff, or similar personnel who would not be expected to have any relevant data.

In addition, EPA believes that the Act requires manufacturers to take reasonable steps to ensure that their PMNs include relevant data contained in commercially available data bases to which they have purchased access. However, pending further rulemaking, EPA does not expect PMN submitters routinely to search all data bases to which they have access. For example, the rule was not intended to require companies to conduct manual searches of libraries or research facilities to determine if data on the new chemical substance were in their possession or control. Nor was it intended to require companies to search computerized data bases that were unlikely to contain "test data" or data on chemical substances, or to search data bases that the manufacturer had good reason to believe did not have data on the specific new chemical substance in question. For example, if a data base had been recently searched for a similar chemical substance, or if the company was for some other reason reasonably certain that no relevant data existed in the data base, it would not be expected to conduct the search.

3. *Data on related chemicals.* CMA also expressed concern about information requirements in § 720.50(c) concerning data on related chemicals. Under this section, PMN submitters are required to submit descriptions of unpublished data on "related chemicals," such as impurities, byproducts, degradation products, unintended reaction products, or other chemical substances or mixtures related to the manufacture, processing, distribution in commerce, use, or disposal of the new chemical substance. (Submitters would not be required to describe or provide references for data on related chemicals that had been published in the open literature.) CMA stated that this requirement might be "extremely onerous," depending on the definition of "related chemicals," and that in any case it should not apply to physical-chemical property measurements and monitoring data or related chemicals.

EPA recognizes that these requirements could be read as requiring extensive monitoring and similar data on "related chemicals" that would have little if any relevance to the PMN review, and that the requirements for data on related chemicals could use further specification. Therefore, it is staying § 720.50(c) of the rule while it reveiws information requirements for related chemicals. Until this section is revised, PMN submitters should continue to follow EPA's interim PMN policies.

More generally, however, EPA rejects CMA's argument that it does not have authority under section 5 to require data (or descriptions of data) on related chemicals. According to CMA, this information cannot be required because section 5(d)(1)(B) requires submission only of data related to the effects of the new chemical substance. In fact, this section (and section 5(d)(1)(C)) requires data "related to the effect of any manufacture, processing, distribution in commerce, use, or disposal" of the new chemical substance "on health or the environment," not simply data on the substance itself. Clearly this provision requires companies to submit data on

the potential effects of impurities in the substance, byproducts of manufacture or use, environmental transformation products, and similar related chemicals, as well as data specifically on the new chemical substance. At the same time, however, EPA agrees that monitoring and exposure data on "related chemicals" need not be submitted, unless these data are directly related to the proposed manufacture, processing, distribution, uses, or disposal of the substance (e.g., they were developed during R&D or test-marketing activities). In revising § 720.50(c) of the rule, EPA will solicit public comments on these issues and address more directly the exact information requirements on related chemicals.

In at least one respect, CMA's concerns over data requirements for related chemicals arose from a misunderstanding of the rule. CMA apparently believed that the test data themselves, rather than descriptions, were required if the data were unpublished, and that standard literature citations were required for published data. However, § 720.50(c) requires only descriptions of unpublished data on related chemicals (i.e., a description of the type of data and a summary of results), and it would not have required either published data or literature references to published data. These points will be made more explicitly in any revisions of this section.

VI. Nonsubstantive Amendments

Section 720.102(b)(1) of the May 13 rule would have required manufacturers or importers to submit a notice of commencement of manufacture or import "on the first day of such manufacture of import." In the memorandum that accompanied its petition, CMA stated that compliance with this provision may be very difficult because of "coordination difficulties or the press of other business." At the same time, EPA recognizes that, although it is important that new chemical substances be entered on the TSCA Inventory promptly after first commercial manufacture (so that subsequent manufacturers can know they are not subject to PMN requirements and to prevent unnecessary EPA review of duplicative PMNs) it makes relatively little difference whether notification of commercial manufacture occurs on the first day of manufacture or shortly thereafter. Therefore, EPA believes that companies should be allowed some latitude in when they submit notices of commencement of manufacture, and that notices submitted a short time after manufacture begins should be accepted. At the same time, however, EPA believes that companies should not be allowed to submit notices before manufacture begins; only chemical substances actually in commercial production should be added to the TSCA Inventory.

For the above reasons, EPA is amending § 720.102(b)(1) to read: "If manufacture or import for commercial purposes begins on or after the effective date of this rule, the submitter must submit the notice to EPA on, or no later than 30 calendar days after, the first day of such manufacture or import." This amendment is consistent with several comments received during the public comment period on the proposed PMN rules. This change is a technical amendment on a minor procedural aspect of this interpretive rule and does not require further notice and comment. The amendment does not work to the disadvantage of any PMN submitters, and it does not in any way impair EPA's ability to protect the public and the environment from chemical hazards. Further comment is unnecessary.

As indicated in EPA's "Instructions Manual for Premanufacture Notification of New Chemical Substances," notices of commencement of manufacture should be submitted to: Document Control Officer, Office of Toxic Substances (TS–793), U.S. Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. To ensure that notices of commencement are sent to the proper address, EPA is adding this address to the rule as § 720.102(d).

VII. Public Record

EPA has established a public record for the PMN rulemaking (docket number OPTS–50002), which is available for inspection in Rm. E–107, 401 M St. SW., Washington, D.C. 20460 from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays. Persons who do not have access to the public reading room should contact Jack P. McCarthy, Director, TSCA Assistance Office (TS–799), at the address given earlier in this notice.

The following information related to this revision and clarification has been added to the record:

(22) USEPA–OTS, "Premanufacture Notification; Premanufacture Notice Requirements and Review Procedures," 48 FR 21722, dated May 13, 1983.

(23) Chemical Manufacturers Association (CMA), "Petition for a Stay of the Final Rule and Notice Form Implementing the Premanufacture Notification Requirements of the Toxic Substances Control Act," dated June 17, 1983.

(24) Society of the Plastics Industry, Inc. (SPI), "Petition of the Society of the Plastics Industry, Inc. for a Stay of the Final Rule and Notice Form Implementing the Premanufacture Notification Requirements of the Toxic Substances Control Act and a Request That Rule Making Be Reopened," dated June 27, 1983.

(25) USEPA–OTS, Transcript of public seminar on premanufacture notice requirements, dated June 23, 1983.

(26) SPI, Letter to M. E. Williams, Acting Director, Office of Toxic Substances, dated July 27, 1983.

(27) National Paint and Coatings Association, Letter to J. DeSantis, Office of Toxic Substances, dated July 28, 1983.

(28) American Chemical Society (ACS), Letter to D. R. Clay, Acting Assistant Administrator, Office of Pesticides and Toxic Substances, dated July 29, 1983.

(29) CMA, Letter to D. R. Clay, Acting Assistance Administrator, Office of Pesticides and Toxic Substances, dated July 29, 1983.

(30) CMA, Letter to D. R. Clay, Acting Assistance Administrator, Office of Pesticides and Toxic Substances, dated August 17, 1983.

(15 U.S.C. 2604)

List of Subjects in 40 CFR Part 720

Chemicals, Environmental protection, Premanufacture notification, Hazardous material, Recordkeeping and reporting requirements.

Dated: September 6, 1983.

William D. Ruckelshaus,

Administrator.

PART 720—[AMENDED]

Therefore, 40 CFR Part 720 is amended as follows:

§§ 720.3, 720.36, 720.50, and 720.78 [Amended]

1. The effective date of §§ 720.3(y), 720.36, 720.50(c), and 720.78(b) is hereby stayed until further notice.

2. In § 720.102 paragraph (b)(1) is revised and paragraph (d) is added to read as follows:

§ 720.102 Notice of commencement of manufacture or import.

* * * * *

(b) *When to report.* (1) If manufacture or import for commercial purposes begins on or after the effective date of this rule, the submitter must submit the notice to EPA on, or no later than 30 calendar days, after the first day of such manufacture or import.

* * * * *

(d) *Where to submit.* Notices of commencement of manufacture or import should be submitted to: Document Control Officer, Office of Toxic Substances (TS–793), U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

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Reader Aids

Federal Register

Vol. 48, No. 178

Tuesday, September 13, 1983

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202–523–3419
General information, index, and finding aids	523–3517
Incorporation by reference	523–5227
Printing schedules and pricing information	523–4534
	523–3419

Federal Register

Corrections	523–5237
Daily Issue Unit	523–5237
General information, index, and finding aids	523–5227
Privacy Act	523–4534
Public Inspection Desk	523–5215
Scheduling of documents	523–3187

Laws

Indexes	523–5282
Law numbers and dates	523–5282
	523–5266
Slip law orders (GPO)	275–3030

Presidential Documents

Executive orders and proclamations	523–5233
Public Papers of the President	523–5235
Weekly Compilation of Presidential Documents	523–5235

United States Government Manual 523–5230

SERVICES

Agency services	523–5237
Automation	523–3408
Library	523–4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275–2867
Public Inspection Desk	523–5215
Special Projects	523–4534
Subscription orders (GPO)	783–3238
Subscription problems (GPO)	275–3054
TTY for the deaf	523–5229

FEDERAL REGISTER PAGES AND DATES, SEPTEMBER

39595–39910	1
39911–40186	2
40187–40364	6
40365–40496	7
40497–40694	8
40695–40870	9
40871–41008	12
41009–41140	13

CFR PARTS AFFECTED DURING SEPTEMBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Administrative Orders:	
Memorandums:	
September 7, 1983	40695
Executive Orders:	
6143 (Revoked by PLO 6459)	40724
6276 (Revoked by PLO 6459)	40724
6583 (Revoked by PLO 6459)	40724
8854 (Amended by PLO 6458)	40232
12428 (Amended by EO 12440)	40873
12439	40871
12440	40873
Proclamations:	
5085	39595
5086	40187
5087	40497
5088	40499
5089	40501
5090	40503
5091	40505
5092	40507
5093	41009

4 CFR

Proposed Rules:	
83	39632

5 CFR

2422	40189
2426	40189
2429	40189
Proposed Rules:	
731	40731
754	40731
870	40732
871	40732
872	40732
873	40732

7 CFR

28	41011
29	40365
51	40509
52	40875, 40878, 41011
210	40194
220	40194
226	40197
301	39597, 40198
421	39911
725	40638
726	40644
760	40366
908	39602, 40510
910	39912, 40697
981	40367
1076	39603
1079	40511
1106	41015
1865	40202
1944	40202, 40697
1945	40202
1951	40202
Proposed Rules:	
28	41048
52	40734
278	40263
279	40263
631	40522
660	40389
658	39944
1126	39643, 40894
1941	40894
1943	40894
1945	40894
1980	40894

8 CFR

103	41016
109	40209
231	40209
238	40210
248	41016

9 CFR

75	40512
97	40881
Proposed Rules:	
151	40899

10 CFR

50	40882
61	40512
150	40882
Proposed Rules:	
1017	40265

12 CFR

7	40696
29	40702
34	40696
217	39604, 40702
525	39912
531	39912
Proposed Rules:	
5	40735
332	40900
333	40900
337	40900
563	39944

13 CFR

101	40513

14 CFR

39	40210–40212
71	39913, 40213
75	40214
97	39913

Proposed Rules:
39 40266
71 ..... 40267, 40270, 40525
221 40389

15 CFR
369 40368

16 CFR
305 40882
Proposed Rules:
13 39950

17 CFR
240 39604
249 39604

18 CFR
Proposed Rules:
271 40736

19 CFR
Proposed Rules:
6 40737
10 40738
101 40526
114 40738
159 40527
162 40740

20 CFR
655 40168
404 40514
416 40883
628 40886
Proposed Rules:
225 40390
226 40390
227 40390

21 CFR
5 40703
14 40887
145 39916
175 40515
436 40704
442 40516
510 ..... 40704, 40887
520 ..... 40516, 40704, 40887
522 40704
524 39607
558 40704
561 40369
Proposed Rules:
Subch. H 40272
291 41049
882 40273

23 CFR
Proposed Rules:
Ch. I 39953

24 CFR
25 40705
203 39608
207 40710
213 39608
234 39608
235 40711
570 40517

25 CFR
Proposed Rules:
211 41051
212 41051
225 41051

26 CFR
1 ..... 40214, 40370, 40371, 40888, 41017
25 40371
31 40518
48 40217
301 ..... 40371, 40376, 41018
Proposed Rules:
1 ..... 39953, 40528, 41051
5f 39953

27 CFR
9 40377

29 CFR
553 40518
1952 40902

30 CFR
251 40380
700 40622
701 ..... 39892, 40140, 40622
772 40622
776 40622
785 39892
815 40622
816 ..... 39892, 40140
817 ..... 39892, 40140
824 39892
872 ..... 41018, 41019
921 41000
938 40888
939 40990
938 40223
Proposed Rules:
75 40165
913 40908
935 ..... 39645, 40396
938 39645

32 CFR
286g 39917
634 39919
730 40224
806 41020
2003 40849

33 CFR
100 ..... 39609, 40714, 40715
165 ..... 39609, 39610, 40380
181 40716
401 39934
Proposed Rules:
1 40741
117 39646
156 40741
329 40909
322 40909
323 40909
325 40909
327 40909
328 40909
330 40909

34 CFR
668 40380
Proposed Rules:
366 39647

36 CFR
219 40381
331 40719

38 CFR
21 40224
36 40226
Proposed Rules:
36 40402

39 CFR
10 39610
601 40232
Proposed Rules:
111 ..... 39647, 39648
233 40910

40 CFR
17 39934
81 40722
122 39611
123 39611
124 39611
144 39611
145 39611
180 40384
233 39611
270 39611
271 ..... 39611, 39623
300 40658
410 39624
720 41132
Proposed Rules:
52 39653
61 40911
65 40278
81 ..... 39655, 40746
124 40098
144 40098
146 40098
147 40098
300 40674
721 ..... 40282, 40911
799 39656

41 CFR
Ch. 1 40385
Ch. 7 40385

42 CFR
405 ..... 39740, 39752
409 39752
435 39624
436 39624
489 39752
Proposed Rules:
431 40749
435 39959
436 39959

43 CFR
Ch. II 40889
1820 40724
Public Land Orders:
1707 (Amended by PLO 6458) 40232
6423 Corrected by PLO 6460 41021
6457 39939
6458 40232
6459 40724
6460 41021

44 CFR
65 40890
67 ..... 40891, 41021
Proposed Rules:
67 40911–40919

46 CFR
153 39629
154 39629
Proposed Rules:
536 41052

47 CFR
Ch. I 41040
2 40519
25 ..... 40233, 40256
Proposed Rules:
68 39656

49 CFR
1 40519
179 39630
571 ..... 39908, 39939, 40260
1042 39630
1160 ..... 39630, 40387
1161 39630
1162 ..... 39630, 40520
1165 39630
1168 ..... 39630, 40387
1181 39630
1307 40520
Proposed Rules:
27 40684
213 39965
571 ..... 40282, 40286
821 39657
1157 40287

50 CFR
17 ..... 39941, 40178
20 40852
285 40892
661 40521
671 40725
Proposed Rules:
17 ..... 40288, 40404, 40407, 40920
23 40750
26 39661
32 40411
33 40411
611 40924
655 39967
662 40752
681 39665

LIST OF PUBLIC LAWS

Last Listing August 31, 1983

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (phone 202–275–3030).

S. 46/Pub. L. 98–89 To revise, consolidate, and enact certain laws related to vessels and seamen as subtitle II of title 46, United States Code, "Shipping". (Aug. 26, 1983; 97 Stat. 500) Price: $4.25

H.R. 3677/Pub. L. 98–90 To amend title XVIII of the Social Security Act to increase the cap amount allowable for reimbursement of hospices under the medicare program. (Aug. 29, 1983; 97 Stat. 606) Price: $1.50

H.R. 3409/Pub. L. 98–92 To amend the Federal Supplemental Compensation Act of 1982 with respect to the number of weeks of benefits paid in any State. (Sept. 2, 1983; 97 Stat. 608) Price: $1.75

H.R. 3549/Pub. L. 98–91 To amend the Bankruptcy Rules with respect to providing notice. (Aug. 30, 1983; 97 Stat. 607) Price: $1.50

VOL
48
ISS
1
7
8
SE
13
1983
UMI

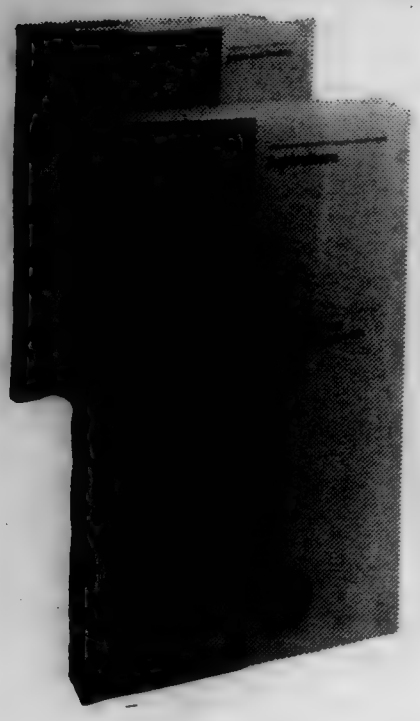

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VOL
48
ISS
1
7
8
SE
13
1983
UMI

SE
14
1983

9-14-83
Vol. 48 No. 179

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Wednesday
September 14, 1983

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VOL
48
ISS
1
7
9
SE
14
1983
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9-14-83
Vol. 48 No. 179
Pages 41141–41368

federal register

Wednesday
September 14, 1983

Selected Subjects

Aircraft
Federal Aviation Administration

Aliens
Immigration and Naturalization Service

Animal Drugs
Food and Drug Administration

Aviation Safety
Federal Aviation Administration

Banks, Banking
Farm Credit Administration

Coastal Zone
National Oceanic and Atmospheric Administration

Commodity Futures
Commodity Futures Trading Commission

Fisheries
National Oceanic and Atmospheric Administration

Food Assistance Programs
Food and Nutrition Service

Grant Programs—Social Programs
Social Security Administration

Highways and Roads
Federal Highway Administration

Motor Vehicle Pollution
Environmental Protection Agency

CONTINUED INSIDE

Selected Subjects

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Pesticides and Pests
Environmental Protection Agency

Postal Service
Postal Service

Reporting and Recordkeeping Requirements
Foreign Assets Control Office

Surface Mining
Surface Mining Reclamation and Enforcement Office

Trade Practices
Federal Trade Commission

Vegetables
Food and Drug Administration

Veterans
Veterans Administration

Waterways
Engineers Corps

Contents

Federal Register
Vol. 48, No. 179
Wednesday, September 14, 1983

Agriculture Department
See also Farmers Home Administration; Food and Nutrition Service; Rural Electrification Administration; Soil Conservation Service.
NOTICES
41204 Agency information collection activities under OMB review

Alaska Natural Gas Transportation System, Office of Federal Inspector
NOTICES
41253 Rate base determination audit report; Pacific Gas Transmission Co. expenditures; tentative determination; inquiry

Civil Aeronautics Board
PROPOSED RULES
Air Carriers:
41171 Computer reservations systems; advance notice
NOTICES
Hearings, etc.:
41206 Olympic Airways, S.A., et al.

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
41206 Massachusetts
41206 Ohio

Commerce Department
See also International Trade Administration; National Oceanic and Atmospheric Administration.
NOTICES
41206 Agency information collection activities under OMB review

Commodity Futures Trading Commission
RULES
41152 Arbitration; pre-dispute agreements entered into by futures commission merchants, etc.
NOTICES
Contract market proposals:
41209 Chicago Mercantile Exchange; industrial average

Conservation and Renewable Energy Office
PROPOSED RULES
Consumer products:
41166 Clothes dryers and kitchen ranges and ovens; State petitions for exemption from Federal standards; Minnesota hearing cancelled
NOTICES
Consumer products; petitions for waiver of test procedures:
41213 Duo-Matic/Olsen, Inc.; furnaces
41215 Heil-Quaker Corp.; furnaces

Defense Department
See also Engineers Corps.
NOTICES
Meetings:
41209 Science Board task forces

Economic Regulatory Administration
NOTICES
Natural gas; fuel oil displacement certification applications:
41217 Dunlop Tire & Rubber Corp. et al.
Powerplant and industrial fuel use; prohibition orders, exemption requests, etc.:
41217 Gulf Refining & Marketing Co.

Education Department
NOTICES
Grants; availability, etc.:
41210 Educational opportunity centers program; noncompeting continuation awards
41209 Indian adults program, educational services; new projects
41213 Special Needs Program; historically black institutions; correction
41211 Talent search program; noncompeting continuation awards
41212 Upward bound program; noncompeting continuation awards
Postsecondary education:
41210 Accrediting and State approval agencies; list for review; correction

Employment and Training Administration
RULES
41154 Alien temporary agricultural employment in U.S.; labor certification process, adverse effect wage rate methodology; court order

Energy Department
See Conservation and Renewable Energy Office; Economic Regulatory Administration; Federal Energy Regulatory Commission; Hearings and Appeals Office, Energy Department; Southwestern Power Administration.

Engineers Corps
RULES
Danger zones:
41160 North Carolina; New River, Browns Island target and bombing range area

Environmental Protection Agency
RULES
Air pollution control; new motor vehicles and engines:
41303 High-altitude emission standards; 1982 and later model year light-duty trucks
41296 High-altitude locations; designation
Pesticides; tolerances in food:
41156 Pirimiphos-methyl
PROPOSED RULES
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.:
41184 Chlorpyrifos
41184 Ethoprop
41186 Oxamyl
41186 Primary alkyl amines

NOTICES
Air quality; prevention of significant deterioration (PSD):
41229 Permit approvals
Pesticides; temporary tolerances:
41228 Thiophanate-methyl
Toxic and hazardous substances control:
41237 Premanufacture notices; monthly status reports; correction
41229 Premanufacture notification requirements; test marketing exemption approvals

Farm Credit Administration
RULES
Loan policies and operations:
41148 Banks for cooperatives; authorization to make secured and unsecured loans; final

Farmers Home Administration
RULES
Account servicing:
41142 Borrowers; analyzing credit needs and graduation; correction

Federal Aviation Administration
RULES
Airworthiness directives:
41149, 41150 Lockheed-California (2 documents)
PROPOSED RULES
Airworthiness directives:
41166, 41167 Airbus Industrie (2 documents)
41170 Control zones
41168 Transition areas
NOTICES
Advisory circulars; availability, etc.:
41268 Airplanes, small; emergency exits; correction
Airport noise compatibility program:
41266 Golden Triangle Regional Airport, Columbus-West Point-Starkville, Miss.
41267 Pine Belt Regional Airport, Laurel-Hattiesburg, Miss.
41264 Exemption petitions; summary and disposition
Meetings:
41266 Aeronautics Radio Technical Commission

Federal Communications Commission
NOTICES
Hearings, etc.:
41237 Auburn Broadcasters, Inc., et al.
41239 BA Co. et al.
41238 Broadcast Data Corp. et al.
Meetings:
41240 ITU 1985 Space World Administrative Radio Conference Advisory Committee (2 documents)
41239, 41240 National Industry advisory Committee (3 documents)
41240 Technical Standards for Direct Broadcast Satellite Systems Advisory Committee
41240 Telecommunications Industry Advisory Group

Federal Energy Regulatory Commission
NOTICES
Hearings, etc.:
41220 American Electric Power Service Corp. (2 documents)
41219, 41221 Cleveland Electric Illuminating Co. (2 documents)
41221 Connecticut Light & Power Co. (2 documents)
41222 Florida Power & Light Co.
41222 Florida Public Utilities Co.
41222 Idaho Power Co.
41219 Iowa Electric Light & Power Co.
41223 Llano, Inc.
41223 Michigan Wisconsin Pipe Line Co. et al.
41223 National Fuel Gas Supply Corp.
41224 Niagara Mohawk Power Corp.
41219 Pennzoil Co.
41220 Puget Sound Power & Light Co.
41219 Hydroelectric applications; correction (Hamilton Associates)

Federal Highway Administration
PROPOSED RULES
Engineering and traffic operations:
41276 Truck size and weight

Federal Maritime Commission
PROPOSED RULES
41199 Ports and marine terminal operators, tariff filing, etc.; regulation review
NOTICES
Investigations, hearings, petitions, etc.:
41241 Armada Great Lakes/East Africa Service, Ltd., et al.

Federal Mine Safety and Health Review Commission
NOTICES
41269 Meetings; Sunshine Act

Federal Reserve System
NOTICES
41243 Agency information collection activities under OMB review
Applications, etc.:
41242 Fenwick Financial Corp. et al.
41242 First National Bancorp
Bank holding companies; proposed de novo nonbank activities:
41242 Walter E. Heller International Corp.
41269 Meetings; Sunshine Act

Federal Trade Commission
RULES
Prohibited trade practices:
41151 Trans Union Credit Information Co.
41151 Xerox Corp.

Fish and Wildlife Service
NOTICES
Environmental statements; availability, etc.:
41243 Bristol Bay cooperative management plan, Alaska

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
41157 Gentamicin sulfate spray
Food for human consumption:
41155 Mushrooms, canned; identity standards and fill of container; effective date confirmed

PROPOSED RULES
Medical devices:
41181 Implanted cerebellar stimulator; premarket approval; correction

Food and Nutrition Service
RULES
Child nutrition programs:
41141 Child care food program; management of property and disposition of equipment

Foreign Assets Control Office
RULES
41158 Cuban assets; blocked property; reporting and recordkeeping requirements
Foreign assets control:
41157, 41159 Blocked property; reporting and recordkeeping requirements (2 documents)

Health and Human Services Department
See Food and Drug Administration; Social Security Administration.

Hearings and Appeals Office, Energy Department
NOTICES
Applications for exception:
41226 Cases filed
41224 Decisions and orders

Immigration and Naturalization Service
RULES
41142 Nonimmigrant classes; temporary alien employees, extensions of stay, etc.
Transportation line contracts:
41148 Wardair Canada (1975), Ltd.; correction

Interior Department
See Fish and Wildlife Service; Land Management Bureau; Minerals Management Service; Surface Mining Reclamation and Enforcement Office.

International Trade Administration
NOTICES
Meetings:
41207 Importers and Retailers' Textile Advisory Committee
41207 Semiconductor Technical Advisory Committee

International Trade Commission
NOTICES
Import investigations:
41246 Direct current brushless axial flow fans
41246 Forged undercarriage components from Italy
41249 Greige polyester/cotton printcloth from China
41247 Minutiae-based automated fingerprint identification systems
41248 Nutating valve actuators and components
41248 Papermaking machine forming sections for continuous production of paper and components
41248 Rotary wheel printers

Interstate Commerce Commission
NOTICES
Motor carriers:
41249 Agricultural cooperative transportation; filing notices
41250 Finance applications
41249 Permanent authority applications; correction
Railroad operation, acquisition, construction, etc.:
41249 Pittsburgh & Lake Erie Railroad Co.

Justice Department
See also Immigration and Naturalization Service; National Institute of Justice.
PROPOSED RULES
41181 Freedom of Information Act and Privacy Act; implementation; extension of time

Labor Department
See Employment and Training Administration.

Land Management Bureau
NOTICES
Alaska native claims selection; applications, etc:
41245 Ayakulik, Inc.
Meetings:
41244 Regional Oil Shale Team
Opening of public lands:
41244 Arizona
Sale of public lands:
41244 California (3 documents)
Withdrawal and reservation of lands, proposed, etc.:
41245 Colorado

Library of Congress
NOTICES
Meetings:
41250 American Folklife Center Board of Trustees

Management and Budget Office
NOTICES
41358 Budget rescissions and deferrals; cumulative reports

Minerals Management Service
NOTICES
Meetings:
41245 Minerals Accountability Advisory Committee
Outer Continental Shelf; oil, gas, and sulphur operations; development and production plans:
41246 ARCO Oil & Gas Co.
41246 Sohio Petroleum Co.

National Institute of Justice
NOTICES
Grants, competitive solicitation:
41250 Unsolicited research program; adult crimes and criminal justice, etc.

National Labor Relations Board
NOTICES
Senior Executive Service:
41250 Performance Review Board; membership

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
41164 Pacific Coast groundfish; foreign and domestic fishing
Tuna, Atlantic fisheries:
41163 Bluefin tuna; closure
PROPOSED RULES
Coastal; zone management program:
41180 Performance evaluation; rulemaking petition
Fishery conservation and management:
41202 Northern anchovy, etc.; Pacific Fishery Management Council; meetings and hearings

NOTICES
Committees; establishment, renewals, terminations, etc.:
41208 Civil Operational Remote Sensing Satellite Advisory Committee
Fishery conservation and management:
41208 Fishing vessel ownership transfer to a U.S. corporation under foreign control; application for approval; inquiry

National Transportation Safety Board
NOTICES
41251 Accident reports, safety recommendations, and responses, etc.; availability
41269 Meetings; Sunshine Act

Nuclear Regulatory Commission
NOTICES
41269 Meetings; Sunshine Act

Postal Service
RULES
Domestic Mail Manual:
41162 Miscellaneous amendments

Rural Electrification Administration
NOTICES
Environmental statements; availability, etc.:
41204 Colorado-Ute Electric Association, Inc.
41205 Northeast Texas Electric Cooperative, Inc.

Securities and Exchange Commission
NOTICES
41255 Agency information collection activities under OMB review
Hearings, etc.:
41257 Elfun Income Fund
41258 Family Life Separate Account M
41258 Investors Life Insurance Co. of North America et al.
41259 Lomas Financial Security Insurance Co. et al.
41260 Midwest Life Insurance Co. et al.
Self-regulatory organizations:
41256 Options-related sales; program for allocation of regulatory responsibilities; approval of plan granted
Self-regulatory organizations; proposed rule changes:
41254 American Stock Exchange, Inc.
41261 Midwest Securities Trust Co.
41262 New York Stock Exchange, Inc. (2 documents)
41263 New York Stock Exchange, Inc.; correction
41255 Pacific Stock Exchange, Inc.

Small Business Administration
NOTICES
Applications, etc.:
41263 Client Capital Corp.
41263 First Valley Capital Corp.
41263 HMS Capital, Ltd.
Disaster loan areas:
41264 Texas

Social Security Administration
PROPOSED RULES
41187 Refugee resettlement program

Soil Conservation Service
NOTICES
Environmental statements; availability, etc.:
41206 Foard County Critical Area Treatment RC&D Measure, Tex.

Southwestern Power Administration
NOTICES
41227 Transmission rate schedule, interim; extension

Surface Mining Reclamation and Enforcement Office
RULES
Permanent and interim regulatory programs:
41312 Surface coal mining, unsuitable areas; designation and temination procedures, etc.; final
PROPOSED RULES
Abandoned mine land reclamation program; plan submissions:
41182 Alaska

Transportation Department
See also Federal Aviation Administration; Federal Highway Administration.
RULES
41163 Minority business enterprises participation in DOT programs; correction

Treasury Department
See Foreign Assets Control Office.

Veterans Administration
RULES
Adjudication; pensions, compensation, dependency, etc.:
41160 Active duty for training definition, burial allowance eligibility, etc.

Separate Parts in This Issue

Part II
41276 Department of Transportation, Federal Highway Administration

Part III
41296 Environmental Protection Agency

Part IV
41312 Department of the Interior, Office of Surface Mining Reclamation and Enforcement

Part V
41358 Office of Management and Budget

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
226.....41141
1951.....41142

8 CFR
103.....41142
214.....41142
238.....41148

10 CFR
Proposed Rules:
430.....41166

12 CFR
614.....41148

14 CFR
39 (2 documents).....41149, 41150

Proposed Rules:
Ch. II.....41171
39 (2 documents).....41166, 41167
71 (2 documents).....41168, 41170

15 CFR
Proposed Rules:
926.....41180

16 CFR
13 (2 documents).....41151

17 CFR
180.....41152

20 CFR
655.....41154

21 CFR
155.....41155
193.....41156
524.....41157

Proposed Rules:
882.....41181

23 CFR
Proposed Rules:
658.....41276

28 CFR
Proposed Rules:
0.....41181
16.....41181

30 CFR
736.....41312
760.....41312
761.....41312
762.....41312
764.....41312
765.....41312
769.....41312
779.....41312
783.....41312

Proposed Rules:
902.....41182

31 CFR
500.....41157
515.....41158
520.....41159

33 CFR
204.....41160

38 CFR
3.....41160

39 CFR
111.....41162

40 CFR
86 (2 documents).....41296, 41303

Proposed Rules:
180 (4 documents).....41184–41186

45 CFR
Proposed Rules:
400.....41187

46 CFR
Proposed Rules:
Ch. IV.....41199

49 CFR
23.....41163

50 CFR
285.....41163
663.....41164

Proposed Rules:
661.....41202
662.....41202
663.....41202

VOL
48
ISS
1
7
9
SE
14
1983
UMI

Rules and Regulations

Federal Register
Vol. 48, No. 179
Wednesday, September 14, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 226

Disposition of Equipment Acquired Under the Food Service Equipment Assistance in the Child Care Food Program

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the Child Care Food Program (CCFP) regulations regarding property management requirements to make the CCFP regulations consistent with the Department's regulations, Uniform Federal Assistance Regulations, 7 CFR Part 3015, published on November 10, 1981, at 46 FR 55636. This rule is also intended to clarify the CCFP requirements for management of property and disposition of equipment purchased with Food Service Equipment Assistance (FSEA) funds.

The Uniform Federal Assistance Regulations provides specific requirements regarding real property, equipment, and supplies whose acquisition is financed by Federal grant funds. It should be noted that 7 CFR Part 3015 is final and no authority exists for these requirements to be modified in the CCFP regulations.

EFFECTIVE DATE: October 14, 1983.

FOR FURTHER INFORMATION CONTACT: Ms. Beverly Walstrom or Ms. Mary Lou Wheeler at the Child Care and Summer Programs Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Room 416, Alexandria, Virginia 22302, during regular business hours (8:30 a.m. to 5:00 p.m.) Monday through Friday, or call (703) 756-3886.

SUPPLEMENTARY INFORMATION:

Classification. This action has been reviewed under Executive Order 12291 and has been classified *not major* because it will not have an annual effect on the economy of $100 million, will not cause a major increase in cost or prices for Program participants, individual industries, Federal agencies, State or local government agencies or geographic regions, and will not have a significant economic impact on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or foreign markets.

This final rule has also been reviewed with regard to the requirements of Pub. L. 96-354, the Regulatory Flexibility Act. Pursuant to that review, Robert E. Leard, Administrator of the Food and Nutrition Service, has certified that this rule does not have a significant economic impact on a substantial number of small entities.

The Uniform Federal Assistance Regulations (7 CFR Part 3015) were submitted for comment on July 20, 1981, and made final on November 10, 1981. 7 CFR 3015.1 indicates that the requirements of that part supersede any individual USDA regulation. Therefore, good cause exists for dispensing with public comment on this technical incorporation of those already effective rules.

Background

Effective October 1, 1981, Section 810(f) of Pub. L. 97-35, the Omnibus Budget Reconciliation Act of 1981, repealed the Food Service Equipment Assistance Program. As stated in the preamble to the interim CCFP regulation (November 27, 1981, 46 FR 57960), the provisions which prescribed the procedures for administering and distributing FSEA funds to CCFP institutions were deleted, but the definition of FSEA and property management requirements contained in § 226.24 were retained. Section 226.24 sets forth the requirements for management and disposition of property acquired in whole or part with FSEA funds.

Section 226.24—Property Management Requirements, is based on OMB Circular A-102, Attachment N, Property Management Standards. OMB Circular A-102 prescribes uniform standards governing the utilization and disposition of property furnished (1) by the Federal Government; (2) acquired in whole or in part with Federal funds; or (3) whose cost was charged to a project supported by a Federal grant. When the Department issued 7 CFR Part 3015, the requirements of Circular A-102 were included as part of the Department's regulations as Subpart R—Property. The requirements of 7 CFR 226.24 and Subpart R of 7 CFR Part 3015 are similar in most respects. However, the terms "recipient", "subrecipient", and "awarding agency" cited in 7 CFR Part 3015 are being clarified in this rule to identify the CCFP entity. In States that are administered by the Regional Office, "recipient" is the institution and the "awarding agency" is the Food and Nutrition Service (FNS). When the States administer the Program, the "recipient" is the State agency, the "subrecipient" is the institution, and the "awarding agency" is FNS. Disposition of property must be conducted in accordance with 7 CFR Part 3015. These Uniform Federal Assistance Regulations authorize some additional options which may be followed with regard to disposition of property whose acquisition cost was $1000 or more, and also provides a description of the conditions for the retention of these proceeds.

7 CFR Part 3015 allows the recipient (whether the State agency or the institution) to dispose of the original or replacement equipment acquired in part or whole with grant funds whose acquisition cost was less than $1000. The recipient may (1) sell, (2) retain, or (3) otherwise dispose of such equipment with no further obligation to the Federal government. However, if the acquisition cost of the equipment exceeded $1000, the Federal government shall have the right to an amount calculated by multiplying the current market value or the proceeds from the sale by the Federal share of the equipment. If the recipient is still receiving grants from the same Federal Program and the awarding agency approves, the net amount due may be used for allowable Program costs. Otherwise, the net amount must be returned to the awarding agency by check or money order.

7 CFR Part 3015 also provides that when the equipment has been disposed of, and the recipient has retained the

proceeds, the recipient (State agency only) or the awarding agency shall, as part of their closeout review procedures, review the recipients records to support the use of proceeds for Program purposes. When the records indicate that the proceeds have not been used to enhance the food service program, and the recipient is not receiving grant support from the same Federal program, the awarding agency shall have the authority to recover such funds or waive the recovery procedures. However, the institution may retain ten percent of the proceeds or $100, whichever is greater, for the expense involved in the disposition of the equipment. When the recipient (State agency only) recovers proceeds from equipment disposition, replacement or transfer, it must continue to account for the use of the net Federal share for CCFP purposes by reporting any funds obtained on the SF–269 report. The Uniform Federal Assistance Regulations, 7 CFR Part 3015, and existing CCFP regulations require that these records and all other Program records must be maintained for three years.

Since the Department is amending § 226.24 on property management requirements to conform with 7 CFR Part 3015, the definition on nonexpendable personal property in § 226.2 is obsolete and has been deleted.

The Department believes that these options provided by 7 CFR Part 3015 will provide the States with greater flexibility in Program management, and will involve less paperwork when such funds are recovered.

List of Subjects in 7 CFR Part 226

Day care, Food assistance programs, Grant programs—health, infants and children, Reporting and recordkeeping requirements, Surplus agricultural commodities.

PART 226—CHILD CARE FOOD PROGRAM

Accordingly, Part 226 is to be amended as follows:

§ 226.2 [Amended]

1. Section 226.2 is amended to remove the definition of "nonexpendable personal property."

2. Section 226.24 is revised to read as follows:

§ 226.24 Property management requirements.

Institutions and administering agencies shall follow the policies and procedures governing title, use, and disposition of equipment obtained by purchase, whose cost was acquired in whole or part with food service equipment assistance funds in accordance with the Department's Uniform Federal Assistance Regulations (7 CFR Part 3015).

In accordance with the Paperwork Reduction Act of 1980, (44 U.S.C. 3507), the reporting and recordkeeping requirements that are included in this final rule have been approved by the Office of Management and Budget (OMB) under clearance 0584–0055.

(Section 2, Pub. L. 95–627, 92 Stat. 3603 (42 U.S.C. 1766); Section 10, Pub. L. 89–642, 80 Stat. 889 (42 U.S.C. 1779)

Dated: September 9, 1983.

Robert E. Leard,

Administrator.

[FR Doc. 83–24981 Filed 9–13–83; 8:45 am]

BILLING CODE 3410–30–M

Farmers Home Administration

7 CFR Part 1951

Analyzing Credit Needs and Graduation of Borrowers

Correction

In FR Doc. 83–24301, beginning on page 40202 in the issue of Tuesday, September 6, 1983, make the following correction to Subpart F:

On page 40209, in "Exhibit B", second column, eleventh line of item "15.", "will include * * *" should read "will not include * * *".

BILLING CODE 1505–01–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 103 and 214

Powers and Duties of Service Officers; Availability of Records; Nonimmigrant Classes; Temporary Alien Employees

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This final rule amends the application procedure for an extension of stay for a temporary worker. It also allows nonimmigrant temporary workers (H–1 and H–3) to be admitted to the United States for longer periods which are commensurate with the purposes of their admission. Certain employers are permitted to file a blanket petition to classify certain classes of their employees as eligible for intra-company transferee visas. These changes benefit the Service and the public by reducing the number of extensions of stay and petitions filed and enhance compliance.

EFFECTIVE DATE: October 14, 1983.

FOR FURTHER INFORMATION CONTACT:

For General Information: Loretta J. Shogren, Director, Policy Directives & Instructions, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C. 20536, Telephone: (202) 633–3048

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SUPPLEMENTARY INFORMATION: Proposed rulemaking was published on pages 14631–14638 of the **Federal Register** of April 5, 1983 and initiated comments for 30 days ending May 5, 1983.

Comments on Proposed Regulation

The Service received 18 comments. Seventeen expressed support for the rule change but suggested modifications. Only one comment expressed general concern with the proposal. Among the comments, seven basic problem areas were identified and are discussed below:

(1) Section 214.2(1)(3). Eight commenters suggested that the validity period of the L blanket petition should be indefinite or that the Service should extend the proposed three years. We will study the issue of extending the three-year validity at a later date based on experience with the program. The request for an indefinite validity is not feasible in the L classification. The L–1 visa is intended for a nonimmigrant who enters the United States "temporarily" on an intra-company transfer to render services to his or her employer or a related company. In the case of students and exchange visitors (examples referred to by the commenters), it is relatively easy to determine the length of the temporary stay. Time limits may not be inherent or expressed in the various positions which may be covered by a blanket petition, and the consular officer is not in a position to know whether the applicant has previously received visas from other consulates. The only practical way to control abuse and assure that the applicant for the L–1 visa will be entering the United States for a temporary stay is to limit the blanket petition to the period of need or three years, whichever is shorter. Where appropriate, extensions of stay may be granted. In the case of the L beneficiary, the temporary nature of the stay must be examined on a case-by-case basis, depending on the nature of the services he or she is coming to render. The three-year renewals by petitioner and

beneficiary will provide a mechanism for ensuring compliance with the Act.

(2) Section 214.2(h)(10). Two commenters opposed the filing of additional Forms I–129B (Petition to Classify Nonimmigrant as Temporary Worker or Trainee) and I–539 (Application for Extension of Stay) as an added complication. This requirement is the most effective way of ending the current confusion, described below in description of final rule, as to what can be appealed and what benefit is actually sought. Also, to monitor compliance with the regulations requires that individual applicants for extension of stay be examined in greater detail, which is afforded by the information on Form I–539.

(3) Section 214.2(l)(1)(A). Five commenters objected to the definition of "executive" as too restrictive. Four objected to the concept of including the definition, one felt that it would eliminate alien executives who worked under a different management system than that used in the United States. It was written as a general description of duties which would qualify a person as an executive. These guidelines, in the Service's opinion, are flexible enough to allow aliens functioning as executives to justify their claim to executive status.

(4) Section 214.2(l)(1)(iii)(C). Six commenters requested that the Service lower the number of past L approvals required to qualify for the blanket petition or apply a different system. The main purpose of the revision was to streamline processing in cases where the petitioner makes frequent intracompany transfers of a similar nature and has demonstrated familiarity with applicable requirements. The decision to use ten approvals as the qualifying number was based on information from the business community prior to publication. The issue has been reevaluated based on the comments and the qualifying number of approvals is lowered from ten to five.

(5) Section 214.2(l)(1)(iii). Eight commenters objected to the exclusion of specialized knowledge from the blanket petition. The final rule remains unchanged, based on the Service's past experience in adjudicating this classification. The exclusion of specialized knowledge is necessary to give INS the necessary control in monitoring compliance afforded by adjudication of individual petitions. The Department of State has concurred with these regulations including INS' decision to exclude specialized knowledge from the blanket petition.

(6) Four commenters opposed the codification of Service interim decisions into the regulations. In the twelve years since the L classification was created, there have been numerous precedent decisions relating to the eligibility of intra-company transferees. The principles of these decisions have been included in the new L regulation to provide better information to members of the public who do not have access to the numerous administrative decisions.

(7) Three commenters pointed out that there is no provision for an appeal if the person requesting a L visa under a blanket petition is refused by an American consular officer on the ground that he is not an executive or manager. A revision to Service Operations Instruction 214(l) will provide that if an American consular officer refuses to issue an L visa on the basis that the applicant is neither an executive nor a manager within the meaning of these regulations, the applicant shall be advised that an individual petition may be filed with INS in his behalf. Denial of such a petition can be appealed under 8 CFR 103.

(8) Section 214.2(h)(8) and (l)(5). One comment questioned the Service's authority to establish revocation procedures for nonimmigrant visa petitions. It is the view of the Service that the elimination of specific statutory authority to revoke nonimmigrant visa petitions was inadvertent. Also, section 214 (8 U.S.C. 1184) of the Act, does provide the Attorney General with the authority to prescribe regulations for admission to the United States of any alien for such time, and under such conditions as deemed necessary.

Description of Final Rule

This rule provides that when an alien applies for an extension of stay under section 101(a)(15) (H) or (L) of the Act, the period of validity of the previously approved visa petition must have been extended. This action formalizes a procedure which already takes place whenever an extension requested by an H or L applicant is granted. The Service desires to clarify that the decision to deny an extension of stay request is separate from the decision to deny a request for extension of the validity of a visa petition. The denial of a request by an H or L applicant for an extension of stay made on Form I–539 is nonappealable. Denial of a request to extend a previsouly approved visa made on Form I–129 is appealable. This rule, by providing separate Service actions on the two types of requests, will benefit the public by ending any confusion as to what benefit is being sought and what appeal rights are available. This rule therefore requires all H's and L's to file separate extension of stay requests on Form I–539. While this will increase the number of these filings, the Service believes that proper enforcement of the regualtions requires that individual applicants for extension be examined in the greater detail afforded by the information in Form I–539.

Section 214.2 (h)(8) and (l)(5) adds adds a procedure for revoking the previous approval of a nonimmigrant visa petition filed on Form I–129B. The new procedure allows for two types of revocation proceedings, automatic and on notice. Automatic revocation of an approved Form I–129B would occur when the petitioner dies, goes out of business, or files written withdrawal of the petition. The automatic revocation proceedings are not appealable.

The revocation on notice procedure is initiated by the district director, by serving a notice of intent to revoke the visa petition. Upon receipt of this notice, the petitioner may submit evidence in rebuttal to the reasons for the proposed revocation. The district director shall consider all evidence submitted in making the decision. His decision may be appealed to the regional commissioner under part 103 of this chapter. When the beneficiary of a revoked petition is in the United States, a copy of the revocation is furnished to the alien and an appropriate period in which to voluntarily depart the United States is set.

Section 214.2(h)(6) allows for an initial approval period not to exceed two years for H–1 petitions (aliens of distinguished merit and ability). Approvals of H–3 (trainee) petitions will be granted for the duration of the approved training program. Experience with the administration of the H–1 and H–3 categories of nonimmigrants has shown that extending the initial approval period will greatly benefit the public without causing an adverse impact on compliance. First extension requests filed by the vast majority of aliens of distinguished merit and ability (H–1) are routinely granted. Upon initial approval of a petition for a trainee (H–3), the Service determines that the stated length of the training program is appropriate; therefore, admitting an H–3 for the length of that approved training program relieves the Service from unnecessary review of extension requests.

Section 214.2(l)(1)(ii) adds definitions of three major terms contained in section 101(a)(15)(L) of the Act (8 U.S.C. 1101(15)(L)). Those terms are *managerial capacity*, *executive capacity*, and *specialized knowledge*. Administration of this section of law during the past twelve year has produced a body of administrative law and practive which

the proposed definitions reflect. See *Matter of Raulin*, 13 I. & N. Dec. 654 (RC 1970), *Matter of Michelin Tire*, 17 I. & N. Dec. 248 (BIA 1977), *Matter of Penner*, Interim Decision 2865 (INS 1982), *Matter of Colley*, Interim Decision 2881 (INS 1981) and *Matter of Isovic*, Interim Decision 2933 (INS 1982).

The rule provides for a blanket petition procedure under which a petitioner may transfer managers and executives, for a temporary period, to the United States under section 101(a)(15)(L) of the Act based upon the approval of a single blanket petition (Form I–129B). After approval of a petition, all executives or managers whom the petitioner desires to transfer to the United States, in the positions covered by the blanket petition, are permitted to apply directly to an American embassy or consulate for L–1 visa issuance for a period of three years with possible extensions. A separate visa petition for each such individual is not required. Authority to determine that the individual manager or executive qualifies under the Act and regulations is vested in the consular officer. Service Operation Instructions will be amended to provide that if the consular officer finds that an applicant is not a manager or executive, an individual petition may be filed with the appropriate district office in the beneficiary's behalf. The length of stay for a beneficiary will run concurrently with, but not exceed the validity of, the approved blanket petition. Section 214.2(1)(iii)(C) applies only to executives and managers under the intra-company transferee classification and does not apply to an alien classified as an intra-company transferee under "specialized knowledge". To qualify, the petitioner must produce evidence that he has had at least five approved visa petitions during the past year.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that this rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.

This rule is not a major rule within the meaning of Section 1(b) of E.O. 12291 because it is not likely to result in a major increase in costs or prices, nor result in adverse effects on competition, employment, investment, productivity, or innovation.

List of Subjects

8 CFR Part 103

Administrative practice and procedure.

8 CFR Part 214

Administrative practice and procedure, Aliens, Authority delegation, Employment, Organization and functions, Passports and visas.

Accordingly, Title 8 of the Code of Federal Regulations is amended as follows:

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

1. Section 103.1, is amended by adding paragraph (l)(2)(xxiv) to read as follows:

§ 103.1 Delegation of authority.

* * * * *

(l) * * *

(2) * * *

(xxiv) Decisions revoking approval of certain petitions, as provided in § 214.2.

* * * * *

PART 214 — NONIMMIGRANT CLASSES

2. Section 214.2 is amended by revising paragraphs (h)(1), (h)(6), (h)(7), (h)(8) and (h)(9); paragraphs (h)(3a) and (h)(11) are removed, revised, and designated as (h)(14) and (h)(10) respectively; paragraph (h)(10) is redesignated as (h)(11); a new paragraph (h)(12) is added and former paragraph (h)(12) is redesignated as (h)(13).

§ 214.2 Special requirements for admission, extension, and maintenance of status.

* * * * *

(h) *Temporary employees*—(1) *Petitions.* Any alien defined in section 101(a)(15)(H) of the Act must be the beneficiary of an approved or extended visa petition filed on Form I–129B. The petition must be accompanied by the evidence listed in parts (2), (3), or (4) of this paragraph. The petitioner need not be a United States resident.

(i) *Jurisdiction.* An employer shall file the petition and supporting documents with the district director having administrative jurisdiction over the place in the United States where the beneficiary will perform services or receive training. If the services will be performed or the training will be received in more than one location in the United States, the petition must be filed with a Service officer having jurisdiction over at least one of those areas.

(ii) *Multiple beneficiaries.* An employer may include more than one beneficiary in an H petition if the beneficiaries will be performing the same type of service or receiving the same type of training, applying for visas at the same consulate, and performing services or receiving training in the same Service district.

(iii) *Change in employment or training.* If an alien in the United States desires to perform temporary service or training for another petitioner, the new employer must file a new petition on Form I–129B and the petition must accompany an application of an extension of stay, Form I–539. If the new petition is approved, an extension of stay may be granted for the validity of the approved visa petition.

* * * * *

(6) *Approval of petition*—(i) *General.* In adjudicating the petition, the district director shall consider all the evidence submitted, and any other evidence as he may independently require or obtain to assist his adjudication. The district director shall notify the petitioner on Form I–171C of the approval of the petition. An approved petition for an alien classified under section 101(a)(15)(H)(i) of the Act is valid for the period of established need for the beneficiary's temporary service but not to exceed two years. An approved petition for an alien classified under section 101(a)(15)(H)(iii) of the Act is valid for the documented length of the approved training program. If a certification by the Secretary of Labor or his designated representative is attached to a petition to accord an alien a classification under section 101(a)(15)(H)(ii) of the Act, the approval of the petition will not be valid beyond the date to which the certification is valid. When the certification does not state a validity period, approval of the petition will not exceed 1 year from the date on which the certification was issued.

(ii) *Spouse and dependents.* The spouse and minor children of the beneficiary are entitled to nonimmigrant H classification if accompanying or following to join the beneficiary in the United States. Neither the spouse nor children may accept employment unless they are the beneficiaries of an approved petition filed in their behalf and have been granted a nonimmigrant classification authorizing their employment.

(7) *Denial of petition*—(i) *Notice of intent.* Only when an adverse decision is proposed on the basis of evidence not submitted by the petitioner, shall the district director notify the petitioner of the intent to deny the petition and the basis for the denial. The petitioner may inspect and rebut the evidence and will

be granted a period of 10 days from the date of the notice in which to do so. Any rebuttal material will be considered in making a final decision.

(ii) *Notice of denial.* The petitioner will be notified of the decision, the reasons for the denial, and the right to appeal under Part 103 of this chapter. A denial decision by the district director will set forth the pertinent facts adduced from the evidence considered and give the specific reasons for the decision in the light of the facts and relating provisions of section 101(a)(15)(H) of the Act.

(8) *Revocation of approval of petitions*—(i) *Automatic revocation.* The approval of any petition is automatically revoked if the petitioner dies, goes out of business, or files a written withdrawal of the petition. When it comes to the attention of the district director that the approval has been automatically revoked, the district director shall promptly notify the petitioner of the revocation by letter.

(ii) *Revocation on notice.* The approval of a petition may be revoked if the beneficiary is no longer employed by the petitioner in the same capacity as specified in the petition or if the beneficiary is no longer receiving training as specified in the petition. The approval may also be revoked if it is determined that the statement of facts contained in the petition was not true and correct. If the district director finds that any of the above conditions exist, a notice of intent to revoke will be sent to the petitioner. The petitioner may submit evidence in rebuttal within 10 days from the date of the notice. Any rebuttal material will be considered in making the final decision. The petitioner may appeal a revocation on notice to the regional commissioner under Part 103 of this chapter.

(9) *Admission.* A beneficiary may apply for admission to the United States only during the validity period of the petition. The authorized period of the beneficiary's admission will not exceed the date of validity of the petition.

(10) *Extension of stay.* An extension may be authorized in increments of not more than 12 months each under the same terms and conditions that apply to admission. If maintaining status, the beneficiary may apply for an extension for the validity period of the approved visa petition by submitting Form I–539. An application for an extension of stay on behalf of a group of beneficiaries covered by the same original petition must be filed on Form I–539 by each individual alien, but only one Form I–129B for extension of visa petition validity is required. In the case of an extension of stay for an alien ensemble performing as a group, only one Form I–539 is required with an attached list of beneficiaries. A change in the previously authorized employment or training requires the filing of a new petition by the prospective employer or trainer and the filing of an I–539 by the beneficiary. The forms I–539 and I–129B may be filed concurrently. For an alien defined in section 101(a)(15)(H)(ii) of the Act, the application for extension of stay must be accompanied by a labor certification or a notice that the certification cannot be made, and the alien shall not be granted an extension which would result in an unbroken stay in the United States for more than 3 years. An application for an alien athlete or entertainer, admitted under section 101(a)(15)(H)(ii) of the Act to perform services in the United States Virgin Islands, cannot be approved for extension of stay beyond a total of 45 days. There is no appeal from the denial of an alien's request for an extension of stay filed on Form I–539.

(11) *Effect of strike.* (i) A petition to classify an alien as a nonimmigrant as defined in section 101(a)(15)(H) of the Act shall be denied if the Secretary of Labor or his designee certifies to the Commissioner of Immigration and Naturalization or his designee that a strike or other labor dispute involving a work stoppage of workers is in progress in the occupation and at the place the beneficiary is to be employed or trained and that the employment or training of the beneficiary would adversely affect the wages and working conditions of U.S. citizen or lawful resident workers.

(ii) If a petition has been approved, but the beneficiary has not yet entered the United States to take up the approved employment or training, and the Secretary of Labor or his designee certifies to the Commissioner of Immigration and Naturalization or his designee that a strike or other labor dispute involving a work stoppage of workers is in progress in the occupation and at the place the beneficiary is to be employed or trained, and that the employment or training of the beneficiary would adversely affect the wages and working conditions of U.S. citizens or lawful permanent resident workers, the approval of the petition is automatically suspended and the application for admission on the basis of the petition shall be denied.

(iii) If a petition has been approved, and the beneficiary has entered the United States to take up the employment or training, if the beneficiary is not an "employee" as defined in the National Labor Relations Act (29 U.S.C.) 152(3)), and the Secretary of Labor or his designee certifies to the Commissioner of Immigration and Naturalization or his designee that a strike or other labor dispute involving a work stoppage of workers is in progress in the occupation and place of employment or training, and that the employment or training of the beneficiary would adversely affect the wages and working conditions of U.S. citizens or lawful permanent resident workers, the approval of the petition is automatically suspended.

(iv) If a petition has been approved, the beneficiary has entered the United States to take up employment, and if the beneficiary is an "employee" within the definition of the NLRA; the existence of a strike in the occupation at the place of employment shall result in suspension of the beneficiary's authorization to work, unless the employer establishes to the satisfaction of the Secretary of Labor or his designee, who in turn certifies to the Commissioner of Immigration and Naturalization or his designee, that less than 30 percent of the work force in the occupation at the place of employment are U.S. citizens or lawful permanent resident workers, provided that the Secretary of Labor or his designee also certifies that the strike has been authorized by a majority of such U.S. citizens or lawful permanent resident workers who voted, or a majority of such workers are participating in the strike.

(v) As used in this section, "place of employment" means wherever the employer or a joint employer does business.

(12) *Extension of visa petition validity.* A visa petition extension may be authorized in increments of not more than 12 months each, under the same terms and conditions that applied to the original approval. If there is no change in the previously approved visa petition, an extension may be requested by submitting Form I–129B. Supporting documents are not required unless requested by the Service.

(13) *Special classes.* The services of an entertainer beneficiary shall be restricted to the activity, area, and employer specified in the approved petition. Any engagement not specified in the original petition requires a new petition. A new petition is also required if the entertainer's services are engaged by a new employer of by a new agent or are to be performed in another area, except that a new petition is not required for the appearance of an alien performer on a bona fide charity show without compensation; provided, the alien is already in the United States under an approved visa petition. A show is not considered a "bona fide charity show" within the meaning of this paragraph if any of the musicians,

entertainers, or other performers receive compensation, including reimbursement for expenses, for their performance. A petition is not required for an appearance, interview, or demonstration, if without remuneration, by any nonimmigrant alien who is not an entertainer by occupation. A separate petition and fee are required for each group of variety entertainers comprising a separate and distinct act.

(14) *Use of Form I–171C.* The Service shall notify the petitioner on Form I–171C whenever a visa petition or an extension of a visa petition is approved under the H classification. The petitioner may furnish the Form I–171C to any one of the beneficiaries who desires to depart from and return to the United States within the period for which the visa petition is valid, but may not duplicate the original form received from the Service; however, additional original forms may be requested. A beneficiary who is required to present a visa for admission and whose visa will have expired before the date of his or her intended return may use Form I–171C, as stated on the form, to apply for a new or revalidated visa. If the beneficiary is exempt from the visa requirement, the beneficiary may present the original Form I–171C at the United States port of entry upon return to be considered for readmission until the expiration date of the validity of the visa petition as shown on Form I–171C.

* * * * *

3. In § 214.2, paragraph (l) is revised to read as follows:

(l) *Intra-company transferees*—(1) *Petition.* Any alien defined in section 101(a)(15)(l) of the Act must be the named beneficiary of an approved or extended visa petition filed on Form I–129B, or be assigned to a position identified in an approved blanket petition made on the same form. The petition must be accompanied by the evidence listed in part (iii) of this paragraph. The petitioner need not be a United States resident.

(i) *Jurisdiction.* The prospective employer must file a separate petition for each beneficiary with the district director having jurisdiction over the place in the United States where the beneficiary will perform the services. In case of a blanket petition, the petition must be filed with the district director having jurisdiction over the employer's main office in the United States. The authority to determine the individual eligibility of beneficiaries covered by blanket petitions under this section is delegated to United States consular officers.

(ii) *Definitions.* As used in this part:

(A) "Managerial capacity" means an assignment within an organization in which the employee directs the organization or a customarily recognized department or subdivision of the organization, controls the work of other employees, has the authority to hire and fire or recommend those actions as well as other personnel actions (promotion, leave authorization, etc.), and exercises discretionary authority over day-to-day operations. This does not include the first-line level of supervision unless the employees supervised are managerial or professional.

(B) "Executive capacity" means an assignment within an organization in which the employee directs the management of an organization and establishes organizational goals and policies, exercises a wide latitude of discretionary decision-making, and receives only general supervision or direction from higher level executives, the board of directors, or stockholders of the business.

(C) "Specialized knowledge" means knowledge possessed by an individual which relates directly to the product or service of an organization or to the equipment, techniques, management, or other proprietary interests of the petitioner not readily available in the job market. The knowledge must be relevant to the organization itself and directly concerned with the expansion of commerce or it must allow the business to become competitive in the market place.

(D) "New office" means an office that has been in operation for less than one year.

(iii) *Evidence*—(A) *General.* A petitioner seeking to accord an alien classification under section 101(a)(15)(L) of the Act shall attach a statement to the petition describing the capacity in which the beneficiary will be employed in the United States. The documentary evidence must establish that the service currently performed by the beneficiary, and those to be performed in the United States, have been and will be either executive, managerial, or involve specialized knowledge. The statement must satisfy the requirement in part (1)(ii) of this section. If the petition indicates that the beneficiary is coming to open or to be employed in a new office in the United States, the petition must be accompanied by evidence that sufficient physical premises to house the United States operation have been secured by purchase, lease, or rental, and the petitioner has sufficient resources to remunerate the beneficiary. An individual petition is required in the case of all petitions involving new offices.

(B) *Individual petition.* A petition must be accompanied by evidence of the corporate interrelationship between the foreign company and the United States-based company in order to establish existence of the interrelationship described in section 101(a)(15)(L) of the Act. A statement explaining the temporary need for the beneficiary's services must also accompany the petition. If the beneficiary is an owner, operator, or major stockholder of the company, the petition must be accompanied by evidence that the beneficiary's services are to be used for a temporary period and also include evidence that the beneficiary will be transferred to an assignment outside the United States upon completion of the temporary services in the United States.

(C) *Blanket petitions.* A petitioner may file a blanket petition if it has transferred at least 5 "L" managerial or excecutive beneficiaries to the United States during the previous 12 months. The petition must be accompanied by evidence that this requirement has been met. The petition must also be accompanied by evidence of the corporate interrelationship of all foreign and domestic entities which the petitioner identified in the petition and a list of the positions to which its executives or managers may be assigned in the United States. If an organization will identify more than 10 positions, the petitioner may furnish a description of its personnel structure and identify the level above which it will or may seek to transfer managers or executives. Qualified employees who are being transferred into managerial and executive positions identified in the approved blanket petition shall apply directly to an American embassy or consulate for visa issuance without being named in an individual visa petition. A beneficiary of a blanket petition may be admitted as a manager or executive with any organization or division named in the approved visa petition. When the beneficiary of a revoked petition is in the United States, a copy of the revocation shall be furnished to the alien with a date on which to depart the United States.

(2) *Certification of documents by attorneys.* A copy of a document submitted in support of a visa petition filed pursuant to section 214(c) of the Act and § 214.2(l) of this part may be accepted, without the original, if the copy bears a certification by an attorney, typed or rubber-stamped in the language set forth in § 204.2(h) of this chapter. However, the original document shall be submitted if requested by the Service.

(3) *Approval of petition.*—(i) *General.* The district director shall notify the petitioner on Form I–171C upon approval of a visa petition filed on Form I–129B. An individual petition approved under this paragraph is valid for the period of established need for the beneficiary's temporary services, not to exceed three years. A blanket petition approved under this paragraph is valid for a period of three years from the date of approval of the petition. A blanket petition may be approved in whole or in part. Only those interrelationships found to qualify under section 101(a)(15)(L) of the Act shall be approved. A petitioner may utilize the services of a beneficiary in any qualifying executive or managerial position and for any company found qualified in the blanket petition.

(ii) *Spouse and dependents.* The spouse and unmarried minor children of the beneficiary are entitled to the same nonimmigrant classification and length of stay if accompanying or following to join the beneficiary in the United States. Neither the spouse nor children may accept employment unless they are the beneficiaries of an approved petition filed in their behalf and have been granted a nonimmigrant classification authorizing their employment.

(4) *Denial of petition*—(i) *General.* A petition denied in whole or in part may be appealed under Part 103 of this chapter.

(ii) *Individual petition.* If an individual petition is denied, the petitioner will be notified of the denial, the reasons for the denial, and of the right to appeal on Form I–292.

(iii) *Blanket petition.* If a blanket petition is denied in whole or in part, the petitioner shall be notified of the decision and the reasons for the denial in part resulting from a finding that some of the claimed inter-company relationships and/or positions do not qualify under section 101(a)(15)(L) of the Act. The district director shall forward the denial along with Form I–171C, Notice of Approval, when the petition is denied in part. Form I–171C shall list those inter-company relationships and positions which were found to qualify. If the decision of the district director is reversed on appeal, a new Form I–171C shall be furnished to the petitioner to reflect the changes made as a result of the appeal.

(5) *Revocation of approval of petitions*—(i) *Automatic revocation.* The approval of any petition is automatically revoked if the petitioner dies, goes out of business, or files a written withdrawal of the petition. When it comes to the attention of the district director that the approval has been automatically revoked, the district director shall promptly notify the petitioner of the revocation by letter.

(ii) *Revocation on notice.* The approval of a petition may be revoked if the ownership and control of the related businesses are altered, and the interrelationship or employment of the beneficiary no longer qualify under section 101(a)(15)(L) of the Act. The petitioner shall notify the Service of any changes in the relationships between authorized companies and any changes to the employment of the beneficiary. If the district director's review of the change finds that the inter-relationship or employment is no longer eligible within the meaning of section 101(a)(15)(L) of the Act, a notice of intent to revoke shall be sent to the petitioner. If an inter-relationship previously approved under a blanket petition is found to no longer qualify, a notice of intent to revoke only that portion of the petition affected by the determination shall be sent to the petitioner. Upon receipt of this notice, the petitioner may submit evidence in rebuttal of the reasons for the proposed revocation. The district director will consider all evidence in making the decision. If the petition is revoked in part, the remainder of the petition shall remain approved and a revised Form I–171C shall be sent to the petitioner with the revocation notice. The petitioner may appeal a revocation on notice to the regional commissioner under Part 103 of this chapter.

(6) *Admission.* A beneficiary may apply for admission to the United States only during the validity period of the petition. The authorized period of the beneficiary's admission shall not exceed the date of validity of the petition.

(7) *Extension of stay.* An alien classified under section 101(a)(15)(L) of the Act shall apply for an extension of stay on Form I–539. The Form I–539 must be accompanied by a statement of continued need signed by an authorized company representative. Extensions of stay may be authorized in increments not to exceed 12 months for a beneficiary of an individual petition and not exceed 36 months for an alien admitted under a blanket petition authorization. No extension will be granted to exceed the validity of the approved petition. The same terms and conditions authorizing the approval of the petition and admission of the beneficiary shall apply. However, an alien admitted under the authority of an approved blanket petition may be reassigned to any business in a managerial or executive position included in the approval of the blanket petition without referral to the Service. The application for extension of stay for a beneficiary of an approved blanket petition must be filed with the Service office that approved the original visa petition. The spouse and unmarried minor children of an L–1 beneficiary may be included in the extension application and given extensions of stay to the same date as the beneficiary. A new Form I–171C shall be sent to the applicant if the extension is approved. There is no appeal from the denial of an extension of stay. Form I–129B may be filed concurrently for extension of visa petition validity.

(8) *Extension of visa petition validity.* An individual petition may be extended in increments of not more than 12 months each by submitting Form I–129B if all existing conditions in the original approval remain the same. Supporting documents are not required unless requested by the Service. A blanket petition may be extended for an additional three year period by submitting a Form I–129B with the file number of the previously approved petition. Supporting documents are not required if all existing business relationships and authorized positions remain the same. When listed oganizations or positions are to be amended, a revised petition must be filed on Form I–129B. Form I–171C must list all qualifying inter-company relationships which have qualified under this part.

(9) *Labor disputes.* A petition will be denied if a strike or other labor dispute involving a work stoppage or layoff of employees is in progress in the occupation and at the place the beneficiary is to be employed. If the petition has already been approved, the approval of the beneficiary's employment is automatically suspended while the srike or other labor dispute is in progress.

(10) *Use of Form I–171C.* The Service shall notify the petitioner on Form I–171C upon approval of a visa petition filed on Form I–129B. The Form I–171C will include the name of the beneficiary or, in the case of a blanket petition, will identify the positions and organizations included in the petition. Each alien seeking a visa to occupy a position named in an approved blanket petition must submit a copy of Form I–171C with a letter from the petitioner which identifies: the position and organization from which the employee is transferring, the new organization and position to which the employee is destined, a description of the employee's actual duties and salary under both the new and former positions, and the dates and locations of previous L stays in the

United States. The employer of a beneficiary named in an individual visa petition may request the Service to issue an original form I–171C to the employee to facilitate entry into the United States for a beneficiary who does not require an nonimmigrant visa. The original Form I–171C may be retained by the beneficiary and presented for entry during the validity of the petition; provided, the beneficiary is entering or reentering the United States to resume the same employment with the same petitioner within the validity period of the petition. However, an L–1 beneficiary admitted under the authorization of a blanket petition may be readmitted even though reassigned to a different managerial or executive position or organization named on the Form I–171C. The original Form I–171C received from the Service may only be duplicated by employers who have approved blanket petitions; however, additional forms may be requested by individual petitioners.

* * * * *

(Secs. 103, 214, Immigration and Nationality Act, as amended (8 U.S.C. 1103, 1184))

Dated: August 23, 1983.

Alan C. Nelson,

Commissioner of Immigration and Naturalization.

[FR Doc. 83-24980 Filed 9-13-83; 8:45 am]

BILLING CODE 4410-10-M

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8 CFR Part 238

Contracts With Transportation Lines; Wardair Canada (1975) Ltd.

Correction

In FR Doc. 83-23777 appearing on page 39214 in the issue of Tuesday, August 30, 1983, make the following correction:

On page 39214, second column, under "Supplementary Information", eighth line, "Immigration and Nationally Act" should read "Immigration and Nationality Act".

BILLING CODE 1505-01-M

FARM CREDIT ADMINISTRATION

12 CFR Part 614

Loan Policies and Operations

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: Farm Credit Administration ("FCA"), by its Federal Farm Credit Board is amending its regulation dealing with banks for cooperatives' authorization to make both secured and unsecured loans. This amendment will permit the treatment of loans secured by payment in kind ("PIK") contracts as loans secured by warehouse receipts or other title documents. This final regulation is identical to an interim regulation which was published on June 29, 1983 (48 FR 29833) and which was effective on that date. No comments were received on the interim regulation.

EFFECTIVE DATE: June 29, 1983.

FOR FURTHER INFORMATION CONTACT: Gary L. Norton, Office of General Counsel, Farm Credit Administration, Washington, D.C. 20578, (202) 426–7631.

SUPPLEMENTARY INFORMATION: FCA regulation 12 CFR 614.4260 establishes the loan and security requirements for loans made by the banks for cooperatives ("BCs"). The regulation provides that loans which are secured by warehouse receipts or other title document are eligible for advances up to 75 percent of the unhedged net value of the commodity or 90 percent of the hedged value of the commodity.

On March 4, 1983, the Agricultural Stabilization and Conservation Service, USDA, published a final rule which provides for a payment-in-kind ("PIK") program for acreage diversion for the 1983 crops of wheat, corn, grain sorghum, rice, and upland cotton. Under the program, producers will be offered a quantity of a commodity as compensation for diverting acreage normally planted to that commodity in addition to that being taken out of production under the 1983 acreage reduction and cash land diversion programs for wheat, corn, grain sorghum, rice, and upland cotton previously announced. The USDA has determined that the diversion of this additional acreage from the production of such crops is necessary to adjust the total national acreage of such commodities to achieve desirable production goals and that producers should be compensated by receipt of like commodities. (48 FR 9232 codified at 7 CFR Part 770).

The Federal Farm Credit Board ("Federal Board") has determined that PIK contracts which have been assigned by producers to marketing cooperatives should be treated as title documents for purposes of 12 CFR 614.4260 because of the unique safeguards contained in the PIK program and in light of cross compliance requirements and provisions for liquidated damages. Accordingly, the final regulation amends 12 CFR 614.4260 to provide that BC loans secured by contract rights under the PIK program will be eligible for the same net value loan advance amounts as loans secured by title documents.

In permitting these higher percentage advances the Federal Board recognizes that since PIK commodities are not eligible for Commodity Credit Corporation ("CCC") loans the BCs will not be able to rely on the CCC loan rates as price floor for commodities covered by the contracts and therefore the BCs must exercise care in valuing these commodities.

Because of the immediate need to provide authority for higher percentage loan advances for BC loans secured by PIK contracts and the need of the BCs to avoid delay when making commitments to advance funds under these loans the Federal Board determined, pursuant to 5 U.S.C. 553, it was unnecessary and contrary to the public interest to provide notice and opportunity for public comment prior to the effective date of the interim regulation. Accordingly the interim regulation was effective June 29, 1983. The public was provided 30 days to comment on the interim regulation. No comments were received. The interim regulation is now being published as a final regulation without change.

List of Subjects in 12 CFR Part 614

Agriculture, Banks, banking, Credit, Rural areas.

PART 614—LOAN POLICIES AND OPERATIONS

For the reasons set out in the preamble, 12 CFR Part 614 is amended by revising §614.4260, paragraph (c) to read as follows:

* * * * *

§ 614.4260 Banks for cooperatives.

* * * * *

(c) Seasonal loans made to finance commodities that qualify for special interest rate (where applicable) and lending limit consideration shall be secured. Loans secured by a chattel mortgage, factor's lien, security agreement, or security other than warehouse receipts or other title documents shall not exceed 65 percent of the net value of unhedged or 85 percent of the net value of hedged commodities and the borrower must have sufficient working capital to keep the loan properly margined. Loans secured by warehouse receipts or other title documents shall not exceed 75 percent of the unhedged net value of the commodity or 90 percent of the hedged net value and the borrower must have sufficient working capital to keep the loan properly margined. Loans secured by contract rights under the Agricultural Stabilization and Conservation Service,

USDA, special program of payment in kind for acreage diversion for 1983 or subsequent crop years of wheat, corn, grain sorghum, upland cotton, and rice (7 CFR Part 770) shall be eligible for the same net value amounts as loans secured by title documents.

* * * * *

(Secs. 5.9, 5.12, 5.18, Pub. L. 92-181, 85 Stat. 619, 620, 621 (12 U.S.C. 2243, 2246, 2252))

Kenneth J. Auberger,

Acting Governor.

[FR Doc. 83-24851 Filed 9-13-83; 8:45 am]

BILLING CODE 6705-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 83-NM-74-AD; Amdt. 39-4722]

Lockheed-California Company Model L-1011-385 Series; Airworthiness Directives: Airplanes, Serial Numbers 1052 and Subsequent

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This document amends an existing airworthiness directive (AD) 81-26-51 applicable to Lockheed-California Company Model L-1011-385 Series airplanes, Serial Numbers 1052 through 1243, which requires inspections for cracks in the Fuselage Station (FS) 1363 bulkhead and repair and/or replacement of defective parts as necessary. This amendment (1) Adds a new requirement for inspection of the bulkhead cap; (2) Reduces the external inspection intervals from 1,000 to 600 landings; (3) Requires a new inspection method; and (4) Reduces the external inspection intervals from 500 landings to 250 landings in case cracks are found only in the reinforcing strap and have not been repaired. These changes are necessary because the present inspection requirements have been determined to be inadequate. If cracks are present and are not detected, they may propagate to a point where sudden decompression of the aircraft may occur.

DATES: Effective September 21, 1983.

Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from: Lockheed-California Company, P.O. Box 551, Burbank, California 91520, Attention: Commercial Support Contracts, Dept. 63-11, U-33, B-1. This information also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington or at 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Augusto Coo, Aerospace Engineer, Airframe Branch, ANM-121L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 548-2820.

SUPPLEMENTARY INFORMATION: On December 11, 1981, telegraphic AD T81-26-51 was issued to all known operators of Lockheed-California Company Model L-1011-385 Series airplanes, Serial Number 1052 and subsequent, as a result of reports of cracks in FS 1363 bulkhead which if left unattended could result in sudden decompression of the airplane. Subsequently, AD 81-26-51 was amended to include an alternative inspection and a repetitive inspection requirement, to add an inadvertently omitted initial inspection threshold and to add a terminating modification.

Since AD 81-26-51 was amended on February 9, 1983, several Lockhead Model L-1011 operators have experienced difficulties performing the required eddy current inspection procedures using an encircling probe as defined in Lockheed Service Bulletin 093-53-208, Revision 2, dated August 17, 1982. An X-ray inspection method has been developed to replace the low frequency eddy current inspection method and its procedures incorporated in Service Bulletin 093-53-228, dated April 22, 1983, which superseded Lockheed Service Bulletin 093-53-208. This inspection method does not have the sensitivity and reliability of the eddy current inspection method originally intended for use; thus, the inspection intervals as prescribed in the AD have to be reduced for this X-ray inspection method to be utilized. This amendment is needed to provide these substitutive requirements.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending AD 81-26-51, Amendment 39-4328 (47 FR 8557; March 1, 1982) as amended by Amendment 39-4555 (48 FR 4266; January 31, 1983), by revising paragraphs A.1, A.3(a), A.3(b), C., and E., to read as follows, and adding paragraph A.3(d):

A.1. Compliance is required within 300 landings after the effective date of this AD for the inspection specified in paragraph C., below, on all aircraft having accumulated 10,000 or more landings, as of the effective date of this AD. Previously accomplished inspections per paragraph B. or F., below, or per Accomplishment Instructions, Section 2, of Lockheed L-1011 Service Bulletin 093-53-208, Revision 1, dated December 23, 1981, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region, satisfy this initial inspection requirement.

A.3. Repetitive inspections in accordance with paragraph C., below, are required on all affected aircraft until the permanent modification specified in Section 2, Accomplishment Instructions, of Lockheed L-1011 Service Bulletin 093-53-207, Revision 1, dated October 12, 1982, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region, is accomplished which terminates the repetitive inspections required by this AD.

(a) If the initial inspection was accomplished in accordance with paragraph B. below, within an additional 300 landings after the initial inspection, or within 100 landings after the effective date of this amendment, whichever is later, inspect internally at intervals not to exceed 2,000 landings and externally at intervals not to exceed 600 landings thereafter in accordance with paragraph C. below.

(b) If the initial inspection was accomplished in accordance with Accomplishment Instructions, Section 2, of Lockheed L-1011 Service Bulletin 093-53-208, Revision 1, dated December 23, 1981, within an additional 600 landings after the initial inspection, or within 300 landings after the effective date of this amendment, whichever is later, inspect internally at intervals not to exceed 2,000 landings and externally at intervals not to exceed 600 landings thereafter in accordance with paragraph C. below.

(d) Any area with bulkhead cap repairs must be inspected at an interval not to exceed 500 landings. If the bulkhead cap repair had been accomplished prior to the effective date of this AD, the next X-ray inspection to the bulkhead cap must be accomplished within 500 landings from the date of the repair or within 500 landings from the last X-ray inspection, whichever is earlier.

C. Accomplishment Instructions—Option 2

Inspect for cracks in FS 1363 bulkhead cap and surrounding areas in accordance with the inspection procedures specified in Section 2, Accomplishment Instructions, of Lockheed L-1011 Service Bulletin 093-53-228, dated April 22, 1983, or later revisions approved by the

Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

E. If cracks are found only in the Lockheed P/N 1518531–121 reinforcing strap and not repaired, reinspect externally in accordance with paragraph C., above, at intervals not to exceed 250 landings until a repair or permanent modification is incorporated in a manner approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Lockheed California Company, P.O. Box 551, Burbank, California 91520, Attention: Commercial Support Contracts, Dept. 63–11, U–33, B–1. These documents also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington or the Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California.

This amendment becomes effective September 21, 1983.

(Sec.313(a), 314(a), 601, through 610, and 1102, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89)

Note:—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12281 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption **FOR FURTHER INFORMATION CONTACT.**

Issued in Seattle, Washington on September 1, 1983.

Charles R. Foster,

Director Northwest Mountain Region.

[FR Doc. 83–24966 Filed 9–13–83; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 83–NM–71–AD; Amdt. 39–4723]

Lockheed-California Company Model L–1011–385 Series; Airworthiness Directives: Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This document amends an existing airworthiness directive (AD) applicable to Lockheed-California Company Model L–1011–385 series airplanes, Serial Numbers 1001 through 1051, inclusive, which requires inspections for cracks in the Fuselage Station (FS) 1363 bulkhead and repair and/or replacement of defective parts, if necessary. This amendment introduces a requirement to inspect repaired bulkhead caps at intervals of 500 landings and expands the eddy current inspection procedures. Failure to detect cracks could lead to decompression of the airplane.

DATE: Effective September 21, 1983.

Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from: Lockheed-California Company, P.O. Box 551, Burbank, California 91520, Attention: Commercial Support Contracts, Dept. 63–11, U–33, B–1. This information also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington or at 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Augusto Coo, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 548–2826.

SUPPLEMENTARY INFORMATION: On August 21, 1981, telegraphic AD T81–18–51 was issued to all known operators of Lockheed-California Company Model L–1011–385 series airplanes, Serial Numbers 1001 through 1051 inclusive, as a result of reports of fuselage cracks in the main landing gear wheel well area at FS 1363. These cracks, if left unattended, could result in rapid decompression of the airplane. AD 81–18–51 was subsequently amended to establish a repetitive inspection program and to provide a terminating modification.

On April 22, 1983, Lockheed revised Service Bulletin 093–53–206 and added X-ray inspection procedures for use in the inspection of bulkhead cap structure repairs which require repetitive inspections at intervals of 500 landings and expanded the eddy current inspection procedures. The inspection procedures required by AD 81–18–51 are not adequate to detect cracks in repaired bulkhead caps. This amendment revises paragraphs related to this service bulletin. The terminating repair paragraph has been revised to allow modifications to later FAA approved revisions to Service Bulletin 093–53–207.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending AD 81–18–51, Amendment 39–4242 (46 FR 52091; October 26, 1981) as amended by Amendments 39–4279 (46 FR 60808; December 14, 1981) and 39–4365 (47 FR 16617; April 19, 1982) by revising paragraphs A.2, A.3 and C.1 to read as follows:

"A.2. If operators elect to accomplish the inspections in accordance with paragraph C below, the repetitive inspection interval not to be exceeded is 1,000 landings on airplanes with no structural damage and on repaired airplanes that have no repairs or structural damage to the bulkhead cap. Any aircraft with repairs to the bulkhead cap must be inspected at intervals not to exceed 500 landings. If the bulkhead cap repair had been accomplished prior to the effective date of this amendment, the next X-ray inspection to the bulkhead cap must be accomplished within 1,000 landings from the date of the repair or 500 landings from the effective date of this amendment, whichever is earlier. Thereafter, inspect per X-ray inspection procedures at intervals not to exceed 500 landings."

"A.3. Permanent modifications to the FS 1363 bulkhead structure in accordance with Lockheed-California Company L–1011 Service Bulletin 093–53–207, dated January 26, 1982, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region, eliminates the requirements for the periodic inspections specified in this AD."

"C.1. Inspect for cracks in FS 1363 bulkhead cap and surrounding areas in accordance with Lockheed L–1011 Service Bulletin 093–53–206, Revision 2, dated April 22, 1983, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region."

Under **FOR FURTHER INFORMATION CONTACT,** replace Harvey A. Chimerine with Mr. Augusto Coo.

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Lockheed-California Company, P.O. Box 551, Burbank, California 91520, Attention: Commerical Support Contracts, Dept. 63–11, U–33, B–1. These documents also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington

or the Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California.

This amendment becomes effective September 21, 1983.

(Sec. 313(a), 314(a), 601 through 610, and 1102, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502) (49 U.S.C. 106(g)) (Revised, Pub. L. 97-449, January 12, 1983); adn 14 CFR 11.89

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evalution or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption **FOR FURTHER INFORMATION CONTACT.**

Issued in Seattle, Washington on September 1, 1983.

Charles R. Foster,

Director Northwest Mountain Region.

[FR Doc. 83-24846 Filed 9-13-83; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket 8909]

Xerox Corp.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying Order.

SUMMARY: This order reopens the proceeding and modifies Paragraph XVI of the Commission's order issued on July 29, 1975 in the matter of Xerox Corporation, by deleting provisions that prohibited the company from promoting or taking orders for the sale or lease of any new office copier more than 3 months before its commercial availability.

DATES: Consent Order issued July 29, 1975. Modifying Order issued August 22, 1983.

FOR FURTHER INFORMATION CONTACT: FTC/CC, Selig S. Merber, Washington, D.C. 20580. (202) 634-4642.

SUPPLEMENTARY INFORMATION: In the Matter of Xerox Corporation, a corporation. Codification appearing at 40 FR 42203 remains unchanged.

List of Subjects in 16 CFR Part 13

Office copiers, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46, Interprets or applies sec. 5, 38 Stat. 719, as amended (15 U.S.C. 45))

Order Modifying Cease and Desist Order Issued on July 25, 1975

In the matter of Xerox Corporation, a corporation (Docket No. 8909).

By a petition filed on April 22, 1983, respondent Xerox Corporation ("Xerox") requests that the Commission reopen the proceeding in Docket No. 8909 and modify Paragraph XVI of the order issued in this case to terminate approximately two years early its prohibition against Xerox promoting new copiers more than three months before their commercial availability. Paragraph XVI presently is scheduled to expire on July 29, 1985. Pursuant to Section 2.51 of the Commission's Rules of Practice, the petition was placed on the public record for comments. No comments were received.

Upon consideration of Xerox's request and supporting materials, and other relevant information, the Commission finds that the public interest warrants reopening and modification of the order.

In view of the changes that have taken place in the United States copier industry over the last decade, including the entry of numerous new competitors and Xerox's diminished market position, the order's prohibition against advance product announcement and promotion by Xerox is no longer needed to assure competition in the United States copier market. Advance new product announcements by Xerox, in light of these industry changes, no longer pose any danger of allowing Xerox to gain or perpetuate a monopoly or otherwise limit competition in the relevant market. Moreover, continuation of the order's prohibition against advance product announcement and promotion by Xerox appears to hamper Xerox's ability to compete and, consequently, reduces interbrand competition and deprives buyers of the opportunity to make informed decisions concerning their copier needs.

Accordingly,

It is ordered that this matter be, and it hereby is, reopened and that Paragraph XVI of the Commission's order be modified to read as follows:

XVI

It is further ordered that during the period ending 10 years after the date of issuance of this order at the time Xerox announces that it will take orders for the lease of an Office Copier in the United States, it shall also announce the selling price of such Office Copier.

By direction of the Commission.

Issued: August 22, 1983.

Emily H. Rock,

Secretary.

[FR Doc. 83-24902 Filed 9-13-83; 8:45 am]

BILLING CODE 6750-01-M

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16 CFR Part 13

[Docket C-3114]

Trans Union Credit Information Co.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires a Chicago-based computerized consumer credit reporting agency and its credit bureaus, among other things, to review its credit reporting system to detect and remedy, where feasible, significant inaccuracies in information maintained or reported by the system. The company is prohibited from furnishing reports to investigative agencies, government law enforcement agencies and others who are not properly certified, or to those whom respondent has reason to believe would use the information for impermissible purposes. The company must advise users of the reports that anyone obtaining credit information under false pretenses is subject to a fine and/or imprisonment under federal law. In making file disclosures to properly identified consumers, respondent must disclose the nature and substance of all information retained on the consumer, however recorded. The company must also reinvestigate disputed credit information; advise the consumer of the results of its investigation; and record corrected information within a reasonable period of time. Reports must also contain clear and accurate dispute statements or summaries of such statements filed by consumers. Further, when responding to a telephonic request for information, respondent must read the dispute statement prior to disclosing the challenged information. Additionally, respondent is prohibited from purging any consumer file containing credit account information that is solely non-derogatory and whose most recent date of activity is less than five years old, unless it advises users of

the reports that such purges are performed periodically.

DATES: Complaint and Order issued Aug. 25, 1983.[1]

FOR FURTHER INFORMATION CONTACT: FTC/PD, David Federbush, Washington, D.C. 20580. (202) 523–1847.

SUPPLEMENTARY INFORMATION: On Tuesday, June 14, 1983, there was published in the **Federal Register**, 48 FR 27258, a proposed consent agreement with analysis In the Matter of Trans Union Credit Information Company, a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Collecting, Assembling, Furnishing or Utilizing Consumer Reports: § 13.382 Collecting, assembling, furnishing, or utilizing consumer reports; 13.382–1 Confidentiality, accuracy, relevancy and proper utilization; 13.382–1(a) Fair Credit Reporting Act; 13.382–5 Formal regulatory and/or statutory requirements; 13.382–5(a) Fair Credit Reporting Act. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533–37 Formal regulatory and/or statutory requirements; 13.533–45 Maintain records.

List of Subjects in 16 CFR Part 13

Consumer credit reports.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 84 Stat. 1128–36; 15 U.S.C. 1681–1681t)

Emily H. Rock,

Secretary.

[FR Doc. 83-24993 Filed 9-13-83; 8:45 am]

BILLING CODE 6750-01-M

[1] Copies of the Complaint and the Decision and Order filed with the original document.

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 180

Regulations Pertaining to Arbitration

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rules.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is amending Commission Rule 180.3 governing the content of pre-dispute arbitration agreements entered into by futures commission merchants ("FCMs"), floor brokers or associated persons and their customers. The amendments extend the requirements of that rule to introducing brokers ("IBs"), commodity pool operators ("CPOs") and commodity trading advisors ("CTAs") and make clear that the rule applies to the associated persons ("APs") of each such category of registrant.[1]

EFFECTIVE DATE: October 14, 1983.

FOR FURTHER INFORMATION CONTACT: Robert H. Rosenfeld, Attorney, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581 (202) 254–8955.

SUPPLEMENTARY INFORMATION:

I.

The Futures Trading Act of 1982 amended sections 4d, 4f and 4k of the Commodity Exchange Act to require, *inter alia*, the registration of introducing brokers and three new categories of associated persons: APs of introducing brokers, commodity pool operators and commodity trading advisors.[2] The Commission recently implemented those new registration requirements by, *inter alia*, requiring the registration of introducing brokers and by amending the definition of "associated person" in rule 1.3(aa) to include APs of introducing brokers, commodity pool operators and commodity trading advisors.[3] The adoption by the Commission of such rules could result in an anomalous interpretation of § 180.3 governing the content and effect of pre-dispute arbitration agreements entered into by FCMs, floor brokers and APs.[4] Associated persons of IBs, CPOs and CTAs would be required to comply with the requirements of § 180.3(b) in the event they enter into a pre-dispute arbitration agreement with their customers[5] while their principals would not be under any direct requirement to comply with that rule.[6]

In order to avoid such an inconsistent application of its rules, and to assure that all classes of registrants who deal with the trading public will be subject to the same requirements concerning the use of pre-dispute arbitration agreements, the Commission proposed in 48 FR 22167 (May 17, 1983), to amend § 180.3(b) to include pre-dispute arbitration agreements entered into by introducing brokers, commodity pool operators and commodity trading advisors and to make clear that the rule applies to APs of such registrants.

The Commission received comment on its proposal from the National Futures Association ("NFA"), the Commodities Corporation ("CC") and from one individual. NFA and the individual commenter essentially supported the proposed amendment to § 180.3 as a realistic and practical approach to preserving the rights of customers while encouraging the use of arbitration. In particular, NFA noted that amendment of § 180.3 would assure that customers of IBs, CPOs and CTAs have the opportunity to proceed in a Commission reparations proceeding even though such customers had signed a pre-dispute arbitration agreement. Similarly, the individual commenter noted the importance of requiring a disinterested arbitration panel in order to protect the intergrity of the arbitration process. The Commodities Corporation contended, however, that the proposed amendment would place an undue economic burden upon CPOs and CTAs. Specifically, CC objected to the fact that § 180.3 as amended would require, *inter alia*, that CPOs and CTAs executing pre-dispute arbitration agreements include language in those agreements informing customers of their right to select a forum and notifying the customer that the registrant would pay any incremental costs associated with the selection of a mixed panel. Finally, CC observed that

[1] The Commission previously requested comment on whether introducing brokers and their associated persons similarly should be subject to these requirements of Part 180 of the Commission's regulation. *See* 48 FR 14933, 14935 (April 6, 1983).

[2] 7 U.S.C. 6d, 6f, 6k, as amended by the Futures Trading Act of 1982, Pub. L. No. 97–444, sections 207, 208, and 212.

[3] *See* 48 FR 35248, 35279, 35295, (August 3, 1983).

[4] The Commission recently adopted final rules concerning arbitration procedures provided by contract markets and registered futures associations and, in connection therewith, amended § 180.3. *See* 48 FR 22136 (May 17, 1983).

[5] This result is consistent with the Congressional recognition that such persons essentially function in the same capacity with respect to IBs, CPOs, and CTAs as persons associated with FCMs. *See* H. Rep. No. 97–565, Pt. 1, 97th Cong., 2d Sess. 48–49 (1982).

[6] Members of the National Futures Association, however, are required to comply with § 180.3(b) pursuant to § 170.8, which requires that a registered futures association's rules concerning arbitration conform to and be consistent with Part 180 of the Commission's regulations. Thus, many of the above new registrants as well as their principals are already indirectly subject to § 180.3(b). NFA Bylaw 1101, which prohibits NFA members from doing business with any non-members of NFA, acts as an incentive for FCMs, CPOs, CTAs and IBs to become members. The membership incentive of Bylaw 1101 has been strengthened by the recent adoption by the Commission of § 170.15, which requires all FCMs that must be registered with the Commission to become members of a registered futures association. *See* 48 FR 26304 (June 7, 1983).

modification of existing arbitration agreements to reflect the requirements of § 180.3 would require CPOs and CTAs to incur additional printing and mailing expenses.

Initially, the Commission wishes to make clear that § 180.3 does not require any registrant to offer an opportunity for its customers to enter into pre-dispute arbitration agreements. In the event a CPO or CTA determines for whatever reason not to offer customers the opportunity to enter into a pre-dispute arbitration agreement with the firm, it is under no legal obligation to do so.[7] With respect to those firms which do desire to use a pre-dispute arbitration agreement, the Commission believes adoption of the amendment will not result in any unreasonable regulatory burdens since the regulation reflects a reasonable means of assuring the fairness of such agreements and, as previously noted, most members of the registrant class are already indirectly subject to the requirements of Part 180 of the Commission's regulations by virtue of their membership in NFA.[8]

Finally, the expenses associated with conforming outstanding arbitration agreements to the requirements of § 180.3 may be minimized by adopting procedures previously recommended by the Futures Industry Association ("FIA") to it members, and approved by the Commission, for that purpose. Those procedures included: (1) advising affected customers of matter that must be disclosed under § 180.3(b), as amended, and (2) notifying affected customers that such provisions will be incorporated into their arbitration agreements unless the customer notifies them otherwise within thirty days.[9]

II. Section 15 Analysis

Section 15 of the Act requires the Commission to:

Take into consideration the public interest to be protected by the antitrust laws and endeavor to take the least anticompetitive means of achieving the objectives of this Act, as well as the policies and purposes of this Act, in issuing any order or adopting any Commission rule or regulation, or in requiring or approving any bylaw, rule, or regulation of a contract market or registered futures association established pursuant to section 17 of this Act.

In considering the amendment to § 180.3 set forth below, the Commission gave careful consideration to any anticompetitive effects which the rule might have. The Commission believes, however, that since the amendments do not require any of the registrants affected by § 180.3 to offer pre-dispute arbitration agreements to their customers, they do not raise any anticompetitive concerns. Furthermore, the Commission believes that considerable public policy objectives will be served by the amendments and that furtherance of these objectives will outweigh any anticompetitive effects which the amendments may have.[10]

III. Regulatory Flexibility

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601 *et seq.*, requires that agencies, in proposing rules, consider the impact of those rules on small businesses. In this regard, the Commission has already established that neither FCMs nor registered CPOs should be considered to be small entities for purposes of the RFA.[11] Accordingly, the requirements of the RFA do not apply to those entities. With respect to the remaining entities, the Commission believes, as noted above, that the proposed rule would not impose any additional burdens upon such parties since most members of the registrant class are already indirectly subject to the requirements of Part 180 of the Commission's regulations by virtue of their membership in NFA. Furthermore, as the Commission has already noted above, the proposal governs the terms of pre-dispute arbitration agreements but does not require any of the affected parties to offer such agreements. Accordingly, pursuant to section 3(a) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Acting Chairman certifies that § 180.3(b), as amended, would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 17 CFR Part 180

Arbitration, Futures commission merchants, Introducing brokers, Floor brokers, Commodity pool operators, Commodity trading advisors, Associated persons, Commodity futures.

In consideration of the foregoing, and pursuant to the authority of the Commodity Exchange Act, and in particular, sections 4d, 4f, 4k, 5a(11) and 8a, thereof, 7 U.S.C. 6d, 6f, 6k, 7a(11) and 12a, as amended by the Futures Trading Act of 1982, Pub. L. No. 97–44, 96 Stat. 2294 (1983), the Commission hereby amends Chapter I of Title 17 of the CFR as follows:

PART 180—ARBITRATION OR OTHER DISPUTE SETTLEMENT PROCEDURES

1. The authority citation for Part 180 is revised to read as follows:

Authority: 7 U.S.C. 6c, 6d, 6f, 6k, 7a(11) and 12a.

2. Section 180.3 of Part 180 is amended by revising the introductory text of paragraph (b) and paragraphs (b)(1), (3), (4) and (5) as follows:

§ 180.3 Voluntary procedure and compulsory payments.

* * * * *

(b) No futures commission merchant, introducing broker, floor broker, commodity pool operator, commodity trading advisor, or associated person shall enter into any agreement or understanding with a customer in which the customer agrees, prior to the time the claim or grievance arises, to submit such claim or grievance to any settlement procedure except as follows:

(1) Signing the agreement must not be made a condition for the customer to utilize the services offered by the futures commission merchant, introducing broker, floor broker, commodity pool operator, commodity trading advisor or associated person.

* * * * *

(3) The agreement may not require the customer to waive the right to seek reparations under Section 14 of the Act and Part 12 of these regulations. Accordingly, the customer must be advised in writing that he or she may seek reparations under Section 14 of the Act by an election made within 45 days after the futures commission merchant, introducing broker, floor broker, commodity pool operator, commodity trading advisor or associated person notifies the customer that arbitration will be demanded under the agreement. This notice must be given at the time when such person notifies the customer of an intention to arbitrate. The

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[7] Members of NFA and the contract markets are subject to compulsory arbitration of customer-initiated claims pursuant to the rules of those self-regulatory organizations once a dispute has arisen, however, whether or not a pre-dispute arbitration agreement has been executed.

[8] *See* n. 6 above.

[9] On July 22, 1983, the Commission determined to concur in the FIA procedures, provided that its members maintain, in accordance with Commission Rule 1.31, a written record of each customer to whom the new terms and conditions of the agreement were transmitted. Moreover, because the notice of new terms and conditions may be included with the transmission of other information to a customer, the Commission further premised its concurrence on the expectation that any such communication clearly direct a customer's attention to the proposed amendment of that customer's predispute arbitration agreement. In this regard, the Commission indicated that each registrant electing to use this method would be free to determine under appropriate contract law what would constitute adequate notice.

[10] The Commission believes that the amendments help assure the integrity of the arbitration process and thereby promote the increased use of arbitration to resolve disputes.

[11] See 47 FR 18618 (April 30, 1982).

customer must also be advised that if he or she seeks reparations under Section 14 of the Act and the Commission declines to institute reparation proceedings, the claim or grievance will be subject to the preexisting arbitration agreement and must also be advised that aspects of the claims or grievances that are not subject to the reparations procedure (i.e. do not constitute a violation of the Act or rules thereunder) may be required to be submitted to the arbitration or other dispute settlement procedure set forth in the preexisting arbitration agreement.

(4) The agreement must advise the customer that, at such time as he or she may notify the futures commission merchant, introducing broker, floor broker, commodity pool operator, commodity trading advisor or associated person that he or she intends to submit a claim to arbitration, or at such time as such person notifies the customer of its intent to submit a claim to arbitration, the customer will have the opportunity to elect a qualified forum for conducting the proceeding. Within ten business days after receipt of such notice from the customer, or at the time the futures commission merchant, introducing broker, floor broker, commodity pool operator, commodity trading advisor or associated person so notifies the customer, the futures commission merchant, introducing broker, floor broker, commodity pool operator, commodity trading advisor or associated person must provide the customer with a list of two or more organizations whose procedures qualify them to conduct arbitrations in accordance with the requirements of § 180.2 of this Part, together with a copy of the rules of each forum listed. The list must include: (i) The contract market, if available, upon which the transaction giving rise to the dispute was executed or could have been executed or a registered futures association designated by such contract market; and (ii) At least one other organization which will provide the customer with the opportunity to select the location of the arbitration proceeding from among several major cities in diverse geographic regions and which will provide the customer with the choice of a panel or other decision-maker composed of at least one or more persons, of which at least a majority are not members or associated with a member of a contract market or employee thereof, and which are not otherwise associated with a contract market (mixed panel). The customer shall, within forty-five days after receipt of such list, notify the opposing party of the organization selected. A customer's failure to provide such notice shall give the opposing party the right to select an organization from the list.

(5) The agreement must acknowledge that the futures commission merchant, introducing broker, floor broker, commodity pool operator, commodity trading advisor or associated person will pay any incremental fees which may be assessed by a qualified forum for provision of a mixed panel, unless the arbitrators in a particular proceeding determine that the customer has acted in bad faith in initiating or conducting that proceeding.

* * * *

Issued in Washington, D.C. on September 9, 1983.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 83-25016 Filed 9-13-83; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 655

Labor Certification Process for the Temporary Employment of Aliens in Agriculture; Adjustment of Piece Rates

AGENCY: Employment and Training Administration, Labor.

ACTION: Rule-related notice.

SUMMARY: On September 2, 1983, there was published in the **Federal Register** a final rulemaking document revising 20 CFR 655.207 (b) and (c) (48 FR 40168–40175). The final rule was effective on its date of publication (48 FR at 40168).

FOR FURTHER INFORMATION CONTACT: Mr. Harry L. Sheinfeld (202) 523–7836.

SUPPLEMENTARY INFORMATION: On September 8, 1983, Judge Charles Richey of the United States District Court for the District of Columbia issued an Order in the matter of *NAACP, Jefferson County Branch, et al.* v. *The Honorable Raymond J. Donovan, Secretary, United States Department Labor, in his Official Capacity, et al.*, Civil Action No. 82–2315. Judge Richey, in part, ordered the Department of Labor to arrange for publication of a notice of the terms of the Order in the **Federal Register** as soon as possible.

Therefore, pursuant to Judge Richey's Order, the terms of that Order are quoted as follows:

Order

This matter having come before the Court on plaintiff's motion for further relief to enforce the Court's Order of June 28, 1983, and the Court having considered the motion and the arguments of counsel, and having determined: (i) That defendants have certified, agreed to certify, and intend to certify the applications of growers who offer piece rates lower than those required by the sixth operative paragraph of the Court's order of June 28, 1983, (ii) that defendants as of the date of this Order have neither requested modification of the requirements of the sixth operative paragraph of the June 28th order nor made a showing justifying such a modification, (iii) that there is substantial doubt that defendants could supersede this Court's order simply by promulgating a new regulation without obtaining modification of that Order, and further substantial doubt that the regulation published on September 2, 1983, purportedly amending 20 CFR 655.207(c) was adopted in conformity with the Administrative Procedure Act, and (iv) that unless relief is granted as specified below, members of the plaintiff class will suffer injury for which they have no adequate remedy at law, it is, on this 8th day of September, 1983, *ordered and adjudged:*

1. The effective date of the proposed revision of 20 CFR 655.207(c) published in the **Federal Register** on September 2, 1983, is hereby suspended indefinitely pending further order of the Court.

2. All officials and employees of the Department of Labor ("DOL") are enjoined from granting any application for temporary labor certification of agricultural workers under the (H) (2) program (Hereafter "certification") unless the grower-employer agrees: (i) To pay each employee the amount which the employee is entitled under the Court's order of June 28, 1983, or (ii) to pay each employee at least the amount to which he would be entitled under the above-referenced rule published in the **Federal Register** on September 2, 1983, and in addition to place in escrow, as described in and subject to the conditions of paragraph 6 below, the difference between the amount to which the employee is entitled under the Court's order of June 28, 1983, and the amount actually paid.

3. DOL shall withdraw any certification previously granted to any employer-grower who has not offered and agreed to pay agricultural workers the amounts to which they are entitled under the Court's order of June 28, 1983, if the Immigration and Naturalization Service ("INS") has not yet approved all appropriate entry visas for foreign workers to be employed by such grower in connection with such applications, unless and until the grower-employer has agreed to the conditions set forth in paragraphs 2 and 6 of this order.

4. DOL shall forthwith notify each grower-employer who has been granted certification without offering and agreeing to pay agricultural workers the amounts to which they are entitled under the Court's order of June 28, 1983, and in connection with whose application INS has approved all appropriate entry visas, that such grower-employer will be denied certification in 1984 and subsequent years unless it agrees to the

conditions set forth in paragraphs 2 and 6 of this order.

5. DOL shall promptly provide notice of the terms of this order to each grower that has any application for certification pending or that has been granted certification on or after June 28, 1983. In addition, DOL shall arrange for publication of such notice in the **Federal Register** as soon as possible.

6. The escrow payments applicable to paragraphs 2 through 4 of this order shall be made and distributed as follows:

(a) The grower-employer shall establish an interest-bearing bank account in a federally insured financial institution in which the grower-employer will deposit on a weekly basis the appropriate differential amount for each employee. The account shall be established with the approval of and in the name of the local Regional Administrator of DOL's Employment and Training Administration as trustee for the employees of the grower-employer. The Regional Administrator shall be responsible for assuring compliance with the provisions of this paragraph 6, including but not limited to compiling a list of workers' names and addresses employed during the current harvest season.

(b) If upon disposition of plaintiffs Motion For Further Relief To Enforce The Court's Order of June 28, 1983, filed on September 6, 1983, it appears that the employees of a grower-employer have received all wages to which they are entitled, the Court will direct that the funds in the account will be returned with accrued interest to the grower-employer.

(c) If upon disposition of said motion it appears that the employees of a grower-employer have received less than the wages to which they are entitled, the Court will direct that the funds in the account be distributed to the employees in the amount equal to the wages due plus accrued interest. Any balance to which the employees are not entitled will be refunded to the grower-employer.

(d) The Regional Administrator shall require a grower-employer to use its best efforts to locate all employees entitled to receive funds from the account. If any employee entitled to a payment cannot be located, the Regional Administrator, through DOL, shall so report to the Court. Any such funds that cannot be distributed directly to the employees entitled to them shall not revert to the grower-employer, and the Court by further order will determine their appropriate disposition.

Signed at Washington, D.C., this 12th day of September 1983.

Albert Angrisani,

Assistant Secretary of Labor.

[FR Doc. 83-25207 Filed 9-13-83; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 155

[Docket No. 81P-0049]

Canned Vegetables; Mushrooms; Standards of Identity and Fill of Container; Confirmation of Effective Date

AGENCY: Food and Drug Adminstration.

ACTION: Final rule; confirmation of effective dates.

SUMMARY: The Food and Drug Adminstration (FDA) is confirming the effective date for compliance with all provisions of the final rule amending the U.S. standard of identity for canned mushrooms based on consideration of the Recommended International Standard for Canned Mushrooms (Codex standard) and the drained weight requirements in the U.S. standard of fill of container based on consideration of the Codex standard and of a petition by the National Food Processors Association (NFPA). The purpose of these actions is to promote honesty and fair dealing in the interest of consumers and to facilitate international trade.

DATES: Effective July 1, 1985, for all affected products initially introduced or initially delivered for introduction into interstate commerce on or after this date. Voluntary compliance may have begun May 16, 1983.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF-214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1164.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 15, 1983 (48 FR 10812), FDA issued a final rule to revise the standard of identity for canned mushrooms in § 155.201(a) (21 CFR 155.201 (a)) and to amend those provisions of the standard of identity for "Certain other canned vegetables" in § 155.200 (21 CFR 155.200) applicable to canned mushrooms based on consideration of the identity provisions of the Codex standard developed by the Codex Alimentarius Commission. FDA amended the standard of identity to define canned mushrooms as being of the species *Agaricus (Psalliota) bisporus* or *A. bitorquis*, provide for mushrooms to be so processed by heat to prevent spoilage either before or after being sealed in a container, define optional styles and provide for "quarters" and "random sliced" as additional styles, provide for optionally packing canned mushrooms in either water or other suitable liquid medium, and provide for the use of calcium disodium EDTA to promote color retention. The agency also amended the standard of fill of container for canned mushrooms in § 155.201(c) based on the Codex standard and a petition by NFPA (Docket No. 81P-0049) to amend the minimum drained weight requirements.

One letter containing two objections without requests for a hearing and two letters of comment filed after the objection period closed were submitted in response to the final regulation on behalf of a mushroom processor. The comments reiterated some of the objections contained in the original letter.

Pursuant to section 701(e) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 371(e)), FDA has considered the objections and its conclusions are as follows:

1. One objection asserted that the reduction in the weight of mushrooms in No. 10 cans is without merit and will mean that consumers will receive less product for their money.

The purpose of reducing the minimum drained weight for mushrooms in No. 10 cans is to ensure the safety of the product. NFPA recommends a maximum drained weight of 70 ounces for No.10 containers to assure proper heat treatment of the mushrooms. However, NFPA has stated that processors cannot meet both this 70 ounce maximum and the 68 ounce minimum required by the fill of container standard because 7 or 8 ounces above the minimum is the normal variability for filling mushrooms in No. 10 cans under good commercial practice. The resulting overfilling and subsequent underprocessing has resulted in a high incidence of bacterial spoilage in these containers. This bacterial spoilage has resulted in serious public health problems. It is for these reasons that the agency is lowering the minimum drained weight requirement in § 155.201(c)(1)(ii) for canned mushrooms in No. 10 cans to 61 ounces or 56 percent of the water capacity of the container.

With regard to the comment that consumers will, by virtue of the amendments, receive fewer products for their money, FDA notes that the premise of the comment is that processors will charge the same price for the reduced

amount of mushrooms in a No. 10 can. This premise is mere speculation.

2. One objection asserted that the definitions of the styles of product established by the final rule would impose upon the American packer requirements that could not be complied with because most American packers have automated operations that do not always guarantee precise cutting of the mushrooms. The objection also questioned how these requirements will benefit the consumer.

The agency believes that objective definitions of the various styles in which mushrooms are packed are necessary to permit meaningful labeling so that consumers can make informed choices in the marketplace and can have a reasonable expectation of consistently obtaining a comparable product when the food is labeled as being a particular style by various packers. The agency further believes that it has provided for reasonable product and process variability in the definitions. No data were submitted to support the objector's claim that American mushroom packers, because of their automated operations, cannot meet the requirements established by the definition of styles in the final rule. Therefore, FDA concludes that the definitions of styles are reasonable and is retaining them as published in the March 15, 1983 final rule.

List of Subjects in 21 CFR Part 155

Canned vegetables, Food standards, Vegetables.

PART 155—CANNED VEGETABLES

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), notice is given that the effective date for compliance with the standards of identity for certain other canned vegetables (21 CFR 155.200) and the standards of identity and fill of container for canned mushrooms (21 CFR 155.201 (a) and (c)) as amended in the Federal Register of March 15, 1983 (48 FR 10812), is July 1, 1985. Voluntary compliance may have begun May 16, 1983.

Dated: September 7, 1983.

Marvin H. Shumate,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-24957 Filed 9-13-83; 8:45 am]

BILLING CODE 4160-01-M

ENVIRONMENTAL PROTECTION AGENCY

21 CFR Part 193

[FAP 9H5201/R603; PH-FRL 2431-7]

Tolerances for Pesticides in Food; Pirimiphos-Methyl

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule established a food additive regulation for the experimental use of the insecticide pirimiphos-methyl and certain metabolites in peanut oil. This regulation was requested by ICI Americas, Inc. This rule will permit the marketing of peanut oil while further data is collected on the pesticide.

EFFECTIVE DATE: Effective on September 14, 1983.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St. SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Jay Ellenberger, Product Manager (PM) 12, Registration Division (TS-767C), Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460. Office location and telephone number: Rm. 202, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703-557-2386).

SUPPLEMENTARY INFORMATION: EPA issued a notice in the Federal Register of December 28, 1978 (43 FR 60652) that announced that ICI Americas, Inc., Wilmington, DE 19897, had submitted a food additive petition (FAP 9H5201) to the Agency proposing to amend 21 CFR Part 193 by establishing a regulation permitting residues of the insecticide pirimiphos-methyl, *O*-[2-(diethylamino)-6-methyl-4-pyrimidinyl] *O,O*-dimethylphosphorothioate in peanut oil resulting from application of pirimiphos-methyl to stored peanuts in a proposed experimental program with a tolerance limitation of 50.0 parts per million (ppm).

There were no comments received in response to the notice of filing.

The data submitted in the petition and other relevant material have been evaluated, and it has been determined that the pesticide may be safely used in accordance with the provisions of the experimental use permit which is being issued concurrently under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973, 89 Stat. 751; 7 U.S.C. 136(a) *et seq.*). It has further been determined that since residues of the pesticide may result in peanut oil from the agricultural use provided for in the experimental use permit, the food additive regulation should be established and should include a tolerance limitation.

The petition was later amended to include the metabolite *O*-(2-ethylamino-6-methyl-pyrimidin-4-yl) *O,O*-dimethylphos-phorothioate and in free and conjugated form, the metabolites 2-diethylamino-6-methyl-pyrimidin-4-o1, 2-ethylamino-6-methyl-pyrimidin-4-o1, and 2-amino-6-methyl-pyrimidin-4-o1 in the tolerance regulation.

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerance include a 2-year rat chronic feeding/oncogenicity study which was negative for oncogenic effects at the levels tested (10, 50 and 300 ppm) and had a cholinesterase inhibition and systemic no-observed-effect level (NOEL) of 10.0 ppm and 300 ppm, respectively; a mouse oncogenicity study which was negative for oncogenic effects at the levels tested (5,250, and 500 ppm); a 2-year dog feeding study which had a cholinesterase-inhibition and systemic NOEL of 0.5 milligram (mg)/kilogram (kg)/day and 2.0 mg/kg/day, respectively; a rabbit teratology study which was negative at 16 mg/kg; a rat reproduction study which had a NOEL of 100 ppm; and a subchronic hen neurotoxicity study which was negative at up to 10 mg/kg/day. Studies on mutagenicity showed negative potential.

Based on the 2-year rat chronic feeding/oncogenicity study with a 10 ppm (0.5mg/kg/day) NOEL for cholinesterase inhibition, and using a safety factor of 10, the acceptable daily intake (ADI) for men is 0.05 mg/kg of body weight (bw)/day.

The metabolism of pirimiphos-methyl is adeqately understood for this use, and an adequate analytical method, gas chromato-graphy-mass spectrometry, is available for enforcement purposes. No actions are currently pending against registration of pirimiphos-methyl, nor are there any other relevant considerations involved in establishing the regulation.

The pesticide is considered useful for the purpose for which the regulation is sought. It is concluded that the pesticide may be safely used in the prescribed manner when such use is in accordance with the label and labeling registered pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act and is established as set forth below.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new food or feed additive levels, or conditions for safe use of additives, or raising such food or feed additive levels do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24945).

(Sec. 409 (c)(1), 72 Stat. 1786 (21 U.S.C. 346 (c)(1)))

List of Subjects in 21 CFR Part 193

Food additives, Pesticides and pests.

Dated: September 1, 1983.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

PART 193—[AMENDED]

Therefore, 21 CFR Part 193 is amended by adding new § 193.468 to read as follows:

§ 193.468 Pirimiphos-methyl.

(a) [Reserved]

(b) A tolerance of 50.0 parts per million is established for the insecticide pirimiphos-methyl, *O*-[2-(diethylamino)-6-methyl-4-pyrimidinyl] *O,O*-dimethylphosphorothioate and the metabolite *O*-(2-ethylamino-6-methyl-pyrimidin-4-yl) *O,O*-dimethyl-phosphorothioate and in free and conjugated form the metabolites 2-diethylamino-6-methyl-pyrimidin-4-ol, 2-ethylamino-6-methyl-pyrimidin-4-ol, and 2-amino-6-methyl-pyrimidin-4-ol in peanut oil resulting from applications of the insecticide to stored peanuts. This tolerance is established in accordance with an experimental use permit that expires September 2, 1984.

[FR Doc. 83–24990 Filed 9–13–83; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR 524

Ophthalmic and Topical Dosage Form New Animal Drugs Not Subject To Certification; Gentamicin Sulfate Spray

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Schering Corp., providing for ophthalmic use of gentamicin sulfate spray in cattle for the treatment of pink eyes.

EFFECTIVE DATE: September 14, 1983.

FOR FURTHER INFORMATION CONTACT: Charles E. Haines, Bureau of Veterinary Medicine (HFV–133), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3410.

SUPPLEMENTARY INFORMATION: Schering Corp., Galloping Hill Rd., Kenilworth, NJ 07033, filed an NADA (130–952) providing for use of gentamicin sulfate spray. Each milliliter of the spray contains gentamicin sulfate equivalent to 1.07 milligrams of gentamicin. The spray is indicated for ophthalmic use in cattle for the treatment of pink eye (infectious bovine keratoconjunctivitis) caused by *Moraxella bovis*. The NADA is approved, and the regulations are amended accordingly. The basis for approval is discussed in the freedom of information (FOI) summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement therefore will not be prepared. The Bureau's finding of no significant impact and the evidence supporting this finding, contained in a statement of exemption (pursuant to 21 CFR 25.1(f)(1)(ii)(*b*)), may be seen in the Dockets Management Branch (address above).

List of Subjects in 21 CFR Part 524

Animal drugs, Topical.

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 524 is amended by adding new § 524.1044e to read as follows:

§ 524.1044e Gentamicin sulfate spray.

(a) *Specification.* Each milliliter of sterile aqueous solution contains gentamicin sulfate equivalent to 1.07 milligrams of gentamicin.

(b) *Sponsor.* See No. 000065 in § 510.600(c) of this chapter.

(c) *Conditions of use.* (1) The drug is indicated for the treatment of pink eye in cattle (infectious bovine keratoconjunctivitis) caused by *Moraxella bovis*.

(2) One actuation of the sprayer delivers 0.7 milliliter containing 0.75 milligram gentamicin. The sprayer should be held upright 3 to 6 inches from the affected eye, with the opening directed towards the eye, and pumped once. It is advisable to treat once a day for up to 3 days.

(3) Conditions other than bacterial infections of the bovine eye and infectious keratoconjunctivitis caused by *Moraxella bovis* may produce similar signs. If conditions persists or increases, discontinue use and consult veterinarian.

Effective date. The regulations shall become effective September 14, 1983.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: September 7, 1983.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 83–24958 Filed 9–13–83; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 500

Foreign Assets Control Regulations; Report of Blocked Property

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Foreign Assets Control is amending the Foreign Assets Control Regulations to require that reports on blocked property (on Form TFR–611) be filed no later than December 1, 1983 by any person subject to the jurisdiction of the United States who, as of June 30, 1983, held property blocked under the Regulations. The purpose of this census is to provide the Office of Foreign Assets Control with information for use in administering the blocking controls, in monitoring compliance with the Regulations, and in preserving the value of the blocked assets.

EFFECTIVE DATE: September 9, 1983.

FOR FURTHER INFORMATION CONTACT: Loren L. Dohm, Census Section, Office of Foreign Assets Control, Department

of the Treasury, Washington, D.C. 20220, Tel. (202) 376-0968.

SUPPLEMENTARY INFORMATION: Copies of Form TFR-611, Report of Blocked Property, along with reporting instructions, are being sent by the Treasury to persons believed to be affected by the reporting requirements. Other persons required to report or otherwise interested in obtaining copies of the form and instructions may do so by contacting the Office of Foreign Assets Control or the nearest regional Federal Reserve Bank. Photocopies of the report form may be used. Listed below are the telephone numbers of the regional Federal Reserve Banks:

Boston—(617) 973-3000
New York—(212) 791-5000
Philadelphia—(215) 574-6000
Cleveland—(216) 579-2000
Richmond—(804) 643-1250
Atlanta—(404) 586-8500
Chicago—(312) 322-5322
St. Louis—(314) 444-8444
Minneapolis—(612) 340-2345
Kansas City—(816) 881-2000
Dallas—(214) 651-6111
San Francisco—(415) 974-2000

Reporting is mandatory for all persons subject to the jurisdiction of the United States who, as of June 30, 1983, held property blocked by the Foreign Assets Control Regulations.

Since the amendment involves a foreign affairs function, the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable. Similarly, because the amendment is issued with respect to a foreign affairs function of the United States, it is not subject to Executive Order 12291 of February 17, 1981, dealing with federal regulations. In accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. 3507, the information collection requirements of Form TFR-611, which are imposed by final rule, have been approved by the Office of Management and Budget (OMB).

List of Subjects in 31 CFR Part 500

North Korea, North Vietnam, South Vietnam, Cambodia (Kampuchea); Foreign assets control, Reporting and record keeping requirements.

PART 500—[AMENDED]

31 CFR Part 500 is amended as follows:

Section 500.611 is revised to read as follows:

§ 500.611 Reports on Form TFR-611.

(a) *Requirement for report.* Reports on Form TFR-611 are hereby required to be filed on or before December 1, 1983, in the manner prescribed herein, by persons subject to the jurisdiction of the United States, with respect to all property held on June 30, 1983, to which § 500.201 applies.

(b) *Who must report.* Reports on Form TFR-611 must be filed by each of the following:

(1) Any person subject to the jurisdiction of the United States or his successor who, as of June 30, 1983, had in his custody, control or possession, directly or indirectly, in trust or otherwise, property subject to § 500.201. This requirement includes State abandoned property and escheat agencies.

(2) All business or non-business entities in the United States in which, as of June 30, 1983, there existed any interest, financial or otherwise, of any designated country or national thereof, as described in § 500.201(d).

(c) *Filing Form TFR-611.* Reports on Form TFR-611 shall be prepared in triplicate. On or before December 1, 1983, two copies shall be sent in a set to the Office of Foreign Assets Control, Unit 611, Department of the Treasury, Washington, D.C. 20220. The third copy must be retained with the reporter's records.

(d) *Certification.* Every report on Form TFR-611 shall contain the certification required in Part F of the form. Failure to complete the certification shall render the report ineffective, and the submission of such a report shall not constitute compliance with this section.

(e) *Confidentiality of reports.* Reports filed on Form TFR-611 are regarded as privileged and confidential.

(Sec. 5, 40 Stat. 415, as amended (50 U.S.C. App. 5, E.O. 9193, 7 FR 5205, 3 CFR, 1938-1943 Comp., p. 1174; E.O. 9989, 13 FR 4891, 3 CFR, 1943-1948 Comp., p. 748))

Dated: September 9, 1983.

Dennis M. O'Connell,

Director, Office of Foreign Assets Control.

Approved:

John M. Walker, Jr.,

Assistant Secretary, Enforcement and Operations.

[FR Doc. 83-25208 Filed 9-12-83; 4:08 pm]

BILLING CODE 4810-25-M

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31 CFR Part 515

Cuban Assets Control Regulations; Report of Blocked Property

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Foreign Assets Control is amending the Cuban Assets Control Regulations to require that reports on blocked property (on Form TFR-611) be filed no later than December 1, 1983 by any person subject to the jurisdiction of the United States who, as of June 30, 1983, held property blocked under the Regulations. The purpose of this census is to provide the Office of Foreign Assets Control with information for use in administering the blocking controls, in monitoring compliance with the Regulations, and in preserving the value of the blocked assets.

EFFECTIVE DATE: September 9, 1983.

FOR FURTHER INFORMATION CONTACT: Loren L. Dohm, Census Section, Office of Foreign Assets Control, Department of the Treasury, Washington, D.C. 20220, Tel. (202) 376-0968.

SUPPLEMENTARY INFORMATION: Copies of Form TFR-611, Report of Blocked Property, along with reporting instructions, are being sent by the Treasury to persons believed to be affected by the reporting requirements. Other persons required to report or otherwise interested in obtaining copies of the form and instructions may do so by contacting the Office of Foreign Assets Control or the nearest regional Federal Reserve Bank. Photocopies of the report form may be used. Listed below are the telephone numbers of the regional Federal Reserve Banks:

Boston—(617) 973-3000
New York—(212) 791-5000
Philadelphia—(215) 574-6000
Cleveland—(216) 579-2000
Richmond—(804) 643-1250
Atlanta—(404) 586-8500
Chicago—(312) 322-5322
St. Louis—(314) 444-8444
Minneapolis—(612) 340-2345
Kansas City—(816) 881-2000
Dallas—(214) 651-6111
San Francisco—(415) 974-2000

Reporting is mandatory for all persons subject to the jurisdiction of the United States who, as of June 30, 1983, held property blocked by the Cuban Assets Control Regulations.

Since the amendment involves a foreign affairs function, the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable. Similarly, because the amendment is issued with respect to a foreign affairs function of the United States, it is not subject to Executive Order 12291 of February 17, 1981,

dealing with federal regulations. In accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. 3507, the information collection requirements of Form TFR–611, which are imposed by final rule, have been approved by the Office of Management and Budget (OMB).

List of Subjects in 31 CFR Part 515

Cuba, Foreign assets control, Reporting and recordkeeping requirements.

PART 515—[AMENDED]

31 CFR Part 515 is amended as follows:

Section 515.611 is revised to read as follows:

§ 515.611 Reports on Form TFR–611.

(a) *Requirement for report.* Reports on Form TFR–611 are hereby required to be filed on or before December 1, 1983, in the manner prescribed herein, by persons subject to the jurisdiction of the United States, with respect to all property held on June 30, 1983, to which § 515.201 applies.

(b) *Who must report.* Reports on Form TFR–611 must be filed by each of the following:

(1) Any person subject to the jurisdiction of the United States or his successor who, as of June 30, 1983, had in his custody, control or possession, directly or indirectly, in trust or otherwise, property subject to § 515.201. This requirement includes State abandoned property and escheat agencies.

(2) All business or non-business entities in the United States in which, as of June 30, 1983, there existed any interest, financial or otherwise, of any designated country or national thereof, as described in § 515.201(d).

(c) *Filing Form TFR–611.* Reports on Form TFR–611 shall be prepared in triplicate. On or before December 1, 1983, two copies shall be sent in a set to the Office of Foreign Assets Control, Unit 611, Department of the Treasury, Washington, D.C. 20220. The third copy must be retained with the reporter's records.

(d) *Certification.* Every report on Form TFR–611 shall contain the certification required in Part F of the form. Failure to complete the certification shall render the report ineffective, and the submission of such a report shall not constitute compliance with this section.

(e) *Confidentiality of reports.* Reports filed on Form TFR–611 are regarded as privileged and confidential.

(Sec. 5, 40 Stat. 415, as amended; 50 U.S.C. App. 5, sec. 620(a), 75 Stat. 445; 22 U.S.C. 2370(a); Proc. 3447, 27 FR 1085, 3 CFR, 1959–1963 Comp., E.O. 9193, 7 FR 5205, 3 CFR, 1938–1943 Comp., p. 1174, E.O. 9989, 13 FR 4891, 3 CFR, 1943–1948 Comp., p. 748)

Dated: September 9, 1983.

Dennis M. O'Connell,

Director, Office of Foreign Assets Control.

Approved:

John M. Walker, Jr.,

Assistant Secretary (Enforcement and Operations).

[FR Doc. 83–25209 Filed 9–12–83; 4:09 pm]

BILLING CODE 4810–25–M

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31 CFR Part 520

Foreign Funds Control Regulations; Report of Blocked Property

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Foreign Assets Control is amending the Foreign Funds Control Regulations to require that reports on blocked property (on Form TFR–611) be filed no later than December 1, 1983 by any person subject to the jurisdiction of the United States who, as of June 30, 1983, held property blocked under the Regulations. The purpose of this census is to provide the Office of Foreign Assets Control with information for use in administering the blocking controls, in monitoring compliance with the Regulations, and in preserving the value of the blocked assets.

EFFECTIVE DATE: September 9, 1983.

FOR FURTHER INFORMATION CONTACT: Loren L. Dohm, Census Section, Office of Foreign Assets Control, Department of the Treasury, Washington, D.C. 20220, Tel. (202) 376–0968.

SUPPLEMENTARY INFORMATION: Copies of Form TFR–611, Report of Blocked Property, along with reporting instructions, are being sent by the Treasury to persons believed to be affected by the reporting requirements. Other persons required to report or otherwise interested in obtaining copies of the form and instructions may do so by contacting the Office of Foreign Assets Control or the nearest regional Federal Reserve Bank. Photocopies of the report may be used. Listed below are the telephone numbers of the regional Federal Reserve Banks:

Boston—(617) 973–3000
New York—(212) 791–5000
Philadelphia—(215) 574–6000
Cleveland—(216) 579–2000
Richmond—(804) 643–1250
Atlanta—(404) 586–8500
Chicago—(312) 322–5322
St. Louis—(314) 444–8444
Minneapolis—(612) 340–2345
Kansas City—(816) 881–2000
Dallas—(214) 651–6111
San Francisco—(415) 974–2000

Reporting is mandatory for all persons subject to the jurisdiction of the United States who, as of June 30, 1983, held property blocked by the Foreign Funds Control Regulations.

Since the amendment involves a foreign affairs function, the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable. Similarly, because the amendment is issued with respect to a foreign affairs function of the United States, it is not subject to Executive Order 12291 of February 17, 1981 dealing with federal regulations. In accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. 3507, the information collection requirements of Form TFR–611, which are imposed by final rule, have been approved by the Office of Management and Budget (OMB).

List of Subjects in 31 CFR Part 520

Czechoslovakia, East Germany, Latvia, Lithuania, Estonia, Foreign assets control, Reporting and recordkeeping requirements.

PART 520—[AMENDED]

31 CFR Part 520 is amended as follows:

Section 520.611 is revised to read as follows:

§ 520.611 Reports on Form TFR–611.

(a) *Requirement for report.* Reports on Form TFR–611 are hereby required to be filed on or before December 1, 1983, in the manner prescribed herein, by persons subject to the jurisdiction of the United States, with respect to all property held on June 30, 1983, which remains blocked pursuant to Executive Order 8389 of April 10, 1940, as amended. Reports on Form TFR–611 are also required with respect to Czechoslovak property held on June 30, 1983 by persons subject to the jurisdiction of the United States, which was previously blocked pursuant to Executive Order 8389, as amended, and which was unblocked on March 19, 1982.

(b) *Who must report.* Reports on Form TFR–611 must be filed by each of the following:

(1) Any person subject to the jurisdiction of the United States or his successor who, as of June 30, 1983, had in his custody, control or possession, directly or indirectly, in trust or otherwise, property blocked pursuant to

Executive Order 8389, as amended. This requirement includes State abandoned property and escheat agencies.

(2) Any person subject to the jurisdiction of the United States or his successor who, as of June 30, 1983, had in his custody, control or possession, directly or indirectly, in trust or otherwise, Czechoslovak property which was previously blocked pursuant to Executive Order 8389, as amended, and which was unblocked on March 19, 1982.

(c) *Filing Form TFR–611.* Reports on Form TFR–611 shall be prepared in triplicate. On or before December 1, 1983, two copies shall be sent in a set to the Office of Foreign Assets Control, Unit 611, Department of the Treasury, Washington, D.C. 20220. The third copy must be retained with the reporter's records.

(d) *Certification.* Every report on Form TFR–611 shall contain the certification required in Part F of the form. Failure to complete the certification shall render the report ineffective, and the submission of such a report shall not constitute compliance with this section.

(e) *Confidentiality of reports.* Reports filed on Form TFR–611 are regarded as privileged and confidential. However, the United States will release to the Government of Czechoslovakia, in connection with the U.S.-Czechoslovak Agreement concerning the settlement of certain outstanding claims and financial issues, the following information:

(1) The names of holders of accounts of Czechoslovak government agencies and Czechoslovak banks, and the aggregate amount of all Czechoslovak assets held by all such holders.

(2) The names and amounts of blocked accounts of Czechoslovak government agencies and Czechoslovak banks. Information required to be submitted on this census regarding such accounts is mandatory and is not confidential.

(3) The name of, and aggregate amount held by, each holder of private Czechoslovak assets who consents in his report on this census to have the information furnished.

(4) A statement of the aggregate amounts of blocked Czechoslovak assets broken down into private and official categories.

(Sec. 5, 40 Stat. 415, as amended; 50 U.S.C. App. 5; E.O. 8389, Apr. 10, 1940, 5 FR 1400, as amended by E.O. 8785, June 14, 1941, 6 FR 2897, E.O. 8832, July 26, 1941, 6 FR 3715, E.O. 8963, Dec. 9, 1941, 6 FR 6348, E.O. 8998, Dec. 26, 1941, 6 FR 6785, E.O. 9193, July 6, 1942, 7 FR 5205; 3 CFR, 1943 Cum. Supp; E.O. 10348, Apr. 26, 1952. 17 FR 3769, 30 FR. 1949–1953 Comp., p. 871; E.O. 11281, May 13, 1966, 31 FR 7215, 3 CFR 1966 Supp)

Dated: September 9, 1983.

Dennis M. O'Connell,

Director, Office of Foreign Assets Control.

Approved:

John M. Walker, Jr.,

Assistant Secretary (Enforcement and Operations).

[FR Doc. 83–25210 Filed 9–12–83; 4:06 pm]

BILLING CODE 4810–25–M

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 204

Danger Zone; New River, N.C.

AGENCY: Army Corps of Engineers, DoD.

ACTION: Final rule.

SUMMARY: The Corps of Engineers is amending the regulations which establish danger zones in the New River, North Carolina and vicinity, to expand the boundaries of the Browns Island target and bombing range area. The expansion of the area is necessary to meet the training needs of the U.S. Marine Corps.

EFFECTIVE DATE: September 14, 1983.

ADDRESS: HQDA, DAEN–CWO–N, Washington, D.C. 20314.

FOR FURTHER INFORMATION CONTACT: Mr. Ernest Jahnke at (919) 343–4467 or Mr. Ralph T. Eppard at (202) 272–0200.

SUPPLEMENTARY INFORMATION: On March 25, 1983, the Corps of Engineers published a Notice of Proposed Rulemaking in the **Federal Register** (48 FR 12563) soliciting comments on the proposal to amend 33 CFR 204.56.

On April 21, 1983, the Wilmington District Engineer published a public notice soliciting comments from all known interested parties. The public notice contained the same basic proposed changes contained in the NPRM and the comment period expired for both notices on May 9, 1983. We received no comments to the NPRM. The district engineer received several comments about the impact of the proposed firing range on endangered species and a question from the State of North Carolina on the effects of the danger zone on recreational and commercial fishing interests. We are satisfied that these issues have been adequately addressed by the Marine Corps and the Wilmington District Engineer.

The amended danger zone is urgently needed by the Marine Corps to meet its immediate training needs and since the danger zone has been in existence for many years and there are no unresolved objections to the NPRM or public notice, we find it to be in the best public interest to make these amendments effective upon publication in the **Federal Register.**

Note.—The Department of the Army has determined that this proposed rule is not a major rule and is exempt from the general requirements of Executive Order 12291 in accordance with the exceptions povided military functions. The Department of the Army has also determined that these regulations would not have a significant economic impact on a substantial number of small entities as required by Public Law 96–354.

List of Subjects in 33 CFR Part 204

Waterways, Transportation.

Dated: August 24, 1983.

Approved:

William R. Gianelli,

Assistant Secretary of the Army (Civil Works).

PART 204—[AMENDED]

Accordingly, the Department of the Army is amending 33 CFR 204.56 by revising paragraph (d)(1) as set forth below.

§ 204.56 New River, N.C., and vicinity; Marine Corps Firing Ranges.

* * * * *

(d) *Target and bombing area in Atlantic Ocean in vicinity of Bear Inlet*—(1) The water within an area described as follows: Beginning at latitude 34°37′32″, longitude 77°12′03″; thence to latitude 34°36′58″, longitude 77°11′25″; thence to latitude 34°37′44″, longitude 77°10′35″; thence to 34°32′27″, longitude 77°06′30″; thence to latitude 34°28′55″, longitude 77°15′05″; thence to latitude 34°34′50″, longitude 77°15′10″; thence to the point of beginning.

* * * * *

(33 U.S.C. 1 and 3)

[FR Doc. 83–24902 Filed 9–13–83; 8:45 am]

BILLING CODE 3710–92–M

VETERANS ADMINISTRATION

38 CFR Part 3

Veterans Benefits; Implementing Legislation

AGENCY: Veterans Administration.

ACTION: Final regulatory amendment.

SUMMARY: The Veterans Administration is amending its regulations to implement pertinent provisions of the Veterans' Compensation, Education and Employment Amendments of 1982. These regulatory changes affect the

definition of active duty for training, extend burial allowance eligibility, increase special monthly compensation for certain blinded veterans, and extend dependency and indemnity compensation eligibility to certain surviving spouses and children.

DATES: These changes are effective October 1, 1982, as provided by the above cited law.

FOR FURTHER INFORMATION CONTACT: Robert White, Legal Consultant, Compensation and Pension Service (211B), Department of Veterans Benefits, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 389–3005.

SUPPLEMENTARY INFORMATION: On pages 21595–98 of the **Federal Register** of May 13, 1983, the Veterans Administration published proposed amendments to 38 CFR 3.6, 3.22, 3.350, 3.1600, 3.1601, 3.1603 and 3.1605. Interested persons were given until June 13, 1983, to submit comments, suggestions, or objections to the proposed amendments.

We received no suggestions for change or objections to the proposed amendments. One comment was received from the Washington Legal Foundation which supported the proposed amendments. We have, therefore, adopted the amendments as proposed.

The administrator hereby certifies that these amended regulations will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. The reason for this certification is that the proposed regulations would not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), these amended regulations are exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

In accordance with Exec. Order 12291, Federal Regulations, we have determined that these regulation changes are non-major for the following reasons:

(1) They will not have an effect on the economy of $100 million or more.

(2) They will not cause a major increase in costs or prices.

(3) They will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Handicapped, Health care, Pensions, Veterans.

(Catalog of Federal Domestic Assistance Program numbers are 64.101, 64.109, and 64.110)

Approved: August 29, 1983.

By direction of the Administrator

Everett Alvarez, Jr.,

Deputy Administrator.

PART 3—ADJUDICATION

The Veterans Administration is amending 38 CFR Part 3 as follows:

1. In § 3.6, paragraph (c)(4) is revised as follows

§ 3.6 Duty periods.

* * * * *

(c) *"Active duty for training".* * * *

(4) Duty performed by a member of a Senior Reserve Officers' Training Corps program when ordered to such duty for the purpose of field training or a practice cruise under chapter 103 of title 10, United States Code (38 U.S.C. 101(22); Pub. L. 97–306, 96 Stat. 1429); and

* * * * *

2. In § 3.22, paragraph (a)(2) (introductory portion preceding subdivision (i)) is revised as follows. The introductory portion of paragraph (a) is shown for reader convenience.

§ 3.22 Benefits at DIC rates in certain cases when death is not service-connected.

(a) *Entitlement criteria.* Benefits authorized by section 410(b) of title 38, United States Code shall be paid to a deceased veteran's surviving spouse (see § 3.54(c)(2)) or children in the same manner as if the veteran's death is service connected when the following conditions are met:

* * * * *

(2) The veteran was in receipt of or for any reason (including receipt of military retired or retirement pay or correction of a rating after the veteran's death based on clear and unmistakable error) was not in receipt of but would have been entitled to receive compensation at the time of death for a service-connected disablement that either:

* * * * *

3. In § 3.350, paragraphs (d) (introduction), (d)(4) and (f)(2) are revised as follows:

§ 3.350 Special monthly compensation ratings.

* * * * *

(d) *Ratings under 38 U.S.C. 314(n).* The special monthly compensation provided by 38 U.S.C. 314(n) is payable for any of the conditions which follow: Amputation is a prerequisite except for loss of use of both arms and blindness without light perception in both eyes. If a prosthesis cannot be worn at the present level of amputation but could be applied if there were a reamputation at a higher level, the requirements of this paragraph are not met; instead, consideration will be given to loss of natural elbow or knee action.

* * * * *

(4) Anatomical loss of both eyes or blindness without light perception in both eyes.

* * * * *

(f) *Intermediate or next higher rate.*

* * *

(2) *Eyes, bilateral, and blindness in connection with deafness.* (i) Blindness of one eye with 5/200 visual acuity or less and blindness of the other eye having only light perception will entitle to the rate between 38 U.S.C. 314(l) and (m).

(ii) Blindness of one eye with 5/200 visual acuity or less and anatomical loss of, or blindness having no light perception in the other eye, will entitle to a rate equal to 38 U.S.C. 314(m).

(iii) Blindness of one eye having only light perception and anatomical loss of, or blindness having no light perception in the other eye, will entitle to a rate between 38 U.S.C. 314 (m) and (n).

(iv) Blindness in both eyes rated under 38 U.S.C. 314(l), (m) or (n), or under the intermediate or next higher rate provisions outlined above, when accompanied by:

(*a*) Service-connected total deafness in one ear, will afford entitlement to the next higher intermediate rate or if the veteran is already entitled to an intermediate rate to the next higher statutory rate under 38 U.S.C. 314, but not higher than the (o) rate; or

(*b*) Bilateral deafness rated at no less than 40 percent, and the hearing impairment in one or both ears is service connected, will afford entitlement to the next higher statutory rate under 38 U.S.C. 314 or if the veteran is already entitled to an intermediate rate to the next higher intermediate rate, but in no event higher than the rate for (o); or

(*c*) Service-connected loss or loss of use of one hand, will afford entitlement to the next higher statutory rate under 38 U.S.C. 314 or, if the veteran is already entitled to an intermediate rate, to the next higher intermediate rate, but in no event higher than the rate for (o); or

(*d*) Service-connected loss or loss of use of one foot which by itself or in combination with another compensable

disability would be ratable at 50 percent or more, will afford entitlement to the next higher statutory rate under 38 U.S.C. 314 or, if the veteran is already entitled to an intermediate rate, to the next higher intermediate rate, but in no event higher than the rate for (o); or

(e) Service-connected loss or loss of use of one foot which is ratable at less than 50 percent and which is the only compensable disability other than bilateral blindness, will afford entitlement to the next higher intermediate rate or, if the veteran is already entitled to an intermediate rate, to the next higher statutory rate under 38 U.S.C. 314 , but in no event higher than the rate for (o). (38 U.S.C. 314(p); Pub. L. 97–306, 96 Stat. 1429)

* * * * *

4. Section 3.1600 is amended as follows:

(a) By removing the word "and" and inserting the word "or" at the end of paragraph (b)(2)(ii).

(b) By adding a new paragraph (b)(3) and redesignating the former paragraph (b)(3) as paragraph (b)(4) and by revising paragraph (c) so that the added and revised material reads as follows: The introductory portion of (b) is shown for reader convenience.

§ 3.1600 Payment of burial expenses of deceased veterans.

* * * * *

(b) *Nonservice-connected death burial allowance.* If a veteran's death is not service connected, an amount not to exceed $300 (or if entitlement is under § 3.8 (c) or (d), a rate in Philippine pesos equivalent to $150) may be paid toward the veteran's funeral and burial expenses including the cost of transporting the body to the place of burial. Entitlement is subject to the following conditions:

* * * * *

(3) The deceased was a veteran of any war or was discharged or released from active military, naval, or air service for a disability incurred or aggravated in line of duty, and the body of the deceased is being held by a State (or a political subdivision of a State), and the Administrator determines

(i) That there is no next of kin or other person claiming the body of the deceased veteran, and

(ii) That there are not available sufficient resources in the veteran's estate to cover burial and funeral expenses; and (38 U.S.C. 902(a); Pub. L. 97–306, 96 Stat. 1429)

(4) The applicable further provisions of this section and §§ 3.1601 through 3.1610. (38 U.S.C. 210(c), 902)

(c) *Death while properly hospitalized.* If a person dies from non-service-connected causes while properly hospitalized by the Veterans Administration, there is payable an allowance not to exceed $300 for the actual cost of the person's funeral and burial, and an additional amount for transportation of the body to the place of burial. For burial allowance purposes, the term "hospitalized by the Veterans Administration" means admission to a Veterans Administration facility (as defined in 38 U.S.C. 601(4)) for hospital, nursing home, or domiciliary care under the authority of 38 U.S.C. 610 or 611(a), or admission (transfer) to a nursing home under the authority of 38 U.S.C. 620 for nursing home care at the expense of the United States. (38 U.S.C. 903(a)) (If the hospitalized person's death is service connected, entitlement to burial benefits falls under paragraph (a) of this section instead of this paragraph.

5. Section 3.1601 is amended as follows:

(a) By adding a parentheses around the words "other than a § 3.1604(d) claimant" in the introductory portion of paragraph (b).

(b) By adding paragraph (b)(5) as follows:

§ 3.1601 Claims and evidence.

* * * * *

(b) *Supporting evidence.* * * *

(5) *Entitlement under § 3.1600(b)(3).* In addition to the other evidentiary requirements of this subparagraph, there must be written certification over the signature of a responsible official of the State (or political subdivision of the State) where the body was held that—

(i) There is no next of kin or other person claiming the body of the deceased veteran, and

(ii) There are not available sufficient resources in the veteran's estate to cover burial and funeral expenses. (38 U.S.C. 902(a); Pub. L. 97–306, 96 Stat. 1429)

6. Section 3.1603 is revised as follows:

§ 3.1603 Authority for burial of certain unclaimed bodies.

If the body of a deceased veteran is unclaimed, there being no relatives or friends to claim the body, and there is burial allowance entitlement which is not based on § 3.1600(b)(3), the amount provided for burial and plot or interment allowance will be available for the burial upon receipt of a claim accompanied by a statement showing what efforts were made to locate relatives or friends. The question of escheat of any part of such deceased veteran's estate is not a factor in such a claim. Burial allowance may be authorized for cost of disinterment and reburial of unclaimed remains originally accorded pauper burial but not for initial expenses of a burial in a potter's field. Burial in a prison cemetery is not considered a pauper burial.

7. Section 3.1605 (the introductory portion preceding paragraph (a)) is amended by adding the cross reference "(see § 3.1600(c))" after the words "authority of the Veterans Administration" at the end of the first sentence.

[FR Doc. 83-24696 Filed 9-13-83; 8:45 am]
BILLING CODE 8320-01-M

POSTAL SERVICE

39 CFR Part 111

Domestic Mail Manual; Miscellaneous Amendments

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Postal Service hereby describes the numerous miscellaneous revisions consolidated in the Transmittal Letter for Issue 12 of the Domestic Mail Manual (DMM), which is incorporated by reference in the Federal Register, 39 CFR 111.1.

Most of the revisions are minor, editorial or clarifying. Substantive changes, such as the new parcel size and weight limitations, have previously been published in the Federal Register.

EFFECTIVE DATE: June 2, 1983.

FOR FURTHER INFORMATION CONTACT: Paul J. Kemp, (202) 245–4638.

SUPPLEMENTARY INFORMATION: The Domestic Mail Manual, which is incorporated by reference in the Federal Register (see 39 CFR 111.1) has been amended by the publication of a transmittal letter for issue 12, dated June 2, 1983. The text of all published changes is filed with the Director of the Federal Register. Subscribers to the Domestic Mail Manual receive these amendments automatically from the Government Printing Office.

The following excerpt from the Summary of Changes section of the transmittal letter for issue 12 covers the minor changes not previously described in interim or final rules published in the Federal Register.

Note.— Issue 12 contains all DMM revisions published between January 27, 1983, and June 2, 1983 (PB 21388 through 21406).

Summary of Changes

Major Revisions

1. * * *

2. * * *

3. *Collect on Delivery Mail.* Section 914 has been revised to clarify existing policies on

collect on delivery (COD) mail and to provide additional guidance for acceptance and delivery employees (PB 21396, 4–7–83).

Other Revisions

1. * * *

2. Section 119.1 is revised to update the list of registered and pending trademarks and service marks (PB 21397, 3–31–83).

3. Sections 121.321 *c* and *d* are amended to provide maximum dimensions for fiberboard boxes and more specific weight requirements for parcels over 65 pounds. Sections 121.321 *e, f, g,* and *h* are renumbered 121.321 *d, e, f,* and *g* respectively. The reference to 123.33 in section 121.53 is corrected to 124.126. In the first sentence in 125.12, the reference to 121.321*d* is changed to 121.321*c* (PB 21400, 4–21–83.

4. Sections 124.24, 124.334, 124.335*b*(6), 124.341, 124.354, 124.363*c*, and 124.382*b* replace the words "shipper's certification" with "shipper's declaration for dangerous goods". Section 124.391 adds "and shipper's declaration for dangerous goods" after "magnetized material warning label" in the last sentence (PB 21388, 1–27–83).

5. Section 124 is revised to eliminate requirements for: a. Federal meat inspection certification marking for meat and meat products and b. disposal instructions for etiologic agents. Delete section 124.64 and renumber 124.65, 124.66, and 124.67 to 124.64, 124.65, and 124.66 respectively (PB 21396, 3–24–83).

6. Exibit 125.2 is updated (PB 21402, 5–5–83).

7. The table in Section 128.3 is revised to clarify that flat-sized mail is matter that exceeds *one or more* of the maximum dimensions for letter-sized mail (PB 21406, 6–2–83).

8. Section 142.21 is revised to reflect that the charge for returned checks has increased to $10 (PB 21395, 3–17–83).

9. Section 144.112 is revised to allow meter stamps to be used to prepay reply postage on First-Class letters, flats, and postcards which do not exceed 12 ounces. Delete the last sentence of 144.113. The first sentence of 144.21 is changed to require that manufacturer-supplied applications for postage meter licenses contain the same information and format as Form 3601–A, *Application for a Postage Meter License.* Sections 144.471 and 144.534 are revised to permit the use of .00 postage meter stamps to redate metered mail (PB 21394, 3–10–83).

10. Section 144.13 and 144.41*b* are revised to reflect the new name of Friden Alcatel (formerly F.M.E. Corporation) and new official mail meter stamps for Pitney Bowes, Friden Alcatel, and International Mailing Systems, respectively (PB 21400, 4–21–83).

11. Sections 144.224, 144.382*b*(7), 144.383, and 144.976*e* and *f* dealing with Computerized Remote Postage Meter Resetting Meters (CMRS) are amended to eliminate both the need for the postal employee to telephone the manufacturer's data center at the time of the six-month examination and the requirement to maintain the Form 3610, *Record of Postage Meter Setting* (PB 21397, 3–31–83).

12. Section 149.333*a* is expanded to emphasize that claim form sets for lost numbered insured articles being forwarded to FPO postal officers must include the unit or ship designation in the mailing address (PB 21401, 4–28–83).

13. Sections 149.513, 295.1, and 295.2 are changed to reflect the new time limit of 90 days to file Express Mail claims (PB 21403, 5–12–83).

14. Sections 159.551 and 159.552 are revised to correct the ZIP Code for the Boston Dead Letter Branch to 02205; section 159.561 is revised to correct the Boston Dead Letter Branch ZIP Code to 02205 and to show the reassignment of the Los Angeles dead parcel operation to the San Francisco Dead Parcel Branch (PB 21408, 6–2–83).

15. Section 293 is revised to authorize the use of Form 3877, *Firm Mailing Book,* as an Express Mail receipt (PB 21404, 5–19–83).

16. Section 411.332 is corrected to read that the per piece rate for packages of six or more addressed pieces for carrier route or finer sort destinations is 3.3 cents (PB 21394, 3–10–83).

17. The cross references in the following sections are corrected as follows: in section 443.1, change 410 to 411.33; in 462.1*i*, change 467.1 to 465.1; in 465.1, change 461.1*f* to 462.1*f*; in section 667.52*b*, change 667.12 to 667.13; in 667.52*d*, change 663.116 to 667.123; in 667.52*f* change 667.12*e* to 667.52*e*; in 667.71, change 667.41 to 667.51; in 721.1*c*, change 411.4 to 411.22; and in 945.374*a*, change 122.4 to 122.41.

18. New section 642.13 authorizes a one-year test of procedures to permit mailers currently authorized to mail at special third-class rates to obtain additional one-year authorizations to mail at other post offices (PB 21393, 3–3–83).

19. The exhibit lines in Exhibits 711.2, 711.3, and 711.4 have been moved to the top of the exhibits to eliminate any possible confusion.

20. Sections 767.21 and 767.31 are amended to emphasize the requirement that sacks or bundles of bulk rate bound printed matter be separated by parcel post zones in order to verify postage at the office of mailing (PB 21389, 2–3–83).

21. Section 912.56, change "post office box customers" to "box service customers".

22. Section 917.322 is revised to read that payment of business reply mail may be paid in cash or through a regular postage due account (PB 21389, 2–3–83).

23. In section 919.11, a reference to Postal Operations Manual (POM) 149 has been added.

24. Delete the final sentence in section 941.132 concerning validation plates (PB 21403, 5–12–83).

List of Subjects in 39 CFR Part 111

Postal Service.

PART 111—GENERAL INFORMATION ON POSTAL SERVICE

In consideration of the foregoing, 39 CFR 111.3 is amended by adding at the end thereof the following:

§ 111.3 Amendments to the Domestic Mail Manual.

* * * * *

Transmittal letter for issue	Dated	Federal Register publication
12	June 2, 1983	48 FR

* * * * *

(5 U.S.C. 552(a); 39 U.S.C. 401, 407, 408, 3001–3011, 3201–3218; 3403–3406, 3601, 3621; 42 U.S.C. 1973 cc–13, 1973 cc–14)

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 83–23807 Filed 9–13–83; 8:45 am]

BILLING CODE 7710–12–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 23

[OST Docket No. 64c and 64d]

Participation by Minority Business Enterprises in Department of Transportation Programs

Correction

In FR Doc. 83–19050, beginning on page 33432, in the issue of Thursday, July 21, 1983, on page 33444, in the first column, in § 23.68, in the second complete paragraph "(1)" should read "(e)(1)".

BILLING CODE 1505–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[Docket No. 30809–185]

Atlantic Tuna Fisheries

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Rule-related notice; closure.

SUMMARY: NOAA issues this notice to close the fishery for giant Atlantic bluefin tuna conducted by vessels permitted in the General category. Closure of this fishery is necessary because the portion of the annual catch quota available before September 15, 1983, will be attained by the effective date of this notice. Upon closure, vessels permitted in the General category will be prohibited from retaining giant Atlantic bluefin tuna captured in the regulatory area until further notice.

EFFECTIVE DATE: 0001 hours local time September 12, 1983.

FOR FURTHER INFORMATION CONTACT: William C. Jerome, Jr., National Marine Fisheries Service, Northeast Region, State Fish Pier, Gloucester, MA 01930, 617–281–3600, extension 325, or David S. Crestin, 617–281–3600, extension 253.

SUPPLEMENTARY INFORMATION: Regulations promulgated under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971–971h) regulating the take of Atlantic bluefin tuna by persons and vessels subject to U.S. jurisdiction were published in the **Federal Register** on June 17, 1983 (48 FR 27745).

Section 285.22(a) of the regulations provides for an annual quota of 650 short tons (st) of giant Atlantic bluefin tuna to be taken by vessels permitted in the General category in the Regulatory Area. The regulations further establish that only 550 st of the annual quota may be taken before September 15, 1983. The Assistant Administrator of Fisheries, NOAA (Assistant Administrator), is authorized under § 285.20(b)(1) to monitor the catch and landing statistics and, on the basis of these statistics, to project a date when the total catch of Atlantic bluefin tuna will equal any quota under § 285.22. The Assistant Administrator, further, is authorized under § 285.20(b)(1) to prohibit the fishing for, or retention of, Atlantic bluefin tuna by the type of vessels subject to the quotas. The Assistant Administrator has determined, based on the reported catch of giant Atlantic bluefin tuna of 450 st, and the recent catch rate of approximately 100 tons per week, the portion of the annual quota of giant Atlantic bluefin tuna available to vessels permitted in the General category prior to September 15, 1983, will be attained by September 12, 1983. Fishing for, and retention of, giant Atlantic bluefin tuna by these vessels must cease at hours Eastern Daylight Time on September 12, 1983, and may not resume until further notice.

The effects of this inseason adjustment of the daily catch rate limit on the participants in the fishery were considered in the design of the final regulations. This action is taken under the authority specified at 50 CFR 285.20(b)(1), and is taken in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 285

Administrative practice and procedure, Fish, Fisheries, Fishing, Imports, International organizations, Penalties, Reporting and recordkeeping requirements.

(16 U.S.C. 971 *et seq.*)

Dated: September 9, 1983.

Anthony J. Calio,

Deputy Administrator for National Oceanic and Atmospheric Administration.

[FR Doc. 83-25040 Filed 9-9-83; 4:34 pm]

BILLING CODE 3510-22-M

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50 CFR Part 663

[Docket No. 30907-183]

Pacific Coast Groundfish Fishery

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Rule-related notice; inseason adjustment and request for comments.

SUMMARY: NOAA issues this notice to further limit commercial landings of widow rockfish and the *Sebastes* complex of rockfish taken off the coasts of Washington, Oregon, and California, and seeks public comment on these actions. These actions are authorized under regulations implementing the Pacific Coast Groundfish Fishery Management Plan at 50 CFR Part 663. These actions supersede the landing restrictions on widow rockfish and the *Sebastes* complex published in the **Federal Register**.

DATES: This notice is effective from 0001 hours Pacific Daylight Time September 10, 1983, until modified, superseded, or rescinded. Comments will be accepted until September 29, 1983.

ADDRESSES: H. A. Larkins, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE, Bin C15700, Seattle, Washington 98115, or Floyd S. Anders, Jr., Acting Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

FOR FURTHER INFORMATION CONTACT: H. A. Larkins, 206–527–6150, or Floyd S. Anders, Jr., 213–548–2575.

SUPPLEMENTARY INFORMATION: The Pacific Coast Groundfish Fishery Management Plan (FMP) was approved on January 4, 1982, and final implementing regulations were published October 5, 1982 (47 FR 43964). The regulations allow the Secretary of Commerce (Secretary) to reduce fishing levels if it is determined that continued fishing at current levels would cause biological stress to any species. Commercial fisheries on widow rockfish and the *Sebastes* complex were restricted in 1983 to minimize biological stress and to extend the fishery as long as possible during the year. Both widow rockfish and the *Sebastes* complex are managed by quota in 1983; once the quota is reached, further commercial landings of these species will be prohibited.

Widow Rockfish. Signs of biological stress were documented for widow rockfish in 1982 and a 75,000-pound trip limit was imposed (47 FR 46287). Signs of biological stress persisted in 1983 and the trip limit was reduced to 30,000 pounds (48 FR 8283). Provisions were made for a midseason evaluation and adjustment of trip limits if landings were at a rate that would exceed the quota (the numerical optimum yield, OY) before the end of the year. Data available June 1 indicated that landings for the first half of 1983 were at acceptable levels and no further fishing restrictions would be necessary. However, data available August 30, 1983, revealed landings at higher levels than previously anticipated, and projections indicate that the 10,500-mt quota could be reached as early as mid-September if landings are not curtailed.

Sebastes Complex. The *Sebastes* complex consists of several species of rockfish which are harvested together off Washington, Oregon, and California. Yellowtail and canary rockfishes comprised 70 percent of the landings from the Vancouver-Columbia area in 1982, and their landings exceeded their summed ABCs by a factor of two. To minimize biological stress on those two species, a coastwide 40,000-pound trip limit on the *Sebastes* complex was imposed with the intent of holding landings in the Vancouver-Columbia area at a level half-way between 1982 landings and the 1983 allowable biological catch (ABC), about 14,000 mt (48 FR 8285). (The trip limit was imposed coastwide to preclude large effort shifts into the Eureka, Monterey, and Conception areas.) The midseason evaluation revealed not only that the 40,000-pound trip limit had not reduced fishing pressure, but that, in fact, effort had intensified. In response to public testimony that closing the fishery at 14,000 mt would be severely disruptive to the industry and would not provide a reasonable amount of time to adapt to alternate fisheries, the amount of the *Sebastes* complex that could be landed was raised to the 1982 level (18,500 mt) with the understanding that landings above that level would be prohibited. The 40,000-pound, coastwide, trip limit was retained, but only one delivery larger than 3,000 pounds (round weight) was allowed per vessel per week in the Columbia-Vancouver area (48 FR 30395). By taking this action, the Council hoped to slow landings while extending the *Sebastes* fishery in the Vancouver-Columbia area throughout 1983. In spite

of these attempts to slow the fishery, estimates of landings through July 1983 were about a third higher than the previous year and, in some areas, the number of vessels landing the *Sebastes* complex tripled. Projections made on August 30, 1983, indicate that landings of the *Seastes* complex in the Vancouver-Columbia area could reach the 18,500 mt quota on September 29, 1983, if fishing levels are not reduced further.

Council Recommendation

Recognizing the impact of closures on the domestic fishing industry, and at the request of the industry and the states of Washington, Oregon, and California, the Council held an emergency public hearing on September 1, 1983, to solicit public comment on the impending closures. Several strategies for extending the fishing season without exceeding the quotas were discussed.

In a telephone conference call following the public hearing, and after being advised of public comments received on this issue, the Council recommended in a written report to the Secretary that fishing levels should be reduced further to encourage only incidental landings of widow rockfish and the *Sebastes* complex. In so doing, the Council intended to extend the season, not only to maintain a more constant supply of fish to the market, but also to reduce waste of rockfish taken unavoidably in other fisheries which must be discarded once the quota is reached. After considerable discussion, the Council endorsed a trip limit of 1,000 pounds for widow rockfish coastwide and a trip limit of 3,000 pounds for the *Sebastes* complex for the Vancouver-Columbia area (north of 43°00′ N. latitude). The Council acknowledged that if effort increases, little quota may remain by the time these trip limits are implemented and the seasons may not be extended long by these actions. These circumstances are particularly likely for the widow rockfish fishery which would be closed in mid-September at current fishing rates.

The Secretary concurs with the Council's recommendations, and the states have agreed to support and implement similar restrictions.

Secretarial Action

In accordance with the regulations at 50 CFR 663.22 and the recommendations of the Council, the Secretary announces:

(1) No more than 1,000 pounds (round weight) of widow rockfish may be taken and retained, or landed per vessel per fishing trip. When the 10,500 quota is reached, all landings of widow rockfish will be prohibited.

(2) No more than 3,000 pounds (round weight) of the *Sebastes* complex may be taken and retained, or landed, in the Vancouver-Columbia area (north of 43° 00′ N. latitude) per vessel per fishing trip. There is no limit on the number of trips that may be made until the 18,500 quota for the Vancouver-Columbia area is reached. When the quota is reached, all landings of the *Sebastes* complex taken in the Vancouver-Columbia area will be prohibited.

(3) No more than 40,000 pounds (round weight) of the *Sebastes* complex may be taken and retained, or landed, in the Eureka, Monterey, or Conception areas (south of 43°00′ N. latitude) per vessel per fishing trip.

(4) These limits apply to all commercial fishing vessels operating seaward of Washington, Oregon, and California including U.S. vessels delivering to foreign processors and foreign processors receiving U.S. harvested fish. For U.S. vessels, delivering to foreign processors the trip limits are applied on a haul-by-haul basis.

U.S. vessels operating under an experimental fishing permit issued under 50 CFR 663.10 and those landing pink shrimp also must comply with these trip limits.

Classification

The determinations to prohibit further landings of widow rockfish and the *Sebastes* complex are based on the most recent data available. The aggregated data upon which these determinations are based are available for public inspection at the Office of the Director, Northwest Region, on weekdays from 8:00 a.m.to 4:30 p.m. until the end of the comment period (see **ADDRESSES** above).

These actions are taken under the authority of 50 CFR 663.22 and are taken in compliance with Executive Order 12291. The actions are covered by the regulatory flexibility analysis prepared for the authorizing regulations.

Section 663.23 of the groundfish regulations states that the Secretary will publish a notice of proposed regulatory action before taking such action unless he determines that such notice and public review are impracticable, unnecessary, or contrary to the public interest. For the reasons outlined at 48 FR 8286, Federal Register. The public had opportunity to comment on inseason actions affecting widow rockfish and the *Sebastes* complex at the Council's May 11–12, 1983, meeting in Seattle, Washington, it's June 8–9 meeting in Portland, Oregon, it's July 19–21, 1983, meeting in Culver City, California, and the public hearing held September 1 in Portland, Oregon. The public also participated in meetings of the Council's Groundfish Management Team (June 1–2, and August 30-September 1, 1983, in Portland, Oregon), the Groundfish Advisory Subpanel and Scientific and Statistical Committee (June 7, 1983, in Portland, Oregon), and the Groundfish Task Force (June 3, 1983, in Portland, Oregon) where landings data were analyzed and management recommendations were developed for Council consideration. Public comments were accepted for 15 days after publication of the inseason adjustments made in February and July 1983. Further public comments will be accepted for 15 days after publication of this notice in the Federal Register.

The Secretary finds good cause for the reasons noted above to waive the 30-day delayed effectiveness provision of 50 CFR 663.23(c).

List of Subjects in 50 CFR Part 663

Administrative practice and procedure, Fish, Fisheries, Fishing.

(16 U.S.C. 1801 *et seq.*)

Dated: September 8, 1983.

Anthony J. Calio,

Deputy Administrator for National Oceanic and Atmospheric Administration.

[FR Doc. 83-25081 Filed 9-9-83; 4:50 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 48, No. 179
Wednesday, September 14, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF ENERGY

Office of Conservation and Renewable Energy

10 CFR Part 430

[Docket Nos. CE-CP-SPRM, NY001, WI002, CA003, MN004, OR005]

Energy Conservation Program for Consumer Products; Cancellation of Public Hearing

AGENCY: Office of Conservation and Renewable Energy, Department of Energy.

ACTION: Cancellation of public hearing in Minnesota.

SUMMARY: The Department of Energy is cancelling the public hearing scheduled for September 15, 1983, at the Courthouse/Federal Building, 110 Fourth Street, Minneapolis, Minnesota. This hearing had been scheduled in connection with DOE's proposal to grant Minnesota's petition for exemption from Federal preemption of Minnesota's regulation pertaining to energy use or energy efficiency for clothes dryers and kitchen ranges and ovens (48 FR 34858, August 1, 1983). Although DOE did not receive sufficient interest to hold the Minnesota hearing, the respondent wishing to testify has been notified and has agreed to appear at the Wisconsin hearing on September 13, 1983, 1:00 p.m., at 212 East Washington Avenue, Room 215, Small Business Administration, in Madison, Wisconsin.

FOR FURTHER INFORMATION CONTACT:

Michael J. McCabe, U.S. Department of Energy, Office of Conservation and Renewable Energy, Mail Station CE-113, Room GH-068, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585; (202) 252-9127,

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC-33, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585; (202) 252-9513, or

U.S. Department of Energy, Conservation and Renewable Energy, Office of Hearings and Dockets, Room 6B-025, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585; (202) 252-9319.

SUPPLEMENTARY INFORMATION: On August 1, 1983, (48 FR 34858) DOE issued a notice of proposed rulemaking and hearing on granting Minnesota's petition for exemption from Federal preemption on Minnesota's regulation pertaining to clothes dryers and kitchen ranges and ovens. In the August 1983 proposal, the Department also proposed granting the petitions from Federal preemption from New York, Wisconsin, California, and Oregon concerning State laws for clothes dryers and/or kitchen ranges and ovens. A public hearing was scheduled to be held in each State and in Washington, D.C. to provide interested persons an opportunity to comment on the proposed rules. In the Notice of Proposed Rulemakings DOE stated that it might consolidate any or all of the hearings if the Department did not receive sufficient interest concerning a particular hearing. DOE is cancelling the Minnesota hearing for this reason. DOE has contacted each speaker and has provided each person the opportunity to present testimony at the hearing to be held in Madison, Wisconsin.

Issued in Washington, D.C., September 12, 1983.

Pat Collins,

Acting Assistant Secretary, Conservation and Renewable Energy.

[FR Doc. 83-25187 Filed 9-13-83; 8:45 am]
BILLING CODE 6450-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 83-NM-69-AD]

Airbus Industrie Model A300 Series Airplanes; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes an airworthiness directive (AD) that would require a one time inspection for cracks, and replacement if necessary, of the brake system hydraulic hose end fitting collars on certain Airbus Industrie Model A300 series airplanes. Cracks have been found in these components which, if left uncorrected, could lead to loss of braking.

DATES: Comments must be received no later than October 31, 1983.

ADDRESSES: The applicable service information may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France or may also be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT:

Mr. Sulmo Mariano, Foreign Aircraft Certification Branch, ANM-150S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 767-2530. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket and be submitted in duplicate to the address specified below. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of

the Regional Counsel, Attention: Airworthiness Rules Docket No. 83–NM–69–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

Discussion

The French Direction Generale de l'Aviation Civile has classified Airbus Industrie Service Bulletin A300–32–310 as mandatory. Prior to delivery of an Airbus Industrie Model A300 series airplane, cracks were found in the end fitting collars of the ⅜ inch diameter brake system hydraulic hoses manufacutured by Titelflex. An investigation was made by the manufacturer; the findings indicate the possibility of a limited number of defective hoses installed on the brake system. Since these hoses are subject to severe environmental conditions and their failure could result in loss of braking, the service bulletin recommends a one time inspection and replacement of defective hoses.

This airplane model is manufactured in France and type certificated in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable airworthiness bilateral agreement. Since these conditions are likely to exist or develop on airplanes of this model registered in the United States, an AD is proposed that would require the inspection and replacements previously described.

It is estimated that 19 U.S. registered airplanes would be affected by this AD, that it would take approximately 6 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Repair parts are estimated at $100 per airplane. Based on these figures, the total cost impact of this AD to the U.S. operator is estimated to be $6,460. For these reasons, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291. No small entities within the meaning of the Regulatory Flexibility Act would be affected.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

Airbus Industrie: Applies to Model A300 B2–1A, B2–1C, B4–2C, B2k–3C, B4–103, B2–203 and B4–203 series airplanes, certificated in all categories with serial numbers specified in paragraph 1, Planning Information, of Airbus Industrie Service Bulletin A300–32–310, dated February 12, 1981. To prevent potential loss of braking, accomplish the following, unless previously accomplished:

A. Within the next 500 flight hours after the effective date of this AD, inspect the hydraulic hose end fitting collars on Titeflex Type ⅜" diameter hoses SC841060286 of the brake hydraulic system in accordance with paragraph 2, Accomplishment Instructions, of the service bulletin.

1. Prior to further flight, end fittings with batch reference number 06K072C, 06L039C, or 06M330C on the sleeve or other fittings which are cracked must be replaced with end fittings manufactured after January 1976 and having identification mark "U."

2. Uncracked end fittings with date of manufacture later than January 1976 and no identification mark or identification mark "X" must be replaced with the end fittings types specified in subparagraph A.1, above, within 250 flight hours from the date of inspection.

B. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

(Sec. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.85).

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this document: (1) Involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. A regulatory evaluation has been prepared and has been placed in the public docket.

Issued in Seattle, Washington on September 1, 1983.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 83-24947 Filed 9-13-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 83–NM–68–AD]

Airbus Industrie Model A300 Series Airplanes; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes an airworthiness directive (AD) that would require repetitive inspections, modifications, and replacements, if necessary, of certain main landing gear components of Airbus Industrie Model A300 series airplanes. Corrosion has been found in certain areas of the main landing gear hinge arm which, if left uncorrected, could lead to collapse of the main landing gear.

DATES: Comments must be received no later than October 31, 1983.

ADDRESSES: The applicable service information may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France or may also be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Sulmo Mariano, Foreign Aircraft Certification Branch, ANM–150S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 767–2530. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket and be submitted in duplicate to the address specified below. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 83–NM–68–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

Discussion

The French Direction Generale de l'Aviation Civile has classified certain Airbus Industrie and Messier-Hispano-Bugatti service bulletins as mandatory.

During routine maintenance inspections of several reinforced hinge arms on the main landing gear, corrosion was found at the hinge arm—trunnion blend radii on both the actuating cylinder and universal joint sides. The corrosion on the actuating cylinder side is on areas subjected to high stress levels which could lead to the formation of cracks, possible failure of the hinge arm and eventually, collapse of the main landing gear. The corrosion results from the protective coating on the hinge arm being worn away when it is contacted by the bronze bushings fitted in the stirrup and universal joints.

The manufacturer performed fatigue tests on a corroded hinge arm which had experienced 6894 landings; the arm failed after 1855 additional simulated landings. Airbus Industrie issued Service Bulletin A300–32–356, which prescribes inspection of the hinge arm in accordance with the instructions of Messier-Hispano-Bugatti Service Bulletin 470–32–422. If corrosion is found, Airbus Industrie Service Bulletin A300–32–362 prescribes replacement or overhaul of the hinge arms in accordance with Messier-Hispano-Bugatti Service Bulletin 470–32–431. Airbus Industrie also issued Service Bulletins A300–32–348 and A300–32–355 which prescribe installation of washers to prevent the stirrup and universal joint busings from translating. The details of incorporating these two modifications are presented in Messier-Hispano-Bugatti Service Bulletins 470–32–407 and 470–32–421.

This airplane model is manufactured in France and type certificated in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable airworthiness bilateral agreement.

Since these conditions are likely to exist or develop on airplanes of this model registered in the United States, an AD is proposed that would require inspections of the main landing gear hinge arms, incorporation of modifications, and if needed, replacement of components, as previously described.

It is estimated that 22 U.S. registered airplanes would be affected by this AD, that it would take approximately 105 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Repairs parts are estimated at $2200 per airplane. Based on these figures, the total cost impact of this AD to the U.S. operator is estimated to be $140,800. For these reasons, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291. No small entities within the meaning of the Regulatory Flexibility Act would be affected.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

Airbus Industrie: Applies to A300 series airplanes, certificated in all categories and whose serial numbers are listed in paragraph 1, Planning Information, of Airbus Industrie (AI) Service Bulletin A300–32–356, Revision 1, dated December 1, 1982. To prevent failure of main landing gear hinge arms, accomplish the following, unless previously accomplished:

A. Within 120 days from the effective date of this AD, measure the displacement of the bronze bushing fitted in the stirrup on the actuating cylinder side on all affected hinge arms in accordance with paragraph 2.B of Messier-Hispano-Bugatti (MHB) Service Bulletin 470–32–422, Revision 1, dated December 3, 1982. Within the number of landings specified in the service bulletin (as related to the results of the above measurements), visually inspect for corrosion the blending radii of attachment between the trunnions and the hinge arm body in accordance with the instructions of the service bulletin.

1. If no trace of corrosion is found, incorporate the modifications AI 4544/S5351, and AI 4544/S5548, described in AI Service Bulletins A300–32–348, Revision 2, and A300–32–355, Revision 2, both dated May 16, 1983, and in accordance with the instructions of MHB Service Bulletins 470–32–421, Revision 2, and 470–32–407, Revision 2, both dated March 31, 1983.

Note.—Damaged surface protection must be restored before incorporating the modifications.

2. If traces of corrosion are detected, before further flight, replace the concerned hinge arms either with new arms or with arms modified in accordance with the instructions of MHB Service Bulletin 470–32–431, dated December 24, 1982, related to AI Service Bulletin A300–32–362, dated June 15, 1983, and further, incorporate the modifications required by paragraph A.1., above.

B. Termination of the inspection requirements is accomplished by the incorporaton of modifications AI 4544/S5351 and AI 4544/S5548.

C. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.85).

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. A regulatory evaluation has been prepared and has been placed in the public docket.

Issued in Seattle, Washington on September 1, 1983.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 83–24945 Filed 9–13–83; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 83–AGL–9]

Proposed Alteration of Transition Area; Columbus, Ohio

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Columbus, Ohio, transition area. A recent review of the currently published description revealed discrepancies in the areas involved. The correct description is presented in the text of this notice.

The intended effect of this action is to insure segregation of the aircraft using approach procedures in instrument weather conditions from other aircraft operating under visual weather conditions in controlled airspace.

DATES: Comments must be received on or before October 15, 1983.

ADDRESS: Send comments on the proposal in triplicate to FAA Office of Regional Counsel, AGL–7, attention: Rules Docket Clerk, Docket No. 83–AGL–9, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300

East Devon Avenue, Des Plaines, Illinois 60018.

An informal docket will also be available for examination during normal business hours in the Airspace, Procedures, and Automation Branch, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL–530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694–7360.

SUPPLEMENTARY INFORMATION: This action is to redescribe the Columbus, Ohio, transition area to accurately reference the area involved. The new description includes additional controlled airspace to accommodate instrument approach procedures at Delaware Municipal Airport, Fayette County Airport, Buckeye Executive Airport, and Union County Airport. This action also corrects the names of airports that have been changed which include Lockbourne AFB changed to Rickenbacker ANGB, Mt. Vernon Airport changed to Knox County Airport, and Licking County Airport changed to Newark-Heath Airport. The airspace associated with the Circleville, Ohio, 700-foot transition area was redescribed in Docket No. 82–AGL–28 and is, therefore, excluded from this description.

The minimum descent altitudes may be established below the floor of the 700-foot controlled airspace.

Aeronautical maps and charts will reflect the defined areas which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 83–AGL–9." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, S.W., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2, which describes the application procedures.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the transition area airspace near Columbus, Ohio.

Section 71.181 of Part 71 of the Federal Aviation Regulations was published in Advisory Circular AC 70–3A dated January 3, 1983.

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Columbus, OH

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the center (latitude 39°59'42" N., longitude 82°52'11" W.) of Port Columbus International Airport, Columbus, Ohio; within a 14-mile radius of the center (latitude 39°49'00" N., longitude 82°56'00" W.); of Rickenbacker ANGB, Columbus, Ohio; within a 6.5-mile radius of the center (latitude 40°19'42", N. longitude 82°31'22" W.) of Knox County Airport, Mt. Vernon, Ohio; within an 8.5-mile radius of the center (latitude 40°01'29" N., longitude 82°27'44" W.) of Newark-Heath Airport, Newark, Ohio; and within 1.5 miles either side of the 324° bearing from Newark-Heath Airport extending to 11 miles northwest of the airport; within an 8.5-mile radius of the center (latitude 40°04'06" N., longitude 83°04'24" W.) of the Ohio State University Airport, Columbus, Ohio; and within 3.5 miles either side of the 090° bearing from Don Scott RBN (latitude 40°04'49" N., longitude 83°04'43" W.) extending from the RBN to 11.5 statute miles east of the RBN; within an 8.5-mile radius of the center (latitude 39°54'07" N., longitude 83°06'12" W.) of Bolton Field, Columbia, Ohio; within an 8.5-mile radius of the center (latitude 39°45'21" N., longitude 82°39'27" W.) of Fairfield County Airport, Lancaster, Ohio; within a 5.5-mile radius of the center (latitude 40°16'46" N., longitude 83°06'22" W.) of Delaware Municipal Airport, Delaware, Ohio; and within 3 statute miles either side of the 290° bearing from Delaware RBN (latitude 40°16'41" N., longitude 83°06'33" W.) extending from the RBN to 9.5 miles northwest of the RBN; within a 5-mile radius of the center (latitude 39°34'15" N., longitude 83°25'13" W.) of Fayette County Airport, Washington Court House, Ohio; and within 2.5 miles either side of the 039° bearing from Court House RBN (latitude 39°35'58" N., longitude 83°23'32" W.) extending from the RBN to 11.5 miles northeast of the RBN; within a 6-mile radius of the center (latitude 39°57'42" N., longitude 82°32'28" W.) of Buckeye Executive Airport, Hebron, Ohio; and within 6 miles either side of the 351° bearing from the airport extending 12.5 miles north of the airport; within a 5-mile radius of the center (latitude 40°13'29" N., longitude 83°21'00" W.) of Union County Airport, Marysville, Ohio; and within 3.5 statute miles either side of the 091° bearing from the Marysville RBN (latitude 40°13'35" N., longitude 83°20'54" W.) extending from the RBN to 12 miles east of the RBN, excluding that portion which overlies the Circleville, Ohio, 700-foot transition area.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983))

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, it is certified that this—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so mimimal. Since this is a routine matter that will only affect air traffice procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Des Plaines, Illinois, on August 25, 1983.

Monte R. Belger,

Acting Director, Great Lakes Region.

[FR Doc. 83-24941 Filed 9-13-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 83-AGL-12]

Ohio State University Airport, Columbus, Ohio; Proposed Alteration of Control Zone

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the Ohio State University Airport, Columbus, Ohio, control zone to revise the airspace currently designated for the control zone.

The intended effect of this action is to insure segregation of the aircraft using approach procedures in instrument weather conditions from other aircraft operating under visual weather conditions in controlled airspace.

DATES: Comments must be received on or before October 15, 1983.

ADDRESS: Send comments on the proposal in triplicate to FAA Office of Regional Counsel, AGL-7, attention: Rules Docket Clerk, Docket No. 83-AGL-12, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Adminstration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

An informal docket will also be available for examination during normal business hours in the Airspace, Procedures, and Automation Branch, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL-530, FAA, Great Lake Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7360.

SUPPLEMENTARY INFORMATION: This action revises the Ohio State University Airport control zone to accommodate existing airspace requirements. A review of designated airspace in the Columbus area prompted a rewrite to better and more accurately describe the airspace in the area. The revised description is presented in the text of this notice.

Aeronatical maps and charts will reflect the defined areas which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 83-AGL-12." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, S.W., Washington, D.C. 20591, or by calling (202) 426-8058.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of advisory Circular No. 11-2, which describes the application procedures.

The Proposal

The FAA is considering an amendment to § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Ohio State University Airport, Columbus, Ohio, control zone.

Section 71.171 of Part 71 of the Federal Aviation Regulations was published in Advisory Circular AC 70-3A dated January 3, 1983.

List of Subjects in 14 CFR Part 71

Control zones, Aviation safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Columbus, Ohio State University Airport, OH

Within a 5-mile radius of the center, latitude 40°04'48" N., longitude 83°04'24" W., of Ohio State University Airport; within 3 miles each side of the 096° bearing from the Don Scott RBN, latitude 40°04'49" N., longitude 83°04'43" W., extending from the 5-mile radius zone to 9 miles east of the RBN, excluding that portion within the Port Columbus International Airport, Columbus, Ohio, control zone. This control zone is effective during the specific dates and times established in advance by a notice to airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983))

Note.—The FAA has determined that this proposed regulation only involves an established body or technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, it is certified that this—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Des Plaines, Illinois, on August 25, 1983.

Monte R. Belger,

Acting Director, Great Lakes Region.

[FR Doc. 83-24942 Filed 9-13-83; 8:45 am]

BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

[EDR-466; Docket 41686]

14 CFR Ch. II

Computer Reservations Systems; Alleged Competitive Abuses and Consumer Injury

Dated: September 9, 1983.

AGENCY: Civil Aeronautics Board.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The CAB is requesting comment on proposals for rules that would deal with alleged competitive abuses and consumer injury resulting from the practices of airlines that provide computer reservations systems to travel agents. The notice invites comments on the basis for Board intervention and suggestions for possible remedies. This advance notice addresses the following areas: presentation of information in a format that is biased to favor the airline providing the travel agent computer system or to omit or provide more difficult acess to information on competing airlines' services; discriminatory prices charged other airlines for participation in the computer reservation systems, and anticompetitive or coercive contractual conditions for access; and unfair use of information of travel agent sales by the airlines providing the computer reservation systems.

DATES: Comments by: October 17, 1983.

Reply comments by: November 1, 1983.

Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

Requests to be put on Service list by: September 27, 1983

The Docket Section prepares the Service List and sends it to each person listed on it, who than serves comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 41686, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Susan B. Jollie, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-6011.

SUPPLEMENTARY INFORMATION: The purpose of this advance notice of proposed rulemaking is to determine whether government intervention is necessary to insure that computer reservation systems ("CRS's") used by travel agents to get information about air carrier price and service offerings and to make reservations are not used in ways that injure competition or that otherwise harm consumer welfare. The Board is soliciting comments on the need for action and comments on various suggested remedial rules.

To some degree, this proceeding is an outgrowth of a Congressional request in the Conference Report accompanying Pub. L. 97-369 that the Board investigate the competitive and antitrust implications of CRS's. In response to this request, the Board opened a docket for comments and conducted informal interviews with numerous carriers. The Board submitted its *Report to Congress on Airline Computer Reservations Systems* (report) on June 1, 1983. The Subcommittee on Aviation of the Committee on Public Works and Transportation of the House of Representatives held hearings on June 21-23.

On March 16, 1983, while the Board was preparing its report, the Association of Retail Travel Agents (ARTA) filed a petition for rulemaking asking the Board to adopt rules designed to prohibit what it perceived to be abuses of the CRS systems. Since the Board issued its reports, two additional petitions have been filed, one by Continental Airline and one by a group of 11 carriers: Air Cal, Muse Air, Capitol International Airlines, Air Florida, Pacific Express, and Pan American World Airways, Midway Airlines, Ozark Airlines, Pacific Southwest Airlines, Jet America, and Northeastern International (the Joint Petitioners).

Report to Congress and Congressional Hearings

In its report, the Board outlined the functioning of computer reservation systems and their role in the sale of air transportation. The Board identified four areas of alleged abuses. The report concluded that there were grounds for concern about allegations of anticompetitive behavior.

A. Display Screen Bias

When a travel agent requests information on flights in a given city pair, the CRS ranks available flights before they are displayed. All systems establish the hierarchy of display using some service factors, such as displacement from the requested departure time, elapsed time of the flight, whether the flight is a direct or connecting flight, and whether the connection is on-line. In addition, the predominant systems employ carrier identity factors which give preference to CRS owners (hereinafter sometimes referred to as "hosts" or "proprietors") and other carriers that contract for enhanced display and other services (hereinafter sometimes referred to as "co-hosts" or "participants"). The methods for incorporating bias based on the identity of the carrier rather than the quality of service vary from system to system. For example, American's Sabre system not only assigns points for various service factors, but also assesses additional points on the basis of carrier identity. United's Apollo system displays United flights leaving two hours before the requested departure, as well as an unlimited period after, while only flights leaving after the specified time are displayed for other carriers. Both the inclusion of carrier identity factors in the parameters that determine display priority and the limitation of a program capability to certain carriers are forms of display bias.

Many carriers are also concerned about bias in the selection and display of connecting flights. Again, although the methods may vary, each system displays only a certain number of connecting flights. Some carriers prescreen all connections before loading them into the computer. Others preselect a number of connecting points and program their systems to generate connecting routings over only those hubs. The number varies from system to system. Nevertheless, all make selections in ways that favor the CRS carrier's connecting hubs, thus enhancing the display of their own services and eliminating competing connections over nonselected hubs. However, some systems permit agents to specify connecting points and construct their own routings.

No one denies that bias exists; the dispute is over its significance and the need for corrective action. Except for the airline CRS owners, most parties that were involved in the Board's informal investigations and the Aviation Subcommittee hearings urged some action to control CRS practices. They argued that intentional bias is an unfair competitive practice and injures consumers in a number of ways. First, because each host represents that its system permits agents to select the best flight from all available offerings, agents and consumers who rely on them claim they are being misled. Second, they contend bias reduces the efficacy of

price and service competition from non-host airlines, thus insulating CRS owners from the discipline of the market. Finally, because some relevant flights are omitted altogether, they argue consumers are deprived of the opportunity of choosing from the full range of price and service options.

CRS owners say that the fruits of bias are merely their reward for taking the risks and making substantial investments in CRS equipment and programming, and without that reward, there would be no incentive to offer the services. Owners also argue that bias is not insurmountable. They suggest that there are limits on the amount of bias that can be programmed before agents lose faith in the system, and knowledgeable agents can overcome the bias by making additional or non-standard information requests. Finally, owners argue that CRS's merely reflect a kind of competitive advantage that the market is supposed to foster and that properly compensates for advantages in cost structure enjoyed by other airlines.

In rebuttal, opposing parties respond that the rewards should come from profits earned on CRS's. Opposing parties further argue that even if the bias does not consist of absolute exclusion, it still creates an enormous competitive booking advantage for the owner-airlines. They point also that forcing agents to make the extra effort to locate the flights of competing carriers negates the efficiency that use of CRS's is intended to produce.

B. Carrier Access

The second area of potential abuse identified by the Board involved the terms the CRS airlines extract for other carriers' participation in their systems. Access to CRS's is offered to carriers on varying terms. Most owners offer a co-host status that gives co-hosts some preference in bias, some ability to communicate with agents directly, and limited access to marketing data. While all non-co-hosts are generally lumped together as "other carriers", there are differences within this group. CRS systems tend to include schedules of most if not all carriers, but they may not provide agents with information on seat availability or the ability to book a reservation on all of them. At the moment, most owners seem to be moving in the direction of charging other carriers booking fees to display availability and permit reservations.

It has been alleged that owners deny co-host status or seat availability displays to carriers that are competing with them in important markets. Frontier alleged, for example, that United personnel said that it had been denied co-host status for over two years because of competitive reasons. Other instances of threatened or actual removal from systems were cited in comments to the Board for its Report and in testimony before the Aviation Subcommittee.

The various charges for participation are also said to be unfair in a number of ways. Opponents charge that fees are discriminatory, citing the fact that some carriers pay 25-cent booking fees while others pay $3. Others pay no booking fees. They claim that the fees are excessive and that the charges are designed to raise the costs of competing carriers. Small carriers or new entrants contend that they have neither the name identity, nor the internal marketing resources to compete effectively without access to agents.

Finally, opponents charge that owners use access to CRS's to coerce carriers into net ticketing or interline arrangements. Under these agreements, the carrier that has written the most number of interline tickets exacts a commission or fee for each surplus ticket written by the carrier's personnel or by a travel agent using that carrier's CRS. Opponents argue that these fees are also excessive in relation to costs, that owners are using their dominance in the CRS market to extract an agreement that would not occur in air transportation markets where they lack market power.

Owners respond that access is open to all carriers willing to pay the cost. They also claim to have an open policy on co-hosts, subject only to their technical capabilities and the sophistication of an applicant's internal CRS.

They argue that opponents do not fully understand the costs of the system. Primarily they have not given sufficient weight to the high fixed costs involved in developing the system. Differences in charges reflect booking arrangements made with different carriers at different times for different length of times. Current low charges to some carriers merely reflect contracts signed in the early stages of CRS development when owners agreed to below cost fees as a promotional tool. Owners argue that the interline fees are necessary to recover the total costs of handling tickets including administration and credit card discounts.

C. Misinformation

Criticism had been raised about CRS carrier practices including claims that owners delay input of information or send wrong information about their competitors to gain competitive advantage. For example, Continental alleged at the Aviation Subcommittee hearings that American had delayed loading a new low fare until after its marketing department had considered a competitive response. American claimed that the delay was necessary to avoid confusion and that its policies have been revised.

Opponents also allege that owners intentionally provide erroneous information about seat availability, closing flights which are not fully booked and allowing agents to book seats on flights that are already filled. They fear that agent mistrust can cost bookings.

Owners argue that these incidents are attributable to simple error. For the most part the error comes in the transmission of information to the owner, and the remainder is the result of unavoidable human error on the part of owner's personnel.

In the Aviation Subcommittee hearings, there also were complaints that owners sent messages to agents through the CRS to undermine competing airlines and censored co-host's attempts to send messages to counteract these efforts.

D. Marketing Information

CRS's contain detailed information on the activity of agent subscribers. Precise information is available on all segments booked by each subscriber on each carrier in the system, including city-pairs, number of seats booked, and customer name. Monthly reports are prepared for each subscriber.

Opponents argue that owner access to this detailed information gives them an unfair competitive advantage. Because owners receive it in such a timely fashion, they are able to determine market trends much more quickly than competitors. These reports are also provided to CRS carrier sales representative who then call on agents to induce them to increase sales on the owners. There are suggestions that threats as well as incentive commissions are used to increase CRS owners' market share.

Owners counter that the information is necessary for proper billing of booking and interline fees. Moreover, they argue that the data are proprietary, and they are under no obligation to—and perhaps cannot—distribute it to other carriers. Finally, they dispute the value of the data.

Market Structure

The general positions that parties took in comments for the Board's report and in the Aviation Subcommittee hearings reflect different perceptions about

market structure, which are relevant to a determination of whether a particular practice is anticompetitive. Opponents generally argued that CRS's are at this time natural monopolies, with American and United having roughly equal shares of 80 percent of the automated agencies. This fact, combined with high capital costs and scale and network economies available to incumbents, makes new entry at competitive prices unattractive. Further exacerbating the problem is the fact that it is generally uneconomical for an individual agency to subscribe to more than one system. In addition to the deterrents to switching systems, a relatively small number of low volume agencies remain unautomated; thus the potential market appears small. They also claimed that owner's use of incremental revenues gained through CRS bias or omissions to offset prices to agents that are below cost further insulates owners from the threat of new entry.

Owners argue that there is more than sufficient competition. They point to the existence of a total of five carrier-owned systems plus one independent as evidence that competition is working. Two of the carrier owned systems, Eastern's and Delta's, are of recent vintage. Owners argue that competitive pressures have precipitated innovation and improvements and have prevented them from charging fees which fully recover costs.

A. Market Shares

The usual starting point in competitive analysis is an examination of the relevant market and the market shares of firms offering competing services. If any one producer has a large enough portion of any relevant market, there is a risk that it may abuse its market position. Of course, market share are not conclusive, since factors such as barriers to entry may determine the extent to which a firm with a large market share is disciplined by potential competition.

Relevant markets are established by identifying competing services or products that are sold in general geographic areas. In its report the Board defined the product market as CRS's and examined the possibility of two types of geographic markets: the national market and regional markets.

In the national market, the Board found that 78–80 percent of automated locations were split roughly equally between American and United. TWA's PARS had 14 percent, the independent MARS Plus, 5, and others 5. These figures did not account for the recent entry of Eastern and Delta.

In some regional markets, which the Board defined as areas around major hubs, the Board found that one carrier or another serviced a much larger proportion of automated agents than national market shares would suggest. The Board found an empiric correlation between these large CRS market shares and the air transport dominance of the CRS owner at hubs that lacked a strong presence by a second CRS carrier.

The Board offered two possible explanations for this correlation. The first might be described as historical happenstance. In developing the CRS's, carriers would naturally derive the most benefit from their use by agents in areas where the owners focused on areas that they served heavily, producting the high regional market shares. As other airline CRS owners expand into new air transportation markets, they may have an interest in contesting those CRS markets as well.

The second explanation is that agents may perceive a number of advantages in using the CRS of a major local carrier. First, it permits direct communication with the carrier that is likely to be a major source of sales. This permits better and more reliable information. Other features, such as the ability to issue boarding passes, also become more of an advantage as the number of flights a carrier provides into the agent's area increases. This explanation implies that in order to compete effectively against a rival CRS, a carrier first would have to establish a substantial presence in its air transportation services.

B. Entry Barriers

The Board also identified a number of factors that might be considered entry barriers, which it defined as a factor that makes entry or expansion difficult, costly, or time consuming.

Development of CRS hardware and software would be expensive and timeconsuming. The Board observed that American claimed to have incurred expenses of $160 million to develop Sabre. Specialized programmers are said to be scarce, and existing CRS carriers could refuse to cooperate with potential competitors, who would not then be in a position to offer comparable services.

With some 80 percent of agents already automated, a new entrant would have to rely on coverting agents with existing systems, which is not very attractive. First, agents have time and money invested in the systems that they have, and the resultant disinclination to switch alone may be hard to overcome. In addition, CRS opponents have alleged that owners engage in a number of unfair practices in their contracts with agents.

It was alleged that the travel agent contracts were below cost. Airline CRS owners generate greater air transportation sales because of display bias. Because they can garner potentially greater returns from these incremental revenues, they have substantial economic incentives to price biased systems below cost. A potential entrant would need incremental revenues or some other form of offset to price their systems to agents competitively. Opponents also charge that carriers are using long-term leases with substantial liquidated damages provisions to tie up agents. Other provisions, such as United's rule requiring that an agent with Apollo must issue 95 percent of its tickets from United sales on Apollo, discourage agents from having multiple CRS's. Finally, opponents charge that owners actively pursue agents with "sweetheart" deals, including up-front bonuses, payment of liquidated damages, and overrides.

The report also observed that scale economies and network efficiencies might require that a new CRS be placed in a large number of locations to be competitive. Finally, if an airline needs to establish a substantial or dominant air transportation presence for successful CRS penetration, this might itself be a barrier to entry.

For its part, American says it offers agents the option of buying or leasing for anywhere from 1–5 years. While it does not generally discourage multiple CRS's, it will do so if the potential second system has an exclusionary policy with respect to Sabre. As to bonuses, American admits offering commission incentive overrides, but it denies giving up-front money or absorbing the costs of breaking a contract.

United concedes that the effect of the 95% rule is to reduce the incentives for multiple CRS's, but it argues that this is beneficial. Even for agents which can afford them, United argues that a duplicate system is uneconomical. In addition, it protects agents from unfair competition from large firms that can afford duplication. As to the long term leases, United argues that they are beneficial because they add stability to the industry.

Petitions for Rulemaking

ARTA

On March 16, 1983, ARTA filed a petition in Docket 41389 requesting that the Board adopt a rule declaring bias in

CRS's to be an unfair competitive practice. ARTA identified four kinds of bias, which it urged the Board to specifically prohibit. The four kinds were: (1) omission or deferral of schedule or availability information of a competitor; (2) omission or deferral of information on a competitor's fares; (3) delay in loading information on new fares or schedules to avoid competition; and (4) encouraging travel agents to use one carrier's validation plate for all tickets.

ARTA argued that bias is contrary to public interest because it stifles fare competition, inconveniences the public, and generally makes it more difficult if not impossible to compete with CRS owners. In addition, since some courts have held a travel agent to be an agent of the traveller, bias may expose the agent to litigation risk for failing to find the lowest fare or best service.

Frontier Airlines and Donald L. Pevsner filed comments on ARTA's petition. Mr. Pevsner fully supported ARTA, but asked the Board to expand the scope of its inquiry. He argued that United and American dominate the CRS industry and that they use this power to exhort exorbitant fees from smaller carriers, whose survival depends on access to travel agents. Frontier stated that while it shares ARTA's concern, it believed that the timing of its petition (before the Board issued its report) was premature.

Joint Petitioners

Eleven carriers filed a petition in Docket 41621 on August 2, 1983, for rulemaking requesting more comprehensive relief. Southwest and Frontier have filed answers which support the petition and, in the case of Frontier, propose additional rules.

In support of their proposal, the Joint Petitioners argued that further information has been elicited in the Aviation Subcommittee hearings that provides the Board with a basis for going forward. Southwest suggested that the potential for harm sufficient to justify a rulemaking has been demonstrated already. The Joint Petitioners stated that the Board has acted in the past to formulate prospective rules defining unfair competitive practices without specific findings of violations of section 411, and that the Board has a statutory duty to proceed in this area, citing sections 102(a)(5) and (7). The Joint Petitioners contended that the CRS owners have the power to engage in unfair and deceptive practices; that they can deny or have denied access for competitive reasons, to discipline competitive response or to coerce participation in net ticketing agreements; and that fees are set in an unreasonable and discriminatory fashion, usually based on the degree of competition. The Joint Petitioners discount owner protests that the systems are losing money by pointing out that revenues are understated by the amount of incremental transportation revenues, and that costs are overstated, because the costs of processing owners tickets are not charged properly. They urge the Board to give little weight to arguments that all contracts will be equalized as they come due for renewal. Besides intentionally discriminating, this system means that carriers paying excess fees are subsidizing carriers that pay low or no fees.

The Joint Petitioners also object that CRS owners employ non-service factors to bias ranking of displays, thus shifting revenues to CRS owners on some basis other than price or service quality. While competent agents can overcome bias, they will lose efficiency, and the increased costs ultimately will be passed on to the comsumer. They also suggest that the public interest is injured because entry by new carriers is more difficult.

The Joint Petitioners further suggested that a rulemaking is justified because CRS owners use proprietary agent data to promote their own service. They argued that owner claims that the data are not all that useful are belied by their strenuous objections to a Board proposal in 1976 to release less timely, less detailed international traffic data. They also suggest that this issue is analogous to one the FCC resolved by ordering General Telephone and AT&T to release data to competitors that they were making available to their marketing departments.

The last abuse, or potential for abuse, for which they sought redress was manipulation of competitive information by delay, or erroneous loading. While conceding that proof of intentional manipulation would be difficult, they argued that the owners' absolute control of the data input process, and the high volume of carrier complaints suggest that the danger is real. They argue that the Board must take steps to assure that an owner can be held accountable for its mistakes.

In conclusion, the Joint Petitioners argued that their proposed rulemaking would not be inconsistent with deregulation, as it does not involve excessive governmental oversight or prescription of standards. Rather, they would require CRS owners to establish objective standards in a number of areas and apply them fairly to all carriers. Their specific proposed rules are contained in Appendix A.

Continental Air Lines

In its petition in Docket 41628, Continental urged action to correct CRS abuses because of the critical role that CRS's and their travel agent users play in the air transportation market today. Travel agents' historic reputation as impartial representatives of the entire industry enhances the perception of reliability in the eyes of the consumer. Agents rely more and more on CRS's as an efficient source of information, and CRS owners have taken advantage of this situation to conceal from agents, and hence consumers as well, information on the best price and service.

Continental asserted that ranking flight display on the basis of carrier identity factors constitutes an abuse. It further suggested that identity bias in connecting flight selection and display and the use of airport codes is also objectionable.

Continental also complained that CRS owners discriminate in offering access to other carriers. First, they do not charge the same price to all carriers for comparable access levels and display preference. Second, they may refuse display preference altogether. Continental suggested that refusal to grant access to marketing information and refusal to disclose weighting factors constitute unfair or deceptive practices. Finally, it identified as abuses that need to be corrected policies of discouraging agents from using multiple systems and policies of not making service enhancements available to other carriers.

Continental described in some detail its legal theory for justifying Board action at this time without further detailed inquiry. It argues that the Board has a history under section 411 of acting even without proof of actual consumer injury or intent to deceive, in order to provide consumers a margin of safety. In addition, it noted that the Board has in the past found that manipulation of key tools used by travel counselors violates section 411. *Great Lakes Airlines* v. *United States Overseas Airlines*, 34 CAB 59, 61 n.7 (1961).

Continental, arguing by analogy to section 5 of the Federal Trade Commission Act, claimed that CRS practices are both unfair and deceptive. Because in its view CRS practices result in substantial injury to consumers and both violate the public policy and amount to inherently unscrupulous business conduct, they would be condemned as unfair trade practices, citing *FTC* v. *Sperry Hutchinson*, 405 U.S. 233 (1972).

The carrier alleged moreover that CRS owners have made a variety of materially false and deceptive representations, both express and implied, to agents and consumers. Because consumers rely on travel agent impartiality and expect agents to have access to all necessary information to assist in making the best choices, Continental argued that CRS owners should be considered as deceiving consumers under theories of indirect misrepresentation which have been applied by the courts. *See e.g., Region Corp.* v. *FTC*, 322 F. 2d 765, 768 3d. Cir, (1963). Continental also cited what it regarded as misrepresentations made in the course of the Board's inquiry into CRS's. Continental suggested that while firms are entitled to profit from entrepenurial enterprise, they are not entitled to reap their rewards by means of unlawful conduct.

Continental supported an expedited rulemaking because the harm to competition is present and growing. To await the outcome of possible anti-trust litigation would permit substantial injury that the carrier believes is appropriate is preventative in nature, not remedial. Rulemaking is particularly appropriate in this case because it will give all affected persons the opportunity to be fairly heard. The specific rules proposed by Continental are contained in Appendix B.

Basis for Requesting Comments

The Board will grant the outstanding petitions for rulemaking and consolidate them into Docket 41686. While there is much debate about the precise degree to which the current CRS practices affect the air transport industry, the information now available justifies serious concerns about the potential of these practices to inhibit competition and injure consumers. Given the magnitude of the potential harm, we believe it imperative to consider adopting rules designed to limit possible abuses.

Computer reservations systems have taken on an integral role in the distribution of air transportation in the five years since the Airline Deregulation Act was passed. Prior to that time, the OAG, tariffs, and the telephone were the primary sources of schedule, fare, and availability information for passengers and travel agents. With deregulation, and the explosion of varying fare and service offerings that came with it, passengers have come to rely much more heavily on travel agents for their information. Travel agents, in turn, have looked to CRS's to keep abreast of fares and services. These factors have made CRS's the most important means through which airline passengers learn of competing fare and service offerings.

Roughly 60% of all domestic airlines sales are made through travel agencies. Until very recently, airline agreements prohibited sales through any other form of non-airline sales distribution network. Although the study cited in the report estimated that 80 percent of all agencies have CRS's automated agencies probably account for more than 90 percent of airline ticket sales by agents, since only the smallest volume outlets are not automated today. At the very least, it appears that more than half of all airline tickets are distributed through automated agencies. While these agencies and their clients have access to secondary information resources such as the OAG, general advertising and direct calls to carriers, it appears clear that the primary tool they use at the "point of sale" is the CRS. To the extent that an air carrier is unable to present information on its schedules, fares, and availability at this point of sale, agents and passengers may be unaware of the competitive offerings of that carrier, and its potential traffic pool will be reduced correspondingly. In an industry where relatively small marginal changes in traffic or load factor can mean the difference between profits and substantial losses, such a result could have significant competitive effects. For travelers, ignorance of the existence of various travel options may mean that consumers are being denied the benefits of competition.

Given the central role of CRS's in the distribution of air transportation, we must be concerned about any conditions that give a few air carriers the power to dictate the terms of access to this system. To the extent that such carriers are able to limit revenues or raise costs of their competitors artificially, consumers in particular and the air transport system in general will suffer. The decision to deregulate the air transport industry was based on the perception that the industry was structurally competitive—*i.e.*, that entry barriers were low and resources were mobile. Given these conditions, one could rely on competition to weed out inefficiency, artificially high prices, and constricted service levels.

Our initital inclination is to rely to the maximum extent on the competitive market. But we do not believe that deregulation requires an uncritical adherence to a laissez-faire policy when there are indications of market abuse. If the distribution system or a critical part of it is controlled by a few airlines and their competitors cannot easily circumvent that system or provide their own system, their ability to compete will be greatly diminished and the premises underlying deregulation will be undercut. Our primary responsibilities under deregulation are to insure that the air transport system remains competitive and to insure that consumer interests are not abused.

Two CRS's—Sabre and Apollo—account for about 80% of all automated agency locations. Using rough estimates, the American or United systems can at any point in time account for 40–60% of agency sales generating on the order of 20 percent of domestic travel. While the national CRS market appears concentrated, certain regions of the country are even more so. In the Denver area, for example, Apollo alone accounts for an estimated 80% of the automated agencies. Dallas/Fort Worth, St. Louis and other major markets are similarly dominated by a single CRS.

Adding to the concern over these concentration figures is our perception that entry into the CRS field is apparently neither quick nor easy. United and American have each spent more than $150 million to develop their systems. It is reasonable to conclude that competing systems would cost as much or more to develop. Moreover, most of the potential market has already been automated. While new or existing CRS providers may be able to induce some travel agents to switch systems over time, it is not reasonable to expect that large numbers of agents will ignore the cost and inconvenience of retooling and retraining. Thus we can only expect that the existing CRS market structure will remain for at least the next few years.

Given the importance of CRS access to airlines and consumers, and given that a handful of air carriers control those systems now and will continue to do so for a substantial period to come, we must carefulluy scrutinize the practices of the CRS carriers to make sure that they do not adversely affect air transport competition or consumer interests. Based on the information available to us, we find that several of these practices have the potential to injure the air transport system, and we thus believe that there is a need to consider certain ground rules to limit abuses.

The practice with the most obvious potential impact on consumers is the display bias by which the CRS owners program their systems to give preference to their own flights in the selection and display of services on the CRS screen. The evident purpose of this practice is to obtain "incremental revenues" by inducing travel agents to book

passengers on the flights of the system proprietor or its favored co-hosts. In cases where the bias succeeds in influencing passengers' decisions, it may be that consumers have made the selection not because of the superiority of the proprietor's fare or service offerings, but because the range of options available to the passenger is artificially limited or skewed. One of the attributes of a competitive market is that buyers have information about competing prices and services.

It may be argued that the purpose and effect of bias—influencing passenger choice—is no different than the intent of other acceptable marketing strategies like advertising and incentive commissions for travel agents. There are, however, several factors that differentiate bias and may make it "unfair." First, unlike advertising, bias is used to *suppress* information about competitors' offerings, rather than to *provide* information about the offerings of the carrier initiating the practice. Second, while CRS providers do not hide the fact that they bias the system, they do not appear to volunteer details on the nature and degree of bias, and they do make it relatively difficult to overcome. Third, the travel agency system for which CRS's are the basic information tool is held out as an impartial system representing all airlines equally. However, unless a customer is sophisticated enough to inquire, he may not be aware that the information he is getting from a travel agent may be slanted in favor of certain carriers. Most importantly, bias is a competitive strategy that is available only to certain carriers.

Estimates vary as to the degree to which bias affects carrier revenues and passenger choices. However, the effect is clearly substantial. The President of American Airlines has testified that American enjoys a "premium share" of 8%–15% in agencies automated with Sabre and that with Apollo agencies American's bookings are approximately 10% lower than they would be if the Apollo agencies were not automated. These are relatively large increments of traffic in an industry where a 5 percent difference in average passenger load factors can be the margin between financial success and failure. He further testified that in 1981 American received about $100 million more in revenues from Sabre agents and $86 million less from Apollo agents than it would have if those agents had not been automated. The existence of CRS's and the identity of their proprietors has a substantial, hidden impact on the choices made by millions of passengers. While bias is not the only factor influencing these CFS-related choices, it is nonetheless a significant factor. Bias may account for a shift of millions of dollars in passenger revenues to CRS carriers and cause a substantial number of passengers to choose options offered by travel agents that they may well not have opted for had they known more about the quality of the fare or service offerings available to them. This result would appear to undercut fair competition and be unfair to consumers.

A second CRS practice that causes serious concern is the charging of allegedly unfair or discriminatory fees for a carrier to be listed in the systems. Both United and American admit to charging fees that vary widely from carrier to carrier. Some carriers, for example, paid nothing for their listing of schedules, fares, and availability but other carriers were charged $3.60 per segment booked for the same service. United admits that the fees it charges are based in part on the identity of the carrier it is negotiating with and on that carrier's "value" to United. Besides the access fee issue, American, United, and TWA have required other carriers to enter into net ticketing agreements with them as a condition to obtaining access to their CRS's. The ability of these CRS proprietors to maintain widely varying prices for substantially similar services and to extract substantial net ticketing fees may be an indicator that they have substantial CRS market power. In effect, the proprietors have shown that they have a degree of control over the costs of, and the prices charged by, their air transport competitors.

The imposition of discriminatory prices for CRS services may be unfair and may present a threat to air transport competition. In today's environment, most carriers must have their services and availability listed in the major CRS's if they wish to sell seats to the majority of the traveling public that uses travel agents. While the CRS proprietors have every right to expect payment for such listings, there is no explanation for an imposition of differing fees on similarly situated carriers. Such variations are certainly not based on cost differences and cannot be justified on the basis of increased efficiency of utilization. Moreover, if this is true, the clear effect of this practice is to handicap certain carriers that may be in competition with the CRS providers by raising their costs and hence the prices they can charge to the public.

Price discrimination may be acceptable in a full competitive market where there are alternatives available to customers. However, in a market like the CRS market, which is concentrated and appears to have relatively high entry barriers, and in which the dominant suppliers also compete with their customers, such discrimination may present a threat to competition.

We are also concerned about the imposition of net ticketing agreements as a condition to CRS access. Because the smaller carriers need access to travel agents, and therefore to CRS, they have no choice but to agree to the net ticketing fees. This use of CRS market power to impose fees for the interline sale of air transportation is alleged to be a tie-in arrangement that contravenes the antitrust laws. *See, Fortner Enterprises, Inc. v. United States Steel Corp.*, 394 U.S. 495 (1969); *Standard Oil Co. of California v. United States*, 337 U.S. 293 (1949). The potential damage to air transport competition from this practice is similar to the potential damage from discriminatory pricing—*i.e.*, it can be used to control the costs and prices of the proprietor's air transport competitors.

The third general practice that gives us immediate concern relates to access to, and use of, travel agent sales information. The system proprietors prepare monthly reports summarizing the sales activities of each travel agent subscriber. The reports show the bookings made on each carrier overall and in each market. It also appears that the CRS owner airlines have access to information on individual travel agent customers. In addition to being provided to agents, this information is used by the owners' marketing personnel in developing individualized commission arrangements and in other travel agent sales tactics, and appears to be a very useful sales tool, at least for some system owners.

The use of this information exclusively by CRS owners gives them a potentially unfair advantage over their competitors. Information on travel agency sales is proprietary to the travel agents and transporting carrier. There is reason to question why the carriers' marketing personnel should be given that information. Its use by marketing personnel gives the CRS carriers a sales advantage that cannot be duplicated by their competitors.

We conclude that there is an immediate need for us to consider rules designed to address these three problem areas. Those practices could present a serious threat to air transport competition and to consumer interests which, if proven, should be forestalled as soon as possible. We seek detailed comments on how one might intervene to restore competitive balance with a

minimum of disruption and expense. We do not at this point rule out the possibility that we may take further action if it is required.

Specific Proposals

We have decided to seek comment on a range of possible rules. We invite detailed responses both to the proposals of the various petitioners contained in the Appendices and to those proposals which we discuss below. As discussed below in connection with procedures we believe that we can act more expeditiously if we refrain from endorsing a specific proposal at this time. Moreover, at this stage, we have some questions about the efficacy of all the proposals put forth in the various petitions. In addition, the various proposals are not wholly consistent with each other, this suggests that at this time there is some dispute over the best solution to the alleted problems. By going forward with an ANPRM at this time without supporting any specific proposals, we expect to develop a record on which to evaluate these proposals. We also expect that commentors will be able to focus more finely on specific proposals.

Display Preference or Bias

The first set of proposals on which we seek comments concerns the display of airline schedules, fares, and seat availability. As explained in more detail in our discussion of the CRS report, two qualitatively different types of information now determine the ranking of flights: factors relating to carrier identity, and factors relating to the service characteristics, of a flight. Service factors relate generally to objectively ascertainable scheduling attributes such as displacement from the time of requested departure, elapsed time of flight, direct or non-stop service, and interline and online connections. Different CRS's weigh these factors differently, so that even in the absence of carrier preferences, various CRS's might well display service offerings in a different order.

We have not as yet encountered substantial criticism of the CRS carriers' selection and weighing of factors that are based on objective service criteria. The differences appear to be based on disparate perceptions of the value that travelers place on service factors and on management decisions about how programming resources will be applied to manipulate data. We are generally reluctant to regulate carrier practices unless we are persuaded that the competitive market is not functioning properly or cannot adequately protect consumer interests. We are therefore not inclined at this time to entertain suggestions for regulations or agreements that would seek to prescribe to uniform industry standard. Such an approach might well result in a rigid system that is not sufficiently responsive to technological innovations. We prefer not to stifle rivalry among CRS providers on display format choices that do not appear to result in competitive injury or consumer detriment.

We are suggesting several remedial actions that we could take if we are persuaded that corrective action is required to curb practices that abuse competition or injure the consumer. We ask commenters to address the following alternatives: (1) allowing CRS hosts a maximum advantage, however obtained, of thirty minutes; (2) removal of all carrier identity factors except that a CRS host could display its offering first in the event of a "tie" in service factors; (3) removal of all carrier identity factors, requiring that service factor ties be resolved by random selection. For each of these, commenters should discuss the likely effect on the incentives and costs, both increased and avoided, for CRS hosts, participating airlines, traval agents, and the traveling public.

In addition, we also solicit comment on proposals that would govern bias or non-display of connecting flights. Connections now play a greater role than in the past because of the development of hub and spoke route networks. Subjective criteria for the selection of connecting schedules based on the identity of a favored or disfavored carrier could have important implications for both consumers and carriers. This practice may influence flight selection as much as express carrier identity factors, yet it is less readily apparent and probably more difficult to overcome.

As explained in more detail in our preceding discussion of the report, preference in the order in which connections are displayed will be influenced by carrier identity factors that dictate the order in which flights are displayed. In addition, all CRS carriers suppress or eliminate some connecting services. There are strong suggestions that such decisions are made on the basis of competitive considerations. For example, a carrier may show connections over only a handful of hubs, or build connections using only a few connect points, and favor its own hubs in the majority of cases, even if service over those points would cause a more circuitous, time consuming, or expensive journey for the traveler. This form of bias cannot be overcome by glancing down the screen; rather, an agent must speculate about possible alternative hubs and enter successive instruction to the computer to construct schedules dynamically over the various choices.

We anticipate that CRS carriers will contend that it would impair their systems' efficiency or be technologically impossible to display a large number of connections. However, the gravamen of the complaints to date has been that the connections which are selected for display are artifically constrained on the basis of competitive considerations. Our first set of questions therefore deals with criteria for selecting connections, apart from the question of whether the CRS owner should be required to display a certain number of connections that would rank the highest under certain objective criteria.

We ask comment on whether CRS hosts should continue to select hubs or connecting services, and be able to charge participating carriers to have their connections or hubs favored or included. In the alternative, should objective criteria be required for the construction of connections? What factors should be used to construct connections, and how frequently must the selection process take place? Some alternatives for the service criteria could include: (1) all connections within a certain elapsed time from point of origin to ultimate destination, or within a minimum waiting time at the connection point, or some other scheduling variant; (2) all connections over hubs within a certain circuity (distance) allowance factor, e.g., 20 percent; (3) all connections that could be constructed using hub airports of a particular category, *e.g.*, all large and/or medium size hubs; (4) predominant actual itinerary based on historic traffic flows in city-pair markets; (5) some combination of factors; or (6) the CRS carriers' choice of objective hub criteria, such as those just described.

Aside from how hubs may be selected, we have questions on how many connections should be constructed and displayed. Should they be constructed over all hubs that qualify for selection, or should we prescribe a minimum number? Of the connections constructed, should we require display of all, a fixed raw number, or a fixed percentage? Should the answers to these questions vary according to the size of the market requested?

Another aspect of CRS display on which we seek comment is fare information. At the present time, price is not generally included as one of the so-

called objective factors used in ranking flights for display purposes. In addition, fare information is not generally included with schedule and availability displays. Agents must call up additional screens to get information on fares available on specific flights and to rank fares in a given market. Some persons have suggested that CRS owners' policies on fare information constitutes a form of display bias since the policies protect owners from possibly higher display rankings of low cost competitors based on fare and make it more difficult for consumers to shop on the basis of price. Even if the policies are not considered as a form of bias it has been argued that they do a disservice to consumers because they make it more difficult to compare offerings on the basis of price.

We request participants to comment on whether any Board rule on display bias should include requirements for the display of fare information. Would rules amount to excessive governmental intervention, e.g., dictating substantive terms to the so-called objective standards? In addition CRS owners have argued that practices on display of fare information result from the fact that most CRS's were developed at a time when fares were tightly controlled by the Board. We also request comment on whether it would be technologically and economically feasible to enhance the importance of fares in CRS display rankings by adding them as a service element.

Access Issues

A. *Access Charges*

If the Board decides to act, the core of any regulation dealing with access would likely be a prohibition against discriminatory pricing. Given that general prohibition, to what extent and on what basis should CRS carriers be allowed to differentiate among classes of carriers in setting access charges? Some possible bases for differentiation might be a carrier's volume of reservations, the degree to which its own computer system is capable of interacting with that of the host, and its participation in certain system enhancements (e.g., advance boarding passes). If all forms of display bias are eliminated, is there still a justification for differentiating in price among different classes of participants such as cohosts and non-cohosts?

In what way will or should a ban on price discrimination affect existing contractual arrangements? Continental suggests that we declare enforcement of discriminatory contracts to be an unfair and deceptive practice. If such contracts are not rendered unenforceable, to what extent should the CRS owners be required to conform access charges for new participants with existing charges for favored participants? How much time will CRS proprietors need to develop and negotiate a more uniform pricing structure? In general, how can we minimize any disruption in the transition to a nondiscriminatory pricing structure? What methods are available, or could be developed, to reduce government regulation in this area?

A number of carriers have complained about the level of CRS charges in addition to their disparity. Should the Board specifically require that CRS access charges be reasonable? Should we go further and require CRS carriers to develop and publish fee schedules that are based on the past and projected costs of the systems? In that connection, is there a reason to require CRS carriers to develop accounting systems for their CRS operations that amoretize development cost, allocate costs between their airline marketing and CRS automation expenditures, and/or make other adjustments? In such a system should the CRS airline be required to access fees for its own operations on the same basis that it charges other airlines, or should it be required to take account of incremental revenues on the income side of the ledger?

B. *Terms and Conditions for Participation*

Should we prohibit CRS owners from requiring participants to sign net ticketing agreements or similar contracts as a precondition to the display of their schedules or availability? As a general matter, to what extent are interline relationships necessary to, or interconnected with, CRS relationships?

If we do not permit CRS carriers to impose net ticketing agreements on their airline participants, should they be allowed to formulate other means to recover the credit card and accounting expenses they incur in issuing tickets on other carriers? Is there any basis for recovering some of those "net ticketing" costs through increased CRS fees? To the extent that such expenses are included in the CRS cost base, should there also be an adjustment for the "credit float" that the CRS hosts enjoy by virtue of their issuance of tickets on other carriers?

With respect to the loading of fare, schedule and availability information, how can we best insure uniform nondiscriminatory practices? Should we require CRS owners to publish standards and procedures for the loading of data? Should the system proprietors be permitted to load or amend their own fare and schedule data on a more expeditious and reliable basis than they load participants' data? Would a general prohibition on unfair or discriminatory loading practices be effective in controlling the alleged abuses. Is there a reliable means of prohibiting CRS owners from censoring or delaying the input of their competitors' fare and schedule information? For example, should the CRS carriers be required to develop formats that would permit participants to input their fare and schedule changes directly into the CRS systems or, short of that, to submit such changes in a machine readable format?

Finally should service enhancements be made available to all participants at the same time? Would such a requirement dampen CRS innovation? Can enhancements be phased in gradually without undermining the standard of equal access to enhancements?

Proprietary Information

The third area on which the Board requests comments is the use of CRS data. To what extent are the data on bookings made by travel agents proprietary to those agents, to the CRS owners, or the carriers on whom the bookings are made? Is it unfair for CRS carriers to use such information in their marketing activities? Would a prohibition against such use be enforceable? Would a requirement that such information be shared equally among all carrier participants be fair to travel agents? Finally, would such a requirement promote or dampen air transport competition? What effect would a general prohibition on misuse of proprietary information have on the alleged problem?

General Considerations

The Board seeks detailed and documented information on the precise extent of claimed problems as well as the proposed solutions. To that end we have already ordered certain CRS owners to provide specific information in Order 83–8–105. Other interested persons may prepare similar information for submission with their comments.

To the maximum extent possible, comments should include supporting or rebuttal materials and should address both the consumer protection and competitive rationales underlying potential courses or action. We encourage submission of critical analysis of the degree of competition in the CRS market, its structure, and its peculiar characteristics. Commenters are asked to provide actual studies of

agency sales patterns or documentation of revenue changes that occurred when a participating carrier's status in a CRS changed, for example, to a cohost or a non-participant. We are also intersted in explicit discussion of how consumers or airlines are injured, and the degree to which the flights actually selected differ from what the knowledgeable passenger might reasonably have chosen with different information.

Commenters are also requested to substantiate objections or recommendations by submitting cost and time estimates for programming changes that might be required in future rules. If CRS carriers intend to object to the technological feasibility of proposals, they must provide a sufficiently detailed explanation of their position. Any estimate of reprogramming costs must also include an analysis of any potential cost savings, for example, savings in computer (CPU) time from program simplification, reduction in communication, costs or changes in manpower requirements. We also invite personnel of non-CRS carriers who are knowledgeable about these systems to submit their views on the cost/benefit issues.

We are interested in receiving comments on the scope of any proposed rules. In addition to the "proprietary" CFR's owned, operated, and marketed to agents by a handful of major airlines, there are at least two other types of reservation systems now offered to agents. First is the "multi-access" system, through which agency subscribers can enter the internal reservations computers of participating airlines, which contain the information and displays available to a carrier's own personnel. There is no independent data base, only those that are made available by each airline participant, and reservations are held within each airline's internal system. A variant of multi-access is direct access. While the agency subscriber can enter the internal system of each participating carrier, all reservations are stored in the host's system, and the first or "primary" screen displayed when no individual airline participant is specified presents information on a number of carriers. Our *Report to Congress*, at pages 24–36, contains a more detailed account of these CRS alternatives. We hope to receive input on whether and to what extent potential regulations might apply to the multi-access and direct access CRS's.

Comments are also requested on whether the duration of any regulations should be limited. Comments may consider the timing and conclusion of the Justice Department's investigation of the CRS industry and transfer of the Board's authority in this area to a successor agency.

Procedures

We propose to conduct an informal rulemaking, as defined by the Administrative Procedure Act, 5 U.S.C. 553. We intend through this proceeding to develop rules of general applicability to curb practices that may inhibit air carrier competition and injure consumer welfare. Informal rulemakings are well suited for situations, such as this one, when the action contemplated is prospective and legislative in nature and when the agency's purpose is to develop a factual record, responsive policies, and appropriate regulatory action rather than to take enforcement action against specific persons. However, we will permit comment on the procedures we propose to follow.

With certain exceptions, the APA requires that informal rulemakings include the following steps: publication in the **Federal Register** of a notice soliciting public comments and publication of the final rule in the **Federal Register** at least thirty days before it is to take effect. We may supplement these procedures, since they are the minimum the law requires.

The petitions of Continental and the Joint Petitioners urge issuance of a notice of proposed rulemaking immediately. We think it better to solicit general and wide-ranging comment by an advanced notice of proposed rulemaking. We agree with Continental's contention that threats to consumer welfare should be cured with the maximum expedition, but we also think that issuance of the advanced notice will further this end rather than frustrating it. Not only will this preliminary step not consume much time, but it will enable us to craft our notice of proposed rulemaking with more precision than we could do on the present record, should we determine that further proceedings are warranted. Although there seems to be general agreement among those who advocate a rulemaking on the general problems to be addressed, there is a wide variety of specific proposals for specific rules. The ANPRM format should facilitate the earliest possible adoption of a final rule.

We propose to conduct this rulemaking without holding an oral evidentiary hearing. A final rule stating Board policy or a set of policies normally does not rest on the resolution of particular issues of adjudicative fact, and we do not at this point perceive the need for a hearing in this case. Board policy properly rests on the sorts of arguments, opinions, and facts that we expect to collect in the form of written comments and responses to our information request orders. We have a high level of confidence about the information we have acquired already and do not intend to suggest that the information we have solicited is essential to resolve material disputes of fact. However, we think the production of background material will enhance the public record by including documents and facts which parties submitted or discussed during our informal investigations, which were conducted under a pledge of confidentiality.

Written comments and reply comments on at least two public notices, supplemented by an oral argument, should suffice to resolve the factual issues in this proceeding for purposes of making policy decisions. Of course we can always decide later to conduct further fact finding procedures should they prove advisable.

Finally, since this proceeding involves three distinct subjects—*i.e.*, display bias, costs and other CFR access terms, and the use of information that is confidential or competitively sensitive—we may eventually decide, in the interests of efficiency, to separate it into more than one rulemakings proceeding.

Authority

It is the Board's opinion that sections 102, 204 and 411 of the Federal Aviation Act provide ample authority for this proceeding. We invite interested persons to address this issue in their comments to this advanced notice.

Section 102 contains a nonexhaustive list of public interest policy directives, and the various CRS issues call several of them into play. Subparagraph (a)(3) directs us to consider "the availability of a variety of adequate, economic, efficient, and low-price services by air carriers * * * without unjust discriminations, undue preferences or advantages, or unfair or deceptive practices: and "the need to improve relations among, and coordinate transportation by, air carriers." Subparagraph (a)(6) directs us to prevent "unfair, deceptive, predatory, or anticompetitive practices in air transportation" and to avoid "unreasonable industry concentration, excessive market domination, * * * monopoly power [,] and * * * other conditions * * * that would tend to allow one or more air carriers * * * unreasonably to increase prices, reduce services, or exclude competition in air transportation." Subparagraph (a)(10) promotes "the encouragement of entry

into air transportation markets by new air carriers, the encouragement of entry into additional air transportation markets by existing air carriers, and the continued strengthening of small air carriers so as to assure a more effective, competitive airline industry." As explained in detail in this advanced notice's discussion section, there are several CRS practices that work to frustrate these policy directives and that thus warrant corrective action.

Section 204 confers broad general powers on the Board. Among other things, it empowers the Board to conduct such investigations and make and amend such rules and regulations, pursuant to and consistent with the Act, as it deems necessary to carry out the Act's provisions, exercise its own specific powers, and discharge its duties. Use of section 204 in conjunction with section 102 as the legal basis for the sort of rulemaking we contemplate here is fully consistent with the legal precedent governing ourselves and other agencies. *Mourning* v. *Family Publications Service*, 411 U.S. 856 (1973); *Diefenthal* v. *CAB*, 681 F.2d 1039 (5th Cir. 1982). In addition to section 204's grant of general powers, section 411 specifically empowers the Board to investigate whether air carriers or ticket agents are engaged in unfair or deceptive practices or unfair methods of competition and, if so, to order the offenders to cease and desist. While section 411 does provide for notice and a hearing before issuance of an order to cease and desist, we have consistently held that for rulemaking purposes, this hearing need not be an oral evidentiary hearing. For example, we did not hold an oral evidentiary hearing in our rulemaking on denied boarding compensation and baggage liability, which we issued in part under section 411. Notice, comment, and possibly an oral argument traditionally suffice for these proceedings, and we have no cause at this stage to believe that they will not suffice here.

Morales, Member, Dissenting in Part

I disagree with the last two paragraphs before the heading "Access Issues" on page 18. I see no reason to seek comment on the display of fare information. It is incumbent on consumers of every kind of service to shop around for the lowest fare available to them. The Board has no regulatory basis for requiring that fares be "enhanced" in CRS display rankings.

The areas of fare information on which comment is sought can lead only to the suggestion that the Board should mandate or would entertain mandating that fare information be displayed in a particular manner. I do not need to seek comments on this possibility to know that such rules *would* amount to "excessive governmental intervention, *e.g.*, dictating substantive terms of the so-called objective standards". Therefore, I strongly dissent from that section of the ANPRM.

Diane K. Morales.

Accordingly, the Civil Aeronautics Board grants the petitions in Docket 41369, 41219, and 41628, and asks for comments and proposals on the issues in those petitions and this notice. We will consolidate those dockets and Docket 41207 into this proceeding, to form a new Docket 41686.

By the Civil Aeronautics Board:

Phyllis T. Kaylor,

Secretary.

The Joint Petitioners request that the Board adopt a rule which would define the following as unfair and deceptive practices and unfair methods of competition:

1. Charging similarly situated carriers different prices for the same services if the price differences were not related to cost or other CRS related conditions;

2. Requiring air carrier users of CRS's to pay net interline ticketing charges as a condition for receiving CRS services;

3. Display Bias.

A. Constructing schedule displays which are not service related and uniformly displayed, except that in the case of a tie, the CRS owner can prefer itself;

B. Providing fare displays where the rank is not strictly fare related, with the lowest fare first, uniformly applied to the owner and all others, except that where the owner and another carrier have the same fare, the owner can list itself first;

C. Using fare or schedule display formulas which have not been published, or to change formulas without giving public notice;

4. Providing CRS derive marketing data to the CRS owner's marketing or sales department before it is made available to other carriers, but owners may charge other carriers for this data on a fair and equitable basis;

5. Offering service enhancements or technological advancements to other carriers except on a basis of uniform and equitable criteria broadly available to competitive and noncompetitive carriers alike; and

6. Providing different terms and conditions for the processing of other carriers schedules, fares and marketing information than for the CRS owner's own.

In its answer, Frontier urges the Board to supplement the Joint Petitioners proposal with certain specific prohibitions. In the area of bias, Frontier would add to the following non-exclusive requirements:

a. If a CRS searches back and displays schedules ahead of the time requested, the CRS must search back for the same period and on the same basis for other carriers as it does for the owner;

b. In fixing the order of flight display, no weight shall be given whatsoever to identity of the carriers; and

c. If a CRS is programmed to edit out (omit) flights, the criteria must be service related, and must be applied equally to all carriers, including the owner.

Frontier would also require that in the case of tie, order of display be randomly selected.

In the area of enhancements and technological advancements, Frontier requests that the Board specifically require that they be offered to airline users at the same time they are implemented by the service carrier.

Continental urges the Board to adopt a rule which would do the following:

1. Prohibit discrimination between carriers in the display of schedules, fares, connections and availability, changes in same, or in the terms and conditions of providing enhanced services;

2. Require owners to disclose display order criteria to subscribers, and prohibit discrimination between airports serving the same city unless the subscriber makes a specific airport request;

3. Establishes as a defense to the first prohibition that a carrier did not accept an offer on terms proportionately equal to those provided to any other carrier;

4. Prohibits the use of fares and schedules of user carriers for any purpose other than providing computer reservations services;

5. Prohibit subscriber contracts which: (a) prohibit the use of a competing CRS; (b) require the subscriber to sell the service of any carrier, including the CRS owner; or (c) require the use of a provider's CRS in connection with sales of any particular airline; and

6. Prohibit the enforcement of any contract between CRS owners and other carriers executed prior to the effective date of the rule, except with respect to services performed prior to the effective date of the rule.

[FR Doc. 83-25079 Filed 9-13-83; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 928

Petition by Friends of the Earth and Others to Further Implement Section 312(b) of the Coastal Zone Management Act, as Amended

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of petition for rulemaking.

SUMMARY: On August 16, 1983 the Office of Ocean and Coastal Resource Management of the National Oceanic and Atmospheric Administration received a petition from the Friends of the Earth on their behalf and that of the National Audubon Society, the Oceanic

Society, the American Littoral Society, the Environmental Policy Institute, the Sierra Club, and the Natural Resources Defense Council, Inc., requesting issuance of regulations to further implement Section 312(b) of the Coastal Zone Management Act which states that:

> For the purpose of making the evaluation of a coastal state's performance, the Secretary shall conduct public meetings and provide opportunity for oral and written comments by the public. Each such evaluation shall be prepared in report form and the Secretary shall make copies thereof available to the public.

The petitioners contend that our regulations at 15 CFR 928.4 implementing Section 312(b) are inadequate.

DATE: Comments must be received by October 14, 1983.

ADDRESS: Submit comments concerning the petition for rulemaking to: Vickie A. Allin, Deputy Chief, Policy Coordination Division, Office of Ocean and Coastal Resource Management, 3300 Whitehaven Street, N.W., Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: Mary O'Connell, Policy Coordination Division, Office of Ocean and Coastal Resource Management, 3300 Whitehaven Street, N.W., Washington, D.C. 20235 (202) 634–4249.

SUPPLEMENTARY INFORMATION: The petitioners contend that our regulations at 15 CFR 928.4 implementing Section 312(b) are inadequate. These regulations require that a public meeting or meetings be held on each evaluation to solicit public comments on the coastal state's performance with respect to coastal management. The regulations require that a Notice of Intent to Evaluate be published in the **Federal Register** at least 45 days in advance of the public meeting(s) and that the state issue a newspaper or other notice at least 15 days in advance of the public meeting(s). The regulations also require that a notice of the availability of final findings to the public upon request be published in the **Federal Register**. The petition proposes additional rulemaking as follows:

15 CFR 928.4 should be amended by revising subpart (b)(3) as follows:

> (3) The Assistant Administrator shall assess and consider all oral and written comments both individually and collectively, and shall respond to written comments by one or more of the means listed below stating its response in the final evaluation findings:
>
> (i) Reduce financial assistance for failure to make significant improvement.
>
> (ii) Withdrawal of program approval and financial assistance.
>
> (iii) Supplement, improve, or modify its findings.
>
> (iv) Explain why the comments do not warrant further agency response, citing the sources, authorities, or responses which support the Assistant Administrator's position and, if appropriate, indicate those circumstances which would trigger agency reappraisal or further response.

15 CFR 928.4 should be amended by adding new subpart (b)(4) as follows:

> (4) All substantive written comments received on the evaluation (or summaries thereof where the response has been exceptionally voluminous), should be attached to the final evaluation findings whether or not the comment is thought to merit individual discussion by the agency in the final evaluation findings.

15 CFR 928.4 should be amended by amending and renumbering existing subpart (b)(3) as (b)(5) as follows:

> (5) Notice of the availability of final findings to the public upon request will be published in the **Federal Register** and a copy will be sent to those submitting written comments during the evaluation.

I. Authority

This petition for rulemaking will be considered in accordance with the procedures in the NOAA Directives Manual at Chapter 21–24, Section 14; and Section 4(d) of the Administrative Procedures Act (5 U.S.C. 553(e)).

II. Decision Whether or Not to Undertake Rulemaking

The Office of Ocean and Coastal Resource Management will consider comments received in response to this notice of petition for rulemaking. The Office will make its decision to proceed or not to proceed with rulemaking and will notify the petitioner by December 14, 1983. The Office will also publish a notice of its decision in the **Federal Register**.

List of Subjects in 15 CFR Part 928

Coastal zone, Energy, Grant programs—natural resources.

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Administration)

Dated: September 8, 1983

K. E. Taggart,

Acting Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 83-24800 Filed 9-13-83; 8:45 am]

BILLING CODE 3510-08-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 882

[Docket No. 83N-0241]

Neurological Devices; Proposed Rule; Premarket Approval of the Implanted Cerebellar Stimulator

Correction

In FR Doc. 83–24231 beginning on page 40273 in the issue of Tuesday, September 6, 1983, make the following correction:

On page 40277, third column, the section now designated "§ 822.5820" should have been designated "§ 882.5820".

BILLING CODE 1505-01-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Parts 0 and 16

[Order No. 1030–83]

Freedom of Information Act and the Privacy Act of 1974; Revision of Implementation

AGENCY: Office of the Attorney General, Justice.

ACTION: Extension of comment period for notice of proposed rulemaking.

SUMMARY: The notice of proposed rulemaking, Attorney General Order No. 1025–83, published at 48 FR 35892 (Aug. 8, 1983), set forth proposed revisions to the procedural regulations of the Department of Justice that implement the Freedom of Information Act ("FOIA") and the Privacy Act of 1974 and provide for access to FBI identification records. Public comments were invited by September 7, 1983. In response to several requests for an extension of the period for public comments on the notice of proposed rulemaking, the Department is extending the period for public comment until October 3, 1983.

DATE: Comments must be received on or before October 3, 1983.

ADDRESS: Comments should be directed to: Kevin R. Jones, Deputy Assistant Attorney General, Office of Legal Policy, United States Department of Justice, Room 4224, 10th Street and Constitution Avenue, NW., Washington, D.C. 20530.

FOR FURTHER INFORMATION CONTACT: Kevin R. Jones, Deputy Assistant

Attorney General, Office of Legal Policy, United States Department of Justice, Room 4224, 10th Street and Constitution Avenue, NW., Washington, D.C. 20530 ((202) 633–4606).

SUPPLEMENTARY INFORMATION: The notice of proposed rulemaking published on August 8, 1983, provided that public comments should be received by September 7, 1983, in accordance with the thirty day notice period to the public which Congress has required under the Administrative Procedure Act, 5 U.S.C. 553. Seven commenters, including two members of Congress, have requested an extension of the comment period.

These proposed regulations would make long overdue improvements in the structure and format of the Department's regulations implementing the FOIA and the Privacy Act, which should render the regulations more understandable to the general public, the beneficiary of these acts, and make the several components of the Department more responsive to the needs of requesters. The Department's regulations have remained essentially in their present form since 1975, notwithstanding continued evidence that a restructuring and improvement is necessary in the public interest.

Despite the public interest in prompt revision of the Department's regulations, the Department has concluded that there is a sufficient reason to warrant a limited extension of the statutory period for notice to the public. The publication of the notice of proposed rulemaking during the summer vacation period apparently has made it more difficult for some members of the public to file comments in a timely manner. Accordingly, the Department has determined that the time for public comment shall be extended to and including October 3, 1983.

Dated: September 8, 1983.

William French Smith,

Attorney General.

[FR Doc. 83–24082 Filed 9–13–83; 8:45 am]
BILLING CODE 4410–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 902

Abandoned Mine Land Reclamation Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: On August 17, 1983, the State of Alaska submitted to OSM its proposed Abandoned Mine Land Reclamatioin Plan (Plan) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). OSM is seeking public comment on the adequacy of this State Plan.

DATE: Written comments on the Plan must be received on or before 5:00 p.m., October 14, 1983.

ADDRESSES: Copies of the full text of the proposed Plan are available for review during regular business hours at the following locations.

Office of Surface Mining Reclamation and Enforcement, Casper Field Office, Freden Building, 935 Pendell Boulevard, Mills, Wyoming 82644

State of Alaska, Department of Natural Resources, Division of Minerals and Energy Management, 55 Cordova Street, Anchorage, Alaska 99510

Office of Surface Mining Reclamation and Enforcement, Adminstrative Record, 1100 L. Street, N.W., Room 5315, Washington, D.C. 20204.

Written comments must be mailed or hand carried to: OSM, Casper Field Office, P.O. Box 1420, 935 Pendell Boulevard, Mills, Wyoming 82644. Comments received after 5:00 p.m., October 14, 1983, will not necessarily be considered or included in the administrative record for this rulemaking.

The Administrative Record will be available in two locations for public review at the OSM Offices above, on Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

FOR FURTHER INFORMATION CONTACT: William Thomas, Field Office Director, Office of Surface Mining, Casper Field Office, P.O. Box 1420, 935 Pendell Boulevard, Mills, Wyoming 82644. Telephone (307) 261–5776.

SUPPLEMENTARY INFORMATION: Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), Public Law 95–87, 30 U.S.C. 1201 *et seq.*, establishes an abandoned mine land reclamation program for the purposes of reclaiming and restoring lands and water resources adversely affected by past mining. This program is funded by a reclamation fee imposed upon the production of coal. Lands and water eligibile for reclamation are those that were mined, or affected by mining, and abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there is no continuing reclamation responsibility under State or Federal law.

Title IV provides that if the Secretary determines that a State has developed and submitted a program for reclamation of abandoned mines and has the ability and necessary State legislation to implement the provisions of Title IV, the Secretary may approve the State program and grant to the State exclusive responsibility and authority to implement the approved program.

On August 17, 1983, OSM received a proposed Abandoned Mine Land Reclamation Plan from the State of Alaska. The purpose of this submission is to demonstrate both the State's intent and capability to assume responsibility for administering and conducting the provisions of SMCRA and OSM's Abandoned Mine Land Reclamation (AMLR) Program (30 CFR Chapter VII, Subchapter R) as published in the **Federal Register** (FR) on June 30, 1982 (47 FR 28574–28604).

This notice describes the proposed program and sets forth information concerning public participation in the Assistant Secretary's determination of whether or not the submitted Plan may be approved. The public participation requirements for the consideration of a State Plan are found in 30 CFR 884.13 and 884.14. Additional information may be found under corresponding sections of the preamble to OSM's AMLR Program Final Rules (47 FR 28587, June 30, 1982).

The receipt of the Alaska State Plan submission is the first step in the process which will result in the establishment of a comprehensive program for the reclamation of abandoned mine lands in the State of Alaska.

By submitting a proposed Plan, Alaska has indicated that it wishes to be primarily responsible for the reclamation of abandoned mine lands in that State. If the program is disapproved and the State does not choose to revise the Plan, a Federal AML Program will be implemented and OSM will be primarily responsible for these activities.

The Field Office Director has determined that the public was provided adequate notice and opportunity to be heard on the Plan and that the record does not reflect any major unresolved controveries. Therefore, a public hearing will not be held.

Representatives of the Field Director's Office will be available to meet, Monday through Friday (excluding holidays) between 8:00 a.m. and 4:00 p.m. in the Field Director's Office, at the request of members of the public to receive their advice and recommendations concerning the proposed Alaska Reclamation Plan and Program.

Persons wishing to meet with representatives of the Field Director's Office during this time period may place such requests with Robert Mikulas, telephone (307) 261–5828, at the Field Director's Office.

The Department intends to continue to discuss the State's Plan with representatives of the State throughout the review process. All contacts between Departmental personnel and representatives of the State will be conducted in accordance with OSM's guidelines on contacts with States published September 19, 1979, at 44 FR 54444.

The Office of Surface Mining has examined this proposed rulemaking under Section 1(b) of Executive Order No. 12291 (February 17, 1981) and has determined that, based on available quantitative data, it does not constitute a major rule. The reasons underlying this determination are as follows:

1. Approval will not have an effect on costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and

2. Approval will not have adverse effects on competition, employment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This proposed rulemaking has been examined pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, and the Office of Surface Mining has determined that the rule will not have significant economic effects on a substantial number of small entities. The reasons for this determination is that approval will not have demographic effects, direct costs, information collection and recordkeeping requirements, indirect costs, nonquantifiable cost, competitive effects, enforcement costs, or aggregate effects on small entities.

Further, the Office of Surface Mining has determined that the Plan will not have a significant effect on the quality of the human environment because the decision relates only to the policies, procedures, and organization of the State's Abandoned Mine Land Reclamation Program. Therefore, under the Department of the Interior Manual (DM 5162.3(A)(1)), the Assistant Secretary's decision on the Plan is categorically excluded from the National Environmental Policy Act requirements. As a result, no environmental assessment nor environmental impact statement (EIS) has been prepared on this action. It should be noted that a programmatic EIS was prepared by OSM in conjunction with the implementation of Title IV. Moreover, an environmental analysis, or an EIS, will be prepared for the approval of grants for the abandoned mine reclamation projects under 30 CFR Part 886.

The Alaska Abandoned Mine Land Reclamation Plan can be approved if:

1. The Assistant Secretary finds that the public has been given adequate notice and opportunity to comment, and the record does not reflect major unresolved controversies;

2. Views of other Federal agencies have been soliciated and considered;

3. The State has the legal authority, policies, and administrative structure to carry out the Plan;

4. The Plan meets all requirements of the OSM, AMLR Program, Provisions;

5. The State has an approved Regulatory Program; and

6. It is determined that the Plan is in compliance with all applicable State and Federal laws and regulations.

The following constitutes a summary of the contents of the Alaska Reclamation Plan submission: The State of Alaska, Department of Natural Resources, has been designated by the Governor of the State to implement and enforce the Abandoned Mine Reclamation Program in accordance with SMCRA. The Department has developed State regulations to carry out the State mandate. Contents of the State Plan submission include:

(a) A designation by the Governor of the State of the agency authorized to administer the State reclamation program and to receive and administer grants under Part 886 of this chapter.

(b) A legal opinion from the State Attorney General, or the chief legal officer of the State agency, that the designated agency has the authority under State law to conduct the program in accordance with the requirements of Title IV of the Act.

(c) A description of the policies and procedures to be followed by the designated agency in conducting the reclamation program, including:

(1) The purposes of the State reclamation program;

(2) The specific criteria, consistent with Section 403 of the Act, for ranking and identifying projects to be funded;

(3) The coordination of reclamation work among the State reclamation program, the Rural Abandoned Mine Program administered by the Soil Conservation Service, the reclamation programs of any Indian tribes located within the States, and OSM's reclamation programs;

(4) Policies and procedures, regarding land acquisition, management, and disposal, under 30 CFR Part 879;

(5) Policies and procedures, regarding reclamation on private land, under 30 CFR Part 882;

(6) Policies and procedures, regarding rights of entry, under 30 CFR Part 877; and

(7) Public participation and involvement in the preparation of the State reclamation plan and in the State reclamation program.

(d) A description of the administrative and management structure to be used in conducting the reclamation program, including:

(1) The organization of the designated agency and its relationship to other State organizations or officials that will participate in or augment the agency's reclamation capacity;

(2) The personnel staffing policies which will govern the assignment of personnel to the State reclamation program;

(3) The purchasing and procurement systems to be used by the agency. Such systems shall met the requirements of Office of Management and Budget Circular A–102, Attachment O; and

(4) The accounting system to be used by the agency, including specific procedures for the operation of the State Abandoned Mine Reclamation Fund.

(e) A general description, derived from available data, of the reclamation activities to be conducted under the State reclamation plan, including the known or suspected eligible lands and waters within the State which require reclamation, including:

(1) A map showing the general location or known or suspected eligible lands and waters;

(2) A description of the problems occurring on these lands and waters; and

(3) How the plan proposes to address each of the problems occuring on these lands and waters.

(f) A general description, derived from available data, of the conditions prevailing in the different geographic areas of the State where reclamation is planned, including:

(1) The economic base;

(2) Significant esthetic, historic or cultural, and recreational values; and

(3) Endangered and threatened plant, fish, and wildlife and their habitat.

List of Subjects in 30 CFR Part 902

Coal mining, Intergovernmental regulations, Surface mining, Underground mining.

(Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977, 30 USC 1201–1328, 91 Stat. 4–532)

Dated: September 1, 1983.

James R. Harris,

Director, Office of Surface Mining.

Dated: September 6, 1983.

Wilbert L. Dare,

Acting Deputy Assistant Secretary for Energy and Minerals

[FR Doc. 83-25003 Filed 9-13-83; 8:45 am]
BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 3E2766/P304; PH–FRL 2431–4]

Chlorpyrifos; Proposed Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that a tolerance be established for the combined residues of the insecticide chlorpyrifos and its metabolite in or on the raw agricultural commodity kiwifruit. This proposed regulation to establish a maximum permissible level for residues of chlorpyrifos in or on the commodity was requested, pursuant to a petition, by Dow Chemical Company.

DATE: Comments must be received on or before October 14, 1983.

ADDRESS: Submit written comments by mail to:

Program Management and Support Division (TS–757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington,D.C. 20460.

In person bring comments to: Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Jay Ellenberger, PM–12, (703–557–2386).

SUPPLEMENTARY INFORMATION: Dow Chemical Company, PO Box 1706, Midland, MI 48640, has submitted pesticide petition 3E2766 to EPA proposing to amend 40 CFR 180.342 by establishing a tolerance for the combined residues of the insecticide chlorpyrifos [*0,0*-diethyl *0*-(3,5,6-trichlor-2-pyridyl) phosphorothioate] and tis metabolite 3,5,6-trichloro-2-pyridinol in or on the raw agricultural commodity kiwifruit imported from New Zealand at 2.0 parts per million (ppm).

The scientific data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the tolerance include a 2-year rat feeding/oncogenicity study with a no-observed-effect level (NOEL) of 0.1 milligram (mg)/kilogram (kg) of body weight (bw) per day based on red blood cells (RBC) cholinesterase activity and was negative for oncogenic effects at the levels tested (0.03, 0.1, 1.0 and 3.0 mg/kg); a dog feeding study with a NOEL of 0.1 mg/kg of bw/day based on RBC cholinesterase activity; a mouse oncogenicity study which was negative at 100 mg/kg; and a 3-generation reproduction study which was negative for oncogenic effects at the levels tested (0.5, 5.0 and 15.0 ppm); a mouse teratology study which was negative at 25 mg/kg; an acute delayed neurotoxicity study which demonstrated a NOEL of 1.0 mg/kg/day. Based on the 2-year chronic rat feeding study with a NOEL of 0.1 mg/kg of bw/day and using a safety factor of 10, the acceptable daily intake (ADI) for humans is 0.01 mg/kg of bw/day. The theorectical maximal residue contribution (TMRC) from previously established tolerances for chlorpyrifos utilizes 105.10 percent of the ADI. The resulting increase in the TMRC from the use of kiwifruit is 0.0009 mg/day (1.5 kg), an increase in the ADI of 0.15%. While the establishment of the requested tolerance will add to the already exceeded ADI, this use is aceptable since the added increment to the TMRC and ADI is minimal.

The metabolism of chlorpyrifos is adequately understood for this use, and an adequate analytical method, gas chromatography, is available for enforcement purposes. No regulatory actions are pending against the continued registration of chlorpyrifos. Because there are no livestock or poultry feed items involved, there will be no secondary residues in meat, milk, poultry, and eggs as a result of this use.

Based on the above information considered by the Agency, the tolerance established by amending 40 CFR 180.342 would protect the public health. It is proposed, therefore, that the tolerance be established as set forth below.

Any person who has registered or submitted and application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(d) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [PP 3E2766/P304]. All written comments filed in response to this petition will be available in the Product Manager's (PM–12) office, Registration Division, at the address given above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: August 31, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, it is proposed that 40 CFR 180.342 is amended by adding, and alphabetically inserting, the raw agricultural commodity kiwifruit to read as follows:

§ 180.342 Chlorpyrifos; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Kiwifruit	2.0
* * * * *	

[FR Doc. 83-24998 Filed 9-13-83; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 180

[PP 3E2851/P307; PH–FRL 2431–3]

Ethoprop; Proposed Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that a tolerance be established for residues of the pesticide ethoprop in or on the raw agricultural commodity okra. The proposed regulation to establish a maximum permissible level for residues of ethoprop in or on the commodity was requested in a petition submitted by the Interregional Research Project No. 4 (IR–4).

DATE: Comments must be received on or before October 14, 1983.

ADDRESS: By mail, submit comments to:
Emergency Response and Minor Use Section, Registration Support and Emergency Response Branch, Registration Division (TS–767C), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.
In person, deliver comments to:
Emergency Response and Minor Use Section, Rm. 716B, CM No. 2, 1921 Jefferson Davis Highway, Arlington VA 22202.

FOR FURTHER INFORMATION CONTACT:
Donald Stubbs (703–557–1192).

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition 3E2851 to EPA on behalf of the IR–4 Technical Committee and the Agricultural Experiment Station of North Carolina.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for residues of the pesticide ethoprop (*O*-ethyl, *S,S*-dipropyl phosphorodithioate) in or on the raw agricultural commodity okra at 0.02 part per million (ppm).

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicological data considered in support of the proposed tolerance include two 90-day feeding studies (rat and dog) with no-observed-effect levels (NOEL's) for cholinesterase inhibition of 0.3 ppm (0.015 milligram (mg/kilogram (kg)) and 1.0 ppm (0.025 mg/kg), respectively; an acute delayed neurotoxicity study in adult hens with no signs of delayed neurotoxicity when dosed at levels above the acute oral LD50 (9.9 mg/kg); a rat teratology study with a NOEL for teratogenic effects at 16 mg/kg (highest dose tested) and a NOEL for maternal effects at 1.6 mg/kg; and an Ames test with no mutagenic effects at the highest dose tested (5.0 microliters/plate).

Data considered desirable but lacking include oncogenicity studies in two species (mouse and rat), chronic feeding studies (rat and dog), a general methabolism study, and additional mutagenicity tests. A rabbit teratology study and a three-generation reproduction study have been submitted and are under review. Although there are significant data gaps for the chemical, the available toxicity data are adequate to support the proposed tolerance since the Agency has concluded that the amount of ethoprop added to diet from the proposed use will not significantly increase dietary exposure in humans. Therefore, the tolerance that will be established by this proposed rule is considered to pose a negligible increment in risk.

The provisional acceptable daily intake (PADI), based on the 90-day rat-feeding study (NOEL of 0.015 mg/kg/day) and using a 200-fold safety factor, is calculated to be 0.000075 mg/kg of body weight (bw)/day. The provisional maximum permitted intake (PMPI) for a 60-kg human is calculated to be 0.0045 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5-kg daily diet is calculated to be 0.0052 mg/day; the current action will increase the TMRC by 0.00002 mg/day (0.38 percent) and will use an additional 0.44 percent of the ADI.

The nature of the residues is adequately understood, and an adequate analytical method, gas chromatography using a flame photometric detector, is available for enforcement purposes. Residue data to support the proposed tolerance are from the States of Alabama, Georgia, and Maryland. Since no livestock feed items are involved, there is no expectation of finite residues in meat, milk, poultry, or eggs. There are currently no actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency, the tolerance established by amending 40 CFR 180.262 would protect the public health. It is proposed, therefore, that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended that contains . . . any of the ingredients listed herein may request within 30 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [PP 3E2851/P307]. All written comments filed in response to this petition will be available in the Emergency Response and Minor Use Section, Registration Division, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408 (d)(2), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: August 8, 1983.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, it is proposed that 40 CFR 180.262 be amended by adding and alphabetically inserting the raw agricultural commodity okra to read as follows:

§ 180.262 Ethoprop; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Okra	0.02
* * * * *	

[FR Doc. 83-24994 Filed 9-13-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[OPP-300075; PH-FRL 2431-2]

Certain Primary Alkyl Amines; Proposed Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that primary *n*-alkylamines, where the alkyl group (C_8-C_{18}) is derived from coconut, cottonseed, soya, or tallow acids, be exempted from the requirement of a tolerance when used as surfactants in pesticide formulations. This proposed regulation was requested by the Armak Company.

DATE: Written comments must be received on or before October 14, 1983.

ADDRESS: Written comments may be submitted by mail to:

Registration Support and Emergency Response Branch, Registration Division (TS-767C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person, deliver comments to:

Registration Support and Emergency Response Branch, Registration Division (TS-767C), Rm. 716D, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT:

N. Bhushan Mandava, 703-557-7700.

SUPPLEMENTARY INFORMATION: At the request of Armak Company, the Administrator proposes to amend 40 CFR 180.1001(d) by establishing an exemption from the requirement of a tolerance for primary *n*-alkylamines, where the alkyl group (C_8-C_{18}) is derived from coconut, cottonseed, soya, or tallow acids.

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as water; baits such as sugar, starches, and meat scraps; dust carriers such as talc and clay; fillers; wetting and spreading agents; propellants in aerosol dispensers; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

Preambles to proposed rulemaking documents of this nature include the common or chemical name of the substance under consideration, the name and address of the firm making the request for the exemption, and toxicological and other scientific bases used in arriving at a conclusion of safety in support of the exemption.

Name of inert ingredient: Primary *n*-alkylamines, where the alkyl group (C_8-C_{18}) is derived from coconut, cottonseed, soya, or tallow acids.

Name and address of requestor: Armak Company, 8401 West 47th St., McCook, Illinois 60525.

Bases for approval—1. An adequate toxicity data base exists, which includes 90-day feeding studies in dogs and rats; NOEL's of 500 ppm each or 25 mg/kg/day for the related material, N,N-*bis* (2-hydroxyethyl) alkylamine where the alkyl group (C_8-C_{18}) is derived from coconut, cottonseed, soya, or tallow fatty acids.

2. Similar materials are exempt under 40 CFR 180.1001(d).

3. A representative moiety is regulated as an indirect food additive under 21 CFR 173.310, i.e., boiler water additives used to prepare food.

Based on the above information and review of its use, it has been found that when used in accordance with good agricultural practices this ingredient is useful and does not pose a hazard to humans or the environment. It is concluded, therefore, that the proposed amendment to 40 CFR Part 180 will protect the public health, and it is proposed that the regulation be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended that contains this inert ingredient may request within 30 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating both the subject and the petition and document control number [OPP-300075]. All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the Emergency Response and Minor Use Section at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(d)(2), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: August 30, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, it is proposed that 40 CFR 180.1001(d) be amended by adding and alphabetically inserting the inert ingredient primary *n*-alkylamines, to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(d) * * *

Inert ingredients	Limits	Uses
* * * * *		
Primary alkyl group (C_8-C_{18}) is derived from coconut, cottonseed, soya, or tallow acids.	———	Surfactant.
* * * * *		

* * * * *

[FR Doc. 83-24866 Filed 9-13-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 180

[PP 3E2860/P309; PH-FRL 2431-1]

Oxamyl; Proposed Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rule.

SUMMARY: This document proposes that tolerances be established for residues of the insectivide/nematocide oxamyl in or on the raw agricultural commodities peppermint hay and spearmint hay. The proposed rugulation to establish maximum permissible levels for residues of the pesticide in or on the commodities was requested in a petition submitted by the Interregional Research Project No. 4 (IR-4).

DATE: Comments must be received on or before October 14, 1983.

ADDRESS: Written comments by mail to:
Program Management and Support Division, Registration Division (TS-767C), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.
In person deliver comments to:
Emergency Response and Minor Use Section, Rm. 716C, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs (703–557–1192) at the above address.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition 3E2880 to EPA on behalf of the IR–4 Technical Committee and the Agricultural Experiment Station of Oregon.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for residues of the pesticide oxamyl (methyl *N'*-,*N'*-dimethyl-*N*-[(methylcarbamoyl)-oxy]-1-thiooxamimidate) in or on the raw agricultural commodities peppermint hay and spearmint hay at 10 parts per million (ppm).

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerances are sought. The toxicological data considered in support of the proposed tolerances include a 2-year rat feeding study with a no-observed-effect-level (NOEL) of 2.5 milligrams(mg)/kilogram(kg) (50 ppm) and negative oncogenic potential; a 2-year dog feeding study with a NOEL of 2.5 mg/kg (100 ppm); a 3-generation rat reproduction study with a NOEL of 2.5 mg/kg (50 ppm); a 2-year mouse oncogenic study showing negative oncogenic potential at the highest dose tested (7.5 mg/kg); a rat teratology study, negative at 15 mg/kg (300 ppm); a rabbit teratology study, negative at 4 mg/kg/day; and mutagenicity studies (Ames assay, recessive assay, host-mediated assay), all negative.

The acceptable daily intake (ADI), based on the 2-year rat feeding study (NOEL of 2.5 mg/kg/day) and using a 100-fold safety factor, is calculated to be 0.025 mg/kg of body weight (bw)/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 1.5 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5-kg daily diet is calculated to be 0.4594 mg/day; the current action will increase the TMRC by 0.0045 mg/day (1.0 percent). Published tolerances utilize 30.6 percent of the ADI; the current action will utilize an additional 0.3 percent.

The nature of the residues is adequately understood and an adequate analytical method, gas-liquid chromatography utilizing a flame photometric detector with a sulfur filter, is available for enforcement purposes. No secondary residues in meat, milk, poultry or eggs are expected. There are presently no actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency, the tolerances established by amending 40 CFR 180.303 would protect the public health. It is proposed, therefore, that the tolerances be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number [PP 3E2880/P309]. All written comments filed in response to this petition will be available in the Emergency Response and Minor Use Section, Registration Division, at the address given above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: August 31, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR 180.303 be amended by adding, and alphabetically inserting, the raw agricultural commodities peppermint hay and spearmint hay to read as follows:

§ 180.303 Oxamyl; tolerances for residues.

* * * * *

Commodities	Parts per million
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Peppermint, hay	10.0
Spearmint, hay	10.0
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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

45 CFR Part 400

Refugee Resettlement Program; Consolidated (Per Capita) Grants to States, Grants to States for Child Welfare Services for Refugees, and Federal Financial Participation for Assistance and Services for Refugees

AGENCY: Social Security Administration (SSA), HHS.

ACTION: Proposed rule.

SUMMARY: This proposed regulation sets forth requirements governing consolidated (per capita) grants to States and grants to States for child welfare services (including services to unaccompanied minors) under the Refugee Resettlement Program. The new consolidated, or per capital grant, is intended to replace the previously separate grants for refugee cash assistance (RCA) and refugee medical assistance (RMA), social services (including child welfare services except assistance and services to unaccompanied minors), education assistance for refugee children, and targeted assistance. The consolidated grant will provide States with optimal flexibility in the direction, control, and allocation of resources for the attainment of refugee economic self-

sufficiency in the shortest time possible. It will allow States to provide quick, more effective, and innovative responses to the needs of its eligible refugee population according to local requirements, situation, and problems. The proposed regulation also includes requirements concerning general administration of State programs, submittal and approval of State plans, and Federal funding for a State's expenditures. The proposed regulation implements Chapter 2 of title IV of the Immigration and Nationality Act, added by section 311(a)(2) of the Refugee Act of 1980, Pub. L. 96–212, and amended by the Refugee Assistance Amendments of 1982, Pub. L. 97–363.

DATES: To assure consideration, comments should be received by October 31, 1983.

ADDRESSES: Office of Refugee Resettlement, Department of Health and Human Services, Switzer Building, Room 1332, 330 C Street, S.W., Washington, D.C. 20201.

If you prefer, you may deliver your comments to Room 1332-A Switzer Building, 330 C Street, S.W., Washington, D.C. Agencies and organizations are requested to submit comments in duplicate. Comments will be available for public inspection, beginning approximately two weeks after publication, in Room 1310 Switzer Building, 330 C Street, S.W., Washington, D.C., on Monday through Friday of each week from 9:30 a.m. to 4:00 p.m. Because of the large number of comments we expect to receive, we cannot acknowledge or respond to them individually. However, in preparing the final rule, we will consider all comments and will respond to them in the preamble to that rule.

FOR FURTHER INFORMATION CONTACT: Christie Cohagen, (202)426–6510.

SUPPLEMENTARY INFORMATION:

Background

On March 17, 1980, the Immigration and Nationality Act (the Act) was amended by the Refugee Act of 1980 (Pub. L. No. 96–212) ro revise procedures for the admission of refugees and to establish a uniform base for the provision of assistance to refugees. Section 311 of Pub. L. 96–212 added Chapter 2 to title IV of the Act to establish the Office of Refugee Resettlement (ORR) in HHS. The function of ORR is to fund and administer domestic refugee resettlement programs of the Federal Government. Title IV of the Act also requires: (1) monitoring and evaluation of the resettlement program; (2) reports to the Congress on the operation of the program and the activities of ORR; (3) submission of State plans for refugee resettlement to the Director of ORR in order to receive Federal funds under the Act; and (4) annual State reports on the uses of Federal funds in the preceding fiscal year.

Prior to enactment of the Refugee Act of 1980, which authorized the provision of assistance and services to refugees in the United States without regard to their national origin, assistance was provided through three separate programs for refugees:

1. The Cuban Refugee Program, which began in 1961 and was administered primarily by States, and for which a phasedown in funding was initiated in 1978.

2. The Indochinese Refugee Assistance Program (IRAP), which began in 1975 and was also primarily State administered.

3. A program of matching grants to national voluntary refugee resettlement agencies, which began in 1979, for assistance and services to Soviet and other non-Cuban, non-Indochinese refugees.

On August 29, 1980, ORR issued a program instruction (ORR–AT–80–6) to States on the effect of the Refugee Act on these programs. Policies which had applied to IRAP were extended to cover assistance and services to refugees in the United States regardless of national origin.

The matching grants to national voluntary refugee resettlement agencies for Soviet and other refugees are being continued as one way of providing assistance and services to refugees authorized under the 1980 Act. After a further phasedown, under section 313(c) of the 1980 Act, the Cuban Refugee Program was terminated at the end of fiscal year 1981.

The Secretary of Education issued final regulations on January 14, 1981 (46 FR 3378), to implement the Transition Program for Refugee Children authorized under the Refugee Act of 1980. The regulations govern the award of educational assisance grants under section 412(d)(1) of the Act to benefit eligible refugee children enrolled in elementary and secondary schools.

On September 9, 1980 (45 FR 59323), ORR issued final regulations which set forth plan and reporting requirements that States must meet as a condition for receiving Federal funds for assistance to refugees under title IV of the Act. On March 12, 1982 (47 FR 10841), ORR issued interim final regulations revising cash and medical assistance policies for both the Refugee Resettlement Program (RRP) and the Cuban/Haitian Entrant Program (CHEP).

The most significant change in this proposed rule is a consolidated or per capita, grant to States which replaces the previously separate grants for refugee cash assistance (RCA) and refugee medical assistance (RMA), social services, education assistance for refugee children, targeted assistance, and child welfare services (except services for unaccompanied minors). The proposed changes are identified in this preamble, and we particularly direct the attention of commenters to them.

Regulatory Procedures

Under Executive Order 12291, we must judge whether a regulation is "major" and therefore subject to the requirements of a Regulatory Impact Analysis. This regulation does not meet the definition of a "major" regulation contained in the Executive Order. This regulation for the most part ratifies practices already in place under the program and therefore would not be creating costs.

Pursuant to the provisions of the Regulatory Flexibility Act (5 USC 505(b)), the Secretary certifies that the attached rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. This rule will indirectly affect small entities, because some services funded under the RRP are provided by not-for-profit institutions under contract with the State. However, nothing in the rule imposes a significant burden on these small entities, and the rule, therefore, does not meet the threshold for regulatory flexibility analysis.

Sections 400.4, 400.5, 400.11(a)(9), 400.11 (c) and (d), 400.28 (a) and (b), 400.118, and 400.120 of this proposed rule contain collection-of-information requirements. As required by Section 3504(h) of the Paperwork Reduction Act of 1980 and 5 CFR 1320.13, we have submitted a copy of this proposed rule to the Office of Management and Budget (OMB) for its review of these reporting and recordkeeping requirements. Other organizations and individuals desiring to submit comments on these collection-of-information requirements should direct them to the Office of Information and Regulatory Affairs, OMB, New Executive Office Building (Room 3208), Washington, DC 20503, ATTN Desk Officer for HHS/SSA.

Statutory Authority

Section 412(a)(9) of the Act authorizes the Secretary of HHS to issue regulations needed to carry out the program.

Description of the Regulation

Under predecessor refugee assistance programs, policy was transmitted to States in the form of program instructions and action transmittals from the Social and Rehabilitation Service and the Social Security Administration, HHS. States were instructed in the August 29, 1980, program instruction (OOR–AT–80–6) to continue the policies in effect for the Indochinese Refugee Assistance Program and to apply them to all eligible refugees, regardless of nationality, until regulations for the entire program are in effect.

The proposed regulation restates some current policies, and modifies or augments others. In this preamble, we will discuss rules that incorporate current policy and explain policy changes contained in the proposed regulation which were necessary as a result of the Refugee Act of 1980, the 1982 Amendments, or as a result of re-evaluation of the program and its goals.

To the extent possible, we have tied the Refugee Resettlement Program to the administrative and delivery systems of existing public assistance programs in the States, both to reduce the administrative burden on States and in an attempt to achieve equality between the assistance available to refugees and other needy individuals in the United States. However, the initial needs of refugees are different from those of needy Americans, and existing programs are not in all cases appropriate to meet these initial needs.

Subpart A—Introduction (Section 400.1 and 400.2)

This subpart essentially repeats the rules that appear in subpart A of the current State plan regulation.

We have expanded the list of definitions in § 400.2 to include several abbreviations which we use in the proposed rules as well as a few terms specific to the Refugee Resettlement Program. Significant among these is the definition of "refugee" which incorporates the definition in section 101(a)(42) of the Act, so that all aliens whom the Immigration and Naturalization Service (INS) identifies as refugees are considered to be refugees for purposes of the Refugee Resettlement Program. We have deleted from this subpart the section specifying other HHS regulations that apply, which appears as § 400.3 in the current State plan regulation, and have substituted an assurance of compliance with Federal laws and regulations which appears in § 400.5.

We have also revised the definition of "State agency" by adding "or agencies" to make clear that, in the absence of a Federal statutory requirement for a single State agency, a Governor may designate more than one agency to plan and carry out different aspects of the RRP.

Subpart B—Grants to States for Refugee Resettlement

A. *The State Plan (Sections 400.4 through 400.9)*

This portion of the proposal retains much of the substance of the current State plan regulation but makes some changes to minimize burden and allow State flexibility.

We have revised § 400.4, which describes the purpose of the plan. We published the existing regulation before the States' October 1, 1980, deadline to submit their plans (see section 313(d) of Pub. L. No. 96–212). Now that participating States have filed plans, § 400.4 provides that, once approved, a plan will remain in effect until a State amends or revokes it or ORR notifies the State in accordance with § 400.8 that it no longer complies with the statute or applicable regulations. Thus States do not have to file a new State plan each fiscal year. However, because of the additional State plan requirements contained in this regulation, a State may have to amend its plan when this regulation becomes final.

We revised § 400.5, which describes the content of the plan, to delete the requirement that the plan specify the composition of the State advisory council required under § 400.9 of the current regulation. In the interest of minimizing the burden on States, especially those with small refugee populations, we will no longer require States to establish a State advisory council. However, a State may establish a council and we will reimburse the State for reasonable and necessary administrative expenses of such a council.

We also have clarified some aspects of the plan content by requiring States to include descriptions of various aspects of the program and methods of ensuring effective use of the consolidated grant to best achieve the goal of economic self-sufficiency. These are intended to avoid duplication of effort and ensure that the refugee moves toward self-sufficiency as quickly as possible.

Finally, we have added a requirement that a State will assure that meetings are held between local representatives of voluntary refugee resettlement agencies and representatives of State and local governments to plan and coordinate refugee placement. This provision reflects a requirement added by the Refugee Assistance Amendments of 1982 that the Director of ORR provide for a mechanism to accomplish such meetings.

We have changed § 400.7, Submittal of the State plan and plan amendments for Governor's review, by adding that the Governor, or his, or her designee, must sign a plan or plan amendment.

Evaluation, Review, and Coordination of Federal and Federally Assisted Programs and Projects

Section 400.8 is a new provision that describes the method by which ORR will approve State plans and plan amendments. The procedure follows that used in the AFDC program (see 45 CFR Part 201—Subpart A). The State must submit a plan or plan amendment to the Director of ORR, or his or her designee, who must approve or disapprove the plan within 45 days and promptly notify the State of such action. An approved State plan or plan amendment cannot be effective before the first day of the calendar quarter in which the State submits it, unless otherwise approved by the Director.

The new § 400.9 sets out the process for initial administrative review of ORR decisions on approval of State plans or plan amendments. A State dissatisfied with an ORR determination may petition the Director of ORR within 60 days after it receives notification of the decision. The State may, but is not required to, request that a hearing be held. If a hearing is requested, the Director, or his or her designee, will then notify the State of the time and location within 30 days after receiving the petition. The hearing will be scheduled not less than 30 days nor more than 60 days from the date the State receives the notice of hearing. The time of the hearing is taken from the AFDC program (see 45 CFR 213.12). The hearing follows the AFDC procedures in 45 CFR Part 213. The Director will affirm, modify, or reverse the original decision within 60 days of receipt of the State's petition, or if a hearing is held, within 60 days after the conclusion of the hearing.

B. *Award of Consolidated and Other Grants to States (Sections 400.11 and 400.12)*

Section 400.11 is a new provision explaining the method by which ORR makes grant awards to States with approved State plans.

Section 400.11(a) describes the new consolidated grant to States which replaces funds previously provided separately for refugee cash and medical

assistance, social services (including child welfare services, except assistance and services to unaccompanied minors), targeted assistance, and educational assistance for children. Subject to the necessity of meeting the statutory requirements for a State plan for the RRP, the consolidated grant may be used for any and all of these purposes, at the option of the State, and thus provides maximum flexibility to States in planning and carrying out those specific activities which a State determines to be most important in meeting the needs of refugees within the State. If the State has an approved State plan for the Cuban/Haitian Entrant Program (CHEP) under 45 CFR Part 401, the consolidated grant could also be used to meet the needs of Cuban and Haitian entrants (hereafter, "entrants") within the State.

Under this proposed rule, the allocation of consolidated grant funds would be based on each State's proportion of the Nation's population of refugees who have been in the United States less than 3 years. Ninety-seven percent of the funds available for consolidated grants would be awarded to States with approved State plans in the form of quarterly awards at the beginning of each quarter of the fiscal year or as soon as possible thereafter following the availability of funds, and 3 percent would be reserved for award during the third and fourth quarters in order to allow for any necessary substantial adjustments in population estimates. Consolidated grant funds would remain available to a State until the end of the fiscal year following the fiscal year for which the funds are awarded.

In order to avoid any abrupt change in the allocation of funds among the States, this formula would be adjusted to assure that in fiscal year 1984 no State would receive less than 90 percent of the share that it received in fiscal year 1983 for those purposes which would now be encompassed by the consolidated grant. Prior to fiscal year 1985, the experience of States under this "hold-harmless" adjustment would be examined to determine whether some adjustment should also be applied to the consolidated grant allocation formula for that year.

In determining the 90% "hold-harmless" adjustment for FY 1984, the FY 1983 costs which would be taken into consideration would be the sum of the following for each State: Refugee and entrant cash assistance (RCA) and refugee medical assistance (RMA) costs, including administrative costs associated with the provision of RCA and RMA; the formula allocations for refugee and entrant social services; the allocation of refugee and entrant targeted assistance funds; and the allocation of education assistance for refugee and entrant schoolchildren.

A State will be required to submit a report on its intended uses of consolidated grant funds and to make the report public within the State, but the State's plan for the uses of these funds will not be subject to Federal approval except where required by statute (e.g., in section 412 of the Act, paragraphs (e)(3) and (e)(5)). No particular form is required for this report. However, the information provided must be sufficient to enable the Director to make the determinations required by the Act.

Paragraph (a)(8) of § 400.11 would limit administrative costs under the consolidated grant to 10% of a State's grant. This proposed limitation is based on ORR's experience during the last few years, which has shown administrative costs generally to range between 8% and 12% and to average about 10%.

Subject to the consideration of public comments, we would intend that the consolidated grant, if finally approved, would go into effect at the beginning of the quarter which follows by at least 30 days the publication of a final regulation. Prior to such date, we would plan to issue grant awards to a State under existing policy. The amount of a consolidated award for the residual portion of the fiscal year would be calculated by deducting from the State's annual consolidated award the amounts awarded for one or more previous quarters for activities to be encompassed by the consolidated grant.

Under section 400.11(b), ORR will provide quarterly grants to States, separate from the consolidated grant, for assistance and services for unaccompanied minors and for the State cost of assistance provided to refugees, during their first 36 months in the U.S., under the programs of AFDC, SSI, adult assistance (i.e., aid to be aged, blind, and disabled, aid to the blind, aid to the permanently and totally disabled, and old-age assistance) in the territories, Medicaid, and cash or medical assistance provided under a State or local general assistance (GA) program of general applicability.

Currently, ORR does not provide reimbursement for GA costs during a refugee's first 18 months in the United States since assistance to refugees who are not eligible for AFDC, SSI, Medicaid, or the adult assistance programs is covered by the special programs of refugee cash assistance (RCA) and refugee medical assistance (RMA) during that period (see the present regulation at 45 CFR 400.62). Under the consolidated grant concept, RCA and RMA are no longer required to be provided and, in lieu thereof, ORR will reimburse States for GA costs incurred at any time during a refugee's first 36 months rather than only during the latter 18 months of that period. If a State should elect to provide special cash or medical assistance to refugees beyond its existing programs of general applicability, then the cost of such special assistance would be met from the State's consolidated grant award.

Section 400.11(c)(1) and (2) represents current ORR policy on State submittals of requests for reimbursement. States must submit estimates of reimbursable costs for the fiscal year 45 days prior to the beginning of that fiscal year, and adjustments to the quarterly estimates 30 days prior to the beginning of that quarter. Under § 400.11(c)(3), within 30 days of the close of the quarter, States must submit a financial status report describing their actual expenditures. These reports are described in departmental grants administration rules at 45 CFR 74.73(a).

After ORR reviews a State's submittals, it will compute the grant award and transmit the notification of award to the State.

Section 400.12 provides States an opportunity to informally appeal adverse determinations in post-award disputes. Departmental grant appeals policies allow agencies to establish by regulation informal appeal procedures that must be exhausted before a grantee can appeal to the Grant Appeals Board (see 45 CFR 16.5(b)(2)). The procedures established in § 400.12 for the Refugee Resettlement Program are modeled on, but not identical to, those used by the Public Health Service (see 42 CFR Part 50, Subpart D, Public Health Service Grant Appeals Procedure, § 50.401 et seq.) If the informal appeal results in an adverse determination, the State may appeal to the Departmental Grant Appeal Board under Part 16 of Title 45.

Subpart C—General Administration

This subpart contains several administrative rules, most of which appear in the current State plan regulation at 45 CFR Part 400. Section 400.27 regulates the safeguarding of information, currently set forth in § 400.11 of the State plan regulation.

The subpart also contains some new provisions and additions to the existing regulation.

Section 400.22 requires the State agency to maintain oversight responsibility for the program.

Section 400.23(a) requires States to provide hearings utilizing the same procedures and standards as those used for the AFDC program and set forth in 45 CFR 205.10(a).

At the same time, we have made clear in § 400.23(b) that if the date of entry of a refugee is at issue, that is a matter for prompt factual determination based on documentation, and not a subject for a hearing. Again, we have based this on policies applicable to the AFDC program (cf. discussion of 45 CFR 205.10 at 47 FR 5672–5673 with respect to not holding a hearing when the issue is a factual one of age or school attendance or a question of law or policy).

Section 400.25 prohibits States from imposing durational residency requirements on applicants for assistance or services. This prohibition is based on those in the AFDC and Medicaid programs.

Section 4001.28 repeats the maintenance of records requirements that appear at § 400.10 of the current State plan regulation, and adds certain data reporting requirements. We are asking States to supply this information so that ORR can satisfy its statutory duties under section 413 of the Act to report to Congress. We encourage States to describe to us any alternative methods of data transfer they may know of that will communicate the required information.

We have developed data reporting forms to include the statistical and program information under § 400.28(b) determined necessary to fulfill our responsibilities under the Act. These forms have been approved by OMB.

We have eliminated the requirement for submittal of annual financial and performance reports (§ 400.11(c) and (d) of the existing regulation) because of the quarterly financial and performance reports required under §§ 400.11(d) and 400.28(b) of this proposed regulation.

Subpart D—Immigration Status and Identification of Refugees

In order to assure that all refugees are eligible to apply for benefits, the new § 400.43 includes forms of documentation that INS has given individuals both before and after enactment of the 1980 Act.

Section 400.43(b) provides that the Director will issue instructions specifying the documentation that applicants for assistance or services must submit. This formulation allows the Director maximum flexibility to respond quickly to any changes INS might make in the forms of documentation it provides refugees.

Subparts E–G—(Reserved)

Subpart H—Child Welfare Services

This subpart sets forth the requirements concerning grants to States for child welfare services to refugee unaccompanied minors under section 412(d)(2)(B) and the Act.

A. *Definition of Unaccompanied Minor (Sections 400.111 and 400.113)*

The proposed definition is a change from current policy. It is intended to clarify which refugee children, under what circumstances, may be considered to be unaccompanied minors. The definition reflects the intent of the legislative history of the 1980 Act which makes clear that "Unaccompanied" means refugee children who "enter the United States unaccompanied by their parents or other adult guardians" (H. Report No. 96–608, p. 27). The definition also provides that an unaccompanied minor is one who is not "destined to" a parent, close adult relative, or other adult having legal custody since such a child might actually enter the U.S. unaccompanied but his entry would be for the purpose of family reunification.

The definition also requires that the child must have been identified as "unaccompanied" by the Immigration and Naturalization Service but would permit the Director or ORR to determine on the basis of information provided by a State that a particular child should have been, but was not, classified as unaccompanied. This provision will enable States to identify specifically those children whom they may consider unaccompanied.

Finally, the definition permits a State to continue to consider as unaccompanied any minors who were properly so classified under Action Transmittal SSA–AT–79–04 prior to the effective date of this regulation.

Section 400.113 is intended to clarify specifically the circumstances under which a child's status as "unaccompanied" is terminated—by age, by reunification with parent(s), or by being united with a non-parental adult who is granted legal custody or guardianship under State law.

B. *Legal Responsibility for Unaccompanied Minors (Sections 400.115)*

This section would require a State to initiate procedures for establishing legal responsibility for an unaccompanied minor within 30 days after the minor arrives at the resettlement location. Current policy does not mandate a specific deadline.

Paragraph (c) of this section clarifies that, in certain rare cases, adoption of unaccompanied minors may be permitted under State law. In general, such minors are not eligible for adoption since they are only temporarily separated from their parents or close adult relatives and since family reunification is the objective of the program.

C. *Services to Unaccompanied Minors (Sections 400.116 through 400.120)*

A State must provide an unaccompanied minor with the same range of child welfare benefits and services available in foster care cases to other children in the State and may provide additional services if the Director approves, in writing, the provision of such services. A State may provide services directly or through arrangements with licensed public or private nonprofit child welfare agencies in the State.

(a) *Case planning (Section 400.118)*

The State, or the agency with which it has made an arrangement to provide services, must develop, implement, and review an appropriate plan for the care and supervision of, and services provided to, each unaccompanied minor. Special attention must be given in the plan to family reunification, orientation of the minor to American culture, preservation of ethnic and religious heritage, appropriate placement, health screening and treatment, and preparation for independent living.

(b) *Interstate movement (Section 400.119)*

A State must use the same procedures that govern the movement of nonrefugee foster care cases to other States when an unaccompanied minor, after initial placement in the State, is resettled in another State.

(c) *Reporting requirements (Section 400.120)*

The proposed regulation contains requirements for State reports required by sections 412(d)(2)(B)(iv) and 413(a)(2)(G) of the Act. A State must submit the reports required by the regulation.

Two reporting forms for State use to meet these requirements have been approved by OMB.

Subpart I—(Reserved)

Subpart J—Federal Funding (FF)

The existing structure of Federal refugee funding to States would be changed by the establishment of consolidated grants. Under this concept, two types of grants would be provided to each participating State: (1) A

consolidated grant, to be awarded quarterly (as described in the discussion, above, of § 400.11(a)) and (2) a grant, also to be awarded quarterly, which would provide funding for those aspects of the RRP not covered by the consolidated grant.

The consolidated grant would provide funding previously identified separately for: Refugee cash assistance (RCA) and refugee medical assistance (RMA) and related administrative costs; support services (formerly termed "social services"), including child welfare services (except assistance and services for unaccompanied minors); targeted assistance; and educational assistance for refugee schoolchildren.

Quarterly grants, separate from the consolidated grant, would provide reimbursement for: The State share of AFDC costs, Medicaid costs, and adult assistance costs in the territories, including administrative costs, during a refugee's first 36 months; State supplementary payments to refugee SSI recipients during that period; the cost of cash or medical assistance provided under a State or local GA program during that period; and the cost of assistance and services to refugee unaccompanied minors.

Funding is available for services provided to unaccompanied minors under §§ 400.115 through 400.120, including the cost of establishing legal responsibility for a minor, until the refugee's status as an unaccompanied minor terminates.

Subpart K—Waivers

Current regulations do not contain a provision for waivers. Subpart K would permit a waiver by the Director if a State demonstrates to the Director's satisfaction that it cannot reasonably comply with a requirement of the regulations. We believe that such a provision is necessary in recognition of the wide variations from State to State in legislative and administrative requirements and programmatic circumstances. This would allow a degree of flexibility for specific exceptions when the Director determines that a particular exception in a given State would advance the purposes of the refugee program and the intent of the Act. No waiver could be considered when a requirement of the regulations reflects a specific statutory requirement.

List of Subjects in 45 CFR Part 400

Grant programs—Social programs, Health care, Public assistance programs, Refugees, Reporting and recordkeeping requirements.

45 CFR Part 400 is proposed to be amended as follows:

1. The Table of Contents is revised to read as follows:

PART 400—REFUGEE RESETTLEMENT PROGRAM

Subpart A—Introduction

Sec.
400.1 Basis and purpose of the program.
400.2 Definitions.
400.3 [Reserved]

Subpart B—Grants to States for Refugee Resettlement

The State Plan

400.4 Purpose of the plan.
400.5 Content of the plan.
400.6 [Reserved]
400.7 Submittal of the State plan and plan amendments for Governor's review.
400.8 Approval of State plans and plan amendments.
400.9 Administrative review of decisions on approval of State plans and plan amendments.
400.10 [Reserved]

Award of Consolidated and Other Grants to States

400.11 Award of grants to States.
400.12 Adverse determinations concerning State grants.

Subpart C—General Administration

400.20—400.21 [Reserved]
400.22 Responsibility of the State agency.
400.23 Fair hearings.
400.24 [Reserved]
400.25 Residency requirements.
400.26 [Reserved]
400.27 Safeguarding of information.
400.28 Maintenance of records and reports.

Subpart D—Immigration Status and Identification of Refugees

400.40 Scope.
400.41 Definitions.

Documentation of Refugee Status

400.43 Requirements for documentation of refugee status.
400.44 Restriction.

Subparts E–G—[Reserved]

Subpart H—Child Welfare Services

400.110 Basis and scope.
400.111 Definitions.
400.112 [Reserved]
400.113 Duration of eligibility.
400.114 [Reserved]
400.115 Establishing legal responsibility.
400.116 Services for unaccompanied minors.
400.117 Provision of care and services.
400.118 Case planning.
400.119 Interstate movement.
400.120 Reporting requirements.

Subpart I—[Reserved]

Subpart J—Federal Funding (FF)

400.200 Scope.

FF In Expenditures for Determining Eligibility and Providing Assistance and Services

Sec.
400.202 Extent of FF.
400.203 FF for each assistance.
400.204 FF for medical assistance.
400.205 FF for assistance and services for unaccompanied minors.
400.206 FF under consolidated grant.
400.207 FF for administrative costs.
400.208 Claims involving filing units which include both refugees and non-refugees.
400.209 Claims involving filing units which include refugees who have been in the United States more than 36 months.
400.210 Time limit for filing of State claims.

Subpart K—Waivers

400.300 Waivers.

Authority: Sec. 412(a)(9), Immigration and Nationality Act (8 U.S.C. 1522(a)(9).

2. Sections 400.1 and 400.2 of Subpart A are revised to read as follows:

Subpart A—Introduction

§ 400.1 Basis and purpose of the program.

(a) This part prescribes requirements concerning grants to States under title IV of the Immigration and Nationality Act.

(b) It is the purpose of this program to provide for the effective resettlement of refugees and to assist them to achieve economic self-sufficiency as quickly as possible.

(c) Under the authority in section 412(a)(6)(B) of the Immigration and Nationality Act, the Director has established the provision of employment services and English language training as a priority in accomplishing the purpose of this program.

§ 400.2 Definitions.

The following definitions are applicable for purposes of this part:

"AABD" means aid to the aged, blind, and disabled under title XVI of the Social Security Act.

"AB" means aid to the blind under title X of the Social Security Act.

"Act" means the Immigration and Nationality Act.

"AFDC" means aid to families with dependent children under title IV–A of the Social Security Act.

"APTD" means aid to the permanently and totally disabled under title XIV of the Social Security Act.

"Cash assistance" means financial assistance to refugees, including AFDC, SSI, and general assistance, as defined herein, under title IV of the Act.

"Consolidated grant" means a grant which provides funding for any or all of the following purposes, at the discretion of the State: Refugee cash assistance; refugee medical assistance; child welfare services; support services; targeted assistance; and educational

assistance for refugee schoolchildren. Consolidated grants may be used for any activities allowable under paragraphs (c) through (e) of section 412 of the Act, subject to the Director's approval where required by the Act.

"Director" means the Director, Office of Refugee Resettlement.

Federal Funding" or "FF" means Federal funding for a State's expenditures under the refugee resettlement program.

"General assistance program" means a financial and/or medical assistance program existing in a State or local jurisdiction and which: (a) Is funded entirely by State and/or local funds; (b) is generally available to needy persons residing in the State or locality who meet specified income and resource requirements; and (c) consists of one-time, emergency, or ongoing assistance intended to meet basic needs of recipients, such as for food, clothing, shelter, medical care, or other essentials of living.

"HHS" means the Department of Health and Human Services.

"Medicaid" means the program of medical assistance provided under a State plan approved under title XIX of the Social Security Act.

"Medical assistance" means medical services to refugees, including Medicaid and general assistance, as defined herein, under title IV of the Act.

"OAA" means old age assistance under title I of the Social Security Act.

"ORR" means the Office of Refugee Resettlement.

"Plan" means a written description of the State's refugee resettlement program and a commitment by the State to administer or supervise the administration of the program in accordance with Federal requirements in this part.

"Refugee" means an individual who meets the definition of a refugee under section 101(a)(42) of the Act.

"Refugee cash assistance" means cash assistance provided under section 412(e) of the Act to refugees who are ineligible for AFDC, OAA, AB, APTD, AABD, or SSI and who have resided in the United States for less than an 18-month period from their initial entry into the country.

"Refugee medical assistance" means: (a) Medical assistance provided under section 412(e) of the Act to refugees who are ineligible for the Medicaid program and who have resided in the United States for less than an 18-month period from their initial entry into the country; (b) services provided under § 400.106 of this part either to refugees who are eligible under (a), above, or to refugees who are eligible for the Medicaid program and who have resided in the United States for less than a 36-month period from their initial entry into the country; or (c) services provided under § 400.107 of this part.

"Secretary" means the Secretary of HHS.

"Sponsor" means an individual, church, civic organization, State or local government, or other group or organization which has agreed to help in the reception and initial placement of refugees in the United States.

"SSI" means supplemental security income under title XVI of the Social Security Act.

"State" means the 50 States, the District of Columbia, Guam, Puerto Rico, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa, and the Trust Territories of the Pacific.

"State agency" means the agency (or agencies) designated by the Governor or the appropriate legislative authority of the State to develop and administer, or supervise the administration, of the plan and, except where the context otherwise requires, includes any local agencies administering the plan under supervision of the State agency.

"State Coordinator" means the individual designated by the Governor or the appropriate legislative authority of the State to be responsible for, and authorized to, ensure coordination of public and private resources in refugee resettlement.

"Support services" means services provided by, or purchased by, a State, which are designed to meet resettlement needs of refugees, for which funding is available under title IV of the Act.

"Title IV of the Act" means title IV, Chapter 2, of the Immigration and Nationality Act.

"Voluntary resettlement agency" or "voluntary agency" or "resettlement agency" means one of the national resettlement agencies (or its local affiliate or subcontractor) or a State or local government that has entered into a grant, contract, or cooperative agreement with the United States Department of State of other appropriate Federal agency to provide for the reception and initial placement of refugees in the United States.

§ 400.3 [Removed and Reserved]

3. Section 400.3 is removed and reserved.

4. The title of Subpart B is revised, an undesignated center heading is added, and § 400.4 is revised to read as follows:

Subpart B—Grants to States for Refugee Resettlement

The State Plan

§ 400.4 Purpose of the plan.

(a) In order for a State to receive refugee resettlement assistance from funds appropriated under sec. 414 of the Act, it must submit to ORR a plan that meets the requirements of title IV of the Act and of this part and that is approved under § 400.8 of this part.

(b) An approved plan continues in effect until the State expressly amends or revokes the plan or ORR notifies the State in accordance with § 400.8 of this part that the plan no longer meets the requirements of title IV of the Act and of this part.

5. Section 400.5 is revised to read as follows:

§ 400.5 Content of the plan.

The plan must:

(a) Provide for the designation of, and describe the organization and functions of, a State agency (or agencies) responsible for developing the plan, and administering, or supervising the administration of, the plan;

(b) Describe how the State will coordinate cash and medical assistance with support services to ensure their successful use to encourage effective refugee resettlement and to promote employment and economic self-sufficiency as quickly as possible.

(c) Describe how the State will ensure that language training and employment services are made available to refugees receiving cash assistance, and to other refugees, including State efforts to actively encourage refugee registration for employment services;

(d) Identify an individual designated by the Governor or the appropriate legislative authority of the State, with the title of State Coordinator, who is employed by the State, and will have the responsibility and authority to ensure coordination of public and private resources in refugee resettlement in the State;

(e) Provide for, and describe the procedures established for, the care and supervision of, and legal responsibility (including legal custody and/or guardianship under State law, as appropriate) for, unaccompanied refugee children in the State;

(f) Provide for and describe (1) the procedures established to identify refugees who, at the time of resettlement in the State, are determined to have medical conditions requiring, or medical histories indicating a need for, treatment or observation, and (2) the procedures

estblished to monitor any necessary treatment or observation;

(g) Provide that assistance and services funded under the plan will be provided to refugees without regard to race, religion, nationality, sex or political opinion; and

(h) Provide that the State will, unless exempted from this requirement by the Director, assure that meetings are convened, not less often than quarterly, whereby representatives of local affiliates of voluntary agencies meet with representatives of State and local governments to plan and coordinate in advance of their arrival the appropriate placement of refugees.

(i) Provide that the State will: (1) Comply with the provisions of title IV of the Act and official issuances of the Director; (2) meet the requirements in this part; (3) comply with all other applicable Federal statutes and regulations in effect during the time that it is receiving grant funding; and (4) amend the plan as needed to comply with standards, goals, and priorities established by the Director.

§ 400.6 [Removed and Reserved]

6. Section 400.6 is removed and reserved.

7. Section 400.7 is revised to read as follows:

§ 400.7 Submittal of the State plan and plan amendments for Governor's review.

A plan or plan amendment under title IV of the Act must be submitted to the State Governor or his or her designee, for review, comment, and signature before the plan is submitted to ORR.

8. Section 400.8 is redesignated as § 400.200 and revised and the text of the section is set out under Subpart J below. A new § 400.8 is added to read as follows:

§ 400.8 Approval of State plans and plan amendments.

(a) The State agency must submit the State plan and plan amendments which have been signed by the Governor, or his or her designee, together with one copy of such plan or amendment, to the Director of ORR, or his or her designee, for approval. States are encouraged to consult with the Director, or his or her designee, when a plan or amendment is in preparation.

(b) The Director, or designee, will initiate any necessary discussions with the State agency to clarify aspects of the plan.

(c) No later than 45 days after the State plan or plan amendment is submitted, the Director, or designee, will—

(1) Determine whether a State plan or plan amendment meets or continues to meet requirements for approval based on relevant Federal statutes and regulations, and

(2) Approve or disapprove the plan or plan amendment.

(d) The Director, or designee, will notify the State agency promptly of all actions taken on State plans and amendments.

(e) The effective day of an approved State plan or plan amendment may not be earlier than the first day of the calendar quarter in which the State agency submits the approvable plan or plan amendment, except as otherwise approved by the Director.

9. Section 400.9 is removed and a new § 400.9 is added to read as follows:

§ 400.9 Administrative review of decisions on approval of State plans and plan amendments.

(a) Any State dissatisfied with a determination by the Director, or designee, under § 400.8 with respect to any plan or plan amendment may, within 60 days after the date of notification of such determination, file a petition with the Director, or designee, for reconsideration of the determination.

(b) A State may, but is not required to, request that a hearing be held.

(c) If a State requests a hearing, the Director, or designee, will notify the State within 30 days after receipt of such a petition, of the time and location of the hearing to reconsider the issue.

(d) The hearing must be held not less than 30 days nor more than 60 days after the date that notice of the hearing is furnished to the State, unless the Director or designee, and the State agree in writing on another time.

(e) The hearing procedures in Part 213 of this title will be used except that:

(1) "The Director" is substituted where there is reference to "the Administrator," and

(2) "ORR Hearing Clerk" is substituted where there is reference to the "SRS Hearing Clerk."

(f) The Director will affirm, modify, or reverse the original decision within 60 days of the receipt of the State's petition or, if a hearing is held, within 60 days after the hearing.

(g) The initial determination by the Director, or designee, that a plan or amendment is not approvable shall remain in effect pending the reconsideration.

(h) If the Director reverses the original decision, ORR will reimburse any funds incorrectly withheld or otherwise denied.

§ 400.10 [Redesignated as § 400.28]

10. Section 400.10 is redesignated as §400.28 and revised and the text is set out under Subpart C below.

11. Section 400.11 is redesignated as § 400.27 and revised and the text of the section is set out under Subpart C below. An undesignated center heading and new §§ 400.11 and 400.12 are added to read as follows:

Award of Consolidated and Other Grants to States

§ 400.11 Award of grants to States.

(a) *Quarterly consolidated grants.* (1) Subject to the availability of funds, ORR will make consolidated grants each quarter to States with approved State plans (hereafter, "eligible States") for the purposes of section 412(c) through (e) of the Act, except that ORR will make separate grants to States for the purposes set forth in paragraph (b) of this section.

(2) Of the funds available for consolidated grants, the Director—

(i) Will reserve 3 percent in order to make any necessary corrections in the allotments to States, which 3 percent shall be awarded during the third and fourth quarters of the fiscal year.

(ii) Will award, on a quarterly basis, 97 percent to eligible States as soon as is reasonably possible following the availability of funds to the Director.

(3) Each eligible State shall be allotted a share of the consolidated grant funds awarded under paragraph (a)(2)(ii) of this section which bears the same ratio to the amount appropriated as the number of refugees in such State who have been in the United States for less than 3 years bears to the total number of such refugees in all eligible States, *except that,* for fiscal year 1984, or any portion thereof for which consolidated grant awards are made, such awards shall be made in such manner as to provide each eligible State with not less than 90 percent of the percentage that such State was awarded for fiscal year 1983 of the total funds awarded nationally under this part and Part 401 for the following purposes: Refugee cash assistance (RCA) and refugee medical assistance (RMA) costs, including administrative costs associated with the provision of RCA and RMA; the formula allocations for social services; the allocation of targeted assistance funds; and the allocation of education assistance for schoolchildren.

(4) For purposes of paragraph (a)(3) of this section, the number of refugees in a State (who have been in the United States less than 3 years), and the number of such refugees in all the

States, shall be established on the basis of the Director's estimate of such numbers, based on the best data available to the Director, as of September 30 of the fiscal year preceding the year for which the allotment is made.

(5) The allotment for each State, as determined under paragraphs (a) (3) and (4) of this section, shall be adjusted for each fiscal year, by the close of the second quarter of fiscal year, if the Director determines that the estimate of the number of refugees present in such State does not accurately reflect their actual location at the beginning of such fiscal year, and that the allotment of a State has thereby been substantially affected. Any such adjustment shall be made, to the extent of available funds, from the 3 percent reserved by the Director under paragraph (a)(2)(i) of this section. Any funds remaining from the 3 percent after such adjustments shall be allocated among the eligible States in accordance with each State's pro rata share.

(6) As a condition for receiving a consolidated grant, each State shall submit to the Director such information as the Director determines necessary to establish States' allotments, in such form and at such time or times as the Director may reasonably specify, pertaining to the numbers of refugees in the State and the changes in such numbers from prior periods.

(7) The amount of each State's consolidated grant allotment for a fiscal year shall remain available until the close of the following fiscal year and shall not be taken into account in determining its allotment for such following year.

(8) The consolidated grant may be used at the option of the State for any one or more of the activities authorized by section 412(c) through (e) of the Act, and subject to the conditions of the Act with respect to those activities, except that not more than 10 percent of a consolidated grant may be used for administrative costs in connection with the provision of services and assistance.

(9) Prior to, and as a condition for, the award to a State of consolidated grant funds for any fiscal year or portion thereof, the State shall report to the Director on the intended uses of such funds, including information on the types of activities to be supported and the estimated numbers and categories or characteristics of individuals to be served. The report shall be transmitted to the Director and shall be made public within the State in such manner as to facilitate comment by interested persons, voluntary agencies, and local governments on the intended uses of the funds. The State shall revise the report throughout the year as may be necessary to reflect subtantial changes in the intended uses of the funds, and any revised report shall be subject to the requirements of this paragraph. The report, and any revisions thereto, will not be subject to Federal approval except for activities with respect to which a determination must be made by the Director under the Act. No particular form is required for this report, but the information provided must be sufficient to enable the Director to make the determinations required by the Act.

(b) *Other Quarterly grants.* Subject to the availability of funds, ORR will make quarterly grants to eligible States, separate from the consolidated grants described in paragraph (a) of this section, for the following purposes (and in accordance with the limitations of Subpart J of this part): Cash assistance provided by a State or local public agency under the program of aid to families with dependent children (AFDC) under Part A of title IV of the Social Security Act or under the adult assistance programs (AABD, AB, APTD, or OAA) in the territories; foster care maintenance provided under Part E of that title; State supplementary payments under section 1616(a) of the Social Security Act or section 212 of Pub. L. 93–66; medical assistance under title XIX of the Social Security Act; assistance and services to unaccompanied minors under section 412(d)(2)(B) of the Immigration and Nationality Act; and cash or medical assistance provided under a public assistance program established under authority other than Federal law and under which such assistance is generally available to needy individuals or families in similar circumstances within the State. ORR will compute the amount of the quarterly award based on documents submitted by the State agency in accordance with this section and such other pertinent facts as the Director may find necessary.

(c) *Form and manner of State application for grant award.* (1) *Estimates of reimbursable costs.* For quarterly grants under paragraph (b), a State must submit to the Director, or designee, estimates for reimbursable costs for the fiscal year, identified by quarter and type of expense, and a justification statement in support of the estimates, no later than 45 days prior to the beginning of the fiscal year on a form prescribed by the Director.

(2) *Quarterly adjustments.* If a State revises its quarterly estimates required in paragraph (c)(1) of this section, it must submit to the Director, or designee, the revisions, accompanied by a justification statement, no later than 30 days prior to the quarter in which the revision or adjustment applies.

(d) *Financial status report.* A State must submit to the Director, or designee, a financial status report described in § 74.73(a) of this title, no later than 30 days after the end of each quarter.

(e) *Review.* ORR will determine whether the State's description of services, estimates, other relevant information, and any adjustments to be made for prior periods meet the requirements under this part, and will compute the quarterly award.

(f) *Grant award.* (a) ORR will transmit to the State the grant award form showing, by type of assistance, the amount of the award.

(2) The State may draw funds, under the Departmental Federal Assistance Financing System (SFAFS), as needed, to meet the Federal share of disbursements.

§ 400.12 Adverse determinations concerning State grants.

(a) *Policy.* The Secretary has established a Departmental Grant Appeals Board for the purpose of reviewing and providing hearings on post-award disputes which may arise in the administration of certain grant programs by constituent agencies of HHS. Section 16.5(b)(2) of this title authorizes HHS agencies to establish informal appeal procedures which must be exhausted before a formal appeal to the Board will be allowed. Paragraph (d) of this section provides an informal preliminary procedure for resolution of such disputes within ORR prior to appeal to the Board.

(b) *Scope.* Adverse determinations to which this procedure is applicable are as follows:

(1) Termination, in whole or in part, of a grant for failure of the grantee to carry out its approved project or program in accordance with applicable law and the terms and conditions of such assistance or for failure of the grantee otherwise to comply with any law, regulation, assurance, term, or condition applicable to the grant.

(2) A determination that an expenditure not allowable under the grant has been charged to the grant or that the grantee has otherwise failed to discharge its obligation to account for grant funds.

(3) The disapproval of a grantee's written request for permission to incur an expenditure during the term of a grant.

(4) A determination that a grant is void because the award was obtained fraudulently, or was otherwise illegal or invalid from inception.

(c) *Notice of adverse determination.* If the Director, or his or her designee, makes an adverse determination with respect to a grant, he or she shall promptly issue a notice of adverse determination to the State containing the reasons for the determination in sufficient detail to enable the State agency to respond and informing the State agency of the opportunity for review under paragraph (d) of this section.

(d) *Request for review of adverse determination.* (1) If the State agency wants a review of the determination, it must submit a request for such review to the Director no later than 30 days after the postmark on the notice, unless an extension of time is granted for good cause shown.

(2) The request for review must contain a full statement of the State's position with respect to the determination being appealed and the pertinent facts and reasons in support of such position. The State agency must attach to the submission a copy of the notice.

(3) The Director may, at his or her discretion, invite the State to discuss pertinent issues and to submit such additional information as he or she deems appropriate.

(4) Based on his or her review, the Director will send a written response to the State. If the response is adverse to the State's position, the correspondence shall state the State's right to appeal to the Departmental Grant Appeals Board, pursuant to Part 16 of this title.

(e) *Request for appeal of an adverse determination.* (1) To appeal an adverse determination, a State agency must file an appeal with the Executive Secretary, Departmental Grant Appeals Board, in accordance with requirements contained in Subparts A and B of Part 16 of this title.

(2) The State's application for review must be postmarked no later than 30 days after the postmark on the Director's response to the State's request for review in paragraph (d)(4) of this section.

§ 400.62 [Removed]

12. Section 400.62 is removed.

13. New subparts C–J are added to read as follows:

Subpart C—General Administration

§§ 400.20–400.21 [Reserved]

§ 400.22 Responsibility of the State agency.

(a) The State agency may not delegate, to other than its own officials, responsibility for administering or supervising the administration of the plan.

(b) The State agency must have—

(1) Methods for informing staff of State policies, standards, procedures, and instructions; and

(2) Systematic planned examination and evaluation of operations in local offices.

§ 400.23 Fair hearings.

(a) A State must provide applicants for and recipients of assistance and services under the Act with an opportunity for a hearing to contest adverse determinations using hearing procedures for public assistance programs set forth in § 205.10(a) of this title.

(b) If the issue is the date of entry into the United States of an applicant for or recipient of assistance or services, the State must provide for prompt resolution of the issue by inspection of the individual's documentation issued by the Immigration and Naturalization Service (INS) or by information obtained from INS, than by hearing.

§ 400.24 [Reserved]

§ 400.25 Residency requirements.

A State may not impose requirements as to duration of residence as a condition of participation in the State's program for the provision of assistance or services.

§ 400.26 [Reserved]

§ 400.27 Safeguarding of information.

(a) Except for purposes directly connected with, and necessary to, the administration of the program, a State must ensure that no information about, or obtained from, an individual and in possession of any agency providing assistance or services to such individual under the plan, will be disclosed in a form identifiable with the individual without the individual's consent, or if the individual is a minor, the consent of his or her parent or guardian.

(b) The provision by a State to a voluntary resettlement agency, as defined in § 400.2, of information as to whether an individual has applied for or is receiving cash assistance is to be considered undertaken for a purpose directly connected with, necessary to, the administration of the program during the first 36 months after such individual's entry into the United States.

§ 400.28 Maintenance of records and reports.

(a) A State must provide for the maintenance of such operational records as are necessary for Federal monitoring of the State's refugee resettlement program in accordance with Part 74, Subpart D, of this title. This recordkeeping must include:

(1) Documentation of services and assistance provided, including identification of individuals receiving those services;

(2) Records on the location, progress, and status of unaccompanied minor refugee children, including the last known address of parents; and

(3) Documentation that necessary medical followup services and monitoring have been provided.

(b)(1) A State must submit statistical or programmatic information on refugees receiving assistance and services which are provided, or the State costs of which are reimbursed, under the Act that the Director determines to be required to fulfill his or her responsibility under the Act.

(2) Such information must include:

(i) Aggregated data, showing the numbers, by nationality, of persons and cases receiving cash assistance, by AFDC, SSI, and GA, and other recipients;

(ii) Aggregated data, showing the numbers, by nationality, of persons receiving medical assistance, by Medicaid, GA, and other recipients; and

(iii) Aggregated data showing the numbers of persons identifiable as secondary migrants from other States.

(iv) Aggregated data showing the numbers of persons who have been provided with employment services, job placements, and other support services.

(v) Aggregated data showing the numbers of unaccompanied minors who have received income maintenance, medical, and support services.

(vi) Aggregated data showing the numbers of persons who have received health monitoring services, including health screenings, followup, and treatment.

Subpart D—Immigration Status and Identification of Refugees

§ 400.40 Scope.

This subpart sets forth requirements concerning the immigration status and identification of eligible applicants for assistance under title IV of the Act.

§ 400.41 Definitions.

For purposes of this subpart—

"Applicant for asylum" means an individual who has applied for, but has not been granted asylum under section 208 of the Act.

"Asylee" means an individual who has been granted asylum under section 208 of the Act.

Documentation of Refugee Status

§ 400.43 Requirements for documentation of refugee status.

(a) An applicant for assistance under title IV of the Act must provide proof, in the form of documentation issued by the Immigration and Naturalization Service (INS), of one of the following statutes under the Act as a condition of eligibility:

(1) Paroled as a refugee or asylee under section 212(d)(5) of the Act;

(2) Admitted as a conditional entrant under section 203(a)(7) of the Act;

(3) Admitted as a refugee under section 207 of the Act;

(4) Granted asylum under section 208 of the Act;

(5) Admitted with an immigration status that entitled the individual to refugee assistance prior to enactment of the Refugee Act of 1980, as specified by the Director; or

(6) Admitted for permanent residence, provided the individual previously held one of the statuses identified above.

(b) The Director will issue instructions specifying the documentation that applicants for assistance must submit.

§ 400.44 Restriction.

An applicant for asylum is not eligible for assistance under title IV of the Act.

Subparts E–G—[Reserved]

Subpart H—Child Welfare Services

§ 400.110 Basis and scope.

This subpart prescribes requirements concerning grants to States under section 412(d)(2)(B) of the Act for child welfare services to refugee unaccompanied minors.

§ 400.111 Definitions.

For purposes of this subpart—

"Child welfare agency" means an agency licensed or approved under State law to provide child welfare services to children in the State.

"Unaccompanied minor" means a person who has not yet attained 18 years of age (or a higher age established by the State of resettlement in its child welfare plan under title IV–B of the Social Security Act for the availability of child welfare services to any other child in that State); who entered the United States unaccompanied by and not destined to (a) a parent or (b) a close non-parental adult relative who is willing and able to care for the child or (c) any adult with a clear and court-verifiable claim to custody of the minor; and who has no parent(s) in the United States. *Limitation:* No child may be considered by a State to be "unaccompanied" for the purposes of this part unless such child was identified by INS at the time of entry as "unaccompanied," except that a child who was correctly classified as "unaccompanied" by a State in accordance with Action Transmittal SA–AT–79–04 (and official interpretations thereof by the Director) prior to the effective date of this definition may continue to be so classified until such status is terminated in accordance with § 400.113(b) of this subpart; and the Director may approve the classification of a child as "unaccompanied" on the basis of information provided by a State showing that such child should have been classified as "unaccompanied" at the time of entry.

"Title IV–B plan" means a State's plan for providing child welfare services to children in the State under part B of title IV of the Social Security Act.

§ 400.112 [Reserved]

§ 400.113 Duration of eligibility.

An unaccompanied minor continues to meet the definition of "unaccompanied minor" and is eligible for services under §§ 400.115 through 400.120 of this part until the minor—

(a) Is reunited with a parent; or

(b) Is united with a non-parental adult (relative or non-relative) willing and able to care for the child to whom legal custody and/or guardianship is granted under State law; or

(c) Attains 18 years of age or such higher age as the State's title IV–B plan prescribes for the availability of child welfare services to any other child in the State.

§ 400.114 [Reserved]

§ 400.115 Establishing legal responsibility.

(a) A State must ensure that legal responsibility is established, including legal custody and/or guardianship, as appropriate, in accordance with applicable State law, for each unaccompanied minor who resettles in the State. The State must initiate procedures for establishing legal responsibility for the minor, with an appropriate court (if action by a court is required by State law), within 30 days after the minor arrives at the location of resettlement.

(b) In establishing legal responsibility, including legal custody and/or guardianship under State law, as appropriate, the minor's natural parents should not be contacted in the native country since contact could be dangerous to the parents.

(c) Unaccompanied minor are not generally eligible for adoption since family reunification is the objective of the program. In certain rare cases, adoption may be permitted pursuant to normal adoption laws in the State of resettlement, provided a court finds that: (1) Adoption would be in the best interest of the child; and (2) there is clear expression (as determined by the court) of the termination of parental rights, including situations where the parents are dead or are missing and presumed dead. When adoption occurs, the child's status as an unaccompanied minor terminates.

§ 400.116 Services for unaccompanied minors.

(a) A State must provide unaccompanied minors with the same range of child welfare benefits and services available in foster care cases to other children in the State. Allowable benefits and services may include foster care maintenance (room, board, and clothing) payments; medical assistance, support services; services identified in the State's plans under titles IV–B and IV–E of the Social Security Act; services permissible under title XX of that Act; and expenditures incurred in establishing legal responsibility.

(b) A State may provide additional services if the Director, or his or her designee, determines such services to be reasonable and necessary for a particular child or children and provides written notification of such determination to the State.

§ 400.17 Provision of care and services.

(a) A State may provide the care and services to an unaccompanied minor directly or through arrangements with a public or private nonprofit child welfare agency approved or licensed under State law.

(b) If a State arranges for the care and services through a public or private nonprofit child welfare agency, it must retain oversight responsibility for the appropriateness of the unaccompanied minor's care.

§ 400.118 case planning.

(a) A State, or its designee under § 400.117, must develop and implement an appropriate plan for the care and supervision of, and services provided to, each unaccompanied minor, to ensure that the child is placed in a foster home or other setting approved by the legally responsible agency and in accordance with the child's need for care and for social, health, and educational services.

(b) Case planning for unaccompanied minors must, at a minimum, address the following elements:

(1) Family reunification;

(2) Appropriate placement of the unaccompanied child in a foster home, group foster care, residential facility, supervised independent living, or other setting, as deemed appropriate in meeting the best interest and special needs of the child.

(3) Health screening and treatment, including provision for medical and dental examinations and for all necessary medical and dental treatment.

(4) Orientation, testing, and counseling to facilitate the adjustment of the child to American culture.

(5) Preparation for participation in American society with special emphasis upon English language instruction and occupational as well as cultural training as necessary to facilitate the child's social integration and to prepare the child for independent living and economic self-sufficiency.

(c) A State, or its designee under § 400.117 of this part, must review the continuing appropriateness of each unaccompanied minor's living arrangement and services no less frequently than every 6 months.

§ 400.119 Interstate movement.

After the initial placement of an unaccompanied minor, the same procedures that govern the movement of nonrefugee foster care cases to other States apply to the movement of unaccompanied minors to other States.

§ 400.120 Reporting requirements.

A State must submit to ORR, on forms prescribed by the Director, the following reports on each unaccompanied minor:

(a) An initial report within 30 days of the date of the minor's placement in the State;

(b) A progress report every 12 months beginning with 12 months from the date of the initial report in paragraph (a);

(c) A change of status report within 30 days of the date—

(1) The minor's placement is changed;

(2) Legal responsibility of any kind for the minor is established or transferred; or

(d) A final report within 30 days of the date the minor—

(1) Is reunited with a parent; or

(2) Is united with an adult, other than a parent, in accordance with § 400.113(b)(2) or § 400.115(c) of this part.

(3) Is emancipated.

Subpart I—[Reserved]

Subpart J—Federal Funding (FF)

§ 400.200 Scope.

This subpart specifies when, and the extent to which, FF is available under this regulation in expenditures for determining eligibility and for providing assistance and services to refugees determined eligible under this part, and prescribes limitations and conditions on FF for those expenditures.

FF in Expenditures for Determining Eligibility and Providing Assistance and Services

§ 400.202 Extent of FF.

Subject to the availability of funds and under the terms and conditions approved by the Director, FF will be provided for 100 percent of authorized allowable costs of determining eligibility and providing assistance and services in accordance with this part.

§ 400.203 FF for cash assistance.

(a) FF is available for cash assistance to eligible refugees during the 36-month period beginning with the first month the refugee entered the United States, as follows—

(1) If a refugee is eligible for AFDC, adult assistance programs, or foster care maintenance payments under title IV–E of the Social Security Act, FF is available only for the non-Federal share of such assistance.

(2) If a refugee is eligible for SSI, FF is available for any supplementary payment a State may provide under that program.

(3) If a refugee is eligible for general assistance (GA), FF is available.

§ 400.204 FF for medical assistance.

(a) FF is available for the non-Federal share of medical assistance to refugees who are eligible for Medicaid or adult assistance programs during the 36-month period beginning with the first month the refugee entered the United States.

(b) FF is available for a State's expenditures for medical assistance under a general assistance (GA) program during the 36-month period beginning with the first month the refugee entered the United States.

§ 400.205 FF for assistance and services for unaccompanied minors.

FF is available for a State's expenditures for services to unaccompanied minors under §§ 400.115 through 400.120 of this part until the minor's status as an unaccompanied minor is terminated as specified by § 400.113(b).

§ 400.206 FF under consolidated grant.

FF is provided under the consolidated grant for any activities allowable under paragraphs (c) through (e) of section 412 of the Act, in accordance with the requirements of said paragraphs and of this part.

§ 400.207 FF for administrative costs.

FF is available for reasonable and necessary identifiable administrative costs of providing assistance and services under this part, and such costs may be included in a State's claims against its quarterly grants for the purposes set forth in §§ 400.203 through 400.205 of this part or may be charged against its consolidated grant for activities allowable under § 400.206 of this part, subject to the limitation of § 400.11(a)(8).

§ 400.208 Claims involving filing units which include both refugees and non-refugees.

(a) FF is available for a State's expenditures for assistance and services to a filing unit which includes a refugee parent or two refugee parents and one or more of their children who are non-refugees, including children who are United States citizens.

(b) FF is not available for a State's expenditures for assistance and services provided to a non-refugee adult member of a filing unit or to a non-refugee child or children in a filing unit if one parent in the filing unit is a non-refugee.

§ 400.209 Claims involving filing units which include refugees who have been in the United States for more than 36 months.

FF is not available for State expenditures for cash and medical assistance and child welfare services (except services for unaccompanied minors) provided to any refugee within a filing unit who has been in the United States more than 36 months. A State agency must exclude expenditures made on behalf of such refugees from its claim.

§ 400.210 Time limit on filing State claims.

FF is available for a State's expenditures for assistance and services to eligible refugees for which a claim is filed no later than one year after the end of the Federal fiscal year in which the expenditure was made.

Subpart K—Waivers

§ 400.300 Waivers.

If a State agency administering a plan approved under this part demonstrates, to the satisfaction of the Director, that it cannot reasonably comply with a requirement of this part, the Director may waive such requirement with respect to such State, unless required by statute, if the Director determines that such waiver will advance the purposes of this part.

(Sec. 412(a)(9), Immigration and Nationality Act (8 U.S.C. 1522(a)(9)))

Approved: July 12, 1983.

Margaret M. Heckler,

Secretary of the Department of Health and Human Services.

[FR Doc. 83-24691 Filed 9-13-83; 8:45 am]

BILLING CODE 4160-11-M

FEDERAL MARITIME COMMISSION

46 CFR Ch. IV

[Docket No. 83-38]

Inquiry and Intent To Review Regulation of Ports and Marine Terminal Operators

AGENCY: Federal Maritime Commission.

ACTION: Notice of inquiry.

SUMMARY: The Commission solicits public comment on the regulation of ports and marine terminal operators under the Shipping Act, 1916 (46 USC § 801 et seq.) including the filing of tariffs (46 CFR 533), and the filing and approval of certain agreements under section 15 (46 U.S.C. 814). The Commission also solicits public comment on the need for continued antitrust immunity under section 15 of the Shipping Act, 1916, and certain other issues.

DATES: Comments on or before December 12, 1983.

ADDRESS: Comments to: Secretary, Federal Maritime Commission, Washington, D.C. 20573.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, N.W., Room 11101, Washington, D.C. 20573, (202) 523-5725.

SUPPLEMENTARY INFORMATION:

Authority

The Federal Maritime Commission is charged with the responsibility of administering the Shipping Act, 1916 (46 U.S.C. 801 et seq.) and other related statutes. Among the responsibilities vested in the Commission by the Shipping Act is the authority to regulate the activities of persons "furnishing wharfage, dock, warehouse or other terminal facilities in connection with a common carrier by water".[1]

The Commission was accorded jurisdiction over such persons because of Congressional concern that terminal operators and owners "be required to make their terminal facilities available to water carriers on equal terms * * *" [2] and that, if the Federal Maritime Commission was to be effective in its regulation of waterborne commerce, then "it must also have supervision of all those incidental facilities connected with the main carriers." [3] Consequently, activities of marine terminal operators fall within the Commission's jurisidiction.

With regard to marine terminals, the Commission regulates terminal leases and other arrangements involving carriers and terminal operators under section 15.[4] These arrangements must be filed and approved by the Commission prior to their implementation. An agreement found to contravene section 15 standards must be disapproved. An agreement which is *per se* violative of the U.S. antitrust laws, or is otherwise shown to be anticompetitive, is contrary to the public interest and must be disapproved unless justified under the *"Svenska"* standard.[5] Agreements that are approved by the Commission under section 15 are exempt from the reach of U.S. antitrust laws.

The Commission also requires, under sections 17, 21 and 43 of the Act, that marine terminal operators file tariffs of their rates, rules and regulations with the Commission.[6]

Under sections 16 and 17 of the Act, the Commission regulates terminal practices to ensure that such practices are not unjustly discriminatory or unreasonable.[7]

Finally, section 35 of the Act permits the Commission to exempt certain activities from regulation. The legislative intent of section 35 was to permit exemption only in those instances where regulation is serving no significant substantive purpose and exempting will not impair effective regulation.[8]

In order to fulfill its responsibilities under the Regulatory Flexibility Act (5 U.S.C. 610), which requires the Commission to periodically review its regulations, and as a result of the changing technological, economic and legal environment in which the regulated marine terminal industry operates, the Commission is seeking the comments of the marine terminal industry, the shipping public and all other interested parties on a number of issues relating to the proper course of the Commission's regulation of this industry.

Since the range of these issues is broad, the Commission has organized the Notice of Inquiry into three parts. Part One addresses and solicits comments on whether existing regulatory requirements for terminal tariff filing and terminal agreement filing and approval may be unnecessarily burdensome. Only the regulations included for comment in Part One will be subject to formal Commission review. Part Two solicits comments on the need and justification for the exemption from the U.S. antitrust laws of terminal

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[1] 46 U.S.C. 801.

[2] Report of the House Committee on Merchant Marine and Fisheries (63rd Cong.), Investigation of Shipping Combinations, vol. 4, p. 32.

[3] 53 Cong. Rec. 8376 (1916) (remarks of Rep. Alexander).

[4] Section 15 requires the filing of all agreements "fixing or regulating transportation rates or fares; giving or receiving special rates, accommodations, or other special privileges or advantages; controlling, regulating, preventing, or destroying competition; pooling or apportioning earnings, losses, or traffic; allotting ports or restricting or otherwise regulating the number and character of sailings between ports; limiting or regulating in any way the volume or character of freight or passenger traffic to be carried; or in any manner providing for an exclusive, preferential, or cooperative working arrangement." (46 U.S.C. 814).

[5] The *Svenska* doctrine is the proposition affirmed in *Federal Maritime Commission* v. *Aktiebolaget Svenska Amerika Linien*, 390 U.S. 238 (1968), whereby section 15 agreements which interfere with the policies of the antitrust laws will be disapproved as "contrary to the public interest" unless justified by evidence establishing that the agreement, if approved, will meet a serious transportation need, secure an important public benefit or further a valid regulatory purpose of the Shipping Act, 1916. The burden is on proponents of such agreements to come forward with the necessary evidence.

[6] Section 17 reads in pertinent part: Every such carrier and every other person subject to this Act shall establish, observe and enforce just and reasonable regulations and practices relating to or connected with the receiving, handling, storing, or delivering of property. Whenever the Commission finds that any such regulation or practice is unjust or unreasonable it may determine, prescribe, and order enforced a just and reasonable regulation or practice. (46 U.S.C. 816).

Section 21 authorizes the Commission to "require any * * * person subject to this Act * * * to file with it * * * any account, record, rate of charge * * * appertaining to the business of such * * * person." (46 U.S.C. 820).

Section 43 authorizes the Commission to "make such rules and regulations as may be necessary to carry out the provisions of this Act." (46 U.S.C. 841a).

[7] Section 16 reads in pertinent part: "That it shall be unlawful for any * * * person subject to this Act: First. To make or give any undue or unreasonable preference or advantage to any particular person, locality or description of traffic in any respect whatsoever, or to subject any particular person, locality, or description of traffic to any undue or unreasonable prejudice or disadvantage in any respect whatsoever * * *" (46 U.S.C. 815).

[8] Section 35 reads in pertinent part: The Federal Maritime Commission, upon application or on its own motion, may by order or rule exempt for the future any class of agreements between persons subject to this Act or any specified activity of such persons from any requirement of the Shipping Act, 1916, * * * where it finds that such exemption will not substantially impair effective regulation by the Federal Maritime Commission, be unjustly discriminatory, or be detrimental to commerce. (46 U.S.C. 833a).

operator conference agreements and other terminal agreements now approved under section 15 standards. Part Three more generally solicits comments on a number of issues that either now or at some point in the future may require the Commission to review its role in the regulation of the marine terminal industry.

Part One: Review of Current Marine Terminal Regulations

Marine Terminal Tariffs

The Commission requires that marine terminal operators file tariffs of their rates and charges with the Commission. These rules set forth in 46 CFR Part 533 (General Order 15). Part 533 requires that marine terminal operators (1) file their rates, rules, and regulations and any changes thereto with the Commission on or before their effective date; (2) post their tariff of rates, rules, and regulations at their place or places of business; and (3) include in their tariffs either the definitions of services set forth in section 533.6 of the rules or other definitions with appropriate explanation of how they differ from the definitions contained in the rules.

These rules apply to persons engaged in furnishing wharfage, dock, warehouse, or other terminal facilities within the United States or a commonwealth, territory, or possession thereof, in connection with a common carrier by water in the foreign commerce of the United States or in interstate commerce on the high seas or the Great Lakes. The purpose of these rules, as expressed by the Commission at the time of their original publication, was to establish uniform tariff filing requirements necessary for the Commission to carry out the provisions of section 17 (see note 8).

The Commission stated in the preamble to the rule that it was not in a position to determine whether regulations and practices of terminals are just and reasonable unless the regulations and practices are specified in tariffs, which are then published in such a way that the public and the Commission can consider their fairness.

At the present time, it is estimated that 300 terminal operators have approximately 400 terminal tariffs on file with the Commission. Approximately 7,000 terminal tariff pages are filed with the Commission each year. Tariffs are periodically reviewed by shippers, by carriers, by terminal operators interested in the rates or rules of a competitor, by consultants when making studies, and by the Commission's staff when a problem over a tariff has been raised.

In order to evaluate the utility and effectiveness of current marine terminal tariff regulations, the Commission requests comments on the following questions:

1. Is it important that tariffs be published, centrally located and easily accessible to all interested parties? Why?

2. In lieu of filing tariffs with the Commission, what procedures could be implemented that would ensure that tariffs are easily accessible to all interested parties?

3. Should Part 533 be amended to require that tariffs be filed or submitted to an organization other than the FMC? If so, what type of organization should be considered?

4. Should Part 533 be amended to delete the filing requirement, but require that all terminal operators publish rates and charges in local shipping or commercial publications, and make such rates and charges available to interested parties at the terminal operator's place of business?

5. Should Part 533 be amended to require that a schedule of charges be made available at the terminal operator's place of business? Should the terminal operator be required to make its tariff available to any interested party at a reasonable fee?

6. Should Part 533 be amended in any way, and if so, how?

Marine Terminal Agreements

At the present time, roughly 650 terminal agreements stand approved and are in effect. The experience of the Commission indicates that while some agreements have the potential for significant anticompetitive consequences, the vast majority of current filings appear to be matters of no competitive significance, are rarely protested, and are routinely approved, or are determined not to be subject to section 15 of the Act. For example, in fiscal year 1982, the Commission's Bureau of Agreements processed 169 terminal agreements, of which 73 were approved under delegated authority and 72 were determined not be to subject to section 15. The remainder were approved by the Commission. Some agreements were approved with conditions, but only in one instance did the parties choose not to meet the conditions, requesting a hearing.[9]

In spite of the fact that marine terminal agreements infrequently present the Commission with questions of regulatory significance, the filing and approval process for such section 15 agreements has historically been the source of lengthy delays. While substantial improvements have been recently made in the Commission's procedures for processing all types of section 15 agreements, the continued potential for delay may result in unnecessary expense and inconvenience to the shipping public and to the regulated industry with little or no offsetting regulatory benefits.

A significant proportion of terminal agreements now filed with the Commission do not appear to enhance the Commission's effectiveness in regulating the ocean terminal industry. The exemption of certain categories of terminal agreements from the filing and/or approval requirements of section 15 could result in considerable savings to the port industry and to the Commission.

Areas of exemption might include:

Class 1. Exempting specific categories of terminal agreements from filing and approval requirements.

Class 2. Exempting other categories of terminal agreements from the approval requirement, but not from filing.

Class 3. Exempting specific terminal agreements upon request of parties.

Class 4. Exempting terminal agreements on a port-by-port basis through the approval of specific local procedures for public comment and remedy to potentially aggrieved parties. Grant of a port-wide exemption from the FMC agreement filing and approval process on a port-by-port basis could take many forms.

The assist the Commission in its efforts to identify and eliminate unnecessary regulations, the Commission seeks the views of the marine terminal industry and the shipping public as to possible areas and consequences of deregulatory measures pertaining to the marine terminal industry. In particular, the Commission would like answers to the following questions:

7. What types of agreements should the Commission consider for inclusion in Class 1, Class 2 and Class 3 agreements? Why? Please comment by class of agreement.

8. What would be the impact on shippers, carriers and on commerce generally, on the marine terminal

[9] FMC Docket No. 82-34, *Agreement No. T-3856*, Order of Investigation and Hearing; served July 7, 1982. Agreement No. T-3856 is between Mid-Gulf Seaports Marine Terminal Conference, Terminal Operators Conference of Hampton Roads, and the South Atlantic Marine Terminal Conference. On April 16, 1981 the Commission conditionally approved Agreement No. T-3856, on the condition that the Agreement be amended to delete its ratemaking authority. On August 26, 1981 the parties to Agreement No. T-3856 requested a hearing, which was granted.

industry, and on terminal operations, if any of the above mentioned classes of terminal agreements were exempted in whole or in part from section 15? Please comment by class of agreement.

9. What would be the impact on shippers, carriers and on commerce generally, on the marine terminal industry, and on terminal operations if the Commission authorized exemptions under section 15 for terminal agreements on a port-wide basis? Should local procedures for public comment and remedy to potentially aggrieved parties be required? How and to what extent would such an exemption affect terminal operations? Would it be appropriate for the Commission to make this type of exemption available to ports specifically requesting it, with alternative types of exemptions (such as those described above in classes 1, 2, and 3) being available to other ports?

10. Should marine terminal operators be allowed the option of filing agreements for approval under section 15 in order to receive antitrust immunity even where exemptions for these agreement categories have been granted? Why?[10]

Part Two: Antitrust Immunity for Marine Terminal Operators

Marine Terminal Conference Agreements

Through its section 15 approval process, and in addition to its grant of antitrust immunity to agreements between terminal operators and/or common carriers by water, the Commission grants antitrust immunity to conferences of marine terminal operators. This includes interconference agreements. Marine terminal conference agreements are, perhaps, the area within the Commission's regulation of marine terminal operators that is most vulnerable to antitrust prosecution without the immunity that attaches to section 15 approval by the Commission.

Marine terminal conference agreements usually authorize the parties to discuss and agree upon marine terminal rates, rules, regulations and practices, and to exchange other information. They generally provide for formation of committees, scheduling of meetings, voting requirements, other procedures for the conduct of business, and the filing of minutes. Over the years, marine terminal conferences have been justified on the basis that they provide for stability of rates and uniformity of practices within a port or among ports within a coatal region, affording individual ports or terminal operators protection from user pressures that attempt to play one off against the other. Further justifications have included: uniform definitions for terminal services, establishment of long-term objectives of benefit to ports and users, exchange of views on practices and problems, discussion of liability and legal matters, and discussion of labor matters.

The number of currently active terminal agreements on file and approved by the Commission is as follows:

Intraport Agreement—11 (all with rate authority).

Interport Agreement—12 (six with rate authority).

Interconference Agreement—2 (neither with rate authority) [11].

Antitrust Immunity

Of particular relevance to the Commission, considering the possible passsage of the proposed Shipping Act of 1983 now pending before Congress, is the area of antitrust immunity for terminal operators and associations of terminal operators. In its report on the bill H.R. 1878, the Shipping Act of 1983, the House Judiciary Committee "found the arguments against such immunity (for terminal operators and owners) to be strong, if not compelling." [12] In particular, the Judiciary Committee cited the testimony of several witnesses that appeared before the Committee, including Chairman Miller of the FTC, who "questions the need for broad antitrust immunity for all . . . categories of (terminal operator and owner) agreements."[13]

The Judiciary Committee Report also referrerd to a letter to Committee Chairman Rodino from the Department of Justice that stated, ". . . [T]here are no valid reasons for marine terminal operators to have antitrust immunity to collectively establish rates and terms of service."[14]

The Judiciary Committee report concluded by stating, "Agreements among terminal operators or owners to fix rates or conditions of service, if the participants possess substantial market power, would appear to contravene the standard in section 5(f) ("the competition strandard") unless there are countervailing public benefits that outweight the harm to competition. The Committee record is inadequate to provide analysis of the economic arguments for continuing the antitrust immunity under such circumstances. The Federal Maritime Commission should be in a position to address this issue in the interpretive guidelines."[15]

It should be noted that the Commission is sensitive to the antitrust immunity issue. In response to a series of questions from House Judiciary Committee Chairman Rodino, FMC Chairman Alan Green, Jr. replied:

> Whatever the rationale for extending antitrust immunity to agreements between and among carriers and conferences (that they are necessary given the international character and economic conditions of the industry), a different rationale would have to be offered as a basis for extending such immunity to agreements solely among terminal operators.[16]

The Judiciary Committee did not, however, remove from the bill language continuing the antitrust immunity now extended to the marine terminal industry for terminal agreements approved under section 15. The Judiciary Committee did amend section 18(c) of H.R. 1878, adding language that instructs the Study Commission on the Deregulation of International Ocean Shipping "to report on the need for antitrust immunity for ports and marine terminal operators in their commercial relations with one another, and with ocean common carriers." [17]

Consequently, the issue of whether, and to what extent, antitrust immunity should continue to be extended to the industry has become an important question. To a great degree, Congress appears to be looking to the Commission to provide the answer to that question. Part Two of this Notice of Inquiry is intended to provide a forum to the industry and shipping public for comments on the immunity issue in order for the Commission to develop a

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[10] In answering questions 7–10 please include comments on the extent to which exemptions for any class of agreements discussed above might substantially impair effective regulation by the Commission, might be unjustly discriminatory, or might be detrimental to commerce.

[11] Agreement No. T–2206, between the Northwest and Marine Terminal Association and the California Association of Port Authorities, was conditionally approved on September 24, 1982 with the condition being that the agreement would be amended to delete its rate discussion authority. The parties to T–2206 resubmitted documents complying with the condition and the agreement, T–2206, went into effect on November 15, 1982.

[12] Report of the House Committee on the Judiciary (98th Cong.), "Shipping Act of 1983," Report 98–53, Part 2, p. 22, July 1, 1983.

[13] Id., at 21.

[14] Id.

[15] Id., at 22. Interpretive guidelines "may aid in interpreting the competition standard," according to the Judiciary Committee. They should be ". . . informal, nonbinding guidelines, modelled after the merger guidelines issued by the Antitrust Division . . ." (Committee Report, p. 13).

[16] Letter from Chairman Green to Chairman Rodino on April 18, 1983.

[17] H.R. 1878, 98th Cong., 1st Sess., as reported by the Committee on the Judiciary, July 1, 1983.

public record upon which to base its recommendations to Congress and to the Study Commission.

In order for the Commission to evaluate the need for antitrust immunity for marine terminal conferences and other terminal agreements, the Commission seeks comments on the following questions:

11. What would be the impact on shippers, carriers and on commerce generally, on the marine terminal industry, and on terminal operations if marine terminal conference agreements were no longer granted exemption pursuant to section 15 from the application of the antitrust laws?

12. What types of marine terminal operator activities most critically require antitrust immunity and why?

13. If antitrust immunity continues to be extended to certain Commission approved marine terminal and marine terminal conference agreements under section 15 of the Shipping Act, what would be the effect if antitrust immunity were only extended to those agreements among one or more marine terminal operators and one or more ocean common carriers to "discuss, fix or regulate rates or other conditions of service; and engage in exclusive, preferential, or cooperative working arrangements?" [18] Is there a need for ports or individual terminal operators to enter into agreements, that "pool or apportion traffic, revenues, net losses, or net profits?" [19]

14. What would be the impact on shippers, carriers, and on commerce generally, on the marine terminal industry, and on terminal operations if *no* antitrust immunity were extended to agreements among common carriers to establish, operate or maintain marine terminals? Should the parties to such agreements be permitted to apply for antitrust immunity for such agreements under section 15 of the Shipping Act if antitrust immunity were not extended to such agreements? [20]

[18] Subsection 3(b)(1) and 3(b)(2), H.R. 1878, 98th Cong., 1st Sess., as reported by House Committee on the Judiciary, July 1, 1983.

[19] Subsection 4(b), S. 47, 98th Cong., 1st Sess., as reported by Senate Committee on Commerce, Science and Transportation, February 17, 1983. This language was removed on the floor of the Senate on March 1, 1983 by a Senate Judiciary Committee amendment to S. 47. H.R. 1878 did not include this language in the bill as introduced in the 98th Congress.

[20] The House Judiciary Committee amended section 7(b) of H.R. 1878, the Shipping Act of 1983, adding to the exceptions to which the proposed Shipping Act would *not* extend antitrust immunity, the following: "(This Act does not extend antitrust immunity) . . . to any agreement among common carriers subject to this Act, a consortium or other entity whose members are common carriers subject to this Act, to establish, operate, or maintain marine terminals within the United States." (Subsection 7(b)(3)).

Part Three: The Future of the Commission in Marine Terminal Regulation

The Commission recognizes that the technological, economic, and legal environment in which the marine terminal industry functions will continue to change. The Commission wishes to be in a position to anticipate those changes, and to be aware of the evolving regulatory requirements of the marine terminal industry. Through effective planning based on continued contact with the marine terminal industry and the shipping public, the Commission should be able to ensure that its regulations are appropriate, effective, and present no unnecessary burden on the industry.

Consequently, in Part Three of the Notice of Inquiry, the Commission seeks comment from the marine terminal industry, the shipping public and all interested parties on a wide range of issues that either now, or at some point in the future, may (or should) affect the nature and extent of the Commission's regulatory responsibilities over the activities of ports and marine terminal operators. These issues include but are not limited to: the trend toward regional load centers and associated feeder ports through, for example, the growing use of equalization, absorption substituted service and alternative port service; the increasing use of single rated intermodal cargo movements through minibridge, microbridge, and interior point intermodalism; cargo diversion through Canada and Mexico; the implementation of bilateral and multilateral trading arrangements (including the UNCTAD Code); and, finally, the future administration of the proposed Shipping Act of 1983.

The Commission solicits comments concerning the impact on shippers, carriers and on commerce generally, on the marine terminal industry, and on terminal operations of any or all of the issues raised above, or of any other area affecting the present or future regulation of the port industry. In addition, the Commission solicits comments on the following questions:

15. Will there be a greater need for ratemaking or rate discussion agreements in the future among individual marine terminal operators in a port, or among several different ports? If so, please explain the need, benefit, and purpose of such agreements.

16. In the event Congress adopts legislation to require ports to impose user fees to cover the cost of dredging and navigational aids, do you anticipate the need for agreements among ports to establish uniform charges and procedures? Do you feel that such agreements would be or should be subject to the Commission's jurisdiction?

17. What areas of terminal practices should the Commission consider for future regulatory action as a result of changes in transportation technology, regulation, or other external factors? Why?

(Secs. 15, 17, 21, 35, 43 Shipping Act, 1916 (46 U.S.C. 814, 816, 820, 833a, 841a) Administrative Procedures Act (5 U.S.C. 553) Regulatory Flexibility Act (5 U.S.C. 601, et seq.))

[FR Doc. 83-25025 Filed 9-13-83; 8:45 am]
BILLING CODE 6730-01-M

National Oceanic and Atmospheric Administration

50 CFR Part 661, 662, and 663

Pacific Fishery Management Council; Meetings and Public Hearings on Northern Anchovy Fishery; Ocean Salmon Fisheries Off the Coasts of Washington, Oregon, and California; and Pacific Coast Groundfish Fishery

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of Public Meetings with partially-closed session and Public Hearings on Anchovy and Groundfish.

SUMMARY: This notice sets forth the schedule and proposed agendas of the forthcoming public meeting with a partially closed session of the Pacific Fishery Management Council.

DATES: September 28–29, 1983.

ADDRESS: The meetings and hearings will be held at the Bahia Hotel, 998 West Mission Bay Drive, San Diego, California.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph C. Greenley, Executive Director, Pacific Fishery Management Council, 526 S.W. Mill Street, Portland, Oregon 97201, (503–221–6352).

SUPPLEMENTARY INFORMATION: The Council was established by section 302 of the Magnuson Act, 16 U.S.C. 1801 *et seq.* The agenda items covered in the closed session are exempt from public attendance and participation under section 302(i)(3) of the Magnuson Act. All other portions of the meeting will be open to the public.

Agendas

Council (Closed Session)—September 28, 1983 (1 p.m. to 1:45 p.m.) in the Del Mar Room of the Bahia Hotel. Discussion of the status of litigation and personnel matters. Only those Council members and selected staff having security clearances will be allowed to attend this session.

Council (Open Session)—September 28–29, 1983 (1:45 p.m. to 5 p.m. on September 28; 8 a.m. to 5 p.m. on September 29) in the Del Mar Room. Elect a Chairman and Vice Chairman for FY 84. Appoint advisors to fill the vacancies on the Salmon and Groundfish Advisory Subpanels. Adopt a draft Salmon Framework Plan Amendment for public review. Approve Anchovy Plan Amendment 5 for submission to the Secretary of Commerce and hear the Groundfish Plan Maintenance Team's preliminary estimates of allowable biological catches, optimum yields, (OYs), and harvest guidelines for 1984; consider other matters which may come before the Council by that date; and conduct a public comment period beginning at 4 p.m. on September 28.

Public Hearings

Anchovy—September 28, 1983, (7 p.m.) in the Del Mar Room. Members of the public are invited to comment on Anchovy Plan Amendment 5. This is a rewrite of the Anchovy Management Plan and incorporates the egg production method of estimating spawning biomass.

Groundfish—September 29, 1983 (10 a.m. to 11 a.m.) in the Del Mar Room. Members of the public are invited to comment on a proposal to increase the OY for widow rockfish and the harvest guideline for the *Sebastes* complex in 1983.

(16 U.S.C. 1801 *et seq.*)

Dated: September 8, 1983.

William G. Gordon,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 83-24977 Filed 9-13-83; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 48, No. 179
Wednesday, September 14, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

September 9, 1983.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Marshall L. Dantzler, Acting Department Clearance Officer, USDA, OIRM, Room 108–W Admin. Bldg., Washington, D.C. 20250, (202) 447–6201.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, ATTN: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

Extension

• Food and Nutrition Service
Food Stamp Program Regulations, Part 275
Quality Control (Reporting and Recordkeeping)
On Occasion
State or Local Governments: 53 responses; 266 hours; not applicable under 3504(h)
Dennis Vachon (703) 756–3431

• Rural Electrification Administration
Operating Report
REA 12 a–h
Annually
Small Businesses: 1,237 responses; 7,244 hours; not applicable under 3504(h)
Charles Weaver (202) 382–1900

• Rural Electrification Administration
Annual Financial and Statistical Report
REA 7
Annually
Small Businesses: 976 responses; 15,616 hours; not applicable under 3504(h)
Charles Weaver (202) 382–1900

• Forest Service
National Forests Surface Use Under U.S. Mining Laws (36 CFR 228, Subpart A)
On Occasion
Individuals or Households: 6,000 responses; 12,000 hours; not applicable under 3504(h)
Howard Banta (703) 235–8105

Revised

• Food and Nutrition Service
Negative Quality Control Review Schedule (Reporting and Recordkeeping)
FNS–245, FNS–247, FNS–248
On Occasion, Monthly
Individuals or Households, State or Local Governments: 31,774 responses; 94,376 hours; not applicable under 3504(h)
Dennis Vachon (703) 756–3431

• Food and Nutrition Service
Integrated Quality Control Review Schedule (Reporting and Recordkeeping)
FNS–380–1
On Occasion
Individuals or Households, State or Local Governments: 50,800 Responses; 51,999 hours; not applicable under 3504(h)
Dennis Vachon (703) 756–3431

• Food and Nutrition Service
Integrated Quality Control Review Worksheet (Reporting and Recordkeeping)
FNS–380
On Occasion
Individuals or Households: State or Local Governments responses; 458,399 hours; not applicable under 3504(h)
Dennis Vachon (703) 756–3431

• Statistical Reporting Services
Stocks Reports
Quarterly, Semi Annually
Farms and Businesses: 186,619 responses; 38,118 hours; not applicable under 3504(h)
Lee Sandberg (202) 447–6820

New

• Food and Nutrition Service
Emergency Assistance for Victims of Disasters
FNS–447
On Occasion
Individuals or Households: 5,400 responses; 989 hours; not applicable under 3504(h)
Daphne Brown (703) 756–3429

Dewayne E. Hamilton,
Acting Department Clearance Officer.

[FR Doc. 83–25048 Filed 9–13–83; 8:45 am]
BILLING CODE 3410–01–M

Rural Electrification Administration

Colorado-UTE Electric Association, Inc.; Finding of No Significant Impact

AGENCY: Rural Electrification Administration, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA), pursuant to the National Environmental Policy Act of 1969, the Council on Environmental Quality Regulations (40 CFR Part 1500) and REA's Bulletin 20–21:320–21, Environmental Policies and Procedures, has made a Finding of No Significant Impact (FONSI) with respect to proposed financing assistance to Colorado-Ute Electric Association, Inc., (Colorado-Ute) of Montrose, Colorado. The proposed financing assistance is necessary for the construction of 115 kV transmission facilities in Eagle County, Colorado.

FOR FURTHER INFORMATION CONTACT: REA's Finding of No Significant Impact and Environmental Assessment (EA) and Colorado-Ute's Borrower's Environmental Report (BER) may be reviewed at or obtained from Mr. William E. Davis, Director, Western

Area—Electric, Rural Electrification Administration, Room 3304, South Agriculture Building, Washington, D.C. 20250, telephone: (202) 382–8848, or Colorado-Ute Electric Association, Inc., 1845 South Townsend Avenue, Montrose, Colorado 81401, telephone: (303) 249–4501, during regular business hours.

SUPPLEMENTARY INFORMATION: REA and the Forest Service have reviewed the BER submitted by Colorado-Ute and have determined that it represents an accurate assessment of the environmental impact of the proposed project. The proposed project would consist of approximately 17.6 km (11 miles) of 115 kv transmisssion line which would extend from the Wolcott Substation to the Beaver Creek Substation in Eagle County, Colorado.

The BER and EA adequately consider potential impacts of the proposed project to resources including threatened and endangered species, important farmlands, cultural resources, floodplains and wetlands.

Alternatives examined included no action, energy conservation, interconnection with Public Service Company of Colorado at Gilman and alternative routes. The proposed route would parallel Colorado-Ute's existing 115 kV Wolcott-Vail line for approximately 14.1 km (8.8 miles), then extend south 1.8 km (1.1 miles) and then east 1.8 km (1.1 miles) to the Beaver Creek Substation. Other alternative corridors generally parallel or replace Colorado-Ute's existing Wolcott-Beaver Creek 69 kV line. After reviewing these alternatives, REA determined that the proposed project is an acceptable alternative because it meets Colorado-Ute's needs with a minimum of adverse impact.

Based upon the BER and other related data, REA prepared an EA and Finding of No Significant Impact concerning the proposed construction. REA has independently evaluated the proposed project and has concluded that approval of financing assistance for the project would not constitute a major Federal action significantly affecting the quality of the human environment.

In accordance with REA's Bulletin 20–21:320–21, dated January 21, 1980, Colorado-Ute advertised the availability of the BER in the local newspapers. No comments were received.

This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated: September 9, 1983.

Jack Van Mark,

Acting Administrator.

[FR Doc. 83-24979 Filed 9-13-83; 8:45 am]

BILLING CODE 3410-15-M

Northeast Texas Electric Cooperative, Inc.; Finding of No Significant Impact

AGENCY: Rural Electrification Administration, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA), pursuant to the National Environmental Policy Act of 1969, the Council on Environmental Quality Regulations (40 CFR Part 1500) and REA Bulletin 20–21:320–21, Environmental Policies and Procedures, has made a Finding of No Significant Impact (FONSI) with respect to a request for financing assistance from Northeast Texas Electric Cooperative, Inc., (NTEC) of Longview, Texas, for a 11.72 percent ownership interest in the Southwestern Electric Power Company's (SWEPCO) H. W. Pirkey Power Plant Unit 1 and associated lignite mine leases. The plant site is located in Harrison County, Texas.

FOR FURTHER INFORMATION CONTACT: REA's FONSI and Environmental Assessment (EA) and NTEC's Borrower's Environmental Report (BER) may be reviewed in the office of the Chief, Distribution and Transmission Engineering Branch, Southwest Area-Electric, Room 0009, South Agriculture Building, Rural Electrification Administration, Washington, D.C. 20250, telephone (202) 382–1915, or at the offices of Northeast Texas Electric Cooperative, Inc., (J. L. Johns, President), 200 N. Fredonia Street, Suite 507, Longview, Texas 75601, telephone (214) 757–3282, during regular business hours.

SUPPLEMENTARY INFORMATION: REA, in connection with a request for financing assistance from NTEC, has reviewed the BER submitted by NTEC as well as the Draft and Final Environmental Impact Statements (EIS) issued by the Environmental Protection Agency (Region 6) in March and September 1982 respectively for the Pirkey Power Plant and South Hallsville Mine Project. As a result of this review, REA has determined that these documents represents an accurate assessment of the environmental impact of the entire project. The Project consists of one 640 MW (net) lignite fired power plant, 587 ha (1,388 a) cooling reservoir, 18.8 km (11.7 mi) of 138 kV transmission lines, a 32 km (20 mi) water pipeline and the 8,406 ha (20,771 a) South Hallsville Surface Lignite Mine which is adjacent to the plant site. NTEC will not have any ownership interest in the transmission lines nor the mining equipment.

REA finds that the project will have no affect on threatened and endangered species and no significant adverse impact on cultural resources and floodplains. Mining activities at the South Hallsville Mine will result in significant impacts to 2,651 ha (6,551 a) of prime farmland and 33 ha (823 a) of wetlands. Over the life of the mine, an additional 1,197 ha (2,957 a) of wetlands could be impacted. A combination of mined land reclamation and wetlands mitigation measures will compensate for the expected environmental impacts.

REA has determined that there is a demonstrated and significant need for the project and that there are no practicable alternative actions that would reduce the large acreages of important farmlands and wetlands to be converted or encroached upon directly and indirectly.

Alternatives examined include maintaining existing power purchase contracts with SWEPCO (no action), participation in the Pirkey Project, energy conservation, participation in generation projects of other utilities and construction of generation facilities by NTEC. After reviewing these alternatives, REA determined that the proposed action is an acceptable alternative because it best meets NTEC's needs with a minimum of adverse impacts.

Based upon the BER and the Draft and Final EIS issued by EPA, REA prepared an Environmental Assessment concerning the proposed action and its impacts. REA concluded that any approval of financing assistance for participation in the Project would not be a major Federal action significantly affecting the quality of the human environment.

In accordance with REA Bulletin 20–21:320–21, dated January 21, 1980, NTEC advertised and requested comments on the environmental aspects of the proposed action in local newspapers in Gregg, Harrison and Upshur Counties, Texas. No comments were received.

This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated: September 9, 1983.

Jack Van Mark,

Acting Administrator.

[FR Doc. 83-24978 Filed 9-13-83; 8:45 am]

BILLING CODE 3410-15-M

Soil Conservation Service

Foard County Critical Area Treatment RC&D Measure, Texas

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service, Guidelines, (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture gives notice that an environmental impact statement is not being prepared for the Foard County Area treatment RC&D Measure, Foard County, Texas.

FOR FURTHER INFORMATION CONTACT: Billy C. Griffin, State Conservationist, Soil Conservation Service, W. R. Poage Federal Building, 101 South Main, Temple Texas 76503, telephone 817–774–1214..

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Billy C. Griffin, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for critical area treatment on 72 eroded areas in Foard County. Planned works of improvements include installing grade stabilization structures, constructing diversion terraces above eroded areas, shaping eroded areas, vegetating treated areas, and fencing areas where needed to protect vegetation. This will involve 28 acres of rangeland, 325 acres of cropland, and 231 acres of gullied land. Diversion terraces will be installed on 156 acres of the 325 acres cropland and will not require a change of land use.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Billy C. Griffin.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the Federal Register.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resources Conservation and Development Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

O. Dale Fischgrabe,

Deputy State Conservationist.

[FR Doc. 83–25013 Filed 9–13–83; 8:45 am]

BILLING CODE 3410–16–M

CIVIL AERONAUTICS BOARD

[Docket 41445]

Olympic Airways, S.A. and Travhellas Corp. Enforcement Proceeding; Assignment of Procedure

This proceeding has been assigned to Administrative Law Judge Ronnie A. Yoder. Future communications should be addressed to him.

Dated at Washington, D.C., September 7, 1983.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 83–25063 Filed 9–13–83; 8:45 am]

BILLING CODE 6320–01–M

COMMISSION ON CIVIL RIGHTS

Massachusetts Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Massachusetts Advisory Committee to the Commission will convene at 4:00 p.m., and will end at 6:00 p.m., on October 12, 1983, at the USCCR New England Regional Office, 55 Summer Street, 8th Floor, Boston, Massachusetts.

The purpose of the meeting is to discuss the status of current projects and the nature of future programs.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mr. Andrew T. Stewart, Moose Mountain, Enfield, New Hampshire 03748, (603) 523–4382; or the New England Regional Office, 55 Summer Street, 8th Floor, Boston, Massachusetts 02110, (617) 223–4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C. September 9, 1983

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83–24987 Filed 9–13–83; 8:45 am.

BILLING CODE 6335–01–M

Ohio Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regualtions of the U.S. Commission on Civil Rights, that a meeting of the Ohio Advisory Committee to the Commission will convene at 10:00 p.m., and will end at 3:00 p.m., on October 1, 1983, at the Terrace Hilton,Valley Room. 15 W. 6th, Cincinnati, Ohio 45201.

The purpose of the meeting is to discuss the status of current projects and the nature of future programs.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mrs. Marian A. Spencer, 940 Lexington Avenue, Cincinnati, Ohio 45229, (513) 221–5656; or the Midwestern Regional Office, 230 South Dearborn, 32nd Floor, Chicago, Illinois 60604, (312) 352–7479.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 9, 1983

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83–24986 Filed 9–13–83; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOE has submitted to OMB for clearance the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census.

Title: 1984 New York City Housing and Vacancy Survey.

Form Numbers: Agency—H–100, H–100(L), H–108, H–100(A); OMB—N/A.

Type of Request: New.

Burden: 18,000 respondents; 4,500 reporting hours.

Needs and Uses: This household survey is to be conducted for the New York City Department of Housing Preservation and Development to determine the vacancy rate of rental housing units and to measure the quality of housing in the city. The results will

be used in the development of programs directed at improving housing conditions in New York City.

Affected Public: Individuals or households.
Frequency: On occasion.
Respondent's Obligation: Voluntary.
OMB Desk Officer: Tim Sprehe, 395–4814.

Agency: Bureau of the Census.
Title: Retail Inventory Valuation Supplement.
Form Numbers: Agency—B–250; OMB—0607–0184.
Type of Request: Reinstatement of a previously approved collection of which approval has expired.
Burden: 2,500 respondents; 208 reporting hours.
Needs and Uses: Since retail firms use different methods of inventory valuation to calculate inventories, the purpose of this program is to determine how much of the total inventory was derived using each method. The Bureau of Economic Analysis (BEA) uses the information from this survey to compute the change in the business inventory component of the gross national product (GNP). Non-governmental users analyze the inventory statistics to forecast future developments in business activity.
Affected Public: Businesses or other for-profit, small businesses or organizations.
Frequency: Annually.
Respondent's Obligation: Voluntary.
OMB Desk Officer: Tim Sprehe, 395–4814.

Agency: Bureau of the Census.
Title: Control Card—Quarterly Household Survey.
Form Numbers: Agency—QHHS–700; OMB—0607–0127.
Type of Request: Extension of a currently approved collection.
Burden: 4,500 respondents; 643 reporting hours.
Needs and Uses: Serves as basic household record for sample units included in the Survey of Alterations and Repairs (SORAR). This form is used as a screener to select owner-occupied housing units from which data or expenditures for home upkeep and repairs are obtained. Data from the SORAR are used in computation of the GNP. SORAR information is also collected as part of the Consumer Expenditure Survey.
Affected Public: Individuals or households.
Frequency: Quarterly.
Respondent's Obligation: Voluntary.
OMB Desk Officer: Tim Sprehe, 395–4814.

Agency: Bureau of the Census.
Title: Interviewer Record/Follow-up Record/Monthly Noncertainty Letter.
Form Numbers: Agency—B–645, B–646, and B–647; OMB—0607–0067.
Type of Request: Extension of a currently approved collection.
Burden: 29,580 respondents; 3,739 reporting hours.
Needs and Uses: Data developed through this component in conjunction with the list sample component are used to develop the retail trade estimates as published in the monthly retail trade reports and the estimated receipts of selected services as published in the Services Annual Survey report. The survey is a probability sample of land segments and is conducted through personal enumeration, as part of the current business surveys.
Affected Public: Businesses or other for-profit, small businesses or organizations.
Frequency: Annually.
Respondent's Obligation: Voluntary.
OMB Desk Officer: Tim Sprehe, 395–4814.

Agency: International Trade Administration.
Title: Trade Adjustment Technical Assistance Application and Post-Approval Forms.
Form Numbers: Agency—SF 269, 270, 272 and 424; OMB—0625–0110.
Type of Request: Exension of a currently approved collection.
Burden: 25 respondents; 1,240 reporting hours.
Needs and Uses: Forms are completed by organizations wishing to receive trade adjustment technical assistance to help firms and industries recover from the adverse effects of foreign competition. Information is used to determine the need and justification for project approval, payments and the use of project funds.
Affected Public: Business or other for-profit, non-profit institutions, state or local governments.
Frequency: On occasion, monthly, quarterly.
Respondent's Obligation: Required to obtain or retain benefit.
OMB Desk Officer: Ken Allen, 395–3785.

Agency: International Trade Administration.
Title: International Trade Fair Certification.
Form Numbers: Agency—ITA–4100P; OMB—N/A.
Type of Request: Existing collection in use without an OMB control number.
Burden: 200 respondents; 1,000 reporting hours.
Needs and Uses: This program allows organizations to apply for Commerce Certification of trade fairs they want to operate as a private sector initiative, but with Government support. The information will permit the Commerce Department to review and select proposals from private sector organizations that wish to have the official endorsement and certification status for their trade fair.
Affected Public: Business or other for-profit, non-profit institutions, small businesses or organizations.
Frequency: On occasion.
Respondent's Obligation: Required to obtain or retain benefit.
OMB Desk Officer: Ken Allen, 395–3785.

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collections should be sent to the respective OMB Desk Officer, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Ed Michals,
Departmental Clearance Officer.

[FR Doc. 83–24864 Filed 9–13–83; 8:45 am]
BILLING CODE 3510–CW–M

International Trade Administration

Importers and Retailers' Textile Advisory Committee; Open Meeting

A meeting of the Importers and Retailers' Textile Advisory Committee will be held October 12, 1983, 10:30 a.m., Room 4830, Herbert C. Hoover Building, 14th St. and Constitution Avenue, NW., Washington, D.C. 20230. (The Committee was established by the Secretary of Commerce on August 13, 1983 to advise Department officials of the effects on import markets of cotton, wool, and man-made fiber textile and apparel agreements.)

Agenda: Review of import trends, implementation of textile agreements, a report on conditions in the domestic market, and other business.

The meeting will be open to the public with a limited number of seats available. For further information or copies of the minutes contact Helen L. LeGrande (202) 377–3737.

Dated: September 8, 1983.

Walter C. Lenahan,
Deputy Assistant Secretary for Textiles and Apparel.

[FR Doc. 83–25044 Filed 9–13–83; 8:45 am]
BILLING CODE 3510–25–M

Semiconductor Technical Advisory Committee; Partially Closed Meeting

SUMMARY: The Semicouductor Technical Advisory Committee was initially established on January 3, 1973, and rechartered on September 18, 1981 in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act.

Time and place: September 29, 1983 at 9:30 a.m. Herbert C. Hoover Building, Room 7808, 14th Street and Constitution Ave., NW., Washington, D.C.

Agenda

General Sesssion

(1) Opening remarks by the Chairman.
(2) Presentation of papers or comments by the public.
(3) Update of the COCOM schedule for the list review.
(4) Subcommittee reports:
(a) Discrete Semiconductor Device,

(b) Microcircuits and
(c) Semiconductor Manufacturing Materials and Equipment.
(5) New Business.
(6) Action items underway.
(7) Action items due at next meeting.

Executive Session

(8) Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criterial related thereto.

Public Participation: The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

SUPPLEMENTAL INFORMATION: A Notice of Determination to close meetings of the Committee to the public on the basis of 5 U.S.C. 552(c)(1) was approved on September 29, 1981, in accordance with the Federal Advisory Committee Act. A copy of the Notice is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Telephone: 202–377–4217.

FOR FURTHER INFORMATION CONTACT: Mrs. Margaret A. Cornejo, Telephone: (202) 377–2583.

Dated: September 9, 1983.

Milton M. Baltas,

Director of Technical Programs, Office of Export Administration.

[FR Doc. 83–25043 Filed 9–13–83; 8:45 am]

BILLING CODE 3510–25–M

National Oceanic and Atmospheric Administration

Civil Operational Remote Sensing Satellite Advisory Committee (Formerly the Land Remote Sensing Satellite Advisory Committee); Notice of Re-establishment

In accordance with the provisions of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. I, and after consultation with the General Services Administration, the Secretary of Commerce has determined that the re-establishment of the Land Remote Sensing Satellite Adviaory Committee (renamed the Civil Operational Remote Sensing Satellite Advisory Committee) is in the public interest in connection with the performance of duties imposed on the Department by law.

The Committee was first established in August 1981 and terminated on August 12, 1983. Its original purpose was to advise the Secretary of Commerce on the civil operational land remote sensing satellite program. In addition to its duties related to land satellites, the Committee also evaluated for the Secretary the views of U.S. industry on the transfer of the land and weather satellite systems currently managed by the Department of Commerce. Including weather (and future ocean) satellite systems as potential candidates for transfer is a new initiative being considered by this Administration for its potential in providing long-term cost savings to the Government in continuing the leadership of the Nation in civil remote sensing satellite activities.

In re-establishing the Committee, the Secretary has established a revised objective for the two years the new charter will cover. Building on the work of the past year, its knowledge of the transfer process, and the expertise of individual members, the Committee is to advise the Secretary on terms and conditions under which transfer to the private sector might be achieved for the civil remote sensing satellite programs and assets, and the post-transfer division of responsibility between the Federal Government and the private sector. Research indicates that the Committee's function cannot be accomplished by any organizational element or other committee of the Department.

The Committee membership will be expanded from 18 to 22 members to add expertise on the oceans and the atmosphere. The Committee membership will continue a balanced representation of domestic, non-Federal communities interested in civil operational remote sensing satellites, including state and local government, the value-added services industry, end-user industry, the academic community, the aerospace industry, and the investment community. The committee will operate in compliance with the provisions of the Federal Advisory Committee Act.

Copies of the Committee's revised Charter will be filed with appropriate committees of the Congress and with the Library of Congress.

Inquiries or comments may be addressed to the Committee's Executive Director, Dr. Richard J. Keating, Director of the External Relations Staff Office, NOAA/NESDIS (E/ER), Washington, D.C. 20233 (301/763–5904) or to the Department's Committee Management Analyst, Mrs. Yvonne D. Barnes (202/377–4217).

Dated: September 6, 1983.

Charles V. St. Lawrence,

Acting Director, Management and Information Systems.

[FR Doc. 83–24053 Filed 9–13–83; 8:45 am]

BILLING CODE 3510–CW–M

[Docket No. 30905–180]

Application for Approval to Transfer Ownership of a U.S. Fishing Vessel to a U.S.Corporation Under Foreign Control

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of proposed fishing vessel transfer and request for comment.

SUMMARY: Application has been received by the Maritime Administration (MarAd), Department of Transportation, for approval to transfer to the Tam Van Nguyen Corporation, ownership of the vessel TWO FOOLS. The contemplated transfer would subject the vessel to foreign control since Tam Van Nguyen, a Vietnamese citizen, owns 100 percent of the stock of the Tam Van Nguyen Corporation. Comments are requested.

DATE: All comments must be postmarked no later than October 14, 1983.

ADDRESSES: Interested persons are invited to send written comments to Michael L. Grable, Chief, Financial Services Division, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: John A. Kelly, Jr., (Financial Assistance Specialist), (202) 634–7498.

SUPPLEMENTARY INFORMATION: Application for approval of the transfer of ownership of the vessel TWO FOOLS (O.N. 592455, build 1978, reg. length 44.2') owned by Troy and Delores Holden, 315 West D'AMOR, Chalmette, Louisiana 70443, was received by MarAd July 21, 1983. The vessel would remain documented in the fisheries of the United States and be operated primarily in the Gulf of Mexico Shrimp fishery. Approval of the transfer is required by Section 9 of the Shipping Act, 1916 as amended (46 U.S.C. 808) because although the Tam Van Nguyen Corporation, 14432 Dwyer Boulevard, New Orleans, Louisiana 70129, meets the citizenship requirements for documentation of a vessel, it is not a citizen of the United State within the meaning of Section 2 of the Act. The Maritime Administration is the Federal

agency responsible for the approval or disapproval of applications submitted under the Shipping Act. Where a foreign transfer involves a fishing vessel, MarAd customarily requests the National Marine Fisheries Service (NMFS) to review the application.

Accordingly, we are soliciting the views of interested persons in this regard and will convey them to MarAd with our recommendation. Generally, a recommendation will be favorable unless it is concluded that the transfer will adversely affect the particular segment(s) of the U.S. commercial fishery industry involved. No public hearing is contemplated at this time.

Dated: September 8, 1983.

William G. Gordon,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 83-24976 Filed 9-13-83; 8:45 am]
BILLING CODE 3510-22-M

COMMODITY FUTURES TRADING COMMISSION

Chicago Mercantile Exchange Industrial Average Futures Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions of proposed commodity futures contract.

SUMMARY: The Chicago Mercantile Exchange ("CME") has applied for designation as a contract market based on the CME Industrial Average. This proposed index is identical in composition and construction to the Dow Jones Industrial Average. The Commission has determined that the terms and conditions of the proposed futures contract are of major economic significance and that, accordingly, making available the proposed contract for public inspection and comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATE: Comments must be received on or before November 14, 1983.

ADDRESS: Interested persons should submit their views and comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Reference should be made to the CME Industrial Average futures contract.

FOR FURTHER INFORMATION CONTACT: Ronald Hobson, Division of Economics and Education, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C., (202) 254-7303.

A copy of the terms and conditions of the CME's proposed Industrial Average futures contract will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254-6314.

Other materials submitted by the CME in support of its application for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. § 552) and the Commission's regulations thereunder (17 CFR Part 145 (1982)). Requests for copies of such materials should be made to the FOIA, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the terms and conditions of the proposed futures contract, or with respect to other materials submitted by the CME in support of its application, should send such comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, by November 14, 1983. Such comment letters will be publicly available except to the extent that they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9.

Issued in Washington, D.C. on September 9, 1983.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 83-25024 Filed 9-13-83; 8:45 am]
BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on International Industry-to-Industry Armaments Cooperation; Notice of Advisory Committee Meeting

The Defense Science Board Task Force on International Industry-to-Industry Armaments Cooperation will meet in closed session on September 29, 1983 in the Pentagon, Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

At the meeting on September 29, 1983 the Defense Science Board Task Force on International Industry-to-Industry Armaments Cooperation will continue its review of the Defense Department's policies, plans and procedures which impede or might impede international arms cooperation and thereby have the potential for adversely impacting the collective security of the United States, its friends and Allies. In this context, the Task Force will also analyze the effect current international cooperation policies have on the utility of the U.S., its friends and Allies to achieve in good order and sustain mobilization capacities.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92-463, as amended (5 U.S.C. App. I, (1976)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1)(1976), and that accordingly these meetings will be closed to the public.

September 9, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Service, Department of Defense

[FR Doc. 83-25005 Filed 9-13-83; 8:45 am]
BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Indian Education Act, Part C; Educational Services for Indian Adults

AGENCY: Department of Education.

ACTION: Application Notice for New Projects for Fiscal Year 1983.

SUPPLEMENTARY INFORMATION: Applications are invited for new projects under the Educational Services for Indian Adults program.

Authority for this program is contained in Section 316(b) of Title IV, Part C of the Indian Education Act.

(20 U.S.C. 1211a(b))

This program issues awards to Indian tribes, Indian organizations, and Indian institutions for educational service projects.

The purpose of these projects is to improve educational opportunities for Indian adults.

Closing Date for Transmittal of Applications: An application for a new award must be mailed or hand delivered by October 17, 1983.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Cente-

Attention: 84.062, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commerical carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education. If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark; or (2) A mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformerly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encourgaed to use registered or first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington D.C. time) daily, except Saturday, Sunday, and Federal Holidays.

An application that is hand delivered will not be accpeted after 4:30 p.m. on the closing date.

Available Funds: There will be $1,938,000 available under the 1983 Supplemental Appropriations Act for new FY 1983 grants. The Secretary estimates that these funds will support 18 projects with most awards between $75,000 and $115,000. These estimates, however, do not bind the U.S. Department of Education to a specific number of grants nor to the amount of any grant unless otherwise specified by statute and regulations.

New service project awards will be for a period of ten months only. An applicant desiring assistance after the ten-month period will have to apply as a new applicant in Fiscal Year 1984.

Application Forms: Application forms and program information packages may be obtained by writing to Director, Indian Education Programs, U.S. Department of Education, Room 2177, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 25 pages and that the applicant not submit information that is not requested.

Applicable Regulations: The regulations that apply to this program include the following:

(a) Regulations governing the Indian Education Act programs (34 CFR Parts 250 and 258);

(b) The Education Department General Administrative Regulations (EDGAR), (34 CFR Parts 74, 75, 77, and 78).

FOR FURTHER INFORMATION CONTACT: Dr. Bryan Gray, Indian Education Programs, Office of Elementary and Secondary Education, Room, 2177, Department of Education, 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone (202) 245–8840.

(20 U.S.C. 1211a(b))

Dated: September 8, 1983.

(Catalog of Federal Domestic Assistance No. 84.062; Indian Education Special Programs and Projects—Part C—Educational Services for Indian Adults)

Lawrence F. Davenport,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 83-24952 Filed 9-13-83; 8:45 am]

BILLING CODE 4000-01-M

Office of Postsecondary Education

Accrediting and State Approval Agencies; Special Approval List; Correction

AGENCY: Department of Education.

ACTION: Notice; List of accrediting and State approval agencies reviewed under a special procedure; Correction.

SUMMARY: This document makes a technical correction in the Notice listing accrediting and State approval agencies to be reveiwed under a special procedure.

FOR FURTHER INFORMATION CONTACT: Richard J. Rowe, Director, Eligibility and Agency Evaluation Staff, Office of Postsecondary Education, 400 Maryland Avenue, SW. (Room 3030, ROB–3), U.S. Department of Education, Washington, D.C. 20202, Telephone: (202) 245–9873.

SUPPLEMENTARY INFORMATION: On August 25, 1983 the Assistant Secretary for Postsecondary Education published a list of agencies to be reviewed under a special procedure in the **Federal Register**, Vol. 48, No. 166, pages 38665–38666. This document corrects an error that was made in that notice.

On page 38666, in the third column, line 7, the document is revised to read as follows:

Joint Review Committee for Educational Programs for the Physician's Assistant.

(For accreditation of programs for the assistant to the primary care physician and the surgeon's assistant.)

Proposed Recommendation: Continue recognition for a period of four years.

Joint Review Committee for Respiratory Therapy Education.

(For accreditation of programs for the respiratory therapist and repiratory therapy technician.)

Proposed Recommendation: Continue recognition for a period of four years.

Dated: September 8, 1983.

Edward M. Elmendorf,

Assistant Secretary for Postsecondary Education.

[FR Doc. 83-25047 Filed 9-13-83; 8:45 am]

BILLING CODE 4000-01-M

Educational Opportunity Centers Program; Application for Noncompeting Continuation Awards for Fiscal Year 1984

Applications are invited for noncompeting continuation awards under the Educational Opportunity Centers Program.

Authority for this program is contained in sections 417A and 417E of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1070d, 1070d–1c)

The Secretary is authorized to make grants under this program to institutions of higher education, public and private agencies and organizations, and, in exceptional cases, to secondary schools.

The purpose of the grant awards is to assist disadvantaged persons desiring to pursue a program of postsecondary education by providing them with information on available financial and academic assistance and by helping them apply for admission to postsecondary institutions and for financial aid to attend such institutions.

Closing date for transmittal of applications: To be assured of consideration for funding, an application for a noncompeting continuation award should be mailed or hand delivered by October 14, 1983.

If an application for a noncompeting continuation award is late, the Department may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications delivered by mail: An application sent by mail should be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.066 (Educational Opportunity Centers), Washington, D.C. 20202.

An applicant should show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service Postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark or (2) a mail receipt that is not dated by the U.S. Postal Service. An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time), daily except Saturdays, Sundays, and Federal holidays.

Available funds: The Administration's fiscal year 1984 budget request does not include the Educational Opportunity Centers Program. However, if Congress appropriates funds for this program in fiscal year 1984, the Secretary plans to make these funds available for noncompeting continuation awards.

Accordingly, noncompeting continuation applications are being requested even though no funds are currently proposed for the Educational Opportunity Centers Program. Current grantees will be notified if and when such funds become available.

Application Forms: Application forms for noncompeting continuation awards are expected to be ready for mailing no later than September 14, 1983. They are mailed routinely to currently funded projects. If a grantee does not receive the forms by September 28, 1983, the grantee should telephone the Information Systems and Program Support Branch of the Division of student services at (202) 245-7070.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations. The Secretary strongly urges that applicants not submit information that is not requested.

Applicable Regulations: Regulations applicable to noncompeting continuation awards are:

(a) Education Department General Administrative Regulations (EDGAR), 34 CFR Parts, 74, 75, 77, and 78; and

(b) Regulations governing the Educational Opportunity Centers Program in 34 CFR Part 644.

Further information: For further information contact the Program Development Branch, Division of Student Services, U.S. Department of Education (Room 3514, Regional Office Building 3), 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 245-2511.

(20 U.S.C. 1070d, 1070d-1c)

Dated: September 8, 1983.

Edward M. Elmendorf,

Assistant Secretary for Postsecondary Education.

(Catalog of Federal Domestic Assistance Number: 84.066—Educational Opportunity Centers Program)

[FR Doc. 83-25050 Filed 9-13-83; 8:45 am]

BILLING CODE 4000-01-M

Talent Search Program; Application Notice for Noncompeting Continuation Awards for Fiscal Year 1984

Applications are invited for noncompeting continuation awards under the Talent Search Program.

Authority for this program is contained in sections 417A and 417B of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1070d, 1070d-1)

The Secretary is authorized to make grants under this program to institutions of higher education, public and private agencies and organizations, and, in exceptional cases, to secondary schools.

The purpose of the grant awards is to permit applicants to carry out projects designed to enable disadvantaged youths to continue in and graduate from secondary school and to enroll in postsecondary educational programs.

Closing date for transmittal of applications: To be assured of consideration for funding, an application or a noncompeting continuation awards should be mailed or hand delivered by October 14, 1983.

If an application for a noncompeting continuation award is late, the Department may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications delivered by mail: An application sent by mail should be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.044 (Talent Search), Washington, D.C. 20202.

An applicant should show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept a private metered postmark or a private mail receipt as proof of mailing. An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m.

(Washington, D.C. time) daily except Saturdays, Sundays, and Federal holidays.

Available funds: The Administration's fiscal year 1984 budget request does not include the Talent Search Program. However, if Congress appropriates funds for this program in fiscal year 1984, the Department plans to make these funds available for noncompeting continuation awards.

Accordingly, noncompeting continuation applications are being requested even though no funds are currently proposed for the Talent Search Program. Current grantees will be notified if and when such funds become available.

Application forms: Application forms for noncompeting continuation awards are expected to be ready for mailing no later than September 14, 1983. They are mailed rountinely to currently funded projects. If a grantee does not receive the forms by September 28, 1983, the grantee should telephone the Information Systems and Programs Support Branch of the Division of Student Services at (202) 245–7070.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations. The Secretary strongly urges that applicants not submit information that is not requested.

Applicable regulations: Regulations applicable to noncompeting continuation awards are:

(a) Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, and 78; and

(b) Regulations governing the Talent Search Program in 34 CFR Part 643.

Further information: For further information contact the Program Development Branch, Division of Student Services, U.S. Department of Education (Room 3514, Regional Office Building 3), 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 245–2511.

(20 U.S.C. 1070d, 1070d–1)

(Catalog of Federal Domestic Assistance Number: 84.044—Talent Search Program)

Dated: September 2, 1983.

Edward M. Elmendorf,

Assistant Secretary of Postsecondary Education.

[FR Doc. 83-25048 Filed 9-13-83; 8:45 am]

BILLING CODE 4000-01-M

Upward Bound Program; Application Notice for Noncompeting Continuation Awards for Fiscal Year 1984

Applications are invited for noncompeting continuation awards under the Upward Bound Program.

Authority for this program is contained in sections 417A and 417C of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1070d, 1070d–1a)

The Secretary is authorized to make grants under this program to institutions of higher education, public and private agencies and organizations, and, in exceptional cases, to secondary schools.

The purpose of the grant awards is to permit applicants to carry out projects designed to generate in participants the skills and motivation necessary for success in education beyond high school.

Closing date for transmittal of applications: To be assured of consideration for funding, an application for a noncompeting continuation award should be mailed or hand delivered by October 17, 1983.

If an application for a noncompeting continuation award is late, the Department may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications delivered by mail: An application sent by mail should be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.047 (Upward Bound), Washington, D.C. 20202.

An applicant should show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept a private metered postmark or a private mail receipt as proof of mailing. An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily except Saturdays, Sundays, and Federal holidays.

Available funds: The Administration's fiscal year 1984 budget request does not include the Upward Bound Program. However, if Congress appropriates funds for this program in fiscal year 1984, the Department plans to make these funds available for noncompeting continuation awards.

Accordingly, noncompeting continuation applications are being requested even though no funds are currently proposed for the Upward Bound Program. Current grantees will be notified if and when such funds become available.

Application forms: Application forms for noncompeting continuation awards are expected to be ready for mailing no later than September 16, 1983. They are mailed routinely to currently funded projects. If a grantee does not receive the forms by September 28, 1983, the grantee should telephone the Information Systems and Program Support Branch of the Division of Student Services at (202) 245–7070.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations. The Secretary strongly urges that applicants not submit information that is not requested.

Applicable regulations: Regulations applicable to noncompeting continuation awards are:

(a) Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, and 78; and

(b) Regulations governing the Upward Bound Program in 34 CFR Part 645.

Further information: For further information contact the Program Development Branch, Division of Student Services, U.S. Department of Education (Room 3514, Regional Office Building 3), 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 245–2511.

(20 U.S.C. 1070d, 1070d–1a)

Dated: September 2, 1983.

(Catalog of Federal Domestic Assistance Number: 84.047—Upward Bound Program)

Edward M. Elmendorf,

Assistant Secretary for Postsecondary Education.

[FR Doc. 83–25049 Filed 9–13–83; 8:45 am]

BILLING CODE 4000–01–M

Special Needs Program; Correction

AGENCY: Department of Education.

ACTION: Notice—Extension of Closing Date under Special Needs Program—correction.

SUMMARY: This document makes a technical correction in the Notice which extended the closing date for receipt of applications under the Special Needs Program and further extends that closing date.

FOR FURTHER INFORMATION CONTACT: William A. Butts, Director, Division of Institutional Development, Office of Postsecondary Education, U.S. Department of Education, 400 Maryland Avenue, S.W., (Room 3066, ROB–3) Washington, D.C. 20202. Telephone: (202) 245–2715.

SUPPLEMENTARY INFORMATION: On August 24, 1983 the Assistant Secretary for Postsecondary Education published in the **Federal Register**, Vol. 48, No. 165, pages 38532–38533, a notice extending the closing date for receipt of applications under the Special Needs Program. This document corrects an error that was made in that notice.

On page 38532 in the third column, the sentence beginning on line 54 is revised to read as follows:

However, the maximum grant an institution may receive may not exceed $800,000 per twelve (12) month period.

Also, on page 38532, in the third column, lines 59–63, of the document is revised to read as follows:

An application for a development grant or an amended application for a development grant must be mailed or hand-delivered by September 21, 1983.

Dated: September 8, 1983.

Edward M. Elmendorf,

Assistant Secretary for Postsecondary Education.

[FR Doc. 83–25310 Filed 9–13–83; 11:20 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Office of Conservation and Renewable Energy

[Case No. F–008]

Energy Conservation Program for Consumer Products; Decision and Order Granting Waiver From Furnace Test Procedures to Duo-Matic/Olsen, Inc.

AGENCY: Office of Conservation and Renewable Energy, Department of Energy.

ACTION: Decision and Order.

SUMMARY: Notice is given of the Decision and Order (Case No. F–008) granting Duo-Matic/Olsen, Inc. a waiver for its models of condensing furnaces from the existing DOE furnace test procedures.

FOR FURTHER INFORMATION CONTACT:

Michael J. McCabe, U.S. Department of Energy, Office of Conservation and Renewable Energy, Mail Station CE–113.1, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–9127.

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC–33, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–9513.

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR 430.27(g), notice is hereby given of the issuance of the Decision and Order set out below. In the Decision and Order, Duo-Matic/Olsen, Inc. has been granted a waiver for its models of condensing warm air furnaces, permitting the company to use an alternate test method.

Issued in Washington, D.C., August 31, 1983.

Howard S. Coleman,

Principal Deputy Assistant Secretary, Conservation and Renewable Energy.

In the Matter of: Duo-Matic/Olsen, Inc., Case No. F–008.

Background

The Energy Conservation Program for Consumer Products was established pursuant to the Energy Policy and Conservation Act, Pub. L. 94–163, 89 Stat. 917, as amended by the National Energy Conservation Policy Act, Pub. L. 95–619, 92 Stat. 3266, which requires the Department of Energy (DOE) to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including furnances. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making purchase decisions. These test procedures appear at 10 CFR Part 430, Subpart B.

The Department of Energy amended the prescribed test procedure regulations, by adding § 430.27, to allow the Assistant Secretary for Conservation and Renewable Energy to waive temporarily test procedures for a particular basic model when a petitioner shows that the basic model contains one or more design characteristics which prevent testing of the basic model according to the prescribed test procedures or when the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inaccurate comparative data. 45 FR 64108 (Sept. 28, 1980).

Pursuant to § 430.27(g), the Assistant Secretary shall publish in the **Federal Register** notice of each waiver granted, and any limiting conditions of each waiver.

Duo-Matic/Olsen, Inc. (Duo-Matic/Olsen), filed a "Petition for Waiver" in accordance with § 430.27 of 10 CFR Part 430. DOE published in the **Federal Register** the Duo-Matic/Olsen petition and solicited comments, data, and information respecting the petition. 47 FR 17129 (April 21, 1983). Comments were received from Lennox Industries, a manufacturer of condensing furnaces. The comments were sent to the petitioner on July 18, 1983, and rebuttal comments were received on August 11, 1983. DOE consulted with the Federal Trade Commission on August 4, 1983, concerning the Duo-Matic/Olsen petition.

Assertions and Determinations

Duo-Matic/Olsen requests the option to use the condensate measuring test method as set forth in Appendix C of the National Bureau of Standards (NBS) Interagency Report 80–2110, "Recommended Testing and Calculation Procedures for Estimating the Seasonal Performance of Residential Condensing Furnaces and Boilers" (hereafter referred to as the alternate test method), dated April 1981, to determine the Annual Fuel Utilization Efficiency (AFUE) of its models of condensing furnaces. This request infers to DOE the

contention that the existing DOE test procedures for condensing furnaces using average flue temperatures will yield materially inaccurate comparative data because the Duo-Matic/Olsen condensing furnace model condenses more of the water vapor than is calculated by the existing DOE test method.

Incidentally, this alternate test method is now proposed as an amendment to the current furnace test procedures. 48 FR 28014, June 17, 1983.

Duo-Matic/Olsen further requests that the alternate method be allowed not only for determining the AFUE but also for determining the steady-state efficiency of its models of condensing furnaces. Steady-state efficiency is used to determine a furnace's heating capacity. The product of the steady-state efficiency and the measured energy input (Btu/hr.) is the heating capacity of the furnace.

Comments from Lennox support Duo-Matic/Olsen's requests. NBS has found through testing experience that the existing flue loss testing procedure does, in fact, underestimate the amount of credit due to the condensing mode. Therefore, DOE has determined that Duo-Matic/Olsen should be granted a waiver to use the alternate test method when testing its models of condensing furnaces to determine AFUE.

Regarding the allowance to use the alternate test method for determining steady-state efficiency, Lennox felt this additional request would give an inequitable advantage to Duo-Matic/Olsen in that they would be allowed an increased steady-state efficiency of 1 to 3 percentage points with consequential increases in heating capacity and AFUE. However, DOE has determined that the use of the alternate method for determining steady-state efficiency will not result in an increase in reported AFUEs. This it true because steady-state efficiency is not used in determining the AFUE values. The only possible increase is with regard to the heating capacity. DOE believes the possible advantage is higher capacity values is minimal. Also, just as with AFUE determinations, DOE has found that steady-state efficiency determination could be underestimated by the existing flue loss test procedures. Therefore, DOE is today granting Duo-Matic/Olsen's request to use the alternate test method for determining steady-state efficiency. Accordingly, today's waiver includes additional instructions and calculations which will allow for the direct condensate measurement method to be used to determine steady-state efficiency

Today's grant includes provisions which require a 6 cycle test rather than the 3 cycle test outlined in the NBSIR 80–2110. This change has been recommended by the National Bureau of Standards as a result of its recent testing experience regarding condensing furnaces and is consistent with the proposed amendments. This testing experience indicated that for some models of condensing furnaces the variability of the amount of condensate collected during each cycle warrants more test cycles. This six cycles test is consistent with the proposed amendment.

It is therefore ordered that:

(1) The "Petition for Waiver" filed by Duo-Matic/Olsen, is hereby granted as set forth in paragraph (2) below, subject to the provisions of paragraphs (3) and (4).

(2) Notwithstanding any contrary provisions of Appendix N of 10 CFR, Part 430, Subpart B, Duo-Matic/Olsen, Inc. shall be permitted to test its models of condensing warm air furnaces on the basis of the test procedures specified in 10 CFR, Part 430, with the modifications set forth below:

(i) *Test Conditions*

(A) The test unit shall be installed according to the requirements given in section 2.

(B) Control devices shall be installed to allow cyclical operation of the unit and return water as described in section 3.3.

(C) The test unit shall be leveled prior to test.

(D) Operation times and the beginning and end of condensate collection shall be determined by a clock or timer with a minimum resolution of one second.

(E) Control of on or off operation actions shall be within ± 6 seconds of the scheduled time.

(F) Condensate drain lines shall be attached to the unit as specified in the manufacturer's installation instructions.

(G) The flue pipe installation must now allow condensate formed in the flue pipe to flow back into the unit. An initial downward slope from the unit's exit, an offset with a drip leg, annular collection rings, or drain holes must be included in the flue pipe installation without distrubing normal flue gas flow (as given in section 2.2), and temperature measurement instrumentation (as given in section 2.6). Flue gases shall not flow out of the drain with the condensate.

(H) Collection-containers must be glass or polished stainless steel, so removal of interior deposits can be easily made.

(I) The collection-container shall have a vent opening to the atmosphere.

(J) The scale for measuring the containers and condensate sample mass shall be calibrated with an error no larger than ± 0.5 percent over the range of interest.

(ii) *Test Method*

(A) The condensing furnace is to have steady-state, cooldown, and heat-up tests conducted in accordance with the procedures for noncondensing units given in section 3, using the flue gas, air or water flow, and room ambient conditions given in section 2 of the condensing furnace test procedure. In addition a steady-state and a cyclic condensate collection procedure shall be conducted.

(B) The condensate collection-container shall be dried prior to a sample collection.

(C) Tare weight of the collection-container must be measured and recorded prior to each sample collection.

(D) Return air temperature for cyclic and steady-state tests shall be equal to those required for steady-state tests periods, and shalll remain within the limits given in the existing test procedure.

(E) Operating times for on and off periods in the cyclic condensate collection procedure shall be 3 minutes 52 seconds on an 13 minutes 20 seconds for warm air furnaces.

(F) The unit should be operated in a cyclical manner until flue gas temperatures at the end of each on period are within 5°F (2.8°C) of each other for two consecutive cycles.

(G) Begin the cyclic condensate collection at one minute before start up of the first test on-period.

(H) Six cycles later, the container shall be removed at the end of the cool down cycle one minute prior to the beginning of what would be the seventh cycle period.

(I) Begin the steady-state condensate collection after steady-state conditions have been achieved as specified in section 3 of Appendix N. The steady-state condensate collection period shall be one (1) hour.

(J) Condensate mass shall be measured immediately at the end of the collection period to prevent evaporation loss from the sample.

(K) Fuel input shall be recorded during the entire cycle test period starting at the beginning of the on-time of the first cycle to the beginning of the on-time of the second cycle, etc., for each of the six test cycles and for the one hour sready-state test period, fuel Higher Heating Value (HHV), temperature and

pressures necessary for determining fuel energy inputs, Q_c and Q_{ss} will be observed and recorded. The fuel quantity and HHV shall be measured with errors no greater than one percent.

(iii) *Calculating the condensing Annual Fuel Utilization Efficiency (AFUE)*

(A) Determine the mass of condensate for the cyclic test, m_c, by subtracting the tare container weight from the total container and condensate weight measured at the end of the six cycles of operations. Determine the mass of condensate for the steady-state test, m_{ss}, by subtracting the tare container weight from the total container and condensate weight measured at the end of the one hour test period.

(B) Calculate the fuel energy input during the cyclic and steady-state condenstate collection tests, Q_c and Q_{ss}.

(C) Calculate the cyclic and steady-state heat gain due to condensation, L_G and $L_{G,SS}$, in percent by the following equation:

$$L_G = \frac{(m_c)\ (1053.3)\ (100)}{Q_c}$$

$$L_{G,ss} = \frac{(m_{ss})\ (1053.3)\ (100)}{Q_{ss}}$$

(D) Calculate the cyclic and steady-state loss, L_c, and $L_{c,ss}$ due to hot condensate going down the drain, correcting for the fact that this condensate did not go up the flue as heated vapor, in percent by the following equations:

$$L_c = L_G \frac{[1.0(F_{f,ss} - 70) - .45(T_{f,ss} - 42)]}{1053.3}$$

$$L_{c,SS} = L_{G,SS} \frac{[1.0(T_{f,ss} - 70) - .45(T_{f,ss} - 42)]}{1053.3}$$

(E) Calculate the condensing AFUE by adding the percent heat gain due to condensing, L_G, to the previously calculated noncondensing AFUE and by subtracting L_c.

$$AFUE_c = AFUE_{NC} + L_G - L_C$$

(F) Calculate the condensing steady-state efficiency, $N_{ss,c}$, by adding the percent heat gain due to condensing, $L_{G,ss}$, to the previously calculated noncondensing steady-state efficiency $N_{ss,nc}$, and by subtracting $L_{c,ss}$.

$$N_{ss,c} = N_{ss,nc} + L_{G,ss} - L_{c,ss}$$

(iv) With the exception of the modifications set forth in subparagraphs (i), (ii), and (iii) above, Duo-Matic/Olsen, Inc. shall comply in all respects with the test procedures specified in Appendix N of 10 CFR Part 430, Subpart B.

(3) The waiver shall remain in effect from the date of issuance of this order until the Department of Energy prescribes final test procedures appropriate to the type of condensing warm air furnace manufactured by Duo-Matic/Olsen, Inc.

(4) This waiver is based upon the presumed validity of statements, allegations, and documentary materials submitted by the applicant and commenters. This waiver may be revoked or modified at any time upon a determination that the factual basis underlying the application is incorrect.

Issued in Washington, D.C., August 31, 1983.

Howard S. Coleman,

Principal Deputy Assistant Secretary, Conservation and Renewable Energy.

[FR Doc. 83-24839 Filed 9-13-83; 8:45 am]

BILLING CODE 6450-01-M

[Case No. F-010]

Energy Conservation Program for Consumer Products; Decision and Order Granting Waiver From Furnace Test Procedures to Heil-Quaker Corporation

AGENCY: Office of Conservation and Renewable Energy, Department of Energy.

ACTION: Decision and Order.

SUMMARY: Notice is given of the Decision and Order [Case No. F-010] granting Heil-Quaker Corporation a waiver for its NUGK, NULK, NDGK, and NDLK models of condensing furnaces from the existing DOE furnace test procedures.

FOR FURTHER INFORMATION CONTACT:

Michael J. McCabe, U.S. Department of Energy, Office of Conservation and Renewable Energy, Mail Station CE-113.1, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-9127

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC-33, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-9513

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR 430.27(g), notice is hereby given of the issuance of the Decision and Order set out below. In the Decision and Order, Heil-Quaker Corporation has been granted a waiver for its NUGK, NULK, NDGK and NDLK models of consensing warm air furnaces, permitting the company to use an alternate test method.

Issued in Washington, D.C., August 31, 1983.

Howard S. Coleman,

Principal Deputy Assistant Secretary, Conservation and Renewable Energy.

In the Matter of: Heil-Quaker Corporation, Case No. F-010.

Background

The Energy Conservation Program for Consumer Products was established pursuant to the Energy Policy and Conservation Act, Pub. L. 94-163, 89 Stat. 917, as amended by the National Energy Conservation Policy Act, Pub. L. 95-619, 92 Stat. 3266, which requires the Department of Energy (DOE) to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including furnaces. The intent of the test procedures is to provide a comparable measure to energy consumption that will assist consumers in making purchase decisions. These test procedures appear at 10 CFR Part 430, Subpart B.

The Department of Energy amended the prescribed test procedure regulations, by adding § 430.27, to allow the Assistant Secretary for Conservation and Renewable Energy to waive temporarily test procedures for a particular basic model when a petitioner shows that the basic model contains one or more design characteristics which prevent testing of the basic model according to the prescribed test procedures or when the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inaccurate comparative data. 45 FR 64108 (Sept. 26, 1980).

Pursuant to § 430.27(g), the Assistant Secretary shall publish in the **Federal Register** notice of each waiver granted, and any limiting conditions of each waiver.

Heil-Quaker Corporation (Heil-Quaker), filed a "Petition for Waiver" in accordance with § 430.27 of 10 CFR Part 430. DOE published in the **Federal Register** the Heil-Quaker petition and solicited comments, data, and

information respecting the petition. 48 FR 30740 (July 5, 1983). No comments were received. DOE consulted with the Federal Trade Commission on August 4, 1983, concerning the Heil-Quaker petition.

Assertions and Determinations

The Heil-Quaker petition contends that even though the DOE test procedures for furnaces were amended to allow testing of condensing furnaces, 45 FR 53714 (Aug. 12 1980), the company's NUGK, NULK, NDGK and NDLK condensing furnace models, when tested according to those procedures, will yield materially inaccurate comparative data.

The Heil-Quaker petition seeks a waiver from the present DOE test method which bases condensation calculations on the average flue gas temperature. Heil-Quaker contends that is NUGK, NULK, NDGK and NDLK furnace models condenses more of the water vapor than is calculated by the DOE test method. In lieu of the current test method, Heil-Quaker requests the use of the condensate measuring test method as set forth in Appendix C of the National Bureau of Standards (NBS) Interagency Report 80–2110, "Recommended Testing and Calculation Procedures for Estimating the Seasonal Performance of Residential Condensing Furnaces and Boilers" (hereafter referred to as the alternate test method), dated April 1981, to determine the Annual Fuel Utilization Efficiency (AFUE) of its NUGK, NULK, NDGK and NDLK models of condensing furnaces. Incidentally, this alternate test method is now proposed as an amendment to the furnace test procedures. 48 FR 28014, June 17, 1983.

Heil-Quaker further seeks permission to conduct testing using the alternate test method at its in-house test facility. Such allowance for in-house testing was rejected initially in the Hydrotherm, Inc. Decision and Order. 46 FR 34621 (July 2, 1981). Since that time, however, the allowance to use the alternate test method at in-house test facilities has been granted to three manufacturers, Lennox, Arkla Industries, Inc. and Amana Refrigerator, Inc. 47 FR 32471 (July 27, 1982), 47 FR 57987 (December 29, 1982), and 48 FR 28531 (June 22, 1983) respectively.

NBS has found through testing experience that the existing flue loss testing procedure does, in fact, underestimate the amount of credit due to the condensing mode. Therefore, DOE has determined that Heil-Quaker should be granted a waiver to use the alternate test method when testing its NUGK, NULK, NDGK and NDLK models of condensing furnaces to determine AFUE.

Finally, in consideration of the evidence presented in previous waivers which stated that the alternate test method is of sufficient reliability to permit "in-house" testing and in order to save the manufacturer time and money, DOE has determined to grant Heil-Quaker's request for in-house testing. However, to further assure reliability, today's grant includes provisions which require a 6 cycle test rather than the 3 cycle test outlined in the NBSIR 80–2110. This change has been recommended by the National Bureau of Standards as a result of its recent testing experience regarding condensing furnaces and is consistent with the June 17 proposed amendments.

Heil-Quaker also requests in its petition to be waived from the 1.5 minute blower delay time provisions since operation under such provisions could damage the Heil-Quaker furnaces. DOE has determined that this request was unnecessary since the test procedures already includes alternate provisions to the 1.5 minute blower delay time that will satisfy Heil-Quaker's concerns at section 3.33 of Appendix N of 10 CFR Part 430, Subpart B. Heil-Quaker has been informed of these alternate provisions.

It is therefore ordered that:

(1) The "Petition for Waiver" filed by Heil-Quaker, is hereby granted as set forth in paragraph (2) below, subject to the provisions of paragraphs (3) and (4).

(2) Notwithstanding any contrary provisions of Appendix N of 10 CFR Part 430, Subpart B, Heil-Quaker shall be permitted to use in-house test facilities to test its NUGK, NULK, NDGK and NDLK models of condensing warm air furnaces on the basis of the test procedures specified in 10 CFR Part 430, with the modifications set forth below:

(i) Test Conditions

(A) The test unit shall be installed according to the requirements given in section 2.

(B) Control devices shall be installed to allow cyclical operation of the unit and return water as described in section 3.3.

(C) The test unit shall be leveled prior to test.

(D) Operation times and the beginning and end of condensate collection shall be determined by a clock or timer with a minimum resolution to one second.

(E) Control of on or off operation actions shall be within ±6 seconds of the scheduled time.

(F) Condensate drain lines shall be attached to the unit as specified in the manufacturer's installation instructions.

(G) The flue pipe installation must now allow condensate formed in the flue pipe to flow back into the unit. An initial downward slope from the unit's exit, an offset with a drip leg, annular collection rings, or drain holes must be included in the flue pipe installation without disturbing normal flue gas flow (as given in section 2.2), and temperature measurement instrumentation (as given in section 2.6). Flue gases shall not flow out of the drain with the condensate.

(H) Collection-containers must be glass or polished stainless steel, so removal of interior deposits can be easily made.

(I) The collection-container shall have a vent opening to the atmosphere.

(J) The scale for measuring the containers and condensate sample mass shall be calibrated with an error no larger than ±0.5 percent over the range of interest.

(ii) Test Method

(A) The condensing furnace is to have steady-state, cool-down, and heat-up tests conducted in accordance with the procedures for noncondensing units given in section 3, using the flue gas, air or water flow, and room ambient conditions given in section 2 of the condensing furnance test procedure. In addition a cyclic condensate collection procedure shall be conducted.

(B) The condensate collection-container shall be dried prior to a sample collection.

(C) Tare weight of the collection-container must be measured and recorded prior to each sample collection.

(D) Return air temperature for cyclic tests shall be equal to those required for steady-state test periods, and shall remain within the limits given in the existing test procedure.

(E) Operating times for on an off periods in the cyclic condensate collection procedure shall be 3 minutes 52 seconds on and 13 minutes 20 second for warm air furnaces.

(F) The unit should be operated in a cyclical manner until flue gas temperatrues at the end of each on period are within 5° F (2.8° C) of each other for two consecutive cycles.

(G) Begin the cyclic condensate collection at one minute before start up of the first test on-period.

(H) Six cycles later, the container, shall be removed at the end of the cool down cycle one minute prior to the beginning of what would be the seventh cycle period.

(I) Condensate mass shall be measured immediately at the end of the

collection period to prevent evaporation loss from the sample.

(J) Fuel input shall be recorded during the entire cycle test period starting at the beginning of the on-time of the first cycle to the beginning of the on-time of the second cycle, etc., for each of the six test cycles. Fuel Higher Heating Value (HHV), temperature and pressures necessary for determining fuel energy inputs and Q_c will be observed and recorded. The fuel quantity and HHV shall be measured with errors no greater than one percent.

(iii) Calculating the Condensing Annual Fuel Utilization Efficiency (AFUE)

(A) Determine the mass of condensate for the cyclic test, m_c, by subtracting the tare container weight from the total container and condensate weight measured at the end of the six cycles of operations.

(B) Calculate the fuel energy input during the cyclic condensate collection test, Q_c.

(C) Calculate the cyclic heat gain due to condensation, L_G, in percent by the following equation:

$$L_G = \frac{(m_c)(1053.3)(100)}{Q_c}$$

(D) Calculate the cyclic loss, L_C, due to hot condensate going down the drain, correcting for the fact that this condensate did not go up the flue as heated vapor, in percent by the following equations:

$$L_c = L_g \frac{[1.0(T_{t,m} - 70) - .45(T_{t,m} - 42)]}{1053.3}$$

(E) Calculate the condensing AFUE by adding the percent heat gain due to condensing, L_G, to the previously calculated noncondensing AFUE and by subtracting L_c.

$$AFUE_c = AFUE_{nc} + L_G - L_c$$

(iv) With the exception of the modifications set forth in subparagraphs (i), (ii), and (iii) above, Heil-Quaker Corporation shall comply in all respects with the test procedures specified in Appendix N of 10 CFR, Part 430, Subpart B.

(3) The waiver shall remain in effect from the date of issuance of this order until the Department of Energy prescribes final test procedures appropriate to the type of condensing warm air furnace manufactured by Heil-Quaker Corporation.

(4) This waiver is based upon the presumed validity of statements, allegations, and documentary materials submitted by the applicant and commenters. This waiver may be revoked or modified at any time upon determination that the factual basis underlying the application is incorrect.

Issued in Washington, D.C., August 31, 1983.

Howard S. Coleman,

Principal Deputy Assistant Secretary, Conservation and Renewable Energy.

[FR Doc. 83-24040 Filed 9-13-83; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Docket Nos. 83-CERT-280, etc.]

Dunlop Tire and Rubber Corp. et al.; Notice of Certifications of Eligible Use of Natural Gas To Displace Fuel Oil

The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) has received the following applications for certification of an eligible use of natural gas to displace fuel oil pursuant to 10 CFR 595 (44 FR 47920, August 16, 1979). Notice of these applications, along with pertinent information contained in the applications, was published in the **Federal Register** and an opportunity for public comment was provided for a period of ten calendar days from the date of publication. No comments were received. More detailed information is contained in each application on file and available for inspection at the ERA Fuels Conversion Division Docket Room, RG-42, Room GA-093, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

Applicant and facility	Date filed	Docket No.	Federal Register notice of application
Dunlop Tire and Rubber Corp., Tonawanda, N.Y.	July 27, 1983	83-CERT-280	48 FR 38068, Aug. 22, 1983.
Maryland Cup Corp., Baltimore, Md.	Aug. 4, 1983	83-CERT-293	48 FR 38069, Aug. 22, 1983.
Lancaster Colony Corp., Konata Rubber Co., Wapakoneta, Ohio, Candle-lite Div., Leesburg, Ohio.	Aug. 5, 1983	83-CERT-294	48 FR 38068, Aug. 22, 1983.
PPG Industries, Inc., Meadville, Pa.	Aug. 8, 1983	83-CERT-295	48 FR 38068, Aug. 22, 1983.
Collins & Aikman Corp., Hickory, N.C.	Aug. 9, 1983	83-CERT-298	48 FR 38068, Aug. 22, 1983.

The ERA has carefully reviewed the above applications for certification in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that the applications satisfy the criteria enumerated in 10 CFR Part 595 and, therefore, has granted the certifications and transmitted those certifications to the Federal Energy Regulatory Commission.

Issued in Washington, D.C., on September 6, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-25019 Filed 9-13-83; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-FC-83-20; FC Case No. 83023-9237-01-23]

Acceptance of Petition for Exemption and Availability of Certification by the Gulf Refining and Marketing Co.

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice.

SUMMARY: On August 3, 1983, the Gulf Refining and Marketing Company (Gulf) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) for an order exempting a new major fuel burning installation (MFBI) from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 *et seq.*) ("FUA" or "The Act"). Title II of FUA prohibits the use of petroleum and natural gas as a primary energy source in new powerplants and certain new MFBI's.

The criteria and procedures for petitioning for exemptions from the prohibitions of Title II of FUA are found in 10 CFR Parts 500, 501, and 503, published at 46 FR 59872 (December 7, 1981).

Gulf is seeking a permanent exemption from the prohibtions of Title II of FUA under 10 CFR 503.38(d) based upon the projected use in a new waste heat boiler (Boiler CO–8A) of a fuels mixture containing regenerator off gas, an alternate fuel, and between 4.9 and 19.7 percent natural gas, refinery fuel gas, or liquid fuel oil as the primary energy source.

The unit will produce 450,000 Lb./Hr. of 730 PSIG steam at 675° F. ERA's decision in this proceeding will determine whether Gulf will be granted the requested permanent exemption. The eligibility and evidentiary requirements governing the fuels mixtures exemption are set forth in 10 CFR 503.38.

ERA has determined that the petition appears to include sufficent evidence to support an ERA determination, and it is therefore accepted pursuant to 10 CFR 501.3. A review of the petition is provided in the **SUPPLEMENTARY INFORMATION** section below.

As provided for in sections 701 (c) and (d) of FUA and 10 CFR 501.31 and 501.33, interested persons are invited to submit written comments in regard to this petition and any interested person may submit a written request that ERA convene a public hearing.

The public file containing a copy of this Notice of Acceptance and Availability of Certification as well as other documents and supporting materials on this proceeding are available upon request at: Department of Energy, Freedom of Information Room, 1000 Independence Avenue, S.W., Room 1E–190, Washington, D.C. 20585, Monday through Friday, 8:00 a.m. to 4:00 p.m., except Federal holidays.

ERA will issue a final order granting or denying the petition for exemption from the prohibitions of the Act within six months after the end of the period for public comment and hearing, unless ERA extends such period. Notice of any such extension, together with a statement of reasons therefor, would be published in the **Federal Register.**

DATES: Written comments are due on or before October 31, 1983. A request for a public hearing must be made within this same 45-day period.

ADDRESS: Fifteen copies of written comments or a request for a public hearing shall be submitted to: Case Control Unit, Office of Fuels Programs, Room GA–093, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585. "Docket No. ERA–FC–83–20" should be printed on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

Roland DeVries, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Bldg., Room GA–093, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Phone (202) 252–6002

Marya Rowan, Office of General Counsel, Department of Energy, Forrestal Bldg., Room 6B–222, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Phone (202) 252–2967

SUPPLEMENTARY INFORMATION: The Port Arthur, Texas refinery of Gulf Refining and Marketing Company (Gulf) uses two fluid catalytic cracking units to produce gasoline blending components. In continuously regenerating the catalyst by burning carbon and other impurities at high temperatures using combustion air, exhaust gases of up to 1,200° F and containing significant quantities of carbon monoxide, are produced. These gases are recovered and used for steam production in waste heat boilers. On December 9, 1981, Gulf's Boiler CO–8 at Fluid Catalytic Cracking Unit 1242 was virtually destroyed by internal explosion. The new boiler, CO–8A, for which the exemption is requested, is being constructed to replace the original unit.

Boiler CO–8A will use, as its primary energy source, fluid catalytic cracking regeneration gas in a mixture with either natural gas, refinery fuel gas, or a liquid fuel oil. These fuels, which will represent between 4.9 and 19.7 and 3.7 and 14.8 percent of the primary energy source and the total fuel used, respectively, will be burned in the mixture in order to maintain the temperature of the carbon monoxide in the recovered off gas at a point high enough to sustain combustion. Boiler CO–8A will produce 450,000 Lb./Hr. of 730 PSIG steam at 675° F for use in the refinery.

Section 212(d) of FUA and 10 CFR § 503.38 provide for a permanent exemption from the prohibitions of Title II of the Act for units in which certain fuel mixtures containing natural gas or petroleum will be used as the primary energy source. Section 503.38(b) further provides that, for an MFBI, if the requested exemption is granted, the percentage of natural gas or petroleum to be used in the exempted mixture shall not be less than 25 percent of the total annual Btu heat input of the primary energy sources used by the installation. Section 503.38(d) accordingly provides a certification alternative for petitioning for an exemption to permit such use in a new MFBI of a mixture that will contain less than 25 percent of a non-alternate fuel.

In accordance with the requirements of 10 CFR 503.38(d), Gulf has certified to ERA that:

(1) The amount of petroleum or natural gas fuels [1] in the mixture proposed to be used as Boiler CO–8A's primary energy source will not exceed twenty-five (25) percent of the total annual Btu heat input of the installation, and

(2) All applicable environmental permits and approvals required prior to the commencement of operation of Boiler CO–8A have been secured.[2]

The latter certification is required under 10 CFR § 503.13(b)(1). In further compliance with that section, Gulf submitted and certified as accurate the information required by the environmental checklist in Section 503.13(b)(2).

In processing this exemption request, ERA will comply with the requirements of the National Environmental Policy Act of 1969 (NEPA), the Council on Environmental Quality's implementing regualtions, 40 CFR Part 1500 *et seq.*; and DOE's guidelines implementing those regulations, published at 45 FR 20694, March 28, 1980. NEPA compliance may involve the preparation of (1) an Environmental Impact Statement (EIS); (2) an Environmental Assessment; or (3) a memorandum to the file finding that the grant of the requested exemption would not be considered a major Federal action significantly affecting the quality of the environment. If an EIS is determined to be required, ERA will published a Notice of Intent to prepare an EIS in the **Federal Register** as soon as practicable. No final action will be taken on the exemption petition until ERA's NEPA compliance has been completed.

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[1] As defined in 10 CFR Part 500.

[2] The Texas Clean Air Act, section 3.28(a), requires that the permit to operate the unit be applied for within sixty (60) days *after the facility has begun operation.* (Letter dated May 6, 1982, from the Texas Air Control Board to GULF OIL COMPANY—U.S.)

Pursuant to 10 CFR 501.3, ERA hereby accepts Gulf's petition for a permanent fuels mixture exemption for Boiler CO-8A. ERA retains the right, however, to request additional relevant information at any time during the pendency of these proceedings. As provided in 10 CFR 501.3(b)(4), acceptance of this petition by ERA does not constitute a determination that the petitioner is entitled to the exemption requested. That determination will be based on the entire record of these proceedings, including any comments received during the public comment period provided for in this notice.

Issued in Washington, D.C. on August 30, 1983.

Robert L. Davies,

Director, Fuels Conversion Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-25023 Filed 9-13-83; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER83-698-000]

The Cleveland Electric Illuminating Co.; Filing

September 8, 1983.

The filing Company submits the following:

Take notice that on August 25, 1983, The Cleveland Electric Illuminating Company (CEI) tendered for filing an executed Service Agreement and Exhibits A and B thereto, providing for transmission by CEI of approximately 20 MW of power from the 345 kv interconnection point on CEI's Juniper—Canton Line with the Ohio Power Company to the City of Cleveland, Ohio (City) in accordance with the terms and conditions of CEI's FERC Transmission Service Tariff.

CEI has requested waiver of the FERC's 60-day notice requirement in order to permit commencement of transmission service on July 1, 1983.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before September 26, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-24999 Filed 9-13-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 7257-000]

Hamilton Associates; Errata Notice

September 8, 1983.

The notice of application for preliminary permit issued August 17, 1983, is revised as follows:

At 48 FR 38076 (published August 22, 1983) ¶12(j), entitled "Description of Project":

(a) Item (2) should be revised to read "a 9,000-foot-long pipeline and penstock", and

(b) Item (4) should be revised to read "a powerhouse containing a 5,000-kW generating unit".

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-24990 Filed 9-13-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES83-64-000]

Iowa Electric Light and Power Co.; Application

September 8, 1983.

Take notice that on August 29, 1983, the Iowa Electric Light and Power Company (Applicant) filed an application with the Federal Energy Regulatory Commission seeking an order pursuant to Section 204 of the Federal Power Act authorizing the issuance of short-term notes in the aggregate principal amount of $85,000,000 to be issued on or before December 31, 1985, with maturities not later than December 31, 1986.

Any person desiring to be heard or to make protest with reference to this Application should on or before September 27, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). The Application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-24991 Filed 9-13-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-7004-017]

Pennzoil Co.; Sixth Amendment to Application for Immediate Clarification or Abandonment Authorization

September 7, 1983.

Take notice that on August 29, 1983, Pennzoil Company (Pennzoil), P.O. Box 2967, Houston, Texas 77001, filed in Docket No. G-7004-017 an application for immediate clarification of Order dated November 24, 1980 in the above-referenced docket, or abandonment authorization for as much gas as is required to allow sales of gas to twelve new applicants for residential service in West Virginia in addition to those applicants specified in Pennzoil's original application filed on October 25, 1982. In filing this Sixth Amendment to its original application, Pennzoil incorporates herein and renews each of the requests for clarification or abandonment authorization set forth in that application. Service to these applicants and existing customers would be provided from gas supplies that would otherwise be sold to Consolidated Gas Supply Corporation (Consolidated), an interstate pipeline.

Pennzoil states that immediate action is necessary to protect the health, welfare and property of the applicants and customers in West Virginia who depend upon Pennzoil for their gas supply needs. Pennzoil also states that immediate action also is required because, by order dated October 21, 1982, the Public Service Commission of West Virginia directed Pennzoil to show cause, if any it can, why it should not be found to be in violation of its duty * * * to provide adequate gas service to all applicants * * * and why it should not be required to provide service to domestic customers in West Virginia when requests are received for same.

Consolidated has indicated that it has no objection to the requested authorization.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than normal for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said amendment to the original application should on or before, September 16, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). All protests filed with the Commission will be considered by it in determining the

appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Any person previously granted intervention in connection with Pennzoil's original application in Docket No. G–7001–000 need not seek intervention herein. Each such person will be treated as having also intervened in Docket No. G–7004–017.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on the amendment to the original application in the event no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–24962 Filed 9–13–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER83–706–000]

Puget Sound Power & Light Co.; Notice of Filing

September 8, 1983.

The filing Company submits the following:

Take notice that on August 22, 1983, Puget Sound Power & Light Company (Puget) tendered for filing Appendix I to Residential Purchase and Sale Agreement between Puget Sound Power & Light Company and Bonneville Power Administration.

Puget Sound states that Appendix I, reflects the revised Tariff C (Point Roberts), effective April 1, 1983. This Tariff C changed retail rates but did not change Puget's ASC.

Puget Sound also states that adjustments made by BPA in its report dated July 29, 1983, pertaining to the above Tariff C filing, reflects a continuing disagreement between them and BPA regarding interpretation of the interim Average System Cost Methodology, particularly as regards the Washington, Public Utility Tax; there is no dispute regarding the Tariff C changes.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before September 23, 1983. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–24963 Filed 9–13–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER83–707–000]

American Electric Power Service Corp.; Notice of Filing

September 9, 1983.

The filing Company submits the following:

Take notice that the American Electric Power Service Corporation (AEP) on August 29, 1983, tendered for filing, on behalf of its affiliate Ohio Power Company (Ohio Power), Supplemental Schedule I, dated as of September 1, 1983, to Service Schedule A—Transmission Service under Agreement, dated as of April 1, 1974 (1974 Agreement), between American Municipal Power Ohio, Inc. (AMP–Ohio) and Ohio Power, Ohio Power Rate Schedule FERC No. 74.

AEP states that Supplemental Schedule I defines an Interconnection Point and a Delivery Point that is required by Service Schedule A so that AMP–Ohio can avail itself of the Transmission Service provided for in Service Schedule A.

AEP requests an effective date of September 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon the Public Utilities Commission of Ohio and AMP–Ohio.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 19, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–25027 Filed 9–13–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. ER78–490–002 and ER80–673–001]

American Electric Power Service Corp.; Notice of Compliance Filing

September 9, 1983.

Take notice that on August 16, 1983, American Electric Power Service Corporation ("AEP") submitted for filing, on behalf of its subsidiary, Ohio Power Company, Supplement No. 12 (dated August 9, 1983) to the January 1, 1952 Interconnection Agreement between Ohio Edison Company and Ohio Power.

In compliance with the Commission's Order, Opinion No. 170 in Docket Nos. ER78–490–002 and ER80–673–001, issued June 3, 1983, Section 1 of Supplement No. 12 revises subsection 2.11 of Section 2 of Service Schedule D—Emergency Service. The revision provides for a separate cost category to account for foregone revenues. Also, no adder will be applied to the foregone revenue cost category.

Additionally, in compliance with the Commission's Order No. 84, Docket No. ER80–592, *et al.*, and the Commission's Opinion No. 170 in Docket Nos. ER78–490–000 and ER80–673–000, Section 2 revises subsection 2.2 of Section 2 and subsection 3.2 of Section 3 of Service Schedule A—Interchange Power. The revision provides for the replacement of the 10% adder on third party non-displacement energy with an adder of 1 mill per kilowatt-hour.

AEP requests an effective date of October 16, 1983 pursuant to 18 CFR 35.11.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before September 23, 1983. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-25036 Filed 9-13-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-138-004]

Cleveland Electric Illuminating Co.; Notice of Compliance Filing

September 9, 1983.

Take notice that on August 30, 1983, Cleveland Electric Illuminating Company ("CEI"), submitted for filing the service schedules applicable to service under the April 17, 1975 Agreement between the CEI and the City of Cleveland, Ohio.

The service schedules, which were issued pursuant to Commission Opinion No. 172, Opinion and Order Approving Terms and Conditions of Emergency, Short-Term and Limited-Term Services, (issued on June 16, 1983), are as follows:

Service Schedule A—Emergency Service
Service Schedule B—Firm Power Service
Service Schedule C—Short Term Power Service
Service Schedule D—Limited Term Power

CEI states that these service schedules incorporate the same terms and conditions of service as those adopted in Opinion No. 172, and will become effective upon approval by the Commission.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, D.C. 20426, on or before September 19, 1983. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-25029 Filed 9-13-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-708-000]

Connecticut Light and Power Co.; Notice of Filing

September 9, 1983.

The filing Company submits the followings:

Take notice that on August 29, 1983, the Connecticut Light and Power Company (CL&P) tendered for filing a proposed rate schedule pertaining to a Purchase Agreement, with Respect to Middletown Unit No. 4 between the Hartford Electric Light Company (HELCO) and the City of Burlington Electric Light Department (Burlington), dated as of September 15, 1977.

CL&P states that it has succeeded HELCO by merger and that the Purchase Agreement provides for a sale to Burlington of specified percentages of capacity and associated energy from what is now CL&P's generating unit, Middletown Unit No. 4, (the Unit) during the period of November 1, 1983 through October 31, 1985.

CL&P further states that the capacity charge rate for the proposed service was a rate determined on a cost-of-service basis at the time that the Purchase Agreement was executed. The monthly transmission charge rate is equal to one-twelfth of the annual average cost of transmission service on the transmission system of CL&P and its affiliated Northeast companies at the time that the Purchase Agreement was executed, and is determined in accordance with Section 13.9 of the New England Power Pool (NEPOOL) Agreement and the Uniform Rules adopted by the NEPOOL Executive Committee. The monthly Transmission Charge is determined by the product of (i) the appropriate monthly transmission charge rate ($/KW-month), and (ii) the number of kilowatts of winter capability which Burlington is entitled to receive during such month. The Energy Charge is based on Burlington's portion of the applicable fuel expenses related to the Unit and no special cost-of-service studies were made to derive that charge.

CL&P indicates that the services to be provided under the Purchase Agreement are similar to services provided by HELCO in the agreements between HELCO and the Vermont Public Service Corporation (FERC Rate Schedule No. HELCO 206), and the Public Service Company of New Hampshire (FERC Rate Schedule No. 203).

CL&P requests an effective date of November 1, 1983.

According to CL&P, copies of the filing were mailed to Burlington.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 19, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-25030 Filed 9-13-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-709-000]

Connecticut Light and Power Co.; Notice of Filing

September 9, 1983.

The filing Company submits the following:

Take notice that on August 29, 1983, Connecticut Light and Power Company (CL&P) tendered for filing a proposed rate schedule pertaining to a Purchase Agreement, with Respect to Middletown Unit No. 4, between the Hartford Electric Light Company (HELCO) and the Village of Lyndonville Electric Department (Lyndonville), dated as of September 15, 1977.

CL&P states that it has succeeded HELCO by merger and that the Purchase Agreement provides for a sale to Lyndonville of specified percentages of capacity and energy from what is now CL&P's Middletown Unit No. 4 generating unit (the Unit during the period of November 1, 1983 through October 31, 1985.

CL&P further states that the capacity charge rate for the proposed service is a rate determined on a cost-of-service basis at the time that the Purchase Agreement was executed. The monthly transmission charge rate is equal to one-twelfth of the annual average cost of transmission service on the transmission systems of CL&P and its affiliated Northeast Utilities companies at the time that the Purchase Agreement was executed, and is determined in accordance with Section 13.9 of the New England Power Pool (NEPOOL) Agreement and the Uniform Rules adopted by the NEPOOL Executive Committee. The monthly Transmission Charge is determined by the product of (i) the appropriate monthly transmission charge rate ($/KW-month) and (ii) the number of kilowatts of winter capability which Lyndonville is entitled to receive during such month. The Energy Charge is based on Lyndonville's portion of the applicable fuel expenses related to the Unit and no special cost-of-service studies were made to derive this charge.

CL&P indicates that the services to be provided under the Purchase Agreement are similar to services provided by HELCO in its agreements between HELCO and the Vermont Public Service

Corporation (FERC Rate Schedule No. HELCO 206), and the Public Service Company of New Hampshire (FERC Rate Schedule No. HELCO 23).

CL&P requests an effective date of November 1, 1983.

Copies of the filing have been mailed to Lyndonville.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 19, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-25031 Filed 9-13-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-711-000]

Florida Power & Light Co.; Notice of Filing

September 9, 1983.

The filing Company submits the following:

Take notice that Florida Power & Light Company (FPL), on August 29, 1983 tendered for filing a document entitled "Amendment Number Fifteen to Agreement to Provide Specified Transmission Service Between Florida Power & Light Company and Utilities Commission, City of New Smyrna Beach (Rate Schedule FERC No. 49)."

FPL states that under Amendment Number Fifteen, FPL will transmit power and energy for Utilities Commission, City of New Smyrna as is required in the implementation of its interchange agreement with the City of Kissimmee.

FPL requests that waiver of the Commission's Regulations be granted and that the proposed Amendment be made effective immediately.

Copies of the filing were served on Utilities Commission, City of New Smyrna Beach.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practices and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 15, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-25032 Filed 9-13-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-798-000]

Florida Public Utilities Co.; Notice of Refund Report

September 9, 1983.

Take notice that on August 30, 1983, Florida Public Utilities Company ("FPUC") submitted for filing a Refund Report in compliance with the August 17, 1983 Commission Letter Order which accepted a revised rate for FPUC's service to the City of Blountstown, Florida. The revised rates reflect FPUC's reduced purchased power costs resulting from the settlement rates approved by a Commission order dated July 8, 1983 in *Gulf Power Company*, Docket No. ER82-689-000.

FPUC states that it refunded a total of $10,304.48 to Blountstown. This amount included $148.18 in interest.

FPUC further states that copies of the Refund Report were mailed to the City Manager of the City of Blountstown, Florida and the Florida Public Service Commission.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before September 22, 1983. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-25033 Filed 9-12-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-712-000]

Idaho Power Co.; Notice of Filing

September 9, 1983

The filing Company submits the following:

Take notice that on August 29, 1983, Idaho Power Company (Idaho) tendered for filing a revised Appendix 1, as required by Exhibit C for retail sales in the State of Oregon. Idaho also submitted its agreement with and/or objections to BPA's Average System Cost Adjustments.

Additionally, Idaho submitted the Bonneville Power Administration's Average System Cost Report in which Bonneville determined the Average System Cost for the Oregon residential jurisdiction in accordance with the provisions of the Residential Purchase and Sale Agreement (Agreement) between Idaho and the Bonneville Power Administration (BPA). As a result of BPA's review, Idaho's Average Cost System is as follows:

Jurisdiction	Filed rate (mills/kWh)	Adjusted rate (mills/kWh)
Oregon	22.00	21.78

Idaho states that the Agreement was entered into pursuant to the Pacific Northwest Electric Power Planning and Conservation Act, Pub. L. 96-501. The Agreement provides for the exchange of electric power from Idaho and BPA for the benefit of Idaho's residential and farm customers.

A copy of the filing was served upon BPA and all parties that made comment on Idaho's Appendix 1 Filings.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energey Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 19, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-25034 Filed 9-13-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ST82-34, ST83-133 and ST83-567]

Liano, Inc.; Notice of Technical Conference

September 9, 1983.

Take notice that on Wednesday, October 5, 1983, at 10 a.m., a Technical Conference in the above-captioned dockets will be held in the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street NE, Washington, D.C., regarding rates and charges to be collected pursuant to Section 311 of the Natural Gas Policy Act.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-25035 Filed 9-13-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP83-475-000]

Michigan Wisconsin Pipe Line Co. and Locust Ridge Gas Co.; Notice of Application

September 9, 1983.

Take notice that on August 22, 1983, Michigan Wisconsin Pipe Line Company (Mich Wis), One Woodward Avenue, Detroit, Michigan 48226, and Locust Ridge Gas Company (Locust Ridge), 2002 Gilmer, Longview, Texas 75604, filed in Docket No. CP83-475-000 a joint application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the acquisition by Locust Ridge and for permission and approval for the abandonment by Mich Wis of 23.2 miles of pipeline and appurtenant facilities in the Holly Ridge area of Louisiana and Mississippi, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Mich Wis constructed approximately 23.2 miles of pipeline and appurtenant facilities in the Holly Ridge area of Louisiana and Mississippi to purchase gas reserves in Tensas, Franklin, Catahoula and Concordia Parishes, Louisiana, and Jefferson, Clarborne and Adams Counties, Mississippi, from Locust Ridge. It is further stated that pursuant to the gas purchase agreement Locust Ridge is responsible for causing the gathering of the gas in the area and providing transportation to Mich Wis to a central delivery point near Mich Wis's Holly Ridge compressor station in Tensas Parish, Louisiana. Further it is asserted that Locust Ridge is responsible for all daily routine operations and maintenance of the facilities.

Applicants explain that the pipeline facilities herein would be better utilized as a part of the Locust Ridge system. Therefore, it is asserted that Mich Wis proposes to sell and Locust Ridge proposes to purchase the subject facilities. The cost of such acquisition is asserted to be $1,000.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 30, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-25036 Filed 9-13-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP83-490-000]

National Fuel Gas Supply Corp.; Notice of Application

September 9, 1983.

Take notice that on September 1, 1983, National Fuel Gas Supply Corporation (Applicant), 308 Seneca Street, Oil City, Pennsylvania 16301, filed in Docket No. CP83-490-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of natural gas to UGI Corporation (UGI), a non-affiliated storage customer of Applicant's affiliate, Penn-York Energy Corporation (Penn-York), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant seeks limited-term authorization to sell up to 1,000,000 Mcf of natural gas to UGI during the period beginning with the granting of the requested authorization and ending on October 31, 1983. Applicant states that no maximum daily delivery quantity would be applicable because delivery would be made by transfer in place in Applicant's facilities, an undivided portion of which are leased to Penn-York and used to render storage service to UGI. Applicant further states it would make such sales on an interruptible basis under a service agreement entered into pursuant to its Rate Schedule I-1. Applicant states that the Rate Schedule I-1 rate is its 100 percent load factor rate and would be $4.0030 per Mcf of gas.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 23, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceedng or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice

and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-25057 Filed 9-13-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-799-000]

Niagara Mohawk Power Corp.; Notice of Refund Report

September 9, 1983.

Take notice that on August 31, 1983, Niagara Mohawk Power Corporation ("Niagara"), submitted for filing a Refund Report in compliance with a Commission Order which was issued on August 1, 1983, in Docket No. ER82-799-000. The refund represented the refund and interest for the transmission charges to the Town of Massena.

Niagara states that the refund amount of $29,677.00 is based on the difference between the amount paid to date, $42,807.40 and the $15,000.00 agreed to be paid. Interest is also included in the calculations.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, on or before September 22, 1983. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-25058 Filed 9-13-83; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Issuance of Decisions and Orders; Week of August 8 Through August 12, 1983

During the week of August 8 through August 12, 1983, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th and Pennsylvania Ave., NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

September 8, 1983.

Richard W. Dugan,

Acting Director Office of Hearings and Appeals.

Appeal

Clifford C. Stults, III August 10, 1983, HFA-0165

Clifford C. Stults, III (Stults) filed an Appeal from a denial by the Albuquerque Operations Office of the DOE of a Request for Information which he had submitted under the Privacy Act. In his request Stults sought to obtain information contained in his security clearance file. During the pendency of this Appeal, the Albuquerque Operations Office indicated that it no longer objected to providing Stults with the material which he sought. Accordingly, this Appeal was dismissed.

Motions for Discovery

Consolidated materials, Inc., August 12, 1983, HRD-0121, HRD-0149, HRH-0121

Consolidated Materials, Inc. (Consolidated) filed two Motions for Discovery and a Motion for Evidentiary Hearing in connection with its objections to a Proposed Remedial Order (PRO) issued to it by the ERA Philadelphia Field Office on December 7, 1982. The PRO charges that during the audit period November 15, 1973, through June 19, 1975, Consolidated's predecessors and affiliates violated the regulations pertaining to the resale of petroleum products at 6 CFR Part 150, Subpart L, and 10 CFR Part 212, Subparts F and H. Specifically, the PRO alleges that Consolidated improperly applied the "new item rule" at 6 CFR 150.361 and 10 CFR § 212.111 by determining May 15, 1973 prices for new items by reference to prices published in *Platt's Oilgram*, an industry newsletter.

In its Motion for Discovery directed toward ERA, Consolidated first sought discovery of the agency's contemporaneous constructions of the term "nearest comparable outlet" as used in 10 CFR 212.111(b)(3). The DOE denied this request on the basis that, because general market information given in a publication such as *Platt's Oilgram* is not equivalent to the price charged by an "outlet," this term was not ambiguous as applied to Consolidated. The DOE also denied Consolidated's request that it be permitted to depose all material witnesses on whom ERA intended to rely in support of its determination that Williams Energy Company and Signal Oil and Gas Company were the "nearest comparable outlets" to Consolidated's predecessor firms because no such witnesses existed.

In its Motion for Discovery directed toward Signal Oil and Gas Company, Consolidated requested that Signal produce all documents relating to its purchases and sales of motor gasoline for the months of March, April, and May 1974. The DOE observed that Consolidated's request was so broad that Signal would need to expend an enormous amount of time and effort to respond to it. The DOE concluded that because Signal was not a party to the PRO proceeding and because Consolidated had made no effort to discover similar information from ERA, Signal should not be required to incur such burdens in responding to Consolidated's discovery request. Accordingly, the Motion for Discovery directed toward Signal was denied. The DOE also found, however, that additional information concerning ERA's selection of Signal as a "nearest comparable outlet" was arguably relevant to the proceeding. Therefore ERA was ordered to produce all audit papers reflecting its selection of Signal as a "nearest comparable outlet."

In considering Consolidated's Motion for Evidentiary Hearing, the DOE determined that all but one of the issues about which Consolidated requested to present testimony at an evidentiary hearing were either legal issues or issues irrelevant to the proceeding. Accordingly, Consolidated's requests to present testimony on these matters was denied. The DOE dismissed without prejudice to refiling after the completion of discovery Consolidated's request that it be permitted to present testimony concerning the comparability of Williams and Signal to its predecessor firms.

Plateau, Inc., August 11, 1983, HED-0128

Plateau, Inc. filed a Motion for Discovery in connection with an Application for Exception filed by the Department of the Interior (DOI) on March 23, 1983, Case No. HEE-0063. The firm's discovery request sought materials concerning DOI's sales of royalty crude oil. In considering the Motion, the DOE noted that the DOE procedural regulations do not provide for discovery prior to the objections stage of an exception proceeding and found that no special circumstances existed that would warrant early discovery in this case. Accordingly, the Motion was dismissed without prejudice to a refiling during the objections stage of the proceeding.

Varibus Corporation, August 12, 1983, HRD-0107, HRH-0107

Varibus Corporation filed a Motion for Discovery and a Motion for Evidentiary Hearing in connection with its Statement of Objections to a Proposed Remedial Order that the Economic Regulatory Administration (ERA) issued to the firm on September 19, 1982, Case No. HRO-0093. In its Motion for

Discovery, Varibus requested audit workpapers not previously provided to the firm and DOE documents concerning whether non-product costs available for cost pass-through could be restricted to interest payments to non-affiliated third parties. In considering the Motion for Discovery, the DOE found that (i) Varibus had already received workpapers setting forth the calculations underlying the PRO's finding that overcharges occurred and, therefore, any other audit workpapers, such as those supporting the NOPV, were irrelevant to the PRO proceeding and (ii) the PRO's calculation of the firm's maximum lawful selling price (MLSP) included the maximum amount of non-product costs permitted by the regulations and, therefore, the issue whether interest payments to affiliated third parties would be passed through as non-product costs was irrelevant to the calculation of the firm's MLSP. Accordingly, the Motion for Discovery was denied.

In its Motion for Evidentiary Hearing, Varibus sought the opportunity to present oral testimony and depose an ERA enforcement official with respect to the calculations of: (i) The firm's product in inventory, (ii) the firm's MLSPs, and (iii) the overcharges. In considering the Motion for Evidentiary Hearing, the DOE found that an evidentiary hearing would substantially assist the DOE in resolving any disputes with respect to the correct calculation of the firm's product in inventory. The DOE further found that an evidentiary hearing was not necessary with respect to the actual calculations of the MLSP and overcharge since the only factual dispute with respect to those calculations concerned the correct calculation of the firm's product in inventory. Accordingly, the Motion for Evidentiary Hearing was granted in part.

Supplemental Order

Texas City Refining, Inc., August 12, 1983, HEX–0088

On January 15, 1982, the Office of Hearings and Appeals issued an Order which required Texas City Refining, Inc. (TCR) to purchase entitlements in the amount of $3,952,554 on the next Entitlements Notice issued by the DOE. *Texas City Refining, Inc.*, 9 DOE ¶ 81,016 (1982). The TCR purchase obligation results from the DOE's determination that TCR received excessive entitlement exception relief pursuant to a Decision and Order issued to the firm on June 22, 1978. *Texas City Refining, Inc.*, 2 DOE ¶ 82.006 (1978). The present Supplemental Order, issued *sua sponte*, modifies the January 15, 1982 Order and requires the firm to remit to the DOE escrow account established for this purpose the amount of the excessive exception relief.

Refund Applications

Panhandle Eastern Pipeline Company/ Missouri Self Service Gas Company, August 10, 1983, RF15–2

The DOE issued a Decision and Order concerning an Application for Refund filed by Missouri Self Service Gas Company, a motor gasoline reseller-retailer, which sought a portion of the Panhandle Eastern Pipeline Company consent order fund for itself and a subsidiary, Mutz Oil Company. *See Office of Enforcement*, 9 DOE ¶ 82,569 (1982). Missouri Self Service sought a refund based upon purchases of Panhandle motor gasoline which exceeded the small claim threshold figure of 50,000 gallons per month and therefore submitted detailed information concerning its business operations. After analyzing this information, the DOE concluded that Missouri Self Service and Mutz were injured by the alleged overcharges and should receive a refund based upon the volume of the Panhandle motor gasoline purchases for which it made a showing of injury. Accordingly, the Application for Refund was granted in part and a refund totalling $42,387 plus a proportionate share of accumulated interest was approved.

Standard Oil Company (Indiana)/City Auto Sales Company et al., August 11, 1983, RF21–823 et al.

The DOE issued a Decision and Order concerning 47 Applications for Refund filed by consumers of Amoco middle distillates. All of these firms elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). In considering these applications, the DOE concluded that each of the 47 applicants should receive a refund based upon the total volume of their Amoco middle distillate purchases less any volumes purchased during periods not covered by the Amoco consent order or volumes for which an Applicant has already received a direct refund from Amoco. The refunds granted in this proceeding total $14,397.

Standard Oil Company (Indiana)/Elgin, Joliet and Eastern Railway et al., August 12, 1983, RF21–6679 et al.

The DOE issued a Decision and Order concerning Applications for Refund filed by nine end-users that purchased one or more of the following refined petroleum products directly from Amoco: lubricating oils, natural gas liquids, naphtha, industrial greases, residual fuel oil and aviation jet fuel. In considering those applications, the DOE concluded that each of the applicants should receive a refund based upon the total eligible volume of its Amoco refined products purchases multiplied by 100 percent of the volumetric refund amount. The refunds granted in this proceeding total $8,410.

Standard Oil Company (Indiana)/Hamann Oil Co., Inc. et al., August 12, 1983, RF21–2576 et al.

The DOE issued a Decision and Order concerning four Applications for Refund filed by two firms that operate as both wholesalers of Amoco motor gasoline and resellers of Amoco middle distillates. Both of these firms elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). In considering these applications, the DOE concluded that the two applicants should receive a refund based upon the total volume of its Amoco motor gasoline and middle distillate purchases. The refunds granted in this proceeding total $1,998.

Standard Oil Company (Indiana)/Michael G. Keevish, August 12, 1983, RF21–7026, RF21–7027, RF21–12005

The DOE issued a Decision and Order concerning three Applications for Refund filed by Michael G. Keevish who operates as a retailer of Amoco motor gasoline as well as a reseller and consumer of Amoco middle distillates. Keevish elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). In considering these applications, the DOE concluded that Keevish should receive a refund based upon the total volume of its Amoco motor gasoline and middle distillate purchases. The refunds granted in this proceeding total $314.

Standard Oil Company (Indiana)/Patapsco and Back Rivers Railroad Company, August 12, 1983, RF21–12011

The DOE issued a Supplemental Order concerning an Application for Refund filed by the Patapsco and Back Rivers Railroad Company, a consumer of Amoco middle distillates. The Supplemental Order rescinds a refund erroneously calculated and granted to the firm in *Standard Oil Company (Indiana)/Michigan Avenue Management, Inc.*, 11 DOE ¶ 85,057 (1983). The Decision recalculates the firm's refund based upon the total volume of Patapsco's eligible middle distillate purchases from Amoco. The corrected refund granted in this proceeding is $625.

Standard Oil Company (Indiana)/R. W. Mitchell, Inc., et al, August 9, 1983, RF21–1680 et al.

The DOE issued a Decision and Order concerning 97 Applications for Refund filed by consumers of Amoco motor gasoline. All of these firms elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Spcecial Counsel*, 10 DOE ¶ 85,048 (1982). In considering these applications, the DOE concluded that each of the 97 applicants should receive a refund based upon the total volume of their Amoco motor gasoline purchases. The refunds granted in this proceeding total $94,432.

Standard Oil Company (indiana)/State of Maryland, August 10, 1983, RF21–8739 et al.

The DOE issued a Decision and Order concerning an Application for Refund filed by the State of Maryland on behalf of state and local governmental entities that were end-users of Amoco motor gasoline, middle distillates, natural gas liquids, and residual fuel oil. In considering the application, the DOE concluded that each of the governmental entities should receive a refund based upon the total volume of its eligible Amoco petroleum product purchases. The refunds granted in this proceeding total $7,933.

Worldwide Energy Corp./State of Oklahoma, August 12, 1983. RQ31–9

The DOE issued a Decision and Order concerning a Second Stage Refund Application filed by the State of Oklahoma (Oklahoma) pursuant to *Office of*

Enforcement, 11 DOE ¶ 85,023 (1983). In the *Office of Enforcement* decision, the OHA determined that Oklahoma would receive 17.87 percent of an escrow fund obtained as a result of a consent order entered into with Worldwide Energy Corporation upon approval by the Office of Hearings and Appeals (OHA) of a plan for use of the funds to benefit Oklahoma consumers of natural gas liquid products. In considering the application, the OHA concluded that Oklahoma's plan, which proposed a program to inform the public of the energy and monetary savings which can be realized by consumers practicing basic car maintenance, contained all the elements necessary for approval. The DOE therefore directed that 17.87 percent of the Worldwide funds, plus a proportionate share of the interest accrued, be disbursed to the State of Oklahoma.

Dismissals

The following submissions were dismissed:

Name	Case No.
Davies Oil Co., Inc.	RF21-7928.
Stoel, Rives, Boley, Fraser and Wyse	HFA-0174.
Layman Taylor	RF21-10440.
Tomahawk Oil Co.	RF21-10852.

[FR Doc. 83-25001 Filed 9-13-83; 8:45 am]

BILLING CODE 6450-01-M

Cases Filed; Office of Hearings and Appeals; Week of August 12 Through August 19, 1983

During the week of August 12 through August 19, 1983, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy. Submissions inadvertently omitted from earlier lists have also been included.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Richard W. Dugan,

Acting Director, Office of Hearings and Appeals.

September 6, 1983.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of August 12 through August 19, 1983]

Date	Name and location of applicant	Case No.	Type of submission
July 29, 1983	Shockley's Exxon Service, Delano, California	HEE-0076	Price Exception. If granted: Shockley's would receive retroactive exception relief from the provisions of 10 CFR Part 212, for the period August 1, 1979 through October 16, 1979, which would excuse the firm from having to repay overcharges alleged in a November 8, 1979 Proposed Remedial Order.
Aug. 15, 1983	Hideca Petroleum Corporation, Washington, D.C.	HRD-0157	Motion for Discovery. If granted: Discovery would be granted to Hideca Petroleum Corporation in connection with a Statement of Objections submitted in response to the Proposed Remedial Order (Case No. HRO-0150) issued to Hideca Petroleum Corporation.
Do	Y. Shanmugadhasan, Boron, California	HFA-0177	Appeal of an Information Request Denial. If granted: The July 28, 1983, Freedom of Information Request Denial issued by the San Francisco Operations Office would be rescinded, and Y. Shanmugadhasan would receive complete access to documents entitled "Weapon Development During June 1956" (UCRL-4725) and "Weapon Development During June 1958" (UCRL-5280).
Aug. 16, 1983	J. W. Akin, Wichita Falls, Texas	HRD-0156 & HRH-0156.	Motion for Discovery and Request for Evidentiary Hearing. If granted: Discovery would be granted and an evidentiary hearing would be convened in connection with the Statement of Objections submitted by J. W. Akin in response to the Proposed Remedial Order (Case No. HRO-0066) issued to Engineered Operating Company.
Aug. 18, 1983	Clean Machine, Inc., San Francisco, California	HRD-0158	Motion for Discovery. If granted: Discovery would be granted to Clean Machine, Inc. in connection with the Statements of Objections submitted in response to the Remedial Orders (Case No. HRO-0048 & HRO-0049) issued to Clean Machine, Inc.
Aug. 19, 1983	Kern Oil & Refining Company, Bakersfield, California	HUE-0078	Exception to the Entitlements Program. If granted: Kern Oil & Refining Company would receive a portion of the Dow Chemical, USA escrow account (HEX-0086), equal in value to the firm's entitlement exception relief.
Do	U.S. Department of Interior, Washington, D.C.	HEE-0077	Exception From the Certification Rules. If granted: The Department of Interior would receive an exception from certain certification requirements applicable to first sellers of crude oil as set forth in 10 CFR Part 212, with respect to its sales of offshore crude oil.

REFUND APPLICATIONS RECEIVED

[Week of August 12, 1983 to August 19, 1983]

Date	Name of refund proceeding/name of refund applicant	Case No.
8/15/83	Palo Pinto/Ohio	RQ5-12.
8/15/83	Palo Pinto/Georgia	RQ5-13.
8/15/83	Palo Pinto/New Mexico	RQ5-14.
8/15/83	Palo Pinto/US Virgin Islands	RQ5-15.
8/15/83 thru 8/19/83	Amoco Refund Applications	RF21-12162 thru RF21-12166.

[FR Doc. 83-25002 Filed 9-13-83; 8:45 am]

BILLING CODE 6450-01-M

Southwestern Power Administration

[Rate Order SWPA-11]

Order Confirming and Approving on an Interim Basis Extension of Existing Transmission Rate Schedule

AGENCY: Department of Energy.

ACTION: Notice of rate order.

SUMMARY: The Assistant Secretary for Conservation and Renewable Energy, under Delegation Order No. 0204-33, as amended; has confirmed and approved, on an interim basis, the extension of the existing transmission rate for the Southwestern Power Administration. The extension becomes effective October 1, 1983, and continues in effect until March 31, 1984, or until a substitute rate is approved.

DATES: Extension of rates on an interim basis effective October 1, 1983.

FOR FURTHER INFORMATION CONTACT:

Walter M. Bowers, Chief, Division of Power Marketing, Southwestern Power Administration, Department of Energy, P.O. Box 1619, Tulsa, Oklahoma 74101; (918) 581-7529; or

Fred A. Sheap, Office of Power Marketing Coordination, Department of Energy—CE-91, James Forrestal Building, 1000 Independence Avenue, SW., Rm. 6B-104, Washington, DC 20585; (202) 252-1040.

SUPPLEMENTARY INFORMATION: The Federal Energy Regulatory Commission (FERC) by Order issued July 31, 1981, confirmed and approved Transmission Rate Schedule TDC-2 for a period ending September 30, 1983.

A new transmission rate is being developed for submission shortly to the FERC for approval on a final basis.

The extension of rates hereby approved is subject to approval on a final basis by the FERC.

Issued in Washington, DC, August 31, 1983.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

Assistant Secretary for Conservation and Renewable Energy

[Rate Order No. SWPA-11]

In the matter of Southwestern Power Administration—System Transmission Rate.

Order Extending Confirmation and Approval of System Transmission Rate on an Interim Basis

August 31, 1983.

Pursuant to Sections 302(a) and 301(b) of the Department of Energy Organization Act, Pub. L. 95-91, the functions of the Secretary of the Interior and the Federal Power Commission under Section 5 of the Flood Control Act of 1944, 16 U.S.C. 825s, relating to the Southwestern Power Administration (SEPA) were transferred to and vested in the Secretary of Energy. By Delegation Order No. 0204-33, effective January 1, 1979, 43 FR 60636 (December 28, 1978), the Secretary of Energy delegated to the Assistant Secretary for Resource Applications the authority to develop power and transmission rates, acting by and through the Administrator, and to confirm, approve, and place in effect such rates on an interim basis and delegated to the Federal Energy Regulatory Commission (FERC) the authority to confirm and approve on a final basis or to disapprove rates developed by the Assistant Secretary under the delegation. Due to a Department of Energy organizational realignment, Delegation Order No. 0204-33 was amended, effective March 19, 1981, to transfer the authority of the Assistant Secretary for Resource Applications to the Assistant Secretary for Conservation and Renewable Energy. This rate order is issued pursuant to the delegation to the Assistant Secretary for Conservation and Renewable Energy.

Background and Discussion

Transmission service for the Southwestern Power Administration is presently provided under Transmission Rate Schedule TDC-2. This rate was confirmed and approved by the FERC by Order issued July 31, 1981, for a period ending September 30, 1983. SWPA is in the process of preparing a new Transmission Rate Schedule for submission to the FERC for confirmation and approval and has requested that the current rates be approved on an interim basis for an additional 6 months to allow time for SWPA to complete development of the rates and to allow the FERC to examine and approve the rates.

Order

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby confirm and approve on an interim basis, effective October 1, 1983, an extension of existing Transmission Rate Schedule TDC-2 for the Southwestern Power Administration. The Rate Schedule, copies attached, as confirmed and approved hereby, shall remain in effect through March 31, 1984, or until a substitute rate is approved.

Issued at Washington, DC, this 31st day of August 1983.

Joseph J. Tribble,

Assistant Secretary Conservation and Renewable Energy.

Southwestern Power Administration

[Rate Schedule TDC-2]

Wholesale Rates for Transmission and/or Displacement of Non-Federal Power and Energy Over the System of Southwestern

Effective: As of January 1, 1981, and thereafter in accordance with Rate Order No. SWPA-7 of the Assistant Secretary for Resource Applications issued December 11, 1980.

Applicable: In the marketing area of the Southwestern Power Administration (Southwestern) described generally as the States of Arkansas, Kansas, Louisiana, Missouri, Oklahoma, and Texas to wholesale power customers of Southwestern and other electric utilities whose transmission facilities interconnect with the transmission facilities of Southwestern. Non-federal power and energy will be, by contract, transmitted and/or displaced over those portions of the transmission and related facilities owned and operated by Southwestern (System of Southwestern) in which the Administrator, Southwestern, in his sole judgment, determines that transmission and transformation capacities are and will be available in excess of that required to market power and energy pursuant to Section 5 of the Flood Control act of 1944 (58 Stat. 890).

Character and Conditions of Service: Non-federal power and energy will be received into the System of Southwestern as scheduled by Southwestern, transmitted and/or displaced between two points in the system of Southwestern and delivered at the voltage level of the point or points of delivery as 3-phase alternating current, at approximately 60 hertz as specified by contract. Energy losses will be the responsibility of the customer and will be provided to Southwestern as specified by contract.

Transmission Demand: The Transmission Demand for each point of delivery for any month shall be the number of kilowatts equal to either—

(i) The maximum rate in kilowatts at which non-federal power and energy was delivered from the System of Southwestern at such point of delivery during any sixty-minute period during such month; or

(ii) The maximum Transmission Demand established at such point of

delivery at any time during the preceding eleven months,

whichever quantity is greater.

Interruptible Transmission:

A. *Availability:* Interruptible Transmission is transmission and transformation capability that could be utilized for economy energy interchange and in emergencies on a short-term basis of less than one month at such times and in such amounts as requested and as Southwestern determines to be available.

B. *Interruptible Transmission Demand:* The Interruptible Transmission Demand at each point of delivery for any day shall be the maximum rate of delivery in kilowatts during any sixty-minute period of such day.

Rates: Compensation due Southwestern for the transmission and/or displacement over the System of Southwestern of non-federal power and energy shall be computed at the following rates:

(i) $0.25 per kilowatt per month of Transmission Demand for the transmisison and/or displacement of non-federal power and associated energy to point or points of delivery from the Systerm of Southewestern at 138 kV or 161 kV.

(ii) $0.40 per kilowatt per month of Transmission Demand for the transmission and/or displacement of non-federal power and associated energy to point or points of delivery from the System of Southewestern at 69 kV.

(iii) $0.55 per kilowatt per month of Transmission Demand for the transmission and/or displacement of non-federal power and associated energy to point or points of delivery from the System of Southwestern at voltages of less than 69 kV.

(iv) 5% of (i), (ii), or (iii) amounts above per kilowatt per day for the Interruptible Transmission Demand at a given delivery voltage as applicable.

(v) $0.0008 per kilowatt-hour for the transmission and/or jdisplacement of non-federal energy without associated non-federal power to point or points of delivery from the System of Southwestern.

When power and/or enery is delivered at two or more voltages, the delivery voltage(s) shall be as specified by contract.

Minimum Monthly Bill: The minimum bill for any month shall be equal to the rate times the sum of the Transmission Demands for each point or points of delivery for such month. There shall be no minimum monthly bill for interruptible transmission service.

Adjustment for Power Factor: An hourly power factor shall be maintained at each point of delivery of not less than 95% lagging. If during any hour in any particular month it is determined that at any point or points of delivery the hourly power factor at such point of delivery was less than 95% lagging, the Transmission Demand for such particular month for each such point or points of delivery shall be adjusted in accordance with the formula—

$$ATD = \frac{TD \times 0.95}{PF}$$

with the factors defined as follows:

ATD = The adjusted Transmission demand for a particular point of delivery for any month during which the power factor was determined to be less than 95% lagging.

TD = The Transmission Demand for such month.

PF = The power factor determined for such month.

[FR Doc. 83-25020 Filed 9-13-83; 8:45 am]

BILLING CODE 6450-01-M

[PP 1G2463/T417; PH-FRL 2431-5]

Thiophanate-Methyl; Establishment of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established temporary tolerances for the combined residues of the fungicide thiophanate-methyl, its oxygen analog, and its metabolites in or on certain raw agricultural commodities. These temporary tolerances were requested by Pennwalt Corporation.

DATE: These temporary tolerances expire January 31, 1985.

FOR FURTHER INFORMATION CONTACT: Henry Jacoby, Product Manager (PM) 21, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 229, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703-557-1900).

SUPPLEMENTARY INFORMATION: Pennwalt Corporation, Agchem Division, Three Parkway, Philadelphia, PA 19102, has requested, in pesticide petition PP 1G2463 the establishment of temporary tolerances for the combined residues of the fungicide thiophanate methyl (dimethyl [(1,2-phenylene)bis(iminocarbonothioyl)]bis [carbamate]), its oxygen analog [dimethyl-4,4'-O-phenylene)(allophanate)] and its benzimidazole-containing metabolites (calculated as thiophanate methyl) in or on the raw agricultural commodities onions (green and dry) at 3.0 parts per million (ppm) and wheat, wheat straw, and wheat forage at 0.2 ppm.

These temporary tolerances will permit the marketing of the above raw agricultural commodities when treated in accordance with the provisions of the experimental use permit 4581-EUP-35 which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, (Pub. L. 95-396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that establishment of the temporary tolerances will protect the public health. Therefore, the temporary tolerances have been established on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. Pennwalt Corp. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These tolerances expire January 31, 1985. Residues not in excess of these amounts remaining in or on the raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerances. These tolerances may be revoked if the experimental use permit is revoked or if any experience or scientific data with this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 610-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in

the Federal Register of May 4, 1981 (46 FR 24950).

(Sec. 408(j), 68 Stat. 516, (21 U.S.C. 346a(j)))

Dated: July 17, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83-24887 Filed 9-13-83; 8:45 am]

BILLING CODE 6560-50-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-59133A; (TSH-FHL 2431-6)]

Esterified Copolymer of Alpha Olefins and Maleic Anhydride Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's aproval of TM-83-76, an application for test marketing exemption (TME) under section 5(h)(6) of the Toxic Substances Control Act (TSCA). The test marketing conditions are described below.

EFFECTIVE DATE: August 31, 1983.

FOR FURTHER INFORMATION CONTACT: Margaret J. Stasikowski, Deputy Director, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-345, 401 M St. SW., Washington, DC. 20460, (202-382-3938).

SUPPLEMENTARY INFORMATION: Section 5 (h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and to permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities.

EPA has determined that test marketing of the new chemical substance described below, under the conditions set out in the application, and for the time period specified below, will not present any unreasonable risk of injury to health or the environment. Production volume, number of workers exposed to the new chemical, and the levels and duration of exposure must not exceed that specified in the application. All other conditions described in the appplication must be met. The following additional restrictions apply:

1. If the substance is shipped, the applicant must maintain records of the date(s) of shipment(s) to each customer and the quantities supplied in each shipment, and must make these records available to EPA upon request.

2. A bill of lading accompanying each shipment must state that use of the substance is restricted to that approved in the TME.

TME 83-76

Date of Receipt: July 29, 1983.

Notice of Receipt: August 12, 1983 (48 FR 36647).

Applicant: Confidential.

Chemical: Esterified copolymer of alpha olefins and maleic anhydride (Generic).

Use: Modifying agency (Generic).

Production Volume: 40,000 lbs.

Number of Customers: 1.

Worker Exposure: Manufacturer: dermal, 12 workers, 8 hours/day for 20 days. Processing: dermal, 1-2 workers, 8 hours/day for up to 10 days.

Test Marketing Period: 3 months.

Commencing on: August 31, 1983.

Risk Assessment: The Agency indentified no significant potential health or environmental effects of concern. Human exposure and environmental release during manufacture, processing, and use, under the conditions specified in the application are expected to be low. Therefore, the Agency finds that the TME substance will not present an unreasonable risk to health or the environment during test marketing under the conditions specified in the application.

Public Comments: None.

The Agency reserves the right to rescind approval of an exemption should any new information come to its attention which cause significant doubt on its finding that the test marketing activities will not present an unreasonable risk to health or the environment.

Dated: August 31, 1983.

Marcia E. Williams,

Acting Director, Office of Toxic Substances.

[FR Doc. 83-24889 Filed 9-13-83; 8:45 am]

BILLING CODE 6560-50-M

[Region 6; FRL-2432-1]

Approval of PSD Permits; Smackover Shell, Ltd. et al.

Notice is hereby given that the Environmental Protection Agency (EPA), Region 6, has issued Prevention of Significant Deterioration (PSD) permits to the following:

1. PSD-TX-55M-2; Smackover Shell, Ltd.; natural gas processing and sulfur recovery plant located approximately 4 miles southwest of Eustace, Henderson County, Texas; modifies the permit to increase permitted SO_2 emissions from 138.1 lbs/hr to 250 lbs/hr; issued on October 15, 1982.

2. PSD-TX-59M-1; American Petrofina Company of Texas; petroleum refinery located in Port Arthur, Jefferson County, Texas; modifies the permit to include NO_x emissions of the HDS-Catalytic Reformer and Aromatics Complex at the refinery; issued on February 7, 1983.

3. PSD-TX-63M-1 and PSD-TX-63M-2; Texas Industries, Incorporated; Portland cement plant located approximately 2 miles southwest of Hunter, Comal County, Texas; TX-63M-1 modifies the permit to exempt Texas Industries from the initial particulate matter performance test for the finish mills, if a "No Visible Emission" opacity limitation is met, and added 10% opacity limitations for the two kilns and two clinker coolers; issued on July 17, 1981: TX-63M-2 modifies the permit to change the allowable emissions of nitrogen oxides from 282.8 tons/year to 766.5 tons/year, the sulfur dioxide emissions from 2102.4 tons/year to 65.7 tons/year, and the particulate emissions from 177.4 tons/year to 183.1 tons/year; issued on April 7, 1983.

4. PSD-TX-75M-1; Gulf Oil Company; petroleum refinery located on Highway 23, approximately 12 miles south of Belle Chasse, Plaquemines Parish, Louisiana; modifies the permit to reflect the actual emissions from the CO boiler based on stack tests; issued on June 2, 1983.

5. PSD-LA-77M-1; Boise Southern Company; pulp and paper manufacturing facility located approximately five miles west of DeRidder, Beauregard Parish, Louisiana; modifies the permit by changing the monitoring plan for reporting wet scrubber operational data; issued on April 6, 1983.

6. PSD-LA-91; Louisiana Power and Light; authorizes the construction of a coal-fired steam electric generating facility, consisting of two 800 MW boilers and two auxiliary boilers, to be located on the Mississippi River, approximately one-fourth of a mile west of Romeville, St. James Parish, Louisiana; issued on April 19, 1982.

7. PSD-AR-101M-2 Great Lakes Carbon Corporation; graphite electrode manufacturing facility located approximately 2.5 miles southwest of Altus, Franklin County, Arkansas; modifies the permit to include a 3% opacity limitation for the monitor load/unload building and a "No Visible Emissions" limitation for the remaining emission points. In addition, the

company will be exempt from the particulate matter initial performance testing by Method 5 if compliance with the opacity limitations is determined by Method 9 opacity testing; issued on March 12, 1982.

8. PSD–LA–117; Southwestern Electric Power Company; authorizes the construction of a 1440 MW coal-fired steam electric generating facility to be located on Highway 84, approximately ½ mile southeast of Naborton, De Soto Parish, Louisiana; issued on September 1, 1981.

9. PSD–TX–119M–1; Amoco Oil Company; Fluid Catalytic Cracking Unit (FCCU), an ultra forming unit, and a coking unit facility located at 2401 Fifth Avenue South in Texas City, Galveston, County, Texas; modifies the permit to: (1) Eliminate the requirement for sampling SO_2 from Ultraformer No. 3 and the Coker Resid Preheat System if a continuous H_2S monitor is used, a continuous fuel flow meter is installed, and the readings from both instruments are correlated on an hourly basis to insure that the SO_2 emission limit is not exceeded (2) Eliminate the requirement for stack testing of particulates for these two sources provided there are no visible emissions from these units, and (3) Remove the initial performance testing requirements for NO_x and CO from the Coker Resid Preheat System provided there are no visible emissions from the unit; issued on December 18, 1981.

10. PSD–LA–125M–1; Southern Natural Gas Company; natural gas compressor station lacated on State Highway 16, approximately 2 miles southwest of Franklinton, Washington Parish, Louisiana; modifies the permit to correct an error in computation of the emission rate for NO_x; issued on June 2, 1983.

11. PSD–TX–137M–1; Southwestern Refining Company; petroleum refinery located off Interstate Highway 37 on Nueces Bay Boulevard in Corpus Christi, Nueces County, Texas; modifies the permit to reflect in increased feed rate of 37,000 BPD from 28,000 BPD; issued on May 20, 1983.

12. PSD–TX–138M–1; Chaparral Steel Company; steel manufacturing plant located in Midlothian, Ellis County, Texas; modifies the permit to: (1) Remove the sampling requirements for the existing facilities built in 1974 and 1975, (2) Change emission rates to reflect those permitted by the Texas Air Control Board (TACB), and (3) Have the permit reflect the same sampling provisions as required by the TACG construction permits; issued on February 2, 1982.

13. PSD–TX–139M–2; Liquid Energy Corporation; crude/condensate fractionating facility located on U.S. Highway 380, approximately 2 miles west of Bridgeport, Wise County, Texas; modifies permit to change the number of allowable fugitive emission sources from five to twenty-six; issued on July 24, 1981.

14. PSD–LA–152M–2; Sid Richardson Carbon and Gasoline Company; carbon black production facility located in Addis, West Baton Rouge Parish, Louisiana; modifies the permit to amend the SO_2 emission rates of 3 baghouses and 4 reactors (Although the SO_2 emission rates for 2 reactors are higher than specified in PSD–LA–152M–1, total SO_2 emissions will be reduced.); issued on December 3, 1982.

15. PSD–AR–153M–1; Arkansas Eastman Company; intermediate organic chemicals plant located in Batesville, Independence County, Arkansas; modifies the permit to: (1) Revise the opacity limitation of emission points (b) through (k) from 10 percent to "No Visible Emissions" and use compliance with the opacity limitation as evidence of compliance with the particulates mass emission limit (2) Delete the SO_2 emission limitation from emission points (c), (e), and (g), and (3) Waive the initial performance test on emission points (d), (f), and (h) if the company demonstrates compliance with the SO_2 mass emission rate for emission point (b); issued on February 10, 1982.

16. PSD–NM–156M–1; Warren Petroleum Company; Vada natural gas processing plant located approximately 18 miles northwest of Tatum, Lea County, New Mexico; modifies the permit to increase the SO_2 emission limt from the acid gas flare from 190 lb/hr to 703 lb/hr, and increase the height from 100 feet to 175 feet; issued on December 23, 1981.

17. PSD–TX–185M–1; Texas Eastman Company; synthesis gas plant located approximately 4 miles southeast of Longview, Harrison County, Texas; modifies the permit to: (1) Replace the requirement to use Method 7 NO_x testing with the requirement to use Method 20 in Specific Condition 2, and (2) Delete Specific Condition 4, which required the use of continuous oxygen monitors on each compressor and the reformer furnace (These changes resulted in no emission increase of any pollutant.); issued on April 20, 1982.

18. PSD–LA–199; Tenneco Oil Company; petroleum refinery located on the east bank of the Mississippi River in Chalmette, St. Bernard Parish, Louisiana; authorizes the modification of the existing refinery by the addition of several new unitis and the shut down or modification of some existing units to provide the operational flexibility and capacity to process heavy crude oils and increase the production of gasoline, fuel oils, and saleable coke; issued on December 23, 1981.

19. PSD–TX–206M–1; Champlin Petroleum Company; natural gas processing plant located approximately 3½ miles east of Carthage, Panola County, Texas; modifies the permit to: (1) Eliminate Special Condition 5 which contained an implied CO emission limitation (CO emissions were not sufficient to require PSD analysis), and (2) Revise Special Condition 1 to change the NO_x emission rate for units 79–17 and 79–18 from 24 lb/1000 hp-hr to 22.5 lb/1000 hp-hr; issued on June 11, 1982.

20. PSD–TX–211M–1; United Gas Pipeline; natural gas compressor station located on Highway 59 in Carthage, Panola County, Texas; Modifies the permit to: (1) Remove emission points (a) and (b) from the permit (PSD does not apply to these engines), (2) Change the 1000 hp designation from a maximum to a nominal rating, and (3) Replace Condition 4, which requires permitter to adjust and operate engines so that the lb/1000 hp-hr limit in Condition 1 is not exceeded, with a condition that requires a monthly check of oxygen content of the flue gas and ignition timing; issued on August 12, 1982.

21. PSD–TX–212aM–1; Dorchester Refining Company; tank truck loading facility located at the refinery on West First Street in Mount Pleasant, Titus County, Texas; modifies the permit to change Condition 3 to allow operation 7 days a week instead of 6; issued on December 18, 1981.

22. PSD–TX–214M–1; Gulf Oil Company, U.S.; crude distillation unit at the petroleum refinery located in Port Arthur, Jefferson County, Texas; modifies the permit to: (1) Include the requirement that heater AVU 148 be taken out of service upon startup of CDU 1944, and (2) Limit the fuel firing rate of AVU 144 to 538,559 ft^3/hr until the startup of CDU 1944; issued on October 13, 1981.

23. PSD–TX–226M–1; PSD–TX–226M–2 and PSD–TX–226M–3; Formosa Plastics Corporation, U.S.A.; an ethylene dichloride (EDC), vinyl chloride monomer (VCM), and polyvinyl chloride (PVC) production plant located at 101 Formosa Drive, Point Comfort, Texas; TX–226M–1 modifies the permit to add two gas holding tanks; issued on April 10, 1981: TX–226M–2 modifies the permit to: (1) Change the NO_x emission limitation for emission points (a) through (e) from 0.12 lb/MMBtu to 0.11 lb/MMBtu, (2) Change the heat input from 30 MMBtu/hr to 21 MMBtu, the NO_x

emission limitation from 0.12 lb/MMBtu to 0.18 lb/MMBtu and raise the hydrocarbon emission limitation from 0.0029 lb/MMBtu to 0.004 lb/MMBtu for emission points (f) and (g), (3) Delete the NO_x emission limitation from emission point (i), since the PVC dryer will use steam and hot water and will not require natural gas firing, (4) Change emission point (j), now emission points (j) and (k), to show two EDC crackers with heat inputs of 57 MMBtu/hr each instead of one VCM cracker with a heat input of 100.7 MMBtu/hr. The rest of the emission points were redesignated, from (k) through (s) to (l) through (t), and (5) Lower boiler stack height from 150 feet to 50 feet; issued on May 4, 1981: TX-226M-3 modifies the permit to amend the hydrocarbon emission limitation to allow a 400 ppm VCM residue in the PVC slurry in conformance with the NESHAP-VCM standards while maintaining an 85 ppm annual average. This modification also includes a formula for determining the annual VCM emission rate, and a requirement for daily monitoring and recording of the VCM content; issued on November 18, 1981.

24. PSD-TX-233M-1 and PSD-TX-233M-2; Cameron Iron Works, Inc.; steel production facility located at 22301 Highway 290 in Houston, Harris County, Texas; TX-233M-1 modifies the existing permit, which authorized the addition of a vacuum arc degassing/vacuum oxygen decarburization (VAD/VOD) furnace, by revising Specific Condition 5 to allow operation of the permitted facility 7 days a week instead of 6; issued on October 13, 1981: TX-233M-2 modifies the permit to allow the VAD cycle only to operate up to 11 heats/day, 256 heats/month and 3072 heats/year; issued on December 10, 1982.

25. PSD-TX-234M-1; Houston Lighting and Power Company; 550 NW subbituminous coal-fired steam electric generating unit located off Robbs Prairie Road, approximately 3 miles southwest of Thompsons, For Bend County, Texas; modifies the permit to: (1) Allow enforcing of NO_x emissions on a 30-day rolling average and SO_2 emissions on a 3 hour rolling average, (2) Replace the requirement for a flue gas oxygen meter with carbon dioxide and carbon monoxide monitors, and (3) Delete emissions points (b) through (g) in Specific Condition 1 of the permit since the ownership and operation of all coal handling facilities has been transferred to Utility Fuels, Inc.; issued on November 12, 1981.

26. PSD-AR-240M-1; Endevco, Incorporated; natural gas sweetening plant located on State Highway 134, approximately eight miles northeast of Fouke, Miller County, Arkansas; modifies the permit to: (1) Change emission point (c) from a flare to an incinerator, (2) Change test Method 15, for determining compliance with the sulfur dioxide emission limitation for the flare, to Method 6, which is more appropriate for testing from the incinerator stack, and (3) Delete all opacity limitations, and opacity testing and monitoring requirements, as these limitations are not appropriate for facilities permitted for sulfur dioxide only; issued on December 3, 1981.

27. PSD-TX-241M-1; Marathon Petroleum Company; petroleum refinery located on Loop 197 South, approximately one mile south of the intersection of 6th Street and Texas Street, Texas City, Galveston County, Texas; modifies the permit to delete: (1) The nitrogen oxide emission limitations for both natural gas and oil firing in Specific Condition 1, (2) The Method 7 testing requirements of Specific Condition 2, and (3) The flue gas oxygen monitoring requirements (Specific Condition 3 in entirety); issued on October 4, 1982.

28. PSD-TX-246; Anheuser-Busch, Incorporated; brewery located at 775 Gellhorn Drive, Houston, Harris County, Texas; authorizes the expansion of the existing facility from 3 million to approximately 10 million barrels per year; issued on September 11, 1981.

29. PSD-LA-250M-1; Uniroyal Chemical; chemical production facility located at the Geismar Industrial Complex, Geismar, Ascension Parish, Louisiana; modifies the permit to delete all requirements set forth in PSD-LA-250 dealing with particulate matter and sulfur dioxide; issued on April 23, 1982.

30. PSD-LA-252M-1; Arizona Chemical Company; refining of liquid waste by-products from paper mills facility located at the Springhill Complex near Cullen, Webster Parish, Louisiana; modifies the permit to: (1) Raise the CO emission limitation from 3.6 lb/hr to 32 lb/hr as this represents BACT operation for this boiler, and (2) Include a provision in the permit to allow exceedances of the mass emission limitations for periods of soot blowing not to exceed six times per day and twenty minutes per episode; issued on January 28, 1982.

31. PSD-TX-256; United States Gypsum Company; lime manufacturing plant located on Wald Road near Solms Road, approximately 5 miles south of New Braunfels, Comal County, Texas; authorizes modification to the existing plant by construction of a coal-fired rotary kiln, a hydrator and auxiliary equipment; issued on February 17, 1982.

32. PSD-AR-271aM-1; Great Lakes Carbon Corporation; graphite electrode plant located approximately 2½ miles southwest of Altus, Franklin County, Arkansas; modifies the permit to reduce the 20% opacity to "No Visible Emissions" for the permitted emission points. Demonstration of compliance with the opacity limitations shall be presumed as evidence of compliance with the particulate matter mass emission limitations; issued on March 16, 1982.

33. PSD-TX-276M-1; Diamond Shamrock Corporation; chlorine caustic facility at the Battleground Plant located at the intersection of State Highway 134 and State Park Road 1836 in LaPorte, Harris County, Texas; TX-276 authorized the modification of the existing plant by construction of a 313 megawatt combined cycle power generating facility: TX-276M-1 completely revises the permit so that the Specific Conditions agree with the Special Provisions of the Texas Air Control Board permit C-7647; issued on September 22, 1982.

34. PSD-TX-284M-1 and PSD-TX-284M-2; Badische Corporation; organic chemical manufacturing plant located at 602 Copper Road in Freeport, Brazoria County, Texas: TX-284M-1 modifies the permit to include maximum allowable mass SO_2 emission limitations based upon the maximum capacity of the incinerator instead of the average capacity; issued August 5, 1981: TX-284M-2 modifies the permit to: (1) Revise Specific Condition 1 to allow soot blowing of the incinerator boiler four times per day instead of the permitted six times per 30 days, and (2) Remove the requirement in Specific Condition 1 to notify the permitting authority prior to the commencement of soot blowing; issued January 22, 1982.

35. PSD-LA-286aM-1; Hill Petroleum Company; petroleum refinery located on the west bank of the Atchafalaya River, on State Highway 105, south of Krotz Springs, St. Landry Parish, Louisiana; modifies the permit to: (1) Reflect an increase in hydrocarbon emission rates for some of the storage tanks, and (2) Remove the requirement for a thermal incineration system on the gasoline loading docks due to company's contention that a safety hazard exists for this emission point as permitted; issued on April 5, 1982.

36. PSD-TX-290; PPG Industries, Incorporated; authorizes the construction of a fiber glass manufacturing facility to be located on Interstate Highway 20, approximately 6

miles west of Midland, Midland County, Texas; issued on May 27, 1981.

37. PSD–TX–299; Gulf Oil Chemicals; authorizes the construction of a low density/high density polyethylene plant on Highway 185, approximately 13 miles south of Victoria, Victoria County, Texas; issued on August 17, 1981.

38. PSD–TX–302; Exxon Chemical Americas; Baytown Olefins Plant located at 3525 Decker Drive in Baytown, Harris County, Texas; authorizes the expansion of the existing facility by the addition of three 275 MMBtu/hr natural gas-fired cracking heaters; issued on July 30, 1981.

39. PSD–LA–305; Gulf States Utilities; Roy Nelson Generating Station located on Highway 90, approximately 8 miles northwest of Lake Charles in Westlake, Calcasieu Parish, Louisiana; authorizes modification of the existing station by installation of one combustion turbine and two coal gasifiers; issued on July 24, 1981.

40. PSD–TX–307a; Monsanto Company; Chocolate Bayou petrochemical plant located approximately 12 miles southeast of Alvin, Brazoria County, Texas; authorizes modification of the plant by the construction of a methionine hydroxy analogue facility; issued on August 26, 1981.

41. PSD–TX–313; Houston Pipeline Company; Bammel natural gas compressor station located on Kuykendahl Road, approximately 0.8 of a mile southeast of Bammel, Harris County, Texas; authorizes modification of the station by the addition of four natural gas-fired internal combustion engines and 2 additional dehydrators; issued on April 30, 1981.

42. PSD–AR–317; Georgia-Pacific Corporation; Kraft pulp mill located on First Avenue in Crossett, Ashley County, Arkansas; modifies permit to allow firing of natural gas or #2 fuel oil in the two wood-fired boilers during startup and emergency conditions not to exceed a maximum of 438 hours per year; issued on October 1, 1981.

43. PSD–LA–318; Good Hope Refineries, Inc.; petroleum refinery located on Highway 267 in Good Hope, St. Charles Parish, Louisiana; authorizes the expansion of the refinery so that processing capability will exist for up to 350,000 barrels per standard day of crude oil; issued on May 8, 1981.

44. PSD–TX–324 and PSD–TX–324M–1; Saber Refining Company; petroleum refinery located at 6560 Up River Road in Corpus Christi, Nueces County, Texas; TX–324 authorizes the expansion of the refinery to process heavy Arabian crude oil; issued on May 8, 1981: TX–324M–1 modifies the permit to reflect an increase in the carbon monoxide and particulate emission limits which resulted from the use of revised design data for the citrate scrubber; issued on March 18, 1983.

45. PSD–TX–325 and PSD–TX–325M–1; West Texas Utilities Company; T–325 authorizes the construction of a 640 MW coal-fired steam generating station located off State Highway 433, approximately 3.8 miles southwest of Oklaunion, Wilbarger County, Texas; issued on October 14, 1981: TX–325M–1 modifies the permit to revise: (1) Specific Condition 1 to reflect changes in the plant design, (2) Specific Condition 2, 7(a) and 7(d), to include the new point identification used in Condition 1, and (3) Specific Condition 7(c) to delete the requirement for wet suppression at emission points (g), (h) and (i) and substitute the requirement for bag filter collections at these points; issued on May 3, 1982.

46. PSD–TX–328 and PSD–TX–328M–1; Amerada Hess Corporation; TX–328 authorizes the construction of an injection gas processing plant in the Seminole-San Andres oil field located on State Highway 214, approximately 4 miles northwest of Seminole, Gaines County, Texas; issued on May 14, 1981: TX–328M–1 modifies the permit to reflect the replacement of the Selexol process of tertiary oil recovery with the Ryan/Holmes process which requires substantial process heat; and, therefore, the company proposes to use turbine engines rather than reciprocating engines; issued on May 10, 1983.

47. PSD–OK–329; Panhandle Eastern Pipeline Company; natural gas compressor station located approximately ½ mile south of Highway 74–E, and approximately 4 miles west of Cashion, Kingfisher County, Oklahoma; authorizes the modification of the compressor station by the addition of 2 natural gas-fired turbocharged internal combustion engines rated at 4500 hp each; issued on May 8, 1981.

48. PSD–OK–330 and PSD–OK–330M–1; Panhandle Eastern Pipeline Company; natural gas compressor station located approximately 1.5 miles west of U.S. Highway 281 and approximately 5 miles southwest of Alva, Woods County, Oklahoma; OK–330 authorizes the modification of the station by the addition of three 4500 hp and one 631 hp reciprocating internal combustion engines; issued on May 29, 1981: OK–330M–1 modifies the permit by deleting Specific Condition 4, which specifies one year of post construction ambient monitoring of nitrogen dioxide, and renumbering Specific Conditions 5 and 6; issued on June 21, 1982.

49. PSD–TX–331M–1; Sigmor Refining Company; petroleum refinery located at 301 Leroy Street, Three Rivers, Live Oak County, Texas; modifies the permit by deleting: (1) The requirement for continuous oxygen monitors in Specific Condition 2, and (2) The requirement for a continuous H_2S monitor and total sulfur monitor on the fuel source since fuel oil is not being used. Instead, the company will perform daily sampling of fuel gas for H_2S content using the Draeger Tube Method; issued on June 21, 1982.

50. PSD–TX–332; Texas Eastman Company; chemical process plant located on Kodak Boulevard, approximately 1½ miles from State Highway 149 and approximately 5 miles southeast of Longview, Harrison County, Texas; authorizes the modification of the existing plant by the construction of a new low density polyethylene manufacturing unit; issued on May 27, 1981.

51. PSD–TX–334M–1; Oasis Pipeline Company; Winchester Compressor Station located on FM Road 448, approximately 11 miles southwest of Giddings, Fayette County, Texas; modifies the permit to delete the requirement for flue gas oxygen monitors; issued on December 28, 1982.

52. PSD–TX–337 and PSD–TX–337M–1; Champlin Petroleum Company; TX–337 authorizes the construction of a refinery/chemical plant at the existing petroleum storage and transfer facility (West Plant) located on the Corpus Christi Ship Channel, northeast of the intersection of Interstate Highway 37 and Southern Minerals Road in Corpus Christi, Nueces County, Texas; issued on April 3, 1981: TX–337M–1 modifies the permit to reflect: (1) The substitution of refinery fuel gas for natural gas in the firing of all units associated with this permit, (2) Limitation of liquid fuel firing to 29% when operating in the gas-oil firing mode, and (3) Deletion of one of three power boilers and increasing the heat input of the remaining two to a total of 197.8 MMBtu/hr; issued on May 25, 1983.

53. PSD–TX–338; Ashland Chemical Company; carbon black plant located on State Highway 35, approximately 2 miles northeast of Arkansas Pass, Nueces County, Texas; authorizes the modification of the plant by installing a waste gas recovery system; issued on June 2, 1981.

54. PSD–LA–339; Ashland Chemical Company; carbon black plant located between State Highway 83 and the Intercoastal Waterway, approximately ½ mile southeast of Ivanhoe, St. Mary Parish, Louisiana; authorizes the

modification of the existing carbon black process to use waste gas as fuel for the existing reactors and carbon monoxide boiler; issued on June 23, 1981.

55. PSD–OK–344 and PSD–OK–344M–1; Allied Materials Corporation; refinery and asphalt shingle production facility located on U.S. Highway 66 in Stroud, Lincoln County, Oklahoma; OK–344 authorizes the installation of a waste incinerator/heat recovery unit; issued on September 30, 1981: OK–344M–1 modifies the permit to revise Specific Condition 3 to provide that continuous sulfur dioxide emission monitoring equipment will be required only in the event acid sludge is burned in the waste incinerator/heat recovery unit; issued on June 7, 1983.

56. PSD–TX–345 and PSD–TX–345M–1; Continental Carbon Company; carbon black plant located on State Highway 119, approximately 5 miles southwest of Sunray, Moore County, Texas; TX–345 authorizes the installation of 2 new waste gas furnaces to provide heat to the existing dryers; issued on June 11, 1981: TX–345M–1 modifies the permit to remove the requirement for a continuous SO_2 monitor and replace it with a requirement to test the sulfur content of the feedstock oil each time new supplies are added to storage. Also, a sulfur limit of 1.5% sulfur by weight was added; issued on September 3, 1981.

57. PSD–TX–346 and PSD–TX–346M–1; Diamond Shamrock Corporation; petroleum refinery located near the intersection of Highways 119 and 721, approximately 7 miles southwest of Sunray, Moore County Texas; TX–346 authorizes expanding the capacity of the fluid catalytic cracking unit (FCCU) from 32,500 barrels per stream day to 45,000 barrels per stream day by increasing the feed rate to the FCCU and installing a 600 psig, 240 MMBtu/hr boiler; issued on September 4, 1981: TX–346M–1 modifies the permit to: (1) Raise the FCCU NO_x emission limit from 24.4 lb/hr to 133 lb/hr, (2) Raise the boiler NO_x emission limit from .12 lb/MMBtu to .2 lb/MMBtu, while firing refinery gas, and (3) Increase the opacity limitation from 15% to 20% for the FCCU during soot blowing; issued on October 8, 1982.

58. PSD–NM–350; Southern Union Refining Company; petroleum refinery located on Highway 18, approximately 5 miles south of Lovington, Lea County, New Mexico; authorizes the expansion of: (1) The atmospheric crude unit, (2) LPG recovery unit, and (3) the sulfur recovery unit; and the addition of: (1) a No. 2 vacuum distillation unit, (2) a catalytic reforming unit, (3) a visbreaking unit, (4) an asphalt unit, (5) additional tankage, and (6) a gasoline truck loading rack; issued on October 5, 1981.

59. PSD–TX–352M–1; Southwestern Portland Cement Company; Portland cement production plant located on U.S. Highway 80, approximately 12.5 miles southwest of Odessa, Ector County, Texas; modifies the permit to: (1) Reflect detailed engineering changes which result in an increase in particulate matter of 40.1 tons per year, and (2) change the stack heights of kilns No. 2 and No. 3 from a 225 feet combined stack to an 80 feet stack each; issued on November 5, 1981.

60. PSD–TX–364; Longview Refining Company; petroleum refinery located in the 600 block of Premier Road in Longview, Gregg County, Texas; authorizes the modification of the existing refinery to increase the daily throughput from 15,000 barrels per day to 30,000 barrels per day; issued on May 8, 1981.

61. PSD–TX–365; Central Power and Light Company; coal-fired power plant located near U.S. Highway 59, approximately 2.5 miles northeast of Fannin, Goliad County, Texas; authorizes the addition of a 6780 MMBtu/hr coal-fired boiler; issued on October 19, 1981.

62. PSD–TX–368M–1; El Paso Products Company; (formerly Odessa Natural Corporation) natural gas compressor station located on a gravel road approximately 4 miles north of FM Road 2526, 7 miles southwest of Cisco, Eastland County, Texas; modifies the permit to reflect: (1) the permanent installation of a temporary refrigeration skid, (2) deletion of the 30 MMscfd cryogenic separation plant, and (3) deletion of the engine and turbine testing requirements; issued on March 18, 1983.

63. PSD–TX–370M–1; Guardian Industries; glass manufacturing facility located on U.S. Highway 287, approximately 1.5 miles southeast of Corsicana, Navarro County, Texas; modifies the permit to remove the continuous NO_x, SO_2 and opacity monitors and the 10% opacity limitation; issued on September 9, 1981.

64. PSD–TX–371; Houston Lighting and Power; authorizes the construction of a new 1500 megawatt coal-fired steam electric generating station to be located on FM Road 39, approximately 3.1 miles southeast of Farrar, Limestone County, Texas; issued on September 10, 1981.

65. PSD–TX–372M–1; Sun Gas Company; natural gas processing plant located on a private road approximately 1 mile south of Silver, Coke County, Texas; modifies the permit to: (1) Reflect the replacement of a 600 hp internal combustion (IC) engine with a 1200 hp IC engine, and (2) delete the requirement for the use of oxygen flue gas monitors; issued on October 22, 1981.

66. PSD–LA–373; Hill Petroleum Company; petroleum refinery located on State Highway 105 in Krotz Springs, St. Landry Parish, Louisiana; authorizes the modification to the existing refinery by the addition of: (1) A 50,000 bpsd crude topping unit, (2) a 16,550 bpsd vacuum distillation unit, (3) petroleum liquid storage tanks, and (4) barge loading docks; issued on April 5, 1982.

67. PSD–OK–375; Fort Howard Paper Company; paper mill located on Harold Abitz Drive in Muskogee, Muskogee County, Oklahoma; authorizes the modification of the existing mill by installing a natural gas-fired turbine; issued on June 4, 1981.

68. PSD–LA–378 and PSD–LA–378M–1; Texaco, Incorporated; petroleum refinery located on the Ascension-St. James Parish boundary line, along the east bank of the Mississippi River in Convent, St. James Parish, Louisiana; LA–378 authorizes the modification of the existing refinery by installing a sulfur recovery complex; issued on April 23, 1981: LA–378M–1 modifies the permit by deleting emission point (a) which is the HTU-CRU flue gas cooler; issued on February 1, 1982.

69. PSD–TX–379 and PSD–TX–379M–1; Lufkin Industries; iron foundry located at Trout and Winston Streets in Lufkin, Angelina County, Texas; TX–379 authorizes the replacement of an existing gray iron cupola, with the capacity to melt 25 tons of iron per hour, with a new cupola with a melting capacity of 50 tons of iron per hour; issued on May 26, 1981: TX–379M–1 modifies the permit to: (1) Require the maintenance of a temperature of at least 1200°F in the stack gas instead of the permitted 1600°F, (2) add the requirement that the gases to be incinerated have a retention time of at least 0.57 seconds, (3) delete the requirement for continuous monitoring of opacity, (4) delete the 10% opacity limit, and (5) delete the requirement for the use of Method 9 for determining compliance with the opacity; issued on August 5, 1981.

70. PSD–AR–380; Potlatch Corporation; Kraft pulp and paper mill located on the Mississippi River, approximately 10 miles northeast of McGehee, Desha County, Arkansas; authorizes the construction of a new coal-fired boiler and associated coal handling and storage facilities at the existing mill; issued on February 10, 1982.

71. PSD–LA–381; Texaco, Incorporated; Rabbit Island "A" Platform natural gas compressor station located in East Cote Blanche Bay approximately 11 miles southeast, offshore of South Point of Marsh Island, Iberia Parish, Louisiana; authorizes the installation of two 1650 hp compressor engines and two 360 hp generator drivers; issued on July 27, 1981.

72. PSD–LA–382; Texaco, Incorporated; Rabbit Island "D" Platform natural gas compressor station located in East Cote Blanche Bay, approximately 12 miles southeast, offshore of South Point of Marsh Island, Iberia Parish, Louisiana; authorizes the installation of one 1560 hp compressor engine and one 40 hp generator driver; issued on July 30, 1981.

73. PSD–TX–387; Friendswood Refining Corporation; (now Brio Refining, Inc.) petroleum refinery located on Choate Road near the intersection with Beamer Road in Houston, Harris County, Texas; authorizes the expansion of the existing refinery from 12,000 barrels per day to 30,000 barrels per day; issued on June 30, 1981.

74. PSD–TX–388; Independent Refining Corporation; petroleum refinery located on Highway 124, approximately 2½ miles southwest of Hamshire, Jefferson County, Texas; authorizes the expansion of the existing refinery from 45,000 barrels per day to 50,000 barrels per day; issued on September 11, 1981.

75. PSD–NM–389 and PSD–NM–389M–1; Phillips Petroleum Company; Lusk natural gas processing plant located on Highway 128, approximately 15 miles south of Maljamar, Lea County, New Mexico; NM–389 authorizes the installation of two 585 BHP turbocharged compressor engines; issued on October 8, 1981: NM–389M–1 modifies the permit to amend Specific Condition 3 to allow checking and adjustment of the air/fuel ratio and ignition timing once every four months instead of monthly; issued on February 4, 1983.

76. PSD–LA–390; Conoco, Incorporated; petroleum refinery located on Highway 90/IH–10, due west of Westlake, Calcasieu Parish, Louisiana; authorizes the modification of the existing refinery by the construction of a sour crude/resid conversion facility; issued on August 10, 1981.

77. PSD–TX–391; Panhandle Eastern Pipe Line Company; Blair-Heydrick natural gas compressor station located off Highway 207, approximately 6 miles south of Borger, Carson County, Texas; authorizes the installation of a 771 hp compressor engine at the existing station; issued on December 10, 1981.

78. PSD–LA 393; Dow Chemical, U.S.A.; chemical production complex located on Highway 1, on the west bank of the Mississippi River, immediately north of Plaquemine, Iberville Parish, Louisiana; authorizes the installation of two natural gas-fired combined cycle turbine generators at the Power II generating facility; issued on August 11, 1981.

79. PSD–TX–394; Independent Refining Corporation; petroleum refinery located on Highway 124, approximately 2½ miles southwest of Hamshire, Jefferson County, Texas; authorizes the installation of: (1) Fluid catalytic cracking unit, (2) HF alkylation unit, (3) amine contractors and regeneration units, (4) Merox sweetening units, (5) three-stage Claus sulfur plant with SCOT tailgas cleanup, (6) 10,000–GPM cooling tower, (7) 4 floating roof storage tanks, (8) 2 fixed roof storage tanks, (9) pressure sphere, (10) emergency flare, and (11) 3 combustion sources that will fire refining fuel gas as fuel; issued on December 3, 1981.

80. PSD–LA–395; International Paper Company; Kraft pulp and paper mill located at the intersection of State Highway 139 and East Carter Avenue in Bastrop, Morehouse Parish, Louisiana; authorizes the replacement of 4 (690 MMBtu/hr, combined) oil-fired boilers with one 760 MMBtu/hr coal/wood bark-fired boiler; issued on November 18, 1981.

81. PSD–OK–398; United Gas Pipe Line Company; authorizes the construction of a natural gas compressor station, including six 4050 hp compressor engines, to be located off State Highway 1, approximately 2 miles northeast of Roff, Pontotoc County, Oklahoma; issued on April 5, 1982.

82. PSD–OK–399; United Gas Pipe Line Company; authorizes the construction of a natural gas compressor station, including seven 4050 hp compressor engines, to be located off State Highway 47, approximately 6 miles northwest of Custer City, Custer County, Oklahoma; issued on June 21, 1982.

83. PSD–TX–402 and PSD–TX–402M–1; Amoco Oil Company; petroleum refinery located at 2401 Fifth Avenue South in Texas City, Galveston County, Texas; TX–402 authorizes the modification of the existing refinery by the installation of: (1) A cat feed hydrotreater unit, (2) a resid hydrotreater unit, and (3) a sulfur recovery unit; issued on October 13, 1981: TX–402M–1 modifies the permit to exempt emission points (j) (common stack for RHU 482 a & b) and (m) (common stack for RHU 483 a & b) from the initial nitrogen oxide performance testing requirements if the company demonstrates that the oxygen content of the flue gas for emission points (j) and (m) is the range determined for emission point (g) (common stack for RHU 481 a & b); issued on December 8, 1981.

84. PSD–OK–404; Fort Howard Paper Company; paper mill located on Harold Abitz Drive in Muskogee, Muskogee County, Oklahoma; authorizes the modification of the existing paper mill by installing a paper machine and coal-fired boiler; issued on October 21, 1981.

85. PSD–TX–405; Dow Chemical Company; petroleum refinery located near the intersection of FM Road 523 and FM Road 332 in Freeport, Brazoria County, Texas; authorizes the addition of a vaccum distillation unit to the existing refinery; issued on December 3, 1981.

86. PSD–LA–406; Southern Natural Gas Company; natural gas compressor station located on State Highway 507, approximately 1.5 miles northeast of Bienville, Bienville Parish, Louisiana; authorizes the installation of two 448 BHP turbocharge compressor engines at the existing facility; issued on September 11, 1981.

87. PSD–TX–408 and PSD–TX–408M–1; Champlin Petroleum Company; West Plant petroleum refinery located near the intersection of Up River Road and Southern Minerals Road in Corpus Christi, Nueces County, Texas; TX–408 authorizes the addition of a coker complex to the existing refinery; issued on November 13, 1981: TX–408M–1 modifies the permit to: (1) eliminate the kerosene hydrotreater, two 47 MMBtu/hr boilers, and the cokeship and tanker loading facilities, (2) relocate the coker unit, (3) add one 99 MMBtu/hr boiler, (4) reduce tankage from 20 to 16, (5) utilize refinery fuel gas rated at 850 BTU/hr instead of 916 Btu/hr, and (6) modify the coke handling/removal procedure; issued on May 17, 1983.

88. PSD–TX–410; Airco Carbon; authorizes the construction of a coke plant which is the initial phase of a graphite electrode manufacturing facility to be located near the intersection of State Highways 35 and 185, approximately 8 miles northwest of Seadrift, Calhoun County, Texas; issued on October 30, 1981.

89. PSD–TX–413; Gulf States Oil and Refinery Company (name changed to Koch Refining Company on February 17, 1983); petroleum refinery located at 9254 Up River Road in Corpus Christi, Nueces County, Texas; authorizes the expansion of the petroleum separation facilities at the existing refinery; issued on January 6, 1982.

90. PSD–TX–416; J. M. Huber Corporation; carbon black plant located on Highway 136 on the west side of

Borger, Hutchinson County, Texas; authorizes an increase of the sulfur level in the carbon black oil from 1.5 percent to 3 percent; issued on June 11, 1982.

91. PSD–TX–417; Elgin-Butler Brick Company; brick plant located on FM Road 696, approximately 5 miles east of Elgin, Bastrop County, Texas; authorizes the modification of the existing facility by the addition of a moving bed, lignite-fired, coal gasifier; issued on May 17, 1982.

92. PSD–NM–418; Plains Electric Generation and Transmission Cooperative, Inc; Algodones Power Plant located on Highway 85, approximately 7.5 miles northeast of Bernalillo, Sandoval County, New Mexico; authorizes the modification of the existing facility by installing a 729.4 MMBtu/hr gas turbine electric generating unit; issued on December 29, 1981.

93. PSD–LA–419; Conoco, Incorporated; petroleum refinery located on Interatate Highway 10, due west of Westlake, Calcasieu Parish, Louisiana; authorizes the addition of a catalytic reforming unit and a naphtha desulfurization unit; issued on October 8, 1981.

94. PSD–LA–420; Texaco, Incorporated; petroleum refinery located on the east bank of the Mississippi River at the Ascension-St. James Parish boundary line in Convent, St. James Parish, Louisiana; authorizes the modification of the existing refinery by installing an increased sour crude running and residuum upgrading facility; issued on November 16, 1981.

95. PSD–NM–422; Plateau, Incorporated; petroleum refinery located on the north side of Sullivan Road, approximately 1 mile southeast of Bloomfield, San Juan County, New Mexico; authorizes the expansion of the existing refinery from 15,000 to 18,000 barrels per day; issued on June 11, 1982.

96. PSD–OK–424; Union Texas Petroleum Corporation; natural gas compressor station located in a remote area, approximately 1.5 miles southeast of Aline, Alfalfa County, Oklahoma; authorizes the addition of two 1000 hp natural gas compressor engines to the existing station; issued on January 19, 1982.

97. PSD–OK–425; Union Texas Petroleum Corporation; natural gas plant located in a remote area, approximately 3 miles north of Ringwood, Major County, Oklahoma; authorizes: (1) The installation of four 1000 hp gas turbines and two 1000 hp compressor engines, and (2) the replacement of a 660 hp compressor engine with a 1000 hp compressor engine; issued on January 19, 1982.

98. PSD–NM–427; Phillips Petroleum Company; natural gas processing plant located approximately 13 miles southeast of Artesia, Eddy County, New Mexico; authorizes the installation of two 650 BHP compressor engines at the existing plant; issued on January 29, 1982.

99. PSD–TX–432; Champlin Petroleum Company; cryogenic natural gas expander plant located on U.S. Highway 79, approximately 4 miles northeast of Carthage, Panola County, Texas; authorizes the addition of: (1) Sixteen 1000 hp natural gas-fired compressor engines, (2) two heaters, and (3) a cryogenic expander unit; issued on January 29, 1982.

100. PSD–TX–434; Columbia Chemical; carbon black plant located on FM Road 1485, approximately 4 miles east of Conroe, Montgomery County, Texas; authorizes: (1) The replacement of all natural gas with tail gases to fire 8 dryers, and (2) combustion of the remaining portion of available tail gases in 2 new CO boilers; issued on January 13, 1982.

101. PSD–TX–436; Marathon Oil Company; Yates natural gas sweetening plant located on FM Road 1257, approximately 3 miles southwest of Iraan, Pecos County, Texas; authorizes the expansion of the existing plant from 25 MMCFD to 40 MMCFD; issued on July 8, 1982.

102. PSD–TX–437; St. Regis Paper Company; Kraft paper mill located on Highway 103 on the east edge of Lufkin, Angelina County, Texas; authorizes the installation of: (1) A 550 MMBtu/hr low-odor boiler, (2) associated smelt dissolving tank capacity, (3) a multiple-effect evaporator/concentrator system, (4) a new green liquor clarifier, and (5) black liquor storge tanks (to replace equipment presently being used for these functions); issued on December 23, 1981.

103. PSD–TX–441; Chemical Lime, Incorporated; lime plant located on FM Road 2602, approximately 6 miles south of Clifton, Bosque County, Texas; authorizes the addition of a third coal-fired lime kiln at the existing plant; issued on January 6, 1982.

104. PSD–TX–442; Liquid Energy Corporation; authorizes the construction of a new cryogenic natural gas plant to be located approximately 5 miles southeast of Morgan Mill, Erath County, Texas; issued on June 11, 1982.

105. PSD–TX–443; Mitchell Energy Production Company; authorizes the construction of a carbon dioxide recovery plant to be located on State Highway 114, approximately 3.5 miles west of Bridgeport, Wise County, Texas; issued on November 24, 1981.

106. PSD–TX–445 and PSD–TX–445M–1; Production Operators, Incorporated; TX–445 authorizes the construction of a new carbon dioxide recovery plant to be located approximately 3 miles north of Fort Stockton, Pecos County, Texas; issued on November 12, 1981: PSD–TX–445M–1 modifies the permit to: (1) Revise Specific Provision 4 to require sampling on at least one-half of each size engine at this site and allow the performance of the catalytic converters on the remaining engines to be established with performance curves calibrated by this sampling, (2) revise Specific Provisions 5 and 6 to specify monthly calibration of the air/fuel ratio controllers and to require monitoring of the nitrogen oxides and carbon monoxide emissions, and (3) add two 250 hp blowers, two 1000 hp compressors, and four gas-fired internal combustion engines; issued on December 23, 1982.

107. PSD–TX–447; Anheuser-Busch, Incorporated; brewery located at 775 Gellhorn Drive, Houston, Harris County, Texas; authorizes the modification of the existing brewery by the addition of three new gas/oil-fired boilers; issued on June 22, 1982.

108. PSD–TX–450; POGO Producing Company; authorizes the construction of a gas sweetening plant to be located 1 mile north of State Highway 33, approximately 14.5 miles southeast of Canadian, Hemphill County, Texas; issued on January 18, 1982.

109. PSD–TX–453; American Petrofina Company of Texas; petroleum refinery located at the intersection of Highway 366 and 32nd Street in Port Arthur, Jefferson County, Texas; authorizes the modification of the existing refinery by: (1) The addition of a gas oil hydrodesulfurization unit, crude unit, hydrocracker, hydrogen plant, coker, 2 Claus sulfur recovery plants, SCOT unit, and an emergency flare; and (2) modification of the residuum solvent extraction unit heater to allow for liquid fuel firing capability, in addition to the present natural gas firing capability; issued on January 28, 1983.

110. PSD–TX–454; Dal-Tex Cement Company; authorizes the construction of a Portland cement plant, with a coal-fired preheater and precalciner kiln, to be located on Highway 67, approximately 2 miles northeast of Midlothian, Ellis County, Texas; issued on September 24, 1982.

111. PSD–TX–455; Superior Oil Company; natural gas processing plant located on Highway 77A, approximately one mile west of Hallettsville, Lavaca County, Texas; authorizes modification of the existing North Work plant to: (1)

Increase the capacity from 32.2 MMCFD to 45 MMCFD, and (2) provide for processing gas with a larger hydrogen sulfide content; issued on April 20, 1982.

112. PSD–TX–456; American Petrofina Company of Texas; petroleum refinery located at the intersection of Highway 366 and 32nd Street in Port Arthur, Jefferson County, Texas; authorizes the addition of a residuum solvent extraction unit to the existing refinery; issued on April 15, 1982.

113. PSD–TX–457; Cabot Corporation; carbon black plant located on U.S. Highway 60, approximately 4 miles southwest of Pampa, Gray County, Texas; authorizes the construction of a flare stack at the existing plant; issued on January 29, 1982.

114. PSD–TX–459; Amoco Chemicals Corporation; chemical plant located at 2800 FM Road 519 East in Texas City, Galveston County, Texas; authorizes the modification of the No. 2 styrene unit to increase production of styrene from 620 MM lbs/yr to 796 MM lbs/yr and to increase the efficiency of the unit; issued on April 15, 1982.

115. PSD–TX–460; Red River Pipeline Corporation; authorizes the construction of a natural gas compressor station to be located approximately 2.8 miles southeast of Wheeler, Wheeler County, Texas; issued on May 19, 1982.

116. PSD–TX–461; Chemical Lime, Incorporated; authorizes the construction of a lime plant to be located near Highway 281, approximately 5.5 miles south of Burnett, Burnett County, Texas; issued on June 23, 1982.

117. PSD–TX–463; Continental Carbon Company; carbon black plant located off FM Road 119, approximately 5 miles southwest of Sunray, Moore County, Texas; authorizes the modification of the existing plant to use waste gas instead of natural gas in Unit 3 dryer, issued on November 17, 1982.

118. PSD–TX–464; Warren Petroleum Company; Sand Hills natural gas processing plant located off FM Road 1053, approximately 27 miles northwest of Crane, Crane County, Texas; authorizes the modification of the existing plant by installing additional refrigeration and residual gas compressors to achieve the desired plant capacity of 125 MM SCFD; issued on August 5, 1982.

119. PSD–TX–465; Badische Corporation; chemical manufacturing facility located at 602 Copper Road, Freeport, Brazoria County, Texas; authorizes the modification of the existing plant by the addition of a 200 MMBtu/hr natural gas-fired boiler to the Hydroxylamine 1 unit; issued on August 10, 1982.

120. PSD–TX–468; Inexco Oil Company; natural gas well located near Lake Wright Patman, approximately 2.5 miles northeast of Douglassville, Cass County, Texas; authorizes the construction of a temporary well testing facility to determine the type of permanent treating facility to install at the well; issued on October 21, 1982.

121. PSD–TX–469; Pioneer Gas Products Company; natural gas processing plant located on Highway 136, approximately 7 miles south of Fritch, Potter, County, Texas; authorizes the addition of four 1210 hp compressor engines; issued on January 28, 1983.

122. PSD–TX–470; Getty Oil Company; authorizes the construction of a natural gas treating and sulfur recovery plant to be located off FM Road 416, approximately 6.3 miles northeast of Streetman, Freestone County, Texas; issued on February 7, 1983.

123. PSD–TX–471; Kirby Forest Industries, Incorporated; authorizes the construction of a Kraft pulp and paper mill to be located off FM Road 363, approximately 1.5 miles west of Bon Wier, Newton County, Texas; issued on June 24, 1983.

124. PSD–TX–472; W. R. Edwards, Jr., Oil and Gas Association; natural gas processing plant located off FM Road 1923, approximately 14 miles northwest of Stinnett, Hutchinson County, Texas; authorizes the addition of an amine unit to the existing plant; issued on May 25, 1983.

125. PSD–TX–475; Red River Army Depot; the depot, located on U.S. Highway 82, approximately ¾ of a mile south of Hooks, Bowie County, Texas, receives, stores, maintains, and issues general supplies and ammunition; authorizes the replacement of 2 existing gas/oil-fired boilers with 3 coal/wood chips-fired boilers; issued on March 4, 1983.

126. PSD–TX–476; Texas Eastman Company; organic chemicals and plastics manufacturing facility located on Interstate Highway 20, approximately 5 miles southeast of Longview, Harrison County, Texas; authorizes the installation of an industrial waste incinerator; issued on April 29, 1983.

127. PSD–TX–482; Liquid Energy Corporation; authorizes the construction of a 40 MMSCF/day natural gas processing plant to be located approximately 5.5 miles southwest of Stinnett, Hutchinson County, Texas; issued on April 29, 1983.

128. PSD–TX–500; Shell Oil Company; Wasson Casinghead natural gas processsing plant located east of State Highway 214, north of FM Road 1939, approximately 1.5 miles north of Denver City, Yoakum County, Texas; authorizes the modification of the existing facility by the incorporation of CO_2 recovery plant; issued on June 23, 1983.

129. PSD–LA–503; Lake Charles Refining Company; petroleum refinery located on State Highway 3059, approximately 3 miles northeast of Lake Charles, Calcasieu Parish, Louisiana; authorizes the modification of the existing refinery to allow: (1) The use of gas and lower sulfur fuel oil as fuel, and (2) the addition of a standby crude heater, coker visbreaker, diesel desulfurization unit, and sulfur recovery plant; issued on January 18, 1982.

130. PSD–LA–505; Continental Forest Industries; Kraft paper mill located on State Highway 167 in Hodge, Jackson Parish, Louisiana; authorizes: (1) The construction of a pulverized coal-fired boiler, and (2) conversion of an existing combination natural gas/bark-fired boiler to a combination pulverized coal/bark-fired boiler; issued on June 2, 1983.

131. PSD–OK–551; Michigan Wisconsin Pipe Line Company; natural gas compressor station located approximately 3 miles southwest of Thomas, Custer County, Oklahoma; authorizes: (1) The installation of two 2000 hp compressor engines, and (2) uprating of three existing compressor engines from 850 to 1000 hp each; issued on April 9, 1982.

132. PSD–OK–552; Grand River Dam Authority; coal-fired generating station located ½ mile north of State Highway 33, approximately 3 miles east of Chouteau, Mayes County, Oklahoma; authorizes the construction of a 520 megawatt coal-fired electric generating unit (No. 2) at the existing facility; issued on April 9, 1982.

133. PSD–OK–556; Stream Supply Corporation; authorizes the construction of: (1) Three 230 tons/day steam electric generating, municipal solid waste incinerators, and (2) associated waste handling facilities, to be located at 21st and Yukon Street, Tulsa, Tulsa County, Oklahoma; issued on December 23, 1982

134. PSD–OK–560; Mesa Petroleum Corporation; authorizes the construction of a natural gas sweetening facility, with tailgas incinerator, to be located approximately 2 miles south and 3 miles east of Sweetwater, Beckham County, Oklahoma; issued on May 5, 1983.

135. PSD–NM–576; MAPCO Production Company; White Ranch natural gas processing plant located approximately 34 miles northeast of Roswell, Chaves County, New Mexico; authorizes the modification of the existing plant to: (1) Reflect a change in the inlet gas, and the equipment to dispose of the SO_2 in the waste gas, and (2) replace the existing 102 feet

incinerator stack with a 200 feet flare stack; issued on January 14, 1983.

136. PSD–TX–601; Shell Oil Company; natural gas processing plant located east of State Highway 214, north of FM Road 1939, approximately 1.5 miles north of Denver City, Yoakum County, Texas; authorizes the construction of a sulfur recovery plant at the existing facility; issued on June 23, 1983.

These permits have been issued under EPA's Prevention of Significant Air Quality Deterioration Regulations at 40 CFR 52.21, as amended August 7, 1980. The time period established by the Consolidated Permit Regulations at 40 CFR 124.19 for petitioning the Administrator to review any condition of the permit decisions has expired. Such a petition to the Administrator is, under 5 U.S.C. 704, a prerequisite to the seeking of judicial review of the final agency action. No petitions for review of these permits have been filed with the Administrator.

Documents pertaining to these permits are available for public inspection upon request at the following location: Environmental Protection Agency, Region 6, Air and Waste Management Division, 1201 Elm Street, InterFirst Two Building, Dallas, Texas 75270.

This notice will have no effect on the National Ambient Air Quality Standards.

The Office of Management and Budget has exempted this information notice from the requirements of Section 3 of Executive Order 12291.

Dated: August 30, 1983.

Dick Whittington,

Regional Administrator, Region 6.

[FR Doc. 83–24988 Filed 9–13–83; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–53052; TSH–FRL 2422–1]

Premanufacture Notices; Monthly Status Report for July 1983

Correction

In FR Doc. 83–23303, beginning on page 38891, in the issue of Friday, August 26, 1983, make the following corrections:

1. On page 38891, in table "I.", in entry 83–883, "calcum" should read "calcium".

2. On page 38892, in the fifth line of the table, in entry 83–911, "Generic name:" should be removed.

3. On page 38894, in table "III.", in entry 83–619, in the first line, "[4-[[4–" should read "[4-[[4-[[4-".

4. On page 38895, in table "IV.", in entry 82–305, "hyroxyethyl" should read "hydroxyethyl".

5. On page 38896, in table "V.", in entry 83–115, in the second line "momochlorotriazinyl" should read "monochlorotriazinyl".

6. Also on page 38896, in table "V.", in entry 83–622, in the third line, "hexasoldium" should read "hexasodium".

BILLING CODE 1505–01–M

FEDERAL COMMUNICATIONS COMMISSION

[MM Docket Nos. 83–951 and 952, File Nos. BP–810226AE and BP–810526AE]

Auburn Broadcasters, Inc. and Spanish American Radio Corp.; Hearing Designation Order

In the matter of Applications of Auburn Broadcasters, Inc., KASY, Auburn, Washington, Has: 1220 kHz, 2.5 kW, DA–D Req: 1210 kHz, 1 kW, 10 kW–LS, U (MM Docket No. 83–951. File No. BP–810226AE) and Spanish American Radio Corp., Seattle, Washington, Req: 1200 kHz, 250 W, 1 kW–LS, DA–N, U (MM Docket No. 83–952. File No. BP–810526AE) for Construction Permit.

Adopted: August 25, 1983.
Released: September 13, 1983.
By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications for a modified and a new AM broadcast station. In addition, we have before us an informal objection to the application of Spanish American Radio Corporation filed by Clear Channel Communications, Inc., licensee of station WOAI, San Antonio, Texas.

2. *Auburn Broadcasters, Inc.* We are unable to determine whether the nighttime normally-protected (10 mV/m) contour of this proposal would provide service to all residential areas of Auburn, as required by § 73.24(j) of the Commission's Rules, and if not, whether circumstances exist which warrant waiver of the rule. An issue will be specified.

3. *Spanish American Radio Corporation.* One of this applicant's three principals, a Peruvian citizen, is its vice-president and a corporate director. As Section 310(b)(3) of the Communications Act of 1934, as amended, bars aliens from holding such positions, Spanish American must remove him from these offices and show it has done so by appropriate amendment.[1]

4. Spanish American's application, filed on the 1977 Form 301, indicates that $78,788 will be required to construct the station and to operate for three months. Subsequently, Spanish American amended its application to propose two 156 foot towers rather than four 60 foot towers, a change not reflected in the cost estimate. The application proposes to finance the station with loans from its three principals totalling $100,000. Their personal balance sheet show only about $6,000 net liquid assets available to meet these commitments, however, and no corporate balance sheet has been submitted. A limited financial issue will be specified to consider these deficiencies.[2]

5. Operating as proposed, Spanish American would provide nighttime normally protected (10 mV/m) service to only 50 percent of Seattle's area and 53 percent of its population. This falls considerably short of the principal-city service required by § 73.24(j) of the Commission's Rules, and the applicant has requested a waiver. In support, Spanish American states that Seattle is an irregularly shaped city, that complete coverage would not be possible from any transmitter location, and that it is a minority-controlled applicant proposing minority-oriented programming. The contention that no better site could be found or better coverage achieved is conclusory however, and Spanish American has therefore not met its burden of establishing that waiver is warranted. An appropriate issue will be specified.

6. Clear Channel Communications, Inc., seeks an inquiry into the effect of Spanish American's proposed operation on the nighttime operation of station WOAI, arguing that the new service could cause interference to WOAI's listeners. We have already acknowledged the possibility of such interference, however, but have found it a necessary cost of satisfying the need for additional services on the Class I–A clear channels, *Clear Channel Broadcasting in the AM Broadcast Band*, 78 FCC 2d 1367; *recon. granted in part and denied in part*, 83 FCC 2d 216 (1981); *aff'd sub nom. Loyala University v FCC*, 670 F. 2d 1222 (D.C. Cir. 1982). No basis for further inquiry thus exists.

7. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed.[3] However, since the

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[1] Section 310(b)(3) provides, "No broadcast . . . radio station license shall be granted to or held by . . . any corporation of which any officer or director is an alien or of which more than one-fifth of the capital stock is owned of record or voted by aliens . . ." The Peruvian principal's stock holdings, 18 percent, are not inconsistent with this restriction.

[2] The certification process is not available to Spanish American under these circumstances. *South Florida Broadcasting Company, Inc.*, FCC 83–265, released June 2, 1983.

[3] Operation with the facilities specified herein is subject to modification, suspension or termination

Continued

proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding. Although the applications are for different communities, they would serve substantial aeas in common. Therefore, in addition to an issue to determine pursuant to Section 307(b) of the Communications Acts of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service, a contingent comparative issue will be specified.

8. Accordingly, it is ordered, that pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether the normally-protected nighttime (12 mV/m) contour of the proposal of Auburn Broadcasters, Inc., would provide service to all residential areas of Auburn, Washington, as required by § 73.24(j) of the Commission's Rules, and if not, whether circumstances exist which warrant waiver of the rule.

2. To determine with respect to Spanish American Radio Corporation (1) whether the applicant's original cost estimates should be revised to reflect subsequent amendment to its technical proposal, (2) whether the applicant's principals have available sufficient net liquid assets to meet their commitments, and (3) in light thereof, whether the applicant is financially qualified to construct the station and operate as proposed.

3. To determine whether the nighttime normally-protected (10 mV/m) contour of the proposal of Spanish American Radio Corporation would provide service to all residential areas of Seattle, Washington, as required by § 73.24(j) of the Commission's Rules, and if not, whether circumstances exist which warrant waiver of the rule.

4. To determine the areas and populations which would receive primary service from each proposal and the availability of other primary aural service to such areas and populations.

5. To determine, in light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient, and equitable distribution of radio service.

6. To determine, in the event it be concluded that a choice among the proposals should not be based solely on considerations relating to Section 307(b), which of the proposals would, on a comparative basis, best serve the public interest.

7. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications, if any, should be granted.

9. It is further ordered, That Spanish American Radio Corporation shall file with the presiding Administrative Law Judge, within 30 days of the release of this Order, the information specified in paragraph 3 above.

10. It is further ordered, That the informal objection to the application of Spanish American broadcasting Corporation filed by Clear Channel Communications, Inc., is denied.

11. It is further ordered, That to avail themselves of the opportunity to be heard and pursuant to § 1.221(c) of the Commission's Rules, the applicants shall within 20 days of the mailing of this Order, in person or by attorney, file with the Commission, in triplicate, written appearances stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this order.

12. It is further ordered, That pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, the applicants shall give notice of the hearing as prescribed in the rule, and shall advise the Commission of the publication of the notices as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 83-24907 Filed 9-13-83; 8:45 am]

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without right to hearing, if found by the Commission to be necessary in order to conform to the Final Acts of ITU Administrative Conference on Medium Frequency Broadcasting in Region 2, Rio de Janeiro 1981, and to bilateral and other multilateral agreements between the United States and other countries.

[CC Docket Nos. 83-873 and 874, File Nos. 10300-CM-P-80 and 11609-CM-P-80]

Broadcast Data Corp. and Kravetz Media Corp.; Memorandum Opinion and Order

In re Applications of Broadcast Data Corp. (CC Docket No. 83-873, File No. 10300-CM-P-80) and Kravetz Media Corp. (CC Docket No. 83-874, File No. 11609-CM-P-80) for construction permits in the Multipoint Distribution Service for a new station at Bowling Green, Kentucky.

Adopted: August 9, 1983.

Released: August 26, 1983.

By the Common Carrier Bureau.

1. For consideration are the above-referenced applications.[1] These applications are for construction permits in the Multipoint Distribution Service and they propose operations on Channel 1 at Bowling Green, Kentucky. The applications are therefore mutually exclusive and, under present procedures, require comparative consideration. There are no petitions to deny or other objections under consideration.[2]

2. Upon review of the captioned applications, we find that these applicants are legally, technically, financially, and otherwise qualified to provide the services which they propose, and that a hearing will be required to determine, on a comparative basis, which of these applications should be granted.[3]

3. Accordingly, it is hereby ordered, That pursuant to section 309(e) of the Communications Act of 1934, as amended, 47 U.S.C. 309(e) and § 0.291 of the Commission's rules, 47 CFR 0.291, the above-captioned applications are designated for hearing, in a consolidated proceeding, at a time and place to be specified in a subsequent Order, to determine, on a comparative basis, which of the above-captioned applications should be granted in order to best serve the public interest, convenience and necessity. In making such a determination, the following factors shall be considered: [4]

(a) The relative merits of each proposal with respect to efficient frequency use, particularly with regard to compatibility with co-channel use in nearby cities and adjacent channel use in the same city;

(c) The anticipated quality and reliability of the service proposed, including installation and maintenance programs; and

(b) The comparative cost of each proposal considered in context with the benefits of efficient spectrum utilization and the quality and reliability of service as set forth in issues (a) and (b).

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[1] On September 10, 1981, Richard L. Vega and Christopher Laning executed an Assets Sale and Purchase Agreement with Broadcast Data Corp. to assign the radio authorizations and applications of Northstar Communications to Broadcast Data Corp. Broadcast Data Corp. is a wholly-owned subsidiary of Graphic Scanning Corporation. See International Television Corporation, File No. 50078-CM-AP/AL-(5)-82 (release June 25, 1982).

[2] On March 28, 1983, Northstar Communications was granted an exemption from the Commission's "cut-off" rules pursuant to § 21.31 of the Rules 47 CFR 21.31, to preserve the status of its pending mutually exclusive applications.

[3] This finding is subject to paragraph 6, *infra*.

[4] Consideration of these factors shall be in light of the Commission's discussion in *Frank K. Spain*, 77 FCC 2d 20 (1980).

4. It is further ordered, that Broadcast Data Corp., Kravetz Media Corporation and the Chief, Common Carrier Bureau, are made parties to this proceeding.

5. It is further ordered, that parties desiring to partcipate herein shall file their notices of appearance in accordance with the provision of Section 1.221 of the Commission's Rules, 47 CFR 1.221.

6. It is further ordered, that any authorization granted to Broadcast Data Corp., a wholly-owned subsidiary of Graphic Scanning Corporation, as a result of the comparative hearing shall be conditioned on, and without prejudice to, reexamation and reconsideration of that company's qualifications to hold an MDS license following a decision in the hearing designated in *A.S.D. Answering Service, Inc., et al.*, FCC 82-391, released August 24, 1982, and shall be specifically conditioned upon the outcome of that proceeding.

7. This Order is effective on its release date, petitions for reconsideration under § 1.106 or application for review under § 1.115 of the Rules may be filed within the time limits specified in those sections. *See also* Rule 1.4(b)(2).

8. The Secretary shall cause a copy of this Order to be published in the **Federal Register.**

Kevin J. Kelley,

Deputy Chief, Domestic Facilities Division, Common Carrier Bureau.

[FR Doc. 83-24999 Filed 9-13-83; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket Nos. 83-869 and 870, File Nos. 10741-CM-P-80 and 50095-CM-P-81]

Robert A. Gordon and Microband Corporation of America; Memmorandum Opinion and Order

In re Application of Robert A. Gordon d.b.a. The BA Company (CC Docket No. 83-869, File No. 10741-CM-P-80) and Microband Corporation of America (CC Docket No. 83-870, File No. 50095-CM-P-81) for construction permits in the Multipoint Distribution Service for a new station at Englewood, Florida.

Adopted: August 5, 1983.
Release: August 26, 1983.

By the Common Carrier Bureau.

1. For consideration are the above-referenced applications.[1] These applications are for construction permits in the Multipoint Distribution Service and they propose operations on Channel 1 at Englewood, Florida. The applications are therefore mutually exclusive and, under present procedures, require comparative consideration. There are no petitions to deny or other objections under consideration.[2]

3. Accordingly, it is hereby ordered, that pursuant to Section 309(e) of the Communications Act of 1934, as amended 47 U.S.C. 309(e) and § 0.291 of the Commission's rules 47 CFR 0.291, the above captioned applications are designated for hearing, in a consolidated proceeding, at a time and place to be specified in a subsequent Order, to determine, on a comparative basis, which of the above-captioned applications should be granted in order to best serve the public interest, convenience and necessity. In making such a determination, the following factors shall be considered:[3]

(a) The relative merits of each proposal with respect to efficient frequency use, particularly with regard to compatibility with co-channel use in nearby cities and adjacent channel use in the same city;

(b) The anticipated quality and reliability of the service proposed, including installation and maintenance programs; and

(c) The comparative cost of each proposal considered in context with the benefits of efficient spectrum utilization and the quality and reliability of service as set forth in issues (a) and (b).

4. It is further ordered, that Robert A. Gordon d.b.a. The BA Company, Mircroband Corporation of America and the Chief, Common Carrier Bureau, are made parties to this proceeding.

5. It is further ordered, that parties desiring to participate herein shall file their notices of appearance in accordance with the provisions of § 1.221 of the Commission's Rules, 47 CFR 1.221.

6. The Secretary shall cause a copy of this Order to be published in the **Federal Register.**

Kevin J. Kelley,

Deputy Chief, Domestic Facilities Division, Common Carrier Bureau.

[FR Doc. 83-24998 Filed 9-13-83; 8:45 am]

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[1] On August 18, 1980, Tymshare, Inc. (Tymshare) and Arthur Lipper Corporation (ALC) executed a contract whereby ALC agreed to transfer control of Microband Corporation of America to Tymshare. *Transfer of Control/MDS, 85 FCC 2d 1023 (1981).*

[2] By Memorandum Opinion and Order adopted June 26, 1981 and released July 2, 1981, Mimeo No. 001863, Microband was granted an exemption from the Commission's "cut-off" rules pursuant to § 21.31 of the Rules, 47 CFR 21.31, the preserve the status of its pending mutually exclusive application.

[3] Consideration of these factors shall be in light of the Commission's discussion in *Frank K. Spain, 77* FCC 2d 20 (1980).

National Industry Advisory Committee, Emergency Broadcast Subcommittee; Meeting

Pursuant to the provisions of Pub. L. 92-463, announcement is made of a public meeting of the Emergency Broadcast Subcommittee of the National Industry Advisory Committee (NIAC) to be held Tuesday, September 27, 1983. The Subcommittee will meet at 10:00 A.M. at the Board Room of the National Association of Broadcasters, 1771 N Street, NW., Washington, D.C.

Purpose: To consider emergency communications matters.

Agenda: (1) Opening remarks by Chairman; (2) Review status of current Subcommittee activities; (3) Plan and schedule future Subcommittee activities; (4) Other business; and (5) Adjournment.

Any member of the public may attend or file a written statement with the Subcommittee either before or after the meeting. Any member of the public wishing to make an oral statement must consult with the Subcommittee prior to the meeting. Those desiring more specific information about the meeting may telephone the NIAC Executive Secretary in the FCC Emergency Communications Division at (202) 634-1549.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-25002 Filed 9-13-83; 8:45 am]

BILLING CODE 6712-01-M

National Industry Advisory Committee, Radio Communications Subcommittee; Meeting

Pursuant to the provisions of Pub. L. 92-463, announcement is made of a public meeting of the Radio Communications Subcommittee of the National Industry Advisory Committee (NIAC) to be held Thursday, October 6, 1983. The Subcommittee will meet at 1:00 P.M. at the American Petroleum Institute, Room 605, 2101 L Street, NW., Washington, D.C.

Purpose: To consider emergency communications matters.

Agenda: (1) Opening remarks by Chairman; (2) Review status of current Subcommittee activities; (3) Plan and schedule future Subcommittee activities; (4) Other business; and (5) Adjournment.

Any member of the public may attend or file a written statement with the Subcommittee either before or after the meeting. Any member of the public wishing to make an oral statement must consult with the Subcommittee prior to the meeting. Those desiring more

specific information about the meeting may telephone the NIAC Executive Secretary in the FCC Emergency Communications Division at (202) 634–1549.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83–25003 Filed 9–13–83; 8:45 am]

BILLING CODE 6712–01–M

National Industry Advisory Committee and Long Range Planning Committee; Meeting

Pursuant to the provisions of Pub. L. 92–463, announcement is made of a public meeting of the Long Range Planning Committee of the National Industry Advisory Committee (NIAC) to be held Friday, October 7, 1983. The Committee will meet at 9:30 A.M. at the Continental Room of the Embassy Row Hotel, 2015 Massachusetts Avenue, NW., Washington, D.C.

Purpose: To consider emergency communications matters.

Agenda: (1) Opening remarks by Chairman; (2) Reports from NIAC Subcommittees—Common Carrier Communications, Emergency Broadcast, Radio Communications; (3) Review status of current developments and major issues; (4) Other business; and (5) Adjournment.

Any member of the public may attend or file a written statement with the Committee either before or after the meeting. Any member of the public wishing to make an oral statement must consult with the Committee prior to the meeting. Those desiring more specific information about the meeting may telephone the NIAC Executive Secretary in the FCC Emergency Communications Division at (202) 634–1549.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83–25006 Filed 9–13–83; 8:45 am]

BILLING CODE 6712–01–M

First Meeting of Industry Advisory Committee on Technical Standards for DBS Service

September 6, 1983.

On June 30, 1983 the General Services Administration (GSA) approved the establishment of the FCC Advisory Committee on Technical Standards for the Direct Broadcast Satellite (DBS) Systems. The official designation of the Committee is, "Advisory Committee on Technical Standards for the DBS Service".

The Committee deliberations will benefit the FCC on DBS matters in the area of standards, and in turn permit more judicious decisions which will be in the public interest.

The Committee's basic objectives are twofold:

1. To advise the FCC on the facts, circumstances and considerations favoring and disfavoring its imposition, at this stage, of standardized requirements for DBS signal transmissions or reception (other than those mandated by the Final Acts of RARC–83).

2. To develop and submit to the Commission recommendations as to what specific standards it would appropriate for the Commission to impose, if it were found desirable to adopt such technical requirements.

An agenda for the first Committee meeting is as follows: (1) Approval of agenda; (2) History leading up to establishment of Committee; (3) Discussion of types of standards to be considered by the Committee, such as:

—transmission standards
—quality of performance
—receiver standards
—encryption standards
—interference requirements,

and distribution of documents submitted by participants (if any); (4) Establishments of appropriate working groups; (5) Nomination and selection of working group chairperson; (6) Other business; and (7) Selection of next meeting date.

The first meeting of this group is set for October 12, 1983 (Wed.) and will be held at the FCC in the Commission Meeting Room. Time of meeting is 9:30 AM. Those seeking further information should contact Bruno Pattan, FCC/OST at (202) 653–9098.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83–25001 Filed 9–13–83; 8:45 am]

BILLING CODE 6712–01–M

Telecommunications Industry Advisory Group, Income and Other Accounts Subcommittee; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Telecommunications Industry Advisory Group's (TIAG) Income and Other Accounts Subcommittee scheduled for Wednesday and Thursday, September 28, and 29, 1983. The meeting will begin on September 28 at 9:30 a.m. in the offices of the Federal Communications Commission, room #5119, 2025 M Street, NW., Washington, D.C., and will be open to the public.

The agenda is as follows:

I. General Administrative Matters.
II. Discussion of Assignments.
III. Other Business.
IV. Presentation or Oral Statements.
V. Adjournment.

With prior approval of Subcommittee Chairman Glenn L. Griffin, oral statements, while not favored or encouraged, may be allowed at the meeting if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of Subcommittee objectives. Anyone not a member of the Subcommittee and wishing to make an oral presentation should contact Mr. Griffin (214/659–3483) at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83–25005 Filed 9–13–83; 8:45 am]

BILLING CODE 6712–01–M

Advisory Committee for the 1985 ITU World Administrative Radio Conference on the Use of the Geostationary Satellite Orbit and the Planning of the Space Services Utilizing It (Space WARC Advisory Committee); Meeting

September 6, 1983.

Task Group B–1 of Working Group B: Legal Implications

Chairman: Martin Rothblatt (202) 422–4692

Date: Tuesday, September 13, 1983

Time: 1:30–5:00 P.M.

Location: Federal Communications Commission, 2025 M Street, NW., Room 7317, Washington, D.C. 20554.

Agenda:

(1) Approval of revisions to draft final report
(2) Approval of recommendations

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83–25000 Filed 9–13–83; 8:45 am]

BILLING CODE 6712–01–M

Advisory Committee for the 1985 ITU World Administrative Radio Conference on the Use the Geostationary Satellite Orbit and the Planning of the Space Services Utilizing It (Space WARC Advisory Committee); Meeting

September 7, 1983.

Working Group A: Services, Facilities & U.S. Interests

Chairman: W. R. Schnicke, (202) 883–6691
Date: Wednesday, October 5, 1983
Time: 9:30 A.M.–4:00 P.M.
Location: Communications Satellite Corporation, 950 L'Enfant Plaza SW., Room 6030, Washington, D.C. 20024

Included in the agenda will be review and consideration of elements of the draft final report derived from Task Groups A–1, A–2 and A–3.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-25004 Filed 9-13-83; 8:45 am]
BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

[Docket No. 83–38; Agreement No. 10464]

Armada/GLTL East Africa Service; Order of Investigation

Agreement No. 10464 (Agreement) between Armada Great Lakes/East Africa Service, Ltd. (Armada) and Great Lakes Transcaribbean Line, GMBH (GLTL) establishes a joint venture in the trade between Canada/U.S. Great Lakes, Atlantic and Gulf Coasts ports and South/East Africa. The joint venture will operate under the name of "Armada/GLTL East Africa Service." The Agreement has been protested by the United States/South and East Africa Conference and Ceres Navigation, Ltd.

Before reaching the merits of the Agreement under the standards of section 15 of the Shipping Act, 1916 (46 U.S.C. 814) (the Act), the Commission must first determine whether the Agreement is in fact subject to that section. Section 15 applies to those agreements between two or more common carriers by water in the foreign commerce of the United States which have one or more of the effects enumerated in the section.[1] The issue that must be resolved is whether Agreement No. 10464 involves two or more common carriers by water over which the Commission has *in personam* jurisdiction.[2]

GLTL is subject to the Shipping Act, 1916 (46 U.S.C. 801, *et seq.*) by virtue of its status as a common carrier in the trade between ports in the United States and various ports in the Caribbean and South America. Whether Armada should be considered a common carrier subject to the Act cannot be fully answered from the information now before the Commission. Armada does not appear to be presently operating as a common carrier subject to the Act. It is, however, part of the Armada Group which consists of a number of affiliated companies providing shipping services. These include Armada Lines and Atlantic Cross Shipping, two common carriers subject to the Act. Agreement No. 10464 contains a covenant not to compete which binds not only the signatories to the Agreement but their affiliates as well. Thus the Agreement restricts competition between the two common carriers subject to the Act—Armada/GLTL East Africa Service and Armada Lines—and, therefore, it may be appropriate to impute the common carrier status of Armada Lines to Armada. Parties will be given the opportunity to develop evidence on the issue of whether circumstances warrant imputing the common carrier status of Armada Lines to Armada.

It is also necessary to consider the structure of Armada/GLTL East Africa Service in determining whether there is section 15 jurisdiction over Agreement No. 10464. If the ships in the Armada/GLTL East Africa Service are crewed and operated by the respective owners of Armada/GLTL East Africa Service or if Armada and GLTL issue separate bills of lading, these facts would suggest that Armada and GLTL exist as separate entities in the trade. If Armada and GLTL exist as separate entities in the trade and are not subsumed in "Armada/GLTL East Africa Service," both may be common carriers subject to the Act.

Finally, even if Armada cannot be considered a common carrier subject to the Act, there may be section 15 jurisdiction over Agreement No. 10464 if it establishes a continuing relationship between Armada/GLTL East Africa Service and GLTL, both of which are common carriers subject to the Act. For example, the Commission found jurisdiction over a joint venture in *Agreement No. 9955–1*, 18 F.M.C. 428 (1975) on the basis of a continuing relationship between the joint venture and one of its parties, both of which were common carriers subject to the Act. Unlike the joint venture in *Agreement No. 9955–1*, Armada/GLTL East Africa Service is not a signatory to the Agreement. Nevertheless, it may be appropriate to consider Armada/GLTL East Africa Service a party to the Agreement if it places obligations on the joint venture vis-a-vis its owners.

Accordingly, we will order an expedited proceeding to address the question of jurisdiction. If, upon completion of the proceeding, the Commission finds that it has jurisdiction over Agreement No. 10464, the merits of the Agreement will be considered as a separate matter.

Therefore, it is ordered, That pursuant to sections 15 and 22 of the Shipping Act, 1916 (46 U.S.C. 814 and 821), an investigation and hearing is instituted to determine whether Agreement No. 10464 is subject to section 15.

It is further ordered, That the parties listed in Appendix A attached hereto are hereby made Proponents in this proceeding; and

It is further ordered, That the parties listed in Appendix B attached hereto are hereby made Protestants in this proceeding; and

It is further ordered, That in accordance with the Commission's Rules (46 CFR 502.42), the Bureau of Hearing Counsel is hereby made a party to this proceeding; and

It is further ordered, That this matter is assigned for hearing and decision to the Commission's Office of Administrative Law Judges. This hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon a showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents. The decision of the Presiding Administrative Law Judge shall be served no more than 75 days after service of this Order; and

It is further ordered, That persons other than those named having an appropriate interest and desire to participate in this proceeding may petition for leave to intervene pursuant to Rule 72 of the Commission's Rules (46 CFR 502.72); and

It is further ordered, That this Order be published in the Federal Register and a copy served upon all parties of record; and

It is further ordered, That all future notices, orders, or decisions issued in this proceeding, including notice of the time and place of hearing or prehearing conference, be mailed directly to all parties of record; and

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[1] The filing and approval requirements of section 15 apply to agreements:

. . . fixing or regulating transportation rates or fares; giving or receiving special rates, accommodations, or other special privileges or advantages; controlling, regulating, preventing, or destroying competition; pooling or apportioning earnings, losses, or traffic; allotting ports or restricting or otherwise regulating the number and character of sailings between ports; limiting or regulating in any way the volume or character of freight or passenger traffic to be carried; or in any manner providing for an exclusive, preferential, or cooperative working arrangement.

[2] The term "common carrier by water in foreign commerce" is defined in section 1 of the Act (46 U.S.C. 801) to mean:

. . . a common carrier . . . engaged in the transportation by water of passengers or property between the United States or any of its Districts, Territories, or possessions and a foreign country, whether in the import or export trade . . .

It is further ordered, That all documents submitted by any party of record in this proceeding shall be filed in accordance with Rule 118 of the Commission's Rules (46 CFR 502.118), as well as being mailed directly to all parties of record.

By the Commission.

Francis C. Hurney,

Secretary.

Appendix A

Proponents:

Great Lakes Transcaribbean Line Gmbh, and Armada Great Lakes/East Africa Service, Ltd., Thomas D. Wilcox, P.C., Suite 705, 1899 L Street, NW., Washington, D.C. 20036

Appendix B

Protestants:

United States/South & East Africa Conference, John W. Angus III, Preston, Thorgrimson, Ellis & Holman, Suite 500, 1735 New York Avenue, NW., Washington, D.C. 20006

Ceres Navigation, Ltd., Steven B. Chameides, Becker & Chameides, 1819 H Street, NW., Washington, D.C. 20006

[FR Doc. 83-25028 Filed 9-13-83; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Federal Reserve Bank of Atlanta; Application for Acquisition of Bank Shares by a Bank Holding Company

The company listed in this notice has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3) to acquire voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to each application, interested persons may express their views in writing to the address indicated. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of facts that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President), 104 Marietta Street, N.W., Atlanta, Georgia: 30303:

1. **First National Bancorp**, Gainesville, Georgia; to acquire 100 percent of the voting shares or assets of White County Bank, Cleveland, Georgia. Comments on this application must be received not later than October 7, 1983.

Board of Governors of the Federal Reserve System, September 8, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-24997 Filed 9-13-83; 8:45 am]

BILLING CODE 6210-01-M

Federal Reserve Bank of Boston et al.; Application for Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Fenwick Financial Corporation,* Old Saybrook, Connecticut; to become a bank holding company by acquiring 100 percent of the voting shares of Old Saybrook Bank and Trust Company, Old Saybrook, Connecticut. Comments on this application must be received not later than October 5, 1983.

B **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Progressive Bancshares Inc.,* Owingsville, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of Farmers Bank, Owingsville, Kentucky. Comments on this application must be received not later than October 7, 1983.

C. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *The Merchant Bancorporation of Florida,* Tampa, Florida; to become a bank holding company by acquiring 100 percent of the voting shares to the Merchant Bank of Florida, Tampa, Florida, a proposed new bank. Comments on this application must be received not later than October 7, 1983.

D. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Dows Bancorporation,* Dows, Iowa; to become a bank holding company by acquiring 80.8 percent of the voting shares of Farmers State Bank, Dows, Iowa. Comments on this application must be received not later than October 5, 1983.

E. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Independent Bankers Financial Corporation,* Dallas, Texas; to become a bank holding company by acquiring at least 80 percent of the voting shares of Texas Independent Bank, Dallas, Texas. Comments on this application must be received not later than October 5, 1983.

Board of Governors of the Federal Reserve System, September 8, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-24998 Filed 9-13-83; 8:45 am]

BILLING CODE 6210-01-M

Federal Reserve Bank of Chicago: Proposed de Novo Nonbank Activities by Bank Holding Company

The organization identified in this notice has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to the application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment on the application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, indentifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating

how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearings should indentify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Walter E. Heller International Corporation,* Chicago, Illinois (mortgage banking; Pennsylvania): To engage through its subsidiary, Abacus Real Estate Finance Co., in making or acquiring, for its account or for the account of others, loans and other extensions of credit and servicing loans and other extensions of credit for any person. This activity will be managed through an office located in Philadelphia, Pennsylvania, serving the State of Pennsylvania. Comments on this application must be received not later than September 29, 1983.

Board of Governors of the Federal Reserve System, September 8, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-24988 Filed 9-13-83; 8:45 am]

BILLING CODE 6210-01-M

Agency Information Collection Activities Under OMB Review

September 8, 1983.

Background

When executive departments and independent agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Paperwork Reduction Act [44 U.S.C. Chapter 35]. Departments and agencies use a number of techniques to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibilities under the act also considers comments on the forms and recordkeeping requirements that will affect the public. Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. OMB's usual practice is not to take action on proposed reporting requirements until at least ten working days after notice in the **Federal Register**, but occasionally the public interest requires more rapid action.

List of Forms Under Review

Immediately following the submission of a request by the Federal Reserve for OMB approval of a reporting or recordkeeping requirement, a description of the report is published in the **Federal Register.** This information contains the name and telephone number of the Federal Reserve Board clearance officer (from whom a copy of the form and supporting documents is available). The entries are grouped by type of submission—i.e., new forms, revisions, extensions (burden change), extensions (no change), and reinstatements.

Copies of the proposed forms and supporting documents may be obtained from the Federal Reserve Board clearance officer whose name, address, and telephone number appear below. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF 83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review.

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Cynthia Glassman—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, (202–452–3829)

OMB Reviewer—Judy McIntosh—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503, (202–395–6880)

Request for implementation of a New Report

1. Report title: Monthly Consolidated Foreign Currency Report of Banks in the United States

Agency form number: FFIEC 035

Frequency: Monthly

Reporters: U.S. banks and branches and agencies of foreign banks

Small businesses are affected.

General description of report: Respondent's obligation to reply is mandatory [12 U.S.C. 248(a) and 1844(c)]; a pledge of confidentiality is not promised

Needed to monitor the foreign exchange positions of major banking institutions, and to detect changes in policy in individual banks. Also, used as an aid in analysis of foreign exchange markets. Alll respondents are major U.S. banks, or U.S. branches or agencies of foreign banks.

Board of Governors of the Federal Reserve System, September 8, 1983.

James McAfee.

Associate Secretary of the Board.

[FR Doc. 83-24985 Filed 9-13-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of Draft Environmental Impact Statement on the Bristol Bay Cooperative Management Plan, Alaska

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Extension of review period.

SUMMARY: The Bristol Bay Cooperative Management Plan and Environmental Impact Statement (EIS) for southwestern Alaska, as defined by the Alaska National Interest Lands Conservation Act (ANIL CA) evaluates a proposed action and four alternatives for the conservation and protection of significant fish, wildlife and cultural resources while still allowing for moderate economic growth and development of mineral and other land and water resources. The public review period for acceptance of comments on the plan/EIS is extended 30 days to allow additional time for public comment.

This notice informs the public that the EIS has been widely circulated, is available from the Regional Director of the Fish and Wildlife Service (FWS), Anchorage, Alaska or the Study Managers, Alaska Land Use Council, Anchorage, Alaska and can be examined at the Regional Office of FWS or at the office of the Study Manager as noted below.

DATES: The period of comment will close October 20, 1983.

ADDRESS: Comments should be addressed to Dave Simpson, Alaska Land Use Council Study Manager, 1689 C Street, P.O. Box 100120, Anchorage, Alaska, 99510–0120. Copies may be secured or viewed at the above address or at the Office of the Regional Director, Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska, 99503 (907–786–3355).

FOR FURTHER INFORMATION CONTACT: John Kurtz, U.S. Fish and Wildlife

Service, 1011 E. Tudor Road, Anchorage, Alaska, 99503 (907–786–3355).

Bruce Blanchard,

Director, Office of Environmental Project Review.

September 9, 1983.

[FR Doc. 83–25045 Filed 9–13–83; 8:45 am]

BILLING CODE 4310–55–M

Bureau of Land Management

[A–17009–C]

Arizona; Notice of Opening of Public Lands

1. In **Federal Register** Volume 46, Number 136, Pages 36950–36951 dated July 16, 1981 and **Federal Register** Volume 46, Number 166, Pages 43313–43314 dated August 27, 1981, approximately 19,988 acres were proposed as suitable for classification for transfer to the State of Arizona under the State Indemnity Selection Program. All of the lands have been transferred to the State of Arizona with the exception of 4943.66 acres, which have been deleted from the State's application and are described as follows:

T. 5N., R.1W., G&SRM,
Sec. 5, Lots 2, 3, 4, SW¼NE¼,S½NW¼, N½SW¼NW¼SE¼;
Sec. 12, W½;
Sec. 14, SE¼SW¼,S½SE¼.
T. 6N., R.1W., G&SRM,
Sec. 29, W½SW¼;
Sec. 30, Lots 1, 2, 3, 4, E½W½,SE¼;
Sec. 31, Lots 1, 2, 3, 4, E½,E½W½.
T. 6N., R.2W., G&SRM,
Sec. 23, S½;
Sec. 25, Lots 1, 2, E½NE¼,SW¼NE¼, NW¼NW¼,S½NW¼,S½;
Sec. 26, E½E½E½.
T. 7N., R.4W., G&SRM,
Sec. 5, Lots 2, 3, SW¼NE¼,SE¼NW¼,E½ SW¼NW¼.
T. 8N., R.4W., G&SRM,
Sec. 19, S½S½lot 1, lots 2, 3, 4, SE¼NW¼, SW¼NE¼,S½SE¼,NE¼E½SW¼,SE¼;
Sec. 20, W½SW¼NW¼,W½E½SW¼ NW¼,W½SW¼,SE¼SW¼,S½NE¼ SW¼,NW¼NW¼NE¼SW¼,S½NW¼ NE¼SW¼,SE¼SE¼NW¼NE¼,S½S½ NE¼NE¼,E½E½SW¼NE¼,W½SE¼ NE¼,NE¼SE¼NE¼,W½E¼,W¼SE¼, S½NW¼SE¼,E½NE¼NW¼SE¼;
Sec. 21, W½NW¼NW¼,N½S½NW¼;
Sec. 23, W½NW¼,S½SW¼SE¼NW¼, W½NE¼SW¼,NW¼NW¼;
Sec. 29, All;
Sec. 30, E½NE¼.

The areas described aggregate about 4943.66 acres in Maricopa and Yavapai Counties.

2. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands described in paragraph 1 were opened to the operation of the public land laws including the mining laws (Ch. 2, Title 30 U.S.C.) on August 27, 1983.

Appropriation of lands under the general mining laws between August 27, 1981 and August 26, 1983 was unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Section 38, vested no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress had provided for such determination in local courts.

3. The lands have been and will continue to be open to applications and offers under the mineral leasing laws.

4. Inquiries concerning the lands should be addressed to the Bureau of Land Management, Department of the Interior, 2400 Valley Bank Center, Phoenix Arizona 85073 (602–261–4774).

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83–24975 Filed 9–13–83; 8:45 am]

BILLING CODE 4310–84–M

[CA–13747]

Realty Action; Cancellation of Noncompetitive Sale of Public Lands in San Bernardino County; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Realty action; noncompetitive sale of public lands in San Bernardino County; California—CA–13747.

SUMMARY: The Bureau of Land Management has cancelled the public land sale, Serial No. CA–13747 as published in FR Vol. 48, No. 141, page 33358, issue of Thursday, July 21, 1983.

Dated: September 1, 1983.

Hugh Riecken,

Associate District Manager.

[FR Doc. 83–24974 Filed 9–13–83; 8:45 am]

BILLING CODE 4310–84–M

[CA–13746]

Realty Action; Cancellation of Noncompetitive Sale of Public Lands in San Bernardino County; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Realty action; noncompetitive sale of public lands in San Bernardino County; California—CA–13746.

SUMMARY: The Bureau of Land Management has cancelled the public land sale, Serial No. CA–13746 as published in FR Vol. 48, No. 141, page 33358, issue of Thursday, July 21, 1983.

Dated: September 1, 1983.

Hugh Riecken,

Associate District Manager.

[FR Doc. 83–24973 Filed 9–13–83; 8:45 am]

BILLING CODE 4310–84–M

[CA–13745]

Realty Action; Cancellation of Noncompetitive Sale of Public Lands in San Bernardino County; California

AGENCY: Bureau of Land Management, Interior

ACTION: Realty action; Noncompetitive sale of public lands in San Bernardino County; California—CA–13745.

SUMMARY: The Bureau of Land Management has cancelled the public land sale, Serial No. CA–13745 as published in FR Vol. 48, No. 141, page 33358, issue of Thursday, July 21, 1983.

Dated: September 1, 1983.

Hugh Riecken,

Associate District Manager.

[FR Doc. 83–4972 Filed 9–13–83; 8:45 am]

BILLING CODE 4310–84–M

Regional Oil Shale Team; Meeting

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Regional Oil Shale Team Meeting.

SUMMARY: The Regional Oil Shale Team will review the oil shale management alternatives for the Bookcliffs Resource Management Plan (RMP), Utah, and the Piceance Basin Resource Management Plan, Colorado. Recommendations to the Bureau would be completed by the Team.

DATE: September 29, 1983, starting at 9:00 a.m., with the Bookcliffs RMP and the Piceance RMP at approximately 1:00 p.m.

ADDRESS: Sheraton Inn, 1684 West Highway 40, Vernal, Utah 84078, telephone: (801) 789–9550.

FOR FURTHER INFORMATION CONTACT: Robert E. Leopold, Oil Shale Program Manager, Bureau of Land Management, 1037 20th Street, Denver, Colorado 80202, telephone: (303) 837–5435.

Dated: September 8, 1983.

James M. Parker,

Acting Director.

[FR Doc. 83-24994 Filed 9-13-83; 8:45 am]

BILLING CODE 4310-84-M

Colorado; Proposed Continuation of Withdrawal

[C-28676]

Dated: September 7, 1983.

In accordance with the provisions of Section 204 of the Federal Land Policy and Management Act, the Department of Transportation, Federal Aviation Administration has filed a statement of justification for the continuation of their Air Navigation Site Withdrawal No. 233 created by section 4 of the Act of May 24, 1928 (45 Stat. 729 U.S.C. 214 (1964)), Secretary's Order of August 18, 1947. The following described land is included in the proposed continuation:

Sixth Principal Meridian

The area described aggregates 40 acres in Mesa County.

T. 11 S., R. 97 W., sec. 15, NE¼SW¼.

The Bureau proposes continuation of the withdrawal in its entirety for 20 years. The purpose of the withdrawal is for a remote center air/ground communication facilities site. The withdrawal closed the described land to all forms of appropriation under the public land laws, including the mining laws, but not the mineral leasing laws. No change in the segregative effect or use of the land would be affected by the continuation.

Notice is hereby given that a public hearing may be afforded in connection with the proposed withdrawal continuation. All interested persons who desire to be heard on the proposal must submit a written request for a hearing to the undersigned within 90 days of the publication of this notice. Upon a determination by the State Director, BLM, that a public hearing should be held, a notice will be published in the **Federal Register** giving the time and place of such hearing. Public hearings will be scheduled and conducted in accordance with BLM Manual 2351.16B. Additionally, all persons who wish to submit comments, suggestions or objections in connection with the proposed withdrawal continuation may present their views in writing to the undersigned authorized officer of the BLM within 90 days of the date of publication of this notice.

The authorized officer of the BLM will undertake such investigations as are necessary and prepare a report for consideration by the Office of the Secretary of the Interior. The final determination on the continuation of the withdrawal will be published in the **Federal Register**. The existing withdrawal will continue until such final determination is made.

All communications in connection with the proposed withdrawal continuation should be addressed to the undersigned officer, Bureau of Land Management, Colorado State Office, 1037 20th Street, Denver, Colorado 80202.

Robert D. Dinsmore,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-25006 Filed 9-13-83; 8:45 am]

BILLING CODE 4310-84-M

[AA-8482-A]

Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 14 of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (1976)) (ANCSA), and section 1427(e) of the Alaska National Interest Lands Conservation Act of December 2, 1980 (Public Law 96-487, 94 Stat. 2371, 2525-28) (ANILCA) will be issued to Ayakulik, Inc., for approximately 442 acres. The lands involved are within T. 34 S., R. 33 W., Seward Meridian, Alaska:

The decision to issue conveyance will be published once a week, for four (4) consecutive weeks, in the Kodiak Daily Mirror upon issuance of the decision. For information on how to obtain copies, contact the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest in lands affected by the decision, an agency of the Federal Government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E, as revised.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of Conveyance Management (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from the office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of the decision by personal service or certified mail, return receipt requested, shall have thirty days from the receipt of the decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt, and parties who received a copy of the decision by regular mail which is not certified, return receipt requested, shall have until October 14, 1983, to file an appeal.

Any party known or unknown who is adversely affected by the decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of Conveyance Management.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Ayakulik, Inc., Akhiok Rural Station, Akhiok, Alaska 99615

Koniag, Inc., Regional Native Corporation, P.O. Box 746, Kodiak, Alaska 99615

Ruth Stockie,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 83-25015 Filed 9-13-83; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Advisory Committee on Minerals Accountability; Monthly Meeting

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of monthly meeting.

SUMMARY: The purpose of the Advisory Committee on Minerals Accountability is to develop over a 1-year period an expanded policy of cooperation with States and Indian Tribes in the royalty management area and to develop a detailed plan for carrying out Federal/State/Indian cooperation on a comprehensive basis.

The purpose of the Advisory Committee meeting will be to discuss several matters of business that the Committee members wish to review. They include but are not limited to the proposed draft of the Federal Oil and Gas Product Value Guidelines and Regulations, the proposed draft of Indian Oil and Gas Valuation Guidelines, the status and results of the Royalty Compliance Division of the Minerals Management Service, and the participation of the States and Indians in the cooperative audit process. The above mentioned topics will be discussed on the first day of the Advisory Committee meeting, Wednesday, September 28. The second day of the meeting, Thursday, September 29, will be a closed Executive Session of the Committee to discuss the final report of the Committee to the Secretary of the Interior.

Notice of the next monthly meeting will be published 15 days before the meeting is to take place.

DATE: Wednesday, September 28, and Thursday, September 29, 8:30 a.m.

ADDRESS: Sheraton Old Town, 800 Rio Grande Boulevard, N.W., Albuquerque, New Mexico.

FOR FURTHER INFORMATION CONTACT: John Sullivan, Department of the Interior, 18th & C Streets, N.W., Room 4216, Washington, D.C. 20240, telephone: (202) 343–3526.

SUPPLEMENTARY INFORMATION: The Advisory Committee was created by the Secretary of the Interior on November 15, 1982 (Order No. 3071).

The Committee will have one or more Executive Sessions at this meeting.

Dated: September 9, 1983.

John T. Sullivan, Jr.,

Assistant to the Director, Minerals Management Service.

[FR Doc. 83–24971 Filed 9–13–83; 8:45 am]

BILLING CODE 4310–MR–M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that ARCO Oil and Gas Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OSC–G 4547, Block 668, Matagorda Island Area, offshore Texas.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Land Act Amendments of 1978, that the Minerals Management Service is considerating approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 838–0519.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and othe interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised 250.34 of Title 30 of the Code of Federal Regulations.

Dated: September 6, 1983.

John L. Rankin,

Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83–25011 Filed 9–13–83; 8:45 am]

BILLING CODE 4310–MR–M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Sohio Petroleum Company has submitted a Development and Protection Plan describing the activities it proposes to conduct on Lease OCS–G 4935, Block 20, Mississippi Canyon Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 838–0519.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: September 6, 1983.

John L. Rankin,

Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83–25012 Filed 9–13–83; 8:45 am]

BILLING CODE 4310–MR–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–144]

Certain Direct Current Brushless Axial Flow Fans; Order

For reasons of judicial economy, administrative necessity, and pursuant to my authority as Chief Administrative Law Judge, I hereby relieve Administrative Law Judge Janet D. Saxon and designate Administrative Law Judge John J. Mathias as Presiding Officer in this investigation effective on the date of issuance of this order.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the **Federal Register.**

Issued: September 8, 1983.

Donald K. Duvall,

Chief Administrative Law Judge.

[FR Doc. 83–25061 Filed 9–13–83; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 701–TA–201 (Final)]

Certain Forged Undercarriage Components From Italy; Final Countervailing Duty Investigation; Hearing

AGENCY: International Trade Commission.

ACTION: Institution of final countervailing duty investigation and scheduling of a hearing to be held in connection with the investigation

EFFECTIVE DATE: September 9, 1983.

SUMMARY: As a result of an affirmative preliminary determination by the International Trade Administration, U.S. Department of Commerce that there is a reasonable basis to believe or suspect that benefits that constitute a subsidy within the meaning of section 701 of the Tariff Act of 1930 (19 U.S.C. 1671) are granted by the Government of Italy with respect to the manufacture, production, or exportation of semifinished forged links and rollers for the undercarriage of crawler-mounted machinery, [1] provided for in items 664.08, or 692.34, or 692.35 of the Tariff Schedules of the United States, the United States International Trade Commission hereby gives notice of the institution of investigation No. 701–TA–201 (Final) under section 705(b) of the act (19 U.S.C. 1671d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry is materially retarded, by reason of imports of such merchandise. Unless the investigation is extended, the Department of Commerce will make its final subsidy determination in the case on or before October 26, 1983, and the Commission will make its final injury determination by December 27, 1983 (19 CFR 207.25)

FOR FURTHER INFORMATION CONTACT: Ms. Miriam A. Bishop (202–523–0291), Office of Investigations, U.S. International Trade Commission.

SUPPLEMENTARY INFORMATION:

Background.—On June 6, 1983, the Commission determined, on the basis of the information developed during the course of its preliminary investigation, that there was a reasonable indication that an industry in the United States was materially injured by reason of allegedly subsidized imports of semifinished forged undercarriage links and rollers from Italy. The preliminary investigation was instituted in response to a petition filed on April 29, 1983, by counsel for Jernberg Forgings, Co., Lindell Drop Forge Co., Portec, Inc., Presrite Corp., Presrite of Jefferson, Inc., Walco Metal Forming Group, and Walker Forge Inc.

Participation in the investigation.—persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary of the Commission, as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), not later than 21 days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Upon the expiration of the period for filing entries of appearance, the Secretary shall prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation, pursuant to §201.11(d) of the Commission's rules (19 CFR 201.11(d)). Each document filed by a party to this investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service (19 CFR 201.16(c), as amended by 47 FR 33682, Aug. 4, 1982).

Staff report.—A public version of the staff report containing preliminary findings of fact in this investigation will be placed in the public record on November 7, 1983, pursuant to § 207.21 of the Commission's Rules (19 CFR 207.21).

Hearing.—The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m. on November 22, 1983, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on November 8, 1983. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 10:00 a.m. on November 15, 1983, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is November 17, 1983.

Testimony at the public hearing is governed by section 207.23 of the Commission's rules (19 CFR 207.23, as amended by 47 FR 33682, Aug 4, 1982). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 (19 CFR 207.22, as amended by 47 FR 33682, Aug. 4, 1982). Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on November 30, 1983.

Written submissions.—As mentioned, parties to the investigation may file prehearing and posthearing briefs by the dates shown above. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before November 30, 1983. A signed orginal and fourteen (14) true copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of section 201.6 of the Commission's rules (19 CFR 201.6).

For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and C (19 CFR Part 207, as amended by 47 FR 33682, Aug. 4, 1982), and part 201, subparts A through E (19 CFR Part 201, as amended by 47 FR 33682, Aug. 4, 1982).

This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

By order of the Commission.

Issued: September 9, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–25058 Filed 9–13–83; 8:45 am]

BILLING CODE 7020–02–M

[1] For the purposes of this investigation, the term "semifinished" means forged articles that are not assembled, not machined to final dimensions, and not tempered, whether or not otherwise processed.

[Investigation No. 337–TA–156]

Certain Minutiae-Based Automated Fingerprint Identification Systems; Order No. 12

For reasons of judicial economy, administrative necessity, and pursuant to my authority as Chief Administrative Law Judge, I hereby relieve Administrative Law Judge Donald K. Duvall and designate Administrative Law Judge John J. Mathias as Presiding

Officer in this investigation effective on the date of issuance of this order.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the **Federal Register**.

Issued: September 8, 1983.

Donald K. Duvall,

Chief Administrative Law Judge.

[FR Doc. 83-25055 Filed 9-13-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-163]

Certain Nutating Valve Actuators and Components Thereof; Notice of Investigation

AGENCY: International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that on August 2, 1983, a complaint was filed with the U.S. International Trade Commission, under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), on behalf of Morgan Industries, Inc., 2212 South 144th, Seattle, Washington 98168. This complaint, together with later supplements filed on August 4, 16, and 22, 1983, alleges unfair methods of competition and unfair acts in the importation of certain nutating valve actuators and components thereof into the United States, or in their sale, by reason of alleged infringement of the claims of U.S. Letters Patent Nos. 4,330,725 and 4,360,752. The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

The complainant requests that the Commission institute an investigation and, after a full investigation, issue a permanent exclusion order and a permanent cease and desist order.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930 and in § 210.12 of the Commission's Rules of Practice and Procedure (19 CFR 210.12).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on September 1, 1983, ordered that:

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, an investigation be instituted to determine whether there is a violation of subsection (a) of section 337 in the unlawful importation of certain nutating valve actuators and components thereof into the United States, or in their sale, by reason of infringement of the claims of U.S. Letters Patent Nos. 4,330,725 and 3,360,752, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—Morgan Industries, Inc., 2212 South 144th, Seattle, Washington 98168.

(b) The respondent is the following company, alleged to be in violation of section 337, and is the party upon which the complaint is to be served: Automatic Accessories Pty., Ltd., 1 Cato Street, East Hawthorne, Victoria 3123, Commonwealth of Australia.

(c) Deborah S. Strauss, Unfair Import Investigations Division, U.S. International Trade Commission, 701 E Street, NW., Room 125, Washington, D.C. 20436, shall be the Commission investigative attorney, a party to this investigation; and

(3) For the investigation so instituted, Donald K. Duvall, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding officer.

Response must be submitted by the named respondents in accordance with § 210.21 of the Commission's Rules of Practice and Procedure (19 CFR 210.21). Pursuant to §§ 201.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response to the complaint will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings.

The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Room 156, Washington, D.C. 20436, telephone 202/523-0471.

FOR FURTHER INFORMATION CONTACT: Deborah S. Strauss, Unfair Import Investigations Division, U.S. International Trade Commission, telephone 202/523-1233.

By order of the Commission.

Issued: September 9, 1983

Kenneth R. Mason,

Secretary.

[FR Doc. 83-25000 Filed 9-13-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-147]

Certain Papermaking Machine Forming Sections for the Continuous Production of Paper and Components Thereof; Order

For reasons of judicial economy, administrative necessity, and pursuant to my authority as Chief Administrative Law Judge, I hereby relieve Administrative Law Judge Janet D. Saxon and designate Administrative Law Judge John J. Mathias as Presiding Officer in this investigation effective on the date of issuance of this order.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the **Federal Register**.

Issued: September 8, 1983.

Donald K. Duvall,

Chief Administrative Law Judge.

[FR Doc. 83-25057 Filed 9-13-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-145]

Certain Rotary Wheel Printers; Order

For reasons of judicial economy, administrative necessity, and pursuant to my authority as Chief Administrative Law Judge, I hereby relieve Administrative Law Judge Janet D. Saxon and designate Administrative Law Judge John J. Mathias as Presiding Officer in this investigation effective on the date of issuance of this order.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the **Federal Register**.

Issued: September 8, 1983.

Donald K. Duvall,

Chief Administrative Law Judge.

[FR Doc. 83-25056 Filed 9-13-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731–TA–101 (Final)]

Greige Polyester/Cotton Printcloth From the People's Republic of China

Determination

On the basis of the record [1] developed in the subject investigation, the Commission determines,[2] pursuant to section 735(b)(1) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)(1)), that an industry in the United States is materially injured by reason of imports of greige polyester/cotton printcloth [3] from the People's Republic of China (China) which have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted this investigation effective March 28, 1983, following a preliminary determination by the Department of Commerce that imports of greige polyester/cotton printcloth from China are being sold in the United States at LTFV.

Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the **Federal Register** on April 6, 1983 (48 FR 15017). The hearing was held in Washington, D.C. on July 28, 1983, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its report on the investigation to the Secretary of Commerce on September 6, 1983. A public version of the Commission's report, *Greige Polyester/Cotton Printcloth from the People's Republic of China* (investigation No. 731–TA–101 (Final), USITC Publication 1421, 1983), contains the views of the Commission and information developed during the investigation.

By Order of the Commission.

Issued: September 6, 1983.

[1] The record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

[2] Commissioner Lodwick took his oath of office on August 12, 1983, but did not participate in this investigation.

[3] For purposes of this investigation, greige polyester/cotton printcloth covers unbleached and uncolored printcloth fabric in chief value of cotton, containing polyester, and provided for in items 326.26 through 326.40, with statistical suffix 32, of the Tariff Schedules of the United States Annotated.

Kenneth R. Mason,
Secretary.

[FR Doc. 83–25060 Filed 9–13–83; 8:45 am]
BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

Motor Carrier Permanent Authority Decisions; Decision Notice

Correction

In FR Doc. 83–22194 beginning on page 36914 in the issue of Monday, August 15, 1983, make the following correction:

On page 36917, third column, MC 169394, Loadmaster Trucking Corp., in the second line from the bottom of the paragraph, "NM, IA" should have read "MN, IA".

BILLING CODE 1505–01–M

Motor Carriers; Agricultural Cooperative; Intent To Perform Interstate Transportation for Certain Nonmembers

Dated: September 9, 1983.

The following Notices were filed in accordance with section 10526(a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change.

The name and address of the agricultural cooperative (1) and (2), the location of the records (3), and the name and address of the person to whom inquiries and correspondence should be addressed (4), are published here for interested persons. Submission of information which could have bearing upon the propriety of a filing should be directed to the Commission's Office of Compliance and Consumer Assistance, Washington, D.C. 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C.

(1) Spencer Trucking, Inc.
(2) Box 781 Boulder Canyon, Sturgis, SD 57785
(3) Box 781 Boulder Canyon, Sturgis, SD 57785
(4) David Robinson, 2228 W. Northern Ave., Phoenix, AZ 85201

Agatha L. Mergenovich,
Secretary.

[FR Doc. 83–25061 Filed 9–13–83; 8:45 am]
BILLING CODE 7035–01–M

[Finance Docket No. 30277]

Railroads; Pittsburgh and Lake Erie Railroad Company—Trackage Rights Exemption—Between Geneva, OH and Buffalo, NY

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirement of prior approval under 49 U.S.C. 11343 *et seq.* the acquisition by the Pittsburgh and Lake Erie Railroad Company of trackage rights over the Norfolk and Western Railway Company's line of track between milepost 138.3 at Geneva, OH, and milepost 1.5 at Buffalo Junction Yard, Buffalo, NY, subject to standard labor protection.

DATES: This exemption will be effective on September 14, 1983. Petitions to reopen this decision must be filed by October 4, 1983.

ADDRESSES: Send pleadings referring to Finance Docket No. 30277 to:

(1) Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423
(2) Petitioner's representatives: Fritz R. Kahn, 1660 L Street, NW., Suite 1100, Washington, DC 20036
Richard R. Wilson, Suite 780 Commerce Court, Four Station Square, Pittsburgh, PA

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (DC Metropolitan area) or toll free (800) 424–5403.

Decided: September 7, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 83–25062 Filed 9–13–83; 8:45 am]
BILLING CODE 7035–01–M

[Finance Docket No. 30150; Sub-1]

Railroads; St. Louis Southwestern Railway Company; Merger With St. Louis Southwestern Railway Company of Texas

AGENCY: Interstate Commerce Commission.

ACTION: Application accepted for consideration.

SUMMARY: The Commission is accepting for consideration the application for merger of the St. Louis Southwestern Rail Company (Cotton Belt) and the St. Louis Southwestern Railway Company of Texas.

DATES: Written comments must be filed by October 14, 1983.

ADDRESS: An original and 10 copies of all statements referring to Finance Docket No. 30150 (Sub-No. 1) should be sent to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289-4357 (D.C. Metropolitan area) or toll free (8900) 424-5403.

Dated: September 9, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-25137 Filed 9-13-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

National Institute of Justice

Unsolicited Research Program; Announcement of Competitive Research Grant Program; Notice of Solicitation

The National Institute of Justice (NIJ) announces a competitive research grant program, the Unsolicited Research Program (URP). Through this program, NIJ sponsors a limited number of projects that address significant issues pertaining to adult crime and criminal justice, that are of sound methodological design, and have potentially important implications for criminal justice policy, practice, research and/or theory.

During fiscal year 1984, two (2) funding cycles will be initiated. All papers postmarked before midnight December 1, 1983 will be considered for funding during Cycle 1. All papers postmarked after midnight December 1, 1983 and before June 1, 1984 will be considered for funding during Cycle 2.

At this time the NIJ appropriation for fiscal year 1984 has not been finalized. If the proposed request is adopted, the Institute will allocate approximately $1,000,000 for the URP, with approximately $500,000 available for each funding cycle. If a figure less than the amount requested is appropriated, this funding level will be modified and Cycle 2 funding may be eliminated. In either case, the total amount of awards will depend upon the receipt of high quality proposals that meet all criteria. Approximately one-third of the amount available during each cycle will be allocated for grants of $60,000 or under. The range of funding for each grant will be from $10,000 to $120,000 for research of up to two years' duration.

Copies of this solicitation may be obtained by sending a mailing label to: Announcement Requests—Unsolicited Research Program, National Criminal Justice Reference Service, Box 6000, Rockville, Maryland 20850.

Dated: September 7, 1983.

James K. Stewart,

Director, National Institute of Justice.

[FR Doc. 83-25010 Filed 9-13-83; 8:45 am]

BILLING CODE 4410-18-M

LIBRARY OF CONGRESS

American Folklife Center, Board of Trustees; Meeting

In accordance with P.L. 94-463, the Board of Trustees of the American Folklife Center announces its meeting to be held in Tucson, Arizona on Friday, October 14, from 9:30 a.m. to 4:30 p.m. in the Conquistador Room at the Tucson Marriott Hotel. The meeting will be open to the public. It is suggested that persons planning to attend this meeting as observers contact Eleanor Sreb, American Folklife Center (202) 287-6590.

The American Folklife Center was created by the U.S. Congress with passage of Public Law 94-201, the American Folklife Preservation Act, in 1976. The Center is directed to "preserve and present American folklife" through programs of research, documentation, archival preservation, live presentation, exhibition, publications, dissemination, training, and other activities involving the many folk cultural traditions of the United States. The Center is under the general guidance of a Board of Trustees composed of members from Federal agencies and private life widely recognized for their interest in American folk traditions and arts.

The Center is structured with a small core group of versatile professionals who both carry out programs themselves and oversee projects done by contract by others. In the brief period of the Center's operation it has begun energetically to carry out its mandate with programs that provide coordination, assistance, and model projects for the field of American folklife.

Raymond L. Dockstader,

Deputy Director, American Folklife Center.

[FR Doc. 83-25009 Filed 9-13-83; 8:45 am]

BILLING CODE 1410-01-M

NATIONAL LABOR RELATIONS BOARD

Appointments of Individuals To Serve as Members of Performance Review Boards

5 U.S.C. 4314(c)(4) requires that the appointments of individuals to serve as members of performance review boards by published in the **Federal Register**. Therefore, in compliance with this requirement, notice is hereby given that the individuals whose names and position titles appear below have been appointed to serve as members of performance review boards in the National Labor Relations Board for the rating year beginning January 1, 1982 and ending December 31, 1982.

Name and Title

Jack B. Albanese—Chief Counsel to Chairman
Robert E. Allen—Associate General Counsel, Enforcement Litigation
William C. Baisinger—Chief Counsel to Board Member
Frederick J. Calatrello—Chief Counsel to Board Member
Harold J. Datz—Associate General Counsel, Advice
Joseph E. DeSio—Associate General Counsel, Operations Management
David Dunn—Chief Counsel to Board Member
John E. Higgins, Jr.—Deputy General Counsel
Harry M. Lett—Chief Counsel to Board Member
Paul E. Long—Deputy Director of Administration
Eugene L. Rosenfeld—Deputy Associate General Counsel, Operations Management
Ernest Russell—Director of Administration
Berton B. Subrin—Director, Office of Representation Appeals

John C. Truesdale—Executive Secretary
Robert F. Volger—Deputy Executive Secretary
Melvin J. Welles—Chief Administrative Law Judge

Dated: Washington, D.C.

By Direction of the Board.

Dated: September 6, 1983.

John C. Truesdale,

Executive Secretary.

[FR Doc. 83-24541 Filed 9-13-83; 8:45 am]

BILLING CODE 7545-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

Recommendation Responses; Availability

Recommendation Responses From:

Aviation—*Federal Aviation Administration: Aug. 26: A–82–90:* Airworthiness Directive 83–14–08, effective Aug. 26, 1983, requires the installation of two additional stall strips to the wing leading edge on Piper Model PA–38–112 airplanes, as well as corresponding changes in the airspeed indicator and Pilot's Operating Handbook. *Aug. 8: A–75–51:* The FAA's Small Airplane Certification Directorate in the Central Region has established a new "Special Projects Office" which will be responsive to crashworthiness issues relative to small airplanes. This office will study such subjects as dynamic testing of the seats on small airplanes. *Jul. 29: A–82–67 and –108:* Has initiated a review and analysis of cockpit voice recorders and flight data recorders for rotorcraft. *Jul. 25: A–83–34:* FAA's Small Airplane Certification Directorate is studying the recommendation to issue an airworthiness directive to make compliance with Cessna Service Letter SE80–16 compulsory. *Jul. 25: A–81–145:* A discussion paper on stress and fatigue is being disseminated to all controllers and supervisors to encourage discussion among employees on the management of stress, stimulate an awareness of possible stressful situations, and promote corrective actions. This will be followed by a 1-hour videotape presentation on stress and stress management. *A–81–147:* Is moving as rapidly as possible to remove supervisors from controller position coverage so they may devote full time to supervisory duties during volume traffic conditions. *A–81–156:* Implemented on Apr. 25, 1983, Standard Organization of Air Traffic Control Terminal Facilities, Order 1100.126E, and on Apr. 29, 1983, Standard Organization of Air Route Traffic Control Centers, Order 1100.123C, which provide for a Quality Assurance Division in centers and large terminal facilities that will conduct periodic formal evaluations to monitor the air traffic control practices and controller proficiency. *Jul. 15: A–80–116:* The testing of the National Weather Service weather radar color remote displays was conducted at the Cleveland Air Route Traffic Control Center from Apr. through Oct. 1981. The test proved that, with the present equipment, the dual display environment at the sector posed problems to the controller in terms of clutter and distraction. *A–80–117:* Development of graphic maps for correlation of weather on color displays and air traffic controller displays was successful. However, it was reported that the information on the color weather monitors presented too much clutter and could not satisfy the needs for graphic data on a separate display in a legible manner. The weather display monitor was too small to accomodate the requried amount of graphics. *A–80–118:* The effort to correlate weather and air traffic data will continue. *A–80–119:* Deliveries of the Radar Remote Weather Display System equipment is underway. *Jul. 21: A–83–13:* Has placed the Low Level Wind Shear Alert System on the National Airspace Performance Reporting System list which means that all deficiencies must be reported and repairs accomplished on a priority basis. *A–83–14:* Will amend FAA Handbook 7210.3F, paragraph 1222, to require issuance of a Letter to Airmen by all Low Level Wind Shear Alert System facilities. The letter will contain the location and designation of the remote sensors, the capabilities and limitations of the system, and the availability of current system remote sensor information. *A–83–15:* Is developing a plan to install data recorders on Low Level Wind Shear Alert Systems to tabluate the number of times wind shear alerts occurred, the shear velocity, and the duration of the event. *A–83–16:* Proposes to change the Airman's Information Manual, paragraph 520, to include wind shear as a reportable, significant flight condition and urge pilots to promptly provide the appropriate air traffic control facility with reports of wind shear. An article entitled "Low Level Wind Shear—Its Characteristics and the Controller's Responsibility" has been published in Air Traffic Service Bulletin Number 83–2, dated June 1983. Another article, "The Characteristics of Microbursts," was also published in the Bulletin. Advisory Circular 00–50A, "Low Level Wind Shear," addresses the subject of pilot reports (PIREPS) when encountering wind shear conditions. *A–83–17:* A change to Handbook 7210.3F, paragraph 1230, Automatic Terminal Information Service, effective Aug. 4, 1983, requires the appropriate controller to "broadcast once on all frequencies, except emergency frequencies, to advise aircraft of a change in the ATIS code/message." *A–83–18:* Believes the methods and procedures currently available to air carrier pilots usable for evaluation of convective weather patterns are adequate if utilized with conservative discretion commensurate with available technology. *A–83–19:* Evaluation of the data available from Low Level Wind Shear Alert Systems indicates that it is not feasible to esta' 'ish operational limitations based on its use. *A–83–20:* Will evalute various displays of wind sensor information using an enhanced Low Level Wind Shear Alert System at New Orleans Airport. *A–83–21:* A National Academy of Sciences study is reviewing the state of knowledge of low level wind shear and variability that is potentially hazardous to aviation in the terminal area, including detection and measurement of wind hazards, communication of information, warnings to pilots and air traffic control personnel, piloting procedures and training needs, and implications for aircraft design, construction, and operation. The National Aeronautics and Space Administration is studying the aerodynamic penalties of precipitation on airplane performance. *A–83–22:* Plans an informational film for use by pilots and controllers detailing the hazards associated with convective weather. Data from the Joint Airport Weather Studies will be used to develop updated realistic microburst/downburst models to be used in simulator training of pilots. The National Aeronautics and Space Administration is developing design guidelines for changes needed to improve the performance of airborne Doppler radars. In promoting the development of airborne wind shear detection devices, FAA has circulated within industry Advisory Circular 120.XX which defines the criteria for such systems to be used in air carrier operations. *A–83–23:* Every effort is being made to expedite the procurement for development and production of the terminal Doppler weather radar by specifying a next generation derivative radar. More immediately available hardware such as add-on Doppler to existing weather radar would still require development of the software. *A–83–24:* Is reviewing recommendation to encourage industry to expedite the development of flight director systems such as MFD-delta-A and head-Up type displays which provide enhanced pitch guidance logic which responds to inertial speed/airspeed changes and ground proximity and encourages operators to install these systems. *A–83–25:* Will continue to encourage the air carriers to implement improved wind shear models for their simulators which may include microburst demonstrations. Definitive data on microbursts are being prepared by the National Center for Atmospheric Research. *A–83–26:* The air carrier training programs provide more than ample guidance to the pilots on meteorology. FAA will continue to provide emphasis to new information and technology in this area as it becomes available. *July 22: A–80–53:* Effective Feb. 7, 1983, Revision 3 to Airworthiness Directive 81–16–06–R3 allows Learjet Models 24E/F and 25D/F airplanes which were originally certificated to 51,000 feet altitude to resume operations above 45,000 feet if the following kits are installed: AMK 81–12 Engine Stall Warning System, AMK 82–4 Autopilot Pitch Nose Down Limits, and AMK 82–5 Autopilot Roll Rate Limiter. FAA has withdrawn a Notice of Proposed Rulemkaing, based on comments received, to require installation of several changes which would have affected the pitch axis systems in Learjet Models 35/35A/36/36A. Has issued an NPRM to require mandatory modifications in the pitch axis and autopilot systems of Learjet Model 24 series airplanes. No additional mandatory action is currently planned or anticipated on the Learjet Model 23 or Model 28/29 airplanes in regard to pitch axis system modifications. Has approved a "Softflite I" aerodynamic modification to the "straight wing" Learjet Model 25 airplanes that allows those airplanes to return to the

original speeds before they were increased by Airworthiness Directive 80-16-06. A similar modification is currently under development for Model 23 and 24 "straight wing" airplanes. Those airplanes that do not get the "Softflite I" modifications will be required by an Airworthiness Directive to undergo a permanent resetting of the pusher/shaker system to be compatible with the higher speeds. *Jul. 11: A-83-46:* Issued General Notice Number 8320.283, Aircraft Lavatory Maintenance/Inspection Program on Jul. 1, 1983, to initiate a special emphasis program to assure the fire containment integrity of aircraft lavatory trash receptacles of all transport category aircraft being operated by U.S.-certificated operators. *Jul. 14: A-83-12:* Has reviewed the design criteria for the aluminum hydraulic lines in Cessna Model 404 airplanes. The material involved, 5052 aluminum alloy in the 0 temper, has an acceptable margin of safey and is typically used for airplane hydraulic line applications. The bend radii of the affected lines were determined to be within the standards established for this type material. FAA has recommended that Cessna review its present maintenance procedures with the intent of developing an improved maintenance/inspection method of permit early identification of potential line failures. Issuance of an Airworthiness Directive requiring inspection of all hydraulic lines and tubing within 10 hours and every 50 hours thereafter does not appear warranted at this time. *Jul. 14: A-83-33:* Issued Notice of Proposed Rulemaking, Docket Number 83-NM-45-AD on Jun. 24, 1983, regarding mandatory inspection for incorrect sockets specified in Sundstrand Data Control Service Bulletin No. 23. *Jul. 14: A-82-70, -72, and -73:* Changes contained in FAA Order 8430.1C, "Inspection and Surveillance Procedures—Air Taxi Operators/Commuter Air Carriers" provide new guidance to FAA inspectors concerning oral briefings and briefing cards, location and use of fire extinguishers, articulation by crewmembers of passenger briefings, and emphasis on cabin safety and surveillance. Believes that the regulatory requirements in 14 CFR 135 are adequate in addressing the location and use of fire extinguishers. Change 1 to Order 8430.1C will include directions to principal inspectors to require operators to identify storage locations of fire extinguishers when their locations are less than obvious. *Jul. 5: A-82-151:* FAA Order 8340.1A, Change 72, will transmit Maintenance Bulletin No. 52-12 to Appendix 21 entitled Nihon YS-11 Aircraft Interior Overwing Exit Markings that directs FAA field inspectors to assure that their assigned operators are aware of the need to mark the catches on all emergency exits so they are easily located and distinguishable from exit handles and other components. *Jul. 7: A-81-157 through -160:* An Airworthiness Directive (Docket No. 82-CE-34-AD) effective Jun. 15, 1983, requires installation on Piper Models PA-24-400, PA-30, and PA-39 airplanes of an improved fuel selector valve strainer housing, placards prescribing, in detail, preflight fuel system drainage procedures and makes mandatory existing manufacturer's recommendations on fuel system maintenance. *Jul. 7: A-82-96 and -97:* Airworthiness Directive 83-10-03, effective Jun. 30, 1983, requires modification of the right-hand control wheel yoke in certain Cessna Models 172M, 172N, 172P, R172K, F172, and FR172 airplanes to eliminate the in-flight jamming of the control system by incorporating a stop in the control system. *Jul. 7: A-82-18:* Is evaluating the reliability of the deice system for the Cessna 1983 Model P210N with dual alternators and vacuum pumps. *A-82-21:* Is evaluating the failure mode and design adequacy of aircraft vacuum pumps produced by Airborne Manufacturing Company and the Edo-Aire Manufacturing Company. *A-82-22:* Is continuing its review of the regulations governing flight instruments and other equipment which use pneumatic power. *A-82-23:* Is continuing its monitoring of the extensive investigation and testing that the vacuum pump manufacturers are conducting relative to the effects of altitude and other factors on the performance and reliability of vacuum pumps. *Aug. 22: A-80-136:* FAA's Proposal AAT-364-82-2 on flight service station priority of duties was adopted and became effective on Dec. 23, 1982, in Handbook 7110.10F, Flight Services. A test program for Hazardous In-flight Weather Advisory Service in the Southern Region is being approved for national implementation. The program is designed to provide significant meteorological information (SIGMET) reports, convective SIGMET's, airmen's meteorological information (AIRMET) reports, and urgent pilot reports (PIREP) pertaining to the Air Route Traffic Control Center area in which the broadcast facility is located. *Aug. 22: A-83-12:* Issued an Airworthiness Alert in the August 1983 publication of the General Aviation Airworthiness Alert (AC-43-16) to direct attention to the Cessna Model 404 landing gear hydraulic lines. *Aug. 24: A-83-35:* A discussion paper on stress and fatigue is being desseminated to all controllers and supervisors to indicate situations that could increase stress and suggests recommendations to help alleviate these conditions, and will present a 1-hour videotape presentation on stress and stress management to all controllers and supervisors. *A-83-36:* Is developing a program that will have a Quality Assurance Staff in centers and large terminal facilities which will conduct periodic formal evaluations to monitor the air traffic control practices and controller proficiency. Performance standards and critical task areas inherent in operational error causal factors are being integrated into the task and skill evaluation techniques used during the Training Program and Technical Appraisal Program. *A-83-37:* The program to implement the use of air traffic control facilities' operational computers to help identify operational errors is being expedited. *A-83-38:* Is moving as rapidly as possible to remove supervisors from controller position coverage so they may devote full time to supervisory duties during volume traffic conditions. *A-83-39:* Nothing in the handbooks requires disciplinary action for controller performance leading to an operational error. Will review the appropriate handbooks to ensure that nothing contained in them implies that an operational error should result in disciplinary action. *A-83-40:* All facility evaluations conducted by the Air Traffic Service Quality Assurance Division include a check on the visibility and availability of report forms for the controller's use in reporting incidents under the Aviation Safety Reporting System. *A-83-41:* Automation systems to modernize flight service stations are under contract and installation will begin in 1984. Under the flight service station modernization plan, the existing workforce will be centralized to the 61 automated flight service stations in an evolutionary manner designed to maintain the integrity of the system during transition. *A-83-42:* FAA has been able to lift restrictions safely because controller staffing is augmented by supervisory and staff personnel working control positions and the imposition of strict flow control programs to level peaking. Supervisors and staff are expected to return to normal duries by July 1984. Traffic Management Units are being organized in all 20 air route traffic control centers and a select number of Level V facilities. The units consist of 8 to 15 highly trained air traffic management specialists whose main functions are to analyze center traffic flow and to ensure that traffic volume does not exceed sector controller capabilities. Ground delay procedures will continue to be used to ensure that traffic volume will not exceed system capacity. *A-83-43:* Will initiate a program to record data at all Automated Radar Terminal System IIIA facilities.

U.S. Virgin Islands: A-80-16 through -18: The Virgin Islands Port Authority has held training, hot drills, and periodic disaster drills for airplane crash emergencies. An address system was installed in the crash house with the activating microphone in the control tower. Portable multi-channel transceivers are located in the three emergency vehicles. Direct radio communication is provided between each vehicle and the police department, insular fire service, hospital, Civil Defense, and electric utility company.

Highway—*California Dept. of Transportation: Jul. 29: H-83-10 through -15:* Will review and evaluate the basis for each recommendation and take action where it is reasonable, economically feasible and within its legislative authority.

National Tank Truck Carriers, Inc.: July 22: H-83-34, which recommended assisting the American Association of Motor Vehicle Administrators in developing a program to encourage the States to implement a uniform program for specifically licensing or certifying truckdrivers to transport hazardous materials: The charge to the AAMVA is too broad. The Board should temporarily withdraw its recommendation, break down the issue into single constituent elements for specific comment and ask AAMVA to submit its findings based on that outline. In this way, both the lead association and those cooperating in the project will be better able to respond.

Louisiana Department of Transportation and Development: Jul. 22: H-82-26 through -29: Transmitted documents pertaining to the implementation of recommendations to advise maintenance personnel of the

circumstances of the accident in Lake Charles, Louisiana, on Aug. 27, 1981, and to emphasize the need for repair designs at bridges and all other repair sites that consider operational problems, repair personnel qualifications and the need for timely followup to temporary repairs; to establish a program to upgrade maintenance welder qualifications through certification in accordance with performance standards promulgated by the American Welding Society; to conduct a study to determine if it is structurally and operationally feasible and cost effective to provide a median opening on the I-10 Calcasieu River Bridge for emergency use; and to publicize the purpose of and need for compliance with the I-10/210 electronic, changeable message sign system through the local media.

State of New York Department of Motor Vehicles: Jul. 18: H-82-49: Section 6-5 on page 30 of the New York State Driver's Manual which has just been printed provides information on driver's responsibilities at grade crossings. The possibility of developing driver license written examination questions on this new material is still under review. *H-82-50:* Administrative considerations prevent the Department from implementing the recommendation to include in a future vehicle registration renewal mailing an informational flier explaning drivers' responsibilities at automatic railroad crossing gates and flashing lights.

International Association of Chiefs of Police, Inc.: Jul. 18: H-83-34: Has referred the recommendation to assist the American Association of Motor Vehicle Administrators in developing a program to encourage the States to implement a uniform program for specifically licensing or certifying truck-drivers to transport hazardous materials to is Highway Safety Committee for its review and consideration.

American Petroleum Institute: Jul. 15: H-83-34: Has requested the API's Central Committee on Highway Transportation to consider the recommendation to assist the American Association of Motor Vehicle Administrators in developing a program to encourage States to implement a uniform program for specifically licensing or certifying truck drivers to transport hazardous materials.

State of New York: Jul. 13: H-79-30: Its Centralized Local Accident Surveillance System is designed to locate and monitor the more than 350,000 accidents occurring each year on 92,000 miles of local streets and highways, and meets the requirements of Highway Safety Program Standards 9 and 10. *H-82-14:* An Operation Lifesaver Program was inaugurated in New York in July 1982. An education program for schoolbus drivers and children has been developed by the Education Program. Speakers have been sent to discuss the railroad crossing problem with many different audiences.

State of South Carolina: Jul. 18: H-82-40 through -44: Each Resident Maintenance Engineer now has adequate signs to properly identify construction sites as provided for in the South Carolina Manual on Uniform Traffic Control Devices. The practice of using Highway Patrol vehicles has been changed. Engineering Administrators have been instructed in the provisions and specifications of the South Carolina Manual on Uniform Traffic Control Devices, and in-service training will continue to provide instructions in safe and efficient traffic control in work zones.

State of Maryland: Jul. 7: H-80-1: Has amended its vehicle laws to redefine the terms "intoxicated" and "impaired by alcohol" to fit what we perceive to be current nationally accepted standard definitions. *H-81-71:* Reconstruction of the I-95/495 interchange is planned for Fiscal Year 1985. *H-82-33:* Analysis by Maryland Department of Transportation shows that grade crossing problems are not really significant in Maryland. The department's Division of Public Affairs with the State Railroad Administration and other divisions will continue to assist informally the efforts of "Operation Lifesaver."

Maryland Department of Transportation: Aug. 1: H-81-48: State Highway Administration personnel are instructed to remove the berm (silt buildup) adjacent to guardrails during routine maintenance procedures. *H-81-49:* Copies of the State Highway Administration Directives which outline its practice pertaining to replacing damaged guardrail are provided to field personnel responsible for maintenance activities. *H-81-50:* Due to the reduction of funds available for projects such as a systematic upgrading of guardrail, the State has found it necessary to place higher priorities on other types of projects. With the increase in the gasoline tax and more emphasis put on safety improvements, efforts will be directed to programming replacement and upgrading guardrail.

State of Wisconsin Department of Transportation: Jul. 8: H-82-31: Railroad grade crossing accidents do not constiture as serious a problem in Wisconsin as in other States. Will review its decision not to implement Operation Lifesaver at a late date.

State of New Jersey: Aug. 15: H-82-32: Has directed the Department of Transportation to assemble a permanent committee to imlement the Operation Lifesaver program to educate the public concerning potential danger involved at grade crossings and to promote traffic regulation enforcement at such crossings.

Tennessee Department of Safety: Aug. 16: H-79-33 through -35: If a fog situation occurs in the Calhoun fog area, public safety officials are notified by the Tennessee Highway Patrol dispatcher by radio or telephone. Local radio stations are advised of the situation and make spot announcements. The Tennessee Highway Patrol has a trooper on patrol in the area at all times, and a trooper is posted in the fog area from 5 a.m. to 9 a.m. daily. All necessary signs and postings have been erected for detouring traffic around the area. Meetings have been held with all local and State officials to complete a mutual assistance pact. Delineators have been set in the pavement at very close intervals. Flashing warning lights can be activated by a trooper in the north and southbound lanes of I-75 prior to the fog area.

Federal Highway Administration: Aug. 9: H-83-21: Is developing minimum training criteria and sample model curriculum for tractor-trailer driver training programs. *Jul. 14: H-81-18:* Federal Motor Carrier Safety Regulations require every motor carrier to systematically inspect, repair, and maintain all motor vehicles subject to its control. The regulations also require all parts and accessories to be in proper operating condition at all times. In view of this and the fact that the manufacturers of intercity coaches have the needed expertise to develop the specific procedures recommended and have, in fact, developed, published, and distributed such procedures, FHWA and the NHTSA see no justifiable need for further Federal intervention in an area sufficiently addressed by the private sector.

Note.—Single copies of these response letters are available on written request to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. Please include respondent's name, date of letter, and recommendation number(s) in your request. The photocopies will be billed at a cost of 20 cents per page ($2 minimum charge).

H. Ray Smith, Jr.,

Federal Register Liaison Officer.

September 8, 1983.

[FR Doc. 83-24835 Filed 9-13-83; 8:45 am]

BILLING CODE 4910-58-M

OFFICE OF THE FEDERAL INSPECTOR OF THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM

Report on Results of Audit for Purposes of Rate Base Determination; Invitation for Comments and Granting Intervention

Issued: September 7, 1983.

AGENCY: Office of the Federal Inspector for the Alaska Natural Gas Transportation System.

ACTION: Tentative Determination.

DATES: Comments should be submitted on or before October 7, 1983; reply comments should be submitted on or before October 24, 1983.

ADDRESS: For filing comments: J. Richard Berman, Director, Office of Audit and Cost Analysis, Office of the Federal Inspector, ANGTS, 1200 Pennsylvania Ave., N.W., Room 3415, Washington, D.C. 20044.

FOR FURTHER INFORMATION CONTACT: J. Richard Berman, (202) 275-1157.

The Federal Inspector has received from the Office of Audit and Cost Analysis a Tentative Determination on the expenditures incurred by Pacific Gas Transmission Company (PGT) related to the Western segment of the Alaska Natural Gas Transportation System (ANGTS) during the period January 1,

1980 through May 31, 1982.[1] The report is based on two separate audit reports, copies of which can be acquired from Office of the Federal Inspector (OFI) Public Affairs Office: (202) 275–1157.

The two audit reports cover expenditures charged to the gas plant accounts incurred by PGT, including the Allowance for Funds Used During Construction (AFUDC), from January 1, 1980 through May 31, 1982. The Federal Energy Regulatory Commission (FERC) report covers the period January 1, 1980 through June 30, 1980, and the Office of the Federal Inspector (OFI) report covers the period July 1, 1980 through May 31, 1982.

In accordance with established FERC procedures [2] and the OFI's Statement of Policy on General Standards and Procedures for Rate Base Audit and Approval for the ANGTS, the reports express an opinion as to whether: expenditures are properly assignable to the project and of a nature that would qualify the expenditures for eventual inclusion in the rate base; the accounting used by the sponsors meets the Uniform System of Accounts and generally accepted accounting principles; the project sponsors are in compliance with other accounting and reporting regulations and requirements of the Natural Gas Act, the *Decision* and the certificate of public convenience and necessity; and the sponsor's management and cost control systems were in place and operating as planned during the period under review.

The Federal Inspector solicits:

(A) Within 30 days of the notice date the comments of any interested person or persons as to why, or why not, for purposes of rate base determination pursuant to OFI Order No. 3,[3] the tentative determination should be made final.

(B) No later then 45 days after the notice date, interested person may submit comments in response to any comment submitted within the 30-day period provided by paragraph (A) above.

[1] ANGTS was authorized by the Alaska Natural Gas Transportation Act (ANGTA) 15 U.S.C. §§ 719–7190 and the *President's Decision and Report to Congress on the Alaska Natural Gas Transportation System* (Executive Office of the President, Energy Policy and Planning, September 1977) as enacted into law by H.J. Res. 621, Pub. L. No. 95–108 (November 2, 1977). The FERC by an order issued December 16, 1977, in Docket No. CP78–123, *et al.*, issued conditional certificates of public convenience and necessity to construct and operate the ANGTS.

[2] FERC Directive to the Office of the Chief Accountant, Administrative Order No. 4, dated April 18, 1981.

[3] 10 CFR, Chapter XV, Order No. 3, Statement of Policy on General Standards for Rate Base Audit and Approval for the Alaska Natural Gas Transportation System, dated October 22, 1981.

Dated: September 12, 1983.

John T. Rhett,

Federal Inspector.

[FR Doc. 83–25280 Filed 9–13–83; 10:18 am]

BILLING CODE 6119–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–20150; File No. SR–Amex–83–19]

Self-Regulatory Organizations; Proposed Rule Change by American Stock Exchange, Inc.; Amendment of Exchange Rule 343

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on August 16, 1983, the American Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The American Stock Exchange, Inc. is proposing to amend Rule 343 to modify the qualification requirements for supervisory analyst candidates.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) *Purpose.* The Exchange is proposing the adoption of a rule change relating to supervisory analysts as part of its ongoing program to ensure that the Exchange's rules conform to similar rules of the New York Stock Exchange.

Amex Rule 343, Commentary .10, requires that a supervisory analyst candidate either submit evidence of appropriate experience and pass an Exchange Supervisory Analyst Examination, or submit evidence that he has earned a Chartered Financial Analyst ("CFA") designation and pass the portion of the Exchange Supervisory Analyst Examination that deals with Exchange rules on research standards and related matters.[1]

In order to obtain a CFA designation, an applicant must successfully complete Levels I, II, and III of the Chartered Financial Analyst Examination. Each Level tests an increasing degree of sophistication involving more complex investment and financial problems. An Examination Advisory Committee appointed by the New York Stock Exchange determined that completion of CFA Level I by a supervisory analyst candidate, would be sufficient to assure that an applicant possesses the analytical knowledge necessary to properly perform his tasks. The material covered by CFA Level I is substantially the same as the material covered by Part II of the Exchange Supervisory Analyst Examination. It is therefore proposed that Commentary .10 to Amex Rule 343 be amended to provide that a supervisory analyst candidate need only present evidence of appropriate experience (three years as a securities analyst) and successfully complete a specified level of the CFA Examination prescribed by the Exchange (currently CFA Level I), rather than earn the full CFA designation. The candidate would continue to be required to complete the portion of the Exchange Examination dealing with Exchange Rules. By making this amendment, the Exchange will not be lowering the qualification standards for supervisory analysts. It will simply be allowing a candidate to pass to Level of the CFA Examination most relevant to his job functions, instead of passing all three Levels.

The proposed amendments will conform this Rule to recent amendments made by the NYSE to its comparable Rule 344.

(2) *Basis.* The proposed amendment to Rule 343 is consistent with Sections 6(b)(5) of the Exchange Act in that by removing the Level 2 and 3 requirement, the Exchange can maintain investor protection in the area of examination of supervisory analysts without imposing unnecessary regulatory burdens.

[1] A supervisory analyst is an employee of a member organization who has responsibility for approving the research reports of that member organization.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will have a favorable impact on competition by removing excessive burdens imposed on supervisory analyst candidates and by equalizing the amount of knowledge required of all candidates.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, at the above address. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: September 2, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-24970 Filed 9-13-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20154; File No. SR-PSE-83-13]

Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Stock Exchange, Inc.

September 6, 1983.

Pursuant to Section 19 (b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on August 16, 1983, the Pacific Stock Exchange, Inc. ("PSE"), filed with the Securities and Exchange Commission the proposed rule change described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change will require member firms executing trades on the exchange floor to use an automated system for reconciliation of uncompared options trades when such member firms are also clearing members of the Options Clearing Corporation. Members will be required to use exchange-provided data processing terminals in connection with the system and will have the direct cost of the terminal equipment passed through to them. The PSE expects this cost to be about $130 per month per terminal.

The PSE states that the rule change will improve the efficiency of the Exchange by providing a capability to reconcile uncompared trades as they occur and eliminating time-consuming manual procedures. The PSE also states that its proposed rule change comports with Sections 6(b) (4) and (5) of the Act in providing for equitable allocation of reasonable dues, fees and other charges, in facilitating securities transactions and in promoting the cooperation and coordination of persons engaged in securities transactions

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b-4 under the Act. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR-PSE-83-13.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-24969 Filed 9-13-83; 8:45 am]

BILLING CODE 8010-01-M

Forms Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272-2142.

Upon Written Request Copy Available From: Securities and Exchange Commission, Office of Consumer Affairs, Washington, D.C. 20549.

Revision 17 CFR Parts 256a and 257, No. 270-78—Part 256a, 270-252—Part 257.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for OMB approval revisions to 17 CFR Parts 256a and 257 under the Public Utility Holding Company Act of 1935 (15 U.S.C. 79a *et seq.*), the rules governing the preservation of records of registered holding companies and their mutual or subsidiary service companies.

Submitted comments to OMB Desk Officer: Mr. Robert Veeder, (202) 395-4814, Office of Information and

Regulatory Affairs, Room 3235 NEOB, Washington, D.C. 20503.

George A. Fitzsimmons,

Secretary.

September 7, 1983.

[FR Doc. 83-25051 Filed 9-13-83; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-20158; File No. S7-966]

Order Granting Approval of Plan Allocating Regulatory Responsibility

In the matter of the American Stock Exchange, Inc. ("Amex"); Chicago Board Options Exchange, Inc. ("CBOE"); Midwest Stock Exchange, Inc. ("MSE"); National Association of Securities Dealers, Inc., ("NASD"), New York Stock Exchange, Inc. ("NYSE")' Pacific Stock Exchange, Inc. ("PSE"); and Philadelphia Stock Exchange, Inc. ("Phlx").

Notice is hereby given that the Securities and Exchange Commission (the "Commission") has issued an Order, pursuant to Section 17(d)(1) of the Securities Exchange Act of 1934 ("the Act") (15 U.S.C. 78q(d)(1) and Rule 17d–2 under the Act, 17 CFR 240.17d–2, granting approval of a plan for allocating regulatory responsibity (the "plan") filed pursuant to Rule 17d–2 under the Securities Exchange Act of 1934 (the "Act") by the Amex, CBOE, MSE, NASD, NYSE, PSE and Phlx. The plan allocates regulatory responsibilies for certain options-related sales practice matters to one of the designated self-regulatory organizations ("SROs") which is a participant in the plan with respect to a broker or dealer which is a member of more than one SRO.

Accordingly, the SRO to whom a firm is designated shall assume, in addition to the regulatory responsibilities it otherwise has under the Act, regulatory responsibilities allocated to it by the plan. At the same time, any other SROs participating in the plan of which the firm is a member will be relieved of the regulatory responsibilities which have been allocated to the designated SRO with respect to the firm during the time that the firm is designated to the SRO.

I. Introduction

Section 19(g)(1) of the Act, among other things, requires every national securities exchange and registered securities association ("SRO") to examine for and enforce compliance by its members and persons associated with its members with the Act, the rules and regulations thereunder and the SROs own rules unless the SRO is relieved of this responsibility purusant to Section 17(d) or 19(g)(2) of the Act. For a broker or dealer that maintains membership in more than one SRO ("common member"), the statutory obligation of the individuals SROs, without this relief, could result in a pattern of multiple examinations of a common member. This would create unnecessary regulatory duplication and added expenses for a firm and the SROs.

Section 17(d)(1) of the Act was intended, in part, to eliminate overlaps and gaps in the regulatory pattern.[1] With respect to a common member, Section 17(d)(1) authorizes the Commission, by rule or order, to relieve an SRO of the responsibility to receive regulatory reports, to examine for and enforce compliance with applicable statutes, rules and regulations, or to perform other specified regulatory functions.

Rule 17d–1 under the Act, 17 CFR 240.17d–1, was adopted by the Commission on April 20, 1976. The rule authorizes the Commission to name a single SRO as the designated examining authority ("DEA") to examine common members for compliance with the Act and Commission and SRO rules and regulations relating to financial responsibility. When an SRO has been named as a common member's DEA, all other SROs to which the common member belongs are relieved of the responsibility to examine the firm for compliance with applicable financial responsibility rules.

On its face, Rule 17d–1 deals with financial responsibility compliance and no other aspect of SRO's responsibilities. Thus, every SRO continues to be obligated, whether or not it is the DEA for the common member, to examine a common member for compliance with its own rules and provisions of the Act and rules and regulations thereunder governing matters other than financial responsibility. Such matters include options-related sales practice matters.

On October 28, 1976, the Commission adopted Rule 17d–2 under the Act.[2] The rule permits SROs to join in proposing plans for allocating the regulatory responsibilities imposed by the Act with respect to common members. Rule 17d–2(c) provides that the Commission will publish notice of the filing of the proposed plan and provide an opportunity for comment on the plan. Commission approval of a plan filed pursuant to Rule 17d–2 relieves an SRO of those regulatory responsibilities allocated by the plan to another SRO.

On April 1, 1983, the Commisison published notice of the filing of the Amex/CBOE/MSE/NASD/NYSE/PSE/Phlx plan [3] as required by Rule 17d–2(c). No comments were received.

II. The Plan

The plan filed by the SROs is intended to reduce regulatory duplication for a large number of firms currently members of two or more SROs by allocating regulatory responsibility for certain options-related sales practice matters te one designated SRO.[4] A brief description of the general operation of the plan follows.

Under the plan, the SRO to whom a firm is designated [5] will be responsible for conducting options-related sales practice examinations and investigating options-related customer complaints and terminations for cause of associated persons during the time that the firm is designated to the SRO. After Commission approval of the plan, any other SRO of which the firm is a member will be relieved of such responsibility during the period the firm is assigned to a DOEA.

A. Examinations and Disciplinary Proceedings

The DOEA will be responsible for examining for compliance by a firm with the provisions of applicable federal securities laws and the rules and regulations thereunder, its own rules and the rules of any SRO of which the firm is a member.[6] The DOEA will have enforcement responsibility with respect to apparent violations of applicable federal securities laws and the rules and regulations thereunder, the DOEA's rules and the rules of any participating SRO which are comparable to a federal and/or DOEA rule. Violation of such rules will be enforced by, and disciplinary action taken by, the DOEA.[7] However, enforcement

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[1] Securities Acts Amendments of 1975, Report of the Senate Committee on Banking, Housing, and Urban Affairs to accompany S. 249, S. Rep. No. 94–75, 94th Cong., 1st Sess. 32 (1975).

[2] Securities Exchange Act Release No. 12935 (October 28, 1976), 41 FR 49093 (November 8, 1967).

[3] Securities Exchange Act Release No. 19644 (April 1, 1983), 48 FR 15759 (April 12, 1983).

[4] Unless otherwise indicated all of the responsibilities referred to in the release discussing the plan pertain to "options-related" sales practice activity.

[5] The responsible SRO will be known as the firm's "Designated Options Examining Authority" (the "DOEA"). Under the plan, only the Amex, CBOE, NASD and NYSE are DOEAs.

[6] By supplemental letters, the SROs: (i) Provided the Commission with a list of the options-related sales practice rules enforced under the plan and (ii) agreed to notify each other of any addition, deletion or change to their options-related sales practice rules.

[7] Such actions include Formal Complaints, Formal Charges or Letters of Admission, Waiver and Consent.

responsibility and disciplinary action for violations relating to transactions executed in the market of, and to unique rues of, an SRO other than the DOEA will remain that of the relevant SRO.

B. Procedures for Furnishing Examination Results

Reports on the results of examinations of firms subject to the plan (*i.e.*, firms which are members of two or more participating SROs) will be made in the following manner.

Apparent violations of a serious nature involving the market of a participating SRO other than the DOEA will be communicated to that SRO as soon as the problem has been identified by the DOEA.

A report of all examinations completed will be made by the DOEA to all participating SROs of which the examined firm is a member. This report will include the name of the firm examined and the examination results. If an examination results in the DOEA taking formal disciplinary action, a copy of the dispositive document will be forwarded routinely to all participating SROs of which the firm is a member.

Apparent violations of unique rules will be forwarded to the relevant SRO as soon as the examination report has been reviewed by an appropriate supervisory staff person of the DOEA.

In the event that the DOEA staff believe that an examination reveals a situation that may affect the ability of a firm to continue its public options business, all participating SROs of which the firm is a member will be notified promptly.

C. Access to Examination Reports

All examination reports relating to firms subject to the plan will be available for review, at any time, by all participating SROs of which the firm is a member.

D. Customer Complaints and Termination for Cause

Participating SROs are required to give the DOEA copies of all customer complaints not uniquely related to their market, as well as terminations for cause of registered personnel received by them relative to a member firm for which they are not designated the DOEA.

E. Special Situations

The parties have agreed to share information relative to potential violations of rules for which they have joint compliance responsibility, *i.e.*, not options sales practice related such as capping or pegging on the floors of one or more of the SROs, and will cooperate with each other in conducting examinations of or promptly providing relevant data related to such potential violations when requested to do so. Responsibility for the disciplinary process arising out of conduct central to or uniquely related to the market of a participating SRO, other than the DOEA, will be handled by the SRO in whose market the conduct occurred unless it chooses to allow the DOEA to handle such process.

F. The Allocation Procedure

In order to administer the allocation of responsibility, the SROs have formed an Options Self-Regulatory Council ("Council") composed of representatives from each of the participating SROs. The Council will periodically reallocate firms subject to the plan, *i.e.*, there will be some form of DOEA rotation among the SROs for firms which they have in common. The Council will reallocate the firms subject to the plan at least once every two years, but no sooner than one year following the prior general reallocation. Four factors will be considered when reallocating firms subject to the plan. They are:

1. Parity; [6]
2. Appointment as DOEA of common members will be rotated among those SROs which seek appointment as such;
3. If conditions warrant, an SRO may be continued as DOEA for one or more firms; and
4. If an SRO to which a common member belongs has not served as DOEA and requests to do so, such must be done, unless there are two or more SROs who qualify. If so, the Council will choose the DOEA.

III. Discussion—Conclusion

The Commission believes that the plan is an achievement in cooperation among the SROs. The Commission believes that the plan reduces unnecessary regulatory duplication by allocating to a designated SRO the responsibility for certain options-related sales practice matters which otherwise would be performed by multiple SROs. The plan promotes efficiency by reducing costs to both the members subject to the plan and SROs which have been granted relief from responsibility under them. Furthermore, by coordinating their regulatory functions in accordance with the plan, the SROs will promote investor protection.

This order gives effect to the plan and representations filed with the Commission which are contained in File No. S7–866. The participants in the plan shall notify all members affected by the plan of their rights and obligations under the plan.

It is therefore ordered, pursuant to Section 17(d) of the Act and Rule 17d–2 thereunder, that the plan of the Amex, CBOE, MSE, NASD, NYSE, PSE and Phlx filed pursuant to Rule 17d–2 is approved.

It is further ordered that those SROs which are from time to time participants in this Plan which are not the DOEA as to a particular member are relieved of those responsibilities allocated to the DOEA under the plan with respect to such member during the time the member is assigned to an SRO as DOEA.

Dated: September 8, 1983.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-25075 Filed 9-13-83; 8:45 am]

BILLING CODE 8010-01-M

[6] Parity means that, to the extent feasible, each SRO shall, after the reallocation process, be the DOEA for the same number of firms as it was prior to such reallocation.

[Release No. 13485; 813–53]

Elfun Income Fund; Filing of Application

September 7, 1983.

Notice is hereby given that Elfun Income Fund (the "Fund"), c/o General Electric Company, 112 Prospect Street, P.O. Box 7900, Stamford, Connecticut 06904, registered under the Investment Company Act of 1940 (the "Act") as an open-end, diversified, management investment company, filed an application on April 13, 1983, and an amendment thereto on July 28, 1983, for an order of the Commission, pursuant to Section 6(b) of the Act, exempting the fund from the following provisions of the Act: Sections 10(a), 13(a)(4) to the extent required to permit the Fund to be terminated without a vote of the holders of units of the Fund ("Unitholders"), 15(a) to the extent required to allow the investment advisory agreement between the Fund and General Electric Investment Corporation ("GEIC") to go into effect without being approved by persons holding a majority of the Fund's outstanding unit, 15(c), 16(a), 30(d) to the extent required to permit the Fund to send a report to its Unitholders describing operations of the Fund only once a year, and 32(a) of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below, and to the Act and the Rules thereunder for further information as to

the provisions, including Section 6(b) of the Act, which are relevant to a consideration of the application.

The Fund states that it is a trust created pursuant to an agreement among the Trustees of Elfun Income Fund (the "Trustees"), dated December 22, 1982, and that it is organized as an "employees' securities company" within the meaning of Section 2(a)(13) of the Act. The Fund further states that its objective is to seek as high a level of income as is available over a long-term period consistent with a degree of risk determined by the Trustees to be acceptable and consistent with prudent investment management and preservation of capital.

The application states that units of the Fund may be purchased by regular and senior members of the Elfun Society, on behalf of trusts established for the exclusive benefit of such members, and by General Electric Company ("General Electric") and its subsidiary and controlled companies. Regular members of the Elfun Society are selected from among the higher level exempt-salaried employees of General Electric and its subsidiary and controlled companies and senior members are former regular members who have retired from those companies.

It is further stated that the Trustees have contracted for investment management services with GEIC, a wholly-owned subsidiary of General Electric which is a registered investment adviser. The application represents that the investment advisory services to be furnished to the Fund will be furnished at cost, and that it is unlikely that such a contract could be made with any entity other than one, such as GEIC, which is uniquely related to the needs and welfare of the Fund participants.

The application states that the Fund's four Trustees are all officers or employees of General Electric who have been assigned to the operations of GEIC, and who do not receive any compensation from the Fund for serving as Trustees, although the Fund is required to reimburse GEIC for the portion of the remuneration such persons receive from General Electric allocable to the time they spend on Fund matters in their capacity as GEIC officers. Applicant contends that the Trustees, GEIC, and General Electric all have a very strong interest in assuring that the Fund is well managed because of the investment opportunity it offers solely to certain General Electric employees, former employees, and their immediate relatives. It is further contended that it is not necessary for the protection of investors that one or more disinterested trustees be added, especially considering the additional cost to the Fund of outside trustees and, it is alleged, the lack of demonstrated advantages to the investors if such a restructing of the Trustees is required.

For the other reasons set forth more fully in the application, the Fund contends that granting all the requested exemptions is consistent with the protection of investors.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than October 3, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon the Fund at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-25072 Filed 9-13-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13493; 811-3601]

Family Life Separate Account M; Filing of Application

September 8, 1983.

Notice is hereby given that Family Life Separate Account M ("Applicant"), Park Place, Seattle, Washington, 98101, a Separate Account of Family Life Insurance Company, registered under the Investment Company Act of 1940 ("Act") as a unit investment trust, filed an application on August 29, 1983, pursuant to Section 8(f) of the Act, for an order declaring that Applicant has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained threein, which are summarized below, and are referred to the Act for a statement of the relevant provision.

Applicant registered under the Act and filed a registration statement on November 18, 1982 pursuant to Section 8(b) of the Act. Applicant states that a registration statement was filed with respect to the Securities Act of 1933 on the same date. Applicant further states that such registration statement has not become effective and no public offering of its securities has been made, nor does Applicant intend to engage in business of any kind. Applicant also states that it has no assets, debts or other liabilities.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than September 30, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for this request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shal be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-25008 Filed 9-13-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13490; 812-5627]

Investors Life Insurance Co.; Application of North America, et al.

September 8, 1983.

Notice is hereby given that Investors Life Insurance Company of North America ("Investors Life"), INA Security Corporation, and CIGNA Separate Account I ("CIGNA Account") (collectively, "Applicants"), 1600 Arch Street, Philadelphia, PA, 19101, filed an application on August 5, 1983 and an amendment thereto on September 9, 1983 pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") for an order amending a prior order (Investment Company Act Rel. No. 12676, September 20, 1982) and exempting Applicants from Sections 26(a), 26(a)(2)(C), 26(a)(2)(D) and 27(c)(2) of the Act, to the extent necessary to permit Applicants' proposed offering of certain variable annuity contracts. All interested persons are referred to the application on file with the Commission for a statement of facts and representations contained therein, which are summarized below, and are

referred to the Act for a statement of the relevant statutory provisions.

Investors Life presently issues single premium individual variable annuity contracts through the CIGNA Account and now proposes to issue flexible payment individual variable annuity contracts ("New Contracts").

Pursuant to Section 6(c), Applicants request exemptions from the provisions of Sections 26(a)(2)(C) and 27(c)(2) to the extent necessary: to deduct from New Contract values the amount of any premium taxes imposed thereon; to deduct a $30 annual administrative charge at the end of each contract year; to deduct an additional $5 charge at the beginning of each contract year after the first for the second and each subsequent transfer of Contract values among CIGNA Account divisions; to deduct an amount equal on an annual basis to 1.2% of the net asset value of the CIGNA Account to compensate Investors Life for its assumption of mortality and expense risks under the New Contracts. Applicants state that charges under the New Contracts for administrative services and premium taxes, including charges for transfers of contract value among CIGNA Account divisions, are appropriate and will not exceed the expenses to be incurred by Investors Life for such items. Applicants also represent that the deduction of the mortality and expense risk charge is consistent with industry practice and reasonable in relation to the risks assumed by Investors Life under the New Contracts, based on a review of similar products currently available taking into consideration such factors as the manner of distribution, contract charges and the mortality basis for the annuity purchase rates. Investors Life will maintain at its Home Office a memorandum, available to the Commission, which describes the products analyzed, the methodology used, and the results of the review. In addition, Investors Life represents that this charge has a reasonable likelihood of benefitting new contractowners and will maintain in its Home Office a memorandum, available to the Commission, which sets forth the basis for this representation. As a condition for the relief requested, Applicants represent that CIGNA Account will invest in an open-end management fund only if such fund undertakes, in the event the fund implements a distribution plan within the meaning of Rule 12b–1 under the Act, to have a Board of Directors with a disinterested majority adopt and approve such plan, in accordance with Rule 12b–1.

Pursuant to Section 6(c), Applicants also request exemptions from Sections 26(a) and 26(a)(2)(D) to the extent necessary to permit the CIGNA Account to hold its assets without an independent trustee or custodian and to hold the securities of the open-end management investment company in which it invests in open account in lieu of stock certificates.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than September 30, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for this request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–25009 Filed 9–13–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 13491; 812–5563

Lomas Financial Security Insurance Company, et al.; Filing of Application

September 8 1983.

Notice is hereby given that Lomas Financial Security Insurance Company ("Insurance Company"), LFS Variable Account A ("Variable Account"), a separate account of the Insurance Company registered under the Investment Company Act of 1940 ("Act") as a management investment company, and, where applicable, Advance Financial Securities Corporation ("Broker-Dealer") filed an application on May 27, 1983 and an amendment thereto on August 24, 1983 for an order pursuant to Section 6(c) of the Act, amending a prior order granted on February 1, 1983 (Investment Company Act Release No. 13002, referred to herein as the "Prior Order"), to include exemptions from the provisions of Sections 12(b) and 27(c)(2) of the Act and Rule 12b–1 thereunder for certain similar transactions. Additionally, the application, as amended, includes requests by the Insurance Company, the Variable Account, The Lomas & Nettleton Company ("Mortgage Company"), Advance Asset Advisers, Inc. ("Investment Adviser"), and Advance Financial Securities Corporation (collectively, "Applicants") 2001 Bryan Tower, Dallas, Texas 75201, for an order of the Commission, pursuant to Sections 17(b) and 6(c) of the Act, for an exemption from Section 17(a) of the Act and, pursuant to Section 17(d) of the Act and Rule 17d–1 thereunder, amending the Prior Order to permit the Applicants to engage in certain transactions in the manner and subject to the conditions set forth in the application. All interest persons are referred to the application on file with the Commission for a statement of the facts and representations contained therein, which are summarized below, and are referred to the Act and Rules thereunder for a statement of the relevant statutory provisions.

According to Applicants, the Insurance Company is wholly owned by Advance Mortgage Corporation ("Advance"), which in turn is wholly owned by the Lomas/Advance Venture, which is a joint venture organized under Texas law. The Lomas/Advance is managed and controlled by the Lomas & Nettleton Financial Corporation, which through its subsidiaries, including the Mortgage Company, has a 50 percent nonpreferred joint venture interest in the Lomas/Advance Venture. The Broker-Dealer and the Investment Adviser are also wholly owned by Advance.

The Proposed Transactions With Affiliates

Applicants request an exemption from Sections 17(a) and 17(d) of the Act and Rule 17d–1 thereunder to permit the Variable Account to purchase both fixed and variable rate mortgage securities including: Conventional Mortgage Pass-Through Certificates ("Conventional Certificates"), Federal National Mortgage Association Guaranteed Mortgage Pass-Through Certificates ("FNMA Certificates"), Government National Mortgage Association Modified Pass-Through Mortgage-Backed Securities ("GNMA Securities"), and Federal Home Loan Mortgage Corporation Participation Certificates ("FHLMC Certificates") from the Mortgage Company (collectively, "Mortgage Securities"). All of the proposed transactions are in connection with variable annuity contracts ("Contracts") to be issued by the Insurance Company and the Variable Account.

The Prior Order permitted the Variable Account to purchase Mortgage Securities, other than FHLMC Certificates, from Advance. Applicants now seek amendment of the prior order to permit the Variable Account to purchase Mortgage Securities from a different affiliate. Applicants also represent that the Mortgage Company will obtain and sell FHLMC Certificates to the Variable Account. In this regard, Applicants represent that Advance is no longer actively engaged in originating mortgage loans and that the Mortgage Company is so engaged. Applicants request an exemption from the prohibitions of Section 17(a), subject to the same conditions imposed under the Prior Order and included in the present application. In addition, Applicants represent that in the event the Variable Account cannot comply with the conditions contained in the application because of a limited availability of a particular type of Mortgage Security, it will not purchase this type of Mortgage Security from the Mortgage Company. Similarly, Applicants request an exemption from the prohibitions of Section 17(d), as implemented in Rule 17d–1, subject to the same conditions contained in the Prior Order and included in the present application, to the extent necessary or appropriate to permit the Mortgage Company to engage in transactions with the Variable Account, as described in the application and summarized above.

Charges and Deductions Under the Contracts

The Prior Order granted exemptive relief in connection with the various fees and charges to be imposed under the contract, including a $25 annual contract maintenance charge and a daily mortality and expense risk charge at an effective annual rate of $1.00% of the value of the Variable Account assets. Applicants represent that based on recent estimates of anticipated costs, the current cost of purchasing administrative services has risen to $30 per Contract per year.

Applicants also represent that the Contracts have been amended since issuance of the Prior Order in a maner that imposes additional risks which, upon reevaluation, support imposition of a mortality and expense risk charge of 1.10% of the value of the Variable Account assets. Applicants request an exemption from the provision of Section 27(c)(2) to the extent necessary to permit the deduction of the charges in these increased amounts.

The Variable Account requests an exemption from the provisions of Section 12 of the Act and Rule 12b–1 thereunder insofar as distribution expenses in excess of the contingent deferred sales charges permitted under the Prior Order might be deemed to be financed, directly or indirectly, by the mortality and expense risk charge. Applicants do not anticipate that the contingent deferred sales charge will be sufficient to cover all costs of distributing the Contracts. The Insurance Company intends to make up the difference through use of general account funds, which are attributable in part to the mortality and expense risk charges assessed under the Contracts. In this regard, the Insurance Company represents that it has concluded that there is a reasonable likelihood that the proposed method of financing distribution expenses will benefit each of the separate accounts funding the Contracts and contractowners. The Insurance Company will maintain at its Home Office, available to the Commission, a memorandum setting forth the basis of this conclusion. The Variable Account represents that it will have a Board of Managers with a disinterested majority formulate and approve any plan under Rule 12b–1 to finance distribution expenses.

Notice is further given that any interested person wishing to request a hearing on the application may, not late than September 30, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request shall be served personally or by mail on Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders the hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-25070 Filed 9-13-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13492; 812–5595]

Midwest Life Insurance Company, et al.; Application

September 8, 1983.

Notice is hereby given that the Midwest Life Insurance Company ("Midwest Life") and Midwest Life Variable Account ("Variable Account," collectively referred to as "Applicants."), P.O. Box 1160, 100 Dain Tower, Minneapolis, Minnesota, 55440, filed an application on July 11, 1983 and an amendment thereto on August 19, 1983 for an order of the Commission pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") granting exemptions, to the extent necessary, from certain provisions of Sections 26(a), 26(a)(2)(C), 26(a)(2)(D) and 27(c)(2) of the Act in connection with Applicants proposed offering of certain variable annuity contracts. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and are referred to the Act for a statement of the relevant provisions.

Pursuant to Section 6(c) of the Act, Applicants request exemptions from Sections 26(a)(2)(C) and 27(c)(2) to the extent necessary: to deduct from contract values the amount of any premium taxes imposed thereon; to impose a $25 annual contract administration charge, which cannot be increased for the duration of the contract and is designed to reimburse Midwest Life only for its actual expenses of administering the contract; to deduct from the Variable Account an amount equal on an annual basis to 1.4 percent of net asset value to compensate Midwest Life for its assumption of certain mortality and expense risks. In support of their request, Applicants represent that the mortality and expense risk charge is reasonable in amount as determined by industry practice with respect to comparable annuity products, and that the basis for this representation is reflected in documents maintained on file with Midwest Life and available to the Commission. Midwest Life also represent that it has concluded that there is a reasonable likelihood that the proposed use of a portion of the mortality and expense risk charge to finance distribution will benefit the Variable Account and the contractowners. Applicants represent that, as a condition of the exemptive relief, the Variable Account will invest only in mutual funds which undertake to have a Board of Trustees with a disinterested majority formulate and approve any plan under Rule 12b–1 under the Act to finance distribution expenses.

Pursuant to Section 6(c), Applicants also request exemptions from Sections 26(a) and 26(a)(2)(D) to the extent necessary to permit the Variable

Account to hold its assets without an independent trustee or custodian and to hold the securities of the open-end management investment companies in which it invests in open account in lieu of stock certificates.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than September 30, 1983, at 5:30 p.m., do so by shubmitting a written request setting forth the nature of his interest, the reasons for this request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Mangement, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-25071 Filed 9-13-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-20143; File No. SR-MSTC-83-15]

Self-Regulatory Organizations; Proposed Rule Change by Midwest Securities Trust Co. Relating To Transfer and Pledge of Securities by Bookkeeping Entry

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on August 8, 1983, the Midwest Securities Trust Company filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Rule 4, Section 1 of the Rules of the Midwest Securities Trust Company is hereby amended as follows:

Additions italicized—[Deletions Bracketed]

Transfer and Pledge of Securities by Bookkeeping Entry

Rule 4.

Sec. 1. A Depository Participant having a depository free position in a security may, by filing a Depository Delivery Instruction form with the Corporation, instruct the Corporation to transfer such security from the depository account of such Participant: (i) To a free position in an account of such Participant with MCC (if the Participant is also a Participant of MCC), or (ii) to a depository account of another Participant; provided, however, that if the receiving Participant shall have filed with the Corporation an instruction directing that all securities transferred to such Participant by bookentry be credited to the clearing free position of such Participant with MCC, the Corporation shall be authorized to comply with such instruction. *A receiving Participant may not reclaim a delivery of a registered security to the delivering Participant solely for the reason that the delivery was made via bookkeeping entry.*

Sec. 2. No change in text.

Sec. 3. No change in text.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) *Self-Regulatory Organization's Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Change.* The purpose of the proposed rule change is to reduce the physical movement of securities certificates. Recent industry developments have addressed this problem with the adoption of NYSE Rule 387 and similar rules of other self-regulatory organizations.

The proposed rule change addresses the problems associated with the redelivery by Participants of physical securities into the depository. These situations occur where a physical delivery is made to a receiving Participant, who in turn either deposits the physical certificates into his own account, or redelivers the certificates to a third party, who then deposits the certificates into the depository.

The proposed rule change will also reduce unnecessary cost associated with the physical settlement of securities transactions. Participants will not incur the expense of withdrawing physical certificates and the administrative cost associated with the clerical task of redelivering the certificates. In addition, Participants will not incur expenses in terms of time and money associated with lost certificates, lost documents or delays in delivery.

The proposed rule change is consistent with Section 17A of the Securities Exchange Act of 1934, in that it facilitates the prompt and accurate clearance and settlement of securities transactions, promotes more efficient, effective and safe clearance and settlement of securities transactions, and reduces the physical movement of securities certificates.

(B) *Self-Regulatory Organizations's Statement on Burden on Competition.* The Midwest Securities Trust Company does not believe that any burdens will be placed on competition as a result of the proposed rule change.

(C) *Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others.*

The Midwest Securities Trust Company sent and Administrative Bulletin dated April 19, 1983 soliciting comments on the proposed rule change requiring mandatory acceptance of bookentry deliveries. MSTC received a total of five comments. All five responses supported the rule change requiring acceptance of bookentry deliveries for all registered securities. Four of the comments did, however, believe that it would be inappropriate at this time to require bookentry delivery for bearer securities. MSTC's response to these comments was to propose the rule change for MSTC eligible registered securities, excluding bearer securities.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceeding to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

September 1, 1983.

[FR Doc. 83-25077 Filed 9-13-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20157; SR-NYSE-83-36]

New York Stock Exchange, Inc.; Filing and Order Granting Accelerated Approval of Proposed Rule Change

September 7, 1983.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on September 1, 1983, the New York Stock Exchange, Inc. ("NYSE"), 11 Wall Street, New York, New York 10005, filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change would extend the operation of the NYSE's Registered Representative Rapid Response Service ("R4") until October 31, 1983. R4 is currently a pilot program scheduled to terminate on September 5, 1983.[1] According to the NYSE, the purpose of the proposed rule change is to give the Commission time to consider the Exchange's recent proposal for a one-year extension of R4 and an expansion of its use. That rule filing (SR-NYSE-83-8) has been published for public comment,[2] and the Commission has solicited comment on whether to approve or disapprove that proposed rule change.[3] The NYSE in its filing states that the statutory basis of the proposed rule change is Section 11A(a)(1) and 17A(a)(1) of the Act.

Interested persons are invited to submit written data, views and arguments concerning the proposed rule change within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549. Reference should be made to File No. SR-NYSE-83-36.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 5th Street, N.W., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the NYSE.

The Commission finds that the proposed rule change, in light of its limited purpose and experimental nature, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges and, in particular, the requirements of Section 6 of the Act and the rules and regulations thereunder. In this respect, the Commission believes it is appropriate to extend the R4 pilot program to afford the Commission an opportunity to consider fully the comments received in connection with the proceedings on whether to approve or disapprove SR-NYSE-83-8.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, in that the NYSE R4 experiment is scheduled to expire on September 5, 1983, and an extension is necessary to allow the pilot to continue in its present form while the Commission considers the NYSE's proposal for a one-year extension and expansion of the system. The Commission expects to take action on the proposal before October 31, 1983. For this reason, the Commission believes it is appropriate to extend the R4 pilot program to October 31, 1983. In so finding, the Commission does not, however, reach any conclusion as to the consistency with the Act of a continuation of the R4 experiment beyond October 31, 1983.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change reference above be, and thereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-25076 Filed 9-13-83; 8:45 am]

BILLING CODE 8010-01-M

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[1] On September 14, 1982, the Commission approved R4 as a six-month pilot program. Securities Exchange Act Release No. 19047 (September 14, 1982), 47 FR 41800. Thereafter, the Commission has approved extensions of the R4 pilot through May 1, 1983 (Securities Exchange Act Release No. 19593 (March 11, 1983), 48 FR 11544); through June 1, 1983 (Securities Exchange Act Release No. 19713 (April 27, 1983), 48 FR 20184); and through September 5, 1983 (Securities Exchange Act Release No. 19857 (June 9, 1983), 48 FR 27878).

[2] Securities Exchange Act Release No. 19573 (March 8, 1983), 48 FR 10788.

[3] Securities Exchange Act Release No. 19858 (June 9, 1983), 48 FR 27872.

[Release No. 20160; SR-NYSE-82-8]

New York Stock Exchange, Inc.; Order Approving Proposed Rule Change

September 8, 1983.

The New York Stock Exchange, Inc. ("NYSE"), 11 Wall Street, New York, NY 10005, submitted; on April 12, 1982, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, which, among other changes, would rescind NYSE Rule 424, which requires the reporting to the NYSE of members', allied members', and member organizations' interest in or knowledge of any substantial options related to listed securities; and rescind the provisions in NYSE Rule 433 detailing those conditions under which customers' long sales of securities may be effected.[1]

[1] In addition, the proposed rule change amended NYSE Rule 421 and rescinded NYSE Rule 440K.10. The Commission approved those rule changes in

Continued

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 18652, April 15, 1982) and by publication in the **Federal Register** (47 FR 17702, April 23, 1982). No comments were received with respect to the proposed rule filing.

The Commission, in this order, is acting only upon that portion of the proposed rule change relating to NYSE Rule 433. With respect to that portion of the proposed rule change relating to Rule 424, the NYSE has consented to a 30-day extension for Commission action pursuant to Section 19(b)(2) of the Act.[2] The Commission therefore takes no action with respect to Rule 424.

The Commission finds that the proposed rule change, subject to the exception described above, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-25074 Filed 9-13-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20052A; SR-NYSE-83-18]

New York Stock Exchange Inc.; Order Approving Proposed Rule Change

September 8, 1983.

On August 4, 1983, the Commission approved a proposed rule change (SR-NYSE-83-18) by the New York Stock Exchange, Inc. ("NYSE"), 11 Wall Street, New York, NY, 10005, amending NYSE Rule 345 (Securities Exchange Act Release No. 20052, August 4, 1983). The Commission's order was erroneously captioned as File No. SR-NYSE-83-11; the correct caption is File No. SR-NYSE-83-18.

Securities Exchange Act Release No. 19112 (October 7, 1982), 47 FR 46031 (October 14, 1982). The Commission took no action in that order with respect to those portions of the proposed rule change relating to Rules 424 and 433.

[2] *See* letter from James F. Swartz, Jr., Vice President, NYSE, to Thomas C. Etter, Division of Market Regulation, dated August 8, 1983.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-25073 Filed 9-13-83; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Application No. 06/06-0273]

Client Capital Corp.; Application for a License to Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1983)), for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 *et seq.*), and the Rules and Regulations promulgated thereunder.

Applicant: Client Capital Corporation.

Address: 2123 Sidney Bakery Street, Kerrville, Texas 78028.

The officers, directors and stockholders are as follows:

Lloyd D. Brinkman, P.O. Box 163, Mt. Home, Texas 78028, Chairman and Director

Thomas G. Ratcliffe, 101 Larry Lee, Kerrville, Texas 78028, President and Director

Thad R. Finley, 33 Tierra Vista, Kerrville, Texas 78028, Senior Vice President and Director

L. D. Brinkman Corporation, 100 percent Shareholder

The applicant, a Texas corporation, with its principal place of business at 2123 Sidney Bakery Street, Kerrville, Texas 78028, will begin operations with $500,000 paid-in capital and paid-in surplus.

The applicant will conduct its activities principally in the State of Texas.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the applicant under their management, including adequate profitability and financial soundness in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments to the Associate Administrator for Finance & Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this notice should be published in a newspaper of general circulation in the Kerrville, Texas area.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: August 31, 1983.

Edwin T. Holloway,

Associate Administrator for Finance and Investment.

[FR Doc. 83-25084 Filed 9-13-83; 8:45 am]

BILLING CODE 8025-01-M

[License No. 03/03-0160]

First Valley Capital Corp.; Issuance of License To Operate as a Small Business Investment Company

On June 21, 1983, a notice was published in the **Federal Register** (48 FR 28383), stating that an application had been filed by First Valley Capital Corporation, One Bethlehem Plaza, Bethlehem, Pennsylvania 18018, with the Small Business Administration (SBA) for a license to operate as a small business investment company (SBIC), pursuant to § 107.102 of the Regulations governing SBICs (13 CFR 107.102 (1983)).

Interested parties were given until the close of business July 6, 1983, to submit their written comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, and after having considered the application and all other information, SBA issued License No. 03/03-0160 on August 19, 1983, to First Valley Capital Corporation to operate as a SBIC.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: September 1, 1983.

Edwin T. Holloway,

Associate Administrator for Finance and Investment.

[FR Doc. 83-25087 Filed 9-13-83; 8:45 am]

BILLING CODE 8025-01-M

[License No. 09/09-0301]

HMS Capital, Ltd.; Application for a License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of the Small Business Investment Act of 1958, as amended (15 U.S.C. 611 *et. seq.)* has been filed by HMS Capital, Ltd., 1500

Newell Avenue, Suite 702, Walnut Creek, California 94596 with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1983)

The officers, directors and owners of the applicant are as follows:

Michael C. Hone, 99 Eucalyptus Road, Berkeley, California 94705, President, 10 Percent

Susan Hone, 3 Tanglewood Road, Berkeley, California 94705, Vice President & Secretary

Richard Pospisil, 16530 Stevens Canyon, Cupertino, California, Director, 5 Percent

William R. Shapiro, 3746—21st Street, San Francisco, California 94114, Director, 15 Percent

Jerome M. Paros, 1509 NE 69th Street, Redmond, Washington 98052, Director, 7 Percent

General Signal Corporation, High Ridge Park, Stamford, Connecticut 06904, 14 Percent

The Applicant, a California Corporation, with its principal place of business at 1500 Newell Avenue, Suite 702, Walnut Creek, California 94596, will begin operations with $1,657,000 paid-in capital and paid-in surplus.

The applicant will conduct its activities principally in the State of California.

Matters involved in SBA's consideration of the application include the general business reputation and character of proposed managers, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this notice will be published in a newspaper of general circulation in Walnut Creek, California.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: September 8, 1983.

Edwin T. Holloway,

Associate Administrator for Finance and Investment.

[FR Doc. 83-25066 Filed 9-13-83; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #2101; Amndt. #1]

Declaration of Disaster Loan Area; Texas

The above numbered declaration (48 FR 40337) is amended in accordance with the President's declaration of August 29, 1983, to include Liberty, Montgomery and San Jacinto, as a result of damage caused by Hurricane beginning on or about August 18, 1983. All other information remains the same, i.e., the termination date for filing applications for physical damage in the close of business on October 18, 1983, and for economic injury until the close of business on May 19, 1984.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59006)

Dated: August 30, 1983.

Edward Van Schaick,

Acting Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 83-25065 Filed 9-13-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-83-21]

Petitions for Exemption; Summary of Petitions Received Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before October 4, 1983.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No.——, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on September 2, 1983.

Richard C. Beitel,

Acting Assistant Chief Counsel, Regulations and Enforcement Division.

PETITIONS FOR EXEMPTIONS

Docket No.	Petitioner	Regulations affected	Description of relief sought
23181	Amerford Airways	14 CFR 135.5	To permit petitioner to engage in air transportation in accordance with a wetlease agreement with Air Vectors.
23707	Ford Motor Co	14 CFR 21.181	To permit petitioner to operate four Convair 580 aircraft using an FAA-approved minimum equipment list.
20452	Dresser Industries	14 CFR 61.58(c)	To extend Exemption 3061A, which expires November 30, 1983, to permit petitioners pilots-in-command (PIC) to complete their entire 24-month PIC check in an FAA-approved flight simulator subject to certain limitations.
23725	Purolator Courier Corp	14 CFR 121.3(e)	To allow petitioner to operate as a domestic air carrier by using aircraft chartered from operators who are certified by the FAA under the terms of air charter agreements which provide operational control of the aircraft by the certificated charter operator.
23726	Houston Helicopters, Inc	14 CFR para. 5(a) of SFAR 29-4	To allow petitioner to operate three newly acquired helicopters, which are not otherwise certified for IFR operations, in a limited IFR configuration under SFAR 29.
23608	Aviax Jet	14 CFR 135.261(a)(2)	To allow petitioner to operate under the flight time limitations of § 121.521 (a) and (b) instead of § 135.261(a)(2).

Dispositions of Petitions for Exemption

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
23599	David C. Goad	14 CFR 103.1(e)(2)	To permit petitioner to operate an ultralight aircraft which has a fuel capacity exceeding 5 U.S. gallons for the purpose of attempting to set several world records for ultralight aircraft. *DENIED 8/18/83.*
23295	Rosenbalm Aviation, Inc.	14 CFR 121.505, 121.511	To permit petitioner's pilts and flight engineers to operate its aircraft for more than 8 hours in a 24-hour period, without an intervening rest period at or before the end of 8 scheduled hours of flight duty. *DENIED 8/19/83.*
23395	Mission Aviation Fellowship	14 CFR 4(b) SFAR 13, & § 91.37(a)(1)	To permit petitioner to operate its DC-3 type aircraft, N92578, at a takeoff weight of 110 percent of its authorized maximum certificated takeoff weight (29,598 pounds) from the Ope Locka Int'l Airport, Ope Locka, Florida. *DENIED 8/19/83.*
23613	Sparky J. Imeson d.b.a. Imeson Aviation (IMESON).	14 CFR 91.15(c)	To permit petitioner to instruct students in certain primary aerobatic maneuvers without each occupant of the aircraft wearing a parachute. *DENIED 8/22/83.*
23644	The Dow Chemical Co.	14 CFR 21.181, 91.27(a)(1), 91.29, & 91.165	To permit petitioner to operate its 4 Falcon and 1 King Air aircraft in accordance with a minimum equipment list. *PARTIAL GRANT 8/25/83.*
23653	University of North Dakota	14 CFR Portions of Part 141, Appendices A, C, D, and F.	To permit the University of North Dakota to base graduation in certain curricula on the student's demonstration of proficiency to a specific performance level rather than the required minimum total flight time, which includes the minimum solo cross-country flight time requirements of Part 141. *PARTIAL GRANT 8/18/83.**
			*This exemption excludes relief from the minimum solo cross-country flight time requirements.
21789	Air Transport Assn. of America (ATA)	14 CFR 61.49	To extend Exemption 3474 which permits applicants to retake a written or flight test without waiting 30 days provided that the Part 121 authorized instructor has given the applicant flight or ground instruction, as appropriate, and finds the applicant competent to pass the test. *PARTIAL GRANT 8/29/83.*
21802	Sowell Aviation Co.	14 CFR 141.65	To extend Exemption 3466, which expires 8/31/83, to permit petitioner to recommend graduates of its approved certification courses for flight instructor certificates and ratings and airline transport pilot certificates without taking the FAA's written tests. *GRANTED 8/24/83.*
22192	Richmor Aviation, Inc.	14 CFR 141.91(a)	To extend Exemption 3398 which permits petitioner to conduct flight training operations under its pilot school certificate, at satellite bases located more than 25 miles from the main base. The satellite bases are Saratoga County Airport, Ballston Spa, NY; Schenectady County Airport, Scotia, NY; and Dutchess County Airport, Poughkeepsie, NY. *GRANTED 8/18/83.*
21254	Renton Aviation, Inc.	14 CFR 135.203	To allow petitioner to conduct operations at an altitude below 500 feet over water outside the controlled airspace, subject to conditions and limitations. *GRANTED 8/18/83.*
23612	Rotor-Aire, Inc.	14 CFR 135.261	To permit petitioner to perform helicopter emergency medical evacuation service without complying with flight and duty time requirements of this section *GRANTED 8/18/83.*
23692	Midway Airlines, Inc.	14 CFR 121.589(d)	To permit petitioner to operate four DC-9 aircraft after August 31 without having provided a means to prevent articles of baggage stowed under seats from sliding sideward into the aisle. *GRANTED 8/18/83.*
23731	United Aircarriers, INc. d.b.a. Overseas National Airways, Inc., & Icelandair.	14 CFR 21.181, 43.3(f), 43.7(a) & 121.379	To permit Icelandair to operate one leased U.S.-registered Douglas DC-8-71 aircraft, using an FAA-approved minimum equipment list and to allow ONA to maintain the aircraft in accordance with the ONA continuous airworthiness maintenance and inspection program. The aircraft will be leased from ONA *GRANTED 8/23/83.*
23694	Cayman Airways, Ltd.	14 CFR 21.181	To permit petitioner to operate and maintain two U.S.-registered Boeing 727-227 aircraft using an FAA-approved minimum equipment list. *GRANTED 8/25/83.*
23633	NewAir Flight, Inc.	14 CFR 121.61(c)(1)	To permit Mr. Larry D. Ross to serve as Director of Maintenance for NewAir Flight, Inc., although he does not meet experience requirements. *GRANTED 8/26/83.*
20090	Sierra Academy of Aeronautics	14 CFR 61.63(d) (2) & (3), 61.151(d)(1)	To permit petitioner to complete a portion of the practical test, for the issuance of an airline transport pilot certificate or a type rating to be added to any grade of pilot certificate, in an airplane simulator and to substitute for the flight tests required by § 61.63(d) (2) and (3) the test requirements in Appendix A to Part 61. *GRANTED 8/25/83.*
23722	Cargolux Airlines Int'l., S.A., CARGOLUX	14 CFR Portions of Part 21 & 91	To permit petitioner to operate 2 leased, U.S.-registered Boeing B-747-200 aircraft using an FAA-approved minimum equipment list and to maintain the aircraft in accordance with the Boeing Co. (Boeing) continuous airworthiness maintenance and inspection program. The aircraft will be leased from the Boeing Equipment Holding Co. *GRANTED 8/20/83*
23625	Jack Vance McCain	14 CFR 65.91(c)(1)	To enable petitioner to become eligible for renewal of his inspection authorization without complying with the requirements of this section. *GRANTED 8/26/83.*
23735	Cargolux Airlines	14 CFR 21.181	To permit petitioner to operate a leased, U.S.-registered Douglas DC-8-61 aircraft using the FAA-approved minimum equipment list and to maintain the aircraft in accordance with an FAA-approved continuous airworthiness maintenance and inspection program. *GRANTED 8/25/83.*
16955	American Airlines Training Corp.	14 CFR 61.58(c)	To extend Exemption 2473D, which permits petitioner's trainees to complete their entire 24-month pilot-in-command check in an FAA-approved flight simulator subject to conditions and limitations. *GRANTED 8/29/83.*
23447	Amway Corp.	14 CFR 21.181	To amend Exemption 3746 to permit petitioner to continue to operate several aircraft using an FAA-approved minimum equipment list. It would also allow petitioner to add additional aircraft to the original exemption and would consolidate all petitioners' exemptions into one document. *GRANTED 8/29/83.*
23720	American Trans Air.	14 CFR 121.589(d)	To permit petitioner to operate a DC-10 aircraft for 60 days without the required aisle seat side restraints installed. *GRANTED 8/29/83.*
23591	Flying Tiger Line, Inc.	14 CFR 121.3	To extend Exemption 3810, which expires August 31, 1983, to conduct scheduled passenger service over certain routes, utilizing the flight control/dispatch procedures, communication procedures, and enroute servicing and maintenance procedures of Part 121 that are applicable to supplemental air carriers, subject to certain limitations. *GRANTED 8/29/83.*
23736	Global Int'l. Airways	14 CFR 121.589(d)	To permit petitioner to operate its Boeing 707 airplanes in Part 121 operations after August 31, 1983, with aisle seats that do not have a means to prevent articles of baggage stowed under them from sliding sideward into the aisle under certain conditions. *GRANTED 8/31/83.*

[FR Doc. 83-24048 Filed 9-13-83; 8:45 am]
BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA), Special Committee 153—Airborne VOR Equipment; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 153 on Airborne VOR Equipment to be held on October 5–7, 1983, in the RTCA Conference Room, One McPherson Square, 1425 K Street, N.W., Suite 500, Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Introductory Remarks; (2) Review Committee Terms of Reference; (3) Review First Draft of Committee Report on Minimum Operational Performance Standards for Airborne VOR Equipment; (4) Discuss Impact of FM Broadcast Interference on Airborne VOR Euipment; (5) Outline Committee Work Program and Schedule for Accomplishment; (6) Assignment of Tasks; and (7) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, N.W., Suite 500, Washington, D.C. 20005; (202) 682–0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on September 6, 1983.

Karl F. Bierach,

Designated Officer.

[FR Doc. 83-24949 Filed 9-13-83; 8:45 am]

BILLING CODE 4910-13-M

Golden Triangle Regional Airport, Columbus-West Point-Starkville, Mississippi; FAA Acceptance of Noise Exposure Map; Receipt of Noise Compatibility Program and Request for Review

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its acceptance of noise exposure maps submitted by Golden Triangle Regional Airport (GTR) under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96–193) and 14 CFR Part 150. The FAA also announces that it is reviewing a proposed noise compatibility program that was submitted for GTR under Part 150 in conjunction with the noise exposure map, and that this program will be approved or disapproved on or before February 13, 1984.

EFFECTIVE DATE: The effective date of the FAA's acceptance of the GTR noise exposure maps and of the start of its review of the associated noise compatibility program is August 17, 1983. The public comment period ends October 14, 1983.

FOR FURTHER INFORMATION CONTACT: Elton Jay, Civil Engineer, Jackson Airports District Office, P.O. Box 6111, Pearl Branch, Jackson, Mississippi 39208, (601) 960–4628. Comments on the proposed noise compatibility program should also be submitted to that office.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has accepted the noise exposure maps for GTR, effective August 17, 1983, and is reviewing a proposed noise compatibility program for that airport which will be approved or disapproved on or before February 13, 1984. This notice also announces the availability of this program for public review and comment.

Under Section 103 or Title I of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator may submit to the FAA a noise exposure map which meets applicable regulations and which depicts noncompatible land uses as of the date of submission of such map, a description of projected aircraft operations, and the ways in which such operations will affect such map. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies and persons using the airport.

An airport operator who has submitted a noise exposure map that is accepted by FAA as meeting Federal Aviation Regulation Part 150, promulgated pursuant to Title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

GTR submitted to the FAA on October 21, 1982, noise exposure maps, descriptions and other documentation which were produced during an airport noise control and land use compatibility (ANCLUC) study conducted at GTR from November 1981 to October 1982. It was requested that the FAA accept this material as a noise exposure map as described in Section 103(a)(1) of the Act, and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a noise compatibility program under Section 104(b) of the Act.

The FAA has completed its review of the noise exposure maps and related descriptions submitted by GTR. The specific maps under consideration are depicted in Plates No. 5 (1981 Baseline) and No. 7 (1987) in the final report of the ANCLUC study. The FAA has accepted these materials as the noise exposure maps for GTR, effective on August 17, 1983.

FAA's acceptance of an airport operator's noise exposure map is limited to the determination that the map was developed in accordance with the procedures contained in Appendix A of FAR Part 150. Such acceptance does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under Section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure map to resolve questions concerning, for example, which properties should be covered by the provisions of Section 107 of the Act. These functions are inseparable from the ultimate land use control and

planning responsibilities of local government. These local responsibilities are not changed in any way under Part 150 or through FAA's acceptance of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under Section 103 of the Act. The FAA has relied on the certification by the airport operator, under Section 150.21 of FAR Part 150, that the statutorily required consultation has been accomplished.

Upon acceptance of the noise exposure maps, the FAA has formally received the noise compatibility program for GTR, also effective on August 17, 1983. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before February 13, 1984.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR Part 150, § 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the accepted noise exposure maps, the FAA's evaluation of the maps, and the proposed noise compatibility program are available for examination at the following locations:

Federal Aviation Administration, National Headquarters, 800 Independence Avenue, SW, Room 615, Washington, D.C.

Federal Aviation Administration, Southern Regional Office, 3400 Norman Berry Drive, Room 673, East Point, Georgia 30334

Federal Aviation Administration, Jackson Airports District Office, FAA Building, Jackson Municipal Airport, Jackson, Mississippi

Golden Triangle Regional Airport, Airport Director's Office, Highway 82 West, Columbus, Mississippi

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT.**

Issued in East Point, Georgia, August 24, 1983.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 83-24044 Filed 9-13-83; 8:45 am]

BILLING CODE 4910-13-M

Pine Belt Regional Airport, Laurel-Hattiesburg, Mississippi; FAA Acceptance of Noise Exposure Map; Receipt of Noise Compatibility Program and Request for Review

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its acceptance of noise exposure maps submitted by Pine Belt Regional Airport (PIB) under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96-193) and 14 CFR Part 150. The FAA also announces that it is reviewing a proposed noise compatibility program that was submitted for PIB under Part 150 in conjunction with the noise exposure map, and that this program will be approved or disapproved on or before February 13, 1984.

EFFECTIVE DATE: The effective date of the FAA's acceptance of the PIB noise exposure maps and of the start of its review of the associated noise compatibility program is August 17, 1983. The public comment period ends October 14, 1983.

FOR FURTHER INFORMATION CONTACT: Elton Jay, Civil Engineer, Jackson Airports District Office, P.O. Box 6111, Pearl Branch, Jackson, Mississippi 39208, (601) 960-4628. Comments on the proposed noise compatibility program should also be submitted to that office.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has accepted the noise exposure maps for PIB, effective August 17, 1983, and is reviewing a proposed noise compatibility program for that airport which will be approved or disapproved on or before February 13, 1984. This notice also announces the availability of this program for public review and comment.

Under Section 103 or Title I of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator may submit to the FAA a noise exposure map which meets applicable regulations and which depicts noncompatible land uses as of the date of submission of such map, a description of projected aircraft operations, and the ways in which such operations will affect such map. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies and persons using the airport.

An airport operator who has submitted a noise exposure map that is accepted by FAA as meeting Federal Aviation Regulation Part 150, promulgated pursuant to Title I of the Act, may submit a noise compabitility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

PIB submitted to the FAA on December 9, 1982, noise exposure maps, descriptions and other documentation which were produced during an airport noise control and land use compatibility (ANCLUC) study conducted at PIB from January 1982 to December 1982. It was requested that the FAA accept this material as a noise exposure map as described in Section 103(a)(1) of the Act, and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a noise compatibility program under Section 104(b) of the Act.

The FAA has completed its review of the noise exposure maps and related descriptions submitted by PIB. The specific maps under consideration are depicted in Plates No. 7 (1981) and No. 9 (1987) in the final report of the ANCLUC study. The FAA has accepted these materials as the noise exposure maps for PIB, effective on August 17, 1983.

FAA's acceptance of an airport operator's noise exposure map is limited to the determination that the map was developed in accordance with the procedures contained in Appendix A of FAR Part 150. Such acceptance does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under Section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties

with regard to the depicted noise contours, or in interpreting the noise exposure map to resolve questions concerning, for example, which properties should be covered by the provisions of Section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under Part 150 or through FAA's acceptance of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under Section 103 of the Act. The FAA has relied on the certification by the airport operator, under Section 150.21 of FAR Part 150, that the statutorily required consultation has been accomplished.

Upon acceptance of the noise exposure maps, the FAA has formally received the noise compatibility program for PIB, also effective on August 17, 1983. Preliminary review of the submitted material indicate that it conforms to the requirements for the submittal of noise compatability programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before February 13, 1984.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR Part 150, § 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the accepted noise exposure maps, the FAA's evaluation of the maps, and the proposed noise compatibility program are available for examination at the following locations:

Federal Aviation Administration, National Headquarters, 800 Independence Avenue SW., Room 615, Washington, D.C.

Federal Aviation Administration, Southern Regional Office, 3400 Norman Berry Drive, Room 673, East Point, Georgia 30334

Federal Aviation Administration, Jackson Airports District Office, FAA Building, Jackson Municipal Airport, Jackson, Mississippi

Pine Belt Regional Airport, Executive Director's Office, Laurel-Hattiesburg, Mississippi.

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT.**

Issued in East Point, Georgia, August 24, 1983.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 83-24843 Filed 9-13-83; 8:45 am]

BILLING CODE 4910-13-M

Advisory Circular on Emergency Exits Openable From Outside for Small Airplanes

Correction

In FR Doc. 83-20528 appearing on page 34824 in the issue of Monday, August 1, 1983, make the following correction:

In the document heading and in the summary paragraph, change the word "exists" to read "exits" wherever it appears.

BILLING CODE 1505-01-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 179
Wednesday, September 14, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Federal Mine Safety and Health Review Commission	1
Federal Reserve System	2
National Transportation Safety Board	3
Nuclear Regulatory Commission	4

1

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

September 8, 1983.

TIME AND DATE:

1. 10 a.m., Thursday, September 15, 1983;

2. 2 p.m., Thursday, September 15, 1983; and

3. 10 a.m., Friday, September 16, 1983.

PLACE: U.S. Federal District Court, Room: (to be announced), U.S. Courthouse, 1929 Stout Street, Denver, Colorado.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will hear oral arguments in the following cases:

1. Secretary of Labor, MSHA v. Mid-Continent Resources, Inc., Docket No. WEST 82–174. (Issue is whether the judge properly found a violation of 30 CFR 75.511)

2. Secretary of Labor, MSHA v. Energy Fuels Nuclear, Inc., Docket No. WEST 81–385–M. (Issues include whether the judge erred in finding no violation of 30 CFR 57.6–116)

3. Secretary of Labor, MSHA on behalf of Chester (Sam) Jenkins v. Hecla-Day Mines Corporation, Docket No. WEST 81–323–DM. (issues include whether the judge erred in dismissing the discrimination complaint.)

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653–5632.

[S–1287–83 Filed 9–12–83; 2:09 pm]

BILLING CODE 6735–01–M

2

FEDERAL RESERVE SYSTEM

Board of Governors

TIME AND DATE: 10 a.m., Monday, September 19, 1983.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: September 9, 1983.

James McAfee,

Associate Secretary of the Board.

[S–1285–83 Filed 9–9–83; 4:36 pm]

BILLING CODE 6210–01–M

3

NATIONAL TRANSPORTATION SAFETY BOARD

[NM–83–22]

TIME AND DATE: 9 a.m., Tuesday, September 20, 1983.

PLACE: NTSB Board Room, eight floor, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Highway Accident Report:* Jonesboro School District Schoolbus Run-Off-Road and Overturn, State Highway 214 at State Highway 18, near Newport, Arkansas, March 25, 1983.

2. *Highway Accident Report:* Humboldt County Dump Truck/Klamath-Trinity Unified District Schoolbus Collision, State Route 96, near Willow Creek, California, February 14, 1983.

3. *Marine Accident Report:* Explosion and Fire on Board the U.S. Tankship SS *Golden Dolphin* in the Atlantic Ocean, March 6, 1982, and Recommendations to Apex Marine Corporation and the U.S. Coast Guard.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming (202) 382–6525.

September 9, 1983.

[S–1286–83 Filed 9–12–83; 12:12 pm]

BILLING CODE 4910–58–M

4

NUCLEAR REGULATORY COMMISSION

DATE: Week of September 12, 1983 (revised).

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE DISCUSSED: *Monday, September 12:*

1:00 p.m.:
Status of NTOL Plants (Public Meeting) (As Announced)

2:00 p.m.:
Discussion of Status of Investigations (Closed—Exemptions 5 and 7) (As Announced)

Tuesday, September 13:

10:00 a.m.:
Staff and Teledyne Briefing on Status of IDVP for Diablo Canyon (Public Meeting) (Replaced Public Meeting on Diablo Canyon)

2:00 p.m.:
Continuation of Discussion of Management-Organization and Personnel Matters (Closed—Exemptions 2 and 6) (New Item)

Friday, September 16:

10:00 a.m.:
Discussion/Possible Vote on Full Power Operating License for San Onofre-3 (Public Meeting) (As Announced)

11:30 a.m.:
Affirmation/Discussion and Vote (Public Meeting) (Items Revised)
a. Final Rule—10 CFR 50—Fitness for Duty of NPP Personnel (*Postponed*)
b. Review of ALAB–734 (*Postponed* from September 8)
c. Final Rule—NRC Rulemaking To Amend 10 CFR 2.200 and 2.201 (*Postponed* from September 8)

1:30 p.m.:
Periodic Meeting with Advisory Panel on TMI–2 Cleanup (Public Meeting) (As Announced)

ADDITIONAL INFORMATION:

Affirmation of Final Rule on Temporary Operating Licensing Authority scheduled for September 8, *postponed.*

Discussion of Proposed Insider Safeguards Rule schedule for September 14, *postponed.*

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

Dated: September 12, 1983.

Walter Magee,

Office of the Secretary.

[S–1288–83 Filed 9–13–83; 3:54 pm]

BILLING CODE 7590–01–M

VOL
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federal register

Wednesday
September 14, 1983

Part II

Department of Transportation

Federal Highway Administration

Truck Size and Weight; Proposed Rulemaking

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 658

[FHWA Docket No. 83-14]

Truck Size and Weight; Proposed Rulemaking

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes the final network of highways in 45 States, the District of Columbia, and Puerto Rico on which commercial vehicles with the dimensions authorized by the Surface Transportation Assistance Act of 1982 (STAA) may operate. Criteria for exceptions, additions to and deletions from the designated system are included. The proposed rule addresses width, length and weight of vehicles, grandfather clauses, reasonable access and specialized equipment. The proposed regulations will apply in all 50 States, the District of Columbia and Puerto Rico. A proposed final network for the States of Alabama, Florida, Georgia, Pennsylvania, and Vermont will be published at a later date.

DATE: Comments on this docket must be received on or before October 31, 1983.

ADDRESS: Submit written comments, preferably in triplicate, to FHWA Docket No. 83-14, Federal Highway Administration, Room 4205, HCC-10, 400 Seventh Street, SW., Washington, D.C. 20590. All comments received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m., ET Monday through Friday, except legal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Harry B. Skinner, Office of Traffic Operations, (202) 426-1993, Mr. David C. Oliver, Office of the Chief Counsel, (202) 426-0825 or Mr. Sheldon G. Strickland, Office of Highway Planning, (202) 426-0153, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION:

Background

On January 6, 1983, the Surface Transportation Assistance Act of 1982, Public Law 97-424, 96 Stat. 2097 (STAA), became law. Several provisions of the law concern the length and weight of commercial motor vehicles. On April 5, 1983, Public Law 98-17, 97 Stat. 59, amended the STAA to include truck width provisions. Prior to the enactment of these laws, Federal involvement in these areas was limited to matters involving permissible vehicle weights and widths, and was limited in applicability to the National System of Interstate and Defense Highways. The permissive nature of the law resulted in the adoption of different limits by the States, mainly with respect to vehicle weights, which increasingly became an impediment to the free flow of interstate commerce. Although enforcement of weight limits remains a condition to the grant of Interstate construction funding, these limits are no longer permissive. State limits for weights may not now differ from the Federal maximums.

The changes created by the STAA with respect to width and the addition of length standards have been even more dramatic than those for weights, because the Congress has preempted State authority completely with respect to width, and partially with respect to length. Congress also extended the coverage of length and width controls to include at least portions of the Federal-Aid Primary system as designated by the Secretary of Transportation, and mandated injunctive relief rather than withholding of funds as the method for enforcing these provisions.

Congress has also provided for larger vehicle access from the Interstate and designated roads to terminals, facilities for food, fuel, repair and rest, and points of loading and unloading for household good carriers. The criterion Congress established for determining proper access is "reasonableness."

The initial FHWA notice of policy statement concerning implementation of the STAA was published in the **Federal Register** February 3, 1983 (48 FR 5210). That Notice established docket number 83-4 and set July 1 as a deadline for public comment. The docket has received over eighty comments. In addition, over 400 letters addressing relevant truck related issues have been received at other offices within FHWA. The comments have covered nearly every aspect of the truck size and weight legislation. More than half of the comments have focused on the Connecticut situation, supporting the recently enacted State law prohibiting truck tractor semitrailer-trailer combinations, i.e., "doubles." Comments by certain national organizations have covered several aspects, while many individual commentors have focused on a single aspect of concern to them. The comments to docket 83-4, this docket, and additional letters to FHWA will be combined, fully summarized and considered in preparing the final rule.

This proposed rulemaking implements those provisions of the STAA requiring the designation of a non-Interstate Federal-Aid Primary highway network and also addresses the treatment of specialized equipment and grandfather rights under the new law.

Designated Highways

Section 411(e) of the STAA requires the Secretary to issue final rules no later than 270 days from the date of enactment (i.e., October 3, 1983), designating qualifying Federal-aid Primary System highways (FAP) on which commercial vehicles of the lengths authorized in the STAA must be permitted to operate. Section 416 of the STAA provides for the designation of qualifying Federal-aid highways on which commercial vehicles of the width authorized in that Section must be allowed to operate.

The Federal-aid Primary System consists of principal and minor arterial highways that serve a substantial portion of commercial motor vehicle travel. There is no conclusive evidence that operation of the trucks authorized by the STAA will pose additional safety problems in comparison to vehicles presently allowed to operate by the States. Copies of relevant safety studies are available for inspection in the public docket.

The process of designating qualifying primary highways began with the February 3 Policy Statement (48 FR 5210). The premise of that statement was that all Interstate highways (excepting those segments on which no trucks were currently permitted) were eligible under the Act, and that, at a minimum, all highways constructed to similar design standards (four or more lanes, divided, full control of access) would also be designated. States were asked to add other qualifying highways to meet the intent of the Congress to provide a national network of highways to serve interstate commerce, and to indicate which, if any, of the four lane divided FAP highways they believed should not be included. Henceforth the term "National Network" will be used to reference the combination of the Interstate System and those portions of other Federal-aid highways designated by the Secretary on which commercial vehicles of the dimensions authorized by the STAA are allowed to operate.

The submissions from the States recommended almost 101,000 miles of qualifying highways, or about 40 percent of the non-Interstate FAP system. However, several States did not recommend any mileage other than Interstate, or recommended only small

and unconnected segments of FAP highways. A number of reasons were given for the lean submissions. A common one was that the State had no authority to recommend a network for commercial motor vehicles until State laws had been enacted. Another was the contention that only divided and access controlled highways were safe enough. After full consideration of these reasons, and in view of the short time frame Congress mandated for implementation, FHWA concluded that (a) because the STAA required an interim designation by April 6, 1983, FHWA could not wait for each State to modify its legislation, and (b) neither the language of the STAA, nor its intent, nor the practices of a majority of the States, support a position that only divided and access controlled highways are safe for the commercial motor vehicles authorized by the STAA. Thus FHWA was compelled to augment the submissions from several States, and approximately 38,000 miles were added to the State submissions.

On April 5, 1983, in the **Federal Register** (48 FR 14844) FHWA issued a refined policy statement concerning the basis and rationale for the interim network, and, in an Appendix, designated by State the routes on the interim national network. The policy statement also offered the States the opportunity to apply for the removal of specific routes where road segments would not safely accommodate the larger vehicles due to structural or geometric limitations.

Since publication of the initial interim network, modifying amendments have been published in the **Federal Register** (April 22, 1983 (48 FR 17347), May 3, 1983 (48 FR 20022), May 12, 1983 (48 FR 21317), May 24, 1983 (48 FR 23182), June 2, 1983 (48 FR 24852), July 8, 1983 (48 FR 31588), and August 30, 1983 (48 FR 39222)). The modifications have occurred for two basic reasons: Either because of legal actions challenging the April 5 designations; or because of refinements to the interim network and application of the de-designation criteria upon State request.

On July 8, 1983, in 48 FR 31588, FHWA published the official interim designated network for all 50 States, the District of Columbia, and Puerto Rico, as modified. Corrections in Idaho were published on August 4, 1983 (48 FR 35388). On August 30, 1983, in 48 FR 39222, FHWA published modifications to the interim network in the States of Delaware, New York, and Tennessee.

With respect to legal action, five States (Alabama, Florida, Georgia, Pennsylvania, and Vermont) commenced litigation in U.S. District Courts against the designation of routes added to the State submissions by FHWA. In addition, the FHWA—in cooperation with the Justice Department—initiated court action against Connecticut to enjoin the enforcement of the State's prohibition of "doubles." The court ruled in favor of the Federal Government, and doubles may now operate legally in Connecticut. In the six States with legal action pending FHWA amended the interim networks reverting to those originally proposed by the States.

On August 31, 1983, in 48 FR 39592, FHWA published a Notice of Proposed Rulemaking which proposes for public comment an interim highway system for the National Network in five of the six litigant States (Alabama, Florida, Georgia, Pennsylvania, and Vermont). The designation of an interim network, and ultimately a final network, for these five States is being separated at this time from the other 47 States and jurisdictions until the conclusion of that administrative procedure. Thus, while the timing of a final National Network in each State may not be the same, the rules as proposed under this rulemaking will apply to interim and final networks in every State.

Special notations in the appendix provide additional information as follows:

For the States of Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, and New York the proposed highway segments where disagreements exist between FHWA and the States with respect to designations are marked with an asterisk. It should be noted that these are proposed designations. For information about current interim designations, please refer to the July 8, 1983, **Federal Register** Notice (48 FR 31588), and the August 30, 1983, **Federal Register** Notice (48 FR 39222). Comments are specifically requested as to the desirability of including the routes identified with an asterisk as part of the final designated network.

The State of West Virginia has adopted special procedures whereby routes may be added to the final network. These special procedures are described in the Appendix. The special procedures are in addition to the formal procedures listed in § 658.11(b)(1). In the event that other States adopt special procedures, they will be placed in the docket for inspection.

Substantial or full agreement between FHWA and the States has been reached in 39 States, the District of Columbia and Puerto Rico with 117,640 miles of Federal-Aid Primary proposed to be placed on the National Network.

The criteria for de-designation are incorporated in Section 658.11 of this regulation and are proposed by FHWA to constitute the final criteria for eliminating a designated highway or highway segment from the National Network.

The FHWA has been and will continue to work with the States throughout the interim period in preparing an acceptable and uniform network for final designation. The FHWA actively seeks comment from all interested parties on the proposed final designations included in this NPRM, particularly the route designations noted by asterisk(s) in the States listed above. Such comments should focus on the following points:

1. Safety—Within the criteria set forth in § 658.11 can these routes safely accommodate the larger vehicles?

2. Interconnectivity—Do the routes provide for continuity of movement within and between States, particularly at State lines?

3. Service—Does the overall network provide access to major population and industrial centers?

The STAA leaves little administrative discretion to prohibit totally the use by vehicles authorized in the STAA of any Interstate segment currently used by trucks. However, we believe the STAA provides sufficient FHWA discretion to provide for necessary restrictions on Interstate System usage for documented safety, structural integrity or major traffic capacity problems. For example, States may continue to prohibit vehicles authorized under Sections 411 (a) and (c) and 416 of the STAA if all commercial motor vehicles were prohibited prior to January 6, 1983. Subject to FHWA approval, reasonable restrictions may be imposed during certain peak hours of travel or on specific travel lanes of multi-lane facilities. Other restrictions related to construction zones, seasonal operation, adverse weather conditions, e.g., high winds, or structural or clearance deficiencies may be imposed and enforced. Finally, States may restrict urban Interstate usage by vehicles authorized under the STAA by imposing and enforcing detours to circumferential or bypass Interstate routes for vehicles not destined to locations within the area to be bypassed. Prior FHWA approval will be required for restrictions other than those based on weight related structural inadequacy or vertical clearance on the National Network.

The FHWA has determined that it is impractical to establish one system of highways to accommodate vehicles subject to the length provisions of the

STAA and another system to accommodate vehicles subject to the width provisions. The FHWA therefore is proposing to designate one system of qualifying highways on which vehicles authorized by the length and width provisions of the STAA may operate. Some routes, however, are capable of safely accommodating some classes of vehicles of a larger dimension, but not others. For example, on a route with short radius curves, double trailer combinations may operate safely, but 48-foot single semi-trailers might have problems because of their off-tracking characteristics. Similarly, on some routes with narrow lanes, it may be desirable to prohibit 102-inch wide vehicles of any length.

Under the single designated system concept as reflected in the proposed rule, FHWA has generally excluded road segments unless they can safely accommodate all the larger dimensioned vehicles. An alternative interpretation would permit the designation of such routes, allowing restrictions by vehicle class. Under this alternative the State would impose exclusions by vehicle class from operation on designated routes. The FHWA seeks comments from the States and the trucking industry on matters of safety, administration, enforcement and productivity related to this issue.

Signs

The FHWA is currently considering the need for posting signs on National Network routes. The American Association of State Highway and Transportation Officials (AASHTO) Subcommittee on Traffic Engineering is also considering the issue of whether signs are needed to identify designated routes, and what design may be appropriate. An alternate to signing the designated routes might be for States to issue special maps of the designated routes within their borders. The FHWA seeks comments from interested parties on all aspects of the signing issue, particularly the following:

- In order to identify National Network routes and any operating restrictions is it necessary to post signs, or would specialized State maps be preferable?
- If signs are necessary to identify National Network routes, are signs needed to indentify non-Network intersecting routes from which the larger vehicles are prohibited?
- If States permit certain classes of the larger vehicles, e.g., 102-inch width trucks, on non-Network routes, how should those routes be identified?
- If States exclude certain classes of the larger vehicles from segments of the National Network that cannot safely accommodate them, how should those segments be identified?
- How should nondesignated routes that are used for access to terminals and facilities be identified?

Vehicle Length

The provisions of Section 411 apply to truck tractor-semitrailer configurations (semis) and truck tractor-semitrailer-trailer combinations (doubles). They do not apply to single unit trucks, triples, or trucks pulling semitrailer or trailer units. Thus, the States may continue to establish overall length limits on these other vehicles. Sections 411 (a), (b), and (c), read together, require: (1) That all States must permit the combinations known as "doubles" on Interstate and designated highways; (2) that States can no longer establish an overall maximum length limit for combination semis or doubles, and (3) that States can no longer establish length limitations for truck tractors in such combinations. Subsection (f) defines a truck tractor as a noncargo carrying power unit, and unless otherwise provided for under the specialized equipment provision in subsection (d), the States may continue to regulate cargo-carrying truck tractors.

The length limitations established by Section 411 apply to the trailer or semitrailer units and no State may impose a maximum length limit on a semitrailer in a semi combination of less than 48 feet, or on a trailer or semitrailer in a double combination of less than 28 feet, when operating on the National Network. In effect, Congress has established 48 feet (semi) and 28 feet (doubles) as the lowest maximum trailer length limits on these highways. The States may establish maximum length limits in excess of 48 feet (semis) or 28 feet (doubles) and designate networks for their operation at their option.

In addition, Congress provided two different grandfather rights in Section 411(b). The third sentence of that Section provides that States with trailer length limits on December 1, 1982, that were above those limits established by the STAA are prohibited from establishing limits below those in effect on that date. In establishing a uniform minimum length requirement, with a grandfather right to longer dimensions if in existence, Congress established a floor, rather than a ceiling, which requires States with regulation limits below the STAA limits to raise their limits to the STAA standards. States with regulation limits above the STAA limits would be required to establish limits which are at least consistent with existing State practices. The intent of this provision is to prohibit States from instituting a roll-back to more restrictive limits as a result of the STAA.

There will be difficulties in administering this provision in those States which did not regulate trailer length prior to the passage of the STAA. The majority of such States provided for an overall length limit of 60 or 65 feet. Industry sources, such as the 60 N.R. Committee (an Ad Hoc group of shippers and irregular route carriers concerned with truck dimension issues) report that some States have adopted a 48-foot trailer length maximum, which would exclude longer trailer lengths that were allegedly allowed to operate previously throughout the State. If such is the case, the State practice could be construed to violate the STAA.

The 60 N.R. Committee has provided a map showing trailer lengths that it claims were authorized in each State prior to enactment of the STAA. This map has been placed in the Docket. The Committee has also provided documentation from carriers or shippers supporting the lengths indicated. This documentation includes delivery receipts, bills of lading, drivers logs, motor vehicle comptroller's invoices and vehicle registrations and bills of sale. We would like to establish in the final rule the grandfather length for each State to avoid potential future confusion and conflict. We request comment from each State and the industry on the length of trailers legally in operation in each State on December 1, 1982.

In establishing these lengths, we interpret congressional intent as applying these grandfather provisions only to those trailers which were legal under State law. Thus, vehicles which may have been operating but in violation of State law are not entitled to grandfather status. Also, vehicles which were authorized pursuant to the issuance of a special permit were authorized in accordance with a discretionary power of the State, and we do not intend to interfere with such discretionary power. We expect that those States which previously issued permits for vehicles in excess of legal limits will continue to do so, but special permit *length* limits are not entitled to legal grandfather status under the provisions of the STAA.

Finally, several States did permit trailers with lengths in excess of 48 feet, but only if certain spacing requirements were met between the kingpin and last axle of the vehicle. In those States, which include California, Iowa, and Minnesota, the State may adopt a trailer length of 48 feet in compliance with the

STAA, but the larger trailers must be permitted if they comply with the previous kingpin to axle requirements.

The fourth sentence of Section 411(b) establishes another grandfather provision, which requires States to allow existing doubles with semitrailer and trailer lengths of 28½ feet, if in actual and lawful operation in any State on December 1, 1982, and if such trailer or semitrailers operated within a 65-foot overall length. There are two restrictions applicable to the grandfather right: (1) The trailers must have been in existence (thus only actual equipment is grandfathered), and (2) the trailers must have operated within a 65-foot overall length. We do not perceive any congressional intent to require that such trailers continue to operate in a 65-foot overall length. This equipment does not come under the category of specialized equipment as treated under 658.13(d), but is specifically grandfathered equipment.

Since enactment of the STAA, several States have adopted trailer or semitrailer length restrictions of 28 feet, others have adopted 28½ feet, yet others have adopted even longer maximum trailer lengths. The problem which is created is one of identification. We request comments as to how the grandfathered vehicles (i.e., trailers) would or should be identified. We also would like to know from the industry how many of these trailers and semi-trailers were in actual use on December 1, 1982, within a 65-foot overall length.

Section 411 establishes limits for the National Network only. Section 411(b) precludes State regulation of overall length and tractor length. We interpret Section 411(b) to be consistent with the rest of Section 411 and applicable only to the National Network. If a State chooses to extend its application to other roads, it retains that capability within the exercise of traditional State police power. We do not perceive any congressional intent to preempt State police power off the National Network.

Finally, the Secretary is authorized by Section 411(d) to make such determinations as are necessary to accommodate specialized equipment, for example, automobile transporters. The National Automobile Transporters Association (NATA) has requested clarification of dimensions under this provision. The NATA reports that 35 States presently allow the operation of 65-foot long equipment, with 30 States allowing some form of load extension at the front and rear of the unit. The power unit of these combinations is continually used with the same semi-trailer and is allowed to carry cargo. The NATA requests the establishment of a minimum length of 65 feet for conventional and so-called stinger-steered units (fifth wheel sets on a drop frame located behind and below the drive axles of the power unit), plus overhang. In addition, NATA members utilize an operation known as driveaway-towaway. This operation, also known as a triple-saddlemount, is currently permitted by many States within a 65-foot overall limit. The operation of this unit is similar to a double and is strictly regulated with regard to towing, stability, tracking, strength requirements and fullmount vehicles. The NATA has requested the establishment of a uniform length limit of 65 feet for the operation of triple saddlemounts or triple saddlemounts plus fullmounts, in a driveaway-towaway operation pursuant to Section 411(d). The proposed regulation below adopts these specifications and would require all States to allow such vehicles on the Interstate and designated FAP System highways. Further pursuant to Section 411(d) FHWA proposes to grandfather automobile transport vehicle configurations and sizes in actual and lawful use on December 1, 1982. A State by State listing of currently permitted dimensions prepared by NATA has been placed in the Docket.

One other common form of specialized equipment involves the attachment of a storage box known as a dromedary box to the truck-tractor unit. As the box is utilized for cargo, the length of a truck-tractor with a dromedary can be regulated by the States. Pursuant to the provisions of Section 411(d) of the STAA, FHWA intends to grandfather for their useful life units which were in actual and lawful operation on January 6, 1983. FHWA requests comments as to how the grandfathered equipment should be identified. This position is based on an FHWA desire to comply with the provisions of the legislation without causing undue hardship on the trucking industry and, subsequently, increased costs to the consumer. In addition, FHWA attempted to define future dromedary boxes as cargo or noncargo carrying units as a function of the size of the box. This was not possible since some larger boxes are not intended to carry cargo while some smaller boxes are. Therefore, it was concluded that the only way to relate a dromedary box definition to the legislative definition of a truck tractor is to specify that a truck tractor with a dromedary box carrying manifested property being transported as a part of a shipment constitutes a cargo carrying unit and, as such, does not fall under the requirements of the STAA but is controlled by State laws dealing with a single unit truck.

Vehicle Width

Public Law 98–17, 97 Stat. 50, amended the STAA to add Section 416, which requires all States except Hawaii to establish a vehicle width limitation of 102 inches on the Interstate and designated qualifying Federal-aid primary highways. Hawaii is authorized to retain its current maximum width of 108 inches. The States are authorized to issue special permits to motor vehicles in excess of 102 inches. In addition to preempting State requirements, the intent of adding this provision to the STAA was to provide a uniform effective date and enforcement mechanism for both length and width as well as provide for a uniform highway network on which vehicles with 48-foot semis, 28-foot doubles, and 102-inch wide dimensions could operate.

The FHWA has a long history of interpreting the width provision under prior law. From 1956 to 1979, it was the FHWA's interpretation that the then maximum width limit of 96 inches was inclusive of all safety devices, unless such were specifically exempted by virtue of the grandfather clause (permitted to exceed 96 inches on July 1, 1956). This was consonant with the recommended policy of the American Association of Highway and Tranportation Officials (AASHTO) at the time of enactment of the Federal law. However, AASHTO later amended its policy to exclude safety devices and tire bulge due to load. Reconsideration of the FHWA interpretation led to a modification (44 FR 37710, June 28, 1979) at which time the FHWA adopted the AASHTO definition of width, and in addition to tire bulge, accorded width-exclusion status to rear-view mirrors, turn signal lamps, and hand-holds for cab entry/egress.

As we received additional information on the subject of safety devices, a further modification was noted in 46 FR 32, on January 2, 1981, at which time the devices listed above were accorded continued excluded status and additional items to be determined by the States were also accorded that status. However, the additional items were permitted to extend no more than 3 inches on each side of the vehicle. This position was clarified in an interpretative memorandum of February 12, 1981, which established the FHWA policy as limiting State authorized safety devices to extending 3 inches beyond the vehicle maximum width on each side with the exceptions of load-induced tire-bulge, rearview mirrors,

turn signal lamps, and hand-holds for cab entry/egress, which could extend beyond the 3-inch limit. Section 4165 provides that certain safety devices which the Secretary determines are necessary for safe and efficient operation shall not be included in the calculation of width. We are retaining our previous interpretation for the new requirements of the STAA, with the addition of splash and spray suppressant devices to the list of safety items which can extend beyond the 3-inch limit.

The other issue with respect to width is the scope of coverage of the new section. Under the previous width restrictions in 23 U.S.C. 127, all vehicles operating on the Interstate System, whether incidentally or otherwise, and notwithstanding the commercial nature of the vehicles were restricted by the 96-inch limit. Accordingly, farm tractors, implements of husbandry and similar equipment which do not use the Interstate on any but an incidental basis were limited to the 96-inch width. However, the grandfather clause allowed those States which had made provision through State law or regulation for such specialized equipment on July 1, 1956, to continue to allow such operation on Interstate highways. The 1956 grandfather clause was not retained in Section 416 of the STAA. If this deletion were interpreted strictly many specialized operations could no longer use the Interstate and designated segments of the FAP system, even on an incidental basis, except under special permit. However, since Section 416 has been placed in Part B of Title IV of the STAA which provides for commercial motor vehicle limitations, and the section title accompanying the width provision cites "commercial motor vehicle width limits," we are proposing to exclude farm tractors and similar equipment from the definition of commercial motor vehicles and therefore from the scope of Section 416. Under this proposal States could continue to regulate such equipment.

Several inquiries have been received with respect to the width of the axle track on wider vehicles. Available evidence indicates that the stability of such vehicles will be enhanced if the wider axle tracks are used on the wider vehicles. This enhancement can be gained at minimal cost. At the same time, however, we are unaware of any safety risk which will result from using the current axle track on the wider vehicles. The requirement to use a wider axle track on wider vehicles may have implications for piggyback operations such as trailer-on-flat-car operations (TOFC). We are interested in the views of the States, the industry and the public regarding the advantages and disadvantages of allowing the operation of 102-inch wide vehicles with current axle tracks. Therefore we are requesting comments on whether wider vehicles should be required to have wider axle tracks.

The American National Metric Council and the Truck Trailer Manufacturer's Association have called attention to the practices of some Canadian trailer manufacturers to construct their trailers 2.6 meters wide. This dimension is equivalent to 102.36 inches. The FHWA is interested in knowing the advantages and disadvantages of allowing trailers of 102.36-inch widths on the roads as perceived by the State and the public, in general. The FHWA solicits comments on the question of allowing 102.36-inch wide trailers on the National Network.

Vehicle Weight

Section 133 of the STAA amends Section 127 of Title 23, U.S.C., and makes some important changes. The weight limitations apply only to the Interstate System of highways; however, the States are precluded from denying reasonable access to motor vehicles of such weight between the Interstate System and terminals and facilities for food, fuel, repairs, and rest.

The weight limits are no longer permissive. All states must now adopt maximum weight limits of 20,000 pounds on a single axle, 34,000 pounds on a tandem axle, 80,000 pounds gross weight, and the bridge formula as the standard Interstate weight limits or lose Federal-aid Interstate construction funding. The States can no longer establish maximum weight limits below these weights, or above, unless grandfathered. This section restates the requirement that tolerances must be included in calculating weighs. Several enforcement agencies have established an enforcement policy when using portable scales on according a 2 or 3 percent tolerance prior to issuing a citation. We do not object to such a policy, when it is based on equipment weight measurement errors. However, application of any tolerance by statute constitutes a violation of Section 127.

The bridge formula is a mandatory feature of the law. The formula governs the maximum gross weight on any group of axles and it is only the maximum weight calculated on the basis of the formula which is legal, but in no case can the total weight exceed 80,000 pounds unless a specific grandfather right has been established. All States must enforce the bridge formula and all States must apply the bridge formula to all vehicles, recognizing, however, any legitimate grandfather rights (single axle, tandem axle, or gross weight on July 1, 1956; or group of axles on January 4, 1975).

There are no longer any restrictions on the States in issuing special permits for those vehicles and loads which cannot be easily dismantled or divided; the determination of which vehicles qualify for such special permits is left to the States.

The past several years have seen the development of a number of controversies between the FHWA and the States over the issuance of special permits for gross weights in excess of 80,000 pounds. Several States have been issuing permits for weights over 100,000 pounds. Even in those States limitations have historically been applied for axle weight and spacing (bridge formula). A few States have issued such permits without regard to axle weight or spacing. This practice concerns the FHWA since it leads to premature deterioration of pavements and bridges.

The legislative history makes it clear that the FHWA should not intervene in situations where a State has determined it has a legitimate grandfather right to issue special permits for divisible loads with weights in excess of 80,000 pounds. 128 Cong. Rec. S14997 (daily ed. Dec. 16, 1982) (remarks of Sen. Symms). However, this was a qualified congressional expression, applicable to 16 States: Nebraska, Montana, South Dakota, Oklahoma, Rhode Island, Idaho, Oregon, New Mexico, Utah, Nevada, Massachusetts, Louisiana, Michigan, Hawaii, Washington, and Alaska. These States are the only States that we are aware of that issue divisible load permits or possess grandfather rights allowing gross weights in excess of 80,000 pounds.

Although legislative history suggests that FHWA not intervene in the final decision of the States, the Senate expressed the sense that the FHWA be actively involved in the State determination process. 128 Cong. Rec. S14997 (daily ed. Dec. 16, 1982) (remarks of Sen. Symms). Accordingly, those States listed above which determine that they have a grandfather right to issue special permits for weights in excess of 80,000 pounds should furnish the FHWA with an opinion of the State Attorney General or the highest court of jurisdiction in the State. In addition, all special permits for divisible loads in excess of 80,000 pounds must be issued on the basis of either Federal or grandfathered axle and bridge formula controls. Special permits for

nondivisible loads are now in separate category and no justification need be provided. The States are encouraged to continue routine practices in issuing nondivisible load permits, i.e., approval of routing and bridge inspection, but no requirements are imposed with respect to either axle or gross weights.

Finally, other grandfather rights as historically established, i.e., single and tandem axle weights, remain intact where the States permitted such axle weights above the Federal limits on July 1, 1956.

Reasonable Access

23 U.S.C. 127(b) provides that States may not deny reasonable access to vehicles of weights authorized by that Section between the Interstate System and terminals and facilities for food, fuel, repairs and rest. Similarly, Section 412 of the STAA provides that States may not deny reasonable access to commercial vehicles subject to Title IV of the Act (which includes length and width provisions) between the Interstate and designated Primary System highways and terminals, facilities for food, fuel, repairs and rest and points of loading and unloading for household goods carriers. It is our intent at this time to allow the States to establish individual reasonable access provisions. The current status by States of reasonable access provisions is listed in tabular form below. The FHWA specifically requests comments on all aspects of the reasonable access including the signing or mapping of reasonable access routes and segments and the need to define terminal.

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STATUS OF REASONABLE ACCESS PROVISIONS

STATE	Access Policy	Under discussion	½ mile	1 mile	3 miles	5 miles	10 miles	unlimited	Comments
ALABAMA	X			X					From identified designated interchanges
ALASKA	X							X	
ARIZONA	X							X	
ARKANSAS	X							X	Unless otherwise posted
CALIFORNIA	X		X						Terminal access beyond .5 mi. by signed routes
									from identified access points
COLORADO	X							X	Unless otherwise posted
CONNECTICUT									Pending appeal of Federal court case
DELAWARE	X								By permit only
DIST. OF COL.	X								By permit only
FLORIDA	X								From ident. interchanges: rural-1 mi.(2 lane) & 3 mi.
									(4 lane); urban-1 mi. on X-rds. w/12' lanes. Car-
									riers must petition if terminals outside above limits
GEORGIA	X			X					From identified designated interchanges
HAWAII	X							X	
IDAHO	X							X	
ILLINOIS	X					X			State highways, local roads by permission
INDIANA	X							X	All US and State routes
IOWA	X								1) 5 mi. from I System 2) All rds. & streets within
									cities served by I or other designated routes & 3-10
									mi. outside of cities depending on population.
KANSAS	X							X	All US and State routes
KENTUCKY		X							
LOUISIANA	X				X				
MAINE		X							Waiting for Federal definition in NPRM
MARYLAND	X								Shortest practical route to terminals, etc.
MASSACHUSETTS									Waiting for Federal definition in NPRM
MICHIGAN	X					X			
MINNESOTA									No action pending
MISSISSIPPI	X							X	
MISSOURI	X						X		
MONTANA	X							X	
NEBRASKA	X							X	All US and State routes
NEVADA	X							X	Permit required for width
NEW HAMPSHIRE	X								By permit only
NEW JERSEY	X								By permit only
NEW MEXICO		X							Interim instructions issued for Interstate only
NEW YORK	X								Permit required beyond 1500 feet
NORTH CAROLINA		X			X				For food, fuel, rest & lodging
NORTH DAKOTA		X					X		Draft has been prepared
OHIO	X							X	All US and State routes
OKLAHOMA	X								Very reasonable access
OREGON	X								Limited to designated system
PENNSYLVANIA	X								.2 mile from designated system
PUERTO RICO									Policy to be determined when need arises
RHODE ISLAND									Waiting for Federal definition in NPRM
SOUTH CAROLINA									No action pending
SOUTH DAKOTA	X							X	
TENNESSEE	X							X	Shortest reasonable route
TEXAS	X							X	Unless otherwise posted
UTAH	X							X	
VERMONT	X								.5 mi. on designated interchanges; permit on others
									& greater distance
VIRGINIA	X		X						Permit req'd beyond .5 mi. Permission must be obtain-
									ed within towns, cities & Henrico & Arlington Co.
WASHINGTON	X							X	
WEST VIRGINIA									Anticipate definition by Oct. 1
WISCONSIN	X				X				Considering expansion to 5 miles
WYOMING									No action pending

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Regulatory Impact

The FHWA has considered the impacts of this proposal and has determined that it is a major rulemaking action within the meaning of E.O. 12291 and a significant rule under regulatory policies and procedures of the Department of Transportation (DOT). The agency's determination that this proposed rule is major and significant is based primarily on the substantial savings in transport costs expected to result from implementation of the proposal and on the controversy regarding route designations in selected locations. A preliminary regulatory impact anaylsis, initial regulatory flexibility analysis and an environmental assessment have been prepared and are available for inspection in the public docket.

With regard to the assessment of the impact this proposal will have on small entities pursuant to the Regulatory Flexibility Act (Pub. L. 96–354), the reasons for, objectives, and legal basis for this proposed action have been previously explained in this notice. This proposal does not impose any additional reporting, recordkeeping, or other compliance requirements on small entities and this proposal does not duplicate, overlap, or conflict with any other Federal rules. This proposal does not appear to have any adverse effect on small entities. This proposal will provide the opportunity for any carrier to increase productivity through the use of larger vehicles and therefore is not expected to have a significant adverse effect on any segment of the motor carrier industry. Also, this proposal allows the States to recommend deletion of segments of the system designated for use by commerical motor vehicles with dimensions authorized by the STAA if inclusion of such segments would create significant safety, structural integrity, or traffic congestion problems. Therefore, the proposed rule is not expected to have a significant adverse effect on small governmental jurisdictions. In keeping with the intent of the Regulatory Flexibility Act, the FHWA encourages all small entities to comment on these initial determinations of the impact of the NPRM.

The FHWA has initially determined that this proposal will allow the motor carrier industry to realize substantial productivity gains. These gains are expected to provide significant benefits to truckers, shippers, receivers, and consumers. In the absence of conclusive evidence attributing increased safety problems to the operation of the commerical motor vehicles with dimensions authorized by the STAA, and in recognition of the fact that the proposal provides a mechanism for deletion of potentially unsafe segments from the designated system, the FHWA has initially determined that any safety effects of this proposal will be minor compared to expected benefits. The safety issue is addressed further in the preliminary regulatory analysis.

Depending on the level and distribution of traffic by larger vehicles, this proposal may lead to somewhat higher highway maintenance and safety improvement costs as discussed in the preliminary regulatory impact analysis. The FHWA invites comments on its initial estimation of the effects of this proposal and views on who should bear increased costs for highway maintenance and safety improvements should they be incurred as a result of these regulations as proposed. Any information that will assist in an improved estimation of the effects described above, and any suggestions of additional areas that should be considered in the final regulatory impact analysis, regulatory flexibility analysis or the environmental assessment are invited.

In consideration of the foregoing and under the authority of §§ 133, 411, 412, 413, and 416 of the Surface Transportation Assistance Act of 1982 (STAA), Pub. L. 97–424, 96 Stat. 2097; 23 U.S.C. 315; and 49 CFR 1.48, the FHWA proposes to amend Chapter I of Title 23, Code of Federal Regulations, by adding a new Part 658 to read as set forth below.

List of Subjects in 23 CFR Part 658

Grant programs—transportation, Highways and roads, Motor carriers—size and weight.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The regulations implementing Executive Order 12372 and former OMB Circular A–95 regarding intergovernmental consultation and Federal programs and activities apply to this program)

Issued on September 8, 1983.

R. A. Barnhart,

Federal Highway Administrator, Federal Highway Administration.

PART 658—TRUCK SIZE AND WEIGHT; ROUTE DESIGNATIONS— LENGTH, WIDTH, AND WEIGHT LIMITATIONS

Sec.

658.1 Scope and purpose.
658.3 Policy statement.
658.5 Definitions.
658.7 Applicability.
658.9 Procedures for designation of the National Network.
658.11 Additions, deletions, exceptions, and restrictions.
658.13 Length.
658.15 Width.
658.17 Weight.
658.19 Reasonable access.
658.21 Signing.
Appendix—Other Designated Routes.

Authority: Secs. 133, 411, 412, 413 and 416 of Pub. L. 97–424, 96 Stat. 2097, as amended by Pub. L. 98–17, 97 Stat. 59; 23 U.S.C. 315; and 49 CFR 1.48.

§ 658.1 Scope and purpose.

To designate a National Network of routes available to vehicles authorized by provisions of the Surface Transportation Assistance Act of 1982 (STAA) (Pub. L. 97–424, 96 Stat. 2097) as amended by Pub. L. 98–17, and to interpret certain provisions of the STAA that govern truck size and weight.

§ 658.3 Policy statement.

Federal Highway Administration (FHWA) policy is to provide a safe and efficient National Network of highways for use by the larger vehicles authorized by the STAA. This network will include the Interstate Highway System plus other qualifying Federal-aid Primary System Highways (FAP). The FHWA intends to provide interconnectivity in routing among the States, so that a National Network, which facilitates commerce and safely accommodates the larger vehicles, will be created to meet the intent of the STAA.

§ 658.5 Definitions.

(a) *Bridge Gross Weight Formula*—the standard specifying the relationship between axle (or groups of axles) spacing and the gross weight that (those) axle(s) may carry expressed by the formula:

$$W = 500\left(\frac{LN}{N-1} + 12N + 36\right)$$

where W=overall gross weight on any group of two or more consecutive axles to the nearest 500 pounds, L=distance in feet between the extreme of any group of two or more consecutive axles, and N=number of axles in the group under consideration.

(b) *Commercial Motor Vehicle.* For purposes of this regulation a motor vehicle designed or regularly used for carrying freight, merchandise, or more than ten passengers, whether loaded or empty, including buses, but not including vanpools.

(c) *Federal-Aid Primary System.* The Federal-aid Highway System of rural arterials and their extensions into or through urban areas as described in subsection (b) of Section 103 of Title 23, U.S.C.

(d) *Interstate System.* The National System of Interstate and Defense Highways described in Sections 103(e) and 139(a) of Title 23, U.S.C. For the purpose of this regulation this system includes toll roads designated as Interstate.

(e) *Length Exclusive Devices.* For purposes of this regulation devices such as refrigeration and air compressors, heating units, wind deflectors, flexible fender extensions, mudflaps and splash and spray suppressant devices, and others designated by FHWA are to be excluded in determining the length of any commerical motor vehicle, semitrailer or trailer.

(f) *National Network.* The composite of the individual network of highways from each State on which vehicles authorized by the provisions of the STAA are allowed to operate. The network in each State will include, the Interstate System and those portions of the Federal-Aid Primary System designated by the FHWA in the Appendix to this Part.

(g) *Safety Devices—Width Exclusion.* Federally approved safety devices accorded width exclusion status include rear-view mirrors, turn signal lamps, hand-holds or cab entry/egress and splash and spray suppressant devices. Although not normally considered a safety device, load induced tire bulge is also excluded from consideration in determining vehicle width.

(h) *Single Axle Load.* The total weight transmitted by all wheels whose centers may be included between two parallel transverse vertical planes 40 inches apart, extending across the full width of the vehicle.The Federal single axle weight limit on the Interstate System is 20,000 pounds.

(i) *Special Mobile Equipment.* Every self-propelled vehicle not designed or used primarily for the transportation of persons or poperty and incidentally operated or moved over the highways, including military equipment, farm equipment, implements of husbandry, road construction or maintenance machinery, ditch-digging apparatus, stone crushers, air compressors, power shovels, cranes, graders, rollers, well-drillers, and wood-sawing equipment used for hire, asphalt spreaders, bituminous mixers, bucket loaders, ditchers, leveling graders, finishing machines, motor graders, road rollers, scarifiers, earth-moving carryalls, scrapers, drag lines, rock drilling and earth-moving equipment. This list is partial and not exclusive if such other vehicles as may fall within the general terms of this definition.

(j) *Tandem Axle Load.* The total weight transmitted to the road by two or more consecutive axles whose centers may be included between parallel vertical planes spaced more than 40 inches and not more than 96 inches apart, extending across the full width of the vehicle. The Federal tandem axle weight limit on the Interstate System is 34,000 pounds.

(k) *Tractor or Truck Tractor.* The noncargo carrying power unit that operates in combination with a semitrailer or trailer, except that a truck tractor and semitrailer engaged in the transportation of automobiles may transport motor vehicles on part of the power unit.

§ 658.7 Applicability.

Except as noted in § 658.17 the provisions of this regulation are applicable to the National Network and reasonable access thereto. This regulation deals with the allowance of commercial motor vehicles authorized by provisions of the STAA to operate on the National Network. However, nothing in this regulation shall be construed to prevent any State from applying any weight and size limits to other highways, except highways providing reasonable access to the National Network.

§ 658.9 Procedures for designation of the National Network.

(a) The National Network listed in the Appendix to this regulation is designated and available for use by commercial motor vehicles of the dimensions described in §§ 658.13 and 658.15 of this regulation. The routes described in the Appendix have to the maximum extent possible been designated based on consultation with the individual States, to provide a system of highways which meet the following criteria:

(1) Safety—Routes which can safely accommodate the larger dimensioned vehicles authorized by the STAA.

(2) Interconnectivity—Routes needed to ensure efficient movement of people, goods, and materials within and between States with particular emphasis on State line crossings and reasonably direct travel patterns.

(3) Service—Routes which provide access to major population and industrial centers.

(b) The States may allow commercial motor vehicles of lengths longer than the dimensions specified in § 658.13(b) on the National Network based on their own criteria.

§ 658.11 Additions, deletions, exceptions, and restrictions.

The procedures listed below are necessary to ensure that the National Network, subsequent to its designation by this regulation, remains substantially intact. FHWA will retain the authority to rule upon all requested additions and deletions to the National Network as well as approve of the imposition of restrictions. FHWA approval or disapproval will constitute the final decision of the U.S. Department of Transportation. Alterations to the National Network will become official on the date of publication of FHWA approval in the **Federal Register**.

(a) *Additions.* The States may, at their discretion, allow vehicles with dimensions authorized by the STAA to use any route not on the National Network. The States may propose and FHWA may designate such additional routes that meet the criteria of § 658.09(a). State requests for additions including the justifications therefor shall be submitted in writing to the FHWA Division Office. Requests for additions will be published at least once per year in the **Federal Register** for notice and comment. Formal additions to the National Network will be published periodically in the **Federal Register**, and become effective on the date of publication.

(b) *Deletions.* Changed conditions or additional information may require the deletion of a designated route or a portion thereof. The deletion of any route or route segment shall require FHWA approval. State requests to FHWA for deletion approval including the reason(s) for the deletion and recommendation(s) for an alternative routing shall be submitted in writing to the FHWA Division Office. If the proposed deletion is based on safety considerations, FHWA retains the authority to de-designate the route immediately on an emergency basis. In any event, all requests to delete routes will be published in the **Federal Register** for notice and comment. Deletions, whether treated as an Emergency Rule or as a Notice of Proposed Rulemaking will be published promptly in the **Federal Register**. All requests for deletion shall address at least the following points:

(1) Did the route segment prior to designation carry combination vehicles or 102-inch buses?

(2) Were truck restrictions in effect on the segment on January 6, 1983?

(3) What is the safety record of the segment, including current or anticipated safety problems? Specifically, is the route experiencing above normal accident rates and/or accident severities? Does analysis of the accident problem indicate that the addition of larger trucks will aggravate

existing accident problems? Does the route exhibit above normal truck accident frequency rate or severity?

(4) What are the geometric structural or traffic operations features that might preclude safe, efficient operation? Specifically consider lane widths, sight distance, severity and length of grades, horizontal curvature, shoulder width, narrow bridges, bridge clearances and load limits, traffic volumes and vehicle mix, intersection geometrics and vulnerability of roadside hardware.

(5) Is there a reasonable alternate routing available?

(6) If an alternate route is not available has consideration been given to implementing operational restrictions in lieu of deletion?

(c) *Exceptions.* Those portions of the Interstate and Federal-Aid Primary Systems which were subject to commercial motor vehicle bans on January 6, 1983, are not required to be included in a State's network. This also applies to future qualified highways built with commercial motor vehicle bans.

(d) *Restrictions.* Reasonable restrictions may be imposed during certain peak hours of travel or on specific travel lanes of multi-lane facilities. Other restrictions related to construction zones, seasonal operation, adverse weather conditions or structural or clearance deficiencies may be imposed and enforced. States may restrict urban Interstate usage by vehicles authorized under the STAA by imposing and enforcing detours to circumferential or bypass Interstate routes for vehicles not destined to locations within the area to be bypassed. With the exception of restrictions due to weight related structural inadequacy or vertical clearance deficiencies, all restrictions on the use of the National Network by vehicles authorized by the STAA require prior FHWA approval. Requests for restrictions on the National Network shall be submitted in writing to the FHWA Division Office. Approval of State requests for restrictions will be contingent on the State's ability to justify significant negative impact on safety, the environment and/or operational efficiency.

§ 658.13 Length.

(a) The length provisions of the STAA involve only the following types of vehicle combinations:

(1) Truck tractor-semitrailer,

(2) Truck tractor-semitrailer-trailer.

and only when these combinations are in use on the National Network or in transit between these highways and terminals or service locations pursuant to § 658.19.

(b) The length provisions referred to in paragraph (a) of this section include the following:

(1) No State shall impose a length limitation of less than 48 feet on a semitrailer operating in a truck tractor-semitrailer combination.

(2) No State shall impose a length limitation of less than 28 feet on any semitrailer or trailer operating in a truck tractor-semitrailer-trailer combination.

(3) No State shall impose an overall length limitation on commercial vehicles operating in truck tractor-semitrailer or truck tractor-semitrailer-trailer combinations.

(4) No State may prohibit commercial motor vehicles operating in truck tractor-semitrailer combinations.

(5) No State shall prohibit the operation of semitrailers or trailers which are 28½ feet long when operating in a truck tractor, semitrailer, trailer combination if such a trailer or semitrailer was in actual and lawful operation on December 1, 1982, within a 65-foot overall length.

(c) If a State had in existence on December 1, 1982, length limitations for the conditions described in paragraphs (b) (1) and (2) of this section, greater than 48 and 28 feet, respectively, that State shall not adopt lesser limits.

(d) *Specialized Equipment.*—(1) *Automobile Transporters.* (i) A truck tractor-semitrailer combination engaged in the transportation of motor vehicles shall not exceed a length of 65 feet, inclusive of front and rear bumbers, but this limitation shall be exclusive of the overhang of the transported vehicles.

(ii) The load upon the front vehicle of a combination of vehicles shall not extend more than 3 feet beyond the foremost part of the transporting vehicle and the load upon the rear vehicle of a combination of vehicles shall not extend more than 4 feet beyond the rear of the bed or body of such vehicle.

(iii) Notwithstanding other provisions of this section, a number of motor vehicles may be transported in combination over the highways subject to this regulation, utilizing saddlemount and fullmount mechanisms and utilizing the motive power of one of the vehicles in combination, provided such combination of vehicles shall not exceed a length of 65 feet, and provided further that the equipment used in such combinations shall comply with the safety regulations issued by the Bureau of Motor Carrier Safety of the U.S. Department of Transportation.

(iv) Vehicle configurations and sizes exceeding the dimensions in paragraphs (d)(1) (i), (ii) and (ii) of this section and legal in a State on December 1, 1982, may continue to operate in that State notwithstanding the provisions of this section.

(2) *Dromedary Tractors*—If a power unit vehicle is allowed to carry property which is manifested and transported as part of a shipment, it is not considered as a truck tractor as defined in Section 411(f) of the STAA. If allowed to carry cargo, such a vehicle is considered to be a single unit truck and subject to the laws of the State dealing with single unit trucks. However, dromedary tractor equipment which was in actual and lawful use on January 6, 1983, will be allowed to continue in operation throughout its useful life.

(e) The length limitations described in this section shall be exclusive of length exclusive devices defined in § 658.05(e), or which the Secretary may interpret as necessary for safe and efficient operation of commercial motor vehicles, except that no device excluded from the limitations of this section shall have by its design or use the capability to carry cargo.

§ 658.15 Width.

(a) The maximum total outside width of any vehicle (excluding special mobile equipment as defined in § 658.05(i)) or the load thereon shall be 102 inches on any segment of the National Network except for the State of Hawaii, which is allowed to keep the State's 108-inch width maximum by virtue of Section 416(a), Title IV of the STAA.

(b) Notwithstanding the provisions of this section or any other provision of law, safety devices, as defined in § 658.05(g) or as determined by the States as necessary for the safe and efficient operation of motor vehicles shall not be included in the calculation of width. Safety devices not specifically enumerated in § 658.05(g) may extend up to 3 inches or each side of a vehicle. No device included in this subsection shall have, by its design or use, the capability to carry cargo.

(c) Notwithstanding the provisions of this section or any other provision of law, a State may grant special use permits to motor vehicles that exceed 102 inches in width.

§ 658.17 Weight.

(a) The provisions of this section are applicable to the National System of Interstate and Defense Highways and reasonable access thereto.

(b) The maximum gross vehicle weight may be no less than 80,000 pounds except where a lower gross vehicle weight is dictated by the bridge formula.

(c) The maximum gross weight upon any one axle, including any one axle of a group of axles, or a vehicle is 20,000 pounds.

(d) The maximum gross weight on tandem axles is 34,000 pounds.

(e) No vehicles or combination of vehicles shall be moved or operated on any Interstate highway when the gross weight on two or more consecutive axles exceeds the limitations prescribed by the following formula, referred to as the Bridge Gross Weight Formula:

$$W = 500\left(\frac{LN}{N-1} + 12N + 36\right)$$

except that two consecutive sets of tandem axles may carry a gross load of 34,000 pounds each if the overall distance between the first and last axle is 36 feet or more.

(f) Notwithstanding the limitations prescribed by use of the bridge formula, in no case shall the total gross weight of a vehicle exceed 80,000 pounds.

(g) The weights in paragraphs (b), (c), (d), (e), and (f) of this section shall be inclusive of all tolerances, enforcement or otherwise, with the exception of a scale error factor when using portable scales (wheel-load weighers). The current accuracy of such scales is generally within 2 or 3 percent of actual weight, but in no case should an error factor in excess of 5 percent be applied. Penalty or fine schedules which impose no fine up to a specified threshold, i.e., 1,000 pounds, will be considered as tolerance provisions not authorized by 23 U.S.C. 127.

(h) States may issue special permits without regard to the axle, gross, or formula requirements for vehicles and loads which cannot be easily dismantled or divided. All permits for vehicles carrying divisible loads in excess of 80,000 pounds must conform to either Federal or grandfathered axle and bridge spacing requirements.

(i) The provisions of this section shall not apply to single, tandem, or gross weights legally authorized under State law or regulations on July 1, 1956. The group of axles requirements shall not apply to vehicles legally authorized under State groups of axles tables or formulas on January 4, 1975.

§ 658.19 Reasonable access.

(a) All States must allow vehicles with dimensions authorized by the STAA, reasonable access between the National Network described in this regulation and terminals, facilities for food, fuel, repairs, and rest. For household goods carriers, the length and width provisions require access to points of loading and unloading in addition to terminals and facilities at listed above.

(b) Information regarding reasonable access to and from the National Network shall be made available to commercial motor vehicle operators.

§ 658.21 Signing.

The use of signing to identify highways that are part of the National Network and reasonable access related thereto is a State option. However, exceptional conditions that exist locally on a route of the National Network shall be signed in accordance with the Manual on Uniform Traffic Control Devices. These conditions shall include but not be limited to:

(1) Operational restrictions designed to maximize the efficiency of the total traffic flow, such as time of day prohibitions, or lane use controls.

(2) Geometric and structural restrictions, such as vertical clearances, posted weight limits on bridges, or those caused by construction operations.

(3) Detours to urban Interstate bypass or circumferential routes for commercial motor vehicles not destined for the urban area to be bypassed.

APPENDIX.—OTHER DESIGNATED ROUTES

Posted route No.	From	To
Alaska		
AK 1	Anchorage	Palmer.
AK 2	Fairbanks	Delta Jct.
AD 3	Palmer at Jct. AK 1	Fairbanks at Jct. AK 2.
Arizona		
AZ 360	I-10 Phoenix	AZ 87 Mesa.
US 60	I-10 Brenda	I-17 Phoenix.
US 60	AZ 87 Mesa	Globe.
AZ 69	US 89 Prescott	I-17.
US 70	US 60 Globe	New Mexico St. Line.
US 80	AZ 92 Bisbee	New Mexico St. Line.
AZ 84	I-10 Picacho	AZ 87.
AZ 85	I-8 Gila Bend	I-10.
AZ 85	I-10 Avondale	I-17.
AZ 87	AZ 84 Picacho	AZ 387.
AZ 87	AZ 93 Chandler	US 60.
AZ 93	I-10	AZ 87 Chandler.
AZ 187	I-10	AZ 387.
AZ 287	AZ 87 Coolidge	US 89 Florence.
AZ 387	AZ 187	AZ 87.
US 89	I-10 Tucson	US 60.
US 89	AZ 69 Prescott	I-40.
US 89	I-40	Utah St. Line.
AZ 90	I-10	AZ 92 Sierra Vista.
AZ 92	AZ 90 Sierra Vista	US 80 Bisbee.
US 95	Mexican Border	I-8 Yuma.
US 180	US 89 Tuba City	New Mexico St. Line.
AZ 189	AZ 89 Dewey	I-17.
AZ 189	Mexican Border	I-19 Nogales.
AZ 504	US 180	New Mexico St. Line.
US 666	I-10	US 70 Safford.
US 666	US 89	I-40.
US B-666	Mexican Border	US 89 Douglas.
US 163	US 160 Kayenta	Utah St. Line.
AZ 77	US 60	I-40.
US 60	Show Low	New Mexico St. Line.
Arkansas		
US 49	Mississippi St. Line	US 62 Near Piggott.
US 61	I-55 Gilmore	I-55 Blytheville.
US 62	Oklahoma St. Line	Missouri St. Line.
US 63	I-55 Near Memphis	Missouri St. Line.

APPENDIX.—OTHER DESIGNATED ROUTES—Continued

Posted route No.	From	To
US 64	I-540 Ft. Smith	I-40 Lamar.
US 64	I-40 Near Conway	US 67 Near Beebe.
US 65	Louisiana St. Line	I-40 Little Rock.
US 65	I-40 Conway	Missouri St. Line.
US 64	US 67 Bald Knob	I-55 West Memphis.
US 67	US 82 Texarkana	I-30 Benton.
US 67	I-40 Little Rock	US 62.
US 67	US 62 Corning	Missouri St. Line.
US 70	Oklahoma St. Line	US 71 De Queen.
US 70	US 71 Provo	I-30 Benton.
US 71	Louisiana St. Line	I-540 Ft. Smith.
US 71	I-40 Alma	US 62 Fayetteville.
US 71	US 62 Rogers	Missouri St. Line.
US 79	Louisiana St. Line	I-40 Shearerville.
US 82	US 71 Texarkana	Mississippi St. Line.
US 70	I-440 Little Rock	I-40 Hicks Station.
US 412	US 67 Walnut Ridge	US 49 Paragould.
US 167	US 67 Bald Knob	US 62 Ash Flat.
US 167	Louisiana St. Line	US 65 Near Little Rock.
US 165	Louisiana St. Line	US 65 Dermott.
US 270	Oklahoma St. Line	US 71 Acorn.
US 270	US 71 "Y" City	US 65 Pine Bluff.
All other primary and secondary highways in Arkansas (with the following exceptions) are "qualifying" highways, but may have weight and speed limit restrictions.		
AR 88	Mena AR8	Oklahoma St. Line.
AR 22	I-540 Fort Smith	US 64.
US 64	AR 255	AR 22.
AR 59	I-40 Van Buren	Main Street Van Buren.
US 71	US 271	AR 22.
California		
CA 2	I-5	I-210 in Los Angeles.
CA 7	I-405	I-10.
I-10	US 101	I-5 in Los Angeles.
CA 11	I-10	US 101.
CA 15	I-5	I-805 in San Diego.
CA 17	I-280 in San Jose	I-80 in Oakland.
CA 22	I-405 in Seal Beach	CA 55 in Orange.
CA 24	I-580 in Oakland	I-680 in Walnut Creek.
CA 52	I-5	I-805 in San Diego.
CA 55	I-405 in Costa Mesa	CA 91 in Anaheim.
CA 57	I-5 in Santa Ana	I-210 in Pomona.
CA 60	I-5/10 in Los Angeles.	I-10 in Beaumont.
CA 71	I-10	CA 60 in Pomona.
CA 78	I-5 in Carlsbad	I-15 in Escondido.
Bus I-80	US 50/CA 99 in Sacramento.	I-80 Near Watt Ave.
CA 85	I-280	CA 101 in San Jose.
CA 91	I-110 in Los Angeles	CA 60/I-215 in Riverside.
CA 92	I-280 Near San Mateo.	CA 17 in Hayward.
CA 94	I-5	CA 125 in San Diego.
CA 99	I-5 Near Wheeler Ridge.	US 50 in Sacramento.
US 101	I-5/10 in Los Angeles.	I-80 in San Francisco.
CA 117	I-5	I-805 in San Diego.
CA 118	I-405 in Los Angeles	I-210 in San Fernando.
CA 125	CA 94	I-8 in La Mesa.
CA 133	I-405	I-5 Near El Toro.
CA 134	US 101 in Los Angeles.	I-210 in Pasadena.
CA 163	I-8	I-15 in San Diego.
CA 170	US 101	I-5 in Los Angeles.
CA 215	I-15 Near Temecula	CA 60 Near Riverside.
CA 238	I-580 in Castro Valley.	CA 17 in San Leandro.
CA 14	I-5 Near San Fernando.	US 395 Near Ridgecrest.
CA 58	CA 99 in Bakersfield	I-15 in Barstow.
CA 198	I-5 Coalinga	CA 99 in Visalia.
US 395	I-15 Near Victorville	Nevada St. Line.
US 95	I-40 Near Needles	Nevada St. Line.
US 6	US 395 Bishop	Nevada St. Line.
US 50	Sacramento	Sky Park Rd. Interchange.

APPENDIX.—OTHER DESIGNATED ROUTES—Continued

Posted route No.	From	To
Colorado		
All US and State numbered routes are designated with the following exceptions:		
CO 116	Jct. CO 89	Kansas St. Line.
CO 7	CO 72	Jct. US 36.
CO 72	Jct. CO 7	Jct. CO 119.
CO 119	Jct. US 6	Jct. CO 7.
US 40	Jct. I-70 Near Empire	Winter Park.
CO 6	Jct. I-70 Near Dillon	Jct. I-70 Near Silver Plume.
CO 82	Aspen	Jct. US 24.
CO 113	Jct. CO 82 Hotchkiss	Jct. CO 82 Carbondale.
CO 92	Jct. US 50 Sapinero	Jct. CO 133 Hotchkiss.
CO 149	US 160 Near Fork	Jct. US 50.
US 550	Jct. CO 110 Silverton	Jct. CO 361 Ouray.
CO 470	Jct. US 85	Jct. I-25.
CO 85	Jct. CO 92	Jct. CO 330.
CO 114	Jct. US 50	Jct. US 285.
CO 131	Jct. CO 134 at Toponas.	Jct. US 6 at Wolcott.
CO 83	Jct. CO 86 at Franktown.	Jct. I-25 North of Colo. Spgs.
The designated routes in Colorado include most of the Federal-aid Primary Routes as well as other routes designated by the State.		
Connecticut		
CT 2	Columbus Blvd. Hartford.	Jct. I-290 Norwich.
CT 8	I-95 Bridgeport	Jct. I-84 Waterbury.
CT 9	I-95 Old Saybrook	Jct. I-91 Cromwell.
CT 20	Jct. CT 401 (Bradley International Airport, Windsor Locks.	I-91 Windsor.
CT 401	Jct. CT 20 Windsor Locks.	Bradley International Airport Access Rd. Windsor Locks.
*CT 8	I-84 Waterbury	US 44 Winsted.
NOTE.—CT 52 was approved as part of the Interstate System on April 18, 1983.		
Delaware		
US 13	Jct. with I-495 South of Wilmington.	Maryland St. Line.
US 301	US 301S Mt. Pleasant.	Maryland St. Line.
US 202	I-95 Wilmington	Pennsylvania St. Line.
US 301S	US 301 Mt. Pleasant	US 13 Boyds Corner.
District of Columbia		
Anacostia Freeway/ Kenilworth Ave.	I-295	Maryland St. Line.
Hawaii		
61	Vineyard Boulevard	Kawainui Bridge in Kailua.
63	Nimitz Highway	Kahekili Highway (83).
64	Sand Island Park	Nimitz Highway (92).
72	Kailua-Waimanalo Junction (61).	Ainakoa.
83	Weed Junction	Kalanianaole Highway (61).
92	Pearl Harbor-Main Gate.	Kalakaua Avenue.
93	Beginning of Route H-1.	Makaha Bridge.
95	Route H1	Campbell Harbor.
99	Pearl Harbor Interchange.	Weed Junction.
78	Route H1 (H2 H)	Kamehameha Highway (90) in Aiea.

APPENDIX.—OTHER DESIGNATED ROUTES—Continued

Posted route No.	From	To
Idaho		
ID 16	ID 44	Emmett.
ID 19	Wilder	Caldwell.
US 2	Sandpoint	Dover.
US 20	Oregon St. Line	I-84 Near Boise.
US 20	Mountain Home	Montana St. Line.
ID 22	ID 33	Dubois.
ID 24	Rupert	Shoshone.
ID 25	Jerome	I-84 Rupert.
US 26	Bliss	Blackfoot.
ID 27	Oakley	Paul.
ID 28	Mud Lake	Salmon.
US 30	US 95	I-84.
US 30	Nampa	I-84.
US 30	Bliss	Burley.
US 30	McCammon	Wyoming St. Line.
ID 33	US 20	Wyoming St. Line.
ID 34	Utah St. Line	Conda.
ID 39	American Falls	Blackfoot.
ID 40	I-15	Downey.
ID 41	I-90	Newport.
ID 44	I-84	Boise.
ID 46	Wendell	US 20.
ID 48	Roberts	Rigby.
ID 50	US 30	ID 25.
ID 51	Nevada St. Line	Mountain Home.
ID 53	Washington St. Line	US 95.
ID 55	Marsing	Eagle.
ID 64	Craigmont	Nez Perce.
ID 67	Mountain Home AFB	Mountain Home.
ID 74	US 93	Twin Falls.
ID 75	Shoshone	Ketchum.
ID 77	Declo	I-84
ID 78	Marsing	ID 51.
ID 81	Malta	Burley.
ID 79	Jerome	South.
ID 87	US 20	Montana St. Line.
US 89	Utah St. Line	Montpelier.
US 91	Utah St. Line	I-15.
US 91	Pocatello	I-15 Bus.
US 93	Nevada St. Line	Shoshone.
US 95	Homedale	Weiser.
US 95	Grangeville	Moscow.
US 95	Coeur d'Alene	Bonners Ferry.
I-15 Bus	I-15	Idaho Falls.
I-84 Bus	I-84	Mountain Home.
Illinois		
IL Toll Highways.	All Routes	
IL 5	I-80	US 30.
IL 6	I-74	IL 88.
US 20	Ben. US 20 west of Rockford.	I-90.
US 36	North of Winchester	I-55.
US 50	East of Lawrenceville	Indiana St. Line.
US 51	Ben. US 51 south of Decatur.	I-72.
US 51	IL 5	US 20.
IL 53	Army Trail Rd.	IL 88.
IL 92	I-290	US 67
IL 336	IL 57	US 24.
IL 394	Sauk Trail Rd.	I-80.
IL 1	IL 146	US 24.
IL 2	US 30	US 20.
IL 3	I-57	I-55.
IL 3	I-55	US 67.
IL 4	IL 13/127	I-55.
IL 5	I-74	I-80.
US 6	IL 7	I-80/94.
IL 7	IL 53	US 6.
IL 9	US 67	IL 41.
IL 9	IL 78	IL 121.
IL 10	I-55	US 51.
US 12	IL 120	Indiana St. Line.
IL 13	IL 15	Harrisburg.
US 14	Wisconsin St. Line	IL 50.
IL 14	US 51	Indiana St. Line.
IL 15	I-55	East junction IL 13.
IL 16	IL 267	US 67.
IL 16	I-55	IL 1.
IL 17	I-55	IL 114.
IL 18	US 51	IL 23.
US 20	Iowa St. Line	Ben. US 20 west of Rockford.
US 20	US 51 east of Rockford.	I-290.

APPENDIX.—OTHER DESIGNATED ROUTES—Continued

Posted route No.	From	To
Bus. US 20	IL 31	US 20 (east of Elgin).
IL 21	US 14	US 41.
IL 88	US 12	I-94.
IL 71	I-90	US 34.
IL 72	IL 59	US 45.
IL 78	US 67	IL 125.
IL 78	IL 9	I-80.
IL 78	IL 5	IL 64.
IL 78	US 20	Wisconsin St. Line.
IL 83	US 30	I-94.
IL 83	US 45	US 12.
IL 86	US 34	IL 5.
IL 92	US 67	I-74.
IL 97	IL 125	IL 29.
IL 100	US 36	IL 104.
IL 104	US 24	US 67.
IL 106	US 267	IL 4.
IL 111	I-55	US 67.
IL 114	IL 17	Indiana St. Line.
IL 116	IL 41	I-474.
IL 116	I-74	I-55.
IL 117	I-74	IL 116.
IL 119	IL 1	Indiana St. Line.
IL 120	IL 31	IL 131.
IL 121	I-74	I-72.
IL 121	US 36	IL 16.
IL 125	US 67	IL 97.
IL 127	IL 13	IL 16.
IL 130	IL 1	IL 33.
US 136	US 24	IL 1.
IL 140	US 67	I-55.
IL 141	US 45	Indiana St. Line.
IL 146	Missouri St. Line	I-57.
IL 146	Elizabethtown	IL 1.
IL 149	IL 3	IL 13.
US 150	IL 1	Indiana St. Line.
IL 150	Missouri St. Line	IL 4.
IL 152	IL 13	US 51.
IL 159	IL 3	IL 15.
IL 171	IL 7	IL 83.
IL 173	IL 251	US 41.
IL 176	US 20	IL 47.
IL 251	US 20	IL 75.
IL 336	US 36	IL 57.
Stoney Island Ave.	I-94	I-90.

NOTE.—The first 12 route descriptions (IL Toll highways through IL 394) are classified by current Illinois law as Class I and to all commercial vehicles defined by the STAA of 1982. The remaining route descriptions are classified by Illinois as Class II, and are restricted. Illinois law restricts Class II highways to a maximum allowable wheelbase of 55 feet for a tractor-semitrailer combination and 65 feet for a tractor-semitrailer-trailer combination. Specific comments are requested on the effect of the Illinois law.

Indiana

Indiana intends to designate all public roads, except those routes prohibited by State or local jurisdiction.

Iowa

IA 1	North Jct. IA 16	West Jct. IA 76.
IA 1	North Jct. IA 92	IA 22.
IA 1	North Jct. US 6 & US 218.	I-80.
IA 1	SCL Martelle	Jct. US 151.
IA 2	Missouri River Bridge	Jct. IA 25.
IA 2	Decatur Co. Line	Mississippi River Bridge.
IA 3	South Dakota	North Jct. IA 12.
IA 3	Jct. US 75	Jct. IA 7.
IA 3	East Jct. IA 17	West Jct. IA 13.
IA 4	Jct. IA 3	East Jct. US 18.
IA 4	SCL Wallingford	Minnesota.
IA 5	Missouri	ECL Cincinnati.
IA 5	Jct. IA 2	Jct. I-35.
US 6	Nebraska	Jct. I-80.
US 6	Jct. IA 48	South Jct. US 71.
US 6	I-80 (Dexter)	I-80 (Altoona).
US 6	IA 14	I-80 (Cedar Co.).
US 6	Jct. IA 130	Jct. I-74.
IA 7	Jct. IA 3	North Jct. US 71.
IA 7	Barnum Road	US 20.
IA 8	US 63	US 218.
IA 9	IA 60	North Jct. US 69.
IA 9	South Jct. US 69	I-35.

APPENDIX.—OTHER DESIGNATED ROUTES—Continued

Posted route No.	From	To
IA 9	East Jct. US 218	ECL Riceville.
IA 9	US 63	Lansing.
IA 10	East Jct. US 59	ECL Sutherland.
IA 12	US 20	NCL Sioux City.
IA 13	US 30	NCL Manchester.
IA 13	West Jct. IA 3	US 52.
IA 14	IA 163	NCL Newton.
IA 14	US 30	West Jct. IA 175.
IA 14	East Jct. IA 175	IA 57.
IA 15	East Jct. US 18	West Jct. IA 9.
IA 16	NCL Eldon	North Jct. IA 1.
IA 16	Denmark	US 61.
IA 17	IA 141	East Jct. US 20.
IA 17	West Jct. US 20	East Jct. IA 3.
US 18	WCL Rock Valley	North Jct. US 71.
US 18	South Jct. US 71	North Jct. US 218.
US 18	South Jct. US 218	ECL Bassett.
US 18	South Jct. US 63	Wisconsin.
US 20	I-29	Illinois.
IA 21	SCL West Chester	West Jct. US 6.
IA 21	East Jct. US 6	East Jct. IA 8.
IA 21	West Jct. IA 8	IA 412.
IA 22	WCL Wellman	West Jct. IA 70.
IA 23	Jct. US 63	Jct. IA 137.
IA 25	IA 2	IA 92.
IA 25	West Jct. IA 925	IA 44.
IA 26	IA 9	Minnesota.
IA 26	IA 92	East Jct. IA 5
IA 26	West Jct. IA 5	US 6.
US 30	Missouri River Bridge	Illinois.
IA 31	SCL Correctionville	US 59.
US 34	Missouri River Bridge	South Jct. IA 25
US 34	North Jct. IA 25	Illinois.
IA 37	WCL Earling	US 59.
IA 38	US 61	I-80.
IA 38	SCL Tipton	East Jct. US 30.
IA 39	US 59	Dalzell.
IA 40	Begin Route	IA 2.
IA 44	US 71	IA 141.
IA 46	IA 5	IA 163.
IA 48	US 59	NCL Essex.
IA 48	US 34	US 6.
IA 49	SCL Lenox	US 34.
IA 51	US 18	IA 9.
US 52	North Jct. US 61	North Jct. IA 366.
US 52	West Jct. IA 3	East Jct. US 18.
US 52	ECL Calmar	Minnesota.
IA 55	Begin Route	IA 2.
IA 57	IA 14	US 20.
US 59	Missouri	IA 184.
US 59	IA 92	North Jct. US 6.
US 59	IA 83	South Jct. US 30.
US 59	West Jct. US 20	IA 3.
US 59	East Jct. IA 10	East Jct. US 10.
IA 60	US 75	Minnesota.
US 61	Des Moines River Bridge.	South Jct. IA 2.
US 61	East Jct. IA 2	Wisconsin.
IA 62	US 61	US 52.
US 63	Missouri	West Jct. IA 2.
US 63	East Jct. IA 2	East Jct. US 34
US 63	West Jct. US 34	IA 146.
US 63	I-80	East Jct. US 6
US 63	West Jct. US 6	Minnesota.
IA 64	US 151	US 61.
US 65	North Jct. US 34	West Jct. US 6.
US 65	I-80	IA 117.
US 65	US 30	South Jct. US 20.
US 65	North Jct. US 20	Sheffield.
US 65	SCL Mason City	Minnesota.
US 67	Mississippi River	South Jct. US 30.
US 67	East Jct. US 30	4.64 miles North of Clinton.
US 69	SCL Lamoni	I-35.
US 69	North Jct. US 65	Minnesota.
IA 70	Begin Route	West Jct. IA 22.
US 71	Missouri	West Jct. IA 2.
US 71	East Jct. IA 2	IA 196.
US 71	North Jct. US 20	West Jct. IA 9.
US 71	East Jct. IA 9	Minnesota.
US 75	North Jct. I-29	Minnesota.
US 77	Nebraska	I-29.
IA 77	IA 92	Keota.
IA 78	IA 149	North Jct. US 218.
IA 78	South Jct. US 218	IA 249.
IA 79	WCL Morning Sun	US 61.
IA 83	US 59	West Jct. US 6.
IA 85	US 65	IA 21.
IA 86	US 71	IA 9.
IA 87	US 69	I-35.

APPENDIX.—OTHER DESIGNATED ROUTES—Continued

Posted route No.	From	To
IA 92	Nebraska	IA 48.
IA 92	WCL Fontanelle	West Jct. IA 5.
IA 92	East Jct. IA 5	North Jct. IA 1.
IA 92	South Jct. IA 1	Cotter.
IA 93	WCL Sumner	IA 150.
IA 94	Pella	I-380.
IA 95	Carbon	IA 148.
IA 96	Gladbrook	US 63.
IA 99	Teeteeboro	Wapello.
IA 101	US 218	IA 150.
IA 103	US 218	US 61.
IA 105	US 65	US 218.
IA 107	SCL Thornton	US 18.
IA 110	US 20	IA 7.
IA 111	US 18	Woden.
IA 117	IA 163	US 65.
IA 127	South Jct. IA 163	US 30.
IA 130	US 67	I-80.
IA 133	US 30	Nevada.
US 136	East Jct. US 61	Mississippi River Bridge.
IA 136	ECL Delmar	WCL Lost Nation.
IA 136	SCL Worthington	IA 3.
IA 137	IA 5	IA 23.
IA 141	I-29	North Jct. US 30.
IA 141	WCL Manning	West Jct. US 71.
IA 141	East Jct. US 71	West Jct. IA 161.
IA 141	IA 141	US 169.
IA 141	IA 210	I-35.
IA 144	IA 141	NCL Dana.
IA 145	I-35	ECL Thurman.
IA 146	US 63	Dunbar.
IA 148	West Jct. IA 2	US 34.
IA 148	IA 95	I-80.
IA 149	US 63	IA 78.
IA 149	SCL Williamsburg	West Jct. US 6.
IA 149	East Jct. US 6	US 30.
IA 150	IA 151	IA 283.
IA 150	North Jct. US 20	South Jct. IA 3.
IA 150	North Jct. IA 3	US 18.
US 151	US 30	South Jct. US 61.
IA 157	US 63	Lime Springs.
IA 160	IA 415	I-35.
IA 161	West Jct. IA 141	SCL Dedham.
IA 163	US 65	IA 92.
US 169	Missouri	NCL Mt. Ayr.
US 169	SCL Adair	West Jct. US 34.
US 169	East Jct. US 34	South Jct. IA 92.
US 169	SCL DeSoto	I-80.
US 169	US 6	IA 141.
US 169	West Jct. US 30	IA 3.
US 169	US 18	West Jct. IA 9.
IA 173	IA 83	I-80.
IA 175	Nebraska	ECL Onawa.
IA 175	South Jct. US 71	ECL Lake City.
IA 175	Gowrie	West Jct. US 169.
IA 175	East Jct. US 169	ECL Dayton.
IA 175	WCL Stratford	South Jct. IA 17.
IA 175	North Jct. IA 17	South Jct. US 69.
IA 175	North Jct. US 69	ECL Radcliffe.
IA 175	North Jct. US 65	US 63.
IA 181	Dallas	IA 5.
IA 183	North Jct. IA 127	NCL Pisgah.
IA 184	WCL Randolph	US 59.
IA 186	SCL Clarksville	US 63.
IA 191	NCL Council Bluffs	NCL Neola.
IA 192	I-29	East Jct. US 6.
IA 192	West Jct. US 6	I-29.
IA 196	US 71	US 20.
IA 205	US 65	Milo.
IA 210	IA 141	NCL Woodward.
IA 210	North Jct. IA 17	ECL Slater.
IA 214	IA 175	Wellsburg.
IA 215	Union	IA 175.
US 218	US 136	South Jct. US 61.
US 218	North Jct. US 61	IA 92.
US 218	Relocation IA 22	I-380.
US 218	I-80	East Jct. US 30.
US 218	West Jct. US 30	IA 227.
IA 220	US 6	IA 149.
IA 221	I-35	Roland.
IA 277	US 218	Story City.
IA 236	IA 141	Templeton.
IA 244	I-80	IA 191.
IA 249	IA 78	Winfield.
IA 272	Elma	US 63.
IA 273	WCL Drakesville	US 63.
US 275	Missouri	NCL Hamburg.
IA 276	US 71	Minnesota.
IA 279	US 30	Atkins.

APPENDIX.—OTHER DESIGNATED ROUTES—Continued

Posted route No.	From	To
IA 281	WCL Fairbank	IA 150.
IA 283	Brandon	IA 150.
IA 287	US 30	Newhall.
IA 299	New Providence	IA 175.
IA 300	Modale	I-29.
IA 301	I-29	Little Sioux.
IA 316	IA 5	NCL Runnells.
IA 325	Spillville	US 52.
IA 330	US 65	US 30.
IA 363	IA 101	Urbana.
IA 369	US 69	Randall.
IA 386	South Jct. US 52	North Jct. US 52.
IA 394	Missouri	US 218
IA 401	US 6	Johnston.
IA 404	US 61	Montrose.
IA 405	Lone Tree	IA 22.
IA 406	US 34	US 61.
IA 412	US 63	US 218.
IA 415	US 6	NCL Polk City.
IA 927	IA 38	I-280.
IA 928	West Jct. US 20	East Jct. US 20.
IA 930	US 30	Ames.
IA 939	IA 150	IA 187.
IA 964	IA 5	IA 975.
IA 967	US 20	Farley.
IA 970	Monona Co	US 75.
IA 975	IA 5	IA 964.

Kansas

All US and State numbered routes are designated. This includes all Federal-aid primary routes as well as other routes designated by the State.

Kentucky

Jackson Purchase Pkwy.	Tennessee St. Line W. of Fulton.	US 45 Bypass.
US 45B	Jackson Purchase Pkwy W. of Mayfield.	Jackson Purchase Pkwy N. of Mayfield.
Jackson Purchase Pkwy.	US 45 Bypass	I-24 in Marshall County.
Western Kentucky Pkwy.	I-24 S. of Eddyville	US 31 W in Hardin County.
Blue Grass Pkwy.	I-65	US 60 near Versailles.
Green River Pkwy.	I-65	US 60 Bypass in Owensboro.
Mountain Pkwy.	I-64 of Winchester	KY 15 N. of Campton.
KY 4, Pennyrile Pkwy.	Entire Circle of Lexington US 41 A S. City limits of Hopkinsville.	US 41 S. of Nortonville.
US 41	Pennyrile Pkwy near Western Kentucky Pkwy.	Pennyrile Pkwy at Madisonville.
Pennyrile Pkwy.	US 41 near City limits of Madisonville.	US 41 in Henderson.
US 41, Audubon Pkwy.	Pennyrile Pkwy in Henderson.	Indiana St. Line, US 60 Bypass in Owensboro.
Cumberland Pkwy.	I-65 at Warren County Line.	US 27 W. of Somerset.
I-471 Connector.	US 27	I-471.
KY 841	Taylorsville Rd. (KY 155).	US 42.
KY 10	New Construction 4.21 miles E. of Bracken County line (MP 4.21).	US 62-68 at Maysville (MP 18.12).
KY 11	KY 3170 at Lewisburg.	US 62 and US 68 in Maysville.
KY 15	Mountain Pkwy at Campton.	US 119 in Whitesburg.
KY 18	KY 338 at Burlington	US 25 in Florence.
KY 21	I-75 near Berea	US 25 in Berea (US 25 S.).
US 23	Ohio St. Line	US 119 N. of Pikeville.
US 23	US 119 near Jenkins	Virginia St. Line.
US 23 Spur	Ohio River Bridge at Ashland.	

APPENDIX.—OTHER DESIGNATED ROUTES—Continued

Posted route No.	From	To
US 25	US 421 S. of Richmond.	KY 876 in Richmond.
US 25	KY 418	Nandino Blvd., in Lexington (via KY 4).
US 25	US 42 in Florence	Ohio St. Line.
US 25E	Virginia St. Line	I-75 of Corbin.
US 27	Tennessee St. Line	Ohio St. Line (via KY 4 in Lexington).
US 31 W	Tennessee St. Line	KY 255 at Park City (via US 31 W. Bypass in Bowling Green).
US 31 W	US 31 W. Bypass in Elizabethtown.	I-264.
US 31 W Bypass.	Western Kentucky Pkwy.	US 31 W in Elizabethtown.
KY 32	I-64	US 60 at Morehead.
KY 35	US 127 at Bromley	I-71.
KY 36	I-64	US 60 at Owingsville.
KY 36	US 42 in Carrollton	KY 227.
US 41	US 68 (Main Street) Hopkinsville.	US 68 (McLean Ave.) Hopkinsville.
US 119	US 23 at Pikeville	KY 1441.
US 127	Tennessee St. Line	US 60 in Frankfort (via Danville & Lawrenceburg Bypasses).
US 127	US 460 in Frankfort	I-71.
US 127	US 127 S. of Danville.	US 127 N. of Danville.
US 127 Bypass.	US 127 S. of Lawrenceburg.	US 127 N. of Lawrenceburg.
KY 144	KY 446	US 60.
US 150	US 31 E at Bardstown.	US 27 N. City Limits of Stanford (via Danville Bypass).
US 79	Tennessee St. Line	US 68 Russellville.
KY 151	US 127 near Lawrenceburg.	I-64 near Graefenburg.
KY 180	I-64 interchange near Cannonsburg (MP O.63).	Junction US 60 and KY 180 at Cannonsburg.
KY 192	I-75 S. of London	Daniel Boone Pkwy E. of London.
KY 205	Mountain Pkwy at Helechawa.	US 460 W. of Index.
KY 212	KY 20	Greater Cincinnati Airport.
KY 227	Ky 356 near Worthville.	KY 36 at Carrollton.
US 231	US 60 Bypass in Owensboro.	Indiana St. Line.
US 231	I-65	US 31 W Bypass at Bowling Green.
KY 236	KY 212	US 25 at Erlanger.
KY 237	KY 18	I-275 Boone County.
KY 245	I-65	US 62 at Bardstown.
KY 255	US 31 W at Park City	I-65.
KY 259	Western Kentucky Pkwy.	US 62 in Leitchfield.
KY 341	US 421 near Midway	I-64 near Midway.
KY 348	Jackson Purchase Pkwy W. of Benton.	US 641 in Benton.
KY 418	US 25 S. of Lexington.	I-75 S. of Lexington.
KY 421	US 119	0.1 mile S. of Harlan Appalachian Regional Hospital.
US 421 & KY 80.	Daniel Boone Pkwy	2nd Street in Manchester.
US 421	KY 4 in Lexington	KY 341 near Midway.
US 421	US 460 in Frankfort	Broadway at railroad bridge.
US 431	US 60 Bypass in Owensboro.	US 60 (4th Street) Owensboro.
US 41A	Tennessee St. Line	Pennyrile Pkwy S. City Limits, Hopkinsville.
US 41A	KY 112 in Earlington	KY 281 and KY 1751, Madisonville.
US 42	I-264	Oldham County Line.
US 42	KY 55 at Carrollton	KY 47 at Ghent
US 45	US 45 Bypass N. of Mayfield.	US 62 in Paducah.
KY 52	KY 876 in Richmond	KY 499 at Irvine.
KY 55	Cumberland Pkwy in Columbia.	US 150 at Springfield.
US 60	US 60 Bypass W. of Owensboro.	KY 69, Hawesville.

APPENDIX.—OTHER DESIGNATED ROUTES—Continued

Posted route No.	From	To
US 60	I-264	KY 1531 at Eastwood.
US 60	US 421 at Frankfort	I-75 near Lexington (via Versailles and KY 4 in Lexington).
US 60	Junction of KY 180 near Cannonsburg.	US 23 in Ashland.
US 60	Ky 144 in Meade County. US 31 W at Ft. Knox.	
US 60 Bypass.	US 60 W. of Owensboro.	US 60 E. of Owensboro.
KY 61	Tennessee St. Line	KY 90 at Burkesville.
US 62	I-24 at Paducah	Western Kentucky Pkwy.
US 62	KY 245 at Bardstown	US 150 at Bardstown.
US 62	KY 353	US 27 at Cynthiana.
US 68	I-24 in Trigg County	Green River Pkwy at Bowling Green.
US 68	US 27 at Paris	Ohio St. Line at Maysville (via Paris Bypass).
KY 69	US 60 at Hawesville	Indiana St. Line.
KY 79	KY 1051 in Bradenburg.	Indiana St. Line.
KY 80	US 27 at Somerset	US 25 N. of London.
KY 80	KY 15 at Hazard	US 23 at Allen.
KY 90	I-65	Cumberland Pkwy at Glasgow.
KY 90	KY 61 at Burkesville	US 27 at Burnside.
KY 114	US 460 E. of Salyersville.	US 23-460 at Prestonsburg.
KY 118	Daniel Boone Pkwy	US 421 and KY 80 NW of Hyden.
US 119	KY 15 at Whitesburg	US 23 at Jenkins.
US 119	US 25E S. of Pineville.	US 421 at Harlan.
KY 446	US 31 W NW of Bowling Green.	I-65.
KY 448	KY 1051 at Branenburg.	KY 144.
US 460	I-64	KY 686 N. of Mt. Sterling.
US 460	Mountain Pkwy Extension.	US 23 near Paintsville.
KY 555	US-150 at Springfield	Bluegrass Pkwy.
US 641	Tennessee St. Line	KY 348 in Benton.
KY 676	US 127 in Frankfort	US 60.
KY 686	KY 11 S. of Mt. Sterling.	US 460 N. of Mt. Sterling.
KY 876	I-75 at Richmond	KY 52 E. of Richmond.
KY 922	KY 4 in Lexington	I-64 and I-75.
KY 1051	KY 448 S. of Brandenburg.	KY 79.
KY 1682	US 68 W. of Hopkinsville.	Pennyrile Pkwy N. City Limits of Hopkinsville.
KY 1958	KY 627 S. of Winchester.	I-64 at Winchester.
KY 1998	US 27 at Cold Springs.	KY 9.
Daniel Boone Pkwy.	US 25 N. of London	KY 15 N. of Hazard.
Mountain Pkwy Extension.	End of Mountain Pkwy at Campton.	US 460 at Salyersville.

Louisiana

LA 1	US 71 in Alexandria	US 71 near Shreveport.
LA 7	I-20	US 79 in Minden.
LA 8	Texas St. Line	LA 28 near Leesville.
LA 10	Proposed I-49 near Begge.	US 71 Lebeau.
LA 14	US 90	I-210 in Lake Charles.
LA 15	US 65 Clayton	US 80 in Monore.
LA 28	LA 8 near Leesville	US 84 near Archie.
US 65	Mississippi St. Line	LA 15 Clayton.
US 65	I-20 in Tallulah	Arkansas St. Line.
US 71	US 190 near Krotz Springs.	US 165 in Pineville.
US 71	LA 1 near Shreveport	Arkansas St. Line.
US 79	LA 7 in Minden	Arkansas St. Line.
US 80	LA 15	US 165 in Monore.
US 84	LA 28 near Archie	US 65 in Ferriday.
US 90	US 167 in Lafayette	New Orleans.
US 165	I-10 near Iowa	Arkansas St. Line.
US 167	US 71	Arkansas St. Line.
US 171	US 90 in Lake Charles.	US 80 in Shreveport.
LA 511	LA 3132	US 71 in Shreveport.
LA 3094	US 80	US 71 in Shreveport.
LA 3132	I-20	LA 511 in Shreveport.
LA 3052	LA 24 near Houma	US 90 near Raceland.
LA 3	I-20	I-220 in Bossier City.
LA 13	US 90	I-10 in Crowley.
LA 20	LA 24 near Thibodeaux.	LA 1 in Thibodeaux.
LA 23	Deer Range	US 90 Bus. in Gretna.
LA 24	US 90 in Houma	LA 20 near Thibodeaux.
LA 30	LA 42	LA 73 in Baton Rouge.
LA 39	I-10 in New Orleans	LA 46 near Poydras.
LA 45	US 90 Bus. in Marrero.	LA 3134 near Marrero.
LA 46	LA 39 in New Orleans.	LA 47 in Chalmette.
LA 47	LA 46 in Chalmette	Proposed I-510 in New Orleans.
LA 48	US 90	LA 49 near New Orleans.
US 61	US 90 in New Orleans.	Mississippi St. Line.
LA 67	LA 408 in Baton Rouge.	Baker.
US 80	LA 72 in Bossier City	I-20 in Minden.
LA 83	US 90 near Baldwin	LA 182 in Baldwin.
US 90 Bus	US 90 in New Orleans.	I-10 in New Orleans.
LA 108	LA 27 in Sulphur	I-10 in Maplewood.
LA 137	I-20	US 90 in Rayville.
US 167	LA 14 Bypass in Abbeville.	I-10 in Lafayette.
US 190	Eunice	LA 1032 in Denham Springs.
US 190	I-55	LA 443 in Hammond.
US 190	LA 21 in Covington	LA 22 near Chinchuba.
LA 408	US 61	LA 67 in Baton Rouge.
LA 433	I-10	US 11 in Slidell.
LA 526	LA 3132	I-20 in Shreveport.
LA 3002	I-12	US 190 in Denham Springs.
LA 3021	LA 39	US 90 in New Orleans.
LA 3032	LA 1 in Shreveport	US 71 in Bossier City.
LA 3040	The Houma Tunnel	LA 24 in Houma.
LA 3064	LA 427	LA 73 in Baton Rouge.
LA 3105	US 71	US 80 in Bossier City.
LA 3134	LA 45	LA 45 near Marrero.
LA 3211	US 90	LA 182 near Franklin.
LA 1	South of Plaquemine	US 190 north of Port Allen.
LA 1	South Alexandria	US 167 Alexandria.
US 71	LA 612 in Curtis	I-20 in Bossier City.

Maine

Scarboro Connector.	I-295 South Portland	US 1 South Portland.
South Portland Spur.	I-95 South Portland	US 1 South Portland.
Maine Turnpike.	I-95 Portland	I-95 near Gardiner.
US 1	I-95 Yarmouth	I-95 Freeport.
US 1	I-95 Brunswick	Old US 1 (vicinity of Congress St.) Bath.
*US 1	I-95 Houlton	Canada Border, Fort Kent.

*The State has not agreed with the designation of this route. Comments are specifically requested as to the desirability of including this route on the National network.

APPENDIX.—OTHER DESIGNATED ROUTES—Continued

Posted route No.	From	To
Maryland		
US 48	West Virginia St. Line	MD 639 at Cumberland.
US 340	MD 67 at Weverton	US 40 at Frederick.
US 40	MD 639 at Cumberland.	I-70 at Hancock.
US 40	US 340 in Frederick	I-70 in Frederick.
US 15	US 340 at Frederick	MD 26 North of Frederick.
MD 4	US 301 at Upper Marlboro.	MD 223 near Mellwood.
US 50	MD 201 Kenilworth Ave. Cheverly.	MD 2 near Annapolis.
MD 3	US 50/301 Bowie	I-695 near Glen Burnie.
MD 100	MD 607 at Jacobsville.	MD 3.
MD 10	MD 648 in Glen Burnie.	MD 695 Glen Burnie.
MD 295	I-695 Linthicum	I-95 in Baltimore.
MD 702	MD 695 East of Baltimore.	Old Eastern Avenue.
US 13	Virginia St. Line	Delaware St. Line.
US 301	Virginia St. Line	US 50 at Bowie.
US 301	MD 2 near Annapolis	Delaware St. Line.
MD 4	MD 223	I-95.
US 50	US 301 near Queenstown.	US 13 (Bypass) Salisbury.
MD 201 (Kenilworth Ave.).	US 50 Cheverly	DC Line.
MD 695	I-695 at MD 3 near Glen Burnie.	I-695 at I-95 near Kenwood.
Massachusetts		
*MA 2	I-190 Leominster	I-495 Littleton.
*US 3	I-95 Burlington	New Hampshire St. Line.
*US 1	I-95 S. Lynnfied at MA 128.	I-95 Winona Street, West Peabody.
*MA 24	I-195 Fall River	I-93 Randolph.
*MA 140	I-195 New Bedford	MA 24 Taunton.

NOTE.—MA 52 was approved as part of the Interstate system on April 18, 1983.

Michigan		
MI 1	US 10 BR & I-75BL: Pontiac.	Adams Street, Detroit.
US 2	Wisconsin St. Line, Ironwood.	Wisconsin St. Line, Crystal Falls.
US 2	Wisconsin St. Line, Iron Mountain.	International Boundary.
MI 3	Clark Street, I-75 in Detroit.	MI-29 & I-94.
MI 4	US 24	Orchard Lake Road.
MI 5	MI 102 Oakland-Wayne County Line.	I-96 at Schaffer Road.
US 8	US 2, Iron Mountain	Wisconsin St. Line.
US 10	Ludington	Jct I-375, Detroit.
US 10BR	South Jct. US 10, Pontiac.	MI 1, Pontiac.
US 12	Indiana St. Line	Jefferson Ave., Detroit.
MI 13	I-69, Lennon	US 23, Standish.
MI 14	I-94	I-275.
MI 15	US 10, Clarkston	MI 25, Bay City.
MI 18	US 10	MI 61 Gladwin.
MI 20	US 31 New Era	MI 37 White Cloud.
MI 20	US 27, Mt Pleasant	US 10 Midland.
MI 21	I-96 near Grand Rapids.	MI 25, Port Huron.
US 23	Ohio St. Line	Mackinaw Bridge.
MI 24	I-75 Connector near Lake Orion.	MI 21, Lapeer.
MI 24	MI 46	MI 81, Caro.
US 24	Ohio St. Line	US 10BR, Pontiac.
MI 26	US 45	MI 38.
MI 27	I-75	US 23, Cheboygan.
US 27	Indiana St. Line	I-75 N. Higgins Lake.
MI 28	US 2, Wakefield	I-75.
US 31	Indiana St. Line	Manistee.
US 31	MI 37, Grawn	S. Approach Mackinaw Bridge.
MI 32	Hillman	Alpena.
MI 33	Mio	Fairview.
US 33	Indiana St. Line	I-196.
MI 35	US 2 & US 41, Escanaba.	US 2 & US 41, Gladstone.
MI 36	US 127, Mason	Daneville.
MI 37	MI 55	US 31 & MI 72 Traverse City.
MI 37	I-96, Grand Rapids	MI 46, Kent City.
MI 38	US 45	US 41, Baraga.
MI 39	Lafayette St/Lincoln Park, Detroit.	US 10.
MI 40	Allegan	US 31BR & I-196BL, Holland.
US 41	Wisconsin St. Line	Houghton.
MI 43	MI 37, Hastings	US 127, Lansing.
US 45	Wisconsin St. Line	Rockland.
MI 46	Cedar Springs	Port Sanilac.
MI 47	MI 46	US 10.
MI 50	MI 43 & MI 66, Woodbury.	Eaton Rapids.
MI 50	N. Jct. US 127	I-94.
MI 50	S. Jct. US 127	I-75.
MI 51	Niles	I-94.
MI 52	Ohio St. Line	US 12.
MI 52	I-96	MI 46.
MI 53	MI 3, Detroit	MI 25, Port Austin.
MI 55	US 31, Manistee	US 131, Cadillac.
MI 56	US 27	I-75.
MI 55	MI 85	Tawas City.
MI 56	MI 13 & MI 21	MI 54BR.
MI 57	US 131	US 27.
MI 57	MI 52	I-75.
MI 59	US 10BR, Pontiac	I-94.
MI 60	MI 62, Cassopolis	I-69 & US 27.
MI 61	MI 115	US 27, Harrison.
MI 61	MI 18, Gladwin	US 23, Standish.
MI 62	Indiana St. Line	US 12.
MI 64	US 2, Marenisco	US 2.
MI 64	MI 28, Merriweather	MI 28, Bergland.
MI 65	US 23, Omer	MI 55.
MI 65	MI 72	MI 32.
MI 65	Posen	US 23, North of Posen.
MI 66	Indiana St. Line	US 12.
MI 66	Battle Creek	MI 78.
MI 66	MI 43	MI 46.
MI 66	US 131, Mancelona	US 131, Kalkaska.
MI 67	US 41 Trenary	MI 94 Chatham.
MI 68	US 31 & US 131, Petoskey.	US 23 Rogers City.
MI 69	US 2 & US 141, Crystal Falls.	MI 95 Segola.
MI 72	I-75	US 23, Harrisville.
MI 77	US 2	MI 28.
MI 78	MI 66	I-69.
MI 81	MI 24, Caro	MI 53.
MI 82	MI 37	US 131.
MI 83	Frankenmuth	I-75.
MI 84	I-75	MI 25.
MI 85	I-75, Woodhaven	I-75, Detroit.
MI 89	Allegan	US 131.
MI 90	MI 53	MI 53, Burnside.
MI 94	US 41	MI 28.
MI 95	US 2	US 41 & MI 28.
MI 97	MI 102	MI 59.
MI 102	I-96 & I-696	I-94.
MI 103	Indiana St. Line	US 12.
MI 104	US 31	I-96.
MI 115	US 27	MI 22.
MI 117	US 2	MI 28.
MI 123	I-75	MI 28.
US 127	Ohio St. Line	US 27.
US 131	Indiana St. Line	US 31, Petoskey.
US 141	Wisconsin St. Line South of Crystal Falls.	US 41 & MI 28.
MI 142	MI 25 near Bayport	MI 53.
MI 205	Indiana St. Line	US 12.
US 223	US 23	US 12.
I-75 Conn	US 10BR, Pontiac	I-75.
Minnesota		
US 2	North Dakota St. Line, Grand Forks.	I-35 at Duluth.
MN 3	I-494 at Inver Grove Heights.	I-94 at St. Paul.
MN 5	I-494 at Bloomington	I-35E at St. Paul.
MN 7	US 75 near Odessa	US 59 at Montevideo.
MN 7	US 59 at Montevideo	MN 100 at St. Louis Park.
MN 9	US 12 at Benson	US 59 at Morris.
US 10	Clay County State Aid Highway 11, E. of Moorhead.	I-694 at Arden Hills.
US 12	MN 9 at Benson	I-94 at Minneapolis.
US 12	I-694 at Woodbury	Wisconsin St. Line.
MN 13	MN 101 at Savage	I-35W at Burnesville.
US 14	US 75 at Lake Benton.	I-35 at Owatonna.
US 14	US 218 near Owatonna.	I-35 at Owatonna.
MN 23	US 12 at Willmar	I-35 near Hinckley.
MN 24	I-94 at Clearwater	US 10 at Clear Lake.
MN 27	N. Jct. MN 29 at Alexandria.	MN 127 at Osakis.
MN 27	US 71 at Long Prairie	US 10 at Little Falls.
MN 28	MN 27 at Browns Valley.	I-94 at Sauk Centre.
MN 20	I-94 at Alexandria	N. Jct. MN 27 at Alexandria.
MN 33	I-35 at Cloquet	US 53 at Independance.
MN 36	I-35W at Roseville	MN 95 at Oak Park Heights.
MN 41	US 212 near Chaska	US 169 near Chaska.
MN 43	I-90 at Wilson	US 61 at Winona.
MN 51	MN 5 at St. Paul	I-694 at Arden Hills.
US 52	US 63 at Rochester	MN 110 at Inver Grove Heights.
US 53	I-35 at Duluth	S. Jct. US 169 at Virginia.
MN 55	MN 28 at Glenwood	7th St. N. in Minneapolis.
MN 55	E. Jct. I-94 in Minneapolis.	MN 3 at Inver Grove Heights.
MN 56	US 52 at Inver Grove Heights.	MN 3 at St. Paul.
US 59	I-90 at Worthington	MN 30 at Slayton.
US 59	I-94 at Fergus Falls	US 2 at Erskine.
MN 60	Iowa St. Line at Bigelow.	N. Jct. US 169 at Mankato.
US 61	MN 16 at La Crescent.	Wisconsin St. Line.
US 61	I-90 north La Crescent.	Wisconsin St. Line.
US 61	Jct. I-35 at Mesabe in Duluth.	Two Harbors (Jct. CSAA 2).
US 63	MN 58 at Red Wing	Wisconsin St. Line.
US 63	I-90	US 52 at Rochester.
MN 65	MN 23 at Mora	I-694 at Fridley.
US 71	Iowa St. Line	I-90 at Jackson.
US 71	I-94 at Sauk Centre	MN 27 at Long Prairie.
US 75	MN 7 near Odessa	I-94 at Moorhead.
US 77	I-35E at Eagan	I-494 at Bloomington.
MN 100	I-494 at Bloomington	I-694 at Brooklyn Center.
MN 101	US 169 at Shakopee	MN 13 at Savage.
MN 110	MN 55 at Mendota Heights.	US 52 at Inver Grove Heights.
MN 127	MN 27 at Osakis	I-94 at Osakis.
US 169	N. Jct. MN 60 at Mankato.	MN 101 at Shakopee.
US 169	MN 95 at Princeton	US 10 at Elk River.
US 169	MN 210 at Aitkin	S. Jct. US 53 at Virginia.
US 169	I-494 at Eden Prairie	MN 100 at Edina.
US 169	MN 100 at Robbinsdale.	I-94 at Brooklyn Park.
MN 210	US 75 at Brechenridge.	MN 59 at Fergus Falls.
MN 210	US 10 at Motley	US 169 at Aitkin.
US 212	South Dakota St. Line.	I-494 at Eden Prairie.
US 218	I-90 at Austin	US 14 E. of Owatonna.
MN 371	US 10 at Little Falls	E. Jct. MN 210 at Brainerd.
MN 371	W. Jct. MN 210 at Brainerd.	US 2 at Cass Lake.

NOTE: All public roads available to 102 inch wide vehicles (subject to local ordinance).

APPENDIX.—OTHER DESIGNATED ROUTES—Continued

Posted route No.	From	To
Mississippi		
All U.S. and State numbered routes are available. This includes the Federal-Aid Primary System and other routes designated by the State.		
Missouri		
US 36	Kansas St. Line	Illinois St. Line.
US 40	I-70 St. Charles County.	I-55/70 St. Louis.
US 169	I-29 at Kansas City	MO 152 at Kansas City.
MO 725	US 40 at St. Louis	St. Louis Co. Route D.
US 67	Arkansas St. Line	Exit 174 on I-55.
US 61	I-70 St. Charles County.	Iowa St. Line
US 63	Arkansas St. Line	Iowa St. Line.
US 65	Arkansas St. Line	Iowa St. Line.
US 71	Arkansas St. Line	I-435 Kansas City.
US 71	Exit 53 on I-29	US 136 Maryville.
Alt. US 71	I-44	US 71 Carthage.
US 136	Nebraska St. Line	Exit 110 on I-29.
US 54	South Junction US BR 54 at Lake Ozark.	Illinois St. Line.
US 60	MO 37 Monett	US 63 Cabool.
US 24	I-435 Kansas City	US 65 Waverly.
MO 7	US 71 Harrisonville	MO 13 Clinton.
MO 13	I-44 Springfield	US 24 Lexington.
US 50	Exit 7 I-470 Kansas City.	Exit 247 on I-44.
US 60	Oklahoma St. Line	US 71.
US 67	MO 367	Illinois St. Line.
US 412	Arkansas St. Line	Exit 19 on I-55.
MO 84	Arkansas St. Line	US 412 near Kennett.
MO 25	US 412 near Kennett	US 60 at Dexter.
MO 5	Arkansas St. Line	US 60.
MO 47	US 50 at Union	MO 100 at Washington.
MO 100	MO 47 at Washington.	I-44.
MO 367	I-270	US 67.
US 166	Kansas St. Line	I-44.
MO 171	Kansas St. Line at KS 57.	US 71 Webb City.
US 60	2 mi. E. of MO 21	I-55/57 near Sikeston.
US 24	US 61 Taylor	Illinois St. Line.
MO 37	MO 76 Cassville	US 60 Monett.
US 59	Kansas St. Line	I-229 St. Joseph.
US 24	East Junction US 24 and US 36 in Marion County.	South Junction of US 24 and US 61 west of Hannibal.
Montana		
US 2	Idaho St. Line	North Dakota St. Line.
US 12	Idaho St. Line	North Dakota St. Line.
US 89	Canadian Border	Wyoming St. Line.
US 310	Wyoming St. Line	Laurel.
MT 200	Idaho St. Line	North Dakota St. Line.
US 93	Idaho St. Line	Canadian Border.
US 287	Wyoming St. Line	Choteau.
US 87	Wyoming St. Line	Havre.
US 20	Targhee Pass	West Yellowstone.
MT 87	Raynolds Pass	US 287.
MT 117	Fort Peck	Nashua.
MT 22	Miles City	Jordon.
MT 15	Conrad	Conrad.
MT 5	Scobey	North Dakota St. Line.
MT 59	Miles City	Wyoming St. Line.
MT 23	Sidney	North Dakota St. Line.
MT 7	Ekalaka	Wibeux.
US 10	North Dakota St. Line	Idaho St. Line.
MT 24	Canadian Border	MT 200.
MT 13	Circle	Canadian Border.
MT 37	Libby	Eureka.
MT 135	St. Regis	Paradise.
MT 28	Plains	Elmo.
US 212	Crow Agency	Wyoming St. Line.

APPENDIX.—OTHER DESIGNATED ROUTES—Continued

Posted route No.	From	To
MT 40	Whitefish	Columbia Falls.
MT 39	Lame Deer	Forsyth.
MT 141	Avon	MT 200.
MT 44	US 89	US 15.
US 191	West Yellowstone	Malta.
MT 43	Idaho St. Line	US 15 Divide.
MT 48	Anaconda	Warm Springs.
MT 47	Hardin	Custer.
MT 41	Dillon	US 10.
MT 16	Canadian Border	Glendive.
MT 35	Polson	US 2.
MT 3	Billings	Lavina.
MT 55	MT 41 Whitehall	Whitehall.
MT 56	MT 200	US 2.
MT 64	Big Sky	Mountain Valley.
MT 66	US 191	Fort Belknap.
MT 67	US 2 in Shelby	MT 15.
MT 69	Whitehall	Boulder.
MT 90	I-90 Missoula	Missoula.
MT 72	Wyoming St. Line	US 310.
MT 78	I-90 Lodge Grass	US 87.
MT 74	I-90	I-90 Wyola.
MT 77	MT 28 Hot Springs	Hot Springs.
MT 78	Red Lodge	Columbus.
MT 80	Fort Benton	Stanford.
MT 81	MT 80	US 191.
MT 82	Somers	MT 35 Big Fork.
MT 83	MT 200	MT 35 Big Fork.
MT 85	US 191 I-90	Belgrade.
MT 86	Bozeman	US 89.
MT 12	I-90 Garrison	Near I-90.
MT 89	Dillon	Near MT 15.
US 212	Wyoming St. Line	US 310.
MT 287	Ennis	Twin Bridges.
MT 19	MT 200 Grassrange	US 191 near Roy.
MT 200S	Circle	Glendive.
US 10A	I-90	Drummond.
MT 40	I-94	Terry.
MT 79	I-94	Hysham.
Nebraska		
All U.S. and State numbered routes are designated, with the following exceptions:		
● US 159 from the junction with US 73 in Falls City east to Missouri		
● State Highway 2 from the junction with US 73/75 in Nebraska City east to Iowa		
● US 34 from the junction with L-13G in Plattsmouth east to Iowa		
● US 30 from east the junction with US 73 in the City of Blair east to Iowa		
Nevada		
US 395	California St. Line	US 50 Stewart.
US 395	US 50 Carson City	California St. Line.
US 50	California St. Line	Utah St. Line.
US 95	California St. Line	I-80.
US 95	I-80	Oregon St. Line.
US 6	California St. Line	US 95 Coaldale.
US 6	US 95 Tonopah	US 50 Ely.
US 93	Buchanan Blvd. Boulder City.	US 95.
US 93	I-15	US 50.
US 93	US 50	Idaho St. Line.
US 95 Alt.	US 95 Schurz	I-80.
US 50 Alt.	I-80	US 50.
US 93 Alt.	US 93	I-80 Wendover.
New Hampshire		
US 3	Massachusetts St. Line.	101A Nashua.
Everett Turnpike.	101A Nashua	I-293 Bedford.
*NH 101	West End Milford Bypass.	I-293 Bedford.
*NH 9	Vermont St. Line	NE Junction of NH 9 & NH 10 Keene.
*NH 9	West End Henniker Bypass.	I-89 Hopkinton.
*NH 101	I-93 Manchester	NH 51 Exeter.
NH 51	NH 101 Exeter	US 1 Hampton.
Spaulding Turnpike.	US 4 Dover	NH 125 Rochester.

APPENDIX.—OTHER DESIGNATED ROUTES—Continued

Posted route No.	From	To
*Spaulding Turnpike.	NH 125 Rochester	NH 16 Laskey Corner.
US 4	Exit 6 Spaulding Turnpike.	I-95 Portsmouth.
US 3	I-93 North Woodstock.	I-93 near Francona.
*US 3	I-93 near Franconia	US 302 Twin Mountain.
NH 18	Vermont St. Line	I-93 Littleton.
New Jersey		
Atlantic City Expressway.	Baltic Avenue in Atlantic City.	NJ 42 Turnersville.
NJ 42	Atlantic City Expressway at NJ 168 Washington.	I-295 Bellmawr.
*US 322	Pennsylvania St. Line	I-295 Logan Township.
*US 130	US 322 Bridgeport	I-295 Logan Township.
*US 130	NJ 44 West Deptford	I-295 West Deptford.
New Jersey Turnpike.	I-295 Deepwater	I-95 Exit 6 Mansfield.
*NJ 18	US 1 New Brunswick	Wayside Road, Tinton Falls.
*US 1	Pennsylvania St. Line	I-287 Edison.
*NJ 440	I-95 Edison	New York St. Line at Outer Bridge.
*US 22	Pennsylvania St. Line Phillipsburg.	I-78 Greenwich.
*NJ 495	I-95 Secaucus	I-495 Weehawken.
*NJ 3	US 1 North Bergen	Sports Complex East Rutherford.
*NJ 17	I-80 Hackensack	New York St. Line.
The following two sections of the New Jersey Turnpike were recently added to of the Interstate System, and are unsigned. The route segments are listed since the public may be unaware of this designation.		
New Jersey Turnpike.	Pennsylvania St. Line	Exit 6 Mansfield.
New Jersey Turnpike.	Exit 6 Mansfield	Exit 10 Edison.
*The State has not agreed with the designation of this route. Comments are specifically requested on the desirability of including this route on the national network.		
New Mexico		
US 56	I-25 Springer	Oklahoma St. Line.
US 62	US 285 Carlsbad	Texas St. Line.
US 70	I-10 Las Cruces	US 84 Clovis.
US 84	I-40 Santa Rosa	Texas St. Line.
US 87	US 56 Clayton	Texas St. Line.
US 285	Colorado St. Line	Texas St. Line.
US 550	US 666 Shiprock	Colorado St. Line.
US 666	I-40 Gallup	Colorado St. Line.
US 60	Arizona St. Line	I-25 Socorro.
US 64	I-40	Colorado St. Line.
US 70	Lordsburg	Arizona St. Line.
US 60	Arizona St. Line	I-10.
NM 504	Arizona St. Line	Shiprock.
US 160	Arizona St. Line	Colorado St. Line.
New York		
*NY 17	US 219 Carrollton	Exit 24 Allegany.
NY 17	Exit 24 Allegany	I-87 Thruway Exit 16 at Harriman.
*US 219	Pennsylvania St. Line	NY 39 Springville.
US 219	NY 39 Springville	I-90 Thruway Exit 55.
NY 400	I-90 Thruway Exit 54	NY 16 South Wales.
NY 198	I-90 Thruway Exit N11.	NY 33 Buffalo.
NY 33	Michigan Avenue Buffalo.	Greater Buffalo International Airport.
NY 179	NY 5 Windom	I-90 Windom.
NY 75	NY 5 Mount Vernon	US 20 Mount Vernon.
Walden Avenue.	I-90 Thruway Exit 52	NY 277, Cheektowaga.
NY 277	0.4 miles south of NY 130, Cheektowaga.	Walden Avenue, Cheektowaga.
NY 266	Buffalo City Limit	NY 325 Tonawanda.

APPENDIX.—OTHER DESIGNATED ROUTES—Continued

Posted route No.	From	To
NY 325	NY 266 Tonawanda	Kenmore Avenue Tonawanda.
NY 390	I-490 Rochester	NY 18 North Greece.
NY 590	I-490 Rochester	NY 104 Irondequoit.
Inner Loop	I-490 Rochester	I-490 Rochester.
NY 15	Commerce Drive Rochester.	NY 252 Rochester.
NY 15A	NY 252 Rochester	I-390 Rochester.
NY 204	NY 33A Gates	I-490 Gates.
NY 252	NY 15 Rochester	NY 15A Rochester.
NY 441	I-490 East Rochester	NY 253 East Rochester.
NY 690	I-90 Lakeland	NY 370 Baldwinsville.
NY 481	I-81 North Syracuse	NY 3 Fulton.
NY 695	NY 5 Fairmont	I-690 Solvay.
NY 5	Maple Avenue Camillus.	West Genessee Street Fairmont.
NY 298	I-690 Syracuse	I-81 Syracuse.
US 15	Interchange in Presho.	NY 17 Corning.
NY 7	I-81 Binghamton	I-88 Port Dickinson.
NY 12	I-790 near I-90 Utica	Putnam Road Trenton.
NY 8	County Road 9 Sauquoit.	I-790 Utica.
NY 26	NY 365 Rome	NY 46 Rome.
NY 365	I-90 Thruway Exit 33	NY 49 Rome.
NY 49	NY 365 Rome	NY 291 near Oriskany.
North Genessee Arterial.	NY 5 S Utica	NY 5 Utica.
NY 254	I-87 Glens Falls	0.3 miles East of US 9.
*NY 254	0.3 mile East of US. 9.	U.S. 4 Hudson Falls.
*US 4	NY 254 Hudson Falls	Vermont St. Line.
Berkshire Thruway.	I-87 Thruway Exit 21A.	I-90 Thruway Exit B1.
US 9	0.6 mile South of NY 254.	0.5 mile North of NY 254.
NY 7	Schenectady-Albany County Line.	West City Line of Watervliet.
NY 5	East City Line of Schenectady.	North City Line of Albany.
Wolf Road	NY 5 at I-87 Colonie	I-87 at NY 155 Colonie.
*NY 440	New Jersey St. Line	I-278 Staten Island Expressway.
*NY 495	I-278 Brooklyn-Queens Expressway.	I-678 Van Wyck Expressway.
*NY 495	I-295 Clearview Expressway.	NY 25 Riverhead Suffolk.
*NY 17	New Jersey St. Line	I-87 Suffern.
NY 104	Maplewood Drive Rochester.	Monroe-Wayne County Line.
NY 5	NY 19 Windom	NY 75 Mount Vernon.
US 20	NY 75 Mount Vernon	Howard Road Mount Vernon.

North Carolina

US 19	US 64 near Ranger	US 19A near Bryson City.
US 19A	US 19 near Bryson City.	US 19 near Lake Junaluska.
US 25	South Carolina St. Line.	I-26 near East Flat Rock.
US 221	Rutherfordton	I-40 near Marion.
US 1	US 74 at Rockingham.	I-85 near Henderson.
US 15	US 401 near Laurinburg.	US 1 Aberdeen.
US 15	US 1 Northview	US 64 Pittsboro.
US 401	South Carolina St. Line.	I-40 Raleigh.
US 17	South Carolina St. Line.	Jct. US 74/76 West of Wilmington.
US 17	SR 1409	Virginia St. Line.
US 76	Jct. US 17/74 West of Wilmington	SR 1409.
SR 1409 (Truck Rt.).	US 76	US 17.
US 64	Tennessee St. Line	Jct. US 19/129 near Ranger.

APPENDIX.—OTHER DESIGNATED ROUTES—Continued

Posted route No.	From	To
US 64	US 1/70/401 Raleigh	US 17 Williamston.
US 64	US 29 Lexington	US 15 Pittsboro.
US 258	NC 24 near Richlands.	US 64 Tarboro.
US 601	South Carolina St. Line.	US 74 near Monroe.
US 74	US 221 Rutherfordton near Kings Mountain.	
US 220	US 74 in Rockingham.	Virginia St. Line.
NC 49	I-85 Charlotte	US 52 Richfield.
NC 18	I-40 near Morgantown.	US 321 near Lenoir.
US 321	I-40 near Hickory	NC 90 near Lenoir.
US 321	South Caroline St. Line.	I-85 near Gastonia.
US 52	NC 24/27 Albemarle	Virginia St. Line.
NC 87	NC 24/27 Spout Springs.	US 1 Sanford.
US 158	I-40 Winston-Salem	US 29 Reidsville.
US 158	I-85 Henderson	US 258 Murfreesboro.
I-40 Conn	US 19 near Lake Junaluska.	I-40 West of Clyde.
US 70	US 70A near Smithfield.	I-85 Durham.
US 70A	US 70 near Princeton	US 70 near Smithfield.
I-95 Bus	Kenly	Gold Rock.
US 74	I-277, Charlotte	US 17 near Wilmington.
US 23	US 19A Dillsboro	US 441 Franklin.
US 29	US 52 Lexington	I-85 Greensboro.
US 258	US 158 Murfreesboro	Virginia St. Line.
US 521	South Carolina St. Line.	I-77.
NC 24	US 74 Charlotte	US 52 Albemarle.
US 29	I-85 Greensboro	Virginia St. Line.
US 264	US 17 Washington	US 64 near Zebulon.
NC 11	US 70 Kinston	US 264 Greenville.
SR 1728	US 1 Raleigh	I-40.
SR 1959-2028.	US 70 Bethesda	I-40.
I-85 Connector (SR 1007)	I-85 Salisbury	US 29-601 Salisbury.
US 70	US 29-601 Salisbury	I-77 Statesville.
US 421	Kure Beach	I-95 Dunn.
US 421	US 1 Sanford	US 64 Siler City.
US 421	I-40 Winston-Salem	Wilkesboro.
NC 24	US 70 Mansfield	US 421 Clinton.
NC 24	I-95 Fayetteville	Spout Springs.
US 70	Beaufort	US 70A near Princeton.
US 19	I-240 Asheville	Jct. US 19-23 near Mars Hill.
US 25-70	US 19-23 at Weaverville.	US 25-70 Bypass at Marshall.
I-95 Bus	I-95 N. of Fayetteville.	I-95 S. of Fayetteville.

North Dakota

US 85	South Dakota St. Line.	Canadian Border.
US 83	South Dakota St. Line.	I-94 Jct.
US 83	I-94 Jct./Bismarck	Canadian Border.
US 281	South Dakota St. Line.	I-94 Jct./Jamestown.
US 52/281	I-94 Jct./Jamestown	Carrington.
US 281	Carrington	Canadian Border.
US 81	I-29 Jct./Manvel	I-29 Jct./Joliette.
US 2	Montana Border	US 85 Jct./Williston.
US 2	US 85 Jct.	Minnesota St. Line.
US 52	Carrington	US 2 Jct./Minot.
US 52	US 2 Jct./Burlington	Canadian Border.
US 12	Montana Border	South Dakota St. Line.
US 10	I-94 Jct.	Minnesota St. Line.
ND 68	Montana St. Line	US 85.
ND 13	I-29 Mooreton	Minnesota St. Line.

APPENDIX.—OTHER DESIGNATED ROUTES—Continued

Posted route No.	From	To
Ohio		
All public highways, except where posted or within certain municipalities where there are restrictions.		
Oklahoma		
US 56	New Mexico St. Line	Kansas St. Line.
US 54	Texas St. Line	Kansas St. Line.
US 59	US 270 Heavener	I-44 Afton
US 59	OK 10 Welch	Kansas St. Line.
US 60	Texas St. Line	US 283 Ellis Co.
US 60	US 81 Pond Creek	Missouri St. Line.
US 62	Texas St. Line	US 281 Lawton.
US 64	US 56 Boise City	OK 8 Alfalfa County.
US 64	US 81 Enid	I-35 Noble Co.
US 64	OK 99 Pawnee County.	US 69 Muskogee.
US 66	US 69 Commerce	Kansas St. Line.
US 62	US 69 Muskogee	Arkansas St. Line.
US 70	US 81 Waurika	Arkansas St. Line.
US 81	Texas St. Line	Kansas St. Line.
US 83	OK 3 Bryan's Corner	Kansas St. Line.
US 75	Texas St. Line	Kansas St. Line.
US 169	I-244 Tulsa	Kansas St. Line.
US 177	US 70 Dickson	US 60 Ponca City.
US 69	US 75 Atoka	Kansas St. Line.
US 77	OK 11 Kildare	Kansas St. Line.
US 183	Texas St. Line	US 270 Seiling.
US 271	US 270 Wister	US 59 Poteau.
US 270	US 177 Tecumseh	Arkansas St. Line.
US 259	Texas St. Line	US 270 LeFlore Co.
US 281	OK 5 Walters	Kansas St. Line.
US 271	OK 3 Antlers	Arkansas St. Line.
US 283	Texas St. Line	Kansas St. Line.
US 287	Texas St. Line	Colorado St. Line.
OK 3	US 54 Guymon	US 177 Shawnee.
OK 3W	US 177 Asher	OK 99 Ada.
OK 3	OK 99 Ada	Arkansas St. Line.
OK 15	US 283 Shattuck	US 64 Enid.
OK 33	US 183 near Custer City.	Arkansas St. Line.
OK 34	I-40 Elk City	US 64 Harper Co.
OK 9	OK 58 Fairview	US 64 Alfalfa Co.
OK 11	US 64 Cherokee	US north 77 of Ponca Ct.
OK 11	OK 99 Osage County	OK 20 Skiatook.
OK 45	US 281 Woods Co.	OK 8 Alfalfa Co.
OK 51A	US 270 Watonga	OK 58 Major Co.
OK 53	OK 76 Fox	I-35 Springer.
OK 58	OK 51 A	OK 8 Fairview.
OK 5	US 183 Frederick	OK 53 Waters.
OK 67	US 75 Glenpool	US 64 Bixby.
OK 29	US 81 Marlow	I-35 near Wynnewood.
OK 76	OK 7 Ratliff City	OK 53 Fox.
OK 7	I-35 near Davis	OK 1 Johnston Co.
OK 7	US 281 Lawton	OK 76 Ratliff City.
OK 6	US 283 Greer Co.	I-40 Elk City.
OK 9	OK 44 Lone Wolf	US 177 Tecumseh.
OK 9	US 69 Pittsburg Co.	US 59 LeFlore Co.
OK 39	OK 9 Tabler	OK 3W Asher.
OK 44	US 283 Greer Co.	9 Lonewolf.
OK 53	OK 5 Walters	US 81 Comanche.
OK 36	OK 5 Tilmen Co.	US 281 near Lawton.
OK	OK 51 Payne Co.	US 60 Osage Co.
OK 1	OK 7 Johnston Co.	US 270 Calvin.
OK 20	OK 11 Skiatook	US 75 Tulsa County.
OK 48	I-44 Bristou	US 64 Pawnee Co.
OK 51	I-35 Payne Co.	Muscogee Turnpike/ Tulsa County.
OK 51	Muscogee Turnpike, Wagoner County.	US 62 Tahlequah.
OK 16	US 75 Preston	US 64 Jamesville.
OK 10	OK 2 Welch	US 59 Miami.
OK 2	US 60 Vinita	OK 10 Welch.
OK 2	US 271 Clayton	I-40 Warner.
OK 19	I-35 Paul's Valley	OK 3W Ada.
OK 99	US 70 Madill	OK 11 Osage Co.
OK 199	I-35 Ardmore	US 70 Oakland.
Cimarron Muscogee Turnpike	I-35 Noble Co. / OK 51 Broken Arrow	US 64 at OK 48. / I-40 Webers Falls.
US 271	Texas St. Line	US 70 Hugo.
Indian Nation Turnpike.	US 70 Hugo	I-40 Henryetta.

APPENDIX.—OTHER DESIGNATED ROUTES—Continued

Posted route No.	From	To
Cimarron Turnpike Connection.	US 77 north of Stillwater N.E.	Cimarron Turnpike.
Oregon		
OR 99E	Portland	Salem.
OR 99W	Portland	Eugene.
US 730	I-84 Boardman	Washington St. Line.
US 30	Portland	Astoria.
US 97	Washington St. Line	Worden.
US 20	Bend	Idaho St. Line.
US 20	Sisters	US 97 near Bend.
US 20	Newport	Sweet Home.
OR 11	Washington St. Line	Pendleton.
US 101	Washington St. Line	Cannon Beach Jct.
US 101	OR 18 at Otis	Newport.
US 101	Florence	Port Orford.
US 101	Gold Beach	Harbor
OR 126	Florence	Prineville.
OR 58	Eugene	US 97 near Chemult.
OR 31	La Pine	US 395 Valley Falls.
OR 62	Medford	Trail.
US 199	Grants Pass	Elk Creek.
US 26	Cannon Beach Jct.	US 97 near Madras.
US 26	US 97 Metolius	Mitchell.
US 395	Umatilla	Stanfield.
US 395	Pendleton	Long Creek.
US 395	John Day	Burns.
US 395	Riley	California St. Line.
OR 8	Beaverton	Forest Grove.
OR 22	OR 18 near Willamina.	Salem.
OR 42	Coos Bay	Coquille.
OR 6	Tillamook	US 26 near Banks.
OR 18	US 101 Alls	Dayton.
OR 10	Portland	Beaverton.
US 197	I-84 Seufort	OR 216 Maupin.
OR 216	US 26 Warm Springs Jct.	Maupin.
OR 36	Reedsport	Arlaud.
OR 140	Klamath Falls	OR 39
OR 39	OR 140	Merrill.
US 99E	ALlbany	Junction City.
US 30 Bus	OR 99E	US 30 Bypass in Portland.
OR 99	Grants Pass	I-5.
US 30	North Powder	Baker.
US 30	In City of Pendleton	
OR 214	Woodburn	Silverton.
OR 217	US 26	I-5.
OR 22	Salem	Santiam Jct.
OR 223	Dallas	Rickreall.
OR 224	OR 99E	Clackamas.
OR 99	Central Point	Ashland.
OR 34	Corvallis	Lebanon.
OR 138	Elkton	I-5.
OR 99	OR 42	I-5.
OR 99	OR 38	I-5.
US 30	In City of Cascade Lock.	
OR 206	Wasco	Heppner.
OR 207	Cold Springs Jct.	Kinzua Road.
OR 78	Burns	US 95, Burns Junction.
US 95	OR 78, Burns Junction.	Nevada St. Line.

NOTE.— Qualified but unmarked routes have not been listed. In addition extensive partially qualifying routes have been identified by the State. Full information on Oregon's truck route system is available from the Oregon Division of Highways.

Puerto Rico

PR 2	PR 22 San Juan	PR 1 Ponce.
PR 3	PR 31 near Ceiba	PR 26 Carolina.
PR 52	PR 1 Ponce	PR 18 San Juan.
PR 18	PR 52 San Juan	PR 22 San Juan.
PR 22	PR 2 San Juan	PR 26 Jan Juan.
PR 26	PR 22 San Juan	PR 3 Carolina.
PR 1	PR 2 Ponce	PR 52 Ponce.

Rhode Island

RI 37	I-295 Cranston	I-95 near Lincoln Park.
RI 195	I-295 Johnston	RI 10 Providence.

APPENDIX.—OTHER DESIGNATED ROUTES—Continued

Posted route No.	From	To
RI 10	RI 195 Providence	I-95 Cranston.
RI 146	I-95 Providence	I-295 near Lime Rock.
South Carolina		
US 78	Georgia St. Line	I-95 St. George.
US 378	Georgia St. Line	SC 121 Saluda.
US 378	SC 262 Columbia	US 501 Conway.
SC 72	Georgia St. Line	I-77 Rockhill.
US 123	Georgia St. Line	US 25 Greenville.
US 76	US 52 Florence	SC 576 near Marion.
US 25	North Carolinas St. Line.	Georgia St. Line.
SC 121	SC 72 Whitmire	US 25 Trenton.
US 321	I-26 South of Columbia.	I-95 near Hardeeville.
US 601	North Carolina St. Line.	SC 9 Pageland.
SC 151	SC 9 Pageland	US 52 Darlington.
US 52	US 15 Society Hill	US 52/I-26 Connector at Goose Creek.
US 17	I-95 near Pocotaligo	US 21 Gardens Corner.
US 17	I-26 Charleston	North Carolina St. Line.
US 501	SC 576 Marion	US 17 Myrtle Beach.
SC 576	US 76 near Marion	US 501 near Marion.
US 21	US 17 Garden Corner.	SC 170 Beaufort.
US 276	I-85 Greenville	I-26 near Laurens.
US 521	I-20 Camden	North Carolina St. Line.
US 15	US 52 Society Hill	North Carolina St. Line.
US 301	Georgia St. Line	US 321 Ulmer.
SC 277	I-77 near Columbia	I-126 near Columbia.
South Dakota		
All roads in the State are designated. This includes all Federal-aid Primary Routes as well as other routes designated by the State.		
Tennessee		
Briley Pkwy	I-40 near Nashville	I-65 near Nashville, Tennessee, St. Line.
TN 137, US 23.	TN 67 Johnson City	TN 1, Kingsport.
US 51	Near Memphis	Purchase Pkwy, Kentucky St. Line.
US 45	Mississippi St. Line	Near Jackson.
US 45/45W Bypass.	Near Jackson	Union City near TN 22.
US 79	Memphis near I-40	Guthrie at US 41 Kentucky St. Line.
US 641	I-40 near Natchez Trace State Park.	Kentucky St. Line near TN 140.
US 231	Alabama St. Line near Fayettville.	Kentucky St. Line near TN 52.
US 127	TN 27 Spur near Chattanooga.	Static at Kentucky St. Line.
US 27	Walden	Kentucky St. Line.
US 25E	I-81	Harrogate at Virginia St. Line.
US 70 Alt.	Atwood at US 79	Huntingdon at TN 22.
US 70	Huntingdon at TN 22	Dickson.
US 70	Sparta at TN 111	Crossville at US 127.
US 70 S	Murfreesboro at US 231.	Sparta at TN 111.
US 64/41	Memphis at TN 15	I-24 at Monteagle.
US 64	Cleveland near I-40	Near Bellown at North Carolina St. Line.
US 43	Near St. Joseph at Alabama St. Line.	Lawrenceburg at US 64.
US 72	Alabama St. Line	I-24.
TN 153	I-75	US 27 at Walden.
TN 96	US 70	I-40.
US 70	Briley Pkwy	Sparta.
TN 27 Spur	I-124	US 127.
US 41/70 S	US 23, Murfreesboro	TN 102 in Smyrna.

APPENDIX.—OTHER DESIGNATED ROUTES—Continued

Posted route No.	From	To
Texas		
US 59	I-35 Laredo	Arkansas St. Line at Red River.
US 60	New Mexico St. Line	Oklahoma St. Line.
US 62	New Mexico St. Line	Jct. US 87 Lubbock.
US 67	US 87 San Angelo	Jct. US 84 Santa Anna.
US 69	TX 87 Port Arthur	I-20 near Tyler.
US 75	Jct. I-30 Dallas	Oklahoma St. Line.
US 77	Mexico Border	I-35 Waco.
US 82	US 87 Lubbock	Jct. US 277 Seymour.
US 82	Jct. US 287 near Henrietta.	US 75 Sherman.
US 83	US 77 in Harlinger	Jct. I-35 Laredo.
US 83	Jct. US 87 Ballinger	I-20 Abilene.
US 84	New Mexico St. Line	I-20 near Roscoe.
US 84	US 87 Santa Anna	I-35 Waco.
US 87	US 87 San Angelo	I-27 in Lubbock.
US 87	I-40 Amarillo	New Mexico St. Line.
US 90	US 277 Del Rio	I-35 San Antonio.
US 183	I-35 Austin	US 84 Goldthwaite.
US 259	US 59 Nacogdoches	Oklahoma St. Line.
US 277	US 277 Spur Del Rio	US 67 San Angelo.
US 277	I-20 Abilene	Oklahoma St. Line.
US 281	US 83 Pharr	I-37 near Three Rivers.
US 290	I-10 near Mountain Home.	I-610 Houston.
US 287	I-40 Amarillo	I-35W Ft. Worth.
US 385	I-10 Ft. Stockton	US 62 Seminole.
US 285	New Mexico St. Line	I-20 Pecos.
TX 19	I-30 Sulphur Springs	US 271 Paris.
US 81	US 287 Bowie	Oklahoma St. Line.
US 283	US 287 Vernon	Oklahoma St. Line.
US 83	US 287	US 60.
US 62	US 83	Oklahoma St. Line.
US 287	Dumas	Oklahoma St. Line.
US 54	Dalhart	Texhoma.
US 277 Spur	US 277 Del Rio	Mexico Border.
US 271	TX 19 Paris	Oklahoma St. Line.
Virginia		
US 1	Route 150	1.5 miles S. of Route 150.
US 1	Route 54 (Ashland)	1.99 miles N. Route 54.
US 1	Route 30	Route 738.
US 1 (Bypass).	Fall Hill Avenue (Fredericksburg).	Route 3.
VA 3	Route 1 By-pass (Fredericksburg).	Route 20 at Wilderness.
VA 7	Route I-81 (Winchester).	0.66 mile W. of W.C.L. Round Hill.
VA 10	Route 58 By-pass (Suffolk).	Route 66 (1.24 miles N. of Route 258 Bus. at Smithfield).
VA 10	E.C.L. Hopewell	0.37 mile W. Route 156 in Hopewell.
VA 10	Route 1	Route 627 (0.56 mile W. of W.C.L. of Hopewell).
US 11	0.62 Mile South of Route 612 (Verona).	Route 612.
US 11	N. Intersection Rt. 220 Alt.	2.15 miles S. of N. Intersection Route 220 Alt.
US 13	E.B.L. Route I-64 (Norfolk).	Maryland St. Line.
US 17	Route I-95	Route 29 at Opal.
US 19	Route I-81 via Routes 11 and 140 (Abingdon).	Temp. Route 460 (Route 720) (Bluefield).
US 23	Tennessee St. Line	Route Alt. 58 (Big Stone Gap).
US 23	Route Alt. 58 (Norton).	Kentucky St. Line.
US 29	North Carolina St. Line.	Route I-66 (Gainesville).
VA 30	Route I-95	Route 1
US 33	North Carlton Street (Harrisonburg).	Route 340 (Elkton).
US 33	Route I-295	0.96 miles W. I-295.
VA 33	Route I-64	Route 30 E. Intersection (West Point).

APPENDIX.—OTHER DESIGNATED ROUTES—Continued

Posted route No.	From	To
VA 36	Route I-95 (Petersburg).	Route 156 E. Intersection (Hopewell).
VA 37	Route I-81 S. of Winchester.	Route I-81 N. of Winchester via Route 11.
VA 42	Route 257 (Bridgewater).	Route 290 (Dayton).
US 50	Route 259 at Gore	Route 37.
VA 54	Route I-95	Route 1.
VA 57	Route 220 at Bassett Forks.	Route 696 at Bassett.
US 58	Access to Rt. 58 from Route 220 at Bassett Forks (Via Routes 220 Bus., 667, 1112, Commonwealth Boulevard and Fairy Street).	Routes 13 & I-264 at Bowers Hill.
US 58	Leigh Street (Portsmouth).	Route 239.
Alt. US 58	Route 19 at Hansonville.	Route 23 (Norton).
US 60	Route 150	Route 522 W. of Powhatan.
VA 76	Route I-195	Route 150.
VA 86	Route 29 (Danville)	North Carolina St. Line.
VA 100	Route I-81	Route 11 (Dublin).
VA 168	Route 57 (Martinsville).	Clearview Drive.
VA 146	Route 76	Route 195.
VA 150	Route 76	Route I-95.
VA 156	Route 10 (Hopewell)	Route 36 (Hopewell).
VA 166	Route 13	Bayside Road (Va. Beach).
VA 195	Route I-195	Route I-95.
VA 199	Route I-64	Route 60.
VA 207	Route I-95	Routes 2 and 301 at Bowling Green.
US 220	North Carolina St. Line.	Route I-581 (Roanoke).
US 220	Route I-81	S.C.L. of Fincastle.
Alt. US 220	Route I-81	Route 11.
VA 224	Route 460	Route 29.
VA 239	Route 58 (Portsmouth).	Route I-264.
VA 257	I-81 (Via Route 11)	Route 42.
US 258	North Carolina St. Line.	Route 58—Franklin By-pass.
US 258	I-64 (Hampton)	Route 10 (Benns Church).
US 301	Routes 2 and 207 at Bowling Green.	Maryland St. Line.
US 301	I-295	Route 1250.
US 340	Route 7 By-pass (Berryville).	West Virginia St. Line.
US 340	I-66	2.85 miles N. of I-66.
US 360	Route I-64	Route 627 at Village.
US 360	Route 58 (South Boston).	Route 150.
US 460	Route 67 at Raven	Route 19 at Claypool Hill.
US 460	Route 19 at Bluefield via Route 720 (Temp. Route 460).	West Virginia St. Line.
US 460	West Virginia St. Line	Route I-81 at Christiansburg.
US 460	Route I-581 at Roanoke.	Route I-85 S. of Petersburg.
US 460	Route I-95 (Petersburg).	Route 58 (Suffolk).
US 501	Route 360 S. Int. (Halifax).	Route 58 (South Boston).
US 522	Route 37	1.07 miles N. of Rt. 705 at Cross Junction.
VA 612	Route I-81 (Augusta Co.).	Route 11 (Verona).

APPENDIX.—OTHER DESIGNATED ROUTES—Continued

Posted route No.	From	To
VA 737	Route 86 (Pittsylvania Co.).	0.90 mile E. Route 86.
VA 738	Route 1 (Hanover Co.).	1.90 miles E. of Route 1.
VA 1250	Route 301 (Hanover Co.).	End of Route.

Utah

US 6	I-15 Near Spanish Fork.	I-70 Near Green River.
US 40	I-180 Silver Creek Jct.	Colorado St. Line Near Dinosaur, CO.
US 89/UT 28.	I-70 Salina Interchange.	I-15 Near Nephi.
US 91	I-15 Perry-Brigham Interchange.	Idaho St. Line near Franklin, Idaho.
UT 201	I-80 Lake Point Interchange.	I-15 2100 S. Interchange, Salt Lake City.
US 50	Nevada St. Line	I-70 Near Salina.
US 666	Monticello	Colorado St. Line.
US 163	Arizona St. Line	I-170 Crescent Junction.
US 89	Arizona St. Line	Sevier.

Washington

All US and State numbered routes are designated. This includes all Federal-aid primary routes and additional routes designated by the State.

West Virginia

US 19	Jct. I-77 Bradley	Jct. I-79 Gassaway.
US 48	I-79 Morgantown	Maryland St. Line.
US 50	I-77 Parkersburg	I-79 Clarksburg.
US 460	Virginia St. Line at Bluefield.	Virginia St. Line Near Kelleysville.
WV 34	I-64 Putnam County	Jct. US 35 Winfield.
US 35	Jct. WV 34 Winfield	Ohio St. Line.

NOTE: The Governor has established a task group composed of the Department of Highway Commissioner, the Director of the Office of Economic and Community Development and the Superintendent of the Department of Public Safety to review and evaluate additional route designations. The task group will report its findings directly to the Governor.

Wisconsin

US 2	Superior	Michigan St. Line at Hurley.
US 2	Michigan St. Line W. of Florence.	Michigan St. Line E. of Florence.
US 8	US 63 in Turtle Lake	Michigan St. Line.
US 10	US 53 in Osseo	I-43 N. of Manitowoc.
WI 11	US 61 near Dubuque	US 51 in Janesville.
WI 11	I-90 near Janesville	US 14-WI 89, 5 miles west of Delavan.
WI 11	WI 15 near Elkhorn	WI 31 in Racine.
US 12	I-94 and County Hwy EE W. of Eau Claire.	US 53 in Eau Claire.
US 12	WI 67, 2 miles N. of Elkhorn.	Illinois St. Line.
WI 13	WI 21 N. of Friendship.	US 2 in Ashland.
US 14	US 51 at Janesville	I-90 at Janesville.
US 14	WI 11-89, 5 miles W. of Delavan.	WI 15 at Darien.
WI 15	I-90 at Beloit	US 45 in Greenfield.
WI 16	WI 76 at Portage	I-94 N. of Waukesha.
WI 17	US 8 in Rhinelander	US 45 in Eagle River.
US 18	Iowa St. Line	I-90 E. of Madison.
WI 20	I-94 W. of Racine	WI 31 in Racine.
WI 21	WI 27 in Sparta	US 41 at Oshkosh.
WI 23	WI 32 N. of Sheboygan Falls.	Taylor Drive in Sheboygan.

APPENDIX.—OTHER DESIGNATED ROUTES—Continued

Posted route No.	From	To
WI 26	I-94 at Johnson Creek.	WI 16 at Watertown.
WI 26	US 151 N.E. of Waupun.	US 41 S.W. of Oshkosh.
WI 27	US 14 at Westby	US 10 E. of Fairchild.
WI 28	US 41 E. of Theresa	Kewaskum.
WI 29	I-94 W. of Elk Mound	US 53 at Chippewa Falls.
WI 29	WI 124 S. of Chippewa Falls.	US 41 in Green Bay.
WI 30	Madison	I-90 & I-94 E. of Madison.
WI 31	WI 11 in Racine	WI 20 in Racine.
WI 32	WI 29 W. of Green Bay.	Gillett.
WI 34	WI 13 in Wisconsin Rapids.	US 51 N.E. of Knowlton.
US 41	National Ave. in Milwaukee.	Garfield Ave. in Milwaukee.
US 41	107th St. in Milwaukee.	Michigan St. Line.
WI 42	I-43 W. of Manitowoc.	WI 57 S.W. of Sturgeon Bay.
US 45	US 45 Illinois St. Line	WI 28 in Kewaskum.
US 45	WI 29 in Wittenberg	Michigan St. Line.
WI 47	US 41 at Appleton	WI 29 in Bonduel.
WI 50	I-94 W. of Kenosha	45th Ave. in Kenosha.
US 51	South Corporate Limits of Janesville.	US 14 at Janesville.
US 51	WI 78 at Portage	US 2 near Hurley.
US 53	US 61 in La Crosse	US 10 in Osseo.
US 53	I-94 S.E. of Eau Claire.	I-535 in Superior.
WI 54	WI 13 in Wisconsin Rapids.	US 51 near Plover.
WI 57	I-43 in Green Bay	Sturgeon Bay.
US 61	Iowa St. Line	WI 129 S.E. of Lancaster.
US 61	WI 129 N.E. of Lancaster.	Minnesota St. Line.
US 63	Minnesota St. Line	US 2 W. of Ashland.
WI 69	WI 11 at Monroe	County Hwy. "PB" at Paoli.
WI 73	US 51 at Plainfield	WI 54 in Wisconsin Rapids.
WI 78	I-90 & I-94 S. Portage.	US 51 N. of Portage.
WI 80	I-90 & I-94 N. of New Lisbon.	WI 13 near Pittsville.
WI 119	I-94 in Milwaukee	WI 38 in Milwaukee.
WI 124	US 53 N. of Eau Claire.	WI 29 S. of Chippewa Falls.
WI 129	US 61 S.E. of Lancaster.	US 61 N.E. of Lancaster.
WI 139	US 8 near Cavour	Long Lake.
US 141	US 41 at Abrams	US 8 South of Niagara.
WI 145	Broadway in Milwaukee.	US 41-45 in Milwaukee.
US 151	Iowa St. Line	US 18 E. of Dodgeville.
US 151	I-90 & I-94 in Madison.	US 41 at Fond du Lac.
WI 172	US 41 in Ashwaubenon.	County Hwy. "X" S. of Green Bay.
County Hwy "PB".	WI 69 at Paoli	US 18 E. of Verona.

Wyoming

All US and State numbered routes are designated with the exception of US 89/287 and US 212 in Yellowstone National Park. This includes all Federal-aid Primary Routes under the jurisdiction of the State of Wyoming as well as other routes designated by the State.

*The State has not agreed with the designation of this route. Comments are specifically requested as to the desirability of including this route on the national network.

[FR Doc. 83-24866 Filed 9-13-83; 8:45 am]
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federal register

Wednesday
September 14, 1983

Part III

Environmental Protection Agency

Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

[AMS-FRL-2370-5]

Control of Air Pollution from New Motor Vehicles and New Motor Vehicle Engines; Designation of High-Altitude Locations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule revises the present designation of high-altitude locations to exclude those counties in states which do not have an auto-related air quality problem at high altitude. Specifically, it excludes all of the currently designated high-altitude counties in Arizona, Idaho, Montana, Nebraska, Oregon, Texas, and Wyoming. This redesignation applies to the sale of 1983 model year light-duty vehicles (LDVs) and 1983 and later model year light-duty trucks (LDTs). The sale of both low-altitude and high-altitude vehicles is allowed in areas excluded from the high-altitude requirements.

DATE: This final rule is effective October 14, 1983.

ADDRESS: Copies of material relevant to this rulemaking are contained in Public Docket No. A–82–31 at the U.S. Environmental Protection Agency, West Tower Lobby, Gallery I, 401 M Street, SW., Washington, D.C. 20460. The docket may be inspected between 8 a.m. and 4 p.m. on weekdays. As provided in 40 CFR Part 2, a reasonable fee may be charged for photocopying.

FOR FURTHER INFORMATION CONTACT: Mr. Richard S. Wilcox, Emission Control Technology Division, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, MI 48105, (313) 668–4390.

SUPPLEMENTARY INFORMATION:

I. Background

On November 10, 1982, EPA proposed to revise the present designation of counties in which high-altitude vehicles are required to be sold (47 FR 50929). This rulemaking action promulgates that proposed revision. Before presenting the details of this revision, however, it will be helpful to explore the basis for EPA's high-altitude motor vehicle program and those details which specifically relate to the designation of high-altitude counties.

A. Need for High-Altitude Emission Standards

Light-duty motor vehicles demonstrating compliance with only low-altitude emission standards generally emit about 50 percent more exhaust hydrocarbons (HC) and 100 percent more carbon monoxide (CO) when tested at 5,300 feet above sea level. At the same time, in most high-altitude urban areas, motor vehicles account for more than half of total HC emissions and almost all CO emissions. The HC emissions in the presence of summer sunlight contribute to numerous violations of the National Ambient Air Quality Standard (NAAQS) for ozone in certain high-altitude metropolitan areas. Similarly, CO emissions in stable winter atmospheric conditions cause numerous violations of the NAAQS for CO. Although progress is being made in reducing the severity of air pollution episodes in these metropolitan areas, specifically controlled emissions from high-altitude motor vehicles is needed to help assure that the NAAQS for ozone and CO are attained and maintained in the future.

B. 1982–83 High-Altitude Program

Mandatory high-altitude emission standards for 1982–83 light-duty motor vehicles were promulgated along with regulations to implement the standards on October 8, 1980 (45 FR 66984) under EPA's general rulemaking authority contained in Section 202(a) of the Clean Air Act ("the Act"). These rules were structured to comply with the requirements for such standards contained in Section 202(f) of the Act.

The regulations implementing the 1982–83 high-altitude standards were carefully designed to maximize model availability in high-altitude areas (a problem with EPA's 1977 high-altitude regulations), while at the same time minimizing the cost of the regulations and avoiding any adverse impact on the low-altitude fleet. One of the regulatory provisions included to achieve these goals was a requirement that, in order to market a vehicle anywhere in the nation, the vehicle must either automatically meet both the low- and high-altitude standards, or be capable of being modified to do so. This protects model availability at high altitude since manufacturers must certify vehicles to the high-altitude standards in order to sell them at low altitude. Once resources for certification are expended, manufacturers are likely to sell such vehicles at high altitude to recover their investment. Also, by allowing vehicles to be modified from their low-altitude configurations to comply with the standards at high altitude, the cost of these regulations to the nation is minimized since high-altitude emission control hardware is required only on those vehicles sold in high-altitude areas. However, the regulations generally restrict any such modifications to engine operating parameters, such as the air/fuel ratio of the carburator, so that the vehicle modifications are not excessively expensive.

These provisions, in most cases, result in two different versions of the same model being sold in various parts of the nation: a low-altitude version and a high-altitude version. This requires that certain areas be designated as "high-altitude" areas and that low-altitude vehicles be prohibited from being sold there. The criteria used to designate high-altitude counties up to this time have focused solely on the altitude of the county; specifically whether 75 percent or more of both the land area and population residence were above 4,000 feet (45 FR 14079). The criteria did not address each county's need for the emmission reductions resulting from the program since: (1) the cost of the program was expected to be small and would actually improve vehicle fuel economy, and (2) no adverse comments were received when the criteria were proposed.

In a petition to the Administrator dated April 6, 1982, the Arizona Congressional Delegation requested that EPA amend its criteria for designating certain locations as "high-altitude" areas. In that petition, the delegation stated that the five Arizona counties currently obligated to comply with EPA's high-altitude regulations have no record of violation of the NAAQS for CO or ozone. They further commented that high-altitude regulations were designed to alleviate problems in metropolitan areas such as Denver and Salt Lake City. Therefore, they recommended that areas without automobile-related air quality problems be eliminated from the present high-altitude regulations. After careful consideration of their request, the Agency agreed with the delegation's basic premise that Section 202(f)(3) of the Act specifically requires the Administrator to consider the air quality effects of high-altitude regulations on any area in which such regulations apply. (This requirement is discussed in greater detail in Section IX of this Preamble.) As a result, EPA committed to proposed new criteria for the designation of high-altitude areas. A Notice of Proposed Rulemaking (NPRM) containing the revised criteria was published in the **Federal Register** on November 11, 1982 (47 FR 50929).

C. 1984 and Later LDT High-Altitude Program

The high-altitude program for 1984 and later model year LDTs, which was published in the **Federal Register** on January 12, 1983 (48 FR 1418), follows the same approach as that described above for the 1982–83 program. These LDT standards were also promulgated under EPA's general rulemaking authority contained in Section 202(a). Therefore, any revision to the designation of high-altitude counties will affect the sale of high-altitude LDTs well into the future.

D. 1984 and Later LDV High-Altitude Program

As discussed earlier, the NPRM applied only to 1983 LDVs and 1983 and later LDTs. It did not apply to 1984 and later LDVs, because these are subject to Section 206(f) of the Act, which requires that each 1984 and later LDV meet the same emission standards at both high and low altitudes. This approach eliminates the need to designate high-altitude areas, except in certain cases when low-power, high fuel economy vehicles are exempted from the "all-altitude" requirement. These exempted vehicles only meet emission standards at low altitude and cannot be sold in high-altitude areas. Therefore, the designation of high-altitude locations is also an issue for 1984 and later model year LDVs.

The Agency is addressing the issue of designating high-altitude locations where exempted vehicles could not be sold in the all-altitude rulemakings for 1984 and later LDVs (48 FR 7392 and 48 FR 7399). Presently, two possible interpretations of Section 206(f) have been identified regarding this issue. Under a narrow reading of this section, high-altitude areas could be defined only on the basis of altitude. This interpretation would result in retaining the original list of designated counties for 1984 and later LDVs. Second, a less restrictive interpretation has been suggested by some commenters that would allow the consideration of air quality need in designating high-altitude locations for these vehicles. This interpretation would permit EPA to adopt, for 1984 and later LDVs, the revised list of designated counties which is being promulgated in this final rule for 1983 LDVs.

As alluded to above, the Agency will publish a decision on this issue as part of all-altitude rulemaking actions for 1984 and later LDVs.

II. Description of the Redesignation NPRM

A. Issues

In the proposal, EPA identified the two most important issues affecting the designation of high-altitude counties as: (1) Whether the emission reductions of EPA's high-altitude program are needed to attain and maintain adequate air quality within a particular area, and (2) whether an area with clean air should be included in the program to attain adequate air quality elsewhere.

The Agency addressed the first question by identifying the high-altitude counties which will be in compliance with the NAAQS for CO and ozone by the 1982 statutory deadline. Regarding the maintenance of clean air in these counties, EPA found that newer vehicles, regardless of whether or not their emissions at high altitude are specifically controlled, will emit less than the vehicles they replace. Also, stationary source contributions to CO and ozone levels in the atmosphere are not expected to be a problem. Thus, continued attainment in the future should be assured. Those high-altitude counties currently out of compliance are sufficiently out of compliance that they clearly should be retained in the program.

The second question regarding whether an area should be included in the high-altitude program to attain clean air elsewhere is more difficult to address. The primary concern here is that high-altitude residents from a county with an air quality problem might purchase vehicles in another county that is in compliance with the NAAQS and, hence, is excluded from the program. This practice may result in a significant number of higher emitting (low-altitude) vehicles being driven primarily in an area with poor air qualtiy, exacerbating an already difficult situation.

B. Alternatives Considered

The Agency identified two alternative designation criteria in the NPRM. The first alternative would exclude all of the high-altitude counties in a state when no such county in that state was in violation of the NAAQS for CO and ozone (state-line option). This approach would exclude all of the current high-altitude counties in seven states: Idaho, Montana, Nebraska, Oregon, Texas, Arizona, and Wyoming. The second alternative would exclude these counties and, in addition, those counties in the remaining four states (Colorado, Nevada, New Mexico, and Utah) which were sufficiently distant from violating cities (state-line and distance option). The difference between the two alternative approaches is that the state-line and distance option would exclude additional high-altitude counties in the four states with air quality violations on the basis that counties sufficiently distant have no effect on the violation areas.

This state-line and distant option has the advantage that it would exclude additional counties from the high-altitude program that might not need the emission control provided. One disadvantage of this option is that it would be difficult to define a sufficient distance that did not appear somewhat arbitrary. A second disadvantage is that the exclusion of the additional counties could reduce the market for vehicles with high-altitude configurations by up to 50 percent from present levels, as opposed to 20 percent for the state-line option. A reduction of this size could reduce model availability adversely and increase the cost of the program in the remaining areas significantly.

In the NPRM, EPA proposed the state-line option which would exclude all of the present high-altitude counties in the seven states, because the disadvantages of the state-line and distance option appeared to outweigh its advantages. However, EPA request comment on the state-line and distance option as well.

III. Public Participation and Issues Affecting the Rule

A number of organizations participated in the public comment period following the NPRM. Written comments were submitted by 15 parties. Oral comments were presented by nine representatives of organizations at a public hearing held in Denver, Colorado on January 11, 1983. Of all the organizations that submitted written and oral comments, seven were state automobile dealer associations, five were owners of high-altitude automobile dealerships, four were automobile manufacturers, and two were state environmental agencies. In addition, comments were received from a Congressman and an individual.

Generally, most commenters overwhelmingly supported the need to revise the high-altitude designation criteria so that some counties without air quality problems would be excluded from the high-altitude regulations. However, only a few comments specifically addressed whether the state-line and distance option would be an improvement over the proposed state-line option. One commenter did state that the state-line and distance option would eliminate several more counties, but would also significantly

restrict the market for some high-altitude dealerships. Therefore, this commenter preferred the state-line option.

Although other commenters did not directly address their preference for the two options, they did state that model availability problems and cost increases should be kept to a minimum. As indicated in the proposal, EPA expects that the state-line option would reduce the market for high-altitude vehicles by only 20 percent (as opposed to up to 50 percent under the state-line and distance option), and therefore, would have the smaller effect on model availability and unit cost.

Consequently, EPA concludes that the proposed state-line option is still preferable to the state-line and distance option. The state-line option provides a substantial reduction in the number of counties required to sell high-altitude vehicles, without greatly affecting model availability or cost for those areas remaining in the program. In addition, this option received no adverse comments during the public comment period. However, some commenters did express concern about the overall effect of redesignation on model availability, cost, and other issues. These comments will be addressed below in the discussions of the various aspects and impacts of this action.

IV. Contents of this Final Rule

Based on the preceding analysis, the Agency is adopting the "state-line" designation criteria as originally proposed. These new criteria exclude from EPA's high-altitude program the sale of 1983 LDVs and LDTs and 1984 and later LDTs for the counties currently designated in seven states: Arizona, Idaho, Montana, Nebraska, Oregon, Texas, and Wyoming. These states do not have any high-altitude counties which are in violation of the NAAQS for CO and ozone. The four remaining states, Colorado, Nevada, New Mexico, and Utah, all have a number of high-altitude areas in violation of these standards.

V. Implementation and Leadtime

EPA plans to effect the revised designation criteria 30 days subsequent to the publication of this final rulemaking in order to realize its benefits as soon as possible in the 1983 model year. This expeditious implementation should not have any adverse impacts since the final rulemaking action does not impose any added restrictions, but only grants additional flexibility. Specifically, while auto dealers in the exempted counties would be able to sell low-altitude vehicles, they would still be allowed to sell high-altitude vehicles. If manufacturers were committed to the production of a fixed number of 1983 high-altitude configurations, these vehicles could still be marketed and no adverse impact should occur. All of these comments received which addressed this area recommended adoption of the revised designation criteria as soon as possible.

VI. Model Availability

EPA does not expect that model availability in the remaining four high-altitude states will be affected by this action, because only 20 percent of current high-altitude sales will be affected. Some comments from dealer associations disagreed with this, saying that the smaller number of counties in which to market high-altitude vehicles would cause manufacturers to limit production of certain vehicle models. However, General Motors (GM) and Chrysler clearly stated that the redesignation should not affect the availability of high-altitude vehicles from the factory. GM explained that the smaller geographical area defined by the redesignation would actually simplify its distribution situation, and the demand for high-altitude vehicles would not be significantly different, since most of the sales occur in the densely populated locations remaining in the program. Also, according to the National Automobile Dealers Association, other manufacturers do not expect to limit production because of the redesignation.

Another concern in this area raised by commenters was that dealer trades at high altitude could be severely limited. EPA does not expect this to occur. Dealer trades with low-altitude dealers should be essentially unaffected because all vehicles must meet or be capable of being modified to meet high-altitude standards, unless they are exempted from certification at high altitude. The redesignation of counties does not change this current requirement. Dealer trades with other high-altitude dealers should also not be affected because all of the current high-altitude counties in that state will remain in the program, including at least one large metropolitan area, thus providing an ample number of other high-altitude dealers with which to trade.

VII. Economic Impact

The Agency expects this proposed action to produce a small net savings for the nation of approximately $700,000 per year. Fewer high-altitude vehicles (approximately 50,000–60,000 vehicles per year) will be sold and the additional cost of high-altitude modifications for these vehicles (approximately $23 per vehicle on the average) will be avoided. At the same time, the cost for the remaining high-altitude vehicles (200,000–250,000 vehicles per year) could increase somewhat (at most $2–3 per vehicle).

Some commenters expressed concern that the remaining high-altitude vehicles would experience an increase in price because fixed costs would be spread over fewer vehicles. However, the reduction of high-altitude vehicle sales is expected to be only 20 percent, and this reduction should not increase allocated fixed costs more than the $2–3 per vehicle mentioned above. Even with this increase, the high-altitude program in the remaining areas will still be cost effective. Also, if a manufacturer chooses to spread the costs over the entire national fleet, which has occured in some instances, the allocated cost per vehicle would not change and vehicle prices would not increase at all. Therefore, any adverse economic impact in the remaining areas will be small and should be more than offset by the savings in the excluded areas.

VIII. Environmental Impact

The Agency expects no significant adverse environmental impact to result from this action. The two state environmental agencies (Arizona and Oregon) that submitted comments on the proposal also agreed that no air quality problems would result from this rulemaking. CO and HC emissions may increase somewhat in the excluded areas over that which would have occured without the revision. However, as alluded to previously, the ambient concentrations of CO and ozone in these areas are already below the NAAQS for these pollutants and further emission reductions are not needed. Also, the CO and HC emissions of the 1983 and later model year low-altitude vehicles which would be sold under this action are still lower than those of the older vehicles being replaced. Thus, EPA expects that air quality in the excluded areas will still improve in the future even without the benefit of EPA's high-altitude program.

A few commenters also stated that if an excluded county does violate the auto-related NAAQS in the future, provisions should be made to include such counties as "designated high-altitude counties." EPA does not expect that this situation will occur. However, in the unlikely event that an excluded county does violate the NAAQS in the future, then EPA will take action at that time to include that county in the high-

altitude program if such action is warranted.

IX. Authority

Statutory authority for this regulation is provided by Sections 202 and 301(a) of the Clean Air Act (42 U.S.C. 7521 and 7601). This action is also in accordance with the guidelines for establishing high-altitude regulations provided in Section 202(f)(3) of the Clean Air Act. Specifically, the Administrator is required to consider and make a finding with respect to several factors, including "the likelihood that the adoption of such a high-altitude regulation will result in any significant improvement in air quality in any area to which it shall apply."

Congress, therefore, intended that EPA consider the effects of high-altitude regulations on areas in which those regulations would apply. As discussed above, the regulations would not have any significant effect vis-a-vis the NAAQS in the counties which would be excluded from the high-altitude regulations. Even without high-altitude regulations, these counties should continue to experience reductions in vehicle-related pollutants.

Judicial Review: Under Section 307(b)(1) of the Act, EPA hereby finds that these regulations are of national applicability. Accordingly, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the District of Columbia Circuit within 60 days of publication. Under Section 307(b)(2) of the Act, the requirements which are the subject of today's notice may not be challenged later in judicial proceedings brought by EPA to enforce these requirements.

Administrative Designation: Under Executive Order 12291 EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it involves no negative cost impacts and has no significant adverse effect on competition, productivity, investment, employment, or innovation.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection in the docket cited at the beginning of this preamble.

Effect on Small Entities: Section 605 of the Regulatory Flexibility Act requires that the Administrator certify that these regulations do not have a significant impact on a substantial number of small entities. I certify that this regulation does not have any significant impact on small entities.

The small entities affected by this action are the passenger car and LDT dealers located in high-altitude counties. These dealers could be either positively or negatively affected in terms of model availability, availability of dealer trades, and sales due to emission control costs.

As indicated above in the discussions of model availability (Section VI) and economic impacts (Section VII), those dealers in areas which will be excluded from EPA's high-altitude program will be positively affected by this action. Model availability will improve, since low-altitude vehicles will be available, sales may improve due to the removal of high-altitude emission controls ($23 per vehicle), and the ability to trade between dealers will improve due to an increased number of dealers being available for trading. While none of these effects will be large, since the negative aspects of the high-altitude program were not large to begin with, they will be positive, nonetheless. All comments received on this issue supported this.

Also as discussed earlier, there could be negative effects on the high-altitude dealers in the remaining four states. However, these effects should be almost imperceptible. Manufacturers have stated that they will not reduce the number of high-altitude models available due to this action. While the cost of these dealers' vehicles could increase $2–3 each, this should not affect sales. Also, the great majority of the original high-altitude dealers available for trading will still be available. Some commenters representing dealers from these areas expressed general concerns about these effects, but still generally supported the revised designation criteria. One of these commenters went further to state that the negative effects of redesignation on model availability, cost, and dealer trading would be very small and probably not affect dealer sales at all. Therefore, based on both EPA's own analysis and the comments on the proposal, any negative impacts on the high-altitude dealers should not be significant.

Impacts of Reporting Requirements: This rule does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act of 1980 U.S.C. 3501 *et seq.*

List of Subjects in 40 CFR Part 86

Administrative practice and procedure, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements.

Dated: August 18, 1983.

William D. Ruckelshaus,

Administrator.

PART 86—[AMENDED]

For the reasons set forth in the Preamble, Part 86 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

1. Section 86.083–30 is added as set forth below. (The only difference between this section and § 86.082–30 is the amendment of paragraph (a)(5)).

§ 86.083–30 Certification.

(a)(1) If, after a review of the test reports and data submitted by the manufacturer, data derived from any inspection carried out under § 86.078–7(c), and any other pertinent data or information, the Administrator determines that a test vehicle(s) or test engine(s) meet(s) the requirements of the Act and of this subpart, he will issue a certificate of conformity with respect to such vehicle(s) or engine(s) except in cases covered by paragraph (c) of this section.

(i) Each certificate of conformity shall state the altitude(s) at which the vehicle(s) covered by the certificate has demonstrated compliance with the applicable emission standards.

(ii) [Reserved]

(2) Such certificate will be issued for such period not to exceed one model year as the Administrator may determine and upon such terms as he may deem necessary to assure that any new motor vehicle (or new motor vehicle engine) covered by the certificate will meet the requirements of the Act and of this part.

(3) One such certificate will be issued for each engine family. For gasoline-fueled light-duty vehicles and light-duty trucks, one such certificate will be issued for each engine family-evaporative emission family combination. Each certificate will certify compliance with no more that one set of standards except for low-altitude standards and high-altitude standards. The certificate shall cover vehicles sold or delivered to an ultimate purchaser for principal use at a designated high-altitude location only if the vehicle conforms in all material respects to the design specification that applied to those vehicles described in the application for certification at high altitude.

(4) The adjustment or modification of any light-duty vehicle or light-duty truck in accordance with instructions provided by the manufacturer as approved by EPA for the altitude where

the vehicle is principally used will not be considered a violation of Section 203(a)(3) of the Clean Air Act. A violation of Section 203(a)(1) of the Clean Air Act occurs when any manufacturer sells or delivers to an ultimate purchaser, any light-duty vehicle or light-duty truck, subject to the regulations under the Act which is not configured to meet high-altitude requirements:

(i) At a designated high-altitude location, unless such manufacturer has substantial reason to believe that such motor vehicle will not be used principally at a designated high-altitude location; or

(ii) At an other-than-designated high-altitude location, when such manufacturer has reason to believe that such motor vehicle will be used principally at a designated high-altitude location.

(5)(i) For the purpose of paragraph (a) of this section, a "designated high-altitude location" is any county which has substantially all of its area located above 1,219 meters (4,000 feet) and:

(A) Requested an extension past the attainment date of December 31, 1982, for compliance with either the National Ambient Air Quality Standards for carbon monoxide or ozone, as indicated in Part 52 (Approval and Promulgation of Implementation Plans) of this title; or

(B) Is in the same state as a county designated as a high-altitude location according to paragraph (a)(5)(i)(A) of this section.

(ii) The designated high-altitude locations defined in paragraph (a)(5)(i) are listed below:

Designated High-Altitude Locations (Counties)

State of Colorado

Adams	Kit Carson
Alamosa	Lake
Arapahoe	La Plata
Archuleta	Larimer
Boulder	Las Animas
Chaffee	Lincoln
Cheyenne	Mesa
Clear Creek	Mineral
Conejos	Moffat
Costilla	Montezuma
Crowley	Montrose
Custer	Morgan
Delta	Otero
Denver	Ouray
Dolores	Park
Douglas	Pitkin
Eagle	Pueblo
Elbert	Rio Blanco
El Paso	Rio Grande
Fremont	Routt
Garfield	Saguache
Gilpin	San Juan
Grand	San Miguel
Gunnison	Summit
Hinsdale	Teller
Huerfano	Washington
Jackson	Weld
Jefferson	

State of Nevada

Carson City	Lyon
Douglas	Mineral
Elko	Nye
Esmeralda	Pershing
Eureka	Storey
Humboldt	Washoe
Lander	White Pine
Lincoln	

State of New Mexico

Bernalillo	Mora
Catron	Rio Arriba
Colfax	Roosevelt
Curry	Sandoval
De Baca	San Juan
Grant	San Miguel
Guadalupe	Santa Fe
Harding	Sierra
Hidalgo	Socorro
Lincoln	Taos
Los Alamos	Torrance
Luna	Union
McKinley	Valencia
Otero	

State of Utah

Beaver	Morgan
Box Elder	Piute
Cache	Rich
Carbon	Salt Lake
Daggett	San Juan
Davis	Sanpete
Duchesne	Sevier
Emery	Summit
Garfield	Tooele
Grand	Uintah
Iron	Utah
Juab	Wasatch
Kane	Wayne
Millard	Weber

(6) The provisions of paragraph (a)(4) of this section shall not apply to any light-duty vehicle or light-duty truck sold, offered for sale, introduced, or delivered for introduction into commerce in California provided that the vehicle is covered by a certificate of conformity with emission standards in effect in California.

(7) Catalyst-equipped vehicles, otherwise covered by a certificate, which are driven outside the United States, Canada, and Mexico will be presumed to have been operated on leaded gasoline resulting in deactivation of the catalysts. If these vehicles are imported or offered for the importation without retrofit of the catalyst, they will be considered not to be within the coverage of the certificate unless included in a catalyst control program operated by a manufacturer or a United States Government Agency and approved by the Administrator.

(8) For incomplete light-duty trucks, a certificate covers only those new motor vehicles which, when completed by having the primary load-carrying device or container attached, conform to the maximum curb weight and frontal area limitations described in the application for certification as required in § 86.082–21(d).

(9) For heavy-duty engines, a certificate covers only those new motor vehicle engines installed in heavy-duty vehicles which conform to the minimum gross vehicle weight rating, curb weight, or frontal area limitations for heavy-duty vehicles described in § 86.082–2.

(b)(1) The Administrator will determine whether a vehicle (or engine) covered by the application complies with applicable standards by observing the following relationships:

(i) Light-duty vehicles and light-duty trucks. (A) The durability-data vehicle(s) selected under § 86.082–24(c)(1)(i) shall represent all vehicles of the same engine-system combination.

(B) The emission-data vehicle(s) selected under § 86.082–24 (b)(1)(ii) through (b)(1)(v) shall represent all vehicles of the same engine-system combination as applicable.

(C) The emission-data vehicle(s) selected under § 86.082–24(b)(1)(vii) shall represent all vehicles of the same evaporative control system within the evaporative emission family, as applicable.

(D) The emission-data vehicle(s) selected under § 86.082–24(b)(1)(v) shall represent all vehicles of the same engine-system combination to be sold at high altitude.

(E) The emission-data vehicle(s) selected under § 86.082–24(b)(1)(vii)(D) shall represent all vehicles of the same evaporative control system within the evaporative family sold at high altitude.

(ii)(A) Gasoline-fueled heavy-duty engines. A test engine selected under § 86.082–24(b)(2) (ii) and (iv) shall represent all engines in the same engine family of the same engine displacement-exhaust emission control system combination.

(B) A test engine selected under § 86.082–24(b)(2)(iii) shall represent all engines in the same engine family of the same engine displacement-exhaust emission control system combination.

(C) A test engine selected under § 86.082–24(c)(2)(i) shall represent all engines of the same engine-system combination.

(iii)(A) Diesel heavy-duty engines. A test engine selected under § 86.082–24(b)(3)(ii) shall represent all engines in the same engine-system combination.

(B) A test engine selected under § 86.082–24(b)(3)(iii) shall represent all engines of that emission control system at the rated fuel delivery of the test engines.

(C) A test engine selected under § 86.082–24(c)(3)(i) shall represent all engines of the same engine-system combination.

(2) The Administrator will proceed as in paragraph (a) of this section with respect to the vehicles (or engines) belonging to an engine family or engine family-evaporative emission family combination (as applicable), all of which comply with all applicable standards.

(3) If, after a review of the test reports and data submitted by the manufacturer, data derived from any additional testing conducted pursuant to § 86.079–29, data or information derived from any inspection carried out under § 86.078–7(c) or any other pertinent data or information, the Administrator determines that one or more test vehicles (or test engines) of the certification test fleet do not meet applicable standards, he will notify the manufacturer in writing, setting forth the basis for his determination. Within 30 days following receipt of the notification, the manufacturer may request a hearing on the Administrator's determination. The request shall be in writing, signed by an authorized representative of the manufacturer and shall include a statement specifying the manufacturer's objections. If, after a review of the request and supporting data, the Administrator finds that the request raises a substantial factual issue, he shall provide the manufacturer a hearing in accordance with § 86.078–6 with respect to such issue.

(4) For light-duty vehicles and light-duty trucks the manufacturer may, at his option, proceed with any of the following alternatives with respect to an emission-data vehicle determined not in compliance with all applicable standards for which it was tested:

(i) Request a hearing under § 86.078–6; or

(ii) Remove the vehicle configuration (or evaporative vehicle configuration, as applicable) which failed, from his application;

(A) If the failed vehicle was tested for compliance with exhaust emission standards only: The Administrator may select, in place of the failed vehicle, in accordance with the selection criteria employed in selecting the failed vehicle, a new emission-data vehicle to be tested for exhaust emission compliance only.

(B) If the failed vehicle was tested for compliance with both exhaust and evaporative emission standards: The Administrator may select, in place of the failed vehicle, in accordance with the selection criteria employed in selecting the failed vehicle, a new emission-data vehicle which will be tested for compliance with both exhaust and evaporative emission standards. If one vehicle cannot be selected in accordance with the selection criteria employed in selecting the failed vehicle, then two vehicles may be selected (i.e., one vehicle to satisfy the exhaust emission vehicle selection criteria and one vehicle to satisfy the evaporative emission vehicle selection criteria). The vehicle selected to satisfy the exhaust emission vehicle selection criteria will be tested for compliance with exhaust emission standards only. The vehicle selected to satisfy the evaporative emission vehicle selection criteria will be tested for compliance with both exhaust and evaporative emission standards; or

(iii) Remove the vehicle configuration (or evaporative vehicle configuration, as applicable) which failed from the application and add a vehicle configuration(s) (or evaporative vehicle configuration(s), as applicable) not previously listed. The Administrator may require, if applicable, that the failed vehicle be modified to the new engine code (or evaporative emission code, as applicable) and demonstrate by testing that it meets applicable standards for which it was originally tested. In addition, the Administrator may select, in accordance with the vehicle selection criteria given, in § 865.082–24(b), a new emission-data vehicle or vehicles. The vehicles selected to satisfy the exhaust emission vehicle selection criteria will be tested for compliance with exhaust emission standards only. The vehicles selected to satisfy the evaporative emission vehicle selection criteria will be tested for compliance with both exhaust and evaporative emission standards; or

(iv) Correct a component or system malfunction and show that with a correctly functioning system or component the failed vehicle meets applicable standards for which it was originally tested. The Administrator may require a new emission-data vehicle, of identical configuration (or evaporative vehicle configuration, as applicable) to the failed vehicle, to be operated and tested for compliance with the applicable standards for which the failed vehicle was originally tested.

(5) For heavy-duty engines the manufacturer may, at his option, proceed with any of the following alternatives with respect to any engine family represented by a test engine(s) determined not in compliance with applicable standards:

(i) Request a hearing under § 86.078–6; or

(ii) Delete from the application for certification the engines represented by the failing test engine. (Engines so deleted may be included in a later request for certification under § 86.079–32). The Administrator may then select in place of each failing engine an alternate engine chosen in accordance with selection criteria employed in selecting the engine that failed; or

(iii) Modify the test engine and demonstrate by testing that it meets applicable standards. Another engine, which is in all material respects the same as the first engine, as modified, may then be operated and tested in accordance with applicable test procedures.

(6) If the manufacturer does not request a hearing or present the required data under paragraphs (b)(4) or (b)(5) (as applicable) of this section, the Administrator will deny certification.

(c)(1) Notwithstanding the fact that any certification vehicle(s) (or certification engine(s)) may comply with other provisions of this subpart, the Administrator may withhold or deny the issuance of a certificate of conformity (or suspend or revoke any such certificate which has been issued) with respect to any such vehicle(s) (or engine(s) if:

(i) The manufacturer submits false or incomplete information in his application for certification thereof;

(ii) The manufacturer renders inaccurate any test data which he submits pertaining thereto or otherwise circumvents the intent of the Act, or of this part with respect to such vehicle (or engine);

(iii) Any EPA Enforcement Officer is denied access on the terms specified in § 86.078–7(c) to any facility or portion thereof which contains any of the following:

(A) The vehicle (or engine);

(B) Any components used or considered for use in its modification or buildup into a certification vehicle (or certification engine);

(C) Any production vehicle (or production engine) which is or will be claimed by the manufacturer to be covered by the certificate;

(D) Any step in the construction of a vehicle (or engine) described in paragraph (c)(1)(iii)(C) of this section;

(E) Any records, documents, reports, or histories required by this part to be kept concerning any of the above;

(iv) Any EPA Enforcement Officer is denied "reasonable assistance" (as defined in § 86.078–7(c)) in examining any of the items listed in paragraph (c)(1)(iii) of this section.

(2) The sanctions of withholding, denying, revoking, or suspending of a certificate may be imposed for the reasons in paragraph (c)(1) (i), (ii), (iii), or (iv) of this section only when the infraction is substantial.

(3) In any case in which a manufacturer knowingly submits false

or inaccurate information or knowingly renders inaccurate or invalid any test data or commits any other fraudulent acts and such acts contribute substantially to the Administrator's decision to issue a certificate of conformity, the Administrator may deem such certificate void ab initio.

(4) In any case in which certification of a vehicle (or engine) is proposed to be withheld, denied, revoked, or suspended under paragraph (c)(1)(iii) or (c)(1)(iv) of this section, and in which the Administrator has presented to the manfacturer involved reasonable evidence that a violation of § 86.078–7(c) in fact occurred, the manufacturer, if he wishes to contend that, even though the violation occurred, the vehicle (or engine) in question was not involved in the violation to a degree that would warrant withholding denial, revocation, or suspension of certification under either paragraph (c)(1)(iii) or (c)(1)(iv) of this section, shall have the burden of establishing that contention to the satisfaction of the Administrator.

(5) Any revocation or suspension of certification under paragraph (c)(1) of this section shall:

(i) Be made only after the manufacturer concerned has been offered an opportunity for a hearing conducted in accordance with § 86.078–6 hereof.

(ii) Extend no further than to forbid the introduction into commerce of vehicles (or engines) previously covered by the certification which are still in the hands of the manufacturer, except in cases of such fraud or other misconduct as makes the certification invalid ab initio.

(6) The manufacturer may request in the form and manner specified in paragraph (b)(3) of this section that any determination made by the Administrator under paragraph (c)(1) of this section to withhold or deny certification be reviewed in a hearing conducted in accordance with § 86.078–6. If the Administrator finds, after a review of the request and supporting data, that the request raises a substantial factual issue, he will grant the request with respect to such issue.

(d)(1) Notwithstanding the fact that any vehicle configuration or engine family may be covered by a valid outstanding certificate of conformity, the Administrator may suspend such outstanding certificate of conformity in whole or in part with respect to such vehicle configuration or engine family if:

(i) The manufacturer refuses to comply with the provisions of a test order issued by the Administrator pursuant to § 86.603; or

(ii) The manufacturer refuses to comply with any of the requirements of § 86.603; or

(iii) The manufacturer submits false or incomplete information in any report of infirmation provided pursuant to the requirement of § 86.609; or

(iv) The manufacturer renders inaccurate any test data which he submits pursuant to the requirements of § 86.609; or

(v) Any EPA Enforcement Officer is denied access to a facility on the terms specified in § 86.606; or

(vi) Any EPA Enforcement Officer is denied the opportunity on the terms specified in § 86.606, to:

(A) Monitor vehicle selection pursuant to § 86.607, or

(B) Select vehicles for testing pursuant to § 86.607, or

(C) Monitor vehicle testing performed to satisfy any of the requirements of this part, or

(vii) Any EPA Enforcement Officer is denied "reasonable assistance" as defined in § 86.606 in examining any of the items listed in that section; or

(viii) The manufacturer refuses to comply with the requirements of §§ 86.604(a), 86.605, and 86.607, 86.608, 86.610, or 86.611.

(2) The sanction of suspending a certificate may not be imposed for the reasons in paragraphs (d)(1) (i), (ii), or (viii) of this section where such refusal is caused by conditions and circumstances outside the control of the manufacturer which renders it impossible to comply with those requirements. Such conditions and circumstances shall include, but not be limited to, any uncontrollable factors which result in the temporary unavailability of equipment and personnel needed to conduct the required tests, such as equipment breakdown or failure or illness of personnel, but shall not include failure of the manufacturer to adquately plan for and provide the equipment and personnel needed to conduct the tests. The manufacturer will bear the burden of establishing the presence of the conditions and circumstances required by this paragraph.

(3) The sanctions of suspending a certificate may be imposed for the reasons in paragraphs (d)(1) (iii), (iv), (v), (vi), or (vii) of this section only when the infraction is substantial.

(4) In any case in which a manufacturer knowingly submitted false or inaccurate information or knowingly rendered inaccurate any test data or committed any other fraudulent acts, and such acts contributed substantially to the Administrator's original decision not to suspend or revoke a certificate of conformity in whole or in part, the Administrator may deem such certificate void from the date of such fraudulent act.

(5) In any case in which certification of a vehicle is proposed to be suspended under paragraph (d)(1)(v), (d)(1)(vi), or (d)(1)(vii) of this section, and in which the Administrator has presented to the manufacturer involved reasonable evidence that a violation of § 86.606 in fact occurred, the manufacturer, if he wishes to contend that even though the violation occurred, the vehicle configuration or engine family in question was not involved in the violation to the degree that would warrant suspension of certification under either paragraph (d)(1)(v), (d)(1)(vi), or (d)(1)(vii) of this section, shall have the burden of establishing that contention to the satisfaction of the Administrator.

(6) Any suspension of certification under paragraph (d)(1) of this section shall:

(i) Be made only after the manufacturer concerned has been offered an opportunity for a hearing conducted in accordance with § 86.613 hereof, and

(ii) Not apply to vehicles no longer in the hands of the manufacturer.

2. Section 86.084–30 is amended by revising paragraph (a)(5) as follows:

§ 86.084–30 Certification.

(a) * * *

(5)(i) For the purpose of paragraph (a) of this section, a "designated high-altitude location" is any county which has substantially all of its area located above 1,219 meters (4,000 feet) and:

(A) Requested an extension past the attainment date of December 31, 1982, for compliance with either the National Ambient Air Quality Standards for carbon monoxide or ozone, as indicated in Part 52 (Approval and Promulgation of Implementation Plans) of this title; or

(B) Is in the same state as a county designated as a high-altitude location according to paragraph (a)(5)(i)(A) of this section.

(ii) The designated high-altitude locations defined in paragraph (a)(5)(i) of this section are listed below:

Designated High-Altitude Locations (counties) for Light-Duty Trucks

State of Colorado

Adams	Costilla
Alamosa	Crowley
Arapahoe	Custer
Archuleta	Delta
Boulder	Denver
Chaffee	Dolores
Cheyenne	Douglas
Clear Creek	Eagle
Conejos	Elbert

El Paso	Montezuma
Fremont	Montrose
Garfield	Morgan
Gilpin	Otero
Grand	Ouray
Gunnison	Park
Hinsdale	Pitkin
Huerfano	Pueblo
Jackson	Rio Blanco
Jefferson	Rio Grande
Kit Carson	Routt
Lake	Saguache
La Plata	San Juan
Larimer	San Miguel
Las Animas	Summit
Lincoln	Teller
Mesa	Washington
Mineral	Weld
Moffat	

State of Nevada

Carson City	Lyon
Douglas	Mineral
Elko	Nye
Esmeralda	Pershing
Eureka	Storey
Humboldt	Washoe
Lander	White Pine
Lincoln	

State of New Mexico

Bernalillo	Mora
Catron	Rio Arriba
Colfax	Roosevelt
Curry	Sandoval
De Baca	San Juan
Grant	San Miguel
Guadalupe	Santa Fe
Harding	Sierra
Hidalgo	Socorro
Lincoln	Taos
Los Alamos	Torrance
Luna	Union
McKinley	Valencia
Otero	

State of Utah

Beaver	Morgan
Box Elder	Piute
Cache	Rich
Carbon	Salt Lake
Daggett	San Juan
Davis	Sanpete
Duchesne	Sevier
Emery	Summit
Garfield	Tooele
Grand	Uintah
Iron	Utah
Juab	Wasatch
Kane	Wayne
Millard	Weber

* * * * *

3. Section 86.085–30 is amended by revising paragraph (a)(5) as follows:

§ 86.085–30 Certification.

(a) * * *

(5)(i) For the purpose of paragraph (a) of this section, a "designated high-altitude location" is any county which has substantially all of its area located above 1,219 meters (4,000 feet) and:

(A) Requested an extension past the attainment date of December 31, 1982, for compliance with either the National Ambient Air Quality Standards for carbon monoxide or ozone, as indicated in Part 52 (Approval and Promulgation of Implemention Plans) of this title; or

(B) Is in the same state as a county designated as a high-altitude location according to paragraph (a)(5)(i)(A) of this section.

(ii) The designated high-altitude locations defined in paragraph (a)(5)(i) of this section are listed below:

Designated High-Altitude Locations (counties) for Light-Duty Trucks

State of Colorado

Adams	Kit Carson
Alamosa	Lake
Arapahoe	La Plata
Archuleta	Larimer
Boulder	Las Animas
Chaffee	Lincoln
Cheyenne	Mesa
Clear Creek	Mineral
Conejos	Moffat
Costilla	Montezuma
Crowley	Montrose
Custer	Morgan
Delta	Otero
Denver	Ouray
Dolores	Park
Douglas	Pitkin
Eagle	Pueblo
Elbert	Rio Blanco
El Paso	Rio Grande
Fremont	Routt
Garfield	Saguache
Gilpin	San Juan
Grand	San Miguel
Gunnison	Summit
Hinsdale	Teller
Huerfano	Washington
Jackson	Weld
Jefferson	

State of Nevada

Carson City	Lyon
Douglas	Mineral
Elko	Nye
Esmeralda	Pershing
Eureka	Storey
Humboldt	Washoe
Lander	White Pine
Lincoln	

State of New Mexico

Bernalillo	Otero
Catron	Rio Arriba
Colfax	Roosevelt
Curry	Sandoval
De Baca	San Juan
Grant	San Miguel
Guadalupe	Santa Fe
Harding	Sierra
Hidalgo	Socorro
Lincoln	Taos
Los Alamos	Torrance
Luna	Union
McKinley	Valencia
Mora	

State of Utah

Beaver	Juab
Box Elder	Kane
Cache	Millard
Carbon	Morgan
Daggett	Piute
Davis	Rich
Duchesne	Salt Lake
Emery	San Juan
Garfield	Sanpete
Grand	Sevier
Iron	Summit
Tooele	Wasatch
Uintah	Wayne
Utah	Weber

* * * * *

(42 U.S.C. 7521 and 7601)

[FR Doc. 83–24620 Filed 9–13–83; 8:45 am]

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40 CFR Part 86

[AMS–FRL–2354–7]

Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines; High-Altitude Emission Standards for 1982 and Later Model Year Motor Vehicles

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action amends §§ 86.082–30(a)(4), 86.084–30(a)(4) and 86.085–30(a)(4), and creates § 86.083–30 of the Environmental Protection Agency's regulations for vehicles sold in high-altitude areas, found in 40 CFR Part 86, Subpart A. These changes establish steps a manufacturer may take which, if taken, would assure the manufacturer that it would be in compliance with certain regulatory requirements regarding the sale and delivery of such vehicles. The result of manufacturers taking these steps should be that significant numbers of motor vehicles sold to ultimate purchasers for principal use at high-altitude are configured to meet high-altitude emission standards.

DATES: These changes are effective October 14, 1983.

ADDRESSES: Copies of the material relevant to this rulemaking are contained in Public Docket No. EN–82–04 at the U.S. Environmental Protection Agency, Central Docket Section (A–130), West Tower Lobby, Gallery I, 401 M Street, SW., Washington, D.C. 20460, telephone number (202) 382–7548. The docket may be inspected between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: Mary T. Smith, Attorney/Advisor, Manufacturers Operations Division (EN 340), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460, (202) 382–2514.

SUPPLEMENTARY INFORMATION:

1982 and 1983 Model Year Light-Duty Vehicles and Light-Duty Trucks

OMB Control No. 2060–0049

For a background on the need for amendments to § 86.082–30(a)(4), and an explanation of the amendments, see the notice of proposed rulemaking (NPRM) for 1982 and 1983 model year high-altitude light-duty vehicles and light-duty trucks, 47 FR 47445 (October 26, 1982).

EPA received no comments in opposition to its proposed amendments. Two vehicle manufacturers endorsed the adoption of these amendments since they set forth with more particularity the steps manufacturers could take to insulate themselves from liability under section 203(a) of the Clean Air Act for certain vehicles.

As a result, there were no changes to the proposed amendments to § 86.082–30(a)(4). Because of the need to create § 86.083–30, for purposes of redesignating high-altitude areas for the 1983 model year, published elsewhere in this issue of the **Federal Register**, language identical to that used in the proposed § 86.082–30(a)(4) has been added to § 86.083–30(a)(4).

1984 and Later Model Year Light-Duty Trucks

On January 12, 1983, EPA published in the **Federal Register**, 48 FR 1418, final rules establishing requirements for 1984 and later model year light-duty trucks sold in high-altitude areas. These rules contained the "substantial reason to believe" language of § 86.082–30(a)(4) which was the subject of litigation by the Motor Vehicle Manufacturers Association (MVMA) concerning 1982 and 1983 model year light-duty vehicles and light-duty trucks. This litigation precipitated the need for amendments to § 86.082–30(a)(4) announced herein. Because the considerations supporting amendment of the 1982 and 1983 model year high-altitude light-duty vehicle and light-duty truck regulations apply to the 1984 and later model year light-duty truck regulations as well, EPA is also amending §§ 86.084–30(a)(4) and 86.085–30(a)(4) of the light-duty truck regulations to parallel the changes made to § 86.082–30(a)(4).

Pursuant to 5 U.S.C. 553(b), EPA finds that it is unnecessary to publish a notice of proposed rulemaking and provide an opportunity to comment on the amendments to §§ 86.084–30(a)(4) and 86.085–30(a)(4). EPA provided full notice and opportunity for comment on amendments to the virtually identical provisions of § 86.082–30(a)(4), and received no adverse comments. The manufacturers, dealers, and other parties affected by both regulations are the same, as are the considerations supporting both sets of amendments. Accordingly, there is "good cause" to omit notice and opportunity for public comment.

Regulatory Analysis

Section 3(b) of Executive Order 12291, 46 FR 13193 (February 19, 1981), requires EPA to determine initially whether a rule that it intends to issue is a major rule and to prepare regulatory impact analyses for all major rules. EPA has determined that these amendments are not major rules. As discussed above, these amendments simply provide better guidance on how manufacturers may comply with the substantive requirements already present in the original rule. Accordingly, a Regulatory Impact Analysis has not been prepared for these amendments. This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection at the Central Docket Section (See **ADDRESES**).

Under the Regulatory Flexibility Act, 5 U.S.C. section 601, *et seq.*, EPA is required to determine whether a regulation will have a significant economic impact on a substantial number of small entities so as to require a regulatory analysis. These amendments do not impose any substantive or reporting requirements on small entities in addition to those under the original rule. Therefore, pursuant to 5 U.S.C. 605(b), I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities.

In accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, the recordkeeping requirements contained in this package have been assigned OMB Control No. 2060–0059.

This notice announces a nationally applicable regulation. Under section 307(b)(1) of the Clean Air Act, judicial review may be sought only in the United States Court of Appeals for the District of Columbia Circuit within 60 days of September 14, 1983. This action may not be challenged later in an EPA enforcement action.

These amendments are issued pursuant to sections 202, 203(a) and 301(a) of the Clean Air Act, as amended, 42 U.S.C. 7521, 7522(a) and 7601(a).

List of Subjects in 40 CFR Part 86

Administrative practice and procedure, Labelling, Motor vehicle pollution, Reporting and recordkeeping requirements.

Dated: August 18, 1983.

William D. Ruckelshaus,

Administrator.

PART 86—[AMENDED]

For the reasons set forth in the preamble 40 CFR Part 86 is amended as follows:

1. Paragraph (a)(4) of 40 CFR 86.082–30 is revised to read as follows:

§ 86.082–30 Certification.

(a) * * *

(4) The adjustment or modification of any light-duty vehicle or light-duty truck in accordance with instructions provided by the manufacturer as approved by EPA for the altitude where the vehicle is principally used will not be considered a violation of section 203(a)(3) of the Clean Air Act.

(i) A violation of section 203(a)(1) of the Clean Air Act occurs, except as provided for in § 86.082–9(g)(3), when any manufacturer sells or delivers to an ultimate purchaser any light-duty vehicle or light-duty truck, subject to the regulations under the Act, which is not configured to meet high-altitude requirements:

(A) At a designated high-altitude location, unless such manufacturer has reason to believe that such motor vehicle will not be sold to an ultimate purchaser for principal use at a designated high-altitude location; or

(B) At a location other than a designated high-altitude location, when such manufacturer has reason to believe that such motor vehicle will be sold to an ultimate purchaser for principal use at a designated high-altitude location.

(ii) A manufacturer shall be deemed to have reason to believe that a motor vehicle which is not configured to meet high-altitude requirements will not be sold to an ultimate purchaser for principal use at a designated high-altitude location if the manufacturer has informed its dealers and field representatives about the terms of these high-altitude regulations, has not caused the improper sale itself, and has taken reasonable action which shall include, but not be limited to, either paragraph (a)(4)(ii) (A) or (B), and (C) of this section.

(A) Requiring dealers in designated high-altitude locations to submit written statements to the manufacturer signed by the ultimate purchaser that a motor vehicle which is not configured to meet high-altitude requirements will not be used principally at a designated high-altitutde location; requiring dealers in counties contiguous to designated high-altitude locations to submit written

statements to the manufacturer, signed by the ultimate purchaser who represents to the dealer in the normal course of business that he or she resides in a designated high-altitude location, that a motor vehicle which is not configured to meet high-altitude requirements will not be used principally at a designated high-altitude location; and for each sale or delivery of fleets of 10 or more such vehicles in a high-altitude location or in counties contiguous to high-altitude locations, requiring either the selling dealer or the delivering to submit written statements to the manufacturer, signed by the ultimate purchaser who represents to the dealer in the normal course of business that he or she resides in a designated high-altitude location, that a vehicle which is not configured to meet high-altitude requirements will not be used principally at a designated high-altitude location. In addition, the manufacturer will make available to EPA, upon reasonable written request (but not more frequently than quarterly, unless EPA has demonstrated that it has substantial reason to believe that an improperly configured vehicle has been sold), sales, warranty, or other information pertaining to sales of vehicles by the dealers described above maintained by the manufacturer in the normal course of business relating to the altitude configuration of vehicles and the locations of ultimate purchasers; or

(B) Implementing a system which monitors factory orders of low-altitude vehicles by high-altitude dealers, or through other means, identifies dealers that may have sold or delivered a vehicle not configured to meet the high-altitude requirements to an ultimate purchaser for principal use at a designated high-altitude location and making such information available to EPA upon reasonable written request (but not more frequently than quarterly, unless EPA has demonstrated that it has substantial reason to believe that an improperly configured vehicle has been sold); and

(C) Within a reasonable time after receiving written notice from EPA or a State or local government agency that a dealer may have improperly sold or delivered a vehicle not configured to meet the high-altitude requirements to an ultimate purchaser residing in a designated high-altitude location, or based on information obtained pursuant to paragraph (a)(4)(ii) of this section that a dealer may have improperly sold or delivered a significant number of such vehicles to ultimate purchasers so residing, reminding the dealer in writing of the requirements of these regulations, and, where appropriate, warning the dealer that sale by the dealer of vehicles not configured to meet high-altitude requirements may be contrary to the terms of its franchise agreement with the manufacturer and the dealer certification requirements of § 85.2108 of this chapter.

* * * * *

2. 40 CFR § 86.083–30 is revised to read as follows:

§ 86.083–30 Certification.

(a)(1) If, after a review of the test reports and data submitted by the manufacturer, data derived from any inspection carried out under § 86.078–7(c), and any other pertinent data or information, the Administrator determines that a test vehicle(s) or test engine(s) meet(s) the requirements of the Act and of this subpart, he will issue a certificate of conformity wih respect to such vehicle(s) or engine(s) except in cases covered by paragraph (c) of this section.

(i) Each certificate of conformity shall state the altitude(s) at which the vehicle(s) covered by the certificate has demonstrated compliance with the applicable emission standards.

(2) Such certificate will be issued for such period not to exceed one model year as the Administrator may determine and upon such terms as he may deem necessary to assure that any new motor vehicle (or new motor vehicle engine) covered by the certificate will meet the requirements of the Act and of this part.

(3) One such certificate will be issued for each engine family. For gasoline-fueled light-duty vehicles and light-duty trucks, one such certificate will be issued for each engine family-evaporative emission family combination. Each certificate will certify compliance with no more than one set of standards except for low-altitude standards and high-altitude standards. The certificate shall cover vehicles sold or delivered to an ultimate purchaser for principal use at a designated high-altitude location only if the vehicle conforms in all material respects to the design specification that applied to those vehicles described in the application for certification at high altitude.

(4) The adjustment or modification of any light-duty vehicle or light-duty truck in accordance with instructions provided by the manufacturer as approved by EPA for the altitude where the vehicle is prinicpally used will not be considered a violation of section 203(a)(3) of the Clean Air Act.

(i) A violation of section 203(a)(1) of the Clean Air Act occurs, except as provided for in § 86.083–9(g)(3), when any manufacturer sells or delivers to an ultimate purchaser any light-duty vehicle or light-duty truck, subject to the regulations under the Act, which is not configured to meet high-altitude requirements:

(A) At a designated high-altitude location unless such manufacturer has reason to believe that such motor vehicle will not be sold to an ultimate purchaser for principal use at a designated high-altitude location; or

(B) At a location other than a designated high-altitude location, when such manufacturer has reason to believe that such motor vehicle will be sold to an ultimate purchaser for principal use at a designated high-altitude location.

(ii) A manufacturer shall be deemed to have reason to believe that a motor vehicle which is not configured to meet high-altitude requirements will not be sold to an ultimate purchaser for principal use at a designated high-altitude location if the manufacturer has informed its dealers and field representatives about the terms of these high-altitude regulations, has not caused the improper sale itself, and has taken reasonable action which shall include, but not be limited to, either paragraph (a)(4)(ii)(A) or (B), and (C) of the following:

(A) Requiring dealers in designated high-altitude locations to submit written statements to the manufacturer signed by the ultimate purchaser that a motor vehicle which is not configured to meet high altitude requirements will not be used principally at a designated high-altitude location; requiring dealers in counties contiguous to designated high-altitude locations to submit written statements to the manufacturer, signed by the ultimate purchaser who represents to the dealer in the normal course of business that he or she resides in a designated high-altitude location, that a motor vehicle which is not configured to meet high-altitude requirements will not be used principally at a designated high-altitude location; and for each sale or delivery of fleets of 10 or more such vehicles in a high-altitude location or in counties contiguous to high-altitude locations, requiring either the selling dealer or the delivering dealer to submit written statements to the manufacturer, signed by the ultimate purchaser who represents to the dealer in the normal course of business that he or she resides in a designated high-altitude location, that a vehicle which is not configured to meet high-altitude requirements will not

be used principally at a designated high-altitude location. In addition, the manufacturer will make available to EPA, upon reasonable written request (but not more frequently than quarterly, unless EPA has demonstrated that it has substantial reason to believe that an improperly configured vehicle has been sold), sales, warrantly, or other information pertaining to sales of vehicles by the dealers described above maintained by the manufacturer in the normal course of business relating to the altitude configuration of vehicles and the locations of ultimate purchasers; or

(B) Implementing a system which monitors factory orders of low-altitude vehicles by high-altitude dealers, or through other means, identifies dealers that may have sold or delivered a vehicle not configured to meet the high-altitude requirements to an ultimate purchaser for principal use at a designated high-altitude location; and making such information available to EPA upon reasonable written request (but not more frequently than quarterly, unless EPA has demonstrated that it has substantial reason to believe that an improperly configured vehicle has been sold); and

(C) Within a reasonable time after receiving written notice from EPA or a State or local government agency that a dealer may have improperly sold or delivered a vehicle not configured to meet the high-altitude requirements to an ultimate purchaser residing in a designated high-altitude location, or based on information obtained pursuant to paragraph (a)(4)(ii) of this section that a dealer may have improperly sold or delivered a significant number of such vehicles to ultimate purchasers so residing, reminding the dealer in writing of the requirements of these regulations, and, where appropriate, warning the dealer that sale by the dealer of vehicles not configured to meet high-altitude requirements may be contrary to the terms of its franchise agreement with the manufacturer and the dealer certification requirements of § 85.2108 of this chapter.

(5)(i) For the purpose of paragraph (a) of this section, a "designated high-altitude location" is any county which has substantially all of its area located above 1,219 meters (4,000 feet) and:

(A) Requested an extension past the attainment date of December 31, 1982, for compliance with either the National Ambient Air Quality Standards for carbon monoxide or ozone, as indicated in Part 52 (Approval and Promulgation of Implementation Plans) of this title; or

(B) Is in the same state as a county designated as a high-altitude location according to paragraph (a)(5)(i) of this section.

(ii) The designated high-altitude locations defined in paragraph (a)(5)(i)(A) of this section are listed below:

Designated High-Altitude Locations (counties)

State of Colorado

Adams	Kit Carson
Alamosa	Lake
Arapahoe	La Plata
Archuleta	Larimer
Boulder	Las Animas
Chaffee	Lincoln
Cheyenne	Mesa
Clear Creek	Mineral
Conejos	Moffat
Costilla	Montezuma
Crowley	Montrose
Custer	Morgan
Delta	Otero
Denver	Ouray
Dolores	Park
Douglas	Pitkin
Eagle	Pueblo
Elbert	Rio Blanco
El Paso	Rio Grande
Fremont	Routt
Garfield	Saguache
Gilpin	San Juan
Grand	San Miguel
Gunnison	Summit
Hinsdale	Teller
Huerfano	Washington
Jackson	Weld
Jefferson	

State of Nevada

Carson City	Lyon
Douglas	Mineral
Elko	Nye
Esmeralda	Pershing
Eureka	Storey
Humboldt	Washoe
Lander	White Pine
Lincoln	

State of New Mexico

Bernalillo	Mora
Catron	Rio Arriba
Colfax	Roosevelt
Curry	Sandoval
De Baca	San Juan
Grant	San Miguel
Guadalupe	Santa Fe
Harding	Sierra
Hidalgo	Socorro
Lincoln	Taos
Los Alamos	Torrance
Luna	Union
McKinley	Valencia
Otero	

State of Utah

Beaver	Morgan
Box Elder	Piute
Cache	Rich
Carbon	Salt Lake
Daggett	San Juan
Davis	Sanpete
Duchesne	Sevier
Emery	Summit
Garfield	Tooele
Grand	Uintah
Iron	Utah
Juab	Wasatch
Kane	Wayne
Millard	Weber

(6) The provisions of paragraph (a)(4) of this section shall not apply to any light-duty vehicle or light-duty truck sold, offered for sale, introduced, or delivered for introduction into commerce in California provided that the vehicle is covered by a certificate of conformity with emission standards in effect in California.

(7) Catalyst-equipped vehicles, otherwise covered by a certificate, which are driven outside the United States, Canada, and Mexico will be presumed to have been operated on leaded gasoline resulting in deactivation of the catalysts. If these vehicles are imported or offered for the importation without retrofit of the catalyst, they will be considered not to be within the coverage of the certificate unless included in a catalyst control program operated by a manufacturer or a United States Government Agency and approved by the Administrator.

(8) For incomplete light-duty trucks, a certificate covers only those new motor vehicles which, when completed by having the primary load-carrying device or container attached, conform to the maximum curb weight and frontal area limitations described in the application for certification as required in § 86.082–21(d).

(9) For heavy-duty engines, a certificate covers only those new motor vehicle engines installed in heavy-duty vehicles which conform to the minimum gross vehicle weight rating, curb weight, or frontal area limitations for heavy-duty vehicles described in § 86.082–2.

(b)(1) The Administrator will determine whether a vehicle (or engine) covered by the application complies with applicable standards by observing the following relationships:

(i) *Light-duty vehicles and Light-duty trucks.* (A) The durability-data vehicle(s) selected under § 86.082–24(c)(1)(i) shall represent all vehicles of the same engine-system combination.

(B) The emission-data vehicles(s) selected under § 86.082–24(b)(1)(ii) through (b)(1)(v) shall represent all vehicles of the same engine-system combination as applicable.

(C) The emission-data vehicle(s) selected under § 86.082–24(b)(1)(vii) shall represent all vehicles of the same evaporative control system within the evaporative emission family, as applicable.

(D) The emission-data vehicle(s) selected under § 86.082–24(b)(1)(v) shall represent all vehicles of the same engine-system combination to be sold at high altitude.

(E) The emission-data vehicle(s) selected under § 86.082–24(b)(1)(vii) (D) shall represent all vehicles of the same evaporative control system within the evaporative family sold at high altitude.

(ii)(A) *Gasoline-fueled heavy-duty engines.* A test engine selected under § 86.082–24(b)(2)(ii) and (iv) shall represent all engines in the same engine family of the same engine displacement-exhaust emission control system combination.

(B) A test engine selected under § 86.082–24(b)(2)(iii) shall represent all engines in the same engine family of the same engine displacement-exhaust emission control system combination.

(C) A test engine selected under § 86.082–24(c)(2)(i) shall represent all engines of the same engine-system combination.

(iii)(A) *Diesel heavy-duty engines.* A test engine selected under § 86.082–24(b)(3)(ii) shall represent all engines in the same engine-system combination.

(B) A test engine selected under § 86.082–24(b)(3)(iii) shall represent all engines of that emission control system at the rated fuel delivery of the test engines.

(C) A test engine selected under § 86.082–24(c)(3)(i) shall represent all engines of the same engine-system combination.

(2) The Administrator will proceed as in paragraph (a) of this section with respect to the vehicles (or engines) belonging to an engine family or engine family-evaporative emission family combination (as applicable), all of which comply with all applicable standards.

(3) If, after a review of the test reports and data submitted by the manufacturer, data derived from any additional testing conducted pursuant to § 86.079–29, data or information derived from any inspection carried out under § 86.078–7(c) or any other pertinent data or information, the Administrator determines that one or more test vehicles (or test engines) of the certification test fleet do not meet applicable standards, he will notify the manufacturer in writing, setting forth the basis for his determination. Within 30 days following receipt of the notification, the manufacturer may request a hearing on the Administrator's determination. The request shall be in writing, signed by an authorized representative of the manufacturer and shall include a statement specifying the manufacturer's objections. If, after a review of the request and supporting data, the Administrator finds that the request raises a substantial factual issue, he shall provide the manufacturer a hearing in accordance with § 86.078–6 with respect to such issue.

(4) For light-duty vehicles and light-duty trucks the manufacturer may, at his option, proceed with any of the following alternatives with respect to an emission-data vehicle determined not in compliance with all applicable standards for which it was tested:

(i) Request a hearing under § 86.078–6; or

(ii) Remove the vehicle configuration (or evaporative vehicle configuration, as applicable) which failed, from his application;

(A) If the failed vehicle was tested for compliance with exhaust emission standards only: The Administrator may select, in place of the failed vehicle, in accordance with the selection criteria employed in selecting the failed vehicle, a new emission-data vehicle to be tested for exhaust emission compliance only.

(B) If the failed vehicle was tested for compliance with both exhaust and evaporative emission standards: The Administrator may select, in place of the failed vehicle, in accordance with the selection criteria employed in selecting the failed vehicle, a new emission-data vehicle which will be tested for compliance with both exhaust and evaporative emission standards. If one vehicle cannot be selected in accordance with the selection criteria employed in selecting the failed vehicle, then two vehicles may be selected (i.e., one vehicle to satisfy the exhaust emission vehicle selection criteria and one vehicle to satisfy the evaporative emission vehicle selection criteria). The vehicle selected to satisfy the exhaust emission vehicle selection criteria will be tested for compliance with exhaust emission standards only. The vehicle selected to satisfy the evaporative emission vehicle selection criteria will be tested for compliance with both exhaust and evaporative emission standards; or

(iii) Remove the vehicle configuration (or evaporative vehicle configuration, as applicable) which failed from the application and add a vehicle configuration(s) (or evaporative vehicle configuration(s), as applicable) not previously listed. The Administrator may require, if applicable, that the failed vehicle be modified to the new engine code (or evaporative emission code, as applicable) and demonstrate by testing that it meets applicable standards for which it was originally tested. In addition, the Administrator may select, in accordance with the vehicle selection criteria given in § 86.082–24(b), a new emission-data vehicle or vehicles. The vehicles selected to satisfy the exhaust emission vehicle selection criteria will be tested for compliance with exhaust emission standards only. The vehicles selected to satisfy the evaporative emission vehicle selection criteria will be tested for compliance with both exhaust and evaporative emission standards; or

(iv) Correct a component or system malfunction and show that with a correctly functioning system or component the failed vehicle meets applicable standards for which it was originally tested. The Administrator may require a new emission-data vehicle, of identical vehicle configuration (or evaporative vehicle configuration, as applicable) to the failed vehicle, to be operated and tested for compliance with the applicable standards for which the failed vehicle was originally tested.

(5) For heavy-duty engines the manufacturer may, at his option, proceed with any of the following alternatives with respect to any engine family represented by a test engine(s) determined not in compliance with applicable standards:

(i) Request a hearing under § 86.078–6; or

(ii) Delete from the application for certification the engines represented by the failing test engine. (Engines so deleted may be included in a later request for certification under § 86.079–32.) The Administrator may then select in place of each failing engine an alternate engine chosen in accordance with selection criteria employed in selecting the engine that failed; or

(iii) Modify the test engine and demonstrate by testing that it meets applicable standards. Another engine, which is in all material respects the same as the first engine, as modified, may then be operated and tested in accordance with applicable test procedures.

(6) If the manufacturer does not request a hearing or present the required data under paragraph (b)(4) or (b)(5) (as applicable) of this section, the Administrator will deny certification.

(c)(1) Notwithstanding the fact that any certification vehicle(s) (or certification engine(s)) may comply with other provisions of this subpart, the Administrator may withhold or deny the issuance of a certificate of conformity (or suspend or revoke any such certificate which has been issued) with respect to any such vehicle(s) (or engine(s)) if:

(i) The manufacturer submits false or incomplete information in his application for certification thereof;

(ii) The manufacturer renders inaccurate any test data which he submits pertaining thereto or otherwise circumvents the intent of the Act, or of

this part with respect to such vehicle (or engine);

(iii) Any EPA Enforcement Officer is denied access on the terms specified in § 86.078–7(c) to any facility or portion thereof which contains any of the following:

(A) The vehicle (or engine);

(B) Any components used or considered for use in its modification or buildup into a certification vehicle (or certification engine);

(C) Any production vehicle (or production engine) which is or will be claimed by the manufacturer to be covered by the certificate;

(D) Any step in the construction of a vehicle (or engine) described in paragraph (c)(1)(iii)(C) of this section;

(E) Any records, documents, reports, or histories required by this part to be kept concerning any of the above;

(iv) Any EPA Enforcement Officer is denied "reasonable assistance" (as defined in § 86.078–7(c)) in examining any of the items listed in paragraph (c)(1)(iii) of this section.

(2) The sanctions of withholding, denying, revoking, or suspending a certificate may be imposed for the reasons in paragaph (c)(1) (i), (ii), (iii), or (iv) of this section only when the infraction is substantial.

(3) In any case in which a manufacturer knowingly submits false or inaccurate information or knowingly renders inaccurate or invalid any test data or commits any other fraudulent acts and such acts contribute substantially to the Administrator's decision to issue a certificate of conformity, the Administrator may deem such certificate void ab initio.

(4) In any case in which certification of a vehicle (or engine) is proposed to be withheld, denied, revoked, or suspended under paragraph (c)(1)(iii) or (c)(1)(iv) of this section, and in which the Administrator has presented to the manufacturer involved reasonable evidence that a violation of § 86.078–7(c) in fact occurred, the manufacturer, if he wishes to contend that, even though the violation occurred, the vehicle (or engine) in question was not involved in the violation to a degree that would warrant withholding denial, revocation, or suspension of certification under either paragraph (c)(1)(iii) or (c)(1)(iv) of this section, shall have the burden of establishing that contention to the satisfaction of the Administrator.

(5) Any revocation of suspension of certification under paragraph (c)(1) of this section shall:

(i) Be made only after the manufacturer concerned has been offered an opportunity for a hearing conducted in accordance with § 86.078–6 hereof.

(ii) Extend no further than to forbid the introduction into commerce of vehicles (or engines) previously covered by the certification which are still in the hands of the manufacturer, except in cases of such fraud or other misconduct as makes the certification invalid ab initio.

(6) The manufacturer may request in the form and manner specified in paragraph (b)(3) of this section that any determination made by the Administrator under paragraph (c)(1) of this section to withhold or deny certification be reviewed in a hearing conducted in accordance with § 86.078–6. If the Administrator finds, after a review of the request and supporting data, that the request raises a substantial factual issue, he will grant the request with respect to such issue.

(d)(1) Notwithstanding the fact that any vehicle configuration or engine family may be covered by a valid outstanding certificate of conformity, the Administrator may suspend such outstanding certificate of conformity in whole or in part with respect to such vehicle configuration or engine family if:

(i) The manufacturer refuses to comply with the provisions of a test order issued by the Administrator pursuant to § 86.603; or

(ii) The manufacturer refuses to comply with any of the requirements of § 86.603; or

(iii) The manufacturer submits false or incomplete information in any report of information provided pursuant to the requirement of § 86.609; or

(iv) The manufacturer renders inaccurate any test data which he submits pursuant to the requirements of § 86.609; or

(v) Any EPA Enforcement Officer is denied access to a facility on the terms specified in § 86.606; or

(vi) Any EPA Enforcement Officer is denied the opportunity on the terms specified in § 86.606, to:

(A) Monitor vehicle selection pursuant to § 86.607, or

(B) Select vehicles for testing pursuant to § 86.607, or

(C) Monitor vehicle testing performed to satisfy any of the requirements of this part; or

(vii) Any EPA Enforcement Officer is denied "reasonable assistance" as defined in § 86.606 in examining any of the items listed in that section; or

(viii) The manufacturer refuses to comply with the requirements of §§ 86.604(a), 86.605, and 86.607, 86.608, 86.610, or 86.611.

(2) The sanction of suspending a certificate may not be imposed for the reasons in paragraphs (d)(1)(i), (ii), or (viii) of this section where such refusal is caused by conditions and circumstances outside the control of the manufacturer which renders it impossible to comply with those requirements. Such conditions and circumstances shall include, but not be limited to, any uncontrollable factors which results in the temporary unavailability of equipment and personnel needed to conduct the required tests, such as equipment breakdown or failure or illness of personnel, but shall not include failure of the manufacturer to adequately plan for and provide the equipment and personnel needed to conduct the tests. The manufacturer will bear the burden of establishing the presence of the conditions and circumstances required by this paragraph.

(3) The sanctions of suspending a certificate may be imposed for the reasons in paragraphs (d)(1) (iii), (iv), (v), (vi), or (vii) of this section only when the infraction is substantial.

(4) In any case in which a manufacturer knowingly submitted false or inaccurate information or knowingly rendered inaccurate any test data or committed any other fraudulent acts, and such acts contributed substantially to the Administrator's original decision not to suspend or revoke a certificate of conformity in whole or in part, the Administrator may deem such certificate void from the date of such frandulent act.

(5) In any case in which certification of a vehicle is proposed to be suspended under paragraph (d)(1)(v), (d)(1)(vi), or (d)(1)(vii) of this section, and in which the Administrator has presented to the manufacturer involved reasonable evidence that a violation of § 86.606 in fact occurred, the manufacturer, if he wishes to contend that even though the violation occurred, the vehicle configuration or engine family in question was not involved in the violation to the degree that would warrant suspension of certification under either paragraph (d)(1)(v), (d)(1)(vi), or (d)(1)(vii) of this section, shall have the burden of establishing that contention to the satisfaction of the Administrator.

(6) Any suspension of certification under paragraph (d)(1) of this section shall:

(i) Be made only after the manufacturer concerned has been offered an opportunity for a hearing conducted in accordance with § 86.613 hereof, and

(ii) Not apply to vehicles no longer in the hands of the manufacturer.

3. Paragraph (a)(4) of 40 CFR § 86.084–30 is revised to read as follows:

§ 86.084–30 Certification.

(a) * * *

(4) The adjustment or modification of any light-duty truck in accordance with instructions provided by the manufacturer as approved by EPA for the altitude where the vehicle is principally used will not be considered a violation of section 203(a)(3) of the Clean Air Act.

(i) A violation of section 203(a)(1) of the Clean Air Act occurs, except as provided for in § 86.084–9(g)(3), when a manufacturer sells or delivers to an ultimate purchaser any light-duty truck, subject to the regulations under the Act, which is not configured to meet high-altitude requirements:

(A) At a designated high-altitude location, unless such manufacturer has reason to believe that such light-duty truck will not be sold to an ultimate purchaser for principal use at a designated high-altitude location; or

(B) At a location other than a designated high-altitude location, when such manufacturer has reason to believe that such light-duty truck will be sold to an ultimate purchaser for principal use at a designated high-altitude location.

(ii) A manufacturer shall be deemed to have reason to believe that a light-duty truck which is not configured to meet high-altitude requirements will not be sold to an ultimate purchaser for principal use at a designated high-altitude location if the manufacturer has informed its dealers and field representatives about the terms of these high-altitude regulations, has not caused the improper sale itself, and has taken reasonable action which shall include, but not be limited to, either paragraph (a)(4)(ii) (A) or (B), and (C) of this section.

(A) Requiring dealers in designated high-altitude locations to submit written statements to the manufacturer signed by the ultimate purchaser that a light-duty truck which is not configured to meet high-altitude requirements will not be used principally at a designated high-altitude location; requiring dealers in counties contiguous to designated high-altitude locations to submit written statements to the manufacturer, signed by the ultimate purchaser who represents to the dealer in the normal course of business that he or she resides in a designated high-altitude location, that a light-duty truck which is not configured to meet high-altitude requirements will not be used principally at a designated high-altitude location; and for each sale or delivery of fleets of 10 or more such light-duty trucks in a high-altitude location or in counties contiguous to high-altitude locations, requiring either the selling dealer or the delivering dealer to submit written statements to the manufacturer, signed by the ultimate purchaser who represents to the dealer in the normal course of business that he or she resides in a designated high-altitude location, that a light-duty truck which is not configured to meet high-altitude requirements will not be used principally at a designated high-altitude location. In addition, the manufacturer will make available to EPA, upon reasonable written request (but not more frequently than quarterly, unless EPA has demonstrated that it has substantial reason to believe that an improperly configured light-duty truck has been sold), sale, warranty, or other information pertaining to sales of light-duty trucks by the dealers described above maintained by the manufacturer in the normal course of business relating to the altitude configuration of vehicles and the locations of ultimate purchasers; or

(B) Implementing a system which monitors factory orders of low-altitude light-duty trucks by high-altitude dealers, or through other means, identifies dealers that may have sold or delivered a light-duty truck not configured to meet the high-altitude requirements to an ultimate purchaser for principal use at a designated high-altitude location; and making such information available to EPA upon reasonable written request (but not more frequently than quarterly, unless EPA has demonstrated that it has substantial reason to believe that an improperly configured light-duty truck has been sold); and

(C) Within a reasonable time after receiving written notice from EPA or a State or local government agency that a dealer may have improperly sold or delivered a light-duty truck not configured to meet the high-altitude requirements to an ultimate purchaser residing in a designated high-altitude location, or based on information obtained pursuant to paragraph (a)(4)(ii) of this section that a dealer may have improperly sold or delivered a significant number of such light-duty trucks to ultimate purchasers so residing, reminding the dealer in writing of the requirements of these regulations, and, where appropriate, warning the dealer that sale by the dealer of light-duty trucks not configured to meet the high-altitude requirements may be contrary to the terms of its franchise agreement with the manufacturer and the dealer certification requirements of § 85.2108 of this chapter.

* * * * *

4. Paragraph (a)(4) of 40 CFR § 86.085–30 is revised to read as follows:

§ 86.085–30 Certification.

(a) * * *

(4) The adjustment or modification of any light-duty truck in accordance with instructions provided by the manufacturer as approved by EPA for the altitude where the vehicle is principally used will not be considered a violation of section 203(a)(3) of the Clean Air Act.

(i) A violation of section 203(a)(1) of the Clean Air Act occurs, except as provided for in § 86.085–9(g)(3), when a manufacturer sells or delivers to an ultimate purchaser any light-duty truck, subject to the regulations under the Act, which is not configured to meet high-altitude requirements:

(A) At a designated high-altitude location, unless such manufacturer has reason to believe that such light-duty truck will not be sold to an ultimate purchaser for principal use at a designated high-altitude location; or

(B) At a location other than a designated high-altitude location, when such manufacturer has reason to believe that such light-duty truck will be sold to an ultimate purchaser for principal use at a designated high-altitude location.

(ii) A manufacturer shall be deemed to have reason to believe that a light-duty truck which is not configured to meet high-altitude requirements will not be sold to an ultimate purchaser for principal use at a designated high-altitude location if the manufacturer has informed its dealers and field representatives about the terms of these high-altitude regulations, has not caused the improper sale itself, and has taken reasonable action which shall include, but not be limited to, either paragraph (a)(4)(ii) (A) or (B), and (C) of this section:

(A) Requiring dealers in designated high-altitude locations to submit written statements to the manufacturer signed by the ultimate purchaser that a light-duty truck which is not configured to meet high-altitude requirements will not be used principally at a designated high-altitude location; requiring dealers in counties contiguous to designated high-altitude locations to submit written statements to the manufacturer, signed by the ultimate purchaser who represents to the dealer in the normal course of business that he or she resides in a designated high-altitude location, that a light-duty truck which is not configured to meet high-altitude

requirements will not be used principally at a designated high-altitude location; and for each sale or delivery of fleets of 10 or more such light-duty trucks in a high-altitude location or in counties contiguous to high-altitude locations, requiring either the selling dealer or the delivering dealer to submit written statements to the manufacturer, signed by the ultimate purchaser who represents to the dealer in the normal course of business that he or she resides in a designated high-altitude location, that a light-duty truck which is not configured to meet high-altitude requirements will not be used principally at a designated high-altitude location. In addition, the manufacturer will make available to EPA, upon reasonable written request (but not more frequently than quarterly, unless EPA has demonstrated that it has substantial reason to believe that an improperly configured light-duty truck has been sold), sale, warranty, or other information pertaining to sales of light-duty trucks by the dealers described above maintained by the manufacturer in the normal course of business relating to the altitude configuration of vehicles and the locations of ultimate purchasers; or

(B) Implementing a system which monitors factory orders of low-altitude light-duty trucks by high-altitude dealers, or through other means, identifies dealers that may have sold or delivered a light-duty truck not configured to meet the high-altitude requirements to an ultimate purchaser for principal use at a designated high-altitude location; and making such information available to EPA upon reasonable written request (but not more frequently than quarterly, unless EPA has demonstrated that it has substantial reason to believe that an improperly configured light-duty truck has been sold); and

(C) Within a reasonable time after receiving written notice from EPA or a State or local government agency that a dealer may have improperly sold or delivered a light-duty truck not configured to meet the high-altitude requirements to an ultimate purchaser residing in a designated high-altitude location, or based on information obtained pursuant to paragraph (a)(4)(ii) of this section that a dealer may have improperly sold or delivered a significant number of such light-duty trucks to ultimate purchasers so residing, reminding the dealer in writing of the requirements of these regulations, and, where appropriate, warning the dealer that sale by the dealer of light-duty trucks not configured to meet high-altitude requirements may be contrary to the terms of its franchise agreement with the manufacturer and the dealer certification requirements of § 85.2108 of this chapter.

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Part IV

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

Areas Unsuitable for Surface Coal Mining: Areas Designated by Act of Congress; Criteria for Designating Areas; State Processes for Designating Areas; Designating Lands as Unsuitable Under a Federal Program for a State; and Petition Process for Designation of Federal Lands

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 736, 760, 761, 762, 764, 765, 769, 779 and 783

Areas Unsuitable for Surface Coal Mining: Areas Designated by Act of Congress; Criteria for Designating Areas; State Processes for Designating Areas; Designating Lands as Unsuitable Under a Federal Program for a State; and Petition Process for Designation of Federal Lands

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rules.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is amending its permanent program rules which establish procedures for implementing the requirements of the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act) for designating lands unsuitable for all or certain types of surface coal mining operations, for terminating such designations, for identifying lands on which surface coal mining operations are limited or prohibited, and for implementing those limits and prohibitions. The final rules afford States greater flexibility to accommodate unique State circumstances and will also enable OSM to implement the unsuitability process for Federal lands more efficiently.

EFFECTIVE DATE: October 14, 1983.

FOR FURTHER INFORMATION CONTACT: Carl C. Close, Program Operations and Inspection, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, D.C. 20240; 202–343–4225.

SUPPLEMENTARY INFORMATION:

I. Background.
II. Rules Adopted and Responses to Public Comments on Proposed Rules.
III. Procedural Matters.

I. Background

A. Introduction

Section 522 of SMCRA establishes a process through which mining may be limited or prohibited where other values are found to be more important than mining and specifies certain areas as unsuitable for mining. Section 522(a) of the Act establishes requirements for State regulatory programs and specifies the criteria for determining whether an area may be declared unsuitable for mining. Section 522(b) of the Act establishes a review process to determine whether there are Federal lands which are unsuitable for mining. Section 522(c) of the Act describes the procedures and requirements for submitting and reviewing petitions to have areas designated as unsuitable for mining. Section 522(d) of the Act requires the consideration of certain factors prior to designating an area as unsuitable. Section 522(e) of the Act forbids mining in areas expressly designated by Congress as unsuitable for mining, with certain exceptions.

On March 13, 1979, the Secretary promulgated final rules (30 CFR Chapter VII) for the permanent regulatory program under the Act. A portion of these rules (30 CFR Parts 760 through 769) provided for the designation of lands as unsuitable for all or certain types of surface coal mining operations, for terminating such designations, for identifying lands on which surface coal mining operations are limited or prohibited under section 522(e) of the Act, and for implementing those limits and prohibitions.

On June 10, 1982 (47 FR 25278), OSM published a notice of proposed rulemaking to amend 30 CFR Chapter VII, Subchapter F. OSM today adopts final rules on these areas, amending the rules originally promulgated by the Secretary on March 13, 1979. All of Subchapter F is being repromulgated for convenience to the reader. Where there have been no changes proposed and made, no discussion appears in this preamble.

B. Public Participation

The June 10, 1982 **Federal Register** notice solicited written public comments and specified that the comment period would remain open until the close of the comment period on the draft supplemental environmental impact statement (EIS) that considered the proposed rules. The comment period on the draft EIS (and the proposed rules) closed on August 25, 1982 (47 FR 30266). The comment period was reopened during September 7–10, 1982 (47 FR 39201, September 7, 1982) to allow for further comment which was expected to be received at oversight hearings scheduled for September 9 and 10 by the United States House of Representatives Committee on Interior and Insular Affairs. Relevant portions of the transcripts of the hearings, as well as all other comments received during the period, were inserted in the Administrative Record and considered in developing the final rules. OSM received more than 175 comments on the June 10, 1982 proposed rules.

The June 10, 1982 notice also announced that public hearings would be held only if a timely request for a hearing was received and noted that if only one person requested a hearing, a public meeting, rather than a hearing, might be held. OSM received no requests for a public hearing and none was held. However, two public meetings were held in Pittsburgh, Pennsylvania and Washington, D.C. A written summary of each public meeting was placed in the Administrative Record.

II. Rules Adopted and Responses to Public Comments on Proposed Rules

A. Summary of Rules Adopted

These final rules modify the requirements to provide States with new flexibility in carrying out the requirements of the Act. In some cases, the rules allow regulatory authorities to modify procedural requirements for determining areas designated unsuitable by Act of Congress and processes for designating areas unsuitable for surface coal mining operations. Specifically, the changes—

1. Eliminate duplicative regulatory language, or modify such language to more accurately reflect provisions of the Act;

2. Modify definitions and requirements, including the definition of the term "valid existing rights" (VER);

3. Give States and OSM (in a Federal program or Federal lands program) an opportunity to require more information from the petitioners for complete petitions;

4. Allow States to suspend and OSM to reject petitions where no real and foreseeable potential for mining to occur is found;

5. Revise standing requirements for persons to submit a petition or intervene in the petition evaluation process;

6. Provide States and OSM with more flexibility regarding the fulfillment of public notice obligations;

7. Provide States and OSM with greater flexibility in the implementation of the unsuitability process, including acceptance of petitions and the nature of the hearing to be held on petitions for designation and termination of designation;

8. Provide States and OSM with the authority to withhold historic resources information from public disclosure, where such disclosure would expose the resources to substantial risk of harm or destruction (pursuant to 1980 Amendments to the National Historic Preservation Act); and

9. Streamline the petition process on Federal lands.

States may, of course, have rules which are different from the Federal requirements as long as they are consistent with them. "Consistent with" is defined by 30 CFR 730.5, as amended October 28, 1981 (46 FR 53376 *et seq.*), as "no less effective than." Thus, some States may wish to retain existing requirements even though this rulemaking would allow change. The changes and the public comments received are discussed below.

OSM has made numerous changes for editorial clarity. Those which have no substance are not specifically discussed. For example, wherever the term "Regional Director" was used, the term is changed to "OSM" or "Director" to reflect the September 13, 1981, reorganization of OSM.

B. Discussion of Final Rules and Comments

Part 736—Federal Program for a State

Section 736.15 Implementation, Enforcement, and Maintenance of a Federal Program

OSM has revised § 736.15 to include the effective date for a Federal program for designating lands unsuitable for mining. This requirement had been included in § 765.13(a), which is being removed. In response to comment, the amended rule provides that when a Federal program is promulgated for a State which has not previously had a State program, the designation process shall not apply for a period of one year following implementation of the Federal program. However, when a complete or partial Federal program is promulgated for a State which has failed adequately to maintain or enforce its approved State program, the designation provisions will be implemented to the same extent and at the same time that other aspects of surface coal mining operations are to be regulated by the Director.

One commenter observed that the proposed rule, which would have delayed implementation of an unsuitability program for one year in all cases where a Federal program is required for a State, could disrupt an unsuitability program already in place. Such action could result in a one year moratorium on designations as a result of State failure to carry out a designation program.

The commenter noted that OSM's preamble to the original rule states that "although Section 504 of the Act provides that impementation of Section 522 (a), (c) and (d) shall be delayed for one year after a Federal program is implemented, that provision of the Act does not address the situation where the failure of a State designation program is the reason for implementing the Federal program. Rather, it envisions that a State designation program would already be in place and should not be dismantled by the Federal program. But, where there is no adequate State designation program, it is essential that a Federal designation program be implemented immediately in order to satisfy the mandate of Section 504 of the Act that all aspects of the permanent program be fully in place by 34 months after enactment." (44 FR 15007, March 13, 1979).

OSM agrees with the commenter that it was not Congress' intent to disrupt an unsuitability program already in place, or to cause a moratorium when a State fails to carry out an adequate program. The final rule therefore requires that Federal program provisions become effective immediately when the reason for the Federal program is a State failure.

Part 760—General

OSM is removing all of Part 760, consisting of §§ 760.1, 760.2, 760.3 and 760.4. Each of these sections repeats information contained elsewhere in Subchapter F, merely explains requirements which follow, or does not contain substantive requirements.

OSM received no comments specifically addressed to the changes to this part, although one commenter generally supported all the proposed changes which would eliminate duplicative regulatory language.

Part 761—Areas Designated by Act of Congress

Sections 761.2 and 761.4

As proposed, §§ 761.2 and 761.4 are being removed to streamline the regulations by deleting redundant material. OSM received no comments specifically addressed to these changes, although one commenter generally supported all the proposed changes to eliminate duplicative regulatory language.

Section 761.3 Authority

Previous § 761.3 provided that the State regulatory authority or the Secretary is authorized by section 522(e) of the Act to prohibit or limit surface coal mining operations on or near certain private, Federal, and other public lands, except for those operations which existed on August 3, 1977, or were subject to valid existing rights (VER) on that date. The modifications to the definition of valid existing rights allow valid existing rights to be vested after August 3, 1977, pursuant to circumstances specified in § 761.5. In correlation with these modifications, § 761.3 is being amended to provide that the State regulatory authority or the Secretary has the authority to prohibit or limit operations, subject to valid existing rights and except for those operations which existed on August 3, 1977.

Section 761.5 Definitions: Valid Existing Rights

OSM proposed three alternatives to the definition of valid existing rights—a modification of the "all permits" test, ownership of coal, and ownership plus right to mine. Based on the extensive comments received, OSM has decided that none of the proposed definitions adequately defines VER. As indicated in the legislative history of the Act and the preamble to the previous definition, VER was included in section 522(e) of the Act to avoid "takings" for which compensation would be required through application of the prohibitions in section 522(e). Consequently, OSM has decided that VER is best defined as those rights, which if denied by the application of section 522(e), would require compensation under the Fifth and Fourteenth Amendments to the U.S. Constitution.

OSM has recognized from the outset that Congress created the valid existing rights exemption of section 522(e) to avoid potential legislative takings of property interests through inverse condemnations which would require compensation under the Fifth and Fourteenth Amendments to the U.S. Constitution. Congress recognized that the mining prohibitions established in section 522(e), if applied to certain existing property interests, would deprive the property owner of all reasonable beneficial use of the property, and thus entitle the owner to just compensation. Congress chose not to define further the types of property rights which qualify as "valid existing rights." Thus, it falls to OSM to define valid existing rights in a manner which avoids all potential takings through inverse condemnations, but otherwise gives full force to the prohibitions contained in section 522(e).

Relying upon the Act's legislative history, "valid existing rights" with regard to protected areas existing on the date of enactment, August 3, 1977, may be generally defined as property rights existing on that date which, if affected by the prohibitions established in section 522(e), would entitle the property owner to payment of just compensation under the 5th and 14th Amendments. If OSM is to craft a more particular

definition, the agency must identify those circumstances in which application of the mining prohibitions contained in section 522(e) would invariably result in a compensable taking under the Fifth and Fourteenth Amendments. Such a definition would have to encompass every such circumstance in order to avoid the creation of valid "takings" claims by owners of property interests excluded from the definition.

OSM's first attempt to define "valid existing rights" was an unsuccessful effort to specifically limit the exemption to those property rights in existence on August 3, 1977, the owners of which either had obtained all necessary mining permits on or before August 3, 1977, or could demonstrate that the coal for which the exemption was sought was both needed for and immediately adjacent to, a mining operation in existence prior to August 3, 1977. Both of these classes of circumstances describe property interests which, if affected by section 522(e) prohibitions, would invariably entitle an owner to payment of just compensation under the Fifth Amendment. The definition failed on judicial review, however, because it omitted other types of circumstances in which application of these mining prohibitions would result in takings. *In re Permanent Surface Mining Regulation Litigation*, No. 79–1144 (D.D.C. Feb. 26, 1980) at p. 20.

The three options identified in OSM's proposed rulemaking were attempts to identify the class or classes of circumstances which include all potential takings under section 522(e), but exclude all else. Commenters have criticized each of these options as either overinclusive or underinclusive. Many raised the issue of taking without compensation on one or more of the proposed options. These comments have led OSM to examine the nature of the case law applying the "just compensation clause" of the Fifth Amendment. This body of law is unusual in its case-by-case approach. The courts uniformly refuse to establish specific formulas for determining whether a taking will occur in a broad class of circumstances, preferring instead to examine the particular facts of each case.

As a result of its examination of the case law on takings, OSM has determined that there is an insufficient legal basis for defining "valid existing rights" in terms of any class of circumstances. Because the courts refuse to prescribe set formulas for takings, OSM is convinced that it cannot specifically delineate a class of circumstances with the assurance that the class is neither overinclusive or underinclusive of all potential takings which might result from section 522(e) prohibitions. For this reason, OSM has adopted a definition of "valid existing rights" as those rights which, if affected by the prohibitions in section 522(e), would entitle the owner to payment of just compensation under the Fifth and Fourteenth Amendments. This definition permits OSM to approach the determination of valid existing rights in the same case-by-case manner in which the courts approach related takings questions under the Fifth and Fourteenth Amendments. Indeed, the definition which OSM adopts today will allow the agency to conform the determination of valid existing rights to the continuing development of takings law in the courts.

OSM plans to apply this standard on a case-by-case basis. Any person who proposes to conduct surface coal mining and reclamation operations in an area where such mining would be prohibited by section 522(e) except for valid existing rights first must seek a determination of VER from the regulatory authority. No permit to mine may be issued for a prohibited area unless such a determination has been made. Under recently revised Federal lands rules, 30 CFR 740.4 and 745.13, determinations of VER regarding Federal lands subject to the prohibitions of sections 522(e)(1) and (e)(2) of the Act will always be made by OSM. (See 48 FR 6912, February 16, 1983.)

A VER determination may be requested either in advance or at the time a permit application is submitted. Advance determinations have the advantage that no funds will be wasted in developing or reviewing a permit application for an area for which there are no valid existing rights. While OSM will not delay the processing of a permit application until a VER finding is made, it strongly encourages operators to seek advance determinations.

A person who seeks a VER determination is responsible for compiling and submitting to the decisionmaker all information necessary to make a finding. The types of information which should be submitted include:

(1) A description of the land in question, including the area(s) and corresponding coal seam(s) for which a VER determination is required.

(2) The name of the owner(s) of record of the mineral rights on August 3, 1977, and a copy of the legally binding conveyance, lease, deed, contract, or other document granting those rights.

(3) The name of the current owner of the mineral rights in question, if different from the person(s) identified in (2), and a copy of the legally binding conveyance, lease, deed, contract, or other document granting those rights.

(4) The current status of the applicant's interest in the land, and intended future status (ownership, lease, etc.).

(5) Application, approval and issuance dates, and identification numbers of all permits and amendments, etc., held or applied for by the applicant or by any successor(s) in interest, including:

(a) Surface and/or underground (as appropriate) coal mining permit from the State;

(b) NPDES permit;

(c) States air pollution control permit; and,

(d) Any other applicable Federal permits (e.g., Special Use Permit from U.S. Forest Service).

The applicant should specify whether the land in question is included wholly in these permits and whether additional land is also included.

(6) Any other information which the applicant believes will support his or her claim.

OSM or the regulatory authority will review the information submitted for each claim to determine whether the application of the prohibition in section 522(e) would result in a taking under the Fifth and Fourteenth Amendments to the U.S. Constitution. No permit will be issued unless and unitl VER is found. Any decision made on VER is administratively and judicially reviewable. Further procedures regarding VER determinations are expected to be proposed in the near future.

Continually Created VER

Paragraph (a) of the VER definition applies to situations where the protected activities existed on August 3, 1977, the date the Act was enacted. Paragraph (d) of the definition relates to protected activity that began after the date of enactment. OSM proposed a new provision which would protect a right to mine once a permit had been issued even though some third party might later establish a dwelling, cemetery or other activity on adjoining property which would limit mining under section 522(e). Comments received were sharply divided on the basic issue. Many commenters strongly supported the proposal, and recommended that the protection be extended to the time a permit application is filed, rather than a permit issued. Others opposed any such

protection, stating that it is not explicitly authorized by the Act.

OSM has adopted a modification of the proposed regulation in paragraph (d) of the VER definition. OSM has not adopted the suggestion of some commenters that the protection be extended to the date when the permit application is filed, because it would be inconsistent with the "takings" test established in paragraph (a) for determining VER. However, to the extent that a validly authorized surface coal mining and reclamation operation exists on the date a protected activity begins, OSM has concluded that there would be a taking if one of the prohibitions or limitations of section 522(e) resulting from the protected activity were applied to deprive the operator of the right to mine. If on the date the protected activity begins, no such operation is in existence, then under the second part of the paragraph the "takings" test would be applied to determine whether under the specific fact situation, a taking would occur. Thus, the existence of VER created after August 3, 1977 does not relate specifically to the issuance of, or an application for, a surface coal mining permit, but rather relates to whether on the date the protected activity begins the operation is legally in existence or, if it is not, whether a "taking" would occur if it is prohibited. There are the same considerations OSM examines for determining VER regarding areas for which protected activities existed on August 3, 1977.

Without the protection provided by this provision, it would be possible, for instance, for a person who objected to a mining operation to move a mobile home to the edge of the property adjoining a mine, and occupy it, thereby forcing the operator to cease all operations within 300 feet of this occupied dwelling. OSM does not believe that this is the intended result of section 522(e) of the Act. Congress provided the public ample opportunity to review and make objections to any proposed mining operation through the permitting process. The regulatory authority is required to seek and consider the views of the public it issues or denies a permit. To allow any person the opportunity to take extraordinary means to disrupt mining or deprive the operator of a right to mine after the operator has made the substantial investments required to obtain a permit and begin operations is totally inconsistent with the framework of protection the Act gives to both operators and citizens.

Neither paragraph (a) nor paragraph (d) of the VER definition may be used to create rights where none would otherwise exist. For example, if a person owns both the surface and mineral rights within an area where mining is prohibited by Section 522(e)(1), and it is determined that the person has no valid existing rights to mine the minerals because such a prohibition would not constitute a compensable taking, the person may not sever the mineral rights and sell them to another person and thereby create a new right to mine. Since no valid existing right existed prior to sale of the minerals, there would be no valid existing right after the transaction. The transaction cannot create new rights; it can only tranfer existing ones.

Interpretation of Documents

Previous paragraph (c) of the VER definition at 30 CFR 761.5 provided that interpretation of the document relied upon to establish VER under paragraph (a) would be based upon the usage and custom at the time and place where the document came into existence and upon a showing by the applicant that the parties to the document actually contemplated a right to conduct the same mining activities for which the applicant claims VER. As proposed, paragraph (c) is redesignated paragraph (e) and amended to provide that where a State has statutory or case law establishing some standard for interpreting documents conveying mineral rights, that law will be used to interpret documents executed in that State. Only if no such statutory or case law exists, will custom and usage be relied upon for interpretation. This change is made to implement Congress' intent that State case law on interpretation of documents not be overruled. As stated in the 1974 Conference Committee Report to a predecessor of the Act, "the language of 522(e) is in no way intended to affect or abrogate any previous State court decisions." (H. Rept. No. 93–1522, 93rd Cong., 2nd sess. 85 (1974)).

Preclusion of Mining in Protected Areas

OSM has included § 761.11(h) in response to voluminous comments by persons who fear that mining or drilling may occur in the National Parks or other statutorily protected areas. There will be no surface coal mining, permitting, licensing or exploration of Federal lands in the National Park System, National Wildlife Refuge System, National System of Trails, National Wilderness Preservation System, Wild and Scenic Rivers System, or National Recreation Areas unless called for by Acts of Congress. The Secretary will employ the full range of his legal capabilities to meet this objective. If any person successfully establishes valid existing rights to conduct mining operations within these areas, the Secretary may use authority granted under other statutes to acquire these rights by purchase, exchange, or condemnation so that mining does not occur.

The National Park Service was concerned that it be given an adequate opportunity to prevent mining on any lands within the boundaries of units of the National Park System when persons may be determined to possess valid existing rights (VER) to mine within such units. In response to this concern, OSM has agreed to ensure that the National Park Service receives notice of permit applications in which it may have an interest. This change will be made in § 773.13(a)(3)(ii) of the final permitting rules. This notification at the beginning of the application review process will enable the National Park Service to take any action at its disposal, including possible acquisition of the property, to protect the National Park System. Additional, notification of the National Park Service and U.S. Fish and Wildlife Service will be required for any request for a determination that a person has valid existing rights under 30 CFR 761.5 for any lands within the boundaries of units of the National Park System and the National Wildlife Refuge Systems. This notification requirement has been added to final § 761.12(b)(2).

Other Changes

No change was proposed for the provision defining VER for haul roads in paragraph (b) of the VER definition. Some commenters proposed that mine access roads also be included. However, this suggestion is beyond the scope of the proposed rulemaking, and has not been adopted. VER for haul roads included as part of an operation established after August 3, 1977, would also be determined under paragraph (d) of the definition.

OSM proposed a minor addition to the portion of the VER definition which included coal both needed for and immediately adjacent to an ongoing surface coal mining operation existing on August 3, 1977. OSM proposed to define the term "needed for" to require a finding that the extension of mining is essential to make the operation as a whole economically viable. One commenter suggested that the definition be based on maximum utilization and conservation of the coal to minimize future land disturbances. OSM applauds this commenter's aim to reduce future disturbances; however, this provision

sets forth a highly specific example of VER, which is a set of particular legal rights—not a set of environmental objectives, no matter how worthy. Therefore, OSM has adopted the proposed language in paragraph (c) of the VER definition.

Another commenter proposed that the concept of coal needed for an ongoing operation be expanded to cover rights acquired after August 3, 1977. Such an interpretation is inconsistent with the statutory requirement that VER cannot be created after August 3, 1977 for areas which were subject to the protections of section 522(e) on that date. In some instances, there may be valid existing rights associated with lands acquired after August 3, 1977; however, that would have to be determined case by case using the definition set forth in paragraph (a).

Where a person claims VER on the basis that the coal from the proposed operation is "needed for" an ongoing operation, information regarding the size of the proposed site and the proportion it represents of the whole operation is helpful to evaluate this claim. In addition, the information described above in the list of information needed for a general VER claim is required on the "immediately adjacent" ongoing surface coal mining operation to establish VER for that operation, if applicable. Further, OSM needs documentation to verify the location of any such operations with respect to the proposed area and the coal seam(s) into which the proposed operation is directed. Maps or diagrams of the areas should be submitted if they would clarify or establish the proximity of the ongoing operation to that which has been proposed.

Relationship to "Substantial Legal and Financial Commitments"

In the preamble to the proposed rules (47 FR 25280, June 10, 1982), OSM discussed its original rationale for the linkage of the previous definition of valid existing rights to the concept of substantial legal and financial commitments in section 522(a)(6) of the Act, as defined in 30 CFR 762.5. Section 522(a)(6) exempts lands from the unsuitability petition process (but not from the section 522(e) prohibitions) if substantial legal and financial commitments has been made in such operations prior to January 4, 1977.

When the previous VER definition was developed, OSM reasoned that to be entitled to an exemption from the area where Congress had prohibited mining, property owners "must have a property interest in the mine that is even greater than the substantial legal and financial commitments needed to mine despite a designation by petition under section 522(a). Thus, OSM believe[d] that VER must be more than 'significant investment, that have been made on the basis of a long-term coal contract, in powerplants, railroads, coal preparation, extraction, handling and storage facilities, and other capital-intensive activities * * * .'" (44 FR 14991–2; March 13, 1979).

However, OSM reexamined the definition of VER and determined that the relationship between VER and substantial legal and financial commitments is not suggested by the legislative history. Both concepts were covered repeatedly in the long legislative history. Each was discussed separately in every case. Nowhere in the legislative history does Congress compare the two concepts. Thus, the two concepts are separate and distinct.

Private Inholdings Within National Forests

OSM proposed to clarify, in the VER defintion, that the Act's section 522(e) prohibition on mining within national forest boundaries does not apply to private inholdings. The legislative history makes clear that Congress did not intend that private inholdings be covered by section 522(e)(2) of the Act. House Report 95–218 (95th Cong., 1st sess., p. 95 (1977)) states "it is not the intent, nor is it the effect of this provision to preclude surface coal mining on private inholdings within the national forests."

However, OSM has decided that the language of section 522(e)(2) is sufficiently clear as it prohibits surface coal mining operations "on any Federal lands within the boundaries of any national forest." Therefore, OSM is not adopting the proposed change to amend the rule language itself. This requirement is also clearly stated in § 761.11(b).

It should be noted that the Act clearly distinguishes between private inholdings within the boundaries of a national forest and private inholdings within the boundaries of the National Park System and the other statutorily protected areas of section 522(e)(1). Subject to valid existing rights, section 522(e)(2) prohibits mining on any *Federal* lands within national forests, while section 522(e)(1) prohibits mining on *any* lands within the boundaries of units of the National Park System and other areas.

Section 761.5 Definitions: No Significant Recreational, Timber, Economic, or Other Values Incompatible With Surface Coal Mining Operations

This provision defines those values that might be damaged by mining and are not compatible with mining for the purposes of determining when mining could be allowed in national forests, under § 761.12(b). Four changes were proposed to the previous definition. First, the use of the word "no" in the previous rule was not necessary to the term to be defined and was proposed to be eliminated. "No" refers to the type of findings to be made, not to the phrase requiring definition. Second, the term "damaged" was proposed to be changed to "irreparable damaged," to reflect the fact that, under the Act, mining is intended to be a temporary use of the land. Third, the term "offsite areas," which in the previous definition indicated that values outside the permit are to be considered, was proposed to be changed to "affected areas," a more precise and usable term. Finally, paragraph (d) was proposed to be changed to "other values which may be incompatible with surface mining operations" from the previous paragraph listing a number of such values. This was proposed to reflect the specific language of SMCRA.

The final rule adopted today is a hybrid of the previous rule and the proposed rule. The word "no" is eliminated from the term being defined and the term "offsite areas" is changed to "affected areas," as proposed. However, instead of modifying the word damaged with the term "irreparably," the term is changed to "damaged beyond an operator's ability to repair or restore." This is meant to include a determination of whether such repair or restoration is possible using available reclamation practices. Whether a particular operator can and will use such practices will be part of the findings necessary for a permit to be issued. Finally, instead of substituting the phrase "other values" for a specific list of values, the list will be retained. Both of these modifications are a result of public comment received on the proposed rule.

A number of commenters objected to the proposed amendments, with the exception of dropping the word "no" from the definition. The majority of these commenters stated that addition of the word "irreparably" was inappropriate and disagreed with OSM's reasoning, in the preamble to the proposed rules, that mining is intented

to be a temporary use of the land which when fully repaired, is consistent with the standards of the Act. First, the commenters questioned the idea that "temporary" disruption is acceptable, noting that temporary could mean a very long period of time. Second, the commenters objected that conceivably any impact is reparable by natural processes, given enough time, and therefore "irreparable" damage is a much stricter standards than Congress intended be met in order to prevent mining. One commenter noted that, contrary to OSM's statement, Congress evinced a belief that mining, even though temporary, is not necessarily an appropriate use of land and may be prohibited even where reclamation is feasible. The commenter quoted from a report on H.R. 25 by the House Committee on Interior and Insular Affairs:

"While coal surface mining may be an important and productive use of land, it also involves certain hazards and is but one of many alternative land uses. In some circumstances, therefore, *coal surface mining should give way to competing uses of higher benefit."* H.R. Rep. No. 94–45, 94th Cong., 1st Sess. 90 (1975); (emphasis added).

OSM agrees that the proposed word "irreparably" was not precise. As the commenters noted, conceivably any damage can be repaired given sufficient time and resources. Therefore, OSM is adopting the term "damage beyond an operator's ability to repair or restore," which is a clearer standard. To the extent an operator completely repairs the damage caused by mining, then the values will ultimately be compatible with the mining operation. During mining itself there could be a temporary interruption of important activities. However, the mere interruption does not necessarily make the mining incompatible with the long-term resumption of the activity. In each instance, a determination must be made whether the values affected are significant, whether damage to them can be repaired or restored by an operator, and whether such values are capable of existing together with surface coal mining operations because of the undesirable effects mining would have on those values. It should be noted that this definition applies only to Federal lands within the boundaries of a national forest and only for the purpose of determining whether there are significant values which would be incompatible with surface coal mining operations. It is, therefore, only one of a number of ways in which the Act and regulations address other land uses. OSM continues to believe that mining is an acceptable temporary use of the land in most situations. Mining, even when fully reclaimed, may result in permanent changes which may be undesirable. In such cases, this definition and other provisions allow for protection.

Several commenters objected to substituting the term "affected areas" for "offsite areas," stating that the existing term is clear and unambiguous because it is qualified in the definition as those offsite areas which could be affected by mining.

However, OSM believes that "offsite areas" is imprecise and could imply coverage of an undefined, perhaps remote, area away from the minesite. By contrast, "affected areas" is a more precise term which draws more closely the relationship to the surface coal mining operation. Therefore, the final rule uses the term "affected areas".

Finally, several commenters objected to the proposed change to refer to "other values" which may be incompatible with surface mining operations, rather than specifying that "other values" includes scenic, historic, archaeologic, esthetic, fish, wildlife, plants or cultural interests. The commenters stated that the proposed elimination of specific values is arbitrary and vague and would result in inadequate consideration of these values.

OSM has decided to retain the list of examples which constitute "other values" which may be incompatible with surface coal mining. A rule containing a list of examples could tend to limit the scope of the inquiry into other values. On the other hand, OSM did not intend to suggest by proposing to eliminate the examples that adequate consideration should not be afforded them. Therefore, the final rule includes a list of values, but should not be considered limited to those examples. Neither should the existence of one of the values listed be construed to require a prohibition of mining; each must be evaluated for its importance and the nature and extent of the impact which would occur.

Several commenters supported the proposed definition and addition of the modifier "irreparably" to reflect that mining is an appropriate temporary use of the land. For the reasons noted above, OSM has decided to adopt the phrase "damaged beyond an operator's ability to repair or restore." Two commenters also suggested that although the preamble is clear, OSM should clarify in the rule itself that the definition applies only to areas within a national forest. OSM believes that the definition, coupled with the use of the defined phrase in § 761.11(c) sufficiently clarifies that it applies only to Federal lands within a national forest. Thus, the language of the rule has not been modified as suggested by the comments.

Section 761.5 Definitions: Occupied Dwelling

Section 522(e) of SMCRA prohibits mining within 300 feet of an occupied dwelling. The previous rules defined an occupied dwelling as "any building that is currently being used on a regular or temporary basis for human habitation."

OSM proposed to clarify the term "occupied dwelling" by defining the term "temporary" to mean that the dwelling is used for human habitation for not less than three consecutive months each year. The 3-month standard was suggested because it corresponds to a full season of use. OSM reasoned that less than 3 months suggests intermittent use, which would not expose an occupant to the steady impact of nearby mining. OSM requested comments on other periods of time which would be an appropriate standard for temporary use.

Several commenters opposed the proposed definition stating that the proposal would violate Congress' intent that occupants be spared the impacts of mining within 300 feet of their dwellings. The commenters disagreed with OSM's assumption in the preamble to the proposed rules that the intent of section 522(e) was to prevent only the "steady" impacts of mining on nearby residents. Rather, the commenters argued that Congress intended to prevent all impacts within 300 feet of an occupied dwelling.

One commenter noted that the proposed definition would allow mining to the borders of the Santa Ana Pueblo, a historic pueblo maintained as a ceremonial village which is occupied for only a few days each year. The commenter also noted that under the proposal mining would be permitted near numerous hogans and other small dwellings which are occupied on an irregular basis by farmers, herders, or migrant laborers.

Several commenters stated that the existing definition should be retained as it provides States with the flexibility to determine, on a case-by-case basis, the circumstances under which a dwelling is, in fact, occupied. One commenter suggested that temporary be defined as an aggregate of three months rather than three consecutive months.

Several commenters supported adoption of the proposed definition and several suggested further changes. Two commenters suggested the definition be

revised to mean "any building that is currently being used on a *permanent* or temporary basis for human habitation. Temporary means that the dwelling is used as the *occupant's principal residence* for not less than three consecutive months each year." The word "permanent" would be substituted for regular to prevent a situation where a dwelling is occupied only on the opening day of hunting season each year, thus qualifying as "regular" use. The second change would avoid the need for a buffer zone around cabins or weekend homes which are occupied for only a couple of weekends during certain seasons.

Several other commenters suggested further changes to the proposed rule to clarify that three consecutive months means continuous habitation or close to 90 days of habitation. One commenter suggested clarifying that the definition excludes buildings such as barns or other outbuildings not specifically occupied by humans as residences. Outbuildings and barns not occupied by humans as residences have never been considered to be included in the definition. Other commenters suggested specifically including summer and weekend homes in the definition.

The very diverse comments received on the proposed rule indicate that there is no consensus on how the term "temporary" should be defined. No compelling case has been presented to support either the proposed change or any alternative to it. Consequently, OSM has decided to retain the existing definition. The existing definition, as pointed out by several commenters, provides the regulatory authority with the flexibility to determine, on a case-by-case basis, what constitutes an occupied dwelling and what temporary use means.

Section 761.5 Definitions: Public Building

Section 522(e)(5) of the Act forbids mining within 300 feet of public buildings. "Public building" was previously defined as "any structure that is owned by a public agency or used principally for public business, meetings, or other group gatherings." OSM proposed two options to amend the definition of public building. Option 1 would have defined public building to mean "any structure that is owned, leased, or principally used by a governmental agency for public business, meetings, or other group gatherings." This revision would have modified the previous definition by including structures not only owned or used but also those leased by government agencies for public purposes. Modifying the term "public" to "governmental" would eliminate certain community buildings from consideration in this context. However, community and institutional buildings are covered in a separate definition.

Option 2 would have revised the definition to encompass only those structures that are owned by a public agency. Under this revision, the definition would have narrowed considerably the application of the prohibition on mining within 300 feet of a public building.

OSM requested comments on these two proposed options and whether the existing definition was satisfactory. OSM has decided to adopt Option 1, with two modifications suggested by commenters.

A number of commenters opposed revising the definition because they believed it would eliminate community and institutional buildings from the protections of section 522(e)(5) of SMCRA. However, as noted above, community and institutional buildings are covered by a separate definition in § 761.5, which is not being revised, and a separate prohibition in § 761.11(f). Two commenters expressed concern that rest homes, hospitals and nursing homes would be excluded. These types of facilities are included in the definition of community or institutional building.

Several commenters supported Option 1, because they believed Option 2 was too narrow, as it would eliminate leased buildings. However, several modifications to Option 1 were suggested. A number of commenters recommended requiring both some property interest (ownership or lease) *and* use by a governmental agency to prevent unnecessary protection of garages or warehouses. One of these commenters suggested deleting the term "or other group gatherings" because it is vague and adds nothing to the concept of public building. OSM agrees with these suggestions and has adopted them for the final rule. Three commenters supported adoption of Option 2, because ownership of a building indicates commitment and because a narrower definition would allow more development of the coal resource. However, as several commenters noted, government agencies frequently lease, rather than own, the buildings they occupy and this flexibility is necessary. OSM believes that public buildings should be protected regardless of the nature of the property interest involved.

Section 761.5 Definitions: Public Park and Publicly Owned Parks

Section 522(e)(5) of the Act prohibits mining within 300 feet of public parks. The previous definition of "public park" included areas dedicated or designated by a public agency for public recreation, including lands leased, reserved or held open for that use. OSM proposed two options to modify the definition. First, OSM considered eliminating the existing reference to lands "held open to the public" because it is not clear that Congress intended to cover private lands that have not been designated as a public park by a government agency. OSM rejected similar comments in the preamble to the previous rules (44 FR 14991, March 13, 1979) by noting that lands which are owned by nonprofit organizations whose primary purpose is the protection of natural resources, and which are open to the public, should be protected as provided under this definition since they are dedicated for public purposes. Such lands have no official status as parks, however, and could include areas which could not meet the usual governmental standards for public recreation areas.

The second option considered by OSM would limit the definition of public park to areas or portions of areas "dedicated or designated by any Federal, State, or local agency primarily for public recreational use * * *." This suggestion was based on concerns that, under the previous definition, in some circumstances, lands which are reserved as watershed property or other public service facility areas may be considered public parks. In some cases, parts of a broader area might be designated as a public park under the proposed revision, allowing other parts of the area to be managed for other purposes. Also, certain areas are devoted to mixed uses, which, at the discretion of the regulatory authority, may be deemed public parks.

In addition to these two options, OSM considered another option which would allow the classification of multiple use areas to change, depending upon the use which is dominant at the time. For example, the use of an area might shift from timber management to wildlife to public recreation; it might be designated as a public park only during the recreation phase.

Several commenters opposed revising the definition and favored retention of the previous definition, which was not limited to sites with public ownership or particular uses. One of these commenters noted that the National Park Service (NPS) often enters into contracts with private landowners to maintain areas in or adjacent to NPS units. These interests are acquired to protect the associated natural and scenic resources or rights of public access across lands and are generally

more cost effective than outright fee purchase. The commenter objected that neither of the proposed options would include these areas because they are not "dedicated or designated" by a governmental agency. However, less than fee interests can qualify as public parks if other conditions are met. Contractual arrangements with NPS or other governmental agencies could be used to dedicate an area for public recreational use. A second problem raised by the commenter concerned the proposed language "primarily for recreational use." The commenter noted that many units of the National Park System were established for a variety of purposes, and that public recreation is not usually the primary purpose for establishment. Therefore, the commenter stated that the proposed definition would be more restrictive than anticipated by the language of section 522(e)(3) of the Act.

OSM disagrees with the comment concerning the relationship of the term "primarily for public recreational use" with the protection provided to units of the National Park System. Section 522(e)(3) of the Act is principally for the protection of publicly owned parks other than units of the National Park System. The various units of the National Park System specifically are protected by the Congress through Section 522(e)(1) of the Act.

Another commenter also noted that the National Park Foundation, a non-profit organization, purchases land for public use and holds the land until the NPS wishes to add the land to the National Park System. The commenter suggested that OSM should distinguish between such arrangements and the situation where a private landowner or group labels an area "open to the public" in order to prevent its being mined. OSM agrees that such arrangements could qualify as public parks only if a public agency in some way dedicates or designates its public recreational status, and believes that the definition adopted today includes such arrangements.

A number of commenters supported Options 1 or 2 and some suggested further modifications. Some commenters suggested that a public park be one designated *solely* for public recreational use, or where the dominant use is not recreation, those portions of the area designated and managed for high density recreational use as determined by the regulatory authority. The commenters stated that this definition recognizes the concept of multiple use, eliminates lands "leased or reserved", which may never be used for recreational purposes, and tightens up the definition by using the term "managed" to recognize the fact that public parks are not primitive unused areas.

The concept of a pubic park as one designated *solely* for recreational use goes beyond the accepted idea of a park. Parks are established for many reasons and often for multiple uses. Under the definition adopted today, parts of a broader area may be designated as a park, allowing other parts to be managed for other purposes. OSM believes primitive areas may be public parks if so designated.

Several commenters supported Option 2 and suggested deleting the phrase "held open to the public" for the same reasons it was deleted from Option 1. OSM is retaining this phrase but such lands must be recognized as being dedicated or designated primarily for public recreational use by a public agency. Such a requirement will prevent the situation where a private landowner labels an area "open to the public" in order to prevent its being mined. Two commenters suggested that actual public use of the area be considered a criterion. One commenter urged OSM to limit the definition to lands owned by governmental entities. OSM believes these suggestions limit the definition too much. Actual public use should not be controlling as it may ebb and flow over time. Ownership is not the key criterion because as noted above, contractual arrangements may provide for recognition of less than fee interests. Another objected that numerous reservoirs exist which were primarily authorized for flood control, yet are among the most frequently used recreational areas, which would satisfy the average person's idea of a public park. Under the definition adopted today, the regulatory authority will have the flexibility to determine whether such an area qualifies as a public park, or whether mining can occur.

Based on these comments, OSM has decided to adopt Option 2, which defines public park as areas or portions of areas dedicated or designated by any Federal, State, or local agency primarily for public recreational use, whether or not such use is limited to certain times or day, including any land leased, reserved, or held open to the public because of that use. This definition provides the flexibility for the regulatory authority to determine on a case-by-case basis whether a particular area or portion of an area should be defined as a public park.

Section 522(e)(3) of the Act prevents surface coal mining operations from adversely affecting any "publicly owned park." Commenters confused this term with the term "public park" in Section 522(e)(5). To resolve the confusion over these related terms and to establish consistency in their relationship, this final rule includes a definition of "publicly owned park." "Publicly owned park" is defined to mean "a public park that is owned by a Federal, State or local governmental entity."

Section 761.5 Definitions: Public Road

OSM proposed to delete the definition of "public road" and use the definition of "road" and the public road concept contained in the definition of "affected area" to define public roads in the future.

However, as a result of public comment, OSM has decided to retain a definition of public road in this section, and to define it in accordance with the preamble discussion of the definition of "affected area" published on August 2, 1982 (47 FR 33424). Only two commenters supported deletion of the definition. [134B, 100E] Numerous commenters urged that a definition of public road be retained, as it is used repeatedly throughout the regulations and is significant enough to warrant separate consideration and attention. A few of these commenters suggested that the previous definition should be retained. However, the previous definition was suspended on November 27, 1979 (44 FR 77447) as a result of a litigation challenge in *In re Permanent Surface Mining Regulation Litigation*, No. 79–1144 (D.D.C. Feb 26, 1980) at p. 23. Other commenters suggested adopting a definition similar to that discussed in the January 4, 1982 and August 2, 1982 **Federal Register** (47 FR 41 and 47 FR 33424). The August 2 **Federal Register** discussed the definition of public road in the context of the definition of affected area for the purpose of clarifying which roads are to be included in a operator's "affected area." In the January 4, 1982 **Federal Register**, OSM proposed four alternatives for the definition of which roads are to be considered included in the "affected area."

The first alternative would have excluded from the "affected area" any part of a road used for coal haulage or access which is owned unconditionally, controlled and maintained by a public entity, used frequently for purposes other than coal haulage or access, and maintained (using public funds) in a manner similar to other public roads of a similar nature in the jurisdiction.

The second alternative would have excluded from the "affected area" any

part of a road which: (a) Was designated as a public road pursuant to the laws of the jurisdiction in which it is located; (b) is maintained with public funds in a manner similar to other public roads of the same classification within the jurisdiction; (c) there is substantial (more than incidental) public use; and (d) meets road construction standards at least as a stringent as the standards applicable to access and haul roads under the State program.

The third alternative replaced the public use and road construction criteria of the second alternative with a requirement that the road be paved. "Paved" meant that the entire length of the road be surfaced with all weather surfacing material of asphalt, concrete or similar consolidated, hard and durable material. The placement of gravel, rock or other unconsolidated material would not constitute paving.

The fourth alternative replaced the paving requirement of alternative three with the requirement that the road meet the road classification standards for a class 1, 2, or 3 road under the mapping system established by the U.S. Geological Survey for 7.5 minute topographic maps.

OSM stated in the August 2, 1982 **Federal Register** that it intended to adopt a final rule similar to the second alternative. Specifically, a road would be excluded from the "affected area" for a mine if it met three criteria: (a) The road has been designated as a public road pursuant to the laws of the jurisdiction in which it is located; (b) the road is maintained with public funds, and constructed, in a manner similar to other public roads of the same classification within the jurisdiction in which it is located; and (c) there is substantial (more than incidental) public use of the road. OSM is incorporating these concepts in its definition adopted today. Comments received in response to this proposed change were addressed in detail in the August 2, 1982 **Federal Register** and need not be repeated here.

Section 761.5 Definitions: Cemetery

OMS proposed to revise the definition of "cemetery" to reflect the August 6, 1981, decision of the United States Court of Appeals for the Sixth Circuit. *Holmes Limestone Co. v. Watt*, 655 F. 2nd 732 (6th Cir. 1981).

In that decision, the Court distinguished between public cemeteries and private family burial plots. It stated "There is no evidence that Congress ever intended to regulate private family burial plots not open to the public. It can hardly be claimed that the mining close to the graves on private property interferes with interstate commerce." Id. at 738.

In reviewing the legislative history, OSM found no statement that indicated Congress intended that private family burial grounds should be considered cemeteries for the purpose of section 522(e) of the Act. Accordingly, OSM proposed to add to the existing definition the phrase "but does not include family burial grounds."

The majority of commenters opposed excluding family burial grounds from the definition of cemetery. A number of these commenters pointed out that the impact of the proposed change would be especially acute in Appalachia or in areas where the predominant cultural groups do not recognize communal burial as part of their traditional practices. A number of comments cited the extensive amount of testimony offered at Congressional hearings, concerning past disturbances of family and private burial grounds, to demonstrate that the legislative history shows Congress intended to include family burial plots under the protection of section 522(e). However, testimony often includes material on both sides of issues, and is not by itself an indication of Congressional intent. Two commenters discussed the *Holmes Limestone* case, to which OSM referred in the preamble to the proposed rules. These commenters noted that while the U.S. Supreme Court declined to hear the case, it considered only the question of the Ohio district court's jurisdiction to review a permanent program rule and did not reach the merits of the definition of the word cemetery. One of the commenters suggested that if OSM decided to promulgate a new definition, it should be limited to the fact situation of the *Holmes Limestone* case. That decision concerned only those private cemeteries where the owner of the cemetery and the mineral estate underlying the land also owns and resides on adjacent land. However, this suggestion is not responsive to the findings of the Circuit Court. Finally, one commenter who supported the previous definition suggested that a waiver should be provided for, to allow mining within a closer distance to the cemetery. OSM has no authority under section 522(e)(5) of the Act to provide for a waiver. The Act provides for a waiver of protection afforded under section 522(e)(5) of the Act only in the situation of an occupied dwelling.

Several commenters supported the proposed amendment and some suggested the proposal be further clarified or amended. Two commenters suggested that cemetery be defined as any *identifiable* area of land where human bodies are interred, but not to include family burial grounds. The commenters stated that adding this term would prevent rumored burial grounds from being included and would necessitate some physical evidence or readily observable markers. OSM intends that the new definition applies only to "identifiable" burial grounds. One commenter suggested that "abandoned" cemeteries be excluded from the definition, but offered no criteria to be used in deciding what constitutes and abandoned cemetery. One commenter suggested that OSM provide for a waiver and allow the operator or owner of the cemetery to agree to move the interred bodies. OSM has no authority, as noted above, to provide for a waiver. However, graves may be moved if State law allows.

One commenter who supported the proposal suggested that the prohibited distance should be measured from the nearest grave within a cemetery rather than the boundary of the cemetery itself. The commenter stated that many cemeteries consist of large tracts of land, but may only have graves within a small portion of that area. Adopting this suggestion, the commenter stated, would adequately protect the graves, as well as the public's access to them, while at the same time allowing cemetery owners who wish to do so to allow mining under certain portions of their property. OSM rejects this suggestion because the Act's protection extends to lands within 100 feet from a "cemetery" not from the nearest gravesite.

OSM has decided to adopt the proposed definition, with a slight modification to exclude private family burial grounds, to reflect the decision of the Sixth Circuit. However, in response to those comments concerned with elimination of protection for private family burial grounds, the permitting process will provide an additional level of protection for private family burial grounds. A new requirement is being added to §§ 779.24(j) and 783.24(j) to require the permit applicant to identify all private family burial grounds in or within 100 feet of the proposed permit area. These two revisions are included as a part of this final rule. New § 773.15(c)(11) will require the regulatory authority to find, prior to issuing a permit, that mining activities would not adversely affect private family burial grounds. If the regulatory authority finds that the mining operation would adversely affect a private family burial ground, the burial ground may be relocated if allowed by State law, and if performed in accordance with State law. If the burial ground cannot be moved, no

mining which would adversely affect the burial ground may be permitted. This recognizes OSM's intent that, although not statutorily protected under section 522(e) of the Act, these sensitive areas will receive the necessary degree of protection. For convenience, the regulatory language in § 773.15 will be included as part of the revisions to 30 CFR Chapter VII, Subchapter G in which a new Part 773 is being promulgated.

Section 761.11 Areas Where Mining is Prohibited or Limited

Section 761.11(a): Wild and Scenic Rivers

Section 761.11(a) provides that, subject to valid existing rights, no surface coal mining operations shall be conducted within the boundaries of certain national systems, such as the Wild and Scenic Rivers System, including study rivers designated under section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)). A proposed boundary for rivers under study for wild and scenic designation has been identified by the National Park Service (NPS) in guidelines published in the **Federal Register** on January 28, 1981 (46 FR 9148).

The study area defined by NPS would cover, at a minimum, a corridor extending the length of the study segment and extending in width one-quarter mile from each bank of the river. Accordingly, OSM proposed to revise § 761.11(a) to include this clarification, which would give States discretion to establish these boundaries or others which would exceed the minimum standard established by NPS. As a result of public comment, the final rule provides that the corridor for study rivers shall not *exceed*, one-quarter mile from each bank of the river.

Some commenters had no objection to the proposed rule. One commenter supported the previous rule, arguing that there is no authority in the Act to provide buffer zones for study rivers. The corridor, however, is not a buffer zone—rather, it is an integral part of the study river. The commenter noted that the proposed rule contained minimum, but no maximum boundaries, and therefore, it is conceivable that the buffer zone could be larger than the actual area of land to be protected. OSM has modified the final rule to provide that the one-quarter mile corridor will be the *maximum* limitation.

Several commenters objected that the one-quarter mile boundary was too inflexible. The commenters noted that in some cases the corridor might not protect the values under consideration, while in other cases it might be too restrictive. These commenters suggested that no boundary be specified, but that it be determined on a case-by-case basis, perhaps by the regulatory authority in consultation with the NPS.

A standard corridor for study rivers will provide greater certainty and uniformity in establishing the prohibition on mining. Historically there have been long delays in establishing a specific study corridor. This definition sets the corridor within which mining cannot occur, avoids delay and uncertainty, and affords the needed protection. One commenter suggested specifying that the quarter-mile boundary would exist only during the time a river was under study and once a corridor was determined then the actual corridor would become the boundary.

OSM agrees with the commenter's statement, but believes the rule language is sufficiently clear on this point. Clearly, the one-quarter mile corridor applies only to study rivers. Once a river is designated as wild or scenic river, its actual corridor is set by law and will become the official boundary.

Section 761.11(c): National Register of Historic Places

Section 522(e)(3) of the Act prohibits, subject to valid existing rights, surface coal mining operations "which will adversely affect any publicly owned park or places included in the National Register of Historic Sites [sic] unless approved jointly by the regulatory authority and the Federal, State, or local agency with jurisdiction over the park or the historic site." When promulgating § 761.11(c) of the permanent program rules, OSM interpreted section 522(e)(3) to be as broad as the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), and thus to include privately owned properties listed in the National Register and properties, publicly or privately owned, eligible for listing in the National Register. As a result of a litigation challenge in the United States District Court for the District of Columbia, *In re Permanent Surface Mining Regulation Litigation*, No. 79–1144 (D.D.C. 1980), OSM suspended § 761.11(c) on November 27, 1979 (44 FR 67942) insofar as it covered areas eligible for listing in the National Register and privately owned properties listed in the National Register. OSM is today finalizing those earlier suspensions by amending § 761.11(c) to apply only to publicly owned properties listed on the National Register.

The change deletes privately owned properties listed in the National Register and all eligible properties from the prohibition and procedures established in section 522(e)(3) of the Act and Part 761. This amended language is consistent with OSM's present interpretation of section 522(e)(3) of the Act and with the amendment to § 761.12(f)(1), discussed below. A number of commenters objected to adopting a rule which excludes privately owned properties and all eligible properties from the areas where mining is prohibited. Other commenters argue that the word "publicly" in section 522(e)(3) of the Act also applies to places listed in the National Register, as well as to parks. One commenter noted that the phrase "publicly owned park" was an attempt to distinguish between parks that are privately owned, such as amusement parks, and parks owned by public agencies of some kind. Other commenters maintained that the type of ownership is irrelevant to the protection required by the National Historic Preservation Act of 1966. They asserted that because more than 90% of all properties listed are privately owned, it could not have been Congress' intention to protect only publicly owned places. OSM disagrees with these commenters. When the language of section 522(e)(3) of the Act is read in its entirety, it supports the interpretation that "publicly owned" applies to places as well as parks. Section 522(e)(3) of the Act prohibits mining operations "which will adversely affect any publicly owned park or places included in the National Historic Sites [sic] unless approved jointly by the regulatory authority *and the Federal, State, or local agency with jurisdiction over the park or the historic site*" (emphasis added). The implication from the latter phrase is that a governmental agency will have legal authority or control over the historic site, not just an interest or affinity. A number of the commenters who objected to the proposed rule, as well as several who supported the deletions, noted that OSM has a responsibility, apart from SMCRA, under the National Historic Preservation Act of 1966 (NHPA) to protect historic properties. These commenters noted that a mechanism already exists for OSM to carry out its responsibilities, in the form of a Programmatic Memorandum of Agreement (PMOA) ratified by OSM and the Advisory Council on Historic Preservation. The commenters suggested that the PMOA be implemented as signed or that OSM develop implementing regulations.

OSM does not agree with those commenters who object that the rule changes abrogate OSM's responsibility under the NHPA. The rule changes implement SMCRA only. OSM agrees

that it has a responsibility under section 106 of the NHPA to consider historic properties in decisions that it makes. However, this responsibility is separate both from the protections provided by section 522(e) of the Act and from the regulations in Part 761. OSM currently renegotiating the PMOA and will take any actions needed in the future to comply with the NHPA.

One commenter urged that the prohibition be amended to require a showing of "significant and irreparable adverse effects" on public parks and public places before mining would be prohibited. The commenter stated that such a requirement would be consistent with certain other OSM proposed changes, that under the Act, mining is a temporary use of the land which when fully repaired is not a matter of serious concern. However, the actual language of section 522(e)(3) is "adversely affect." If Congress had intended to require a showing of greater impact, it would have so specified.

One commenter had no specific objection to the changes proposed, but believed that delays in mining might result if the regulations are changed because there would be no need to survey the permit area for cultural resources. The changes being made to the unsuitability regulations do not change the permit requirements to identify cultural resources.

Section 761.11(d)(2): Public Road Decisions

Previous § 761.11(d)(2) provided that, subject to valid existing rights, no surface coal mining operations shall be conducted after August 3, 1977, within 100 feet, measured horizontally, of the outside right-of-way line of any public road, except where the regulatory authority allows the public road to be relocated or the area affected to be within 100 feet of the road. OSM has found that decisions regarding public road relocations are rarely made solely by the regulatory authority but are typically made by a public road authority in coordination with the regulatory authority. Thus, OSM proposed amending § 761.11(d)(2) by providing that the regulatory authority, or public road authority upon being designated as the responsible agency by the regulatory authority, may take action provided that the procedures in § 761.11(d) are followed. In addition, this section was proposed to be modified to allow roads to be closed as an alternative to relocation.

The final rule is adopted as proposed. Several commenters supported allowing the public road authority to take action upon being designated as the responsible agency. Several commenters opposed allowing roads to be closed as an alternative to relocation. These commenters argued that section 522(e)(4) of the Act does not authorize the closing of public roads. One commenter asserted that road closures are governed by state statutes and once a public road is closed pursuant to law, there is no "public road" to be regulated under section 522(e)(4) of the Act.

OSM agrees with the latter commenter. In allowing the relocation of roads, Section 522(e)(4) of the Act does not preclude road closings undertaken in accordance with the applicable State laws or local ordinances, so long as the interests of the affected public and landowners are protected.

Section 761.11(e): 300-Foot Limitation on Mining

Previous § 761.11(e) provided that, subject to valid existing rights, no surface coal mining operations shall be conducted after August 3, 1977, unless those operations existed on that date, within 300 feet, measured horizontally, of any occupied dwelling, except when the owner thereof has provided a written waiver consenting to operations closer than 300 feet. OSM is adding a second exception for haul roads and access roads which connect with public roads opposite occupied dwellings.

This provision addresses the issue of whether an existing public road adjacent to and within 300 feet of an occupied dwelling essentially negates the purposes of prohibiting a haul road that intersects the public road on the opposite side and within 300 feet of the dwelling. Such a haul road does not bring impacts any closer to a dwelling on the opposite side of the road, because the dwelling is already subject to the impacts of public road use, including traffic that uses the haul road.

Several commenters supported the proposed amendment and some suggested that this exception be further amended to include mine access roads, roads located on the same side of the public road as the occupied dwelling, and other coal transport systems such as conveyors or slurry lines. OSM has accepted the suggestion that acess roads as well as haul roads should be excepted from the prohibition. All mine roads, whether access or haul roads, would not bring the impacts of mining any closer to the dwelling. OSM does not believe the same rationale holds true for mine operations on the same side of the public road and has not adopted that suggestion. OSM also has not adopted the suggestion that other coal transport systems be excepted from the prohibition. Other transport systems involve impacts different in nature from the impacts associated with roads. In addition, there are many more options for the location of other transport systems than there are for mine roads.

Several commenters objected to excepting haul roads from the prohibition, noting that the impacts of haul roads are different and more severe than those of public roads. The commenters stated that increased usage would produce greater noise and dust and a potential for safety problems for normal traffic. The commenters argued that the proposed change would violate section 522(e)(5) of SMCRA, which prohibits surface coal mining operations within 300 feet of an occupied dwelling. OSM believes, however, that the change is consistent with SMCRA in that the impacts of mining will not be any closer to the dwelling because the dwelling is already subject to the impacts of public road use. While the impacts of coal trucks may be more severe, those same trucks will be using the public roads whether or not a haul road is permitted within 300 feet of the dwelling.

Section 761.11(h): Areas Where Mining Is Prohibited

A new § 761.11(h) is added. See the discussion under § 761.5, Definition of Valid Existing Rights.

Sections 761.12 (a), (b) and (d): Procedures for Reviewing Permit Applications

Section 761.12(a)

Section 761.12(a), which is not being amended at this time, requires the regulatory authority, upon receipt of a permit application, to review the application to determine whether the proposed operation would be limited or prohibited under section 522(e) of the Act. Section 761.12(a) is a non-exclusive means for an operator to obtain a VER determination. To avoid the expense of an operator preparing and submitting permit applications based on uncertain claims of VER, OSM strongly encourages operators to seek advance determinations of VER. The recent amendments to OSM's Federal lands rules (48 FR 6912, February 16, 1983) explicitly reserve to the Federal government the responsibility to make VER determinations for Federal lands on which the prohibitions of sections 522(e)(1) or (2) of the Act apply. Thus, for States that have entered into cooperative agreements with OSM in which the State regulatory authority administers the permanent program regulations on Federal lands, OSM, not the State regulatory authority, will make the VER determination.

Section 761.12(b)

Previous § 761.12(b) provided that, where a proposed surface coal mining operation would be located on any lands listed in § 761.11 (a), (f), or (g), the regulatory authority shall reject the application if the applicant had no valid existing rights for the area on August 3, 1977, or if the operation did not exist on that date. The modifications to the definition of valid existing rights allow valid existing rights to be vested after August 3, 1977, pursuant to circumstances specified in § 761.5. In correlation with these modifications, § 761.12(b)(1) is being amended to provide that the regulatory authority shall reject the application if the applicant has no valid existing rights for the area or if the operation did not exist on August 3, 1977. Section 761.12(b)(2) provides that, when the regulatory authority is unable to determine whether the proposed operation is located within the boundaries of certain prohibited or limited areas, it will transmit information to the appropriate agency, which must respond within 30 days of receipt of the request.

Section 761.12(b)(2) is being revised to provide that the appropriate agency has 30 days from receipt of the request in which to respond or the regulatory authority may make a determination based on available information. In response to comments, an additional amendment is being made to allow the regulatory authority to grant an extension, upon request of the appropriate agency, of up to 30 days.

This change would clarify that regulatory authorities have the discretion to proceed with determining areas prohibited or limited by Congress when response from outside agencies is not forthcoming within the designated comment period or the extended period granted by the regulatory authority. In any event, regulatory authorities are responsible for making sure that section 522(e) of the Act is not violated.

Two commenters supported the proposed amendment to § 761.12(b)(1), but one noted that instead of rejecting an application outright, the applicant should be allowed to modify the application to exclude any area for which the applicant has no valid existing rights.

A regulatory authority could allow an applicant to modify its application if a portion of the permit area contained lands on which mining was prohibited. Only if the permit area was composed entirely of lands for which the applicant had no valid existing rights would the application be rejected. OSM strongly encourages operators to seek advance determinations of VER. Two commenters objected to the proposed change because of their objection to the changes to the definition of VER in § 761.5.

Several commenters supported the amendment to § 761.12(b)(2). One commenter suggested that an extension of time be allowed for the appropriate agency to respond. This suggestion has been adopted. One commenter recommended that the regulatory authority be required to make the determination if a response is not forthcoming. This recommendation has not been adopted. Although the regulatory authority has the discretion to make the determination, it is responsible for assuring that section 522(e) of the Act is not violated. To require the regulatory authority to make a determination based on inadequate information might result in the issuance or denial of a permit which would not be in accordance with either the Act or the regulations.

Three commenters opposed the amendment and suggested that additional time be granted on a case-by-case basis. In response to these comments, OSM has added a provision whereby the appropriate agency may request an extension of time.

Section 761.12(c)

Section 761.12(c) requires a person to file a permit application before a determination may be made that mining on Federal lands within a national forest may be allowed under § 761.11(b). OSM expects to propose procedures that will allow a determination of rights under § 761.11(b) in advance of the filing of a permit application.

Section 761.12(d)

Section 761.12(d) provides procedures for obtaining approval to mine within 100 feet of a public road or to relocate public roads. OSM is revising this section to reflect the change to Section 761.11(d) to allow a public road authority, as appropriate, to act on road relocation and to include the additional option of closing a road. Actions involving roads generally are required to be coordinated with the agency responsible for public roads. OSM believes that there is no need for regulatory authorities to duplicate the actions of a road authority. If the road authority provides the opportunity, notice, and findings consistent with these rules to protect the interests of the public and landowners, the road authority should be able to take action. OSM also is allowing roads to be closed using the same procedures. Road closings are presently available to States to deal with other problems. Provided that the public interest is protected, OSM believes that closings should be available to deal with mining problems.

Sections 761.12(d) (2) and (3) are being revised for clarity. No substantive change is intended.

One commenter objected that OSM has exceeded the requirements of the Act by requiring an additional two-week notice of a public hearing on a road decision. The commenter suggested that once the initial notice is published providing the opportunity for a public hearing, those persons concerned can be notified directly. However, notice of a public hearing must be provided in advance to all who might wish to participate or attend. Therefore, this suggestion was not adopted.

Section 761.12(d)(4) specifies that a written finding will be made based upon information received at the public hearing within 30 days after completion of the hearing as to whether the interests of the public and affected landowners will be protected from the proposed mining operations. This section is being revised in conjunction with the changes to § 761.12(d) (2) and (3) to provide that a finding will be made within 30 days after completion of the hearing, or after the public comment period ends if no hearing is held.

One commenter supported the amendments to § 761.12(d), except for the amendment to § 761.12(d)(4), which the commenter believed to be too restrictive on the regulatory authority. The amendment is being made to clarify that if no hearing is held, the regulatory authority must make a decision after the public comment period ends. If the amendment were not made, there would be no requirement that the regulatory authority make a decision in those cases where no hearing is held.

Section 761.12(e): Waivers

Section 761.12(e) provides requirements for obtaining waivers from the prohibition on mining within 300 feet, measured horizontally, of an occupied dwelling. OSM previously proposed changes for this section (45 FR 8240–8245, February 6, 1980) and reproposed these and additional amendments in the June 10, 1982 **Federal Register**. OSM is adopting Option 2 for § 761.12(e)(1), as proposed on June 10. Second, OSM is adopting the proposals for new paragraphs (e)(2) and (e)(3). The final rule provides the following:

Previously § 761.12(e) is redesignated as § 761.12(e)(1), providing that where proposed surface coal mining operations will be conducted within 300 feet,

measured horizontally, of any occupied dwelling, the permit applicant shall submit with the application a written waiver by lease, deed, or other conveyance from the owner of the dwelling, clarifying that the owner and signator had the legal right to deny mining and knowingly waived that right. The waiver shall allow such operations within a closer distance of the dwelling as specified.

A new § 761.12(e)(2) is added providing that where an applicant for a permit after August 3, 1977, had obtained a valid waiver from the owner of an occupied dwelling prior to August 3, 1977, a new waiver will not be required to mine within 300 feet of that dwelling.

A new § 761.12(e)(3)(i) is added, which provides that where an applicant for a permit after August 3, 1977, had obtained a valid waiver, the waiver will remain effective against subsequent purchasers who had actual or constructive knowledge of the existing waiver at the time of purchase. New § 761.12(e)(3)(ii) provides that a subsequent purchaser shall be deemed to have constructive knowledge if the waiver has been properly filed in public property records pursuant to State laws or if mining has already proceeded to within the prohibited distance at the time of purchase.

A number of commenters opposed the proposed amendment to § 761.12(e)(1) that provided that the waiver could be submitted as part of a lease, deed, or other conveyance and that clarified that the owner and signator had the legal right to deny mining and must knowingly waive that right. The commenters objected that this specificity exceeds the requirement of section 522(e)(5) of the Act which does not specify the form or language of the waiver. One commenter noted that the change appears unnecessary since the previous regulatory language already provided that the "waiver must be knowingly made and separate from a lease or deed *unless the lease or deed contains an explicit waiver.*" (emphasis added by commenter). Finally, one of these commenters noted that a waiver is in the nature of a license which is not an estate in land such as would be transferred by a lease, deed, or other conveyance.

The final rule specifies the minimum requirements necessary to interpret the waiver provision of section 522(e)(5) of the Act and does not specify in detail the form or language required. The term "other conveyance" is intended to cover any written instrument, not just land conveyance procedures. Therefore, in those States where waivers would not normally be found in deeds, or leases, the regulation provides an alternative means for the owner to waive the distance limitation.

Several commenters supported the proposed amendments to § 761.12 (e)(2) and (e)(3).

Two of these commenters suggested that constructive notice of a waiver should not include mining has already proceeded to within the 300 foot limit. One of them stated that open, visible mining is actual notice, not constructive notice and suggested that instead, constructive notice should include "if mining within the 300-foot limit has been proposed in a permit application on file with the regulatory authority." OSM agrees that visible mining is actual notice of mining, but it is constructive notice that a waiver exists. For example, an owner waives the right to prohibit mining within 300-feet of his dwelling and allows the operator to mine to within 200 feet of his dwelling. A subsequent purchaser is not told of the written waiver, but upon inspecting the property prior to settlement sees that mining has been conducted within 250 feet of the dwelling. The purchaser would then be deemed to have constructive notice of the waiver and would be well-advised to discover the exact provisions of it prior to purchase.

The other commenter who objected to this provision stated that there would be nothing to prohibit an operator who has mined within 295 feet of an occupied dwelling with the knowledge of the previous owner to continue to mine to within 50 feet of the dwelling when a subsequent purchaser has moved in. The commenter has misunderstood the provision. Constructive notice can only be based upon an actual, written waiver which specifies the distance to which the operator may mine. Illegal mining to within 295 feet of the dwelling does not give rise to an implied waiver. An operator who has mined to within 295 feet of an occupied dwelling without valid existing rights or a written waiver, is either operating under an invalid permit or is outside the approved pemit area.

Finally, one commenter was disturbed by the sentence in the preamble to the proposed rules which stated: "It should be noted that a valid waiver may encompass the transfer of both valid leases and permits." The commenter expressed concern that this sentence might mean that waivers are assignable and may be transferred to other operators. The commenter stated that waivers are a personal right which cannot be assigned. As an example, the commenter noted that it was possible that an owner might allow a reputable coal company to mine within 300 feet of his dwelling, but would not want less reputable operators to do so.

The Act does not preclude a waiver from being assigned or transferred. The Act is also silent as to whether the waiver can or must be irrevocable. The specific terms of the waiver must be based upon local law. Section 510(b)(6) of the Act clearly provides that "nothing in this Act shall be construed to authorize the regulatory authority to adjudicate property rights disputes." However, the waiver must remain valid during the time that mining occurs within 300 feet of the occupied dwelling.

Section 761.12(f): Agency Review of National Register of Historic Places

Section 761.12(f)(1) establishes requirements and procedures for consulting with agencies which have responsibility for reviewing the impact of mining on public parks and historic places. OSM is revising this section to eliminate reference to privately owned places or to places eligible for listing on the National Register of Historic Places. This reflects a change similar to that for § 761.11(c), discussed above. This amendment also modifies the language to "Where the regulatory authority determines that the proposed surface coal mining operation *will* adversely affect any public park or any publicly owned site * * *." (Emphasis added.) The previous rules used "may" rather than "will." These changes are made to reflect the actual wording of section 522(e)(3) of the Act. The change further provides that the regulatory authority will make the determination of whether the proposed operation will adversely affect the park or place. Having the regulatory authority make this determination will reduce the number of permit applications that will have to be referred to consulting agencies.

A number of commenters objected to substituting the word "will" for "may" since the change will allow the regulatory authority to prejudge the impact of mining without the benefit of the input from the agency with expertise. The language change, however, reflects the actual wording of the Act. If it appears that a public park will be adversely affected by a proposed mining operation, the regulatory authority must seek joint approval. In addition, concerned agencies will have an opportunity to comment on all permit applications during the public comment period. One commenter stated that the National Park Service (NPS) Regional Director should have the opportunity to make a case-by-case determination as to whether a proposed operation will

adversely affect any unit of the National Park System, and that upon such a finding, the regulations should provide that the NPS Regional Director have consent authority over issuance of the permit. The determination of whether a proposed operation will adversely affect an NPS unit will be made by the regulatory authority. The NPS will be afforded the opportunity to comment as an affected agency. The regulations provide that a permit shall not be issued for an operation which will adversely affect any publicly-owned park or publicly owned place listed on the National Register unless approved jointly by all affected agencies. For NPS units, this will include the National Park Service.

OSM is also revising this section to provide that where other agencies with jurisdiction over parks or places on the National Register fail to interpose an objection within 30 days from receipt of the request, this will constitute approval of the proposed permit, subject to final regulatory authority determination. This change is made because a lack of agency action could otherwise result in long delays to permit approval. It is important to establish a regularized procedure that will allow timely decision making, which at the same time does not impose an unrealistic deadline upon the responsible agencies. This rule sets such a procedure. One additional change is made, as a result of public comment, to allow the regulatory authority to grant, upon request by the appropriate agency, an additional 30 days extension of time within which to respond. Sixty days should be sufficient to overcome administrative delays, do necessary analysis, and, at the very least, interpose an interim objection.

Several commenters objected to requiring the affected agency to respond within 30 days or the lack of response would be considered approval of the permit application. These commenters suggested additional flexibility in the form of an extension of time. OSM agrees and has provided that the regulatory authority, upon request, may grant an extension of up to 30 additional days. Three commenters maintained that under no circumstances should a non-response be considered an approval. These commenters argued that the Act requires affirmative action and that silence should constitute disapproval. Although the suggestion is not accepted, OSM agrees that an agency which objects to a mining operation should do so promptly, directly, and on the record, rather than through inaction.

On the other hand, while OSM recognizes that uninformed inaction would not constitute the requisite approval, the rule includes sufficient safeguards to avoid this outcome. By providing that the regulatory authority shall specifically request the reviewing agency's approval or disapproval, the rule provides for actual notice that a decision is required. By providing that the applicable parts of the permit application shall accompany this request, the rule insures that the reviewing agency will have the information necessary to make its decision. By providing for notice that the agency has 30 days in which to respond, *and* that failure to respond within this or an extended period shall constitute approval, the rule underscores the consequences of inaction. And by providing for a thirty-day extension upon request, the rule gives even a hard-pressed agency ample time in which to respond. Moreover, if an agency needs additional time for deliberations, it is not precluded from interposing an interim objection until it is ready to make a final decision.

The Congress itself has explicitly recognized by statute that administrative failure to interpose an objection in the face of a stated deadline can be a legitimate mechanism for signifying lack of objection, and thus, approval. *See,* 42 U.S.C. § 1973c, *and interpretation thereof in United States v. Board of Commissioners of Sheffield, Ala.,* 435 U.S. 110, 136 (1978). Furthermore, in analogous situations, the U.S. Supreme Court has held repeatedly that informed inaction by the Congress can constitute approval of the interpretation given to legislation by the Executive Branch. *See, e.g., Bob Jones University v. United States,* ——— U.S. ———, (1983); *Haig* v. *Agee,* 453 U.S. 280, 297–298 (1981). Thus, OSM has ample precedent for employing this approval mechanism in order to establish an orderly procedure for timely decisionmaking.

Section 761.12(f)(2) is revised to delete the words "mine plan approval or" from the requirement that a mine plan approval or permit for the operation shall not be issued unless jointly approved by all affected agencies. This change is made to be consistent with rules published April 5, 1983 (48 FR 14814) which delete the definition of mine plan area and the use of the phrase "mine plan" in all of 30 CFR Chapter VII.

OSM also considered clarifying what are the "affected agencies" which must approve of a permit where the proposed operation will adversely affect places listed on the National Register. However, the term "affected agencies" is adequately defined in paragraph (f)(1) as "the Federal, State, or local agency with jurisdiction over the publicly owned park or publicly owned National Register place." In the June 10 preamble, OSM stated that proposed paragraph (f)(1) would read "the Federal, State, or local agencies with jurisdiction over, *or a statutory or regulatory responsibility for,* the public park or publicly owned National Register site." (emphasis added). However, the underlined phrase was suspended on November 27, 1979, as a result of the litigation on the permanent program rules. (44 FR 67942). The phrase was inadvertently included in the proposed rule and therefore it is not being adopted today.

OSM received a number of comments objecting to the elimination from § 761.12(f) of privately owned places listed on the NRHP and privately or publicly owned places eligible for listing on the NRHP. Several commenters supported the proposed changes. These comments are addressed in the discussion of the amendments to Section 761.11(c), as are comments relating to OSM's responsibility under the National Historic Preservation Act.

Section 761.12(h): Administrative and Judicial Review

Section 761.12(h) is being amended to reflect the expected revision of 30 CFR Parts 787 and 788, which will be consolidated into a new Part 775. No substantive change is being made to § 761.12(h); the revisions are the cross-references to new Part 775.

Part 762—Criteria for Designating Areas As Unsuitable for Surface Coal Mining Operations

Section 762.5: Definitions

Fragile Lands: Previous § 762.5 provided that the term "fragile lands" means geographic areas containing natural, ecologic, scientific, or esthetic resources that could be damaged or destroyed by surface coal mining operations. A number of examples were then provided, including uncommon geologic formations and buffer zones adjacent to the boundaries of areas where surface coal mining operations are prohibited. OSM proposed two alternative revisions to this definition and is adopting Option 1 with one modification.

In Option 1, as proposed, the term "damaged" was proposed to be modified by adding "irreparably" to reflect the fact that mining is an appropriate temporary use of the land

and should not be prohibited where adequate reclamation can be accomplished. Instead of adding the work "irreparably," OSM in response to numerous comments has decided to add the modifier "beyond an operator's ability to repair or restore." This phrase is a clearer standard consistent with OSM's reasoning that mining is a appropriate temporary use of the land in most situations. An interruption of certain activities or a diminution of particular values during mining is not sufficient to classify the land as fragile if the activities or values can be restored. However, mining, even when fully reclaimed, may result in permanent changes which may be undesirable. In such cases, this definition and other provisions allow for protection. In addition, the "fragile lands" example of "areas where mining may cause flooding" is changed, as proposed, to "areas where mining may result in flooding" as mining may not in itself be the direct cause.

Several commenters suggested that OSM delete all definitions in § 762.5, including the definition of fragile lands. These commenters contended that the States are better equipped to define these terms on the basis of local variables, and Congress intended the States to be responsible for implementing the designation process by applying the criteria on a petition-by-petition basis. The commenters argued that the definitions exceed Congressional inent and are unnecessary because decisions must be made on a case-by-case basis. These commenters suggested that if the definitions are retained, the examples listed should be completely eliminated, because they are unnecessary or beg further definition. OSM agrees that petition decisions are made on a case-by-case basis, but some standard is needed to assist regulatory authorities. Thus, OSM has decided to retain the list of examples, at the request of other commenters who find the examples helpful. The list of examples is not intended to be all-inclusive. Rather, the examples are intended to assist States, petitioners and operators in interpreting the Act's use of the phrase "fragile lands."

A number of commenters supported adoption of Option 2. Option 2, as proposed, would have narrowed the definition still further from the changes proposed for Option 1. In addition to those changes, the qualifying words "important" and "significantly" would be added so that the definition would have read: Fragile lands means geographic areas containing *important* natural, ecologic, scientific or esthetic resources that could be irreparably and *significantly* damaged or destroyed by surface coal mining operations. Adding the words "important" and "significantly" would parallel the wording of section 522(a)(3)(B) of the Act. However, OSM is not adopting the modifiers "important" and "significantly" because these qualifying terms are already included in the criteria of § 762.11 to ensure that areas lacking important values are not designated unsuitable. OSM also proposed in Option 2 to eliminate the reference to "buffer zones" since Congress specifically included certain buffer zones in the limitations of section 522(e) where it wanted to establish such buffer zones.

One of the commenters who supported Option 2 recommended deleting "ecologic" resources, as the term is not used in the Act or defined in the rules. The term "ecologic" is generally defined as the branch of biology dealing with the relations between organisms and their environment. OSM believes the meaning ot the term is generally understood and has decided to retain it.

Commenters suggested deleting the examples of "environmental corridors containing a concentration of ecologic and esthetic features" and "areas of recreational value due to high environmental quality" as being vague and overly difficult to interpret. As noted above, however, OSM has decided to retain the examples, while emphasizing that the list is not all-inclusive.

One commenter suggested deleting the example of "areas where mining may result on flooding" as the concept of flood damage would be more appropriate under the definition of natural hazard lands. However, the two concepts of flood damage are dissimilar. In the case of natural hazard lands, the danger of flooding is inherent. In fragile lands, the potential danger is produced by artificial means.

Several commenters supported deletion of the example of buffer zones. Other commenters strongly supported retention of the example because of Congress' interest in protecting the areas adjactent to areas where mining is prohibited or limited in section 522(e) of the Act. As one commenter noted, OSM's statement in the previous preamble (March 13, 1979) was that "(b)y providing for buffer zones, OSM is ensuring that areas around national parks and other section 522(e) areas not be overlooked as fragile lands. (I)ncluding these areas as examples (of fragile lands) does not mean that they would automatically be designated unsuitable." 44 FR 14998. OSM has decided to retain the example, but has modified the language to indicate expressly that buffer zones do not automatically qualify as fragile lands. Buffer zones adjacent to the boundaries of Congressionally protected areas in section 522(e) may be considered fragile lands if the protected areas have characteristics which require additional areal protection or if the buffer zones themselves contain fragile resources.

Several commenters objected to any revision in the definition and particularly urged that the word "irreparably" not be added to modify the term "damaged". These commenters disputed OSM's statement in the preamble to the proposed rules that "mining is an appropriate temporary use of land and should not be prohibited where adequate reclamation is possible." 47 FR 25286. The commenters noted that the mandatory "reclamation" criteria of section 522(a)(2) of the Act for designating lands unsuitable are distinct from the discretionary bases of impacts on fragile and historic lands in section 522(a)(3) of the Act and should not be linked by the word "irreparable".

In response to these comments and for the reasons noted above, OSM has decided to substitute the phrase "damaged beyond an operator's ability to repair or restore" in place of "irreparably damaged". OSM agrees that the mandatory criteria in section 522(a)(2) are distinct from the discretionary criteria in section 522(a)(3) of the Act. However, clarifying the definition does not diminish the discretion of the regulatory authority to designate areas as unsuitable.

Historic Lands: The previous definition of "historic lands" included a broad array of historic, cultural, and scientific areas.

OSM proposed to define "historic lands" to mean "important historic, cultural, and scientific areas that could be irreparably damaged or destroyed by surface coal mining operations. Examples of historic lands include sites listed on the National Register of Historic Places, National Historic Landmark sites, and sites for which historic designation is pending." This change would have added the terms "important" and "irreparably" to make clear that areas of minor importance or temporary disruptions would not qualify a site for designation. In addition, OSM proposed to reduce the list of examples to the types of areas which would clearly qualify for designation and

delete the term "eligible for listing" to eliminate confusion over its meaning.

OSM has chosen to adopt a final definition which parallels the final definition for "fragile lands". Instead of adding the term "irreparably", OSM is substituting the phrase "damaged beyond an operator's ability to repair or restore" which is consistent with OSM's belief that mining is an appropriate use of the land in most situations. OSM is not adopting the modifier "important" because this qualifying term is already included in the criteria of § 762.11 to ensure that areas lacking important values are not designated unsuitable.

As with the definition of "fragile lands", the list of examples is being retained at the request of commenters who find it helpful. The comments received on this definition are substantively identical to those received on the definition of "fragile lands" and are discussed above under that definition.

Renewable Resource Lands: OSM proposed to add a definition of the term "renewable resource lands" to clarify its use as a discretionary basis for designation of unsuitability under the Act (section 522(a)(3)(C)). "Renewable resource lands" was proposed to mean "geographic areas which contribute significantly to the long-range productivity of water supply or of food or fiber products, such lands to include aquifers and aquifer recharge areas." OSM is adopting the definition as proposed. Two commenters suggested that the term "geographic areas" should be further defined. The term is generally understood to mean an area defined by its physical or natural characteristics and OSM believes further definition is unnecessary. One commenter suggested substituting the word "substantially" for the word "significantly" and modifying aquifers with the word "important". However, the word "substantial" is more appropriate to the criteria to be used by the regulatory authority and is already included in § 762.11. The phrase "such lands to include aquifers and aquifer recharge areas" is the actual wording used in section 522(a)(3)(C), so OSM is not adding the modifier "important". For this reason, OSM also rejected the suggestion of another commenter who advocated expanding the definition to include watershed lands and cultural or grazing lands. While these types of lands may, on a case-by-case basis, be determined to be renewable resource lands, there is no reason to list them specifically in the rule. One commenter objected to inclusion of the qualifier "significantly", for the same reasons that the commenter objected to the definitions of "fragile lands" and "historic lands". OSM believes, however, that some qualification is necessary to provide guidance to the regulatory authority.

Substantial Legal and Financial Commitments: OSM proposed to revise the definition of substantial legal and financial commitments (SLFC). The existing definition requires both investments and commitments in capital-intensive activities and a long-term coal contract. The proposed revision would have recognized that substantial commitments can be made with or without a long-term coal contract.

Following a review of the legislative history, OSM has decided to retain the existing definition.

Several commenters contradicted OSM's statement in the preamble to the June 10 proposed rules that the House committee which discussed the role of contracts may have been merely describing an example of the type of commitment required (H. Rept. No. 95–218, 95th Cong., 1st Sess. 95 (1977)). The commenters noted that the House Report states:

> The phrase *substantial legal and financial commitments* in the designation section and other provisions of the Act is intended to apply to situations where, on the basis of a long-term coal contract, investments have been made in power plants, railroads, coal handling and storage facilities and other capital-intensive activities. The Committee does not intend that mere ownership or acquisition costs of the coal itself or the right to mine it should constitute "substantial legal and financial commitments".

The commenters further note that it was the House bill that was adopted by the Conference Committee and passed by the Senate. Moreover, the statutory phrase "substantial legal and financial commitments" orignated in the first version of SMCRA in S. 425 in 1973. The Senate Report on S. 425 stated:

> Mere ownership of the coal resource with the intent to surface mine would not qualify for the exemption from designation as unsuitable for surface mining based on "firm plans for and substantial legal and financial commitments". In order to preclude designation, it must be established that specific plans and specific contracts for sale of coal and purchase of necessary equipment for an actual mining operation were in existence on the date of enactment.
>
> S. Rept. No. 93–402, 93rd Cong., 1st Sess. 68 (1973).

The coal contract requirement as a precondition to granting an exemption from designation on the grounds of substantial legal and financial commitments, is repeated throughout the legislative history. See, *e.g.*, H. R. Rept. 94–95, 94th Cong., 1st Sess. 91 (1975).

Therefore, OSM is retaining the existing definition.

Natural Hazard Lands: OSM proposed no change to the definition of "natural hazard lands". Two commenters suggesting deleting all the definitions in § 762.5. However, as stated in the discussion of "fragile lands", OSM has decided to retain the definitions.

Section 762.11: Criteria for Designating Lands as Unsuitable

OSM considered revising § 761.11(b) to provide that lands should be designated only on the basis of allegations raised in the petition rather than on the basis of any or all criteria for designation specified in the Act, regardless of whether or not they were alleged by the petitioner. This concept would deny regulatory authorities the discretion to designate areas on the basis of information or allegations not provided in a petition. OSM has chosen, as discussed in the proposed rules, to maintain the existing rule intact, at the request of States which want an opportunity to implement the processes for designating lands unsuitable under the identified criteria in a variety of acceptable ways.

Section 762.12 Additional Criteria

Section 762.12 provides that State regulatory authorities and the Secretary may establish additional criteria for determining whether lands within their jurisdiction should be designated as unsuitable for surface mining operations. As noted in the June 10, 1982 preamble to the proposed rules, OSM has received comments requesting deletion of this section. However, OSM notes that, as stated by the court in *In re Permanent Surface Mining Regulation Litigation*, No. 79–1144 (D.D.C. Feb. 26, 1980 at p. 26), section 523(a) of the Act states: "The Federal lands program shall, at a minimum, incorporate all of the requirements of this act * * *." The decision goes on to state that "The language 'at a minimum' indicates Congressional authorization for the Secretary to establish additional criteria for Federal lands. Similarly, the language 'more stringent' in section 505(b) of the Act, permits State regulatory authorities to promulgate factors in addition to those enumerated in the SMCRA." The provisions of additional criteria are at the discretion of the States. Therefore, no change was proposed for or is being made to § 762.12.

Part 764—State Processes for Designating Areas Unsuitable for Surface Coal Mining Operations

Previous Sections 764.2 and 764.3

As proposed, previous §§ 764.2 and 764.4, entitled "Objective" and "Authority," are removed to streamline the chapter by eliminating unnecessary and redundant provisions.

Section 764.13(a): Right to petition

Section 764.13(a) specifies who has the right to petition to have an area designated unsuitable. OSM proposed to restrict the right to petition (standing) to persons having a property interest in land or mineral resources which is or may be adversely affected. This would have limited the right to petition to persons with tangible ownership interests in land or mineral resources. The proposal was an effort to balance the interests of potential mine operators or mineral owners with the non-economic interests usually represented in petitions. OSM was concerned that the previous rule was so broadly stated that persons with a very minor interest might be able to prevent mining. Several commenters also expressed this concern and suggested the petitioner be directly impacted by potential mining. Most commenters, however, opposed the proposal, and pointed out that there is no basis in the Act or its legislative history for such a restrictive position.

The majority of commenters opposed the proposed property ownership restriction; however, a few commenters supported limiting standing to property ownership. One commenter suggested that "water rights" be included with land and mineral resources. Another commenter recommended that standing be limited to owners of land adjacent to the minesite. One commenter suggested that other "real legal interests" be added to land and mineral resources. Several commenters support restricting standing to individuals suffering a direct injury but not bound to property ownership. Several commenters warned OSM of the need to restrict standing to avoid harassment petitions.

OSM has decided to adopt an "injury in fact" test to ensure that petitioners have a significant interest, but not necessarily a property interest. The "injury in fact" test requires the petitioner to demonstrate that he or she is among the injured and how the alleged adverse impact will directly affect him or her. OSM will not adopt the property ownership restriction or other like limitations. A review of legislative history indicates that Congress did not intend to place such specific restrictions on who may petition for an area to be designated as unsuitable for mining. The House Committee Report No. 95–218, April 22, 1977, states that "a number of decisions to be made by the regulatory authority in the designation process is contingent on the outcome of land use issues which require analyses of various local and regional consideration and that citizen involvement in all phases of the regulatory scheme will help ensure that the decisions and actions of the regulatory authority are grounded upon complete and full information." The Committee further stated that "any person having an interest which is or may be adversely affected" shall be construed to be coterminous with the broadest standing requirements enunciated by the U.S. Supreme Court. The Court sanctioned broad priciples of standing in *Association of Data Processing Service v. Camp*, 397 U.S. 150 (1970), and held that in the absence of a given statute's intent to narrow the availability of judicial review, standing is extended to any person who (a) suffered "injury in fact" and (b) the interest is arguably within the zone of interests to be protected or regulated under that substantive statute governing the agency's action. The legislative history and the Supreme Court rulings reflect that standing should not be limited to property owners but to those suffering direct injury.

The rule adopted is equivalent to an "injury in fact" test. This will ensure that petitioners have legitimate interests in the specific area being petitioned as unsuitable for surface coal mining operations. The "injury in fact" test requires more than an injury to a cognizable interest. It requires the party seeking review to be himself among the injured. "Injury in fact" had been previously defined by the U.S. Supreme Court in *Association of Data Processing Service v. Camp, supra* and in *Barlow v. Collins*, 397 U.S. 150 (1970), to mean that the person seeking review alleges the challenged action caused or will cause him "injury in fact" and the alleged injury was to an interest arguably within the zone of interests to be protected or regulated by statute. The test adopted will limit standing only to persons who are or will be directly injured by surface coal mining operations in a specific area and encourage petitions that have serious merit.

Section 764.13(b): Designation petitions

Section 764.13(b) lists the information that a petitioner must set forth in a petition. OSM proposed two options to revised existing requirements, primarily by providing the State regulatory authority flexibility to impose additional information requirements and to require more substantive information for designation petitions.

OSM will adopt a combination of Option 1 and Option 2 as the final rule. The requirements being adopted for the contents of a petition are intended to provide substantive facts for the regulatory authority to evaluate the petition, to emphasize the importance of the petition, and to provide a specific presentation of allegations as they relate to the petitioner's described interests and to the criteria specified in the Act.

First, OSM will adopt the requirement the petitioner(s)' signature(s) be notarized. Most commenters support this requirement. A notarized signature will emphasize the importance of the petition and the need for a serious document. The requirement for notarized signatures will also prevent the inclusion of unauthorized names on a petition.

Second, OSM is adopting a requirement that the petition area be identified on a U.S. Geological Survey (USGS) topographic map outlining the perimeter of the petitioned area. This change is specifically supported by some commenters and will assist both the petitioner and the regulatory authority in identifying the petition area. Such maps are inexpensive and easily obtained.

Third, OSM is adopting a requirement that the petitioner demonstrate how he or she meets the "injury in fact" test provided in § 764.13(a). This is no more than a showing that the petitioner has interests that would be directly affected. Such showings are fully consistent with judicial requirements for standing and are neither unusual nor onerous.

Fourth, OSM is adding a requirement that the facts and evidence provided cover the entire petitioned area. Without this requirement, it is possible for a petitioner to include large areas for which allegations are made but no evidence presented. Section 522(c) of the Act specifically requires both allegations of fact and supporting evidence. It is neither logical nor proper to include areas in a petition which are not covered by such evidence. In effect it would allow a person to submit a petition without meeting the requirements of the Act.

Fifth, OSM is adding a requirement that the petitioner assume contemporary mining practices required under the applicable regulatory program will be followed. That is, any mine would have to meet the requirements of the Act; a petitioner may not assume mining impacts that would be prevented by the environmental protection requirements

mandated by the Act. Any petition based upon such preventable impacts would have no merit.

Sixth, petitioners will be required to relate allegations and evidence to the criteria for designating an area unsuitable for mining. This requires no new evidence; rather, a petitioner must describe how the problems presented meet one or more of the mandatory or discretionary criteria for designation. This will help focus the evidence presented and avoid collection or consideration of materials which are not relevant. If a planned mining operation is known, the allegations should relate to the specifics of the operation.

Many commenters supported retaining the previous regulation with minor changes such as adding the requirement to identify the area by legal description. These commenters argued the previous regulation was adequate and that the proposed options would stifle the petition process. OSM disagrees that the proposed substantive informational requirements will adversely affect the petition process. The changes require little additional detail; rather, the petitioner is being required to relate the facts presented in the petition to the requirements of the Act. Substantive information requirements that are not onerous will improve the quality of the petition process. OSM has found that under the previous regulation, very large areas for which no evidence was presented were included in petition areas (Alton petition, Tongue River petition), thus requiring significant efforts by OSM and other interested parties on issues of questionable merit. Also, some petition allegations have been based on mining damage which would be prevented or mitigated by following the requirements of the Act. The adopted informational requirements will require little or no additional information gathering on the part of a petitioner, but will require the petitioner to focus the allegations and supporting evidence to demonstrate that mining in this specific area will result in a direct injury to the petitioner's interests and that the area is worthy of designation under the criteria specified by the Act.

Several commenters supported Option 1 or Option 2 with various minor modifications. A combination of these options will be adopted to assure that the requirements are specific, address relevant issues, identify the specific area petitioned for designation, and allow the State regulatory authority flexibility to request additional supplementary information.

One commenter suggested that the regulatory authority require county plat maps as well as USGS topographical maps. The regulatory authority has the discretion in § 764.13(b)(2) to require these maps, if desired, so long as they are readily available to the petitioner.

Some commenters questioned the definition of the term "contemporary mining practices." These commenters contended that the term "contemporary mining practices" is vague, subjective and an indefensible concept that varies with local geographic and economic conditions. The commenters urged that the regulatory authority specify what constitutes "contemporary mining practices" in the specific surface coal mining areas. Surface mining operations are required to conform to contemporary mining practice as required by States' regulatory programs. Each regulatory authority defines required contemporary mining practices under its applicable regulatory program. Petitioners should assume that such practices will be followed by a potential mining operation when determining possible adverse effects of the surface mining operations.

Some commenters wanted the State regulatory authorities to have no discretion in petition content or procedures. These commenters contended nationwide consistency will be impossible if discretion is given to regulatory authorities. Several commenters supported this flexibility for the State. OSM agrees with the latter commenters that discretion to address specific needs of the particular State will enhance the petition process. OSM is providing a list of basic petition requirements for State regulatory authorities. States may modify this so long as the result is no less effective than the Federal requirement. That is, the petition process must be open and available to the public, yet sufficiently focused to permit rational decision making. These requirements will foster a high degree of nationwide consistency.

Some commenters endorsed the proposed restrictions and safeguards to guarantee that the petition process be a serious one. OSM agrees that the petition process is indeed a serious matter and the provisions adopted are intended to safeguard the process.

One commenter recommended that proposed § 764.13(b)(1)(v) be amended by removing the words "has affected" from the provision that reads "* * * how mining of the area has affected or may adversely affect people, * * *." OSM rejects this suggestion. The proposed language has been adopted in § 764.13(b)(1)(iv). The language "has affected" is useful to show that what has happened in the past may recur if not precluded by designation.

Another commenter urged that petitioners not be required to notify property owners of the petition. The commenter believed that Congress implied that the State give proper notice. OSM agrees that notice is potentially too heavy a burden for a petitioner and is likely to discourage or prevent certain individuals from petitioning. It is more appropriately a government function and should not fall on the petitioner. Consequently, OSM has not adopted this proposed provision. The regulatory authority will be required to notify the general public, interested governmental agencies, intervenors, persons with an ownership interest of record, and other persons pursuant to the criteria set forth in § 764.15.

- Several commenters wanted to require petition allegations to be based on competent information and scientifically sound data. Section 764.13(b)(1)(v) requires allegations of fact and supporting evidence which tend to establish that the area is unsuitable for all or certain types of surface coal mining operations. Section 522(c) of the Act mandates that the petition contain allegations of facts with supporting evidence which would tend to establish the validity of the allegations. The language from the Act is used in the final regulation for petition requirements. Section 522(a)(1) provides for the State regulatory authority to make designation decisions based on competent and scientifically sound data and information. The regulatory authority is required to evaluate sound information and scientific data from all sources, including its own files and investigations. Petitioners are required to submit sound information. However, many sound presentations can be made without "scientific" data, if that term is used in a restrictive sense. Scientific data will not be required as this type of requirement could potentially limit citizen participation in the designation process, thereby defeating the purpose of the process.

Section 764.13(c): Termination Petitions

Section 764.13(c) identifies information required in petitions for the termination of unsuitability designations. Like § 764.13(b), this section was proposed to be amended in its entirety to allow regulatory authorities to expand the information requirements for termination petitions. The proposed changes are similar to those proposed in Option 1 for designation petitions. The main difference is that allegations of facts and supporting evidence must be focused on the reasons why the designation now is inappropriate and should be terminated.

OSM is adopting the proposals for § 764.13(c)(1) with only a minor modification to § 764.13(c)(1)(iii) and by adding a sentence to clarify the nature of designation in § 764.13(c)(1)(iv). A complete petition for termination must include: (1) petitioner's name, address, telephone number, and notarized signature, (2) an identification of the petitioned area, including its location and size and a U.S. Geological Survey topographic map outlining the perimeter of the petitioned area, (3) an identification of the petitioner's interest which is or may be adversely affected by the continuation of the designation, (4) and specific allegations of facts included for all lands for which the termination is proposed with supporting evidence not contained in the record of the proceeding in which the area was designated unsuitable that tend to establish that the designation should be terminated. OMS believes that petition requirements should be consistent for termination and designation petitions.

OSM is also adopting the portion of proposed § 764.13(c)(2) that required that the petition include allegations of fact with supporting evidence that tends to establish that the petitioner has an interest which may be adversely affected by the continuation of the designation. This requirement is now included in § 764.13(c)(1)(iii). OSM is also adopting a provision requiring that allegations be specific as to the portions of the designated area to which they apply and be supported by evidence that tends to establish the validity of the allegations for the portion of the designated area, assuming that contemporary mining practices required under applicable regulatory programs would be followed if the area were to be mined. This provision, which is now included in paragraph (c)(1)(iv), will provide States a focused presentation of allegations, reasons for the determination designating the area as unsuitable, and the reasons the designation should now be terminated. For areas previously and unsuccessfully proposed for termination, significant new allegations of fact and supporting evidence must be presented in the petition.

OSM is adopting the proposal in § 764.13(c)(3), now renumbered (c)(2), that allows the regulatory authority to request the petitioner to provide other supplementary information which is readily available. Readily available information could include public documents or other publicly available information which can be obtained and used by a person who has no special training or knowledge. Failure to include such information will not make a petition incomplete.

Several commenters urged that termination petition requirements be consistent with those adopted for designation petitions. OSM agrees with these commenters. The changes described above will make the requirements consistent.

Comments that address both designation and termination petitions will not be discussed separately for termination petitions when the discussion under designation petitions would also apply to termination petitions. These issues include the discussion for requiring the petitioner to use competent and sound data, regulatory authority flexibility to require additional information, specific identification of the area being petitioned, and property ownership to restrict standing.

One commenter urged that the previous requirements be retained for termination petitions. The same commenter asserted that the proposed changes are consistent with Option 1 for designation petitions and have no legal, substantive or procedural justification for the added information requirements. A detailed analysis of the proposed information requirements for designation petition can be found in the discussion of comments for § 764.13(b). OSM is adopting requirements that are consistent for both types of petitions.

One petitioner recommended that OSM adopt requirements similar to Option 2 proposed requirements for designation petitions because it requires the most information. This commenter urged that petitioners be required to provide complete available information. OSM is adopting some Option 2 requirements for termination and designation petitions as described above.

Section 764.15: Procedures

Section 764.15(a)(1) Completeness Finding

Previous § 764.15(a)(1) provided a 30-day time limit within which the regulatory authority must notify the petitioner by certified mail as to whether the petition is complete. OSM proposed and will adopt an amendment to allow the regulatory authority 60 days to make a completeness determination. The extended time limit will allow use of new initial hearing procedures and more extensive analysis of the requirements provided in § 764.13 (b). Additionally, OSM will adopt the proposal defining "complete," to mean that the information required under § 764.13 (b) or (c) is contained in the petition.

Commenters expressed various ideas for the completeness review proposal. Some commenters support allowing 60 days for a completeness review as a measure to ensure that a complete initial scrutiny of the petition can be accomplished before beginning the next step in the process. Some supported the extended review period, but opposed a hearing. Other commenters oppose extending the time to 60 days. These commenters see the extension as increasing the vulnerability for surface coal mining operators.

Sixty days will allow the regulatory authority to make a detailed review of the petition for completeness, and decrease the vulnerability of operators by screening out incomplete petitions early in the process. Operators and petitioners are exposed to less financial or opportunity risk when a "completeness" determination can be made during the initial steps of the process.

This hearing and extended completeness review process is a discretionary means of helping the regulatory authority make its initial determination. It is not specifically required by the Act. Moreover, a hearing on completeness does not substitute for the later hearing on substantive issues, and is not itself the appropriate means to consider substantive issues.

Some commenters urged that completeness be more specifically defined. The completeness definition adopted is adequately specific to identify the information required. Additional detail would unnecessarily limit regulatory authority descretion.

Section 764.15(a)(2)

Section 764.15(a)(2) has been retained unchanged.

Section 764.15(a)(3) Real and Forseeable Potential

Final § 764.15(a)(3) is being adopted to enable the regulatory authority to suspend petitions on lands where there is no real and foreseeable potential for surface coal mining operations to occur. "Real and forseeable" potential means that the petitioned lands are likely to be subject to leasing or mining activity within 5 years. This concept will allow regulatory authorities to set a time frame for evaluating petitions in relation to the likelihood of mining activity. Unless regulatory authorities can limit their evaluation of petitions to areas where mining is likely to occur within a reasonable period of time, they could be obligated to process unsuitability

petitions immediately for which a clear need could not be shown. OSM considered various other options, which would have given regulatory authorities discretion to define "real and foreseeable potential," including 1 year, 10 years, and no specific time frame. Any such provision would have had to include a requirement that no mining could occur until any suspended petition was evaluated.

If a petition is suspend under § 764.15(a)(3) because there is no real or foreseeable potential for mining to occur, once a year the petitioner may request the regulatory authority to reaffirm its earlier determination. If it is determined that there is a real or foreseeable potential for mining to occur, processing of the petitions would continue. New § 764.15(a)(8) clarifies that when a petition has been suspended pursuant to § 764.15(a)(3), the regulatory authority will activate the suspended petition for review upon the filing of a permit application. A decision must be made on the petition before a decision is made on any permit application received for land included in the previously suspended petition.

Some commenters supported the proposal to provide for suspension of petitions on lands with "no real or foreseeable potential" for mining. OSM agrees that the concept will provide a more flexible petitioning process while also protecting the petitioners' interests.

One commenter was concerned that this provision will in effect only allow consideration of a petition to designate lands unsuitable after mining has begun. One commenter objected to OSM providing that petitions may be disallowed for lands that have no real or foreseeable potential for mining. Another commenter believes that suspension of a petition for over a period of one year is illegal. This commenter referred to Senate Report 94–28, March 7, 1975, and maintained that Congress intended to impose a one-year deadline on petition decisions. OSM agrees that Senate Reports 94–28 and the more recent S. Rep. No. 95–128, 95th Cong., 1st Sess. (May 10, 1977), convey the intention that the State regulatory authority should be prevented from making an indefinite review by imposition of a one-year deadline on all decisions as to designations. However, the Senate connected this requirement with its intent to prevent the forestalling of coal production needlessly. OSM disagrees with the assertion that the suspension of a petition pending an imminent need for review is contrary to the Act. The real and foreseeable potential concept carries out the Congress' intent by allowing for a prudent and timely review process. OSM is not providing for petitions to be rejected, but is allowing the regulatory authority to suspend the review of petitions until the area petitioned is determined by the regulatory authority to have a real or foreseeable potential for surface coal mining operations. Once this potential is realized, the petition will be processed according to the time limitations provided by the Act and 30 CFR Part 764. The petition will then be reviewed in the same manner as petitions that are not suspended. No permit may be issued in an area covered by a suspended petition until the petition is processed (§ 764.15(a)(8)). Section 764.15(a)(3) will facilitate efficient administration of the petition process.

Some commenters endorsed the concept of real and foreseeable potential, but were not comfortable with the proposed five-year time period. Some commenters thought that there is no consistent method available to judge an appropriate time period for real and foreseeable potential. One commenter warned that the five-year time period may interfere with the land use planning process. Another commenter recommended a two-year period based on the permitting process instead of the five years. The same commenter suggested that petitions not be accepted until leasing has actually occurred. The commenter reasoned that until the lease has been negotiated and a mine plan developed, there can be no real or foreseeable potential for the area to be mined. One commenter objected to the use of the term "leasing" because mining may not occur for many years after a lease is negotiated. OSM believes the recommendation to assess real and foreseeable potential solely by the leasing process will not necessarily decrease the time period and in some cases might extend it. Leasing and imminent mining activity are not always synonymous, particularly if there are no Federal lands involved. The proposed language is being adopted to provide the broadest possible protection by allowing real or foreseeable potential to be based on either leasing or mining activity. The five-year time period will not prejudice long-term land use planning programs but actually may benefit such programs by early identification of land requiring designation review. OSM agrees that in some cases a five-year time period is not needed. However, in other cases it will prove to benefit the operator, the petitioner and the State.

One possible benefit of such forecasting and early identification could be the conservation of resources for potential petitioners. By focusing on areas where mining is a real possibility, petitioners can avoid costly and time consuming petitions for areas which will not be affected.

One commenter suggests the concept of "frivolous" be utilized to dispose of petitions where there is no real and foreseeable potential. Frivolous and real and foreseeable potential are two separate concepts with completely different purposes. The "frivolous" standard is utilized to reject a petition lacking serious merit, whereas the "real and foreseeable" standard only suspends the review of a petition until there is a real and foreseeable potential for surface coal mining operations to exist. Merging the two concepts would not be consistent with OSM's intent.

Section 764.15(a)(4) Rejection of Petitions

Previous § 764.15(a)(3), which is renumbered § 764.15(a)(4), has been expanded. It requires petitions to be returned if the regulatory authority determines that a petition is incomplete, frivolous, or that the petitioner has not adequately described his or her specific affected interest and demonstrated the nature of the injury. Incomplete petitions must be returned with a written statement of the reasons for the determination and the categories of information needed to make the petition complete. The provision requiring the return of incomplete petitions is the necessary complement to § 764.15(a)(1). Section 764.15(a)(4) also provides the standard for determining if a petition is "frivolous." Frivolous was proposed to mean that a petition or the allegations of fact and supporting evidence are "trivial, insignificant, or unworthy of serious attention" (47 FR 25302). OSM is adopting language to define a "frivolous" petition as one in which the allegations of harm lack serious merit. The concept of "frivolous" is intended to assist the States in determining if petitions lack merit. This procedure will enable the States to return petitions to the petitioner if the allegations lack serious merit. Petitions not warranting serious consideration can be identified early in the designation process. This process will enable States to allocate their resources more efficiently.

One commenter proposed that OSM adopt criteria similar to the "sufficient merit" test proposed in § 769.14(a)(3) for frivolous. Some commenters supported the "frivolous" provision as proposed. A few commenters opposed the "frivolous" provision on the grounds that it will curb the petitioning process and lead to the

establishment of a subjective petition process. Some commenters thought the use of the word "frivolous" denotes cultural or non-economic values as trivial or unworthy of serious consideration. This interpretation of frivolous was not the intent of OSM. OSM, in proposing a "frivolous" definition, was attempting to comply with the intent of Congress that criteria be adopted to preclude the consideration of frivolous petitions. See Senate Report 95–128, 95th Congress, 1st sess., 94 (1977). Most commenters supported the concept of "frivolous" but did not believe the proposed definition adequately described the process. OSM has defined frivolous in the final regulation to mean that the allegations in the petition lack serious merit. The regulatory authority must carefully evaluate the petition allegations and determine if the allegations have a serious basis for the area being petitioned. The adoption of the "frivolous" standard is not intended to exclude cultural, aesthetic or any other valid set of values from being considered in the petition process. All allegations must stand on their own merit for the specific area being petitioned as unsuitable.

Section 764.15(a)(5) Previously Petitioned Areas

Previous paragraph (a)(4) of § 764.15 is renumbered paragraph (a)(5) and modified to allow the regulatory authority not to consider a designation petition for an area which has been previously and unsuccessfully petitioned that does not contain new significant allegations of fact, together with supporting evidence. OSM is adopting this provision as proposed to provide regulatory authorities the discretion to determine whether allegations for a repetitioned area are nontrivial, substantive in nature, and warrant in-depth review.

Only a few comments were received on this proposal, but these comments were sharply divided. Some commenters opposed discretion for the regulatory authority to choose not to consider the petition. These commenters suggested the phrase "significant new allegations of facts" be defined to prevent ill-advised value judgments by a regulatory authority which would preclude the consideration of the petition. Other commenters recommended that discretion not be allowed and that regulatory authorities be required not to process petitions when no new allegations are presented. These commenters believed this discretion opens the door for the same lands to be subjected to review over and over without a valid reason.

In the preamble for the proposal, OSM characterized "signifi nt" to mean allegations which are nontrivial and substantive in nature, warranting in-depth review (47 FR 25289). This characterization remains valid. The regulatory authority must evaluate the allegations in the previous unsuccessful petition as they relate to the new petition and determine if the new allegations present a basis to re-evaluate the area. Regulatory authorities must have the discretion to decide when areas warrant further review. However, regulatory authorities should not reopen an area for review without just cause.

Section 746.15(a)(7) Timing

Paragraph (a)(7) of § 764.15 was proposed to be renumbered paragraph (a)(8) for editorial purposes. However, in the final rule the section number will remain § 764.15 (a)(7).

Two options for revising the previous regulation were proposed. The previous § 764.15(a)(7) allowed the regulatory authority to proceed with permit decisions if a petition is received after the end of the public comment period. Proposed Option 1 would allow the regulatory authority not to process any petition which pertains to lands for which an administratively complete permit application had been filed and the first newspaper notice had been published. Based on such a determination, the regulatory authority could issue a decision on such a permit application and return the petition to the petitioner with a statement explaining why the regulatory authority could not consider it. This provision was proposed to protect the interests of operators who have invested significant expense and time in preparing and submitting extensive documentation and information required for a permit application. This provision would not be applicable in cases where a permit application is filed for an area after the suspension of a petition due to a determination that no real and foreseeable potential to mine exists. In such cases, the regulatory authority is required to immediately initiate petition review upon receipt of a permit application and not issue any permit until a decision has been made on the petition.

Option 2 would provide, as did the previous rule, that any petition received after the close of the public comment period on a permit application relating to the same permit area will not prevent the regulatory authority from issuing a decision on that permit application. Under this option, OSM redefined "close of the public comment period" to mean 30 days after the last advertisement giving notice of filing of a permit application under § 786.11(a). The previous regulation defined "close of the public comment period" as the close of any informal conference held under § 786.14, or, if no conference is requested, at the close of the period for filing written comments and objections under §§ 786.12 and 786.13. An informal conference must be requested within 30 days of the last advertisement giving notice of the filing, but may be held at an unspecified later date. The close of the period for filing written comments was not specified; the regulatory authority was required only to provide a "reasonable time." Option 2 was proposed in response to concerns that the close of the public comment period, as defined in the previous rules, was too vague for the purpose of implementing the unsuitability process requirements. Other potential cutoff points for the public comment period were also considered.

OSM is adopting Option 1 with only a slight modification which does not change the substance of the provision. OSM is deleting the provision to return the petition to the petitioner in cases where the regulatory authority determines not to process the petition. OSM is also adding the word "insofar," to clarify that the provision applies only to lands for which an administratively complete permit application has been received and the first newspaper notice published. A petition which included lands in addition to those covered by the permit application could be processed for consideration of these other lands. Returning the petition would be unnecessary in such cases.

Several commenters opposed Option 1 because it would allow the regulatory authority not to process any petition received after a complete permit application has been filed and the first newspaper notice has been published. These commenters believed potential petitioners will be unjustly precluded from the petition process because of inadequate knowledge of the permit status. One commenter believes the proposals will undermine the preservation of historic areas.

OSM disagrees with these comments. The provision recognizes the time after which the filing and consideration of a petition will preclude action on a permit application. The new provision will prevent the administrative processing of petitions from being used to impede surface mining operations on lands for which petitioners could earlier have filed petitions. It does not take away the

right for citizen participation, but does set limits on the effects the timing of a petition filing as on a permit application. The petition process is more a general land-use planning tool than it is a means to make site specific decisions. The types of information required, the balancing of interests, the non-adjudicatory hearing and other factors all emphasize the planning nature of the process. Petitioners should be looking ahead to identifying areas which should not be mined, not reacting on a site-by-site basis. The House Committee Report No. 95–218 (1977) on page 95 states "It should be noted that the designation process is structured to be applied on an area basis, rather than a site-by-site determination which presents issues more appropriately addressed in the permit application process." This new rule does not mean, however, that important issues will not be considered or that the public will be excluded in the consideration of permits. The permit review process includes means for citizen input and for consideration of important issues. Permits may be conditioned or denied as needed to meet the requirements of the Act. Thus, although the means for participation and consideration of issues change, they are not eliminated. A further discussion of the impacts of this rule and its alternatives is contained in the "Final Environmental Impact Statement, OSM–EIS–1: Supplement." Volume I, p. IV–44.

Several commenters supported Option 1 because it recognizes the very real implications a petition has on an operator who has expended substantial resources to prepare and submit a complete permit application. One commenter compared this situation to Judge Flannery's holding (described earlier in the discussion of VER) that a "good faith" effort to obtain all permits to mine was sufficient to confer valid existing rights in areas in which Congress prohibited mining. This commenter thought no stricter rule should apply for discretionary prohibitions on mining. A few commenters supported Option 1 but recommended that it be mandatory, not discretionary, for the regulatory authority not to process any petition received which pertains to lands for which a complete permit application has been filed and the first newspaper notice has been published. Some commenters stated that any person really interested in protecting an area from surface coal mining should file a petition and not wait for mining company to begin preparing to permit the area.

The filing of a permit application does not confer statutory immunity from the filing of unsuitability petitions. Such a right exists only where an operation satisfies the criteria set forth in § 762.13. This rule is the result of the reasonable exercise of OSM's discretion in implementing the Act. OSM has determined that the State regulatory authority should have the discretion to consider petitions filed after the publication of the first newspaper notice on a permit application if the regulatory authority believes the area warrants review. But OSM agrees generally that petitions should be submitted at an earlier time and can be so submitted without significantly disrupting the petition process. The final rule will strike a fair balance between the petitioner's interest and an operator's commitment to mine.

One commenter provided OSM with an example of how the previous designation process had delayed a specific permit decision. The petition was filed on the date of the public hearing for the permit application. This timing delayed extensively the completion of a nearly completed permit review. The "timing" provisions adopted in this section will reduce the opportunity for intentionally causing this type of delay by giving the regulatory authority the discretion to not process a petiton filed after a complete permit application has been received and the first newspaper notice published.

One commenter recommended Option 1, but cautioned that it should be consistent with the proposed revisions to the permit regulations which use the concept of "administratively complete". OSM agrees and is adopting the requirement that an administratively complete permit application has been filed.

Another commenter suggested Option 1 be adopted excepting the last proposed sentence which provides for automatic petition review in cases where a petition has been suspended pending real and foreseeable potential. The commenter urged that these conflicts can be addressed during normal permit application review.

OSM rejects this suggestion and has adopted § 764.15(a)(8), described above. OSM's intention in providing for suspension of petitions pending a real need for review is not to circumvent the petition process. The purpose is to review the petition in a more timely manner as the regulatory authority becomes aware that a real and foreseeable potential for mining exists. Petitions that have been suspended under §764.15(a)(3) should generally be processed prior to the permit application review stage, but if they have not, they must be considered on their own merit and according to the petition provisions and not be made part of the permit review process. This does not preclude the two processes from being conducted simultaneously if the regulatory authority wishes.

One commenter was concerned that after an initial petition is rejected, the petitioner could continue to raise new issues in subsequent petitions, thereby blocking permits year after year. OSM agrees that this type of situation would be undesirable and has included several safeguards to help prevent this type of situation, including the provision to allow the regulatory authority to determine not to process any petition received insofar as it pertains to lands for which a complete permit application has been filed and the first newspaper notice published. Also § 764.15(a)(5) allows the regulatory authority to choose not to consider a petition filed for an area which was previously unsuccessfully petitioned if the subsequent petition does not contain significant new allegations of facts with evidence which tends to establish the allegations. This commenter also recommended that OSM adopt a provision that subsequent petitions be considered frivolous and rejected if they make allegations which could have been raised in an earlier petition. Such a restriction would be impractical and unenforceable. Further, it is unreasonable to require a petitioner to have knowledge of all possible bases for a petition. This commenter also urged that for subsequent petitions for the same area there be no "permit block." OSM believes that it has established a reasonable safeguard by providing the regulatory authority the discretion to not process any petition received insofar as it pertains to lands for which an administratively complete permit application has been filed and the first newspaper notice published and in adopting a "frivolous" petition determination and procedures in § 764.15(a)(4). The commenter also wanted the regulatory authority to be given the discretion to require a petitioner to post bond for injury caused any person resulting from a petition being filed if it is subsequently rejected. OSM has rejected this suggestion because Congress intended the lands unsuitable process to be open to public participation. To require the petitioner to post bond would be contrary to the intent of Congress and would preclude

persons with limited financial resources from petitioning.

Several commenters were concerned with protecting operators who have made substantial legal and financial commitments for a surface coal mining operation before the petition to designate the area as unsuitable was filed. One commenter suggested that OSM adopt a requirement that the petition must be filed before the company files notice of exploration. OSM has not accepted this comment, as exploration is often speculative, may be years in advance of mining and does not otherwise provide a reasonable basis for cutting off an important citizen right.

Option 2 also would have amended § 764.15(a)(7) by providing that, if a petition submitted during the public comment period on a permit application (*i.e.*, prior to the filing deadline), is deemed incomplete, the State regulatory authority may allow the petitioner to resubmit the petition within 15 days from the date of rejection, even if the deadline for petition submission has passed. The proposal would have allowed a petitioner, in any case, to submit a revised petition prior to the deadline. Resubmissions after the deadline would have been solely for the purpose of clarifying or refining the materials which were originally submitted; new allegations as the basis of the petition would not be accepted. The proposal was not intended to allow petitioners to correct frivolous petitions or petitions where no apparent effort was made to meet minimum requirements. This proposed option was intended to give petitioners an opportunity to adequately respond to the requirements for completeness in proposed § 764.13. The previous rule did not provide any mechanism for resubmission of incomplete petitions.

A few commenters supported Option 2 based on the increased discretion provided the regulatory authority. The "increased" discretion is the provision that enables the regulatory to allow a resubmission of an incomplete petition in 15 days regardless of the end of the public comment period. Some commenters opposed the proposal because they believe it would encourage petitioners to harass operators. OSM will not adopt this provision due to the increased administrative burden on the States and the possibility of harassment of operators. By making it clear that petitioners have an obligation to submit complete substantive petitions in a timely manner based on the requirements specified in § 764.13(b), OSM is providing an additional incentive for potential petitioners to file as soon as they can reasonably do so.

Section 764.15(a)(8) Permit Decision When Petition Suspended

See discussion under § 764.15(a)(3).

Section 764.15(a)(9) Land Use Planning

Section 764.15(a)(9) was initially proposed in the June 10, 1982, **Federal Register** (47 FR 25301). OSM proposed to allow the regulatory authority to incorporate petitions into State or local land use planning programs provided such programs have protections equivalent to the petition process. To be acceptable for this purpose, a State or local land use planning program would have had to include policies and procedures consistent with those required in Parts 762 and 764 of this subchapter. OSM has decided not to adopt this provision. Commenters raised numerous objections to the proposal, and there was little support for it. No land use program which would meet the criteria set forth in the proposal was brought to OSM's attention.

Many commenters expressed tentative support for the land use planning concept, but raised concerns about how such a broad ranging idea could be effectively administered and monitored. One commenter offered an additional sentence to clarify that the procedure provide for the land use planning process only if it would be completed prior to mining. OSM never intended for this process to allow mining before a determination would be made.

Several commenters opposed the land use planning alternative. Some feared that the proposed process would not provide timely petition decisions and would allow a designation determination to be made in the absence of a petition. These commenters also were concerned that areas subject to land use planning would not receive the same consideration or level of protection as provided for by the lands unsuitable process under Part 764 administered by the State regulatory authority. Another commenter believed this process conflicts with the Act by stifling the narrow-focus petition process in favor of a broad-focus land use planning process. Other commenters asserted that the land use planning process may unnecessarily delay determination decisions and stymie the permit process. A few commenters also believed the provision would lengthen the time for designation decisions and for permit issuance. OSM agrees that an increased delay in either the permitting or petitioning process is undesirable. One commenter was concerned that an operator could begin mining before a land use planning agency had made a determination only to have the land use planning agency declare the area as unsuitable at some later date. This situation would not have occurred because of the requirements which the proposal would have imposed. One commenter suggested regulatory language to clarify the rule. OSM thanks the commenter, but has decided this type of an alternative is clearly too burdensome to adopt.

Given the number of concerns expressed, the lack of support for the proposal, and the apparent absence of any land use planning programs which would meet the criteria in the proposed rule, OSM has decided not to adopt this provision.

Section 764.15(b) Notification and Completeness Procedures

New § 764.15(b) provides additional procedures for public participation in the completeness decision. The final rule is adopted with minor changes from the proposed rule. Specific proposed time periods within which regulatory authorities have to provide notice have not been adopted. The regulatory authority will have to act in a timely fashion, but not within 3 or 5 weeks as was proposed. This flexibility will be useful to the regulatory authorities and is consistent with the Act so long as the time periods specified in section 522(c) of the Act are met. For clarity, the discretionary procedure allowing public involvement in the completeness determination is separately included in § 764.15(b)(2).

Under the new rule, if the regulatory authority desires to conduct a "completeness" hearing or solicit written comments it will be required to inform the specified persons and governmental agencies of the opportunity to request to participate in a completeness hearing, or to provide written comments. A completeness hearing, if scheduled, will be announced by a newspaper advertisement placed in the newspaper providing broadest circulation in the region of the petitioned area and in any State register of public notices. The petitioner is to be notified of the hearing by certified mail. The regulatory authority is required to notify a petitioner whether a petition is complete within 60 days after petition filing, as specified in § 764.15(a)(1). Thus, a regulatory authority may hold a completeness hearing or solicit comments on completeness, but it must reach its decision on completeness within 60 days.

Several commenters opposed public participation in the completeness determination. These commenters generally believed the proposal represents an attempt to afford coal operators an opportunity to confuse and convolute the process intended by Congress to be a simple means of designating certain lands as unsuitable for surface coal mining activities. Other commenters thought the proposed public participation procedures will place a substantial burden on the State regulatory authority. One commenter alleged it is improper to allow anyone to contest the completeness of a petition when only persons having a property interest can petition. Commenters also asserted the proposal runs counter to an effort to reduce burdensome and counterproductive regulations. Other commenters believed a "completeness" hearing will drag out the petition process. However, several commenters supported the proposal to allow the public an opportunity to comment on the completeness of a petition.

The new rule is intended to allow regulatory authorities to provide all interested persons, citizens and coal companies alike, the opportunity to comment on whether the petition is complete. The preamble to the proposed regulation explicitly stated that this process is not to be turned "into a complex battle of evidence and counterevidence over whether the area should be designated." (47 FR 25290). The hearing or written comments should address only the completeness of the petition as it relates to the petition criteria identified in § 764.13(b). This information is not "intangible" and does not call for "arbitrary decisions" as some commenters suggested. While the presence or absence of materials to meet some requirements can be verified easily, such as the requirement for a notarized signature, the presence or absence of allegations and supporting evidence, and similar requirements, is subject to some judgment. The rule allow the regulatory authority the option to allow public participation in the completeness determination. This flexibility to tailor the designation process should not be construed as burdensome or counterproductive, as the regulatory authority has the discretion to adopt or decline this procedure according to its own needs and capabilities. OSM disagrees that a hearing will increase the time required to process a petition. The State regulatory authority is required, regardless whether a hearing is held, in § 764.15(a)(1) to notify the petitioner within 60 days of receipt of the petition whether the petition is complete. The substance of the comment regarding property ownership is moot since OSM is not adopting the property interest restriction as the criterion to determine who has standing.

One commenter was confused as to why some provisions are triggered by receipt of a petition and others by receipt of a "complete" petition. Sections 764.13 and 764.15 provide rules for the designation and termination petition process from the initial receipt of the petition, prior to a completeness determination. It is appropriate to use receipt of the "petition" in these sections because these sections apply to all petitions. There is no conflict in using the word "complete" petition in §§ 764.17 and 764.19. These sections follow in sequence after the completeness determination. If a petition is found to be imcomplete under § 764.15, it will not be eligible for the hearing provided in § 764.17 or a decision as provided in § 764.19.

The proposed § 764.15(b)(2) is renumbered § 764.15(b)(3). Section 764.15(b)(3) requires the regulatory authority to seek relevant information on a complete petition from the general public. The previous rule required the regulatory authority to seek information within 3 weeks of a determination of completeness. The previous time period placed an unneeded administrative burden on the regulatory authority. The final rule requires that the regulatory authority act promptly, but does not specify a particular time period.

The previous regulation also required publication of a newspaper advertisement in the locale of the area covered by the petition, in the newspaper of largest circulation in the State, and in any official State register of public notices. OSM proposed to modify this provision by requiring notice in the newspaper providing broadest circulation in the region of the petitioned area rather than the newspaper with largest circulation in the State. The proposal has been adopted. In the context of this rule, "region" is intended to encompass a wider geographic area than the locale of the area covered by the petition; in any case, the advertisement should be placed in the newspaper generally read by residents of the area potentially affected by the designation petition. This change is intended to accommodate the need for adequate notice to persons with an interest in unsuitability proceedings. Publication in the newspaper of largest circulation in the State does not, in a number of circumstances, reach those persons with an interest in such proceedings. Several comments were received on the type of newspaper in which the notices should appear.

One commenter advised that if Option 2 were selected for § 764.13(b), the newspaper notice should be deleted. Option 2 was not selected. The newspaper notice is needed to request the general public to submit relevant information on the complete petition.

Several comments were received regarding the type and the length of the newspaper notification. One commenter recommended the previous rule be retained which provides one notice for two consecutive weeks within three weeks after the completeness determination is made. One commenter suggested the regulatory authority, in addition to the newspaper notice, furnish copies of the petition to all property and mineral owners. Section 764.15(b)(1) provides for the regulatory authority to provide copies of the petition to interested governmental agencies, intervenors, persons with an ownership interest of record, and other persons known to the regulatory authority to have an interest in the property. There is no need to furnish the copies a second time. Additionally, the petition is available for inspection and for copying during normal business hours at the main office of the regulatory authority. The regulatory authority has several notification and processing requirements to accomplish within a relatively short time period after the petition if filed. Although the time to notify the general public and request submission of relevant information is not being specified other than by a promptness standard, the advertisement is still required once for two consecutive weeks. The notice requirements adopted in § 764.15(b)(1), (b)(2), and (b)(3) are sufficient to ensure that the public will be notified of the petition and will be given an opportunity to provide relevant information.

Section 764.15(c) Intervenors

Previous § 764.15(c) provided that "any person" may intervene in an unsuitability proceeding. The proposed revision would have allowed "any person having a property interest in land or mineral resources which is or may be adversely affected" to intervene in an unsuitability proceeding. This revision was consistent with the proposal for a designation petition. OSM is not adopting the property interest limitation in § 764.13(a), and will not adopt it in this section. The final rule provides for any person to intervene by filing allegations of facts describing how the designation determination will directly

affect the person intervening, supporting evidence, a short statement identifying the petition, and the intervenor's name, address and telephone number. OSM is attempting to provide similar requirements for persons filing designation petitions or termination petitions and for intervenors in an effort to be consistent to all persons potentially involved in the process.

Many commenters advanced identical arguments for the property restrictions proposed for standing to petition, addressed in § 764.13(a), and standing to intervene. Rather than reiterate those responses here, they are in the discussion of § 764.13(a). A few commenters urged that "standing requirements" for intervenors be consistent with those adopted for designation petitioners. OSM agrees. OSM is adopting standing requirements consistent with those enunciated by the Supreme Court for both designation and termination petitions. Because the comments support consistent criteria to determine standing for petitioners and intervenors, OSM is adopting the same standard for intervenors.

One commenter stated the time period allowing an intervenor to file should be three weeks instead of three days before the hearing held pursuant to § 764.17. The commenter believed 3 days will not allow the regulatory authority adequate time to prepare for the hearing. However, there is no requirement for the regulatory authority to address such filings at the hearing. Accordingly, OSM believes that three days is not a significant burden to the regulatory authority and will provide the broadest possible citizen input.

Section 764.15(d] Petition Record

Previous § 764.15(d) required the development, maintenance, and availability of a public record both at a central location of the county or multicounty area in which the petitioned land is located and at the main office of the regulatory authority. OSM has received a number of questions regarding the practicality and desirability of maintaining more than one complete public record for each petition. OSM proposed and is adopting a provision that requires the complete record be available to the public for inspection free of charge and for copying at reasonable cost, during all normal business hours at the main office of the regulatory authority. The regulatory authority will also be required to maintain information in or near the area in which the petitioned land is located. This information, at a minimum, will include a copy of the petition and must also be available for inspection and copying. OSM also considered but will not adopt the requirement that copies of the petition be mailed to interested persons and that other information be made available at no expense. OSM believes this requirement would be both burdensome and costly to the State regulatory authority.

Commenters generally supported the proposal to maintain one complete record located at the main office of the State regulatory authority and a partial record consisting, at a minimum, of a copy of the petition at or near the area in which the petitioned land is located. OSM agrees that it is more practical for the regulatory authority to maintain one complete record which is available for public inspection and for copying at a reasonable cost. One commenter noted that mailing copies to the general public or interested persons may at times be necessary. OSM will not require the regulatory authority to make copies for anyone. The regulatory authority is required to make the information available at the specified locations for inspection and for copying at a reasonable cost. Regulatory authorities may not have the additional time or resources required to comply with unlimited public requests for research and copying.

Section 764.17: Hearing Requirements

Section 764.17(a) Hearing Procedures

Previous § 764.17(a) required a legislative hearing be held after receipt of a complete petition. OSM proposed three options that would amend the previous requirement that hearings be purely legislative in nature. Each of the three options proposed that a record of the hearing be made and preserved according to State law, and that no relevant part of the data base and inventory system or public comments would be excluded from consideration in decisions on the petition. Nonrelevant portions of the data base and inventory system have no bearing on the decision and should appropriately be excluded. Factual challenges to the relevant portions of the data base and inventory system would be allowable.

The differences among the three options pertained to subpoena of witnesses, cross-examination of witnesses and burden of proof. Option 1 would have provided that no cross-examination of witnesses would be allowed. Such a provision was included in the previous rules in response to concern that cross-examination procedures would intimidate some interested or affected parties, thus discouraging public participation and cutting off sources of potentially valuable information. Option 1 also had no provision to subpoena witnesses. This option also provided that no party would bear the burden of proof or persuasion.

Option 2 provided for the regulatory authority to subpoena witnesses as necessary and for cross-examination of expert witnesses. Under this option, only those persons qualifying and testifying as expert witnesses would be subject to cross-examination. In addition, the prohibition against imposing a burden of proof on any party would have been deleted, giving the regulatory authority discretion to determine who, if anyone, should bear this responsibility.

Option 3 would have provided for subpoena and cross-examination of all witnesses as an acceptable procedure. The regulatory authority and any party to the petition would have been allowed to cross-examine any or all available witnesses. Additionally, the burden of proof would have been assigned to the petitioner.

Options 2 and 3 provided regulatory authorities with the flexibility to employ a broader range of hearing procedures. These attributes of quasijudicial hearing procedures are viewed by some States as desirable for resolving factual disputes, assuring due process for landowners where property uses may be limited, and for developing a more complete record by eliciting more information during the hearing.

OSM also proposed to revise the time from when the 10-month period begins for holding the public hearing required by the Act. Options 1, 2, and 3 and previous § 764.14(a) all required the hearing to be held within 10 months of the receipt of a complete petition. Under this variant, the hearing would have to be held within 10 months after the petition is determined to be complete. The completeness determination can come as long as 60 days after the petition is received. OSM was concerned that a detailed study of a complex petition may require a full 10 months; therefore, the time extension was proposed to allow the regulatory authority to wait until after the completeness determination to begin such a study and still have a full 10 months before the hearing. This variant has not been adopted.

OSM has decided to adopt a modified version of Option 2 that provides:

1. All relevant parts of the data base and inventory system and all public comments received shall be included in the record.

2. The regulatory authority may subpoena witnesses.

3. Only expert witnesses may be cross-examined.

4. No person will bear the burden of proof or persuasion.

5. The hearing must be held within 10 months of the receipt of a complete petition.

Although an informal legislative-type hearing meets the requirements of the Act, some of the techniques of formal hearings can be useful in clarifying factual issues. The inclusion of only some of these techniques in these final rules is based, in part, upon Congressional intent to encourage broad citizen participation and to ensure that decisions are based on all relevant information available.

Commenters were sharply divided on whether the hearing should be "of record." Some commenters believed an informal hearing would provide the best atmosphere for discussions involving conflicting value determinations. Other commenters wanted more formal procedures to document decisions that affect the availability of valuable resources and possibly terminate property rights of certain persons. OSM is adopting a hearing "of record" according to applicable State law. Information received relevant to the petition decision should be preserved and available for review.

One commenter stated that a hearing "of record" poses serious procedural problems when entering the entire data base and inventory system. The commenter contended this process will be costly and time consuming. The commenter opposed the regulatory authority discretion to exclude from the record non-relevant portions of the data base and inventory system. Other commenters recommended that the parties directly involved in the petition process be allowed to stipulate what parts of the date base and inventory system should be made part of the record. OSM believes a complete record of relevent information pertaining to designation decisions must be preserved for future review and agrees that entering the entire data base and inventory system could be overly burdensome. The regulatory authority is in an objective position to decide the relevance of the information contained in the date base and inventory system to the specific petition. One commenter also expressed concern that the regulatory authority would have to defend the data contained in the data base and inventory system. The purposes of the record is not to defend the data base, but to preseve a complete record of the data relevant to the petition decision for review by the public and the courts. Regardless of any record requirement, the regulatory authority is responsible for properly evaluating the capacity of the petitioned land areas to support and permit reclamation of surface coal mining operations based upon an adequate data base and inventory system.

One commenter supported subpoena authority for the States as a way to dissuade frivolous and unwarranted petitions from being filed. OSM is providing subpoena authority because States should have the ability to subpoena witnesses who may have information relevant to the petition and may othewise be unavailable. It is not intended to discourage the filing of any serious petition.

Comments were distinctly divided on the cross-examination options. Some commenters urged that cross-examination not be adopted due to possible intimidation of some witnesses. Other commenters wanted to allow cross-examination only of expert witnesses. These commenters believed that experts have a more substantial basis for their testimony and are better qualified to deal with cross-examination procedures. The commenters believed non-expert witnesses should be able to come forward and voice an opinion without the threat of intimidation. Other commenters urged that cross-examination be allowed for all witnesses. These commenters asserted that cross-examination of all witnesses will provide the regulatory authority a direct means of fact-finding from any party involved in the petition process.

Expert witnesses generally do present information of a more substantive nature and are better prepared to testify on specialized or highly technical aspects of the specific conditions alleged by the petition. Therefore, OSM is adopting a provision allowing for cross-examination of expert witnesses only. OSM believes this provision will allow the States adequate opportunity to clarify relevant facts while encouraging broad citizen participation.

Commenters were similarly divided on assigning the burden of proof. Some commenters argued that the petitioner should be required to prove the allegations made in the petition. They asserted that some hearing procedures do assign such a responsibility and that there are at least two reasons for assigning the burden of proof to the petitioner: (1) such a responsibility would discourage frivolous petitions, and (2) it would tend to minimize the disruption that the filing of a petition has on the permitting process. Other commenters believed that petitioners, if assigned the burden of proof, would be severely impaired in their ability to participate in the designation process.

If the burden of proof were to be assigned to petitioners, the petitioning process might be closed off to citizens with limited resources. OSM wants to provide for broad citizen participation in proceedings that encourage disclosure of a full set of facts. Moreover, the petition process resembles long range planning, and provides for the weighing and balancing of many factors. The regulatory authority is required to consider many competing interests. Thus it is inappropriate to assign burden of proof or persuasion to the petitioner or any other person.

Only a few commenters supported the proposal to extend the time to conduct the hearing. These commenters believed the extended time would allow a more complete technical study. The majority of commenters opposed the proposal. These commenters contended that the proposed extended time to conduct the hearing is contrary to the time provision contained in section 522(c) of the Act. The Act specifically provides for the hearing to be conducted "within 10 months after receipt of the petition." OSM agrees that the proposal to extend the time is inconsistent with the Act and the proposal is not being adopted. Another commenter suggested providing more flexibility for the hearing deadline by adding a provision to allow the 10 month deadline to be waived by the petitioner and other interested parties. This alternative is also inconsistent with section 522(c) of the Act, and has not been accepted.

Section 764.17(b) Hearing Notification

Previous § 764.17(b)(1)(iii) required notice of the public hearing to any person who has an ownership or other interest known to the regulatory authority in the area covered by the petition. The proposal required notice only to persons with a property interest of record in the property covered by the petition and other persons known to the regulatory authority to have an ownership interest in the property. It also provided that notice to persons with an ownership interest of record be made according to applicable State law. This proposed change was intended to limit notification under § 764.17(b)(1)(iii) to persons who have a know property interest and to delete the somewhat vague "other interest" category. OSM has decided to adopt a final rule requiring notice to persons with known property interests in the petitioned area.

Proposed § 764.17(b)(2) provided that notice of the hearing be sent by certified mail to petitioners and intervenors only.

Property owners and government agencies would receive notice by regular mail postmarked at least 30 days before the scheduled hearing date. The previous requirement provided for notices of the hearing to be sent by certified mail to any person required to receive notice. The revision is being adopted as proposed. To require notification by certified mail, other than to those persons who have a direct stake in the petition, has been found by OSM to be burdensome and costly for the regulatory authority.

Only a few comments were received for proposed changes to § 764.17(b). Most commenters supported the proposal to notify only the petitioners and intervenors by certified mail. Some commenters seemed to believe the proposal would limit notification only to persons with a known property interest. One commenter suggested notice be made according to applicable State law. The proposal does not limit notification to persons with a known property interest. In addition to the notification requirement of § 764.17(b)(1)(iii), the requirements of § 764.17(b)(1) (i) and (ii) apply. Notice of the hearing must be provided to petitioners and intervenors and to interested government agencies. Moreover, the general public is notified by newspaper advertisement.

Section 764.19: Decision Procedures

Section 764.19 sets forth procedures to be followed by the regulatory authority in deciding whether to designate lands unsuitable for mining. OSM proposed changes to §§ 764.19(a)(3), (b), and (c). Section 764.19(a)(3) was proposed to be amended by clarifying that in reaching a decision, the detailed statement required by § 764.17(e) on the coal resources, demand for coal, and impacts on the area will be considered only when it is prepared pursuant to section 522(d) of the Act prior to a designation of unsuitability. This change was proposed to reflect the wording of section 522(d) of the Act, which states that the detailed statement shall be prepared prior to designating any land area as unsuitable for surface coal mining operations. The change clarifies when the detailed statement is required. The proposed change is being adopted in the final rule. Three comments were received. All supported the proposal that the statement should only be prepared for those petitions which will cause a designation action. One noted that this change will result in significant cost savings for the regulatory authority.

Section 764.19(b) was proposed to be amended by eliminating the requirement that the decision be sent by certified mail to every party to the proceeding and the Regional Director (OSM), as this could be burdensome and costly. This proposal has been adopted. The amended section requires that the decision be sent by certified mail to the petitioner and intervenors and by regular mail to all other persons involved in the petition. The requirement to furnish a copy of the decision to OSM has been deleted, as it duplicates reporting requirements being developed for oversight of approved State programs. Section 764.19(b) also requires a decision within 12 months of receipt of a complete petition if no hearing is held. The proposed rule would have required that where no hearing is held, the decision must be made within 12 months after a petition is determined to be complete. The proposal was intended to allow the regulatory authority to adopt a broader review for completeness without reducing the time to study a petition. This portion of the proposal has not been adopted.

The majority of commenters stated their support of the previous rule which provides for the decision to be made within 12 months after receipt of a complete petition. These commenters urged that the time allowed for the completeness hearing is not an addition to the total time allowed for the determination. Some commenters believed the proposed rule would serve only to further delay the decision. One commenter supported the proposal because the additional time would decrease some of the administrative burden on the regulatory authority. OSM will not adopt the proposed extended time period.

Section 522(c) of the Act specifies a time period not to exceed one year for a designation decision. Congress did not intend for the designation process to continue longer and the legislative history speaks to the concern about delaying the permit process.

The other proposed change for § 764.19(b), providing certified mailing of the decision only to the petitioner and intervenor, received support from the majority of commenters. Commenters generally stated that mass certified mailing of the decision is extremely burdensome and costly for the regulatory authority. No commenters opposed the proposal. OSM will adopt the proposal in an effort to alleviate some of the administrative burden on the regulatory authority.

Section 764.19(c) provides that State regulatory authority decisions with respect to a petition, or failure to act within time limits set forth in § 764.19(c), be subject to judicial review by a court of competent jurisdiction. An amendment was proposed to require that all relevant portions of the data base and inventory system and public comments received during the public comment period be included in the record of the administrative proceeding. This proposed change is being adopted. It is necessary to ensure that courts review the record as a whole in making their findings as required under Section 526 of the Act. A corresponding change is being made in § 764.17(a) to ensure that all relevant parts of the data base, inventory system, and public comments be included in the public record.

Commenters supported the proposal to include all relevant portions of the data base and inventory system and public comments in the record. These commenters believed that all data used in the decision process should be available for public review and for judicial review. OSM is adopting the proposal to ensure that all the information germane to the designation decision is of record and available for review.

One commenter urged OSM to provide for immediate judicial review of designation decisions. OSM did not propose to change this provision. The commenter stated that the existing rule provides for eventual review when a permit application is rejected on the grounds that the permit area includes an area designated unsuitable for mining.

Section 764.19(c) already provides for judicial review by a court of competent jurisdiction in accordance with State law under Section 526(e) of the Act and soon to be revised 30 CFR 775.13 of a State regulatory authority decision with respect to a petition or the failure of the regulatory authority to act within the specified time limits. There is no requirement for a prior administrative review, but a regulatory authority may logically provide for such review if it wishes. Therefore, no change is being made to this section. Another commenter suggested two new subsections for Section 764.19 to provide bonding requirements for the petitioner. OSM did not propose "bonding requirements" for petitioners; therefore, the issue is outside the scope of this rulemaking. As indicated earlier, it could also limit participation by the public in the petition process.

Section 764.23: Public Information

Section 764.23(a) requires the regulatory authority to make the information and data base system developed under § 764.21 available to the public for inspection free of charge and for copying at a reasonable cost. OSM proposed and will adopt the

amendment to modify public disclosure requirements regarding historic resources information. These changes comply with section 304 of the National Historic Preservation Act Amendments of 1980 (Public Law 96-515) and afford regulatory authorities the discretion to withhold historic resources information from the public where disclosure would expose the resources to risk of harm or destruction. The change will encompass all protected cultural and archeological sites proposed to be nominated to, or listed on the National Register of Historic Places. The regulatory authority, with the assistance of the State Historic Preservation Officer, will make the determinations regarding the withholding of such information and which information must be disclosed when a potential designation for unsuitability rests primarily on an allegation based on that data. This change was made in conformity with the National Park Service Interim Rules on the National Register of Historic Places (46 FR 56191, Nov. 18, 1981; 36 CFR 60.6(x)). All comments supported the proposal. The commenters believed the proposal is consistent with section 304 of the National Historic Preservation Act of 1966, as amended, and stated the proposal provides the required protection of these places from risk or harm.

Section 764.25: Maps

Section 764.25 was proposed to be amended by requiring States to maintain maps "or other unified and cumulative record" of areas designated unsuitable for all or certain types of surface coal mining operations. The previous rule provided that the regulatory authority must maintain maps of designated areas. The change is being adopted to provided regulatory authorities with additional flexibility concerning the type of records to be maintained. Commenters supported the proposal. The commenters urged that a mapping system alone is too limited. However, two commenters recommended a State or local "land use planning" amendment to accompany the proposed requirement. OSM is not adopting the "state or local land use planning" amendment. OSM has decided not to incorporate a state or local land use planning process into the designation process. The discussion for this issue is in the preamble for Section 764.15(a)(9).

Part 765

OSM is removing all of Part 765, consisting of §§ 765.1, 765.11, 765.12, and 765.13. This part contained provisions for designating lands unsuitable under a Federal program for a State. The substantive provisions of this part are generally covered by Part 736, Federal Program for a State. By adding to Part 736 the requirement to implement a program for designating lands unsuitable one year after a Federal program is established (with the exceptions noted under § 736.15), all of Part 765 becomes unnecessary. The change to Part 736 is discussed earlier in this preamble.

Part 769—Petition Process for Designation of Federal Lands as Unsuitable for all or Certain Types of Surface Coal Mining Operations and for Termination of Previous Designations

Part 769

Revised 30 CFR Part 769 modifies the previous petition process for designation of Federal lands as unsuitable for mining and for termination of such designations. The process is similar to that required of States in revised 30 CFR Part 764, but with such changes as are needed to reflect the differences between Federal and non-Federal lands, and the organization and management of the process within the Department of the Interior. This section of the preamble discusses in detail only those changes to the rules on Federal lands which are not equivalent to changes for non-Federal lands. Comments which were received on Part 769 that also apply to the revisions to Part 764 are discussed in the preamble to Part 764.

The most significant issue discussed in the proposed rule was whether the petition process applies to Federal lands. That is, should persons having an interest which is or may be adversely affected by surface coal mining operations be allowed to petition to have Federal lands designated as unsuitable for such operations? OSM requested the public to consider two major alternatives on this issue. The first alternative, which OSM has adopted, was to streamline but retain the petition process. The second alternative would have eliminated the petition process for Federal lands. Comments were sharply divided on this issue. Several commenters suggested deleting the entire Part 769 (petition process on Federal lands) for the reasons OSM cited in the preamble to the proposed rule supporting that alternative, and for other reasons. Other commenters suggested that Congress intended that there be a petition process on Federal lands and therefore recommended its retention.

OSM has decided to retain the petition process for Federal lands. In addition, the Secretary of the Interior has directed OSM and the Bureau of Land Management (BLM) to develop another alternative to administering the petition process. That alternative is expected to be proposed by BLM contemporaneously with the issuance of this final rule and would consist of a method of determining the suitability or unsuitability of land for surface coal mining through the land use planning process, because such a process would ensure consideration of unsuitability in a broader context than the site-specific focus of a petition. The new alternative would permit the unsuitability issue to be considered prior to significant expenditures of funds and labor by the Department (through the conduct of the leasing process), industry (through participation in the leasing process and in the preparation of permit applications), and citizens (through having to respond to two different processes). The final rules for Part 769 adopted today will remain effective until a final decision is reached on whether and how the Act's requirements for designating Federal lands unsuitable for surface coal mining operations can be further integrated into the land use planning process administered by BLM.

The Department of the Interior agrees with the commenters who stated that the permit application review process allows a decision to be made with complete and detailed data available prior to mining on specific areas and that by incorporating the petition process into the BLM land use planning process conflict could be avoided and better public participation would result. It is for that reason that the Secretary has directed the development of the new alternative. The Department of the Interior believes that uniform planning and advance conflict resolution are desirable.

Several commenters expressed concern for designation of Federal lands on "checkerboard" areas of intermingled Federal and non-Federal lands. One commenter stated that without joint, simultaneous consideration of unsuitability by State and Federal government agencies of checkerboard areas, they might make their unsuitability decisions at different times and based upon different data. Experience indicates that the previous petition process on land with intermingled Federal and non-Federal ownership has created that very problem. The Red Rim petition, for example, covers both Federal and private land in the State of Wyoming, and was originally received by the State for the intermingled private land only. In that situation, there has been joint, simultaneous consideration of the

intermingled Federal land. Retention of the petition process will allow such joint considerations to continue.

One commenter proposed that the unsuitability regulations be revised to allow the Secretary to use his discretion to enter into an unsuitability analysis on intermingled Federal lands when State lands have been petitioned. The new alternative to be proposed by BLM would allow for this through land use planning. Further, State-Federal cooperative agreements developed pursuant to section 523(c) of the Act would allow joint action, or a State lead, as long as the Secretary retained the final decision.

Another commenter recommended that if the petition process is retained for Federal lands, it should be more closely coordinated with land use planning, as was recommended in the proposed rule. OSM and BLM agree and are working closely to coordinate the petition process with land use planning.

A commenter thought that even if OSM selected the alternative in the proposed rule which does not eliminate the petition process, citizens would be prevented from petitioning to stop mining on Federal land, making it more difficult to block environmentally threatening mining projects. OSM disagrees. Citizens will not be prevented from petitioning under the revised rule, particularly in view of the modifications made from the proposal that parallel those made in Part 764.

Several commenters thought that petitioning is the best form of public input in the decisions as to which lands should be designated as unsuitable for surface coal mining and that it is important that citizens, as owners of public lands, have a voice in their use or potential abuse. Another commenter thought that formal citizen participation occurs during land use planning when BLM, through notice in the **Federal Register**, calls for Coal Resource Information (43 CFR 3420.1–2(a)). In addition, during land use planning, qualified surface owners are consulted throughout the process for their consent or refusal to permit mining on their lands (43 CFR 3420.1–2(e)(4)(i)). Any qualified surface owner unwilling to consent to mining on his land of coal owned by the United States is protected by section 714 of the Act and his land is subsequently dropped from further consideration for leasing. Another commenter stated his belief that collectively, mine plan reviews, NEPA studies, BLM's review and the Secretary's review are the full equivalent of the citizen petition process. OSM agrees with the need for strong citizen participation, and because Congress provided the petition process as a unique and significant form of citizen involvement, has retained the petition process in the final rule.

One commenter stated that in an unsuitability action on Federal lands, OSM would rely on the same agencies that prepared the land use plans to assist in the evaluation of and to receive guidance on the technical issues brought forward in the petition; and that it is to be expected that these agencies would develop positions based on their land use planning activities, which assess unsuitability criteria in relation to coal leasing potential. OSM-administered unsuitability petitions, the commenter added, are therefore unnecessary. The Secretary agrees with this comment, and for that reason has directed the creation of a new alternative in which BLM would be responsible for the petition process.

Another commenter gave the following as justification for eliminating the petition process: Section 522(a) of the Act, which pertains to State programs, or Federal programs imposed in lieu of a State program, provide for unsuitability petitions, referring to section 522(c) of the Act. Section 522(c) provides that a person whose interest may be adversely affected has the right to file a petition to designate lands unsuitable for surface coal mining operations with the regulatory authority. There is no mention of the Secretary or OSM Director.

The commenter continued that section 701(22) of the Act defines "regulatory authority" as:

> [T]he state regulatory authority where the state is administering this Act under an approved state program or the Secretary where the Secretary is administering this Act under a Federal program.

This definition does not include the Federal lands program, which applies to Federal lands. Furthermore, section 701(6) of the Act defines "Federal program" as:

> [A] program established by the Secretary pursuant to [s]ection 504 to regulate surface coal mining and reclamation operations on lands within a state in accordance with the requirement of this Act.

The comment concluded that section 504 of the Act pertains to a Federal program when there is no State program and does not refer to the Federal lands program which is covered by section 523 of the Act.

The commenter further argued that this interpretation appears confirmed by the Conference Report (page 110–111) which states:

> State regulatory programs must include a responsible process to respond to petitions to designate areas unsuitable for all or certain types of surface coal mine operations and criteria and procedures for designation are set forth.

With respect to such designation of Federal lands, the report references section 522(b) and notes that it provides that "The Secretary shall conduct a review of the Federal lands to determine * * *." The only reference to the Secretary and the petition process is when the Secretary promulgates a Federal program for a State.

The commenter then concluded that it was clear from the language of the Act that Congress only intended for the petition process to designate lands as unsuitable for surface coal mining operations to apply to lands subject to a State program or a Federal program imposed in lieu of a State program, neither of which cover Federal lands.

Other commenters cited legislative history to support the retention of the petition process for Federal lands. Specifically, Senate Report, Number 95–128, 95th Congress, 1st Session 54 (1977), states that:

> A decision to permit surface mining of coal is a land use decision, and as such may at times conflict with other demands on scarce or valued land resources. For this reason, *the bill provides for a mechanism—on both State and Federal lands—for citizens to petition* that certain areas be designated unsuitable for surface coal mining (emphasis added).

House Report Number 94–45, 94th Congress, 1st Session 206 (1975) states that:

> The Secretary of the Interior is to review Federal lands and make some determinations based on the standards set forth above. Any person having an interest which may be adversely affected *may petition either the State or Federal Government to have an area so designated or to have a designation terminated* (emphasis added).

OSM has decided to retain the process to meet many of the concerns of these commenters.

One commenter stated that the Federal lands review process is adequate to protect lands that are not suited for mining; Part 769 should therefore be eliminated from the rules, thereby delegating the review process for Federal lands to BLM with input from and coordination with the various land managing agencies. Conversely, another commenter stated that if OSM decides to delete the petition process for Federal lands, the regulations should reflect the requirement that any determination of unsuitability must be based on all of the criteria of section 522 of the Act; and that the Secretary cannot merely mimic or adopt the BLM Federal lands review determination. The

Secretary disagrees with these comments because they confuse two separate requirements of section 522 of the Act. Section 522(b) requires the Secretary to conduct a review of Federal lands to determine whether certain areas should be designated as unsuitable for all or stipulated methods of coal mining. Section 522(c) provides persons having an interest which is or may be adversely affected with a right to petition the regulatory authority to have an area designated as unsuitable or to have such a designation terminated. The Secretary, however, agrees that these two processes should be coordinated more closely, and has directed the BLM to develop an alternative regulatory approach which would incorporate the petition process into the BLM land use planning process. The BLM proposed regulations are being published contemporaneously with these final regulations.

Section 769.3 Authority.

As proposed, this section has been deleted to streamline the chapter by eliminating redundant and unnecessary provisions.

Section 769.4 Responsibility.

As proposed, this section has been deleted to streamline the chapter by eliminating unnecessary provisions.

Section 769.7 Regulatory policy.

As proposed, paragraphs (a) (c), and (d), which established procedures for maintaining maps, review of permanent program permit applications and review of interim program mining plans, have been removed because they are unnecessary. Paragraph (b), which requires that mining be prohibited or limited in areas designated as unsuitable, has been revised, as proposed, to remove the term "mine plan," which no longer is used under the revised rules for Federal lands. Paragraph (b), as proposed, has been placed in the last paragraph of § 769.19.

Section 769.11 Who may submit a petition.

This section, which contains the provision known as "standing" or "interest," enables any person having an interest which is or may be adversely affected by surface coal mining operations to be conducted on Federal lands to petition the Secretary to have an area designated as unsuitable for all or certain types of surface coal mining operations or to have an existing designation terminated. In addition, for the purpose of the section, a person having an interest must pass an "injury in fact" test that requires the party seeking review to be among the injured and to demonstrate what the injury is and how the injury adversely affects him. A discussion and analysis of the comments received on standing may be found in the preamble to Part 764. Although this section was not proposed for revision in the proposed rule, it has nevertheless been revised, for consistency, to reflect related changes in revised § 769.13 which was proposed for revision.

Section 769.12 Where to submit petitions.

As proposed, this section has been revised to reflect OSM's September 13, 1981, reorganization.

Section 769.13 Contents of petitions.

OSM proposed two options for revising the content requirements for petitions to designate areas unsuitable for mining. Option 1 was intended primarily to focus and clarify what information is needed. Option 2 would have imposed additional requirements on the petitioner. The regulation being adopted today is a combination of the two options, and is identical to the provision being adopted for State unsuitability processes. Rather than repeat the language from the State requirements, it has been cross-referenced. The comments received and the rationale for the requirements adopted are discussed in the preamble to Part 764.

Revisions proposed for the content of termination petitions were intended to focus the information needed to make informed decisions on such petitions. The changes proposed were parallel to those proposal for State termination petitions. The final regulation is identical to the State requirements, and the language of the State requirement has been included by cross reference. The comments received and the rational for the requirements adopted are discussed in the preamble to Part 764.

Section 769.14(a) Initial processing, recordkeeping, and notification requirements.

In order to improve coordination between the petition process and the BLM land use planning and coal leasing processes, OSM proposed that a petition, to be accepted, would have to meet criteria for completeness, ripeness and sufficient merit. Under the proposal, to be complete, a petition would need to contain all of the information required by § 764.13 (b) or (c). To be ripe, there would have to be real and foreseeable potential for mining within 5 years; that is, the petitioned area would have to be leased, subject to a preference right lease application, included in an area for which land use planning has been completed and the tract was available for further consideration for leasing, or subject to non-competitive leasing. Under the proposed rule, to have sufficient merit, the petition would have to include new allegations and evidence not considered in a previous petition or Federal lands review, demonstrate that the petitioner has interests which are or may be adversely affected by surface coal mining operations and include lands containing mineable coal or lands which would be subject to impacts incident to an underground coal mine.

The final rule includes all of the concepts expressed in the proposal; however, they have been edited and reordered and the term "sufficient merit" has been dropped. Those items previously included under sufficient merit are now covered under "completeness" and "frivolous" criteria. The demonstration of impact on the petitioner's interest and requirements for new allegations and evidence where lands have been previously considered in a petition or Federal lands review are now included under the completeness criterion. If the petition area does not include mineable coal or lands which would be subject to surface impacts from underground mines or adjoining surface mines, the petition will be considered frivolous.

The language proposed for § 769.14(a) is being adopted with minor changes to reflect elimination of the term "sufficient merit", inclusion of the term "frivolous" and the non-adoption of the proposed requirement in § 769.14(e) for a "completeness" hearing by shortening the time limits for a decision from 60 days to 30 days. No comments were received on this proposed change.

Completeness

The language proposed for the meaning of the word "complete" § 769.14(a)(2) has been expanded to cover the requirement that a petitioner submit new significant allegations of fact and supporting evidence not considered in any previous unsuccessful petition or Federal Lands review conducted under Section 522(b) of the Act. This had been proposed as part of the "sufficient merit" criterion. Although the wording of this requirement has been modified from the proposal, no substantive change is intended.

The proposed revisions included language under "sufficient merit" for termination petitions which would have required significant new evidence not considered in a Federal lands review. One commenter stated that this

requirement should not be adopted since a termination petition seeks to reverse the decision made in response to a designation petition. The designation petition evaluation would consider any evidence provided by the Federal lands review conducted by the land management agency, but this evidence would become part of the designation evidence. The proper procedure then, the commenter suggested, is for a termination petition to contain significant new evidence not evaluated in the designation process. The same commenter stated further that the wording of the proposed rule created confusion since it could be misinterpreted to mean that a termination petition is somehow used in an attempt to reverse an unsuitability assessment by a land management agency. The commenter reasoned that this would be a totally incorrect interpretation under the current division of responsibilities between BLM and OSM, since OSM is not bound to act on BLM's assessment in land use planning with either a designation or a termination petition. The commenter then suggested that a new paragraph was needed which would require a termination petition to contain significant new evidence not considered in the designation petition evaluation. OSM agrees and has made the appropriate revision, which is now contained in the completeness criterion and is part of the information required under § 764.13(c).

Another commenter cited the existing regulation as already authorizing rejection, as Congress intended, of frivolous and incomplete petitions. The commenter argued that nothing in section 522(c) of the Act supports the additional "merit" criteria that have been proposed. OSM agrees that no separate "merit" criterion is specifically mentioned by Section 522(c), and that the use of the term could imply judgments that are not appropriate at this stage in the petition process. The term has therefore been dropped. However, the requirements covered under the proposed "sufficient merit" criterion are relevant and useful as measures of completeness and seriousness; they are now included under the "complete" and "frivolous" criteria. This commenter also stated that the sufficient merit requirement regarding standing for petitioners is inappropriate, as the Act authorizes only the "adversely affected" criterion. The issue of standing is addressed in the discussion of comment for § 764.13(a). Material required to demonstrate the standing requirements which are being adopted is listed in § 764.13(b), *Contents of petitions*. The initial processing requirements for this material, therefore, have been moved to the criteria for "complete" petitions.

Another commenter stated that to avoid abuse by multiple petitions, the regulatory authority should have the authority to deny future petitions on the grounds that the later petition could have been included in an earlier petition. While OSM is deeply concerned about the potential problem of multiple, serial or successive petitions, denial of future petitions would be a highly questionable solution. It would be unreasonable to require that a potential petitioner know of all possible grounds for a petition. The range of issues which might appropriately merit consideration through the petition process is broad and complex, and generally would not be known to potential petitioners. To require such knowledge would deny the petition process to most citizens, which is clearly contrary to the specific language of Section 522(c) of the Act which allows "Any person having an interest * * * shall have the right to petition * * *". Further, such a restriction would preclude the use of information developed at a later date which is relevant to the issue.

Ripeness

Another major issue discussed in the proposed rule concerned the integration of the petition process with land use planning. Proposed § 769.14 stated that, with certain exceptions, petitions would be accepted only if a "real and foreseeable potential exists for surface coal mining operations to occur within 5 years on the lands subject to the petition." In addition, ripeness, as defined in the proposed rule, would mean that formal land use planning by the land management agency had been completed for the area being petitioned, that the petitioned lands are subject to a Federal coal lease, that the area was covered by a Preference Right Lease Application (PRLA) lease issued prior to 1979 or that the area is subject to noncompetitive leasing.

The rule adopted states that ripeness, for a designation petition, means that the petitioned lands are (i) subject to a Federal coal lease; (ii) included in a tract for which land use planning has been completed and which tract is available for further consideration for Federal coal leasing; (iii) not required to be leased because the mineral rights are not owned by the United States; or (iv) subject to surface distubances over unleased Federal coal.

In commenting on this issue, one commenter suggested that the revised rule should only contain two of the four ripeness criteria that were listed in the proposed rule so that real and foreseeable potential would mean that petitioned lands are A) subject to a Federal coal lease; or B) included in a tract for which land use planning has been completed and which tract is available for further consideration for coal leasing. Since PRLA's would continue to have the unsuitability criteria of 43 CFR 3461 applied to them during processing, it would be premature to accept a petition on PRLA land prior to the completion of the application of the criteria (which is usually done during land use planning). In addition, the commenter suggested the deletion of the ripeness criterion that included lands subject to noncompetitive leasing procedures since even noncompetitive leasing usually only takes place in areas with a completed land use plan. OSM agrees with the commenter and has accordingly deleted the two criteria.

Several commenters thought that the ripeness provision and the related preamble discussion needed clarification of the proposed five year limitation; for example, the proposed revision stated that "petitions would be accepted only if a real and foreseeable potential exists for surface coal mining operations to occur within 5 years on the lands subject to the petition." Literally interpreted, one commenter continued, this language would force a petitioner and the government to forecast the date of commencement of mining operations—a date which only the lessee/operator is reasonably sure of. An error in predicting the date of mining operations, the commenter reasoned, could result in embarrassment to the governement. Federal coal leases are issued with a requirement that the lessee produce commercial quantities of coal within 10 years of lease issuance (diligence); mining operations could therefore commence during any of the 10 years. A petitioner who submits a petition in year one of the diligence period is predicting that for the petition to be ripe, operations will commence by no later than the fifth year. The government in turn would, therefore, have to verify the petitioner's forecast and process the petition, or forecast a more distant start-up date and reject the petition. In the latter instance the government's prediction may prove an embarrassment if the lessee/operator elects to commence mining operations during the first five years. OSM agrees with the commenters against using the

"real and foreseeable potential" requirement and has consequently deleted from the ripeness definition in the revised rule all references to any number of years being required for a petition to be ripe. The new requirement allowing OSM to suspend the processing of petitions until after land use planning has been completed is adequate protection against petitions which are received for land on which there is no likelihood of mining.

A commenter suggested that OSM include a provision in the revised rule as to when a termination petition is ripe, and also recommended an option: a termination petition would be ripe one or more years after OSM designates an area to be unsuitable. OSM has declined to accept this suggestion because the key threshold issue regarding termination petitions is whether there is significant new evidence which needs to be considered and not whether a specific period has elapsed. There is no need to make a mining company, or anyone else, wait one year after land has been designated before it may submit a termination petition. The same commenter stated that the legal and administrative differences between being "assessed" unsuitable and being "designated" unsuitable needed clarification. OSM agrees. In addition to the descriptions of "assessment" and "designation" contained in the preamble to the proposed rule, an unsuitability assessment is made pursuant to a number of environmental statutes (only one of which is SMCRA) and executive orders; whereas an unsuitability designation is based solely on section 552(c) of SMCRA.

Another commenter asserted that if petitions were not allowed to be filed before the Federal land use planning process is completed, tracts may be assessed as suitable for leasing and subsequently leased under the Federal Coal Management Program. Since this may occur after a coal operator had purchased the lease and made other financial commitments, an unsuitability designation at this point would cause a financial burden on the local operator unless a mechanism existed to refund the amount paid for the lease. The commenter recommended that OSM, therefore, clarify that petitions may and should be submitted prior to any lease sale so as to prevent this from happening. The Secretary agrees that the petition process needs to be fully coordinated with the land use planning process, and has directed the BLM to develop regulations to do so. BLM, therefore, is proposing regulations for this purpose concurrently with this final regulation. Under these rules however, petitions must be accepted and processed prior to the issuance of a permit unless they pertain to lands for which an administratively complete permit application has been filed and the first newspaper advertisement has been published.

One commenter believes that a petition received for an area that does not fall into one of the categories for ripeness should be placed in a "pending" file and reactivated if the status of the Federal land changes and it becomes ripe. OSM has adopted this suggestion and has added a suspension provision similar to that found in the lands unsuitable regulation for State programs. Where the processing of a petition is suspended under § 769.14(b)(2) because it is not ripe, under § 769.14(h) no surface mining and reclamation operation permit may be issued until a decision is reached on the petition.

The same commenter questioned how ripeness would be applied to lands in which the surface rights are owned by the Federal government but the mineral rights are in private ownership, as are substantial amounts of land within the Daniel Boone National Forest in Kentucky which fall into this latter category. This situation was not covered in the proposed rule; accordingly OSM has added a provision to the final rule to make clear that lands underlain by privately owned coal are ripe for petitioning. OSM has also clarified that lands containing unleased Federal coal, the surface of which may be disturbed by operations on adjoining lands, are also ripe for petitioning.

Another commenter stated that the discussion of ripeness in the preamble appeared to relate more to administrative convenience than it did to the needs of other agencies and to the public. The commenter elaborated that if an area of coal lands were adjacent to a National Park and mining would have a high potential for adversely affecting the park when there was a real and foreseeable potential for mining in five years, it would be in the interest of the public to allow petitioning at any time. Moreover, the commenter thought that the designation of certain lands as unsuitable would result in savings over time for the Federal land managing agency because it would be unnecessary to conduct a complete Federal lands review for designated lands.

OSM has decided not to accept this idea. Federal lands located adjacent to a National Park may not be mined until they are leased. They cannot be leased until land use planning is completed. Under § 769.14(b)(2), if a petition is filed before land use planning is complete, OSM will advise the land management agency of the issues raised by the petition and will request the agency to consider such issues in its planning efforts. Moreover, the petitioner will be advised of the opportunity for public participation in the land use planning process.

Thus, the reasons for adopting the ripeness criterion go far beyond mere convenience. Coordination of land use planning and the petition process will eliminate duplicative efforts and reduce costs. This change will eliminate the unnecessary expense of processing petitions for land assessed as unsuitable as part of the land use planning process. Moreover, the fact that designated lands do not require a Federal lands review is offset by the fact that processing and unsuitability petition is much more costly (on a per-acre basis) than conducting a Federal lands review. Moreover, an unsuitability designation does not exempt an area from land use planning, which is conducted for many purposes.

Several commenters stated that there is simply not statutory authority whatsoever for the concept of ripeness in the petition process and that contrary to OSM's suggestion in the preamble to the proposed rule that SMCRA implies postponing the petition process, the requirement of section 522(a)(5) for integrating the petition process with land use planning suggests the opposite. The commenter stated that Congress envisioned that land use planning would occur long before coal lands were even subject to lease and thus intended that the petition process would be available to citizens as early as possible in the land use planning process. The proposed rule would postpone the petition process until so close to the commencement of mining that there would be very little opportunity for citizens to utilize this important mechanism for citizen participation. OSM disagrees. The statutory authority for the ripeness criterion is section 522(a)(5) of the Act, which states that "determinations of the unsuitability of land for surface coal mining shall be integrated as closely as possible with present *and future* land use planning * * *." (emphasis supplied) The basic principle in section 522(a)(5) is the integration of unsuitability determinations with land use planning. In addition, citizens have ample opportunity for participation in land use planning. BLM goes to great lengths in soliciting public participation for its existing land use planning process.

One commenter stated that the new ripeness criterion will foreclose the opportunity for citizens to petition certain lands for unsuitability under any circumstances. For example, in a case where private coal lands are interspersed with Federal coal lands and mining on the private coal lands is imminent, but planning for mining on the Federal lands has not yet been completed, the proposed rule would preclude petitioners from identifying all lands that could be affected by the proposed mining operation in the area. OSM understands the concerns of the commenter but believes that by being discretionary the suspension provision in the revised rule will enable OSM to consider petitions for lands not otherwise ripe for petitioning if a compelling reason exists for doing so. One example in which OSM probably would choose not to suspend a petition would relate to a petition on Federal lands located in a "checkerboard" pattern with non-Federal lands. In such a situation, if a petition has also been filed with the State regulatory authority for the non-Federal lands, simultaneous consideration of the two petitions is logical even if land use planning is not complete for the Federal lands. In addition, the new alternative being developed to allow BLM to process petitions at some point in their land use planning process will help cover such situations.

The same commenter continued by stating that the new ripeness criterion would force citizens to wait until mining is virtually imminent before a petition could be filed. In light of the long lead times needed to plan for a new mine and the advance investments that must be made in all of the equipment and facilities for a new mine, in most cases a potential mine operator will have spent substantial sums of money in acquiring coal rights in the new mine before the proposed ripeness test could be met by citizens. Consequently, the mine would be exempt from an unsuitability designation and the entire petition process on Federal lands would be rendered meaningless. OSM disagrees with this comment. The commenter apparently misunderstands the "substantial legal and financial commitments" exemption as enumerated in section 522(a)(6) of SMCRA. Spending substantial sums of money in acquiring coal rights and preparing to mine does not preclude an area from being petitioned unless it was spent prior to January 4, 1977. In addition, requiring land use planning on an area prior to considering petitions for that area does not mean, as the commenter has suggested, that mining is virtually imminent or that substantial investments and commitments have been made.

Prior to Federal coal being mined, it must be leased by BLM, which is responsible for leasing all Federal coal except that of the Tennessee Valley Authority (TVA). Before the land is leased, BLM or the Federal land management agency administering the land must conduct land use planning pursuant to the Federal Coal Leasing Admendments Act (FCLAA), and the Federal Land Policy and Management Act (30 U.S.C. 1701). Pursuant to section 522(b) of SMCRA, the BLM applies unsuitability criteria (43 CFR 3461) during land use planning on any coal lands, as part of a Federal lands review. The full Federal lands review is not completed for a parcel of land until land use planning (43 CFR 3420.1) and activity planning (under 43 CFR 3420.3 pursuant to the National Environmental Policy Act, SMCRA, MLA and the FCLAA) has been completed and BLM has given its concurrence to the approval of the permit application package covering that land. Land may be leased after it undergoes activity planning. It still may be petitioned and designated as unsuitable, however, even after it has been leased.

The same commenter suggested that because BLM has recently revised its coal leasing process for Federal lands, the effects of these new regulations are unknown and the petition process is therefore all the more important as a mechanism for identifying Federal lands that are potentially unsuitable for coal mining under the criteria of section 522(a). It is, therefore, all the more crucial, according to the commenter, that the proposed ripeness criterion not be adopted so that the designation process can be initiated at an early stage. This result, as the previous regulation has demonstrated, serves the interests of both citizens and potential mine operators. OSM has rejected this suggestion because under the revised rule all interested parties are given an opportunity to petition. BLM procedures, moreover, provide for substantial citizen input during the land use planning process, and for full consideration of allegations that land is unsuitable for mining. Thus, in most instances, petitions will no longer be processed prior to land use planning.

One commenter expressed concerned that, under the proposesd rule, OSM would not process petitions because of limited funds or for other administrative reasons, but instead would suspend petitions until the permit review and mine plan approval stage. The commenter thought that this would merely result in passing the responsibility to the State regulatory authority to make the unsuitability determination at a later date—at which point the stakes for a coal company and the State would be much higher. OSM believes that this potential problem is unfounded. Under the revised regulations, petitons may only be suspended until after land use planning if they are found to be not ripe; they cannot simply be ignored or not processed.

Frivolous. The previous rule did not contain a "sufficient merit" criterion. As stated in the preamble to the proposed rule, sufficient merit was intended as an aid in eliminating frivolous petitions. As stated above, OSM has deleted the term sufficient merit and placed the relevant requirements under completeness and frivolousness criteria. Those requirements moved to the completeness category are discussed above.

As with petitions filed under Part 764, a "frivolous" petiton is one in which the allegations of harm lack serious merit. In addition, the requirement regarding the existence of minerable coal has been placed under the frivolous criterion. Unless there is "mineable" coal in the petition area or the petioned area is or could be subject to related surface operations and surface impacts incident to an underground coal mine or an adjoining surface mine there is no reason to accept or process the petition. Such a petition may accurately be described as "frivolous".

A commenter suggested that the reference to Known Recoverable Coal Resource Area (KRCRA) be deleted from the definition of mineable coal because Federal coal leasing is no longer tied to KRCRA's in 43 CFR Part 3400; hence there may in the future be mineable coal under lease outside KRCRA's. In addition, the commenter thought that the discussion of "mineability" in the preamble was unclear. OSM agrees with the commenter and has deleted the reference to "Known Recoverable Coal Resource Area" and clarified the meaning of "mineability" to read as follows: "Mineable coal is coal with development potential as mapped or reported by the Bureau of Land Management under 43 CFR 3420.1–5(e)(1); and privately owned coal under land owned by the United States."

Two commenters stated that the proposed section on sufficient merit for a termination petition was difficult to follow since it used the word "or"

between paragraphs, rather than the word "and," which appears to be more appropriate. OSM agrees with the commenter and has included the necessary criteria as part of the completeness criterion under § 769.14(a)(2) which cross-references § 764.13(c).

Section 769.14(b).

Section 769.14(b)(1) is being adopted with minor revisions to reflect the changes to the criteria on ripeness, completeness, sufficient merit and frivolousness discussed above. It also reflects the decision to allow the suspension (discussed in the following paragraph), rather than to require the rejection, of petitions which are not ripe. The last two proposed words "appropriate remedies" have been clarified by using instead the words "deficiencies cured."

Paragraph (b)(2) has been revised to allow for suspension rather than rejection of petitions which are not ripe. This change responds to the comments on ripeness discussed above, which indicated a concern that ripeness would be used to defer or delay petitions to the point where they would become, in effect, meaningless. By allowing for periodic reexamination of ripeness, OSM can help assure that the issues raised by suspended petitions are considered at the appropriate time.

One commenter expressed concern that not all issues are appropriately addressed during land use planning; some may best be done at the permit review stage. Thus, the commenter suggests that the language requiring that the planning agency give consideration to the issues requested by the Director be revised to "the planning agency shall give consideration, to the extent practical, to the issues contained in the Director's request." OSM agrees that in some instances it may not be possible to fully consider or resolve issues at the planning stage; however, the proposed language requiring consideration does not demand that the planning agency resolve every issue. Appropriate consideration may be that the issue is best left to a subsequent petition or permit review stage; thus the proposal has not been accepted.

Section 769.14(c) is adopted with minor editorial revisions to reflect the changes to § 769.14(a) and for clarity.

Section 769.14(d) is adopted with minor editorial revisions.

Proposed § 769.14(e) that would have provided for "completeness" hearings is not adopted. Public participation in a decision to accept a petition on Federal lands is of limited value. The decision is based largely on information contained in Federal agency files and on relatively straightforward technical and administrative determinations where public input would be limited in scope and value. In addition, a completeness hearing would delay the evaluation of the merits of the petition, and might focus undue attention on completeness at the expense of the evaluation, which is where public input is most needed. In place of the proposed language, OSM has retained the requirement for public soliciting of public comment on the merits of the petition which was previously included in paragraph (f). This requirement was inadvertently deleted in the proposal. Instead of a 3-week period for soliciting information, the rule requires that such requests be made "promptly" after deciding to process the petition further.

Section 769.14(f) is adopted as proposed with editing for clarity. One commenter questioned the basis of the provision in § 769.14(f) of the proposed rule to refer a copy of the petition only to other Federal land management agencies who have land intermingled with the petitioned land. The commenter questioned why the provision was limited only to intermingled Federal land and suggested that there should be a provision for referral to the State where the area contains intermingled Federal and non-Federal lands. OSM has declined to accept this suggestion since it already follows this practice informally as good management. It is therefore not necessary to be in the regulations.

Section 769.14(g).

In addition to the major changes made in § 769.14, OSM has deleted, as proposed, some of the internal administrative procedures contained in that previous section related to assembling information on the petitioned area. OSM believes that these internal procedures should instead be dealt with by agency and interagency memoranda and directives.

Two options were proposed for § 769.14(g) which addressed the timeliness of petitions. The revised rule states that OSM may determine not to process any petition received insofar as it pertains to lands for which an administratively complete permit application has been filed and the first newspaper notice has been published. The comments received on these options and an explanation of the option selected is contained in the preamble to Part 764.

Final § 769.14(h) provides that when a permit application is filed for an area where a petition has been suspended pursuant to § 769.14(b)(2), OSM shall initiate petition review and not issue a permit until a decision is made on the petition. This is a necessary concomitant for petitions suspended which were not ripe for processing.

Section 769.15 Intervention.

Section 769.15, pertaining to intervention, has been adopted in the same form as § 764.15(c). As explanation of § 764.15(c) is included earlier in this preamble. It is not substantially different from the previous section except for a statement describing how the designation directly affects the intervenor.

Section 769.16 Public information.

Section 769.16(a), which is adopted substantially as proposed, continues the requirement of previous § 769.16(a) that after determining the petition is complete, OSM shall promptly notify the general public of the receipt of the petition and request submission of the relevant information by a newspaper advertisement placed once a week for two consecutive weeks and by a Federal Register notice. "Prompt" notice is substituted for the proposed notice within 5 weeks. The provision adds that the notices must include a description of the boundaries of the petitioned area, the allegations of fact and information regarding where the petition is available for public review. Final § 769.16(b)(1) retains previous § 769.16(b) concerning the requirement to maintain a public record and its availability. Final § 769.16 (b)(1) and (b)(2) have the same exception as is contained in § 764.23 for specific information pertaining to property proposed to be nominated to be listed, or listed, in the National Register of Historic Places, if it is determined that disclosure of such information would create a risk of destruction or harm to such properties. Withheld information must be disclosed when a designation of unsuitability would rest primarily on an allegation based on that information. A discussion of the comments OSM received on this exception is found in the preamble to revised § 764.23.

Section 769.17 Hearing requirements.

This revised section is substantially the same as that for § 764.17. A discussion of the comments received on the proposed and final revisions are found in the preamble to revised § 764.17.

Section 769.18 Decisions on petitions.

The substance of final § 769.18 is similar to previous § 769.18, with a change pertaining to mailing of

decisions. A discussion and an analysis of the comments OSM received concerning the revision to this section, and the rationale for the revised procedure OSM has selected, are found in the preamble to § 764.19.

Section 769.19 Regulatory policy.

As proposed, this section has been revised to ensure that permits and coal leases are conditioned to limit or prohibit surface coal mining operations on land designated as unsuitable for surface coal mining operations.

III. Procedural Matters

A. *Paperwork Reduction Act.* There are no information collection requirements in 30 CFR Part 761 or 762. The information collection requirements contained in 30 CFR 764.13, 764.15 and Part 769 do not require approval by the Office of Management and Budget under 44 U.S.C. 3507, because there are fewer than 10 respondents annually.

The information collection requirements contained in 30 CFR Part 764 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1029–0030. The information is necessary to establish minimum standards to be included in each State program for designating non-Federal and non-Indian lands in a State as unsuitable for all or certain types of surface coal mining operations and for terminating designations. The information required by 30 CFR Part 764 is mandatory. OSM has codified the OMB approval under a new § 764.10.

The information collection requirements in 30 CFR Parts 779 and 783 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance numbers 1029–35 and 1029–38, respectively. The information is collected to meet the requirements of sections 507 and 508 of SMCRA, which require the permit applicant to present an adequate description of the existing pre-mining environmental resources within and around the proposed permit area. The information will be used by the regulatory authority to determine whether the applicant can comply with the performance standards. The obligation to respond is mandatory. The OMB approval was codified under §§ 779.10 and 783.10 on August 4, 1982 (47 FR 33683).

B. *Executive Order 12291 and the Regulatory Flexibility Act.* The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and certifies that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act, Pub. L. 96–354 (5 U.S.C. 601 *et seq.*). States will incur reduced costs because fewer inadequate petitions will be processed under the revised criteria that a petition must meet of being complete and not frivolous. Costs to the coal industry should also be reduced as industry involvement is decreased in responding to petition allegations and because fewer disruptions and delays in coal development should incur. "Small operators" costs will decrease as fewer inadequate petitions are processed and small operators should be better able to plan and finance their capital needs for coal mine development. Since 1980, fewer than 20 petitions have been received by States and only 5 petitions have been filed with OSM.

C. *National Environmental Policy Act.* OSM prepared a draft supplemental environmental impact statement under the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4332(2)(c), on the cumulative impacts of these and other proposed rules that was made publicly available on June 18, 1982. The "Final Environmental Impact Statement OSM EIS–1: Supplement" (FEIS) was prepared and made publicly available on January 20, 1983. The FEIS discusses the impacts that these final rules will have on the quality of the human environment. The FEIS is available in OSM's Administrative Record in Room 5315, 1100 L Street, NW., Washington, D.C., or by mail request to the Branch of Environmental Analysis, Room 134, Interior South Building, Office of Surface Mining, 1951 Constitution Ave., NW., Washington, D.C. 20240. This preamble serves as the record of decision under NEPA. It differs from the preferred alternative draft final rules published in Volume III of the FEIS in the following ways:

1. Paragraph (a) of the definition of "valid existing rights" no longer has the phrase "that the regulatory authority shall determine," includes the clarifying references that it applies to areas protected on August 3, 1977 and that the takings analysis applies to property interests that existed on that date. This paragraph also includes a reference to the 14th Amendment to the U.S. Constitution, in addition to the FEIS reference to the Fifth Amendment. The impacts of these changes are all included within the FEIS analysis of the preferred alternative.

2. Paragraph (d) of the definition of VER is clarified to provide that it applies to areas to which the protections of Section 522(e) of the Act first apply after August 3, 1977. VER for existing operations is changed to include only "validly authorized" existing operations. The filing of a permit application and publication of the first accompanying newspaper notice is not a basis for VER; instead a "takings" test similar to paragraph (a) of the VER definition has been adopted. Final Paragraph (d) is more environmentally protective than the preferred alternative for that paragraph. Its impacts are within the scope of the discussion of the VER definition in the FEIS.

3. Paragraph (e) of the final VER definition, although not included in the preferred alternative, was proposed and included in Alternative C of the FEIS. It is therefore within the scope of the FEIS.

4. A number of definitions, or portions thereof, were not included in Volume III of the FEIS, but are being reprinted essentially unchanged from the previous rules. These include definitions of the terms "Surface operations and impacts incident to an underground coal mine," "Significant forest cover," "Occupied dwelling," "Community or institutional building," "Surface coal mining operations which exist on the date of enactment," and the listing of values in the definition of "Significant recreational, timber, economic, or other values incompatible with surface coal mining operations." These have no environmental impact and are included under the minimum action/no action alternative.

5. A definition of the term "publicly-owned park" is added that is consistent with the definition of "public park," but narrower because governmental ownership is required. This new definition will have no environmental effect beyond that associated with the new definition of the term "public park" because the requirement for governmental ownership of the park has already been used in implementing the prohibition in § 761.11(c).

6. The final definition for the word "cemetery" does not include a cross reference to the permitting requirements regarding cemeteries. This has no environmental effect.

7. In § 764.13(a), the characterization " 'injury in fact' test" has been added, but the substance is the same as the preferred alternative in the FEIS. Similarly, in § 764.13(b)(1)(iii), the same phrase has been removed. These changes have no environmental effect.

8. In § 764.13(b)(1)(iv), a number of minor changes have been made which should have negligible environmental effect as compared to the preferred alternative in the FEIS. Language has been added to clarify that allegations of fact and supporting evidence cover "all lands in the petition area" and "tend to

establish that the area is unsuitable for all or certain types of surface coal mining operations." Under the final rule, allegations "should," rather than "shall" be specific and relate to the mining operation "if known" rather than "if any."

9. In § 764.13(c)(1)(iv), language has been added to require petitions to terminate an unsuitability designation to include new evidence that was not contained in the designation proceeding and any previous unsuccessful termination proceeding. This provision is expected to have a slightly more environmentally protective effect than the preferred alternative in the FEIS.

10. In § 764.15(a)(3), language has been added clarifying that when there is a real and foreseeable potential for mining, the processing of the designation petition will proceed. This change has no environmental effect.

11. In § 764.15(a)(4), the reference to the injury in fact test is replaced with a reference to § 764.13(a). The description of a frivolous petition has also been revised. These changes are not substantive and thus have no environmental effects.

12. In § 764.15(a)(7) (and in § 769.14(g)) language has been added to provide that a petition need not be processed after the filing of an "administratively complete" permit application and publication of the first newspaper advertisement. The language in the FEIS preferred alternative referred to a "complete" permit application. This change, which is made to provide consistency with the expected revisions to OSM's permitting rules (see 30 CFR 773.13(a) of the draft final rules in the FEIS) is not expected to have environmental impacts beyond those analyzed in the FEIS discussion of the preferred alternative. Under the existing permitting rules that allow publication of newspaper advertisements only upon the filing of a complete permit application (30 CFR 786.11(a)), regulatory authorities have allowed publication of such advertisements upon the filing of permit applications that would qualify as being administratively complete. The formalization of this practice and the changed wording in §§ 764.15 and 769.14 should not lead to any substantial impacts.

13. In a number of sections in Parts 764 and 769, the final rule requires "prompt" action by a regulatory authority, rather than specifying a time for action, as was contained in the FEIS. In one provision, § 764.15(b)(1), a six-week limit for requesting a completeness hearing and providing comments on the completeness of a petition has been removed and left to the discretion of the regulatory authority. These changes are not expected to have any effect on the environment.

14. In final § 764.15(b)(3), the regulatory authority, while being required to make a completeness determination, is not obligated to issue, upon request, a written decision that a petition is complete. If a petition is incomplete, § 764.15(a)(4) continues to require a written statement. This change from the FEIS in § 764.15(b)(3) is not expected to have any environmental effect.

15. In final § 764.17(b)(1)(iii), the notice requirement no longer specifically includes persons with an "ownership interest," but such persons are included in the class of persons with a "property interest." Thus this change has no effect.

16. In § 769.11, a clarification is included stating that the right to petition under SMCRA is independent of areas set aside from surface coal mining operations under laws other than the Act. This new sentence has no environmental effect. In that same section of the final rule, a specific reference to an " 'injury infact' test" has been included, but the substantive requirements are the same as in the preferred alternative in the FEIS.

17. In final § 769.14(a)(1), the time for determining a petition is complete has been reduced from 60 days under the preferred alternative of the FEIS to 30 days, the time period appearing in the previous rules. This provision is within the scope of the EIS. A clarifying sentence has been added providing that a request for supplementary information will not affect OSM's determination that a petition is complete. This sentence has no environmental effect.

18. In § 769.14(a), the FEIS preferred alternative concept of "sufficient merit" has been merged into the concept of "complete" under § 769.14(a)(2) and "frivolous" under § 769.14(a)(4). The concept of "mineable coal" has been expanded to include privately owned coal under land owned by the United States. This narrows the grounds for rejection of a petition and thus is more environmentally protective than the preferred alternative in the FEIS.

19. The concept of "ripe" under § 769.14(a)(3) has been expanded from the FEIS preferred alternative to include petitioned lands not required to be leased because the mineral rights are not owned by the United States or are owned by the Tennessee Valley Authority and lands over unleased Federal coal that are subject to surface disturbances from neighboring surface coal mining operations. These changes expand the amount of lands for which potential petitions are ripe for processing and thus are more environmentally protective than the preferred alternative.

20. In § 769.14(a)(4), the concept of "frivolous," in addition to the components taken from the proposed concept of "sufficient merit," also includes petitions whose allegations of harm lack serious merit. This new description, together with final § 769.14(b)(1) which requires the rejection of frivolous petitions, are within the ambit of previous § 769.14(b). Thus these provisions will have little environmental effect.

21. Under final § 769.14(b)(2), suspension of unripe petitions is discretionary rather than mandatory, as appeared in the preferred alternative of the FEIS. Advancing the time when petitions may be considered is not likely to have any substantial environmental impact because under the preferred alternative, unripe petitions were only suspended and not rejected and have to be considered as soon as they become ripe.

22. In § 769.14(c), the replacement of the term "sufficient merit" with the term "frivolous" has no environmental effect given the changed meaning of the word "complete" and the meaning of "frivolous."

23. Section 769.14(e) in the FEIS preferred alternative contained a mandatory procedure for notifying the public and requesting information on the completeness, ripeness and sufficient merit of a petition. That procedure has not been adopted. Its omission will have no environmental effect because OSM will continue to be responsible for making the requisite determinations and such a procedure was not included under the previous rules.

24. Final § 769.14(e) includes provisions from previous § 769.14(f) and thus has no environmental impacts.

25. Final § 769.15(b)(2) is more environmentally protective than the corresponding provision in the FEIS preferred alternative because it does not include the FEIS exceptions which would have required disclosure of certain information which could create a risk of destruction or harm to properties listed, or eligible for listing, on the National Register of Historic Places.

26. In final § 769.17(a), OSM has added a provision that at the hearing on the petition, "[n]o person shall bear the burden of proof or persuasion." Inclusion of this protection for petitioners is more environmentally protective than the FEIS preferred alternative and the previous rule.

27. Final § 761.12(b) provides 60 days notice to the National Park Service and U.S. Fish and Wildlife Service of VER requests for any lands within the boundaries of areas under their jurisdiction. This is more environmentally protective than the FEIS preferred alternative or the previous rules.

List of Subjects

30 CFR Part 736

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

30 CFR Part 760

Historic preservation, Monuments and memorials, National forests, National parks, Surface mining, Underground mining, Wildlife refuges.

30 CFR Parts 761 and 762

Coal mining, Historic preservation, Monuments and memorials, National forests, National parks, Reporting and recordkeeping requirements, Surface mining, Underground mining, Wildlife refuges.

30 CFR Part 765

Surface mining, Underground mining.

30 CFR Parts 764 and 769

Administrative practice and procedure, Coal mining, Reporting and recordkeeping requirements, Surface mining, Underground mining.

30 CFR Part 779

Coal mining, Environmental protection, Reporting and recordkeeping requirements, Surface mining.

30 CFR Part 783

Coal mining, Environmental protection, reporting and recordkeeping requirements, Underground mining.

Accordingly, 30 CFR Parts 736, 760, 761, 762, 764, 765, 769, 779, and 783 are amended as set forth herein.

Dated: September 9, 1983.

W. L. Dare,

Acting Deputy Assistant Secretary for Energy and Minerals.

PART 736—FEDERAL PROGRAM FOR A STATE

1. Section 736.15 is revised to read as follows:

§ 736.15 Implementation, enforcement, and maintenance of a Federal program.

(a) The Director shall implement, administer, enforce, and maintain a Federal program or any revision thereto not later than 30 days after a Federal program is promulgated or revised.

(b)(1) Except as provided in paragraph (b)(2) of this section, the Director shall implement the procedures and criteria of a Federal program for a State for designating lands unsuitable for all or certain types of surface coal mining one year after a Federal program is made effective for a State.

(2) When a complete or partial Federal program is promulgated because of a State's failure to implement, maintain, or enforce adequately all or a part of its State program, all applicable portions of the Federal program for the State under this part shall be effective immediately upon implementation of the Federal program.

2. Subchapter F of 30 CFR Chapter VII is amended by removing Parts 760 and 765 and revising Parts 761, 762, 764 and 769 as follows:

PART 761—AREAS DESIGNATED BY ACT OF CONGRESS

Sec.
761.1 Scope.
761.3 Authority.
761.5 Definitions.
761.11 Areas where mining is prohibited or limited.
761.12 Procedures.

Authority: Sec. 102, 201, 501(b), 503, 504, 510, 512, 513, 514, 522 and 701 of Pub. L. 95–87, 91 Stat. 448, 449, 468, 470, 471, 480, 483, 484, 485, 507 and 518 (30 U.S.C. 1202, 1211, 1251, 1253, 1254, 1260, 1262, 1263, 1264, 1272, and 1291).

§ 761.1 Scope.

This part establishes the procedures and standards to be followed in determining whether a proposed surface coal mining and reclamation operation can be authorized in light of the prohibitions and limitations in section 522(e) of the Act for those types of operations on certain Federal, public and private lands.

§ 761.3 Authority.

The State regulatory authority or the Secretary is authorized by section 522(e) of the Act (30 U.S.C. 1272(e)) to prohibit or limit surface coal mining operations on or near certain private, Federal, and other public lands, subject to valid existing rights and except for those operations which existed on August 3, 1977.

§ 761.5 Definitions.

For the purposes of this part—

Cemetery means any area of land where human bodies are interred, except for private family burial grounds.

Community or institutional building means any structure, other than a public building or an occupied dwelling, which is used primarily for meetings, gatherings or functions of local civic organizations or other community groups; functions as an educational, cultural, historic, religious, scientific, correctional, mental-health or physical health care facility; or is used for public services, including, but not limited to, water supply, power generation or sewage treatment.

Occupied dwelling means any building that is currently being used on a regular or temporary basis for human habitation.

Public building means any structure that is owned or leased, and principally used by a governmental agency for public business or meetings.

Public park means an area or portion of an area dedicated or designated by any Federal, State, or local agency primarily for public recreational use, whether or not such use is limited to certain times or days, including any land leased, reserved, or held open to the public because of that use.

Public road means a road (a) which has been designated as a public road pursuant to the laws of the jurisdiction in which it is located; (b) which is maintained with public funds in a manner similar to other public roads of the same classification within the jurisdiction; (c) for which there is substantial (more than incidental) public use; and (d) which meets road construction standards for other public roads of the same classification in the local jurisdiction.

Publicly-owned park means a public park that is owned by a Federal, State or local governmental entity.

Significant forest cover means an existing plant community consisting predominantly of trees and other woody vegetation. The Secretary of Agriculture shall decide on a case-by-case basis whether the forest cover is significant within those national forests west of the 100th meridian.

Significant recreational, timber, economic, or other values incompatible with surface coal mining operations means those values to be evaluated for their significance which could be damaged beyond an operator's ability to repair or restore by, and are not capable of existing together with, surface coal mining operations because of the undesirable effects mining would have on those values, either on the area included in the permit application or on other affected areas. Those values to be evaluated for their importance include:

(a) Recreation, including hiking, boating, camping, skiing or other related outdoor activities;

(b) Timber manager and silviculture;

(c) Agriculture, aquaculture or production of other natural, processed

or manufactured products which enter commerce;

(d) Scenic, historic, archeologic, esthetic, fish, wildlife, plants or cultural interests.

Surface coal mining operations which exist on the date of enactment means all surface coal mining operations which were being conducted on August 3, 1977.

Surface operations and impacts incident to an underground coal mine means all activities involved in or related to underground coal mining which are either conducted on the surface of the land, produce changes in the land surface or disturb the surface, air or water resources of the area, including all activities listed in section 701(28) of the Act and the definition of surface coal mining operations appearing in § 700.5 of this chapter.

Valid existing rights means:

(a) Except for haul roads, that a person possesses valid existing rights for an area protected under section 522(e) of the Act on August 3, 1977, if the application of any of the prohibitions contained in that section to the property interest that existed on that date would effect a taking of the person's property which would entitle the person to just compensation under the Fifth and Fourteenth Amendments to the United States Constitution;

(b) For haul roads,

(1) A recorded right of way, recorded easement or a permit for a coal haul road recorded as of August 3, 1977, or

(2) Any other road in existence as of August 3, 1977;

(c) A person possesses valid existing rights if the person proposing to conduct surface coal mining operations can demonstrate that the coal is both needed for, and immediately adjacent to, an ongoing surface coal mining operation which existed on August 3, 1977. A determination that coal is "needed for" will be based upon a finding that the extension of mining is essential to make the surface coal mining operation as a whole economically viable;

(d) Where an area comes under the protection of Section 522(e) of the Act after August 3, 1977, valid existing rights shall be found if—

(1) On the date the protection comes into existence, a validly authorized surface coal mining operation exists on that area; or

(2) The prohibition caused by Section 522(e) of the Act, if applied to the property interest that exists on the date the protection comes into existence, would effect a taking of the person's property which would entitle the person to just compensation under the Fifth and Fourteenth Amendments to the United States Constitution.

(e) Interpretation of the terms of the document relied upon to establish the rights to which the standard of paragraphs (a) and (d) of this section applies shall be based either upon applicable State statutory or case law concerning interpretation of documents conveying mineral rights or, where no applicable State law exists, upon the usage and custom at the time and place it came into existence.

§ 761.11 Areas where mining is prohibited or limited.

Subject to valid existing rights, no surface coal mining operations shall be conducted after August, 3, 1977, unless those operations existed on the date of enactment:

(a) On any lands within the boundaries of the National Park System, the National Wildlife Refuge System, The National System of Trails, the National Wilderness Preservation System, the Wild and Scenic Rivers System including, for study rivers designated under section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)), a corridor extending not more than one-quarter mile from each bank for the length of the segment being studied, and National Recreation Areas designated by Act of Congress;

(b) On any Federal lands within the boundaries of any national forest; *provided, however,* that surface coal mining operations may be permitted on such lands, if the Secretary finds that there are no significant recreational, timber, economic, or other values which may be incompatible with surface coal mining operations; and

(1) Surface operations and impacts are incident to an underground coal mine; or

(2) The Secretary of Agriculture determines, with respect to lands which do not have significant forest cover within those national forests west of the 100th meridian, that surface coal mining operations comply with the Multiple-Use Sustained Yield Act of 1960 (16 U.S.C. 528–531), the Federal Coal Leasing Amendments Act of 1975 (Pub. L. 94–377, 30 U.S.C. 201 *et seq.*), the National Forest Mangement Act of 1976 (90 Stat. 2949), and the provisions of the Act. No surface coal mining operation may be permitted within the boundaries of the Custer National Forest;

(c) On any lands where mining will adversely affect any publicly owned park or any publicly owned places included in the National Register of Historic Places, unless approved jointly by the regulatory authority and the Federal, State, or local agency with jurisdiction over the park or place;

(d) Within 100 feet, measured horizontally, of the outside right-of-way line of any public road, except—

(1) Where mine access roads or haulage roads join such right-of-way line; or

(2) Where the regulatory authority or the appropriate public road authority, pursuant to being designated as the responsible agency by the regulatory authority, allows the public road to be relocated, closed, or the area affected to be within 100 feet of such road, after—

(i) Public notice and opportunity for a public hearing in accordance with § 761.12(d); and

(ii) Making a written finding that the interests of the affected public and landowners will be protected;

(e) Within 300 feet, measured horizontally, of any occupied dwelling, except when—

(1) The owner thereof has provided a written waiver consenting to surface coal mining operations closer than 300 feet; or

(2) The part of the mining operation which is within 300 feet of the dwelling is a haul road or access road which connects with an existing public road on the side of the public road opposite the dwelling;

(f) Within 300 feet measured horizontally of any public building, school, church, community or institutional building or public park; or

(g) Within 100 feet measured horizontally of a cemetery;

(h) There will be no surface coal mining, permitting, licensing or exploration of Federal lands in the National Park System, National Wildlife Refuge System, National System of Trials, National Wilderness Preservation System, Wild and Scenic Rivers System, or National Recreation Areas, unless called for by Acts of Congress.

§ 761.12 Procedures.

(a) Upon receipt of a complete application for a surface coal mining and reclamation operation permit, the regulatory authority shall review the application to determine whether surface coal mining operations are limited or prohibited under § 761.11 on the lands which would be disturbed by the proposed operations.

(b)(1) Where the proposed operation would be located on any lands listed in § 761.11(a), (f), or (g), the regulatory authority shall reject the application if the applicant has no valid existing rights for the area, or if the operation did not exist on August 3, 1977.

(2) If the regulatory authority is unable to determine whether the

proposed operation is located within the boundaries of any of the lands in § 761.11(a) or closer than the limits provided in § 761.11 (f) and (g), the regulatory authority shall transmit a copy of the relevant portions of the permit application to the appropriate Federal, State, or local government agency for a determination or clarification of the relevant boundaries or distances, with a notice to the appropriate agency that it has 30 days from receipt of the request in which to respond. The National Park Service or the U.S. Fish and Wildlife Service shall be notified of any request for a determination of valid existing rights pertaining to areas within the boundaries of areas under their jurisdiction and shall have 30 days from receipt of the notification in which to respond. The regulatory authority, upon request by the appropriate agency, shall grant an extension to the 30-day period of an additional 30 days. If no response is received within 30-day period or within the extended period granted, the regulatory authority may make the necessary determination based on the information it has available.

(c) Where the proposed operation would include Federal lands within the boundaries of any national forest, and the applicant seeks a determination that mining is permissible under § 761.11(b), the applicant shall submit a permit application to the Director for processing under Subchapter D of this chapter. Before acting on the permit application, the Director shall ensure that the Secretary's determination has been received and the findings required by section 522(e)(2) of the Act have been made.

(d) Where the mining operation is proposed to be conducted within 100 feet, measured horizontally, of the outside right-of-way line of any public road (except as provided in § 761.11(d)(2)) or where the applicant proposes to relocate or close any public road, the regulatory authority or public road authority designated by the regulatory authority shall—

(1) Require the applicant to obtain necessary approvals of the authority with jurisdiction over the public road;

(2) Provide an opportunity for a public hearing in the locality of the proposed mining operation for the purpose of determining whether the interests of the public and affected landowners will be protected;

(3) If a public hearing is requested, provide appropriate advance notice of the public hearing, to be published in a newspaper of general circulation in the affected locale at least 2 weeks prior to the hearing; and

(4) Make a written finding based upon information received at the public hearing within 30 days after completion of the hearing, or after any public comment period ends if no hearing is held, as to whether the interests of the public and affected landowners will be protected from the proposed mining operation. No mining shall be allowed within 100 feet of the outside right-of-way line of a road, nor may a road be relocated or closed, unless the regulatory authority or public road authority determines that the interests of the public and affected landowners will be protected.

(e)(1) Where the proposed surface coal mining operations would be conducted within 300 feet, measured horizontally, of any occupied dwelling, the permit applicant shall submit with the application a written waiver by lease, deed, or other conveyance from the owner of the dwelling, clarifying that the owner and signator had the legal right to deny mining and knowingly waived that right. The waiver shall act as consent to such operations within a closer distance of the dwelling as specified.

(2) Where the applicant for a permit after August 3, 1977, had obtained a valid waiver prior to August 3, 1977, from the owner of an occupied dwelling to mine within 300 feet of such dwelling, a new waiver shall not be required.

(3)(i) Where the applicant for a permit after August 3, 1977, had obtained a valid waiver from the owner of an occupied dwelling, that waiver shall remain effective against subsequent purchasers who had actual or constructive knowledge of the existing waiver at the time of purchase.

(ii) A subsequent purchaser shall be deemed to have constructive knowledge if the waiver has been properly filed in public property records pursuant to State laws or if the mining has proceeded to within the 300-foot limit prior to the date of purchase.

(f)(1) Where the regulatory authority determines that the proposed surface coal mining operation will adversely affect any publicly owned park or any publicly owned place included in the National Register of Historic Places, the regulatory authority shall transmit to the Federal, State, or local agency with jurisdiction over the publicly owned park or publicly owned National Register place a copy of applicable parts of the permit application, together with a request for that agency's approval or disapproval of the operation, and a notice to that agency that it has 30 days from receipt of the request within which to respond and that failure to interpose a timely objection will constitute approval. The regulatory authority, upon request by the appropriate agency, may grant an extension to the 30-day period of an additional 30 days. Failure to interpose an objection within 30 days or the extended period granted shall constitute an approval of the proposed permit.

(2) A permit for the operation shall not be issued unless jointly approved by all affected agencies.

(g) If the regulatory authority determines that the proposed surface coal mining operation is not prohibited under section 522(e) of the Act and this part, it may nevertheless, pursuant to appropriate petitions, designate such lands as unsuitable for all or certain types of surface coal mining operations pursuant to Part 762, 764 or 769 of this chapter.

(h) A determination by the regulatory authority that a person holds or does not hold valid existing rights or that surface coal mining operations did or did not exist on the date of enactment shall be subject to administrative and judicial review under §§ 775.11 and 775.13 of this chapter.

PART 762—CRITERIA FOR DESIGNATING AREAS AS UNSUITABLE FOR SURFACE COAL MINING OPERATIONS

Sec.

762.1 Scope.
762.4 Responsibility.
762.5 Definitions.
762.11 Criteria for designating lands as unsuitable.
762.12 Additional criteria.
762.13 Land exempt from designation as nsuitable for surface coal mining operations.
762.14 Exploration on land designated as unsuitable for surface coal mining operations.

Authority: Sec. 102, 201, 501(b), 503, 504, 512 and 522 of Pub. L. 95–87, 91 Stat. 448, 449, 468, 470, 471, 483, 507, (30 U.S.C. 1201, 1211, 1251, 1253, 1254, 1262 and 1272).

§ 762.1 Scope.

This part establishes the minimum criteria to be used in determining whether lands should be designated as unsuitable for all or certain types of surface coal mining operations.

§ 762.4 Responsibility.

The regulatory authority or OSM shall use the criteria in this part for the evaluation of each petition for the designation of areas as unsuitable for surface coal mining operations.

762.5 Definitions.

For purposes of this part:

Fragile lands means geographic areas containing natural, ecologic, scientific, or esthetic resources that could be damaged beyond an operator's ability to repair or restore or be destroyed by surface coal mining operations. Examples of fragile lands include valuable habitats for fish or wildlife, critical habitats for endangered or threatened species of animals or plants, uncommon geologic formations, National Natural Landmark sites, areas where mining may result in flooding, environmental corridors containing a concentration of ecologic and esthetic features, areas of recreational value due to high environmental quality, and buffer zones adjacent to the boundaries of areas where surface coal mining operations are prohibited under section 522(e) of the Act and Part 761 of this chapter, if those areas have characteristics requiring additional areal protection or if the buffer zone itself contains fragile resources.

Historic lands means historic, cultural, and scientific areas that could be damaged beyond an operator's ability to repair or restore, or be destroyed by surface coal mining operations. Examples of historic lands include archeological and paleontological sites, sites listed on or eligible for listing on a State or National Register of Historic Places, National Historic Landmark sites, sites having religious or cultural significance to native Americans or religious groups, and sites for which historic designation is pending.

Natural hazard lands means geographic areas in which natural conditions exist which pose or, as a result of surface coal mining operations, may pose a threat to the health, safety or welfare of people, property or the environment, including areas subject to landslides, cave-ins, large or encroaching sand dunes, severe wind or soil erosion, frequent flooding, avalanches and areas of unstable geology.

Renewable resource lands means geographic areas which contribute significantly to the long-range productivity of water supply or of food or fiber products, such lands to include aquifers and aquifer recharge areas.

Substantial legal and financial commitments in a surface coal mining operation means significant investments that have been made on the basis of a long-term coal contract in power plants, railroads, coal-handling, preparation, extraction or storage facilities and other capital-intensive activities. An example woild be an existing mine, not actually producing coal, but in a substantial stage of development prior to production. Costs of acquiring the coal in place or the right to mine it without an existing mine, as described in the above example, alone are not sufficient to constitute substantial legal and financial commitments.

§ 762.11 Criteria for designating lands as unsuitable.

(a) Upon petition an area shall be designated as unsuitable for all or certain types of surface coal mining operations, if the regulatory authority determines that reclamation is not technologically and economically feasible under the Act, this chapter or an approved State program.

(b) Upon petition an area may be (but is not required to be) designated as unsuitable for certain types of surface coal mining operations, if the operations will—

(1) Be incompatible with existing State or local land use plans or programs;

(2) Affect fragile or historic lands in which the operations could result in significant damage to important historic, cultural, scientific, or esthetic values or natural systems;

(3) Affect renewable resource lands in which the operations could result in a substantial loss or reduction of long-range productivity of water supply or of food or fiber products; or

(4) Affect natural hazard lands in which the operations could substantially endanger life and property, such lands to include areas subject to frequent flooding and areas of unstable geology.

§ 762.12 Additional criteria.

(a) A State regulatory authority may establish additional or more stringent criteria for determining whether lands within the State should be designated as unsuitable for coal mining operations. Such criteria shall be approved pursuant to Subchapter C of this chapter.

(b) The Secretary may establish additional criteria for determining whether Federal lands should be designated as unsuitable for surface mining operations.

(c) Additional criteria will be determined to be more stringent on the basis of whether they provide for greater protection of the public health, safety and welfare or the environment, such that areas beyond those specified in the criteria of this part would be designated as unsuitable for surface coal mining operations.

§ 762.13 Land exempt from designation as unsuitable for surface coal mining operations.

The requirements of this part do not apply to—

(a) Lands on which surface coal mining operations were being conducted on the date of enactment of the Act;

(b) Lands covered by a permit issued under the Act; or

(c) Lands where substantial legal and financial commitments in surface coal mining operations were in existence prior to January 4, 1977.

§ 762.14 Exploration on land designated as unsuitable for surface coal mining operations.

Designation of any area as unsuitable for all or certain types of surface coal mining operations pursuant to section 522 of the Act and regulations of this subchapter does not prohibit coal exploration operations in the area, if conducted in accordance with the Act, this chapter, any approved State or Federal program, and other applicable requirements. Exploration operations on any lands designated unsuitable for surface coal mining operations must be approved by the regulatory authority under Part 772 of this chapter, to ensure that exploration does not interfere with any value for which the area has been designated unsuitable for surface coal mining.

PART 764—STATE PROCESSES FOR DESIGNATING AREAS UNSUITABLE FOR SURFACE COAL MINING OPERATIONS

Sec.

764.1 Scope.
764.10 Information collection.
764.11 General process requirements.
764.13 Petitions.
764.15 Initial processing, recordkeeping, and notification requirements.
764.17 Hearing requirements.
764.19 Decision.
764.21 Data base and inventory system requirements.
764.23 Public information.
764.25 Regulatory authority responsibility for implementation.

Authority: Sections 102, 201, 503, 510 and 522 of Pub. L. 95-87, 91 Stat. 448, 449, 470, 480 and 507 (30 U.S.C. 1202, 1211, 1253, 1260 and 1272).

§ 764.1 Scope.

This part establishes minimum procedures and standards to be included in each approved State program for designating non-Federal and non-Indian lands in a State as unsuitable for all or certain types of surface coal mining operations and for terminating designations.

§ 764.10 Information collection.

The information collection requirements contained in Sections 764.21 and 764.25(b) have been approved by the Office of Management and

Budget under 44 U.S.C. 3507 and assigned clearance number 1029-0030. The information required in Section 764.21 is necessary to allow the regulatory authority to develop a data base and inventory system to evaluate whether reclamation is feasible in areas covered by petitions. The information required in Section 764.25(b) is necessary to allow the regulatory authority to determine, when a permit application is filed, whether it includes any areas designated as unsuitable for surface coal mining.

§ 764.11 General process requirements.

Each State shall establish a process enabling objective decisions to be made on which, if any, land areas of the State are unsuitable for all or certain types of surface coal mining operations. These decisions shall be based on competent, scientifically sound data and other relevant information. This process shall include the requirements listed in this part.

§ 764.13 Petitions.

(a) *Right to petition.* Any person having an interest which is or may be adversely affected has the right to petition the regulatory authority to have an area designated as unsuitable for surface coal mining operations, or to have an existing designation terminated. For the purpose of this Action, a person having an interest which is or may be adversely affected must demonstrate how he or she meets an "injury in fact" test by describing the injury to his or her specific affected interests and demonstrate how he or she is among the injured.

(b) *Designation.* The regulatory authority shall determine what information must be provided by the petitioner to have an area designated as unsuitable for surface coal mining operations.

(1) At a minimum, a complete petition for designation shall include—

(i) The petitioner's name, address, telephone number, and notarized signature;

(ii) Identification of the petitioned areas, including its location and size, and a U.S. Geological Survey topographic map outlining the perimeter of the petitioned area;

(iii) An identification of the petitioner's interest which is or may be adversely affected by surface coal mining operations, including a statement demonstrating how the petitioner satisfies the requirements of paragraph (a) of this section;

(iv) A description of how mining of the area has affected of may adversely affect people, land, air, water, or other resources, including the petitioner's interests; and

(v) Allegations of fact and supporting evidence, covering all lands in the petition area, which tend to establish that the area is unsuitable for all or certain types of surface coal mining operations, pursuant to specific criteria of sections 522(a) (2) and (3) of the Act, assuming that contemporary mining practices required under applicable regulatory programs would be followed if the area were to be mined. Each of the allegations of fact should be specific as to the mining operation, if known, and the portion(s) of the petitioned area and petitioner's interests to which the allegation applies and be supported by evidence that tends to establish the validity of the allegations for the mining operation or portion of the petitioned areas.

(2) The regulatory authority may request that the petitioner provide other supplementary information which is readily available.

(c) *Termination.* The regulatory authority shall determine what information must be provided by the petitioner to terminate designations of lands as unsuitable for surface coal mining operations.

(1) At a minimum, a complete petition for termination shall include—

(i) The petitioner's name, address, telephone number, and notarized signature;

(ii) Identification of the petitioned area, including its location and size and a U.S. Geological Survey topographic map outlining the perimeter of the petitioned area to which the termination petition applies;

(iii) An identification of the petitioner's interest which is or may be adversely affected by the designation that the area is unsuitable for surface coal mining operations including a statement demonstrating how the petitioner satisfies the requirements of paragraph (a) of this section;

(iv) Allegations of facts covering all lands for which the termination is proposed. Each of the allegations of fact shall be specific as to the mining operation, if any, and to portions of the petitioned area and petitioner's interests to which the allegation applies. The allegations shall be supported by evidence, not contained in the record of the designation proceeding, that tends to establish the validity of the allegations for the mining operation or portion of the petitioned area, assuming that contemporary mining practices required under applicable regulatory programs would be followed were the area to be mined. For areas previously and unsuccessfully proposed for termination, significant new allegations of facts and supporting evidence must be presented in the petition. Allegations and supporting evidence should also be specific to the basis for which the designation was made and tend to establish that the designation should be terminated on the following bases:

(A) Nature or abundance of the protected resource or condition or other basis of the designation if the designation was based on criteria found in § 762.11(b) of this chapter;

(B) Reclamation now being technologically and economically feasible if the designation was based on the criteria found in § 762.11(a) of this chapter; or

(C) Resources or conditions not being affected by surface coal mining operations, or in the case of land use plans, not being incompatible with surface coal mining operations during and after mining, if the designation was based on the criteria found in § 762.11(b) of this chapter;

(2) The State regulatory authority may request that the petitioner provide other supplementary information which is readily available.

§ 764.15 Initial processing, recordkeeping, and notification requirements.

(a)(1) Within 60 days of receipt of a petition, the regulatory authority shall notify the petitioner by certified mail whether or not the petition is complete under § 764.13 (b) or (c). Complete, for a designation or termination petition, means that the information required under § 764.13 (b) or (c) has been provided.

(2) The regulatory authority shall determine whether any identified coal resources exist in the area covered by the petition, without requiring any showing from the petitioner. If the regulatory authority finds there are not any identified coal resources in that area, it shall return the petition to the petitioner with a statement of the findings.

(3) The regulatory authority may suspend petitions related to lands where it finds there is no real or forseeable potential for surface coal mining operations to occur. Real and foreseeble potential means that the petitioned lands are likely to be subject to leasing or mining activity within 5 years. Where petitions are suspended, the regulatory authority, upon request of the petitioner but not more than once each year, will determine whether there is real and foreseeable potential for surface coal mining operations to occur. If it is determined that there is a real or foreseeable potential for surface coal

mining operations to occur, processing of the petition shall proceed.

(4) If the regulatory authority determines that the petition is incomplete, frivolous, or that the petitioner does not meet the requirements of § 764.13(a), it shall return the petition to the petitioner with a written statement of the reasons for the determination and the categories of information needed to make the petition complete. A frivolous petition is one in which the allegations of harm lack serious merit.

(5) When considering a petition for an area which was previously and unsuccessfully proposed for designation, the regulatory authority shall determine if the new petition presents significant new allegations of facts with evidence which tends to establish the allegations. If the petition does not contain such material, the regulatory authority may choose not to consider the petition and may return the petition to the petitioner, with a statement of its findings and a reference to the record of the previous designation proceedings where the facts were considered.

(6) The regulatory authority shall notify the person who submits a petition of any application for a permit received which includes any area covered by the petition.

(7) The regulatory authority may determine not to process any petition received insofar as it pertains to lands for which an administratively complete permit application has been filed and the first newspaper notice has been published. Based on such a determination, the regulatory authority may issue a decision on a complete and accurate permit application and shall inform the petitioner why the regulatory authority cannot consider the part of the petition pertaining to the proposed permit area.

(8) When a permit application is filed for an area where a petition has been suspended pursuant to § 764.15(a)(3), the regulatory authority shall initiate petition review and not issue a permit until a decision is made on the petition.

(b)(1) Promptly after a petition is received, the regulatory authority shall notify the general public of the receipt of the petition by a newspaper advertisement placed in the locale of the area covered by the petition, in the newspaper providing broadest circulation in the region of the petitioned area and in any official State register of public notices. The regulatory authority shall make copies of the petition available to the public and shall provide copies of the petition to other interested governmental agencies, intervenors, persons with an ownership interest of record in the property, and other persons known to the regulatory authority to have an interest in the property. Proper notice to persons with an ownership interest of record in the property shall comply with the requirements of applicable State law.

(2) The regulatory authority may provide for a hearing or a period of written comments on completeness of petitions. If a hearing or comment period on completeness is provided, the regulatory authority shall inform interested governmental agencies, intervenors, persons with an ownership interest of record in the property, and other persons known to the regulatory authority to have an interest in the property of the opportunity to request to participate in such a hearing or provide written comments. Proper notice to persons with an ownership interest of record in the property shall comply with the requirements of applicable State law. Notice of such a hearing shall be made by a newspaper advertisement placed in the locale of the area cover by the petition, in the newspaper providing broadest circulation in the region of the petitioned area and in any official State register of public notices. The regulatory authority shall notify the petitioner of such a hearing by certified mail. On the basis of regulatory authority review as well as consideration of all comments, the regulatory authority shall determine whether the petition is complete.

(3) Promptly after the determination that a petition is complete, the regulatory authority shall request submissions from the general public of relevant information by a newspaper advertisement placed once a week for two consecutive weeks in the locale of the area covered by the petition, in the newspaper providing broadest circulation in the region of the petitioned area, and in any offical State register of public notices.

(c) Until three days before the regulatory authority holds a hearing under § 764.17, any person may intervene in the proceeding by filing allegations of facts describing how the designation determination directly affects the intervenor, supporting evidence, a short statement identifying the petition to which the allegations pertain, and the intervenor's name, address and telephone number.

(d) Beginning from the date a petition is filed, the regulatory authority shall compile and maintain a record consisting of all documents relating to the petition filed with or prepared by the regulatory authority. The regulatory authority shall make the record available to the public for inspection free of charge and for copying at reasonable cost during all normal hours at the main office of the regulatory authority. The regulatory authority shall also maintain information at or near the area in which the petitioned land is located and make this information available to the public for inspection free of charge and for copying at reasonable cost during all normal business hours. At a minimum, this information shall include a copy of the petition.

§ 764.17 Hearing requirements.

(a) Within 10 months after receipt of a complete petition, the regulatory authority shall hold a public hearing in the locality of the area covered by the petition. If all petitioners and intervenors agree, the hearing need not be held. The regulatory authority may subpoena witnesses as necessary. The hearing may be conducted with cross-examination of expert witnesses only. A record of the hearing shall be made and preserved according to State law. No person shall bear the burden of proof or persuasion. All relevant parts of the data base and inventory system and all public comments received during the public comment period shall be included in the record and considered by the regulatory authority in its decision on the petition.

(b)(1) The regulatory authority shall give notice of the date, time, and location of the hearing to:

(i) Local, State, and Federal agencies which may have an interest in the decision on the petition;

(ii) The petitioner and the intervenors; and

(iii) Any person known by the regulatory authority to have a property interest in the petitioned area. Proper notice to persons with an ownership interest of record shall comply with the requirements of applicable State law.

(2) Notice of the hearing shall be sent by certified mail to petitioners and intervenors, and by regular mail to government agencies and property owners involved in the proceeding, and postmarked not less than 30 days before the scheduled date of the hearing.

(c) The regulatory authority shall notify the general public of the date, time, and location of the hearing by placing a newspaper advertisement once a week for 2 consecutive weeks in the locale of the area covered by the petition and once during the week prior to the public hearing. The consecutive weekly advertisement must begin between 4 and 5 weeks before the scheduled date of the public hearing.

(d) The regulatory authority may consolidate in a single hearing the

hearings required for each of several petitions which relate to areas in the same locale.

(e) Prior to designating any land areas as unsuitable for surface coal mining operations, the regulatory authority shall prepare a detailed statement, using existing and available information on the potential coal resources of the area, the demand for coal resources, and the impact of such designation on the environment, the economy, and the supply of coal.

(f) In the event that all petitioners and intervenors stipulate agreement prior to the hearing, the petition may be withdrawn from consideration.

§ 764.19 Decision.

(a) In reaching its decision, the regulatory authority shall use—

(1) The information contained in the data base and inventory system;

(2) Information provided by other governmental agencies;

(3) The detailed statement when it is prepared under § 764.17(e); and

(4) Any other relevant information submitted during the comment period.

(b) A final written decision shall be issued by the regulatory authority, including a statemtent of reasons, within 60 days of completion of the public hearing, or, if no public hearing is held, then within 12 months after receipt of the complete petition. The regulatory authority shall simultaneously send the decision by certified mail to the petitioner and intervenors and by regular mail to all other persons involved in the proceeding.

(c) The decision of the State regulatory authority with respect to a petition, or the failure of the regulatory authority to act within the time limits set forth in this section, shall be subject to judicial review by a court of competent jurisdiction in accordance with State law under section 526(e) of the Act and §775.13 of this chapter. All relevant portions of the data base, inventory system, and public comments received during the public comment period set by the regulatory authority shall be considered and included in the record of the administrative proceeding.

§ 764.21 Data base and inventory system requirements.

(a) The regulatory authority shall develop a data base and inventory system which will permit evaluation of whether reclamation is feasible in areas covered by petitions.

(b) The regulatory authority shall include in the system information relevant to the criteria in Section 762.11 of this chapter, including, but not limited to, information received from the United States Fish and Wildlife Service, the State Historic Preservation Officer, and the agency administering section 127 of the Clean Air Act, as amended (42 U.S.C. 7470 *et seq.*).

(c) The regulatory authority shall add to the data base and inventory system information—

(1) On potential coal resources of the State, demand for those resources, the environment, the economy and the supply of coal, sufficient to enable the regulatory authority to prepare the statements required by § 764.17(e); and

(2) That becomes available from petitions, publications, experiments, permit application, mining and reclamation operations, and other sources.

§ 764.23 Public information.

The regulatory authority shall:

(a) Make the information in the data base and inventory system developed under § 764.21 available to the public for inspection free of charge and for copying at reasonsable cost, except that specifc information relating to location of properties proposed to be nominated to, or listed in, the National Register of Historic Places need not be disclosed if the regulatory authority determines that the disclosure of such information would create a risk of destruction or harm to such properties;

(b) Provide information to the public on the petition procedures necessary to have an area designated as unsuitable for all or certain types of surface coal mining operations or to have designations terminated and describe how the inventory and data base system can be used.

§ 764.25 Regulatory authority responsibility for implementation.

(a) The regulatory authority shall not issue permits which are inconsistent with designations made pursuant to Part 761, 762, or 764 of this chapter.

(b) The regulatory authority shall maintain a map or other unified and cumulative record of areas designated unsuitable for all or certain types of surface coal mining operations.

(c) The regulatory authority shall make available to any person any information within its control regarding designations, including mineral or elemental content which is potentially toxic in the environment but excepting proprietary information on the chemical and physical properties of the coal.

PART 769—PETITION PROCESS FOR DESIGNATION OF FEDERAL LANDS AS UNSUITABLE FOR ALL OR CERTAIN TYPES OF SURFACE COAL MINING OPERATIONS AND FOR TERMINATION OF PREVIOUS DESIGNATIONS

Sec.

769.1 Scope.
769.10 Information collection
769.11 Who may submit a petition.
769.12 Where to submit petitions.
769.13 Contents of petitions.
769.14 Initial processing, recordkeeping, and notification requirements.
769.15 Intervention.
769.16 Public information.
769.17 Hearing requirements.
769.18 Decisions on petitions.
769.19 Regulatory policy.

Authority: Secs. 102, 201, 501, 510, 517, 522, and 523 of Pub. L. 95–87, 91 Stat. 448, 449, 468, 480, 498, 507, 510 (30 U.S.C. 1202, 1211, 1251, 1260, 1267, 1272, and 1273).

§ 769.1 Scope.

This part establishes minimum procedures and standards for designating Federal lands as unsuitable for all or certain types of surface coal mining operations and for terminating designations pursuant to petition.

§ 769.10 Information collection.

The information collection requirements in this part do not require approval of the Office of Management and Budget under 44 U.S.C. 3507 because there are fewer than 10 respondents annually.

§ 769.11 Who may submit a petition.

Any person having an interest which is or may be adversely affected by surface coal mining operations to be conducted on Federal lands may petition the Secretary to have an area designated as unsuitable for all or certain types of surface coal mining operations, or to have an existing designation terminated. This right does not apply to areas set aside from surface coal mining operations under laws other than the Act. For the purpose of this section, a person having an interest which is or may be adversely affected must demonstrate how he or she meets an "injury in fact" test by describing the injury to his or her specific affected interests and demonstrate how he or she is among the injured.

§ 769.12 Where to submit petitions.

Each petition to have an area of Federal lands designated as unsuitable or to terminate an existing designation shall be submitted to the Director of the OSM Field Office responsible for that

area where the Federal lands are located.

§ 769.13 Contents of petitions.

(a) *Designation.* The only information that a petitioner need provide to designate lands is that required under § 764.13(b) of this chapter.

(b) *Termination.* The only information that a petitioner need provide to terminate a designation is that required by § 764.13(c) of this chapter.

§ 769.14 Initial processing, recordkeeping, and notification requirements.

(a)(1) Within 30 days of receipt of a petition, OSM shall determine whether the petition is complete, ripe for further processing, and not frivolous. OSM may request other supplementary information which is readily available to be provided by the petitioner. Any request for such supplementary information from the petitioner shall not affect OSM's determination that the petition is complete for further processing.

(2) *Complete,* (i) for a designation petition, means that (A) all information required under § 764.13(b) of this chapter has been provided and (B) the information submitted by the petitioner contains significant new allegations of fact and supporting evidence not considered in any previous unsuccessful petition of Federal lands review conducted under Section 522(b) of the Act, that tends to establish that the lands are unsuitable for surface coal mining operations; and (ii) for a termination petition, means that all information required under § 764.13(c) has been provided.

(3) *Ripe,* for a designation petition, means that the petitioned lands are (i) subject to a Federal coal lease; (ii) included in a tract for which land use planning has been completed and which tract is available for further consideration for Federal coal leasing; (iii) not required to be leased because the mineral rights are not owned by the United States or are owned by the Tennessee Valley Authority; or (iv) over unleased Federal coal and are subject to surface disturbances from neighboring surface coal mining operations.

(4) *Frivolous,* for a designation or termination petition, means that: (i) The allegations of harm lack serious merit; or (ii) available information shows that no "mineable" coal resources exist in the petitioned area or that the petitioned area is not or could not be subject to related surface operations and surface impacts incident to an underground coal mine or an adjoining surface mine (mineable coal is coal with development potential as mapped or reported by the Bureau of Land Management under 43 CFR 3420.1–5(e)(1); and privately owned coal under land owned by the United States).

(b)(1) When the Director finds that the petition is incomplete or frivolous, he or she shall reject the petition with a written statement of reasons and advise the petitioner, via certified mail, that the petition may be reconsidered upon resubmittal with deficiencies cured.

(2) When the Director finds that a petition is not ripe, he or she may suspend the petition and notify the petitioner via certified mail. Where petitions are suspended, OSM, upon request of the petitioner but not more than once each year, will review the petition to determine whether it is ripe. When lack of ripeness is based on land use planning not having occurred yet on unleased Federal land, the Director shall advise the petitioner of his or her opportunity to participate in the planning process. In addition, the Director shall advise the land management agency of the issues raised by the petitioner and will request the agency to consider the issues so raised in its planning effort and to advise the petitioner of all public participation activities for the planning unit.

(c) When the Director finds that the petition is complete, ripe and not frivolous, he or she shall initiate the petition review and so advise the petitioner via certified mail.

(d)(1) Within 2 weeks after accepting the petition for further processing, OSM shall send a copy of the petition to the authorized officer of the land management agency for the officer's recommendation on the petition.

(2) The authorized officer of the appropriate Federal land management agency shall furnish a recommendation on the petition to OSM within 30 days of its receipt, if the area covered by the petition has been included in a completed Federal lands review or within 9 months, if the area has not been included in a Federal lands review.

(e) Promptly after accepting a petition for further processing, OSM shall circulate copies of the petition to, and request submissions of relevant information from, other interested governmental agencies, the petitioner, intervenors, and any person, known to OSM to have an ownership interest in the property.

(f) Where lands administered by the Department of the Interior and other Federal land management agencies are contiguous or intermingled or where the Department's resource management could affect resources on the other's land, the Director of OSM shall refer a copy of the petition to the other Federal land management agency and shall consider the agency's recommendations about designating those lands unsuitable for all or certain types of surface coal mining or terminating such designations.

(g) OSM may determine not to process any petition received insofar as it pertains to lands for which an administratively complete permit application has been filed and the first newspaper notice has been published. Based on such a determination, OSM may issue a decision on a complete and accurate permit application and shall inform the petitioner why OSM cannot consider the part of the petition pertaining to the proposed permit area.

(h) When a permit application is filed for an area where a petition has been suspended pursuant to § 769.14(b)(2), OSM shall initiate petition review and not issue a permit until a decision is made on the petition.

§ 769.15 Intervention.

Up to 3 days before the OSM holds a hearing on a petition under § 769.17, any person may intervene in the proceeding by filing a statement describing how the designation directly affects the intervenor, allegations of facts and supporting evidence, a short statement identifying the petition to which the allegations pertain, and the intervenor's name, address and telephone number.

§ 769.16 Public information.

(a) Promptly after determining that a petition is complete, the Director shall notify the general public of the receipt of the petition and request submissions of the relevant information by a newspaper advertisement placed once a week for two consecutive weeks in the newspaper providing broadest circulation in the region of the petitioned area, and in the **Federal Register.** The advertisement and **Federal Register** notice shall include a description of the boundaries of the petitioned area, the allegations of fact, and information regarding where the petition is available for public review.

(b)(1) Beginning immediately after a petition is filed, OSM shall compile and maintain a record consisting of all documents relating to the petition filed with or prepared by OSM with the exception of that information excluded under § 769.16(b)(2). OSM shall make the record available to the public for inspection free of charge and for copying at a reasonable cost during all normal business hours at its Washington, D.C. office. OSM shall also maintain information in or near the area in which the petitioned land is located; this

information shall be available for public inspection, free of charge, and for copying at reasonable cost during all normal business hours. At a minimum, this information shall include a copy of the petition.

(2) OSM need not make available to any person or entity the specific location of property proposed to be nominated to be listed or listed in the National Register of Historic Places if it is determined that disclosure of that information would create a risk of destruction or harm to such properties. Withheld information must be disclosed when a designation of unsuitability would rest primarily on an allegation based on that information.

§ 769.17 Hearing requirements.

(a) Within 10 months after receipt of a complete petition, OSM shall hold a public hearing in the locality of the area covered by the petition. If all petitioners and intervenors agree, the hearing need not be held. OSM may subpoena witnesses as necessary. The hearing may be conducted with cross-examination of expert witnesses only. A record of the hearing shall be made and preserved. No person shall bear the burden of proof or persuasion. All relevant parts of the data base and inventory system and all public comments received during the public comment period shall be included in the record and considered by OSM in deciding the petition.

(b)(1) OSM shall give notice of the date, time, and location of the hearing to:

(i) Local, State, and Federal agencies which may have an interest in the decision on the petition;

(ii) The petitioner and the intervenors; and

(iii) Any person known by OSM to have a property interest in the petitioned area.

(2) Notice of the hearing shall be sent by certified mail to the petitioner and intervenors, and by regular mail to other persons involved in the proceeding, and postmarked not less than 30 days before the scheduled date of the hearing.

(3) OSM shall notify the general public of the date, time, and location of the hearing by placing a newspaper advertisement once a week for 2 consecutive weeks prior to the scheduled date of the public hearing in the locale of the area covered by the petition and once during the week prior to the scheduled date of the public hearing. The consecutive weekly advertisements must begin between 4 and 5 weeks prior to the scheduled date of the public hearing.

(c) OSM may consolidate into a single hearing the hearings required for each of several petitions which relate to areas in the same locale.

(d) If any petitions relates to an area of Federal lands which is the subject of a pending surface coal mining and reclamation operations permit application, OSM may, with consent of all petitioners and intervenors, coordinate the hearing on the petition required under paragraph (a) of this section with any hearing on the permit application or informal conference held in accordance with section 513(b) of the Act and § 740.13 of this chapter on the permit application. Nothing in this paragraph shall relieve an applicant for a permit from the burden of establishing that his or her application is in compliance with the requirements of the Federal lands program.

(e) Prior to designating any lands as unsuitable for surface coal mining operations, OSM shall issue a detailed statement on the abundance of coal resources of the area, the demand for coal resources, and the impact of such designation on the environment, the economy, and the supply of coal.

§ 769.18 Decisions on petitions.

(a) In reaching his or her decision, the Director shall use the information and consider the recommendation provided by the Federal land management agency, information provided by other governmental agencies, the detailed statement, when it is prepared under § 769.17(e), and any other relevant information submitted during the comment period.

(b) A final written decision shall be issued by the Director, including a statement of reasons, within 60 days of completion of the public hearing, or if no public hearing is held, within 12 months after receipt of the complete petition. The Director shall simultaneously send the decision by certified mail to the petitioner and the intervenors and by regular mail to all other persons involved in the proceeding.

(c) If the Director concurs with the recommendation of the surface managing agency, the Director's decision becomes final. If the Director does not concur with the recommendation, he or she shall notify the Director of the surface managing agency within 30 days after the public hearing, if any. The decision at the same time will be referred to the Secretary through respective agency heads for resolution and issuance of a final decision within 60 days after the hearing, if any.

(d) A final decision of the Director or the Secretary is subject to judicial review in accordance with § 775.13 of this chapter and section 526(a)(2) and (b) of the Act.

§ 769.19 Regulatory policy

Once an area of Federal lands is designated as unsuitable for all or certain types of surface coal mining operations, any permit or lease shall be conditioned in a manner so as to limit or prohibit surface coal mining operations on the designated areas in accordance with the designation.

PART 779—SURFACE MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR INFORMATION ON ENVIRONMENTAL RESOURCES

3. Section 779.24 is amended by revising paragraph (j) to read as follows:

§ 779.24 Maps: General requirements.

* * * * *

(j) Each public or private cemetery, Indian burial ground, or other area where human bodies are interred, that is located in or within 100 feet of the proposed permit area;

* * * * *

PART 783—UNDERGROUND MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR INFORMATION ON ENVIRONMENTAL RESOURCES

4. Section 783.24 is amended by revising paragraph (j) to read as follows:

§ 783.24 Maps: General requirements.

* * * * *

(j) Each public or private cemetery, Indian burial ground, or other area where human bodies are interred, that is located in or within 100 feet of the proposed permit area;

* * * * *

Pub. L. 95–87; 30 U.S.C. Section 1201 *et seq.)*

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Part V

Office of Management and Budget

Cumulative Report on Budget Rescissions and Deferrals

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Budget Rescissions and Deferrals

September 1, 1983.

This report is submitted in fulfillment of the requirements of Section 1014(e) of the Impoundment Control Act of 1974 (Pub. L. 93–344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year with respect to which, as of the first day of the month, a special message has been transmitted to the Congress.

This report gives the status as of September 1, 1983 of 21 rescission proposals and 83 deferrals contained in the first eleven special messages of FY 1983. These messages were transmitted to the Congress on October 1 and December 7 and 16, 1982, and January 5, February 1, March 9, April 21, May 19, July 7, July 28, and August 18, 1983.

Rescissions (Table A and Attachment A)

One rescission proposal totaling $15 million is currently pending before the Congress. Table A summarizes the status of the 21 rescissions proposed by the President as of September 1, 1983, while Attachment A shows the history and status of each rescission proposed during FY 1983.

Deferrals (Table B and Attachment B)

As of September 1, 1983, $2,091.9 million in 1983 budget authority was being deferred from obligation and another $7.2 million in 1983 obligations was being deferred from expenditure. Attachment B shows the history and status of each deferral reported during FY 1983.

Information From Special Messages

The special messages containing information on the rescissions and the deferrals covered by the cumulative report are printed in the **Federal Registers** listed below:

Vol. 47, FR p. 44524, Thursday, October 7, 1982
Vol. 47, FR p. 55602, Friday, December 10, 1982
Vol. 47, FR p. 57230, Wednesday, December 22, 1982
Vol. 48, FR p. 1266, Tuesday, January 11, 1983
Vol. 48, FR p. 5474, Friday, February 4, 1983
Vol. 48, FR p. 11244, Wednesday, March 16, 1983
Vol. 48, FR p. 18978, Tuesday, April 26, 1983
Vol. 48, FR p. 23374, Tuesday, May 24, 1983
Vol. 48, FR p. 32154, Wednesday, July 13, 1983
Vol. 48, FR p. 36996, Monday, August 15, 1983
Vol. 48, FR p. 38444, Tuesday, August 23, 1983

David A. Stockman,
Director, Office of Management and Budget.

BILLING CODE 3110-01-M

TABLE A

STATUS OF 1983 RESCISSIONS

	Amount (In millions of dollars)
Rescissions proposed by the President.....	$1,569.0
Accepted by the Congress.....	-0-
Rejected by the Congress.....	-1,554.0
Pending before the Congress.....	$ 15.0

****

TABLE B

STATUS OF 1983 DEFERRALS

	Amount (In millions of dollars)
Deferrals proposed by the President.....	$13,559.5
Routine Executive releases ($8,182.3 million) and adjustments (+$716.3 million) through September 1, 1983.....	-7,466.0
Overturned by the Congress.....	-3,994.3
Currently before the Congress.....	$2,099.2 a/

a/ This amount includes $7.2 million in outlays for a Department of the Treasury deferral (D83-168).

Attachments

ATTACHMENT A - STATUS OF RESCISSIONS - FISCAL YEAR 1983

AS OF SEPTEMBER 1, 1983 AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	RESCISSION NUMBER	AMOUNT PREVIOUSLY CONSIDERED BY CONGRESS	AMOUNT CURRENTLY BEFORE THE CONGRESS	DATE OF MESSAGE MO DA YR	AMOUNT RESCINDED	AMOUNT MADE AVAILABLE	DATE MADE AVAILABLE MO DA YR
FUNDS APPROPRIATED TO THE PRESIDENT							
Appalachian Regional Development Programs							
Appalachian Regional Development programs							
BA	R83- 2	15,133		2 1 83		15,133	4 13 83
FUNDS APPROPRIATED TO THE PRESIDENT TOTAL BA		15,133				15,133	
DEPARTMENT OF AGRICULTURE							
Agricultural Research Service							
Buildings and facilities							
BA	R83- 3	1,927		2 1 83		1,927	4 13 83
Soil Conservation Service							
Watershed and flood prevention operations							
BA	R83- 4	68,995		2 1 83		68,995	4 13 83
Resource conservation and development							
BA	R83- 5	5,600		2 1 83		5,600	4 13 83
Agricultural Cooperative Service							
Salaries and expenses							
BA	R83- 6	779		2 1 83		779	4 13 83
DEPARTMENT OF AGRICULTURE TOTAL BA		77,301				77,301	
DEPARTMENT OF COMMERCE							
National Oceanic and Atmospheric Administration							
Construction							
BA	R83- 1	2,000		12 16 82		2,000	3 25 83
DEPARTMENT OF COMMERCE TOTAL BA		2,000				2,000	
DEPARTMENT OF EDUCATION							
Office of Elementary and Secondary Education							
Compensatory education for the disadvantaged							
BA	R83- 7	133,925		2 1 83		133,925	4 13 83
School assistance in federally affected areas							
BA	R83- 8	5,000		2 1 83		5,000	4 13 83
Special programs and populations							
BA	R83- 9	56,639		2 1 83		56,639	4 13 83
Indian education							
BA	R83- 10	16,128		2 1 83		16,128	4 13 83
Off. of Bilingual Educ. & Minority Lang. Affairs							
Bilingual eduation							
BA	R83- 11	43,523		2 1 83		43,523	4 13 83
Office of Postsecondary Education							
Guaranteed student loans							
BA	R83- 12	900,000		2 1 83		900,000	4 13 83
Higher and continuing education							
BA	R83- 13	68,941		2 1 83		68,941	4 13 83

AS OF SEPTEMBER 1, 1983 AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	RESCISSION NUMBER	AMOUNT PREVIOUSLY CONSIDERED BY CONGRESS	AMOUNT CURRENTLY BEFORE THE CONGRESS	DATE OF MESSAGE MO DA YR	AMOUNT RESCINDED	AMOUNT MADE AVAILABLE	DATE MADE AVAILABLE MO DA YR
Office of Educational Research and Improvement							
Educational research and statistics							
BA	R83- 14	6,225		2 1 83		6,225	4 13 83
DEPARTMENT OF EDUCATION TOTAL BA		1,230,381				1,230,381	
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT							
Housing Programs							
Payments for oper. of low income housing proj.							
BA	R83- 15	69,000		2 1 83		69,000	4 13 83
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT TOTAL BA		69,000				69,000	
DEPARTMENT OF THE INTERIOR							
National Park Service							
Construction							
BA	R83- 16	63,600		2 1 83		63,600	4 13 83
DEPARTMENT OF THE INTERIOR TOTAL BA		63,600				63,600	
DEPARTMENT OF STATE							
Bureau of Refugee Programs							
Migration and refugee assistance							
BA	R83- 21		15,000	7 7 83			
DEPARTMENT OF TRANSPORTATION							
Federal Highway Administration							
Federal-aid highways (trust fund)							
BA	R83- 17	23,200		2 1 83		23,200	4 13 83
Coast Guard							
Nat l recreat., boat. safety & facil. improv.							
BA	R83- 18	5,000		2 1 83		5,000	4 13 83
DEPARTMENT OF TRANSPORTATION TOTAL BA		28,200				28,200	
OTHER INDEPENDENT AGENCIES							
Corporation for Public Broadcasting							
Public broadcasting fund							
BA	R83- 19	45,000a		2 1 83			
OTHER INDEPENDENT AGENCIES TOTAL BA		45,000					
OFF-BUDGET FEDERAL ENTITIES							
Department of Agriculture							
Rural telephone bank							
BA	R83- 20	23,400		2 1 83		23,400	4 13 83

AS OF SEPTEMBER 1, 1983 AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	RESCISSION NUMBER	AMOUNT PREVIOUSLY CONSIDERED BY CONGRESS	AMOUNT CURRENTLY BEFORE THE CONGRESS	DATE OF MESSAGE MO DA YR	AMOUNT RESCINDED	AMOUNT MADE AVAILABLE	DATE MADE AVAILABLE MO DA YR
008 BUDGET FEDERAL ENTITIES							
TOTAL BA		23,400				23,400	
TOTAL BA		1,554,015	15,000			1,569,015 [b]	

[a] This is a rescission of FY 1985 funds.

[b] Excludes $45.0 million of advance funding for the Corporation for Public Broadcasting that cannot be made available for obligation until FY 1985.

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1983

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 9-1-83
FUNDS APPROPRIATED TO THE PRESIDENT									
Appalachian Regional Development Programs									
Appalachian regional development programs	BA	D83- 40	10,000		2 1 83				10,000
International Security Assistance									
Foreign military sales credit	BA	D83- 21	165,000		12 7 82				
	BA	D83- 21A		1,010,000	2 1 83	-1,175,000			
Economic support fund	BA	D83- 22	554,720		12 7 82				
	BA	D83- 22A		1,347,130	2 1 83	-2,416,705		588,450	73,595
Military assistance	BA	D83- 29	11,650		12 7 82				
	BA	D83- 29A		221,350	2 1 83	-247,650		14,650	
International Development Assistance									
Functional development assistance program	BA	D83- 1	8,129		10 1 82	-8,129			
FUNDS APPROPRIATED TO THE PRESIDENT TOTAL	BA		749,498	2,578,480		-3,847,484		603,100	83,595
DEPARTMENT OF AGRICULTURE									
Agricultural Stabilization & Conservation Service									
Dairy and beekeeper indemnity programs	BA	D83- 36	7,000		1 5 83		-7,000		
Soil Conservation Sevice									
Watershed and flood prevention operations	BA	D83- 41	10,329		2 1 83		-10,329		
Animal and Plant Health Inspection Service									
Salaries and expenses	BA	D83- 34	2,134		12 16 82				
	BA	D83- 34A		4,066	2 1 83	-6,200			
Forest Service									
National forest system	BA	D83- 42	108,035		2 1 83	-21,022			87,013
Timber salvage sales	BA	D83- 2	10,002		10 1 82				
	BA	D83- 2A		3,105	2 1 83	-6,897			6,210
Expenses, brush disposal	BA	D83- 3	44,575		10 1 82	-10,042		8,126	42,659
	BA	0000							
DEPARTMENT OF AGRICULTURE TOTAL	BA		182,075	7,171		-44,161	-17,329	8,126	135,882
DEPARTMENT OF COMMERCE									
Economic Development Administration									
Economic development assistance programs	BA	D83- 43	181,900		2 1 83		-181,900		
Economic development revolving fund	BA	D83- 37	25,350		1 5 83	-25,350			
International Trade Administration									
Operations and administration	BA	D83- 44	20,100		2 1 83		-20,100		
Participation in U.S. expositions	BA	D83- 4	3,356		10 1 82	-571			2,785
National Oceanic and Atmospheric Administration									
Operations, research, and facilities	BA	D83- 71	2,965		4 21 83				2,965
Construction	BA	D83- 45	3,000		2 1 83				3,000

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 9-1-83
Promote and develop fishery products and research	BA	D83- 5	30,619		10 1 82	-30,619			
National Bureau of Standards									
Scientific & technical research & services	BA	D83- 38	6,500		1 5 83				6,500
DEPARTMENT OF COMMERCE TOTAL BA			273,790			-56,540	-202,000		15,250
DEPARTMENT OF DEFENSE-MILITARY									
Procurement									
Shipbuilding and conversion, Navy	BA	D83- 46	2,400,000		2 1 83	-2,400,000			
Military Construction									
Military construction, all services	BA	D83- 6	64,063		10 1 82				
	BA	D83- 6A		1,166,415	12 7 82	-933,867		103,136	399,747
Family Housing, Defense									
Family housing, Defense	BA	D83- 23	161,640		12 7 82	-108,640			53,000
	BA	0000							
DEPARTMENT OF DEFENSE-MILITARY TOTAL BA			2,625,703	1,166,415		-3,442,507		103,136	452,747
DEPARTMENT OF DEFENSE-CIVIL									
Corps of Engineers									
Construction, general	BA	D83- 47	180,000		2 1 83				180,000
Wildlife Conservation, Military Reservations									
Wildlife conservation	BA	D83- 7	1,061		10 1 82	-229		-50a	782
	BA	0000							
DEPARTMENT OF DEFENSE-CIVIL TOTAL BA			181,061			-229		-50	180,782
DEPARTMENT OF ENERGY									
Atomic Energy Defense Activities									
Atomic energy defense activities	BA	D83- 70	50,000		3 9 83	-50,000			
Energy Programs									
Energy supply R&D-operating expenses	BA	D83- 72	15,226		4 21 83	-11,000a			4,226
Energy supply R&D-plant and capital equip	BA	D83- 48	91,107		2 1 83				
	BA	D83- 48A		b	5 19 83	-49,095		18,540	60,552
Fossil energy research and development	BA	D83- 8	20,136		10 1 82				
	BA	D83- 8A		b	2 1 83	-15,136			5,000
	BA	D83- 73	8,750		4 21 83		-8,750		
	BA	D83- 80	15,326		7 7 83				15,326
Fossil energy construction	BA	D83- 49	20,000		2 1 83				
	BA	D83- 49A		6,000	4 21 83				26,000
Energy conservation	BA	D83- 24	22,803		12 7 82	-22,803			
	BA	D83- 74	4,500		4 21 83		-4,500		
	BA	D83- 76	3,050		7 7 83				3,050
Strategic Petroleum Reserve	BA	D83- 50	57,400		2 1 83		-57,400		
Alternative fuels production	BA	D83- 77	13,000		7 7 83				13,000

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 9-1-83
Departmental Administration								
Depart. admin., operating expenses	BA D83- 51	21,767		2 1 83	-11,173			10,594
Depart. admin., plant & capital equipment	BA D83- 52	12,693		2 1 83				12,693
	BA 0000							
DEPARTMENT OF ENERGY TOTAL BA		355,758	6,000		-159,207	-70,650	18,540	150,441
DEPARTMENT OF HEALTH AND HUMAN SERVICES								
Centers for Disease Control								
Preventive Health Services	BA D83- 78	15,560		7 7 83	-15,560			
Alcohol, Drug Abuse & Mental Health Administration								
Construction & renovation, St. Elizabeths Hospital	BA D83- 9	9,714		10 1 82				9,714
Office of Assistant Secretary for Health								
Special foreign currency program	BA D83- 10	6,420		10 1 82				6,420
Social Security Administration								
Limitation on administrative expenses	BA D83- 53	9,633		2 1 83				9,633
DEPARTMENT OF HEALTH AND HUMAN SERVICES TOTAL BA		41,327			-15,560			25,767
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT								
Housing Programs								
Subsidized housing programs	BA D83- 54	3,081,153		2 1 83		-3,081,153		
Payments for operation of low income housing	BA D83- 30	150,000		12 7 82	-150,000			
Community Planning and Development								
Community development grants	BA D83- 31	221,000		12 7 82	-221,000			
Urban development action grants	BA D83- 32	234,000		12 7 82				
	BA D83- 32A		10,000	1 5 83		-244,000		
Urban homesteading	BA D83- 33	8,000		12 7 82	-8,000			
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT TOTAL BA		3,694,153	10,000		-379,000	-3,325,153		
DEPARTMENT OF THE INTERIOR								
Office of Water Research & Technology								
Salaries and expenses	BA D83- 25	2,545		12 7 82	-2,545			
National Park Service								
Land acquisition and state assistance	BA D83- 11	30,000		10 1 82				
	BA D83- 11A		3,000	2 1 83			-30,000 [d]	3,000
Minerals Management Service								
Payments from proceeds, sale of water	BA D83- 39	48		1 5 83				48
Office of Territorial Affairs								
Administration of territories	BA D83- 55	3,188		2 1 83		-3,188		
DEPARTMENT OF THE INTERIOR TOTAL BA		35,781	3,000		-2,545	-3,188	-30,000	3,048

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 9-1-83
DEPARTMENT OF JUSTICE								
Legal Activities								
Salaries and expenses, Gen. Legal Activities								
BA	D83- 81	561		7 7 83	-561			
Salaries and expenses, Antitrust Division								
BA	D83- 82	231		7 7 83	-231			
Interagency Law Enforcement								
Organized crime drug enforcement								
BA	D83- 56	13,656		2 1 83				13,656
Federal Prison System								
Buildings and facilities								
BA	D83- 35	16,330		12 16 82				
BA	D83- 35A		51,507	5 19 83				67,837
DEPARTMENT OF JUSTICE TOTAL BA		30,778	51,507		-792			81,493
DEPARTMENT OF STATE								
International Organizations and Conferences								
Contributions to international organizations								
BA	D83- 57	8,111		2 1 83	-8,111			
Other								
Emergency refugee and migration assistance fund								
BA	D83- 12	37,692		10 1 82			-1,844c	35,848
U S. bilateral science and technology agreements								
BA	D83- 58	2,000		2 1 83				2,000
BA	0000							
DEPARTMENT OF STATE TOTAL BA		47,803			-8,111		-1,844	37,848
DEPARTMENT OF TRANSPORTATION								
Urban Mass Transportation Administration								
Urban mass capital fund								
BA	D83- 59	229,000		2 1 83		-229,000		
Federal Aviation Administration								
Construction, Metropolitan Washington Airports								
BA	D83- 59	500		2 1 83				500
Civil supersonic aircraft development termination								
BA	D83- 13	46		10 1 82				46
Facilities & equip. (Airport & airway trust fund)								
BA	D83- 14	158,485		10 1 82				
BA	D83- 14A		566,751	2 1 83				725,236
Coast Guard								
Natl recreat. boat safety & facil. improv.								
BA	D83- 61	40,000		2 1 83				40,000
BA	0000							
DEPARTMENT OF TRANSPORTATION TOTAL BA		428,031	566,751			-229,000		765,782
DEPARTMENT OF THE TREASURY								
Office of Revenue Sharing								
State and local government fiscal assistance fund								
BA	D83- 15	106,474		10 1 82				
BA	D83- 15A		308	12 7 82	-52,544		415	54,650
O	D83- 16	7,909		10 1 82				
O	D83- 16A		6,537	12 7 82				
O	D83- 16B		1,498	3 9 83	-23,569		14,834	7,209

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 9-1-83
Federal Law Enforcement Training Center									
Construction									
	BA	D83- 17	3,078		10 1 82	-678			2,400
DEPARTMENT OF THE TREASURY									
TOTAL BA			109,552	305		-53,222		416	57,050
TOTAL O			7,909	8,035		-23,569		14,834	7,209
NATIONAL AERONAUTICS & SPACE ADMINISTRATION									
Research and development									
	BA	D83- 26	34,500		12 7 82	-26,000			8,500
72:9999									
	BA	0000							
VETERANS ADMINISTRATION									
Construction, major projects									
	BA	D83- 27	4,000		12 7 82				4,000
72:9999									
	BA	0000							
OTHER INDEPENDENT AGENCIES									
Board for International Broadcasting									
Grants and expenses									
	BA	D83- 79	3,185		7 7 83				3,185
District of Columbia									
Loans to DC for capital investment									
	BA	D83- 18	38,832		10 1 82	-38,832			
Interstate Commission on the Potomac River Basin									
Contrib to Interst. Comm. on Potomac Riv. Basin									
	BA	D83- 28	12		12 7 82	-12			
Pennsylvania Avenue Development Corporation									
Land acquisition and development fund									
	BA	D83- 19	17,949		10 1 82				
	BA	D83- 19A		4,409	12 16 82				22,358
Railroad Retirement Board									
Milwaukee railroad restructuring, administration									
	BA	D83- 20	240		10 1 82				
	BA	D83- 20A		250	2 1 83				490
Limitation on administration									
	BA	D83- 75		2,750	5 19 83	-750			2,000
Limitation on Rail Unemp. Ins. Admin. Fund									
	BA	D83- 83	165		8 18 83	-165			
Small Business Administration									
Business loan and investment fund									
	BA	D83- 62	143,000		2 1 83		-143,000		
Surety bond guarantees revolving fund									
	BA	D83- 63	3,000		2 1 83		-3,000		
Pollu cont. equip contract guar. revolv.									
	BA	D83- 64	1,000		2 1 83		-1,000		
Motor Carrier Ratemaking Study Commission									
Salaries and Expenses									
	BA	D83- 65	282		2 1 83				282
Tennessee Valley Authority									
Tennessee Valley Authority fund									
	BA	D83- 66	47,271		2 1 83				47,271
United States Information Agency									
Salaries and expenses (spec. for. curr. prog.)									
	BA	D83- 67	1,344		2 1 83				1,344
Acquis and construction of radio facilities									
	BA	D83- 68	12,437		2 1 83				12,437

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 9-1-83
United States Railway Association									
Payments for purchase of Conrail securities									
	BA	D83- 69	84,000		2 1 83	-83,600			400
84:99									
	BA	0000							
OTHER INDEPENDENT AGENCIES									
TOTAL	BA		352,717	7,408		-123,359	-147,000		89,767
83:55									
84:99									
	BA	0000							
	TOTAL BA		9,146,528	4,397,038		-8,158,717	-3,994,320	701,423	2,091,952
	TOTAL O		7,909	8,035		-23,569		14,834	7,209

a $5 million of this amount was released prior to transmittal of the message reporting the withholding of $15.2 million.

b. This revision is a technical adjustment that did not increase the amount deferred.

c This adjustment is being made to reflect actual unobligated balances available on October 1, 1982. All unobligated balances are being withheld from obligation.

d This adjustment is being made to reflect the amount of the deferral that was rescinded by Congress pursuant to P.L. 98-63.

END OF REPORT

[FR Doc. 83-25078 Filed 9-13-83; 8:45 am]
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Reader Aids

Federal Register

Vol. 48, No. 179

Wednesday, September 14, 1983

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202–523–3419 523–3517
General information, index, and finding aids	523–5227
Incorporation by reference	523–4534
Printing schedules and pricing information	523–3419

Federal Register

Corrections	523–5237
Daily Issue Unit	523–5237
General information, index, and finding aids	523–5227
Privacy Act	523–4534
Public Inspection Desk	523–5215
Scheduling of documents	523–3187

Laws

Indexes	523–5282
Law numbers and dates	523–5282 523–5266
Slip law orders (GPO)	275–3030

Presidential Documents

Executive orders and proclamations	523–5233
Public Papers of the President	523–5235
Weekly Compilation of Presidential Documents	523–5235

United States Government Manual 523–5230

SERVICES

Agency services	523–5237
Automation	523–3408
Library	523–4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275–2867
Public Inspection Desk	523–5215
Special Projects	523–4534
Subscription orders (GPO)	783–3238
Subscription problems (GPO)	275–3054
TTY for the deaf	523–5229

FEDERAL REGISTER PAGES AND DATES, SEPTEMBER

39595–39910.....1
39911–40186.....2
40187–40364.....6
40365–40496.....7
40497–40694.....8
40695–40870.....9
40871–41008.....12
41009–41140.....13
41141–41368.....14

CFR PARTS AFFECTED DURING SEPTEMBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Administrative Orders:
Memorandums:
September 7, 1983.....40695
Executive Orders:
6143 (Revoked by PLO 6459).....40724
6276 (Revoked by PLO 6459).....40724
6583 (Revoked by PLO 6459).....40724
8854 (Amended by PLO 6458).....40232
12428 (Amended by EO 12440).....40873
12439.....40871
12440.....40873
Proclamations:
5085.....39595
5086.....40187
5087.....40497
5088.....40499
5089.....40501
5090.....40503
5091.....40505
5092.....40507
5093.....41009

4 CFR

Proposed Rules:
83.....39632

5 CFR

2422.....40189
2426.....40189
2429.....40189
Proposed Rules:
731.....40731
754.....40731
870.....40732
871.....40732
872.....40732
873.....40732

7 CFR

28.....41011
29.....40365
51.....40509
52.....40875, 40878, 41011
210.....40194
220.....40194
226.....40197, 41141
301.....39597, 40198
421.....39911
725.....40638
726.....40644
760.....40366
908.....39602, 40510
910.....39912, 40697
981.....40367
1076.....39603
1079.....40511
1106.....41015
1865.....40202
1944.....40202, 40697
1945.....40202
1951.....40202, 41142
Proposed Rules:
26.....41048
52.....40734
278.....40263
279.....40263
631.....40522
660.....40389
658.....39844
1126.....39643, 40894
1941.....40894
1943.....40894
1945.....40894
1980.....40894

8 CFR

103.....41016, 41142
109.....40209
214.....41142
291.....40209
238.....40210, 41148
248.....41026

9 CFR

75.....40512
97.....40881
Proposed Rules:
151.....40899

10 CFR

50.....40882
61.....40512
150.....40882
Proposed Rules:
430.....41166
1017.....40265

12 CFR

7.....40696
29.....40702
34.....40696
217.....39604, 40702
525.....39912
591.....39912
614.....41148
Proposed Rules:
5.....40735
332.....40900
333.....40900
337.....40900
563.....39944

13 CFR

101.....40513

14 CFR

39...40210–40212, 41149, 41150

71.....39913, 40213
75.....40214
97.....39913
Proposed Rules:
Ch. II.....41171
39.....40266, 41166, 41167
71.....40267, 40270, 40525, 41166, 41170
221.....40389

15 CFR
369.....40368
Proposed Rules:
928.....41180

16 CFR
13.....41151
305.....40882
Proposed Rules:
13.....39950

17 CFR
180.....41152
240.....39604
249.....39604

18 CFR
Proposed Rules:
271.....40736

19 CFR
Proposed Rules:
6.....40737
10.....40738
101.....40526
114.....40738
159.....40527
162.....40740

20 CFR
655.....40168, 41154
404.....40514
416.....40883
628.....40886
Proposed Rules:
225.....40390
226.....40390
227.....40390

21 CFR
5.....40703
14.....40887
145.....39916
155.....41155
175.....40515
193.....41156
436.....40704
442.....40516
510.....40704, 40887
520.....40516, 40704, 40887
522.....40704
524.....39607, 41157
558.....40704
561.....40369
Proposed Rules:
Subch. H.....40272
291.....41049
882.....40273, 41181

23 CFR
Proposed Rules:
Ch. I.....39953
658.....41276

24 CFR
25.....40705
203.....39608
207.....40710
213.....39608
234.....39608
235.....40711
570.....40517

25 CFR
Proposed Rules:
211.....41051
212.....41051
225.....41051

26 CFR
1.....40214, 40370, 40371, 40888, 41017
25.....40371
31.....40518
48.....40217
301.....40371, 40376, 41018
Proposed Rules:
1.....39953, 40528, 41051
5f.....39953

27 CFR
9.....40377

28 CFR
Proposed Rules:
0.....41181
16.....41181

29 CFR
553.....40518
1952.....40902

30 CFR
251.....40380
700.....40622
701.....39892, 40140, 40622
736.....41312
760.....41312
761.....41312
762.....41312
764.....41312
765.....41312
769.....41312
772.....40622
776.....40622
779.....41312
783.....41312
785.....39892
815.....40622
816.....39892, 40140
817.....39892, 40140
824.....39892
872.....41018, 41019
921.....41000
938.....40888
939.....40990
938.....40223
Proposed Rules:
75.....40165
902.....41182
913.....40908
935.....39645, 40396
938.....39645

31 CFR
500.....41157
515.....41158
520.....41159

32 CFR
286g.....39917
634.....39919
730.....40224
806.....41020
2003.....40849

33 CFR
100.....39609, 40714, 40715
165.....39609, 39610, 40380
181.....40716
204.....41160
401.....39934
Proposed Rules:
1.....40741
117.....39646
156.....40741
329.....40909
322.....40909
323.....40909
325.....40909
327.....40909
328.....40909
330.....40909

34 CFR
668.....40380
Proposed Rules:
366.....39647

36 CFR
219.....40381
331.....40719

38 CFR
3.....41160
21.....40224
36.....40226
Proposed Rules:
36.....40402

39 CFR
10.....39610
111.....41162
601.....40232
Proposed Rules:
111.....39647, 39648
233.....40910

40 CFR
17.....39934
81.....40722
86.....41296, 41303
122.....39611
123.....39611
124.....39611
144.....39611
145.....39611
180.....40384
233.....39611
270.....39611
271.....39611, 39623
300.....40658
410.....39624
720.....41132
Proposed Rules:
52.....39653
61.....40911
65.....40278
81.....39655, 40746
124.....40098
144.....40098
146.....40098
147.....40098
180.....41184–41186
300.....40674
721.....40282, 40911
799.....39656

41 CFR
Ch. 1.....40385
Ch. 7.....40385

42 CFR
405.....39740, 39752
409.....39752
435.....39624
436.....39624
489.....39752
Proposed Rules:
431.....40749
435.....39959
436.....39959

43 CFR
Ch. II.....40889
1820.....40724
Public Land Orders:
1707 (Amended by PLO 6458).....40232
6423(Corrected by PLO 6460).....41021
6457.....39939
6458.....40232
6459.....40724
6460.....41021

44 CFR
65.....40890
67.....40891, 41021
Proposed Rules:
67.....40911–40919

45 CFR
Proposed Rules:
400.....41187

46 CFR
153.....39629
154.....39629
Proposed Rules:
Ch. IV.....41199
536.....41052

47 CFR
Ch. I.....41040
2.....40519
25.....40233, 40256
Proposed Rules:
68.....39656

49 CFR
1.....40519
23.....41163
179.....39630
571.....39908, 39939, 40260
1042.....39630
1160.....39630, 40387
1161.....39630
1162.....39630, 40520
1165.....39630
1168.....39630, 40387
1181.....39630
1307.....40520
Proposed Rules:
27.....40684

213 39965
571 ..... 40282, 40286
821 39657
1157 40287

50 CFR

17 ..... 39941, 40178
20 40852
285 ..... 40892, 41163
661 40521
663 41164
671 40725

Proposed Rules:

17 ..... 40288, 40404, 40407, 40920
23 40750
26 39661
32 40411
33 40411
611 40924
655 39967
661 41202
662 ..... 40752, 41202
663 41202
681 39665

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing September 13, 1983

VOL
48
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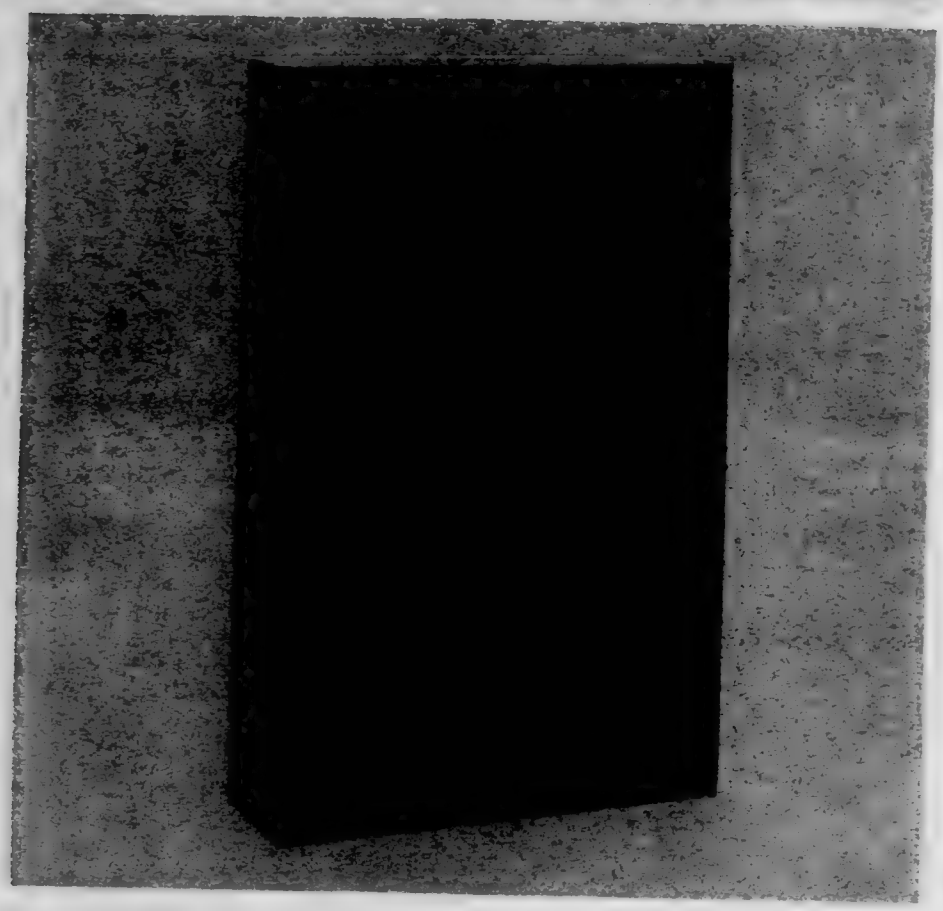

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Vol. 48 No. 180

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9-15-83
Vol. 48 No. 180
Pages 41369-41568

federal register

Thursday
September 15, 1983

Selected Subjects

Administrative Practice and Procedure
Federal Trade Commission
Interstate Commerce Commission

Air Carriers
Civil Aeronautics Board

Air Pollution Control
Environmental Protection Agency

Aircraft
Customs Service

Animal Drugs
Food and Drug Administration

Aviation Safety
Federal Aviation Administration

Bridges
Coast Guard

Child Welfare
Child Support Enforcement Office

Flood Insurance
Federal Emergency Management Agency

Government Contracts
Postal Service

Grant Programs—Transportation
Urban Mass Transportation Administration

Income Taxes
Internal Revenue Service

CONTINUED INSIDE

Selected Subjects

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Intergovernmental Relations
Surface Mining Reclamation and Enforcement Office

Investment Companies
Securities and Exchange Commission

Marine Safety
Coast Guard

Marketing Agreements
Agricultural Marketing Service

Milk Marketing Orders
Agricultural Marketing Service

Natural Gas
Federal Energy Regulatory Commission

Organization and Functions (Government Agencies)
Agriculture Department

Poultry and Poultry Products
Food Safety and Inspection Service

Radio Broadcasting
Federal Communications Commission

Securities
Securities and Exchange Commission

Television Broadcasting
Federal Communications Commission

Trade Practices
Packers and Stockyards Administration

Vessels
Coast Guard

Vocational Rehabilitation
Veterans Administration

Waste Treatment and Disposal
Environmental Protection Agency

Water Pollution Control
Environmental Protection Agency

Contents

Federal Register

Vol. 48, No. 180

Thursday, September 15, 1983

Agency for International Development
NOTICES
Meetings:
41530 International Food and Agricultural Development Board

Agricultural Marketing Service
RULES
Milk marketing orders:
41369 Iowa; suspension
41369 Oranges (Valencia) grown in Ariz. and Calif.

Agriculture Department
See also Agricultural Marketing Service; Food Safety and Inspection Service; Forest Service; Packers and Stockyards Administration; Soil Conservation Service.
RULES
Organization and functions:
41371 Inspector General Office
41373 Inspector General Office; availability of information to public

Air Force Department
NOTICES
Meetings:
41482 Scientific Advisory Board; cancellation
41482 Scientific Advisory Board; date change

Arms Control and Disarmament Agency
NOTICES
Meetings:
41472 General Advisory Committee; cancellation

Centers for Disease Control
NOTICES
Meetings:
41525 Drosophila for teratogen screening evaluation (NIOSH)

Child Support Enforcement Office
PROPOSED RULES
State plan requirements:
41450 Non-AFDC families, cost of services; reduction of expenditures by fees and other income generated under IV–D program

Civil Aeronautics Board
PROPOSED RULES
41430 Foreign air carriers; applications for permits
NOTICES
41472 Agency information collection activities under OMB review
Hearings, etc.:
41472 Denham Aircraft Services Corp. II
41472 Northern Air Lines, Inc.

Coast Guard
RULES
Drawbridge operations:
41400 Michigan
Safety zones:
41401 James River, Newport News, Va.
41400 New York Harbor, Newark Bay, N.J.
PROPOSED RULES
41454 Boundary lines; definitions, consolidation, and implementation of Seagoing Barge Act revisions
NOTICES
Meetings:
41548 Bristol Bay, Naknek/Kvichak Commercial Fishery District Vessel Traffic and Anchorages
41548 Ship Structure Committee

Commerce Department
See International Trade Administration; Minority Business Development Agency; National Bureau of Standards; National Oceanic and Atmospheric Administration.

Customs Service
RULES
Air commerce:
41381 Private aircraft arriving in U.S.: notice of intended arrival
PROPOSED RULES
41435 Drawback claims liquidation; advance notice; extension of time

Defense Department
See Air Force Department.

Economic Regulatory Administration
NOTICES
Natural gas exportation or importation petitions:
41482 Vermont Gas Systems, Inc.

Education Department
NOTICES
Meetings:
41482 International Education Programs National Advisory Board

Energy Department
See also Economic Regulatory Administration; Energy Information Administration; Energy Research Office; Federal Energy Regulatory Commission.
PROPOSED RULES
41450 Procurement; foreign ownership, control, or influence of DOE contractors; extension of time

Energy Information Administration
NOTICES
Forms; availability, etc.:
41483 Boiler order report (EIA–07); proposed extension

Energy Research Office
NOTICES
Meetings:
41488 High Energy Physics Advisory Panel

Environmental Protection Agency
RULES
Air pollutants, hazardous; national emission standards and standards of performance for new stationary sources:
41407 Hawaii; authority delegation
Air quality implementation plans; approval and promulgation; various States:
41406 Florida
41403 Michigan
41405 Rhode Island
41402 Virginia
Air quality planning purposes; designation of areas:
41408 Puerto Rico
Water pollution; effluent guidelines for point source categories:
41409 Electroplating, leather tanning and finishing, metal finishing, coil coating, porcelain enameling, copper forming and electrical and electronic components; compliance deadline
PROPOSED RULES
Hazardous waste programs; interim authorizations; State programs:
41449 West Virginia
NOTICES
Air quality; prevention of significant deterioration (PSD);
41510 Permit exemption determination
Water pollution; discharge of pollutants (NPDES):
41494 Gulf of Mexico
Water pollution control:
41508 Sole source aquifer designations; Washington

Equal Employment Opportunity Commission
PROPOSED RULES
Employment discrimination:
41436 Employee benefit plans, interpretative bulletin; request for comments

Federal Aviation Administration
RULES
41374 Transition areas

Federal Communications Commission
RULES
Radio and television broadcasting:
41422 Oversight; update clarifications, editorial corrections etc.
Radio services, special:
41415 Radio control and citizens band services; elimination of licensing requirements; correction
Radio stations; table of assignments:
41416 Alaska
41417 Florida
41417 Mississippi
41418 Montana
41418 Nebraska; correction
41419 Nevada
41419 New Mexico
41419 North Dakota
41420 Pennsylvania
41420, 41421 Texas (2 documents)
Television stations; table of assignments:
41421, 41422 Alaska (2 documents)
PROPOSED RULES
Radio stations; table of assignments:
41464 Vermont
41465, 41467 West Virginia (2 documents)
Television stations; table of assignments:
41468 Tennessee
NOTICES
Hearings, etc.:
41510 Amador, Lilly, et al.
41510 Bishop of Diocese of St. Petersburg et al.
41512 Carrigan, Debra D., et al.
41513 CRISTA Ministries, Inc., et al.
41516 Gulf Mobilphone of Alabama, Inc.
41514 McFadden Broadcasting Co. et al.
41514 Minority Broadcasting Co. of Midwest Inc. et al
41515 Virgin Islands Broadcasting Corp. et al.
41515 Voice of Entertainment, Inc., et al.

Federal Deposit Insurance Corporation
NOTICES
41551 Meetings; Sunshine Act

Federal Election Commission
NOTICES
41551 Meetings; Sunshine Act

Federal Emergency Management Agency
RULES
Flood insurance; communities eligible for sale:
41413 Illinois et al.
41410 New Jersey et al.
41415 Housing (temporary) assistance program; reporting and recordkeeping requirements
NOTICES
41516 Nuclear power plants; evaluation of alert and notification systems standard guide availability and inquiry
41517 Riots or civil disorder losses; reinsurance

Federal Energy Regulatory Commission
PROPOSED RULES
Natural Gas Policy Act; ceiling prices for high cost natural gas produced from tight formations; various States:
41434 New Mexico; correction
41434 Texas
NOTICES
Hearings, etc.:
41488 Columbia Gas Transmission Corp. (2 documents)
41489 Iowa-Illinois Gas & Electric Co.
41489 Lawrenceburg Gas Transmission Corp.
41490 Louisiana Intrastate Gas Corp.
41490 Michigan Wisconsin Pipe Line Co.
41490 Mississippi River Transmission Corp.
41491 National Fuel Gas Supply Co.
41491 Natural Gas Pipeline Co. of America
41491 Raton Natural Gas Co.
41491 Ringwood Gathering Co.
41492 Transwestern Pipeline Co.
41492 Wyoming Interstate Co., Ltd.
Natural gas companies:
41493 Small producer certificates, applications (Lubrication Engineers, Inc., et al.)
Small power production and cogeneration facilities; qualifying status; certification applications, etc.:
41492 Benicia, Calif.
41493 Hollandia Dairy
41493 Kohala Mountain Wind Energy Investors

Federal Highway Administration
NOTICES
Environmental statements; availability, etc.:
41548 Chatham County, Ga.; intent to prepare

Federal Home Loan Bank Board
NOTICES
Applications, etc.:
41522 Benj. Franklin Federal Savings & Loan Association
41522 Cumberland Federal Savings & Loan Association
41522 East Side Savings & Loan Association
41522 Fidelity Federal Savings & Loan Association
41523 First Community Federal Savings & Loan Association
41523 First Federal Savings & Loan Association of Charleston, S.C.
41523 First Federal Savings & Loan Association of Indianapolis, Ind.
41523 Investors Federal Savings & Loan Association
41523 Metropolitan Savings & Loan Association
41523 Peninsula Federal Savings & Loan Association
41524 Tropical Federal Savings & Loan Association
41524 Wake Forest Federal Savings & Loan Association

Federal Reserve System
NOTICES
Applications, etc.:
41524 Bank of New England Corp. et al.
41524 NorBanc Group, Inc.
41551 Meetings; Sunshine Act

Federal Trade Commission
RULES
Procedures and practice rules:
41374 Consumer Protection Bureau reorganization; compliance procedures
NOTICES
41551 Meetings; Sunshine Act (2 documents)
41525 Premerger notification waiting periods; early terminations

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
41384 Tiamulin

Food Safety and Inspection Service
PROPOSED RULES
Meat and poultry inspection:
41427 Poultry; chiller water reuse

Forest Service
NOTICES
Land and resource management plans:
41470 Los Padres National Forest, Calif.; intent to reevaluate roadless areas
41470 Tahoe National Forest, Calif.; intent to reevaluate roadless areas

General Services Administration
NOTICES
41525 Public buildings and space; physical fitness facilities, installation update

Health and Human Services Department
See Centers for Disease Control; Child Support Enforcement Office; Food and Drug Administration; Health Care Financing Administration.

Health Care Financing Administration
PROPOSED RULES
Medicaid:
41450 Early and periodic screening, diagnosis, and treatment program; correction

Interior Department
See Land Management Bureau; Minerals Management Service; Surface Mining Reclamation and Enforcement Office.

Internal Revenue Service
RULES
Income taxes:
41385 State and local income tax refunds reporting; temporary
PROPOSED RULES
Income taxes:
41436 State and local income tax refunds reporting; cross-reference

International Development Cooperation Agency
See Agency for International Development.

International Trade Administration
NOTICES
Antidumping:
41472 Carbon steel plate from Japan
41474 Ferrite cores (of type used in consumer electronic products) from Japan
41475 High power microwave amplifiers and components from Japan
41476 Sorbitol from France
Meetings:
41477 Exporters' Textile Advisory Committee

International Trade Commission
NOTICES
Import investigations:
41531 Modular structural systems

Interstate Commerce Commission
PROPOSED RULES
Rail carriers:
41469 American Short Line Railroad Association et al.; application of direct connector requirement to joint rail rates, petition to delay
NOTICES
Rail carriers:
41532 Union Pacific Railroad Co.; passenger train operation
Railroad operation, acquisition, construction, etc.:
41531 Norfolk & Western Railway Co.
Railroad services abandonment:
41532 Burlington Northern Railroad Co.

Land Management Bureau
NOTICES
41526 Agency information collection activities under OMB review
Conveyance of public lands and exchange of public lands for private land:
41526 Wyoming

Exchange of public lands for private land:
41526 Utah (2 documents)
Meetings:
41527 Arizona Strip District Advisory Council
41527 Casper District Grazing Advisory Board
41527 Susanville District Advisory Council
Sale of public lands:
41527 Oregon and California
41528 Utah (2 documents)
41529 Wyoming
Survey plat filings:
41529 California (2 documents)
Withdrawal and reservation of lands, proposed, etc.:
41529 California

Maritime Administration
NOTICES
41549 Voluntary Tanker Agreement; correction

Minerals Management Service
NOTICES
Outer Continental Shelf; oil, gas, and sulphur operations; development and production plans:
41530 Gulf Oil Exploration & Production Co.

Minority Business Development Agency
NOTICES
Financial assistance application announcements:
41477 California

National Bureau of Standards
NOTICES
Information processing standards, Federal:
41478 Geographic point locations for information interchange
Laboratory Accreditation Program, National Voluntary:
41479 Monthly report and status of programs

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
41424 Bering Sea and Aleutian Islands groundfish; foreign and domestic fishing; correction
PROPOSED RULES
Fishery conservation and management:
41469 Pacific whiting off Calif., Oreg., and Wash.; foreign fishing; correction
NOTICES
Meetings:
41480 Marine Fisheries Advisory Committee
41480 North Pacific Fishery Management Council

National Science Foundation
NOTICES
Senior Executive Service:
41532 Performance Review Board; membership

Navajo and Hopi Indian Relocation Commission
PROPOSED RULES
Commission operations and relocation procedures:
41435 Eligibility; extension of time

Nuclear Regulatory Commission
PROPOSED RULES
Rulemaking petitions:
41429 New Jersey; withdrawn
NOTICES
Applications, etc.:
41533 Carolina Power & Light Co.
41533, 41535 Duke Power Co. (2 documents)
41536 Florida Power & Light Co. et al.
41537, 41538 Nebraska Public Power District (2 documents)
41540 Northeast Nuclear Energy Co. et al.
Meetings:
41541, 41542 Reactor Safeguards Advisory Committee (2 documents)
41542 Reactor Safeguards Advisory Committee; proposed schedule
41542 Reactor Safeguards Advisory Committee; subcommittee change
41541 Three Mile Island Unit 2 Decontamination Advisory Panel
Reports; availability, etc.:
41540 PRA Review Manual

Packers and Stockyards Administration
PROPOSED RULES
41425 Livestock purchase by packers for export; policy statement removal

Postal Service
RULES
Organization and administration:
41401 Contract compliance program; removal from CFR
NOTICES
41551 Meetings; Sunshine Act

Securities and Exchange Commission
RULES
Investment companies:
41378 Agency cross transactions for advisory clients, investment adviser requirements
Securities:
41376 Stabilizing transactions reports
NOTICES
Hearings, etc.:
41544 Beverly Enterprises
41544 Diamond Shamrock Corp.
Self-regulatory organizations; proposed rule changes:
41545 American Stock Exchange, Inc.
41545 Pacific Stock Exchange, Inc.
41546 Philadelphia Stock Exchange, Inc.
Self-regulatory organizations; unlisted trading privileges:
41545 Midwest Stock Exchange, Inc.

Small Business Administration
NOTICES
Applications, etc.:
41547 Allied Financial Corp.
41547 Avdon Capital Corp.
Meetings; regional advisory councils:
41547 California
41547 Pennsylvania
41548 South Carolina
41548 Vermont; date corrected

Soil Conservation Service
NOTICES
Environmental statements; availability, etc.:
41471 Christian Family Center, Inc., Critical Area Treatment RC&D Measure, Ga.

41471 Old Cahawba Recreation Park RC&D Measure, Ala.

Surface Mining Reclamation and Enforcement Office
RULES
Permanent program submission; various States:
41387 North Dakota

Synthetic Fuels Corporation
NOTICES
41552 Meetings; Sunshine Act

Tennessee Valley Authority
RULES
41380 Employee conduct standards and responsibilities; prohibitions against harassment

Textile Agreements Implementation Committee
NOTICES
Cotton, wool, or man-made textiles:
41481 Korea
Export visa requirements; certification, etc.:
41481 Pakistan
Textile consultation; review of trade:
41481 Hong Kong
41481 Taiwan

Transportation Department
See Coast Guard; Federal Aviation Administration; Federal Highway Administration; Maritime Administration; Urban Mass Transportation Administration.

Treasury Department
See Customs Service; Internal Revenue Service.

United States Railway Association
NOTICES
41552 Meetings; Sunshine Act

Urban Mass Transportation Administration
RULES
41562 Buy American requirements
PROPOSED RULES
41568 Buy American requirements; cross reference

Veterans Administration
PROPOSED RULES
Vocational rehabilitation and education:
41438 Case status, rehabilitation program, course approval and facility selection, and conduct and cooperation
NOTICES
Environmental statements; availability, etc.:
41549 Long Beach, Calif.

Separate Parts in This Issue

Part II
41562 Department of Transportation, Urban Mass Transportation Administration

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
908.....41369
1079.....41369
2610.....41371
2620.....41373

9 CFR
Proposed Rules:
201.....41425
203.....41425
381.....41427

10 CFR
Proposed Rules:
50.....41429

14 CFR
71.....41374
Proposed Rules:
211.....41430
302.....41430

16 CFR
2.....41374
4.....41374

17 CFR
240.....41376
249.....41376
275.....41378

18 CFR
1300.....41380
Proposed Rules:
271 (2 documents).....41434

19 CFR
6.....41381
Proposed Rules:
22.....41435

21 CFR
520.....41384
556.....41384

25 CFR
Proposed Rules:
700.....41435

26 CFR
5f.....41385
Proposed Rules:
1.....41436

29 CFR
Proposed Rules:
Ch. XVI.....41436

30 CFR
934.....41387

33 CFR
117.....41400
165 (2 documents).....41400, 41401

38 CFR
Proposed Rules:
21.....41438

39 CFR
253.....41401

40 CFR
52 (4 documents).....41402–41406
60.....41407
61.....41407
81.....41408
413.....41409
425.....41409
433.....41409
465.....41409
466.....41409
468.....41409
469.....41409
Proposed Rules:
271.....41449

41 CFR
Proposed Rules:
9–1.....41450
9–7.....41450
9–50.....41450

42 CFR
Proposed Rules:
441.....41450

44 CFR
64 (2 documents).....41410, 41413
205.....41415

45 CFR
Proposed Rules:
302.....41450
304.....41450

46 CFR
Proposed Rules:
7.....41454

47 CFR
1.....41415
73 (14 documents).....41416–41422
74.....41422
95.....41415
Proposed Rules:
73 (4 documents).....41464–41468

49 CFR
660.....41562
661.....41562
Proposed Rules:
661.....41568
1135.....41469

50 CFR
611.....41424
Proposed Rules:
611.....41469

Rules and Regulations

Federal Register
Vol. 48, No. 180
Thursday, September 15, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Reg. 317]

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period September 16–September 22, 1983. Such action is needed to provide for orderly marketing of fresh Valencia oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: September 16, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, 202–447–5975.

SUPPLEMENTARY INFORMATION:

Findings

This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona Valencia orange crop for the benefit of producers and will not substantially affect costs for the directly regulated handlers.

This regulation is issued under the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendation and information submitted by the Valencia Orange Adminstrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy for 1982–83. The marketing policy was recommended by the committee following discussion at a public meeting on February 22, 1983. The committee met again publicly on September 13, 1983 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of Valencia oranges deemed advisable to be handled during the specified week. The committee reports that the demand for Valencia oranges continues to improve.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared policy of the Act to make this regulatory provision effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 908

Marketing agreements and orders, California, Arizona, Oranges (Valencia).

PART 908—[AMENDED]

1. Section 908.617 is added as follows:

§ 908.617 Valencia Orange Regulation 317.

The quantities of Valencia oranges grown in California and Arizona which may be handled during the period September 16, 1983 through September 22, 1983, are established as follows:

(1) District 1: 470,000 cartons;
(2) District 2: 530,000 cartons;
(3) District 3: Unlimited cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: September 14, 1983.

D. S. Kuryloski,

Acting, Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83-25303 Filed 9-14-83; 11:50 am]

BILLING CODE 3410-02-M

7 CFR Part 1079

Milk in the Iowa Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rules.

SUMMARY: This suspension action relaxes the limit on the quantity of milk not needed for fluid (bottling) use that may be moved directly from farms to nonpool manufacturing plants and still be priced under the Iowa Federal milk marketing order. A cooperative association that operates a plant regulated by the order requested this action to prevent uneconomic movements of milk. The suspension is effective for the months of September, October and November 1983.

EFFECTIVE DATE: September 15, 1983.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–4829.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Proposed Suspension: Issued August 16, 1983; published August 22, 1983 (48 FR 38002).

This proposed action has been reviewed under USDA procedures established to implement Executive Order 12291 and has been classified as a "non-major" action.

It has been determined that any need for suspending certain provisions of the order on an emergency basis precludes following certain review procedures set forth in Executive Order 12291. Such procedures would require that this document be submitted for review to the Office of Management and Budget at least 10 days prior to its publication in the Federal Register. However, this would not permit the completion of the required suspension procedures on the

timely basis necessary to make the suspension effective for the month of September 1983. The initial request for this action was received on August 11, 1983. A notice of proposed suspension was issued on August 16, 1983, inviting interested parties to comment on the proposed action by August 29, 1983.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and would tend to ensure that dairy farmers would continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

The order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and of the order regulating the handling of milk in the Iowa marketing area.

Notice of proposed rulemaking was published in the **Federal Register** (48 FR 38002) concerning a proposed suspension of certain provisions of the order for the months of September, October, and November 1983. The public was afforded the opportunity to comment on the proposal by submitting written comments. One comment, in addition to the original request, was received in favor of the proposed suspension and none were received in opposition.

After consideration of all relevant material, including the proposal set forth in the aforesaid notice and other available information, it is hereby found and determined that for each of the months of September, October, and November 1983, the following provisions of the order do not tend to effectuate the declared policy of the Act:

In § 1079.13(d) (2) and (3) the words "50 percent in the months of September through November and", and the words "in other months," as they appear in each subparagraph.

Statement of Consideration

This action makes inoperative for September, October, and November 1983 certain provisions allowing up to 50 percent of the producer milk of a cooperative association or other handlers to be diverted from farms directly to nonpool manufacturing plants. The present order provides that a cooperative association may divert up to 50 percent of its total member milk delivered to all pool plants or diverted from them during the months of September through November and up to 70 percent all other months. Similarly, the operator of a pool plant may divert during the months of September through November up to 50 percent of its receipts of producer milk (for which the operator of such plant is the handler during the month) and up to 70 percent during all other months. The suspension would increase the diversion allowance for each of the months of September, October, and November 1983 from 50 percent to 70 percent for cooperative associations and operators of pool plants.

Farmers Butter and Diary Cooperative, an association of producers, operates a plant regulated by the Iowa milk order. The cooperative requested that the 50-percent diversion limitation be suspended for September, October and November 1983. The remaining diversion provisions in the order would permit up to 70 percent of the producer milk receipts to be moved directly from farms to nonpool manufacturing plants and still be priced under the order.

The cooperative said that large supplies of milk in relation to Class I sales in the coming months will require more diversions of milk from farms to manufacturing plants than can be accommodated by the order without the proposed suspension. The cooperative said that the suspension of the 50-percent diversion limitation and the retention of the 70-percent diversion limitation would allow for a more efficient means of handling the reserve supplies of milk in the Iowa market.

Interested parties were given an opportunity to submit written data, views and arguments concerning the proposed suspension. The only comment received was from Farmers Butter and Diary Cooperative. It said the proposed action would facilitate the orderly and economic disposition to nonpool manufacturing plants of an increasing supply of milk in excess of fluid requirements.

Reserve milk supplies within a marketing order normally decline during the fall months. However, current marketing information indicates that this year the reserve milk supplies for the Iowa market are expected to exceed the quantity of milk that could be diverted to nonpool manufacturing plants under the present diversion limitations and still maintain producer status for all such milk. Data for the first six months of 1983 show that producer milk receipts were more than 2 percent greater than for the same months last year while pounds of pooled Class I milk were down more than 1 percent from a year ago. The quantity of producer milk needed at pool plants for Class I use during this September, October and November is expected to be less than it was one year ago and a greater quantity of milk will have to be diverted to nonpool manufacturing plants. Under these marketing conditions, a suspension of the 50-percent limitation on diverted milk would be appropriate so that producer receipts that are not needed for fluid use may be moved directly from farms to manufacturing plants and still be priced under the order. An increase in the diversion allowance from 50 percent to 70 percent for each of the months of September, October and November 1983 would tend to prevent the uneconomic handling and movement of reserve milk supplies merely for pooling purposes.

The purposes of the suspensions are to insure that those producers who have been regularly supplying the Iowa market continue to share in the higher-valued fluid sales of the regulated market and to promote the efficient and orderly marketing of milk in the Iowa market. It is concluded that the supply-demand conditions in the market warrant a suspension of the 50-percent diversion limitation for the months of September, October and November 1983.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) The suspension is necessary to reflect current marketing conditions and to assure orderly marketing conditions in the marketing area. Otherwise, uneconomic movements of milk would be made solely for the purpose of pooling the milk of dairy farmers who have regularly been associated with the Iowa market;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views or arguments concerning this suspension. No comments were filed in opposition to this action.

Therefore, good cause exists for making this suspension order effective upon publication of the document in the **Federal Register.**

List of Subjects in 7 CFR Part 1079

Milk marketing orders, Milk, Dairy products.

PART 1079—[AMENDED]

It is therefore ordered, That the aforesaid provisions in § 1079.13 of the

Iowa order are hereby suspended for the months of September, October and November 1983.

Effective date: September 15, 1983.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Signed at Washington, D.C. on September 9, 1983.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 83-25147 Filed 9-14-83; 8:45 am]

BILLING CODE 3410-02-M

Office of the Secretary

7 CFR Part 2610

Organization, Functions, and Delegations of Authority

AGENCY: Office of Inspector General, USDA.

ACTION: Final rule.

SUMMARY: The Office of Inspector General amends its regulation relating to organization, functions, and delegations of authority. The amendments are necessary to reflect a reorganization of the Office of Inspector General and the increased law enforcement authorities granted to the Department of Agriculture and the Inspector General by the Agriculture and Food Act of 1981, Pub. L. 97–98, 7 U.S.C. 2270.

EFFECTIVE DATE: September 15, 1983.

FOR FURTHER INFORMATION CONTACT: L. L. Free, Assistant Inspector General, Administration, Office of Inspector General, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–8915).

SUPPLEMENTARY INFORMATION: This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect thereto are impracticable and contrary to the public interest, and good cause is found for making this rule effective less than 30 days after publication in the **Federal Register**. Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12291. Lastly this action is not a rule as defined in Pub. L. 96–354, the Regulatory Flexibility Act, and thus is exempt from the provisions of the Act.

List of Subjects in 7 CFR Part 2610

Authority delegations (Government agencies), Organization and functions (Government agencies).

Accordingly, Part 2610 is revised as follows:

PART 2610—ORGANIZATION, FUNCTIONS, AND DELEGATIONS OF AUTHORITY

Sec.

2610.1 General statement.
2610.2 Headquarters organization.
2610.3 Regional organization.
2610.4 Agency request for service.
2610.5 Other request for service.
2610.6 Delegations of authority.

Authority: 5 U.S.C. 301 and 552, Pub. L. 95–452, 5 U.S.C. app., and Pub. L. 97–98, 7 U.S.C. 2270.

§ 2610.1 General statement.

(a) The Inspector General Act of 1978, Pub. L. 95–452, 5 U.S.C. app. established an Office of Inspector General (OIG) in the U.S. Department of Agriculture (USDA) and transferred to it the functions, powers and duties of offices referred to in the Department as the "Office of Investigation" and the "Office of Audit," units already assigned to an OIG created by Secretary's Memorandums 1915 and 1927, dated March 23, 1977 and October 5, 1977 respectively.

(b) Under the Act, OIG is established as an independent unit under the general supervision of the Secretary. The mission of OIG is to conduct audits and investigations of USDA programs and operations to determine efficiency and effectiveness and to detect fraud and abuse in the administration of the programs and operations. Other functions include protection of the Secretary, and programs related to employee and facilities security.

(c) The Secretary has made the following delegations of authority to the Inspector General (IG) (7 CFR 2.33):

(1) Advise the Secretary and General Officers in the planning, development, and execution of Department policies and programs.

(2) Provide for physical protection of the Secretary.

(3) Promulgate departmental policies, standards, techniques, and procedures, and represent the Department in maintaining the security of physical facilities, self protection, and warden systems.

(4) In addition to the above delegations of authority, the IG, under the general supervision of the Secretary, has specific duties, responsibilities, and authorities pursuant to the Act, to:

(i) Conduct and supervise audits and investigations relating to programs and operations of the Department.

(ii) Provide leadership, coordination and policy recommendations to promote economy, efficiency and effectiveness and to prevent and detect fraud and abuse in the administration of the Department's programs and operations.

(iii) Keep the Secretary and the Congress fully and currently informed about problems and deficiencies and the necessity for and progress of corrective actions in the administration of the Department's programs and operations.

(iv) Make such investigations and reports relating to the administration of programs and operations of the Department as are in the judgment of the IG, necessary or desirable.

(v) Review existing and proposed legislation and regulations and make recommendations to the Secretary and the Congress on the impact such laws or regulations will have on the economy and efficiency of program administration or in the prevention and detection of fraud and abuse in the programs and operations of the Department.

(vi) Have access to all records, reports, audits, reviews documents, papers, recommendations or other material available to the Department which relate to programs and operations for which the IG has responsibility.

(vii) Report expeditiously to the Attorney General any matter where there are reasonable grounds to believe there has been a violation of Federal criminal law.

(viii) Issue subpoenas to other than Federal agencies for the production of information, documents, reports, answers, records, accounts, papers and other data and documentary evidence necessary in the performance of functions assigned by the Act.

(ix) Receive and investigate complaints or information from any department employees concerning possible violations of law, rules or regulations, or mismanagement, gross waste of funds, abuse of authority, or substantial and specific dangers to the public health and safety.

(x) Select, appoint, and employ necessary officers and employees in OIG in accordance with laws and regulations governing the civil service including an Assistant Inspector General for Auditing (AIG/A) and an Assistant Inspector General for Investigations (AIG/I).

(xi) Obtain services as authorized by Section 3109 of Title 5, United States Code.

(xii) Enter into contracts and other arrangements for audits, studies, analyses and other services with public agencies and private persons and make such payments as may be necessary to carry out the provisions of the Act to the extent and in such amounts as may be provided in an appropriation act.

(d) The Inspector General, under the Agriculture and Food Act of 1981, Pub.

L. 97–98, 7 U.S.C. 2270, and pursuant to rules issued by the Secretary in 7 CFR Part 1a has the authority to:

(1) Designate any employee of the Office of Inspector General to be authorized, when engaged in an investigation of alleged or suspected felony violations of statutes administered by the Secretary of Agriculture or any agency of the Department, and is engaged in the performance of official duties under the authority provided in the Act to:

(ii) Make an arrest without a warrant upon probable cause to believe that such violation is being committed;

(ii) Execute a warrant for arrest, for search of premises, or the seizure of evidence when issued under authority of the United States upon probable cause to believe that such a violation has been committed; and

(iii) Carry a firearm.

(2) Issue directives and take the actions prescribed by the Secretary's rules.

§ 2610.2 Headquarters organization.

(a) The IG has a Headquarters Office in Washington D.C. and Regional Offices throughout the nation. The Headquarters Office consists of the immediate office of the IG, two staff units and three operational units. The immediate office of the IG includes: (1) The Deputy Inspector General, whose assigned functions are to assist in directing and coordinating operational and staff functions when the IG is absent, (2) an Executive Assistant, (3) the Equal Employment Opportunity Coordinator and (4) the Counsel to the IG.

(b) *Staff units.* (1) The Assistant Inspector General for Administration (AIG/AD) formulates OIG policies and procedures, develops, administers and directs comprehensive programs for the management, budget, financial, personnel, systems improvement and information activities and operations of OIG, and is responsible for OIG automatic data processing (ADP) and OIG information management systems. The staff maintains OIG's directives system, Departmental Regulations and **Federal Register** issuances, administers the Freedom of Information and Privacy Acts, handles day-to-day liaison on audit and investigative matters with the Congress, other Federal agencies, intergovernmental organizations, the news media, and the public. Three staff elements assist in carrying out these functions.

(2) The Assistant Inspector General for Analysis and Evaluation (AIG/A&E) provides an integrated approach to fraud prevention and detection in USDA programs and operations through the involvement and cooperation of the Department's principal officers and program managers; coordinates, analyzes, and reports on the conduct of fraud vulnerability assessments, recommends policies and provides technical assistance for investigative and audit operations. Two staff units assist in carrying out these functions.

(c) *Operational units.* (1) The Assistant General for Auditing (AIG/A) carries out the IG's domestic audit operations and foreign audits as directed by the IG through a Headquarters offices and the seven regional offices show in § 2610.3(a). Provides a continual audit review of ADP security throughout the U.S. Department of Agriculture. Auditing officials conduct operational liaison on audit matters, schedule and conduct audits determined to be necessary, release audit reports to management, follow agency action to assure that audit reports have been properly acted upon, monitor the quality of OIG audit reports, and coordinate activities with the Assistant Inspectors General (AIG's) for Security and Special Operations (SSO) and Investigations. The Auditing Headquarters office consists of the AIG/A, Deputy AIG/A, and three staff divisions.

(2) The Assistant Inspector General for Investigations (AIG/I) carries out the IG's domestic investigative operations, and foreign investigations as directed by the IG, through a Headquarters office and the seven regional offices shown in § 2610.3(b). Investigations officials conduct operational and intelligence liaison on investigative matters with the FBI, Secret Service and other Federal and State law enforcement organizations, determine the need for investigative action, conduct needed investigations, prepare factual reports of investigative findings, refer reports for appropriate administrative or legal action, follow agency action to assure that OIG investigation reports have been properly acted upon, monitor the quality of investigative reports, and coordinate activities with Auditing and Security and Special Operations (SSO). The Investigations Headquarters office consists of the Assistant Inspector General for Investigations (AIG/I), Deputy AIG/I, and two staff divisions.

(3) The Assistant Inspector General for Security and Special Operations (AIG/SSO) manages a comprehensive physical security protection program for the Department, conducts special investigations involving major programs, operations and/or high level officials, provides for the protection of the Secretary and other principal Department officials, receives and processes employee complaints concerning possible violations of law, rules, regulations or mismanagement, administers EEO contract investigation program, conducts OIG's internal personnel investigations and inspections and coordinates work with AIG/I, AIG/A, GSA, FBI, Secret Service, Interpol, and other law enforcement and security organizations. SSO is a Headquarters operational unit which consists of the Assistant Inspector General for Security and Special Operations (AIG/SSO) and three staff divisions.

§ 2610.3 Regional organization.

(a) Each Regional Inspector General for Auditing (RIG/A) is responsible to the IG and to the AIG/A, for supervising the performance of all OIG auditing activities relating to the Department's domestic programs and operations within an assigned geographic area, and to the IG for coordinating with the Regional Inspectors General for Investigations (RIG/I) to assure that audit and investigative capacity is used as one resource in accomplishing OIG goals and objectives. The addresses, phone numbers and territories served by the seven Audit Regional Offices are as follows:

Audit region, address, phone number, and territory

North Atlantic Region, 26 Federal Plaza, Room 17–130, New York, New York 10278, (212) 264–7510; Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Puerto Rico, Rhode Island, Vermont, and Virgin Islands

Northeast Region, 6505 Belcrest Road, Room 422, Hyattsville, Maryland 20782, (301) 436–8763; Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia

Southeast Region, 1447 Peachtree St., N.E., Room 900, Atlanta, Georgia 30309, (404) 881–3675; Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee

Midwest Region, 165 N. Canal St., Suite 1400 S–C, Chicago, Illinois 60606, (312) 353–1352; Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin

Southeast Region, 101 South Main, Room 324, Temple Texas 76501, (817) 774–1430; Arkansas, Louisiana, New Mexico, Oklahoma, and Texas

Great Plains Region, 9435 Holmes, Kansas City, Missouri 64131, Mailing address: P.O. Box 293, Kansas City, Missouri 64141, (816) 926–7657; Colorado, Iowa, Kansas, Missouri Montana, Nebraska, North Dakota, South Dakota, Wyoming, and Utah

Western Region, 555 Battery Street, Room 514, San Francisco, California, 94111, (415) 556–4244; Alaska, Arizona, California, Hawaii, Idaho, Nevada, Oregon, Territory of Guam, Trust Territories of the Pacific, and Washington.

(b) Each RIG/I is responsible to the IG and to the AIG/I for supervising the performance of all OIG investigative activities relating to the Department's domestic programs and operations within an assigned geographic area, and to the IG for coordinating with the RIG/A to assure that the audit and investigative capacity is used as one resource in accomplishing OIG goals and objectives. The addresses, phone numbers and the territories served by the seven Investigations Regional Offices are as follows:

Investigations region, address, phone number, and territory

North Atlantic Region, 26 Federal Plaza, Room 1707, New York, New York 10278 (212) 264–8400; Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Puerto Rico, Rhode Island, Vermont, and Virgin Islands

Northeast Region, 6505 Belcrest Road, Room 432A, Hyattsville, Maryland 20782 (301) 436–8850; Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia

Southeast Region, 1447 Peachtree Street, N.E., Room 901, Atlanta, Georgia 30309 (404) 881–4377; Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee

Midwest Region, 165 N. Canal Street, Suite 1400 S–C, Chicago, Illinois 60606 (312) 353–1358; Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin

Southwest Region, 101 South Main, Room 311, Temple, Texas 76501 (817) 774–1351; Arkansas, Louisiana, New Mexico, Oklahoma, and Texas

Great Plains Region, 9435 Holmes, Room 210, Kansas City, Missouri 64131, Mailing Address: P.O. Box 293, Kansas City, Missouri 64141 (816) 926–7606; Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Wyoming, and Utah

Western Region, 555 Battery Street, Room 526, San Francisco, California 94111 (415) 556–4245; Alaska, Arizona, California, Hawaii, Idaho, Nevada, Oregon, Territory of Guam, Trust Territories of the Pacific, and Washington.

§ 2610.4 Agency requests for service.

Heads of USDA agencies and offices will direct requests for audit or investigative service as follows:

(a) To the Assistant Inspector General for Security and Special Operations (AIG/SSO) or the Regional Inspector General for Auditing or Investigations. Direct requests to the OIG audit or investigation official responsible for providing service of the type desired in the geographical area where service is desired.

(b) To Inspector General. Agency officials or other employees may, at any time, direct to the personal attention of the IG any audit or investigation matter that warrants such attention.

§ 2610.5 Other requests for service.

Other persons desiring to bring to the personal attention of the IG audit or investigation matters may address their communications to: The Inspector General, U.S. Department of Agriculture, Washington, D.C. 20250.

§ 2610.6 Delegations of authority.

(a) AIGs listed in § 2610.2; and RIGs, listed in § 2610.3, are authorized to take whatever actions are necessary to carry out their assigned functions. This authority may be redelegated.

(b) The IG reserves the right to establish audit and investigation policies, programs, procedures, and standards; to allocate appropriated funds; to determine audit and investigation jurisdiction, and to exercise any of the powers or functions or to perform any of the duties in the above delegation.

Dated at Washington D.C. this 12th day of September 1983.

John V. Graziano,

Inspector General.

[FR Doc. 83–25236 Filed 9–14–83; 8:45 am]

BILLING CODE 3410–23–M

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7 CFR Part 2620

Availability of Information to the Public

AGENCY: Office of Inspector General, USDA.

ACTION: Final rule.

SUMMARY: The Office of Inspector General amends its regulations relating to the availability of information to the public to reflect a reorganization of the Office of Inspector General.

EFFECTIVE DATE: September 15, 1983.

FOR FURTHER INFORMATION CONTACT: L. L. Free, Assistant Inspector General, Administration, Office of Inspector General, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–6915).

SUPPLEMENTARY INFORMATION: This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect thereto are impracticable and contrary to the public interest, and good cause is found for making this rule effective less than 30 days after publication in the **Federal Register**. Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12291. Lastly, this action is not a rule as defined in Pub. L. 96–354, the Regulatory Flexability Act, and thus is exempt from the provisions of the Act.

List of Subjects in 7 CFR Part 2620

Freedom of information.

Accordingly, Part 2620 is revised as follows:

PART 2620—AVAILABILITY OF INFORMATION TO THE PUBLIC

Sec.

2620.1 General statement.
2620.2 Public inspection and copying.
2620.3 Request.
2620.4 Denials.
2620.5 Appeals.

Authority: 5 U.S.C. 301 and 552, 5 U.S.C. app.

§ 2620.1 General statement.

This part is issued in accordance with, and subject to, the regulations of the Secretary of Agriculture § 1.1 through § 1.16 (and Appendix A thereto) of this title, implementing the Freedom of Information Act, 5 U.S.C. 552, and governs the availability of records of the Office of Inspector General (OIG) to the public upon request.

§ 2620.2 Public inspection and copying.

5 U.S.C. 522(a)(2) requires that certain materials be made available for public inspection and copying, and that a current index of these materials be published quarterly or otherwise made available. OIG does not maintain any materials within the scope of these requirements.

§ 2620.3 Requests.

(a) Requests for OIG records shall be made in writing in accordance with § 1.3(a) of this title and addressed to the Assistant Inspector General, Administration (AIG/AD), Office of Inspector General, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250, or to the Director, Policy and Liaison Staff (PLS), same address. The above officials are delegated authority to make determinations regarding such requests in accordance with § 1.4(c) of this title.

(b) Requests should be reasonably specific in identifying the record requested and should include the name, address, and telephone number of the requester.

(c) Available records may be inspected and copied in the office of the AIG/AD, from 8:30 a.m. to 5 p.m., local time on regular working days or may be obtained by mail. Copies will be provided upon payment of applicable fees, unless waived or reduced, in accordance with the Department of Agriculture fee schedule, set forth in Appendix A to Part 1, Subpart A, of Subtitle A of this title.

§ 2620.4 Denials.

If the AIG/AD, determines that a requested record is exempt from mandatory disclosure and that discretionary release would be improper, the AIG/AD shall give written notice of denial in accordance with § 1.5(a) of this title.

§ 2620.5 Appeals.

The denial of a requested record may be appealed in accordance with § 1.3(e) of this title. Appeals shall be addressed to the Inspector General, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250. The Inspector General will give prompt notice of his determination in accordance with § 1.5(d) of this title.

Dated at Washington, D.C., this 12th day of September 1983.

John V. Graziano,

Inspector General.

[FR Doc. 83-25279 Filed 9-14-83; 8:45 am]

BILLING CODE 3410-23-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 83-ANM-14]

Revised Transition Area; Tobe, Colorado

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The current geographical boundary of the Tobe, Colorado, Transition Area is formed by existing VOR Federal Airways which encompass the area. A recent action to eliminate alternate airways included V-19E which is the western boundary of the transition area. However, V-19E is being redesignated "V-389" and this new airway designation may now be used to describe the transition area. This action provides the revised description.

EFFECTIVE DATE: September 29, 1983.

FOR FURTHER INFORMATION CONTACT: Arthur H. Corwin, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington, 98168 (206) 431-2532.

SUPPLEMENTARY INFORMATION: The Tobe, Colorado, Transition Area was established to ensure segregation of aircraft operating in instrument weather conditions and other aircraft operating in visual weather conditions. The area will continue to be shown on aeronautical charts enabling pilots operating under visual flight rules to circumnavigate the area when necessary to comply with those rules. The floor of this controlled airspace is established at 8,500 feet MSL and will not change. The geographical area and associated airspace will also remain unchanged.

This rule involves only a minor editorial clarification in the description and makes no substantive changes. Therefore, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days. For further information contact Ted Melland, Airspace & Procedures Specialist, ANM-533, FAA Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The telephone number is (206) 431-2533.

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended effective 0901 G.M.T., September 29, 1983, as follows:

Tobe, Colorado [Revised]

Delete the words, "and on the west by V-19E" and insert the words, "and on the west by V-389".

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); (Sec. 1165 of the Federal Aviation Regulations and 14 CFR 11.69))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. For this reason and the reasons given earlier in the preamble, it, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (14 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Seattle, Washington, September 9, 1983.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 83-25280 Filed 9-14-83; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Parts 2 and 4

Organization, Procedures and Rules of Practice; Nonadjudicative Procedures and Miscellaneous Rules

AGENCY: Federal Trade Commission.

ACTION: Final rules.

SUMMARY: Several of the Commission's Rules of Practice are being amended to reflect an internal reorganization in the Commission's Bureau of Consumer Protection which has resulted in Associate Director positions being created. Assistant Directors of the Bureau of Consumer Protection now report to Associate Directors. The role of Assistant Directors of the Commission's Bureaus of Competition and Economics is unchanged. Additionally, Rule § 2.41(b) is being amended to delete Regional Directors from the list of those persons empowered to approve or reject compliance reports and to close compliance investigations. These functions are now being handled by the Headquarters staff. Because of the expertise of this staff, and the resulting efficiency, consolidating compliance in Headquarters should produce the same output, using fewer resources.

EFFECTIVE DATE: September 15, 1983.

FOR FURTHER INFORMATION CONTACT: Barry Rubin, Office of the General Counsel, Federal Trade Commission, Washington, D.C. 20580, (202) 523-3613

List of Subjects

16 CFR Part 2

Administrative practice and procedures, Investigations, Reporting requirements.

16 CFR Part 4

Administrative practice and procedures, Freedom of Information, Privacy, Sunshine Act.

PART 2—[AMENDED]

Section 2.1 is revised to read as follows:

§ 2.1 How initiated.

Commission investigations and inquiries may be originated upon the request of the President, Congress, governmental agencies, or the Attorney General; upon referrals by the courts; upon complaint by members of the public; or by the Commission upon its own initiative. The Commission has delegated to the Director, Deputy Directors, and Assistant Directors of the

Bureau of Competition, the Director, Deputy Directors, and Associate Directors of the Bureau of Consumer Protection, the Regional Directors and Assistant Regional Directors of the Commission's regional offices, and the Director of Federal-State and Consumer Relations, without power of redelegation, limited authority to initiate investigations.

Section 2.7 is amended by revising paragraphs (c) and (d) to read as follows:

§ 2.7 Compulsory process in investigations.

* * * * *

(c) The Bureau Director, Deputy Directors and Assistant Directors of the Bureaus of Competition and Economics, the Director, Deputy Directors and Associate Directors of the Bureau of Consumer Protection, Regional Directors, and Assistant Regional Directors, are authorized to negotiate and approve the terms of satisfactory compliance with subpoenas and civil investigative demands and, for good cause shown, may extend the time prescribed for compliance. Specifically, the subpoena power conferred by Section 329 of the Energy Policy and Conservation Act (42 U.S.C. 6299) is included within this delegation.

(d) *Petitions to limit or quash.*—Any petition to limit or quash any investigational subpoena or civil investigative demand shall be filed with the Secretary of the Commission within twenty (20) days after service of the subpoena or civil investigative demand, or, if the return date is less than twenty (20) days after service, prior to the return date. Such petition shall set forth all assertions of privilege or other factual and legal objections to the subpoena or civil investigative demand, including all appropriate arguments, affidavits and other supporting documentation. All petitions to limit or quash an investigational subpoena or civil investigative demand shall be ruled upon by the Commission itself, but Bureau Directors, Deputy Directors, and Assistant Directors in the Bureaus of Competition and Economics, the Bureau Director, Deputy Directors and Associate Directors in the Bureau of Consumer Protection, Regional Directors and Assistant Regional Directors are delegated, without power of redelegation, the authority to rule upon requests for extensions of time within which to file such petitions.

Section 2.11 is amended by revising paragraphs (a) and (b) to read as follows:

§ 2.11 Orders requiring access.

(a) In investigations other than those conducted under Section 20 of the Federal Trade Commission Act, the Commission may issue an order requiring any person, partnership or corporation being investigated to grant access to files for the purpose of examination and the right to copy any documentary evidence. The Directors, Deputy Directors and Assistant Directors of the Bureaus of Competition and Economics, the Director, Deputy Directors and Associate Directors of the Bureau of Consumer Protection, the Regional Directors, and Assistant Regional Directors of the Commission's regional offices, pursuant to delegation of authority by the Commission, without power of redelegation, are authorized, for good cause shown, to extend the time prescribed for compliance with orders requiring access issued during the investigation of any matter.

(b) Any petition to limit or quash an order requiring access shall be filed with the Secretary of the Commission within twenty (20) days after service of the order, or, if the date for compliance is less than twenty (20) days after service of the order, then before the return date. Such petition shall set forth all assertions of privilege or other factual and legal objections to the order requiring access, including all appropriate arguments, affidavits and other supporting documentation. All petitions to limit or quash orders requiring access shall be ruled upon by the Commission itself, but the above-designated Directors, Deputy Directors, Assistant Directors, Associate Directors, Regional Directors and Assistant Regional Directors are delegated, without power of redelegation, the authority to rule upon motions for extensions of time within which to file petitions to limit or quash orders requiring access.

Section 2.12 is amended by revising paragraphs (c) and (d) to read as follows:

§ 2.12 Reports.

* * * * *

(c) The Directors, Deputy Directors and Assistant Directors of the Bureaus of Competition and Economics, the Director, Deputy Directors and Associate Directors of the Bureau of Consumer Protection, and the Regional Directors and Assistant Regional Directors of the Commission's regional offices, pursuant to delegation of authority by the Commission, without power of redelegation, are authorized, for good cause shown, to extend the time prescribed for compliance with orders requiring reports or answers to questions issued during the investigation, study or survey of any matter or in connection with any of the Commission's reporting programs.

(d) Any petition to limit or quash an order requiring a report or answer to specific questions shall be filed with the Secretary of the Commission within twenty (20) days after service of the order, or, if the date for compliance is less than twenty (20) days after service of the order, then before the return date. Such petition shall set forth all assertions of privilege or other factual and legal objections to the order requiring a report or answer to specific questions, including all appropriate arguments, affidavits and other supporting documentation. All petitions to limit or quash orders requiring reports or answers to questions shall be ruled upon by the Commission itself, but the above-designated Directors, Deputy Directors, Assistant Directors, Associate Directors, Regional Directors and Assistant Regional Directors are delegated, without power of redelegation, the authority to rule upon motions for extensions of time within which to file petitions to limit or quash orders requiring reports or answers to questions.

Section 2.14 is amended by revising paragraph (c) to read as follows:

§ 2.14 Disposition.

* * * * *

(c) The Commission has delegated to the Director, Deputy Directors, and Assistant Directors of the Bureau of Competition, the Director, Deputy Directors and Associate Directors of the Bureau of Consumer Protection, Regional Directors, and the Director of Federal-State Consumer Relations, without power of redelegation, limited authority to close investigations.

Section 2.15 is amended by revising paragraph (a) to read as follows:

§ 2.15 Orders requiring witnesses to testify or provide other information and granting immunity.

(a) The Bureau Director, Deputy Directors, and Assistant Directors in the Bureaus of Competition and Economics, the Bureau Director, Deputy Directors and Associate Directors of the Bureau of Consumer Protection, Regional Directors and Assistant Regional Directors are hereby authorized to request, through the Commission's liaison officer, approval from the Attorney General for the issuance of an order requiring a witness to testify or provide other information granting immunity under

Title 18, section 6002, of the United States Code.

* * * * *

Section 2.16 is amended by revising paragraph (a) to read as follows:

§ 2.16 Custodians.

(a) *Designation.*—The Commission shall designate a custodian and one or more deputy custodians for material to be delivered pursuant to compulsory process in a investigation, a purpose of which is to determine whether any person may have violated any provision of the laws administered by the Commission. The custodian shall have the powers and duties prescribed by Section 21 of the FTC Act. Deputy custodians may perform all of the duties assigned to custodians. The appropriate Bureau Directors, Deputy Directors, Associate Directors in the Bureau of Consumer Protection, Assistant Directors in the Bureau of Competition, Regional Directors or Assistant Regional Directors shall take the action required by Section 21(b)(7) of the FTC Act if it is necessary to replace a custodian or deputy custodian.

Section 2.41 is amended by revising the first sentence of paragraphs (b) and (c) and by adding a sentence to the end of paragraph (c) to read as follows:

§ 2.41 Reports of compliance.

* * * * *

(b) The Commission has delegated to the Director and Deputy Directors of the Bureaus of Competition and Consumer Protection, without power of redelegation, the authority to approve compliance reports, reject compliance reports, and to close compliance investigations. * * *

(c) The Commission has delegated to the Director, Deputy Directors, and Assistant Directors of the Bureau of Competition and to the Director, Deputy Directors, and Associate Directors of the Bureau of Consumer Protection, and to the Regional Directors, the authority, for good cause shown, to extend the time within which reports of compliance with orders to cease and desist may be filed. * * * The authority under this subsection may not be redelegated, except that the Associate Director for Enforcement in the Bureau of Consumer Protection and the Assistant Director for Compliance in the Bureau of Competition may each name a designee under this subsection.

PART 4—[AMENDED]

Section 4.2 is amended by revising paragraph (a)(1) to read as follows:

§ 4.2 Requirements as to form, and filing of documents other than correspondence.

(a) *Filing.*—(1) Except as otherwise provided, all documents submitted to the Commission, including those addressed to the Administrative Law Judge, shall be filed with the Secretary of the Commission; *provided, however,* that in any instance informal applications or requests may be submitted directly to the official in charge of any office of the Commission or to the appropriate Director, Deputy Director, Associate Director in the Bureau of Consumer Protection, or Assistant Director in the Bureau of Competition or to the Administrative Law Judge. Copies of all documents filed with the Secretary of the Commission by parties in adjudicative proceedings shall, at or before the time of filing, be served by the party filing the documents or person acting for that party on all other parties pursuant to § 4.4.

Section 4.4 is amended by revising the third sentence following the introductory sentence to read as follows. The introductory sentence is shown for reader convenience.

§ 4.4 Service.

* * * * *

(b) *By other parties.*—Service of documents by parties other than the Commission shall be by delivering copies thereof as follows: * * * Where service of a document imposes time limitations upon Commission counsel for response, the time for such response shall not start running until the document is delivered to the Assistant Bureau Director in the Bureau of Competition, the Associate Bureau Director in the Bureau of Consumer Protection, or Regional Office of Complaint Counsel by the Office of the Secretary. * * *

(15 U.S.C. 46(f))

By direction of the Commission, dated June 17, 1983.

Emily H. Rock,

Secretary.

[FR Doc. 83-25251 Filed 9-14-83; 8:45 am]

BILLING CODE 6750-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 240 and 249

[Release No. 34-20155; File No. S7-941]

Amendments Relating to Reports of Stabilizing Transactions

AGENCY: Securities and Exchange Commission.

ACTION: Final Rule.

SUMMARY: The Commission has adopted amendments to Rules 17a-2 and 10b-7 under the Securities Exchange Act of 1934 and has rescinded related Form X-17A-1. The amendment to Rule 17a-2 eliminates the requirement that participants in an offering that is stabilized file with the Commission reports of their transactions, including stabilizing transactions, in offered securities. The amendment requires instead that information concerning stabilizing transactions be retained by the manager of the underwriting syndicate. The filing of reports concerning stabilization imposes burdens that exceed any benefits relating to the protection of investors. The amendment to Rule 10b-7 makes certain technical changes to that rule.

EFFECTIVE DATE: October 17, 1983.

FOR FURTHER INFORMATION CONTACT: Howard A. Bartnick at (202) 272-2874, or Kenneth B. Orenbach at (202) 272-7391; Office of Legal Policy and Trading Practices, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION:

I. Background and Discussion

The Securities and Exchange Commission is adopting amendments to Rules 17a-2 and 10b-7 [1] under the Securities Exchange Act of 1934 (the "Act"). These amendments were published for public comment on August 26, 1982.[2]

Rule 17a-2 under the Act and its related Form X-17A-1 were adopted on February 9, 1939.[3] The rule has applied to any person who effects any purchase of a security for the purpose of pegging, fixing or stabilizing the price of a security during an offering. It has required any person who effects stabilizing purchases for his own account or for a syndicate or group account to report to the Commission "as manager" on the form all purchases (including stabilizing purchases), sales and transfers in the stabilized security made during the period beginning nine business days prior to the commencement of the offering and ending when stabilizing terminated. All purchases made to cover a short position also had to be reported. Any purchases or sales of the stabilized security made by other persons

[1] 17 CFR 240.10b-7 and 240.17a-2.

[2] Securities Exchange Act Release No. 18983 (August 26, 1982), 47 FR 37580 (the "Proposing Release").

[3] Securities Exchange Act Release No. 2008 (February 9, 1939), 4 FR 699.

participating in the offering for their own account were also required to be reported. These "not as manager" reports had to be transmitted, not later than five business days after termination of stabilization, to the manager, who in turn was required to forward them to the Commission.

These transactions were required to be reported on Form X–17A–1. The purpose of Form X–17A–1 was to inform the Commission (1) whether stabilizing transactions on behalf of the syndicate or group were effected in conformity with the restrictions and limitations of Rule 10b–7, the Commission's stabilizing rule, and therefore properly came within Exception viii of Rule 10b–6,[4] and (2) whether any other activity by any member of the syndicate had violated the prohibitions of Rule 10b–6 against the purchase of securities subject to a distribution.[5]

In the Proposing Release, the Commission proposed that Form X–17A–1 be rescinded and that Rule 17a–2 be amended to require only that the managing underwriter of a distribution of securities retain, in a separate file, records of all stabilizing transactions engaged in by participants in that distribution. The proposed amendments to Rule 17a–2 would have required only the retention of records of stabilizing purchases. Distribution participants consequently would have been relieved of the requirement that each compile the other market information previously required to be included in the reports filed with the Commission. The proposed amendments would also have raised the minimum level for non-registered, non-Regulation A offerings subject to the rule from the current $300,000 to $1,500,000.[6]

The Commission continues to believe that it is no longer necessary to monitor stabilization practices by means of reports required to be filed with the Commission. Indeed, the Commission rarely uses the information contained on Form X–17A–1 either to monitor or enforce compliance with Rules 10b–6 and 10b–7. In light of this fact, the reporting provisions of Rule 17a–2 have imposed burdens on participants in a distribution of securities that have exceeded the regulatory benefits of the rule.

[4] Exception viii of Rule 10b–6, 17 CFR 240.10b–6(a)[3][viii], permits "stabilizing transactions not in violation of [Rule] 10b–7."

[5] *See* Securities Exchange Act Release No. 9717 (August 15, 1972), 37 FR 17383.

[6] Corresponding technical changes to Rule 10b–7 under the Act were also proposed.

Several commentators generally supported the proposed amendments.[7] Two commentators, however, opposed amending the basic framework of Rule 17a–2 and rescission of Form X–17A–1. Their objections to the proposals were based not only on the assumption that the form is necessary to monitor compliance with Rules 10b–6 and 10b–7, but also on the premise that the information on the form helps syndicate managers to determine the performance level and effectiveness of syndicate members. The Commission believes that, in general, such determinations are not an appropriate basis for regulatory requirements, particularly since syndicate managers may generally enter into contractual arrangements with participants of a syndicate or group to arrange a framework of discipline and review acceptable to the entire syndicate or group.

The Commission therefore is rescinding Form X–17A–1 and amending Rule 17a–2 to require that the managing underwriter of a distribution of securities retain, in a separate file, only records of all stabilizing transactions engaged in by participants in that distribution. The amendment to the rule requires the retention of records of stabilizing purchases only.[8] Distribution participants consequently are now relieved of the requirement that each compile the other trading information previously required to be included in the reports filed with the Commission.[9] The rule still requires the managing underwriter to notify syndicate or group members of information concerning syndicate stabilizing activity.[10]

For the reasons indicated in the Proposing Release, the Commission has also decided to raise the minimum level at which non-registered, non-Regulation A offerings are subject to the requirements of Rule 17a–2 to $1,500,000.[11] Finally, the Commission is adopting certain technical changes to Rule 10b–7 to conform certain cross-references therein to Rule 17a–2.

[7] Five comment letters were received with respect to the proposals. File No. S7–941 contains these public comment letters as well as a summary of comments prepared by the staff of the Commission.

[8] One commentator sought clarification that records of ordinary, non-stabilizing transactions need not be maintained by the manager.

[9] Paragraph (d) of the rule nonetheless requires syndicate participants that effect stabilizing purchases for the syndicate account to report such purchases, as well as the time at which such stabilizing activity is terminated, to the manager.

[10] One of the commentators objected to that part of the Commission's original proposal that would have expanded the current rule by requiring the manager to notify syndicate members of *all* stabilizing transactions as well as the date and time of the first stabilizing transaction and of the termination of stabilizing. The commentator correctly observed that such a proposal would have imposed substantial economic burdens on managers. Accordingly, the Commission has decided to limit the manager's obligation to reporting to syndicate members the date and time of the first stabilizing purchase and of the termination of stabilizing.

[11] See *Proposing Release*, 47 FR at 37561.

[12] 15 U.S.C. 78w(a)(2).

II. Regulatory Flexibility Act Considerations

The Chairman of the Commission certified in connection with the Proposing Release that the proposed amendments to Rules 17a–2 and 10b–7, if adopted, would not have a significant impact on a substantial number of small entities. None of the comments addressed that certification.

III. Effects on Competition

Section 23(a)(2) of the Act [12] requires the Commission, in adopting rules under the Act, to consider the anti-competitive effect of such rules, if any, and to balance any impact against the regulatory benefits gained in terms of furthering the purposes of the Act. The Commission has considered the amendments to Rules 17a–2 and 10b–7 in light of the standards cited in Section 23(a)(2) and believes, for the reasons stated herein, that adoption of the amendments will not impose any burden on competition not necessary or appropriate in furtherance of the Act.

List of Subjects in 17 CFR Part 240

Reporting requirements, Securities.

IV. Statutory Basis and Text of Rule Amendments

Pursuant to Sections 9(a)(6), 10(b) 17(a) and 23(a) of the Act, 15 U.S.C. 78i(a)(6), 78j(b), 78q(a) and 78w(a), the Commission hereby amends Parts 240 and 249 of Chapter II of Title 17 of the Code of Federal Regulations as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. By revising paragraph (l) of § 240.10b–7 to read as follows:

§ 240.10b–7 Stabilization to facilitate a distribution.

* * * * *

(l) *Recordkeeping requirements.* A person subject to this section shall keep the information and make the notification required by § 240.17a–2 even though he is not subject to that section as a broker, dealer or member of a national securities exchange.

* * * * *

2. By revising § 240.17a–2 as follows

§ 240.17a-2 Recordkeeping requirements relating to stabilizing activities.

(a) *Scope of section.* This section shall apply to any person who effects any purchase of a security for the purpose of, or who participates in a syndicate or group which engages in, pegging, fixing or stabilizing (hereinafter referred to as "stabilizing") the price of any security to facilitate an offering of any security (other than an "exempted security" as hereinafter defined) (1) With respect to which a registration statement has been, or is to be, filed pursuant to the Securities Act of 1933 as amended or (2) which is being, or is to be, offered pursuant to an exemption from registration under Regulation A adopted under the Securities Act of 1933 or (3) which is being, or is to be, otherwise offered, if the aggregate offering price of the securities being offered exceeds $1,500,000.

(b) *Definitions.* Unless the context clearly indicates otherwise, for the purposes of this section, the following terms shall have the meanings indicated:

(1) The term "manager" shall mean the person stabilizing for his sole account or for the account of a syndicate or group in which he is a participant, and who, by contract or otherwise, deals with the issuer, organizes the selling effort, receives some benefit from the underwriting which is not shared by other underwriters, or represents any other underwriters in such matters as maintaining the records of the distribution and arranging for allotments of securities offered.

(2) The term "exempted security" means an exempted security as defined in Section 3(a)(12) of the Act, including securities issued, or guaranteed both as to principal and interest, by the International Bank for Reconstruction and Development.

(c) *Records required to be maintained by manager.* Any person subject to this section who acts as manager shall:

(1) Promptly record and maintain in a separate file, for a period of not less than 12 months, the following information:

(i) The name and class of any security being stabilized, (ii) the price, the date, and the time at which the first stabilizing purchase and each succeeding stabilizing purchase was effected by the manager or by any participant in the syndicate or group, (iii) the names and addresses of the members of the syndicate or group, and (iv) their respective commitments, or in the case of a standby or contingent underwriting the percentage participation of each member of the syndicate or group therein; and

(2) Promptly furnish to each of the members of the syndicate or group the name and class of any security being stabilized, and the date and time at which the first stabilizing purchase was effected by the manager or by any participant in the syndicate or group; and

(3) Promptly notify each of the members of such syndicate or group of the date and time when stabilizing was terminated.

(d) *Notification of manager.* Any person who has a participation in a syndicate account but who is not a manager of such account, and who effects one or more stabilizing purchases for his sole account or for the account of a syndicate or group, shall within three business days following such purchase notify the manager of the price, the date and the time at which such stabilizing purchase was effected, and shall in addition notify the manager of the date and time when stabilizing was terminated.

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

§ 249.717 [Removed]

3. By removing § 249.717.

Dated: September 7, 1983.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-25238 Filed 9-14-83; 8:45 am]

BILLING CODE 8010-01-M

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17 CFR Part 275

[Release No. IA-881; File No. S7-974]

Amendments to Investment Adviser Requirements Concerning Agency Cross Transactions for Advisory Clients

AGENCY: Securities and Exchange Commission.

ACTION: Final rule amendments.

SUMMARY: The Commission is adopting amendments to rule 206(3)-2 under the Investment Advisers Act of 1940 which will reduce the costs incurred by advisers in effecting agency cross transactions for clients by eliminating the requirement that a client's written consent to such transactions be renewed at least annually.

EFFECTIVE DATE: September 15, 1983.

FOR FURTHER INFORMATION CONTACT: Forrest R. Foss, Esq., (202) 272-2079, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. After the effective date, questions should be directed to the Office of Chief Counsel, (202) 272-2030, Division of Investment Management, 450 Fifth Street, NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: On May 12, 1983, the Commission proposed for public comment [1] amendments to rule 206(3)-2 [17 CFR 275.206(3)-2] under the Investment Advisers Act of 1940 ("Advisers Act") [15 U.S.C. 80b-1 et seq.] which would reduce costs incurred by advisers and registered broker-dealers controlling, controlled by or under common control with such advisers in complying with section 206(3) of the Advisers Act [15 U.S.C. 80b-6(3)] and rule 206(3)-2 thereunder. As here pertinent, section 206(3) generally prohibits an investment adviser acting as broker for a perosn other than a client knowingly to effect any sale or purchase of any security for the account of a client without disclosing to the client in writing before completion of each transaction the capacity in which he is acting and obtaining the client's consent to the transaction.[2] Rule 206(3)-2, as originally adopted,[3] permits an investment adviser, acting as broker for a third party, to effect an agency cross transaction[4] for the account of an advisory client, provided, among other things,the adviser obtains the client's written consent prospectively authorizing such transactions for a period not to exceed one year. As discussed in detail in Investment Advisers Act Release No. 860 (May 12,

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[1] Investment Advisers Act Release No. 860, May 12, 1983 [48 FR 22328, May 18, 1983].

[2] Section 206(3) also prohibits an investment adviser acting as principal for his own account knowingly to sell any security to or purchase any security from a client without disclosing to such client in writing before completion of such transaction the capacity in which he is acting and obtaining the consent of the client to such transaction.

In Investment Advisers Act Release No. 40 (February 5, 1945), the Commission construed the section to require that the written disclosure of capacity must be given and the client's consent obtained prior to the completion of each transaction effected by the investment adviser acting as broker for a third party or as principal for his own account. That release interpreted section 206(3) as not permitting blanket consents. The Commission subsequently modified that position with respect to transactions effected by the adviser acting as broker by adopting rule 206(3)-2.

[3] Investment Advisers Act Release No. 589, June 1, 1977 [42 FR 29300].

[4] Under the rule, an agency cross transaction is defined to mean "a transaction in which a person acts as an investment adviser in relation to a transaction in which such investment adviser, or any person controlling, controlled by or under common control with such investment adviser, acts as broker for both such advisory client and for another person on the other side of the transaction."

1983), the Commission believes that it is appropriate to amend the rule in order to relieve advisers from the considerable time and expense involved in obtaining annual renewals of such client consents.

I. Discussion

Rule 206(3)–2 as originally adopted deems a registered investment adviser to be in compliance with section 206(3) of the Advisers Act if the adviser obtains an advisory client's consent prospectively authorizing agency cross transactions for a period not to exceed one year, provided other conditions specified in the rule are met. Under the rule, the investment adviser must make full written disclosure to the client that, with respect to agency cross transactions, the adviser or other person relying on the rule will act as broker for, receive commissions from, and have a potentially conflicting division of loyalties and responsibilities regarding, both parties to such transactions. In addition, the adviser or other person relying on the rule must send to the client, at or before completion of each agency cross transaction, a written confirmation which describes the transaction and offers to furnish additional information concerning the transaction. Each client must also be sent, within 30 days prior to the expiration of the written consent, a written disclosure statement identifying the total number of transactions during the period and the total amount of all commissions or remuneration received by the adviser and any person relying on the rule in connection with agency cross transactions during the period. Finally, the rule requires that each written disclosure statement and confirmation required by the rule include a conspicuous statement that the client's blanket written consent can be revoked at any time by written notice from the client to the investment adviser or any other person relying on the rule.[5]

The amendments to rule 206(3)–2 proposed by the Commission in Investment Advisers Act Release No. 860 would amend paragraph (a)(1)(i) of the rule to delete the provision limiting the validity of a client's written blanket consent to agency cross transactions for a period of a year or less. Minor technical amendments were also proposed to conform the other provisions of the rule to this proposed change.

In response to the proposal, the Commission received three comments. Two of the commentators supported the amendments as proposed. A third commentator, while supporting the proposed amendments, suggested that an adviser or other person relying on the rule also should not be required to furnish clients with a written statement every year summarizing various information regarding that year's agency cross transactions. This commentator suggested that, since the written annual statement contains information which advisers are required to retain under the rule in any event (in order to respond to client requests for information with respect to a particular transaction), the rule should be revised to permit advisers to furnish the written annual statement only upon client request.

The Commission has considered this latter suggestion and decided not to make or propose further changes in rule 206(3)–2 at this time. However, in response to this comment and a fourth comment letter received after the close of the comment period, the staff intends to review the annual statement requirement in order to determine whether a revision of its contents is indicated.

II. Conclusion

After consideration of all the public comments, and being otherwise duly advised, the Commission has decided to adopt the amendments to rule 206(3)–2 as they were proposed in Investment Advisers Release No. 860 (May 12, 1983).

III. Authority, Effective Date

The Commission adopts the amendments to rule 206(3)–2 pursuant to the provisions of section 211(a) of the Advisers Act [15 U.S.C. 80b–11(a)]. The amendments adopted herein shall become effective September 15, 1983.

List of Subjects in 17 CFR Part 275

Investment advisers, Reporting and recordkeeping requirements, Securities.

Text of Proposed Amendment

PART 275—[AMENDED]

Part 275 of Chapter II of Title 17 of the Code of Federal Regulations under the Investment Advisers Act of 1940 is amended by revising paragraph (a) of § 275.206(3)–2 as follows:

§ 275.206(3)–2 Agency cross transactions for advisory clients.

(a) An investment adviser registered under section 203 of the Act [15 U.S.C. 80b–3], or a person registered as a broker-dealer under section 15 of the Securities Exchange Act of 1934 [15 U.S.C. 78o] and controlling, controlled by or under common control with an investment adviser registered under section 203 of the Act, shall be deemed in compliance with the provisions of section 206(3) of the Act [15 U.S.C. 80b–6(3)] in effecting an agency cross transaction for an advisory client, if:

(1) The advisory client has executed a written consent prospectively authorizing the investment adviser, or any other person relying on this rule, to effect agency cross transactions for such advisory client, provided that such written consent is obtained after full written disclosure that with respect to agency cross transactions the investment adviser or such other person will act as broker for, receive commissions from, and have a potentially conflicting division of loyalties and responsibilities regarding, both parties to such transactions;

(2) The investment adviser, or any other person relying on this rule, sends to each such client a written confirmation at or before the completion of each such transaction, which confirmation includes (i) a statement of the nature of such transaction, (ii) the date such transaction took place, (iii) an offer to furnish upon request, the time when such transaction took place, and (iv) the source and amount of any other remuneration received or to be received by the investment adviser and any other person relying on this rule in connection with the transaction, *Provided, however,* That if, in the case of a purchase, neither the investment adviser nor any other person relying on this rule was participating in a distribution, or in the case of a sale, neither the investment adviser nor any other person relying on this rule was participating in a tender offer, the written confirmation may state whether any other remuneration has been or will be received and that the source and amount of such other remuneration will be furnished upon written request of such customer;

(3) The investment adviser, or any other person relying in this rule, sends to each such client, at least annually, and with or as part of any written statement or summary of such account from the investment adviser or such other person, a written disclosure statement identifying the total number of such transactions during the period since the date of the last such statement or

[5] Rule 206(3)–2 expressly does not apply to a transaction if the investment adviser, or the adviser and any person controlling, controlled by or under common control with the adviser, recommends the transaction to both the seller and the purchaser. Nor does the rule relieve an adviser, or other person relying on the rule, from the obligation to act in the best interests of the client with respect to the transaction or relieve the adviser or other person from any disclosure obligation imposed by section 206(1) [15 U.S.C. 80b–6(1)] or section 206(2) [15 U.S.C. 80b–6(2)] of the Advisers Act or by other applicable provisions of the federal securities laws.

summary, and the total amount of all commissions or other remuneration received or to be received by the investment adviser or any other person relying on this rule in connection with such transactions during such period;

(4) Each written disclosure statement and confirmation required by this rule includes a conspicuous statement that the written consent referred to in paragraph (a)(1) of this section may be revoked at any time by written notice to the investment adviser, or to any other person relying on this rule, from the advisory client; and

(5) No such transaction is effected in which the same investment adviser or an investment adviser and any person controlling, controlled by or under common control with such investment adviser recommended the transaction to both any seller and any purchaser.

* * * * *

Dated: September 9, 1983.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-25237 Filed 9-14-83; 8:45 am]

BILLING CODE 8010-01-M

TENNESSEE VALLEY AUTHORITY

18 CFR Part 1300

Ethical and Other Conduct Standards and Responsibilities of Employees and Special Government Employees

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Final rule.

SUMMARY: The Tennessee Valley Authority is revising its employee conduct regulations to specifically include prohibitions against harassment on the basis of sex, race, color, religion, national origin, age, and handicap. In March 1983 the TVA Board of Directors reissued a policy statement prohibiting such harassment within TVA, and this revision updates TVA's conduct regulations, emphasizing the Board of Directors' 1983 policy statement and TVA's continuing commitment to eliminate such behavior from the workplace. In addition, the revision clearly states to all TVA employees that such conduct is treated seriously and if found will result in appropriate disciplinary action. These regulations apply to all TVA employees, including those contract employees in an employer-employee relationship with TVA and all TVA special Government employees.

DATE: October 17, 1983.

FOR FURTHER INFORMATION CONTACT: Herbert S. Sanger, Jr., General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, Knoxville, Tennessee 37902, Telephone 615-632-2241.

List of Subjects in 18 CFR Part 1300

Conflict of interest.

PART 1300—[AMENDED]

18 CFR Part 1300 is amended as follows:

1. The authority citation for Part 1300 is revised to read as follows:

Authority: 16 U.S.C. 831-831dd; E.O. 11222, 3 CFR 1964-1965 Comp., p. 306, 5 CFR 735.104. Sections 1300.735-21-23 and 1300.735-37-39 are issued under authority of 16 U.S.C. 831-831dd.

2. In Part 1300, the following sections are added to Subpart B to read as follows:

§ 1300.735-21 Sexual harassment.

It is TVA policy that all TVA employees are responsible for assuring that the workplace is free from sexual harassment. Accordingly, all employees must avoid any action or conduct which could be viewed as sexual harassment including:

(a) Unwelcome sexual advances;

(b) Requests for sexual favors; and

(c) Other verbal or physical conduct of a sexual nature when:

(1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;

(2) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or

(3) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

§ 1300.735-22 National origin harassment.

It is TVA policy that all TVA employees are responsible for assuring that the workplace is free from national origin harassment. Accordingly, all employees must avoid any action or conduct which could be viewed as national origin harassment, including ethnic slurs and other verbal or physical conduct relating to an individual's national origin when such conduct:

(a) Has the purpose or effect of creating an intimidating, hostile, or offensive working environment;

(b) Has the purpose or effect of unreasonably interfering with an individual's work performance; or

(c) Otherwise adversely affects an individual's employment opportunities.

§ 1300.735-23 Harassment on the basis of race, color, religion, age, or handicap.

It is TVA policy that all TVA employees are responsible for assuring that the workplace is free from harassment on the basis of race, color, religion, age, or handicap. Accordingly, all employees must avoid any action or conduct which could be viewed as harassment on these bases, including any verbal or physical conduct relating to an individual's race, color, religion, age, or handicap when such conduct:

(a) Has the purpose or effect of creating an intimidating, hostile, or offensive working environment;

(b) Has the purpose or effect of unreasonably interfering with an individual's work performance; or

(c) Otherwise adversely affects an individual's employment opportunities.

3. In Part 1300, the following sections are added to Subpart C to read as follows:

§ 1300.735-37 Sexual harassment.

It is TVA policy that all TVA special Government employees are responsible for assuring that the workplace is free from sexual harassment. Accordingly, all special Government employees must avoid any action or conduct which could be viewed as sexual harassment including:

(a) Unwelcome sexual advances;

(b) Requests for sexual favors; and

(c) Other verbal or physical conduct of a sexual nature when:

(1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;

(2) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or

(3) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

§ 1300.735-38 National origin harassment.

It is TVA policy that all TVA special Government employees are responsible for assuring that the workplace is free from national origin harassment. Accordingly, all special Government employees must avoid any action or conduct which could be viewed as national origin harassment, including ethnic slurs and other verbal or physical conduct relating to an individual's national origin when such conduct:

(a) Has the purpose or effect of creating an intimidating, hostile, or offensive working environment;

(b) Has the purpose or effect of unreasonably interfering with an individual's work performance; or

(c) Otherwise adversely affects an individual's employment opportunities.

§ 1300.735–39 Harassment on the basis of race, color, religion, age, or handicap.

It is TVA policy that all TVA special Government employees are responsible for assuring that the workplace is free from harassment on the basis of race, color, religion, age, or handicap. Accordingly, all special Government employees must avoid any action or conduct which could be viewed as harassment on these bases, including any verbal or physical conduct relating to an individual's race, color, religion, age, or handicap when such conduct:

(a) Has the purpose or effect of creating an intimidating, hostile, or offensive working environment;

(b) Has the purpose or effect of unreasonably interfering with an individual's work performance; or

(c) Otherwise adversely affects an individual's employment opportunities.

Dated: September 6, 1983.

W. F. Willis,

General Manager.

[FR Doc. 83–25080 Filed 9–14–83; 8:45 am]

BILLING CODE 8120–01–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 6

[T.D. 83–192]

Private Aircraft Arriving in the United States

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations by extending to the Pacific, Gulf of Mexico, and Atlantic Coasts, the area of entry from which private aircraft arriving in the United States must furnish a notice of intended arrival to Customs. The amendments, which were previously published on an interim basis, further provide that the aircraft required to furnish such notice must land for Customs processing at the *nearest* designated airport to the point of crossing the United States border or coastline. Prior to the interim change, the regulation provided for a notice of intended arrival only for private aircraft arriving in the United States via the U.S./Mexican border, and provided for landing at any of several designated airports.

The amendments are necessary because of the severity of the drug abuse problem, the major increase in illegal drug importations and the need for immediate action to expand the effectiveness of drug smuggling enforcement.

EFFECTIVE DATE: October 17, 1983. The interim regulation, published as T.D. 82–52 in the **Federal Register** on March 24, 1982 (47 FR 12620), and amplified by T.D. 82–88, published in the **Federal Register** on May 6, 1982 (47 FR 19517), will remain in effect until this final rule takes effect.

FOR FURTHER INFORMATION CONTACT: C. Duane Oveson, Office of Passenger Enforcement and Facilitation, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202–566–5607).

SUPPLEMENTARY INFORMATION:

Background

The National Narcotics Intelligence Consumers Committee has documented that the supply of illegal drugs to the United States market and the subsequent extent of drug abuse has reached monumental proportions. Illegal drugs generated an estimated $80 billion in retail sales in 1980, a 23 percent increase from 1979. The severity of the drug abuse problem, the preponderance of drug users, and the major increases in volumes of illegal drug importations in the United States are indicated by the significant increase in drug-related deaths, medical care, arrests, and seizures.

The smuggler organization has solidified a dominant position in the United States through the penetration of strategic points in the economy. Countries to the south of the United States are major sources of illegal drugs destined for the United States. Smuggling by air is the preferred mode of transportation for low-volume, high-cost narcotics. Private aircraft account for the highest volume and largest individual loads of these drugs. A Stanford Research Institute Study indicates the magnitude of the air smuggling threat at approximately 6,700 flights annually, involving approximately 1,000 private aircraft. Although recent air interdiction activities in the southeastern United States have resulted in many arrests and seizures, an end to the present situation of drug abuse in the United States is not in sight.

In order to address this national problem, it is necessary to take action to expand the effectiveness of smuggling enforcement. In 1975, the Customs Regulations were amended by adding a new § 6.14 (19 CFR 6.14), to provide for a notice of intended arrival for private aircraft arriving in the United States via the United States/Mexican border. Section 6.14 further provided that such private aircraft land at any one of 14 designated airports along the United States/Mexican border.

Because of the magnitude of the drug problem, and in direct response to Executive and Congressional directives, by an interim regulation published as T.D. 82–52 in the **Federal Register** on March 24, 1982 (47 FR 12620), effective April 1, 1982, the notice requirement was extended to private aircraft arriving in the United States via the Gulf of Mexico and Atlantic Coasts. The interim regulation further provided that the aircraft required to furnish such notice must land at the *nearest* designated airport to the United States border or coastline crossing point. The list of designated airports also was expanded.

By T.D. 82–88, published in the **Federal Register** on May 6, 1982 (47 FR 19517), two additional airports were added to the list of designated airports in § 6.14.

Pursuant to T.D. 82–52, interested parties were given until May 24, 1982, to submit comments on the interim regulation.

Discussion of Comments

Numerous public comments were received in response to T.D. 82–52. The comments are generally supportive of Customs goal to expand the effectiveness of drug smuggling enforcement. The primary concerns expressed were the manner of imposition of the interim regulation, the airports which were designated in § 6.14(g), and the effect of the regulation upon local businesses and individuals.

Several commenters criticize the manner of imposition of the interim regulation. It is contended that insufficient notice was provided to the public before the regulation took effect, that there was no consultation with interested parties prior to issuance, and that the document did not comply with the provisions of the Administrative Procedure Act (5 U.S.C. 551 *et seq.*).

Customs acknowledges that the public had minimal notice prior to the effective date of the interim regulation. However, as stated in T.D. 82–52, in order to address the national drug smuggling problem, it was necessary for Customs to take immediate action to expand the effectiveness of its smuggling enforcement. The changes to § 6.14 were made in direct response to Executive and Congressional directives. The amendments provide Customs with

positive entry control to increase enforcement capability by identifying private aircraft which may be involved in smuggling activity. T.D. 82–52 also stated that, because of the severity of the drug abuse problem, the major increase in illegal drug importations, and the need for immediate action, pursuant to 5 U.S.C. 553(b)(B), notice and public procedure were impracticable, unnecessary, and contrary to the public interest. Pursuant to 5 U.S.C. 553(d)(3), a delayed effective date was dispensed with. T.D. 82–52 solicited public comments, and those comments have been carefully considered in the formulation of the final rule.

A number of comments address the designation of airports in § 6.14(g). Most of these comments state the need for designation of additional individual airports. One urges the designation of 10 additional airports. The comments are concerned with the effect of the landing requirement in § 6.14(d) on individual aircraft and on local businesses located at non-designated airports.

Customs has determined that the New Orleans Lakefront Airport in New Orleans Lousiana, will be added to the list of designated airports. This addition is being made because of congestion at the other nearby designated airport, New Orleans International Airport (Moisant Field), and because of the ease with which Customs service may be provided to New Orleans Lakefront Airport.

No other additions will be made to the list of designated airports. We believe that the purpose of amending § 6.14, to expand the effectiveness of drug smuggling enforcement, is best served by the designated airports listed in the interim regulation, with the addition of New Orleans Lakefront Airport. Additional designated airports will not assist Customs goals of the collection of air intelligence and the identification of smuggler aircraft. Furthermore, Customs does not believe that the flow of air traffic makes the designation of additional airports necessary. In individual cases where the landing requirement would result in undue hardship, an exemption from the landing requirement may be requested pursuant to § 6.14(f).

One comment states that the interim regulation is technically inadequate, and suggests certain changes.

Changes to Interim Regulation

After consideration of the comments and further review of T.D. 82–52, several changes have been made in the final rule.

The scope of § 6.14(a) has been expanded to include the Pacific Coast. This change is consistent with the intent of amending § 6.14, and the change makes paragraph (a) parallel paragraph (b), which pertains to the Gulf and Atlantic Coasts. It is not believed that this addition will have a major impact upon private aircraft since most private aircraft subject to § 6.14(a) will enter the United States via the Mexican border. As a result of the inclusion of the Pacific Coast within the scope of § 6.14(a), the words of the interim regulation "and between 97 degrees and 120 degrees west longitude," which were intended to modify the crossing point into the United States, are inappropriate, and have been deleted.

In § 6.14(b), the departing area for private aircraft which must report has been changed from "a foreign place in the Western Hemisphere south of 31 degrees north latitude" to "a foreign place in the Western Hemisphere south of 30 degrees north latitude or from any place in Mexico." This change has been made to have § 6.14 conform with the Federal Aviation Administrtation regulations with respect to flight plan filing (Part 199, Federal Aviation Regulations (14 CFR Part 199)). The words "or from any place in Mexico" have been added because there are points in Mexico above 30 degrees north latitude, and it is intended that all private aircraft departing from Mexico be subject to § 6.14. The statement in T.D. 82–52 that notice may occur anytime while the aircraft is within the Gulf of Mexico Coastal or Atlantic Coastal ADIZ has been eliminated because it was unnecessary.

Section 6.14(c)(7) has been changed to reflect the landing requirement of § 6.14(d).

Several changes have been made to § 6.14(f). In the second sentence as it was published in T.D. 82–52 (the third sentence in the final rule), the word "desired" has been substituted for the word "required." A sentence has been added to § 6.14(f)(1) stating that approval of an exemption from the landing requirement of § 6.14(d) is at the discretion of Customs. This is not a substantive change, but has been inserted for clarification. Also, § 6.14(f)(1) has been revised to require additional information in a request for an exemption from the landing requirement. A new § 6.14(f)(2) has been added to cover the reporting requirement when a private aircraft has been granted an exemption from the landing requirement and the aircraft is crossing into the United States over a point on the Pacific Coast north of 33 degrees north latitude, or over a point on the Gulf or Atlantic Coasts north of 30 degrees latitude. A new § 6.14(f)(3) has been added to state that the owner or aircraft commander of a private aircraft granted an exemption from the landing requirement must notify Customs upon the sale of the aircraft, change in registration number, or change in authorized pilot or crewmembers. That section has also been amended to state that one pilot or crewmembers as identified in paragraph (f)(1)(v) must be present on every flight to maintain exemption status.

In § 6.14(g), the New Orleans Lakefront Airport in New Orleans, Louisiana, has been added to the list of designated airports.

In addition, several minor, non-substantive changes have been made for the purpose of clarity.

Executive Order 12291

This amendment is not a "major rule" as defined in section 1(b) of E.O. 12291. Accordingly, a regulatory impact analysis is not required.

Paperwork Reduction Act

The Paperwork Reduction Act of 1980 requires that Customs must inform the public why it is collecting this information, how it will use it, and whether it must be given to Customs. Customs requires the information in order to carry out the laws and regulations which it administers. This regulation applies to private aircraft arriving in the United States via the U.S./Mexican border or the Atlantic, Pacific and Gulf coasts, and it relates to the processing of the aircraft and its passengers. The information is used for arranging appropriate Customs services for arrival inspection processing and enhanced enforcement entry control for effective violator interdiction. The requirements are mandatory but the regulation provides a means for requesting an exemption from the landing requirement. The granting of the exemption is at the authority of Customs. Pursuant to the Paperwork Reduction Act of 1980, the Office of Management and Budget has assigned control number 1515–0098 to the reporting requirements contained in this document.

Regulatory Flexibility Act

It is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that the rule will not have a significant economic impact on a substantial number of small entities. The rule's provision for exemption from the landing requirement will serve to sufficiently lessen any

significant economic impact or burden on small entities that would otherwise occur. Although the rule will have an economic impact on owners of small aircraft that are not able to obtain an exemption from the landing requirement, as well as on fixed base operators at airports that are not designated airports under the rule, Customs believes that, over-all, there will not be a significant economic impact on a substantial number of small entities.

Drafting Information

The principal author of this document was Gerard J. O'Brien, Jr., Regulations Control Branch, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects in 19 CFR Part 6

Customs duties and inspection, Imports, Air transportation, Aircraft, Airports.

Amendments to the Regulations

Part 6, Customs Regulations (19 CFR Part 6), is amended as set forth below.

William von Raab,

Commissioner of Customs.

Approved: May 26, 1983.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

PART 6—AIR COMMERCE REGULATIONS

Section 6.14 is revised to read as follows:

§ 6.14 Private aircraft arriving from areas south of the United States.

(a) *Advance report of penetration of United States airspace via United States/Mexican border or Pacific Coast.* All private aircraft arriving in the United States via the United States/Mexican border or the Pacific Coast from a foreign place in the Western Hemisphere south of 33 degrees north latitude shall furnish a notice of intended arrival to the Customs Service at the *nearest* designated airport to point of crossing listed in paragraph (g) of this section for first landing in the United States. The notice must be furnished at least 15 minutes before crossing the United States border or coastline. The notice may be furnished directly to Customs by telephone, radio, or other means, or may be furnished through the Federal Aviation Administration to Customs.

(b) *Advance report of penetration of United States airspace via Gulf and Atlantic Coasts.* All private aircraft arriving in the United States via the Gulf of Mexico or Atlantic Coasts from a foreign place in the Western Hemisphere south of 30 degrees north latitude or from any place in Mexico shall furnish a notice of intended arrival to the Customs Service at the *nearest* designated airport to point of crossing listed in paragraph (g) of this section for first landing in the United States. The notice must be furnished at least 15 minutes before crossing the United States coastline. The notice may be furnished directly to Customs by telephone, radio, or other means, or may be furnished through the Federal Aviation Administration to Customs.

(c) *Notice to Customs.* The notice to Customs required by paragraphs (a) and (b) of this section shall include the following:

(1) Aircraft registration number;

(2) Name of aircraft commander;

(3) Number of United States citizen passengers;

(4) Number of alien passengers;

(5) Place of last departure (foreign);

(6) Estimated time and location of crossing United States border/coastline;

(7) Name of United States airport of first landing (designated airport listed in paragraph (g) of this section *nearest* to point of crossing unless an exemption has been granted in accordance with paragraph (f) of this section); and

(8) Estimated time of arrival.

(d) *Landing requirement.* Private aircraft required to furnish a notice of intended arrival in compliance with paragraphs (a), (b), and (c) of this section shall land for Customs processing at the *nearest* designated airport to the border or coastline crossing point as listed in paragraph (g) of this section, unless exempted from this requirement in accordance with paragraph (f) of this section. In addition to the requirements of this paragraph, private aircraft commanders must comply with all other landing and notice of arrival requirements.

(e) *Private aircraft defined.* For the purpose of this section, "private aircraft" means any aircraft other than an aircraft engaged in the transportation of passengers or cargo, or both, for hire.

(f) *Exemption from the landing requirement.* (1) The owner or aircraft commander of a private aircraft required to furnish a notice of intended arrival in compliance with paragraphs (a), (b), and (c) of this section may request an exemption from the landing requirement specified in paragraph (d) of this section. Approval of the request and granting of authority to be exempted from the landing requirement specified in paragraph (d) are at the discretion of the district director of Customs. The request shall be submitted to the district director in charge of the airport at which Customs processing is desired and shall be submitted at least 30 days before the anticipated first arrival if the request is for an exemption covering a number of flights over a period of 1 year, or at least 15 days before the anticipated arrival if the request is for a single flight. The request shall include the following information:

(i) Aircraft registration number;

(ii) Aircraft identity (make, model number, color, and type, such as turboprop, turbojet, reciprocating, helicopter, etc.);

(iii) Whether aircraft is transponder-equipped (yes or no);

(iv) Name, address, and date of birth of owner(s) of the aircraft (if the aircraft is being operated pursuant to a lease, the name, address, and date of birth of the lessee, in addition to that of the owner);

(v) Names, addresses, and dates of birth of usual or anticipated pilots and crewmembers;

(vi) Names, addresses, and dates of birth of usual or anticipated passengers, to the extent possible;

(vii) Description of usual or anticipated baggage or cargo;

(viii) Description of company's usual business activity, if aircraft is company-owned;

(ix) Name of airport(s) of intended first landing in the United States;

(x) Foreign place or places from which flight(s) will usually originate; and

(xi) Reason for request for overflight exemption.

(2) If a private aircraft is granted an exemption from the landing requirement specified in paragraph (d) of this section, and if the aircraft is crossing into the United States over a point on the Pacific Coast north of 33 degrees north latitude, the aircraft must furnish notice to Customs in accordance with paragraph (c) of this section at least 15 minutes before crossing 33 degrees north latitude. Similarly, if a private aircraft is granted an exemption from the landing requirement specified in paragraph (d) of this section, and if the aircraft is crossing into the United States over a point on the Gulf or Atlantic Coasts north of 30 degrees north latitude, the aircraft must furnish notice to Customs in accordance with paragraph (c) of this section at least 15 minutes before crossing 30 degrees north latitude. The notice shall be given to a designated airport specified in paragraph (g) of this

section. The notice may be furnished directly to Customs by telephone, radio, or other means, or may be furnished through the Federal Aviation Administration to Customs. If notice is furnished pursuant to this paragraph, notice pursuant to paragraphs (a) and (b) of this section is unnecessary.

(3) The owner or aircraft commander of a private aircraft granted an exemption from the landing requirement must:

(i) Notify Customs of a change of Federal Aviation Administration registration number for the aircraft;

(ii) Notify Customs of the sale of the aircraft;

(iii) Notify Customs of changes of usual or anticipated pilots or crewmembers, as specified in paragraph (f)(1)(v) of this section. One pilot or crewmember as identified in paragraph (f)(1)(v) of this section must be present on every flight to maintain exemption status. The notifications specified in this paragraph must be given to Customs within 5 working days of the change or sale, or before a flight for which there is an exemption, whichever occurs earlier.

(g) *Designated airports.*

Location	Name
Beaumont, Tex.	Jefferson County Airport.
Brownsville, Tex.	Brownsville International Airport.
Calexico, Calif.	Calexico International Airport.
Corpus Christi, Tex.	Corpus Christi International Airport.
Del Rio, Tex.	Del Rio International Airport.
Douglas, Ariz.	Bisbee-Douglas International Airport.
Eagle Pass, Tex.	Eagle Pass Municipal Airport.
El Paso, Tex.	El Paso International Airport.
Fort Lauderdale, Fla.	Fort Lauderdale Executive Airport.
Fort Lauderdale, Fla.	Fort Lauderdale-Hollywood International Airport.
Fort Pierce, Fla.	St. Lucie County Airport.
Houston, Tex.	William P. Hobby Airport.
Key West, Fla.	Key West International Airport.
Laredo, Tex.	Laredo International Airport.
McAllen, Tex.	Miller International Airport.
Miami, Fla.	Miami International Airport.
Miami, Fla.	Opa-Locka Airport.
New Orleans, La.	New Orleans International Airport (Moisant Field).
New Orleans, La.	New Orleans Lakefront Airport.
Nogales, Ariz.	Nogales International Airport.
Presidio, Tex.	Presidio-Lely International Airport.
San Diego, Calif.	Brown Field.
San Diego, Calif.	San Diego International Airport (Lindbergh Field).
Tampa, Fla.	Tampa International Airport.
Tucson, Ariz.	Tucson International Airport.
West Palm Beach, Fla.	Palm Beach International Airport.
Yuma, Ariz.	Yuma International Airport.

(R.S. 251, as amended, sec. 624, 46 Stat. 759, sec. 1109, 72 Stat. 799, as amended (19 U.S.C. 66, 1624, 49 U.S.C. 1509))

[FR Doc. 83-25169 Filed 9-14-83; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 520 and 556

Oral Dosage Form New Animal Drugs Not Subject To Certification; Tolerances for Residues of New Animal Drugs in Food; Tiamulin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by SDS Biotech Corp. providing for use of tiamulin in swine drinking water for treating certain forms of swine dysentery and to establish tolerances for residues of tiamulin in edible tissues of swine.

EFFECTIVE DATE: September 15, 1983.

FOR FURTHER INFORMATION CONTACT: Charles E. Haines, Bureau of Veterinary Medicine (HFV-133), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3410.

SUPPLEMENTARY INFORMATION: SDS Biotech Corp., 7528 Auburn Rd., P.O. Box 348, Concord Township, Painesville, OH 44077, filed NADA 134-644 which provides for use of Denagard™ (tiamulin) Soluble Antibiotic for swine for preparation of a medicated drinking water to treat swine dysentery associated with *Treponema hyodysenteriae.*

The sponsor of this NADA submitted studies to demonstrate that the drug is safe and effective for its intended use. Additionally, the agency has validated and approved, for regulatory surveillance purposes, an analytical method that is specific for 8-*alpha*-hydroxymutilin, the marker substance for total residues of tiamulin in swine tissues. The NADA is approved and the regulations are amended to reflect the approval and to establish a tolerance for 8-*alpha*-hydroxymutilin and safe concentrations for total residues of tiamulin in edible swine tissues. The basis for approval is discussed in the freedom of information summary. The tolerance is established for the concentration of the marker residue in the target tissue selected to monitor for total residues of the drug in the target animal. The safe concentrations refer to the concentrations of total residues considered safe in edible tissues.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an enviromental impact statement therefore will not be prepared. The Bureau's finding of no significant impact and the evidence supporting this finding, contained in an environmental impact analysis report (pursuant to 21 CFR 25.1(j)), may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects

21 CFR Part 520

Animal drugs—oral use.

21 CFR Part 556

Animal drugs, Foods, Residues.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b (i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Parts 520 and 556 are amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

1. Part 520 is amended by adding new § 520.2455 to read as follows:

§ 520.2455 Tiamulin.

(a) *Specifications.* A water-soluble powder containing 45 percent tiamulin used to make a medicated drinking water containing 227 milligrams tiamulin per gallon.

(b) *Sponsor.* See No. 052313 in § 510.600(c) of this chapter.

(c) *Related tolerances.* See § 556.738 of this chapter.

(d) *Conditions of use in swine.*—(1) *Amount.* 3.5 milligrams of tiamulin per pound of body weight for 5 days.

(2) *Indications for use.* For the treatment of swine dysentery associated with *Treponema hyodysenteriae.*

(3) *Limitations.* Use for 5 consecutive days. Withdraw 3 days before slaughter. Prepare fresh water daily. Not for use in

swine over 250 pounds body weight. Use as only source of drinking water.

PART 556—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

2. Part 556 is amended by adding new § 556.738 to read as follows:

§ 556.738 Tiamulin.

The marker residue selected to monitor for total residues of tiamulin in swine is 8-*alpha*-hydroxymutilin and the target tissue selected is liver. A tolerance is established in swine at 0.4 part per million for 8-*alpha*-hydroxymutilin in liver. A marker residue concentration of 0.4 part per million in liver corresponds to a concentration for total residues of tiamulin of 10.8 parts per million in liver. The safe concentrations for total residues of tiamulin in the uncooked edible tissues of swine are 3.6 parts per million in muscle, 10.8 parts per million in liver, and 14.4 parts per million in kidney and fat.

Effective date. September 15, 1983.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: September 9, 1983.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 83-25105 Filed 9-14-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 5f

[T.D. 7913]

Temporary Income Tax Regulations Under the Tax Equity and Fiscal Responsibility Act of 1982; Reporting of State and Local Income Tax Refunds

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations relating to the reporting of State and local income tax refunds. Changes to the applicable law were made by the Tax Equity and Fiscal Responsibility Act of 1982. The regulations affect all persons who, with respect to individuals, make payments of refunds of State or local income taxes, or allow credits or offsets with respect to such taxes, and provide them with the guidance to comply with the law.

DATES: The regulations apply to payments of refunds, and credits and offsets allowed, after December 31, 1982.

FOR FURTHER INFORMATION CONTACT: Alice M. Bennett of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-3288 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document amends the Temporary Income Tax Regulations under the Tax Equity and Fiscal Responsibility Act of 1982 (26 CFR Part 5f) to provide rules relating to the reporting of State and local income tax refunds under section 6050E of the Internal Revenue Code of 1954. The regulations reflect the addition of section 6050E by section 313 of the Tax Equity and Fiscal Responsibility Act of 1982 (96 Stat. 603).

Under section 6050E, any person who, with respect to an individual, makes payments of refunds of State or local income taxes, or allows credits or offsets with respect to such taxes, aggregating $10 or more during a calendar year must make an information return. In addition, a statement must be furnished to the recipient during January of the calendar year following the year of the refund, credit or offset. These regulations provide rules and definitions with respect to those reporting requirements.

In general, the regulations define "credit or offset" to include only amounts which, in lieu of being refunded to the taxpayer, are used for the taxpayer's benefit by reducing an existing or future liability of the taxpayer. The regulations also provide that amounts of refunds, credits or offsets need not be reported, and a statement need not be provided to the taxpayer, if it can be ascertained that the applicable taxpayer did not receive a tax benefit from the payment to which the refund, credit or offset is attributable. The regulations are effective for refunds paid and credits or offsets allowed after December 31, 1982.

Special Analyses

The Commissioner of Internal Revenue has determined that this temporary rule is not a major rule as defined in Executive Order 12291. Accordingly, a Regulatory Impact Analysis is not required. No general notice of proposed rulemaking is required by 5 U.S.C. 553(b) for temporary regulations. Accordingly, a Regulatory Flexibility Analysis is not required.

The collection of information requirements contained in this regulation have been submitted to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act.

Drafting Information

The principal author of these regulations is Alice M. Bennett of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations on matters of both substance and style.

List of Subjects in 26 CFR Part 5f

Income taxes, Filing requirements, Tax Equity and Fiscal Responsibility Act of 1982.

Amendments to the Regulations

The amendments of 26 CFR Part 5f are as follows:

Income Tax Regulations

PART 5f—[AMENDED]

The following § 5f.6050E-1 is added at the appropriate place:

§ 5f.6050E-1 Reporting of State and local income tax refunds.

(a) *Applicability.* Section 6050E and this section apply to any refund officer who, with respect to an individual, makes payments of refunds of State or local income taxes or allows credits or offsets with respect to such taxes aggregating $10 or more for such individual in any calendar year.

(b) *Definitions.* For purposes of this section—

(1) The term "refund officer" means the officer or employee of a State or local taxing jurisdiction having control of payments of refunds or the allowance of credits or offsets, or the person appropriately designated for purposes of this section.

(2) The term "State" shall include the District of Columbia but shall not include the Commonwealth of Puerto Rico or any possession of the United States.

(3) The term "individual" shall not include an estate or trust.

(4) The term "credit or offset" means an overpayment of tax which, in lieu of being refunded to the taxpayer, is:

(i) Applied against an existing liability of the taxpayer,

(ii) Available for application against a future liability of the taxpayer, or

(iii) Otherwise used or available for use for the taxpayer's benefit.

(c) *Requirement of reporting.* Every refund officer described in paragraph (a) of this section shall make an information return in accordance with this section for each calendar year. An information return is not required, however, with respect to any refund paid or credit or offset allowed if the refund officer determines that the individual to whom the refund is paid or for whom the credit or offset is allowed did not receive a tax benefit for Federal income tax purposes from the payment to which the refund, credit or offset is attributable. A refund officer shall determine that an individual did not receive a tax benefit from a payment with respect to personal income taxes by verifying that the individual did not claim itemized deductions for Federal income tax purposes for the taxable year giving rise to the refund, credit or offset. Verification shall be made solely from:

(1) A copy of Schedule A of the individual's Federal income tax return if required to be attached to the State or local income tax return,

(2) The State or local income tax return if transcription of information from Schedule A of the Federal return on the State or local income tax return is required for the purpose of computing liability for the State or local income tax, or

(3) Information obtained through a voluntary information exchange agreement with the United States for the applicable taxable year.

(d) *Prescribed Form.* Except as otherwise provided in this section, the information return required by paragraph (c) of this section shall be made on Forms 1096 and 1099. However, any refund officer may prepare and use a form which contains provisions identical with those of Forms 1096 and 1099 if such refund officer complies with all revenue procedures relating to substitute Forms 1096 and 1099 in effect at that time.

(e) *Refunds involving different taxable years.* In the case of refunds paid or credits or offsets allowed during a calendar year with respect to two or more taxable years of an individual, a separate Form 1099 shall be filed with respect to each taxable year of the individual. Thus, if during calendar year 1983 a refund officer pays to an individual a refund of $15 with respect to that individual's taxable year ending in 1982 and $20 with respect to that individual's taxable year ending in 1981, a separate Form 1099 shall be filed for each of the two payments. If, instead, the refund with respect to the individual's taxable year ending in 1982 were $5 instead of $15, no return would be required for the payment of $5.

(f) *Information required.* The information required to be reported on Forms 1096 and 1099 includes the aggregate amount of refunds, credits, and offsets made or allowed during the calendar year with respect to the taxable year covered by the return; the name, address and taxpayer identification number of the individual with respect to whom such payment, credit, or offset was made or allowed; the taxable year covered by the return; and such other information as may be required by the forms. In addition, the nature of the tax is required to be indicated on the Form 1099 in any case where the refund, credit or offset is made or allowed with respect to a payment attributable to an income tax that applies exclusively to income from a trade or business and is not a tax of general application.

(g) *When credit or offset deemed allowed.* For purposes of a return of information under this section, a credit or offset is deemed to be allowed when the liability to pay or credit such amount is admitted by the State or local taxing jurisdiction. Thus, if an amount with respect to a taxpayer's 1982 taxable year is credited in 1983 to reduce the liability of the taxpayer in 1984, it is reportable as income for 1983. It is not reportable in the taxable year that gives rise to the refund, credit or offset, nor in the taxable year when the liability against which the credit is applied arises.

(h) *Time and place for filing.* The returns required under this section for any calendar year shall be filed after September 30 of that calendar year, but not before the refund officer's final payment (or allowance of credit or offset) for the year, and on or before February 28 of the following year. Returns shall be filed with the appropriate Internal Revenue Service Center, the addresses of which are listed in the instructions for Form 1096. For extensions of time for filing returns under this section, see § 1.6081–1.

(i) *Use of magnetic tape.* For rules relating to permission to submit the information required by this section on magnetic tape or other media, see § 1.9101–1.

(j) *Voluntary information exchange agreements.* The requirements of reporting information to the Internal Revenue Service under this section may be satisfied for any calendar year by submission of the information required under paragraph (f) of this section in accordance with the terms of a voluntary information exchange agreement between the State and the United States in effect during such year.

(k) *Requirement and time for furnishing statements to recipients*—(1) *Requirement for furnishing statements.* Every refund officer required to make a return of information under this section shall furnish to the individual whose identifying number is required to be shown on the return a written statement showing the aggregate amount shown on the information return of refunds, credits and offsets made or allowed to such individual with respect to each taxable year of the individual, the name of the State or local taxing jurisdiction paying such refund or allowing such credits or offsets, the taxable year giving rise to the refund, credit or offset and a legend stating that such amount is being reported to the Internal Revenue Service. The requirement of this paragraph may be met by furnishing to the individual a copy of the Form 1099 filed with respect to that individual provided that the form bears a legend stating that such amount is being reported to the Internal Revenue Service. For purposes of this paragraph, a statement shall be considered to be furnished to an individual if it is mailed to the individual at the individual's last known address.

(2) *Time for furnishing statements.* The statement required under this paragraph shall be furnished after December 31 of the year in which the refund is paid or credit or offset is allowed, and on or before January 31 of the following year.

(3) *Extensions of time.* For good cause shown upon written application of the refund officer, the service center director may grant an extension of time not exceeding 30 days in which to furnish statements under this paragraph. The application shall be addressed to the Service Center with which the Forms 1099 required under this section are required to be filed and shall contain a concise statement of the reasons for requesting the extension to aid the service center director in determining the period of the extension, if any, which will be granted. The application shall state at the top of the first page that it is made under this section and shall be signed by the refund officer. In general, the application shall be filed after September 30 of the year in which the refund is paid or credit or offset is allowed, and before January 15 of the following year.

(l) *Effective date.* This section applies to payments of refunds, and credits and offsets allowed, after December 31, 1982.

There is need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it would be impractical to issue it first under the notice and comment procedure under 5 U.S.C. 553(b) or subject to the effective date limitation of 5 U.S.C. 553(d).

This Treasury decision is issued under the authority contained in sections 6050E and 7805 of the Internal Revenue Code of 1954 (96 Stat. 603; 68A Stat. 917; 26 U.S.C. 6050E and 7805).

Approved: September 1, 1983.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

John E. Chapoton,

Assistant Secretary of the Treasury.

[FR Doc. 83-25277 Filed 9-14-83; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 934

Surface Coal Mining and Reclamation Operations on Federal Lands Under the Permanent Program; State-Federal Cooperative Agreements; North Dakota

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule.

SUMMARY: This final rule completes the administrative process for the adoption of a cooperative agreement between the Department of the Interior and the State of North Dakota for the regulation of surface coal mining and reclamation operations on Federal lands in North Dakota under the permanent regulatory program. Such a cooperative agreement is provided for by section 523(c) of the Surface Mining Control and Reclamation Act of 1977.

EFFECTIVE DATE: September 15, 1983.

ADDRESSES: Copies of the request by the State of North Dakota for the permanent program cooperative agreement, related information required under 30 CFR Part 745, and the complete administrative record of this rulemaking are available for public inspection Monday through Friday, 8:30 a.m. to 5:00 p.m., excluding holidays, at the following address: Administrative Record R&I–07, Office of Surface Mining, Room 5315, 1100 L Street, NW., Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT: Len Richeson, Office of Surface Mining, South Interior Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240, Phone (202) 343–5866.

SUPPLEMENTARY INFORMATION: This preamble is divided into five parts in order to assist understanding of the process by which the Secretary decided to enter into a permanent program cooperative agreement with the Governor of the State of North Dakota. The notice is divided as follows:

I. Background
II. Director's Findings
III. Approval of the Cooperative Agreement
IV. Summary of the Cooperative Agreement and Disposition of Comments
V. Procedural Matters

Background

A. The State of North Dakota's Request. The purpose of this final rulemaking is to adopt a permanent program cooperative agreement between the Department of the Interior and the State of North Dakota which will give North Dakota primacy in the administration of its approved permanent regulatory program on Federal Lands in North Dakota. The State of North Dakota requested the cooperative agreement on November 14, 1980. Section 523(c) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act), 30 U.S.C. 1201 *et seq.*, allows for the State and the Secretary to enter into a permanent program cooperative agreement if the State has, as North Dakota does, an approved State Program for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands. *See* 30 CFR 934.10.

Permanent program cooperative agreements are authorized by the first sentence of section 523(c) which provides that "[a]ny State *with an approved State program* may elect to enter into a cooperative agreement with the Secretary to provide for State regulation of surface coal mining and reclamation operations on Federal lands within the State, provided the Secretary determines in writing that such State has the necessary personnel and funding to fully implement such a cooperative agreement in accordance with the provisions of this Act." 30 U.S.C. 1273(c) (emphasis added). The procedures for States to elect to enter into permanent program cooperative agreements are found in 30 CFR 745.

The Secretary's regulations at 30 CFR 745.11(b)(1) through (3) require that certain information be submitted with a request for a permanent program cooperative agreement, if the information has not previously been submitted in the State Program. The State of North Dakota submitted a proposed permanent program cooperative agreement and the supporting information required by 30 CFR 745.11(b) on November 14, 1980. Most of the information relating to the budget, staffing, organization and duties of the State regulatory authority, the North Dakota Public Service Commission (Commission), was described as appearing in volume 1 of North Dakota's Proposed Permanent Coal Program Text. *See* 30 CFR 745.11(b)(1). In addition, a written certification from the chief legal officer of the Commission concluded that no State statutory, regulatory or other legal constraint exists which would limit the capability of the Commission to fully comply with section 523(c) of the Act, as implemented by 30 CFR Part 745. *See* 30 CFR 745.11(b)(3).

B. Federal Rulemaking. On June 21, 1982, the Office of Surface Mining (OSM) published a notice of proposed rulemaking and public hearing (47 FR 26769) on the proposed cooperative agreement. A public hearing was held on August 10, 1982, in Bismarck, North Dakota. Final revisions of the text based on comments received at the public hearing and on written comments received during the public comment period are discussed in Part IV, Summary of the Cooperative Agreement and Disposition of Comments.

II. Director's Findings

Under 30 CFR 745.11(f), the Director, OSM, must make the following three findings before recommending to the Secretary that the Department of the Interior enter into a cooperative agreement with a State.

Finding No. 1: The Director finds that the State of North Dakota has an approved State Program which was conditionally approved by the Assistant Secretary on December 9, 1980. It became effective upon publication in the Federal Register on December 15, 1980, 45 FR 82214.

Finding No. 2: The Director finds that the State regulatory authority has sufficient budget, equipment and personnel to enforce fully the State's statutes and regulations for the regulation of surface coal mining and reclamation operations on Federal lands in North Dakota. The Director makes this finding based on information obtained in the processing of grants to the State of North Dakota.

Finding No. 3: The Director finds that the State of North Dakota has the legal authority to administer the cooperative agreement. This finding is made based on written certification of the chief legal officer of the Commission and

conditional approval of the State's permanent regulatory program.

These findings were reported to the Secretary in a decision memorandum dated July 15, 1983, in which the Director, Office of Surface Mining (Director) recommended approval of the cooperative agreement.

III. Approval of the Cooperative Agreement

Based upon the conditional approval of the North Dakota State Program, the administrative record of this rulemaking, including written and oral comments and the public hearing, and the findings and recommendations of the Director, the Secretary decided to approve a permanent program cooperative agreement for the State of North Dakota. The cooperative agreement was signed on August 11, 1983, by the Secretary of the Interior and on August 30, 1983, by the Governor of the State of North Dakota and the members of the Commission. By its terms, the agreement becomes effective upon publication as final rulemaking in the **Federal Register**.

IV. Summary of the Cooperative Agreement and Disposition of Comments

Each Article of the agreement is summarized below, along with the Department's disposition of any comments received. Unless indicated otherwise, the text is the same as that in the proposed rule except for minor editorial changes.

Article I: Introduction and Purpose

This Article sets forth the legal authority for the cooperative agreement which is contained in section 523(c) of the Act. The purposes of the cooperative agreement are also listed.

One comment was received concerning the provision in Article I.B. which states that the purpose of the cooperative agreement is to ". . . (3) provide uniform and effective application of the State and Federal Lands Programs on all non-Indian lands in North Dakota." The commenter stated that the provisions of section 523(c) of the Act simply allow a State having an approved State Program to enter into a cooperative agreement with the Secretary to provide for State regulation of surface coal mining and reclamation operations on Federal lands within the State. The commenter said that section 523(c) does not require a State to implement both the State Program and a Federal Lands Program on State land upon entering into a cooperative agreement, and that such a requirement would be counter-productive to the intent and purpose of section 523(c).

OSM agrees with the comment and has modified the final rule by deleting the phrase "and Federal Lands." The phrase now reads ". . . (3) provide uniform and effective application of the State Program on all non-Indian lands in North Dakota." It should be understood, however, that there are other requirements which apply to Federal lands in addition to the requirements contained in the State Program. These additional requirements, discussed further on, are not eliminated or superseded by application of the State Program to Federal lands.

Article II: Effective Date

This Article provides that the cooperative agreement is effective following signing by the Secretary, the Governor, and the Commission, and upon publication as a final rule in the **Federal Register**. It will remain in effect until terminated as provided in Article X.

On the effective date of the cooperative agreement, authority passes to the State, including authority to process permit applications filed prior to the effective date of the cooperative agreement. OSM will continue to assist in the processing of permit applications pending on the effective date of this cooperative agreement in order to assure an orderly transition. The level of assistance necessary will be determined by the State and OSM. Existing Federally issued permits transfer "as is" to being State permits; the State can process revisions as needed to meet State Program requirements.

One commenter requested that the cooperative agreement not be promulgated until after the promulgation of the Federal lands regulations, 30 CFR 740–746, proposed on June 9, 1982 (47 FR 25092). The commenter stated that the provisions in the cooperative agreement are so inextricably related to the language used in the proposed Federal lands regulations that it would be an ineffective use of resources to finalize the cooperative agreement before promulgating the Federal lands regulations.

In response to the commenter, the Federal lands regulations were published in the **Federal Register** on February 16, 1983 (48 FR 6912) and became effective on March 18, 1983.

Article III: Scope

Article III provides that, in accordance with the Federal lands program in 30 CFR Part 740, the laws, rules, terms and conditions of North Dakota's State Program are applicable to Federal lands in North Dakota except as otherwise stated in the cooperative agreement, the Act, 30 CFR 745.13, or other applicable laws or regulations. This provision is consistent with the Federal lands program (30 CFR 740.11(a)) in adopting the North Dakota State Program as substantive Federal law enforceable by the State and the United States on Federal lands in North Dakota. This provision would also specifically implement section 523(a) of the Act, which provides that "(w)here Federal lands in a State with an approved State Program are involved, the Federal lands program shall, at a minimum, include the requirements of the approved State program." 30 U.S.C. 1273(a). Excluded from the scope of the Agreement are the authorities and responsibilities reserved for the Secretary pursuant to the Act and 30 CFR 745.13.

Language has been added to Article III which allows the State, when acting as the regulatory authority, to have its appealable decisions and orders reviewed by the State reviewing authority, which is the Commission. Decisions and orders issued by non-secretarial officials of the Department are still appealable to the Department's Office of Hearings and Appeals.

Comments were received on the provision in Article III which states that "(t)his Agreement makes the laws, rules, terms, and conditions of North Dakota's Permanent State Program applicable to Federal lands. . . ." The commenter stated that the cooperative agreement should not be finalized without specifically mentioning that the State Program was conditionally approved and that there are minor deficiencies in the State Program which must be corrected.

OSM has not accepted this comment. OSM believes that the reference in Article III to the conditions of the State Program is sufficient acknowledgement that the approval of the State Program was conditioned upon the State correcting certain deficiencies in its program which were identified when the program was conditionally approved. *See* 45 FR 82245, December 15, 1980, and 30 CFR 934.11.

The same commenter suggested that Article III should clearly state that the thirteen deficiencies in North Dakota's program shall not apply to the cooperative agreement; rather, the recommended remedies to these deficiencies, as delineated in the conditional approval should apply. In the absence of this clarification, the commenter recommended that the cooperative agreement not be finalized until North Dakota satisfied the conditions.

OSM declines to adopt the comment. Conditional approval of a state program is provided for by 30 CFR 732.13(i). The Secretary may conditionally approve a State Program where the program is found to have minor deficiencies, provided:

(1) The deficiencies are of such a size and nature so as to render no part of a proposed State Program incomplete;

(2) The State has initiated and is actively proceeding with steps to correct the deficiencies;

(3) The State agrees in writing to correct such deficiencies within a time established and stated in the conditional approval; and

(4) The conditionally approved State Program shall terminate if the deficiencies have not been corrected by the date set forth in the Secretary's decision under paragraph (i)(3) of 30 CFR 732.13.

Prior to conditionally approving the North Dakota State Program, OSM determined that the deficiencies were of such a size and nature as to render no part of the North Dakota Program incomplete and that they would not directly affect environmental performance at coal mines. Further, the State agreed to remedy the deficiencies and is actively doing so. Given the above, and the fact that OSM has retained the right to conduct inspections on Federal lands without prior notice to the State, OSM is confident that there are adequate safeguards and, therefore, that there is no need to modify the State Program as it applies to Federal lands.

Article IV: Requirements for Cooperative Agreement

This Article mutually binds the Commission and the Secretary to the provisions of the cooperative agreement and the conditions and requirements contained in Article IV. The responsible agency in the State of North Dakota for purposes of administering this cooperative agreement is the Commission, which has and must continue to have authority under State law to carry out the cooperative agreement.

Article IV also provides that the State may be reimbursed pursuant to section 705(c) of the Act if the cooperative agreement has been implemented and if necessary funds have been appropriated to OSM by Congress. Section 705(c) of the Act provides that a State with a cooperative agreement may receive an increase in its annual grant for the development, administration and enforcement of a State Program on Federal lands by an amount which the Secretary determines is approximately equal to the amount the Federal government would have expanded to regulate surface coal mining and reclamation operations on the Federal lands within the State. *See* 30 U.S.C. 1295(c). The reference in section 705(c) to section 523(d) is obviously a typographical error. The correct reference is section 523(c). The regulations implementing section 705(c) appear at 30 CFR 735.16 through 735.26. If adequate funds have not been appropriated, OSM and the Commission will meet to decide on appropriate measures to insure that mining operations are regulated in accordance with the State Program.

The Article also deals with reports and records, personnel, the use of equipment and laboratories and permit application fees.

Paragraph D of Article IV requires the State to make annual reports to OSM with respect to compliance with this agreement. Paragraph D also provides for a general exchange of information developed under the agreement, unless such an exchange is prohibited by Federal law.

Paragraph E of Article IV requires the Commission to maintain the necessary personnel to fully implement this agreement.

Paragraph F of Article IV requires the Commission to ensure itself of access to the necessary equipment, laboratories, and other facilities to perform inspections and other analyses required to carry out the requirements of the agreement.

Paragraph G of Article V provides that the amount of fees charged to permit applicants be determined in accordance with North Dakota's approved State program. These fees and civil penalties collected will be retained by the State and used in accordance with Federal requirements for the disposal of program income received from Federal grant recipients. Federal guidelines for the disposal of program income are found in OMB Circular No. A–102 (Uniform Requirements for Assistance to State and Local Governments), Attachment E (Program Income).

One comment was received concerning the provisions in Article IV.C. pertaining to funding and personnel. The commenter suggested that the cooperative agreement was in violation of section 523(c) of the Act. Section 523(c) provides that the Secretary may approve a cooperative agreement with the State" * * * provided the Secretary determines in writing that such State has the necessary personnel and funding to fully implement such a cooperative agreement * * *." The commenter suggested that the Secretary must make this finding before he enters into the cooperative agreement.

OSM disagrees. Section 705(c) of the Act allows the Secretary to increase the grant to the State by an amount which he determines is approximately equal to the amount the Federal government would have expanded to do the work which the State will perform under the cooperative agreement. OSM believes that by signing the coopearative agreement, the Secretary is agreeing to fund the State for the work that is contemplated by the cooperative agreement. This constitutes knowledge by the Secretary of sufficient funding and personnel as required by section 523(c). If, as the commenter suggested, the State were required to have the funds appropriated by its legislature and personnel hired by the State before the Secretary, Governor, and the Commission sign the cooperative agreement, this would result in the State having to appropriate funds and hire staff for the mere possibility of a cooperative agreement. This would be an unreasonable interpretation of the Act.

The same commenter also suggested that the public must be allowed to comment on the adequacy of funds given to the State for the implementation of the cooperative agreement.

OSM declines to adopt the suggestion. OSM does not believe that every decision it makes in connection with a cooperative agreement must be made in a public forum simply because a cooperative agreement is promulgated as a rule. At all times, the requirements of the Act and the cooperative agreement will be complied with. This, however, does not mean that the agency's deliberative process must be open to public participation prior to decision. In addition, as noted above, OSM has agreed in Article IV to increase the State's grant by an amount equal to that which OSM would have spent in regulating surface coal mining on Federal lands in North Dakota. This should constitute adequate funding.

Article V: Policies and Procedures for Review of a Permit Application Package or an Application for a Permit Renewal or Revision

Under this Article, an operator on Federal lands will be required by the Commission and the Secretary to submit a permit application package or an application for a permit renewal or revision in an appropriate number of copies to the Commission and OSM. The term "permit application package," used throughout the cooperative agreement

beginning in this Article, is defined at 30 CFR 740.5. It includes the requirements of the Mineral Leasing Act of 1920, implemented by the 30 CFR Part 211 regulations, and the requirements of the Act for a surface coal mining permit, implemented by 30 CFR Part 740. The permit application package is to be in the form required by the Commission and to contain any supplemental information, such as data pertaining to the life of the mine, which may be required by the Department of the Interior. At a minimum, the permit application package must include the necessary information for the Commission and the Department, acting within their statutory authority, to make a determination of compliance with the State Program, applicable terms and conditions of the Federal coal lease, and applicable requirements of other Federal laws and regulations.

Paragraphs 1 through 6 of Article V.B. describe the procedures for the cooperative review and analysis of permit application packages on Federal lands in North Dakota. The Cooperative agreement identifies the Commission as primarily responsible for the analysis, review, and approval of the permit application. In assuming primary responsibility, the Commission will prepare a technical-environmental analysis of the permit application which will form the basis for the Commission's decision on whether to approve or disapprove the permit application. OSM will assist in the preparation of this analysis as requested. The Commission will also be the primary point of contact for operators on behalf of both the State and the Department. All joint State-Federal or Federal determinations except those concerned exclusively with the 30 CFR Part 211 regulations will be channeled to the operator through the Commission. This, however, will not preclude the Secretary from contacting the operator independently of the State to carry out his statutory responsibilities.

OSM, at the request of the Commission, will assist as possible in the review of the permit application and provide technical assistance to the Commission. Copies of any correspondence with the applicant, as well as any information OSM receives from the applicant will be provided to the Commission. OSM will coordinate with all appropriate Federal agencies to ensure timely funneling of analyses and conclusions to the Commission. OSM will also prepare the decision document on the mining plan for the Secretary's consideration. This decision document will include: a technical-environmental analysis of the proposed mining operation, prepared by the State; all other written findings required by the approved State Program; a NEPA compliance document, prepared by OSM based on the technical-environmental analysis prepared by the State; and concurrences from appropriate Federal agencies.

The Secretary is required to review and approve the elements of the permit application package relating to the Mineral Leasing Act and other elements such as cultural resources, post-mining use of Federal land, and Federal compliance with the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, *et seq.*, which are required by Federal law and cannot be delegated to the Commission. Even though the permit is issued by the Commission, mining may not commence until the Secretary approves the mining plan and these other elements of the permit application package. If a permit is issued prior to Secretarial approval, the Commission reserves the right to modify or rescind the permit to conform with the Secretary's decision.

OSM has modified Article V.B., paragraph 6 to indicate that OSM will prepare the decision document for the Secretary. As originally proposed, the Commission was to have prepared a draft decision document, transmit it to OSM for comment, and then prepare the final decision document after reviewing OSM's comments The revised procedure is in accord with the system for decision document preparation used in other States with cooperative agreements. OSM preparation of the decision document will essentially consist of incorporating the NEPA compliance document with documents prepared by other Federal agencies and by the Commission. Paragraph 6 has also been modified to clarify that the Commission will issue the permit required by section 506 of the Federal Act in accordance with its approved State Program.

Paragraph 7 of this Article is included in the cooperative agreement pursuant to North Dakota Administrative Code 69-05.2-10-06, which deals with the issuance of permits, permit renewals, and permit revisions for surface disturbances associated with surface coal mining and reclamation operations on lands where the surface state is non-Federal and non-Indian and the mineral estate is Federal and unleased. The Secretary's conditional approval of the State Program on December 15, 1980 (45 FR 82214), stated that this provision of the State Act was not included in the conditional approval but would be considered later in the promulgation of a State-Federal cooperative agreement.

Paragraph 7 provides that the Commission may approve and issue permits, permit renewals, and permit revisions for surface disturbances associated with surface coal mining and reclamation operations, and disturbance of the surface may commence without need for an approved mining plan on lands where: (a) The surface estate is non-Federal and non-Indian; (b) the mineral estate is Federal and any Federal coal is unleased; (c) the Commission consults with the Bureau of Land Management through OSM in order to insure that actions are not taken which would substantially and adversely affect the Federal mineral estate; and (d) the proposed surface disturbances are planned to support surface coal mining and reclamation operations on adjacent non-Federal lands and this is specified in the permit, permit renewal, or permit revision.

Paragraphs 8 and 9 of this Article deal with the issuance of permit renewals and revisions. The paragraphs specify that the Commission will issue all permit renewals or revisions in consultation with OSM, where necessary. This includes authority to issue permit renewals or revisions for permits issued when the Department was the regulatory authority. Permit revisions or renewals found to be an alteration to the existing mining plan will have to be reviewed according to the procedures specified in this Article for permit application packages.

Paragraph 10 deals with the resolution of differences which may develop during the review of permit application packages. The paragraph specifies that when agreement cannot be reached on the final actions to be taken by the Commission and the Department, the matter will be referred to the Governor and the Secretary for resolution.

Several comments were received concerning this Article. One commenter objected to the permit application package concept and stated that the cooperative agreement should not combine the requirements of OSM's regulations with those in 30 CFR Part 211. The commenter suggested that the cooperative agreement deal exclusively with the requirements of the Federal Act.

OSM declines to adopt this suggestion because it is necessary to define for a potential operator the entire package of materials that he or she must submit. The permit application package concept will not result in confusion of either the components of the permit application package or the distinct review and

concurrent approval responsibilities of, among others, the State, the Bureau of Land Management, OSM and the Secretary. It merely defines what a potential operator must submit. The two key components of a permit application package for proposed mining of leased Federal coal—the permit application and the resource recovery and protection plan—will be processed by the regulatory authority and the Bureau of Land Management, respectively.

One commenter questioned the authority for allowing the Commission to be the primary authority for the analysis, review and approval of permits, permit revisions or permit renewals. The commenter pointed out that 30 CFR Part 741 specifies that both the Commission and OSM have concurrent responsibility for approval of permits, permit revisions, and permit renewals, and suggested that this requirement be followed in the cooperative agreement. The commenter stated that if the Commission were allowed to approve permits, appeals would then have to be filed with the State and not with the Department's Office of Hearings and Appeals.

OSM has declined to adopt the suggestion and has retained the concept of having the Commission approve the permit. Since the proposed cooperative agreement was published in the **Federal Register** on June 21, 1982, the Federal lands regulations have been revised. *See* 48 FR 6912, February 16, 1983. Unlike the previous Federal lands regulations in 30 CFR Part 741 which required approval of permits by OSM and the State, the revised regulations allow States with cooperative agreements to process SMCRA permits and approve or disapprove permits for surface coal mining and reclamation operations on Federal lands. The cooperative agreement is consistent with the revised Federal lands regulations.

One commenter wanted assurance that the Commission, when approving permits, would require the operator to control wastes that could degrade water quality in National Park areas and control emissions so that air quality is not deteriorated.

The Secretary believes that the air and water protection requirements of North Dakota's approved State Program are fully adequate to protect both the water and air quality, in accordance with the requirements of the Federal Act.

One commenter suggested that Article V be restructured to more clearly delineate the respective responsibilities of the Commission, OSM, and the Bureau of Land Management and to clarify the permit-mining plan approval process.

OSM has reviewed the language in Article V, and believes that it delineates the responsibilities as clearly as is possible given the complex interrelationship between the permit and the mining plan. As was explained above, under the cooperative agreement the Commission will issue the permit while the Secretary will approve the mining plan. The permit and the mining plan are distinct documents although they are based on some common elements. The approval of the permit by the Commission is based on the Commission's review of those elements of the permit application package required by the approved State Program. The approval of the mining plan is based on the decision document prepared by OSM. The decision document will include: a technical-environmental analysis of the proposed mining operation prepared by the State; all other written findings required by the approved State Program; a NEPA compliance document, prepared by OSM based on the technical-environmental analysis prepared by the State; and concurrences from appropriate Federal agencies. Under the cooperative agreement, the Secretary need not review or concur with the Commission's decision to approve the permit since authority for permit approval has been delegated to the State. The Secretary intends to rely on the State's implementation of the requirements and standards of the approved State Program. The Secretary will review those elements of the decision document for which responsibility has not been delegated to the State to the degree needed to insure that his decision for approval or disapproval of the mining plan is based on accurate and complete information.

The same commenter believed that the cooperative agreement required the permit to be issued before the mining plan is approved by the Secretary and suggested that they be issued as contemporaneously as possible.

OSM disagrees with the commenter's interpretation of the cooperative agreement but agrees that the permit and the mining plan should be approved as contemporaneously as possible. It is the intent of the cooperative agreement that the permit and mining plan be approved by the Commission and the Secretary respectively, as contemporaneously as possible. However, because of the time required to prepare a NEPA compliance document, it is possible for the permit to be issued by the Commission before the mining plan is approved by the Secretary.

The same commenter stated that the exact information required to be submitted in order to have a complete permit application package and to comply with the laws, Executive Orders, and regulations listed in Appendix A is unclear. The commenter requested more specificity. The commenter suggested that the informational requirements of the State Program comprise an exhaustive listing of all information needed to be met by the operator for a permit and if there are additional informational requirements under other Federal laws they should be incorporated into State law and regulations rather than appearing independently in the cooperative agreement.

OSM does not agree. More specific data as to the informational requirements can be obtained by referring to the Federal lands regulations. *See* 30 CFR 740.13(b). Since there are requirements for mining on Federal lands in addition to the requirements in the State Program, it is necessary to specify these in the cooperative agreement. Such requirements cannot be incorporated into the State Program because they are based on Federal responsibilities which the State would have no authoritry to enforce.

One comment was received concerning the requirement that the permit application package contain sufficient information for the Commission and the Secretary to make a determination of compliance with the laws and regulations listed in Article V.A. The commenter questioned the Commission's statutory authority to make a determination of compliance with either the 30 CFR Part 211 regulations or the requirements listed in Appendix A.

OSM agrees that the Commission's authority is limited to approval of the permit under its State Program and notes that the Secretary's approval authority is also limited in that he can take no action under North Dakota's laws and regulations. To clarify this, the phrase "acting within their statutory" authority has been added to the last sentence of the section. Under the cooperative agreement, the Commission is not responsible for determining compliance with the 30 CFR Part 211 regulations, the terms of the Federal coal lease, or the laws listed in Appendix A. That is the responsibility of the Department, and the cooperative agreement does not intend or purport to change that.

One commenter requested clarification concerning the statement in the preamble to the proposed rule that responsibility for post-mining land use remains with the Department.

Departmental responsibility for post-mining land use is limited to those situations where the surface of the mining operation is Federally owned. The Department is not responsible for post-mining land use when the surface is privately owned.

As originally proposed, paragraph 7(c) stated that the Commission would "consult with OSM." This has been changed to "consults with the Bureau of Land Management through OSM" to insure that the proper consultation requirements with the Bureau of Land Management are carried out.

One commenter approved of the provisions of paragraph 7, but requested clarification concerning the word "adjacent" in paragraph 7(d), which refers to "proposed surface disturbances which are planned to support surface coal mining and reclamation operations on adjacent non-Federal lands." The commenter stated that the word "adjacent" can mean either "near or close" or "adjoining." The commenter suggested that the word should be interpreted as having the former meaning because of the nature of operations in the State resulting from the land ownership patterns.

OSM agrees with the comment and intends the word "adjacent" to mean "near or close to" when the mining operation should logically be considered as an integrated whole.

One commenter questioned the authority for the provision in Article V.B.7. allowing the State to issue permits without the need for an approved mining plan.

An approved mining plan is required by the Mineral Leasing Act of 1920 if the coal to be mined is leased Federal coal. Because the coal to be mined in paragraph 7 is not Federally-owned, there is no need for a mining plan.

As originally proposed, paragraph 9 specified that only permit revisions which were "a significant alteration or addition to the approved mining plan" need be reviewed according to the procedures for review of permit application packages" specified in Article V. Insignificant alterations to the existing mining plan were to be reviewed and approved or disapproved by the Commission. The final rule has been changed to be consistent with the revised Federal lands regulations in 30 CFR Part 740. The final rule provides that the Commission will inform OSM or the Federal land management agency of each permit revision request for surface coal mining and reclamation operations on Federal lands.

With respect to permit revision requests for surface coal mining and reclamation operations on Federal lands containing leased Federal coal, the Commission will approve such requests. However, before any operations pursuant to any request can commence, the Secretary must: (1) Determine whether the revision request constitutes a mining plan modification, and (2) approve the mining plan modification where necessary. Permit revision requests on Federal lands not containing leased Federal coal can be approved by the Commission in consultation with the Federal land management agency. Thus, the final rule insures that the Secretary's responsibilities for the approval of mining plan modifications are preserved on Federal lands containing leased Federal coal, and that proper coordination with the Federal land management agency occurs on other Federal lands.

One comment was received concerning the language in paragraphs 8 and 9 wherein it is stated that the Commission may issue permit renewals and revisions for permits approved by the Secretary "prior to the effective date of this Agreement." The commenter suggested that the phrase "prior to the effective date of this Agreement" be deleted.

OSM has adopted the comment. Paragraphs 8 and 9 have been modified by deleting the phrase "prior to the effective date of this Agreement." The language was deleted in order to eliminate any doubt that the Commission has the authority to issue permit revisions and permit renewals for permits issued by the Department including those issued after the effective date of the cooperative agreement should the occasion arise.

One comment was received concerning paragraph 10 which deals with the resolution of differences. The paragraph specifies that when the Commission and OSM cannot resolve differences that develop during permit application package review or cannot agree on the final actions to be taken by the Commission and the Department, the matter will be referred to the Governor and the Secretary. The commenter suggested that the paragraph be changed to require that decision-making by the Secretary and the Governor be concurrent, particularly in disputes arising during the permit approval process.

OSM assumes that the intent of the comment is to require concurrent approval of permits. As was previously stated, the Commission can approve permits without the concurrence of the Department. This is the procedure the Department believes was intended by the Act when it granted the Secretary authority to enter into cooperative agreements. Consequently the Department declines to adopt the suggestion.

Article VI: Inspections

This Article specifies that the Commission must conduct inspections on Federal lands and prepare and file inspection reports in accordance with its approved Program.

Administrative provisions of this Article include designation of the Commission as the primary point of contact with the operator, and a provision for notice to the State prior to a Federal inspection following a citizen complaint, if circumstances and time permit. This Article preserves the right of the Department to conduct inspections of surface coal mining and reclamation operations on Federal lands without prior notice to the Commission, to evaluate the manner in which the cooperative agreement is being carried out and to insure that performance and reclamation standards are being met.

The right of Federal and State agencies to conduct inspections for purposes outside the scope of this cooperative agreement is not affected. In particular, this Article preserves the Department's obligation and authority to conduct inspections pursuant to 30 CFR Part 842 and 30 CFR 740.17 as 30 CFR 740.17 relates to obligations under laws other than the Federal Act.

This Article also provides that personnel of the State and the Department will be mutually available to serve as witnesses in enforcement actions taken by either party.

One commenter stated that this Article should be rewritten because it designates the Commission as the primary inspection authority but gives OSM substantial authority to conduct inspections. The commenter stated that this perpetuates the duality of administration which the cooperative agreement is intended to eliminate and, further, that it dilutes the authority being transferred to the State. The commenter suggested that the Article be rewritten so that the inspection role of OSM would be limited to that of an evaluator or auditor.

After reviewing the language in the Article, OSM declines to adopt the suggestion although OSM generally agrees with the commenter's view of the role of OSM in inspections. If the language were modified as suggested to limit OSM's role to that of an evaluator

or auditor, the language would be far too restrictive. As now written, the language clearly indicates that the Commission will be the lead inspection authority. OSM's principal role is that of an evaluator. For oversight and emergency situations, however, OSM must have immediate and unrestricted access to mining operations. This access is insured by the more flexible language.

Article VII: Enforcement

Article VII sets forth the enforcement obligations and authorities of OSM and the Commission. The Commission has primary enforcement authority on Federal lands, in accordance with the requirements of the cooperative agreement and the approved State Program. The Article also specifies that the parties will consult prior to revoking or suspending a permit. The Secretary's obligation to enforce violations of Federal law other than the Act is preserved, as is OSM's authority to take enforcement action to comply with 30 CFR Parts 843 and 845. In taking such action, OSM will apply the performance standards contained in the approved State Program, but will use the Federal procedures and penalty system.

One commenter stated that this Article should be rewritten because it designates the Commission as the primary enforcement authority but reserves substantial authority for OSM. The commenter stated that this perpetuates the duality of administration which the cooperative agreement is intended to eliminate and, further, that it dilutes the authority being transferred to the State. The commenter suggested that the Article be rewritten so that the role of OSM would be limited to that of an evaluator or auditor.

OSM disagrees. The intent of the Article is to make the Commission the primary enforcement authority, with OSM's principal role being that of an evaluator or auditor. The language in the final rule was purposely left flexible in order to insure that OSM may take enforcement action if the necessity arises.

Article VIII: Bonds

Under this Article, the Commission will require each operator to submit a single performance bond, payable to the State and the United States, to meet both Federal and State requirements. The Commission must obtain the consent of the Department prior to releasing or forfeiting an operator's performance bond for surface coal mining and reclamation operations on Federal lands containing leased Federal coal. For surface coal mining and reclamation operations on other Federal lands, the cooperative agreement provides for the Federal land management agency to concur in the bond release.

In addition to a performance bond, an operator is required to furnish a lease bond and a lessee protection bond. Bonding requirements of the Mineral Leasing Act and other Federal laws appear at 30 CFR 740.15 and 43 CFR Subpart 3474.

The final rule has been modified to specify that if the cooperative agreement is terminated, the bond will continue in effect, and to the extent that Federal lands are involved, will be payable to the United States. In the situation of a mine on intermingled Federal and non-Federal lands, this approach will allow both the State and the Federal Government to collect under the bond without requiring the consent of the other party. The proposed rule was silent on this point.

No comments were received on this Article.

Article IX: Designation of Lands as Unsuitable

This Article describes the roles of the Commission and OSM in the review and processing of petitions to designate lands as unsuitable for surface coal mining operations on adjacent Federal and non-Federal lands. The authority to designate Federal lands as unsuitable is reserved to the Secretary or his designated representative. *See* 30 CFR 745.13. Petitions for designation on Federal lands must be filed in accordance with 30 CFR Part 769.

One commenter was concerned with the possibility of mining within units of the National Park System in North Dakota and stated that this Article should specify that units of the National Park System in North Dakota are closed to mining, and, further, that they should be designated as unsuitable for mining.

OSM believes it is unnecessary to modify the Article in view of section 522(e) of the Act, the requirements of 30 CFR 761.11, and the approved State program. The Act, OSM regulations, and the State program contain requirements that ensure the protection of Federal lands within units of the National Park System in North Dakota.

Article X: Termination of Cooperative Agreement

Proposed Article X specified three ways in which the cooperative agreement could be terminated: (1) By the Commission upon written notice to the Secretary; (2) by the Secretary after public notice, public hearing, and opportunity for the State to take remedial action; and (3) by operation of law (when the cooperative agreement is no longer authorized by Federal or State law or upon withdrawal of the Secretary's approval of the State Program pursuant to 30 CFR Part 733). The final rule includes a fourth way in which the cooperative agreement can terminate. The agreement can terminate at any time upon mutual agreement by the Secretary and the Commission.

No comments were received on this Article.

Article XI: Reinstatement of Cooperative Agreement

Article XI provides for reinstatement of the cooperative agreement upon application by the Commission and the submission of evidence to the Secretary that the Commission can and will comply with all of the provisions of the agreement.

No comments were received concerning this Article.

Article XII: Amendment of Cooperative Agreement

Article XII provides that the cooperative agreement may be amended by mutual agreement of the Governor and Secretary in accordance with 30 CFR 745.11.

No comments were received concerning this Article.

Article XIII: Change in State or Federal Standards

This Article recognizes that the Secretary or the State may, from time to time, promulgate new or revised performance or reclamation requirements, or enforcement and administration procedures. Such changes are to be made in accordance with 30 CFR Part 732 for changes to the State Program and section 501 of the Act for changes to the Federal lands program. The Article also provides that "OSM and the Commission shall immediately inform each other of any final changes to their respective laws or regulations, as provided in 30 CFR 732."

One commenter suggested that the word "final" be changed to "proposed," and that the Article be reworded to require the public notice and opportunity for comment be afforded before any revisions are implemented.

OSM believes such a change is unnecessary and has declined to adopt the comment. Any amendments to the cooperative agreement will be made through rulemaking which must include public notice and the opportunity for public comment. *See* 30 CFR 745.14. The same is true for amendments to the State Program. *See* 30 CFR 732.17. The provisions in article XIII requiring notice

to either party of any "final" change is designed to insure that each party is kept informed of current developments in the substantive rules governing surface coal mining. It does not alter the requirements for public notice and an opportunity to comment during rulemaking.

Article XIV: Changes in Personnel and Organization

As required by 30 CFR 745.12, this Article provides that the State and the Department must advise each other of changes in the organization, structure, functions, duties and funds of the offices, departments, divisions, and persons within their organizations which could affect administration or enforcement of the cooperative agreement.

No comments were received concerning this Article.

Article XV: Reservation of Rights

Article XV recognizes that the Act, 30 CFR 745.13, and other authorities prohibit the Secretary from delegating certain authorities to the State. Article XV states that the cooperative agreement shall not be construed as waiving or preventing the assertion of any rights not expressly addressed in the cooperative agreement or available to the parties under the authorities cited in Appendix A.

Pursuant to the terms of this Article, the Secretary reserves authority and responsibility for several Mineral Leasing Act functions, including the release of Federal lease bonds and the approval of mining plans on Federal lands. The Secretary also retains authority for the designation of Federal lands as unsuitable for surface coal mining operations and the termination of such designations. Other specific reservations are listed in 30 CFR 745.13.

The Department of the Interior also reserves the authority and responsibility for several specific functions which are an integral part of the permit application review procedures discussed earlier. These items include, but are not limited to, compliance with the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.;* compliance with the consultation requirements of the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 *et seq.;* compliance with section 106 of the National Historic Preservation Act of 1966, 16 U.S.C. 470f; and compliance with Executive Order 11988, Floodplain Management (May 24, 1977) and Executive Order 11990, Protection of Wetlands (May 24, 1977).

Compliance with NEPA

The Department and its member offices and bureaus must comply with NEPA, its implementing regulations, and the Department's own NEPA guidelines. *See* 40 CFR 1500 *et seq.* (regulations of the Council on Environmental Quality) and 45 FR 27541 (April 23, 1980) (Department of the Interior Notice of Final Revised Procedures). *See* also 45 FR 10043 (February 14, 1980) (Notice of Proposed Revised Instructions for the Office of Surface Mining). These authorities require the Department, prior to a decision on a mining plan on Federal lands, to prepare an environmental assessment or environmental impact statement. The current regulations at 30 CFR 745.13(b) do not allow the Secretary to delegate his NEPA duties to the States. However, the Secretary believes that this regulation does allow States to assist in preparation of NEPA documents (see 40 CFR 1506.2), with final action reserved to the Secretary, so long as the Department is sufficiently involved in the preparation of the NEPA document to form an independent judgment of the environmental impacts of the proposed action.

One commenter stated that the approval by the Secretary of the mining plan does not authorize any disturbance of the land and, therefore, there is no Federal action affecting the environment. Consequently NEPA compliance is not required.

OSM disagrees. The Secretary's action on a mining plan is a Federal action within the meaning of NEPA. Since mining may not commence until after mining plan approval, NEPA compliance is required.

The Endangered Species Act (16 U.S.C. 1536)

This Federal law requires that the Department take such steps as are necessary to insure that actions authorized, funded, or carried out by Federal departments and agencies do not jeopardize the continued existence of an endangered species, or result in the destruction or modification of a species' critical habitat. 16 U.S.C. 1536. *See* 50 CFR 402 (regulations on inter-agency cooperation under the Endangered Species Act). OSM's regulations at 30 CFR 745.13(m) provide that the Secretary's obligation to consult under section 7(a) of the Endangered Species Act regarding actions on Federal lands may not be delegated to a State.

The National Historic Preservation Act (16 U.S.C. 470f)

Compliance with section 106 of the National Historic Preservation Act and its implementing regulations (36 CFR 800) is mandatory where the approval of mining on Federal lands may adversely affect sites, buildings, objects or districts which are listed on, or eligible for listing on, the National Register of Historic Places. Compliance is achieved through early consultation with and involvement of State Historic Preservation Officers and, in some cases, consultation with the Advisory Council on Historic Preservation (Council).

OSM and the Department must also comply with Executive Order 11593, "Protection and Enhancement of the Cultural Environment" (May 13, 1971). Executive Order 11593 contains two principal requirements. First, with respect to properties not owned by the Federal government, agencies and departments must establish procedures for consultation with the Council on Federal plans and programs affecting such properties.

Second, the Order requires all Federal agencies and departments to inventory and nominate historic sites, buildings, districts and objects that are on Federal property and that may be eligible for inclusion on the National Register of Historic Places.

Federal agencies must take measures to insure that, in conjunction with proposed undertakings, they fulfill their responsibilities under section 106 of the National Historic Preservation Act of 1974, and that the Council is given an appropriate opportunity to comment on proposed plans.

These responsibilities are reserved to the Secretary under the cooperative agreement since they are not "expressly addressed" (Article XV).

Floodplain Management and Wetland Protection

The Office of Surface Mining has published a general statement of policy which describes the existing procedural mechanisms for compliance with Executive Order 11988, Floodplain Management (May 24, 1977) and Executive Order 11990, Protection of Wetlands (May 24, 1977). *See* 45 FR 49872 (July 25, 1980). Secretarial approval of surface coal mining operations on Federal lands is discussed in that **Federal Register** notice at 45 FR 49872–73. As noted therein, the method and responsibility for compliance with these two Orders is to be a subject of

the permanent program cooperative agreements under 30 CFR Part 745.

Since the cooperative agreement with North Dakota does not directly discuss compliance with these Orders, the obligation for compliance with them remains with the Secretary and is not delegated to North Dakota.

Article XVI: Definitions

This Article specifies that the terms and phrases used in the cooperative agreement, which are defined in 30 CFR Parts 700, 701, and 740, are to be given the meaning set forth in said definitions. It should be noted that the term "Federal lands" does not include "Indian lands."

No comments were received concerning this Article.

V. Procedural Matters Required for Promulgation of This Rule.

1. Executive Order 12291 and Regulatory Flexibility Act

The Department has determined that this document is not a major rule and does not require a regulatory impact analysis under Executive Order 12291 because promulgation of a State-Federal cooperative agreement between the Department of the Interior and the State of North Dakota will not result in a major increase in costs or prices for consumers; individual industries; Federal, State, or local government agencies, or geographic regions. The cooperative agreement should result in cost savings to the mining industry and lessen the burden of regulatory compliance. Further, the cooperative agreement will not result in significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. The Department certifies that this document will not have a significant economic effect on a substantial number of small entities and therefore does not require a regulatory flexibility analysis under the Regulatory Flexibility Act, 5 U.S.C. 605(b). This certification was made based on an assessment of the probable impact of the cooperative agreement on small entities within the State. It was concluded that the effect of the cooperative agreement would be to reduce the cost and burden of complying with the Federal lands program found in 30 CFR Chapter VII, Subchapter D. The above findings were made by the Director, OSM and approved by the Assistant Secretary for Energy and Minerals. A copy is on file in the OSM Administrative Record Room, Room 5315, 1100 L Street, Washington, D.C. 20005.

2. Recordkeeping and Reporting Requirements

There are recordkeeping and reporting requirements in the proposed rules which are the same as and required by OSM's permanent program regulations. Those regulations required clearance from the Office of Management and Budget under 44 U.S.C. 3507 and were assigned the following clearance numbers:

Location of requirement	OMB clearance No.
Article IV.G (Required by 30 CFR Part 735)	1029-0013
Article V.A (Required by 30 CFR Part 740)	1029-0026
Article V.B (Required by 30 CFR Part 740)	1029-0026
Article VI.A (Required by 30 CFR Part 745)	1029-0026
Article VIII.A (Required by 30 CFR Part 740)	1029-0026

3. National Environmental Policy Act

Proceedings relating to adoption of a permanent program cooperative agreement are part of the Secretary's implementation of the Federal lands program pursuant to section 523 of the Act. Such proceedings are, therefore, exempt under section 702(d) of the Act from the requirements to prepare a detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

4. Justification for Immediate Effective Date

The Department of the Interior finds, in accordance with section 553(d)(3) of the Administrative Procedure Act (5 U.S.C. 551 *et seq.)*, that good cause exists to make this final rule effective upon publication. Immediate implementation will result in the immediate elimination of dual administration of surface coal mining in North Dakota and thus result in efficiency and economy both to the State and the Federal Government as well as to operators. Article II of the proposed cooperative agreement with North Dakota stated that the cooperative agreement would become effective upon publication in the **Federal Register** as a final rule. No comments were received on this provision and it has been adopted as proposed.

List of Subjects in 30 CFR Part 934

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Accordingly, Part 934 of Chapter VII, Title 30 is amended as set forth herein.

Dated: September 1, 1983.

William P. Pendley,

Deputy Assistant Secretary for Energy and Minerals.

PART 934—[AMENDED]

1. Section 934.30 is added to read as follows:

§ 934.30 State-Federal Cooperative Agreement.

Cooperative Agreement

This is a Cooperative Agreement (Agreement) between North Dakota (State) acting by and through the North Dakota Public Service Commission (Commission) and the Governor, and the United States Department of the Interior (Interior), acting by and through the Secretary of the Interior (Secretary) and the Office of Surface Mining (OSM).

Article I: Introduction and Purpose

A. *Authority:* This Agreement is authorized by section 523(c) of the Surface Mining Control and Reclamation Act (Federal Act), Pub. L. 95-87, 30 U.S.C. 1273(c), which allows a State with a permanent regulatory program approved under 30 U.S.C. 1253 to elect to enter into an Agreement for the regulation and control of surface coal mining on Federal lands, and by Chapter 38-14.1 of the North Dakota Century Code, Reclamation of Surface Mined Lands (State Act). This Agreement provides for State regulation of surface coal mining and reclamation operations on Federal lands within North Dakota consistent with the State and Federal Acts and the Federal lands program (section 523(a) of the Federal Act and 30 CFR Chapter VII, Subchapter D).

B. *Purpose:* The purpose of the Agreement is to: (1) Foster State-Federal cooperation in the regulation of surface coal mining and reclamation operations; (2) eliminate unnecessary intergovernmental overlap and duplication; and (3) provide uniform and effective application of the State Program on all non-Indian lands in North Dakota.

Article II: Effective Date

Following signing by the Secretary, the Governor, and the Commission, the Agreement shall take effect upon publication in the **Federal Register** as a final rule. This Agreement shall remain in effect until terminated as provided in Article X.

Article III: Scope

In accordance with the Federal lands program in 30 CFR Parts 740-746, the laws, rules, terms, and conditions of

North Dakota's Permanent State Program (Program) (conditionally approved effective December 15, 1980, 30 CFR 934.11 or as hereinafter amended in accordance with 30 CFR 732.17) are applicable to Federal lands within North Dakota except as otherwise stated in this Agreement, the Federal Act, 30 CFR 745.13, or other applicable laws or rules and regulations. Orders and decisions issued by the Commission in accordance with the State Program that are reviewable shall be reviewed pursuant to section 38–14.1–30 of the North Dakota Century Code. Orders and decisions issued by the Department that are appealable shall be appealed to the Department of the Interior's Office of Hearings and Appeals.

Article IV: Requirements for Cooperative Agreement

The Commission and the Secretary affirm that they will comply with all of the provisions of this Agreement and will continue to meet all the conditions and requirements specified in this Article.

A. *Responsible Administrative Agency:* The Commission is, and shall continue to be, the sole agency responsible for administering this Agreement on behalf of North Dakota on Federal lands throughout the State. OSM shall administer this Agreement on behalf of the Secretary, in accordance with the regulations in 30 CFR Chapter VII.

B. *Authority of State Agency:* The Commission has and shall continue to have authority under State law to carry out this Agreement.

C. *Funds:* The State will devote adequate funds to the administration and enforcement on Federal lands in North Dakota of the requirements contained in the Program. If the State complies with the terms of this Agreement, and if necessary funds have been appropriated, OSM shall reimburse the State as provided in section 705(c) of the Federal Act and 30 CFR 735.16, for costs associated with carrying out responsibilities under this Agreement. The grants procedures established in 30 CFR Part 735 are applicable to funding under this Agreement. Reimbursement shall be in the form of annual grants, and applications for grants shall be processed and grants awarded in a prompt manner.

If sufficient funds have not been appropriated, OSM and the Commission shall promptly meet to decide on appropriate measures that will insure that surface coal mining and reclamation operations are regulated in accordance with the Program.

D. *Reports and Records:* The Commission shall make annual reports to OSM pursuant to 30 CFR 745.12(d), containing information respecting its implementation and administration of the terms of this Agreement. The Commission and OSM shall exchange, upon request, information developed under this Agreement except where prohibited by Federal law. OSM shall provide the Commission with a copy of any final evaluation report concerning State administration and enforcement of this Agreement.

E. *Personnel:* The Commission shall provide the necessary personnel to fully implement this Agreement in accordance with the provisions of the Federal and State Acts and the State Program.

F. *Equipment and Laboratories:* The Commission shall assure itself access to equipment, laboratories, and facilities with which all inspections, investigations, studies, tests, and analyses can be performed and which are necessary to carry out the requirements of this Agreement.

G. *Permit Application Fees and Civil Penalty Assessments:* The amount of the fee accompanying an application for a permit shall be determined in accordance with section 38–14.1–13 of the State Act. All permit fees and civil penalty assessments collected by the State from operators on Federal lands shall be retained by the State and deposited with the State Treasurer. These funds shall be disposed of in accordance with Federal requirements in OMB Circular No. A–102, Attachment E. The financial status report submitted pursuant to 30 CFR 735.26 shall include a report of the amount of permit application fees collected and attributable to Federal lands during the prior Federal fiscal year.

Article V: Policies and Procedures: Review of a Permit Application Package or an Application for a Permit Renewal or Revision

A. *Contents of Permit Application Package:* The Commission and the Secretary will require that an operator proposing to mine on Federal land shall submit an identical permit application package in an appropriate number of copies to the Commission and OSM. Any documentation or information submitted by the operator for the sole purpose of complying with the 3-year requirement of section 7(c) of the Mineral Leasing Act (30 U.S.C. 181 *et seq.*) will be submitted directly to the Bureau of Land Management, Department of the Interior. The permit application package shall be in the form required by the Commission and include any supplemental information required by the Secretary. The permit application package shall satisfy the requirements of 30 CFR Chapter VII, Subchapter D and shall include the information required by, or necessary for, the Commission and the Secretary, acting within their statutory authority, to make a determination of compliance with:

(1) Chapter 38–14.1 and Chapter 38–18 of the North Dakota Century Code;

(2) Article 69–05.2 of the North Dakota Administrative Code (NDAC);

(3) Applicable terms and conditions of the Federal coal lease;

(4) Applicable requirements of the Bureau of Land Management's 30 CFR Part 211 regulations pertaining to the Mineral Leasing Act; and

(5) Applicable requirements of other Federal laws and the Program, including but not limited to those in Appendix A of this Agreement.

B. *Review Procedures:* 1. The Commission shall assume primary responsibility for the analysis, review, and approval of permit applications required by 30 CFR Chapter VII, Subchapter D for surface coal mining on Federal lands in North Dakota. OSM shall, as requested, assist the Commission in this analysis and review.

2. The Commission shall be the primary point of contact for operators regarding the approval of the permit application package, except on matters concerned exclusively with the 30 CFR Part 211 regulations administered by the Bureau of Land Management. The Commission will be responsible for informing the applicant of all joint State-Federal or Federal determinations, except matters concerned exclusively with the 30 CFR Part 211 regulations. The Commission shall send to the Bureau of Land Management all correspondence with the applicant which may have a bearing on decisions regarding Mineral Leasing Act requirements. Except in exigent circumstances, OSM shall generally not independently initiate contacts with applicants regarding completeness or deficiencies of permit application packages with respect to matters which are properly within the jurisdiction of the Commission. The Commission may arrange for an operator to send written communications and documents regarding a permit application package directly to OSM. The Secretary reserves the right to act independently of the Commission to carry out his responsibilities under laws other than the Federal Act. A copy of any independent correspondence with the applicant required to carry out these responsibilities which may have a

bearing on decisions regarding the permit application package shall be sent to the State.

3. OSM is responsible for ensuring that any information OSM receives from an applicant regarding the permit application package is sent to the Commission and the Commission will send any information received from the applicant to OSM. OSM shall have access to Commission files for mines on Federal lands. OSM and the Commission shall regularly coordinate with each other during the permit application package review process.

4. OSM shall be responsible for obtaining, in a timely manner, the views of all Federal agencies with jurisdiction or responsibility over a permit application package on Federal lands in North Dakota and for making these views known to the Commission within 90 days of the receipt of the application by OSM. The Commission shall keep OSM informed of findings during the review which bear on the responsibilities of other Federal agencies. OSM shall take appropriate steps to facilitate discussions between the Commission and the concerned agencies wherever desirable to resolve issues or problems identified in the review.

5. Upon receipt of a permit application package, both OSM and the Commission shall each designate its application manager. The application managers shall serve as the primary point of contact between OSM and the Commission throughout the review process and shall be responsible for identifying areas of avoidable duplication of review and analysis, which shall be eliminated where possible. Not later than 15 days after an application has been received, OSM and the Commission shall discuss the application and agree upon a work plan and schedule for the review of the application. OSM shall thereafter inform the Commission of any specific or general areas of concern, including the scope of required environmental analyses under the National Environmental Policy Act, which require special handling or analysis. The Commission shall likewise inform OSM where OSM assistance will be needed to perform any specific or general analysis or prepare any studies or similar work.

6. The Commission shall prepare a technical-environmental analysis on the permit application package. Copies of drafts of this document shall be sent to OSM for review and comment. OSM shall independently evaluate the documents and inform the Commission within 30 days of any changes that should be made. The Commission shall consider the comments of OSM and send a final technical-environmental analysis to OSM which will form the basis for and be included in the decision document which OSM will prepare for the Secretary's consideration. The Commission shall approve or disapprove the permit application by written decision in accordance with the Program. The Secretary's decision on the mining plan and those other Federal responsibilities which cannot be delegated (including but not limited to those listed in Appendix A) shall be made concurrently with or as soon as possible after the final decision of the Commission on the permit. The permit issued by the Commission shall condition the initiation of surface coal mining operations on Federal lands within the permit area on obtaining mining plan approval from the Secretary. The Commission shall, in the approved permit, reserve the right to amend or rescind its action to conform with action taken, or with terms or conditions imposed, by the Secretary when approving the mining plan. After the Commission makes its decision on the permit, it shall send a notice to the applicant and OSM with a statement of findings and conclusions in support of the action.

7. The Commission may approve and issue permits, permit renewals, and permit revisions for surface disturbances associated with surface coal mining and reclamation operations, and disturbance of the surface may commence without need for an approved mining plan on lands where:

(a) The surface estate is non-Federal and non-Indian;

(b) The mineral estate is Federal and is unleased;

(c) The Commission consults with the Bureau of Land Management through OSM in order to insure that actions are not taken which would substantially and adversely affect the Federal mineral estate; and

(d) The proposed surface disturbances are planned to support surface coal mining and reclamation operations on adjacent non-Federal lands and this is specified in the permit, permit renewal, or permit revision.

8. Any permit renewal requested pursuant to applicable State laws and rules for a surface coal mining and reclamation operation on Federal lands, and for which a mining plan has been approved by the Secretary, shall be reviewed and approved or disapproved by the Commission in consultation with OSM for Federal responsibility under other laws. The Commission shall inform OSM and BLM of the approval or disapproval of the renewal and provide OSM and BLM with copies of the application documents.

9. The Commission shall inform OSM of each permit revision request with respect to surface coal mining and reclamation operations on Federal lands containing leased Federal coal. For other Federal lands, the Commission shall inform the Federal land management agency of each permit revision request. Surface coal mining and reclamation operations shall not occur pursuant to the revision unless the permit revision request has been approved by the Commission and:

(a) With respect to Federal lands containing leased Federal coal—

(i) The Secretary has determined that the permit revision does not constitute a mining plan modification, or

(ii) If the revision does constitute a mining plan modification, the modification has been approved by the Secretary.

(b) With respect to other Federal lands, the Commission has consulted with the Federal land management agency to ensure that the permit revision is consistent with Federal laws and regulations other than the Act.

10. When the Commission and OSM cannot resolve differences that develop during permit application package review or cannot agree on the final actions to be taken by the Commission and the Department, the matter shall be referred to the Governor and the Secretary for resolution.

Article VI: Inspections

The Commission shall conduct inspections on Federal lands and prepare and file inspection reports in accordance with the approved Program.

A. *Inspection Reports:* The Commission shall, within 15 days of conducting any inspection on Federal lands, file with OSM an inspection report describing (1) the general conditions of the lands under the permit; (2) whether the operator is complying with applicable performance and reclamation requirements; and (3) the manner in which specific operations are being conducted.

B. *Commission Authority:* The Commission shall be the point of contact and primary inspection authority in dealing with the operator concerning operations and compliance with the requirements covered by this Agreement, except as described in this Agreement and the Secretary's regulations. Nothing in this Agreement shall prevent inspections by authorized Federal or State agencies for purposes

other than those covered by this Agreement.

C. *OSM Authority:* For the purpose of evaluating the manner in which this Agreement is being carried out and to insure that performance and reclamation standards are being met, OSM may conduct inspections of surface coal mining and reclamation operations on Federal lands without prior notice to the Commission. In order to facilitate a joint Federal-State inspection, when OSM is responding to a citizen complaint of an imminent danger to the health or safety of the public or of a significant, imminent environmental harm pursuant to 30 CFR 842.11(b)(1)(i), it will contact the Commission if circumstances and time permit, prior to the Federal inspection. The Department may conduct any inspections necessary to comply with 30 CFR Part 842 and 30 CFR 740.17 (as 30 CFR 740.17 relates to obligations under laws other than the Federal Act). If an inspection is made without Commission inspectors, OSM shall provide the Commission with a copy of the inspection report within 15 days after the inspections.

D. *Witness Availability:* Personnel of the State and the Department shall be mutually available to serve as witnesses in enforcement actions taken by either party.

Article VII: Enforcement

A. *Commission Enforcement:* The Commission shall have primary enforcement authority on Federal lands in accordance with the Program and this Agreement. During any joint inspection by OSM and the Commission, the Commission shall take appropriate enforcement action, including issuance of orders of cessation and notices of violation. OSM and the Commission shall consult prior to issuance of any decision to suspend or revoke a permit.

B. *Notification:* The Commission and OSM shall promptly notify each other of all violations of applicable laws, regulations, orders, approved mining and reclamation plans and permits subject to this Agreement and of all actions taken with respect to such violations.

C. *Secretary's Authority:* (1) This Agreement does not affect or limit the Secretary's authority to enforce violations of laws other than the Federal Act. (2) During any inspection made solely by OSM or any joint inspection where the Commission and OSM fail to agree regarding the propriety of any particular enforcement action, OSM may take any enforcement action necessary to comply with 30 CFR Parts 843 and 845. Such enforcement action shall be based on the substantive standards included in the approved Program and shall be taken using the procedures and penalty system contained in 30 CFR Parts 843 and 845.

Article VIII: Bonds

A. *Bond Coverage and Terms:* The Commission and OSM shall require all operators on Federal lands to submit a single performance bond to cover the operator's responsibilities under the Federal Act and the Program, payable to both the United States and North Dakota. The performance bond shall be of sufficient amount to comply with the requirements of both State and Federal law and release of the performance bond shall be conditioned upon compliance with all applicable requirements. If this Agreement is terminated, the bond will continue in effect and to the extent that Federal lands are involved will be payable to the United States.

Submission of a performance bond does not satisfy the requirements for a Federal lease bond required by 43 CFR Subpart 3474 or a lessee protection bond required in addition to a performance bond, in certain circumstances, by section 715 of the Federal Act.

B. *Bond Release:* The Commission shall obtain OSM's concurrence prior to releasing the operator from any performance bonding obligation required under the Program for any Federal lands containing leased Federal coal. For surface coal mining and reclamation operations on other Federal lands, the Commission shall obtain the concurrence of the Federal land management agency prior to releasing the performance bond. The Commission shall advise OSM of any release of and adjustments made to the performance bond.

C. *Forfeiture:* The operator's performance bond shall be subject to forfeiture with the consent of OSM, in accordance with the procedures and requirements of the Program.

Article IX: Designation of Lands as Unsuitable

The Commission and OSM shall cooperate in the review and processing of petitions to designate lands as unsuitable for surface coal mining operations. When either agency receives a petition which could have an impact on lands the designation of which as unsuitable for mining would be the responsibility of the other agency, the agency shall: (1) Notify the other of its receipt of the petition and of the anticipated schedule for reaching a decision; and (2) request and fully consider data, information and views of the other. The authority to designate Federal lands as unsuitable for mining is reserved to the Secretary or his designated representative.

Article X: Termination of Cooperative Agreement

This Agreement may be terminated as follows:

A. *Termination by the State:* The Agreement may be terminated by the Commission upon written notice to the Secretary, specifying the date upon which the Agreement shall be terminated. The date of termination shall not be less than 90 days from the date of the notice.

B. *Termination by the Secretary:* This Agreement may be terminated by the Secretary according to the following procedures:

1. A written notice from the Secretary to the Commission shall specify the grounds upon which he proposes to terminate the Agreement. In addition, a written notice containing the grounds for termination shall be published in the **Federal Register** affording the Commission and the public a minimum of 30 days for comment.

2. A written notice in the **Federal Register** and a local newspaper of general circulation shall also specify the date and place within the State of North Dakota where the Commission and the public shall be afforded the opportunity for a hearing. The date of such hearing shall not be less than 30 days from the date of publication in the **Federal Register**. Prior to the time fixed for public hearing, representatives of the Commission may be permitted to appear and confer in person with representatives of the Secretary and present oral or written statements, and any other documents relative to the proposed termination.

3. The proposed termination hearing shall be conducted by OSM and a record shall be made of the hearing. The Commission shall be entitled to have legal, and technical and other representatives present at the hearing, and may present, either orally or in writing, evidence, information, testimony, documents, records or materials as may be relevant to the issues involved.

4. The Secretary's decision shall be made after the hearing and close of the comment period.

5. A decison to terminate the Agreement may be made if the Secretary finds in writing that:

(a) The Commission has substantially failed to comply with the requirements of the Federal Act, 30 CFR Parts 740–746,

the Program, or provisions of this Agreement; or

(b) The Commission has failed to comply with any undertaking by the Commission in this Agreement upon which the approval of the Program, this Agreement, or grants by OSM for administration or enforcement of the Program or this Agreement were based.

6. The Secretary shall send written notice of the decision and findings to the Commission and publish notice of it in the **Federal Register.**

7. This Agreement shall terminate not less than 60 days after publication of the notice of the decision to terminate in the **Federal Register.** The Commission may remedy any failure during the 60-day period. If the Secretary determines that the State has taken effective remedial action, the Agreement will not terminate.

C. *Termination by Operation of Law:* This Agreement shall terminate by operation of law under either of the following circumstances:

1. When no longer authorized by Federal law or North Dakota laws and regulations; or

2. Upon termination or withdrawal of the Secretary's approval of the Program pursuant to 30 CFR Part 733.

D. *Mutual Termination:* This Agreement may be terminated at any time upon mutual agreement by the Secretary and the Commission.

Article XI: Reinstatement of Cooperative Agreement

If this Agreement has been terminated as provided in Article X, it may be reinstated upon application by the Commission and upon its giving evidence satisfactory to the Secretary that the Commission can and will comply with all the provisions of the Agreement and that the Commission has remedied all defects in administration for which this Agreement was terminated.

Article XII: Amendments To Cooperative Agreement

This Agreement may be amended by mutual agreement of the Commission and the Secretary. An amendment proposed by one party shall be submitted to the other with a statement of the reasons for such proposed amendment. The amendment shall be adopted or rejected in accordance with the requirements of 30 CFR 745.11. The party to whom the proposed amendment is submitted shall signify its acceptance or rejection of the proposed amendment and if rejected shall state the reason for rejection.

Article XIII: Changes in State or Federal Standards

A. *Time for Change:* The Secretary or the State may from time to time promulgate new Federal or State regulations, including new or revised performance or reclamation requirements or enforcement or administration procedures. OSM and the Commission shall immediately inform each other of any final changes in their respective laws or regulations as provided in 30 CFR Part 732. Each party shall, if it is determined to be necessary to keep this Agreement in force, change or revise its regulations and request necessary legislative action. Such changes shall be made under the procedures of 30 CFR Part 732 for changes to the Program and section 501 of the Federal Act for changes to the Federal lands program.

B. *Copies of Changes:* The State and OSM shall provide each other with copies of any changes to their respective laws, rules, regulations, and standards pertaining to the enforcement and administration of this Agreement.

Article XIV: Changes in Personnel and Organization

The Commission and the Secretary shall, consistent with 30 CFR Part 745, advise each other of changes in the organization, structure, functions, duties, and funds of the offices, departments, divisions, and persons within their organizations which could affect administration and enforcement of this Agreement. Each shall promptly advise the other in writing of changes in key personnel, including the head of a department or division, or changes in the functions or duties of persons occupying the principal offices within the structure of the program. The Commission and OSM shall advise each other in writing of changes in the location of offices, addresses, telephone numbers, and changes in the names, location and telephone numbers of their respective mine inspectors and the area within the State for which such inspectors are responsible.

Article XV: Reservation of Rights

In accordance with 30 CFR 745.13, this Agreement shall not be construed as waiving or preventing the assertion of any rights that have not been expressly addressed in this Agreement that the State or the Secretary may have under other laws or regulations, including but not limited to those listed in Appendix A.

Article XVI: Definitions

Terms and phrases used in this Agreement which are defined in 30 CFR Part 700, 701 and 740 shall be given the meanings set forth in those definitions.

Approved:

James G. Watt,

Secretary of the Interior.

Dated: August 11, 1983.

Allen I. Olson,

Governor of North Dakota.

Dated: August 30, 1983.

Bruce Hagen,

President, North Dakota Public Service Commission.

Dated: August 30, 1983.

Leo M. Reinbold,

Commissioner, North Dakota Public Service Commission.

Dated: August 30, 1983.

Dale Sandstrom,

Commissioner, North Dakota Public Service Commission.

Dated: August 30, 1983.

Appendix A

1. The Federal Land Policy and Management Act, 43 U.S.C. 1701, *et seq.*, and implementing regulations.

2. The Mineral Leasing Act of 1920, 30 U.S.C. 181, *et seq.*, and implementing regulations including 30 CFR Part 211 *et seq.*

3. The National Environmental Policy Act of 1969, 42 U.S.C. 4321, *et seq.*, and implementing regulations including 40 CFR 1500 *et seq.*

4. The Endangered Species Act, 16 U.S.C. 1531 *et seq.*, and implementing regulations including 50 CFR Part 402.

5. The National Historic Preservation Act of 1966, 16 U.S.C. 470, *et seq.*, and implementing regulations, including 36 CFR Part 800.

6. The Clean Air Act, 42 U.S.C. 7401, *et seq.*, and implementing regulations.

7. The Federal Water Pollution Control Act, 33 U.S.C. 1251, *et seq.*, and implementing regulations.

8. The Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901 *et seq.*, and implementing regulations.

9. The Reservoir Salvage Act of 1960, amended by the Preservation of Historical and Archaeological Data Act of 1974, 16 U.S.C. 469, *et seq.*

10. Executive Order 11593, Cultural Resource Inventories on Federal Lands.

11. Executive Order 11988 (May 24, 1977), for flood plain protection. Executive Order 11990 (May 24, 1977), for wetlands protections.

12. The Mineral Leasing Act for Acquired Lands, 30 U.S.C 351, *et seq.*, and implementing regulations.

13. The Stock Raising Homestead Act of 1916, 43 U.S.C. 291, *et seq.*

14. The Constitution of the United States.

15. The Constitution of the State of North Dakota, State law, and rules.

(Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*)

[FR Doc. 83–25052 Filed 9–14–83; 8:45 am]
BILLING CODE 4310–05–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD9-83-17]

Drawbridge Operation Regulations; Ontonagon River, Michigan

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Michigan Department of Transportation, the Coast Guard is revising the operating regulations governing the M-64 highway bridge, mile 0.2, across the Ontonagon River, Ontonagon, Michigan, by permitting the owners to remove bridgetenders for an extended period of time during the winter months when navigation on the Ontonagon River is negligible, with a requirement that the draw of this bridge will open on signal upon receipt of a 24 hour advance notice. This change is being made because of a decrease in requests for opening the draw from November 16 to December 16 and from March 15 to March 31. This action will relieve the bridge owners of the burden of having bridgetenders constantly available to open the draw and still provide for the reasonable needs of navigation.

EFFECTIVE DATE: This amendment becomes effective on Spetember 15, 1983.

FOR FURTHER INFORMATION CONTACT: Robert W. Bloom, Jr., Chief, Bridge Branch, Ninth Coast Guard District, 1240 East Ninth Street, Cleveland, Ohio 44199. Telephone (216) 522-3993.

SUPPLEMENTARY INFORMATION: On June 23, 1983, the Coast Guard published a Proposed Rule in the **Federal Register** (FR 28674) concerning this amendment. The Commander, Ninth Coast Guard District, also published this proposal as a Public Notice dated July 20, 1983. Interested parties were given until August 8, 1983, and August 18, 1983, respectively, to submit comments.

Drafting Instructions

The principal persons involved in drafting this amendment are: Robert W. Bloom, Jr., Chief, Bridge Branch, Ninth Coast Guard District, Project Officer, and LCDR A. R. Butler, Assistant Legal Officer, Ninth Coast Guard District, Project Attorney.

Discussion of Comments

No comments were received from the Federal Register or Public Notice.

Economic Assessment and Certification

This final regulation has previously been determined to be non-major under Executive Order 12291, and also to be nonsignificant under the Policies and Procedures for Simplification, Analysis and Review of Regulations (DOT Order 2100.5 of 5-22-80). The final regulation has previously been certified under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), at 48 FR 28674 (June 23, 1983). No information has been received which changes those determinations and certifications. An economic evaluation has not been conducted. Since this rule will allow the owner of the bridge to only remove bridgetenders during periods of time when navigation on the river is negligible, small entities in the area will not be economically impacted.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations: In considering of the foregoing, Part 117 of Title 33 of the Code fo Federal Regulations is amended by revising § 117.641(f)(2) to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.641 Great Lakes tributaries; bridges where constant attendance of drawtenders is not required.

* * * * *

(f) * * *

(2) Ontonagon Harbor, Michigan: Michigan State Highway Department bridge, mile 0.2 at Ontonagon. From April 1 through November 15 from 7 a.m. to 11 p.m. the draw shall open on signal and from 11 p.m. to 7 a.m. the draw shall open on signal if at least a 1 hour advance notice has been given. From November 16 through March 31 the draw shall open on signal if at least a 24 hour advance notice has been given.

* * * * *

(33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(g)(3))

Dated: September 7, 1983.

Henry H. Bell,

Rear Admiral, U.S. Coast Guard, Commander, Ninth Coast Guard District.

[FR Doc. 83-25281 Filed 9-14-83; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 165

[3rd C.G. District Reg. CCGD3-83-51]

New Jersey, New York Harbor, Newark Bay; Safety Zone Regulations

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a safety zone in New Jersey, New York Harbor, Newark Bay, which will supercede all previous safety zones in the vicinity of the CNJ Newark Bay Bridge. This zone is needed to protect vessels from the safety hazards associated with the demolition of the center span of the CNJ Newark Bay Bridge. Entry into this zone is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATES: This regulation is effective at 12:00 PM E.D.S.T. 02 September 1983 and terminates upon completion of the current demolition work being done on the CNJ Newark Bay Bridge, with the Zone to be terminated no later than 01 November 1983.

FOR FURTHER INFORMATION CONTACT: Captain of the Port, New York (212)-668-7917.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was not published for this regulation and it is being made effective in less than 30 days after **Federal Register** publication. Publishing an NPRM and delaying its effective date would be contrary to public interest since immediate action is needed to respond to any potential hazard.

Drafting Information

The drafters of this regulation are Lieutenant G. W. Chappell, Project Officer for the Captain of the Port, and Lieutenant Commander J. J. D'Alessandro, Project Attorney, Third Coast Guard District Legal Office.

Discussion of Regulation

The circumstances requiring this regulation result from the potential hazards to navigation associated with the demolition operation of the CNJ Newark Bay Bridge. Previous Safety Zones in this area have been altered due to shifting of buoy positions in the CNJ draw channel. This Safety Zone has been drafted without using buoys as reference points.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

PART 165—[AMENDED]

In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations, is amended by adding § 165-T.03-370 to read as follows:

§ 165–T.03–370 Safety Zone: New Jersey, New York Harbor, Newark Bay South Reach.

(a) *Location.* The following area is a Safety Zone: the waters within a boundary extending from the northeast corner of the center island of the CNJ Newark Bay Bridge, thence northeast on a course of 075 degrees true a distance of approximately 200 yards to position 40 39'19.3" N 74 08' 40" W, thence southwest on a course of 210 degrees true a distance of 275 yards to position 40 39' 13" N 74 08' 43" W, thence northwest on a course of 313 degrees true a distance of approximately 110 yards to the southeast corner of the center island of the CNJ Newark Bay Bridge, thence northeast on a course of 022 degrees true to the starting point.

(b) *Regulations.* (1) In accordance with the general regulations in 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port.

(33 U.S.C. 1225 and 1231; 49 CFR 1.46; 33 CFR 165.3)

Dated: September 1, 1983.

J. L. McDonald,

Captain, U.S. Coast Guard, Captain of the Port, New York.

[FR Doc. 83–25196 Filed 9–14–83; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 165

[Reg. 83–16]

James River, Newport News, Virginia; Safety Zone Regulations

September 9, 1983.

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a safety zone in the James River, Newport News, Virginia. The zone is needed to protect watercraft from possible damage during the launching of the submarine USS HONOLULU from Newport News Shipbuilding Shipway No. 5. Entry into this zone is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATES: This regulation becomes effective at 11:00 AM, Eastern Daylight Time, September 24, 1983. It terminates at 1:30 PM, Eastern Daylight Time, September 24, 1983.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander W. K. SIX, Chief, Port Operations Department, Coast Guard Marine Safety Office, Hampton Roads, Norfolk, Virginia 23510; (804) 441–3296.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was not published for this regulation and it is being made effective in less than 30 days after **Federal Register** publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to safeguard watercraft and their occupants.

Drafting Information

The drafter of this regulation is Lieutenant Commander W. K. SIX, project officer for the Captain of the Port.

Discussion of Regulation

To prevent possible damage to watercraft and possible injury to their occupants during the launching, no watercraft will be permitted to remain in, enter, moor in, anchor in, or transit this safety zone unless specifically authorized by the Captain of the Port, Hampton Roads, Virginia. U.S. Coast Guard patrol vessels will be on scene to enforce the safety zone monitoring VHF–FM channels 16 and 13. This action is necessary due to the hazards involved in moving a vessel the size of the USS HONOLULU into a restricted waterway such as the James River. During the launching the USS HONOLULU will be out of control until assisting tugs can secure the vessel. This rule is in response to a request by the Newport News Shipbuilding and Drydock Company for Coast Guard assistance in providing traffic control and vessel escorts for the launching of the USS HONOLULU. This action is designed to prevent damage to watercraft and injury to their occupants in the event of collision with the USS HONOLULU and will accomplish this end by preventing all such traffic from entering the safety zone.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

PART 165—[AMENDED]

In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations, is amended by adding a new § 165.T527 to read as follows:

§ 165.T527 Safety Zone: James River, Newport News, Virginia.

(a) *Location:* The waters and waterfront facilities located within the following boundaries constitute a safety zone: A line beginning at 36–58–48N Latitude, 76–26–26W Longitude, thence to 36–58–14N Latitude, 76–27–06W Longitude, thence to 36–59–06N Latitude, 76–28–00W Longitude, thence to 36–59–12N Latitude, 76–26–39W Longitude, thence along the shoreline to the point of beginning. The safety zone will commence at 11:00 AM, Eastern Daylight Time, September 24, 1983 and terminate at 1:30 PM, Eastern Daylight Time, September 24, 1983.

(b) *Regulations:* (1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port.

(33 U.S.C. 1225 and 1231; 49 CFR 1.46; 33 CFR 165.3)

Dated: September 2, 1983.

D. C. O'Donovan,

Captain, U.S. Coast Guard, Captain of the Port, Hampton Roads, Coast Guard.

[FR Doc. 83–25195 Filed 9–14–83; 8:45 am]

BILLING CODE 4910–14–M

POSTAL SERVICE

39 CFR Part 253

Contract Compliance Program; Removal of Obsolete Provision

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This rule removes from the Code of Federal Regulations postal regulations in part 253 dealing with the contract compliance program. This is being done because these regulations are obsolete, having been superseded by comparable, revised regulations in the Postal Contracting Manual, a document that is incorporated in the Federal Register by reference.

EFFECTIVE DATE: September 15, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Jones (202) 245–4603.

SUPPLEMENTARY INFORMATION: This final rule removes 39 CFR Part 253 because Part 253 is obsolete and has been superseded by comparable revised provisions in part 8 of section 12 of the Postal Contracting Manual, which is incorporated by reference in the Federal Register. See 39 CFR 601.100.

PART 253—[REMOVED]

Accordingly, the Postal Service amends Title 39, Code of Federal Regulations, by removing Part 253.

List of Subjects in 39 CFR Part 253

Equal employment opportunity, Government contracts, Postal Service.

(39 U.S.C. 401)

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 83-25088 Filed 9-14-83; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA Docket No. AW047VA A-3-FRL 2433-3]

Approval and Promulgation of Implementation Plans, Approval of Revisions of the Virginia State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Commonwealth of Virginia has submitted to EPA a series of regulatory amendments of its air pollution control regulation provisions concerning stack heights and alternative compliance schedules. EPA approves these amendments as revisions to the Virginia State Implementation Plan (SIP). The amendments submitted by Virginia meet all of the requirements of Section 110 of the Clean Air Act and 40 CFR Part 51.

EFFECTIVE DATE: This notice will be effective November 14, 1983 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of SIP revision, as well as accompanying documentation submitted by the Commonwealth, are available for inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Air Management Branch, 6th & Walnut Streets, Curtis Building, Philadelphia, PA 19106, ATTN: Mrs. Patricia Gaughan (3AW11)

Public Information Reference Unit, EPA Library, Room 2922, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460

Virginia State Air Pollution Control Board, Commonwealth of Virginia, Room 801, Ninth Street Office Building, Richmond, VA 23219, Attn: John M. Daniel, Jr.

Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20408

FOR FURTHER INFORMATION CONTACT: Mr. Harold A. Frankford (3AW13) at the EPA, Region III address above, or at (215) 597-8392.

All comments should be submitted to Mr. Bernard Turlinski, Acting Chief, MD/VA/DC/DE Section (3AW13) at the EPA, Region III address listed above. Please reference the EPA Docket number found in the heading of this Notice in any correspondence.

SUPPLEMENTARY INFORMATION:

Background

On February 8, 1982, 47 FR 5864, EPA promulgated regulations required by Section 123 of the Clean Air Act referrring to stack heights. These regulations are designed to assure that the degree of emission limitation required for the control of any air pollutant under an applicable State Implementation Plan (SIP) is not affected by that portion of any stack height which exceeds good engineering practice (GEP) or by any other dispersion technique. All States were required to review and revise, as necessary, their SIP's to include provisions that limit stack height credits and dispersion techniques in accordance with these regulations.

On January 24, 1983, the Commonwealth of Virginia submitted to EPA amendments to its Regulations of the Control and Abatement of Air Pollution. The Commonwealth requested that these amendments be reviewed and processed as revisions to the Virginia SIP. The changes consist of two major components: (1) A series of amendments related to the stack heights requirements of Section 123 of the Clean Air Act and 40 CFR Part 51; and (2) amendments to the alternative compliance schedule provisions.

The Commonwealth of Virginia certified that public hearings were held on August 16, 1982 at the following locations: Abington, Roanoke, Lynchburg, Fredricksburg, Richmond, Virginia Beach and Annandale. These hearings satisfy the requirements of 40 CFR 51.4.

Stack Heights Regulations

The Commonwealth of Virginia has amended several provisions in its air pollution control regulations to provide for good engineering practice (GEP) requirements of Section 123 of the Clean Air Act and 40 CFR 51.1 (z) and (ff)–(mm), 51.12(j)–(l) and 51.18(l). The specific changes in the Virginia regulations are outlined below:

A. Part I (Definitions), Section 1.02 (Terms Defined)

1. The following terms have been added:

Dispersion Technique
Elevated Terrain
Emission Limitation
Excessive Concentrations
Good Engineering Practice (GEP) Stack Height
Nearby [As used in the definition of "GEP Stack Height"]
Plume Inspection
Stack in Existence

2. The following term has been modified:

Stack [Replaces the former term "Stack or Chimney"]

B. Part II (General Provisions), Section 2.33 (Permits—New and Modified Sources)

1. In Paragraph 2.33(a)(5), referring to permit applications, subparagraph (iv) is added to require public comment periods and public hearings for permit applications of stationary sources for which any provision of the permit is to be based upon a GEP stack height that exceeds the height allowed by subparagraphs (1) and (2) of the term "GEP Stack Height."

2. A minor format change is made in subparagraph 2.33(a)(5)(iii).

C. Part IV (Special Provisions for Existing Sources), Section 4.02 (Compliance)

1. In Subsection 4.02(g) referring to stack heights, paragraphs (1), (2), (5) and (6) are amended to be consistent with the revisions in 40 CFR Part 51 pertaining to GEP stack heights.

2. In Subsection 4.02(g), current paragraphs (3) and (4) are deleted and replaced with new paragraphs (3) and (4) containing language which is consistent with the federal GEP stack height requirements.

D. Part V (Special Provisions for New and Modified Sources), Section 5.02 (Compliance)

1. In Subsection 5.02(f) referring to stack heights, paragraphs (1), (2), (5) and (6) are amended to be consistent with the federal GEP stack height requirements.

2. In Subsection 5.02(f), current paragraphs (3) and (4) are deleted and replaced with new paragraphs (3) and (4) containing language which is consistent with the federal GEP stack height requirements.

Alternative Compliance Schedules

The Commonwealth has also amended subparagraph (f)(7)(i) of Section 4.02 (New or More Stringent Emissions Standards) to require sources subject to regulations 4.54 through 4.57 (Volatile Organic Compounds) to submit proposed alternative compliance schedules by December 31, 1982. Along with this change, Virginia has removed

outdated and unnecessary language from Sections 4.02(f)(1), 4.02(f)(1)(ii) and 4.02(f)(7)(iv).

EPA Evaluation

EPA has reviewed the amendments to both the GEP stack height provisions and the alternative compliance schedules provisions in Section 4.02, and considers the amendments to the alternative compliance schedules to be acceptable. Virginia is required to submit these alternative compliance schedules to EPA for consideration as separate SIP revisions. Virginia has followed this procedure and EPA is currently reviewing several alternative compliance schedules as SIP revisions. The State has also assured EPA that it has revised its reasonable further progress toward attainment of the ozone standard in order to accommodate these alternative compliance schedules. No alternative compliance schedule will be approved as a SIP revision by EPA unless it is consistent with attainment and maintenance of the ozone standard in areas where the standard has been attained and the achievement of reasonable further progress toward attainment in areas where the standard has not been attained.

With regard to Virginia's GEP stack height provisions found in Section 1.02, 2.33(a)(5)(iii), 4.02(g) and 5.02(f), EPA finds all of these amendments to be acceptable in meeting the stack height requirements outlined in 40 CFR 51.1, 51.12 and 51.18. Although the Virginia regulations make no specific reference to the EPA technical documents for fluid models or field studies, EPA will require Virginia to follow EPA procedures as outlined in these technical documents, should the need arise. See 47 FR 5865.

EPA Actions

Based on the above evaluation, EPA approves the amendments to Sections 1.02, 2.33, 4.02 and 5.02 described above as revisions to the Virginia State Implementation Plan. Accordingly, 40 CFR 52.2420 (Identification of Plan) of Subpart VV (Virginia) is revised to incorporate these amended Virginia regulations into the approved Virginia SIP.

The public is advised that this action will become effective 60 days from the publication date of this notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and other notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under 5 U.S.C. Section 605(b), I have certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 9709.)

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 14, 1983. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Intergovernmental relations, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Secs. 110 and 172 of the Clean Air Act, as amended, 42 U.S.C. 7410 and 7502)

Dated: September 9, 1983.

William D. Ruckelshaus,

Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the Commonwealth of Virginia was approved by the Director of the Federal Register on July 1, 1982.

PART 52—[AMENDED]

Title 40, Part 52, Subpart VV of the Code of Federal Regulations is amended as follows:

Subpart VV—Virginia

1. Section 52.2420 is revised by adding paragraph (c)(81) as follows:

§ 52.2420 Identification of Plan.

* * * * *

(c) * * *

(81) Amendments to Sections 1.02, 2.33, 4.02, and 5.02 of the Virginia Regulations for the Control and Abatement of Air Pollution submitted on January 24, 1983 by the Virginia State Air Pollution Control Board.

[FR Doc. 83-25186 Filed 9-14-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[A-5-FRL 2434-2]

Approval and Promulgation of Implementation Plans; Michigan

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: Today's rulemaking announces final approval of Consent Order APC No. 12–1980, for the Hayes-Albion Corporation and Permits 341–79 and 375–79 for the American Colloid Plant, as a revision to the Michigan State Implementation Plan (SIP) in Calhoun County. Consent Order APC No. 02–1980, contains control measures beyond the present requirements of Michigan's Rule 336.1301 and 336.1331 for reducing total suspended particulate (TSP) emissions. EPA's action is based upon a proposed revision to the SIP submitted by the State.

EFFECTIVE DATE: This action is effective October 17, 1983.

ADDRESSES: Copies of the revision and other materials relating to this rulemaking are available at the following addresses (It is recommended that you telephone the contact person listed below, before visiting the Region V Office.):

Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20460

Environmental Protection Agency, Air and Radiation Branch, Region V, Regulatory Analysis Section, 230 South Dearborn Street, Chicago, Illinois 60604

Public Information Reference Unit, Library, Environmental Protection Agency, 401 M. Street, SW., Washington, D.C. 20460

Michigan Department of Natural Resources, Air Quality Division, 7150 Harris Drive, Lansing, Michigan 48909

Written comments should be sent to: Gary Gulezian, Chief, Regulatory Analysis Section (5AR–26), Air and Radiation Branch, Region V, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604

FOR FURTHER INFORMATION CONTACT: Toni Lesser, Regulatory Analysis Section, Air and Radiation Branch, Region V, Environmental Protection Agency, 230 South Dearborn Street,

Chicago, Illinois 60604, (312) 886–6037

SUPPLEMENTARY INFORMATION: In the May 6, 1980, **Federal Register** (45 FR 29790), EPA approved a strategy developed by the State of Michigan for attaining the primary and secondary TSP National Ambient Air Quality Standards (NAAQS). For the Albion primary TSP nonattainment area, that strategy consisted of developing source-specific abatement orders requiring more stringent controls than the generally applicable requirements of Michigan Rules 336.1301 and 336.1331. In the May 6, 1980, **Federal Register**, EPA stated that the source-specific Abatement Orders were to be submitted to EPA for review and approval as revisions to the Michigan SIP.

On April 5, 1982, the State of Michigan submitted Consent Order APC No. 02–1980 to EPA for the Hayes-Albion Corporation, along with alterations to Section 5(D) of the Consent Order. The Hayes-Albion foundry is located in Calhoun County.

On June 18, 1982, the State of Michigan submitted a Fugitive Dust Control Plan and a Malfunction Abatement Plan for major air cleaning devices at Hayes-Albion as part of its SIP revision. These plans contain specific measures for reducing TSP emissions and have been implemented by the dates specified in Consent Order APC No. 02–1980.

On October 25, 1982 (47 FR 47245), EPA announced the availability of this revision and took final action to approve it. In that notice, EPA advised the public that it was deferring the effective date of its approval for 60 days, until December 27, 1982, to provide an opportunity for submittal of comments on the revisions. EPA also announced that, if within 30 days of the publication of its final approval notice, someone wished to submit an adverse or critical comment, EPA would withdraw its approval and begin a new rulemaking by proposing the action and establishing a 30-day comment period.

On November 19, 1982, EPA received notice that someone wished to comment. Therefore, in accordance with the procedure described above, EPA on March 8, 1983 (48 FR 9842), withdrew its October 25, 1982 (47 FR 47245), approval of this revision to the Michigan SIP for the Hayes-Albion Corporation (Consent Order APC No. 02–1980) and permits 341–79 and 375–79 for the American Colloid Plant. Also, on March 8, 1983 (48 FR 9665), EPA proposed approval of the revision announcing a 30 day comment period. During the comment period, EPA received only one comment from the State of Connecticut.

Comment: The State of Connecticut objected to the reliance on rollback rather than air quality modeling to satisify the requirements for an ambient equivalence demonstration for this alternative emission reduction plan (i.e., bubble). The commentor states that whenever a source requests a permit, variance or otherwise modifies a previous requirement, that a complete modeling analysis of the entire source should be undertaken.

Response: EPA believes the commentor has mistaken this SIP revision as a "bubble" which would entail meeting the requirements of EPA's proposed Emission Trading Policy Statement (April 7, 1982, 47 FR 15076). Instead, this rulemaking consists of a Consent Order for Hayes-Albion and permits for American Colloid which were submitted by the State of Michigan in order to satisify the Part D requirements for TSP as noted by EPA in the May 6, 1980, **Federal Register**. This revision does require additional emission reductions exceeding 1700 tons/year and represents greater than RACT level control at most affected sources. However, this revision does not relax any existing Michigan rule and is not a "bubble". In addition, EPA reviewed the attainment demonstration provided by Michigan and believes it to be consistent with the air quality analysis procedures outlined in the May 6, 1980, **Federal Register** for several TSP nonattainment areas in Michigan. The commentor's statement concerning a complete modeling analysis is consistent with present EPA policy for most TSP SIP revisions with the exception of some "bubbles" for which EPA has proposed more limited modeling procedures under certain circumstances.

EPA has reviewed the comment presented above, and believes that its technical reviews dated June 22, 1982, September 21, 1982, and June 15, 1983 for the Hayes-Albion Consent Order APC No. 02–1980 and American Colloid Permits 341–79 and 375–79 support approval of this SIP revision. In addition, EPA believes that the TSP emissions reduction requirement in Consent Order APC No. 02–1980, including the Fugitive Dust Control Plan and a Malfunction Abatement Plan developed by Hayes-Albion Corporation pursuant to the consent order, along with the American Colloid permits are an acceptable TSP plan for the Albion nonattainment area in Calhoun County, and will provide for air quality improvements and attainment of the TSP NAAQS.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 Executive Order 12291.

Under 5 U.S.C. 605(b), I have certified that SIP approvals do not have a significant economic impact on a substantial number of small entities (See 46 FR 8709).

Under Section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 14, 1983. This action may not be challenged later in proceedings to enforce its requirements (See 307(b)(2)).

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur dioxide, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Note.—Incorporation by reference of the State Implementation Plan for the State of Michigan was approved by the Director of the Federal Register on July 1, 1982.

(Sec. 110, Clean Air Act, as amended (42 U.S.C. 7410))

Dated: September 9, 1983.

William D. Ruckelshaus,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart X—Michigan

Section 52.1170 is amended by adding paragraph (c)(60) as follows:

§ 52.1170 Identification of plan

* * * * *

(c) * * *

* * * * *

(60) On April 5, 1982, the State of Michigan submitted Consent Order APC No. 02–1980 along with alterations to Section 5(D) of the Consent Order for the Hayes-Albion foundry in Calhoun County. The Consent Order contains control measures beyond the present requirements of Michigan's R336.1301 and R336.1331 for Total Suspended Particulate (TSP) emissions and evaluation methods for determining significant particulate emission sources from the foundry. On June 18, 1982, the State of Michigan also submitted a Fugitive Dust Control Plan and a Malfunction Abatement Plan for the Hayes-Albion foundry. On September 21, 1982, the State of Michigan formally submitted Permits 314–79 and 375–79 for the American Colloid Plant.

[FR Doc. 83-25165 Filed 9-14-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[Docket No. 1336; A-1-FRL 2433-1]

Approval and Promulgation of Implementation Plans; Rhode Island; Lead Attainment and Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving State Implementation Plan revisions submitted by the State of Rhode Island. The intended effect of these revisions is to demonstrate the attainment and maintenance of the National Ambient Air Quality Standard for lead (40 CFR Part 51).

EFFECTIVE DATE: This action will be effective November 14, 1983 unless notice is received within 30 days that adverse or critical comments will be submitted.

ADDRESSES: Comments may be mailed to Harley F. Laing, Director, Air Management Division, Room 2312, JFK Federal Bldg., Boston MA 02203. Copies of the submittal and EPA's evaluation are available for public inspection during normal business hours at the Environmental Protection Agency, Room 2111, JFK Federal Bldg., Boston, MA 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M St., SW., Washington, D.C.; Office of the Federal Register, 1100 L St., NW., Room 8401, Washington, D.C. and the Division of Air and Hazardous Materials, Room 204, 75 Davis St., Providence, RI 02908.

FOR FURTHER INFORMATION CONTACT: Betsy Horne (617) 223–5130.

SUPPLEMENTARY INFORMATION: Section 110 of the Clean Air Act requires states to adopt and submit to the EPA Administrator, within nine months after promulgation of a National Ambient Air Quality Standard (NAAQS), plans for attainment and maintenance of the standard. On October 5, 1978 EPA promulgated primary and secondary NAAQS for lead (43 CFR 46246) as well as the requirements of an approvable lead State Implementation Plan (43 FR 46264). These provisions require the submission of air quality data, a control strategy, air quality modeling, and a demonstration that the NAAQS will be attained within the time-frame specified by the Clean Air Act.

On July 7, 1983, Rhode Island submitted a lead attainment and maintenance plan which included technical support to satisfy 40 CFR Part 51, Implementation Plans for Lead.

Air Quality

On September 17, 1982, EPA approved Rhode Island's National Air Monitoring Station (NAMS) network for lead based on the requirements of 40 CFR Part 58. The two network sites include a middle-scale monitor (Dyer Street, Providence) and a neighborhood site (Bonanza Bus Terminal, Providence). Two additional sites, which have been approved by EPA but are not part of the NAMS network, are located at the Fire Department in Cranston and at the University of Rhode Island at West Greenwich. The public may inspect the network description during normal business hours at EPA's Environmental Services Division, 60 Westview Street, Lexington, MA 02173 (617) 861–6700 or at the State address listed in the **ADDRESSES** section above.

The State analyzed filters taken from the Dyer and Bonanza sites from 1978 and 1982. Various quarters of data were available and analyzed from four other sites. Violations of the standard were recorded in 1978 and 1979; there have not been any violations since the end of 1979.

Emissions

Statewide mobile source emissions were calculated from 1977 through 1984 and show a decrease in lead emissions during that period by a factor of five. Rhode Island's emissions inventory shows no significant point sources of lead.

In the July 7, 1983 submittal, Rhode Island indicated how it would address new stationary sources of lead. A hearing to amend Regulation 9, "Approval to Construct, Install, Modify or Operate" was held on July 21, 1983. Among other actions, those revisions would require a permit for all new sources emitting five or more tons of lead per year. The regulations would also require the source to install Best Available Control Technology sufficient to assure maintenance of the lead standard. EPA is proposing to approve these changes to Regulation 9 in another notice in the near future. Until these revisions are published as final rulemaking by EPA, Rhode Island's lead submittal commits to controlling these new lead sources as if the regulation were in effect and indicates the State's legal authority to implement the program. These procedures are sufficient to control new stationary sources of lead emissions.

In summary, Rhode Island has had no lead standard violations in three years, is continuing to monitor for lead emissions and has new source review procedures in effect for new lead sources. EPA finds that the Rhode Island lead SIP demonstrates that the NAAQS for lead is being attained and will be maintained for the foreseeable future. This demonstration is based primarily on lead emission reductions that result from the Federal programs for the reductions of lead in gasoline, the requirement for use of unleaded gasoline in catalyst-equipped vehicles and other requirements. Therefore, Rhode Island has met all the requirements of the Clean Air Act and applicable regulations for submittal of an adequate lead SIP.

EPA is approving these SIP revisions without prior proposal because the Agency views this action as non-controversial and anticipates no adverse comments. This action will be effective 60 days from the date of this **Federal Register** unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted. If such notice is received, this action will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective November 14, 1983.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 14, 1983. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2))

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons and Intergovernmental relations.

(Secs. 110(a) and 301(a), Clean Air Act, as amended (42 U.S.C. 7410(a) and 7601(a))

Under the Regulatory Flexibility Act I certify that this rule will not have a significant impact on a substantial number of small entities.

Note.—Incorporation by reference of the State Implementation Plan for the State of Rhode Island was approved by the Director of the **Federal Register** on July 1, 1982.

Dated: September 9, 1983.
William D. Ruckelshaus,
Administrator.

PART 52—[AMENDED]

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart OO—Rhode Island

Section 52.2070 is amended by adding paragraph (c)(20) as follows:

§ 52.2070 Identification of plan.

* * * * *

(c) * * *

(20) Revisions to attain and maintain the lead NAAQS as submitted on July 7, 1983 by the Department of Environmental Management.

[FR Doc. 83-25149 Filed 9-14-83; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 52

[FL-009; A-4-FRLI 2432-8]

Approval and Promulgation of Implementation Plans; Florida; RACT For New and Modified Minor Sources

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Florida Department of Environmental Regulation (FDER) has made amendments to Rules 17–2.650(1)(a) and 17–2.650(2)(a) of the Florida Administrative Code. This regulatory revision requires all new and modified sources of particulate and volatile organic compounds located in nonattainment areas or in areas of influence for particulate matter to utilize Reasonably Available Control Technology (RACT) and other emission limitations as specified in 17–2.650 if they are not subject to Lowest Achievable Emission Rate (LAER) provisions. These amendments allow FDER to impose on sources exempt from LAER those restrictions necessary to prevent interference with the attainment of air quality standards. EPA today announces approval of this revision in the Florida plan.

EFFECTIVE DATE: This action will be effective on November 14, 1983 unless notice is received within 30 days that someone wishes to submit adverse or critical comments

ADDRESSES: Copies of the materials submitted by the State may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460;
Environmental Protection Agency, Region IV, Air Management Branch, 345 Courtland Street, N.E., Atlanta, Georgia 30365;
Office of the Federal Register, 1100 L Street N.W., Room 8401, Washington, D.C. 20005;
Florida Department of Environmental Regulation, Bureau of Air Quality Management, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32301.

FOR FURTHER INFORMATION CONTACT: Mr. Barry Gilbert, Air Management Branch, EPA Region IV, at the above address, and telephone 404/881–3286 (FTS 257–3286).

SUPPLEMENTARY INFORMATION: The Florida Environmental Regulation Commission approved two amendments to Florida Administrative Code Rules 17–2.650(1)(a) and 17–2.650(2)(a) at a public hearing on December 8, 1982. These two amendments were subsequently adopted by the Florida Department of Environmental Regulation through filing with the Florida Secretary of State on December 30, 1982. Both of the amendments became effective January 19, 1983. FDER submitted them to EPA on February 18, 1983, for approval as a State Implementation Plan (SIP) revision.

The purpose of amendments is to more specifically define the sources which must comply with the 17–2.650 requirements of Florida Administrative Code. Those emission limits were applicable to *all* existing sources in nonattainment areas and were generally made applicable to new minor sources pursuant to Rule 17–2.520, which authorizes the Department to impose on sources exempt from LAER those restrictions necessary to prevent interference with attainment. Prior to the adoption of the two amendments, existing facilities in nonattainment areas were required to meet the emission limits in 17–2.650. However, new facilities of the same size and type conceivably might not be required to install any control equipment at all if it could not be demonstrated that RACT was necessary to prevent interference with attainment. The amendments add a degree of consistency to the permitting and regulation of new minor sources in nonattainment areas by requiring compliance with the emission limits in 17–2.650.

The amendment to Rule 17–2.650(1)(a) makes RACT applicable to new and modified sources of Volatile Organic Compounds (VOCs) which are located in ozone nonattainment areas. The RACT requirements now apply to new and modified sources which are not subject to LAER.

The amendment to Rule 17–2.650(1)(a) also requires new and modified minor particulate sources which are not subject to LAER to meet the emission limits contained therein. The amendment applies to new and modified particulate sources which are located in a particulate nonattainment area or its area of influence. The amendment specifically exempts new and modified minor sources which will not have a significant impact on a particulate nonattainment area and sources of unconfined emissions which are more than 5 km from the boundary of a particulate nonattainment area.

The revision adopted and submitted by FDER contains the following rule (17–2.650(2)(a)3.) which is redundant with the existing rule:

The following particulate sources located in an area of influence of a particulate nonattainment area are exempt from the emission limitations specified in 17–2.650(2)(c).

a. Sources of unconfined particulate matter located more than five kilometers outside the boundary of a particulate nonattainment area; and

b. Sources which have an insignificant impact on the nonattainment area.

These new exemptions are already contained in 17–2.650(2)(b)—Exemptions Rule 17–2.650(2)(a)3.a. is identical to 17–2.650(2)(b)4. and 17–2.650(2)(a)3.b. is identical in meaning to 17–2.650(2)(b)2. FDER intends to correct this error in a later revision; therefore, EPA will take no action on this portion of the revision (17–2.650(2)(a)3.).

Action. EPA is today approving the Florida rule changes which require all new and modified sources of particulate and volatile organic compounds located in nonattainment areas or in areas of influence for particulate matter to utilize RACT if they are not subject to LAER provisions. EPA will take no action on rule 17–2.650(2)(a)3. This is done without prior proposal because the changes in the regulations will have limited impact on air quality and no comments are anticipated.

The public should be advised that this action will be effective 60 days from the date of this **Federal Register** notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a

new rulemaking by announcing a proposal of the action and establishing a comment period.

Under Section 307(b)(1) of the Act, petitions for judicial review ot this action must be filed in the United States Court of Appeals for the appropriate circuit by November 14, 1983. The action may not be challenged later in proceedings to enforce its requirements. (See Sec. 307(b)(2).)

Under 5 U.S.C. Section 605(b), I have certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Incorporation by reference of the State Implementation Plan for the State of Florida was approved by the Director of the Federal Register on July 1, 1982.

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Secs. 110 and 172, Clean Air Act, as amended (42 U.S.C. 7410 and 7502))

Dated: September 9, 1983.

William D. Ruckelshaus,

Administrator.

PART 52—[AMENDED]

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart K—Florida

In § 52.520, is amended by adding paragraph (c)(52) as follows:

§ 52.520 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * *

(52) Amendments to Chapter 17–2.650(1)(a) and 17–2.650(2)(a) submitted on February 18, 1983, by the Florida Department of Environmental Regulation. The amendments require all new and modified sources of particulate and volatile organic compounds located in nonattainment areas or in areas of influence for particulate matter to utilize Reasonably Available Control Technology (RACT) if they are not subject to Lowest Achievable Emissions Rate (LAER) provisions.

[FR Doc. 83-25183 Filed 9-14-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Parts 60 and 61

[A-9-FRL 2432-4]

Delegation of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS); Hawaii Department of Health

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final delegation.

SUMMARY: The EPA hereby places the public on notice of its delegation of authority for certain NSPS and NESHAPS categories to the Hawaii Department of Health (HDOH). This action gives the HDOH the authority to implement and enforce the federal NSPS and NESHAPS programs. The effect of the delegation is to shift the primary program responsibility for the affected NSPS and NESHAPS categories from EPA to the State government.

EFFECTIVE DATE: August 15, 1983.

ADDRESS: Hawaii Department of Health, Environmental Protection and Health Services Division, 1250 Punchbowl Street, Honolulu, HI 96813.

Mailing Address: Hawaii Department of Health, Environmental Protection and Health Services Division, Post Office Box 3378, Honolulu, HI 96801.

FOR FURTHER INFORMATION CONTACT: Julie A. Rose, New Source Section (A–3–1), Air Operations Branch, Air Management Division, EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105, Tel: (415) 974–8236, FTS 454–8236.

SUPPLEMENTARY INFORMATION: On July 28, 1983, the Deputy Director for Environmental Health, Hawaii Department of Health requested delegation of authority for certain NSPS and NESHAPS categories. Delegation of authority was granted by a letter and agreement dated August 15, 1983. The following agreement represents the terms and conditions of the delegation:

U.S. EPA–HDOH Agreement for Delegation of Authority of the Regulations for Standards of Performance for New Stationary Sources (40 CFR Part 60) and National Emission Standards for Hazardous Air Pollutants (40 CFR Part 61)

The undersigned, on behalf of the Hawaii Department of Health (HDOH) and the United States Environmental Protection Agency (U.S. EPA), hereby agrees to the delegation of authority for the implementation of 40 CFR Part 60, Standards of Performance for New Stationary Sources (NSPS) and 40 CFR Part 61, National Emission Standards for Hazardous Air Pollutants (NESHAPS) from the U.S. EPA to the HDOH, subject to the terms and conditions below.

Permits.

1. After the effective date of this Agreement, Authority to Construct permits issued by HDOH shall include appropriate provisions to ensure compliance with applicable NSPS. The categories of new or modified sources covered by this Agreement are:

a. Fossil Fuel Fired Steam Generators, Subpart D.

b. Electric Utility Steam Generator, Subpart Da.

c. Incinerators, Subpart E.

d. Portland Cement Plants, Subpart F.

e. Asphalt Concrete Plants, Subpart I.

f. Petroleum Refineries, Subpart J.

g. Storage Vessels for Petroleum Liquids Constructed after May 18, 1978, Subpart Ka.

h. Sewage Treatment Plants, Subpart O.

i. Stationary Gas Turbines, Subpart GG.

2. After the effective date of this Agreement, Authority to Construct permits issued by HDOH shall include appropriate provisions to ensure compliance with applicable NESHAPS. The category of new or modified sources covered by this Agreement is limited to mercury, Subpart E.

4. If at any time there is a conflict between a HDOH regulation and a U.S. EPA regulation (40 CFR Parts 60 and 61), the U.S. EPA regulation must be applied if it is more stringent than that of the HDOH. Exemptions authorized under HDOH's permit regulations will not exempt sources from controls required by 40 CFR Parts 60 and 61.

5. Performance tests shall be scheduled and conducted in accordance with the procedures set forth in 40 CFR Parts 60 and 61 unless alternate methods or procedures are approved by the U.S. EPA. Although the U.S. EPA retains the exclusive right to approve equivalent and alternative test methods as specified in 40 CFR 60.8(b) (2) and (3), and 61.14, the HDOH may approve minor changes in methodology provided these changes are reported to U.S. EPA. The U.S. EPA also retains the right to change an opacity standard as specified in 40 CFR 60.11(e).

a. The HDOH shall observe whenever possible required performance tests and determine compliance with NSPS/NESHAPS and maintain the following documentations for each test: (i) Source test plan and review; (ii) Source test observation report; and (iii) Source test report evaluation.

b. The HDOH shall notify U.S. EPA of all source test violations of applicable NSPS/NESHAPS within five days of completion of the HDOH's evaluation.

c. By December 31, 1983, the HDOH shall require sources to report particulate emissions in two categories: (i) Front half (filter and probe) and (ii) Front and back half (probe, filter and impingers).

d. Each quarter, the HDOH shall notify U.S. EPA of upcoming performance tests for the upcoming quarter.

e. The U.S. EPA shall provide HDOH with source test observation training by December 31, 1983.

6. Additionally, the HDOH must require reporting of all excess emissions from any NSPS source in accordance with 40 CFR 60.7(c).

7. Alternatives to continuous monitoring procedures or reporting requirements, as outlined in 40 CFR 60.13(i), may be approved by the HDOH with the prior concurrence of the U.S. EPA.

8. If a source proposes to modify its operation or facility which may cause the source to be subject to NSPS/NESHAPS requirements, or if there are questions on interpretations of the same, the HDOH shall notify U.S. EPA and obtain a determination on the applicability of the NSPS/NESHAP regulations.

Enforcement

HDOH will have primary responsibility for enforcement of the delegated NSPS/NESHAPS categories in accordance with the State's procedures and regulations.

Technical Support and Monitoring

1. HDOH air laboratory *cannot* provide any technical and monitoring support for NSPS at this time.

2. NESHAPS sampling and analysis will be the responsibility of the generator; any additional or follow-up sampling and analysis for HDOH will be done by a private laboratory under contract to HDOH.

General Delegation Conditions

1. Acceptance of this delegation of presently promulgated NSPS and NESHAPS does not commit the State to request or accept responsibility of future standards and requirements. A new request for responsibility will be required for any standards not included in 1 and 2 under *Permits*.

2. This delegation covers regulation as in effect on the date of this Agreement and revisions promulgated after the date for NSPS and NESHAPS categories identified in 1 and 2 under *Permits*. U.S. EPA will be responsible to provide HDOH with six copies of the regulations and revision thereof delegated under this Agreement. HDOH shall not be responsible for aspects of any permit for which EPA failed to provide HDOH with appropriate regulations or revisions prior to HDOH's issuance of a permit.

3. If the U.S. EPA determines that the HDOH is not implementing the NSPS or NESHAPS programs in accordance with the terms and conditions of this delegation, this delegation, after consultation with HDOH, may be revoked in whole or part. Any such revocation shall be effective as of the date specified in a Notice of Revocation to the HDOH

4. The delegation may be amended or cancelled at any time by the formal written agreement of both the HDOH and the U.S. EPA including amendments to add, change or remove conditions or terms of this Agreement.

5. Information shall be made available to the public in accordance with 40 CFR 60.9 and 61.15(b). Any records, reports, or information provided to, or otherwise obtained by, the HDOH in accordance with the provisions of these regulations shall be made available to the designated representative of U.S. EPA upon request.

6. This delegation of authority is effective upon the date of this Agreement.

Dated: July 28, 1983.

Melvin K. Koizumi,

Hawaii Department of Health.

Dated: August 15, 1983.

John Wise,

Environmental Protection Agency.

A copy of the letter requesting delegation of authority is available for public inspection at the U.S. Environmental Protection Agency, Region 9 Office, Air Management Division, Air Operations Branch, 215 Fremont Street, San Francisco, California 94105.

With respect to the State of Hawaii, all reports, applications, submittals, and other communications pertaining to the NSPS and NESHAPS source categories listed in the agreement should be directed to the HDOH at the address in the **ADDRESS** section of this notice.

The Regional Administrator finds good cause for forgoing prior public notice and for making this rulemaking effective immediately in that it is an administrative change and not one of substantive content. No additional substantive burdens are imposed on the parties affected. This delegation became effective according to the date cited in **DATES**, therefore, it serves no purpose to delay the technical change of this addition of the State address to the Code of Federal Regulations.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

This Notice is issued under the Authority of Section 111 of the Clean Air Act, as amended (42 U.S.C. 1857, *et seq.*).

Dated: September 6, 1983.

John C. Wise,

Acting Regional Administrator.

PARTS 60 AND 61—[AMENDED]

Subpart A of Parts 60 and 61 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart A—General Provisions

Sections 60.4(b)(M) and 61.04(b)(M) are each amended by adding the address of the Hawaii Department of Health to read as follows:

§§ 60.4 and 61.04 Address.

* * * * *

(b) * * *

(M) * * *

Hawaii Department of Health, 1250 Punchbowl Street, Honolulu, HI 96813

Hawaii Department of Health (mailing address), Post Office Box 3378, Honolulu, HI 96801

* * * * *

[FR Doc 83-25148 Filed 9-14-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 81

[Region II Docket No. 10; A-2-FRL 2381-3]

Designation of Areas for Air Quality Planning Purposes; Revisions to Section 107 Attainment Status Designations for Commonwealth of Puerto Rico

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice announces the Environmental Protection Agency's approval of a request from the Commonwealth of Puerto Rico to revise the air quality designation of the Guayanilla Air Basin from "does not meet secondary standards" to "better than national standards" for particulate matter. Such designations are required by Section 107(d) of the Clean Air Act and may be revised from time to time at the request of a state.

EFFECTIVE DATE: This action becomes effective September 15, 1983.

ADDRESSES: Copies of Puerto Rico's submittal and the Environmental Protection Agency's review of this material are available for public inspection during normal business hours at: U.S. Environmental Protection Agency, Air Programs Branch, Room 1005, Region II Office, 26 Federal Plaza, New York, New York 10278.

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278, (212) 264-2517.

SUPPLEMENTARY INFORMATION: Section 107(d) of the Clean Air Act directed each state to submit to the Administrator of the Environmental Protection Agency (EPA) a list of national ambient air quality standard attainment status designations for all areas within the state. EPA received such designations from the states and promulgated them on March 3, 1978 (43 FR 8962). As authorized by the Clean Air

Act, these designations have been revised from time to time at a state's request.

On January 25, 1983 the Commonwealth of Puerto Rico's Environmental Quality Board (EQB) submitted to EPA a request to revise the air quality designation of the Guayanilla Air Basin from "does not meet secondary standards" to "better than national standards" with respect to the secondary national ambient air quality standard for particulate matter.

This redesignation request and the basis for EPA's approval are described in detail in a notice of proposed rulemaking which EPA published in the April 7, 1983 issue of the **Federal Register** (48 FR 15166). In this notice EPA advised the public that, based on its review of the technical material submitted by the EQB, it was proposing to approve EQB's redesignation request. Also in its April 7, 1983 notice, EPA invited interested persons to comment on any element of the subject proposal and on whether it meets Clean Air Act requirements. No comments were received.

Based on EPA's review of the technical materials submitted by the EQB in support of its request and based on the fact that EPA has previously approved the EQB particulate matter control strategy (45 FR 72658, November 3, 1980), EPA is approving the redesignation as requested. This action is being made effective immediately because a redesignation imposes no new or additional regulatory requirements and delay would serve no useful purpose.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this action is available only by the filing of a petition for a review in the United States Court of Appeals for the appropriate circuit within sixty days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

List of Subjects In 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

(Sec. 107 and 301, Clean Air Act, as amended [42 U.S.C. 7407, 7601])

Dated: September 9, 1983.

William D. Ruckelshaus,

Administrator, Environmental Protection Agency.

PART 81—DESIGNATIONS OF AREAS FOR AIR QUALITY PLANNING PURPOSES

Title 40, Chapter I, Subchapter C; Part 81, Code of Federal Regulations is amended as follows:

Subpart C—Section 107 Attainment Status Designations

Section 81.355 is amended by amending the attainment status designation table for total suspended particulates as follows:

§ 81.355 Puerto Rico.

PUERTO RICO—TSP

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Catano Air Basin [1]	X			
Municipality of Dorado			X	
Municipality of Ponce			X	
Remainder of AQCR				X

[1] Geographic boundary is described in the text.

* * * * *

[FR Doc. 83-25150 Filed 9-14-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Parts 413, 425, 433, 465, 466, 468, and 469

[WH-FRL 2432-6]

Electroplating, Leather Tanning and Finishing, Metal Finishing, Coil Coating, Porcelain Enameling, Copper Forming and Electrical and Electronic Components—Pretreatment Standards for Existing Sources Compliance Deadline

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical amendment.

SUMMARY: This document amends various pretreatment standards for existing sources promulgated under the Clean Water Act and informs the public of a recent court order in the Clean Water Act Toxics Consent Decree case, *NRDC* v. *Ruckelshaus*, Nos. 2153–73 (and consolidated cases) (D.D.C. August 2, 1983).

DATE: These regulations shall be effective on September 15, 1983.

FOR FURTHER INFORMATION CONTACT: Linda Wilbur, Effluent Guidelines Division, (WH–552), EPA, 401 M Street SW., Washington, D.C. 20460, or by calling (202) 382–7113.

SUPPLEMENTARY INFORMATION: EPA has recently promulgated several pretreatment standards for existing sources (PSES) under the Clean Water Act, 33 U.S.C. 1251 *et seq.* Whenever the Agency promulgates such standards, it specifies a compliance deadline. In this regard, the Agency has been guided by Paragraph 10(b) of the Clean Water Act Toxics Consent Decree, *NRDC* v. *Train*, 12 ERC 1833 (D.D.C. 1979), which specified a compliance date for PSES of no later than June 30, 1984.

In several recent rulemakings, the Agency has found that existing indirect dischargers would need beyond June 30, 1984, to comply with the PSES. Both the Natural Resources Defense Council (NRDC) and EPA determined that the compliance deadline for PSES contained in paragraph 10(b) of the Decree was no longer consistent with the original intent of the parties. Accordingly, EPA and NRDC filed a joint motion to modify paragraph 10(b) of the Decree to allow EPA to specify a compliance deadline for PSES up to three years from the date such standards are promulgated. This is consistent with section 307(b) of the Clean Water Act, 33 U.S.C. 1317(b).

On August 2, 1983, the District Court granted EPA's and NRDC's joint motion. As modified, paragraph 10 of the Consent Decree now requires compliance with pretreatment standards for existing sources at the earliest possible time and in no event later than three years from the date such standards are promulgated, as specified by the Administrator. In each rulemaking EPA will make a finding supported on the record of the amount of time needed for existing indirect dischargers to comply.

In the following seven recently promulgated pretreatment standards for existing sources, the Agency determined that the industry would need beyond June 30, 1984 to comply:

Regulation	Compliance date
Leather tanning and finishing, 40 CFR 425.05, 47 FR 52848, 52872 (November 23, 1982).	Nov. 25, 1985.
Porcelain enameling, 40 CFR 466.04, 47 FR, 53172, 53185 (November 24, 1982).	Nov. 25, 1985.
Coil coating, 40 CFR 465.04, 47 FR, 54232, 54245 (December 1, 1982).	Dec. 1, 1985.
Electronic components electronic crystals subcategory, 40 CFR 469.21, 48 FR 15382, 15395 (April 8, 1983)	
TTO compliance deadline	July 1, 1984.
Arsenic compliance deadline	Nov. 8, 1985.
Copper forming, 40 CFR 468.04, 48 FR 36942, 36958 (August 15, 1983).	Aug. 15, 1986.
Electroplating/Metal Finishing, 40 CFR 413.01, 433.15, 48 FR 32462, 32482, 32487	
Electroplating PSES for Metals and Cyanide (Part 413).	April 27, 1984 (for nonintegrated plants). June 30, 1984 (for integrated plants).
Electroplating PSES (Part 413) for TTO.[2]	July 15, 1986.
Metal finishing PSES for TTO.[1]	June 30, 1984 (except for plants covered by Part 420); July 10, 1985 (for plants covered by Part 420).
Metal finishing PSES for Metals, Cyanide and TTO.[2]	Feb. 15, 1986.

[1] For these facilities the first TTO limit is based on management practices only.
[2] This TTO limit is based on management practices followed by precipitation/clarification.

In each of these cases, the Agency established a later compliance deadline for PSES and stated that this date would be effective only if the Court amended paragraph 10(b) of the Decree. Now that the Court has amended the Decree, the Agency is amending each of these standards to delete the reference to its motion to modify the Decree and avoid any confusion within the regulated community. The PSES compliance deadline for each of the standards shall be the date previously established in each of the individual rulemakings. This amendment has no effect on the compliance deadline for existing or new direct dischargers or new indirect dischargers under the Clean Water Act.

Because this is a technical amendment in full conformance with a recent court order, the Agency finds that there is good cause to promulgate these amendments without prior notice and an opportunity to comment and to make these amendments effective immediately upon publication.

Under Executive Order 12291, EPA must judge whether a regulation is major and therefore subject to the requirement for a Regulatory Impact Analysis. These technical amendments are not major because they impose no new obligation and merely recognize a recent court order. Because this is a minor technical amendment which does not affect the substance of these regulations, it was not submitted to the Office of Management and Budget for review under Executive Order 12291.

Under the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., EPA must prepare a Regulatory Flexibility Analysis for all proposed regulations that have a significant impact on a substantial number of small entities. Although these amendments are not subject to this requirement because they are not being proposed, EPA has determined that for the reasons discussed above, they do not have a significant impact on small entities.

List of Subjects

40 CFR Part 425

Leather tanning, Leather and leather products industry, Water pollution control, Waste treatment and disposal.

40 CFR Part 465

Coil coating, Metal coating and allied services, Waste treatment and disposal, Water pollution control.

40 CFR Part 466

Metal coating and allied services, Porcelain enamel, Waste treatment and disposal, Water pollution control.

40 CFR Part 468

Copper forming, Waste treatment and disposal, Water pollution control.

40 CFR Part 469

Electrical and electronic products, Electric and electronic equipment, Waste treatment and disposal, Water pollution control.

40 CFR Parts 413 and 433

Electroplating, Metals, Waste treatment and disposal, Water pollution control.

Dated: September 7, 1983.

Rebecca W. Hanmer,

Acting Assistant Administrator for Water.

PARTS 413, 425, 433, 465, 466, 468, and 469—[AMENDED]

In consideration of the foregoing the following parts are amended:

§§ 413.01, 433.15, 465.04, 466.04, and 468.04 [Amended]

1. 40 CFR 413.01(a), 433.15(f), 465.04, 466.04, 468.04, are amended by removing footnote 1.

§§ 425.05 and 469.21 [Amended]

2. 40 CFR 425.05 and 469.21 are amended by removing the following three sentences: "The Consent Decree in *NRDC* v. *Train*, 12 ERC 1833 (D.D.C. 1979) specifies a compliance date for PSES of no later than June 30, 1984. EPA will be moving for a modification of that provision of the Decree. Should the Court deny that motion, EPA will be required to modify this compliance date accordingly."

[FR Doc. 83-25132 Filed 9-14-83; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6559]

Suspension of Community Eligibility Under the National Flood Insurance Program; New Jersey et al.

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the flood plain management requirements of the program. If FEMA receives documentation that the community has adopted the required flood plain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register.**

EFFECTIVE DATES: The third date ("Susp.") listed in the fourth column.

FOR FURTHER INFORMATION CONTACT: Richard W. Krimm, Assistant Associate Director, Office of Natural and Technological Hazards Programs, (202) 287-0176, 500 C Street, Southwest, Donohoe Building—Room 506, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective

enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities are suspended on the effective date in the fourth column, so that as of that date flood insurance is no longer available in the community. However, those communities which, prior to the suspension date, adopt and submit documentation of legally enforceable flood plain management measures required by the program, will continue their eligibility for the sale of insurance. Where adequate documentation is received by FEMA, a notice withdrawing the suspension will be published in the Federal Register.

In addition, the Director of Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fifth column of the table. No direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood prone areas. (Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Director finds that notice and public procedure under 5 U.S.C. 533(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified. Each community receives a 6-month, 90 day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required flood plain management measures are met prior to the effective suspension date. For the same reasons, this final rule may take effect within less than 30 days.

Pursuant to the provision of 5 U.S.C. 605(b), the Associate Director of State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. As stated in Section 2 of the Flood Disaster Protection Act of 1973, the establishment of local flood plain management together with the availability of flood insurance decreases the economic impact of future flood losses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to (adopt) (enforce) adequate flood plain management, thus placing itself in noncompliance of the Federal standards required for community participation. In each entry, a complete chronology of effective dates appears for each listed community.

List of Subjects in 44 CFR Part 64

Flood insurance, Flood plains.

PART 64—[AMENDED]

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date certain Federal assistance no longer available in special flood and hazard area
			Region II		
New Jersey:					
Warren	Mansfield, township of	340491C	Nov. 26, 1974—Emergency	8-16-74, 10-17-75	Sept. 15, 1983
			Sept. 15, 1983—Regular	6-25-76	
			Sept. 15, 1983—Suspension		
Monmouth	Allenhurst, borough of	340283C	Apr. 10, 1975—Emergency	8-24-73-, 4-30-78	Do.
			Mar. 15, 1979—Regular	3-15-79	
			Sept. 15, 1983—Suspension		
Do	Asbury Park, city of	340285C	Nov. 6, 1974—Emergency	7-13-73, 4-30-78	Do.
			Feb. 15, 1979—Regular	2-15-79	
			Sept. 15, 1983—Suspension		
Do	Loch Arbour, village of	340306C	June 27, 1973—Emergency	11-30-73, 4-16-76	Do.
			Mar. 15, 1979—Regular	3-15-79	
			Sept. 15, 1983—Suspension		
New York:					
Nassau	Bayville, village of	360868B	Oct. 25, 1974—Emergency	5-3-74, 3-26-76	Do.
			Sept. 15, 1983—Regular		
			Sept. 15, 1983—Suspension		
Saratoga	Hadley, town of	360718B	Oct. 23, 1975—Emergency	9-13-74, 10-23-75	Do.
			Sept. 15, 1983—Regular		
			Sept. 15, 1983—Suspension		
Madison	Munnsville, village of	360407B	Mar. 16, 1976—Emergency	8-30-74, 4-30-70	Do.
			Sept. 15, 1983—Regular		
			Sept. 15, 1983—Suspension		
Oneida	Oriskany, village of	360538B	Jan. 29, 1975—Emergency	2-22-74, 7-30-76	Do.
			Sept. 15, 1983—Regular		
			Sept. 15, 1983—Suspension		
Do	Paris, town of	360539A	Aug. 6, 1975—Emergency	1-26-76	Do.
			Sept. 15, 1983—Regular		
			Sept. 15, 1983—Suspension		
Madison	Stockbridge, town of	361412A	Aug. 6, 1975—Emergency	1-3-75	Do.
			Sept. 15, 1983—Regular		
			Sept. 15, 1983—Suspension		

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date certain Federal assistance no longer available in special flood and hazard area
			Region III		
Pennsylvania: Luzerne	Exeter, township of	420606B	Jan. 19, 1983—Emergency Sept. 15, 1983—Regular Sept. 15, 1983—Suspension	6-28-74, 5-21-76	Do.
			Region IV		
South Carolina: Charleston	Palms, isle of	455416B	Sept. 4, 1970—Emergency Sept. 15, 1983—Regular Sept. 15, 1983—Suspension	4-2-71, 7-1-74 10-3-75	Do.
Alabama: Calhoun	Unincorporated areas	010013B	Sept. 22, 1975—Emergency Sept. 15, 1983—Regular Sept. 15, 1983—Suspension	11-29-74, 3-24-78	Do.
Tennessee: Gibson	Humbolt, city of	470059B	Apr. 2, 1975—Emergency Sept. 15, 1983—Regular Sept. 15, 1983—Suspension	5-3-74, 7-16-76	Do.
			Region V		
Illinois:					
Hardin	Elizabethtown, village of	170275B	July 2, 1975—Emergency Sept. 15, 1983—Regular Sept. 15, 1983—Suspension	1-16-74, 1-16-76	Do.
Williamson	Marion, city of	170719B	May 12, 1975—Emergency Sept. 15, 1983—Regular Sept. 15, 1983—Suspension	6-7-74, 5-28-76	Do.
Will	Rockdale, village of	170710B	May 27, 1975—Emergency Sept. 15, 1983—Regular Sept. 15, 1983—Suspension	3-22-74, 8-6-76	Do.
Hardin	Rosiclare, city of	170276B	July 3, 1975—Emergency Sept. 15, 1983—Regular Sept. 15, 1983—Suspension	12-17-73, 9-19-75	Do.
Ohio: Brown	Higginsport, village of	390677A	Jan. 29, 1976—Emergency Sept. 15, 1983—Regular Sept. 15, 1983—Suspension	2-7-75	Do.
Wisconsin: Columbia	Unincorporated area	550581C	July 31, 1975—Emergency Sept. 15, 1983—Regular Sept. 15m, 1983—Suspension	11-3-75, 4-15-80	Do.
			Region VI		
New Mexico:					
Bernalillo	Albuquerque, city of	350002	Sept. 9, 1974—Emergency Sept. 15, 1983—Regular Sept. 15, 1983—Suspension	12-4-79	Do.
Do	Unincorporated area	350001C	Aug. 28, 1974—Emergency Sept. 15, 1983—Regular Sept. 15, 1983—Suspension	12-20-74, 9-6-77 7-10-79, 1-31-81	Do.
Texas:					
Cameron	South Padre Island, town of	480115A	Nov. 26, 1973—Emergency Sept. 15, 1983—Regular Sept. 15, 1983—Suspension	6-7-74	Do.
Do	Unincorporated area	480101B	Aug. 14, 1970—Emergency June 15, 1979—Regular Sept. 15, 1983—Suspension	6-15-79	Do.
			Region IX		
California:					
Los Angeles	Long Beach, city of	060136B	Dec. 11, 1970—Emergency Sept. 15, 1983—Regular Sept. 15, 1983—Suspension	7-26-74, 9-15-83 7-11-78	Do.
Do	Redondo Beach, city of	060150B	Apr. 22, 1975—Emergency Sept. 15, 1983—Regular Sept. 15, 1983—Suspension	6-26-74, 5-21-76	Do.

(National Flood Insurance Act of 1968 (title XIII, Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: September 12, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-25164 Filed 9-14-83; 8:45 am]

BILLING CODE 6718-01-M

[Docket No. FEMA 6556]

44 CFR Part 64

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program; Illinois, et al.

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fourth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 3429, Bethesda, Maryland 20034. Phone: (800) 638-6620.

FOR FURTHER INFORMATION CONTACT: Richard W. Krimm, Assistant Associate Director, Office of Natural and Technological Hazards Programs, (202) 287-0176, 500 C Street, Southwest, Donohoe Building—Room 506, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fifth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Director finds that delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance."

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

List of Subject in 44 CFR Part 64

Flood insurance, Flood plains.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 64.6 List of Eligible Communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Illinois: Edwards	Browns, Village of	170226A	August 3, 1983—Emerg.	11-15-74, 6-13-80.
Kentucky: Ohio	Unincorporated Areas	210183	do.	12-2-77.
Wisconsin: Green	Monticello, Village of	550163B	May 15, 1975—Emerg. July 18, 1983—Reg. July 18, 1983—Susp. August 1, 1983—Rein.	4-18-75.
Minnesota: Marshall	Unincorporated Areas	270638B	May 15, 1974—Emerg. July 18, 1983—Reg. July 18, 1983—Susp. August 2, 1983—Rein.	3-27-81.
Pennsylvania:				
Somerset	Allegheny, Township of	422509	August 4, 1983—Emerg.	1-3-75.
Do.	Fairhope, Township of	422049	August 5, 1983—Emerg.	11-15-74.
New York: Fulton	Broadalbin, Town of	361128A	do.	9-20-74, 6-6-78.
Indiana: Elkhart	Middlebury, City of	180460B	August 17, 1983—Emerg. August 17, 1983—Reg.	9-7-79, 8-15-83.
Massachusetts: Hampshire	Easthampton, Town of	250160B	August 17, 1983—Emerg. August 17, 1983—Reg.	6-21-74, 11-4-77, 8-15-79.
Oklahoma:				
Coal	Lehigh, City of	400299	August 17, 1983—Emerg.	10-29-76.
Marshall	Unincorporated Areas	400511-NEW.	do.	Do.
Arkansas: St. Francis	Wheatley, City of	050374	do.	9-19-75.
Texas:				
Bell	Little River-Academy, City of	481579	August 23, 1983—Emerg.	Do.
Kenedy	Unincorporated Areas	481230A	August 22, 1983—Emerg.	1-17-78.
Virginia: Giles	Rich Creek, Town of	510070A	June 10, 1975—Emerg. August 15, 1978—Reg. August 15, 1978—Susp. August 22, 1983—Rein.	11-5-76.
Minnesota: Marshall	Middle River, City of	270270A	August 22, 1983—Emerg.	7-19-74.
Wisconsin: Columbia	Portage, City of	550063B	June 11, 1974—Emerg. August 15, 1983—Reg. August 15, 1983—Susp. August 26, 1983—Rein.	6-11-74, 5-9-74.
Region I				
Massachusetts: Berkshire	Adams, Town of	250016B	August 1, 1983—Suspension withdrawn	11-5-76, 10-18-74.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Vermont:				
Washington	Plainfield, Town of	500275B	do.	8-9-74, 8-27-76.
Do.	Plainfield, Village of	500119B	do.	10-15-76, 6-28-75.
Massachusetts: Plymouth	Middleborough, Town of	250275C	do.	11-1-74, 3-4-77, 9-16-81.
Region III				
Pennsylvania: Cambria	Johnstown, City of	420231C	do.	1-16-74, 9-3-76, 4-15-77.
Region II				
New York:				
Suffolk	Head-of-the-Harbor, Village of	361513B	do.	11-15-74, 7-2-76.
Greene	Lexington, Town of	360294B	do.	8-23-74, 4-23-76.
Suffolk	Poquott, Village of	361518B	do.	11-15-74, 6-25-76.
Region V				
Indiana: Grant	Jonesboro, Town of	180078C	do.	12-7-73, 7-23-76, 3-9-79.
Illinois:				
Greene	Eldred, Village of	170251	do.	5-5-81.
Calhoun	Kampsville, Village of	170735	do.	2-4-81.
Pike	Valley City, Village of	170558	do.	2-18-81.
Ohio: Franklin	Gahanna, City of	390171B	do.	5-17-74, 8-6-76.
Wisconsin:				
Green	New Glarus, Village of	550184B	do.	5-24-74, 6-11-76.
Rock	Unincorporated Areas	550383A	do.	Do.
Waukesha	Unincorporated Areas	550476B	do.	6-17-77.
Michigan: Calhoun	Emmett, Township of	260561A	do.	6-1-83.
Region VII				
Iowa: Black Hawk	Elk Run Heights, City of	190019B	do.	1-16-74, 4-16-76.
Kansas: Ellis	Ellis, City of	200095B	do.	1-9-74, 10-24-75.
Region VIII				
Utah: Salt Lake	Salt Lake City, City of	490105A	do.	12-27-74.
Region X				
Idaho: Nez Perce	Lapwai, City of	160103B	do.	8-9-74, 1-9-76.
Region II				
New Jersey:				
Warren	Allamuchy, Township of	340480B	August 15, 1983—Suspension Withdrawn	4-30-76, 5-24-74.
Hudson	Bayonne, City of	340218B	do.	9-17-76, 5-17-74.
Somerset	Bound Brook, Boro. of	340430B	do.	3-19-76, 7-13-73.
Burlington	Lumberton, Township of	340100	do.	9-26-76.
Do.	Medford, Township of	340104	do.	7-1-77.
New York:				
Albany	Altamont, Village of	360002B	do.	5-21-76, 4-12-74.
Steuben	Avoca, Town of	360764B	do.	4-14-78.
Clinton	Black Brook, Town of	361309B	do.	2-27-76, 1-10-75.
Cortland	Cortland, City of	360178C	do.	6-26-81, 2-21-75, 3-29-74.
Niagara	Porter, Town of	360510B	do.	11-19-76, 4-12-74.
Essex	Jay, Town of	360265C	do.	3-13-81, 9-3-76, 11-8-74.
New Jersey: Atlantic	Atlantic City, City of	345278D	do.	1-23-79, 1-9-76, 11-21-75, 7-1-74, 6-18-71.
Region III				
Pennsylvania:				
Adams	Franklin, Township of	421250A	do.	1-3-75.
Do.	Gettysburg, Boro. of	421243A	do.	12-13-74.
Allegheny & Washington	McDonald, Boro. of	420855B	do.	7-26-74, 5-7-76.
York	Spring Grove, Boro. of	420938B	do.	2-13-76, 5-3-74.
Virginia:				
Tazewell	Tazewell, Town of	510164B	do.	7-2-76, 5-17-74.
(Indep. City)	Poquoson, City of	510183C	do.	5-16-77, 9-24-76, 7-26-74.
Region V				
Indiana: Elkhart & Kosciusko	Nappanee, City of	180059A	do.	4-2-76.
Minnesota: Polk	Unincorporated Areas	270503B	do.	12-30-77.
Ohio:				
Brown	Aberdeen, Village of	390675A	do.	1-31-75.
Hamilton	Addyston, Village of	390205B	do.	5-21-76, 3-1-74.
Gallia	Cheshire, Village of	390186A	do.	12-20-74.
Medina	Unincorporated Areas	290376B	do.	1-10-75, 4-15-77.
Scioto	Portsmouth, City of	390496C	do.	7-27-79, 6-11-76, 5-31-74.
Meigs	Racine, Village of	390390B	do.	5-21-76, 4-5-74.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Wisconsin:				
Waukesha	Delafield, City of	550479B	do.	10-10-75, 6-7-74.
Columbia	Pardeeville, Village of	550062B	do.	4-30-76, 12-26-73.
Walworth	Unincorporated Areas	550462B	do.	5-27-77.
Illinois: Pike	Florence, Village of	170552C	do.	2-18-81, 1-30-76, 12-17-73.
Region VI				
Texas: Galveston	Galveston, City of	485480D	do.	6-12-80, 10-3-75, 7-1-74.
Region VII				
Kansas: Harvey	Unincorporated Areas	200585B	do.	3-7-78.
Montana: Missoula	Unincorporated Areas	300048B	do.	5-24-77, 6-30-74.
Idaho:				
Cassia	Unincorporated Areas	160041	do.	6-16-77.
DOCassia	Declo, City of	160044	do.	5-24-77.

(National Flood Insurance Act of 1968 (title XIII, Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 26, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: September 8, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-25163 Filed 9-14-83; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 205

[Docket No. FEMA]

Temporary Housing Assistance

AGENCY: Federal Emergency Management Agency.

ACTION: Technical amendment to final rule.

SUMMARY: This modifies the Federal Emergency Management Agency (FEMA) Regulations for the Temporary Housing Assistance program under Section 404 of the Disaster Relief Act of 1974 by adding a statement at the end of subsection (w) which indicates the approval by the Office of Management and Budget (OMB) of an information collection requirement.

DATE: The effective date of the rule is the same as the Final Rule, that is: September 16, 1983.

FOR FURTHER INFORMATION CONTACT: Sarah Wise, Individual Assistance Division, Office of Disaster Assistance Programs, State and Local Programs and Support, Federal Emergency Management Agency, 500 C Street SW., Washington, D.C. 20472, 202–287–0550

SUPPLEMENTARY INFORMATION: On July 18, 1983 (48 FR 32734), the new Temporary Housing Assistance program regulations were published with the approval of OMB, except for Section 205.52(w), which calls for the preparation of a plan and operational annex in order to evaluate the State's capability to administer the program. Under the Paperwork Reduction Act such a requirement must be approved by OMB. The request was submitted to OMB and their approval has been received. Therefore, the entire regulation will be effective.

(42 U.S.C. 5201)

Accordingly, 44 CFR 204.52(w) is revised by inserting the following at the end of section (w): ("Approved by the Office of Management and Budget under Control Number 3067–0124.")

Dated: September 8, 1983.

George Jett,

General Counsel.

[FR Doc. 83-25158 Filed 9-14-83; 8:45 am]

BILLING CODE 6718-1-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 95

[PR Docket No. 82-799]

Elimination of Individual Station Licenses in Radio Control Radio Service and in the Citizens Band Radio Service; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; Correction.

SUMMARY: The FCC adopted a Report and Order eliminating individual station licenses in the Radio Control (R/C) and Citizens Band (CB) Radio Services. These Errata are necessary in Order to correct the adopted rules to include proper form numbers and to eliminate references to a rule section in Part 0 of the Commission's Rules which has since been removed.

FOR FURTHER INFORMATION CONTACT: John J. Borkowski, Private Radio Bureau, Washington, D.C. 20554, (202) 632–4964.

Erratum

Released: September 1, 1983.

In the matter of amendment of Parts 1 and 95 of the Commission's Rules to Eliminate Individual Station Licenses in the Radio Control (R/C) Radio Service and the Citizens Band (CB) Radio Service; PR Docket No. 82–799.

On May 10, 1983, the Commission released a *Report and Order*, 48 FR 24884 (June 3, 1983) in the above captioned proceeding. In the *Report and Order*, the Commission amended § 1.912 of its rules in order to eliminate reference to the filing of Radio Control (R/C) or Citizens Band (CB) applications. Inadvertently, in making this change other recent revisions to this rule section were removed. This document corrects the wording of Section 1.912 to include these revisions.

Additionally, in revising Subparts C and D of Part 95, the Commission included reference to § 0.121 of its rules, which included a list of Field Operations Bureau offices. Section 0.121 has since been deleted from the Rules. *Order*, FCC 83–239 (Released August 10, 1983). Therefore, this document also corrects Subparts C and D of Part 95 by eliminating inappropriate references to § 0.121.

Accordingly, certain rules in 47 CFR Parts 1, and 95 adopted by the *Report and Order* and set forth in its Appendix are corrected to read as follows:

PART 1—[CORRECTED]

1. Paragraph (d) of § 1.912 of Part 1 of the Rules in the Appendix is revised to read:

§ 1.912 Where applications are to be filed.

* * * * *

(d) All formal applications for ship station licenses (FCC Forms 506 and 405–B) shall be submitted to the Commission's office, Box 1040, Gettysburg, Pennsylvania 17325. All formal applications for aircraft station licenses (FCC Forms 404 and 405–B) or for ground station authorization in the aviation service (FCC Form 406) shall be submitted to the Commission's office, Box 1030, Gettysburg, Pennsylvania 17325.

* * * * *

PART 95—[CORRECTED]

2. Paragraph (d) of § 95.208 of Part 95, Subpart C of the Rules in the Appendix is revised to read:

§ 95.208 (R/C Rule 8) How high may I put my antenna?

* * * * *

(d) If your R/C station is located near an airport, and if you antenna structure is more than 6.1 meters (20 feet) high, your may have to obey additional restrictions. The highest point of your antenna must not exceed one meter above the airport elevation for every hundred meters of distance from the nearest point of the nearest airport runway. Differences in ground elevation between your antenna and the airport runway may complicate this formula. If your R/C station is near an airport, you may contact the nearest FCC field office for a worksheet to help you figure the maximum allowable height of your antenna. Consult Part 17 of the FCC's Rules for more information.

WARNING: Installation and removal of R/C station antennas near powerlines is dangerous. For your safety, follow the installation directions included with your antenna.

3. Paragraph (a) § 95.225 of Part 95, Subpart C of the Rules in the Appendix is revised to read:

§ 95.225 (R/C Rule 25) How do I contact the FCC?

(a) Write to your nearest FCC Field Office if you:

(1) Want to report an interference complaint; OR

(2) Want to know if the FCC has type-accepted a transmitter for R/C.

* * * * *

4. Paragraph (d) of § 95.408 of Part 95, Subpart D of the Rules in the Appendix is revised to read:

§ 95.408 (CB Rule 8) How high may I put my antenna?

* * * * *

(d) If you CB station is located near an airport, and if you antenna structure is more than 6.1 meters (20 feet) high, you may have to obey additional restrictions. The highest point of your antenna must not exceed one meter above the airport elevation for every hundred meters of distance from the nearest point of the nearest airport runway. Differences in ground elevation between your antenna and the airport runway may complicate this formula. If your CB station is near an airport, you may contact the nearest FCC field office for a worksheet to help you figure the maximum allowable height of your antenna. Consult Part 17 of the FCC's Rules for more information.

WARNING: Installation and removal of CB station antennas near powerlines is dangerous. For your safety, follow the installation directions included with your antenna.

5. Paragraph (a) of § 95.428 of Part 95, Subpart D of the Rules in the Appendix is revised to read:

§ 95.428 (CB Rule 28) How do I contact the FCC?

(a) Write to your nearest FCC Field Office if you:

(1) Want to report an interference complaint; OR

(2) Want to know if the FCC has type-accepted a transmitter for CB.

* * * * *

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 83–25117 Filed 9–14–83; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 83–358; RM–4374]

FM Broadcast Stations in Juneau, Alaska; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns Channel 292A to Juneau, Alaska, as that community's third FM assignment, in response to a petition from KINY Associates.

EFFECTIVE DATE: November 7, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Juneau, Alaska) (MM Docket No. 83–358, RM–4374).

Adopted: August 23, 1983.

Released: September 7, 1983.

By the Chief, Policy and Rules Division.

1. The Commission has under consideration the *Notice of Proposed Rule Making*, 48 FR 16916, published April 20, 1983, proposing the assignment of Channel 292A to Juneau, Alaska, as that community's third FM assignment [1] in response to a petition filed by KINY Associates ("petitioner"). Petitioner submitted comments in support of the *Notice* and reaffirmed its interest in applying for the channel, if assigned. The channel can be assigned in compliance with the minimum distance separation requirements. No opposing comments were received.

2. The Commission has determined that the public interest would be served by assigning Channel 292A to Juneau, Alaska, since it could provide a third FM service to that community.

3. Canadian concurrence has been received.

4. Accordingly, pursuant to the authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, that effective November 7, 1983, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended, with respect to the following community:

City	Channel No.
Juneau, Alaska	282, 286, and 292A.

5. It is further ordered, that this proceeding is terminated.

6. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634–6530.

[1] In addition, Channels 264 and 274 have been proposed in MM Docket No. 83–228.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-25129 Filed 9-14-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-230; RM-4350]

FM Broadcast Station in Vero Beach, Florida; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns FM Channel 269A to Vero Beach, Florida, in response to a petition filed by Sunshine Broadcasting, Inc. The allocation could provide Vero Beach with its third FM assignment.

DATE: effective: November 8, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order; Proceeding Terminated

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Vero Beach, Florida), MM Docket No. 83-230, RM-4350.

Adopted: August 23, 1983.
Released: September 9, 1983.

By the Chief, Policy and Rules Division.

1. The Commission herein considers the *Notice of Proposed Rule Making*, 48 FR 14674, published April 5, 1983, issued in response to a petition filed by Sunshine Broadcasting, Inc. ("petitioner"), proposing the assignment of FM Channel 269A to Vero Beach, Florida, as that community's third assignment. Supporting comments were filed by petitioner in which it reaffirmed its intention to apply for the channel, if assigned. No oppositions to the proposal were received.

2. The *Notice* specified that the proposed assignment of Channel 269A to Vero Beach was contingent upon the Commission's favorable action on a pending application by Southland Broadcasting, Inc., licensee of FM Station WCKS (Channel 266), Cocoa Beach, Florida, to relocate its transmitter. Otherwise, the Vero Beach proposal would be 12 miles short-spaced to Station WCKS in contravention of § 73.207 of the Commission's Rules. On April 25, 1983, the Commission granted Station WCKS a construction permit to relocate its facilities, thereby eliminating this obstacle to the assignment of Channel 269A to Vero Beach. As petitioner has recognized in its comments, it cannot commence operation on proposed Channel 269A at Vero Beach, until Station WCKS has completed its relocation at Cocoa Beach, Florida.

3. In view of the fact that the proposed assignment could provide a third FM service at Vero Beach, Florida, the Commission believes that the public interest would be served by the assignment of Channel 269A to that community.

4. Accordingly, pursuant to the authority contained in 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's rules, it is ordered, that effective November 8, 1983, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended, as follows:

§ 73.202 [Amended]

City	Channel No.
Vero Beach, Fla.	226A, 269A, 288A

5. It is further ordered, That this proceeding is terminated.

6. For further information concerning the above, contact Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

[FR. Doc. 83-25118 Filed 9-14-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-156; RM-4325]

FM Broadcast Station in Woodville, Mississippi; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns Channel 240A to Woodville, Mississippi, in response to a petition filed by Wilkinson Broadcasting Company of Mississippi. The assignment could provide a first FM service to that community.

EFFECTIVE DATE: November 7, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order; Proceeding Terminated

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Woodville, Mississippi) MM Docket No. 83-156, RM-4325.

Adopted: August 23, 1983.
Released: September 7, 1983.

By the Chief, Policy and Rules Division.

1. Before the Commission is the *Notice of Proposed Rule Making*, 48 FR 11470, published March 18, 1983, proposing the assignment of Channel 240A to Woodville, Mississippi, in response to a petition filed by Wilkinson Broadcasting Company of Mississippi. Petitioner submitted comments in support of the *Notice* and expressed its continuing interest in the channel assignment. The channel can be assigned in compliance with the minimum distance separation requirements. No opposing comments were received.

2. The Commission has determined that the public interest would be served by assigning FM Channel 240A to Woodville, Mississippi, since it could provide a first local FM broadcast service to that community.

3. Accordingly, pursuant to the authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, that effective November 7, 1983, the FM Table of Assignments, § 73.202(b) of the Rules, is amended, with respect to the following community.

City	Channel No.
Woodville, Miss.	240A

4. It is further ordered, that this proceeding is terminated.

For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-25125 Filed 9-14-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-359; RM-4375]

FM Broadcast Station in Baker, Montana; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action substitutes Class C Channel 263 for Channel 265A in Baker, Montana, and modifies the permit for Station KFLN–FM accordingly, in response to a petition filed by the permittee, Empire Broadcasting Corporation.

EFFECTIVE DATE: November 8, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Baker, Montana) (MM Docket No. 83–359, RM–4375).

Adopted: August 23, 1983.
Released: September 9, 1983.

By the Chief, Policy and Rules Division

1. The Commission has under consideration the *Notice of Proposed Rule Making*, 48 FR 16923, published April 20, 1983, proposing the substitution of Class C Channel 263 for Channel 265A at Baker, Montana, in response to a petition filed by Empire Broadcasting Corporation ("petitioner"), permittee of Station KFLN–FM. The *Notice* also proposed modification of the permit for Channel 265A to specify operation on Class C Channel 263. Petitioner filed comments in support of the *Notice* and reaffirmed its interest in the Class C channel. No opposing comments were received.

2. After careful consideration of the proposal, we believe that the public interest would be served by the substitution of the Class C for the Class A channel inasmuch as it would provide service to a larger area. We have authorized in paragraph 5, herein, a modification of the petitioner's permit for Station KFLN–FM to specify operation on Channel 263 since there were no other expressions of interest in the Class C channel. See *Cheyenne, Wyoming*, 62 F.C.C. 2d 63 (1976).

3. Canadian concurrence has been received.

4. In view of the foregoing and pursuant to the authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.61, 0.204(b), and 0.283 of the Commission's Rules, it is ordered, that effective November 8, 1983, the FM Table of Assignments, § 73.202(b) of the Rules, is amended with respect to the following community:

City	Channel No.
Baker, Montana	263

5. It is further ordered, that pursuant to section 316(a) of the Communications Act of 1934, as amended, the outstanding permit held by Empire Broadcasting Corporation for Station KFLN(FM), Baker, Montana, is modified, effective November 8, 1983, to specify operation on Channel 263 instead of Channel 265A. Station KFLN–FM may continue to operate on Channel 265A for one year from the effective date of this action or until it is ready to operate on Channel 263, whichever is earlier, unless the Commission sooner directs, subject to the following:

(a) The licensee shall file with the Commission a minor change application for a construction permit (Form 301) specifying the new facilities.

(b) Upon grant of the construction permit, program tests may be conducted in accordance with § 73.1620.

(c) Nothing contained herein shall be construed to authorize a major change in transmitter location or to avoid the necessity of filing an environmental impact statement pursuant to § 1.1301 of the Commission's Rules.

6. It is further ordered, that this proceeding is terminated.

7. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634–6530.

(Secs. 4, 303, 48 stat., as amended 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-25130 Filed 9-14-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-82; RM-4264]

FM Broadcast Station Kearney, Nebraska; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; Correction.

SUMMARY: Action taken herein corrects the *Report and Order* issued in the proceeding, 48 FR 34756, published August 1, 1983, assigning Channel 272A to Kearney, Nebraska, as its third FM assignment. The amendatory clause thereof inadvertently failed to reflect the full complement of FM channels assigned to that community.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Erratum

In the Matter of amendment of § 73.202(b), Table of Amendments, FM Broadcast Stations (Kearney, Nebraska) MM Docket No. 83–82, RM–4264.

By the Chief, Policy and Rules Division.

On July 21, 1983, the Commission adopted a *Report and Order* (48 FR 34756, published August 1, 1983) in the above-entitled proceeding assigning Channel 272A to Kearney, Nebraska, as that community's third FM assignment. The amendatory clause thereof, contained in paragraph 3, inadvertently omitted the full complement of FM channels assigned to Kearney. Therefore, that listing is hereby corrected as follows:

City	Channel No.
Kearney, Nebr.	255, 272A, 290.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-25124 Filed 9-14-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-232; RM-4321]

FM Broadcast Station in Reno, Nevada; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns a fifth FM channel to Reno, Nevada, in response to a petition filed by Millard V. Oakley.

EFFECTIVE DATE: November 7, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order; Proceeding Terminated

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Reno, Nevada) MM Docket No. 83-232, RM-4321.

Adopted: August 23, 1983.
Released: September 7, 1983.

By the Chief, Policy and Rules Division.

1. Before the Commission is the *Notice of Proposed Rule Making*, 48 FR 15665, published April 12, 1983, proposing the assignment of Channel 272A to Reno, Nevada. The *Notice* was issued in response to a petition filed by Millard V. Oakley ("petitioner"). Comments were filed by the petitioner, restating his intention to apply for the channel, if assigned.

2. The Commission believes that the public interest would be served by the assignment since it could provide Reno with its fifth FM service. The channel can be assigned in compliance with the minimum separation requirements.

3. Accordingly, in view of the above, it is ordered, that effective November 7, 1983, § 73.202(b) of the Commission's Rules, the FM Table of Assignments, is amended with regard to the following community:

City	Channel No.
Reno, Nev.	238,272A, 283, 289, 295.

4. Authority for this action is contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b), and 0.283 of the Commission's Rules.

5. It is further ordered, that this proceeding is terminated.

6. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau (202) 634-6530.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick R. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-25127 Filed 9-14-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-32; RM-4236]

FM Broadcast Stations in Carlsbad, New Mexico; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns FM Channel 281 to Carlsbad, New Mexico, in response to a petition by KOLOB Broadcasting, Inc.

EFFECTIVE DATE: November 7, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order; Proceeding Terminated

In the matter of amendment of § 73.202(b), table of assignments, FM Broadcast Stations (Carlsbad, New Mexico) MM Docket No. 83-32, RM-4236.

By the Chief, Policy and Rules Division.

1. The Commission herein considers the *Notice of Proposed Rule Making*, 48 FR 5975, published February 9, 1983, proposing the assignment of Class C FM Channel 281 to Carlsbad, New Mexico, as that community's second FM assignment, in response to a petition filed by KOLOB Broadcasting, Inc. ("petitioner"). Petitioner filed comments in support of the *Notice* and expressed its continuing interest in applying for Class C Channel 281, if assigned. The channel can be assigned in compliance with the minimum distance separation requirements.

2. Mexican concurrence has been received.

3. The Commission has determined that the public interest would be served by assigned Class C Channel 281 to Carlsbad, New Mexico, since it would provide a second local FM service to that community.

4. Accordingly, pursuant to the authority contained in sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective November 7, 1983, the FM Table of Assignments, § 73.202(b) of the Rules, is amended, with repect to the following community:

§ 73.202 [Amended]

City	Channel No.
Carlsbad, N. Mex.	221A, 281.

5. It is further ordered, that this proceeding is terminated.

6. For further information concerning this proceeding, contact mark N. Lipp, Mass Media Bureau (202) 634-6530.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-25129 Filed 9-14-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR PART 73

[MM Docket 83-235; RM-4318]

FM Broadcast Station in Carrington, North Dakota; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein substitutes Channel 252A for Channel 249A at Carrington, North Dakota, in response to a petition filed by Northwestern College.

EFFECTIVE DATE: November 8, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order; Proceeding Terminated

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Carrington, North Dakota) MM Docket 83-235, RM-4318.

Adopted: August 23, 1983.

Released: September 9, 1983.

By the Chief, Policy and Rules Division.

1. The Commission herein considers the *Notice of Proposed Rule Making*, 48 FR 14688, published April 5, 1983, in response to a petition filed by Northwestern College ("petitioner").[1] The *Notice* proposed substituting Channel 252A for Channel 249A at Carrington, North Dakota. The petitioner filed comments in support of its request. No oppositions to the proposal were received.

2. Canadian concurrence has been obtained for the assignment of Channel 252A to Carrington. The channel can be assigned in compliance with the minimum distance separation requirements.

3. We have concluded that the public interest would be served by the adoption of the proposed substitution of channels at Carrington. Petitioner intends to move its station's transmitter site and the substitution would avoid short-spacing from its station on Channel 250 at Fargo, North Dakota, to the Carrington allocation. Recently, a construction permit was granted at Carrington on Channel 249A to Carrington Broadcasting, Inc. Petitioner has offered reimbursement to this permittee for expenses already incurred. As stated in the *Notice*, the Commission takes no position on petitioner's willingness to reimburse the permittee of Channel 252A for such expenses since at the time of the *Notice*, the permittee was aware of the proposal and under no obligation to incur expenses in constructing the station. We view the reimbursement offer as a private matter between the affected parties.

4. Accordingly, pursuant to the authority found in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, that effective November 8, 1983, the FM Table of Assignments, § 73.202(b) of the Rules, is amended with respect to the community listed below:

§ 73.202 [Amended]

City	Channel No.
Carrington, North Dakota	252A.

5. It is further ordered, that this proceeding is terminated.

6. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634–6530.

[1] Northwestern College is the licensee of Station KFNW–FM (Channel 250), at Fargo, North Dakota.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau

[FR Doc. 83-25119 Filed 9-14-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-155; RM-4287]

FM Broadcast Station in Benton, Pennsylvania; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns Channel 240A to Benton, Pennsylvania, as its first FM channel, in response to a petition filed by Lynn A. Deppen.

EFFECTIVE DATE: November 7, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Benton, Pennsylvania) MM Docket No. 83–155, RM–4287.

Report and Order; Proceeding Terminated

Adopted: August 23, 1983.

Released: September 7, 1983.

By the Chief, Policy and Rules Division.

1. Before the Commission is the *Notice of Proposed Rule Making*, 48, FR 11472, published March 18, 1983, proposing the assignment of Channel 240A to Benton, Pennsylvania. The *Notice* was issued in response to a petition filed by Lynn A. Deppen ("petitioner"). Comments were filed by the petitioner restating an interest in the channel, if assigned.

2. Canadian concurrence has been obtained in the assignment of Channel 240A to Benton, Pennsylvania. The channel can be assigned in compliance with the minimum distance separation requirements.

3. In view of the fact that Benton could receive its first broadcast service and pursuant to the authority contained in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 204(b) and 0.283 of the Commission's Rules, it is ordered, that effective November 7, 1983, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended, with respect to the following city:

City	Channel No.
Benton, Pa.	240A.

4. It is further ordered, that this proceeding is terminated.

5. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Roderick K. Porter,

Chief, Allocations Branch, Mass Media Bureau.

[FR Doc. 83-25123 Filed 9-14-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-233; RM-4315]

FM Broadcast Station in Dimmit, Texas; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns Channel 240A to Dimmit, Texas, as its first FM channel, in response to a petition filed by JLP Media, Inc.

EFFECTIVE DATE: November 7, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and order; Proceeding Terminated

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Dimmit, Texas) MM Docket No. 83–233, RM–4315.

Adopted: August 23, 1983.

Released: September 7, 1983.

By the Chief, Policy and Rules Division.

1. In response to a petition filed by JLP Media, Inc. ("petitioner"), the Commission adopted a *Notice of Proposed Rule Making*, 48 FR 14690, published April 5, 1983, proposing the assignment of Channel 240A to Dimmit, Texas, as its first FM service. Comments were filed by the petitioner reiterating

its intention to apply for the channel, if assigned.

2. The Commission believes that the public interest would be served by the assignment of Channel 240A to Dimmit since it could provide that community with its first FM station. The channel can be assigned in compliance with the minimum distance separation requirements.

3. In view of the above and pursuant to authority contained in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective November 7, 1983, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended with regard to the following city:

City	Channel No.
Dimmit, Tex.	240A.

4. It is further ordered, that this proceeding is terminated.

5. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634–6530.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83–25128 Filed 9–14–83; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 83–238; RM–4348]

FM Broadcast Station in Galveston, Texas; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns Channel 285A to Galveston, Texas, as its second FM assignment, in response to a petition filed by William T. Conner.

EFFECTIVE DATE: November 7, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order; Proceeding Terminated

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Galveston, Texas) MM Docket No. 83–238, RM–4348.

Adopted: August 23, 1983.
Released: September 7, 1983.

By the Chief, Policy and Rules Division.

1. The Commission has under consideration the *Notice of Proposed Rule Making*, 48 FR 14698, published April 5, 1983, proposing the assignment of Channel 285A to Galveston, Texas, as its second FM assignment, in response to a petition filed by William T. Conner ("petitioner"). Petitioner submitted information in support of the *Notice* and reaffirmed his interest in applying for the channel, if assigned. A site restriction of 4.4 miles northeast of Galveston is required to avoid short-spacing to Station KFRD(FM), Channel 285A, in Rosenberg, Texas. No opposing comments were received.

2. The Commission has determined that the public interest would be served by assigning Channel 285A to Galveston, Texas, since it could provide a second FM broadcast service to that community.

3. Accordingly, pursuant to the authority contained in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective November 7, 1983, § 73.202(b) of the Commission's Rules is amended with respect to the following community:

City	Channel No.
Galveston, Tex.	285A, 293.

4. It is further ordered, that this proceeding is terminated.

5. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634–6530.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83–25129 Filed 9–14–83; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 83–76; RM–4256]

Television Broadcast Station in Anchorage, Alaska; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action dismisses a proposal to assign UHF television Channel 44 to Anchorage, Alaska. The rule making is dismissed due to lack of interest by the petitioner, Triangulum Corporation, or other interested parties.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations (Anchorage, Alaska), MM Docket No. 83–76, RM–4256.

Adopted: August 23, 1983.
Released: September 7, 1983.

By: the Chief, Policy and Rules Division.

1. Before the Commission is the *Notice of Proposed Rule Making*, 48 FR 7753, published February 24, 1983, proposing the assignment of UHF television Channel 44 to Anchorage, Alaska, in response to a petition filed by Triangulum Corporation.

2. The Commission did not receive comments from the petitioner (or any other interested party), and consistent with our policy and procedures set forth in the Appendix to the *Notice*, we have dismissed the request for lack of continuing interest.

3. In view of the foregoing, it is ordered, That the petition of Triangulum Corporation, proposing the assignment of UHF television Channel 44 to Anchorage, Alaska, is hereby dismissed.

4. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634–6530.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83–25121 Filed 9–14–83; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 83-79; RM-4282]

TV Broadcast Stations in Fairbanks, Alaska; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action dismisses a proposal to assign UHF television Channel 30 to Fairbanks, Alaska. The rule making is dismissed due to lack of interest by the petitioner, Triangulum Corporation, or other interested parties.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Report and Order

(Proceeding Terminated)

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations (Fairbanks, Alaska), MM Docket No. 83-79, RM-4282.

Adopted: August 23, 1983.
Released: September 7, 1983.

By the Chief, Policy and Rules Division.

1. Before the Commission is the Notice of Proposed Rule Making, 48 FR 7754, published February 24, 1983, proposing the assignment of UHF television Channel 30 to Fairbanks, Alaska, in response to a petition filed by Triangulum Corporation.

2. The Commission did not receive comments from the petitioner (or any other interested parties), and consistent with our policy and procedures set forth in the Appendix to the Notice, we have dismissed the request for lack of continuing interest.

3. In view of the foregoing, it is ordered, that the petition of Triangulum Corporation, proposing the assignment of UHF television Channel 30 to Fairbanks, Alaska, is hereby dismissed.

4. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-25122 Filed 9-14-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Parts 73 and 74

Oversight of the Radio and TV Broadcast Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Order amends broadcast stations regulations in 47 CFR Parts 73 and 74 of the rules of the FCC. Amendments are made to delete regulations that are no longer necessary, correct inaccurate rule texts, contemporize certain requirements and to execute editorial revisions as needed for purposes of clarity and ease of understanding.

EFFECTIVE DATE: September 23, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Steve Crane, Mass Media Bureau, (202) 632-5414.

List of Subjects in 47 CFR Parts 73 and 74

Radio, Television broadcasting.

Order

In the matter of oversight of the Radio and TV Broadcast Rules.

Adopted: August 23, 1983.
Released: September 9, 1983.

By the Chief, Mass Media Bureau.

1. In this *Order*, the Commission focuses its attention on the oversight of its radio and TV broadcast rules. Modifications are made herein to update, delete, clarify or correct broadcast regulations as described in the following amendment summaries:

(a) In § 73.51, Determining operating power, paragraph (c)(2)(ii) directs the rule user to certain equipment performance measurement specifications "in § 73.47." This reference is incorrect. On January 13, 1982, the Commission adopted an Order in which §§ 73.47, 73.254 and 73.554, pertaining to equipment performance measurements for AM, FM and NCE-FM radio plus the TV requirements for such measurements (found only in Forms 302 and 341) were combined into one new rule and designated § 73.1590. The cross reference to § 73.47 found in § 73.51 (c)(2)(ii) is corrected to read § 73.1590. (See appendix item 1.)

(b) In § 73.684, Prediction of coverage, a phrase pertaining to height assumption is missing from paragraph (f). This same phrase was added to § 73.313, Prediction of coverage, in the FM rules in the Order adopted August 24, 1982. 47 FR 40170, September 13, 1982. It pertains to an assumption of 100 feet that may be made in directions where terrain is such that negative antenna heights or heights below 100 feet are obtained. It further requires a supplemental showing where such assumption is made and the actual contour distances are critical factors. The missing phrase, shown here in *italics*, is added via this Order.

"In direction where the terrain is such that negative antenna heights or heights below 100 feet for the 2 to 10 mile sector are obtained, *an assumed height of 100 feet shall be used for the prediction of coverage. However, where the actual contour distances are critical factors, a supplemental showing* * * *". (See appendix item 2.)

(c) In the Reregulation Order adopted March 27, 1980, 77 FCC 2d 251, the section title of § 74.751 was changed from "Equipment changes" to "Modification of transmission systems." This rule was again modified in the Report and Order in the Low Power TV proceeding, BC Docket 78-253, 47 FR 21468, May 18, 1982. Through inadvertence, § 74.751 was designated in the LPTV Report and Order as "Equipment Changes" rather than the new title adopted in 1980, "Modification of transmission systems." Correction is made herein. (See appendix item 3.)

(d) Further amendment is made to § 74.751 (see paragraph (c) above) and in so doing eliminates unnecessary, burdensome requirements. This rule defines certain equipment changes which require prior FCC authorization, and further states that such changes which do not require prior authorization, may be made at the licensee's discretion provided the FCC is given written notification upon completion of such change. The part of the rule requiring notification (paragraph c) further requires:

that the changes are appropriately reflected in the next application for renewal of the station license.

This is a needless repetition. The notification after discretionary changes amply conforms to FCC information requirements so further reporting of the same information with the renewal application is unnecessary and is eliminated via this Order. (See appendix item 3.)

(e) The alphabetical index to Part 73 is amended as follows:

(i) deleted are the following listings:

Changes, Transmission standards and (TV)	73.682
Transmission standards and changes (TV)	73.682
Standards and changes, Transmission (TV)	73.682

(ii) Added in proper alphabetical sequence are the following listings:

Transmission standards (TV)	73.682
Standards, Transmission (TV)	73.682
Subsidiary communications services:	
FM	73.295
NCE-FM	73.593

(See appendix items 4 and 5.)

(f) The alphabetical index to Part 74 is amended as follows:

(i) added in proper alphabetical sequence, are the following listings:

Avoidance of interference (TV auxiliaries)	74.604
Interference avoidance (TV auxiliaries)	74.604
Modification of transmission systems:	
LPTV/TV translators	74.751
ITFS	74.951
FM Translators/Boosters	74.1251
Transmission systems, Modification of:	
LPTV/TV translators	74.751
ITFS	74.951
FM Translators/Boosters	74.1251

(ii) deleted are the following listings:

Under "Changes of equipment,"	
LPTV/TV translators	74.751
ITFS	74.951
FM Translators/Boosters	74.1251
Under "Equipment Changes,"	
LPTV/TV translators	74.751
ITFS	74.951
FM Translators/Boosters	74.1251

(See appendix items 6 and 7.)

2. No substantive changes are made herein which impose additional burdens or remove provisions relied upon by licensees or the public. We conclude, for the reasons set forth above, that these revisions will serve the public interest.

3. These amendments are implemented by authority designated by the Commission to the Chief, Mass Media Bureau. Inasmuch as these amendments impose no additional burdens and raise no issue upon which comments would serve any useful purpose, prior notice of rule making, effective date provisions and public procedure thereon are unnecessary pursuant to the Administrative Procedure and Judicial Review Act provisions of 5 U.S.C. 553(b)(3)(B).

4. Since a general notice of proposed rulemaking is not required, the Regulatory Flexibility Act does not apply.

5. Therefore, it is ordered, that pursuant to Sections 4(i), 303(r) and 5(d)(1) of the Communications Act of 1934, as amended, and §§ 0.61 and 0.283 of the Commission's Rules, Parts 73 and 74 of the FCC Rules and Regulations are amended as set forth in the attached appendix, effective September 23, 1983.

6. For further information on this *Order*, contact Steve Crane, (202) 632-5414, Mass Media Bureau.

Federal Communications Commission.

James C. McKinney,

Chief, Mass Media Bureau.

Appendix

PART 73—[AMENDED]

1. 47 CFR 73.51 is amended by revising paragraph (c)(2)(ii) as follows:

§ 73.51 Determining operating power.

* * * * * *

(c) * * *

(2) * * *

(ii) Where the proposed transmitter power output level(s) is less than 90% of nominal power, equipment performance measurements, as specified in § 73.1590, conducted at each proposed power output level; in addition the measurements and observations required by § 73.1590(b)(1) (i), (ii), (iii), (iv) and (v) for power output levels 10% above and 10% below the proposed output level(s), but at a modulation level of 95 to 100% only. Such measurements must demonstrate that, operating at the proposed power output level(s), the transmitter meets the performance requirements of § 73.40.

* * * * *

2. 47 CFR 73.684 is amended by revising paragraph (f) to read as follows:

§ 73.684 Predicting coverage.

* * * * *

(f) In cases where the terrain in one or more directions from the antenna site departs widely from the average elevation of the 2 to 10 mile sector, the prediction method may indicate contour distances that are different from what may be expected in practice. For example, a mountain ridge may indicate the practical limit of service although the prediction method may indicate otherwise. In such cases the prediction method should be followed, but a supplemental showing may be made concerning the contour distances as determined by other means. Such supplemental showing should describe the procedure employed and should include sample calculations. Maps of predicted coverage should include both the coverage as predicted by the regular method and as predicted by a supplemental method. When measurements of area are required, these should include the area obtained by the regular predicted method and the area obtained by the supplemental method. In directions where the terrain is such that negative antenna heights or heights below 100 feet for the 2 to 100 mile sector are obtained, an assumed height of 10 feet shall be used for the prediction of coverage. However, where the actual contour distances are critical factors, a supplemental showing of expected coverage must be included together with a description of the method employed in predicting such coverage. In special cases, the Commission may require additional information as to terrain and coverage.

* * * * *

PART 74—[AMENDED]

3. 47 CFR 74.751 is amended by revising the section headnote and paragraph (c) to read as follows:

§ 74.751 Modification of transmission systems.

* * * * *

(c) Other equipment changes not specifically referred to in paragraphs (a) and (b) of this section may be made at the discretion of the licensee, provided that the FCC in Washington, D.C. is notified in writing upon completion of such changes.

4. In 47 CFR, the Part 73 Alphabetical Index is amended by adding the following listings in their appropriate alphabetical sequence:

Standards, Transmission (TV)	73.682
Subsidiary Communications Services:	
FM	73.295
NCE-FM	73.593
Transmission standards	73.682

5. In 47 CFR, the Part 73 alphabetical Index is amended by removing the following listings:

Changes, Transmission standards and (TV)	73.682
Standards and Changes, Transmission (TV)	73.682
Transmission standards and Changes (TV)	73.682

6. In 47 CFR, the Part 74 Alphabetical Index is amended by adding the following listings in their appropriate alphabetical sequence:

Avoidance of interference (TV auxiliaries)	74.604
Interference avoidance (TV auxiliaries)	74.604
Modification of transmission systems:	
LPTV/TV translators	74.751
ITSF	74.951
FM Translators/Boosters	74.1251
Transmission systems, Modification of:	
LPTV/TV translators	74.751
ITFS	74.951
FM Translators/Boosters	74.1251

7. In 47 CFR, the Part 74 Alphabetical Index is amended by removing the following listings:

Under "Changes of equipment,"	
LPTV/TV translators	74.751
ITFS	74.951
FM Translators/Boosters	74.1251

[FR Doc. 83-25109 Filed 9-14-83; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

[Docket No. 30511-84]

Foreign Fishing; Groundfish of the Bering Sea and Aleutian Islands Area; Correction

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; correction.

SUMMARY: This document corrects a reference to the prohibited species catch (PSC) limits that were established for the Bering Sea and Aleutian Islands area foreign trawl fishery. The PSC limits and the associated management regime for prohibited species were set forth in the final rule implementing Amendment 3 to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (48 FR 24719, June 2, 1983).

FOR FURTHER INFORMATION CONTACT: Susan J. Salverson (Regional Plan Coordinator), 907-586-7229.

Dated: September 8, 1983.

William G. Gordon,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

The following correction is made in FR Doc. 83-14771 appearing on page 24721 in the issue of June 2, 1983:

§ 611.93 [Corrected]

On page 24721, in paragraph (e)(2)(iii), the references to "(c)(2)(iii)(D)" are changed to "(c)(2)(ii)(D)."

[FR Doc. 83-25272 Filed 9-14-83; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 48, No. 180
Thursday, September 15, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Packers and Stockyards Administration

9 CFR Parts 201 and 203

Purchase of Livestock by Packers for Export

AGENCY: Packers and Stockyards Administration, USDA.

ACTION: Notice of proposed rulemaking; Review of existing regulations.

SUMMARY: This notice proposes to remove one policy statement concerning the purchase of livestock by packers for export. This proposal would revise the regulation currently prohibiting packers and dealers from owning or financing selling agencies and rescind the regulation concerning packer ownership of dealers or market agencies buying on commission. The regulation prohibiting exchange of buying information for the purpose of restricting competition, the regulation requiring packers and dealers in competition for the purchase of livestock to conduct their operations independently of one another, and the regulation prescribing terms and conditions of credit sales of livestock to packers would be retained in their present form.

Five policy statements, all pertaining to meat packers, would be retained in their current form under this proposal. A new policy statement with respect to packers engaging in livestock dealing or buying agency activities is proposed.

DATES: Comments must be received on or before November 14, 1983.

ADDRESS: Comments may be mailed to the Administrator, Packers and Stockyards Administration, Room 3039, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. Comments received may be inspected during normal business hours in the office of Administrator.

FOR FURTHER INFORMATION CONTACT: Harold Davis, Director, Livestock Marketing Division, phone (202) 447–6951, or Kenneth Stricklin, Director, Packer and Poultry Division, phone (202) 447–7363.

SUPPLEMENTARY INFORMATION: This is the fifth group of regulations and policy statements selected for review as set forth in the Revised Plan of Review published in the **Federal Register** (46 FR 35279) by the Packers and Stockyards Administration in July 1981.

In developing this proposal, consideration has been given to the comments filed in response to two earlier publications in the **Federal Register** (44 FR 71802; 45 FR 21168) which outlined the agency's initial plan for review of the existing regulations and policy statements. Consideration has also been given to the recommendations of an internal agency task force which were widely circulated to the livestock, meat, and poultry industries and to the comments received from industry groups and individuals as a result of the circulation of the task force report.

The following proposal would remove regulation § 201.68 (9 CFR 201.68) and policy statement § 203.6 (9 CFR 203.6). Changes are proposed in regulation § 201.67 (9 CFR 201.67) and a new policy statement § 203.19 is proposed regarding packers engaging in livestock dealing or buying agency activities. No changes are proposed to regulations §§ 201.66(a), 201.69, 201.70, and 201.200 (9 CFR 201.66(a), 201.69, 201.70, and 201.200) and policy statements §§ 203.2, 203.7, 203.14, 203.15, and 203.16 (9 CFR 203.2, 203.7, 203.14, 203.15, and 203.16).

Market Agencies Not To Employ Packers

Paragraph (a) of § 201.66 would be retained in its current form. Market agencies selling on commission are prohibited by this regulation from employing a packer, or any person employed by a packer to purchase livestock, to provide any of the market agency's services. Packers, or persons employed by packers to purchase livestock for slaughter, are actual or potential livestock buyers at such market agencies. As such, the market agency selling on commission and the packer or the packer's employed livestock buyer have conflicting interests which are best resolved through the maintenance of an arm's length relationship.

Packer-Dealer Ownership of Selling Agencies.

This notice proposes to amend regulation § 201.67 by removing all reference to dealers owning or financing a market agency selling on commission. The Packers and Stockyards Administration has followed a consistent policy, since Congress broadened the Act in 1958, of accepting dual registration of selling agencies and dealers with the stipulation that no purchases on a dealer basis will be made from consignments to the market agency. This stipulation reinforces the prohibition of proposed regulation § 201.56, which restricts selling agencies from speculating in consigned livestock or having a financial interest in any livestock purchased by another from consignment for speculative resale. The proposed change in regulation § 201.67 will recognize and clarify the Administration's enforcement policy and effectuate the purposes of the Act.

Packer Ownership of Livestock Dealers or Buying Agencies

The 1971 amendments to regulation § 201.68 required the complete business and financial separation of packers, their officers, agents and employees, and persons owning a substantial interest in a packer, from the ownership and/or control of those engaged in the business of purchasing livestock as a dealer or as a market agency. The basic purpose of the 1971 changes was to assure competitive marketing conditions for livestock, thereby avoiding conflict of interest situations and other competitive restraints whch adversely affect livestock producers.

Since that time, the Administration has reviewed and approved certain joint ownership arrangements where no evidence of conflict of interest existed or where the conflict was removed and where the arrangement was not considered harmful to competition.

As a result of these reviews and investigations, the Administration proposes to remove this regulation and add a policy statement § 203.19 to clarify the manner in which the Act will be enforced with regard to such relationships.

Furnishing Information to Competitors

Regulations § 201.69 currently prohibits packers, dealers, and market

agencies buying on commission, from exchanging buying information for the purpose of restricting competiton. No change is proposed in this regulation. This regulation mirrors prohibitions of the antitrust laws and the Packers and Stockyards Act and reinforces the fundamental competitive requirements of the Act.

Competitive Relationships

This proposal would retain regulation § 201.70 in its current form. This regulation sets forth the Packers and Stockyards Administration's position with respect to competition between packers and dealers engaged in purchasing livestock and require that competitors for the purchase of livestock conduct their operations independently and without collusion.

Sale of Livestock to a Packer on Credit

The Administration proposes no change in regulation §201.200. Regulation §201.200 prescribes the terms and conditions under which parties to the purchase and sale of livestock for slaughter may expressly agree in writing to effect payment in a manner other than as required in the prompt payment provisions of the Act. Regulations §201.200, which complements both section 409 (prompt pay) and section 206 of the Act (packer trust), applies to packers whose average annual purchases of livestock exceed $500,000 and to any dealer or market agency acting as an agent for such packer. In a sale of livestock to a packer, an express agreement to extend credit by the seller results in the exclusion of the seller from the benefits of the statutory trust provisions of the Act. For this reason, it would be unfair and deceptive for a packer or a dealer, or market agency buying for a packer, to purchase livestock on credit without the seller expressly agreeing in writing to such credit arrangement and being fully informed of the rights and benefits such seller waives when credit is thereby expressly extended.

Meat Packer Inducement to Government Employees

This proposal would retain policy statement §203.2. The impropriety and implication of fraud and wrong-doing in the giving or offering of gifts and gratuities by packers to Government employees or the soliciting or accepting of such gifts and gratuities by Government employees is fundamental. The Administration proposes to retain this policy statement in its present form to reinforce established standards of ethical conduct.

Packer Purchase of Livestock for Export

Policy statement §203.19, as proposed by this notice, would permit the purchase of livestock by packers for export. Therefore, the useful life of policy statement §203.6 has expired. Deletion of policy statement §203.6 is not intended to discourage livestock exports.

Packer Sales and Purchase Contracts

This proposal would retain section §203.7 of the Statements of General Policy in its current form. This policy statement was issued in 1965 as a result of numerous complaints received by the Administration involving contractual disputes between packers in the purchase and sale of meat and meat food products. Complaints continue to be received and the policy statement has proved useful in achieving informal resolutions of contractual disputes.

Advertising and Promotional Allowance

This proposal would retain section §203.14 of the Statements of General Policy in its current form. This policy statement sets forth the Packers and Stockyards Administration's position with respect to the use of advertising allowances and other promotional services in connection with the sale of a packer's meat and meat food products. This policy statement provides guidelines for the industry to assist competing firms in complying with the Packers and Stockyards Act.

Packer Trust

This policy statement was issued as a result of the 1976 amendments to the Act and remains current. No change is proposed in policy statement §203.15. Section 206(b) of the Packers and Stockyards Act requires a seller to give notice in writing to the packer and file such notice with the Secretary in order to preserve his statutory trust rights. This policy statement outlines the manner in which a seller can satisfy the notification requirements.

Mailing of Checks in Payment for Slaughter Livestock

No change is proposed in policy statement §203.16, also issued as a result of the 1976 amendments. If a seller of livestock agrees that payment may be made by mailing a check, within the time limits as provided in section 409(a) of the Act, whether or not such seller is present at the point of transfer of possession to achieve such check, such mailing agreement would not constitute an express extension of credit within the meaning of section 206(c) of the Act. The sale would not be transformed into a credit transaction because the purchaser must issue the check within the time limits of section 409 of the Act. Furthermore, Senate Report No. 94-932 of the Committee on Agriculture and Forestry, focusing on the 1976 amendments, recited at page 12, "Nothing in (section 409 of the Act) would preclude a packer and a producer from agreeing in writing that the packer may transmit through the mails, by the close of the next business day, payment for livestock purchased. *Such action would not result in the producer being considered a credit seller.*" This policy statement clarifies the well-established custom of the industry that a sale of livestock in which payment is to be made by a check mailed the next business day following purchase and determination of the price, is a cash transaction involving no extension of credit by the seller to the purchaser.

Executive Order

It has been determined that the proposals to amend the regulation relating to packers or dealers owning or financing selling agencies, to remove the regulation concerning packer ownership of dealers or market agencies buying on commission, and to remove the policy statement concerning the purchasing of livestock by packers for export as proposed herein are not "major" rules as defined by section 1(b) of E.O. 12291.

The proposed rules will not have an annual effect on the economy of $100 million or more, will not result in major increases in costs or prices for consumers, individual industries, Government agencies, or geographic regions, and will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets. Accordingly, regulatory impact analyses are not required.

Regulatory Flexibility Act

B. H. (Bill) Jones, Administrator, Packers and Stockyards Administration, has determined that these proposals will not have a significant economic impact on a substantial number of small entities.

These proposals will remove some restrictions on the business activities of packers, dealers, and market agencies subject to the Act.

Paperwork Reduction Act of 1980

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the reporting and recordkeeping provisions that are included in this rule

have been approved by the Office of Management and Budget (OMB) and have been assigned clearance number 0590–0001.

List of Subjects in 9 CFR Parts 201 and 203

Trade practices.

(7 U.S.C. 228, 7 U.S.C. 228b, 7 U.S.C. 222, 15 U.S.C. 46)

Done at Washington, D.C., September 12, 1983.

B. H. (Bill) Jones,

Administrator, Packers and Stockyards Administration.

PART 203—[AMENDED]

§ 203.6 [Removed]

1. It is proposed to remove § 203.6 (9 CFR 203.6).

2. It is proposed to retain §§ 201.69, 201.70, and 201.200 (9 CFR 201.69, 201.70, and 201.200), and §§ 203.2, 203.7, 203.14, 203.15, and 203.16 (9 CFR 203.2, 203.7, 203.14, 203.15, and 203.16).

3. It is proposed to revise § 201.66 (9 CFR 201.66) to read as set forth below:

§ 201.66 Market agencies not to employ packers or persons employed to purchase livestock for a packer.

No market agency shall employ or permit any packer, or any person employed by a packer to buy livestock to perform any duty in connection with the services furnished by such market agency.

4. It is proposed to revise § 201.67 (9 CFR 201.67) to read as set forth below:

§ 201.67 Packers not to own or finance selling agencies.

No packer subject to the Act shall have an ownership interest in, finance, or participate in the management or operation of a market agency selling livestock on a commission basis, nor shall such a market agency permit a packer to have an ownership interest in, finance, or participate in the management or operation of such market agency.

5. It is proposed to add a new § 203.19 (9 CFR 203.19), to read as set forth below:

§ 203.19 Statement with respect to packers engaging in the business of livestock dealers or buying agencies.

(a) In its administration of the Packers and Stockyards Act, the Packers and Stockyards Administration has sought to prevent conflicts of interest and to maintain open and fair competition in the livestock and packing industries. The ownership or operation of livestock dealers or buying agencies by packers, under some circumstances, may result in violations of the Packers and Stockyards Act.

(b) Traditionlly, livestock dealers and buying agencies purchase livestock for resale or to fill orders for farmers, ranchers, producers, other livestock firms and packers. When a livestock dealer or buying agency is owned or operated by a packer, and when such packer is also buying livestock for its own operational requirements, there is a potential conflict of interest. Furthermore, the purchase and sale of livestock by meat packers may result in control of markets and prices which could adversely affect both livestock producers, competing packers, and consumers.

(c) Arrangements between packers and dealers or buying agencies which do not normally create a conflict of interest or result in a restraint of competition include: (1) Operations utilizing different species or classes of livestock; (2) operations where the business activities are widely separated geographically; and (3) operations where tie-in purchases or sales are not involved. Packers contemplating engaging in the business of a livestock dealer or buying agency are encouraged to consult with the Packers and Stockyards Administration prior to the commencement of such activities.

(d) In the event a packer/dealer or a packer/buying agency arrangement appears to give rise to a violation of the Act, an investigation will be made on a case-by-case basis and, where warranted, appropriate action will be taken.

[FR Doc. 83–25235 Filed 9–14–83; 8:45 am]
BILLING CODE 3410–02–M

Food Safety and Inspection Service

9 CFR Part 381

[Docket No. 83–013P]

Chiller Water Reuse

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal would amend the Federal poultry products inspection regulations to permit operators of poultry processing establishments the option, if specific controls are maintained, of reducing the amount of fresh water intake required for continuous poultry chillers. Owners or operators of poultry establishments desiring to use water reconditioning in their chilling systems could request that the Administrator evaluate their systems to determine whether they can operate using a reduced fresh water intake plan. Implementation of the proposed regulation should help conserve fresh water without resulting in increased costs or threatening the wholesomeness of the product.

DATE: Comments must be received on or before November 14, 1983.

ADDRESS: Written comments to: Regulations Office, Attention: Annie Johnson, FSIS Hearing Clerk, Room 2637, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250. Oral comments regarding the proposal may be directed to Dr. John C. Prucha, (202) 447–3219. (See also "Comments" under **SUPPLEMENTARY INFORMATION.**)

FOR FURTHER INFORMATION CONTACT: Dr. John C. Prucha, Director, Slaughter Inspection Standards and Procedures Division, Meat and Polutry Inspection Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–3219. Copies of the Department's DE Filtration test results and the footnoted materials are available for inspection in the Regulations Office or may be obtained by contacting Dr. Prucha.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This proposed rule is issued in conformance with Executive Order 12291, nad has been determined not to be a "major rule." The proposed rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The proposed rule would place no additional requirements on the poultry processing industry. It would provide an alternative processing method which would result in less water and energy use, and a reduced burden on private and municipal effluent disposal facilities, while maintaining sanitary conditions that are at least as effective as those provided under current procedures. The option would benefit the public by reducing the stress on available water supplies, by reducing the discharge into the environment of waste matter which taxes existing

treatment facilities, and by placing less demand on declining energy sources. Further, costs related to water use, chilling, and disposal would be reduced.

Effect on Small Entities

The Administrator, Food Safety and Inspection Service, has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601). The proposal places no new requirements on the poultry industry. It should allow processors to reduce the costs associated with high water consumption and disposal.

Comments

Interested persons are invited to submit comments concerning this proposal. Written comments should be submitted in duplicate to the Regulations Office and should reference the docket number appearing in the heading of this document. Any person desiring an opportunity to make an oral presentation should contact Dr. Prucha so that the appropriate arrangements may be made. Transcripts will be made of all such presentations. All comments will be available for inspection in the Regulations Office between 9:00 a.m. and 4:00 p.m., Monday through Friday.

Background

Freshly slaughtered poultry is cooled immediately after slaughter to prevent spoilage. The chilling is generally accomplished by immersing the carcasses in large tanks of chilled water so that the internal temperature is reduced to 40° F. within a specified time period (9 CFR 381.66(b)(1)). The movement of the chilled water over the carcass is designed to aid the transfer of heat from the carcass surfaces. The purpose of the system is to reduce the temperature of the carcass, not to clean it. The poultry carcasses are already washed and considered ready-to-cook before they enter the chilling system.

The carcasses do, however, carry some bacteria which are washed off by the water movement of the chilling system. This rinsing action of the chilling system, if allowed to continue without intervention, would result in ever-increasing numbers of bacteria in the chill water. As those numbers increase, the rinsing action of the water would become less and less effective, and eventually would actually become a contaminating influence. To prevent this, the regulations require the addition of a certain amount of fresh water for each incoming carcass. As fresh water enters the chilling system, microbe laden water is discharged. The incidental washing effect of the chilling system water and the continual addition of fresh water to the system have been shown to reduce the bacterial level on the carcasses and to increase shelf-life.

The amount of fresh water which must be added to the chilling system is determined on a per carcass basis (9 CFR 381.66(c)(2)(ii)). At the time these levels (1 gallon per turkey, ½ gallon per fryer chicken) were established, water supplies seemed limitless, and the disposal of this water did not appear to be a problem. However, water has since become a scarce resource in many places, and the disposal of large amounts of waste water is of economic and environmental concern.

Prior Action

The Department published a proposed rule (43 FR 14043) in April 1978, that would have lowered the presently required amount of fresh water intake in continuous poultry chillers by 50 percent, provided the incoming water contained 20 parts per million (ppm) available chlorine. This was based, in part, on work performed at the Virginia Polytechnic Institute and State University (VPI) which indicated that fresh water intake levels could be lowered by 50 percent with no significant effect on the wholesomeness of the poultry or that of the chill media. Subsequent to VPI's study, the Department undertook field studies to determine if the required water intake levels could be adjusted. The field studies concentrated on the relationship of water intake with the microbiological quality of the poultry and that of the chill media. The results of the field studies showed that the bacteria remaining on representative carcasses that had been removed from the chill tanks tended to be greater when intake water was reduced. This violated the Department policy that bacteria be kept to minimal levels.

The Department was aware of the well documented bactericidal properties of chlorine on bacterial cells in general, and on Salmonellae in particular. From this, the Department proposed a 50 percent water reduction in continuous poultry chillers if intake water included 20 ppm available chlorine.

Commenters to the 1978 proposal contended that it was not in the best interest of consumers. One commenter stated that "* * * the proposal would depreciate the protection afforded consumers as the increased potential for cross contamination resulting from a reduction in water-flow would not be offset by the use of 20 ppm chlorinated water * * *" and "* * * the spread of Salmonellae between birds would be encouraged and the mandatory use of chlorine at ingoing concentrations fo 20 ppm would have little effect upon the increased concentration of Salmonellae * * *."

As a result of concerns over the efficacy of the 20 ppm chlorine proposal, the rule was never finalized, but neither has it been withdrawn. This is not an attempt to withdraw that proposal as experimental work may still be conducted to demonstrate its validity. This is a new proposal that incorporates another approach for reducing the amount of the fresh water intake required for continuous poultry chillers.

Proposal

The Department has continued to examine ways of reducing fresh water requirements. For example, the Department has investigated the use of diatomaceous earth (DE) filters for the removal of organic matter from poultry chiller water. Diatomaceous earth filtration of chiller water was first studied in 1978 by the Environmental Protection Agency which reported that DE filtration was successful in removing bacteria from chiller water.

At the suggestion of a turkey processor, the Department conducted additional tests of DE filtration, in cooperation with that processor and the National Turkey Federation. These tests confirmed that DE filtration is capable of significantly reducing the bacterial level of the chiller water.

The findings have, in part, prompted issuance of this proposal. It would allow a reduction in the amount of fresh water intake required in continuous poultry chillers, provided the remaining intake is supplemented by reconditioned chiller water of such quality and at such volumn to assure that the bacerial load on the carcasses exiting the system will not be greatler than under the current intake requirements. Additionally, the proposal includes a margin to accommodate an approximate 10 percent variability in the efficacy of the treatment. While this factor is intended to provide a margin for potential variability in a chilling system at any given time, it in fact would have the added effect of causing a cumulative reduction in the microbial content of the chiller water greater than that achieved by the existing fresh water replacement requirement.

As previously mentioned, the proposal is based on tests conducted utilizing DE filtration, but the type of water reconditioning treatment to be used is not specified. However, the proposal would require that a proposed and

tested treatment attain a minimum of at least a 60 percent reduction in micro-organisms, and the maintenance of light transmission of no less than 60 percent of that of fresh water. The Department's tests of a DE filtration system demonstrate that this is an achievable result.

Under this proposal, as the efficacy of the water treatment increases, the amount of treated water required to permit a reduction of a gallon of fresh water decreases. At the minimum approval level (60 percent reduction in micro-organisms and 60 percent light transmission) 1.75 gallons of treated water would be required to permit a reduction of one gallon of fresh water. At a level of 90 percent reduction in micro-organisms and 80 percent light transmission, 1.25 gallons of treated water would permit a reduction of one gallon of fresh water.

The proposal would help conserve natural resources. Less fresh water would be used, and, therefore, less energy would be needed to chill the water. Additionally, because less water would be discharged, stress on effluent disposal systems would be reduced. The Department's tests have demonstrated that these economic and environmental advantages would be available without sacrificing shelf-life and product safety. Micro-organism levels in the water would be kept to a minimum by replacing fresh water with higher levels of treated water. This would result in at least as clean a chill medium as exists under the current system. In addition, use of the proposed procedure would require evidence that treatment of the chill water would be maintained throughout the operating shift.

List of Subjects in 9 CFR Part 381

Poultry and poultry products, Chiller water.

Accordingly, the Federal poultry products inspection regulations (9 CFR Part 381) would be revised to read as follows:

PART 381—[AMENDED]

1. The authority citation for Part 381 is as follows:

Authority: Sec. 14, Poultry Products Inspection Act, as amended by the Wholesome Poultry Products Act (21 U.S.C. 451 *et seq.*); the Talmadge-Aiken Act of September 28, 1962, (7 U.S.C. 450); and subsection 21(b), Federal Water Pollution Control Act, as amended by Pub. L. 91-224 and by other laws (33 U.S.C. 1254).

2. Section 381.66(c)(2) (9 CFR 381.66(c)(2)) would be amended by adding a new paragraph (vi) to read as follows:

§ 381.66 Temperatures and chilling and freezing procedures

* * * * *

(c) * * *

(2) * * *

(vi) Any owner of operator of an official establishment desiring to utilize a chilling system which includes water reconditioning may request the Administrator to evaluate the system to determine whether a reduction in fresh water intake requirements will be permitted: Provided, that the equipment related to the systems has been approved under § 381.53 of Subpart H of this subchapter, that operation of the system results in full compliance with the Act and this subchapter, and that the system permits effective and efficient monitoring. The Administrator shall approve requests in accordance with the following standard:

Minimum percent reduction of micro-organisms in treated water	Minimum percent light transmission in treated water	Gallons of reconditioned water to replace 1 gallon of fresh water
60	60	1.75
70	70	1.50
80	80	1.35
90	80	1.25
98	80	1.10

Requests for approval must include:

(A) Information specifying the equipment, as approved under § 381.53, materials, and conditions of use incident to the system. Items which must be so specified include filters; rate of flow; pressures and/or vacuums required for suitable operation; point of exit from the chilling units of water to be reconditioned; point of entry into the chilling units of the reconditioned water; frequency of filter changes, back-flushing, or other system restoration; post-filter treatment; and any other condition the alteration of which could affect the effectiveness of reconditioning; and

(B) Data demonstrating that reconditioning results in achieving and maintaining throughout the operating shift at least a 60 percent reduction in total micro-organisms, that such reduction relates within ±10 percentage points to a similar reduction in any *coliforms*, [1] *Escherichia coli* [2] and/or *Salmonella spp.* [3] that may be present; and that light transmission of the treated water is maintained throughout the operating shift at no less than 60 percent of that of the fresh water supply.

* * * * *

Done at Washington, D.C. on September 1, 1983.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 83-25239 Filed 9-14-83; 8:45 am]

BILLING CODE 3410-DM-M

[1] Five tube most probable number (MPN) following procedures in Microbiology Laboratory Guidebook, FSIS, USDA, January 1974, Section 3.4 using 5 replicate tubes of each dilution; and computed using standard MPN tables.

[2] Five tube most probable number (MPN) using procedure in Microbiology Laboratory Guidebook, FSIS, USDA, January 1974, Section 3.5 using 5 replicate tubes of each dilution; and computed using standard MPN tables.

[3] Most probable number (MPN) per 100 ml by 3 tube MPN. To each of 3 100, 10, 1, and 0.1 ml sample portions, an equal volume of double strength lactose broth containing 1.2% Tergitol 7 is added. Then determined by procedure in Microbiology Laboratory Guidebook, FSIS, USDA, January 1974, Section 4.0; and computed using standard MPN tables.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

[Docket No. PRM-50-10]

State of New Jersey; Withdrawal of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Withdrawal of petition for rulemaking (PRM-50-10) filed by the State of New Jersey.

SUMMARY: The Commission is withdrawing, at the petitioner's request, a petition for rulemaking (PRM-50-10) that was filed by the State of New Jersey. In the petition, which was dated March 27, 1974 (and in a supplement to the petition dated June 10, 1974), the State of New Jersey had requested that the Commission amend its regulations in 10 CFR Parts 30, 40, 50, 55, 70, and 100 to increase the level of assurance that accidents at nuclear facilities can be prevented and, in the event of an accident, to ensure that the consequences are mitigated.

ADDRESSES: A copy of the petitioner's letter of withdrawal is available for public inspection in the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. A copy of the petitioner's letter of withdrawal may be obtained by writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

SUPPLEMENTARY INFORMATION: In **Federal Register** notices published on

May 6, 1974 (39 FR 15900), and July 11, 1974 (39 FR 25525), the Commission announced the receipt of and requested comments on a petition for rulemaking (PRM–50–10) filed by the State of New Jersey. The petitioner requested that the Commission amend its regulations in Parts 50 and 70 to require that licensees who routinely handle large quantities of byproduct material be made subject to emergency planning requirements and, in addition, to require that these licensees clearly identify the material involved, exposure pathways, and populations at risk as a result of licensed activities. In Part 100, the petitioner requested that the exclusion area criteria be amended, the population zone criteria be reviewed, and that radiation release protective action levels set by EPA or individual states be incorporated by reference. The petitioner also requested that the exclusion of "Class 9 accident" from consideration in reactor licensing procedures be eliminated when new or novel siting or design considerations are involved, and that due consideration be given to counter measures for the "Class 9 accident". Finally, the petitioner asked that reactor operators be required to undergo training and periodic reexamination and that the scope of Part 55 be expanded to cover health physicists assigned to reactor sites and operators of waste disposal facilities.

The petitioner subsequently withdrew the requested change concerning reactor personnel qualification and agreed that the requested change concerning health physicists was satisfied by the Commission's issuance of regulatory guides. Part of the petitioner's request concerning emergency planning for Part 70 licensees was addressed in a final rule published in the **Federal Register** on March 31, 1977 (42 FR 17125).

The petitioner's request concerning emergency planning for Part 50 licensees was incorporated into a final rule published in the **Federal Register** on June 3, 1981 (46 FR 29712).

Those issues raised by the petitioner that are not covered by the NRC actions discussed above are the items withdrawn by the petitioner.

Dated at Bethesda, Maryland this 7th day of September 1983.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 83–25240 Filed 9–14–83; 8:45 am]

BILLING CODE 7590–01–M

CIVIL AERONAUTICS BOARD

14 CFR Parts 211 and 302

[EDR–467; PDR–85; Dockets Nos. 41666, 39638]

Applications for Permits to Foreign Air Carriers and Rules of Practice in Board Proceedings

August 28, 1983.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The CAB is proposing to revise its requirements and procedures for applying for foreign air carrier permits. The revision would reduce the information submitted in the application and the number of persons on whom the application must be served. Service of applications would also be reduced for U.S. air carrier certificate applicants. The changes proposed will simplify the processing of these applications for both the Board and U.S. and foreign air carrier applicants.

DATES: Comments by: November 14, 1983. Reply comments by: December 5, 1983.

Comments and relevant information received after this date will be considered by the Board only to the extent practicable.

Requests to be put on Service List by: September 26, 1983.

The Docket Section prepares the Service List and sends it to each person listed on it, who then serves comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 41666, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C., 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Nancy Pitzer Trowbridge, Regulatory Affairs Division, Bureau of International Aviation, 202–673–5134, or Joseph A. Brooks, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; (202) 673–5442.

SUPPLEMENTARY INFORMATION: The Board's rules for the content of, and the procedures for submitting applications for foreign air carrier permits are in 14 CFR Part 211 and Subpart Q, Part 302. Part 211 sets out the information required and the manner in which applications must be sent to the Board. Among other things, Subpart Q lists the persons to whom a notice of a permit application must be sent when filed.

These proposed changes to Part 211 would reduce and revise the information requirements for permit applications, especially for those carriers seeking renewal or amendment of an existing permit. Many applications include information that is superfluous, or no longer needed by the Board, for example, maps, specimen permits, and proof of incorporation. Some information now filed, such as detailed description of insurance coverage, although important, is now required by other Board rules. Also, information currently filed regarding maintenance of aircraft and financial data are overly detailed, when a more general statement or summary would satisfy the Board's needs in most cases. In addition, new applicants would no longer have to submit as detailed statements of key managers' non-aviation business experience as they do now; renewal applicants no longer would have to furnish such information. Statements regarding the acceptance of certain standard permit conditions are unnecessary and are eliminated, since all permits impose those conditions, and most are the subject of explicit filing requirements elsewhere. Furthermore, carriers would be allowed greater use of incorporation by reference of information submitted to the Board in previous permit applications. The Board may, if needed, ask for additional information from individual carriers.

The information requirements would be simplified for clarity. This format should result in better quality applications, which should in turn result in fewer cases being deferred or rejected for not fully complying with Board rules. The proposal would also ease the processing burden on the Board, resulting in quicker action on permit applications.

Subpart Q of Part 302 of the Board's rules sets procedures for expedited treatment of certain cases. Among those cases are applications for foreign air carrier permits under section 402 of the Act and for U.S. carrier certificates under section 401. Those rules list persons on whom the applications or notices of applications must be served. The list includes U.S. air carriers serving the point where the carrier would operate, and State and local authorities in the United States for that point.

The proposal would substantially reduce these service requirements. Because of the existing requirement, many service lists attached to applications are now quite lengthy. The Board tentatively believes that the

present service list is overly burdensome. In most cases, less than a dozen parties are affected by the operations proposed in an application. In addition, the proposal would relieve U.S. air carriers from the requirement to serve the entire application of all parties. An applicant would be required to serve only a notice of its application. The notice procedure is now used for foreign air carrier permit applications.

Under the proposal, in certificate proceedings, applicants would have to serve local airport authorities for the city-pair market requested, and if the application is for scheduled service, those U.S. carriers that serve the city-pair in question and publish those schedules in the OAG. Applications filed by U.S. carriers for charter-only operations would be filed with the Board's Docket Section. This proposed change would confirm the Board's waiver of service requirements for those carriers in Order 82-9-97, dated September 23, 1982. In foreign air carrier permit cases for scheduled services, the applicant would have to serve the Departments of State and Transportation and U.S. carriers for the country-pair market sought. Foreign carriers seeking charter-only authority would be required to serve the Departments of State and Transportation.

This reduced list will enable the Board and the applicant to ensure that the service requirements have been met. There will still be Federal Register notice of the authority sought. The name of the applicant will also continue to be published by the Board each week. The proposal, combined with those continued publications, should thus allow U.S. carriers and other interested parties to be well informed and to make any comments or objections they think necessary.

The change to relieve U.S. air carriers from the requirement to serve the entire application on all parties and substitute a notice requirement was originally proposed in PDR-75 (46 FR 29718, June 3, 1981, Docket 39638). Since over 2 years have passed since that notice, we are proposing the change again, but in slightly altered form. Docket 39638 is being merged into this rulemaking. Re-publication will allow commenters to consider those proposed changes in conjunction with the other proposed changes in service requirements.

Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b), as added by the Regulatory Flexibility Act, Pub. L. 96-354, Board certifies that none of these proposed changes, if adopted, will have a significant economic impact on a substantial number of small entities. Small U.S. air carriers are exempt as air taxi operators for certification under section 401 and thus have no document service requirements. The majority of small foreign air carriers are Canadian charter air taxi operators and follow a simplified registration requirement instead of the rules affected by these changes.

Paperwork Reduction Act

The collection-of-information requirements in this proposal are subject to the Paperwork Reduction Act, Pub. L. 96-511, 44 U.S.C. Chapter 35. Those requirements have been submitted to the Office of Management and Budget (OMB) for review and comment. Persons may submit comments on the collection-of-information requirements to OMB and to the Board. Comments sent to OMB should be addressed to: Office of Information and Regulatory Affairs, ATTN: Desk Officer for Civil Aeronautics Board, Office of Management and Budget, Washington, D.C. 20530.

List of Subjects in Parts 211 and 302

Administrative practices and procedures, Air carriers, Air rates and fares, Air transportation—foreign, Authority delegations, Postal Service.

Proposed Rule

Accordingly, the Civil Aeronautics Board proposes to amend 14 CFR Part 211, *Applications for Permits for Foreign Air Carriers*, and Part 302, *Rules of Practice in Board Proceedings*, as follows:

1. Part 211 would be revised to read:

PART 211—APPLICATIONS FOR PERMITS TO FOREIGN AIR CARRIERS

Subpart A—General

Sec.

211.1 Purpose.
211.2 Applicability.

Subpart B—General Requirements

211.10 Filing specifications.
211.11 Verification.
211.12 Filing and service.
211.13 Amendments to applications.
211.14 Incorporation by reference.
211.15 Statements of fact.

Subpart C—Information Requirements

211.20 Initial foreign air carrier permit or transfer of a permit.
211.21 Amendments or renewal of foreign air carrier permits.

Authority: Secs. 204, 402, 416, 1001, 1002, Pub. L. 85-726, as amended, 72 Stat. 743, 757, 771, 788 (49 U.S.C. 1324, 1372, 1386, 1481, 1482).

Subpart A—General

§ 211.1 Purpose.

This part sets forth the filing and evidence requirements for foreign air carriers applying for authority to engage in foreign air transportation under section 402 of the Federal Aviation Act.

§ 211.2 Applicability.

(a) Except as provided in paragraph (b) of this section, this part applies to all foreign air carriers seeking initial foreign air carrier permits or the transfer, renewal, or amendment of an existing foreign air carrier permit.

(b) Canadian charter air taxi operators, foreign indirect air carriers of property, and foreign charter operators are not required to submit applications under this part. Instead, Canadian charter air taxi operators shall register under Part 294 of this chapter, foreign indirect air carriers of property shall register under Part 297 of this chapter, and foreign charter operators shall register under Subpart F of Part 380 of this chapter.

Subpart B—General Requirements

§ 211.10 Filing Specifications.

(a) Except as provided in paragraph (b) of this section, applicants shall follow the requirements in § 302.3 of this chapter as to execution, number of copies, and formal specifications of papers.

(b) Mexican air taxi operators filing applications for foreign air carrier permits authorizing charter flights across the Mexico-United States border with small aircraft (a maximum passenger capacity of 60 seats of less, or a maximum payload capacity of 18,000 pounds or less) shall file an original and two copies of the application. The application shall conform to the instruction document available from the Regulatory Affairs Division, Bureau of International Aviation, Civil Aeronautics Board, Washington, D.C. 20428.

(c) An application shall have consecutively numbered pages, and shall clearly describe and identify each exhibit by a separate number or symbol. All exhibits are part of the application to which they are attached.

(d) Applications shall state all weights, measures and monetary units in U.S. terms, and all verbal material in English.

§ 211.11 Verification.

Applications shall be verified and subscribed and sworn to before a Notary Public or other officer authorized to administer oaths in the jurisdiction in

which the application is executed. An application verified before a United States consular officer meets the requirements of this section.

§ 211.12 Filing and service.

All types of applications for foreign air carrier permits (initial, renewal, amendment, or transfer) are filed as of the date the applications are received at the Board's Docket Section. Each applicant shall serve those persons as required in Part 302, Subpart Q, of this chapter.

§ 211.13 Amendments to applications.

An applicant shall submit any information required by this Part that is omitted from the original application, or any additional information, as an amendment to the original application. Applicants shall consequently number amendments to applications and shall comply with the requirements of this subpart.

§ 211.14 Incorporation by reference.

Where two or more applications are filed by a single carrier, the applicant may incorporate lengthy exhibits, or other documents attached to one application, into the others by reference. The applicant may not incorporate by reference and update any information from a previous docket unless submitted within the past 2 years. The applicant must identify the docket, the page number or exhibit number being incorporated, and state that there has been no change in that information since submitting the original information.

§ 211.15 Statements of fact.

The applicant shall include only significant and relevant facts in an application. Each application shall contain adequate information with respect to the evidence required in Subpart C of this part. The application may contain other information and data as the applicant considers necessary to explain particular circumstances of a case.

§ 211.16 Oral hearing.

If an oral evidentiary hearing is convened, the applicant must make available witnesses who are competent and able to testify to the accuracy of the statements and documents submitted.

Subpart C—Information Requirements

§ 211.20 Initial foreign air carrier permit or transfer of a permit.

A person applying for an initial foreign air carrier permit or the transfer of a permit shall submit the information listed below. The applicant must comply fully with this requirement. If the applicant is unable to respond to an item, the application shall contain an explanation, and include substitute information most closely approximating the information requested. The Board may require an applicant to provide additional information as the facts of the situation warrant.

(a) State the name and address of the applicant, the nature of its organization (individual, partnership, corporation, etc.), and, if other than an individual, the name of the country under the laws of which it is organzied and the statutory citation of such laws, if any.

(b) State the name and official address of the government air transport authority of applicant's country of citizenship having regulatory jurisdiction over applicant.

(c) Supply the following information regarding the services proposed:

(1) A complete statement of the authority sought; and

(2) A description of the services proposed, specifying:

(i) The point or points proposed to be served in the United States;

(ii) The frequency of service planned at the start of operations, indicating any seasonal variations; whether the service proposed is to be scheduled, non-scheduled or charter; whether the service would be passenger, or property and mail, or a combination; and the type of equipment (and configuration) to be used; and

(iii) A service schedule stating the manner in which the service will be operated (e.g., nonstop or multi-stop, and identity of proposed intermediate traffic and non-traffic points).

(d) Provide the names, addresses (both residence and business), and citizenship of all Directors, Officers and key management personnel, including the President, Vice Presidents, the Directors or Supervisors of Operations, Maintenance, and Finance, and the chief pilot and chief inspector. Indicate whether any of these persons are related by blood or marriage.

(e) Provide the names and citizenship of all persons holding five percent (5%) or more of the capital stock or capital of the applicant. Also indicate the number and percentage of shares of stock or percentage of capital held by each. If five percent or more of the applicant's stock is held by a corporation or partnership, set forth the name and citizenship of each person holding five percent or more of the entire capital stock or capital of that corporation or partnership and the respective interest of each. If any of the shares are held for the benefit of another person, give the name and citizenship of that person.

(f) If the applicant is not wholly owned by its homeland Government, state whether the applicant (each officer, director, manager, or holder of five percent or more of the capital stock) holds an interest directly or indirectly (through brokers or holding companies) in any of the entites cited below. If no interest is held, so state.

(1) Any U.S. carrier;

(2) Any other foreign air carrier;

(3) Any persons engaged in the business of aeronautics; and

(4) Any common carrier, or any person whose principal business is the holding of stock in, or control of, any air carrier.

(g) Indicate the relationship between the applicant and its homeland Government. If the applicant is wholly owned or substantially owned by the Government, indicate which governmental department has responsibility for managerial decisions.

(h) State whether the applicant's insurance coverage meets or exceeds the liability limits of 14 CFR Part 205. State the name(s) of its insurance carrier(s).

(i) Supply certified evidence, in English, of the applicant's operating authority issued by its Government that relates to the operations proposed. This evidence must include a description of the applicant's present authority, the expiration date of this authority, and the manner in which it is expected to be renewed.

(j) Summarize the operating history of the applicant. Include the types of transportation services rendered, points served, etc., from the beginning of operations to present. Also, if the applicant is a new airline (*i.e.*, an airline that began direct air services within the past 12 months), briefly summarize the business experience of each Officer, Director and key management personnel, emphasizing any air transportation experience.

(k) Provide a list of the aircraft owned, leased and operated by the applicant. State each aircraft registration number and the country of registration. If leased, state the address and citizenship of each lessor. Describe any plans for the acquisition or lease of additional aircraft if the present permit application is granted as proposed. If any of the listed aircraft will not be used exclusively by the applicant, explain its proposed use. State whether any aircraft are or will be wet-leased.

(l) State where and by whom the maintenance of the aircraft is or will be performed. State whether the applicant's maintenance program complies with the provisions of I.C.A.O. Pilots and Airmen

Annexes 1, 6 (Part 1) and 7. Also state whether the applicant's home country is a contracting State to the Convention on International Civil Aviation.

(m) Briefly describe any agreements or cooperative working arrangements (*e.g.*, block-space, wet-lease), both oral and written, entered with and between the applicant, or on behalf of the applicant, and any United States or foreign air carrier, affecting the proposed services to the United States that are not on file with Board. If there are no such agreements, so state.

(n) Supply certified copies of financial data summaries, setting forth in U.S. dollars the applicant's profit and loss statements and balance sheets for the 2 most recent available years (calendar or fiscal). These summaries must include the following data, but need not be more detailed than the financial data summaries published by I.C.A.O.:

(1) The profit and loss statement summary shall identify:

(i) Total air transport operating revenues (separated into three categories; passenger, cargo, and other air transport revenues);

(ii) Total air transport operating expenses;

(iii) Operating result (difference between paragraphs (n)(1) (i) and (ii) of this section);

(iv) Non-operating items; and

(v) Profit or loss after income taxes.

(2) The balance sheet summary shall state and identify:

(i) Current assets;

(ii) Flight equipment (after depreciation);

(iii) Other assets;

(iv) Total assets (sum of paragraphs (n)(2) (i) through (iii) of this section);

(v) Current liabilities;

(vi) Other liabilities;

(vii) Long-term debt;

(viii) Capital stock;

(ix) Retained earnings (balance including capital and surplus); and

(x) Total liabilities and equity (sum of paragraphs (n)(2) (v) through (ix) of this section).

(o) Describe the amount, type and reason for financial assistance received or expected from the applicant's home Government, if any.

(p) Submit an estimate showing the total traffic and the financial results of the proposed services for the first full year of normal operations and the supporting data employed to calculate the financial forecast.

(q) If the air transportation proposed is not covered by an air transport agreement, state in narrative form each of the elements of reciprocity or comity relied upon for the requested authority. If the authority requested is governed by an agreement, state whether the applicant has been formally designated by its homeland Government, and if so, cite the diplomatic note.

(r) To the extent not described in paragraph (q) of this section, state the policy of the applicant's homeland Government with respect to U.S. carriers' applications for scheduled and charter authority. Specifically state whether the homeland Government grants Fifth Freedom traffic rights to U.S. carriers.

(s) For preceding 5 years, state whether the applicant has been involved in any safety or tariff violations or any fatal accidents. If so, furnish details.

(t) Submit three (3) completed copies of CAB Form 263 (waiver of liability limits under the Warsaw Convention).

§ 211.21 Amendments or renewal of foreign air carrier permits.

A person applying for an amendment of renewal of a foreign air carrier permit shall submit the information listed below. The applicant must comply fully with this requirement. If the applicant is unable to respond to an item, the application shall contain an explanation and include substitute information most closely approximating the information requested. The Board may require an applicant to provide additional information as the facts of the situation warrant.

(a) The information requested in paragraphs (a), (b), (i) (o), (q), (r), and (s), of § 211.20

(b) Except if asking for renewal of existing authority, the information specified in paragraphs (c) and (p) of § 221.20 regarding the new or altered services proposed to be operated.

(c) If the financial material for the applicant on file with the Board is more than 2 years old, certified copies of financial summaries setting forth, in U.S. dollars, the applicant's profit and loss statements and balance sheets for the 2 most recent available years (calendar or fiscal) as required in paragraph (n) of § 211.20. If the financial material on file with the Board is 2 years old or less, the applicant may incorporate that information by reference following the procedures described in § 211.14 of this part.

(d) If the ownership and control of the applicant are substantially unchanged, a sworn affidavit to that effect. If a change has occurred, the applicant must respond to the appropriate paragraph in § 211.20 that most closely relates to the change that has taken place.

(e) A sworn affidavit that applicant's maintenance program continues to comply with the provisions of I.C.A.O. Pilots and Airmen Annexes 1, 6 (Part 1) and 7.

PART 302—SUBPART Q

2. Paragraphs (a) and (b) of 302.1705 would be revised to read:

§ 302.1705 Service of documents.

(a) *General Requirements.* (1) Applicants shall serve on the persons listed in paragraph (b) of this section a notice that an application has been filed, and upon request, shall promptly provide those persons with copies of the application and supporting documents. The notice must clearly state the authority sought and state the due date for other pleadings. Persons shall file responsive pleadings in accordance with paragraph (b).

(2) After the order establishing further procedures under § 302.1750 has been issued, persons need only serve documents on those listed in the service list accompanying the order.

(3) In the case of an application sought to be consolidated, the applicant shall serve the notice required in paragraph (a) of this section on all persons served by the original applicant.

(b) *Persons to be served.* (1) *U.S. air carriers.* In certificate proceedings described in §§ 302.1701(a) and 302.1701(b) (except for those proceedings under section 401(d)(3) of the Act), applicants and other persons shall serve: (i) All U.S. air carriers (including commuter air carriers) that provide service in the city-pair market specified in the application and that publish schedules to that effect in the "Official Airline Guide" or in the "Air Cargo Guide," (ii) the airport authority of each U.S. airport that the applicant proposes to serve, and (iii) any other person who has filed a pleading in the docket.

(2) *Foreign air carriers.* In foreign air carrier permit proceedings described in § 302.1701(c), (except for those proceedings involving charter-only authority), applicants and other persons shall serve: (i) All U.S. air carriers (including commuter air carriers) that provide service in the country-pair market specified in the application and that publish schedules to that effect in the "Official Airline Guide" or in the "Air Cargo Guide," (ii) the U.S. Departments of State and Transportation, and (iii) any other person who has filed a pleading in the docket.

(3) Foreign air carrier permit applicants for charter-only authority and other persons shall serve the Departments of State and

Transportation and any person who has filed a pleading in the docket.

* * * * *

(Secs. 101, 203, 204, 401, 402, 403, 404, 406, 412, 901, 1001, 1002, 1005, Pub. L. 85-726, as amended, 72 Stat. 737, 742, 743, 754, 757, 758, 760, 763, 770, 783, 788, 794 (49 U.S.C. 1301, 1323, 1324, 1371, 1372, 1373, 1374, 1376, 1382, 1471, 1481, 1482, 1485); Reorganization Plan No. 3, 75 Stat. 837, 26 FR 5989; E.O. 11514, Pub. L. 91-90 (42 U.S.C. 4321); 84 Stat. 772, 39 U.S.C. 5402, unless otherwise noted)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-25274 Filed 9-14-83; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76-185; New Mexico-21]

High-Cost Gas Produced From Tight Formations; New Mexico; Correction

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Proposed rule correction.

SUMMARY: This document corrects a Notice of amendment in Docket No. RM79-76-185 (New Mexico-21) that appeared in the **Federal Register** on May 6, 1983 (48 FR 20432). This action corrects an error in the delineation of the formation described in the notice.

FOR FURTHER INFORMATION CONTACT: Tom Rattray, Office of General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8476.

The following correction is made in FR Doc. 83-12234 appearing on pages 20432-33 of the issue of May 6, 1983:

On page 20433, column 1, first full paragraph, lines 4 and 5, the delineation is corrected to read "Townships 6 through 11 South, Range 21 East".

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-24894 Filed 9-14-83; 8:45 am]

BILLING CODE 6717-01-M

18 CFR Part 271

[Docket No. RM79-76-213 (Texas-2 Addition II)]

High-Cost Gas Produced From Tight Formations; Texas

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432 (Supp V. 1981), to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703 (1983)). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the Railroad Commission of Texas that an additional area of the Canyon Sandstone Formation be designated as a tight formation under § 271.703(d).

DATES: Comments on the proposed rule are due on October 27, 1983.

Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on September 27, 1983.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner (202) 357-8511, or Walter W. Lawson (202) 357-8556.

SUPPLEMENTARY INFORMATION:

Issued: September 12, 1983.

I. Background

On August 8, 1983, the Railroad Commission of Texas (Texas) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (18 CFR 271.703(1983)), that an additional area of the Canyon Sandstone Formation in Irion County, Texas, be designated as a tight formation. The Commission previously adopted a recommendation that the Canyon Sandstone Formation in Crockett, Edwards, Schleicher, Sutton, Terrell and Val Verde Counties, Texas be designated as a tight formation (Order No. 117, issued December 17, 1980, in Docket No. Rm79-76 (Texas-2) and currently has under consideration a recommendation that an additional area of the Canyon Sandstone Formation in the KWB (Canyon) Field in Tom Green County be designated as a tight formation (Docket No. RM79-76-200 (Texas-2 Addition) Notice of Proposed Rulemaking issued June 15, 1983). Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Texas' recommendation that an additional area of the Canyon Sandstone Formation in Irion County be designated a tight formation should be adopted. Texas' recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

Texas recommends the Canyon Sandstone Formation located in Irion County, Texas, Railroad Commission District 7C, be designated as a tight formation. The recommended area of the Canyon Sand is all of the portion of Irion County, Texas, which lies to the east of a straight line directed between the junction of Crockett, Schleicher, and Irion Counties at the south end of the line and the junction of Reagan, Tom Green, and Irion Counties at the north end of the line.

In a type log, the John H. Hill, McManus No. 1 well located in the northcentral part of Irion County in Section 35, Block 6, H&TC RR. Co. Survey, the Canyon Sandstone Formation is that interval from 6,290 feet to the top of the Strawn Formation at 7,870 feet. The top of the formation dips at a rate of approximately fifty feet per mile in a west-southwest direction across the recommended area.

III. Discussion of Recommendation

Texas claims in its submission that evidence gathered through information and testimony presented at a public hearing on April 22, 1983, convened by Texas on this matter demonstrates that:

(1) the average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Texas further asserts that existing state and federal regulations assure that development of this formation will not adversely affect any fresh waster aquifers that are or are expected to be used as a domestic or agricultural water supply.

Accordingly, pursurant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, [Reg. Preambles 1977–1981] FERC Stats, and Regs. § 30,180 (1980), notice is hereby given of the proposal submitted by Texas that the Canyon Sandstone Formation in Irion County, as described and delineated in Texas' recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before October 27, 1983. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76–213 (Texas—2 Addition II) and should give reasons including supporting data for any recommendation. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol. Street, NE., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of a desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than September 27, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301—3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Texas' recommendation is adopted.

Kenneth A. Williams,
Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

Section 271.703 is amended by adding paragraph (d)(10)(iii) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(10) *Canyon Sandstone Formation in Texas.*

RM9–76 (Texas—2)

* * * * *

(iii) *Irion County—*

(A) *Delineation of formation.*

The Canyon Sandstone Formation is located in all of the portion of Irion County which lies to the east of a straight line directed between the junction of Crockett, Schleicher, and Irion Counties at the south end of the line and the junction of Reagan, Tom Green, and Irion Counties at the north end of the line.

(B) *Depth.*

The Canyon Sandstone Formation is that interval from 6,290 feet to the top of the Strawn Formation at 7,870 feet shown on the electric log of the John H. Hill, McManus No. 1 well located in the north central part of Irion County in Section 35, Block 6, H&TC RR. Co. Survey. The top of the formation dips at a rate of approximately 50 feet per mile in a west-southwest direction across the designated area.

[FR Doc. 83–25190 Filed 9–14–83; 8:45 am]
BILLING CODE 6717–01–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 22

Liquidation of Drawback Claims; Extension of Time for Public Comment

AGENCY: Customs Service, Treasury.

ACTION: Notice of extension of time for comment.

SUMMARY: This notice extends the period of time within which interested members of the public may submit written comments with respect to an advance notice of proposed rulemaking relating to liquidation of drawback claims filed with Customs. A document inviting the public to comment on the proposal was published in the **Federal Register** on July 5, 1983 (48 FR 30668). Comments were to have been received on or before September 6, 1983.

Customs has been requested to extend the comment period because of the many issues raised and the need to solicit views from members of trade associations. The requests have merit. Accordingly, the period of time for the submission of written comments is extended to October 6, 1983.

DATE: Comments must be received on or before October 6, 1983.

ADDRESS: Written comments (preferably in triplicate) may be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Betty L. Colburn, Duty Assessment Division (202–566–5307), U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Dated: September 7, 1983.

John P. Simpson,
Director, Office of Regulations and Rulings.

[FR Doc. 83–25170 Filed 9–14–83; 8:45 am]
BILLING CODE 4820–02–M

NAVAJO AND HOPI INDIAN RELOCATION COMMISSION

25 CFR Part 700

Commission Operation and Relocation Procedures; Eligibility

AGENCY: Navajo and Hopi Indian Relocation Commission.

ACTION: Notice of extension of comment period.

SUMMARY: This notice extends the period of comment on the proposed amendment of rules regarding eligibility standards for receipt of benefits under Pub. L. 93–531, the Navajo and Hopi Indian Relocation Act. The reason for extending the comment period from September 19, 1983 until November 1, 1983 is to allow for public hearings to be held and to allow more time for comment.

DATE: Comments must be received by November 1, 1983.

ADDRESS: Comments may be sent to the Navajo ahd Hopi Indian Relocation Commission, P.O. Box KK, Flagstaff, Arizona 86002.

FOR FURTHER INFORMATION CONTACT: Paul J. Tessler, CFR Liaison Officer, Navajo and Hopi Indian Relocation Commission, P.O. Box KK, Flagstaff, Arizona 86002; Telephone (602) 779–2721.

SUPPLEMENTARY INFORMATION: On July 20, 1983, the Commission published a proposed rule in the **Federal Register**, Vol. 48, No. 140, p. 33005. The rule proposed amendment of rules regarding eligibility standards for receipt of benefits under Pub. L. 93–531, the Navajo and Hopi Indian Relocation Act. The proposed rule provided a sixty (60) day comment period commencing July 20, 1983 and ending September 19, 1983. The Commission has determined that the comment period should be extended until November 1, 1983, in order to allow sufficient time for the commission to hold public hearings regarding the proposed rule.

Authority: 25 U.S.C. 640d, Pub. L. 93–531, 25 U.S.C. 640d–14.

Ralph Watkins,

Chairman, Navajo-Hopi Indian Relocation Commission.

[FR Doc. 83–25081 Filed 9–14–83; 8:45 am]

BILLING CODE 7500–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR–233–82]

Reporting of State and Local Income Tax Refunds

AGENCY: Internal Revenue Service. Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations portion of this **Federal Register**, the Internal Revenue Service is issuing temporary regulations relating to the reporting of State and local income tax refunds. The text of those temporary regulations also serves as the comment document for this proposed rulemaking.

DATES: Written comments and requests for a public hearing must be delivered or mailed by November 14, 1983. The amendments are proposed to be effective for payments of refunds, and credits and offsets made after December 31, 1982.

ADDRESS: Send comments and a request for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR–233–82), Washingtoin, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Alice M. Bennett of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T), 202–566–3288 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations in the Rules and Regulations portion of this issue of the **Federal Register** amend Part 5f of Title 26 of the Code of Federal Regulations. The final regulations, which this document proposes to base on those temporary regulations, would amend Part 1 of Title 26 of the Code of Federal Regulations.

The regulations provide information reporting requirements under section 6050E of the Internal Revenue Code of 1954 for persons who, with respect to individuals, make payments of refunds of State or local income taxes, or allow credits or offsets with respect to such taxes. The regulations are to be issued under the authority contained in sections 6050E (a) and 7805 of the Internal Revenue Code of 1954 (96 Stat. 603 68A Stat. 917; 26 U.S.C. 6050E (a), 7805).

For the text of the temporary regulations, see FR DOC. 83–25277 (T.D. 7913) published in the Rules and Regulations section of this issue of the **Federal Register.**

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held on written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

The collection of information requirements contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act. Comments on these requirements should be sent to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for Internal Revenue Service, New Executive Office Building, Washington, D.C. 20503. The Internal Revenue Service requests that persons submitting comments on these requirements to OMB also send copies of those comments to the Service.

Special Analyses

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291. Accordingly, a Regulatory Impact Analysis is not required. Although this document is a notice of proposed rulemaking that solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C., Chapter 6).

List of Subjects in 26 CFR Parts 1.600–1—1.6109–2

Income taxes, Administration and procedure, Filing requirements.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 83–25278 Filed 9–14–83; 8:45 am]

BILLING CODE 4830–01–M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Ch. XVI

Age Discrimination in Employment; Request for Comments

AGENCY: Equal Employment Opportunity Commission.

ACTION: Request for public comments.

SUMMARY: Responsibility and authority for enforcement of the Age Discrimination in Employment Act of 1967, was transferred from the Department of Labor to the Equal Employment Opportunity Commission. The transfer became effective and the Commission assumed enforcement of this Act on July 1, 1979.

After enactment of the Age Discrimination in Employment Act Amendments of 1978, the Department of Labor published in the **Federal Register** of September 22, 1978 (43 FR 43284), a proposed amendment to the Interpretative Bulletin, 29 CFR Part 860, with respect to employee benefit plans. After considering written comments as well as testimony at a hearing on the proposed amendment, the Department revised the original proposal and published the final rule on May 25, 1979 (44 FR 30648). On July 1, 1979, ADEA authority was transferred from the Department of Labor to the Commission.

Shortly after the transfer of authority the Commission commenced an in-depth review of all existing interpretations and opinion letters issued by the Department of Labor. As part of this review, the Commission began an exhaustive study of the Interpretative Bulletin on

Employee Benefit Plans, 29 CFR § 860.120, focusing particular attention on the provisions of that Interpretative Bulletin which permitted employers to discontinue pension contributions and crediting for employers who worked beyond the normal retirement age specified in their pension or retirement plans. In order to assist the Commission in analyzing the effects of these interpretatie provisions and in order that the Commission will be fully apprised of the consequences of any modifications to these provisions, the Commission hereby solicits public comments in response to the particular questions set forth below. When the Commission publishes the final interpretation, it will appear at 29 CFR Chapter XVI.

DATES: All comments and information responsive to the questions posed below should be received no later than November 14, 1983.

ADDRESS: Comments, in quadruplicate, should be mailed to: Treva McCall, Executive Secretariat, Equal Employment Opportunity Commission, 5th Floor, 2401 E Street, NW., Washington, D.C. 20506. A copy of all public documents will be available for inspection and copying between 9 a.m. and 4:30 p.m. in Room 2003 at the same address. The entire record, or any part thereof, may be purchased at the actual cost of duplication as computed pursuant to the fee schedule set forth at 29 CFR 1610.15(a).

FOR FURTHER INFORMATION CONTACT: John J. Pagano or Christopher G. Mackaronis, Office of Legal Counsel, Legal Services, Room 224, EEOC, 2401 E Street, NW., Washington, D.C. 20506, (202) 634–6592.

SUPPLEMENTARY INFORMATION: Just prior to the Commission's assumption of jurisdiction over the ADEA, the Commission announced in the **Federal Register** that it had unertaken a "complete review of the Department of Labor Interpretations (29 CFR Part 860) and Opinion Letters issued by the Wage and Hour Administrator of the Department of Labor." 44 FR 37974 (June 29, 1979). The Commission published proposed interpretations of the ADEA on November 30, 1979, 44 FR 68858, and final interpretations on September 29, 1981, 46 FR 47724. Neither the proposed nor final interpretations, however, specifically addressed problems arising under Section 4(f)(2) of the Act, 29 U.S.C. 623(f)(2), regarding employee benefit plans. Many of those problems were addrssed by the Department of Labor in an Interpretative Bulletin on Employee Benefit Plans which was published on May 25, 1979. *See* 44 FR 30648 (May 25, 1979). While those interpretations remain in effect, 44 FR 37974 (June 29, 1979), they have been under substantive review by the Commission since its assumption of jurisdiction over the ADEA. *See* 46 FR at 47726.

Certain sections of those interpretations are provisions which allow employers to cease pension contributions and crediting for active employees who work beyond the normal retirement age specified in their pension and retirement plans. *See* 29 CFR 860.120(f)(1)(iv)(B) (1)–(7). Briefly summarized, those rules interpret the ADEA to permit pension plans (1) to cease employer contributions at normal retirement age, (2) not to credit years of service, salary increases and benefit improvements which occur after an employee reaches the normal retirement age specified in the plan, and (3) not to adjust actuarially the benefit accrued as of normal retirement age for an employee who continues to work beyond that age. *See* 29 CFR 860.120(f)(1)(iv)(B) (1)–(7).

The transfer to the EEOC of administrative and enforcement authority under the ADEA took place on July 1, 1979, shortly after the publication of the May 25, 1979, interpretations. Recognizing the significance of these "special rules" for employees who choose to continue working beyond their normal retirement dates, the Commission commenced an exhaustive review of all factors relevant to the interpretation.

The Commission is desirous of receiving information, including statistical and technical data, relative to pension practices for employees working beyond normal retirement age. The Commission is especially interested in statistics and data that can be provided by benefit consultants, plan administrators, actuaries, and other members of the public with specific technical information concerning the operation of pension and retirement plans vis-a-vis employees working beyond normal retirement age. Relevant studies, surveys, or aggregate data would be most helpful, if available. While general information or comments may prove helpful, the Commission asks that, to the extent possible, commentors specifically provide the following information:

Questions on Post Normal Retirement Age Benefit Increases

I. General—For Employees, Employers, and Others

Please specify type of plan (defined benefit, individual account, etc. in responding to the following questions.)

(a) Data or information on pension and retirement plans; number of employees participating, if known; ages of participating employees by five-year age brackets, if possible; types of plans, i.e. defined benefit, defined contribution, target;

(b) Information on ages at which employees become entitled to full unreduced benefits including ages of earliest and latest retirement with full benefits (example: plan provides normal retirement ages of 60 with 20 years service; 65; or 10 years participation;

(c) Information on the way benefits are computed, i.e. annuity based on account balance; percentage of salary average times years of service;

(d) Information on the manner in which contributions are made i.e., percentage of payroll, cost based on projected benefits, etc;

(e) Information/figures on ages at which employees actually retire;

(f) Information or data regarding early retirement under the plan and what, if any, adjustments are made to the retirement benefit;

(g) Information/figures on employees who work beyond the age at which they were entitled to full benefits (specify that age);

(h) Information/figures on the age at which contributions cease; service credit ceases, etc.;

(i) Information on when (date) any applicable provisions for cessation of contributions or service credit beyond normal retirement age were instituted.

II. Actuaries and Employee Benefit Consultants

(a) What rules of vesting and benefit accrual are applicable to the plan(s);

(b) For plans that do not use years of service in the benefit formula, do years of service play any role in the computation of the benefits of participants hired at later ages;

(c) Does the plan provide an actuarial adjustment for participants who continue to work beyond the normal retirement age specified in the plan; has it ever done so; have there been any changes since 1978;

(d) What has been the annual unfunded liability of the plan since 1978 (as a percentage of annual liability);

(e) What percentage of annual cost is expended toward decreasing the unfunded liability of the plan;

(f) What relationship, if any, does the unfunded liability have to the age of retirees since 1978, including early retirees;

(g) What effect on unfunded liability, if any, would result either separately or collectively from (1) an actuarial

adjustment for delayed retirement and/or (2) crediting for years of service and salary increases for participants working beyond normal retirement age;

(h) What effect, if any, on the plans would continued benefit accruals or actuarial adjustments after normal retirement age have on the unfunded supplemental liability and/or overall compliance with the requirements of ERISA or the Internal Revenue Code (please specify provisions of the statute or the Code where applicable).

III. Employers and Plan Administrators

A. Individual Account Plans

(a) The types of plans maintained by employers, i.e., money purchase, profit sharing, target, ESOP, etc.;

(b) Whether more than one plan is maintained. If so, which plan is the primary plan, and which is/are secondary;

(c) Median age and salaries of retirees since 1978;

(d) Since 1978, a breakdown of the age of retirees and the percentage of the work force expected to work beyond the normal retirement age based on experience since 1978;

(e) For target benefit plans; (1) the method of computation of the benefit; (2) the percentage of participants who have met projected benefit since 1978; (3) whether the plan provides for an actuarial or similar adjustment for delayed retirement and, if so, the formula that is utilized; (4) does the plan provide for any other increases after normal retirement age;

(f) Does the plan provide for early retirement; if so, what adjustments, if any, are made for early retirement;

(g) Statistics on and/or examples of the normal retirement age in specific plans;

(h) Prior to 1978, did the plan permit service beyond the normal retirement age; what was that age; did this practice change on or after 1978;

(i) Statistics on and/or examples of employers who currently have employees working beyond the normal retirement ages specified in their defined contributions plans and estimates of the number of such employees and their percentages in the work force.

(j) Statistics on and/or descriptions of plans to which contributions are made on behalf of employees working beyond the normal retirement age in the plan.

B. Defined Benefit Plans

(a) The normal retirement age specified in the plan; whether the normal retirement age has ever been adjusted and, if so, when and to what age; have there been any changes in the normal retirement age since 1978;

(b) What is the formula used for computing benefits at normal retirement age?

(c) Does the plan provide for early retirement; if so, what are applicable plan provisions; are there any voluntary early retirement incentives offered in conjunction with the plan; what are they; and

(d) For each year since 1978, the number of employees working beyond normal retirement age; their percentage of the work force, by year; and any future estimates of such employees.

Signed at Washington, D.C. this 1st day of September 1983.

For the Commission.

Clarence Thomas,

Chairman, Equal Employment Opportunity Commission.

[FR Doc. 83-24917 Filed 9-14-83; 8:45 am]

BILLING CODE 6570-06-M

VETERANS ADMINISTRATION

38 CFR Part 21

Vocational Rehabilitation Amendments

AGENCY: Veterans Administration.

ACTION: Proposed regulations.

SUMMARY: The VA is publishing for public comment regulations to implement provisions of the Veterans' Rehabilitation and Education Amendments of 1980. Title 1 of these amendments updates and expands the vocational rehabilitation program. This revision of chapter 31 of title 38, United States Code, the first since its establishment for veterans of World War II, improve the vocational rehabilitation program, and helps to assure that service-disabled veterans will benefit from the latest concepts and methods developed in the field of rehabilitation. The revision of the law requires a corresponding revision of regulations governing the program. The regulations contained here implement provisions of the law governing approval of facilities and courses offered by facilities, case management services, entering a rehabilitation program, satisfactory conduct and cooperation during the development and implementation of a rehabilitation plan, inter- and intra-regional travel, and additional administrative considerations. These regulations will better acquaint eligible veterans, educational institutions and the public at large with the way the provisions will be implemented.

DATES: Comments must be received on or before November 14, 1983. It is proposed that these regulations be made effective on the same dates as the provisions of law on which they are based. Following this principle, provisions governing approval of facilities and courses, case management services, entering a rehabilitation program, travel, additional administrative considerations are generally effective October 1, 1980. Provisions governing satisfactory conduct and cooperation are effective April 1, 1981. The proposed effective dates of these provisions are shown in parentheses following the United States Code Cites at the end of each paragraph/section.

ADDRESS: Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420. All written comments will be available for public inspection only at the above address between the hours of 8 a.m. to 4:30 p.m. Monday through Friday (except holidays), until November 29, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Stephen L. Lemons, Director, Vocational Rehabilitation and Counseling Service, Department of Veterans Benefits, (202) 389-3935.

SUPPLEMENTARY INFORMATION: The VA published the first portion of the proposed regulations implementing some of the provisions of the Veterans' Rehabilitation and Education Amendments of 1980 in the **Federal Register** of April 29, 1982, at pages 18382 to 18386. The second portion of the proposed regulations was published in the **Federal Register** of September 15, 1982, at pages 40649 to 40659. The third portion of the proposed regulations was published in the **Federal Register** of May 10, 1983, at pages 20939 to 20949. This proposal constitutes the fourth portion of regulations to be proposed for this purpose. Specifically, these regulations contain policy for approval of facilities and courses, case management services, entrance into a rehabilitation program, satisfactory conduct and cooperation, travel, and additional administrative considerations. The fifth, and final, portion of proposed regulations will be published in the near future.

These proposed regulations do not meet the criteria for major rules as contained in Executive Order 12291, Federal Regulation. There will be no new reporting or recordkeeping requirements, or other compliance costs,

to business or educational institutions caused by this proposal. The proposal will not affect other agencies. However, this proposal may induce some veterans to train under 38 U.S.C. ch. 31, who would not have done so otherwise. Furthermore, these proposed regulations will affect every veteran who is eligible to train under 38 U.S.C. ch. 31. However, these effects of the law do not place the proposed regulations in the category of major rules. Since these proposed regulations are not major rules they do not require regulatory analysis. They will not have an effect of $100 million in any year. They will not create major increases in costs or prices. They will not impose major recordkeeping burdens on anyone and they will not cause major additional costs to recipients of Federal assistance. Accordingly, the VA has not prepared an analysis of these proposed regulations.

The Administrator hereby certifies that these proposed rules will not, if promulgated, have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), these proposed rules are therefore exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. The reasons for this certification are that, to the extent the proposed rules are directed to small entities, they follow the requirements of Pub. L. 96–466, or codify pre-existing agency policy and practice. Thus, no new regulatory burdens are imposed on small entities. In addition, only a limited number of service-connected disabled veterans are in training under this program at any given time. These rules will therefore have no significant economic impact on small entities.

Information collection requirements contained in these proposed regulations (§ 21.294(a)(4)(ii)) have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and have been assigned OMB control numbers 2900–0368 (VA Form 28–1917, Monthly Statement of Wages Paid to Trainee) and 2900–0176 (VA Form 20–1905c, Montly Record of Training and wages).

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant program, Loan programs, Reporting requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

The Catalog of Federal domestic Assistance Number is 64.116.

By direction of the Administrator

Everett Alvarez, Jr.,

Deputy Administrator.

38 CFR Part 21, Vocational Rehabilitation and Education, is amended as follows:

PART 21—[AMENDED]

1. The following new centerheading and § 21.180 are added as follows:

Case Status

§ 21.180 Case status system.

(a) *General.* Each veteran's case will be assigned to a specific case status from the point of initial contact until all appropriate steps in the rehabilitation process have been completed. The case status system will:

(1) Assist VR&C staff to fulfill its case management responsibility to provide authorized assistance to enable the veteran to successfully pursue his or her program; and

(2) Assure program management and accountability. (38 U.S.C. 1507) (April 1, 1981)

(b) *Responsibility for change of case status.* The case manager is responsible for assigning a case to the appropriate case status at each point in the rehabilitation process. (38 U.S.C. 1506(e)) (April 1, 1981)

(c) *Case manager.* The VR&C (Vocational Rehabilitation and Counseling) Officer or his or her designee will assign a case manager when the veteran's case is placed in "evaluation and planning" status. The VR&C Officer or his or her designee may assign case management responsibility for development and implementation of a rehabilitation plan authorized under chapter 31 to a counseling psychologist or vocational rehabilitation specialist in the VR&C Division. The case manager assigned will, unless replaced by the VR&C Officer, continue to be responsible for case management throughout the course of the veteran's rehabilitation program. The DVB case manager should coordinate efforts to secure necessary medical and other services with DM&S (Department of Medicine and Surgery) staff assigned case management responsibility at a VA medical center as appropriate in the individual case. (38 U.S.C. 1506(e)) (April 1, 1981)

(d) *Informing the veteran.* The veteran will be informed in writing of changes in case status by the VA which affect his or her receipt of benefits and services under chapter 31. The letter to the veteran will include the reason for the change of case status, and other information required under provisions of § 21.420. (38 U.S.C. 1507) (April 1, 1981)

(e) *Normal progression for eligible veterans.* The cases of veterans who are eligible for and entitled to services under chapter 31 for whom individualized plans have been prepared will generally undergo the following changes of status:

(1) *Individualized written rehabilitation plan.* A veteran with an IWRP (Individualized Written Rehabilitation Plan) will generally move sequentially from "applicant" status through "evaluation and planning" status, "rehabilitation to the point of employability" status, "employment services" status, and "rehabilitated" status.

(2) *Individualized extended evaluation plan.* A veteran with an IEEP (Individualized Extended Evaluation Plan) will generally move from "applicant" status through "evaluation and planning" status to "extended evaluation" status. Once in "extended evaluation" status there will generally be a finding which leads to development of an IWRP (paragraph (e)(1) of this section), or IILP (Individualized Independent Living Plan) (paragraph (e)(3) of this section).

(3) *Individualized independent living plan.* A veteran with an IILP (Individualized Independent Living Plan) will generally move from "applicant" status through "evaluation and planning," "extended evaluation," "independent living," and "rehabilitated" status.

(4) *Individualized employment assistance plan.*

(i) A veteran with an IEAP (Individualized Employment Assistance Plan) which is a part of an IWRP will move through the case statuses described in Paragraph (e)(1) of this section, or in some cases through the steps in paragraph (e)(2) of this section.

(ii) A veteran for whom only employment services are provided will generally move from "applicant" through "evaluation and planning," "employment services" to "rehabilitated" status. (38 U.S.C. 1507) (April 1, 1981)

(f) *Normal progression for ineligible veterans.* A veteran found ineligible for services under chapter 31 will generally move from "applicant" to "evaluation and planning" status, to "ineligible" status. (38 U.S.C. 1507) (April 1, 1981)

(g) *Changes of status.* The case manager may change the case status when:

(1) Conditions for change specified in the status are met;

(2) The change is not specifically precluded by the status to which change is being considered; and

(3) The change is consistent with provisions of other applicable regulations. (38 U.S.C. 1506) (April 1, 1981)

2. Section 21.182 is added as follows:

§ 21.182 "Applicant" status.

(a) *Purpose.* The purposes of "applicant" status are to

(1) Process a veteran's claim for assistance under chapter 31 in a timely manner; and

(2) Identify service-disabled veterans whom the VA should contact individually to increase their awareness and understanding of how they may benefit from services furnished under chapter 31. (38 U.S.C. 1502) (April 1, 1981)

(b) *Assignment to "applicant" status.* The VA will assign a veteran's records to "applicant" status when either:

(1) The VA receives a formal or informal application from a veteran for services under chapter 31; or

(2) The VR&C (Vocational Rehabilitation and Counseling) Division:

(i) Advises a veteran in writing of the veteran's potential eligibility for chapter 31 services, or

(ii) Is informed that the veteran has been advised in writing of his or her potential eligibility for chapter 31 services by other VA elements. (38 U.S.C. 1502) (2)) (April 1, 1981)

(c) *Termination of "applicant" status.* "Applicant" status will be terminated when:

(1) An appointment for an initial evaluation has been scheduled; or

(2) The veteran's service-connected disability is reduced to a noncompensable degree; or

(3) The veteran's service-connected disability is severed; or

(4) The veteran's application is invalid because of fraud or error; or

(5) The veteran withdraws his or her claim, or otherwise indicates that no further assistance is desired. (38 U.S.C. 1506) (April 1, 1981)

Cross-Reference: See §§ 21.30 Claims, 21.31 Informal claims, and 21.34 Time limits.

3. Section 21.184 is added as follows:

§ 21.184 "Evaluation and planning" status.

(a) *Purpose.* The purpose of "evaluation and planning" status is to identify veterans for whom evaluation and planning services are needed to:

(1) Accomplish an initial evaluation as provided in § 21.50;

(2) Develop an IWRP (Individualized Written Rehabilitation Plan), IEEP (Individualized Extended Evaluation Plan), IILP (Individualized Independent Living Plan) or IEAP (Individualized Employment Assistance Plan); or

(3) Reevaluate:

(i) Findings made in prior initial evaluations, or

(ii) Current or previous individualized rehabilitation plans. (38 U.S.C. 1506, 1507) (April 1, 1981)

(b) *Assignment to "evaluation and planning" status.* A veteran's records will be assigned to "evaluation and planning" status for any of the purposes specified in paragraph (a) of this section. (38 U.S.C. 1506, 1507) (April 1, 1981)

(c) *Termination of "evaluation and planning" status.* The assignment of the veteran's records to "evaluation and planning" status may be terminated under the following conditions:

(1) *Evaluation and planning completed.* The services necessary to complete evaluation and planning have been provided. These services are:

(i) Completion of an initial evaluation;

(ii) Development of an IWRP (Individualized Written Rehabilitation Plan) or other individual rehabilitation plan in those cases in which eligibility and entitlement to services provided under chapter 31 are established; or

(iii) Completion of reevaluation of prior findings made in initial evaluation or modification of a rehabilitation plan.

(2) *Evaluation and planning not completed.* The VR&C Division shall make every reasonable effort to enable the veteran to complete the evaluation and planning phase of the rehabilitation process. A determination that every reasonable effort by the VA has been made, and that little likelihood exists that continued efforts will lead to completion of planning and evaluation, may be made under the following conditions:

(i) The veteran writes the VA and requests that his or her application be inactivated;

(ii) The veteran fails to keep scheduled appointments; or

(ii) The veteran otherwise fails to cooperate with the VA in the evaluation and planning process. If the veteran fails to cooperate the provisions of § 21.362 are applicable. (38 U.S.C. 1506, 1507) (April 1, 1981)

Cross-Reference: See §§ 21.50 through 21.58 Initial and extended evaluation, and §§21.80 through 21.98 Individualized written rehabilitation plan.

4. Section 21.186 is added as follows:

§ 21.186 "Ineligible" status.

(a) *Purpose.* The purpose of "ineligible" status is to identify the cases in which a veteran requests services under chapter 31, but the request is denied by the VA on the basis of information developed when the veteran was in "evaluation and planning" status. (38 U.S.C. 1506) (April 1, 1981)

(b) *Assignment to "ineligible" status.* A veteran's case will be assigned to "ineligible" status following a finding by the VA that the veteran is not eligible for or entitled to services under chapter 31. The finding must preclude all possible chapter 31 services. (38 U.S.C. 1506, 1507) (April 1, 1981)

(c) *Termination of "ineligible" status.* The assignment of the veteran's case to "ineligible" status should be terminated if the veteran thereafter becomes eligible to receive any chapter 31 service. Placement of the case in "ineligible" status is a bar to reconsideration of eligibility unless a material change in circumstances occurs. (38 U.S.C. 1506) (April 1, 1981)

5. Section 21.188 is added as follows:

§ 21.188 "Extended evaluation" status.

(a) *Purpose.* The purposes of "extended evaluation" status are to:

(1) Identify a veteran for whom a period of "extended evaluation" is needed; and

(2) Assure that necessary services are provided by the VA during the extended evaluation. (38 U.S.C. 1506) (April 1, 1981)

(b) *Assignment to "extended evaluation" status.* A veteran's case may be assigned or reassigned to "extended evaluation" status under provisions of § 21.86, § 21.94, § 21.96, or § 21.98. (38 U.S.C. 1507) (April 1, 1981)

(c) *Continuation in "extended evaluation" status.* A veteran's case will be in "extended evaluation" status during periods in which:

(1) The veteran is pending induction into the facility at which rehabilitation services will be provided;

(2) The veteran is receiving rehabilitation services prescribed in the IEEP § 21.86; or

(3) The veteran is on authorized leave of absence during an extended evaluation. (38 U.S.C. 1508) (April 1, 1981)

(d) *Termination of "extended evaluation" status.* A veteran in "extended evaluation" status will remain in that status until one of the following events occur:

(1) Following notification that necessary arrangements have been made to begin an extended evaluation, the date the extended evaluation begins, and instructions as to the next steps to be taken, the veteran:

(i) Fails to report and does not respond to followup contact by the case manager;

(ii) Declines or refuses to enter the program; or

(iii) Defers induction for a period exceeding 30 days beyond the scheduled date of induction, except where the deferment is due to illness or other sufficient reason;

(2) The VA determines the reasonable feasibility of a vocational goal for the veteran before completion of all of the planned evaluation because the decision does not require the further evaluation;

(3) The veteran completes the extended evaluation;

(4) Either the veteran or the VA interrupts the extended evaluation;

(5) Either the veteran or the VA discontinues the extended evaluation; or

(6) Service-connection for the veteran's service-connected disability is severed by the VA or his or her continued eligibility otherwise ceases. (38 U.S.C. 1506) (April 1, 1981)

Cross-References: See §§ 21.56 Extended evaluation, 21.322 Commencing dates, 21.324 Reduction or termination.

6. Section 21.190 is added as follows:

§ 21.190 "Rehabilitation to the point of employability" status.

(a) *Purpose.* The "rehabilitation to the point of employability" status serves to:

(1) Identify veterans who receive training and rehabilitation services to enable them to attain a vocational goal; and

(2) Assure that services specified in the veteran's IWRP are provided in a timely manner by the VA. (38 U.S.C. 1501) (April 1, 1981)

(b) *Assignment.* A veteran's case may be assigned or reassigned to "rehabilitation to the point of employability" status under the provisions of §§ 21.84, 21.94, 21.96, or 21.98. (38 U.S.C. 1507) (April 1, 1981)

(c) *Continuation in "rehabilitation to the point of employability" status.* A veteran will be assigned to "rehabilitation to the point of employability" status during periods in which:

(1) The veteran has completed the "applicant" and "initial evaluation" status (including extended evaluation status when appropriate), and is pending induction into the facility at which training and rehabilitation services will be provided;

(2) The veteran is receiving training and rehabilitation services prescribed in the IWRP; or

(3) The veteran is on authorized leave of absence. (38 U.S.C. 1504, 1508) (April 1, 1981)

(d) *Termination of "rehabilitation to the point of employability" status when goals of the IWRP for this period are achieved.* The VA will consider a veteran to have completed the period of rehabilitation to the point of employability, and will terminate this status under the following conditions:

(1) The veteran achieves the goals of, and has been provided services specified in the IWRP;

(2) The veteran completes a sufficient portion of the services prescribed in the IWRP to establish clearly that he or she is generally employable as a trained worker in the occupational objective established in the IWRP,

(3) The veteran, who has not completed all prescribed services in the IWRP, accepts employment in the occupational objective established in the IWRP with wages and other benefits commensurate with wages and benefits received by trained workers; or

(4) The veteran:

(i) Satisfactorily completes a prescribed program, the practice of which requires pursuing an examination for licensure, but

(ii) Is unable to take the licensure examination prior to the basic twelve year termination date and there is no basis for extension of that date. (38 U.S.C. 1507) (April 1, 1981)

(e) *Other conditions for termination of "rehabilitation to the point of employability" status.* In addition to termination under conditions described in paragraph (d) of this section, the classification of the veteran's records in this status may be terminated under any of the following conditions:

(1) A veteran who has been notified that necessary arrangements have been made to begin the program, the date the program begins and instructed as to the next steps to be taken:

(i) Fails to report and does not respond to initial or subsequent followup by the case manager;

(ii) Declines or refuses to enter the program; or

(iii) Defers induction for a period exceeding 30 days beyond the scheduled beginning date of the program, except if the deferment is due to illness or other sufficient reason.

(2) Either the veteran or the VA interrupts the period of rehabilitation to the point of employability;

(3) Either the VA or the veteran discontinues the period of rehabilitation to the point of employability;

(4) The veteran reaches his or her termination date, and there is no basis for extension under § 21.44;

(5) The veteran's entitlement to training and rehabilitation services under chapter 31 is exhausted, and there is no basis for extension under § 21.78; or

(6) Service-connection for the veteran's service-connected disability is severed by the VA or he or she otherwise ceases to be eligible. (38 U.S.C. 1507) (April 1, 1981)

(f) *Payment of employment adjustment allowance.* An employment adjustment allowance will be paid when the veteran's classification in "rehabilitation to the point of employability" status is terminated under provisions of paragraph (d) of this section. An employment adjustment allowance will not be paid if termination is for one of the reasons specified in paragraph (e) of this section. (38 U.S.C. 1508(a)) (April 1, 1981)

Cross-References: See §§ 21.120 Educational and vocational training services, 21.282 Effective date of induction into a rehabilitation program, and 21.284 Reentering into a rehabilitation program.

7. Section 21.192 is added as follows:

§ 21.192 "Independent living program" status.

(a) *Purpose.* The "independent living program" status serves to:

(1) Identify veterans who are being furnished a program of independent living services by the VA; and

(2) Assure that such veterans receive necessary services from the VA in a timely manner. (38 U.S.C. 1507) (April 1, 1981)

(b) *Assignment to "independent living program" status.* A veteran may be assigned or reassigned to "independent living program" status under the provisions of §§ 21.88, 21.94, 21.96, or 21.98. (38 U.S.C. 1507) (April 1, 1981)

(c) *Continuation in "independent living program" status.* A veteran will be in "independent living program" status during periods in which:

(1) The provisions of § 21.282 for induction into a program are met, but the veteran is pending induction into the facility at which rehabilitation services will be provided;

(2) The veteran receives rehabilitation services prescribed in an IILP; or

(3) The veteran is on authorized leave of absence status. (38 U.S.C. 1509, 1520) (October 1, 1980)

(d) *Termination of "independent living program" status.* When a veteran's case has been assigned to "independent living program" status the case will be terminated from that status if one of the following occurs:

(1) A veteran, who has been notified that necessary arrangements have been made to begin a program, the date the program begins and instructed as to the next steps to be taken:

(i) Fails to report and does not respond to followup contact by the case manager;

(ii) Declines or refuses to enter the program; or

(iii) Defers entry for more than 30 days beyond the scheduled beginning date, unless the deferment is due to illness or other sufficient reason.

(2) The veteran completes the IILP;

(3) Either the veteran or the VA interrupts the program;

(4) Either the veteran or the VA discontinues the program; or

(5) Service-connection for the veteran's service-connected disability is severed by the VA. (38 U.S.C. 1509, 1510) (October 1, 1980).

Cross-References: See §§ 21.100 Independent living services. 21.282 Effective date of induction into a rehabilitation program. 21.322 Commencing date. 21.324 Reduction of termination date.

8. Section 21.194 is added as follows:

§ 21.194 "Employment services" status.

(a) *Purpose.* The status "employment services" serves to:

(1) Identify veterans who are being furnished employment services; and

(2) Assure that these veterans receive necessary services in a timely manner. (38 U.S.C. 1517) (April 1, 1981)

(b) *Assignment to "employment services" status.* A veteran's case may be assigned or reassigned to "employment services" status under the provisions of §§ 21.84, 21.88, and 21.94. (38 U.S.C. 1517) (April 1, 1981)

(c) *Continuation in "employment services" status.* A case will remain in "employment services" status for the period specified in the IEAP, subject to the limitations specified in paragraph (d) of this section. (38 U.S.C. 1517) (April 1, 1981)

(d) *Termination of "employment services" status.* The veteran will continue in "employment services" status until the earliest of the following events occurs:

(1) He or she is:

(i) Employed in the occupational objective for which training was provided or in a closely related objective for sixty days, and

(ii) Adjusted to the duties and responsibilities of the job;

(2) He or she qualifies for placement in "rehabilitation" status under the provisions of § 21.196(b)(2);

(3) Either the veteran or the VA interrupts the employment services program;

(4) Either the veteran or the VA discontinues the employment services program;

(5) He or she reaches the end of the period for which employment services have been authorized and there is no basis for extension; or

(6) Service-connection for the veteran's service-connected disability is severed or he or she otherwise ceases to be eligible. (38 U.S.C. 1517) (April 1, 1981)

Cross-References: See §§ 21.47 Eligibility for employment assistance, 21.250 Employment assistance, and 21.326 Awards for employment services.

9. Sections 21.196 through 21.198 are added as follows:

§ 21.196 "Rehabilitated" status.

(a) *Purpose.* The purpose of "rehabilitated" status is to identify those cases in which the goals of a rehabilitation program or a program of employment services have been substantially achieved.

(b) *Assignment to "rehabilitated" status.* A veteran's case shall be assigned to "rehabilitated" status under the following conditions:

(1) *Achieving and maintaining suitable employment.* A veteran's case shall be assigned to "rehabilitated" status from "employment services" status as provided in § 21.194(d)(1) pertaining to the achievement and maintenance of suitable employment, following attainment of the goals of a plan. This includes:

(i) An IEAP (Individualized Employment Assistance Plan) which is part of an IWRP (Individualized Written Rehabilitation Plan); or

(ii) An IEAP which constitutes the program of services to be provided under chapter 31.

(2) *Rehabilitation to the point of employability not completed.* A veteran who has not completed the planned period of rehabilitation to the point of employability shall be assigned to "rehabilitated" status if he or she:

(i) Is employed and adjusted in employment for 60 days in the occupational objective established in the IWRP, with wages and benefits commensurate with wages and other benefits received by other workers in the same occupation; or

(ii) Is employed and adjusted in employment for 60 days in a job which provides wages and benefits commensurate with the wages and benefits of workers in the occupation for which the veteran was training, is compatible with the limiting effects of the veteran's service and nonservice-connected disabilities, and otherwise consistent with the veteran's abilities and interests.

(3) *IEAP not completed.* A veteran in an IEAP which constitutes the whole of the veteran's program of services will be assigned to "rehabilitated" status from "employment services" status, even if the IEAP is not completed when:

(i) He or she is employed and adjusted in employment for 60 days in an occupation which provides wages and benefits commensurate with the wages and benefits received by workers in the occupational objective of the IEAP, and

(ii) The occupation in which the veteran is employed is compatible with the limiting effects of the veteran's service and nonservice-connected disabilities.

(4) *Independent living services plan.* A veteran in an IILP shall be considered rehabilitated when:

(i) The goal(s) of the IILP is (are) achieved, and

(ii) The veteran has maintained the increased level of independence for sixty days; or

(iii) The veteran has not achieved the goals of the IILP, but the VA determines that the veteran has received maximum benefits from the services provided, and has achieved a substantial increase in the level of independence. (38 U.S.C. 1507, 1517) (April 1, 1981)

(c) *Termination of "rehabilitated" status.* A veteran's case will not be removed from "rehabilitated" status once that status has been assigned, unless the determination of rehabilitation is set aside for a reason specified in § 21.284. (38 U.S.C. 1500) (April 1, 1981)

Cross-Reference: See § 21.284 Reentrance into a rehabilitation program.

§ 21.197 "Interrupted" status.

(a) *Purpose.* The purpose of "interrupted" status is to recognize that a variety of situations may arise in the course of a rehabilitation program in which a temporary suspension of the program is warranted. In each case, the VA first must determine that the veteran will be able to return to a rehabilitation program or a program of employment services following the resolution of the situation causing the interruption. This determination will be documented in the veteran's record. (38 U.S.C. 1517) (October 1, 1981)

(b) *Assignment to "interrupted" status.* A veteran's case will be assigned to "interrupted" status when:

(1) The VA determines that a suspension of services being provided is necessary; and

(2) Either:

(i) A definite date for resumption of the program is established; or

(ii) The evidence indicates the veteran will be able to resume the program at some future date which can be

approximately established. (38 U.S.C. 1510) (April 1, 1981)

(c) *Reasons for assignment to "interrupted" status.* A veteran's case may be interrupted and assigned to "interrupted" status for reasons including but not limited to the following:

(1) *Veteran does not initiate or continue rehabilitation process.* If a veteran does not begin or continue the rehabilitation process, the veteran's case will be interrupted and assigned to "interrupted" status, including:

(i) A case in "applicant" status;

(ii) A case in "evaluation and planning" status;

(iii) A case in "extended evaluation" status;

(iv) A case in "rehabilitation to the point of employability" status;

(v) A case in "independent living program" status or

(vi) A case in "employment services" status.

(2) *Unsatisfactory conduct and cooperation.* If a veteran's conduct or cooperation becomes unsatisfactory, services and assistance may be interrupted as determined under provisions of §§ 21.362 and 21.364.

(3) *Services not available.* The veteran cannot continue the program because the necessary training and rehabilitation services are unavailable.

(4) *Prior to assignment to "discontinued" status.* A veteran's case shall be assigned to "interrupted" status prior to discontinuance and assignment to "discontinued" status in all cases except the veteran's death. The purpose of assignment to "interrupted" status is to assure that all appropriate actions have been taken to help the veteran continue in his or her program before discontinuing benefits and services.

(5) *Absences.* The veteran is not entitled to be placed on authorized absence under §§ 21.342 through 21.350 while in interrupted status. (38 U.S.C. 1511) (April 1, 1981)

(d) *Reentrance from "interrupted" status.* (1) A veteran in "interrupted" status may be assigned to his or her prior status or other appropriate status, if he or she reports for reentrance into the prescribed program at the time and place scheduled for the resumption of the rehabilitation program.

(2) If a veteran in "interrupted" status fails to report for reentrance into the program at the appointed time and place, the veteran's case will remain in "interrupted" status. The case manager will then determine whether there is a satisfactory reason for the veteran's failure to enter the new or reenter the prior program. If the evidence of record does not establish a satisfactory reason, the veteran's case will be discontinued and assigned to "discontinued" status. (38 U.S.C. 1506) (April 1, 1981)

(e) *Case management responsibility during a period of interruption.* The case manager shall maintain contact with the veteran during "interruption" and shall arrange for appropriate medical or other services the veteran needs to be able to reenter a rehabilitation program or a program of employment services. (38 U.S.C. 1507) (October 1, 1980)

Cross-Reference: See § 21.324 Reduction or termination date.

§ 21.198 "Discontinued" status.

(a) *Purpose.* The purpose of "discontinued" status is to identify situations in which termination of all services and benefits received under chapter 31 is necessary. (38 U.S.C. 1510, 1511) (October 1, 1980)

(b) *Placement in "discontinued" status.* The VA will discontinue the veteran's case and assign the case to "discontinued" status. The VA will discontinue the veteran's case and assign the case to "discontinued" status following assignment to "interrupted" status as provided in § 21.197 for reasons including but not limited to the following conditions:

(1) *Veteran declines to initate or continue rehabilitation process.* If a veteran does not initiate or continue the rehabilitation process and does not furnish an acceptable reason for his or her failure to do so, the veteran's case will be discontinued and assigned to "discontinued" status. This includes:

(i) A case in "applicant" status;

(ii) A case in "evaluation and planning" status;

(iii) A case in "extented evaluation" status;

(iv) A case in "rehabilitation to the point of employability" status;

(v) A case in "independent living program" status;

(vi) A case in "employment services" status; or

(vii) A case in "interrupted" status; (38 U.S.C. 1511) (October 1, 1980)

(2) *Unsatisfactory conduct and cooperation.* When a veteran's conduct or cooperation becomes unsatisfactory, services and assistance may be discontinued and assigned to "discontinued" status as determined under provisions of §§ 21.362 and 21.364.

(3) *Eligibility and entitlement.* A veteran's case will be discontinued and assigned to "discontinued" status when:

(i) The veteran reaches the basic 12 year termination date, and there is no basis for extension; or

(ii) The veteran has used 48 months of entitlement under one or more VA programs, and there is no basis for extension of entitlement.

(4) *Medical and related problems.* A veteran's case will be discontinued and assigned to "discontinued" status when:

(i) The veteran will be unable to participate in a rehabilitation program because of a serious physical or emotional problem for an extended period; and

(ii) VA medical staff are unable to estimate an approximate date by which the veteran will be able to begin or return to the program.

(5) *Withdrawal.* Veteran voluntarily withdraws from the program.

(6) *Failure to progress.* The veteran's case will be discontinued and assigned to "discontinued" status if his or her failure to progress in a program is due to:

(i) Continuing lack of application by the veteran unrelated to any personal or other problems; or

(ii) Inability of the veteran to benefit from rehabilitation services despite the best efforts of the VA and the veteran. (38 U.S.C. 1510, 1511) (October 1, 1980)

(c) *Termination of "discontinued" status.* Except as noted in paragraph (c)(3) of this section assignment of the veteran's case to the same status from which the veteran was discontinued or to a different one requires that the VA first find:

(1) The reason for the discontinuance has been removed; and

(2) The VA has redetermined his or her eligibility and entitlement under chapter 31.

(3) The criteria described in paragraphs (c) (1) and (2) of this section are not applicable if:

(i) The veteran was placed in "discontinued" status under § 21.362 or 21.364. Reassignment to the prior or different status is also determined under provisions of those regulations; or

(ii) The veteran's discontinuance was under provisions of § 21.198(b)(4). The case may be placed in the prior status or a different status withour a redetermination of entitlement and the period of eligibility may be extended under provisions of § 21.42(b). (38 U.S.C. 1511) (October 1, 1980)

(d) *Followup of cases placed in "discontinued" status.* The VA shall establish appropriate procedures to follow-up on cases which have been placed in "discontinued" status. The purpose of such followup is to determine if:

(1) The reasons for discontinuance may have been removed, and reconsideration of eligibility and entitlement is possible; or

(2) The veteran is employed, and criteria for assignment to "rehabilitated" status are met. (38 U.S.C. 1507) (April 1, 1981)

Cross-Reference: See § 21.324 Reduction or termination dates.

§§ 21.280, 21.281, 21.282, 21.286 and 21.287 [Removed]

10. The center heading "Termination of Training" and §§ 21.280, 21.281, 21.283, 21.286 and 21.287 are removed.

11. A new center heading "Entering a Rehabilitation Program," and §§ 21.282 and 21.284 are added to read as follows:

Entering a Rehabilitation Program

§ 21.282 Effective date of induction into a rehabilitation program.

(a) *General.* Except as provided in paragraph (b) the effective date of induction of a veteran into a rehabilitation program will be one of the dates provided in §§ 21.320 through 21.334. (38 U.S.C. 1508) (October 1, 1980) (April 1, 1981)

(b) *Retroactive induction.* (1) A veteran may be inducted into a vocational rehabilitation program retroactively when all of the following conditions are met:

(i) The period for which retroactive induction is requested is within the veteran's basic period of eligibility or extended eligibility as provided in §§ 21.41 through 21.44;

(ii) The veteran was entitled to disability compensation during the period for which retroactive induction is requested, and met the criteria of entitlement to vocational rehabilitation for that period; and

(iii) The training the veteran pursued during the period is applicable to the occupational objective that is confirmed in initial evaluation to be compatible with his or her disability, consonant with his or her abilities, interests, and aptitudes, and otherwise suitable for accomplishing vocational rehabilitation. (38 U.S.C. 3013) (April 1, 1981)

(2) A veteran shall not be inducted into a vocational rehabilitation program retroactivity if any of the following conditions exist even though all conditions of paragraph (b) of this section are met:

(i) Timely induction was prevented by the veteran's lack of cooperation in completing an initial evaluation;

(ii) The veteran has previously received benefits under another VA program of education or training for any period for which retroactive benefits are being requested under chapter 31;

(iii) A period of extended evaluation is authorized to determine the reasonable feasibility of a vocational goal; or

(iv) The veteran's claim is not received within the time limits described in § 21.31. (38 U.S.C. 1501(9)) (April 1, 1981)

(c) *Effective date of retroactive induction.* The effective date of a veteran's retroactive induction into vocational rehabilitation shall be the earliest of the following dates:

(1) The date of the veteran's chapter 31 application; or

(2) One year before the day the veteran began training for the occupational objective established in the veteran's plan; or

(3) The effective date of the establishment of the veteran's compensable service-connected disability. (38 U.S.C. 3013) (October 1, 1980)

§ 21.284 Reentrance into a rehabilitation program.

(a) *Reentrance into rehabilitation to the point of employability following a determination of rehabilitation.* A veteran who has been found "rehabilitated" under provisions of § 21.196 may be provided an additional period of training or services only if the following conditions are met:

(1) The veteran has a compensable service-connected disability and either;

(2) Current facts, including any relevant medical findings, establish that the veteran's connected disability has worsened to the extent that the effects of the service-connected disability considered in relation to other facts precludes him or her performing the duties of the occupation for which the veteran previously was found rehabilitated; or

(3) The occupation for which the veteran previously was found rehabilitated under chapter 31 is found to be unsuitable on the basis of the veteran's specific employment handicap and capabilities. (38 U.S.C. 1501(a)) (April 1, 1981)

(b) *Reentrance into a program of independent living services following a determination of rehabilitation.* A finding of rehabilitation following a program of independent living services may only be set aside and an additional period of independent living services provided if the following conditions are met:

(1) Either:

(i) The veteran's conditions has worsened and as a result the veteran has sustained a substantial loss of independence; or

(ii) Other changes in the veteran's circumstances have caused a substantial loss of independence; and

(2) the provisions of § 21.162 pertaining to participation in a program of independent living services are met. (38 U.S.C. 1509) (October 1, 1980)

(c) *Reentrance into rehabilitation to the point of employability during a period of employment services.* A finding of rehabilitation to the point of employability by the VA may be set aside during a period of employment services and an additional period of training and related services provided if any of the following conditions are met:

(1) The conditions for setting aside a finding of rehabilitation under paragraph (a) of this section;

(2) The rehabilitation services originally given to the veteran are now inadequate to make the veteran employable in the occupation for which he or she pursued rehabilitation;

(3) Experience during the period of employment services has demonstrated that employment in the objective or field for which the veteran was rehabilitated to the point of employability should not reasonably have been expected at the time the program was originally developed; or

(4) The veteran, because of technological change which occurred subsequent to the declaration of rehabilitation to the point of employability, is no longer able:

(i) To perform the duties of the occupation for which he or she trained, or in a related occupation; or

(ii) To secure employment in the occupation for which he or she trained, or in a related occupation. (38 U.S.C. 1517) (April 1, 1981)

§ 21.291 [Removed]

12. The centerheading "Assisting Veterans in Obtaining Employment" and § 21.291 are removed.

13. A new heading is added, and § 21.290 is revised as follows:

Course Approval and Facility Selection

§ 21.290 Training and rehabilitation resources.

(a) *General.* For the purpose of providing training and rehabilitation services under chapter 31 the VA may:

(1) Use facilities, staff and other resources of the VA;

(2) Employ and additional personnel and experts needed;

(3) Use the facilities and services of any:

(i) Federal;

(ii) State;

(iii) Other public agency; or

(iv) Agency maintained by joint Federal and state contributions.

(4) Use the facilities and services of any:

(i) Public;
(ii) Private institution or establishment; or
(iii) Private individual. (38 U.S.C. 1515)(April 1, 1981)

(b) *Agreement required.* Use of facilities and services provided under paragraph (a) of this section shall be procured through contract, agreement, or other cooperative arrangement. The specific requirements for use of contracts or other arrangements are described in 41 CFR 8–95.2. (38 U.S.C. 1515)(April 1, 1981)

14. Section 21.292 is added as follows:

§ 21.292 Course approvals.

(a) *Courses must be approved.* Only those courses approved by the Veterans Administration shall be utilized to provide training and rehabilitation services under Chapter 31. (38 U.S.C. 1506) (April 1, 1981)

(b) *General.* VA staff in consultation with the veteran will select courses and services needed to carry out the rehabilitation plan only from those which the VA determines that are offered by a training or rehabilitation facility which:

(1) Meets the requirements of § 21.120 through 21.162;

(2) Meets the criteria of §§ 21.290 through 21.299; and

(3) Is is compliance with title VI of the Civil Rights Act of 1964, section 503(a) Veterans Readjustment Act of 1972, and sections 501–504 of the Rehabilitation Act of 1973. (38 U.S.C. 1515) (April 1, 1981)

(c) *Obtaining information necessary for approval.* In determining whether services and courses may be approved for a veteran's training and rehabilitation under chapter 31, the Veterans Administration may use information relevant to the approval or certification of such services and courses for similar purposes developed by:

(1) The State approving agencies;
(2) The Department of Labor;
(3) State vocational rehabilitation agencies;
(4) Nationally recognized accrediting associations;
(5) The Committee on Accreditation of Rehabilitation Facilities; and
(6) Other organizations and agencies. (38 U.S.C. 1515) (April 1, 1981)

(d) *Course not approved.* If a course or prorgram is not approved by one of the agencies identified in paragraph (c) of this section, VR&C staff shall develop necessary information to determine whether criteria given in paragraphs (a) and (b) of this section are met. (38 U.S.C. 1515) (April 1, 1981)

(e) *Course disapproved.* Only the Director, VR&C Service may approve courses which have been disapproved by one of the agencies identified in paragraph (c) of this section. (38 U.S.C. 1515) (April 1, 1981)

15. Section 21.294 is added as follows:

§ 21.294 Selecting the training or rehabilitation facility

(a) *Criteria the facility must meet.* In addition to approval of the courses offered, all facilities which provide training and rehabilitation services under chapter 31 must meet the criteria contained in §§ 21.290 through 21.299 applicable to the type of facility. Each facility must:

(1) Have space, equipment, instructional material and instructor personnel adequate in kind, quality, and amount to provide the desired service for the veteran;

(2) Fully accept the obligation to give the training or rehabilitation services in all parts of the plan which call for the facility's participation;

(3) Provide courses or services which:

(i) Meet the customary requirements in the locality for employment in the occupation in which training is given when employment is the objective of the program; and

(ii) Meet the requirements for licensure or permit to practice the occupation, if such is required;

(4) Agree:

(i) To cooperate with the VA, and

(ii) To execute forms covering the veteran's attendance, performance, and progress in training. (38 U.S.C. 1515) (April 1, 1981)

(b) *Selecting a facility for provision of independent living services.* (1) Facilities offering independent living services will be utilized to:

(i) Evaluate independent living potential;

(ii) Provide a program of independent living services to veterans for whom an Individual Independent Living Plan has been developed; or

(iii) Provide independent living services to veterans as part of an Individual Written Rehabilitation Plan, or an Extended Evaluation Plan.

(2) The VA will only utilize public and nonprofit agencies to provide independent living services. These facilities must be:

(i) VA medical centers which provide independent living services;

(ii) Facilities which meet standards established by the state rehabilitation agency for rehabilitation facilities or for providers of independent living services; or

(iii) Facilities which are neither approved nor disapproved by the state rehabilitation agency, but are determined by the VA to be able to provide necessary services in an individual veteran's case. (38 U.S.C. 1515) (April 1, 1981)

(3) The VA policy normally shall be to utilize VA facilities to provide rehabilitation services for veterans in a rehabilitation program under chapter 31. Non-VA facilities may be used to provide rehabilitation services only when necessary services are not readily available at a VA medical center. (38 U.S.C. 1515) (April 1, 1981)

(d) *Selection of individual to provide training or rehabilitation services.* Persons selected to provide individual instruction or other services as part of a program leading to the long-range goal of a veteran's plan must meet one of the following critieria:

(1) State requirements for teaching in the field or occupation for which training is being provided; or

(2) Expertise demonstrated through employment in the field in which the veteran is to be trained; or

(3) Requirements established by professional associations to provide the services needed by the veteran. (38 U.S.C. 1515) (April 1, 1981)

(e) *Relatives.* Relatives of the veteran may not be selected to provide services, even if otherwise qualified, unless such use is specifically permitted by the VA regulation governing provision of the service. Selection of a training or rehabilitation facility owned by the veteran or a relative, or in which the veteran or a relative of the veteran has an interest is precluded, except for selection of a farm as provided in § 21.298. The term relative has the same meaning as in § 21.376. (38 U.S.C. 1515) (April 1, 1981)

(f) *Contracts or agreements required.* The Veterans Administration will negotiate formal contracts for reimbursement to providers of services as required by 41 CFR 8–95.2 (Vocational Rehabilitation and Education Program). However, a letter contract will be effected immediately to permit the induction of the veteran into a program if:

(1) The veteran is immediately entered into a school with which a contract is required;

(2) The veteran's rehabilitation plan will be jeopardized by withholding services until a contract can be completed; and

(3) There are no known reasons to indicate that a contract may not be completed in a reasonable time. (38 U.S.C. 1515) (April 1, 1981)

(g) *Training outside the United States.* The VA may only use those facilities

and courses outside the United States to provide training under chapter 31 which meet requirements for approval under §§ 21.4150(c) and 21.4260. The conditions under which training outside the United States may be approved are contained in § 21.130. (38 U.S.C. 1514) (April 1, 1981)

(h) *Flight training.* Flight training may only be provided in educational institutions which offer a standard college degree. The specific conditions under which flight training may be approved are contained in § 21.134. (38 U.S.C. 1515) (April 1, 1981)

(i) *Additional consideration.* The case manager will consider the veteran's preference for a particular training or rehabilitation facility but the VA has final responsibility for selection of the facility. (38 U.S.C. 1515) (April 1, 1981)

16. Section 21.296 is added as follows:

§ 21.296 Selecting a training establishment for on-job training.

(a) *Additional criteria for selecting a training establishment.* In addition to meeting all of the requirements of § 21.192 the training establishment must:

(1) Sign an agreement to provide on-job training to disabled veterans;

(2) Provide continuous training for each veteran without interruption except for normal holidays and vacation periods;

(3) Provide daytime training for the veteran except when the veteran cannot obtain necessary on-job or related training during the working hours of the day;

(4) Modify the program when necessary to compensate for the limitations resulting from the veteran's disability or needs;

(5) Organize training into definite steps or units which will result in progressive training;

(6) Encourage rapid progress of each veteran rather than limit the progress of the individual to the progress of the group;

(7) Not, during the period of training, use the veteran on production activities beyond the point of efficient training;

(8) Agree to pay the veteran during training (except as provided in paragraphs (b) and (c) of this section) a salary or wage rate:

(i) Commensurate with the value of the veteran's productive labor,

(ii) Not less than that prescribed by the Fair Labor Standards Act of 1938, as amended, and

(iii) Not less than that customarily paid to nonveteran-trainees in the same or similar training situation;

(9) Agree to provide the veteran with employment at the end of the training program, provided the veteran's conduct and progress have been satisfactory; and

(10) Agree to furnish the VA a statement in writing showing:

(i) Wages;

(ii) Compensation; and

(iii) Other income paid directly or indirectly to each veteran in training under chapter 31 during the month. (38 U.S.C. 1508(c), 1515) (April 1, 1981)

(b) *On-job training at subminimum wage rates.* A subminimum hourly wage rate for handicapped workers may be considered where necessary in order to prevent curtailment of opportunities for employment. Payment at the subminimum rate must be approved by the Wage and Hour Division of the Department of Labor. (38 U.S.C. 1515) (April 1, 1981)

17. Section 21.298 and 21.299 are added as follows:

§ 21.298 Selecting a farm.

(a) *Control of the farm—farm operator.* A farm selected for farm cooperative training must be under the control of the veteran by ownership, lease or other written tenure arrangement. If the veteran does not own the farm the lease or other written agreement shall:

(1) Afford the veteran control of the farm at least until the end of his or her course;

(2) Allow the veteran's control to be such that he or she is able:

(i) To carry out the provisions of the training program; and

(ii) To operate the farm in accordance with the farm and home plan developed by the case manager and the veteran in collaboration with the instructor, and when appropriate, the landowner or lessor;

(3) Will permit instruction in the planning, management, and operation of farming enterprise in the veteran's farm and home plan;

(4) At least by the end of the necessary minimum period of training, will assure the veteran a reasonably satisfactory living under normal economic conditions;

(5) Has the necessary buildings and equipment to enable the veteran to satisfactorily begin pursuit of the course of farm cooperative training;

(6) Has resources which give reasonable promise that any additional items required for the pursuit of the course, including livestock, will be available as they become necessary;

(7) Provide for capital improvements to be made which are necessary for carrying out the farm and home plan with the veteran furnishing no greater portion of the costs than the benefits accruing to the veteran warrant; and

(8) Provide for the landowner or lessor to share the costs of improved practices put into effect in proportion to the returns he or she will receive from such practices. (38 U.S.C. 1515) (April 1, 1981)

(b) *Farms on which more than one person trains—farm operator.* If a veteran in training is a partner of another person or if more than one person is involved in operating the farm, the farm shall be of such size and character that the farm:

(1) Together with the instruction part of the course will occupy the full time of the veteran; and

(2) Meets all requirements of paragraph (a) of this section. (38 U.S.C. 1515) (April 1, 1981)

(c) *Selecting a farm—farm manager.* The farm on which a veteran trains to become a farm manager shall be of such size and character that, together with the group instruction part of the course:

(1) Will occupy the full time of the veteran;

(2) Will permit instruction in all aspects of the management and operation of a farm of the type for which the veteran is being trained; and

(3) Meets the requirements of paragraph (a) of this section. (38 U.S.C. 1515) (April 1, 1981)

(d) *Employer agreement.* The VA may approve a farm on which a veteran is to train to become a farm manager only if the employer-trainer agrees:

(1) To instruct the veteran in various aspects of farm management in accordance with the individual's plan;

(2) To pay the veteran for each successive period of training a salary or wage rate:

(i) Commensurate with the value of the veteran's productive labor; and

(ii) Not less than that customarily paid to a nonveteran trainee in the same or similar training situation in that community; and

(3) To employ the veteran as a manager of the farm on which he or she is being trained if his or her conduct and progress remain satisfactory, or assures that the veteran will be employed as manager of a specified comparable farm. (38 U.S.C. 1515) (April 1, 1981)

§ 21.299 Use of facilities of the United States agencies for on-job training at no or nominal pay.

(a) *Use of facilities of United States agencies permitted.* Notwithstanding any other provision of regulations governing chapter 31, the facilities of any agency of the United States may be used to provide training or work experience at no or nominal pay as all or part of the veteran's program of vocational rehabilitation under § 21.122,

provided the counseling psychologist and case manager determine the training or work experience is necessary to accomplish vocational rehabilitation. (38 U.S.C. 1515) (April 1, 1981)

(b) *Employment status of veterans in facilities of United States agencies.* While pursuing training or work experience in a facility or agency of the United States, a veteran:

(1) Shall be deemed to be an employee of the United States for the purposes of benefits under chapter 81, Title 5, United States Code; but

(2) Shall not be deemed an employee of the United States for the purpose of laws administered by the Office of Personnel Management. (38 U.S.C. 1515) (April 1, 1981)

18. The following new centerheading and § 21.362 are added to read as follows:

Conduct and Cooperation

§ 21.362 Satisfactory conduct and cooperation.

(a) *General.* The successful development and implementation of a program of rehabilitation services require the full and effective participation of the veteran in the rehabilitation process.

(1) The veteran is responsible for satisfactory conduct and cooperation in developing and implementing a program of rehabilitation services under chapter 31;

(2) The staff is responsible for insuring satisfactory conduct and cooperation on the veteran's part; and

(3) The VA staff shall take required action when the veteran's conduct and cooperation are not satisfactory. (See § 21.364) (38 U.S.C. 1511) (April 1, 1981)

(b) *VA responsibility.* The VA shall make a reasonable effort to inform the veteran and assure his or her understanding of:

(1) The services and assistance which may be provided under chapter 31 to help the veteran maintain satisfactory cooperation and conduct and to cope with problems directly related to the rehabilitation process, especially counseling services;

(2) Other services which VR&C staff can assist the veteran in securing through non-VA programs; and

(3) The specific responsibilities of the veteran in the process of developing and implementing a program of rehabilitation services, especially the specific responsibility for satisfactory conduct and cooperation. (38 U.S.C. 1511) (April 1, 1981)

(c) *Veteran's responsibility.* A veteran requesting or being provided services under chapter 31 must:

(1) Cooperate with VA staff in carrying out the intitial evaluation and developing a rehabilitation plan;

(2) Arrange a schedule which allows him or her to devote the time needed to attain the goals of the rehabilitation plan;

(3) Seek the assistance of VA staff as necessary to resolve problems which affect attainment of the goals of the rehabilitation plan;

(4) Conform to procedures established by the VA governing pursuit of a rehabilitation plan including:

(i) Enrollment and reenrollment in a course;

(ii) Changing the rate at which a course is pursued;

(iii) Requesting a leave of absence;

(iv) Requesting medical care and treatment;

(v) Securing supplies; and

(vi) Other procedures.

(5) Conform to the rules and regulations of the training or rehabilitation facility at which services are being provided. (38 U.S.C. 1511) (April 1, 1981)

(d) *Responsibility for determining satisfactory conduct and cooperation.* VR&C staff with case management responsibility in the veteran's case will:

(1) Monitor the veteran's conduct and cooperation as necessary to assure consistency with provisions of paragraph (c) of this section.

(2) Provide assistance which may be authorized under chapter 31, or for which arrangements may be made under other programs to enable the veteran to maintain satisfactory conduct and cooperation. (38 U.S.C. 1511) (April 1, 1981)

19. Section 21.364 is added as follows:

§ 21.364 Unsatisfactory conduct and cooperation.

(a) *General.* If the VA determines that a veteran has failed to maintain satisfactory conduct or cooperation, the VA may, after determining that all reasonable counseling efforts have been made and are found not reasonably likely to be effective, discontinue services and assistance to the veteran unless the case manager determines that mitigating circumstances exist. In any case in which such services and assistance have been discontinued, the VA may reinstitute such services and assistance only if the counseling psychologist determines that:

(1) The unsatisfactory conduct or cooperation of such veteran will not be likely to recur; and

(2) The rehabilitation program which the veteran proposes to pursue (whether the same or revised) is suitable to such veteran's abilities, aptitudes, and interests. (38 U.S.C. 1511) (April 1, 1981)

(b) *Unsatisfactory conduct or cooperation exists.* When the case manager determines that the veteran's conduct and/or cooperation are not in conformity with provisions of § 21.362(c) the case, manager will:

(1) Discuss the situation with the veteran;

(2) Arrange for services, particularly counseling services, which may assist in resolving the problems which led to the veteran's unsatisfactory conduct or cooperation;

(3) Interrupt the program to allow for more intense efforts if the unsatisfactory conduct and cooperation persist. If a reasonable effort to remedy the situation is unsuccessful during the period in which the program is interrupted, the veteran's case will be discontinued and assigned to "discontinued" status unless mitigating circumstances are found. When mitigating circumstances exist the case may be continued in "interrupted" status until VA staff determine the veteran may be reentered into the same or a different program because the veteran's conduct and cooperation will be satisfactory, or if a plan has been developered to enable the veteran to reenter and try to maintain satisfactory conduct and cooperation. Mitigating circumstances include:

(i) The effects of the veteran's service and nonservice-connected condition;

(ii) Family or financial problems which have led the veteran to unsatisfactory conduct or cooperation; or

(iii) Other circumstances beyond the veteran's control. (38 U.S.C. 1511) (April 1, 1981)

20. The following new centerheading and § 21.370 are added as follows:

Inter and Intra Regional Travel of Veterans

§ 21.370 Intraregional travel at government expense.

(a) *Introduction.* The VA may authorize transportation expenses for intraregional travel to a veteran in a rehabilitation program or a program of employment services for the purposes presented in paragraph (b), of this section. When approved for purposes stated in paragraph (b), authorization of travel is limited to the veteran's transportation, and does not include transportation for the veteran's dependents, or for moving personal effects. (38 U.S.C. 111, 1504(a)(13)) (April 1, 1981)

(b) *Necessary condition for intraregional travel at government*

expense. The VA may authorize a veteran to travel at government expense within the regional territory of the VA field station of jurisdiction when:

(1) The VA determines that the travel is necessary in the discharge of the government's obligation to the veteran; and

(2) The veteran is instructed to travel for any of the following reasons:

(i) To report to the chosen school or training facility for the purpose of starting training;

(ii) To report to a prospective employer-trainer for an interview prior to induction into training when there is definite assurance in advance of approving the travel that, upon interview, the employer will start the veteran in training, if the employer finds the veteran acceptable, or

(iii) To report to the chosen school for a personal interview prior to induction into training when:

(A) The school requires the interview as a condition of admission,

(B) There is assurance before the travel is approved that the veteran's records (school, counseling, etc.) show he or she meets all basic requirements for entrance under § 21.282; and

(C) The veteran submits to the school a transcript of his or her high school credits and a transcript from any school he or she attended following high school.

(iv) To report to a rehabilitation facility or sheltered workshop;

(iv) To return to his or her home from the training or rehabilitation facility when:

(A) Services are not available for a period (including summer vacation periods), of 30 days or more, and

(B) Travel from his or her home to the training or rehabilitation facility was at government expense;

(vi) To return to the training or rehabilitation facility from his or her home when:

(A) The purpose of the travel is to continue the rehabilitation program, and

(B) Travel from the training or rehabilitation facility to the veteran's home was at government expense;

(vii) To return to the point from which he or she was transported at government expense, upon being placed in "discontinued" or "interrupted" status for any reason except abandonment of training by the veteran without good reason;

(viii) To report to a place of prearranged satisfactory employment upon completion of vocational rehabilitation for the purpose of beginning work;

(ix) To return to his or her home form the place of training following rehabilitation to the point of employability when suitable employment is not available;

(x) To return from the place of training to the veteran's prior location when the VA could have approved travel to the place of training at government expense, but did not issue the necessary travel authorization; and

(xi) To report to a place to take a scheduled examination required to practice the trade or profession for which the veteran has been trained. This travel shall be limited to points within the state in which the veteran has pursued his or her training or, if the veteran returned to the state from which he or she was sent to pursue training, he or she may be sent at government expense to a place within that state to take the examination. If there is more than one place within the state at which the veteran may take the examination, travel shall be limited to the nearest place. (38 U.S.C. 11) (April 1, 1981)

(c) *Approval of intraregional transfer.* Intraregional travel must be approved by the case manager. (38 U.S.C 1504(a)(13)) (April 1, 1981)

21. Section 21.372 is added as follows:

§ 21.372 Interregional transfer at government expense.

(a) *Introduction.* A veteran may need to transfer from the jurisdiction of one VA field station to another in order to accomplish rehabilitation. The section states the conditions which will permit the transfer to be made at government expens. Authorization of travel is limited to the veteran's transportation, and does not include transportation for the veteran's dependents or for moving personal effects. (38 U.S.C. 111, 1504(a)(13))(April 1, 1981)

(b) *Conditions which permit interregional transfers at government expense.* A veteran may be provided travel at government expense when it has been determined that such travel is necessary to accomplish rehabilitation. The VA will authorize an interregional transfer at government expense only to allow the veteran:

(1) To enter training in the nearest satisfactory facility if:

(i) The nearest satisfactory facility is within the jurisdiction of another VA field station; or

(ii) There are no satisfactory facilities within the jurisdiction of the field station in which the veteran resides.

(2) To enter training in the state in which the veteran has long-standing family and social ties, and in which he or she plans to live following rehabilitation;

(3) To report to an employer-trainer when all necessary steps have been taken to establish an on-job training program;

(4) To report to a rehabilitation facility or workshop;

(5) To return to his or her home from the place of training when:

(i) Training is not available for a period (including summer vacation periods), of 30 days or more, and

(ii) Travel from his or her home to the place of training or rehabilitation services was at government expense;

(6) To return to the place of training or rehabilitation services from his or her home when:

(i) The purpose of the travel is to continue training or rehabilitation services; and

(ii) Travel from the place of training or rehabilitation services to the veteran's home was at government expense;

(7) To return to the point from which he or she was transferred at government expense, upon being assigned to "discontinued" or "interrupted" status, for any reason except abandonment of training by the veteran without good reason;

(8) To report to a place of prearranged satisfactory employment or for a prearranged employment interview following completion of his or her program of vacational rehabilitation when:

(i) There is no satisfactory opportunity for employment in the veteran's occupation within the jurisdiction of the field station which has jurisdiction over his or her residence, and

(ii) The veteran has a serious employment handicap.

(9) To return to his or her home from which he or she was transferred at government expense to pursue training when, upon completion of his or her course, satisfactory employment is not available;

(10) To return to the location from which he or she traveled without authorization because the VA did not issue the necessary travel authorization on a timely basis. (38 U.S.C. 111) (April 1, 1981)

(c) *Approval of interregional transfer.* Interregional travel must be approved by the case manager. (38 U.S.C. 1504(a)(13)) (April 1, 1981)

22. Section 21.374 is added as follows:

§ 21.374 Authorization for travel of attendants.

(a) *Travel for attendants.* The services of an attendant to accompany a veteran while traveling for rehabilitation purposes may be provided when such services are necessitated by the severity of the veteran's disability. Attendants may only be used to enable a veteran

top attend appointments for initial evaluation, counseling, or intraregional or interregional travel at government expense under § 21.370 and § 21.372. (38 U.S.C. 111) (April 1, 1981)

(b) *Attendants not employed by the federal government.* (1) The VA may authorize persons not in regular civilian employment of the federal government to act as attendants. Payment of travel expenses for attendants will be authorized on the same basis as for the veteran the attendant is accompanying. The VA:

(i) Will furnish the attendant with common-carrier transportation, meal and lodging expenses; or

(ii) Will grant the attendant a mileage allowance in lieu of furnishing the assistance cited in paragraph (b)(1)(i) of this section.

(2) The VA will not pay the attendant a fee if he or she is a relative of the veteran. A relative, for this purpose, is a person who by blood or marriage is the veteran's

(i) Spouse,
(ii) Parent,
(iii) Child,
(iv) Brother,
(v) Sister,
(vi) Uncle,
(vii) Aunt,
(viii) Niece, or
(ix) Nephew. (38 U.S.C 111) (April 1, 1981)

(c) *Attendant employed by the federal government.* (1) The VA may authorize a person in the regular civilian employment of the federal government to act as an attendant. When assigned the attendant:

(i) Will be entitled to transportation and expenses, or

(ii) May be allowed per diem in place of subsistence in accordance with the provisions of the Federal Travel Regulations.

(2) The VA will pay no fee to civilian employees of the federal government who act as attendants. (38 U.S.C. 111) (April 1, 1981)

23. Section 21.376 is added as follows:

§ 21.376 Travel expenses for initial evaluation and counseling.

When the VA asks a disabled veteran to report to a designated place for an initial evaluation, reevaluation or counseling (including personal or vocational adjustment counseling), the veteran will travel to and from the place of evaluation and counseling at government expense. When a veteran, because of a severe disability, requires the services of an attendant while traveling, the VA will authorize payment of travel expenses for the attendant under the provisions of § 21.374. (38 U.S.C. 111) (April 1, 1981)

24. A new centerheading and § 21.410 are added as follows:

Additional Administrative Consideration

§ 21.410 Delegation of authority.

Authority is delegated to the Chief Benefits Director, and to supervisory or non-supervisory personnel within the jurisdiction of the Vocational Rehabilitation and Counseling Service designated by the Chief Benefits Director, to make findings and decisions under 38 U.S.C. chapter 31 and the applicable regulations, precedents and instructions, as to rehabilitation services for disabled veterans. (38 U.S.C. 212(a)) (October 1, 1980)

Cross-Reference: See § 21.4001 Delegation of Authority.

25. Section 21.412 is added as follows:

§ 21.412 Finality of decisions.

(a) *Field station of original jurisdiction.* The decision of VA field station in a given veteran's case:

(1) Will be final and binding upon all field stations of the VA as to conclusions based on evidence on file at that time; and

(2) Will not be subject to revision on the same factual basis except by duly constituted appellate authorities or except as provided §§ 21.410 and 21.414. (See §§ 19.153, 19.154, and 19.155. (38 U.S.C. 212(a), 4003) (October 1, 1980)

(b) *Adjudicative determinations.* Current determinations of line of duty, character of discharge, relationship, and other pertinent elements affecting eligibility for training and rehabilitation services or payment of subsistence allowance under chapter 31, made by an adjudicative activity by application of the same criteria and based on the same facts, are binding upon all other adjudicative activities in the absence of clear and unmistakable error. (38 U.S.C. 212(a)) (October 1, 1980)

26. Section 21.414 is added as follows:

§ 21.414 Revision of decision.

The revision of a decision on which an action is based is subject to the following regulations:

(a) Clear and unmistakable error, § 3.105(a);

(b) Difference of opinion, § 3.105(b);

(c) Character of discharge, § 3.105(c);

(d) Severance of service-connection, § 3.105(d);

(e) Reduction to less than compensable evaluation, § 3.105(e). (See §§ 21.40, 21.322, and 21.324) (38 U.S.C. 3012) (October 1, 1980)

[FR Doc. 83-24897 Filed 9-14-83; 8:45 am]
BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[SW-3-FRL 2433-5]

Hazardous Waste Program; West Virginia's Application for Interim Authorization, Phase I and II, Components A and B; Public Hearing and Comment Period

AGENCY: Environmental Protection Agency, Region III.

ACTION: Notice of public hearing and public comment period.

SUMMARY: Today EPA is announcing the availability for public review of the West Virginia Application for Phase I and II, Components A & B, Interim Authorization, inviting public comment, and giving notice of a public hearing to be held on the application. This is in accordance with agency regulations to protect human health and the environment from improper management of hazardous waste, including the provisions for authorization of State programs to operate in lieu of the Federal program and for a transitional stage in which States can be granted interim program authorization.

DATES: The public hearing on West Virginia's Application is scheduled for Tuesday, October 18, 1983 at 7:30 p.m. The State of West Virginia will participate in the public hearing held by EPA on their application. Written comments on the West Virginia Interim Authorization application must be received by the close of business on October 25, 1983.

ADDRESSES: Copies of the West Virginia Phase I and II, Components A and B, Interim Authorization application are available during normal business hours at the following addresses for inspection and copying:

West Virginia Department of Natural Resources, Division of Water Resources, 1201 Greenbrier Street, Charleston, West Virginia 25311, (304) 348-7861 (contact: Claudia Del Giudice)

U.S. EPA Headquarters Library (PM211A), 401 M Street, SW., Washington, DC 20460, (202) 382-5926

U.S. EPA, Region III, Library, 2nd Floor, 6th and Walnut Streets, Philadelphia,

PA 19106, (215) 597–0580 (contact: Diane McCreary)

Written comments should be sent to Renee Gruber, State Programs Section (3AW31), U.S. EPA, Region II, 6th and Walnut Streets, Philadelphia, PA 191906 (215) 597–2809.

The public hearing will be held in the Division of Water Resources' Conference Room located at 1201 Greenbrier Street, Charleston, WV, on Tuesday, October 18, 1983 at 7:30 p.m.

FOR FURTHER INFORMATION CONTACT: Renee Gruber, State Programs Section (3AW31), U.S. EPA, Region III, 6th and Walnut Streets, Philadelphia, PA 19106, (215) 597–2809.

SUPPLEMENTARY INFORMATION: In the May 19, 1980 **Federal Register** (45 FR 33063) the Environmental Protection Agency promulgated regulations, pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976, as amended, to protect human health and the environment from the improper management of hazardous waste. These regulations included provisions under which EPA can authorize qualified State hazardous waste management programs to operate in lieu of the Federal program. The regulations provide for a transitional stage in which qualified state programs can be granted interim authorization.

The interim authorization program is being implemented in two phases corresponding to the two stages in which the underlying Federal program will take effect. Phase I of the Federal program, published in the May 19, 1980 **Federal Register** (45 FR 33063), includes regulations pertaining to the identification and listing of hazardous wastes; standards applicable to generators and transporters of hazardous waste, including a manifest system; and the "interim status" standards applicable to existing hazardous waste management facilities before they receive permits.

In the January 26, 1981 **Federal Register** (46 FR 7965), the Environmental Protection Agency announced the availability of portions or components of Phase II of interim authorization. Phase II of the Federal program includes permitting procedures and standards for hazardous waste management facilities. Component A, published in the **Federal Register** January 12, 1981 (46 FR 2802), contains standards for permitting storage and treatment in containers, tanks, surface impoundments and waste piles. Component B, published in the **Federal Register** January 23, 1981 (46 FR 7666), contains standards for permitting hazardous waste incinerators. Component C, published in the **Federal Register** July 26, 1982 (47 FR 32274), contains standards for permitting surface impoundments, waste piles, land treatment facilities and landfills. These Component C standards for permitting surface impoundments and waste piles superseded the Component A standards for permitting storage and treatment in surface impoundments and waste piles published on January 12, 1981. The State of West Virginia is applying for Phase I and II, Components A and B, Interim Authorization which would enable them to regulate generators, transporters and "interim status" hazardous waste management facilities and permit storage and treatment in containers and tanks and to permit hazardous waste incinerators in lieu of the Federal program.

A full description of the requirements and procedures for State interim authorization is included in 40 CFR Part 271, Subpart B, as amended, by 48 FR 14248. As noted in the May 19, 1980 **Federal Register**, copies of complete state submittals for Phase I and II interim authorization are to be made available for public inspection and comment. In addition, if significant public interest exists, a public hearing is to be held on the submittal.

List of Subjects in 40 CFR Part 271

Hazardous materials, Indian lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Intergovernmental relations, Penalties, Confidential business information.

Stanley L. Laskowski,

Acting Regional Administrator.

[FR Doc. 83–25188 Filed 9–14–83; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF ENERGY

Office of the Secretary

41 CFR Parts 9–1, 9–7, and 9–50

Procurement and Assistance Management Directorate Foreign Ownership, Control, or Influence of DOE Contractors

AGENCY: Department of Energy.

ACTION: Extension of comment period on the notice of proposed rulemaking, Foreign ownership, control, or influence of DOE contractors.

SUMMARY: The comment period for the notice of proposed rulemaking on Foreign Ownership, Control, or Influence of DOE Contractors, an addition to the DOE procurement regulations at 41 CFR Parts 9–1, 9–7 and 9–50, is extended to September 30, 1983, from the original due date of September 12, 1983, as published in the **Federal Register** on July 28, 1983 (48 FR 34400). This extension is in response to requests of interested parties and the Business Advisory Council on Federal Reports.

DATES: Written comments must be submitted by September 30, 1983.

ADDRESSES: Send comments to Laura Bick at the address listed below.

FOR FURTHER INFORMATION CONTACT: Laura Bick, Procurement Policy Branch, MA–421.1, Procurement and Assistance Management Directorate, Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252–8188.

Issued in Washington, D.C., September 9, 1983.

Berton J. Roth,

Deputy Director, Procurement and Assistance Management Directorate.

[FR Doc. 83–25094 Filed 9–14–83; 8:45 am]

BILLING CODE 6450–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 441

Medicaid Program; Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Program

Correction

In FR Doc. 83–22477 beginning on page 38011 of the issue of Monday, August 22, 1983, make the following correction: On page 38015, third column, fifth line, "16" should read "18".

BILLING CODE 1505–01–M

Office of Child Support Enforcement

45 CFR Parts 302 and 304

Child Support Enforcement Program; Cost of Services for Non-AFDC Families; Reduction of Expenditures by Fees and Other Income Generated Under the IV–D Program

AGENCY: Office of Child Support Enforcement (OCSE), HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: These proposed regulations amend OCSE regulation at 45 CFR Parts 302 and 304 to implement section 171(a)(3) of Pub. L. 97–248, the Tax Equity and Fiscal Responsibility Act of 1982, and section 2333(c) of Pub. L. 97–35, the Omnibus Budget Reconciliation

Act of 1981. They revise 45 CFR 302.33 to raise the maximum application fee that may be charged to non-AFDC individuals requesting child support enforcement (IC–D) services. They permit States to recover actual or standardized costs which exceed the application fee either from the individual who owes a support obligation to a non-AFDC family receiving IV–D services, or from the non-AFDC individual receiving the services. In the latter case, costs may be recovered directly from the individual or by deducting costs from the support collected. If costs are recovered from the non-AFDC individual receiving IV–D services, the IV–D agency must have in effect a procedure for informing all persons authorized within the State to establish an obligation for support that costs will be recovered from the non-AFDC individual. In addition, the State must notify either the non-AFDC individual or the absent parent, as appropriate, that costs will be recovered. If an applicant for non-AFDC services assigns support rights to the State, the IV–D agency must inform the applicant that the assignment may have the effect of making the support debt dischargeable in bankruptcy.

These proposed regulations also require States to reduce the total expenditures they report for a quarter by the total amount of any fees collected and any other income (e.g., interest earned on collections prior to distribution) generated by services provided both in AFDC and non-AFDC cases under the title IV–D State plan.

DATES: Consideration will be given to written comments received by November 14, 1983.

ADDRESS: Address comments to: Deputy Director, Office of Child Support Enforcement, Department of Health and Human Services, 10th Floor, 6110 Executive Blvd., Rockville, Maryland 20852, Attn.: Policy Branch. Agencies and organizations are requested to submit comments in duplicate. The comments will be available for public inspection Monday through Friday, 8:30 a.m. to 5:00 p.m., in Room 1010 of the Department's offices at the above address.

FOR FURTHER INFORMATION CONTACT: Michael P. Fitzgerald, Policy Branch, OCSE, (301) 443–5350.

SUPPLEMENTARY INFORMATION:

Statutory Requirements

Pub. L. 97–35, the Omnibus Budget Reconciliation Act of 1981. Section 2333 of Pub. L. 97–35 amended title IV–D of the Social Security Act (the Act) regarding the cost of services for non-AFDC families and the reduction of expenditures by fees and other income generated under the IV–D program. Section 454(6)(B) of the Act was amended to prohibit States from charging an application fee when the non-AFDC family only requests that the IV–D agency collect support on its behalf. A new section 454(19) was added to require States to impose a fee on an individual who owed a support obligation to a non-AFDC family on whose behalf the State was providing IV–D services in an amount equal to ten percent of the amount so owed, and to prohibit States from using any amount collected to safety the fee owed, except when an amount collected exceeded the total arrearage. The provision at section 454(6)(C) of the Act, which has authorized States to deduct any costs which exceed the application fee from any child support collected on behalf of a non-AFDC family, was replaced by a provision permitting only the State which made a collection on behalf of a non-AFDC family to retain the fee imposed against the individual who owed support.

Section 455(a) of the Act was amended to require the Secretary, in determining the total amount expended by a State during a quarter, to exclude the total amount of any fees collected or other income resulting from services provided both in AFDC and non-AFDC cases under the title IV–D State plan.

Section 2336(a) of Pub. L. 97–35 provided that the amendments contained in section 2333 had an effective date of October 1, 1981. However, section 2336(b) authorized the Secretary of Health and Human Services (HHS) to postpone the effective date of these amendments if a State IV–D agency demonstrated to the satisfaction of the Secretary of HHS that State law prohibited it from implementing the amendments on October 1, 1981. If the Secretary allowed a postponement, these amendments would be effective in a State no later than the beginning of the first month after the close of the first regular, special, budget, or other session of the State's legislature ending on or after October 1, 1981.

Pub. L. 97–248, the Tax Equity and Fiscal Responsibility Act of 1982. Section 171 of Pub. L. 97–248 also amends title IV–D of the Act regarding the cost of services for non-AFDC families. Section 171(a)(2) of Pub. L. 97–248 repeals the provision in section 454(6)(B) of the Act, added by section 2333 of Pub. L. 97–35, which prohibited States from charging an application fee when the non-AFDC family only requests that the IV–D agency collect support on its behalf. States may now charge an application fee for any IV–D services provided. Section 171(b)(1) of Pub. L. 97–248 repeals section 454(19) of the Act, added by section 2333 of Pub. L. 97–35, which had required States to impose a ten percent fee on absent parents to cover costs in excess of the application fee for providing services to non-AFDC families. Section 171(a)(3) amends section 454(6)(C) of the Act to permit States providing IV–D services to non-AFDC individuals who request them to recover costs incurred in excess of the application fee either from the absent parent who owes a support obligation or from the non-AFDC individual who is receiving the IV–D services. If costs are recovered from the non-AFDC individual receiving the IV–D services, the IV–D agency must have in effect a procedure for informing all persons authorized within the State to establish obligations that it will recover costs from the non-AFDC individual.

The amendments made by section 171 of Pub. L. 97–248 are effective August 13, 1981, the date that Pub. L. 97–35 was enacted, except as provided in section 176. Section 176 of Pub. L. 97–248 authorizes a delay in the effective date of section 171 if the Secretary of HHS determines that State legislation is required before a State can comply with the changes made by section 171. If the Secretary approves such a delay, the amendments will be effective in the State at the end of the first session of the State legislature which begins after October 1, 1982, or which began prior to October 1, 1982 and remained in session for at least 25 calendar days after that date. The term "session" is defined to mean a regular, special, budget, or other session of a State legislature. If State legislation is required before a State can comply with the changes made by section 171, the State should request a delay in the implementation date by contacting the appropriate OCSE Regional Representative.

New Regulatory Provisions at 45 CFR 302.33

OCSE proposes to revise 45 CFR 302.33 to implement the amendments made by sections 171(a)(3) of Pub. L. 97–248 and to make other clarifying changes to the regulation. With regard to the latter, we proposed to revise § 302.33(a) to clarify indicate the services which are available under that section and the individuals who are eligible to receive such services. Other changes to § 302.33 are discussed below.

Definitions

In the proposed § 302.33(b) we have defined the term "applicant's income" as

the disposable income available for the applicant's use under State law. The State must consider applicant's income when determining the non-AFDC application fee according to the fee schedule that States may use under § 302.33(b)(2) (redesignated in this proposal as § 302.33(c)(2)). We believe that the proposed definition will clarify existing program policy with respect to application fee schedules.

Application Fee for Non-AFDC Families

Currently, 45 CFR 302.33(b) permits States to charge an application fee for any IV–D services provided to non-AFDC individuals who request them. No change in this provision is required to be consistent with the amendment made by section 171(a)(2) of Pub. L. 97–248.

Current § 302.33(b)(1), published in 1975, allows States to charge a flat dollar amount, not to exceed $20, as the application fee. OCSE believes that, due to inflation and the need to partially offset increasing State and Federal expenditures in providing services to non-AFDC families, the maximum amount of the flat fee should be raised. Therefore, in line with computations made using the actual or projected Consumer Price Index for the years 1975 through 1984, the proposed § 302.33(c)(1) specifies a maximum fee of $40. We feel that this change will not place an undue burden on non-AFDC individuals who apply for IV–D services because they will receive services from the IV–D agency which may not be available to them from any other source at a comparable cost.

Current § 302.33(b)(2) permits States which do not elect to charge a flat fee to use a fee schedule in determining the amount of the application fee. This provision has been retained and redesignated as § 302.33(c)(2).

Recovery of Costs in Non-AFDC Cases

To implement the new section 454(6)(C) of the Act added by section 171(a)(3) of Pub. L. 97–248, the proposed regulation at § 302.33(d)(1) permits the IV–D agency to elect in its State plan to recover, on a statewide basis, costs incurred in excess of any application fee either: (1) From the individual who owes a support obligation to a non-AFDC family on whose behalf the IV–D agency is providing support enforcement services; or (2) from the non-AFDC individual on whose behalf the IV–D agency is providing support enforcement services, either directly or by reducing the amount of the support collection made on the family's behalf. The State may recover costs in excess of the application fee from the non-AFDC individual who is receiving IV–D services only if the State has in effect a procedure for informing all persons authorized within the State to establish a support obligation that the State will recover costs from that individual. States have the flexibility and discretion to establish their own procedures for informing persons authorized to make such orders. States also have the flexibility, in recovering costs from the non-AFDC individual on whose behalf IV–D services are being provided, to deduct costs incurred in excess of any application fee from the support collected on behalf of the individual or directly from the individual. This would allow a State to recover costs from the support collected for as long as collections are made by the State, and then to attempt to recover any remaining unreimbursed costs directly from the individual.

OCSE has consistently interpreted the current 45 CFR 302.33(c) as requiring States that elect in their State plans to recover costs to recover on a case by case basis actual costs which exceed the application fee in non-AFDC cases. However, many States have indicated that the calculation of actual costs on a case by case basis is time consuming and costly. Therefore, in response to States' concerns and to encourage States to recover costs in order to improve the cost-effectiveness of the program, we are proposing to change existing policy to permit the IV–D agency on a case by case basis to recover either actual or standardized costs incurred in excess of the application fee. We believe that section 454(6)(C) permits us to allow States to recover standardized costs in accordance with the proposed 45 CFR 302.33(d) (1) and (2).

If a State chooses to recover standardized costs, it must comply with the requirement in § 302.33(d)(2) that a State develop a written methodology to determine standardized costs which are as close to actual costs as is possible. In either case, we encourage States to strive to minimize costs so as not to discourage the application for services by those most in need of them.

The following examples illustrate a methodology a State could use to determine standard costs. Suppose a State has developed average costs per service figures of: (1) Location $40; (2) establishment of paternity $80; (30) establishment of the support obligation $70; (4) enforcement $50; and (5) collection $50. The State charges a IV–D application fee of $40. If the State establishes paternity, establishes the support obligation and collects support in case X, the State may recover $160 ($80 + $70 + $50 − $40 application fee). If the State at some later date takes enforcment action in case X, the State may recover an additional $50. In another example, if the State only collects support in case Y, the State may only charge $10 ($50 − $40 application fee).

We want to encourage States to recover costs in excess of the application fee in non-AFDC cases to help reduce expenditures in this area while continuing to provide services that may not be available from any other source at a comparable cost. By allowing flexibility to States to collect standardized costs, we hope to simplify the process of recovering costs and increase the likelihood that States will choose to recover costs. If a State elects to recover costs of providing IV–D services in non-AFDC cases, Federal funding remains available for those costs which are not recovered by the State.

We are proposing in §302.33(d)(3) to prohibit the IV–D agency from treating any amount collected from an absent parent as recovered costs except amounts which exceed the total amount of current support owed by the absent parent. We believe that any amounts collected from an absent parent should first be considered as payment toward the current support obligation since one of the objectives of the IV–D program is to help families to remain self-sufficient. Current OCSE policy requires child support collections received for non-AFDC cases established under 45 CFR 302.33 to be considered first as payment on the current support obligation. Support collected up to the amount of the current obligation must be passed on to the family.

If, under the proposed § 302.33(d)(1)(ii), the State elects to recover costs from the individual receiving IV–D services, the proposed § 302.33(d)(4) then permits the IV–D agency to attempt to recover those costs from the absent parent and to pay any amounts recovered to the individual who is receiving IV–D services. This would allow State that elect to recover costs from the individual receiving IV–D services to lessen the impact of cost recovery on that individual. Cost recovered from the absent parent in this situation may not be considered child support payments.

The current regulations at §302.33(c) require a IV–D agency that elects to recover costs from support collections to notify each non-AFDC individual for whom IV–D services are being provided of that fact. We propose at § 302.33(d)(5) to require the IV–D agency that elects to recover costs to notify, as appropriate,

either the non-AFDC individual who has filed an application for IV–D services or the individual who owes a support obligation to a non-AFDC family which is receiving IV–D services that costs will be recovered. Under this requirement, if a responding State in an interstate case elects in its State plan to recover costs from the custodial parent under § 302.33(d)(1)(ii), it may meet the requirement in the proposed §302.33(d)(4) by notifying all other States that it will recover costs from the individual receiving IV–D services. These changes are necessary to ensure that each individual affected by a State's decision to recover costs is notified prior to the recovery of any costs in both intrastate and interstate cases.

Assignment of Support Rights in Non-AFDC Cases

The proposed § 302.33(e)(1) contains the content of the current § 302.33(d) which allows the IV–D agency to take an assignment of support rights from a non-AFDC individual who applies for IV–D services. Such an assignment does not constitute an assignment under 45 CFR 232.11 and may not be a condition of eligibility for receiving IV–D services. We are proposing a new § 302.33(e)(2) which requires the IV–D agency to inform any individual making an assignment in a non-AFDC case that the assignment may have the effect of making the support debt dischargeable in bankruptcy.

Section 523(a)(5)(A) of Title 11, United States Code permits the discharge in bankruptcy of assigned child support obligations, except those obligations assigned to the State under section 402(a)(26) of the Act. The exception was added by section 2334 of Pub. L. 97–35 which amended section 456 of the Act and section 523 of Title 11 to exclude assignment of support rights made as a condition of eligibility for AFDC. However, since voluntary assignments made in non-AFCD. However, since voluntary assignments made in non-AFDC cases are not exempt under section 523 of Title 11, we believe that IV–D agencies should inform non-AFDC individuals applying for IV–D sevices that any assignment of support rights to the State may result in a support debt being discharged if the debtor declares bankruptcy.

New Regulatory Provisions at 45 CFR 304.50

Current OCSE regulations at 45 CFR 304 23(e) provide that Federal funding is not available for expenditures which are reimbursed by fees collected under the title IV–D State plan. This restriction applies to all fees collected by States in AFDC and non-AFDC cases (including those collected under State law) in relation to IV–D activities. In addition, 45 CFR 302.51(e)(2) requires States, which are authorized by former AFDC recipients to continue to collect current support payments from absent parents, to pay all such amounts collected to families after deducting any costs incurred in making the collection from the amount of any recovery made. The new section 454(6)(C) of the Act also permits recovery of costs from the absent parent or from the non-AFDC individual receiving IV–D services for costs incurred in excess of the applicable fee. The amended section 455(a) of the Act requires the Secretary, in determining the total amount expended by a State during a quarter, to exclude any fees collected or other income resulting from services provided in AFDC and non-AFDC cases under the title IV–D State plan.

Therefore, States must reduce their expenditures by: (1) The total non-AFDC application fees collected under the proposed 45 CFR 302.33(c); (2) the total fees collected for non-AFDC Federal Parent Locator Service locate-only requests under 45 CFR 303.70(e)(2) (see 46 FR 54554, November 3, 1981); (3) any fees collected under State law; (4) any costs recovered from collections such as those recovered under 45 CFR 302.51(e)(2) and section 454(6)(C) of this Act; and (5) other income resulting from services provided in AFDC and non-AFDC cases under the title IV–D State plan, in accordance with section 455(a) of the Act. OCSE issued an Action Transmittal (OCSE–AT–81–3) on September 3, 1982 on the reduction of expenditures by fees and other income.

To implement in regulations the amendment made to section 455(a) of the Act by section 2333(c) of Pub. L. 97–35 and section 171(b)(2) of Pub. L. 97–248, we are proposing to add a new 45 CFR 304.50, Treatment of Program Income, to OCSE regulations. The proposed regulation requires States to exclude from their IV–D expenditure claims an amount equal to the total of any fees which are collected in relation to providing IV–D services and any income (e.g., interest earned on collections prior to distribution) which is generated as a result of IV–D activities. This applies to fees or income in both AFDC and non-AFDC cases.

The proposed § 304.50(a) requires the IV–D agency to exclude from its quarterly expenditure claims an amount equal to all fees which are collected under the IV–D State plan. Under this requirement, States must reduce their expenditures by the total application fees collected under the proposed § 302.33(c), the total fees collected for non-AFDC Federal Parent Locator Service locate-only request prescribed in § 303.70(e)(2), and any fees collected under State law before requesting Federal funding for their expenditures.

The proposed § 304.50(b) requires the IV–D agency to exclude from its quarterly expenditure claims an amount equal to all income resulting from services provided under the IV–D State plan. This applies to income related to both AFDC and non-AFDC cases. The term "income" includes, but is not limited to, any costs recovered from non-AFDC individuals receiving IV–D services or absent parents under the proposed § 302.33(d)(1), the costs deducted from current support collections under § 302.51(e)(2), and any interest income earned by a State on collections made under the IV–D State plan.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511), the revision to the IV–D State plan requirement in § 302.33 has been approved by the Office of Management and Budget under existing OMB No. 0960–0253.

List of Subjects in 45 CFR Parts 302 and 304

Child welfare, Grant programs—social programs.

PART 302—[AMENDED]

1. 45 CFR 302.33 is revised to read as follows:

§ 302.33 Individuals not otherwise eligible for paternity and child support services.

(a) *Availability of services.* The State plan must provide that the support collection or paternity determination services established under the plan shall be made available to any individual not receiving assistance under the Aid to Families with Dependent Children (AFDC) program who files an application for the services with the IV–D agency.

(b) *Definitions.* For purposes of this section:

Applicant's income means the disposable income available for the applicant's use under State law.

(c) *Application fee.* The State may elect in its State plan to charge an application fee to individuals who apply for services under this section.

(1) The fee may be a flat dollar amount not to exceed $40; or

(2) A fee schedule may be used to determine the fee to be charged each applicant. The fee schedule will be based on the applicant's income and will be designed so as not to discourage the application for services by those most in need of them.

(d) *Recovery of costs.* (1) The State may elect in its State plan to recover any costs incurred in excess of the application fee in providing services under this section. A State which elects to recover costs in excess of the application fee shall collect on a case by case basis either excess actual or standardized costs:

(i) From the individual who owes a support obligation to a non-AFDC family on whose behalf the IV-D agency is providing services under this section; or

(ii) From the individual who has filed an application for IV-D serviceds under this section, either directly or from the support collected on behalf of the indiviidual, but only if the State has in effect a procedure for informing all individuals authorized within the State to establish an obligation for support that the State will recover costs from the individual receiving IV-D services under this section.

(2) A State that recovers standardized costs under paragraph (d)(1) of this section shall develop a written methodology to determine standardized costs which are as close to actual costs as is possible.

(3) The IV-D agency shall not treat any amount collected from the individual as a recovery of costs under paragraph (d)(1)(i) of this section except amounts which exceed the current support owed by the individual under the obligation.

(4) If a State elects to recover costs under paragraph (d)(1)(ii) of this section, the IV-D agency may attempt to recover from the individual who owes a support obligation any costs paid by the individual who is receiving IV-D services and pay all amounts recovered to the individual who is receiving IV-D services.

(5) If a State elects to recover costs under this section, the IV-D agency must, consistent with the option selected, notify either the individual who has filed an application for IV-D services or the individual who owes a support obligation that such recovery will be made.

(e) *Assignment.* (1) The IV-D agency may take an assignment of support rights from an individual who applies for services under this section. However, an assignment by an individual under this section does not constitute an assignment under § 232.11 of this title and may not be a condition of eligibility for services under this section.

(2) In any case where the applicant for IV-D services under this section makes an assignment of support rights, the IV-D agency shall first inform the individual that such assignment may have the effect of making the support debt dischargeable in bankruptcy.

2. 45 CFR Part 304 is amended by adding a new § 304.50 to read as follows:

§ 304.50 Treatment of program income.

The IV-D agency must exclude from its quarterly expenditure claims an amount equal to:

(a) All fees which are collected during the quarter under the title IV-D State plan; and

(b) All income earned during the quarter resulting from services provided under the IV-D State plan.

Note.—The Secretary has determined that this document is not a major rule as described by Executive Order 12291, because it does not meet any of the criteria set forth in Section 1 of the Executive Order. The Secretary certifies that because these regulations apply to States and will not have significant economic impact on a substantial number of small entities, they do not require a regulatory flexibility analysis as provided in Pub. L. 96-354, the Regulatory Flexibility Act of 1980.

(Sec. 1102, Social Security Act (42 U.S.C. 1302) and secs. 454(6) and 455(a), Social Security Act (42 U.S.C. 654(6) and 655(a)).

(Catalog of Federal Domestic Assistance Program No. 13.679, Child Support Enforcement Program)

Dated: November 1, 1982.

John A. Svahn,

Director, Office of Child Support Enforcement.

Approved: August 25, 1983.

Margaret M. Heckler,

Secretary.

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DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 7

[CGD 81-058]

Boundary Lines

AGENCY: Coast Guard, DOT.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: The Seagoing Barge Act was revised in 1980 to define a seagoing barge as one that proceeds outside the Boundary Lines. The Coast Guard published proposed rules in the 7 June 1982 Federal Register (47 FR 24804) that sought to establish lines for the Seagoing Barge Act and more clearly define the existing Boundary Lines. In view of the substantial changes made to the 7 June 1982 proposed rule as a result of comments received, the Coast Guard is publishing these changes as a supplemental notice of proposed rulemaking to allow for furhter comment prior to publication of a final rule.

DATES: Public hearings will be held on October 18, 1983 and October 26, 1983. All hearings will begin at 10:00 a.m. and end at 4:00 p.m. Comments must be received on or before December 14, 1983.

ADDRESSES: Comments should be mailed to Commandant (G-CMC/44), U.S. Coast Guard, Washington, D.C. 20593. Comments may be delivered to and will be available for inspection or copying between the hours of 9:00 a.m. and 5:00 p.m., Monday through Friday, at the Marine Safety Council (G-CMC/44), Room 4402, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593. Public hearings will be held at the following locations:

(1) 26 October 1983: Boston Marine Society, National Historic Park Bldg. No. 32, Charlestown Navy Yard, Boston, MA 02129

(2) 18 October 1983: Ramada Inn Downtown, 1732 Canal St., New Orleans, LA

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Patrick A. Turlo, (202) 426-1464.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, data, or arguments. Each comment should include the name and address of the person submitting the comment, reference the docket number (CGD 81-058), identify the specific section of the proposal to which each comment applies, and include sufficient detail to indicate the basis on which each comment is made. All comments received before expiration of the comment period will be considered before final action is taken on this proposal. Receipt of comments will be acknowledged if a stamped self-addressed postcard or envelope is enclosed. The supplemental rules may be changed in light of comments received. Due to the number and nature of comments received regarding the Boundary Lines in New England and the Gulf of Mexico, public hearings will be held on the dates and at the locations listed above. Additional public hearings are not planned but may be held if

written requests are received and it is determined that the opportunity to make oral presentation will aid the rulemaking process.

Drafting Information

The principal persons involved in drafting this proposal are: Lieutenant Commander Patrick A. Turlo, Project Manager, Office of Merchant Marine Safety, and Lieutenant Mark Hanlon, Project Attorney, Office of Chief Counsel.

Discussion

As amended, the Act of February 19, 1895 (33 U.S.C. 151, The Boundary Line Statute) authorizes the Secretary of Transportation to designate and define the lines dividing the high seas from rivers, harbors and inland waters. These lines, promulgated in 46 CFR Part 7, were initially utilized to determine the application of international and inland navigational rules of the road. Today, six statutes utilize the Boundary Lines to establish applicability. These statutes deal with vessel inspection, equipment and manning standards. They are briefly described as follows:

(1) The Vessel Bridge-to-Bridge Radiotelephone Act (33 U.S.C. 1201 et seq.) requires the carriage of radiotelephones on board certain vessels inside the Boundary Lines. (The requirement is further conditioned upon the vessels being upon the navigable waters of the United States.)

(2) The Officers Competency Certificates Convention, Geneva, 1936, (54 Stat. 1683) is in force and the United States is party thereto. Article 1 extends the Convention to all vessels registered in a nation party to the Convention and engaged in maritime navigation. The domestic legislation on the topic, 46 U.S.C. 224a, limits the application of the Convention, for the United States, to vessels navigating on the high seas pursuant to the understanding filed by the United States at the time of ratification ("That the United States Government understands and construes the words 'maritime navigation' appearing in this convention to mean navigation on the high seas only.") and then defines the high seas with reference to the Boundary Lines.

(3) The Coastwise Loadline Act (46 U.S.C. 88) applies to merchant vessels 150 gross tons and over engaged in coastwise voyages by sea, passing outside the Boundary Lines.

(4) 46 U.S.C. 367, relating to inspection of seagoing vessels of 300 gross tons and over propelled by internal combustion engines, defines seagoing with reference to the Boundary Lines.

(5) 46 U.S.C. 404 sets forth the requirements for the "inspection and manning of small vessels." Exemptions are granted in the statute to certain vessels under 150 gross tons that operate inside the Boundary Lines within the waters of southeastern Alaska and the State of Washington.

(6) The final statute, 33 U.S.C. 152, applies to the length of towing hawsers between towing vessels and barges when operating inside the Boundary Lines.

On 18 August 1980, Pub. L. 96–324 was signed into law. This brought the number of statutes that utilize Boundary Lines for applicability to seven. The Act amended the Seagoing Barge Act, 46 U.S.C. 395, by defining a seagoing barge as one that "proceeds outside the line dividing the inland waters from the high seas, as defined in Section 2 [of the Act] (33 U.S.C. 151)." Previously, the Coast Guard interpreted "seagoing" as describing a vessel that proceeded beyond the headlands.

Under the Act, Boundary Lines may not be located more than twelve miles seaward of the baseline from which the territorial sea is measured and the lines may differ in position for the purposes of different statutes. The establishment and placement of the lines in the proposed regulations relate solely to safety and do not concern themselves with the issue of State or Federal sovereignty or jurisdiction in the areas involved.

Discussion of Comments and Proposed Changes

Forty-seven comment letters were received as a result of the 7 June 1982 notice of proposed rulemaking. The proposed rules in this supplemental notice have been changed based on an evaluation of those comments. Specifically, lines in New England, the Key West, Florida area, and the Gulf of Mexcio have been revised.

1. Nine commenters were opposed to the proposed Boundary Lines in the New England area on the grounds that "harbor barges" in the marine construction industry would come under the Seagoing Barge Act. Such barges were described as operating within harbors and rivers.

Present regulations and policy call for inspection of barges of 100 gross tons and over once they proceed past the headlands. This policy is being maintained in the proposed rules for the New England area. Seagoing barges *under* 100 gross tons are not required to be inspected under the Seagoing Barge Act (46 U.S.C. 395). Those harbor barges of *100 gross tons and over* that work within harbors and rivers (inside the Boundary Lines established for the Seagoing Barge Act) are also not required to be inspected under 46 U.S.C. 395. Only those barges of 100 gross tons and over that proceed beyond the Boundary Lines are required to be inspected and certificated under 46 U.S.C. 395. As discussed in the following paragraph, those inland barges that make occasional voyages outside the Boundary Lines for "change of employment" have been accommodated.

2. Two commenters requested that the matter of "change of employment" certificates of inspection be addressed in the preamble. Those inland barges that work on rivers and harbors are not required to be inspected under 46 U.S.C. 395. However, such barges of 100 gross tons and over that proceed on the high seas enroute to a project or job in another inland area must be certificated *for that voyage.*

Title 46, Code of Federal Regulations, § 91.01–10(c) provides for the issuance of certificates of inspection for "change of employment" voyages. The barges issued such certificates are not required to undergo plan approval prior to issuance of a certificate of inspection (COI). The Coast Guard Officer in Charge, Marine Inspection (OCMI) must, however, be satisfied that the vessel is safe for the intended voyage. The regulation regarding "change of employment" certificates and the policies relating thereto will not be changed as a result of this Boundary Line rulemaking.

3. Two commenters recommended that the proposed Boundary Line for application of the Seagoing Barge Act be changed to allow uninspected barges to operate (a) from Maine to Rhode Island and (b) from Boston to New York. One of the commenters indicated that such traffic with uninspected barges has been allowed in the past.

Applicability of the Seagoing Barge Act has been determined by whether or not a barge proceeded past the headlands. Those barges making voyages along the entire New England coast or from Boston to New York have been subject to inspection and certification under 46 U.S.C. 395. Those inland barges making "change of employment" voyages were required to be certificated but could receive limited certificates of inspection for a single voyage outside the headlands. Those barges that routinely operated outside the headlands must be issued a regular COI.

Due to the harsh climate and rough waters along the New England coast, the Coast Guard believes that, in the interest of safety, inland barges should

not be permitted to routinely operate along the entire New England coast. Therefore, a separate line for the Seagoing Barge Act was proposed in the area from Main to Cape Cod. No changes to the 7 June 1982 proposal have been made in the area from Main to Cape Cod based on the comments received.

One commenter noted that the Boundary Line for the Seagoing Barge Act in the area from Cape Code to Block Island in the 7 June 1982 proposal extended seaward from past practices. Historically, in this area, only portions of Block Island Sound, Vineyard Sound and Nantucket Sound could be navigated by uninspected barges. The proposal would have included all of Vineyard Sound and Nantucket Sound and would have drawn the Boundary Line from Gay Head to Block Island Light to Montauk Light.

For the reasons stated above, the Coast Guard does not intend to establish a line for seagoing barges in the New England-New York area which would allow uninspected barges to proceed beyond historically established boundaries. Therefore § 7.5(b)(6), (7) and (8) have been added in this supplemental notice of proposed rulemaking to delineate lines for the Seagoing Barge Act in Buzzards Bay, Narrangansett Bay, Block Island Sound, Vineyard Sound and Nantucket Sound.

4. Four commenters recommended that Hawk Channel between Key West and Miami, Florida remain inside the Boundary Lines. This would allow inspected tank barges to proceed to Key West from Miami without loadlines, as is the case now.

The proposed lines in § 7.100 of this supplemental notice for the Key West area have been relocated to their prior position thereby allowing tank barges without loadlines to continue operating to Key West within the Boundary Lines. These barges have historically operated in Hawk Channel with a satisfactory safety and pollution record.

5. Four commenters requested that the Boundary Line at St. Marks, Florida be moved out to allow tank barge traffic to operate between St. Marks, and Carrabelle inside the Boundary Line. This change would allow such tank barges to safely operate on limited voyages without loadlines thereby greatly reducing transportation costs.

In view of the limited route and area of operation of the tank barges concerned, § 7.130 of this supplemental notice contains a proposed change that would allow such barges without loadlines to operate between Carrabelle and St. Marks.

6. One commenter was opposed to the Boundary Lines along the west coast of Florida. The reasoning was that tank barges operating between St. Marks and Tampa would no longer be able to operate inside the sea buoys with "limited loadlines."

The NPRM and § 7.120 of this supplemental notice propose a line for the Tampa area that is nearly identical to the line published in 46 CFR Part 7. The line proceeds from shore to two sea buoys and then back in to shore. It is not possible under the past, present, or proposed rule to proceed to or from sea at Tampa without crossing the Boundary Line. Vessels entering or departing Tampa therefore are subject to 46 U.S.C. 88, the Coastwise Loadline Act, since they must proceed on the high seas (i.e., beyond the Boundary Line). The vessels must therefore be issued loadline certificates under the present Boundary Lines and under this supplemental notice. Whether a particular vessel is issued a standard loadline certificate or a "limited loadline" certificate is a matter to be decided utilizing the loadline regulations and published Coast Guard policy. Such a decision does not depend on the location of the Boundary Lines.

7. One commenter recommended extending the Boundary Line at Perdido Pass, Florida to accommodate dredging operations to the sea buoy. Since the recommended change would have no foreseeable effect on safety, the proposed line for Perdido Pass in § 7.135(g) of this supplemental notice has been extended to the sea buoy.

8. Numerous comments were received concerning the location of the proposed lines in the Gulf of Mexico. Ten comments recommended a 12-mile Boundary Line for all purposes. Eleven others supported a 12-mile line for vessels in support of the offshore oil industry. There were 4 comments which recommended that just drilling barges be authorized to drill out to 12 miles if in less than 30 feet of water without undergoing Coast Guard inspection and certification. Other comments addressed specific problems such as proposed coal lightering off the Mississippi River passes, dredging operations and safety in the Gulf Intra-Coastal Waterway.

Operations in the Gulf of Mexico present a unique situation because of the historical positioning of the Boundary Line well offshore of Texas and Louisiana. Such placement of the line in the Gulf of Mexico is warranted from a safety viewpoint because of the warm climate, shallow-water depths, warm water temperatures, and high volume of offshore rigs and vessel traffic that could serve as rescue platforms.

The Coast Guard recognizes that both barges and self-propelled vessels, including those operating in support of the offshore industry, have operated safely for years in waters that are many miles offshore in the Gulf of Mexico.

The Coast Guard has continually stated that it is not our intention to use Boundary Line regulations in a manner that would result in additional vessels being unnecessarily brought under inspection and certification. The proposed Boundary Lines in §§ 7.140 through 7.160 of this supplemental notice for the Gulf of Mexico have therefore been moved to where they historically have been located or up to the maximum of 12 miles authorized by the Act. This represents a major change from the proposed rule of 7 June 1982. Because the Vessel Bridge-to-Bridge Radiotelephone Act is limited to the navigable waters of the U.S., the line is set at 3 miles for this statute.

Moving the lines out to 12 miles in areas where they have traditionally been in closer to shore was a matter that was taken into consideration. However, such a change could conceivably have an adverse effect on safety by opening such areas to vessels that have not historically operated in those offshore waters. Such changes could, however, be reconsidered in the future following an analysis of barge activity in the Gulf of Mexico where lines are now being proposed up to 12 miles offshore for the Seagoing Barge Act.

The Boundary Lines establish the applicability of the Seagoing Barge Act (and 6 other statutes). Barges of 100 gross tons and over that remain inside the Boundary Lines are not subject to inspection under authority of the Seagoing Barge Act. Drilling units may, however, be subject to varying degrees of inspection under the Outer Continental Shelf Lands Act (OCSLA), as amended, or other applicable statutes. The fact that a shallow-water or posted drilling barge remains inside the Boundary Line does not exempt it from OCSLA requirements and other applicable statutes.

The Boundary Lines proposed in this supplemental notice should accommodate the concerns expressed by the commenters, to the extent permitted by the governing statutes.

9. One commenter recommended extending the Boundary Line in the Galveston area to include the proposed precautionary area delineated in the 17 June 1982 **Federal Register** (CGD 81–080). The commenter stated that moving the line out would be a move toward establishing control over the approaches to the Galveston-Houston pilot station.

The Boundary Lines, which have no direct relationship to the precautionary area in question, are not intended to establish "control" over certain waters along the coast. The Boundary Lines instead establish the applicability of the seven marine safety statutes that refer to the Boundary Line statute (33 U.S.C. 151). Furthermore, moving the lines out beyond the precautionary area would have an opposite effect from that intended by the commenter. For example, self-propelled vessels of 300 or more gross tons that proceed beyond the Boundary Lines must be inspected and certificated. Therefore, if the precautionary area were inside the Boundary Lines, vessels of 300 gross tons and over could proceed to and/or through the precautionary area and not be subject to inspection. The result would be less control over the vessels that transit the precautionary area.

The Vessel Bridge-to-Bridge Radiotelephone Act [33 U.S.C. 1201 et seq.] is the one statute (out of the 7 that refer to Boundary Lines) that is most closely related to the commenter's concerns, the prevention of hazardous manuevering and navigation in the precautionary area. The applicability of that act is limited by law to 3 miles from shore.

10. Two commenters recommended redoing the Boundary Lines in areas other than the Gulf of Mexico to permit uninspected non-self-propelled dredges to engage in necessary beach replenishment projects.

In order to accommodate dredges conducting beach replenishment operations in areas other than the Gulf of Mexico, it would be necessary to establish a separate line 2 to 3 miles offshore in those areas. However, this line would be applicable to *all* seagoing barges under the Seagoing Barge Act. Dredges cannot be singled out among other barges because the Boundary Line statute (33 U.S.C. 151) allows for only one line to be established for each statute. The Coast Guard has determined in the interest of safety that not *all* uninspected barges of 100 gross tons and over should be allowed to proceed past the headlands in *all* areas of the United States. Many inland barges are not constructed for operations in offshore waters.

Therefore, the proposed lines in areas other than the Gulf of Mexico are not changed in this supplemental notice to accommodate beach replenishment operations. Consideration will be given to allowing OCMIs to issue short-term certificates of inspection to inland dredges which would be used for specific beach replenishment projects outside the Boundary Lines. However, such changes are beyond the scope of this rulemaking.

11. One commenter recommended moving the Boundary Lines for the Seagoing Barge Act in to shore and establishing "reduced" construction standards for barges that operate no more than 12 miles offshore. While this alternative has merits, it would bring under inspection and certification hundreds of vessels that have not been under the program in the past. The Coast Guard does not intend to affect those uninspected vessels that have operated safely for years in near offshore waters. No proposed changes to the rules have been made as a result of this amount.

12. One commenter recommended that the final rules discuss the relationship between Boundary Lines and the requirements of the Federal pilotage statute, 46 U.S.C. 364. "Seagoing," as used in 46 U.S.C. 364, is not related to the Boundary Lines. The Boundary Lines statute, 33 U.S.C. 151, states that lines will be established "for the purpose of determining applicability of each statute that refers to" 33 U.S.C. 151. The statute in question, 46 U.S.C. 364, does *not* refer to 33 U.S.C. 151. Therefore, a vessel is "seagoing" for the purposes of 46 U.S.C. 364 if it proceeds past the headlands, not the Boundary Lines.

The commenter further recommended that the applicability section of the proposed rules, proposed 46 CFR 7.1, specify that the Boundary Lines do not apply to the Federal pilotage requirements of 46 U.S.C. 364. The applicability section will continue to list only those statutes that utilize Boundary Lines. Therefore, those statutes *not* listed do not utilize Boundary Lines for applicability. No change to § 7.1 has been made in this supplemental notice of proposed rulemaking.

13. Seven commenters requested public hearings regarding lines in the Gulf of Mexico and along the New England coast. Since an early decision was made by the Coast Guard to issue a supplemental notice, no public hearings were held regarding the initial proposal. Although problems in the Gulf of Mexico and New England should be resolved by changes proposed in this supplemental notice, public hearings will be held as indicated under **"DATES"** and **"ADDRESSES."**

14. One commenter recommended that sea buoys be used to delineate the extremities of the Boundary Lines at different ports as opposed to fixed positions (latitude and longitude). Channels could then be dredged utilizing inland equipment in those areas where natural sediments are being carried further seaward necessitating periodic repositioning of the sea buoys to sea.

In the 7 June 1982 NPRM, fixed coordinates are included in parentheses after the name of each buoy that is used to define Boundary Lines. The coordinates are deemed necessary in that buoys are not considered fixed aids. In those areas where aids to navigation are removed from service, the fixed position (latitude/longitude) would be used to delineate the positioning of the Boundary Lines. In rare cases where the sea buoy is moved beyond 12 miles, the fixed position would, of necessity, take precedence because the Boundary Line statute (33 U.S.C. 151) limits the positioning of Boundary Lines to "12 miles seaward of the base line from which the territorial sea is measured." In all other cases, the fixed position (latitude/longitude) would also take precedence until an evaluation of any change in a buoy's position is made. Following an evaluation, the line may be changed if deemed necessary. To more clearly indicate the relationship of the fixed coordinates and the buoys, the names of the buoys are now in parentheses.

Discussion of Proposed Rules

Proposed § 7.5 lists exceptions to the Boundary Lines. The 7 June 1982 proposal has been changed by eliminating paragraph (c) of § 7.5 which proposed an exception for drilling barges that are being towed. The need for an exception regarding towed drilling barges was eliminated by changes made to this supplemental notice that extended the Boundary Line up to 12 miles offshore in the Gulf of Mexico. The exceptions to the proposed Boundary Lines are now:

(a) Lines for the Vessel Bridge-to-Bridge Radiotelephone Act are set at three miles, the extent of the navigable waters of the United States. In general, this proposed three-mile limit represents an extension of the applicability of this Act from the current lines. The current lines normally provide coverage to the sea buoys only, or, in some cases, not even that distance offshore. The radiotelephone requirements are therefore not applicable to traffic lanes and other relatively congested areas outside the harbors and channels covered by the current lines. The safety of vessels in these areas would be greatly enhanced by extending the line to three miles for this Act. Easy identification of the line applicable to this Act would also be a benefit derived from this proposed change in applicability.

(b) Separate lines for the Seagoing Barge Act are established for the New England area where the current Boundary Lines are deemed not satisfactory for the purpose of application of this particular Act. Historically, barges have been required to be inspected once they proceeded past the headlands since no specific lines for this Act were authorized or established. Application of the line proposed for the five other statutes would allow barges built for inland waters to proceed out on the high seas without inspection. Certain barges built to inland scantling are not safe for operation in offshore waters outside of the Gulf of Mexico, especially in the New England climate. Therefore, a proposed line in close to the headlands has been established for application of this Act in the New England area. This separate line for the Seagoing Barge Act closely approximates the lines used under the headlands rule in the past (and in use now) for seagoing barges.

The present line for the other five statutes remains basically unchanged and is deemed satisfactory due to the irregular nature of the coastline and the type of vessel traffic in the New England area.

(c) Application of the Seagoing Barge Act in the sheltered waters of British Columbia is waived as set forth in the United States-Canada treaty of 1933.

Proposed §§ 7.10 through 7.235 revise and redefine Boundary Lines to meet the intent of the six marine safety statutes that currently employ the Boundary Line statute (33 U.S.C.. 151). The line for the seventh statute, the Vessel Bridge-to-Bridge Radiotelephone Act, is set at 3 miles. The major proposed revisions in the supplemental notice are made in the Gulf of Mexico and Key West, Florida. Except for the lines and exceptions in proposed § 7.5, the lines for all of the applicable statutes are consolidated into one line. Lines for harbors and inlets still not specifically established in the proposed regulations are governed by the general rule in 46 CFR 7.3.

Regulatory Evaluation

These proposed regulations have been determined to be non-major regulations in accordance with the guidelines set out in Executive Order 12291, and are also considered to be non-significant under the "Policies and Procedures for Simplification, Analysis, and Review of Regulations" (DOT Order 2100.5 of May 22, 1980). A further economic evaluation of the proposed regulations is not considered necessary since their impact is expected to be minimal. Any economic benefits that would result from this proposal cannot accurately be determined. However, they are expected to be minimal since there is little change from current requirements.

The 7 June 1982 NPRM indicated that the economic impact was expected to be minimal. Some commenters disagreed with this finding. Commenters concerned with the Gulf of Mexico state that the lines as proposed by the NPRM would require the inspection and certification of barges that are presently uninspected. Barges that proceed beyond the headlands must be inspected according to present inspection policy. In the Gulf of Mexico, the proposed Boundary Line for the Seagoing Barge Act recognizes historical use and is located up to 12 miles from the base line. If adopted, this would reduce the burden of inspection. While some uninspected barges may currently be operating beyond the headlands no new economic burden is imposed since they should be inspected at the present time.

Commenters concerned about Key West, Florida, state that the lines as proposed by the NPRM would place the Key West island chain seaward of the Boundary Line and that as a result, loadlines would be required for inspected tank barges. The tank barges would then carry less oil per trip because of the loadlines and Key West residents would be subject to substantial increases in the cost of oil because of a corresponding increase in the cost of transportation. This supplemental notice proposes to return the Boundar Lines in the Key West area to its existing location.

Commenters concerned about the New England area state that the positioning of the Boundary Lines as proposed by the NPRM would create a severe economic burden on the local construction barge industry. However, the lines as proposed by the NPRM and SNPRM are identical to the existing practices for seagoing barges. Therefore, no new economic burden would be imposed.

This SNPRM returns the Boundary Lines to its existing location whenever possible. The Boundary Line statute (33 U.S.C. 151) prevents the positioning of a line beyond 12 miles. This document proposes to bring the Boundary Line shoreward of the existing location only when the existing location is set beyond 12 miles. Since the Coast Guard is required to locate the Boundary Lines no more than 12 miles from the baseline, this SNPRM makes the maximum possible accommodation of existing practices.

The Regulatory Flexibility Act (94 Stat. 1164, Pub. L. 96-354) requires an analysis of the impact of proposed regulations on small businesses, organizations, and small governmental jurisdictions. This proposal would have only a minor economic impact on these entities since the changes of the lines would not create any new economic costs. A slight economic benefit may result; however, it cannot be accurately estimated. Pursuant to section 605(b) of the Act, it is certified that these proposed regulations, if promulgated, will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 46 CFR Part 7

Law enforcement, Vessels.

Accordingly, Part 7 of Title 46, Code of Federal Regulations, is proposed to be amended as follows:

1. By revising 46 CFR Part 7 to read as follows:

PART 7—BOUNDARY LINES

General

Sec.
7.1 General purpose of boundary lines.
7.3 General rule for establishing boundary lines.
7.5 Exceptions.

Atlantic Coast

7.10 Eastport, ME to Cape Ann, MA.
7.15 Massachusetts Bay, MA.
7.20 Nantucket Sound, Vineyard Sound, Buzzards Bay, Narragansett Bay, MA, Block Inland Sound and easterly entrance to Long Island Sound, NY.
7.25 Montauk Point, NY to Atlantic Beach, NY.
7.30 New York Harbor, NY.
7.35 Sandy Hook, NJ to Cape May, NJ.
7.40 Delaware Bay and Tributaries.
7.45 Cape Henlopen, DL to Cape Charles, VA.
7.50 Chesapeake Bay and Tributaries.
7.55 Cape Henry, VA to Cape Fear, NC.
7.60 Cape Fear, NC to Sullivans Island, SC.
7.65 Charleston Harbor, SC.
7.70 Folly Island, SC to Hilton Head Island, SC.
7.75 Savannah River/Tybee Roads.
7.80 Tybee Island, GA to St. Simons Island, GA.
7.85 St. Simons Island, GA to Little Talbot Island, FL.
7.90 St. Johns River, FL.
7.95 St. John Point, FL to Miami Beach, FL.
7.100 Florida Reefs and Keys from Miami, FL to Cape Sable, FL.

Gulf Coast

7.105 Cape Sable, FL to Sanibel Island, FL.
7.110 Pine Island Sound, FL and Charlotte Harbor, FL.
7.115 Port Boca Grande, FL to Anna Maria Key, FL.
7.120 Tampa Bay, FL and Tributaries.
7.125 St. Petersburg, FL to Rock Island, FL.
7.130 Rock Island, FL to Cape San Blas, FL.
7.135 Cape San Blas, FL to Perdido Bay, FL.
7.140 Mobile Bay, AL to Mississippi Passes, LA.

Sec.
7.145 Mississippi Passes, LA.
7.150 Mississippi Passes, LA to Sabine Pass, TX.
7.155 Sabine Pass, TX to Galveston, TX.
7.160 Galveston, TX to Rio Grande, TX.

Hawaii

7.165 Mamala Bay, HI.

Pacific Coast

7.170 Santa Catalina Island, CA.
7.175 Mexican/United States border to Point Fermin, CA.
7.180 Point Vincente, CA to Point Conception, CA.
7.185 Point Conception, CA to Point Sur, CA.
7.190 Point Sur, CA to Cape Blanco, OR.
7.195 Cape Blanco, OR to Cape Flattery, WA.
7.200 Strait of Juan de Fuca, Haro Strait and Strait of Georgia, WA.

Alaska

7.205 Canadian (BC) and United States (AK) Borders to Cape Spencer, AK.
7.210 Cape Spencer, AK to Cape St. Elias, AK.
7.215 Point Whitshed, AK to Aialik Cape, AK.
7.220 Kenai Peninsula, AK to Kodiak Island, AK.
7.225 Alaska Peninsula, AK to Aleutian Islands, AK.
7.230 Alaska Peninsula, AK to Nunivak, AK.
7.235 Kotzebue Sound, AK.

Authority: Sec. 2, 28 Stat. 672 as amended (33 U.S.C. 151); sec. 6(b)(1), 80 Stat. 937 (49 U.S.C. 1655(b)(1)); 49 CFR 1.46(b).

General

§ 7.1 General purpose of boundary lines.

The lines in this part delineate the application of the following U.S. statutes relating to vessel inspection, equipment and manning requirements: 33 U.S.C. 152; 33 U.S.C. 1201 et seq.; 46 U.S.C. 88; 46 U.S.C. 224a; 46 U.S.C. 367; 46 U.S.C. 395; and 46 U.S.C. 404.

§ 7.3 General rule for establishing boundary lines.

Except as otherwise described in this part, boundary lines are lines drawn following the general trend of the seaward, highwater shorelines and lines continuing the general trend of the seaward, highwater shorelines across entrances to small bays, inlets and rivers.

§ 7.5 Exceptions.

(a) For application of the Vessel Bridge-to-Bridge Radiotelephone Act, 33 U.S.C. 1201 et. seq., the line is 3 miles seaward of the baseline from which the territorial sea is measured.

(b) For application of the Seagoing Barge Act, 46 U.S.C. 395, the following lines apply to all harbors on the coast of Maine, New Hampshire, Massachusetts, Rhode Island and New York between West Quoddy Head, Maine and Montauk Point, New York:

(1) A line drawn from the southeasternmost extremity of Western Head to the southernmost extremity of Double Shot Islands; thence to Libby Island Light; thence to Moose Peak Light; thence to the eastern extremity of Little Pond Head.

(2) A line drawn from the southern extremity of Pond Point, Great Wass Island, to the southermost point of Crumple Island; thence to the southernmost extremity of Petit Manan Point, thence to the southernmost extremity of Schoodic Island; thence to the southern point of Eastern Head, Isle Au Haut.

(3) A line drawn from Western Head, Isle Au Haut, to Marshall Point Light; thence to Pemaquid Point Light; thence to the southern point of Small Point, Cape Small; thence to Cape Elizabeth Light; thence to the easternmost extremity of Fletcher Neck.

(4) A line drawn from the easternmost extremity of Sisters Point, Gerrish Island, to the easternmost extremity of Odiornes Point.

(5) A line drawn from the southernmost extremity of Eastern Point, Cape Ann to Strawberry Point. A line drawn from the tower at Brant Rock located in approximate position latitude 42°05.5′ N. longitude 70°38.6′ W, to the westernmost extremity of Race Point.

(6) A line drawn from the abandoned lighthouse on Point Gammon at approximate position latitude 41°36.6′ N. longitude 70°16′ W. to Cape Poge Light.

(7) A line drawn from the westernmost extremity of Gay Head, Martha's Vineyard to the westernmost extremity of Naushon Island; thence to the southermost extremity of Mishaum Point, Smith Neck.

(8) A line drawn from the southernmost extremity of Sakonnet Point to the southermost extremity of West Island in approximate position latitude 41°27.0′ N. longitude 71°11.9′ W.; thence to Point Judith Light; thence to Montauk Point Light.

(c) Barges of 100 gross tons and over operating on the sheltered waters of British Columbia as defined in the United States-Canada treaty of 1933 are not required to be inspected as seagoing barges under the Seagoing Barge Act, 46 U.S.C. 395.

Atlantic Coast

§ 7.10 Eastport, ME to Cape Ann, MA.

(a) A line drawn from the easternmost extremity of Kendall Head to latitude 44°54′45″ N. longitude 66°58′30″ W.; thence to the range marker located in approximate position latitude 44°51′45″ N. longitude 66°59′ W.

(b) A line drawn from West Quoddy Head Light to latitude 44°48.5′ N. longitude 66°56.4′ W. (Sail Rock Lighted Whistle Buoy "1"); thence to latitude 44°37.5′ N. longitude 67°09.8′ W. (Little River Lighted Whistle Buoy "2LR"); thence to latitude 44°14.5′ N. Longitude 67°57.2′ W. (Frenchman Bay Approach Lighted Whistle Buoy "FB"); thence to Mount Desert Light; thence to Matinicus Rock Light; thence to Monhegan Island Light; thence to latitude 43°31.6′ N. longitude 70°05.5′ W. (Portland Lighted Horn Buoy "P"); thence to Boon Island Light; thence to latitude 42°37.9′ N. longitude 70°31.2′ W. Cape Ann Lighted Whistle Buoy "2").

§ 7.15 Massachusetts Bay, MA

A line drawn from latitude 42°37.9′ N. longitude 70°31.2′ W. (Cape Ann Lighted Whistle Buoy "2") to latitude 42°22.7′ N. longitude 70°47.0′ W. (Boston Lighted Horn Buoy "B"); thence to Race Point Light.

§ 7.20 Nantucket Sound, Vineyard Sound, Buzzards Bay, Narragansett Bay, MA, Block Island Sound and easterly entrance to Long Island Sound, NY.

(a) A line drawn from Chatham Light to latitude 41°36.1′ N. longitude 69°51.1′ W. (Pollack Rip Entrance Lighted Horn Buoy "PR"; thence to latitude 41°26.0′ N. longitude 69°46.2′ W. (Great Round Shoal Channel Lighted Buoy "2"); thence to Sankaty Head Light.

(b) A line drawn from the westernmost extremity of Nantucket Island to the southwesternmost extremity of Wasque Point, Chappaquiddick Island.

(c) A line drawn from Gay Head Light to Block Island Southeast Light; thence to Montauk Point Light on the easterly end of Long Island.

§ 7.25 Montauk Point, NY to Atlantic Beach, NY.

(a) A line drawn from Shinnecock East Breakwater Light to Shinnecock West Breakwater Light.

(b) A line drawn from Moriches Inlet East Breakwater Light to Moriches Inlet West Breakwater Light.

(c) A line drawn from Fire Island Inlet Breakwater Light 348° true to the southernmost extremity of the spit of land at the western end of Oak Beach.

(d) A line drawn from Jones Inlet Light 322° true across the southwest tangent of the island on the north side of Jones Inlet to the shoreline.

§ 7.30 New York Harbor, NY.

A line drawn from East Rockaway Inlet Breakwater Light to Ambrose Light; thence to highlands light (north tower).

§ 7.35 Sandy Hook, NJ to Cape May, NJ.

(a) A line drawn from Shark River Inlet North Breakwater Light "2" to Shark River Inlet South Breakwater Light "1".

(b) A line drawn from Manasquan Inlet North Breakwater Light to Manasquan Inlet South Breakwater Light.

(c) A line drawn along the submerged Barnegat Inlet North Breakwater to Barnegat Inlet North Breakwater Light "2"; thence to Barnegat Inlet Light "5"; thence along the submerged Barnegat Inlet South Breakwater to shore.

(d) A line drawn from the seaward tangent of Long Beach Island to the seaward tangent of Pullen Island across Beach Haven and Little Egg Inlets.

(e) A line drawn from the seaward tangent of Pullen Island to the seaward tangent of Brigantine Island across Brigantine Inlet.

(f) A line drawn from the seaward extremity of Absecon Inlet North Jetty to Atlantic City Light.

(g) A line drawn from the southernmost point of Longport at latitude 39°18.2′ N. longitude 74°32.2′ W. to the northeasternmost point of Ocean City at latitude 39°17.6′ N. longitude 74°33.1′ W. across Great Egg Harbor Inlet.

(h) A line drawn parallel with the general trend of the seaward, high-water shoreline across Corson Inlet.

(i) A line formed by the centerline of the Townsend Inlet Highway Bridge.

(j) A line formed by the shoreline of Seven Mile Beach and Hereford Inlet Light.

§ 7.40 Delaware Bay and tributaries.

A line drawn from Cape May Inlet East Jetty Light to latitude 38°55.8′ N. longitude 74°51.4′ W. (Cape May Harbor Inlet Lighted Bell Buoy "2CM"); thence to latitude 38°48.9′ N. longitude 75°02.3′ W. (Delaware Bay Entrance Channel Lighted Buoy "8"); thence to the northernmost extremity of Cape Henlopen.

§7.45 Cape Henlopen, DL to Cape Charles, VA.

(a) A line drawn from the easternmost extremity of Indian River Inlet North Jetty to latitude 38°36.5′ N. longitude 75°02.6′ W. (Indian River Inlet Lighted Gong Buoy "1"); thence to Indian River Inlet South Jetty Light.

(b) A line drawn from Ocean City Inlet Light "6" to latitude 38°19.4′ N. longitude 75°05.0′ W. (Ocean City Inlet Entrance Lighted Buoy "4"); thence to latitude 38°19.3′ N. longitude 75°05.1′ W. (Ocean City Inlet Entrance Lighted Buoy "5"); thence to the easternmost extremity of the south breakwater.

(c) A line drawn from Assateague Beach Tower Light to the tower charted at latitude 37°52.6′ N. longitude 75°26.7′ W.

(d) A line drawn from the southernmost extremity of Cedar Island to latitude 37°34.7′ N. longitude 75°36.0′ W. (Wachapreague Inlet Entrance Lighted Buoy "1"); thence due south to shore ar Parramore Beach.

(e) A line drawn from the seaward tangent of Parramore Beach to the lookout tower on the northern end of Hog Island charted in approximate position latitude 37°27.2′ N. longitude 75°40.5′ W.

§ 7.50 Chesapeake Bay and tributaries.

A line drawn from Cape Charles Light to latitude 36°56.8′ N. longitude 75°55.1′ W. (North Chesapeake Entrance Lighted Gong Buoy "NCD"); thence to latitude 36°54.8′ N. longitude 75°55.6′ W. (Chesapeake Bay Entrance Lighted Bell Buoy "CBC"); thence to latitude 36°55.0′ N. longitude 75°58.0′ W. (Cape Henry Buoy "1"); thence to Cape Henry Light.

§ 7.55 Cape Henry, VA to Cape Fear, NC.

(a) A line drawn from Rudee Inlet Jetty Light "2" to Rudee Inlet Jetty Light "1".

(b) A line formed by the centerline of the highway bridge across Oregon Inlet.

(c) A line drawn from Hatteras Inlet Light 255° true to the eastern end of Ocracoke Island.

(d) A line drawn from the westernmost extremity of Ocracoke Island at latitude 35°04′ N. longitude 76°00.8′ W. to the northeasternmost extremity of Portsmouth Island at latitude 35°03.7′ N. longitude 76°02.3′ W.

(e) A line drawn across Drum Inlet parallel with the general trend of the seaward, highwater shoreline.

(f) A line drawn from the southernmost extremity of Cape Lookout to latitude 34°38.4′ N. longitude 76°40.6′ W. (Beaufort Inlet Lighted Bell Buoy "2BI"); thence to the seaward extremity of the Beaufort Inlet west jetty.

§ 7.60 Cape Fear, NC to Sullivans Island, SC.

(a) A line drawn from the southernmost extremity of Cape Fear to latitude 33°49.5′ N. longitude 78°03.7′ W. (Cape Fear River Entrance Lighted Bell Buoy "2CF"); thence to Oak Island Light.

(b) A line drawn from Georgetown Light to latitude 33°11.6′ N. longitude 79°05.4′ W. (Winyah Bay Lighted Bell Buoy "2WB"); thence to the southernmost extremity of Sand Island.

§ 7.65 Charleston Harbor, SC.

A line drawn from Charleston Light on Sullivans Island to latitude 32°40.7′ N. longitude 79°42.9′ W. (Charleston Lighted Whistle Buoy "2C"); thence to Folly Island Loran Tower (latitude 32°41.0′ N. longitude 79°53.2′ W.).

§ 7.70 Folly Island, SC to Hilton Head Island, SC.

(a) A line drawn from the southwesternmost extremity of Folly Island to the easternmost extremity of Kiawah Island at Sandy Point.

(b) A line drawn from the southernmost extremity of Seabrook Island 257° true across the North Edisto River Entrance to the shore of Botany Bay Island.

(c) A line drawn from the microwave antenna tower on Edisto Beach charted in approximate position latitude 32°29.3′ N. longitude 80°19.2′ W. across St. Helena Sound to the abandoned lighthouse tower on Hunting Island charted in approximate position latitude 32°22.5′ N. longitude 80°26.5′ W.

(d) A line formed by the centerline of the highway bridge between Hunting Island and Fripp Island.

(e) A line drawn from the westernmost extremity of Bull Point on Capers Island to latitude 32°04.8′ N. longitude 80°34.9′ W. (Port Royal Sound Lighted Whistle Buoy "2PR"); thence to the easternmost extremity of Hilton Head at latitude 32°13.2′ N. longitude 80°40.1′ W.

§ 7.75 Savannah River/Tybee Roads.

A line drawn from the southwesternmost extremity of Braddock Point to latitude 31°58.3′ N. longitude 80°44.1′ W. (Tybee Lighted Whistle Buoy "T"); thence to the southernmost point of Savannah Beach, bearing approximately 278° true.

§ 7.80 Tybee Island, GA to St. Simons Island, GA.

(a) A line drawn from the southernmost extremity of Savannah Beach on Tybee Island 255° true across Tybee Inlet to the shore of Little Tybee Island south of the entrance to Buck Hammock Creek.

(b) A line drawn from the southernmost extremity of Little Tybee Island at Beach Hammock to the easternmost extremity of Wassaw Island.

(c) A line drawn approximately parallel with the general trend of the seaward, highwater shorelines from the seaward tangent of Wassaw Island to the seaward tangent of Bradley Point on Ossabaw Island.

(d) A north-south line (longitude 81°08.4′ W.) drawn from the southernmost extremity of Ossabaw Island to St. Catherines Island.

(e) A north-south line (longitude 81°10.6′ W.) drawn from the southernmost extremity of St.

Catherines Island to Northeast Point on Blackbeard Island.

(f) A line following the general trend of the seaward, highwater shoreline across Cabretta Inlet.

(g) A north-south line (longitude 81°16.9′ W.) drawn from the southesternmost point on Sapelo Island to Wolf Island.

(h) A north-south line (longitude 81°17.1′ W.) drawn from the southeasternmost point on Wolf Island to the northeasternmost point on Little St. Simons Island.

(i) A line drawn from the southernmost extremity of Little St. Simons Island to the easternmost extremity of Sea Island.

(j) An east-west line from the southernmost extremity of Sea Island across Goulds Inlet to St. Simons Island.

§ 7.85 St. Simon Island, GA to Little Talbot Island, FL.

(a) A line drawn from the tower located 1,700 yards bearing 060° true from St. Simons Light to latitude 31°04.1′ N. longitude 81°16.7′ W. (St. Simons Lighted Whistle Buoy "ST S"); thence to the northernmost tank on Jekyll Island charted in approximate position latitude 31°05.9′ N. longitude 81°24.5′ W.

(b) A line drawn from the southernmost tank on Jekyll Island charted in approximate position latitude 31°01.6′ N. longitude 81°25.2′ W. to latitude 30°58.7′ N. longitude 81°22.4′ W. (St. Andrew Sound Buoy "11"); thence to the abandoned lighthouse tower on the north end of Little Cumberland Island charted in approximate position latitude 30°58.5′ N. longitude 81°24.8′ W.

(c) A line drawn from the seaward end of the north St. Mary's Entrance jetty to latitude 30°42.7′ N. longitude 81°19.0′ W. (St. Mary's Entrance Lighted Whistle Buoy "1"); thence to Amelia Island Light.

(d) A line drawn from the southernmost extremity of Amelia Island to the northeasternmost extremity of Little Talbot Island.

§ 7.90 St. Johns River, FL.

A line drawn from the southeasternmost extremity of Little Talbot Island to latitude 30°23.8′ N. longitude 81°20.3′ W. (St. Johns Lighted Whistle Buoy "2 STJ"); thence to St. Johns Light.

§ 7.95 St. Johns Point, FL to Miami Beach, FL.

(a) A line drawn across the seaward extremity of the St. Augustine Inlet Jetties.

(b) A line formed by the centerline of the highway bridge over Matanzas Inlet.

(c) A line drawn across the seaward extremity of the Ponce de Leon Inlet Jetties.

(d) A line drawn from Canaveral Harbor Approach Channel Range Front Light to latitude 28°23.7′ N. longitude 80°32.2′ W. (Canaveral Bight Wreck Lighted Buoy "WR6"); thence to the radio tower on Canaveral Peninsula in approximate position latitude 28°22.9′ N. longitude 80°36.6′ W.

(e) A line drawn across the seaward extremity of the Sebastian Inlet Jetties.

(f) A line drawn from the seaward extremity of the Fort Pierce Inlet North Jetty to latitude 27°28.5′ N. longitude 80°16.2′ W. (Fort Pierce Inlet Lighted Whistle Buoy "2"); thence to the tower located in approximate position latitude 27°27.2′ N. longitude 80°17.2′ W.

(g) A north-south line (longitude 80°09.8′ W.) drawn across St. Lucie Inlet through St. Lucie Inlet Entrance Range Front Daybeacon.

(h) A line drawn from the seaward extremity of Jupiter Inlet North Jetty to the northeast Extremity of the concrete apron on the south side of Jupiter Inlet.

(i) A line drawn from the seaward extremity of Lake Worth Inlet North Jetty to latitude 26°46.4′ N. longitude 80°01.5′ W. (Lake Worth Inlet Lighted Bell Buoy "2LW"); thence to Lake Worth South Light "1"; thence to the seaward extremity of Lake Worth Inlet South Jetty.

(j) A line drawn across the seaward extremity of the South Lake Worth Inlet Jetties.

(k) A line drawn from Boca Raton Inlet North Jetty Light "2" to Boca Baton Inlet South Jetty Light "1".

(l) A line drawn from Hillsboro Inlet Light to Hillsboro Inlet Entrance Light "2"; thence to Hillsboro Inlet Entrance Light "1"; thence west to the shoreline.

(m) A line drawn from the tower located in approximate position latitude 26°06.9′ N. longitude 80°06.4′ W. to latitude 26°05.5′ N. longitude 80°04.8′ W. (Port Everglades Lighted Whistle Buoy "1"); thence to the signal tower located in approximate position latitude 26°05.5′ N. longitude 80°06.5′ W.

(n) A line formed by the centerline of the highway bridge over Bakers Haulover Inlet.

§ 7.100 Florida Reefs and Keys from Miami, FL to Cape Sable, FL.

(a) A line drawn from the tower located in approximate position latitude 25°46.7′ N. longitude 80°08′ W. to latitude 25°46.1′ N. longitude 80°05.0′ W. (Miami Lighted Whistle Buoy "M"); thence to Fowey Rocks Light (latitude 25°35.4′ N. longitude 80°05.8′ W.); thence to Pacific Reef Light (latitude 25°22.3′ N. longitude 80°05.5′ W.) thence to Carysfort Reef Light (latitude 25°13.3′ N. longitude 80°12.7′ W.); thence to Molasses Reef Light "10" (latitude 25°00.7′ N. longitude 80°22.6′ W.); thence to Alligator Reef Light (latitude 24°51.1 N. longitude 80°37.1′ W.); thence to Tennessee Reef Light (latitude 24°44.7′ N. longitude 80°46.9′ W.); thence to Sombrero Key Light (latitude 24°37.6′ N. longitude 81°06.6′ W.); thence to American Shoal Light (latitude 24°31.5′ N. longitude 81°31.2′ W.); thence to latitude 24°27.7′ N. longitude 81°48.1′ W. (Key West Entrance Lighted Whistle Buoy); thence to Cosgrove Shoal Light (latitude 24°27.5′ N. longitude 82°11.2′ W.); thence to the westernmost extremity of Marquesas Keys.

(b) A line drawn from the northwesternmost extremity of Marquesas Keys to latitude 24°38.8′ N. longitude 81°54.0′ W. (Northwest Channel Entrance Lighted Bell Buoy "1"); thence to the southernmost extremity of East Cape, Cape Sable.

Gulf Coast

§ 7.105 Cape Sable, FL to Sanibel Island, FL.

(a) A line drawn following the general trend of the mainland, highwater shoreline from Cape Sable at East Cape to Little Shark River Entrance Light "1"; thence to the westernmost extremity of Shart Point; thence following the general trend of the mainland, highwater shoreline crossing the entrances of Harney River, Broad Creek, Broad River, Rodgers River, First Bay, Chatham River, Huston River to the shoreline at latitude 25°43.3′ N. longitude 81°20.8′ W.; thence to the southernmost extremity of Cape Romano.

(b) A line drawn across Big Marco Pass parallel to the general trend of the seaward, highwater shoreline.

(c) Lines drawn across Capri, Hurricane and Little Marco Passes parallel to the general trend of the seaward, highwater shoreline.

(d) A straight line drawn from Gordon Pass Light "4" through Daybeacon "5" to the shore.

(e) A line drawn across the seaward extremity of Doctors Pass Jetties.

(f) Lines drawn across Wiggins, Big Hickory, New, and Big Carlos Passes parallel to the general trend of the seaward, highwater shoreline.

(g) A straight line drawn from Sanibel Island Light through Matanzas Pass Channel Light "2" to the shore of Estero Island.

§ 7.110 Pine Island Sound, FL and Charlotte Harbor, FL.

(a) Lines drawn across Redfish and Captiva Passes parallel to the general

trend of the seaward, highwater shoreline.

(b) A line drawn from the northernmost extremity of Cayo Costa to latitude 26°39.8′ N. longitude 82°19.6′ W. (Charlotte Harbor Entrance Lighted Bell Buoy "2"); thence to Boca Grande Inner Channel Range Rear Light; thence to Port Boca Grande Light.

§ 7.115 Port Boca Grande, FL to Anna Maria Key, FL.

(a) Lines drawn across Gasparilla and Stump Passes parallel to the general trend of the seaward, highwater shoreline.

(b) A line drawn across the seaward extremity of Venice Inlet Jetties.

(c) A line drawn across Midnight Pass parallel to the general trend of the seaward, highwater shoreline.

(d) A line drawn from the westernmost extremity of Sarasota Point to the southernmost extremity of Lido Key.

(e) A line across New Pass parallel to the seaward, highwater shoreline of Longboat Key.

(f) A line drawn across Longboat Pass parallel to the seaward, highwater shoreline.

§ 7.120 Tampa Bay, FL and Tributaries.

A line drawn from the northernmost extremity of Anna Maria Key at Bean Point to latitude 27°32.5′ N. longitude 82°47.9′ W. (Southwest Channel Entrance Lighted Bell Buoy "1"); thence to latitude 27°35.8′ N. longitude 82°55.6′ W. (Tampa Bay Lighted Whistle Buoy); thence to the southernmost extremity of Long Key.

§ 7.125 St. Petersburg, FL to Rock Island, FL.

(a) A line drawn from the penthouse located in approximate position latitude 27°44.2′ N. longitude 82°45.2′ W. to latitude 27°46.2′ N. longitude 82°47.8′ W. (Johns Pass Lighted Buoy "JP"); thence to the tank located in approximate position latitude 27°48.1′ N. longitude 82°48′ W.

(b) A line drawn from the tank located in approximate position latitude 27°55′ N. longitude 82°50.5′ W. to latitude 27°58.1′ N. longitude 82°50.7′ W. (Clearwater Pass Channel Lighted Bell Buoy "1"); thence to the tank located in approximate position latitude 27°59.1′ N. longitude 82°49.6′ W.

(c) A line drawn across Dunedin and Hurricane Passes parallel with the general trend of the seaward, highwater shoreline.

(d) A line drawn from the northernmost extremity of Honeymoon Island to latitude 28°08.4′ N. longitude 82°52.0′ W. (Anclote Anchorage South Entrance Light "1"); thence to Anclote Keys Light.

(e) A line drawn from the northernmost extremity of Anclote Key to Anclote Anchorage North Entrance Light "4"; thence to the westernmost extremity of Bayonet Point at position latitude 28°19.5′ N. longitude 82°43.9′ W.

(f) A line drawn from the tank located in approximate position latitude 28°49.9′ N. longitude 82°40.1′ W. to Cross Florida Barge Canal Light "8"; thence to Northwest Channel Approach Light "2"; thence to Horseshoe Beach Channel Light "10"; thence to the westernmost extremity of Horseshoe Point.

(g) A line drawn from the westernmost extremity of Hardy Point to Steinhatchee River Light "1" (latitude 29°39.4′ N. longitude 83°27.4′ W.); thence to the westernmost extremity of Rock Point.

§ 7.130 Rock Island, FL to Cape San Blas, FL.

(a) A line drawn from Gamble Point Light to latitude 29°51.5′ N. longitude 84°10.3′ W. (Ochlockonee Shoals Lighted Bell Buoy "24"); thence to latitude 29°46.9′ N. longitude 84°20.7′ W. approximately one mile south of South Shoal Lighted Bell Buoy "26"; thence to latitude 29°44.6′ N. longitude 84°39.7′ W. (Carrabelle Channel Lighted Gong Buoy "1"); thence to the easternmost extremity of St. George Island.

§ 7.135 Cape San Blas, FL to Perdido Bay, FL.

(a) A line drawn from Cape St. George Light to Cape San Blas Light.

(b) A line drawn from St. Joseph Point on the northermost extremity of St. Joseph Spit to latitude 29°52.0′ N. longitude 85°29.5′ W. (St. Joseph Bay Lighted Whistle Buoy "SJ"); thence to the radio tower on Mexico Beach located in approximate position latitude 29°56.6′ N. longitude 85°23.9′ W.

(c) A line drawn from the westernmost extremity of Crooked Island to the easternmost extremity of Shell Island.

(d) A line drawn from the seaward end of the St. Andrew Bay entrance South Jetty to latitude 30°05.5′ N. longitude 85°46.4′ W. (St. Andrew Bay Entrance Lighted Whistle Buoy "SA"); thence to the seaward end of the St. Andrew Bay entrance North Jetty.

(e) A line drawn from the radar dome located in approximate position latitude 30°23.1′ N. longitude 86°26.9′ W. to latitude 30°22.3′ N. longitude 86°30.5′ W. (Choctawhatchee Bay Entrance Lighted Whistle Buoy "CB"); thence to the tower located in approximate position latitude 30°23.5′ N. longitude 86°33.5′ W.

(f) A line drawn from the southernmost extremity of Santa Rosa Island at longitude 87°16.0′ W. to latitude 30°16.3′ N. longitude 87°17.5′ W. (Pensacola Bay Entrance Lighted Gong Buoy "1"); thence to latitude 30°17.7′ N. longitude 87°18.7′ W. (Massachusetts Wreck Lighted Bell Buoy "WR2"); thence to Fort McRee Leading Light.

(g) A line drawn from the seaward extremity of Perdido Pass east jetty to latitude 30°15.6′ N. longitude 87°33.4′ W. (Perdido Pass Entrance Lighted Whistle Buoy "PP"); thence to the seaward extremity of Perdido Pass west jetty.

§ 7.140 Mobile Bay, AL to Mississippi Passes, LA.

(a) A line drawn from the tower located in approximate position latitude 30°15.0′ N. longitude 87°40.6′ W. to latitude 30°08.1′ N. longitude 88°03.9′ W. (Mobile Entrance Lighted Whistle Buoy "1"); thence to Ship Island Light; thence to Chandeleur Light.

(b) A curved line drawn from Chandeleur Light following the general trend of the seaward, highwater shorelines of the Chandeleur Islands to the southern extremity of the Chandeleur Islands in approximate position latitude 29°44.1′ N. longitude 88°53.1′ W.; thence to latitude 29°25.6′ N. longitude 88°59.5′ W. (Mississippi River-Gulf Outlet Lighted Bell Buoy "2"); thence to latitude 29°14.3′ N. longitude 88°57.5′ W. (Pass a Loutre North Pass Lighted Bell Buoy "2"); thence to latitude 29°09.9′ N. longitude 88°56.5′ W. (Pass a Loutre Lighted Bell Buoy "4").

§ 7.145 Mississippi Passes, LA.

A line drawn from latitude 29°09.9′ N. longitude 88°56.5′ W. (Pass a Loutre Lighted Bell Buoy "4") to latitude 28°58.7′ N. longitude 89°06.6′ W. (South Pass Lighted Whistle Buoy "2"); thence to latitude 28°52.7′ N. longitude 89°25.9′ W. (Southwest Pass Entrance Lighted Whistle Buoy "SW").

§ 7.150 Mississippi Passes, LA to Sabine Pass, TX.

(a) A line drawn from latitude 28°52.7′ N. longitude 89°25.9′ W. (Southwest Pass Entrance Lighted Whistle Buoy "SW") due west to a point 12 miles from the baseline from which the territorial sea is measured in approximate position latitude 28°52.7′ N. longitude 89°39.6′ W.; thence in a westerly direction along the 12-mile line which marks the seaward limits of the contiguous zone (as defined in 33 CFR Part 2.05–15) to latitude 29°34.5′ N. longitude 93°13.5′ W.; thence to latitude 29°34.3′ N. longitude 93°16.5′ W. (Calcasieu Channel Lighted Buoy "30"); thence to latitude 29°36.0′ N.

longitude 93°48.1′ W. (Sabine Bank Channel Lighted Bell Buoy "30").

§ 7.155 Sabine Pass, TX to Galveston, TX.

A line drawn from latitude 29°36.0′ N. longitude 93°48.1′ W. (Sabine Bank Channel Lighted Bell Buoy "30") to latitude 29°18.3′ N. longitude 94°37.6′ W. (Galveston Bay Entrance Channel Lighted Buoy "1")

§ 7.160 Galveston, TX to Rio Grande, TX.

A line drawn from latitude 29°18.3′ N. longitude 94°37.6′ W. (Galveston Bay Entrance Channel Lighted Buoy "1") to latitude 28°54.1′ N. longitude 95°15.8′ W. (Freeport Entrance Lighted Gong Buoy "1"); thence to latitude 28°23.0′ N. longitude 96°17.0′ W. (Matagorda Ship Channel Entrance Lighted Whistle Buoy "MB"); thence to latitude 27°47.6′ N. longitude 96°57.4′ W. (Aransas Pass Entrance Lighted Whistle Buoy "AP"); thence to a position approximately 10.5 miles, 90° true from the north end of Potrero Lopeno Island (latitude 27°00.1′ N. longitude 97°15.5′ W.); thence to latitude 26°03.9′ N. longitude 97°06.6′ W. (Brazos Santiago Entrance Lighted Whistle Buoy "BS"); thence to the entrance to the Rio Grande in approximate position latitude 25°57.5′ N. longitude 97°08.7′ W.

Hawaii

§ 7.165 Mamala Bay, HI.

A line drawn from Barbers Point Light to Diamond Head Light.

Pacific Coast

§ 7.170 Santa Catalina Island, CA.

(a) A line drawn from the northernmost point of Lion Head to the north tangent of Bird Rock Island; thence to the northernmost point of Blue Cavern Point.

(b) A line drawn from White Rock to the northernmost point of Abalone Point.

§ 7.175 Mexican/United States Border to Point Fermin, CA.

(a) A line drawn from the southerly tower of the Coronado Hotel in approximate position latitude 32°40.8′ N. longitude 117°10.6′ W. to latitude 32°39.1′ N. longitude 117°13.6′ W. (San Diego Bay Channel Lighted Bell Buoy "5"); thence to Point Loma Light.

(b) A line drawn from Mission Bay South Jetty Light "2" to Mission Bay North Jetty Light "1".

(c) A line drawn from Oceanside South Jetty Light "4" to Oceanside Breakwater Light "3".

(d) A line drawn from Dana Point Jetty Light "6" to Dana Point Breakwater Light "5".

(e) A line drawn from Newport Bay East Jetty Light "4" to Newport Bay West Jetty Light "3".

(f) A line drawn from Anaheim Bay East Jetty Light "6" to Anaheim Bay West Jetty Light "5"; thence to Long Beach Breakwater East End Light "1". A line drawn from Long Beach Entrance Light "2". to Long Beach Light. A line drawn from Los Angeles Main Channel Entrance Light "2" to Los Angeles Light.

§ 7.180 Point Vincente, CA to Point Conception, CA.

(a) A line drawn from Redondo Beach East Jetty Light "2" to Redondo Beach West Jetty Light "3".

(b) A line drawn from Marina Del Rey Light "4" to Marina Del Rey Breakwater South Light "1". A line drawn from Marina Del Rey Breakwater North Light "2" to Marina Del Rey Light "3".

(c) A line drawn from Port Hueneme East Jetty Light "4" to Port Hueneme West Jetty Light "3".

(d) A line drawn from Channel Islands Harbor South Jetty Light "2" to Channel Islands Harbor Breakwater South Light "1". A line drawn from Channel Islands Harbor Breakwater North Light to Channel Islands Harbor North Jetty Light "5".

(e) A line drawn from Ventura Marina South Jetty Light "6" to Ventura Marina Breakwater South Light "3". A line drawn from Ventura Marina Breakwater North Light to Ventura Marina North Jetty Light "7".

(f) A line drawn from Santa Barbara Harbor Light "4" to latitude 34°24.1′ N. longitude 119°40.7′ W. (Santa Barbara Harbor Lighted Bell Buoy "(1"); thence to Santa Barbara Harbor Breakwater Light.

§ 7.185 Point Conception, CA to Point Sur, CA.

(a) A line drawn from the southernmost extremity of Fossil Point at longitude 120°43.5′ W. to the seaward extremity of Whaler Island Breakwater.

(b) A line drawn from the outer end of Morro Bay Entrance East Breakwater to latitude 35°21.5′ N. longitude 120°52.3′ W. (Morro Bay Entrance Lighted Bell Buoy "1"); thence to Morro Bay West Breakwater Light.

§ 7.190 Point Sur, CA to Cape Blanco, OR.

(a) A line drawn from Monterey Harbor Light "8" to latitude 36°36.5′ N. Longitude 121°53.2′ W. (Monterey Harbor Anchorage Buoy "A"); thence to the northernmost extremity of Monterey Municipal Wharf No. 2.

(b) A line drawn from the seaward extremity of the pier located 0.3 mile south of Moss Landing Harbor Entrance to the seaward extremity of the Moss Landing Harbor North Breakwater.

(c) A line drawn from Santa Cruz Light to the southernmost projection of Soquel Point.

(d) A straight line drawn from Point Bonita Light across Golden Gate through Mile Rocks Light to the shore.

(e) A line drawn from the Northwestern tip of Tomales Point to latitude 38°15.1′ N. Longitude 123°00.1′ W. (Tomales Point Lighted Horn Buoy "2"); thence to latitude 38°17.2′ N. longitude 123°02.3′ W. (Bodega Harbor Approach Lighted Gong Buoy "BA"); thence to the southernmost extremity of Bodega Head.

(f) A line drawn from Humboldt Bay Entrance Light "4" to Humboldt Bay Entrance Light "3".

(g) A line drawn from Crescent City Outer Breakwater Light "5" to the southeasternmost extremity of Whaler Island at longitude 124°11′ W.

§ 7.195 Cape Blanco, OR to Cape Flattery, WA.

(a) A line drawn from the seaward extremity of the Coos Bay South Jetty to latitude 43°21.9′ N. longitude 124°21.7′ W. (Coos Bay Entrance Lighted Bell Buoy "1"); thence to the seaward extremity of the Coos Bay North Jetty.

(b) A line drawn from the lookout tower located in approximate position latitude 46°13.6′ N. longitude 124°00.7′ W. to latitude 46°12.8′ N. longitude 124°08.0′ W. (Columbia River Entrance Lighted Whistle Buoy "2"); thence to latitude 46°14.5′ N. longitude 124°09.5′ W. (Columbia River Entrance Lighted Bell Buoy "1"); thence to North Head Light.

(c) A line drawn from latitude 46°52.8′ N. longitude 124°12.6′ W. (Grays Harbor Light to Grays Harbor Entrance Lighted Whistle Buoy "2"); thence to latitude 46°55.0′ N. longitude 124°14.7′ W. (Grays Harbor Entrance Lighted Whistle Buoy "3"); thence to Grays Harbor Bar Range Rear Light.

§ 7.200 Strait of Juan de Fuca, Haro Strait and Strait of Georgia, WA.

(a) A line drawn from the northernmost point of Angeles Point to latitude 48°21.1′ N. longitude 123°02.5′ W. (Hein Bank Lighted Bell Buoy); thence to latitude 48°25.5′ N. longitude 122°58.5′ W. (Salmon Bank Lighted Gong Buoy "3"); thence to cattle Point Light on San Juan Island.

(b) A line drawn from Lime Kiln Light to Kellett Bluff Light on Henry Island; thence to Turn Light on Stuart Island; thence to Skipjack Island Light; thence to latitude 48°46.6′ N. Longitude 122°53.4′ W. (Clements Reef Buoy "2"); thence to

International Boundary Range B Front Light.

Alaska

§ 7.205 Canadian (BC) and United States (AK) Borders to Cape Spencer, AK.

(a) A line drawn from the northeastermost extremity of Point Mansfield, Sitklan Island 040° true to the mainland.

(b) A line drawn from the southeasternmost extremity of Island Point, Sitklan Island to the southernmost extremity of Garret Point, Kanagunut Island; thence to Lord Rock Light; thence to Barren Island Light; thence to Cape Chacon Light; thence to Cape Muzon Light.

(c) A line drawn from Point Cornwallis Light to Cape Bartolome Light; thence to Cape Edgecumbe Light; thence to the westernmost extremity of Cape Cross.

(d) A line drawn from Surge Bay Entrance Light to Cape Spencer Light.

§ 7.210 Cape Spencer, AK to Cape St. Elias, AK.

(a) A line drawn from the westernmost extremity of Harbor Point to the southernmost extremity of LaChaussee Spit at Lituya Bay.

(b) A line drawn from Ocean Cape Light to latitude 59°31.9′ N. longitude 139°57.1′ W. (Yakutat Bay Entrance Lighted Whistle Buoy "2"); thence to the southeastermost extremity of Point Manby.

(c) A line drawn from the northermost extremity of Point Riou to the easternmost extremity of Icy Cape.

§ 7.215 Point Whitshed, AK to Aialik Cape, AK.

(a) A line drawn from the southernmost extremity of Point Whitshed to the easternmost extremity of Hinchinbrook Island.

(b) A line drawn from Cape Hinchinbrook Light to Schooner Rock Light "1".

(c) A line drawn from the southwesternmost extremity of Montague Island to Point Elrington Light; thence to the southernmost extremity of Cape Puget.

(d) A line drawn from the southernmost extremity of Cape Resurrection to the Aialik Cape.

§ 7.220 Kenai Peninsula, AK to Kodiak Island, AK.

(a) A line drawn from the southernmost extremity of Kenai Peninsula at longitude 151°44.0′ W. to East Amatuli Island Light; thence to the northwesternmost extremity of Shuyak Island at Party Cape; thence to the easternmost extremity of Cape Douglas.

(b) A line drawn from the southernmost extremity of Pillar Cape on Afognak Island to Spruce Cape Light; thence to the easternmost extremity of Long Island; thence to the northeasternmost extremity of Cape Chiniak.

(c) A line drawn from Cape Nunilak at latitude 58°09.7′ N to the northernmost extremity of Raspberry Island. A line drawn from the westernmost extremity of Raspberry Cape to the northernmost extremity of Miners Point.

§ 7.225 Alaska Peninsula, AK to Aleutian Islands, AK.

(a) A line drawn from the southernmost extremity of Cape Kumhun to the westernmost extremity of Nakchamik Island; thence to the eastmost extremity of Castle Cape at Chignik Bay.

(b) A line drawn from Second Priest Rock to Ulakta Head Light at Iliuliuk Bay Enterance.

(c) A line drawn from Arch Rock to the northernmost extremity of Devilfish Point at Captains Bay.

(d) A line drawn from the easternmost extremity of Lagoon Point to the northwesternmost extremity of Cape Kutuzof at Port Moeller.

§ 7.230 Alaskan Peninsula, AK to Nunivak, AK.

(a) A line drawn from the northernmost extremity of Goose Point at Egegik Bay to Protection Point.

(b) A line drawn from the westernmost extremity of Kulukak Point to the northernmost extremity of Round Island; thence to the southernmost extremity of Hagemeister Island; thence to the southernmost extremity of Cape Peirce; thence to the southernmost extremity of Cape Newenman.

(c) A line drawn from the church spire located in approximate position latitude 59°45′ N. longitude 161°55′ W. at the mouth of the Kanektok River to the southernmost extremity of Cape Avinof.

§ 7.235 Kotzebue Sound, AK.

A line drawn from Cape Espenberg Light to Sheshalik Spit.

Dated: August 12, 1983.

L. N. Hein,

Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc. 83-25199 Filed 9-14-83; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 83-950; RM-4479]

FM Broadcast Station in Warren, Vermont; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of Channel 285A to Warren, Vermont, at that community's first FM assignment, in response to a petition filed by John L. Eddy.

DATES: Comments must be filed on or before October 24, 1983, and reply comments on or before November 8, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Proposed Rule Making

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Warren, Vermont), MM Docket No. 83-950, RM-4479.

Adopted: August 23, 1983.
Released: September 8, 1983.

By the Chief, Policy and Rules Division.

1. The Commission has before it a petition for rule making filed May 23, 1983, by John L. Eddy ("petitioner") proposing the assignment of Channel 285A to Warren, Vermont, as that community's first FM assignment. Petitioner submitted information in support of the proposal and expressed his interest in applying for the channel, if assigned.

2. A site restriction of 1.2 miles south of Warren is required to avoid short-spacing to unused Channel 285A in Granby, Quebec (Canada).

3. Petitioner noted that there could be a possible short-spacing conflict with Docket No. 83-357 in which Channel 287 was proposed for assignment to Killington, Vermont, as a Class B channel. Since Killington is located near the boundary for Zone II where Class C channels are permitted, the use of Channel 287 as a Class C assignment would create a short-spacing with petitioner's proposal for Warren. However, the Commission has indicated in the Killington proceeding that the

proposal is for Class B assignment. The interest expressed by petitioner in Docket No. 83–357 to seek a waiver and locate in Zone II as a Class B station would not be an obstacle to this assignment.

4. Since the proposed assignment to Warren, Vermont, is within 320 kilometers (200 miles) of the U.S.-Canadian border, the concurrence of the Canadian government must be obtained.

5. In view of the fact that the proposed assignment could provide a first local broadcast service to Warren, Vermont, the Commission believes it is appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Commission's Rules, with respect to the following community:

City	Channel No.	
	Present	Proposed
Warren, Vermont		285A

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before October 24, 1983, and reply comments on or before November 8, 1983, and are advised to read the Appendix for the proper procedures. A copy of such comments should be served on the petitioner(s) of this proceeding: John L. Eddy, P.O. Box 437, Warren, Vermont 05674.

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), § 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

9. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § § 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making to which this Appendix is attached.*

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.145 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 83–25135 Filed 9–14–83; 8:45 am]
BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 83–948; RM–4489]

FM Broadcast Stations in Keyser, West Virginia; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes to assign Channel 296A to Keyser, West Virginia, as that community's second FM assignment, in response to a petition filed by Anna Louise Newman.

DATES: Comments must be filed on or before October 24, 1983, and reply comments on or before November 8, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Notice of Proposed Rule Making

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Keyser, West Virginia), MM Docket No. 83–948, RM–4498.

Adopted: August 23, 1983.

Released: September 8, 1983.

By the Chief, Policy and Rules Divisions.

1. The Commission has under consideration a petition for rule making filed on June 3, 1983, by Anne Louise Newman ("petitioner") proposing the assignment of Channel 296A to Keyser, West Virginia, as that community's second FM assignment. Petitioner submitted information in support of the proposal and expressed her intention to file for the channel, if assigned. The channel can be assigned in compliance with the minimum distance separation requirements.

2. In view of the fact that the proposed assignment could provide a second local broadcast service to Keyser, West Virginia, the Commission believes it is appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Commission's Rules, with respect to the following community:

City	Channel No.	
	Present	Proposed
Keyser, West Virginia	231	231, 296A.

3. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorprated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

4. Interested parties may file comments on or before October 24, 1983, and reply comments on or before November 8, 1983, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: Harry G. Sells, Esq., 10401 Georgetown Pike, Great Falls, Virginia 22066, Counsel for Anna Louise Newman.

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend § 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

6. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634–6530. However, members of the public should note that form the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures wil govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompained by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 83–25133 Filed 9–14–83; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[Docket No. 83-947; RM-4429]

FM Broadcast Station in Buckhannon, West Virginia; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes a second FM assignment to Buckhannon, West Virginia, in response to a petition filed by Terry D. and Laura W. Reed.

DATES: Comments must be filed on or before October 24, 1983, and reply comments on or before November 8, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Notice of Proposed Rule Making

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Station (Buckhannon, West Virginia), MM Docket No. 83-947 RM-4429.

Adopted: August 23, 1983.

Released: September 8, 1983.

By the Chief, Policy and Rules Division.

1. Terry D. and Laura W. Reed ("petitioners") submitted a petition for rule making on June 3, 1983, which seeks the assignment of Class B Channel 267 to Buckhannon, West Virginia, as its second FM assignment. The petitioners stated their intention to apply for the channel, if assigned.

2. In an effort to demonstrate a need for the requested assignment, the petitioners submitted population and community data. In view of the action taken in *Revision of FM Policies and Procedures*, 90 F.C.C. 2d 88 (1982), these issues are no longer relevant to this type of proceeding.

3. We have determined that Channel 267 can be assigned to Buckhannon in conformity with the minimum distance separation requirements, provided the transmitter site is locatd 1.3 miles south of the city. This restriction is necessary to avoid short spacing to Station WPIT-FM (Channel 268), Pittsburgh, Pennsylvania.

4. In view of the fact that the proposal could provide a second local broadcast service to Buckhannon, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Rules, with regard to the following community:

City	Channel No.	
	Present	Proposed
Buckhannon, West Virginia	228A	228A, 267

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before October 24, 1983, and reply comments on or before November 8, 1983, and are advised to read the Appendix for the proper procedures. A copy of such comments should be served on the petitioner(s) of this proceeding: Terry D. and Laura Reed, 23 West Main Street, Buckhannon, West Virginia 26201.

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend § 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 514, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedure will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons

acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W. Washington, D.C.

[FR Doc. 83-25132 Filed 9-14-83; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-946; RM-4477]

TV Broadcast Station in Hendersonville, Tennessee; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes to assign UHF TV Channel 50 to Hendersonville, Tennessee, in response to a petition filed by Sumner County Broadcasting Company. The Assignment could provide Hendersonville with its first television assignment.

DATES: Comments must be filed on or before October 24, 1983, and reply comments must be filed on or before November 8, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Notice of Proposed Rule Making

In the matter of Amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations (Hendersonville, Tennessee), MM Docket No. 83-946 RM-4477.

Adopted: August 23, 1983.

Released: September 8, 1983

By the Chief, Policy and Rules Division.

1. Sumner County Broadcasting Company has filed a petition for rule making seeking the assignment of UHF Television Channel 50 to Hendersonville, Tennessee, as that community's first television assignment. Petitioner indicates that it will apply for the channel, if assigned.

2. Hendersonville (population 26,561),[1] in Sumner County (population 85,790), is located in north central Tennessee, approximately 16 kilometers (10 miles) northeast of Nashville.

3. We believe the petitioner's proposal warrants consideration. The channel can be assigned consistent with the minimum distance separation requirements of § 73.610 of the Commission's Rules, provided the transmitter is located 6.5 miles northeast of the community to avoid short-spacing to unused Channel 42 and proposed Channel 58 in Nashville, Tennessee (MM Dkt. No. 83-470).

4. In view of the foregoing, and the fact that the proposed television assignment could provide a first television broadcast service to Hendersonville, the Commission believes it appropriate to propose amending the Television Table of Assignments, § 73.606(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Hendersonville, Tennessee		50

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before October 24, 1983, and reply comments on or before November 8, 1983, and are advised to read the Appendix for the proper procedures. A copy of such comments should be served on the petitioner, and his consultant, as follows: Sumner County Broadcasting Company, Highway 109N, Gallatin, Tennessee 37066 (Petitioner); Edward M. Johnson, One Regency Square, Suite 450, Knoxville, TN 37915 (Consultant to Petitioner).

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Nancy V. Joyner, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a *Notice of Proposed Rule Making* is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

[1] Population figures were taken from the 1980 U.S. Census, Advance Reports.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 83-25131 Filed 9-14-83; 8:45 am]
BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1135

[Ex Parte 447]

Petition To Delay Application of Direct Connector Requirement to Joint Rail Rates in General Increases

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rules.

SUMMARY: By petition filed June 13, 1983, several railroads and the American Short Line Railroad Association seek a delay in application of the so-called "direct connector" requirement to joint rail rates in general rate increases or broad tariff changes for 3 years beyond the otherwise statutorily mandated effective date of January 1, 1984, pursuant to 49 U.S.C. 10706(a)(3)(B). Petitioners claim that the "direct connector" requirement to joint rail rates involved in general rate increases or broad tariff changes to cover inflationary cost increases cannot feasibly be implemented at this time, would impede efforts to reach revenue adequacy, and should be delayed for a period of 3 years from January 1, 1984. Under 49 U.S.C. 10706(a)(3)(B) (i) and (ii) delay or suspension is authorized if the Commission finds that implementation of the "direct connector" requirement is not feasible. The Commission seeks comments on the petition, whether it is not feasible to implement the direct connector standard as scheduled, and whether modifications to 49 CFR 1135 are needed.

DATES: An original and 10 copies of comments should be filed by October 17, 1983.

ADDRESS: A copy of the petition may be inspected at the Office of the Secretary, Interstate Commerce Commission, in Washington, D.C. Copies of the petition may also be obtained from petitioners' counsel: R.E. Weicher, Esq., 80 East Jackson Boulevard, Chicago, IL 60604.

Comments referring to Ex Parte No. 447 should be addressed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, D.C. 20423, or call 289-4357 (D.C. Metropolitan area) or toll free (800) 424-5403.

It does not appear that this action will have a significant effect on the quality of the human environment or conservation of energy resources. Furthermore, any delay in the application of the direct connector requirement to joint rail rates in general increases or broad tariff changes would not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, because it would maintain the status quo for a specific additional period and would not impose any new or other requirements directly or indirectly on small entities. Comments may also be directed to these matters.

(49 U.S.C. 10321 and 10706; 5 U.S.C. 553)

List of Subjects in 49 CFR Part 1135

Administrative practice and procedure, Railroads, Reporting and recordkeeping requirements.

Decided: September 7, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 83-25140 Filed 9-14-83; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

[Docket No. 26706-124]

Foreign Fishing; Retention Allowance

Correction

In FR Doc. 83-18946, beginning on page 32036 in the issue of Wednesday, July 13, 1983, make the following correction.

On page 32037, third column, fourth line of the first complete paragraph, "1983" should read "1982".

BILLING CODE 1505-01-M

Notices

Federal Register
Vol. 48, No. 180
Thursday, September 15, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Land and Resource Management Plan; Los Padres National Forest, Monterey, San Luis Obispo, Santa Barbara, Ventura, Kern, and Los Angeles Counties, California; Intent To Reevaluate Roadless Areas

The Department of Agriculture, Forest Service, issued a national environmental impact statement in January, 1979. This environmental impact statement documented the results of a review of 62 million acres of roadless and undeveloped areas within the 190 million acre National Forest system. The purpose of the roadless area review and evaluation (RARE II) was to determine which areas were suitable for Wilderness and which should be used for other purposes.

In the Pacific Southwest Region, RARE II dealt with over 6 million acres located in California only. About 983,000 acres were recommended for Wilderness; 2,643,000 acres were recommended for further planning; and 2,395,000 acres were recommended for non-Wilderness.

In 1979 the State of California challenged the adequacy of the National RARE II Environmental Impact Statement as the basis for decisions to manage 46 acres in California for other than Wilderness. In October, 1982, the United States Court of Appeals for the Ninth Circuit affirmed a lower court decision that the RARE II Environmental Impact Statement was inadequate. The decision applied specifically to the 46 roadless acres in California, and sets a binding precedent in any Federal District Court in the Ninth Circuit.

Because of the October 1982, court decision, National Forest roadless areas studied for Wilderness potential during RARE II will be reevaluated. This Notice is being issued because, contrary to earlier regulations (issued 9/30/82), a proposed revision to 36 CFR 219.17 (issued 4/18/83) will allow evaluation of RARE II Wilderness and non-Wilderness areas during the Forest planning process.

Therefore, the reevaluation of roadless areas within Los Padres National Forest will include not only further planning areas but also Wilderness and non-Wilderness. This will be done as part of the Forest's land and resource management plan.

During the reevaluation process, current management and protection policies and activities in the roadless areas will be continued. Wilderness values will continue to be protected in areas recommended in RARE II for Wilderness and further planning, and management for other uses will continue in areas recommended for non-Wilderness.

Within Los Padres National Forest, 3 roadless areas containing 78,050 acres were recommended for Wilderness and 12 roadless areas of 163,000 acres (including the White Ledge Roadless Area mentioned in the State suit) were recommended for non-Wilderness. These 15 areas will be reevaluated in addition to the further planning areas already being evaluated. These 15 areas are:

No.	Name	Gross acres	Net acres	RARE II allocation
105	Chalk Peak	8,300	8,300	Non-wilderness.
106	Silver Peak	14,600	14,600	Do.
121	Santa Cruz	21,100	20,900	Do.
122	Condor Point.	13,900	13,900	Do.
123	Camuesa	7,200	7,200	Do.
124A	Madulce-Buckhorn.	73,400	73,100	Proposed wilderness.
124B	Madulce-Buckhorn.	14,000	14,000	Non-wilderness.
125	Muno	29,200	29,000	Do.
126	Juncal	11,500	11,500	Do.
130	White Ledge.	18,700	18,500	Do.
132	Nordhoff	11,400	11,400	Do.
279	De La Guerra.	5,400	5,100	Do.
277	Church Creek.	2,750	2,750	Proposed wilderness.
119	Manzana	1,900	1,900	Do.
263	Tequipis	8,100	7,900	Non-wilderness.

Detailed information on the roadless areas and the reevaluation process will be distributed to individuals on the Forest mailing list and to other individuals and organizations requesting a copy. In addition, there will be open house to explain, discuss, and gather information about the roadless areas and the reevaluation process at the following dates and places:

October 24th—Ventura County, Ventura City Hall Annex, 5th Floor, Old Board of Supervisors Room, 501 Poli Street, Ventura, CA

October 25th—San Luis Obispo County, Discovery Inn, 1800 Monterey Street, San Luis Obispo, CA

October 26th—Monterey County, Gabilan Room, Community Center Building, 940 N. Main, Salinas, CA

Octoer 27th—Santa Barbara County, Fleishmann Auditorium, Museum of Natural History, 2559 Puesto Del Sol Road, Santa Barbara, CA

All meetings will begin at 7:30 p.m.

Zane G. Smith, Regional Forester, is the responsible official.

For further information about the proposed reevaluation, contact: Gerald H. Little, Los Padres National Forest, 42 Aero Camino, Goleta, CA 93117, (805) 968-1578.

Dated: September 6, 1983.

Frederik G. deHoll,

Forest Supervisor, Los Padres National Forest.

[FR Doc. 83-25174 Filed 9-14-83; 8:45 am]

BILLING CODE 3410-11-M

Land and Resource Management Plan; Tahoe National Forest, Nevada, Placer, Plumas, Sierra, and Yuba Counties, California; Intent to Reevaluate Roadless Areas

In January 1979, the Forest Service issued a national environmental impact statement documenting the results of a review of 62 million acres of roadless and undeveloped areas within the 190 million-acre National Forest System. The purpose of the roadless area review and evaluation (RARE II) was to determine which areas were suitable for wilderness and which should be used for other purposes.

In the Pacific Southwest Region, RARE II dealt with over 6 million acres located only in California. About 983,000 acres were recommended for wilderness; 2,643,000 acres were recommended for further planning; and 2,395,000 acres were recommended for nonwilderness.

In 1979, the State of California challenged the adequacy of the National RARE II Environmental Impact Statement as the basis for decisions to

manage 46 areas in California for other than wilderness. In October 1982, the United States Court of Appeals for the Ninth Circuit affirmed a lower court decision that the RARE II Environmental Impact Statement was inadequate. Although the decision applied specifically to only the 46 roadless areas in California, it sets binding precedent in any Federal District Court in the Ninth Circuit.

Because of the October 1982 court decision, National Forest roadless areas studied for wilderness potential during RARE II will be reevaluated. This Notice is being issued because, contrary to earlier regulations (issued 9/30/82), a proposed revision to 36 CFR 219.17 (issued 4/18/83) will allow further evaluation of RARE II wilderness and nonwilderness areas during the Forest planning process.

The reevaluation of areas on the Tahoe National Forest will be done as part of the Forest's land and resource management plan.

During the reevaluation process, current management and protection policies and activities in the roadless areas will be continued. Wilderness values will be protected in areas recommended in RARE II for wilderness. Management for other uses will continue in areas recommended for nonwilderness in RARE II or the Unit Planning process only if the uses are already ongoing, scheduled, or authorized under existing multiple-use, unit, or resource plans. This reevaluation does not affect areas recommended for further planning in RARE II.

On the Tahoe National Forest, no roadless areas were recommended for wilderness and six roadless areas of 45,557 acres were recommended for other than wilderness. These areas will now be reevaluated. They include:

Name	Gross acres	Net national forest acres
Bald Mountain	6,453	6,253
Duncan	9,403	8,703
Grouse Lakes	20,996	10,096
North Fork Middle Fork American River	11,153	10,653
Castle Peak	17,253	9,301
Lakes	551	551

Detailed information on the roadless areas and the reevaluation process will be distributed to individuals on the Forest mailing list and to other individuals and organizations requesting a copy. In addition, there will be an open house held November 1, 1983, at 7:30 p.m. at the Forest Supervisor's Office, Highway 49 and Coyote Street, Nevada City, California 95959, to further explain, discuss, and gather information about the roadless areas and the reevaluation process.

For a copy of detailed information on the roadless areas to be reevaluated on the Tahoe National Forest, and for further information, contact: George Cadzow, Resource Planning Officer, Tahoe National Forest at the above address or call (916) 265-4531.

Dated: September 8, 1983.

Robert G. Lancaster,

Forest Supervisor, Tahoe National Forest.

[FR Doc. 83-25172 Filed 9-14-83; 8:45 am]

BILLING CODE 3410-11-M

Soil Conservation Service

Christian Family Center, Inc., Critical Area Treatment RC&D Measure, Georgia; Environmental Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Dwight M. Treadway, State Conservationist, Soil Conservation Service, Federal Building, 355 East Hancock Avenue, Athens, Georgia 30613, telephone 404-546-2273.

Notice

Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, the Council on Environmental Quality Guidelines (40 CFR Part 1500), and the Soil Conservation Service Guidelines (7 CFR Part 650), the Soil Conservation Service, Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Christian Family Center, Inc., Critical Area Treatment RC&D Measure, Treutlen County, Georgia.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Dwight M. Treadway, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for the treatment of critically eroding areas. The planned works as described in the Finding of No Significant Impact consist of the establishment of erosion control vegetation, waterways, and diversions on 24 acres.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Dwight M. Treadway, State Conservationist, Soil Conservation Service, Federal Building, 355 East Hancock Avenue, Athens, Georgia 30613, telephone 404-546-2273. The FONSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken untill 30 days after the date of this publication in the Federal Register.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: September 7, 1983.

Edgar L. Helmey,

Deputy State Conservationist.

[FR Doc. 83-25089 Filed 9-14-83; 8:45 am]

BILLING CODE 3410-6-M

Old Cahawba Recreation Park RC&D Measure, Alabama; Environmental Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Old Cahawba Recreation Park RC&D Measure, Dallas County, Alabama.

FOR FURTHER INFORMATION CONTACT: Ernest V. Todd, State Conservationist, Soil Conservation Service, 665 Opelika Road, Auburn, Alabama, 36830, telephone (205) 821-8070.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Ernest V. Todd, State Conservationist, has determined that the preparation and review of an

environmental impact statement are not needed for this project.

The measure concerns a plan for water-based recreation facilities at the junction of the Cahaba and Alabama Rivers. The planned works of improvement include picnic tables, grills and benches, a picnic shelter, a boat ramp, trash receptacles, security lights, waterpoints, a water well, comfort station, and a parking area.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Ernest V. Todd.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the Federal Register.

(Catalog of Federal Domestic Assistance Program No 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: September 2, 1983.

Ernest V. Todd,

State Conservationist.

[FR Doc. 83-25066 Filed 9-14-83; 8:45 am]

BILLING CODE 3410-16-M

ARMS CONTROL AND DISARMAMENT AGENCY

General Advisory Committee; Cancellation of Meeting

The meeting of the General Advisory Committee on Arms Control and Disarmament scheduled for September 15 and 16, 1983, which was announced in the Federal Register of August 31, 1983 (48 FR 39483), has been cancelled. Notice of this change could not be published at least 15 days before the date of the meeting because the decision to cancel the meeting occurred too late to permit such notice.

John R. Grassle,

Committee Management Officer.

September 12, 1983.

[FR Doc. 83-25307 Filed 9-14-83; 8:45 am]

BILLING CODE 6820-32-M

CIVIL AERONAUTICS BOARD

Announcement of Approval of Information Collections by the Office of Management and Budget Under the Paperwork Reduction Act

On September 1, 1983, the Office of Management and Budget approved the extension of the following information collection:

Information collection contained in evidence requests which the Board attaches to Board orders that solicit proposals from carriers interested in providing essential air service for compensation under Section 419 of the Federal Aviation Act—extended to September 30, 1986, under OMB No. 3024-0042.

Dated: September 8, 1983.

Robin A. Caldwell,

Chief, Information Management Division, Office of Comptroller.

[FR Doc. 83-25062 Filed 9-14-83; 8:45 am]

BILLING CODE 6320-01-M

[Docket 41441]

Denham Aircraft Services Corp. II Fitness Investigation; Hearing

Notice is hereby given that a hearing in the above-entitled matter is assigned to be held on September 27, 1983, at 10:00 a.m. (local time) in Room 1027, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., before the undersigned administrative law judge.

Dated at Washington, D.C., September 9, 1983.

John M. Vittone,

Administrative Law Judge.

[FR Doc. 83-25275 Filed 9-14-83; 8:45 am]

BILLING CODE 6320-01-M

[Docket 41414]

Northern Air Lines, Inc., Fitness Investigation; Postponement of Hearing

Notice is hereby given that the hearing in the above-entitled proceeding, scheduled to be held on September 14, 1983, is postponed to October 25, 1983, at 9:30 a.m. (local time) in Room 1027, Universal Building, 1825 Connecticut Ave., NW., Washington, D.C., before the undersigned Chief Administrative Law Judge.

Dated at Washington, D.C., September 9, 1983.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 83-25276 Filed 9-14-83; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-588-067]

Carbon Steel Plate From Japan; Preliminary Results of Administrative Review of Antidumping Finding and Tentative Determination To Revoke in Part

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of antidumping finding and tentative determination to revoke in part.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on carbon steel plate from Japan. The review covers the 10 known third-country resellers of this merchandise to the United States, generally for two consecutive periods from July 1, 1977 through March 31, 1982. The review indicates the existence of dumping margins in particular periods for certain firms.

As a result of the review the Department has preliminarily determined to assess dumping duties for individual firms equal to the calculated differences between United States price and foreign market value on each of the sales during the periods of review.

Where company-supplied information was inadequate or no information was received, the Department has used the best information available.

The Department has also tentatively determined to revoke the finding with respect to one firm, A. J. Forsyth & Company, Ltd.

Interested parties are invited to comment on these results and tentative determination to revoke in part.

EFFECTIVE DATE: September 15, 1983.

FOR FURTHER INFORMATION CONTACT: Phyllis Derrick or John Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-3601.

SUPPLEMENTARY INFORMATION:

Background

On September 30, 1981, the Department of Commerce ("the Department") published in the Federal Register (46 FR 47804) the final results of its last administrative review of the antidumping finding on carbon steel plate from Japan (43 FR 22937, May 30, 1978) and announced its intent to conduct the next administrative review by the end of May 1982. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review. The substantive provisions of the Antidumping Act of 1921 ("the 1921 Act") and the appropriate Customs Service regulations apply to all unliquidated entries made prior to January 1, 1980.

Scope of the Review

Imports covered by the review are shipments of hot-rolled carbon steel plate, 0.1875 inch or more in thickness, over 8 inches in width, not in coils, not pickled, not coated or plated with metal, not clad and not pressed or stamped to non-rectangular shape. Carbon steel plate is currently classifiable under item 607.6615 of the Tariff Schedules of the United States Annotated.

The review covers the 10 known third-country (Canada) resellers of Japanese carbon steel plate to the United States, generally for two consecutive periods from July 1, 1977 through March 31, 1982.

Three of the resellers did not export to the United States during the more recent review period. For these three firms, the estimated antidumping duty cash deposit rates will be the most recent information for each firm. Three firms failed to respond to our questionnaire or provided inadequate responses for one or both of the periods. For these non-responsive firms we used the best information available to determine the assessment and estimated antidumping duty cash deposit rates. Since there are no prior rates for these firms, the best information available is the highest rate found during the original fair value investigation.

United States Price

In calculating United States price the Department used purchase price, as defined in section 772 of the Tariff Act or section 203 of the 1921 Act, as appropriate. Purchase price was based on the Canadian FOB or delivered price to an unrelated purchaser in the United States. Where applicable, adjustments were made for U.S. and Canadian inland freight, U.S. duty and brokerage fees, drawback of Canadian import duty, and commissions to unrelated parties. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value, since there is no evidence that the Japanese manufacturers intended to export these shipments to the U.S., the Department used the third-country resellers' home market prices for such or similar merchandise, as defined in section 773 of the Tariff Act or section 205 of the 1921 Act, as appropriate. Foreign market value was based on the Canadian ex-factory, FOB, or delivered price, with adjustments, where applicable, for Canadian inland freight, discounts, terminal charges, insurance, commissions to unrelated parties, and differences in the merchandise in accordance with §§ 353.15 and 353.16 of the Commerce Regulations and §§ 153.10 and 153.11 of the Customs Service Regulations. No other adjustments were claimed or allowed.

Preliminary Results of the Review and Tentative Determination to Revoke in Part

As a result of our comparison of United States price to foreign market value, we preliminarily determine that the following margins exist:

Third-country reseller	Time period	Margin (percent)
A.J. Forsyth & Co. Ltd	7/1/77–3/31/82	
Belfour Guthrie (Canada) Ltd	7/1/77–3/31/81	13.0
	4/1/81–3/31/82	
Bridge and Tank Canada	7/1/77–3/31/81	
	4/1/81–3/31/82	(1)
Chatham Steel Ltd	7/1/77–3/31/81	
	4/1/81–3/31/82	8.67
Calkins and Burke Ltd	4/1/80–3/31/81	5.5
	4/1/81–3/31/82	4.15
Enniskel Service Center	11/1/77–3/31/82	13.0
Lambton Steel Ltd	7/1/77–3/31/81	
	4/1/81–3/31/82	(1)
Newman Steel Ltd	4/1/81–3/31/82	4.6
Ontario Hydro	4/1/78–3/31/79	12.0
	4/1/79–3/31/80	
	4/1/80–3/31/82	(1)
Tideco Industries	4/1/79–3/31/82	13.0

[1] No shipments during the period.

The Department has also concluded that all sales of Japanese carbon steel plate by A. J. Forsyth were made at not less than fair value since July 1, 1977. As provided for in § 353.54(e) of the Commerce Regulations, A. J. Forsyth has agreed in writing to an immediate suspension of liquidation and reinstatement of the finding as an order if circumstances develop which indicate that Japanese carbon steel plate exported to the United States by A. J. Forsyth is being sold at less than fair value.

Therefore, we tentatively determine to revoke the finding on Japanese carbon steel plate with respect to A. J. Forsyth. If this partial revocation is made final, it will apply to all unliquidated entries of this merchandise exported by A. J. Forsyth entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice.

Interested parties may submit written comments on these preliminary results and tentative determination to revoke in part within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of such comments or hearing.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all appropriate entries with purchase dates during the periods. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided for by § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based upon the more recent of the above margins shall be required on all shipments of Japanese carbon steel plate from these firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This administrative review, tentative determination to revoke in part, and notice are in accordance with section 751(a)(1) and (c) of the Tariff Act (19 U.S.C. 1675(a)(1), (c)) and § 353.53 and 353.54 of the Commerce Regulations (19 CFR 353.53, 353.54).

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

September 7, 1983.

[FR Doc. 83-25205 Filed 9-14-83; 8:45 am]

BILLING CODE 3510-25-M

[A-588-016]

Ferrite Cores (of the Type Used in Consumer Electronic Products) From Japan; Preliminary Results of Administrative Review of Antidumping Finding and Tentative Determination To Revoke in Part

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of antidumping finding and tentative determination to revoke in part.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on ferrite cores (of the type used in consumer electronic products) from Japan. The review covers the 14 known manufacturers and/or exporters of this merchandise to the United States and generally the period March 1, 1981 through February 28, 1982. The review indicates the existence of dumping margins for certain firms.

As a result of the review, the Department has preliminarily determined to assess dumping duties equal to the calculated differences between United States price and foreign market value on each of their sales during their individual periods of review. Where company-supplied information was inadequate or no information was received, we used the best information available for assessment and estimated antidumping duty cash deposit purposes.

The Department has also tentatively determined to revoke the finding with respect to merchandise manufactured and exported by TDK Electronics Co., Ltd. and with respect to merchandise manufactured and exported by Mitsubishi Electric Co., Ltd.

Interested parties are invited to comment on these preliminary results and tentative determination to revoke in part.

EFFECTIVE DATE: September 15, 1983.

FOR FURTHER INFORMATION CONTACT: Jonathan Seiger or John R. Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-3003/5498.

SUPPLEMENTARY INFORMATION:

Background

On March 31, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 13470) the final results of its last administrative review of the antidumping finding on ferrite cores (of the type used in consumer electronic products) from Japan (36 FR 4877, March 13, 1971) and announced its intent to conduct the next administrative review as soon as possible. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are magnetically soft ferrite magnets which are usually wound with wire. The merchandise is magnetized with the induction of electric current and is of the type commonly used as components in consumer electronic products such as household television receivers, projection television sets, radios, stereos and high fidelity radio systems, automobile radios, electronic home computers, etc. Such ferrite cores are currently classifiable under item 535.1240 of the Tariff Schedules of the United States Annotated.

The review covers the 14 known manufacturers and/or exporters of Japanese ferrite cores to the United States and generally the period March 1, 1981 through February 28, 1982.

Three firms did not export Japanese ferrite cores to the U.S. during the review period. The estimated antidumping duty cash deposit rates for these firms will be the most recent rate for each firm. Three firms, A & A Japan, Ltd., Tomita Electric Co., Ltd., and Taiyo Yuden Co., Ltd., failed to respond to our questionnaire or provided inadequate responses. For these non-responsive firms we used the best information available to determine the assessment and estimated antidumping duty cash deposit rates. The best information available is the most recent rate for each firm or the highest fair value rate.

United States Price

In calculating United States price the Department used purchase price, as defined in section 772 of the Tariff Act. Purchase price was based on the f.o.b. or c.i.f. packed price to unrelated purchasers in the United States, unrelated Japanese trading companies, or unrelated Japanese original equipment manufacturers, as appropriate. Where applicable, we made deductions for U.S. and foreign inland freight, ocean freight, marine insurance, and brokerage charges. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price, as defined in section 773 of the Tariff Act, since sufficient quantities of such or similar merchandise were sold in the home market to provide a basis for comparison. Home market price was based on the delivered price with adjustments for inland freight and differences in the packing costs, where applicable. We made adjustments for differences in the physical characteristics of the merchandise, where applicable, in accordance with § 353.16 of the Commerce Regulations. We did not allow claims for credit costs and sales promotion expenses. There was no difference between the credit costs for the U.S. and Japanese markets, and the sales promotion expenses were not directly related to future sales. No other adjustments were claimed or allowed.

Preliminary Results of the Review and Tentative Determination To Revoke in Part

As a result of our comparision of United States price to foreign market value, we preliminarily determine that the following margins exist:

Manufacturer exporter	Time period	Margin (percent)
TDK Electronics Co., Ltd	3/1/81-2/28/82	
TKD/Sanyo Electric Trading Co., Ltd	3/1/81-2/28/82	
TDK/Matsushita Electric Trading Co., Ltd	3/1/81-2/28/82	0.17
TDK/Sony Corporation	3/1/80-2/28/81	
	3/1/81-2/28/82	
TDK/A & A Japan, Ltd	3/1/81-2/28/82	40.2
Mitsubishi Electric Co	3/1/81-2/28/82	0.03
Mitsubishi Electric/Sanyo Electric Trading Co., Ltd	3/1/81-2/28/82	[1]
Nippon Ferrite, Ltd	3/1/80-2/28/81	0.94
	3/1/81-2/28/82	0.21
Nippon Ferrite/Nissei Sangyo, Ltd	3/1/80-2/28/81	[1]
	3/1/81-2/28/82	[1]
Nippon Ferrite/Sanwa Musen Co., Ltd	3/1/80-2/28/81	
	3/1/81-2/28/82	
Nippon Ferrite/ Hasegawa Limited	3/1/80-2/28/81	
	3/1/81-2/28/82	
Tomita Electric Co., Ltd	3/1/81-2/28/82	28.0
Taiyo Yuden Co., Ltd	3/1/81-2/28/82	28.0
Tohoku Metal Industries	3/1/81-2/28/82	[1] 28.0
Fuji Electrochemical Co., Ltd	3/1/81-2/28/82	[1] 28.0

[1] No shipments during the period.

The Department has concluded that all sales of merchandise manufactured and exported by TDK Electronics Co., Ltd. were made at not less than fair value for the period March 1, 1980 through February 28, 1982. Further, all sales of merchandise manufactured and exported by Mitsubishi Electric Co., Ltd. were made at not less than fair value or had *de minimis* Margins for the period April 1, 1979 through February 28, 1982. As provided for in § 353.54(e) of the Commerce Regulations, both firms have agreed in writing to an immediate suspension of liquidation and reinstatement of the finding if circumstances develop which indicate

that ferrite cores (of the type used in consumer electronic products) produced and exported by TDK or Mitsubishi are being sold to the United States by TDK or Mitsubishi at less than fair value.

Therefore, we tentatively determine to revoke the finding on ferrite cores (of the type used in consumer electronic products) from Japan with respect to merchandise produced and exported by TDK Electronics Co., Ltd., and with respect to merchandise produced and exported by Mitsubishi Electric Co., Ltd. If this partial revocation is made final it will apply to entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all appropriate entries made with purchase dates during the periods involved. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Further, as provided for by § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based on the above margins shall be required on all shipments of Japanese ferrite cores (of the type used in consumer electronic products) by these firms entered, or withdrawn from warehouse, for consumption or or after the date of publication of the final results. The Department shall waive the cash deposit requirement for Nippon Ferrite, Ltd., TDK/Matsushita Electric Trading Co., Ltd., and Mitsubishi Electric Co., Ltd., since the margins for these firms are less than 0.5 percent and, therefore, *de minimis* for cash deposit purposes. No cash deposit of estimated antidumping duties shall be required on future entries from a new exporter not covered in this or prior reviews, whose first shipments occurred after February 28, 1982 and who is unrelated to any reviewed firm. These cash deposit requirements and waivers shall remain in effect until publication of the final results of the next administrative review.

This administrative review, tentative determination to revoke in part, and notice are in accordance with sections 751 (a)(1) and (c) of the Tariff Act (19 U.S.C. 1675 (a)(1) and (c)) and §§ 353.53 and 353.54 of the Commerce Regulations (19 CFR 353.53, 353.54).

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

September 8, 1983.

[FR Doc. 83-25204 Filed 9-14-83; 8:45 am]

BILLING CODE 3510-25-M

[A-588-005]

High Power Microwave Amplifiers and Components Thereof From Japan; Preliminary Results of Administrative Review of Antidumping Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of antidumping duty order.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping duty order on high power microwave amplifiers and components thereof from Japan. The review covers the one known exporter of this merchandise to the United States, NEC Corporation (formerly known as Nippon Electric Co., Ltd.), and the period September 1, 1981 through June 30, 1982. The review indicates the existence of no dumping margins for the period.

As a result of the review, the Department has preliminarily determined not to assess dumping duties on entries with purchase dates during the period of review nor to require cash deposits of estimated antidumping duties on future entries.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: September 15, 1983.

FOR FURTHER INFORMATION CONTACT: Elizabeth L. Wright or Robert Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-5255.

SUPPLEMENTARY INFORMATION:

Background

On July 20, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 31413-4) an antidumping duty order on high power microwave amplifiers and components thereof from Japan and announced its intent to conduct an administrative review. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that review.

Scope of the Review

Imports covered by the review are shipments of high power microwave amplifiers and components thereof. High power microwave amplifiers are radio-frequency power amplifier assemblies and components thereof, specifically designed for uplink transmission in the C, X, and Ku bands from fixed earth stations to communications satellites and having a power output of one kilowatt or more. High power microwave amplifiers may be imported in subassembly form, as complete amplifiers, or as a component of higher level assemblies (generally earth stations). This merchandise is currently classifiable under item 685.29 of the Tariff Schedules of the United States.

The review covers the one known exporter of Japanese high power microwave amplifiers and components thereof to the United States, NEC Corporation, and the period September 1, 1981 through June 30, 1982. During the period NEC Corporation shipped only components.

United States Price

In calculating United States price the Department used purchase price, as defined in section 772 of the Tariff Act, since all sales were made to unrelated purchasers in the United States prior to the date of importation. Purchase price was based on the f.o.b. Japan price with deductions, where applicable, for Japanese inland freight and f.o.b. charges. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used constructed value, as defined in section 773(e) of the Tariff Act, since there were no sales in the home market or to purchasers in third countries during the period of review. Constructed value was calculated as the sum of materials, fabrication costs, general expenses, profit, and the cost of packing.

Preliminary Results of the Review

As a result of our comparison of United States price to foreign market value, we preliminarily determine that no dumping margins exist for the period September 1, 1981 through June 30, 1982.

Interested parties may submit written comments on these preliminary results

within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall instruct the Customs Service not to assess dumping duties on shipments with purchase dates during the period of review.

Further, the Department shall not require a cash deposit of estimated antidumping duties, as provided for in section 353.48(b) of the Commerce Regulations, on shipments of Japanese high power microwave amplifiers and components thereof entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

September 8, 1983.

[FR Doc. 83-25203 Filed 9-14-83; 8:45 am]

BILLING CODE 3510-25-M

[A-427-001]

Sorbitol From France; Preliminary Results of Administrative Review of Antidumping Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of antidumping duty order.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping duty order on sorbitol from France. The review covers the one known exporter of this merchandise to the United States and the period October 1, 1981 through May 31, 1982. The review indicates the existence of dumping margins during the period.

As a result of the review, the Department has preliminarily determined to assess dumping duties equal to the calculated differences between United States price and foreign market value on each shipment during the period of review. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: September 15, 1983.

FOR FURTHER INFORMATION CONTACT: Amy Dale or Robert J. Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202) 377-2923/5255.

SUPPLEMENTARY INFORMATION:

Background

On April 9, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 153291-2) an antidumping duty order on sorbital from France and announced its intent to conduct an administrative review. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of sorbitol. Sorbitol is a polyol produced by the catalytic hydrogenation of sugars (glucose). It is commercially available in two forms: (1) Crystalline sorbitol, used in the production of sugarless gum, candy, groceries, and pharmaceuticals, and (2) liquid sorbitol, used in cosmetics and toiletries (such as toothpaste). Sorbitol is currently classifiable under item 493.6820 of the Tariff Schedules of the United States Annotated.

The review covers the one known exporter of French sorbitol to the United States, Roquette Freres, and the period October 1, 1981 through May 31, 1982.

United States Price

In calculating United States price the Department used purchase price, as defined in section 772 of the Tariff Act. Purchase price was based on the duty-paid delivered price with deductions, where applicable, for U.S. and foreign inland freight, ocean freight, marine insurance, U.S. import duties, brokerage, commissions to unrelated parties, and freight forwarding. A claimed addition for an "export restitution payment" (Roquette Freres refers to it as an "import levy refund") was not allowed because the Department determined that it was not a rebate of an import levy imposed by the EC on corn which had been rebated by reason of the exportation of sorbitol to the United States. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price, as defined in section 773 of the Tariff Act. Home market price was based on the delivered price with adjustments, where applicable, for credit cost differences, inland freight, rebates and indirect selling expenses to offset commissions to unrelated parties. No other adjustments were claimed or allowed.

Preliminary Results of the Review

As a result of our comparison of United States price to foreign market value, we preliminarily determine that the following margins exist for the period October 1, 1981 through May 31, 1982:

Exporter	Margin (percent)
Roquette Freres:	
Crystalline Sorbitol	3.69
Liquid Sorbitol	18.82

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the Customs Service shall assess, dumping duties on all appropriate entries with purchase dates during the period. Individual differences between United States price and foreign market value may vary from the percentages stated below. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided for by § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based on the above margins shall be required on all shipments of French sorbitol entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1))

and § 353.53 of the Commerce Regulations (19 CFR 353.53).

September 9, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-25308 Filed 9-14-83; 8:45 am]

BILLING CODE 3510-25-M

Exporters' Textile Advisory Committee; Open Meeting

A meeting of the Exporters' Textile Advisory Committee will be held October 12, 1983 at 1:30 p.m., Herbert C. Hoover Building, Room 4830, Washington, D.C. 20230. The Committee provides advice about ways to promote increased exports of U.S. textiles and apparel. Agenda: Review of export data; report on conditions in the export market; recent foreign restrictions affecting textiles; export expansion activities; and other business.

The meeting will be open to the public with a limited number of seats available. For further information or copies of the minutes, contact Helen L. LeGrande (202) 377-3737.

Dated: September 9, 1983.

Walter C. Lenahan,

Deputy Assistant Secretary for Textiles and Apparel.

[FR Doc. 83-25144 Filed 9-14-83; 8:45 am]

BILLING CODE 3510-25-M

Minority Business Development Agency

Minority Business Development Center Program Projects; California

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development agency (MBDA) announces that it is soliciting applications under its Minority Business Development Center (MBDC) program to operate four projects for a 12 month period in the following locations:

San Francisco SMSA—I.D. Number 09-10-84006-01:	
Maximum MBDA Contribution	$595,000
SCS Contribution	59,500
Total Federal Contribution	654,500
Minimum Cost Sharing Contribution	115,500
Minimum Total Project Cost	770,000
Start Date—January 1, 1984.	
Oxnard SMSA—I. D. Number 09-10-84004-01:	
Maximum MBDA Contribution	$212,500
SCS Contribution	21,250
Total Federal Contribution	233,750
Minimum Cost Sharing Contribution	41,250
Minimum Total Project Cost	275,000
Start Date—February 1, 1984.	
Santa Barbara SMSA—I. D. Number 09-10-84005-01:	
Maximum MBDA Contribution	$144,500
SCS Contribution	14,450
Total Federal Contribution	158,950
Minimum Cost Sharing Contribution	28,050
Minimum Total Project Cost	187,000
Start Date—February 1, 1984.	
Vallejo SMSA—I. D. Number 09-10-84002-01:	
Maximum MBDA Contribution	$144,500
SCS Contribution	14,450
Total Federal Contribution	158,950
Minimum Cost Sharing Contribution	28,050
Minimum Total Project Cost	187,000
Start Date—February 1, 1984.	

Applicants shall be required to contribute at least 15 percent of the total program cost through Non-Federal Funds. Cost sharing contributions can be in the form of cash contributions, fee for services or in-kind contributions.

CLOSING DATE: October 21, 1983.

ADDRESS: Minority Business Development Agency, U.S. Department of Commerce, 450 Golden Gate Avenue, Box 36114, San Francisco, California 94102.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Partee at 415/556-6733.

SUPPLEMENTARY INFORMATION:

A. Scope and Purpose of this Announcement

Executive Order 11625 authorizes MBDA to fund projects which will provide technical and management assistance to eligible clients in areas related to the establishment and operation of businesses. The MBDC program is specifically designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MDBA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit through which and from which information and assistance to and about minority businesses are funneled.

B. Eligible Applicants

Awards shall be open to all individuals, non-profit organizations, for-profit firms, local and state governments, American Indian tribes and educational institutions.

C. Evaluation Process

All proposals received as a result of this announcement will be evaluated by a MBDA review panel.

D. Evaluation Criteria for Minority Business Development Center Applications

The evaluation criteria is designed to facilitate an objective evaluation of competitive applications for the Minority Business Development Center program.

MBDA reserves the right to reject any or all applications, including the application receiving the highest evaluation, and will exercise this right when it is determined that it is in the best interest of the Government to do so (e.g., the apparent successful applicant has serious unresolved audit issues from current or previous grants, contracts or cooperative agreeements with an aency of the Federal Government).

Evaluation of proposals will employ the following criteria:

I. *Capability and Experience of Firm/Staff*—provide information that demonstrates the organization's capabilities and prior experiences in addressing the needs of minority business individuals and firms. Provide information that demonstrates the staff's capabilities and prior experiences in providing management and technical assistance to minority individuals and firms. Indicate previous experience in MBE community to be served in terms of: inventorying resources and opportunities; the brokering thereof; and providing management and technical assistance.

The following are key factors to be considered in this section:

Firm

—The organization's receptivity in the MBE community to be served, i.e., business contacts in the public and private sector; leadership responsibilities; and experience in assisting MBE business persons and firms. (References from clients assisted are pertinent.)

—Background credentials and references for the owners of the organization and a capability statement of what the organization can do.

—Knowledge of the geographic area to be served in terms of the needs of minority businesses and past ongoing relationships with local, public and private—entities that can possibly enhance the BDC program effort—i.e., Chambers of Commerce, trade associations, venture capital organizations, banks, SBA, HUD, state, city and county government agencies, etc.

Staff

—List personnel to be used. Indicate their salaries, educational level and previous experience. Provide resumes for all professional staff personnel.
—Demonstrate competence among staff to effectuate mergers, acquisitions, spin-offs and joint-ventures.
—Provide organizational chart, job descriptions and qualification standard involving all professional staff persons to be utilized on the project.
—If any contractors are to be utilized, identify and indicate areas and level of experience. *Primary consideration will be given to inhouse capability.*

Note.—All contracting proposed should be in accordance with procurement standards in Attachment O of OMB Circulars A–110 or A–102.

II. *Techniques and Methodology*—specify plans for achieving the goals and objectives of the project. This section should be developed by using the outline of theWork Requirements and the MBDC responsibilities as *guides* and will become part of the award document. Include start-up plan and example of work plan format. Fully explain the procedures for: outreach, screening, assisting and monitoring clients; maintaining the profile inventory of minority businesses; and brokering of new business ownership, market and capital opportunities and prevention of business failures. In summary, address how, when and where work will be done and by whom. Include level of performance.

III. *Resources*—address technical and administrative resources, i.e., computer facilities, voluntary staff time and space; and financial resources in terms of meeting MBDA's 15% cost-sharing requirement and including a fee for services for assistance provided clients. A fee for services in the amount of 10% of the cost of assistance will be charged to all clients receiving management and technical assistance.

Cost-sharing is that portion of project costs not borne by the Federal Government. The composition and amount of cost-sharing are key factors that will be considered in determining the merit of this section. The cost sharing requirement can be met through the following order or priority: (1) Cash contributions; (2) fee for services; and (3) in-kind contributions.

A. *Cash contribution*—means cash that is contributed or donated by the recipient, and other Non-Federal sources, i.e., public agencies and institutions, private organizaitons, corporations and individuals.

B. *Fee for services*—is a charge to a client for assistance provided by the MBDC for M&TA and/or SCS.

C. *In-Kind contribution*—represents the value of non-cash contributions provided by the recipient and other Non-Federal sources. The order of priority for in-kind contributions are: high technology systems to be utilized to achieve program objectives; top level staff personnel and real and personal property donated by other public agencies, institutions and private organizations. Property purchased with Federal funds will not be considered as the recipient's in-kind contribution. Under no circumstances can the in-kind contribution exceed 50% of the total Non-Federal contribution.

IV. *Costs*—demonstrate in narrative format that costs being proposed will give the minority business client and the government the most effective program possible in terms of quality, quantity, timeliness and efficiency.

Include the principal costs involved for achieving work plan under Cooperative Agreement by completing Part III—the Budget Information Section of the Request for Application.

Provide cost-sharing plan information in terms of methodology and format specialized consulting services to clients.

Total project cost will be evaluated in terms of:

—Clear explanations of all expenditures proposed, and
—The extent to which the applicant can leverage Federal program funds and operate with *economy* and *efficiency*.

In conclusion, the applicant's schedule for start of the MBDC operation should be included in Part II. Part II will be known as the applicant's plan of operation and will be incorporated into the Cooperative Agreement Award.

A detailed justification of all proposed costs is required for Part III and each item must be fully explained.

The failure to supply information in any given category of the criteria will result in the application being considered non-responsive and dropped from competitive review.

All Information submitted is subject to verification by MBDA.

E. Disposition of Proposals.

Notification of awards will be made by the Grants Officer, U.S. Department of Commerce (DOC) Organizations whose proposals are unsuccessful will be advised by MBDA, DOC.

F. Proposal Instructions and Forms.

This program is subject to OMB Circular A–95 requirements.

Questions concerning the preceding information, copies of application forms, and applicable regulations can be obtained at the above address.

Nothing in this solicitation shall be construed as committing MBDA to divide available funds among all qualified applicants.

G. A pre-application conference to assist all interested applicants will be held at the following address and time:

San Franciso

Minority Business Development Agency, U.S. Department of Commerce, 450 Golden Gate Avenue, Room 13029, San Francisco, California 94102, September 30, 1983 at 9:00 a.m.

Los Angeles

Minority Business Dev. Agency, U.S. Department of Commerce, 2500 Wilshire Blvd., Room 908, Los Angeles, California 90057, September 30, 1983 at 11:00 a.m.

11.800 Minority Business Development—Catalog of Federal Domestic Assistance.

Dated: September 8, 1983.

Powell McDaniel,

Acting Regional Director.

[FR Doc. 83–25100 Filed 9–14–83; 8:45 am]

BILLING CODE 3510–21–M

National Bureau of Standards

[Docket No. 30812–160]

Proposed Federal Information Processing Standard for Representation of Geographic Point Locations for Information Interchange

Under the provisions of Pub. L. 89–306 and Executive Order 11717, the Secretary of Commerce is authorized to establish uniform Federal automatic data processing (ADP) standards. A revised Federal Information Processing Standard is being proposed as a Federal General Data Element and Representation Standard for Federal use. The proposed revision will supersede FIPS 70, Representation of Geographic Point Locations for Information Interchange. The proposed revision provides extensions to FIPS 70 that have been coordinated and endorsed by the Data Standards Committee of the U.S. Geological Survey and the Earth Sciences Data Standards Council of the Department of the Interior.

The proposed Federal Information Processing Standard (FIPS) contains two parts: (1) An announcement part which provides information concerning the applicability, implementation, and maintenance of the standard; and (2) the specifications part. Only the announcement is provided in this notice.

Interested parties may obtain copies of the specifications from and submit comments in writing to the Director, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234, Attention: Proposed FIPS for Geographic Point Locations. To be considered, comments on this proposed standard must be received on or before December 14, 1983.

Written comments received in response to this notice plus written comments obtained from Federal departments and independent agencies will be made part of the public record and will be available for inspection and copying in the Central Reference and Records Inspection Facility, Room 6622, Main Commerce Building, 14th Street between Constitution Avenue and E Street, NW., Washington, D.C. 20230.

Persons desiring further information about the proposed FIPS for Geographic Point Locations may contact Mr. Roy G. Saltman, Data Element and Representation Standards Program, Data Management and Programming Language Division, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234, telephone: 301–921–3491.

Dated: September 9, 1983.

John W. Lyons,

Acting Director.

Federal Information Processing Standards Publication 70–1; (Year) (Month) (Day)

Announcing the Standard for Presentation of Geographic Point Locations for Information Interchange

Federal Information Processing Standards Publications (FIPS PUBS) are issued by the National Bureau of Standards in accordance with section 111(f)(2) of the Federal Property and 89–306 (79 Stat. 1127), Executive Order 11717 (38 FR 12315), dated May 11, 1973, and Part 6 of Title 15 Code of Federal Regulations.

1. Name of Standard. Representation of Geographic Point Locations for Information Interchange.

2. Category of Standard. Federal General Data Standard, Representations and Codes.

3. Explanation. This standard establishes uniform formats for geographic point location data. Geographic point location refers to the use of the coordinate system to define the positon of a point that may be on, above, or below the earth's surface. It provides a means for representing these data in digital form for the purpose of interchanging information among data systems and improving clarity and accuracy of inter-personal communications.

4. Approving Authority. Secretary of Commerce.

5. Maintenance Agency. U.S. Department of the Interior, Geological Survey, (National Mapping Division).

6. Cross Index. American National Standard x3.61–1978, Representation of Geographic Point Locations for Information Interchange.

7. Applicability. This Federal general data element and representation standard is made available for data interchange among executive departments and independent agencies and for Federal data interchange with the non-Federal sector including industry, State, local, and other Governments and with the public at large.

This standard does not apply to applications covered by non-conforming international ageements established under the aegis of the World Meteorological Organization or the North Atlantic Treaty Organization. This standard does not address many other geographic coordinate systems and vertical control datums utilized by the U.S. Deparment of Defense in military applications. Such applications are excluded from the provisions of the standard. This standard applies only to uniquely identified locations. The standard does not apply to a series of coordinates, at small intervals, such a linear map features, terrain profiles, or elevation models.

8. Specifications. The specifications are affixed. This standard is a revision of Federal Information Processing Standard 70 (FIPS PUB 70) and is intended for the replacement of FIPS PUB 70 in its entirety.

FIPS PUB 70, except as noted therein, was materially identical to American National Standard x3.61–1978, Representations of Geographic Point Locations for Information Interchange, copyright 1978 by the American National Standards Institute, 1430 Broadway, New York, N.Y. 10018, reprinted with permission.

This standard differs from FIPS PUB 70 in minor textual modifications made for the purpose of clarity and in the following:

(1) The representation of latitude and longitude using radian measure was added.

(2) Alternate 2 for representation of hemispheric information was deleted.

(3) The use of maximum precision for all numerical values was emphasized. The alternate representation of precision was deleted.

(4) The number of characters used for the zone representation for State Plane Coordinate Systems was standardized.

(5) The term "altitude" was substituted for "elevation" throughout to conform with international usage.

(6) The specifications for altitude data were expanded and upgraded to the same level of detail as specifications for horizontal coordinates.

(7) A table was added delineating the coverage of Universal Transverse Mercator zones and the longitudes of the central meridians; other tables were renumbered.

(8) The total length of the representation of point location data at maximum precision was standardized, regardless of system used.

9. Implementation Schedule. Use by Federal agencies is encouraged when such use contributes to operational benefits, efficiency, or economy.

10. Where to Obtain Copies and Information. Copies of this publication are available for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22161. When ordering, refer to Federal Information Processing Standards Publication 70–1 (FIPS PUB 70–1) and title. When microfiche is desired, this should be specified.

A list of all published Federal Information Processing Standards and current prices may be obtained from the Standards Processing Coordinator (ADP), Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234.

Inquires concerning the FIPS data element standards program may be directed to the program Manager, Data Element and Representation Standards, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234; telephone (301) 921–3491.

[FR Doc. 83–25102 Filed 9–14–83; 8:45 am]

BILLING CODE 3510–13–M

National Voluntary Laboratory Accreditation Program; Freshly Mixed Field Concrete

AGENCY: National Bureau of Standards, Commerce.

ACTION: Announcement of laboratory accreditation actions for August 1983.

The National Bureau of Standards announces the following laboratory accreditation actions for August 1983.

The laboratories named below have been newly accredited for testing freshly mixed field concrete (Concrete LAP) under the National Voluntary Laboratory Accreditation Program

(NVLAP). Also listed are the test methods for which the laboratories have been accredited under that program.

FRESHLY MIXED FIELD CONCRETE

NVLAP code	Designation	Short title
02/M01	ASTM C31	Making and Curing Concrete Test Specimens in the Field.
02/M03	ASTM C172	Sampling Fresh Concrete.
02/P01	ASTM C143	Slump of Portland Cement Concrete.
02/W01	ASTM C138	Unit Weight, Yield, and Air Content (Gravimetric) of Concrete.
02/A01	ASTM C231	Air Content of Freshly Mixed Concrete by the Pressure Method.
02/S01	ASTM C39	Compressive Strength of Cylindrical Concrete Specimens.

Toledo Testing Laboratory, Inc., Attn.: Thomas R. Uhler, 1810 North Testing Laboratory, Inc., Toledo, OH 43603, Phone: (419) 241–7175.

02/M01	ASTM C31	Making and Curing Concrete Test Specimens in the Field.
02/M03	ASTM C172	Sampling Fresh Concrete.
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02/A01	ASTM C231	Air Content of Freshly Mixed Concrete by the Pressure Method.
02/S01	ASTM C39	Compressive Strength of Cylindrical Concrete Specimens.

STS Consultants, Ltd., Attn.: Henry L. Lucas, 2929-C Eskridge Road, Fairfax, VA 22031, Phone: (703) 698–5300.

The laboratory named below which was previously accredited for acoustical testing services (Acoustics LAP) has now been accredited to perform the following additional test methods under that program.

Manville Corporation, R & D Center, Attn.: Joseph P. Ferraro, P.O. Box 5108, Denver, CO 80217, Phone: (303) 978–5553

NVLAP code	Designation	Short title
08/P03	ANSI/ASTM C423–81.	Sound Absorption and Sound Absorption Materials.
08/P06	ANSI/ASTM E90–82.	Airborne Sound Transmission Loss of Building Partitions.

The following laboratories renewed their accreditation under the Freshly Mixed Field Concrete Laboratory Accreditation program.

Apace Building Products Company, Linden, NJ
STS Consultants, Ltd., Raleigh, NC office, Raleigh, NC
Construction Materials Consultants, Inc., Colorado Springs, CO
Pittsburgh Testing Laboratory, Pittsburgh, PA

FOR FURTHER INFORMATION CONTACT: Mr. John W. Locke, Manager, Laboratory Accreditation, TECH B141, National Bureau of Standards, Washington, D.C. 20234 (301) 921–3431.

Dated: September 9, 1983.

John W. Lyons,

Acting Director, National Bureau of Standards.

[FR Doc. 83-25106 Filed 9-14-83; 8:45 am]

BILLING CODE 3510-13-M

National Oceanic and Atmospheric Administration

Marine Fisheries Advisory Committee; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: As required by Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976) as amended, notice is hereby given of subcommittee meetings of the Marine Fisheries Advisory Committee (MAFAC). MAFAC was established by the Secretary of Commerce on February 17, 1971, to advise the Secretary on matters pertinent to the Department's responsibilities for marine fishery resources and on means to facilitate cooperation between public and private interests in these matters.

DATE: The meetings will convene on September 27, 1983, at 8:00 a.m. and adjourn at approximately 5:00 p.m.

ADDRESS: The meetings will be held in Atrium #216–217 at the Old Colony Inn in Alexandria, Virginia.

Meeting agenda. The Budget and Strategic Planning subcommittee will meet from 8:00 a.m. to 9:30 a.m. to discuss the FY 83–86 budgets for NMFS and the NMFS strategic planning system. The State/Federal/Regional Council Living Marine Resources subcommittee will meet from 9:30 a.m. to 10:30 a.m. to discuss the East Coast squid joint venture and amendment one; framework fishery management plans; and coastal fisheries, interjurisdictional management. The Habitat Conservation subcommittee will meet from 10:30 a.m. to 12:00 noon to discuss the status of the habitat conservation policy; regulatory reform; and hydroelectric projects in the Pacific Northwest. The Commercial Fishing and Consumer Affairs subcommittees will meet together from 1:30 p.m. to 3:00 p.m. to discuss preemption of States rights; foreign corporations exporting fish products into the U.S.; "US Corporation" services to fishing industry; US government-fishing; industry technological efforts; and the role of foreign joint ventures in government fisheries policy. The Marine Recreational Fishing subcommittee will meet from 3:00 p.m. to 5:00 p.m. to discuss artificial fishing reef program and the role of the Federal government; NMFS MRF statistical program; NMFS program development plan for marine recreational fisheries in the Southeast region; report on 1984 Industry Fisheries Conference and 1984 National Conference on Tourism and Recreational Fishing; and legislative update.

FOR FURTHER INFORMATION CONTACT: Ann Smith, Executive Secretary, Marine Fisheries Advisory Committee, National Marine Fisheries Service, Washington, DC., 20235, telephone: (202) 634–9583.

Dated: September 12, 1983.

William G. Gordon,

Assistant Administrator for Fisheries.

[FR Doc. 83-25273 Filed 9-14-83; 8:45 am]

BILLING CODE 3510-09-M

North Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

SUMMARY: The North Pacific Fishery Management council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265, as amended), has established Plan Management Teams for Fishery Management Plans initiated by the Council.

The Plan Management Team for the Gulf of Alaska Fishery Management Plan will hold a Team meeting at the Northwest & Alaska Fisheries Center, 2725 Montlake Blvd. E, Seattle, Washington, on September 20 & 21, 1983. The meeting will begin at 9:00 a.m. The purpose of the meeting is to review assessments of the Gulf of Alaska stocks and to determine a preliminary Equilibrium Yield for 1984. Plan Team meetings are open to the public and may be shortened or lengthened as necessary.

FOR FURTHER INFORMATION CONTACT: Jim H. Branson, Executive Director, North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510.

Dated: September 8, 1983.

William G. Gordon,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 83-25067 Filed 9-14-83; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting the Import Limit for Certain Cotton Apparel Products Produced or Manufactured in Korea

September 12, 1983.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on September 15, 1983. For further information contact William Boyd, International Trade Specialist, 202/377–4212.

Background

A CITA directive dated March 31, 1983 (48 FR 14737) established a level of restraint of 53,519 dozen for cotton sweaters in Category 345, produced or manufactured in Korea, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period which began on January 1, 1983. This level is being: (1) Increased by 248 dozen as a result of an increase in the level of trade used to calculate the 1983 limit and (2) reduced by 8,095 dozen in overshipments from 1982. The net effect will be to decrease the 1983 limit for Category 345 to 45,672 dozen. These actions are taken in accordance with the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 1, 1982 between the Governments of the United States and the Republic of Korea.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175) and May 3, 1983 (48 FR 19924).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

September 12, 1983.

Committee for the Implementation of Textile Agreements

Commissioner of Customs *Department of the Treasury, Washington, D.C.*

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of December 23, 1982 from the Chairman of the Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in Korea.

Effective on September 15, 1983, you are directed to reduce the level of restraint established for cotton textile products in Category 345 to 45,672 dozen.[1]

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 6 U.S.C. 553.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-25282 Filed 9-14-83; 8:45 am]
BILLING CODE 3510-25-M

Change in Officials of the Government of Pakistan Authorized To Issue Export Visas for Certain Cotton Textile Products From Pakistan

September 9, 1983.

The Government of Pakistan has notified the United States Government under terms of the Bilateral Cotton Textile Agreement of March 9 and 11, 1982 that Mr. Rehmat or Rehman is now authorized to issue export visas for cotton textile products exported to the United States. The purpose of this notice is to advise the public of this change.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-25142 Filed 9-14-83; 8:45 am]
BILLING CODE 3510-25-M

Soliciting Public Comment on Bilateral Textile Consultations With the Government of Hong Kong To Review Trade in Categories 319 and 361

September 9, 1983.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: On September 7, 1983 the Government of the United States requested consultations with the Government of Hong Kong with respect to Categories 319 (cotton duck), and 361 (cotton sheets). These requests were made on the basis of the agreement of June 23, 1982 as amended, between the Governments of the United States and Hong Kong relating to trade in cotton, wool, and man-made fiber textiles and textile products.

The purpose is this notice is to advise the public that if no solution is agreed upon in consultations between the two governments, the Committee for the Implementation of Textile Agreements may later establish a limit for the entry and withdrawal from warehouse for consumption of textile products in Categories 319 and 361, produced or manufactured in Hong Kong and exported to the United States during the twelve-month period which began on January 1, 1983 and extends through December 31, 1983. The Government of the United States also reserves the right to control imports of these categories as the established limits.

Any party wishing to comment or provide data or information regarding the treatment of Categories 319 and 361 under the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement or on any other aspect thereof, or to comment on domestic production or availability of textile products included in this category, is invited to submit such comments or information in ten copies to Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Since the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C., and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitutes "a foreign affairs function of the United States."

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-25141 Filed 9-14-83; 8:45 am]
BILLING CODE 3510-25-M

Soliciting Public Comment on Bilateral Textile Consultations With Taiwan To Review Trade in Category 319

September 9, 1983.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: On September 6, 1983 the American Institute in Taiwan requested consultations with the Coordination Council for North American Affairs

[1] The level has not been adjusted to account for any imports after December 31, 1982.

concerning exports from Taiwan in Category 319 (cotton duck). This request was made on the basis of the agreement of November 18, 1982, concerning trade in cotton, wool, and man-made fiber textiles and textile products from Taiwan.

The purpose of this notice is to advise the public that, if no solution is agreed upon in consultations with Taiwan, the Committee for the Implementation of Textile Agreements may later establish a limit for the entry and withdrawal from warehouse for consumption of textile products in Category 319, produced or manufactured in Taiwan and exported to the United States during the twelve-month period which began on January 1, 1983 and extends through December 31, 1983.

The Committee for the Implementation of Textile Agreements reserves the right to invoke import controls on this category, as defined in the agreement concerning cotton, wool, and man-made fiber textile products from Taiwan.

Any party wishing to comment or provide data or information regarding the treatment of Category 319 under the bilateral agreement, or on any other aspect thereof, or to comment on domestic production or availability of textile products included in this Category is invited to submit such comments or information in ten copies to Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Since the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C., and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-25143 Filed 9-14-83; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board, Tactical Cross-Matrix Panel; Meeting

September 8, 1983.

The USAF Scientific Advisory Board Tactical Cross-Matrix Panel meeting published in the **Federal Register**, Volume 48, page 40423, Wednesday, September 7, 1983 has been changed to October 13–14, 1983.

For further information contact the Scientific Advisory Board Secretariat at (202) 697–4648.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 83-25006 Filed 9-14-83; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board, Electronic Systems Division Advisory Group, Air Force Systems Command, Meeting

September 8, 1983.

The USAF Scientific Advisory Board Electronic Systems Division Advisory Group, Air Force Systems Command, has cancelled the meeting scheduled for 13–14 Sep 83 at Griffiss AFB, NY. Notice of this meeting was published in the **Federal Register** Vol. 48, page 39114, August 29, 1983.

For further information contact the Scientific Advisory Board Secretary at (202) 697–8845.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 83-25007 Filed 9-14-83; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF EDUCATION

International Education Programs National Advisory Board; Meetings

AGENCY: National Advisory Board on International Education Programs, Education.

ACTION: Notice of meetings.

SUMMARY: This notice sets forth the schedule of two forthcoming meetings of the Subcommittee on Critical Needs in International Education as delegated by the National Advisory Board on International Education Programs. Notice of these meetings is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is also intended to notify the general public of their opportunity to attend.

DATES: September 29 and October 25, 1983.

ADDRESSES: September 29—ROB–3, The Gold Room, Room 3652; October 25—FOB–6, The Sanchez Room, Horace Mann Learning Center, Room 1130.

FOR FURTHER INFORMATION CONTACT: Kenneth D. Whitehead or Marguerite A. Follett, International Education Programs Office, ROB–3, Room 3916, 400 Maryland Avenue, SW., Washington, D.C. 20202, (202) 245–9691.

SUPPLEMENTARY INFORMATION: The National Advisory Board on International Education Programs is established under Section 621 of the Higher Education Act of 1965 as amended by the Education Amendments of 1980 (Pub. L. 96–374; 20 U.S.C. 1131). Its mandate is to advise the Secretary of Education. The purpose of this Subcommittee is to assess critical needs in international education and to make recommendations to the full Board which in turn will make recommendations to the Secretary.

These Subcommittee meetings are open to the public. The meetings will be held from 9:00 A.M. to 5:00 P.M.

Records are kept on the Subcommittee proceedings and are available for public inspection at the office of the National Advisory Board on International Education Programs from 8:00 A.M. to 4:00 P.M., ROB–3, 7th and D Streets, SW., Room 3919, Washington, D.C.

Signed at Washington, D.C. on September 13, 1983.

Edward M. Elmendorf,

Assistant Secretary for Postsecondary Education.

[FR Doc. 83-25343 Filed 9-14-83; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 83–05–NG]

Natural Gas Imports; Vermont Gas Systems, Inc.; Petition To Amend Import Authorizations and Motion for Expedited Consideration

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Filing for succession in interest and amendment of authorizations to import Canadian natural gas.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on August 24, 1983, of a joint petition filed by Vermont Gas Systems, Inc., a Delaware corporation (Vermont Gas-Delaware), and Vermont Gas Systems, Inc., a Vermont corporation (Vermont Gas-Vermont), to amend the authorizations to import Canadian natural gas heretofore issued to Vermont Gas-Delaware by substituting its successor in interest, Vermont Gas-Vermont, as the authorized importer.

The petition is filed with the ERA pursuant to section 3 of the Natural Gas Act and DOE Delegation Order No. 0204–54. Protests or petitions to intervene are invited.

DATE: Protests or petitions to intervene are to be filed no later than 4:30 p.m., on September 22, 1983.

FOR FURTHER INFORMATION CONTACT:

P. J. Fleming, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA–007, 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 252–9482

Diane J. Stubbs, Office of General Counsel, Natural Gas and Minerals Leasing, Forrestal Building, Room 6E–042, 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 252–6667

SUPPLEMENTARY INFORMATION: On August 24, 1983, Vermont Gas-Delaware and Vermont Gas-Vermont filed a joint petition and motion for expedited consideration to amend by September 6, 1983, the existing import authorizations previously granted to Vermont Gas-Delaware to substitute Vermont Gas-Vermont in lieu of Vermont Gas-Delaware as the authorized importer of the Canadian natural gas.

Vermont Gas-Delaware is an intrastate pipeline which transports, distributes and sells natural gas within the State of Vermont. It is entirely dependent on Canadian imports and purchases all of its natural gas supply from TransCanada PipeLines Limited (TransCanada) under a contract dated February 16, 1966, as amended. Pursuant to import authority granted by the Federal Power Commission (FPC) in orders issued in Docket Nos. CP65–141 and CP65–142 (33 FPC 899), CP69–132 (40 FPC 1521), CP72–38 (46 FPC 1217) and CP76–100 (55 FPC 445) and later by the ERA in orders issued in Docket Nos. 80–10–NG (1 ERA Para. 70,508, Federal Energy Guidelines), 80–15–NG (1 ERA Para. 70,534, Federal Energy Guidelines), 81–20–NG (1 ERA Para. 70,527, Federal Energy Guidelines) and 81–33–NG (an unpublished Opinion and Order), Vermont Gas-Delaware is presently authorized to import up to a total quantity of 22,400 Mcf of gas per day, which will periodically increase to a maximum of 25,600 Mcf per day beginning November 1, 1986, and ending on October 31, 1991. The gas is delivered at a point of interconnection between Vermont Gas-Delaware's pipeline system and TransCanada's system on the international boundary near Highgate Springs, Vermont.

By the terms and conditions of the FPC order issued in Docket No. CP65–142, as subsequently amended, the authorization under which the natural gas is imported "shall not be transferable or assignable" without first obtaining governmental permission and approval.

The petition indicates that upon completion of certain transactions, Vermont Gas-Delaware will be merged into Vermont Gas-Vermont pursuant to a statutory merger that is authorized by Delaware and Vermont law. Vermont Gas-Delaware will cease to exist and the Vermont corporation will be the surviving company. It is also stated that there are no plans to change the operations or management of the company. According to the petitioners, the Gas Purchase Contract with TransCanada specifically permits succession to the contract, in which case the successor is entitled to the rights and subject to the obligations of its predecessor.

Petitioners desire timely approval of their request to avoid, among other things, incurring large commitment fees to secure a line of credit for the purchase of the Delaware corporation. In view of their request for expedition and because Vermont Gas-Vermont proposes to continue the import without change in either the present maximum daily quantities, or in Vermont Gas-Delaware's facilities or operations, we are limiting the intervention period to 7 days. However, in the future we expect that such petitions will be filed in a more timely fashion to provide sufficient time for the ERA to consider them and so that a longer period for intervention can be permitted.

Other Information

Any person wishing to become a party to the proceeding, and thus to participate as a party in any conference or hearing which might be convened, must file a petition to intervene. Any person may file a protest with respect to this joint petition. The filing of a protest will not serve to make the protestant a party to the proceeding. Protests will be considered in determining the appropriate action to be taken on the petition.

All protests and petitions to intervene must meet the requirements that are specified by the regulations that were in effect on October 1, 1977 in 18 CFR 1.8 and 1.10. They should be filed with the Natural Gas Division, Economic Regulatory Administration, Room GA–007, RG–43, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585. All protests and petitions to intervene must be filed no later than 4:30 p.m., on September 22, 1983.

A hearing will not be held unless a motion is made by a party or person seeking intervention and is granted by the ERA, or if the ERA on its own motion believes that a hearing is necessary or required. A person filing a motion must demonstrate how a hearing will advance the proceedings. If a hearing is scheduled, the ERA will provide notice to all parties and persons whose petitions to intervene are pending.

A copy of the petition is available for inspection and copying in the Natural Gas Division Docket Room, located in Room GA–007, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., on September 12, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83–25287 Filed 9–14–83; 8:45 am]

BILLING CODE 6450–01–M

Energy Information Administration

[Form EIA–97]

Boiler Order Report (Form EIA–97); Proposed Inquiry

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of Proposed Extension for Form EIA–97, "Boiler Order Report," and solicitation of comments.

SUMMARY: The Energy Information Administration (EIA) of the U.S. Department of Energy (DOE) announces a proposed extension of Form EIA–97, "Boiler Order Report," and invites comments on the survey and contents of the form.

DATES: Written comments must be submitted within 30 days of the publication of this notice.

ADDRESS: Send comments to Albert D. Gerard at the address listed below.

FOR FURTHER INFORMATION CONTACT: To obtain additional information or copies of the Form EIA–97, contact Albert D. Gerard, EIA–521, Mail Stop: 2F–021, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, D.C. 20585, (202) 252–5752.

SUPPLEMENTARY INFORMATION:

I. Background
II. Request for Comments

I. Background

The EIA proposes extension of the Form EIA–97, "Boiler Order Report." The form is required of all U.S. boiler manufacturing companies, their foreign affiliates and subsidiaries and U.S. boiler rental/leasing companies that receive an order from an electric utility or an industrial firm operating in the continental U.S., Alaska, Hawaii or any of the U.S. Territories and Administered Areas for a boiler having a rated capacity of 40,000 or more pounds of steam per hour.

The form provides the EIA with the means to produce data on the projected demand for fuels by electric utilities and industrial firms by boiler capacity, boiler function, fuels used, and delivery dates for various industrial groupings and geographic locales.

II. Request for Comments

A copy of Form EIA–97 and Instructions has been reproduced and appears following this notice. The EIA invites prospective respondents to comment within 30 days of the publication of this notice. The following general guidelines are provided to assist in the responses:

(As a potential data provider)

a. Are the instructions and definitions clear and sufficient? If not, what instructions require clarification?

b. Can the data be submitted using the definitions included in the instructions?

c. Can the data be submitted in accordance with the response time specified in the instructions?

d. How many hours, including time for preparation and administrative review, will your organization require to complete and submit the form?

e. What is the estimated cost of completing the form, including the direct and indirect costs associated with the data collection? Direct costs should include all one-time and recurring costs, such as development, assembly, equipment, ADP, and other administrative costs directly attributable to providing this information.

f. Do you know of other Federal, State or local agencies that collect similar data? (If yes, please identify.)

g. How can the form be improved?

(As a potential user)

a. Do you need data at the levels of detail indicated on the form?

b. For what purposes would you use these data?

(Be specific.)

c. How could the form be improved to better meet your specific data needs?

d. Are there alternative sources of data and do you use them? What are their deficiencies?

DOE is also interested in receiving comments from persons as to their views on the need for the collection of this information.

Comments submitted in response to this notice will be included in the request for Office of Management and Budget approval of this data collection and will become a matter of public record.

Issued in Washington, D.C., September 9, 1983.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

BILLING CODE 6450-01-M

Energy Information Administration
Boiler Order Report

U.S Department of Energy

This report is being collected under mandatory authorities vested in the U.S. Department of Energy under Public Law 93-275. Failure to file may result in criminal fines, civil penalties or other sanctions as provided by law.
For provisions concerning the confidentiality of information submitted on this form see Section H of the Instructions.

Form Approved
OMB No. 1905-0123
Approval Expires 12/31/88

Please return the completed form to EIA in the business reply envelope provided below

(Please make any corrections to the mailing label in the space provided to the right of the label)

1. Identification

A. Type of Report (check one) ☐ submission for the current reporting quarter. ☐ revision to data submitted for _____ quarter/year

B. Respondent

Complete only if different from that shown on the mailing label above or if your point of contact has changed.

(i) Enter the name and address of the boiler manufacturer or rental/leasing company submitting this report.

Company Name

Address *(Street)* *(City)* *(State)* *(Zip)*

(ii) ***Point of Contact***

Enter the name, title and telephone number for the boiler manufacturer or rental/leasing company representative who can answer questions regarding the information provided on this form.

Name Title Telephone No. *(Area Code)*

2. Purchaser/Renter/Lessee Information

A. Purchaser/Renter/Lessee

(i) Enter the name and address of the company from whom you received the boiler purchase/rental/lease order.

Company Name

Address *(Street)* *(City)* *(State)* *(Zip)*

(ii) ***Point of Contact***

Enter the name, title and telephone number of the purchaser/renter/lessee company representative/agent.

Name Title Telephone No. *(Area Code)*

B. Operating Company

Complete this section only if the boiler will be operated by a company other than the purchaser/renter/lessee.

(i) Enter the name and address of the operating company for this boiler.

Company Name

Address *(Street)* *(City)* *(State)* *(Zip)*

(ii) ***Point of Contact***

Enter the name, title and telephone number of the operating company representative/agent.

Name Title Telephone No. *(Area Code)*

Energy Information Administration
Boiler Order Report Page 2

U.S. Department of Energy

EIA Identification No.

3. Boiler Information

A.

Boiler Number*	Boiler Manufacturer's or Rental/ Leasing Company's Purchase Order No. or Contract No.	Date of Order YR	MO	DAY	Delivery Date YR	MO	DAY	Boiler Function (Check One) Gen. of Electricity	Process Steam	Space Heating	Rated Capacity (Pounds of Steam Per Hour)

Using the fuel codes from the listing provided below, enter the fuels that the boiler is designed to fire in order of the operator's design preference excluding igniter/ startup fuels. Start with the primary fuel in column one. Indicate fuel mixtures as follows: for coal and oil, use 01/02. If you use code 07, identify the fuel in the comments section.

1	2	3	4	5	6	7	comments section.

B.

Boiler Number*	Boiler Manufacturer's or Rental/ Leasing Company's Purchase Order No. or Contract No.	Date of Order YR	MO	DAY	Delivery Date YR	MO	DAY	Boiler Function (Check One) Gen. of Electricity	Process Steam	Space Heating	Rated Capacity (Pounds of Steam Per Hour)

Using the fuel codes from the listing provided below, enter the fuels that the boiler is designed to fire in order of the operator's design preference excluding igniter startup fuels. Start with the primary fuel in column one. Indicate fuel mixtures as follows: for coal and oil, use 01/02. If you use code 07, identify the fuel in the comments section.

1	2	3	4	5	6	7	comments section

C.

Boiler Number*	Boiler Manufacturer's or Rental/ Leasing Company's Purchase Order No. or Contract No.	Date of Order YR	MO	DAY	Delivery Date YR	MO	DAY	Boiler Function (Check One) Gen. of Electricity	Process Steam	Space Heating	Rated Capacity (Pounds of Steam Per Hour)

Using the fuel codes from the listing provided below, enter the fuels that the boiler is designed to fire in order of the operator's design preference excluding igniter startup fuels. Start with the primary fuel in column one. Indicate fuel mixtures as follows: for coal and oil, use 01/02. If you use code 07, identify the fuel in the comments section.

1	2	3	4	5	6	7	comments section

D.

Boiler Number*	Boiler Manufacturer's or Rental/ Leasing Company's Purchase Order No. or Contract No.	Date of Order YR	MO	DAY	Delivery Date YR	MO	DAY	Boiler Function (Check One) Gen. of Electric	Process Steam	Space Heating	Rated Capacity (Pounds of Steam Per Hour)

Using the fuel codes from the listing provided below, enter the fuels that the boiler is designed to fire in order of the operator's design preference excluding igniter startup fuels. Start with the primary fuel in column one. Indicate fuel mixtures as follows: for coal and oil, use 01/02. If you use code 07, identify the fuel in the comments section.

1	2	3	4	5	6	7	comments section.

E.

Boiler Number*	Boiler Manufacturer's or Rental/ Leasing Company's Purchase Order No. or Contract No.	Date of Order YR	MO	DAY	Delivery Date YR	MO	DAY	Boiler Function (Check One) Gen. of Electricity	Process Steam	Space Heating	Rated Capacity (Pounds of Steam Per Hour)

Using the fuel codes from the listing provided below, enter the fuels that the boiler is designed to fire in order of the operator's design preference excluding igniter startup fuels. Start with the primary fuel in column one. Indicate fuel mixtures as follows: for coal and oil, use 01/02. If you use code 07, identify the fuel in the comments section.

1	2	3	4	5	6	7	comments section.

Fuel Codes:

01 – Bit. Coal
02 – Oil
03 – Nat. gas
04 – Wood bark, or solid wood products
05 – Bagasse
06 – Bit. liquor
07 – Other fuels**
08 – Wasteheat
09 – Wasteheat with aux. firing
10 – Lignite
11 – Raw Municipal, unsorted
12 – Raw Municipal, non-combustible removed
13 – Raw Municipal, sorted and sized
14 – Other industrial waste
15 – Combustible waste gas
16 – Coal gas

*To be assigned by the respondent from the block of numbers given by EIA.
**Specify in comments below.

4. Comments

5. Confidentiality Statement

Please read Section H of the instructions before completing this section of the form.

A. Information requested on this form is confidential and if released will cause substantial competitive injury. ☐ Yes ☐ No

B. Written substantial justification is attached. ☐ Yes ☐ No

C. Written substantial justification previously submitted. ☐ Yes, date _____ ☐ No

6. Certification

This part of the form must be completed by the company official empowered to certify that the information provided on this form is true and accurate. Print or type the certifying official's name and title. The certifying official must sign and date the certification.

I certify that the information provided herein and appended hereto is true and accurate to the best of my knowledge.

Name Title

Signature Date

Title 18, USC 1001 makes it a crime for any person knowingly and willingly to make to any agency or department of the United States any false, fictitious or fradulent statement as to any matter within its jurisdiction.

Instructions for Completing Form EIA-97, "Boiler Order Report"

A. Purpose

Form EIA-97 is designed to provide the Energy Information Administration (EIA) with information on orders by electric utilities and industrial firms operating in the continental U.S., Alaska, Hawaii, and any of the U.S. Territories and Administered Areas (i.e., Puerto Rico, Virgin Islands, etc.) for boilers having a rated capacity of 40,000 or more pounds of steam per hour. The data collected will be used in the compilation of aggregated statistical reports, for demand related analyses and as input to EIA models such as the Midterm Energy Forecasting System (MEFS) and the National Coal Model (NCM). This form is a mandatory reporting requirement under the Federal Energy Administration (FEA) Act of 1974 (P.L. 93-275).

B. Who Must Submit

Form EIA-97 must be submitted by all U.S. boiler manufacturing companies, their foreign affiliates and subsidiaries and U.S. boiler rental/leasing companies that receive an order from an electric utility or an industrial firm operating in the continental U.S., Alaska, Hawaii or any of the U.S. Territories and Administered Areas for a boiler having a rated capacity of 40,000 or more pounds of steam per hour. Orders for more than one boiler from a single purchaser/operator may be reported on a single Form EIA-97. Submit the white copy to EIA and retain the yellow copy.

C. Where to Submit

Form EIA-97 should be returned in the business reply envelope provided with the form to:

Energy Information Administration, EI-34
Mail Station: BG-086, Forrestal
U.S. Department of Energy
Washington, D.C. 20585

Requests for further information, additional forms, or business reply envelopes should be directed to the address above or by telephone on EIA's toll free number (800) 424-9041. In the Washington, D.C. area call (202) 252-6621.

D. When to Submit

Form EIA-97 must be submitted no later than 30 working days (6 weeks) after the close of each reporting quarter. The reporting quarters are:
January 1 - March 31 (first); April 1 - June 30 (second); July 1 - September 30 (third); and October 1 - December 31 (fourth).

E. Sanctions

The timely submission of Form EIA-97 by a company required to report is a mandatory requirement. Late filing, failure to file, or failure otherwise to make information available to EIA in accordance with these instructions, may result in criminal fines, civil penalties and other sanctions as provided by Section 13 (i) of the FEA Act (P.L. 93-275).

F. Definitions

1. *Electric Utility* — All privately owned companies and all publicly owned agencies engaged in the production of electric power for public use. Publicly owned agencies include the following: municipal electric utilities; federal power projects such as the Tennessee Valley Authority (TVA); and rural electrification cooperatives; power districts; and state power projects.
2. *Industrial firms* — those firms engaged in agriculture, mining, manufacturing, and construction industries. **Excluded** are wholesale, retail and service businesses including boiler rental companies, health institutions (hospitals), educational institutions (schools and universities), and federal, state, and local governments.
3. *U.S. Territories and Administered Areas include:* American Samoa, Guam, Johnston Atoll, Midway Islands, Puerto Rico, Northern Mariana Islands, U.S. Miscellaneous Pacific Islands, Trust Territories of the Pacific Islands, Navassa Islands, Virgin Islands, and Wake Island.

G. General Instructions

Submit a separate report for each order. Orders for more than one boiler from a single purchaser/renter or lessee may be reported on a single Form EIA-97.
For revisions to previously submitted data, check the revision box in Section 1.A. and fill out the entire form. Indicate the revised data elements by circling them.

H. Provisions Regarding the Confidentiality of Information

The information on Form EIA-97 may be (i) information which is exempt from disclosure to the public under the exemption for trade secrets and confidential commercial information specified in the Freedom of Information Act (FOIA) [5 U.S.C. 552 (b) (4)] or (ii) prohibited from public release by 18 U.S.C. 1905. However, before a determination can be made that particular information is within the coverage of either of these statutory provisions, the person submitting the information must make a showing satisfactory to the Department concerning its confidential nature.

Therefore, you should state briefly and specifically (on an element by element basis if possible), in a letter accompanying your submission of the form why you consider the information concerned to be a trade secret or other proprietary information, whether such information is customarily treated as confidential by your company and the industry, and the type of competitive harm that would result to your company from disclosure of the information. In accordance with the provisions of 10 C.F.R. 1004.11 of the DOE's FOIA regulations, DOE will determine whether any information submitted should be withheld from public disclosure.

If DOE does not receive a request for exemption from you, it will assume that you do not object to public disclosure of any information submitted on this form by your company. A new written justification need not be submitted each time a Form EIA-97 is submitted if:

a) your views concerning information items identified by you as privileged or confidential have not changed and
b) a written justification setting forth your views in this regard was previously submitted.

By statutory authority DOE must provide this information, when requested, to the Congress or any committee of Congress and the General Accounting Office.

[FR Doc. 83-25085 Filed 9-14-83; 8:45 am]
BILLING CODE 6450-01-C

Office of Energy Research

High Energy Physics Advisory Panel; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: High Energy Physics Advisory Panel (HEPAP)

Date and Time: Wednesday, October 5, 9:00 am–6:00 pm; Thursday, October 6, 8:30 am–5:00 pm.

Place: Fermi National Accelerator Laboratory, Wilson Hall, Room One-West, Kirk and Pine Streets, Batavia, Illinois 60510.

Contact: Dr. P. K. Williams, Executive Secretary, High Energy Physics Advisory Panel, U.S. Department of Energy, ER–221, Washington, DC 20545, Telephone: 301/353–4829.

Purpose of panel: To provide advice and guidance on a continuing basis with respect to the high physics research program.

Tentative agenda:

Wednesday, October 5, 1983

—Discussion of FY 1983–84 DOE High Energy Physics and FY 1984 NSF Elementary Particle Physics Budgets
—Discussion of High Energy Physics Capital Equipment Needs for FY 1984 and Beyond
—Review of Fermilab Programs

Thursday, October 6, 1983

—Discussion of Report of Technical Assessment Committee on University Programs
—Discussion of DOE Actions and Plans Concerning the Recommendations of the 1983 Subpanel on New Facilities
—Discussion of the Newly-Formed Subpanel on Accelerator Research and Development
—Public Comment (10-minute rule)

Public participation: The meeting is open to the public. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Panel will be permitted to do so either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact the Executive Secretary at the address or telephone number listed above. Requests must be received at least five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

Minutes: Available for public review and copying at the Public Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC between 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on September 9, 1983.

K. Dean Helms,

Advisory Committee Management Officer.

[FR Doc. 83–25063 Filed 9–14–83; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. RP80–145–008]

Columbia Gas Transmission Corporation; Proposed Changes in FERC Gas Tariff

September 12, 1983.

Take notice that Columbia Gas Transmission Corporation (Columbia) on August 31, 1983, tendered for filing proposed changes to its FERC Gas Tariff, Original Volume No. 1, as follows:

Eighty-ninth Revised Sheet No. 16

The enclosed tariff sheet bears an issue date of August 31, 1983 and an effective date of August 1, 1983.

Columbia states that the instant tariff filing is being made in compliance with the Commission's May 18, 1983 Order Approving Settlements in *Tennessee Gas Pipeline Company, et al.*, 23 FERC ¶ 61,233 (1983) in which the Commission, *inter alia*, approved the December 13, 1982 Stipulation and Agreement As To Liquids and Liquefiables in the rate proceedings of Columbia and its affiliate, Columbia Gulf Transmission Company in Docket Nos. RP80–145, *et al.* Section 3 of Article II of said Stipulation requires Columbia to file revised tariff sheets, effective prospectively, appropriately reflecting the effect of the settlement upon its jurisdictional rates.

Columbia respectfully requests that the Commission grant any waivers as it may deem necessary for the acceptance of this filing.

Copies of the filing were served upon the Company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. all such petitions or protests should be filed on or before September 21, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of Columbia's filings are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–25253 Filed 9–14–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP83–478–000]

Columbia Gas Transmission Corporation; Application

September 12, 1983.

Take notice that on August 22, 1983, Columbia Gas Transmission Corporation (Applicant), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, filed in Docket No. CP83–478–000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities and for authorization to transport natural gas for Orange & Rockland Utilities, Inc. (O&R), and UGI Corporation (UGI), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that UGI and O&R have storage service agreements with Penn-York Energy Corporation (Penn-York) and they have requested that Applicant transport, on a firm basis, quantities of natural gas stored by Penn-York and deliver such quantities into the systems of O&R and UGI through existing points of delivery.

Applicant proposes to transport up to a contract demand of 4,600 dt equivalent of gas per day for O&R and up to a contract demand of 22,400 dt equivalent of gas per day for UGI until March 31, 1995, or the date on which Penn-York's storage service agreements with O&R and UGI are terminated, whichever first occurs. Applicant also proposes to transport on a best-efforts basis quantities of natural gas in excess of the respective contract demands of O&R and UGI. Applicant would retain for company-use and unaccounted-for gas 2.85 percent of the total quantities received for the account of O&R and UGI.

It is stated that for the quantities of natural gas transported on a firm basis, O&R and UGI would pay Applicant a demand charge of $2.36 per dt and a commodity charge of 20.87 cents per dt. It is further stated that for the quantities of natural gas transported on a best-efforts basis, O&R and UGI would pay Applicant an excess deliveries rate, which is currently 7.76 cents per dt, in

addition to the then-effective commodity charge.

Applicant also proposes to construct 7.0 miles of 12-inch pipeline which would consist of 6.4 miles of pipeline connecting Penn-York's storage facilities to Applicant's existing pipeline system in Steuben County, New York, and 0.6 mile of 12-inch pipeline between Applicant's existing pipeline system and its Greenwood Compressor Station also in Steuben County, New York. It is stated that O&R and UGI would reimburse Applicant amounts equal to 17.04 percent and 82.96 percent, respectively, of the total actual cost. After such reimbursement, Applicant would convey the facilities to O&R and UGI, which would then lease such facilities to Applicant for a nominal amount. Applicant proposes to lease and operate such facilities for the transportation of natural gas for UGI and O&R.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 3, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-25254 Filed 9-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-710-000]

Iowa-Illinois Gas and Electric Co.; Filing

September 9, 1983.

The filing Company submits the following:

Take notice that on August 29, 1983, Iowa-Illinois Gas and Electric Company, (Iowa-Illinois) tendered for filing a transmission Service Agreement (Agreement) with Harlan Municipal Utilities, (Harlan) dated June 13, 1983.

Iowa-Illinois further states that the Agreement was negotiated based upon cost service reflective and comparable rate methodologies, and provides for utilization by Harlan, with respect to its share of Louisa capacity, of Iowa-Illinois' 345 kV facilities from Substation 92 to Hills Substation. The Agreement also incorporates transmission rates, charges and a loss responsibility factor designed to compensate Iowa-Illinois for reflected costs of facilities provided, as the scheduling path, and associated operation and maintenance, as well as providing for transmission losses for which compensation in kind is provided. Iowa-Illinois notes that a related, but independent, filing will be made with respect to the operation of Louisa Generating Station outlet transmission facilities of which Substation 92 is a part, and that Harlan contemplates arrangements with others for further delivery of power and energy to its load center.

Iowa-Illinois requests an effective date of July 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing have been mailed to Harlan, the Iowa State Commerce Commission and the Illinois Commerce Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 19, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-25251 Filed 9-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-2-14-002 (PGA83-3-(b))]

Lawrenceburg Gas Transmission Corporation; Proposed Change in FERC Gas Tariff

September 12, 1983.

Take notice that on August 29, 1983, Lawrenceburg Gas Transmission Corporation (Lawrenceburg) tendered for filing two second substitute gas tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1, both of which are dated as issued on August 24, 1983, proposed to become effective August 1, 1983, and identified as follows:

Second Substitute Thirty-first Revised Sheet No. 4

Second Substitute Twenty-eighth Revised Sheet No. 18

Lawrenceburg states that its revised tariff sheets were filed under its Purchased Gas Adjustment Provision and in substitution for those previously approved by Commission Order issued August 15, 1983. Lawrenceburg states that this revision was required because of a further reduction in the rates being tracked of Lawrenceburg's supplier, Texas Gas Transmission Corporation.

Copies of this filing were served upon Lawrenceburg's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before September 21, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-25257 Filed 9-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-479-000]

Louisiana Intrastate Gas Corporation; Application

September 12, 1983.

Take notice that on August 22, 1983, Louisiana Intrastate Gas Corporation (Applicant), P.O. Box 1352, Alexandria, Louisiana 71310, filed in Docket No. CP83-479-000 an application pursuant to of Section 311(a)(2) of the Natural Gas Policy Act of 1978 (NGPA) and § 284.127 of the Commission's Regulations for authorization to transport natural gas for Southern Natural Gas Company (Southern), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that on August 12, 1983, Southern and Applicant entered into a one-year gas transportation agreement under which Applicant would receive gas from Southern at a point of delivery in East Orleans Parish, Louisiana, and redeliver the same quantity of gas to New Orleans Public Service Inc. (NOPSI) at a different point in East Orleans Parish, Louisiana. This transportation agreement is related to the proposed off-system sale of gas by Southern to NOPSI, it is explained. The total volume of gas to be transported under the proposed transportation agreement would be 21,960 billion Btu with the maximum daily volumes being 60 billion Btu, it is said. Applicant proposes to render the proposed transportation service for no fee because of the mutual benefits derived by the parties. Applicant requests approval of its transportation agreement which is not self-implementing because Applicant is delivering gas directly to Southern's customer for Southern's account.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 3, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-25256 Filed 9-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-471-000]

Michigan Wisconsin Pipe Line Company; Request Under Blanket Authorization

September 12, 1983.

Take notice that on August 17, 1983, Michigan Wisconsin Pipe Line Company (Mich Wis), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP83-471-000 a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Mich Wis proposes to add a new delivery point to Northern Indiana Fuel and Light Company (Northern Indiana) near Orland, Steuben County, Indiana, under the authorization issued in Docket No. CP82-480-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Mich Wis states that natural gas sales are made to Northern Indiana pursuant to the service agreement between the parties dated May 11, 1983, effective November 1, 1982 (Docket Nos. RP81-69 and RP82-80). Northern Indiana has requested the new delivery point to serve the industrial, commercial, and residential natural gas requirements of the community of Orland, Indiana. The maximum daily deliveries at the Orland delivery point will not exceed 500 dt equivalent of gas which are within Northern Indiana's currently existing peak day and annual entitlements from Mich Wis, it is submitted.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-25260 Filed 9-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-2-25-003]

Mississippi River Transmission Corporation; Rate Change Filing

September 12, 1983.

Take notice that on September 2, 1983, Mississippi River Transmission Corporation ("Mississippi") tendered for filing Substitute Eighty Seventh Revised Sheet No. 3A to its FERC Gas Tariff, First Revised Volume No. 1. Said tariff sheet is proposed to be effective as of September 1, 1983.

Mississippi states that the filing is being submitted pursuant to a Commission letter order dated August 29, 1983 at Docket No. TA83-2-25-002 which accepted for filing Mississippi's Eighty Seventh Revised Sheet No. 3A to be effective September 1, 1983, subject to any downward adjustment necessary to reflect that proper rates for Mississippi's pipeline suppliers as of such date. Mississippi states that the instant filing reflects rate changes from United Gas Pipe Line Company and Natural Gas Pipeline Company of America. The combined annual cost reduction of this PGA revision to Mississippi's jurisdictional customers is approximately $21.3 million.

Mississippi states that copies of its filing have been served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.W., Washington, D.C. 20426, in accordance with Sections 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 21, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the

Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-25261 Filed 9-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-129-000]

National Fuel Gas Supply Company; Tariff Filing

September 12, 1983.

Take notice that on September 2, 1983, National Fuel Gas Supply Company (National Fuel) tendered for filing proposed Rate Schedule T-2 to its FERC Gas Tariff, Original Volume No. 1. The filing consists of a new tariff governing transportation for end users pursuant to Order No. 319. National Fuel requests that Rate Schedule T-2 be made effective on October 1, 1983.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before September 21, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-25263 Filed 9-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-68-002]

Natural Gas Pipeline Company of America; Amended Motion To Make Tariff Sheets Effective

September 12, 1983.

Take notice that on September 2, 1983, Natural Gas Pipeline Company of America (Natural) filed with the Federal Energy Regulatory Commission an Amended Motion to Make Suspended Tariff Sheets Effective. The rates and charges on the tariff sheets to be effective October 1, 1983, submitted with the Amended Motion, include the revisions required to reflect the total system weighted average unit gas cost per Natural's amended PGA filed on August 23, 1983, to be effective September 1, 1983.

Natural states that copies of the motion, together with the tariff sheets and work papers, have been mailed to all of Natural's jurisdictional customers, all parties to this proceeding, and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the requirements of Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed on or before September 21, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-25262 Filed 9-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-40-000; PGA84-1]

Raton Natural Gas Company; Change in Rates

September 12, 1983.

Take notice that Raton Natural Gas Company (Raton), on August 31, 1983, tendered for filing, proposed changes in its FERC Gas Tariff, Volume No. 1, consisting of Thirty-first Revised Sheet No. 3a. The change in rates is for jurisdictional gas service. The proposed effective date is October 1, 1983.

Raton states that the instant notice of change in rates is occasioned solely for decrease in the cost of gas purchased from Colorado Interstate Gas Company (CIG). The tracking of CIG Gas Cost decrease results in decrease in Demand Rate From $2.68 to $2.61 and decrease in Commodity Rate from 393.92¢ to 372.40¢ per MCF. The annual revenue decrease, by reason of the tracking, amounts to $193,845.

Raton has also filed revisions to Section 18 of its FERC Gas Tariff to comply with changes previously made in Commission Regulations.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C., 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before Sept. 21, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene.

Copies of this filing are on file with the Commission and are available for inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-25264 Filed 9-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-38-000]

Ringwood Gathering Company; Filing of Revised Tariff Sheets

September 12, 1983.

Take notice that on September 1, 1983, Ringwood Gathering Company (Ringwood) tendered for filing Thirty-first Revised Sheet PGA-1. Ringwood states that Thirty-first Revised Sheet PGA-1 will become effective on October 1, 1983, and revise its Base Tariff Rate to reflect the increase in the system cost of purchased gas and refund the balance accumulated in its unrecovered purchased gas cost account.

Ringwood further states that the projected cost of purchased gas, as computed in said filing, is based on the applicable NGPA rates for October, 1983.

Ringwood states that copies of this filing were served upon Northwest Central Pipeline Corporation, as well as interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before September 21, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-25265 Filed 9-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-42-000]

Transwestern Pipeline Company; Proposed Changes in FERC Gas Tariff

September 12, 1983.

Take notice that on August 31, 1983, Transwestern Pipeline Company (Transwestern) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1 the following sheets:

Twenty-third Revised Sheet No. 5
Twenty-third Revised Sheet No. 6
Eighth Revised Sheet No. 6A

The above tariff sheets are issued pursuant to Transwestern's Purchased Gas Cost Adjustment provision set forth in Article 19 of The General Terms and Conditions of Transwestern's FERC Gas Tariff, Second Revised Volume No. 1. The Purchased Gas Cost Adjustment reflected in these sheets is an increase of 21.59 cents/dth measured against the June 1, 1983 motion filing made by Transwestern in Docket No. EP83-25 on May 27, 1983, as amended June 21, 1983.

The rate change therein consists of:

(1) An increase in the cost of Gas Adjustment of 15.55 cents/dth based upon increases in the projected gas costs;

(2) An increase in the Surcharge Adjustment of 6.04 cents/dth due to an increase in the balance in the Gas Cost Adjustment Account as of June 30, 1983; and,

(3) The Incremental Pricing Surcharges for the months of October, 1983 through March, 1984 are projected to be zero.

The proposed effective date of these tariff sheets is October 1, 1983.

Copies of this filing were served on Transwestern's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before September 21, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-25286 Filed 9-14-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP83-265-001]

Wyoming Interstate Company, Ltd.; Amendment

September 12, 1983.

Take notice that on August 29, 1983, Wyoming Interstate Company, Ltd. (Applicant), Post Office Box 1087, Colorado Springs, Colorado, 80944, filed in Docket No. CP83-265-001 an amendment to its pending application filed in Docket No. CP83-265-000, pursuant to Section 7(c) of the Natural Gas Act, to reflect a change in contract demand volumes of gas proposed to be transported from those originally proposed, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant indicates that it did not include the contract demand volumes nominations contained in this amendment of Colordao Interstate Gas Company (CIG), Natural Gas Pipeline Company of America (Natural), Northern Natural Gas Company, a Division of InterNorth, Inc. (Northern), and Columbia Gas Transmission Corporation (Columbia) (collectively Shippers) in the first filing as Applicant anticipated timely Commission approval of Applicant's request to add Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), in Applicant's Docket No. CP83-63-000. Applicant does not now anticipate certification requested in Docket No. CP83-63-000 prior to October 1, 1983, and now proposes to revise the contract demand volumes of its existing Shippers as shown below. However, if the Commission should certificate the request in Docket No. CP83-63-000 prior to action in the instant proceeding, Applicant requests, in the alternative, the contract demand volumes revision originally requested in Docket No. CP83-265-000 be authorized.

The revised contract demand volumes are as follows:

Shippers	Docket No. CP83-265-001 [1]	Alternative Docket No. CP83-265-001 [1]
CIG	150,000	150,000
Natural	178,000	140,000
Northern	89,000	70,000
Columbia	83,000	65,000
Tennessee		[2] 75,000
Total	500,000	500,000

[1] Mcf per day.
[2] Assumes authorization of the transportation service for Tennessee in Docket No. CP83-63-000.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before October 3, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. Persons having heretofore filed need not file again.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-25192 Filed 9-14-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. QF83-385-000]

City of Benicia, California; Application for Commission Certification of Qualifiying Status of a Cogeneration Facility

September 12, 1983.

On August 12, 1983, city of Benicia, (Applicant) of City Hall, 250 East L Street, Benicia, California 94510, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The topping-cycle cogeneration facility will be located at the waste water treatment plant in Benicia, California. The primary energy source for the facility will be biomass in the form of digester gas. The thermal energy output will be used to heat the primary digester. The electric power production capacity of the facility will be 64 kilowatts.

Any person desiring to be heard or

objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-25252 Filed 9-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-396-000]

Hollandia Dairy; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

September 12, 1983.

On August 19, 1983, Hollandia Dairy, (Applicant) of 622 East Mission Road, San Marcos, California 92069, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The topping-cycle cogeneration facility will be located at the Hollandia Dairy in San Marcos, California. The facility will consist of a reciprocating engine with appropriate heat recovery equipment. The primary energy source for the facility will be natural gas. The electric power production capacity of the facility will be 60 kilowatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-25256 Filed 9-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-420-000]

Kohala Mountain Wind Energy Investors—1982; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

September 12, 1983.

On July 1, 1983, Kohala Mountain Wind Energy Investors, of c/o Wagstaff and Brady, Managing General Partner, Berkeley, California 94710, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations.

The 100 kilowatt wind facility will be located at Kahuku TMK 5-6-03: 32 and TMK 5-6-03: 6, Amorient Aquaculture International, P.O. Box 131, Kahuku, Hawaii 96731.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-25258 Filed 9-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CS71-354-000, et al.]

Lubrication Engineers, Inc. (Shenandoah Oil Corporation), et al.; Applications for "Small Producer" Certificates [1]

September 12, 1983.

Take notice that each of the Applicants listed herein has filed an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before September 23, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

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[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

Docket No.	Date filed	Applicant
CS71-354-000	[1] 9/8/83	Lubrication Engineers, Inc. (Shenandoah Oil Corporation), P.O. Box 7128, 3851 Airport Freeway, Fort Worth, Texas 76111.
CS71-1070-000	[2] 7/26/83	Russell V. Johnson, Jr., Johnson Exploration Company, 330 First Life Assurance Building, Oklahoma City, Oklahoma 73102.
CS75-400-001	[3] 9/1/83	Mrs. Ruth G. Hardman (formerly Ruth G. Kistler), (Kistler Investment Company), 10 East 53rd Street, New York, N.Y. 10022.
CS78-460-001	[4] 8/11/83	Bi-Petro Inc. (Illini Gas Company, Inc.), 3180 Adloff Lane, P.O. Box 3245, Springfield, Illinois 63708.
CS78-615-001	[5] 9/6/83	Intercity Management Corporation (Driscoll Production Company), 622 Buaranty Bank Plaza, Corpus Christi, Texas 78475.
CS81-81-001, CS75-335-001, CS81-88-001	[6] 8/11/83	Oakwood Resources Inc., Euratex Corporation, Sion Exploration Inc. (Yucca Petroleum Co.), Suite 107 Northcreek Place, Building B, 9451 LBJ Freeway, Dallas, Texas 75243.
CS83-102-002	[7] 8/4/83	Graham Energy, Ltd. (St. Paul Oil and Gas Corporation), 3510 North Causeway Boulevard, P.O. Box 6058, Metairie, Louisiana 70011.
CS83-92-000	6/8/83	Thomas P. Shaw, 1407 E. 21st Street, Tulsa, Oklahoma 74114.
CS83-104-000	7/25/83	Catherine Farmer, P.O. Box 664, Chandler, Texas 75758.
CS83-105-000	7/25/83	John M. Farmer, P.O. Box 901, Chandler, Texas 75758.
CS83-107-000	8/12/83	Evelyn Gruss Lipper, 450 Park Avenue, Suite 1801, New York, N.Y. 10022.
CS83-108-000	8/15/83	Redgate Petroleum Inc., Box 24, Waynoka, Oklahoma 73860.
CS83-109-000	8/15/83	Frederick L. Lilly, Jr., 2895 Brighton Road, Shaker Hts. Ohio 44120.
CS83-110-000	8/16/83	Van Oil Company, 300 Hightower Building, Oklahoma City, Oklahoma 73102.
CS83-111-000	8/22/83	Chester M. Olson, 306 Cecil St., Waynoka, Oklahoma 73860.
CS83-112-000	8/22/83	Janet Margaret Holbert, Box 111, Bethel, Missouri 63434.
CS83-113-000	8/25/83	Marita Jean Almandinger, 4635 Bunting, Orlando, Florida 32812.
CS83-114-000	8/29/83	Robert D. Valerius, Star Route 1, Box 277, Rockport, Texas 78382.
CS83-115-000	8/29/83	Flasco, Star Route 1, Box 277, Rockport, Texas 78382.
CS83-116-000	9/6/83	Margaret D. White, P.O. Box 7041, Midland, Texas 79702.

[1] Letter received dated August 30, 1983, requesting that the Small Producer Certificate that was issued to Shenandoah Oil Corporation be redesignated under the name of Lubrication Engineers, Inc.
[2] Letter received dated July 22, 1982, requesting that its Small Producers Certificate be amended to include Johnson Exploration Company to its certificate application.
[3] Letter received dated August 30, 1983, requesting that its Small Producer Certificate be amended to include Kistler Investment Company to its certificate application.
[4] Letter received dated August 11, 1983, Bi-Petro Inc. requests that the Commission formally recognize it as the holder, as successor in interest to Illini Gas Company, small producer certificate in Docket No. CS78-460-000.
[5] Letter received dated August 31, 1983, to inform the Commission that Driscoll Production Company became a defunct corporation in June 1978 and that its small producer certificate was acquired by Intercity Management Corporation.
[6] Letter received dated August 9, 1983, advising the Commission that effective October 1, 1980, Oakwood Resources Inc., Docket No. CS81-81-001, Euratex Corporation, Docket No. CS73-335-001 and Sion Exploration Inc., Docket No. CS81-88-001 acquired all of the producing properties of Yucca Petroleum Company, Docket No. CS66-19-000.
[7] Letter received dated July 27, 1983, requesting that its Small Producer Certificate be amended to include St. Paul Oil and Gas Corporation to its certificate application.

[FR Doc. 83-25259 Filed 9-14-83; 8:45 am]
BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[WH-FRL—2433-8]

Reissuance of Final General NPDES Permits for Oil and Gas Operations in Portions of the Gulf of Mexico

AGENCY: Environmental Protection Agency.

ACTION: Notice of final general NPDES permits.

SUMMARY: The Regional Administrator of Region VI is today reissuing three final general NPDES permits for certain discharges in the Offshore Subcategory of the Oil and Gas Extraction Point Source Category. These final general NPDES permits establish effluent limitations, standards, prohibitions and other conditions on discharges from oil and gas facilities. These permits allow facilities permitted by the general permits issued on April 3, 1981 at 46 FR 20284, to continue the authorization to discharge. Covered facilities are located in the Gulf of Mexico seaward of the inner boundary of the territorial seas off the States of Louisiana and Texas and located west of 87° 40' West Longitude exclusive of certain potentially productive or unique biological areas identified in Part III.B. of each permit. These permits fo not authorize discharges into the territorial seas of Mississippi or Alabama, or from facilities defined in 40 CFR Part 435 as "Onshore" or "Coastal." Also, these permits do not cover facilities defined in 40 CFR 122.2 as "new sources." Copies of the permits are reprinted as required by 40 CFR 122.28.

ADDRESSES: Notifications required under these permits should be sent to the Director, Water Management Division (6W), Region VI, U.S. Environmental Protection Agency, P.O. Box 50708, Dallas, Texas 75250.

FOR FURTHER INFORMATION CONTACT: Mark Satterwhite (6W-PS), U.S. Environmental Protection Agency, Region VI, 1201 Elm Street, Interfirst Two Building, Dallas, Texas 75270. Telephone (214) 767-2765.

SUPPLEMENTARY INFORMATION: Public notice of the draft permits was published in the **Federal Register** on April 4, 1983 and in the Houston Post and New Orleans Times Picayune on April 16, 1983. The comment period closed on May 16, 1983. Comments on the draft permits were received from: Sierra Club, Houston Regional Group; United States Department of the Interior, Minerals Management Service; American Petroleum Institute; ARCO Oil and Gas Company; Cities Service Oil and Gas Corporation; Conoco Inc.; Exxon Company, U.S.A.; The Gulf Companies; Gulf Oil Exploration and Production Company; Mobil Oil Corporation; Shell Offshore Inc.; and Texaco U.S.A.

Response to Public Comments:

Comment: The permits should be issued for five years.

Response: A five year permit cannot be issued because of the statutory requirement that permits issued after, or extending beyond July 1, 1984, must be based on best available technology economically achieveable (BAT). The permit effluent limits do not incorporate BAT effluent limits.

Comment: The permits should have flexible expiration dates which correspond to the statutory requirement to achieve effluent limits which reflect BAT. This is in anticipation that Congress will extend the current July 1, 1984 deadline.

Response: The specific expiration date reflects the current regulatory requirement. The Agency does not agree that a flexible expiration datae is appropriate.

Comment: The effective date of an NPDES permit is governed by 40 CFR 125.15(b) and cannot be prior to the notice of final issuance. Therefore the effective date cannot be April 29, 1983.

Comment: Renotification should not be required under the reissued permits.

Response: EPA concurs and part I.E.1. of the final permits reflects this concurrence by the addition of part (3).

Comment: The permit should address the effects of formation waters and hydrocarbons from drill cuttings on marine life and ecosystems.

Response: The permit requires BPT based effluent limitations for produced water and drill cuttings which the agency has determined will be adequate to prevent unreasonable degradation of the marine environment. The following published reports are made a part of the administrative record and provide support for the determination of no unreasonable degradation.

Brooks, J. M., R. L. Estes, D. A. Wiensenburg, C. R. Schwab and H. A. Abdel-Reheim. 1980. Investigations of surficial sediments, suspended particulates and volatile hydorcabons at Buccaneer gas and oil field. Vol. I. *In:* Jackson, W. B. and E. P. Wilkens, (eds.). Environmental Assessment of Buccaneer gas and oil field in northwestern Gulf of Mexico, 1975–1980. NOAA Technical Memorandum NMFS–SEFC–47. 89 p. Available from: NTIS, Springfield, Virginia.

Gallaway, B. J. 1980. Pelagic, reef and demersal fishes and macrocrustaceans/ biofouling communities. Vol. II. *In:* Jackson, W. B. and E. P. Wilkens (eds.) Environmental assessment of Buccaneer gas and oil field in the northwestern Gulf of Mexico. 1975–1980. NOAA Technical Memorandum NMFS–SEFC–48. 82 p. Available from: NTIS, Springfield, Virginia.

Sizemore, R. K. and K. Olsen. 1980. Bacteriology of a Gulf of Mexico gas and oil field. Vol. III. *In:* Jackson, W. B. and E. P. Wilkens (eds.). Environmental assessment of Buccaneer gas and oil field in the northwestern Gulf of Mexico, 1975–1980. NOAA Technical Memorandum NMFS–SEFC–49. 21 p. Available from: NTIS, Springfield, Virginia.

Armstrong, R. S. 1980. Current patterns and hydrography. Vol. IV. *In:* Jackson, W. B. and E. P. Wilkens (eds.). Environmental assessment of Buccaneer gas and oil field in the northwestern Gulf of Mexico, 1975–1980. NOAA Technical Memorandum NMFS–SEFC–50. 41 p. Available from: NTIS, Springfield, Virginia.

Middleditch, B. S. 1980. Hydrocarbons, biocides, and sulfur. Vol. V. *In:* Jackson, W. B. and E. P. Wilkens (eds.). Environmental assessment of Buccaneer gas and oil field in the northwestern Gulf of Mexico, 1975–1980. NOAA Technical Memorandum NMFS–SEFC–51. 70 p. Available from: NTIS, Springfield, Virginia.

Tillery, J. B. 1980. Trace metals. Vol. VI. *In:* Jackson, W. B. and E. P. Wilkens (eds). Environmental assessment of Buccaneer gas and oil field in the northwestern Gulf of Mexico, 1975–1980. NOAA Technical Memorandum NMFS–SEF–52. 32 p. Available from: NTIS, Springfield, Virginia.

Koons, C. B., McAuliffe, C. D., and Weiss, F. T., *Environmental Aspects of Produced Waters from Oil and Gas Extraction Operations in Offshore and Coastal Waters, Journal of Petroleum Technology* 723–729, June 1977.

Concentrations of certain priority pollutants were identified in samples of produced water in the EPA Verification Survey, publication PB 82–227489. The pollutants evaluated were benzene, phenol, ethyl benzene, naphthalene, toluene, zinc, lead, cadmium, copper, chromium, nickel and silver. The concentrations of these pollutants in produced water effluents were then compared to the marine water quality criteria to determine the required mixing zone dilution.

The calculation of the depth of a 100 meter radius mixing zone required to meet the criteria assumed a daily average discharge of 1,100 barrels and complete mixing of produced water with ambient water within 24 hours. This evaluation indicates that a mixing zone of less than one meter in depth is required for benzene, phenol, ethyl benzene, naphthalene, toluene, cadmium, chromium, nickel and silver. A mixing zone of less than three meters deep is required for zinc, lead and copper. A table has been added to the administrative record which demonstrates and concentrations of priority pollutants after application of the mixing zone. The calculated area potentially impacted by concentrations of priority pollutants which exceed applicable marine water quality criteria is minimal. In addition, actual field studies (cited above) indicate that measurable adverse impacts occur in a much smaller area than that area projected by using the mixing zone dilutions and effects criteria analysis.

Some minor changes have been made to the draft permits which correct typographical errors or errors of omission made in the original permits as they appeared in 48 FR 20284–20298. The changes related to areas covered are detailed for each permit:

TX0085642—North Padre Island blocks 962 is deleted from excluded areas because it is not within the area of this permit. Garden Banks blocks 113–132 are deleted from the excluded areas because they do not occur within the Flower Gardens vicinity or other sensitive area. High Island East Addition South Extension block A392 is added because it is adjacent to 28 fathom bank.

TX0085651—North Padre Island block 962 is added because it is within the area of this permit.

Paperwork Reduction Act.

EPA has reviewed the requirements imposed on regulated facilities in these final general permits under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et. seq. The information collection requirements of the permits have already been approved by the Office of Management and Budget under submissions made for the NPDES permit program under the provisions of the Clean Water Act. No comments on information collection requirements were made during the comment period for the draft permits.

Dated: August 11, 1983.

Dick Whittington, P.E.,

Regional Administrator, Region VI.

[Permit No. TX0085642]

Authorization to Discharge Under the National Pollutant Discharge Elimination System

In compliance with the provisions of the Federal Water Pollution Control Act, as amended, (33 U.S.C. 1251 et seq; the "Act"):

Operators of lease blocks in the Offshore Subcategory of the Oil and Gas Extraction Point Source Category, located in lease areas seaward of the outer boundary of the territorial seas off the States of Louisiana and Texas, and located West of 87° 40' West Longitude, LESS AND EXCEPT Facilities operating within the lease blocks identified in Part III B hereof,

are authorized to discharge to receiving waters named

Gulf of Mexico

in accordance with effluent limitations, monitoring requirements, and other conditions set forth in Parts I, II, and III hereof.

This permit shall become effective on October 17, 1983.

This permit and authorization to discharge shall expire at midnight June 30, 1984.

Operators of lease blocks within the general permit area who fail to notify the Regional Administrator of their intent to be covered by this general permit are not authorized under this general permit to discharge from those facilities to receiving waters named.

Signed this 11th day of August 1983.

Myron Knudson, P.E.,

Director, Water Management Division.

Part I

A. Effluent Limitations and Monitoring Requirements

Serial numbers/outfalls	Effluent characteristic	Discharge limitations	Monitoring requirements: Measurement frequency	Monitoring requirements: Sample type
101 Drilling fluids [2]	Volume	Bbl/month [1]	Once/per month	Estimate.
102 Drill cuttings [2]	do	do	do	Do.
103 Deck drainage [2]	do	do	do	Do.
104 Cooling water				
105 Desalinization unit discharge				
106 Produced waters	Flow rate, oil and grease	MGD [3]	do	Estimate.
		72 mg/l daily max	do	Grab. [3]
107 Produced sand	Quantity	Lbs/day [1]	do	Estimate.
108 Well treatment fluids [2]	Volume	Bbl/month [3]	do	Do.
109 Sanitary waste (10 or more)	Flow rate, residual chlorine	MGD [3]	do	Do.
		1.0 mg/l [4]	do	Grab.
110 Sanitary waste (9 or fewer)				
111 Domestic waste [3]				

[1] Report
[2] No discharge of free oil.
[3] May be based on four grab samples in a twenty-four hour period.
[4] Minimum of 1 mg/l and maintained as close to the concentration as possible.

Samples taken in compliance with monitoring requirements specified above shall be taken at a sampling point prior to commingling with any other waste stream or entering Gulf waters.

B. Other Discharge Limitations

1. *Floating Solids or Visible Foam.* There shall be no discharge of floating solids or visible foam in other than trace amounts.

2. *Halogenated Phenol Compounds.* There shall be no discharge of halogenated phenol compounds.

3. *Oil-based Drilling Fluids.* There shall be no discharge of oil-based drilling fluids.

4. *Surfactants, Dispersants, and Detergents.* The discharge of surfactants, dispersants, and detergents shall be minimized except as necessary to comply with the safety requirements of the Occupational Health and Safety Administration and the U.S. Geological Survey.

5. *Sanitary Wastes.* Any facility using a marine sanitation device that complies with pollution control standards and regulations under section 312 of the Act shall be deemed to be in compliance with permit limitations for sanitary waste discharges until such time as the device is replaced or is found not to comply with such standards and regulations.

For facilities continuously manned by nine (9) or fewer persons or only intermittently manned by any number of persons, there shall be no floating solids as a result of the discharge of these wastes.

C. Monitoring and Records

1. *Representative Sampling.* Samples and measurements taken for the purpose of monitoring shall be representative of the volume and nature of the monitored activity.

2. *Monitoring Procedures.* Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit.

3. *Penalties for Tampering.* The Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

4. *Reporting of Monitoring Results.* The operator of each lease block shall be responsible for submitting monitoring results for each facility within each lease block.

If there is more than one facility (platform, drilling ship, semi-submersible), the outfalls shall be designated in the following manner: 101, 102, 103 etc. for the first facility: 201, 202, 203 etc. for the second facility; etc.

If any category of waste has more than one discharge point, the limitations apply to each discharge point and shall be reported as XXXA, XXXB, XXXC, etc. (101A, 101B, 101C).

Monitoring results obtained during the previous 12 months shall be summarized and reported on a Discharge Monitoring Report Form (EPA No. 3320–1). In addition, the annual average shall be reported and shall be the arithmetic average of all samples taken during the reporting year. The highest daily maximum sample taken during the reporting period shall be reported as the daily maximum concentration.

If any category of waste (outfall) is not applicable due to the type of operation (e.g. drilling, production) no reporting is required for that particular outfall. Only DMR's representative of the activities occurring need to be submitted. A notification indicating the type of operation should be provided with the DMRs.

The first report is due on the 28th day of the 13th month from the day this permit first becomes applicable to a permittee. Signed and certified copies of these and other reports required here in, shall be submitted to the Regional Administrator at the following address: Director, Water Management Division (6W), Region 6 U.S. Environmental Protection Agency, P.O. Box 50708, Dallas, Texas 75250.

5. *Additional Monitoring by the Permittee.* If the permittee monitors any pollutant more frequently than required by the permit, using test procedures approved under 40 CFR Part 136 or as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the date submitted in the DMR.

6. *Averaging of Measurements.* Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Regional Administrator in the permit.

7. *Retention of Records.* The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, and copies of all reports required by this permit for a period of at least 3 years from the date of the sample, measurement, or report. This period may be extended by request of the Regional Administrator at any time.

8. *Record Contents.* Records of monitoring information shall include:

(a) The date, exact place, and time of sampling or measurements;

(b) The individual(s) who performed the sampling or measurements;

(c) The date(s) analyses were performed;

(d) The individual(s) who performed the analyses;

(e) The analytical techniques or methods used; and

(f) The results of such analyses.

9. *Inspection and Entry.* The permittee shall allow the Regional Administrator, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

(a) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

(b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

(c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

(d) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

D. Reporting Requirements

1. *Anticipated Noncompliance.* The permittee shall give advance notice to the Regional Administrator of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

2. *Monitoring Reports.* Monitoring results shall be reported at the intervals specified in Part I C of this permit.

3. *Twenty-Four Hour Reporting.* The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and, if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

The following shall be included as information which must be reported within 24 hours:

(a) Any unanticipated bypass which exceeds any effluent limitation in the permit;

(b) Any upset which exceeds any effluent limitations in the permit; and

(c) Violation of a maximum daily discharge limitation for any toxic pollutant or hazardous substance, or any pollutant specifically identified as the method to control a toxic pollutant or hazardous substance, listed as such by the Regional Administrator in the permit to be reported within 24 hours.

Reports should be made to telephone (214) 767–2214. The Regional Administrator may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

4. *Other Noncompliance.* The permittee shall report all instances of noncompliance not reported under Part I D–3 at the time monitoring reports are submitted. The reports shall contain the information listed in Part I D–3.

5. *Signatory Requirements.* All reports or information submitted to the Regional Administrator shall be signed and certified in accordance with 40 CFR 122.6.

6. *Availability of Reports.* Except for data determined to be confidential under 40 CFR Part 2, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Regional Administrator. As required by the Act, permit applications, permits, and effluent data shall not be considered confidential.

7. *Penalties for Falsification of Reports.* The Act provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

E. Notification Requirements

1. *Commencement of Operations.* Written notification of commencement of operations, including the legal name and address of the operator, the lease block number assigned by the Department of Interior or, if none, the name commonly assigned to the lease area, and the number and type of facilities located within the lease block, shall be submitted:

(a) Within 45 days of the effective date of this permit, by operators of lease blocks whose facilities are discharging into the general permit area on the effective date of this permit;

(b) Fourteen days prior to the commencement of discharge by operators facilities commencing discharge subsequent to the effective date of this permit.

2. *Termination of Operations.* Lease blocks operators shall notify the Regional Administrator upon the permanent termination of discharges from their facilities within the lease block.

3. *Notification.* Notification submitted under Part 1 of this section, pursuant to the same numbered permit which expired on April 29, 1983, is adequate notice under this permit and no renotification is required.

Part II

A. Operation and Maintenance of Pollution Controls

1. *Proper Operation and Maintenance.* The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance includes, but is not limited to, effective performance, adequate funding, adequate operator staffing and training, adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxilliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit.

2. *Need to Halt or Reduce Not a Defense.* It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

3. *Bypass of Treatment Facilities.* (a) Definitions:

(1) "Bypass" means the intentional diversion of waste streams from any portion of a treatment factility.

(2) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(b) Bypass not exceeding limitations: The permittee may allow any bypass to occur which does not cause effluent

limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs (c) and (d) of this section.

(c) Notice: (1) Anticipated bypass. If the permittee knows in advance of the need for a bypass, he shall submit prior notice, if possible, at least 10 days before the date of the bypass.

(2) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in Part I D–3 (24-hour notice).

(d) Prohibition of bypass: (1) Bypass is prohibited, and the Regional Administrator may take enforcement action against the permittee for bypass, unless:

(A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(B) There were not feasible alternatives to the bypass, such as the use of auxilliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if the permittee could have installed adequate backup equipment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(C) The permittee submitted notices as required under paragraph c of this section.

(2) The Regional Administrator may approve an anticipated bypass, after considering its adverse effects, if the Regional Administrator determines that it will meet the three conditions listed above in paragraph (d)(1) of this section.

4. *Upset Conditions.* (a) Definition: "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(b) Effect of an upset: An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of paragraph (c) of this section are met. No determination, made during administrative review of claims that noncompliance was caused by an upset, and before an action for noncompliance, is final administrative action subject to judicial review.

(c) Conditions necessary for a demonstration of upset: A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An upset occurred and that the permittee can identify the specific cause(s) of the upset;

(2) The permitted facility was at the time being properly operated;

(3) The permittee submitted notice of the upset as required in Part I D–3 (24 hour notice); and

(4) The permittee complied with any remedial measures required under Part II B–4 (duty to mitigate).

(d) Burden of proof: In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

5. *Removed Substances.* Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in a manner such as to prevent any pollutant from such materials from entering navigable waters.

B. General Conditions

1. *Duty to Comply.* The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action or for requiring a permittee to apply for and obtain an individual NPDES permit.

2. *Duty to Comply with Toxic Effluent Standards.* The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the Act for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

3. *Penalties for Violations of Permit Conditions.* The Act provides that any person who violates a permit condition implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a civil penalty not to exceed $10,000 per day of such violation. Any person who willfully or negligently violates permit conditions implementing sections 301, 302, 306, 307, or 308 of the Act is subject to a fine of not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than 1 year, or both.

4. *Duty to Mitigate.* The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has reasonable likelihood of adversely affecting human health or the environment.

5. *Permit Actions.* This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

6. *Civil and Criminal Liability.* Except as provided in permit conditions on "Bypasses" (Part II A–3) and "Upsets" (Part II A–4), nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance.

7. *Oil and hazardous substance Liability.* Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under section 311 of the Act.

8. *State Laws.* Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State law or regulation under authority preserved by Section 510 of the Act.

9. *Property Rights.* The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State, or local laws or regulations.

10. *Severability.* The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

C. Additional General Permit Conditions

1. *When the Regional Administrator May Require Application for an Individual NPDES Permit.* The Regional Administrator may require any person authorized by this permit to apply for and obtain an individual NPDES permit when:

(a) The discharge(s) is a significant contributor of pollution;

(b) The discharger is not in compliance with the conditions of this permit;

(c) A change has occurred in the availability of the demonstrated

technology or practices for the control or abatement of pollutants applicable to the point source;

(d) Effluent limitation guidelines are promulgated for point source covered by this permit;

(e) A Water Quality Management Plan containing requirements applicable to such point source is approved; or

(f) The point source(s) covered by this permit no longer:

(1) Involve the same or substantially similar types of operations;

(2) Discharge the same types of wastes;

(3) Require the same effluent limiations or operating conditions;

(4) Require the same or similar monitoring; and

(5) In the opinion of the Director, are more appropriately controlled under a general permit than under individual NPDES permits.

The Regional Administrator may require any operator authorized by this permit to apply for an individual NPDES permit only if the operator has been notified in writing that a permit application is required.

2. *When an Individual NPDES Permit may be Requested.* (a) Any operator authorized by this permit may request to be excluded from the coverage of this general permit by applying for an individual permit. The operator shall submit an application together with the reasons supporting the request to the Regional Administrator no later than December 14, 1983.

(b) When an individual NPDES permit is issued to an operator otherwise subject to this general permit, the applicability of this permit to that owner or operator is automatically terminated on the effective date of the individual permit.

(c) A source excluded from coverage under this general permit solely because it already has an individual permit may request that its individual permit be revoked, and that it be covered by this general permit. Upon revocation of the individual permit, this general permit shall apply to the source.

Part III

A. General Permit Area

The area covered by this general permit includes that portion of the central and western Gulf of Mexico located in lease areas seaward of the outer boundary of the territorial seas off the States of Louisiana and Texas and located west of 87°40′ West Longitude, less and except the lease blocks listed in Part III B hereof.

B. Exceptions

1. This general permit does not authorize discharges from facilities or activities located in the following lease blocks:

FEDERAL LEASE AREAS SEAWARD OF THE OUTER BOUNDARY OF THE TERRITORIAL SEAS

Lease area and bank name	Lease block
South Padre Island:	
Sebree bank	1070, 1071, 1084.
North Padre Island:	
Mysterious	A 83, A 84.
Black Fish Ridge	A 72, A 61.
Dream	A 40, A 41.
Four Leaf Clover	905.
Mustang Island:	
Southern	A 9, A 16.
Little Mitch Banks	A 24, A 25.
Mustang Island, East Addition:	
Hospital	A 136.
North Hospital	A 117.
Aransas	A 117, A 118.
South Baker	A 95.
Baker	A 62.
Big and Small Dunbar	A 54–A 56.
Matagorda Island:	
Small Dunbar Bad Mud	A 3, A 6.
Litter Sister	A 501.
Four Rocks	A 414, A 415, A 419.
Brazos, South Addition:	
Plane	A 92.
Vicki	A 54.
Snapper Banks	A 60.
White Shrimp Spawning Ground [1].	396–S, 401–S, 402–S, 309–L, 335–L.
Galveston:	
East End	A 64, A 65, A 75.
West End	A 60, A 61, A 76–A 79.
White Shrimp Spawning Ground [1].	307–L, 310–L, 334–L.
High Island, South Addition:	
Stetson Bank	A 502, A 513.
Claypile Bank	A 447, A 464.
Applebaum Bank	A 590, A 591.
Coffee Lump	A 521, A 546.
32 Fathom Bank	A 534.
West Flower Garden Bank	A 573 [2], A 596 [2].
High Island, East Addition, South Extension:	
29 Fathom Bank	A 329, A 392.
Coffee Lump	A 341, A 342.
	A 358–A 360.
East and West Flower Gardens	A 351 [2]–A 355 [2]
Do.	A 361 [2]–364 [2], A 365–A 367, A 368 [2], A 373 [2], A 374–A 379, A 380 [2]–A 382 [2], A 383–A 389, S 390 [2], A 394, A 395 [2], A 396–A 401, A 402 [2], A 403 [2].
28 Fathom Bank	A 391, A 392, A 271.
East Breaks:	
Applebaum	173,
West Flower Gardens	217 [2].
West Cameron, South Addition:	
Bright Bank	650, 656, 657, 660, 661.
28 Fathom Bank	653.
29 Fathom Bank	590, 591.
East Cameron, South Addition: Unnamed Banks	379.
Garden Banks	
Do.	105, 106, 109, 149, 150, 153, 154, 193, 194,
East and West Flower Gardens	95, 96 [2], 97 [2], 133–135, 136 [2], 136 [2]–140 [2], 173 [2], 177 [2]–180 [2]
Vermilion, South Addition:	
Sonnier Rock	305.
Bouma Bank	383, 384, 386, 392, 393.
Razak Bank	404, 405.
Sidner Bank	411, 412.
18 Fathom Bank	408–410.

FEDERAL LEASE AREAS SEAWARD OF THE OUTER BOUNDARY OF THE TERRITORIAL SEAS—Continued

Lease area and bank name	Lease block
South Marsh Island, South Addition:	
Alderdice	171, 172, 177, 178.
Parker Bank	202, 203, 194, 195.
Eugene Island, South Addition:	
Fishnet Bank	235, 236, 355, 356.
Alaminos Bank	327–329, 280.
Green Canyon: Alaminos Bank	975, 976.
Ship Shoal, South Addition: Ewing Bank	235–238, 351, 359.
South Timbalier, South Addition: Daphie Bank	314–317.
West Delta, South Addition: Sackett Bank	148.

[1] Indicates lease blocks leased by the State of Texas.
[2] Indicates lease blocks divided by the 4 nautical mile boundary of the proposed Flower Garden Banks Marine Sanctuary. See 48 FR 20284 Part III. B. Excluded Areas.

C. Other Conditions

1. *Samples of Wastes.* If requested, the permittee shall provide EPA with a sample of any waste in a manner specified by the Agency.

2. *Drilling Fluids Inventory.* The permittee shall maintain a precise chemical inventory of all constituents and their volume added downhole for each well. This inventory shall include diesel fuel and any drilling fluid additives used to meet specific drilling requirements.

D. Definition

1. "Annual average" means the average of all discharges sampled and/or measured during a calendar year in which daily discharges are sampled and measured, divided by the number of discharges sampled and/or measured during such year.

2. "Cooling water" means once through non-contact cooling water.

3. "Daily maximum" means the average concentration of the parameter specified during any 24-hour period that reasonably represents the 24-hour period for the purposes of sampling.

4. "Deck drainage" means all waste resulting from platform washings, deck washings, and run-off from curbs, gutters, and drains including drip pans and wash areas.

5. "Desalinization unit discharge" means wastewater associated with the process of creating fresh water from seawater.

6. "Domestic waste" means discharges from galleys, sinks, showers, and laundries only.

7. "No discharge of free oil" means a discharge that does not cause a film or sheen upon or a discoloration on the surface of the water or adjoining shorelines, or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines.

8. "Drill cuttings" means particles generated by drilling into subsurface geological formations.

9. "Drilling fluids" means any fluid sent down the hole, including drilling muds and any specialty products, from the time a well is begun until final cessation of drilling in that hole.

10. "Produced waters" means waters and particulate matter associated with oil and gas producing formations. Sometimes the terms "formation water" or "brine water" are used to describe produced water.

11. "Produced sands" means sands and other solids removed from the produced waters.

12. "Sanitary waste" means human body waste discharged from toilets and urinals.

13. The term "territorial seas" means the belt of the seas measured from the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters, and extending seaward a distance of three miles.

14. "Well completion and treatment fluids" means any fluids sent down the drill hole to improve the flow of hydrocarbons into or out of geological formations which have been drilled.

[Permit No. LA0060224]

Authorization to Discharge Under the National Pollutant Discharge Elimination System

In compliance with the provisions of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq; the "Act"): Operators of lease blocks in the Offshore Subcategory of the Oil and Gas Extraction Point Source Category, located landward of the outer boundary of the territorial seas of the State of Louisiana LESS AND EXCEPT Facilities operating within the lease blocks identified in Part III B hereof, are authorized to discharge to receiving waters named Gulf of Mexico in accordance with effluent limitations, monitoring requirements, and other conditions set forth in Parts I, II, and III hereof.

This permit shall become effective on October 17, 1983.

This permit and authorization to discharge shall expire at midnight June 30, 1984.

Operators of lease blocks within the general permit area who fail to notify the Regional Administrator of their intent to be covered by this general permit are not authorized under this general permit to discharge from those facilities to receiving waters named.

Signed this 11th day of August, 1983.

Myron Knudson, P.E.,

Director, Water Management Division.

Part I

A. Effluent Limitations and Monitoring Requirements

Serial numbers/outfalls	Effluent characteristic	Discharge limitations	Monitoring Requirements	
			Measurement frequency	Sample type
101 Drilling Fluids [2]	Volume	Bbl/month [1]	Once/per month	Estimate.
102 Drill Cuttings [2]	do	do	do	Do.
103 Deck Drainage [2]	do	do	do	Do.
104 Cooling Water				
105 Desalinization Unit Discharge				
106 Produced Waters	Flow rate oil and grease	MGD [1]	do	Estimate.
		72 mg/l daily max	do	Grab. [3]
107 Produced Sand	Quantity	Lbs/day [1]	do	Estimate.
108 Well Treatment Fluids [2]	Volume	Bbl/month [1]	do	Do.
109 Sanitary Waste (10 or more)	Flow rate residual chlorine	MGD [1]	do	Do.
		1.0 mg/l [4]	do	
110 Sanitary Waste (9 or fewer)				
111 Domestic Waste [1]				

[1] Report
[2] No discharge of free oil.
[3] May be based on four grab samples in a twenty-four hour period.
[4] Minimum of 1 mg/l and maintained as close to this concentration as possible.

Samples taken in compliance with monitoring requirements specified above shall be taken at a sampling point prior to commingling with any other waste stream or entering Gulf waters.

B. Other Discharge Limitations

1. *Floating Solids or Visible Foam.* There shall be no discharge of floating solids or visible foam in other than trace amounts.

2. *Halogenated Phenol Compounds.* There shall be no discharge of halogenated phenol compounds.

3. *Oil-based Drilling Fluids.* There shall be no discharge of oil-based drilling fluids.

4. *Surfactants, Dispersants, and Detergents.* The discharge of surfactants, dispersants, and detergents shall be minimized except as necessary to comply with the safety requirements of the Occupational Health and Safety Administration and the U.S. Geological Survey.

5. *Sanitary Wastes.* Any facility using a marine sanitation device that complies with pollution control standards and regulations under section 312 of the Act shall be deemed to be in compliance with permit limitations for sanitary waste discharges until such time as the device is replaced or is found not to comply with such standards and regulations.

For facilities continuously manned by nine (9) or fewer persons or only intermittently manned by any number of persons, there shall be no floating solids as a result of the discharge of these wastes.

C. Monitoring and Records

1. *Representative Sampling.* Samples and mesurements taken for the purpose of monitoring shall be representative of the volume and nature of the monitored activity.

2. *Monitoring Procedures.* Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit.

3. *Penalties for Tampering.* The Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than

$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

4. *Reporting of Monitoring Results.* The operator of each lease block shall be responsible for submitting monitoring results for each facility within each lease block.

If there is more than one facility (platform, drilling ship, semi-submersible), the outfalls shall be designated in the following manner: 101, 102, 103 etc. for the first facility: 201, 202, 203 etc. for the second facility; etc.

If any category of waste has more than one discharge point, the limitations apply to each discharge point and shall be reported as XXXA, XXXB, XXXC, etc. (101A, 101B, 101C).

Monitoring results obtained during the previous 12 months shall be summarized and reported on a Discharge Monitoring Report Form (EPA No. 3320–1). In addition, the annual average shall be reported and shall be the arithmetic average of all samples taken during the reporting year. The highest daily maximum sample taken during the reporting period shall be reported as the daily maximum concentration.

If any category of waste (outfall) is not applicable due to the type of operation (e.g. drilling, production) no reporting is required for that particular outfall. Only DMR's representative of the activities occurring need to be submitted. A notification indicating the type of operation should be provided with the DMRs.

The first report is due on the 28th day of the 13th month from the day this permit first becomes applicable to a permittee. Signed and certified copies of these and other reports required here in, shall be submitted to the Regional Administrator at the following address: Director, Water Management Division (6W), Region 6 U.S. Environmental Protection Agency, P.O. Box 50708, Dallas, Texas 75250.

5. *Additional Monitoring by the Permittee.* If the permittee monitors any pollutant more frequently than required by the permit, using test procedures approved under 49 CFR Part 136 or as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR.

6. *Averaging of Measurements.* Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Regional Administrator in the permit.

7. *Retention of Records.* The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, and copies of all reports required by this permit for a period of at least 3 years from the date of the sample, measurement, or report. This period may be extended by request of the Regional Administrator at any time.

8. *Record Contents.* Records of monitoring information shall include:

(a) the date, exact place, and time of sampling or measurements;

(b) The individual(s) who performed the sampling or measurements;

(c) The date(s) analyses were performed;

(d) The individual(s) who performed the analyses;

(e) the analytical techniques or methods used; and

(f) The results of such analyses.

9. *Inspection and Entry.* The permittee shall allow the Regional Administrator, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

(a) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

(b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

(c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

(d) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

D. Reporting Requirements

1. *Anticipated Noncompliance.* The permittee shall give advance notice to the Regional Administrator of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

2. *Monitoring Reports.* Monitoring results shall be reported at the intervals specified in Part I C of this permit.

3. *Twenty–Four Hour Reporting.* The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of the noncompliance, including exact dates and times, and, if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

The following shall be included as information which must be reported within 24 hours:

(a) Any unanticipated bypass which exceeds any effluent limitation in the permit;

(b) Any upset which exceeds any effluent limitations in the permit; and

(c) Violation of a maximum daily discharge limitation for any toxic pollutant or hazardous substance, or any pollutant specifically identified as the method to control a toxic pollutant or hazardous substance, listed as such by the Regional Administrator in the permit to be reported within 24 hours.

Reports should be made to telephone No. (214) 767–2214. The Regional Administrator may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

4. *Other Noncompliance.* The permittee shall report all instances of noncompliance not reported under Part I D–3 at the time monitoring reports are submitted. The reports shall contain the information listed in Part I D–3.

5. *Signatory Requirements.* All reports or information submitted to the Regional Administrator shall be signed and certified in accordance with 40 CFR 122.6.

6. *Availability of Reports.* Except for data determined to be confidential under 40 CFR Part 2, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Regional Administrator. As required by the Act, permit applications, permits, and effluent data shall not be considered confidential.

7. *Penalties for Falsification of Reports.* The Act provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

E. Notification Requirements

1. *Commencement of Operations.* Written notification of commencement of operations, including the legal name and address of the operator, the lease block number assigned by the Department of Interior or, if none, the name commonly assigned to the lease area, and the number and type of facilities located within the lease block, shall be submitted:

(a) within 45 days of the effective date of this permit, by operators of lease blocks whose facilities are discharging into the general permit area on the effective date of this permit,

(b) fourteen days prior to the commencement of discharge by operators facilities commencing discharge subsequent to the effective date of this permit.

2. *Termination of Operations.* Lease blocks operators shall notify the Regional Administrator upon the permanent termination of discharges from their facilities within the lease block.

3. *Notification.* Notification submitted under Part 1 of this section, pursuant to the same numbered permit which expired on April 29, 1983, is adequate notice under this permit and no renotification is required.

Part II

A. Operation and Maintenance of Pollution Controls

1. *Proper Operation and Maintenance.* The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance includes, but is not limited to, effective performance, adequate funding, adequate operator staffing and training, adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxilliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit.

2. *Need to Halt or Reduce Not a Defense.* It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

3. *Bypass of Treatment Facilities.* (a) Definitions:

(1) "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.

(2) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(b) Bypass not exceeding limitations: The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs (c) and (d) of this section.

(c) Notice: (1) Anticipated bypass. If the permittee knows in advance of the need for a bypass, he shall submit prior notice, if possible, at least 10 days before the date of the bypass.

(2) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in Part I D–3 (24-hour notice).

(d) Prohibition of bypass: (1) Bypass is prohibited, and the Regional Administrator may take enforcement action against the permittee for bypass, unless:

(A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if the permittee could have installed adequate backup equipment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(C) The permittee submitted notices as required under paragraph c of this section.

(2) The Regional Administrator may approve an anticipated bypass, after considering its adverse effects, if the Regional Administrator determines that it will meet the three conditions listed above in paragraph (d)(1) of this section.

4. *Upset Conditions.* (a) Definition: "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include non-compliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(b) Effect of an upset: An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of paragraph (c) of this section are met. No determination, made during administrative review of claims that noncompliance was caused by an upset, and before an action for noncompliance, is final administrative action subject to judicial review.

(c) Conditions necessary for a demonstration of upset: A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An upset occurred and that the permittee can identify the specific cause(s) of the upset;

(2) The permitted facility was at the time being properly operated;

(3) The permittee submitted notice of the upset as required in Part I D–3 (24 hour notice); and

(4) The permittee complied with any remedial measures required under Part II B–4 (duty to mitigate).

(d) Burden of proof: In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

5. *Removed Substances.* Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in a manner such as to prevent any pollutant from such materials from entering navigable waters.

B. General Conditions

1. *Duty to Comply.* The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action or for requiring a permittee to apply for and obtain an individual NPDES permit.

2. *Duty to Comply with Toxic Effluent Standards.* The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the Act for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

3. *Penalties for Violations of Permit Conditions.* The Act provides that any person who violates a permit condition implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a

civil penalty not to exceed $10,000 per day of such violation. Any person who willfully or negligently violates permit conditions implementing sections 301, 302, 306, 307, or 308 of the Act is subject to a fine of not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than 1 year, or both.

4. *Duty to Mitigate.* The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

5. *Permit Actions.* This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

6. *Civil and Criminal Liability.* Except as provided in permit conditions on "Bypasses" (Part II A–3) and "Upsets" (Part II A–4), nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance.

7. *Oil and Hazardous Substance Liability.* Nothing in this permit shall be construed to preclude the institition of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under section 311 of the Act.

8. *State Laws.* Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State law or regulation under authority preserved by Section 510 of the Act.

9. *Property Rights.* The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State, or local laws or regulations.

10. *Severability.* The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

C. Additional General Permit Conditions

1. *When the Regional Administrator May Require Application for an Individual NPDES Permit.* The Regional Administrator may require any person authorized by this permit to apply for and obtain an individual NPDES permit when:

(a) The discharge(s) is a significant contributor of pollution;

(b) The discharger is not in compliance with the conditions of this permit;

(c) A change has occurred in the availability of the demonstrated technology or practices for the control or abatement of pollutants applicable to the point source;

(d) Effluent limitation guidelines are promulgated for point sources covered by this permit;

(e) A Water Quality Management Plan containing requirements applicable to such point source is approved; or

(f) The point source(s) covered by this permit no longer: (1) Involve the same or substantially similar types of operations;

(2) Discharge the same types of wastes;

(3) Require the same effluent limitations or operating conditions;

(4) Require the same or similar monitoring; and

(5) In the opinion of the Director, are more appropriately controlled under a general permit than under individual NPDES permits.

The Regional Administrator may require any operator authorized by this permit to apply for an individual NPDES permit only if the operator has been notified in writing that a permit application is required.

2. *When an Individual NPDES Permit May be Requested.* (a) Any operator authorized by this permit may request to be excluded from the coverage of this general permit by applying for an individual permit. The operator shall submit an application together with the reasons supporting the request to the Regional Administrator no later than December 14, 1983.

(b) When an individual NPDES permit is issued to an operator otherwise subject to this general permit, the applicability of this permit to that owner or operator is automatically terminated on the effective date of the individual permit.

(c) A source excluded from coverage under this general permit solely because it already has an individual permit may request that its individual permit be revoked, and that it be covered by this general permit. Upon revocation of the individual permit, this general permit shall apply to the source.

Part III

A. General Permit Area

The area covered by this general permit includes that portion of the central and western Gulf of Mexico located landward of the outer boundary of the territorial seas of the State of Louisiana LESS AND EXCEPT the lease blocks listed in Part III B hereof.

B. Exceptions

1. This general permit does not authorize discharges from facilities or activities located in the following lease blocks:

LEASE BLOCKS LANDWARD OF THE OUTER BOUNDARY OF THE TERRITORIAL SEAS OF THE STATE OF LOUISIANA

Lease area and site name	Offshore block
Eugene Island Area:	
Point Au Fer Shell Reef	13, 14, 15, 16.
Shell Keys National Wildlife Refuge and other shell reefs between it and Marsh Island Wildlife Refuge.	1, 8, 9, 10.
South Pass Area: Cocker Point	41, 20, 22, 29, 30.

C. Other Conditions

1. *Samples of Wastes.* If requested, the permittee shall provide EPA with a sample of any waste in a manner specified by the Agency.

2. *Drilling Fluids Inventory.* The permittee shall maintain a precise chemical inventory of all constituents and their volume added downhole for each well. This inventory shall include diesel fuel and any drilling fluid additives used to meet specific drilling requirements.

D. Definitions

1. "Annual average" means the average of all discharges sampled and/or measured during a calendar year in which daily discharges are sampled and measured, divided by the number of discharges sampled and/or measured during such year.

2. "Cooling water" means once through non-contact cooling water.

3. "Daily maximum" means the average concentration of the parameter specified during any 24-hour period that reasonably represents the 24-hour period for the purposes of sampling.

4. "Deck drainage" means all waste resulting from platform washings, deck washings, and run-off from curbs, gutters, and drains including drip pans and wash areas.

5. "Desalinization unit discharge" means wastewater associated with the

process of creating fresh water from seawater.

6. "Domestic waste" means discharges from galleys, sinks, showers, and laundries only.

7. "No discharge of free oil" means a discharge that does not cause a film or sheen upon or a discoloration on the surface of the water or adjoining shorelines, or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines.

8. "Drill cuttings" means particles generated by drilling into subsurface geological formations.

9. "Drilling fluids" means any fluid sent down the hole, including drilling muds and any specialty products, from the time a well is begun until final cessation of drilling in that hole.

10. "Produced waters" means waters and particulate matter associated with oil and gas producing formations. Sometimes the terms "formation water" or "brine water" are used to describe produced water.

11. "Produced sands" means sands and other solids removed from the produced waters.

12. "Sanitary waste" means human body waste discharged from toilets and urinals.

13. "Territorial Seas" means the belt of the seas measured from the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters, and extending seaward a distance of three miles.

14. "Well completion and treatment fluids" means any fluids sent down the drill hole to improve the flow of hydrocarbons into or out of geological formations which have been drilled.

[Permit No. TX0085651]

Authorization to Discharge Under the National Pollutant Discharge Elimination System

In compliance with the provisions of the Federal Water Pollution Control Act, as amended, (33 U.S.C. 1251 et seq; the "Act"): Operators of lease blocks in the Offshore Subcategory of the Oil and Gas Extraction Point Source Category, located landward of the outer boundary of the territorial seas of the State of Texas LESS AND EXCEPT Facilities operating within the lease blocks identified in Part III B hereof, are authorized to discharge to receiving waters named Gulf of Mexico in accordance with effluent limitations, monitoring requirements, and other conditions set forth in Parts I, II, and III hereof.

This permit shall become effective on October 17, 1983.

This permit and authorization to discharge shall expire at midnight June 30, 1984.

Operators of lease blocks within the general permit area who fail to notify the Regional Administrator of their intent to be covered by this general permit are not authorized under this general permit to discharge from those facilities to receiving waters named.

Signed this 11th day of August, 1983.

Myron Knudson, P.E.,

Director, Water Management Division.

Part I

A. Effluent Limitations and Monitoring Requirements

Serial numbers/outfalls	Effluent characteristic	Discharge limitations	Monitoring requirements	
			Measurement frequency	Sample type
101 Drilling fluids [2]	Volume	Bbl/month [1]	Once/per month	Estimate.
102 Drill cuttings [2]	do	do	do	Do.
103 Deck drainage [2]	do	do	do	Do.
104 Cooling water				
105 Desalinization unit discharge				
106 Produced waters	Flow rate, oil and grease	MGD [1]	do	Estimate.
		72 mg/l daily max	do	Grab. [3]
107 Produced sand	Quantity	Lbs/day [1]	do	Estimate.
108 Well treatment fluids [2]	Volume	Bbl/month [1]	do	Do.
109 Sanitary waste (10 or more)	Flow rate, residual chlorine	MGD [1]	do	Do.
		1.0 mg/l [4]	do	Grab.
110 Sanitary waste (9 or fewer)				
111 Domestic waste [1]				

[1] Report
[2] No discharge of free oil.
[3] May be based on four grab samples in a twenty-four hour period.
[4] Minimum of 1 mg/l and maintained as close to this concentration as possible.

Samples taken in compliance with monitoring requirements specified above shall be taken at a sampling point prior to commingling with any other waste stream or entering Gulf waters.

B. Other Discharge Limitations

1. *Floating Solids or Visible Foam.* There shall be no discharge of floating solids or visible foam in other than trace amounts.

2. *Halogenated Phenol Compounds.* There shall be no discharge of halogenated phenol compounds.

3. *Oil-based Drilling Fluids.* There shall be no discharge of oil-based drilling fluids.

4. *Surfactants, Dispersants, and Detergents.* The discharge of surfactants, dispersants, and detergents shall be minimized except as necessary to comply with the safety requirements of the Occupational Health and Safety Administration and the U.S. Geological Survey.

5. *Sanitary Wastes.* Any facility using a marine sanitation device that complies with pollution control standards and regulations under section 312 of the Act shall be deemed to be in compliance with permit limitations for sanitary waste discharges until such time as the device is replaced or is found not to comply with such standards and regulations.

For facilities continuously manned by nine (9) or fewer persons or only intermittently manned by any number of persons, there shall be no floating solids as a result of the discharge of these wastes.

C. Monitoring and Records

1. *Representative Sampling.* Samples and measurements taken for the purpose of monitoring shall be representative of

the volume and nature of the monitored activity.

2. *Monitoring Procedures.* Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit.

3. *Penalties for Tampering.* The Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

4. *Reporting of Monitoring Results.* The operator of each lease block shall be responsible for submitting monitoring results for each facility within each lease block.

If there is more than one facility (platform, drilling ship, semi-submersible), the outfalls shall be designated in the following manner: 101, 102, 103 etc. for the first facility: 201, 202, 203 etc. for the second facility; etc.

If any category of waste has more than one discharge point, the limitations apply to each discharge point and shall be reported as XXXA, XXXB, XXXC, etc. (101A, 101B, 101C).

Monitoring results obtained during the previous 12 months shall be summarized and reported on a Discharge Monitoring Report Form (EPA No. 3320–1). In addition, the annual average shall be reported and shall be the arithmetic average of all samples taken during the reporting year. The highest daily maximum sample taken during the reporting period shall be reported as the daily maximum concentration.

If any category of waste (outfall) is not applicable due to the type of operation (e.g. drilling, production) no reporting is required for that particular outfall. Only DMR's representative of the activities occurring need to be submitted. A notification indicating the type of operation should be provided with the DMRs.

The first report is due on the 28th day of the 13th month from the day this permit first becomes applicable to a permittee. Signed and certified copies of these and other reports required here in, shall be submitted to the Regional Administrator at the following address: Director, Water Management Division (6W), Region 6 U.S. Environmental Protection Agency, P.O. Box 50708, Dallas, Texas 75250.

5. *Additional Monitoring by the Permittee.* If the permittee monitors any pollutant more frequently than required by the permit, using test procedures approved under 40 CFR Part 136 or as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR.

6. *Averaging of Measurements.* Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Regional Administrator in the permit.

7. *Retention of Records.* The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, and copies of all reports required by this permit for a period of at least 3 years from the date of the sample, measurement, or report. This period may be extended by request of the Regional Administrator at any time.

8. *Record Contents.* Records of monitoring information shall include:

(a) The date, exact place, and time of sampling or measurements;

(b) The individual(s) who performed the sampling or measurements;

(c) The date(s) analyses were performed;

(d) The individual(s) who performed the analyses;

(e) The analytical techniques or methods used; and

(f) The results of such analyses.

9. *Inspection and Entry.* The permittee shall allow the Regional Administrator, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

(a) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

(b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

(c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

(d) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

D. Reporting Requirements

1. *Anticipated Noncompliance.* The permittee shall give advance notice to the Regional Administrator of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

2. *Monitoring Reports.* Monitoring results shall be reported at the intervals specified in Part I C of this permit.

3. *Twenty-Four Hour Reporting.* The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and , if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

The following shall be included as information which must be reported within 24 hours:

(a) Any unanticipated bypass which exceeds any effluent limitation in the permit;

(b) Any upset which exceeds any effluent limitations in the permit; and

(c) Violation of a maximum daily discharge limitation for any toxic pollutant or hazardous substance, or any pollutant specifically identified as the method to control a toxic pollutant or hazardous substance, listed as such by the Regional Administrator in the permit to be reported within 24 hours.

Reports should be made to telephone should be made to telephone # (214) 767–2214. The Regional Administrator may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

4. *Other Noncompliance.* The permittee shall report all instances of noncompliance not reported under Part I D–3 at the time monitoring reports are submitted. The reports shall contain the information listed in Part I D–3.

5. *Signatory Requirements.* All reports or information submitted to the Regional Administrator shall be signed and certified in accordance with 40 CFR § 122.6.

6. *Availability of Reports.* Except for data determined to be confidential under 40 CFR Part 2, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Regional Administrator. As required by the Act, permit applications, permits, and effluent data shall not be considered confidential.

7. *Penalties for Falsification of Reports.* The Act provides that any

person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

E. Notification Requirements

1. *Commencement of Operations.* Written notification of comment of operations, including the legal name and address of the operator, the lease block number assigned by the Department of Interior or, if none, the name commonly assigned to the lease area, and the number and type of facilities located within the lease block, shall be submitted:

(a) within 45 days of the effective date of this permit, by operators of lease blocks whose facilities are discharging into the general permit area on the effective date of this permit,

(b) fourteen days prior to the commencement of discharge by operators facilities commencing discharge subsequent to the effective date of this permit.

2. *Termination of Operations.* Lease blocks operators shall notify the Regional Administrator upon the permanent termination of discharges from their facilities within the lease block.

3. *Notification.* Notification submitted under Part 1 of this section, pursuant to the same numbered permit which expired on April 29, 1983, is adequate notice under this permit and no renotification is required.

Part II

A. Operation and Maintenance of Pollution Controls

1. *Proper Operation and Mantenance.* The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance includes, but is not limited to, effective performance, adequate funding, adequate operator staffing and training, adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxilliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit.

2. *Need to Halt or Reduce Not a Defense.* It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

3. *Bypass of Treatment Facilities.* (a) Definitions: (1) "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.

(2) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(b) Bypass not exceeding limitations: The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs (c) and (d) of this section.

(c) Notice: (1) Anticipated bypass. If the permittee knows in advance of the need for a bypass, he shall submit prior notice, if possible, at least 10 days before the date of the bypass.

(2) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in Part I D–3 (24-hour notice).

(d) Prohibition of bypass: (1) Bypass is prohibited, and the Regional Administrator may take enforcement action against the permittee for bypass, unless:

(A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(B) There were no feasible alternatives to the bypass, such as the use of auxilliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if the permittee could have installed adequate backup equipment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(C) The permittee submitted notices as required under paragraph (c) of this section.

(2) The Regional Administrator may approve an anticipated bypass, after considering its adverse effects, if the Regional Administrator determines that it will meet the three conditions listed above in paragraph (d)(1) of this section.

4. *Upset Conditions.* (a) Definition: "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent cause by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(b) Effect of an upset: An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of paragraph (c) of this section are met. No determination, made during administrative review of claims that noncompliance was caused by an upset, and before an action for noncompliance, is final administrative action subject to judicial review.

(c) Conditions necessary for a demonstration of upset: A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An upset occurred and that the permittee can identify the specific cause(s) of the upset;

(2) The permitted facility was at the time being properly operated;

(3) The permittee submitted notice of the upset as required in Part I D–3 (24 hour notice); and

(4) The permittee complied with any remedial measures required under Part II B–4 (duty to mitigate).

(d) Burden of proof: In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

5. *Removed Substances.* Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in a manner such as to prevent any pollutant from such materials from entering navigable waters.

B. General Conditions

1. *Duty To Comply.* The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action or for requiring a permittee to apply for and obtain an individual NPDES permit.

2. *Duty To Comply With Toxic Effluent Standards.* The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the Act for toxic pollutants

within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

3. *Penalties for Violations of Permit Conditions.* The Act provides that any person who violates a permit condition implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a civil penalty not to exceed $10,000 per day of such violation. Any person who willfully or negligently violates permit conditions implementing sections 301, 302, 306, 307, or 308 of the Act is subject to a fine of not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than 1 year, or both.

4. *Duty To Mitigate.* The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

5. *Permit Actions.* This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

6. *Civil and Criminal Liability.* Except as provided in permit conditions on "Bypasses" (Part II A–3) and "Upsets" (Part II A–4), nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance.

7. *Oil and Hazardous Substance Liability.* Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under section 311 of the Act.

8. *State Laws.* Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State law or regulation under authority preserved by Section 510 of the Act.

9. *Property Rights.* The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State, or local laws or regulations.

10. *Severability.* The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

C. Additional General Permit Conditions

1. *When the Regional Administrator May Require Application for an Individual NPDES Permit.* The Regional Administrator may require any person authorized by this permit to apply for and obtain an individual NPDES permit when:

(a) The discharge(s) is a significant contributor of pollution;

(b) The discharger is not in compliance with the conditions of this permit;

(c) A change has occurred in the availability of the demonstrated technology or practices for the control or abatement of pollutants applicable to the point source;

(d) Effluent limitation guidelines are promulgated for point sources covered by this permit;

(e) A Water Quality Management Plan containing requirements applicable to such point source is approved; or

(f) The point source(s) covered by this permit no longer:

(1) Involve the same or substantially similar types of operations;

(2) Discharge the same types of wastes;

(3) Require the same effluent limitations or operating conditions;

(4) Require the same or similar monitoring; and

(5) In the opinion of the Director, are more appropriately controlled under a general permit than under individual NPDES permits.

The Regional Administrator may require any operator authorized by this permit to apply for an individual NPDES permit only if the operator has been notified in writing that a permit application is required.

2. *When an Individual NPDES Permit may be Requested.* (a) Any operator authorized by this permit may request to be excluded from the coverage of this general permit by applying for an individual permit. The operator shall submit an application together with the reasons supporting the request to the Regional Administrator no later than December 14, 1983.

(b) When an individual NPDES permit is issued to an operator otherwise subject to this general permit, the applicability of this permit to that owner or operator is automatically terminated on the effective date of the individual permit.

(c) A source excluded from coverage under this general permit solely because it already has an individual permit may request that its individual permit be revoked, and that it be covered by this general permit. Upon revocation of the individual permit, this general permit shall apply to the source.

Part III

a. General Permit Area

The area covered by this general permit includes that portion of the central and western Gulf of Mexico located landward of the outer boundary of the territorial seas off the State of Texas LESS AND EXCEPT the lease blocks listed in Part III B hereof.

B. Exceptions

1. This general permit does not authorize discharges from facilities or activities located in the following lease blocks:

TEXAS LEASE AREAS LANDWARD OF THE OUTER BOUNDARY OF THE TERRITORIAL SEAS OF THE STATE OF TEXAS

Lease area and site name	Offshore block
Brazos Area: White Shrimp Spawning Ground	367–S.
North Padre Island: 7½ Fathom Bank	992.

C. Other Conditions

1. *Samples of Wastes.* If requested, the permittee shall provide EPA with a sample of any waste in a manner specified by the Agency.

2. *Drilling Fluids Inventory.* The permittee shall maintain a precise chemical inventory of all constituents and their volume added downhole for each well. This inventory shall include diesel fuel and any drilling fluid additives used to meet specific drilling requirements.

D. Definitions

1. "Annual average" means the average of all discharges sampled and/or measured during a calendar year in which daily discharges are sampled and measured, divided by the number of discharges sampled and/or measured during such year.

2. "Cooling water" means once through non-contact cooling water.

3. "Daily maximum" means the average concentration of the parameter specified during any 24-hour period that reasonably represents the 24-hour period for the purposes of sampling.

4. "Deck drainage" means all waste resulting from platform washings, deck washings, and run-off from curbs,

gutters, and drains including drip pans and wash areas.

5. "Desalinization unit discharge" means wastewater associated with the process of creating fresh water from seawater.

6. "Domestic waste" means discharges from galleys, sinks, showers, and laundries only.

7. "No discharge of free oil" means a discharge that does not cause a film or sheen upon or a discoloration on the surface of the water or adjoining shorelines, or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines.

8. "Drill cuttings" means particles generated by drilling into subsurface geological formations.

9. "Drilling fluids" means any fliud sent down the hole, including drilling muds and any specialty products, from the time a well is begun until final cessation of drilling in that hole.

10. "Produced waters" means waters and particulate matter associated with oil and gas producing formations. Sometimes the terms "formation water" or "brine water" are used to describe produced water.

11. "Produced sands" means sands and other solids removed from the produced waters.

12. "Sanitary waste" means human body waste discharged from toilets and urinals.

13. The term "territorial seas" means the belt of the seas measured from the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters, and extending seaward a distance of three miles.

14. "Well completion and treatment fluids" means any fluids sent down the drill hole to improve the flow of hydrocarbons into or out of geological formations which have been drilled.

[FR Doc. 83-25151 Filed 9-14-83; 8:45 am]
BILLING CODE 6560-50-M

[WH-FRL 2434-1]

Petition Requesting Sole Source Aquifer Designation of the "Cross Valley Aquifer," Snohomish County, Washington, and Request for Public Comment

AGENCY: Environmental Protection Agency.

ACTION: Public comments requested.

SUMMARY: The Environmental Protection Agency, Region 10, invites public comment on a petition requesting designation of the aquifer underlying the Cross Valley Water Association Service Area, in southwestern Snohomish County, as the sole drinking water source for the area. In particular, EPA requests data and references to additional sources of information. If the aquifer is so designated, no commitment for Federal financial assistance may be entered into for any project which EPA determines may contaminate the aquifer so as to create a significant hazard to public health. EPA will hold one or more informal public meetings at locations and dates to be announced later.

DATES: Comments must be submitted on or before October 31, 1983.

ADDRESSES: Comments should be addressed to: Wendy Marshall, Environmental Protection Agency, Region 10, Drinking Water Programs Branch, M/S 409, 1200 Sixth Avenue, Seattle, Washington 98101.

The petition and related documents can be examined during normal business hours at the following locations:

Environmental Protection Agency, Region 10 Library—12th Floor, 1200 Sixth Avenue, Seattle, Washington 98101

Snohomish Public Library, First and Cedar, Snohomish, Washington 98290

FOR FURTHER INFORMATION CONTACT: Wendy Marshall at (206) 442-1890 or FTS 399-1890, or Rene Fuentes at (206) 442-1369 or FTS 399-1369.

SUPPLEMENTARY INFORMATION: On July 29, 1983, the Mount Forest Protection Association and the Cross Valley Water Association, Inc. submitted a petition requesting that the aquifer underlying the Cross Valley Water Association Service Area be designated as the sole drinking water source for the area. Significant portions of the petition are quoted below in Sections a–c.

(a) *Identification of Petitioners and Petitioners' Interest.* The Mount Forest Protection Association is an association of local citizens who depend upon the availability of clean drinking water for their family needs, livestock, agriculture usage, fish and wildlife habitat, etc. The Association was organized to promote the protection of their aquifer from pollution and contamination by such things as the Snohomish County Solid Waste Department's proposed and existing sanitary landfills, industrial and commercial development unsupported by sanitary sewers, and high-density residential development in sensitive environmental areas.

The Cross Valley Water Association is mandated by state law to plan for, monitor, and provide clean, safe drinking water to the citizens of this area. In order to ensure the present level of health and water quality for a major portion of the area's population, the Association has joined with the Mount Forest Protection Association to petition the U.S. Environmental Protection Agency to grant their mutual cooperation and support to safeguard the region's aquifer, both today and for the future.

(b) *Petitioners' Concerns Regarding Aquifer Contamination.* Contamination of the ground-water aquifer of the region, either from septic tank effluent caused by an overuse or improper location of on-site disposal systems, or from sanitary landfill leachate generated at the county's regional landfill, or from industrial wastes being deposited into the ground without the proper provision of sanitary sewers or from unwise land use activities, would constitute a major health hazard for over 10,000 people spread over an area of over 45 square miles.

Residents of the region receive water from numerous private or community wells without the benefit of regular sampling and testing for the detection of contamination. Many of these households are situated several miles from the nearest water main. In addition, the nearest water main (operated and supplied by the Cross Valley Association) is fed from the same ground-water aquifer via direct pumping and a system intertie such that any single source of well contamination will be spread throughout the entire distribution system until it can be identified by regular sampling and testing procedures or by a public health epidemic.

(c) *Demographic and Hydrologic Information.* The area aquifer provides clean, untreated drinking water via private springs, wells, community wells and the Cross Valley Water Association's six wells, reservoirs and distribution system to a service area of over 45 square miles. The geographic limits of the area extend from the Bear Creek drainage basin on the west to the Snoqualmie River on the east, and from the Snohomish River on the north to a point several miles into King County. The southeastern portion of the service area is situated within the 36-square-mile limits of the Cathcart-Maltby-Clearview (CMC) Comprehensive Plan Area. The western portion is situated within the North Creek Comprehensive Plan Area and the northwestern portion is within the Snohomish—Lake Stevens Community Comprehensive Plan Area.

The present estimated population of the aquifer service area is 10,000 people, with a population of over 8,000 people (1980) situated within the CMC planning

area. The projected population for the year 2000 of the CMC planning area is 19,600, and is estimated to be over 26,000 for the total service area. The only public domestic water purveyor for the area is the Cross Valley Water Association, with over 2,500 present service connections serving an estimated population of 7,000 people. The remaining 3,000 people are served by private individual springs, wells, or by smaller two-to-six home community wells.

The nearest water source to the Cross Valley Water Association is the City of Everett, approximately six miles to the northwest. The shortest connecting roadway (Lowell-Larimer Road) is an old roadway constructed over logs, debris, swampy and slide-prone areas. The construction of a major water main along this route would be difficult, maintenance would be high and reliability could not be insured. At the present time the City and the Cross and the Cross Valley Association do not consider the project to be feasible.

Water District #104 to the south (northern King County) does not have sufficient water mains or pressure to provide water to southern Snohomish County except in the limited immediate area just north of Woodinville. The northeastern portion of King County near Tuck Creek is within the comprehensive service area of the Cross Valley Association.

Currently, the water association is supplied by six wells; four of the wells are situated in the central portion of the region and two are located in the southeastern corner of the district. Four wells pump directly into the water distribution system and two wells receive a light dose of chlorine to neutralize hydrogen sulfide. The entire water system is intertied and operates on three different pressure zones. The current annual consumption of the association is 38 million cubic feet.

The 1982 Draft Environmental Impact Statement for the Cathcart, Maltby, and Clearview area states under section 3.1.3, "Water Resources and Water Quality":

"Water resources consist of the surface waters of Little Bear, Big Bear, Upper Snoqualmie, High Rock and Marshland Drainage Basins and the gound-water bearing formation of Esperance sands. Little Bear and Big Bear drainage basins flow south into Lake Sammamish, while the Marshland and Snoqualmie Basins flow into the Snoqualmie River.

"Each basin contains several sub-basins. These basins are classified as having excellent water quality. The continued maintenance of water quality standards is a function of the level of development and the successful implementation of policies to prevent degradation of water quality. A third source of water resources consists of several lakes, most of which are south of SR 522 or along the Snoqualmie River. The largest of these lakes are Crystal, Echo, Lost Lake (Devil's Lake) and Lake Beecher. Crystal Lake and its associated wetlands are designated as conservancy environments by the Shoreline Master Program.

"The properties of two geological formations, glacial till and Esperance sands, have important implications for the maintenance of water quality. Glacial till deposits are generally dense and hard packed, and water does not easily percolate. Surface water runoff potential is high in these areas and a ground-water table close to the surface is common. These conditions require that developments respect natural drainage patterns and incorporate design solutions that reduce runoff.

"The second most common surficial geologic deposit, Esperance sand, presents different problems. Deposits of Esperance sands are common in the planning area's drainage basins, especially Bear Creek, along SR 9; Paradise Lake Valley; the headwaters of Anderson Creek; Ricci Creek basin and the Evans Creek basin. The Esperance sand deposits are the most important ground-water source in the planning area. These deposits are also susceptible to contamination from septic tanks. The condition of these aquifers is not known."

The *1972 Ground-water Study* prepared by Robinson & Noble evaluated the *U.S. Geological Survey's Water Supply Paper #1135,* the *State Water Supply Bulletin #20,* DOE well records, a 1971 comprehensive water plan and local field experience to derive the following:

"Most of the area is an undulant drift plain with a north-south texture that is a result of glacial sculpturing. * * * The Snohomish River and its extensive flood plain border the area on the north and east.

"Principal drainage is separated by a NW–SE divide running across the area. Drainage to the north goes through numerous short tributaries, many having spring sources, to the Snohomish River.

"Drainage to the south of the main divide is through the major tributaries to the Sammamish River. These drainages carry not only the surface runoff but also most of the natural ground-water discharge.

"The subsurface geology, to an elevation of about 200 feet, is fairly well defined. At the surface is a mantle up to 75 feet thick of glacial till (hardpan). Below the till is a region-wide deposit of outwash sand or sand and gravel with moderate permeability. Most wells tap water in this unit. The water tends to be in a "water-table state", which means that it has no appreciable confining pressure. Consequently, the available potential drawdown to these wells is low. This is the Esperance sand of U.S.G.S nonenclature. The cross-sections on Figure 2 show the Esperance and its relation to well supplies.

"Water in the Esperance tends to be of satisfactory quality * * *.

"Below the Esperance is a more complex section of clay and firmly-cemented gravels that form a lower till, at least in part. Information is scant in the deeper section but at least some permeable zones do exist * * *.

"Beneath the deeper glacial deposits lies the consolidated bedrock of marine sediments and basalt. The rock surface generally dips southwesterly from exposures in the Cathcart area to a depth of about 1,000 feet near Bothell * * *.

"All of the ground water from within the drift plain originates from precipitation that falls directly on the area.

"Average annual precipitation at Monroe is 46.8 inches. Allowing 1.5 inches per month for evapotranspiration, and using only the surplus water in the October-through-May period, there remains 27 inches. If only 30% of the 27 inches infiltrates, the ground-water recharge would amount to eight inches annually. These figures are fairly conservative. A recharge of eight inches allows about 280 gpm per square mile on a continuous basis * * *.

"Streamflow data was compared for a series of measurements on Ricci, Elliott, Anderson, and Evans Creeks. All measurements were on August 23, 1957, which was a time when virtually all flow was from ground-water discharge. The flow in the first three creeks was 0.6, 0 and 0.14 cfs, whereas Evans Creek had a flow of 4.05 cfs. Obviously, the nearby ground-water basin discharges principally through Evans Creek. Much of this water may flow southerly along the bedrock contact before it discharges."

(d) *Consequences of Designation.* Section 1424(e) of the Safe Drinking Water Act states: If the Administrator determines, on his own initiative or upon petition, that an area has an aquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health, he shall publish notice of that

determination in the Federal Register. After the publication of any such notice, no commitment for Federal financial assistance (through a grant, contract, loan guarantee, or otherwise) may be entered into for any project with the Administrator determines may contaminate such aquifer through a recharge zone so as to create a significant hazard to public health, but a commitment for Federal financial assistance may, if authorized under another provision of law, be entered into to plan or design the project to assure that it will not so contaminate the aquifer.

(e) *Public Meetings.* EPA will hold informal public meetings to explain the sole source aquifer program and provide the opportunity for public comment. The Regional Administrator will give widespread notice of such meetings.

Dated: September 1, 1983.

Ernesta B. Barnes,

Regional Administrator.

[FR Doc. 83-25154 Filed 9-14-83; 8:45 am]

BILLING CODE 6560-50-M

[A-4-FRL 2433-7]

Prevention of Significant Deterioration of Air Quality (PSD) Determination of Exemption; Florida State Hospital, Chattahoochee, Florida

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of PSD exemption.

SUMMARY: Notice is hereby given that the Florida State Hospital (Hospital), a nonprofit health institution, is exempt from EPA's PSD review requirements (40 CFR 52.21(j)–(r)) for the modification of Boilers 7 and 8 to burn pelletized wood at the Chattahoochee, Florida, institution.

DATES: This action is effective as of June 16, 1983, the date the Honorable Bob Graham, Governor of the State of Florida, requested the PSD exemption for the Hospital.

ADDRESSES: Copies of the letter from the Governor requesting the exemption for the Hospital are available for public inspection or upon request at the following locations:

Environmental Protection Agency, Region IV, Air Management Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365

State of Florida, Department of Environmental Regulation, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32301

FOR FURTHER INFORMATION CONTACT: Wayne J. Aronson of the EPA Region IV, Air Management Branch, at the Atlanta address given above, telephone 404/881-7854 (FTS: 257-7654).

SUPPLEMENTARY INFORMATION: On December 6, 1982, EPA received a preliminary determination prepared by the Florida Department of Environmental Regulation (DER) for Florida State Hospital's (Hospital) proposed conversion of Boilers 7 and 8 from burning fuel oil to burning pelletized wood. The Hospital is located in Chattahoochee, Florida. This preliminary determination requested that EPA grant a PSD construction permit to the Hospital with conditions. EPA, after having reviewed the public notice, application, and Florida DER's preliminary determination, commented on this submittal on February 1, 1983. By letter dated June 16, 1983, the Honorable Bob Graham, Governor of the State of Florida, requested that the Hospital conversion project be exempt from the Federal PSD regulations pursuant to Section 169(1) of the Clean Air Act, 42 USC 7479(1), and 40 CFR 52.21(i)(4)(vi). The Hospital is eligible for such exemption upon the request of the Governor because it is a nonprofit health institution. The Hospital is therefore, exempted from EPA's PSD review requirements (40 CFR 52.21(j)–(r)) for the modification of Boilers 7 and 8 to burn pelletized wood.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 14, 1983. This action shall not be subject to later judicial review in civil or criminal proceedings for enforcement. (See Section 307(b)(2).)

Dated: August 31, 1983.

Charles R. Jeter,

Regional Administrator.

[FR Doc. 83-25107 Filed 9-14-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[File No. BPH-820223AB; MM Docket No. 83-937 et al.]

Applications for Consolidated Hearing; Lilly Amador et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant	City/State	File No.	MM Docket No.
A. Lilly Amador	Floydada, Texas	BPH-820223AB	83-937
B. Billy D. Pirtle	Floydada, Texas	BPH-820823AD	83-938

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Headings and Applicant(s)

1. Comparative—A, B
2. Ultimate—A, B

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, NW., Washington, D.C. 20554. Telephone (202) 632-6334.

Larry D. Eads,

Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 83-25116 Filed 9-14-83; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 83-953; File No. BPED-810126AF et al.]

Bishop of the Diocese of St. Petersburg et al.; Hearing Designation Order

In the matter of applications of the Bishop of the Diocese of St. Petersburg, Tampa, Florida, MM Docket No. 83-953, File No. BPED-810126AF; Req: 90.5 MHz, Channel 213C, 100 kW (H&V), 980 feet (H&V); Last

Days Broadcasting, Incorporated, Bradenton, Florida, MM Docket No. 83–954, File No. BPED–810420AB; Req: 90.5 MHz, Channel 213C, 100 kW (H&V), 756 feet (H&V); for construction permit for non-commercial educational FM station.

Adopted: August 25, 1983.

Released: September 13, 1983.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications filed by The Bishop of The Diocese of St. Petersburg (The Diocese) and Last Days Broadcasting, Incorporated (Last Days), and a petition to dismiss filed by The Diocese.

2. *Last Days.* Analysis of the financial data submitted reveals that $170,819.95 will be required to construct the proposed station and to operate it for the first three months. The applicant indicates that it has obtained signed pledges in this amount, but has provided no supporting documentation identifying the pledgors, the amounts of the pledges and financial statements demonstrating sufficient net liquid assets above current liabilities to fulfill the pledges. Accordingly, a limited financial issue will be specified.

3. Applicants for broadcast stations are required by Section 73.3580(f) of the Commission's Rules to give local notice of the filing of their applications. We have no evidence that either the Diocese or Last Days published the required notice. To remedy this deficiency, they must publish local notice of their respective applications, if they have not already done so, and so inform the presiding Administrative Law Judge within 30 days of the date of the release of this Order.

4. *Other Matters.* On June 14, 1982, The Diocese filed a petition, to dismiss the application of the Last Days. The Diocese alleged that Last Days amendment, filed June 1, 1982, constituted a major amendment filed after the April 15, 1982 "A" cut-off date since it showed a change in the city of license from Parrish, Florida to Bradenton, Florida. If the allegations were true, the application of Last Days would require a new file number and be unacceptable for filing as a major amendment to a mutually exclusive application after the "A" cut-off date. However, Last Days' amendment provided information relating to a community advisory board, some of whom live in Bradenton. As originally filed Last Day's application listed Parrish, Florida for "station location (transmitter and antenna)" and Bradenton, Florida for "office and studio." Section 1, Paragraph 4, FCC Form 340. Section VI of the original application is captioned "City and State which station is licensed to serve—Bradenton, Florida." Section V–B and accompanying engineering exhibits specify that the application is for Bradenton. While references throughout to Parrish (and Sarasota) render the application something less than a model of clarity, there is ample evidence on the face of the application to support Last Days' claim that the proposal was originally filed to specify Bradenton as the community of license. Moreover, the amendment filed June 1, 1982, does not indicate, directly or indirectly, that Last Days is seeking to change its community of license. Accordingly, the petition to dismiss will be denied.

5. Neither applicant has indicated an attempt has been made to negotiate a share-time arrangement. Therefore, an issue will be specified to determine whether a share-time arrangement between the applicants would be the most effective use of the frequency, and thus better serve the public interest. *Granfalloon Denver Educational Broadcasting, Inc.* 43 FR 49560, published October 24, 1978. In the event that this issue is resolved in the affirmative, an issue will also be specified to determine the nature of such an arrangement. It should be noted that our action specifying a time-sharing issue is not intended to preclude the applicants, either before the commencement of the hearing or at any time during the course of the hearing, from participating in negotiations with a view toward establishing a share-time agreement.

6. Inasmuch as this proceeding involves competing applicants for noncommercial educational facilities, the standard areas and populations issue will be modified in accordance with the Commission's prior action in *New York University*, FCC 67–673, released June 8, 1967, 10 RR 2d 215 (1967). Thus, the evidence adduced under this issue will be limited to available noncommercial educational FM signals within the respective service areas.

7. The respective proposals, although for different communities, would serve substantial areas in common. Consequently, in addition to determining, pursuant to section 307(b) of the Communications Act, as amended, which of the proposals would better provide a fair, efficient and equitable distribution of radio service, a contingent comparative issue will be specified.

8. Except as indicated above, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding.

9. Accordingly, IT IS ORDERED, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications ARE DESIGNATED FOR HEARING IN A CONSOLIDATED PROCEEDING, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to Last Days:

(a) the source and availability of funds;

(b) whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

2. To determine whether a share-time arrangement between the applicants would result in the most effective use of the specified channel and thus better serve the public interest, and, if so, the terms and conditions thereof.

3. To determine the number of other reserved channel noncommercial educational FM services available in the proposed service area of each applicant, and the area and populations served thereby.

4. To determine in the light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient, and equitable distribution of radio service.

5. To determine, in the event it is concluded that a choice between applications should not be based solely on considerations relating to Section 307(b), the extent to which each of the proposed operations will be integrated into the overall educational operation and objectives of the respective applicants; or whether other factors in the record demonstrate that one applicant will provide a superior FM educational broadcast service.

6. To determine which of the proposals would on a comparative basis, better serve the public interest.

7. To determine, in the light of the evidence adduced to the foregoing issues, which of the applications, if either, should be granted.

10. It is further ordered, that the Diocese and Last Days shall, within 30 days of the release of this Order, certify to the Administrative Law Judge that local notice of the filing of the application has been published.

11. It is further ordered, that the petition to dismiss amendment filed by the Diocese is denied.

12. It is furthered ordered, that to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

13. It is further ordered, that the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rules and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

W. Jan Gay,

Assistant Chief, Audio Service Division, Mass Media Bureau.

[FR Doc. 83-25107 Filed 9-14-83; 8:45 am]
BILLING CODE 6712-01-M

[MM Docket No.83-858; File No. BPH-810909AH et al.]

Debra D. Carrigan et al.; Hearing Designation Order

In the matter of applications of Debra D. Carrigan, North Las Vagas, Nevada; MM Docket No. 83-858, File No. BPH-810909AH; Req: 104.1 MHz, Channel No. 281C, 100 kW (H&V), 1120 feet; Constance J. Wodlinger, North Las Vagas, Nevada; MM Docket No. 83-859, File No. BPH-820322AW; Req: 104.1 MHz, Channel No. 281C, 100 kW (H&V), 1150 feet; Silver State Communications, Inc., North Las Vagas, Nevada; MM Docket No. 83-860, File No. BPH-820414AF; Req: 104.1 MHz, Channel No. 281C; 100 kW (H&V), 1160 feet; Telecommunications Partners, Ltd., North Las Vagas, Nevada; MM Docket No. 83-861, File No. BPH-820415AC; Req: 104.1 MHz, Channel No. 281C, 100 KW (H&V), 1120 feet; MCB Broadcasting of Nevada, Inc., North Las Vegas, Nevada; MM Docket No. 83-862, File No. BPH-820415AD; Req: 104.1 MHz, Channel No. 281C, 100 kW (H&V), 1270 feet; Las Vagas Electronics, Inc., Paradise, Nevada; MM Docket No. 83-863, File No. BPH-820415AM; Req: 104.1 MHz, Channel No. 281c, 100 kW (H&V) 1560 feet; Two Rivers Radio, North Las Vagas, Nevada; MM Docket No. 83-864, File No. BPH-820415AP; Req: 104.1 MHz, Channel No. 281C, 100kW (H&V), 1120 feet; New Radio, Inc., North Las Vegas, Nevada; MM Docket No. 83-865, File No. BPH-820415AZ; Req: 104.1 MHz, Channel No. 281C, 100 kW (H&V), 1600 feet; For Construction Permits.

Adopted: August 4, 1983.

Released: September 6, 1983.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications of Debra D. Carrigan (Carrigan); Constance J. Wodlinger (Wodlinger); Silver State Communications, Inc., (SSC); Telecommunications Partners, Ltd.; MCB Broadcasting of Nevada, Inc.; Las Vagas Electronics, Inc., (LVE); Two Rivers Radio; and New Radio, Inc. (NRI) for a new FM station to operate on channel 281C. Also before the Commission is: a timely filed petition to deny, or alternatively, to impose condition filed by Lotus Broadcasting Corp. (LBC), licensee of KOMP(FM), North Las Vegas, Nevada, against the application of NRI; and opposition to deny filed by NRI; [1] and LBC's reply thereto.

2. *Carrigan.* Applicants for new broadcast stations are required by § 73.3580(f) of the Rules to give local notice of the filing of its application. Section 73.3580(f)(9) requires that the notice include a statement that a copy of the application and amendments are on file, and available for public inspection at an address in the community in which the proposed main studio is to be located. Carrigan proposed to locate its main studio in North Las Vagas, Nevada; however, it states that a copy of its application is available for public inspection in Las Vagas, Nevada. Accordingly, Carrigan will be required to republish and advise the presiding Administratived Law Judge that it has complied with § 73.3580(f)(9) within 30 days of the release of this Order.

3. *SSC.* Applicants for new broadcast stations are required to give local notice of the filing of their applications, in accordance with § 73.3580 of the Commission's Rules. They must then file proof of such notice or certify that they have or will comply with the public notice requirement. We have no evidence, however, that SSC has done either. If it has not already done so, SSC will be required to file a statement that it has complied with the public notice requirement with the Administrative Law Judge within 30 days of the release of this Order.

4. *Other Matters.* LBC, states in its petition that the proposed location of the NRI antenna is on a tower immediately adjacent to the tower currently licensed to its station KOMP(FM). LBC alleges that NRI's proposed location may cause cross-modulation between KOMP(FM) and NRI's proposed station, as well as, pattern alternation to KOMP(FM). LBC requests that the application of NRI be dismissed unless a grant of the application is conditioned upon NRI bearing responsibility for resolution of any adverse technical effects on the operation of KOMP(FM) caused by the proximity of the proposed and existing antennas.

5. NRI in its opposition, states that it has not objection to the Commission's imposition of the normal non-interference condition in a construction permit to protect KOMP(FM). Accordingly, the grant of the NRI application will be appropriately conditioned. Additionally, we note that NRI has not made a showing pursuant to § 73.316(e) of the Commission's Rules, which requires applicants proposing to use FM broadcast antennas in the immediate vicinity (i.e. 200 feet or less) of other FM broadcast antennas to include a showing regarding the expected effect, if any, of such proximate operation. Accordingly, NRI will be required to submit to the presiding Administrative Law Judge such a showing within 30 day so of the release of this Order.

6. By amendment filed December 3, 1982,[2] LVE indicated it would divest of all interest in KNUU, Las Vegas, and Reno Electronics, Inc., a subsidiary of LVE's parent, would divest of all interest in KBET, Reno. Accordingly, an appropriate condition will be specified

7. Data submitted by the applicants indicate that there would be significant difference in the size of the areas and populations which would receive service from the proposals.[3] Consequently, the areas and populations which would receive FM service of 1mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue for the purpose of determining whether a comparative preference should accrue to any of the applicants.

8. The respective proposals, although for different communities, would serve substantial areas in common. Consequently, in addition to determining, pursuant to Section 307(b)

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[1] Ordinarily, a petition to deny, being in most cases the equivalent to a petition to specify issues, is not considered in the context of a hearing designation order. However, the LBC petition is more in the nature of a motion to dismiss, and accordingly, if will be addressed herein.

[2] The "B" cut-off date specified by Public Notice, "FM Broadcast Applications accepted for filing and notification of Cut-Off-Date," dated October 28, 1982, FCC Mimeo No. 425, Report No. B-33, as corrected by Erratum Public Notice, dated November 1, 1982, FCC Memeo No. 564, Report No. B-33B.

[3] Wodlinger has failed to provide data showing the population within her proposed 1mV/m contour. Accordingly, she will be required to provide such data to the presiding Administrative Law Judge within 30 days of the release of this Order.

of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service, a contingent comparative issue will also be specified.

9. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since the proposals are mutually exclusive, however, they must be designated for a hearing in a consolidated proceeding.

10. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine the areas and populations which would receive primary aural service (1mV/m or greater) from the proposals and the availability of other primary service to such areas and populations.

2. To determine, in light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service.

3. To determine, in the event it is concluded that a choice between the applications should not be based solely on considerations relating to Section 307(b), which of the proposals would, on a comparative basis, best serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

11. It is further ordered, That Carrigan shall be required to republish local notice of the filing of its application, and file a statement with the presiding Administrative Law Judge in compliance with Section 73.3580(f) of the Commission's Rules, within 30 days of the release of this Order, showing that a copy of its application will be available for public inspection at an address within the community of North Las Vegas.

12. It is further ordered, That SSC shall, within 30 days of the release of this Order, certify to the Administrative Law Judge that local notice of the filing of its application has been published.

13. It is further ordered, That the petition to deny or, alternatively, to impose condition filed by LBC is granted to the extent indicated and is denied in all other respects.

14. It is further ordered, That, in the event of a grant of the application of LVE, the construction permit shall contain a condition that program test will not be authorized until the permittee and Reno Electronics, Inc. have shown that they have divested of all interests in, and severed all connections with stations KNUU, Las Vegas, and KBET, Reno.

15. It is further ordered, That, in the event of a grant of the application of NRI, the construction permit shall contain the following condition:

The licensee of this station shall fully cooperate with the licensee of KOMP(FM), North Las Vegas, Nevada, whose antenna is mounted immediately adjacent to the facilities authorized herein, to eliminate or reduce the adverse effects between the two operations. The licensee of this station shall bear the responsibility for correcting any adverse effect caused to the operation of station KOMP(FM) by the operation of this station.

16. It is further ordered, That NRI shall, within 30 days of the release of this Order, file a statement with the presiding Administrative Law Judge complying with Section 73.316(e) of the Commission's Rules.

17. It is further ordered, That Wodlinger shall, within 30 days of the release of this Order, file data showing the population within her proposed 1mV/m contour with the presiding Administrative Law Judge as required by Section V–B, Paragraph 14 of FCC Form 301.

18. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

19. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 83-25108 Filed 9-14-83; 8:45 am]
BILLING CODE 6712-01-M

[File No. BPH–811117AP; MM Docket No. 83–934, et al.]

Applications for Consolidated Hearing; CRISTA Ministries, Inc. et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant	City/State	File No.	MM Docket No.
A. CRISTA Ministries, Inc.	Pasco, Wash.	BPH–811117AP	83–934
B. Herbert E. Cartmell	do	BPH–820623AI	83–935
C. Riverview Radio	do	BPH–820624BO	83–936

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirey in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue heading	Applicant(s)
1. (See Appendix)	A.
2. Comparative	A, B, and C.
3. Ultimate	A, B, and C.

3. If there is any non-standardized issue(s) in this proceeding the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be otained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, NW., Washington, D.C. 20554. Telephone (202) 632–6334.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

Appendix

Issue(s)

1. To determine with respect to the following applicant(s) whether, in light of the evidence adduced concerning the deficiency set forth above in paragraph 8,[1] the applicant(s) is financially qualified: A (CRISTA)

[1] Paragraph 8 reads as follows:
The material submitted by the applicant(s) below does not demonstrate its financial qualifications. Accordingly, an issue will be specified concerning the following deficiency:

Applicant(s)	Deficiency
A (CRISTA)	Financial analysis reveals insufficient liquid assets above current liabilities to meet a financial commitment of $158,950.

[FR Doc. 83-25114 Filed 9-14-83; 8:45 am]
BILLING CODE 6712-01-M

[File No. BPH-810220AR; MM Docket No. 83-879, et al.]

Applications for Consolidated Hearing; Minority Broadcasting Co. of the Midwest Inc. et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant	City/State	File No.	MM Docket No.
A. Minority Broadcasting Company of the Midwest Inc	West Memphis, Ark.	BPH-810820AR	83-879
B. Willie Mitchell	do	BPH-810827AJ	83-880
C. Marcell's Inc	do	BPH-811016AI	83-881
D. James J. V. Scanlon	do	BPH-811027AB	83-882
E. William Janks, II and H. Rhett James DBA J & J Communications	do	BPH-820329AT	83-883
F. Armstrong Communication	do	BPH-820415BA	83-885
G. K107 Entertainment Radio, Inc	do	BPH-820415BA	83-885
H. Big Ben Communications, Inc	Marion, Ark.	BPH-820415BI	83-886

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue heading	Applicant(s)
1. (See appendix)	C and G.
2. (See appendix)	A, B, E, and G.
3. Air hazard	H.
4. 307(b)	All applicants.
5. Contingent comparative	Do.
6. Ultimate	Do.

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, NW., Washington, D.C. 20554. Telephone (202) 632-6334.

Larry D. Eads,
Chief, Audio Services Division, Mass Media Bureau.

Appendix

Issue(s)

1. To determine with respect to the following applicant(s) whether, in light of the evidence adduced concerning the deficiency set forth above in paragraph 8,[1] the applicant(s) is financially qualified: C (Marcell's), G (K107).

[1] Paragraph 8 reads as follows:
The material submitted by the applicant(s) below does not demonstrate its financial qualifications. Accordingly, an issue will be specified concerning the following deficiency:

Applicant(s)	Deficiency
C (Marcell's)	Financial qualification statement is insufficient and applicant shows only $40,000 in liquid assets.
G (K107)	Applicant has provided no financial data.

2. If a final environmental impact statement is issued with respect to A, B, E, or G (Minority, Mitchell, J & J, or K107), which concludes that the proposed facilities are likely to have an adverse effect on the quality of the environment,

(a) to determine whether the proposal is consistent with the National Environmental Policy Act, as implemented by §§ 1.1301-1319 of the Commission's Rules; and

(b) whether in light of the evidence adduced pursuant to (a) above, the applicant is qualified to construct and operate as proposed.

[FR Doc. 83-25112 Filed 9-14-83; 8:45 am]
BILLING CODE 6712-01-M

[File No. BPH-820205AH; MM Docket No. 83-887, et al.]

Applications for Consolidated Hearing; McFadden Broadcasting Co., et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant	City/State	File No.	MM Docket No.
A. Jack L. McFadden, Sr. and Virginia Joeselen McFadden, d.b.a. McFadden Broadcasting Company.	Twain Harte, Calif.	BPH-820205AH	83-887
B. Linda Susan Adams	do	BPH-820824AG	83-888
C. Clear Mountain Air Broadcasting Company	do	BPH-820824AM	83-889
D. Sonora Wireless Company	Sonora, Calif.	BPH-820825BD	83-890

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue heading	Applicant(s)
1. 307(b)	All applicants.
2. Contingent comparative	Do.
3. Ultimate	Do.

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, N.W., Washington, D.C. 20554. Telephone (202) 632-6334.

W. Jan Gay,
Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 83-25111 Filed 9-14-83; 8:45 am]
BILLING CODE 6712-01-M

[File Nos. BPH-811216 AK and BPH-820624BY; MM Docket Nos. 83-932 and 83-933]

Applications for Consolidated Hearings; Virgin Islands Broadcasting Corp. and the Band B Partnership

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant	City/State	File No.	MM Docket No.
A. Virgin Islands Broadcasting Corporation	Christiansted, V.I.	BPH-811216AK	83-932
B. The B and B Partnership	do	BPH-820624BY	83-933

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue heading	Applicant(s)
1. (See appendix)	A.
2. Comparative	A and B.
3. Ultimate	A and B.

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, N.W., Washington, D.C. 20554. Telephone (202) 632-6334.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

Appendix

Issue(s)

1. To determine with respect to the following applicant(s) whether, in light of the evidence adduced concerning the deficiency set forth above in paragraph 8,[1] the applicant(s) is financially qualified: A (VIBC)

[1] Paragraph 8 reads as follows:

The material submitted by the applicant(s) below does not demonstrate its financial qualifications. Accordingly, an issue will be specified concerning the following deficiency:

Applicant(s)	Deficiency
A (VIBC)	To meet its cost of construction and operation, applicant relies upon new capital ($25,000), profits from existing operation ($20,000) and a bank loan ($22,000). However, the bank loan letter fails to meet our requirements since it lacks interest and repayment terms. In addition, one of the principals, W. M. Carpenter, proposes to lend VIBC $12,500. However, Mr. Carpenter was the president of CVC TV, Inc., which has voluntarily filed a bankruptcy action, Case No. 80-00-336(A), U.S. Bankruptcy Court, San Juan, Puerto Rico. Accordingly, the effect, if any, of the pending bankruptcy action on the applicant's financial qualifications must be determined.

[FR Doc. 83-25115 Filed 9-14-83; 8:45 am]

BILLING CODE 6712-01-M

[File Nos. BPH-820217 AC and BPH-820825BB; MM Docket Nos. 83-891 and 83-892]

Applications for Consolidated Hearing; Voice of Entertainment, Inc., and Ridgeland Broadcasting Co., Inc.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant	City/State	File No.	MM Docket No.
A. Voice of Entertainment, Inc	Ridgeland, S.C.	BPH-820217AC	83-891
B. Ridgeland Broadcasting Co., Inc	do	BPH-820825BB	83-892

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue heading	Applicant(s)
1. (See appendix)	A.
2. (See appendix)	B.
3. Comparative	A. and B.
4. Ultimate	A. and B.

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, NW., Washington, D.C. 20554. Telephone (202) 632-6334.

Larry D. Eads,

Chief, Audio Services Division, Mass Media Bureau.

Appendix

Issue(s)

1. To determine with respect to the following applicant(s) whether, in light of the evidence adduced concerning the deficiency set forth above in paragraph 8,[1] the applicant(s) is financially qualified: A (Voice).

Applicant(s)	Deficiency
A (Voice)	While Voice submitted a financial certification and a financial showing to substantiate its qualifications, both are defective. Voice's equipment proposal, as stated in its financial plan and CSI Electronics Inc. proposal No. 1400, dated February 1, 1982, totals $64,903.70. However, Voice also indicates equipment lease cost is $9,100 for an undetermined period of operations, and the lease letter from CSI refers to an equipment package totalling $105,144. Thus, we can not determine Voice's proposed costs of construction and operation. In addition, although Voice intends to rely on cash on hand and profits from the operation of co-owned station WJMR (AM), Ridgeland, it has not provided a current balance sheet pursuant to Paragraph 2(a), Section III, FCC Form 301 (June 1977). Accordingly, pursuant to *South Florida Broadcasting Company, Inc.*, a general financial issue will be specified.

2. If a final environmental impact statement is issued with respect to B (Ridgeland) which concludes that the proposed facilities are likely to have an adverse effect on the quality of the environment,

(a) to determine whether the proposal is consistent with the National Environmental Policy Act, as implemented by Section 1.1301-1319 of the Commission's Rules; and

(b) whether, in light of the evidence adduced pursuant to (a) above, the applicant is qualified to construct and operate as proposed.

[FR Doc. 83-25113 Filed 9-14-83; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket No. 83-893; File No. 23264-CD-P-83]

Gulf Mobilphone of Alabama, Inc.; Order Designating Application for Hearing

Adopted: August 16, 1983.

Released: September 8, 1983.

In the matter of application of Gulf Mobilphone of Alabama, Inc., for a construction permit for an additional one-way frequency for Station KRS664 to operate on frequency 931.7625 MHz in the Domestic Public Land Mobile Radio Service at Mobile, Alabama.

By the Common Carrier Bureau.

1. Presently before the Chief, Mobile Services Division, pursuant to delegated authority, is the captioned application of Gulf Mobilphone of Alabama, Inc. (Gulf). Our review of the application raises a question concerning whether Gulf has demonstrated a need for an additional frequency for Station KRS664. The application has not been protested. We find the applicant to be otherwise legally and technically qualified.

2. Gulf has submitted traffic load studies for its presently authorized one-way facilities operating on frequencies 152.24 MHz and 158.70 MHz as required by § 22.516 of the Commission's rules. On the 152.24 MHz frequency the probability of blocking, using the bouncing busy hour, is 1.0. On the 158.70 Mhz frequency, the probability of blocking, using the bouncing busy hour is 0.42. Gulf indicates that it does not have any held orders for service.

3. On January 27, 1983 in a Further Notice of Proposed Rulemaking in CC Docket 20870, FCC 83-38, released February 14, 1983, the Commission adopted interim objective need standards governing one-way applications requesting an additional frequency. Pursuant to the rulemaking, a showing demonstrating blocking of .50 or better is required before an additional channel will be granted. This need standard was adopted on an interim basis for applications received after that date. Applications filed after February 14, 1983 which do not meet the interim need standards are returned as defective. Prior to the *Further Notice*, the staff had applied the .50 blocking standard in determining whether an applicant had demonstrated a sufficient need for an additional channel. If applicant did not meet that standard, its application was designated for hearing. Although the Gulf proposal meets the loading standard for the 152.24 MHz frequency, the Gulf proposal does not demonstrate that it meets the .50 blocking standard on frequency 158.70 MHz as required for the grant of an additional channel. Since the Gulf application was received on January 31, 1983, prior to the effective date of the interim need standards, we will designate it for hearing to determine whether Gulf has adequately demonstrated need for an additional frequency.

4. Accordingly, it is ordered, that the application of Gulf Mobilphone of Alabama, Inc., File No. 23264-CD-P-83, is designated for hearing pursuant to Section 309(e) of the Communications Act of 1934, as amended, upon the following issues:

(a) To determine whether Gulf has demonstrated a need for an additional frequency for Station KRS664;

(b) To determine, in light of the evidence adduced pursuant to the need for an additional frequency issue, what disposition of the application would best serve the public interest convenience and necessity.

5. It is further ordered, that the hearing shall be held at the Commission offices at a time and place and before an Administrative Law Judge to be specified in a subsequent order.

6. It is further ordered, that the Chief, Common Carrier Bureau, is made a party to this proceeding.

7. It is further ordered, that the applicant may avail himself of an opportunity to be heard by filing with the Commission pursuant to § 1.221(c) of the Rules within 30 days of the release date hereof, a written notice stating an intention to appear on the date for hearing and present evidence on the issues specified in the Memorandum Opinion and Order.

8. The Secretary shall cause a copy of this Order to be published in the **Federal Register.**

William F. Adler,

Chief, Mobile Services Division, Common Carrier Bureau.

[FR Doc. 83-25110 Filed 9-14-83; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Standard Guide for the Evaluation of Alert and Notification Systems for Nuclear Power Plants

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice of availability of a guidance document for the evaluation of alert and notification systems for nuclear power plants and invitation for submittal of comments.

SUMMARY: The alert and notification systems guidance document, "Standard Guide for the Evaluation of Alert and Notification Systems for Nuclear Power Plants," will be available for public distribution and comment on September 20, 1983. Copies will be distributed to State and local governments with nuclear power plants operating, planned, or under construction, utilities, other affected Federal agencies, and interested industry persons affected by nuclear power for review, comment, and use.

As lead Agency under a Memorandum of Understanding (MOU) with the Nuclear Regulatory Commission (NRC), the Federal Emergency Management Agency (FEMA) is responsible for the approval of public alerting and notification systems installed around nuclear power plants throughout the United States. FEMA's rule 44 CFR Part 350 creates the regulatory framework by which FEMA will evaluate and assess State and local radiological emergency plans and preparedness of which alert and notification systems are a part. The "Standard Guide for the Evaluation of Alert and Notification Systems for Nuclear Power Plants" was developed to elaborate upon the requirements of 44 CFR 350 as related to alert and notification systems and to provide guidance regarding the evaluation of these systems. The guide is intended to assist State and local planners and utilities in understanding standards that FEMA will use to assess the adequacy of alert and notification systems and to assist FEMA personnel in uniformly interpreting and applying the applicable planning standards and criteria from NUREG-0654/FEMA-REP 1, Rev. 1, during actual evaluations of the alert and notification systems.

This document is intended for interim use until a final edition can be published early in 1984. Comments received by FEMA on the current interim use document will be analyzed with the results being used to develop the final edition. A copy of this document may be obtained from the Federal Emergency Management Agency, P.O. Box 8181, Washington, D.C. 20024. Please reference the tftle of the document in your request.

Comments on this document will be received through December 1, 1983, and should be addressed to: Rules Docket Clerk, Federal Emergency Management Agency, Room 835, 500 C Street Southwest, Washington, D.C. 20472.

Dated: September 9, 1983.

Richard W. Krimm,

Assistant Associate Director, Office of Natural and Technological Hazards Programs.

[FR Doc. 83-25161 Filed 9-14-83; 8:45 am]

BILLING CODE 6718-01-M

Offer To Provide Reinsurance Against Excess Aggregate Loss Resulting From Riots or Civil Disorders

AGENCY: Federal Insurance Administration, Federal Emergency Management Agency.

ACTION: Notice of Offer to Provide Reinsurance Against Excess Aggregate Loss Resulting from Riots or Civil Disorders.

SUMMARY: The Federal Insurance Administrator is publishing in this Notice the terms and conditions of the Standard Reinsurance Contract for 1983–84 governing reinsurance under the Federal insurance program reinsuring against excess aggregate losses resulting from riots or civil disorders to eligible insurers for the contract year from October 1, 1983, to September 30, 1984. In addition, this Notice sets forth the offer to provide reinsurance to eligible insurers and the method for accepting the offer. This offer and the contract set forth are authorized by law.

In accordance with the provisions of the Urban Property Protection and Reinsurance Act of 1968, as amended (the Act), this offer is effective only in a state which has a FAIR Plan in compliance with the statutory or regulatory criteria and in which appropriate State legislation is effective and in compliance with the Act and regulations.

As of August 1, 1983, the States of Georgia, Illinois, Maryland, Massachusetts, Michigan, Minnesota, New Jersey, North Carolina, Rhode Island, Washington, and Wisconsin, and the District of Columbia were in compliance with the statutory requirements.

The Federal Riot Reinsurance will not be available under this offer in other States until and unless their FAIR Plans come into compliance with the statutory and regulatory requirements, as of October 1, 1983, or subsequently during the contract year.

DATES: The offer is effective upon publication in the **Federal Register.** The Contract is effective 12:01 a.m., e.s.t., October 1, 1983 for all acceptances dispatched before 12:00 p.m. (midnight), September 30, 1983. The Contract is effective 12:01 a.m., e.s.t., of the day following dispatch of the acceptance for acceptances dispatched after September 30, 1983.

FOR FURTHER INFORMATION CONTACT: Federal Riot Reinsurance Program, Federal Emergency Management Agency, Washington, D.C. 20472, Telephone number (202) 287–0800.

SUPPLEMENTARY INFORMATION: The purposes of this Notice are:

(1) To offer publicly Federal reinsurance against excess aggregate losses resulting from defined riots or civil disorders to insurers eligible for such reinsurance for the contract year which ends September 30, 1984;

(2) To provide the method by which the offer may be accepted; and

(3) To set forth the terms and conditions of the Standard Reinsurance Contract (1983–84).

Since the offer to provide reinsurance and the terms and conditions of the Standard Reinsurance Contract for the October 1, 1983, to September 30, 1984 contract year must appear in time for acceptance by eligible insurers on or before September 30, 1983, this notice of offer to provide reinsurance against excess aggregate losses resulting from riots or civil disorders is effective upon publication of this Notice in the **Federal Register.** The program authority to continue reinsurance beyond September 30, 1983, requires the enactment of Federal legislation currently under consideration by the Congress. Therefore, the validity of this offer is conditioned upon the enactment of the enabling legislation.

The Standard Reinsurance Contract (1983–84) provides for an aggregate basic premium rate of $0.25 per $100 of direct premiums earned on lines reinsured.

Both the aggregate basic premium and the additional premium, if any, are payable on an advance estimated basis as specified in the contract. Interest shall accrue at nine percent (9%) per annum on any portion of any amount due the reinsurer which is not paid to the reinsurer within 30 days from its due date.

The offer to provide reinsurance is as follows:

Offer to Provide Reinsurance

Pursuant to the provisions of the Urban Property Protection and Reinsurance Act of 1968, as amended (12 U.S.C. 1749bbb–1749bbb–21), subject to all regulations promulgated thereunder and, to the terms and conditions set forth in the Standard Reinsurance Contract (1983–1984) as printed below, the Federal Insurance Administrator (hereinafter referred to as the "Reinsurer") offers to enter into the Standard Reinsurance Contract (1983–84), the terms and conditions of which are as printed hereinbelow, with any eligible insurer which accepts this offer. This offer is effective only in a state which has in effect a FAIR Plan in compliance with the Reinsurer's statutory or regulatory criteria and in which appropriate state legislation is effective and complies with the Reinsurer's statutory or regulatory criteria. The Reinsurer's offer to provide reinsurance is effective upon publication in the **Federal Register.**

Method of Acceptance of Offer

(1) Acceptance of this offer shall be by telegraphed or mailed notice of acceptance to the Reinsurer. If the date and time of dispatch of the notice of acceptance are not later than midnight, e.s.t., September 30, 1983 reinsurance coverage shall be in effect from 12:01 a.m., e.s.t., October 1, 1983. If the date and time of dispatch of the notice of acceptance are later than midnight, e.s.t., September 30, 1983, reinsurance coverage shall be in effect from 12:01 a.m., e.s.t., on the day after such notice of acceptance is dispatched. The date and time of dispatch of the notice of acceptance must be clearly shown either by telegraph dispatched notation or postmark, and such notation or postmark shall be conclusive proof of the date and time of dispatch.

(2) The telegram or letter accepting this offer of reinsurance shall indicate the States in which reinsurance on lines of mandatory coverage is to be provided and shall specifically designate for each such State the lines of optional coverage, if any, for which reinsurance is to be provided. The notice of acceptance shall be in substantially the following form:

The (name and insurer or insurers) hereby accepts the offer, as filed with the Office of the Federal Register, of the Standard Reinsurance Contract (1983–84), pursuant to the Urban Property Protection and Reinsurance Act of 1968, as amended, for the manatory and (specify) optional lines in the following states: (specify).

(3) Any eligible insurer accepting this offer or reinsurance shall be supplied copies of the Standard Reinsurance Contract (1983–84), for execution and return to the Reinsurer.

Terms and Conditions of the Standard Reinsurance Contract (1983–84)

(At this point in the contract, the insurance company or companies reinsured are required to list the names and addresses of the principal company and all property insurance companies

under common or related ownership or control as defined in the contract, and space is provided for the execution of the contract by the parties.)

THIS CONTRACT, made by and between the Federal Insurance Administrator (hereinafter referred to as the "Reinsurer") and the company or companies specified above (hereinafter referred to as the "Company").

WITNESSETH:

Subject to the provisions of the Urban Property Protection and Reinsurance Act of 1968, as amended, and to the terms and conditions herein set forth, the Reinsurer hereby obligates itself to pay, as reinsurance of the company, the amount of the Company's excess aggregate losses resulting from riot or civil disorders in such lines of mandatory and optional coverage as are designated separately for each State by the Company in its notice of acceptance and confirmed under Section XVII.

Section I. Policies reinsured. This Standard Reinsurance Contract applies to:

(A) All policies or contracts of direct property insurance issued by the Company to any property owner, except for policies for which the business is handled for or through any State pool or any other continuing organization, pool, or association or insurers, and

(B) The Company's participations in State pools and, as may be approved by the Reinsurer, in other continuing organizations, pools, or associations of insurers, which policies, contracts, or participations are in force on the effective date hereof or which commence or are renewed on or after such effective date in all the mandatory and in such optional standard lines of property insurance listed below as are designated separately for each state by the Company in its notice of acceptance and confirmed under Section XVII.

Lines of Mandatory Coverage

(A) Fire aand extended coverage;
(B) Vandalism and malicious mischief;
(C) Other allied lines of fire insurance;
(D) Burglary and theft; and
(E) Those portions of multiple peril policies covering similar perils to those provided in (A), (B), (C), (D);

Lines of Optional Coverage

(F) Inland marine;
(G) Glass;
(H) Boiler and machinery;
(I) Ocean marine;
(J) Aircraft physical damage.

Section II. Premiums. The aggregate basic premium due the REINSURER—for the reinsurance coverage provided under this contract shall be computed by applying an annual rate of twenty-five hundreds of one per centum (.25%) to an aggregate premium base consisting of the sum of the products of the COMPANY's direct premiums earned in each State for each reinsured line for the calendar year 1983 multiplied by the specified percentage of such earned premium, as defined in Section XVI of this contract.

If the total amount of all excess aggregate losses paid by the REINSURER under this contract and all like Standard Reinsurance Contracts issued for the period between Octobrer 1, 1983, and September 30, 1984, exceeds the total amount of all aggregate basic premiums paid or payable to the REINSURER under all such contracts, the COMPANY shall be obligated to pay the REINSURER, at or subsequent to adjustment, an additional premium determined on the basis of the amount of the remainder derived by subtracting the total amount of all aggregate basic premiums paid or payable to the REINSURER under all such contracts for the total amount of all excess aggregate losses paid by the REINSURER under all such contracts. The amount of the additional premium shall be equal to the product of the COMPANY's aggregate basic premium multiplied:

By a factor of one-half, if the remainder is equal to or less than one-half of the total amount of all aggregate basic premiums under all such contracts;

By a factor of one, if the remainder is greater than one-half the total amount of all aggregate basic premiums under all such contracts, but is less than or equal to one times that amount;

By a factor of one and one-half, if the remainder is greater than one times the total amount of all aggregate basic premiums under all such contracts, but is less than or equal to one and one-half times that amount;

By a factor of two, if the remainder is greater than one and one-half times the total amount of all aggregate basic premiums under all such contracts, but is less than or equal to two times that amount;

By a factor of two and one-half, if the remainder is greater than two times the total amount of all aggregate basic premiums under all such contracts, but is less than or equal to two and one-half times that amount;

By a factor of three, if the remainder is greater than two and one-half times the total amount of all aggregate basic premiums under all such contracts, but is less than or equal to three times that amount;

By a factor of three and one-half, if the remainder is greater than three times the total amount of all aggregate basic premiums under all such contracts, but is less than or equal to three and one-half times that amount;

By a factor of four, if the remainder is greater than three and one-half times the total amount of all aggregate basic premiums under all such contracts.

An advance premium, which shall be an estimated premium only, shall be computed by the COMPANY on the basis of its direct premiums earned in the calendar year 1982 in the manner required for the computation of the aggregate basic premium. If any line of insurance is added during the term of this contract for which the COMPANY had no premium writings in 1982, the permium base for the advance premium shall be estimated by State for the period from the date of attachment of coverage to the expiration date of this contract. In no event shall the advance permium be less than $25.00 for each State in which reinsurance is provided under this contract. The advance premium shall be paid to the REINSURER without demand within 30 days from the effective date of coverage.

At the option of the REINSURER and prior to adjustment, the COMPANY shall pay the additional premium on an estimated basis. An estimated additional premium payment equal to the amount of the COMPANY's advance premium shall be payable to the REINSURER if the total amount of all excess aggregate losses paid by the REINSURER under this contract and all like Standard Reinsurance Contracts issued by the REINSURER for the period between October 1, 1983, and September 30, 1984, exceeds the total amount of all estimated premiums collected by the REINSURER under all such contracts (the total amount of all advance premiums plus the total amount of estimated additional premium payments). The total amount of estimated additional premium payments, whether required separately or concurrently, shall not exceed four times the amount of the COMPANY's advance premium. The actual amount of the additional premiums shall subsequently be computed and adjusted in accordance with the provisions of the preceding paragraphs and Section VI.

With the exception of the advance premium which is due without demand of the REINSURER within 30 days from the effective date of coverage, premium amounts shall be due 30 days after the demand of the REINSURER. Interest shall accrue at nine per centum (9%) per annum on any portion of any premium amount which is not received on or before 30 days from its due date.

The aggregate basic premium, together with any additional premium which may

be due the REINSURER in accordance with the preceding paragraphs, shall be deemed fully earned on the date that such reinsurance coverage attaches, except as otherwise provided in Section V.

Section III. Claims. The company shall advise the Reinsurer by letter (A) of all losses from a single occurrence which exceed $50,000 and (B) whenever it appears that aggregate losses have been incurred in an amount equal to 90 percent (90%) of the Company's net retention in any State, on the basis of its direct premiums earned and reported to the reinsurer or the Calendar year 1982.

When the Company incurs aggregate losses which exceed its net retention in any State, the Company may make claim upon the Reinsurer for the payment of excess aggregate losses in that State by filing a certification of loss and thereafter such supporting documentation of such losses as may be required by the Reinsurer, and following the receipt of such certifications and documentation the Reinsurer shall, as promptly as possible, in such installments and on such conditions as may be determined by the Reinsurer to be apprporiate (including advance payments made on the basis of preliminary certifications of loss filed in advance of the final determination of the ultimate amount of losses paid), pay to the Company the amount of such excess aggregate losses subject to adjustments on account of underpayments or overpayments.

If the ultimate amount of losses to be paid by the Company has not been finally determined when the certification of loss is filed, the Company shall, in due course, file one or more supplementary certifications of loss and thereafter the Reinsurer or the Company, as the case may be, shall pay the balance due.

Claims paid pursuant to computations of net retentions based upon the direct premiums earned for the calendar year 1982 shall be recomputed and adjusted at the termination of the coverage provided by this contract on the basis of direct permiums earned in reinsured lines for the calendar year 1983.

Section IV. Inception and expiration dates. Provided the Company has requested reinsurance by States and lines of coverage on or before September 30, 1983, this Standard Reinsurance Contract shall be in effect from 12:01 a.m., e.s.t. on October 1, 1983, and shall expire at 12:00 p.m., (midnight) e.s.t. on September 30, 1984, unless sooner terminated.

If the Company applies for coverage on or after October 1, 1983, this contract shall be effective from 12:01 a.m., e.s.t. on the day after such acceptance is dispatched, as determined by the date of postmark or telegram, provided the offer is effective in any State for which the Company requests coverage specifying by State and line and providing the Company otherwise complies with the eligibility requirements of this contract.

This contract applies only to losses occurring during the term hereof, as follows:

(A) If at the inception of this contract any riot or civil disorder is in progress, no coverage shall be provided for losses resulting therefrom unless this contract is a continuation of coverage from the previous year's contract.

(B) If this contract terminates while a riot or civil disorder covered hereby is in progress, no coverage shall be provided for any losses resulting therefrom which occurred after the date and time of termination of this contract.

Section V. Cancellations. Reinsurance under this contract may be cancelled by the Company in its entirety or with respect to any State upon written notice by the Company to the Reinsurer stating that it desires to cancel the reinsurance coverage specified and that it will pay any premium due the Reinsurer in accordance with the provisions of this contract, subject to any adjustments which may be required under Section VI; provided, however, that no coverage shall attach under this contract if the Company has willfully concealed or misrepresented any material fact with respect thereto.

Reinsurance under this contract may be cancelled by the Reinsurer in its entirety or with respect to any State upon 30 days written notice by certified mail to the Company of such cancellation, stating one of the following reasons for cancellation: fraud or misrepresentation subsequent to the inception of the contract, nonpayment of premium or any other amount due the Reinsurer, and the grounds set forth in the second paragraph of Section XI.

Reinsurance under this contract may be cancelled by Certified mail by the Reinsurer in its entirety or with respect to any State for one of the grounds set forth in the first paragraph of Section XI and such cancellation shall be effective immediately upon written notice to the company.

Whenever the Reinsurer determines, in his discretion, that any cancellation or reinsurance is involuntary and without fault on the part of the Company, or voluntary on the part of the Company and the Reinsurer is furnished with a certification that the Company has or will have upon the effective date of cancellation reinsurance in the private market, the premium due the reinsurer for the coverage offered under this contract shall be prorated in the ratio of:

(a) The number of days for which coverage was provided prior to the cancellation of such coverage plus thirty, to

(b) The total number of days of coverage provided under this contract from the inception of coverage up to and including September 30, 1984.

In the event of any cancellation of reinsurance coverage under this section, the net retention and assessment of such Company shall be computed, without proration, on the basis of the direct premiums earned for the calendar year 1983. Refunds of premiums, if any, due the Company upon cancellation may, at the discretion of the Reinsurer, be deferred until after final adjustments have been made in accordance with the provisions of Section VI hereof.

Section VI. Adjustments. The Company shall report to the Reinsurer within 60 days after request its direct premiums earned for the calendar year 1983 in all reinsured lines in all States for which reinsurance was provided under this contract, for the purpose of computing and adjusting the reinsurance premium due to the Reinsurer with respect to the coverage provided. The direct premiums earned to be reported for any line of insurance added during the contract term for any State in which the company had no premium writings in such line in 1983 shall be the direct premiums earned for the first nine months of 1984 as estimated by the Company, subject to audit by the Reinsurer.

In no event shall the adjusted amount of direct premiums earned by the Company result in a basic premium to the Reinsurer in an amount less than $25 for each State during the contract year, which shall constitute the minimum adjusted reinsurance premium for any State under this contract.

On or before December 31, 1984, or such later date as may be permitted at the option of the Reinsurer, the Company shall report to the Reinsurer its aggregate losses.

Any overpayment or underpayment between the Reinsurer and the Company shall be adjusted and paid in accordance with the obligations assumed herein under.

Section VII. Insolvency. In the event of insolvency of the Company the reinsurance under this contract shall be payable by the Reinsurer to the Company or to its liquidator, receiver, or statutory successor on the basis of the liability of the Company under all policies, contracts, or participation

shares reinsured without diminution because of the insolvency of the Company.

It is further agreed that the liquidator, or receiver, or statutory successor of the Company shall give written notice to the Reinsurer of the pendency of any claim against the Company on the policies, contracts, or participation shares reinsured within a reasonable time after such claim if filed in the insolvency proceeding, and that during the pendency of such claim the Reinsurer may investigate such claim and interpose, at its own expense, in the proceeding where such claim is to be adjudicated, any defense or defenses which may be deemed available to the Company or its liquidator, receiver, or statutory successor. The expense thus incurred by the Reinsurer shall be chargeable, subject to court approval, against the company as part of the expense of liquidation to the extent of a proportionate share of the benefit which may accrue to the Company solely as a result of the defense undertaken by the Reinsurer.

Section VIII. Errors and omissions. Inadvertent delays, errors, or omissions made in connection with any transaction under this contract shall not relieve either party from any liability which would have attached had such delay, error, or omission not occurred, provided always that such delay, error or omission is rectified as soon as possible after discovery.

Secion IX. Restriction of benefits. No Member of or Delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of this contract, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

Section X. Participation in statewide plans. No reinsurance shall be offered or be effective under this contract in any State unless there is in effect in such State, on the date coverage commences, a continuing statewide plan to make essential property insurance more widely available which is in compliance with the Reinsurer's statutory or regulatory criteria, and the Company is fully participating in such plan on a risk-bearing basis and is certified by the State insurance authority as meeting the requirements of this section. Except with respect to its runoff business after ceasing to do business within a State, the Company shall not be eligible for reinsuarnce under this contract in any State in which it is not engaged in the direct writing of property insurance at the time coverage is requested, or in which it is writing business on a nonadmitted basis, unless it reports such nonadmitted business to the State insurance authority and participates in the statewide plan of such State on the basis of such reported business. The Company shall file and maintain with the State insurance authority in each State in which it is participating in the statewide plan a statement pledging its full participation and cooperation in carrying out the plan and shall file a copy of each such statement with the Reinsurer. The Company shall not direct any agent, broker, or other producer not to solicit business through such plans and shall not penalize in any way any agent, broker, or other producer for submitting applications for insurance under such plans. The Company shall also establish and carry out an education and public information program to encourage agents, brokers, and other producers to utilize the programs and facilities available under such statewide plans.

In the event that the Company after the inception of this contract voluntarily withdraws from any State plan, pool, or other facility required by the provisions of this section, such withdrawal shall be deemed to constitute cancellation by the Company with respect to that State as of the effective date of the withdrawal.

Section XI. Limitations on reinsurance. The Reinsurer shall cancel this contract upon written notice to the company: (A) if legislation to reimburse the Reinsurer, as necessary, for the portion of the aggregate losses specified in section 1223(a)(1) of the National Housing Act, as amended (12 U.S.C. 1749bbb–9(a)), paid by the Reinsurer under this contract, has not been enacted by the state or has expired or been repealed, or has otherwise ceased to be effective; or (B) following a merger, acquisition, consolidation, or reorganization involving the Company and one or more insurers with or without such reinsurance, unless the surviving insurer meets all criteria for eligibility for reinsurance and within 10 days pays any reinsurance premium due. The Reinsurer shall cancel coverage, in accordance with the provisions of this contract, with respect to any State in which—

(A) the Reinsurer has found (after consultation with the State insurance authority) that (1) it is necessary to have a suitable program adopted, in addition to required statewide plans, to make essential property insurance available without regard to environmental hazards and that such a program has not been adopted, or (2) the Company is not fully participating in the Statewide plan; and, where it exists, in a State pool or other facility; and, where it exists, in any other program found necessary to make essential property insurance more readily available in the State; or

(B) the Reinsurer has found (after consultation with the State insurance authority) that a statewide plan is not complying with the Reinsurer's regulatory or statutory criteria, including Sections 1211 and 1223 of the National Housing Act, as amended (12 U.S.C. 1749bbb–3 and 1740bbb–9), or has become inoperative.

Notwithstanding the foregoing provisions, reinsurance may at the election of the Reinsurer be continued, up to and including September 30, 1984, for the term of such policies and contracts reinsured prior to the date of termination of reinsurance under this section, provided the Company pays the reinsurance premiums in such amounts as may be required. For the purposes of this section, the renewal, extension, modification, or other change in a policy or contract for which any additional premium is charged, shall be deemed to be a policy or contract written on the date such change was made effective.

Reinsurance under this contract shall be subject to all of the provisions of the Urban Property Protection and Reinsurance Act of 1968, 12 U.S.C. 1749bbb–1749bbb–21, as amended, and to all regulations duly promulgated by the Reinsurer pursuant thereto.

Section XII. Arbitration. If any misunderstanding or dispute arises between the Company and the Reinsurer with reference to the amount of premium due, the amount of loss, or to any other factual issue under any provisions of this contract, other than as to legal liability or interpretation of law, such misunderstanding or dispute may be submitted to arbitration for a determination which shall be binding only upon approval by the Reinsurer. The Company and the Reinsurer may agree on and appoint an arbitrator who shall investigate the subject of the misunderstanding or dispute and make his determination. If the Company and the Reinsurer cannot agree on the appointment of an arbitrator, then two arbitrators shall be appointed, one to be chosen by the Company and one by the Reinsurer.

The two arbitrators so chosen, if they are unable to reach an agreement, shall select a third arbitrator who shall act as umpire, and such umpire's determination shall become final only upon approval by the Reinsurer. The Company and the Reinsurer shall bear equally all expenses of the arbitration.

Findings, proposed awards, and determinations resulting from arbitration proceedings carried out

under this section shall, upon objection by the Reinsurer or the Company, be inadmissible as evidence in any subsequent proceedings in any court of competent jurisdiction.

Section XIII. Access to books and records. The Reinsurer and the Comptroller General of the United States, or their duly authorized representatives, shall have access for the purpose of investigation, audit, and examination to any books, documents, papers, and records of the Company that are pertinent to the business reinsured under this contract. Such audits shall be conducted to the maximum extent feasible in cooperation with the State insurance authorities and through the use of their examining facilities. The Company shall keep records which fully disclose all matters pertinent to the business reinsured, including premiums and claims paid or payable under this contract. Records relating to premiums shall be retained and available for three (3) years after final adjustment of premiums, and to reinsurance claims three (3) years after adjustment of such claims.

Section XIV. Information and annual statements. The Company shall furnish to the Reinsurer such summaries and analyses of information in its records as may be necessary to carry out the purposes of the Urban Property Protection and Reinsurance Act of 1968, as amended, in such form as the Reinsurer, in cooperation with the State insurance authority, shall prescribe; and the Company shall file with the Reinsurer a true and correct copy of the Company's Fire and Casualty annual statement, or amendment thereof, as filed with the State insurance authority of the Company's domiciliary State, at the time it files such statement or amendment with the State insurance authority. The Company shall also file with the Reinsurer an equivalent of page 14 of such annual statement for each State in which reinsurance is provided under this contract.

Section XV. Exclusions. Reinsurance under this contract shall not be applicable with respect to any claim for:

(A) All or any part of a loss which is the direct or indirect result of controlled or uncontrolled nuclear reaction, radiation, or radioactive contamination; or

(B) Any loss to any aircraft while the aircraft is in flight, including that period between the time when power is turned on for the purpose of taxiing connected to takeoff until the time when the landing run has ended, taxiing has been completed, and power has been turned off; or

(C) Any loss to any aircraft, or resulting from collision with aircraft, which is precipitated or caused by hijacking of any aircraft or attempt thereat, including loss from wrongful seizure, wrongful diversion from course of flight pattern, or wrongful exercise of command or control, of an aircraft, by any person or persons, through the use of force or violence or the threat of force or violence.

Section XVI. Definitions. As used in this contract the term—

(1) "Aggregate losses" means the sum total of losses resulting from riots or civil disorders occurring in a State and allocable to a State in which reinsurance is provided;

(2) "Company" means any company authorized to engage in the insurance business under the laws of any State, except that if there are two or more companies within a State in which reinsurance is to be provided under this contract which, as determined by the Reinsurer:

(A) Are under common ownership and ordinarily operate on a group basis; or

(B) Are under single management direction; or

(C) Are otherwise determined by the Reinsurer to have substantially common or interrelated ownership, direction, management, or control; then all such related, associated, or affiliated companies, excluding nonadmitted companies, which are not specifically included by endorsement to this contract, shall be reinsured only as one aggregate entity;

(3) "Continuing organization, pool, or association of insurers" means an industry pool created to provide direct insurance to meet special problems of insurability, such as for a particular class or type of business;

(4) "Direct premiums earned" means direct premiums earned as reported in columns 2 on page 14 of the Company's Fire and Casualty annual statement for the specified calendar year in the form adopted by the National Association of Insurance Commissioners, subject to (A) adjustment as approved by the Reinsurer for cessions to pools, facilities, and associations, and for the inclusion of participations in such pools, facilities, and associations, and (B) such other appropriate adjustments as may be approved or required by the Reinsurer, which shall include adjustments for dividends paid or credited to policyholders and reported in column 3 or page 14, subject to a maximum credit of 20 percent (20%) of direct premiums earned for any one line of insurance;

(5) "Excess aggregate losses" means that part of aggregate losses which is equal to the sum of—

(A) Ninety percent of the Company's aggregate losses in excess of its net retention, until the Company's 10 percent share of aggregate losses under this provision (A) equals the amount of its net retention;

(B) Ninety-five percent of the Company's remaining aggregate losses (after deducting the Reinsurer's share of aggregate losses under (A)) in excess of twice its net retention, until the Company's 5 percent share of aggregate losses under this provision (B) equals the amount of its net retention; and

(C) Ninety-eight percent of the Company's remaining aggregate losses (after deducting the Reinsurer's share of aggregate losses under (A) and (B)) in excess of an amount equal to three times its net retention;

(6) "Losses" means all claims proved, approved, and paid by the Company under reinsured policies, resulting from riots or civil disorders occurring in a State during the period of this contract after making proper deduction for salvage and for recoveries other than reinsurance, together with an allowance for expense in connection therewith, hereby agreed to equal an amount per claim of 8 percent (8%) of the first $25,000 of any such claim, plus 3 percent (3%) of the amount by which such claim exceeds $25,000 but is less than $100,000, plus 1 percent (1%) of the amount by which the claim exceeds $100,000; it does not mean any claim excluded under Section XV.

(7) "Net retention" means the amount of aggregate losses that the Company must stand before the Reinsurer's liability hereunder attaches. The net retention shall be one aggregate figure for each State determined by applying a factor of five percent (.05) to the specified percentage of the Company's direct premiums earned in the State for the calendar year 1982 on those lines of insurance hereby reinsured. The retention amount is subject to a minimum figure of $1,000.00 for each State, and to a maximum figure of $3,000,000.00 per State.

(8) "Loss resulting from riot" means loss of or damage to property actually and immidiately resulting from an overt and tumultuous disturbance of the public peace by three or more persons mutually assisting one another, or otherwise acting in designed concert, in the execution of a common purpose through the unlawful use of force and violence.

"Loss resulting from civil disorder" means

(A) Loss of or damage to property actually ands immediately resulting from any pattern of unlawful incidents taking place within close proximity both as to time and place and involving damage to property intentionally caused by persons apparently having the primary motivation of disturbing the public peace through civil disruption, civil disobedience, or civil protest; provided that at least two of such related incidents result in property damage in excess of $1,000 each; or

(B) Loss of or damage to property actually and immediately resulting from any occurrence involving property damage in excess of $2,000 caused by persons whose unlawful conduct in so causing the occurrence manifest their primary purpose of disturbing the public peace through civil disruption, civil disobedience, or civil protest.

(9) "Specified percentage" means 100 percent (100%) of the direct premium earned for each line of insurance reinsured under this contract except that the specified percentage of homeowners multiple peril shall be 85 percent (85%) and that of Commercial multiple peril shall be 65 percent (65%);

(1) "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions, and the Trust Territory of the Pacific Islands; and

(11) "State poll" means any State Fair Plan pool or insurance placement facility which is intended to meet the requirements of part A of the Urban Property Protection and Reinsurance Act of 1968 (82 Stat. 558, 84 Stat, 1791, 12 U.S.C. 1749bbb–3—1749bb–6a).

Section XVII. Schedule of coverage. The Company shall indicate with an (X) in the appropriate column and line those States in which the mandatory lines are to be reinsured under this contract. Coverage of mandatory lines may be designated only for those States in which the Company is eligible for reinsurance in accordance with Section X of this contract.

The Company shall also indicate by State with an (X) in the appropriate column and line any optional lines which are to be reinsured under this contract. Coverage of optional lines is available only for those States in which the mandatory lines are reinsured.

(The schedule of mandatory and optional coverage by State and line is set forth at this point in the Contract.)

Issued at Washington, D.C. on September 1, 1983.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 83–25159 Filed 9–14–83; 8:45 am]

BILLING CODE 6718–01–M

FEDERAL HOME LOAN BANK BOARD

[No. AC–273]

Benj. Franklin Federal Savings and Loan Association, Portland, Oregon; Final Action Approval of Conversion Application

Dated: September 9, 1983.

Notice is hereby given that on August 23, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of The Benj. Franklin Federal Savings and Loan Association, Portland, Oregon, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Seattle, 600 Stewart Street, Seattle, Washington 98101.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83–25217 Filed 9–14–83; 8:45 am]

BILLING CODE 6720–01–M

[No. AC–277]

Cumberland Federal Savings and Loan Association, Louisville, Kentucky; Final Action Approval of Conversion Application

Dated: September 9, 1983.

Notice is hereby given that on August 30, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of The Cumberland Federal Savings and Loan Association, Louisville, Kentucky, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Cincinnati, 2500 DuBois Tower, Cincinnati, Ohio 45202.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83–25221 Filed 9–14–83; 8:45 am]

BILLING CODE 6720–01–M

[No. AC–260]

East Side Savings and Loan Association, Chicago, Illinois; Final Action Approval of Post-Approval Amendment to Mutual-to-Stock Conversion Application

Dated: September 9, 1983.

Notice is hereby given that on June 6, 1983, the General Counsel of the Federal Home Loan Bank Board ("Board"), acting pursuant to authority delegated to him by the Board, approved post-approval amendments to Section 17 of the Plan of Conversion of East Side Savings and Loan Association, Chicago, Illinois. The Application for Conversion has been approved by the Board by Resolution No. 81–263, dated May 18, 1981. Copies of the Application and all amendments thereto are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, D.C. 20552, and at the Office of the Supervisory Agent, Federal Home Loan Bank of Chicago, 111 East Wacker Drive, Suite 800, Chicago, Illinois 60601.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83–25212 Filed 9–14–83; 8:45 am]

BILLING CODE 6720–01–M

[No. AC–271]

Fidelity Federal Savings and Loan Association, Claremore, Oklahoma; Final Action Approval of Conversion Applications

Dated: September 9, 1983.

Notice is hereby given that on August 12, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Fidelity Federal Savings and Loan Association, Claremore, Oklahoma, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, D.C. 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of

Topeka, P.O. Box 176, Topeka, Kansas 66603.

By the Federal Home Loan Bank Board.
J. J. Finn,
Secretary.

[FR Doc. 83-25215 Filed 9-14-83; 8:45 am]
BILLING CODE 6720-01-M

[No. AC-275]

First Community Federal Savings and Loan Association, Winfield, Kansas; Final Action Approval of Conversion Application

Dated: September 9, 1983.

Notice is hereby given that on August 25, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of First Community Federal Savings and Loan Association, Winfield, Kansas, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Topeka, P.O. Box 176, Topeka, Kansas 66601.

By the Federal Home Loan Bank Board.
J. J. Finn,
Secretary.

[FR Doc. 83-25219 Filed 9-14-83; 8:45 am]
BILLING CODE 6720-01-M

[No. AC-274]

First Federal Savings and Loan Association of Charleston, Charleston, South Carolina; Final Action Approval of Conversion Applications

Dated: September 9, 1983.

Notice is hereby given that on August 19, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of The First Federal Savings and Loan Association of Charleston, Charleston, South Carolina, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Atlanta, P.O. 56527, Peachtree Center Station, Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.
J. J. Finn,
Secretary.

[FR Doc. 83-25216 Filed 9-14-83; 8:45 am]
BILLING CODE 6720-01-M

[No. AC-281]

First Federal Savings and Loan Association of Indianapolis, Indianapolis, Indiana; Final Action Approval of Post-Approval Amendment To Mutual-To-Stock Conversion Application

Dated: September 9, 1983.

Notice is hereby given that on August 2, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to authority delegated to him by the Board, approved Post-Approval Amendment No. 5 to the mutual-to-stock conversion application of First Federal Savings and Loan Association of Indianapolis, Indianapolis, Indiana ("Association"). The application had been approved by the Board's Office of General Counsel pursuant to delegated authority. Copies of the application and all amendments thereto are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Indianapolis, Post Office Box 60, 1350 Merchants Plaza, South Tower, Indianapolis, Indiana 46206.

By the Federal Home Loan Bank Board.
J. J. Finn,
Secretary.

[FR Doc. 83-25213 Filed 9-14-83; 8:45 am]
BILLING CODE 6720-01-M

[No. AC-279]

Investors Federal Savings and Loan Association, El Reno, Oklahoma; Final Action Approval of Post-Approval Amendments to Mutual-to-Stock Conversion Application

Dated: September 9, 1983.

Notice is hereby given that on June 10, 1983, the General Counsel of the Federal Home Loan Bank Board ("Board"), acting pursuant to authority delegated to him by the Board, approved Post-Approval Amendment No. 1 to the mutual-to-stock conversion application of Investors Federal Savings and Loan Association, El Reno, Oklahoma ("Association"). The application had been approved by the Board by Resolution No. 81-714, dated November 24, 1981. Copies of the application and all amendments thereto are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, D.C. 20552, and at the Office of the Supervisory Agent, Federal Home Loan Bank of Topeka, P.O. Box 176, Topeka, Kansas 66601.

By the Federal Home Loan Bank Board.
J. J. Finn,
Secretary.

[FR Doc. 83-25211 Filed 9-14-83; 8:45 am]
BILLING CODE 6720-01-M

[No. AC-276]

Metropolitan Savings and Loan Association, Dallas, Texas; Final Action Approval of Conversion Applications

Dated: September 9, 1983.

Notice is hereby given that on August 11, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Metropolitan Savings and Loan Association, Dallas, Texas, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Little Rock, 1400 Tower Building, Little Rock, 1400 Tower Building, Little Rock, Arkansas 72201.

By the Federal Home Loan Bank Board.
J. J. Finn,
Secretary.

[FR Doc. 83-25220 Filed 9-14-83; 8:45 am]
BILLING CODE 6720-01-M

[No. AC-270]

Peninsula Federal Savings and Loan Association, Miami, Florida; Final Action Approval of Conversion Applications

Dated: September 9, 1983.

Notice is hereby given that on September 1, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Peninsula Federal Savings and Loan Association, Miami, Florida, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation,

1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Atlanta, P.O. 56527, Peachtree Center Station, Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83-25214 Filed 9-14-83; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-272]

Tropical Federal Savings and Loan Association, Miami, Florida; Final Action Approval of Conversion Applications

Dated: September 9, 1983.

Notice is hereby given that on August 12, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Tropical Federal Savings and Loan Association, Miami, Florida, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Atlanta, P.O. Box 56527, Peachtree Center Station, Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83-25216 Filed 9-14-83; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-278]

Wake Forest Federal Savings and Loan Association, Wake Forest, North Carolina; Final Action Approval of Conversion Applications

Dated: September 9, 1983.

Notice is hereby given that on September 1, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Wake Forest Federal Savings and Loan Association, Wake Forest, North Carolina, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Atlanta, P.O. Box 56527, Peachtree Center Station, Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83-25222 Filed 9-14-83; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL RESERVE SYSTEM

Merger of Bank Holding Companies; Bank of New England Corporation

Bank of New England Corporation, Boston, Massachusetts, has applied for the Board's approval under § 3(a)(5) of the Bank Holding Company Act (12 U.S.C. 1842(a)(5)) to merge with CBT Corporation, Hartford, Connecticut. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

CBT Corporation, Hartford, Connecticut, is also engaged in the following nonbank activities: general trust company activities pursuant to § 225.4(a)(4) of the Board's Regulation Y through CBT Trust Company of Florida, N.A.; commercial lending on accounts receivable and inventory pursuant to § 225.4(a) (1) and (3) of Regulation Y through CBT Financial Corporation, Hartford, Connecticut; leasing and lease financing pursuant to § 225.4(a)(6) of Regulation Y, through General Discount Corporation, Boston, Massachusetts; and real estate lending pursuant to § 225.4(a) (1) and (3) of Regulation Y through CBT Realty Corporation, Hartford Connecticut. CBT Corporation's nonbanking subsidiaries operate on a nationwide basis from offices of CBT Trust Company in West Palm Beach, Florida; General Discount Corporation in San Francisco, California, Indianapolis, Indiana, Louisville, Kentucky, Cincinnati, Ohio, Oklahoma City, Oklahoma, and Augusta, Minnesota; Lazese Financial Corporation in New York, New York, Los Angeles, California, Miami, Florida, and Chicago, Illinois. In addition to the factors considered under section 3 of the Act (banking factors), the Board will consider the proposal of the Bank of New England Corporation in the light of the nonbanking activities of CBT Corporation's subsidiaries and the provisions and prohibitions in section 4 of the Act (12 U.S.C. 1843).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Boston. Any person wishing to comment on the application should submit views in writing to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 7, 1983. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 9, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-25103 Filed 9-14-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Company; NorBanc Group, Inc.

NorBanc Group, Inc., Pine River, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent or more of the voting shares of Backus State Banc, Backus, Minnesota and Pine River Holding Company, Pine River, Minnesota, and thus indirectly acquire Pine River State Bank, Pine River, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

NorBanc Group, Inc., Pine River, Minnesota, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Pine River Agency, Inc., Pine River, Minnesota.

Applicant states that the proposed subsidiary would engage in the activities of a general insurance agency within a community with a population not exceeding 5,000. These activities would be performed from offices of Applicant's subsidiary in Pine River, Minnesota, and the geographic areas to be served are Backus and Pine River, Minnesota. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in

accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis.

Any views or requests for hearing should be submitted in writing and received by the Reserve Bank not later than October 7, 1983.

Board of Governors of the Federal Reserve System, September 9, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-25104 Filed 9-14-83; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules; MidCon Corp. et al.

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before the consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period:

Transaction	Waiting period terminated effective
(1) 83-0626—MidCon Corporation's proposed acquisition of Mississippi River Transmission Corporation (Union Pacific Corporation, UPE).	Sept. 2, 1983.
(2) 83-0627—Consair Corporation's proposed acquisition of voting Securities of Zotos International, Incorporated.	Sept. 2, 1983.
(3) 83-0640—Borden, Incorporated's proposed acquisition of voting securities of Clover Club Foods Company.	Aug. 31, 1983.
(4) 83-0653—Peter F. Bezanson's proposed acquisition of voting securities of A & S Financial Services, Incorporated (Robert D. Short, UPE).	Sept. 2, 1983.
(5) 83-0654—ConAgra, Incorporated's proposed acquisition of voting securities of Glen Corporation (William H. Wurster, UPE).	Sept. 2, 1983.
(6) 83-0655—Lear Petroleum Corporation's proposed acquisition of voting securities of McRae Consolidated Oil & Gas, Incorporated.	Aug. 31, 1983.
(7) 83-0660—McKesson Corporation's proposed acquisition of voting securities of 3 PM, Incorporated (Robert A. Yanover, UPE).	Sept. 2, 1983.
(8) 83-0670—North State Financial Corporation's proposed acquisition of voting securities of NewBern Savings and Loan Association, Inc.	Sept. 2, 1983.
(9) 83-0669—The Krystal Company's proposed acquisition of voting securities of DavCo Food, Inc.	Sept. 6, 1983.
(10) 83-0635—Standard Oil Company's proposed acquisition of voting securities of Solarex Corporation.	Aug. 24, 1983.
(11) 83-0645—RMC Group p.l.c.'s proposed acquisition of voting securities of Metromont Materials Corporation.	Aug. 24, 1983.
(12) 83-0676—Tengelmann Warengesellschaft's proposed acquisition of assets of BAT Industries p.l.c.	Aug. 31, 1983.
(13) 83-0677—Peter F. Bezanson's proposed acquisition of voting securities of A & S Financial Services, Incorporated (Carl A. Brady, UPE).	Sept. 2, 1983.
(14) 83-0641—Harris Corporation's proposed acquisition of voting securities of Lanier Business Products.	Aug. 25, 1983.
(15) 83-0590—H. Group Holding, Incorporated's proposed acquisition of voting securities of Braniff Airways Incorporated (Braniff International Corporation, UPE).	Aug. 25, 1983.
(16) 83-0648—Preferred Savings and Loan Association, Incorporated's proposed acquisition of voting securities of Forsyth Savings and Loan Corporation.	Aug. 25, 1983.
(17) 83-0482—A. H. Belo Corporation's proposed acquisition of voting securities of six subsidiaries of The Dun and Bradstreet Corporation.	Aug. 25, 1983.

FOR FURTHER INFORMATION CONTACT: Patricia A. Foster, Compliance Specialist, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, D.C. 20580, (202) 523-3894.

By direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 83-25250 Filed 9-14-83; 8:45 am]

BILLING CODE 6750-01-M

GENERAL SERVICES ADMINISTRATION

Public Buildings Service

Guidelines for Establishment of Physical Fitness Facilities in Federal Space; Update

AGENCY: Public Buildings Service, GSA.

ACTION: Notice of responsibility.

SUMMARY: This updates the points of contact within the General Services Administration and the President's Council on Physical Fitness and Sports. This document was originally published in the **Federal Register** on December 4, 1978 (43 FR 56733).

EFFECTIVE DATE: September 15, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. John H. Quigley, Director, Assignment and Utilization Division, Office of Space Management, Public Buildings Service, General Services Administration, Washington, D.C. 20405 (202-566-1875); or Mr. York E. Onnen, Director, Program Development President's Council on Physical Fitness and Sports, Washington, D.C. 20001 (202-272-3427).

Richard O. Haase,

Commissioner, Public Buildings Service.

[FR Doc. 83-25177 Filed 9-14-83; 8:45 am]

BILLING CODE 6820-23-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Evaluation of Drosophila for Teratogen Screening; Open Meeting

The following meeting will be convened by the National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and will be open to the public for observation and participation, limited only by the space available:

Date: September 26, 1983
Time: 9:00 a.m. to 4:30 p.m.
Place: Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, OH 45226
Purpose: To review and discuss the utility of a *Drosophila* bioassay as a teratogen screen. Viewpoints and suggestions from industry, organized labor, academia, other government agencies, and the public are invited.

Additional information may be obtained from: Ronald L. Schuler, Division of Biomedical and Behavioral Science, National Institute for Occupational Safety and Health.

Centers for Disease Control, 4676 Columbia Parkway, Cincinnati, OH 45226, Telephones: FTS: 684–8357, Commercial: 513/684–8357.

Dated: September 9, 1983.

William H. Foege,

Director, Centers for Disease Control.

[FR Doc. 83–25171 Filed 9–14–83; 8:45 am]

BILLING CODE 4160–19–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Agency Forms Submitted to OMB for Review

AGENCY: Bureau of Land Management, Interior.

ACTION: Bureau form submitted for review to Office of Management and Budget.

SUMMARY: The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related form and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget reviewing official, Mr. Richard Otis, at (202) 395–7340.

Title: Assignment of Interest in a lease for Oil and Gas or Geothermal Resources
Bureau Form Number: 3000–3
Frequency: On occasion
Description of Respondents: General public, small businesses, and oil companies
Annual Responses: 60,000
Annual Burden Hours: 30,000
Bureau Clearance Officer (alternate): Linda Gibbs, 202–653–8853.

Dated: August 18, 1983.

Arnold E. Petty,

Acting Associate Director.

[FR Doc. 83–25089 Filed 9–14–83; 8:45 am]

BILLING CODE 4310–84–M

[U–47982]

Exchange of Public and Private Lands in Kane County, Utah

The United States issued an exchange conveyance document to the Heaton Inter Vivos Trust Patent No. 43–83–0015, on September 6, 1983, for the following described lands pursuant to Section 206 of the Act of October 21, 1976 (90 Stat. 2756; 43 U.S.C. 1716):

Salt Lake Meridian, Utah

T. 40 S., R. 5 W.,
Sec. 19, lot 2, W½NW¼NE¼, NW¼SE¼NW¼.
T. 40 S., R. 6 W.,
Sec. 13, W½NE¼, W½SE¼NE¼, E½W½SE¼;
Sec. 23, SW¼NE¼, E½SE¼NW¼, E½SE¼;
Sec. 24, W½SW¼, SE¼NW¼SE¼, NE¼SW¼SE¼, NW¼SE¼SE¼;
Sec. 26, W½NE¼NE¼.
Containing 479.91 acres.

In exchange for these lands the United States acquired the following described lands from the Heaton Trust:

Salt Lake Meridian, Utah

T. 40 S., R. 6 W.,
Sec. 22, E½.
Containing 320 acres.

The purpose of this exchange was to acquire the non-Federal lands valuable for livestock grazing and better range management. The public interest was well served through completion of this exchange.

The values of Federal public land and non-Federal land in the exchange were appraised at $96,000.00 respectively.

Dated: September 6, 1983.

Darnell Barnes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83–25091 Filed 9–14–83; 8:45 am]

BILLING CODE 4310–84–M

[U–50114]

Exchange of Public and State Lands in Uintah County, Utah

The United States issued an exchange conveyance document to the State of Utah, Patent No. 43–83–0014, on August 17, 1983, for the following described lands pursuant to Section 206 of the Act of October 21, 1976 (90 Stat. 2256; 43 U.S.C. 1716):

Salt Lake Meridian, Utah

T. 9 S., R. 25 E.,
Sec. 8, lots 1, 3, S½N½, N½S½, SE¼SW¼, S½SE¼;
Sec. 9, S½N½, S½;
Sec. 10, S½N½, S½;
Sec. 11, S½N½, S½;
Sec. 12, lots 2, 3, 4, SW¼NW¼, W½SW¼;
Sec. 13, lots 1, 2, W½NW¼;
Sec. 14, N½;
Sec. 15, N½;
Sec. 17, lots 1, 3–7, NE¼NE¼, SW¼NW¼, S½;
Sec. 20, all;
Sec. 21, lot 1, W½NE¼, SE¼NE¼, W½SE¼;
Sec. 22, lots 2, 3, SW¼NW¼;
Sec. 29, lots 1–4, N½, NE¼SW¼, SE¼.
Containing 5,499.71 acres.

In exchange for these lands, the United States acquired the following described lands from the State of Utah:

Salt Lake Meridian, Utah

T. 8 S., R. 22 E.,
Sec. 31, lot 3, NE¼SW¼, SE¼ (mineral estate only);
Sec. 32, all (mineral estate only);
Sec. 36, all.
T. 8 S., R. 23 E.,
Sec. 32, 36, all.
T. 8 S., R. 24 E.,
Sec. 32, 36, all.
T. 9 S., R. 24 E.,
Sec. 15, lots 1–4, N½, NW¼SW¼, N½SW¼SW¼, SW¼SW¼SW¼, N½SE¼SW¼SW¼, SW¼SE¼SW¼SW¼, N½SE¼;
Sec. 29, all;
Sec. 32, NE¼NE¼, S½NW¼, S½.
T. 8 S., R. 25 E.,
Sec. 32, all;
Sec. 36, lots 1–4, W½W½.
T. 9 S., R. 25 E.,
Sec. 2, lots 1–4, S½N½, S½.
Containing 7,316.86 acres.

The purpose of this exchange is to allow consolidation of state oil shale leases and would allow the United States to acquire isolated sections of state land that adjoin public land. Also, it will help in the national development of synthetic oil.

The values of Federal public land and non-Federal land were equal.

The public interest was well served through completion of this exchange.

Dated: September 6, 1983.

Darnell Barnes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83–25092 Filed 9–14–83; 8:45 am]

BILLING CODE 4310–84–M

[W–74453]

Exchange of Public Lands for Private Lands in Natrona and Converse Counties, Wyoming

September 7, 1983.

Notice is hereby given that pursuant to Section 206 of the Act of October 21, 1976, 43 U.S.C. 1716 (1976), the following described land has been conveyed to B B Brooks Co., Casper, Wyoming:

Sixth Principal Meridian, Wyoming

T. 32 N., R. 77 W.,
Sec. 7, lots 5, 6, 7, 9, 10, 11, and 16.
T. 33 N., R. 77 W.,
Sec. 10, SE¼SE¼;
Sec. 11, W½SW¼;
Sec. 28, SE¼SW¼;
Sec. 29, NE¼SE¼.
T. 31 N., R. 78 W.,
Sec. 21, NE¼SE¼ and S½SE¼;

Sec. 28, N½, NE¼SW¼,SW¼SW¼,and NW¼SE¼;
Sec. 29, SE¼.
T. 34 N., R. 78 W.,
Sec. 6, N½SE¼.

In exchange for the above land, the United States acquired the following described land located on Muddy Mountain from B B Brooks Co. for addition to the Bureau's Muddy Mountain Environmental Education Area, a natural area managed for public environmental education and outdoor recreational activities:

Sixth Principal Meridian, Wyoming

T. 31 N., R. 78 W.,
Sec. 7, lot 4, SE¼SW¼, and W½SE¼ NE¼;
Sec. 18, lot 1, and NW¼NE¼.

James L. Edlefsen,

Chief, Branch of Land Resources.

[FR Doc. 83-25183 Filed 9-14-83; 8:45 am]

BILLING CODE 4310-84-M

Arizona Strip District Advisory Council Meeting and Field Tour

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: A meeting and field tour of the Arizona Strip District Advisory Council will take place on Tuesday and Wednesday, October 18–19, 1983. Departing from the District Office on Tuesday at 8:00 a.m. the Council will tour a proposed land sales area, a prescribed burn site, the Hack Canyon Uranium Mine, and wilderness areas with an overnight stay at Mt. Trumbull. The purpose of Wednesday's tour is to observe and discuss land sales scheduled for 1984, observe an Allotment Management Plan, and the Black Rock Habitat Management Plan. Leaving Mt. Trumbull at 8:00 a.m., the Council will return to St. George by 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: G. William Lamb, District Manager, Arizona Strip District, 196 East Tabernacle, St. George, Utah 84770 (801/673–3545).

SUPPLEMENTARY INFORMATION: The trip is open to the public but interested persons must provide their own food, transportation and overnight accommodations. Anyone wishing to go on the tour is asked to notify the district manager by October 11. Public comment will be accepted at any time during the tour or written statements may be filed for the Council's consideration.

G. William Lamb,

District Manager.

September 7, 1983.

[FR Doc. 83-25182 Filed 9-14-83; 8:45 am]

BILLING CODE 4310-84-M

Wyoming; Casper District Grazing Advisory Board; Meeting

AGENCY: Casper District, Bureau of Land Management, Interior.

ACTION: Casper District Grazing Advisory Board meeting.

SUMMARY: The Casper District Grazing Advisory Board will meet at 9:00 a.m. on November 2, 1983 in the BLM's Buffalo Resource Area Office, 300 Spruce Street, Buffalo, Wyoming 82834. The agenda will include: FY 84 range improvement projects, Cooperative Management Agreements, and additional topics suggested by the board. The meeting is open to the public. Summary minutes will be available within 30 days after the meeting.

DATE: November 2, 1983 at 9:00 a.m.

ADDRESS: To request summary minutes or time on the agenda contact: District Manager, Bureau of Land Management, 951 Rancho Road, Casper, WY 82601. The meeting will be held at BLM's Buffalo Resource Area, 300 Spruce Street, Buffalo, WY 82834.

FOR FURTHER INFORMATION CONTACT: Laura Cockerham, (307) 261–5593.

Dated: September 9, 1983.

James W. Monroe,

Casper District Manager.

[FR Doc. 83-25179 Filed 9-14-83; 8:45 am]

BILLING CODE 4310-84-M

District Advisory Council, Susanville, California; Meeting

Notice is hereby given in accordance with Pub. L. 94–579 (FLPMA) that a meeting of the Susanville District Advisory Council will be held on October 4 and 5, 1983.

The meeting will begin at 10:00 a.m. on October 4, in the Conference Room of the Bureau of Land Management, Susanville District Office, 705 Hall Street, Susanville, California.

The purpose of the meeting will be to develop a process for District Advisory Council involvement in the District's Wilderness Study Review.

The meeting is open to the public and time will be provided for public comment.

Summary minutes of the council meeting will be maintained in the District Office and will be available for public inspection and reproduction within 30 days following the meeting.

Ben F. Collins,

Acting District Manager.

[FR Doc. 83-25085 Filed 9-14-83; 8:45 am]

BILLING CODE 4310-84-M

[OR 36212]

Realty Action, Sealed/Oral, Competitive Sale of Public Land in Jackson County, Oregon

The following described parcels of revested Oregon and California Railroad Grant (O&C) land have been examined and identified as suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713) at no less than the appraised fair market value:

Parcel designation	Legal description	Acreage
	Willamette Meridian, Oregon, T35S, R2W:	
A	Sec. 15, SW¼NW¼	40
B	Sec. 29, SE¼NE¼	40

The above described land will be offered for sale by public auction on Wednesday, November 16, 1983 at 1:00 p.m. in the Medford District's Oregon Room. The sale will be conducted by a combination of sealed and oral bidding. Bids may be made by a principle or a duly qualified agent. Each sealed bid must be accompanied by a certified check, postal money order, bank draft, or cashier's check, made payable to the Bureau of Land Management.

Sealed bids will be considered only if received at the District Office by 12:00 noon, on Wednesday, November 16, 1983 and are for at least the appraised value. The deposit, with the sealed bids, must be for not less than one-fifth of the amount bid, and shall be enclosed in a sealed envelope clearly marked "Bid for Public Land Sale, OR 36212, Parcel A (or Parcel B)". If two or more bids for the same amount are received, the apparent high bidder will be determined by drawing pursuant to 43 CFR 2711.3–1(c). The highest sealed bid will establish the base for the oral auction to follow. Each oral bid must be in increments of fifty dollars or multiples thereof.

The highest bid price, either sealed or oral, will establish the sale price. If the sale price is determined by an oral bid, the successful bidder will be required to submit immediately a minimum deposit of one-fifth of the full bid price. Such deposit may be tendered by cash, personal check, money order, bank

draft, or any combination thereof. The remainder of the bid price will be required to be submitted within 30 days of the sale. Failure to submit timely payment shall result in sale cancellation, and the bid deposit shall be forfeited and disposed of as other receipts of sale. All unsuccessful sealed bids will be returned within 30 days of the sale.

Either or both parcels not sold pursuant to this "Notice of Reality Action" shall remain available for sale on a continuing basis until sold. The sale price shall be based on the appraised fair market value at the time of purchase. Subsequent purchases may be transacted at the Medford District Office, in person, during regular business hours.

The two parcels were identified through land use planning as not being needed for any resources program of the Bureau of Land Management or other Federal agencies. These parcels are difficult and uneconomic to manage and do not have any significant public values that warrant retention in public ownership. Sale of these parcels will allow private development within county zoning ordinances. Parcel A has physical access, but not legal; Parcel B has both physical and legal access.

Sale of the parcels has been discussed with adjoining landowners, state and county officials, and other interested parties. No objections or controversy have been raised. As a result of the public review and after reviewing coimments from adjoining private landowners, no preference right will be given.

Federal law requires that all bidders be U.S. Citizens, 18 years of age or more, a state or state instrumentality authorized to hold property, or in the case of corporations, be authorized to own real estate in the state in which the sale land is offered. Proof of these requirements shall accompany all sale bids.

Patent, when issued will contain the following reservations:

1. Rights-of-way hereon for ditches or canals constructed by the authority of the United States under the Act of August 30, 1890; 26 Stat. 391; 43 CFR Part 945.

2. All minerals in the land will be reserved to the United States (43 U.S.C. 1719).

3. Subject to all valid existing rights (43 U.S.C. 1718), including:

(a) Reservation on Parcel A for a non-exclusive easement (.115 acres) to Boise Cascade Corporation under the M–660 Agreement.

(b) Reservation on Parcel B for a right-of-way (50') for Jackson County's Duggan Road.

Detailed information concerning the sale, including the planning documents, environmental assessment, and the record of public discussions is available for review at the Medford District Office, 3040 Biddle Road, Medford, Oregon 97504.

For a period of 45 days from the date of this notice, interested parties may submit comments to the Medofrd District Manager (address above). Any adverse comments received as a result of the Notice of Realty Action or notification to the Congressional Committees and delgations pursuant to Pub. L. 97–394 will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become a final determination of the Department of the Interior. Interested parties should continue to check with the District Office to keep themselves advised of any changes.

Date signed: September 9, 1983.

Hugh Shera,

District Manager.

[FR Doc. 83–25088 Filed 9–14–83; 8:45 am]

BILLING CODE 4310–84–M

[U–47292]

Issuance of Land Sale Conveyance Document; Box Elder County, Utah

The United States issued a Land Sale Conveyance Document to Merlin B. and Kenna K. Tanner on September 6, 1983, Patent No. 43–83–0016 for the following described lands pursuant to Section 203 of the Act of October 21, 1976 (90 Stat. 2750; 43 U.S.C. 1713):

Salt Lake Meridian Utah

T. 10 N., R. 18 W.,
Sec. 21, SE¼
Containing 160 acres.

The land was conveyed to the Tanners because of location and other characteristics, it was difficult and uneconomical for BLM to manage.

The public interest was well served through completion of this sale.

The value of the Federal land was appraised at $16,000.00 and payment was received for this amount to the United States.

Dated: September 6, 1983.

Darnell Barnes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83–25089 Filed 9–14–83; 8:45 am]

BILLING CODE 4310–84–M

[U–52422]

Sale of Public Lands in San Juan County, Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action, sale of public lands in San Juan County, Utah; U–52422.

The Bureau of Land Management, based upon land use plans and field examination, has determined that the following described lands are suitable for sale at no less than fair market value, under the authority of Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713).

Legal description	Acreage
T. 32 S., R. 23 E., SLBM, Sec. 1, Lots 4, 5, and 12, SW¼NW¼, NW¼SW¼	197.92

The above described lands will be sold at public auction by oral bid, subject to a preference right of the adjoining landowner to meet the highest bid. The sale will be held at 10:00 a.m., December 2, 1983 at the Commissioner's Room, San Juan County Courthouse, Monticello, Utah.

The terms and conditions of the sale are:

1. The sale of the land is subject to all existing rights.

2. A right-of-way is reserved to the United States for ditches and canals constructed under the Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945).

3. The bid will also constitute an application for conveyance ($50.00) of locatable and salable minerals. These mineral interests have no known mineral value and will be conveyed under Section 209(b) of the Federal Land Policy and Management Act of 1976 (90 Stat. 2757; 43 U.S.C. 1719).

4. Leaseable minerals will be reserved to the United States.

5. Federal law requires that all bidders be U.S. citizens, or in case of Corporations, be authorized to own real estate in Utah. Proof of these requirements shall accompany the bid.

6. J. Ward Palmer is the owner of the following authorized permanent range improvements on the property being sold: Three Reservoirs, small barn, and

corral. If any person other than Mr. Palmer is the successful bidder on the lands being offered for sale, that person will be required to reimburse the sum of $2,500.00 which represents the adjusted value of improvement.

The sale will be by modified competitive bidding. Bids must be made by the principal or his agent at the time of the sale. The highest oral bid will establish the apparent high bidder. The designated bidder (adjoining landowner) will be contacted to determine if he will exercise his preference right. This will establish the successful high bidder. The successful high bidder will be required to submit the following monies by check, cash, or money order.

1. A nonrefundable deposit of twenty percent (20%) of the full bid price.

2. A payment of $2,500.00 for range improvements if necessary.

3. A nonrefundable filing fee of $50.00 for application for conveyance of minerals.

The remaining eighty percent (80%) of the full bid price shall be paid within 30 days of the sale. Failure to pay the full bid price within 30 days shall disqualify the apparent high bidder and the deposits shall be forfeited. The payment of $2,500.00 will be refunded.

All bids will be either returned, accepted, or rejected within 30 days of the sale date. The Bureau of Land Management may accept or reject any and all offers, or withdraw any land or interest in land for sale if, in the opinion of the authorized officer, consummation of the sale would not be fully consistent with the Federal Land Policy and Management Act.

For a period of 45 days from the date of this notice, interested parties may submit comments to the Utah State Director, University Club Building, 136 E. South Temple, Salt Lake City, Utah 84111. Any adverse comments will be evaluated by the State Director, who may vacate or modify this notice. In absence of any action by the State Director, this notice will represent the final determination of the Department of Interior.

Additional information is available from the Moab District Office, P.O. Box 970, Moab, Utah 84532, or the San Juan Resource Area, P.O. Box 7, Monticello, Utah 84535.

Dated: September 9, 1983.

Gene Nodine,

District Manager.

[FR Doc. 83-25176 Filed 9-14-83; 8:45 am]

BILLING CODE 4310-84-M

[W-81324 B]

Sale of Public Land in Laramie County, Wyoming

September 7, 1983.

Notice is hereby given that pursuant to Section 203 of the Act of October 21, 1976; 43 U.S.C. 1713 (1976), Orville D. Hopka and Claryce H. Sargent, trustees for the Hopka family trust, have purchased and received a patent for the following described public land in Laramie County, Wyoming.

Sixth Principal Meridian

T. 13 N., R. 60 W.,
Sec. 2, lots 5 and 6.
Containing 14.92 acres.

James L. Edlefsen,

Chief, Branch of Land Resources.

[FR Doc. 83-25180 Filed 9-14-83; 8:45 am]

BILLING CODE 4310-84-M

[C-12-83]

California; Filing of Plat of Survey

September 7, 1983.

1. This plat of survey of the following described land will be officially filed in the California State Office, Sacramento, California, immediately:

Mount Diablo Meridian

T. 17 N., R. 9 E.

2. This supplemental plat showing amended lottings in the SE¼, section 1, T. 17 N., R. 9 E., MDM, California, was accepted August 9, 1983.

3. The plat will immediately become the basic record for describing the land for all authorized purposes. The plat has been placed in the open files and is available to the public for information only.

4. This plat was executed to meet certain administrative needs of this Bureau.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records and Information Section.

[FR Doc. 83-25004 Filed 9-14-83; 8:45 am]

BILLING CODE 4310-84-M

[C-11-83]

California; Filing of Plat of Survey

September 7, 1983.

1. This plat of survey of the following described land will be officially filed in the California State Office, Sacramento, Calif. immediately:

Mount Diablo Meridian

T. 22 N., R. 13 E.

2. This supplemental plat showing amended lottings in the SE¼, section 30, T. 22 N., R. 13 E., MDM, California, was accepted August 9, 1983.

3. The plat will immediately become the basic record for describing the land for all authorized purposes. The plat has been placed in the open files and is available to the public for information only.

4. This plat was executed to meet certain administrative needs of this Bureau.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Dated: September 7, 1983.

Herman J. Lyttge,

Records & Information Section.

[FR Doc. 83-25173 Filed 9-14-83; 8:45 am]

BILLING CODE 4310-84-M

[CA 7065 WR, CA 7565 WR, SAC 054809 WR, SAC 060296 WR]

California; Proposed Continuation of Withdrawal of Lands; Partial Continuation of Withdrawal of Lands; Opportunity for Public Hearing

September 6, 1983.

As a result of the reviews made pursuant to Section 204(1) of the Federal Land Policy and Management Act of 1976 (90 Stat. 2754; 43 U.S.C. 1714), the Bureau of Land Management, Department of the Interior, proposes to continue in their entirety two existing withdrawals of land on 780 acres, and partially continue two other existing withdrawals of land on 2,822.22 acres. The lands involved are located within the Tahoe National Forest and were withdrawn for use of the U.S. Bureau of Reclamation in connection with the Washoe and Truckee River Storage Reclamation Projects.

The following described withdrawals of land are proposed for continuation in their entirety for a period of 50 years:

Mount Diablo Meridian

CA 7565 WR

1. Secretarial Order of October 18, 1940

T. 18 N., R. 16 E.,
Sec. 24, S½;
Sec. 26, S½NW¼ and N½S½.

The areas described aggregate 560 acres in Nevada County.

SAC 080236 WR

2. Public Land Order No. 4282 of September 16, 1967

T. 19 N., R. 16 E.,
Sec. 26, NW¼NW¼ and N½SW¼NW¼;
Sec. 34, N½N½.

The area described aggregate 220 acres in Sierra County.

The following withdrawals are proposed for continuation for a period of 50 years insofar as the lands indicated are affected:

Mount Diablo Meridian

SAC 054809 WR

1. Public Land Order No. 2225 of December 16, 1960

T. 19 N., R. 16 E.,
Sec. 26, S½SW¼NW¼.

The area described contains 20 acres in Sierra County.

CA 7065 WR

2. Secretarial Order of March 24, 1934

T. 18 N., R. 17 E.,
Sec. 4, E½ of lot 1 of the NW¼, and E½ of lot 2 of the NW¼;
Sec. 8, E½, NW¼, and E½SW¼;
Sec. 10, SW¼SW¼;
Sec. 20, NE¼, E½NW¼, NW¼NW¼, and NE¼SW¼;
Sec. 30, lots 1 and 2 of the NW¼.
T. 19 N., R. 17 E.,
Sec. 18, lots 1 and 2 of the NW¼ and lots 1 and 2 of the SW¼;
Sec. 19, N½ of lot 1 of the NW¼, lot 2 of the NW¼, N½ of lot 1 of the SW¼, N½ of lot 2 of SW¼ and E½;
Sec. 20, W½E½ and W½;
Sec. 28, NW¼NW¼, W½SW¼, and SE¼SW¼;
Sec. 30, NE¼NE¼, SW¼NE¼, SE¼NW¼, and NW¼SE¼.

The area described aggregate 2,802.22 acres in Sierra and Nevada Counties.

The subject withdrawals segregate the lands from operation of the public land laws generally, including the mining laws. The lands have been and would continue to be open to applications and offers under the mineral leasing laws. No change in the segregative effect of the withdrawals or use of the land is proposed.

Notice is hereby given that an opportunity for a public hearing is aforded in connection with the proposed withdrawal continuations. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal continuations must submit a written request to the undersigned officer within 90 days from the date of publication of this notice. If the State Director, Bureau of Land Management, in his discretion, determines that a public hearing is justified, a notice will be published in the **Federal Register** giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with BLM Manual Section 2351.16.B. In addition, for a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuations may present their views in writing to the undersigned officer of the Bureau of Land Management.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources, and will review the withdrawal rejustification to ensure that, (1) continuation would be consistent with the statutory objectives of the programs for which the lands are dedicated; (2) the areas involved are the minimum essential to meet the desired needs; (3) the maximum concurrent utilization of the lands is provided for; and (4) an agreement is reached on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior, who will determine whether, and for how long, the continuation of the existing withdrawals is justified. The determination of the Secretary will be published in the **Federal Register.**

All communications in connection with this proposed withdrawal continuation and opportunity for public hearing should be addressed to the undersigned officer, Bureau of Land Management, California State Office, E–2841, 2800 Cottage Way, Sacramento, California 95825.

Eleanor Wilkinson,

Chief, Lands and Locatable Minerals Section, Branch of Lands & Minerals Operations.

[FR Doc. 83–25090 Filed 9–14–83; 8:45 am]

BILLING CODE 4310–84–M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Gulf Oil Exploration and Production Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Gulf Oil Exploration and Production Company has submitted a Development and Production Plan describing the activities its proposes to conduct on Lease OCS–G 5603, Block 132, South Timbalier Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekends 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 838–0519.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: September 9, 1983.

John L. Rankin,

Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83–25181 Filed 9–14–83; 8:45 am]

BILLING CODE 4310–MR–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Joint Committee on Agricultural Research and Development of the Board for International Food and Agricultural Development; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given of the sixth meeting of the Joint Committee on Agricultural Research and Development (JCARD) of the Board for International Food and Agricultural Development (BIFAD) on October 11 and 12, 1983.

The purpose of the meeting is to assist AID in implementing the components of the Title XII program by providing a two-way communications link for concerns of AID and concerns of the universities. The meeting will be addressing several of the issues identified in JACARD's "Program of Work Plan for 1983" including the Collaborative Research Support Program (CRSP) and Participant Training issues.

JCARD will meet from 1:00 p.m. to 5:00 p.m. on October 11 and from 9:00 a.m. to 5:00 p.m. on October 12. The meeting will be held in the Holiday Inn, 1850 N. Fort Myer Drive, Rosslyn, Virginia. The meeting is open to the public. Any interested person may attend, may file written statements with the Committee before or after the meeting, or may present oral statements in accordance with procedures established by the Committee, and to the extent the time available for the meeting permits.

Dr. John Stovall, BIFAD Support Staff, is the designated A.I.D. Advisory Committee Representative at the meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, BIFAD Support Staff, Washington, D.C. 20523 or telephone him at (202) 632–8532.

Dated: September 7, 1983.

John Stovall,

A.I.D. Advisory Committee Representative, Joint Committee on Agricultural Research and Development, Board for International Food and Agricultural Development.

[FR Doc. 83-25133 Filed 9-14-83; 8:45 am]
BILLING CODE 6116-01-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-164]

Certain Modular Structural Systems; Investigation

AGENCY: International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on August 8, 1983, under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), on behalf of FOGA Systems Div. of R. C. Dudek & Company, Inc., 31260 Cedarvalley Drive, Westlake Village, California 91326. Addenda to the complaint were filed on August 24, 1983 and September 1, 1983. The complaint and the addenda thereto allege unfair methods of competition and unfair acts in the importation of certain modular structural systems into the United States, or in their sale, by reason of alleged (1) infringement of claims 1, 2, and 3 of U.S. Letters Patent 4,334,797; (2) infringement of claims 1 and 2 of U.S. Letters Patent 3,672,710; (3) infringement of U.S. Letters Patent Des. 263,676; and (4) false representation. The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

The complainant requests that the Commission institute an investigation and, after a full investigation, issue a permanent exclusion order and a permanent cease and desist order.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930 and in § 210.12 of the Commission's Rules of Practice and Procedure (19 CFR 210.12).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on September 7, 1983, ordered that:

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930 an investigation be instituted to determine whether there is a violation of subsection (a) of section 337 in the unlawful importation of certain modular structural systems into the United States, or in their sale, by reason of alleged (1) infringement of claims 1, 2, and 3 of U.S. Letters Patent 4,334,797; (2) infringement of claims 1 and 2 of U.S. Letters Patent 3,672,710; (3) infringement of U.S. Letters Patent Des. 263,676; and (4) false representation, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—FOGA Systems Div. of R. C. Dudek & Company, Inc., 31260 Cedarvalley Drive, Westlake Village, CA 91326.

(b) The respondents are the following companies, alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Otto Fastening Systems, Ltd., 16936 110 Ave., Edmonton, Alberta, Canada t5P 1G9
Otto-matic, Robert Witmeyer, 1804 14th Street #4, Santa Monica, CA 90403
Mars Materials, Inc., 16 Yonge St., S.E., Atlanta, GA 30212
Sugar Creek Studios, Inc., 16 Yonge St., S.E., Atlanta, GA 30212
Phil Gabel, 511 Opatrny Drive, Fox River Grove, IL 60021
Diamond Distributor, Inc., 16612 Burke Street, Huntington Beach CA 92647
Outwater Plastics, Inc., 99–101 President Street, Passaic, NJ 07055

(c) Lynn I. Levine, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, 701 E Street NW., Room 124, Washington, D.C. 20436, shall be the Commission investigative attorney, a party to this investigation; and

(3) For the investigation so instituted, Donald K. Duvall, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding officer.

Responses must be submitted by the named respondents in accordance with § 210.21 of the Commission's Rules of Practice and Procedure (19 CFR 210.21). Pursuant to §§ 201.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings.

The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Room 156, Washington, D.C. 20436, telephone 202–523–0471.

FOR FURTHER INFORMATION CONTACT: Lynn I. Levine, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, telephone 202–523–0419.

By order of the Commission.

Issued: September 12, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-25184 Filed 9-14-83; 8:45 am]
BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket 30281]

Rail Carriers; Norfolk and Western Railway Co.;—Purchase (Portion) Chicago Rock Island and Pacific Railroad Co.

AGENCY: Interstate Commerce Commission.

ACTION: Application accepted for consideration and proceedings scheduled.

SUMMARY: The Commission is accepting for consideration the application of Norfolk and Western Railway Company to purchase certain properties of the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), located in Chicago, IL. The Commission is also setting a schedule for the proceeding, and will issue a final decision by October 17, 1983.

DATE: Sworn statements supporting or opposing the application or seeking other relief must be filed and served on applicants September 26, 1983. Sworn statements in response must be filed and served on applicants October 5, 1983.

ADDRESSES: An original and 10 copies of all statements referring to Finance Docket No. 30281 should be sent to: Secretary, Interstate Commerce Commission, Washington, DC 20423, Attention: Norfolk and Western Railway Company.

One copy should be sent to the Attorney General and the Secretary of Transportation of the United States and to Applicant's representative: William C. Wooldridge, Norfolk Southern Corporation, One Commercial Plaza, Norfolk, VA 23510.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423 or call 289–4357 [D.C. Metropolitan area] toll free [800] 424–5403.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–25139 Filed 9–14–83; 8:45 am]

BILLING CODE 7035–01–M

[I.C.C. Order No. P–64]

Passenger Train Operation; Union Pacific Railroad Co.

It appearing, that the National Railroad Passenger Corporation (Amtrak) has established through passenger train service between Seattle, Washington and Los Angeles, California. The operation of these trains requires the use of the tracks and other facilities of Southern Pacific Transportation Company (SP). A portion of the SP tracks at Gray Rock, California, are temporarily out of service because of a derailment. An alternate route is available via the Union Pacific Railroad Company between Bieber, California, and Sacramento, California.

It is the opinion of the Commission that the use of such alternate route is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

(a) Pursuant to the authority vested in me by order of the commission decided April 29, 1981, and of the authority vested in the Commission by Section 402(c) of the Rail Passenger Service Act of 1970 (45 U.S.C. 562(c)), the Union Pacific Railroad Company (UP), is directed to operate trains of the National Railroad Passenger Corporation (Amtrak) between Bieber, California, and a connection with Southern Pacific Transportation Company (SP) at Sacramento, California.

(b) In executing the provisions of this order, the common carriers involved shall proceed even though no agreements or arrangements now exist between them with reference to the compensation terms and conditions applicable to said transportation. The compensation terms and conditions shall be, during the time this order remains in force, those which are voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, the compensation terms and conditions shall be as hereafter fixed by the Commission upon petition of any or all of the said carriers in accordance with pertinent authority conferred upon it by the Interstate Commerce Act and by the Rail Passenger Service Act 1970, as amended.

(c) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign commerce.

(d) *Effective date.* This order shall become effective at 1:30 p.m., September 5, 1983 (E.D.T.).

(e) *Expiration date.* The provisons of this order shall expire at 11:59 p.m., September 6, 1983, unless otherwise modified, amended, or vacated by order of this Commission.

This order shall be served upon Union Pacific Railroad Company and upon National Railroad Passenger Corporation (Amtrak); and a copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., September 6, 1982.

Interstate Commerce Commission.

Bernard Gaillard,

Agent.

[FR Doc. 25136 Filed 9–14–83; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–6; Sub-No. 162]

Burlington Northern Railroad Company; Abandonment in Custer, Pennington and Lawrence Counties, SD; Findings

The Commission has issued a certificate authorizing the Burlington Northern Railroad Company to abandon its line of railroad extending from milepost 44.61 near Custer to milepost 106.87 at the end of the line near Deadwood (including Kirk to Fantail and Fantail to Lead), a distance of 65.70 miles, in Custer, Pennington and Lawrence Counties, SD. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB–OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–25323 Filed 9–14–83; 8:45 am]

BILLING CODE 7035–01–M

NATIONAL SCIENCE FOUNDATION

Membership of National Science Foundation's Senior Executive Service Performance Review Board

AGENCY: National Science Foundation.

ACTION: Announcement of membership of the National Science Foundation's Senior Executive Service Performance Review Board.

SUMMARY: This announcement of the membership of the National Science Foundation's Senior Executive Service Performance Review Board is made in

compliance with 5 U.S.C. 4314(c)(4). This announcement supersedes the announcement published in the **Federal Register** of August 10, 1983.

ADDRESS: Comments should be addressed to Director, Division of Personnel and Management, National Science Foundation, Room 212, 1800 G Street, NW., Washington, D.C. 20550.

FOR FURTHER INFORMATION CONTACT: Mr. John Wilkinson or Ms. Patricia Bond at the above address or (202) 357–7857.

SUPPLEMENTARY INFORMATION: The membership of the National Science Foundation's Senior Executive Service Performance Review Board is as follows:

Permanent Membership

Deputy Director (Vacant), Chairperson
Thomas Ubois, Assistant Director for Administration, Acting Chairperson and Executive Secretary

Rotating Membership

Ruth L. Greenstein, Associate General Counsel for Policy (3 years)
Harvey Willard, Head, Nuclear Science Section, Division of Physics, Directorate for Mathematical and Physical Sciences (3 years)
Carl T. Hall, Deputy Assistant Director for Engineering (3 years)
James Fred Hays, Director, Division of Earth Sciences, Directorate for Astronomical, Atmospheric, Earth and Ocean Sciences (3 years)
Richard R. Ries, Director of Operations and Analysis, Directorate for Scientific, Technological, and International Affairs (2 years)
Frank P. Scioli, Jr., Head, Political and Policy Sciences section, Division of Social and Economic Sciences, Directorate for Biological, Behavioral, and Social Sciences (2 years)

Dated: September 9, 1983.

Jeff Fenstermacher,

Director, Division of Personnel and Management.

[FR Doc. 83–25145 Filed 9–14–83; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–261]

Carolina Power & Light Co.; Granting of Relief From ASME Code Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components," to the Carolina Power and Light Company, which revised the inservice inspection program for the H. B. Robinson Steam Electric Plant No. 2 located in Hartsville, South Carolina. The ASME Code requirements are incorporated by reference into the Commission's Rules and Regulations in 10 CFR Part 50. The relief is effective as of.

This action provides relief from performing surface and volumetric examinations of the welds on certain class 1 components, class 2 components. Alternate examination or tests have been proposed and accepted.

The request for relief complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the letter granting relief and accompanying Safety Evaluation.

The Commission has determined that the granting of this relief will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

For further details with respect to this action, see (1) the letters from Carolina Power and Light Company dated August 5, 1977, October 25, 1978, March 22, 1982 and September 17, 1982, (2) the letter to Carolina Power and Light Company dated August 31, 1983, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29550. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 31st day of August, 1983.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 83–25240 Filed 9–14–83; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–369 and 50–370]

Duke Power Co.; Consideration of Issuance of Amendments to Facility Operating License and Proposed No Significant Hazards Consideration Determinations and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. NPF–9 and NPF–17, issued to Duke Power Company (the licensee), for operation of the McGuire Nuclear Station, Units 1 and 2, located in Mecklenburg County, North Carolina. These amendments were requested by the licensee in a letter dated August 1, 1983.

One amendment would change Technical Specification 4.3.1.1.2.d. to permit certain diesel generator surveillance testing during each shutdown for refueling rather than during shutdown at least once each 18 + 25% (22½) months. The change would allow a diesel generator surveillance test on Unit 1 that currently is required by October 27, 1983, to be delayed until the refueling outage scheduled for January 1984 and future tests on both units to be scheduled on a refueling-outage rather than on a calendar-months basis.

A second amendment would change Technical Specification 4.3.4.2.a. to permit the cycling of certain turbine valves in the Turbine Overspeed Protection System on a monthly rather than on a weekly basis, consistent with the recommendations of the turbine manufacturer.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

Because the increase in diesel generator surveillance test intervals under the amended technical specification will be small compared to

the allowed interval under the current technical specification, the proposed amendment to Technical Specification 4.8.1.1.2.d. does not involve a significant increase in the probability of an accident previously evaluated or a significant reduction in a margin of safety. Because no changes in operating conditions will result from the increase in the surveillance test interval, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated. Because no changes in any accident analyses will result from the increase in the surveillance test interval, the proposed amendment does not involve any increase in the consequences of an accident previously evaluated.

That no failures to function have occurred during previous surveillance testing of turbine valves on Units 1 and 2 provides confidence that the proposed increase in the surveillance test interval in Technical Specification 4.3.4.2.a. does not involve a significant increase in the probability or consequences of an accident previously evaluated or a significant reduction in a margin of safety. Because no changes in operating conditions or accident analyses will result from the increase in the surveillance test interval, the proposed amendment does not create the possibility of a new or differenct kind of accident from any accident previously evaluated. Because no changes in any accident analyses will result from the increase in the surveillance test interval, the proposed amendment does not involve any increase in the consequences of an accident previously evaluated. On these bases, the NRC staff proposed to determine that these amendments do not involve significant hazards considerations.

The Commission is seeking public comments on these proposed determinations. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch.

By October 17, 1983, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for hearings and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If requests for hearings or petitions for leave to intervene are filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the requests and/or petitions and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Elinor G. Adensam: Petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director,

U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Mr. Albert Carr, Duke Power Company, P.O. Box 33189, 422 South Church Street, Charlotte, North Carolina 28242, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendments which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28242.

Dated at Bethesda, Maryland, this 9th day of September 1983.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Licensing Branch No. 4, Division of Licensing.

[FR Doc. 83-25341 Filed 9-14-83; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-269, 50-270, 50-287]

Duke Power Co. (Oconee Nuclear Station, Units 1, 2 and 3); Exemption

I

Duke Power Company (the licensee) is the holder of Facility Operating Licenses Nos. DPR-38, DPR-47 and DPR-55 which authorize operation of the Oconee Nuclear Station, Units 1, 2 and 3 (Oconee or the facilities). These licenses provide, among other things, that they are subject to all rules, regulations and Orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

The facilities are pressurized water reactors located at the licensee's site in Oconee County, South Carolina.

II

Section III.G.3 of Appendix R to 10 CFR Part 50 requires that an alternative or dedicated shutdown capability and its associated circuits be provided at a site. Section III.L.2 of Appendix R to 10 CFR Part 50 more specifically requires that with regard to the alternative and dedicted shutdown capability, the process monitoring function shall be capable of providing direct readings of certain process variables. In the case of Oconee, under this provision, remote instrumentation for source range flux monitoring (SRM) and steam generator (SG) pressure indication would be required outside and independent of the control room for the process monitoring function in achieving and maintaining safe shutdown conditions.

III

The licensee has provided a standby shutdown facility (SSF) which is physically removed from the main plant structures and can be electrically independent from the main plant power supply. The licensee has stated that all functions necessary to achieve and maintain stable hot shutdown conditions can be accomplished from the SSF in the event of a loss of all AC power after transfer of control from the normal plant power source to the SSF power source.

On June 8, 1983, an appeals meeting between the licensee and the NRC staff was conducted regarding the licensee's proposal for relief from the requirements of providing remote SRM and SG pressure indication. Subsequent to the appeals meeting, by letter dated July 15, 1983, the licensee requested an exemption from Section III.L.2 of Appendix R to 10 CFR 50 regarding the need for remote SRM and SG pressure indication.

A. Steam Generator Pressure

The licensee has stated that controlled reactor coolant system (RCS) heat removal for hot shutdown can be directly monitored by RCS parameters and controlled by SG level without SG pressure indication, provided that SG pressure is regulated. SG pressure is to be regulated by the main steam code safety valves, which will relieve at their setpoints. RCS conditions can be monitored by primary coolant temperature and pressure, pressurizer level and SG level. Should RCS overcooling occur, corrective actions can be taken from the SSF to reinstate proper cooling which include regaining correct SG level in order to restore T cold. The SSF is designed to achieve and maintain a hot shutdown condition for one or more of the three Oconee units. The SSF is not designed to bring the reactor from hot shutdown to cold shutdown. Cold shutdown will be achieved and maintained through the use of existing plant systems and equipment.

B. Source Range Flux Monitor

The licensee has stated that the SSF is designed to achieve and maintain hot shutdown conditions for any or all of the Oconee units. Prior to leaving the Unit 1/2 or Unit 3 control room, all control rods for the unit under consideration are required to be inserted. Further, when control is transferred to the SSF, deboration is automatically terminated. No nonborated sources tie into the SSF makeup/boration flow path. RCS makeup and boration (2000 ppm) following transfer to the SSF is from the spent fuel pool. Thus, boron dilution events are highly unlikely.

C. Conclusions

Based on our evaluation of the licensee's presentation and our review of the subject material, we conclude that Oconee Units 1, 2, and 3 can achieve and maintain controlled cooling to hot shutdown conditions safely from the SSF without the need for remote SG pressure instrumentation, and, thus, this instrumentation for the Oconee Nuclear Station is not required. We further conclude that a safe and stable plant hot shutdown condition can be achieved and maintained from the SSF without the use of a remote SRM, and, thus, this instrumentation for the Oconee Nuclear Station is likewise not required. The NRC staff agrees with the licensee's assessment that adequate instrumentation is available for controlled heat removal from the RCS without indication of SG pressure. The staff further agrees with the assessment that, since boron dilution is highly unlikely when control is transferred to the SSF, the remote SRM is not necessary. Therefore, the NRC staff considers that the objectives of Sections III.G.3 and III.L.2 of Appendix R to 10 CFR Part 50 are met and the licensee's request to be exempted from the requirement to provide remote SRM and SG pressure instrumentation in the SSF should be granted.

IV

Accordingly, the Commission has determined that, pursuant, to 10 CFR 50.12, an exemption is authorized by the law and will not endanger life or property or the common defense and security, is otherwise in the public interest, and is hereby granted.

The Commission has determined that the granting of this exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5 (d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need

not be prepared in connection with this action.

This exemption is effective upon issuance.

Dated at Bethesda, Maryland, this 31st day of August 1983.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 83-23342 Filed 9-14-83; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-389]

Florida Power and Light Co., et al.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-16, issued to Florida Power and Light Company (FP&L), Orlando Utilities Commission of the City of Orlando, Florida and Florida Municipal Power Agency (the Licensees), for operation of the St. Lucie Plant, Unit 2, located in St. Lucie County, Florida.

In accordance with the licensee's application dated July 5, 1983, the amendment would change the Technical Specifications for St. Lucie 2 to decrease the frequency of testing the valves in the turbine overspeed protection system from every seven days to once per month.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The seven-day test schedule required for the Technical Specification was based on a recommendation from the turbine vendor to ensure reliability of operation. The turbine vendor has formally changed their test schedule recommendation to monthly citing good operating experience and no significant difference in the valve failure rate between valves tested weekly and those tested monthly.

The change in testing frequency does not create the possibility of a new different kind of accident from any accident previously evaluated because it does not modify the configuration of the plant or the manner in which it is operated.

There is no reduction in the margin of safety expected because of the reduction of this testing frequency, since the valve reliability or failure rates remain unaffected when the testing frequency was increased from weekly to monthly. Therefore, based on this consideration and the three criteria cited above, it is determined that this amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received with 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing. Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, ATTN: Docketing and Service Branch.

By October 17, 1983, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the

expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to George W. Knighton: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Harold F. Reis, Esq., Lowenstein, Newman, Reis, Axelrad & Toll, 1025 Connecticut Avenue, NW., Washington, D.C. 20036, attorney for the licensees.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Indian River Community College Library, 3209 Virginia Avenue, Ft. Pierce, Florida 33450.

Dated at Bethesda, Maryland, this 7th day of September, 1983.

For the Nuclear Regulatory Commission.

George W. Knighton,

Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 83–25243 Filed 9–14–83; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–298]

Nebraska Public Power District; Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Prior Hearing

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–46, issued to Nebraska Public Power District (the licensee), for operation of the Cooper Nuclear Station located in Nemaha County, Nebraska.

The amendment would revise the operating license and the provisions in the Technical Specifications relating to changes to permit reactor operation at power levels of 50% of rated power with one recirculation loop out of service. Presently, the Cooper Nuclear Station operating license requires plant shutdown if an idle recirculation loop cannot be returned to service within 24 hours. The change proposed by the licensee would delete this license condition and modify the Technical Specifications (TSs) to provide for: appropriate Average Power Range Monitor (APRM) flux scram trip and rod block settings; an increase in the safety limit Minimum Critical Power Ratio (MCPR) value; revisions to the allowable Average Planar Linear Heat Generation Rate (APLHGR) values suitable for use with an idle recirculation loop; and the inclusion of APRM flux and core plate pressure drop limits during single loop operation; in accordance with the licensee's application for amendment dated August 5, 1980 as modified by May 6 and July 28, 1982 submittals.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By October 17, 1983, the licensee may file a request for a heaing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR § 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. the petition would specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one

contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 377 and the following message addressed to Domenic B. Vassallo: (petitioner's name and telephone number); (date petition was mailed); (plant name); and (publication date and page number of this **Federal Register** notice). A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Mr. G. D. Watson, Nebraska Public Power District, Post Office Box 499, Columbus, Nebraska 68601, attorney for the license.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated August 5, 1980 as modified by May 6 and July 28, 1982 submittals, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Auburn Public Library, 118 15th Street, Auburn, Nebraska 68601.

Dated at Bethesda, Maryland this 7th day of September, 1983.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch #2, Division of Licensing.

[FR Doc. 83-25244 Filed 9-14-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–298]

Nebraska Public Power District (Cooper Nuclear Station); Confirming Licensee Commitments on Pipe Crack Related Issues

I

The Nebraska Public Power District (NPPD, the licensee) is the holder of Facility Operating License No. DPR–46 which authorizes operation of the Cooper Nuclear Station (CNS, the facility) at steady-state reactor power levels not in excess of 2381 megawatts thermal. The facility is a boiling water reactor located at the licensee's site in Nemaha County, Nebraska.

II

During the current refueling outage of Cooper Nuclear Station augmented inservice inspection was performed on the reactor recirculation, and residual heat removal (RHR) systems in accordance with Office of Inspection and Enforcement Bulletin 83–02. The original sample size was expanded to include 100% of the stainless steel welds in these piping systems after ultrasonic indications were reported on welds in the original sampling. In addition, as a result of two pin hole leaks found in the Reactor Water Clean-Up System (RWCU) during removal of insulation to perform other drywell work the licensee inspected all the stainless steel RWCU system and Core Spray (CS) piping welds except for seven welds on piping in the RWCU system replaced with the same material less than ten months ago. One of the seven welds was examined to provide additional justification for not examining the remaining six welds. No rejectable indications were found on this weld.

The results of the UT examinations indicated that a total of 49 welds out of 169 inspected had reportable linear indications. The licensee submitted a flaw evaluation, performed by General Electric, on each of the 49 defective welds by using the methodology provided in the new ASME Code Section XI IBW–3600. The results of the evaluation indicated that the final crack sizes due to IGSCC and fatigue crack growth in the 6 larger diameter defective welds (1 22-inch weld and 5 28-inch welds) and 1 12-inch riser defective weld at the end of an 18-month fuel cycle are well within the Code limits and are acceptable for continuing service for an 18-month fuel cycle (12,000 hours) without repair. GE's evaluation also shows that the 13 12-inch riser welds, 15 10-inch core spray welds and 12 6-inch RWCU welds required weld overlay repair for continued service because their calculated final cracks exceed the new Code limits at the end of an 18-month fuel cycle.

We have reviewed the licensee's submittals, including GE's analysis of weld overlay design and the calculation of IGSCC crack growth to support the continuing service for an 18-month fuel cycle, considering the 42 overlay repaired welds and the 7 unrepaired defective welds in the recirculation system.

We have performed independent calculations of the IGSCC crack growth in the 7 unrepaired welds. Our calculations showed that the crack growth was conservatively calculated, based on a cylindrical model of a 28-inch pipe, assuming a 360 degrees circumferential flaw with an initial flaw depth of 40% and a sustained stress of 10 ksi. Because of the use of the worst crack size and sustained stress in the model, the IGSCC crack growth in the 7 unrepaired welds was bounded by this calculation. The crack growth rate curve we used in our calculations is similar to that used by GE. Our calculations have shown that the initial fully circumferential crack of 40% wall thickness will grow to a depth of 52% wall thickness at end of an 18-month fuel cycle (12,000 hours). The final flaw size meets the new Code allowable limit with adequate margin. Therefore, we concur in GE's conclusion that continuous operation for an 18-month fuel cycle (12,000 hours) with the 7 defective welds in the unrepaired condition can be justified because the Code required safety margin as adequately maintained. The bases for our conclusion are:

(1) Six of the seven defective welds have flaws not exceeding 20% of wall thickness. Four of the seven unrepaired welds have very short flaws (less than 5% of the circumference).

(2) UT personnel from GE of San Jose have demonstrated excellent pipe crack sizing capability in the recent round-robin UT test held in the EPRI NDE Center, Charlotte, North Carolina. An examination of the EPRI round-robin test results shows that GE personnel from San Jose conservatively sized 12 of the 14 flaws examined including a flaw with about 75% of wall thickness in depth. Therefore, we consider the UT

sizing data reported for Cooper are not significantly in error.

(3) The large Code acceptable flaw depth for a fully circumferential flaw we calculated provides additional safety margin in the structural integrity of the 7 unreinforced welds.

(4) An NRC Region IV inspector reviewed GE's welding procedures, weld process specification, procedure qualification record, welding procedure specification and observed a portion of the weld overlay repair. The inspector determined that the procedures are consistent with ASME Code requirements and that acceptable repair work was performed.

General Electric's overlay design analysis was based on the conservative assumption that all cracks are through wall cracks. Consequently its analysis did not depend on any assumptions concerning UT sizing and the IGSCC crack growth rate because neither parameter needed to be considered in this analysis. The required minimum overlay thickness for each defective weld was calculated by using the methodology allowed in the new ASME Code Section IWB 3600 to meet the required Code safety margin.

We reviewed the weld overlay design calculation made by GE. We agree with its conclusion that the overlay used will provide adequate reinforcement with Code required safety margin for at least the next 18-month fuel cycle (12,000 hours).

GE also performed an evaluation of the overlay shrinkage effect for the licensee using a finite element model of the recirculation piping system. GE indicated that the maximum calculated nominal stress due to the weld shrinkage in the recirculation system is well below the Code allowable value of the yield strength of the material. We agree that the subject shrinkage stresses should not have any significant deleterious effect on the recirculation system.

III

Although the calculations discussed above indicate that the cracks in the forty-two overlay repaired welds and seven as-is welds will not progress to the point of leakage during the next fuel cycle, and margins are expected to be maintained such that crack growth will not compromise safety, uncertainties in crack sizing and growth rate still remain.

Because of these uncertainties, we have determined that improvements in the monitoring in the containment for unidentified leakage are required; therefore, new limiting conditions for operation and surveillance requirements have been developed. These enhanced surveillance measures will provide adequate assurance that possible cracks in pipes will be detected before growing to a size that will compromise the safety of the plant.

The staff also has some concern regarding the long-term growth of IGSCC cracks and its effect on the long-term operation of the plant. Therefore, we will require that plans for corrective action or modification including replacement of the recirculation and other reactor coolant pressure boundary piping systems during the next refueling outage be submitted for staff review at least three months before the start of the next refueling outage.

By letter dated August 25, 1983, the licensee committed to the above described conditions on leakage monitoring and early submittal of inspection and/or modification plans. I have determined that the health and safety requires that these commitments should be confirmed by an immediately effective Order.

IV

Accordingly, pursuant to Section 103, 161i, 161o and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered effective immediately that:

1. The licensee shall operate the reactor in accordance with the present requirements on coolant leakage in Sections 3.6.C and 4.6.C of the Technical Specifications, as modified by Attachment A to this Order.

2. Plans for corrective actions and/or modification, including replacement of the recirculation and other reactor cooling pressure boundary piping systems during the next refueling outage shall be submitted for NRC review at least three months before the start of the next refueling outage.

3. The Director, Division of Licensing, may in writing relax or terminate any of the above provisions upon written request from the licensee, if the request is timely and provides good cause for the requested action.

V

The licensee may request a hearing within twenty (20) days of the date of publication of this Order in the Federal Register. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy shall also be sent to the Executive Legal Director at the same address. A request for a hearing shall not stay the immediate effectiveness of this order.

If a hearing is to be held, the Commission will issue an Order designating the time and place of any such hearing. If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the licensee should comply with the requirements set forth in Section IV of this Order.

This Order is effective upon issuance.

Dated at Bethesda, Maryland, this 1st day of September, 1983.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing.

ATTACHMENT A

Limiting conditions for operation	Surveillance requirements
C. Coolant Leakage: 1. Any time irradiated fuel is in the reactor vessel and reactor coolant temperature is above 212°F, reactor coolant leakage into the primary containment from unidentified sources shall not exceed 5 gpm. In addition, the identified reactor coolant system leakage into the primary containment shall not exceed 25 gpm. 2. The containment atmospheric radiation monitor and the containment atmospheric sampling systems shall be operable during reactor power operation. From and after the date that one of these systems is made or found to be inoperable for any reason, reactor power operation is permissible only during the succeeding 30 days unless the system is made operable sooner. 3. If the specifications 3.6.C.1 & 2 cannot be met, an orderly shutdown shall be initiated and the reactor shall be in a Cold Shutdown Condition within 24 hours. 4. After the first 24 hours in the run mode following startup, reactor coolant system leakage into the primary containment from unidentified sources shall be limited to a 2 gpm increase within the previous 24-hour period. If this specification cannot be met, identify the source of leakage or be in a Cold Shutdown Condition within 24 hours.	C. Coolant Leakage: 1. Reactor coolant system leakage shall be checked by the air sampling system and recorded at least once per day. 2. Reactor coolant system leakage shall be checked by the sump system and recorded at least once per 4 hours.

ATTACHMENT A—Continued

Limiting conditions for operation	Surveillance requirements
5. The sump flow measuring system shall be operable during reactor power operation. From and after the time that this system is made or found to be inoperable for any reason, reactor power operation is permissible only during the succeeding 24 hours unless the system is made operable sooner.	

[FR Doc. 83-25345 Filed 9-14-83; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-423]

Northeast Nuclear Energy Co., et al.;[1] Millstone Nuclear Power Station, Unit 3; Issuance of Amendment to Construction Permit

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 11 to Construction Permit No. CPPR-113. The amendment reflects the transfer of ownership shares in Millstone-3 as follows:

From	To	Ownership interest to be transferred
Connecticut Light and Power Company	Vermont Electric Generation and Transmission Cooperative, Inc.	0.0375% (0.431 MW).
Western Massachusetts Electric Company	Vermont Electric Generation and Transmission Cooperative, Inc.	0.1125% (1.294 MW).

The amendment reduces the ownership share in Millstone-3 to be transferred from Connecticut Light and Power Company and Western Massachusetts Electric Company from 0.6000% (6.90 MW) as authorized in Amendment No. 8 to CPPR-113 to 0.150% (1.725 MW). The amendment also reflects the fact that the purchase of ownership shares by Massachusetts Municipal Wholesale Electric Cooperative, Vermont Public Power Supply Authority, and Washington Electric Cooperative, Inc., which was also authorized by Amendment No. 8, did not take place.

This notice also reflects the fact that on June 30, 1982, The Hartford Electric Light Company ("HELCO"), formerly a lead participant in Millstone-3, merged with and into its affiliate, Connecticut Light & Power Company ("CL&P"). On that date, CL&P succeeded to all of the rights and obligations with respect to HELCO's 18.200% ownership interest in the Unit. Amendment No. 10 to CPR-113 reflects this merger. As a result of the merger, CL&P will own 51.571% interest in Millstone-3 upon completion of all transactions approved in Amendment No. 10 and prior amendments.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter 1, which are set forth in the amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

For further details with respect to this action, see (1) the application for amendment, dated August 17, 1983; (2) Amendment No. 11 to Construction Permit CPPR-113; and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection in the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut 06385. Item (2) may be requested by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 31st day of August 1983.

For the Nuclear Regulatory Commission.

B. J. Youngblood,

Chief, Licensing Branch No. 1, Division of Licensing.

[FR Doc. 83-25246 Filed 9-14-83; 8:45 am]
BILLING CODE 7590-01-M

PRA Review Manual; Availability for Public Comment

September 7, 1983.

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability of the draft of the PRA Review Manual for public comments.

SUMMARY: The Nuclear Regulatory Commission has issued for public comments a draft of the "PRA Review Manual." This manual has been developed in response to Item II.C.2 of the "TMI-2 Action Plan", (NUREG-0660), and it aims at providing guidance in reviewing PRA studies submitted to NRC for evaluation. It is written to enhance the consistency of the review process and to provide the NRC reviewer with systematic guidance as well as insights and lessons learned from previous PRA studies and reviews of these studies.

The present scope of the manual covers Level 1 PRA (evaluations and analyses of contributors to core-damage frequency excluding external events). From within this defined scope, the manual guides the reviewer in defining and evaluating strengths and weaknesses in the plant design and operations from a risk/safety significance viewpoint. Plans are currently underway for adopting a more encompassing approach by extending the manual scope to include consideration of external events.

The approach adopted in the manual comprises three sequential phases; the screening phase, the qualitative evaluation phase, and the verification phase. This approach offers flexibility in defining an appropriate level of effort for reviewing PRAs based on NRC review objectives. Another attractive feature of the phased approach is that it allows timely and effective interaction between NRC and the utilities.

[1] The following are the holders of Construction Permit No. CPPR-113: Central Maine Power Company, Central Vermont Public Service Corporation, Chicopee Municipal Lighting Plant, City of Burlington, Vermont, Connecticut Municipal Electric Energy Cooperative, The Connecticut Light and Power Company, Fitchburg Gas and Electric Light Company, Massachusetts Municipal Wholesale Electric Company, Montaup Electric Company, New England Power Company, Northeast Nuclear Energy Company, Public Service Company of New Hampshire, The United Illuminating Company, Vermont Electric Cooperative, Inc., The Village of Lyndonville Electric Department, Western Massachusetts Electric Company, and Vermont Electric Generation and Transmission Cooperative, Inc.

Phase 1 (the screening phase) of the manual examines the form, composition and content of the submitted study for completeness and scrutability and then endeavors to identify noteworthy and distinctive aspects of the data and methods used and the reported results, particularly in light of NRC concerns and interests. This necessarily involves some comparison with the existing aggregate of PRA studies. The NRC reviewers are asked to cast Phase 1 conclusions in a special format. In case a particular study feature is identified (or suspected to be important), it will be listed together with its potential root causes. Typical root causes include methodology, assumptions, design features, operational features, and data base used. Findings of this phase will indicate to what extent the PRA can usefully be subjected to further investigation and detailed examination.

Phase 2 (the qualitative examination phase) involves an extensive investigation of the PRA study tasks in a natural logical sequence. The investigation focuses on methodologic questions in each task and on examining distinctive aspects of the study as revealed in Phase 1 review. Phase 2 review will allow exploration of all but the most computation intensive aspects of the study. A typical phase 2 task (e.g., success criteria or treatment of human factors) is structured to include:

a. a brief discussion of the methodology and state-of-the-art of the area under review;

b. stepwise instructions about how to conduct the review,

c. examples of typical pitfalls and limitations in the treatment of this area as revealed from previous review experience, and

d. review results.

Phase 3 review focuses the reviewer's attention on safety significance of specific issues that may require regulatory actions. It may involve verification of accident sequence quantification and associated uncertainty and sensitivity analyses.

The manual will be subject to periodic update to accommodate public and peer review comments and to supplement the test with experiences resulting from its application.

Public comments are being solicited on the draft Manual and should be sent to Adel El-Bassioni, Reliability and Risk Assessment Branch, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 no later than 30 days following the date of issuance of this notice.

Copies of the manual are available for inspection, and copying for a fee, in the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555. For further information contact Adel El-Bassioni, Reliability and Risk Assessment Branch, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone (301) 492–7646.

Dated at Bethesda, Maryland this 2nd day of September, 1983.

Ashok C. Thadani,

Chief, Reliability and Risk Assessment Branch, Division of Safety Technology.

[FR Doc. 83-25247 Filed 9-14-83; 8:45 am]

BILLING CODE 7590-01-M

Advisory Panel for the Decontamination of Three Mile Island, Unit 2; Meeting

Notice is hereby given pursuant to the Federal Advisory Committee Act that the Advisory Panel for the Decontamination of Three Mile Island, Unit 2 will be meeting on September 28, 1983, from 7:00 p.m. to 10:00 p.m. at the Holiday Inn, 23 South Second Street, Harrisburg, Pennsylvania 17101. The meeting will be open to the public.

The Panel will discuss GPUN efforts to refurbish the TMI–2 polar crane. Organizations or individuals that have specific questions related to the polar crane refurbishment and would like to have them considered or addressed by the Advisory Panel can send these questions to Mr. John Minnich, Chairman, Dauphin County Courthouse, P.O. Box 1295, Harrisburg, Pennsylvania 17108.

Further information on the meeting may be obtained from Dr. Michael T. Masnik, Three Mile Island Program Office, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone 301/492–7466.

Dated: September 12, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83-25271 Filed 9-14-83; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Procedures and Administration; Meeting

The ACRS Subcommittee on Procedures and Administration will hold a meeting on October 12, 1983 in Room 1010, 1717 H Street, NW, Washington, D.C.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1982 (47 FR 43474), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions during which the Subcommittee finds it necessary to discuss information of a personal nature and information which relates solely to internal personnel rules and practices. One or more closed sessions may be necessary to discuss such information. (SUNSHINE ACT EXEMPTIONS 2 and 6). To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows:

Wednesday, October 12, 1983—10:00 a.m. until 5:00 p.m.

The Subcommittee will hold discussions regarding ACRS activities including the following topics:

(a) Implementation of 41 CFR Part 101–6 Subpart 101–6.10, Federal Advisory Committee Management regarding ACRS activities.

(b) Periodic review of ACRS procedures and practices.

(c) Discuss qualifications of candidates and procedures for reappointment/replacement of ACRS members.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Raymond F. Fraley (telephone 202/634–3265) between 8:15 a.m. and 5:00 p.m., EDT.

I have determined, in accordance with Subsection 10(d) Pub. L. 92–463 that it may be necessary to close some portions of this meeting to discuss information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy and matters which relates solely to internal personnel rules and practices. The authority for such closure are Exemptions (2) and (6) to the Sunshine Act, 5 U.S.C. 552b(c)(2)(6).

Dated: September 12, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83-25287 Filed 9-14-83; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Decay Heat Removal Systems; Meeting

The ACRS Subcommittee on Decay Heat Removal Systems will hold a meeting on October 4, 1983, in Room 1046, 1717 H Street, NW, Washington, D.C.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1982 (47 FR 43474), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Tuesday, October 4, 1983—8:30 a.m. until the conclusion of business

The Subcommittee will discuss the Combustion Engineering Owners Group and NRC Staff recommendations concerning the installation of Power Operated Relief Valves (PORVs) on the Combustion Engineering power reactor systems.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the Combustion Engineering Owners Group, the NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Anthony Cappucci (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., EDT.

Dated: September 12, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83-25286 Filed 9-14-83; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Air Systems (Formerly Heating, Cooling, and Ventilation Systems); Meeting Change

The ACRS Subcommittee formerly known as Heating, Cooling, and Ventilation Systems has been changed to *Air Systems*. The meeting will be held on September 23, 1983, 8:30 a.m., in Room 1046, 1717 H Street, NW, Washington, DC. The Subcommittee will review General Electric's response on control room habitability for the GESSAR II design, Generic Safety Issue I, and NRC Staff's progress report on resolution of control room habitability issues.

All other items regarding this meeting remain the same as announced in the **Federal Register** published Wednesday, September 7, 1983 (48 FR 40469).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Ms. R. C. Tang (telephone 202/634-1414) between 8:15 a.m. and 5:00 p.m., EDT.

Dated: September 12, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83-25289 Filed 9-14-83; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Proposed Meetings

In order to provide advance information regarding proposed meetings of the ACRS Subcommittees and of the full Committee, the following preliminary schedule is published to reflect the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published August 15, 1983 (48 FR 36929). Those meetings which are definitely scheduled have had, or will have, an individual notice published in the **Federal Register** approximately 15 days (or more) prior to the meeting. those Subcommittee meetings for which it is anticipated that there will be a portion or all of the meeting open to the public are indicated by an asterisk (*). It is expected that the sessions of the full Committee meeting designated by an asterisk (*) will be open in whole or in part to the public. ACRS full Committee meetings begin at 8:30 a.m. and Subcommittee meetings usually begin at 8:30 a.m. The time when items listed on the agenda will be discussed during full Committee meetings and when Subcommittee meetings will start wil be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the October 1983 ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the executive Director of the Committee (telephone 202/634-3267, ATTN: Barbara Jo White) between 8:15 a.m. and 5:00 p.m., Eastern Time.

ACRS Subcommittee Meetings

**Systematic Evaluation Program*, September 20 and 21, 1983, Traverse City, MI. The Subcommittee will discuss with Consumers Power Company the systematic evaluation program for the Big Rock Point Plant. Notice of this meeting was published September 2, 1983.

**Reactor Radiological Effects*, September 22, 1983, Washington, DC. The Subcommittee will be briefed on 10 CFR Part 20 (final rule), DOE's draft comments on NRC's Radiation and Health Effects Research Programs, DOE Dose Reduction Working Group final report, and AIF environmental programs.

**Air Systems*, September 23, 1983, Washington, DC. The Subcommittee will review General Electric's response on control room habitability for GESSAR II design, Generic Safety Issue I, and the NRC Staff's progress report on resolution of control room habitability issues.

**Fire Protection*, September 23, 1983, Washington, DC. The Subcommittee will review the current status of fire protection, and the effects of fire protection systems actuation on safety systems.

**Decay Heat Removal Systems*, October 4, 1983, Washington, DC. The Subcommittee will discuss the

Combustion Engineering Owners Group and NRC Staff recommendations concerning the installation of Power Operated Relief Valves (PORVs) on the Combustion Engineering power reactor systems.

**Limerick Generating Station Units 1 and 2*, October 7 and 8, 1983, Philadelphia, PA. The Subcommittee will review the application of the Philadelphia Electric Company (PECO) for an operating license.

**Combined Metal Components and Decay Heat Removal Systems*, October 12, 1983, Washington, DC. The Subcommittee will discuss the NRC position on generic recommendations regarding steam generator tube integrity and single and multiple tube ruptures in one and multiple steam generators.

**Class 9 Accidents*, October 12, 1983, Washington, DC. The Subcommittee will review a revised version of the August 5, 1983 document, "Severe Accident Research Program: Review of Decision-making Process and Regulatory issues Identified to Date."

**Procedures and Administration*, October 12, 1983, Washington, DC. The Subcommittee will discuss the proposed changes in ACRS procedures for implementation of new rules concerning the Federal Advisory Committee Act, periodic review of ACRS procedures, and matters related to internal agency personnel rules and practices.

**Extreme External Phenomena*, October 20 and 21, 1983, Los Angeles, CA (tentative). The Subcommittee will conduct a workshop at which possible approaches to the quantification of seismic design margins will be discussed.

**Reactor Radiological Effects*, October 20, 21, and 22, 1983 (tentative), Washington, DC. The Subcommittee will review occupational doses associated with TMI–2 cleanup, safety implications of auxiliary systems biofouling, Humboldt Bay Power Plant decommissioning plan, occupational doses incurred during Turkey Point Unit 4 steam generator replacement, research needs on low-level radwaste technology and environmental radiation surveillance, EPA proposed standards for uranium and thorium mill tailings (40 CFR 192), and draft Regulatory Guide on bioassay for tritium.

**Class 9 Accidents*, October 28, 1983, Washington, DC. The Subcommittee will review the severe accident research program (SARP) to determine if the program elements are addressing the correct issues to resolve the severe accident issue.

**R. E. Ginna Nuclear Power Plant Unit No. 1*, Date to be determined (October–November), Washington, DC. The Subcommittee will review the application of the Rochester Gas and Electric Corporation to convert its Provisional Operating License (POL) to a Full Term Operating License (FTOL).

**Emergency Core Cooling Systems (ECCS)*, November 1, 1983 (tentative), Washington, DC. The Subcommittee will continue the review of the joint NRC/B&W/EPRI integral-system test program.

**Regulatory Activities*, November 16, 1983, Washington, DC. The Subcommittee will review Regulatory Guides 1.28, Rev. 3, "Quality Assurance Program Requirements (Design and Construction)," and 1.105, Rev. 2, "Instrument Set Points."

**Maintenance Practices and Procedures*, November 16, 1983, Washington, DC. The Subcommittee will review the current status of maintenance practices and procedures.

**NBS Reactor*, November 30, 1983, Washington, DC. The Subcommittee will review the renewal of operating license for the NBS reactor at a power level of 20 MW, an increase from 10 MW.

**Human Factors*, Date to be determined (November, tentative), Washington, DC. The Subcommittee will review the question of what qualifications would be desirable for members of a nuclear power plant operating staff.

**Metal Components*, Date to be determined (November, tentative), Washington, DC. The Subcommittee will review the NRC position on integrity of steel bolts.

**Diablo Canyon Nuclear Power Plant Units 1 and 2*, Date to be determined (November, tentative), Los Angeles, CA. The Subcommittee will review the design verification results and the significance of errors found and corrected at Diablo Canyon Nuclear Power Plant Units 1 and 2.

**Midland Plant Units 1 and 2*, Date to be determined (November, tentative), Washington, DC. The Subcommittee will review Consumers Power Company's plan for an audit of plant quality at Midland Plant Units 1 and 2.

**Human Factors*, Date to be determined (November), Washington, DC. The Subcommittee will review Emergency Procedure Guidelines (EPGs), Procedure Generation Packages (PGPs), and Emergency Operating Procedures (EOPs).

**Emergency Core Cooling Systems (ECCS)*, Date to be determined (late November–December), Washington, DC. The Subcommittee will review NRC research programs on LOCA/ECCS for report to Congress on fiscal year 1985–1986 budget.

**Class 9 Accidents*, Date to be determined (December, tentative), Washington, DC. The Subcommittee will review the severe accident research program (SARP) re-direction based on the October meeting and a revised version of the Severe Accident Policy Statement.

**Qualification Program for Safety-Related Equipment*, Date to be determined, Washington, DC. The Subcommittee will discuss Regulatory Guide 1.89, "Qualification of Electrical Equipment Important to Safety in Nuclear Power Plants."

ACRS Full Committee Meeting

October 13–15, 1983: Items are *tentatively* scheduled.

**A. Limerick Generating Station Units 1 and 2*—ACRS report on proposed operating license.

**B. Big Rock Point Nuclear Plant*—ACRS report regarding systematic evaluation program review and integrated reliability assessment.

**C. Combustion Engineering Inc. Nuclear Steam Supply Systems*—Discussion of decay heat removal capability and depressurization provisions for CE plants without PORVs.

**D. Steam Generator Tube Integrity*—Discussion of proposed NRC generic recommendations regarding steam generator tube integrity and consideration of multiple tube failures.

**E. Meeting with Director of Nuclear Material Safety and Safeguards (NMSS)*—Briefing regarding activities of the NRC Office of NMSS.

**F. PIUS Reactor Concept*—Briefing by representatives of ASEA-ATOM regarding the process inherent ultimately safe reactor concept.

**G. Pipe Cracking in BWR Main Coolant Piping*—Briefing by representatives of the NRC Staff regarding the status of cracking in BWR main coolant system piping.

**H. ACRS Subcommittee Activities*—Reports by designated ACRS subcommittees regarding current activities including those related to BWR pipe cracking, ACRS procedures consistent with changes in the Federal Advisory Committee Act and fire protection of nuclear facilities.

I. *Appointment of ACRS Members*. The members will discuss the internal agency rules relating to appointment and reappointment of ACRS members as well as the qualifications of candidates proposed for ACRS membership.

**J. Class 9 Accidents*—Briefing by NRC Staff representatives on the status of activities related to reevaluation of the NRC severe accident research program plan.

**K. Proposed Revision of 10 CFR Part 20—Standards for Protection Against*

Radiation—Report from members fo the NRC Staff and ACRS comments regarding proposed changes to update 10 CFR Part 20—Standards for Protection Against Radiation.

*L. *Systems Interactions*—Discussion with representatives of the NRC Staff regarding the status of staff action regarding consideration of systems interactions in the regulation of nuclear power plants.

*M. *Future Activities*—The Committee members will discuss anticipated subcommittee activities and proposed full committee activities.

November 17–19, 1983—Agenda to be announced.

December 15–17, 1983—Agenda to be announced.

Dated: September 9, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83-25270 Filed 9-14-83; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-5894]

Beverly Enterprises, 15% Subordinated Debentures (Due 6–15–2002); Application To Withdraw From Listing and Registration

September 9, 1983.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

1. The debentures of Beverly Enterprises ("Company") are listed and registered on the Amex. The Company has filed a Registration Statement on Form 8–A to list its debentures on the New York Stock Exchange ("NYSE") and the Company anticipates trading to begin on the NYSE on September 15, 1983. The Company has determined that the direct and indirect costs and expenses do not justify maintaining the dual listing of the common stock on the Amex and the NYSE.

2. This application relates solely to withdrawal of the common stock from listing and registration on the Amex and shall have no effect upon the listing of such stock on the NYSE. The Amex has posed no objection to this matter.

Any interested person may, on or before September 30, 1983, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-25229 Filed 9-14-83; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 23052; (31-794)]

Diamond Shamrock Corp.; Application Pursuant to Section 2(a)(4)

September 9, 1983.

Diamond Shamrock Corporation ("DSC"), a Delaware corporation, 717 North Harwood Street, Dallas, Texas 75201, has filed with this Commission an application and an amendment thereto pursuant to Section 2(a)(4) of the Public Utility Holding Company Act of 1935 ("Act") for an order declaring it not to be a "gas utility company" as therein defined.

DSC is a domestic integrated oil and gas company with interests in the coal and chemicals businesses. At December 31, 1982, DSC's assets were approximately $3.2 billion and its revenues and earnings for the year then ended were $3.2 billion and $154 million, respectively. Pursuant to a plan and agreement of reorganization between DSC and Natomas Company, and certain related mergers, New Diamond Corporation will own all of the stock of DSC and Natomas. DSC requests an order declaring it not to be a gas utility company pursuant to Section 2(a)(4).

In connection with its oil and gas business, DSC owns and operates certain natural gas wells and gathering systems in the panhandle area of the State of Texas. Its natural gas sales, by type and average number of customers, for the year ended December 31, 1982, were as follows:

[Dollars in thousands]

	Amount	Average No. of customers
Pipeline companies	$201,500	200
Industrial and electric utilities	36,200	5
Irrigation	10,000	400

DSC's irrigation sales constituted approximately 4% of its total gas sales for 1982. THe irrigation sales are made to customers who have interests in gas leases or have granted rights of way for, or whose property is in the vicinity of, DSC's production or gathering facilities. Under Texas law, irrigation sales are exempt from state regulation. DSC does not engage in any distribution to identifiable communities within the geographic areas of its operations and has no franchises for the distribution of gas at retail.

Applicant states that its irrigation sales are of a special and limited character within the meaning of *Panhandle Eastern Pipe Line Company*, HCAR No. 22060 (May 21, 1981), and *Transwestern Pipeline Company*, HCAR No. 22133 (July 20, 1981).

DSC has applied for an order declaring it not to be a "gas utility company" pursuant to Section 2(a)(4) of the Act. Section 2(a)(4) provides that the Commission may declare a company not to be a "gas utility company" if it finds that "(A) such company is primarily engaged in one or more businesses other than the business of a gas utility company, and (B) by reason of the small amount of natural or manufactured gas distributed at retail by such company it is not necessary in the public interest or for the protection of investors and consumers that such company be considered a gas utility company for the purposes of [the Act.]"

The application and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comments or request a hearing should submit their views in writing by October 7, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant at the address specified above. Proof of service (by affidavit or, in case of an attorney-at-law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application, as amended or as

it may be further amended, may be granted.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-25231 Filed 9-14-83; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Midwest Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

September 9, 1983.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Conair Corporation

Common Stock, $.10 Par Value (File No. 7-7090)

Telesphere International

Common Stock, $.01 Par Value (File No. 7-7091)

RCA Corporation

$3.65 Cumulative Preferred Stock, No Par Value (File No. 7-7092)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before September 30, 1983 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-25230 Filed 9-14-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20168; SR-Amex-83-16]

American Stock Exchange, Inc.; Order Approving Proposed Rule Change

September 9, 1983.

The American Stock Exchange, Inc. ("Amex"), 86 Trinity Place, New York, NY 10006, submitted on July 11, 1983, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to extend free trading in index options on the last trading day before expiration from 3:00 p.m. to 4:10 p.m. and to eliminate, except in unusual circumstances, a closing rotation in the expiring series.

Notice of the proposed rule change, together with the terms of substance of the proposed rule change, was given by the issuance of a Commission Release (Securities Exchange Act Release No. 19997, July 15, 1983) and by publication in the **Federal Register** (48 FR 33388, July 21, 1983). At that time, the Commission also granted accelerated, temporary (45 days) approval of the proposed rule change, permanent approval to await a review of Amex's initial experience with the rule change in effect. Amex has conducted such a review, based on trading in July 1983 Major Market Index options on the last business day prior to their expiration. Amex reports that its experience with the proposed rule was positive.[1] No other comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6, and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-25229 Filed 9-14-83; 8:45 am]

BILLING CODE 8010-01-M

[1] *See* letter of Robin S. Yonis, Special Counsel, Amex Options Division, to Richard T. Chase, Assistant Director, Division of Market Regulation, Securities and Exchange Commission, September 2, 1983. File No. SR-Amex-83-16.

[Release No. 20170; File No. SR-PSE-83-10]

Filing of Amendment to Proposed Rule Change by the Pacific Stock Exchange, Inc.

September 9, 1983.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on September 2, 1983, the Pacific Stock Exchange, Inc. ("PSE") filed with the Securities and Exchange Commission and amendment to the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the amendment from interested persons.

The proposed rule change contained in File No. SR-PSE-83-10 consists of a proposal by PSE to list and trade an option on PSE's High Technnology Index, an index created by the PSE that is comprised of 100 different stocks including ones traded only over-the-counter. The amendment to the proposed rule change would add to PSE's rules position and exercise limits pertaining to the proposed High Technology Index option. The proposed limits would be the equivalent of a $300 million position, and the PSE proposes to set the initial limits at 15,000 contracts. The amendment would also change the provision on margin applicable to the proposed index option contract so that the initial deposit of margin required by PSE rules would have to be made in accordance with Regulation T of the Federal Reserve Board. In addition to making these amendments to the proposed rules applicable to the High Technology Index Option, PSE states in its filing: (1) That it has elected to set the value of the index at 100 as of the close of business on December 31, 1982, rather than 100 on the first day of trading; (2) that it intends to recalculate and disseminate the index value at least once a minute during trading hours; and (3) that it will ensure that the closing index value will be published in a national business periodical. The PSE states in its filing that the statutory basis of the proposed rule change is Section 6(b)(5) of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Reference should be made to File No. SR-PSE-83-10.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the PSE.

For the Commisson, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-25233 Filed 9-14-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-20162; File No. SR-PHLX-1983-16]

Self-Regulatory Organizations; Proposed Rule Change by Philadelphia Stock Exchange, Incorporated; Letters of Credit to be Utilized in the Exchange's Foreign Currency Options Market

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on September 6, 1983, the Philadelphia Stock Exchange filed with the Securities and Exchange Commission the proposed rule changes as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

Item I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Philadelphia Stock Exchange, Inc. ("PHLX" or the "Exchange") has proposed to amend its margin rule to allow Exchange members to accept letters of credit in satisfaction of a foreign currency option writer's initial margin obligations.

This amendment would provide that such letters must be irrevocable, must be in a face amount equal to or greater than the original margin requirements applicable to the foreign currency option positions to which they pertain and must expire no sooner than those option positions.

PHLX has proposed to amend the Commentary to this Rule to provide that such letters may be issued only by U.S. financial institutions that have shareholder equity of at least $200 million. PHLX's proposal further provides that the total amount of letters of credit issued for the account of any one customer may not exceed 15% of that institution's shareholders' equity and that the total amount of letters of credit naming any one Exchange member as beneficiary may not exceed 20% of that institution's shareholders' equity. These proposed amendments also establish the procedural steps that must be followed before an institution can be approved as a letter of credit issuer, e.g., such an institution must provide the Exchange with its most recent annual financial report and with evidence of its legal authority to issue letters of credit. In addition, to maintain its status as an approved issuer, an institution must supply the Exchange with each of its annual reports and quarterly financial statements. Pursuant to the proposed rule change, each Exchange member named as the beneficiary of a letter of credit also must provide the Exchange with detailed information, including the name of the customer for whose account the letter is issued and the amount of the letter.

These proposed additions to the Rule 722 Commentary further provide that, during the first two years subsequent to the effective date of the proposed rule changes, the Exchange may, at any time, suspend, terminate or modify an Exchange member's ability to accept a letter of credit in satisfaction of a customer's original margin requirement. Pursuant to the proposed rule, the Exchange may take this action solely on its own initiative or at the direction of the Securities and Exchange Commission or the Board of Governors of the Federal Reserve System.

Item II. (A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed amendments to Rule 722 are designed to allow letters of credit from approved issuers to be utilized as a means of satisfying a foreign currency option writer's initial margin obligations. PHLX has proposed to amend its margin rule in this fashion because the financial institutions and corporate entities that have the greatest economic need to purchase and sell foreign currency options are accustomed to transacting business on the basis of letters of credit and will derive greater economic benefit from PHLX's market if initial margin obligations can be satisfied in this fashion.

The changes proposed in the Commentary to Rule 722 are designed to specify the criteria and requirements that banks and trust companies must satisfy before they will be approved by the Exchange to issue letters of credit pursuant to Rule 722(d)(L). The proposed criteria are designed to assure that such letters of credit will be issued only by well-capitalized financial institutions that are likely to have had substantial experience with the issuance of letters of credit. Other proposed changes in the Rule 722 Commentary are designed to assure that the Exchange obtains extensive information with respect to each letter of credit and is able to closely monitor the financial condition of each approved issuer. These proposed changes also are designed to place constraints on an institution's ability to issue letters of credit for the account of any one customer and on its ability to issue letters of credit naming any one Exchange member as beneficiary.

Paragraph 8 of the proposed amendments to the Rule 722 Commentary is designed to reflect the fact that letters of credit will initially be utilized in PHLX's market only on a pilot program basis and that, during this pilot program, an Exchange member's ability to accept letters of credit may be suspended, terminated or modified at any time.

(B) Self-Regulatory Organization's Statement on Burden on Competition

PHLX does not believe that the proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Formal comments on the proposed rule change have not been solicited or received.

Item III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Item IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: September 9, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-25234 Filed 9-14-83; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 03/03-5163]

Allied Financial Corp.; Issuance of a Small Business Investment Company License

On June 2, 1983, a notice was published in the **Federal Register** (48 FR 24825) stating that an application has been filed by Allied Financial Corporation, 1625 I Street, N.W., Suite 603, Washington, D.C. 20006, with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1983)) for a license as a small business investment company.

Interested parties were given until close of business on June 17, 1983, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(d) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 03/03-5163 to Allied Financial Corporation to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: September 8, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-25227 Filed 9-14-83; 8:45 am]

BILLING CODE 8025-01-M

[License No. 02/02-5456]

Avdon Capital Corp.; Filing of Application for Transfer of Control of a Licensed Small Business Investment Company (SBIC)

Notice is hereby given that an Application has been filed with the Small Business Administration (SBA) pursuant to Section 107.701 of the SBA regulations governing small business investment companies for the transfer of control of Avdon Capital Corporation (13 CFR 107.701 (1983)), 805 Avenue L, Brooklyn, New York 11230, a Federal Licensee under the Small Business Investment Act of 1958, as amended (the Act), License No. 02/02-5456.

Avdon Capital Corporation was licensed on April 21, 1983. Its present combined paid-in capital and surplus is $500,000. The proposed transfer of control is subject to, and contingent upon, the approval of SBA.

The applicant Agnes Goldenberg is purchasing 50 percent of the issued and outstanding stock of Avdon Capital Corporation from David Newberg.

The proposed new officers, directors and shareholders of the Applicant are as follows:

Avruhum M. Donner, 1282 E. 10th Street, Brooklyn, New York 12230, President, Tresurer and Director, 50%

Agnes Goldenberg, 1442 60th Street, Brooklyn, New York 12219, Secretary and Director, 50%

Leon Goldenberg, 1442 60th Street, Brooklyn, New York 12219, Vice President and Director

Chaim Ginsberg, 1615 E. 9th Street, Brooklyn, New York 11223, Director.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed new owners and management, and the probability of successful operations of Avdon Capital Corporation under their management and control, including adequate profitability and financial soundness, in accordance with the Act, Regulations.

Notice is further given that any person may, not later than (15) days from the date of publication submit to SBA in writing, comments on the transfer of control. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in the Brooklyn, New York area.

(Catalog of Federal Domestic Assistance program No. 59.011, Small Business Investment Companies)

Dated: September 9, 1983.

Edwin T. Holloway,

Associate Administrator for Finance and Investment.

[FR Doc. 83-25228 Filed 9-14-83; 8:45 am]

BILLING CODE 8025-01-M

Region IX Advisory Council, California; Public Meeting

The Small Business Administration Region IX Advisory Council, located in the geographical area of San Francisco, California, will hold a public meeting at 10:00 a.m. on Tuesday, October 11, 1983, at 211 Main Street, 5th Floor Conference Room, San Francisco, California 94105, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Lawrence J. Wodarski, District Director, U.S. Small Business Administration, San Francisco District Office, 211 Main Street—4th Floor, San Francisco, California 94105 (405) 974-0642.

Jean M. Nowak,

Director, Office of Advisory Councils.

September 9, 1983.

[FR Doc. 83-25225 Filed 9-14-83; 8:45 am]

BILLING CODE 8025-01-M

Region III Advisory Council, Pennsylvania; Public Meeting Rescheduled

The Small Business Administration Region III Advisory Council, located in the geographical area of Philadelphia, Pennsylvania, public meeting has been cancelled for Friday, October 7, 1983, and rescheduled for Wednesday, October 5, 1983, from 8:15 a.m. to 11:15 a.m., at the Philadelphia District Office,

Suite 400-East Lobby, One Bala Plaza, 231 St. Asaphs Road, Bala Cynwyd, Pennsylvania 19004, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call William T. Gennetti, District Director, U.S. Small Business Administration, One Bala Plaza, Suite 400-East Lobby, 231 St. Asaphs Road, Bala Cynwyd, Pennsylvania 19004 (215) 596–5801.

Jean M. Nowak,

Director, Office of Advisory Councils.

September 12, 1983.

[FR Doc. 83–25223 Filed 9–14–83; 8:45 am]

BILLING CODE 8025–01–M

Region IV Advisory Council South Carolina; Public Meeting

The Small Business Administration, Region IV Advisory Council, located in the geographical area of Columbia, will hold a public meeting at 9:30 a.m. on Tuesday, October 18, 1983, at the Carolina Inn, 937 Assembly Street, Columbia, South Carolina, to discuss such matters as may be presented by members, staff of the Small Business Administration and others attending.

For further information, write or call John C. Patrick, Jr., District Director, U.S. Small Business Administration, 1835 Assembly Street, Room 358, Columbia, South Carolina 29201—(803) 765–5373.

Jean M. Nowak,

Director, Office of Advisory Councils.

September 9, 1983.

[FR Doc. 83–25228 Filed 9–14–83; 8:45 am]

BILLING CODE 8025–01–M

Region I Advisory Council, Vermont; Public Meeting; Correction

This document corrects the date of the meeting for the document which appeared at 48 FR 40810, September 9, 1983.

The Small Business Administration Region I Advisory Council, located in the geographical area of Montpelier, Vermont, will hold a public meeting at 10:00 a.m., Thursday, October 6, 1983, at the Cortina Inn, Route 4, Mendon, Vermont, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call David C. Emery, District Director, U.S. Small Business Administration, Federal Building, 87 State Street, P.O. Box 605, Montpelier, Vermont 05602, (802) 229–0538.

Jean M. Nowak,

Director, Office of Advisory Councils.

September 9, 1983.

[FR Doc. 83–25224 Filed 9–14–83; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

Captain of the Port, Western Alaska, Public Meetings; Bristol Bay, Naknek/Kvichak Commercial Fishery District Vessel Traffic and Anchorages

AGENCY: Coast Guard, DOT.

ACTION: Notice of public meetings.

SUMMARY: The Captain of the Port, Western Alaska will hold two public meetings to discuss vessel traffic problems occurring annually during the Naknek/Kvichak District Commerical Salmon Fishery. Processing and cargo vessels anchor in fishing areas and interfere with the drift net fishermen. Anchorage areas will be proposed at the meetings with the intent of alleviating the problem. Comments on the problem and proposed solutions will be taken from the public and concerned agencies. Written comments may be submitted to: Captain of the Port, USCG Western Alaska Marine Safety Office, 701 C St., Box 17, Anchorage, AK 99513.

DATES: The public meetings will convene at 9:00 A.M. on 20 October 1983 in Seattle, Washington, and 9:00 A.M. on 27 October 1983 in Naknek, Alaska. The meetings will adjourn at approximately 5:00 P.M.

ADDRESS: The public meeting in Seattle will take place at the north auditorium, fourth floor, Federal Building, 915 Second Ave., Seattle, WA. The public meeting in Naknek will take place in the conference room, Burrough Building, Naknek, Alaska.

FOR FURTHER INFORMATION CONTACT: LTJG Matthew A. Cronin, U.S. Coast Guard Marine Safety Office, 701 C St., Box 17, Anchorage, AK 99513; Phone (907) 271–5137.

Dated: September 12, 1983.

C. M. Holland,

Capt., U.S. Coast Guard, Executive Secretary, Marine Safety Council.

[FR Doc. 83–25200 Filed 9–14–83; 8:45 am]

BILLING CODE 4910–14–M

[CGD–83–051]

Ship Structure Committee; Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Ship Structure Committee. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 1, section 10(a)(2)).

DATED: October 13, 1983, 9:00 a.m. to 1:00 p.m.

ADDRESS: American Bureau of Shipping, 65 Broadway, New York, NY, Second Floor Committee Room.

FOR FURTHER INFORMATION CONTACT: LCDR D. B. Anderson USCG; Secretary, Ship Structure Committee, U.S. Coast Guard Headquarters (G–MTH–4), Washington, D.C. 20593, (202) 426–2197.

SUPPLEMENTARY INFORMATION: The agenda for this meeting is as follows: to review the business and research projects of the Committee. Various ideas and concepts for the research program for fiscal year 1985 will be discussed and developed. Attendance is open to the interested public. With advance notice to the Chairman, members of the public may present oral statements at the hearing. Persons wishing to attend and persons wishing to present oral statements should notify LCDR D. B. Anderson, Secretary, Ship Structure Committee, not later than the day before the meeting. Any member of the public may present a written statement to the Committee at any time.

Dated: September 1, 1983.

Clyde T. Lusp, Jr.,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 83–25198 Filed 9–14–83; 8:45 am]

BILLING CODE 4910–14–M

Federal Highway Administration

Environmental Impact Statement; Chatham County, Georgia

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

FOR FURTHER INFORMATION CONTACT: James K. Erickson, District Engineer, Federal Highway Administration, Suite 700, 1422 West Peachtree Street, N.E., Atlanta, Georgia 30309, telephone (404) 881–3041, or Peter Malphurs, State Environmental Analysis Engineer, Georgia Department of Transportation, Office of Environmental Analysis, 65 Aviation Circle, Atlanta, Georgia 30336, telephone (404) 696–4634.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Georgia

Department of Transportation (George DOT) will prepare an environmental impact statement (EIS) on a proposal to widen and reconstruct President Street Extension/Island's Expressway between East Broad Street and U.S. 80. The proposed project consists of constructing two additional lanes predominantly on the north side of the existing roadway. The typical section will be four 12-foot travel lanes, two in each direction, separated by a 24-foot wide grassed median. Exceptions to the typical section will be made to miss or reduce the impact on existing businesses and to best conform to the existing right-of-way. Construction of a parallel two-lane bascule bridge on the north side of the existing bridge at the Wilmington River is proposed. Construction of a parallel at-grade bridge on the south side of the existing bridge at Richardson Creek is also proposed. The proposed project also includes at-grade intersections at General McIntosh and at U.S. 80. However, second stage construction is also proposed. Grade separations are proposed for the President Street and General McIntosh intersection and the Island's Expressway and U.S. 80 intersection. The total project length is approximately 5.5 miles. The proposed work is necessary to accommodate existing and future traffic demand.

Alternatives under consideration include the build and no-build alternative.

Letters describing the proposed action and soliciting comments have been sent to appropriate Federal, State and local agencies, and to private organizations and citizens who have previously expressed interest in this proposal. A formal scoping meeting with project "cooperating agencies" was held on August 18, 1983; coordination among agencies is continuing. A public hearing will also be held. Public notice will be given of the time and place of the hearing.

To ensure that the full range of issues related to this proposed project are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS shoud be directed to the FHWA at the address provided above.

The catalog of Federal Domestic Assistance Program Number is 20.205, *Highway Research, Planning and Construction.* The provisions of OMB Circular No. A–95 regarding State and local clearinghouse review of Federal and Federally assisted programs and projects apply to this program.

James K. Erickson,

District Engineer, Atlanta, Georgia.

[FR Doc. 83–25101 Filed 9–14–83; 8:45 am]

BILLING CODE 4910-22-M

Maritime Administration

Revisions to the Voluntary Tanker Agreement

Corrections

IN FR Doc. 83–22997 beginning on page 38716 in the issue for Thursday, August 25, 1983, make the following corrections:

1. On page 38716, the first column, the eleventh line from the bottom, the reference to § 1.66" should be removed.

2. On page 38717, the first column, under "*II. Authorities*", the first paragraph, the reference to "§ 166." should read "§ 1.66."

3. On the same page, the third column, in the paragraph designated "G. *Rules and Regulations.*", the thirteenth and fourteenth lines, the reference to "49 CFR Subtitle A, § 1.66." should read "49 CFR Subtitle A,".

BILLING CODE 1505-01-M

VETERAN'S ADMINISTRATION

Veterans Adr..inistration Medical Center, Long Beach, Calif.; Supply Warehouse; Finding of No Significant Impact

It is the intent of the Veterans Administration (VA) to construct a new one story supply warehouse at the Veterans Administration Medical Center (VAMC) at Long Beach, California. The project development includes various areas of storage space, support offices, lockers, and toilets. The new building will replace and consolidate existing warehouse space scattered throughout the VAMC and within leased space offsite. The project will also include development of a new service entrance road and the relocation of existing parking spaces.

The preferred agency alternative is Concept No. 3, as described below, and is the proposed action to be taken. Four alternative plans have been developed; however, only one site location has been considered feasible because the area afforded public road access. Additionally, previous demolition of old structures within the site area has rendered the area altered and disturbed. The "No Action" alternative would maintain the existing facilities in the present condition. Many significant operational problems would not be addressed by implementing this alternative. Alternatives considered feasible were:

Concept No. 1—A plan with all docking space located at one end of building.

Concept No. 2—A smaller storage area in the building with separated docking areas.

Concept No. 3—A larger storage area with separated docking areas. Supply administration would also be located within the building.

Concept No. 4—Assessment of possibility of leasing or purchasing privately owned space as described in agency prepared A–104 study.

The proposed concept for implementation accommodates the site, with only minor impacts developing from construction and operation of the planned facility. Only minimal impacts on the human and natural environment affecting air quality during construction will occur.

Cultural and historical significance of a portion of the proposed site area will require the agency to request and coordinate a review of the proposed action. Consultation will occur with the State Historic Preservation Officer (SHPO) and this agency.

Mitigation will occur during project development. Minor air quality impacts during construction will be limited with temporary control instituted. These efforts will include sprinklering and/or chemical treatment of particulates as well as minimizing exposure of soil areas to reduce dust generation.

As a result of consultation efforts with the California SHPO and the Advisory Council on Historic Preservation, it may become necessary to conduct small scale excavations on the designated archeological site before actual construction, or to monitor construction work in the area of the site.

Findings conclude the proposed action will not cause a significant effect on the physical and human environment and, therefore, does not require preparation of an Environmental Impact Statement (EIS). An Environmental Assessment (EA) has been prepared in accordance with the requirements of the National Environmental Policy Act Regulations, 40 CFR 1501.3–1508.9. A "Finding of No Significant Impact" has been reached based on information presented in the assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. William F. Sullivan, Director,

Office of Environmental Affairs (088C), Room 423, Veterans Administration, 811 Vermont Avenue, N.W., Washington, D.C. 20420, (202) 389–3316. Questions or requests for single copies of the Environmental Assessment may be addressed to the above office.

By direction of the Administrator.

Dated: September 9, 1983.

Everett Alvarez, Jr.,

Deputy Administrator.

[FR Doc. 83–25178 Filed 9–14–83; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 180
Thursday, September 15, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Federal Deposit Insurance Corporation	1
Federal Election Commission	2
Federal Reserve System	3
Federal Trade Commission	4, 5
Postal Service	6
Synthetic Fuels Corporation	7
U.S. Railway Association	8

1

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Monday, September 12, 1983, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of a memorandum regarding the purchase of additional office space in the Ecker Square Condominium Office Building located in San Francisco, California, and a memorandum regarding the leasing of office space in Dallas, Texas, to facilitate the expansion of the Division of Liquidation's Southwest Area Liquidation Office.

By the same majority vote, the Board further determined that no earlier notice of these changes in the subject matter of the meeting was practicable.

Dated: September 12, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1291-83 Filed 9-13-83; 11:31 am]

BILLING CODE 6714-01-M

2

FEDERAL ELECTION COMMISSION

Date and time: Tuesday, September 20, 1983 at 10:00 A.M.

Place: 1325 K Street, N.W., Washington, D.C.

Status: This meeting will be closed to the public.

Items to be discussed: Compliance. Litigation. Audits, Personnel.

Date and time: Thursday, September 22, 1983 at 10:00 A.M.

Place: 1325 K Street, N.W., Washington, D.C. (Fifth Floor).

Status: This meeting will be open to the public.

Matters to be considered: Setting of dates of future meetings; correction and approval of minutes; eligibility report for condidates to receive presidential primary matching funds; administrative terminations; 1984 management plan, routine administrative matters.

Person to contact for information: Mr. Fred Elland, Information Officer, telephone: 202-523-4065.

Lena L. Stafford,

Acting Secretary of the Commission.

[S-1289-83 Filed 9-13-83; 3:40 pm]

BILLING CODE 6715-01-M

3

FEDERAL RESERVE SYSTEM

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 40487, Wednesday, September 7, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 a.m., Monday, September 12, 1983.

CHANGES IN THE MEETING: One of the items announced for inclusion at this meeting was consideration of any agenda items carried forward from a previous meeting; the following such closed item(s) was added: Legislative proposals relating to banking structure. (This item was originally announced for a meeting on September 7, 1983.)

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452-3204.

Dated: September 12, 1983.

James McAfee,

Associate Secretary of the Board.

[S-1288-83 Filed 9-12-83; 4:56 pm]

BILLING CODE 6210-01-M

4

FEDERAL TRADE COMMISSION

TIME AND DATE: 9:30 a.m., Thursday, September 15, 1983.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580.

STATUS: Open.

Matters To Be Considered

(1) Consideration of proposal to allow cross-examination by Non-attorney experts.

(2) Public session concerning current procedures and ways to improve them, to be followed by closed session concerning effect of proposed procedures on current law enforcement matters.

CONTACT PERSON FOR MORE INFORMATION: Susan B. Ticknor, Office of Public Information, (202) 523-1892; Recorded Message: (202) 523-3806.

[S-1282-83 Filed 9-13-83; 3:20 pm]

BILLING CODE 6750-01-M

5

FEDERAL TRADE COMMISSION

TIME AND DATE: 3:00 p.m., Friday, September 16, 1983.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580.

STATUS: Open.

MATTER TO BE CONSIDERED: Consideration of Proposed Trade Regulation Rule on Credit Practices.

CONTACT PERSON FOR MORE INFORMATION: Susan B. Ticknor, Office of Public Information: (202) 523-1892; Recorded Message: (202) 523-3806.

[S-1293-83 Filed 9-13-83; 3:20 pm]

BILLING CODE 6750-01-M

6

POSTAL SERVICE

At its meeting on September 7, 1983, the Board of Governors of the United States Postal Service unanimously voted, pursuant to section 6.4 of the bylaws of the Board (39 CFR 6.4), to hold a meeting by conference telephone call at 12:30 p.m. (EDST) on Friday, September 30, 1983, for the sole purpose of resuming consideration of the recommended decision of the Postal Rate Commission on third-class bulk rates for nonprofit mail in Docket No. R80-1, dated August 26, 1983. The conference telephone call will emanate from the Benjamin Franklin Room, 11th floor, Postal Service Headquarters, 475

L'Enfant Plaza West, S.W., Washington, D.C.

It is expected that Governors Hardesty, Babcock, Camp, Hughes, McKean, Ryan, Sullivan and Voss will participate in the meeting by conference telephone while Postmaster General Bolger; Deputy Postmaster General Finch; Secretary of the Board Harris; General Counsel Cox; Senior Assistant Postmaster General Coughlin; and Counsel to the Governors Califano will be at Postal Service Headquarters.

The Board of Governors has determined that, pursuant to section 552b(c)(3) of title 5, United States Code, and section 7.3(c) of title 39, Code of Federal Regulations, this meeting is exempt from the open meeting requirements of the Government in the Sunshine Act (5 U.S.C. 552b[b]) because it is likely to disclose information in connection with proceedings under chapter 36 of title 39 (having to do with postal ratemaking, mail classification and changes in postal services), which is specifically exempted from disclosure by section 410(c)(4) of title 39, United States Code. The Board determined further that, pursuant to section 552b(c)(10) of title 5, United States Code, and section 7.3(j) of title 39, Code of Federal Regulations, the discussion is exempt, because it is likely to specifically concern the participation of the Postal Service in a civil action or proceeding or the litigation of a particular case involving a determination on the record after opportunity for a hearing. The Board further determined that the public interest does not require that the Board's discussion of this matter be open to the public.

In accordance with section 552b(f)(1) of title 5, United States Code, and section 7.6(a) of title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in his opinion the meeting may properly be closed to public observation pursuant to sections 552(b)(c) (3) and (10) of title 5 and section 410(c)(4) of title 39, United States Code, and sections 7.3(c) and (j) of title 39, Code of Federal Regulations.

Requests for information about the meeting should be addressed to the Secretary of the Board, David F. Harris, at (202) 245-3734.

David F. Harris,

Secretary.

[S-1294-83 Filed 9-13-83; 3:21 pm]

BILLING CODE 7710-12-M

7

SYNTHETIC FUELS CORPORATION

ENTITY: United States Synthetic Fuels Corporation.

ACTION: Notice of meeting.

SUMMARY: Interested member of the public are invited to attend and observe a meeting of the Board of Directors of the United States Synthetic Fuels Corporation to be held at the time, date and place specified below. This public announcement is made pursuant to the open meeting requirements of Section 116(f)(1) of the Energy Security Act (94 Stat. 611, 637; 42 U.S.C. 8701, 871(f)(1)), and Section 4 of the Corporation's Statement of Policy on Public Access to Board meetings. During the meeting, the Board of Directors will consider a resolution to close a portion of the meeting pursuant to Article II, Section 4 of the Corporation's By-laws, Section 116(f) of said Act and Sections 4 and 5 of said policy.

Matters to be Considered

Open Session

1. Chairman's Opening Remarks.
2. Approval of Minutes.
3. Operations Report of Acting Executive Vice President.
4. Report of the Compensation Committee.
5. Amendment of Competitive Eastern Province and Eastern Region of the Interior Province Bituminous Coal Gasification Solicitation.

Closed Session

6. Preliminary Qualification Statements Submitted under Competitive Eastern Province and Eastern Region of the Interior Province Competitive Bituminous Coal Gasification Solicitation.
7. Targeted Solicitation for Coal/Liquid Mixture Projects.
8. Report on Analysis of Great Plains Coal Gasification Project for DOE.
9. Project Strength Reviews—Eastern Shale Projects.
10. Project-Specific Evaluations and Negotiations.
11. Release of Exempt Minutes of Board Meetings.

In addition, the Board of Directors will consider such other matters as may be properly brought before the meeting.

TIME AND DATE: 9:00 a.m., September 22, 1983.

PLACE: 2121 K Street, N.W., Washington, D.C., Room 503.

PERSON TO CONTACT FOR MORE INFORMATION: If you have any questions regarding this meeting, please contact Mr. Owen J. Malone, Assistant Secretary, (202) 822-6336.

United States Synthetic Fuels Corporation.

Leonard C. Axelrod,

Acting Executive Vice President.

September 12, 1983.

[S-1295-83 Filed 9-13-83; 3:22 pm]

BILLING CODE 0000-01-M

8

U.S. RAILWAY ASSOCIATION

DATE AND TIME: September 22, 1983; 10:00 a.m.

PLACE: Board Room, Suite 7200, Seventh Floor, 955 L'Enfant Plaza North, SW., Washington, D.C.

STATUS: The first portion of the meeting will be closed to the public; the second portion will be open.

Matters To Be Considered by the USRA Board of Directors

Portion Closed to the Public (10:00 a.m.)

1. Litigation Report.
2. Review of Conrail Confidential and Proprietary Financial Information.
3. Alaska Railroad Valuation Report.

Portion Open to the Public (10:30 a.m.)

4. Approval of Minutes of June 30, 1983 Annual Meeting of the Board of Directors.
5. Delaware & Hudson Request for Waiver of Mortgage Agreement to Sell Property.
6. Conrail Monitoring Indicators.

CONTACT PERSON FOR MORE INFORMATION: Alex Bilanow, (202) 488-8777, ext. 503.

[S-1290-83 Filed 9-13-83; 9:34 am]

BILLING CODE 8240-01-M

federal register

Thursday
September 15, 1983

Part II

Department of Transportation

Urban Mass Transportation Administration

Buy America Requirements

DEPARTMENT OF TRANSPORTATION

Urban Mass Transportation Administration

49 CFR Parts 660 and 661

[Docket No. 83-B]

Buy America Requirements

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This final rule sets out requirements to implement Section 165 of the Surface Transportation Assistance Act of 1982. Section 165 provides, with exceptions, that funds authorized by the Surface Transportation Assistance Act of 1982, Title 23 of the United States Code, the Urban Mass Transportation Act of 1964, as amended, or the Surface Transportation Assistance Act of 1978 may not be obligated for mass transportation projects unless steel, cement, and manufactured products used in such projects are produced in the United States. In addition to setting out final regulations, UMTA is also requesting comments on the regulations, and various topics concerning implementation of the statutory provision.

DATES: The regulations are effective January 6, 1983. Comments must be received on or before November 14, 1983.

ADDRESS: Comments should be submitted to UMTA Docket No. 83-B, Urban Mass Transportation Administration, Room 9228, 400 Seventh Street, S.W., Washington, D.C. 20590. All comments and suggestions received will be available for examination at the above address between 8:30 A.M. and 5:00 P.M., Monday through Friday. Receipt of comments will be acknowledged by UMTA if a self-addressed stamped postcard is included with each comment.

FOR FURTHER INFORMATION CONTACT: Edward J. Gill, Jr., Office of the Chief Counsel, Room 9228, 400 Seventh Street, S.W., Washington, D.C. 20590, (202) 426-4063.

SUPPLEMENTARY INFORMATION:

Immediate Effective Date and Consideration of Comments: On January 6, 1983, the President signed into law the Surface Transportation Assistance Act of 1982 (Pub. L. 97-424). Under the Administrative Procedure Act, 5 U.S.C. 553(d), publication of a rule must normally take place 30 days before the rule's effective date. However, exceptions to this normal requirement are permissible in the case of a substantive rule which the agency finds for good cause must be made effective less than 30 days after publication. Since the statutory provision which gives rise to these regulations became effective on January 6, 1983, it has been determined that circumstances warrant the issuance of a final rule with a retroactive effective date so as to immediately implement the statutory provision. This same reason makes it impracticable to publish a Notice of Proposed Rulemaking, and provide for public comment prior to issuing this rule. Comments are, however, solicited on the regulations being adopted, as well as on several possible changes to the regulations that are discussed below. UMTA will consider the comments received and will make a decision with respect to changing these regulations within six months of the issuance of the final rule. Earlier changes may be made with respect to specific proposals if the comments indicate a need for earlier action. In addition, notice and comment are unnecessary in this case since, under the exception in 5 U.S.C. 553(a)(2), the requirements of 5 U.S.C. 553 do not apply to a matter relating to grants.

Regulatory Impact Analysis: This regulation is classified as a "major" regulation under Executive Order 12291, which calls for a Regulatory Impact Analysis to be prepared for major rules. Because of the need to publish a final rule immediately, a Regulatory Impact Analysis could not be completed prior to the issuance of this final rule. However, UMTA will prepare a Regulatory Impact Analysis within 180 days of publication of this final rule.

Environmental Impact Evaluation: This rule will have no significant environmental impact.

Paperwork Reduction Act: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the reporting or recordkeeping provisions that are included in this final rule will be submitted for approval to the Office of Management and Budget (OMB). They are not effective until OMB approval has been obtained.

Statutory Background: Section 165 of the Surface Transportation Assistance Act of 1982 provides, with exceptions, that Federal funds may not be obligated for mass transportation projects unless steel, cement, and manufactured products used in such projects are produced in the United States. There are four exceptions to this basic requirement. The first is that the requirement will not apply if its application is not in the public interest. The second is that the requirement will not apply if materials and products being procured are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality. The third is that the requirement will not apply in the case of the procurement of buses and other rolling stock (including train control, communication, and traction power equipment) if the cost of components which are produced in the United States is more than 50 percent of the cost of all components of the vehicles or equipment, and if final assembly takes place in the United States. The fourth is that the requirement will not apply if the inclusion of domestic material will increase the cost of the overall project contract by more than 10 percent in the case of projects for the acquisition of buses and other rolling stock; and 25 percent in the case of all other projects.

Section 165 of the Surface Transportation Assistance Act of 1982 applies to contracts utilizing UMTA funds obligated after January 6, 1983. Contracts utilizing funds obligated prior to January 6, 1983, are governed by Section 401 of the Surface Transportation Assistance Act of 1978, and the regulations in 49 CFR Part 660. Section 165 repealed Section 401. The regulations being adopted here under Section 165 (49 CFR Part 661) apply to contracts utilizing UMTA funds obligated after January 6, 1983. However, under the public interest exception contained in Section 165(b)(1), certain contracts entered into prior to January 6, 1983, but necessitating funds obligated after that date, will be covered by the regulations in 49 CFR Part 660.

Discussion of regulations and request for comments: In developing this regulation, UMTA utilized many of its Buy America regulations in 49 CFR Part 660, which implemented Section 401 of the Surface Transportation Assistance Act of 1978.

While we feel that the regulations are generally self-explanatory, there are some items which should be explained in more detail. In addition, we are specifically requesting comments on several aspects of these regulations and these are set out below. We will take further regulatory action based on our analysis of the comments received.

These new requirements will apply to *all* third party contracts. The 1978 UMTA Buy America requirements only applied to third party contracts of over $500,000. UMTA specifically requests information as to the impact of applying the Buy America requirements to all third party contracts, and not just to those of over $500,000. UMTA is particularly interested in receiving

information as to the impact that this change will have on the procurement of replacement parts. The general applicability of the regulations is to all monies obligated by UMTA after January 6, 1983 (the effective date of the Surface Transportation Assistance Act of 1982). Specific exceptions are set out in the regulations, and others will be addressed on a case-by-case basis.

Any type of equipment used by a contractor to produce the material or item being procured under the requirements of these regulations is not covered by the regulations. For example, a piece of construction equipment used at a construction site need not comply with the regulations. In addition, temporary supporting materials, such as soldier piles, which are removed at the end of construction, are not within the scope of the regulations. In addition, if an item is used in the construction process as an aid to construction and remains at the construction site but serves no purpose in the completed product, then the requirements do not apply to that item.

In Section 661.3 of the regulations, UMTA has defined the terms "manufactured product" and "manufacturing process." It was felt necessary that we set out these definitions immediately since Section 165 applies, with exceptions, to all manufactured products purchased with UMTA funds obligated after January 6, 1983. We are specifically requesting comments on our definitions, and request that comments provide alternative definitions for our consideration.

Section 165(b)(4) of the Surface Transportation Assistance Act of 1982 sets out an exception to the general requirements if inclusion of domestic material will increase the cost of the overall project contract by more than 10 per centum in the case of projects for the acquisition of rolling stock, and 25 per centum in the case of all other projects. Since train control equipment, communication equipment, and traction power equipment are listed in the same statutory section as rolling stock (Section 165(b)(3)), and their procurement is governed by the same requirements as rolling stock, we will apply the 10 percent differential in cases of their acquisition rather than the 25 percent differential.

Section 661.7(b) of the regulations provides that a public interest exception may be granted by the UMTA Administrator on a case by case basis after consideration of all appropriate factors. UMTA specifically requests comments on whether general public interest exceptions should be granted (see discussion of "spare parts" below), and if they are granted, what they should cover. UMTA is specifically requesting comments as to what factors should be considered in the granting of the public interest exception.

UMTA also requests comments concerning the circumstances in which public interest waivers should be published in the **Federal Register** for comment. During discussion of the Conference Report on the Surface Transportation Assistance Act of 1982, there was a floor statement that UMTA should publish a notice in the **Federal Register** giving all details pertaining to a public interest exception request and allow a 30 day notice period for comment on the request. We do not, at this time, believe that publication of requests seeking a public interest exception is necessary in all cases. This publication requirement would be time consuming and could cause undue delays in procurement and impose unnecessary administrative burdens. We have not set out procedures in the regulations for publishing public interest exception requests in the **Federal Register**. However, UMTA may use such a procedure where the exception requested involves important policy considerations or is controversial. In all other cases, the exception requests will be made available for public inspection. Any comments received will be considered before UMTA acts on the request.

In January 1981, UMTA issued a general public interest waiver under Section 401 of the Surface Transportation Assistance Act of 1978 that provided that foreign-sourced spare parts, which are end-products purchased as part of the same contract for a major capital item, were granted an automatic waiver if their total cost was 10 percent or less of the overall project contract cost. The waiver was issued in order to provide for compatibility of parts, and it was considered in the public interest that this compatibility exist since it promotes efficiency and economy. UMTA is issuing a similar exception under Section 165(b)(1) of the Surface Transportation Assistance Act of 1982, if the items listed in Section 165(b)(3) are being procured. UMTA specifically requests comments on whether this exception should be continued.

In § 661.11(g) of the regulations, UMTA states that the final assembly requirement will be presumed to be met if the cost of final assembly is at least 10 percent of the overall project contract cost. UMTA specifically requests comments on this presumption, and requests comments on whether any other presumptions concerning final assembly should be set out in the regulations, and whether UMTA should attempt to define final assembly. Suggested definitions of "final assembly" are specifically requested. UMTA also specifically requests comments on whether the 10 percent standard is a realistic standard. It has come to our attention that the cost of final assembly in many bus contracts is below the 10 percent level, but that the activities performed during final assembly are meaningful, and meet the intent of the Buy America requirements.

In § 661.11 of the regulations, UMTA sets out listings of typical train control equipment, communication equipment, and traction power equipment. It is specifically stated that these listings are not all inclusive. The listings include both on-board and wayside equipment, and the listing for communication equipment applies to both rail and bus communication equipment. It should be noted that the listing of traction power equipment specifically excludes steel power or third rails. Comments on this exclusion are requested. UMTA specifically requests comments concerning additions to and/or deletions from these listings.

Section 165(d) of the Surface Transportation Assistance Act of 1982 specifically provides that State buy national requirements that are more restrictive than the Federal requirements are not only permitted, but must be given deference by UMTA. Since fiscal year 1981, Congress has directed UMTA to give deference to State requirements, but allowed UMTA to condition its participation in procurements governed by State law on the use of the waivers under Section 401 of the Surface Transportation Assistance Act of 1978. Under Section 165, UMTA is not given the flexibility to use the Federal waiver or exception provisions to avoid more restrictive State laws, and, therefore, even if one of the exceptions under Section 165(b) would apply, UMTA must allow a State to impose its law if it is stricter than the Federal law set out in Section 165. It should be noted that this provision only allows a State to impose a stricter buy national provision, and does *not* allow a State to impose a buy State or buy local provision on a procurement utilizing UMTA funds.

Treatment of Subcomponents

In January 1981, UMTA issued a Notice of Proposed Rulemaking (46 FR 5815) concerning proposed changes to its Buy America regulations implementing Section 401 of the Surface Transportation Assistance Act of 1978. One of the proposed changes would

have permitted subcomponents manufactured in the United States that receive Customs Bureau tariff exemptions to retain their domestic identity for purposes of determination of origin under Buy America. Final action on this proposed change was never taken. Since we received several comments concerning this proposal, and in view of the statutory changes that have taken place, we have not included that proposed provision in our regulations implementing Section 165 of the Surface Transportation Assistance Act of 1982. However, we are considering this provision for our new regulations, and thus again request comments. Set out below is a full description of the proposal.

In permitting manufacturers to include the cost of domestic subcomponents in the fifty percent test of Section 165, UMTA would utilize an existing Bureau of Customs procedure. A review of the U.S. Tariff Schedules reveals that Item 807.00 implements a legislative exemption from customs duty of those components which are products of the United States that have been assembled abroad into articles if those United States products: (a) Were exported in condition ready for assembly without further fabrication, (b) have not lost their physical identity in such articles by change in form, shape, or otherwise, and (c) have not been advanced in value or improved in condition abroad except by being assembled and except by operations incidental to the assembly process such as cleaning, lubricating, and painting. The duty imposed on such manufactured articles is computed by subtracting the cost of value of the United States products from the duty that is applicable to the full value of the imported articles. The Bureau of Customs regulations implementing Item 807.00 are set out at 19 CFR 10.11–10.24. An importer who desires to take advantage of this exception files documentation identifying the United States components in the assembled product. This determination of value of the U.S. subcomponents utilizing the customs approach is considered a suitable substitute for the simple "origin" test contained in the regulations being adopted here (§ 661.11). Under the proposed approach, United States subcomponents would not need to lose their identity simply because they had been sent abroad to be assembled into higher components.

The proposal would permit United States subcomponents that receive tariff exemptions to retain their domestic identity for purposes of determining origin of end-products. The cost of subcomponents that receive tariff exemptions would be included in the computation of domestic components. The cost of the foreign components, after subtracting the cost of such subcomponents, would be included in the computation of non-domestic components. This approach would provide more flexibility to end-product manufacturers, and would provide an advantage to U.S. subcomponent manufacturers and their workers.

In evaluating whether this provision should be adopted, UMTA will utilize the comments submitted in response to its 1981 Notice of Proposed Rulemaking in addition to those received as a result of this request for comments.

It must be noted that this proposed change would only apply to the procurement of buses and other rolling stock (including train control, communication, and traction power equipment) since these are the only procurements utilizing the component test.

In addition to allowing U.S. subcomponents to be included in the calculation of domestic components, UMTA is also considering requiring that foreign sourced subcomponents that are used in manufacturing domestic components retain their identity for the purposes of computing foreign component costs.

In making this proposal, UMTA specifically requests comments on the following:

1. Is it practical to attempt to trace foreign sourced subcomponents? While the Customs approach allows an administrative mechanism for tracing U.S. sourced subcomponents, is there a similar mechanism available for tracing foreign sourced subcomponents? UMTA has particular concern in this matter since it is known that various manufacturers purchase components from suppliers who may or may not utilize foreign sourced subcomponents, and these manufacturers may not have any means available to them to ascertain the source of subcomponents.

2. While the UMTA proposals would apply to subcomponents (an item directly incorporated into a component), we are interested in receiving comments as to whether the requirements should extend to below the subcomponent level, and if they should extend beyond this level, how far should they extend.

3. The major purpose of the Buy American requirements is to provide protection for the American labor force and for American manufacturers. If the foreign subcomponent tracing test is adopted, there is some question as to whether or not the true intent of Buy America would be met. The assembly or manufacture of components in the United States is desirable and is currently being done in conjunction with the procurement of transit equipment. UMTA requests comments on the extent to which this would continue if the tracing of foreign subcomponents were required.

4. Specific comments are requested as to any tests or requirements that may be imposed which would realistically trace foreign subcomponents, yet at the same time not impose such an administrative burden on American manufacturers as to discourage them from bidding on federally assisted mass transit projects.

5. While UMTA has set out some of its concerns on the subcomponent matter, any other concerns or issues involving this matter are requested.

Before taking any final action on the subcomponent issue, UMTA will carefully review the comments and suggestions received.

List of Subjects in 49 CFR Parts 660 and 661

Buy America, Domestic preference requirements, Grant programs—transportation, Mass transportation.

PART 660—[AMENDED]

Accordingly, Title 49 of the Code of Federal Regulations is amended by:

1. Amending § 660.11 by adding paragraph (a–1) to read as follows:

§ 660.11 Applicability.

* * * * *

(a–1) The regulations in this part do not apply to any federally-assisted procurement governed by the regulations in Part 661 of this subchapter.

* * * * *

2. Adding a new Part 661 to read as follows:

PART 661—BUY AMERICA REQUIREMENTS—SURFACE TRANSPORTATION ASSISTANCE ACT OF 1982

Sec.

§ 661.1 Applicability.
§ 661.3 Definitions.
§ 661.5 General requirements.
§ 661.7 Exceptions.
§ 661.9 Application for exceptions.
§ 661.11 Rolling stock procurement.
§ 661.13 Grantee responsibility.
§ 661.15 Investigation procedures.
§ 661.17 Failure to comply with certification.
§ 661.19 Sanctions.
§ 661.20 Rights of third parties.
§ 661.21 State buy America provisions.

Authority: Sec. 165, Pub. L. 97–424; 49 CFR 1.51.

§ 661.1 Applicability

(a) Except as otherwise provided in this section, these regulations apply to all federally assisted procurements utilizing funds authorized by the Urban Mass Transportation Act of 1964, as amended, the Surface Transportation Assistance Act of 1982, the Surface Transportation Assistance Act of 1978, and Title 23, United States Code which are administered by the Urban Mass Transportation Administration (UMTA) and which are obligated by UMTA after January 6, 1983. These regulations also apply to funds authorized by Section 18 of the Urban Mass Transportation Act of 1964, as amended, that are administered by the Federal Highway Administration, and which are obligated after January 6, 1983.

(b) Under the provisions of Section 165(b)(1) of the Act, these regulations do not apply to the following:

(1) A procurement contract entered into before January 6, 1983, under a Letter of No Prejudice issued by the Urban Mass Transportation Administration.

(2) A procurement contract using funds obligated after January 6, 1983, under a grant amendment which supplements a grant obligated prior to January 6, 1983, where the grant amendment does not change the scope of the original project.

(3) Any procurement using funds obligated after January 6, 1983, to provide planned supplementary funding, subject to the availability of funds, for a multi-year phased project which was initiated prior to January 6, 1983, if the initial procurement contract was awarded prior to January 6, 1983, and if the post-January 6, 1983, grant does not change the scope of the multi-year phased project.

§ 661.3 Definitions.

As used in this part:

(a) "Act" means the Surface Transportation Assistance Act of 1982 (Pub. L. 97–424).

(b) "Administrator" means the Administrator of the Urban Mass Transportation Administration.

(c) "Grantee" means any entity that is a recipient of UMTA funds.

(d) "Manufactured product" means a product produced as a result of manufacturing process.

(e) "Manufacturing process" means a process whereby an original material is changed or transformed into an article which, because of the process, is different from the original product.

(f) "Overall project contract" means the contract between a grantee and its prime contractor.

(g) "United States" means the several States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, and the Commonwealth of the Northern Marianas Islands.

§ 661.5 General requirements.

(a) Except as provided in §§ 661.7 and 661.11, no funds may be obligated by UMTA for a grantee project unless all steel, cement, and manufactured products used in the project are produced in the United States.

(b) For steel and cement, all manufacturing processes must take place in the United States, other than metallurgical processes involving refinement of steel additives.

(c) The steel requirements apply to all steel items including, but not limited to, structural steel, running rail, and contact rail.

§ 661.7 Exceptions.

(a) Section 165(b) of the Act provides that the general requirements of Section 165(a) shall not apply in four specific instances. This section sets out the circumstances under which three of the four exceptions apply. Section 661.11 sets out the circumstances under which the "rolling stock" exception applies.

(b) The general requirements of Section 165(a) shall not apply if their application would be inconsistent with the public interest. In determining whether this exception will be granted, the Administrator will consider all appropriate factors on a case by case basis, except for those general exceptions specifically set out in this part.

(c) The general requirements of Section 165(a) shall not apply if materials are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality. In determining whether this exception will be granted, it will be presumed that the conditions exist if no responsive and responsible bid is received offering an item produced in the United States.

(d) The general requirements of Section 165(a) shall not apply if the inclusion of domestic material will increase the cost of the overall project contract by more than 10 percent in the case of projects for the acquisition of rolling stock, and 25 percent in the case of all other projects. The 10 percent provision applies to the acquisition of buses, other rolling stock, and train control equipment, communication equipment, and traction power equipment. In determining whether the exception will be granted, the lowest responsive and responsible bid offering a non-United States produced item will be multiplied by 1.1 or 1.25, as appropriate. If the resulting amount is less than the lowest responsive and responsible bid offering all items produced in the United States, then the exception will be granted.

(e) The statutory exceptions shall be treated as being separate and distinct from each other.

(f) The exceptions described in paragraphs (b) and (c) of this section may be granted if the items described in Section 165(b)(3) of the Act are being procured. If an exception is granted for a component, that component shall be treated as domestic for the purposes of § 661.11.

Appendix A—General Exceptions

(a) All waivers published in 41 CFR 12–6.105 which establish excepted articles, materials, and supplies for the Buy American Act of 1933 (41 U.S.C. 10a–d), as the waivers may be amended from time to time, are incorporated by reference under the provisions of § 661.7 (b) and (c).

§ 661.9 Application for exceptions.

(a) This section sets out the application procedures for obtaining all exceptions except those general exceptions set forth in this Part for which individual applications are unnecessary and those covered by Section 165(b)(3) of the Act. The procedures for obtaining an exception covered by Section 165(b)(3) are set forth in § 661.11.

(b) A bidder who seeks to establish grounds for an exception must seek the exception, in a timely manner, through the grantee.

(c) Only a grantee may request an exception. The request must be in writing, include facts and justification to support the exception, and be submitted to the Administrator through the appropriate Regional Administrator.

(d) The Administrator will issue a written determination setting forth the reasons for granting or denying the exception request. Each request for an exception, and UMTA's action on the request, are available for public inspection under the provisions of 49 CFR Part 601, Subpart C.

§ 661.11 Rolling stock procurement.

(a) The provisions of § 661.5 will not apply in the case of the procurement of buses and other rolling stock (including train control, communication, and traction power equipment) if the cost of components which are produced in the United States is more than 50 percent of the cost of all components and final assembly takes place in the United States.

(b) A component is any article, material, or supply, whether manufactured or unmanufactured, that is directly incorporated into an end product at the final assembly location.

(c) An end product means any item subject to Section 165(b)(3) of the Act that is to be acquired by a grantee, as specified in the overall project contract.

(d) In determining the origin of components, each component must be treated as either entirely domestic or entirely foreign, based on the place where the component is mined, produced, or manufactured. Components of unknown origin must be treated as foreign. The origin of subcomponents of components is immaterial. Transportation costs to the place of incorporation into the end product and, in the case of foreign components, applicable duties, must be included in determining component cost.

(e) The cost of a component is the price that a bidder or offeror must pay to a subcontractor or supplier for components for the items covered by Section 165(b)(3). If the component is manufactured by the bidder or offeror, the cost of the component is the cost of labor and materials incorporated into the component, an allowance for profit, and the administrative and overhead costs attributable to that component under normal accounting principles. In accordance with Section 165(c) of the Act, labor costs involved in final assembly shall not be included in calculating component costs.

(f) Final assembly is the effort expended at the final assembly point to manufacture the end-product.

(g) The final assembly requirement will be presumed to have been met if the cost of final assembly is at least 10 percent of the overall project contract cost.

(h) Train control equipment includes, but is not limited to, the following equipment:

(1) Mimic board in central control.
(2) Dispatchers console.
(3) Local control panels.
(4) Station (way side) block control relay cabinets.
(5) Terminal dispatcher machines.
(6) Cable/cable trays.
(7) Switch machines.
(8) Way side signals.
(9) Impedance bonds.
(10) Relay rack bungalows.
(11) Central computer control.

(i) Communication equipment includes, but is not limited to, the following equipment:

(1) Radios.
(2) Space station transmitter and receivers.
(3) Vehicular and hand-held radios.
(4) PABX telephone switching equipment.
(5) PABX telephone instruments.
(6) Public address amplifiers.
(7) Public address speakers.
(8) Cable transmission system cable.
(9) Cable transmission system multiplex equipment.
(10) Communication console at central control.
(11) Uninterruptible power supply inverters/rectifiers.
(12) Uninterruptible power supply batteries.
(13) Data transmission system central processors.
(14) Data transmission system remote terminals.
(15) Line printers for data transmission system.
(16) Communication system monitor test panel.
(17) Security console at central control.

(j) Traction power equipment includes, but is not limited to, the following:

(1) Primary AC switch gear.
(2) Primary AC transformers (rectifier).
(3) DC switch gear.
(4) Traction power console and CRT display system at central control.
(5) Bus ducts with buses (AC and DC).
(6) Batteries.
(7) Traction power rectifier assemblies.
(8) Distribution panels (AC and DC).
(9) Facility step-down transformers.
(10) Motor control centers (facility use only).
(11) Battery chargers.
(12) Supervisory control panel.
(13) Annunciator panels.
(14) Low voltage facility distribution switch board.
(15) DC connect switches.
(16) Negative bus boxes.
(17) Power rail insulators.
(18) Power cables (AC and DC).
(19) Cable trays.
(20) Instrumentation for fraction power equipment.
(21) Connectors, tensioners, and insulators for overhead power wire systems.
(22) Negative drainage boards.
(23) Inverters.

(k) The power or third rail is not considered traction power equipment and is thus subject to the requirements of Section 165(a) of the Act and the requirements of § 661.5.

(l) A bidder who is bidding on a contract for any of the items covered by Section 165(b)(3) and who will comply with Section 165(b)(3) and the regulations in this section is not required to follow the application for exceptions procedures set out in § 661.9 for the items covered by Section 165(b)(3). In lieu of these procedures, the bidder must specifically certify in the certificate required by Section 661.13(b) of this part that it will comply with Section 165(b)(3) and § 661.11 of this part.

Appendix A—General Exceptions

(a) The provisions of Section 661.11 do not apply when foreign sourced spare parts for buses and other rolling stock (including train control, communication, and traction power equipment) whose total cost is 10 percent or less of the overall project contract cost are being procured as part of the same contract for the major capital item.

§ 661.13 Grantee responsibility.

(a) The grantee shall adhere to the Buy America clause set forth in its grant contract with UMTA.

(b) The grantee shall include in its bid specification for procurement within the scope of these regulations an appropriate notice of the Buy America provision. Such specifications shall require, as a condition of responsiveness, that the bidder or offeror submit with the bid a completed Buy America certificate indicating that the bidder or offeror will comply with the requirements of Section 165(a) and the regulations set forth in this part.

§ 661.15 Investigation procedures.

(a) It is presumed that a bidder who has submitted the required Buy America certificate is complying with the Buy America provision. A false certification is a criminal act in violation of 18 U.S.C. 1001.

(b) Any party may petition UMTA to investigate the compliance of a successful bidder with the bidder's certification. That party ("the petitioner") must include in the petition a statement of the grounds of the petition and any supporting documentation. If UMTA determines that the information presented in the petition indicates that the presumption in paragraph (a) of this section has been overcome, UMTA will initiate an investigation.

(c) When UMTA initiates an investigation, it will request that the grantee require the successful bidder to document its compliance with its Buy America certificate. The successful bidder has the burden of proof to establish that it is in compliance. Documentation of compliance will be based on the specific circumstances of each investigation, and UMTA will specify the documentation required in each case.

(d) The grantee shall be required to reply to the request under paragraph (c)

of this section within 15 working days of the request.

(e) Any additional information requested or required by UMTA must be submitted within 5 working days after the receipt of such request unless specifically excepted by UMTA.

(f) The grantee's reply (or that of the bidder) will be transmitted to the petitioner. The petitioner may submit comments on the reply to UMTA within 10 working days after receipt of the reply. The grantee and the low bidder will be furnished with a copy of the petitioner's comments, and they may submit rebuttal comments to UMTA within 5 working days after receipt of the petitioner's comments.

(g) The failure of a party to comply with the time limits stated in this section may result in resolution of the investigation without consideration of untimely filed comments.

(h) UMTA shall, upon request, make available to any interested party information bearing on the substance of the investigation which has been submitted by the petitioner, interested parties or grantees, except to the extent that withholding of information is permitted or required by law or regulation. If a party submitting information considers that the information submitted contains proprietary material which should be withheld, a statement advising UMTA of this fact may be included, and the alleged proprietary information must be identified wherever it appears. Any comments on the information provided shall be submitted within a maximum of ten days.

(i) When a petition for investigation has been filed before award, the grantee will not make an award prior to the resolution of the investigation and when a request for investigation has been filed before the opening of bids, the grantee will not open bids prior to the resolution of the investigation, unless the grantee determines that:

(1) The items to be procured are urgently required;

(2) Delivery or performance will be unduly delayed by failure to make the award promptly; or

(3) Failure to make prompt award will otherwise cause undue harm to the grantee or the Federal Government.

(j) In the event that the grantee determines that the award is to be made during the pendency of an investigation, the grantee will notify UMTA prior to making such award. UMTA reserves the right not to participate in the funding of any contract awarded during the pendency of an investigation.

(k) Initial decisions by UMTA will be in written form. Reconsideration of an initial decision of UMTA may be requested by any party involved in an investigation. UMTA will only reconsider a decision if the party requesting reconsideration submits new matters of fact or points of law that were not known or available to the party during the investigation. Request for reconsideration of a decision of UMTA shall be filed not later than ten (10) days after the initial written decision. A request for reconsideration shall be subject to the procedures, in this section, consistent with the need for prompt resolution of the matter.

§ 661.17 Failure to comply with certification.

If a successful bidder fails to demonstrate that it is in compliance with its certification, it will be required to take the necessary steps in order to achieve compliance. If a bidder takes these necessary steps, it will not be allowed to change its original bid price. If a bidder does not take the necessary steps, it will not be awarded the contract if the contract has not yet been awarded, and it is in breach of contract if a contract has been awarded.

§ 661.19 Sanctions.

A willful refusal to comply with certification by a successful bidder may lead to the initiation of debarment proceedings under 49 CFR Part 29 (proposed December 13, 1982 (47 FR 55700)).

§ 661.20 Rights of third parties.

The sole right of any third party under the Buy America provision is to petition UMTA under the provisions of § 661.15. No third party has any additional right, at law or equity, for any remedy including, but not limited to, injunctions, damages, or cancellation of the Federal grant or contracts of the grantee.

§ 661.21 State buy America provisions.

(a) Except as provided in paragraph (b) of this section, any State may impose more stringent buy America or buy national requirements than contained in Section 165 of the Act and the regulations in this part.

(b) UMTA will not participate in contracts governed by the following:

(1) State buy America or buy national preference provisions which are not as strict as the Federal requirements.

(2) State and local buy national or buy America preference provisions which are not explicitly set out under State law. For example, administrative interpretations of non-specific State legislation will not control.

(3) State and local buy local preference provisions.

(Sec. 165, Pub. L. 97–424; 49 CFR 1.51)

Dated: September 8, 1983.

G. Kent Woodman,

Acting Deputy Administrator.

[FR Doc. 83-25082 Filed 9-14-83; 8:45 am]

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DEPARTMENT OF OF TRANSPORTATION

Urban Mass Transportation Administration

49 CFR Part 661

[Docket No. 83–B]

Buy America Requirements

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Proposed rulemaking cross reference.

SUMMARY: In Part II of this issue of the **Federal Register**, the Urban Mass Transportation Administration (UMTA) has set out its final rule implementing Section 165 of the Surface Transportation Assistance Act of 1982 (the "Buy America" provision). In addition, in that document, UMTA has set out a proposal concerning the impact of the "Buy America" requirements on certain subcomponents used in UMTA-assisted mass transportation projects. A detailed discussion and description of the proposal is contained in the document.

DATE: Comments on the proposal must be received on or before November 14, 1983.

ADDRESS: Comments should be submitted to UMTA Docket No. 83–B, Urban Mass Transportation Administration, Room 9228, 400 Seventh Street, S.W., Washington, D.C. 20590. All comments and suggestions received will be available for examination at the above address between 8:30 A.M. and 5:00 P.M., Monday through Friday. Receipt of comments will be acknowledged by UMTA if a self-addressed stamped postcard is included with each comment.

FOR FURTHER INFORMATION CONTACT: Edward J. Gill, Jr., Office of the Chief Counsel, Room 9228, 400 Seventh Street, S.W., Washington, D.C. 20590, (202) 426–4063.

Dated: September 13, 1983.

G. Kent Woodman,

Acting Deputy Administrator.

[FR Doc. 83–25392 Filed 9–14–83; 8:45 am]

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Reader Aids

Federal Register

Vol. 48, No. 180

Thursday, September 15, 1983

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202–523–3419 523–3517
General information, index, and finding aids	523–5227
Incorporation by reference	523–4534
Printing schedules and pricing information	523–3419

Federal Register

Corrections	523–5237
Daily Issue Unit	523–5237
General information, index, and finding aids	523–5227
Privacy Act	523–4534
Public Inspection Desk	523–5215
Scheduling of documents	523–3187

Laws

Indexes	523–5282
Law numbers and dates	523–5282 523–5266
Slip law orders (GPO)	275–3030

Presidential Documents

Executive orders and proclamations	523–5233
Public Papers of the President	523–5235
Weekly Compilation of Presidential Documents	523–5235

United States Government Manual 523–5230

SERVICES

Agency services	523–5237
Automation	523–3408
Library	523–4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275–2867
Public Inspection Desk	523–5215
Special Projects	523–4534
Subscription orders (GPO)	783–3238
Subscription problems (GPO)	275–3054
TTY for the deaf	523–5229

FEDERAL REGISTER PAGES AND DATES, SEPTEMBER

39595–39910	1
39911–40186	2
40187–40364	6
40365–40496	7
40497–40694	8
40695–40870	9
40871–41008	12
41009–41140	13
41141–41368	14
41369–41568	15

CFR PARTS AFFECTED DURING SEPTEMBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Administrative Orders:

Memorandums:

September 7, 1983 40695

Executive Orders:

6143 (Revoked by PLO 6459) 40724

6276 (Revoked by PLO 6459) 40724

6583 (Revoked by PLO 6459) 40724

8854 (Amended by PLO 6458) 40232

12428 (Amended by EO 12440) 40873

12439 40871

12440 40873

Proclamations:

5085 39595

5086 40187

5087 40497

5088 40499

5089 40501

5090 40503

5091 40505

5092 40507

5093 41009

4 CFR

Proposed Rules:

83 39632

5 CFR

2422 40189

2426 40189

2429 40189

Proposed Rules:

731 40731

754 40731

870 40732

871 40732

872 40732

873 40732

7 CFR

28 41011

29 40365

51 40509

52 ..... 40875, 40878, 41011

210 40194

220 40194

226 ..... 40197, 41141

301 ..... 39597, 40198

421 39911

725 40638

726 40644

760 40366

908 ..... 39602, 40510, 41369

910 ..... 39912, 40697

981 40367

1076 39603

1079 ..... 40511, 41369

1106 41015

1865 40202

1944 ..... 40202, 40697

1945 40202

1951 ..... 40202, 41142

2610 41371

2620 41373

Proposed Rules:

26 41048

52 40734

278 40263

279 40263

631 40522

660 40389

658 39944

1126 ..... 39643, 40894

1941 40894

1943 40894

1945 40894

1980 40894

8 CFR

103 ..... 41016, 41142

109 40209

214 41142

231 40209

238 ..... 40210, 41148

248 41016

9 CFR

75 40512

97 40881

Proposed Rules:

151 40899

201 41425

203 41425

381 41427

10 CFR

50 40882

61 40512

150 40882

Proposed Rules:

50 41429

430 41166

1017 40265

12 CFR

7 40698

29 40702

34 40698

217 ..... 39604, 40702

525 39912

531 39912

614 41148

Proposed Rules:

5 40735

332 40900

333 40900

337 40900

563 39944

13 CFR

101 40513

14 CFR

39 ..... 40210–40212, 41149, 41150
71 ..... 39913, 40213, 41374
75 40214
97 39913

Proposed Rules:

Ch. II 41171
39 ..... 40266, 41166, 41167
71 ..... 40267, 40270, 40525, 41168, 41170
211 41430
221 40389
302 41430

15 CFR

369 40368

Proposed Rules:

928 41180

16 CFR

2 41374
4 41374
13 41151
305 40882

Proposed Rules:

13 39950

17 CFR

180 41152
240 ..... 39604, 41376
249 ..... 39604, 41376
275 41378

18 CFR

1300 41380

Proposed Rules:

271 ..... 40736, 41434

19 CFR

6 41381

Proposed Rules:

6 40737
10 40738
22 41435
101 40526
114 40738
159 40527
162 40740

20 CFR

655 ..... 40168, 41154
404 40514
416 40883
628 40886

Proposed Rules:

225 40390
226 40390
227 40390

21 CFR

5 40703
14 40887
145 39916
155 41155
175 40515
193 41156
436 40704
442 40516
510 ..... 40704, 40887
520 ..... 40516, 40704, 40887, 41384
522 40704
524 ..... 39607, 41157
556 41384
558 40704
561 40369

Proposed Rules:

Subch. H 40272
291 41049
882 ..... 40273, 41181

23 CFR

Proposed Rules:

Ch. I 39953
658 41276

24 CFR

25 40705
203 39608
207 40710
213 39606
234 39606
235 40711
570 40517

25 CFR

Proposed Rules:

211 41051
212 41051
225 41051
700 41435

26 CFR

1 ..... 40214, 40370, 40371, 40888, 41017
5f 41385
25 40371
31 40518
48 40217
301 ..... 40371, 40376, 41018

Proposed Rules:

1 ..... 39953, 40528, 41051, 41436
5f 39953

27 CFR

9 40377

28 CFR

Proposed Rules:

0 41181
16 41181

29 CFR

553 40518
1952 40902

Proposed Rules:

Ch. XVI 41436

30 CFR

251 40380
700 40622
701 ..... 39892, 40140, 40622
736 41312
760 41312
761 41312
762 41312
764 41312
765 41312
769 41312
772 40622
776 40622
779 41312
783 41312
785 39892
815 40622
816 ..... 39892, 40140
817 ..... 39892, 40140
824 39892
872 ..... 41018, 41019
921 41000
934 41387
938 ..... 40223, 40888
939 40990

Proposed Rules:

75 40165
902 41182
913 40908
935 ..... 39645, 40396
938 39645

31 CFR

500 41157
515 41158
520 41159

32 CFR

286g 39917
634 39919
730 40224
806 41020
2003 40849

33 CFR

100 ..... 39609, 40714, 40715
117 41400
165 ..... 39609, 39610, 40380, 41400, 41401
181 40716
204 41160
401 39934

Proposed Rules:

1 40741
117 39646
156 40741
329 40909
322 40909
323 40909
325 40909
327 40909
326 40909
330 40909

34 CFR

668 40380

Proposed Rules:

366 39647

36 CFR

219 40381
331 40719

38 CFR

3 41160
21 40224
36 40226

Proposed Rules:

21 41438
36 40402

39 CFR

10 39610
111 41162
253 41401
601 40232

Proposed Rules:

111 ..... 39647, 39648
233 40910

40 CFR

17 39934
52 41402–41406
60 41407
61 41407
81 ..... 40722, 41408
86 ..... 41296, 41303
122 39611
123 39611
124 39611
144 39611
145 39611
180 40384
233 39611
270 39611
271 ..... 39611, 39623
300 40658
410 39624
413 41409
425 41409
433 41409
465 41409
466 41409
468 41409
469 41409
720 41132

Proposed Rules:

52 39653
61 40911
65 40278
81 ..... 39655, 40746
124 40098
144 40098
146 40098
147 40098
180 41184–41186
271 41449
300 40674
721 ..... 40282, 40911
799 39656

41 CFR

Ch. 1 40385
Ch. 7 40385

Proposed Rules:

9–1 41450
9–7 41450
9–50 41450

42 CFR

405 ..... 39740, 39752
409 39752
435 39624
436 39624
489 39752

Proposed Rules:

431 40749
435 39959
436 39959
441 41450

43 CFR

Ch. II 40889
1820 40724

Public Land Orders:

1707 (Amended by PLO 6458) 40232
6423 (Corrected by PLO 6460) 41021
6457 39939
6458 40232
6459 40724
6460 41021

44 CFR

64.....41410, 41413
65.....40890
67.....40891, 41021
205.....41415

Proposed Rules:

67.....40911–40919

45 CFR

Proposed Rules:

302.....41450
304.....41450
400.....41187

46 CFR

153.....39629
154.....39629

Proposed Rules:

Ch. IV.....41199
7.....41454
536.....41052

47 CFR

Ch. I.....41040
1.....41415
2.....40519
25.....40233, 40256
73.....41416–41422
74.....41422
95.....41415

Proposed Rules:

68.....39656
73.....41464–41468

49 CFR

1.....40519
23.....41163
179.....39630
571.....39908, 39939, 40260
660.....41562
661.....41562
1042.....39630
1160.....39630, 40387
1161.....39630
1162.....39630, 40520
1165.....39630
1168.....39630, 40387
1181.....39630
1307.....40520

Proposed Rules:

27.....40684
213.....39965
571.....40282, 40286
661.....41568
821.....39657
1135.....41469
1157.....40287

50 CFR

17.....39941, 40178
20.....40852
285.....40892, 41163
611.....41424
661.....40521
663.....41164
671.....40725

Proposed Rules:

17.....40288, 40404, 40407, 40920
23.....40750
26.....39661
32.....40411
33.....40411
611.....40924, 41469
655.....39967
661.....41202
662.....40752, 41202
663.....41202
681.....39665

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last Listing September 13, 1983

VOL
48
ISS
1
8
0
SE
15
1983
UMI

VOL
48
ISS
1
80
SE
15
1983
UMI

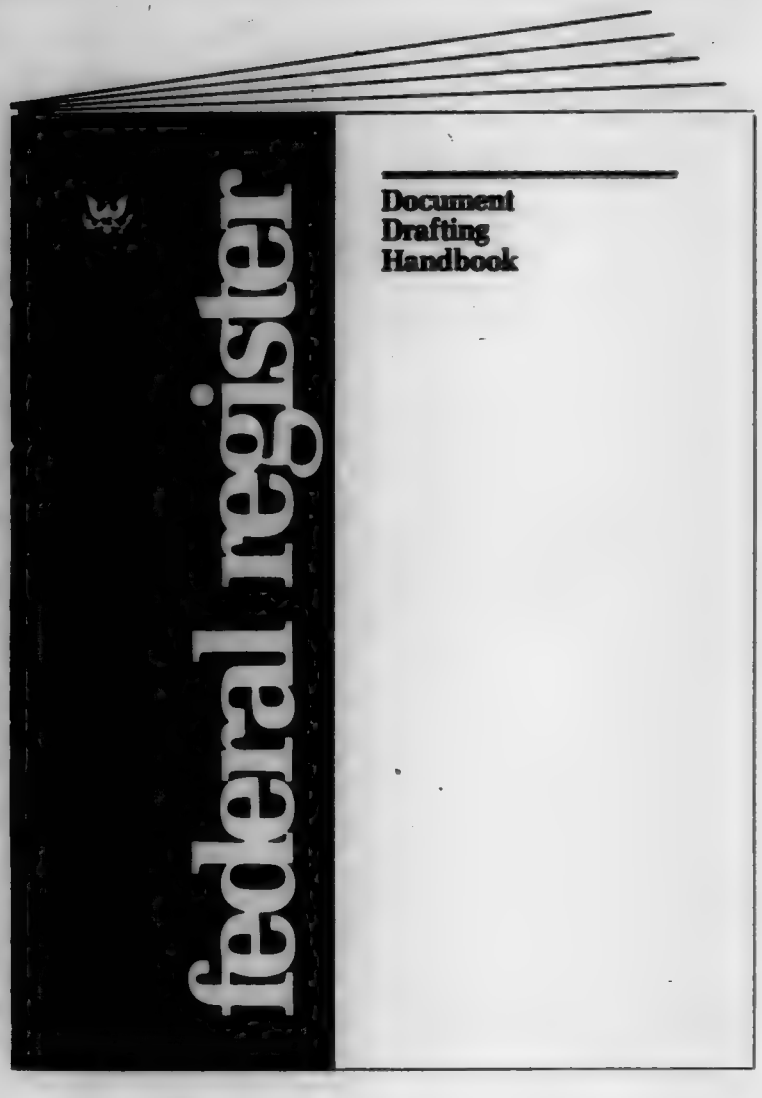

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48
ISS
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SE
15
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VOL
48
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federal register

Friday
September 16, 1983

Selected Subjects

Administrative Practice and Procedure
Federal Grain Inspection Service

Air Pollution Control
Environmental Protection Agency

Coal
Land Management Bureau
Minerals Management Service

Commodity Futures
Commodity Futures Trading Commission

Credit Unions
National Credit Union Administration

Drugs
Food and Drug Administration

Food Grades and Standards
Agricultural Marketing Service
Federal Grain Inspection Service

Government Employees
Defense Department

Hogs
Animal and Plant Health Inspection Service

Indians
Indians Affairs Bureau

Labeling
Federal Trade Commission

CONTINUED INSIDE

Selected Subjects

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Marketing Agreements
Agricultural Marketing Service

Oil and Gas Production
Land Management Bureau

Packaging and Containers
Food and Drug Administration

Radio Broadcasting
Federal Communications Commission

Surface Mining
Surface Mining Reclamation and Enforcement Office

Voting Rights
Personnel Management Office

Wine
Alcohol, Tobacco and Firearms Bureau

Contents

Federal Register
Vol. 48, No. 181
Friday, September 16, 1983

The President
PROCLAMATIONS
41569 Youth of America Week (Proc. 5094)

Executive Agencies

Administrative Conference of United States
NOTICES
Meetings:
41613 Government Processes Committee
41613 Regulation Committee

Agricultural Marketing Service
RULES
41574 Lemons grown in Ariz. and Calif.
41571 Sweetpotatoes, canned; grade standards

Agriculture Department
See Agricultural Marketing Service; Animal and Plant Health Inspection Service; Federal Grain Inspection Service.

Alcohol, Tobacco and Firearms Bureau
PROPOSED RULES
Alcohol; Viticultural area designations:
41602 Clarksburg, Calif.
41604 Umpqua Valley, Oreg.

Animal and Plant Health Inspection Service
PROPOSED RULES
Swine health protection:
41596 Garbage used for feed; bakery and candy waste, poultry, eggs, dairy products, fish, etc.

Army Department
NOTICES
41620, 41621 Agency information collection activities under OMB review (3 documents)

Arts and Humanities, National Foundation
NOTICES
Meetings:
41665 Dance Advisory Panel
41665 Humanities Advisory Panel
41666 Literature Advisory Panel
41666 Music Advisory Panel

Blind and Other Severely Handicapped, Committee for Purchase from
NOTICES
41620 Procurement list, 1983; additions and deletions

Census Bureau
NOTICES
Meetings:
41613 Population Statistics Advisory Committee

Coast Guard
RULES
Vessel traffic management:
41587 St. Marys River vessel traffic service; transfer and revision of anchorage and navigation regulations; correction

Commerce Department
See Census Bureau; International Trade Administration; National Oceanic and Atmospheric Administration.

Commodity Futures Trading Commission
RULES
41575 Domestic exchange-traded commodity options; pilot program; options on physicals, etc.

Defense Department
See also Army Department; Navy Department.
RULES
Personnel:
41581 Drunk and drugged driving by DOD personnel

Drug Enforcement Administration
NOTICES
Registration applications, etc.; controlled substances:
41655 Sullivan, George A., D.O.; hearing

Economic Regulatory Administration
NOTICES
Natural gas; fuel oil displacement certification applications:
41626 Spaulding Fibre Co., Inc.

Education Department
NOTICES
Grants; availability, etc.:
41622 Handicapped education, research, etc.
41621 Minority institutions science improvement program

Employment and Training Administration
NOTICES
Adjustment assistance:
41656 ASARCO, Inc., et al.
Authority delegations:
41656 Employment and Training, Associate Assistant Secretary; tax credit reduction limitations

Employment Standards Administration
NOTICES
41692 Minimum wages for Federal and federally-assisted construction; general wage determination decisions, modifications, and supersedeas decisions (Ark., Calif., Ky., N.Y., Ohio, Okla., Pa., R.I., Wash., and Wis.)

Energy Department
See Economic Regulatory Administration; Federal Energy Regulatory Commission.

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States
41588 Kentucky
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States
41609 Kentucky
41610 Texas; extension of time
Air quality standards; national primary and secondary:
41608 Carbon monoxide; meeting and revised staff paper, availability
Water pollution; effluent guidelines for point source categories:
41610 Best conventional pollutant control technology (BCT) guidelines; revised methodology; extension of time, etc.
NOTICES
Air quality; prevention of significant deterioration (PSD):
41633 Applicability determinations
Environmental statements; availability, etc.:
41637 Agency statements; weekly receipts
41637 Akutan, Alaska; ocean dumping site designation
Meetings:
41637 Science Advisory Board
Toxic and hazardous substances control:
41638 Premanufacture notices receipts
Water pollution; discharge of pollutants (NPDES):
41634 Alaska

Equal Employment Opportunity Commission
NOTICES
41671 Meetings; Sunshine Act

Federal Communications Commission
PROPOSED RULES
Radio stations; table of assignments:
41611 Michigan
NOTICES
41671 Meetings; Sunshine Act

Federal Energy Regulatory Commission
NOTICES
Hearings, etc.:
41627 Algonquin Gas Transmission Co.
41627 Gas Gathering Corp.
41629 Lehigh Portland Cement Co. et al.
41629 Mountain Fuel Supply Co.
41630 National Fuel Gas Supply Corp.
41630 Natural Gas Pipeline Co. of America
41630 Pacific Interstate Transmission Co.
41631 Public Service Commission of New York
41631 Tennessee Gas Pipeline Co.
41632 Texas Gas Transmission Corp.
41671 Meetings; Sunshine Act (2 documents)
Natural gas companies:
41627 Certificates of public convenience and necessity; applications, abandonment of service and petitions to amend (Getty Oil Co. et al.)
Natural Gas Policy Act:
41632, 41633 Jurisdictional agency determinations; well category withdrawals, etc. (2 documents)

Federal Grain Inspection Service
RULES
41574 Peas, split; standards
PROPOSED RULES
41595 Administration; regulation review

Federal Home Loan Bank Board
NOTICES
41671, 41672 Meetings; Sunshine Act (2 documents)

Federal Home Loan Mortgage Corporation
NOTICES
41672 Meetings; Sunshine Act

Federal Maritime Commission
NOTICES
41672 Meetings; Sunshine Act

Federal Reserve System
NOTICES
Applications, etc.:
41645 Hyden Citizens Bancorp, Inc., et al.
41646 Jackass Creek Land & Livestock Co. et al.
41646 SSG, Ltd., extension of time
41672 Meetings; Sunshine Act (2 documents)

Federal Trade Commission
RULES
41575 Textile wearing apparel and piece goods; care labeling; reporting and recordkeeping requirements and effective date

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
41579 Amoxicillin trihydrate for oral suspension
Human drugs, cosmetics, and medical devices:
41578 Tamper-resistant packaging requirements; interim stay of effective date
PROPOSED RULES
Human drugs, cosmetics, and medical devices:
41601 Tamper-resistant packaging requirements; retail level effective date stay
NOTICES
Medical devices; premarket approval:
41646 Bausch & Lomb Optics Center
41647 Beckman Instruments, Inc.
41648 Boehringer Mannheim Corp.
Meetings:
41649 Advisory committees, panels, etc.
41651 Advisory committees, panels, etc.; Opthalmic; Ear, Nose, and Throat; and Dental Devices Panel; cancellation

Health and Human Services Department
See also Food and Drug Administration.
NOTICES
41646 Agency information collection activities under OMB review

Indians Affairs Bureau
RULES
41579 Housing improvement program

Interior Department
See Indian Affairs Bureau; Land Management Bureau; Minerals Management Service; Surface Mining Reclamation and Enforcement Office.

Internal Revenue Service
RULES
Procedure and administration:
41581 Interest rate for overpayments and underpayments of tax; correction

International Trade Administration
NOTICES
Antidumping:
41614 Greige polyester/cotton printcloth from China
41614 Shop towels of cotton from China; amendment
41615 Steel wire rope from Korea

Interstate Commerce Commission
NOTICES
Motor carriers:
41654 Compensated intercorporate hauling operations; intent to engage in
Rail carriers:
41654 Union Pacific Railroad Co.; passenger train operation
Railroad services abandonment:
41654 Chicago & North Western Transportation Co.

Justice Department
See Drug Enforcement Administration; Juvenile Justice and Delinquency Prevention Office.

Juvenile Justice and Delinquency Prevention Office
NOTICES
Meetings:
41655 Coordinating Council

Labor Department
See also Employment and Training Administration; Employment Standards Administration; Mine Safety and Health Administration; Occupational Safety and Health Administration; Pension and Welfare Benfit Programs Office.
NOTICES
41655 Agency information collection activities under OMB review

Land Management Bureau
RULES
41589 Coal mining operations; transfer from MMS
PROPOSED RULES
Oil and gas leasing:
41738 Onshore operations
NOTICES
Environmental statements; availability, etc.:
41651 Benton-Owens Valley/Bodie-Coleville wilderness study areas, Bakersfield District, Calif., et al.
41652 Honey Lake-Beckwourth Area, Susanville District, Calif.
Recreation management restrictions, etc.:
41651 Mule Mountains, Yuma District, Ariz., et al.; long-term visitor permit program and areas

Legal Services Corporation
NOTICES
41672 Meetings; Sunshine Act

Mine Safety and Health Administration
PROPOSED RULES
Metal and nonmetallic mine safety:
41747 Air quality standards; preproposal draft availability; extension of time

Minerals Management Service
RULES
41589 Coal mining operations; transfer to BLM

National Credit Union Administration
PROPOSED RULES
41600 Federal and State credit unions; conversion of credit union charters
Federal credit unions:
41599 Corporate central Federal credit unions
41598 Organization and operation; supervisory committee audits

National Highway Traffic Safety Administration
NOTICES
Motor vehicle defect proceedings; petitions, etc.:
41669 Volkswagen of America, Inc. (2 documents)

National Oceanic and Atmospheric Administration
NOTICES
Meetings:
41618 Marine Fisheries Advisory Committee
41619 North Pacific Fishery Management Council
41619 South Atlantic Fishery Management Council

National Science Foundation
NOTICES
Meetings:
41656, 41667 Biotic Systems and Resources Advisory Panel (3 documents)
41667 Physiology, Cellular and Molecular Biology Advisory Panel (3 documents)

Navy Department
NOTICES
Meetings:
41621 Chief of Naval Operations Executive Panel Advisory Committee
41621 Naval Academy, Board of Visitors

Occupational Safety and Health Administration
NOTICES
State plans; standards approval, etc.:
41657 Maryland

Pension and Welfare Benefit Programs Office
NOTICES
Employee benefit plans; prohibited transaction exemptions:
41657 Barlett & Co. et al.
41661 IBM Retirement Plan et al.
41661 Southern New England Telephone Co.

Personnel Management Office
RULES
Voting rights program:
41594 Mississippi

Postal Rate Commission
NOTICES
41673 Meetings; Sunshine Act (2 documents)

Securities and Exchange Commission
NOTICES
41668 Agency information collection activities under OMB review

Self-regulatory organizations; proposed rule changes:
41668 New York Stock Exchange, Inc.

Small Business Administration
NOTICES
Applications, etc.:
41668 Quidnet Capital Corp.

Surface Mining Reclamation and Enforcement Office
RULES
Permanent and interim regulatory programs:
41720 Remining operations
PROPOSED RULES
Permanent program submission; various States:
41608 Wyoming; comment time reopened
NOTICES
Environmental statements; availability, etc.:
41652 CX-Ranch mine, Bighorn County, Mont.
41653 Wolf Mountain mine, Bighorn County, Mont.

Transportation Department
See Coast Guard; National Highway Traffic Safety Administration.

Treasury Department
See also Alcohol, Tobacco and Firearms Bureau; Internal Revenue Service.
NOTICES
41669 Agency information collection activities under OMB review

Separate Parts in This Issue

Part II
41692 Department of Labor, Employment and Standards Administration, Wage and Hour Division

Part III
41720 Department of the Interior, Office of Surface Mining, Reclamation and Enforcement

Part IV
41738 Department of the Interior, Bureau of Land Management

Part V
41747 Department of Labor, Mine Safety and Health Administration

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Proclamations:
5049.....41569

7 CFR
52.....41571
68.....41574
910.....41574
Proposed Rules:
800.....41595

9 CFR
Proposed Rules:
166.....41596

12 CFR
Proposed Rules:
701.....41598
704.....41599
706.....41600
707.....41600

16 CFR
423.....41575

17 CFR
33.....41575

21 CFR
211.....41578
540.....41579
700.....41578
800.....41578
Proposed Rules:
211.....41601
700.....41601
800.....41601

25 CFR
256.....41579

26 CFR
301.....41581

27 CFR
Proposed Rules:
9 (2 documents).....41602, 41604

30 CFR
211.....41589
701.....41720
816.....41720
817.....41720
Proposed Rules:
55.....41747
56.....41747
57.....41747
950.....41608

32 CFR
62b.....41581

33 CFR
92.....41587
161.....41587

40 CFR
52.....41588
Proposed Rules:
50.....41608
52 (2 documents).....41609, 41610
405.....41610
406.....41610
407.....41610
408.....41610
409.....41610
411.....41610
412.....41610
422.....41610
424.....41610
426.....41610
429.....41610
430.....41610
431.....41610
432.....41610
433.....41610
440.....41610

43 CFR
3480.....41589
Proposed Rules:
3160.....41738

45 CFR
801.....41594

47 CFR
Proposed Rules:
73.....41611

VOL
48
ISS
1
8
1
SE
16
1983
UMI

Federal Register
Vol. 48, No. 181
Friday, September 16, 1983

Presidential Documents

Title 3—

The President

Proclamation 5094 of September 14, 1983

Youth of America Week, 1983

By the President of the United States of America

A Proclamation

More than 50 million American youth are included in the Nation's general population. These young citizens play major roles in our society as they mature into adulthood. They make important contributions to our country by pursuing their educations, working in the economy, upholding the law, and joining the military services.

Our young Americans have every reason to be proud of their contributions to the American way of life. They can look forward to doing more as they complete their educations and move into positions in science, space, education, medicine, business, labor, government, military service, and other fields. The future of America depends on the preparation and dedication of our younger citizens, because one day, it will be their responsibility to ensure the security of our Nation, both at home and abroad. They must be given every opportunity to achieve their goals as they pass through adolescence to full maturity.

Among the American youth population are many in special need. The Federal government works actively with State and local governments and the private sector in important programs responding to the needs of runaway and homeless youth, unemployed youth, and to those who experience physical, emotional, and social handicaps.

To assure our Nation's youth of our commitment to share our knowledge, experience, and wisdom, which will help nurture in them democratic principles, and the development of strong moral and spiritual values so vital to the survival and future betterment of America, the Congress of the United States, by Senate Joint Resolution 116, has designated the week of September 4 through September 10, 1983, as "Youth of America Week" and has authorized and requested the President to issue a proclamation in observance of that week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning September 4, 1983 as Youth of America Week.

IN WITNESS WHEREOF, I have hereunto set my hand this fourteenth day of September, in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and eighth.

Ronald Reagan

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VOL
48
ISS
1
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16
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Rules and Regulations

Federal Register
Vol. 48, No. 181
Friday, September 16, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 52

United States Standards for Grades of Canned Sweetpotatoes

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this final rule is to amend the voluntary U.S. Standards for Grades of Canned Sweetpotatoes. The final rule was developed by the U.S. Department of Agriculture (USDA) at the request of the canned sweetpotato industry. This rule revises the voluntary grade standards to: (1) Determine uniformity of size by basing this factor on the 90 percent, by count, most uniform units; (2) remove the factor of "shape" from "uniformity of size and shape"; (3) establish a style for "whole and pieces"; (4) include pathological or insect injury as part of the definition of blemishes without changing the total of maximum percentages for blemishes declared in the current standards; (5) provide a uniform format consistent with other recently revised standards; (6) consolidate into two tables the allowances listing the various quality factors; and (7) incorporate minor editorial changes. Its effect will be to improve the standards and promote orderly and efficient marketing.

EFFECTIVE DATE: October 17, 1983.

FOR FURTHER INFORMATION CONTACT: Harold A. Machias, Processed Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–6247.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated as a "nonmajor" rule. It will not result in an annual effect on the economy of $100 million or more. There will be no major increase in cost or prices to consumers; individual industries; Federal, State, or local government agencies; or geographic regions. It will not result in significant effects on competition, employment, investments, productivity, innovations, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act, Pub. L. 96–354 (5 U.S.C. 601), because it reflects current marketing practices.

The USDA received a petition from a member of the canned sweetpotato industry, requesting a revision of the U.S. Standards for Grades of Canned Sweetpotatoes with respect to uniformity of size and shape requirements.

On April 12, 1983, a proposed revision of the grade standards was published in the **Federal Register** (48 FR 15634) to: (1) Determine uniformity of size based on the 90 percent, by count, most uniform units; (2) remove the factor of "shape"; (3) establish "whole and pieces" as a designated style; (4) include pathological or insect injury as part of the definition of blemishes without changing the total of maximum percentages for blemishes declared in the current standards; (5) provide a tolerance for untrimmed tough external fibers; (6) provide a uniform format consistent with other recently revised standards; (7) consolidate into two tables the allowances listing the various quality factors; and (8) incorporate minor editorial changes. The comment filing period ended June 13, 1983.

The seven respondents commenting on the proposal included four canned sweetpotato processors, two associations, and one consumer group.

Three comments specifically opposed determining uniformity of size based on the 90 percent most uniform units by count. Currently, determination of uniformity of size is based on comparison of the second smallest unit to the largest unit. The tolerance for off-size units in small containers is more than ten percent while the tolerance for off-size units in large cans is two percent or less. Determination of uniformity of size based on the 90 percent, by count, most uniform units, as proposed, eliminates the bias against the large container.

Three comments opposed designating "whole and pieces" as a style. The USDA has determined "whole and pieces" should be included in the U.S. grade standards as an established style. This will facilitate purchases by the Defense Logistics Agency which buys large quantities of this style of canned sweetpotatoes for the U.S. military services.

Three comments specifically opposed including pathological and insect injury in the definition of blemishes while one comment agreed with the proposed revised definition. The USDA has historically defined pathological and insect injury as blemishes in other U.S. grade standards. Since no changes have been made in the overall tolerances for blemishes in this revision, the USDA has determined no significant change in quality will occur by including the factor of pathological and insect injury.

Generally, all comments opposed the proposed specific tolerance for untrimmed tough external fibers. The comments indicated the proposed tolerance would be detrimental to quality in canned sweetpotatoes and consequently will not be included in this rule.

List of Subjects in 7 CFR Part 52

Fruits, Vegetables, Food grades, and standards.

PART 52—[AMENDED]

Accordingly, 7 CFR 52.2041 through 52.2045 and 52.2050 through 52.2054 are revised to read as follows:

Subpart—United States Standards for Grades of Canned Sweetpotatoes

Sec.

52.2041 Product description.
52.2042 Varietal color types.
52.2043 Styles.
52.2044 Types of pack.
52.2045 Definitions of terms.
* * * * *
52.2050 Recommended sample unit size.
52.2051 Grades.
52.2052 Factors of quality.

Sec.
52.2053 Requirements for grades.
52.2054 Determining the grade of a lot.

1. The authority citation for Part 52 reads as follows:

Authority: Agricultural Marketing Act of 1946, Secs. 203, 205, 60 Stat. 1087, as amended 1090, as amended (7 U.S.C. 1622, 1624).

2. In Part 52, § 52.2041 through 52.2045 are revised to read as follows:

§ 52.2041 Product description.

Canned sweetpotatoes is the product as defined in the Standards of Identity for Certain Other Canned Vegetables (21 CFR 155.200) issued under the Federal Food , Drug, and Cosmetic Act.

§ 52.2042 Varietal color types.

(a) Golden.
(b) Yellow.
(c) Mixed. A combination of golden units and yellow units in a sample unit.

§ 52.2043 Styles.

(a) *Whole* means the canned sweetpotatoes have the appearance of being essentially whole or almost whole in that the units retain the approximate shape of whole sweetpotatoes.

(b) *Halves* or *halved* mean the canned sweetpotatoes have been cut longitudinally into approximate halves.

(c) *Sections* mean the canned sweetpotatoes have been cut transversely into approximately cylindrical units 5 centimeters (2.0 in) or more in length and the diameter of the unit cannot be more than approximately ⅔ of the length.

(d) *Pieces, cuts,* or *cut* mean the canned sweetpotatoes have been randomly cut into portions of varying sizes and shapes.

(e) *Mashed* means the canned sweetpotatoes are wholly comminuted or pureed.

(f) *Whole and pieces* mean canned sweetpotatoes consisting of a combination of whole and pieces with not less than 50 percent of the drained weight being whole sweetpotatoes.

(g) *Mixed* means any combination of two or more of the foregoing styles excluding mashed style.

§ 52.2044 Types of pack.

(a) *Regular pack* means the product is packed in a liquid packing medium and applies to all styles except "mashed" style.

(b) *Vacuum pack* means the product is packed under conditions creating a high vacuum in the container, in the absence of a packing medium, and applies to all styles except "mashed" style.

(c) *Solid pack* means the product is packed in the absence of a packing medium and applies to "mashed" style only.

§ 52.2045 Definitions of terms.

As used in these U.S. standards, unless otherwise required by the context, the following terms shall be construed, respectively, to mean:

(a) *Blemishes—(1) Insignificant blemished unit* means a unit with slight abnormalities, scars, discolorations, or any other imperfections that affect the appearance slightly but do not affect the edibility of the unit.

(2) *Materially blemished unit* means any sweetpotato unit that has darkened areas (internal or external) or abnormalities including pathological or insect injury that materially affect the appearance of edibility or the unit.

(3) *Seriously blemished unit* means any sweetpotato unit that has darkened areas (internal or external) or abnormalities including pathological or insect injury that seriously affect the appearance or edibility of the unit.

(b) *Character—(1) Good character,* in regular pack and vacuum pack, means the sweetpotato units have uniformly smooth texture, are practically free from internal tough or coarse fibers, and may be slightly variable in tenderness but hold their apparent original conformation. In solid-pack, *good character* means the mass has a smooth texture and is practically free from tough or coarse fibers.

(2) *Reasonably good character,* in regular pack and vacuum pack, means the sweetpotato units have a reasonably uniform smooth texture, are substantially free from internal tough or coarse fibers, may be variable in tenderness, and may be firm to soft but hold their apparent original conformation. In solid-pack, *reasonably good character* means the mass has a reasonably smooth texture which may be slightly grainy and is substantially free from tough or coarse fibers.

(3) *Poor character* means the sweetpotatoes fail the requirements for reasonably good character.

(c) *Color*—(1) *Good color* means a bright color typical of either yellow or golden variety sweetpotatoes, but not both. There may be moderate variations of color throughout the sweetpotato unit(s) or mass but not to the extent that the appearance of the product is more than moderately affected.

(2) *Reasonably good color* means that the color is reasonably bright; that both golden and yellow varieties may be present in any amount and there may be considerable variation of color throughout the sweetpotato unit(s) or mass, but not to the extent that the appearance of the product is seriously affected.

(3) *Poor color* means the color fails to meet the requirements for reasonably good color.

(d) *Consistency.* Applies to solid pack only.

(1) *Good consistency* means the sweetpotato mass is sufficiently firm to approximate the general shape of the container with some settling permitted; is not dry, and may show no more than a slight separation of free liquid after 2 minutes.

(2) *Reasonably good consistency* means the sweetpotato mass is sufficiently soft so as not to approximate the general shape of the container, but not free flowing; may be noticeably dry but not hard or rubbery. There may be moderate separation of free liquid after 2 minutes.

(3) *Poor consistency* means the sweetpotato mass fails the requirements for reasonably good consistency.

(e) *Crumbly,* in all styles other than mashed, means sweetpotato units that fall apart readily due to apparent starchiness or dryness.

(f) *Defects*—(1) *Practically free from defects* means the defects present do not materially affect the appearance of edibility of the product.

(2) *Reasonably free from defects* means the defects present do not seriously affect the appearance or edibility of the product.

(g) *Extraneous vegetable material* (EVM) means harmless plant material such as leaves, stems, or roots.

(h) *Firmness*—(1) *Firm* means sweetpotato units that are slightly grainy and possess a somewhat stiff yet yielding texture.

(2) *Very firm* means sweetpotato units that are noticeably grainy or have a hardened texture similar to an uncooked sweetpotato.

(i) *Flavor and odor*—(1) *Good flavor and odor* means distinctive flavor and odor characteristic of properly processed sweetpotatoes (including the packing medium) that are free from objectionable flavors or odors.

(2) *Reasonably good flavor and odor* means that the processed sweetpotatoes (including the packing medium) may be lacking in good flavor and odor but are free from objectionable flavors or objectionable odors.

(3) *Off-flavor and odor* means the processed sweetpotatoes fail the requirements for reasonably good flavor and odor.

(j) *Internal tough or coarse fibers,* in character, mean tough, stringy or fibrous material that is objectionable upon eating.

(k) *Mechanically damaged* means any sweetpotato unit damaged during processing.

(l) *Mushy* means sweetpotato units that have materially or completely disintegrated into small pieces or a puree-like consistency with a pulpy or pasty texture.

(m) *Pathological or insect injury* means damage caused by disease or other similar causes that affects the appearance or edibility of the product.

(n) *Peel* means the outer layer of the sweetpotato that is normally removed during processing.

(o) *Pitted unit* means a sweetpotato unit that has external pock marks to the extent that the appearance of the unit is materially affected.

(p) *Sample unit* size means the amount of product specified to be used in grading. It may be:

(1) The entire contents of a container;

(2) A portion of the contents of a container;

(3) A combination of the contents of 2 or more containers;

(4) A portion of unpacked product.

(q) *Secondary rootlets* mean rootlets 2.5 centimeters (1.0 in) or longer.

(r) *Softness*—(1) *Soft* means sweetpotato units that are tender but not approaching disintegration.

(2) *Very soft* means sweetpotato units that show slight to partial disintegration and are soft and yielding.

(s) *Uniformity of size*—(1) *Practically uniform in size* means, of the 90 percent (by count) most uniform units, the largest unit does not exceed the weight of the smallest unit by more than a ratio of 3 to 1.

(2) *Reasonably uniform in size* means, of the 90 percent (by count) most uniform units, the largest unit does not exceed the weight of the smallest unit by more than a ratio of 4 to 1.

(3) *Poor uniformity of size* means the sweetpotato units fail the requirements for reasonably uniform size.

(t) *Untrimmed fibrous ends* mean sweetpotato units that have edible (not tough) external fibers protruding more than 7 millimeters (.28 in).

3. In Part 52, §§ 52.2050 through 52.2054 are revised to read as follows:

§ 52.2050 Recommended sample unit size.

The requirements for all factors of quality are based on the following recommended sample unit sizes for the respective styles.

(a) All styles other than mashed—1000 grams (35.3 oz) of drained product or the entire drained contents of a container.

(b) Mashed (Solid-pack)—the entire contents of container.

§ 52.2051 Grades.

(a) *U.S. Grade A* is the quality of canned sweetpotatoes that meets the applicable requirements of Table III or Table IV and scores not less than 90 points.

(b) *U.S. Grade B* is the quality of canned sweetpotatoes that meets the applicable requirements of Table III or Table IV and scores not less than 80 points.

(c) *Substandard* is the quality of canned sweetpotatoes that fails the requirements for *U.S. Grade B.*

§ 52.2052 Factors of quality.

The grade of canned sweetpotatoes is based on the following quality factors:

(a) Color;

(b) Uniformity of size (regular pack and vacuum pack);

(c) Consistency (solid pack);

(d) Defects;

(e) Character.

§ 52.2053 Requirements for grades.

TABLE III—VACUUM PACK; REGULAR PACK

	Grade A		Grade B	
Color	Good		Reasonably good.[1]	
Score	27–30 points		24–26 points.	
Uniformity of Size	Practically uniform.[2]		Reasonably uniform.[3]	
Score	18–20 points		16–17 points.	
Defects	Practically free, do not materially affect the appearance or edibility.		Reasonably free,[1] do not seriously affect the appearance or edibility	
Score	27–30 points		24–26 points.	
	Max per sample unit	Max sample average	Max per sample unit	Max sample average
Seriously blemished	5% by count or 1 unit (whichever is greater).	2% by count	10% by count or 2 units (whichever is greater).	4% by count.
Total blemished (materially & seriously	15% by count	8% by count	30% by count	15% by count.
Units with secondary rootlets 2.5 cm or longer	15% by count	5% by count	25% by count	10% by count.
Extraneous Vegetable Material	1 piece	1 piece per 3.4 kg (120 ounces).	2 pieces	2 pieces per 3.4 kg (120 ounces).
Peel per 500 grams	3 cm^2 (.5 in^2)	2 cm^2(.3 in^2)	6 cm^2 (1 in^2)	4 cm^2 (.6 in^2).
Pitted units	15% by count	5% by count	100% by count	25% by count.
Mechanically damaged units	5% by count or 1 unit (whichever is greater).	2% by count	10% by count or 2 units (whichever is greater).	4% by count.
Units with untrimmed fibrous ends (edible)	Practically free		Reasonably free	
Character	Good	Good	Reasonably good.[1]	Reasonably good.[1]
Score	18–20 points		16–17 points	
Very soft	20% by count or 2 units (whichever is greater).	100% by count	10%	100%.
Very firm Crumbly Mushy Internal tough or coarse fibers.	10% by count or 2 units (whichever is greater).	5% by count	20% by count or 4 units (whichever is greater).	10% by count.
Total score	90–100		80–89	

[1] Cannot be graded above U.S. Grade B, regardless of total score. Sample units with quality factors, except uniformity of size, which fail U.S. Grade B, cannot be scored higher than Substandard regardless of the total score.
[2] Can have reasonably uniform size if total score is 90 points or more.
[3] Can have poor uniformity of size if total score is 80 points or more.

TABLE IV—SOLID-PACK

	Grade A	Grade B
Color	Good	Reasonably good.[1]
Score	27–30 points	24–26 points.
Consistency	Good	Reasonably good.[1]
Score	18–20 points	16–17 points.
Defects	Practically free	Reasonably free.[1]
Score	27–30 points	24–26 points.
Character	Good	Reasonably good.[1]
Score	18–20 points	16–17 points.
Total score	90–100 points	80–89 points.

[1] Cannot be graded above U.S. Grade B, regardless of total score. Sample units with quality factors which fail U.S. Grade B cannot be scored higher than Substandard regardless of the total score.

§ 52.2054 Determining the grade of a lot.

The grade of a lot of canned sweetpotatoes covered by these standards is determined by the procedures found in the "Regulations Governing Inspection and Certification of Processed Fruits and Vegetables, and Related Products" (7 CFR 52.1 through 52.83).

§§ 52.2055–52.2060 [Reserved]

4. In Part 52, §52.2055 through 52.2060 is removed and reserved.

Done at Washington, D.C. on: September 13, 1983.

Willian T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 83–25301 Filed 9–15–83; 8:45 am]

BILLING CODE 3410–02–M

Federal Grain Inspection Service

7 CFR Part 68

United States Standards for Split Peas

AGENCY: Federal Grain Inspection Service,[1] USDA.

ACTION: Final rule.

SUMMARY: In compliance with the requirements for the periodic review of existing regulations, the Federal Grain Inspection Service (FGIS) has reviewed the U.S. Standards for Split Peas. FGIS has determined that no changes are to be made at this time to the U.S. Standards for Split Peas.

EFFECTIVE DATE: October 17, 1983.

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., Regulations and Directives Unit, USDA, FGIS, Room 0667 South Building, 1400 Independence Avenue, SW, Washington, D.C. 20250, telephone (202) 382–1738.

SUPPLEMENTARY INFORMATION: The U.S. Standards for Split Peas were established under the authority of the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621, *et seq.*; the Act). Pursuant to Section 203(c) of the Act (7 U.S.C. 1622(c)), the Administrator is authorized to develop and improve standards for all assigned agricultural commodities.

Executive Order 12291

This final rule has been issued in conformance with Executive Order 12291, and Secretary's Memorandum 1512–1. The action has been classified as nonmajor because it does not meet the criteria for a major regulation as established in the Order.

[1] Authority to exercise the functions of the Secretary of Agriculture contained in the Agricultural Marketing Act of 1946 as amended (7 U.S.C. 1621–1627) concerning inspection and standardization activities related to grain and similar commodities and products thereof, has been delegated to the Administrator, Federal Grain Inspection Service (7 U.S.C. 75a; 7 CFR 68.2(e)).

Regulatory Flexibility Act Certification

Kenneth A. Gilles, Administrator, FGIS, has determined that this final rule will not have a significant impact on a substantial number of small entities because most users of split pea inspection services do not meet the requirements for small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Standards Review

In conformance with the requirements for the periodic review of existing regulations, FGIS reviewed the U.S. Standards for Split Peas (7 CFR 68.501–68.510). This review included a determination of the continued need for the standards; a review of changes in marketing factors and functions affecting the standards; and a determination for the potential for improving the standards and their application through the incorporation of grading factors or tests which better indicate quality attributes. The objective was to assure that the standards continue to serve the needs of the market to the greatest extent.

Based upon all information available to FGIS it was determined that the standards met the objectives and criteria which were used in the review of the regulations.

In the April 15, 1983 **Federal Register** (48 FR 16278), FGIS proposed that the U.S. Standards for Split Peas remain as currently written with no changes being made to the standards. Comments were requested from interested parties on this proposal. One comment was received from an association which represents the U.S. dry pea industry. The comment stated that "the current standards for Split Peas are meeting the needs of the pea industry and no changes are needed at this time."

Therefore, based upon all information available FGIS has decided to retain the split pea standards as currently written. Although no changes are being made to the split pea standards, FGIS will continue to study and evaluate the standards to meet the future needs of the industry.

List of Subjects in 7 CFR Part 68

Administrative practices and procedures, Agricultural commodities, and Export.

PART 68—REGULATIONS AND STANDARDS FOR INSPECTION AND CERTIFICATION OF CERTAIN AGRICULTURAL COMMODITIES AND PRODUCTS THEREOF

Accordingly, Subpart G—United States Standards for Split Peas (7 CFR 68.501–68.510) is not amended and remains as currently written.

(Secs. 203, 205, 60 Stat. 1087, 1090 as amended; 7 U.S.C. 1622, 1624)

Dated: August 31, 1983.

K. A. Gilles,

Administrator, Federal Grain Inspection Service.

[FR Doc. 83–25312 Filed 9–15–83; 8:45 am]

BILLING CODE 3410–02–M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 429]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 255,000 cartons during the period September 18–24, 1983. Such action is needed to provide for orderly marketing of fresh lemons for the period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: September 18, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona lemon crop for the benefit of producers, and will not substantially

affect costs for the directly regulated handlers.

This final rule is issued under Marketing Order No. 910, as amended (7 CFR Part 910) regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy currently is effect. The committee met publicly on September 13, 1983, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is good on larger sizes and weaker on smaller sizes.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the Act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

PART 910—[AMENDED]

Section 910.729 is added as follows:

§ 910.729 Lemon regulation 429.

The quantity of lemons grown in California and Arizona which may be handled during the period September 18, 1983, through September 24, 1983, is established at 255,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: September 15, 1983.

Russell L. Hawes,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83–25563 Filed 9–15–83; 12:11 pm]

BILLING CODE 3410–02–M

FEDERAL TRADE COMMISSION

16 CFR Part 423

Amendment To Trade Regulation Rule Concerning Care Labeling of Textile Wearing Apparel and Certain Piece Goods

AGENCY: Federal Trade Commission.

ACTION: Addition of OMB Control Number and Effective Date.

SUMMARY: The Federal Trade Commission is publishing the OMB control number and the effective date for its amended Care Labeling Rule.

EFFECTIVE DATE: The amendment to the Care Labeling Rule becomes effective January 2, 1984. All products manufactured or imported after this date must comply with the amended rule.

ADDRESS: Requests for copies of this announcement should be sent to: Public Reference Branch, Room 130, Federal Trade Commission, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Earl Johnson, Federal Trade Commission, Washington, D.C. 20580, (202) 376–2891.

SUPPLEMENTARY INFORMATION: The Federal Trade Commission published a final amendment to the Care Labeling Rule on May 20, 1983. (48 F.R. 22733). At that time, the Commission announced that it intended to make the amendment effective 90 days after the conclusion of Congressional review. On June 23, 1983, the U.S. Supreme Court in the case of *Immigration and Naturalization Service v. Chadha et al.*, S. Ct. No. 80–1832 held that the legislative veto is unconstitutional. This decision placed in question how long the affected industry had to prepare for implementation of the amendment. To eliminate any uncertainty, the Commission announces the effective date of the amendment.

On July 7, 1983, the Office of Management and Budget approved the Commission's request for review under the Paperwork Reduction Act of the labeling requirement contained in the regulation. OMB has assigned it control number 3084–0046, with an expiration date of December 31, 1985. Accordingly, the following parenthetical statement is added just below the authority citation in Part 423 of 16 CFR:

(Approved by the Office of Management and Budget under control number 3084–0046)

List of Subjects in 16 CFR 423

Clothing, Labeling, Reporting and recordkeeping requirements, Textiles, Trade practices.

(38 Stat. 717, as amended; 15 U.S.C. 41 et seq.)

Dated: September 1, 1983.

By direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 83–25322 Filed 9–15–83; 8:45 am]

BILLING CODE 6750–01–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 33

Domestic Exchange-Traded Commodity Options

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is amending Regulation 33.4(a)(6) to permit each board of trade to be designated as a contract market for either two options on futures contracts, two options on physical commodities, or one option on a futures contract and one option on a physical commodity. Regulation 33.4(a)(6) currently provides that an exchange may be designated as a contract market for no more than one option on a futures contract and no more than one option on a physical commodity. The amended rule modifies the option pilot program to provide the boards of trade with greater flexibility in allocating the permitted number of options contracts between options on futures and options on physicals.

EFFECTIVE DATE: The amendment will become effective upon the expiration of 30 calendar days of continuous session of Congress after the transmittal of this rule, and related materials, to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry pursuant to Section 4c(c) of the Commodity Exchange Act, but not before further notice of the effective date is published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: George L. Garrow, Jr., Attorney, Division of Trading and Markets, Commodity Futures Trading Commission , 2033 K Street, N.W., Washington, D.C. 20581. Telephone: (202) 254–8955.

SUPPLEMENTARY INFORMATION:

Background

Current Commission regulation § 33.4(a)(6) was adopted in conjunction with other regulations governing a three-year pilot program under which commodity options on certain commodity futures contracts would be traded on domestic boards of trade. The Commission originally proposed to limit the scope of the pilot program to only one commodity from each of three major groups—metals and other natural resources, financial instruments, and agricultural commodities which are not enumerated in Section 2(a)(1) of the Commodity Exchange Act ("Act") (7 U.S.C. 2). This restriction in the scope of the program was advanced by the Commission in part because of its concern that such a limitation might be necessary to ensure the continued protection of the public from abuses which, in the past, often were associated with the offer and sale of commodity options. The Commission further stated in its proposal that such a restriction might be useful to test the extent and nature of commercial use of commodity options by different industrial categories, whether options on different types of commodities would provide any (or different) price discovery information, and whether the effects of options trading on the underlying futures markets would be discernibly different for different types of commodities. 46 FR 33293, 33295–96 (June 29, 1981).

The Commission nonetheless specifically invited comments as to whether it should expand the pilot program to permit the inclusion of options on futures contracts in other commodities. Based upon its analysis and the comments received, the Commission rejected the more restrictive approach originally proposed and determined at that time to allow each board of trade to apply for designation as a contract market to trade options on one contract for future delivery for which it was already designated as a contract market. In the **Federal Register** notice announcing the final rules for the pilot program in options on futures contracts, the Commission indicated that it might consider expanding the pilot program to permit exchanges to trade more than one option contract should the participants in the pilot program adequately fulfill their responsibilities under the Commission's newly-adopted regulations and otherwise satisfactorily monitor options trading. 46 FR 54500, 54501 (November 3, 1981).

When the Commission proposed regulations to incorporate options on physicals within the scope of the pilot program, it proposed to limit each exchange to no more than one option on a futures contract and one option on a physical commodity in an effort to aid its assessment of the merits of options trading. In seeking to determine the appropriate scope of the pilot program, however, the Commission specifically requested comments as to whether it should allow each exchange to trade any two option contracts, regardless of whether those option contracts would involve options on futures contracts, options on physicals, or one of each type of option. 47 FR 28401, 28404 (June 30, 1982).

The Commission received a wide range of comments on this question. A number of the commentators urged the Commission to allow each exchange to be designated as a contract market for either two options on futures contracts, two options on physicals, or one option on a futures contract and one option on a physical. These commentators maintained that the regulatory burdens on the Commission and on the exchanges would not be significantly greater if the Commission were to allow such an election rather than limiting each exchange to one option of each type. Other commentators urged the Commission to adhere to its original proposal and allow each exchange only one option of each type. 47 FR 56996, 56997, (December 22, 1982). After careful consideration of the comments, the Commission decided to broaden the pilot program no further than was necessary to allow each qualifying exchange to be designated solely for one option on a futures contract and one option on a physical. Given the short period of time that options had then been trading, the Commission chose to limit strictly the pilot program until both the Commission and the exchanges had gained greater experience with the trading of commodity options. *Id.*

Analysis of Comments

As indicated above, the Commission had indicated from the outset that it might consider expanding the pilot program to permit exchanges to trade more than one option contract should the participants adequately fulfill their responsibilities under Commission regulations and otherwise satisfactorily monitor options trading. 46 FR 54500, 54501 (November 3, 1981). Given the passage of almost one year without any serious problems in the pilot program, the Commission recently solicited comments as to whether it should modify the option program to permit an exchange to be designated as a contract market in any two options of the types currently permitted under the Act.[1] As the Commission explained when it proposed this rule amendment, the reasons underlying the Commission's earlier determination to limit both the number as well as the type of option contracts which could be traded under the pilot program no longer appeared to make necessary the continued restriction on the ability of the exchanges to select the two option contracts—whether options on futures or options on physicals, or both—which best reflected the exchange's judgment as to which option contracts would be economically useful. 48 FR 32835 (July 19, 1983). The Commission requested, however, that commentators address whether the boards of trade would, in fact, benefit from greater flexibility in allocating the permitted number of options contracts between options on futures and options on physicals. Additionally, interested parties were asked to address how the proposed rule would affect the Commission's pilot program and whether, if the rule amendment were adopted, the pilot program would continue to contribute the type of data and information which would be most helpful in deciding if or under what conditions options trading should be allowed to continue after the pilot program has been terminated.[2] The Commission also requested comments regarding any problems with current options trading practices or options sales practices which the Commission should take into account in evaluating the merits of the proposed amendments as well as any other information which would assist the Commission in its review of the operation of the pilot program to date. *Id.* at 32836.

The Commission received seven comments on its proposal: four from boards of trade which have been designated by the Commission as contract markets for the trading of options on futures contracts, one from a futures commission merchant ("FCM"), one from a trade association representing FCMs, and one from a registered futures association.

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[1] This action by the Commission does not authorize any exchange to trade options on domestic agricultural commodities, as would be permitted by recent amendments to the Act which authorize the Commission to establish a pilot program for such trading. Futures Trading Act of 1982, Pub. L. No. 97–444, Section 206(3), 96 Stat. 2294 (1983). *See also* 48 FR 28508 (June 8, 1983) (establishment of an Agricultural Options Advisory Committee).

[2] The option pilot program began on October 1, 1982, and absent further action by the Commission, will terminate on September 30, 1985. *See* Commission regulation 33.5(c) (17 CFR 33.5(c)).

All of the commentators strongly supported the Commission's proposal to permit the exchanges to decide how they will allocate the permitted number of options contracts between options on futures and options on physicals. The four exchanges which commented upon the proposal all agreed that adoption of the amendment will give the exchanges greater flexibility within the existing scope of the pilot program to make economic choices based upon their individual circumstances. These commentators emphasized the experience that has been gained by the Commission and the exchanges since the inception of the pilot program and pointed to the relatively few problems that have occurred during the past months as evidence that both the Commission and the exchanges are prepared to handle a modest expansion of the program.

With respect to the effect of such a change upon the information and data that the Commission would like to obtain from the pilot program, one of the commentators stated that while this amendment may not help the Commission's fact-gathering process with respect to comparisons between the two types of options trading, that loss would be outweighed by the benefits received by the public in being able to trade products which the exchanges believe to have the greatest chance of success. Other commentators noted that, without such a change, exchanges desiring to trade a second option might be forced to choose an option on a physical commodity in which interest was not as great as in options on futures involving the same commodity. Those commentators also asserted that the pilot program would, in such a case, receive less valuable data than if exchanges were allowed to trade an option on an additional futures product that had already achieved success as a commercially viable futures product.

None of the commentators noted any problems with current options trading practices or options sales practices that the Commission should take into account in its evaluation of the merits of the amendment. All of the commentators agreed that the amended regulation would present no additional regulatory burden upon the Commission insofar as the maximum number of option designations would not change under the amended regulation. In this regard, the Commission notes that the exchanges have thus far adequately met their self-regulatory responsibilities in this area, while the National Futures Association is also contributing to the self-regulatory oversight of option market participants. The Commission's concerns regarding the continued ability of the exchanges to comply with those regulations which were designed to prevent a recurrence of the abusive practices which formerly pervaded the offer and sale of off-exchange commodity options have, therefore, been diminished.

Final Rule

The Commission has, therefore, determined to amend Regulation 33.4(a)(6) as proposed. As stated in greater detail in its proposal, the Commission believes that the rationale for limiting the pilot program to no more than one option on futures and no more than one option on a physical no longer exists. Upon the beginning of the pilot program, the Commission chose to limit strictly the scope of the program until all parties involved had more experience in the trading of commodity options. Trading in options on futures under the Commission's pilot program commenced on October 1, 1983.[3] Because of the experience gained by all parties and the lack of any apparent problems to date, the Commission believes that it is now appropriate to expand modestly the scope of the pilot program by adopting the above referenced proposal.

The Commission also notes that it has thus far received only two applications requesting designation as a contract market for the trading of options on physicals, an indication that the exchanges may prefer options on futures and, more importantly, may believe that options on futures contracts are the more commercially viable contracts. This observation is substantiated in part by comments from some of the exchanges which suggest a lack of interest by most boards of trade in options on physicals, even with a regulation that effectively compels an exchange to choose such an option if the exchange desires to trade an additional options contract.

Finally, the Commission believes that the exchanges should now have the flexibility to choose how they will allocate the permitted number of options contracts between options on futures and options on physicals based upon the exercise of prudent business judgment. The Commission anticipates that this additional flexibility to choose among economic alternatives should provide it with important data which may be helpful in the evaluation of the pilot program upon its conclusion.[4] In taking this action, the Commission has taken into consideration the public interest to be protected by the antitrust laws and has endeavored to take the least anticompetitive means of achieving the regulatory objectives of the Commodity Exchange Act.

Regulatory Flexibility Act

In the proposal, the Acting Chairman of the Commission certified, pursuant to the Regulatory Flexibility Act, that if the proposed amendment to regulation 33.4(a)(6) were adopted, it would not have a significant economic impact on a substantial number of small entities.[5]

However, the Commission specifically invited comment from any firm which believed that this rule, as proposed to be amended, would have such an impact.[6] No comments on the certification were received. Accordingly, and for the reasons previously enumerated in the proposal, pursuant to Section 3(a) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Acting Chairman, on behalf of the Commission, certifies that regulation § 33.4(a)(6), as amended, will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 17 CFR Part 33

Commodity futures, Commodity exchange designation procedures.

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act and, in particular, Sections 4c, 8a and 15 thereof, 7 U.S.C. 6c, 12a, and 19, the Commission hereby amends Chapter I of Title 17 of the Code of Federal Regulations as follows.

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[3] The Commission has designated seven exchanges to trade options on futures. The MidAmerica Commodity Exchange has not initiated trading in its gold futures option contract while the Kansas City Board of Trade's option contract on the Value Line Average Index futures contract is currently dormant, following very limited trading of the option in March and April, 1983.

[4] In accordance with the provisions of Section 4c(c) of the Commodity Exchange Act (7 U.S.C. 6c(c)), the Commission must formally transmit to its Congressional oversight committees a copy of this amended rule for review prior to its effectiveness. Upon the conclusion of that process, the Commission will issue a Federal Register notice announcing the effective date of this amended rule. The Commission will not, therefore, accept applications for contract market designation pursuant to amended regulation 33.4(a)(6) prior to the effective date of the amendment.

[5] 48 FR at 32830.

[6] As stated in the proposal, the Commission noted its previous determination that contract markets are not "small entities" for purposes of that Act (47 FR 18618 (April 30, 1982)) and that the requirements of the Regulatory Flexibility Act therefore did not apply to those entities.

PART 33—REGULATION OF DOMESTIC EXCHANGE-TRADED COMMODITY OPTION TRANSACTIONS

1. Section 33.4 is amended by revising paragraph (a)(6) to read as follows (the introductory text has not been changed but is included for the convenience of the reader):

§ 33.4 Designation as a contract market for the trading of commodity options.

The Commission may designate any board of trade located in the United States as a contract market for the trading of options on contracts of sale for future delivery or options on physicals when the applicant complies with and carries out the requirements of the Act (as provided in § 33.2), these regulations, and the following conditions and requirements with respect to the commodity option for which the designation is sought:

(a) Such board of trade—

* * * * *

(6) Is not designated as a contract market for more than one other commodity option.

* * * * *

Issued in Washinton, D.C. by the Commission on September 13, 1983.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 83-25342 Filed 9-15-83; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 211, 700, and 800

[Docket Nos. 82N-0330 and 82N-0332]

Tamper-Resistant Packaging Requirements; Interim Stay of Retail Level Effective Date

AGENCY: Food and Drug Administration.

ACTION: Final rule; interim stay of effective date.

SUMMARY: The Food and Drug Administration (FDA) is announcing an interim stay of the retail level effective date of its tamper-resistant packaging requirements for certain over-the-counter (OTC) human drugs, cosmetics, and contact lens solutions and tablets pending its decision whether to issue a final stay based on a proposal published elsewhere in this issue of the **Federal Register.** The proposed stay affects a provision that requires all affected products held for sale to be packaged in tamper-resistant packages by February 6, 1984 This retail level effective date is being stayed on an interim basis until the agency has completed and evaluated a survey and reviewed other relevant information to determine the need for implementing a retail level effective date.

EFFECTIVE DATE: September 16, 1983.

FOR FURTHER INFORMATION CONTACT: Paul O. Fehnel, Jr., National Center for Drugs and Biologics (HFN-7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6490.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of November 5, 1982 (47 FR 50442), FDA published final regulations setting forth tamper-resistant packaging and labeling requirements for certain OTC human drug products (21 CFR 211.132) and for certain cosmetic products (21 CFR 700.25). In the same issue of the **Federal Register** (47 FR 50452), the agency also published tamper-resistant packaging and labeling requirements for contact lens solutions and tablets (21 CFR 800.12). Amendments to those regulations were published in the **Federal Register** of April 19, 1983 (48 FR 16658, 16665) and August 19, 1983 (48 FR 37624). The purpose of the regulations was to assure package integrity and product security in light of cases of malicious adulteration of OTC drug products that resulted in seven deaths in the Chicago area.

The tamper-resistant packaging and labeling regulations included three effective dates for the new requirements. The requirements subject to the first two dates, February 7, 1983 and May 5, 1983, are already in effect. The regulations specified that the third effective date, called the retail level effective date, is to be effective February 6, 1984. At that time, all products covered by the regulations held for sale in retail establishments are required to be packaged in tamper-resistant packaging.

In the preamble to the November 5, 1982 tamper-resistant packaging and labeling regulations the agency stated that, "Because of the uncertainty involved in attempting to estimate the circumstances that will prevail at the time of the retail level effective date, the agency will review the need for such a date and what the date should be after it has had an opportunity to determine the effects of this regulation on the marketplace" (47 FR 50446). The agency has initiated such a review. However, according to information recently submitted to the agency, to comply with the February 6, 1984 deadline, the industry must begin taking action before FDA can complete its review.

Pending final resolution of its review, the agency is announcing this interim stay of the retail level effective date. If, as a result of that review, the agency concludes that a retail level effective date should be retained, the agency plans to specify that the new retail level effective date selected be 4 months after the date that the decision is published as a final rule in the **Federal Register.** The agency believes that this time should be sufficient for industry to comply. Any new retail level effective date would be sometime later than February 3, 1984.

This interim stay applies only to the requirement that products shipped prior to the first two effective dates that are held for sale on February 6, 1984, be packaged in tamper-resistant packaging. It does not affect the stay to February 6, 1984, of one of the labeling requirements, as announced in the August 19, 1983 **Federal Register** (48 FR 37624).

The agency believes that good cause exists to stay the retail level effective date immediately while it conducts a review of the marketplace to establish whether such an effective date is necessary. Both the Administrative Procedure Act and FDA regulations provide that a general notice of proposed rulemaking need not be published in the **Federal Register** when the agency for good cause finds that "notice and public procedure * * * are impracticable, unnecessary, or contrary to the public interest" (5 U.S.C. 553(b)(B) and 21 CFR 10.40(e)(1)). Good cause exists because it would be contrary to the public interest to require compliance with a requirement that is under evaluation looking toward possible modification or revocation. Elsewhere in this issue of the **Federal Register** the agency is publishing a notice of proposed rulemaking, inviting comments on the need for a retail level effective date. Following receipt of comments on that proposal and completion of the agency's survey of the marketplace, FDA will publish a final rule on the subject of a retail level effective date.

List of Subjects

21 CFR Part 211

Drugs, Manufacturing, Labeling, Laboratories, Packaging and containers, Warehouses.

21 CFR Part 700

Cosmetics; Definitions; Prohibited cosmetic ingredients.

21 CFR Part 800

Administrative detention; Administrative practice and procedure; Medical devices.

§§ 211.132, 700.25, 800.12 [Temporarily deferred in part]

Accordingly, the agency announces an interim stay of 21 CFR 211.132(g)(3), 700.25(e)(3), and 800.12(f)(3).

Dated: September 12, 1983.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 83-25296 Filed 9-15-83; 8:45 am]

BILLING CODE 4160-01

21 CFR Part 540

Penicillin Antibiotic Drugs for Animal Use; Amoxicillin Trihydrate for Oral Suspension

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by A. H. Robins Co., Inc., and Biocraft Laboratories, Inc., providing for oral use of amoxicillin trihydrate for suspension for treating bacterial dermatitis and soft tissue infections in dogs.

EFFECTIVE DATE: September 15, 1983.

FOR FURTHER INFORMATION CONTACT: Sandra K. Woods, Bureau of Veterinary Medicine (HFV-114), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3420.

SUPPLEMENTARY INFORMATION: A. H. Robins Co., Inc., 1405 Cummings Drive, P.O. Box 26609, Richmond, VA 23261, and Biocraft Laboratories, Inc., 92 Route 46, Elmwood Park, NJ 07407, jointly filed NADA 65-495 providing for oral use of amoxicillin trihydrate suspension (Robamox®-V) for treating soft tissue infections (abscesses, wounds, and lacerations) and bacterial dermatitis in dogs. The agency approved an application for amoxicillin trihydrate tablets for the same indications in the Federal Register of May 10, 1983 (48 FR 20901). The application is approved and the regulations are amended accordingly. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 540

Animal drugs, Antibiotics, Penicillin.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i) and (n), 82 Stat. 347, 350-351 (21 U.S.C. 360b (i) and (n))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 540 is amended in § 540.103b by revising paragraph (c) to read as follows:

PART 540—PENICILLIN ANTIBIOTIC DRUGS FOR ANIMAL USE

§ 540.103b Amoxicillin trihydrate for oral suspension.

* * * * *

(c) *Conditions of marketing*—(1) *Specifications.* The drug conforms to the requirements for certification as in paragraph (a) of this section.

(2) *Conditions of use.* (i) *Sponsor.* See No. 000029 in § 510.600(c) of this chapter.

(a) Dogs. (1) Dosage. 5 milligrams per pound of body weight twice daily.

(2) Indications for use. For the treatment of infections caused by susceptible strains of organisms as follows: respiratory tract (tonsillitis, tracheobronchitis) caused by *Staphylococcus aureus, Streptococcus* spp., *Escherichia coli,* and *Proteus mirabilis;* genitourinary tract (cystitis) caused by *Staphylococcus aureus, Streptococcus* spp., *Escherichia coli,* and *Proteus mirabilis;* gastrointestinal tract (bacterial gastroenteritis) caused by *Staphylococcus aureus, Streptococcus* spp., *Escherichia coli,* and *Proteus mirabilis;* bacterial dermatitis caused by *Staphylococcus aureus, Streptococcus* spp. and *Proteus mirabilis;* and soft tissues (abscesses, lacerations, and wounds) caused by *Staphylococcus aureus, Streptococcus* spp., *Escherichia coli,* and *Proteus mirabilis.*

(b) Cats. (1) Dosage. 50 milligrams (5 to 10 milligrams per pound) once daily.

(2) Indications for use. For the treatment of infections caused by susceptible strains of organisms as follows: upper respiratory tract due to *Staphylococcus* spp., *Streptococcus* spp., *Hemophilus* spp., *Escherichia coli, Pasteurella* spp., and *Proteus mirabilis;* genitourinary tract (cystitis) due to *Staphylococcus aureus, Streptococcus* spp., *Escherichia coli, Proteus mirabilis,* and *Corynebacterium* spp.; gastrointestinal tract due to *Escherichia coli, Proteus* spp., *Staphylococcus* spp., and *Streptococcus* spp., skin and soft tissue (abscesses, lacerations, and wounds) due to *Staphylococcus* spp., streptococcus supp., *Escherichia coli,* and *Pasteurella multocida.*

(c) Limitations. Use for 5 to 7 days or 48 hours after all symptoms have subsided. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(ii) *Sponsor.* See Nos. 000031 and 000332 in § 510.600(c) of this chapter.

(a) Dogs. (1) Dosage. 5 milligrams per pound of body weight twice daily.

(2) Indications for use. For the treatment of bacterial dermatitis due to *Staphylococcus aureus, Streptococcus* spp., *Staphylococcus* spp., and *Escherichia coli,* and soft tissue infections (abscesses, wounds, lacerations) due to *Staphylococcus aureus, Streptococcus* spp., *Escherichia coli, Proteus mirabilis* and *Staphylococcus* spp.

(b) Limitations. Use for 5 to 7 days. Continue for 48 hours after all symptoms have subsided. If no improvement is seen in 5 days, review diagnosis and change therapy. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date: September 16, 1983.

(Sec. 512(i) and (n), 82 Stat. 347, 350-351 (21 U.S.C. 360b (i) and (n)).)

Dated: September 8, 1983.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 83-25291 Filed 9-15-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 256

Housing Improvement Program

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Indian Affairs (BIA) is publishing a final rule which amends the regulations of the Housing Improvement Program (HIP) by: (1)

Requiring the return of a HIP grant if the sale of a house whose purchase was assisted by a grant from the HIP is sold within a period of five (5) years from its date of purchase and (2) requiring the return of a HIP grant if a house which was built by a HIP grant is sold within a period of ten (10) years from the date of its construction.

These changes are required because under current regulations some individuals who have obtained grant assistance from the BIA, either for a down payment or the full cost of a house, subsequently sold the house and retained the proceeds which resulted in personal monetary gains from Federal grants. Such actions have served to defeat the purpose of the program to provide housing for needy Indians. This rule amendment will correct that problem.

EFFECTIVE DATE: This document will become effective September 16, 1983.

FOR FURTHER INFORMATION CONTACT: G. Ronald Peake, Chief, Division of Housing Assistance, Bureau of Indian Affairs, Washington, D.C. 20245, telephone number (202) 343–4876.

SUPPLEMENTARY INFORMATION: The authority to issue rules and regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9). This final rule is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

The Inspector General's Audit Report (C–IA–BIA–20–82(a)) in September 1982, discovered that implementation of the existing HIP regulations had led to certain abuses. Individuals that had obtained grant assistance from the BIA to purchase or build a house would subsequently sell the house for personal gain. These practices tended to defeat the purpose of the program which is to help needy Indians obtain decent housing. The BIA is taking action to amend the HIP regulations to incorporate the Inspector General's recommendations. The changes in the regulations require the return of HIP grants to BIA if the resale of a house occurs within a certain period of time, to assure that housing needs are met rather than the house being sold and the funds being used for the personal profit of individuals. Sales of houses without the requirement that the HIP grant be repaid would be permitted only in later years after the families had made significant use of the houses. The BIA will be able to reclaim part of the original grant on a declining scale if a house built under § 256.4(d) is sold after ten years but before 20 years from the time of the completion of the construction.

In addition, in paragraph (b)(3) of § 256.4 the word "cumulative" is deleted. Its original insertion in the provisions was inadvertent and erroneous. The reason for the deletion is that although § 256.5(b) states that "After July 1, 1975, an applicant can only receive assistance one time under categories given in paragraphs (b), (c), and (d) of § 256.4", the word "cumulative" in paragraph (b)(3) of § 256.4 is being used in some instances to justify more than one grant being made to an applicant. This has occurred notwithstanding that the repair and improvements permitted under § 256.4(b) are clearly intended to be one time improvements designed to bring the house to standard condition. Once the house has been brought up to standard condition, no additional repair and improvements are authorized. Further responsibility for repair or improvements, should they be desired, are the responsibility of the family. Elimination of the word "cumulative" from § 256.4(b) will make it clearer that separate sums are not to be awarded an applicant on the ground that they are only part payments of a single grant.

These amendments will have no adverse impact on eligibility requirements to participate in the HIP because they do not change existing criteria for eligibility. These amendments are solely to protect the Federal investment in HIP and also to protect the program integrity by reducing the likelihood that the recipient of an HIP grant will use the proceeds of the grant for personal gain.

For the reasons just stated, the Department of the Interior finds that good cause exists under 5 U.S.C. 553 (b)(B) to dispense with notice and public procedure thereon since to do otherwise would be contrary to the public interest in that unless the amendments are made effective immediately the abuse of the HIP grants described above would continue during the notice and public procedure period. Further, since this amendment corrects the described misuse of HIP grant funds, the 30-day deferred effective date is dispensed with under the exception provided in subsection (d)(3) of 5 U.S.C. 553 (1970). Accordingly, this amendment will become effective upon the date of publication in the **Federal Register**.

The Department of the Interior has determined that this document is not a major rule and does not require a regulatory analysis under Executive Order 12291. It has no impact on prices and costs of housing or other services on Indian reservations.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under criteria established by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule change will affect the individuals that are recipients of Federal HIP grants. The impact of these changes on these individuals will be to reduce the likelihood that the recipients of HIP grants will use the proceeds of the grants for personal gain as opposed to improving their housing conditions.

This rule does not contain any information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

This rule does not constitute a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969.

List of Subjects in 25 CFR Part 256

Grant programs—housing and community development, Grant programs—Indians, Housing and Indians.

Section 256.4 of Part 256 of Chapter I of Title 25 of the Code of Federal Regulations is hereby amended as follows:

PART 256—HOUSING IMPROVEMENT PROGRAM

Paragraphs (b)(3), (c)(2), (c)(3) and (d)(4) of § 256.4 are revised to read as follows:

§ 256.4 Program categories

* * * * *

(b) * * *

(3) The total expenditure of the Housing Improvement Program funds should not exceed $20,000 for any one dwelling.

* * * * *

(c) * * *

(2) The grant should not exceed the amount necessary to secure the loan plus the closing costs or ten percent (10%) of the purchase price of the house plus the closing costs or $5,000 whichever is less. (In the case of Alaska, the grant amount should not exceed $6,000).

(3) The method of advancing the grant must insure that the funds are used for the purpose intended. The applicant must sign a written agreement that if he/she sells the house within five (5) years following the date of purchase, the grant is voided and the amount of the grant will be fully repaid by the grantee to the Bureau of Indian Affairs.

(d) * * *

(4) The applicant must have ownership (as defined in § 256.2(h)) of the land on which the house is built. In the case of a leasehold interest, it must be for not less than 25 years. The applicant must sign a written agreement that if he/she sells the house within the first ten (10) years from the date of ownership, the grant is voided and the full amount of the HIP grant will be repaid by the grantee to the Bureau of Indian Affairs. Subsequent to the first ten years, if the grantee sells the house, he/she may retain ten percent (10%) of the original grant amount per year beginning in the eleventh (11th) year with the remaining amount to be repaid to the Bureau of Indian Affairs. If the sale occurs twenty (20) years or more after the date of ownership, no repayment of any part of the grant will be due the Bureau of Indian Affairs.

* * * * *

John W. Fritz,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 83-25332 Filed 9-15-83; 8:45 am]

BILLING CODE 4310-02-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[T.D. 7907]

Rate of Interest for Overpayments and Underpayments of Tax

Correction

In a correction published on page 41018 in the issue of Tuesday, September 13, 1983, the CFR citation in the fifth line which read "§ 301.6621-1(b)(2)" should have read "§ 301.6621-1(c)(2)".

BILLING CODE 1505-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 62b

[DOD Directive 1010.7]

Drunk and Drugged Driving by DOD Personnel

AGENCY: Office of the Secretary, DOD.

ACTION: Final rule.

SUMMARY: This rule is issued to reduce the number of deaths and injuries within the Department of Defense due to intoxicated driving. It provides specific guidance to all heads of DOD Components and DOD commanders on the importance of the DOD Intoxicated Driving Prevention Program and information requirements. This rule addresses only administrative actions to be taken in the case of intoxicated drivers. Legal actions to be taken are covered in other DOD issuances.

EFFECTIVE DATE: This rule was approved and signed by the Secretary of Defense on August 10, 1983, and is effective as of that date.

FOR FURTHER INFORMATION CONTACT: Captain Roger L. McFillen, USN, Office of the Deputy Assistant Secretary of Defense (Health Promotion), Office of the Assistant Secretary of Defense (Health Affairs), The Pentagon, Room 3D200, Washington, D.C. 20301; telephone (202) 695-7116/7.

SUPPLEMENTARY INFORMATION: In FR Doc. 83-9387 appearing in the **Federal Register** on April 11, 1983 (48 FR 15485), the Office of the Secretary of Defense published a proposed rule under this Part. Public comments were to be submitted by May 11, 1983. No comments were received.

Executive Order 12291. The Department of Defense has determined that this proposed rule is not a major rule because it is not likely to result in an annual effect on the economy of $100 or more.

Paperwork Reduction Act. This rule imposes no obligatory information requirements beyond internal DOD use.

Regulatory Flexibility Act of 1980. The Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) certifies that this rule, if promulgated, shall be exempt from the requirements under 5 U.S.C. 601-612. In addition, this rule does not have a significant economic impact on small entities as defined in the Act.

List of Subjects in 32 CFR Part 62b

Alcohol, Drugs, Highway safety intoxicated driving prevention program, Military and civilian personnel.

Accordingly, 32 CFR is amended by adding a new Part 62b, reading as follows:

PART 62b—DRUNK AND DRUGGED DRIVING BY DOD PERSONNEL

Sec.

62b.1 Purpose.
62b.2 Applicability.
62b.3 Policy.
62b.4 Procedures.
62b.5 Responsibilities.
62b.6 DOD Intoxicated Driving Prevention Task Force.
62b.7 Definitions.
Appendix 1—Driver's License Information.
Appendix 2—State Driver's License Agencies.

Authority: 10 U.S.C. 131.

§ 62b.1 Purpose.

This part:

(a) Establishes DOD policy regarding drunk and drugged driving by DOD personnel (hereafter referred to as "intoxicated driving").

(b) Assigns responsibility for and explains DOD policy and procedures on the establishment and operation of the DOD Intoxicated Driving Prevention Program, which is designed to address the problem of and increase the awareness and attention given to intoxicated driving by DOD personnel.

(c) Establishes the DOD Intoxicated Driving Prevention Task Force (DIDPTF).

§ 62b.2 Applicability.

This part applies to the Office of the Secretary of Defense, the Military Departments, the Organization of the Joint Chiefs of Staff, the Unified and Specified Commands, and the Defense Agencies (hereafter referred to collectively as "DOD Components"). The term "Military Services," as used herein, refers to the Army, Navy, Air Force, and Marine Corps.

§ 62b.3 Policy.

(a) Intoxicated driving is incompatible with the maintenance of high standards of performance, military discipline, DOD personnel reliability, and readiness of military units and supporting activities. It is DOD policy to reduce significantly the incidence of intoxicated driving within the Department of Defense through a coordinated program of education, indentification, law enforcement, and treatment. Specifically, the goal of the DOD Intoxicated Driving Prevention Program is to reduce the number of fatalities and injuries suffered by DOD personnel and the amount of property damage that result from intoxicated driving. Persons who engage in intoxicated driving, regardless of the geographic location of the incident, have demonstrated a serious disregard for the safety of themselves and others. It is appropriate for military commanders, in the exercise of their inherent authority, to protect the mission of an installation and the safety of persons and property therein to restrict driving privileges of persons who engage in such actions.

(b) The Department of Defense shall participate in the national effort to prevent intoxicated driving by maintaining appropriate relationships with other governmental agencies and private organizations and shall cooperate with responsible civil

authorities consistent with statutory and regulatory constraints in detecting, identifying, apprehending, prosecuting, educating, and counseling intoxicated drivers and in reporting cases as required by state laws and applicable Status of Forces Agreements.

§ 62b.4 Procedures.

(a) *Education and Training.* (1) The Military Services shall provide drug and alcohol education that focuses on intoxicated driving for each of the following: law enforcement, public information, emergency room, and safety personnel. Club managers, bartenders, and waitresses serving alcoholic beverages and Class VI or package sales personnel shall receive annual refresher training. In addition, leadership curricula at all levels (PCO/PXO indoctrination, training for judge advocates and military judges, and officer and noncommissioned officer schools) shall include specific information and a review of current Military Service policy on intoxicated driving.

(2) Other DOD Components shall provide similar instruction in conjunction with the training and education requirements of Part 62a of this title.

(3) DOD Components shall cooperate, to the extent feasible and permitted by law and regulation, with community leaders and existing grassroots organizations that are working to combat intoxicated driving, in planning and implementing local education efforts.

(b) *Suspension of Driving Privileges.* Each DOD Component of its supporting agency that regulates driving privileges shall establish procedures for mandatory suspension of driving privileges on military installations and in areas subject to military traffic supervision. They shall establish procedures for acquiring arrest reports and other official documentation of intoxicated driving incidents consistent with applicable laws and regulations. Such procedures shall be sufficiently flexible to meet local needs.

(1) Military personnel and their family members, retired members of the Military Services, DOD civilian personnel, and others with installation driving privileges may have those driving privileges suspended, regardless of the geographic location of an intoxicated driving incident.

(i) Suspension is authorized for non-DOD civilians only with respect to incidents occurring on the military installation or in areas subject to military traffic supervision.

(ii) With respect to DOD civilian personnel covered by a negotiated agreement, a suspension under this paragraph may be reviewed only to the extent required by the negotiated agreement applicable to the affected employee. Such matters mandatorily are excluded from DOD Component administrative grievance procedures. A grievance under such a procedure will not delay imposition of a preliminary or 1-year suspension of driving privileges.

(iii) A notice of suspension will not become effective until 24 hours after the incident for which a suspension is imposed. However, this provision does not preclude appropriate action to prevent an intoxicated person from operating a motor vehicle, nor does it affect the validity of an earlier suspension imposed on the same individual.

(iv) A hearing authorized under §§ 62b.4(b)(2), 62b.4(b)(3), or 62b.4(b)(5), below, shall be conducted by the installation commander. The power to conduct a hearing and make a decision may be delegated only to an official whose primary duties are not in the field of law enforcement. At a hearing under this paragraph, the individual shall have the right to present evidence and witnesses at his or her own expense. The individual may be represented by counsel at his or her own expense. DOD civilian personnel may have a personal representative present in accordance with applicable laws and regulations.

(2) *Suspension Based upon Lawful Apprehension.* (i) Preliminary suspension of driving privileges is mandatory based upon an arrest report or other official documentation of the circumstances of an apprehension for intoxicated driving.

(ii) The individual shall be notified in writing of the preliminary suspension. The notice shall include the arrest report or other documentation and shall inform the individual that a 1-year suspension can be imposed upon conviction, imposition of nonjudicial punishment, or action by civilian authorities leading to suspension or revocation of the individual's driver's license. The notice shall inform the individual that he or she has the right to submit a request within 5 working days to vacate the preliminary suspension and that failure to request such a hearing will result in continuation of the preliminary suspension.

(iii) If a hearing has not been requested within 5 working days, the preliminary suspension shall be continued until there has been a criminal, nonjudicial, or administrative disposition.

(iv) If the individual requests a hearing to vacate the preliminary suspension, it shall be held within 10 working days of the request. If the official conducting the hearing determines that the apprehension was based upon probable cause, the preliminary suspension shall be continued; if not, it shall be vacated. Such determinations are solely for purposes of acting on the preliminary suspension and are without prejudice to the rights of any party in a subsequent criminal or administrative proceeding involving the same or a related incident.

(v) If the individual is acquitted, the charges are dismissed, or there is an equivalent determination in a nonjudicial punishment proceeding or civilian administrative action, the preliminary suspension shall be vacated.

(vi) If there is a conviction, nonjudicial punishment, or civil suspension or revocation of driving privileges, the suspension shall be continued for 1 year from the date of the original preliminary suspension. Such action shall be taken only on the basis of an official report.

(3) *Suspension for Refusal to Take a Blood Alcohol Content (BAC) Test* (i) Preliminary suspension of driving privileges is mandatory based upon an official report that an individual refused to submit to a lawfully requested BAC test.

(ii) The individual shall be notified of the preliminary suspension in writing. The notice shall include the arrest report or other documentation and shall inform the individual that a 1-year suspension can be imposed after a hearing under § 62b.4(b)(3)(iv), below. The notice also shall inform the individual that he or she has the right within 5 working days to submit a request for a hearing to validate the preliminary suspension and that the suspension will be for 1 year if a hearing is not requested.

(iii) If a hearing is not requested within 5 working days, the suspension shall be for 1 year.

(iv) If the individual requests a hearing to vacate the preliminary suspension, it shall be held within 10 working days of the request. The hearing shall consider the arrest report or other official documentation, information presented by the individual, and such other information as the hearing officer may deem appropriate. The official conducting the hearing shall consider the following issues: (A) Did the official have reasonable grounds to believe that the person had been operating or was in actual physical control of, a motor vehicle while

intoxicated? (B) Was the person lawfully cited or apprehended for an intoxicated driving offense? (C) Was the individual lawfully requested to submit to a BAC test? (D) Did the person refuse to submit to or fail to complete a BAC test required by the law of the jurisdiction in which the test was requested? If, in view of these issues, the test was lawfully requested, the suspension shall be for 1 year, irrespective of the ultimate disposition of the underlying intoxicated driving offense. If not, the preliminary suspension shall be vacated. Such determinations are solely for purposes of acting on the preliminary suspension and are without prejudice to the rights of any party in a subsequent criminal or administrative proceeding involving the same or a related incident.

(4) *Suspension upon Conviction, Nonjudicial Punishment, or Civilian Administrative Action*

(i) Suspension of driving privileges for 1 year is mandatory when there has been a conviction, nonjudicial punishment, or civilian revocation or suspension of driving privileges for intoxicated driving, regardless of any prior administrative determination under §§ 62b.4(b)(2), 62b.4(b)(3), or 62b.4(b)(5).

(ii) Such action shall be taken only on the basis of an official report.

(iii) The individual shall be notified in writing of the suspension and shall be notified that an exception may be granted only under § 62b.4(b)(6), below.

(iv) The suspension shall be issued by the installation commander. This authority may be delegated only to an official whose primary responsibilities are not in the field of law enforcement.

(5) *Repeat Offenders.* (i) Preliminary increase in suspension of driving privileges is mandatory based upon an arrest report or other official documentation of an individual's driving in violation of a suspension imposed under this part or under similar rules previously issued by a DoD Component.

(A) The individual shall be notified in writing of the preliminary increase in suspension. The notice shall include the arrest report or other documentation of the violation as well as documentation of the original suspension and shall inform the individual that his or her original suspension can be increased by 2 years after a hearing under § 62b.4(b)(5)(i)(C), below. The notice shall inform the individual that he or she has the right within 5 working days to submit a request for a hearing to vacate the preliminary increase in suspension and that the original suspension will be increased by 2 years if such a request is not submitted.

(B) If a hearing has not been requested within 5 working days, the original suspension shall be increased by 2 years.

(C) If the individual requests a hearing to vacate the preliminary suspension, it shall be held within 10 working days of the request. The hearing shall consider the arrest report or other official documentation, information presented by the individual, documentation of the original suspension, and such other information as the hearing officer may deem appropriate. If the official conducting the hearing determines that the allegation of driving in violation of a suspension is supported by a preponderance of the evidence, the original suspension shall be increased by 2 years. If not, the preliminary increase in suspension shall be vacated. Such determinations are without prejudice to the rights of any party in a subsequent criminal or administrative proceeding involving the same or a related incident.

(D) If in a subsequent judicial, nonjudicial, or administrative proceeding, it is determined that the individual did not violate a suspension, the preliminary increase in suspensions shall be vacated.

(ii) For each subsequent determination within a 5-year period that a 1-year suspension is authorized under § 62b.4(b) (2) through (4), above, driving privileges shall be suspended for 2-years. Such period shall be in addition to any suspension perviously imposed. Military personnel shall be prohibited from obtaining or using a U.S. Government Motor Vehicle Operator's Indentification Card, Standard Form (SF) 46, for 6 months for each such incident. A determination whether DOD civilian personnel should be prohibited from obtaining or using an SE 46 shall be made under Federal Personnel Manual Chapter 930 and other laws and regulations applicable to civilian personnel. Nothing in this paragraph precludes an installation commander from imposing a prohibition upon obtaining or using an SF 46 for a first offense or for such other reasons as may be authorized under applicable laws and regulations.

(6) *Exceptions.* (i) Exceptions to the mandatory suspension provisions in this Part may be granted under regulations by the DOD Component concerned on a case-by-case basis. Requests for exceptions shall be in writing. Such exceptions may be granted only on the basis of:

(A) Mission requirements;

(B) Unusual personal or family hardship; or

(C) In the case of a preliminary suspension following lawful apprehension, delays exceeding 90 days in the formal disposition of the allegations insofar as such delays are not attributable to the individual.

(ii) With respect to a person who has no reasonably available alternate means of transportation to officially assigned duties, a limited exception shall be granted for the sole purpose of driving directly to and from such duties. This does not authorize a person to drive on a military installation if the person's driver's license is under suspension or revocation by a state, federal, or host country civil court or administrative agency. Maximum reliance shall be placed on carpools, public transportation, and reasonably available parking facilities adjacent to the installation before such a limited exception is granted. Nothing in this provision precludes appropriate or other administrative action on the basis of an intoxicated driving incident or driving in violation of a previously imposed suspension.

(iii) Exceptions granted under this paragraph shall be reported in writing to the next official in the chain of command.

(7) Overseas commanders with authority to issue driver's licenses shall establish procedures for suspension of such licenses for intoxicated driving. Such procedures, insofar as the commanders deem practicable, shall be similar to the procedures for suspension of installation driving privileges prescribed in § 62b.4(b) (1) through (6) above.

(8) Persons whose installation driving privileges are suspended for 1 year or more under § 62b.4(b) (2), (3), or (4), above, shall complete an alcohol or drug safety action program or equivalent alcohol education course (minimum of 8 hours) before their installation driving privileges may be reinstated.

(c) *Screening.* Each DOD Component or its supporting agency shall establish procedures for screening military personnel charged with intoxicated driving offenses within 7 working days of issuance of notice of the preliminary suspension to determine whether a member is dependent on alcohol or other drugs. The results of this screening shall be made available to the command having jurisdiction over the case before adjudication. Information concerning personal alcohol and drug abuse provided by a member in response to screening questions may not be used against the member in a court-martial or on the issue of characterization in an administrative separation proceeding.

Nothing in this provision precludes introduction of such evidence for other administrative purposes or for impeachment or rebuttal purposes in any proceeding in which evidence of alcohol or drug abuse (or lack thereof) first has been introduced by the member, nor does it preclude disciplinary or other action based on independently derived evidence. DOD civilian personnel charged with intoxicated driving shall be advised of the Civilian Employee Assistance Program or Installation Drug and Alcohol Program and the availability of evaluation in accordance with Federal Personnel Manual Supplement 792–2. Retired members of the Military Services shall be advised of the availability of evaluation and treatment programs.

(d) *Notification of State Driver's License Agencies.* Each DOD Component or its supporting agency shall establish a systematic procedure in accordance with Part 286a of this title to notify state driver's license agencies of DOD personnel whose installation driving privileges are suspended for 1 year or more following final adjudication of the intoxicated driving offense or upon suspension for refusal to submit to a lawful BAC test under § 62b.4(b), above. This notification shall include the basis for the suspension and the BAC level, if known. Exceptions shall be made only when such a suspension was increased for an additional 2 years for driving on an installation while installation driving privileges were suspended solely on the basis of driving in violation of suspension (see § 62b.4(b)(5), above). This notification shall be sent to the state in which the driver's license was issued and the state in which the installation is located. Sample letter format is provided in Appendix 1, and state driver's license agencies are listed in Appendix 2. DOD Components shall establish a system to exchange intoxicated driving and driving privilege suspension data when DOD personnel transfer from one location to another to ensure that the receiving installation continues any remaining portion of the suspension. This information requirement is exempt from formal approval and licensing.

(e) The Military Services shall include the intoxicated driving prevention program as an inspection item of special interest for Inspector General or administrative inspections.

(f) The Military Services shall direct installation commanders to assess the availability of drug and alcohol in the vicinity of military installations through their Armed Forces Disciplinary Control Boards or Control Boards of other appropriate federal agencies. Whenever the availability of alcohol or drugs, or both, at an establishment off-base presents a threat to the discipline, health, and welfare of DOD personnel, such establishments shall be dealt with as prescribed in the "Armed Forces Disciplinary Control Board and Off-Installation Military Enforcement Guidance" (Army Regulation No. 190–24, Marine Corps Order No. 162.2A, BUPERS Inst. 1620.4A, Air Force Regulation No. 125.11, Commandant Instruction No. 1620.13).

(g) *Cases Involving Death or Serious Injury.* (1) To the extent permitted by law and consistent with the Uniform Code of Military Justice (UCMJ) and the "Manual for Courts-Martial" and in accordance with trial counsel's judgement of appropriate tactical and ethical concerns, consideration shall be given to presenting a victim's impact statement (oral or written statement by victims or survivors) before sentencing in cases involving intoxicated driving.

(2) Trial counsel are encouraged to make reasonable efforts to ensure that the victim or the victim's family is provided information about the progress and disposition of cases processed under the UCMJ.

(h) DOD Components with field installations shall establish an awards and recognition program to recognize successful local installation intoxicated driving prevention programs.

(i) Each DOD Component or its supporting agency is encouraged to use, as guidance, "Report on a National Study of Preliminary Breath Test (PBT) and Illegal Per Se Laws" and "Interim Report to the Nation by the Presidential Commission on Drunk Driving."

§ 62b.5 Responsibilities.

(a) The *Assistant Secretary of Defense (Health Affairs)* (ASD(HA)) shall:

(1) Develop a coordinated approach to the reduction of intoxicated driving, consistent with this part, recognizing that intoxicated driving prevention programs shall be designed to meet local needs.

(2) Appoint the chair of the DIDPTF.

(3) Monitor Military Service and DOD Component regulations that implement the DOD Intoxicated Driving Prevention Program.

(4) Act as focal point for the Department of Defense for interagency and nongovernmental coordination of national intoxicated driving prevention programs.

(5) Evaluate and report biennially to the Secretary of Defense on the effectiveness and efficiency of the DOD Intoxicated Driving Prevention Program.

(b) The *Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics)* (ASD(MRA&L)) shall:

(1) Ensure the DOD Department Schools system and Section VI schools include specific material in the curriculum (grades 7 through 12) on the effects that alcohol and drugs have on the impairment of driving skills.

(2) Ensure that intoxicated driving, accident, mishap, and injury data include:

(i) BAC of drivers in three categories—.01–.04, .05–.09, and .10 and above.

(ii) Time of day and day of the week the mishap or injury occurred.

(iii) Type of vehicle (include MOPEDs with motorcycle data).

(iv) Death and injury data on DOD personnel killed or injured as a result of intoxicated driving, include those who were not intoxicated themselves but were involved in a mishap as a result of intoxicated driving by another party.

(v) Government property damage cost.

(vi) Cost of treatment of injured DOD personnel.

(vii) Pertinent data on military personnel separated or retired as a result of injury or other action taken because of:

(A) Intoxicated driving by the person being separated or retired; or

(B) Intoxicated driving by another person.

(viii) Other chemical substances causing intoxicated driving that contributed to an accident.

(3) Provide an annual report to the Secretary of Defense that assesses the impact of intoxicated driving on the Department of Defense. The report shall include intoxicated driving arrest, apprehension, and conviction data as well as the number of exceptions granted to the mandatory suspension of driving privileges under § 628.4(b)(6), above.

(4) Establish procedures (when feasible) under which DOD personnel convicted for driving while intoxicated will pay administrative restitution to the government for property damage or medical expenses to the extent permitted by applicable law.

(5) Amend appropriate DOD issuances to include the use of a preliminary or prearrest breath test (PBT) to be used by law enforcement personnel to indicate impairment when the arresting officer has reason to believe the operator of a motor vehicle may be intoxicated. [See "Report on a National Study of Preliminary Breath Test (PBT) and Illegal Per Se Laws").

(c) The *Head of Each DOD Component or its Supporting Agency* shall establish and operate intoxicated driving prevention programs prescribed by this part.

§ 62b.6 DOD intoxicated driving prevention task force.

(a) *Organization and Management.* (1) The DIDPTF shall be chaired by a representative of the Deputy Assistant Secretary of Defense (Health Promotion), Office of the ASD(HA).

(2) The DIDPTF shall consist of representatives of the Military Services' drug and alcohol programs and law enforcement communities and a representative of the Deputy Assistant Secretary of Defense (Equal Opportunity and Safety Policy), Office of the ASD(MRA&L).

(3) Meetings generally shall be held bimonthly; however, special sessions may be required by the chair.

(b) *Functions.* The DIDPTF shall:

(1) Monitor Military Service and DOD Component policy as it applies to the prevention of intoxicated driving.

(2) Review programs and policy developed by other federal and state agencies and make recommendations of suitable adaptation within the Department of Defense.

(3) Make recommendations to the ASD(HA) and the ASD(MRA&L) on matters pertaining to intoxicated driving.

§ 62b.7 Definitions.

(a) *Blood Alcohol Content (BAC).* The percentage, by weight, of alcohol in a person's blood as determined by blood, urine, or breath analysis. Percent of weight by volume of alcohol in the blood is based on grams of alcohol per 100 milliliters of blood.

(b) *Conviction.* An official determination or finding as authorized by state or federal law or regulation, including a final conviction by a court or court-martial (whether based on a plea of guilty or a finding of guilty and regardless of whether the penalty is rebated, deferred, suspended, or probated), an unvacated forfeiture of bail or other collateral deposited to secure a defendant's appearance in court, a plea of nolo contendere accepted by a court, or a payment of a fine.

(c) *DOD Issuances.* DOD Directives, Instructions, publications and changes thereto.

(d) *DOD Personnel*

(1) *Civilian Personnel.* Employees of the Department of Defense whose salary or wages are paid from appropriated or nonappropriated funds.

(2) *Military Personnel.* All U.S. military personnel on active duty, U.S. military reserve or National Guard personnel on active duty, and Mjilitary Service academy cadets.

(e) *Driving Privileges.* Operation of a privately owned motor vehicle on an installation or in areas where traffic operations are under military supervision.

(f) *Intoxicated Driving.* Includes one or more of the following:

(1) Operating a motor vehicle under any intoxication caused by alcohol or drugs in violation of Article 111 of the UCMJ (see paragraphs 190 and 191 of the "Manual for Courts-Martial" or a similar law of the jurisdiction in which the vehicle is being operated.

(2) Operating a motor vehicle with a BAC of .10 or higher on a military installation or in an area where traffic operations are under military supervision.

(3) Operating a motor vehicle with a BAC of .10 or higher in violation of the law of the jurisdiction in which the vehicle is being operated.

(4) Operating a motor vehicle with a BAC of .05 but less than .10 in violation of the law of the jurisdiction in which the vehicle is being operated if the jurisdiction imposes a suspension or revocation solely on the basis of the BAC level.

(g) *Supporting Agency.* The agency that accepts the responsibility and performs the actions necessary to accomplish any of the requirements of this Part (for example, one of the Military Services supporting a Defense Agency through installation vehicle registration, screening of intoxicated drivers, or supervisor education).

Appendix 1—Driver's License Information (Sample Letter)

FROM:

_____

_____

_____

TO: Department of Vehicle Registration Licenses

_____

_____

_____

SUBJECT: Notification of Person Convicted of an Intoxicated Driving Offense.

This letter is your notification that on

—, _____

(date)

—, _____

(last name, first name, middle initial

—, _____

and social security number of person) a member of

_____

(branch of Military Service or DOD Component)

—, _____

(and unit)

—, _____

(installation location)

was found guilty of (intoxicated driving or refusal to take a blood alcohol content (BAC) test in a court-martial, non-judicial proceeding under Article 15 of the UCMJ, or civil court). (If civil court, give court name and case number.) (He or she) holds a _____ (state) driver's license, number _____, issued _____, expiring on _____. (He or she) was arrested

_____

(date and base location)

by _____ (state) (or military) police while driving vehicle license number _____. A BAC test (was or was not) taken (with a reading of _____). Based on the above information, this individual's installation driving privileges have been suspended for —— *(insert number of years).* The individual's current address is:

_____

_____

_____

Appendix 2—State Driver's License Agencies

Alabama

Data Processing Unit, Driver's Licensing Division, Department of Public Safety, Montgomery, Alabama 36192, (205) 832–5100

Alaska

MVR Desk, Motor Vehicles, Pouch N, Juneau, Alaska 99811, (907) 465–4361

Arizona

Phoenix City Magistrates Court (No street number required), Phoenix, Arizona 85001, (602) 262–4001

Arkansas

Driver's Control, P.O. Box 1272, Little Rock, Arkansas 72203, (501) 371–1631

California

Information Services, Department of Motor Vehicles, P.O. Box 11231, Sacramento, California 95813

Colorado

Motor Vehicle Division, Master File Section 44–489, 140 W. 6th Avenue, Denver, Colorado 80204, (303) 866–3751

Connecticut

Assistant Division Chief, 60 State Street, Wethersfield, Connecticut 06109, (203) 566–3230

Delaware

Senior Clerk, Revocation Section, P.O. Box 698, Dover, Delaware 19901, (302) 736–4427

Florida

Division of Drivers Licenses & Motor Vehicles, Department of Highway Safety, Kirkman Building, Tallahassee, Florida 32301, (904) 488–2117

Georgia

Drivers Support Division, Department of Public Safety, P.O. Box 1456, Atlanta, Georgia 30371–2303, (404) 656–5704

Hawaii

Administrator, District Court, 1111 Alakea Street, Honolulu, Hawaii 96813, (808) 548–2467

Idaho

Idaho Transportation Department, Driver Services, P.O. Box 34, Boise, Idaho 83731, (208) 334–2534

Illinois

Abstract Informational Unit, Motor Vehicle Services, 2701 S. Dirksen Parkway, Springfield, Illinois 62703, (217) 782–2720

Indiana

Bureau of Motor Vehicles, Paid Mail Division, State Office Building, Room 416, Indianapolis, Indiana 46204, (317) 232–2894

Iowa

Chief Teletype Operator, Lucas State Office Building, Des Moines, Iowa 50319, (515) 281–5559

Kansas

Chief, Driver Control Bureau, State Office Building, Topeka, Kansas 66626, (913) 296–3671

Kentucky

Division of Driver Licensing, Justice Cabinet, Room 220, State Office Building, Frankfort, Kentucky 40601, (502) 564–6800

Louisiana

Department of Public Safety, Office of Motor Vehicles, P.O. Box 64886, Baton Rouge, Louisiana 70896

Maine

Driver Record Section, Motor Vehicle Division, Statehouse Station #29, Augusta, Maine 04333, (207) 289–2733

Maryland

Director, Driver Records, 6601 Ritchie Highway, NE, Glen Burnie, Maryland 21062, (301) 768–7225

Massachusetts

Registry Motor Vehicles, 100 Nashua Street, Boston, Massachusetts 02114

Michigan

Commercial Lookup Unit, Michigan Department of State, Bureau of Driver & Vehicle Services, Lansing, Michigan 48918

Minnesota

Driver License Division, 108 Transportation Building, St. Paul, Minnesota 55155, (612) 296–2023

Mississippi

Mississippi Highway Patrol, MVR Section, P.O. Box 958, Jackson, Mississippi 39205, (601) 982–1212, Ext. 268

Missouri

Division of Motor Vehicles & Driver Licensing, P.O. Box 629, Jefferson City, Missouri 65105, (No telephone inquiries)

Montana

Office Manager, Driver Services, 303 North Roberts, Helena, Montana 59620, (406) 449–3000

Nebraska

Administrator, P.O. Box 94789, Lincoln, Nebraska 68509, (402) 471–3888

Nevada

Driver Record Section, 555 Wright Way, Carson City, Nevada 89701, (702) 885–5505

New Hampshire

Department of Public Safety, Division of Motor Vehicles, Hazen Drive, Concord, New Hampshire 03105, (603) 271–2486

New Jersey

Supervisor, Abstract Section, Dept. of Motor Vehicles, 137 E. State Street, Trenton, New Jersey 08625, (609) 292–4558

New Mexico

Chief, Motor Transportation Department, Manuel Lujan Building, Santa Fe, New Mexico 87503, (505) 827–2362

New York

New York State Dept. of Motor Vehicles, Public Service Bureau, Empire State Plaza, Albany, New York 12228, (518) 474–0705

North Carolina

Director, Driver License Section, Division of Motor Vehicles, 1100 New Bern Avenue, Raleigh, North Carolina 27697, (919) 733–9906

North Dakota

Driving Records, Drivers License Division, 600 E. Boulevard, Bismarck, North Dakota 58505, (701) 224–2603

Ohio

Bureau of Motor Vehicles, Attn.: MVOSPA, P.O. Box 16520, Columbus, Ohio 43216

Oklahoma

Oklahoma Department of Public Safety, Driver Improvement Division, Box 11415, Oklahoma City, Oklahoma 73136, (405) 427–6541

Oregon

Supervisor, Files and Correspondence DMV, 1905 Lana Avenue, NE, Salem, Oregon 97314, (503) 371–2225

Pennsylvania

Division Manager, Citation Processing Division, Room 302, Bureau of Traffic Safety Operations, Department of Transportation, Harrisburg, Pennsylvania 17120

Rhode Island

Department of Motor Vehicles, State Office Building, Providence, Rhode Island 02903, (401) 277–2994

South Carolina

Motor Vehicle Administrator, P.O. Box 1498, Columbia, South Carolina 29216, (803) 758–8428

South Dakota

Driver Improvement Program, 118 W. Capitol, Pierre, South Dakota 57501–2080, (605) 773–4128

Tennessee

Financial Responsibility Section, P.O. Box 945, Nashville, Tennessee 37202, (615) 741–3954

Texas

Director, Motor Vehicle Division, 40th and Jackson Avenue, Austin, Texas 78779, (512) 465–7611

Utah

Chief, Drivers License Bureau, 317 State Office Building, Salt Lake City, Utah 84114, (801) 965–4411

Vermont

Director of Law Administration, Department of Motor Vehicles, 120 State Street, Montpelier, Vermont 05603, (Mail inquiries only)

Virginia

Division of Motor Vehicles, Attn: Driver's Licensing and Information Department, 2300 W. Broad Street,

Richmond, Virginia 23269. (804) 257-0410

Washington

Department of Licensing, Driver Services Division, Highway Licensing Building, Olympia, Washington 98504. (206) 753-6976

West Virginia

Department of Motor Vehicles, 1800 Washington Street, East, Charleston, West Virginia 25317, (304) 348-0238

Wisconsin

Driver Record File, Department of Transportation, P.O. Box 7918, Madison, Wisconsin 53707-7918. (608) 266-2360

Wyoming

Criminal Identification Division, Boyd Building, Cheyenne, Wyoming 82002

NDR

National Driver Register, Room 5117, NHTSA, 400 7th Street SW, Washington, D.C. 20509

District of Columbia

District of Columbia Department of Transportation, Bureau of Motor Vehicles Services, 301 C Street NW, Washington, D.C. 20001

Guam

Mr. Patrick Wolfe, Deputy Director, Revenue and Taxation, Government of Guam, Agana, Guam 96910

Puerto Rico

Mr. Jose A. Zayas-Berdecia, Director, Bureau of Motor Vehicles, P.O. Box 41243, Santurce, Puerto Rico 00940

Virgin Islands

(Does not participate in the National Driver Register)

Dated: September 12, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83-25194 Filed 9-15-83; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 92 and 161

[CFD 79-079b]

St. Marys River Vessel Traffic Service

AGENCY: Coast Guard, DOT.

ACTION: Final rule; correction.

SUMMARY: This document corrects the names of several aids to navigation used as reference points so that they are identical to the names found in the Coast Guard Light List for the Great Lakes. This document also removes and reserves a subchapter heading which was overlooked when all remaining regulations in that subchapter were deleted. These corrections will provide consistency in terminology and otherwise assist the user of these regulations.

EFFECTIVE DATE: This correction becomes effective September 16, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Edward J. LaRue, Jr., (202) 426-4958.

SUPPLEMENTARY INFORMATION: On July 5, 1983, the Coast Guard published a final rule (48 FR 30618) in which a number of Coast Guard maintained aids to navigation (lights, buoys, and range lights) were used as reference points for speed limits, radiotelephone reports, etc. The names of these aids, as published in the final rule, were based on names found in the Coast Guard Light List and/or the name commonly used by local mariners. After publication of the rule, the Coast Guard was contacted by the National Ocean Service (NOS), a Federal agency which publishes charts and Coast Pilots of U.S. waters. NOS feels that for consistency and for the sake of mariners who are not familiar with local practices, the names used in regulations should agree with those in the Light List. This need is further amplified by the fact that the Coast Pilots contain Coast Guard regulations and information from the Light Lists. This means that the same aid could be referred to by more than one name in the same publication. The Coast Guard agrees that this could be confusing and is changing the following names which do not conform to the ones found in the Light List.

In §§ 161.834 and 161.852, "Lake Munuscong Junction Buoy" is changed to read "Munuscong Lake Junction Lighted Bell Buoy".

In § 161.850, "Watsons Reef Light" is changed to read "Watson Reefs Light".

In § 161.880 "Point Aux Frenes Light" is changed to read "Point Aux Frenes Light 21".

In § 161.880, "Munuscong Channel Buoy 8" is changed to read "Munuscong Lake Lighted Buoy 8".

In § 161.880, "Ninemile Point Light" is changed to read "Lake Nicolet Light 80".

In § 161.880, "Six Mile Point Light" is changed to read "Six Mile Point Range Rear Light".

In addition to the above corrections, the heading of Subchapter F in Chapter I, Title 33, Code of Federal Regulations, is being changed. The final rule of July 5, 1983 transferred regulations in 33 CFR Part 92 to Part 161 and reserved Part 92. Part 92 was the last remaining body of regulations in Subchapter F. The Coast Guard failed inadvertently to delete the subchapter heading when the remaining regulations were transferred. This document corrects that oversight by changing the heading from "Subchapter F—Interim Inland Navigation Rules" to "Subchapter F—[Reserved]". Regulatory Evaluation.

This action is purely administrative in nature involves several nomenclature changes and the removal of an outdated subchapter heading. This action imposes no burden on the public.

List of Subjects in 33 CFR Part 161

Hazardous materials transportation, Navigation (water), Vessels.

In consideration of the foregoing, Chapter I, Title 33, Code of Federal Regulations is amended as follows:

SUBCHAPTER F—[AMENDED]

PART 161—[AMENDED]

1. By removing the words "INTERIM INLAND NAVIGATION RULES" in the Subchapter F heading and inserting in their place the word "[Reserved]". Also, the words, "Part 92 [Reserved]" are removed.

2. By revising §§ 161.834 to read as follows:

§ 161.834 Permanent reporting points.

The following are permanent reporting points:

Upbound vessels	Reporting points	Downbound vessels
Initial report	De Tour Reef Light	Final report.
Movement report	Munuscong Lake Junction Lighted Bell Buoy.	Movement report.
	Oak Ridge	Movement report.
Movement report	Ninemile Point	Movement report.
Movement report	Six Mile Point	Movement report.
Movement report	Mission Point	Movement report.
Movement report	Leaving locks	Movement report.
Movement report	Brush Point	Movement report.
Movement report	Birch Point	Movement report.
Final report	Ile Parisienne Light	Initial report.

3. Section 161.850 is corrected by revising paragraphs (c) and (d).

§ 161.850 One way traffic—normal conditions.

* * * * *

(c) Pipe Island Course from Sweets Point to Watson Reefs Light shall be used only by vessels proceeding in a downbound direction.

(d) Pipe Island Passage to the east of Pipe Island Shoal and north of Pipe Island Twins from Watson Reefs Light to Sweets Point shall be used only by vessels proceeding in an upbound direction.

4. Section 161.852 is corrected by revising paragraphs (a) (1) and (2) to read as follows:

§ 161.852 Meeting or overtaking in channels.

(a) * * *

(1) West Neebish Channel between Ninemile Point and Munuscong Lake Junction Lighted Bell Buoy and Ninemile Point.

(2) Middle Neebish Channel between Munuscong Lake Junction Lighted Bell Buoy and Ninemile Point.

* * * * *

5. Section 161.880 is amended by correcting the table to read as follows:

§ 161.880 Maximum speed limits.

The following speed limits indicate speed over the ground:

The speed limit between	Speed limit	
	Miles/hr	Knots
De Tour Reef Light and Sweets Point Light	14	12.2
Round Island Light and Point Aux Frenes Light 21	14	12.2
Munuscong Lake Lighted Buoy 6 and Everens Point	12	10.4
Everens Point and Reed Point	9	7.8
Reed Point and Lake Nicolet Lighted Buoy 62	10	8.7
Lake Nicolet Lighted Buoy 62 and Lake Nicolet Light 60	12	10.4
Lake Nicolet Light 60 and Winter Point (West Neebish Channel)	10	8.7
Lake Nicolet Light 60 and Six Mile Point Range Rear Light	10	8.7
Six Mile Point Range Rear Light and lower limit of the St. Marys Falls Canal:		
Upbound	8	7
Downbound	10	8.7
Upper limit of the St. Marys Falls Canal and Point Aux Pins Main Light	12	10.4

Authority: Sec. 12, Pub. L. 95–474, 92 Stat. 1477 (33 U.S.C. 1231); 49 CFR 1.46(n)(4), unless otherwise noted.

Dated: September 8, 1983.

B. F. Hollingsworth,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine, Environment and Systems.

[FR Doc. 83–25197 Filed 9–15–83; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[KY–010; A–4–FRL 2385–7]

Approval and Promulgation of Implementation Plans; Kentucky: Alternative Emission Reduction Option (Bubble) for Ashland Petroleum Company

AGENCY: Environmental Protection Agency.

ACTION: Withdrawal of final rule.

SUMMARY: On April 19, 1983 (48 FR 16683), EPA gave approval, without prior proposal, to an alternative emission reduction plan (bubble) for Ashland Petroleum Company in Kenton County, Kentucky. EPA subsequently received adverse comments on the plan. Accordingly, the Agency is withdrawing its approval. Elsewhere in today's **Federal Register**, EPA is proposing the alternative reduction plan and providing an opportunity to comment on the proposal.

DATE: This action is effective on September 16, 1983.

ADDRESSES: Copies of the materials submitted by Kentucky may be examined during normal business hours at the following locations:

Air Management Branch, Environmental Protection Agency, Region IV, 345 Courtland Street, NE, Atlanta, Georgia 30365

Division of Air Pollution Control, Kentucky Department for Environmental Protection, 18 Reilly Road, Bldg. 2, Fort Boone Plaza, Frankfort, Kentucky 40601

FOR FURTHER INFORMATION CONTACT: Douglas C. Cook, EPA Region IV, Air Management Branch, at the Atlanta address above or call 404/881–2864 (FTS 257–2864).

SUPPLEMENTARY INFORMATION: Ashland Petroleum Company, Covington Terminal, applied to the Division of Air Pollution Control on February 12, 1982, for a review under the "bubble concept" pursuant to Kentucky Regulation 401 KAR 50:055(6). Ashland's Covington Terminal is located in Kenton County, Kentucky, which is formally designated nonattainment for ozone. On February 3, 1983 (48 FR 5120), however, EPA proposed to approve Kentucky's demonstration that Kenton and the other counties in the Cincinnati metropolitan area are attaining the air quality standards for ozone.

Based on the information submitted, EPA, without prior proposal of its action, approved the alternate plan (48 FR 16683, April 19, 1983).

In the final rulemaking, EPA advised the public that the effective date of the action was deferred for 60 days (until June 20, 1983) to provide an opportunity to submit comments on it. EPA announced that if notice was received within 30 days of the publication of the final rule that someone wanted to submit adverse or critical comments, the final action would be withdrawn and a new rulemaking would be begun by proposing a 30-day comment period. EPA had earlier published a general notice explaining this special procedure (46 FR 44477, September 4, 1981).

EPA has received adverse comments on this plan. Accordingly, the Agency is today withdrawing its approval.

Elsewhere in today's **Federal Register**, EPA is proposing approval of this plan and soliciting comments on the proposal.

EPA is withdrawing this action without providing prior notice and opportunity for comment. The Agency finds that it has good cause within the meaning of 5 U.S.C. 553(b) to proceed without notice and comment. Notice and comment would be impracticable in this case because EPA needs to withdraw its approval as quickly as possible in order to consider the comments which the public has submitted or may wish to submit. Moreover, further notice is not necessary because EPA has already informed the public that it would follow this procedure if it received a request for an opportunity to comment. For the same reasons, EPA finds that it has good cause under 5 U.S.C. 553(d) to make this withdrawal immediately effective.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 15, 1983.

Under 5 U.S.C. Section 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Secs. 110 and 172 of the Clean Air Act (42 U.S.C. 7410 and 7502))

Dated: September 7, 1983.

William D. Ruckelshaus,

Administrator.

PART 52—[AMENDED]

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart S—Kentucky

§ 52.920 [Amended]

1. Paragraph (c)(34) of § 52.920 is removed and reserved.

[FR Doc. 25366 Filed 9-15-83; 8:45am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Minerals Management Service

43 CFR Part 3480

30 CFR Part 211

[Circular No. 2534]

Coal Mining Operations; Redesignating the Coal Mining Operations Regulations

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: On December 3, 1982, the Secretary of the Interior issued Order No. 3087, which was amended on February 7, 1983, transferring all onshore management functions of the Minerals Management Service, not relating to royalty management, to the Bureau of Land Management. Notice of this transfer of management functions was published in the **Federal Register** of March 2, 1983 (48 FR 8982). In accordance with that order and the above notice, the regulations in 30 CFR Part 211 are being transferred to 43 CFR Part 3480. This notice redesignates the appropriate sections of 30 CFR Part 211 as 43 CFR Part 3480 and makes necessary administrative amendments to bring the redesignated sections into conformance with the language of Title 43 of the Code of Federal Regulations.

EFFECTIVE DATE: September 16, 1983.

ADDRESS: Any suggestions or inquiries should be sent to: Director (660), Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Paul Sternberg, (202) 860–7506.

SUPPLEMENTARY INFORMATION:

The principal author of this final rulemaking is Paul J. Buff, Division of Solid Mineral Operations, Bureau of Land Management, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

Because this final rulemaking is an administrative action reflecting actions that have already occurred and that have no additional impacts on coal exploration and mining operations, it has been determined that no action needs to be taken with regard to a determination under either the provisions of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)) or the provisions of Executive Order 12291.

There are no additional information collection requirements contained in this final rulemaking.

This final rulemaking is administrative and has no additional impacts on the public. Further, it reflects actions that have already occurred. It will, therefore, be effective upon publication.

List of Subjects in 43 CFR Part 3480

Administrative practice and procedure, Coal, Government contracts, Intergovernmental relations, Mineral royalties, Mines, Public lands—mineral resources, Reporting and recordkeeping requirements.

Under the authority of Order No. 3087 issued by the Secretary of the Interior on December 3, 1982, as amended on February 7, 1983, which transferred all onshore management functions of the Minerals Management Service, not relating to royalty management, to the Bureau of Land Management, 30 CFR Part 211 is redesignated as Part 3480, Group 3400, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations and is amended as set forth below.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

September 12, 1983.

1. 30 CFR Part 211 is redesignated as 43 CFR Part 3480 as shown in the following redesignation table:

REDESIGNATION TABLE

Old 30 CFR No.	New 43 CFR No.
	Insert PART 3480—COAL EXPLORATION AND MINING OPERATIONS RULES.
	Insert Subpart 3480—Coal Exploration and Mining Operations Rules—General.
211.1(a)	3480.0–4.
211.1(b)	3480.0–1.
211.1(c)	3480.0–6(a).
211.2	3480.0–5.
211.2–1	Redesignated as Note under Part heading.
211.3	3480.0–6 (b) through (e).
	Insert Subpart 3481—General Provisions.
211.4	3481.1.
211.5	3481.2.
211.6	3481.3.
	Insert Subpart 3482—Exploration and Resource Recovery and Protection Plans.

REDESIGNATION TABLE—Continued

Old 30 CFR No.	New 43 CFR No.
211.10	3482.1.
211.11	3482.2.
211.12	3482.3.
	Insert Subpart 3483—Diligence Requirements.
211.20	3483.1.
211.21	3483.2.
211.22	3483.3.
211.23	3483.4.
211.24	3483.5.
211.25	3483.6.
	Insert Subpart 3484—Performance Standards.
211.40	3484.1.
211.41	3484.2.
	Insert Subpart 3485—Reports, Royalties and Records.
211.62	3485.1.
211.63	3485.2.
211.66	3485.3.
	Insert Subpart 3486—Inspection, Enforcement and Appeals.
211.70	3486.1.
211.71	3486.2.
211.72	3486.3.
211.73	3486.4.
	Insert Subpart 3487—Logical Mining Unit.
211.80	3487.1.

2. The "Note" containing the information collection requirements codification, formerly 30 CFR 211.2–1, is amended by removing from the first paragraph the phrase "30 CFR 211" and replacing it with the phrase "43 CFR Part 3480" and by removing from the third paragraph the phrase "30 CFR 211.4, 211.10, 211.11, 211.12, 211.22, 211.23, 211.62, 211.63, 211.72, 211.80, and 211.101" and replacing it with the phrase "§§3481.1, 3481.2, 3482.2, 3482.3, 3483.3, 3483.4, 3485.1, 3485.2, 3486.3 and 3487.1 of this title".

3. Adding a second note immediately after the first note to read:

Note.—There are many leases and agreements currently in effect, and which will remain in effect, involving Federal coal leases which specifically refer to the United States Geological Survey, USGS, Minerals Management Service, MMS, or Conservation Division. These leases and agreements also often specifically refer to various officers such as Supervisor, Conservation Manager, Deputy Conservation Manager, Minerals Manager and Deputy Minerals Manager. In addition, many leases and agreements specifically refer to 30 CFR Part 211 or specific sections thereof. Those references shall now be read to refer to 43 CFR Part 3480 or to the appropriate redesignated section thereof.

§ 3480.0–5 [Amended]

4. Section 3480.0–5(a), formerly 30 CFR 211.2(a), is amended by:

A. Removing the language of paragraph (a)(2) and substituting therefor:

(2) *Assistant Director for Solid Leasable Minerals* means Assistant Director for Solid Leasable Minerals, Bureau of Land Management;

B. Removing the language of paragraph (a)(3) and substituting therefor:

(3) *Assistant Secretary for Land and Water Resources* means the Assistant Secretary for Land and Water Resources, Department of the Interior;

C. Removing the language of paragraph (4) and substituting therefor:

(4) *Chief, Division of Solid Mineral Operations* means the Chief, Division of Solid Minerals Operations, Bureau of Land Management;

D. Removing paragraph (a)(5) in its entirety and renumbering paragraphs (6) through (14) as paragraphs (5) through (13), respectively;

E. Removing the language of paragraph (a)(10), formerly paragraph (11) and substituting therefor:

(10) *Deputy Director for Energy and Mineral Resources* means the Deputy Director for Energy and Mineral Resources, Bureau of Land Management;

F. Removing paragraphs (a)(15) and (16) in their entirety and renumbering paragraphs (17) through (27) as paragraphs (14) through (24), respectively;

G. Amending renumbered paragraph (a)(16), formerly paragraph (19), by removing the phrase "Deputy Minerals Manager for Mining" and replacing it with the phrase "State Director";

H. Amending renumbered paragraph (a)(17), formerly paragraph (20), by removing the citation "30 CFR 211.63" and replacing it with the citation "§ 3485.2(g)" of this title";

I. Amending renumbered paragraph (a)(21), formerly paragraph (24), by removing the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer";

J. Removing paragraphs (a)(28) and (29) in their entirety and renumbering paragraphs (30) through (40) as paragraphs (25) through (34);

K. Amending renumbered paragraph (a)(26), formerly paragraph (31), by removing the phrases "District Mining Supervisor" and "30 CFR 211.5" where they appear and replacing them with the respective phrases "authorized officer" and "§ 3481.2 of this title";

L. Removing paragraph (a)(41) in its entirety, and inserting a new paragraph (a)(35) to read:

(35) *State Director* means an employee of the Bureau of Land Management who has been designated as the chief administrative officer of one of the Bureau's 12 administrative areas designated as "States".

M. Renumbering paragraph (a)(42) as paragraph (36).

§ 3480.0-5 [Amended]

5. Section 3480.0-5, formerly 30 CFR 211.2, is amended by removing paragraph (b) in its entirety and renumbering paragraph (c) as paragraph (b).

§ 3480.0-6 [Amended]

6. Section 3480.0-6, formerly 30 CFR 211.1(c) and 211.3, is amended by:

A. Amending paragraph (a), formerly 30 CFR 211.1(c), be removing the figure "(c)" at the beginning of the paragraph and replacing it with the figure "(a)";

B. Amending paragraph (b), formerly 211.3(a), by removing the figure "(a)" at the beginning of the paragraph and replacing it with the figure "(b)" and by removing the word "MMS" and replacing it with the word "BLM";

C. Amending paragraph (c), formerly 30 CFR 211.3(b), by removing the figure "(b)" at the beginning of the paragraph and replacing it with the figure "(c)", by removing the word "MMS" and replacing it with the word "BLM" and by removing all language after the word "Director;" and replacing it with the phrase "Deputy Director for Energy and Mineral Resources; Chief, Division of Solid Mineral Operations; State Director and authorized officer".

D. Amending paragraph (d), formerly 30 CFR 211.3(c), by removing the figure "(c)" at the beginning of the paragraph and replacing it with the figure "(d)", by removing from paragraph (d) and paragraph (d)(8) the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", by removing from paragraph (d)(10) and (d)(13)(iii) the phrase "authorized officer" and replacing it with the phrase "responsible officer of the surface managing agency"; and

E. Removing paragraph (e), formerly 30 CFR 211.3(d), in its entirety.

§ 3481.1 [Amended]

7. Section 3481.1, formerly 30 CFR 211.4, is amended by:

A. Amending paragraph (a) by removing the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer";

B. Amending paragraph (b) by removing the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer";

C. Amending paragraph (d) by removing the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer";

D. Amending paragraph (e) by removing in the two places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer" and by removing the last sentence of the paragraph; and

E. Amending paragraph (f) by removing the phrase "District Mining Supervisor or the Associate Director for Royalty Management" and replacing it with the phrase "authorized officer".

§ 3481.2 [Amended]

8. Section 3481.2, formerly 30 CFR 211.5, is amended by:

A. Amending paragraph (a) by removing the phrase "Minerals Manager, Deputy Minerals Manager for Mining, District Mining Supervisor and/or Associate Director for Royalty Management" and replacing it with the phrase "State Director and District Manager" and by removing the citation "30 CFR 211.6" and replacing it with the citation "§ 3481.3 of this title"; and

B. Amending paragraph (b) by removing from paragraph (b)(1) the citations "30 CFR 211.80" and "30 CFR 211.6" where they appear and by replacing them with the citation, "§ 3487.1 of this title" and § 3481.3 of this title", respectively, by removing in the four places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", by removing from paragraph (b)(2) the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer" and by removing from paragraph (b)(3) in the three places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer".

9. Section 3481.3(b), formerly 30 CFR 211.6(b), is amended by removing the citation "30 CFR 211.6(a)" and replacing it with the citation "§ 3481.3(a) of this title".

§ 3482.1 [Amended]

10. Section 3482.1, formerly 30 CFR 211.10, is amended by:

A. Amending paragraph (a) by removing from paragraph (a)(1) the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", by removing from paragraph (a)(2) the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", by removing from paragraph (a)(3)(iii) the citation "30 CFR 211.10(a)(viii)" and replacing it with the citation "§ 3482.1(a)(viii) of this title", by removing from paragraph (a)(3)(vii) the citation "30 CFR 211.40(a)" and replacing it with the citation "§ 3484.1(a) of this title" and by removing from paragraph (a)(3)(x) the phrase "District Mining Supervisor" and

replacing it with the phrase "authorized officer";

B. Amending paragraph (b) by removing in the three places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", by removing the citation "30 CFR 211.20(b)(1)" and replacing it with the citation "§ 3483.1(b)(1) of this title" and by removing the citation "30 CFR 211.80(e)(1)" and replacing it with the citation "§ 3487.1(e)(1) of this title"; and

C. Amending paragraph (c) by removing in the two places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", and by removing from paragraph (c)(7) the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer".

§ 3482.2 [Amended]

11. Section 3482.2, formerly 30 CFR 211.11, is amended by:

A. Amending paragraph (a) by removing from paragraph (a)(1) in the two places it appears the phrase "authorized officer" and replacing it with the phrase "responsible officer of the surface managing agency" and by removing from paragraph (a)(1) in the four places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", by removing from paragraph (a)(2) the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", by removing from paragraph (a)(3) in the two places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer" and by removing from paragraph (a)(3) the citation "30 CFR 211.24" and replacing it with the citation "§ 3483.5 of this title";

B. Amending paragraph (b) by removing from the title the phrase "*District Mining Supervisor*" and replacing it with the phrase "*Authorized Officer*", by removing from paragraph (b)(1) the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer" and by removing the phrase "authorized officer" and replacing it with the phrase "responsible officer of the surface managing agency", by removing from paragraph (b)(2) in the two places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer"; and

C. Amending paragraph (c) by removing from paragraph (c)(1) in the two places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer" and by removing the phrase "authorized officer" and replacing it with the phrase "responsible officer of the managing agency", and by removing from paragraph (c)(2) in the three places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer".

§ 3482.3 [Amended]

12. Section 3482.3, formerly 30 CFR 211.12, is amended by:

A. Amending paragraph (a) by removing in the four places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer" and by removing the citation "30 CFR 211.12(b), (c) and (d)" with the citation "§ 3482.3(b), (c) and (d) of this title";

B. Amending paragraph (b) by removing the citation "30 CFR 211.12(a)" and replacing it with the citation "§ 3482.3(a) of this title" and by removing the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer";

C. Amending paragraph (c) by removing the citation "30 CFR 211.12(a)" and replacing it with the citation "§ 3482.3(a) of this title";

D. Amending paragraph (d) by removing the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer";

E. Amending paragraph (e) by removing the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer";

F. Amending paragraph (f) by removing the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer"; and

G. Amending paragraph (g) by removing the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer".

§ 3483.1 [Amended]

13. Section 3483.1, formerly 30 CFR 211.20, is amended by:

A. Amending paragraph (a) by removing from paragraph (a)(1) the citation "30 CFR 211.20(b)" and replacing it with the citation "§ 3483.1(b) of this title" and by removing from paragraph (a)(2) the citation "30 CFR 211.22" and replacing it with the citation "§ 3483.3 of this title"; and

B. Amending paragraph (b) by removing from paragraph (b)(1) the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", by removing from paragraph (b)(1)(i) the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer" and by removing from paragraph (b)(1)(i)(C) the citation "30 CFR 211.24" and replacing it with the citation "§ 3483.5 of this title", and by removing from paragraph (b)(1)(ii) in the three places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer".

§ 3483.2 [Amended]

14. Section 3483.2(b), formerly 30 CFR 211.21, is amended by removing the citation "30 CFR 211.21(a)" and replacing it with the citation "§ 3483.2(a) of this title".

§ 3483.3 [Amended]

15. Section 3483.3, formerly 30 CFR 211.22, is amended by:

A. Amending paragraph (a) by removing in the two places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", by removing from paragraph (a)(1) the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer" and by removing from paragraph (a)(2) in the two places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer" and by removing the citation "30 CFR 211.23" and replacing it with the citation "§ 3481.0–6 of this title"; and

B. Amending paragraph (b) by removing in the two places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer" and by removing the citation "30 CFR 211.22(b)" and replacing it with the citation "§ 3483.3(b) of this title", by removing from paragraph (b)(1) in the two places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer" and by removing the citation "30 CFR 211.2(b)" and replacing it with the citation "§ 3483.3(b) of this title", by removing from paragraph (b)(2) the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer" and by removing the citation "30 CFR 211.22(b)" and replacing it with the citation "§ 3483.3(b) of this title", by removing from paragraph (b)(3) the citation "30 CFR 211.22(b)" and replacing it with the citation "§ 3483.3(b) of this title" and by removing from paragraph (b)(4) the citation "30 CFR 211.11(b)" and replacing it with the citation "§ 3483.3(b) of this title".

§ 3483.4 [Amended]

16. Section 3483.4, formerly 30 CFR 211.23, is amended by:

A. Amending paragraph (a) by removing the phrase "District Mining

Supervisor" and replacing it with the phrase "authorized officer";

B. Amending paragraph (b) by removing the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer" and by removing the citation "30 CFR 211.102" and replacing it with the citation "30 CFR 218.20";

C. Amending paragraph (c) by removing the citation "30 CFR 211.63" and replacing it with the citation "§ 3485.2 of this title", by removing from paragraph (c)(2) the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer" and by removing from paragraph (c)(3) in the two places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer";

D. Amending paragraph (f) by removing the citation "30 CFR 211.23(e)" and replacing it with the citation "§ 3483.4(e) of this title"; and

E. Amending paragraph (g) by removing the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", by removing the citation "30 CFR 211.102" and replacing it with the citation "30 CFR 218.200" and by removing the citation "30 CFR 211.21" and replacing it with the citation "§ 3483.2 of this title".

§ 3483.5 [Amended]

17. Section 3483.5, formerly 30 CFR 211.24, is amended by:

A. Amending paragraph (c) by removing the citation "30 CFR 211.20" and replacing it with the citation "§ 3483.1 of this title";

B. Amending paragraph (d) by removing the citation "30 CFR 211.20" and replacing it with the citation "§ 3483.1 of this title"; and

C. Amending paragraph (e) by removing the citation "30 CFR 211.20(b)(1)" and replacing it with the citation "§ 3483.1(b)(1) of this title" and by removing the citation "30 CFR 211.24(b)" and replacing it with the citation "§ 3483.5(b) of this title".

§ 3484.1 [Amended]

18. Section 3484.1, formerly 30 CFR 211.40, is amended by:

A. Amending paragraph (a) by removing from paragraph (a)(2) the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", by removing from paragraph (a)(3) in the two places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", by removing from paragraph (a)(4) in the three places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", by removing from paragraph (a)(4) the citation "30 CFR 211.6" and replacing it with the citation "§ 3481.3 of this title", and by removing from paragraph (a)(5) in the two places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer";

B. Amending paragraph (b) by removing from paragraph (b)(1) in the two places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", by removing from paragraph (b)(1) the phrase "30 CFR 211.10(c) and/or 30 CFR 211.80(c)" and replacing it with the phrase "§ 3482.1(c) and/or § 3487.1(c) of this title", by removing from paragraph (b)(2) the phrase "30 CFR 211.20 through 30 CFR 211.25" and replacing it with the phrase "§ 3483.1 through § 3483.6 of this title", by removing from paragraph (b)(3) in the two places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer"; and by removing from paragraph (b)(5) in the two places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer";

C. Amending paragraph (c) by removing from paragraph (c)(1) the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", by removing from paragraph (c)(2) the phrase "District Mining supervisor" and replacing it with the phrase "authorized officer", by removing from paragraph (c)(3) in the two places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", by removing from paragraph (c)(4)(i) in the two places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", by removing from paragraph (c)(4)(ii) the phrase "District Mining Supervisor", and replacing it with the phrase "authorized officer", by removing from paragraph (c)(5) the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", by removing from paragraph (c)(6)(i) in the four places it appears the phrase "District Mining Supervisor"and replacing it with the phrase "authorized officer", by removing from paragraph (c)(6)(ii) in the two places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", and by removing from paragraph (c)(7) the phrase "District Mining Supervisor"and replacing it with the phrase "authorized officer";

D. Amending paragraph (d) by removing from paragraph (d)(3) the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", by removing from paragraph (d)(5) the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", and by removing from paragraph (d)(6) the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer"; and

E. Amending paragraph (e)(1) by removing in the two places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer".

§ 3484.2 [Amended]

19. Section 3484.2(b), formerly 30 CFR 211.41(b), is amended by removing in the two places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", and by removing the phrase "authorized officer" and replacing it with the phrase "responsible office of the surface managing agency".

§ 3485.1 [Amended]

20. Section 3485.1, formerly 30 CFR 211.62, is amended by:

A. Amending paragraph (a) by removing in the two places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", and by removing the citation "30 CFR 211.62(b)" and replacing it with the citation "§ 3485.1(b) of this title";

B. Amending paragraph (b) by removing from paragraph (b)(4) the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", by removing from paragraph (b)(9) the citation "30 CFR 211.40(a)" and replacing it with the citation "§ 3484.1(a) of this title" and by removing from paragraph (b)(10) the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer";

C. Amending paragraph (c) by removing the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer";

D. Amending paragraph (d)(3) by removing the citation "30 CFR 211.80(h)(1)" and replacing it with the citation "§ 3487.1(h)(1) of this title";

E. Amending paragraph (e) by removing in the two places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", and by removing the phrase "authorized officer" and replacing it with the phrase "responsible

officer of the surface managing agency"; and

F. Amending paragraph (f) by removing the citation "30 CFR 211.6" and replacing it with the citation "§ 3487.1(h)(1) of this title".

§ 3485.2 [Amended]

21. Section 3485.2, formerly 30 CFR 211.63, is amended by:

A. Amending paragraph (a) by removing the citation "30 CFR 211.23" and replacing it with the citation "§ 3483.4 of this title";

B. Amending paragraph (c) by removing in paragraph (c)(1) in the three places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", by removing from paragraph (c)(2) the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", by removing from paragraph (c)(2)(ii) the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", by removing from paragraph (c)(3) the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", and by removing from paragraph (c)(4) the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer";

C. Amending paragraph (e) by removing the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer";

D. Amending paragraph (f) by removing the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer" and by removing the citation "30 CFR 211.63(h)" and replacing it with the the citation "§ 3485.2(h) of this title";

E. Amending paragraph (g) by removing the word "MMS" and replacing it with the word "BLM", by removing in paragraph (g)(2) the word "MMS" and replacing it with the word "BLM";

F. Amending paragraph (h) by removing in the two places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer"; and

G. Amending paragraph (j) by removing the word "MMS" and replacing it with the word "BLM".

§ 3485.3 [Amended]

22. Section 3485.3, formerly 30 CFR 211.66, is amended by:

A. Amending paragraph (b) by removing the phrase "The District Mining Supervisor and the Associate Director for Royalty Management" and replacing it with the phrase "The authorized officer"; and

B. Amending paragraph (d) by removing the phrase "District Mining Supervisor and the Associate Director for Royalty Management in accordance with current MMS" and replacing it with the phrase "authorized officer in accordance with current BLM".

§ 3486.1 [Amended]

23. Section 3486.1, formerly 30 CFR 211.70(b), is amended by:

A. Amending paragraph (a) by removing the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer"; and

B. Amending paragraph (b) by removing the phrase District Mining Supervisor or the Associate Director for Royalty Management" and replacing it with the phrase "authorized officer".

§ 3486.2 [Amended]

24. Section 3486.2(a), formerly 30 CFR 211.71(a), is amended by removing in the two places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer".

§ 3486.3 [Amended]

25. Section 3486.3, formerly 30 CFR 211.72, is amended by:

A. Amending paragraph (a) by removing in the six places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer";

B. Amending paragraph (b) by removing the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer";

C. Amending paragraph (c) by removing in the three places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer";

D. Amending paragraph (d) by removing in the three places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer"; and

E. Amending paragraph (e) by removing the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer".

26. Section 3486.4, formerly 30 CFR 211.73, is revised to read:

§ 3486.4 Appeals.

Decisions or orders issued by the BLM under Part 3480 of this title may be appealed pursuant to Part 4 of this title.

§ 3487.1 [Amended]

27. Section 3487.1, formerly 30 CFR 211.80, is amended by:

A. Amending paragraph (a) by removing the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer" and by removing in the two places it appears the citation "30 CFR 211.80(g)" and replacing it with the citation "§ 3487.1(g) of this title";

B. Amending paragraph (b) by removing in the two places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer" and by removing the citation "30 CFR 211.80(e)" and replacing it with the citation "§ 3487.1(e) of this title";

C. Amending paragraph (c) by removing in the two places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer" and by removing the citation "30 CFR 211.80(b)" and replacing it with the citation "§ 3487.1(b) of this title", by removing from paragraph (c)(4) in the two places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", by removing from paragraph (c)(5) the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer" and by removing from paragraph (c)(6) the citation "30 CFR 211.6" and replacing it with the citation "§ 3481.3 of this title."

D. Amending paragraph (d) by removing from paragraph (d)(1) in the two places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer" and by removing from paragraph (d)(2) the citation "30 CFR 211.5" and replacing it with the citation "§ 3481.2 of this title";

E. Amending paragraph (e) by removing the phrase "District Mining Supervisor"and replacing it with the phrase "authorized officer" and by removing the phrase "authorized officer" and replacing it with the phrase "responsible officer of the surface managing agency", by removing from paragraph (e)(1) the citation "30 CFR 211.10(c)" and replacing it with the citation "§ 3482.1(c) of this title", by removing from paragraph (e)(2) the citation "30 CFR 211.23" and replacing it with the citation "§ 3482.1(c) of this title", and by removing from paragraph (e)(7) the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer";

F. Amending paragraph (f) by removing the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", by removing from paragraph (f)(3) the phrase

"District Mining Supervisor" and replacing it with the phrase "authorized officer" and by removing from paragraph (f)(4) the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer";

G. Amending paragraph (g) by removing from paragraph (g)(1) in the three places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", by removing from paragraph (g)(1) the phrase "authorized officer" and replacing it with the phrase "responsible officer of the surface managing agency", by removing from paragraph (g)(1) the citation "30 CFR 211.11(a)(3)" and replacing it with the citation "§ 3482.2(a)(3) of this title", by removing from paragraph (g)(3) the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer" and by removing from paragraph (g)(4) the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer"; and

H. Amending paragraph (h) by removing from paragraph (h)(1) the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", by removing from paragraph (h)(2) the phrase "30 CFR 211.20 through 30 CFR 211.25" and replacing it with the phrase "§ 3483.1 through § 3483.6 of this title".

[FR Doc. 83-25331 Filed 9-15-83; 8:45 am]
BILLING CODE 4310-84-M

OFFICE OF PERSONNEL MANAGEMENT

45 CFR Part 801

Voting Rights Program; Appendix A; Mississippi

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This notice identifies the location of a new office for filing applications or complaints under the Voting Rights Act of 1965, as amended. The Attorney General has determined that this designation is necessary to enforce the guarantees of the Fourteenth and Fifteenth amendments to the Constitution.

EFFECTIVE DATE: September 16, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Michael D. Clogston, Coordinator, Voting Rights Program, Office of Personnel Management, Washington, D.C. 20415, 202-632-5691.

SUPPLEMENTARY INFORMATION: The Attorney General has designated Washington County, Mississippi, as an additional examination point coming under the provisions of the Voting Rights Act of 1965, as amended. He has determined that this designation is necessary to enforce the guarantees of the Fourteenth and Fifteenth amendments to the Constitution. Accordingly, pursuant to Section 6 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973d, the U.S. Office of Personnel Management will appoint Federal examiners to review the qualifications of applicants to be registered to vote and Federal observers to observe local elections.

Pursuant to Section 553(b)(3)(B) of title 5 of the United States Code, the Director finds that good cause exists for waiving the general notice of proposed rulemaking. The notice is being waived because of OPM's legal responsibilities under 42 U.S.C. 1973e(a) and other parts of the Voting Rights Act of 1965, as amended, which require OPM to publish counties certified by the U.S. Attorney General and locations within these counties where citizens can be Federally listed and become eligible to vote, and where Federal observers can be sent to observe local elections.

Pursuant to Section 553(d)(3) of title 5 of the United States Code, the Director finds that good cause exists to make this amendment effective in less than 30 days. The regulation is being made effective immediately to allow Federal examiners to immediately register voters and Federal observrs to observers elections under the authority of the Voting Rights Act 1965, as amended.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule as defined under Section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because its purpose is the addition of one new location to the list of counties in the regulation concerning OPM's responsibilities under the Voting Rights Act.

List of Subjects in 45 CFR Part 801

Administrative practice and procedure, Voting rights.

U.S. Office of Personnel Management.

Donald J. Devine,

Director.

Accordingly, the Office of Personnel Management amends 45 CFR Part 801, Appendix A, by adding in alphabetical order Washington County, Mississippi, to read as follows:

PART 801—[AMENDED]

Appendix A—Mississippi

County; Place for filing; Beginning date

* * * * *

Washington; Greenville—Room 204A Federal Building, Main Street and Poplar Street; August 8, 1983.

* * * * *

(5 U.S.C. 1103; Sec. 7, 9, 79 Stat. 440, 441 (42 U.S.C. 1973c, 1973g))

[FR Doc. 83-25340 Filed 9-15-83; 8:45 am]
BILLING CODE 6325-01-M

Proposed Rules

Federal Register
Vol. 48, No. 181
Friday, September 16, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

7 CFR Part 800

Regulation Review; Administration

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: In compliance with the requirements for the periodic review of existing regulations, the Federal Grain Inspection Service (FGIS or Service) has reviewed its regulations on Administration. FGIS proposes to amend its regulation on (1) Administration by revising the section to clarify and condense the provision and to reference the Administrator's delegated responsibilities under the Agricultural Marketing Act of 1946; (2) Information about the Service, Act, and regulations by deleting the term "regional office" and other minor superfluous wording and by substituting the term "agency" for "official agency;" (3) Public information by deleting all references to the Administrative Staff and replacing them with references to the Administrator and FGIS.

DATE: Comments must be submitted on or before November 15, 1983.

ADDRESS: Comments must be submitted in writing, in duplicate, to Lewis Lebakken, Jr., Regulations and Directives Management, USDA, FGIS, Room 0667 South Building, 14th Street and Independence Avenue, SW., Washington D.C. 20250, telephone (202) 382–1738. All comments received will be made available for public inspection at the above address during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., (address above), telephone (202) 382–1738.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This proposed rule has been issued in conformance with Executive Order 12291 and Secretary's Memorandum 1512–1. The action has been classified as nonmajor, because it does not meet the criteria for a major regulation established in the Order.

Regulatory Flexibility Act Certification

Kenneth A. Gilles, Administrator, FGIS, has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.)* because most users of the inspection and weighing services do not meet the requirements for small entities, and this action poses no new or additional duties or obligations to business entities involved in the loading, weighing, handling, or sampling of grain.

Review of Regulations

The review of the regulations on Administration (7 CFR 800.2–800.19) included a determination of the continued need for and consquences of the regulations. An objective was to assure that the language of the regulations is clear and that the regulations are consistent with FGIS policy. FGIS has determined that these regulations in general are serving their intended purpose; are consistent with FGIS policy; and should remain in effect. FGIS proposes, however, to amend:

1. Section 800.2 by revising the section to clarify and condense the provision and to reference the Administrator's delegated responsibilities under the Agricultural Marketing Act of 1946.

2. Section 800.7 by deleting the term "regional office" and other minor superfluous wording for grammatical reasons by substituting the term "agency" for "official agency." FGIS proposes to delete the term "regional office" because pursuant to a recent reorgainization, FGIS no longer has regional offices. It further proposes to substitute the term "agency" for "official agency" to clarify that the regulation is applicable to delegated States as well as designated agencies. It was originally intended that delegated States would be subject to this provision. Strictly interpreted, the definition for official agency in § 800.0(b)(48) excluded delegated States. Agency is defined in § 800.0(b)(3) as a delegated State or a designated agency, as appropriate.

3. Section 800.8 by deleting all references to the Administrative Staff and replacing them with references to the Administrator or FGIS. FGIS proposes this action because pursuant to a recent reorganization, FGIS no longer has an Administrative Staff.

No changes to § 800.3, 800.4, and 800.6 are proposed.

List of Subjects in 7 CFR Part 800

Administrative practice and procedure, Export, and Grain.

Accordingly, it is proposed that regulations, on Administration be amended as follows:

PART 800—[AMENDED]

1. Section 800.2 be revised to read as follows:

§ 800.2 Administrator.

The Administrator is responsible for the administration of the Act, and, pursuant to Section 3A of the Act, the delegated responsibilities under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 *et seq.*). The Administrator is responsible for the establishment of policies, guidelines, and regulations by which the Service is to carry out the provisions of the Act and the Agricultural Marketing Act of 1946. The regulations promulgated under the Agricultural Marketing Act of 1946 appear at Part 68 of this title (7 CFR Part 68). The Administrator is authorized to take any action required by law or considered by him to be necessary and proper to the discharge of the functions and services under the Act and the Agricultural Marketing Act of 1946. The Administrator may delegate his authority to the Deputy Administrators, Division Directors, and other appropriate officers and employees. The Administrator may, in emergencies or other circumstances which would not impair the objectives of the Act, suspend for a period determined by the Administrator any provision of the regulations or official grain standards. The Administrator may authorize research; experimentation; and the testing of new procedures, equipment, and handling techniques to improve the inspection and weighing of grain. The Administrator may waive the official inspection and official weighing

requirements pursuant to Section 5 of the Act.

2. Section 800.7 be revised to read as follows:

§ 800.7 Information about the Service, Act, and regulations.

Information about the Service, Act regulations, official standards, official criteria, rules of practice, instructions, and other matters related to the official inspection or Class X or Class Y weighing of grain may be obtained by telephoning or writing the U.S. Department of Agriculture, Federal Grain Inspection Service, at 14th Street and Independence Avenue, SW., Washington, D.C. 20250, or any field office or agency.

3. Section 800.8 be revised to read as follows:

§ 800.8 Public information.

(a) *General.* This section is issued in accordance with §§ 1.1–1.16 of the regulations of the Secretary of Agriculture in Part 1, Subpart A, of Subtitle A of Title 7 (7 CFR 1.1–1.16), and Appendix A thereto, implementing the Freedom of Information Act (5 U.S.C. 552). The Secretary's regulations, as implemented by this section, govern the availability of records of the Service to the public.

(b) *Public inspection and copying.* Materials maintained by the Service, including those described in 7 CFR 1.2(a), will be made available, upon a request which has not been denied, for public inspection and copying at the U.S. Department of Agriculture, Federal Grain Inspection Service, at 14th Street and Independence Avenue, SW., Washington, D.C. 20250. The public may request access to these materials during regular working hours, 8:00 a.m.-4:30 p.m. Monday through Friday except for holidays.

(c) *Indexes.* FGIS shall maintain an index of all material required to be made available in 7 CFR 1.2(a). Copies of these indexes will be maintained at the location given in paragraph (b) of this section. Notice is hereby given that quarterly publication of these indexes is unnecessary and impracticable, because the material is voluminous and does not change often enough to justify the expense of quarterly publication. However, upon specific request, copies of any index will be provided at a cost not to exceed the direct cost of duplication.

(d) *Requests for records.* Requests for records under 5 U.S.C. 552(a)(3) shall be made in accordance with 7 CFR 1.3(a) and shall be addressed as follows: Office of the Administrator, Federal Grain Inspection Service, FOIA Request, U.S. Department of Agriculture, 14th Street and Independence Avenue, SW., Washington, D.C. 20250.

(e) *Appeals.* Any person whose request, under paragraph (d) of this section, is denied shall have the right to appeal such denial in accordance with 7 CFR 1.3(e). Appeals shall be addressed to the Administrator, Federal Grain Inspection Service, FOIA Appeal, U.S. Department of Agriculture, Washington, D.C. 20250.

(Secs. 5, 18, Pub. L. 94–582, 90 Stat. 2869, 2884; (7 U.S.C. 76, 87e))

Dated: August 26, 1983.

Kenneth A. Gilles,

Administrator.

[FR Doc. 83-25311 Filed 9-15-83; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

[Docket No. 83-009]

9 CFR Part 166

Swine Health Protection

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the "Swine Health Protection Provisions" regulations to allow garbage consisting of bakery waste, candy waste, certain poultry, eggs, domestic dairy products (including milk), or certain fish to be fed to swine without prior treatment. This document also proposes to exempt from the licensing requirements any person operating or desiring to operate a facility to treat garbage to be fed to swine who would otherwise be required to obtain a license to treat garbage only because it contains any of the items specified above. This appears to be warranted in order to delete unnecessary restrictions.

DATE: Comments must be received on or before October 17, 1983.

ADDRESS: Written comments concerning this proposal should be submitted to T.O. Gessel, Director, Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal Building, Hyattsville, MD 20782. Written comments received may be inspected at Room 728 of the Federal Building, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. L. W. Schnurrenberger, Chief Staff Veterinarian, Swine Diseases, Special Diseases Staff, VS, APHIS, USDA, Room 822, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8438.

SUPPLEMENTARY INFORMATION:

Background

The Swine Health Protection Act (referred to below as the Act and set forth in 7 U.S.C. 3801 *et seq.*) contains provisions designed to regulate certain activities relating to the feeding of garbage to swine. The "Swine Health Protection Provisions" regulations (referred to below as the regulations and set forth in 9 CFR Part 166) were established pursuant to the Act. The regulations became effective January 1, 1983 (47 FR 49940–49948); were amended January 1, 1983 (47 FR 49940–49948); were amended January 1, 1983 (47 FR 58217–58218); were corrected on February 10, 1983 (48 FR 6089–6090); and were amended on May 18, 1983 (48 FR 22288–22290). This document proposes to further amend the regulations to allow certain garbage to be fed to swine without prior treatment and to exempt persons operating or desiring to operate certain facilities from licensing requirements.

The Act and the regulations were designed to prevent the introduction or spread of certain exotic animal diseases which are a risk to the swine industry, such as African swine fever, hog cholera, and vesicular diseases of swine (foot-and-mouth disease, vesicular exanthema of swine, and swine vesicular disease).

Section 4 of the Act (7 U.S.C. 3803) provides that:

> (a) No person shall feed or permit the feeding of gargabe to swine except in accordance with subsection (b) of this section.
>
> (b) Garbage may be fed to swine only if treated to kill disease organisms, in accordance with regulations issued by the Secretary, at a facility holding a valid permit issued by the Secretary, [the regulations use the term "license" in lieu of the term "permit"] or the chief agricultural or animal health official of the State where located if such State has entered into an agreement with the Secretary pursuant to section 9 or has primary enforcement responsibility pursuant to section 10 of this Act. No person shall operate a facility for the treatment of garbage knowing it is to be fed to swine unless such person holds a valid permit issued pursuant to this Act. The Secretary may exempt any facility or premises from the requirements of this section whenever the Secretary determines that there would not be a risk to the swine industry in the United States.

Section 3 of the Act (7 U.S.C. 3802) provides, among other things, that:

> The term garbage means all waste material derived in whole or in part from the meat of

any animal (including fish and poultry) or other animal material, and other refuse of any character whatsoever that has been associated with any such material, resulting from the handling, preparation, cooking, or consumption of food, except that such term shall not include waste from ordinary household operations which is fed directly to swine on the same premises where such household is located * * * .

This document proposes to amend the regulations to allow garbage consisting of one or more of the following to be fed to swine without treatment: (1) Bakery waste; (2) candy waste; (3) poultry fed to swine at the same location where the poultry has been raised if the poultry has been raised in confinement so as to prevent scavenging and not fed garbage other than that allowed to be fed to swine under the regulations; (4) eggs; (5) domestic dairy products (including milk); (6) fish from the Atlantic Ocean within 200 miles of the Continental United States or Canada; and (7) fish from inland waters of the United States or Canada which do not flow into the Pacific Ocean. This document also proposes to exempt from the license requirements any persons operating or desiring to operate a facility which treats garbage to be fed to swine who would otherwise be required to obtain a license to treat garbage only because it contains any of the items listed above. It appears that this action is warranted in accordance with the provisions of section 4 of the Act since it appears that these items, when fed to swine without any prior treatment, would not be a risk to the swine industry in the United States.

Bakery and Candy Waste

Bakery waste or candy waste may or may not contain animal products such as butter, eggs, milk, or lard. Such waste containing animal products is "garbage" and is presently subject to provisions of the Act and regulations.

It appears that garbage consisting of bakery and candy waste would not be a risk to the swine industry in the United States. Any animal products used as ingredients would most likely be from domestic animals and would not be affected with or exposed to any disease which would be a risk to the swine population of the United States. In addition, if bakery or candy goods are made with ingredients containing animal products from foreign countries, it appears that the bakery or candy waste would also not be a risk to the swine industry in the United States. That is because the bakery or candy waste would either have been cooked, which would usually destroy any disease organisms, or the basic ingredients would have been stored or treated in such a manner that disease organisms would have been destroyed. For example, disease organisms that might otherwise occur in lard would be destroyed by rendering. Disease organisms that might otherwise occur in other products, such as casein, would be destroyed by treatment or storage. Further, if some disease organisms were present in the final bakery or candy product, it appears that they would be present in too small a quantity to cause disease in swine.

Poultry

Poultry under certain conditions would not be a risk to the swine industry in the United States.

Poultry could be a risk to the swine industry if it contains animal products with organisms of diseases such as African swine fever, hog cholera, or swine vesicular disease. The disease organisms could remain in the digestive tract of poultry and be transmitted to swine. Similarly, poultry, if allowed to scavenge for food, could possibly find and ingest products with such disease organisms. However, poultry could not ingest such disease organisms if not fed garbage, other than treated garbage, rendered products, or the types of garbage proposed in this document to be allowed to be fed to swine without prior treatment, and if raised in confinement so as to prevent scavenging. It therefore appears that poultry would not be a risk to the swine industry, if the poultry had been raised in confinement, and not fed garbage other than rendered products or the types of garbage referred to above.

It also appears that it is necessary to require that the poultry be fed to swine only at the location where the poultry had been raised. Otherwise, it would be virtually impossible for the person feeding the poultry to swine to be sure what the poultry had eaten.

Poultry meeting all of the conditions referred to above could still cause diseases, but these diseases would not be a risk to the swine industry. For example, the poultry could transmit both *salmonella* and *Mycobacteria* to swine. If introduced in sufficient quantities into a susceptible herd, *Salmonella* may cause Salmonellosis, and *Mycobacteria* may cause Mycobacteriosis (avian turberculosis). However, such occurrences are exceptional and when they do occur they are normally confined to that particular herd and do not affect the industry as a whole. Certainly an epidemic or industry-wide outbreak of Salmonellosis or Mycobacteriosis could not occur.

Eggs

It also appears that, although some diseases may be passed to swine from untreated eggs, such eggs would not be a risk to the swine industry in the United States. The types of diseases that could be transmitted to swine from untreated eggs could not cause an epidemic or industry-wide outbreak. For example, *Salmonella* could be transmitted from eggs to swine. However, as explained above, *Salmonella* does not pose a threat to the swine industry.

Dairy Products (including Milk)

It appears that dairy products (including milk) of domestic origin would not be a risk to the swine industry of the United States. It appears that these domestic products either do not carry diseases which can be transmitted to swine, or that the diseases which they can transmit to swine do not pose a threat to the swine industry.

Consideration was also given concerning whether to allow any dairy products (including milk) of foreign origin to be fed to swine without treatment if from countries not infected by diseases which would be a risk to the swine industry. It appears that this should not be allowed. Outbreaks of diseases which could be carried by these products and which would be a risk to the swine industry could occur at any time. It is not feasible to expect persons feeding swine or permitting the feeding of swine to be aware in each instance of all of the developments in the country of origin regarding outbreaks of diseases which would pose a risk to the swine industry in the United States.

Fish

It appears that fish from the Atlantic Ocean within 200 miles of the Continental United States or Canada, and fish from inland waters of the United States and Canada which do not flow into the Pacific Ocean, would not be a risk to the swine industry in the United States. It appears that these fish do not carry diseases which would be a risk to the swine industry. However, fish from the Pacific Ocean or inland waters of the United States or Canada which flow into the Pacific Ocean could be a risk to the swine industry because of the San Miguel sea lion virus. This virus can cause a disease in swine which is indistinguishable from vesicular exanthema of swine. The San Miguel sea lion virus has been found to occur in the Pacific Ocean and could be carried into inland waters by migrating fish such as Steelhead Trout and salmon.

Also, fish from other areas in the world would pose a threat to the swine industry of the United States. In many parts of the world swine offal is fed to fish. In addition, water run-off from the land carries soil and debris into the ocean along the coast. This means that fish, feeding along the coast or near to ocean dumping grounds, could ingest material carrying organisms of diseases such as hog cholera, African swine fever, or vesicular diseases of swine. These fish, if fed to swine in the United States, could transmit such diseases to the swine.

Miscellaneous

It should also be noted that the swine industry has extensive experience with feeding swine those products which are proposed to be allowed to be fed to swine without prior treatment. This experience further indicates that these untreated products do not cause diseases which would be a risk to the swine industry in the United States.

Executive Order 12291 and Regulatory Flexibility Act

This action has been reviewed in conformance with Executive Order 12291 and Secretary's Memorandum 1512–1 and has been determined to be not a "major rule." The Department has determined that this action would not have an annual effect on the economy of $100 million or more; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and would not have any significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Swine producers who feed garbage to swine would be affected by this regulation. However, only approximately 1.4 percent of the United States swine population is fed garbage, and only a portion of that garbage consists of the items affected by this document. This section would also impact those persons who would be exempted from obtaining licenses to treat garbage to be fed to swine. If the proposal is adopted, these persons will not be required to obtain licenses under the regulations.

Under the circumstances explained above, Bert W. Hawkins, Administrator of the Animal and Plant Health Inspection Service, has determined that this action would not have a significant economic impact of a substantial number of small enities.

Alternatives

Consideration was given concerning whether (1) to propose to allow the specified garbage to be fed to swine without prior treatment and to exempt persons operating or desiring to operate specified facilities from the licensing requirements or (2) not to make such proposals. Alternative (1) is proposed since it appears that this would relieve restrictions without causing a risk to the swine industry in the United States.

Comments

It is the policy of the Department to provide a 60 day comment period for proposed rules unless a shorter period is warranted. This document provides for a shortened comment period of 30 days. A longer comment period is unwarranted. It appears that there is no need for imposing restrictions that would otherwise be imposed on persons feeding or permitting the feeding of specified garbage to swine and that there is no need to require persons operating or desiring to operate certain facilities to obtain a license to treat garbage. Also, it appears that prompt action should be taken to delete the unnecessary restrictions.

List of Subjects in 9 CFR Part 166

Animal diseases, Hogs, African swine fever, Foot-and-mouth disease, Garbage, Hog cholera, Swine vesicular disease, Vesicular exanthema of swine.

PART 166—SWINE HEALTH PROTECTION PROVISIONS

Accordingly, it is proposed to amend 9 CFR part 166 as follows:

1. Paragraph (a) of § 166.2 would be revised to read:

§ 166.2 General restrictions.

(a) No person shall feed or permit the feeding of garbage to swine unless the garbage is treated to kill disease organisms, pursuant to the regulations, at a facility operated by a person holding a valid license for the treatment of garbage; except that the treatment and license requirements shall not apply to the feeding or the permitting of the feeding to swine of garbage only because the garbage consists of any of the following: rendered products; bakery waste; candy waste; poultry fed to swine at the same location where the poultry has been raised, if the poultry has been raised in confinement so as to prevent scavenging and not fed garbage other than that allowed to be fed to swine under this paragraph; eggs; domestic dairy products (including milk); fish from the Atlantic Ocean within 200 miles of the Continental United States or Canada; or fish from inland waters of the United States or Canada which do not flow into the Pacific Ocean.

* * * * * *

2. The last sentence of paragraph (a) of § 166.10 would be amended to read:

§ 166.10 Licensing.

(a) * * * Any person operating or desiring to operate a facility to treat garbage to be fed to swine who would otherwise be required under this part to obtain a license to treat garbage only because it contains one or more of the items allowed to be fed to swine under § 166.2(a) is exempted from the requirements of this paragraph.

* * * * * *

Authority Sec. 511, Pub. L. 95–592, 94 Stat. 3451 (7 U.S.C. 3802); secs. 4, 5, 9, 12, Pub. L. 96–468, 94 Stat. 2230–2233 (7 U.S.C. 3803, 3804, 3408, 3811); 7 CFR 2.17, 2.51, and 371.2(d).

Done at Washington, D.C., this 12th day of September, 1983.

K. R. Hook,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 83-25385 Filed 9-15-83; 8:45 am]

BILLING CODE 3410-34-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Organization and Operations of Federal Credit Unions; Request for Comments on Rules Governing Supervisory Committee Audits of Federal Credit Unions

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comments.

SUMMARY: The National Credit Union Administration is soliciting comments on whether, and to what extent, it should modify its requirements governing Supervisory Committee Audits of Federal Credit Unions. Section 115 of the Federal Credit Union Act requires the supervisory committee to make, or cause to be made, an annual audit of the credit union's books and records. Section 701.12 of the NCUA Rules and Regulations requires that such audits be made in accordance with the Supervisory Committee Manual for Federal Credit Unions (NCUA 8023).

DATE: Comments must be received on or before December 15, 1983.

ADDRESS: Send comments to Rosemary Brady, Secretary, National Credit Union Administration Board, 1776 G Street NW., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Mike Fischer, Director, Division of Supervision, Department of Supervision and Examination, telephone (202) 357–1065.

SUPPLEMENTARY INFORMATION:

Background

Section 701.12 of the NCUA Rules and Regulations (Supervisory Committee Audits of Federal Credit Unions) is being reviewed as part of the Agency's continuing program in reviewing regulations. This rule requires that the Supervisory committee make or cause to be made an annual audit in accordance with the Supervisory Committee Manual for Federal Credit Unions (NCUA 8023).

The Supervisory Committee Manual is a comprehensive technical manual. It contains a complete set of standard workpapers, confirmation letters, illustrated documents with appropriate instructions and audit and account verification procedures. The manual was last revised in March 1976. There has been a significant change in credit union operations since that time and these changes in operations are not currently addressed in the manual.

Request for Comments

The NCUA Board requests public comments concerning the course it should follow with respect to § 701.12 of the NCUA Rules and Regulations. Specifically, the NCUA Board is interested in comments on the following issues:

1. Should the Agency prescribe the minimum requirements for an acceptable audit, if so should it be by regulation or through guidelines?
2. Should the Agency revise and reissue the Supervisory Committee Manual or rely upon the accounting industry to develop and distribute the audit guidelines and standards?
3. If the Supervisory Committee Manual is revised and reissued:

—Should it be as a guideline or as a requirement?

—Should it be directed toward people without auditing backgrounds?

—What areas of credit union operations should be included in the guidelines?

4. Should the Agency set different audit requirements for different types or sizes of credit unions?
5. How can the Agency best incorporate the results of the audit function into its supervisory role?
6. Can volunteers continue to perform audits of credit unions as their operations become more complex?

The foregoing questions are provided as a starting point only and are not considered all inclusive. The NCUA Board is interested in receiving comments and recommendations on these questions and any other issues related to auditing in credit unions.

List of Subjects in 12 CFR Part 701

Civil rights, Credit, Credit unions, Fair housing, Mortgages, Reporting and recordkeeping requirements, Signs and symbols.

By the National Credit Union Administration Board on the 7th day of September 1983.

Rosemary Brady,

Secretary of the NCUA Board.

[FR Doc. 83-25155 Filed 9-15-83; 8:45 am]

BILLING CODE 7535-01-M

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12 CFR Part 704

Corporate Central Federal Credit Unions; Request for Comments on Rules Governing Corporate Federal Credit Unions

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comments.

SUMMARY: The National Credit Union Administration is soliciting comments on whether, and to what extent, it should modify its rules governing Corporate Central Federal Credit Unions. Changes to the Federal Credit Union Act (per the Garn-St Germain Act) now permit the NCUA Board to differentiate the functions of corporate central credit unions from natural person credit unions through rules and orders of the Board.

DATES: Comments must be recevied on or before December 15, 1983.

ADDRESS: Send comments to Rosemary Brady, Secretary, National Credit Union Administration Board, 1776 G Street NW., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Mike Fischer, Director, Division of Supervision, Department of Supervision and Examination, telephone (202) 357–1065.

SUPPLEMENTARY INFORMATION:

Background

Part 704 of NCUA's Rules and Regulations, Corporate Central Federal Credit Unions, is being reviewed as part of the Agency's continuing program of review of regulations and as a result of provisions in the Garn-St Germain Act which permit the NCUA Board to differentiate the functions of corporate central credit unions from natural person credit unions through the issuance of rules or orders of the Board. Part 704 was promulgated in 1977 to define the terms "Corporate Central Federal Credit Union" and "Risk Assets" and to establish a special reserve account for Corporate Central Federal Credit Unions. The regulation was subsequently revised, effective November 10, 1979, to provide additional requirements pertaining to the operations of Corporate Central Federal Credit Unions. Specifically, sections were added covering "Management," "Annual Audit," and "Daily Balance Share Accounts." The latter revision was further clarified by Interpretive Ruling and Policy Statement IRPS 80–3, dated March 7, 1980.

Existing Regulation

Sec.

704.0 Scope.
704.1 Definitions.
704.2 Corporate Central Reserve.
704.3 Management.
704.4 Annual Audit.
704.5 Daily Balance Share Account.

Request for Comments

The NCUA Board requests public comment concerning the course it should follow with respect to Part 704. That is, public comment is specifically requested on whether the NCUA Board should remove or modify any or all of the regulatory provisions of Part 704 that govern the operations of Corporate Central Federal Credit Unions.

In an effort to provide some initial guidance to this process, staff at NCUA have identified several key issues concerning the regulation.

1. Representation on the Board and the Committees

The purpose of a Corporate Central Federal Union, as defined in its bylaws is "to foster and promote the economic well-being, growth and development of its members * * *" These "members" to be served are primarily other credit unions. However, for a variety of reasons, two other types of members have been included in the field of membership of most Corporate Central Federal Credit Unions. There are usually a few natural person members and a few associations other than credit unions, e.g., trade organizations, service corporation, etc. Each member, whether natural person, credit union, or other organization, has one vote regardless of the number of shares held. Part 704.3 and IRPS 80–3 presently prohibit nonnatural-person members other than credit unions from appointing a representative to stand for election as an official of the corporate central. (Other nonnatural-person members may,

however, designate an agent to vote at membership meetings.)

Accordingly, the degree to which natural persons and other organizations should be permitted to participate in the management of the corporate central is an issue. Since many of the management policy decisions would apply only to member credit unions and not to the natural perons or to other organization segments of the membership, is there a need to limit the participation of other segments of the membership? If so, to what extent (e.g., one position per Board or committee)?

2. New Programs and Services

The Garn-St Germain Act provided the NCUA Board with the authority to differentiate the functions of corporate credit unions from natural person credit unions by regulation or order. NCUA believes that it is in the best interest of credit unions that corporate be permitted to develop new programs and services. In order to accomplish this, Part 704 could be expanded to specify additional authorized programs and services or the NCUA Board could authorize new programs on a case-by-case basis. Accordingly, NCUA is requesting comments on how to best implement this new authority.

3. Reserves and Equity Capital

Section 704.2 establishes a special Corporate Central Reserve. Corporate Central Federal Credit Unions are required to transfer 2 per centum of gross income to this reserve until it is equal to 1½ per centum of total assets. This reserve is in addition to the Regular Reserve but, because of the exclusion of loans to credit unions and certain investments from the definition of risk assets, most Corporate Central Federal Credit Unions have a very minimal or non-existent Regular Reserve requirement. The Corporate Central Reserve is, therefore, the primary reserve for these credit unions.

The National Credit Union System Capitalization Commission has concluded that equity capital needs to be increased in credit unions. Some methods of achieving an increase in equity capital are: to redefine risk assets to include all assets, thereby increasing Regular Reserve requirements; to increase the transfer rate to the Corporate Central Reserve; and to establish some type of "a risk" equity investment by members of corporate credit unions. The NCUA Board, therefore request comments on the issue of equity capital formation and/or accumulation in corporate credit unions.

4. Independent Audit

Section 704.4 requires that audits of Corporate Central Federal Credit Unions be performed by independent, duly-licensed auditors and that reports of such audits be submitted to NCUA. The NCUA Board requests comments on whether this requirment should be continued, modified, or eliminated.

5. Management Organization and Policies

Section 704.3, Management, contains several provisions which may be in need of modification. Subsection (a) (1), (2), (3) and (b) presently restate provisions of the Act regarding Federal credit union management organization. Subsecton (c) and (d) require the establishment of written management policies and the institution of a budgetary process. Since the establish of written policies addressing efficient operations, budgeting, etc., is a matter of sound business practice, comments are invited on the need for regulating this area.

6. Daily Balance Shares Accounts

Finally, § 704.5 of the regulation contains provisions permitting the establishment of a daily balance share account. This section of the existing regulation relates to Part 701.35 of the rules and regulations. Since Part 701.35 has been deregulated to premit various types of accounts and dividend policies, there is no longer a need for Part 704.5 and it will be deleted.

The NCUA Board does not consider the questions and issues listed above as being all inclusive and will consider other recommendations concerning the operation of the corporate credit unions.

Procedures for Regulatory Development

If the request for comments results in any changes in the regulation, the final rule would not have a significant economic impact on a substantial number of small credit unions. As a result of their mission of serving other credit unions, Corporate Federal Credit Unions are among the largest credit unions in assets. As of year-end 1982, there were no operating Corporate Federal Credit Unions having assets of less than $1 million. Therefore, a Regulatory Flexibility Analysis is not required.

List of Subjects in 12 CFR Part 704

Credit unions.

By the National Credit Union Administration Board on the 7th day of September 1983.

Rosemary Brady,

Secretary of the NCUA Board.

[FR Doc. 83-25156 Filed 9-15-83; 8:45 am]

BILLING CODE 7535-01-M

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12 CFR Parts 706 and 707

Conversions; Request for Comments on Rules Governing Conversions of Credit Union Charters

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comments.

SUMMARY: The purpose of this action is to solicit comments on the proposal to delete from the National Credit Union Administration Rules and Regulations the entire Part 706, Conversion from Federal to State Credit Unions, and the entire Part 707, Conversion from State to Federal Credit Unions. This action (deletion) would not alter the authority to, nor materially affect the requirements and procedures to, convert from one charter to another. Section 125 of the Federal Credit Union Act specifically provides for conversion of charter and delineates the requirements to convert. Accordingly, Parts 706 and 707 of the rules and regulations are considered repetitious, redundant and unnecessary.

DATE: Comments must be received on or before November 15, 1983.

ADDRESS: Send comments to Rosemary Brady, secretary, National Credit Union Administration, 1776 G Street NW., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Gordon Sickler, Division of Examination, Department of Supervision and Examination, telephone number (202) 357-1065.

SUPPLEMENTARY INFORMATION: On April 25, 1983, NCUA published in the Federal Register, after approval by the NCUA Board, the schedule for a periodic review of NCUA regulations. One purpose of the periodic review is to delete obsolete and/or redundant and unnecessary regulations. The review of parts 706 and 707 disclosed some obsolete sections, due to amendment of the Federal Credit Union Act, and several sections which are repetitious of provisions in the Act.

Section 125 of the Federal Credit Union Act is specific on the authority of credit unions to convert from federal to state charter and from state to federal charter. This section of the act also delineates the procedures and requirements for such conversions. Additionally, NCUA publishes a pamphlet entitled "Credit Union

Conversion Procedures and Conversion Forms" (NCUA 4411) which contains detailed step-by-step procedures and sample forms to assist officials of those credit unions which wish to convert. This pamphlet is furnished at no cost to credit unions considering conversion and is a guideline to assist the officials to meet the conversion requirements of the act.

While Parts 706 and 707 of the rules and regulations could have applicability to all credit unions, in practice the applicability has been very limited. During the 10-year period from 1973 through 1982, a total of 128 credit unions converted from federal to state charter (Part 706), and 75 credit unions converted from state to federal charter (Part 707).

During the review of Parts 706 and 707, a section-by-section synopsis was prepared. The review synopsis includes comments as to why each section is considered obsolete and/or unnecessary. The review synopses are available to interested parties upon request. Requests for the review comments pertaining to either Part 706 or 707 or for both Parts may be made by writing the National Credit Union Administration, 1776 G Street, NW., Washington, D.C. 20456 or by phoning the Public Information Office of (202) 357–1050. Requests received prior to November 16, 1983, will be filled.

List of Subjects in 12 CFR Parts 706 and 707

Credit, Reporting and recordkeeping requirements.

Accordingly, the NCUA Board requests comments on the proposal to remove Parts 706 and 707 from the NCUA Rules and Regulations.

Rosemary Brady,

Secretary of the NCUA Board.

[FR Doc. 83–25157 Filed 9–15–83; 8:45 am]

BILLING CODE 7535-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 211, 700, and 800

[Docket Nos. 82N–0330 and 82N–0332]

Tamper-Resistant Packaging Requirements; Proposed Stay of Retail Level Effective Date and Request for Comments, Data, and Information

AGENCY: Food and Drug Administration.

ACTION: Proposed rule; proposed stay of retail level effective date.

SUMMARY: The Food and Drug Administration (FDA) is proposing to stay one of the effective dates of its regulations concerning the tamper-resistant packaging requirements for certain over-the-counter (OTC) human drugs, cosmetics, and contact lens solutions and tablets. The subject of the proposed stay is the retail level effective date and products subject to it, i.e., those shipped prior to the initial effective dates (discussed further in the Supplementary Information). Under current provisions, all products subject to the tamper-resistant packaging and labeling regulations held for sale are required to be in tamper-resistant packages on February 6, 1984. The agency is proposing this action because it has not completed and evaluated an ongoing survey of the marketplace, nor has it completed a review of other relevant information, to determine the need for implementing a retail level effective date.

DATE: Comments by September 16, 1983.

ADDRESS: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Paul O. Fehnel, Jr., National Center for Drugs and Biologics (HFN–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–8490.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of November 5, 1982 (47 FR 50442), FDA published final regulations setting forth tamper-resistant packaging and labeling requirements for certain OTC human drug products (21 CFR 211.132) and certain cosmetic products (21 CFR 700.250). In the same issue of the **Federal Register** (47 FR 50452), the agency also published tamper-resistant packaging and labeling requirements for contact lens solutions and tablets (21 CFR 800.12). Amendments to those regulations were published in the **Federal Register** of April 19, 1983, (48 FR 16658, 16665) and August 19, 1983 (48 FR 37624). The purposes of the regulations was to assure package integrity and product security in light of cases of malicious adulteration of OTC drug products that resulted in seven deaths in the Chicago area.

The tamper-resistant packaging and labeling regulations included three effective dates for the new requirements. For the products that were most vulnerable to tampering, such as hard gelatin capsules and liquids, the regulations required that a tamper-resistant package be used by Feburary 7, 1983. All other products subject to the tamper-resistant regulations were required to be packaged in a tamper-resistant package by May 5, 1983. In addition, the May 5, 1983 date also was the effective date for the labeling requirements of the tamper-resistant regulations for all covered products.

A third effective date was also established requiring that all stocks held for sale (including stocks in retail stores) be in tamper-resistant packages after February 6, 1984. This date was identified as the "retail level effective date", because it would apply to products held in retail stores that were shipped prior to the other effective dates. This date was set in an attempt to assure that at some specified future date all products covered by the rule would be in tamper-resistant packaging.

In the preamble to the November 5, 1982 final rule, the agency stated that it recognized that it may prove difficult to meet this effective date. The preamble stated that in implementing such a date the agency would consider any adverse impact on the availability of some products in the marketplace and consequential disruption in health care. Another factor to be considered is the quantity of noncomplying products remaining on the market by that date. If the quantity is negligible, a retail level effective date would be unnecessary.

The preamble to the November 5, 1982 final rule also stated that, "Because of the uncertainty involved in attempting to the estimate the circumstances that will prevail at the time of the retail level effective date, the agency will review the need for such a date and what the date should be after it has had an opportunity to determine the effects of this regulation on the marketplace. Such review will take place long enough before the retail level effective date occurs for any change in that date to be taken into account by those who will be required to meet it" (47 FR 50446).

This review includes a field study to determine the quantity of products held for sale that are not in compliance with the tamper-resistant packaging requirements, and to determine the rate of depletion of those stocks from the retail level. Although the agency has assigned a high priority to its review, it is clear now that it cannot be completed before the end of 1983. The agency has received a letter from The Proprietary Association dated August 16, 1983 that, among other things, indicates that the industry needs considerable lead time to implement the retail level effective date. The letter is on display in the Dockets Management Branch (address above). Because the agency will not be able to complete its review within the time frame indicated by The Proprietary Association as nesessary for the

industry to develop procedures to implement the effective date, the agency is announcing an interim stay of the retail level effective date in a document published elsewhere in this issue of the **Federal Register.**

In addition to relying on its own study to determine the quantities of OTC products that are not in compliance with the tamper-resistant packaging requirements in retail channels, the agency is seeking comments, data, and information that may be helpful to it in reviewing the necessity for a retail level effective date of what alternative measures may be appropriate.

The options before the agency include the following:

1. At the end of the agency's review it may establish a new retail level effective date and implement it.

2. The agency may modify the retail level effective date concept (e.g., to establish a wholesale level effective date in place of a retail level effective date).

3. The agency may withdraw the retail level effective date requirement completely.

If options 1 or 2 were selected, the agency would provide adequate time for the industry to implement the necessary procedures. The agency's current plan is that if one of these options is selected, the effective date would be 4 months after the date that the agency's decision is published as a final rule in the **Federal Register.**

In addition to evaluating its own study, the agency is seeking comments generally and, in particular, on specific questions related to the retail level effective date. The agency is especially interested in receiving comments responding to the following questions:

1. How should the agency determine whether a retail level effective date is necessary based on results of its survey?

Once the agency determines an approximate level of compliance that can be anticipated for the retail level, it must make a decision as to what level of noncompliance constitutes a trivial hazard to the consumer and a minimal potential for tampering. The agency is seeking advice on what that level should be and what consititutes an appropriate method for determining that level.

2. What are the costs of implementing a wholesale level effective date and what are the costs of implementing a retail level effective date? Among the options that are available is a modification of a full scale, retail level effective date. The agency needs to determine for its decisionmaking the costs associated with both a wholesale and a retail level effective date.

3. How much time is needed by industry to implement a retail or wholesale level effective date if a decision is made to require either?

If the agency determines that a retail level effective date is appropriate, the agency would want to avoid a disruption in the marketplace that might lead to drug shortages and therefore affect the availability of affected products or their prices. Therefore, the agency needs information in addition to what it already has regarding the time that is necesary to avoid disruptions in the OTC marketplace that may result from the elimination of products that are not in tamper-resistant packaging.

Although the agency is evaluating the need for the retail level effective date, the agency reemphasizes its commitment to the goal of compliance with the tamper-resistant packaging regulations to minimize the opportunity for tampering with OTC products.

Economic Considerations

FDA has examined the regulatory impact and regulatory flexibility implications of this proposed rule in accordance with Executive Order 12291 and the Regulatory Flexibility Act. Because this proposed rule would stay the retail level effective date, it would postpone any affects on products in non-tamper-resistant packages. Therefor, the proposal would not be a major rule as specified in the Order and would not have a significant economic impact on a substantial number of small entities.

Environmental Impact

The agency has determined pursuant to 21 CFR 25.24(d) (12) and (13) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects

21 CFR Part 211

Drugs, manufacturing, Labeling, Laboratories, Packaging and containers, Warehouses.

21 CFR Part 700

Cosmetics, Definitions, Prohibited cosmetic ingredients.

21 CFR Part 800

Administrative detention, Administrative practice and procedure, Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(n), 501, 502, 505, 506, 507, 515, 521, 601, 602, 701, 52 Stat. 1041 as amended, 1049–1056 as amended, 55 Stat. 851, 59 Stat. 463 as amended, 90 Stat. 552–559, 574 (21 U.S.C. 321(n), 351, 352, 355, 356, 357, 360e, 360k, 361, 362, 371)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), it is proposed that Parts 211, 700, and 800 be amended as follows:

PART 211—CURRENT GOOD MANUFACTURING PRACTICE FOR FINISHED PHARMACEUTICALS

§ 211.132 [Stayed in part]

1. In Part 211 by staying paragraph (g)(3) of § 211.132, *Tamper-resistant packaging requirements for over-the-counter drug products.*

PART 700—GENERAL

§ 700.25 [Stayed in part]

2. In Part 700 by staying paragraph (e)(3) of § 700.25, *Tamper-resistant packaging requirements for cosmetic products.*

PART 800—GENERAL

§ 800.12 [Stayed in part]

3. In Part 800 by staying paragraph (f)(3) of § 800.12 *Contact lens solutions and tablets; tamper-resistant packaging.*

Interested persons may, on or before October 17, 1983, submit to the Dockets Mansgement Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket numbers found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 12, 1983.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 25294 Filed 9-15-83; 8:45 am]

BILLING CODE 4100-01-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[Notice No. 485]

Clarksburg Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is considering the establishment of a viticultural area in north central California, to be known as "Clarksburg." This proposal is the result of a petition submitted by the Clarksburg Vintners and Growers Association. ATF feels that the establishment of viticultural areas and the subsequent use of viticultural area names as appellations of origin in wine labeling and advertising will help consumers identify the wines they may purchase.

DATE: Written comments must be received by October 17, 1983.

ADDRESS: Send written comments to: Chief, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044–0385, (Notice No. 485).

Copies of the petition, the proposed regulations, the appropriate maps, and the written comments will be available for public inspection during normal business hours at: ATF Reading Room, Room 4407, Federal Building, 12th and Pennsylvania Avenue, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: James P. Ficaretta, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226 (202–566–7626).

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF–53 (43 FR 37672, 54624) revising regulations in 27 CFR Part 4. These regulations allow the establishment of definite viticultural areas. The regulations also allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements.

On October 2, 1979, ATF published Treasury Decision ATF–60 (44 FR 56692) which added a new Part 9 to 27 CFR, providing for the listing of approved American viticultural areas, the names of which may be used as appellations of origin.

Section 4.25a(e)(1), Title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features, the boundaries of which have been delineated in Subpart C of Part 9.

Section 4.25a(e)(2), outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition should include:

(a) Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) Evidence relating to the geographical characteristics (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the specific boundaries of the viticultural area, based on features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

(e) A copy of the appropriate U.S.G.S. maps with the boundaries prominently marked.

Petition

AFT has received a petition proposing an area, in the north central part of California within Yolo, Solano and Scramento Counties, as a viticultural area to be known as "Clarksburg." The proposed area, located just southwest of Sacramento, is approximately sixteen miles long and eight miles wide, encompassing 101 square miles (64,640 acres). It includes two bonded wineries and 25 vineyards, with approximately 2,300 acres of Vitis Vinifera grapes. In addition, the Merritt Island viticultural area is located within the proposed clarksburg area.

Historical and current evidence regarding the name as well as the boundaries of the proposed area include:

(a) Excerpts from articles that appeared in *Vintage Magazine*, Robert Finigan's *Private Guide to Wines*, and *Bon Appetit* magazine, indicate that the proposed area is locally and nationally known.

(b) A Clarksburg Chenin Blanc won a medal in four major competitions in 1981, including the Orange and Los Angeles County Fairs.

(c) The large number of settlers arrriving after the discovery of gold in 1849 led to the founding of Clarksburg and many other towns in the Sacramento River Delta Region.

(d) The town of Clarksburg was named after Judge Robert C. Clark, who is credited with having the first peach orchard in Yolo County.

(e) The earliest record of vineyard activity, circa 1870, was near Courtland, located in the southern portion of the proposed area.

(f) In the early 1900's many Italian settlers established small vineyards throughout the area, the grapes used to make wine for home consumption.

(g) The first commercial vineyard within the past twenty years was established in 1963 near Courtland, and the first wineries (Bogle Vineyards and R.J. Cook) were established in 1979.

Geographical features of the proposed Clarksburg viticultural area include the following:

(a) Average yearly precipitation within the proposed area is 16 inches, unlike the surrounding areas which average more to the north and east, and less to the west and south.

(b) The proposed area is dominated by poorly drained clay and clay loam soils. West of the proposed area the soil clasification and the annual flooding of the Yolo Bypass make grape-growing impossible. The lower terraces east of the proposed area are subject to the 100 year flood and are considered a flood prone area. Land south of the proposed area is dominated by poorly drained organic and mineral soils.

(c) The northern boundary separates the northern area where the natural cooling fades out. Normally on a hot summer day Sacramento will be eight to ten degrees warmer than Clarksburg area.

The boundaries of the proposed Clarksburg viticultural area may be found on eight California U.S.G.S. maps (Sacramento West, Saxon, Clarksburg, Florin, Liberty Island, Courtland, Bruceville, and Isleton).

The boundaries, as proposed by the petitioner, are described in § 9.95.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to initial and final regulatory flexibility analyses (5 U.S.C. 603, 604) are not applicable to this notice of proposed rulemaking because the proposal is not expected (1) to have significant secondary or incidental effects on a substantial number of small entities; nor (2) to impose, nor otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on substantial number of small entities.

Accordingly, it is hereby certified under the provisions of Section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that the notice of proposed rulemaking, if promulgated as a final rule, will not have a significant economic impact nor compliance burdens on a substantial number of small entities.

Compliance With Executive Order 12291

It has been determined that this proposed rulemaking is not classified as a "major rule" within the meaning of Executive Order 12291, 46 13193 (1981).

because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumer, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96–511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this notice because no requirement to collect information is proposed.

Public Participation—Written Comments

ATF requests comments from all interested persons concerning this proposed viticultural area. This document proposes possible boundaries for the Clarksburg viticultural area. However, comments concerning other possible boundaries for this viticultural area will be given consideration.

Comments received before the closing date will be carefully considered. Comments received after the closing date and too late for consideration will be treated as possible suggestions for future ATF action.

ATF will not recognize any material in comments as confidential. Comments may be disclosed to the public. Any material which the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comment. The name of the person submitting a comment is not exempt from disclosure.

Any interested person who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his or her request, in writing, to the Director within the 30-day comment period. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing will be held.

List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Viticultural areas, Consumer protection, and Wine.

Drafting Information

The principal author of this document is James P. Ficaretta, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority

Accordingly, under the authority in 27 U.S.C. 205, the Director proposes the amendment of 27 CFR Part 9 as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The table of sections in 27 CFR Part 9, Subpart C, is amended to add the title of § 9.95 to read as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.95 Clarksburg.

Par. 2. Subpart C is amended by adding § 9.95 to read as follows:

§ 9.95 Clarksburg.

(a) *Name.* The name of the viticultural area described in this section is "Clarksburg."

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Clarksburg viticultural area are eight U.S.G.S. topographic maps in the 7.5 minute series, as follows:

(1) Sacramento West, Calif., 1967 (photorevised 1980)

(2) Saxon, Calif., 1952 (photorevised 1968)

(3) Clarksburg, Calif., 1967 (photorevised 1980)

(4) Florin, Calif., 1968 (photorevised 1980)

(5) Liberty Island, Calif., 1978

(6) Courtland, Calif., 1978

(7) Bruceville, Calif., 1978 (photorevised 1980)

(8) Isleton, Calif., 1978

(c) *Boundaries.* Beginning at a point (on the Sacramento West topographic map) in Yolo County in T8N/R4E, at the intersection of Jefferson Blvd. and Burrows Ave.,

(1) Then southwest in a straight line 1.2 miles along Jefferson Blvd. to the eastern bank of the Sacramento River Deep Water Ship Channel.

(2) Then southwest along the Sacramento River Deep Water Ship Channel, approximately 17 miles to T5N/R3E, to the Class 5 trail on the levee connecting the Sacramento River Deep Water Ship Channel and the dredger cut Miner Slough, approximately 2 miles from the Salano/Yolo County line.

(3) Then east along the trail to the Miner Slough.

(4) Then east along Miner Slough to the point where it joins Sutter Slough, then south along Sutter Slough around the tip to Sutter Island to the junction of Sutter Slough and Steamboat Slough; then north around Sutter Island along Steamboat Slough to Section 8 in T5N/R4E where Steamboat Slough joins the Sacramento River.

(5) Then southeast following the Sacramento River to the point where the Sacramento River meets the Delta Cross Channel at the Southern Pacific Railroad in Section 35, T5N/R4E.

(6) Then northeast along the Southern Pacific Railroad for 2 miles, to a point ⅓ mile past the intersection of the Southern Pacific Railroad and the eastern branch of Snodgrass Slough.

(7) Then east approximately 2½ miles along the levee to Interstate 5 (under construction).

(8) Then north approximately 8½ miles along Interstate 5 (under construction, proposed, and completed) to Section 18 in T6N/R5E, at the intersection of Interstate 5 and Hood Franklin Road.

(9) Then southeast along Hood Franklin Road to the Southern Pacific Railroad Levee, .1 mile northeast of Hood Junction.

(10) Then north approximately 18 miles along the Southern Pacific Railroad Levee to Section 11 in T7N/R4E, at Freeport Blvd., and then across the Sacramento River at the line between Sections 11 and 4.

(11) Then northwest along the west bank of the Sacramento River to Borrows Ave.

(12) Then northwest along Borrows Ave. to the starting point at the intersection of Jefferson Blvd. and Borrows Ave.

Approved: September 9, 1983.

Stephen E. Higgins,

Director.

[FR Doc. 83–25305 Filed 9–15–83; 8:45 am]

BILLING CODE 4810-31-M

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27 CFR Part 9

[Notice No. 484]

The Umpqua Valley Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is considering the establishment of a viticultural area in Douglas County, Oregon, to be known as "Umpqua Valley." This proposal is the result of a petition from Mr. David B. Adelsheim, Chairman of the Appellation committee, Oregon Winegrowers Association. The establishment of viticultural areas and the subsequent use of viticultural area names in wine labeling and advertising

will allow wineries to better designate the specific grape-growing area where their wines comes from and will enable consumers to better identify wines they purchase.

DATE: Written comments must be received by October 17, 1983.

ADDRESS: Send written comments to: Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044–0385 (Attn: Notice No. 484).

Copies of the petition, the proposed regulations, the appropriate maps, and the written comments will be available for public inspection during normal business hours at: ATF Reading Room, Office of Public Affairs and Disclosure, Room 4407, Federal Building, 12th and Pennsylvania Avenue, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Robert L. White, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW., Washington, DC 20226 (202–566–7531).

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF–53 (43 FR 37672, 54624) revising regulations in 27 CFR Part 4. These regulations allow the establishment of definite viticultural areas. The regulations allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements. On October 2, 1979, ATF published Treasury Decision ATF–60 (44 FR 56692) which added a new Part 9 to 27 CFR, for the listing of approved American viticultural areas.

Section 4.25a(e)(1), Title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features.

Section 4.25(e)(2) outlines the procedure for proposing an American vitcultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition should include—

(a) Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) Evidence relating to the geographical features (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the specific boundaries of the viticultural area, based on the features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

(e) A copy of the appropriate U.S.G.S. map with the boundaries prominently marked.

Petition

ATF has received a petition from Mr. David B. Adelsheim, Chairman of the Appellation Committee, Oregon Winegrowers Association, proposing an area in Douglas County, Oregon, as a viticultural area to be known as "Umpqua Valley." This proposed viticultural area is located entirely in Douglas County, Oregon, in the southwest part of the State and consists of approximately 1200 square miles. There are five wineries and approximately 334 acres of grapes scattered throughout the area. The petition provides the following information as evidence that the proposed area meets the regulatory requirements discussed above.

General Information

In *The Winemakers* by Purser and Allen, the beginnings of viticulture in the Umpqua Valley are traced to Jesse Applegate who planted 40 acres of grapes in 1876 that were probably sold as table grapes. The Von Pessl brothers planted the first vinifera vines soon after, having brought cuttings from St. Helena and Lodi, California. The brothers grew Zinfandel, Riesling, and Sauvignon, made wine for home use, and also ran a distillery. Adam Doerner visited the Von Pessls in 1888, worked for the Beringers in St. Helena, then returned to the Umpqua Valley to grow Sauvignon and Riesling grapes. The winery he started continued to produce wine up until 1965 (selling most to home winemakers during Prohibition) under Adam's son and grandson.

Leon Adams, in *The Wines of America*, calls Richard Sommer the father of Oregon's current wine industry. The following quote is from Adams's book. "Remembering what Dr. Amerine (University of California at Davis professor) had taught, that the finest wine grapes in California are grown in the cooler districts, Sommer went where it is still cooler, to Oregon. He went . . . north, testing the grapes in each locality. At Roseburg in the Umpqua Valley he found some Zinfandels in the 80-year-old Doerner's Winery vineyard that tested right. In 1961 he bought a hillside farm . . . ten miles west of Rosebury, planted vines from the Napa Valley, and bonded his winery two years later." In the 22 years since that time, winegrape acreage in the Umpqua Valley has grown considerably. In the period between 1981 and 1983, vineyard acreage increased by about 201 acres. This is an increase of about 151 percent in two years and shows that this area is a rapidly developing grape-growing area.

Viticultural Area Name

The name "Umpqua Valley" is the name used in both academic and consumer-oriented wine and viticulture books to refer to the section of Douglas County where grapes are grown. *The Wines of America* by Leon Adams, McGraw-Hill Book Co., 1978, *Northwest Wine* by Ted Meredith, Nexus Press, 1980, and *Touring the Wine Country of Oregon* by Ronald and Glenda Holden, 1982, all make extensive mention of viticulture in the Umpqua Valley. In *The Winemakers* by Purser and Allen, Harbor House Publishing Ltd., 1977, the authors interchange "Umpqua Valley" with the more prosaic "Hundred Valleys of the Umpqua."

Umpqua Valley has been in use on approve wine labels since 1964, and became one of three appellations of origin approved for use on Oregon wines by the Oregon Liquor Control Commission in 1976. That appellation was defined, using political boundaries, as being all of Douglas County. Those county lines coincide almost exactly with the boundary of the Umpqua River basin. However, only the center, intermountain lowland section of that basin is cultivable. Consequently, the proposed boundaries have been drawn to coincide with this center, intermountain lowland section.

Historical/Current Evidence of Boundaries

According to the petitioner, Umpqua is a historic name in the State. It was used by the Indians to refer to the locality of the Umpqua River and the name came to be applied both to the river and to an Indian tribe. The territorial legislature created a "Umpqua County" on January 24, 1851. It ceased to exist on October 16, 1862, its area having been added to Douglas and Lane Counties. The Hudson's Bay Company had an establishment in the Umpqua Valley as early as 1832, probably on Calapooya Creek. It was generally called Old Fort Umpqua. And Umpqua City was established near Reedsport in 1850 but gradually died out by 1867. The present Umpqua Post Office is on the Umpqua River, near the mouth of Calapooya Creek. It was originally

known as Umpqua Ferry when it was established in 1877.

Contemporary attempts to define an "Umpqua Valley" viticultural area include the previously mentioned Oregon Liquor Control Commission-approved appellation and "Wine-Grape Adaptation to Oregon Climates" by Warren Aney in the *Proceedings* of the Oregon Horticultural Society, 1974. Mr. Aney used various climatological factors to isolate an oval-shaped area around Roseburg, 33 miles wide and 70 miles long, stretching from Elkton in the north to Canyonville in the south. A recent unpublished proposal by the same author (February 25, 1982) identifying various potential viticultural areas in the Pacific Northwest, defined the "Umpqua subregion" as "that part of the Umpqua basin above Elkton having—

(a) an elevation not greater than 300 meters (1000 feet);

(b) an expected 20-year minimum not lower than minus 20 degrees Celsius (minus four degrees Fahrenheit);

(c) a growing season at least 180 days long; and

(d) at least 2000 degree-days from April through October."

A map of donation land claims (free land given to settlers by 1855) in the *Atlas of Oregon*, University of Oregon Books, 1976, page 8, and a map compiled from LANDSAT satellite photographs, found on page 23 of the same book, both clearly isolate the agricultural intermountain lowlands of the Umpqua basin from the surrounding forested coastal and Cascade Mountain regions. The most accurate map showing the cultivable land in the Umpqua River basin is the two-part General Soil Map contained in Appendix I–16, "Umpqua Drainage Basin," to *Oregon's Long-Range Requirements for Water*, State Water Resources Board, Salem, 1969. It divides all of the land in the central part of the basin into five classes of irrigation suitability, from excellent to very poor (non-irrigable), based on slope and soil type. In defining the boundaries of the proposed viticultural area, the petitioner states that he has tried to include all areas with soils in Classes I–IV in the central part of the basin, i.e., from Scottsburg upstream.

Geographical Features

The petitioner claims the proposed viticultural area is distinguished from surrounding areas by differences in elevation, soil, and climate. The petitioner bases these claims on the following:

(a) The proposed Umpqua Valley viticultural area is basically the intermountain lowlands section of the Umpqua basin. It is bounded on the west and north by the Coast Range Mountains. The Klamath Mountains form the southern boundary and the Cascade Mountains the eastern. The area is separated from the Willamette Valley by an 800 foot divide at the Douglas/Lane County line. In comparison, the surrounding area is generally steeper and more rugged.

(b) The 1000-foot contour line was chosen as the basic boundry of the proposed viticultural area, according to the petitioner, because elevation seems to be a fairly reliable indicator of suitability for cultivation. At the 1000-foot level, low slopes turn into steep slopes and become less hospitable to horticulture. Above the 1000-foot contour line there is a noticable difference in climate, soils, topography and vegetation. In addition, there are a few sections of the region below the 1000-foot elevation, particulary south of the Umpqua River between Elkton and Scottsburg, which contain no cultivable soils. These have been excluded from the proposed area. Similarly, in the Cascade foothills, the upper sections of the valleys of the North Umpqua River and Calapooya Creek have been excluded for lack of irrigable land.

(c) The soil reflect the complex geology of the region. In the flood plains of the Umpqua River and its tributaries, there is much recent alluvial material which is slightly acidic and well-drained. The flood plains are intensively used for irrigated specialty crops, including grapes. In comparison, the surrounding area is not part of the flood plains and consequently its soil is quite different.

(d) The climate of the Umpqua basin is characterized by cool winters, warm summers, and high annual precipitation with a definite summer deficiency. The mean January temperature at Roseburg in 41 degrees Fahrenheit and the July mean is 67 degrees Fahrenheit. The frost-free period averages 230 days and the April through October degree-day index is 2380 which establishes this growing area as Region I as classified by the University of California at Davis system of heat summation by degree-days. This area has slightly greater annual temperature ranges than the Willamette Valley to the north and the coastal areas to the west.

Proposed Boundries

The boundaries of the proposed Umpqua Valley viticultural area may be found on two U.S.G.S. maps. They are titled "Roseburg," scale 1:250,000 (1958, revised 1970) and "Medford," scale 1:250,000 (1955, revised 1976). The specific description of the boundaries of the proposed viticultural area is found in the proposed regulations which immediately follow the preamble to this notice of proposed rulemaking.

Executive Order 12291

It has been determined that this proposal is not a "major rule" within the meaning of Executive Order 12291, 46 FR 13193 (February 17, 1981), because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not expected to apply to this proposed rule because the proposal, if promulgated as a final rule, is not expected to have a significant economic impact on a substantial number of small entities. Since the benefits to be derived from using a new viticultural area appellation of origin are intangible, ATF cannot conclusively determine what the economic impact will be on the affected small entities in the area. However, from the information we currently have available on the proposed Umpqua Valley viticultural area, ATF does not feel that the use of this appellation of origin will have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96–511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this notice because no requirement to collect information is proposed.

Public Participation—Written Comments

ATF requests comments concerning this proposed viticultural area from all interested persons. ATF particularly requests comments concerning the large size (approximately 1,200 square miles) of this proposed area and whether the area can be reduced. Furthermore, while this document proposes possible boundaries for the Umpqua Valley viticultural area, comments concerning other possible boundaries for this

viticultural area will be given consideration.

Comments received before the closing date will be carefully considered. Comments received after the closing date and too late for consideration will be treated as possible suggestions for future ATF action.

ATF will not recognize any material or comments as confidential. Comments may be disclosed to the public. Any material which the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comment. The name of the person submitting a comment is not exempt from disclosure.

Any interested person who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his or her request, in writing, to the Director within the 30-day comment period. The request should include reasons why the commenter feels that a public hearing is necessary. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing will be held.

Oregon Wine Labeling Regulations

Oregon wine labeling regulations currently require that any wine bearing the name "Umpqua Valley" on the label must be made from grapes grown only in Douglas County, Oregon. By comparison, the Federal viticultural area regulations require only that not less than 85 percent of the wine is derived from grapes grown within the boundaries of the viticultural area. The Federal regulations regarding the use of a viticultural area appellation on a wine label also require that such label "conforms to the laws and regulations of all the States contained in the viticultural area." Therefore, if the name "Umpqua Valley" becomes an approved Federal viticultural area, then 100 percent of the wine must be derived from grapes grown in Douglas County.

It is noted that the proposed viticultural area does not encompass all of Douglas County so the 85 percent rule could apply to a situation where 85 percent of the grapes were grown in the viticultural area and 15 percent of the grapes were grown elsewhere in the county. However, the petitioner claims that all of the actual and potential grape-growing land in Douglas County has been included in the proposed viticultural area. If this is correct and if the "Umpqua Valley" viticultural area is approved as proposed, then 100 percent of the wine must be derived from grapes grown within the "Umpqua Valley" viticultural area if the "Umpqua Valley" appellation is used on the wine label, and the 85 percent rule under the Federal regulations would be negated. Obviously, use of a viticultural area name other than "Umpqua Valley" would negate the impact of the Oregon regulation. ATF requests all interested persons to comment on this matter.

Drafting Information

The principal author of this document is Robert L. White, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Consumer protection, Viticultural areas, and Wine.

PART 9—AMERICAN VITICULTURAL AREAS

Accordingly, under the authority in 27 U.S.C. 205 (49 Stat. 981, as amended), the Director proposes the amendment of 27 CFR Part 9 as follows:

Paragraph 1. The table of sections in 27 CFR 9, Subpart C, is amended to add the title of § 9.89 as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.98 Umpqua Valley.

Par. 2. Subpart C is amended by adding § 9.89.

As amended, Subpart C reads as follows:

Subpart C—Approved American Viticultural Areas

* * * * *

§ 9.89 Umpqua Valley.

(a) *Name.* The name of the viticultural area described in this section is "Umpqua Valley."

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Umpqua Valley viticultural area are two USGS maps. They are titled:

(1) "Roseburg," scale 1:250,000 (1958, revised 1970); and

(2) "Medford," scale 1:250,000 (1955, revised 1976).

(c) *Boundaries.* The Umpqua Valley viticultural area is located entirely within Douglas County, Oregon, which is in the southwest part of the State. The beginning point is the intersection of Interstate Highway 5 with the Douglas/Lane County line in Township 21 South (T21S), Range 4 West (R4W) on the "Roseburg" map.

(1) From the beginning point, the boundary proceeds north along the Douglas/Lane County line approximately 0.5 mile to the 1000-foot contour line;

(2) Thence northwest along the 1000-foot contour line to the Douglas/Lane County line; thence west along the Douglas/Lane County line approximately 2.5 miles, returning to the 1000-foot contour line; thence in generally westerly direction along the 1000-foot contour line to the R9W/R10W range line;

(3) Thence south along the R9W/R10W range line approximately 2.75 miles to the center of the Umpqua River; thence along a straight line in an easterly direction approximately 6.25 miles to the intersection of range line R8W/R9W with the center of the Umpqua River; thence south along range line R8W/R9W approximately 3.5 miles to its intersection with township line T22S/T23S;

(4) Thence southeast approximately 8.5 miles along a straight line to the intersection of township line T23S/T24S with range line R7W/R8W; thence south along the R7W/R8W range line approximately 8 miles to its intersection with the 1000-foot contour line; thence in a southeasterly direction in a straight line approxiamtely 3.5 miles toward the intersection of township line T25S/T26S with range line R6W/R7W, returning to the 1000-foot contour line;

(5) Thence in a southerly direction along the 1000-foot contour line to the intersection of township line T27S/T28S with range line R7W/R8W; thence in a southwesterly direction in a straight line approximately 3.5 miles toward the intersection of township line T28S/T29S with range line R8W/R9W, returning to the 1000-foot contour line; thence south along the 1000-foot contour line to its intersection with township line T29S/T30S;

(6) Thence east along township line T29S/T30S approximately .33 mile, rejoining the 1000-foot contour line; thence in a northerly and eventually a southerly direction along the 1000-foot contour line past the town of Riddle on the "Medford" map to range line R6W/R7W; thence south along the R6W/R7W range line approximately .5 mile back to the 1000-foot contour line;

(7) Thence in an easterly, westerly, and eventually a northerly direction along the 1000-foot contour line to a point approximately 3.5 miles east of Dillard, where the contour line crosses Interstate Highway 5 on the "Roseburg" map; thence northeast along Interstate Highway 5 approximately .25 mile, returning to the 1000-foot contour line; thence in a generally northeasterly, southeasterly, northwesterly, and eventually a northeasterly direction

along the 1000-foot contour line past the town of Idleyld Park to the R2W/R3W range line;

(8) Thence north along range line R2W/R3W approximately 1.75 miles to the T25S/T26S township line; thence west along township line T25S/T26S approximately .25 mile, returning to the 1000-foot contour line; thence in a generally westerly and then a northerly direction along the 1000-foot contour line up the valley of Calapooya Creek to the R3W/R4W range line; thence north along range line R3W/R4W approximately 2.25 miles, back to the 1000-foot contour line;

(9) Thence in a westerly and then a northerly direction along the 1000-foot contour line to the T23S/T24S township line; thence east along the T23S/T24S township line approximately 2.75 miles to the 1000-foot contour line; thence in a northerly direction along the 1000-foot contour line to its intersection with the Douglas/Lane County line; thence north along the Douglas/Lane County line approximately .75 mile to the point of beginning.

Approved: September 8, 1983.

Stephen E. Higgins,

Director.

[FR Doc. 83-25304 Filed 9-15-83; 8:45 am]

BILLING CODE 4310-31-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 950

Proposed Modifications to the Wyoming Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Reopening of public comment period.

SUMMARY: OSM is reopening the period for review and comment on modified portions of the Wyoming permanent regulatory program. On April 15,1983 (48 FR 16295–16296), OSM announced a public comment period and procedure for requesting a public hearing on the substantive adequacy of proposed amendments to the Wyoming permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA) submitted by Wyoming on March 3, and 21, 1983. The amendments submitted by Wyoming are modifications to the Wyoming regulations that, among other things, address an alternative bonding system for surface coal mining operations. OSN is reopening the comment period to allow the public an opportunity to comment on supplemental material relating to the proposed bonding amendment submitted by Wyoming on August 19, 1983.

DATE: Written comments must be received on or before 4:00 p.m. on October 3, 1983.

ADDRESSES: Written comments should be mailed or hand delivered to William R. Thomas, Field Office Director, Casper Field Office, P.O. Box 1420, Mills, Wyoming 82644.

Copies of the supplemental material submitted by Wyoming and other relevant documents are available for review at the Casper Field Office and the office of the State regulatory authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5315, 1100 "L" Street NW., Washington, D.C. 20240

Wyoming Department of Environmental Quality, Land Quality Division, 401 West 19th Street, Cheyenne, Wyoming 82002

FOR FURTHER INFORMATION CONTACT: Willian R. Thomas, Field Office Director, Casper Field Office, P.O. Box 1420, Mills, Wyoming 82644; Telephone: (307) 328–5825.

SUPPLEMENTARY INFORMATION: The general background on the permanent regulatory program, the State program approval process, the Wyoming program and the conditional approval, can be found in the Secretary's Findings and conditional approval published in the November 26, 1980 **Federal Register** (45 FR 78637–78684).

On March 21, 1983, Wyoming submitted to OSM a program amendment proposing to revise Chapter I, Section 2; Chapter XIII, Section 2; and Chapter XVI of the Wyoming surface mining regulation to establish an alternative bonding system for surface coal mining operations.

The amendment is a State-generated revision not related to any program condition. The April 15, 1983, **Federal Register** announced receipt of the modification by OSM as well as a public comment period. In that same notice, OSM announced that a public hearing would be held only if requested. No requests were received and no hearing was held.

On August 19, 1983, Wyoming submitted additional material to further clarify the proposed bonding system. Copies of the additonal material are available in the OSM Administrative Record. OSM is reopening the comment period in order to allow the public an opportunity to review and comment on the additional material submitted to OSM by the State on August 19, 1983.

Specifically, OSM is seeking comment on whether the material submitted by Wyoming on August 19, 1983, together with the proposed bonding amendment, satisfy the criteria for approval of State program amendments at 30 CFR 732.17 and 732.15.

List of Subjects in 30 CFR Part 950

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

(Pub. L. 95–87, 30 U.S.C. 1201, *et seq.*)

Dated: September 12, 1983.

William B. Schmidt,

Assistant Director, Program Operations and Inspection.

[FR Doc. 83-25279 Filed 9-15-83; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 50

[AD-FRL-2434-6; Docket No. OAQPS 79-7]

Revisions to the National Ambient Air Quality Standards for Carbon Monoxide; Availability of Staff Paper and Meeting

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of revised staff paper and announcement of related meeting.

SUMMARY: This notice announces the availability of, and solicits public comment on, a revised staff paper for the carbon monoxide (CO) air quality standards. Because questions have been raised regarding the technical merit of several studies supporting the proposed CO national ambient air quality standards (NAAQS) (45 FR 55066, Aug. 18, 1980), EPA has preformed a reevaluation of the scientific data related to CO health effects. This reevaluation is in the form of a draft "Addendum to the 1979 Air Quality Criteria Document for Carbon Monoxide." The staff paper is an additional document which provides the staff's assessment of the scientific data and an indication of how the data might be used in selection of the standards. A meeting of the Clean Air Scientific Advisory Committee (CASAC) will be held on September 26–27, 1983 to discuss both of these documents.

DATE: Comments must be postmarked by October 31, 1983.

ADDRESSES: Submit comments (duplicate copies are preferred) to: Central Docket Section (A–130), Environmental Protection Agency, Attn: Docket No. OAQPS 79–7, 401 M Street, SW., Washington, D.C. 20460.

Availability of Documents and Related Information: The revised CO staff paper, "Review of the NAAQS for Carbon Monoxide: 1983 Reassessment of Scientific and Technical Information," is available in the public docket (OAQPS 79–7). This document can also be obtained by calling or writing Mr. Michael Jones, Strategies and Air Standards Division (MD–12), U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711, Telephone (919) 541–5531 (FTS 629–5531).

The final revised criteria document, "Air Quality Criteria for Carbon Monoxide" (EPA–600/8–79–022, October 1979), is available from: U.S. Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161 (PB 81–244840 $17.00 paper copy and $4.50 microfiche). The draft document, "An Addendum to the 1979 Criteria Document for Carbon Monoxide" (EPA–600/8–83–033A, August 1983), is available from: ORD Publications—CERI–FRN, U.S. Environmental Protection Agency, 26 West St. Clair Street, Cincinnati, OH 45268, telephone (513) 684–7562.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Jones, Strategies and Air Standards Division (MD–12), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711, Telephone (919) 541–5531 (FTS 629–5531). Further information on the September 26–27 meeting can be obtained from Dr. Terry Yosie, Staff Director, Science Advisory Board, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, Telephone (202) 382–4126.

SUPPLEMENTARY INFORMATION: In 1971 identical primary and secondary standards for CO were promulgated at levels of 9 parts per million (ppm), 8-hour average, and 35 ppm, 1-hour average, neither to be exceeded more than once per year (36 FR 8136). On August 18, 1980, EPA proposed (1) retaining the existing primary 8-hour standard level at 9 ppm, (2) lowering the primary 1-hour standard level to 25 ppm, and (3) revoking the existing secondary CO standards (45 FR 55066, Aug. 18, 1980).

The 1980 proposal was based in part on several health studies conducted by Dr. Wilbert Aronow. In early 1983 EPA learned that that a Food and Drug Administration (FDA) investigation of the technical adequacy of several studies conducted by Dr. Aronow on experimental drugs had led the FDA to reject use of the drug studies data. In view of these circumstances, EPA concluded that an independent assessment of the CO health studies was advisable prior to a final standard decision on CO.

An expert committee empaneled by EPA met with Dr. Aronow to discuss his studies and to examine the available data and records from his CO studies. In its report (OAQPS 79–7, IV–H–58), the committee (chaired by Dr. Steven M. Horvath, Director of the Institute of Environmental Stress, University of California-Santa Barbara) concluded that EPA should not rely on Dr. Aronow's data due to concerns which limit the validity and usefulness of those studies. The draft Addendum to the 1979 Criteria Document and the revised staff paper reflect EPA's reevaluation of the scientific information relating to the proposed CO standards in light of the Committee's recommendations.

The principal topic for discussion at the September 26–27 CASAC meeting will be the implications of the reevaluation of the CO health effects data for possible revisions to the standards.

List of Subjects in 40 CFR Part 50

Air pollution control, Carbon monoxide, Ozone, Nitrogen dioxide, Lead, Particulate matter.

Dated: September 8, 1983.

Sheldon Meyers,

Acting Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 83–25318 Filed 9–15–83; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 52

[KY–010; A–4–FRL 2385–8]

Approval and Promulgation of Implementation Plans; Kentucky; Alternative Emission Reduction Option (Bubble) for Ashland Petroleum Company

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve an alternative emission reduction plan (bubble) for Ashland Petroleum Company in Kenton County, Kentucky. EPA is taking this action because the alternative emission reduction plan has an emission level as stringent as the applicable volatile organic compound (VOC) regulations. By using the bubble approach on the source, a net benefit above the reasonably available control technology (RACT) level of control will be realized in the ozone nonattainment area. The public is invited to submit comments on this proposal.

DATE: To be considered, comments must be received on or before October 17, 1983.

ADDRESSES: Copies of the materials submitted by Kentucky may be examined during normal business hours at the following locations:

Air Management Branch, Environmental Protection Agency, Region IV, 345 Courtland Street, NE, Atlanta, Georgia 30365.

Division of Air Pollution Control, Kentucky Department for Environmental Protection, 18 Reilly Road, Bldg. 2, Fort Boone Plaza, Frankfort, Kentucky 40601.

Comments may be sent to the EPA Region IV address shown above, attention Mr. Douglas Cook.

FOR FURTHER INFORMATION CONTACT: Douglas C. Cook, EPA Region VI, Air Management Branch, at the Atlanta address listed above and phone 404/881–2864 or FTS 257–2864.

SUPPLEMENTARY INFORMATION: Ashland Petroleum Company, Covington Terminal, applied to the Division of Air Pollution Control on February 12, 1982, for a review under the "bubble concept" pursuant to Kentucky Regulation 401 KAR 50:055(6). Ashland's Covington Terminal is located in Kenton County, Kentucky, which is formally designated nonattainment for ozone. On February 3, 1983 (48 FR 5120), however, EPA proposed to approve Kentucky's demonstration that Kenton and the other counties in the Cincinnati metropolitan area are attaining the air quality standards for ozone.

Based on the information submitted, EPA, without prior proposal of its action, approved the alternate plan (48 FR 16683, April 19, 1983).

In the final rule making the redesignation, EPA advised the public that the effective date of the action was deferred for 60 days (until June 20, 1983) to provide on opportunity to submit comments on it. EPA announced that if notice was received within 30 days of the publication of the final rule that someone wanted to submit adverse or critical comments, the final action would be withdrawn and a new rulemaking

would be begun by proposing a 30-day coment period. EPA had earlier published a general notice explaining this special procedure (46 FR 44477, September 4, 1981).

EPA has received adverse comments on this redesignation. Accordingly, EPA is taking final action elsewhere in today's **Federal Register** to withdraw the April 19, 1983, approval and is in this notice proposing the bubble for public comment. A more detailed description of the State's submittal and EPA's findings can be found in the April 19, 1983, rulemaking notice (48 FR 16683). The public is invited to submit written comments on this proposal; EPA will consider all comments received within 30 days of this date before taking final action on the alternate option submitted by Kentucky.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8706.)

The Office of Management and Budget has exempted this regulation from the requirement of Section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Secs. 110 and 172 of the Clean Air Act (42 U.S.C. 7410 and 7502))

Dated: September 7, 1983.

William D. Ruckelshaus,

Administrator.

[FR Doc. 83-25367 Filed 9-15-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[A-6-FRL 2433-4]

Compliance With the Statutory Provisions of Part D of the Clean Air Act for Texas and Texas Attainment Plan for Ozone in Harris County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of comment period.

SUMMARY: On August 3, 1983, EPA proposed to find the State of Texas has failed to implement a motor vehicle inspection and maintenence (I/M) program as required by its State Implementation Plan (SIP) revisions that were approved to meet the January 1979 planning deadline under section 172 of the Clean Air Act. The Agency also proposed certain actions regarding the appropriate statutory consequences (i.e., sanctions) for failure to meet these requirements. Requests for public hearings or written comments on this notice were to be submitted on or before September 19, 1983. EPA announced that a public hearing would be held if requests for one were received during the comment period. In response to a request from the Texas Air Control Board (TACB) for an extension of time for the filing of comments on the proposed finding of nonimplementation of the 1979 O_3 SIP for Harris County, the comment period is extended to November 21, 1983.

DATE: Comments must be received on or before November 21, 1983.

ADDRESSES: Written comments should be addressed to: Jack S. Divita, Air Branch Chief, U.S. EPA, Region 6, 1201 Elm Street, Dallas, Texas 75270.

FOR FURTHER INFORMATION CONTACT: Dolores S. Johnson. State Programs Section, Air & Waste Management Division, U.S. EPA, Region 6, 1201 Elm Street, Dallas, Texas 75270 (214) 767-2742.

SUPPLEMENTARY INFORMATION: On August 3, 1983 (at 48 FR 35325), EPA proposed to find that the State of Texas failed to implement an I/M program as required by its 1979 Part D SIP revision submitted to meet the requirements of section 172(a) of the Act. The Agency also proposed to impose a ban on the construction or modification of major stationary sources in Harris County and proposed to withhold Clean Air Act funds from TACB, the State agency responsible for I/M activities in Harris County. The proposed notice solicited public comments on these actions, and required the submittal of comments on or before September 19, 1983. On August 12, 1983, TACB requested that the comment period be extended to November 21, 1983. The TACB requested the time extension to allow more time to consider options being discussed between EPA and TACB for upgrading the State's present parameter I/M program to an approvable program. EPA had previously proposed to disapprove the I/M program included in the State's 1982 O_3 SIP for Harris County in the **Federal Register** on February 3, 1983 (at 48 FR 5114), primarily because the proposed Texas program would not achieve the necessary 25 percent reduction in hydrocarbon emissions. The extension of the comment period will allow TACB additional time to consider the options. Therefore, the Agency is extending the comment period on the proposed action for Texas to November 21, 1983.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Dated: September 7, 1983.

Alvin L. Alm,

Deputy Administrator.

[FR Doc. 83-25321 Filed 9-15-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Parts 405, 406, 407, 408, 409, 411, 412, 422, 424, 426, 429, 430, 431, 432, 433, and 440

[WH-FRL-2434-7]

Availability of Data Pertaining to the Proposed Methodology for Best Conventional Pollutant Control Technology Effluent Limitations Guidelines

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; availability of New Information and Reopening of Comment Period.

SUMMARY: On June 2, 1983, EPA published a Notice of Availability of new data pertaining to the methodology for establishing best conventional pollutant control technology (BCT) effluent limitations (48 FR 24742). EPA reopened this comment period on July 18, 1983 (48 FR 32607) for another 30 days. EPA is now making further information available in the administrative record and is reopening the comment period for a second time to close thirty days from September 16, 1983.

DATE: Comments on this proposal must be submitted to EPA by October 17, 1983.

ADDRESS: Send comments to Ms. Renee Rico, Attn: Comments on BCT Notice of Availability, Office of Analysis and Evaluation (WH-586), U.S. EPA., 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Ms. Renee Rico at (202) 382-5386.

SUPPLEMENTARY INFORMATION: On June 2, 1983, EPA published a Notice of Availability of new data pertaining to the methodology for establishing best conventional pollutant control technology (BCT) effluent limitations. The methodology had been proposed on October 29, 1982 (47 FR 49176). Comments on the new data were to be submitted by July 2, 1983.

EPA received two requests from industry to extend the comment period

to allow additional time to study the impact of the June 2, 1983 notice and to review the additional data on POTW cost curves that became available after June 2. After reviewing these requests, the Agency announced the availability of the additional information and reopened the comment period for 30 days on July 17, 1983.

Since that time, EPA has been working to obtain still further documentation on the POTW cost curves. Because all of the information pertaining to the curves has only recently been available in the administrative record, we are now reopening the comment period for an additional 30 days from today. This information is available for review at the EPA Headquarters Library, 401 M Street SW., Washington, D.C., Rm. 2404.

Dated: August 17, 1983.

Rebecca W. Hanmer,

Acting Assistant Administrator for Water.

[FR Doc. 83-25319 Filed 9-15-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 83-949; RM-4496]

FM Broadcast Station in Crystal Falls, Michigan; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the assignment of Class C Channel 264 to Crystal Falls, Michigan, as that community's first FM assignment in response to a petition filed by David C. Schaberg.

DATE: Comments must be filed on or before October 24, 1983, and reply comments on or before November 8, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Proposed Rule Making

In the Matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Crystal Falls, Michigan) MM Docket No. 83-949, RM-4496.

Adopted: August 23, 1983.
Released: September 8, 1983.

By the Chief, Policy and Rules Division.

1. The Commission has under consideration a petition for rule making filed June 6, 1983, by David C. Schaberg ("petitioner") proposing the assignment of Class C FM Channel 264 to Crystal Falls Michigan, as that Community's first FM assignment. Petitioner submitted information in support of the proposal and expressed his interest in applying for the channel, if assigned.

2. A site restriction of 14.1 miles southeast of Crystal Falls, is required to avoid short-spacing to WBIZ (Channel 264) in Eau Clair, Wisconsin, unused Channel 282 in Rhinelander, Wisconsin; and WNMU-FM (Channel 211C) in Marquette, Michigan. Also, the proposed assignment will be contingent upon the outcome of Dockets 83-468 or 83-480 in which the deletion of Channel 261A in Marquette, Michigan, has been proposed.

3. Since the assignement of Channel 264 to Crystal Falls is within 320 kilometers (200 miles) of the U.S.-Canadian border, the concurrence of the Canadian government is required.

4. In view of the fact that the proposed assignment could provide a first local FM broadcast service to Crystal Falls, Michigan, the Commission believes it is appropriate to propose amending the FM Table of Assignments (§ 73.202(b) of the Commission's Rules) with respect to the following community:

City	Channel No.	
	Present	Proposed
Crystal Falls, Michigan		264

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before October 24, 1983, and reply comments on or before November 8, 1983, and are advised to read the Appendix for the proper procedures. A copy of such comments should be served on the petitioner, and his consultant, as follows: David C. Schaberg, P.O. Box 1101, Lansing, Michigan 48901 (Petitioner).

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend § 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 Fed. Reg. 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a *Notice of Proposed Rule Making* is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rules Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filled comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, brief, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examinations by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 83-25134 Filed 9-15-83; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 48, No. 181
Friday, September 16, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Governmental Processes; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. No. 92–463), notice is hereby given of a meeting of the Committee on Governmental Processes of the Administrative Conference of the United States, to be held at 2:30–5:00 p.m. on Monday, September 26, 1983, at the Department of the Treasury, Room 4426, 15th Street & Pennsylvania Avenue, NW., Washington, D.C.

The committee will meet to discuss Professor Edward A. Tomlinson's study of the use of the Freedom of Information Act as a discovery device.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should, if possible, notify the Office of the Chairman of the Administrative Conference prior to the meeting. The committee chairman, if she deems it appropiate, may permit members of the public to present oral statements at the meeting. Any member of the public may file a written statement with the committee before, during, or after the meeting.

For further information concerning this meeting contact Jeffrey S. Lubbers, Office of the Chairman, Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington, D.C. 20037. (Telephone: 202–254–7065.) Minutes of the meeting will be available on request.

Dated: September 13 1983..

Richard K. Berg,

General Counsel.

[FR Doc. 83–25362 Filed 9–15–83; 8:45 am]

BILLING CODE 6110–01–M

Exceptions Processes; Siting Procedures; Committee on Regulation; Meeting

AGENCY: Administrative Conference of the United States; Committee on Regulation.

ACTION: Committee meeting.

AGENDA: The Committee will meet with its consultants to discuss progress on two projects: (1) Exceptions processes in the operation of regulatory programs; (2) Siting procedures for large-scale industrial projects.

DATE AND TIME: October 7, 1983, 9:00 a.m.

LOCATION: 2120 L Street, NW., Washington, D.C., Lower Level Hearing Room No. 1.

PUBLIC PARTICIPATION: Attendance at the Committee's meeting is open to the public, but limited to the space available. Persons wishing to attend should notify the contact person at least two days in advance of the meeting. The Committee chairman may permit members of the public to present appropriate oral statements at the meeting.

Any member of the public may file a written statement with the Committee before, during, or after the meeting. Minutes of the meeting will be available on request to the contact person. This meeting is subject to the Federal Advisory Committee Act (Pub. L. 92–463).

FOR FURTHER INFORMATION CONTACT: William C. Bush, Administrative Conference of the United States, 2120 L Street N.W., Suite 500, Washington, D.C. 20037. Telephone: (202) 254–7065.

SUBJECTS:

1. Administrative practice and procedure.
2. Exceptions processes.
3. Siting procedures.

SUPPLEMENTARY INFORMATION:

1. *Exceptions Processes*—This project deals with the procedures used for the granting of exceptions (waivers, variances, exemptions, etc.) to rules of general applicability. The Committee has received a report from consultant Peter Schuck that examines in some detail the exceptions process operated by the Department of Energy's Office of Hearings and Appeals. In addition, a number of federal agencies have submitted information on the exceptions processes associated with the agencies' various regulatory programs. The Committee will consider whether to propose recommendations on this subject. (See 48 FR 20417 for a request for public comments on this topic.)

2. *Siting Procedures*—The Committees's consultant, Professor Gregory Ogden of Pepperdine University School of Law, recently submitted a revised draft report on siting procedures. This topic includes the examination of federal, state, and local processes for obtaining permits to locate large-scale industrial projects such as power plants, pipelines, or port facilities. The Administrative Conference is cooperating with the Advisory Commission on Intergovernmental Relations on this project. Professor Ogden will discuss his report and suggest possible recommendations for the Committee.

Dated: September 13, 1983.

Richard K. Berg,

General Counsel.

[FR Doc. 83–25361 Filed 9–15–83; 8:45 am]

BILLING CODE 6110–01–M

DEPARTMENT OF COMMERCE

Bureau of the Census

Census Advisory Committee on Population statistics; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463, as amended by Pub. L 94–409), notice is hereby given that the Census Advisory Committee on Population Statistics will convene on October 7, 1983, at 9:15 a.m. The Committee will meet in Room 2424, Federal Building 3, at the Bureau of the Census in Suitland, Maryland.

The Census Advisory Committee on Population Statistics advises the Director, Bureau of the Census, on current programs and on plans for the decennial census of population.

The Committee is composed of six members appointed by the Secretary of Commerce and nine members designated by the President of the Population Association of America from the membership of that Association.

The agenda for the meeting, which is scheduled to adjourn at 4:15 p.m., is: (1) Introductory remarks by the acting Director of the Bureau of the Census, including program and budget

developments; (2) decennial census update; (3) Survey of Income and Program Participation (SIPP) update; (4) postponement of the West German Census—implications for data collection in the United states; (5) perspectives on census taking in the 1990's; (6) the effect of ethnic life-style factors on nonresponse and census undercount; (7) Annual Housing Survey and the Census of Housing—comparison of findings; (8) problems in the measurement of disability; (9) new definitions of metropolitan statistical areas; (10) alternative models for Current Population Survey income imputation; and (11) committee recommendations and agenda for the next meeting.

The meeting will be open to the public, and a brief period will be set aside for public comments and questions. Extensive questions or statements must be submitted in writing to the Committee Control Officer at least 3 days before the meeting.

Persons planning to attend and wishing additional information concerning this meeting or who wish to submit written statements may contact the Committee Control Officer, Dr. Campbell Gibson, Room 2266, Federal Building 3, Suitland, Maryland. (Mailing address: Washington, D.C. 20233). Telephone (301) 763–1408.

Dated: Sept. 12, 1983

C. Louis Kincannon,

Acting Director, Bureau of the Census.

[FR Doc. 83–25288 Filed 9–15–83; 8:45 am]

BILLING CODE 3510–07–M

International Trade Administration

Greige Polyester Cotton Printcloth From the People's Republic of China—Antidumping Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Antidumping Duty Order.

SUMMARY: In separate investigations, the United States Department of Commerce and the United States International Trade Commission (ITC) have determined that greige polyester/cotton printcloth from the People's Republic of China is being sold at less than fair value and that sales of greige polyester/cotton printcloth from the People's Republic of China are materially injuring a United States industry. Therefore, all entries, or warehouse withdrawals, for consumption of greige polyester/cotton printcloth from the PRC made on or after March 9, 1983, the date on which the Department published its "Suspension of Liquidation" notice in the **Federal Register**, will be liable for the possible assessment of antidumping duties. Further, a cash deposit of estimated antidumping duties must be made on all such entries, and withdrawals from warehouse, for consumption made on or after the date of publication of this antidumping duty order in the **Federal Register**.

EFFECTIVE DATE: September 16, 1983

FOR FURTHER INFORMATION CONTACT: Rick Herring, Office of Investigations, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Telephone: (202) 377–3963.

SUPPLEMENTARY INFORMATION: The product covered by this order is unbleached and uncolored printcloth fabric (other than 80 x 80 type) in chief value of cotton, containing polyester, and currently provided for in items 326.26 through 326.40 of the *Tariff Schedules of the United States*. As of January 1, 1983, the appropriate statistical suffix is 32. Previously the appropriate statistical suffixes were 32 and 92. The term "printcloth" refers to plain-woven fabric not napped, not fancy or figured, of singles yarn, not combed, of average yarn number 26 to 40, weighing not more than 6 ounces per square yard, of a total count of more than 85 yarns per square inch, of which the total count of the warp yarns per inch and the total count of the filling yarns per inch are each less than 62 percent of the total count of the warp and filling yarns per square inch.

In accordance with section 733 of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673b), on March 9, 1983, the Department published its preliminary determination that there was reason to believe or suspect that greige polyester/cotton printcloth from the PRC was being sold at less than fair value (48 FR 9898). On July 28, 1983, the Department published its final determination that these imports were being sold at less than fair value (48 FR 34312).

On September 6, 1983, in accordance with section 735(b) of the Act (19 U.S.C. 1673(b)), the ITC notified the Department that such importations are materially injuring a United States industry.

Therefore, in accordance with sections 736 and 751 of the Act (19 U.S.C. 1673e and 1675), the Department directs United States Customs officers to assess, upon further advice by the administering authority pursuant to section 736(a)(1) of the Act (19 U.S.C. 1673e(a)(1)), antidumping duties equal to the amount by which the foreign market value of the merchandise exceeds the United States price for all entries of greige polyester/cotton printcloth from the PRC. This antidumping duty will be assessed on all printcloth entered, or withdrawn from warehouse, for consumption on or after March 9, 1983, the date on which the Department published its "Suspension of Liquidation" notice in the **Federal Register**.

On and after the date of publication of this notice, United States Customs officers must require, at the same time as importers would normally deposit estimated Customs duties on this merchandise, a cash deposit equal to the estimated weighted-average antidumping duty margin of 22.4 percent.

This determination constitutes an antidumping order with respect to greige polyester/cotton printcloth from the People's Republic of China, pursuant to section 736 of the Act (19 U.S.C. 1673e) and § 353.48 of the Commerce Regulations (19 CFR 353.48). The Department intends to conduct an administrative review within twelve months of publication of this order, as provided for in section 751 of the Act (19 U.S.C. 1675).

We have deleted from the Commerce Regulations, Annex 1 to 19 CFR Part 353, which listed antidumping findings and orders currently in effect. Instead, interested parties may contact the Office of Information Services, Import Administration, for copies of the undated list of orders currently in effect.

This notice is published in accordance with section 736 of the Act (19 U.S.C. 1673e) and § 353.48 of the Department of Commerce Regulations (19 CFR 353.48).

Dated: September 13, 1983.

Judith H. Bello,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 83–25383 Filed 9–15–83; 8:45 am]

BILLING CODE 3510–25–M

Shop Towels of Cotton From the People's Republic of China; Amended Final Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Commerce.

ACTION: Amendment to the notice of final determination of sales at less than fair value.

SUMMARY: On August 16, 1983, we published a Notice of Final Determination of Sales at Less than Fair Value with respect to shop towels of cotton from the People's Republic of China (48 FR 37055, August 16, 1983). That notice is hereby amended as

follows: 1) In the section entitled "Final Determination," the last two sentences of the second paragraph are amended as follows: "These margins ranged from 16.7 percent to 41.6 percent. The weighted-average margin on all sales compared is 36.2 percent."; and 2) in the section entitled "Suspension of Liquidation," the last sentence is amended as follows: "The weighted-average margins, shown as percentage of the FOB China price, are as follows:

Export	Weighted-average margin (percent)
China National Textile Import & Export Corporation.	30.1
China National Arts & Crafts Import & Export Corporation.	37.2
All Others	36.2

These changes are due to a mathematical error in the calculation of constructed value.

EFFECTIVE DATE: September 16, 1983.

FOR FURTHER INFORMATION CONTACT: Michael Ready, Office of Investigations, Import Administration, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. (202) 377–2613.

Lawrence J. Brady,

Assistant Secretary for Trade Administration.

September 12, 1983.

[FR Doc. 83–25380 Filed 9–15–83; 8:45 am]

BILLING CODE 3510–25–M

Steel Wire Rope From the Republic of Korea; Final Determination of Sales at Not Less Than Fair Value

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final determination of sales at not less than fair value: Steel wire rope from Korea.

SUMMARY: We have determined that steel wire rope from the Republic of Korea (Korea) is not, nor is likely to be, sold in the United States at less than fair value. We are terminating this investigation.

EFFECTIVE DATE: September 16, 1983.

FOR FURTHER INFORMATION CONTACT: Richard Rimlinger or Paul Thran, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave. NW., Washington, D.C. 20230; telephone: (202) 377–1276

SUPPLEMENTARY INFORMATION:

Case History

On September 28, 1982, we received a petition filed by counsel on behalf of the Committee of Domestic Wire Rope and Specialty Cable Manufacturers. In accordance with the filing requirements of § 353.36 of the Commerce Department Regulations (19 CFR 353.36), the petitioner alleged that steel wire rope from Korea is being, or is likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that these imports are materially injuring, or are threatening to materially injure, a U.S. industry. The petition also alleged that critical circumstances, within the meaning of section 733(e) of the Act, exist.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping investigation. We notified the International Trade Commission (ITC) of our action and initiated such an investigation on October 18, 1982 (47 FR 47054). The ITC found, on November 12, 1982, that there is a reasonable indication that imports of steel wire rope are materially injuring, or are threatening the materially injure, a United States industry.

The petitioner alleged that a number of Korean companies produce steel wire rope for export to the United States. However, four producers, Korean Iron & Steel Works, Ltd. (KISW), Boo-Kook Steel & Wire Company, Ltd. (Boo-Kook), Dong-Il Steel Manufacturing Company, Ltd. (Dong-Il), and Young Heung Iron & Steel Company, Ltd. (Yound Heung), produce more than 90 percent of the exports to the United States. Questionnaires were presented in Korea to these producers on November 2, 1982.

On November 29, 1982, we received a letter from counsel for the Korean wire rope producers requesting additional time in which to respond because of the large variety of sizes and types of rope and the numbers of sales. We granted them two additional weeks, and we received the responses on December 20, 1982. In addition to the responses from the four companies mentioned above, a fifth company, Korea Sangsa Company, Ltd. (Korea Sangsa), provided a response.

On January 20, 1983, we found this case to be extraordinarily complicated because of the large number and complexity of the transactions and adjustments to be considered. We postponed our preliminary determination until April 26, 1983. (48 FR 2580).

Between February 21 and March 4, 1983, we verified, in Korea, the information contained in the questionnaire responses of the five Korean companies. On April 26, 1983, we preliminarily determined that there was no reasonable basis to believe or suspect that steel wire rope from Korea was being, or was likely to be, sold in the United States at less than fair value (48 FR 19447). On May 25, 1983, we held a hearing to allow interested parties to comment on our preliminary determination in accordance with section 353.47 of the Commerce regulations. On June 2, 1983, we received a request from the petitioner to extend our final determination from July 11 to September 12, 1983. This request was granted. We performed additional verification in Korea on August 1–5, 1983.

Scope of Investigation

For purposes of this investigation, the term "steel wire rope" covers ropes, cables and cordage, other than wire strand, of steel, other than brass plated, not fitted with fittings, not made into articles, and not covered with textiles or other non-metallic materials, currently provided for in items 642.1400, 642.1610 and 642.1650 of the *Tariff Schedul of the United States Annotated.*

Since the five respondents pro more than 90 percent of the steel rope exported from Korea to the l .ed States during the period of investigation, we limited our investigation to them.

We investigated sales of wire rope which were made by these five producers during the period from April 1, 1982 to September 30, 1982.

Fair Value Comparison

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

As provided in section 772 of the Act, we used the purchase price of the subject merchandise to represent the United States price for sales by the Korean producers because the merchandise was sold to unrelated purchasers prior to its importation into the United States. We calculated the purchase price for each type of wire rope based on the f.o.b., c.i.f., or c.&f., price to unrelated customers in the United States. We made deductions, where appropriate, for inland freight, ocean freight, marine insurance, wharfage, stevedorage, brokerage and inspection in accordance with section 772(d)(2)(A) of the Act. We made an addition for import duties which were rebated or not collected by reason of the exportation of the merchandise to the United States, pursuant to section 772(d)(1)(B) of the Act.

Foreign Market Value

In accordance with section 773(a)(1)(A) of the Act, we calculated foreign market value based on home market sales prices for KISW, Boo-Kook, Young Heung, and Dong-Il. For Korea Sangsa, we used sales prices for export to a country other than the United States (a "third country"), as required by section 773(a)(1)(B) of the Act. Korea Sangsa had no home market sales of the subject merchandise. We used Korea Sangsa's sales prices to the Federal Republic of Germany (Germany), the third country with the largest sales volume, for the purpose of calculating foreign market value.

We calculated the home market prices for each type of wire rope on the basis of the delivered prices to unrelated purchasers. We deducted inland freight. We made adjustments, where appropriate, for differences in merchandise in accordance with section 773(a)(4)(C) of the Act, and for differences in cost relating to product liability insurance and credit terms pursuant to section 773(a)(4)(B) of the Act. Finally, we adjusted for differences in packing in accordance with section 773(a)(1) of the Act. For Korea Sangsa, we calculated third country price on the basis of the price to unrelated customers in Germany. We made deductions, where appropriate, for inland freight, ocean freight, product liability insurance, wharfage, brokerage, and marine insurance. We made adjustments, where appropriate, for differences in merchandise in accordance with section 773(a)(4)(C) of the Act. We also made adjustments for differences in cost relating to product liability insurance and credit terms pursuant to section 773(a)(4)(B) of the Act, and for differences in packing pursuant to section 773(a)(1) of the Act.

Petitioners' Comments

Comment 1

Petitioner contends that the Korean producers under investigation have purchased Korean-produced high-carbon rod to make steel wire rope for exportation to the United States. Therefore, petitioner objects to the addition to the United States price of a duty rebate or remission based on the claim of Korean respondents that all high-carbon rod used to make steel wire rope during the period under investigation had been imported.

DOC Position

Under section 772(a)(1)(B) of the Act, the Department is required to increase purchase price by "the amount of any import duties imposed by the country of exportation which have been rebated, or which have not been collected, by reason of the exportation of the merchandise to the United States". Although all respondents (except Korea Sangsa) purchased Korean-produced high-carbon rod on which no import duty is levied, we have established, based on verification, that all wire rope was produced from imported rod on which import duties have been levied. Therefore, the entire amount of this adjustment is warranted.

In the alternative, even if the Korean firms used domestic wire rod in the production of rope for export, there is evidence on the record of sufficient imports of high-carbon rod to more than account for all exports of wire rope. Under the principle of drawback substitution, this is sufficient to warrant an adjustment for the drawback of duties by the Korean government on exports of wire rope.

Comment 2

Petitioner alleges that an office maintained by KISW at Fort Lee, New Jersey, sells steel wire rope out of inventory, functions as a warehousing center, and has incurred direct selling expenses, such as the costs of warranty and returns and allowances.

DOC Position

Although KISW does maintain a small office at Fort Lee, New Jersey, our investigation indicates that the main function of the office is to gather marketing information, provide a communication outlet for customers, and serve as a purchasing agent for the parent firm. Ordinarily, the office has no sales function. However, the office has occasionally rented private warehouse space and sold small quantities of stainless steel wire rope out of stock. During the priod under investigation, KISW's office at Fort Lee sold less than 5 metric tons of wire rope out of stock. Because the volume of sales was insignificant in comparison to total imports of the subject merchandise, and because fair value comparisons for these sales would have required the use of a different method of calculating U.S. price, the Department disregarded these sales. We also examined the records of this office and found no evidence of the incurrence of any costs of warranty, returns and allowances, or other direct selling expenses.

Comment 3

Petitioner contrasts total sales reported by the five respondents during the investigative period, April 1 through September 30, 1982, with Department of Commerce import statistics for various six-month periods between April 1, 1982, through March 31, 1983, and concludes that there is a "short fall" between U.S. imports and reported Korean sales of at least 20 percent. Therefore, petitioners assert that there is substantial evidence that the Korean producers have not reported all sales to the United States.

DOC Position

Respondents were asked to report all *sales* to the United States during the investigative period, not *exports*. Information on record indicates that the five Korean producers have exported a significant quantity of steel wire rope during the investigative period which was purchased *prior* to the period. During the course of this investigation we have reviewed all available information regarding sales and exports, and have found no evidence of unreported sales by the producers under investigation.

Comment 4

Petitioner alleges that the Korean respondents have incurred warranty, guarantee and mill-test certificate expenses for United States sales which were not reported and which should have been deducted from U.S. price.

DOC Position

The Department has conducted extensive verification of the Korean respondents' records and found no evidence of warranty or guarantee expenses incurred during the period under investigation. However, the respondents did incur an expense for product liability insurance, for which the Department has made an adjustment to foreign market value pursuant to section 773(a)(4)(B) of the Act. With respect to mill-test certificate expenses, the Department has information indicating that mill-test certificates are frequently requested for United States sales and less frequently for sales in the Korean home market. All testing and inspection required for the issuance of a mill-test certificate is performed internally by the respondents' own employees. These expenses are incurred on production of all steel wire rope and represent a normal cost of production, not a selling expense which is directly related to the sales under consideration. Also, any expenses incurred in typing a mill-test certificate would be *de minimus* and would have no impact on the results of this investigation.

Comment 5

Petitioner contends that a large number of calculation errors were made by the Department with respect to the

fair value comparisons and have submitted a list of particular, alleged errors.

DOC Position

The Department has carefully reviewed the petitioner's list and has concluded that in many instances the Department's calculations were correct. However, *bona fide* errors have been found and corrected for this final determination.

Comment 6

Petitioner argues that small quantity sales in the home market of under 200 feet should be disregarded as not being comparable to the usual transactional quantities of steel wire rope sold to the United States.

DOC Position

We have reviewed all Korean home market sales and have found no real correlation between the prices paid and quantities purchased on individual transactions. Therefore, it is our opinion that weighted-average home market prices are appropriate and that all sales should be considered.

Comment 7

Petitioner alleged that there is substantial evidence that certain Korean wire rope is sold at less than the cost of production in the home market. Petitioners also submitted certain cost data in support of the allegation and requested that the Department initiate a cost of production investigation.

DOC Position

We have dismissed petitioner's allegations of sales at less than cost for two reasons. First, the allegation was deficient because the cost data submitted by petitioners were not properly supported. Petitioner did not adequately explain nor justify the cost of production factors which were used in its submission to demonstrate sales in the home market at less than cost. Second, the allegation was untimely. The submission was received in proper form just 59 days prior to the date on which we are required by statute to make a final determination, notwithstanding the fact that petitioners had been in position to make such an allegation much earlier in this case. We believe that a minimum of four months is required to conduct a cost investigation. We would require the time to prepare the cost questionnaires, present them in Korea, and allow at least 30 days for the responses. Then we would need additional time to analyze the responses from each of the five companies, verify each response in Korea, and prepare our final determination.

Comment 8

Petitioner alleges that the U. S. customers of Korean producers are reselling wire rope in the United States at a loss and that the Department should investigate the selling prices of the U.S. customers.

DOC Position

Our fair value determinations are based on a comparison of the prices of the Korean producers to unrelated customers in the United States and in the home market. The prices at which U.S. customers unrelated to producers have resold the merchandise in the United States cannot provide a basis for fair value comparisons. Petitioners have not alleged specifically, nor submitted evidence showing, that any sales between the Korean producers and their unrelated U.S. customers were fictitious or not "arms length". Therefore, any further investigation would exceed our statutory authority.

Comment 9

Petitioner suggests that Korean respondents may have sold steel wire rope to different classes of purchasers, such an end-users or wholesalers, at different prices. If this is the case, petitioner argues that comparisons should be made at the same level of trade as sales are made in the United States.

DOC Position

Our investigation indicates that the prices of the Korean respondents to their home market customers were determined through negotiation with each individual customer. There is no correlation between price and class of customer. Therefore, we believe it is proper to use weighted-average prices to all classes of customers at the wholesale level for our fair value comparisons.

Comment 10

With respect to certain Korean respondents, some home market sales were made to Korean government agencies. Petitioner argues that we should omit these sales from comparison because they are made on a cash basis and do not reflect normal payment practices.

DOC Position

In calculating fair value, we adjust for differences in credit terms. Therefore, this is not a valid reason for eliminating these sales from comparison.

Comment 11

Petitioner argues that credit expense differences should be computed from the date of production or the date of sale (whichever occurs later) until the time of actual payments, as opposed to computing these expenses from the time of shipment or delivery to the time of actual payment in all cases.

DOC Position

Under section 353.15, Commerce Regulations, we adjust for differences in credit or payment terms between U.S. and home market sales transactions. This adjustment is not intended to adjust for indirect selling expenses, such as the carrying costs of finished inventory. Since payment is generally due at the time of delivery or shipment, we believe that our credit cost adjustement is correct.

Comment 12

In the case of Boo-Kook, petitioners argue that a 13-day bank fee expense incurred on U.S. sales when payment terms are "letter of credit at sight" should be taken into consideration when adjusting for differences in payment terms.

DOC Position

We agree with the petitioner's position, because this particular charge is directly related to the payment terms of U.S. transactions. For purpose of this final determination we have taken into account the 13-day bank fee expense in adjusting for differences in credit terms.

Comment 13

Petitioner alleges that the Department failed to take into account a business tax amount applied to home market sales.

DOC Position

The Department believes that petitioner is referring to a value added tax which is billed separately to the customer and is not included in the home market price. Therefore, no adjustment is required.

Comment 14

Petitioner argues that the Department should not allow a claim by Boo-Kook for differences in labor, and a claim by Young Heung for differences in labor and variable factory overhead, when adjusting for differences in merchandise. Petitioner contends that labor and direct facrory overhead cannot possibly differ when adjustments are made between two different sizes of wire rope.

DOC Position

We have allowed Boo-Kook and Young Heung's claims with respect to labor and factory overhead differences based on information submitted in support of these claims at verification.

Comment 15

Petitioner argues that certain steel wire rope constructions sold in the home market, such as 6x24x7FC, 7x7x78, and 7x7x19, are special construction ropes which are not capable of comparison with U.S. constructions.

DOC Position

If merchandise is such or similar within the meaining of section 771(16) of the Act, it is capable of being compared to merchandise sold to the United States. We believe that the above-cited definition of such similar is broad enough to encompass the steel wire rope construction specified by the petitioner.

Comment 16

Petitioner argues that wooden reel packing claimed by KISW for sales of small lengths in the home market should be disregarded.

DOC Position

KISW's response indicates that wooden reel packing is used for continuous length sales of over 200 meters, or for wire rope over 22 millimeters in diameter. The Department has verified KISW's packing costs and believes that this cost adjustment is justified.

Comment 17

In the case of KISW, petitioner argues that home market inland freight should be calculated using average freight charges from the nearest of three plants instead of inland freight from just the Pusan plant. Petitioner also contends that the Department ignored containerization fees and a discrepancy between export and domestic inland freight in the Pusan area.

DOC Position

The Department has investigated containerization fees and we reported our findings in our verification report of KISW. Inland freight charges were calculated using average transportation costs from the three plants. The differences in domestic and export inland freight charges are due to the different modes of transport, such as the use of trucks for domestic delivery and containers for export shipments in the Pusan area.

Comment 18

In the case of KISW, petitioner argues that stevedorage expenses should have been deducted from U.S. price.

DOC Position

KISW included stevedorage expenses in inland freight charges. The Department has verified these expenses and deducted them from the U.S. price.

Comment 19

Petitioner alleges that we have not adjusted for certain packing costs, product liability costs, and direct selling costs of Korea Sangsa.

DOC Position

We have adjusted for product liability costs in our fair value calculations. We have verified that Korea Sangsa has not incurred any direct selling costs other than those for which we have already adjusted. We have also verified that Korea Sangsa's packing for both the United States and Germany are the same and that there are virtually no differences in packing costs for the two markets.

Comment 20

Petitioner asserts that the Department failed to take into account product liability insurance expenses for aircraft cable for Young Heung.

DOC Position

Young Heung's insurance policy excepts aircraft cable. Young Heung stated that it does not guarantee its aircraft cable for aircraft use and has no additional product liability expenses other than those reported.

Critical Circumstances

The petitioner alleges that "critical circumstances" exist with respect to imports of steel wire rope from Korea. Since we preliminarily determined the subject merchandise has not been sold in the United States at less than fair value, we did not determine at that time whether critical circumstances existed. As our final determination in this case is negative, the allegation is moot and we will not address it.

Verification

In accordance with 776(a) of the Act, we have verified all data used in reaching our final determination in this investigation, using standard verification procedures, including on-site inspection of the manufacturers' operations and examination of the books and records of the five manufacturers.

Results of Investigation

We found an overall weighted-average margin of less than 0.5 percent for exports of steel wire rope from Korea. This is *de minimis*. The results for each company are as follows:

Firm	Weighted average margin percentage	Percentage of total sales compared
Boo-Kook Steel Works & Wire Co	0.48	99.3
Dong-Il Steel Mfg., Co	.31	95.5
Korea Iron & Steel	.02	95.2
Korea Sangsa Co	.00	72.4
Young Heung Iron & Steel Co	.14	98.8

Final Determination

We have determined that steel wire rope from Korea is not being, nor is likely to be, sold in the United States at less than fair value, as provided in section 733 the Act. Our final determination of sales at not less than fair value terminates this investigation.

In accordance with section 735(a) of the Act, we will notify the ITC of our determination. This determination is being published pursuant to section 735(d) of the Act (19 U.S.C. 1673(d)).

September 12, 1983.

Lawrence J. Brady,

Assistant Secretary for Trade Administration.

[FR Doc. 83-25362 Filed 9-15-83; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

National Marine Fisheries Service; Marine Fisheries Advisory Committee; Public Meeting with Partially Closed Session

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Notice.

SUMMARY: As required by Section 10(a)(2) of the Federal Advisory Committee, Act, 5 U.S.C. App. (1976) as amended, notice is hereby given of a partially closed meeting of the Marine Fisheries Advisory Committee (MAFAC). MAFAC was established by the Secretary of Commerce on February 17, 1971, to advise the Secretary on matters pertinent to the Department's responsibilities for marine fishery resources and on means to facilitate cooperation between public and private interests in these matters.

DATES: The meeting will convene September 28, 1983, at 8:30 a.m. and adjourn at approximately 3:30 p.m. on September 29, 1983. The closed session of the meeting will commence at 2:30

p.m. on September 29, 1983, and adjourn at 3:30 p.m.

ADDRESS: The meeting will be held at the Old Colony Inn, in Alexandria, Virginia.

Meeting agenda. The proposed meeting agenda is as fillows:

Agenda

Open session—September 28, 1983 (8:30 a.m.–noon) Fisheries Oceanography panel presentation and presentation of NOAA fisheries oceanographic research programs.

Open session—September 28, 1983 (1:30 p.m.–5:00 p.m.) (a) presentation of NOAA fisheries oceanographic research programs continued; (b) proposed NOAA initiative—fisheries oceanography coordinated investigations (FOCI); and (c) group discussion and recommendations.

Open session—September 29, 1983 (8:30 a.m.–noon) (a) International Trade/ NOAA Reoganization (b) subcommittee reports; (c) joint venture policy; and (d) gear technology research.

Open session—September 29, 1983 (1:30 p.m.–2:30 p.m.) (a) Salt water fishing license (H.R. 2965) and (b) NOAA Five Year Plan.

Closed session—September 29, 1983 (2:30 p.m.–3:30 p.m.) Consider and discuss the living marine resources proposals of the NOAA FY 1985 budget.

SUPPLEMENTARY INFORMATION: The Assistant Secretary of Administration of the Department of Commerce, with the concurrence of the General Counsel, formally determined on September 13, 1983, pursuant to section 10(d) of the Federal Advisory Committee Act, that the agenda item to be covered during the closed session may be exempt from the provisions of the Act relating to open meetings and public participation therein, because the item will be concerned with matters that are within the purview of 5 U.S.C. Section 552b(c)(B) as information on the premature disclosure of which will be likely to significantly frustrate the implementation of proposed agency action. (A copy of the determination is available for public inspection and duplication in the Central Reference and Records Inspection Facility, Room 6628, Department of Commerce.) All other portions of the meeting will be open to the public.

FOR FURTHER INFORMATION OR COPIES OF MINUTES CONTACT: Ann Smith, Executive Secretary, Marine Fisheries Advisory Committee, National Marine Fisheries Service, NOAA, Washington, D.C. 20235. Telephone: (202) 634–9563.

Dated: September 13, 1983.

William G. Gordon,

Assistant Administrator for Fisheries.

[FR Doc. 83-25315 Filed 9-15-83; 8:45 am]

BILLING CODE 3510-08-M

North Pacific Fishery Management Council; Public Meetings

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The North Pacific Fishery Management Council, established by the Magnuson Fishery Conservation and Management Act has established a Scientific and Statistical Committee (SSC) and an Advisory Panel (AP) to assist the Council in carrying out its responsibilities under the Magnuson Act. The Council, its SSC and AP, will hold separate public meetings.

DATES: The Council will convene on Wednesday, September 28, 1983, at approximately 9:00 a.m.. The Council will meet until about 5:00 p.m. on Thursday, September 29, or until Council business is completed. SSC meeting will convene at 9:00 a.m. on Monday, September 26 and will adjourn at approximately 5:00 p.m. on Tuesday, September 27. The AP will convene its meeting at approximately 5:00 p.m. the same day. The meetings may be lengthened or shortened depending upon progress on agenda items.

Plan Team meetings may be held on short notice during the Council meeting week. These meetings will be posted at the Council meeting site. All meetings are open to the public.

ADDRESS: Meetings will be held at the Old Federal Building, 605 W. 4th Avenue, Anchorage, Alaska.

FOR FURTHER INFORMATION CONTACT: Jim H. Branson, Executive Director, North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510 (907–274–4563).

SUPPLEMENTARY INFORMATION: *Proposed Agenda:* Council—A detailed agenda will be sent to the public about September 12, 1983. The Council will hold elections for Chairman and Vice-Chairman, hear reports on domestic and foreign fisheries and on enforcement and surveillance, and consider foreign permit applications from Taiwan and Spain. They will also review the final draft of the Herring Fishery Management Plan and may call for proposals for the 1984 salmon troll fishery off Southeast Alaska. The Council will also consider final approval for the King Crab Fishery Management Plan. Tanner Crab Amendment 10 will be up for final review and the Council will discuss NMFS' disapproval of the pot limits in Amendment 8 to the Tanner Crab Plan. Also on the agenda will be a report from the Council's Halibut Workgroup on future Council action on management measures for the halibut fishery. The Council will review the Resource Assessment Document (RAD) for the Bering Sea/Aleutian Islands Groundfish FMP and set preliminary figures for Total Allowable Catch (TAC), Domestic Annual Processing Capacity (DAP) and Joint Venture Processing Capacity (JVP) for 1984 for groundfish fisheries in both the Gulf of Alaska and the Bering Sea/Aleutian Islands. The agenda will include several contracts for review and/or approval by the Council.

The SSC and AP agenda items will be similar to that of the Council.

(16 U.S.C. 1801 *et seq.*)

Dated: September 12, 1983.

William G. Gordon,

Assistant Administrator for Fisheries National Marine Fisheries Service

[FR Doc. 83-25314 Filed 9-15-83; 8:45 am]

BILLING CODE 3510-22-M

South Atlantic Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Notice.

SUMMARY: The South Atlantic Fishery Management Council, established by the Magnuson Fishery Conservation and Management Act (Public Law 94–265, as amended), will meet to discuss the status of the Swordfish and the Coastal Migratory Pelagics (mackerel) Fishery Management Plans, to review the rejected provision of the Snapper-Grouper Fishery Management Plan, review the status of the shrimp fishery, as well as discuss other fishery management and administrative matters, as necessary.

DATES: October 17–20, 1983 (9 a.m. on October 17 to approximately 3 p.m. on October 20) October 19, 1983—Closed Session (2 p.m. to 3 p.m. to discuss personnel matters).

ADDRESS: The public meetings will take place at the Hyatt Regency, 2 W. Bay Street, Savannah, Georgia.

FOR FURTHER INFORMATION CONTACT: David H. G. Gould, Executive Director, South Atlantic Fishery Management Council, Southpark Building, Suite 306, One Southpark Circle, Charleston, South

Carolina 29407, Telephone (803) 571–4366.

Dated: September 12, 1983.

William G. Gordon,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc 83–25313 Filed 9–15–83; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1983; Proposed Additions and Deletion

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to and deletion from procurement list.

SUMMARY: The Committee has received proposals to add and delete from Procurement List 1983 commodities and a military resale commodity to be produced by and a service to be provided by workshops for the blind and other severely dandicapped.

Comments must be received on or before: October 19, 1983

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodity, military resale commodity, and service listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodity, military resale commodity, and service to Procurement List 1983, November 18, 1982 (47 FR 52101):

CLASS 7210

Sheet, Bed, Disposable 7210–00–144–6082

Military Resale Item No. and Name

No. 590 Paper Towel Holder

SIC 7349

Janitorial Service, Federal Building, 801 Capitol Way, Olympia, Washington.

Deletions

It is proposed to delete the following commodity from Procurement List 1983, November 18, 1982 (47 FR 52101):

CLASS 8440

Belt, Trousers
8440–00–964–3979

C. W. Fletcher,

Executive Director.

[FR Doc. 83–25341 Filed 9–15–83; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Department of the Army

Public Information Collection Requirement Submitted to OMB for Review

The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

Extension

Recreation Research—Use Survey, ENG Form 4835.

Recreation use figures are needed to supplement research efforts directed toward program evaluation and increasing cost efficiency of planning, design and management of Corps projects and to report visitation to Congress as required by Pub. L. 92–347.

Individuals: 25,000 responses; 2,750 hours.

Forward comments to Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, D.C. 20503, and John V. Wenderoth, DOD Clearance Officer, OASD(C), DIRMS, IRAD, Room 1A658, Pentagon, Washington, D.C. 20301, telephone (202) 697–1195.

A copy of the information collection proposal may be obtained from David O. Cochran, DAAG–OPI, Room 1D667, Pentagon, Washington, D.C. 20310, telephone (202) 695–5111.

Dated: September 13, 1983.

M.S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83–25327 Filed 9–15–83; 8:45 am]

BILLING CODE 3710-08-M

Public Information Collection Requirement Submitted to OMB for Review

The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

Extension

Questionnaire for Corps of Engineers Data Collection for Planning Purposes, Eng Form 3669.

These questions are designed to gather data essential for planning navigation, flood control, shore protection, water supply and water conservation projects.

Individuals, businesses or organizations: 4,000 repondents, 2,000 hours.

Forward comments to Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, D.C. 20503, and John V. Wenderoth, DOD Clearance Officer, WHS/DIOR, Room 1C535, Pentagon, Washington, D.C. 20301, telephone (202) 694–0187.

A copy of the information collection proposal may be obtained from David O. Cochran, DAAG–OPI, Room 1D667, Pentagon, Washington, D.C. 20310, telephone (202) 695–695–5111.

Dated: September 13, 1983.

M.S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83–25328 Filed 9–15–83; 8:45 am]

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Extension

Application for Retired Pay Benefits, DD Form 108.

The primary purpose of this effort is to collect personal identifers such as: name, SSN, address, highest grade held and elected date of retirement. This information is necessary to process requests or retired pay of reserve members.

Individual reserve members: 16,386 respondents, 2,731 hours.

Forward comments Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, D.C. 20503, and John V. Wenderoth, DOD Clearance Officer, WHS/DIOR, Room 1C535, Pentagon, Washington, D.C. 20301, telephone (202) 694–0187.

A copy of the information collection proposal may be obtained from David O. Cochran, DAAG–OPI, Room 1D667, Pentagon, Washington, D.C. 20310, telephone (202) 695–5111.

Dated: September 13, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83–25329 Filed 9–15–83; 8:45 am]

BILLING CODE 3710–08–M

Department of the Navy

Board of Visitors to the United States Naval Academy; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 1), notice is hereby given that the Board of Visitors to the United States Naval Academy will meet on October 7, 1983, at the United States Naval Academy. The session, which is open to the Public, will commence at 8:30 a.m., on October 7, 1983, in Room 301, Rickover Hall, and end at 4:00 p.m.

The purpose of the meeting is to make such inquiry as the Boad shall deem necessary into the state of morale and discipline, the curriculum, instruction, physical equipment, fiscal affairs, and academic method of the Naval Academy.

For further information concerning this meeting contact: Rear Admiral Robert W. McNitt, USN (Ret.), Secretary of the Board of Visitors, Dean of Admissions, U.S. Naval Academy, Annapolis, Maryland 21402. Telephone: (301) 267–4361.

Dated: September 12, 1983.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 83–25330 Filed 9–15–83; 8:45 am]

BILLING CODE 3810–AE–M

Chief of Naval Operations Executive Panel Advisory Committee, Cost Technology Task Force; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee will meet October 4–5, 1983, from 9 a.m. to 5 p.m. each day, at 2000 North Beauregard Street, Alexandria, Virginia 22311. All sessions will be closed to the public.

The entire agenda for the meeting will consist of discussions of key issues related to naval aspects of national security policy and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552(c)(1) of title 5, United States Code.

For further information concerning this meeting contact: Commander R. Robinson arris, Executive Secretary of the CNO Executive Panel Advisory Committee, 2000 North Beauregard Street, Room 392, Alexandria, Virginia 22311. Phone (202) 694–8422.

F.N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy Alternate Federal Register Liaison Officer.

[FR Doc. 83–25330 Filed 9–15–83; 8:45 am]

BILLING CODE 3810–AE–M

DEPARTMENT OF EDUCATION

Minority Institutions Science Improvement Program; Application Notice

AGENCY: Department of Education.

ACTION: Application Notice for Minority Institutions Science Improvement Program (MISIP).

SUMMPLEMENTARY INFORMATION: Applications are invited for new grant awards to be made in fiscal year 1984 under the Minority Institutions Science Improvement Program (MISIP), administered by the Fund for the Improvement of Postsecondary Education.

The Secretary makes four types of project grant awards under MISIP. Depending on the type of grant, eligible applicants are public and private nonprofit predominantly minority institutions, professional scientific societies, or nonprofit accredited colleges and universities which render a needed service to a group of eligible minority institutions, or which provide in-service training to project directors, scientists and engineers from eligible institutions.

Authority for this program is contained in section 406A of the General Education Provision Act, as amended by the Education Amendments of 1980, Pub. L. 96–374.

(20 U.S.C. 1221e–1b)

Closing Dates for Transmittal of Applications: Applications for Institutional, Design, and Cooperative project grants (84.120A) must be mailed or hand-delivered by December 2, 1983. Applications for Special project grants (84.120B) must be mailed or hand-delivered by March 2, 1984.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.120A, Washington, D.C. 20202.

To estabish proof of mailing, an applicant must show one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

If any application is sent through the U.S. Postal Service, the Secretary does not accept a private metered postmark or mail receipt that is not dated by the U.S. Postal Service as proof of mailing. An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its applications will not be considered.

Applications Delivered by Hand: An application that is hand-delivered must be taken to the U.S. Department of Education Application Control Center, Room 5673, Regional Office Building 3, Seventh and D Streets, S.W., Washington, D.C.

The Secretary will accept hand-delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays. Applications for Institutional, Design, or Cooperative project grants that are hand-delivered will not be accepted after 4:30 p.m. on December 2, 1983. Applications for Special project grants that are hand-delivered will not be accepted after 4:30 p.m. on March 2, 1984.

Program Information: The Secretary supports projects that propose to enhance a minority institution's capacity for developing and maintaining a quality science education program for all of its students and to augment the institution's capability for increasing the flow of underrepresented ethnic minorities into the fields of science and engineering.

The Secretary awards grants in the following categories of projects:

(1) Design projects grants to assist minority institutions that do not have their own appropriate resources or personnel to plan and develop long-range science improvement;

(2) Institutional project grants to individual minority institutions to support the implementation of a comprehensive science improvement plan, which may include any combination of activities for improving the preparation of minority students for careers in science and engineering;

(3) Cooperative project grants to assist groups of nonprofit accredited colleges and universities to work together to conduct a science improvement project:

(4) Special project grants to

(a) Minority institutions to support activities that improve quality training in science and engineering or enhance a minority institution's general scientific research capabilities.

(b) All eligible applicants to support activities that provide a need service to a group of eligible minority institutions or provide in-service training for project directors, scientists, and engineers from eligible minority institutions.

Available Funds:

(a) Approximately $3.8 million is estimated to be available for Institutional and Cooperative project grant awards in fiscal year 1984. It is estimated that these funds will support approximately 15 awards. The maximum amount for an Institutional project grant is $300,000 and $500,000 for a Cooperative project grant for a 36-month period.

(b) Approximately $1.0 million is estimated to be available for Special project and Design grant awards in fiscal year 1984. It is estimated that these funds will support approximately 18 grant awards for Special and Design projects. The maximum amount for a Special project grant award is $150,000 for a 24-month project period. The maximum amount for a Design project grant award is $20,000 for a 12-month period.

These estimates do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant, unless the amount is otherwise specified by statute or regulations.

Application Forms: Application forms are included in the program information packages that are expected to be ready for mailing by late September 1983. Interested persons may obtain program information packages by writing to the U.S. Department of Education, Office of Postsecondary Education, Fund for the Improvement of Postsecondary Education, Attn. 84.120A, Minority Institutions Science Improvement Program, Room 3100 Regional Office Building #3, Seventh and D Streets, S.W., Washington, D.C. 20202, Telephone: 202/426-9313

The program information packaged is intended to aid applicants in applying for assistance under this competition. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those specifically imposed under the statute and regulations governing the competition.

Applicable Regulations: Regulations applicable to this program include the following:

(1) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, and 78.

(2) Regulations governing the Minority Institutions Science Improvement Program (34 CFR Part 637).

Further Information: For further information, contact the U.S. Department of Education, Office of Postsecondary Education, Fund for the Improvement of Postsecondary Education, regarding the Minority Institutions Science Improvement Program (84.120A 84.120B). Telephone: 202/426-9313.

Dated: September 9, 1983.

(Catalog Federal Domestic Assistance No. 84.120A, Minority Institutions Science Improvement Program)

Edward M. Elmendorf,

Assistant Secretary for Postsecondary Education.

[FR Doc. 83-25308 Filed 9-15-83; 8:45 am]

BILLING CODE 4000-01-M

Office of Special Education and Rehabilitative Services

Application Notice Establishing Closing Dates for Transmittal of Certain Fiscal Year 1984 Noncompeting Continuation Grant Applications; Education of the Handicapped

AGENCY: Office of Special Education and Rehabilitative Services, Education.

ACTION: Notice.

SUMMARY: The purpose of this application notice is to inform potential applicants of fiscal and programmatic information and closing dates for transmittal of noncompeting continuation grant applications for certain programs administered by the Office of Special Education and Rehabilitative Services.

Organization of Notice

This notice contains two parts. Part I includes a list of all application closing dates covered by this notice. Part II contains the individual application announcements for each program.

Instructions for Transmittal of Applications

Applicants should note specifically the instructions for the transmittal of applications included below:

Transmittal of Applications: To be assured of consideration for funding, applications for noncompeting continuation awards should be mailed or hand delivered on or before the

closing date given in the individual program announcements included in this document.

If an application is late, the Department of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications Delivered by Mail: Applications must be addressed to the Department of Education, Application Control Center, Attention: (Insert appropriate CFDA Number), Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other evidence of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with the local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications Delivered by Hand: Hand-delivered applications must be taken to the Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

PART I—LIST OF PROGRAM APPLICATION ANNOUNCEMENTS PUBLISHED IN THIS NOTICE

CFDA No.	Program Title	Closing date
84.023X	Research in Education of the Handicapped—Field Initiated Research Projects—Phase I.	Oct. 17, 1983.
84.023Y	Research in Education of the Handicapped—Field Initiated Rresearch Projects—Phase II.	Apr. 2, 1984.
84.023F	Research in Edcation of the Handicapped—Assessment Research Projects.	Mar. 1, 1984.

PART I—LIST OF PROGRAM APPLICATION ANNOUNCEMENTS PUBLISHED IN THIS NOTICE—Continued

CFDA No.	Program Title	Closing date
84.023R	Research in Education of the Handicapped—Technology Effectiveness Research Projects.	Do.
84.024X	Handicapped Children's Early Education—Demonstration Projects.	Nov. 10, 1983.
84.024C	Handicapped Children's Early Education—State Implementation Grants.	Mar. 30, 1984.
84.078A	Regional Education Programs for Handicapped Persons—Centers for Deaf Students.	Jan. 23, 1984

Part II—Application Notices

84.023X Research in Education of the Handicapped—Field Initiated Research Projects—Phase I

Applications are invited for noncompeting continuation Field Initiated Research projects (Phase I) under the Research in Education of the Handicapped program.

Authority for this program is contained in Sections 641 and 642 of Part E of the Education of the Handicapped Act.

(20 U.S.C. 1441, 1442)

Awards are made under this program to States, State or local educational agencies, institutions of higher education, and other public or nonprofit private educational or research agencies and organizations.

The purpose of this program is to provide a source of support for a broad range of research and development projects that fall outside areas of interest identified by the Education Department as priorities for directed research activities. The appropriate areas of interest for projects are limited only by the mission of the research program—support of applied research relating to education of the handicapped.

Closing Date for Transmittal of Applications: To be assured of consideration for funding, an application for a noncompeting continuation award should be mailed or hand delivered by October 17, 1983.

If the application is late, the Department of Education may lack sufficient time to review it with other applications for noncompeting continuations and may decline to accept it.

Available Funds: It is estimated that approximately $1,100,000 will be available for support of twelve (12) noncompeting continuation grants in Fiscal Year 1984. This estimate does not bind the Department of Education to a specified number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application Forms: Application forms and program information packages will be mailed to grantees on September 16, 1983 who are eligible to apply for noncompeting continuation grant support under this notice.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 20 double-spaced or 10 single-spaced pages in length. The Secretary further urges that applicants not submit information that is not requested.

Applicable Regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Research in Education of the Handicapped program (34 CFR Part 324).

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

For Further Information Contact: Allen Dittmann, Research Projects Branch, Special Education Programs, Donohoe Building, Room 4839, U.S. Department of Education, 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone: (202)472–4640.

(20 U.S.C. 1441, 1442)

84.023Y Research in Education of the Handicapped—Field Initiated Research Projects—Phase II

Applications are invited for noncompeting continuation Field Initiated Research projects (Phase II) under the Research in Education of the Handicapped program.

Authority for this program is contained in Sections 641 and 642 of Part E of the Education of the Handicapped Act. (20 U.S.C. 1441–1442)

Awards are made under this program to States, State or local educational agencies, institutions of higher education, and other public or nonprofit private educational or research agencies and organizations.

The purpose of this program is to provide a source of support for a broad range of research and development

projects that fall outside areas of interest identified by the Education Department as priorities for directed research activities. The appropriate areas of interest for projects are limited only by the mission of the research program—support of applied research relating to education of the handicapped.

Closing Date for Transmittal of Applications: To be assured of consideration for funding, an application for a noncompeting continuation award should be mailed or hand delivered by April 2, 1984.

If the application is late, the Department of Education may lack sufficient time to review it with other applications for noncompeting continuations and may decline to accept it.

Available Funds: It is estimated that approximately $1,700,000 will be available for support of nineteen (19) noncompeting continuation grants in Fiscal Year 1984. This estimate does not bind the Department of Education to a specified number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application forms: Application forms and program information packages will be mailed on September 16, 1983 to grantees who are eligible to apply for noncompeting continuation grant support under this notice.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 20 doubled-spaced or 10 single-spaced pages in length. The Secretary further urges that applicants not submit information that is not requested.

Applicable Regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Research in Education of the Handicapped program (34 CFR Part 324).

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

For Further Information Contact: For further information contact Allen Dittmann, Research Projects Branch, Special Education Programs, Donohoe Building, Room 4839, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 472–4640.

(20 U.S.C. 1441, 1442)

84.023F Research in Education of the Handicapped—Assessment Research Projects

Applications are invited for noncompeting continuation Assessment Research projects under the Research in Education of the Handicapped program.

Authority for this program is contained in Sections 641 and 642 of Part E of the Education of the Handicapped Act.

(20 U.S.C. 1441, 1442)

Awards are made under this program to States, State or local educational agencies, institutions of higher education, and other public or nonprofit private educational or research agencies and organizations.

The purpose of this program is to support projects on assessment instruments and systems related to education of the handicapped.

Closing Date for Transmittal of Applications: To be assured of consideration for funding, an application for a noncompeting continuation award should be mailed or hand delivered by March 1, 1984.

If the application is late, the Department of Education may lack sufficient time to review it with other applications for noncompeting continuations and may decline to accept it.

Available Funds: It is estimated that approximately $1,000,000 will be available for support of three (3) noncompeting continuation grants in Fiscal Year 1984. This estimate does not bind the Department of Education to a specified number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application Forms: Application forms and program information packages will be mailed on September 16, 1983 to grantees who are eligible to apply for noncompeting continuation grant support under this notice.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 20 double-spaced or 10 single-spaced pages in length. The Secretary further urges that applicants not submit information that is not requested.

Applicable Regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Research in Education of the Handicapped program (34 CFR Part 324).

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

For Further Information Contact: For further information contact Allen Dittmann, Research Projects Branch, Special Education Programs, Donohoe Building, Room 4839, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 472–4640.

(20 U.S.C. 1441–1444)

84.023R Research in Education of the Handicapped—Technology Effectiveness Research Projects

Applications are invited for noncompeting continuation Technology Effectiveness Research projects under the Research in Education of the Handicapped program.

Authority for this program is contained in Sections 641 and 642 of Part E of the Education of the Handicapped Act.

(20 U.S.C. 1441–1442)

Awards are made under this program to States, State or local educational agencies, institutions of higher education, and other public or nonprofit private educational or research agencies and organizations.

The purpose of this program is to support projects on the use of technological devices and systems in schools and by handicapped students.

Closing Date for Transmittal of Applications: To be assured of consideration for funding, an application for a noncompeting continuation award should be mailed or hand delivered by March 1, 1984.

If the application is late, the Department of Education may lack sufficient time to review it with other applications for noncometing continuations and may decline to accept it.

Available Funds: It is estimated that approximately $1,000,000 will be available for support of four (4) noncompeting continuation grants in Fiscal Year 1984. This estimate does not

bind the Department of Education to a specified number of grants or to the amount of any grant unless that amount is otherwise specified by statue or regulations.

Applications Forms: Application forms and program information packages will be mailed to grantees who are eligible to apply for noncompeting continuation grant support under this notice.

Applications must be prepared and submitted in accordance with the regulations, instruction, and forms included in the program information packages. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content. reporting, or grantee performance requirment beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 20 double-spaced or 10 single-spaced pages in length. The Secretary further urges that applicants not submit information that is not requested.

Applicable Regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Research in Education of the Handicapped program (34 CFR Part 324).

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

FOR FURTHER INFORMATION CONTACT: For further information contact Allen Dittmann, Research Projects Branch,Special Education Programs, Donohoe Building, Room 4839, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 472–4840.

(20 U.S.C. 1441, 1442)

84.024X Handicapped Children's Early Education—Demonstration Projects

Applicantions are invited for continuation applications for demonstration projects under the Handicapped Children's Early Education program.

Authorization for this program is contained in Section 623 of Part C of the Education of the Handicapped Act.

(20 U.S.C. 1423)

Awards are made under this program to public agencies and private nonprofit organizations currntly operating projects under multi-year grants.

The purpose of this program is to support eligible parties in developing and carrying out experimental preschool and early education programs for handicapped children which incorporate the basic principles of child growth and development, psychology of learning, special education, and other disciplines that may be associated with the handicapped.

Closing Date for Transmittal of Applications: To be assured of consideration for funding, an application for a noncompeting continuation award should be mailed or hand deliverd by November 10, 1983.

Available Funds: It is expected that support of continuation grants in Fiscal Year 1984 will not exceed the level of support originally projected for the appropriate year of the project. Thjis estimate of funding level does not bind the U.S. Department of Education to a specified number of grants or to the amount of any grant, unless that amount is otherwise specified by statue or regulations.

Application Forms: Application forms and program information packages are expected to be ready for mailing by October 3, 1983. These materials may be obtained by writing to: Program Development Branch, Special Education Programs, Donohoe Building, Room 4046, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 20 pages in length. The Secretary further urges that the applicant submit only the information that is requested.

Applicable Regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Handicapped Children's Early Education program (34 CFR Part 309).

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

For Further Information Contact: Jane DeWeerd, Program Development Branch, Special Education Programs, Donohoe Building, Room 4046, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 245–9405.

(20 U.S.C. 1423)

84.024C Handicapped Children's Early Education—State Implementation Grants

Applications are invited for continuation applications for State Implementation Grants under the Handicapped Children's Early Education program.

Authorization for this program is contained in Sections 623 and 624 of Part C of the Education of the Handicapped Act.

(20 U.S.C. 1423, 1424)

Awards are made under this program to State educational agencies currently operating programs under multi-year grants.

The purpose of this program is to assist State educational agencies in the development and implementation of statewide plans for preschool and early education for children with handicaps.

Closing Date for Transmittal of Applications: To be assured of consideration for funding, an application for a noncompeting continuation award should be mailed or hand delivered by March 30, 1984.

Available Funds: It is expected that support of continuation grants in Fiscal Year 1984 will not exceed the level of support originally projected for the appropriate year of the project. This estimate of funding level does not bind the U.S. Department of Education to a specified number of grants or to the amount of any grant, unless that amount is otherwise specifed by statute or regulations.

Application Forms: Application forms and program information packages are expected to be ready for mailing by January 30, 1984. These materials may be obtained by writing to: Program Development Branch, Special Education Programs, Donohoe Building, Room 4046, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. However, the program information is only intended to aid applicants in applying for assistence. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 20 pages in length. The Secretary further urges that the applicant submit only the information that is requested.

Applicable Regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Handicapped Children's Early Education program (34 CFR Part 309).

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

For Further Information Contact: Jane DeWeerd, Program Development Branch, Special Education Programs, Donohoe Building, Room 4046, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 245–9405.

(20 U.S.C. 1423, 1424)

84.078A Regional Education Programs for Handicapped Persons—Centers for Deaf Students

Applications are invited for noncompeting continuation applications for Centers for Deaf Students under the Regional Education Programs for Handicapped Persons program.

Authorization for this program is contained in Section 625 of Part C of the Education of the Handicapped Act.

(20 U.S.C. 1424a)

Awards are made under this program to organizations and agencies currently operating centers for deaf students under multi-year grants.

The purpose of this program is to support the development and operation of specially designed or modified programs of vocational, technical, postsecondary, or adult education for deaf or other handicapped persons.

Closing Date for Transmittal of Applications: To be assured of consideration for funding, an application for a noncompeting continuation award should be mailed or hand delivered by January 23, 1984.

Available Funds: It is expected that support of continuation grants in Fiscal Year 1984 will not exceed the level of support originally projected for the appropriate year of the project. This estimate of funding level does not bind the U.S. Department of Education to a specified number of grants or to the amount of any grant, unless that amount is othewise specified by statute or regulations.

Application Forms: Application forms and program information packages are expected to be ready for mailing by October 17, 1983. These materials may be obtained by writing to: Regional Education Programs, Captioning and Adaptation Branch, Division of Innovation and Development, Special Education Programs, Donohoe Building, Room 4046, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, 20202

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. However, the program information is only intended to aid in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 20 pages in length. The Secretary further urges that the applicant submit only the information that is requested.

Applicable Regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Regional Education Programs for Hadicapped Persons program (34 CFR Part 338).

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Part 74, 75, 77, and 78).

For Further Information Contact: For further information please contact Joseph Rosenstein, Regional Education Programs, Captioning and Adaptation Branch, Division of Innovation and Development, Special Education Programs, U.S. Department of Education, Donohoe Building, Room 4046, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 472–4660.

(20 U.S.C. 1424a)

Dated: September 12, 1983.

Madeleine Will,

Assistant Secretary.

[FR Doc. 83–25309 Filed 9–15–83; 8:45 am]

BILLING CODE4000– 01–M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[83–CERT–165, as amended]

Natural Gas; Fuel Oil Displacement Certification; Spaulding Fibre Co., Inc.

The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) has received the following application to amend an existing certification of the eligible use of natural gas to displace fuel oil pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). Notice of this application, along with pertinent information contained in the amendment request, was published in the **Federal Register** and an opportunity for public comment was provided for a period of ten calendar days from the date of publication. No comments were received. More detailed information is contained in the application on file and available for inspection at the ERA Fuels Conversion Division Docket Room, RG–42, Room GA–093, Forrestal Building, 1000 independence Avenue, SW., Washington, D.C. 20585, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

Applicant and facility	Existing certification number and date issued	Date amendment filed	FEDERAL REGISTER notice of applicant's amendment
Spaulding Fibre Co., Inc., Tonawanda Plant, Tonawanda, N.Y.	83–CERT–165, July 6, 1983	July 20, 1983 Aug. 1, 1983	48 FR 38068, Aug. 22, 1983.

The ERA has carefully reviewed the above application to amend the existing certification in accordance with 10 CFR Part 595 and the policy consideration expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that the application satisfies the criteria enumerated in 10 CFR Part 595 and, therefore, has granted the amended certification and transmitted that amended certification to the Federal Energy Regulatory Commission.

Issued in Washington, D.C., on September 12, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83–25286 Filed 9–14–83; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. TA83-2-20-004]

Algonquin Gas Transmission Co.; Rate Change Pursuant to Purchased Gas Cost Adjustment Provision

September 13, 1983.

Take notice that Algonquin Gas Transmission Company ("Algonquin Gas") on September 8, 1983, tendered for filing Substitute Second Revised Sheet No. 201 to its FERC Gas Tariff, Second Revised Volume No. 1.

Algonquin Gas states that Substitute Second Revised Sheet No. 201 is being filed pursuant to Algonquin Gas' Purchased Gas Cost Adjustment as set forth in Section 17 of the General Terms and Conditions of its FERC Gas Tariff, Second Revised Volume No. 1. Such tariff sheet is being filed to track revised rates filed by its pipeline supplier, Texas Eastern Transmission Corporation, pursuant to its settlement Agreement in Docket Nos. RP83-35-000, *et al.*, approved by Commission Order issued August 17, 1983.

Algonquin Gas proposes the effective date of Substitute Second Revised Sheet No. 201 to be September 1, 1983.

Algonquin Gas requests permission to credit the subsequent month's bill following Commission acceptance to effectuate such rate change as of September 1, 1983, in the event Algonquin Gas does not receive approval in time for the October 7, 1983 billing of September 1983 sales.

Algonquin Gas also states that upon approval by the Commission of its settlement rates in Docket No. RP83-44 filed with the Commission on August 25, 1983, it will file a revised Tariff Sheet No. 201 to incorporate the above-mentioned PGA adjustment in its settlement rates.

Algonquin Gas notes that a copy of this filing is being served upon each affected party and interested state commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 22, 1983. Protest will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-25345 Filed 9-15-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-130-000]

Gas Gathering Corp.; Petition

September 13, 1983.

Take notice that on September 6, 1983, Gas Gathering Corporation (GGC) tendered for filing a petition for retroactive collection of maximum lawful price, pursuant to Rule 207 of the Commission's Procedural Rules. GGC states that any funds received from Transcontinental Gas Pipe Line Corporation (Transco) will be immediately passed through GGC to Amoco Production Company (Amoco). With this petition, GGC requests that it be granted approval to promptly collect from Transco any future retroactive underpayments for any FERC approved gas produced by Amoco in the Section 28 Field, St. Martin Parish, Louisiana, and sold to GGC and then to Transco, as soon as GGC has been notified by Amoco of such approved underpayment. GGC states that, on receipt of such underpayment from Transco, it will promptly passthorough that exact amount to Amoco by U.S. Mail.

Also included in the filing is a copy of Amoco's letter to GGC dated August 22, 1983, with attached tabulations from Mr. R. T. Taylor, showing Amoco's calculations of the amount due beginning August, 1980 through April, 1983 in the amount of $963,954.85. To this has been added GGC's calculations of the amounts due for May and June, 1983, which total $85,464.40, for a combined total due Amoco of $1,049,419.25 to July 1, 1983. Also included is a copy of Transco's letter to GGC dated April 30, 1979, signed by Mr. Sam B. Adams, Senior Gas Contract Representative, showing Transco's willingness to pay the maximum price allowed under the Commission's Regulations for gas purchased by GGC from Amoco's Maraist C-1 Well in the Section 28 Field, St. Martin Parish, Louisiana. Also included is GGC's letter dated August 29, 1983, which outlines the history of different approved FERC prices paid Amoco by GGC for gas from the Maraist C-1 Well and notification of Amoco's request for retroactive payment.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385. 214). All such petitions or protests should be filed on or before September 22, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protetants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-25346 Filed 9-15-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-3740-001, et al.]

Getty Oil Company, et al.; Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates[1]

September 13, 1983.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before September 23, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-25347 Filed 9-15-83 8:45 am]

BILLING CODE 6717-01-M

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
G-3740-001, D, Aug. 8, 1983	Getty Oil Company, P.O. Box 1404, Houston, Texas 77001	Tennessee Gas Pipeline Company, East Bay City Field, Matagorda County, Texas.	1	
G-4579-023, D, Sept. 2, 1983	Cities Service Oil and Gas Corporation, P.O. Box 300, Tulsa, Oklahoma 74102.	Anadarko Production Company, Sec. 28-34S-43W, Morton County, Kansas.	2	
G-15779-001, D, Sept. 6, 1983	Kerr-McGee Corporation, P.O. Box 25861, Oklahoma City, Oklahoma 73125.	Tennessee Gas Pipeline Company, Bully Camp Field, Lafourche Parish, Louisiana.	3	
G-13634-001, D, Sept. 6, 1983	Sun Exploration and Production Company, P.O. Box 2880, Dallas, Texas 75221.	Northern Natural Gas Company, Carnick Field, Beaver County, Oklahoma.	4	
CI67-160-000, D, Sept. 1, 1983	Mobil Oil Corporation, Nine Greenway Plaza, Suite 2700, Houston, Texas 77046.	Michigan Wisconsin Pipeline Company, N. W. Quinlan Field, Woodward County, Oklahoma.	5	
CI69-745-003, D, Aug. 25, 1983	Conoco Inc., P.O. Box 2197, Houston, Texas 77252	Trunkline Gas Company, OCS G-0498, Vermilion Block 120 Field Area, Offshore Louisiana.	6	
CI78-853-001, C, Aug. 24, 1983	Chevron U.S.A. Inc., P.O. Box 7309, San Francisco, California 94120.	Natural Gas Pipeline Company of America, OCS-G-2849 No. 2 Well, West Cameron Block 549 Field, Offshore Louisiana.	7	15.025
CI80-214-000, D, Aug. 31, 1983	Energy Reserves Group, Inc., 217 North Water Street, P.O. Box 1201, Wichita, Kansas 67201.	El Paso Natural Gas Company, Spraberry Trend Area, Reagan County, Texas, Permian Basin Area.	8	
CI83-375-000, B, Aug. 11, 1983	Halliburton Oil Producing Company, Cameron Building, 2915 Classen Boulevard, Oklahoma City, Oklahoma 73106.	Kansas-Nebraska Natural Gas Company, Inc., Sec. 34, T27S, R21W, Ford County, Kansas.	9	
CI83-379-000 (CI65-462), B, Aug. 18, 1983	J. M. Huber Corporation, 2000 West Loop South, Houston, Texas 77027.	Lone Star Gas Company, Hunsucker No. 1 Well Section 16, W/2 SW/4 SW/4 T1S, R3W, Sho-Vel-Tum Field, Carter County, Oklahoma.	10	
CI83-380-000, A, Aug. 18, 1983	Diamond Shamrock Corporation, P.O. Box 631, Amarillo, Texas 79173.	Texas Gas Transmission Corporation, Tract 1 of the Edwin L. Cox—Intercoastal Shipyard No. 1 "C" SUA, St. Mary Parish, Louisiana.	11	
CI83-382-000, B, Aug. 19, 1983	McMoRan Offshore Production Co., Post Office Box 6800, Metairie, Louisiana 70009-6800.	Transcontinental Gas Pipeline Corporation, Galveston Area Blocks A-156 and A-157, Offshore Texas.	12	
CI83-383-000, A, Aug. 22, 1983	Union Oil Company of California, Union Oil Center, Room 901, P.O. Box 7600, Los Angeles, California 90051.	Aminoil USA Inc., OCS-P-0296, Beta Field, Offshore California.	13	14.65
CI83-384-000, A, Aug. 24, 1983	Elf Aquitaine, Inc., Allied Bank Plaza, 1000 Louisiana, Suite 3600, Houston, Texas 77002.	Panhandle Eastern Pipe Line Company, High Island Block A-365 and A-376, Offshore Texas.	14	14.65
CI83-385-000, A, Aug. 24, 1983	....do	Transco Gas Supply Company, High Island Block A-376, Offshore Texas.	15	14.65
CI83-386-000, A, Aug. 24, 1983	....do	Trunkline Gas Company, High Island Block A-365 OCS-G-2750, Offshore Texas.	16	14.65
CI83-387-000, E, Aug. 25, 1983	The Louisiana Land And Exploration Company (Operator), Successor-in-Interest to Energy Reserves Group, Inc., Post Office Box 60350, New Orleans, Louisiana 70160.	Texas Gas Transmission Corporation, Jefferson Island Field, Iberia Parish, Louisiana.	16	
CI83-388-000 (CI63-650), B, Aug. 25, 1983	Getty Oil Company, P.O. Box 1404, Houston, Texas 77001	Natural Gas Pipeline Company of America, East Bay City Field, Matagorda County, Texas.	17	
CI83-389-000 (CI63-672), B, Aug. 25, 1983	....do	Natural Gas Pipeline Company of America, East Bay City Field, Matagorda County, Texas.	17	
CI83-390-000, E, Aug. 25, 1983	Geo. Oil & Gas Company of Houston, Successor-in-Interest to Palmer Oil & Gas Company, P.O. Box 2511, Houston, Texas 77001.	Northwest Pipeline Corporation, Various Fields, Grand County, Utah.	18	14-73
CI83-391-000 (CI60-339), B, Aug. 25, 1983	Tenneco Oil Company, P.O. Box 2511, Houston, Texas 77001	Panhandle Eastern Pipe Line Company, S. W. Greenough Field, Beaver County, Oklahoma.	19	
CI83-392-000 (CI72-40), B, Aug. 25, 1983	Tenneco Oil Company, P.O. Box 2511, Houston, Texas 77001	Northwest Central Pipeline Corporation, SW Wakita Field, Grant County, Oklahoma.	19	
CI83-394-000, B, Aug. 26, 1983	Reel Gas Company, 950 One Energy Square, 4925 Greenville Avenue, Dallas, Texas 75206.	Northern Natural Gas Company, McGill #1 Well, S5-T10-HTB Survey, Follett (Marrow) Field, Lipscomb County, Texas.	20	
CI83-395-000, B, Aug. 26, 1983	Lear Petroleum Corporation	Reel Gas Company, McGill #1 Well, S5-T10-H&TB Survey, Follett (Marrow) Field, Lipscomb County, Texas.	20	
CI83-396-000 B, Aug 10, 1983	....do	Transwestern Pipeline Company, McGill #1 Well, S5-T10-H&TB Survey, Follett (Marrow) Field, Lipscomb County, Texas.		
CI83-397-000, D, Aug. 26, 1983	Mesa Petroleum Company, P.O. Box 2009, Amarillo, Texas 79189	Transwestern Pipeline Company, #-40 Campbell E/2 Section 31 and E/2 Section 40 Block 4, GH&H RRCo Survey, Ochiltree County, Texas.	21	
CI83-398-000 (CI73-5), B, Aug. 29, 1983	Energy Reserves Group, Inc., P.O. Box 1201, 217 North Water Street, Wichita, Kansas 67201.	Northwest Pipeline Corporation, Big Piney Field, Sublette County, Wyoming, Rocky Mountain Area.	22	
CI83-399-000 (CI72-878), B, Aug. 29, 1983	....do	Northwest Pipeline Corporation, La Barge East Field Sublette County, Wyoming, Rocky Mountain Area.	22	
CI83-400-000, F, Aug. 29, 1983	Texaco Producing Inc. (Partial Successor-in-Interest to Texaco Inc.), P.O. Box 52332, Houston, Texas 77052.	Columbia Gas Transmission Corporation, Erath Unit, Vermilion Parish, Louisiana.	23	
CI83-401-000, B, Aug. 29, 1983	Texaco Inc	Southern Natural Gas Company, Diamond Field, Plaquemines Parish, Louisiana.	24	
CI83-402-000, A, Aug. 30, 1983	Texas Gas Exploration Corporation, 1100 Louisiana, Suite 3300, Houston, Texas 77002.	Texas Gas Transmission Corporation, Block 595, High Island Area, Offshore Texas.	25	14.73
CI83-403-000, A, Aug. 31, 1983	Gulf Oil Corporation, P.O. Box 2100, Houston, Texas 77252	Texas Gas Transmission Corporation, Pass Wilson and Bay Round Fields, Terrebonne Parish, Louisiana.	26	15.025

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
CI83-404-000, F, Sept. 1, 1983	Texaco Producing Inc. (Partial Successor-in-Interest to Texaco Inc.), P.O. Box 52332, Houston, Texas 77052.	Columbia Gas Transmission Corporation, Cote Blanche Island Field, St. Mary Parish, Louisiana.	[27]	15.025
CI83-405-000, F, Sept. 1, 1983	do	Texas Gas Transmission Corporation, Dog Lake Field, Terrebonne Parish, Louisiana.	[28]	15.025
CI83-406-000, A, Sept. 1, 1983	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, Post Office Box 2819, Dallas, Texas 75221.	Transco Gas Supply Company, Brazos Block Field, Offshore Texas.	[29]	14.65
CI83-407-000, A, Sept. 1, 1983	do	Tennessee Gas Pipeline Company, Southwest Pheasant Area, Matagorda County, Texas.	[30]	14.65
CI83-408-000, A, Sept. 6, 1983	Texaco Inc., P.O. Box 60252, New Orleans, Louisiana 70160	Bridgeline Gas Distribution Company, High Island Blocks A-563 and A-564 (OCS-G-2386 and OCS-G-2389), Offshore Texas.	[31]	14.65
CI83-409-000, A, Sept. 6, 1983	Chevron U.S.A. Inc., P.O. Box 7309, San Francisco, California 94120.	Natural Gas Pipeline Company of America, Vermilion Block 40, Offshore Louisiana.	[32]	15.025
CI83-410-000 (CI79-29-000), B, Sept. 6, 1983	Transco Exploration Company, P.O. Box 1396, Houston, Texas 77251.	Transcontinental Gas Pipe Line Corporation, West Raceland Field, Lafourche Parish, Louisiana.	[33]	

[1] Applicant is filing under Gas Purchase Contract dated July 15, 1948, as amended March 22, 1971.
[2] Gas contract dated December 22, 1960 covered only casinghead gas produced from the Roll "D" and Cole leases, Section 28-34S-43W, Morton County, Kansas. Gas reserves are considered depleted.
[3] The last well in the Cheramie Unit, the D. Cheramie #1, has been plugged and abandoned.
[4] The Wood Unit Well was plugged and abandoned due to depletion of gas reserves.
[5] By assignment of Oil and Gas Lease, effective May 26, 1983, Mobil assigned to Ward Energy, Inc. all of its right, title and interest in and to that certain producing acreage.
[6] OCS G-0469 expired October 8, 1979.
[7] Applicant is filing under Amendatory Agreement dated January 5, 1983.
[8] Energy Reserves Group, Inc. has assigned all of its right, title and interest in the O.F. Boyd lease insofar and only insofar as this lease covers the SE/4 of Section 17, Block E, HE&WT Ry. Co. Survey and limited to the Dean formation which formation is from 7676' subsurface to 7850' subsurface in the Pan American O.F. Boyd well No. 1 to be located on this lease.
[9] Well has reached economic limit. Will not produce into pipeline.
[10] Downhole casing failure and production 10 CFR/d was not sufficient to justify workover. Edwin L. Cox, as operator, plugged and abandoned this well January 16, 1981.
[11] Applicant is filing under Gas Purchase Contract dated August 8, 1983, which is a rollover contract for the original contract dated December 18, 1961.
[12] Ceased Production due to depletion May 24, 1983.
[13] Applicant is filing under Gas Purchase Contract dated June 22, 1983.
[14] Applicant is filing under Gas Purchase Contract dated April 29, 1983.
[15] Applicant is filing under Gas Purchase Contract dated June 22, 1983.
[16] Pursuant to an assignment dated October 18, 1982 LL&E acquired from Energy an undivided interest in certain properties which had been committed and dedicated to interstate commerce by Energy's predecessor (Clinton Oil Company) to the predecessor of Texas Gas.
[17] October 16, 1962 contract was for surplus gas from the Bay City Field. There is no longer any surplus gas available, and none is anticipated in the future. In addition, the contract expired on its own terms January 1, 1983.
[18] Geo. Oil is acquiring this property as of June 1, 1979. Applicant is filing under Gas Purchase and Sales Agreement dated December 31, 1975.
[19] Depleted reserves.
[20] Available supply of gas depleted.
[21] The Gas Purchase Agreement dated December 12, 1958 expired on September 7, 1980 by its own terms.
[22] Energy Reserves Group, Inc. has assigned all of its right, title and interest effective October 1, 1982 in all acreage covered under the subject rate schedule.
[23] Applicant has acquired by assignment an interest of Texaco Inc., Assignor, of certain properties in the Erath Unit, Vermilion Parish, Louisiana.
[24] The Gas Sales line maintains a pressure at which the production in this well becomes economically infeasible.
[25] Applicant is filing under Gas Purchase Contract dated August 16, 1983.
[26] Applicant is filing under Gas Purchase Contract dated July 15, 1983.
[27] Applicant has acquired by assignment an interest of Texaco Inc., Assignor, of certain properties in the Cote Blanche Island Field, St. Mary Parish, Louisiana.
[28] Applicant has acquired by assignment an interest of Texaco Inc., Assignor, of certain properties in the Dog Lake Field, Terrebonne Parish, Louisiana.
[29] Applicant is filing under Gas Purchase Agreement of August 16, 1983, as amended by Letter Agreement dated July 25, 1983.
[30] Applicant is filing under Gas Purchase and Sales Agreement dated November 1, 1979 which will be effective January 1, 1980.
[31] Applicant is filing under Gas Purchase Contract dated September 1, 1983.
[32] Applicant is filing under Gas Purchase Contract dated August 5, 1983.
[33] Leases dedicated under Gas Purchase Contract have expired; Reserves (TEX W 8650' SU A) depleted; Sabine Royalty No. 1 Well plugged and abandoned effective October 16, 1982.

Filing Code: A—Initial Service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Succession. F—Partial Succession.

[FR Doc. 83-25347 Filed 9-15-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket Nos. RP75-79-010 and CP77-44-003]

Lehigh Portland Cement Co. et al.; Compliance Filing

September 13, 1983.

Take notice that on August 30, 1983, Florida Gas Transmission Company (FGT) tendered for filing the following tariff sheets: Third Revised Sheet No. 19, First Revised Sheet Nos. 19-A, 19-B and 19-C, Sixth Revised Sheet No. 20, Second Revised Sheet No. 20-A, Third Revised Sheet No. 20-B, Second Revised Sheet No. 20-C, Second Revised Sheet No. 20-D.1.

The filing is made in compliance with Opinion No. 183 (Opinion and Order Affirming Initial Decision and Approving Permanent Curtailment Plan) issued August 1, 1983, in the above-referenced dockets. Opinion No. 183 established a final curtailment plan for the FGT system, superseding the interim plan that had been in effect since March 1, 1981.

FGT states that the effective date of the above-referenced tariff sheets is August 30, 1983.

Copies of the filing have been served upon FGT's jurisdictional customers and the Florida Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before September 22, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-25346 Filed 9-15-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TA84-1-36-000 and CP81-531-004]

Mountain Fuel Supply Co.; Filing

September 13, 1983.

Take notice that on September 1, 1983, Mountain Fuel Supply Company (Mountain Fuel) submitted a filing which advised that due to the abandonment authorization granted in Docket No. CP81-531, natural gas sales to Colorado Interstate Gas Company (CIG) under Rate Schedules X-4, X-5, and X-20 terminated on March 31, 1983. Therefore, Mountain Fuel states that it will no longer submit Purchased Gas Cost

Adjustment (PGA) filings for sales under Rate Schedules X–4, X–5, and X–20 to the Federal Energy Regulatory Commission.

Mountain Fuel states that on June 20, 1983, in Docket No. CP81–531, the Commission accepted, *inter alia*, First Revised Sheet Nos. 51 and 420 and Substitutes First Revised Sheet No. 73 of Mountain Fuel's FERC Gas Tariff Original Volume No. 1, as filed on May 31, 1983. Sheet Nos. 51, 73, and 420 are notices of termination of services and sales under Rate Schedules X–4, X–5, and X–20.

The commission's order of June 20, 1983, conditioned acceptance of the above-mentioned tariff sheets on Mountain Fuel filing work-papers detailing the clearing of the remaining balance in FERC Account No. 191 within thirty days of its occurrence. Mountain Fuel states that it has invoiced CIG (the sole purchaser of sales-for-resale gas under Rate Schedules X–4, X–5 and X–20) for the debit balance in Account No. 191. Upon receipt of monies from CIG, Mountain Fuel states that it will make the appropriate entries to clear Account No. 191 and file a report with the Commission.

Mountain Fuel states that a copy of the filing has been served on CIG, the Public Service Commission of Utah, and the Public Service Commission of Wyoming.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before September 22, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–25349 Filed 9–15–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA83–2–16–003]

National Fuel Gas Supply Corporation; Filing

September 13, 1983.

Take notice that on September 1, 1983, National Fuel Gas Supply Company (National Fuel) tendered for filing Third Substitute Forty-third Revised Sheet No. 4 of its FERC Tariff, Original Volume No. 1. This substitute tariff sheet is proposed to be effective on August 1, 1983.

National Fuel states that Third Substitute Forty-third Revises Sheet No. 4 reflects a decrease of 4.10 cents per Mcf below the rate for the I–1 Rate Schedule as reflected in Second Substitute Forty-third Revised Sheet No. 4. This decrease results solely from National Fuel's calculation of the current adjustments to the I–1 rate based on the average cost of gas instead of at a 100 percent load factor.

National Fuel requests a waiver of Article 17, Section 3.4 of the General Terms and Conditions of its FERC Tariff, which relates to the 30-day notice requirement, in order to file the substitute tariff sheet.

National Fuel also requests a waiver of any of the Commission's Rules and Regulations as may be required to permit Third Substitute Forty-third Revised Sheet No. 4 to be effective August 1, 1983.

A copy of the substitute tariff sheet and the transmittal letter was mailed to all of National Fuel's purchasers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before September 22, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–25350 Filed 9–15–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP83–68–001]

Natural Gas Pipeline Company of America; Motion To Make Tariff Sheets Effective

September 13, 1983.

Take notice that on August 22, 1983, Natural Gas Pipeline Company of America (Natural) tendered for filing with the Federal Energy Regulatory Commission a Motion to Make Suspended Tariff Sheets Effective. Natural moved to make effective on October 1, 1983, tariff sheets filed on March 31, 1983, in this proceeding. The rates and charges on the tariff sheets to be effective October 1, 1983, reflect the revisions required to comply with conditions set out in Commission order issued April 27, 1983.

Natural states that copies of the Motion, together with the tariff sheets and work papers, have been served on all of Natural's jurisdictional customers, all parties to this proceeding, and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before September 22, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–25351 Filed 9–15–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP81–95–003]

Pacific Interstate Transmission Co.; Compliance Filing

September 13, 1983.

Take notice that on August 23, 1983, Pacific Interstate Transmission Company (Pacific Interstate) tendered for filing Substitute First Revised Sheet No. 9 to its FERC Gas Tariff, Original Volume No. 1. This tariff sheet is submitted pursuant to the letter order of the Director of the Office of Pipeline and Producer Regulation issued on July 18, 1983. It reflects the proper page designation to distinguish it from the tariff sheet approved by Commission order dated August 28, 1981. Also submitted is a report of increased revenues collected, subject to refund, for the period March 1, 1982 through July 31, 1983. The total amount of $304,441.45 shown on the report was refunded to Pacific Interstate's sole customer Southern California Gas Company on July 29, 1983.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before September 22, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-25342 Filed 9-15-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP83-124-000]

Pipeline Gas Cutback Procedures; Petition of the Public Service Commission of the State of New York for Institution of Proceedings with Respect to Gas Cutback Practices of Interstate Pipelines

September 13, 1983.

Take notice that on August 18, 1983, the Public Service Commission of the State of New York (New York) petitioned the Federal Energy Regulatorty Commission (FERC) to initiate proceedings with respect to the gas cutback practices of interstate pipelines to adequate service to their customers at the lowest practical rates. Specifically, New York requests the Commission: (1) issue an order directing all interstate pipelines to file, within a period of 30 days amendments to their gas tariffs detailing their procedures and standards for cutting back on their available gas supplies in circumstances where limitations on their ability to sell or dispose of the gas tendered or otherwise available to such pipelines requires them to reduce the interstate transportation of gas from some or all of such available soures, and (2) institute proceedings looking towards the establishment of "guidelines" or standards to be applied by the interstate pipelines with respect to such cutback operations.

New York believes that where pipelines are unable to transport in interstate commerce all of the gas which is available to them from their various suppliers (including their own producer "departments"), the Commission also has the authority to prescribe the manner of such cutbacks which will be most consistent with the objectives of the Natural Gas Act, and to proscribe any action inconsistent therewith.

New York states that only the FERC is in a position to determine what are the cutback practices of the various interstate pipelines and to take effective action to secure the establishment of practices which are fair to both procedures and pipeline customers as well as in the overall public interest.

New York also states that the problem cannot effectively be addressed on a case-by-case basis either in response to petitions by individual pipelines or in considering on a retrospective basis the prudence of pipeline cutback practices in pipeline rate or PGA proceedings.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18CFR 385.211, 385.214). All such petitions or protests should be filed on or before September 23, 1983. Protests will be considered by the Commissin in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-25353 Filed 9-15-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP83-502-000]

Tennessee Gas Pipeline Company, et al.; Application

September 12, 1983.

Take notice that on September 8, 1983, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Texas 77001, on its own behalf and on behalf of producer suppliers currently selling gas to Applicant filed in Docket No. CP83-502-000 and application pursuant to Section 7 of the Natural Gas Act for blanket permission and approval for partial abandonment of certified sales to Applicant under Sections 102(d) and 107 of the Natural Gas Policy Act of 1978 (NGPA) and for a blanket certificate of public convenience and necessity authorizing the sale in interstate commerce of such partially abandoned reserved, the transportation service necessary to implement the emergency marketing program on its system, and transportation service by other interstate pipelines on behalf of end-users in accordance with the terms and conditions of this application and the terms and conditions of Order Nos. 234-B and 319 which are not inconsistent with this application, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the requested authorizations are necessary for the implementation of a temporary emergency marketing program (TEMPRO) designed to enhance the marketability of natural gas in Applicant's market areas, to increase sales by Applicant's producers, and to decrease Applicant's take-or-pay exposure. It is stated that under TEMPRO, Applicant would act as agent to arrange the purchase of natural gas supplies by an eligible purchaser or a group of eligible purchasers from a producer or a group of producers in the field. applicant indicates that any purchaser which is connected to Applicant's system or which can receive deliveries of TEMPRO gas is an eligible purchaser under the temporary program. Applicant further indicates that all producers are eligible to sell gas under the program.

Applicant states that it would post a price each month for the TEMPRO purchases at a price level which Applicant believes to be required to make the volumes available for purchase under the program competitive with other fuel suppliers exclusive of transportation and fuel charges. Applicant states that the eligible purchasers would then certify to Applicant the volumes of gas that they are willing to purchase for the next succeeding month or months at the posted price and that Applicant would then solicit producers for offers to sell natural gas to the eligible purchasers at the posted price. If an eligible purchaser certifies that a price lower than the price posted by Applicant is necessary to compete with other fuel supplies in its market area, Applicant states that it would attempt to match that purchaser with a producer or producers willing to sell the certified volume of gas at the lower price. Applicant further states that it would release from the volumes dedicated to its general system supply the quantities of gas which each producer is willing to make available for sale under TEMPRO in exchange for the producer's agreement to grant Applicant take-or-pay relief. Applicant also states that it would transport any TEMPRO gas delivered into its system on behalf of the

eligible purchasers, subject to available pipeline capacity, and that it would arrange the transportation and delivery of TEMPRO volumes by third parties on behalf of eligible purchasers. Applicant proposes that the term of TEMPRO extend through December 31, 1985, unless earlier terminated.

Any person desiring to be heard or to make protest with reference to said application should on or before September 27, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy regulatory Commmission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-25355 Filed 9-15-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-2-18-001]

Texas Gas Transmission Corp; Filing

September 13, 1983.

Take notice that on August 23, 1983, Texas Gas Transmission Corporation (Texas Gas) tendered for filing Substitute Second Revised Fortieth Revised Sheet No. 7 to its FPC Gas Tariff, Third Revised Volume No. 1. Texas Gas requests that the substitute tariff sheet become effective on August 1, 1983.

Texas Gas states that the revised tariff sheet is filed in compliance with a letter order issued July 29, 1983, by the director, Office of Pipeline and Producer Regulation in Docket No. TA83-2-18. The substitute tariff sheet is being filed to reflect revisions in the rates of two of Texas Gas' pipleline suppliers, United Gas Pipe Line Company and Texas Eastern Transmission Corporation.

Texas Gas states that copies of the filing are being mailed to all of Texas Gas' jurisdictional sales customers, interested state commissions, and parties of record in this proceeding.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 or the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before September 22, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-25356 Filed 9-15-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP83-33-000]

State of Pennsylvania and Energy Gas and Oil Corp.; Preliminary Finding

September 9, 1983.

In the matter of State of Pennsylvania, Section 103 NGPA Determination, Energy Gas and Oil Corporation, Robert Patrick No. 1 Well (Ser. No. 110), JD No. 83-27098, State Docket No. 17803.

On March 10, 1983, the Pennsylvania Department of Environmental Resources, Bureau of Topographic and Geologic Survey, Division of Oil and Gas Regulation (Pennsylvania) filed with the Federal Energy Regulatory Commission (Commission) notice of its determination that Energy Gas and Oil Corporation's (Energy Gas) Robert Patrick No. 1 Well qualified as a "new onshore production well" under section 103 of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301-3432 (Supp. V 1981). Notice of the Pennsylvania determination was published in the **Federal Register** on April 12, 1983. By letter dated April 21, 1983, Commission Staff advised Pennsylvania and the parties that the original notice of determination was incomplete.[1] On May 9, 1983, Energy Gas filed a response to the April 21, 1983 notification of Commission Staff.

Pennsylvania had determined that the Subject well qualified under NGPA section 103, which references gas produced, *inter alia*, from a well the surface drilling of which began on or after February 19, 1977. Review of the record in this case reveals that the Robert Patrick No. 1 Well was spudded-in on October 27, 1969, and completed July 1, 1970 to a depth of 1308' at a cost of $7,651.92. Open flow after completion was 59,000 cu./ft./day with rock pressure of 450 lbs. measured for 24 hours. The applicant states that "the shallow gas depleted itself by July 30, 1970," and therefore did not produce gas "in a beneficial manner" prior to February 19, 1977.

On April 13, 1982, Energy Gas drilled deeper, to a depth of 3100', expending $101,826.38 to do so, or 93.01 percent of the total drilling and completion costs on the subject well, according to data supplied by Energy Gas. The Robert Patrick No. 1 Well is presently being produced into the Peoples Natural Gas Company system.

In *L&B Oil Co., Inc.*, v. *Federal Energy Regulatory Commission*, 655 F. 2d 758 (5th Cir. 1982), (*L&B*) the Fifth Circuit found the Commission's former policy, which equated spudding-in with surface drilling, and limited such to a single event in any wellbore, too strict. Accordingly, the court stated that *in certain circumstances*, surface drilling of a well could not be limited to the spudding-in of that well. The court concluded that based on the facts before it in the *L&B* case, such a limitation was inappropriate.

In reviewing the facts surrounding L&B's reentry, the court noted the

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[1] This letter tolled the commencement date of the 45-day review period within which the Commission must act to prevent the jurisdictional agency determination from becoming final under NGPA section 503. See § 275.202(b) of the Commission's regulations, 18 CFR 275.202(b) (1983). Energy Gas's response, however, did not indicate either the total volume of gas produced or the disposition of the gas, information deemed essential in determining whether the reentry of the Patrick No. 1 Well qualifies as a new onshore production well. Commission Staff therefore requested this production information in a second tolling letter dated June 23, 1983. Energy Gas's response to the second letter was received on July 28, 1983.

following factors were relevant in finding that the determination made by the jurisdictional agency was supported by substantial evidence: (1) surface drilling commenced when L&B drilled out the thirty foot cement plug which Webb (the original operator) left in the dry hole; (2) L&B did not merely reactivate or deepen a previously spudded well; (3) L&B only used a few hundred feet of the original wellbore before deviating to a total depth of over 7,000 feet; (4) L&B incurred almost the entirety of normal exploration costs and all of the production efforts; and (5) L&B discovered and produced gas where there was none before.

While the subject well was substantially deepened upon reentry, and upon reentry, Energy Gas incurred almost the entirety of exploration and production efforts, the subject well does not appear to have been a dry hole prior to reentry, nor does it appear to have been plugged and abandoned, as was the well in *L&B*. The fact pattern with respect to the subject well does not appear to be totally congruent with the criteria enunciated by the court in *L&B* as adopted by the Commission,[2] and therfore warrants further examination.

Accordingly, the Commission hereby makes a preliminary finding that, based on existing precedent, and the criteria enunciated in *L&B*, there is not substantial evidence in the record to support the Pennsylvania determination that the Robert Patrick No. 1 Well qualifies under NGPA section 103. The Commission, however, will reexamine its position that in order for surface drilling to occur upon reentry, the reentry must be of a plugged and abandoned dry hole.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-25344 Filed 9-15-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP83-44-000]

State of Oklahoma and Tenneco Oil Co.; Petition To Reopen Final Well Category Determination and Request for Withdrawal

In the matter of State of Oklahoma, NGPA Section 108 Determination, Tenneco Oil Company, Jim "A" Carter No. 1 Well, FERC JD No. 81-41694.
September 13, 1983.

On August 3, 1983, Tenneco Oil Company (Tenneco) filed with the Federal Energy Regulatory Commission (Commission) a petition to reopen and a request to withdraw its application for a final well category determination pursuant to § 275.202 of the Commission's regulations (18 CFR 275.202 (1983)), that natural gas from the Jim "A" Carter No. 1 Well, located in Township 3 South, Range 1 East, Section 23 in Carter County, Oklahoma, qualifies as stripper well natural gas pursuant to section 108 of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301-3432 (Supp. V 1981). This affirmative determination made by the Oklahoma Corporation Commission (Oklahoma) became a final determination on August 29, 1981, pursuant to section 503(d) of the NGPA and § 275.202(a) of the Commission's regulations.

Tenneco requests reopening of this final determination so that it can withdraw its application for said determination on the basis that the Jim "A" Carter No. 1 Well produced oil in excess of the limits prescribed by section 108(b) of the NGPA and § 271.803(b) of the Commission's regulations during the initial qualifying period.

Tenneco states that it has discovered an error in the number of total producing days previously used to calculate the average daily oil production during the initial 90-day qualifying period. Tenneco contends that, when the correct number of eighty-eight (88) total producing days is used, the average daily oil production of the Jim "A" Carter No. 1 Well amounts to 3.125 barrels of oil per day, which exceeds the number of barrels allowed under § 271.803(b) of the Commission's regulations for natural gas production of less than 30 Mcf/d. Therefore, Tenneco requests that the Commission reopen the Jim "A" Carter No. 1 Well category determination under section 108 of the NGPA, and permit Tenneco to withdraw its application.

The Commission hereby gives notice that the question of whether refunds, plus interests as computed under § 154.102(c) (18 CFR 154.102(c) (1983)), will be required is a matter which is subject to the review and final determination of the Commission.

Any person desiring to be heard or to make any protest to the requested reopening and withdrawal should file, within 30 days after this notice is published in the **Federal Register** with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of Rules 214 or 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or .211 (1983)). All protests filed will be considered but will not make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-25364 Filed 9-15-83; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[A-1-FRL 2435-2]

Air Programs; Prevention of Significant Deterioration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of applicability determination.

PSD Applicability Determination; United Illuminating Co.

Notice is hereby given that the Environmental Protection Agency has determined that the United Illuminating Company's proposed coal conversion at their Bridgeport Harbor Station in Bridgeport, Connecticut is not subject to a PSD review. The August 7, 1980 PSD regulations require that the construction or modification of a major stationary source is subject to a PSD review if the resulting increase in emissions is greater than the significant levels. However, the August 1980 definition of a major modification exempts certain increases from a PSD review if such emission increases are due to the use of an alternative fuel, and the source was capable of accommodating the alternative fuel prior to January 6, 1975. Using this exemption, EPA has reviewed the applicant's original proposal, contract and designs for the Bridgeport Harbor Station and has concluded that Bridgeport Harbor qualifies for the "alternative fuel" exemption. The applicant was notified of this determination on July 28, 1983.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this PSD determination is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Act, this determination shall not be subject to later judicial review in civil or criminal proceedings for enforcement.

Copies of this determination are available for public inspection upon

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[2] On May 27, 1983, in orders issued in Docket Nos. GP83-9 and GP83-10, 23 FERC ¶ 61,299 and ¶ 61,300 (1983), the Commission announced a policy that was arrived at after a careful analysis of the *L&B* decision by the Commission.

request at the following location: State Air Programs Branch—Rm 2111, U.S. EPA—Region I, J.F. Kennedy Federal Building, Boston, Massachusetts 02203.

FOR FURTHER INFORMATION CONTACT: John Courcier (617) 223–5134.

Dated: September 6, 1983.

Michael R. Deland,

Regional Administrator, Region I.

[FR Doc. 83-25310 Filed 9-15-83; 8:45 am]

BILLING CODE 6560-50-M

[WH-FRL-2434-5]

National Pollutant Discharge Elimination System Permit Decisions; Pulp, Paper and Paperboard Point Source Category; Alaska

AGENCY: Environmental Protection Agency.

ACTION: Notice of tentative NPDES permit decisions and tentative decision to deny petition to establish an Alaska subcategory.

SUMMARY: The Environmental Protection Agency (EPA), Region X and the Assistant Administrator for Water, are today providing notice of (1) a Tentative Decision to deny fundamentally different factors (FDF) variance requests submitted by Alaska Lumber and Pulp Co., Inc., Sitka, Alaska (ALP) and Louisiana-Pacific Corporation, Ketchikan, Alaska (LPK), (2) proposed reissuance of National Pollutant Discharge Elimination System (NPDES) permits to discharges of ALP and LPK to waters of the United States, (3) Public hearings on the Tentative Decision and the proposed reissuance of NPDES permits, and (4) request for certification of the NPDES permits by the Alaska Department of Environmental Conservation (ADEC).

At this time, EPA is also notifying ALP and LPK that EPA is tentatively denying their petition for establishment of a new Alaska subcategory in the pulp, paper, and paperboard point source category.

DATES: *Comment Period*—Interested persons may submit written comments on the Tentative Decision to deny the FDF variance requests, the proposed reissuance of NPDES permits, and the administrative record to the Region X Administrator at the address below no later than November 15, 1983. Persons wishing to comment on the Tentative Decision to deny the request for establishment of an Alaska subcategory should submit written comments to the Effluent Guidelines Division at the address below no later than November 15, 1983. Persons wishing to comment on the State Certification should submit written comments to the Alaska Department of Environmental Conservation at the address below no later than November 15, 1983.

Public Hearing—The Hearing Officer designated by the Regional Administrator will conduct a public hearing on the Tentative Decision to deny the FDF variance requests and the proposed reissuance of the NPDES permits on november 8, 1983 at 7:00 pm in Sitka, Alaska and on November 9, 1983 at 7:00 pm in Saxman, Alaska at the addresses indicated below.

ADDRESSES: *Public Comments*—Send comments on the Tentative Decision to deny the FDF variance requests and the proposed reissuance of NPDES permits to: Region X Administrator, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.

Send comments on the Tentative Decision to deny the request for establishing a new Alaska subcategory to: robert W. Dellinger, Effluent Guidelines Division (WH–552), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

Send comments on State Certification to: Commissioner, Alaska Department of Environmental Conservation, Pouch O, Juneau, Alaska 99801.

Public Hearings—EPA will conduct public hearings on November 8, 1983 at 7:00 pm in Sitka, Alaska at Centennial Building, 330 Harbor Drive, Sitka, Alaska 99835 and on November 9, 1983 at 7:00 pm in Saxman, Alaska (which is near Ketchikan, Alaska) at Saxman Community Hall, Saxman, Alaska 99901.

Administrative Record—These actions are based on the administrative record available for public review during normal prevailing business hours at the offices of the Environmental Protection Agency described below. The major documents are the Tentative Decision and the Tentative Decision Support Document, which may be obtained free of charge from Messers. Danforth Bodien and Robert W. Dellinger at the addresses indicated below in "**FOR FURTHER INFORMATION CONTACT**".

Library, Region X, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101, 8:00 am to 4:30 pm, (206) 442–1259

Alaska Operations Office, Environmental Protection Agency, 3200 Hospital Drive, Suite 101, Juneau, Alaska 99801, 8:00 am to 4:30 pm, (907) 586–7619

Library, Region IV, Environmental Protection Agency, 345 Courtland Street, N.E., Atlanta, Georgia 30365, 8:30 am to 4:30 pm, (404) 881–4216

Public Information Reference Unit, Room 2922 (Library), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, 8:00 am to 4:30 pm, (202) 382–5926

Copying machines are available at the EPA Libraries in Seattle, Washington, Atlanta, Georgia, and Washington, D.C. The EPA information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Further information on these actions, and requests for copies of the Tentative Decision, Tentative Decision Support Document and draft NPDES permits, may be obtained from Mr. Danforth Bodien, Region X, Environmental Protection Agency (M/S 329), 1200 Sixth Avenue, Seattle, Washington 98101 (Telephone No. (206) 442–1531) or Mr. Robert W. Dellinger, Environmental Protection Agency (WH–552), 401 M Street, SW, Washington, D.C. 20460 (Telephone No. (202) 382–7137).

SUPPLEMENTARY INFORMATION

Background

The following companies applied for reissuance of their NPDES permit to discharge pollutants to waters of the United States in March 1980.

Alaska Lumber and Pulp Co., Inc., Post Office Box 1050, Sitka, Alaska 99835, NPDES Permit No. AK000053–1

Louisiana-Pacific Corporation, Post Office Box 6600, Ketchikan, Alaska 99901, NPDES Permit Number AK000092–2

ALP is engaged in the production of dissolving sulfite pulp at their facility near Sitka, Alaska. ALP discharges from two outfalls into Sawmill Creek and Silver Bay which are presently protected for the following uses according to the State's federally approved water quality standards: water supply; water recreation; growth and propagation of fish, shellfish and other aquatic life; and harvesting for consumption of raw mollusks.

LPK is engaged in the production of dissolving sulfite pulp at their facility near Ketchikan, Alaska. LPK discharges from three outfalls into Ward Cove which is presently protected for the following uses according to the State's federally approved water quality standards: water supply; water recreation; growth and propagation of fish, shellfish and other aquatic life; and harvesting for consumption of raw mollusks.

At the same time that ALP and LPK applied for reissued permits, they requested variances from EPA's best practicable control technology currently

available (BPT) effluent limitations guidelines for biochemical oxygen demand (BOD_5) for the Dissolving Sulfite Pulp Subcategory of the Pulp, Paper, and Paperboard Point Source Category (40 CFR 430, Subpart K). These EPA regulations are national standards which are to be met by all point source dischargers pursuant to Sections 301(b)(1)(A) and 304(b)(1)(A) of the Clean Water Act unless the discharger obtains a FDF variance. EPA regulations provide that, upon finding factors relating to a particular discharger that are "fundamentally different" from the factors considered by the EPA in establishing the national guidelines regulations, alternative effluent limitations may be established for that discharger. The criteria to qualify for such a FDF variance are contained in EPA regulations at 40 CFR Part 125, Subpart D. The procedures for handling FDF variance requests are contained in EPA regulations at 40 CFR §§ 124.62—124.63.

Today's action announces EPA's tentative decision to deny the variance requests. After the public comment period, EPA Region X will make its Final Decision. If the decision of Region X is to approve the FDF variance requests, that decision must be submitted to the Director, Office of Water Enforcement and Permits, EPA Headquarters in Washington, D.C. for concurrence. Appeals of variance decisions are governed by EPA regulations at 40 CFR 124.64.

The basis of both ALP's and LPK's FDF variance requests can be reduced to four factors claimed to be fundamentally different:

1. The lack of land and the unavailability of external power sources and the resulting necessity to produce all power requirements,
2. Non-water quality environmental impacts, particularly energy requirements,
3. Costs of compliance, and
4. Lack of effect on receiving water quality.

Both ALP and LPK have requested, in their FDF variance requests, that the BOD_5 be set at 75 pounds/ton (daily average) instead of the 46.8 pounds/ton (daily average) required by the BPT effluent limitations guideline. In addition, both have requested that their new total suspended solids (TSS) limitations be relaxed from their current TSS permit limitation and instead be based on the BPT effluent limitations guideline for TSS which is 76.3 pound/ton (daily average). The FDF regulations are not applicable to the companies' requests concerning TSS, as discussed subsequently.

Finally, ALP and LPK also requested that EPA create a separate subcategory within the pulp, paper, and paperboard industry for pulp production in the State of Alaska. Both facilities are currently within the dissolving sulfite pulp subcategory (40 CFR Part 430, Subpart K). They cited non-water quality environmental impacts relating to energy and solid waste disposal as factors that would justify establishing a separate Alaska subcategory.

Tentative Decision

A. Requests for Alternative Limitations

1. BOD_5 FDF Variance Requests

ALP and LPK have claimed that the lack of land and the unavailability of external power sources and the resulting necessity to produce all power requirements; certain nonwater quality environmental impacts, particularly energy requirements; the costs of compliance with the guidelines; and the lack of effect on receiving water quality are individually, and in combination, factors that are fundamentally different from those considered by EPA in establishing the guidelines.

EPA has tentatively decided to deny ALP's and LPK's FDF variance requests from the BOD_5 effluent limitations guidelines. Detailed examination of all available information indicates that factors related to the ALP and LPK facilities are not fundamentally different from those considered in developing the national guidelines. ALP and LPK have provided data to support their claims of fundamental difference; the detailed analysis for this data is reflected in the Tentative Decision, the Tentative Decision Support Document and the administrative record.

EPA has determined that the unavailability of land for disposal of excess wastewater sludge at ALP and LPK is not fundamentally different from factors considered in the guidelines development. When developing the national guidelines, EPA considered that some mills would have to incinerate, rather than landfill, excess wastewater solids. This technology is available to both ALP and LPK. In addition, EPA has determined that special site preparation claimed to be necessary at ALP to expand their treatment system is not fundamentally different from factors considered in guidelines development. When developing BPT effluent limitations, EPA included an engineering contingency factor to account for such situations. Second, EPA has determined that both ALP and LPK have the capability of generating sufficient electricity to enable compliance with the effluent limitations guidelines and, therefore, finds that the unavailability of external power sources, by itself, is not fundamentally different from factors considered in guidelines development. EPA has determined that, taken together or alone, none of the nonwater quality environmental impacts, including energy impacts, discussed by ALP and LPK are fundamentally different from those factors considered in guidelines development.

EPA also has evaluated whether ALP's and LPK's energy, solid waste disposal and site preparation costs would result in compliance costs that are fundamentally different from and wholl disproportionate to those considered in guidelines development. EPA evaluated the costs that ALP and LPK have already expended for wastewater treatment now in place, plus the costs of any additional treatment claimed to be necessary to attain the appropriate guidelines limitations. EPA has also factored in costs necessary to compensate for the necessity to burn excess sludge in a power boiler and the unavailability of external power sources. EPA disallowed those costs claimed by ALP and LPK that EPA found were not properly attributable to the attainment of BPT established by the guidelines. A summary of cost data appears below.

[In millions of dollars, March 1980]

	ALP		LPK	
	Capital	Total annual	Capital	Total annual
In-place allowed (EPA) wastewater pollution control costs to meet guidelines BPT	44.1	18.2	37.3	16.2
Additional allowed (EPA) wastewater pollution control costs necessary to meet guidelines BPT	16.3	5.5	17.9	5.0
Total allowed (EPA) wastewater pollution control costs necessary to meet guidelines BPT	60.4	23.7	55.2	21.2
EPA model mill wastewater pollution control costs necessary to meet guidelines BPT	57.0	21.2	62.3	23.3

The estimated capital and total annual costs at ALP to attain the national BPT limitations are 6.0 and 11.9 percent, respectively, higher than the model mill costs developed by EPA, while the capital and total annual costs at LPK to attain the national BPT limitations are lower than the model mill costs developed by EPA. EPA has determined

that the cost of compliance with the national BPT effluent limitations guidelines at ALP and LPK is neither fundamentally different from nor wholly disproportionate to those costs used by EPA in guidelines development. Thus, EPA has not identified any factor that makes ALP and LPK fundamentally different from other dissolving sulfite pulp mills. Further, the lack of effect on receiving water quality is not a factor upon which an FDF variance may be granted. 40 CFR 125.31(e)(4). EPA is, therefore, proposing to deny the FDF variance requests and to reissue the NPDES permits for ALP and LPK based upon the effluent limitations contained in the dissolving sulfite pulp category effluent guidelines.

The detailed justification of this decision may be found in the Tentative Decision, the Tentative Decision Support Document and the administrative record.

2. Request for Guidelines TSS Limitations

ALP and LPK have requested that their reissued permits reflect the TSS limitation in the national BPT guidelines (76.3 pounds/ton, daily average) instead of the TSS limitations in their current permits (60 pounds/ton, daily average). At various times, the companies have characterized this request as one for an FDF variance. That characterization is incorrect; FDF variances are available only from promulgated effluent limitations guidelines, not from previous permit limitations imposed under Section 402(a)(1) of the Clean Water Act.

The companies have made a special request to have the national TSS limitations incorporated into their reissued permits, apparently in the belief that 40 CFR 122.44(1) would require that the lower TSS limitation in their current permits be incorporated into their new permits instead of the higher national TSS limitation. As discussed further in the Tentative Decision, we have determined that the national TSS and BOD_5 limitations are not less stringent than those included in the current permits. Therefore, the prohibition in 40 CFR 122.44(1) against establishing less stringent permit limitations in reissued permits is inapplicable in this situation and the TSS limitation in the draft permits is based on the promulgated effluent limitations guidelines.

B. Resubcategorization

EPA is also tentatively denying ALP's and LPK's petition to establish a separate Alaska subcategory of the pulp, paper, and paperboard industry. Both facilities are currently in the dissolving sulfite pulp subcategory of the pulp, paper, and paperboard point source category (40 CFR Part 430, Subpart K). After examining the factors specified in Section 304(b) of the Clean Water Act which EPA considers when developing the subcategorization scheme for an industrial category, we have found that the factors that exist at the Alaska mills are very similar to the factors that exist at other mills in the dissolving sulfite pulp subcategory.

ALP and LPK are two of the newer mills in the dissolving sulfite pulp subcategory. Their raw wastewater flows and pollutant loadings are lower than those which formed the basis of the national BPT effluent limitations applicable to viscose grade production in the dissolving sulfite pulp subcategory. Both ALP and LPK are capable of meeting the national BPT effluent limitations through the installation and operation of biological treatment, the technology identified by EPA as the best practicable control technology currently available for the dissolving sulfite pulp subcategory. The total costs of meeting BPT at ALP and LPK are not significantly different from costs projected for similarly sized model viscose grade dissolving sulfite pulp mills. Additionally, we determined that installation and operation of available wastewater treatment technologies, including solid waste disposal and energy generating facilities, have not been shown to lead to non-water quality environmental impacts that differ significantly from those that EPA anticipated when issuing the national BPT limitations. For the above reasons, we have tentatively concluded that there is no basis for establishing a new Alaska subcategory.

Draft NPDES Permits

EPA has developed draft NPDES permits for ALP and LPK that require compliance with the national BPT, best available technology economically achievable (BAT) and best conventional pollutant control technology (BCT) effluent limitations. The permits continue to require compliance with the mills' current BPT limitations, as required by the Clean Water Act. A July 1, 1984 compliance deadline will be established for the national BPT and BCT effluent limitations. (As explained in the fact sheets for the draft permits, EPA has determined that BCT will be equal to the national BPT limitations.) Finally, an immediate BAT compliance deadline will be established since the mills are already meeting the BAT limitations.

Neither ALP nor LPK are expected to be able to comply by July 1, 1984 with the national BPT/BCT effluent limitations. Consequently, through administrative orders, an amendment to the existing consent decrees, or some other enforcement mechanism, both ALP and LPK will be placed on the following compliance schedule to meet the national BPT effluent limitations. EPA specifically invites comment as to the appropriateness of this compliance schedule.

April 1, 1984—Completion and submittal of final engineering plans.
June 1, 1984—Commencement of construction.
December 1, 1984—Report on construction progress.
June 1, 1985—Completion of construction.
July 1, 1985—Attainment of operational level.

State Certification

This notice will also serve as public notice of the intent of the Alaska Department of Environmental Conservation to consider certifying that the subject discharges will comply with the applicable provisions of Sections 208(e), 301, 302, 303, 306 and 307 of the Clean Water Act. The NPDES permits will not be issued until the certification requirements of Section 401 have been met.

Public Comments and Public Hearing

Persons wishing to comment on the tentative decisions relative to the FDP variance requests and the proposed reissuance of the NPDES permits may do so in writing, within 60 days of the date of this public notice. Written comments must be received within this 60 day period to be considered in the formulation of final determinations regarding the applications. All written comments should include the name, address, and telephone number of the commenter and a concise statement of the exact basis of any comment and the relevant facts upon which it is based. All written comments should be submitted to the Region X Administrator as indicated above.

Public hearings will be held in both Sitka, Alaska and Saxman, Alaska, at the times and locations as indicated earlier in this notice, to receive both oral and written testimony on the tentative decisions and the proposed reissuance of the NPDES permits.

Persons wishing to comment on the Tentative Decision relative to establishing a new Alaska subcategory should submit written comments within

this 60 day period to the Effluent Guidelines Division as indicated above.

Persons wishing to comment on State Certification should submit written comments within this 60 day period to the Alaska Department of Environmental Conservation as indicated above.

It is important to note that this will be only opportunity to comment on these matter prior to EPA's final decisions on these matters.

Dated: August 22, 1983.

Ernesta B. Barnes,

Regional Administrator, EPA Region X.

Dated: August 24, 1983.

Rebecca W. Hanmer,

Acting Assistant Administrator for Water.

[FR Doc. 83-25320 Filed 9-15-83; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-2434-8]

Availability of Environmental Impact Statements Filed September 6 Through 9, 1983, Pursuant to 40 CFR Part 1506.9

RESPONSIBLE AGENCY: Office of Federal Activities General Information (202) 382-5075 or (202) 382-5076.

EIS No. 830484, Final, BLM, CA, South Sierra Foothills Livestock Grazing Mgmt. Plan, Kern/Tulare Cos., Due: Oct. 17, 1983.

EIS No. 830485, Draft, FHW, TX, TX-35/ Alvin Freeway Const., I-45/Gulf Freeway to Dixie Dr., Harris Co., Due: Oct. 31, 1983.

EIS No. 830486, Draft, BLM, CA, Honey Lake/Beckwourth Planning Units, Domestic Livestock Grazing Mgmt., Due: Dec. 14, 1983.

EIS No. 830487, Draft, FHW, OH, Cross County Highway/OH-126 Completion, Colerain Ave. to Galbraith Rd., Due: Oct. 31, 1983.

EIS No. 830488, Draft, FHW, NJ, NJ-31 Improvement, US 202/NJ-12 to I-78, Hunterdon County, Due: Nov. 7, 1983.

EIS No. 830489, Draft, COE, KS, Whiskey Creek Local Flood Control Plan, Montgomery County, Due: Oct. 31, 1983.

EIS No. 830490, Final, COE, LA, PRO Terrebonne Parish Forced Drainage System, C/O, 404 Permit, Due: Oct. 17, 1983.

EIS No. 830491, Final, COE, ID, Albeni Falls Dam, Continued Oper., Pend Oreille Lake/River, Bonner Co., Due: Oct. 17, 1983.

EIS No. 830492, Draft, AFS, WV, Greenbrier Wild and Scenic River Study, Monongahela National Forest, Due: Nov. 7, 1983.

EIS No. 830493, Draft, NRC, SC, H.B. Robinson Electric Generator Repair, Unit #2, License Amendment, Due: Oct. 31, 1983.

EIS No. 830494, Final, FHW, WV, Charles Town Bypass Construction, US 340 to WV-9, Jefferson County, Due: Oct. 17, 1983.

EIS No. 830495, Final, EPA, REG, Bulk Gasoline Terminals, Emission Standards, Due: Oct. 17, 1983.

Dated: September 13, 1983.

Allan Hirsch,

Director, Office of Federal Activities.

[FR Doc. 83-25308 Filed 9-15-83; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-2434-8]

Intent To Prepare an Environmental Impact Statement or Environmental Assessment; Akutan, Alaska

AGENCY: Environmental Protection Agency, Region X.

ACTION: Notice of Intent to prepare an Environmental Impact statement or Environmental Assessment for designation of an Ocean Dumping Site for the City of Akutan, Alaska.

Purpose: In accordance with Section 102(2) of the National Environmental Policy Act (NEPA), Section 102 of the Marine Protection, Research, and Sanctuaries Act (Pub. L. 92-532), and EPA policy, EPA intends to prepare an Environmental Impact Statement (EIS) or Environmental Assessment and publishes this Notice of Intent in accordance with 40 CFR 1501.7. The Administrator of EPA is reviewing current policy requiring an EIS for all ocean disposal site designations and as such, a decision may be made that an Environmental Assessment is adequate for this case. If so, a subsequent clarifying Notice will be published.

FOR FURTHER INFORMATION CONTACT: Gary Voerman, EIS Project Officer, Environmental Evaluation Branch, (M/S 432), U.S. Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101, Telephone: (206) 442-1448.

SUMMARY: The Environmental Impact Statement (EIS), Or Environmental Assessment (EA), will evalaute the impacts of designating an ocean disposal site to receive incinerated solid waste from the City of Akutan in the Aleutian Islands of Alaska. The Administrative actions which the EIS or EA must address include issuing an ocean dumping permit pursuant to Section 102 of the Marine Protection, Research, and Sanctuaries Act (Pub. L. 92-532). The alternatives to be evaluated include two alternate ocean disposal sites near the City of Akutan, one land disposal alternative, and continuation of the present disposal method (the no action alternative), which consists of open burning on the beach at low tide, with residual waste dispersion at high tide. The effects of incorporating into these alternatives certain solid waste (galley waste and trash) from land-based and floating seafood processors which operate in the harbor will also be addressed. Seafood processing waste will not be a part of these alternatives. This proposed action (permit issuance) is pursuant to an application filed by the City of Akutan, Alaska.

Scoping: Opportunity for scoping meetings may be provided in Akutan and Juneau, Alaska. Meetings will only be conducted if EPA receives requests supported by evidence demonstrating need to hold such meetings. If EPA determines the need for meetings has been demonstrated a notice will be published with specific times and locations. Scoping letters are being mailed to state and federal agencies, environmental groups and others who are thought to be interested.

EPA anticipates that the Draft EIS or EA will be available for public review in approximately six months. Interested persons are invited to submit their names and addresses for inclusion on the distribution list for the document and related public notices.

Dated: September 13, 1983.

Allan Hirsch,

Director, Office of Federal Activities.

[FR Doc. 83-25309 Filed 9-15-83; 8:45 am]

BILLING CODE 6560-50-M

[PH-FRL-2435-6]

Science Advisory Board, Ad Hoc Committee To Review the National Acid Precipitation Assessment Program; Meeting September 21-22, 1983

Under Pub. L. 92-463, notice is hereby given of a two day meeting on September 21-22, 1983 of the Science Advisory Board's Ad Hoc Committee to Review the National Acid Precipitation Assessment Program (NAPAP). The first day of the meeting will be held in the conference room of the Council on Environmental Quality, 722 Jackson Place, Washington, D.C. The second day of the meeting will be held in Room 908 West Tower, EPA Headquarters, 401 M Street, Washington, D.C. The meeting will begin at 9:15 a.m. on both days.

The purposes of the first day's meeting is to enable the Committee to be briefed on and to discuss the progress to date of the technical work groups that are a part of and carry out the NAPAP program.

The purpose of the second day's meeting is to carry out individual interviews with the chairmen of the peer

review panels that have been convened to review research projects funded by NAPAP. In addition, the Committee will be briefed on the NAPAP research budget. These interviews and briefings will take place in executive session.

Any member of the public wishing to attend, obtain information or participate in the Committee meeting on September 21 should contact Dr. Terry F. Yosie, Director, Science Advisory Board (202) 382-4126, by close of business September 19, 1983.

Dated: September 12, 1983.

Terry F. Yosie,

Staff Director, Science Advisory Board.

[FR Doc. 83-25436 Filed 9-15-83: 8:45 am]
BILLING CODE 6560-50-M

[OPTS-51484; TSH-FRL 2434-3]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of one hundred three PMNs and provides a summary of each.

DATE: Close of Review Period:

PMN 83-1097, 83-1098, 83-1099, 83-1100, 83-1101 and 83-1106—November 30, 1983.

PMN 83-1102, 83-1103, 83-1104, 83-1105, 83-1107, 83-1108, 83-1109, 83-1110, 83-1111, 83-1112, 83-1113, 83-1114, 83-1115, 83-1116, 83-1117, 83-1118, 83-1119, 83-1120, 83-1121, 83-1122, 83-1123, 83-1124, 83-1125, 83-1126, 83-1127, 83-1128, 83-1129, 83-1130, 83-1131, 83-1132, 83-1133, 83-1134, 83-1135, 83-1136, 83-1137, 83-1138, 83-1139, 83-1140, 83-1141, 83-1142, 83-1143, 83-1144, 83-1145, 83-1146, 83-1147, 83-1148, 83-1149 and 83-1150—December 4, 1983.

PMN 83-1151, 83-1152, 83-1153, 83-1154, 83-1155, 83-1156, 83-1157, 83-1158, 83-1159, 83-1160, 83-1161, 83-1162, 83-1163, 83-1164, 83-1165, 83-1166, 83-1167, 83-1168, 83-1169, 83-1170, 83-1171, 83-1172, 83-1173, 83-1174, 83-1175, 83-1176, 83-1177, 83-1178, 83-1179, 83-1180, 83-1181, 83-1182, 83-1183, 83-1184 and 83-1185—December 5, 1983.

PMN 83-1186, 83-1187, 83-1188, 83-1189, 83-1190, 83-1191, 83-1192, 83-1193, 83-1194, 83-1195, 83-1196, 83-1197, 83-1198 and 83-1199—December 6, 1983.

Written comments by:

PMN 83-1097, 83-1098, 83-1099, 83-1100, 83-1101 and 83-1106—October 31, 1983.

PMN 83-1102, 83-1103, 83-1104, 83-1105, 83-1106, 83-1107, 83-1108, 83-1109, 83-1110, 83-1111, 83-1112, 83-1113, 83-1114, 83-1115, 83-1116, 83-1117, 83-1118, 83-1119, 83-1120, 83-1121, 83-1122, 83-1123, 83-1124, 83-1125, 83-1126, 83-1127, 83-1128, 83-1129, 83-1130, 83-1131, 83-1132, 83-1133, 83-1134, 83-1135, 83-1136, 83-1137, 83-1138, 83-1139, 83-1140, 83-1141, 83-1142, 83-1143, 83-1144, 83-1145, 83-1146, 83-1147, 83-1148, 83-1149 and 83-1150—November 4, 1983.

PMN 83-1151, 83-1152, 83-1153, 83-1154, 83-1155, 83-1156, 83-1157, 83-1158, 83-1159, 83-1160, 83-1161, 83-1162, 83-1163, 83-1164, 83-1165, 83-1166, 83-1167, 83-1168, 83-1169, 83-1170, 83-1171, 83-1172, 83-1173, 83-1174, 83-1175, 83-1176, 83-1177, 83-1178, 83-1179, 83-1180, 83-1181, 83-1182, 83-1183, 83-1184 and 83-1185—November 5, 1983.

PMN 83-1186, 83-1187, 83-1188, 83-1189, 83-1190, 83-1191, 83-1192, 83-1193, 83-1194, 83-1195, 83-1196, 83-1197, 83-1198 and 83-1199—November 6, 1983

ADDRESS: Written comments, identified by the document control number "[OPTS-51484]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Office of Toxic Substances, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, D.C. 20460 (202-382-3532).

FOR FURTHER INFORMATION CONTACT: Margaret Stasikowski, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M St., SW., Washington, D.C. 20460 (202-382-3729).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E-107.

PMN 83-1097

Importer. Confidential.

Chemical. (G) (2 -(3-4-amino-6-chloro-1,3,5-triazinylimino)-2-hydroxy-5-sulfophenylazo)substituted methinohydrazono)-4-sulfobenzoate-(0,0') (4-)) copper (II) acid, disodium.

Use/Import. (S) Commercial dye for cellulosic fibre. Import range: 10,000 kg/yr.

Toxicity Data. TLm_{48} (orange medaka)—Above 1,000 parts per million (ppm); Ames Test: Negative.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

PMN 83-1098

Importer. Confidential.

Chemical. (G) G– –(2,2'-bis(–(2-carboxy-5-sulfophenylhydrazono) substituted methinoazo)-4,4'-disulfo-6,6'-(6-chloro-1,3,5-triazin-2,4-diyldi imino)di-1-phenolato-(0,0',0'', 0''')(8–)) dicopper (II) acid, tetrasodium.

Use/Import. (S) Commercial dye for cellulosic fibre. Import range: 10,000 kg/yr.

Toxicity Data. TLm_{48} (orange medaka)—Above 1,000 ppm; Ames Test: Negative.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

PMN 83-1099

Manufacturer. Confidential.

Chemical. (S) Polymer of: tall oil, pentacrythritol, isophthalic acid, benzoic acid, styrene, methyl methacrylate.

Use/Production. (G) Open use. Prod. range: 200,000–800,000 kg/yr.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture and disposal: determal and inhalation, a total of 15 workers, up to 8 hr/da, up to 150 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air. Disposal by approved landfill.

PMN 83-1100

Manufacturer. Confidential.

Chemical. (G) Heteromonocyclic substituted diester.

Use/Production. (G) Open use. Prod. range: Confidential.

Toxicity Data. Acute oral: >5 g/kg; Acute dermal: 5 g/kg; Irritation: Skin—Partially non-irritating, Eye—Moderate.

Exposure. Manufacture, processing and use: dermal and ocular, a total of 14 workers, up to 8 hrs/da, up to 150 da/yr.

Environmental Release/Disposal. Less than 10 to 1,000 kg/yr released to

land. Disposal by incineration and landfill.

PMN 83–1101

Manufacturer. Confidential.
Chemical. (G) Heteromonocyclic substituted diester.
Use/Production. (G) Open use. Prod. range: Confidential.
Toxicity Data. Acute oral: >5 g/kg; Acute dermal: >5 g/kg; Irritation: Skin—Practically non-irritating, Eye—Moderate.
Exposure. Manufacture, processing and use: dermal and ocular, a total of 14 workers, up to 8 hrs/da, up to 150 da/yr.
Environmental Release/Disposal. Less than 10 to 1,000 kg/yr released to land. Disposal by incineration and landfill.

PMN 83–1102

Manufacturer. Minnesota Mining and Manufacturing Company.
Chemical. (G) Aliphatic acid ester of n-alkyl perfluoro sulfonamido alkanol.
Use/Production. (G) A consumer use preparation. Prod. range: Confidential.
Toxicity Data. Irritation: Skin—Mild, Eye—Minimal: BOD_{20}— 370,000 mg/kg; COD—1,300,00 mg/kg.
Exposure. Manufacture: dermal, a total of 7 workers, up to 1 hr/da, up to 24 da/yr.
Environmental Release/Disposal. 1–10 kg/batch released. Disposal by incineration.

PMN 83–1103

Manufacturer. Confidential.
Chemical. (G) Esterified copolymers of alpha olefins and maleic anhydride.
Use/Production. (G) Modifying agent. Prod. range: 227–272–1,363,637 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and proceeding: dermal, up to 14 hrs/da, up to 15 da/yr.
Environmental Release/Disposal. 350 lbs/batch released to water with 70–205 lbs/batch to land. Disposal by publicly owned treatment works (POTW) and landfill.

PMN 83–1104

Manufacturer. Amerchol Corporation.
Chemical. (S) PEG—120 methyl glucoside dioleate.
Use/Production. (S) Detergent thickener for industrial, commercial and consumer use. Prod. range: Confidential.
Toxicity Data. Acute oral: >5 g/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; Skin sensitization: Negative.
Exposure. Manufacture and disposal: dermal, a total of 4 workers, up to 5 hrs/da, up to 92 da/yr.
Environmental Release/Disposal. 1,000–10,000 kg/yr released to water. Disposal by POTW.

PMN 83–1105

Manufacturer. Amerchol Corporation.
Chemical. (S) Methyl glucoside dioleate.
Use/Production. (S) Industrial intermediate for the manufacture of PEG—120 methyl glucoside dioleate. Prod. range: Confidential.
Toxicity Data. Acute oral: >5 g/kg; Irritation: Skin—Non-irritant, Eye—Mild.
Exposure. Manufacture, processing and disposal: a total of 6 workers, up to 5 hrs/da, up to 92 da/yr.
Environmental Release/Disposal. 100–1,000 kg/yr released to water. Disposal by POTW.

PMN 83–1106

Manufacturer. Confidential.
Chemical. (G) Polyester of phthalic anhydride and lower glycols.
Use/Production. (G) Intermediate for polyurethane reactions. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 2 workers, up to 1 hr/da.
Environmental Release/Disposal. No release.

PMN 83–1107

Manufacturer. Confidential.
Chemical. (G) Amine salt of a carboxyl terminated polyester urethane polymer.
Use/Production. (S) Industrial fabric coating and finish. Prod. range: 60,000–200,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal and inhalation, a total of 8 workers, up to 8 hrs/da, up to 100 da/yr.
Environmental Release/Disposal. No release.

PMN 83–1108

Manufacturer. S. C. Johnson & Son, Inc.
Chemical. (G) Alpha olefin/2, 5 furandione copolymer.
Use/Production. (G) Foam builder and waxy component. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 83–1109

Manufacturer. S. C. Johnson & Son, Inc.
Chemical. (G) Salt of alpha olefin/2, 5 furandione polymer.
Use/Production. (G) Foam builder and waxy component. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 83–1110

Manufacturer. S. C. Johnson & Son, Inc.
Chemical. (G) Salt of alpha olefin/2, 5 furandione polymer.
Use/Production. (G) Foam builder and waxy component. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 83–1111

Manufacturer. S. C. Johnson & Son, Inc.
Chemical. (G) Salt of alpha olefin/2, 5 furandione polymer.
Use/Production. (G) Foam builder and waxy component. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 83–1112

Manufacturer. S. C. Johnson & Son, Inc.
Chemical. (G) Salt of alpha olefin/2, 5 furandione polymer.
Use/Production. (G) Foam builder and waxy component. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 83–1113

Manufacturer. S .C. Johnson & Son, Inc.
Chemical. (G) Salt of alpha olefin/2, 5 furandione polymer.
Use/Production. (G) Foam builder and waxy component. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 83–1114

Manufacturer. S. C. Johnson & Son, Inc.
Chemical. (G) Salt of alpha olefin/2, 5 furandione polymer.
Use/Production. (G) Foam builder and waxy component. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 83–1115

Manufacturer. S. C. Johnson & Son, Inc.
Chemical. (G) Alpha olefin/2, 5 furandione copolymer.
Use/Production. (G) Foam builder and waxy component. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 83–1116

Manufacturer. S. C. Johnson & Son, Inc.
Chemical. (G) Salt of alpha olefin/2, 5 furandione polymer.
Use/Production. (G) Foam builder and waxy component. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 83–1117

Manufacturer. S. C. Johnson & Son, Inc.
Chemical. (G) Salt of alpha olefin/2, 5 furandione polymer.
Use/Production. (G) Foam builder and waxy component. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 83–1118

Manufacturer. S. C. Johnson & Son, Inc.
Chemical. (G) Salt of alpha olefin/2, 5 furandione polymer.
Use/Production. (G) Foam builder and waxy component. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 83–1119

Manufacturer. S. C. Johnson & Son, Inc.
Chemical. (G) Alpha olefin/2, 5 furandione copolymer.
Use/Production. (G) Foam builder and waxy component. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 83–1120

Manufacturer. S. C. Johnson & Son, Inc.
Chemical. (G) Salt of alpha olefin/2, 5 furandione polymer.
Use/Production. (G) Foam builder and waxy component. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 83–1121

Manufacturer. S. C. Johnson & Son, Inc.
Chemical. (G) Salt of alpha olefin/2, 5 furandione polymer.
Use/Production. (G) Foam builder and waxy component. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 83–1122

Manufacturer. S. C. Johnson & Son, Inc.
Chemical. (G) Salt of alpha olefin/2, 5 furandione polymer.
Use/Production. (G) Foam builder and waxy component. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 83–1123

Manufacturer. S. C. Johnson & Son, Inc.
Chemical. (G) Alpha olefin/2, 5 furandione copolymer.
Use/Production. (G) Foam builder and waxy component. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 83–1124

Manufacturer. S. C. Johnson & Son, Inc.
Chemical. (G) Salt of alpha olefin/2, 5 furandione polymer.
Use/Production. (G) Foam builder and waxy component. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 83–1125

Manufacturer. S. C. Johnson & Son, Inc.
Chemical. (G) Salt of alpha olefin/2, 5 furandione polymer.
Use/Production. (G) Foam builder and waxy component. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 83–1126

Manufacturer. S. C. Johnson & Son, Inc.
Chemical. (G) Salt of alpha olefin/2, 5 furandione copolymer.
Use/Production. (G) Foam builder and waxy component. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 83–1127

Manufacturer. S. C. Johnson & Son, Inc.
Chemical. (G) Alpha olefin/2, 5 furandione copolymer.
Use/Production. (G) Foam builder and waxy component. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 83–1128

Manufacturer. S. C. Johnson & Son, Inc.
Chemical. (G) Salt of alpha olefin/2, 5 furandione polymer.
Use/Production. (G) Foam builder and waxy component. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 83–1129

Manufacturer. S. C. Johnson & Son, Inc.
Chemical. (G) Salt of alpha olefin/2, 5 furandione polymer.
Use/Production. (G) Foam builder and waxy component. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 83–1130

Manufacturer. S. C. Johnson & Son, Inc.
Chemical. (G) Salt of alpha olefin/2, 5 furandione polymer.
Use/Production. (G) Foam builder and waxy component. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 83–1131

Manufacturer. S. C. Johnson & Son, Inc.

Chemical. (G) Alpha olefin/2, 5 furandione copolymer.

Use/Production. (G) Foam builder and waxy component. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 83–1132

Manufacturer. S. C. Johnson & Son, Inc.

Chemical. (G) Salt of alpha olefin/2, 5 furandione polymer.

Use/Production. (G) Foam builder and waxy component. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 83–1133

Manufacturer. S. C. Johnson & Son, Inc.

Chemical. (G) Salt of alpha olefin/2, 5 furandione polymer.

Use/Production. (G) Foam builder and waxy component. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 83–1134

Manufacturer. S. C. Johnson & Son, Inc.

Chemical. (G) Salt of alpha olefin/2, 5 furandione polymer.

Use/Production. (G) Foam builder and waxy component. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 83–1135

Manufacturer. S. C. Johnson & Son, Inc..

Chemical. (G) Alpha olefin/2, 5 furandione copolymer.

Use/Production. (G) Foam builder and waxy component. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 83–1136

Manufacturer. S. C. Johnson & Son, Inc.

Chemical. (G) Salt of alpha olefin/2, 5 furandione polymer.

Use/Production. (G) Foam builder and waxy component. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 83–1137

Manufacturer. S. C. Johnson & Son, Inc.

Chemical. (G) Salt of alpha olefin/2, 5 furandione polymer.

Use/Production. (G) Foam builder and waxy component. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 83–1138

Manufacturer. S. C. Johnson & Son, Inc.

Chemical. (G) Salt of alpha olefin/2, 5 furandione polymer.

Use/Production. (G) Foam builder and waxy component. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 83–1139

Manufacturer. S. C. Johnson & Son, Inc.

Chemical. (G) Alpha olefin/2, 5 furandione copolymer.

Use/Production. (G) Foam builder and waxy component. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 83–1140

Manufacturer. S. C. Johnson & Son, Inc.

Chemical. (G) Salt of alpha olefin/2, 5 furandione polymer.

Use/Production. (G) Foam builder and waxy component. Prod. range: Confidential

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 83–1141

Manufacturer. S. C. Johnson & Son, Inc.

Chemical. (G) Salt of alpha olefin/2, 5 furandione polymer.

Use/Production. (G) Foam builder and waxy component. Prod. range: Confidential

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 83–1142

Manufacturer. S. C. Johnson & Son, Inc.

Chemical. (G) Salt of alpha olefin/2, 5 furandione polymer.

Use/Production. (G) Foam builder and waxy component. Prod. range: Confidential

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 83–1143

Manufacturer. S. C. Johnson & Son, Inc.

Chemical. (G)Alpha olefin/2, 5 furandione copolymer

Use/Production. (G) Foam builder and waxy component. Prod. range: Confidential

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 83–1144

Manufacturer. S. C. Johnson & Son, Inc.

Chemical. (G) Salt of alpha olefin/2, 5 furandione polymer.

Use/Production. (G) Foam builder and waxy component. Prod. range: Confidential

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 83–1145

Manufacturer. S. C. Johnson & Son, Inc.

Chemical. (G) Salt of alpha olefin/2, 5 furandione polymer.

Use/Production. (G) Foam builder and waxy component. Prod. range: Confidential

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 83–1146

Manufacturer. S. C. Johnson & Son, Inc.

Chemical. (G) Salt of alpha olefin/2, 5 furandione polymer.

Use/Production. (G) Foam builder and waxy component. Prod. range: Confidential

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 83–1147

Manufacturer. S. C. Johnson & Son, Inc.

Chemical. (G) Styrene/alpha olefin/2, 5 furandione copolymer..

Use/Production. (G) Water resistant coating. Prod. range: Confidential

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 83–1148

Manufacturer. S. C. Johnson & Son, Inc.

Chemical. (G) Ammonia salt of styrene/alpha olefin/2, 5 furandione polymers.

Use/Production. (G) Water resistant coating. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 83–1149

Manufacturer. S. C. Johnson & Son, Inc.

Chemical. (G) Styrene/alpha olefin/2, 5 furandione copolymers.

Use/Production. (G) Water resistant coating. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 83–1150

Manufacturer. S. C. Johnson & Son, Inc.

Chemical. (G) Ammonia salt of styrene/alpha olefin/2, 5 furandione polymers.

Use/Production. (G) Water resistant coating. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 83–1151

Manufacturer. Confidential.

Chemical. (G) Diethoxydiphenylalkanone.

Use/Production. (G) Polymer additive—after use is incorporated and/or encapsulated in the cured polymer. Prod. range: Confidential.

Toxicity Data. Acute oral: >5,000 mg/kg; Irritation: Skin—Non-irritant Eye—Mild; Ames Test: Negative.

Exposure. Manufacture: a total of 100–200 workers, up to 8 hrs./da, up to 250 da/yr.

Environmental Release/Disposal. Less than 100 kg/yr released to air and water. Disposal by POTW and navigable waterway.

PMN 83–1152

Manufacturer. Confidential.

Chemical. (G) Substituted sulfonated naphthalene.

Use/Production. (S) Site limited isolated intermediate. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacturer: dermal, a total of 2 workers, up to 2 hrs/da, up to 7 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air, water and land. Disposal by on-site biological treatment system.

PMN 83–1153

Manufacturer. Confidential.

Chemical. (G) Urethane compound.

Use/Production. (G) Open use. Prod. range: 1,800–8,850 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manfacturer: dermal, a total of 16 workers, up to 4 hrs/da, up to 39 da/yr.

Environmental Release/Disposal. 3–5 kg/batch released to land. Disposal by incineration.

PMN 83–1154

Manufacturer. Confidential.

Chemical. (G) Urethane compound.

Use/Production. (G) Open use. Prod. range: 1,500–9,400 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manfacturer: dermal, a total of 22 workers, up to 4 hrs/da, up to 39 da/yr.

Environmental Release/Disposal. Trace amounts 3–5 kg/batch released to air, water and land. Disposal by incineration.

PMN 83–1155

Manufacturer. Confidential.

Chemical. (G) Copolymer of mixed acrylate and methacrylate monomers.

Use/Production. (G) Highly dispersive use. Prod. range: 245,000–270,000 kg/yr.

Toxicity Data. No data sumbitted.

Exposure. Manfacturer: dermal, a total of 98 workers, up to 4 hrs/da, up to 230 da/yr.

Environmental Release/Disposal. 4–10 kg/batch released to land. Disposal by incineration and landfill.

PMN 83–1156

Manufacturer. Ashland Chemical Company.

Chemical. (G) Substituted cyclopentadiene—formaldehyde copolymer.

Use/Production. (S) Open, non-dispersive use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 83–1157

Manufacturer. Confidential

Chemical. (G) Substituted oxirane.

Use/Production. (S) Site limited chemical intermediate. Prod. range: Confidential.

Toxicity Data. LC $_{50}$—approximately 575 ppm.

Exposure. Confidential.

Environmental Release/Disposal. Minimal release expected. Disposal by incineration.

PMN 83–1158

Manufacturer. Confidential.

Chemical. (G) Polymer of styrene with mixed alkyl acrylates and methacrylates.

Use/Production. (S) Dispersive use. Prod. range: 300,000–800,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 34 workers, up to 4 hrs/da, up to 89 da/yr.

Environmental Released/Disposal. 3–18 kg/batch release to land. Disposal by incineration.

PMN 83–1159

Manufacturer. Confidential.

Chemical. (G) Complex epoxy resin adduct.

Use/Production. (G) Open use. Prod. range: 3,100–40,950 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 23 workers, up to 4 hrs/da, up to 39 da/yr.

Environmental Release/Disposal. 1–5 kg/batch released to land. Disposal by incineration and landfill.

PMN 83–1160

Manufacturer. Confidential.

Chemical. (G) Substituted heterocycle.

Use/Production. (G) Dispersive use. Prod. range: Confidential.

Toxicity Data. Acute oral: Between 3.0 and 3.1 ml/kg; Irritation: Skin—Negative, Eye—Non-irritant; Skin sensitization: Negative.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 83–1161

Manufacturer. Phillips Petroleum Company.
Chemical. (G) Combination of a metal phosphate and metal oxides.
Use/Production. (G) Industrial usage. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by approved landfill.

PMN 83–1162

Importer. Confidential.
Chemical. (G) Substituted pyridine.
Use/Production. (S) On-site chemical intermediate. Prod. range: Confidential.
Toxicity Data. Acute oral; 500 mg/kg; Acute dermal: 1,000 mg/kg; Irritation: Skin—Moderate irritation and burn, Eye—Moderate.
Exposure. Confidential.
Environmental Release/Disposal. No release. Disposal by incineration and thermal oxidizer.

PMN 83–1163

Manufacturer. Confidential.
Chemical. (S) Substituted pyridine.
Use/Production. (S) Chemical intermediate. Prod. range: Confidential.
Toxicity Data. Acute oral: Approximately 250 mg/kg; Acute dermal: Between 200–1,000 mg/kg; Irritation: Skin—Severe irritation and burn, Eye—Moderate.
Exposure. Confidential.
Environmental Release/Disposal.
Environmental Release/Disposal. No release. Disposal by incineration and thermal oxidizer.

PMN 83–1164

Manufacturer. E. I. du Pont de Nemours & Company, Inc.
Chemical. (G) Trisubstituted pyrimidine.
Use/Production. (G) Captive intermediate. Prod. range: Confidential.
Toxicity Data. Acute oral: 11,000 mg/kg; Irritation: Eye—Moderate; Ames Test: Non-mutagenic.
Exposure. Confidential.
Environmental Release/Disposal. Confidential

PMN 83–1165

Manufacturer. E. I. du Pont de Nemours & Company, Inc.
Chemical. (G) Monosubstitutedbenzene-sulfonylisocyanate.
Use/Production. (G) Captive intermediate. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 83–1166

Manufacturer. E. I. du Pont de Nemours & Company, Inc.
Chemical. (G) Monosubstitutedphenyl magnesium bromide.
Use/Production. (G) Captive intermediate. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 83–1167

Manufacturer. E. I. du Pont de Nemours & Company, Inc.
Chemical. (G) Trisubstitutedmethylsilane hydrochloride.
Use/Production. (G) Captive intermediate. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 83–1168

Manufacturer. E. I. du Pont de Nemours & Company, Inc.
Chemical. (G) Monosubstitutedbenzyl chloride.
Use/Production. (G) Captive intermediate. Prod. range: Confidential.
Toxicity Data. Irritation: Skin—Moderate, Eye—Mild; Skin sensitization: Weak sensitizer.
Exposure. Confidential.
Environmental Release/Disposal. Confidential

PMN 83–1169

Manufacturer. E. I. du Pont de Nemours & Company, Inc.
Chemical. (G) Monosubstitutedbenzylthiosulfate salt.
Use/Production. (G) Captive intermediate. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 83–1170

Manufacturer. E. I. du Pont de Nemours & Company, Inc.
Chemical. (G) Monosubstitutedbenzylsulfonylchloride.
Use/Production. (G) Captive intermediate. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 83–1171

Manufacturer. E. I. du Pont de Nemours & Company, Inc.
Chemical. (G) Monosubstitutedbenzenealkyl-sulfonylisocyanate.
Use/Production. (G) Captive intermediate. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 83–1172

Manufacturer. E. I. du Pont de Nemours & Company, Inc.
Chemical. (G) Monosubstitutedbenzoic acid.
Use/Production. (G) Captive intermediate. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 83–1173

Manufacturer. E. I. du Pont de Nemours & Company, Inc.
Chemical. (G) Monosubstitutedbenzoic acid methyl ester.
Use/Production. (G) Captive intermediate. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 83–1174

Manufacturer. E. I. du Pont de Nemours & Company, Inc.
Chemical. (G) Monosubstitutedheterocyclediazonium chloride.
Use/Production. (G) Captive intermediate. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 83–1175

Manufacturer. E. I. du Pont de Nemours & Company, Inc.
Chemical. (G) Monosubstitutedheterocycle sulfonylisocyanate.
Use/Production. (G) Captive intermediate. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 83–1176

Manufacturer. E. I. du Pont de Nemours & Company, Inc.
Chemical. (G) Trisubstitutedbenzenesulfonyl chloride.
Use/Production. (G) Captive intermediate. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 83–1177

Manufacturer. E. I. du Pont de Nemours & Company, Inc.
Chemical. (G) Trisubstitutedphenol, ammonium salt.
Use/Production. (G) Captive intermediate. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 83–1178

Manufacturer. E. I. du Pont de Nemours & Company, Inc.
Chemical. (G) Monosubstitutedphenol, sodium salt.
Use/Production. (G) Captive intermediate. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 83–1179

Manufacturer. E. I. du Pont de Nemours & Company, Inc.
Chemical. (G) Monosubstitutedbenzene sulfonylisocyanate
Use/Production. (G) Captive intermediate. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 83–1180

Manufacturer. Confidential.
Chemical. (G) Polyglycol alcohol polymer.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Confidential.
Environmental Release/Disposal. Minimal release. Disposal by incineration and approved landfill.

PMN 83–1181

Manufacturer. Confidential.
Chemical. (G) Polyglycol alcohol polymer.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Confidential.
Environmental Release/Disposal. Minimal release. Disposal by incineration and approved landfill.

PMN 83–1182

Manufacturer. Confidential.
Chemical. (G) Polyglycol alcohol polymer.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Confidential.
Environmental Release/Disposal. Minimal release. Disposal by incineration and approved landfill.

PMN 83–1183

Manufacturer. Confidential.
Chemical. (G) Substituted polyalkylene polyamine.
Use/Production. (S) Site-limited chemical intermediate. Prod. range: Confidential.
Toxicity Data. Acute oral: 2,000 mg/kg; Acute dermal: >2,000 mg/kg; Irritation: Skin—Not a primary irritant, Eye—Slight to moderate.
Exposure. Confidential.
Environmental Release/Disposal. No release. Disposal by industrial waste water treating facility.

PMN 83–1184

Manufacturer. Confidential.
Chemical. (S) Polymer of: styrene, butly acrylate, t-octyl acrylamide, acrylic acid, methacrylic acid.
Use/Production. (G) Open use. Prod. range: 2,400–100,000 kg/yr.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Manufacture and disposal: dermal and inhalation, a total of 11 workers, up to 8 hrs/da, up to 20 da/yr.
Environmental Release/Disposal. Less than 10 kg/yr released to air. Disposal by approved landfill.

PMN 83–1185

Manufacturer. Confidential.
Chemical. (G) Substituted-1-sila-2-azacyclopentane.
Use/Production. (S) Category of use is additive in industrial use. Prod. range: Confidential.
Toxicity Data. Acute dermal: >2,000 mg/kg; Irritation: Skin—Moderate, Eye—Moderate.
Exposure. Confidential.
Environmental Release/Disposal. No release.

PMN 83–1186

Manufacturer. Confidential.
Chemical. (G) Vinyl interpolymer containing hydroxyl and carboxyl groups.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal, inhalation, and ocular, a total of 105 workers, up to 6 hrs/da, up to 30 da/yr.
Environmental Release/Disposal. No release. Disposal by incineration.

PMN 83–1187

Manfacturer. Confidential.
Chemical. (G) Vinyl interpolymer containing hydroxyl and carboxyl groups.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal, inhalation and ocular, a total of 105 workers, up to 6 hrs/da, up to 30 da/yr.
Environmental Release/Disposal. No release. Disposal by incineration.

PMN 83–1188

Manufacturer. Confidential.
Chemical. (G) Organic acid salt of the succinimide of alpha olefin and alkene/alkene copolymer.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 4 workers, up to 1 hr/da, up to 100 da/yr.
Environmental Release/Disposal. Less than 10 kg/yr released to air and water. Disposal by navigable waterway.

PMN 83–1189

Manufacturer. Confidential.
Chemical. Succinimide of alpha olefin and alkene/alkene copolymer.
Use/Production. (S) Captive intermediate. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 4 workers, up to 1 hr/da, up to 100 da/yr.
Environmental Release/Disposal. Less than 10 kg/yr released to air and water. Disposal by navigable waterway.

PMN 83–1190

Manufacturer. Confidential.
Chemical. (G) Alpha olefin succinic anhydride.
Use/Production. (S) Captive intermediate. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Manufacture: dermal, a total of 4 workers, up to 1 hr/da, up to 9 da/yr.
Environmental Release/Disposal. Less than 10 kg/yr released to air and water. Disposal by navigable waterway.

PMN 83–1191

Manufacturer. Confidential.
Chemical. (G) Alkenyl succinic acid metal salt.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture: dermal, a total of 4 workers, up to 1 hr/da, up to 100 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air and water. Disposal by navigable waterway.

PMN 83–1192

Manufacturer. Confidential.

Chemical. (G) Alkenyl succinic acid metal salt.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture: dermal, a total of 4 workers, up to 1 hr/da, up to 100 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air and water. Disposal by navigable waterway.

PMN 83–1193

Manufacturer. Confidential.

Chemical. (G) Organic acid salt of 3 heteropolycycle alkyl succinimide of thiol alkene/alkene copolymer.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. Acute oral: 5.0 g/kg; Acute dermal: 3.2 g/kg; Irritation: Skin—Low degree of irritation, Eye—Slight.

Exposure. Manufacture: dermal, a total of 4 workers, up to 1 hr/da, up to 5–15 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air and water. Disposal by navigable waterway.

PMN 83–1194

Manufacturer. Confidential.

Chemical. (G) 3 heteropolycycle alkyl succinimide of thiol alkene/alkene copolymer.

Use/Production. (S) Captive intermediate. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 4 workers, up to 1 hr/da, up to 5–15 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air and water. Disposal by navigable waterway.

PMN 83–1195

Manufacturer. Confidential.

Chemical. (G) Succinic anhydride of thiol alkene/alkene copolymer.

Use/Production. (S) Captive intermediate. Prod. range: Confidential.

Toxicity Data. No date on the PMN substance submitted.

Exposure. Manufacture: dermal, a total of 4 workers, up to 1 hr/da, up to 50–150 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air and water. Disposal by navigable waterway.

PMN 83–1196

Manufacturer. Exxon Chemical Americas.

Chemical. (G) Reaction product of alkyl succinic anhydride and polyamine.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. Acute oral: Very low order; Acute dermal: No systemic effects; Irritation: Skin—Mild to moderate, Eye—Mild.

Exposure. Manufacture: dermal and inhalation, a total of 24 workers, up to <1 hr/da, up to 33 da/yr.

Environmental Release/Disposal. Disposal by off site deep well injection.

PMN 83–1197

Manufacturer. Exxon Chemical Americas.

Chemical. (G) Reaction product of alkyl succinic anhydride and polyamine.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture: dermal and inhalation, a total of 24 workers, up to <1 hr/da, up to 33 da/yr.

Environmental Release/Disposal. Disposal by off site deep well injection.

PMN 83–1198

Manufacturer. Exxon Chemical Americas.

Chemical. Reaction product of alkyl succinic anhydride and polyamine.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture: dermal and inhalation, a total of 24 workers, up to <1 hr/da, up to 33 da/yr.

Environmental Release/Disposal. Disposal by off site deep well injection.

PMN 83–1199

Manufacturer. Exxon Chemical Americas.

Chemical. (G) Reaction product of alkl succinic anhydride and polyamine.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. Acute oral: No observable abnormalities; Acute dermal: No systemic effects; Irritation: Skin—Mild, Eye—Mild.

Exposure. Manufacture: dermal and inhalation, a total of 24 workers, up to <1 hr/da, up to 33 da/yr.

Environmental Release/Disposal. Disposal by off site deep well injection.

Dated: September 9, 1983.

Linda A. Travers,

Acting Director, Management Support Division.

[FR Doc. 25183 Filed 9-15-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL RESERVE SYSTEM

Formation of Bank Holding; Hyden Citizens Bancorp, Inc., et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Cleveland (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Hyden Citizens Bancorp, Inc.*, Hyden, Kentucky; to become a bank holding company be acquiring 100 percent of the voting shares of Hyden Citizens Bank, Hyden, Kentucky. Comments on this application must be received not later than October 12, 1983.

B. Federal Reserve Bank of Kansas City (Thomas M. Hoening, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Famers & Merchants Bancorp, Inc.*, Hill City, Kansas; to become a bank holding company by acquiring at least 80 percent of the voting shares of the Farmers & Merchants Bank, Hill City, Kansas. Comments on this application must be received not later than October 12, 1983.

C. Board of Governors of the Federal Reseve System (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Progressive Bancorporation, Inc.*, Houna, Louisiana; to become a bank holding company by acquiring 100 percent of the voting shares of Progressive Bancshares Corporation,

Houna, Louisiana. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Atlanta. Comments on this application must be received not later than October 12, 1983

Board of Governors of the Federal Reserve System, September 12, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-25261 Filed 9-15-83; 8:45 am]

BILLING CODE 6210-01-M

Acquisition of Bank Shares by Bank Holding Companies; Jackass Creek Land and Livestock Co. et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Jackass Creek Land and Livestock Co.*, Ennis, Montana; to acquire 57.5 percent of the voting shares or assets of First Madison Valley Bank, Ennis, Montana. Comments on this application must be received not later than October 12, 1983.

B. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Charter Bancshares, Inc.*, Houston, Texas; to acquire 100 percent of the voting shares or assets of Charter National Bank-Arena, Houston, Texas. Comments on this application must be received not later than October 5, 1983.

2. *International Bancshares Corporation*, Laredo, Texas; to acquire 100 percent of the voting shares of International Bank of Commerce, N.A. Zapata, Texas and International Bank of Commerce, N.A., Brownsville, Texas. Comments on this application must be received not later than October 12, 1983.

Board of Governors of the Federal Reserve System, September 12, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-25262 Filed 9-15-83; 8:45 am]

BILLING CODE 6210-01-M

Extension of Comment Period; SSG, Ltd.

SSG, Ltd., Miami, Florida, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring up to 33 percent or more of the voting shares of Southeast Banking Corporation, Miami, Florida. Notice of the application was published Wednesday, August 17, 1983 at page 37304 of the **Federal Register**. The comment period for the application originally expired September 9, 1983. This notice is to announce the extension of the comment period. Comments on this application should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. no later than September 30, 1983.

Board of Governors of the Federal Reserve System, September 12, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-25263 Filed 9-15-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paper Reduction Act (44 U.S.C Chapter 35). The following are those packages submitted to OMB since the last list was published on September 9.

Public Health Service

Food and Drug Administration

Subject: Product License Application for the Manufacture of Anti-Human Globulin Sera (0910-0065)—Extension no change

Respondents: Manufacturers of anti-human globulin sera

OMB Desk Officer: Richard Eisinger

Health Care Financing Administration

Subject: Request for Claim Number Verification (HCFA-1600)— Extension no change

Respondents: Health care providers participating in the Medicare program

OMB Desk Officer: Fay S. Iudicello

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202-245-6511.

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503. Attn: (name of OMB Desk Officer).

Dated: September 9, 1983.

Wallace O. Keene,

Director, Office of Computer and Information Systems.

[FR Doc. 83-25249 Filed 9-15-83; 8:45 am]

BILLING CODE 4150-04-M

Food and Drug Administration

[Docket No. 83M-0293]

Bausch & Lomb Optics Center; Premarket Approval of BAUSCH & LOMB® SENSITIVE EYES™ Saline/ Cleaning Solution

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application for premarket approval under the Medical Device Amendments of 1976 of the BAUSCH & LOMB® SENSITIVE EYES™ Saline/Cleaning Solution sponsored by Bausch & Lomb Optics Center, Rochester, NY. After reviewing the recommendation of the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by October 17, 1983.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets

Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles H. Kyper, National Center for Devices and Radiological Health (HFK–402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7445.

SUPPLEMENTARY INFORMATION: On May 19, 1982, Bausch & Lomb Optics Center, Rochester, NY, submitted to FDA an application for premarket approval of the BAUSCH & LOMB® SENSITIVE EYES™ Saline/Cleaning Solution for use in the cleaning, rinsing, heat disinfection, and storage of all soft (hydrophilic) contact lenses. The application was reviewed by the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, an FDA advisory committee, which recommended approval of the applicaton. On August 19, 1983, FDA approved the application by a letter to the sponsor from the Associate Director of Device Evaluation of the Office of Medical Devices.

Before enactment of the Medical Device Amendments of 1976 (the amendments) (Pub. L. 94–295, 90 Stat. 539–583), soft contact lens solutions were regulated as new drugs. Because the amendments broadened the definition of the term "device" in section 201(h) of the Federal Food, Drug, and Cosmetic Act (the act)(21 U.S.C. 321(h)), soft contact lens solutions are now regulated as class III devices (premarket approval). As FDA explained in a notice published in the **Federal Register** of December 16, 1977 (42 FR 63472), the amendments provide transitional provisions to ensure continuation of premarket approval requirements for class III devices formerly regulated as new drugs. Furthermore, FDA requires, as a condition to approval, that sponsors of applications for premarket approval of soft contact lenses or solutions comply with the records and reports provisions of Subpart D of Part 310 (21 CFR Part 310), until these provisions are replaced by similar rquirements under the amendments.

A summary of the safety and effectiveness data on which FDA's approval is based is on file in the Dockets Management Branch (address above) and is available upon request from that office. A copy of all approved final labeling is available for public inspection at the Office of Medical Devices—contact Charles H. Kyper (HFK–402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

The labeling of the BAUSCH & LOMB® SENSITIVE EYES™ Saline/Cleaning Solution states that the solution is designed for use in the cleaning, rinsing, heat disinfection, and storage of all soft (hydrophilic) contact lenses. Sponsors of any soft (hydrophilic) contact lenses that have been approved for marketing are advised that whenever FDA publishes a notice in the **Federal Register** of the agency's approval of a new solution for use with an approved soft contact lens, the sponsor of each lens shall correct its labeling to refer to the new solution at the next printing or at such other time as FDA prescribes by letter to the sponsor. A sponsor who fails to update the restrictive labeling may violate the misbranding provisions of section 502 of the act (21 U.S.C. 352) as well as the Federal Trade Commission Act (15 U.S.C. 41–58), as amended by the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act (Pub. L. 93–637). Furthermore, failure to update the restrictive labeling to refer to new solutions that may be used with an approved lens may be grounds for withdrawing approval of the application for the lens under section 515(e)(1)(F) of the act (21 U.S.C. 360e(e)(1)(F)).

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of FDA's decision to approve this applicaton. a petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register.** If FDA grants the petition, the notice will state the issues to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before October 17, 1983 file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 12, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83–25286 Filed 9–15–83; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 83M–0295]

Beckman Instruments, Inc.; Premarket Approval of Cutaneous Gas Monitor

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The food and Drug Administration (FDA) is announcing its approval of the application for premarket approval under the Medical Device Amendments of 1976 of the Cutaneous Gas Monitor, sponsored by Beckman Instruments, Inc., Anaheim, CA. After reviewing the recommendation of the Anesthesiology Device Section of the Respiratory and Nervous System Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use in neonates and adults as recommended in the submitted labeling.

DATE: Petitions for administrative review by October 17, 1983.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles H. Kyper, National Center for Devices and Radiological Health (HFK–402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7445.

SUPPLEMENTARY INFORMATION: On February 23, 1983, Beckman Instruments, Inc., Anaheim, CA 92806, submitted to FDA an application for premarket approval of the Cutaneous Gas Monitor for use as a noninvasive instrument for measuring the partial pressure of carbon dioxide and oxygen (PCO_2 and PO_2) at the skin surface of neonates and adults as an adjunct to blood gas measurement

techniques. The application was reviewed by the Anesthesiology Device Section of the Respiratory and Nervous System Devices Panel, an FDA advisory committee, which recommended approval of the application for use of this device on neonates and adults. On August 23, 1983, FDA approved the application by a letter to the sponsor from the Associate Director for Device Evaluation of the Office of Medical Devices.

A summary of the safety and effectiveness data on which FDA's approval is based is on file in the Dockets Management Branch (address above) and is available upon request from that office. A copy of all approved final labeling is available for public inspection at the Office of Medical Devices—contact Charles H. Kyper (HFK–402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(d)(3) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and of FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before October 17, 1983, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 12, 1983

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-25282 Filed 9-15-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 83M-0296]

DePuy®; Premarket Approval of Porocoat® Modified Austin-Moore Total Hip Prosthesis

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application for premarket approval under the Medical Device Amendments of 1976 of the Porocoat® Modified Austin-Moore Total Hip Prosthesis, sponsored by DePuy®, Division of Boehringer Mannheim Corp., Warsaw, IN. After reviewing the recommendation of the Orthopedic Device Section of the Surgical and Rehabilitation Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by October 17, 1983.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles H. Kyper, National center for Devices and Radiological Health (HFK–402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7445.

SUPPLEMENTARY INFORMATION: On April 14, 1982, DePuy®, Division of Boehringer Mannheim Corp., Warsaw, IN 46580, submitted to FDA an application for premarket approval of the Porocoat® Modified Austin-Moore Total Hip Prosthesis. The application was reviewed by the Orthopedic Device Section of the Surgical and Rehabilitation Devices Panel, an FDA advisory committee, which recommended approval of the application for use as primary intervention in cases of osteoarthrosis or rheumatoid arthritis with a nonacute fracture of the neck of the involved hip, osteoarthrosis in which both femoral and acetabluar surfaces are involved, and idiopathic avascular (osteo-) necrosis where radiographic evidence of sufficient sound bone to seat the prosthesis is present. On August 19, 1983, FDA approved the application by a letter to the sponsor from the Associate Director for Device Evaluation of the Office of Medical Devices.

A summary of the safety and effectiveness data on which FDA's approval is based is on file in the Dockets Management Branch (address above) and is available upon request from that office. A copy of all approved final labeling is available for public inspection at the Office of Medical Devices—contact Charles H. Kyper (HFK–402), address above. Request should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and of FDA's action by an independent advisory committee of experts. A petition is to be in the form of a peitition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the peition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before October 17, 1983, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be

seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 12, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-25297 Filed 9-15-83; 8:45 am]

BILLING CODE 4160-01-M

Advisory Committees; Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meetings are announced:

Anesthetic and Life Support Drugs Advisory Committee

Date, time, and place. October 4 and 5, 8:30 a.m., Auditorium, Lister Hill Center, 8600 Rockville Pike, Bethesda, MD 20209.

Type of meeting and contact person. Open public hearing, October 4, 9 a.m. to 10 a.m.; open committee discussion, October 4, 10 a.m. to 4 p.m.; October 5, 9 a.m. to 4 p.m.; James P. Hannan, National Center for Drugs and Biologics (HFN-160), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3500.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in the field of anesthesiology and surgery.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person by September 26 and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of the proposed participants, and an indication of the approximate time required to make their comments. Presentations should be limited to 15 minutes. Persons or groups with similar views on the issues before the committee are requested, if possible, to consolidate their presentations and make a single presentation before the committee.

Open committee discussion. The committee will discuss (1) bupiovicaine cardiotoxicity, (2) paracervical block, (3) "Guidelines for the Clinical Evaluation of Local Anesthetics," and (4) sulfiting agents in anesthetic drugs. Background material and information is available from the contact person upon request. Written submissions will be accepted until September 26 and should be addressed to the contact person. Any interested person attending the open committee discussion who did not request an opportunity to make an oral presentation will be given an opportunity at the conclusion of the scheduled presentations, to the extent that time permits.

Drug Abuse Advisory Committee

Date, time, and place. October 6 and 7, 9 a.m., Conference Rms. G and H, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, October 6, 9 a.m. to 10 a.m.; open committee discussion, October 6, 10 a.m. to 5 p.m.; October 7, 9 a.m. to 5 p.m.; Fredrick J. Abramek, National Center for Drugs and Biologics (HFN-120), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4020.

General function of the committee. The Committee advises the Commissioner of Food and Drugs regarding the scientific and medical evaluation of all information gathered by the Department of Health and Human Services and the Department of Justice with regard to safety, efficacy, and abuse potential of drugs or other substances and recommends actions to be taken by the Department of Health and Human Services with regard to marketing, investigation, and control of such drugs or other substances.

Agenda—Open public hearing: Any interested person may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The Committee will discusss the following:

1. Buspirone, NDA 18-731: Abuse potential considerations of a new, unapproved, anti-anxiety product.

2. Nicorette® Gum: Consideration of whether there is a need to schedule the product under the Controlled Substance Act.

3. Phenylpropanolamine: Discussion of the possible public health hazards associated with the widespread availability and promotion of this drug as it is sold over-the-counter (OTC).

Fertility and Maternal Health Drugs Advisory Committee

Date, time, and place. October 13 and 14, 9 a.m., Conference Rms. G and H, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, October 13, 9 a.m. to 10 a.m.; open committee discussion, October 13, 10 a.m. to 5 p.m.; October 14, 9 a.m. to 5 p.m.; A. T. Gregoire, National Center for Drugs and Biologics (HFN-130), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1869.

General function of the committee. The committee reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drug products for use in obstetrics, gynecology, and contraception.

Agenda—Open public hearing. Interested persons requesting to present data, information or views, orally or in writing, on issues pending before the committee should communicate with the executive secretary.

Open committee discussion. The committee will discuss the use of antinauseants during pregnancy. The committee is asked to consider, broadly, the question of the use of antinauseant drug products in the treatment of nausea and vomiting associated with pregnancy. The committee is being asked to consider not only which products might prove useful; but also the wisdom of pharmacological treatments for this syndrome. The advice that is sought is not expected to lead to specific recommendations for the use of specific products. Rather, it is intended to result in a general assessment of the risks and benefits involved. Obviously, not all potential drug products that have or are claimed to have an antinauseant or antiemetic action can be considered in detail. FDA has selected a small number of representative, marketed antiemetic and antinauseant drug products, has reviewed them in some detail, and will present this information as a starting point for the committee's discussion. The presentation of FDA's review is intended to provide the committee with relevant information to assess some of the potential risk of these products. The data reviewed do not address the question of whether these products have been shown to have specific efficacy in the treatment of the nausea and vomiting of pregnancy, as these products are recognized as general antinauseants and/or antiemetics.

Dermatologic Drugs Advisory Committee

Date, time, and place. October 20 and 21; 1 p.m.; October 20, subcommittee on lindane, Conference Rm. L; 9 a.m., October 21, full committee, Conference Rm. M, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open committee discussion, October 20, 1 p.m. to 4 p.m.; open public hearing, October 21, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 4:30 p.m.; David Bostwick, National Center for Drugs and Biologics (HFN–140), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–6798.

General function of the committee. The committee reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drug products for use in the treatment of dermatological disorders.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The committee will discuss lindane (Kwell) NDA 6–309, Reed and Carnrick, Inc., and isotretinoin (Accutane) NDA 18–662, Hoffmann-La Roche, Inc.

Dental Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel

Date, time, and place. October 21, 9 a.m., Rm. 303–305A, 200 Independence Ave. SW., Washington, DC.

Type of meeting and contact person. Open public hearing, October 21, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 2 p.m.; Gregory Singleton, National Center for Devices and Radiological Health (HFK–470), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

General function of the committee. The committee reviews and evalutes available data on the safety and effectiveness of devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before September 21, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss a premarket approval application for an operative dentistry device and make a recommendation of approval or disapproval.

Subcommittees of the Arthritis Advisory Committee

Date, time, and place. October 24 and 25, 9 a.m., Conference Rms. D and E, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, October 24, 9 a.m. to 10 a.m.; open committee discussion, October 24, 10 a.m. to 5 p.m.; October 25, 9 a.m. to 5 p.m.; Dotti Moore, National Center for Drugs and Biologics (HFN–150), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5197.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in arthritic conditions.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues before the committee.

Open committee discussion. The Statistics Subcommittee will discuss statistical guidelines for nonsteroidal anti-inflammatory drugs (NSAID) on October 24. A copy of the guidelines is available from the Freedom of Information (FOI) staff, (HFW–35), Parklawn Bldg., Rm. 12A–12, 301–443–6310. On October 25, the Guidelines Subcommittee will discuss guidelines for the clinical evaluation of anti-inflammatory and anti-rheumatic drugs, protocols for claim of disease-modifying capability of NSAID's, and guidelines for claims of superior efficacy of one NSAID over others.

Joint Meeting of the Psychopharmacologic Drugs Advisory Committee and Cardiovascular and Renal Drugs Advisory Committee

Date, time, and place. October 31 and November 1, 9 a.m., Conference Rms. G and H, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, October 31, 9 a.m. to 10 a.m.; open committee discussion, October 31, 10 a.m. to 5 p.m.; November 1, 9 a.m. to 5 p.m., Frederick J. Abramek, National Center for Drugs and Biologics (HFN–120), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4020.

General function of the committees. The Psychopharmacologic Drugs Advisory Committee reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drug products for use in the practice of psychiatry and related fields. The Cardiovascular and Renal Drugs Advisory Committee reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in the treatment of cardiovascular and renal disorders. Members of the Cardiovascular and Renal Drugs Advisory Committee will be participating in this meeting to provide expertise on the potential cardiovascular toxicity of neuroleptic drugs.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The committee will be asked to assess the relative risks and benefits of ORAP® (pimozide) in the management of Giles de la Tourette's Syndrome, a rare neuro-psychiatric condition. The Division of Neuropharmacologic Drug Products is considering approval of ORAP® for this "orphan" use, and asks the joint committee's advice on this proposed action.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published

in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

Dated: September 12, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83–25290 Filed 9–13–83; 11:27 am]

BILLING CODE 4160–01–M

Advisory Committee Meeting; Cancellation

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is cancelling the meeting of the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel scheduled for September 19 and 20, 1983. The meeting was announced by notice in the **Federal Register** of August 16, 1983 (48 FR 37078).

FOR FURTHER INFORMATION CONTACT: George C. Murray, National Center for Devices and Radiological Health (HFK–460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7940.

Dated: September 12, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83–25203 Filed 9–13–83; 11:27 am]

BILLING CODE 4160–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

California Preliminary Recommendations for the Benton-Owens Valley/Bodie-Coleville Wilderness Study Areas and Availability of Draft Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of and public meeting and hearing on the Draft Benton-Owens Valley/Bodie-Coleville Wilderness Environmental Impact Statement (EIS).

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 and Section 603(a) of the Federal Land Policy and Management Act of 1976, the Department of the Interior has prepared a draft Wilderness Environmental Impact Statement for 19 Wilderness Study Areas (WSAs) in the Benton-Owens Valley/Bodie-Coleville Study Area, Bakersfield District, California, and Carson City District, Nevada. The 19 WSAs total 290,216 acres of Bureau of Land Management administered land and 8,510 acres of U.S. Forest Service administered land (in accordance with the Februry 20, 1982 joint wilderness study cooperative agreement between the two agencies). The proposed action recommends 53,089 acres as suitable and 245,637 acres as nonsuitable for wilderness designation. Alternatives consider all wilderness (298,726 acres), no wilderness, and partial wilderness (158,219 acres).

Comments on the draft environmental impact statement are being solicited from public agencies and interested individuals and organizations. One public meeting and one hearing, required under Section 3(d) of the Wilderness Act, will be held to gather public input.

Copies of the draft Benton-Owens Valley/Bodie-Coleville Study Areas Environmental Impact Statement are available for review at the following locations:

Bakersfield District Office, Bureau of Land Management, 800 Truxtun Avenue, Room 302, Bakersfield, CA 93301, telephone: (805) 861–4191

California State Office, Bureau of Land Management, 2800 Cottage Way, Room E–2841, Sacramento, CA 95825, telephone: (916) 484–4541

Public Affairs, Bureau of Land Management, Interior Building, 18th & C Streets, NW., Washington, D.C. 20240, telephone: (202) 343–5717

A limited number of single copies of the statement can be obtained by contacting the California State Director or District Manager, at the above addresses.

DATE: The public comment period is open for 90 days through December 14, 1983. Comments received or postmarked after that date may not be considered in the final environmental impact statement. The public meeting is scheduled for October 26, 1983 and the public hearing on October 27, 1983. O

ADDRESSES: Written comments may be sent to the District Manager, Bakersfield District Office, 800 Truxtun Avenue, Room 302, Bakersfield, California 93301. The public meeting is scheduled for October 26, 1983, from 7:00 to 9:00 p.m., in the Community Clubhouse, Turtle Rock County Park, Highway 4 (also Highway 89), approximately three miles north of Markleeville, California. The public hearing will be held on October 27, 1983, from 3:00 to 5:00 p.m., and from 7:00 to 9:00 p.m., in the Bishop City Council Chambers, City Hall, 377 West Line, Bishop, California 93514.

FOR FURTHER INFORMATION CONTACT: Gerald MaGee, BLM District Office, telephone (805) 861–4191 or Bill Payne, California State Office, 2800 Cottage Way, Sacramento, California 95825, telephone (916) 484–4541.

Dated: September 6, 1983.

Bruce P. Conrad,

Acting State Director.

[FR Doc. 83–25180 Filed 9–15–83; 8:45 am]

BILLING CODE 4310–84–M

Establishment of Long-Term Visitor Permit Program and Designation of Long-Term Visitor Areas; Yuma District, Arizona, and California Desert District, California

AGENCY: Bureau of Land Management, Interior.

ACTION: Establishment of a Long-Term Visitor Permit Program and Designation of Long-Term Visitor Areas in the Yuma District, Arizona, and the California Desert District, California.

SUMMARY: The Bureau of Land Management's (BLM) Yuma District and California Desert District will begin implementation of a long-term visitor use policy. The new policy, called the "Long-Term Visitor Permit Program," will require visitors who wish to camp on public lands in one location over 14 consecutive days to stay in designated "Long-Term Visitor Areas" and purchase a long-term visitor permit.

Initially the BLM hereby designates nine Long-Term Visitor Areas in Arizona and California (see Table 1). The designated areas will be posted and will be the only locations where long-term camping (over 14 days) will be allowed within both BLM Districts.

In the future, long-term visitor permits will be issued at an annual cost of $25. Although permits are required for the 1983–84 season, the permit fee for this season will be waived in order to provide for better public awareness during initial program implementation. Permits can be obtained at the designated areas from a uniformed BLM employee or at BLM offices in Yuma, Lake Havasu City (Arizona), Riverside, El Centro, Needles, Barstow, and Ridgecrest (California). The permit entitles the visitor to stay in a designated Long-Term Visitor Area during all or part of the annual use season from October 1 to May 31. During the remainder of the year (June 1 to September 31) these sites will be subject to the 14-day camping limit.

EFFECTIVE DATE: October 15, 1983.

FOR FURTHER INFORMATION CONTACT:

David Mensing, Outdoor Recreation Planner, California Desert District, Riverside, California 92507, (714) 351–6369

or

Hal Hallett, Outdoor Recreation Planner, Yuma District, Yuma, Arizona 85364, (602) 726–6300

SUPPLEMENTARY INFORMATION: The new long-term camping policy is directed primarily at long-term winter desert users who enjoy the warm climate of the southern deserts. The sites designated as Long-Term Visitor Areas are, in most cases, the current use areas of these long-term users. These designated sites were selected using criteria developed during the management planning process and environmental assessments were completed for each site location.

The establishment of this program is to accommodate the increasing demand for long-term winter visitation and to improve management of this use, both for visitor safety and convenience. The permit will assist the BLM in providing visitor services in the designated areas. The designation of Long-Term Visitor Areas will assure that specific locations are available for long-term use year after year.

Visitors may camp on public lands not closed to camping for up to 14 consecutive days without a long-term visitor permit.

Authority for the designation of Long-Term Visitor Areas is contained in CFR Title 43, Chapter II, Part 8372.0–5(g).

Authority for the establishment of a long-term visitor permit program is contained in CFR Title 43, Chapter II, Part 8372.1 and payment of fees in 8372.4 and CFR Title 36, Chapter I, Part 71.

TABLE 1.—LONG-TERM VISITOR AREAS

Area	Approximate size (acres)	Location
Mule Mountains	4,500	T. 8 S., R. 20 E. (SBM) Secs. 1, 2, 9, 10, 11, 12, 14, 15, 16, 21, 22, 27, 28, 29, 32, 33, 34.
Pilot Knob	220	T. 16 S., R. 21 E. (SBM) Secs. 27, 28.
South Mesa	125	T. 14½ S., R. 23 E. (SBM) Sec. 36. T. 15 S., R. 24 E. (SBM) Sec. 6.
Coyote Ridge	125	T. 15 S., R. 23 E. (SBM) Sec. 12. T. 15 S., R. 24 E. (SBM) Sec. 18.
La Posa	2,200	T. 3 N., R. 18 W. (GSRM) Secs. 7, 18. T. 3 N., R. 19 W. (GSRM) Secs. 1, 2, 3, 4, 9, 10, 11, 12, 13, 14, 15, 23, 24. T. 4 N., R. 19 W. (GSRM) Secs. 27, 28, 33, 34, 35.
Quail Hill	6	T. 15 S., R. 24 E. (SBM) Sec. 17.
Kripple Kreek	20	T. 15 S., R. 24 E. (SBM) Secs. 5, 6, 7, 8.
Skunk Hollow	6	T. 15 S., R. 24 E. (SBM) Sec. 6.
Beehive Mesa	3	T. 15 S., R. 24 E. (SBM) Sec. 18.

Maps showing the location of the nine Long-Term Visitor Areas are available upon request at both the Desert District and Yuma District Offices.

Dean Bibles,

State Director, Arizona.

Ed Hastey,

State Director, California.

[FR Doc. 83–25337 Filed 9–15–83; 8:45 am]

BILLING CODE 4310–84–M

Proposed Livestock Grazing Management; Honey Lake-Beckwourth Area, Susanville District, California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability on the Draft Honey Lake-Beckwourth Grazing Environmental Impact Statement (EIS).

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of Land Management has prepared a draft environmental impact statement concerning the proposed grazing management program for the Susanville District, Eagle Lake Resource Area in Lassen, Plumas and Sierra Counties in northeastern California. The proposed action would allow grazing on 41,397 acres of public land permitting the consumption of 2,085 AUMs of forage on 25 grazing leases. Alternatives analyzed include decreased livestock use (1,406 AUMs), increased livestock use (3,322 AUMs), no action (2,085 AUMs), and no grazing.

Comments on the draft environmental impact statement are being solicited from public agencies and interested individuals and organizations.

Copies of the draft Honey Lake-Beckwourth Grazing EIS are available for review at the following locations:

Susanville District Office, Bureau of Land Management, 705 Hall Street, P.O. Box 1090, Susanville, CA 96130, Telephone: (916) 257–5381

Eagle Lake Area Office, Bureau of Land Management, 2545 Riverside Drive, P.O. Box 1090, Susanville, CA 96130, Telephone: (916) 257–5381

California State Office, Bureau of Land Management, 2800 Cottage Way, Sacramento, CA 95825, Telephone: (916) 484–4541

Public Affairs Office, Bureau of Land Management, Interior Building, 18th & C Streets NW., Washington, D.C. 20240, Telephone: (202) 343–5717

A limited number of single copies of the statement can be obtained by contacting the California State Director, District Manager, or Area Manager, at the above addresses.

DATE: The public comment period is open for 90 days through December 14, 1983. Comments received or post-marked after that date may not be considered in the final environmental impact statement.

ADDRESSES: Written comments may be sent to the District Manager, Bureau of Land Management, P.O. Box 1090, Susanville, California 96130.

FOR FURTHER INFORMATION CONTACT: Mark Morse, Area Manager, Eagle Lake Resource Area, (916) 257–5381.

Dated: September 24, 1983.

Ed Hastey,

California State Director.

[FR Doc. 83–24686 Filed 9–15–83; 8:45 am]

BILLING CODE 4310–84–M

Office of Surface Mining Reclamation and Enforcement

[Federal Coal Lease, M–45292]

Intent To Prepare a Draft Environmental Impact Statement for the Proposed CX-Ranch Mine, Bighorn County, Montana

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of intent to prepare a draft environmental impact statement.

SUMMARY: Notice is hereby given that the Office of Surface Mining (OSM), Western Technical Center, and the Montana Department of State Lands (DSL) intend to prepare an environmental impact statement (EIS) on the permit application submitted by Consolidated Coal Company to OSM and the State of Montana for the proposed CX-Ranch mine. The EIS will evaluate the alternative actions of approval or disapproval and other alternatives that may be developed after all comments from the scoping process have been evaluated. This EIS will assist the Department of the Interior and the Montana Department of State Lands in making a decision on the Consolidation Coal Company application for surface mining of coal about 2 miles northwest of Decker, Montana.

DATES: A public scoping brochure discussing both the CX-Ranch and Wolf Mountain mines was distributed by the Montana Department of State Lands in the fall of 1982 to obtain public input concerning the proposed mine and aid in determining the scope of the EIS. Any additional written comments or statements on the scope of the EIS must be received not later than 5 p.m. MDT, September 30, 1983, at either of the addresses given below.

ADDRESSES: Written comments or statements must be mailed or hand delivered to Allen D. Klein, Administrator, Attn: Charles Albrecht, Office of Surface Mining, Western Technical Center, Second Floor, Brooks Towers, 1020 Fifteenth Street, Denver, CO 80202, *or* to Mr. Kit Walther, Montana Department of State Lands, Environmental Analysis Bureau, 1539 11th Street, Helena, MT 59620.

Copies of the mining plan are available for review at the OSM office above as well as at Montana Department of State Lands, 1525 Eleventh Avenue, Helena, Montana; and the Bureau of Indian Affairs, Crow Agency, Montana and the Office of Surface Mining, Casper Field Office, Freden Building, 935 Pendell Blvd., Mills, Wyoming.

FOR FURTHER INFORMATION CONTACT: Allen D. Klein, Attn: Charles Albrecht (telephone (303) 837–5421) at the Denver, Colorado, location given under "ADDRESSES."

SUPPLEMENTARY INFORMATION: The proposed surface mine is located approximately 22 miles north of Sheridan, Wyoming, near Decker, Montana, in Big Horn County, Montana. The minesite would cover 1,905 acres and at full production, the mine would produce 8,000,000 T.P.Y. The projected present reserves total 46,900,000 tons. All of this coal would be removed from the open pit mine by the truck and shovel method. Two seams will be mined: the Anderson seam averaging 81 feet, and the lower Canyon seam averaging 21 feet. There is approximately 70 feet of interburden material between the two seams. There is about 250 feet of overburden that will be removed by 45 foot lifts. The life of the mine will be about 13 years.

OSM and the Montana DSL will jointly analyze the impacts of the proposal and its alternative with assistance from the Bureau of Indian Affairs.

Dated: September 12, 1983.

William B. Schmidt,

Acting Director, Office of Surface Mining.

[FR Doc. 83-25377 Filed 9-15-83; 8:45 am]

BILLING CODE 4310-05-M

[Federal Coal Lease, M-061686]

Intent To Prepare a Draft Environmental Impact Statement for the Proposed Wolf Mountain, Bighorn County, Montana

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of intent to prepare a draft environmental impact statement.

SUMMARY: Notice is hereby given that the Office of Surface Mining (OSM), Western Technical Center, and the Montana Department of State Lands (DSL) intend to prepare an environmental impact statement (EIS) on the permit application submitted by Kiewit Mining and Engineering Company to OSM and the State of Montana for the proposed Wolf Mountain mine. The EIS will evaluate the alternative actions of approval or disapproval and other alternatives that may be developed after all comments from the scoping process have been evaluated. This EIS will assist the Department of the Interior and the Montana Department of State Lands in making a decision on the Kiewit Mining and Engineering Company application for surface mining of coal near Decker, Montana, north of Sheridan, Wyoming.

DATES: A public scoping brochure discussing both the CX–Ranch and Wolf Mountain mines was distributed by the Montana Department of State Lands in the fall of 1982 to obtain public input concerning the proposed mine and aid in determining the scope of the EIS. Any additional written comments or statements on the scope of the EIS must be received not later than 5 p.m. MDT, September 30, 1983, at either of the addresses given below.

ADDRESSES: Written comments or statements must be mailed or hand delivered to Allen D. Klein, Administrator, Attn: Charles Albrecht, Office of Surface Mining, Western Technical Center, Second Floor, Brooks Towers, 1020 Fifteenth Street, Denver, CO 80202, *or* to Mr. Kit Walther, Montana Department of State Lands, Environmental Analysis Bureau, 1539 11th Street, Helena, MT 59620.

Copies of the mining plan are available for review at the OSM office above as well as at Montana Department of State Lands, 1525 Eleventh Avenue, Helena, Montana; and the Bureau of Indian Affairs, Crow Agency, Montana and the Office of Surface Mining, Casper Field Office, Freden Building, 935 Pendell Blvd., Mills, Wyoming.

FOR FURTHER INFORMATION CONTACT: Allen D. Klein, Attn: Charles Albrecht (telephone (303) 837–5421) at the Denver, Colorado, location given under **"ADDRESSES."**

SUPPLEMENTARY INFORMATION: The proposed surface mine would be located near Decker, Montana, approximately 22 miles north of Sheridan, Wyoming. The minesite in this permit application would cover approximately 2,141 acres of private and State surface overlying private and Federal coal. During the proposed 5-year permit term, approximately 1,138 acres would be disturbed. The mine would be in operation for approximately 20 years (18 years of production) during which the total of 1,470 acres would be disturbed, with a maximum annual production of 3.0 million tons of coal. Mining throughout the life of the mine would take place in one pit, which would advance across the permit area from northwest to southeast.

Wolf Mountain mine has submitted a design concept to the State of Montana Highway Department concerning a change in vertical alignment of Highway 314 north of Decker, Montana. This concept would raise the existing highway, resulting in sufficient clearance for construction of a grade separation structure on Highway 314 over the mine haul road. Kiewit Mining and Engineering Company has also contacted Burlington Northern Railroad concerning a loadout loop off the existing Decker spur line. The proposed permit boundary overlaps with the Decker Coal Company's powerline corridor. Decker Coal Company has agreed to move the powerline and to amend their permit boundary.

OSM and the Montana DSL will jointly analyze the impacts of the proposal and its alternative.

Dated: September 12, 1983.

William B. Schmidt,

Acting Director, Office of Surface Mining.

[FR Doc. 83-25378 Filed 9-15-83; 8:45 am]

BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or to use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b):

1. Parent Company: BMI, Inc.—700 Bingham Street, Pittsburgh, PA 15203.

2. Wholly owned subsidiaries which participate in the operations and states of incorporations are as follows:

a. Greensteel, Inc.—29 Laing Avenue, Dixonville, PA 15734—Pennsylvania Corporation.

b. Greensteel, Inc.—P.O. Box 1360, Apopka, FL 32703—Florida Corporation.

c. Greensteel, Inc.—9440 N.E. Halsey Street, Portland, OR 97220—Oregon Corporation.

d. Greensteel, Inc.—1169 North Grove Street, Anaheim, CA 92806—Oregon Corporation (California Foreign).

e. Barr Machine, Inc.—29 Laing Avenue, Dixonville, PA 15734—Pennsylvania Corporation.

f. Kensington Products—P.O. Box 488, Leechburg, PA 15656—Pennsylvania Corporation.

g. Carolina Chalkboard Company—1947 Bancroft St., Charlotte, NC 28206—North Carolina Corporation.

(1) Parent corporation and address of principal office: Marathon Electric Manufacturing Corporation, (a Wisconsin corporation), 100 East Randolph Street, Wausau, Wisconsin 54401.

(2) Wholly-owned subsidiaries which will participate in the operations, and state(s) of incorporation:

(i) Marathon Special Products Corporation (Ohio).

(ii) Marathon Electronics Group, Inc. (California).

1. The parent corporation and address of its principal office is: Scaffold Services, Inc. 4717 Adams Ave. Baton Rouge, LA 70806.

2. Wholly-owned subsidiaries which will participate in the operations, and their State(s) of incorporation are:

(i) Scaffolding Rental & Erection Service, Inc.—Louisiana.

(ii) Scaffold Builders, Inc.—Louisiana.

(iii) Scaffolding Specialists, Inc.—Texas.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-25320 Filed 9-15-83; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-1 Sub-No. 160]

Railroads: Chicago & North Western Transportation Co.—Abandonment and Discontinuance of Service—in Cook County, IL; Findings

The Commission has issued a certificate authorizing Chicago & North Western Transportation Company to (1) abandon its line of rail near Maywood, IL, between milepost 10.9 and milepost 12.9, a distance of 2 miles, and (2) discontinue service over its line near Bellwood, IL, between milepost 13.3 and milepost 13.9, a distance of 0.6 mile. The entire segment is located in Cook County, IL. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower lefthand corner of the envelope containing the offer: "Rail Section, AB-OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR Part 1152.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-25325 Filed 9-15-83; 8:45 am]

BILLING CODE 7035-01-M

[I.C.C. Order No. P-65]

Passenger Train Operation; Union Pacific Railroad Co.

It appearing, that the National Railroad Passenger Corporation (Amtrak) has established through passenger train service between Oakland, California, and Chicago, Illinois. The operation of these trains requires the use of the tracks and other facilities of Southern Pacific Transportation Company (SP). A portion of the SP tracks in Utah over the Great Salt Lake are temporarily out of service because of flooding. An alternate route is available via Union Pacific Railroad Company (UP) between Alazon, Nevada, and Salt Lake City, Utah.

It is the opinion of the Commission that the use of such alternate route is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

(a) Pursuant to the authority vested in me by order of the Commission decided April 29, 1981, and of the authority vested in the Commission by Section 402(c) of the Rail Passenger Service Act of 1970 (45 U.S.C. 562(c)), Union Pacific Railroad Company (UP) is directed to operate trains of the National Railroad Passenger Corporation (Amtrak) between a connection with Southern Pacific Transportation Company (SP) at Alazon, Nevada, and Salt Lake City, Utah.

(b) In executing the provisions of this order, the common carriers involved shall proceed even though no agreements or arrangements now exist between them with reference to the compensation terms and conditions applicable to said transportation. The compensation terms and conditions shall be, during the time this order remains in force, those which are voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, the compensation terms and conditions shall be as hereafter fixed by the Commission upon petition of any or all of the said carriers in accordance with pertinent authority conferred upon it by the Interstate Commerce Act and by the Rail Passenger Service Act of 1970, as amended.

(c) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign commerce.

(d) *Effective date.* This order shall become effective at 11:05 p.m. (e.d.t.), September 7, 1983.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m. (e.d.t.), September 9, 1983, unless otherwise modified, amended, or vacated by order of this Commission.

This order shall be served upon Union Pacific Railroad Company, and upon the National Railroad Passenger Corporation (Amtrak), and a copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., September 8, 1983.

Interstate Commerce Commission.

John H. O'Brien,

Agent.

[FR Doc. 83-25324 Filed 9-15-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 83-24]

George A. Sullivan, D.O., Jackson, Kentucky; Hearing

Notice is hereby given that on July 22, 1983, the Drug Enforcement Administration, Department of Justice, issued to George A. Sullivan, D.O., an Order To Show Cause as to why the Drug Enforcement Administration should not deny his application, executed on March 14, 1983, for registration as a practitioner under 21 U.S. 823(f).

Thirty days having elapsed since the said Order To Show Cause was received by Respondent, and written request for a hearing having been filed, notice is hereby given that a hearing in this matter will be held on Wednesday, September 28, 1983, commencing at 9:30 a.m. in Courtroom A-826, U.S. Courthouse, 801 Broadway, Nashville, Tennessee.

Dated: September 12, 1983.

Francis M. Mullen, Jr.,

Acting Administrator Drug Enforcement Administration.

[FR Doc. 83-25333 Filed 9-15-83; 8:45 am]

BILLING CODE 4410-09-M

Office of Juvenile Justice and Delinquency Prevention

Coordinating Council; Meeting

The quarterly meeting of the Coordinating Council on Juvenile Justice and Delinquency Prevention will be held in Washington, D.C. on September 30, 1983. The meeting will take place at the Hubert Horatio Humphrey Building, Main Floor Auditorium, 200 Independence Avenue, SW., from 9:30 a.m. until 11:30 a.m.

Matters related to the coordination of Federal effort in the area of juvenile justice and delinquency prevention will comprise the agenda.

Further information regarding this meeting may be obtained by contacting: Roberta Dorn, Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue, NW., Washington, D.C. 20531. (202) 724-7655.

Dated: September 13, 1983.

Alfred S. Regnery,

Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 83-25369 Filed 9-15-83; 8:45 am]

BILLING CODE 4410-18-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget (OMB)

Background

The Department of Labor, in carrying out its responsibility under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the proposed forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency forms under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new forms, revisions, extensions (burden change), extensions (no change), or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of any particular revision they are interested in.

Each entry will contain the following information:

The Agency of the Department issuing this form.

The title of the form.

The Agency form number, if applicable.

How often the form must be filled out.

Who will be required to or asked to report.

Whether small business or organizations are affected.

The standard industrial classification (SIC) codes, referring to specific respondent groups that are affected.

An estimate of the total number of hours needed to fill out the form.

The number of forms in the request for approval.

An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, Telephone 202-523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue NW., Room S-5526, Washington, D.C. 20210. Comments should also be sent to the OMB reviewer, Arnold Strasser, Telephone 202-395-6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, NEOB, Washington, D.C. 20503.

Any member of the public who wants to comment on a form which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

Extension

Mine Safety and Health Administration

On occasion

Business or other for-profit and small businesses or organizations

SIC: Multiple

400 respondents; 400 hours

The Federal Mine Safety and Health Act of 1977 requires the Secretary of Labor to exercise many of his duties under the Act in cooperation with miners representatives. The Act also establishes miners' rights which must be exercised through a representative. 30 CFR Part 40 contains procedures which a person or organization must follow in order to be identified by the Secretary as a representative of miners.

Mine Safety and Health Administration

Radiation Sampling and Exposure Records

Weekly, monthly, and annually

Businesses or other for-profit and small businesses or organizations

SIC: Multiple

125 respondents; 48,437 hours

Requires the mine operator to calculate, record and report individual exposures to concentrations of radon daughters. Operators are required to conduct weekly testing where the fluctuation in radiation is substantial or concentrations of radon daughters exceed 0.3 WL. Monthly testing is required where mines have consistent readings of 0.3 WL or less. Records are maintained by the operator and are submitted to MSHA annually.

Signed at Washington, D.C. this 13th day of September, 1983.

Richard Glesener,

Acting Departmental Clearance Officer.

[FR Doc. 83-25371 Filed 9-15-83; 8:45 am]

BILLING CODE 4510-43-M

Employment and Training Administration

[Employment and Training Order No. 3-83]

Federal-State Unemployment Compensation Program; Redelegation of Authority to Associate Assistant Secretary for Employment and Trainig to Certify Determinations Relating to Limitations on Tax Credit Reductions and Deferral of Interest on Title XII Advances

Employment and Training Order No. 3–83 redelegates to the Associate Assistant Secretary for Employment and Training authority to make certain determinations with respect to limitations on tax credit reductions by reason of an outstanding balance of advances received by a State under Title XII of the Social Security Act and deferral of interest on such an advance. Employment and Training Order No. 3–83 is published below.

Dated: September 9, 1983.

Albert Angrisani,

Assistant Secretary of Labor.

September 9, 1983.

Subject: Redelegation of Authority to Associate Assistant Secretary to Certify Determinations Relating to Limitations on Tax Credit Reductions and Relating to Deferral of Interest on Title XII Advances.

1. *Purpose.* To redelegate to the Associate Assistance Secretary for Employment and Training authority to certify findings and determinations with respect to limitations (cap) on reductions of credit against the Federal unemployment tax by reason of an outstanding balance of advances received by a State pursuant to Title XII of the Social Security Act and with respect to deferral of interest assessed on such advances.

2. *Directives Affected.* Secretary's Order 4–75 and Manpower Administration Order 4–75.

3. *Delegation.* The Associate Assistant Secretary for Employment and Training is delegated authority to certify determinations required under the provisions of Sections 3302 (c), (d), (f), and (g) of the Federal Unemployment Tax Act and under Section 1202 of the Social Security Act, on the basis of findings recommended by the Director of the Unemployment Insurance Service.

[FR Doc. 83–25372 Filed 9–15–83: 8:45 am]

BILLING CODE 4510-30-M

Worker Adjustment Assistance; Investigations Regarding Certifications of Eligibility To Apply; ASARCO, Inc., et al.

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 26, 1983.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 26, 1983.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street NW., Washington, D.C. 20213.

Signed at Washington, D.C. this 12th day of September, 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
ASARCO, Inc. (USWA)	Corpus Christi, TX	9/7/83	9/1/83	TA-W-14,970	Zinc, acid & cadium.
Bay Shipbuilding Corp. (Plumbers & Steamfitters Union)	Sturgeon Bay, WI	9/1/83	8/29/83	TA-W-14,971	Commercial ships for bulk carriers.
Bobbie Brooks, Inc., Distribution Center (ILGWU)	Cleveland, Ohio	9/7/83	8/29/83	TA-W-14,972	Distribution of women's sportswear.
Cleveland Twist Drill Company (workers)	Cleveland, Ohio	8/29/83	8/17/83	TA-W-14,973	Cutting tools—twist drills.
Diamond Energy Corp. (workers)	Williamson, WV	9/8/83	9/1/83	TA-W-14,974	Metallurgical coal.
Dresser Industries, Inc., Ideco Div., Beaumont Plt. (OCAWA).	Beaumont, TX	9/8/83	9/2/83	TA-W-14,975	Oil drilling equipment
Falls Yarn Mills, Inc. (ITU)	Woonsocket, R.I.	9/8/83	8/31/83	TA-W-14,976	Woolen yarns.
Georgia Boot—Durango Boot (Co.)	Gainesboro, TN	9/7/83	8/31/83	TA-W-14,977	Basic work boots & outdoor utility footwear.
Interstate Drop Forge Company (Boilermakers, Blacksmith, Ironship Builders, Forgers Union).	Milwaukee, WI	9/6/83	8/31/83	TA-W-14,978	Clothes, die forgings.
Jacobson Manufacturing Co., Inc. (UAW)	Union, NJ	9/8/83	9/1/83	TA-W-14,979	Industrial fasteners.
Jacobson Manufacturing Co., Inc. (UAW)	Kenilworth, NJ	9/8/83	9/1/83	TA-W-14,980	Industrial fasteners.
Mystery Mountain Coal Co. (UMWA)	Ragland, WV	8/31/83	8/24/83	TA-W-14,981	Steam coal mining.
Oehler Industries, Inc. (Bridge, Structural & Ornental Iron Workers).	Buffalo, NY	9/7/83	8/30/83	TA-W-14,982	Steel fabrication.
Potter's Supply (workers)	Liverpool, Ohio	9/6/83	8/31/83	TA-W-14,983	Kiln furniture.
(The) River Terminal Railway Co. (workers)	Cleveland, Ohio	9/1/83	8/30/83	TA-W-14,984	Transports steel products for Republic Steel.
Royal China Co. (workers)	Sebring, Ohio	9/7/83	8/35/83	TA-W-14,985	Semi vitreous—dinner ware, earthen ware, ironstone.
Sew What's, Inc. (workers)	Hialeah, FL	8/11/83	8/8/83	TA-W-14,986	Contractor of women's sportswear.
U.S. Steel Corp., U.S.S. Fabrication Div. (Ironworkers)	Elmira Heights, NY	9/6/83	8/30/83	TA-W-14,987	Welded girders—cross frames, stringers.
Vulcan Corp. (ACTWU)	Brockton, MA	9/2/83	8/30/83	TA-W-14,988	Plastic foam last—for shoes.
Wolverine Glove Co. (workers)	Noxapater, Miss	9/6/83	8/30/83	TA-W-14,989	Retail gloves.

[FR Doc. 83–25374 Filed 9–15–83: 8:46 am]

BILLING CODE 4510-30-M

Occupational Safety and Health Administration

Maryland State Standards; Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for occupational Safety and Health (hereinafter called the Assistant Secretary), (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On July 5, 1973, notice was published in the **Federal Register** (38 FR 17834) of the approval of the Maryland State plan and the adoption of Subpart O to Part 1952 containing the decision.

The Maryland State plan provides for the adoption of Federal standards as State standards after comments and public hearing. Sections 1952.210.214 of Subpart O set forth the State's schedule for the adoption of Federal standards. By letter dated May 13, 1983 from Deputy Commissioner Nancy B. Burkheimer, Maryland Division of Labor and Industry to William W. White, Jr., Acting Regional Administrator and incorporated as part of the plan, the State submitted State standards comparable to 29 CFR 1910.1025(f)(3)(ii); Appendix B, Sections IV and XV to § 1910.1025; Appendix D to § 1910.1025 pertaining to respirator fit testing relating to lead exposure as published in the **Federal Register** (47 FR 51117–51119) dated November 12, 1982. This standard, which was contained in COMAR 09.12.31 Maryland Occupational Safety and Health standards, was promulgated after public hearing on March 4, 1983, pursuant to Article 41, section 25F(e), Annotated Code of Maryland and effective May 9, 1983.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standard it has been determined that the State standard is identical to the Federal standard and accordingly should be approved.

3. *Location of supplement for inspection and copying.* A copy of the standard supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, 3535 Market Street, Suite 2100, Philadelphia, PA 19104; and, Office of the Commissioner of Labor & Industry, 501 St. Paul Place, Baltimore, MD 21202.

4. *Public participation.* Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Maryland State plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standard is identical to the Federal standard which was promulgated in accordance with Federal law including meeting requirements for public participation.

2. The standard was adopted in accordance with the procedural requirements of State law and further participation would be unnecessary.

This decision is effective September 16, 1983.

(Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Philadelphia, PA, 22nd of August 1983.

Linda R. Anku,

Regional Administrator.

[FR Doc. 83–25373 Filed 9–15–83; 8:45 am]

BILLING CODE 4510–26–M

Office of Pension and Welfare Benefit Programs

Bartlett and Co. et al.; Grant of Individual Exemptions

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Bartlett & Company Located in Cincinnati, Ohio

[Prohibited Transaction Exemption 83–136; Exemption Application No. D–3659]

Exemption

The restrictions of section 406 of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (F) of the Code, shall not apply to: (1) the purchase or sale by employee benefit plans (the Plan(s)) of interests in a limited partnership (the Partnership), the investment advisor for which, Bartlett & Company (Bartlett), is also a fiduciary with respect to the Plans; and (2) the payment of fees by a Plan and by the Partnership to Bartlett where Bartlett renders investment advise to the Plan and the Partnership, provided the following conditions are met:

(a) The Plan does not pay a sales commission in connection with such purchase or sale.

(b) The Plan does not pay a redemption fee in connection with the sale by the Plan of an interest in the Partnership.

(c) The Plan does not pay an investment management, investment advisory, or similar fee with respect to the Plan assets invested in such interest for the entire period of such investment. This condition does not preculude the payment of investment advisory fees by the Partnership under the terms of its investment management agreement. This condition also does not preclude payment of an investment advisory fee by the Plan based on total Plan assets from which a credit has been subtracted representing the Plan's pro rata share of investment advisory fees paid by the Partnership. If, during any fee period for which the Plan has prepaid its investment management, investment advisory, or similar fees, the Plan purchases shares of the Partnership, the requirement of this paragraph (c) shall be deemed met with respect to such prepaid fee if, by a method reasonably designed to accomplish the same, the amount of the prepaid fee that constitutes the fee with respect to the Plan assets invested in the Partnership interest: (1) Is anticipated and subtracted from the prepaid fee at the time of payment of such fee, (2) is returned to the Plan no later than during the immediately following fee period, or (3) if the investment management agreement is continued, is offset against the prepaid fee for the immediately following fee period or for the fee period immediately following thereafter. For purposes of this paragraph, a fee shall be deemed to be prepaid for any fee period if the amount of such fee is calculated as of a date not later than the first day of such period.

(d) A second fiduciary (the Second Fiduciary) chosen by the Plan, who is independent of and unrelated to Bartlet or any affiliate thereof, receives a condidential offering memorandum (the Confidential Offering Memorandum) issued by the Partnership and full and detailed written disclosure of the investment advisory and other fees charged to or paid by the Plan and the Partnership, including the nature and extent of any differential between the rates of such fees, the reasons why Bartlett may consider such purchases to be appropriate for the Plan, and whether there are any limitations on Bartlett with respect to which Plan assets may be invested in shares of the Partnership and, if so, the nature of such limitations. For purposes of this exemption, such Second Fiduciary will not be deemed to be independent of and unrelated to Bartlett or any affiliate thereof if:

(1) Such Second Fiduciary directly or indirectly controls, is controlled by, or is under common control with Bartlett or any affiliate thereof;

(2) Such Second Fiduciary, or any officer, director, partner, highly compensated employee, or relative of such Second Fiduciary is an officer, director, partner, employee, or relative of Bartlett, or any affiliate thereof; or

(3) Such Second Fiduciary directly or indirectly receives any compensation or other consideration for himself or his own personal account in connection with any transaction described in this exemption.

For purposes of this exemption, the term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual, and the term "relative" means a "relative" as that term is defined in section 3(15) of the Act (or a "member of the family" as that term is defined in section 4975(e)(6) of the Code), or a brother, a sister, or spouse of a brother, or a sister.

(e) On the basis of the Confidential Offering Memorandum and disclosure referred to in paragraph (d) the Second Fiduciary approves such purchases and sales consistent with the responsibilities, obligations, and duties imposed on fiduciaries by Part 4 of Title I of the Act. Such approval may be limited solely to the investment advisory and other fees paid by the Partnership in relation to the fees paid by the Plan and need not relate to any other aspects of such investments. Such approval must be either: (1) Set forth in the investment management agreement between the Plan and Bartlett, (2) indicated in writing prior to each purchase or sale, or (3) indicated in writing prior to the commencement of a specified purchase or sale program in the interests of the Partnership.

(f) The Second Fiduciary referred to in paragraph (d), or any successor thereto, is notified of any change in any of the rates of fees referred to in paragraph (d) and approves in writing the continuation of such purchases or sales and the continued holding of any interest in the Partnership acquired by the Plan prior to such change and still held by the Plan. Such approval may be limited solely to the investment advisory and other fees paid by the Partnership in relation to the fees paid by the Plan and need not relate to any other aspects of such investment.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on July 5, 1983 at 48 FR 30794.

For Further Information Contact: Louis Campagna of the Department, telephone (202) 523-8973. (This is not a toll-free number.)

Trowel Trades Industry Fund (the Plan) Located in West Palm Beach, Florida

[Prohibited Transaction Exemption 83-137; Exemption Application No. L-3787]

Exemption

The restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act shall not apply to the sale of certain real property (the Property) by the Plan to certain parties in interest with respect to the Plan, provided the sales price is at least the fair market value of the Property at the time of sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on July 19, 1983 at 48 FR 32895.

For Further Information Contact: Louis Campagna of the Department, telephone (202) 523-8973. (This is not a toll-free number.)

[Prohibited Transaction Exemption 83-138; Exemption Application Nos. D-3973, D-3974, and D-3975]

The Bell System Pension Plan Trust, the Bell System Management Pension Plan Trust, and the Bell System Trust (the Trust Located in New York, New York

Exemption

The restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to the conditional obligation of EMI One Ltd., a limited partnership in which the Trust is a limited partner, to provide funds required to purchase of repay construction financing made by Texas Commerce Funding Company (TCF) (and other lenders participating in such construction financing who, like TCF, are parties in interest with respect to the Trust), to Block Five Venture, a Florida general partnership, provided that the terms and conditions of such transactions are no less favorable to the Trust than those obtainable in arm's-length transactions with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on July 1, 1983 at 48 FR 30487.

For Further Information Contact: Mr. David Stander of the Department,

telephone (202) 523–8881. (This is not a toll-free number.)

[Prohibited Transaction Exemption 83–139; Exemption Application No. D–4069]

Office Equipment Company Revised Profit Sharing Trust (the Trust) Located in Canton, Ohio

Exemption

The restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed loan from the Trust of $185,490 to Industrial Realty Company, a party in interest with respect to the Trust, provided that the terms and conditions of the loan are not less favorable to the Trust than those obtainable in a similar transaction with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on July 19, 1983 at 48 FR 32896.

For Further Information Contact: Mr. David Stander of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

The Bell System Trust (the Trust) Located in New York, New York

[Prohibited Transaction Exemption 83–140; Exemption Application Nos. D–4090, D–4091 and D–4092]

Exemption

The restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to the Trust's purchase of shares of Corporate Property Investors (CPI) directly from CPI and to the Trust's purchase of shares of Corporate Realty Consultants, Inc. (CRC) directly from CRC, provided that the terms and conditions of the purchases of the shares by the Trust are not less favorable than those obtainable in similar transactions with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on July 1, 1983 at 48 FR 30488.

Effective Date: The exemption will be effective May 25, 1982.

For Further Information Contact: Alan H. Levitas of the Department, telephone (202) 523–8971. (This is not a toll-free number.)

Tugendhaft, Robson & Green, P.C. Profit Sharing Plan (the Plan) Located in Lindenhurst, New York

[Prohibited Transaction Exemption 83–141; Exemption Application No. D–4105]

Exemption

The restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to: (1) the proposed loan of $215,000 (the Loan) by the Plan to TRG Associates (TRG), a party in interest with respect to the Plan; and (2) the guarantee of the repayment of the Loan by the individual partners of TRG, provided that the terms and conditions of the transactions are not less favorable to the Plan than those obtainable in similar transactions with an unrelated third party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on July 19, 1983 at 48 FR 32897.

For Further Information Contact: Mr. David Stander of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Profit Sharing Plan of Verplank's Coal & Dock Company (the Plan) Located in Grand Haven, Michigan

[Prohibited Transaction Exemption 83–142; Exemption Application No. D–4176]

Exemption

The restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the loan of funds, not to exceed 25% of the total assets of the Plan, to Verplank's Coal & Dock Company, over a seven-year period, provided the terms of the transactions are at least as favorable to the Plan as those obtainable in an arm's-length transaction with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on July 22, 1983 at 48 FR 33570.

Temporary Nature of Exemption

This exemption is temporary in nature and will expire 7 years after the date of grant with respect to the making of a loan. The Plan may continue to hold loans beyond the 7 year period provided such loans originated during such 7 year period.

For Further Information Contact: Ms. Linda M. Hamilton of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

The Bell System Pension Trust, the Bell System Management Pension Plan Trust, and the Bell System Trust (the Trust) Located in New York, New York

[Prohibited Transaction Exemption 83–143; Exemption Application Nos. D–4198, D–4199 and D–4200]

Exemption

The restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply, effective October 25, 1982, to (1) the acquisition of a certain parcel of property for $26 million by the Trust from Hermel, Inc. (Hermel), a party in interest with respect to the Trust; (2) the capital contribution of this property (referred to herein as the Owned Parcel) by the Trust to a limited partnership (the Partnership) in which Nomis of Springfield, Inc. (Nomis), a party in interest with respect to the Trust, is the sole general partner; (3) the use of the proceeds from the Trust's acquisition of the Owned Parcel to pay off construction loans extended by American Fletcher Mortgage Company and Wells Fargo Realty Advisors, parties in interest with respect to the Trust; (4) the assumption of certain payment obligations by the Partnership to pay a certain promissory note to be owed to the Trust; (5) the sublease of a parcel of property to Hermel by the Partnership (referred to herein as the Leased Parcel) after its contribution to the Partnership by Nomis; (6) the leasing of space in property constituting both the Owned and Leased Parcel, and other land to parties in interest with respect to the Trust; and (7) other transactions executed or to be executed between the Trust, Nomis, and other parties in interest pursuant to the partnership agreement; provided that with respect to all of the above transactions (a) the terms of the transactions have been and/or will be negotiated, approved, and monitored on behalf of the Trust by Heitman Advisory Corporation, or a Trust investment manager which is similarly not affiliated or otherwise related to parties in interest involved in the transactions; and (b) the terms of the transactions have been and/or will be effected on terms not less favorable to the Trust than those obtainable with unrelated parties.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on July 1, 1983 at 48 FR 30490.

Effective Date: This exemption is effective October 25, 1982.

For Further Information Contact: Mr. David Stander of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Corvallis Feed & Seed, Inc. Employees Pension Plan (the Plan) Located in Corvallis, Oregon

[Prohibited Transaction Exemption 83–144; Exemption Application No. D–4241]

Exemption

The restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the cash sale of a certain parcel of real property by the Plan to Messrs. Gordon and Harold Packer, parties in interest with respect to the Plan, provided that the terms of the transaction are no less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on August 5, 1983 at 48 FR 35743.

For Further Information Contact: Ms. Linda M. Hamilton of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Aaron Lee Katz Keogh Plan (the Plan) Located in San Jose, California

[Prohibited Transaction Exemption 83–145; Exemption Application No. D–4321]

Exemption

The sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale of a 10.4478% fractionalized tenant-in-common intereat (the Interest) in a certain parcel of real property, located at 22263 DeAnza Circle, Cupertino, California, by the Plan to Mr. Aaron L. Katz, a disqualified person with respect to the Plan, provided the price paid is no less than the fair market value of the Interest on the date of sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on July 22, 1983 at 48 FR 33570.

For Further Information Contact: Horace C. Green of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

S.T.L.B. Incorporated Defined Benefit Pension Plan (the Plan) Located in South San Francisco, California

[Prohibited Transaction Exemption 83–146; Exemption Application No. D–4421]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to for a period of eight years, to a proposed series of loans (the Loans), the aggregate of such Loans not to exceed the lesser of $350,000 or 25 percent of the Plan's assets by the Plan to S.T.L.B. Incorporated, a party in interest with respect to the Plan, provided the terms of each Loan are no less favorable to the Plan than those available in an arm's length transaction with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on July 22, 1983 at 48 FR 33572.

Temporary Nature of Exemption

This exemption is temporary in nature and will expire eight years after the date of grant with respect to the making of a Loan. Loans may be held by the Plan after the initial eight year period, provided the Loan originated during such eight year period.

For Further Information Contact: Horace C. Green of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

T-Z Associates, Inc. Profit Sharing Plan and the T-Z Associates, Inc. Money Purchase Pension Plan (the Plans) Located in Towson, Maryland

[Prohibited Transaction Exemption 83–147; Exemption Application Nos. D–4522 and D–4523]

Exemption

The sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the cash sale of certain stock by the Plans to T-Z Associates, Inc., the sponsor of the Plans, provided the price received by the Plans is no less than the fair market value of the stock on the date of sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on July 22, 1983 at 48 FR 33573.

For Further Information Contact: Mr. David Stander of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) or the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 13th day of September, 1983.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc 83–25389 Filed 9–15–83; 8:45 am]

BILLING CODE 4510–29–M

Southern New England Telephone Company Pension Trust; Grant of Individual Exemptions

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Pocedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

[Prohibited Transaction Exemption 83–148; Exemption Application No. D–3513]

Southern New England Telephone Company Pension Trust (the Trust) Located in New Haven, Connecticut

Exemption

The restrictions of section 406(a) of the Act and the Sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply to:

A. Effective January 1, 1975, the past extensions of credit by the Trust resulting from the Trust's acquisition of debt obligations of American Telephone and Telegraph Company (AT&T) and its subsidiaries, provided that the transactions have complied with the provisions of section 408(e) of the Act, as if the securities were deemed to be qualifying employer securities as defined in the Act;

B. Effective January 24, 1977, the past purchases of AT&T stock by the Trust directly from AT&T under AT&T's Share Owner Dividend Reinvestment and Stock Purchase Plan; and

C. Effective upon the date of publication of this grant, the purchases by Trust of debt and/or equity securities issued by AT&T or any subsidiary, as would be permitted under section 406(e) of the Act if AT&T and its subsidiaries were considered to be affiliates of the Southern New England Telephone Company (the Employer), provided that the Trust's assets involved in such transactions are subject to the investment discretion and control of a fiduciary who is independent of both AT&T and the Employer.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on July 1, 1983 at 48 FR 30483.

For Further Information Contact: Mr. David Stander of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 8th day of September, 1983.

Jeffrey N. Clayton,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 83–25380 Filed 9–15–83; 8:45 am]

BILLING CODE 4510–29–M

IBM Retirement Plan and IBM Part-Time Employees Retirement Plan; Proposed Exemption

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this Federal Register Notice. Comments and requests for a hearing should state the reasons for the

writer's interest in the pending exemption.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, NW., Washington, D.C. 20216

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

[Application Nos. D–4065 and D–4081]

IBM Retirement Plan and IBM Part-Time Employees Retirement Plan (the Plans) Located in Armonk, New York

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975).

(a) *General Exemption*—the restrictions of section 406(a)(1) (A) through (D) of the Act and sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply to any transaction arising in connection with the acquisition, ownership, management, development, leasing, or sale of real property (including the acquisition, ownership, or sale of any joint venture or partnership interest in such property) and the borrowing or lending of money in connection therewith, between a party in interest with respect to the Plans and a single customer real estate separate account (the Account) maintained and managed by the Equitable Life Assurance Society of the United States (Equitable), provided that the following conditions are met:

(1) Such party in interest is not—

(i) Equitable, any person directly or indirectly controlling, controlled by, or under common control with Equitable, any officer, director, or employee of Equitable, or any partnership in which Equitable (on behalf of its general account) is a partner;

(ii) International Business Machines Corporation (IBM) or any affiliate of IBM (within the meaning of section 407(d)(7) of the Act); or

(iii) A person who exercises discretionary authority, responsibility, or control, or who provides investment advice, with respect to the investment of Plan assets in the Account or with respect to the management or disposition of the Plan assets held in the Account;

(2) At the time the transaction is entered into, and at the time of any subsequent renewal thereof that requires the consent of Equitable, the terms of the transaction are not less favorable to the Account than the terms generally available in arm's-length transactions between unrelated parties;

(3) Equitable maintains for a period of six years from the date of each transaction mentioned above the records necessary to enable the persons described in paragraph (4) of this section to determine whether the conditions of this exemption have been met, except that (i) a prohibited transaction will not be deemed to have occurred if, due to circumstances beyond the control of Equitable, the records are lost or destroyed prior to the end of the six-year period, and (ii) no party in interest shall be subject to the civil penalty which may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975 (a) and (b) of the Code, if the records are not maintained, or are not available for examination as required by paragraph (4) below; and

(4)(i) Except as provided in subparagraph (ii) of this paragraph and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (3) of this section are unconditionally available at their customary location for examination during normal business hours by:

(A) Any duly authorized employee or representative of the Department of Labor or the Internal Revenue Service,

(B) Any fiduciary of a Plan who has the authority to acquire or dispose of the interests of the Plan in the Account or any duly authorized employee or representative of such fiduciary,

(C) Any contributing employer to any plan or any duly authorized employee or representative of that employer,

(D) Any participant or beneficiary of any Plan or any duly authorized employee or representative of such participant or beneficiary;

(ii) None of the persons described in subparagraphs (i)(B) through (i)(D) of this paragraph shall be authorized to examine Equitable's trade secrets or commercial or financial information which is privileged or confidential; and

(b) *Specific Exemptions*—the restrictions of section 406(a)(1) (A) through (D) and 406(b) (1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to:

(1) *Furnishing of Goods and Services.* The furnishing of goods and services with respect to the real property investments of the Account described in section (a) above by IBM or any affiliate thereof (within the meaning of section 407(d)(7) of the Act), provided that—

(i) The transaction satisfies the requirements of subparagraphs (a) (2), (3), and (4) of this proposed exemption, and

(ii) The total amount involved in the furnishing of such goods and services in any calendar year does not exceed the greater of $25,000 or 0.5 percent of the fair market value of the assets acquired for the Account on the most recent valuation date of the Account prior to the transaction.

(2) *Transactions Involving Places of Public Accommodation.* The furnishing of services, facilities, and any goods incidental to such services and facilities by a place of public accommodation acquired for the Account, to a party in interest with respect to the Plans if the

services, facilities or incidental goods are furnished on a comparable basis to the general public and if the requirements of subparagraphs (a) (3) and (4) of this proposed exemption are met.

Effective Date: If granted, this exemption will be effective from May 5, 1982, to a date 90 days after the effective date of the grant of a class exemption for employee benefit plan asset transactions subject to the discretion of independent qualified professional asset managers (QPAMs), a proposal for which was published on December 21, 1982 at 47 FR 56945.

Summary of Facts and Representations

1. The Plans provide benefits for all regular employees of IBM and its domestic subsidiaries who are eligible for benefits under Social Security, benefits for individuals who were employed by IBM's Service Bureau Corporation at the time that subsidiary was sold, and all regular part-time employees of IBM. As of December 31, 1980, the Plans had approximately 223,000 participants.

2. IBM is the largest manufacturer of data processing machines and systems in the information-handling field. It is broadly based with subsidiaries operating throughout the world. IBM and its subsidiaries also participate in many joint venture and partnership operations with otherwise unaffiliated third parties.

3. The IBM Retirement Plans Committee of the Board of Directors (the Retirement Committee) is responsible for the administration of the Plans. Currently, the Retirement Committee is comprised of eight members, each of whom is a director and/or officer or employee of IBM. The Retirement Committee is responsible for hiring and firing of investment managers, determining the investment guidelines within which the investment managers operate, reviewing the investment managers' performance, and amending the Plans.

4. The Retirement Committee has entered into a master trust agreement with the Chase Manhattan Bank, N.A. (Chase Manhattan) for the safekeeping of the commingled assets of the Plans. Under this agreement, Chase Manhattan is the master trustee for all investment managers and trustees providing investment management services to the Plans. Currently, the assets of the master trust are managed by 27 different professional investment managers (including Equitable) who are unrelated to IBM, and two full-time employees of IBM.

5. As of December 31, 1981 the master trust had total assets in excess of $6.1 billion ($6.7 million of which was attributable to the IBM Part-Time Employees Retirement Plan and the remainder of which was attributable to the IBM Retirement Plan). A portion of the assets of the master trust is invested in real estate related investments. As of December 31, 1981, $1,211,000 was invested directly in equity interests in real estate and $944,263 in mortgages. Other assets are invested in various pooled funds including mortgage funds (primarily FHA–VA) and some commingled real estate funds.

6. Equitable is a mutual life insurance company organized under the laws of the State of New York and subject to supervision and examination by the Superintendent of Insurance of the State of New York. It is the third largest insurance company in the United States. Among the wide variety of insurance products and services it offers, Equitable provides funding, asset management, and other services for several thousand employee benefit plans.

7. Equitable maintains several pooled separate accounts in which employee benefit plans participate. Equitable also has several single customer separate accounts, and direct investment advisory arrangements pursuant to which it manages all or a portion of the assets of a number of large plans. Equitable has had substantial experience in real estate investments. Of the more than $37.2 billion in total assets held by Equitable as of December 31, 1981, the general account held approximately $10.6 billion in mortgage loans on real property and almost $2 billion in equity investments in real property. Additionally, more than $2 billion in real property equity investments and mortgage loans were held in Equitable's separate accounts as of December 31, 1981.

8. No officers or directors of Equitable are officers or directors of IBM. As well, none of the members of the Retirement Committee are officers, directors or employees of Equitable.

As of April 30, 1982, Equitable held in its separate accounts and advisory accounts shares of common stock issued by IBM with a fair market value of $2,305,750. As of that date, this represented 0.4 percent of the outstanding common shares of IBM. In relation to Equitable's total assets, the total value of the IBM stock held by Equitable equals less than 0.0053 percent of Equitable's assets. As of April 30, 1982, Equitable held no debt obligations (including publicly traded bonds, private-placement debt obligations and commercial paper) of IBM.

9. On January 26, 1982, the Retirement Committee appointed Equitable as investment manager for a portion of the assets of the master trust which will be allocated to the Account. The Account's initial funding will consist of $100 million in cash. The total amount of real property which will ultimately be held in the Account is expected to be substantial. Under the present agreement, Equitable's fee for managing the Account will be paid directly by IBM.

10. The Account's assets will be invested by Equitable primarily in real property and related property investments in accordance with investment guidelines which may be provided to Equitable on occasion by the Retirement Committee. The investment guidelines are intended to reflect general policy objectives only, and are not to recommend specific transactions. Under the current guidelines initially provided by the Retirement Committee, Equitable will review all transactions involving $10 million or more with IBM (specifically with Mr. W. V. Hoyt, IBM Director of Retirement Funds) before a commitment to invest Account assets is made. IBM has the power under this arrangement to object to the proposed transaction and Equitable has agreed to consider any such objections. However, Equitable is not bound to alter its decisions with respect to any transaction as a result of IBM's views.

11. Equitable, on behalf or the Account, will customarily enter into the following types of transactions: (1) Purchases and sales of property; (2) Lending and borrowing of money or other extensions of credit in the form of mortgage or construction loans; (3) Leases of space in properties owned on behalf of the Account; (4) Management, development, improvement, maintenance and operation of properties;[1] and (5) Purchases of goods and services in connection with the management of the properties. These transactions could involve parties in interest with respect to the Plans. It is also probable that on occasion the Account will acquire interests in real estate joint ventures and partnerships. In such cases the other party in the joint venture or partnership may be a real

[1] The applicant represents that in most cases the provision of services and incidental goods in connection with the management and operation of properties held in the Account will be covered by statutory exemptive relief provided by section 408(b)(2) of the Act. The application does not request, and the Department is not proposing, relief beyond that which is provided by section 408(b)(2) of the Act.

estate developer, property manager or other professional asset manager who may be a party in interest with respect to one of the Plans. Accordingly, an Account investment in such a joint venture or partnership may involve prohibited transactions.

12. It is also expected that Equitable will be purchasing goods and services from other parties in connection with the management and operation of Account properties. Because IBM and its affiliates are major suppliers of certain equipment that may be used in connection with real properties which the Account has invested, and provide services to such equipment, such provision of goods and services by IBM to the properties may involve prohibited transactions. It is also possible that the Account may invest in hotels and motels. In the regular operation of such properties many people, including parties in interest with respect to the Plans, may use such facilities. Accordingly, such transactions involving these places of public accommodation may constitute prohibited transactions as described in the Act.

13. Because of the size and complexity of the organization of IBM and its affiliates there may be literally thousands of persons who may be deemed to be parties in interest with respect to the Plans. Accordingly, it is very difficult to ensure that in the operation and management of the Account that transactions, as described above, will not occur. The applicant therefore requests relief for those transactions which are difficult to identify but yet are necessary to effectively conduct the operation of the Account.

14. Equitable first disbursed funds from the Account for a construction loan on May 5, 1982. The Account has engaged in various transactions since that date. Except for one contemplated purchase, Equitable has determined to the best of its ability that the past transactions and contemplated future transactions will not involve prohibited transactions. The one exception involves the proposed acquisition of an office building located in Edison, New Jersey, subject to a mortgage held by the Prudential Insurance Company of America (Prudential), a party in interest with respect to the Plans. Prudential is an investment manager for the Plans, but has no authority, responsibility or control with respect to assets held in the Account. Equitable believes that the Plans would benefit by the acquisition of the property and the assumption of the mortgage.

15. The applicant requests general exemptive relief retroactive to May 5, 1982, for transactions between the Account and parties in interest who maintain no formal authority over the management and investments of the Account. The applicant also requests specific exemptive relief for the provision of goods and services to the account by IBM subject to specific limitations; and the furnishing of services, facilities, and any goods incidental to such services, and the furnishing of facilities by a place of public accommodation acquired for the Account to a party in interest with respect to the Plan.

16. As stated above, on December 21, 1982, at 47 FR 56945, the Department proposed a class exemption for plan asset transactions subject to the investment discretion of QPAMs. The proposed class exemption is intended to improve the administration of the prohibited transaction rules of the Act by providing certain exemptive relief when employee benefit plan assets are managed by QPAMs. The proposed class exemption specifically states, at 47 FR 56947, that exemptive relief will be available to single customer accounts managed by insurance companies. Because Equitable believes that it will qualify as a QPAM under the terms of the class exemption when finally granted by the Department, the applicant is not requesting, and the Department is not proposing individual exemptive relief for the Plans beyond a date 90 days after the effective date of the QPAM exemption.[2] Accordingly, transactions involving the Account and parties in interest with respect to the Account will be provided exemptive relief after a date 90 days after the effective date of the class exemption on behalf of QPAMs only to the extent that such transactions satisfy the conditions of the class exemption.

With regard to the relief requested, the applicant requests exemptive relief subject to the identical terms and conditions as those imposed on transactions involving the assets of a real estate advisory account managed by Equitable for the retirement plans of the Westinghouse Electric Corporation (Prohibited Transaction Exemption 82–83 (PTE 82–83), 47 FR 21342, May 18, 1982).

17. The applicant represents that the above terms and conditions will be protective of the rights of the participants and beneficiaries of the Plans while allowing Equitable to prudently and effectively conduct the Account's operation. Among other requirements, the requested exemption requires that any covered transaction be on terms not less favorable to the Account than those available between the Account and an unrelated party.

18. In summary, the applicant represents that the transactions meet the criteria for an exemption as provided in section 408(a) of the Act because (a) Equitable, a qualified, independent party with extensive experience in real property investments will have discretionary authority to manage the Account; (b) the Account will be able to enter into transactions which, although prohibited, are necessary for Equitable to prudently conduct the Account's operation; (c) exemptive relief will be afforded subject to the identical terms and conditions as those contained in PTE 82–83; and (d) all transactions will be conducted on an arm's-length basis on terms not less favorable to the Plans than those available in arm's-length transactions with unrelated parties.

For Further Information Contact: Mr. David Stander of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

[2] The applicant represents that individual exemptive relief is necessary for 90 days after the effective date of the QPAM exemption in order to allow the applicant to completely assess the QPAM exemption in its final form.

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 31st day of August, 1983.

Jeffrey N. Clayton,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 83-25388 Filed 9-15-83; 8:45 am]

BILLING CODE 4510-29-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel Meetings

AGENCY: National Endowment for the Humanities, NFAH.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue NW., Washington, D.C. 20506:

1. Date: September 29–30, 1983.
Time: September 29, 1983 8:30 a.m. to 5:00 p.m.; September 30, 1983 8:30 a.m. to 5:00 p.m.
Room: 415
Program: This meeting will review applications submitted for Humanistic Projects in Media, Division of General Program, for projects beginning after April 1, 1984.

2. Date: October 6–7, 1983.
Time: October 6, 1983 8:30 a.m. to 5:00 p.m.; October 7, 1983 8:30 a.m. to 5:00 p.m.
Room: 415
Program: This meeting will review applications submitted for Humanistic Projects in Media, Division of General Programs, for projects beginning after April 1, 1984.

3. Date: October 11, 1983.
Time 8:30 a.m to 5:00 p.m.
Room: 415
Program: This meeting will review applications submitted for Humanistic Projects in Media, Division of General Programs, for projects beginning after April 1, 1984.

4. Date: October 13–14, 1983.
Time: October 13, 1983 8:30 a.m. to 5:00 p.m.; October 14, 1983 8:30 a.m. to 5:00 p.m.
Room: 415.
Program: This meeting will review applications submitted for Humanistic Projects in Media, Division of General Programs, for projects beginning after April 1, 1984.

5. Date: October 20–21, 1983.
Time: October 20, 1983 8:30 a.m. to 5:00 p.m.; October 21, 1983 8:30 a.m. to 5:00 p.m.
Room: 415.
Program: This meeting will review applications submitted for Humanistic Projects in Media, Division of General Programs, for projects beginning after April 1, 1984.

6. Date: October 27–28, 1983.
Time: October 27, 1983 8:30 a.m. to 5:00 p.m.; October 28, 1983 8:30 a.m. to 5:00 p.m.
Room: 415.
Program: This meeting will review applications submitted for Humanistic Projects in Media, Division of General Programs, for projects beginning after April 1, 1984.

7. Date: October 4, 1983.
Time: 9:00 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for Independent Study and Research applications in History, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1984.

8. Date: October 6–7, 1983.
Time: 8:30 a.m. to 5:00 p.m.
Room: 315.
Program: This meeting will review applications submitted to Basic Research: Literary and Cultural Studies Panel, Division of Research Programs, for projects beginning after January 1, 1984.

9. Date: October 7, 1983.
Time: 9:00 a.m. to 5:30 p.m.
Room: 430.
Program: This meeting will review Fellowships for Independent Study and Research applications in Philosophy, Religion, and Social Sciences, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1984.

10. Date: September 30, 1983.
Time: 9:00 a.m. to 5:30 p.m.
Room: 430.
Program: This meeting will review Constitutional Fellowships applications submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1984.

The proposed meetings are for the purpose of panel rview, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and (3) information the disclosure of which would significantly frustrate implementation of proposed agency action; pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information about these meetings can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506, or call (202) 786-0322.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 83-25286 Filed 9-15-83; 8:45 am]

BILLING CODE 7536-01-M

Dance Advisory Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Dance Advisory Panel (Overview Section) to the National Council on the Arts will be held on October 4–6, 1983, from 9:00 a.m.–5:30 p.m. in Room M-07 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, N.W., Washington, D.C.

A portion of this meeting will be open to the public on October 4–5 from 9:00 a.m.–5:30 p.m. and on October 6 from 11:00 a.m.–5:30 p.m. Topics for discussion will include FY 1985 guidelines, Mime, Dance Program Six-Year plan and other policy issues.

The remaining session of this meeting on October 6 from 9:00 a.m.–11:00 a.m. is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants, and for discussion and development of confidential FY 1985 budgetary materials to be submitted to the Office of Management and Budget and the Congress. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of

section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682–5433.

Dated: September 9, 1983.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 83–25359 Filed 9–15–83; 8:45 am]

BILLING CODE 7537–01–M

Literature Advisory Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Literature Advisory Panel (Creative Writing Fellowships) to the National Council on the Arts will be held on October 6–7, 1983, from 9:00 a.m.–6:00 p.m. and on October 8, 1983, from 9:00 a.m.–12:30 p.m. in Room 714 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, N.W., Washington, D.C.

A portion of this meeting will be open to the public on October 8 from 11:00 a.m.–12:30 p.m. for Fellowship Policy Discussion.

The remaining session of this meeting on October 6–7 from 9:00 a.m.–6:00 p.m. and on October 8 from 9:00 a.m.–11:00 a.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682–5433.

Dated: September 9, 1983.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 83–25357 Filed 9–15–83; 8:45 am]

BILLING CODE 7537–01–M

Music Advisory Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Festivals Section) to the National Council on the Arts will be held on October 5–6, 1983 from 9:00 a.m.–5:30 p.m. in Room 730 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, N.W., Washington, D.C.

A portion of this meeting will be open to the public on October 6 from 2:00 p.m.–3:30 p.m. to discuss Policy/guideline review.

The remaining sessions of this meeting on October 5 from 9:00 a.m.–5:30 p.m.; October 6 from 9:00 a.m.–2:00 p.m.; and, October 6 from 3:30 p.m.–5:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682–5433.

Dated: September 9, 1983.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 83–25358 Filed 9–15–83; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL SCIENCE FOUNDATION

Biotic Systems and Resources, Subpanel on Ecology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subpanel on Ecology of the Advisory Panel for Biotic Systems and Resources.

Date and Time: October 6 & 7, 1983—8:30 a.m. to 5:00 p.m. each day.

Place: Room 628, National Science Foundation, 1800 G St. NW., Washington, D.C. 20550.

Type of Meeting: Closed.

Contact Person: Dr. Nancy L. Stanton, Program Director, Ecology (202) 357–9734, Room 1140, National Science Foundation, Washington, D.C. 20550.

Purpose of subpanel: To provide advice and recommendations concerning support for research in ecology.

Agenda: Review and evaluation of research proposals and projects as part of the selection process of awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Dated: September 13, 1983.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 83–25302 Filed 9–15–83; 8:45 am]

BILLING CODE 7555–01–M

Biotic Systems and Resources, Subpanel on Ecosystem Studies; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subpanel on Ecosystem Studies of the Advisory Panel for Biotic Systems and Resources.

Date and time: October 6 & 7, 1983—8:30 a.m. to 5:00 p.m. each day.

Place: Room 1141, National Science Foundation, 1800 G St. NW., Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. Robert G. Woodmansee, Program Director, Ecosystem Studies (202) 357–9598, Room 1140, National Science Foundation, Washington, D.C. 20550.

Purpose of subpanel: To provide advice and recommendations concerning support for research in ecosystem studies.

Agenda: Review and evaluation of research proposals and projects as part of the selection process of awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The

Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Dated: September 13, 1983.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 83-25303 Filed 9-15-83; 8:45 am]

BILLING CODE 7555-01-M

Biotic Systems and Resources, Subpanel on Systematic Biology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subpanel on Systematic Biology of the Advisory Panel for Biotic Systems and Resources.

Date and Time: October 3 & 4, 1983—8:30 a.m. to 5:00 p.m. each day.

Place: Room 1141, National Science Foundation, 1800 G St. NW., Washington, D.C. 20550.

Type of Meeting: Closed.

Contact Person: Dr. Lloyd Knutson, Program Director, Systematic Biology (202) 357-9588, Room 1140, National Science Foundation, Washington, D.C. 20550.

Purpose of subpanel: To provide advice and recommendations concerning support for research in systematic biology.

Agenda: Review and evaluation of research proposals and projects as part of the selection process of awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Dated: September 13, 1983.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 83-25301 Filed 9-15-83; 8:45 am]

BILLING CODE 7555-01-M

Physiology, Cellular and Molecular Biology Advisory Panel; Subpanel on Cellular Physiology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subpanel on Cellular Physiology of the Advisory Panel for Physiology, Cellular and Molecular Biology.

Date and time: October 3, 4, 5, 1983, starting at 9:00 a.m. to 6:00 p.m.

Place: Room 338, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. Judith H. Willis, Program Director, Cellular Physiology Program, Room 332, National Science Foundation, Washington, D.C. 20550, telephone (202) 357-7377.

Purpose of subpanel: To provide advice and recommendations concerning support of research in cellular physiology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of U.S.C. 552b(c), Government in the Sunshine Act.

Authority: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make determinations by the Director, NSF July 6, 1979.

Dated: September 13, 1983.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 83-25298 Filed 9-15-83; 8:45 am]

BILLING CODE 7555-01-M

Physiology Cellular and Molecular Biology Advisory Panel; Subpanel on Developmental Biology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subpanel on Developmental Biology of the Advisory Panel for Physiology, Cellular and Molecular Biology.

Date and time: October 6, 7, 8, 1983, starting at 9:00 a.m. to 5:00 p.m.

Place: Room 642, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. Clifton A. Poodry, Program Director, Developmental Biology Program, Room 332-H, National Science Foundation, Washington, D.C. 20550, telephone (202) 357-7989.

Purpose of subpanel: To provide advice and recommendations concerning support of research in developmental biology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of U.S.C. 552b(c), Government in the Sunshine Act.

Authority: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make determinations by the Director, NSF July 6, 1979.

Dated: September 13, 1983.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 83-25299 Filed 9-15-83; 8:45 am]

BILLING CODE 7555-01-M

Physiology, Cellular and Molecular Advisory Panel, Subpanel on Metabolic Biology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subpanel on Metabolic Biology of the Advisory Panel for Physiology, Cellular & Molecular Biology.

Date and time: October 6, 7 and 8, 9:00-5:00 p.m.

Place: Room 540, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550

Type of meeting: Closed.

Contact person: Dr. William van B. Robertson, Program Director, Metabolic Biology Program, Room 325 National Science Foundation, Wash., D.C. 20550 Telephone (202) 357-7987

Purpose of subpanel: To provide advice and recommendations concerning support for research in metabolic biology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF on July 6, 1979.

Dated: September 13, 1983.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 83-25300 Filed 9-15-83; 8:45 am]

BILLING CODE 7555-01-M

SECURITIES AND EXCHANGE COMMISSION

Agency Forms Submitted to OMB For Review

Agency Clearance Officer—Kenneth Fogash (202) 272-2142.

Upon written request, copy available from: Securities and Exchange Commission, Office of Consumer Affairs and Information Services. Washington, D.C. 20549.

Extension

Rule 17j-1 [17 CFR 270.17j-17]
SEC File No. 270-239

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for extension of approval rule 17j-1 under the Investment Company Act of 1940 which concerns the records required to be maintained and preserved by registered investment companies, or investment advisers or principal underwriters for such registered investment companies in connection with the administration of the code of ethics adopted pursuant to that rule.

The potential respondents include every affiliated person of or principal underwriter for a registered investment company, or any affiliated person of an investment adviser of or principal underwriter for a registered investment company.

Submit comments to OMB Desk Officer: Robert Veeder (202) 395-4814.

Dated: September 9, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-25376 Filed 9-15-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20171; SR-NYSE-83-8]

New York Stock Exchange, Inc.; Order Extending the Time for Conclusion of a Proceeding.

September 12, 1983.

On March 13, 1983, the Commission published notice [1] of a proposed rule change filed with the Commission by the New York Stock Exchange, Inc. ("NYSE"), 11 Wall Street, New York, New York 10005, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [2] and Rule 19b-4 thereunder.[3] The NYSE's proposed rule change would extend its Registered Representative Rapid Response Service ("R4") for a year, at the same time expanding the program in a number of aspects.[4]

On June 9, 1983, the Commission instituted a proceeding to determine whether to approve or disapprove the NYSE's proposed rule change,[5] pursuant to Section 19(b)(2)(B) of the Act. The Commission indicated at that time that it was instituting the proceeding so that interested commentators would have an opportunity to discuss the important questions raised by the R4 program, and so that the Commission could examine R4 more closely, particularly in the context of the broader concerns regarding derivative execution systems for small orders. In this connection, the R4 release asked commentators specifically to address a number of questions concerning the operation and effects of R4.

Because of the complexity and difficulty of the questions raised by the R4 release, thoughtful comments have been, and continue to be, submitted to the Commission even after the conclusion of the original comment period. The Commission believes that these comments deserve careful attention before final action is taken to approve or disapprove the R4 program. Under the requirements of Section 19(b)(2)(B) of the Act, the R4 proceeding is due to be concluded by September 10, 1983 (180 days from the date of publication of notice of the R4 rule change); however, the Commission for good cause may extend the proceeding for up to sixty days. In view of the recent submission of detailed comments by several commentators and the need to consider these comments fully before taking action on the R4 program, the Commission finds good cause to extend the proceeding to determine whether to approve or disapprove the R4 system until October 31, 1983.

The Commission also believes that it is appropriate to extend concurrently the comment period on the R4 proceeding to October 1, 1983, to allow all commentators an equal opportunity to submit further comments on this proceeding. Persons desiring to submit written data, views, and arguments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549. Reference should be made to File No. SR-NYSE-83-8.

It is hereby ordered, pursuant to Section 19(b)(2) of the Act, that the time for conclusion of the proceeding to determine whether to approve or disapprove proposed rule change NYSE-83-8 be extended until October 31, 1983, and that the comment period be extended until October 1, 1983.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-25375 Filed 9-15-83; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 02/02-0350]

Quidnet Capital Corp.; Filing of Application for Approval of Conflict of Interest Transaction

Notice is hereby given that Quidnet Capital Corporation (Quidnet Corp.), 909 State Street, Princeton, New Jersey 08540, a Federal Licenses under the Small Business Investment Act of 1958, as amended, has filed an application pursuant to Section 107.1004 of the SBA Rules and Regulations governing small business investment companies (13 CFR 107.1004 (1983)), for approval of a conflict of interest transaction.

Quidnet Capital Corp. desires to provide additional financing of $50,000 resulting in a total investment of $489,512 in Mercer County Racquetball Associates (MCRA), a portfolio concern. The purpose of providing additional financing is for working Capital.

The managing general partner of MCRA is Courtworks Associates, a limited partnership in which Quidnet Company owns a fifty (50) percent interest: Quidnet Company is considered to be an "Associate" of

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[1] Securities Exchange Act Release No. 19573 (March 8, 1983), 48 FR 10780.

[2] 15 U.S.C. 78s(b)(1).

[3] 17 CFR 240.19b-4.

[4] The NYSE's R4, in present form, allows a registered representative in a participating broker-dealer firm to execute, in its office, an order of up to 299 shares in 30 stocks at the prevailing consolidated quotation, and then report the execution to the NYSE specialist in the stock who guarantees that price to the customer. On receiving this report, if the report is at the quotation then prevailing on the floor, the specialist is required to offer participation on the contra side of the trade to other existing interest at the quote price, including limit orders on the specialist's book and floor brokers. If the order is not at the then prevailing quotation, the specialist is responsible for the execution. The execution is then reported by the specialist to the consolidated transaction reporting system.

[5] Securities Exchange Act Release No. 19858 (June 9, 1983), 48 FR ("R4 Release").

Quidnet Corp., as that term is defined under Section 107.3 of the SBA Regulations since its general partners Messrs. Stephen Fillo and Reid White, are also the officers and shareholders in Quidnet Corp. Therefore, MCRA is also deemed to be an "Associate" of the Licensee. Consequently, the proposed transaction comes within the purview of § 107.1004(b)(1) of the Regulations which prohibits a licensee from providing financing to any of its Associates, except where a written exemption is granted by the SBA.

Notice is hereby given that any person may, not later than fifteen (15) days from the date of publication of this notice, submit written comments on the proposed transaction. Any such comments should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

A copy of this Notice shall be published in a newspaper of general circulation in Princeton, New Jersey.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: September 9, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-25370 Filed 9-15-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Public Proceeding Regarding Defect Investigation; Brake Lines in Certain 1975–1980 Vehicles Imported by Volkswagen of America, Inc.

Pursuant to section 152 of the National Traffic and Motor Vehicle Safety Act of 1966 as amended (Pub. L. 93–492, 88 Stat. 1470; October 2, 1974), 15 U.S.C. 1412 (the Act), the Acting Associate Administrator for Enforcement, National Highway Traffic Safety Administration (NHTSA) has made an initial determination that 1975–1980 Volkswagen Rabbits and Sciroccos manufactured in Germany by Volkswagen A.G. and imported into the United States by Volkswagen of America, Inc., contain a safety-related defect in the service braking systems. A NHTSA investigation indicated that because the brake lines of these vehicles are routed through the passenger compartment of the vehicles, they have a tendency to experience corrosion, which can cause the brake lines to be weakened due to the formation of pinhole leaks, and ultimately, to rupture. Rupture of the brake line results in the reduction or complete loss of braking ability.

NHTSA will hold a public proceeding pursuant to section 152 of the Act at 10:00 a.m. on October 12, 1983, in Room 2230 of the Department of Transportation Headquarters, 400 Seventh Street SW., Washington, D.C. 20590, at which time Volkswagen of America, Inc., will be afforded an opportunity to present data, views and arguments regarding the initial determination of defect.

Interested persons are invited to participate in the hearing proceeding through written or oral presentations. Persons wishing to make oral presentations are requested to notify Ms. Joyce Tannahill, Office of Defects Investigation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Room 5326, Washington, D.C. 20590 (telephone [202] 426–2850) before close of business on October 5, 1983.

The agency's investigative file in this matter is available for public inspection during regular working hours (7:45 a.m. to 4:15 p.m.) in NHTSA's Technical Reference Library, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590.

(Sec. 152, Pub. L. 93–492, 88 Stat. 1470 (15 U.S.C. 1412); delegations of authority at 49 CFR 1.51 and 49 CFR 501.81)

Issued on September 9, 1983.

George L. Parker,

Acting Associate Administrator for Enforcement.

[FR Doc. 83-25335 Filed 9-13-83; 3:08 pm]

BILLING CODE 4910-59-M

Public Proceeding Regarding Defect Investigation; Fuel Pump Electrical Circuit in Certain 1976–1982 Vehicles Manufactured and Imported by Volkswagen of America, Inc.

Pursuant to section 152 of the National Traffic and Motor Vehicle Safety Act of 1966 as amended (Pub. L. 93–492, 88 Stat. 1470; October 2, 1974), 15 U.S.C. 1412 (the Act), the Acting Associate Administrator for Enforcement, National Highway Traffic Safety Administration (NHTSA) has made an initial determination that 1977–1980 Rabbit; 1976–1982 Scirocco; 1980–1982 Jetta; 1976–1980 Dasher; 1980 Volkswagen Pick-up Trucks; 1980–1982 Volkswagen convertibles; 1976–1979 Audi Fox and 1980–1981 Audi 4000 vehicles manufacured or imported by Volkswagen of America and equipped with gasoline-powered fuel injected engines contain a safety-related defect in certain components of the fuel pump electrical circuit. A NHTSA investigation indicates that overheating or overload at the fuse panel connector for the electrical circuit that transmits power to the fuel pump (the A8 connector) can result in intermittent or continuous interruption of electrical power to the fuel pump, which may result in the vehicle stalling while being driven and/or electrical fires resulting in smoke or fumes entering the passenger compartments of these vehicles.

NHTSA will hold a public proceeding pursuant to section 152 of the Act at 10:00 a.m. on October 12, 1983, in Room 2230 of the Department of Transportation Headquarters, 400 Seventh Street SW., Washington, D.C. 20590, at which time Volkswagen of America, Inc. will be afforded an opportunity to present data, views and arguments regarding the initial determination of defect.

Interested persons are invited to participate in the proceeding through written or oral presentations. Persons wishing to make oral presentations are requested to notify Ms. Joyce Tannahill, Office of Defects Investigation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Room 5326, Washington, D.C. 20590 (telephone [202] 426–2850) before close of business on October 5, 1983.

The agency's investigative file in this matter is available for public inspection during regular working hours (7:45 a.m. to 4:15 p.m.) in NHTSA's Technical Reference Library, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590.

(Sec. 152, Pub. L. 93–492, 88 Stat. 1470 (15 U.S.C. 1412); delegations of authority at 49 CFR 1.51 and 49 CFR 501.81)

Issued on September 9, 1983.

George L. Parker,

Acting Associate Administrator for Enforcement.

[FR Doc. 83-25336 Filed 9-13-83; 3:08 pm]

BILLING CODE 4910-59-M

DEPARTMENT OF TREASURY

Office of the Secretary

Public Information Collection Requirements Submitted to OMB for Review

On September 12, 1983 the Department of Treasury submitted the following public information collection requirement(s) to OMB (listed by submitting bureaus), for review and clearance under the Paperwork

Reduction Act of 1980, Pub. L. 96–511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 634–2179. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 309, 1625 "I" Street, NW., Washington, D.C. 20220.

Internal Revenue Service

OMB Number: 1545–0195
Form Number: 5213
Type of Review: Existing Regulations
Title: Election to Postpone Determination

OMB Number: 1545–0172
Form Number: 4562
Type of Review: Existing Regulations
Title: Depreciation and Amortization
OMB Number: 1545–0193
Form Number: 4972
Type of Review: Existing Regulations
Title: Special 10-Year Averaging Method
OMB Number: 1545–0069
Form Number: 2440
Type of Review: Existing Regulations
Title: Disability Income Exclusion
OMB Number: 1545–0166
Form Number: 4255
Type of Review: Existing Regulations
Title: Recapture of Investment Credit

Bureau of Alcohol, Tobacco and Firearms

OMB Number: 1512–0206
Form Number: ATF F 5110.41
Type of Review: Extension
Title: Registration of Distilled Spirits Plant
OMB Reviewer: Norman Frumkin (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Dated: September 12, 1983.

Rita A. DeNagy,

Departmental Reports, Management Office.

[FR Doc. 83–25280 Filed 9–15–83; 8:45 am]
BILLING CODE 4810–25–M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 181
Friday, September 16, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Equal Employment Opportunity Commission	1
Federal Communications Commission	2
Federal Energy Regulatory Commission	3, 4
Federal Home Loan Bank Board	5, 6
Federal Home Loan Mortgage Corporation	7
Federal Maritime Commission	8
Federal Reserve System	9, 10
Legal Services Corporation	11
Postal Rate Commission	12, 13

1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: 9:30 AM (Eastern Time) Tuesday, September 20, 1983.

PLACE: Commission Conference Room No. 200 on the 2nd floor of the Columbia Plaza Office Building, 2401 E Street NW, Washington, 20506.

STATUS: Part will be open to the public and part will be closed to the public.

Matters To Be Considered

1. Announcement of Notation Votes.
2. Report on Commission Operations (Optional).
3. Freedom of Information Act Appeal No. 83-7-FOIA-105-SL, concerning a request for copies of a Title VII file.
4. Freedom of Information Act Appeal No. 83-7-FOIA-47-DT, concerning a request for access to an investigator's memorandum and a memo containing the legal advice of a regional attorney.
5. Proposed Certifications of Three 706 Agencies.
6. Proposed Semi-Annual Regulatory Agenda.

Closed

Litigation Authorization; General Counsel Recommendations.

Note.—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the **Federal Register**, the Commission also provides recorded announcements a full week in advance on future Commission sessions. Please telephone (202) 634-6748 at all times for information on these meetings.)

CONTACT PERSON FOR MORE INFORMATION: Treva McCall, Executive Secretary to the Commission at (202) 634-6748.

This notice issued September 13, 1983.

[S-1297-83 Filed 9-13-83; 4:28 pm]

BILLING CODE 6570-06-M

2

FEDERAL COMMUNICATIONS COMMISSION

September 9, 1983.

Deletion of agenda item from September 9th open meeting.

The following item has been deleted at the request of the Office of Commissioner Rivera from the list of agenda items scheduled for consideration at the September 9, 1983 Open Meeting and previously listed in the Commission's Notice of September 2, 1983.

Agenda, Item No., and Subject

Common carrier, 4, title: In the Matter of American Television Relay, Inc. Refunds resulting from the findings and conclusions in Docket No. 19609. Summary: The Commission will consider an order responding to the remand by the U.S. Court of Appeals of an earlier Commission decision ordering refunds to certain customers of American Television Relay.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-1307-83 Filed 9-14-83; 11:21 am]

BILLING CODE 6712-01-M

3

FEDERAL ENERGY REGULATORY COMMISSION

Notice of meeting.

September 13, 1983.

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94-4109), 5 U.S.C. 552b:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

TIME AND DATE: September 20, 1983, 10:00 a.m.

PLACE: 825 North Capitol Street, N.E., Washington, D.C. 20426, Room 9306.

STATUS: Closed.

Matters To Be Considered

(1) Cumberland Power Corporation.
(2) Clifton Power Corporation.
(3) Docket Nos. G-17529, RI71-154 and AR64-2, *et al.*, Ginther Warren & Company.
(4) Docket Nos. CI61-751 and AR64-2, *et al.*, *W.A. Stockard, et al.*
(5) Docket No. IN79-2, I.L. Morris, *et al.*
(6) Micon Energy Group, Ltd.
(7) Docket No. GP82-6-000, Davis Oil Company.
(8) Pioneer Production Company.
(9) Docket No. INB1-1, United Gas Pipeline Company.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, 202-357-8400.

[S-1298-83 Filed 9-13-83; 4:28 pm]

BILLING CODE 6717-01-M

4

FEDERAL ENERGY REGULATORY COMMISSION

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 40972, 9/12/83.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: September 14, 1983, 10:00 a.m.

CHANGE IN THE MEETING: The following items have been added to the agenda:

Item No., Docket No. and Company

CAP-49—QF83-219-000, QF83-223-000 and QF83-224-000, El Dorado County Water Agency and El Dorado Irrigation District
ER-8—EL80-7-000, Southeastern Power Administration v. Kentucky Utilities Company
CI-2—CI83-269-000, Tenneco Oil Company, Houston Oil & Minerals Corporation, Tenneco Exploration, Ltd., Tenneco Exploration II, Ltd., and TINCO, Ltd.

Kenneth F. Plumb,

Secretary.

[S-1302-83 Filed 9-14-83; 10:51 am]

BILLING CODE 6717-02-M

5

FEDERAL HOME LOAN BANK BOARD

TIME AND DATE: 10:00 A.M., Thursday, September 22, 1983.

PLACE: Board Room, 6th Floor, 1700 G St., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Ms. Gravlee (202-377-6970).

MATTERS TO BE CONSIDERED: Industry Conflicts of Interest, Accounting for Uncollectible Income.

No. 50, September 13, 1983.

[S-1301-83 Filed 9-13-83; 5:04 pm]

BILLING CODE 6720-01-M

6

FEDERAL HOME LOAN BANK BOARD

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: Vol. No. 48, Page No. None at this time. Date Published—None at this time.

PLACE: Board Room, 6th Floor, 1700 G St., N.W., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Ms. Gravlee (202–377–6970).

CHANGES IN THE MEETING: The bank board meeting scheduled for Thursday, September 22, 1983 at 10:00 a.m. has been changed to start at 12:00 p.m.

No. 51, Sept. 14, 1983.

[S–1308–83 Filed 9–14–83; 1:21 pm]

BILLING CODE 6720–01–M

7

FEDERAL HOME LOAN MORTGAGE CORPORATION

DATE AND TIME: September 21, 1983, 1:30 p.m.

PLACE: 1776 G Street, NW., Washington, D.C., Conference Room 4–G.

STATUS: Closed.

CONTACT PERSON FOR MORE INFORMATION: Alan B. Hausman, 1776 G Street, N.W., P.O. Box 37248, Washington, D.C. 20013, (202) 789–4763.

Matters To Be Considered

Closed—Minutes of July 25, 1983, Board of Directors' Meeting, Minute Entry.

Closed—President's Report.

Closed—Financial Report, Minute Entry.

Date sent to **Federal Register:** September 13, 1983.

[S–1311–83 Filed 9–14–83; 2:35 pm]

BILLING CODE 6720–02–M

8

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9:00 a.m., September 21, 1983.

PLACE: Hearing Room One, 1100 L Street, N.W., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

Matters To Be Considered

Portions open to the public:

1. Agreements Nos. 3868–30 and 3868–31: Modifications to the United States Atlantic and Gulf/Panama Freight Conference Agreement to provide for the filing of proportional rates and alternate port service.

2. Agreement No. T–4086: Terminal Lease between Atlantic Container Line, Ltd. and Barber Blue Sea Line/Barber West Africa Line.

3. Agreement No. 10414–3: Modification of the People's Republic of China/U.S.A. Rate Agreement to extend its term of approval and to provide for intermodal rate authority.

4. Petition for review of Finding of No Significant Environmental Impact for Agreements Nos. 10355–1 and 10402–1.

Portions closed to the public:

1. Agreement No. 10483: Agency agreement between Korea Marine Transport Company and Matson Agencies.

2. Activities of Philippine Express Corp.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary, (202) 523–3557.

[S–1300–83 Filed 9–14–83; 3:52 pm]

BILLING CODE 6730–01–M

9

FEDERAL RESERVE SYSTEM
(Board of Governors)

TIME AND DATE: Approximately 11:00 a.m., Wednesday, September 21, 1983, following a recess at the conclusion of the open meeting.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

STATUS: Closed.

Matters To Be Considered

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452–3204.

Dated: September 13, 1983.

James McAfee,

Associate Secretary of the Board.

[S–1300–83 Filed 9–13–83; 4:47 pm]

BILLING CODE 6210–01–M

10

FEDERAL RESERVE SYSTEM
(Board of Governors)

TIME AND DATE: 10:00 a.m., Wednesday, September 21, 1983.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Open.

Matters To Be Considered

Summary Agenda: Because of their routine nature, no substantive discussion of the following items is anticipated. These matters will be voted on without discussion unless a member of the Board requests that an item be moved to the discussion agenda.

1. Proposed extension and revision of the Senior Loan Officer Opinion Survey on Bank Lending Practices (FR 2018).

2. Proposed extension and revision of Monthly Survey of Loan Commitments (FR 2039).

3. Proposed extension and revision of Report of Bank Holding Company Intercompany Transactions and Balances (FR Y–8).

4. Proposed extension and revision of Report of Intercompany Transactions for Foreign Banking Organizations and Their U.S. Bank Subsidiaries (FR Y–8f).

5. Proposed extension and revision of Report of Condition for Edge and Agreement Corporations (FR 2886b).

Discussion Agenda

6. Proposed Federal Reserve fee schedules for definitive securities safekeeping and noncash collection services. (Proposed earlier for public comment; Docket No. R–0475).

7. Publication for comment of Federal Reserve proposals regarding automated Clearing House (ACH) fee schedules, float elimination and pricing, and service issues.

8. Any items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452–3204.

Dated: September 13, 1983.

James McAfee,

Associate Secretary of the Board.

[S–1299–83 Filed 9–13–83; 4:47 pm]

BILLING CODE 6210–01–M

11

LEGAL SERVICES CORPORATION
Board of Directors Meeting.

TIME AND DATE: 8:00 A.M. to 6:00 P.M., Tuesday, October 4, 1983.

PLACE: GSA Central Office Auditorium, 18th and "F" Streets NW., 1st Floor, Washington, D.C. 20005.

STATUS OF MEETING: Open.

Matters to Be Considered

1. Approval of Agenda.
2. Approval of Minutes.
3. Report from President.
4. Report from Office of General Counsel:

a. Final Review of Proposed Regulations;

(1) Transfer of Funds (45 CFR Part 1627)—Proposed Regulation Published June 22, 1983.

(2) Denial of Refunding (45 CFR Parts 1606 and 1625)—Proposed Regulation published August 15, 1983.

(3) Eligibility (45 CFR Parts 1611)—Proposed Regulation Published August 29, 1983.

b. Discussion of Regulations to be Published as Proposed Regulations

(1) Attorney Fees (45 CFR Part 1609).
(2) Priority Setting (45 CFR Part 1620).
5. Report from Office of Field Services:
a. Announcement of Instructions/Guidelines—Published for Comment;
(1) Private Attorney Involvement.
(2) Fund Balance.
b. Discussion of Reginald Heber Smith Community Fellowship Program.
6. Report from Vice President of Finance:
a. 1983 Third Quarter Budget Review.
b. 1984 Budget.
c. 1985 Mark.
7. Needs Study Update.
8. Report from Office of Government Relations:
a. Authorization.
b. GAO Investigations.
9. Report from Office of Program Development.

CONTACT PERSON FOR MORE INFORMATION: LeaAnne Bernstein, Office of the President, (202) 272–4040.

Date issued: September 13, 1983.

LeaAnne Bernstein,

Corporate Secretary.

[S–1303–83 Filed 9–14–83: 11:01 am]

BILLING CODE 6820–35–M

12

POSTAL RATE COMMISSION

Meeting.

AGENCY HOLDING THE MEETING: Postal Rate Commission.

TIME AND DATE: Wednesday, September 14, 1983 at 2:00 p.m.

PLACE: Conference Room, Room 500, 2000 L Street NW., Washington, DC 20268.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Discussion of Request for Recusal of a Commissioner (Closed pursuant to 5 USC 552b(c)(10)).

CONTACT PERSON FOR MORE INFORMATION: Cyril J. Pittack, Acting Secretary, Postal Rate Commission, Room 500, 2000 L Street, NW., Washington, D.C. 20268, Telephone (202) 254–3880.

[S–1304–83 Filed 9–14–83: 11:20 am]

BILLING CODE 7715–01–M

13

POSTAL RATE COMMISSION

Meeting.

AGENCY HOLDING THE MEETING: Postal Rate Commission.

TIME AND DATE: Periodic meetings scheduled on short notice during business days in the period September 20–23, 1983.

PLACE: Conference Room, Room 500, 2000 L St., NW., Washington, DC 20268.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Discussion of matters in Docket No. 83–2, ZIP+4. (Closed pursuant to 5 U.S.C. 552b(c)(10)).

CONTACT PERSON FOR MORE INFORMATION: Cyril J. Pittack, Acting Secretary, Postal Rate Commission, Room 500, 2000 L Street, NW., Washington, D.C. 20268, Telephone (202) 254–3880.

[S–1305–83 Filed 9–14–83: 11:20 am]

BILLING CODE 7715–01–M

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federal register

Friday
September 16, 1983

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being mnodified and their dates of publication in the **Federal Register** are listed with each State.

Arkansas:	
AR83–4036; AR83–4039	May 13, 1983
AR83–4049	July 15, 1983
New York:	
NY83–3043	Aug. 19, 1983
Ohio:	
OH83–2013	Feb. 25, 1983
Pennsylvania:	
PA81–3066	Oct. 23, 1981
PA81–3073	Oct. 2, 1981
PA82–3007	Feb. 26, 1982
Rhode Island:	
RI83–3042	Aug. 19, 1983
Washington:	
WA83–5110	June 3, 1983
Wisconsin:	
WI83–2068	Sept. 2, 1983

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Arkansas:	
AR83–4037 (AR83–4069)	May 13, 1983
California:	
CA 82–5118 (CA83–5118)	Aug. 20, 1982
CA 82–5122 (CA83–5119)	Sept. 3, 1982
Kentucky:	
KY 82–1053 (KY83–1061); KY82–1054 (KY 83–1063;.	Oct. 1, 1982
Oklahoma:	
OK 83–4011 (OK83–4067); OK83–4012 (OK83–4068).	Jan. 14, 1983

Signed in Washington, D.C. This 9th Day of September 1983.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

MODIFICATION P. 1

DECISION #AR83-4038-Mod.#2 48FR21775-May 13, 1983 GARLAND, CLARK AND HOT SPRINGS COUNTIES, ARKANSAS	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Asbestos workers	$15.78	2.27
Bricklayers-Stonemasons:		
Hot Springs County	12.10	.75
Sprinkler fitters	14.57	3.23
DECISION #AR83-4039-Mod.#2 48FR21774-May 13, 1983 UNION & OUACHITA COUNTIES, ARKANSAS		
CHANGE:		
Asbestos workers	15.78	2.27
Sprinkler fitters	14.57	3.23
DECISION #AR83-4049-Mod.#3 48FR32450-July 15, 1983 SEBASTIAN, CRAWFORD AND WASHINGTON COUNTIES, ARKANSAS		
CHANGE:		
SEBASTIAN & CRAWFORD COS.:		
Asbestos workers	15.78	2.27
Bricklayers-Stonemasons	12.00	.69
Plumbers-Steamfitters	13.56	1.34
Sprinkler fitters	14.57	3.23

DECISION NO. NY83-3043 - MOD. #3 (48 FR 37801 August 19, 1983) Broome & Chenango Counties, New York	Basic Hourly Rates	Fringe Benefits
OMIT:		
Plumbers & Steamfitters		
Total project cost over $500,000	14.87	2.13
Total project cost under $500,000	11.41	2.13
ADD:		
Plumbers & Steamfitters	14.78	2.13

DECISION NO. OH83-2013 Mod # 5 (48 FR 8230 - February 25, 1983) Ashtabula, Cuyahoga, Lake, Lorain, Portage, Stark, & Summit Cos., Ohio	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ELECTRICIANS:		
Starke County:		
Residential Electricians (Applies to all units built primarily for family residence, not to exceed four (4) units, whether or not under the same roof and not exceeding two (2) stories, with the exception of a single family residence, which may be more than two stories)	$12.19	3.3% + 2.30
Building & All Other Residential Electricians	17.59	10.8% + 2.85

DECISION NO. PA81-3066 MOD. NO. 9 (46 FR 52082 - October 23, 1981) Cumberland, Dauphin, Perry, Juniata, New Cumberland Depot, in York County, Pennsylvania	Basic Hourly Rates	Fringe Benefits
CHANGE:		
LABORERS:		
Group 1	$10.15	1.43
Group 2	10.62	1.43
Group 3	9.55	1.43
Group 4	11.02	1.43

MODIFICATION P. 2

DECISION NO. PA81-3073 - Mod. #6 (46 FR 48853 - October 2, 1981) Northumberland County, Pennsylvania	Basic Hourly Rates	Fringe Benefits
Change:		
Laborers:		
South of Susquehanna River:		
Group 4	$11.02	$1.43
DECISION NO. PA82-3007 - Mod. #14 (47 FR 8529 - February 26, 1982) Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties, Pennsylvania		
Change:		
Bricklayers:		
Other work:		
Zone 3	$15.02	$3.47

DECISION NO. RI83-3042 MOD. NO. 2 (48 FR 37809 - August 19, 1983) Statewide, Rhode Island	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BUILDING CONSTRUCTION:		
Elevator Constructors	$17.464	3.00 +a+b
Elevator Constructors Helpers	70%JR	3.00 +a+b
HEAVY & HIGHWAY CONSTRUCTION:		
MARINE DIVERS	24.00	3.55

DECISION NO. WA83-5110- Mod #5 (48 FR 25108 - June 3, 1983) Statewide Washington	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BRICKLAYERS; MARBLE SETTERS:		
Area 1	$16.13	$3.66
Area 6	16.76	3.26
Area 7	17.93	3.50
CARPENTERS:		
Area 3:		
Acoustical and Drywall Applicator, Automatic Nailing Machine, Carpenters, Form Strippers, Manhole Builders	16.96	3.27
Floor Layers and Finishers, Stationary Power Saw Operator	17.11	3.27
Millwright & Machine Erector	17.21	3.27
Certified Welders	17.36	3.27
Piledriverman; Bridge, Dock, and Wharf Builders	17.06	3.27
Boomman	17.16	3.27
ELEVATOR CONSTRUCTOR MECHANICS:		
Area 1	19.735	a+3.00
GLAZIERS		
Area 6	13.06	2.63
SHEET METAL WORKERS:		
Area 3	18.39	3.56
TERRAZZO WORKERS; TILE SETTERS:		
Area 6	16.76	3.26
Area 7	16.86	3.43

DECISION NO. WI83-2068 - MOD. #1 (48 FR 40096 September 2, 1983) Milwaukee, Ozaukee, Waukesha, & Washington Counties, Wisconsin	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Sheetmetal Workers:		
Building	15.38	4.63
ADD:		
Residental	11.54	4.63

SUPERSEDEAS DECISION

STATE: ARKANSAS
DECISION NO. AR83-4069
SUPERSEDES DECISION NO. AR83-4037 dated May 13, 1983 in 48FR21773
DESCRIPTION OF WORK: Building Projects (excluding single family homes and apartments up to and including four stories).

COUNTY: PULASKI AND JEFFERSON
DATE: Date of Publication

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$15.78	2.27
BOILERMAKERS	16.60	2.415
BRICKLAYERS-STONEMASONS	12.00	1.54
CARPENTERS:		
Carpenters	12.15	1.46
Millwrights-Piledrivermen	12.65	1.46
CEMENT MASONS	12.85	.64
ELECTRICIANS:		
Electricians	14.70	3%%+2.35
Cable splicers	14.82	3%%+2.35
ELEVATOR CONSTRUCTORS:		
Journeymen	13.19	2.69+A
Helpers	70%JR	2.69+A
Probationary helpers	50%JR	
GLAZIERS	9.70	.50
IRONWORKERS	13.20	2.21
LABORERS:		
Group I	8.55	1.45
Group II	8.80	1.45
Group III	8.95	1.45
Group IV	9.05	1.45
Group V	9.20	1.45
Group VI	9.45	1.45
Group VII	9.35	1.45
LINE CONSTRUCTION:		
Linemen-Operators	15.20	B
Cable splicers	15.325	B
Groundmen	65%JR	B
Winch equipment B - 3-3/8% + 1.85	73%JR	B
MARBLE, TILE & TERRAZZO WORKERS	11.35	.80
PAINTERS:		
Painters, paperhangers, steam cleaners, sheetrock finishers and wall cover hangers	11.00	.63
Spray gun operators and sandblasterers	11.60	.63
All skeleton steel and all work on stage, structural steel over 30 feet high	11.25	.63
PLASTERERS	12.85	.64
ROOFERS	11.91	.30
SPRINKLER FITTERS	14.97	3.23
POWER EQUIPMENT OPERATORS:		
Group I	13.63	1.40
Group II	12.34	1.40
Group III	11.76	1.40
Group IV	9.67	1.40
PLUMBERS-PIPEFITTERS: (Including the setting and erecting of all piping in heating-ventilating and air conditioning systems):		
Jefferson County	$14.67	1.98
Pulaski County:		
Within 10 miles radius of Pulaski County Courthouse	14.30	2.05
Over 10 miles from Pulaski County CH	14.60	2.05
SHEET METAL WORKERS: (Including the installation, dismantling, conditioning, adjustment, alteration, repairing & servicing of all air-veyor and air handling systems, testing and balancing of all air handling equipment and duct work)	14.08	3%+1.93

FOOTNOTES:
A. 6 mos. to 5 yrs. - 6%; over 5 yrs. 8% of basic hourly rate; plus seven paid holidays.

PAID HOLIDAYS:
New Years Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving and Christmas Day.

WELDERS--receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii).

DECISION NO. AR83-4069 Page 2

LABORERS CLASSIFICATION DEFINITIONS

GROUP I - Construction laborer-concrete, wrecking, carpenters, drywall, mechanics, excavating, plumbers and electricians laborers, green cutter, blow pipe, and crete pump hose placer

GROUP II - Semi-skilled labor - pipelayers, concrete, clay and mechanical tool, cement mixer, wet or dry finishers and plasterers, mason tenders, mortar mixers, asphalt rakers and shovelers, creosote wood handlers, chuck tender

GROUP III - Skilled "A" - Steelform setters, curb and gutters, grout and cement mixers

GROUP IV - Skilled "B" - Swinging scaffold, barco, 90lb pavement breakers and burners

GROUP V - Nozzlemen (gunite, grout, and sandblasters); concrete pump (nozzel placer)

GROUP VI - Powderman and blaster GROUP VII - Wagon drill

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I - Cranes, draglines, shovels and piledrivers with a lifting capacity of 50 tons or over, and operators of all towers, climbing cranes, and derricks required to work 25 feet or over from the ground, blacksmith, mechanics

GROUP II - Hydraulic cranes, cherry pickers, backhoes and all derricks with a lifting capacity less than 50 tons, as specified by the manufacturers, all backhoes, tractor or truck type, all overhead and traveling cranes, or tractors with swinging boom attachments, gradalls, all above equipment irrespective of motive power, leverman (engineer), hydraulic or bucket dredges, irrespective of size

GROUP III - HEAVY EQUIPMENT OPERATORS: All bulldozers, all front end loaders, all sidebooms, skytracks, all push tractors, all pull scrapers, all motor graders, all trenching machines, regardless of size or motive power, all back fillers, central mixing plants, 10S and larger, finishing machines, all boiler firemen high or low pressure, all asphalt spreaders, hydro truck crane, multiple drum hoist, irrespective of motive power, all rotary, cable tool core drill or churn drill, water well and foundation drilling machines, regardless of size, regardless of motive power and dredge tender operator

GROUP IV - LIGHT EQUIPMENT OPERATORS: Oilerdriver motor crane, single drum hoists, winches and air tuggers, irrespective of motive power; winch or A-frame trucks, fork lifts, rollers of all types and pull tractors, regardless of size, elevator operators inside and outside when used for carrying workmen from floor to floor and handling building material. Lad-A-Vator, conveyor, batch plant, and mortar or concrete mixers, below 10S, and dump Euclid, pumpcrete, spray machine and pressure grout machine, air compressors, regardless of size, all equipment, welding machines light plants, pumps, all well point system de-watering and protable pumps, space heater, irrespective of size, and motive power, equipment greaser, oiler, asphalt distributor, and like equipment, safety boat operator and deckhand.

WELDERS--receive rate prescribed for craft performing operation to which welding is incidental.

UNLISTED classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii).

SUPERSEDEAS DECISION

DECISION NO. AR83-4118

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$15.78	2.27
BOILERMAKERS	16.60	2.415
BRICKLAYERS-STONEMASONS	12.00	1.54
CARPENTERS:		
Carpenters	12.15	1.46
Millwrights-Piledrivermen	12.65	1.46
CEMENT MASONS	12.85	.64
ELECTRICIANS:		
Electricians	14.70	3%%+2.35
Cable splicers	14.82	3%%+2.35
ELEVATOR CONSTRUCTORS:		
Journeymen	13.19	2.69+A
Helpers	70%JR	2.69+A
Probationary helpers	50%JR	
GLAZIERS	9.70	.50
IRONWORKERS	13.20	2.21
LABORERS:		
Group I	8.55	1.45
Group II	8.80	1.45
Group III	8.95	1.45
Group IV	9.05	1.45
Group V	9.20	1.45
Group VI	9.45	1.45
Group VII	9.35	1.45
LINE CONSTRUCTION:		
Linemen-Operators	15.20	B
Cable splicers	15.325	B
Groundmen	65%JR	B
Winch equipment B - 3-3/8% + 1.85	73%JR	B
MARBLE, TILE & TERRAZZO WORKERS	11.35	.80
PAINTERS:		
Painters, paperhangers, steam cleaners, sheetrock finishers and wall cover hangers	11.00	.63
Spray gun operators and sandblasterers	11.60	.63
All skeleton steel and all work on stage, structural steel over 30 feet high	11.25	.63
PLASTERERS	12.85	.64
ROOFERS	11.91	.30
SPRINKLER FITTERS	14.97	3.23
POWER EQUIPMENT OPERATORS:		
Group I	13.63	1.40
Group II	12.34	1.40
Group III	11.76	1.40
Group IV	9.67	1.40
PLUMBERS-PIPEFITTERS: (Including the setting and erecting of all piping in heating-ventilating and air conditioning systems):		
Jefferson County	$14.67	1.98
Pulaski County:		
Within 10 miles radius of Pulaski County Courthouse	14.30	2.05
Over 10 miles from Pulaski County CH	14.60	2.05
SHEET METAL WORKERS: (Including the installation, dismantling, conditioning, adjustment, alteration, repairing & servicing of all air-veyor and air handling systems, testing and balancing of all air handling equipment and duct work)	14.08	3%+1.93

SUPERSEDEAS DECISION

STATE: CALIFORNIA

COUNTIES: Imperial, Inyo, Kern, Los Angeles, Mono, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara, and Ventura

DECISION NUMBER: CA83-5118

DATE: Date of Publication

Supersedes Decision No. CA82-5118 dated August 20, 1982 in 47 FR 36513

DESCRIPTION OF WORK: Building; Heavy (excluding Water Well Drilling); and Highway Projects; and Residential Projects (excluding Inyo and Mono Counties California); and Dredging

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$21.29	$3.88
BOILERMAKERS	21.39	3.96
BRICKLAYERS; STONEMASONS:		
Area 1	19.09	3.59
Area 2	17.19	4.11
Area 3	20.50	3.52
Area 4	17.65	4.00
Area 5	17.40	4.56
Area 6	17.72	4.46
Area 7	20.75	2.97
BRICK TENDERS	13.47	7.28
CARPENTERS:		
Area 1:		
Carpenters; Cabinet Installers; Insulation Installers	18.29	6.52
Saw Filers	18.37	6.53
Table Power Saw Operator	18.39	6.53
Shinglers; Bridge or Dock Carpenters; Derrick Bargeman and Rockslinger	18.42	6.53
Hardwood Floor Layer and Acoustical Installer	18.49	6.53
Pneumatic Nailer or Power Stapler	18.54	6.53
Piledrivermen	18.57	6.53
Millwrights	18.79	6.53
Wood Fence Builder (Residential)	12.70	6.53
Area 2:		
Carpenters; Cabinet Installers; Insulation Installers	16.29	6.53
Saw Filers	16.37	6.53
Table Power Saw Operator	16.39	6.53
Shinglers, Bridge or Dock Carpenters; Derrick Bargeman and Rockslinger	16.42	6.53
CARPENTERS: (Cont'd)		
Area 2: (Cont'd)		
Hardwood Floor Layer and Acoustical Installer	$16.49	$6.53
Pneumatic Nailer or Power Stapler	16.54	6.53
Piledrivermen	16.57	6.53
Millwrights	16.79	6.53
Wood Fence Builder (Residential)	10.70	6.53
CEMENT MASONS:		
Area 1:		
Cement Masons	18.56	6.35
Cement Floating and Troweling Machine Operators	18.81	6.35
Area 2:		
Cement Masons	16.56	6.35
Cement Floating and Troweling Machine Operators	16.81	6.35
DRYWALL INSTALLERS/ LATHERS	18.06	6.56
DIVERS:		
Diver, Wet	37.84	6.53
Diver, Stand-by	18.92	6.53
Diver, Tender	17.92	6.53
ELECTRICIANS:		
Area 1:		
Electricians	22.15	3.78+ 3%
Cable Splicers	22.60	3.78+ 3%
Sound Installers	16.47	1.46+ 3%
Utility Technicians	16.50	0.47+ 3%
Area 2:		
Electricians	20.15	4.55+ 3%

DECISION NO. CA83-5118	Basic Hourly Rates	Fringe Benefits
ELECTRICIANS: (Cont'd)		
Area 2: (Cont'd)		
Cable Splicers	$22.17	$4.55+ 3%
Residential Electricians	11.40	2.00+ 3%
Area 3:		
Electricians	22.97	4.62+ 3%
Cable Splicers	23.57	4.62+ 3%
Sound Techniciana	16.95	2.25+ 3%
Area 4:		
Electricians	22.88	3.55+ 3%
Cable Splicers	23.93	3.55+ 3%
Area 5:		
Electricians	21.79	4.13+ 3%
Cable Splicers	22.29	4.13+ 3%
Area 6:		
Electricians	20.80	5.10+ 3%
Cable Splicers	21.30	5.10+ 3%
Area 7:		
Electricians	21.73	3.36+ 3%
Cable Splicers	23.90	3.36+ 3%
Residential Electricians	10.90	3.36+ 3%
Area 8:		
Electricians	22.20	3.18+ 3%
Cable Splicers	23.70	3.18+ 3%
Area 9:		
Electricians	23.11	4.47+ 3%
Cable Splicers	25.42	4.47+ 3%
Area 10:		
Electricians	25.70	3.18+ 3%
Cable Splicers	27.20	3.18+ 3%
Area 11:		
Electricians	23.90	4.55+ 3%
Cable Splicers	25.92	4.55+ 3%

Page 2

	Basic Hourly Rates	Fringe Benefits
ELECTRICIANS: (Cont'd)		
Area 11: (Cont'd)		
Residential Electrician	$12.40	$2.00+ 3%
ELEVATOR CONSTRUCTORS:		
Area 1:		
Mechanics	22.24	2.69+a
Helpers	15.57	2.69+a
Probationary Helpers	11.12	
Area 2:		
Mechanics	28.35	3.00+a
Helpers	19.845	3.00+a
Probationary Helpers	14.175	
GLAZIERS:		
Area 1	17.62	5.03
Area 2	17.87	3.15
IRONWORKERS:		
Fence Erectors	16.41	8.53
Structural, Ornamental, Reinforcing	17.30	8.53
IRRIGATION and LAWN SPRINKLERS	15.00	39%
LINE CONSTRUCTION:		
Area 1:		
Groundman	16.37	3.65+ 4%
Lineman	21.26	3.65+ 4%
Cable Splicers	21.56	3.65+ 4%
Area 2:		
Groundman	15.11	4.40+ 4%
Lineman	20.15	4.40+ 4%
Cable Splicers	22.17	4.40+ 4%
Area 3:		
Groundman	14.73	2.28+ 3%
Lineman; Equipment Operators	18.09	2.28+ 3%
Area 4:		
Lineman	19.32	4.47+ 3%
Area 5:		
Lineman	18.22	4.70+ 3%
Area 6:		
Groundman	13.17	3.78+ 3%
Lineman; Equipment Operators	17.56	3.78+ 3%

DECISION NO. CA83-5118	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION: (Cont'd)		
Area 7:		
Groundman	$16.30	$3.33+3%
Lineman; Equipment Operators	21.73	3.33+3%
Cable Splicers	23.90	3.33+3%
Area 8:		
Groundman	17.69	4.47+3%
Lineman; Equipment Operators	23.11	4.47+3%
Cable Splicers	25.42	4.47+3%
Area 9:		
Groundman	20.15	3.15+4%
Lineman; Equipment Operators	25.70	3.15+4%
Cable Splicers	27.30	3.15+4%
Area 10:		
Groundman	18.86	4.40+4%
Lineman	23.90	4.40+4%
Cable Splicers	25.92	4.40+4%
Area 11:		
Groundman	16.65	3.15+4%
Lineman; Equipment Operators	22.20	3.15+4%
Cable Splicers	23.70	3.15+4%
MARBLE SETTERS:		
Area 1	14.89	5.96
Area 2	18.50	2.95
MARBLE FINISHERS:		
Area 1	14.14	3.30
PAINTERS:		
Area 1:		
Brush; Painter Burners	18.37	4.67
Paperhangers	18.87	4.67

Page 3	Basic Hourly Rates	Fringe Benefits
PAINTERS: (Cont'd)		
Area 1: (Cont'd)		
Sandblaster; Iron, Steel and bridge (Swing Stage)	$19.37	$4.67
Sheet Rock Tapers	19.37	4.67
Brush (Swing Stage); Spray	18.62	4.67
Steeplejack	20.02	4.67
Area 2:		
Brush	18.27	4.68
Brush Painter, Structural Steel; Paint Burner	18.39	4.68
Swing Stage, under 13 Stories; Sandblaster; Pressure Roller Operator; Paperhanger	18.52	4.68
Swing Stage, over 13 stories	18.64	4.68
Paste Machine Operator	18.77	4.68
Spray Painter; Steeplejack	19.52	4.68
Taper	19.31	4.68
Area 3:		
Brush	13.70	3.82
Brush or Roller (Swing Stage); Paperhangers; Tapers (Sheet Rock)	14.20	3.82
Spray; Sandblaster	14.70	3.82
Steeplejack	14.70	3.82
Area 4:		
Brush; Pot Tender Paperhangers; Paste Machine Operators; Iron and Steel	18.48	3.61
Spray; Taper; Sandblaster	18.73	3.61
Sign Painter	18.98	3.61
Iron and Steel Spray Painter	19.13	3.61
Steeplejack	19.23	3.61
Drywall Taper and Spray Texture	19.48	3.61
Parking Lot Striping Work and/or Highway Markers:	19.81	3.61
Traffic Delineating Device Applicator	13.41	1.60+b

DECISION NO. CA83-5118	Basic Hourly Rates	Fringe Benefits
PAINTERS: (Cont'd)		
Parking Lot Striping Work and/or Highway Markers: (Cont'd)		
Wheel Stop Installer, Traffic Surface Sandblaster; Striper	$12.92	$1.60+b
Slurry Seal Operation:		
Mixer Operator	12.92	1.60+b
Squeegee Man; Applicator Operator and Shuttleman	11.45	1.60+b
Top Man	9.62	1.60+b
PLASTERERS:		
Area 1	18.59	4.905
Area 2	23.90	
Area 3	21.77	
Area 4	18.07	3.35
Area 5	19.62	5.17
Area 6:		
Plasterers	15.57	4.41
Nozzleman	15.69	4.41
PLASTERERS' TENDERS:		
Area 1	16.16	7.36
Area 2	12.75	6.10
Area 3	16.01	7.31
Area 4	14.14	7.16
Area 5	17.97	6.52
Area 6	16.25	6.10
PLUMBERS; STEAMFITTERS:		
Area 1	21.38	7.49
Area 2	18.14	5.53
Area 3	23.14	5.53
REFRIGERATION and AIR CONDITIONING:		
Area 1	19.88	7.85
ROOFERS:		
Area 1	14.54	5.16
Area 2	14.55	1.55
Area 3	16.20	4.00
Area 4	18.17	5.485
Area 5	17.055	2.435
SHEET METAL WORKERS:		
Area 1	20.35	4.16
Area 2	18.80	3.33
Area 3	18.12	3.82
Area 4	14.16	3.87
Area 5	20.08	4.28
Area 6	19.57	4.59
Area 7	23.80	3.33
SOFT FLOOR LAYERS:		
Area 1	18.45	3.94
Area 2	18.17	4.05
Area 3	15.57	3.49

Page 4	Basic Hourly Rates	Fringe Benefits
SPRINKLER FITTERS:		
Area 1	$21.87	$3.23
Area 2	22.39	2.57
TERRAZZO WORKERS:		
Area 1	18.50	2.95
Area 2	17.00	4.80
TILE SETTERS:		
Area 1	18.50	2.95
Area 2	20.03	3.51
Area 3	15.89	3.95
Area 4	18.00	4.20
Area 5	16.60	1.90
TILE FINISHERS:		
Area 1	13.73	3.71
Area 2	12.80	3.30
LABORERS:		
Area 1:		
Group 1	14.82	7.53
Group 2	14.97	7.53
Group 3	15.17	7.53
Group 4	15.47	7.53
Group 5	15.67	7.53
TUNNEL LABORERS:		
Group 1	16.73	7.16
Group 2	16.85	7.16
Group 3	17.01	7.16
Group 4	17.29	7.16
Area 2:		
Group 1	12.82	7.53
Group 2	12.97	7.53
Group 3	13.17	7.53
Group 4	13.47	7.53
Group 5	13.67	7.53
GUNNITE LABORERS:		
Group 1	15.31	7.16
Group 2	14.36	7.16
Group 3	13.10	7.16
TUNNEL LABORERS:		
Group 1	14.73	7.16
Group 2	14.85	7.16
Group 3	15.01	7.16
Group 4	15.29	7.16
RESIDENTIAL LABORERS:		
Areas 1 and 2:		
Cleanup; Landscaping; Fencing	8.00	7.53
All Other Residential Laborers	10.00	7.53

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS:		
DREDGING:		
(Hydraulic Suction Dredges):		
Leverman	$18.10	6.42
Watch Engineer; Welder; Deckmate	17.52	6.42
Winchman (Stern Winch or Dredge)	16.97	6.42
Bargeman; Deckhand; Fireman; Oiler; Leveehand	16.43	6.42
Dozer	17.63	6.42
(Clamshell Dredges):		
Leverman	18.10	6.42
Wateh Engineer; Deckmate	17.52	6.42
Barge Mate	17.04	6.42
Bargeman; Deckhand; Fireman; Oiler	16.43	6.42
POWER EQUIPMENT OPERATORS:		
Group 1	16.25*	6.42
Group 2	16.53*	6.42
Group 3	16.82*	6.42
Group 4	16.96*	6.42
Group 5	17.18*	6.42
Group 6	17.29*	6.42
Group 7	17.41*	6.42
Group 8	17.58*	6.42
Group 9	17.71*	6.42

*When the home of any employee is over 30 road miles from the center of the job or project on Vandenberg Air Force Base, a rate of $22.00 per scheduled work day shall be added to the base pay.

	Basic Hourly Rates	Fringe Benefits
TRUCK DRIVERS:		
Group 1	$16.48*	$4.61
Group 2	15.65*	4.61
Group 3	16.62*	4.61
Group 4	16.71*	4.61
Group 5	16.74*	4.61
Group 6	16.76*	4.61
Group 7	16.80*	4.61
Group 8	16.81*	4.61
Group 9	16.86*	4.61
Group 10	16.89*	4.61
Group 11	16.94*	4.61
Group 12	16.96*	4.61
Group 13	17.01*	4.61
Group 14	17.26*	4.61
Group 15	17.51*	4.61
Group 16	17.61*	4.61
Group 17	17.71*	4.61
Group 18	18.01*	4.16
Group 19	18.51*	4.16

*When the home of an employee is over 30 road miles from the center of the job or project on Vandenberg Air Force Base, a rate of $20.00 per scheduled work day shall be added to the Base Pay.

FOOTNOTES:

a. Employer contributes 8% of basic hourly rate for over 5 years' service and 6% of basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Six Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; and Christmas Day
b. Employer contributes $.23 per hour to Holiday Fund plus $.14 per hour to Vacation Fund for the first year of employment, 1 year but less than 5 years $.34 per hour to Vacation Fund, 5 years but less than 10 years $.44 per hour to Vacation Fund, over 10 years $.54 per hour to Vacation Fund.

AREA DESCRIPTIONS

BRICKLAYERS; STONEMASONS:
Area 1: Imperial County
Area 2: Inyo, Kern, and Mono Counties
Area 3: Los Angeles County
Area 4: Riverside and San Bernardino Counties
Area 5: Santa Barbara and San Luis Obispo Counties
Area 6: Ventura County
Area 7: Orange County

CARPENTERS:
Area 1: Camp Roberts, Edwards Air Force Base, Naval Ordnance Test Station, Point Arguello and Vandenberg Air Force Base
Area 2: Remaining Counties

CEMENT MASONS:
Area 1: Camp Roberts, Edwards Air Force Base, Naval Ordnance Test Station, Point Arguello and Vandenberg Air Force Base
Area 2: Remaining counties

DIVERS:*
Shall receive a minimum of 8 hours pay for any day or part thereof.

ELECTRICIANS:
Area 1: Imperial County
Area 2: Kern County (Remainder of County)
Area 3: Los Angeles County
Area 4: Orange County
Area 5: Riverside County
Area 6: Inyo, Mono, and San Bernardino Counties
Area 7: San Luis Obispo County
Area 8: Santa Barbara (Remainder of County)
Area 9: Ventura County
Area 10: Point Arguello and Vandenberg Air Force Base
Area 11: China Lake Naval Ordnance Test Station and Edwards Air Force Base

ELEVATOR CONSTRUCTORS:
Area 1: Imperial and Inyo Counties; Kern County (south of Tehachapi Range); Los Angeles, Mono, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara, and Ventura Counties
Area 2: Kern County (north of Tehachapi Range)

GLAZIERS:
Area 1: Los Angeles, Orange, Riverside, San Bernardino, Santa Barbara, San Luis Obispo, and Ventura Counties
Area 2: Imperial County

AREA DESCRIPTIONS (Cont'd)

IRONWORKERS:
Where the project is located 60 miles or more from the City Halls indicated below, the following amount shall be added to the Base Pay:
60 miles to 100 miles - $18.00 per day
100 miles and over - $24.00 per day

City Hall of San Francisco, Oakland, San Jose, Sacramento, Stockton, Fresno, Barkersfield, Eureka, Redding, Napa, Los Angeles, San Diego, San Bernardino, Ventura, and El Centro

LINE CONSTRUCTION:
Area 1: Imperial County
Area 2: Kern County (Remainder of County)
Area 3: Orange County
Area 4: Los Angeles County
Area 5: Inyo, Mono, and San Bernardino Counties
Area 6: Riverside County
Area 7: San Luis Obispo County
Area 8: Ventura County
Area 9: Point Arguello and Vandenberg Air Force Base
Area 10: China Lake Naval Ordnance Test Station and Edwards Air Force Base
Area 11: Santa Barbara (Remainder of County)

MARBLE SETTERS:
Area 1: Inyo and Mono Counties
Area 2: Imperial County

MARBLE FINISHERS:
Area 1: Imperial County

PAINTERS:
Area 1: Imperial, Orange, and Riverside Counties; Los Angeles County (Pomona Area); San Bernardino County (excluding western portion)
Area 2: Inyo County; Los Angeles County (except Pomona Area); Mono County; San Bernardino County (west of a line north of Trono including China Lake Area, Johannesburg, Boron, south including the Wrightwood Area); Kern County east of the Los Angeles Aqueduct)
Area 3: Kern County (except the portion lying east of the Los Angeles Aqueduct)
Area 4: San Luis Obispo, Santa Barbara, and Ventura Counties

PLASTERERS:
Area 1: Los Angeles and Orange Counties
Area 2: Imperial, Riverside, and San Bernardino Counties
Area 3: San Luis Obispo County
Area 4: Santa Barbara County
Area 5: Ventura County
Area 6: Kern, Inyo, and Mono Counties

PLASTERERS' TENDERS:
Area 1: Imperial, Inyo, Mono, Riverside, and San Bernardino Counties
Area 2: Kern County
Area 3: Los Angeles and Orange Counties
Area 4: San Luis Obispo and Santa Barbara Counties
Area 5: Ventura County

AREA DESCRIPTIONS (Cont'd)

PLASTERERS' TENDERS: (Cont'd)
Area 6: China Lake Naval Ordnance Test Station and Edwards Air Force Base

PLUMBERS; STEAMFITTERS:
Area 1: Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara, and Ventura Counties
Area 2: Inyo, Kern, and Mono Counties
Area 3: Edwards Air Force Base, Naval Weapons-Center and China Lake Naval Ordnance Test Center

REFRIGERATION and AIR CONDITIONING:
Area 1: Los Angeles and Orange Counties

ROOFERS:
Area 1: Imperial County
Area 2: Inyo, Kern, and Mono Counties
Area 3: Riverside and San Bernardino Counties
Area 4: Los Angeles, Orange, and Ventura Counties
Area 5: San Luis Obispo and Santa Barbara Counties

SHEET METAL WORKERS:
Area 1: Imperial County
Area 2: Kern County and all of Inyo and Mono Counties; Los Angeles County (that portion north of a straight line drawn between Gorman and Big Pines)
Area 3: Los Angeles County (Remaining portion)
Area 4: Orange County
Area 5: Riverside and San Bernardino Counties
Area 6: San Luis Obispo, Santa Barbara, and Ventura Counties
Area 7: Edwards Air Force Base and China Lake Naval Weapons Base

SOFT FLOOR LAYERS:
Area 1: Imperial County
Area 2: Los Angeles, Orange, Riverside, Santa Barbara, San Luis Obispo, San Bernardino, and Ventura Counties
Area 3: Kern, Inyo and Mono Counties

SPRINKLER FITTERS:
Area 1: Imperial, Inyo, Kern, and Mono Counties; Orange County (except Santa Ana); Riverside County, San Bernardino County (except Ontario); San Luis Obispo, Santa Barbara and Ventura Counties
Area 2: Los Angeles City and area within 25 miles and Pomona Area; Orange County (Santa Ana); San Bernardino County (Ontario); and Ventura County (Santa Paula, Point Mugu and Port Hueneme)

TERRAZZO WORKERS:
Area 1: Imperial County
Area 2: Remaining Counties

TILE SETTERS:
Area 1: Imperial County
Area 2: Los Angeles, Orange, and Venture Counties
Area 3: San Luis Obispo and Santa Barbara Counties
Area 4: Riverside and San Bernardino Counties
Area 5: Inyo, Kern, and Mono Counties

AREA DESCRIPTIONS (Cont'd)

TILE FINISHERS:
Area 1: Los Angeles, Orange, Riverside, San Bernardino, and Ventura Counties
Area 2: Kern, Inyo, and Mono Counties

LABORERS:
Area 1: Point Arguello, Camp Roberts, Edwards Air Force Base, Naval Ordnance Test Center, Vandenberg Air Force Base
Area 2: Remainder of Counties

LABORERS
AREAS 1 and 2

Group 1: Cleaning and Handling of Panels Forms; Concrete Screeding for rough strike-off; Concrete, water curing; Demolition Laborer, the cleaning of brick and lumber; Dry packing of concrete, plugging, filling of Shee-bolt Holes; Fire Watcher, Limber, Brush Loaders, Pilers and Debris Handlers; Gas, oil and/or water pipeline Laborer; Laborer, general or construction; Laborer, general cleanup; Laborer, landscaping; Laborer, jetting, temporary water and air lines; Material Hoseman (walls, slabs, floors, and decks); Rigging and Signaling; Scaler; Slip Form Raisers; Slurry Seal Crews (Mixer Operator, Applicator Operator, Squeegee Man, Shuttle Man, Top Man); Striper, Concrete or other paved surfaces; Tarman and Mortar Man; Tool Crib or Tool House Laborer; Traffid Delineating; Device Applicator; Window Cleaner; Wire Mesh, pulling all concrete pouring operations

Group 2: Asphalt Shoveler; Cement Dumper (on 1 yard or larger Mixer and handling bulk cement); Cesspool Digger and Installer, Chucktender; Chute Man, pouring concrete, the handling of the Chute from Ready Mix Trucks, such as walls, slabs, decks, floors, foundations, footings, curb, gutters, and sidewalks; Concrete Curer, Impervious Membrane and Form Oiler; Cutting Torch Operator (demolition); Fine Grader, highways and street paving, airport, runways, and similar type heavy construction; Gas, oil and/or water Pipeline Wrapper; Pot Tender and Form Man; Guinea Chaser; Headerboard Man, asphalt; Laborer, packing rod steel and pans; Power Broom Sweepers (small); Riprap Stonepaver, placing stone or wet sacked concrete; Roto Scraper and Tiller; Sandblaster (Pot Tender); Septic Tank Digger and Installer (Leadman); Tank Scaler and Cleaner; Tree Climber, Faller, Chain Saw Operator, Pittsburgh Chipper and similar type Brush Shredders; Underground Laborer, including Caisson Bellower

LABORERS (Cont'd)
AREAS 1 and 2 (Cont'd)

Group 3: Asphalt Raker, Luteman, Ironer and Asphalt Spreader Boxes (all types); Buggymobile Man; Concrete Core Cutter, Grinder or Sander; Concrete Cutting Torch; Concrete Saw Man, cutting, scouring old or new concrete; Driller, Jackhammer, 2½ ft. drill steel or longer; Dri Pak-it Machine; Gas, oil and/or water Pipeline Wrapper, 6" pipe and over, by any method, inside and out; Hydro Seeder and similar type; Impact Wrench Multi-plate; Kettlemen, Potmen and Men applying asphalt, Lay-kold, creosote, lime caustic and similar type materials ("applying" means applying, dipping, brushing or handling of such materials for pipe wrapping and waterproofing); Operators or pneumatic, gas, electric tools; Vibrating Machines, Pavement Breakers, Air Blasting, Come-alongs, and similar mechanical tools not separately classified herein; Pipelayer's Backup Man, coating, grouting, making of joints, sealing, caulking, diapering and including Rubber Gasket Joints, pointing and any and all other services; Rock Slinger; Rotary Scarifier or Multiple Head Concrete Chipping Scarifier; Steel Headerboard Man and Guideline Setter; Tampers; Barko, Wacker, and similar type; Trenching Machine, hand propelled

Group 4: Cribber, Shorer, Lagging, Sheeting and Trench Bracing, hand-guided Lagging Hammer; Head Rock Slinger; Laser Beam; Over-size Concrete Vibrator Operator, 70 lbs. and over; Pipelayer, including water, sewage, solid, gas or air; Prefabricated Manhole Installer; Sandblaster (Nozzleman), water blasting; Welding in connection with Laborers' work

Group 5: Blaster Powderman, all work of loading holes, placing and blasting of all powder and explosives of whatever type, regardless of method used for such loading and placing; Driller; All power drills, excluding Jackhammer, whether Core, Diamond, Wagon, Track, Multiple Unit, and any and all types of mechanical drills

GUNNITE

Group 1: Nozzlemen and Rodmen

Group 2: Gunmen

Group 3: Reboundmen

TUNNEL

Group 1: Batch Plant Laborers; Bull Gang Mucker, Trackman; Concrete Crew, including Rodders and Spreaders; Changehouseman; Dumpman; Dumpman (outside); Swamper (Brakeman and Switchman on tunnel work); Tunnel materials handling Man; Tool Man

Group 2: Cable Tender; Chuck Tender; Nipper; Steel Form Raiser and Setter's Tender; Vibratorman, Jackhammer, pneumatic tools (except Driller); Loading and unloading Agitator Cars; Pot Tender, using mastic or other materials

LABORERS (Cont'd)
TUNNEL (Cont'd)

Group 3: Blaster, Driller, Powderman; Chemical Grout Jetman; Cherry Pickerman; Grout Gunman; Grout Mixerman; Grout Pumpman; Jackleg Miner; Jumbo Man; Kemper and other pneumatic concrete Placer Operator; Miner, tunnel (hand or machine); Powderman (Primer HOuse); Primer Man; Shotcrete Man; Steel Form Raiser and Setter; Timberman; Retimber (wood or steel); Tunnel Concrete Finisher; Nozzleman; Operating Troweling and/or Grouting Machine; Sandblaster

Group 4: Shaft, Raise Miner; Diamond Driller

POWER EQUIPMENT OPERATORS

Group 1: Brakeman; Compressor (less than 600 C.F.M.); Engineer Oiler; Generator; Heavy Duty Repairman; Tender; Pump; Signalman; Switchman

Group 2: Compressor (600 C.F.M. or larger); Concrete Mixer, Skip type, Conveyor; Fireman; Hydrostatic Pump; Oiler Crusher (asphalt or concrete plant); Plant Operator; Generator, Pump or compressor; Rotary Drill Helper (Oilfield); Skiploader, wheel type up to 3/4 yard without attachments; Soils Field Technician; Tar Pot Fireman; Temporary Heating Plant; Trenching Machine Oiler; Truck Crane Oiler

Group 3: A-Frame or Winch Truck; Elevator Operator (inside); Equipment Greaser (rack); Ford Ferguson (with dragtype attachments); Helicopter Radioman (ground); Power Concrete Curing Machine; Power Concrete Saw; Power driven Jumbo Form Setter; Ross Carrier (job site); Stationary Pipe Wrapping and Cleaning Machine

Group 4: Asphalt Plant Fireman; Boring Machine; Boxman or Mixerman (apshalt or concrete); Chip Spreading Machine; Concrete Pump (small portable); Bridge type Unloader and Turntable; Dinkey Locomotive or Motorman (up to and including 10 tons); Equipment Greaser (Greaser Truck); Helicopter Hoist; Highline Cableway Signalman; Hydra-Hammer-Areo Stomper; Power Sweeper; Roller (compacting); Screed (asphalt or concrete); Trenching Machine (up to 6 feet)

Group 5: Asphalt Plant Engineer; Backhoe (up to and including 3/4 yard); Batch Plant; Bit Sharpener; Concrete Joint Machine (canal and similar type); Concrete Planer; Deck Engine; Derrick Man (Oilfield type); Drilling Machine Operator (including water wells); Forklift (under 5 ton capacity); Hydrographic Seeder Machine (straw, pulp or seed); Machine Tool Operator; Maginnis Internal Full Slab Vibrator; Mechanic Berm, Curb or Gutter (asphalt or concrete); Mechanical Finisher (concrete-Clary, Johnson, Bidwell, or similar); Pavement Breaker (truck mounted); Road Oil Mixing Machine; Roller (asphalt or finish); Rubber-tired Earth Moving Equipment (single engine, up to and including 25 yards struck); Self-propelled Tar Pipelining Machine; Slip Form Pump (power driven hydraulic lifting device for concrete forms); Skip-loader (Crawler and wheel type, over 3/4 yard and up to and including 1½ yards); Stinger Crane (Austin-Western or similar type); Tractor, Bulldozer, Tamper Scraper (single engine, up to 100 HP, flywheel and similar types, up to and including D-5 and similar types); Tugger Hoist, 1 drum; Tunne' Locomotive (over 10 tons up to and including 30 tons); Welder-general

POWER EQUIPMENT OPERATORS (Cont'd)

Group 6: Asphalt or Concrete Spreading (tamping or finishing); Asphalt Paving Machine (Barber Greene or similar type); Bridge Crane Operator; Cast-in-place Pipe Laying Machine; Combination Mixer and Compressor, (Gunite work); Compactor, self-propelled; Concrete Mixer - paving; Concrete Pump (truck mounted); Crane Operator up to and including 25 ton capacity) (Long-boom pay applicable); Crushing Plant; Drill Doctor; Elevating Grader; Forklift (over 5 tons); Grade Checker; Grade-all; Grouting Machine; Heading Shield; Heavy Duty Repairman; Hoist Operator (Chicago Boom and similar type); Kolman Belt Loader and similar type; LeTourneau Blob Compactor or similar type; Lift Mobile; Lift Slab Machine (Vagtborg and similar types); Loader (Athey, Euclid, Sierra and similar type); Material Hoist, Mucking Machine (1/4 yard rubber tired, rail or track or similar type); Pneumatic Heading Shield (tunnel); Pumpcrete Gun; Rotary Drill (excluding Caisson type); Rubber-tired Earth Moving Equipment (single engine, Caterpillar, Euclid, Athey, Wagon and similar types with any and all attachments, over 25 yards struck); Rubber-tired Scraper (self-loading paddle wheel type, John Deere, 1040 and similar single unit); Skip-loader (Crawler and wheel type, over 1¼ yds., up to and including 6¼ yds.); Surface Heaters and Planer; Trenching Machine (over 6 ft. depth capacity); Tower Crane; Tractor Compressor Drill Combination; Tractor (any type larger than D-5-100 flywheel HP and over, or similar); Bulldozer, Tamper, Scraper and Push Tractor (single engine); Tractor (boot attachments); Traveling Pipe Wrapping, Cleaning and Bending Machine; Tunnel Locomotive (over 30 tons); Shovel, Backhoe, Dragline, Clamshell (over 3/4 yd. and up to 5 cu. yds. M.R.C.) (Long-boom pay applicable); Self-propelled Curb and Gutter Machine

Group 7: Crane, over 25 ton up to and including 100 tons M.R.C. (Long boom pay applicable); Derrick Barge (Long boom pay applicable); Dual Drum Mixer; Heavy Duty Repairman, Welder combination; Hoist, Stiff-legs, Guy Derrick or similar type, up to and including 100 tons (Long boom pay applicable); Monorail Locomotive (diesel, gas or electric); Motor Patrol-blade Operator (single engine); Multiple Engine Tractor (Euclid and similar type, except Quad 9 Cat); Rubber-tired Earth Moving Equipment (single engine, over 50 yds. struck); Rubber-tired Earth Moving Equipment (multiple engine, Euclid, Caterpillar and similar) (over 25 yards and up to 5 cu. yds. struck); Shovel, Backhoe, Dragline, Clamshell (over 5 cu. yds. M.R.C.) (Long boom pay applicable); Tower Crane Repairman; Tractor Loader (Crawler and wheel type, over 6¼ yards); Welder, certified; Woods Mixer and similar Pugmill Equipment

41700 Federal Register / Vol. 48, No. 181 / Friday, September 16, 1983 / Notices

POWER EQUIPMENT OPERATORS (Cont'd)

Group 8: Auto Grader; Automatic Slip Form; Crane-over 100 tons (Long-boom pay applicable); Hoist, Stiff Legs, Guy Derrick or similar types (capable of hoisting 100 tons or more) (Long boom pay applicable); Mass Excavator, less than 750 cu. yds.; Mechanical Finishing Machine; Mobile Form Traveler; Motor Patrol, multi-engine; Pipe Mobile Machine; Rubber-tired Earth Moving Equipment (multiple engine, Euclid, Caterpillar and similar type, over 50 cu. yds. struck); Rubber-tired Self-loading Scraper (paddle wheel, auger type self-loading, 2 or more units); Rubber-tired Scraper, pushing one another without Push Cat. Push-pull (50¢ per hour additional to base rate); Tandem Equipment (2 units only); Tandem Tractor (Quad 9 or similar type); Tunnel Mole Boring Machine

Group 9: Canal Liner; Canal Trimmer; Helicopter Pilot; Highline Cableway; Remote Controlled Earth Moving Equipment ($1.00 per hour additional to base rate); Wheel Excavator (over 750 cu. yds.)

TRUCK DRIVERS

Group 1: Warehouseman and Teamster

Group 2: Driver of vehicle or combinations of vehicles of 2 axles (including all vehicles less than 6 tons); Traffic Control Pilot Car, excluding moving heavy equipment permit load

Group 3: Truck mounted power Broom

Group 4: Drivers of vehicles or combination of vehicles of 3 axles

Group 5: Bootman; Cement Distributor; Fuel Truck; Road Oil Spreader Truck; Water Truck, 2 axle

Group 6: Dump, or less than 16 yards

Group 7: Transit-mix, under 3 yards, Dumpcrete, less than 6½ yards

Group 8: Truck Repairman Helper

Group 9: Water Truck, 3 or more axles

TRUCK DRIVERS (Cont'd)

Group 10: PB and similar type truck when performing within the Teamsters' jurisdiction; Pipeline and Utility working Truck including Winch, but limited to truck applicable to Pipeline and Utility work, where a composite crew is used; Slurry Driver; Truck Greaser and Tireman (50¢ per hour addition for Tireman)

Group 11: Transit-Mix, 3 yards or more; Dumporete, 6½ yards and over

Group 12: Driver or vehicle or combination of vehicles of 4 or more axles

Group 13: Dump, 16 yards but less than 25 yards

Group 14: A-Frame or Swedish Crane, or similar type of equipment Driver; Fork Lift Driver; Ross Carrier, highway

Group 15: All off-highway equipment within Teamsters' jurisdiction (off highway combination of vehicles or equipment with multiple power sources, $1.00 per hour additional); Dump, 25 yds. or more; Truck Repairman

Group 16: Truck Repairman Welder

Group 17: Low Bed Driver, 9 axle or over

Group 18: Water Pull, single engine with attachments

Group 19: Water Pull, twin engine with attachments

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: California
DECISION NUMBER: CA83-5119
COUNTY: San Diego
DATE: Date of Publication
Supersedes Decision No. CA82-5122 dated September 3, 1982, in 47 FR 39075
DESCRIPTION OF WORK: Building Projects (including Residential Projects consisting of single family homes and apartments up to and including 4 stories); Heavy Projects (excluding Water Water Drilling); Highway Projects and Dredging

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$21.29	$3.88
BOILERMAKERS	21.39	3.96
BRICKLAYERS; STONEMASONS	19.09	3.59
BRICK, BLOCK and STONEMASONS' TENDERS	15.42	4.54
CARPENTERS:		
Carpenters	18.56	3.89
Piledriver	18.81	3.89
Millwrights; Pneumatic Nailer; Hardwood Floorlayers	19.16	3.89
CEMENT MASONS:		
Cement Masons	14.66	6.87
Color Work; Composition, Mastic or Epoxy; Finishing Machine; Curb Machine	14.96	6.87
DIVERS:		
Diver	42.17	3.89
Stand-by Divers	21.06	3.89
Tender	20.06	3.89
DRYWALL INSTALLERS/ LATHERS	19.90	3.23
DRYWALL FINISHERS	15.31	3.48
ELECTRICIANS:		
Electricians	22.15	3.78+ 3%
Cable Splicers	22.60	3.78+ 3%
Utility Technician	16.50	0.47+ 3%
Sound Installers	16.47	1.46+ 3%
ELEVATOR CONSTRUCTORS:		
Mechanics	22.24	2.69+ a
Helpers	15.57	2.69+ a
Probationary Helpers	11.12	
GLAZIERS	17.87	3.15
IRONWORKERS:		
Fence Erectors	$16.41	$8.53
Reinforcing; Ornamental; Structural	17.30	8.53
IRRIGATION and LAWN SPRINKLERS	15.00	398
LINE CONSTRUCTION:		
Groundman	16.83	3.65+ 4%
Lineman	21.86	3.65+ 4%
Cable Splicers	22.16	3.65+ 4%
PAINTERS:		
Brush, Paint Burner	18.37	4.67
Brush (swing stage), Spray	18.62	4.67
Paperhangers, Spray (swing stage)	18.87	4.67
Sandblaster (swing stage); Iron, steel and bridge painters (swing stage); Iron, steel and bridge painter, Spray (swing stage)	19.37	4.67
Sandblaster; Iron, steel and bridge painter (groundwork); Iron, steel and bridge painters, Spray (groundwork); Riggers, climbing steel; Brush, climbing steel and bridge; Spray, climbing steel and bridge	19.12	4.67
Steeplejack	20.02	4.67
Taper	19.37	4.67

DECISION NO. CA83-5119

Page 2

	Basic Hourly Rates	Fringe Benefits
PAINTERS: (Cont'd)		
Parking Lot Work and/or Highway Markers:		
Traffic Delineating Device Applicator	$13.41	$1.60+b
Wheel StopInstaller; Striper; and Sandblaster	12.92	1.60+b
Slurry Seal Operation:		
Traffic Surface Protective Coating Applicator	13.41	1.60+b
Mixer Operator	12.92	1.60+b
Squeegee Man; Applicator Operator; and Shuttleman	11.45	1.60+b
Top Man	9.62	1.60+b
PLASTERERS	17.61	4.27
PLASTERERS' TENDERS	16.34	5.29
PLUMBERS; PIPEFITTERS; Steamfitters; Air Condition, Refrigeration	21.38	7.49
ROOFERS	14.54	5.16
SHEET METAL WORKERS	20.15	4.36
SOFT FLOOR LAYERS	18.45	3.94
SPRINKLER FITTERS	21.87	3.23
TILE, MARBLE, and TERRAZZO SETTERS	18.50	2.93
TILE, MARBLE, and TERRAZZO FINISHERS	14.14	3.30
LABORERS:		
Group 1	13.85	5.57
Group 2	14.15	5.57
TUNNEL LABORERS:		
Group 1	14.35	5.57
Group 2	14.15	5.57
Group 3	14.60	5.57
POWER EQUIPMENT OPERATORS:		
Group 1	$16.25	$7.24
Group 2	16.53	7.24
Group 3	16.82	7.24
Group 4	16.96	7.24
Group 5	17.18	7.24
Group 6	17.29	7.24
Group 7	17.41	7.24
Group 8	17.58	7.24
Group 9	17.71	7.24
DREDGING: (Hydraulic Suction Dredge):		
Leverman	18.10	6.41
Watch Engineer; Welder; and Deckmate	17.52	6.41
Winchman (Stern Winch or Dredge)	16.97	6.41
Bargeman; Deckhand; Fireman; Oiler; Leveehand	16.43	6.41
CLAMSHELL DREDGES:		
Leverman	18.10	6.41
Watch Engineers and Deckmate	17.52	6.41
Bargemate	17.04	6.41
Bargeman; Deckhand; Fireman; Oiler	16.43	6.41
TRUCK DRIVERS:		
Group 1	14.89	5.49
Group 2	15.19	5.49
Group 3	15.39	5.49
Group 4	15.59	5.49
Group 5	15.79	5.49
Group 6	17.79	5.49

RIGGERS; WELDERS - Receive rate prescribed for craft performing operation to which rigging or welding is incidental.

FOOTNOTES:
a. Employer contributes 8% of basic hourly rate for 5 years' service and 6% of basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. 6 Paid Holidays: A through F.

b. Employer contributes $.34 per hour to Holiday Fund plus $.24 per hour to Vacation Fund for the first year of employment, 1 year but less than 5 years $.45 per hour to Vacation, 5 years but less than 10 years $.60 per hour to Vacation Fund, over 10 years $.80 per hour to Vacation Fund.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

LABORERS

Group 1: Laborer (general construction); Asphalt Ironer - Spreader; Boring Machine Tender; Caulker; Cesspool Digger and Installer; Chucktender (except tunnels); Concrete Curer (Impervious Membrane and Form Oiler); Concrete Water curing, Cutting Torch Operator (demolition); Driller's Tender (Caisson) including Bellowers, Dri Pak-it Machine, Concrete Cutting Torch, Dry packing of concrete, plugging, filling of Shee Bolt Holes, Fine Grader on highways, streets and airport paving (sewer and drainage lines when employed); Form Blower; Gas and Oil Pipeline Laborer; Guinea Chaser; Jet Man; Landscape Gardener and Nursery Man; Laser Beam in connection with Laborers work; Packing Rod Steel and Pans; Pipelayer's Backup Man (coating, grouting, making of Joints, sealing, caulking, diapering and including Rubber Gasket Joints and pointing); Railroad work Laborer; Rigging and Signaling, Riprap Stonepaver; Sandblaster (Pot Tender); Scaler, Septic Tank Digger and Installer; Tank Scaler and Cleaner, Tool Shed Checker; Window Cleaner; Rebound Man (gunite industry); Housemover

LABORERS (Cont'd)

Group 2: Asphalt Raker; Buggymobile Man; Cement Dumper (on 1 yard or larger mixers and handling bulk cement); Concrete Saw Man (excluding tractor type, Roto-scraper, Chipping Hammer, Concrete Core Cutter and Concrete Grinder and Sander); Cribber - Shorer, Lagging and Trench Bracing, Hand-guided Lagging Hammer; Driller - All power Drills, including Jackhammer, whether Core, Diamond, Wagon, Track, Multiple Unit, and all types of Mechanical Drills without regard to the form of motive power; Driller (all other where drilling is for use of explosives); Gas and Oil Pipeline Wrapper (Pot Tender and Form Man); Gas and Oil Pipeline Wrapper (6 inch pipe and over); Operator and Tenders of pneumatic, gas and electric tools; Concrete Pumps; Vibrating Machines; Multi-plate Impact Wrench and similar mechanical tools not separately classified herein; Pipelayer (performing all services in the laying and installation of pipe from the point of receiving pipe until completion of the operation, including any and all forms of tubular material, whether Pipe, Metallic or Non-metallic, Conduit and any other stationary type of tubular device used for the conveying of substance or element, whether water, sewage, solid, gas, air or other products what-so-ever and without regard to the nature of material from which the tubular material is fabricated; Powderman; Blasters' Tenders; Prefabricated Manhole Installer; Rock Slinger; Sandblaster and Waterblaster (Nozzleman); Scaler (using Bos'n Chair, Safety Belt); Steel Headerboard Man; Tree Climber, using mechanical tools; Welding in connection with Laborer's work; Gun Man (gunite industry)

TUNNEL LABORERS

Group 1: Blasters; Drillers; Powdermen; Cherry Pickerman; Grout Gunmen; Kemper and other pneumatic Concrete Placer Operator Miners in short dry tunnels under streets, highways and similar places; Miners - tunnel (hand or machine); Powderman (tunnel work); Steel Form Raisers and Setters; Timberman; Retimbermen - wood or steel

Group 2: Bull Gang Muckers (Trackman); Chucktender; Cabletender; Concrete Crew (includes Rodders and Spreaders); Dumpmen; Grout Crew; Tender for Steel Form Raisers and Setters; Muckers - Tunnel (hand or machine); Nipper; Swamper (Breakman and Switchman) on tunnel work; Vibratormen; Jackhammer; Pneumatic tools (except Driller); Mutli-plate Impact Wrench

Group 3: Powdermen - Primer House (Licensed on tunnel work); Shaft and Raise Miner; Shifters; Blasters (licensed) all work of whatevertype regardless of method used for such loading and placing

POWER EQUIPMENT OPERATORS

Group 1: Brakeman; Compressor Operator; Engineer Oiler; Generator; Pump; Signalman; Switchman; Ditchwitch; Elevator Operator (inside); Forklift (under 5 tons);

Group 2: Concrete Mixer (skip type); Conveyor; Fireman; Hydrostatic Pump; Plant Operator; Generator, Pump or Compressor; Rotary Drill Tender (oilfield); Skiploader - wheel type up to 3/4 yd. without attachments; Soils Field Technician; Tar Pot Fireman; Temporary Heating Plant; Trenching Machine Oiler; Concrete Pump Oiler (truck mounted)

Group 3: Ford Ferguson (with dragtype attachments); Helicopter Radioman (ground); Power Concrete Curing Machine; Power driven Jumbo Form Setter; Stationary Pipe Wrapping and Cleaning Machine; Gradall Oiler; Surge Tank and Weight Master (Hot Plant); Trencher Oiler (foundations); Truck Crane Oiler

Group 4: Asphalt Plant Fireman; Boring Machine; Chip Spreading Machine; Concrete Pump Operator; Dinkey Locomotive or Motorman (10 ton); Helicopter Hoist; Highline Cableway Signalman; Power Sweeper; Trenching Machine (up to 6 ft.); Concrete Pump Operator, truck mounted; Helicopter Radioman

Group 5: A-frame Winch Truck Operator; Asphalt Plant or Concrete Batch Plant Operator (where commercial power is not used, no less than one Generator Operator is required); Asphalt Spreading Machine Operator (Spreader Bar and similar); Bit Sharpener; Boxman or Mixerman (asphalt or concrete); Concrete Joint Machine Operator (canal and similar type); Concrete Planer Operator; Derrickman (oilfield type); Drilling Machine Operator (including water wells); Equipment Greaser (Mobile and Grease Rack); Forklift Operator (over 5 ton capacity); Hydro-hammer - Aero Stomper; Hydrographic Seeder Machine Operator (straw, pulp, or seed); Machine Tool Operator; Maginnis Internal Full Slab Vibrator; Mechanical Finisher Operator (Concrete-Clary-Johnson-Bidwell or similar); Pavement Breaker Operator (truck mounted, oiler required); Road Oil Mixing Machine Operator; Roller Operator; Ross Carrier Operator (jobsite); Self-propelled Tar Pipelining Machine Operator; Skiploader Operator (wheel or track type over 3/4 yd. up to and including 1¼ yds.); Skiploader - Ford Ferguson up to 3/4 yd. with drag attachments; Slip Form Pump Operator (power driven hydraulic lifting device for concrete forms); Screed Operator; Stinger Crane (Austin-Western or similar type); Traveling Pipe Wrapping, Cleaning and Bending Machine Operator; Truck type Loader; Tugger Hoist (1 drum)

POWER EQUIPMENT OPERATORS (Cont'd)

Group 6: Asphalt or Concrete Plant Engineer; Asphalt or Concrete Spreading Operator (tamping or finishing); Asphalt Paving Machine Operator (Barber Green or similar type); Automatic Curb Machine; Belt Splicer or Vulcanizer; BHL Lima Road Pactor; Wagner Pactor or similar Operator; Bridge Crane Operator; Bridge type Unloader and Turntable Operator; Cast-in-place Laying Machine; Combination Mixer and Compressor Operator (Gunite work); Concrete Mixer; Concrete Mixer Operator - paving (Oiler required); Crane Operator (up to and including 25 ton capacity) (Oiler required) (Long Boom Pay applicable); Crushing Plant Operator (Oiler required) (where commercial power is not used, no less than one Generator Operator is required); Deck Engine Operator; Drill Doctor; Elevating Grade Operator; Gradall Operator (Oiler required); Grade Checker; Grouting Machine Operator; Guard Rail Post Driver Operator; Heavy Duty Repairman; Hoist Operator (single drum - Buck Hoist - Chicago Boom and similar type); Hoist Operator (2 or 3 drum); Kolman Belt Loader and similar type (when two or more are working together an additional employee shall be required); LeTourneau Blob Compactor or similar type; Lift Mobile Operator (Oiler required); Lift Slab Machine Operator (Vagtborg and similar types); Material Hoist Operator (1 drum); Mucking Machine Operator (1/4 yd.) (Oiler required) (rubber-tired, rail or track type); Pile Driver Operator (Oiler required); Pneumatic Concrete Placing Machine Operator (Hackley-Presswell or similar type); Pneumatic Heading Shield (tunnel); Pumpcrete Gun Operator; Polar Gantry Crane Operator; Rotary Drill Operator (excluding Caisson type) (Oiler required); Rubber-tired Earth Moving Equipment Operator (single engine - Caterpillar, Euclid, Athey Wagon - Water Pulls and similar types with any and all attachments up to 50 cu. yds. struck); Rubber-tired Scraper Operator (self-loading paddle wheel type - John Deere 104 and similar single unit); Skiploader Operator (wheel or track type, over 1¼ yds. up to and including 6¼ yds.); Stinger Crane (Austin-Western-Pettibone or similar type) (over 5 tons); Surface Heaters and Planer Operator; Tractor Compressor Drill Combination Operator; Tractor Operator (Bull Dozer, Tamper, Scraper, and Push Tractor, single engine); Trenching Machine Operator (over 6 ft. depth capacity - manufacturers rating) (Oiler required); Tunnel Locomotive Operator (10 to 30 tons); Universal Equipment Operator (Shovel, Backhoe, Dragline, Clamshell, up to and including 1 cu. yd. M.R.C.) (Oiler required) (Long Boom Pay applicable); Welder (general)

VOL 48 ISS 181 SEP 16 1983 UMI

POWER EQUIPMENT OPERATORS (Cont'd)

Group 7: Automatic Lineau Tension Machine (2 Operator required); Crane Operator (over 25 tons, up to and including 100 ton M.R.C.) (Long Boom Pay applicable) (Oiler required); Derrick Barge Operator (Oiler required, up to 100 tons) (over 100 tons, Fireman or Oiler required); Duel Drum Mixer (Oiler required); Hoist Operator (2 or 3 drum with boom attachment); Hoist Operator (Stiff Leg, Guy Derrick or similar type up to 100 ton capacity) (Oiler required, Long Boom pay applicable); Loader Operator (Athey, Euclid, Sierra or similar type); Monorail Locomotive Operator (diesel, gas, or electric); Motor Patrol - Blade Operator; Multiple Engine Tractor Operator (Euclid and similar type, except Quad 9 Cat); Pre-stressed Wrapping Machine Operator (2 Operators required); Rubber-tired Earth Moving Equipment Operator (multiple engine, Euclid, Caterpillar and similar type up to 50 cu. yds. struck); Tractor Loader Operator (Crawler and wheel type over 6¼ yds.); Tractor Operator (boom attachments) (over 40 ft. boom, Oiler required); Tower Crane Operator (two Operators required); Tower Crane Repairman; Universal Equipment Operator (Shovel, Backhoe, Dragline, Clamshell, over 1 cu. yd. M.R.C.); Welder - certified; Welder-Heavy Duty Repairman Combination; Woods Mixer Operator and other similar Pugmill Equipment

Group 8: Auto Grader Operator (one Grade Checker and one additional employee required); Automatic Slip Form Operator (Grade Checker and one additional employee required); Crane Operator (over 100 tons, two Operators required, Long Boom Pay applicable); Mass Excavator Operator (two or more Operators and Oiler required, less than 750 cu. yds.); Mechanical Finishing Machine Operator; Mobile Form Traveler Operator; Motor Patrol Operator (multi-engine); Pipe Mobile Machine Operator (two Operators required); Rubber-tired Earth Moving Equipment Operator (multi-engine, Euclid, Caterpillar, and similar type over 50 cu. yds. struck); Rubber-tired Scraper Operator (pushing one another without Push Cat, Push Pull - $.50 per hour additional to base rate); Rubber-tired Self Loading Scraper Operator (paddle wheel - Auger type Self Loading, 2 or more units); Polar Crane Operator; Tandem Equipment Operator (2 units only); Tandem Tractor Operator (Quad 9 or similar type); Tunnel Mole Boring Machine Operator

Group 9: Canal Liner or Trimmer Operators (not less than four (4) employees required - Oiler, Welder - Mechanic and Grade Checker); Helicopter Pilot; Highline Cableway Operator; Remote Controlled Earth Moving Equipment Operator (no one Operator shall operate more than two pieces of earth moving equipment at one time) ($1.00 per hour additional te base rate); Wheel Excavator Operator (over 750 cu. yds. per hour, two Operators and one Oiler and two Heavy Duty Repairmen required)

TRUCK DRIVERS

Group 1: Traffic Control, also Swampers and Pickups

Group 2: 2 axle Dumps; 2 axle Flatbed; Bunkerman; Concrete Pumping; Industrial Lift; Warehouseman; Forklift, under 15,000 lbs.

Group 3: 3 axle Dump; 3 axle Flatbed; 2 axle Water Trucks; Erosion Control Nozzleman; Dumpcrete, less than 6¼ yds.; Forklift 15,000 lbs. and over; Prell; Pipeline working Truck Driver; Road Oil Spreader; Cement Distributor or Slurry Driver; Bootman; Ross Carrier

Group 4: Off-road Dump, under 35 tons; 4 axle but less than 7 axle; Lowbed and Trailer; Transit Mix, under 8 yds.; 3 axle Water Trucks; Erosion Control; Grout Mixer; Dumpcrete 6¼ yds. and over; Dumpsters; DW 10's, 20's and over; Fuel Truck and Dynamite; Winch, 2 axle; Truck Greaser

Group 5: Off-road Dump, 35 tons and over; 7 axle or more; Transit Mix, 8 yds. and over; A-frame or Swedish Cranes; Tireman; Water Pull Tankers; Welder; Winch Truck, 3 axle or more

Group 6: Truck Repairman

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii))

SUPERSEDEAS DECISION

STATE: KENTUCKY
COUNTIES: ALLEN, BALLARD, BUTLER, CALDWELL, CALLOWAY, CARLISLE, CHRISTIAN, CRITTENDEN, DAVIESS, EDMONSON, FULTON, GRAVES, HANCOCK, HENDERSON, HICKMAN, HOPKINS, LIVINGSTON, LOGAN, LYON, MCCRACKEN, MCLEAN, MARSHALL, MUHLENBERG, OHIO, SIMPSON, TODD, TRIGG, UNION, WARREN, AND WEBSTER.
DECISION NUMBER: KY83-1061 DATE: DATE OF PUBLICATION
Supersedes Decision Number KY82-1053, dated October 1, 1982, in 47 FR 43521.
DESCRIPTION OF WORK: HEAVY & HIGHWAY CONSTRUCTION PROJECTS.

HEAVY & HIGHWAY CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits
CARPENTERS	$11.70	1.98
CEMENT MASONS	14.97	
ELECTRICIANS	15.84	13¾+4.85
IRONWORKERS	15.84	2.20
LABORERS:		
GROUP I	10.25	2.00
GROUP II	10.50	2.00
GROUP III	10.55	2.00
GROUP IV	11.15	2.00
MILLWRIGHTS	12.05	1.35
PAINTERS:		
Brush & Roller	15.45	1.90
Sandblast & Power tools & Spray	16.45	1.90
PILEDRIVERMEN	11.95	1.98
PLUMBERS & PIPEFITTERS	17.51	2.13
POWER EQUIPMENT OPERATORS - HEAVY CONSTRUCTION PROJECTS INCLUDING BRIDGES ACROSS COMMERCIALLY NAVIGABLE RIVERS:		
CLASS A	14.77	2.18
CLASS B	11.94	2.18
CLASS C	11.14	2.18
CLASS D (50¢ above CLASS A Rate)		
POWER EQUIPMENT OPERATORS - HIGHWAY CONSTRUCTION PROJECTS:		
CLASS A	13.47	2.18
CLASS B	11.05	2.18
CLASS C	11.43	2.18
CLASS D	10.79	2.18
TRUCK DRIVERS:		
Driver - single axle dump & flat bed trucks	12.83	55.00a
Driver - semi-trailer or pole trailer when used to pull building materials or equipment	12.83	55.00a
Driver - dump truck tandem axle	12.83	55.00a
Driver - Euclid and other heavy earth moving equipment and low boy	$12.84	55.00a
Driver - winch truck and A-Frame truck when used in transporting materials & Ross carrier	12.84	55.00a
Driver - Fork lift truck when used to transport building materials	12.84	55.00a
Truck mechanic	12.76	55.00a
Truck helper	12.48	55.00a
Greaser, tire changer and mechanic helper	12.53	55.00a
Driver of distributors	12.83	55.00a
Driver on mixer trucks (all types)	12.83	55.00a
Driver on pavement breakers	12.84	55.00a
Mobile batch truck helper	12.48	55.00a

FOOTNOTE a: Per week per employee. Pension Fringe Benefit applies to employees who have been employed a minimum of twenty (20) work days within any ninety (90) consecutive day period for that employer.

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

DECISION NO. KY83-1061 PAGE 2

CLASSIFICATION DEFINITIONS - LABORERS:

GROUP I - General laborers, asphalt plant laborers, concrete laborers, asphalt laborers, storm & sanitary sewer laborers, carpenter tenders, cement mason tenders, mesh handlers & placers, landscaping & seeding, planters & tree-trimmers, sign, guard rail & fence installers, grade checkers, aging & curing of concrete, truck spotters & dumpers, batch truck dumpers, rip-rap & grouters, dredging laborers, right-of-way laborers, wrecking & demolition laborers, drill helpers, & hand digging & hand back filling.
GROUP II - Wagon drills, jack hammers, paving breakers, chain saw, concrete saw, paving joint machine, vibrator operator, power driven Georgia buggy or wheelbarrow, sand blaster & concrete chipper, brickmason tenders & mortar mixers, green concrete cutting, pipe layers, joint makers, batter board man (sanitary & storm sewer), dry cement handlers, concrete rubbers, walk-behind tamper machine, walk-behind trenching machine, operator & deckhand scow man, burner & welder.
GROUP III - Powderman & blasters, side rail setters (including rail paved ditches), tunnel laborers (free air), gunnite operators & mixer man, gunnite nozzleman, asphalt luteman & rakeman, air tract driller (all types), grout pump operator.
GROUP IV - Tunnel blasters, tunnel muckers (free air), miners & drillers (free air), caisson workers (free air).

CLASSIFICATION DEFINITIONS - POWER EQUIPMENT OPERATORS, HEAVY CONSTRUCTION PROJECTS:

CLASS A - Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant op., clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick, derrick boat, ditching & trenching machine, dragline, dredge engineer, elevator (hoisting building material), elevating grader & all types of loaders, hoe-type machine, hoisting engine, locomotive, LeTourneau or carry-all scoop, bulldozer, mechanic, mechanic welder, orangepeel bucket, pile driver, power blade, roller (bituminous), scarifier, shavel, tractor shovel, truck crane, winch truck, push dozer, highlift, forklift (regardless of lift height), all types of boom cats, core drill, tow or push boat, A-Frame winch truck, concrete paver, grade-all, hoist (two or more drums), hyster, pumporete, Ross carrier, side-boom, tail boom, rotary drill, mucking machine, rock spreader attached to equipment, scoopmobile, hydrocrane, back filler, gurries, subgrader, KeCal loader, tower cranes (French, German, and other types).
CLASS B - All air compressors (over 900 cu. ft. per min or greater capacity), bituminous mixer, concrete mixer (under 21 cu. ft.), welding machine, form grader, roller (rock), tugger, tractor (50 HP & over), bull float, finish machine, outboard motor boat, well points, flexplane, fireman, boom type tamping machine, truck crane oiler, greaser on grease facilities servicing heavy equipment, switchman or brakeman, joint sealing machine, mechanic helper, whirley oiler, tractair & road widening trencher, grout pump, electric vibrator, compactor, self-propelled compactor, throttlevalve, elevator (one drum or buck hoist), power sweeper (riding type), core drill & caisson drill helper (truck mounted).
CLASS C - Bituminous distributor, cement gun, conveyor, mud jack, paving joint machine, pump, roller (earth), tamping machine, tractors (under 50 HP), vibrator, oiler, concrete saw, burlap & curing machine, hydro-seeder, power form handling equipment, deckhand steerman, hydraulic post driver, core drill & caisson drill helper (track or skid mounted).
CLASS D - Operators on cranes with booms one hundred fifty feet (150') & over (including jib).

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VOL 48 NO 181 FRIDAY SEPTEMBER 16 1983

SUPERSEDEAS DECISION

STATE: KENTUCKY
COUNTIES: ANDERSON, BATH, BOURBON, BOYD, BOYLE, BRACKEN, BRECKINRIDGE, BULLITT, CARROLL, CARTER, CLARK, ELLIOTT, FAYETTE, FLEMING, FRANKLIN, GALLATIN, GRAYSON, GRANT, GREENUP, HARDIN, HARRISON, HENRY, JEFFERSON, JESSAMINE, LARUE, LEWIS, MADISON, MARION, MASON, MEADE, MERCER, MONTGOMERY, NELSON, NICHOLAS, OLDHAM, OWEN, ROBERTSON, ROWAN, SCOTT, SHELBY, SPENCER, TRIMBLE, WASHINGTON, & WOODFORD.
DECISION NUMBER: KY83-1062 DATE: DATE OF PUBLICATION
Supersedes Decision Number KY82-1055, dated October 1, 1982, in 47 FR 43519.
DESCRIPTION OF WORK: HEAVY & HIGHWAY CONSTRUCTION PROJECTS.

	Basic Hourly Rates	Fringe Benefits
CARPENTERS	$11.66	2.13
CEMENT MASONS	13.14	3.32
CEMENT MASONS ON SUSPENDED SCAFFOLD	13.39	3.32
ELECTRICIANS	16.44	3%+2.89
IRONWORKERS	13.50	4.72
LABORERS:		
GROUP I	10.25	2.00
GROUP II	10.50	2.00
GROUP III	10.55	2.00
GROUP IV	11.15	2.00
PAINTERS:		
Brush	11.07	1.18
Spray	11.52	1.18
Bridges	13.07	1.19
PILEDRIVERMEN	11.91	2.13
PIPEFITTERS	17.25	3.22
PLUMBERS	15.98	3.55
POWER EQUIPMENT OPERATORS - HEAVY CONSTRUCTION PROJECTS INCLUDING BRIDGES ACROSS COMMERCIALLY NAVIGABLE RIVERS:		
CLASS A	14.77	2.19
CLASS B	11.94	2.18
CLASS C	11.14	2.18
CLASS D (50¢ above CLASS A RATE)		
POWER EQUIPMENT OPERATORS - HIGHWAY CONSTRUCTION PROJECTS:		
CLASS A	13.47	2.18
CLASS B	11.05	2.13
CLASS C	11.43	2.18
CLASS D	10.79	2.13
TRUCK DRIVERS:		
Driver - single axle dump & flat bed trucks	12.34	71.50a
Driver - semi-trailer or pole trailer when used to pull building material & equipment	12.34	71.50a
Driver - dump truck, tandem axle	12.34	71.50a
Driver - Euclid & other heavy earth moving equipment & low boy	$12.44	71.50a
Driver - Winch truck & A-Frame truck when used in transporting materials & Hose Carrier	12.44	71.50a
Driver - fork lift truck when used to transport building materials	12.44	71.50a
Truck mechanic	12.34	71.50a
Greaser, tire changer, & mechanic helper	12.16	71.50a
Mobile batch truck helper & truck helper	12.05	71.50a
Driver of distributors	12.34	71.50a
Driver on pavement breakers	12.44	71.50a
Driver on mixer trucks (all types)	12.37	71.50a

FOOTNOTE 'a': Per week per employee who has been employed a minimum of twenty (20) work days within any ninety (90) consecutive day period for that employer.

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

CLASSIFICATION DEFINITIONS - POWER EQUIPMENT OPERATORS, HIGHWAY CONSTRUCTION PROJECTS:

CLASS A - Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant operator, clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick boat, ditching and trenching machine, dragline, elevator (when used for hoisting any building material), elevating grader and all types of loaders, hoe-type machine, hoisting engine (two or more drums), locomotive, motor scraper, bulldozer, mechanic, orangepeel bucket, pile driver, power blade, roller (bituminous), scarifier, shovel, tractor shovel, truck crane, winch truck, push dozer, high lift, fork lift (regardless of lift height), all types of boom cats, core drill, tow or push boat, A-frame winch truck, concrete paver, grade-all, hoist (two or more drums), hyster, pumperete, Rose carrier, side boom, rotary drill (5" and over), mucking machine, rock spreader attached to equipment, scoopmobile, KoCal loader, tower cranes (French, German and other types), hydrocrane, backfiller, gurries, subgrader, tailboom and dredge engineer.

CLASS B - All air compressors (over 900 cu. ft. per min.), bituminous mixer, concrete mixer (under 21 cu. ft.), elevator (one drum or buck hoist), welding machine, form grader, grout pump, roller (rock), tractor (50 HP or over), bull float, finish machine, outboard motor boat, electric vibrator compactor/self-propelled compactor, boom type tamping machine, truck crane oiler, switchman or brakeman, mechanic helper, whirley oiler, tractair and road widening trencher, joint sealing machine, rotary drill (under 5"), throttle valve man, tugger, well points, flexplane, fireman, and hoist (one drum).

CLASS C - Greaser on grease facilities servicing heavy equipment.

CLASS D - Bituminous distributor, cement gun, conveyor, mud jack, paving joint machine, pump, roller (earth), tamping machine, tractors (under 50 HP), vibrator, oiler, concrete saw, burlap and curing machine, hydro seeder, power form handling equipment, deckhand oiler, and hydraulic post driver.

CLASSIFICATION DEFINITIONS - POWER EQUIPMENT OPERATORS, HIGHWAY CONSTRUCTION PROJECTS:

CLASS A - Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant operator, clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick boat, ditching and trenching machine, dragline, elevator (when used for hoisting any building material), elevating grader and all types of loaders, hoe-type machine, hoisting engine (two or more drums), locomotive, motor scraper, bulldozer, mechanic, orangepeel bucket, pile driver, power blade, roller (bituminous), scarifier, shovel, tractor shovel, truck crane, winch truck, push dozer, high lift, fork lift (regardless of lift height), all types of boom cats, core drill, tow or push boat, A-frame winch truck, concrete paver, grade-all, hoist (two or more drums), hyster, pumperete, Ross carrier, side boom, rotary drill (5" and over), mucking machine, rock spreader attached to equipment, scoopmobile, KeCal loader, tower cranes (French, German and other types), hydrocrane, backfiller, gurries, subgreder, tailboom and dredge engineer.

CLASS B - All air compressors (over 900 cu. ft. per min.), bituminous mixer, concrete mixer (under 21 cu. ft.), elevator (one drum or buck hoist), welding machine, form grader, grout pump, roller (rock), tractor (50 HP or over), bull float, finish machine, outboard motor boat, electric vibrator compactor/self-propelled compactor, boom type tamping machine, truck crane oiler, switchman or brakeman, mechanic helper, whirley oiler, tractair and road widening trencher, joint sealing machine, rotary drill (under 5"), throttle valve man, tugger, well points, flexplane, fireman, and hoist (one drum).

CLASS C - Greaser on grease facilities servicing heavy equipment.

CLASS D - Bituminous distributor, cement gun, conveyor, mud jack, paving joint machine, pump, roller (earth), tamping machine, tractors (under 50 HP), vibrator, oiler, concrete saw, burlap and curing machine, hydro seeder, power form handling equipment, deckhand oiler, and hydraulic post driver.

CLASSIFICATION DEFINITIONS - LABORERS:

GROUP I - General laborers, asphalt plant laborers, concrete laborers, asphalt laborers, storm & sanitary sewer laborers, carpenter tenders, cement mason tenders, mesh handlers & placers, landscaping & seeding, planters & tree-trimmers, sign, guard rail & fence installers, grade checkers, aging & curing of concrete, truck spotters & dumpers, batch truck dumpers, rip-rap & grouters, dredging laborers, right-of-way laborers, wrecking & demolition laborers, drill helpers, & hand digging & hand back filling.

GROUP II - Wagon drills, jack hammers, paving breakers, chain saw, concrete saw, paving joint machine, vibrator operator, power driven Georgia buggy or wheelbarrow, sand blaster & concrete chipper, brickmason tenders & mortar mixers, green concrete cutting, pipe layers, joint makers, batter board man (sanitary & storm sewer), dry cement handlers, concrete rubbers, walk-behind tamper machine, walk-behind trenching machine, operator & deckhand scow man, burner & welder.

GROUP III - Powderman & blasters, side rail setters (including rail paved ditches), tunnel laborers (free air), gunnite operators & mixer man, gunnite nossleman, asphalt luteman & rakeman, air tract driller (all types), grout pump operator.

GROUP IV - Tunnel blasters, tunnel muckers (free air), miners & drillers (free air), caisson workers (free air).

CLASSIFICATION DEFINITIONS - POWER EQUIPMENT OPERATORS, HEAVY CONSTRUCTION PROJECTS:

CLASS A - Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant op., clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick, derrick boat, ditching & trenching machine, dragline, dredge engineer, elevator (hoisting building material), elevating grader & all types of loaders, hoe-type machine, hoisting engine, locomotive, LeTourneau or carry-all scoop, bulldozer, mechanic, mechanic welder, orangepeel bucket, pile driver, power blade, roller (bituminous), scarifier, shovel, tractor shovel, truck crane, winch truck, push dozer, highlift, forklift (regardless of lift height), all types of boom cats, core drill, tow or push boat, A-Frame winch truck, concrete paver, grade-all, hoist (two or more drums), hyster, pumpcrete, Ross carrier, side-boom, tail boom, rotary drill, mucking machine, rock spreader attached to equipment, scoopmobile, hydrocrane, back filler, gurries, subgrader, KeCal loader, tower cranes (French, German, and other types).

CLASS B - All air compressors (over 900 cu. ft. per min or greater capacity), bituminous mixer, concrete mixer (under 21 cu. ft.), welding machine, form grader, roller (rock), tugger, tractor (50 HP & over), bull float, finish machine, outboard motor boat, well points, flexplane, fireman, boom type tamping machine, truck crane oiler, greaser on grease facilities servicing heavy equipment, switchman or brakeman, joint sealing machine, mechanic helper, whirley oiler, tractair & road widening trencher, grout pump, electric vibrator, compactom, self-propelled compactor, throttlevalve, elevator (one drum or buck hoist), power sweeper (riding type), core drill & caisson drill helper (truck mounted).

CLASS C - Bituminous distributor, cement gun, conveyor, mud jack, paving joint machine, pump, roller (earth), tamping machine, tractors (under 50 HP), vibrator, oiler, concrete saw, burlap & curing machine, hydro-seeder, power form handling equipment, deckhand steerman, hydraulic post driver, core drill & caisson drill helper (track or skid mounted).

CLASS D - Operators on cranes with booms one hundred fifty feet (150') & over (including jib).

SUPERSEDEAS DECISION

DECISION NO. KY83-1062

41708 Federal Register / Vol. 48, No. 181 / Friday, September 16, 1983 / Notices

VOL 48 ISS 181 SEP 16 1983 USMI

SUPERSEDEAS DECISION

STATE: KENTUCKY
COUNTIES: ADAIR, BARREN, BELL, BREATHITT, CASEY, CLAY, CLINTON, CUMBERLAND, ESTILL, FLOYD, GARRARD, GREEN, HARLAN, HART, JACKSON, JOHNSON, KNOTT, KNOX, LAWRENCE, LAUREL, LEE, LESLIE, LETCHER, LINCOLN, MCCREARY, MAGOFFIN, MARTIN, MENIFEE, METCALFE, MONROE, MORGAN, OWSLEY, PERRY, PIKE, POWELL, PULASKI, ROCKCASTLE, RUSSELL, TAYLOR, WAYNE, WHITLEY, AND WOLFE.
DECISION NUMBER: KY83-1063 DATE: DATE OF PUBLICATION
Supersedes Decision Number KY82-1054, dated October 1, 1982, in 47 FR 43518.
DESCRIPTION OF WORK: HEAVY & HIGHWAY CONSTRUCTION PROJECTS

	Basic Hourly Rates	Fringe Benefits
CARPENTERS	$12.40	1.85
CEMENT MASONS	11.35	1.75
ELECTRICIANS	15.66	3%+1.00
IRONWORKERS:		
Structural	12.50	1.85
Reinforcing	12.30	1.85
LABORERS:		
Laborers, general & Steam jenny	10.45	1.85
Hand blade operator, Batch truck dumper, Deck hand or Scow man	10.70	1.85
Power driven tool operator of following: wagon drill, chain saw, jack hammer, concrete saw, sand blaster, concrete chipper, pavement breaker, vibrator, power wheel barrow, power buggy	10.80	1.85
Sewer pipe layer, bottom man, dry cement handler, concrete handler, concrete rubber, mason tender	10.80	1.85
Asphalt lute and rakeman, Side rail setter	10.85	1.85
Gunnite nozzleman	10.95	1.85
Tunnel laborer (free air)	11.00	1.85
Tunnel mucker (free air)	11.05	1.85
Tunnel miner, blaster and driller (free air)	11.40	1.85
Caisson worker	11.95	1.85
Powderman	12.05	1.85
Drill operator of percussion type drills which are both powered and propelled by an independent air supply	13.25	1.85
PAINTERS:		
Guard rail	10.00	1.75
Structural	13.20	1.75
PILEDRIVERMEN	11.15	1.75
PLUMBERS & PIPEFITTERS	15.63	2.00

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS:		
CLASS A	$13.80	1.85
CLASS B	11.55	1.85
CLASS C	11.90	1.85
CLASS D	11.31	1.85
TRUCK DRIVERS:		
Drivers, 3 tons and under	11.03	1.85
Drivers, over 3 tons	11.24	1.85
Drivers, truck mounted rotary drill	11.24	1.85
Drivers, semi-trailer or pole trailer	10.90	1.85
Drivers, dump truck, tandem axle	10.90	1.85
Drivers, Euclid and other heavy earth moving equipment and low boy	11.81	1.85
Drivers, winch truck and A-frame when used in transporting material	10.80	1.85
Truck mechanic	11.00	1.85
Truck helper	10.70	1.85
Tire changer and truck mechanic helper	11.03	1.85
Drivers of distributors	10.90	1.85
Drivers on pavement breakers	11.05	1.85
Drivers on mixer trucks (all types)	10.95	1.85
Greaser on greasing facilities	11.90	1.85
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.		
Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).		

DECISION NO. KY83-1063 PAGE 2

POWER EQUIPMENT OPERATORS CLASSIFICATIONS DEFINITIONS:

CLASS A - Auto patrol, batcher plant, bituminous paver, cable way, clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick, derrick boat, ditching and trenching machine, dragline, dredge engineer, elevator (regardless of ownership when used for hoisting building material), elevating grader and all types of loaders, hoe-type machine, hoisting engine, locomotive, LeTourneau or carry-all scoop, bulldozer, mechanic, orangepeel bucket, piledriver, power blade, roller (bituminous), scarifier, shovel, tractor shovel, truck crane, well points, winch truck, push dozer, grout pump, high lift, fork lift (regardless of lift height), all types of boom cats, multiple operator, core drill, tow or push boat, A-frame winch truck, concrete paver, gradeall, hoist, hyster, material pump, pumporete, Ross Carrier, sheep foot, side boom, throttle valve man, rotary drill, power generator, mucking machine, rock spreader attached to equipment, scoopmobile, KeCal loader, tower cranes (French, German and other types), hydrocrane, tugger, backfiller gurries, subgrader, electric vibrator compactor, welder burner.

CLASS B - All air compressors (200 cu. ft. per minute or greater capacity), bituminous mixer, concrete mixer (under 21 cu. ft.), welding machine, form grader, roller (rock), tractor (50 H.P. and over), bull float, finish machine, outboard motor boat, flexplane, fireman, boom type tamping machine, truck crane oiler, switchman or brakeman, mechanic helper, whirley oiler, self-propelled compactor, tractair and road widening trencher.

CLASS C - Greaser on grease facilities servicing heavy equipment.

CLASS D - Bituminous distributor, cement gun, conveyor, mud jack, paving joint machine, pump, roller (earth), tamping machine, tractors (under 50 H.P.), vibrator, oiler, air compressors (under 200 cu. ft. per minute capacity), concrete saw, burlap and curing machine, hydro seeder, power form handling equipment, deckhand oiler, hydraulic post driver.

SUPERSEDEAS DECISION

STATE: OKLAHOMA

COUNTIES: Adair,Atoka,Bryan,Cherokee, Coal,Craig,Creek,Delaware,Haskell, Hughes,Latimer,LeFlore,McIntosh, Mayes,Muskogee,Novata,Okfuskee, Okmulgee,Osage,Ottawa,Pawnee, Pittsburg,Pushmataha,Rogers,Sequoyah, Tulsa,Wagoner,Washington

DECISION NO. OK83-4067
DATE: Date of Publication
SUPERSEDES DECISION NO. OK83-4011, dated January 14, 1983
DESCRIPTION OF WORK: BUILDING PROJECTS (excluding single family homes and apartments up to and including 4 stories); Heavy Construction within the City of Muskogee; and Water and Sewer Treatment Plant Construction in Tulsa County, Oklahoma.

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS:		
Area I	$17.16	$2.76
Area II	16.45	2.33
BOILERMAKERS	16.40	2.645
BRICKLAYERS-STONEMASONS:		
Area I	16.60	1.75
Area II	15.48	2.08
Area III	14.84	2.04
Area IV	15.31	1.54
Area V	16.90	
Area VI	14.50	1.23
CARPENTERS - AREA I		
Carpenters	12.00	1.55
Millwrights, Piledrivermen	13.35	1.55
CARPENTERS - AREA II		
Carpenters	12.98	.75
Millwrights, piledrivermen	14.43	.75
CARPENTERS - AREA III		
Carpenters	12.05	1.15
Piledrivermen	12.675	1.15
CARPENTERS - AREA IV		
Carpenters	14.18	1.62
Millwrights	14.48	1.62
Piledrivermen	14.38	1.72
CARPENTERS - AREA V		
Carpenters	13.00	
Millwrights	16.10	
Piledrivermen	16.00	
CARPENTERS - AREA VI		
Carpenters	12.28	1.48
Millwrights, Piledrivermen	12.78	1.48
CARPENTERS - AREA VII		
Carpenters	12.70	1.10
Millwrights, Piledrivermen	14.38	1.10
CARPENTERS - AREA VII (Cont'd)		
Power Saw Operator	$13.95	$1.10
CARPENTERS - AREA VIII		
Carpenters	12.42	1.10
Millwrights, Piledrivermen	12.67	1.10
CEMENT MASONS:		
Area I	10.80	
Area II	13.83	.75
Area III	15.14	.76
POWER TOOL OPERATOR:		
Area I	11.05	
Area II	14.08	.75
Area III	15.54	.76
ELECTRICIANS:		
Area I - Zone I	14.55	4%+.80
Zone II	14.95	4%+.80
Area II	15.40	3.8% +2.20
Area III	17.10	9%+.80
Area IV	15.15	3%+ 1.58
CABLE SPLICERS:		
Area I - Zone I	14.95	4%+.80
Zone II	15.35	4%+.80
Area II	15.65	3.8%+ 2.20
Area III	18.81	9%+.80
ELEVATOR CONSTRUCTORS:		
Area I		
Journeymen	15.40	2.69+a
Helpers	70%JR	2.69+a
Probationary Helper	50%JR	
Area II		
Journeymen	14.665	2.465 +a

DECISION NO. OK83-4067 PAGE 2

	Basic Hourly Rates	Fringe Benefits
ELEVATOR CONSTRUCTION (Cont'd)		
Area II (Cont'd)		
Helpers	70%JR	2.465+a
Probationary Helper	50%JR	
GLAZIERS		
Area I	14.00	.30
Area II	15.04	
Area III	14.68	1.96
IRONWORKERS		
Area I	15.59	2.92
Area II	14.60	2.37
LABORERS - AREA I		
Group I	10.65	1.00
Group II	10.95	1.00
LABORERS - AREA II		
Group I	9.65	1.00
Group II	9.95	1.00
LABORERS - AREA III		
Group I	9.25	1.00
Group II	9.55	1.00
LABORERS - AREA IV		
Group I	9.30	1.00
Group II	9.55	1.00
PAINTERS - AREA I		
Brush,Sheetrock hand-tools	14.70	.90
Highwork & Stage	15.10	.90
Spray, & Sandblasting, Sheetrock Power Tools	15.70	.90
Hot & Bituminous	16.00	.90
PAINTERS - AREA II		
Brush & Roller	9.90	1.03
Brush,Roller (Strl. Steel)	10.15	1.03
Spray	10.55	1.03
Swing State, Bosun Chair	10.15	1.03
Taping & Bedding (hand tools)	10.20	1.03
Sandblasting	10.25	1.03
PAINTERS - AREA III		
Brush,Roller,Tapers & Paperhangers	12.72	.60
Spray,Steamclean, Sandblast & Pot Tenders	13.22	.60
PLASTERERS - AREA I	15.45	.01
AREA II	12.50	.39
AREA I	$16.62	2.83
AREA II	17.25	2.35
AREA III	16.64	2.27
AREA IV		
Mechanical Contracts under $150,000.00	14.00	2.55
Mechanical Contracts $150,000.00 & over	15.50	2.55
AREA V	15.20	2.25
ROOFERS	13.40	1.39
SHEET METAL WORKERS		
AREA I	16.15	2.66
AREA II	16.58	3%+1.85
SOFT FLOOR LAYERS		
AREA I	13.45	2.03
AREA II	13.47	1.88+b
SPRINKLER FITTERS	16.17	2.83
LATHERS - AREA I	14.25	1.74
AREA II	12.42	1.10
TILE LAYERS,TERRAZZO WORKERS & MARBLE MASONS		
AREA I	15.84	1.30
AREA II	14.58	2.70
TILE & MARBLE FINISHERS		
AREA I	12.75	
AREA II	12.26	1.70
TERRAZZO FINISHERS		
AREA I	13.60	
AREA II	12.26	1.70
TERRAZZO FLOOR MACHINE		
AREA I	13.90	
AREA II	12.45	1.70
TERRAZZO BASE MACHINE		
AREA I	14.30	
AREA II	12.78	1.70
LINE CONSTRUCTION (except Braden,Pocola & Spiro Townships in LeFlore Co.)		
Linemen	16.24	3%+.65
Cable Splicers	17.54	3%+.65
Hole Digger Operator & Heavy Equipment Op. (pole or cat equivalent)	14.41	3%+.65
Jack Hammerman	11.50	3%+.65

DECISION NO. OK83-4067 PAGE 3

DECISION NO. OK83-4067 PAGE 4

	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION (except Braden, Pocola & Spiro Townships in LeFlore Co.) (Cont'd)		
Line Truck (winch op.)	$12.69	3%+.65
Powderman	13.99	3%+.65
Groundman	10.31	3%+.65
Truck Driver (flat bed ton & half & under)	10.96	3%+.65
POWER EQUIPMENT OPERATORS:		
Group I	15.75	2.18
Group II	15.25	2.18
Group III	14.75	2.18
Group IV	14.50	2.18
Group V	14.25	2.18
Group VI	14.00	2.18
Group VII	13.75	2.18
Group VIII	12.75	2.18
Group IX	13.35	2.18
TRUCK DRIVERS:		
AREA I		
Group I	12.80	
Group II	12.85	
Group III	12.95	
AREA II		
Group I	10.43	
Group II	10.53	
Group III	10.63	
Group IV	10.58	
Group V	10.73	

CLASSIFICATION AREAS, GROUPS AND DEFINITIONS AS FOLLOWS:

ASBESTOS WORKERS:
AREA I - Coal, Atoka and Bryan Counties
AREA II - Remaining Counties

BRICKLAYERS - STONEMANSONS:
AREA I - Wagoner, Cherokee, Adair, Muskogee, Sequoyah, Haskell, LeFlore, Latimer and Pushmataha Counties
AREA II - Hughes, Coal, Atoka and Bryan Counties
AREA III - Creek, Tulsa, Rogers, Mayes, Craign, Ottawa and Delaware Counties
AREA IV - Okfuskee, Okmulgee, McIntosh and Pittsburg Counties
AREA V - Osage, Washington and Nowata Counties
AREA VI - Pawnee County

CARPENTERS - MILLWRIGHTS & PILEDRIVERMEN:
AREA I - Okmulgee, Okfuskee, Pittsburg, Latimer, LeFlore, the western part of McIntosh County - the line running straight south from the east line of Okmulgee County, Haskell County south of Highway #9 and north one-half of Atoka County
AREA II - Pushmataha, Bryan and south one-half of Atoka County
AREA III - Coal and Hughes County
AREA IV - Tulsa, Rogers, Mayes, Creek, Craig and Delaware Counties
AREA V - Washington, Nowata and Eastern two-thirds of Osage County
AREA VI - Muskogee, Wagoner, Adair, Cherokee, Sequoyah, Eastern part of McIntosh and Haskell County north of Highway #9
AREA VII - Pawnee and western one-third of Osage County
AREA VIII - Ottawa County

CEMENT MASONS - POWER TOOL OPERATORS:
AREA I - Western one-third of Osage County
AREA II - Pawnee County west of a line running due north from the western boundary of Creek County
AREA III - Remaining Counties

ELECTRICIANS - CABLE SPLICERS:
AREA I - Cherokee, Adair, Muskogee, Sequoyah, McIntosh, Haskell, LeFlore, Latimer, Atoka and Pushmataha Counties
ZONE I - 30-mile radius from Post Office of the City of Muskogee
ZONE II - Area outside Zone 1
AREA II - Osage and Pawnee Counties west of Highway #18
AREA III - Bryan County
AREA IV - Washington, Nowata, Craign, Ottawa, Rogers, Mayes, Delaware, Creek, Tulsa, Wagoner, Okmulgee, Okfuskee, Hughes, Pittsburg, Coal, Osage and Pawnee east of Highway #18

CLASSIFICATION AREAS, GROUPS AND DEFINITIONS (CONT'D):

ELEVATOR CONSTRUCTORS:
AREA I - Osage, Washington, Nowata, Craig, Ottawa, Rogers, Mayes, Delaware, Pawnee, Creek, Tulsa, Wagoner, Cherokee, Adair, Okmulgee, Muskogee, and Sequoyah Counties
AREA II - Remaining Counties

GLAZIERS:
AREA I - Hughes, Coal, Atoka and Bryan Counties
AREA II - Ottawa and that portion of Craig County east of Vineta
AREA III - Remaining Counties

IRONWORKERS:
AREA I - Bryan County
AREA II - Remaining Counties

LABORERS:
AREA I - Creek, Tulsa, Nowata, Craig, Ottawa, Rogers, Mayes, Delaware, Washington and Okmulgee Counties
AREA II - Wagoner, Cherokee, Adair, Muskogee, Sequoyah, Okfuskee, McIntosh, Haskell, LeFlore Counties
AREA III - Hughes, Pittsburg, Latimer, Coal, Atoka, Pushmataha and Bryan Counties
AREA IV - Osage, and Pawnee Counties
GROUP I - All digging and dirt work, firing of salamanders and portable space heaters; loading and unloading of materials and equipment; loading and unloading of materials to and from hoist or cages for stock piling only; wheeling and placing concrete; handling of lumber, steel, cement and distribution of materials; all cleaning, including cleaning of windows; wrecking and razing of building and all structures; cleaning and clearing of debris; loading and unloading of materials, hoist or cages, except when the man is directly tending lathers, masons, or plasterers; water boys, when used; carpenter tender.
GROUP II - All machine tool operators; all sewer and drain tile layers and handling at the ditch, excluding distribution; oprs. of water pumps up to 4 inches and slip form jacks; men erecting scaffolds and directly tending lathers, masons, cement masons and plasterers; mortar mixers, hod carriers and dry mixers; high work over 30 ft. from the ground or floors; cement finisher laborer; work on swinging scaffold; all kettle & potmen, tank cleaning, all pipe doping treating & wrapping, including all men working with dope; mortar & plaster mixing machine, pump-crete machines, and gunite mixing machines including placing of concrete; handling creosoted or treated materials, liquid acids, or like materials, when injurious to health, eye and skin or clothes; all newly developed mechanical equipment which replaces wheel barrows or buggies; all laborers screening sand, running sand drier, and feeding oper. sandblasterer, except nozzle; and cutting torch oprs. in connection with laborers work; concrete greader.

CLASSIFICATION AREAS, GROUPS AND DEFINITIONS (CONT'D):

LATHERS:
AREA I - Atoka, Coal and Hughes
AREA II - Ottawa County

PAINTERS:
AREA I - Pawnee, Osage, Washington, Nowata, Rogers, Mayes, Creek, Tulsa, Okfuskee, Okmulgee, Wagoner, Cherokee, Adair, Muskogee, Sequoyah, McIntosh, Haskell, Pittsburg, Latimer, LeFlore, and Pushmataha
AREA II -Hughes, Coal, Atoka and Bryan Counties
AREA III - Craig, Ottawa and Delaware Counties

PLASTERERS:
AREA I - Adair, Cherokee, Craig, Creek, Delaware, McIntosh, Mayes, Muskogee, Nowata, Okfuskee, Okmulgee, Osage, Ottawa, Rogers, Tulsa, Wagoner, Washington, and the northern and western portions of Sequoyah County north and west of a line running southwesterly from the northeastern corner of Sequoyah County including the town of Sallisaw.
AREA II - LeFlore County and the southern and eastern portions south and east of a line running wouthwesterly from the northeast corner of Sequoyah County

PLUMBERS - PIPEFITTERS:
AREA I - Ottawa, Delaware, Craig, Mayes, Nowata, Rogers, Tulsa, Creek and Osage and Pawnee Counties east of Highway #18
AREA II - Adair, Cherokee, Haskell, Latimer, LeFlore, McIntosh, Muskogee, Okfuskee, Okmulgee, Pittsburg, Sequoyah and Wagoner Counties
AREA III - Hughes, Coal, Atoka, Pushmataha and Bryan Counties
AREA IV - Osage and Pawnee Counties west of Highway #18
AREA V - Washington County

SHEET METAL WORKERS:
AREA I - Hughes and Coal Counties
AREA II - Remaining Counties

SOFT FLOOR LAYERS:
AREA I - Hughes, Coal, Atoka and Bryan Counties
AREA II - Remaining Counties

TILE LAYERS & TERRAZZO WORKERS:
AREA I - Bryan County
AREA II - Remaining Counties

TILE & TERRAZZO FINISHERS - TERRAZZO FLOOR MACHINE - TERRAZZO BASE MACHINE:
AREA I - Bryan County
AREA II - Remaining Counties

47712 Federal Register / Vol. 48, No. 181 / Friday, September 16, 1983 / Notices

CLASSIFICATION AREAS, GROUPS AND DEFINITIONS (CONT'D):

POWER EQUIPMENT OPERATORS:
GROUP I - All crane type equipment with 300' of boom or over (including jib).
GROUP II - All crane type equipment with 200-300' of boom (including jib).
GROUP III - All crane type equipment with 100-200' of boom (including jib, all tower cranes and all crane type equipment of 3 cu. yards or more).
GROUP IV - Side boom (booms 30' and over); Guy Derrick
GROUP V - Heavy duty mechanic, welder; crane-hook and overhead monorail; whirley; panel board batch plant operator; pile-driver engineer, dragline, shovel; clamshell; backhoe (3/4 yd. & over); gradall; hydro crane, cherry picker; hoists while operating 2 or more drums; hoists while doing stack and chimney work (1 or 2 drums); power driven hole digger (with 30' & longer mast); motor patrol (blade); side boom (under 30').
GROUP VI - Fork lift (35' and over); dozer (engine hp 65 or over); Fordson tractor or like equipment with hoe or loader equipment or ditcher; scraper type equipment; loader operator or hi-lift (engine hp 65 or over); asphalt lay machine; tail boom; conveyor-multiple, panel board control; power driven hole digger with less than 30' mast; trenching machine; concrete pump-boom type; roller & compactors with dozer blade.
GROUP VII - Locomotive engineer; boring machine; tug boat; mixer 16 cu. ft. and over; sand barge; dredging machine; tugger; hoist-when operating one drum; welding machine, 3 to 6; air compressor, 3 to 500 cu. ft. & under; air compressor, over 500 cu. ft. (1); pumps, battery, 3 to 6; fork-lift, bobcat and similar equipment, generator plant engineers, Diesel elec.; winch truck with A-frame; rollers all types; outside elevator or building type of personnel hoist; concrete buster/or tamper; heaters under jurisdiction of operating engineers; firemen; boiler operator, crushing plants; oiler distributor; pulvi-mixer; farmer tractor-with or without attachments; batch plant operator (portable); conveyor operator-duel, continuous or belt bulk handling; screed op.; concrete pump; form grader; screening plant; well point pump op.; signal man or large whirleys when and if required; operator for rotary drilling machines when operated from console or machines.
GROUP VIII - Permanent elevator - Building type (automatic); concrete mixer, with hopper less than 16 cu. ft.; air compressor, 500 cu. ft. and under (1 or 2); welding machine (1 or 2); pump (1 or 2); fuelman; truck crane oiler driver or crane oiler; conveyor operator-single continuous belt bulk handling; asphalt lay machine back end man.
GROUP IX - Greaser and tilt top trailer operator.

CLASSIFICATION AREAS, GROUPS AND DEFINITIONS (CONT'd):

TRUCK DRIVERS:
AREA I - Osage, Washington, Nowata, Craig, Ottawa, Pawnee, Rogers, Creek, Tulsa, Okmulgee, Okfuskee and Mayes and Wagoner Counties west of Highway #69.
GROUP I - Truck drivers, including pick-up, 1½ tons or 2½ yards up to but not including 3 tons or 4 yards, such as dump trucks, flat beds, stake body or bus driver.
GROUP II - 3 tons or 4 yards up to but not including 4 tons or 6 yards.
GROUP III - Ready mix concrete truck; tractor-trailer and similar equipment.
AREA II - Bryan, Atoka, Pushmataha, Coal, Hughes, Pittsburg, Latimer, LeFlore, McIntosh, Haskell, Sequoyah, Muskogee, Cherokee, Adair, Delaware, and Mayes and Wagoner Counties east of Highway #69.
GROUP I - Pick-up, 1½ tons or 2½ yards and up to but not including 3 tons or 4 yards, such as dump trucks, flat beds, stake bodies and buses.
GROUP II - 3 tons or 4 yards and up to but not including 4 tons or 6 yards.
GROUP III - 5 tons or 6 yards and over including heavy equipment such as pole truck, winch trucks, euclids, Mississippi wagons, semi-dumps, turner gulls, or other heavy material moving equipment; tractor trailer drivers and similar equipment; such as tractors, ten wheelers
GROUP IV - Ready-mix concrete trucks up to but not including 3 yards.
GROUP V - Ready-mix concrete trucks up to but not including 3 yards and over

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5(a)(1)(ii)).

FOOTNOTES:
a - 6 months to 5 years 6%; over 5 years 8% of basic hourly rate
b - plus seven paid holidays - A through G.
5 paid holidays - A through E plus G

PAID HOLIDAYS:
A - New Year's Day; B - Memorial Day; C - Independence Day; D - Labor Day; E - Thanksgiving Day; F - Friday after Thanksgiving Day; G - Christmas Day

SUPERSEDES DECISION

STATE: OKLAHOMA

COUNTIES: Alfalfa, Beckham, Blain, Caddo, Canadian, Carter, Cleveland, Comanche, Cotton, Custer, Dewey, Ellis, Garfield, Garvin, Grady, Grant, Greer, Harmon, Harper, Jackson, Jefferson, Johnston, Kay, Kingfisher, Kiowa, Lincoln, Logan, Love, McClain, Major, Marshall, Murray, Noble, Oklahoma, Payne, Pontotoc, Pottawatomie, Roger Mills, Seminole, Stephens, Tillman, Washita, Woods and Woodward.

DECISION NO. OK83-4068

DATE: Date of Publication

SUPERSEDES DECISION NO. OK83-4012, dated January 14, 1983.

DESCRIPTION OF WORK: Building Projects (excluding single family homes and apartments up to and including four stories); water and sewage treatment plants and water sewage utility lines on the plant site in Canadian, Cleveland and Oklahoma Counties, Oklahoma.

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS:		
AREA I	$15.20	2.37
AREA II	16.45	2.33
AREA III	17.16	2.76
BOILERMAKERS	16.40	2.645
BRICKLAYERS, STONEMASONS:		
AREA I	15.48	2.23
AREA II	15.65	
AREA III	13.18	2.17
AREA IV	15.48	2.08
AREA V	14.50	1.23
AREA VI	14.74	2.15
AREA VII	15.48	1.67
CARPENTERS - AREA I		
Carpenters	13.75	1.74
Millwrights	14.25	1.74
Piledrivermen	14.25	1.74
Power saw operator	14.25	1.74
CARPENTERS - AREA II		
Carpenters	10.95	1.74
Millwrights	14.25	1.74
Piledrivermen	14.25	1.74
Power saw operator	14.25	1.74
CARPENTERS - AREA III		
Carpenters	11.05	1.64
Millwrights	14.35	1.64
Piledrivermn	14.35	1.64
CARPENTERS - AREA IV		
Carpenters	12.30	1.40
Millwrights	14.35	1.64
Piledrivermen	14.35	1.64
CARPENTERS - AREA V		
Carpenters	$14.65	
Millwrights	14.90	
Piledrivermen	14.90	
Power saw operator	14.90	
CARPENTERS - AREA VI		
Carpenters	12.05	$1.15
Piledrivermen	12.875	1.15
CARPENTERS - AREA VII		
Carpenters	12.45	1.49
Piledrivermen	12.95	1.49
Power saw operator	12.575	1.49
CARPENTERS - AREA VIII		
Carpenters	12.45	1.37
Millwrights	12.95	1.37
Piledrivermen	12.95	1.37
Power saw operator	12.80	1.37
CARPENTERS - AREA IX		
Carpenters	11.70	1.00
Millwrights	12.525	1.00
Piledrivermen	12.525	1.00
Power saw operator	11.95	1.00
CARPENTERS - AREA X		
Carpenters	12.70	1.10
Millwrights	14.38	1.10
Piledrivermen	14.38	1.10
Power saw operator	12.95	1.10
CARPENTERS - AREA XI		
Carpenters	12.98	.75
Millwrights	14.43	.75
Piledrivermen	14.43	.75

	Basic Hourly Rates	Fringe Benefits
CEMENT MASONS - AREA I		
Cement Masons	$10.80	
Power tool operator	11.50	
CEMENT MASONS - AREA II		
Cement Masons	15.14	.76
Power tool operator	15.54	.76
CEMENT MASONS - AREA III		
Cement Masons	13.83	.75
Power tool operator	14.08	.75
ELECTRICIANS		
AREA I - ZONE I	15.60	9%+ 1.05
ZONE II	15.85	9%+ 1.05
ZONE III	16.10	9%+ 1.05
AREA II	15.40	3.8%+ 2.20
AREA III - ZONE I	14.05	3%+ 1.30
ZONE II	14.25	3%+ 1.30
AREA IV	17.10	9%+.80
AREA V	15.15	1.58
CABLE SPLICERS		
AREA I - ZONE I	15.85	9%+ 1.05
ZONE II	16.10	9%+ 1.05
ZONE III	16.35	9%+ 1.05
AREA II	15.65	3.8%+ 2.20
AREA IV	18.81	9%+.80
ELEVATOR CONSTRUCTORS		
Journeymen	14.665	2.465 +a
Helpers	70%JR	2.465 +a
Probationary helper	50%JR	
GLAZIERS	15.72	.30
IRONWORKERS		
AREA I	14.60	2.37
AREA II	13.125	2.95
AREA III	13.90	3.00
AREA IV	15.59	2.92
AREA V	15.29	1.14
LABORERS - AREA I		
GROUP I	$10.65	$1.00
GROUP II	10.90	1.00
LABORERS - AREA II		
GROUP I	8.95	1.00
GROUP II	9.20	1.00
LABORERS - AREA III		
GROUP I	9.10	1.00
GROUP II	9.35	1.00
LABORERS - AREA IV		
GROUP I	9.30	1.00
GROUP II	9.55	1.00
LABORERS - AREA V		
GROUP I	9.25	1.00
GROUP II	9.55	1.00
LABORERS - AREA VI		
GROUP I	5.35	
GROUP II	6.59	
LATHERS		
AREA I	14.25	1.74
AREA II	13.85	1.64
MARBLE MASONS, TILE SETTERS & TERRAZZO WORKERS	16.25	1.30
MARBLE & TILE FINISHERS	12.75	
TERRAZZO FINISHERS	13.60	
TERRAZZO FLOOR MACHINE MAN	13.90	
TERRAZZO BASE MACHINE MAN	14.30	
PAINTERS - AREA I		
Brush & Roller	9.90	1.03
Brush & Roller (Strl. steel)	10.15	1.03
PAINTERS - AREA I		
Spray	10.55	1.03
Swing, stage, bosun chair	10.13	1.03
Taping & Bedding (hand tools)	10.20	1.03
Sandblasting	10.25	1.03
PAINTERS - AREA II		
Brush	13.05	2.28
Spray under 30 ft.	13.55	2.28
Spray over 30 ft.	14.05	2.28
Paper hanging	14.05	2.28
Tapers using machine tools	13.55	2.28

	Basic Hourly Rates	Fringe Benefits
PLASTERERS		
AREA I	$13.60	$ .01
AREA II	14.20	
PLUMBERS - AREA I		
Mechanical contracts under $150,000	14.00	2.55
Mechanical contracts of $150,000 and over	15.50	2.55
PLUMBERS - AREA II	16.64	2.27
ROOFERS	13.40	1.30
SHEET METAL WORKERS	16.15	2.66
SOFT FLOOR LAYERS	13.45	2.03
SPRINKLER FITTERS	16.17	2.83
LINE CONSTRUCTION		
Linemen	16.24	3%+.65
Cable splicers	17.54	3%+.65
Hole digger operator, heavy equipment opr.	14.41	3%+.65
Line truck driver (winch operator)	12.69	3%+.65
Jackhammerman	11.50	3%+.65
Powderman	13.99	3%+.65
Groundman	10.31	3%+.65
Truck driver (flat bed, ton-half & under)	10.96	3%+.65
POWER EQUIPMENT OPERATORS		
GROUP I	15.75	2.18
GROUP II	15.25	2.18
GROUP III	14.75	2.18
POWER EQUIPMENT OPERATORS		
GROUP IV GROUP IV	14.50	2.18
GROUP V	14.25	2.18
GROUP VI	14.00	2.18
GROUP VII	13.75	2.18
GROUP VIII	12.75	2.18
GROUP IX	13.35	2.18
TRUCK DRIVERS - AREA I		
GROUP I	9.70	
GROUP II	9.40	
AREA II		
GROUP I	12.80	
GROUP II	12.85	
GROUP III	12.95	
AREA III		
GROUP I	10.43	
GROUP II	10.53	
GROUP III	10.63	
GROUP IV	10.58	
GROUP V	10.73	

	Basic Hourly Rates	Fringe Benefits

CLASSIFICATION AREAS, GROUPS AND DEFINITIONS AS FOLLOWS:

ASBESTOS WORKERS:
- AREA I: Harper, Ellis, Roger Mills, Beckham, Greer and Harmon Counties
- AREA II: Kay County
- AREA III: Remaining Counties

BRICKLAYERS - STONEMASONS:
- AREA I: Logan, Payne, Canadian, Oklahoma, Cleveland and McClain Counties
- AREA II: Harper, Woods, Alfalfa, Grant, Ellis, Woodward, Major, Garfield, Blaine and Kingfisher Counties
- AREA III: Harmon, Jackson, Tillman, Comanche, Cotton and Jefferson Counties
- AREA IV: Lincoln, Pottawatomie, Seminole, Pontotoc, Johnston and Marshall Counties
- AREA V: Kay and Noble Counties
- AREA VI: Caddo, Grady, Stephens, Garvin, Murray, Carter and Love Counties
- AREA VII: Roger Mills, Beckham, Greer, Dewey, Custer, Washita and Kiowa Counties

CARPENTERS - MILLWRIGHTS - PILEDRIVERMEN - POWER SAW OPERATORS:
- AREA I: Oklahoma, Logan, Canadian, Kingfisher, Pottawatomie, and Lincoln County south of the Turner Turnpike
- AREA II: Dewey, Custer, Washita and Blaine Counties
- AREA III: Caddo and Grady Counties
- AREA IV: Alfalfa, Grant, Major and Garfield Counties
- AREA V: Cleveland and McClain Counties
- AREA VI: Love, Murray, Carter, Pontotoc, Seminole, Johnston, Garvin and Marshall County west of highway #99
- AREA VII: Beckham, Jefferson, Comanche, Cotton, Greer, Harmon, Jackson, Kiowa, Stephens and Tillman Counties
- AREA VIII: Payne County, Northern Half of Lincoln County and Noble County east of Interstate 35 and south of Black Bear Creek
- AREA IX: Woodward, Woods, Harper, Ellis and Roger Mills Counties
- AREA X: Kay and Noble Counties north of Black Bear Creek and west of Interstate #35
- AREA XI: Marshall County east of highway #99

CEMENT MASONS - POWER TOOL OPERATOR:
- AREA I: Kay County
- AREA II: Johnston and Marshall Counties
- AREA III: Ellis, Roger Mills, Beckham, Dewey, Custer, Grady, Carter, Oklahoma, Logan McClain, Washita, Blaine, Caddo, Kingfisher, Canadian, Cleveland, Garvin, Lincoln, Payne, Noble, Woodward Murray, Harper, Major, Woods, Alfalfa, Grant Garfield, Harmon, Greer, Kiowa, Jackson, Tillman, Comanche, Cotton, Stephens, Jefferson and Love Counties

CLASSIFICATION AREAS, GROUPS AND DEFINITIONS (CONT'D):

ELECTRICIANS - CABLE SPLICERS:

AREA I	Oklahoma, Cleveland, Canadian, Grady, McClain, Garvin, Carter, Murray, Johnston, Pontotoc, Seminole, Pottawatomie, Lincoln, Logan, Kingfisher, Garfield, Grant, Alfalfa, Major, Blaine, Caddo, Washita, Custer, Dewey, Woodward, Woods, Harper, Ellis, Roger Mills, Beckham, Love and that portion of Payne County which is closer to Oklahoma City than Tulsa
ZONE I	The area within the twelve mile radius of the Main Post Office located in one of the cities listed as follows: Ada, Alva, El Reno, Enid, Moore, Arapahoe, Tecumseh, Norman, Midwest City, Ardmore, Oklahoma City, Stillwater, Sulphur and Tuttle Counties
ZONE II	The area between the twelve mile radius of the Zone I Post Office, except where Zone II intercepts another Zone I area
ZONE III	The area outside Zone I and Zone II
AREA II	Kay and Noble Counties
AREA III:	
ZONE I	Comanche, Jackson and Stephens Counties
ZPME II	Harmon, Greer, Kiowa, Tillman, Cotton and Jefferson
AREA IV	Marshall County
AREA V	That portion of Payne County closer to Tulsa than Oklahoma City

IRONWORKERS:

AREA I	Blaine, Caddo, Canadian, Carter, Cleveland, Comanche, Custer, Dewey, Garfield, Garvin, Grady, Johnston, Kingfisher, Kiowa, Lincoln, Major, Logan, McClain, Murray, Noble, Oklahoma, Pontotoc, Pottawatomie, Roger Mills, Seminole, Stephens, Washita, Woodward, and western Payne County to a line due north of state highway #177 and #33
AREA II	Beckham, Greer, Harmon, Jackson, Tillman, Cotton, Jefferson and Love Counties
AREA III	Harper and Ellis Counties
AREA IV	Marshall County
AREA V	Alfalfa, Grant, Kay, and Woods Counties

LABORERS:

AREA I	Logan, Canadian, Oklahoma, Lincoln, Cleveland and Pottawatomie Counties
AREA II	Harper, Woods, Alfalfa, Grant, Ellis, Woodward, Major, Garfield, Dewey, Blaine and Kingfisher Counties
AREA III	Roger Mills, Custer, Beckham, Washita, Caddo, Grady, McClain, Harmon, Greer, Kiowa, Comanche, Stephens, Garvin, Tillman, Cotton, Jefferson, Murray, Carter, Love and Marshall Counties
AREA IV	Kay, Noble and Payne Counties
AREA V	Seminole, Pontotoc and Johnston Counties
AREA VI	Jackson County

CLASSIFICATION AREAS, GROUPS AND DEFINITIONS (CONT'D):

LABORERS (CONT'D):

GROUP I - All digging and dirt work, firing of salamanders and smudge pots; loading and unloading of materials and equipment; loading and unloading of materials to and from hoist or cages of stock piling only; wheeling and placing concrete; handling of lumber, steel, cement and distribution of materials; all cleaning, including cleaning windows; wrecking and razing of building and all structures; cleaning when the manis directly tendering, lathers, masons or plasters; common laborers.

GROUP II - All machine tools operators; all sewer and drain tile layers and handling at the ditch, excluding distribution; operators of water pumps up to 4 inches and slip form jacks; men erecting scaffolds and directly tending lathers, masons, cement masons and plasterers, mortar mixers, hod carriers and dry mixers; high work over 30 ft. from the ground or floors; cement finishers laborer; work on swinging scaffold; all kettle and potmen, tank cleaning, all pipe doping treating and wrapping, including all men working with dope; mortar and plaster mixing machine, pump-crete machines, and gunite mixing machines including concrete, creosoted or treated materials, liquid acids, or like materials, when injurious to health, eye and skin or clothes; all newly developed mechanical equipment which replaces wheel barrows or plants; all laborers screening sand, running sand drier, and feeding operator sand blasterer, except nozzle; and cutting torch operators in connection with laborers' work; concrete grader.

LATHERS:

AREA I	Oklahoma, Logan, Canadian, Kingfisher, Custer, Washita, Blaine, Pottawatomie, Dewey, Beckham, Caddo, Cleveland, Ellis, Garvin, Grady, Johnston, McClain, Murray, Noble, Pontotoc, Roger Mills, Seminole, Woodward, Lincoln County south of Turner Turnpike and Payne County up to and including the city of Cushing.
AREA II	Alfalfa, Grant, Garfield and Major Counties

PAINTERS:

AREA I	Harmon, Greer, Kiowa, Jackson, Tillman, Comanche, Cotton, Stephens, Jefferson, Carter, Love, Pontotoc, Johnston and Marshall Counties
AREA II	Remaining Counties

PLASTERERS:

AREA I	Ellis, Roger Mills, Beckham, Greer, Harmon, Jackson, Dewey, Custer, Washita, Kiowa, Tillman, Blaine, Caddo, Comanche, Cotton, Kingfisher, Canadian, Grady, Stephens, Jefferson, Logan, Oklahoma, Cleveland, McClain, Gargin, Murray, Carter, Love, Payne, Lincoln, Johnston and Marshall Counties
AREA II	Pontotoc, Pottawatomie and Seminole Counties

PLUMBERS - PIPEFITTERS

AREA I	Kay County
AREA II	Remaining Counties

41716 Federal Register / Vol. 48, No. 181 / Friday, September 16, 1983 / Notices

CLASSIFICATION AREAS, GROUPS AND DEFINITIONS (CONT'D):

POWER EQUIPMENT OPERATORS:

GROUP I	All crane type equipment with 300' of boom or over (including jib)
GROUP II	All crane type equipment with 200-300' of boom (including jib)
GROUP III	All crane type equipment with 100-200' of boom (including jib), all tower cranes and all crane type equipment of 3 cu. yd. or more
GROUP IV	Side boom (booms 30' and over); Guy Derrick
GROUP V	Heavy duty mechanic; welder; crane-hook and overhead monorail; whirley; panel board batch plant operator; piledriver engineer; dragline, shovel; clamshell; backhoe (3/4 yd. and over); gradall; hydro crane; cherry picker; hoists while operating 2 or more drums; hoists while doing stack and chimney work (1 or 2 drums); power driven hole digger (with 30' and longer mast); motor patrol (blade); side boom (under 30')
GROUP VI	Fork lift (35' and over); dozer (engine hp 65 or over); Fordson tractor or like equipment with hoe or loader equipment or ditcher; scraper type equipment; loader operator or hi-lift (engine hp 65 or over); asphalt lay machine; tail boom; conveyor-multiple, panel board control; power driven hole digger with less than 30' mast; trenching machine; concrete pump-boom type; roller and compactors with dozer blade
GROUP VII	Locomotive engineer; boring machine; tug boat; mixer 18 cu. ft. and over; sand barge; dredging machine; tugger; hoist-when operating one drum; welding machine, 3 to 6; air compressor, 3 to 500 cu. ft. and under; air compressor, over 500 cu. ft. (1); pumps, battery, 3 to 6; fork-lift bobcat and similar equipment; generator plant engineers, Diesel elec.; winch truck with A-frame; roller all types; outside elevator or building type of personnel hoist; concrete buster/or tamper; heaters under jurisdiction of operating engineers; firemen; boiler operator; crushing plants, oiler distributor, pulvimixer; farmer tractor with or without attachments; batch plant operator (portable); conveyor operator-duel, continuous or belt bulk handling; screed operator; concrete pump; form grader; screening plant; well point pump operator; signal man on large whirleys when and if required; operator for rotary drilling machines when operated from console or machines

CLASSIFICATION AREAS, GROUPS AND DEFINITIONS (CONT'D):

POWER EQUIPMENT OPERATORS CONT'D):

GROUP VIII	Permanent elevator - building type (automatic); concrete mixer, with hopper less than 18 cu. ft.; air compressor, 500 cu. ft. and under (1 or 2); welding machine (1 or 2); pump (1 or 2); fuelman; truck crane oiler drives or crane oiler; conveyor operator-single continuous belt bulk handling; asphalt lay machine back end man
GROUP IX	Greaser and tilt top trailer operator

TRUCK DRIVERS:

AREA I	Alfalfa, Beckham, Blaine, Caddo, Carter, Canadian, Cleveland, Comanche, Cotton, Custer, Dewey, Ellis, Garfield, Garvin, Grady, Grant, Greer, Harmon, Harper, Jackson, Jefferson Johnston, Kingfisher, Kiowa, Logan, Love, Major, McLain, Murray, Oklahoma, Pontotoc, Pottawatomie, Payne, Roger Mills, Seminole, Stephens, Tillman, Washita, Wood and Woodward Counties
GROUP I	Truck drivers for heavy equipment such as lowboys, heavy winch and floats, heavy earth moving equipment such as dump trucks and euclids
GROUP II	Truck drivers and swampers, such as dump trucks, flat beds, stakebodies, and 3/4 and ½ ton pick-up trucks
AREA II	Kay, Noble and Lincoln Counties
GROUP I	Truck drivers, including pick-up, 1½ tons or 2½ yards up to but not including 3 tons or 4 yards, such as dump trucks, flat beds, stake body or bus driver
GROUP II	3 tons or 4 yards up to but not including 4 tons or 6 yards
GROUP III	Ready mix concrete truck; tractor trailer and similar equipment
AREA III	Marshall County
GROUP I	Pick-up, 1½ tons or 2½ yards and up to but not including 3 tons or 4 yards, such as dump trucks, flat beds, state bodies and buses
GROUP II	3 tons or 4 yards and up to but not including 4 tons or 6 yards
GROUP III	5 tons or 6 yards and over including heavy equipment such as pole trucks, winch trucks, euclids, Mississippi wagons, semi-dumps, turner pulls, or other heavy material moving equipment; tractor trailer drivers and similar equipment, such as tractors, ten wheelers
GROUP IV	Ready-mix concrete trucks up to but not including 3 yards
GROUP V	Ready-mix concrete trucks 3 yards and over

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

FOOTNOTES

a - 6 mos. to 5 yrs. 6%; over 5 years 8% of basic hourly rate plus seven paid holidays - A through G.

PAID HOLIDAYS:

A - New Year's Day; B - Memorial Day; C - Independence Day; D - Labor Day; E - Thanksgiving Day; F - Friday after Thanksgiving Day; G - Christmas Day.

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Part III

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program; Remining

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 701, 816 and 817

Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program; Remining

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is issuing final rules providing environmental performance standards for remining operations. These new rules supplement the existing rules for new mining operations and add requirements applicable only to remining operations. The standard is these rules also cover the surface effects of underground mining when remining previously mined areas. In addition, the new rules contain definitions of certain technical terms associated with both types of operations.

EFFECTIVE DATE: October 17, 1983.

FOR FURTHER INFORMATION CONTACT: Raymond Aufmuth, Division of Engineering Analysis, Office of Surface Mining, Department of the Interior, 1951 Constitution Avenue, NW., Washington, D.C. 20240; 202–343–4022.

SUPPLEMENTARY INFORMATION:

I. Background
II. Discussion of Comments and Rules Adopted
III. Procedural Matters

I. Background

Remining operations now constitute a substantial segment of all surface coal mining operations in the United States. This development is attributable to the decreasing amount of virgin lands available for mining and to technological advances making coal recovery at greater depths economically profitable.

Remining operations offer several distinct advantages. First, these activities ensure that recovery of coal reserves is maximized. Second, remining minimizes the adverse environmental impacts of preexisting mining on areas left unclaimed or inadequately reclaimed. Third, reclamation conducted during remining may decrease the expenditure of tax dollars required to reclaim previously mined lands under the Abandoned Mine Lands Reclamation Program established by Title IV of the Act.

On January 7, 1982 (47 FR 928) and June 25, 1982 (47 FR 27734), the Office of Surface Mining proposed permit and performance standards for remining previously mined areas and for reprocessing coal mine waste. The January 7, 1982, proposal dealt specifically with the requirement to reclaim highwalls affected by remining, while the June 25, 1982, rulemaking would have provided additional standards applicable to all remining and reprocessing operations. On November 12, 1982 (47 FR 51316), an interim final rule was issued applicable to remining of steep slope areas. The interim final rules issued on November 12, 1982, as well as other aspects of the June 25, 1982, proposal were considered in OSM's "Final Environmental Impact Statement, OSM–EIS–1: Supplement" on the permanent program regulations.

This rulemaking finalizes portions of the June 25, 1982, proposal and reissues the November 12, 1982, interim final rule as a final rule. For a more complete discussion of the problem of remining and the legal bases for these rules, interested persons should consult the preamble to the January 7, 1982, proposal (47 FR 928); the interim final rule on steep slope remining issued on November 12, 1982 (47 FR 51316); and the June 25, 1982, proposed remining rules (47 FR 27734).

The June 25, 1982, notice announced an open-ended comment period on the proposed remining rules (47 FR 27734). On July 13, 1982, OSM announced (47 FR 30266) that the public comment period on the proposal would close at 5 P.M. on August 25, 1982. Because several persons had proposed to offer testimony on various OSM regulatory reform proposals at the Congressional oversight hearings of September 9 and 10, 1982, the public comment period was reopened to permit the transcripts of those hearings to be placed in the Administrative Record (47 FR 39201). The comment period closed on September 10, 1982.

Throughout the development of these rules, OSM has solicited public comments and recommendations. Following publication of the proposed rules, OSM made provisions to hold public hearings and public meetings upon request. Severals public meetings on the proposed rules were conducted by OSM . Notations concerning these meetings are available for review in the Administrative Record at the Office of Surface Mining (OSM), U.S. Department of the Interior, 1100 L St., NW., Room 5315, Washington, D.C. A public hearing on the proposed remining rules was originally scheduled for August 4, 1982, but was cancelled when no persons wishing to testify appeared.

II. Discussion of Comments Received and Rules Adopted

OSM received comments on the proposed rules from industry, citizens, environmental groups, and other government agencies. OSM has reviewed each comment carefully and taken commenters' suggestions into consideration in writing these final rules.

Section 701.5—Definitions

Adverse Physical Impact

The proposed rule would have added a new definition to § 701.5 for the term "adverse physical impact." Under the proposal, "adverse physical impact" was defined to mean, with respect to a highwall, actions that cause or can reasonably be expected to cause sloughing of material, subsidence, instability or an increase in wind or water erosion of the highwall. As a result of commenters' suggestions, OSM has modified the definition of "adverse physical impact" in the final rule to mean, with respect to a highwall created or impacted by remining, conditions, such as sloughing of material, subsidence, instability, or increased erosion of highwalls, which occur or can be expected to occur as a result of remining and which pose threats to property, public health, safety, or the environment. The final rule also uses the phrase "increased erosion," rather than "increased wind or water erosion," for simplicity, but without change in meaning.

One commenter suggested that the term "can reasonably be expected to cause" in the proposed definition, be replaced by the word "may", but offered no rationale for this change. OSM has rejected this suggestion and retained the term "can." "Can" is the proper word in this context, connoting a physical possibility of occurrence.

Another commenter claimed that limiting the proposed definition to impacts "that * * * can reasonably be expected" would weaken the definition of "adverse physical impact." This aspect of the proposed definition was alleged to be at odds with the agency's position in *Miami Springs Properties, Inc. v. OSM*, 2 IBSMA 399 (December 23, 1980) that augering, by its very nature, should be presumed to cause adverse physical impacts on highwalls. The commenter suggested that the definition be revised to treat "actions that * * * may potentially cause negative impacts on highwalls" as adverse physical impacts.

OSM has rejected the commenter's suggestion. The reference to condition-

which can reasonably be expected to occur, rather than all "potentially negative impacts," provides a more realistic measure and is in accord with decisions of the Interior Board of Surface Mining Appeals (the Board) in *Cedar Coal Co. v. OSM*, 1 IBSMA 145 (April 20, 1979), and *Miami Springs Properties v. OSM*, 2 IBSMA 399 (December 23, 1980). Further, the commenter is incorrect in regard to the agency's position with respect to *Miami Springs*. The issue before the Board in *Miami Springs* was the propriety of the motion to dismiss granted by the Administrative Law Judge (ALJ) on the ground that the permittee's augering operations resulted in an adverse physical impact upon the orphan highwall. In its appeal, OSM argued only that it had presented sufficient evidence of the adverse impact to the highwall caused by the permittee's activities so as to make the ALJ's dismissal of the case below erroneous. The Board noted that a permittee could not be required to eliminate a preexisting highwall completely unless his mining activities caused an adverse physical impact to the highwall. The Board then remanded the case to the ALJ for an evidentiary hearing to determine whether any adverse physical impacts had occurred to the orphan highwall as a result of the permittee's auger mining of the coal seam at the base of the highwall. However, the case against the permittee was subsequently dismissed on rehearing after the ALJ found that no adverse physical impact had occurred. Thus, *Miami Springs* indicates that an operator may be required to eliminate only that portion of a preexisting highwall adversely physically impacted by his mining activities. The final rule simply defines an adverse physical impact more precisely.

A commenter found the proposed definition incorrect by describing an "adverse physical impact" as the cause, rather than the result of an action that affects or may affect the highwall. OSM agrees and the language of the final definition has been revised to state that an "adverse physical impact" includes "conditions which occur or can reasonably be expected to occur as a result of * * *."

Two commenters argued that the proposed reference to "sloughing of material" should not be included in the final definition of "adverse physical impact," since all highwalls, both natural as well as man-made, deteriorate to some degree over time, regardless of whether or not they are remined. One commenter claimed that current operators would be discouraged from remining preexisting highwalls if sloughing of material from such highwalls could be considered an "adverse physical impact" for which backfilling would be required under proposed § 816.109(a)(1). Another commenter warned that remining of preexisting highwalls by auger mining would be prohibited unless the current operator could stabilize such highwalls to the satisfaction of the regulatory authority so long as sloughing of material from such highwalls would be defined as an "adverse physical impact."

The suggestion to delete sloughing of material as a condition which could be an adverse physical impact is rejected.

Sloughing of material from highwalls may pose a threat to public safety and property and should be covered by the definition. However, OSM agrees with the commenters on the need for a distinction between adverse and nonadverse physical impacts. Accordingly, the final definition is qualified by the addition of language providing that "conditions * * * which pose threats to property, public health, safety, or the environment" shall be considered adverse physical impacts. Sloughing normally involves only minor spalling of rock or soil from an exposed excavation. Nevertheless, sloughing of certain lithologic units (e.g., poorly indurated siltstones, claystones, or shales) as well as sloughing of some solid or residual soils which have been undercut may have adverse effects. Based on these facts, OSM retained the reference to sloughing of material in the final definition as an impact of remining which may adversely affect the physical stability of the preexisting highwall.

A commenter also objected to the proposed definition of "adverse physical impact" for suggesting that auger mining or underground face-ups on preexisting benches would be presumed to have such an effect on the structural integrity of highwalls in all instances, and sought clarification on this point.

OSM recognizes that conditions which affect or may affect highwalls are not necessarily adverse physical impacts, and the final definition is revised to reflect this fact. Thus, auger remining and underground faceup areas on preexisting benches are defined as adverse physical impacts on the highwall only when threats to property, public health, safety, or the environment are posed by the operation or could reasonably be expected to occur as a result of the remining. In the absence of site-specific information, it is not possible to state definitively that all auger mining or underground face-ups will result in such adverse impacts.

One commenter urged OSM to delete the proposed reference to "subsidence" from the definition of "adverse physical impact" because subsidence has no impact on the highwall and is already regulated by §§ 817.121–817.126.

OSM disagrees with the commenter and has included subsidence in the final definition as one of the physical impacts of remining which may adversely affect the preexisting highwall. The term "subsidence," as used in the context of remining, refers to situations where the highwall can collapse or subsidence impacts could occur on the surface above the highwall. Highwall collapse and subsidence have occurred or can be expected to occur in many cases above areas of auger and underground mining as a result of insufficient webbing or remining pillar support. Because larger masses or blocks of material may fall from highwalls affected by subsidence, collapses of highwalls in areas of retrogressive mass failures can be more severe than highwall collapses caused by weathering, jointing and fracturing, stratigraphic characteristics or some combination of these factors.

One commenter found the "adverse physical impact" concept applicable to conditions on remined areas, such as revegetation and surface and ground water quality. He recommended that the definition of "adverse physical impact" be expanded to cover any surface impact from post-mining conditions worse than those which existed prior to remining. Another commenter noted that other factors, in addition to highwalls, are causes of environmental problems which should be addressed in OSM's remining rules.

These comments raise issues outside the scope of the present rulemaking. The final definition of "adverse physical impact" covers only the negative impacts of remining preexisting highwalls. This is consistent with Sections 515 (b)(3), (d)(2), (d)(3), 201, and 102 which are relied on as the sources of authority for final § 816.106 and the *Cedar Coal* and *Miami Springs* Board decisions.

Highwall Remnant

The final rule defines the term "highwall remnant" to mean that portion of highwall that remains after backfilling and grading of a remining permit area. Under the proposed definition, a "highwall remnant" referred to an engineered cut slope designed to be incorporated into the final grade of a reclaimed remining site and the portion of stabilized highwall that remains after

backfilling and grading of a remining permit area when it is demonstrated that sufficient spoil is available to eliminate the highwall.

Two commenters suggested that OSM modify the proposed definition of "highwall remnant" to refer only to the portion of the stabilized highwall that remains after backfilling and grading of a remining permit area when it is demonstrated that sufficient spoil is not available to eliminate the highwall.

OSM has accepted the comment, in part, and omitted the proposed reference to "an engineered cut slope designed to be incorporated into the final grade of a reclaimed remining site" from the final definition. However, the commenter's proposed qualifier ("when it is demonstrated that sufficient spoil is not available to eliminate the highwall") has been rejected, since a highwall remnant could exist both where the operation did not cause an adverse physical impact on the highwall and where there is insufficient spoil available to eliminate the highwall.

A commenter objected to the term "stabilized highwall" in the proposed definition, because it implied that the remining operator would be responsible for stabilizing the entire remaining highwall. He favored the deletion of this term from the final definition of "highwall remnant," arguing that the operator should be required to stabilize only the area of the highwall disturbed by his remining operation.

This comment has been accepted. The reference to "stabilized highwall" was included in the proposed definition of "highwall remnant" to indicate that the operator is responsible for stabilizing the remaining highwall to prevent hazards to the environment and to public health or safety, even when there is insufficient spoil reasonably available to backfill the highwall completely. However, a highwall could be a highwall remnant whether or not an operator was required to take steps to stabilize the highwall. Applicable performance standards for stabilizing highwall remnants are more appropriately included in §§ 816.106 and 817.106. Under final § 816.106(a)(4), stabilization efforts are required for highwalls created or impacted by the remining operation. Additionally, the current operator is required to stabilize any preexisting highwall remnant that will not be adversely impacted by his remining operation under final § 816.106(b)(2).

Two commenters found the statement in the preamble allowing blending, shaving, stairstepping, or laying back of the preexisting highwall inconsistent with the proposed definition of "highwall remnant," which omitted any references to these methods for conveying upslope runoff safely or minimizing sloughing. They claimed that remining operations should not be allowed to shave, blend, or layback preexisting highwalls since these activities would introduce additional suspended solids on the disturbed areas.

OSM disagrees with the commenters' position. To the extent that highwall remnants may remain, the final rules allow remining operators to blend, shave, stairstep, or lay back preexisting highwalls. For steep-slope operations, such disturbances above the highwall which may be necessary to facilitate such blending or shaving are permissible if approved under Section 515(d)(3) of the Act. In any event, remining operations are required to comply with the performance standards for protection of the hydrologic balance contained in §§ 816.41–816.57 and §§ 817.41–817.57. No change in these requirements is made by this final rule.

Previously Mined Area

The proposed rule would have defined the term "previously mined area" as any lands from which coal was extracted by, or which were affected by, earlier surface coal mining operations. The final definition provides that "previously mined area" means land disturbed or affected by earlier coal mining operations that was not reclaimed in accordance with the requirements of 30 CFR Chapter VII.

A commenter contended that lands reclaimed to the requirements of the permanent performance standards of Part 816 should not be included in the definition of "previously mined area" or covered by the proposed remining rules. According to the commenter, only lands *not* reclaimed to the permanent performance standards of Part 816 should be treated as "previously mined area[s]" and addressed in the remining rules.

OSM has accepted the commenter's suggestion and has added the phrase "that were not reclaimed in accordance with the requirements of this chapter" to the final definition of "previously mined area." Accordingly, final § 816.106 applies only to remining of lands *not* reclaimed to meet the performance standards of Chapter VII. Remining operations on lands reclaimed to the performance standards of Chapter VII must comply with the general backfilling and grading requirements of §§ 816.102–816.107.

OSM requested and received comments on whether the definition of "previously mined area" should include sites of unpermitted operations which failed to meet the reclamation standards of OSM's permanent program. Several commenters believed that the definition should cover unpermitted operations which failed to meet the permanent program's standards for reclamation.

Asserting that current operators should not be penalized for the failure of previous operators to obtain permits to mine such areas, one commenter urged that areas of unpermitted operations should be covered in OSM's definition to ensure uniform application of the final definition among the States. Another commenter argued that the final definition should encompass both areas of permitted and nonpermitted operations since the environment would be affected by surface mining activities, regardless of whether or not they were conducted pursuant to a permit. Two commenters contended that the definition should be interpreted to cover very old unpermitted sites, which had been mined prior to the existence of any performance standards for reclamation. They alleged that any other interpretation of "previously mined area" would be inconsistent with the objective of the remining rules for elimination or reduction of old problem sites.

A commenter criticized the proposal to make the definition of "previously mined area" under § 701.5 consistent with the scope of lands "eligible" for reclamation with Abandoned Mine Land (AML) Fund monies under 30 CFR Part 870. According to the commenter, this approach would compound the serious deficiencies in Section 404 of the Act by allowing thousands of acres of previously mined lands to go unreclaimed.

In response to the commenters' concerns, OSM has modified the language of the definition to treat all lands which were disturbed or affected by earlier coal mining operations and improperly reclaimed as previously mined areas. This final definition covers all areas previously mined but not reclaimed in accordance with the requirements of Chapter VII, including those lands where bond forfeitures have occurred or which were mined by unpermitted operations.

One commenter found the proposed definition of "previously mined area" vague and claimed that it could be interpreted to cover all subsequent cuts on areas where initial cuts had been made prior to the Act's effective date, thereby allowing later operations unjustifiable exemptions from the approximate original contour (AOC) requirement. Because remining usually occurs in areas where there has been a period of inactivity, the commenter thought the term "previously mined

area" should apply only to "areas which were mined or mining processes [sic] prior to August 3, 1977, and on which all mining has ceased." The commenter felt his suggested definition would be consistent with the definition of "previously mined area" under the AML rules. Another commenter recommended that the definition of "previously mined area" be clarified to cover mining operations which were previously abandoned as well as continued operations of ongoing mines.

OSM disagrees that the definition of "previously mined area" is vague and has rejected the suggestion that the definition "previously mine area" be limited only to lands mined prior to August 3, 1977, and which were inactive for some period of time prior to remining. However, neither the proposal nor the final definition allows ongoing operations variances from the requirements for backfilling and grading or AOC restoration in areas not adversely impacted by past mining. In the case of any coal mine developed on or after May 3, 1978, the effective date of the interim regulatory program, reclamation in accordance with the Act's standards is required. This rule does not relieve the continuing obligations of former operators with regard to any site. Thus, there is no unjustifiable exemption from the approximate original contour operation.

Nevertheless, the final rule recognizes that there may have been some mining which occurred after August 3, 1977 that was not reclaimed in accordance with the requirements for return to AOC. Such operations could include unpermitted mines; mines exempt under Section 528 of the Act; and mines in existence between August 3, 1977, and May 3, 1978, or which qualified for the special exemption of § 710.12. Thus, while the AML program established by Title IV of the Act establishes the overall objective of reclamation of abandoned mined lands, the basis for this final rule is not limited to lands eligible for funding under that program. Furthermore, inclusion of lands disturbed and improperly reclaimed since the Act was enacted in the definition of "previously mined area" will not result in damage to the environment because in every instance where sufficient spoil is reasonably available, highwalls must be eliminated.

One commenter suggested that the proposed definition of "previously mined area" be modified to include both surface and underground, as well as coal and noncoal, mining operations so that the adverse environmental effects of deep mines in Appalachia and old clay mines, quarries and sand and gravel pits in Pennsylvania could be ameliorated by remining.

OSM found this suggestion unnecessary since underground coal mining operations are already included in the scope of the final definition adopted for "previously mined area." This is consistent with Section 701(28) of the Act and § 701.5, which define "surface coal mining operations" to include surface impacts of underground mining activities. Noncoal areas are beyond the scope of this rulemaking and have not been included under the definition of "previously mined area." Remining of unreclaimed noncoal sites by subsequent coal mining operations is likely to occur on only the most limited basis. Thus, no special consideration has been given to such sites under the final rule. If the provisions of 30 CFR 785.13 could be met, consideration of such special conditions can be made under the experimental practices provisions of Section 711 of the Act.

Another commenter suggested that the definition of "previously mined area" cover unreclaimed areas where the overburden has been removed and other disturbed areas which have not been reclaimed, such as tipples, construction sites, and storage areas.

OSM agrees with the commenter's interpretation of the proposed definition. The reference to "lands from which coal was extracted by or which were affected by * * *." in the proposed definition has been replaced by the phrase, "lands disturbed or affected by * * *" in the final definition. This change is intended to make it clear that "previously mined area" includes unreclaimed areas where overburden has been removed and other disturbed areas which have not been reclaimed. Surface coal mining operations can cause physical disturbance to lands in some situations even if no coal is actually extracted from those lands. Roads, buildings, conveyors, stockpiles, and other facilities on abandoned and unreclaimed mine sites should be considered "previously mined areas."

Reasonably Available Spoil

Numerous commenters discussed their interpretation of the term "reasonably available spoil" which was included in the preamble to the proposed rules (47 FR 27740, June 25, 1982). The proposal defined the term as "spoil that is generated by the mining operation and other spoil located in the permit site that is accessible and available for use and that when rehandled will not cause a hazard to the public safety or significant damage to the environment." In response to these comments, the final rule includes a definition of the term "reasonably available spoil" in § 701.5. The definition of reasonably available spoil was included in § 826.12(b) of the November 12, 1982, interim final rule. Except as indicated below, the discussion of the definition and response to comments in the November 12, 1982, Federal Register notice continue to be applicable to the definition included in § 701.5 of this final rule.

Several commenters feared the definition in the preamble to the proposal would not be binding and urged OSM to define "reasonably available spoil" in the rules. They claimed that remining would not be cost-effective if the proposed definition could be construed as a requirement for operators to obtain spoil from borrow pits on or off the permit area. Some commenters contended that OSM should require operators to use spoil in the permit area that was created, disturbed, rehandled, or affected by remining for backfilling material.

As indicated above, the suggestion to include the definition of "reasonably available spoil" in § 701.5 has been accepted. This definition treats spoil and suitable coal mine waste materials generated by the remining operation or other spoil or suitable coal mine waste material located in the permit area that is accessible and available for use and that when rehandled will not cause a hazard to public safety or significant damage to the environment, as "reasonably available spoil."

One commenter recommended that "reasonably available spoil" be defined as "spoil which is generated as a direct result of the coal extraction process and [which] could not require any additional disturbance beyond that which is necessary to achieve the maximum economic recovery of the coal being mined." The commenter argued that his definition would eliminate the need to use borrow pits, take into consideration the economics of coal recovery, and minimize unnecessary disturbances to the surrounding environment.

No change in the rule has been made based on this comment. Section 515(b)(1) of the Act requires that all surface coal mining operations be conducted to maximize fuel resource recovery and minimize land to be reaffected in the future by mining. This requirement is already recognized in § 816.59 of OSM's regulations and need not be repeated in the definition of reasonably available spoil. All spoil or suitable coal mine waste generated by the remining operation is to be considered reasonably available.

However, spoil in addition to that generated by the remining operation need only be used if it is accessible and available for use. Thus, the definition should not impose an undue burden on operators to use spoil in addition to that necessary to achieve the maximum economic recovery of the coal.

A commenter recommended that coal mine waste be included as reasonably available spoil for backfilling. OSM previously rejected this suggestion in the interim final rule (47 FR 51317, November 12, 1982), since OSM's rules existing at that time precluded the disposal of coal mine waste in the backfill. On May 24, 1983 (48 FR 23356), the rules for backfilling and grading in §§ 816.102 and 817.102 were revised to allow disposal of coal mine waste in mined-out areas in accordance with §§ 816.81–816.83. For this reason, this comment has been accepted in the final rule and the phrase "and suitable coal mine waste material" has been added to the final definition of "reasonably available spoil."

One related provision in Part 816 should be noted. In response to a comment, § 816.106(a)(1) requires the permit area to encompass all reasonably available spoil in the immediate vicinity of the remining operation. This will ensure that permit area boundaries are not manipulated so as to allow the operation to avoid its reclamation obligations.

Remining

Under the definition proposed for addition to § 701.5, the term "reminimg" meant conducting surface coal mining and reclamation operations which affect previously mined areas. No comments were received on the proposed definition, and it has been adopted as final in § 701.5.

Reprocessing

According to the proposed definition, "reprocessing" meant processing coal mine waste to remove the marketable coal. The final rule does not include standards applicable specifically to reprocessing and therefore the final rule does not add a definition of "reprocessing" to § 701.5. A definition of reprocessing and specific standards for reprocessing operations are unnecessary because reprocessing operations involving the extraction of coal are surface coal mining operations under 30 CFR 700.5 and Section 701(28) of the Act. Thus, the standards of the permanent regulatory program already apply to reprocessing. To the extent that this final rule is applicable, reprocessing on previously mined areas is included in the final definition of the term "remining."

One commenter believed that "reprocessing" should be redefined to include extraction and processing of coal waste since both activities would be covered under § 780.34(d) of the proposed rules. OSM did not accept suggestion for the reasons stated above.

Proposed § 780.34—Permit Requirements

The final rules do not adopt proposed § 780.34, which would have set forth permit application requirements for various types of surface remining and reprocessing operations. The information required in permit applications for surface remining and reprocessing operations under the proposed rule was duplicative of the information required in the reclamation plan segment of permits for surface coal mining and reclamation operations under Subchapter G.

One commenter advocated close scrutiny by the regulatory authority of applications for permits to remine sites near populated or aesthetically sensitive areas seeking variances under proposed § 816.109. Another commenter contended that the plans and analyses required in remining permit applications should be described generally to provide the regulatory authority sufficient flexibility to evaluate proposed operations on a site-specific basis. A commenter recommended that the following provisions be specified in the rule to ensure maximum coal recovery on each remining site and limit the potential for abuse of variances by remining operators: (1) A requirement that remining permit applications contain data on the applicant's use of the best technology currently available to demonstrate that the deepest possible cut will be taken; and (2) a requirement that approval of the remining permit application be contingent on such a demonstration of maximum coal recovery.

These comments were rejected. There is no basis to include special standards for mining near populated or aesthetically sensitive areas applicable solely to remining operations. Additionally, §§ 779.24, 779.25, 780.11, 780.14, and 780.18 for surface mines, and equivalent requirements for underground mines, will provide the regulatory authority with information necessary to evaluate whether the mine will be in compliance with the requirements of §§ 816.59 and 817.59 for coal recovery.

Commenters questioned whether the proposed rule would require a special, distinct permit to be obtained for a remining operation conducted in conjunction with a larger mining operation. One commenter suggested that the informational requirements of proposed § 780.34(a) be applied only to applications for permits to remine areas where the volume of spoil available is insufficient to eliminate the highwall or return the remined area to AOC. Under this scheme, applications for permits to conduct remining on areas where sufficient spoil is available would be treated as ordinary surface mining permit applications and exempt from compliance with the informational requirements of proposed § 780.34(a). OSM was urged to delete the cross-reference to § 816.109 performance standards from proposed § 780.34(a) and to specify in the final rule the maps, cross-sections, and other drawings required in the remining permit application.

The final rules do not require a separate permit for a remining operation. Rather, the final rules treat remining operations the same as all other operations for permitting purposes.

One commenter viewed the phrase "on the outslope" in proposed § 780.34(a)(2) and (4) as evidence of OSM's belief that most, if not all, remining would occur in the Eastern Appalachian coal region. He advocated deletion of the phrase to ensure that the final rules would apply to remining in all coal regions, including the West and Midwest where outslopes are nonexistent. A commenter suggested that proposed § 780.34(a)(2) be revised to require remining permit applications to contain maps showing the extent of preexisting highwalls and spoil "which will be affected by remining." Commenters felt the phrase "that may be impacted by the proposed operation" should be added after the word "spoil" in proposed § 780.34(a)(2) and (4) to clarify that a remining permit would cover only areas affected by the proposed operation. Commenters also suggested that proposed § 780.34(a)(4) be modified to require that permit applications analyze the effects of the proposed operation on "preexisting spoil which will be affected by remining, * * *." OSM's use of the term "analysis" in proposed § 780.34(a)(4) was criticized for implicitly requiring a permit applicant to make certain volumetric calculations to determine the effects of his proposed remining operation on preexisting highwalls. Because it would be impossible for applicants to determine such effects, a commenter argued that the permit application should be required only to "describe" the effects of the proposed

remining operation on preexisting highwalls.

One commenter, claiming proposed § 780.34(a)(4) was intended to limit or prevent offsite environmental damage, recommended that permit applications also be required to "*[d]escribe the measures to be taken to prevent or minimize any adverse impact that remining may have on the highwalls.*" Another commenter claimed that a description of mitigation measures and design specifications should be required in a permit application upon a showing that "*additional* adverse impacts cannot be prevented" pursuant to proposed § 780.34(4). Commenters also recommended that OSM add a provision to the new rule exempting applications from the informational requirements of § 780.34(b) and (c), as proposed, unless their analytical contents demonstrate the existence of additional adverse impacts.

One commenter thought that volumetric calculations of available spoil should be a function of the regulatory authority under the AML Program unless the remining permit application showed a specific intent to achieve approximate original contour.

Another commenter recommended that § 780.34(b)(5) of the proposed rule be revised to require a showing of "the *approximate* postmining surface contour" since it would be virtually impossible for operators to show the exact postmining surface contour in applications for remining permits.

The final rules do not distinguish between remining operations in different parts of the country. OSM has determined that the existing permitting rules require sufficient information and analyses to meet applicable requirements for remining operations. Thus, there is no need to require special maps, specifications, or special permits limited to the remining operation. An applicant has the flexibility under the existing rules to include special maps and plans for remining as appropriate. OSM disagrees with the commenter who suggested that volumetric calculations are not possible or that it is not possible to estimate postmining surface contours. In fact, such calculations are routinely used by the coal industry. Under this rule, the permit applicant must provide a written demonstration to the regulatory authority that the volume of reasonably available spoil is insufficient to completely cover the highwall if the applicant wishes the standards of § 816.106(a) to apply to his or her operation.

One commenter objected to the phrase "created by remining" in proposed § 780.34(b)(1) on the ground that it could be interpreted to require the remining permit applicant to show *all* of the highwalls which would be created during his proposed operation, including highwalls which he might backfill completely. The commenter suggested that the objectionable language be replaced in the final rule by the phrase "proposed to remain after remining" to make it clear that permit applicantions must show only portions of the preexisting highwall which would not be eliminated by the proposed remining operation.

OSM agrees that it is not necessary to provide a special description of highwalls which would be backfilled completely beyond the normal permitting requirements.

One commenter favored deletion of proposed § 780.34(b)(7) from the final rule on the ground that the impact of the proposed remining operation on a lower seam intersecting the preexisting highwall would already have been included in the remining permit application pursuant to proposed § 780.34(a)(4). Commenter found the requirements in proposed § 780.34(b)(8) unnecessary since spoil on the outslope affected by remining would be considered part of the permit area and covered in the reclamation plan segment of the permit application.

OSM agrees that the reclamation plan requirements of Part 780 are sufficient to cover the items included in proposed § 780.34 and therefore has not adopted the proposed rule.

One commenter suggested that proposed § 780.34(c) be omitted from the final rule to discourage remining by auger mining. Because auger mining allegedly renders remaining coal deposits inaccessible by any other remining method, the commenter asserted that the proposed requirements for auger remining permit applications would not enable such operations to achieve maximum resource recovery. Another commenter recommended that the final rule adopted by OSM require auger remining permit applications to include the information specified in proposed § 780.34(b) in addition to the data required by proposed § 780.34(c).

A commenter favored deletion of proposed § 780.34(c)(2) from the final rule on the theory that measures to mitigate the adverse physical impacts of the proposed auger remining operation on the stability of a preexisting highwall would already be required in the permit application under proposed § 780.34(a)(4). Commenters detected a typographical error in § 780.34(c)(2)(ii), as proposed by OSM. One commenter, who questioned the meaning of "substance" in the proposed requirement for mitigating measures "to counteract the potential effects of substance [sic] to structures or facilities both during and after mining," suggested that the reference be changed to "subsidence" in the final rule. One commenter found the language of proposed § 780.34(c)(3) ambiguous and recommended that the provisions be revised to require the permit application to "[s]how the plan for the reclamation of areas *from which* preexisting spoil *will be* removed or borrow areas from which material will be utilized to backfill auger-mined preexisting highwalls to achieve stability." Another commenter thought the requirement would be unnecessary since any area affected by the auger remining operation would be part of the permit area and covered by the reclamation plan segment of the permit application.

The final rules do not attempt to encourage or discourage auger mining. Such operations will be fully described under the existing permitting requirements.

Several commenters objected to the informational requirements of proposed § 780.34(d), and urged OSM to minimize the burdens on applicants for reprocessing permits. Other commenters believed that proposed § 780.34(d) would perpetuate economic disincentives to coal mine waste reprocessing by imposing more permit application requirements on these operations than those required of full-scale mining operations under the previous rules. As noted by these commenters, refuse piles are leased from large mining concerns by small operators who do not have the capital to finance reprocessing permits and often cannot wait for permit approval because of fluctuations in the market price of recoverable coal. They recommended that OSM adopt permit application requirements for reprocessing refuse piles identical to requirements for coal exploration permit applications under the previous rules.

Commenters also suggested that an exception be added to the rule granting the regulatory authority discretion to fashion reclamation requirements for lands previously disturbed by coal refuse piles based partly on the permit applicant's ability to make a profit on the proposed extraction operation. Under the commenters' suggested rule, approval would be required for the permit application of any reprocessing operation which would not produce more environmental harm than the preexisting refuse pile.

In the final rule, OSM has not adopted special performance standards for

reprocessing. Therefore, special permitting provisions for such operations included in the proposal are not applicable to the final rule.

Final § 816.106

Final § 816.106 contains requirements for backfilling and grading of previously mined areas. It is adopted from proposed § 816.109. The final rule replaces the interim final rule issued on November 12, 1982, with a new section incorporating the requirements of that interim rule. The analysis included in the preamble of the November 12, 1982, **Federal Register** notice continues to be applicable to this rulemaking and is incorporated by reference unless otherwise noted. The interim rule was applicable only to steep slope contour remining operations. This rule is not so limited. The legal bases for this rule are discussed in the preambles to the interim final rule (47 FR 51316, November 12, 1982) and the proposed rule (47 FR 27734, June 25, 1982). Interested persons are referred to those **Federal Register** notices for additional information.

In the November 12, 1982, final rule, OSM deferred response to several issues related to remining of previously mined areas (see 47 FR 51316). These included: (1) Applicability of the rules to first-cut mining, auger mining, second-cut mining with sufficient spoil available to achieve AOC, and non-steep-slope mining; and (2) recommendations of other methods to assure maximum coal recovery. As discussed below, this final rule includes standards for second-cut remining applicable to steep-slope areas and non-steep slope areas. Standards applicable to auger mining of previously mined areas were included in a separate rulemaking (48 FR 19314, April 28, 1983). Operations that have sufficient spoil available to achieve AOC are required to comply with the full requirements of §§ 816.102-816.107 unless the operation will not cause an adverse physical impact on the highwall. This exception is discussed under § 816.106(b) below.

This preamble discussion refers to § 816.106 for surface mining activities. Unless otherwise indicated, it applies equally to § 817.106 for underground mining activities.

The initial paragraph of final § 816.106 states that remining operations on previously mined areas containing a preexisting highwall must comply with the requirements of §§ 816.102-816.107, except as provided in § 816.106. This provision is intended to clarify the scope of requirements for operations addressed in the remining rules. The final rule allows a limited exception from the requirements of complete highwall elimination and AOC restoration for the remining of previously mined areas where the remining operation does not result in an adverse physical impact on the preexisting highwall or where the volume of reasonably available spoil is insufficient for complete backfilling and grading of the reaffected or enlarged preexisting highwall.

One commenter claimed that the exception provided in proposed § 816.109(a) would be inconsistent with OSM's responsibility to balance the nation's energy needs against the need to protect the environment from the harmful effects of surface coal mining operations. OSM disagrees with the commenter's claim. The requirement of total elimination of highwalls under the previous regulations made remining of abandoned highwalls uneconomic in most situations or required the unnecessary act of disturbing virgin areas to obtain spoil for highwall reclamation in others.

On many abandoned sites, spoil generated by the previous mining operation has been dumped over the side of a mountain and is not reasonably available to the remining operation as backfill material. So long as total reclamation of the preexisting highwall was required, the operator was compelled to sustain the high costs of retrieving the necessary fill material from borrow pits outside the immediate mining area or hauling old spoil from remote areas to the remining site. Under the circumstances, thousands of miles of abandoned highwalls remained unreclaimed.

Partial reclamation through remining of abandoned highwalls will produce improvements in the existing environment. For this reason, OSM has chosen to encourage remining of previously mined areas by granting these operations a limited exception from the requirements of complete highwall elimination and restoration to premining AOC in final § 816.106(a). The final rule allows an operator, using the equipment presently available, to remine an unreclaimed highwall "to the maximum extent technically practical." It requires that all of the available overburden from his remining operation be used for reclaiming the bench, together with other reasonably available material located in the permit area.

Final § 816.106 has several purposes. First, it is intended to promote the recovery of remaining coal reserves of importance to the Nation's present and future energy needs; second, it is intended to effectuate at least partial rehabilitation of abandonded benches which were not fully reclaimed by the earlier mining operation; and third, it is intended to minimize unnecessary disturbances of the environment by the creation of borrow areas to effectuate highwall elimination. Without the limited exception provided in final § 816.106(a) for remining of previously mined areas, there is little likelihood that the thousands of miles of unreclaimed highwalls would be reclaimed without utilization of the AML Fund or other methods of subsidization. This final rule attempts to remove a portion of the regulatory and economic impediments to achieve a net environmental improvement. Thus, final § 816.106(a) is consistent with OSM's responsibilities under Section 102 of the Act. As addressed more fully in the earlier preambles referenced above, Congress did not consider the ramifications on remining of previously mined areas in adopting the highwall elimination requirement.

Two commenters found proposed § 816.109 objectionable for allowing operators conducting remining on fully reclaimed lands to evade compliance with the Act's requirements for complete highwall elimination and restoration to premining AOC.

Final § 816.106 allows an exception from AOC restoration for remining areas which were inadequately reclaimed and in which highwalls were left by the previous mining operation. It does not authorize operators to evade compliance with the Act's requirements on fully reclaimed lands. Operators remining fully reclaimed areas are required to comply with the general performance standards, including complete highwall elimination and AOC restoration, as specified in §§ 816.102-816.017.

A commenter contended that performance standards for mining sites which were unpermitted prior to the effective date of the Act (August 3, 1977) should be less stringent than performance standards for remining areas of new or continuing operations. Accordingly, he recommended that performance standards for remining operations which were unpermitted before August 3, 1977 and cannot meet the full reclamation requirements of the Act should be left to the discretion of the regulatory authority.

OSM has rejected the commenter's recommendation. Mining operations in existence since the effective date of the interim regulatory program are required to comply with the performance standards for restoration to premining AOC and elimination of highwalls in Sections 515 (b)(3), (d)(2), and (d)(3) of the Act. OSM is required to adopt regulations implementing these

provisions. Section 816.109(a), as finally adopted, allows a limited exception from the highwall elimination and restoration to premining AOC requirements. However, this limited variance is in accord with the Act's intent and objectives. It would not be consistent with the objectives of the Act or the requirements of Section 501(b) requiring OSM to establish permanent program regulations to include no regulations applicable to such operations in the final rule.

Final § 816.106(a) (Proposed § 816.109(a)(1))

Final § 816.106(a) allows remining operations an exception from the AOC restoration requirement in § 816.102(a)(1) and the complete highwall elimination requirement in § 816.102(a)(2) upon submission of a written demonstration to the regulatory authority that the volume of all reasonably available spoil is insufficient to backfill the reaffected or enlarged highwall completely. This provision was proposed in § 816.109(a)(1). In response to remarks from commenters, OSM has revised the language of the proposed rule in final § 816.106(a). The final rule states that the requirements of § 816.102 (a)(1) and (a)(2) shall not apply to remining operations where the volume of all reasonably available spoil is demonstrated in writing to the regulatory authority to be insufficient to completely backfill the reaffected or enlarged highwall. Under final § 816.106(a), the remining operator is required to eliminate the highwall to the maximum extent technically practical in accordance with the criteria specified in Paragraphs (a)(1)–(a)(5) of § 816.106.

Proposed § 816.109(a)(1) stated that the remining operation was required to conduct backfilling and grading in accordance with §§816.101–816.103 in order to eliminate the remaining highwall to the maximum extent practical. Two commenters objected to the cross-reference in the proposed rule because they implied that operators would be required to eliminate highwalls completely and backfill remined areas to premining AOC. One commenter suggested that proposed § 816.109(a)(1) be deleted from the final rule. Another commenter advised OSM to add the phrase "except for the requirements to restore to approximate original contour and eliminate the highwall" after the cross-referenced sections in the proposed rule.

In response to the commenters' suggestions, final § 816.106(a) was rewritten to state that the requirements of § 816.102 (a)(1) and (a)(2) regarding the elimination of highwalls shall not apply to remining operations where the volume of all reasonably available spoil is demonstrated in writing to be insufficient to completely backfill the reaffected or enlarged highwall. The final rule should make it clear that restoration to premining AOC is not required of remining operations whenever there is insufficient spoil reasonably available for complete highwall elimination. The introductory language of § 816.106 explains that the provisions of §§ 816.102–816.107 do apply to remining operations except as specified in § 816.106.

One commenter thought the term "practical" in proposed § 816.109(a) was ambiguous and should be defined since the rule otherwise could be misinterpreted to allow incomplete reclamation based on changed economic conditions or the insolvency of the operator. Commenters also recommended that the rule require remining operators to use the best technology currently available (BTCA) in eliminating remaining highwalls to the maximum extent practical. One of these commenters suggested that the BTCA concept would ensure that the economic conditions of the particular operator would not be considered as a justification for incomplete reclamation. A number of commenters advised OSM to replace the term "practical" in the proposed rule with the word "possible." One commenter warned that the proposed requirement for elimination of "the remaining highwall to the maximum extent *practical*" would result in incomplete restoration of hundreds of miles of highwalls. Another commenter contended that the term "possible" would reflect OSM's intention to comply with Section 102 (d), (f), and (h) of the Act more accurately than would the reference to "practical" in proposed § 816.109(a).

OSM agrees that neither external economic conditions nor insolvency of the operator should be used in determining whether a specific remining proposal will satisfy the highwall elimination standard in final § 816.106(a). Accordingly, OSM has revised the final rule to require the operator to eliminate the highwall to the maximum extent *technically* practical. The phrase "technically practical" will accommodate the commenters' concern without opening the rule to extreme interpretations in situations where it may be "theoretically possible" to cover the highwall only through the use of extraordinary technological measures. The Act does not require operators to employ extraordinary means to eliminate the highwall in remining situations where there is insufficient spoil for complete backfilling. Final § 816.106(a) is intended to require operators to eliminate only that portion of the highwall which can be eliminated through standard backfilling and grading techniques using presently available equipment.

A commenter also suggested that the preamble to the final rule include examples of the criteria States should use to determine whether highwall elimination is economically feasible, given the possibility for disputes to arise over the unreasonably high costs of backfilling and grading.

This suggestion has been rejected. Under final § 816.106(a), the operator will be responsible for highwall elimination to the maximum extent technically practical. Such a determination will be made based upon standard engineering practices available and not general economic considerations.

A commenter asked whether proposed § 816.109(a)(1) would make any distinction between preexisting highwalls and highwalls created during the remining process.

Final § 816.106 applies only to previously mined areas which contain a preexisting highwall. In response to the comment, clarifying language has been included in the first sentence of § 816.106 and in § 816.106(a). Final § 816.106(a) does not distinguish a reaffected preexisting highwall from a highwall enlarged during the remining operation. This includes second cuts where the face of the highwall may be new but which is really an enlargement of the preexisting highwall. The final rule requires elimination of the highwall to the maximum extent technically practical. In situations where the bench is reaffected and a larger highwall is made by remining, final § 816.106(a) will result in every foreseeable case in the operator covering at least an amount of highwall equal to that newly created and as much of the preexisting highwall as is technically practical.

Proposed § 816.109(a)(2)

As proposed, § 816.109(a)(2) provided that the person who conducts the surface coal mining and reclamation operation shall demonstrate to the regulatory authority with a certification from a qualified registered professional engineer that the minimum static safety factor for stability of the backfill is at least 1.3. The general requirement for the postmining slope to achieve a minimum long-term static safety factor of 1.3 is included in final § 816.102(a)(3), which is applicable to remining

operations. For this reason, it is unnecessary in § 816.106 and has been removed from the final rule as redundant.

A commenter alleged that determinations of the static safety factor for backfill stability would be expensive, time-consuming, and unnecessary for any remining operation using a 4:1 slope. Under these circumstances, he suggested that remining operators should have the option of showing the regulatory authority that the backfill slope has an established history of long-term stability, in lieu of being required to demonstrate a minimum static safety factor for backfill stability of at least 1.3.

This suggestion has been rejected. As indicated in the final backfilling and grading rule (48 FR 23359, May 24, 1983), the 1.3 safety factor is appropriate to meet the stability requirements of the Act in Section 515 (b)(3), (b)(4) and (d)(2). The basis for establishing the 1.3 safety factor is discussed in the preamble to the previous rules at 44 FR 15228 (March 13, 1979). These reasons are equally applicable to remining operations and justify applying the same requirements to postmining slopes of remining operations.

Commenters claimed that the certification requirement provided in proposed § 816.109(a)(2) would not guarantee stability of the backfill. One commenter suggested that the rule be revised to require operators to submit to the regulatory authority calculations of the minimum static safety factor along with the certification. Another commenter challenged the cost-effectiveness of the proposed requirement that certification be obtained from a qualifed, registered professional engineer. He contended that the operator's own employees would be better qualified, more experienced and, in some cases, the only personnel available to make the safety factor determination, but failed to cite any proof in support of his contentions.

The final rules impose the same requirements for backfill stability on remining operations as on all other operations. The same factors are relevant, whether or not a specific certification is required. For certain kinds of structures, such as impoundments, siltation structures, stream diversions, etc., OSM has imposed certification requirements to provide added assurance that the environment will be protected. Such a requirement is not considered necessary for achieving the stability of the postmining slope of the backfilled area. This comports with previous § 816.102(a)(2) which did not contain a certification requirement. Certification alone does not guarantee backfill stability, although a State may determine that certification of the backfill is appropriate under a State program. Additionally, it should be noted that profiles of the final surface configuration are required to be certified by a qualified registered professional engineer under Section 507(b)(14) of the Act.

A commenter recommended that determinations of safety factors be required for backfill stability only in unusual circumstances. Since highway fills as steep as 2h to 1v are routinely designed without calculations of safety factors during the design process, the commenter believed it would be unreasonable to require determinations of safety factors to be made for embankments well above the design requirements.

OSM disagrees. Calculation of safety factors is the standard engineering practice used to assess the stability of earth and rockfill structures. This requirement is retained to satisfy OSM's responsibilities under Sections 515 and 201 of the Act.

Highway fills using 2:1 slopes are routinely constructed without calculations of safety factors only after the fill materials have been tested and have been determined compatible with previous stability determinations. Where geotechnical testing indicates the materials are inappropriate for 2:1 slopes, flatter slopes are used for highway fills. Since the operator is required to ensure the stability of the backfill, the 1.3 safety factor provides an appropriate standard.

Final § 816.106(a)(1) (Proposed § 816.109(a)(3))

Final § 816.106(a)(1) requires that all spoil generated by the remining operation and any other reasonably available spoil be used to backfill the area. The final rule was proposed in § 816.109(a)(3) which stated that all spoil generated by the mining operation and other reasonably available spoil shall be used to backfill the area so as to eliminate the highwall to the maximum extent practical. As discussed above, the proposed phrase "to the maximum extent practical" has been replaced with the phrase "to the maximum extent technically practical." Final § 816.106(a)(1) also requires that spoil in the immediate vicinity of the remining operation be included within the permit area as "reasonably available spoil" for the purpose of the rule.

One commenter protested OSM's use of the phrase "all reasonably available spoil" in the proposed rule on the ground that the regulatory authority could construe that term any way it desired. He warned that remining projects would be scrapped if regulatory authorities could ignore the costs involved in moving any spoil, regardless of its reasonableness or availability. Other commenters recommended that the terms "reasonably available spoil" in the proposed rule be replaced by the phrases "spoil affected by remining" or "spoil from the remining operation" in the final rule. They believed that operators should be required to use old spoil affected by remining as well as new spoil created by the operation for backfilling the highwall.

Other commenters contended that proposed § 816.109(a)(3) would require operators to haul old spoil or borrowfill located outside the permit area to the remining site for backfilling the remined highwall. Increases in the size of the permit area and the amount of the performance bond resulting from the borrow requirement of proposed § 816.109(a)(3) were alleged to be economic disincentives to remining operations. Another commenter found the highwall elimination requirement in proposed § 816.109(a)(3) inconsistent with the objective of reclamation on the ground that it would be economically infeasible for most remining operators to restore preexisting benches to AOC without creating borrow pits on unmined areas to make up the deficit of available spoil. Because remining would improve the stability of unreclaimed benches, the commenter urged that remining operators be responsible only for partial backfilling and grading of preexisting highwalls. Another commenter thought it would be inconsistent with congressional intent to require borrowing from virgin areas to cover preexisting highwalls.

Under final § 816.106(a), AOC restoration is not required of remining operations where the volume of all reasonably available spoil is insufficient to backfill the highwall completely. Instead, the final rule requires that all spoil generated by the remining operation and any other reasonably available spoil located in the permit area be used to eliminate the highwall to the maximum extent technically practical. Under final § 816.106(a)(1), spoil in the immediate vicinity of the remining operation must be included in the permit area and included in determining what constitutes "reasonably available spoil." This provision is in accord with the objectives of the Act and should not impose an undue burden on remining

operations. One commenter was incorrect in asserting that the use of borrow pits is required by final § 816.106(a)(1).

Final § 816.106(a)(1) should eliminate the necessity to create borrow pits, since the elimination of the reaffected or enlarged highwall to the maximum extent technically practical may be accomplished with only the spoil which is reasonably available. Environmental degradation from borrow pits on unmined areas could exceed the benefits of reclaiming preexisting highwalls through remining.

Some of the commenters appeared to misunderstand the meaning of the term "spoil." Under § 701.5, spoil is defined as overburden that has been removed during surface coal mining operations. It does not include undisturbed material in virgin areas. As stated earlier, "reasonably available spoil" is defined in § 701.5 to include spoil and suitable coal mine waste material generated by the remining operation or other spoil or suitable coal mine waste material located in the permit area that is accessible and available for use and that when rehandled will not cause a hazard to public safety or significant damage to the environment.

Two commenters argued that remining operators should be required to use only spoil moved or relocated during road construction, but not the entire depth of spoil on which a road is constructed during mining. Another commenter contended that an operator should not be required to use spoil from areas adjacent to the remining operaton just because it may not be on the downslope. According to the commenter, requiring the operator to do so would only serve to reduce the amount of material available to reclaim the abandoned area when either remining or AML reclamation occurs there.

OSM disagrees with the commenters' positions. The final rule provides only a limited exception to the highwall elimination requirements and provides that spoil generated by remining as well as preexisting spoil in the immediate vicinity of the operation must be used for backfilling unless its rehandling will cause a hazard to public safety or significant damage to the environment. Such a requirement is consistent with the Act's intent to eliminate highwalls to minimize safety, environmental, and aesthetic problems due to unreclaimed highwalls. The exception provided for remining should be a narrow one and should ensure that the highwall is removed to the maximum extent technically practical.

A commenter discussed the possibility of using excess spoil from adjacent mining operations to assist in highwall elimination. On April 29, 1982 (47 FR 18553), OSM issued a final rule that allows disposal of excess spoil on preexisting benches. This was repromulgated on July 18, 1983 (48 FR 32910). Such spoil could be used as appropriate for eliminating highwalls created by a remining operation. Under both rules, the regulatory authority has the flexibility to allow excess spoil created at another location to be used in the reclamation of the remining operation. However, final § 816.106(a)(1) does not require that spoil from another mining operation be used to reclaim the highwall at the remining site unless both operations are within the same immediate vicinity and the spoil from the other operations is legally, as well as physically, available.

Final § 816.106(a)(2) (Proposed § 816.109(a)(4))

Final § 816.106(a)(2) requires that backfill be graded to a slope which is compatible with the approved postmining land use and which provides adequate drainage and long-term stability. This provision was proposed as § 816.109(a)(4). The word "approved" was added to the final rule to ensure that the language of final § 816.106(a)(3) is consistent with references to the "approved postmining land use" in §§ 816.133 and 817.133.

Three commenters suggested that a minimum of 4 feet of nontoxic material should be required to cover the coal seam on any remining site where reasonably available spoil is insufficient. No rationale was offered for this suggestion.

OSM rejects the commenters' suggestion as unnecessary for typical surface mining operations. The final rule requires that remining operations on previously mined lands comply with the § 816.102(f). Under § 816.102(f), exposed coal seams, acid and toxic-forming materials, and combustible materials exposed, used, or produced during mining must be adequately covered with nontoxic and noncombustible material or treated to control the impact on surface and ground water in accordance with § 816.41, to prevent sustained combustion, and to minimize adverse effects on plant growth and the approved postmining land use. This requirement is independent of the exception that allows the incomplete elimination of highwalls because of insufficient reasonably available spoil. There is no exception from the provisions of § 816.102(f).

A separate standard, however, applies to auger mining, where exposed auger holes have historically posed potential water-quality problems and where the quantity of spoil generated by mining is small. This provision, requiring 4 feet of cover over exposed coal seams, is discussed in the final auger mining rule (48 FR 19321, April 28, 1983).

Final § 816.106(a)(3) (Proposed § 816.109(a)(5))

Final § 816.106(a)(3) requires that any remnant of the highwall be stable and not pose a hazard to the public health and safety or to the environment. This provision was proposed in § 816.109(a)(5) which stated that any remaining highwall shall be made stable and not pose a hazard to the public health or safety or to the environment. The word "made" is deleted from the language of the final rule. This change was made for editorial purposes and to recognize that all highwall remnants may not have been created by the remining operation. OSM has replaced the term "remaining highwall" in proposed § 816.109(a)(5) with the term "highwall remnant" in final § 816.106(a)(3) since that term is defined in final § 701.5.

Proposed § 816.109(a)(5) also required the operator to demonstrate the stability of the highwall remnant to the satisfaction of the regulatory authority. This provision is included in final §816.106(a)(3) as proposed.

One commenter took issue with the proposed rule for requiring current operators to ensure the long-term stability of highwalls they had not created. He argued that current operators should be responsible only for ensuring the stability of highwall disturbances which they create and that the regulatory authority should use monies from the State Abandoned Mine Lands Reclamation Funds to pay the costs of ensuring the long-term stability of any remaining highwalls.

OSM disagrees. The issue of financing the stabilization of highwall remnants with monies from the AML Fund is beyond the scope of the present rulemaking. Further, an operator who wishes to remine a previously mined area should ensure that the mining does not result in a condition which would pose a hazard to the public health and safety or to the environment. Under final § 816.106(a)(3), the operator is required to ensure that any portion of the highwall which remains after backfilling and grading of the remining permit area does not pose threats to the environment or public safety. Such a requirement is clearly in accordance with the objectives of the Act.

Final § 816.106(a)(4) (Proposed § 816.109(a)(6))

Final § 816.106(a)(4) requires that spoil placed on the outslope during previous mining operations not be disturbed if such disturbances will cause instability of the remaining spoil or otherwise increase the hazard to the public health and safety or to the environment. This provision was proposed in § 816.109(a)(6), which prohibited the disturbance of spoil placed on the outslope during previous mining operations if such disturbances will cause instability of the remaining spoil or increase the potential for damage to the environment and/or danger to public health and safety.

OSM replaced the phrase "potential for damage" in the proposed rule with the word "hazard" in final § 816.106(a)(4). OSM also added the term "otherwise" before the word "increase" in final § 816.106(a)(4) to indicate that the remining operator is liable for contributing adverse physical impacts to preexisting damages. The reference to "the environment and/or danger to public health and safety" in proposed § 816.109(a)(6) is replaced by a reference to "the public health and safety or to the environment" in final § 816.106(a)(4). This revision was made for editorial purposes and no substantive change is intended.

Several commenters suggested that the phrase "on the outslope" contained in proposed § 816.109(a)(6) be deleted from the language of the final rule to apply the provisions to all preexisting spoil. OSM has rejected this suggestion. Paragraph (a)(4) of the final rule is intended to recognize the special problems associated with spoil placed on the outslope from previous mining operations. Operators should not have difficulty ensuring the stability of spoil left on the bench from such previous operations. Additionally, such spoil would have to be used only if it were reasonably available; that is, it must be accessible and available for use and, when rehandled, not create a hazard. The phrase "on the outslope" was retained in final § 816.106(a)(4) to make it clear that operators are to give special consideration to the reclamation of such previously mined spoils.

Several commenters favored the proposed restriction against the use of preexisting spoil as a means of avoiding increased probability of significant offsite damage resulting from slides and erosion. They urged OSM to include an absolute prohibition in the final rule, since spoil retrieval from the outslope could endanger equipment operators and since there would be no assurance that outslopes disturbed during spoil retrieval could be effectively reclaimed by remining operators.

This suggestion has not been accepted. If there is a safety hazard associated with the handling of preexisting spoil on the outslope in a particular remining operation, final § 816.106(a)(4) will apply. Potential risks in particular operations is not an adequate basis in this instance for general prohibitions. Also, the possibility that remining activities would disturb vegetation on preexisting spoil is insufficient justification for prohibiting the disturbance of such material altogether during remining. In many cases, spoil remaining from previous mining can be reclaimed. Under such circumstances, use of such spoil to reclaim the reaffected highwall is in accord with the objectives of the Act. When preexisting spoil is adversely impacted by remining, the operator is liable for mitigating those impacts under final § 816.106(a)(4). Under Part 816, all disturbed areas, including outslopes from which preexisting spoil is removed, must be reclaimed.

Proposed § 816.109(a)(7)

No comments were received on proposed § 816.109(a)(7), which would have provided that surface drainage from a remining or reprocessing operation shall not be discharged into spoil placed on the outslope by previous mining operations unless such drainage will not cause erosion or decrease stability. The proposed restriction on discharge of surface drainage was considered redundant of other provisions of the remining rules and other provisions of Part 816. Thus it is not included in final § 816.106 to avoid unnecessary repetition.

Under final § 816.106(a)(2), all persons conducting remining operations on previously mined areas are required to grade the backfill to a slope which is compatible with the approved postmining land use and which provides adequate drainage and long-term stability. Final § 816.106(b)(1) prescribes the same general performance standard for grading the backfill in situations where remining does not have an adverse physical impact on the preexisting highwall. Final § 816.95(a) requires that all surface areas, including spoil piles be stabilized and protected from erosion. (48 FR 1160, January 10, 1983.) Taken together, these provisions establish that the operator is responsible for preventing discharges into preexisting spoil on the outslope if surface drainage from the remining operation will cause erosion or decrease stability.

Proposed § 816.109(b)

Proposed § 816.109(b) would have provided that preexisting spoil and coal mine waste moved to allow access to the coal shall be backfilled and graded in the new location in accordance with §§ 816.101–816.103. This requirement was not restated in final § 816.106 since the same requirements apply directly under the backfilling and grading provisions of §§ 816.102–816.107.

Two commenters recommended that § 816.109(b) of the proposed rule be incorporated into proposed §816.109(a) since both requirements would apply to remining sites where insufficient spoil is reasonably available for highwall elimination. Preexisting spoil and suitable waste materials are covered under § 816.106(a) when they are reasonably available.

A commenter claimed that §816.109(b) could be construed as authority for operators to remove preexisting spoil from the remining site and place it in an area for permanent disposal of excess spoil. Because preexisting spoil on the remining site is not excess spoil, the commenter recommended that proposed § 816.109(b) be narrowed to allow for temporary storage of such spoil in another location in anticipation of its later use for backfilling the remined highwall. The commenter also suggested that the final rule include a provision allowing remining operators to move preexisting spoil to another location for highwall elimination there.

Proposed § 816.109(b) was not intended to allow reasonably available spoil to be disposed of as excess spoil rather than to be used for backfilling the highwall under final § 816.106(a). However, final § 816.106 does not preclude an operator from removing preexisting spoil from the remining site to another location for temporary storage (assuming that applicable requirements of Part 816 for temporary storage are also met). Nevertheless, operators are required to return the preexisting spoil to the remining site for use in backfilling the highwall.

Proposed § 186.109(c)

Proposed § 816.109(c) provided that each highwall remnant shall be protected from runoff from the area upslope from the highwall and from the highwall itself. This requirement has not been adopted in the final rule.

Commenters urged OSM to delete the proposed provision from the final rule, given the absence of statutory authority for the requirement that highwall remnants be protected from runoff. Commenters claimed that no technology

could stop runoff from springs and seeps without destroying aquifers intercepted by previous mining operations. They feared that any structure built to divert runoff from above the highwall would direct the runoff into stress cracks, which had been formed in the rock upslope of the highwall edge as a result of excessive blasting during prior mining, thereby causing instability in highwalls which had existed for 20 to 30 years without the protection of permanent diversion ditches. According to commenters, the utility of the proposed rule would also be questionable, since the measures required of remining operations could create additional watershed problems and jeopardize the safety of miners working on the highwall. Commenters claimed that highwalls would remain stable in most situations and recommended that the rule be revised to protect the backfill from erosion and resultant instability. One commenter recommended revision of the proposed rule to provide that "[e]ach highwall remnant shall be protected from *erosion due to* runoff from the area upslope from the highwall and from the highwall itself." [Emphasis added.]

OSM agrees that it is not possible to stop runoff from areas above the highwall. Under the final rule the highwall remnant must be stable, adequate drainage over the backfill must be provided, and the reclaimed area must be compatible with the postmining land use. These standards provide the regulatory authority the flexibility to determine the measures which will be required to direct or convey runoff across the remining site.

Proposed § 816.109(d)

OSM has not adopted proposed § 816.109(d) which would have stated that remining operations in a previously mined area that had been reclaimed to the performance standards of Part 816 were required to reclaim the area to the performance standards of Part 816. This provision is unnecessary for the reasons described below and because the provisions of Part 816 apply by their own terms.

One commenter advocated deletion of proposed § 816.109(d) from the final rule on the ground that the remining rules should not be applicable to areas where the performance standards of Part 816 previously had been met. Another commenter recommended that proposed § 816.109(d) be moved to Paragraph (b) of the proposed rule to clarify that complete highwall elimination would be required of remining operations in areas previously reclaimed to the standards of Part 816 and that proposed § 816.109(a) would allow variances from this requirement only for remining operations on previously mined areas not reclaimed to the standards of Part 816.

OSM agrees that the special remining rules of § 816.106 should not apply to areas where the performance standards of 30 CFR Chapter VII have previously been met. In response to the commenters' concerns, the definition of "previously mined area" was revised to include only those areas which were not reclaimed to the standards of Chapter VII and proposed § 816.109(d) was eliminated from the final rule. Although remining is allowed on areas which were previously reclaimed in accordance with the requirements of Part 816, operations on these areas are required to comply with the performance standards of Part 816, including total elimination of highwalls and complete AOC restoration.

Final § 816.106(b) (Proposed § 816.109(e))

Proposed § 816.109(e) provided that the standards of Paragraphs (a)(1) through (a)(6) of proposed § 816.109 shall not apply if the remining operation will not cause an adverse physical impact on the preexisting highwall. OSM replaced the proposed rule with clarifying language in final § 816.106(b). The final rule states that the requirement of § 816.102 (a)(1) and (a)(2) requiring the elimination of highwalls shall not apply to remining operations that will not cause an adverse physical impact on the preexisting highwall. AOC does not have to be restored only insofar as the unaffected preexisting highwall does not have to be eliminated. Under final § 816.106 (b)(1), these remining operations are required to grade the backfill to a slope which is compatible with the approved postmining land use and which provides adequate drainage and long-term stability. Final § 816.106 (b)(2) also provides that any remnant of the highwall shall be stable and not pose a hazard to the public health and safety or to the environment.

Proposed § 816.109(e) was viewed as a deterrent to remining by commenters who interpreted this section to allow variances from the requirements of restoration to premining AOC and complete backfilling only for remining operations which would not cause any adverse physical impact to the preexisting highwall. Because the environmental benefits of post-remining reclamation would exceed the adverse impacts of remining in almost all cases, the commenters suggested that the exemption be extended to operations which would have an adverse physical impact on the preexisting highwall to encourage remining.

The commenters misunderstood the proposal. Final § 816.106(b) provides an exception from the requirements for highwall elimination and return to AOC that is independent of the provision of § 816.106(a). Final § 816.106(a) allows an exception from the requirements of restoration to premining AOC and complete highwall elimination for any remining operation previously mined areas where the volume of reasonably available spoil is insufficient for completely backfilling a reaffected or enlarged highwall. This exception applies to remining operations which will cause an adverse physical impact on the preexisting highwall. Remining operations which will not cause an adverse physical impact on the preexisting highwall are not subject to § 816.106(a); rather, they are exempt from the highwall elimination requirement under final § 816.106(b).

Commenters found proposed § 816.109(e) deficient for failing to indicate clearly the extent of the remining operators' responsibility for mitigating adverse impacts on the preexisting highwalls, including those created by previous mining operations. They claimed that remining would remain an impractical method of reclamation so long as an operator could be held liable for not preventing all adverse impacts on the area surrounding the site of his remining operation. To encourage remining, they recommended that the word "additional" be inserted before the term "adverse physical impact" in proposed § 816.109(e) and that the proposed reference to "preexisting highwall" be replaced by the phrase "surrounding area" in the final rule.

Two other commenters alleged that remining operators should be responsible only for additional contributions to preexisting impacts, and recommended that a specific prohibition against further degradation of the discharges indentified in proposed § 780.34(b) be added to the language of proposed § 816.109(e).

OSM agrees that the extent of the operators' responsibility for correcting the adverse impacts of remining was unclear from the language of the proposed rule. To eliminate the commenters' concerns, proposed § 816.109(e) was replaced by final § 816.106(b) which specifies the particular mitigation measures required of any remining operation that will not cause an adverse physical impact on the preexisting highwall. Further, the final rule does not impose a burden on

operators to reclaim surrounding areas undisturbed by the remining operation. It addresses only reclamation of preexisting highwalls and not other possible preexisting conditions. The proposal did not extend any special requirements to such areas, and the reclamation responsibility for surrounding areas will depend upon whether or not they are disturbed by the remining operation.

One commenter claimed that the operator should be prohibited from disturbing spoil placed on the outslope during previous mining operations when remining will not adversely impact the preexisting highwall. He suggested that proposed § 816.109(e) be reworded as follows to make the operator responsible for stabilizing preexisting spoil on the outslope even if the preexisting highwall will not be adversely affected by his remining operation:

> If the remining operation will not cause an adverse physical impact on the preexisting highwall, the standards of Paragraphs (a)(1) through (a)(5) shall not apply *with respect to the preexisting highwall.* [Emphasis added.]

The particular standard of concern to the commenter was proposed in the context of determining whether preexisting spoil should be considered reasonably available to cover a reaffected highwall. This suggestion for a general prohibition is rejected as beyond the scope of OSM's authority for the present rulemaking.

Final § 816.106(b) is based on the Board's decisions in *Cedar Coal Co,* 1 IBSMA 145, 154–156 (1979) and *Miami Springs Properties,* 2 IBSMA 399, 403–405 (1980). These cases do not authorize OSM to require disturbance of otherwise undisturbed areas where there would be no adverse physical impact on a highwall.

A commenter advised OSM to add a specific provision to proposed § 816.109(e) requiring the operator to demonstrate to the regulatory authority's satisfaction that remining will not cause any adverse physical impact on the preexisting highwall. This suggestion was rejected as unnecessary. In those situations where an operator asserts that the proposed remining operation will have no adverse physical effect on a preexisting highwall, proof that the remining operation will not have any adverse physical impact on the preexisting highwall would be submitted as part of the operator's reclamation plan for the provisions of § 816.106(b) to apply.

Proposed § 816.109(f)

Proposed § 816.109(f) provided that remining operations on steep slopes shall be conducted in accordance with 30 CFR Part 826. Several commenters recommended that the cross-reference to Part 826 in the proposed rule be replaced with a cross-reference to § 816.107 in view of the fact that OSM proposed to remove requirements for steep slope remining operations from Part 826 and place them in a new § 816.107. (47 FR 26780 June 21, 1982)

The final rule deletes proposed § 816.109(f) from final § 816.106 as unnecessary. The additional performance standards for steep slope operations that are contained in § 816.107 apply by their own terms and need not be cross-referenced. Also, the provisions of final § 816.106 will apply to remining operations on steep slopes.

Final § 816.107(e) became the temporary location for the November 12, 1982, interim final rule on steep slope remining upon the removal of Part 826 (48 FR 23356, May 24, 1983). With the adoption of § 816.106, final § 816.107(e) is unnecessary and thus is removed in this rulemaking. In this context, § 816.107(a) is revised to include reference to § 816.106.

Proposed § 816.109(g)

Proposed § 816.109(g) provided standards applicable to auger remining. Final performance standards for remining by auger mining are included in Part 819 and were addressed in a separate rulemaking. Interested persons should consult the preamble to § 819.19(b)(1–5) for a thorough explanation of the backfilling and grading performance standards applicable to remining of previously mined areas by auger mining. [48 FR 19314 April 28, 1983.]

One commenter suggested that the format of proposed § 816.109 be revised to treat auger mining as part of remining since augering on a previously mined area would be covered under the definition proposed for remining. This suggestion was rejected. Specific requirements for auger mining are fully covered in Part 819 and need not be repeated in Part 816.

Proposed § 816.109(h)

Proposed § 816.109(h) provided that each reprocessing operation conducted by an operator shall comply with all performance standards of Part 816. After considering remarks from several commenters, the proposal was not adopted. The applicability of Part 816 to reprocessing is clear under the definition of "surface coal mining operation" in § 700.5 and need not be repeated.

Commenters questioned the source of OSM's statutory authority to regulate reprocessing activities, relying primarily on the absence of any specific reference to "reprocessing" in the definition of "surface coal mining operations" under Section 701(28) of the Act. They suggested that proposed § 816.109(h) be deleted from the final rule or that the statutory basis of OSM's regulatory jurisdiction over reprocessing operations be specified in the preamble to the final rule.

OSM's authority to regulate reprocessing operations is based on Section 701(28) of the Act. Coal reclamation processes are among the activities covered by the definition of "surface coal mining operations" in Section 701(28) of the Act. *Devil's Hole, Inc. v. USA,* No. 80–4553 (E.D. Pa. Sept. 16, 1982).

Two commenters believed that proposed § 816.109(h) should not be included in a section of the rule allowing variances from the performance standards of Part 816. They claimed the proposed rule should be clarified and placed in a completely separate section of the final rules. One commenter conceded that the proposed rules would relax performance standards for remining operations but argued that those requirements would not ease the burdens imposed on coal reprocessing operations by the existing regulations. Another commenter claimed that reprocessing operations should be subject to compliance with minimum performance standards for reclamation. Commenters also contended that proposed § 816.109(h) failed to take into account the unique characteristics of reprocessing operations originating from underground mines. Since this class of operations lacks depressed haulage inclines, final cuts, and old spoil areas common to operations originating from surface mines, the commenters noted that reprocessing operations originating from underground mines would be compelled to affect previously undisturbed land adjacent to the site to accomplish reclamation as required under Part 816. Given the prohibitive costs of reclaiming these sites, the commenters suggested that OSM treat reprocessing operations originating from underground mines as underground mines, and that OSM use its discretion under Section 516 (b)(10) and (d) of the Act to vary permitting, performance, and bonding requirements for these operations.

OSM rejected the commenters' suggestions. Section 701.5 defines

surface mining activities to include recovery of coal from a deposit that is not in its original location. This applies to reprocessing. Therefore, the requirements for underground mines are inapplicable.

One commenter recommended that coal waste reprocessing operations be required to cover all residual materials by a minimum of 4 feet of overburden and soil to minimize the potential for future toxic problems and achieve effective revegetation and ground cover.

OSM rejected the commenter's suggestion. Among other provisions, § 816.102(f) includes performance standards for cover or treatment of acid- or toxic-forming materials; §§ 816.81–816.83 provide standards for the disposal of coal mine waste; and §§ 816.41–816.57 provide requirements for protection of the hydrologic balance. These standards are applicable to reprocessing and should alleviate the commenter's concerns.

Responses to Other Comments on the Proposed Rule.

Several commenters discussed the relationship between the abandoned mine land reclamation provisions of Title IV of the Act and the environmental performance standards of Title V. One commenter characterized OSM's proposed rules as an apparent attempt to make remining operators responsible for the sort of reclamation projects which should be done under State Abandoned Mine Lands (AML) Programs. A commenter claimed that Section 404 of the Act should be amended to allow the Secretary and the States to spend AML monies on lands abandoned, both before and after passage of the Act, wherever the need is greater. OSM disagrees with both commenters' positions. The final rule does not require an operator to remine previously mined areas. It merely provides standards for reclamation if remining does occur. The extension of Title IV to cover mine lands abandoned after the passage of the Act on August 3, 1977 is an issue beyond the scope of the present rulemaking and is not authorized by the Act.

One commenter recommended that operations for reprocessing coal waste from underground mines be classified as AML projects under Title IV of the Act when minimal environmental controls are implemented by these operations. Another commenter suggested that monies from the AML Program be used by the regulatory authority to compensate remining operators for any mitigation measures they would be required to take with respect to preexisting highwalls which they did not create. A commenter added that operators should be required to replace only spoil disturbed by remining and that replacement of any other spoil should be the responsibility of the regulatory authority under the State's AML Program. The issue of subsidizing remaining activities with monies from the AML Fund is also beyond the scope of this rulemaking. However, activities that are surface coal mining operations are governed by Title V of the Act.

Commenters claimed that potential responsibility for permanent treatment of preexisting pollutant discharges would discourage remining operations. To promote remining as a means of reclamation, one commenter suggested that the following provision be added to proposed § 816.109:

> The operator when remining or reprocessing previously mined areas shall be exempt from the effluent limitations of § 816.42 of the subchapter where there has been a prexisting discharge not made substantially worse by the remining or reprocessing and the operator meets the other requirements of this section.

Because acid drainage would be reduced by coal removal through remining and by revegetation during reclamation of the remined area, other commenters contended that remining activities would bring environmental improvements over preexisting conditions and produce results similar to reclamation projects under the AML Program. They recommended the following provision for addition to § 816.109(a) of the proposed rule as a stimulus to remining operations:

> (8) Preexisting poor quality surface or ground water discharges and background conditions identified in § 780.34(a)(2) (or § 780.34(b)) shall not be further degraded after remining.

Under the commenters' recommended language, preexisting discharges and background conditions which did not meet effluent limitations would be allowed to remain during and after remining if they were unaffected by the remining operation.

These suggestions were not included in the final rule since they exceed the scope of the present rulemaking.

A commenter recommended that a specific requirement for placement of any new spoil on the solid portion of existing benches be added to the final remining rule. OSM did not accept this recommendation. Sections 816.102 and 816.106 provide for the backfill of remined areas. Under these requirements the area must be returned to AOC with elimination of highwalls unless the exception of § 816.106 is applicable. Under these sections the backfill must be stable. The regulatory authority will have the flexibility to require that it be placed only on t solid portion of the bench if necessary to meet this requirement.

Final § 817.106

Final § 817.106 specifies backfilling and grading performance standards for remining conducted as an underground coal mining operation which are identical to those required of remining conducted as a surface coal mining operation. For the provisions established by this rulemaking, there are no distinct differences between surface mining activities and underground mining activities that require differing treatment in Part 817. With the addition of Section 516 of the Act, the sources of authority for § 817.106 are the same as those for § 816.106. Interested persons should consult the preamble of final § 816.106 for explanation of the requirements applicable to remining conducted as an underground coal mining or reclamation operations under final § 817.106.

III. Procedural Matters

Executive Order 12291 and Regulatory Flexibility Act

The Department of the Interior (DOI) has examined these proposed rules according to the criteria of Executive Order 12291 (February 17, 1981). OSM has determined that these are not major rules and do not require a regulatory impact analysis since they will impose minor costs on the coal industry and coal consumers. In addition, the final rules emphasize the use of performance standards instead of design criteria, thereby allowing operators to utilize the most cost-effective means of achieving compliance.

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, the Department determined that these rules will not have a significant economic impact on a substantial number of small entities. The final rules allow small coal operators increased flexibility in meeting performance standards and should ease the regulatory burdens, especially for small coal mining operators in Appalachia.

National Environmental Policy Act

OSM analyzed the impacts of these final rules in the "Final Environmental Impact Statement OSM EIS–1: Supplement," pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1968 (NEPA) (42 U.S.C. 4332(2)(C)). The final supplement is available in OSM's Administrative Record in Room 5315, 1100 L Street NW.,

Washington, D.C., or by mail request to Mark Boster, Chief, Branch of Environmental Analysis, Room 134, Interior South Building, U.S. Department of the Interior, Washington, DC 20240. This preamble serves as the record of decision under NEPA. The final rule is different from the draft final rules published in Volume III of the final EIS in that several paragraphs have been reorganized and additional clarifying language was added to the rule. These revisions do not change the EIS analysis.

Federal Paperwork Reduction Act

The information collection requirements in 30 CFR Parts 816 and 817 were approved by the Office of Management and Budget (OMB) under 44 U.S.C. 3507 and assigned clearance numbers 1029–0047 and 1029–0048. This approval is codified under the new §§ 816.10 and 817.10. The information required by 30 CFR Parts 816 and 817 would be used by the regulatory authority in monitoring and inspecting surface and underground mining activites to ensure that they are conducted in a manner which preserves and enhances environmental and other values under the Act. The information required by 30 CFR Parts 816 and 817 is mandatory.

Agency Approval

Section 516(a) of the Act requires that, with regard to rules directed toward the surface effects of underground mining, OSM obtain written concurrence from the head of the department which administers the Federal Mine Safety and Health Act of 1977, the successor to the Federal Coal Mine Health and Safety Act of 1969. In accordance with this requirement, OSM obtained the written concurrence of the Assistant Secretary for Mine Safety and Health, U.S. Department of Labor.

List of Subjects

30 CFR Part 701

Coal mining, Law enforcement, Surface mining, Underground mining.

30 CFR Part 816

Coal mining, Environmental protection, Reporting requirements, Surface mining.

30 CFR Part 817

Coal mining, Environmental protection, Reporting requirements, Underground mining.

Accordingly, 30 CFR Parts 701, 816, and 817 are amended as set forth herein.

Dated: September 12, 1983.

Larry D. Cardwell,

Acting Deputy Assistant Secretary, Energy and Minerals.

PART 701—PERMANENT REGULATORY PROGRAM

1. Section 701.5 is amended by adding, in alphabetical order, the definitions of "adverse physical impact," "highwall remnant," "previously mined area," "reasonably available spoil," and "remining" to read as follows:

§ 701.5 Definitions.

* * * * *

Adverse physical impact means, with respect to a highwall created or impacted by remining, conditions, such as sloughing of material, subsidence, instability, or increased erosion of highwalls, which occur or can reasonably be expected to occur as a result of remining and which pose threats to property, public health, safety, or the environment.

* * * * *

Highwall remnant means that portion of highwall that remains after backfilling and grading of a remining permit area.

* * * * *

Previously mined area means land disturbed or affected by earlier coal mining operations that was not reclaimed in accordance with the requirements of ths chapter.

* * * * *

Reasonably available spoil means spoil and suitable coal mine waste material generated by the remining operation or other spoil or suitable coal mine waste material located in the permit area that is accessible and available for use and that when rehandled will not cause a hazard to public safety or significant damage to the environment.

* * * * *

Remining means conducting surface coal mining and reclamation operations which affect previously mined areas.

* * * * *

PART 816—PERMANENT PROGRAM PERFORMANCE STANDARDS—SURFACE MINING ACTIVITIES

§ 816.102 [Amended]

2. Section 816.102(k)(3)(iii) is revised by removing the reference to § 816.107(e) and inserting a reference to § 816.106 in its place.

3. Section 816.106 is added to read as follows:

§ 816.106 Backfilling and grading: Previously mined areas.

Remining operations on previously mined areas that contain a preexisting highwall shall comply with the requirements of §§ 816.102–816.107 of this chapter, except as provided in this section.

(a) The requirements of § 816.102 (a)(1) and (a)(2) requiring the elimination of highwalls shall not apply to remining opertions where the volume of all reasonably available spoil is demonstrated in writing to the regulatory authority to be insufficient to completely backfill the reaffected or enlarged highwall. The highwall shall be eliminated to the maximum extent technically practical in accordance with the following criteria:

(1) All spoil generated by the remining operation and any other reasonably available spoil shall be used to backfill the area. Reasonably available spoil in the immediate vicinity of the remining operation shall be included within the permit area.

(2) The backfill shall be graded to a slope which is compatible with the approved postmining land use and which provides adequate drainage and long-term stability.

(3) Any highwall remnant shall be stable and not pose a hazard to the public health and safety or to the environment. The operator shall demonstrate, to the satisfaction of the regulatory authority, that the highwall remnant is stable.

(4) Spoil placed on the outslope during previous mining operations shall not be disturbed if such disturbances will cause instability of the remaining spoil or otherwise increase the hazard to the public health and safety or to the environment.

(b) The requirements of § 816.102 (a)(1) and (a)(2) requiring the elimination of highwalls shall not apply to remining operations that will not cause an adverse physical impact on the preexisting highwall. Such remining operations shall comply with the following:

(1) The backfill shall be graded to a slope which is compatible with the approved postmining land use and which provides adequate drainage and long-term stability.

(2) Any highwall remnant shall be stable and not pose a hazard to the public health and safety or to the environment.

§ 816.107 [Amended]

4. In § 816.107, paragraph (a) is revised by removing the reference to § 816.102 and inserting §§ 816.102–

816.106 in its place and paragraph (e) is removed.

PART 817—PERFORMANCE PROGRAM PERFORMANCE STANDARDS—UNDERGROUND MINING ACTIVITIES

§ 817.102 [Amended]

5. Section 817.102(k)(2) is revised by removing the reference to § 816.107(e) and inserting § 816.106 in its place.

6. A new § 817.106 is added to read as follows:

§ 817.106 Backfilling and grading: Previously mined areas.

Remining operations on previously mined areas that contain a preexisting highwall shall comply with the requirements of §§ 817.102-817.107 of this chapter, except as provided in this section.

(a) The requirements of § 817.102 (a)(1) and (a)(2) requiring that elimination of highwalls shall not apply to remining operations where the volume of all reasonably available spoil is demonstrated in writing to the regulatory authority to be insufficient to completely backfill the reaffected or enlarged highwall. The highwall shall be eliminated to the maximum extent technically practical in accordance with the following criteria:

(1) All spoil generated by the remining operation and any other reasonably available spoil shall be used to backfill the area. Reasonably available spoil in the immediate vicinity of the remining operation shall be included within the permit area.

(2) The backfill shall be graded to a slope which is compatible with the approved postmining land use and which provides adequate drainage and long-term stability.

(3) Any highwall remnant shall be stable and not pose a hazard to the public health and safety or to the environment. The operator shall demonstrate, to the satisfaction of the regulatory authority, that the highwall remnant is stable.

(4) Spoil placed on the outslope during previous mining operations shall not be disturbed if such disturbances will cause instability of the remaining spoil or otherwise increase the hazard to the public health and safety or to the environment.

(b) The requirements of § 817.102 (a)(1) and (a)(2) requiring the elimination of highwalls shall not apply to remining operations that will not cause an adverse physical impact on the preexisting highwall. Such remining operations shall comply with the following:

(1) The backfill shall be graded to a slope which is compatible with the approved postmining land use and which provides adequate drainage and long-term stability.

(2) Any highwall remnant shall be stable and not pose a hazard to the public health and safety or to the environment.

§ 817.107 [Amended]

7. In § 817.107, paragraph (a) is revised by removing the reference to § 817.102 and inserting §§ 817.102–817.106 in its place and paragraph (e) is removed.

(Pub L. 95–87, 30 U.S.C. 1201 *et seq.*)

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Part IV

Department of the Interior

Bureau of Land Management

Onshore Oil and Gas Operations; Implementation of the Federal Oil and Gas Royalty Management Act of 1982; Proposed Rule

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3160

Onshore Oil and Gas Operations; Implementation of the Federal Oil and Gas Royalty Management Act of 1982

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rulemaking.

SUMMARY: This proposed rulemaking would revise the existing regulations by adding new provisions pertaining to operations on onshore Federal and Indian (except Osage) oil and gas leases to implement those portions of the Federal Oil and Gas Royalty Management Act of 1982 which apply to onshore field operations. This proposed rulemaking does not address those portions of the Federal Oil and Gas Royalty Management Act pertaining to onshore leasing, Outer Continental Shelf operations or revenue accountability, except to the extent that the onshore leasing revenue accountability provisions affect or interact with field operations.

DATE: Comments should be submitted by October 31, 1983. Comments received or postmarked after that date may not be considered in the decisionmaking process on the final rulemaking.

ADDRESS: Comments should be sent to: Director (140), Bureau of Land Management, 1800 C Street NW., Washington, D.C. 20240.

Comments will be available for public review in Room 5555 of the above address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT:
Mr. Gerald R. Daniels, (703) 860–7535, (FTS) 928–7535
or
Mr. Robert C. Bruce, (202) 343–8735

SUPPLEMENTARY INFORMATION: The principal authors of this proposed rulemaking are Eddie R. Wyatt, Gerald R. Daniels, Gilbert O. Lockwood and Stephen H. Spector, all of the Washington Office of the Bureau of Land Management, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

On January 12, 1983, the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701) was signed into law. The Federal Oil and Gas Royalty Management Act is a comprehensive Act dealing with royalty management for oil and gas leases on the Outer Continental Shelf and on Federal and restricted Indian lands onshore. Operations on leases within the Osage Indian Reservation in Oklahoma were excepted from the Act. In addition to purely revenue accountability and Outer Continental Shelf operational matters, the Act also deals with onshore field operations requirements; inspections; cooperation with States and Indian Tribes; duties of lessees, operators, other interest owners in leases, and transporters and purchasers of oil and gas; and reinstatement of onshore leases terminated by operation of law.

On December 3, 1982, and February 7, 1983, the Secretary of the Interior issued orders which abolished the Mineral Management Board and consolidated onshore minerals management functions of the Department of the Interior (48 FR 8983, March 2, 1983). By this action, the Secretary delegated authority to administer onshore minerals operations to the Director, Bureau of Land Management, and to administer revenue accountability functions to the Director, Minerals Management Service. Thus, the proposed rulemaking that would implement the Federal Oil and Gas Royalty Management Act will be promulgated by both the Bureau of Land Management and the Minerals Management Service under various appropriate sections of 43 CFR Group 3000 and 30 CFR Parts 202 et seq. Sections 221.1 through 221.99, 221.104 and 221.117 of Title 30 CFR Part 221 were recently redesignated as Title 43 CFR Part 3160 and §§ 221.100—221.123 (exclusive of §§ 221.104 and 221.117) were recently redesignated as 30 CFR Part 202, et seq. Therefore, those portions of the Act affecting Outer Continental Shelf leases, purely revenue accountability matters, and onshore Federal oil and gas lease reinstatement, will be addressed in separate rulemakings.

Proposed amendments of and additions to Title 43 CFR Part 3160 are as follows:

The Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701) is added to the authority citations. The Indian Mineral Development Act of 1982 (Pub. L. 97–382) has also been added to the authority citations though it has little effect on this rulemaking.

The definitions in section 3 of the Federal Oil and Gas Royalty Management Act are at variance with definitions appeariung in § 3160.0–5 of the existing regulations. Therefore, the definition for "leased land, leasehold" has been removed and six others have been added or amended, i.e., "authorized representative," "Federal lands," "lease," "lease site." "lessee," and "person."

The inspection responsibilities and authority to enter into cooperative agreements, to delegate authority to States and to contract the inspection functions, as set forth in sections 101(b)(1), 202(a), 205(a), and 301(c) of the Federal Oil and Gas Royalty Management Act, have been incorporated by adding a new § 3161.3.

The inspection authorities in section 108 (b) and (c) of the Federal Oil and Gas Royalty Management Act were incorporated by redesignating the first paragraph of § 3162.1 as (a) and adding new paragraphs (b) and (c).

The requirement and procedures for 5th business day reporting of new or resumed production appearing in section 102(b)(3) of the Federal Oil and Gas Royalty Management Act have been incorporated by revising existing paragraph (c) of § 3162.4–1. The recordkeeping and retention requirements for well and facility records and production records appearing in sections 103(a) and 103(b) of the Act have been incorporated by adding a new paragraph (d) to § 3162.4–1.

The requirement to provide facility diagrams appearing at paragraph (b) of § 3162.7–2 and paragraph (b) of § 3162.7–3 have been removed since they are duplicated by paragraph (d) of § 3162.7–4.

The requirement for transporters to possess documentation of their removal of oil from a lease and to maintain records of their removal of oil or gas from a lease, the authority for inspectors to stop trucks both on and off a lease to verify the possession of the oil removal documentation, and the records retention period for this type of record, as required by sections 102(c)(1), 102(c)(2), 108(a)(1), 108(a)(2), and 103(b) of the Federal Oil and Gas Royalty Management Act, have been incorporated by revising paragraph (c) of § 3162.7–1.

The expanded royalty obligaton for lost or wasted oil or gas appearing in section 308 of the Federal Oil and Gas Royalty Management Act has been incorporated by adding a new sentence to paragraph (d) of § 3162.7–1.

Site security regulations and plans required by section 102(b)(1) were the subject of separate, earlier rulemaking under 30 CFR 221.37 (48 FR 31798, July 11, 1983) and now appear at § 3162.7–4 in the existing regulations.

Protection of trade secrets, proprietary, and other confidential information which would be provided to States and Indian Tribes under section

203(a), the wrongful disclosure provision of section 203(b) the Federal Oil and Gas Royalty Management Act, and the protection of confidential information provided to States and Indian Tribes required by section 203(c) of the Act have been incorporated by adding new paragraphs (e), (f), and (g) to § 3162.8.

Specific authority to assess civil and criminal penalties for violation of any requirement of the Federal Oil and Gas Royalty Management Act, any mineral leasing law, any rule or regulations issued under those laws or the terms or conditions of any lease or permit issued thereunder and the procedures for assessing the civil and criminal penalties appearing in sections 109 and 110 of the Act have been incorporated by revising the existing general language of § 3163.4 redesignated as § 3163.4–1(a), specifically adding § 3163.4–1(b) for civil penalties under the Act, and adding § 3163.4–2 for criminal penalties. Existing assessment and penalty regulations were promulgated on October 27, 1982 (47 FR 47748), under authority of the Mineral Leasing Act of 1920 and other mineral leasing laws. A new § 3163.4–1(b)(9) has been added to incorporate section 304(a) of the Act. Section 304(a) of the Act directs that civil penalties under section 109 of the Act are to be in addition to any other assessments for noncompliance and penalties under any other law. The public is requested to carefully study these new sections and submit their specific comments as to the relationship between the existing penalties and those provided for in the Act.

The Bureau of Land Management has prepared a preliminary listing of violations which may be encountered during the inspection of operational activities. This listing will be used as an internal document to guide Bureau personnel in applying the provisions of §§ 3163.4–1 (d)(1), (d)(2) and (d)(3) of the proposed rulemaking (i.e., categorizing individual violations as being of minor, moderate or major gravity). This preliminary listing is considered comprehensive, but not all inclusive. A copy of this preliminary listing may be obtained upon request to either of the persons listed earlier in this preamble as contacts for further information. The public may submit comments as to the appropriateness of the gravity attached to each violation in the preliminary listing. These comments will be carefully reviewed as part of the decisionmaking process on the finalization of the final listing. The final listing will be made part of the Bureau's Manual.

A new § 3163.6 has been added to implement the provisions appearing at section 112 of the Federal Oil and Gas Royalty Management Act to recognize the specific authority for the Attorney General of the United States to bring civil action for violations of the Act.

Provisions pertaining to payment of assessments and administrative penalties appearing at § 3163.5 (a) and (b) have been amended to incorporate the payment provisions in section 109 of the Federal Oil and Gas Royalty Management Act.

Since section 109 of the Federal Oil and Gas Royalty Management Act prescribes a review procedure for civil penalties separate and apart from normal appeal procedures, the appeal processes described in § 3163.4 referring to 43 CFR 4 and 25 CFR 2 are conditioned accordingly.

The Department of the Interior has determined that this document is not a major rule and does not require a regulatory analysis under Executive Order 12291. Even though the proposed rule establishes new and substantial penalties for violation of law, regulations, lease terms or directives, the cost or economic effect will be minimal or non-existent so long as lessees and operators comply with the existing requirements. Cooperative agreements with States or Indian Tribes, delegations of authority to the States or contractor performed inspections will have no economic effect or cost to industry as this rule only addresses who may be authorized to conduct various regulatory activities.

The Department of the Interior has also determined that this rulemaking will not have a significant economic effect on a substantial number of small entities and does not require a regulatory flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. 601, et seq.). If there are no violations, no penalties will be assessed. There will be no economic effect on small entities because of State and Indian Tribe inspection activities if operations are in order. The additional authorities and responsibilities of the Secretary of the Interior will have no effect on small entities.

The proposed rulemaking does not impose any additional recordkeeping or reporting requirements on any entity. The information collection requirements have been approved by the Office of Management and Budget and assigned clearance numbers 1004–0134, 1004–0135, 1004–0136, 1004–0137, and 1004–0138.

It is hereby determined that this proposed rulemaking does not constitute a major Federal action significantly affecting the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

List of Subjects in 43 CFR Part 3160

Government contracts, Mineral royalties, Oil and gas exploration, Oil and gas production, Public lands—minerals resources, Indian lands—minerals resources, Reporting and recordkeeping requirements.

Under the Authority of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701) and Executive Order 12291 (46 FR 13193), it is proposed to amend Part 3160, Group 3100, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations as set forth below:

PART 3160—ONSHORE OIL AND GAS OPERATIONS

1. The authority citation for Part 3160 is amended by adding the phrase "the Federal Oil and Gas Royalty Management Act of 1982 [30 U.S.C. 1701]; and the Indian Mineral Development Act of 1982 [25 U.S.C. 2102]."

§ 3160.0–5 [Amended]

2. Section 3160.0–5 is amended by:

A. Adding the term *Authorized Representative* to read:

Authorized Representative. Any entity or individual authorized by the Secretary to perform duties by cooperative agreement, delegation, or contract.

B. Adding the term *Federal Lands* to read:

Federal Lands. All lands and interests in lands owned by the United States which are subject to the mineral leasing laws, including mineral resources or mineral estates reserved to the United States in the conveyance of a surface or nonmineral estate.

C. Revising the term *Lease* to read:

Lease. Any contract, profit-share arrangement, joint venture, or other agreement issued or approved by the United States under a mineral leasing law that authorizes exploration for, extraction of, or removal of oil or gas.

D. Removing the term *Leased Lands, Leasehold;*

E. Adding the term *Lease Site* to read:

Lease Site. Any lands, including the surface of a severed mineral estate, on which exploration for, or extraction and removal of, oil or gas is authorized pursuant to a lease.

F. Revising the term *Lessee* to read:

Lessee. The party authorized by or through a lease or an approved assignment thereof, to explore for, develop, and produce oil and gas on the lease site in accordance with the lease terms, regulations, and law. For convenience of reference throughout this part, the term lessee also refers to and includes the owners of approved operating rights and designated operators.

G. Adding the term *Person* to read:

Person. Any individual, firm, corporation, association, partnership, consortium or joint venture.

3. A new section 3161.3 is added to read:

§ 3161.3 Inspections.

(a) The authorized officer shall establish procedures to ensure that each lease site or cooperative agreement site which is producing or is expected to produce significant quantities of oil or gas in any 1 year or which has a history of noncompliance with applicable provisions of law or regulations, lease terms, orders or directives shall be inspected at least once annually.

(b) In accomplishing the inspections, the authorized officer may utilize Bureau Personnel, may enter cooperative agreements with States or Indian Tribes, may delegate the inspection authority to any State, or may contract with non-Federal Governmental entities. Any cooperative agreement, delegation, or contractual arrangement shall not be effective without concurrence of the Secretary and shall include applicable provisions of the Federal Oil and Gas Royalty Management Act.

§ 3162.1 [Amended]

4. Section 3162.1 is amended by designating the existing paragraph as paragraph (a) and adding new paragraphs (b) and (c) to read:

(b) The lessee shall permit properly identified authorized representatives to enter upon, travel across and inspect lease sites and records normally kept on the lease pertinent thereto without advance notice. Such permission shall include access to secured facilities on such lease sites for the purpose of making any inspection or investigation for determining whether there is compliance with the mineral leasing laws, the regulations in this part, and any applicable orders, notices or directives.

(c) For the purpose of making any inspection or investigation, the Secretary or his authorized representative shall have the same right to enter upon or travel across any lease site as the lessee or operator has acquired by purchase, condemnation or otherwise.

§ 3162.4-1 [Amended]

5. Section 3162.4-1 is amended by:

A. Revising paragraph (c) to read:

(c) Not later than the 5th business day after any well begins production anywhere on a lease site or allocated to a lease site, or resumes production in the case of a well which has been off production for more than 90 days, the operator shall notify the authorized officer by letter or sundry notice, Form 9-331, or orally to be followed by a letter or sundry notice, of the date on which such production has begun or resumed.

B. Adding a new paragraph (d) to read:

(d) All records and reports required by this section shall be maintained for so long as the lease remains in effect or for 6 years, which ever is greater. In addition, if the Secretary, or his/her designee notifies the recordholder that the Department of the Interior has initiated or is participating in an audit or investigation involving such records, the records shall be maintained until the Secretary, or his/her disgnee, releases the recordholder from the obligation to maintain such records.

§ 3162.7-1 [Amended]

6. Section 3162.7-1 is amended by revising paragraphs (c) and (d) to read:

(c) Any person engaged in transporting by motor vehicle any oil from any lease site, or allocated to any such lease site, shall carry on his/her person, in his/her vehicle, or in his/her immediate control, documentation showing at a minimum; the amount, origin, and intended first destination of the oil. Any person engaged in transporting any oil or gas by pipline from any lease site, or allocated to any lease site, shall maintain documentation showing, at a minimum, the amount, origin, and intended first destination of such oil or gas. On any lease site, any authorized representative who is properly identified may stop and inspect any motor vehicle that he/she has probable cause to believe is carrying oil from or allocated to such lease site to determine whether the driver possesses proper documentation for the load of oil. Any authorized representative who is properly identified and who is accompanied by an appropriate law enforcement officer, or an appropriate law enforcement officer alone, may stop and inspect any motor vehicle which is not on a lease site if he/she has probable cause to believe the vehicle is carrying oil from a lease site, or allocated to a lease site to determine whether the driver possesses proper documentation for the load of oil. Any records generated under this section shall be maintained for 6 years from the date they were generated, or if notified by the Secretary, or his designee, that such records are involved in an audit or investigation, the records shall be maintained until the recordholder is released by the Secretary from the obligation to maintain them.

(d) The lessee shall conduct operations in such a manner as to prevent avoidable loss of oil and gas. A lessee shall be liable for royalty payments on oil or gas lost or wasted from a lease site, or allocated to a lease site, when such loss or waste is due to negligence on the part of the lessee of such lease, or due to the failure of the lessee to comply with any regulation, order or citation issued pursuant to this part.

§ 3162.7-2 [Amended]

7. Section 3162.7-2 is amended by removing from the beginning of the first paragraph the figure "(a)" and by removing paragraph (b) in its entirety.

§ 3162.7-3 [Amended]

8. Section 3162.7-3 is amended by removing from the beginning of the first paragraph the figure "(a)" and by removing paragraph (b) in its entirety.

§ 3162.8 [Amended]

9. Section 3162.8 is amended by adding new paragraphs (e), (f) and (g) to read:

(e) Trade secrets, proprietary and other confidential information obtained pursuant to this part shall be made available to States and Indian Tribes upon their request for the purpose of conducting an investigation if:

(1) such State or Indian Tribe consents in writing to restrict the dissemination of the information to those who are directly involved in an investigation under a cooperative agreement approved by the Secretary, and who need to know;

(2) such State or Indian Tribe accepts liability for wrongful disclosure;

(3) in the case of a State, such State demonstrates that such information is essential to the conduct of an investigation or to litigation; and

(4) in the case of an Indian Tribe, such Tribe demonstrates that such information is essential to the conduct of an investigation and waives sovereign immunity by express consent for wrongful disclosure by such Tribe.

(f) The United states shall not be liable for the wrongful disclosure by any

individual, State, or Indian Tribe of any information provided to such individual, State, or Indian Tribe pursuant to any cooperative agreement or a delegation.

(g) Whenever any individual, State or Indian Tribe has obtained possession of information pursuant to a cooperative agreement or any individual or State has obtained possession of information pursuant to a delegation of authority, the individual shall be subject to the same provisions of law with respect to the disclosure of such information as would apply to an officer or employee of the United States or of any Department or agency thereof and the State or Indian tribe shall be subject to the same provisions of law with respect to the disclosure of such information as would apply to the United States or any Department or agency thereof. No State or State officer or employee who receives trade secrets, proprietary information or other confidential information under this Act may be required to disclose such information under State Law.

§ 3163.3 [Amended]

10. Section 3163.3 is amended by amending paragraph (e) by inserting immediately prior to the figure "$100" the phrase "or a production facility,".

§ 3163.4 [Amended]

11. Section 3163.4 is amended by removing all after the title and by adding new section 3163.4–1 and 3163.4–2 to read:

§ 3163.4–1 Administrative penalties.

(a) *Mineral Leasing Act* (1) Whenever a lessee fails to comply with any provisions of the lease, the regulations in this part, applicable orders or notices, or any other appropriate orders of the authorized officer or his/her representative, the authorized officer shall give the lessee notice in writing to remedy any defaults or violations.

(2) Failure by the lessee to complete the necessary remedial action within the time and in the manner prescribed by the notice may:

(i) Subject the lessee to a penalty of not more than $1,000 per day for each day the violation continues beyond the date specified in the notice;

(ii) Subject the lease to cancellation proceedings pursuant to subpart 3108 of this title for Federal leases or provisions of Title 25 CFR Parts 211, 212, 213, and 227 for Indian leases; or

(iii) Result in both a penalty and lease cancellation proceeding.

(3) A notice of proposed penalty shall be issued and served by personal service by an authorized officer or by "Certified Mail." Any person may designate a representative to receive any notice on their behalf. Any person authorized by the lessee to submit reports, notices, affidavits, records, or other information required by regulations in this part or who is authorized by the lessee to conduct or supervise operations subject to regulations in this part may receive the notices. If no designation pertaining to that lease has been filed, the notice shall be served as previously described. A person charged with a violation under this paragraph (a) shall have 30 days after receipt of notice to either request a hearing or pay the proposed penalty. Hearings under this subpart shall be held by the appropriate State Director whose findings shall be conclusive unless an appeal is taken pursuant to Part 4 of this title.

(b) *Federal Oil and Gas Royalty Management Act* (1) In addition to any penalty imposed under paragraph (a) of this section whenever a lessee fails or refuses to comply with any applicable requirements of the Federal Oil and Gas Royalty Management Act, any mineral leasing law, any rule or regulation thereunder, or the terms of any lease or permit issued thereunder, the authorized officer shall notify the lessee in writing of the violation, unless the violation was discovered and reported to the authorized officer by the liable person. If the violation is not corrected within 20 days of such notice or report, or such longer time as the authorized officer may agree to in writing, the lessee shall be liable for a civil penalty of up to $500 per violation for each day such violation continues, dating from the date of such notice or report.

(2) If the violation specified in paragraph (1) of this paragraph is not corrected within 40 days of such notice or report, or a longer period as the authorized officer may agree to in writing, the lessee shall be liable for a civil penalty of not more than $5,000 per violation for each day the violation continues, dating from the date of such notice or report.

(3) Whenever a transporter fails to permit inspection of proper documentation by any authorized representative, as provided in § 3162.7–1(c) of this title, the transporter shall be liable for a civil penalty of up to $500 per day for the violation, dating from the date of notice of the failure to permit inspection and continuing until the proper documentation is provided.

(4) Any person who:

(i) Fails or refuses to permit lawful entry or inspection authorized by § 3162.1(b) of this title; or

(ii) Knowingly or willfully fails to notify the authorized officer by letter or Sundry Notice, Form 9–331, or orally to be followed by a letter or Sundry Notice, not later than the 5th business day after any well begins production, or resumes production in the case of a well which has been off of production for more than 90 days, from a well located on a lease site, or allocated to a lease site, of the date on which such production began or resumed; shall be liable for a civil penalty of up to $10,000 per violation for each day such violation continues.

(5) Any person who:

(i) Knowingly or willfully prepares, maintains or submits false, inaccurate or misleading reports, notices, affidavits, records, data or other written information required by this part; or

(ii) Knowingly or willfully takes or removes, transports, uses or diverts any oil or gas from any Federal or Indian lease site without having valid legal authority to do so; or

(iii) Purchases, accepts, sells, transports or conveys to another any oil or gas knowing or having reason to know that such oil or gas was stolen or unlawfully removed or diverted from a Federal or Indian lease site; shall be liable for a civil penalty of up to $25,000 per violation for each day such violation continues.

(6) No civil penalty under paragraph (b) of this section shall be assessed until the person charged with a violation has been given the opportunity for a hearing on the record. Notice of the proposed civil penalty shall be by personal service by the authorized officer or by certified mail. Any person may designate a representative to receive any notice on their behalf. Any person who is authorized by the lessee or operator to submit reports, notices, affidavits, records, data or other information required by this part or who is authorized by the lessee or operator to conduct or supervise operations subject to regulations in this part may receive the notices. If no designation has been filed, the notice shall be served as previously described. A person charged with a violation and who is served with a proposed civil penalty under paragraph (b) of this section shall have 30 days after receipt of notice to either request a hearing on the record or to pay the proposed civil penalty. Hearings under this part shall be held by the appropriate State Director whose findings shall be conclusive unless an appeal is taken pursuant to Part 4 of this title.

(7) On a case-by-case basis, the Secretary may compromise or reduce civil penalties under paragraph (b) of this section. In compromising or reducing the amount of a civil penalty

under paragraph (b) of this section, the Secretary shall state on the record the reasons for his/her determinations. The amount of any civil penalty under this paragraph, as finally determined, may be deducted from any sums owing by the United States to the person charged.

(8) Any person who has requested a hearing in accordance with paragraph (b)(6) of this section and who is aggrieved by a final order of the Secretary under this section may seek review of such order in the United States District Court for the judicial district in which the alleged violation occurred. Review by the district court shall be on the administrative record only and not de novo. Such an action shall be barred unless filed within 90 days after the Secretary's final order.

(9) Civil penalties provided by this section shall be supplemental to, and not in derogation of, any other penalties or assessments for noncompliance in this title.

(c) If any person fails to pay an assessment of a civil penalty under paragraph (b) of this section after the order making the assessment has become a final order, and if such person does not file a petition for judicial review in accordance with this subpart, or, after a court in an action brought under this subpart has entered a final judgment in favor of the Secretary, the court shall have jurisdiction to award the amount assessed plus interest from the date of the expiration of the 90-day period provided by paragraph (b)(8) of this section. Judgment by the court shall include an order to pay.

(d) The common drilling, production and abandonment related violations are categorized into 3 noncompliance ranges. The category for any violation is the gravity level to be used for that violation. The inspector may, based on individual circumstances, upgrade the enforcement category level. The Director shall establish a detailed list of potential violations. The violations shall be either:

(1) A minor violation does not affect the safety of the workplace, nor does it degrade the environment or affect the amount of royalty income; or

(2) A moderate violation, if left uncorrected, may eventually affect the safety of the workplace, degrade the environment and/or affect royalty income; or

(3) A major violation has the immediate potential to affect the safety of the workplace, degrade the environment and/or affect the royalty income.

(e) Determination of Penalty Amount for paragraphs (a) and (b) of this section are as follows:

(1) The amount of the administrative penalty proposed shall be based upon the formula set forth in this subsection. The formula is based on 2 criteria: i.e., the gravity of the violation; and the lessee's or transporter's history of previous violations;

(2) The appropriate number of penalty points shall be assigned to each criterion using the appropriate tables as denoted and the 2 numbers shall then be totaled, and the point accumulation converted into a dollar per day amount by using Penalty Conversion Table A, B, C or D, as appropriate, and the amounts added, if necessary.

(3) Table I—Gravity of the Violation:

Classification	Penalty points
Minor violations	11
Moderate violations	41
Major violations	71

(4) Table II—Lessee's or Transporter's Violations:

Minor violations	Number × ½ =	
Moderate violations	Number × 2 =	
Major violations	Number × 5 =	

Total—(rounded down to the next lowest number) (maximum of 29).

History of previous violations standards. History is based on the number of violations issued in a preceding 36-month period beginning February 1, 1983. The history of previous violations may account for a maximum of 29 penalty points. The penalty points shall be calculated on an operator-by-operator and lease-by-lease basis and, in the case of transporters, on a transporter-by-transporter basis within the jurisdictional area of each Bureau of Land Management District Office.

(5) Penalty Conversion Table—A:

(i) The following penalty conversion table is for the violations not corrected within the time allowed under paragraph (a) of this section and shall be used to convert the accumulation of penalty points from Tables I and II to the appropriate per day proposed monetary assessment.

PENALTY CONVERSION TABLE—A

Points	Penalty/ dollars per day
40	150
41	157
42	164
43	171
44	178
45	185
46	193
47	201
48	209
49	217
50	225
51	234
52	243
53	252
54	261
55	270
56	280
57	290
58	300
59	310
60	320
61	331
62	342
63	353
64	364
65	375
66	387
67	399
68	411
69	423
70	435
71	450
72	465
73	585
74	500
75	515
76	531
77	547
78	563
79	579
80	595
81	612
82	629
83	646
84	663
85	680
86	698
87	716
88	734
89	752
90	770
91	790
91	790
92	810
93	830
94	850
95	870
96	896
97	922
98	948
99	974
100	1000

(ii) In order to focus particularly on serious violations, while also considering an operator's past compliance history, no dollar penalty shall be proposed for violations totaling less than 40 penalty points.

(6) Penalty Conversion Table—B (Lessees):

The following penalty conversion tables are for violations not corrected by the 20th day under paragraph (b)(1) of this section, or by the 40th day under paragraph (b)(2) of this section or such other time period as the authorized officer may specify and shall be used to convert the accumulation of penalty points from Tables I and II above to the appropriate dollar per day proposed penalty. This civil penalty is in addition to any penalty assessed under paragraph (a).

PENALTY CONVERSION TABLE—B

Points	Not corrected in 20 days—penalty/ dollars per day	Not corrected in 40 days—penalty/ dollars per day
40	75	750
41	79	790
42	82	820
43	86	860
44	89	890
45	93	930
46	97	970
47	101	1,010
48	105	1,050
49	109	1,090
50	113	1,130
51	117	1,170
52	122	1,220
53	126	1,260
54	131	1,310
55	135	1,350
56	140	1,400
57	145	1,450
58	150	1,500
59	156	1,560
60	160	1,600
61	166	1,660
62	171	1,710
63	177	1,770
64	182	1,820
65	188	1,880
66	194	1,940
67	200	2,000
68	206	2,060
69	212	2,120
70	218	2,180
71	225	2,250
72	233	2,330
73	243	2,430
74	250	2,500
75	258	2,580
76	268	2,680
77	274	2,740
78	282	2,820
79	290	2,900
80	298	2,980
81	306	3,060
82	315	3,150
83	323	3,230
84	332	3,320
85	340	3,400
86	349	3,490
87	358	3,580
88	367	3,670
89	376	3,760
90	385	3,850
91	395	3,950
92	405	4,050
93	415	4,150
94	425	4,250
95	435	4,350
96	448	4,480
97	461	4,610
98	474	4,740
99	487	4,870
100	500	5,000

(7) Penalty Conversion Table B (Transporters):

The amount of the proposed civil penalty for failure of a transporter to permit inspection of proper documentation required by paragraph (b)(3) of this section shall be determined by formula based on the following criteria: i.e., the violation shall be considered a major violation (see Table I); and the transporter's history of previous violations (see Table II). Penalty points shall be assigned to each criterion and the 2 numbers shall then be totaled, and the point accumulation coverted to a dollar per day amount by using the first column of "Penalty Conversion Table—B."

(8) Penalty Conversion Table—C:

(i) The amount of the proposed civil penalty for violation of paragraph (b)(4) of this section shall be determined by the formula based on the following criteria: i.e., the specific violation (Table III); and the lessee's history of previous violations (Table II).

(ii) Penalty points shall be assigned to each criterion and the 2 numbers shall then be totaled, and the point accumulation converted to a dollar per day amount by using "Penalty Conversion Table—C."

TABLE III—TYPE OF VIOLATION

Violation	Penalty points
Fails to permit entry upon the leasehold	70
Fails to permit inspection	60
Knowingly or willfully fails to notify after well begins or resumes production by the 5th business day thereafter	65

(iii) The following penalty conversion table shall be used to convert the accumulation of penalty points from Tables II and III to the appropriate per day proposed monetary penalty.

PENALTY CONVERSION TABLE—C

Points	Penalty/ dollars per day
60	3,600
61	3,720
62	3,840
63	3,970
64	4,100
65	4,220
66	4,360
67	4,490
68	4,620
69	4,760
70	4,900
71	5,040
72	5,180
73	5,330
74	5,480
75	5,630
76	5,780
77	5,930
78	6,080
79	6,240
80	6,400
81	6,560
82	6,720
83	6,890
84	7,060
85	7,220
86	7,400
87	7,570
88	7,740
89	7,920
90	8,100
91	8,280
92	8,460
93	8,650
94	8,840
95	9,030
96	9,220
97	9,410
98	9,600
99	9,800
100 and above	10,000

(9) Penalty Conversion Table—D:

(i) The amount of the proposed civil penalty for violations of paragraph (b)(5) of this section shall be determined by the formula based on the following criteria: i.e., the specific violation (Table IV); and the lessee's history of previous violations (Table II).

(ii) Penalty points shall be assigned to each criterion and the 2 numbers shall then be totaled, and the point accumulation converted to a dollar per day amount by using "Penalty Conversion Table—D."

TABLE IV—TYPE OF VIOLATION

Violation	Penalty points
Knowingly or willfully prepares, maintains or submits false or misleading written information	70
Knowingly or willfully prepares, maintains or submits inaccurate written information	60
Knowingly or willfully diverts oil or gas from any lease without having legal authority to do so	70
Accepts, sells, transports or conveys to another any oil or gas knowing or having reason to know that such oil or gas was stolen or unlawfully removed or diverted	70

(iii) The following penalty conversion table shall be used to convert the accumulation of penalty points from Tables II and IV to the appropriate per day proposed monetary penalty.

PENALTY CONVERSION TABLE—D

Points	Penalty/ dollars per day
60	9,000
61	9,300
62	9,600
63	9,925
64	10,250
65	10,550
66	10,900
67	11,225
68	11,550
69	11,900
70	12,250
71	12,600
72	12,950
73	13,325
74	13,700
75	14,075
76	14,450
77	14,825
78	15,200
79	15,600
80	16,000
81	16,400
82	16,800
83	17,225
84	17,650
85	18,050
86	18,500
87	18,925
88	19,350
89	19,800
90	20,250
91	20,700
92	21,150
93	21,625
94	22,100
95	22,575
96	23,050
97	23,525
98	24,000
99	24,500
100 and above	25,000

§ 3163.4-2 Criminal penalties.

Any person who commits an act for which a civil penalty is provided in § 3163.4–1(b)(5) of this title shall, upon conviction, be punished by a fine of not more than $50,000 or by imprisonment for not more than 2 years or both.

12. Section 3163.5 is amended by revising the title and paragraphs (a) and (b) to read:

§ 3163.5 Assessments and administrative penalties.

(a) Assessments made under § 3163.3 of this title are due upon issuance and shall be paid within 30 days of receipt of "Certified Mail" written notice or personal service, as directed by the authorized officer in the notice. Failure to pay assessed damages timely will be subject to late payment charges as prescribed under Title 30 CFR Group 202.

(b) Administrative penalties under § 3163.4–1 of this title shall be paid within 30 days of completion of any final order of the Secretary or the final order of the Court.

* * * * *

13. A new § 3163.6 is added to read as follows:

§ 3163.6 Injunction and specific performance.

(a) In addition to any other remedy under this part or any mineral leasing law, the Attorney General of the United States or his designee may bring a civil action in a district court of the United States to:

(1) restrain any violation of the Federal Oil and Gas Royalty and Management Act or any mineral leasing law of the United States; or

(2) compel the taking of any action required by or under the Act or any mineral leasing law of the United States.

(b) A civil action described in paragraph (a) may be brought only in the United States district court of the judicial district wherein the act, omission or transaction constituting a violation under the Act or any other mineral leasing law occurred, or wherein the defendant is found or transacts business.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

August 9, 1983.

[FR Doc. 83-25500 Filed 9-15-83; 8:45 am]

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federal register

Friday
September 16, 1983

Part V

Department of Labor

Mine Safety and Health Administration

Air Quality Standards; Extension of Comment Period

VOL
48
ISS
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8
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DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 55, 56, and 57

Air Quality Standards; Extension of Comment Period

AGENCY: Mine Safety and Health Administration.

ACTION: Notice to Extend Period for Public Comment.

SUMMARY: The Mine Safety and Health Administration (MSHA) is extending the period for public comment regarding the Agency's review of the metal and nonmetal standards for air quality in 30 CFR Parts 55/56/57.5.[1] Due to requests from the public, MSHA is extending the time for commenting on this preproposal draft.

DATE: Written comments on the air quality standards must be received on or before November 7, 1983.

ADDRESS: All comments should be sent to: Mine Safety and Health Administration, Office of Standards, Regulations and Variances, Room 631, 4015 Wilson Boulevard, Arlington, Virginia 22203.

SUPPLEMENTARY INFORMATION: On July 6, 1983, MSHA made available preproposal draft revisions to the standards for air quality at metal and nonmetal mines (30 CFR Parts 55/56/57.5). The availability of the draft was announced in the **Federal Register** (48 FR 31171). The comment period was scheduled to close on September 6, 1983, but was subsequently extended to October 6, 1983 (48 FR 36789). Due to further requests from the public, MSHA is extending the time for commenting on this preproposal draft. The comment period is extended to November 7, 1983. All interested members of the mining community are encouraged to submit comments prior to this date.

Dated: September 13, 1983.

Thomas J. Shepich,

Deputy Assistant Secretary for Mine Safety and Health.

[FR Doc. 83-25186 Filed 9-15-83; 8:45 am]

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[1] Standards that uniformly appear in 30 CFR Parts 55, 56, 57 are referred to in this document as "55/56/57."

VOL
48
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M
Pe
Sp
Se
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T

FE

395
395
401
403
404
406
408
410
411
413
415

Reader Aids

Federal Register

Vol. 48, No. 181

Friday, September 16, 1983

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419 523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Privacy Act	523-4534
Public Inspection Desk	523-5215
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282 523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235

United States Government Manual 523-5230

SERVICES

Agency services	523-5237
Automation	523-3408
Library	523-4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public Inspection Desk	523-5215
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, SEPTEMBER

39595-39910	1
39911-40186	2
40187-40364	6
40365-40496	7
40497-40694	8
40695-40870	9
40871-41008	12
41009-41140	13
41141-41368	14
41369-41568	15
41569-41748	16

CFR PARTS AFFECTED DURING SEPTEMBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Administrative Orders:
Memorandums:
September 7, 1983 40695

Executive Orders:
6143 (Revoked by PLO 6459) 40724
6276 (Revoked by PLO 6459) 40724
6583 (Revoked by PLO 6459) 40724
8854 (Amended by PLO 6458) 40232
12428 (Amended by EO 12440) 40873
12439 40871
12440 40873

Proclamations:
5085 39595
5086 40187
5087 40497
5088 40499
5089 40501
5090 40503
5091 40505
5092 40507
5093 41009
5094 41569

4 CFR

Proposed Rules:
83 39632

5 CFR

2422 40189
2426 40189
2429 40189

Proposed Rules:
731 40731
754 40731
870 40732
871 40732
872 40732
873 40732

7 CFR

28 41011
29 40365
51 40509
52 ..... 40875, 40878, 41011, 41571
68 41574
210 40194
220 40194
226 ..... 40197, 41141
301 ..... 39597, 40198
421 39911
725 40638
726 40644
760 40366
908 ..... 39602, 40510, 41369
910 ..... 39912, 40697, 41574
981 40367
1076 39603
1079 ..... 40511, 41369
1106 41015
1865 40202
1944 ..... 40202, 40697
1945 40202
1951 ..... 40202, 41142
2610 41371
2620 41373

Proposed Rules:
28 41048
52 40734
278 40263
279 40263
631 40522
660 40389
658 39944
800 41595
1126 ..... 39643, 40894
1941 40894
1943 40894
1945 40894
1980 40894

8 CFR

103 ..... 41016, 41142
109 40209
214 41142
231 40209
238 ..... 40210, 41148
248 41016

9 CFR

75 40512
97 40881

Proposed Rules:
151 40899
166 41596
201 41425
203 41425
381 41427

10 CFR

50 40882
61 40512
150 40882

Proposed Rules:
50 41429
430 41166
1017 40265

12 CFR

7 40698
29 40702
34 40698
217 ..... 39604, 40702
525 39912
531 39912
614 41148

Proposed Rules:
5 40735

332.....40900
333.....40900
337.....40900
563.....39944
701.....41598
704.....41599
706.....41600
707.....41600

13 CFR

101.....40513

14 CFR

39.....40210–40212, 41149, 41150
71.....39913, 40213, 41374
75.....40214
97.....39913

Proposed Rules:

Ch. II.....41171
39.....40266, 41166, 41167
71.....40267, 40270, 40525, 41168, 41170
211.....41430
221.....40389
302.....41430

15 CFR

369.....40368

Proposed Rules:

928.....41180

16 CFR

2.....41374
4.....41374
13.....41151
305.....40882
423.....41575

Proposed Rules:

13.....39950

17 CFR

33.....41575
180.....41152
240.....39604, 41376
249.....39604, 41376
275.....41378

18 CFR

1300.....41380

Proposed Rules:

271.....40736, 41434

19 CFR

6.....41381

Proposed Rules:

6.....40737
10.....40738
22.....41435
101.....40526
114.....40738
159.....40527
162.....40740

20 CFR

655.....40168, 41154
404.....40514
416.....40883
628.....40886

Proposed Rules:

225.....40390
226.....40390
227.....40390

21 CFR

5.....40703
14.....40887
145.....39916
155.....41155
175.....40515
193.....41156
211.....41578
436.....40704
442.....40516
510.....40704, 40887
520.....40516, 40704, 40887, 41384
522.....40704
524.....39607, 41157
540.....41579
556.....41384
558.....40704
561.....40369
700.....41578
800.....41578

Proposed Rules:

Subch. H.....40272
211.....41601
291.....41049
700.....41601
800.....41601
882.....40273, 41181

23 CFR

Proposed Rules:

Ch. I.....39953
658.....41276

24 CFR

25.....40705
203.....39608
207.....40710
213.....39608
234.....39608
235.....40711
570.....40517

25 CFR

256.....41579

Proposed Rules:

211.....41051
212.....41051
225.....41051
700.....41435

26 CFR

1.....40214, 40370, 40371, 40888, 41017
5f.....41385
25.....40371
31.....40518
48.....40217
301.....40371, 40376, 41018, 41581

Proposed Rules:

1.....39953, 40528, 41051, 41436
5f.....39953

27 CFR

9.....40377

Proposed Rules:

9.....41602, 41604

28 CFR

Proposed Rules:

0.....41181
16.....41181

29 CFR

553.....40518
1952.....40902

Proposed Rules:

Ch. XVI.....41436

30 CFR

211.....41589
251.....40380
700.....40622
701.....39892, 40140, 40622, 41720
736.....41312
760.....41312
761.....41312
762.....41312
764.....41312
765.....41312
769.....41312
772.....40622
776.....40622
779.....41312
783.....41312
785.....39892
815.....40622
816.....39892, 40140, 41720
817.....39892, 40140, 41720
824.....39892
872.....41018, 41019
921.....41000
934.....41387
938.....40223, 40888
939.....40990

Proposed Rules:

55.....41747
56.....41747
57.....41747
75.....40165
902.....41182
913.....40908
935.....39645, 40396
938.....39645
950.....41608

31 CFR

500.....41157
515.....41158
520.....41159
626.....00000

32 CFR

62b.....41581
286g.....39917
634.....39919
730.....40224
806.....41020
2003.....40849

33 CFR

92.....41587
100.....39609, 40714, 40715
117.....41400
161.....41587
165.....39609, 39610, 40380, 41400, 41401
181.....40716
204.....41160
401.....39934

Proposed Rules:

1.....40741
117.....39646
156.....40741
329.....40909
322.....40909
323.....40909
325.....40909
327.....40909
328.....40909
330.....40909

34 CFR

668.....40380

Proposed Rules:

368.....39647

36 CFR

219.....40381
331.....40719

38 CFR

3.....41160
21.....40224
36.....40226

Proposed Rules:

21.....41438
36.....40402

39 CFR

10.....39610
111.....41162
253.....41401
601.....40232

Proposed Rules:

111.....39647, 39648
233.....40910

40 CFR

17.....39934
52.....41402–41406, 41588
60.....41407
61.....41407
81.....40722, 41408
86.....41296, 41303
122.....39611
123.....39611
124.....39611
144.....39611
145.....39611
180.....40384
233.....39611
270.....39611
271.....39611, 39623
300.....40658
410.....39624
413.....41409
425.....41409
433.....41409
465.....41409
466.....41409
468.....41409
469.....41409
720.....41132

Proposed Rules:

50.....41608
52.....39653, 41609, 41610
61.....40911
65.....40278
81.....39655, 40746
124.....40098
144.....40098
146.....40098
147.....40098
180.....41184–41186
271.....41449
300.....40674
405.....41610
406.....41610
407.....41610

408.....41610
409.....41610
411.....41610
412.....41610
422.....41610
424.....41610
426.....41610
429.....41610
430.....41610
431.....41610
432.....41610
433.....41610
440.....41610
721.....40282, 40911
799.....39656

41 CFR

Ch. 1.....40385
Ch. 7.....40385
Proposed Rules:
9-1.....41450
9-7.....41450
9-50.....41450

42 CFR

405.....39740, 39752
409.....39752
435.....39624
436.....39624
489.....39752
Proposed Rules:
431.....40749
435.....39959
436.....39959
441.....41450

43 CFR

Ch. II.....40889
1820.....40724
3480.....41589
Public Land Orders:
1707 (Amended by PLO 6458).....40232
6423 (Corrected by PLO 6460).....41021
6457.....39939
6458.....40232
6459.....40724
6460.....41021
Proposed Rules:
3160.....41738

44 CFR

64.....41410, 41413
65.....40890
67.....40891, 41021
205.....41415
Proposed Rules:
67.....40911-40919

45 CFR

801.....41594
Proposed Rules:
302.....41450
304.....41450
400.....41187

46 CFR

153.....39629
154.....39629
Proposed Rules:
Ch. IV.....41199
7.....41454
536.....41052

47 CFR

Ch. I.....41040
1.....41415
2.....40519
25.....40233, 40256
73.....41416-41422
74.....41422
95.....41415
Proposed Rules:
68.....39656
73.....41464-41468, 41611

49 CFR

1.....40519
23.....41163
179.....39630
571.....39908, 39939, 40260
660.....41562
661.....41562
1042.....39630
1160.....39630, 40387
1161.....39630
1162.....39630, 40520
1165.....39630
1168.....39630, 40387
1181.....39630
1307.....40520
Proposed Rules:
27.....40684
213.....39965
571.....40282, 40286
661.....41568
821.....39657
1135.....41469
1157.....40287

50 CFR

17.....39941, 40178
20.....40852
285.....40892, 41163
611.....41424
661.....40521
663.....41164
671.....40725
Proposed Rules:
17.....40288, 40404, 40407, 40920
23.....40750
26.....39661
32.....40411
33.....40411
611.....40924, 41469
655.....39967
661.....41202
662.....40752, 41202
663.....41202
681.....39665

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last Listing September 13, 1983

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